UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 94th CONGRESS
FIRST SESSION

VOLUME 121—PART 30

DECEMBER 4, 1975 TO DECEMBER 10, 1975

(PAGES 38439 TO 39860)

FEB 23 1978

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1975

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U.S. GOVERNMENT
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PROCEEDINGS AND DEBATES OF THE 94th CONGRESS, FIRST SESSION

SENATE—*Thursday, December 4, 1975*

(Legislative day of Tuesday, December 2, 1975)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. Metcalf).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Hear the words of the 24th Psalm:

Who shall ascend unto the hill of the Lord? or who shall stand in His holy place?

He that hath clean hands and a pure heart; who hath not lifted up his soul unto vanity, nor sworn deceitfully.

He shall receive the blessing from the Lord, and righteousness from the God of his salvation.—Psalms 24: 3–5.

We bow in Thy presence, O Lord, in the calm confidence Thou holdest us and our world in the firm grasp of a love that will not let us go. Our assurance comes not from our hold on Thee but from Thy hold on us. O Thou God of our inmost being, cleanse us, renew us, strengthen us, qualify us for service to Thee and to all mankind. Guide us through the endeavors of this day with the wisdom and grace Thou dost impart to those who call upon Thee in spirit and in truth.

We pray in the name of Thy Son. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Wednesday, December 3, 1975, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 o'clock tomorrow morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NEW YORK CITY SEASONAL FINANCING ACT OF 1975

Mr. MANSFIELD. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. After the two leaders have been recognized and are finished, the pending business will be H.R. 10481, the so-called New York bill.

Mr. MANSFIELD. Mr. President, last night, after the distinguished Senator from Alabama offered his amendment and had it read, I stated the following:

> Mr. President, I should like to say a few words apropos the amendment offered by the distinguished Senator from Alabama (Mr. Allen).
>
> I have informed several Members of the Senate, the Republican leadership, that it was my intention, at an appropriate time, after the New York State-New York City legislation was disposed of, to call up Calendar No. 447, S. 2597, a bill on the calendar to amend the Bankruptcy Act to provide a new chapter thereto providing for the adjustment of the debts of major municipalities.
>
> I make this statement at this time to put the Senate on notice as to what the leadership's procedure and policy will be relative to this particular legislation, which, in my opinion, really has no place with respect to the legislation being considered at this time.

Mr. President, I intend to move to lay on the table the Allen amendment.

Mr. GRIFFIN. Will the Senator withhold that, and will the Senator yield?

Mr. MANSFIELD. I withhold that briefly. I yield to the Senator without losing my right to the floor.

Mr. GRIFFIN. Mr. President, without the majority leader losing his right to the floor, I wish to indicate that this has been discussed with the Republican leadership, as the distinguished majority leader has indicated. We sometimes have to move in strange ways, seemingly, in order to get the business of the Senate done. This is a proposal offered by the Senator from Alabama that I strongly favor. I think we need on the books an amendment to the bankruptcy laws to handle the situation. I do not think it should be adopted as a substitute for the pending measure, however.

Mr. ALLEN. It is not being so offered, I state to the Senator.

Mr. GRIFFIN. I have to consider the situation in the context of the facts as they exist. That is that if we are going to pass the pending measure within the time frame that is essential, we ought to pass the bill that was passed by the House of Representatives, as submitted by the administration, and consider this bankruptcy measure separately, on its own merits. I should be concerned if we did not have the assurance from the majority leadership that it would be scheduled and brought up, but we have that firm assurance. I, for one, am willing and I know the distinguished minority leader, the Senator from Pennsylvania (Mr. Hugh Scott), is willing to rely on that assurance of the distinguished majority leader.

With that explanation, even though I favor the measure on its merits, I shall vote with the majority leader to table the amendment and urge those on this side of the aisle to do likewise.

I thank the majority leader for yielding.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield without losing my right to the floor.

Mr. ROBERT C. BYRD. Mr. President, I, too, favor the bankruptcy legislation. I also favor the New York bill that has been passed by the House and sent to the Senate, and which has been under debate. I believe, however, in view of the fact that the leadership has assured the Senate that the Senate will have an opportunity expeditiously to consider the bankruptcy legislation separately and on its own merits, that the Senate ought to support the majority leader's motion to table the pending amendment.

It is very important that the House bill not be amended. If there is an amendment to the House bill, this means a possible conference report that the Senate would have to vote on, which could entail another filibuster and delay even longer the final action on this legislation. I think it is imperative that action be taken as soon as possible on the New York legislation. I think it is critical to the city of New York. It is for that reason, the reason that we must not amend this bill and run the risk of a filibuster on a conference report, that I shall support the majority leader's motion to table.

Mr. ALLEN. Will the distinguished majority leader yield to me?

The ACTING PRESIDENT pro tempore. As the Chair understands it, the Senator from Montana has withdrawn his motion to table, when he yielded to the Senator from Michigan.

Mr. MANSFIELD. I have withheld it.

The ACTING PRESIDENT pro tempore. The motion is not debatable. Therefore, the Chair has let it run along and the Senator will renew his motion at the proper time.

Mr. MANSFIELD. That is correct.

I yield to the Senator from Alabama without losing my right to the floor.

Mr. ALLEN. Much has been said about how everybody favors the substance of this amendment; yet they are going to vote against it. It has been expressed that this would necessitate a conference report. Why would it necessitate a conference report, Mr. President, when this is what the President is proposing? He proposed this, as a matter of fact, before he proposed the loan of $2.3 billion. The House followed the President's leadership and suggestion on the $2.3 billion loan. I do not believe there is a single Member of the Senate who feels that the House would refuse to go along with this bill if this alternate plan is added to the loan bill. I see no harm, no danger to the pending bill, but merely an expediting of option No. 2, that the city would have an opportunity to avail itself of. I do not see that it is going to slow the bill down and I do not see that it necessitates a conference report. I do not believe that others feel it would necessitate a conference report. I hope the motion to table will not be agreed to.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, before I yield to the Senator from New York, I ask unanimous consent that all committees may be allowed to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NEW YORK CITY SEASONAL FINANCING ACT OF 1975

Mr. MANSFIELD. Mr. President, I yield to the Senator from New York, without losing my right to the floor.

Mr. JAVITS. Mr. President, I have heard the debate and argument on this matter. It is my judgment that a bankruptcy bill is highly desirable, and I shall support one.

When the President proposed that we enact a bankruptcy statute, he did it within the framework of his recommendation that New York should go bankrupt. And that was his best judgment at the time.

Now, Mr. President, after a confluence of many events which have materially changed the situation which faces the country and faces New York, including increased taxation, many economies, the agreement of thousands of people, including the banks which hold important New York paper, the agreement seems to be clear that we can pull out of it if given this opportunity and, therefore, that bankruptcy is no longer the feasible alternative for us, assuming Congress will act affirmatively on this legislation.

Therefore, I deeply believe that the leader's views are the correct ones and, for this reason: The bankruptcy statute involves not only New York City, it involves every town, hamlet, and county in the country, perhaps even every State, and the full faith and credit doctrine which has sustained billions and billions of dollars of municipal and similar financing is here at stake. Congress will want to give this considerable thought.

I think it would be highly improvident to push Congress into a situation where it would enable New York to continue breathing, plus making a monumental decision of this character on the finite details of the bankruptcy bill under this kind of time limitation.

So I thank the leader very much for enabling us to move forward with what must be our essential business.

One last thing: I have heard complaints about the fact that we are trying to push this measure through with some kind of force and without letting people vote on amendments. What the leader has moved this morning is very clear on this score. The Senate will vote on every step of the way and it will decide whether this whole, enormous enterprise shall be blocked because of the procedural situation.

I join Senator ROBERT C. BYRD, Senator GRIFFIN, and the leader in the hope that we may have our chance at this time and that the procedure shall not thwart the will of the Senate, the will of the House, and the President.

I thank my colleagues.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield without losing my right to the floor.

UNANIMOUS-CONSENT AGREEMENT ON DIVISION OF TIME—H.R. 10481

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the 1 hour before cloture on tomorrow or such portion thereof as remains after the leaders or their designees have been recognized under the standing order, and so on, be equally divided between Mr. PROXMIRE and Mr. ALLEN.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NEW YORK CITY SEASONAL FINANCING ACT OF 1975

The Senate resumed the consideration of the bill (H.R. 10481) to authorize the Secretary of the Treasury to provide seasonal financing for the city of New York.

The ACTING PRESIDENT pro tempore. Now, in order to get straight here the Chair lays before the Senate the pending business, H.R. 10481, which the clerk will state by title.

The assistant legislative clerk read as follows:

> H.R. 10481, an act to authorize the Secretary of the Treasury to provide seasonal financing for the city of New York.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Alabama.

Mr. MANSFIELD. Mr. President, I still withhold the motion and I yield to the distinguished Senator from Wyoming briefly without losing my right to the floor.

Mr. HANSEN. Mr. President, it shall be my purpose or it is my purpose to vote against the motion to table, but I want to make clear I am pretty well inclined to support this legislation.

There are two or three things that do disturb me. One that seems important is that there be a bankruptcy amendment clause attached in order to make certain that that goes along, and I will be offering an amendment later on today to make certain also that revenue-sharing funds, appropriated funds, may be withheld in the event there should be default on the repayment of the loan that is proposed to be made by the Federal Government to the city of New York.

I do that because of great concern in my State, the people it is my obligation and responsibility here to represent. I thank the distinguished majority leader.

Mr. MANSFIELD. Mr. President, may I say it is the unanimous opinion of the joint leadership on both sides that there should be a bankruptcy bill, and our promise has been given that it will be called up separately, and we think it should be.

May I also say that I think the President of the United States is to be commended for bringing about a solution to a most difficult problem in facing up to the economic situation confronting the city and State of New York. He has done it in such a way that there will not be a parade behind the city and State of New York if this pending legislation is passed. In that respect I think he has done a service; he has prevented a stampede, and is entitled to the support of Congress in settling this issue along the lines which he recommended.

I would hope the proposal before us, the legislation which passed the House, will be passed in the Senate without any change whatsoever.

Mr. President, I move to table the Allen amendment.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ALLEN. I call for the yeas and nays on the motion to table.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GARY HART). Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I ask unanimous consent that all amendments at the desk on tomorrow at the time cloture is invoked, if it is invoked——

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator be allowed to make this request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN (continuing). Shall be treated as having been read under the provisions of rule XXII.

Mr. JAVITS. Mr. President, reserving the right to object, and I shall not object, may we be assured that this in no way waives the germaneness rule?

Mr. ALLEN. The Senator from Alabama did not request that. He just requested they be held to have been read.

The PRESIDING OFFICER. The request merely deals with the reading requirement.

Mr. JAVITS. I thank the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to the motion to lay on the table.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion to lay on the table the amendment (No. 1173) of the Senator from Alabama (Mr. Allen).

Mr. ALLEN. Mr. President, I call for the yeas and nays.

The PRESIDING OFFICER. On this question the yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from Arkansas (Mr. Bumpers), the Senator from Idaho (Mr. Church), the Senator from New Hampshire (Mr. Durkin), the Senator from Mississippi (Mr. Eastland), the Senator from Alaska (Mr. Gravel), the Senator from Kentucky (Mr. Huddleston), the Senator from Minnesota (Mr. Humphrey), the Senator from Washington (Mr. Jackson), the Senator from Maine (Mr. Muskie), and the Senator from Rhode Island (Mr. Pell) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. Inouye) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) and the Senator from Washington (Mr. Jackson) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. Fannin), the Senator from Hawaii (Mr. Fong), the Senator from Kansas (Mr. Pearson), and the Senator from Delaware (Mr. Roth) are necessarily absent.

I further announce that the Senator from Utah (Mr. Garn) is absent attending the funeral of a relative.

I further announce that, if present and voting, the Senator from Utah (Mr. Garn) would vote "yea."

The result was announced—yeas 51, nays 31, as follows:

[Rollcall Vote No. 541 Leg.]

YEAS—51

Abourezk
Baker
Beall
Biden
Brooke
Byrd, Robert C.
Cannon
Case
Clark
Cranston
Culver
Eagleton
Ford
Glenn
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hathaway
Javits
Johnston
Kennedy
Leahy
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Nelson
Packwood
Pastore
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Tower
Tunney
Weicker
Williams

NAYS—31

Allen
Bartlett
Bellmon
Brock
Buckley
Burdick
Byrd,
Harry F., Jr.
Chiles
Curtis
Dole
Domenici
Goldwater
Hansen
Hatfield
Helms
Hollings
Hruska
Laxalt
Long
McClellan
McClure
Morgan
Nunn
Scott,
William L.
Sparkman
Stennis
Stone
Taft
Talmadge
Thurmond
Young

NOT VOTING—18

Bayh
Bentsen
Bumpers
Church
Durkin
Eastland
Fannin
Fong
Garn
Gravel
Huddleston
Humphrey
Inouye
Jackson
Muskie
Pearson
Pell
Roth

So the motion to lay on the table Mr. Allen's amendment (No. 1173) was agreed to.

RAIL SERVICES ACT OF 1975

The Senate resumed the consideration of the bill (S. 2718) to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes.

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 10 o'clock having arrived, under the previous order the Senate will now proceed to the consideration of the motion to invoke cloture on S. 2718, which the clerk will state.

The legislative clerk read as follows:

> CLOTURE MOTION
>
> We, the undersigned members of the Senate, in accordance with Rule 22 of the Standing Rules of the Senate, hereby move to close debate upon S. 2718, a bill to improve the quality of rail service in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes.
>
> Vance Hartke, Warren G. Magnuson, John V. Tunney, George McGovern, Philip A. Hart, Edmund S. Muskie, Adlai E. Stevenson, John Glenn, Lowell P. Weicker, Jr., James B. Pearson, Charles McC. Mathias, Jr., Edward M. Kennedy, Edward W. Brooke, Bob Packwood, Hugh Scott, John A. Durkin, Harrison A. Williams, Jr., Jennings Randolph.

CALL OF THE ROLL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The second assistant legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 86 Leg.]

Abourezk
Allen
Baker
Bartlett
Beall
Bellmon
Biden
Brock
Brooke
Buckley
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Ford
Glenn
Goldwater
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Scott,
William L.
Stafford
Stennis
Stevens
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate upon S. 2718, a bill to improve the quality of rail service in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement of financing, and for other purposes, shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from Arkansas (Mr. Bumpers), the Senator from Alaska (Mr. Gravel), the Senator from Minnesota (Mr. Humphrey), the Senator from Washington (Mr. Jackson), and the Senator from Maine (Mr. Muskie) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. Inouye) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) and the Senator from Washington (Mr. Jackson) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. Fannin), the Senator from Hawaii (Mr. Fong), and the Senator from Delaware (Mr. Roth) are necessarily absent.

I further announce that the Senator from Utah (Mr. Garn) is absent attending the funeral of a relative.

The yeas and nays resulted—yeas 61, nays 27, as follows:

[Rollcall Vote No. 542 Leg.]

YEAS—61

Abourezk
Baker
Beall
Biden
Brooke
Burdick
Byrd, Robert C.
Case
Church
Clark
Cranston
Culver
Dole
Domenici
Durkin
Eagleton
Ford
Glenn
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Javits
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Stone
Symington
Tower
Tunney
Weicker
Williams

NAYS—37

Allen
Bartlett
Bellmon
Brock
Buckley
Byrd,
Harry F., Jr.
Cannon
Chiles

Curtis
Eastland
Goldwater
Hansen
Helms
Hruska
Johnston
Laxalt
McClellan
McClure
Morgan
Nunn
Scott,
William L.
Sparkman
Stennis
Taft
Talmadge
Thurmond
Young

NOT VOTING—12

Bayh
Bentsen
Bumpers
Fannin
Fong
Garn
Gravel
Humphrey
Inouye
Jackson
Muskie
Roth

The PRESIDING OFFICER. On this vote the yeas are 61, the nays are 27. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. Each Senator now has 1 hour for debate.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I yield myself 1 minute.

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. Please clear the aisles. Senators take their seats. Those wishing to converse, please go to the cloakroom.

May we have order?

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, there are circa 30 amendments at the desk that have met the reading requirements under the rule. In addition to these 30 amendments, Mr. HARTKE has a number of technical amendments. Under the rule, of course, each Senator has 1 hour.

I ask unanimous consent that 30 minutes of my hour be allotted to Mr. HARTKE, he being the manager of the bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the leadership would like to state that it is the intention of the leadership to stay in session until we finish this bill.

Now, if it means midnight, it means midnight. If it means 3 o'clock tomorrow morning, it means 3 o'clock tomorrow morning. If it means 10 o'clock tomorrow morning, it means 10 o'clock tomorrow morning.

Senators can shorten that period if they will come to the floor quickly on quorum calls. Quorum calls are not charged to any Senator's time once cloture is invoked and the live quorum calls can take 30 or 40 minutes.

So the leadership would urge Senators to respond quickly to quorum calls so as to shorten the day.

The PRESIDING OFFICER. Who yields time?

Mr. STONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. STONE. I yield myself 3 minutes on the bill.

AMENDMENT NO. 1169

Mr. STONE. Mr. President, I call up my amendment, No. 1169.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Florida (Mr. STONE) proposes an amendment numbered 1169.

Mr. STONE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 87, line 4, after "therefor" insert the following: "and the safety standards and signal requirements necessary to prevent loss of life and serious accident or injury at grade crossings".

On page 87, line 9, strike out "recommendation" and insert in lieu thereof "recommendations".

On page 87, line 11, following "standard" insert the following: "and the cost of providing adequate safety standards and signals together with an economic analysis of the cost of such improvements in safety standards and signals".

On page 88, line 13, insert the following new sentence: "The Association, in the granting of financial assistance to any applicant, shall assign the highest priority to applications for assistance for providing safety improvements and signals including underpasses or overpasses at railroad crossings wherein injury or loss of life has frequently occurred or is likely to occur.".

Mr. STONE. Mr. President, this amendment merely assigns the highest priority in the granting by the Association of financial assistance to an applicant railroad, the highest priority to assistance in providing safety improvements and signals, including underpasses and overpasses at railroad crossings where injury or loss of life has occurred in the past or is likely to occur.

I believe the managers of the bill are prepared to accept this good amendment, which is a lifesaving amendment.

Mr. HARTKE. Mr. President, this amendment is acceptable to both the majority and minority sides of the committee.

This is an amendment on safety and we think it is a good amendment.

Mr. STONE. Mr. President, I yield back my time, including all my remaining time on the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida.

Mr. ALLEN. I call for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ROBERT C. BYRD. Mr. President, was this amendment accepted?

Mr. STONE. Yes.

Mr. ROBERT C. BYRD. Then I would urge Members not to press for the yeas and nays.

The PRESIDING OFFICER. Is there a——

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ALLEN. I suggest the absence of a quorum, Mr. President.

Mr. ROBERT C. BYRD. Well, Mr. President——

The PRESIDING OFFICER. There appears not to be a sufficient second.

The clerk will call the roll for a quorum.

Mr. ALLEN. I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, I ask Senators to sustain the demand for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Does the Senator withdraw his request?

Mr. ROBERT C. BYRD. If the Senator will withdraw his request, I will support his request for the yeas and nays.

The PRESIDING OFFICER. The Senator from Alabama has asked for a quorum. Does he withdraw that request?

Mr. ALLEN. I understood the Chair to say it was not sustained.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the call for the quorum be withdrawn so that we can support the Senator's demand for the yeas and nays.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. McGOVERN), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. FANNIN), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Delaware (Mr. ROTH) are necessarily absent.

I further announce that the Senator from Utah (Mr. GARN) is absent attending the funeral of a relative.

The result was announced—yeas 83, nays 0, as follows:

[Rollcall Vote No. 543 Leg.]

YEAS—83

Abourezk
Allen
Baker
Bartlett
Beall
Bellmon
Biden
Brock
Brooke
Buckley
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Ford
Glenn
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska

Huddleston
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McIntyre
Metcalf
Mondale
Montoya
Morgan
Nelson
Nunn
Packwood
Pastore
Pearson
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—17

Bayh
Bentsen
Bumpers
Church
Fannin
Fong
Garn
Goldwater
Gravel
Humphrey
Inouye
Jackson
McGovern
Moss
Muskie
Pell
Roth

So Mr. STONE's amendment (No. 1169) was agreed to.

AMENDMENT NO. 1166

Mr. BEALL. Mr. President, I call up my amendment No. 1166, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maryland (Mr. BEALL) proposes an amendment numbered 1166, as follows:

On page 132, delete lines 16 through 22.

Redesignate subsections "(c)" through "(m)" as subsections "(b)" through "(l)".

Mr. BEALL. Mr. President, I ask unanimous consent that the amendment be modified to correspond with the new print of the bill.

The PRESIDING OFFICER. Without objection, the amendment will be so modified.

Mr. BEALL's amendment, as modified, is as follows:

On page 134, delete lines 4 through 10.

Redesignate subsections "(c)" through "(n)" as subsections "(b)" through "(n)".

Mr. BEALL. Mr. President, I yield to the Senator from Michigan for a unanimous-consent request.

Mr. PHILIP A. HART. Mr. President, I ask unanimous consent that Katherine Schirmer of my staff be permitted access to the floor during the consideration and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BEALL. I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I ask unanimous consent that John Steer, a member of my staff, be accorded the privilege of the floor during the consideration and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BEALL. I yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I ask unanimous consent that Howard Segermark of my staff be accorded the privilege of the floor during the consideration and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BEALL. I yield to the Senator from Kentucky.

Mr. FORD. Mr. President, I ask unanimous consent that Jim Fleming of my staff be accorded the privilege of the floor during the consideration and any votes on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BEALL. I yield to the Senator from Ohio for a unanimous-consent request.

Mr. TAFT. Mr. President, I ask unanimous consent that Tom Block of my staff be accorded the privilege of the floor during the consideration and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BEALL. I yield to the Senator from New Mexico for a unanimous-consent request.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Lee Rawls of my staff be accorded the privilege of the floor for the remainder of the consideration of this bill and votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BEALL. Mr. President, I ask unanimous consent that Joe Carter of my staff be accorded the privilege of the floor during the consideration of this bill and all votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BEALL. Mr. President, the amendment I am offering today reduces the salary level of the Chairman of the Board of the U.S. Railroad Association—USRA—from $85,000 as proposed by the committee to the existing, and in my judgment adequate, level of $63,000. I want to make it clear that this amendment has nothing to do with the performance of the present chairman of USRA. As a matter of fact, I believe Arthur Lewis and USRA have performed their responsibilities under the "Regional Rail Reorganization Act of 1973" extremely well.

My objections then are not personal and have nothing to do with the performance of the present holder of that position. They are essentially based on an overall examination of USRA, its responsibilities, its structure, and salary in relationship to other Federal agencies, executive salary levels, structure, and responsibilities.

The committee's position apparently equates the responsibilities and duties of the Chairman of USRA with that of the President of Amtrak.

I emphatically, and without downgrading in the least the role and importance of USRA, reject that proposition. Amtrak is an operating railroad. It has approximately 9,000 employees. To secure top railroad management, it was necessary for us to compete with compensation paid by the Nation's railroads to its chief executives. Therefore, Congress, and wisely in my judgment, enabled Amtrak to pay its president $85,000. As a result, we were able to secure an imaginative and top railroad man, Mr. Paul Reistrup.

However, there is no comparable private corporation to U.S. Railroad Association. USRA employs around 200 individuals.

For $63,000 we were able to secure the services of Arthur Lewis as Chairman of the Board of the U.S. Railroad Association. Certainly, the responsibilities of the Chairman of USRA, as important as they are, do not compare to those of the Secretary of Transportation, who is charged with administering a Federal department and for directing the overall transportation policy of this Nation. Similar comments, of course, are applicable to other heads of cabinets. Yet the bill would raise the salary of the Chairman of USRA in excess of that paid cabinet officials.

Essentially, the U.S. Railroad Association was the planning and financing agency for the reorganization process pursuant to the Regional Rail Reorganization Act of 1973. The role of USRA in S. 2718 primarily will be that of a financing agency. It is my judgment that at a salary level of $63,000, the Chairman of the U.S. Railroad Association is adequately compensated.

To put this in proper perspective, we should examine some of the other salary levels in the Federal executive pay schedule.

For example, Arthur Burns, the Chairman of the Federal Reserve Board and the Nation's top banker, receives a salary of $44,600. Certainly, the responsibilities of USRA do not justify a salary level which approaches twice that of the Nation's top banker.

Similarly, the following positions are compensated at a level 3, or $42,000 level; the Solicitor General of the United States, the Chairman of the Civil Aeronautics Board, the Chairman of the Civil Service Commission, the Federal Communications Commission, the Federal Home Loan Bank Board, the Federal Power Commission, the ICC, the National Labor Relations Board, and the Securities and Exchange Commission.

In summary, the Chairman of the Board of USRA is adequately compensated. The committee's position raising this salary to $85,000 should be resoundingly rejected by the Senate of the United States. I, therefore, urge the adoption of the amendment.

Mr. President, I reserve the remainder of my time.

Mr. HARTKE. Mr. President, I yield myself 3 minutes.

Mr. President, the measure before the Senate in this bill calls for $85,000 in salary. It is my feeling that this is a proper amount for that type of position. It is an extremely important position.

The USRA has performed in a manner which, in my judgment, was unexcelled as far as the planning progress is concerned and as far as the overall operation is concerned.

There is some difference of opinion as to what should be done in this case in other parts of the bill. The administration and the Department of Transportation have indicated they would like to have the salary reduced.

The Senator from Maryland has been extremely helpful in not only conducting the hearings but also in coming forward with a workable bill.

In the spirit of understanding and with the hope that the administration will also be understanding in some aspects of their approach, rather than just sheer confrontation, I am prepared to say that on behalf of the committee we are willing to accept the amendment of the Senator from Maryland.

Mr. BEALL. Mr. President, I thank the Senator from Indiana for accepting the amendment.

I reserve the remainder of my time.

The amendment was agreed to.

Mr. LONG. Mr. President, I call up my amendment which is at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an amendment.

The amendment is as follows:

Beginning with the word "In" on page 62 line 2, strike all through line 3 on page 63 and insert in lieu thereof the following: "In carrying out the purposes of this section, the Secretary may require by request, subpoena, or other order all transportation carriers, other than carriers by water not subject to regulation under the Interstate Commerce Act (including (A) those operating under exemptions pursuant to sections 203 (b) of the Interstate Commerce Act (49 U.S.C. 303(b) and (B) the owners and operators of private or proprietary carriers) to file such reports containing such data and other information and any documentation thereof as the Secretary finds necessary to enable him to comply with the provisions of this section.

Mr. LONG. Mr. President, I yield myself 5 minutes.

Mr. President, the unregulated barge lines are now exempt from all Department of Transportation and ICC inspection of records. This amendment would make them exempt from subpena of books and also from the requirement to keep such records as the Secretary may decide he wants them to keep.

We have heard tremendous complaint about all the needless paperwork in Government and, in view of the fact that these businesses are not regulated by the Department of Transportation and the Interstate Commerce Commission, I believe it would be well that they be exempt from the recordkeeping requirements, having their books examined by the Secretary, and those aspects of this measure.

I hope that the distinguished manager of the bill could support the amendment.

Mr. HARTKE. Mr. President, I yield myself 1 minute.

Mr. President, I have discussed this matter with the Senator from Louisiana, and it was my judgment originally that the way the bill was drafted the original language of the bill would not have really permitted any examination of books beyond what they have been doing at the present time. However, for the sake of taking to the conference clarification, the committee is willing to accept the amendment.

Mr. LONG. I thank the Senator.

The PRESIDING OFFICER. Is there further debate on this amendment?

Mr. LONG. I yield back the remainder of my time.

The amendment was agreed to.

AMENDMENT NO. 1168

Mr. FORD. Mr. President, I call up my amendment No. 1168, which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. FORD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

EQUITABLE DISTRIBUTION OF CARS FOR UNIT TRAIN SERVICE

SEC. 209. Section 1(12) of the Interstate Commerce Act (49 U.S.C. 1 (12)), is amended by adding at the end thereof: "In applying the provisions of this paragraph (12), however, unit-train service and non-unit-train service shall be considered separate and distinct classes of service and a distinction shall be made between these two classes of service and between the cars used in each class of service; and questions of the justness and reasonableness of, or discrimination or preference or prejudice or advantage or disadvantage in, the distribution of cars shall be determined within each such class and not between them, notwithstanding any provision of sections 1, 2, and 3 of the Interstate Commerce Act (49 U.S.C. 1, 2, and 3), and of sections 1, 2, and 3 of the Elkins Act (49 U.S.C., 41, 42, and 43). Coal cars supplied by shippers or receivers shall not be considered a part of such carrier's fleet or otherwise counted in determining questions of distribution or car count under this paragraph or statutes referred to in this section. 'Unit-train service', as used herein, means the movement of a single shipment of coal of not less than four thousand five hundred tons, tendered to one carrier, on one bill of lading, at one origin, on one day and destined to one consignee, at one plant, at one destination, via one route."

Mr. FORD. Mr. President, I ask unanimous consent that the time I might have remaining after I complete my remarks be designated to the floor manager of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I talked to both sides of the aisle as to this amendment.

The PRESIDING OFFICER. Will the Senator withhold a moment?

Did he yield all the remainder of his time or the time remaining on the bill to the floor manager? If so, he would have no time remaining.

Mr. FORD. I said after I finish.

The PRESIDING OFFICER. Very well.

Mr. FORD. I made that clear, I hope.

Mr. BEALL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BEALL. Was that by unanimous consent? I think it is unusual practice for Members to yield their time under a cloture to another Member.

The PRESIDING OFFICER. I inform the Senator he cannot yield his time to other Senators under the rule.

Mr. FORD. Mr. President, the only thing I was going by was the leader of the Senate yielded his time to the floor manager earlier, and that was accepted.

Mr. ROBERT C. BYRD. That was by unanimous consent.

Mr. FORD. I asked for unanimous consent, it was given, and by unanimous consent I yielded the remainder of my time to the floor manager of this bill.

Mr. BEALL. Mr. President, I did not hear the Presiding Officer ask for objection.

The PRESIDING OFFICER. I believe I did. If I did not, I should have and do now.

Is there objection to that procedure?

Mr. BEALL. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FORD. At least we tried.

Mr. HARTKE. I thank the Senator anyway.

Mr. FORD. I wished to help the floor manager as much as I could. He has been very cooperative with me. I thought since he has been so cooperative with the Senator from Maryland he would not object.

Mr. BEALL. I have already objected.

Mr. FORD. Mr. President, this amendment allows the continued concept of the unit-train. It will increase the tonnage necessary to develop the so-called unit-train. This amendment excludes private cars that might be owned by grain dealers or other private operations. It only applies to the trains owned by the company.

I cite one item which I think makes this amendment important. The commission itself, after a study of 64-car train units, said that this unit provided the work of 650 cars 10 to 1.

Utilities are requesting this amendment so that they can continue the unit-car concept, the unit-train concept, and in that event hopefully reduce costs, reduce rates, and be more efficient in supplying coal to utilities.

Mr. HARTKE. Mr. President, I yield myself 1 minute.

Mr. President, this amendment merely allocates and makes a modification of allocation of powers between the unit-train service and the regular freight service. The committee has no objection to this amendment. I think it does possibly correct a situation which at the present time is causing some trouble due to the new modernization techniques involved with unit trains.

We are prepared to accept the amendment.

Mr. FORD. Mr. President, if there be no question, I yield back the remainder of my time.

The amendment was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I yield myself 1 minute.

Mr. President, we have asked the cloakrooms to get word out to Senators to the effect that if they have amendments they should come in the Chamber and be prepared to offer them in order to avoid time-consuming rollcalls. Otherwise, the leadership would hope that if Senators do not seek recognition to speak, the Chair would put the bill to third reading.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARTKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, there is a series of technical amendments at the desk which have been submitted on S. 2718. I ask that they be considered now.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk proceeded to read the amendments.

Mr. HARTKE. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

On page 73, line 8, strike the words "rolling stock:, and insert in lieu thereof the word "equipment".

On page 80, lines 16 and 17, strike the words "to finance:.

On page 80, lines 17 and 18, strike the words "for such railroads".

On page 80, line 25, strike the word "Act" and insert in lieu thereof the word "Title".

On page 81, line 22, strike the word "Title" and insert in lieu thereof the word "Act".

On page 84, line 12, insert after the word "Secretary", the words "in connection with his duties under section 503 and this section".

On page 85, line 22, strike the word "such" and insert in lieu thereof the words "clause (B) of".

On page 87, line 6, strike the word "carrier", and insert in lieu thereof the word "railroad".

On page 87, line 8, strike the word "carrier's" and insert in lieu thereof the word "railroad's".

On page 87, line 12, strike the word "carrier's" and insert in lieu thereof the word "railroad's".

On page 74, strike line 14, and insert in lieu thereof the following: "(4) "Fund" means the Railroad Rehabilitation and Improvement Fund;"

On page 75, line 7, strike "Trust".

On page 75, lines 8 and 9, strike "subject to the direction and control of" and insert in lieu thereof the following: "administered by"

On page 75, lines 9 through 11, strike "as trustee therefor, in order to enable the Association, without fiscal year limitation" and insert in lieu thereof the following: "without the requirement of annual authorizations, in order

On page 75, lines 12 and 13, strike "trust" at each place where such term is used.

On page 76, line 6, strike "trust".

On page 76, line 7, strike "trust".

On page 77, line 1, strike "determine" and insert in lieu thereof the following: "determine, in accordance with congressional appropriations,.

On page 78, line 13, strike "trust".

On page 79, line 1, strike "trust".

On page 89, line 10, strike "trust".

On page 92, line 9, strike "TRUST".

On page 92, line 13, strike "trust".

On page 92, line 21, strike "Trust fund" and insert in lieu thereof "Fund".

On page 93, at lines 11, 12, 15 and 17, strike the term "trust" at each place where it appears.

On page 94, line 18, strike "trust".

On page 95, line 7, strike "TRUST".

On page 95, line 10, strike "trust".

On page 95, line 12, strike "trust".

On page 96, line 3, strike "Fund." and insert in lieu thereof the following: "Fund, and appropriated for the use of the Association pursuant to this title".

On page 96, at lines 7 and 8, strike the term "trust" at each place where it appears.

On page 97, at lines 2, 8, and 11, strike the term "trust" at each place where it appears.

On page 98, line 1, strike "Trust fund" and insert in lieu thereof "Fund".

On page 98, line 6, strike "trust".

On page 99, at lines 10, 18, and page 100, line 1, strike the term "trust" at each place where it appears.

On page 100, line 3, strike the term "trust" at each place where it appears".

On page 100, line 13, strike "trust".

On page 100, after line 22, add the following: No money in the Fund, regardless of source, shall be obligated, expended, or otherwise committed to any purpose from the Fund prior to or after January 1, 1978, without prior approval thereof in an annual Appropriations Act. The Fund shall not qualify as one of the exceptions provided in section 401(d) of the Congressional Budget and Impoundment Control Act of 1974.".

Page 75, line 4, strike "trust".

Page 94, line 1, strike "trust".

Page 99, lines 4, 5, 15, and 18, strike "trust".

Page 100, line 1, strike "trust".

On page 88, line 5, strike the word "carrier", and insert in lieu thereof "railroad".

On page 88, line 6, strike the word "carrier's", and insert in lieu thereof the "railroad's".

On page 88, line 20, strike the word "it".

On page 94, lines 14 and 15, "any redeemable preference shares", and insert in lieu thereof the words "any debentures or series A preferred stock".

On page 94, lines 19 and 20, strike the words "redeemable preference shares" and insert in lieu thereof the words "such debentures or series A preferred stock of the Corporation".

On page 95, line 6, strike the words "redeemable preference shares", and insert in lieu thereof the words "debentures and series A preferred stock of the Corporation."

On page 101, line 12, strike the word "carrier".

On page 103, line 25, strike the words "no earlier than 21 days after the date of such", and insert the words "after reasonable notice.".

On page 104, line 1, strike the word "publication.".

On page 105, line 17, strike the number "(1)".

On page 215, strike lines 14 through 20, and insert in lieu thereof the following:

"(3) If necessary to prevent any delay in, or loss of, rail service, at any time after the date of conveyance pursuant to section 303 (b)(1) of this title, the Commission—

"(A) shall take such action as may be appropriate under its existing authority (including the enforcement of common carrier requirements applicable to railroads in reorganization in the region) to ensure compliance with obligations imposed under this subsection; and

"(B) shall have authority, in accordance with the provisions of section 1(16)(b) of the Interstate Commerce Act (49 U.S.C. 1(16) (b)), to direct rail service to be provided by any designated railroad or by the trustees of a railroad in reorganization in the region, if a rail service continuation payment has been offered but an applicable operating or lease agreement is not in effect.

For purposes of the preceding sentence, any compensation required as a result of such directed service shall be determined in accordance with the provisions of section 205(d)(3) of this Act.

The district courts of the United States shall have jurisdiction, upon petition by the Commission or any interested person (including a government entity), to enforce any order of the Commission issued pursuant to the exercise of its authority under this subsection, or to enjoin any designated entity or the trustees of a railroad in reorganization in the region from refusing to comply with the provisions of this subsection.".

On page 223, line 7, after "such plans", insert the following: "includes a suitable process for updating, revising, and amending such plan and".

On page 226, strike line 15.

On page 226, strike lines 16 through 21.

On page 226, line 22, strike "(g)" and insert in lieu thereof "(f)".

On page 227, line 18, strike "(h)" and insert in lieu thereof "(g)".

On page 227, line 24, strike "(i)" and insert in lieu thereof "(h)".

On page 228, line 10, strike "(j)" and insert in lieu thereof "(i)".

On page 176, line 13, strike "DISPUTE RESOLUTION" and insert in lieu thereof "OPERATIONS REVIEW PANEL".

On page 176, line 14, strike "JURISDICTION OF DISPUTES BOARD.—" and insert in lieu thereof "ESTABLISHMENT.—".

On page 176, line 15 through 16, strike "Board" and insert in lieu thereof "Operations Review Panel".

On page 176, line 17, strike "Disputes Board" and insert in lieu thereof "Operation Review Panel".

On page 176, line 19, strike "matters in dispute among" and insert in lieu thereof "differences of opinion concerning operations (among".

On page 176, line 21, insert a comma after "local".

On page 176, line 22, strike "services" and insert in lieu thereof "services),

On page 177, line 1, strike "DISPUTES BOARD".

On page 177, lines 1 through 2, strike "Disputes Board" and insert in lieu thereof "Operations Review Panel".

On page 177, line 8, strike "Disputes Board" and insert in lieu thereof "Operations Review Panel".

On page 178, line 2, strike "Disputes Board" and insert in lieu thereof "Operations Review Panel".

On page 178, line 3, strike "Disputes Board" and insert in lieu thereof "Operations Review Panel".

On page 178, line 3, after "costs" insert "and expenses".

On page 178, line 3, strike "borne equally" and insert in lieu thereof "paid".

On page 178, line 4, strike "three parties entitled to select a member," and insert in lieu thereof the following: "(1) the National Railroad Passenger Corporation, (2) the commuter rail authorities which are subject to such Panel, and (3) the Consolidated Rail Corporation, each of which shall pay one-third of such costs and expenses,".

On page 178, line 5, strike "majority of the Disputes Board." and insert in lieu thereof "majority of the members of such Panel.".

On page 178, lines 5 through 6, strike "Disputes Board" and insert in lieu thereof "Operations Review Panel".

On page 178, line 10, strike "in the dispute which is the subject of such order." and insert in lieu thereof the following: "in any difference of opinion concerning any operational matter which is the subject of such an order."

On page 178, line 11, strike "Disputes Board" and insert in lieu thereof "Operations Review Panel".

On page 178, lines 12 through 13, strike "the Disputes Board" and insert in lieu thereof "such Panel".

On page 178, line 14, strike "any order of the Disputes Board." and insert in lieu thereof the following: "any final order issued by such Panel."

On page 172, line 11, strike the quotation mark.

On page 173 between lines 223 and 224, insert the following new paragraph:

"(2) As used in this subsection, the States which are located in the Northeast corridor are Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and the District of Columbia.".

On page 187, line 23, after the word "public", insert the words ", including public parking".

On page 229, line 19, strike "'fully allocated costs" and insert in lieu thereof the following: "'avoidable cost".

On page 153, line 14, change "Sections" to "Section".

On page 153, line 15, change "are" to "is".

On page 119, line 15, add the word "rail" between the words "of" and "properties"

On page 119, lines 17 and 18, strike the words: ", to a subsidiary or affiliate of the Corporation,"

On page 119, line 19, strike the words: "206(c)(1)(A) of such Act," and insert in lieu thereof "206(c) of the Act"

On page 235, line 5, insert after "otherwise," the following: "in such amounts as are provided in appropriations Act,"

Mr. HARTKE. Mr. President, the technical amendments have been agreed to by the majority and the minority members of the Committee.

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments were agreed to.

Mr. BEALL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BEALL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BEALL. Mr. President, I support S. 2718, as "Rail Services Act of 1975." As a member of the Commerce Subcommittee on Surface Transportation, I commend Chairman HARTKE for his diligence, skill, and leadership in bringing S. 2718 to the Senate floor.

I had the pleasure of working with the chairman, not only on this measure, but also on S. 2718's predecessor, the Regional Rail Reorganization Act of 1973 for which I acted as the minority floor manager.

I know from first-hand experience the amount of work he has applied to this legislation. It is only as a result of his diligence that it has made it thus far through the legislative hopper.

S. 2718, the bill before the Senate today, is complex legislation. Given the gigantic problems and issues which this measure addresses and the critical importance not only to the Northeast but also to the entire Nation of their resolution, this is understandable.

While S. 2718 is not perfect, and no comprehensive measure involving so many issues and interests could be, it nevertheless represents a Herculean effort and should be supported by the Senate.

The Rail Services Act of 1975 is the most significant railroad legislation before the country and the Congress in decades. It is a "must" measure for this Congress.

Hopefully, the enactment of this bill will signal an end to an era of neglect for the Nation's railroads. Railroads had not only been victims of neglect, but also in many instances of public policy and regulatory action which worked against greater utilization of this energy efficient, ecologically sound, and safe transportation mode.

In most cases, this was not a deliberate policy, but rather one which resulted from our piecemeal approach to transportation and lack of an overall national transportation policy. The Commerce Committee has been critical of the failure of the previous Secretaries of Transportation to develop such a policy. This year, however, Transportation Secretary Coleman has developed and submitted to Congress such a plan. While not as complete and as comprehensive as we would like, it nevertheless represents a first and I, for one, applaud Secretary Coleman for this important effort. That effort, together with the additional impetus for an overall and comprehensive planning and programs, provided in this measure may represent a turning point toward greater rationalization and equity in transportation policy for the Nation.

S. 2718 contains nine titles. Title I, II, and IV reform the regulatory system and the regulatory agency, the Interstate Commerce Commission. One example is the streamlining of railroad mergers and rationalizations in order to avoid situations like the Rock Island case which dragged out for over a decade.

Title III provides for a comprehensive study of Government assistance to all modes of transportation and calls for a report by the Secretary of Transportations on the transportation needs of the country and recommendations with respect to meeting those needs.

Title V establishes a temporary rail trust fund and requires the Secretary of Transportation to recommend the funding mechanism for the trust fund or an alternative funding arrangement within 2 years.

Title VI implements the reorganization of the bankrupt railroads in the Northeast. I am, of course, pleased that the committee, at my urging, included the protection from deficiency judgments for acquiring railroads. This provision was essential to the acquisition by Southern Railroad of the lines on Maryland's Eastern Shore.

Title VII calls for the implementation of the Northeast Corridor Project which Congress in the Regional Rail Act of 1973 already indicated it wanted action. This provision is designed to bring modern rail transportation to the densely populated Northeast wherein one-fifth of the Nation's population resides on 2 percent of the land.

Projections show increased population growth and additional travel requirements. Existing transportation systems will have difficulty accommodating such growth. Therefore, it behooves this Nation to get on with this project. It has been studied enough. It is technologically feasible and economically viable. Delay today will mean only increased costs and inadequate transportation tomorrow.

Better ways to move people in energy efficient, environmentally sound, and safe ways must be given higher priority. The time to act is now—not when another energy crisis is upon us.

Title VIII establishes a subsidy for local rail services. Basically, this is an expansion of the local rail service subsidy provision authorized by Senator PEARSON and supported by me in the 1973 act. At that time, we provided a subsidy to local services threatened by the final plan of 70 percent Federal funds and 30 percent State or local government or affected shippers. As Senators know, the recession and unemployment have hit State and local governments hard, adding to their costs and reducing their revenue. During our hearings considerable testimony was received to the effect that present fiscal difficulties made it hard for State and local governments to participate. The committee, taking cognizance of these problems, decided to liberalize the Federal participation.

I am pleased that the committee has included provisions to protect commuter service which otherwise might be terminated following ConRail takeover of Penn Central. In my State the commuter service between Baltimore and Washington, without assistance as provided in this bill, is in danger. By assuring commuter service will continue for 6 months by ConRail and by providing Federal assistance following that period, a smooth transition and continuation of rail commuter service should result. I feel certain that, with the kind of assistance provided in this bill, Maryland will be able to continue this commuter line.

Finally, title X encourages the participation of minority businesses in the reorganization of the rails in the Northeast.

Mr. President, S. 2718 culminates a massive effort to deal with a transportation crisis occasioned by the bankruptcy of Penn Central and other railroads in the Northeast. The Regional Rail Reorganization Act of 1973 commenced the rescue operations.

As I look back on our work, the process and procedures we mandated seemed to have worked well. I feel the office of public counsel was particularly helpful in alerting communities and shippers regarding the act's impact on them and in helping them to prepare their cases. It was an open process with inputs from many. Again, not perfect, but as fair and as open as seems humanly possible.

Of course, the final test of the work remains ahead. ConRail has an awesome task confronting it. With the support provided in the bill and with new management, there is reason for guarded optimism. In any event, we had few choices.

The railroads have to be kept running. Nationalization, as a few advocated, would have been even more costly. I am pleased and proud to have participated in this historical and significant effort. I urge the enactment of S. 2718.

Mr. President, I reserve the remainder of my time.

Mr. HARTKE. Mr. President, I thank the distinguished Senator from Maryland for his fine compliments.

The work I have done in the Committee on Commerce with the Senator from Maryland has been extremely gratifying. Not only has his in-depth understanding of the measure made it possible for us to proceed expeditiously and with regularity, but also, he has a deep understanding of the entire field of transportation which is hardly excelled by any other Member of the Senate. I thank him for his work.

Mr. BEALL. I thank the Senator from Indiana.

The PRESIDING OFICER. Who yields time?

Mr. ALLEN. I yield myself such time as I may use.

Mr. President, this is a major bill. According to the Secretary of Transportation, Mr. Coleman, in a letter to the committee dated November 18, 1975, the appropriations and the open-ended authorization would run approximately $14.4 billion.

What has happened with respect to the bill? There has been no debate on it. Cloture was adopted without giving any opportunity for debate. We have been talking about the New York bill. There has been no time for general debate, no time to seek to shape the bill with amendments offered from the floor. Only those amendments that were at the desk at the time cloture was invoked will be allowed to be considered.

The Secretary of Transportation said in his letter, "The administration strenuously objects to the bill." A moment ago, I heard the distinguished Senator from Maryland (Mr. BEALL) commending Mr. Coleman for his efforts in connection with the bill. Yet, Mr. Coleman says that he is opposed to the bill.

Mr. Coleman says

> The effect of Titles IV, V, VI, and VII of the subcommittee bill is to give USRA virtually absolute and uncontrolled power to determine the Nation's rail needs.
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> * * * * *
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> We vehemently disagree with this expansion of the role of USRA.
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> * * * * *
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> We also strongly object to the excessive Federal financing provided in the Subcommittee bill. Specific authorizations in the bill call for financing in the neighborhood of $10 billion. Of course, additional open-ended authorization would carry the total higher than that. Funding under the Trust Fund established by the bill would total $4.4 billion. Of that amount, $3 billion would be available to ConRail. Still another $1 billion would be available in a separate Loan Guarantee Fund. In addition, with respect to moneys in the Trust Fund, USRA would be empowered to waive all claims by or against USRA or the Trust Fund. This could convert what would otherwise be soft loan assistance into Federal grants to the private rail sector.

I am reading from pages 314 and 315 of the committee report.

Mr. President, I ask unanimous consent that Secretary Coleman's letter, appearing on pages 314, et seq., of the report, be printed in full in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., November 18, 1975.
Hon. WARREN G. MAGNUSON,
Chairman, Senate Committee on Commerce, Washington, D.C.

DEAR MR. CHAIRMAN: The purpose of this letter is to provide you with our views with respect to the Rail Services Act of 1975 as reported by the Subcommittee on Surface Transportation (Subcommittee Print dated November 16, 1975).

The Administration strenuously objects to the bill. In previous testimony before the Subcommittee on an earlier draft of the bill, we pointed out that we had major problems in two key areas: (1) the roles of the Department and the United States Railway Association (USRA) in the task of revitalizing our Nation's railroads, and (2) funding levels. The bill reported by the Subcommittee has not alleviated these problems. In fact, they are present in several titles of the bill and, unless substantial revisions are made to the bill in all of these titles, the bill would not be acceptable to the Administration.

The effect of Titles IV, V, VI, and VII of the Subcommittee bill is to give USRA virtually absolute and uncontrolled power to determine the Nation's rail needs. In addition, those titles provide USRA the authority to invest billions of Federal dollars in accordance with its determinations. Title IV gives USRA the responsibility for proposing rail mergers and consolidations on a nationwide basis. Title V allows USRA to determine which rail carrier facilities (other than those of ConRail) will be eligible for Federal rehabilitation assistance. Title VI empowers USRA to establish the terms, conditions and amounts (including the power to convert Federal loans to grants) of Federal investment in ConRail, and also gives USRA the authority to reject without further appeal any supplementary transaction to the Final System Plan. Title VII gives USRA the responsibility for funding the upgrading of the Northeast Corridor for improved passenger service.

We vehemently disagree with this expansion of the role of USRA. USRA was created by Congress in the Regional Rail Reorganization Act of 1973 for the special purpose of developing the Final System Plan for the reorganization of the freight service of the bankrupt railroads in the Midwest and Northeast. Upon completion of the Plan, USRA's mandate provides for its continued existence only as the monitoring mechanism for the implementation of the Plan. It is totally inappropriate to transform this monitoring mechanism into a nationwide rail planning and rail funding super-agency and to have these functions exercised outside of the normal budgetary process and by a body segregated from the day-to-day public decision-making exercised by the Administration. The Department of Transportation, on the other hand, was created by Congress just nine years ago to serve as the focus for all of the Federal Government's efforts to improve the Nation's transportation system. The Department has, by law, the mandate to deal with national transportation problems cutting across all modes, and is responsible to the President and accountable to the Congress for its action. Thus, we believe the Department of Transportation rather than a special-purpose planning agency such as USRA should be charged with the responsibility for determining the Nation's rail needs, and we must strenuously oppose the addition of yet another agency to the existing panoply of agencies involved in transportation planning.

We also strongly object to the excessive Federal financing provided in the Subcommittee bill. Specific authorizations in the bill call for financing in the neighorhood of $10 billion. Of course, additional open-ended authorizations would carry the total higher than that. Funding under the Trust Fund established by the bill would total $4.4 billion. Of that amount, $3 billion would be available to ConRail. Still another $1 billion would be available in a separate Loan Guarantee Fund. In addition, with respect to monies in the Trust Fund, USRA would be empowered to waive all claims by or against USRA or the Trust Fund. This could convert what would otherwise be soft loan assistance into Federal grants to the private rail sector.

After extensive analysis, USRA determined that a program providing $2.1 billion of additional Federal investment would be sufficient to reorganize the bankrupt railroads in the Northeast and Midwest. Accepting and concurring in that judgment, the Administration determined that a program providing about $6 billion would be sufficient at the present time to assist in revitalizing the Nation's rail system. This includes the $2.1 billion in Federal investment in ConRail, $2 billion in loan guarantees to finance rail rehabilitation projects throughout the industry, $1.2 billion to upgrade service in the Northeast Corridor, and $400 million for supplementary transactions. I view the excess and uncontrolled funding authority provided in the Subcommittee bill as an unnecessary and arbitrary commitment of already-strained Federal funds.

The propensity to spend in excess of demonstrated need is clearly evidenced by the Northeast Corridor provisions in Title VII of the Subcommittee bill. Under that title, USRA is authorized to provide $3 billion in non-interest-bearing loans to Amtrak to upgrade intercity rail passenger service in the Corridor to achieve scheduled trip times, with intermediate stops, of 2½ hours between Washington and New York and 3 hours between New York and Boston. After extensive engineering studies, the Department concluded that such high-speed rail service would actually cost at least $4 billion. Therefore, the Administration has recommended the alteration of the original goals of the program and the expenditure of $1.2 billion. A program at that level will provide a comfortable and reliable ride of 3 hours between Washington and New York and 4 hours between New York and Boston. In addition, the rehabilitation work under the program will be carried out so as to protect the option to move to higher levels of speed and investment in the Corridor if the passenger demand so warrants. In view of the billions of dollars of Federal assistance that must be provided to upgrade and improve the Nation's rail system, the expenditure now of an additional $2.8 billion just to reduce the rail traveltime by 30 or 60 minutes in only one travel corridor is a luxury the Nation cannot afford.

CONRAIL AMENDMENTS

1. The base value of certificates of value should not be established at whatever figure the Special Court designates as the constitutional minimum. Such a provision will seem to signal a congressional repudiation of both USRA's net liquidation value theory and Congress' own intention in the Regional Rail Act to provide for a reorganization, not a condemnation, of the bankrupt railroads.

2. Interest and dividends on ConRail securities should not be made noncumulative and payable in cash only when ConRail has large retained earnings. This will greatly increase the cost of the reorganization to the Federal taxpayer, remove incentives for efficient management, and serve largely to benefit the creditors of the bankrupt estates.

3. There is no reason to retain $500 million in obligational authority for USRA under section 210 of the Regional Rail Reorganiza-

tion Act of 1973. That amount is excessive because all the purposes for which USRA might need funds are covered by other provisions of the bill. The retention of $25 million would be sufficient to cover the only outstanding loan and ConRail's needs prior to transfer.

4. Indemnification should not be provided for all profitable railroads which acquire rail properties from the bankrupt estates under the Final System Plan. Indemnification should be limited to the Chessie transaction because of the importance it has from the standpoint of providing rail competition in the Region.

NORTHEAST CORRIDOR IMPROVEMENT

1. The creation of a Northeast Corridor Improvement Corporation to implement the Corridor improvement program is unnecessary. Instead of establishing another layer of bureaucracy, the Department can implement the program in conjunction with Amtrak and ConRail.

2. ConRail should not be required immediately to convey the Northeast Corridor properties to Amtrak.

3. The extension of the Corridor improvement program to such rail links as Harrisburg, Albany, and Springfield is not warranted. Extensive studies by the Administration have shown that the demand for intercity rail passenger service on these lines is not large enough to justify their inclusion in an upgrading program designed to meet the much higher levels of passenger demand on the Corridor's main Washington to Boston rail line.

4. Amtrak should not be given $20 million in Federal grants for the purchase of seven properties used in providing rail passenger service outside of the Northeast Corridor. Instead, we recommend adoption of the Department's proposed amendments to Title IV of the Regional Rail Reorganization Act which permit the appropriate State or local or regional transportation authority in the region to acquire these lines with Federal rail service continuation assistance.

REGULATORY REFORM

1. The Administration's bill provides that a rate may not be called unlawful on the basis it is too low if the rate is above "variable cost." The draft bill includes the same concept, but provides the rate may not be said to be too low if it increases the "going concern value" of the carrier. This "going concern" approach is vague and will lead to unnecessary litigation. It forces the ICC to second-guess the business judgments of the carrier.

The draft bill also provides a new procedure in connection with rates for "recyclables". In essence, this procedure would require carriers to bear the burden of proving that rates for recyclables are not discriminatory. The provision is quite vague and will result in unnecessary litigation. It also runs contrary to the general philosophy of rate flexibility found in other sections of the draft.

2. The Administration's bill phases in the reform of the rate bureaus to include general rate increases, and leaves a large loophole in the law.

MERGERS

The Administration's bill attacks the twin problems of the existing restructuring authority: (1) extremely lengthy proceedings; (2) lack of a clear test for approving restructurings. The draft bill addresses only the first of these problems.

ABANDONMENTS

The Administration's bill would not change the substantive standard for abandonment. The draft bill would change the standard in a highly detrimental way. It would prohibit the "34-carload rule" and perhaps any other future procedural reform. In addition, the reach of the proposed change is very vague and will lead to litigation.

ICC ORGANIZATION

1. The Subcommittee bill makes permanent the Rail Services Planning Office under the new name of the Transportation Services Planning Office and significantly expands the duties and responsibilities of this office from rail matters to issues involving all modes of transportation. The establishment of such an office is unnecessary now that the Final System Plan has been submitted by USRA and the major part of the planning process, which RSPO was set up to evaluate, is now completed.

2. We oppose the creation of an independent Public Counsel's Office affiliated with the ICC. Such an office would only duplicate many of the transportation public interest functions already being carried out by both the Commission and the Department.

RAIL SERVICE CONTINUATION SUBSIDIES

1. The rail service continuation subsidy program should not be established on a permanent nationwide basis. Given the critical rail inevstment needs in the Region, it would be a serious misallocation of Federal funds to authorize $655 million to pay for 90 percent of the losses of uneconomic light density rail lines throughout the country.

2. The Federal share of rail service continuation assistance under Title IV of the Regional Rail Reorganization Act should not be increased from 70 to 90 percent. Such an increase would reduce the incentive of the States in the Region to subsidize only those rail services which are important to the economic health of the areas in which they are located.

3. The factors to be given primary consideration by the ICC in Section 802 in determining whether the public convenience and necessity permit a given rail abandonment would negate the ICC 34-carload rule which has eliminated much of the procedural delay in those abandonment cases where there were less than 34 carloads shipped or received annually per mile of line. If this valuable procedural rule is overturned, the railroads will again be forced to bar the unnecessary delay and expense of preparing extensive abandonment applications for lines for which there are no protests to the abandonment.

4. A railroad should not be prevented from discontinuing service on an uneconomical rail line for which the Commission has approved such a discontinuance merely because a shipper or public entity offers to provide the acquisition cost of all or any portion of such a line. A Commission-approved discontinuance or abandonment should not be prevented unless a shipper or public entity offers to pay to the railroad the difference between the revenues which are attributable to the line and the fully allocated costs of providing rail freight service on the line together with a reasonable rate of return on the value of the line, if it is not acquired by the subsidizer.

5. While the Department has proposed to provide financial assistance to commuter rail services in the Region during the two-year transition period following the start of ConRail, such assistance should be funded from the existing $11.8 billion UMTA authorization, not from newly authorized funds. The Federal share of such emergency rail passenger service operating assistance should be 100 percent during the first 180 days after conveyance and 50 percent for the 18 months thereafter (the existing formula for transit operating subsidies) not the 100–90–50 Federal share for three fiscal years as provided in Section 842.

In summary, the Rail Services Act of 1975, as reported by the Subcommittee on Surface Transportation, is in severe conflict with our recommendations and the position of the Administration.

I would welcome the opportunity to provide further details on my position with respect to these issues or to answer any questions you might have.

The Office of Management and Budget has advised that there is no objection to the submission of this report and that enactment of the bill in its present form would not be in accord with the program of the President.

Sincerely yours,

WILLIAM T. COLEMAN, Jr.

Mr. ALLEN. Commenting in this letter, the Secretary says:

> The propensity to spend in excess of demonstrated need is clearly evidenced by the Northeast Corridor provisions in Title VII of the Subcommittee bill. Under that title, USRA is authorized to provide $3 billion in non-interest-bearing loans to Amtrak to upgrade intercity rail passenger service in the Corridor to achieve scheduled trip times, with intermediate stops, of 2½ hours between Washington and New York and 3 hours between New York and Boston. After extensive engineering studies, the Department concluded that such high-speed rail service would actually cost at least $4 billion.

We are going to spend $4 billion on railroad lines between Washington and Boston.

Continuing:

> Therefore, the Administration has recommended the alteration of the original goals of the program and the expenditure of $1.2 billion. A program at that level will provide a comfortable and reliable ride of 3 hours between Washington and New York and 4 hours between New York and Boston. In addition, the rehabilitation work under the program will be carried out so as to protect the option to move to higher levels of speed and investment in the Corridor if the passenger demand so warrants.

In other words, they can start out with spending the $1.2 billion and cut the length of the ride to 3 hours from Washington to New York and 4 hours between New York and Boston. This bill would provide for spending 2.8 billion additional dollars—more than the Secretary is asking for—just to reduce the rail traveltime by 30 or 60 minutes in only one travel corridor, a luxury the Nation cannot afford.

I certainly would agree with that.

Mr. President, there are only a few items of appropriation in the bill, but to spend an extra $2.8 billion just to reduce travel time by 30 or 60 minutes on this run from Washington to Boston is a wasteful expenditure of the taxpayers' money. The surprise is that the Senate had abdicated its responsibility of being a deliberative body by invoking cloture on this bill without any debate whatsoever on it. The Senate is expected to rubberstamp this bill in a matter of just a few hours. I do not believe that a bill that could provide for spending $14.4 billion should be railroaded through this Chamber. That seems to be what is happening.

About 25 objections by the Secretary to this bill have not been heeded by the committee and obviously are not going to be heeded here, on the floor. There is apathy in the Senate with respect to this bill and this lavish expenditure, this bailout of bankrupt roads in the Northeast section of our country.

So, Mr. President, it looks as if we have quit deliberating in the Senate and we have just put together enough groups to invoke cloture and ram through whatever 60 Senators want to ram through. Debate? That is out the window. The committee has come out with this bill, spending up to $14.4 billion.

Why is it necessary to bail out—this seems to be bailout week. This is bailout New York week, and it is bailout the bankrupt railroads in the Northeast week, and we are spending up to $4 billion on the line between Washington and Boston—$4 billion.

The Secretary of Transportation says that for the $1.2 billion, they can build a road; the question is whether they are going to have speeds of around 110 miles an hour or 150 miles an hour. I should hate to be riding on a train going 150 miles an hour on any roadbed, no matter if we spent $4 billion on it. But to spend an extra $2.8 billion to make the difference between going at 110 miles an hour and 150 miles an hour—that is certainly a waste of the taxpayers' money.

We have appropriated, on the Senate floor, billions of dollars already bailing out Penn Central. Every bit of that has gone down the rathole. There is nothing here to show for it. Now we are setting up a ConRail system that takes over these bankrupt roads, freezes in the very conditions and factors that brought those roads to bankruptcy, and now, having that subsidized by the American taxpayer. All I can do is call attention to what is going on. This bill will be railroaded through in very short order.

There is hope, however, I notice, in the Wall Street Journal of December 2. Mr. President, I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Ford to Veto Proposed Railroad Measure For Being Far Too Costly, Coleman Says

Washington.—President Ford would veto proposed railroad legislation because it is far too costly, said William Coleman Jr., Secretary of Transportation.

Mr. Coleman told a news conference that the rail-aid bill recently approved by the Senate Commerce Committee and scheduled for action this week by the full Senate is "totally unacceptable" to the President.

He said that in a meeting with the President before he departed for China, Mr. Ford authorized him to say that rail-assistance legislation is necessary by Christmas to meet the rail reorganization timetable. However, the President also said he would veto the Senate version, if it's adopted by Congress, and call the legislators back into session over the Christmas holiday to rework the legislation, Mr. Coleman said.

The Senate panel in late November approved a measure authorizing more than $8 billion of federal aid for the nation's railroads, while allowing them considerable freedom to raise or lower freight rates. Mr. Coleman said that the measure could ultimately cost the Treasury well over $11 billion, compared with a potential price tag of $5.5 billion involved in the White House proposal.

The transportation chief said that in addition to authorizing a bigger specific federal expenditure on the Northeast and other railroads than is necessary, the Senate committee measure opens up avenues for additional federal financial commitments in the future.

Commenting on companion legislation being considered by the House Commerce Committee, the Secretary said that it, too, is "very unacceptable."

Specifically, Mr. Coleman listed these objections to the Senate version:

The bill would authorize $3 billion in federal financing for Consolidated Rail Corp., or Conrail, the new railroad that will take over most operations of seven financially ailing lines in the Northeast March 1. The Ford administration supports the $2.1 billion recommended by the U.S. Railway Association, a government corporation, Mr. Coleman said, calling the Senate panel's widened contribution the "height of irresponsibility." He said Conrail doesn't need that much and would never repay the excess.

Under the Senate panel's measure, the entire $3 billion could effectively be converted into the outright federal grants. On the other hand, the USRA-administrative plan calls for most of the $2.1 billion in aid to be government purchases of Conrail debentures and preferred stock, giving the U.S. an interest in Conrail and also a repayment claim.

A "shocking" provision would, in effect, give creditors of the seven Northeast lines in reorganization proceedings under federal bankruptcy law a "blank check," payable on the federal Treasury, for future claims of the value of the rail property Conrail will acquire. While the USRA plan would give "certificates of value," guaranteeing a $422.5 million offer by Conrail for the Northeast-rail assets, the Senate bill would underwrite whatever amount a federal court ultimately determines should be paid for those assets, Mr. Coleman said.

A plan for upgrading high-speed rail-passenger service on the Boston-Washington "Northeast corridor" could mean a federal payout of more than $6 billion for a program "that wouldn't work," Mr. Coleman declared. He has proposed a $1.2 billion program, mostly from federal funds, for more modest Northeast-corridor upgrading work.

The Senate committee provisions for easing Interstate Commerce Commission regulation of railroads is generally acceptable. One that isn't, however, would permit roads to raise many freight rates without ICC prior approval, but still would allow the agency to suspend rate cuts.

Mr. ALLEN. "Ford To Veto Proposed Railroad Measure for Being Far Too Costly, Coleman Says."

Mr. Coleman told the news conference that the rail aid bill recently approved by the Senate Commerce Committee and scheduled for action this week—and it is—by the full Senate is "totally unacceptable" to the President.

Another defect in the legislation is called attention to in this article:

> A "shocking" provision would, in effect, give creditors of the seven Northeast lines in reorganization proceedings under federal bankruptcy law a "blank check," payable on the federal Treasury, for future claims of the value of the rail property ConRail will acquire. While the USRA plan would give "certificates of value," guaranteeing a $422.5 million offer by ConRail for the Northeast-rail assets, the Senate bill would underwrite whatever amount a federal court ultimately determines should be paid for those assets, Mr. Coleman said.

So, Mr. President, we have a situation here where these railroads are completely broke. They could not operate another week if left to their own devices, and the Government, in effect, takes over these bankrupt lines.

Now we are having to have an argument with the stockholders and the creditors of those worthless lines as to the value of their investment.

Mr. HUMPHREY addressed the Chair.

Mr. ALLEN. Mr. President, I yield 1 minute to the distinguished Senator from Minnesota.

Mr. HUMPHREY. I thank the able and distinguished Senator from Alabama.

QUARTERLY ADJUSTMENTS IN THE SUPPORT PRICE FOR MILK

Mr. HUMPHREY. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on Senate Joint Resolution 121.

The PRESIDING OFFICER. Is there objection to the Chair laying a message from the House before the Senate?

Mr. McCLURE. Reserving the right to object, I wonder if the Senator from Minnesota could inform us; what is the resolution?

Mr. HUMPHREY. This is a measure that relates to quarterly reporting on price supports on dairy products. It was passed by the Senate and the House. The House has an amendment that we want to go to conference on.

There being no objection, the Presiding Officer laid before the Senate the amendments of the House of Representatives to the joint resolution (S.J. Res. 121) as follows:

> Page 1, line 8, strike out "March 31, 1979,", and insert: March 31, 1978,
>
> Page 1, line 9, after "be", insert: established at 85 per centum of the parity price therefor and shall be

The amendment to the title reads as follows:

Joint resolution to provide for quarterly adjustments in the support price for milk, and for other purposes.

Mr. HUMPHREY. Mr. President, I move that the Senate disagree to the amendments of the House and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. Morgan) appointed Mr. Talmadge, Mr. Humphrey, Mr. McGovern, Mr. Huddleston, Mr. Leahy, Mr. Dole, Mr. Young, and Mr. Curtis conferees on the part of the Senate.

RAIL SERVICES ACT OF 1975

The Senate continued with the consideration of the bill (S. 2718) to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes.

Mr. ALLEN. Mr. President, I am not finding fault with the proponents of the bill for filing cloture and cutting off debate in this matter because all they did was to initiate the cloture motion. Sixty-one Senators voted to deprive themselves of an opportunity to have free and open debate on this bill here in the Senate and an opportunity to shape this bill, Mr. President. That is what the Senate is supposed to do. But how are we going to shape it when you have only the stereotyped amendments at the desk and you cannot draft other amendments to meet the changing circumstances? You are limited to whatever may have been filed at the desk.

So I decry and deplore this situation where the Senate voluntarily abdicates its responsibility of being a great deliberative body.

It is not too dissimilar to the New York bailout. I will say this: The New York bailout at $2.3 billion is much more justified than this $4 billion for ConRail, for the high-speed line from Washington to Boston.

I would a whole lot rather vote—I am not going to vote for it—for the $2.3 billion New York bailout than this Northeast corridor. I think it is absolutely outrageous.

Then if we had had open and free discussion on this bill here on the floor, it might have been molded in such a way it could have met Secretary Coleman's objections and, thereby, met the President's objections.

Here we are just flying right in the face of a statement on behalf of the President that he is going to veto this outrageous bill. I know the Senate in a very short time is going to pass the bill, but I just want to go on record as being mindful of how outrageous this bill is, and what a wasteful expenditure of the taxpayers' money it is.

I do want the RECORD to show that this bill sailed through the Senate or, to use my other expression, was railroaded through the Senate, without the Senator from Alabama being aware of its contents, of its wasteful aspect and of its unsoundness.

I can call attention to it. I can urge caution on the part of the Senate. I can urge fiscal responsibility on the part of the Senate. Where is the Budget Committee? Have we had any input from the Budget Committee on this expenditure? Where is the Budget Committee? I do not see any of the members of the Budget Committee on the floor. They are supposed to kind of keep these programs in line. I just seriously doubt—I would be surprised—if the Budget Committee would be in favor of the bill.

The Secretary says it is going to authorize $14.4 billion of expenditure. They have little amendments to bills here, and the distinguished Senator from Maine, who is doing a great job as the head of the Budget Committee, gets up and says, "Well, this goes beyond the budget figure."

I wonder what figures the Budget Committee had for ConRail? Do you suppose they had this figure here? I wish they would come in and give us the benefit of their views on this bill.

There are six Senators on the floor of the Senate at this time when we are considering a bill that would spend $14.4 billion of the taxpayers' money without any meaningful debate.

Why, you know, this New York bill, the version that was passed by the House and is now pending here in the Senate, has not even been to a committee in either House. What has happened to the legislative process? There is consideration of a bill by a House committee, then by the full House, consideration of that bill after it passes the House by the Senate committee, and then by the full Senate, that has been thrown out the window.

One counts noses or one counts heads, and if one has enough, then ram the bill through. That is the policy.

It is a bad policy, and it is not in the interests of the people.

I wonder what people would think if they knew about this bill. I do not suppose one person in 50 throughout the country, one person in a hundred, possibly one person in a thousand, has any idea of the wasteful expenditure provided by this bill.

Just get the votes together, vote cloture and railroad it through.

So I do not like the bill. I do not like the failure to give adequate time to debate the bill. I think that the bill is a wasteful expenditure of the taxpayers' money. I would like to see it trimmed down, at least to what the Secretary of Transportation is recommending. I would not be for that, but I think it ought to be cut down; that would save possibly $5 billion or more. But no chance for that.

I hope that after it passes and the President vetoes it, if he does and I assume he will, there would be enough in the Senate or in the House to sustain the veto.

But I think it is a sad commentary on the conduct of the Nation's business to have only six or seven Senators here on the Senate floor when the Nation's business of this magnitude is being discussed.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. TUNNEY addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 1170

Mr. TUNNEY. Mr. President, I call up my amendment No. 1170 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated. The assistant legislative clerk read as follows:

The Senator from California (Mr. TUNNEY) proposes an amendment numbered 1170.

Mr. TUNNEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 15, strike out lines 11 through 24 and insert in lieu thereof the following:

"SEC. 105. (a) INVESTIGATION.—The Commission, within 12 months after the date of enactment of this Act, and thereafter as appropriate, shall—

"(1) conduct an investigation of (A) the rate structure for the transportation, by carriers by railroad subject to part I of the Interstate Commerce Act, of recyclable or recycled materials and competing virgin natural resource materials, and (B) the manner in which that rate structure has been affected by successive general rate increases approved by the Commission for common carriers subject to its jurisdiction. The Commission shall, after a public hearing during which the burden of proof shall be upon the carriers to show that the rate structure as affected by general rate increases for the transportation of such competing materials is just, reasonable, and nondiscriminatory, determine whether such rate structure is, in whole or in part, unjustly discriminatory or unreasonable;".

Mr. TUNNEY. Mr. President, my work on the Senate Commerce Committee has led me to believe that the Interstate Commerce Commission has allowed a situation to develop which gives a substantial freight rate preference to virgin ores as compared to recycled materials. I think that it is a great mistake that we do not have a policy in this country where there is equality of treatment between the shipping cost of recycled materials and virgin ores.

I am afraid that if we continue to pursue a policy in which, on the one hand, we talk about trying to save energy and, on the other hand, allow a governmental agency to pursue a policy which has the net effect of using more energy and costing the American people more dollars, that we are going to continue to stumble into the future with our eyes firmly glued on the rear-view mirror.

One of the things that I have learned in recent years working on the Commerce Committee is that it only takes 5 percent of the amount of energy to extract aluminum from recycled aluminum products as it does to take alumina from bauxite or other alumina ores.

In other words, there is a 95-percent saving of energy to use recycled aluminum. There is about a 50-percent saving in energy if we recycle scrap iron rather than taking iron out of virgin ores.

It is true with every single mineral metal product that we save energy, substantial amounts of energy, by recycling the material rather than by extracting the material from ores.

Not only do we have a significant energy saving by having a policy that is designed to recycle as much of our scrap metal as possible, but also we could have a significant impact upon pollution, not only water pollution where much of municipal and industrial wastes get deposited in rivers and oceans, but also the incredible amounts of landfill that are now destroying the suburban areas of many of our major metropolitan units in this country.

In many of our cities they are running out of landfill and one of the major causes of the waste are the various metal products which make up the daily fare of any municipality's discharges in a 24-hour period.

So what my amendment simply does is to require that the Interstate Commerce Commission review the situation and that the railroads assume a burden of proof to demonstrate the just, reasonable, nondiscriminatory nature of their own rate structure. In this important investigation mandated under section 105, the Commission would have a period of 12 months to look at whether or not the rates were, in fact, discriminatory against recycled products.

This special investigation is justified because I think it is clear, from any objective reading of the present rules and regulations and an objective evaluation of what has transpired as a result of freight rates that are now being imposed by the railroads, that there is discrimination, substantial discrimination, against recycled materals. Moreover, the investigation must proceed with an articulation of a presumptive standard of competition. For the purpose of this investigation, the Commission should consider recyclable and virgin materials to be competing if they are functionally equivalent in the manufacturing stage.

It is my understanding that the unit cost is almost twice as much to ship recycled materials as it is to ship virgin ores. There is no reason in the world why the Interstate Commerce Commission should not be reversing that kind of discrimination. They allowed it to develop and it is up to them now to eliminate it.

So I think that the efficacy of the position that I am suggesting today ought to be manifest to anyone who is interested in pollution problems and who is interested in energy conservation.

Therefore, I would recommend to the committee this amendment in the hope that the committee could find it acceptable.

Mr. HARTKE. Mr. President, I yield myself 2 minutes.

Mr. President, this amendment was considered in committee and was rejected by the subcommittee. The proposition really involves a question as to whether or not we were going to open up the whole question of rates in specific areas.

The question of recycling of material certainly does merit a lot of consideration. In substance, what this does is shift the burden of proof on the investigation of rates for recyclables for railroads from the present situation where it is in the hands of the claimants and makes the railroads prove that as far as their rates are concerned they are just and reasonable.

This is the standard by which they are to be judged.

I have talked to the Senator from Connecticut (Mr. WEICKER) about this amendment and we are prepared to take this amendment to conference, with the understanding that we are not opening up the door to any other special operations in any other field.

Mr. TUNNEY. I want to thank my distinguished chairman for his willingness to accept this amendment. I think it is in the national interest to do so. I know there are many people around the country who will be very grateful to him and to other members of the committee—Senator WEICKER and others. I believe it is really important and sets a proper course for this country, as I have indicated, in providing better long-range planning for energy, for pollution, and for conservation of resources.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HARTKE. Mr. President, I have four amendments at the desk which I intend to call up. I would like to have them considered in order, if I may, at this time.

The PRESIDING OFFICER. The first amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HARTKE. I ask unanimous consent, Mr. President, that the reading of the amendment may be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 53, between line 13 and 14, insert the following new subsection:

(c) Section 14 of the Interstate Commerce Act (49 U.S.C. 14) is amended by adding at the end thereof the following new paragraph:

"(4) Reports in writing and other written statements (including, but not limited to, any order, decision and order, vote, notice, letter, policy statement, rule, or regulation) of any official action of the Commission (whether such action is taken by the Commission, a division thereof, any other group of Commissioners, a single Commissioner, an employee board, an administrative law judge, or any other individual or group of individuals who are authorized to take any official action on behalf of the Commission) shall indicate the official designation of the individual or group taking such action; the name of each individual taking, or participating in taking, such action; and the vote or position of each such participating individual. If any individual, who is officially designated as a member of a group which takes any such action, does not participate in such action, the written statement of such action shall indicate that such individual did not participate. Each individual who participates in taking any such action shall have the right to express his individual views as part of the written statement of such action. The written statement of any such action shall be made available to the public in accordance with Federal law.".

On page 35, between lines 24 and 25, insert the following new paragraph:

"(3) The Chairman, subject to the approval of the Commission, may designate certain positions (not to exceed 45) within the Commission as 'noncareer positions'. Individuals may be appointed to such noncareer positions if their principal duties will involve significant participation in the determination of major Commission policies. Any such appointment or removal may be made without regard to any provision of title 5 of the United States Code governing appointments to and removals from positions in the competitive service, and shall not be subject to approval by the Executive Office of the President or the Office of Management and Budget, or any officer thereof, or by any official or agency of the Federal Government other than the Commission. The Chairman, subject to the approval of the Commission, may abolish any particular noncareer position, which was designated as such under this paragraph, upon a determination that such position is no longer needed. Such positions shall be graded at GS–16, GS–17, or GS–18 levels."

On page 36, between lines 21 and 22, insert the following new subsection:

(d) Section 5108(c) of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(12.) The Chairman of the Interstate Commerce Commission, subject to the approval of that Commission, may place a total of 45 positions in GS–16, GS–17, and GS–18, without regard to the provisions of this chapter, except section 5114 hereof.".

Mr. HARTKE. Mr. President, I yield myself 2 minutes on this amendment.

This amendment, Mr. President, deals with the procedures of the Commission, and makes regulatory decisions at the Commission really public record. It requires the Commission members to sign their opinions and requires the orders of the ICC to indicate the position taken by each of the persons who participated in the decision.

This amendment is intended to eliminate the problem of anonymous decisionmakers and to make the Commissioners and the employees of the Commission more responsible for their individual actions. We have an 11-member Commission. The amendment also makes it clear that any individual who makes a decision at the Commission shall have the right to express his individual views on that decision. This amendment is needed because the ICC presently does not permit the expression of individual views in many cases and it is also impossible to find out who made many of the decisions of the Commission. If the Senate has a sunshine rule, the ICC should at least have to publish its votes and how those votes were cast.

There is no additional cost as a result of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HARTKE. Mr. President, the next two amendments I would like to have stated are really in tandem.

I ask unanimous consent that they be reported and that the reading be dispensed with.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. HARTKE) proposes two amendments.

The amendments are as follows:

On page 141, line 3, after "local" and before "regional" insert "or".

On page 144, between lines 17 and 18, insert the following new subsection:

"(f) Employee protection.—Revised or supplemental designations under this section (other than a redesignation, upon petition of State or a local or regional transportation authority), shall subject the transferor and the transferee, under such supplementary transfer, to the requirements and other provisions of title V of this Act.".

On page 157, strike lines 22 through 24, and on page 158, strike lines 1 and 2, and insert in lieu thereof the following:

"(D) a railroad who is adversely affected by a supplementary transfer under section 305 of this Act or by a consolidation project recommended under section 206(g) of this Act;

Who, in any such case, has not reached age 65 on the effective date of this Act or, in the case of a supplementary transfer, on the effective date of such transfer;";

(4) amending paragraph (8) thereof by (A) striking "this Act or" and inserting in lieu thereof "this Act, including section 305 thereof, or", and (B) striking "and" at the end of such paragraph; (5) striking the period at the end of paragraph (9) thereof and inserting in lieu thereof "; and."; and (6) adding at the end thereof "the"

On page 196, amend lines 10 and 11 to read as follows: "own initiative. The burden of proof as to public convenience and necessity shall be upon the applicant for a certificate of abandonment or discontinuance.".

On page 196, line 24, immediately before "If such" insert the following new sentence: "Each such certificate which is issued by the Commission shall contain provisions for the protection of the interests of employees; such provisions shall be at least as beneficial to such interests as provisions established pursuant to section 5(2)(f) of the Interstate Commerce Act (49 U.S.C. 5(2)(f)) and pursuant to section 405 of the Rail Passenger Service Act (45 U.S.C. 565).".

Mr. HARTKE. Mr. President, these two amendments make it possible for the Commission to appoint additional employees.

The PRESIDING OFFICER. Does the Senator ask that these be considered en bloc?

Mr. HARTKE. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, these amendments make it possible for the Commission to appoint additional employees to noncareer positions and, therefore, be exempt from some of the requirements of the civil service laws regarding the appointment of personnel. These appointments will not be subject to Presidential approval.

Implementation of the supplementary transfer or coordination project provisions will affect many employees of transferor and transferee carriers who would not be protected by the provisions of title V due to their lack of qualifying service as of the date of the act, January 2, 1974, and who would not have been affected except for the enactment of the supplementary transfer provisions. In addition, the employee who might have only a few months service as of the date of the act could have more than 6 years service as of the date of a supplementary transfer. Such an employee should be accorded no less consideration than his counterpart employee receives under the original provisions of the Act.

The committee has adopted in substance the proposal of the administration to permit supplementary transfers as part of the continuing reorganization process. If further reorganization is accomplished under this section of the bill—section 608—then the employees would be treated just as they are under the existing process. The amendment contains no authorization, and there is a specific prohibition as to its application in the case of a transfer of a light density line upon application of a State or regional or local transportation authority.

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments were agreed to.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. HARTKE. Mr. President, I request immediate consideration of my fourth amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. HARTKE) proposes an amendment.

The amendment is as follows:

On page 131, between lines 8 and 9, insert the following new paragraph:

"(5) The Association shall arrange for the reimbursement of the costs assumed by the Corporation or by an acquiring carrier under (A) section 504(g) of this Act, or (B) paragraph (3)(E) of this subsection. It shall be the responsibility of the Association to recover the amount of any such reimbursement, as a current expense of administration, from the estate of any railroad in reorganization in the region which was the employer at the time that the claim arose.".

On page 133, line 2, strike the period and insert in lieu thereof the following: "and for the purposes set forth in subsection (b)(5) of this section.".

On page 162, strike lines 21 and 22.

On page 162, line 20, strike "reimbursement as a current expense" and insert in lieu thereof the following: "from the Association pursuant to section 216(b)(5) of this Act.".

On page 130, between lines 21 and 22, insert the following new subparagraph:

"(E) Subject to the other requirements of this paragraph, and to the requirements of this subparagraph, the Association shall purchase debentures and series A preferred stock of the Corporation in an amount adequate to enable the Corporation to meet obligations which have been either transferred to the Corporation by other provisions of this Act or which are determined by the Association to be obligations which the Corporation must assume in order to operate efficiently, including accrued employee benefits and claims, damages claimed by shippers, inter-railroad payments for per diem charges and rate divisions, and claims of States and political subdivisions thereof. The Association shall not purchase any such debentures and series A preferred stock for such purposes unless the Association first finds—that—

"(i) such obligations were not, and could not have been, reasonably anticipated and for that reasons provision for the payment thereof was not included in the financial projections of the final system plan, and

"(ii) such obligations are, under other applicable law, the responsibility of a railroad in reorganization in the region, and such obligations were incurred by any such railroad on rail properties which are conveyed to the Corporation on the date of conveyance pursuant to section 303(b)(1) of this Act.".

Mr. HARTKE. Mr. President, I yield myself 2 minutes on the bill.

The bankrupt railroads that we are dealing with here under the totality of the Midwest and Northeast are losing in the area of $1 million per day. One of the reasons I am interested in this bill is that I have no intention to ask the Congress to continue those operations when, as far as we are concerned, we are trying to get them back at least into a position where they will become profitable, private enterprise systems and at the same time protect the interests of the taxpayer for the cash being put into these systems.

Over the course of the last year there has been an erosion of financial assets and a concurrent increase in liabilities. The net result of these developments has been the inability on the part of the bankrupt railroads to meet sizable cash demands. These obligations include accrued employee benefits, such as vacation time, grievous claims, back pay, and unfunded pension rights. In addition, there is a substantial backlog of payments owed to other railroads for per diem charges and rate division, and a sizable volume of claims by shippers for freight damage. Eventually, all the funds that are advanced to ConRail to meet these payments under the terms of this amendment will be recovered when the bankruptcy proceedings are concluded. In the interim, ConRail cannot complete its working capital to meet these charges.

Another portion of these amendments takes care of a similar problem facing the C. & O.–B. & O. in its takeover of certain northeast lines. In other sections of this act we require that it take over the past debt and injury claims that occurred on the bankrupt properties. This amendment directs the association to arrange for the reimbursement of costs involved in the Chessie's assumption of these obligations.

Mr. President, this fourth amendment, therefore, is not really a technical amendment but is in the nature of a technical amendment to prevent the type of situation where we bankrupt a railroad before we get it started.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. HARTKE. Mr. President, I yield the floor.

Mr. WEICKER. Mr. President, I rise in support of this legislation and also to speak on its overall intent. I will try to dispel some of the wrong impressions that have been created, not by any Senator or any particular group of Senators, but probably from a lack of familiarity with the subject matter before us.

The last thing that the Senator from Indiana and I want is to have to continue to come to the floor of the U.S. Senate and ask for emergency funding for the various deficiencies of our rail system, be it a Penn Central bailout or a Rock Island bailout. This, indeed, has been the nature of our task over the past several years.

The first misconception I wish to dispel is the complete difference between that type of legislation, a bailout, and the legislation that is now before the U.S. Senate. Specifically, this comprehensive program now before the Senate is designed to avoid that out of emergency financing in the future.

Several months ago I requested of the General Accounting Office an investigation of the moneys that have been spent to date by the Federal Government in the area of railroads. I received that report a week ago. It is available for inspection by any of my colleagues. In essence, what it states is that over the past 5 years we have authorized some $4 billion in rail assistance without any comprehensive program, and, very frankly, without really doing the job intended. All moneys that have been appropriated have been on an emergency basis, so there has been no long-range planning, no ascertaining of future needs.

If the Senate turns down this bill, so be it; but for the first time we on the committee are before our colleagues with a comprehensive program designed to give the United States of America a first-class rail system.

This is not a bail out of the bankers.

I think that was a very unfortunate term used the other day by the Secretary. Let me say in passing, the Secretary of Transportation has been most cooperative. Yes, we have our disagreements, but there has been good cooperation and give and take between the Secretary and the members of the committee, and I hope that cooperation will continue.

In any event, this is not a bailout of New York bankers. It is not a bailout of the Penn Central or certain bankrupt railroads of the Northeast. It is a total plan, designed first to take care of the immediate emergency in the Northeast, but also to make sure that the disease does not spread across the country. The railroads involved here, are not just in the Northeast, but also the Midwest; so already the cancer has spread into that portion of the country. Everyone looks at this money and conceives of it as directed toward the Northeastern United States, but I think my colleagues should be aware that though it immediately contemplates both the Northeast and the Midwest, it also contemplates moneys being available to all other sections of the country.

If one takes a look at the return on investment of the so-called healthy railroads in this country, he will realize that they are only healthy when compared to other railroads. Even the healthy railroads are unhealthy when compared to other industries. It is with the idea in mind that we do not want to see our strong railroads, located mainly in the South and the Southwest, go the way of the railroads in the Northeast that the bill before the Senate contemplates nationwide assistance.

So the bill is geared both to the sick and the healthy. The $4 billion, over 5 years, which we provided after much fussing and fuming, has nothing left to show for it. What we are asking today in the course of the debate on this legislation is, "if we are going to go spend money, let us have something to show for it; let us have a first-class railroad system. Invest in capital improvements, research and development, new track, and new systems."

I did not contemplate, and I am sure the Senator from Indiana did not, either that when the United States got into the railroad business, we would run the same trains over the same tracks in the same way. If such becomes the case, we would end up with the same bankruptcy that is now the end product of private enterprise. All we were trying to do was hold the line over the years until a program was devised which encompassed new equipment, new systems, and new rights of way, that program is here today.

I cannot say that I envisage a great moneymaking operation insofar as the U.S. Government is concerned, but breaking even if possible. I also know it is the last chance we have to avoid nationalization. Philosophically, this Senator has been somewhat apart from his colleague from Indiana. Given my druthers, I would go right to nationalization, because private enterprise has failed. But I have foregone my wishes and tried to work something out which would give us first-class railroad service short of nationalization.

There is, of course, one alternative, which is to have no rail service at all in this country, but at a time when the emphasis is not just on mobility, but also on conservation and saving energy, that hardly seems a viable alternative.

Let me, if I can, highlight, by referring to a particular portion of the bill, the overall problem as to how the money is spent. Many of us have read in the newspapers of the conflict between the committee and the administration on the Northeast rail corridor, with the administration holding to a lesser figure of $1.2 billion to bring the tracks up to 1968 and 1969 standards. Opposed to that we have the proposal of the Senator from Indiana and myself, which is to build a new system in the Northeast, which would cost, somewhere between $3 billion and $4 billion.

I do not want to spend 1 cent to bring the system up to the standards of 1968 and 1969. I realize the whole country seems to be in a caretaker mood not to wanting to challenge the future at all.

Mr. **HARTKE**. That is really true. I agree with that.

Mr. **WEICKER**. Nothing epitomizes that caretaker mood more than new legislation coming before us which harks back to standards of 6 or 7 years ago. Rather than spend 1 cent in that direction, I had rather spend the money toward building a new system. Let us get started on the future, rather than rebuilding the past.

Just rebuilding, maintaining, or repairing the track to old standards will put the Government in the same position that confronted private enterprise. Put the money into capital improvements, research and development, and new systems, and we can avoid the pitfalls of deficit.

Either we can continue $345 million emergency bailout situations coming up once, twice, three times a year to cover deficits or we go ahead with a major commitment that money not be spent in emergency ways but in a well planned way in the nature of new equipment, tracks, and systems.

Certainly there is nothing in the track record of the past that has me in envy of it.

We talk at a time of energy crisis of rails being an alternative to the highway. Here is a chance to act on those words.

In the last 20 years, and I do not have the exact figures with me, I would imagine we have spent some $100 billion, roughly at an average rate of $5 billion a year on highways, and we have something to show for it. We have the greatest highway system in the world. So I do not decry that investment, as we have gotten what we paid for.

During that same 20-year period, I imagine the total moneys spent on rail transportation may have been in the area of $2 billion.

So we are talking 2 percent, and indeed if we have a bankrupt system or no system at all in many parts of the country we have gotten exactly what we paid for. We paid nothing and we have received nothing.

So here then are the alternatives, to either continue and react to emergencies as they arise with the emergencies first coming up in the Northeast, then in the Midwest, guaranteed to spread down through the West, and lastly probably the Southwest and the South, but to continue on the present course and eventually the whole country will lose. Our alternatives are then to react to crises, to appropriate money in a way that brings no gain at all either in mobility or in the sense of the rail system, or to finally understand that we have to make up for the deficiencies of the past 20 years and excellently create in the area of rail transportation.

Mr. President, I yield the floor at this time.

AMENDMENT NO. 1163

Mr. **BUCKLEY**. Mr. President, I call up my amendment No. 1163, which is at the desk.

The **PRESIDING OFFICER**. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. BUCKLEY) proposes an amendment numbered 1163.

The amendment is as follows:

On page 238, add the following:

TITLE X—LABOR-MANAGEMENT PRODUCTIVITY STUDY

FORMULATION OF PLAN

SEC. 1001. The Secretary of Transportation shall, not later than one year after the date of enactment of this Act, formulate and report to the Congress a study of possible ways to improve labor and management productivity in railroad operations, including recommendations for necessary legislation to implement such plan and protect existing railroad employees.

AUTHORIZATION

SEC. 1002. There are authorized to be appropriated such amounts as are necessary to carry out the provisions of this title.

Mr. **BUCKLEY**. Mr. President, the legislation under consideration is of enormous importance, as has been described by the Senator from Connecticut, and others. It is also legislation that would require of the American people an extraordinary investment in an attempt to return a collection of bankrupt railroads with equipment that has been allowed to go into disrepair, roadbeds that are intolerable, and to try to take this mixture and put it back on its feet and to create from it a single economically viable railroad system serving the northeastern quadrant of this Nation.

It seems to me that in light of all this it is terribly important that not only Congress but the American people be satisfied that everything is being done to assure the productivity of both management and labor that will determine whether or not this new system will, in fact, survive and become a self-supporting and taxpaying entity.

What my amendment simply provides is that the Secretary of Transportation report back to Congress within a year's period on specific recommendations of ways in which labor and management productivity can be improved.

We know there have been studies that have indicated the quality of management can make all the difference in the viability of the railroads, and we also know there have been a number of studies suggesting how work forces can be better utilized.

I note that my amendment does provide for the protection of existing railroad employees.

Mr. President, I think that there is nothing more need to be said. I think the need is apparent. The benefits ought to be apparent, and the cost is negligible.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. BUCKLEY. I am glad to yield.

Mr. ALLEN. When the Senator finished his talk he was talking about his own amendment rather than the whole bill.

Mr. BUCKLEY. I am speaking of my amendment, yes.

Mr. ALLEN. I thought so.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The Senator from Indiana.

Mr. HARTKE. Mr. President, I yield myself 1 minute.

Mr. President, we cannot accept this amendment.

The problem of the railroad work rules at the present time is one that is being worked out, we hope, in a satisfactory manner. The railroads have a contractual relationship with employees, pursuant to legitimate collective bargaining and these contracts include provisions for conditions of labor.

The conditions of labor, so-called work rules, frankly are similar to conditions of labor governing most labor-movement agreements and, therefore, generally speaking, are not involved in any type of governmental interference.

Frankly, at this time there is no concrete evidence of any massive rules violation as far as public policy is concerned. In addition, the railroads are free at any time to negotiate these work rules.

The Florida east coast's contract is an example that any railroad is free to follow.

The PRESIDING OFFICER. The 1 minute of the Senator has expired.

Mr. HARTKE. I yield myself another one-half minute.

The PRESIDING OFFICER. Very well. The Senator has an additional minute.

Mr. HARTKE. Finally, there is quite a bit of evidence that rail productivity is improving at the present time. I think a good example of this is the case of the report of the labor-management task force on terminations, showing increased productivity resulting from experiments undertaken by the task force.

We do not think it is proper to have this measure in the bill at this time, and the committee is opposed to it.

Mr. BUCKLEY. Mr. President, I am disheartened that our distinguished chairman does not see fit to accept this.

I am aware, of course, that there is a great deal being done to try to improve efficiency at all levels. The fact remains that what I am proposing is merely to collect the areas of proposals in one report and submit it to Congress so we can make an ultimate judgment as to whether or not all that can be done is in fact being done.

I call the Senate's attention to the fact that Lebanon Valley Railroad Co. submitted a statement, dated July 6, 1975, to the Surface Transportation Subcommittee, detailing allegedly costly work rules that are currently in effect.

I make no judgment in this matter, but I do believe it is useful and certainly not costly to ask the Secretary of Transportation to at least inform us as to what the current thinking is about the terms of managerial efficiency and labor efficiency.

Mr. HARTKE. The Senator from New York knows, as he is a member of the committee, that this is a matter that it could be well for us to continue to consider in the committee, and we certainly will do so in the subcommittee and full committee as we move along.

I hope I persuade the Senator to take it up in committee rather than on the bill.

Mr. BUCKLEY. The Senator did take it up in committee.

Mr. HARTKE. Excuse me?

Mr. BUCKLEY. The Senator did take it up in committee in connection with the bill.

Mr. HARTKE. I know we did.

Mr. BUCKLEY. I recognize the futility of asking for a vote on this amendment. Therefore, I shall not press for a vote, and I withdraw the amendment.

The PRESIDING OFFICER. Is there any further amendment to be proposed?

AMENDMENT NO. 1164

Mr. BUCKLEY. Mr. President, I call up my amendment No. 1164, which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from New York (Mr. BUCKLEY) proposes an amendment No. 1164.

The amendment is as follows:

> On page 5, line 14, strike "or express".
>
> On page 73, line 5, strike "express".
>
> On page 73, line 7, strike "express companies and".

Mr. BUCKLEY. Mr. President, this amendment would strike just a few words from the bill—the words "express," "express," and "express companies" that appear in three different places.

The innocent appearance of the word "express" would have the effect of incorporating, by reference, a single corporation—namely, REA Express Co.—and qualifying it for the various subsidies, help, and so forth, provided for bankrupt railroads by this legislation.

The REA Express Co. has long since stopped being a rail express service. It was reorganized a while back to become a motor carrier, and as such it has been found unable to meet the competition and recently went into bankruptcy.

What leaving these innocent-sounding words in the legislation would do would be, in effect, to qualify this particular company for subsidies. Their particular plight is a sad one, an unfortunate one, but this is true of any company that is unable to meet the competition and that closes its doors. Its problems have nothing whatsoever to do with the problems that have led to the reorganization of the northeastern railroads, and I suggest that there is no reason in public policy why this particular company, uniquely, among the various nonrail carriers, should be given this kind of assistance. Therefore, I urge that this amendment be accepted.

Mr. HARTKE. Mr. President, the committee is opposed to this amendment.

At the present time an attempt is being made to continue in operation the old REA operation which has gone into bankruptcy. There is no question that this was a service which was extended—not unlike rural postal service—to areas which otherwise could not have service.

At the present time, for example, some of the other recognized services have specific limitations as to weight, quantity, size, and area they are willing to service. In other words, they hold the complete veto power over whether or not they are going to provide the service; whereas, the REA gave the service in every community and provided it to the widow lady down the block who had no opportunity whatsoever to have any service.

Unless something is done to continue that operation, about 9,000 employees ultimately are going to be thrown on the unemployment compensation rolls. They are on those rolls now, but they will be there perpetually. Otherwise, we will have to try to keep out of another of those systems a going concern which has not been able to keep itself going financially under the old operation.

The reorganization of this company is supported by the Department of Transportation, and I see no reason why this vital service should not be available without loan guarantees, as is the case with other railroads and other types of carriers under this bill.

Mr. BUCKLEY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUCKLEY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Alaska (Mr. GRAVEL), the Senator from Washington (Mr. JACKSON), the Senator from Wyoming (Mr. McGEE), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. Inouye) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. Jackson) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. Fannin), the Senator from Hawaii (Mr. Fong), and the Senator from Delaware (Mr. Roth) are necesarily absent.

I further announce that the Senator from Utah (Mr. Garn) is absent attending the funeral of a relative.

The result was announced—yeas 33, nays 52, as follows:

[Rollcall Vote No. 544 Leg.]

YEAS—33

Abourezk
Allen
Baker
Bartlett
Bellmon
Biden
Brock
Buckley
Byrd,
  Harry F., Jr.
Curtis
Dole
Domenici
Goldwater
Hansen
Hatfield
Helms
Hruska
Huddleston
Johnston
Laxalt
McClellan
McClure
Morgan
Packwood
Pearson
Percy
Scott,
  William L.
Stone
Taft
Talmadge
Thurmond
Tower
Young

NAYS—52

Beall
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Culver
Durkin
Eagleton
Eastland
Ford
Glenn
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hathaway
Hollings
Humphrey
Javits
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Nelson
Nunn
Pastore
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Symington
Tunney
Weicker
Williams

NOT VOTING—15

Bayh
Bentsen
Church
Cranston
Fannin
Fong
Garn
Gravel
Inouye
Jackson
McGee
Muskie
Pell
Roth
Stennis

So Mr. Buckley's amendment was rejected.

The PRESIDING OFFICER (Mr. McIntyre). The bill is open to further amendment.

Mr. HARTKE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 1174

Mr. HUMPHREY. Mr. President, I call up my amendment No. 1174 and I ask unanimous consent to modify the amendment. I will send a copy, as modified, to the desk.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will report.

The legislative clerk reads as follows:

The Senator from Minnesota (Mr. Humphrey) proposes an amendment:

On page 64, after line 10, add a new subsection:

"(b) In addition to the national transportation program required in the previous section, the Secretary shall submit to the Congress within 90 days after the enactment of the Rail Services Act of 1975 a comprehensive report on the anticipated effect, including the environmental impact, of rail abandonments in States not previously studied by the Association pursuant to the Regional Rail Reorganization Act of 1973.

Mr. HUMPHREY. Mr. President, I am concerned that the proposed Rail Services Act of 1975 does not contain sufficient emphasis on the importance of local service branch lines and the impact this service has on rural development.

I firmly believe we must have the full facts before us when making abandonment decisions which may prove to be irreversible.

A most comprehensive study on the transportation crisis faced by rural America was released earlier this year by the Senate Agriculture Committee. Incredibly, it concluded that the Federal Government is pursuing a series of transportation decisions without enough facts to know how this is going to affect the growth and development of rural America.

We know so little about the relationship between transportation and rural development. Notwithstanding the obvious effects on agriculture, transportation affects 9 out of 10 nonmetropolitan families who do not depend on farming as their chief source of livelihood.

The study required by title III is one which I have long advocated as a first necessary step before we pursue policies which, once set in motion, may be difficult to change.

I urge the Senate to adopt this amendment.

Mr. President, I have discussed this amendment with the distinguished Senator from Indiana (Mr. Hartke).

The purpose here is to lay down some additional criteria to be used in the decisionmaking on railroad abandonment. The rural areas of the Nation are suffering serious problems because of the abandonment of trackage, and it just seems to me that before decisions that vitally affect community progress and development, as well as the general economy are made, we have to have the full facts before making decisions which may prove to be irreversible.

I believe the Senator from Indiana feels that this amendment is helpful. I worked with his staff on it, and I hope it will be accepted.

Mr. HARTKE. Mr. President, I yield myself 1 minute.

I have discussed this matter with the distinguished Senator from Minnesota. This amendment deals with the abandonment problems which are involved. We feel the amendment provides for some clarification in language, making sure that the intent of the act is carried forward.

The total question of abandoment certainly is one element that is involved not alone in the Midwest and Northeast, but one which is of very vital concern to people all over the United States, and I think it is a good amendment.

Mr. HUMPHREY. This is in addition to the provisions already in the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment was agreed to.

AMENDMENT NO. 1175

Mr. HUMPHREY. Mr. President, I send to the desk my amendment No. 1175. It has been modified in light of the technical changes in the bill.

The PRESIDING OFFICER. Is there objection to the modification? The Chair hears none, and it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Minnesota (Mr. Humphrey) proposes an amendment:

On page 196, line 18, add the following: "In determining whether the proposed abandonment is consistent with the public convenience and necessity, the Commission shall consider whether there will be a serious adverse impact on rural and community development by such abandonment or discontinuance.".

Mr. HUMPHREY. Mr. President, this again establishes some additional criteria and raises questions of criteria for continuing local railroad service. These criteria are necessarily based on public convenience and necessity, relative operating costs, and economic viability of the service.

Although these are important factors, we must not lose sight of the effect proposed rail abandonment will have on rural development. In Minnesota alone over the last 8 years, the railroads have been permitted to abandon over 1,043 miles of transportation artery leaving 68 Minnesota cities orphaned to an inadequate highway transportation system. Pending abandonment applications will add another 450 miles of key alternative transportation artery and another 29 Minnesota cities to the blueprint for economic havoc.

It is for this reason that a third criterion should be considered before abandonment is approved—the impact on rural and community development which the proposed abandonment or discontinuance would have.

I urge the Senate to approve this amendment.

I worked this amendment out with the committee and its staff. It strengthens the bill in terms of the criteria which must be considered before abandonment is permitted.

Mr. HARTKE. Mr. President, I yield myself 30 seconds.

The Senator from Minnesota has correctly stated the situation. This amendment is acceptable to the committee.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. KENNEDY. Mr. President, I call up my amendment, relating to annual reports.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment.

The amendment is as follows:

On page 133, insert between lines 17 and 18, the following:

"(h) Report.—The Association shall prepare on an annual basis a report to Congress on the performance of the Corporation within 90 days of the close of the fiscal year of the Corporation. Such report shall include an evaluation of—

"(1) the degree to which the goals of section 206(a) are being met;

"(2) the amounts and causes of deviations, if any, from the financial projections of the Final System Plan;

"(3) the amount of federal funds made available to the Corporation and a clear description of the uses of such funds;

"(4) the projected financial needs of the Corporation;

"(5) the projected sources of meeting the financial needs of the Corporation; and

"(6) the ability of the Corporation to become financially self-sustaining without requiring government funds in excess of those projected in the Final System Plan.".

Mr. KENNEDY. Mr. President, I yield myself as much time as I may need.

Mr. President, this amendment provides for an annual report by the USRA on the success of the corporation in meeting its goals, and on the current and future financial prospects of the corporation, including the ability of the corporation to become financially self-sustaining without requiring Government funds beyond those projected in the Final System Plan.

It seems to me that this kind of annual report would be a useful and valuable addition to the bill, and will improve our ability to plan wisely in meeting the Nation's future rail needs.

I have had a chance to talk to the floor manager of the bill. I think the amendment will help to give the kind of hard thinking about some of these issues which this program should have, and I hope it will be accepted.

Mr. HARTKE. Mr. President, I yield myself 30 seconds.

Mr. President, I have discussed this matter with the Senator from Massachusetts. It is a worthwhile amendment. It provides for the type of reporting that the Congress and the Nation is entitled to in consideration of the fact that the financing of the new operation is coming from taxpayers' money.

It is definitely a fine amendment to the bill.

Mr. KENNEDY. I thank the Senator. Vote, Mr. President.

The PRESIDING OFFICER. The Chair is in doubt on putting the question because the Chair does not have a copy of the amendment. We do not know which amendment the Senator from Massachusetts is referring to.

Mr. HARTKE. Here is the amendment.

The PRESIDING OFFICER. The Chair is now clear on what amendment was offered by the Senator from Massachusetts.

The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I call up my amendment on funds for State planning.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) purposes an amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with. I also ask unanimous consent that the distinguished Senator from New Hampshire (Mr. McINTYRE) may be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 222, line 17, insert after the period the following new sentence: "Not more than 5 percent of a State's entitlement may be used for rail planning activities.".

Mr. KENNEDY. Mr. President, this amendment would provide that up to 5 percent of a State's entitlement may be used for rail planning activities.

In reviewing the legislation and the committee report, it seems that there should be at least a modest dimension for State planning. I think that the 5-percent provision I am offering will be useful and helpful to the States in wisely allocating their entitlements.

The concept of planning is certainly included in the legislation itself as an essential part of the program. This amendment provides specifically that up to 5 percent of a State's entitlement under the act may be used for planning and it will help to encourage such planning by the States.

I believe that the amendment is compatible with the thrust of the legislation, and I am hopeful that the Chairman will accept the amendment.

Mr. HARTKE. Mr. President, I have discussed this matter with the Senator from Massachusetts and it is acceptable to the committee.

The PRESIDING OFFICER (Mr. DURKIN). The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I call up the ratesetting procedure amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with. I also ask unanimous consent that the distinguished Senator from New Hampshire (Mr. McINTYRE) may be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 15, line 2, after the word "Commission", insert "and allegations that such increase or proposed decrease will have a significantly adverse affect on the competitive posture of shipper or consignees which would be affected by such increase or decrease."

Mr. KENNEDY. Mr. President, this amendment provides that in a rate-setting proceeding, in addition to considering allegations that a rate change would affect the relationship between commodities, ports, and regions, the Commission must also consider allegations that the rate change will affect the competitive positions of shippers and consignees.

Consideration of these additional competition factors by the Commission is desirable and essential. In its rate discussions, it is important for the Commission to consider all the competitive aspects of the rate-setting procedure. The committee bill specifies a number of vital factors to be taken into account, and the amendment I am proposing would add additional important factors.

I have had a chance to review the amendment with the floor manager of the bill and I am hopeful it will be acceptable.

Mr. HARTKE. Mr. President, I have discussed this matter with the Senator from Massachusetts and it is acceptable to the committee.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I call up my final amendment, which deals with the survival of branch lines, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 199, after line 25, insert the following:

"(3) If a line has been operated under a rail service continuation payment provided in conformance with paragraph (1) or section 304(c)(2) and for two consecutive years the difference between the revenue attributable to such rail properties and the avoidable costs of providing rail service on such properties together with a reasonable return on the value of such rail properties has been one dollar or less the Commission shall not issue a certificate of abandonment or discontinuance, if the rail line is not owned by the rail carrier providing service it shall be conveyed to such carrier for a fair and equitable value, and the railroad shall not again apply for a certificate of discontinuance or abandonment for two years from the date of such conveyance.".

On page 213, line 12, strike "or",

On page 214, line 9, strike the period and insert in lieu thereof "; or".

On page 314, insert between lines 9 and 10, the following:

"(3) if a line has been operated under a rail service continuation payment provided in conformance with paragraph (2) for 2 consecutive years and the difference between revenue attributable to such rail properties and the avoidable costs of providing rail service on such properties together with a reasonable return on the value of such properties has been one dollar or less.".

Mr. KENNEDY. Mr. President, in essence, this amendment provides that, if a line is operated profitably for 2 years, ConRail is required to incorporate it again. If the line is not owned by the carrier providing the service, the line is to be sold to the carrier at a fair value, and the carrier is prohibited from apply- for a certificate of abandonment for 2 more years.

This amendment will help to carry out the congressional intent to assist States and communities in maintaining branch line service in their regions, a service that is critical to the economic well-being of hundreds of communities in New England and other parts of the Nation.

An amendment I offered to the Regional Rail Reorganization Act of 1973 established, as one of the goals of the final system plan, "the minimization of job losses and associated increases in unemployment." The provisions in the pending bill and the amendment I am offering are designed to prevent the wholesale abandonment of branch lines proposed under the final system plan.

The abandonment of 16 branch lines of 150 miles in Massachusetts and 5,700 miles in the Northeast as a whole threatens the economic welfare of numerous communities in our area and is the wrong answer during a time of energy crises.

The light density line abandonment analysis and conclusions of the U.S. Railway Association have been severely criticized by communities, by shippers, by the Rail Services Planning Office of the U.S. Railway Association, and even by the Interstate Commerce Commission. In fact, the RSPO hearings held in Massachusetts showed that the economic survival of many towns may well depend on our keeping these lines open.

The provisions in the committee bill and the amendment I am offering are a step in the right direction, and I hope that the amendment will be accepted.

Mr. President, let me mention that I know this issue is a subject that has also been of interest to the minority whip. He has an amendment at the desk which is not dissimilar to my amendment. I am very hopeful that the committee could accept both amendments and take them to conference. Although there is some overlap in the two amendments, they touch different sections of the bill and each amendment also contains useful provisions not in the other amendment.

I intend to support the amendment of the Senator from Michigan when he offers it. It is a slightly different approach, but it reaches the same essential issue.

I would hope that the chairman would take the bill to conference and reconcile the two amendments to retain the best provisions of each. I believe the chairman is familiar with the question and I am hopeful the amendment will be accepted.

Mr. HARTKE. Mr. President, I have discussed this matter with the Senator from Massachusetts. It is acceptable to the committee.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I thank the floor manager. I also commend the Senator from Indiana for the excellent work that he has done on this particular measure.

This legislation is of great importance to us in the Northeast part of the country. But basically, as has been pointed out in this debate, this legislation is national in its importance and consequence, and the Senator from Indiana has emphasized that.

I think he and the committee have made a very powerful and persuasive case for this measure. I commend the Senator for his knowledge and awareness of our particular needs in the Northeast and the diligence and the time he has spent on these complex issues.

I also commend my distinguished colleague, the Senator from Connecticut (Mr. WEICKER), for the fine work he has done in this particular area. I have had a chance to work with Senator WEICKER on a number of different issues affecting rail transportation in our region, and there has been no champion from our part of the country of either party who has been more in the forefront on this issue than the Senator from Connecticut.

Mr. President, as I have indicated, the pending Rail Services Act includes a transportation program that is vital to Massachusetts, to all the New England States, and to the entire Northeast Corridor.

The bill contains numerous advantages for our State and region, as well as for many other sections of the country in the nationwide effort to deal with the country's troubled rail systems:

It includes essentially a full Northeast Corridor Project;

It mandates trip times of 3 hours from Boston to New York, and 2½ hours from New York to Washington, D.C.;

It provides a major program of no-interest Federal loans for the project.

And, it provides for implementation of the project by a new special-purpose subsidiary of Amtrak, the Northeast Corridor Improvement Corporation.

Compared to the administration bill, S. 2718 is obviously a much more beneficial measure for commuters and travelers on the eastern seaboard. Under the Administration approach, trip times would be only 5 to 10 minutes faster than the fastest trains now available, and only a half hour or so faster than the majority of present trips. The $1 billion in funding recommended by the administration is too low. The obligatory $320 million funding from the nine States involved is too onerous. Requiring States to commit their funding shares before any Federal funds are committed might well be a crippling blow to the project. Many States might never raise the funds for the system, with the result that no action would be taken and this fine opportunity would be missed.

The Northeast Corridor Project is of vital national importance. It is neither a regional nor parochial concern. Fully one-fifth of the total population of the United States lives along the Northeast Corridor, but on only 1 percent of the U.S. land area—the most dense and congested area of the United States. The Boston to Washington project will carry almost one-fourth of all intercity passenger trips made in the Corridor. Three-fourths of the new passengers will come from autos, and one fourth will come from planes. The project will provide major relief for the corridor in the effort to deal with the critical problems of congestion, pollution and energy consumption.

In addition, the Northeast Corridor project will result in an estimated $300 million of rail-related construction in Massachusetts alone representing over 6,000 man-years of labor. The Corridor project will therefore be extremely beneficial in relieving the serious problems of chronic unemployment in our Commonwealth.

Over the years, the Northeast rail system has deteriorated badly, resulting in increased accidents, increased running times and decreased reliability. Time is running out. If we are to restore the vitality of rail transportation in the United States, we must act now. The cost of this legislation will never be lower, with inflation continuing at high levels in the economy. Even worse, as deterioration accelerates, the cost of a successful program will rise even faster than in proportion to inflation.

In sum, Mr. President, the bill before us represents the best opportunity Congress has had in many years to deal responsibly with the deteriorating conditions of rail transportation in the Nation. I am pleased that the distinguished chairman of the committee has accepted the series of amendments I offered. I commend him for the outstanding job he has done in preparing this complex and historic legislation for action by the Senate, and I look forward to its early enactment into law.

Mr. HARTKE. Mr. President, I thank the Senator from Massachusetts on behalf of myself and Senator WEICKER for his cooperation. He has been very helpful in these hearings, and we appreciate it.

Mr. ROBERT C. BYRD. Mr. President, I yield myself 1 minute.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination that was reported unanimously by the Committee on Agriculture and Forestry earlier today, and I ask unanimous consent that it be immediately considered.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

DEPARTMENT OF AGRICULTURE

The assistant legislative clerk read the nomination of William H. Walker, III, of Tennessee, to be an Assistant Secretary of Agriculture.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

RAIL SERVICES ACT OF 1975

The Senate continued with the consideration of the bill (S. 2718) to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HARTKE. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Will the Senator withhold that?

Mr. HARTKE. Yes.

Mr. ROBERT C. BYRD. Mr. President, I ask both cloakrooms to get word to the Senators who have amendments to come to the Chamber so as to expedite action on this bill. Otherwise, we may be here until midnight or beyond.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, on behalf of the Senator from Delaware (Mr. ROTH) I ask that his amendment be called up at this time and be immediately considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 171, insert the following between lines 16 and 17:

DUTY OF TRANSFEREE

SEC. 617. Title VI of the Act is amended by adding at the end thereof the following new section:

"DUTY OF TRANSFEREE

"SEC. 605. (a) Whenever the transfer, sale, or acquisition of a rail line shall result in a significant increase in rail traffic, and such increase reasonably poses a potential hazard to public health, safety, or welfare, the transferee shall take such action as may be required by the Secretary to alleviate such potential hazard.

"(b) Notwithstanding any provision of this or any other Act, the Association may provide assistance to carry out the purposes of subsection (a) from funds available under title V of the Rail Services Act of 1975.".

Mr. ROTH. Mr. President, the intent of the Regional Rail Reorganization Act is to preserve and improve rail service in the Northeast and Midwest—regions that were suffering from a deteriorated railroad plant. For many industries and communities, this legislation provided assurances for future transportation and the prospects of economic growth.

But there is another side to this. In recent years, as a result of the population push, some communities expanded, thereby situating the railroad in the heart of the town. An example of this is Newark, Del. Newark is one of the most rapidly developing areas in Delaware and the east coast. It houses the main campus of the University of Delaware and has become a part of the Wilmington Metropolitan area. Newark is the second largest city in Delaware.

The Chessie system passes through the heart of this city. Although today it is not heavily trafficked, several times daily freight trains roll through town, bringing vehicular traffic to a stop, stranding pedestrians, and vibrating dormitories, homes, and businesses. With this as background, you can imagine the fears of the city and university officials when they were advised that this line was going to become the freight corridor for the Northeast as part of the congressionally mandated program to separate high-speed passenger traffic from slower moving freight traffic.

The city of Newark and the University of Delaware are justified in their concern that increased freight traffic will cause safety problems of unmanageable proportions. The city and university have discussed this situation with the U.S. Railway Association, the Rail Services Planning Office, the Federal Railroad Administration, and the railroad to work out a reasonable solution. But to no avail, other than a recommendation from the RSPO that a bypass be considered.

Therefore, I am now offering an amendment to aid communities in similar situations. This amendment would require the railroad to take whatever corrective actions are necessary to eliminate the safety hazards that would result from an increase in rail traffic.

Specificially, it provides that the Secretary shall require the transferee of a rail line to take adequate safety measures to protect the public against potential health or safety hazards. It further provides the association may provide financial assistance from funds available under title V of the bill.

Mr. President, I urge the adoption of this amendment.

Mr. WEICKER. Mr. President, this amendment is acceptable, as I understand it, to the committee.

Mr. HARTKE. Yes.

Mr. WEICKER. I move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HARTKE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARTKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 315—RESOLUTION COMMENDING JOHNNY WOODEN FOR CONTRIBUTION TO YOUTH

Mr. HARTKE. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily and that the Senate proceed to the consideration of Senate Resolution 315.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 315) commending Johnny Wooden for contribution to youth.

The PRESIDING OFFICER. Is there objection to the present considerations of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. HARTKE. Mr. President, I am honored to be able to bring to the attention of my colleagues a special Hoosier, Mr. Johnny Wooden.

Johnny Wooden is well known as the basketball coach of the University of California at Los Angeles, where he has the remarkable record of having coached basketball teams that won 10 national championships in the past 12 years, and of coaching teams that won 88 games in a row, which is an all time record, and they have won seven college basketball championships, which also is unprecedented in college basketball.

Johnny Wooden was born in Martinsville, Ind. in 1910. He played basketball for the Martinsville High School in 1926, 1927, 1928. He led them to the State championship in 1927; they went to the State finals all 3 years that he played. Johnny Wooden went to Purdue University in 1930, and played basketball there in 1930, 1931, and 1932 when Purdue was declared national champion. Wooden was All-American college basketball player all 3 years that he played for Purdue. Johnny Wooden then went to South Bend Central to coach. From South Bend he continued his coaching experience at Indiana State at Terre Haute, Ind. In 1948, the University of California at Los Angeles got a new basketball coach—his name was Johnny Wooden, from Indiana.

Johnny Wooden retired last spring and is being honored in his native Indiana on December 13, 1975 in recognition for the prestige and dignity he has brought to basketball and to Indiana throughout his many years of playing and coaching basketball; for his service to the youth of our Nation in his efforts to promote brotherhood and the competitive spirit; for representing Indiana in the many "hardwood" forums of the world; and for being called the "winningest college basketball coach in this country."

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to, as follows:

S. RES. 315

Resolved, That it is the sense of the Senate that Mr. Johnny Wooden be commended for his contribution to the youth, and indeed all citizens, of our nation during his many years of participating in coaching basketball, a native American sport.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Mr. Wooden.

RAIL SERVICES ACT OF 1975

The Senate continued with the consideration of the bill (S. 2718) to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes.

Mr. WEICKER. Mr. President, I yield myself such time as I may require.

The seeming lack of business in the course of the consideration of this bill is due to the fact that very shortly Senator HARTKE and I will be meeting with the Secretary of Transportation, to see whether or not some of the differences that have been raised can be solved. I think it is important to bring this fact forward, because what we are looking for here is not a confrontation or a veto, or a defeat for either side, but to try to mutually arrive at that broad area of agreement which, indeed, can for the first time in our lifetimes bring a sensible pattern of governmental commitments to our rail systems in these United States.

There has been much talk as to the Secretary and the administration disagreeing with the bill. I also know, and it is a matter of record, that the administration agrees with much of what is in the bill. When I hear words like "totally unacceptable," I know that is not true. I know our staff has worked very diligently, along with the staff of DOT, in pursuing many of the titles of this bill, and the work product we have before us is the result of the Department's thinking, the thinking of the members of the Senate committee, and the thinking of the members of the staffs. So why work ourselves into a position of confrontation and a negative end result?

A great deal of work and effort by all hands has gone into this bill, and I wish to use this time especially to commend my colleague, Senator HARTKE, who attended every single one of the hearings that preceded the development of this bill, and spent long hours of exceedingly painstaking work on it.

Now the idea is to get going, to abandon a policy of total commitment to highways with no alternatives whatsoever. The dollar amounts, I do not think, are as important as the concepts contained in this bill.

I repeat, to those who are concerned that this is just related to a particular problem in the Northeast, that that is just not so. The bill relates to the country as a whole. The most immediate problem is the Northeast, the next most immediate is in the Midwest, and the next problems arise in the West, the South, and the Southwest.

I rise at this time only to indicate that rather than the committee, Senator HARTKE, and myself standing at one end of the room and the Secretary of Transportation at the other, every effort is going to be made to reach a satisfactory compromise. I do not know whether the effort will be successful or not. No one can say. But every effort has to be made to establish communication.

I do not think, as long as I have been here, maybe there have been one or two instances, but certainly not many, where we have had an entirely new piece of legislation, an entirely new concept. Ordinarily we are voting money to preserve and extend the status quo, to continue an existing situation. But this is a new concept, a new prescription, and we have looked at the input from all sides all along the line and the legislative process. When the bill was before the subcommittee, Senator HARTKE made it clear and I made it clear that there should be input at the committee level. There was committee input, and the bill was changed dramatically. At that committee meeting, both Senator HARTKE and myself again made it clear that we looked for input on the floor of the U.S. Senate, that not all wisdom resided in ourselves or, indeed, in the full Commerce Committee.

I do not consider it to be true that we are pursuing the matter on a parochial basis. I think the best example of that is Senator HARTE, who has been the main participant in the drafting of a bill to build up the railroad systems in the Northeast. But he has recognized for a long time, as have I, that the best procedure is to tackle a national problem in a national way, with an eye to the long-range solution.

I repeat, when the bill moves across to the House, when it comes to conference, and when it finally goes before the administration, it will be with the view that this country is tired of confrontation, pitting one section of the country against another section of the country, pitting New York against the rest of the United States, pitting the consumer States against the agricultural States, pitting New England against the oil- and gas-producing States, and dwelling on the differences which exist when, indeed, the area of common ground is much larger than any differences.

The ground at which we can arrive at agreement in positive, decisionmaking solutions—that is the ground that we should be travelling. And I would hope that before this afternoon is over, there will be a piece of legislation coming forth from this body which is not in confrontation between the executive and the legislative branches of the Government, but which rather will receive the full support of those entities.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The bill is open to amendment.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I rise to congratulate my colleagues from Indiana and Connecticut on this legislation. They have done a masterful job. Their objectives may seem high, but they are objectives that should be undertaken, to give our people the quality of service they deserve.

It was about 10 years ago that I was successful in projecting the High Speed Ground Transportation Act, which provided the means to build the Metroliners and turbo-trains in use today. At that time, we were talking about giving the people 2-hour service between New York and Boston, and 2-hour service between New York and Washington, as being objectives which could and should be met.

I think perhaps the political argument that may have had some influence with the administration at that time was the fact that the electoral votes from the States traversed by these railroads were somewhere between one-quarter and one-third of all the electoral votes in the United States. This argument remains today.

And the necessity still exists if this megalopolis, the area from Boston to Washington, is to continue to give the people the quality of life, the decency of life and the freedom of movement that they deserve, that the concepts that are in this bill should be preserved. I hope that in their discussions Senators HARTKE and WEICKER would not lower the objectives even if the dollar amounts have to be shaved a certain amount. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. TAFT. Mr. President, I call up my amendment No. 1177 which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. TAFT) proposes an amendment No. 1177.

The amendment is as follows:

On page 243, after line 12, add the following:

TITLE X—LOCAL TAX RELIEF

SHORT TITLE

SEC. 1001. This title may be cited as the "Local Tax Relief Act".

SEC. 1002. Title VI of the Regional Rail Reorganization Act of 1973 is amended by redesignating section 604 as section 605 and by inserting before such section a new section as follows:

"PAYMENT OF TAXES FOR RAILROADS IN REORGANIZATION

"SEC. 604. (a) The Secretary is authorized and directed to pay out of funds appropriated for the purposes of this section (1) such overdue State and local government real estate and personal property taxes and penalties as are owed on the date of enactment of this section by any railroad in reorganization on account of the ownership, lease, or operation by such railroad of any rail properties in the region, and (2) any such taxes owed by any such railroad which become overdue after such date. After any such payment the Secretary is authorized to continue paying such taxes as they become due until such time as such taxes are paid by such railroad or on behalf of such railroad or by any successor in interest.

"(b) Payments pursuant to this section shall be made (1) at the request of a State or local government or a railroad in reorganization, (2) subject to the assignment from such State or local government of such rights with the United States acquiring all liens and preferences of such State or local government in such form the Secretary determines necessary to protect the interests of the United States, and (3) subject to such other requirements as the Secretary determines to be necessary to protect such interests.

"(c) Amounts recovered by the Secretary pursuant to rights assigned to him pursuant to subsection (b)(2) shall be covered into the Treasury as miscellaneous receipts.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, through December 31, 1978.".

Mr. TAFT. Mr. President, I yield myself 5 minutes.

Mr. President, the amendment which I have offered is designed to provide tax relief to those units of government that have been hard hit by the bankruptcy of the railroads in the Northeast. These communities have seen the property owned by the railroads removed, for all practical purposes, from the tax base. This, in turn, has added to already acute budget problems, and they are bad enough already.

Congress will soon act, I presume, upon legislation to help bail out New York City.

I emphasize that my bill is no bailout bill, but it could be labeled a bailout prevention bill for some units of government because what it is trying to accomplish is to assure that local and State governments have sufficient funds to provide essential services.

In most localities, the property tax is a main source of revenue for education. School systems are suffering because of the railroad bankruptcies. My amendment would merely allow the Secretary of Transportation to serve as a collection agency for these communities so that they can operate their school systems and other essential services.

The courts have ruled that the bankrupt rail lines do not have to pay the property taxes that are owed to State and local governments while bankruptcy proceedings are in process. In Ohio the railroads own property in 74 of the 88 counties. Ohio, of course, is by no means the only State affected and affected very adversely.

Besides Ohio, U.S. Railway Association officials provided me with figures showing that the Penn Central alone owes taxes in Pennsylvania, Michigan, Illinois, Indiana, Kentucky, Delaware, Maryland, New York, New Jersey, Virginia, West Virginia, Massachusetts, and Connecticut.

In New York City we have seen the results of poor fiscal management; but it is impossible for any individual or unit of government to properly plan their finances when the timing of cash inflow is unknown. The nonpayment of these taxes is a real hardship for the local communities. But it is a financial responsibility that I believe the Federal Government could and should pick up.

Under my proposal the Federal Government would pay the back taxes owed to State and local governments, the Federal Government in turn assuming the rights of recovery from the bankrupt estates now pertaining to the local and State entities, and, I might say, with all of the rights and the privileges that they have by subrogation; in other words, the Federal Government would become the underwriter collection agency for local and State governments.

While this would provide extremely important financial relief for local and State government, it should not cost the Federal Government much money over a period of years if any at all. Local and State governments' rights in the bankrupt estates are a very high priority, and there is good reason to believe that recovery would be a high percentage. Perhaps with these payments, local governments in financial difficulty—and school boards, also, I point out, because they are a principal factor involved—could avoid falling into the crisis situation that now faces New York.

Mr. PASTORE. Mr. President, will the Senator mind yielding for a question?

Mr. TAFT. I am glad to yield to the distinguished Senator from Rhode Island for a question.

Mr. PASTORE. Would this be an authorization in addition to the amount already authorized in the bill or would it have to come out of moneys already incorporated in the bill?

Mr. TAFT. It does not come out of the moneys incorporated in the bill. It comes out of general revenue funds.

Mr. PASTORE. Has the Senator from Ohio checked with the administration as to whether or not they would accept this? I am wondering here if this is another way of encumbering a bill in order to kill it.

Mr. TAFT. No, I assure the Senator that is not my intention. This amendment has been in as a bill that I introduced in my own name some time ago.

Mr. PASTORE. The thing that bothered me is we get these rumors and soundings from the White House and from the Department of Transportation that what we have done in this bill already is a little too generous according to their concept and if we make it more generous, are we not adding insult to injury?

Mr. TAFT. I say to the Senator that, of course, in a sense it may or may not be a wash transaction, in that the Federal Government is in effect buying claims. This is what they would do under this bill. They would be buying claims. Claims would be on our books at the face amount of the claims that we would pay for.

Mr. PASTORE. The Senator has a marvelous idea. I am wondering at this point in time whether or not incorporating this in the bill is not going to put us in a position here that we end up with nothing?

Mr. TAFT. I hope not.

Mr. PASTORE. I will tell the Senator frankly it is true in my own State many communities depend upon this property tax and they are being denied this and their budgets are rather tight and they are feeling the pinch. There is no question about that. They have no place to go but to raise the real estate taxes in order to meet their obligations of education, police, fire, and all the other services that go with good government. But in view of the fact that the administration seems to be taking a hard line on what we are trying to accomplish here, I am wondering if we add a little more to it, it is not making it easier for them to tell us to go fish.

Mr. TAFT. I advise the distinguished Senator from Rhode Island one thing we could do would be to take $75 million out of the New York bill because that is how much is owed to the State of New York from this fund at the present time.

Mr. PASTORE. There we go again. I know. But that is a little too punitive. I mean, we should do for New York what we need to do if we want to do it. But I do not think we ought to begin slapping anyone around in bits and pieces only because we want to knock somebody else out.

Mr. TAFT. I am not trying to do that. I am trying to give $75 million more for the State of New York. I hardly call that slapping them around.

Mr. PASTORE. I tell the Senator that frankly I am not pleased that I have to vote for the New York help. But under the circumstances I suppose when the vote comes up we will all have to do what we in good conscience think we must do.

But this idea that what we ought to do is take a certain amount of money out of the New York help—if we are going to give them help in order to help certain other communities that may be hard hit because of the bankruptcy of the railroads, I do not think it adds up.

Mr. WEICKER. Mr. President, will the Senator from Ohio yield for a question?

Mr. TAFT. I will yield for a question on the Senator's time.

Mr. WEICKER. Yes, of course.

Does the distinguished Senator from Ohio have a price tag on this amendment?

Mr. TAFT. The price tag insofar as we can determine it, and we are pretty sure it is correct, is $300 million.

Mr. WEICKER. I thank the Senator from Ohio.

Mr. TAFT. Of that about $200 million is the Penn Central, and $100 million is from other railroads.

Financially hard-pressed urban cities in Ohio will receive sizable amounts of money. Cincinnati and Toledo are owed over $2 million, and Cleveland is owed over $10 million. Not only urban areas feel the pinch of back taxes owed by bankrupt railroads, 74 out of the 88 counties in Ohio are owed money and they are all in need of the money.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the figures that have been provided by the Penn Central and Erie-Lackawanna on the amounts they owed broken down by State.

There being no objection, the figures were ordered to be printed in the RECORD, as follows:

Connecticut	$450,392
Illinois	13,651,177
Indiana	24,344,418

Kentucky	147,683
Maryland	6,421,151
Massachusetts	13,252,851
Michigan	13,763,135
New Jersey	19,812,231
New York	75,568,133
Ohio	40,809,434
Pennsylvania	17,984,484
Rhode Island	4,828,842
West Virginia	814,521
Delaware	825,918
Virginia	611,411

I know our colleagues are all aware how tight money is for education. This money owed by bankrupt railroads is vitally needed now. It is needed by the students in our schools, and by the local taxpayers who support those schools.

We can assist education by establishing more Federal programs where more money is spent on bureaucrats. Or, we can help local governments with their education budgets through programs like this which provide them directly with needed funds.

The Federal Government will assume full rights to the money owed to the States and local entities at the same time that it pays the money to them. When the estate is finally settled or liquidation occurs, the Government will be able to get its money back.

It is in a much better position to get its money back because it can make liquidations of units of the railroad's systems that cross the various locality and State lines.

It is important to realize that it was the Government that overregulated the railroads and got them into the current problem. Now we must take the responsibility of helping the local and State communities that have been hurt.

The alternative to passage of this measure is for local and State governments to make up the difference through the passage of higher property taxes. Property taxes only hurt the homeowner who has been so severely hit by inflation.

While I realize that many of my colleagues are as hesitant as I am to approve amendments that will cost additional money, I believe that the Treasury will recover most of the costs of this amendment through the claim it will have to the bankrupt estates. I believe that by assisting governments now, we may avoid additional New York-type "bailout" bills.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARTKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, I have discussed this matter with Mr. HELMS and with the minority manager of this bill.

I send an amendment to the desk and ask unanimous consent that it be considered as being at the desk in accordance with the——

Mr. TAFT. Mr. President, reserving the right to object, which amendment is this?

Mr. HARTKE. Let me explain what I am going to do.

I ask unanimous consent that this amendment be considered as having been submitted prior to the vote to close debate and that it be entitled to consideration by the Senate.

We intend to talk to the Secretary of Transportation, to see if we can work out an agreement. But there is a procedural difficulty. Unless we can have an amendment of this kind entitled to be considered, we would not even have the possibility of having a discussion with the Secretary of Transportation. I am not now asking for its consideration. This is a modification of the amendment of the Senator from Ohio which would provide that instead of the Federal assistance being all in loans, part of it could be in grants.

Mr. TAFT. I understand.

A parliamentary inquiry, Mr. President. This would have no effect upon the pending matter?

Mr. HARTKE. This has no effect upon the pending business and may have no effect upon anything.

Mr. TAFT. I have no objection.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1:45 P.M.

Mr. HELMS. Mr. President, I ask unanimous consent that the Senate stand in recess until 1:45 p.m. today.

There being no objection, the Senate, at 1:36 p.m., recessed until 1:45 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. DURKIN).

Mr. HARTKE. Mr. President, I am opposed to the amendment. This amendment would have the effect of requiring the Federal Government to pay all State taxes owed by railroads in reorganization. Payment of these taxes has been suspended by the Federal district courts overseeing the reorganizations of the bankrupt railroads which are the subject of title VI of this act. This is normal in bankruptcy proceedings. The State taxes occupy a very high priority when the assets of the States are distributed after conveyance of the rail properties designated in the final system plan to ConRail. In other words, existing law provides for the payment of the back taxes owed the States in the normal course of events.

The effect of requiring the Federal Govenment to pay these moneys to the States would be to vastly increase the costs of this legislation to the Federal Government. A second possibility is that the payments that would be made by the Federal Government under S. 2480 would benefit the creditors and owners of the estates. Since payment of these back taxes by the Federal Government would relieve the responsibility of the estates to make those payments, it is not entirely clear that the language contained in this amendment would adequately protect the interests of the United States in assuring reimbursement.

Mr. President, I represent a State that is in the same predicament as Ohio. While Indiana—and the rest of the 17 States in this region—have suffered from the inability to collect taxes on the properties of the bankrupts, they will benefit from the provisions of this legislation which provide for a massive restructuring and rehabilitation throughout the region. While I fully understand the worthy intent of the amendment, I must oppose it on fiscal grounds and because it does not adequately protect the interests of the Federal Government. Since the affairs of these estates should be wound up sometime after the conveyance of rail properties to the new Corporation next year, I am confident that the States will receive the back taxes due them in the normal course of events. While I appreciate the good intent of this legislation, I am afraid that the problems it would cause are not worth what in essence is only a speed-up of payments that will come anyway, and must urge my colleagues here in the Senate to vote against it.

I would like to point out one further aspect of this issue, and that is the inequity of having the States tax railroad rights of way at all. As most of my colleagues here realize, we would not have to pass the legislation before the Senate today if there had not been a rather significant imbalance in Federal assistance to the various modes of transportation over the past several decades. This inequity in treatment does not apply just to the Federal Government. The States tax rail rights of way, with some recent exceptions, such as Connecticut. The motor carriers and water carriers, the chief competitors of the railroads, pay only user taxes, or in the case of the water carriers, no tax for use. It seems to me that if the Senate is going to address the question of State taxation of rail rights of way, we should do so in a comprehensive way that gets at the kind of problems that led to these bankruptcies in the first place.

Mr. TAFT. Mr. President, I ask for the yeas and nays on the pending business.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio. The yeas and nays were ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from South Dakota (Mr. ABOUREZK), the Senator from

Washington (Mr. JACKSON), the Senator from Alaska (Mr. GRAVEL), the Senator from Montana (Mr. MANSFIELD), the Senator from Wyoming (Mr. McGEE), the Senator from Montana (Mr. METCALF), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) and the Senator from Hawaii (Mr. FONG) are necessarily absent.

I further announce that the Senator from Utah (Mr. GARN) is absent attending the funeral of a relative.

The result was announced—yeas 11, nays 76, as follows:

[Rollcall Vote No. 545 Leg.]

YEAS—11

Beall
Case
Curtis
Griffin
Hruska
McClure
Nelson
Packwood
Stevens
Taft
Williams

NAYS—76

Allen
Bartlett
Bellmon
Biden
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Clark
Cranston
Culver
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Ford
Glenn
Goldwater
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Huddleston
Humphrey
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mathias
McClellan
McGovern
McIntyre
Mondale
Montoya
Morgan
Moss
Nunn
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevenson
Stone
Symington
Talmadge
Thurmond
Tower
Tunney
Weicker
Young

NOT VOTING—13

Abourezk
Baker
Bayh
Bentsen
Fong
Garn
Gravel
Inouye
Jackson
Mansfield
McGee
Metcalf
Muskie

So Mr. TAFT's amendment was rejected.

Mr. HARTKE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GLENN. Mr. President, I ask unanimous consent that two members of my staff, Leonard Bickwit and Tom Dougherty be granted the privilege of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, after consultation with the distinguished floor manager and the distinguished Senator from Connecticut (Mr. WEICKER), I send two amendments to the desk and ask for their immediate consideration.

Mr. FORD. Mr. President, may we have order so we can hear the distinguished Senator from Michigan?

The PRESIDING OFFICER. The Senate will be in order.

Is there objection to the amendments being considered en bloc?

Without objection, it is so ordered. The first amendment will be stated.

The legislative clerk read as follows:

The Senator from Michigan (Mr. GRIFFIN) proposes an amendment.

The amendment is as follows:

On page 120, line 14, strike "subsection" and insert in lieu thereof "subsections".

On page 120, between lines 22 and 23 insert the following:

"(e) Notwithstanding any other provision of this Act, the Association may, upon petition of any State, modify the final system plan to make further designations with respect to lines and related rail properties of railroads in reorganization in the region designated for transfer to the Corporation under such plan, if such designations are likely to result in improved rail service to users on such lines and connecting lines and would not materially impair the profitability of the Corporation. Such designations, including designations of such rail lines and properties to a State, a profitable railroad, or responsible person, may be made at any time prior to delivery of the final system plan to the special court under section 209(c) of this Act. Such further designations shall be treated for all purposes as if they had been included in the final system plan adopted by the Association and reviewed by the Congress and the final system plan shall for all purposes be deemed to be approved, as modified by such designations.".

Mr. GRIFFIN. Mr. President, this amendment provides for transfer to ConRail of rail lines which were originally excluded from the final system plan but which are subsequently found to be profitable.

More than 5,700 miles of rail lines are scheduled to be abandoned under the USRA plan for reorganization of the Penn Central and six other bankrupt railroads in the Midwest and Northeast.

For many communities, loss of rail services would be a devastating blow to the thousands of businesses and jobs that depend on this service. In Michigan, for example, my State stands to lose approximately 1,100 miles of rail lines, or nearly 20 percent of all proposed abandonments.

The pending bill would help to mitigate the harsh effects of this plan through changes in the existing Federal program of local rail service assistance to States. These changes include:

An extension of Federal aid beyond the current 2-year period;

An increase in the Federal share to 100 percent during the first year of the program;

A change in the formula for allocating funds so that States such as Michigan, get a fairer share of subsidy funds; and

A reevaluation by the ICC's Rail Services Planning Office—to be renamed the Transportation Service Planning Office—of the economic viability of rail lines excluded from the final reorganization plan.

I am pleased that many of these provisions are similar to proposals contained in legislation (S. 2266) which I introduced earlier this year.

However, I am concerned that the bill fails to include adequate procedures for transferring profitable lines to ConRail which USRA wrongly excluded from the final system plan.

Much of the criticism of USRA's branch line decisions has focused on the assumptions and information relied upon by USRA. As the ICC stated in its evaluation of the association's final system plan:

Failure to ferret out the facts concerning individual lines and methodological assumptions which we consider of questionable validity cast doubt on a number of close line retention decisions.

The Commission proposed that excluded lines should be transferred to ConRail after restudy demonstrates their profitability. In its words:

This would assure that no profitable traffic is erroneously denied to ConRail and that no shipper located on profitable lines are penalized as a result of data or analytical errors over which they have no control.

Under S. 2718, USRA is authorized to initiate transfers of branch lines to ConRail upon request of a State. But it is not required to do so, even if the lines prove to be profitable.

My amendment would accomplish this result by requiring USRA to petition the special court for transfer of branch lines which have been operated without subsidy for a 2-year period and which are found to be economically viable by the ICC's Transportation Services Planning Office.

Further protection would also be afforded to all affected parties since the special court would have the final say as to whether the terms of a proposed transfer are fair and equitable.

Since only profitable lines would be transferred to ConRail, this amendment would in no way jeopardize the economic viability of ConRail. And it is consistent with the goals established by Congress in the Regional Rail Reorganization Act of 1973, including the goal of creating a rail system that is adequate to meet the rail transportation needs of the entire region.

It is my hope that the distinguished manager of this bill (Mr. HARTKE) will accept this amendment.

The PRESIDING OFFICER. The second amendment will be stated.

The legislative clerk read as follows:

On page 123, line 8, strike "(d)" and insert in lieu thereof "(e)".

On page 124, at the end of line 7, insert the following new sentence: "With respect to any proposed transfer under section 305 (d) of this Act, the Association shall certify to the special court that the terms and conditions of the proposed supplementary transfer have been modified consistent with the opinion of the special court and shall petition the special court for reconsideration of the proposal as so modified."

On page 143, after line 13, insert the following new paragraph:

"(d) PROFITABLE LIGHT DENSITY LINES.—Notwithstanding any other provision of this section, the Association shall, upon petition of any State (or local or regional transportation authority), designate for supplementary transfer to the Corporation any line of railroad which was not designated for inclusion in the final system plan if—

"(1) rail service over such line has been operated for a period of 2 years without the need for a rail service continuation payment; and

"(2) the Office has found that such service is economically viable under section 205(e) of this Act.

Notice of any such proposed transfer shall be published in the Federal Register and shall specify terms of the transfer which the Association determines to be fair and equitable. The Association shall afford a period of not less than 60 days for public comment. Not later than 120 days after the date of such notice the Association shall petition the special court pursuant to subsection (e) of this section for an order requiring the transfer of such line to the Corporation. Any transfer under this section shall be deemed to be in the public interest for the purpose of this section and section 209(f) of this Act."

On page 143, line 14, strike "(d)" and insert in lieu thereof "(e)".

On page 143, line 19, insert after "equitable," the following: "or makes a designation pursuant to subsection (d) of this section".

On page 143, line 21, strike the comma and insert in lieu thereof the following: "or within 120 days after notice of a proposed transfer under subsection (d) of this section,".

On page 144, line 4, strike "(e)" and insert in lieu thereof "(f)".

Mr. GRIFFIN. Mr. President, this amendment would permit a State to petition USRA for a change in the final system plan with respect to rail lines that are not designated for transfer to ConRail.

Under the final system plan there are situations where portions of a line would be transferred to ConRail and portions would be left out. Unfortunately, this could make it very difficult for adequate rail service to be provided even with a subsidy for those portions of the line excluded from the plan.

For example, in Michigan, the Ann Arbor Railroad would be split up so that the southern portion of the line would go to ConRail, but the northern half, including the Lake Michigan car ferry, would not. The Ann Arbor line is a vital transportation link for communities in northern Michigan as well as those in Wisconsin which depend on the cross-lake ferry service.

Because of its importance, there has been considerable effort by the State of Michigan, local communities and shippers to develop a plan for continuing service on the entire line. And it is believed that with improvements the line can be operated on an efficient and possibly profitable basis.

But if the line is divided up in the manner proposed by USRA, there will be little incentive for any railroad to provide adequate and efficient service over that part of the line not transferred to ConRail.

My amendment would allow USRA to correct this problem by modifying the final system plan so that the Ann Arbor line could be transferred intact, whether to the State, a railroad or other organization.

Before making any modification of the plan, the Association would have to find that the change would be likely to improve rail service to users on the line involved and would not substantially impair the profitability of ConRail. Revisions could be made at any time before USRA delivers the plan to the special court and they would be treated as part of the final system plan for all purposes of the Regional Rail Reorganization Act.

I believe this amendment is reasonable and I hope that it will be accepted.

Mr. President, these amendments are not going to cost any money but they do provide some flexibility to accommodate special situations in some States, and particularly in my State. I am conscious of the fact that one of these amendments is similar in some respects to an amendment earlier offered by the Senator from Massachusetts (Mr. KENNEDY). I believe, however, that it would be well if my amendment were also included in the bill and then in conference the conferees could come up with the best of the combination of those two amendments.

I have discussed these amendments with the Senator from Indiana and the Senator from Connecticut.

Mr. HARTKE. The Senator from Michigan correctly states the situation. There is a possibility that there is some overlapping in one of these amendments with the amendment of the Senator from Massachusetts (Mr. KENNEDY). It is probably a little broader and perhaps it would add greater perfection to the bill. For that reason, we have agreed to accept these two amendments.

Mr. PASTORE. Could the Senator again give us a synopsis about what they do?

Mr. GRIFFIN. One amendment would permit a State to petition the U.S. Rail Association for a change in the final system plan with respect to a rail line now designated for transfer to ConRail. Under the final system plan, there are situations where portions of a line would be transferred to ConRail and portions would be left out. Unfortunately, this could make it very difficult for adequate rail service to be provided even with a subsidy for those portions of the line excluded from the plan.

I stated an example in my State. This would only allow some flexibility for a modification of the situation where it is obviously in the public interest to do so.

Mr. PASTORE. I thank the Senator.

The PRESIDING OFFICER (Mr. ROTH). The question is on agreeing to the amendments.

The amendments were agreed to.

Mr. PEARSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. PEARSON. Mr. President, if I could have the attention of the Senate, I do not intend to take very long on this first amendment. I am told the Senator from Ohio has an amendment. I am sure others deal with the more controversial parts of this bill. For myself, I want to be very brief.

Mr. President, I call up my amendment at this time, which is unnumbered and which was filed this morning. I ask for its immediate consideration. It is the amendment which modifies the bill beginning on page 92, line 14.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. PEARSON) proposes an amendment.

Mr. PEARSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, is it so ordered.

The amendment is as follows:

On page 92, line 14, strike "$4,400,000,000" and insert in lieu thereof "$3,500,000,000".

On page 128, line 10, strike "$2,000,000,000" and insert in lieu thereof "$1,100,000,000".

On page 129, strike lines 23 through 25, and on page 130, strike lines 1 through 21.

On page 130, line 22, strike "(4)" and insert in lieu thereof "(3)".

On page 132, line 22, strike "$3,000,000,000" and insert in lieu thereof "$2,100,000,000".

Mr. PEARSON. Mr. President, I have the greatest respect for the work of the chairman, and the ranking Republican of this subcommittee, dealing with a problem of great severity to the national transportation system. I have two amendments. I hope they prevail, but if they do not I intend to vote for this bill. I hope the Senate will approve it. I am hopeful that the President will sign it as it comes from the Congress.

The amendment that I have called up relates to funding. The USRA, under the original legislation, was required to prepare—after an 18-month study and the expenditure of some $40 million—not only a final plan but a financial plan for capitalization, the start-up, the acquisition of the roads, and for modernization. They came up, Mr. President, with a Federal expenditure recommended to change and conditions are not always foreseen, particularly in a rail transportation system where we have constantly deteriorating conditions, USRA added a cushion of $250 million. So the lump sum came out to be $2.1 billion.

The subcommittee and the committee, in their judgment, with their analysis of what they thought the expense would be, added $900 million, to the so-called cushion.

The $2.1 billion is recommended by USRA and is accepted by the administration. Then there is the figure of $3 billion, with the $900 million additional as recommended by the committee.

This amendment seeks to restore the USRA recommendation rather than the committee's recommendation.

I think that $250 million cushion is ample. It will be argued by the very able managers of this bill that this is just an authorization. But this authorization takes on another character. That is when we amend the final plan, we have amended a plan that is more than an authorization and takes on a certain rigidity itself. A court, looking at this act, and measuring its terms by constitutional principles, may very well say that this is something more than an authorization; this is a commitment by the Congress. It is a commitment of $900 million more than USRA asked for or the administration says is adequate for this particular financing proposition.

I think one of the strongest arguments, anticipating what the Senator from Indiana may say, is that the $900 million cannot be spent unless they meet certain criteria. The criteria are good.

It seems to me at this time we ought to make this cut in this plan; But not only because we can come back at a later time. I understand the difficulty of that. I came to this Chamber at later times on the original financing of Penn Central. I know what a chore this would be. But I think this would save a lot of argument when we are running a budget deficit of $70 billion.

Mr. PASTORE. Will the Senator yield?

Mr. PEARSON. I yield.

Mr. PASTORE. Will this be a loan or will it be a grant?

Mr. PEARSON. The $900 million is part of the Federal contribution. It is the cushion. It is Federal money that goes into ConRail. The money that goes out of USRA comes out in loans and comes out in grants. The overall USRA authority is $4.4 billion.

The money that goes to ConRail is money from the Federal Treasury.

Am I correct in that?

Mr. HARTKE. Partly. It is not incorrect. Let me clarify it. The way it is handled, by virtue of the fact of the way the money comes into the ConRail operation, it is, in effect, a loan on which the rate is 7.4 percent.

Mr. PEARSON. We are both right. It comes out of the Federal Treasury and it is $900 million more than requested.

Mr. HARTKE. So I am not misunderstood, there is Federal money and there is a deferral at the beginning of the interest period. So it is not an outright grant and it is not a loan in a typical sense. It is something in between.

Mr. PEARSON. It is something as peculiar and complicated as the entire ConRail concept.

Mr. WEICKER. Will the Senator yield for a question?

Mr. PEARSON. I yield.

Mr. WEICKER. If unanimous consent could be obtained, will the distinguished Senator from Kansas consider changing the figure of $900 million in his amendment to a figure of $500 million?

The reason why I ask this is that the Senator from Kansas, in his usual way, has accurately and totally described the background for these particular funds. I want to use this occasion to say to the Senate that the distinguished Senator from Kansas, the ranking Republican member of the Committee on Commerce, has been of enormous help in devising forward-looking rail policies for this country, and I speak not just as a Senator from New England, because he has taken the whole country into his view in the actions he has taken. It has been a delight to work with him and under him, and also to acknowledge him as really one of the great experts in this restructuring of the rail system for the United States.

The reason why I ask the question, however, is that since the USRA report, just like everything else that will transpire, in this Rail Act, it is found that costs have already crept up. I ask the Senator from Indiana, is that not correct?

Mr. HARTKE. That is right.

Mr. WEICKER. Further costs have appeared that outdate the figure contained in the initial report.

What I do not want to do and I think the Senator from Indiana does not want to do is come back to Congress. That is what we have been doing. That is what I tried to explain to the distinguished Senator from Alabama, who gets upset, and rightly so, when every 3 months we are in here asking for more funds for this or that railroad.

I would just as soon lay it on the line as to what the cost will be. As far as we can ascertain, in this area of the bill, the cost will be $400 million more than the amount in the USRA report.

When did the USRA report come out?

Mr. HARTKE. July 24.

Mr. WEICKER. In July. Here it is, almost some 6 months later, and I am just trying to have us act on the latest information available to us.

The latest information is such that it would be that much more than the figure contained in the USRA report, which gave us the figure which had to be used by the committee in the formulation of the bill. That is why I ask the Senator from Kansas, if unanimous consent can be obtained, whether he would consent to such a reduction.

Mr. PEARSON. Mr. President, the distinguished Senator from Connecticut makes it difficult. He interposes a request with some very kind words, which I appreciate.

Mr. President, I do not wish to be unreasonable. I know about the additional costs, which are reliable. There was a cushion put in the original $2.1 billion request; it was put in at $250 million.

I can appreciate that conditions are going to change. But may I say to the Senator, I am going to be very candid, and enlarge upon my original statement with greater emphasis upon the fact that I want this bill to be signed. I read the newspapers as well as everyone else does, and I know what commitments and statements have been made about a possible veto.

You get a threat of a veto, and it is based in fundamental respect on, "Here is Congress spending more money than the people even asked for in these times." I do not know what the cloture vote indicates or what will happen on this bill, but I would prefer to continue with this amendment as it is drawn, and seek by virtue of it to return to the original figure, and thereby eliminate $900 million from the particular section.

Mr. President, if the Senator will yield, while we seem to have enough Senators on the floor for a second, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HARTKE. Mr. President, it is with a great deal of reluctance that the Senator from Indiana ever finds himself in the position of opposing what the Senator from Kansas wants, because he is always so reasonable and understanding and so persuasive in his approaches. In his usual quiet manner, he is again very persuasive today.

There are some facts, though, that absolutely cannot be ignored. In the first place, there is a great deal of difference in what will happen if certain criteria are not met in this bill, because if we go into the special court and it becomes evident on its face that this is not an income-based reorganization, then the court can make a finding, and the result of that would be that at subsequent dates instead of coming back with this so-called cram-down theory, where we have forced creditors to take stock in ConRail, we will be faced with a condemnation proceeding under the fifth amendment to the Constitution. The effect of that would be that we would get a tremendously different net result as far as finances are concerned.

According to the best estimates it might cost the Government, under such circumstances, as much as $17 billion. I do not know, and no one else knows, because there is no established way in which this body, either through hearings or otherwise, could ever determine anything like that.

There are at this moment an additional $450 million in additional expenses which were not contemplated by USRA at the time that the final system plan was finally proposed to Congress. So without this cushion, two things are going to happen: In the first place, the C. & O.–B. & O., commonly called the Chessie, will back out. That was a prospect we struggled with for a long time, because originally there were several propositions which could have been adopted. We could have taken all these lines and put them in one package. That was not the method originally suggested by USRA. They suggested that the C. & O.–B. & O. would acquire certain properties, that the other railroads would acquire certain properties, and a new corporation called ConRail would constitute the basis for an income-based reorganization, of the railroad in the private sector.

Granted that it was a very technical procedure, it is at the heart of this bill. What we are faced with, very simply, as I have stated time and time again, is not something which is very delightful for anyone to look at.

The end results would be several. One is that if this fails, if we do not come up with a program which is a success, then liquidation becomes the only alternative for the courts, because these bankrupt railroads are losing $1 million a day, and as far as I am concerned, I shall not come in and ask the taxpayers to put any more money into the present organization or organizations which are already not capable of putting the railroad system back on its feet, and have been determined as not capable of reorganization under the bankruptcy procedures of the federal system.

The other side of that coin, very simply, is something my dear friend from Connecticut finds not repulsive to him whatsoever, that is, complete nationalization of the railroads. I am not for that, but he makes no bones about it, that he would not be upset with that at all. That is perfectly all right with me; but the problem, very simply, is that we are caught up with the question, can we have an income-based reorganization within the framework of the law, so that the Secretary of Transportation, as a Board member of the Association without perjuring himself, can certify to the special court that that is exactly what this is?

Mr. BUMPERS. Mr. President, will the Senator yield for a couple of questions?

Mr. HARTKE. I yield.

Mr. BUMPERS. First let me preface my question by saying I am not sure whether I shall vote for the bill or not, because I have not had sufficient time to digest it, and I do not like to vote $8.4 billion when I have not had more time to understand and evaluate it than I have had on this measure.

As I understand it, one of the reasons we are acting hurriedly on this bill is that Chessie and some of the other railroads are going to buy a majority part of the track of these bankrupt railroads. Is that correct?

Mr. HARTKE. A majority of it? No.

Mr. BUMPERS. As I understand it, ConRail will be left with about 40 percent of the bankrupt railroads in the Northeast.

Mr. HARTKE. No; basically, there is about 15,000 miles under the ConRail operation. About 6,000 miles will be dealt off to other railroads. The others are either scheduled for abandonment or what we call high density lines, to be picked up by the subsidy by the States.

Mr. BUMPERS. Let me repeat that to be sure I understand it. There is about 20,000 to 21,000 miles of track in the present bankrupt railroad system?

Mr. HARTKE. Right.

Mr. BUMPERS. Out of that, roughly 6,000 miles are going to be sold off, is that right, 5,000 to 6,000 miles are to be sold off?

Mr. HARTKE. Right.

Mr. BUMPERS. And the ConRail system will be left?

Mr. HARTKE. That is right.

Mr. BUMPERS. With about 15,000 miles?

Mr. HARTKE. Right.

Mr. BUMPERS. My question is this: Are the railroads such as Chessie, which are going to pick up this 6,000 miles of track, going to pick up perhaps the most lucrative part of the line, leaving ConRail with a less lucrative part?

Mr. HARTKE. No, I do not think that is a fair assessment. The fact of it is it was with a great deal of reluctance that the Chessie picked up this line. The fact of the matter is only the fact that they would not be content to deal with the situation where they would have had competition from a big ConRail rather than from a smaller ConRail, were they ever able to even give any consideration to coming into the system. They came in very reluctantly because they are going to have to spend the money to upgrade track.

Mr. BUMPERS. Who else is agreeing to purchase part of this track, other than Chessie?

Mr. HARTKE. ConRail and other railroads.

Mr. BUMPERS. Pardon?

Mr. HARTKE. ConRail and solvent railroads.

Mr. BUMPERS. What is going to happen to the proceeds of the money? What is going to happen to proceeds that they pay?

Mr. HARTKE. Pardon me?

Mr. BUMPERS. What is going to happen to the proceeds of the sale? Does this go into the ConRail treasury? It goes into the hands of a receiver, I assume.

Mr. HARTKE. What happens here very simply is all of this has to move back to a special court which is created by the legislation rather than going into the Court of Claims, as they would under some other procedure. This money that goes from this, going into the special court, will then go to and be available for the creditors.

Mr. BUMPERS. Let me say to the Senator, I admire the manner in which he has been handling the bill. As I say I have reservations. This is the authorization. I assume the appropriation is going to come along later.

Mr. HARTKE. That is right.

Mr. BUMPERS. I may go ahead and vote for the authorization in hopes that I will have more adequate time to check the appropriation bill and possibly offer some amendments.

Mr. HARTKE. That is right.

Mr. BUMPERS. I thank the Senator

Mr. HARTKE. Mr. President, I am not going to take much time from the Senator from Kansas. What happens if they do not have enough money to do what they are doing? All we are saying here if Conrail does not have enough money and then the criteria which are spelled out very clearly are: First, the corporation has not failed in any material respect to comply with any covenant or undertaking made to the association; second, the corporation has not failed substantially to attain the overall operating and financial results projected in the final system plan; third, taking into consideration all relevant factors, including its overall operating and financial results, it is reasonably likely that the corporation will become financially self-sustaining without requiring Federal funds in excess of the amount authorized in this section; and fourth, and this is an ultimate, that there does not exist a less expensive means of fulfilling the goals of the final system plan.

In reality even the $2.1 billion, upon which there is no controversy whatsoever, all of that money is in the hands of the discretionary authority, the Association, as to whether or not it is going to go. We are not just handing out money and giving them the ball.

Mr. PEARSON. Mr. President, will the Senator yield for a question?

Mr. HARTKE. Yes.

Mr. PEARSON. The Senator mentioned some time ago we had additional costs that have come forward. Did that come from the USRA and have they changed at any time?

Mr. HARTKE. Yes.

Mr. PEARSON. Do we have a communication from USRA now modifying the final financial plan which was $2.1 billion?

Mr. HARTKE. This information did not come from the USRA but has been submitted to USRA, and we understand they are now validating the claims to the extent we have determined them. Let me explain to the Senator.

Mr. PEARSON. As of today, as we are considering this bill, we have no modification, no communication from USRA.

Mr. WEICKER. That is not true.

Mr. HARTKE. That is not true. The fact of the matter is USRA has not come up to final figures with actually $450 million. There are claims that have FELA claims involved; there are the contract claims, the shipper loss and damage claims, and things of this sort. They know they are there.

The accounting has not been completed, but I imagine that the amount is on the nose, $450 million. This is not something which is really open to dispute. It is just a question that it takes a certain amount of time to accumulate the information and put it together.

So what I am saying to the Senator is we are not dealing here with a situation where we are really talking about taking so much money and giving it away. We are talking about to take a situation, make it viable on its face, keep the Chessie in the operation, because if it is not an income-based reorganization legally the Chessie has the right and probably would withdraw. In other words, as far as they are concerned, to them it might be a benefit; as far as they are concerned they would be left with no competition because what we would have then is the liquidation of the railroad system. Of course, I keep on pointing out—and this is a very difficult thing evidently in the United States today—to the American people that what we are trying to avoid here is a crisis. This is one attempt to avoid a crisis. As the Senator from Connecticut has said we are into new ground charting new ways. We are not only amending the old procedure. We are trying to create a viable private enterprise railroad system, and we are hoping and praying that we have enough money in it to make it work.

We even went so far on the funding operation to get the Office of Technology Assessment to give us a special report.

All of this information is based on hard evidence. We feel that this is the minimum amount to go ahead and really keep a private enterprise railroad system in the United States.

The alternative, frankly, and I say to anyone who doubts this, is nationalization.

And let me be perfectly clear in stating that as far as this system is concerned, I do not think that any member of the committee—it was voted unanimously out of the committee—is absolutely willing to certify that it is going to be a success. That is absolutely an impossibility. We are taking bankrupt operations which were bankrupt by certain things. We have put in changes necessary that the Interstate Commerce Commission, the Department of Transportation, the administration, and the President have asked for. We have attempted to come to some type of an accommodation.

The Senator from Connecticut was speaking on behalf of the Senator from Indiana when he made the offer to compromise with the Senator from Kansas. That was with my consent. We have tried to talk to the Secretary of Transportation. We find no place upon which we could find any type of movement, except adamant strong position.

Since that is the situation, I hope that the Senate will not reject the only alternative to nationalization of the railroads in the Midwest and the Northeast, and I hope the Senator from Kansas' amendment is defeated.

The PRESIDING OFFICER. The question is on agreeing to the amendment. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Washington (Mr. JACKSON), the Senator from Montana (Mr. MANSFIELD), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Maine (Mr. MUSKIE), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Hawaii (Mr. FONG), and the Senator from Pennsylvania (Mr. HUGH SCOTT) are necessarily absent.

I further announce that the Senator from Utah (Mr. GARN) is absent attending the funeral of a relative.

I further announce that, if present and voting, the Senator from Pennsylvania (Mr. HUGH SCOTT) would vote "nay."

The result was announced—yeas 42, nays 43, as follows:

[Rollcall Vote No. 546 Leg.]

YEAS—42

Allen
Bartlett
Bellmon
Brock
Buckley
Byrd, Harry F., Jr.
Cannon
Chiles
Church
Curtis
Dole
Domenici
Eagleton
Fannin
Goldwater
Griffin
Hansen
Haskell
Helms
Hruska
Johnston
Laxalt
McClellan
McClure
Nelson
Nunn
Packwood
Pearson
Percy
Proxmire
Roth
Scott, William L.
Sparkman
Stafford
Stevens
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Young

NAYS—43

Abourezk
Beall
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Clark
Cranston
Culver
Durkin
Eastland
Ford
Glenn
Hart, Philip A.
Hartke
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Javits
Kennedy
Leahy
Long
Magnuson
Mathias
McGee
McGovern
McIntyre
Mondale
Montoya
Moss
Pastore
Pell
Randolph
Ribicoff
Schweiker
Stevenson
Tunney
Weicker
Williams

NOT VOTING—15

Baker
Bayh
Bentsen
Fong
Garn
Gravel
Hart, Gary
Inouye
Jackson
Mansfield
Metcalf
Morgan
Muskie
Scott, Hugh
Stennis

So Mr. PEARSON's amendment was rejected.

Mr. HARTKE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WEICKER. I move to lay that motion on the table.

Mr. ALLEN. Mr. President, I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Washington (Mr. JACKSON), the Senator from Louisiana (Mr. LONG), the Senator from Montana (Mr. MANSFIELD), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), the Senator from Mississippi (Mr. STENNIS), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Hawaii (Mr. FONG), and the Senator from Pennsylvania (Mr. HUGH SCOTT) are necessarily absent.

I further announce that the Senator from Utah (Mr. GARN) is absent attending the funeral of a relative.

I further announce that, if present and voting, the Senator from Pennsylvania (Mr. HUGH SCOTT) would vote "yea."

The result was announced—yeas 43, nays 41, as follows:

[Rollcall Vote No. 547 Leg.]

YEAS—43

Abourezk
Beall
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Clark
Cranston
Culver
Durkin
Eastland
Ford
Glenn
Hart, Gary
Hart, Philip A.
Hartke
Hathaway
Hollings
Huddleston
Humphrey
Javits
Kennedy
Leahy
Magnuson
Mathias
McGee
McGovern
McIntyre
Mondale
Montoya
Moss
Nelson
Pastore
Pell
Randolph
Ribicoff
Schweiker
Tunney
Weicker
Williams

NAYS—41

Allen
Bartlett
Bellmon
Brock
Buckley
Byrd, Harry F., Jr.
Chiles
Church
Curtis
Dole
Domenici
Eagleton
Fannin
Goldwater
Griffin
Hansen
Hatfield
Helms
Hruska
Johnston
Laxalt
McClellan
McClure
Morgan
Nunn
Packwood
Pearson
Percy
Proxmire
Roth
Scott, William L.
Sparkman
Stafford
Stevens
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—16

Baker
Bayh
Bentsen
Fong
Garn
Gravel
Haskell
Inouye
Jackson
Long
Mansfield
Metcalf
Muskie
Scott, Hugh
Stennis
Stevenson

So the motion to lay on the table the motion to reconsider was agreed to.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER (Mr. HELMS). The Senator from Ohio.

Mr. GLENN. Mr. President, I yield myself the time required on the bill.

Mr. President, I call up my unprinted amendment and ask unanimous consent for the acceptance of the modification thereto.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Ohio (Mr. GLENN) proposes an amendment.

Mr. GLENN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

> On page 221, line 2, strike out the word "and".
>
> On page 221, line 4, strike out the period and insert in lieu thereof:
>
> ", and the cost of operating and maintaining rail service facilities such as bridges, car floats, lighters, ferries, yards, shops, docks, or other facilities useful in facilitating and maintaining main line or local rail service.".
>
> On page 222, line 24, insert the following new sentence: "In addition to the amounts provided pursuant to such rail mileage formula, funds shall also be made available to each State for the cost of operating and maintaining rail service facilities such as bridges, car floats, lighters, ferries, yards, shops, docks, or other facilities useful in facilitating and maintaining main line or local rail services and which are also contained in each State's Rail Plan. Such Federal subsidy participation shall extend only one calendar year beyond the date of conveyance. During the period of such extension the Secretary, not later than 90 days prior to the termination of Federal participation in the support of rail facilities continuance, shall prepare a report to the Congress in conjunction with a designated State agency, recommending future action with respect to rail facilities referred to in this subsection, notwithstanding the providing of any funds for the operation and maintenance of rail service facilities pursuant to this subsection, the Consolidated Rail Corporation, or any other solvent carrier, shall not be required to operate such facilities."

Mr. GLENN. Mr. President, this suggested amendment has been cleared on both sides of the aisle and would correct what we feel is a lack in the bill.

The formula that is being used for disbursement of funds is based on a mileage basis, yet there are some specialized facilities, such as——

The PRESIDING OFFICER. The Senator will suspend. The Senate is not in order. Senators will please take their seats and their conversations to the cloakroom.

The Senator may proceed.

Mr. GLENN. Mr. President, the formula is based on a track mileage basis.

Yet, there are some specialized facilities, such as particular rail yards, dock facilities, railroads beside docks, railroad ferries, things of that nature, that are not amenable to a fair distribution of funds based just on mileage. This amendment would correct that inequity.

As I indicated, it has been cleared on both sides of the aisle with the leadership.

I might point out it would require no increase in authorization. There are approximately $100 million available for the general subsidy program for this one calendar year applying to the light density lines in the 17-State region. USRA figures indicate some $35 million of that being used for subsidy, leaving some $65 million still within the current authorization which could be used to help alleviate some of this difficulty with the facilities that we are talking about. It does us little good to have long rail lines and have them subsidized if the facilities for the end use of that rail line are not there, and also taking into account other than a mileage basis.

Since this has been cleared on both sides of the aisle, I would hope that we could have just a voice vote and accept this amendment.

Mr. HARTKE. Mr. President, the Senator from Ohio has discussed this matter with members of the committee. Since this amendment now makes it very clear that the funds being spent under this amendment would only be spent after all rail service has been taken care of, it is acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. TAFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 1176

Mr. TAFT. I call up my amendment No. 1176, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. Taft) proposes an amendment No. 1176, on page 171, line 17, strike all through page 183, line 13, and insert in lieu thereof new language.

The amendment is as follows:

PURPOSE AND FINDINGS

SEC. 701. (a) PURPOSE.—The purpose of the title is to provide Federal funds to assist in upgrading in an expeditious manner the rail passenger service system in the corridor between Boston, Massachusetts, and Washington, District of Columbia, by permitting the acquisition of such system by the National Railroad Passenger Corporation, and by eliminating the deferred maintenance in that system that has contributed to the deterioration of service reliability, thereby establishing both a smooth and reliable ride the length of the corridor and a sound basis for an adequate annual maintenance program; by conversion to new commercial power sources and extension of electrification from New Haven, Connecticut, to Boston, Massachusetts; by providing for significant improvement in the signaling and control system needed to improve the safety of passenger operations through the installation of a central traffic control system in New York, New York, Philadelphia, Pennsylvania, and Boston, Massachusetts; by rehabilitating and upgrading the numerous deteriorated bridges in the corridor; by improving certain operational aspects of stations in the corridor; and by effecting other significant improvements to the service facilities of the system.

(b) FINDINGS.—The Congress finds that the total expenditures for such acquisition and improvements will be $1,200,000,000, and that the States in which such improvements are made should contribute 10 percent of those funds. The Congress further finds that the responsibility for improvements to elements of the stations not essential to the operation of intercity passenger operations should rest with State and local governments.

POWERS AND DUTIES

SEC. 702. (a) FINANCIAL ASSISTANCE.—The Secretary is authorized, in accordance with the provisions of this title and on such terms and conditions as he may prescribe, to enter into agreements with, and to make payment to, any railroad, including the National Railroad Passenger Corporation, or to any other person, including any Federal or State agency, to assist in financing the acquisition of and improvements to railroad facilities and equipment specified in section 703 of this title necessary to provide for improved intercity rail passenger service on the mainline passenger route between Boston, Massachusetts, and Washington, District of Columbia, via New London, Connecticut, and the Hell Gate Bridge, in accordance with standards of safety, speed, and comfort specified by the Secretary.

(b) IN GENERAL.—In carrying out his duties under this title, the Secretary shall provide for the accomplishment of improvements (1) in a manner compatible with the accomplishment in the future of additional improvements in service levels; (2) by the most effective and efficient means and by the earliest practicable date, affording due regard to the impact of disruptions to intercity, commuter, and freight operations; and (3) in a manner which will produce the maximum labor benefit in terms of hiring persons who are unemployed. As a condition to entering into agreements under subsection (a) of this section, the Secretary shall obtain assurances that facilities and equipment improved thereunder will be properly maintained. The Secretary shall also take whatever action he deems appropriate to encourage the prompt and just settlement of disputes regarding the use of rights-of-way during the period when improvements are being made thereto under this title.

ELIGIBLE ACTIVITIES

SEC. 703. Activities eligible for assistance under this title are the acquisition and improvement of railroad rights-of-way, including bridges, tunnels, and related structures; the improvement of signaling, control, and communications facilities; the extension and modernization of electrification systems, including the acquisiton of land necessary for the installation or operation of such systems; the improvement of those portions of stations essential to the operation of intercity rail passenger trains, and station platforms for intercity rail passengers and facilities providing such passengers access to such platforms; the improvement of facilities and equipment used for maintenance and repair of intercity rail passenger facilities and equipment used for maintenance and repair equipment and rolling stock used for maintenance and repair; planning, designing, and engineering associated with each of the aforementioned activities; and the design, development, and acquisition of rolling stock suitable for use in intercity rail passenger service on rights-of-way improved under this title.

AUTHORIZATION

SEC. 704. There are authorized to be appropriated to the Secretary to carry out the purposes of this title $1,080,000,000, to remain available until expended.

STATE PARTICIPATION

SEC. 705. The Secretary may not obligate any funds under this title unless he obtains from the appropriate authorities assurances that (1) each State, including the District of Columbia, in which improvements are made under this title will assist in financing such improvements; and (2) the appropriate State or local governments will finance improvements to elements of stations not essential to the operation of intercity passenger service. In the aggregate, the amount of the non-Federal contribution under paragraph (1) of this section shall be $120,000,000, to be apportioned among the States, including the District of Columbia, in accordance with a formula to be established by the Secretary based upon route miles and ridership. In the aggregate, the amount of financing under paragraph (2) of this section shall be $200,000,000, to be apportioned among the State and local governments in accordance with standards for improvements to individual stations established by the Secretary.

Mr. TAFT. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. TAFT. Mr. President, I wish to propose an amendment to the "Rail Services Act of 1975" which would delete in its entirety title VII—Northeast corridor project implementation, and substitute in its place a much more responsible, feasible and carefully considered provision for improving intercity rail passenger service in the Northeast corridor between Boston, Mass., and Washington, D.C.

The extravagant program now proposed in title VII authorizes $3 billion for construction improvements and an additional $255 million in direct grants to Amtrak. Moreover, by approving title VII as currently drafted we would be committing the taxpayers to nearly $2.8 billion in additional capital and operating expenditures for the Northeast corridor during the next 10 years.

Title VII would legislate certain service goals for the corridor in terms of maximum trip times between Boston and New York and Washington, D.C. This means that the only variable available to those administering the project will be cost, which, if the Washington Metro project is any indicator, is certain to go up. The Department of Transportation, after many months of engineering study and analysis, has estimated that it will cost nearly $4 billion to upgrade the corridor in order to achieve the service goals prescribed in title VII. So, even without the unforeseen circumstances which usually cause cost estimates to be exceeded, we would be starting off with a $1 billion cost overrun.

And then there are the hidden, but real, costs which will result from embarking on the title VII path. These include the costs of moving freight service off the corridor, designing and producing a whole new generation of 150 mph vehicles, and covering Amtrak's increased operating expenses resulting from increased track maintenance and the loss of shared expenses by freight operations.

I might say in that regard, it has been estimated by the Department of Transportation to run as much as $50 million to $100 million per year. These figures would have to be added into any computation of the projected cost of the upgraded service as proposed by title VII as in the bill.

Thus, the total bill for title VII comes to about $6 billion, plus any allowance for cost increases which are almost certain to take place during the construction period.

My proposed amendment would substitute a $1.4 billion Northeast corridor improvement program for title VII. My amendment would also insure that the Department of Transportation is given responsibility for the effective implementation of the project rather than assigning such responsibility to USRA and Amtrak. Finally, my amendment would assign a 10-percent share of the total costs of the project and all of the local passenger station improvements to the eight States and the District of Columbia which make up the geographic area traversed by the high-speed rail route. Title VII as presently written would assign all of these costs except the local station costs to the Federal Government and thereby unnecessarily and inappropriately overlook the States' role in a program in which they have a direct interest and derive immediate benefit.

I am not urging that we abandon improvements to the Northeast corridor; rather I am urging that we invest wisely in a project that will produce the improvements needed to establish a fast, reliable, quality rail passenger service from Boston to Washington—a service that will far exceed any available elsewhere in the Nation.

I would like to address briefly the significant areas of difference between my proposed amendment and title VII as contained in the committee bill.

First, I am proposing an upgrading and construction program totaling $1.4 billion, of which $1.08 billion would be the Federal share. This compares with the $3 billion authorized in title VII. The difference, nearly $2 billion, would purportedly reduce maximum rail travel time for the average passenger by only ½ to 1 hour below the proposal I offer today. Even if these estimates are true—and in fact there is considerable doubt that even the $3 billion expenditure would achieve the claimed results—I suggest that this additional expenditure of the taxpayers' dollars to gain some savings in traveltime for passengers in one selected part of the country is not justifiable, in terms of the needs of railway passengers in all other parts of the Nation.

On the other hand, the Northeast corridor improvement program I am proposing will result in greatly improved service, with significant reductions in trip time and improvements in reliability and ride quality, and will be carried out so as to protect the option to move to higher levels of speed and investment in the corridor if passenger demand so warrants.

Second, the current title VII project envisions a 150-mile-per-hour top speed as compared to the 110-mile-per-hour top speed planned in my proposal amendment. No rail system in the world has yet achieved 150-mile-per-hour speeds on a sustained operational basis. Even the excellent Japanese "Bullet" trains have not been operating at 150 miles per hour, but only 125 miles per hour. The Japanese experience has shown that even at 125-mile-per-hour speeds it is necessary to do major repair and work on the track every night from 1 a.m. to 5 a.m.

The effects of an additional 40-mile-per-hour top speed on annual track maintenance costs would be significant. The Department of Transportation has estimated that this increase in top speed will cost Amtrak in the range of $10 million per year for additional maintenance required to keep the track in the condition necessary for such high-speed service, and the cost would be substantially higher if freight service were on portions of the same track. We cannot afford to have track gangs resetting the rails every night just to allow a 150-mile-per-hour speed. Let us design for a top speed that permits standard track maintenance techniques and lower operating costs.

Third, with 150-mile-per-hour top speeds, the corridor operations can be maintained safely and efficiently only by moving all through-freight service off the current Penn Central mainline. At the 110-mile-per-hour top speeds, freight and passenger service can continue to operate safely and conveniently on the mainline tracks of the corridor. This movement of freight off the corridor would cost the Federal Government an estimated $330 million over and above the $3 billion contained in the committee bill. Even this cost could well be much higher since the Chessie freight track between Philadelphia and Washington, D.C., would have to be purchased and the price would be a negotiated one since the Chessie is not in bankruptcy and thus is under no duty to dispose of the property.

Fourth, the higher top speeds would require the development and production of a whole new generation of rolling stock, thus requiring an additional $650 million in capital investment by Amtrak in order to operate at the design speeds under the committee bill, and this is only for the fleet of vehicles required during the first 10 years of operation. At the 110 mile-per-hour top speed, Amtrak could continue to operate its existing and new fleets of coaches and locomotives and thus essentially eliminate the need for development and production of new higher speed passenger vehicles.

Fifth, as a result of the title VII proposal, Amtrak will be faced with the problem of assuming direct control and most of the cost of the Northeast corridor operations, which will have an annual operating budget impact estimated at $100 million. If my amendment is adopted, freight and passenger service need not be separated. They would continue to share the corridor. Amtrak would thus be able to share most of these incremental costs with ConRail and the commuter agencies along the corridor and thus be relieved from much of this additional annual expense.

Some may argue that we in the Congress have already indicated our intent in establishing certain high-speed service goals for the Northeast corridor as a part of the Regional Rail Reorganization Act of 1973. But I would point out that the initial estimates upon which these goals were based called for the expenditure of $460 million for both equipment and improvement costs. This estimate was subsequently raised to about $700 million. But as I pointed out earlier, to accomplish the same results the Department of Transportation now estimates a cost of nearly $4 billion, not including the property acquisition and additional operating costs to which I have already referred. The difference is not due to inflation but because the original studies did not consider many items of expenditures which would have to be made.

I strongly urge the deletion of title VII and the substitution of my proposed amendment. I have discussed this personally with Secretary Coleman and he advises that title VII as currently written is completely unacceptable to the administration, and completely unworkable, as a matter of fact. For instance, let us just take the provision on page 176 of the bill, where there is a provision requiring the transfer of property to the new corporation which is established in the bill within a 180-day period. The Department, in consultation with the various unions and companies involved, finds that to be a totally unrealistic provision. One year would be much more realistic, and perhaps even that is too short a period for transferring, but it shows the carelessness with which some of the provisions have been drafted.

Some would argue that we in Congress have already indicated our intent, but I do not believe that is true.

I hope that we in this body will correct this situation so that our final bill will eschew extravagance and inequitable special treatment of one region of the Nation, and accept a realistic program designed to meet identified needs.

In these times of fiscal constraint, we must be conscientious in limiting new program funding proposals to only those amounts really needed to do the job. I urge the Senate not to attempt to bite off too much and end up with nothing, which seems extremely likely.

Incidentally, the Department advises me that in its opinion, under the bill as I would amend it or as it was reported by the committee, in fiscal year 1976 the maximum amount that could practically be spent under either proposal would be only about $20 million. In 1977, it would, I believe, go up to only about $285 million according to DOT spokesmen. So I would point out to those who say we are wrecking the long-range planning aspects that even through 1977 we would not have spent a sufficient amount of funds to prevent us from making other changes in the program, or expanding if it seemed desirable at that time after further study has occurred.

Mr. President, I have in my hand a table showing public costs of alternative improvement programs. I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

PUBLIC COSTS OF ALTERNATIVE NEC IMPROVEMENT PROGRAM

[In millions of dollars]

	Resulting from DOT proposal	Resulting from Senate bill
A. Capital investment:		
1. Construction/improvement (PC line):		
(a) Federal	$1,080	$3,050
(b) State/local	320	200
2. Construction/improvement (freight line)	0	280
3. Acquisition of passenger lines:		
(a) PG	0	90
(b) Off-corridor	0	20
4. Acquisition of freight lines	0	50
5. Rolling stock (initial fleet of 200)	60	650
Total capital	1,460	4,340
B. Amtrack operating cost increases:		
1. Nonrecurring startup expenses	0	100
2. Recurring (10 years):		
(a) Track maintenance	250	[1] 350
(b) Other	300	1,270
Total capital plus 10 years operating cost increases	2,010	6,060
Differences (Senate versus DOT)	4,050	

[1] After $330 in investment to separate freight and passenger.

Mr. TAFT. Finally, the most important question we face here is whether we are going to allocate funds amounting to 10 times Amtrak's total, nationwide loss—the money Amtrak needs over and above what it earns from passengers—to one small portion of the country.

As many of you know, I have been a strong supporter of rail passenger service. I still am. I believe that we need a balanced transportation system, and that means a transportation system which recognizes the importance of rail. Trains provide the safest form of passenger transportation. If space-per-passenger is equalized, trains are the most energy-efficient form of personal transportation. Trains are the most efficient mode in terms of land use. Of what may be the most critical importance, trains are the only form of transportation which we can electrify and run without petroleum, using today's technology.

Trains have, in my opinion, the best potential for convincing large numbers of people to use public transportation instead of private automobiles. This is because only trains can provide the comfort and conveniences people want. Only trains can provide sleeping accommodations, dining cars, parlor cars, lounge cars, and all the other amenities Americans want, and require if they are to use any form of mass transportation. The future of mass transportation in this country is, in my view, synonymous with the future of rail service.

I have been and continue to be a strong supporter of Amtrak. I have worked for increased Amtrak service for Ohio, and I am continuing to do that. I have been greatly impressed with the work Mr. Paul Reistrup, Amtrak's new president, is doing to upgrade and extend passenger service in this country.

What I am questioning here is neither the idea of rail passenger service nor Amtrak. I am questioning putting 10 times Amtrak's annual subsidy into a corridor which serves only a very small part of this Nation. It is not that I oppose spending money for passenger trains, merely that I want to see that money, and the benefits from it, distributed among all the people of this country, not reserved to the favored few who live in the Northeast. Why should Ohio, or Georgia, or Montana, or any other State give a disproportionate share of the funds for rail passenger service to the Northeast?

I know what even a small proportion of $3 billion could mean to rail service in Ohio. I have been working for over a year to begin fast, modern, corridor-type service between Cleveland and Cincinnati, via Columbus and Dayton, and between Cleveland and Pittsburgh via Youngstown. Today, it takes a train 13 hours to go from Cleveland to Cincinnati, because the track is so bad. We calculated that it would cost $40 million—not billion—to bring that line, all 260 miles of it, up to 80 miles per hour operation. Yet we cannot obtain that $40 million. There is no program to provide it. Instead, the people of Ohio are being asked in this bill to provide billions of dollars to cut one-half hour off the train time between Washington and New York.

My amendment does not unduly negate the importance of the corridor. It recognizes that the corridor is densely populated, and that the transportation problems of the Northeast require additional investment in the best solution, which is the rail solution.

But this amendment does apply a realistic sense of proportion to the situation. It recognizes that we cannot fund the corridor lavishly while providing little or no funding for rail service in the rest of the country. It provides adequately for the Northeast corridor, while not asking the citizens of this Nation who live outside that corridor to unduly subsidize those who live in it.

Mr. President, I yield the floor.

Mr. FORD. Mr. President, will the Senator yield for a question?

Mr. TAFT. I am glad to yield on the Senator's time.

Mr. FORD. I have plenty of time; I tried to give it away this morning, so we will use my time.

One thing the Senator said was that the other States should not be required to pay the bill. He is applying that to this particular operation. But in trying to decide my attitude toward this in previous legislation, particularly the Penn Central legislation, I found that if Penn Central would fail to run, it would completely eliminate a $116 million annual payroll in one of my communities. If the railroad runs other places, it helps my State.

Do I correctly understand that in the Senator's amendment he is asking the States to pick up a portion of this cost?

Mr. TAFT. No; I am not asking the States to pick up a portion of any cost that is not already provided for in the bill.

What this amendment does is take the $3 billion loan provision for Northeastern corridor upgrading in title VII of the bill, and change that so that only $1,080,000,000 is provided for that purpose, which represents the difference between upgrading the railroads to a standard of 110 miles an hour rather than 150 miles an hour in the Boston-Washington corridor. That is all the amendment does.

The $3 billion financing is way out of proportion to what is being spent by the Federal Government on passenger service throughout the country. It is almost 10 times what we are providing for Amtrak to try to improve rail service for the rest of the country.

I think it is unfair to ask the rest of the country to provide that kind of funding through a general authorization bill of this kind.

Mr. FORD. I hope the Senator will not use all my time answering my questions. What I understand and I, of course, am not a lawyer, but I understand he has a 10-percent State provision in his amendment. Do I have the wrong amendment? Are we talking about the same thing?

Mr. TAFT. I think the Senator is in error on that.

Mr. FORD. If the Senator is in error, I want the Senator to correct it, because I do not wish to be wrong.

Mr. TAFT. I think that the Senator is confused by the provision that is on page 701(b). It makes a finding by Congress that total expenditures for the acquisition of improvements—this is the railroads reorganization—will be $1,200,000, and the State in which such improvements are made—that is only the States in which the railroads in reorganization are involved—should contribute 10 percent of those funds. That is the only 10 percent provision of the bill that I know of.

Mr. FORD. Are we talking about amendment 1176?

Mr. TAFT. The Senator is correct.

Mr. FORD. State participation is on page 5, section 705.

It says "State participation," and I am under the impression, and I may be confused as the Senator says, but he is asking the States to pick up a portion of the expenditure.

Mr. TAFT. There is no expenditure in this bill in the Senator's State at all as far as I know. I do not believe the Northeast corridor comes into the Senator's State. Only those States where the expenditure will be made in the Northeast corridor rapid rail passenger system would be affected.

Mr. FORD. It says:

> Each State, including the District of Columbia, improvements made under this title, assistance in financing such improvement . . .

Mr. TAFT. No; improvements made in any State other than those in the Northeast corridor.

Mr. FORD. The Senator is still requiring States to participate.

Mr. TAFT. In the Northeast corridor.

Mr. FORD. The answer is yes to my question. The States are going to pick up a portion of the tab.

Mr. TAFT. Insofar as the Northeast corridor is concerned.

Mr. FORD. The States are going to pay and participate.

Mr. TAFT. That is correct.

Mr. FORD. All right. That is what I wished to know.

Mr. TAFT. If they pay 10 percent.

Mr. FORD. Has the Senator talked with those States? Did they understand what their obligations are going to be? Have they been informed and are they ready to increase the budget and the cost?

Mr. TAFT. I think they are fully aware of this provision. It has been publicized as a proposal by the Department of Transportation.

Mr. HARTKE. Mr. President, will the Senator yield?

Mr. FORD. Yes.

Mr. HARTKE. They are aware of it and oppose it most adamantly.

Mr. FORD. That is what I wished to get. So the States are opposed to this participation.

I thank the Senator for using my time.

Mr. WEICKER. Mr. President, first, I commend the Senator from Kentucky for putting his finger on the point that finds me in sharp disagreement with my friend and colleague, the Senator from Ohio.

I do not know how much longer we are going to continue out here on the floor pitting State against State and crisis against crisis.

But I know one thing: This country moves damn well together and very poorly apart. I think those who have contributed to the rhetoric of division that has been going on with the New York debate, what we have now heard on this railroad debate, do nothing solving problems that are common to us all.

Yes. We need the farmers of Kentucky, very frankly, up in my consumer State up in Connecticut, and Kentucky needs the markets of Connecticut, and the same holds true of Ohio. Very frankly, if it would satisfy someone in here to go ahead conceptually and start to invest in the type of equipment that will give us the first-class rail system, go ahead and make the pilot project in Ohio or Kentucky, because I do not care, because the benefits of that are going to be available in every State of the Union. It is only a matter of time when we are going to need the equipment developed from such a project in Ohio, on the west coast, in the South, and everywhere else.

In the course of a negotiating session with the Secretary, it was indicated both by Senator HARTKE and myself that the dollar amount was not important. What was important was the concept.

We were willing to give on the dollar amounts if that is what the administration said was too high, and subjected it to a veto.

But it was important conceptually that the national policy be geared to the future which is what the Hartke-Weicker provision of this bill calls for, rather than the past.

Under that the administration's position is $1.2 billion to put the Northeast rail corridor in such a condition as to meet 1967–68 standards.

Is that what the Government of the United States has come to, that we go ahead and appropriate our moneys in order to reach standards of the past?

Are we still looking down our shoetops or trying to reach up?

Maybe economically we could not afford the moneys in this particular year, even next. That is something that can be strung out.

But I think it important that conceptually we advise rail systems not based on 1967 or 1968, or not, as the distinguished Senator from Ohio says, according to the technology that we now have. The technology that we now have in railroads is the same as when Jesse James was hopping from car to car. Take a look at them: the cars are the same; the engines are the same.

When are we going to go ahead and start to produce the equipment that is going to give us not only a first-class rail system but one that will not be in the bankruptcy situation that has been developed by private enterprise, because it did not make that kind of investment?

So I repeat my point. What is needed now? What is needed now is to go ahead and develop systems, rights-of-way, and equipment that will well serve the future, not just bail out the present or try to duplicate the past.

The concepts of this bill, and the things I point out should be made the concepts of this bill, do not apply only to the Northeast. They apply to the entire United States of America, and I can see the day coming, I can see the handwriting on the wall, as I earlier stated this morning, when indeed those railroads which are healthy today will need the type of policies and the type of equipment which is going to be developed should this bill be passed.

I also repeat that whatever the case is we need each other very much so in this Nation.

I stated earlier and I might add I ran on the rocks when I said that we should avoid confrontation and conflict.

I walked into a meeting with the Secretary of Transportation, and I got conflict, confrontation, and no effort to compromise on that great portion of ground that I think we can all agree upon.

So I repeat, in opposing the amendment of the Senator from Ohio, I do so not because it inures to the benefit of the Northeast. It will inure to the benefit of everyone. I oppose it because it in effect is putting development of a new rail system in a 1940 straitjacket.

I do not wish to spend 1 cent, never mind the $1.2 billion the administration calls for, on merely patching up track to bring it to 1968–69 standards. It is not worth the money spent. This is money down the rat hole.

If the compromise could be reached, and it has been rejected because it was offered, whereby the lesser amount of money that the administration advocates would be to start on the system that the Senator from Indiana advocates; it would take their dollar amount and apply it to our concept. Apparently people like to live in the past, and people would rather go ahead and precipitate vetoes and take their chances on vetoes than constructing a first class rail system.

Mr. HARTKE. Mr. President, I intend to take very brief time.

I think that the Senator from Connecticut has put his finger upon what we are talking about. We are talking about the situation which exists at this moment and which requires some attention.

The peculiar thing about it is here we are, what is happening here is that we are in a position in which we are trying to implement what the Department of Transportation said should be done.

I have here the recommendation for rail passenger service improvements to the Northeast corridor of the Department of Transportation, dated September 17, 1975.

This is what they said should be done. We are trying to make sure it gets done. The program which is now offered by the Secretary of Transportation says, "No, this program is no good." Of course, we paid money for it, and you can read it and read what it is. The alternative is to do nothing. Then you are going to go ahead and spend money for airports and more money for highways.

This is an area of the United States which has 2 percent of the land and 42 percent of the people. I did not create that. It does not do anything about sending anything to Indiana. I would like to see a corridor of rail transportation to any place in the United States where it will work and have passengers and will pay for itself.

That is the very nub of the failure of the Taft amendment to deal with what we are talking about.

What the Secretary of Transportation is talking about is a dead giveaway—for nothing. As soon as you spend the money that he is talking about spending, you are right back to where you started. You are not improving the service. You are not improving the number of passengers. It still will be a loss operation. The net result will be that you will be back to Congress; and Congress will say, "OK, now we have the problem again. What are we going to do about the Northeast corridor? Are we going to give them some more money?"

The essence of the bill we put together here is an entirely different viewpoint. It takes a concept of experts and says, very simply, what we did with the start of the metroliners.

It is clear to me that if you can make the trains on time, efficiently, cleanly, and fast enough to accommodate the distance you are going to go, without flying in an airplane, people will use them. And they do. They use them, despite the fact that the metroliner system is a sort of halfway experiment. I was going to say that it is an experiment, but it is just a halfway experiment.

We have a situation in which we are saying not only that we are going to spend some money, but also that we are going to spend more money if we follow the Taft amendment or if we follow the recommendations of the Department of Transportation, and with no chance of getting any of it back.

The bill contains a loan program. There is a loan schedule on the basis of anticipated riders.

The number of people in the region, by sheer accumulation and accretion, is going to increase significantly.

People say, "$3 billion in loans? That is an awful lot of money." I agree. I did not hear anyone cry when we spent $6 billion to build Interstate 695 from Washington to Boston—twice as much tax money. They simply say, "You are going to have to build three or four more, if you are going to try to put the cars on there." That will have to be done if you are not going to have traffic jams which will make the traffic on the Chesapeake Bridge look like a Sunday school picnic.

You will have to build 20 new airports to accommodate the people. There is no way under the sun that the people in this corridor are going to permit this area to be without adequate transportation.

With respect to aiding New York City, I am not going to talk about the details, but one of the problems is the congestion in transportation. One of the biggest causes of inflation is that transportation costs are not coming down. Japan could build a modern transportation system. France could do it. England could do it. Germany could do it. Italy could do it. Russia could do it. But, some say, "We cannot do it. Our zenith is over. The United States is at the end of the track. We cannot keep the railroads going. We cannot keep anything going. As a matter of fact, we are lucky to keep the Senate going." I do not believe it. I want to keep the country moving.

The best financial experts in the United States, looking at the program which is advocated by the Department of Transportation, say that it is pouring money down a rathole. The money would be given to them with no chance to recoup it.

What we are saying is, lend the money, repay the money, and provide at the same time an upgraded service. People will use the trains if you get the transportation time down to 2½ hours from Washington, D.C., to New York. This may not seem to benefit the traveler in Alabama. But money has been provided for other facilities that have been built in Alabama over the years and for facilities built on the Mississippi River. I am trying to encourage Senators to be considerate of the fact that this is a part of the United States which needs attention.

My judgment is that if we go forward with this program, we will get modern equipment, new technology, better road service, and move people with less utilization of energy. On top of everything else, we will begin to transform this country into a position where we will have a more balanced approach toward moving people.

Anyone who has been in a traffic jam knows that if you can eliminate some of that problem, you eliminate part of the problems that the country has.

Although $3 billion is more than $1.2 billion, any banker will tell you that there is a great deal of difference between lending somebody $10 with a chance of getting it back and giving someone $2 with no chance of getting it back.

Mr. HARTKE. A man can spend $2 to buy some empty calories or he can get a balanced diet. We are talking about a balanced transportation system. That is what this amendment is all about.

If Senators believe in economy, the Taft amendment should be defeated.

The PRESIDING OFFICER. The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Alaska (Mr. GRAVEL), the Senator from Washington (Mr. JACKSON), and the Senator from Montana (Mr. MANSFIELD), are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE), is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), would vote "nay".

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Hawaii (Mr. FONG), and the Senator from Pennsylvania (Mr. SCOTT), are necessarily absent.

I further announce that the Senator from Utah (Mr. GARN), is absent attending the funeral of a relative.

I further announce that, if present and voting, the Senator from Pennsylvania (Mr. HUGH SCOTT) would vote "nay."

The result was announced—yeas 38, nays 52, as follows:

[Rollcall Vote No. 548 Leg.]

YEAS—38

Allen
Bartlett
Bellmon
Brock
Buckley
Byrd,
  Harry F., Jr.
Cannon
Chiles
Church
Clark
Culver
Curtis
Dole
Domenici
Fannin
Goldwater
Griffin
Hansen
Hatfield
Helms
Hruska
Laxalt
McClellan
McClure
Mondale
Nunn
Packwood
Pearson
Percy
Scott,
  William L.
Sparkman
Stevens
Stevenson
Taft
Talmadge
Thurmond
Tower
Young

NAYS—52

Abourezk
Beall
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Cranston
Durkin
Eagleton
Eastland
Ford
Glenn
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hathaway
Hollings
Huddleston
Humphrey
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mathias
McGee
McGovern
McIntyre
Metcalf
Montoya
Morgan
Moss
Muskie
Nelson
Pastore
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Stafford
Stennis
Stone
Symington
Tunney
Weicker
Williams

NOT VOTING—10

Baker
Bayh
Bentsen
Fong
Garn
Gravel
Inouye
Jackson
Mansfield
Scott, Hugh

So Mr. TAFT'S amendment (No. 1176) was rejected.

Mr. HARTKE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I have an amendment I wish to call up.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BARTLETT) proposes an amendment:

On page 180, line 22, strike "$3,000,000,000" and insert in lieu thereof "$1,000,000,000".

Mr. BARTLETT. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BARTLETT. Mr. President, before I speak on my amendment, I would like to say just a bit about the procedures we are following today by voting cloture simultaneously with bringing up this bill.

It seems to me that when we have a bill that is 243 pages long and a report that is 322 pages long, and the bill is printed and is available to us just 1 day before cloture is voted——

The PRESIDING OFFICER. The Senator will suspend. The Senate will be in order. We will not proceed until it is.

The Senator may resume.

Mr. BARTLETT. There is not sufficient time to give deep and considered attention to a very important and expensive bill.

We have not had a chance for preliminary debate. I recognize the leadership has its problems, but I think the leadership should not let this sort of thing happen because certainly the heart of the legislative process is healthy, deliberate, and earnest debate on the issues, and the people of the United States, in my opinion, deserve nothing less from their representatives.

But this procedure—and it seems to be one that we follow near the end of a session—prostitutes the legislative process because it does require placing our amendments at the clerk's desk before the vote is finalized on cloture, and it does not permit the normal process of debate to develop amendments that might be very helpful to improving the legislation.

So I am becoming more concerned about the disposition of this body in avoiding the normal debate that takes place.

I certainly have no objection to the proper use of cloture, but I do not believe there was any need for cloture to be laid down or to be voted prior to basic and preliminary debate on this bill.

Mr. President, I introduced this amendment, which cuts out $2 billion from the Northeast Corridor project funds in title VII of this bill, because I do not think there has been, even with the previous amendments, sufficient discussion on this, and sufficient evidence to warrant this kind of expenditure.

Certainly I can be in favor, and do favor, good commuter train service between major population centers, service that is economically feasible. But good service does not necessarily imply rapid transit in the form of trains traveling up to 150 miles per hour. The state of the railroad art is not advanced to the extent that we can realistically provide this kind of service.

I think we should look at Japan where they do have rapid transit rail service up to 130 miles per hour, and observe the tremendous technological problems they have. It is my understanding that every night they must go over this track. First, they ran over it with a mechanical system which realined the rails, and then they found out it made so much noise it bothered people along the route of the tracks, so now they use thousands of people to realine each individual rail so it will be in proper alinement for the tremendous pressures that are exerted upon it with these speeds of 130 miles per hour not the 150 miles per hour contemplated in this bill.

The Department of Transportation has conducted studies showing that the current engineering knowledge would not allow the achievement of the trip times that are authorized in this legislation. So here once again the collective knowledge and ability of this body is to legislate technology in an area where certainly we do not have that expertise, just as Congress did with the emission standards. I think it would be with about an equal amount of success if this bill did become law.

A minimum cost estimate to achieve the type of speeds called for in this bill and achieve the mandated times would be $4 billion, not $3 billion.

In light of the billions of dollars in Federal financial assistance that will be necessary to maintain and revitalize the Nation's essential rail freight services, it is the administration's position that providing an additional $2 billion in Federal funds in an attempt to shave 30 minutes off a rail trip between Washington and New York and 60 minutes between New York and Boston is a luxury that the country cannot afford and a serious misallocation of already strained Federal funds.

A $1.2 billion level of funding is sufficient for the upgrading of the services to allow safe, reliable, and comfortable intercity rail passenger service throughout the length of this corridor.

If, at a later time, there is a requirement for even more improvement of passenger service at higher speeds, the roadbeds, the rails, and other vital parts of the passenger system will have been upgraded and could then easily adopt modifications for newer improvements.

I know that it takes money, a lot of money, to run a railroad. But money in our economy is at a premium and it needs to be used properly.

Railroads have been and will continue to be an integral and vital part of our Nation's economy. The prosperity of other major manufacturing industries is dependent upon the health of the railroad industry—few people will deny that.

One of the problems I see in this bill, and particularly in this section with huge funding, $3 billion, is that it will possibly kill some very good corrective measures that are in the bill.

There is no doubt that the lackadaisical attitude of the ICC and many mergers and rate increase applications has resulted in a rail system that is on its last legs.

I think that to want to spend so much money, such a huge amount, is an effort where the goal is rather questionable—questionable to the extent of knowing whether people really want to travel that fast, questionable from the extent of achieving the technological advancement that would be necessary in order to provide it, and questionable from an economic point of view of calling on the people all over the country to spend $3 billion, $2 billion more than the normal high-speed trains that are running now.

I would like to remind the distinguished Senator from Connecticut that $1 billion of $1 bills stacked one on top of another would go up some 67 miles. He is wondering, I think, about 134 extra miles of dollar bills stacked up in the air on this particular program for very questionable goals.

If somebody is interested in saving significant amounts of time in travel along this corridor, there are other means of transportation that can adequately take care of their needs, but to achieve that little extra bit that may, in fact, be impossible, or economically not feasible, I think it is a very questionable program.

The program to have a roadbed system for more normal speeds of up to 90 miles an hour or so is certainly understandable, but I think it is most extravagant to spend such huge amounts of money for a very questionable high-speed type of transportation.

Mr. President, I reserve the remainder of my time.

Mr. WEICKER. Mr. President, I will be very brief.

I oppose this amendment. I believe I speak also for the distinguished Senator from Indiana, for all the reasons that were set forth in our debate with the distinguished Senator from Ohio (Mr. TAFT), except, of course, this amendment even disregards the request of the administration. It goes below the administration's request, so it is neither in line with the administration nor in line with the thinking of the committee, and for all the reasons already stated.

Mr. President, I yield back my time.

Mr. HARTKE. I yield back my time.

Mr. BARTLETT. Mr. President, I would just say, very briefly, that I and the distinguished Senator from Connecticut sometimes disagree with the administration, as well as the committee, and I find myself in agreement with him sometimes when we are both doing that.

But I think it is important that it be brought out very clearly that this is a most extravagant desire on the part of some people to attain a most questionable goal.

It is a pig-in-a-poke proposition that certainly is not in the best interests of the people of this country.

If it were private enterprise seeking this, that would be one thing; and if the service of the people in the area to be served were demanding it, then it certainly would be feasible in that manner. But as a handout from the rest of the country, I think the proposal ought to be turned down.

Mr. President, I yield the floor.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Oklahoma. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Washington (Mr. JACKSON), and the Senator from Montana (Mr. MANSFIELD) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Hawaii (Mr. FONG), and the Senator from Pennsylvania (Mr. HUGH SCOTT) are necessarily absent.

I further announce that the Senator from Utah (Mr. GARN) is absent attending the funeral of a relative.

I further announce that, if present and voting, the Senator from Pennsylvania (Mr. HUGH SCOTT) would vote "nay."

The result was announced—yeas 28, nays 61, as follows:

[Rollcall Vote No. 549 Leg.]

YEAS—28

Allen
Bartlett
Bellmon
Brock
Byrd,
  Harry F., Jr.
Chiles
Curtis
Dole
Domenici
Fannin
Goldwater
Hansen
Helms
Hruska
Laxalt
McClellan
McClure
Nunn
Proxmire
Scott,
  William L.
Sparkman
Stennis
Stone
Taft
Talmadge
Thurmond
Tower
Young

NAYS—61

Abourezk
Beall
Biden
Brooke
Buckley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Church
Clark
Cranston
Culver
Durkin
Eagleton
Ford
Glenn
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Roth
Schweiker
Stafford
Stevens
Stevenson
Symington
Tunney
Weicker
Williams

NOT VOTING—11

Baker
Bayh
Bentsen
Eastland
Fong
Garn
Gravel
Inouye
Jackson
Mansfield
Scott, Hugh

So Mr. BARTLETT's amendment was rejected.

Mr. HARTKE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PEARSON. Mr. President, I have an amendment at the desk. If the Senate will bear with me, I will take 5 minutes on the amendment. I desire a rollcall vote; but if the leadership will make the unanimous-consent request, it can be a 10-minute vote.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a 10-minute time limitation on any rollcall votes during the remainder of today, with the warning signal after the first 2½ minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PEARSON. Mr. President, I call up my amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. PEARSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PEARSON's amendment is as follows:

On page 71, line 23; page 73, line 7; page 75, lines 3, 8, 9, and 10; page 76, lines 1, 2, 4, 5, 14, and 18; page 77, lines 11, 12, 15, 20, 21, and 22; page 78, lines 2, 4, 10, 12, and 23; page 79, lines 9, 18, 19, 20, 21, 23, and 24; page 80, lines 5, 19, 22, and 24; page 86, lines 8, 9, 11, 13, and 14; page 87, lines 16, 21, 22, and 24; page 88, lines 3, 15, 18, 23, and 25; page 89, lines 3 9, and 14; page 90, lines 2, 3, and 9; page 91, lines 8 and 23; page 92, line 4; page 93, lines 1, 11, and 14; page 94, lines 1, 18; page 101, lines 6, 15, 19, 20, 21, and 25; page 96, lines 3, 13, and 21; page 97, lines 7 and 10; page 98, lines 2 and 8; page 99, lines 14, 22, and 25; page 100, lines 11, 15, 17, and 18; page 101, lines 6, 15, 1, 20, 21, and 25; page 102, lines 10, 19, and 23; page 103, lines 2, 9, 10, 15, 16, and 21; page 104, line 8; page 105, lines 6, 21, and 22; page 106, lines 1, 2, 4, 5, 11, and 14; page 107 lines 1, 2, 3, 15, 21, and 24; page 108, lines 3, 7, 11, and 14; page 109, lines 10, 12, 18, 22, and 23; page 110, lines 4, 13, 19, and 21; page 11, lines 1, 5, 13, 15, 20 and 25; page 112, lines 1, 6, and 21; page 113, lines 4 and 12; page 114, line 11; and page 148, lines 1, 10, and 19, strike "Association" and insert in lieu thereof "Secretary".

On page 75, lines 18 and 19, strike "to enable the Association to furnish financial assistance".

On page 75, line 20, insert "enable the Association to furnish financial assistance to" after "(1)".

On page 75, line 24, insert "furnish financial assistance to" after "(2)".

On page 77, line 7; page 89, lines 20 and 21; page 94, line 17; and page 95, line 3, strike "Association's" and insert in lieu thereof "Secretary's".

On page 80, line 11, insert "capital to the Association for the purpose of providing" after "provide".

On page 80, line 24; page 93, line 1; page 100, line 19; page 109, line 12; page 111, lines 9 and 21; and page 112, line 2, strike "its" and insert in lieu thereof "his".

On page 84, lines 4 and 5, strike "and the Association".

On page 84, line 22, and page 85, line 4, strike "to the Association and".

On page 85, line 12, strike "Evaluations" and insert in lieu thereof "Evaluation".

On page 85, strike lines 14 through 19, and insert in lieu thereof "under subsection (b) of this section, the Secretary of the Treasury shall publish and".

On page 88, line 1; page 107, line 7; page 109, line 13; page 110, line 22; page 112, line 8; and page 148, line 15, strike "it" and insert in lieu thereof "he".

On page 92, strike lines 10 through 20 and insert in lieu thereof the following:

"SEC. 507. (a) IN GENERAL.—The Secretary shall, until December 31, 1977, issue and sell, and the Secretary of the Treasury until such date shall, to the extent of appropriated funds, purchase trust fund anticipation notes, (1) in an aggregate principal amount of not more than $3,000,000,000, in order to provide the Association with capital for the purpose of providing financial assistance to the Corporation, at such times and in such amounts as it may require and request, pursuant to section 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 216), as amended by this Act, and (2) in an aggregate principal amount of not more than $1,400,000,000, in order to provide financial assistance to other railroads for working capital and such other financing needs as the Secretary approves.".

On page 94, lines 2 and 3, strike "the Association shall, unless otherwise provided".

On page 94, line 4, insert "the Association shall" after "(1)".

On page 94, strike line 7 and insert in lieu thereof "and direct the Secretary to, and the Secretary shall in accordance with such direction, exchange all of the debentures and series A preferred".

On page 94, line 13, insert "the Secretary shall" after "(2)".

On page 96, line 25, strike "Asso-" and insert in lieu thereof "Secretary".

On page 97, line 1, strike "ciation".

On page 99, lines 3 and 4, strike "No officer of the Association, or" and insert in lieu thereof "Neither the Secretary, nor".

On page 99, strike lines 15 and 16, and insert in lieu thereof "redeem trust fund bonds in accordance with their terms or may withdraw all".

On page 108, line 4; page 109, lines 16 and 19; page 111, lines 4 and 11; and page 112, line 3, strike "it" and insert in lieu thereof "him".

On page 111, strike line 3 and insert in lieu thereof "section, he shall thereupon have all the rights granted to him".

On page 114, line 7, insert "and" after "Secretary,".

On page 114, line 8, strike "and the Association,".

On page 132, line 22, insert "by the Secretary" after "realized".

On page 133, line 6, insert "the proceeds of" after "to".

Mr. PEARSON. Mr. President, I yield to the distinguished Senator from Wisconsin.

PRIVILEGE OF THE FLOOR

Mr. NELSON. Mr. President, I ask unanimous consent that Mr. Spira of my staff be accorded the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PEARSON. Mr. President, the last two amendments we have voted on have had to do with the Northeast Corridor project. This amendment has to do with the jurisdiction and the authority to disburse the funds authorized in this bill.

The total authorization for railroad improvements outside that Northeast Corridor project is $4.4 billion; $3 billion of that goes to ConRail, and is disbursed out of the trust fund. There is authorization for an additional $1.4 billion in this bill, that will go to railroads throughout the Nation outside the ConRail system: $1 billion of that $1.4 billion will be in loans; $400 million will be in grants.

The bill provides that the trust fund will be under the jurisdiction and control of the USRA. It is the purpose of this amendment to provide that authority and jurisdiction over that trust fund be transferred to the Department of Transportation, primarily for two reasons:

First, the USRA is an organization and entity formed for a specialized project, to have jurisdiction over the system and funding of the bankrupt railroads in the northeast and the midwest parts of this country. The DOT has jurisdiction over the entire country's transportation system and funding.

The second reason for my amendment to put this authority in the Department of Transportation is because of the nature of the USRA Board. The Board served ably—it actually served very well—while it formed the final system plan. But the composition of the Board is such that 6 of the 11 members are not prohibited from having any relationship with the railroad industry. As a matter of fact, one of the members is a railroad president. Another is a retired union leader.

I make no objection as to the membership of the Board. I indicated it was an excellent Board. But, when we consider the jurisdiction over the trust fund as it applies to the entire Nation, I think it ought to be in the Department of Transportation which today handles the highway trust fund and the airport/airways trust fund. It seems to me, if we are going to go forward with the original intent of the Department of Transportation, to have an entity to handle national transportation problems, then this trust fund ought to be within the Department of Transportation rather than the USRA. The USRA was founded and exists for a specialized purpose.

No argument is made as to the $3 billion that goes to ConRail. That is under the law. There is nothing in this amendment in disagreement with that concept. But if Congress really thinks there is no expertise in the Department of Transportation, then we ought to correct that situation and develop the expertise within the Department.

I hope that this amendment will be adopted.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HARTKE. Mr. President, on this issue the full committee adopted the position taken by the subcommittee. Over the past several years we have had a chance to monitor the performances of the Department of Transportation and the U.S. Railway Association with regard to the activities such as those that are contemplated by title V of the bill before us. The Department of Transportation had the duty to administer the funds from section 213 of the original Railway Reorganization Act. It also had the responsibility to draw up the regulations and administer the aid-to-State programs for light density lines under title IV of the original Railway Act.

The U.S. Railway Association, on the other hand, had the responsibility for administering funds under section 210 of the original Railway Act and also the funds disbursed pursuant to the authority granted in section 215.

What I am saying, is that we have had an opportunity over the past 3 years to witness two different organizations dealing with a disbursement of funds, for rail transportation, one the U.S. Railway Association and the other the Department of Transportation.

The subcommittee and the committee decided upon evaluation of the relative performance of these two agencies that the net result was that the administration and disbursement of these funds has been far better handled by the USRA than it was by the Department of Transportation.

One of the reasons, probably, for this is that the Department of Transportation is subjected to the potential of political pressures, and I mean not by that partisan political pressure, but especially from the Office of Management and Budget. They had this constant pressure on them not to use any money unless they absolutely had to.

We have witnessed here again this afternoon the failure of the Department of Transportation to endorse its own policy in regard to the Northeast Corridor.

Here is a program designed by the Department of Transportation's recommendation as to how to proceed with rail reorganization, and then DOT themselves rejected any effort to go ahead and implement the program or even to come up with any suggestion as to how we could proceed.

The result is that the committee came forward with the decision that these funds should be administered by the USRA.

Another major reason for opposing this amendment is that it would have the effect of handing the purse strings over to the Department of Transportation, where they have already been given a role as planner.

All the planning functions, have been given to the Department of Transportation. They already have that function. What we are saying here is that the question of disbursement of funds should not be in the same hands.

I add that I have talked to the major rail carriers in the country about this issue, and not one of them really wants the authority taken away from USRA because they feel that the USRA has demonstrated that type of competence which is in the best interest of unified nationwide transportation system and has demonstrated that it will do what appears to be, in the best interest of the public.

So the record demonstrates that the idea which is being proposed here by the Senator from Kansas, on behalf of the administration, should be rejected.

I say in final comment that this also would create here a situation in which we would have a virtual administrative nightmare. Very simply, we would have the bulk of the money being disbursed by USRA because the Department of Transportation would be required to go ahead and disburse the $4.5 billion in accordance with the recommendation of USRA, and then those funds which are not in the Midwest and Northeast, on the other hand, would be disbursed by the Department of Transportation. So what we would do by accepting this amendment is to divide this money between two separate organizations without really having any cohesive approach toward this program.

I urgently ask the Senate to reject this amendment.

Mr. FORD. Mr. President, I wish to make one point clear, if I can, and I do not think the Senator from Kansas intended it the way it came out, but as I took his statement he was not critical of those appointments on USRA but that it should be in the hands of the Department of Transportation. I do not want my vote, which will be against the Senator's amendment, to be construed as no confidence in the Department of Transportation. I just believe that the Senator and I, and others on the Commerce Committee, with this as a separate entity, can be looking at it and seeing that it functions well, that we exercise our responsibility as United States Senators with oversight, that we can point our finger at individuals much easier if they are not carrying out the intent even of this legislation, and I think we will be in much better position if we leave it as is.

There is one point I wish to clear up, and that is my vote against this amendment is not in any way to be construed as lack of confidence in the Department of Transportation.

SEVERAL SENATORS. Vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Alaska (Mr. GRAVEL), and the Senator from Washington (Mr. JACKSON) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Pennsylvania (Mr. HUGH SCOTT) are necessarily absent.

I further announce that the Senator from Utah (Mr. GARN) is absent to attend the funeral of a relative.

I further announce that, if present and voting, the Senator from Pennsylvania (Mr. HUGH SCOTT) would vote "nay."

The result was announced—yeas 34, nays 57, as follows:

[Rollcall Vote No. 550 Leg.]

YEAS—34

Allen
Baker
Bartlett
Beall
Bellmon
Brock
Buckley
Byrd, Robert C.
Chiles
Curtis
Dole
Domenici
Eagleton
Fannin
Griffin
Hansen
Helms
Hruska
Johnston
Mathias
McClure
Nunn
Pearson
Percy
Roth
Scott, William L.
Sparkman
Stevens
Symington
Taft
Talmadge
Thurmond
Tower
Young

NAYS—57

Abourezk
Biden
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Cannon
Case
Church
Clark
Cranston
Culver
Durkin
Eastland
Ford
Glenn
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Javits
Kennedy
Laxalt
Leahy
Long
Magnuson
Mansfield
McClellan
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Packwood
Pastore
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Stafford
Stennis
Stevenson
Stone
Tunney
Weicker
Williams

NOT VOTING—9

Bayh
Bentsen
Fong
Garn
Goldwater
Gravel
Inouye
Jackson
Scott, Hugh

So Mr. PEARSON's amendment was rejected.

Mr. HARTKE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MOSS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROTH. Mr. President, I send an amendment to the desk. The amendment has not been printed. I shall ask in a minute for unanimous consent to bring up this amendment.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request.

Mr. ROBERT C. BYRD. Mr. President, we ought to know what the amendment does. The Senator wants to explain it.

Mr. ROTH. Mr. President, this is a very simple amendment. It is merely a clarification. The purpose of my amendment is to make it clear that the Northeast Corridor Improvement Corporation has the authority to acquire, construct, and install safety equipment and facilities.

I ask unanimous consent that I be permitted to call up this amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. ROTH. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 174, strike line 23 and insert in lieu thereof "way and pedestrian crossings; and other safety facilities or equipment; and any other facilities or equipment".

Mr. ROTH. As I have already stated, the only purpose is to make clear that the Northeast Corridor Improvement Corporation can install and acquire safety facilities and equipment.

Mr. President, I believe we are all in agreement as to the need of revitalizing our rail service. I am also confident that we are all in agreement that the improvement must not be made at the cost of safety.

It is a fact that the increase in speed of trains increases the possibility of accidents. It is a fact that our success in decreasing the noise of trains has also increased the incidence of accidents. It is also true that children are attracted to playing on a railroad track like moths are attracted to flames. For all these reasons, including the growth of population along rail lines, it is important that we take every reasonable step to insure safety. For that reason, I am proposing my amendment which makes it clearly within the authority of the Northeast Corridor Improvement Corporation.

Mr. President, I regret the fact that the fast, but silent metroliner has been the cause of many deaths in my small State of Delaware. The incidence of death and accidents have been especially high in the Claymont and Newark area. I am incorporating a number of news articles on these accidents. I ask unanimous consent that they be printed in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is ordered.

(See exhibit 1.)

Mr. ROTH. Mr. President, because of the importance of safety, I believe it is important that the language of the act be clear on this point. I believe it is important that we eliminate grade crossings and that fences be installed to prevent children and others from walking along the tracks. I urge the adoption of this amendment.

EXHIBIT 1

TRAIN HITS THREE MEN WALKING TRACKS; 1 DIES

PORT DEPOSIT, MD.—One person was killed and two others injured, one critically, when struck by a freight train yesterday morning here.

The dead man was identified as Arthur Brewer, 24, of Darlington. He was taken to Harford Memorial Hospital, where he was dead on arrival.

Robert L. Wilson, 42, of Delta, Pa., was critically hurt. He received emergency treatment at the Harford hospital and then was transferred by police helicopter to University Hospital in Baltimore. He suffered severe head injuries.

Franklin L. Jones, 27, of Plyesville, suffered hip and other injuries. Last night he was listed in satisfactory condition at Harford Hospital.

Maryland State Police from the North East Barracks said the three men, employes of Wileys Shipyard, were walking west on the Penn Central railroad tracks about 11:30 in the morning.

Police said as the three approached the rear of the Port Deposit Fire house, they watched a stationary train facing east. As the men walked between the rail of another set of tracks, a second freight train came up behind them on those tracks.

Police said the second train's engineer spotted the men walking along the tracks and blew the whistle several times. The men, however, were apparently so intent on watching the non-moving train that they failed to respond to the whistle of the oncoming train.

The two injured men managed to jump to the side but not far enough to keep from being struck by the engine, police reported.

METROLINER KILLS HONOR STUDENT IN CLAYMONT

(By Vic Livingston)

A 17-year-old Archmore Academy honor student was killed last night when he was struck by a Penn Central Metroliner near the Naamans Drive-in Theater.

Mark T. Vandenbraak of 521 Black Gates Road, Woodbrook, was killed instantly by the northbound train shortly before 10.

Vandenbraak had been parked in a station wagon on a dirt road east of the tracks, watching the movie with three friends. He left the car, apparently intending to walk to the theater grounds to buy refreshments, state police said.

When the youth approached the tracks, a slow-moving northbound freight train was passing on an inner track.

Apparently, he was standing on the track closest to the river, waiting for the freight to pass, when Metroliner 118 struck him, police said.

Vandenbraak may not have heard the electrically powered Metroliner due to the noise generated by the other train, police said.

The Metroliner continued on.

The victim was taken to Delaware Division where he was pronounced dead.

A railroad spokesman said the train speed limit at the accident scene was 80 miles per hour. He said there was no way the train could have been halted, even if the engineer, identified only as J. Moyer, had seen the youth.

The spokesman said Vandenbraak was trespassing on railroad property, and said the railroad has tried to warn the public of the dangers of crossing tracks used by the swift, relatively silent Metroliners.

State police would not release names of the victim's companions, but Father Owen Mullen of Archmere Academy said the others were students of Salesianum School and Brandywine High School.

The station wagon was towed away after the accident because, police said, the driver was too shaken to drive it home.

Police said the dirt strip on the east side of the tracks has been a problem in the past due to "lovers and drinkers" who park there and watch the movie. Such parkers have been chased by police but not prosecuted, they said.

Vandenbraak was the son of Mr. and Mrs. Vincent Vandenbraak. His father is president of Van's Chevy Town auto dealership in New Castle.

In order to reach the drive-in, police said the youth had to not only cross the four tracks but scale a wooden fence bordering the drive-in. However, they said the ground near the 6-foot fence is elevated, making the task easier.

Claude Schlanger, of Doylestown, Pa., president of the Budco theatre chain, today said he will check into the circumstances surrounding the accident to determine the need for additional security measured at the theater, possibly installation of barbed wire above the wooden fence.

"We'll do anything we can to protect the theater and the kids, but frankly, they had no right being parked there or sneaking into the theater," Schlanger said.

Father Mullen said Vandenbraak was an honor student and would have been graduated June 4. He said the youth had been accepted by both the University of Pennsylvania and Notre Dame and had decided to enroll at Notre Dame.

He said Vandenbraak was active in the school's intramural athletic program, and was "always producing." Before Archmere, he attended St. Edmunds Academy for Boys.

U.D. PROFESSOR HIT BY TRAIN IS WEEKEND'S SECOND RAIL VICTIM

A Penn Central Metroliner streaking toward Washington struck and killed a University of Delaware agriculture professor yesterday near the S. College Ave. overpass in Newark.

Police identified the victim, Elisha M. Rahn, 59, of 47 E. Park Place.

He was the second person killed by a Metroliner over the weekend. Mark T. Vandenbraak, 18, died Friday night after being hit by a train near the Naamans Drive-in Theater in Claymont.

Rahn was walking on the tracks next to the Metroliner's at about 11:15 yesterday morning, according to Peter Vacca, the brakeman on train No. 107.

Rahn saw the Metroliner coming, stepped onto the Metroliner tracks, and turned his back, Vacca said.

The train was going 90 miles per hour.

The impact site was near the Chrysler Corp. assembly plant, about 250 yards south of the S. College Ave, overpass, beyond a spot where many people cross the tracks after University of Delaware football games.

Robert McHugh, a Penn Central track supervisor, said that since there were fences on both sides of the track at the crash site, it was unlikely Rahn was crossing there.

The impact threw the victim about 250 yards.

The train stopped about a mile from the point of impact and left Vacca to report to police who had been notified by radio from the engineer. Metroliner traffic was cut to 20 mph.

The state medical examiner is conducting an investigation of the case.

Rahn, a full professor at the university since 1970, specialized in weed control research. He held degrees from the Pennsylvania State University and Ohio State University. He came to Delaware 26 years ago.

He had published 65 scientific papers.

Surviving are his wife, Agnes M. Rahn, and four children.

Friday, Vandenbraak and three friends decided to park on a dirt road east of the tracks to watch the movie outside the drive-in theater. The youth left the car, apparently intending to walk to the theater grounds to buy refreshments, state police said.

When Vandenbraak approached the tracks, a slow-moving freight train was passing northbound on an inner track. Police said he was standing on the Metroliner track waiting for the freight train to pass when the Metroliner hit him and probably did not hear the electrically-powered Metroliner over the noise of the freight train.

A railroad spokesman said Penn Central has been trying to warn people about crossing the tracks, and keeping away from the east side of the tracks where people park and watch the movie.

Vandenbraak was an honor student who stood twelfth in his class at Archmere Academy. He was a member of the Spanish Honor Society and a graduate of St. Edmonds Academy.

He was youth representative for the Parish Council of St. Mary Magdalen Catholic Church, was active in the CYO and was vice-commodore of the Juniors of the Stone Harbor (N.J.) Yacht Club.

Mark had been accepted for admission to both the University of Pennsylvania, and Notre Dame. He had chosen Notre Dame.

The youth is survived by his parents, Vincent W. and Jeanne Thomas Vandenbraak; two sisters, Pamela and Fay Louise and two brothers, Matthew and Vincent W. Jr., all at home; his paternal grandmother, Mrs. Esther A. Vandenbraak of Blue Rock Manor; and his maternal grandmother, Mrs. William A. Thomas of Homestead, Fla.

There will be a concelebrated Mass tomorrow morning at 10 at St. Mary Magdalen Church, Concord Pike and Sharpley Road. Friends may call tonight at the Chandler Funeral Home, 2506 Concord Pike, Talleyville, where a scripture service will be held at 7:30. Interment will be private.

In lieu of flowers, the family suggests contributions to Archmere Academy, Claymont, in memory of Mark T. Vandenbraak.

Vandenbraak and Rahn are the 11th and

12th pedestrians to be killed on Penn Central tracks in Northern Delaware since the beginning of 1970. Nine have been killed in the Claymont area.

HE'S SIXTH TO DIE IN CLAYMONT SINCE METROLINER BEGAN RUN

Mark T. Vandenbraak, 17, of Woodbrook, has become the sixth pedestrian to be killed by a Metroliner in Claymont since the high-speed train began its run through Delaware.

Eleven persons attempting to cross Penn Central tracks on foot in Northern Delaware have been struck and killed by trains since the beginning of 1970. Nine of them were killed in the Claymont area.

The first multiple deaths ever caused by a Metroliner occurred on April 12, 1970, when three boys were struck and killed by the high-speed train just north of Bellevue, near Claymont.

The three boys, James Wilhelm, 11, and his brother, Mark, 10, of 1253 Riverside Drive, Kynlyn, and James M. Young, Jr., 11, of 1112 River Road, Kynlyn, were struck as they played on a trestle.

Not only was this the first multiple fatal since the Metroliner had begun running a year earlier, but it was only the second fatal accident involving any Metroliner.

On Sept. 25, Mrs. Mary McIlhenny, 67, and her 5-month-old grandson, Michael Czapka, were both struck and killed by a Metroliner.

At the time Mrs. McIlhenny, of Philadelphia, was carrying the boy across the tracks at the Claymont station when they were struck. The boy was the son of Mr. and Mrs. Francis M. Czapka, of Windybush.

Another multiple fatal involving an experimental high-speed train took place at Claymont Aug. 11, 1971, when Mrs. Janice E. Starkey, of 1210 Prospect Drive, Kynlyn, and two young boys were struck and killed.

The train was known as the "Bullet" and was enroute to Washington when it struck Mrs. Starkey, her 2½-year-old son, Brian D. Starkey, and her 4-year-old nephew, Dane Edward Mowers.

On Oct. 19, 1970, John D. Gavin, 55, of 804 W. 23d St., Wilmington, was killed by a Penn Central coal train in Claymont. Witnesses said he apparently walked into the side of the train.

A 12-year-old youth, William R. Succarotti, of 685-B Robinson Lane, Robinson Manor, was struck and killed by a Penn Central express train on April 11, 1970, as he walked through the railroad yards south of Wilmington. Police said it was a windy day, and the boy apparently didn't hear the train's whistle.

METROLINER HITS STALLED CYCLE; RIDER SCARED AWAY

A Wilmington area man abandoned his motorcycle on railroad tracks in the path of a speeding Metroliner yesterday morning.

Joseph C. Flanagan II, 23, of 19 Read Avenue, Boxwood, was the subject of a manhunt by three area police forces after the New York-bound Metroliner slammed into the cycle near Newport.

Flanagan later told police he panicked and ran when his cycle stalled on the track about 8:30 a.m. He was carrying a 22-caliber rifle on his shoulder and said he was heading for nearby marshes for target shooting.

15 state troopers and a state police helicopter joined Wilmington and New Castle County police in the hunt for Flanagan, who was unidentified at that time. Police questioned him 2½ hours after the accident when he returned to the scene, a private crossing located past Lindbergh Avenue, Silview. No charges were placed against him.

The crash occurred on the third track at the private crossing, owned by the Penn Central Transportation Co., and thus is outside police jurisdiction.

Flanagan said he was heading toward New Castle when his cycle stalled. Hearing the oncoming train, which railroad officials said was approaching at 100 mph, he dropped the cycle and ran.

Parts of the cycle became lodged under the first three cars of the Metroliner, requiring crews to remove the debris and causing the train to arrive in Wilmington 25 minutes late.

No one on the train was injured. Walter E. Reign, 53, of 108 Boxwood Road, Woodcrest, was the Metroliner's engineman at the time of the crash.

METROLINER KILLS 9-YEAR-OLD AS KIN, PAL WATCH

A 9-year-old Southbridge boy died last night when struck by a Metroliner on the Brandywine Railroad Bridge near The Orchards, as his brother and a friend watched.

The boy was identified as Marvin Davis of 313 Townsend St., son of Burley B. and Pearl R. Davis. He was dead on arrival at Delaware Division at 6:18 p.m.

According to Wilmington Patrolman Daniel Panaro, Marvin, his brother, Richard, 11, and a companion were walking on the bridge about 5:20 p.m.

The Metroliner, No. 120, enroute from Washington to New York, had stopped at the Penn Central Station at Front and French Sts. before the accident.

The engineer, Arlington L. Eichert, 52, of Englishtown, N.J., told police the train was traveling between 50 and 60 miles per hour when he spotted the three boys on the bridge.

Eichert told police the boys saw the train and ran to another set of tracks, but Marvin seemed to be confused and ran back to Metroliner's track. Eichert said he crouched and looked down at his feet with the top of his head facing the train.

Eichert said he applied brakes, but it was too late. The six-car train stopped in about a quarter of a mile.

The 9-year-old boy is the 13th pedestrian to be killed on Penn Central tracks in northern Delaware since 1970. At least five have been killed by Metroliners.

The boy was a pupil at the John Palmer Jr. Elementary School.

Mr. HARTKE. I want to say to the Senator from Delaware that this amendment is acceptable to the committee. In fact, it should have been done a long time ago. I suppose. That is, we should have eliminated grade crossings and all of the remaining obstacles which are creating dangers to the people who live along or use the facilities in that area. It also provides an opportunity to put a fence on the outside, as we do on limited-access highways. We are prepared to accept it.

Mr. ROTH. I thank the Senator.

Mr. President, I move the adoption of my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HARTKE. Mr. President, I ask unanimous consent that I be permitted to submit an amendment on page 131, beginning on line 8, to strike the words which are presently written—"arrange for the reimbursement of"—and insert in lieu thereof the words "reimburse an acquiring carrier for".

The amendment better effectuates the intent of the bill.

The PRESIDING OFFICER. Is there objection to considering the amendment? The Chair hears none. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 131, beginning on line 8, strike the words "arrange for the reimbursement of" and insert in lieu thereof the words "reimburse an acquiring carrier for".

Mr. HARTKE. Mr. President, this, for all intents and purposes, is a technical amendment, but it could have a very significant difference if it were worded in the other fashion.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HARTKE. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 2718 and to make any further corrections required as a result of the reprinting of the bill ordered by the Senate on Tuesday, December 2, 1975.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, as far as I know, no other amendments are pending.

Mr. ROBERT C. BYRD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HARTKE. Mr. President, may we get third reading?

Mr. MUSKIE. Mr. President, first of all, I should like to have some material from the report printed in the RECORD, in connection with the amendment offered earlier today by my good friend from Oklahoma (Mr. BARTLETT). The thrust of his argument, as I listened to it, was that the investment or proposed investment in the Northeast corridor was the only expensive investment from the point of view of the Nation as a whole. I wish to make two points.

First, in the 1860's, when Congress enacted the Railroad Land Grant Act, it represented an enormous investment of public lands in the extension of western railroads. The State of Oklahoma and other States benefited enormously, as did the country, from that investment. In like fashion, the interests of the country are involved in the railroads of the Northeast. I ask unanimous consent that there be printed in the RECORD at this point pages 3, 4, 5, 6, and the top of page 7 of the committee report, which spells out, I think, in excellent fashion the relationship between the health of the Northeast railroads and the economy of the country as a whole.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Government investment policy has also significantly affected the railroads.

The Federal government's basic policy has been to promote the development of several different modes of transportation. In this century, the railroads and pipelines are the only competing forms of transportation which have not benefited substantially from public expenditures to improve rights-of-way and facilities. This approach has significantly changed the relationships between the railroads and their competitors.

Large-scale public support has promoted

the development of auto, truck, barge, and airline technologies. Innovations in trucking and the development, with government support, of modern highway systems have enabled motor carriers to capture 23% of total inter-city freight ton-miles. The water carrier industry has matured with the development of extensive waterway improvements and modern efficient barge technology. According to the United States Railway Association. Federal obligation levels amounted to over $20 billion per year in early 1970's for highways; about $500 million annually for airways; $1 billion for mass transit; approximately $16 billion through 1971 for waterways; and over $500 million for the maritime industry. By contrast, the railroads build, maintain, and pay taxes (if they are not already in bankruptcy) on their rights-of-way. Until recently, however, the Federal government obligations for the railroads were minimal and almost all aid given was designed to meet emergency, not long term, needs. According to the Government Accounting Office, between July 1, 1969 and June 30, 1975 about $1.5 billion had been obligated to assist the railroads, including the emergency assistance required by the Congress for the Northeast-Penn Central problem, an average of less than $300 million per year.

For a variety of reasons, there have been insufficient internal funds to maintain and upgrade railroad facilities which, coupled with a lack of private capital or public funds, has resulted in deferred maintenance and further diminished the railroads' ability to provide services required by the public.

The railroad industry has been unable to adjust to changing market conditions because its facilities are fixed in place, because the regulatory climate constrained management's ability to merge facilities and abandon obsolete properties and lines, and because traffic has been lost to other modes of transportation. Public policy has also prevented the rail industry from developing unified systems of transportation using many different modes to move goods.

The general decline in market share and the accompanying financial problems of railroads has been most severe in the Northeast. Eight major carriers in the Northeast and Midwest are bankrupt; several elsewhere in the country are in precarious financial condition and one is bankrupt.

The railroads in the Northeast and Midwest regions have been affected most severely by the negative factors influencing the financial health and conditions of the railroad industry. The Northeast was the first area of the country to be developed and has the oldest industries and the oldest and most extensive railroad system. Many of its railroads were built purely for local service well before the advent of trucking. The current railroad system represents a splicing of hundreds of constituent roads, each having its own outdated branches and spurs.

The dominant industries in the region are among the most slowly growing sectors of the economy. In addition, they tend to produce goods that lend themselves to trucking competition, both because many shipments are short-hauls and because the traffic shipped demands reliable service at premium prices. The depletion of natural resources in the East has also led industries and the traffic they generate to depart to the newer and more rapidly developing population centers. This has decreased tax revenues to serve social purposes of communities in the Northeast. The communities in turn have been more reliant on property taxes levied on railroad holdings and most resistant to abandonments depriving them of these revenues.

The importance of railroads to our Nation's economy cannot be overemphasized. Even after decades of expanding truck, air and barge operations and a deteriorating rail industry, railroads are still the leading carrier in terms of freight ton-miles. The more than 850 billion ton-miles moved in 1973 represent approximately the same volume as all other carriers combined, except pipelines.

Another indication of the importance of railroads is the spectre of what would happen if railroad service was curtailed in the Northeast. A study by the Indiana Department of Commerce predicted that a shut-down of the Penn Central alone would produce unemployment in that state of 24% during the first month. A sixty-day shut-down would cause the Indiana industrial economy to suffer a 25% reduction in its capacity. The entire economy of the United States would also suffer drastically if railroads in the Northeast and Midwest shut down operations. A wide-spread rail transportation crisis in the Northeast and Midwest would most certainly precipitate economic chaos of major proportions in the many states that send cars to the region each day.

The health of rail service in the Northeast and Midwest region, the largest market area in the country and the world, affects the service and financial positions of railroads throughout the Nation. The Nation's rail system is made up of many interconnecting railroads; only a system in which all of its parts are healthy can provide adequate and economical service.

Virtually every state in the union is dependent upon the railroads in the Northeast and Midwest. For example, Wyoming relies heavily upon the availability of a strong and efficient national system of rail transportation which has the ability to provide the access essential to its continued economic growth. In 1972 Wyoming shipped by rail to markets in the Northeast and Midwest 673,400 tons of chemicals, 14,000 tons of refined petroleum and coal products and 914,500 tons of clay, concrete and stone products. Wyoming is also the beneficiary of many rail shipments from the Northeast. Most of these shipments originate on one or more of the bankrupt carriers. In 1972, for example, Wyoming received by rail from the Northeast and Midwest 2,000 tons of clay, concrete, glass or stone products, 43,100 tons of primary metal products, 5,200 tons of machinery and 2,000 tons of electrical equipment.

Wyoming itself has almost 2,000 miles of railroad track. However, these railroads do not operate in a vacuum. They depend on one another not only to provide the necessary access to sources of raw materials and destination points, but also to provide a source of extra added income, which they receive from the transfer of forwarded freight. That means that the railroads of Wyoming and other states depend on the service being provided by other railroads in other market areas. This dependency on the service and the revenues generated by other railroads help determine the degree of efficiency and to what extent service can be provided to the industrial and consumer interests of the state.

As another example, Kansas is heavily dependent upon the strength of the railroads in the Northeast.

Most of the land area of Kansas, the geographical center of the United States, is devoted to agriculture. But of increasing importance to the State's economy is a growing manufacturing and petroleum industry. As a result, Kansas will continue to rely on the availability of a strong and economically efficient national system of rail transportation which has the ability to provide the access it needs to new sources of raw materials and to new and expanding market areas essential to continued growth.

In 1972, Kansas ranked first in its production of wheat, second in sorghum and fourth in its numbers of livestock. In that year, Kansas transported to the market areas of the Northeast and Midwest some 25,000 tons of farm products and over 694,000 tons of food products by rail. Manufacturing has grown in Kansas, but for this growth to continue, Kansas will have to rely on increased service from a highly developed and efficient means of rail transportation. If the access to markets, raw materials and component parts is not readily available, the expected potential growth for these industries will certainly be diminished.

The manufacturing industries of Kansas produced and transported to markets in the Northeast and Midwest some 55,000 tons of chemical products, 37,000 tons of rubber and plastic products, 63,000 tons of clay, concrete, glass and stone products, 21,700 tons of transportation equipment and over 29,000 tons of refined coal and petroleum products.

These goods, as well as others, depended on at least one of the seven bankrupt carriers serving the markets of the Northeast and Midwest Region, but Kansas is also dependent on these very same railroads to provide access to goods for its growing manufacturing industries.

In view of the rising costs of transportation, Kansas has a very real and very special interest in the Final System Plan as it is offered by the United States Railway Association, for the present rail crisis in the Northeast and Midwest Region in reorganization.

Agriculture also plays a vital role in Montana's economy, but the recent growth of mineral production and a rapidly-growing group of manufacturing industries are of increasing importance to the growing economy of Montana. As a result, Montana will continue to rely, more heavily than in the past, on the availability of a strong and economically efficient national system of rail transportation which has the ability to provide the access it needs to new sources of raw materials and to new expanding market areas essential to continued economic growth.

By 1972, Montana was ranked 6th in its number of sheep and 13th in cattle, along with large crops of wheat, barley, rye and oats. Farm receipts were put at a total of $75,249,000. In that same year, Montana relied on rail service to transport over 9,000 tons of its farm products and over 19,700 tons of its food and allied products to markets in the Northeast/Midwest Region. In 1972, Montana shipped by rail to the Northeast/Midwest about 48,000 tons of nonmetallic minerals; 38,000 tons of clay, concrete, glass, or stone products, and over 228,000 tons of primary metal products. Montana's important forestry industry, which is valued at $300,000,000 a year, shipped over 337,200 tons of lumber or wood products, and some 17,000 tons of pulp, paper or allied products to the Northeast/Midwest in 1972.

However, the importance of rail service in the Northeast and Midwest to Montana does not end with the availability of the markets they provide. Rather, these bankrupt carriers are important to Montana in providing access to the raw materials on which its manufacturing depends and the other goods on which its consumers depend. For example, in 1972, the Northeast and Midwest Region shipped to Montana some 25,400 tons of petroleum and coal products; 3,300 tons of primary metal products; 4,000 tons of fabricated metal products, 4,000 tons of machinery; 5,000 tons of electrical machinery, and 23,200 tons of transportation equipment.

Montana has 5.084 miles of railroad track. Its railroads depend on each other, not only as a means of providing access to markets and raw materials for the producers they serve, but also as sources of extra added income that they receive from the transfer of freight between one another. Together these railroads employ approximately 6,260 persons who are residents of Montana with an annual payroll of over $89,110,100.

The health of the railroads in the Northeast and Midwest Region affects the efficiency and health of the railroads servicing the producers of Montana. They affect the ability of those railroads to continue to generate the financial resources necessary to meet their own heavy financial and service responsibilities.

The dependence of these states upon the Northwest and the Midwest railroads is representative of the dependence of every state in the union upon the railroads of the Northeast and Midwest Region. The railroads in any region are dependent on one another not only to provide the necessary access to sources of raw materials and destination points, but also to provide a source of extra added income, which they receive from transfer of forwarded freight. This means that while the industrial and consumer interests in the various states depend upon the availability of efficient rail service, the railroads that service those states themselves depend on railroads in other market areas. This dependency on the service and the revenues generated by other railroads determines the degree of efficiency and the extent of service that can be provided to the industrial and consumer interests of the state. Certainly then, the health of rail service in the Northeast and Midwest, the largest market area in the country and the world, will effect the service and financial position of railroads in all the other states. The health of rail service will also affect the industrial producers in terms of their competitive position in the marketplace, and the consumer interests in terms of the higher prices they must pay for goods.

All the states in the Nation have a very real and special interest in the final system plan as of the United States Railway Association for solving the present crisis in the Northeast and Midwest Region, and in the provisions of this bill designed to implement that plan and assist the revitalization of all railroads. Employment levels, net industrial and agricultural incomes, the cost of living to consumers, and indeed, the very social and economic development of every state will be affected by changes in the availability of an efficient rail system to and from the region. Access to essential raw materials and market areas for consumer goods produced outside each state will continue to be a necessity just as the continued availability of low cost rail transportation of these goods will remain important. The solution of the rail crisis in the Northeast is not an isolated problem but a problem that affects the entire Nation, and requires decisive action.

Mr. MUSKIE. Mr. President, I rise principally to address this bill from the standpoint of the Senate Committee on the Budget.

The Senate has before it S. 2718, the Rail Services Act of 1975. As chairman of the Committee on the Budget, I believe that the initiative represented by this bill is a welcome one. Both the first and second budget resolutions identified assistance to railroads as a very high congressional priority, and this bill provides the authorizing legislation necessary for that priority to be realized.

The issue was discussed at length last spring in connection with the first budget resolution and this fall in connection with the second budget resolution. With respect to the numbers in this bill, the Budget Committee staff has analyzed the cost implications and concludes that the bill is consistent with the second concurrent resolution. The Members will recall that the second resolution report indicated that the budget ceilings for the commerce and transportation function assumed that railroad spending legislation still expected in fiscal year 1976 would add $1 billion in budget authority and $0.8 billion in outlays. The Budget Committee staff has estimated the maximum likely fiscal year 1976 appropriation for S. 2718 at $0.8 billion. As you know, this is budget authority. The maximum likely outlays associated with that budget authority total $0.6 billion.

Both of those figures are within the allowance provided in the second concurrent resolution, and I ask unanimous consent that there be printed in the RECORD at this point an analysis of those figures so that Members may see the details of that estimate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BUDGET COMMITTEE STAFF ESTIMATE OF MAXIMUM LIKELY BUDGET IMPACT OF S. 2718 IN FY 1976

Following is an accounting of the Budget Committee's staff estimate of the FY 1976 budget impact of S. 2718. These estimates have been reviewed by the staffs of the Commerce and Appropriations Committees as well.

(In millions)

	B.A.	*Outlays*
N.E. corridor	$150	$75
Related Amtrak expenditures	125	110
Title VIII—Rail service continuation	65	10
ConRail	400	400
Maximum possible other	50	0
	790	$595

Mr. MUSKIE. These are the amounts the Budget Committee anticipated for this legislation when it recommended the commerce and transportation spending ceilings. If S. 2718 is appropriated at the $.8 billion level, there will still be $.2 billion in both budget authority and outlays remaining available for other rail spending legislation still anticipated—namely an appropriation of $236 million to implement the USRA's final system plan recommendation that a loan made under section 215 of the Regional Rail Reorganization Act and originally intended to become part of the debt structure of ConRail now be forgiven.

Thus S. 2718 is consistent with the Congress' second budget resolution. It gives substance to the Congress' prior determination that aid to railroad transportation is a priority consideration, and it does so within the fiscal year 1976 budget ceilings assumed for it.

Speaking as a Senator from Maine, I am pleased to note the important contribution toward improved rail service in the Northeast which will be possible under the provisions of this bill.

The quality of rail service in the Northeast has significant and direct implications for the State of Maine. Maine contains only 68 miles of rail line operated by a bankrupt carrier but the importance of rail service across these lines is considerable. Geography, fuel shortages and increasing costs all suggest that Maine industry will place even greater reliance on rail service in the years to come. High quality rail service is essential to Maine's future and the improvements authorized under this legislation will help assure that such service is available.

Now, having said that, Mr. President, may I indicate a couple of reservations about this bill that I should like to bring to the attention of Members of the Senate with respect to the future?

I believe it is important to point out to Members that they are likely to be faced with some difficult decisions when it comes to future appropriations for certain provisions of this legislation. This is an authorization bill, not an appropriation. As an authorization bill, it is not subject to the discipline of the second concurrent resolution as to the future. As a matter of fact, the resolution does not apply to years beyond fiscal year 1976.

The expected fiscal year 1976 appropriation of up to $800 million represents only a small portion of the bill's $8.6 billion total authorization. Most of this year's $800 million is the fiscal year 1976 cost of implementing USRA's final system plan for ConRail, which was considered approved by the Congress when it declined to reject the plan by November 9. Other programs of financial assistance contained in the bill, involving large amounts of money, have not received any prior scrutiny by the Congress.

I believe Senator HARTKE's Surface Transportation Subcommittee has done a commendable job sorting out a very complicated situation and recommending legislation that should help put a distressed industry back on its feet. The Budget Committee is very much aware of the depressed and deteriorated conditions prevailing in the railroad industry, and this awareness of course was the basic reason for our recommendations accompanying both budget resolutions, that assistance to railroads be considered a vital congressional budget priority in fiscal year 1976. Thus, speaking for myself and, I am sure, also for the other Budget Committee members, I want the Senate to know that the Budget Committee is very anxious to see the railroad industry crisis resolved.

But I would be remiss in my duties as Budget Committee chairman if I did not point out how expensive a course of action this bill projects. In addition to $3 billion for Conrail, if S. 2718 is appropriated at its full authorization level, the Federal Government will over the next several years expend over $3 billion for the Northeast Corridor, nearly $1 billion in rail commuter and light-density branch line subsidies, and another $1 billion for national rail assistance. Further, this last $1 billion could be just the beginning of a much larger national rail rehabilitation program, depending upon the outcome of a needs study by DOT.

It may well be that this does in fact represent the approach that should and must be taken but in voting for this legislation now I am not irrevocably committing myself to that full level of expenditures. S. 2718 is an authorization bill, not an appropriation. I am very hopeful that before we are asked to consider any fiscal year 1977 appropriation for the Northeast Corridor, national rail rehabilitation and commuter and branch line subsidies, we will know much more than we do right now about the comparative needs for assistance in these areas as contrasted with the need for further assistance both to other transportation programs and to other functional categories of the budget as well.

Let us remind the Senate that next spring, as we take up the budget for fiscal year 1977, and in subsequent years, we are likely to be faced with tight budgets. There will be competition for available Federal resources not only within the transportation function, but across the board among the 17 functions of the budget and that, as chairman of the Senate Budget Committee—and I think I speak for every member of the Budget Committee—we will reserve our options with respect to future funding of this bill. I wanted that to be eminently clear, and I think the distinguished chairman and the floor manager of the bill understands that.

During our consideration next spring of the first concurrent resolution for fiscal year 1977, the Budget Committee will do its best to assess fairly and objectively the comparative needs for Federal financial assistance to be granted under the various functional categories of the budget. The results of that assessment will be placed before this body so that the Members themselves can consider both the size of the competing demands for assistance and the extent of the resources available to satisfy those demands. Only then will the Senate be able to indicate its judgment as to the dollar share of the fiscal year 1977 budget that should go toward aiding the railroads.

Finally, Mr. President, I would like to comment on title V of the bill which as reported to the floor, would establish a rail trust fund to provide financial assistance to ConRail and other carriers for rail rehabilitation. Unlike the highway trust fund, this trust fund would have to receive its funding through appropriations acts. I understand, however, that during markup it was noted that this new trust fund might within 2 years come to be funded from some nongeneral earmarked revenue source. That development I would resist, and I would have indicated my reservations about it in connection with this bill.

The Budget Committee would feel compelled to take a very serious look at any attempt to create yet another trust fund that operates with earmarked revenues through "back doors" to fund one specific Federal program outside the operation of the budget and appropriations processes. If anything, we should be considering whether it is not possible to somehow consolidate existing trust funds or close some of the "back doors", so that Federal programs can be better controlled by congressional action. One year's experience as Budget Committee chairman has been sufficient to convince me that we will never be able to design a budget that reflects the Congress current assessment of priorities until we are able to reduce that portion of the budget that is essentially uncontrollable.

I understand that the sponsors of S. 2718 have now reexamined the rail trust fund proposal, and have concluded that the legislation's intent would not be seriously impaired by an amendment that both redesignates the trust fund as a "railroad rehabilitation and improvement fund" and also eliminates any possibility that the bill's language could be interpreted to provide for any funding whatsoever outside the congressional budget and appropriations processes.

So long as this amendment is an integral part of the legislation, I intend to vote for S. 2718. Its passage now will mean that the desperately needed restructuring of the bankrupt railroads in the Northeast and Midwest can proceed in a timely fashion. There will be sufficient opportunity later to decide the difficult questions surrounding the funding of the non-ConRail aspects of the bill.

Mr. President, I have here an analysis of Secretary Coleman's press conference comments on the bill. So that Members may have the benefit of the analysis, I ask unanimous consent to have it printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

ANALYSIS OF SECRETARY COLEMAN'S PRESS CONFERENCE COMMENTS ON S. 2718

As reported in yesterday's paper, Secretary Coleman has made several budget related charges against S. 2718 and indicated that on the basis of these the President would veto the bill. Following is a summary analysis of the points raised by Secretary Coleman.

ITEM 1

The Secretary claims that the Ford Administration has supported a $2.1 billion maximum Federal investment for ConRail, and terms as the "height of irresponsibility" the Commerce Committee's authorization of $3.0 billion as a maximum.

To begin with, the Final System Plan supported by the Administration called for a $2.5 billion maximum Federal investment, not $2.1 billion as indicated in the paper. Secondly, literally everyone's analysis has concluded that $2.1 billion will probably not be enough. Thus the $3.0 billion recommended by S. 2718 is really only a recognition of fiscal reality. Further, the bill provides that no investment above $2.1 billion can be made unless there is a positive finding that demonstrates that there is no cheaper means of meeting the service objective of the Final System Plan.

ITEM 2

The Secretary says that under the Senate's bill the entire $3 billion invested in ConRail could effectively be converted into outright Federal grants.

Technically this is true, the bill provides that USRA can alter the terms and conditions of the Federal investment in ConRail if it is determined that this is necessary to satisfy the goals of the Final System Plan. However, what the Secretary did not say is that such modification in the terms and conditions of the Federal investment was also possible under the USRA recommendation that he and the Administration have consistently supported. The only difference is that under the original USRA recommendation the power to change these conditions rested not with USRA but rather with a Government Investment Corporation of which the Secretary of Transportation was to be a prominent member.

ITEM 3

The Secretary finds as "shocking" a provision which he says would, in effect, give creditors of the bankrupt railroads a "blank check" payable on the Federal Treasury for future claims on the value of the rail property ConRail will acquire. He implies that this was not the case under the USRA Final System Plan which the Administration supports.

This is extremely misleading. One way or another a court is going to determine the constitutional minimum owed to the creditors and the Federal government will be required to pay it regardless of any legislation the Congress passes. Under the recommendations of the Final System Plan, the *Special Court* would determine the constitutional minimum and if it is concluded that this amount is greater than the $422.5 million Value, then the creditors will be able to go to the *Court of Claims* to seek a Tucker Act judgment against the government to receive the full constitutional minimum as then determined by the new court.

Under S. 2718, there are still Certificates of Value. The difference is that if the *Special Court* determines that the constitutional minimum is greater than the value of the ConRail securities, then it would have the power to increase the Certificates of Value to that amount. The creditors would not be able to go to the Court of Claims under the Tucker Act. The Commerce Committee believes, that the constitutional minimum can be determined by the Special Court as well as by the Court of Claims. In addition, the S. 2718 approach would eliminate the necessity for time consuming litigation in the Court of Claims.

ITEM 4

Secretary Coleman suggested that S. 2718 would lead to a $6 billion investment in the Northeast Corridor project. He says that his proposal is a $1.2 billion proposal.

The Secretary himself in late September is and to have requested OMB to support a $2.6 billion loan program for the Northeast Corridor. It was OMB that scaled the project down to $1.2 billion in grants, apparently to accommodate the President's decision to cut FY 1977 spending by $28 billion. Further, the authorization contained in S. 2718 is for a $3 billion loan program, not $6 billion as suggested in the newspapers.

As I have noted before, there is considerable controversy over the extent of the ultimate Northeast Corridor high-speed passenger project. At a $1.2 billion investment level, the corridor would only be restored to accommodate the level of service provided in the late 1960's. Analyses of the project have concluded that *some* upgrading above that level is necessary in order to decrease the travel time between Washington–New York–Boston if the objective of lightening the traffic load on other modes in this corridor is to be achieved. Since S. 2718 is an authorization bill and not an appropriation, it does not commit the Congress to any specific project level at this time.

Mr. MUSKIE. With that, Mr. President, I would just summarize by concluding with respect to fiscal year 1976 this bill is consistent with the second budget resolution. With respect to the future, the Budget Committee reserves the options which it is charged to maintain under the budget resolution as to future-year funding and future-year appropriations.

Mr. DOMENICI. Will the Senator yield?

Mr. MUSKIE. Yes. I yield to my good friend from New Mexico who is also a valued member of the Budget Committee.

Mr. DOMENICI. Let me ask the distinguished Senator from Maine, he has made a distinction here that technically, under budget authority for this year, it does not exceed the budget expectation of the second concurrent resolution or even the first, as I understand it.

But I also understand, if I am correct, that the Senator is concerned that some of the provisions of this bill that are not technically budget authority but that might arise in subsequent years by way of an expectation, which might be the authorization language that the Senator has used, that they are authorized and not budget authority, the Senator is concerned that someone might think that since the Budget Committee is not objecting that we are accepting that these expectations will turn into budget authority and outlay, and the Senator is saying he does not agree they will fit within expectations; is that correct?

Mr. MUSKIE. What I am saying is there should be no basis for any assumption that the Budget Committee has approved any number for funding beyond the 1976 fiscal year. The Senator is correct.

Mr. DOMENICI. I would like to ask one other question. There has been some rather pointed concern—I think the chairman should respond to it—that although the Senator is now saying this is basically authorization other than the budget authority that he has described to be within the budget limitation, that in future authorizations we do not have any genuine interest in those authorizations because they are not within the purview of the resolution we are considering. But some are saying we brought before an objection to a military authorization bill where it was, in fact, only authorization and, in fact, most of us joined in objecting to it because indeed it had an implication as to the budget.

I think I know the reason for the difference, but I would like the chairman to explain to the Senate why we did that on the military appropriation in terms of an authorization that preceded it, and why we have no interest now.

Mr. MUSKIE. Well, I have done it before, but I would be happy to do it again.

Mr. DOMENICI. It was raised on the floor today, and I think it would be appropriate.

Mr. MUSKIE. I am most happy to do it.

Authorization bills have different degrees of impact upon the appropriations process. Traditionally the military procurement bill each year is usually in the same year translated into appropriations in the amounts that are provided in the authorization. Thus the authorization bill is the place to debate the final numbers of the military procurement bill.

Entitlement bills also almost automatically translate into outlays, such as bills for food stamps, social security, and so on. Those kinds of bills translate almost automatically into outlays, and would be of concern to the Budget Committee at the time they are considered.

With respect to other authorizations, the kind that we are discussing here, we have a number of committees in the Senate, of course, which produce authorization bills which are their estimate of needs in the areas of their jurisdiction. Their estimates are always subject to the appropriations process. Rarely do the Appropriations Committees and the appropriation bills fully fund those programs up to the levels set in those kinds of authorizations.

That happened, for example, with respect to waste treatment programs that Congress has approved. So the authorizations in those kinds of areas are treated as definitions of need but they do not translate directly into the same dollars in appropriation bills.

So we have not felt in the Budget Committee that we could assert the authority, the claim, or that we ought to challenge those bills as though they would be translated into the same numbers of dollars in appropriation bills.

I hope that provides an explanation of the difference. Frankly, the committee is troubled on how to get a handle on authorization bills of this kind. You have to give the legislative process flexibility. You have to allow the committees of the Senate to work their judgments on the problems involved in their jurisdiction as to projected needs, and I think that is a service to the country and a service to Congress. But to the extent that they may now raise expectations of the actual levels of funding, I think we ought to raise red flags on the floor from now on. Whether or not we ought to go beyond the raising of red flags to try to impose a tighter control as a Budget Committee at this point is a question we have answered in the negative up to now.

Mr. DOMENICI. I thank the Senator from Maine.

I would say for myself I shall vote against the bill, not exclusively for the reasons that are related to the budget process but for other reasons.

Let me say to the distinguished chairman of the Budget Committee I think we are in a dilemma where we are saying there are some authorization bills that are really going to turn into budget authority, and there are others that are not, and I think that is a very dangerous posture to leave ourselves in beyond this year.

I understand we are not to be in that position this year. We are experimenting and trying to learn. But the point I am trying to make is that authorizations frequently do not turn into budget authority, perhaps not to the total limit, but over a longer period of time than expected, and the budget process is supposed to prioritize, and I think the distinguished chairman would agree if they continued to merely approve of authorization bills that are put in, get a foot in the door by some appropriation, and those become budget authority for a long period of time, the function of the Budget Committee to prioritize is gone, and we will be bookkeepers who are saddled with the responsibility of keeping tabs on the running balances under budget authority and outlays.

For that reason I would like very much to have the opportunity to address this issue next year. Perhaps the Senator thinks we will for he has reserved all of those concepts other than budget authority that he thinks are in it as found by our staff.

I think there are more ramifications in authority and commitment under it than the $800 million in the budget authority.

So I cannot support it and then come here and say to others that the Budget Committee is holding the line or, on the other hand, we cannot do anything about it because it is an entitlement program, it is already authorized.

We are about to approve a vast program that is going to become budget authority once it passes here tonight. Our failure to cut it back on the premise that we have a good opportunity to look again next year before that April resolution to establish priorities in transportation as a full function, I believe we will live to see the day that we are adding up the figures under this bill and there will be, no relation of roadways, waterways, airways to a transportation policy for our country.

I think we can defer that 1 year, 2 years, but I think with this kind of massive field we are developing, attempting to establish priorities in transportation in a meaningful way for from 3 to 5 years under the budget process, as I see it, there will be no room left for anything else.

I agree with the chairman's analysis, but I also think there is great risk under this bill.

I thank the chairman for yielding.

Mr. MUSKIE. I think I should comment further and I apologize for taking additional time.

I think there is another perspective in addition to that which my good friend from New Mexico has undertaken to spell out.

I do not think of any conceivable way that we can under the present arrangement, present committee setup, present committee jurisdiction, undertake to go through a priority setting exercise every time a legislative committee reports out a program designed to meet a national need which has to be measured over a period of years.

We cannot put together a railroad plan for the country by bringing it to the floor 1 year at a time. We have got to have some concept that has some sort of approval from the Senate or the Congress as to what the targets are over a period of time.

To say to the education committee when they offer an education program that spans more than 1 year, that when they bring that bill to the floor we are going to plunge them into a priority debate that encompasses a spread of years, I think is very unrealistic.

Or, on the other hand, to say we are going to work to beat any multiyear project of any kind, and force them to bring authorization bills to the floor to satisfy only the current fiscal year, I think is perhaps to set back the objective of looking down the road and looking at problems as they are coming at us and projecting our plans, and so forth. It is not a simple matter of saying every time an authorization bill comes to the floor that this is too much or that is not.

So one of the problems that the budget process has if we are to be more effective than in the past, is to focus this Congress on the long view and the long range.

If I may say to my good friend from New Mexico, who is a most valued Member of the Budget Committee and who has been particularly concerned about prior year commitments that bind our hands in the current fiscal year, we can, I think, get a better answer, get a handle on this kind of thing. We can insure this kind of bill does not unreasonably raise expectations about future funding by just this kind of red flag raising.

For that, I am most grateful to the Senator for joining me at this point in raising this kind of signal.

Mr. DOMENICI. Mr. President, I have just one further comment, and I do not want to keep people here either. But I do not believe that regardless of the kind of funding, loans, guarantees, future acquisitions and property, that a $14.2 billion program from one that was relatively nonexistent is a small program.

I understand that is not in outlays and, more typical, by the grants, the loans, and everything. I understand this field could encompass $14 billion.

Mr. MUSKIE. May I say that the Budget Committee staff says $8.6 billion. That figure is in the Record.

Mr. DOMENICI. Will the distinguished Senator from Connecticut just tell us what the total potential expenditure under this bill is; is it $8.6 billion or $14 billion?

Mr. WEICKER. $8.6 billion.

Mr. DOMENICI. My information is that it could be $14 billion, but I will take the $8.6 billion and still stay with my argument that that is a rather significant amount to be treating as if there is no real order of priority of responsibility.

I know we cannot do all this, and the distinguished Senator understands my concern. I am not saying we can handle all authorizations on that. I think we are in accord on that. But I point out, it is authorization bills that ultimately turn into budget authority, ultimately turn into outlays, that ultimately makes the Budget Committee add up figures and become bookkeepers and have to explain to our people that there is no way to cut the Federal budget.

I close with that, and I thank the distinguished chairman for yielding.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER (Mr. Leahy). The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, in the Louisiana Legislature we would call this bill a watermelon bill—it is big, it is juicy, there is a slice for everybody.

I think this bill begs the basic question, Mr. President, whether democracy can control its appetite for excess, because this bill is excess.

Mr. President, we are told that we have to maintain a Northeast rail system, and I agree and I am willing to pay part of the bill, even though I have no Northeast rails within my State.

But, Mr. President, we have got everything in here. We have even got a 150-mile-an-hour train, I understand, when the Secretary of Transportation says that we can save over $3 billion by slowing it down to 120 miles an hour.

Mr. President, we have got almost $1 billion to subsidize inefficient lines which the National Railway Association study conducted at a cost of millions of dollars and says ought to be abandoned altogether.

Mr. President, it goes way, way beyond what is necessary to maintain an essential road system. It gives a little slice of inefficient road, subsidized by the taxpayer, to every State in the Union. We even have a little slice of that down in my State.

Mr. President, the American people are getting tired of spending taxpayers' money, $8 billion, for things that are not necessary. They are getting tired of subsidizing inefficiency.

If I am told, Mr. President, that this bill is necessary for the Northeast rail system, I say it is not, and I can prove it. I can prove it by the National Railway Association's figures that say we ought to abandon 23 percent of the tracks that carry only 2 percent of the traffic and that are being subsidized here at a cost of some $857 million.

How that gets by the various committees in this Congress, I do not know, but this is one watermelon I am not going to vote for.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Thank you, Mr. President.

I am not going to delay the Senate for long, but I have been sitting here all day listening to the debate, trying to fathom what is in this bill.

I believe most of the Members of the Senate who are not on the Commerce Committee view this with some perplexity. I commend the members of the committee who have been working on it for months and months. For many of them it is the result of years of work. They understand with a great deal of particularity what is meant by every word on every page of this report.

This report was filed on the 26th day of November, the day before Thanksgiving. I suspect there were not very many Members of the Senate who were in here on Thanksgiving Day to pick up their copy of the report and start studying it. For most Members of the Senate they picked up this report sometime, if at all, the first day of this week.

If we look for just a moment at the bill, which is 238 pages long, accompanied by a report, which is 322 pages long, upon which a cloture petition was filed before we had had any debate and upon which there was almost no debate before the cloture petition was voted upon, then Members will begin to sense the frustration that this Senator feels in trying to discharge a responsibility that this Member has towards at least the taxpayers of one State of the Nation.

I would wager without impugning the integrity or the honesty, the sincerity or the ability of any Member of this Senate that there are not a half dozen Members of this Senate who are not members of the Commerce Committee who have more than a vague idea of what is in this bill.

I have tried, in what time I had available to me this week while sitting on three different conferences trying to get other legislation cleared out and while trying to take care of the other committee work that I have, to become informed as to what was in this bill.

I have listened all day. I would like to say after having listened all day I know more about the bill than I did this morning, but most of the debate was really not directed toward the details of this legislation. I suspect that if anybody really expects to read the Record and find out what is in this bill they had better forget it. They would be wasting their time.

I know from my very brief acquaintance with the bill that there are some good things in it.

I know from title 3, the investigations section, coupled with the committee's criticism of DOT, that the Department of Transportation was created with the expectation that there would be a comprehensive transportation policy developed for this Nation, and that DOT has failed to do so.

Perhaps they have failed because they have been too busy trying to regulate everything in sight rather than trying to develop a policy.

Some 5 or 6 years ago I tried to get a resolution adopted to direct the preparation of a comprehensive transportation policy for this country before we started making decisions upon which portions of it we wanted to spend vast sums of money.

So I hail the fact that in title 3 we would have the investigations, and call for a report. I just wish that that initiative that I started some years ago had been followed and the report had been made some time ago.

We are saying in this bill we need to have an investigation and we need to have a report, we need to have a study to develop a policy, but we are going to start by spending $14 billion before we know the purpose of the expenditure.

I assume there is at least an assumption on the part of the members of the committee that they know enough about what that report would show that they are confident that at least this amount of money would be expended on this kind of a transportation mix.

But that is an assumption which I am not prepared to make. I do not know how many Members of the Senate are prepared to make that assumption.

There has been some comment made about the budgetary impact. I commend the Senator from Maine for his remarks, and I particularly commend the Senator from New Mexico for expressing his concern. While we can analyze this legislation and look at what the 1976 fiscal year budgetary impact would be in terms of outlays and in terms of obligational authority, I think the Senator from New Mexico is correct in saying this propels us on a course of conduct in which our future options are more limited than they would be if we did not enact this legislation.

So for at least a large, measurable part of our budget in the future the Congress is already committing itself to future expenditures in directions in which future Congresses will have very little discretion to apply.

It has been said by the proponents of this legislation that only by enacting this bill can we avoid nationalization of the Nation's railroads. It seems to me if we take the collective and progressive action of the Congress in its various ways of dealing with the rail crisis, what we really see is nationalization by the installment plan. I am not at all interested in contributing to that.

If, as a matter of fact, I misunderstand the import of this, again let me just repeat what I said at the outset. There is my sense of frustration in trying to read in the aggregate 560 pages of bill and report and understand it in the very limited time which has been given to us to understand it.

Mr. STEVENS. Mr. President, I know the Senator from Ohio has an amendment to offer, but I would like to state with regard to the comments which have just been made that I do feel this is the only alternative to nationalization. I shall vote for the bill even though I have voted for some of the amendments that I wish had been adopted because I think we might start with a lesser amount in trying to pursue this option to prevent nationalization of the railroads of this country.

It does seem to me that it is high time that we realize that there has been an inequity of the distribution of funds in the past. It has not been something from which the railroads were excepted. I remember, for instance, that Abraham Lincoln started the railroads to the West with a subsidy. A lot of people forget that. We subsidized the railroads with public land as they went west. But the eastern railroads have tried to survive through the total economic system that we have of free enterprise in a period of highly competitive transportation systems from the air, the bus, and the private automobile. I believe we have ignored the needs of the railroads all too long.

Even though this bill does not touch my State in any way, I think, as an alternative to nationalization, it is an experiment that we should try. For those people who are opposing it, I only mention, as the Senator just mentioned, that if they had a longer time to study it, as the Commerce Committee has, I think they would realize that for those people who abhor nationalization as much as I do they would be willing to support this bill as a reasonable effort toward restoring the health of our railroads, particularly in the Northeast corridor.

Mr. TAFT. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. TAFT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 171, between lines 16 and 17, insert the following new section:

SEC. If, for any period of two consecutive years, the revenues of the Consolidated Rail Corporation shall be more than 25 per centum below those predicted for said two-year period by the United States Railway Association, the Secretary of Transportation shall proceed with a process of controlled transfer of the properties of the Consolidated Rail Corporation to such other corporations, entities, or individuals as may be desirous of purchasing said properties for the purpose of providing rail transportation services.

Mr. TAFT. Mr. President, I will not take a great deal of the time of the Senate, but I believe there are some things that should be said at this point before we vote on the bill for the future record.

It has become pretty obvious that this bill is in trouble at the present time. There certainly is every indication that unless we change it very materially, in fact, perhaps, to an extent where it would be unrecognizable, it is going to come back from the White House, judging by the votes on the amendment which I proposed earlier, and there will be the difficulty of passing it over a veto.

At any rate, I think it is worth taking just a few minutes to explore the basis that we are trying to get off on here, and get Senators thinking about it perhaps more before we do get to that point.

The amendment I have called up is an unnumbered, unprinted amendment. It is a very simple amendment. Just reading the pertinent portion:

If, for any period of two consecutive years, the revenues of the Consolidated Rail Corporation shall be more than 25 per centum below those predicted for said 2-year period by the United States Railway Association.

And that prediction is in the United States Railway Association system plan, which does have yearly projections in it.

The Secretary of Transportation shall proceed with a process of controlled transfer of the properties of the Consolidated Rail Corporation to such other corporations, entities, or individuals as may be desirous of purchasing said properties for the purpose of providing rail transportation services.

I should say that I wish to advise the Senate—and this is some good news—that I do not expect to call up my printed amendment No. 1178, but I do call it to Senators' attention, because from the outset I have been very dubious about the approach taken by the committee toward this entire problem and the ConRail concept, which seems to me to be an unsound concept. I have felt from the beginning that some alternative should be offered, and my amendment No. 1178 was introduced originally as a bill (S. 1801) to provide such an alternative plan, and I went into detail on that on May 21, in the CONGRESSIONAL RECORD, detailing why I thought such an approach was necessary.

Mr. President, there are a great many things these days which are a mess. Indeed, if an irreverent historian were to characterize this century, he might well name it the century of colossal messes. But high among these messes, both in magnitude and in its claim on our attention, stands the mess our railroads are in.

When I point this out, I point out nothing new. There are few of us who are not all-too-familiar with the decay of our once great railroad system. The very mention of railroads today brings to mind not visions of pullman palace cars and crack limiteds, of rain, steam, and speed, but of rotten ties, rails like cooked spaghetti, and tumble-down stations, of wheezing engines, lines of motionless cars, and equally endless lines of forlorn stockholders, their former giltedged securities now lining the bottom of the birdcage. With occasional exceptions, the American railroads have become the little engine that couldn't.

There has been no lack of plans to tackle this problem. Already in this session of Congress we have seen numerous bills introduced to deal with some aspect of the railroad problem. Unfortunately, no one to date has proposed legislation which tackles the whole problem, going after not the symptoms but the causes of the disease; and which is based on a free-enterprise solution. Those two tasks are what this bill hopes, modestly, to attempt.

Both tasks must, in fact, be accomplished: The Nation is dependent on a functional rail system. But strangely, little attention has been devoted to them. Our deliberations have tended to focus on the symptoms of the disease; not the cause. After all, bad track is not the cause of the rail industry's trouble, but the result of it—the result of 25 years of a rate-of-return on investment not equal to the cost of capital, hence of disinvestment. Is there any gentleman in this Chamber who would do what we have asked railroad investors to do, and invest for a return under 3 percent? We look at the Penn Central, and we say, "Management was bad: They disinvested in the railroad and put their funds into other sectors of the economy." I would suggest that at the rate of return railroads have been allowed, any management which did not disinvest should be tarred and feathered by the stockholders. Is the problem lack of track maintenance? No. That is the symptom, not the disease. The disease is lack of ability to compete in the capital market, and that, in turn, is a product of Government regulation, of the general mess created when Government tries to "improve" the free market. The railroad mess is, above all, an example of the fact that economic laws do not need police to enforce them.

Simply restricting the role of the ICC is not enough to put railroading back on a free enterprise basis: ICC authority over ratemaking and abandonment must be eliminated.

I must question the proposal for $4.4 billion in Government-guaranteed loans for rebuilding of roadbed. First, I am not at all certain Government funds are necessary for the purpose, except in relation to the bankrupt Northeast railroads. If we take the actions required to return railroading to a free enterprise basis, and thus permit the railroads to obtain a competitive rate of return on investment, they will once again have adequate sources of both internal and external private capital for right-of-way maintenance. Railroad management will also have the necessary economic incentive to invest in permanent facilities.

Thus far, we have ignored the disease, and worried mainly about the symptoms. But even there, the prescriptions offered have been, for the most part, for more of the same medicine that has already brought the patient to a near-terminal condition: That is, Government intervention, Government control. We see proposals for Government corporations, Government carpools, Government trust funds. In short, we see a steady move, at immense expense to the taxpayer, in the direction of nationalization of the railroads.

That is, I fear, the choice we now face, without fully realizing it: Do we move, now, decisively, to return railroading to a genuine free enterprise situation, or do we nationalize the railroads?

To me, nationalization by any other name—ConRail, Confac, and so forth—smells just as expensive. It suggests at least $100 billion of taxpayers' money in capital costs, plus endless yearly deficits in the billions.

It suggests a decisive break with the American tradition, the tradition that industry is the preserve of the free citizen. Yet it is toward nationalization that we are, clearly if unsystematically, moving.

It is the purpose of this amendment to halt that move, and to reverse it. It is the purpose of this amendment to reaffirm our belief in the free enterprise system—which is to say our belief in the American citizen, in his ability, as a free individual, to build through his investment and his labor, the industry of our society.

This amendment is directed to the basic aspects of the fundamental problem of our railroads. It is a free enterprise amendment, a clear-cut alternative to our steady drift toward nationalization of the railroads. It is an amendment which I believe can solve the railroad problem, because I believe free enterprise can solve that problem. It does, indeed, mandate some Government financial involvement in the solution. The Government has caused the problem, and the Government must now pay for its mistakes. But that involvement is minimal, and it does not expand Government control—gradually, it eliminates it. I believe a free enterprise solution can and will work, because I believe in the American people. I certainly believe a free enterprise solution will work better than one which would create the largest and most complex Government bureaucracy of all, which is what a nationalized rail system would be.

The amendment has four basic parts. The first deals with the most pressing aspect of the rail problem: The bankrupt railroads of the Northeast.

The Congress recognized the gravity of the Northeast rail crisis, particularly of the bankruptcy of the Penn Central, in 1973, when it passed the Regional Rail Reorganization Act. That act directed the establishment of two bodies: The United States Railway Association, a planning body; and ConRail, a new railroad corporation. The theory behind the act was that the USRA would designate certain lines from the Northeast bankrupts to become ConRail; and that this slimmed-down ConRail system would then become a private, profitmaking, corporation.

The process established by the act has gone forward as planned. There is only one problem: There is little, if any, prospect that ConRail, as we see it emerging from the USRA planning process, will ever make a profit.

Under the Regional Rail Reorganization Act, Congress established the Rail Services Planning Office as a monitor of the USRA. The RSPO has issued its report on the USRA's preliminary system plan. To quote the RSPO study:

> To characterize the financial data presented as portraying a financially self-sustaining rail service system for the region would require a considerable exercise of semantic elasticity.

If we are as optimistic as the USRA, ConRail would, between now and 1985, require Government financing—not including payment for the rail properties acquired, and after debt retirements—of $1.8 billion. If we are just a bit more realistic in regard to inflation and ICC policy, that rises to $2.2 billion—compared to $1.8 billion in revenue earned by ConRail over the same period.

As Prof. Alexander L. Morton of the Harvard Business School has noted:

> The bankrupt railroads will need a reversal in their earning power of about half a billion dollars per year to make the CRC (ConRail) a financial success. What provisions does the RRR Act contain to promote such a dramatic turnaround? Either the bankrupts must increase revenues while holding costs constant, or they must reduce the cost of handling existing traffic. We can cross off the prospect of substantially increasing revenues in the near future. The freight-ton mileage of the bankrupts has actually decreased 30 percent since the end of World War II, a decline that is the product of long-term trends such as the diminishing importance of coal, inroads from the trucking industry, and the slow growth of the New England region relative to other areas. In the years ahead, larger shipments of foodstuffs for export, greater use of coal by utilities, and some shift of traffic back from trucking may stem or even reverse this downtrend. Nevertheless, it is questionable whether the bankrupt carriers would now have the truck capacity and equipment to carry much more traffic should new business materialize. Long under great financial pressure, these carriers allowed their freight-handling capacity to contract as freight traffic dwindled.
>
> Higher freight rates would be another means of expanding railroad revenues. The Interstate Commerce Commission granted a 10 percent across-the-board rate increase this past summer to boost revenues. If the past is any guide, however, freight rate increases permitted by the Interstate Commerce Commission will lag behind the inflation of wages and other costs. Thus, it appears that the turnaround in operating income must be accomplished primarily through cost economies . . .
>
> Estimates of how much the rationalization process will help the railroads assume that the USRA and the CFC will be given a free hand in pruning the network and restructuring operations. The opposite is more likely the case, however. Shippers, communities, and States have usually fought the downgrading or abandonment of rail service over individual lines, even where such abandonment only reduces the choice of routes rather than leaving shippers without rail service altogether. Already regional groups are mobilizing to protest the envisaged cutbacks. The RRR Act itself lends some support to their efforts with the declaration: "Abandonment, termination or substantial reduction of rail service in any locality will adversely affect the Nation's long-term and immediate goals with respect to energy conservation and environmental protection." The Board of Directors of the USRA, which is responsible for designating which lines shall be retained in the final system plan, is likely to put teeth into this congressional mandate.
>
> At least five of the eleven members of that board—those representing cities, States, and organized labor, and the two representing shippers—may be expected to oppose any cutbacks made at the expense of their constituencies. Where the CRC is obliged to continue to provide freight service along uneconomic branch lines, it qualifies for Government subsidies to reimburse operating losses. The act sets aside up to $90 million of Federal money for each of the next two years to aid the States in paying these subsidies. These funds will, of course, help eradicate present losses.
>
> Once the final system has been designated, it may be possible to achieve further operating economies by improving rail plant—upgrading main-line track, improving signaling systems, rehabilitating terminals and yards, and so on. Such improvements, however, incur large capital costs of their own. While the RRR Act provides up to $1.5 billion in Government-guaranteed loan funds, this is hardly an adequate amount, given the dilapidated condition of the Northeastern rail plant. For example, about 40 percent of Penn Central's routes are under "slow orders" which requires trains to operate below their normal speeds because of the unsafe condition of the track. Estimates of how much it will cost to rehabilitate the rail plant and restructure the system range between $2 billion and $8 billion. Considering the recent wage inflation and the doubling in cost of steel rails and wooden crossties, it is unlikely that the cost could be less than the $2.9 billion recently estimated by the Penn Central trustees. If the CRC must finance these improvements with funds borrowed at prevailing interest rates, it will incur capital costs of $200–$300 million per year, a huge offset to any operating economies that may be achieved.
>
> However necessary rationalization and restructuring are, they are not likely to erase present operating deficits. Where else can the bankrupt lines achieve operating economies? Theoretically, at least, labor costs could be cut enough to eliminate the losses entirely. Wages and salaries comprise 50 percent of operating expenses, and restrictive work rules are widely believed to inflate railroad costs needlessly. The act effectively protects rail employment near existing levels and provides no significant reform of work practices. It requires an offer of employment to all persons under age 65 who have been employed more than three years by any of the railroads joining the CRC. Employees can be furloughed by the CRC if the rationalization causes a lack of work, but furloughed employees continue to draw full salary. The act creates a fund totaling $250 million that may be used to pay the wages of furloughed employees. This amount will not go far, however, for it is less than one-fifth the annual wage bill of the bankrupt railroads.
>
> Labor costs for the CRC may actually rise above recent levels. Formerly, rail labor unions permitted the financially strapped Penn Central to eliminate jobs as workers retired or quit.
>
> Total employment on the Penn Central declined from 120,000 in 1961 to only 89,000 in 1971. Now that the Federal Government has interceded, the unions may be more reluctant to permit the CRC to change work rules to eliminate jobs, even when those jobs become vacant.
>
> Perhaps nothing would be so helpful in resuscitating the Northeastern railroads as an infusion of energetic new management. The RRR Act stipulates that the CRC be headquartered in Philadelphia, (the headquarters of the Penn Central). . . .
>
> But it is doubtful that the ambitious, creative, resourceful talent needed to invigorate the CRC and to expand Northeastern rail markets will be found in sufficient depth within the present ranks of Penn Central management.
>
> Things may, in fact, go from bad to worse. Under the RRR Act, six or seven bankrupt railroads will be merged into one. Yet most observers feel that the 1967 merger of the Pennsylvania Railroad and New York Central was a principal cause of the Penn Cen-

> tral bankruptcy three years later. One advantage of the Penn Central and other private railroads is that their boards of directors are (in theory at least) united pursuant of efficient railroad operation. In contrast, the prospective boards of directors of the USRA and, by extension, the CRC are quite explicitly divided and political. Included among the eleven members of the USRA's board are representatives of organized labor, profitable railroads, shippers, cities, States, and the financial community, in addition to the Chairman of the Interstate Commerce Commission and the Secretaries of Transportation and Treasury. Superimposing a highly political board of directors on a management whose "track record" is already poor can only make restoration of the bankrupts more difficult. . . .
>
> In short, there is scant hope that the RRR Act will revitalize Northeastern railroads. The theory is that a viable new railroad can be created if it is permitted to escape from under the blanket of obligations, regulatory restrictions, and debt that suffocated its predecessors. But it now appears that even the CRC will not emerge unburdened from the service obligations, labor practices, governmental controls, and dispirited management plaguing the bankrupts.

In short, ConRail's prospects of being a profitable railroad are dismal. Not even its supporters argue it can make money for quite some time, and USRA admits its projections are highly theoretical. What else, really, is to be expected? For ConRail is, in the end analysis, the Penn-Central expanded and renamed.

If we go ahead and establish ConRail, and it does not succeed financially, it will require continuous Government subsidy. With the subsidy will, naturally, come Government direction.

And with permanent Government funding and direction, we will have nationalized a large part of our railroad system.

This is the danger facing us. But although we face this great danger in the Northeast rail crisis, we also face a great opportunity, an opportunity to rationalize not only the Northeast rail system but that of the entire Nation—and to do so on a private-enterprise basis. The opportunity is to create a healthy, privately owned rail system of coast-to-coast and north-to-south rail lines. The means to do this is to eliminate ConRail and sell off the Northeast rail lines in a process of controlled liquidation.

One of the best studies to be produced by any arm of the Government in recent years is the report of the Task Force on Railroad Productivity, "Improving Railroad Productivity." This report notes that:

> The railroad industry is presently composed of 68 Class I operating, line-haul railroads plus several hundred smaller companies. This fractured or balkanized structure has been a primary factor in preventing the industry from developing and implementing an industry-wide strategy for responding to changes in the freight market. The fact that individual railroads must depend on one another for cooperation at the same time that they compete with one another, creates a set of internal pressures and incentives that have numerous perverse effects. There is at present neither effective cooperation nor effective competition within the industry. Profound changes during the past century—in the character of freight demand, in the extent of truck competition, and in rail technology—all argue for a distinctly different corporate structure for the industry than that which survives today. The industry should be restructured into four, five or so continental railroad systems that operate and compete with one another nationwide. This would give managements of individual railroads the opportunity to manage independently of other railroads and would create effective intramodal competition in all the major regions of the country. Such a restructuring has the incidental advantage of providing a most attractive long-run solution to the railroad crisis in the Northeast.

And as Professor Morton has further noted:

> The best way to dispose of the bankrupt Northeastern railroads is not to ignore the lesson of the Penn Central merger and combine them into one still larger muddle. Instead, the bankrupts should be broken up and sold off in pieces to the more prosperous Southern and Western railroads. The Penn Central should be split into its former parts; then the Erie, the old New York Central, and the old Pennsylvania Railroad would provide opportunities for at least three Western and Southern trunk lines to extend their operations into the richest freight territory in the world. For one thing, this disposition would cause a relatively quick infusion of new railroad management into the Eastern lines.
>
> For another, it would maintain and even enhance railroad competition in the Northeast rather than eliminating it. Finally, and perhaps most important, such a disposition would help end the present interchange of rail traffic at Chicago and other Mississippi River gateways. The interchange at these gateways is so slow, so unreliable, and so costly that many Eastern shippers prefer to truck their cargoes hundreds of miles for direct loading onto Western railroads rather than ship them through the Penn Central. Even containers moving through Chicago are more often than not transferred from one railroad to another by truck. The task force report claims that no reform is as important to the long-run prosperity of American railroading as the formation of four to seven independent, competing continent-wide railroad systems. The sale of the Northeastern bankrupts to Western and Southern railroads would thus aid the development of nationwide rail systems at the same time that it would help solve the problem of what to do with the bankrupt railroads.

The first title in this amendment is designed to set this process in motion. It directs that once the final system plan is devised, instead of turning it over to ConRail, it shall be auctioned off to free enterprise in a process of controlled liquidation.

Controlled liquidation is the alternative to ConRail. Controlled liquidation means quite simply, that the lines of the bankrupt railroads will be sold to the highest bidder who wishes to acquire them for transportation purposes—the lines could not be sold for scrap. By the provisions of this bill, within 180 days of enactment USRA shall propose to Congress a plan for controlled liquidation.

In short, what my proposed alternative called for was a liquidation of the railroads to those who might be interested in picking up portions of the railway, and then providing for the branch line problem by providing for subsidies of those lines that could not be operated profitably by other railroads which are operating profitably throughout the country.

It may be said that there would be no purchasers for that. I do not find that to be true. The Penn Central indicated to us back as early as February that they had had, over the last few years since they have been in trouble, no less than 85 different inquiries made from various other railroads as to various portions of their line. These apparently would not be pursued under the proposal for ConRail here.

I think under the circumstances we ought to be ready, when we find that ConRail operates at such a deficit, to decide that we are either going to have to go this way—since I see no reason why ConRail would not operate at a greater deficit than Penn Central has operated it, we ought to be ready to go either this way or to total nationalization. I am against nationalization, but I do think the other alternative ought to be provided, so we would not be locked into ConRail when we find it cannot be operated any more successfully than Penn Central has operated.

I call attention to the statement of the Penn Central trustees on the U.S. Railway Association's final system plan, dated September 16. All through this document, it is indicated very clearly that they feel there is no reason why ConRail should be able to operate any more in the black than has the Penn Central under the circumstances here involved.

The approach in this bill, I think, is as the distinguished Senator from Louisiana mentioned a few moments ago, a real watermelon. I have already said what I thought about the wastefulness of the Northeast rail proposal or Northeast corridor proposal in the amendment which did get 37 votes here in the Senate. I also want to refer to the frustration which I share to a degree with the distinguished Senator from Idaho, who just spoke of his reluctance to even make a decision on this bill.

We have followed it fairly closely in the committee, but it is true that the bill itself was not available until a day or two ago, and we have not had a chance to follow in any great detail any changes that might have occurred in it.

The argument for this amendment is very simple: If the USRA, the committee, and the Congress believe ConRail will succeed, then they should have no fear of providing for its not succeeding. If the committee is right, then this amendment will do nothing; but if I am right and ConRail fails financially, then we will attempt the solution of controlled liquidation.

The committee says in its report, at page 27, that "the committee believes that this approach (ConRail) is the final step which can be taken to prevent nationalization of these railroads." I assume the committee does not want nationalization. So why not create another alternative? Why not have another alternative in the law? That is what this amendment would provide—another alternative to nationalization.

I do not see what objection the committee could have to this amendment. If the committee is right, this amendment will never take effect. If the committee is wrong, it will provide another alternative—a free-enterprise alternative—to nationalization. I hope the committee will accept the amendment.

Mr. HARTKE. Mr. President, I understand what the Senator from Ohio is interested in doing, but this amendment is unacceptable to the committee.

First, it practically duplicates section 608 in the legislation before us. It raises the question of what to do with supplementary transfers. We have gone into that problem, I think, as thoroughly as we can, and what we have put into the legislation is suitable authority. The amendment would merely provide for the supplementary transfer, without making sure that the operation was a financial failure first.

In other words, the whole idea of what we are trying to do is to put together a system to work to the best advantage of everyone, and the authority in this bill is for supplementary transfers without that type of assertions. I think the bill provides for the type of review which is in the best interest of the public and, in the long run, of the Midwest and Northeast sectors, which will be affected. It provides for review by the Interstate Commerce Commission and by a special court, which will make sure that whatever is to be done in this field will be fair and equitable. Otherwise, it could lead to an unconstitutional taking under the fifth amendment.

We are opposed to this amendment since it is inferior to the provisions of the bill as reported.

Mr. TAFT. Mr. President, I am not going to belabor the matter, but the transfer provision in the bill is plainly designed to take care of a very small portion of this operation, without regard to the overall operating results. All my amendment does is take a look at the overall operating results when you begin to see them.

Projected returns have been set up. It has been estimated that under the bill, the U.S. Railway Association plan, by 1978 or 1979 there will be a break even, and by 1981 or 1982 it will be profitable. There are annual projections put into the study.

All we say is that the overall operation does not meet those figures. I would not even say those figures; I say 25 percent less than those figures, over a 2-year period. Then we shall have to go to some other system, either go to nationalization, or drag on with the continual subsidies involved here.

The only purpose of the amendment is to provide an alternative way out. I think it is a very necessary approach to the problem, and one that I hope, if we do not pass it today, we will be able to at least put into the bill as a reasonable alternative proposal. There ought to be some standard or yardstick by which ConRail can operate, so that we do not drag along with this version when it turns down the course that it seems to me it is pretty sure to follow.

Mr. HARTKE. Mr. President, I think it is taken care of in the bill quite adequately, especially in view of the fact that that is what has to be done each and every time USRA provides any money for ConRail.

My judgment is that the language of the bill is superior to that of the amendment.

Mr. TAFT. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio (Mr. TAFT). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Washington (Mr. JACKSON), and the Senator from Mississippi (Mr. EASTLAND) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Pennsylvania (Mr. HUGH SCOTT) are necessarily absent.

I further announce that the Senator from Utah (Mr. GARN) is absent attending the funeral of a relative.

I further announce that, if present and voting, the Senator from Pennsylvania (Mr. HUGH SCOTT) would vote "nay."

The result was announced—yeas 28, nays 63, as follows:

[Rollcall Vote No. 551 Leg.]

YEAS—28

Allen
Bartlett
Buckley
Byrd,
  Harry F., Jr.
Chiles
Curtis
Dole
Domenici
Fannin
Hansen
Haskell
Hatfield
Helms
Hruska
Johnston
Laxalt
Leahy
McClure
Nunn
Packwood
Scott,
  William L.
Sparkman
Stennis
Stone
Taft
Talmadge
Thurmond
Tower

NAYS—63

Abourezk
Baker
Beall
Bellmon
Biden
Brock
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Church
Clark
Cranston
Culver
Durkin
Eagleton
Ford
Glenn
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Hathaway
Hollings
Huddleston
Humphrey
Javits
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Stafford
Stevens
Stevenson
Symington
Tunney
Weicker
Williams
Young

NOT VOTING—9

Bayh
Bentsen
Eastland
Fong
Garn
Goldwater
Inouye
Jackson
Scott, Hugh

So Mr. TAFT's amendment was rejected.

Mr. HARTKE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MOSS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HARTKE. Mr. President, I ask for the third reading of the bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. Senators will clear the well. Senators will please take their seats and refrain from conversation.

Mr. ROBERT C. BYRD. Mr. President, I yield myself 1 minute.

I am not in a position to state that this will be the last vote tonight. We do not know yet.

The PRESIDING OFFICER. The Chair appreciates the notice.

ADDITIONAL STATEMENTS SUBMITTED ON S. 2718

Mr. HARTKE. Mr. President, the committee considered an amendment to the RRRA that would preserve for small solvent carriers in the region the opportunity to compete with ConRail by requiring ConRail to maintain through routes and joint rates now in effect between the smaller carriers and the railroads in reorganization whose rail properties will comprise ConRail. Similar requirements have been imposed by the ICC on every merged railroad for decades, and were also imposed on profitable railroads that are acquiring rail properties under the RRRA; however, the RRRA omitted to provide the ICC with authority to impose them on ConRail.

The committee considers it vital to the preservation of competition in the region—a goal of the RRRA itself—that ConRail not close off joint routes involving smaller carriers that now offer competitive service. However, ConRail and several small solvent carriers have not concluded agreements under which ConRail would agree not to take any of the actions that the ICC has traditionally forbidden merged carriers to take with respect to through routes, joint rates, and other matters that would adversely affect the smaller carriers and the shipping public. All changes will be in accordance with established Commission procedures. I would like to point out that there will be changes—improved and more efficient traffic flows are one of the goals of merging these bankrupt railroads into a rehabilitated carrier.

In light of these agreements, the committee did not feel that legislative action is necessary.

Mr. HUMPHREY. Mr. President, our Nation is faced with many important transportation decisions. What happens in the next few years will set the stage for coming decades and generations. We must look carefully at some of the unanswered questions related to the continuing problem of moving people and goods from place to place.

The Rail Services Act of 1975 which

we are considering today will take steps to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, rehabilitation and improvement financing, and creation of a national rail branch line policy.

I commend the distinguished chairman of the Senate Subcommittee on Surface Transportation and his colleagues for their work on this legislation which is designed to promote the revitalization of the railroad industry in the United States.

I am particularly pleased to see that some of my proposals in this regard have been incorporated into the Rail Services Act by the committee: Provision for a national transportation study which would include the interrelationship of all modes of transportation; classification of rail lines based on economic viability and level of use; establishment of a rail trust fund for nationwide rehabilitation and improvement of tracks; an assessment of the extent to which public ownership of the railroad rights-of-way could improve national rail transportation; and provision for State and local responsibility in deciding the necessity for local rail service.

The problem of light density of branch lines is reflective of one of the basic problems facing the rail industry. The lines are extremely vulnerable to competition and are the most economically exposed. The Local Rail Service Assistance program established by this act is an effort to see that our rail facilities are not so irreparably reduced in size that this energy and environmentally efficient mode would not be capable of meeting future responsibilities. It also does not continue to require the railroad industry to internalize losses from branch line operations, thus further jeopardizing the industry's already precarious economic health.

The criteria for continuing local service are necessarily based on "public convenience and necessity," relative operating costs, and economic viability of the service.

I am particularly pleased that the Senate in adopting my amendments to the Rail Services Act has recognized the impact that local rail service and proposed rail abandonments thereto will have on rural and community development. In determining whether an abandonment is consistent with public convenience and necessity, the Interstate Commerce Commission will now also consider whether there will be a serious adverse impact on rural and community development by that abandonment or discontinuance.

The development of a national transportation program mandated by title III of this act is one which I have long advocated as a necessary first step before we pursue policies which, once set in motion, may be difficult to change. An additional report, required by my second amendment, will provide badly needed information on the anticipated effect of rail abandonments in States outside the Northeast and Midwest region. Just as we did for the Northeast, we need sufficient facts on how rail abandonment in the rest of the country will affect the growth and development of rural America.

Notwithstanding its obvious effects on agriculture, transportation affects 9 out of 10 nonmetropolitan families who do not depend on farming as their chief source of livelihood.

Many abandonment cases emphasize the effects on railroads and affected shippers, rather than the aggregate impact on communities. In rural areas, factors such as changing population patterns, social trends, employment and income will be significantly affected by these policy decisions.

The deterioration of our Nation's railroad system places an extreme burden on our rural roads and denies efficient rail transit to many communities. In the last 8 years, the railroads have been permitted to abandon over 1,043 miles of transportation artery in Minnesota alone, leaving 68 Minnesota cities orphaned to an inadequate highway transportation system. Pending abandonment applications could add another 450 miles of key alternative transportation artery and another 29 Minnesota cities to the blueprint for economic havoc.

Each time a so-called unprofitable rail line is abandoned, more than just the track lies idle. Farmers are forced to use more expensive forms of transit. Farmers already faced with an intolerable situation find the cost of producing, with the increased shipping charges, even higher. A transportation task force study on grain movement costs in southwestern Minnesota last year indicated that farmers lost up to 30 cents per bushel when forced to move their grain by truck rather than by rail.

Small businessmen must pay more for the delivery of their goods. Local manufacturers lose a key link with their sales areas. Local businessmen become hesitant about expansion. In short, the fear of rail abandonment works actively against small towns and farming communities.

The committee has recognized that the long-term needs of the Northeast/Midwest region require a continuing program for maintaining local rail services that have social and economic benefits that outweigh the costs of operation.

However, local rail services are also a crucial factor in rural development, which promises major social and economic benefits. Our urban areas would definitely share these benefits.

Let us look for a minute at Minnesota, a predominantly rural State. It has large agricultural harvests and an important dairy industry; its mines yield most of the iron ore now produced in the United States; its forests provide large sources of pulpwood, and its manufacturing industries continue to grow and diversify. As a result, Minnesota continues to rely very heavily on a strong and economically viable system of local and national rail transportation. Only a system in which all its operating parts are healthy can hope to provide this kind of efficient and necessary service.

In 1973, Minnesota shipped to the Northeast alone by rail about 444,800 tons of its farm products and some 1,385,100 tons of its food and similar products. That same year, Minnesota received from the Northeast and Midwest by rail some 275,000 tons of chemicals, 431,000 tons of primary metal products and 69,400 tons of fabricated metal products, 13,000 tons of machinery, 31,000 tons of electrical machinery and equipment, 365,000 tons of transportation equipment and some 44,600 tons of clay, concrete, glass, and stone products.

It is imperative, therefore, that the interrelationship between transportation, including the rails, and rural development be considered in the national transportation study mandated by this legislation.

The industrial and consumer interests of Minnesota rely on rail service provided by the railroads in the State, including the branch lines. It is my understanding that many of these essential branch lines, although few in number, are in desperate condition. The proposed Federal subsidies for local rail service at 100 percent for the first year and 90 percent thereafter should help.

But to adhere to a strict mileage or economic tests for funds may be shortsighted. I would hope that the current condition of track and demonstrated need of shippers and communities would also be considered in allocating the subsidy funds.

In conclusion, the solution to the rail crisis is not an isolated problem which has little or no effect on other regions of the country. Rather, it is a problem that affects the entire Nation.

The time has come for the Congress and the administration to take a comprehensive look at the transportation needs of rural as well as urban America, so that we may insure the development rather than the dismantling of essential transportation services. The provisions of the Rail Service Act, as amended, are a step in this direction.

Mr. THURMOND. Mr. President, once, this Nation had a great railroad system—a system which was a magnificent tribute to the success of free enterprise and admired throughout the world. Today, in some parts of the United States, and especially in the Southeast, we still have a profitable railroad network. However, in much of the Northeast and Midwest, the rail system is an enormous mess, with at least nine railroad companies either in a state of bankruptcy or on the verge of it.

The impending collapse of the rail transportation system threatens all of us, even if we do not happen to live in the Northeast or Midwest. If all the bankrupt lines were to suddenly cease operation, it would certainly mean economic disaster in the Northeast, where as much as 45 percent of all freight now moves over the giant Penn Central and other bankrupt lines. Furthermore, these bankrupt lines connect with financially successful lines in other parts of the country. Hence, it is clear that the restoration of a viable, nationwide network for movement of freight by rail is in the best interest of all of us.

The legislation now before the Senate, S. 2718, is both complex and costly. It has a number of highly desirable features, which I have long advocated. For instance, titles I and II of this bill address the regulatory system under which railroads now operate. I am pleased that the Senate Commerce Committee has recognized the need for reforming the regulatory process, so that railroads will be able to realistically compete with other modes of transportation, while also providing fair, nondiscriminatory rates for rail service customers. These provisions of the bill are good; they represent steps in the right direction of returning the rail system to free enterprise, and if these were the only features of this bill, I would vote for it.

However, beyond title II of this legislation, the bill changes drastically from a measure that will help the railroads and rail users, to a bill which would cost the taxpayers billions of dollars, with little prospect of success or an equal return in benefits.

Mr. President, I think it is abundantly clear that the Northeastern railroads have reached a bankrupt state because of mismanagement; unfair regulatory constraints; and costly, featherbedding, labor work rules. Hopefully, implementation of the U.S. Railway Association final system plan will result in vastly improved rail system management. I am reasonably confident that those portions of the bankrupt rail lines which are being taken over by the private sector, namely by the Chessie, Norfolk and Western, and Southern companies, will be better managed in the future.

However, I am extremely dubious that rail lines to be combined under ConRail will ever pay their own way. It will be far too easy for ConRail, as a quasi-Government corporation, to keep coming back to Congress to help pay their bills. In my opinion, Congress has already wasted too much of the taxpayers' dollars in an effort to bail out the Northeastern railroads. In spite of the billions of taxpayer dollars that have already been spent on these bankrupt lines, they are together still losing approximately a million dollars each day. Obviously, this losing proposition cannot be turned around by simply restructuring rail lines and giving them additional billions in Federal funds.

Mr. President, I am firmly convinced that the railroads of this Nation will never completely return to a healthy state until the shackles of overregulation, featherbedding, and other inefficient labor workrules are removed. Thankfully, this bill addresses the issue of unnecessary regulatory constraints by the Interstate Commerce Commission in a reasonably effective manner. Unfortunately, the bill does little or nothing to improve labor efficiency and productivity of railroad operations.

Even as we debate this bill today, the country is being threatened with a nationwide rail strike. Why? Because organized rail labor is still not satisfied with the stranglehold they have on the railroads. They already prevent rail management from eliminating unnecessary jobs. They already have been successful in negotiating contracts which guarantee them far more than a day's pay for a day's work. Now they demand that rail management extend these inefficiencies even further by contracting all rail repair and maintenance work only to organized labor. If rail labor does not receive what they want, then they plan to completely paralyze the U.S. economy by shutting off all rail operations.

Mr. President, I do not oppose the right of railroad employees to join unions and bargain collectively with rail management. However, I vehemently object to the virtually unlimited power which organized rail labor now enjoys. The great failure of this bill is that it does nothing to correct this situation. If labor inefficiencies are allowed to continue unchecked, there is little hope for the future success of America's railroads.

Mr. President, I ask unanimous consent to include in the RECORD at this point a brief summary of some of the ridiculous featherbedding and make-work rules which shackle rail operations today.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXAMPLES OF ARCHAIC OR "MAKE WORK" OPERATING WORK RULES IN EFFECT ON MOST CLASS-I RAILROADS

BASIS OF PAY RULE

100 miles, or 8 hours, constitutes a day's work with overmiles for miles run in excess of 100. Under this system, an employee frequently receives the equivalent of 8 hours' pay for as little as two or three hours' work.

CREW CONSIST REQUIREMENTS

Normally an engineer, conductor and two trainmen must be used on each train or engine, regardless of whether actually needed to safely and efficiently perform the work required.

STARTING TIME RULE—YARD SERVICE

Yard engines shall commence work only between the hours of 6:30 and 8:00 a.m., 2:30 and 4:00 p.m., and 10:30 p.m. and 12:00 midnight. Thus, regardless of when an engine is needed, it must be started during those time periods.

ROAD AND YARD SEPARATION

Rules segregating road and yard crews, restrict yard engines from spotting cars at, or switching at an industry which happen to locate in excess of four miles beyond the switching limits of a yard. Thus, for example, if a plant or industry locates five miles from a switching yard, a railroad is restricted, except under certain limiting conditions, from having yard crews perform switching at the plant, but must perform this service with its road crews, greatly reducing the amount of service the railroad can offer its customers. The same rules prohibit road crews, except in certain limited instances, from performing work in yards or terminals.

RUNNING OUTSIDE ASSIGNMENT LIMITS

Road crews have bulletined assignment limits. If operational necessity dictates use of a crew beyond these assignment limits, then it receives an additional day's pay for doing so, even if only a few minutes' time is so consumed.

EXAMPLES OF RULES PROVIDING ARBITRARY OR DUAL PAY ALLOWANCES

AIR HOSE COUPLING

95¢ extra allowance per tour of duty to each member of a yard crew when required to couple and/or uncouple hose.

INITIAL TERMINAL DELAY

When delayed leaving initial terminal in excess of 75 minutes, each member of the crew receives double pay computed on a minute basis until the train actually departs the terminal.

FINAL TERMINAL DELAY

When a train crew is held out of its final terminal thirty minutes or more, because of congestion or other reason, the crew receives double pay computed on a minute basis until the crew goes off duty.

WEIGHT ON DRIVERS

The weight on drivers of locomotives used determines the scale of pay for engineers. If more than one unit is coupled together, the engineer receives added pay, based upon the combined weight on drivers, even though a single control is still involved.

CAR SCALE

The number of cars handled in through-freight and local-freight trains determines the scale of pay received by conductors and trainmen.

FIREMAN PAY

Engineers working without firemen on locomotives on which under the former National Diesel Agreement of 1950 firemen would have been used, receive an additional $4.00 per basic day with 4¢ per mile additional for each mile operated in excess of 100.

PICK UP OR SET OUT LOCOMOTIVES

Engineers receive up to three 30-minute arbitraries per day, in addition to their regular pay for the trip, when required to pick up, set out for exchange diesel locomotives while enroute between initial and final terminals, including turning points in turnaround service.

TERMINAL SWITCHING

Engineers receive an arbitrary allowance of a minimum of one hour's pay, in addition to their regular service pay, when required to switch their trains or turn engines at terminals or turning points, or required to perform yard work or make up their trains at points where switching crews are on duty, even though this work is performed within the 8 hours for which they are already receiving pay.

HOSTLING ENGINE

Engineers required to hostle their engines (move them to or from the engine tie-up point or fuel them) at points where hostlers are not provided, receive added pay, with a minimum of 30 minutes, for the time engaged in such hostling, even though already on duty and under pay for their road or yard service.

Mr. THURMOND. In addition to ignoring the issue of rail productivity, this bill is highly objectionable because of its excessive cost. If Congress passes this legislation in its present form, the taxpayers may be hit with a total cost of $14 billion. The Secretary of Transportation has pointed out that the Senate bill includes far more money than was requested by the administration.

Especially wasteful is the expenditure of up to $6 billion to rehabilitate the Northeastern rail passenger corridor, so that trains can travel 150 miles per hour between Washington, D.C. and Boston. Renovating existing track for 120-mile-per-hour trains, as the administration has planned, would cost only about one-fifth as much. Inasmuch as this is special legislation to mainly benefit only one section of the country, I think the least the rest of the Nation can ask is that the rehabilitation plan be realistic and the cost be reasonable.

In summary, I recognize that this bill has a number of desirable features, particularly in regard to its emphasis on regulatory reform. However, on balance, the bill is sadly lacking because it ignores the glaring issue of labor inefficiency and does little to improve labor productivity. Furthermore, the bill is far more costly than it need be, at a time when the Federal budget deficit is already excessive. The Nation certainly does not need ineffective legislation, which fails to confront some of the most basic causes of the railroads' financial difficulties. The Nation cannot afford legislation which gives creditors of bankrupt railroads, ConRail, and the Northeastern rail passenger carriers virtually a blank check on the U.S. Treasury. I, therefore, urge that this bill be defeated.

Mr. President, I ask unanimous consent that an article on this subject appearing in the Washington Post of December 2, 1975, follow these remarks in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Rail Aid Bill Facing Veto As Costly

(By Nancy L. Ross)

President Ford plans to veto pending railroad assistance legislation because he considers it too costly and lacking protection for the U.S. Treasury against the railroads' creditors.

The Senate version comes up for floor action today and is thought likely to pass. A similar House bill is still in subcommittee. The legislation is intended to provide massive federal aid in the form of loans and loan guarantees for bankrupt and ailing railroads, and to improve passenger service in the Northeast.

The veto threat was made known yesterday by Transportation Secretary William T. Coleman, who said he had discussed it with the President before Mr. Foard left for China. At a news conference the secretary said, "I am very disturbed—and the President is even more disturbed—the (Senate) bill is completely unreasonable."

Coleman added that the President had made clear to him he wanted a railroad assistance bill before Christmas and would call the Congress back in session over the holidays if necessary to get one.

Reached late yesterday, the bill's sponsor, Sen. Vance Hartke (D–Ind.), declared, "I don't believe the President can really afford to veto (this) bill. The alternative (to enactment) would be catastrophic either total collapse or nationalization."

Specifically the administration objects to three provisions in the Senate bill.

1. Funding. Secretary Coleman said the $3 billion in aid to the Consolidated Rail Corp. (ConRail) the new line made up of the bankrupt northeast railroads, goes beyond the $2.1 billion proposed by the U.S. Railway Association and supported by the administration.

2. Certificates of Value. These would provide the creditors of the bankrupt railroads with a "blank check," in Coleman's words, on the U.S. Treasury. If the creditors sue the railroads, as they are likely to do because the railroads consider their assets worth far less than the creditors estimate, the certificates would entitle the creditors to receive whatever amount the court decides for those properties.

Coleman said the administration objects to this procedure, which he calculated could cost the Treasury up to $8 billion.

3. Northeast Corridor. The secretary said upgrading the tracks between Washington and Boston to enable trains to run at 150 miles per hour would cost up to $6 billion. Renovating existing track for 120 mph trains, a plan favored by the administration, would cost only around $1.2 billion. "I will not be party to something that costs $6 billion and then probably won't work," the secretary added, indicating he thought it might be technically impossible for trains to run at 150 mph.

In a telephone interview Hartke not only expressed confidence that U.S. technology could produce 150-mile-an-hour trains, but said Coleman's figure was double what it should cost.

Mr. BELLMON. Mr. President, from the budget standpoint the bill is filled with potential danger. Even though its authorized expenditures in fiscal 1976 is within our budget resolution, the bill proposes an authorized level of funding of $8.6 billion which will undoubtedly put tremendous pressure on the appropriations process next year and in years thereafter.

Also, there is a danger that unless Congress is fully alert to future developments, we could find ourselves locked in at an even higher level if the decision is made by Congress to fund and create a costly passenger rail system that will accommodate 150-mile-per-hour travel.

Title V of the bill unfortunately creates another trust fund, one that in future years might even be operated out of earmarked funds. These kinds of trust funds lock Congress into spending in future years, thus depriving Congress of the opportunity to review the merits of the expenditure in light of changing situations and the reconsideration of our priorities on a regular basis.

As a member of the Budget Committee I wish to point out that the operation of ConRail will be carefully and continually monitored. The approval of this legislation does not commit the budget process to funding at any specific level. Rather, the program will be considered on its merit each year during the budget process.

Mr. WILLIAMS. Mr. President, I urge my colleagues to support S. 2718, the Rail Services Act of 1975. This bill provides the means for carrying out the reorganization plan for the railroads in the Northeast and for revitalizing the railroads across the Nation.

S. 2718 corrects some serious deficiencies in the final system plan, particularly with regard to local rail services. The plan leaves considerable doubt about the future of commuter service and branch line freight service now operated by the bankrupt railroads. S. 2718 provides a firm basis for continuing these essential services.

COMMUTER SERVICE

As sponsor of the Urban Mass Transportation Act and Senator from a State which relies heavily on mass transit, I have been deeply concerned about the final system plan's potential impact on commuter rail service. Under the plan, ConRail would honor only certain long-term commuter contracts, which have been narrowly defined to include only Penn Central contracts with New York and Connecticut, and Erie-Lackawanna contracts with New Jersey. All other contracts would have to be renegotiated between ConRail and the States before the conveyance date. If new contracts were not negotiated in time, service could be discontinued on some lines as early as February 7.

In addition to this severe time constraint, the final system plan would sharply increase the States' financial burden for subsidizing commuter service. No Federal funds would be available to cushion this sudden increase. The Regional Rail Reorganization Act limits operating assistance to freight service, and current urban mass transportation funds are not designed to meet such emergency needs.

S. 2718 addresses each of these problems and provides reasonable and workable solutions to them.

First, it prevents discontinuance of any commuter service for 6 months after the conveyance date, as long as a State or commuter authority continues whatever level of subsidy it was providing prior to conveyance.

Second, it provides for the development of equitable standards for determining how much States should pay to subsidize commuter service.

Third, it requires ConRail to operate commuter service where a State or commuter authority offers a subsidy in accordance with the standards by the end of the 6-month moratorium. This requirement would not alter ConRail's commitment to honor long-term contracts.

Fourth, it adds a new section to the Urban Mass Transportation Act which would provide $125 million over a 2½-year period to help States absorb increases in commuter subsidies due to the final system plan and the new contract standards. During the 6-month moratorium, these funds would be used to reimburse ConRail for any losses it incurs in the mandatory continuation of commuter service. For an additional 6 months, the States would receive 100 percent of the increase in commuter subsidies resulting from the new contracts. For the next year, the States would receive 90 percent of this increase, and for the last 6 months, 50 percent. States receiving this emergency assistance would gradually be required to meet the conditions for operating assistance under the regular UMTA program. In this way, if further assistance is needed after the end of the 2½-year period, it could be provided within the context of the existing UMTA Act.

ACQUISITION OF COMMUTER LINES

Rail lines which are essential to commuter service but do not have profitable freight operations have been designated in the final system plan for transfer through ConRail to State commuter authorities. Three provisions in S. 2718 would facilitate the States' acquisition of these commuter properties.

The U.S. Railway Association has notified the States that if they exercise their option to purchase commuter lines through ConRail, they would become liable for any deficiency judgment against ConRail if the value ConRail assigned to the properties is found to be insufficient by the courts. Many States, including my own State of New Jersey, may not enter into an agreement with an unliquidated contingent liability for which a reserve appropriation cannot be established. By protecting ConRail and other acquiring railroads against future deficiency judgments, the bill insures that no deficiency judgment may be passed on to the States. This removes a major obstacle to the acquisition of commuter lines by the States.

The bill also provides that rail properties transferred from ConRail to the States for the purpose of providing commuter service must be transferred at a value similar to that for which ConRail acquired them. This would apply to any properties acquired within 2½ years of the date of conveyance.

To assist the States financially in such acquisitions, the entitlement funds under the rail service continuation assistance program could be used for acquiring commuter lines as well as freight lines.

BRANCH LINES

S. 2718 also provides assurances for the continuation of branch line freight service. I was most heartened by the Commerce Committee's decision to provide a 100-percent subsidy for branch line service for the first year after ConRail begins operation. This will give the States the time they need to budget for their participation in the subsidy program. Under S. 2718, the Federal share of local freight service assistance would be 90 percent over the next 7 years. I fully endorse this long-term assistance for essential branch line services.

Mr. President, I would like to commend my colleagues on the Commerce Committee for their constructive response to the needs of commuters and local rail users. I am particularly grateful to the Senator from Indiana (Senator HARTKE), chairman of the Surface Transportation Subcommittee, for his strong leadership in this area.

I offer my full support for S. 2718 and urge my colleagues to vote favorably on its final passage.

Mr. HARTKE. Mr. President, in view of the great interest this legislation has generated among the various modes of transportation, I would like to clarify the meaning of section 103 of S. 2718:

Subsection (e) of section 103 is intended to be an absolute limitation upon the application of the going concern value and variable cost standards in determining minimum reasonable rates and in regulating minimum rates generally.

First. The national transportation policy is intended to apply in full to each section of the act in the same way that it does at the present time;

Second. Sections 2, 3, and 4 are intended to be applied just as at present in determining the lawfulness of a rate and the rights of all parties, including carriers of competing modes, to complain of violations are intended to be unimpaired;

Third. It is not intended that any practice which undermines competition shall be made lawful by this act. This intent goes to any competitive practice which is unfair, destructive, predatory, or otherwise undermines competition which is necessary in the public interest. All such practices are contrary to the public interest and it is not intended that they are to receive endorsement from any of the provisions of this act.

Mr. McCLELLAN. Mr. President the Nation's railroads have been the victims of years of misregulation of neglect, and a multitude of other handicaps and problems too numerous to detail. As a result, these vital transportation arteries are, in many instances, facing severe economic crises and shippers and consumers alike are suffering from the decline in quality of railway transportation. This results in large part from individual railroad's inability to generate sufficient funds for the high cost of operation, for maintenance and rehabilitation purposes.

Because of this situation I joined as cosponsor of S. 1730, the "Emergency Rail Transportation Improvement and Employment Act of 1975," a relatively modest proposal which would authorize some $700 million to aid railroads in the rehabilitation of track and rights-of-way on significant routes. This bill passed the Senate on May 16 by a vote of 67 to 10. A similar measure passed the House of Representatives by a 261-to-129 vote on October 23. The measure would not, of course, solve all problems of the railroads, but it was a prudent beginning which would be consistent with the fiscal constraints under which the Federal Government is presently operating. Now before the Senate is another bill which would provide relief for the railroads. I have some serious reservations about this legislation.

This bill does in fact include several provisions with which I am particularly pleased. First, the bill attempts to simplify the tangle of the regulatory redtape which has hindered the railroads from competing equitably with other modes of transportation.

This bill also provides a more streamlined method for expediting railroad mergers, so the agony involved, for example, in the 10-year Rock Island-Union Pacific merger proceedings will not be repeated. Finally, the bill provides a framework for the reorganization o. many bankrupt railroads—those in the East and portions of the Midwest—with the hope that an economically viable railroad system may again become a reality for this part of the Nation.

Despite these favorable provisions, there are several aspects of the committee bill which I do not favor. One of these deeply troubles me in my role as chairman of the Committee on Appropriations. This provision involves the creation of a rail trust fund to finance some of the programs in title V of the bill. I will attempt to explain my objections to this provision.

Section 401 of the Congressional Budget Control Act provides that certain types of backdoor spending programs—such as those financed by contract and borrowing authority—be funded only as approved in appropriations acts. This provision, which is strongly supported by both Appropriations and Budget Committees, is a laudable one since it makes a larger portion of the $375 billion U.S. budget more readily controllable by the Congress. Improved controllability of the budget is essential if the Congress is to avoid massive deficits year after year and at the same time insure that high priority domestic and international programs receive adequate funding.

However, section 401(d) of the Budget Control Act modifies the first part of section 401 with a series of exceptions to permit some programs with backdoor spending to bypass full congressional scrutiny. This section contains a specific exclusion for trust funds which are not required to be subject to the regular appropriations process. As such, section 401 (d) could exempt many of the programs in title V of the bill from the appropriations process if these programs are financed now or in the future by some version of a Rail Trust Fund.

For this reason, most of the members of the Committee on Appropriations, I believe, oppose the creation of a new Rail Trust Fund or any other special purpose trust funds, which would only further fragment the appropriations process and would not provide for funding flexibility as needs and requirements change.

I had planned to offer an original amendment to strike the Rail Trust Fund, but I understand that in response to my concern, the Commerce Committee has accepted amended language to delete the Trust Fund and make all programs in title V of the bill subject to the appropriations process. Mr. President, this amendment strongly improves this section of the billl. I am glad the amendment has been adopted.

I am also deeply concerned about the pending bill's total funding level which appears excessive at this time, given the soaring deficits and the competing priorities in national defense and other Federal programs. For example, I am not yet persuaded that an investment of $3 billion for passenger transportation in the Northeast corridor is wise. Its purpose, I understand, is to electrify the rest of the system and to reduce the travel time between New York and Washington by 30 minutes and also to make the ride smoother. Three billion dollars is too much to pay for that luxury. That sum could better be spent for other purposes—better still—not spent at all. A smaller investment would permit significant upgrading and repair of the Northeast or other railroad lines. I am further concerned that the provision of generous, 8-year operating subsidies for uneconomic light density lines will weaken the resolve of those in a position to make the difficult choices involved in selecting the more essential railroad lines to remain in the national system. I will support any moves to reduce spending in the pending bill along the lines cited above.

Mr. McINTYRE. Mr. President, for some years our colleague, Senator HARTKE, has impressed upon this body the fact that America is facing a major railroad crisis. Today, he has brought to us an omnibus bill, S. 2718, the Rail Services Act of 1975, designed both to implement the U.S. Railway Association's Final System Plan and to begin the process of rehabilitation and improvement of rail service throughout the United States. I commend Senator HARTKE, Senator MAGNUSON, Senator WEIKER, and all the members of the Commerce Committee who labored so hard to produce this comprehensive and important bill.

However, I do not want this Congress to lose sight of another vital piece of railroad legislation that overwhelmingly passed the Senate last May and has now passed the House by a 2 to 1 margin—S. 1730, the Emergency Rail Transportation Improvement and Employment Act of 1975. The provisions of S. 1730 are not included in the omnibus bill, and there is still a vital need for them.

In the listing of priorities facing the railroad industry, deteriorating roadbed is the first that must be addressed if we are to salvage the national system. That is the problem addressed by S. 1730. This bill provides money for salaries to put furloughed maintenance of way employees and others back to work on rail roadbed.

Mr. President, the provisions of S. 1730 are particularly important to the people of New Hampshire. The major carrier in our State is the Boston and Maine. This is the only bankrupt railroad in the Northeast that is not to become a part of the Government funded ConRail. They are attempting to fight their way back to solvency within their own resources and are making progress. However, unlike the Penn Central and other ConRail candidates they have not received one dime of Federal aid. I commend the Boston and Maine for trying to stay within the private sector, under most difficult circumstances.

I want to make it clear however, that there is a serious need to begin upgrading B. & M. track in the State of New Hampshire immediately. S. 1730 will make the funds available to begin bringing back the manpower to upgrade the track in New Hampshire. When I last contacted Alan Dustin, the president of the Boston and Maine, he told me he was prepared to put 77 people to work in the State of New Hampshire alone through the winter months beginning in October. Mr. Dustin figured that from October until the end of spring he could employ throughout his system 334 presently unemployed men and provide 50,196 man-days of labor. When I first discussed this bill with Mr. Dustin last spring, at the time it passed the Senate by a vote of 67 to 10, he was ready to provide 64,000 man-days of labor between then and December. Now it is December, and we are still awaiting a conference on S. 1730. Hundreds of thousands of man-days of employment, across this Nation, are lost forever. Roadbed is still deteriorating and unemployment is still at unacceptable levels—5.2 percent in New Hampshire and over 14 percent in my neighboring State of Massachusetts.

I support the omnibus bill, S. 2718. However, Mr. President, first things first. In my book unemployment and the need to rehabilitate essential roadbed come first. The people of New Hampshire are "railroad sensitive" and they do not understand why some railroads are drawing a million dollars a day out of the Federal treasury, yet their major carrier is not eligible for a nickel of Federal support.

There have been some indications, Mr. President, that President Ford will veto S. 1730, if it comes to his desk. I simply cannot believe he would be that callous and ignore the need for jobs in an area so heavy hit by industry relocation.

My colleague, Senator Durkin, made it clear to the people of New Hampshire, during his prolonged election campaign, that he would take a stand for good rail service in our State. I am delighted that he now serves on the Surface Transportation Subcommittee where he can be effective. I want to make it equally clear that I will continue to work vigorously for superior rail service in New Hampshire. As I said, I believe that the President will be reasonable and sign S. 1730 into law, because it is an imminently reasonable proposal. Should he, however, choose the other course, and indeed, veto S. 1730, I can assure you that this is an issue that I will take to the people of our State. I will not rest until the shippers and public of New Hampshire receive fair treatment along with those who are served by railroads that have sunk below the level of self-help and are about to become a Government supported corporation.

I want to ask Senator Hartke to convene a conference on S. 1730, with the House as soon as possible.

Mr. HARTKE. Mr. President, I ask unanimous consent to have printed in the Record a statement by the Senator from Indiana (Mr. Bayh).

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Mr. Bayh

MINORITY PARTICIPATION IN RAILROAD REORGANIZATION

I commend the Committee on Commerce for including as title IX of the rail services bill a structure to insure minority business participation in the railroad reorganization. Having originally brought this need to the attention of my Indiana colleague (Mr. Hartke), who chairs the Surface Transportation Subcommittee, I want to commend him and the entire Commerce Committee for this thoughtful and innovative approach to minority economic development.

Specifically, this program will insure that minority firms receive a fair proportion of contracts from ConRail and other public and private sector organizations involved in federally supported projects to revitalize the Nation's railroads. I am convinced it is properly the business of Government to use the full weight of its executive and administrative powers to achieve this end.

Government money, the people's money, used to bail out the Lockheeds benefits a limited class—the stockholders and management and the workers of such companies. Their equity is guaranteed by Government intervention.

If the Government is going to intervene, as it must, to save our railroads such intervention should be extended to include opportunities for blacks and other minorities.

By way of background, I would like to summarize some of the legislative events related to this amendment. Earlier this year, the National Business League and the Booker T. Washington Foundation developed a concrete plan for the involvement of the minority community in the economic activities generated by RRRA 1973. This plan was made available to DOT, USRA, and ConRail. None of these agencies were forthcoming with specific procedures and structures to guarantee adequate minority participation in the rail revitalization effort.

After considering the merits of the NBL plan, I undertook, with the assistance of my distinguished colleague from New Jersey, Senator Case, to include in the report accompanying the Department of Transportation and Related Agencies Appropriation bill for 1976, language addressing the issue. Senate Report 95–291, pages 38 and 39 states in part that the Committee: ". . . encouraged USRA and ConRail to take necessary and appropriate action to guarantee adequate minority participation in future contracting."

On September 9, 1975, Senator Case and I addressed a letter to Secretary Coleman, ConRail President Jordan, and USRA Chairman Lewis. I quote from that letter in full, as it provides important background to this issue:

"As you know, the Senate Report accompanying H.R. 8365, the Department of Transportation and Related Agencies Appropriations bill for fiscal 1976, includes language urging the United States Railway Association to take necessary and appropriate action to guarantee adequate minority participation with respect to contracts which will be entered into under the Regional Rail Reorganization Act. As noted on page 38 of the report, it has come to the attention of the committee that the USRA had had discussions with minority contractors concerning procedures which they might follow in being considered for contracts by the new ConRail. We are not aware, however, of any concrete proposals by USRA to formulate such procedures.

"The report language, which we endorse, is based on the belief that Federal officials have a responsibility to actively support the national effort toward establishment of minority businesses. Assumption of this responsibility by USRA and ConRail is, we believe, entirely consistent not only with national policy with respect to minority businesses, but with the objectives of the Railway Reorganization Act itself. Congressional passage of the act was predicated on the judgment that redevelopment of the areas served by the railroads is sufficiently important to warrant a substantial commitment of federal funds. Implementation of procedures to ensure adequate minority business participation in the reorganization of the railroads will promote economic development, benefit the railroads, and encourage broader public participation in the process of rail revitalization.

"As you are aware, the National Business League's Booker T. Washington Foundation has proposed a National Resource Center to serve as a structure for insuring minority business involvement in the railroad program. We believe this proposal presents a thoughtful and constructive approach to utilization of the resources of the minority sector by USRA and ConRail. It merits serious consideration.

"Because we do not believe that the existing programs of the Small Business Administration or the Department of Commerce's Office of Minority Business Enterprise preempt the responsibility USRA and ConRail to involve minority businesses in the railroad program, we are requesting your response to this problem. Specifically, what procedures and structures are being considered to implement the language contained in Senate Report 94–291, pages 38 to 39, directing that action be taken to guarantee adequate minority participation in future contracting?"

Subsequently, Mr. Arthur Lewis, chairman of USRA advised me that the USRA Board of Directors had adopted a resolution on October 1 committing the USRA to an affirmative action program to insure that minority firms receive a fair proportion of contracts and which will channel a portion of ConRail business to minority and small business enterprises.

This was a step in the right direction, but no specific mechanism was proposed by USRA, ConRail or DOT to implement such an affirmative action posture.

Further, the USRA Final System Plan,

which has now been accepted by the Congress, is totally silent on the issue of minority participation. Hence, legislative action was clearly needed to create the National Railroad Resource Center as a mechanism to guarantee participation by minority firms.

Because of this situation the Congress has acted to rectify the oversight in the Final System Plan. However, now that the required action is being taken by the Congress, we must give due concern that the National Railroad Resource Center is not programed for failure through insufficient funding or benign administrative neglect.

Thus, I hope that title IX will serve as the beginning for an expanded program to include minority businesses in the revitalization of our Nation's railroads.

IOWA RAILROAD ASSISTANCE PROGRAM

Mr. CLARK. Mr. President, during the consideration of this rail services bill, I think it is appropriate to call the Senate's attention to a program which is already resulting in valuable improvement in the rail system. Since the fall of 1974, the State of Iowa has developed the Iowa railroad assistance program which has brought about substantial upgrading of much-needed branch lines. This upgrading has been the result of cooperation among shippers, railroads and the State of Iowa. The program has proved to be quite successful and very possibly could serve as a prototype for other States where railroads are essential to their economy and in serious need of aid.

Mr. President, I ask unanimous consent that a factsheet outlining the development and goals of the Iowa railroad assistance program be placed in the RECORD.

There being no objection, the factsheet was ordered to be printed in the RECORD, as follows:

IOWA RAILROAD ASSISTANCE PROGRAM

The state of Iowa in the fall of 1974, initiated a program of direct financial assistance to the railroads for the upgrading of their branch line railroad trackage. The program is unique in that it provides direct aid from the state and aid through the three-way agreements among shippers, the railroad whose track is to be upgraded and the state.

History.—The number of railroad abandonments in Iowa increased rapidly in the early 1970's and the IC's 34-car rule would have facilitated the abandonment of about 1,700 miles of the nearly 5,000 miles of branch lines located within the state. The deteriorating condition of the state's rail systems was dramatized by the railroads' inability to move large amounts of the 1972 and 1973 corn and soybean crops to export markets. With these shortcomings as the backdrop, the Iowa Legislature in 1974, appropriated $3 million in "financial assistance" to upgrade branch lines.

Energy Policy Council.—The Council, a new agency with responsibilities for energy related programs, was given great latitude in designing the rail assistance program. The Council made a rapid survey of Iowa's more than 100 branch lines and identified those with high potential for increased shipments, attractive cost-benefit ratios and other advantages for the public.

Agreements.—The assistance is being provided through negotiated agreements with the railroads and the shippers on a particular branch line. Seven agreements have been negotiated thus far. The agreements cover over 478 miles of trackage. The state has agreed to provide $4,659,606 for these seven projects out of a total appropriation of $6 million. The railroads are putting up $1,126,892; the shippers, $2,847,400. The total cost of the improvements is $8,633,898. In most of the agreements, the track is improved to FRA Class 2 standards (25 mph) for 263,000 pound cars.

Pay-back arrangements.—The funds advanced by the shippers to the railroads are repaid by the railroads according to formulas based upon the number of cars shipped and the revenues produced. All or a portion of the funds advanced by the state are "rolled over" and used to improve other Iowa branch lines if the traffic on the repaired branch line increases. The shippers, in effect, provide interest-free funds to the railroad. On high volume lines, all or most of the state's money will be recycled to other projects. On more marginal lines, only a small portion of the money may be reused.

Advantages.—The Iowa program has stretched a limited state appropriation into a significant track improvement activity. The railroads and shippers are talking to each other and becoming more familiar with each other's problems. The state is serving as a third party to moderate shipper-state disagreements. The railroads and the state have entered into discussions on which branch lines should be continued. The state has become more familiar with railroad problems, such as shortages of rail and ties. The state has also gained some significant leverage in such areas as trackage agreements between railroads. Branch lines have been improved so as to provide better railroad service to Iowa shippers. Freight has been moved by rail which otherwise would have shifted to trucks or some other mode of transportation.

IOWA RAILROAD ASSISTANCE PROGRAM PROJECTS (1974-75)

[Total appropriation—$6,000,000]

	Railroad	Miles	State	Local	Railroad	Total
1. Ida Grove to Maple River	Chicago & Northwestern Railway System	38.4	$80,000	$80,000	$16,000	$176,000
2. Creston to Cumberland	Burlington Northern, Inc	45.0	591,000	300,000	300,000	1,191,000
3. Indianola to Carlisle	Chicago, Rock Island & Pacific RR	11.3	400,000	200,000	None	600,000
4. Spencer to Herndon	Chicago, Milwaukee, St. Paul & Pacific RR	101.0	807,500	385,000	807,500	2,000,000
5. Humboldt to Eagle Grove	Chicago & Northwestern Railway System	25.4	800,000	500,000	500,000	1,800,000
6. Waterloo to Mona	Illinois Central Gulf	83.2	190,749	176,000	190,749	557,498
7. With Iowa Falls Gateway Shippers Association—Dows to Forest City, Dows to Estherville, Estherville to Rake, Palmer to Royal.	Chicago, Rock Island & Pacific RR	174.0	1,000,000	1,206,400	[1] 103,000	2,309,400
8. Supplemental: No. 4—Spencer-Herndon	Chicago, Milwaukee, St. Paul & Pacific RR		+790,357		−790,357	
Total		478.3	4,659,606	2,847,400	1,126,892	8,633,898

[1] Worth of steel.

ELIGIBILITY OF VERMONT TO RECEIVE REIMBURSEMENT FOR ITS ACQUISITION AND IMPROVEMENT OF THE ST. JOHNSBURY AND LAMOILLE COUNTY RAILROAD

Mr. STAFFORD. Mr. President, I would like to inquire from the distinguished chairman of the Surface Transportation Subcommittee as to the status of the eligibility of the State of Vermont for reimbursement for its costs in acquiring and rehabilitating the St. Johnsbury and Lamoille County Railroad.

Mr. HARTKE. I would be pleased to respond. As the Senator from Vermont knows, this is not the first time that the Senate Commerce Committee has reported legislation to the floor of the Senate to take care of this particular problem. Last year, the committee reported several amendments of the Regional Rail Reorganization Act. This bill, which was enacted into law as Public Law 93-488, contained an amendment to section 402 of the 1973 act which we thought at the time would have qualified Vermont for assistance under title IV of the 1973 act. Unfortunately, the Department of Transportation was able to find a loophole in the statute which permitted them to frustrate the legislative intent.

Mr. STAFFORD. What has the Commerce Committee done to correct this situation?

Mr. HARTKE. At the Senator's suggestion, we have adopted an amendment that would rectify the situation. First, the bill allows States to use their entitlements for any purpose. This should be enough, but we have also, on page 218 of the bill, specifically referenced the Vermont situation by providing that a State is eligible for assistance under the amended section 402 assistance if it invested substantial sums for the improvement or maintenance of rail service at any time 5 years prior to the date of enactment of this act. This is intended to qualify Vermont with respect to its expenditures for the St. Johnsbury and Lamoille County.

Mr. STAFFORD. I appreciate the Senator's clarification of this situation.

Mr. HARTKE. The Senator has been most attentive to this problem, which should have been solved before this.

I wish to make the following statement regarding the intent of the committee with respect to two items: The rate flexibility provisions of title I of the bill, and certain sections of title VII.

In view of the great interest this legislation has generated among the various modes of transportation, I would like to clarify the meaning of section 103 of S. 2718:

Subsection (e) of section 10 is intended to be an absolute limitation upon the application of the going concern value and variable cost standards in determining minimum reasonable rates and in regulating minimum rates generally.

First. The national transportation policy is intended to apply in full to each section of the act in the same way it does at the present time;

Second. Sections 2, 3, and 4, are intended to be applicable just as at present in determining the lawfulness of rates and the rights of all parties, including carriers of competing modes, to complain of violations are intended to be unimpaired;

Third. It is not intended that any practice which undermines competition shall be made lawful by this act. This intent goes to any competitive practice which is unfair, destructive, predatory, or otherwise undermines competition which is necessary in the public interest. All such practices are contrary to the public interest and it is not intended that they are to receive endorsement from any of the provisions of this act.

I would also like to comment on certain provisions of title VII. In 1966, at the request of the Department of Transportation, the Bell Telephone System undertook the development of a system to provide public telephone service on board the Metroliner as part of that Department's Northeast Corridor high-speed transportation project. As there were no common carrier frequencies available, the Department of Transportation requested that the Bell Telephone System companies be permitted to use Government frequencies on a loan basis for a period of 2 years to coincide with the 2-year high-speed transportation project. The original 2-year loan of those frequencies expired October 31, 1969, but with the extension of the Transportation Department project demonstration, there were extensions of the loan of Government frequencies to the Bell Telephone System companies to enable them to extend the telephone service demonstration.

The continuation of this service beyond its scheduled expiration date has been the subject of considerable discussion. Several alternatives have been reviewed during the past year. The quickest alternative to the existing arrangement will require a minimum of 12 months to replace the existing equipment at the base radio stations and on the trains.

Amtrak, OTP, the FCC, and A.T. & T. all agree that there are a limited number of possible solutions.

Long term: Within 10 years, there will be alternate common carrier services available in the form of high capacity cellular 900 MHz service along the Northeast Corridor. This will permanently relieve any need for the utilization of the present Government frequencies.

Short term: There is no short-term alternate to continuation of the service on the existing governmental frequencies until some midterm solution can be installed. The Government frequencies will have to remain available to Amtrak for a period of between 1 and 3 years.

Midterm: Several alternatives exist that vary in costs in capital investment, time required to implement the solution and service quality.

The Rail Services Act requires that OTP continue to provide the use of the governmental frequencies for this mobile radio service until some midterm solution can be put in place. OTP has already agreed to a 1-year extension of the current frequencies until November 30, 1976. This legislation authorizes appropriations to Amtrak in sufficient amounts to allow them to negotiate with a common carrier to install and operate a midterm solution that will relieve the congestion on the Government frequencies as well as provide expansion of the services between Boston and Washington, D.C., until cellular high-capacity common carrier service is available in the Northeast Corridor. It is not the purpose of this legislation to give Amtrak rights forever in the present frequencies. The Congress expects all the parties concerned to move expeditiously to minimize conflicts with competing governmental frequencies.

The Congress also expects the Federal Communications Commission to review the Northeast Corridor high-speed rail passenger public mobile telephone service in a manner fully consistent with its other common carrier policies. Common carrier reimbursement for the service should be set consistent with FCC policies and cost justified. The FCC is expected to carefully review the cost justifications for the service. If service subsidies are necessary, Amtrak should be the source of these subsidies.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), and the Senator from Washington (Mr. JACKSON) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Pennsylvania (Mr. HUGH SCOTT) are necessarily absent.

I further announce that the Senator from Utah (Mr. GARN) is absent attending the funeral of a relative.

On this vote, the Senator from Pennsylvania (Mr. HUGH SCOTT) is paired with the Senator from Arizona (Mr. GOLDWATER).

If present and voting, the Senator from Pennsylvania would vote aye and the Senator from Arizona would vote nay.

The result was announced—yeas 53, nays 38, as follows:

[Rollcall Vote No. 552 Leg.]

YEAS—53

Abourezk
Baker
Beall
Biden
Brooke
Buckley
Burdick
Case
Church
Clark
Cranston
Culver
Durkin
Ford
Glenn
Gravel
Griffin
Hart, Philip A.
Hartke
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Javits
Kennedy
Leahy
Long
Magnuson
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Pastore
Pearson
Pell
Randolph
Ribicoff
Roth
Schweiker
Stafford
Stevens
Stevenson
Tunney
Weicker
Williams
Young

NAYS—38

Allen
Bartlett
Bellmon
Brock
Bumpers
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Curtis
Dole
Domenici
Eagleton
Fannin
Hansen
Hart, Gary
Haskell
Helms
Hruska
Johnston
Laxalt
Mansfield
McClellan
McClure
Morgan
Nunn
Packwood
Percy
Proxmire
Scott,
  William L.
Sparkman
Stennis
Stone
Symington
Taft
Talmadge
Thurmond
Tower

NOT VOTING—9

Bayh
Bentsen
Eastland
Fong
Garn
Goldwater
Inouye
Jackson
Scott, Hugh

So the bill (S. 2718), as amended, was passed, as follows:

S. 2718

An act to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Rail Services Act of 1975".

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GENERAL PURPOSES

SEC. 2. It is the purpose of the Congress in this Act to promote the revitalization of the American railway system, so that this mode of transportation will be able to provide energy-efficient, ecologically compatible transportation services with greater efficiency, effectiveness, and economy, through—

(1) rate modernization and regulatory reform;

(2) investigations;

(3) the encouragement of efforts to restructure the system on a more economically justified basis, including an expedited procedure for determining whether merger and consolidation applications are in the public interest and supplementary transfer authority;

(4) financing mechanisms that will assure rehabilitation and improvement of facilities and equipment, implementation of the final system plan, and implementation of the Northeast Corridor project; and

(5) continuation of service on light-density rail lines that are necessary to continued employment and community well-being throughout the United States.

GENERAL DEFINITIONS

SEC. 3. As used in this Act, unless otherwise specified, the term—

(1) "Association" means the United States Railway Association;

(2) "Commission" means the Interstate Commerce Commission;

(3) "Corporation" means the Consolidated Rail Corporation;

(4) "final system plan" has the meaning prescribed in the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.);

(5) "includes" and variants thereof should be read as if the phrase "but is not limited to" were also set forth;

(6) "Office" means the Transportation Services Planning Office of the Commission;

(7) "railroad" means a common carrier by railroad or express, as defined in section 1(3) of the Interstate Commerce Act (49 U.S.C. 1(3). For purposes of title V of this Act, the term includes the National Railroad Passenger Corporation and The Alaska Railroad; and

(8) "Secretary" means the Secretary of Transportation.

TITLE I—RATE MODERNIZATION

DECLARATION OF POLICY

SEC. 101. It is the purpose of this title to—

(1) foster competition among all carriers by railroad and other modes of transportation, to promote more adequate and efficient transportation services and to increase the attractiveness of investing in railroads and rail-service-related enterprises;

(2) permit railroads greater freedom to price their services in competitive markets;

(3) promote the establishment of rate structures which are more sensitive to changes in the level of seasonal, regional, and shipper demand;

(4) promote separate pricing of distinct rail and rail-related services;

(5) formulate standards and guidelines for determining adequate revenue levels; and

(6) modernize and clarify the functions of rate bureaus.

EXPEDITIOUS DIVISIONS OF REVENUES

SEC. 102. Section 15(6) of the Interstate Commerce Act (49 U.S.C. 15(6)) is amended by (1) inserting after "(6)" and before the first sentence thereof "(A)"; and (2) adding at the end thereof the following two new subparagraphs:

"(B) Notwithstanding any other provision of law, the Commission shall, within 180 days after the date of enactment of the Rail Services Act of 1975, by rule, establish standards and procedures for the conduct of proceedings for the adjustment of divisions of joint rates or fares (whether prescribed by the Commission or otherwise) in accordance with the provisions of this paragraph. The Commission shall issue a final order in all such proceedings within 270 days after the submission to the Commission of a case. If the Commission is unable to issue a final order within such time, it shall issue a report to the Congress setting forth the reasons for such inability. All evidentiary proceedings conducted pursuant to this paragraph shall be completed, in a case brought upon a complaint, within 1 year following the filing of the complaint, or, in a case brought upon the Commission's initiative, within 2 years following the commencement of such proceeding unless the Commission finds that such a proceeding must be extended to permit a fair and expeditious completion of the proceeding. The Commission shall file a written report with the Congress of any such finding and the reasons therefor. Upon receipt of a notice of intent to file a complaint pursuant to this paragraph, the Commission shall accord, to the party filing such notice, the same right to discovery that would be accorded to a party filing a complaint pursuant to this paragraph.

"(C) Whenever a proceeding for the adjustment of divisions of joint rates or fares (whether prescribed by the Commission or otherwise established) is commenced by the filing of a complaint with the Commission, the complaining carrier or carriers (i) shall attach thereto all of the evidence in support of their position, and (ii) shall, during the course of such proceedings, file only rebuttal or reply evidence unless otherwise directed by order of the Commission.".

FAIR, EQUITABLE, AND COMPETITIVE RATES

SEC. 103. (a) Section 1(5) of the Interstate Commerce Act (49 U.S.C. 1(5)) is amended to read as follows:

"(5)(A) Each rate for any service rendered or to be rendered in the transportation of persons or property by any carrier subject to this part shall be just and reasonable. A rate that is unjust or unreasonable is prohibited and unlawful. No rate which contributes or which would contribute to the going concern value of a carrier shall be found to be unjust or unreasonable, or not shown to be just and reasonable, on the ground that such rate is below a just or reasonable minimum for the service rendered or to be rendered. A rate which equals or exceeds the variable costs (as determined through formulas prescribed by the Commission) of providing a service shall be presumed, unless such presumption is rebutted by clear and convincing evidence, to contribute to the going concern value of the carrier or carriers proposing (hereinafter referred to as the "proponent carrier") such rate. Notwithstanding any other provisions of this part, no rate shall be found to be unjust or unreasonable, or not shown to be just and reasonable, on the ground that such rate exceeds a just or reasonable maximum for the service rendered or to be rendered unless the Commission has first found that the proponent carrier has market dominance over such service. A finding that a carrier has market dominance over a service shall not create a presumption that the rate or rates for such service exceed a just and reasonable maximum. Nothing in this paragraph shall prohibit a rate increase from a level which reduces the going concern value of the proponent carrier to a level which contributes to such going concern value and is otherwise just and reasonable; for the purposes of this sentence a rate increase which does not raise a rate above the incremental costs (as determined through formulas prescribed by the Commission) of rendering the service to which such rate applies shall be presumed to be just and reasonable.

"(B) As used in this paragraph, the term—

"(i) 'market dominance' refers to an absence of effective competition for the traffic to which a rate applies from other carriers or modes of transportation. Market dominance shall be presumed to exist if, prior to or after the publication of a rate, no shipment (except an occasional or emergency shipment) of the traffic to which the rate applies has moved by any carrier or mode of transportation, other than by the proponent carrier, during the 12 months preceding the commencement of the Commission's proceeding to determine or investigate the lawfulness of the rate as a result of the relationship of the applicable rate (or cost of service in the case of a private carrier) of any other carrier or of any other mode (including exempt and private carriers) of transportation, to the rate of the proponent carrier; and

"(ii) 'rate' means any rate of charge for the transportation of persons or property.

"(C) Within 240 days after the date of enactment of the Rail Services Act of 1975, the Commission shall establish, by rule, standards and procedures for determining, in accordance with section 15(8) of this part, whether and when a carrier possesses market dominance over a service rendered or to be rendered at a particular rate or rates. Such rules shall be designed to provide for a practical determination without administrative delay. The Commission shall solicit and consider the recommendations of the Attorney General and of the Federal Trade Commission in the course of establishing such rules."

(b) Section 15 of the Interstate Commerce Act (49 U.S.C. 15) is amended by renumbering paragraphs (8) through (14) thereof as paragraphs (9) through (15) thereof, respectively, and by inserting therein a new paragraph (8) as follows:

"(8) Whenever a rate is challenged as being unreasonably high, the Commission shall, upon complaint or upon its own initiative and within 90 days after the commencement of a proceeding to investigate the lawfulness of such rate, determine whether the carrier proposing such rate has market dominance, within the meaning of section 1(5)(B)(i) of this part, over the service to which such rate applies. If the Commission finds that a carrier does not have such market dominance, such finding shall be determinative in all additional or other proceedings concerning such rate or service, unless (A) such finding is modified or set aside by the Commission, or (B) such finding is set aside by a court of competent jurisdiction. Nothing in this paragraph limits the Commission's power to suspend a rate pursuant to paragraph 7 of this section, except that if the Commission has found that a carrier does not have such market dominance over the service to which a rate applies, the Commission may not suspend any increases in such rate on the ground that such rate as increased exceeds a just or reasonable maximum for such service, unless the Commission specifically modifies or sets aside its prior determination concerning market dominance over the service to which such rate applies.".

(c) The last sentence of section 15a(3) of the Interstate Commerce Act (49 U.S.C. 15a (3)) is amended to read as follows: "No rate of a carrier shall be held up to a particular level to protect the traffic of any other carrier or mode of transportation, unless the Commission finds that such rate reduces or would reduce the going concern value of the carrier charging the rate.".

(d) Section 15 of the Interstate Commerce Act (49 U.S.C. 15) is amended by adding at the end thereof the following two new paragraphs:

"(16) Within 1 year after the date of enactment of the Rail Services Act of 1975, the Commission shall establish, by rule, standards and expeditious procedures for the establishment of railroad rates based on seasonal, regional, or peak-period demand for railroad services. Such standards and procedures shall be designed to (A) provide sufficient incentive to shippers to reduce peak-period shipments through rescheduling and advance planning; (B) generate additional revenues for the railroads; and (C) improve (i) the utilization of the national supply of freight cars, (ii) the movement of goods by rail, (iii) levels of employment by railroads, and (iv) the financial stability of markets served by railroads. Following the establishment of such standards and procedures, the Commission shall prepare and submit to the Congress annual reports on the implementation of such rates, including recommendations with respect to the need, if any, for additional legislation to facilitate the establishment of such demand-sensitive rates.

"(17) In order to encourage competition, to promote increased reinvestment by railroads, and to encourage and facilitate increased nonrailroad investment in the production of rail services, a carrier by railroad subject to this part may, upon its own initiative or upon the request of any shipper or receiver of freight, file separate rates for distinct services. Within 1 year after the date of enactment of the Rail Services Act of 1975, the Commission shall establish, by rule, expeditious procedures for permitting publication of separate rates for distinct railroad services in order to (A) encourage the pricing of such services in accordance with the carrier's cash outlays for such services and the demand therefor, and (B) enable shippers and receivers to evaluate all transportation and related charges and alternatives.".

(e) Nothing in this section shall be construed to—

(1) nullify the application of the National Transportation Policy declared in the Interstate Commerce Act to each of the provisions of that Act;

(2) modify the application of section 2, 3, or 4 of the Interstate Commerce Act (49 U.S.C. 2, 3, and 4) in determining the lawfulness of any rate or practice; or

(3) to make lawful any competitive practice which is unfair, destructive, predatory, or otherwise undermines competition which is necessary in the public interest.

TARIFF MODIFICATIONS

SEC. 104. (a) Section 15(3) of the Interstate Commerce Act (49 U.S.C. 15(3)) is amended by adding at the end thereof the following new sentence: "In determining whether any such cancellation or proposed cancellation is consistent with the public interest, the Commission shall, to the extent applicable, (A) compare the distance traversed and the average transportation time and expense required using the through route and the distance traversed and the average transportation time and expense required using alternative routes between the points served by such through route; (B) consider any reduction in energy consumption which may result from such cancellation; and (C) take into account the overall impact of such cancellation on the shippers and carriers who are affected thereby.".

(b) Section 15a of the Interstate Commerce Act (49 U.S.C. 15a) is amended by adding at the end thereof the following new paragraph:

"(5) The Commission shall, in any proceeding which involves a proposed increase or decrease in railroad rates specifically consider allegations that such increase or decrease would change the rate relationships between commodities, ports, points, regions, territories, or other particular descriptions of traffic whether or not such relationships were previously considered or approved by the Commission and allegations that such increase or proposed decrease will have a significantly adverse effect on the competitive posture of shipper or consignees which would be affected by such increase or decrease. If the Commission finds that such allegations as to change are substantially supported on the record, it shall take such steps as are necessary, either before or after such proposed increase or decrease becomes effective and either within or outside such proceeding, to investigate the lawfulness of such change.".

RATES FOR THE TRANSPORTATION OF RECYCLABLE OR RECYCLED MATERIALS

SEC. 105. (a) INVESTIGATION.—The Commission, within 12 months after the date of enactment of this Act, and thereafter as appropriate, shall—

(1) conduct an investigation of (A) the rate structure for the transportation, by carriers by railroad subject to part I of the Interstate Commerce Act, of recyclable or recycled materials and competing virgin natural resource materials, and (B) the manner in which that rate structure has been affected by successive general rate increases approved by the Commission for common carriers subject to its jurisdiction. The Commission shall, after a public hearing during which the burden of proof shall be upon the carriers to show that the rate structure as affected by general rate increases for the transportation of such competing materials is just, reasonable, and nondiscriminatory, determine whether such rate structure is, in whole or in part, unjustly discriminatory or unreasonable;

(2) in all cases in which such transportation rate structure is determined to be, in whole or in part, unjustly discriminatory or unreasonable, issue orders requiring the removal from such rate structure of such unreasonableness or unjust discrimination; and

(3) report to the President and the Congress, in the annual report of the Commission for each of the 3 years following the date of enactment of this Act, and such other reports as may be appropriate, all actions commenced or completed under this section to eliminate unreasonable and unjustly discriminatory rates for the transportation of recyclable or recycled materials.

(b) ADMINISTRATOR OF ENVIRONMENTAL PROTECTION AGENCY TO PARTICIPATE.—The Administrator of the Environmental Protection Agency shall take such steps, in proceedings before the Commission, as are necessary to assure that the directives set forth in subsection (a) of this section are carried out as expeditiously as possible. Such Administrator may participate as a party in the investigation to be commenced by the Commission.

(c) RESEARCH, DEVELOPMENT, AND DEMONSTRATION.—The Secretary, in cooperation with the Commission and the Federal Maritime Commission, shall establish a research, development, and demonstration program to develop and improve transport terminal operations, transport service characteristics, transport equipment, and collection and processing methods for the purpose of facilitating the competitive and efficient transportation of recyclable materials.

(d) REVIEW.—Orders issued by the Commission pursuant to this section shall be subject to judicial review or enforcement in the same manner as other orders issued by the Commission under the Interstate Commerce Act. In all proceedings under this section, the Commission shall comply fully with the requirements of the National Environmental Policy Act.

(e) DEFINITIONS.—As used in this section, the term—

(1) "recyclable material" means any material which has been collected or recovered from waste for a commercial or industrial use, whether or not such collection or recovery follows end usage as a product; and

(2) "virgin natural resource material" and "virgin material" means any raw material, including previously unused metal or metal ore, woodpulp or pulpwood, textile fiber or material, or other resource which is, or which will become (through the application of technology) a source of raw material for commercial or industrial use.

ADEQUATE REVENUE LEVELS

SEC. 106. Section 15a of the Interstate Commerce Act (49 U.S.C. 15a), as amended by this Act, is further amended by adding at the end thereof the following new paragraph:

"(6) With respect to common carriers by railroad, the Commission shall, within 24 months after the date of enactment of this paragraph, after notice and an opportunity for a hearing, develop and promulgate (and thereafter revise to the extent appropriate and maintain) reasonable standards and procedures for the establishment of revenue levels adequate under honest, economical, and efficient management to cover total operating expenses, including depreciation and obsolescence, plus a fair, reasonable, and economic profit and/or return on capital employed in the business, which revenue levels should provide a flow of net income plus depreciation adequate to support prudent capital outlays, assure the repayment of a reasonable level of debt, permit the raising of needed equity capital, and cover the effects of inflation; such revenue levels should insure retention and attraction of capital in amounts adequate to provide a sound transportation system in the United States. The Commission shall make an adequate and continuing effort to assist such carriers in attaining such revenue levels.".

RATE INCENTIVES FOR CAPITAL INVESTMENT

SEC. 107. Section 15(7) of the Interstate Commerce Act (49 U.S.C. 15(7)) is amended by (1) inserting after "(7)" the designation "(A)"; and (2) adding at the end thereof the following new subparagraph:

"(B) Notwithstanding any other provision of law, a carrier subject to this part may prepare and file with the Commission a proposed schedule setting forth a new rate, classification, regulation, or practice if the implementation of such schedule is contingent upon a total capital investment (by such carrier, by any shipper or receiver of freight or any agent thereof, or by any interested third party, individually or collectively) in the amount of $1,000,000 or more. Any such filing shall be accompanied by a sworn affidavit setting forth in detail the anticipated capital investment upon which such proposed schedule is based. Any interested person may request the Commission to investigate any such proposed schedule, and the Commission shall thereupon hold a hearing on such schedule. Unless the Commission determines, within 180 days after such filing, that the proposed schedule, or any part thereof, is unlawful, the carrier proposing such schedule may put such schedule into effect upon 30 days' notice after the end of such 180-day period. Such a schedule may not, for a period of 5 years after its effective date, be suspended or set aside as being unlawful under section 1, 2, 3, or 4 of this part, except that the Commission may at any time order such schedule to be revised to a level equaling the variable costs of providing the service if the rate stated therein is found to reduce the going concern value of the carrier.".

EXEMPTIONS FROM INTERSTATE COMMERCE ACT

SEC. 108. Section 12(1) of the Interstate Commerce Act (49 U.S.C. 12(1)) is amended by (1) inserting after "(1)" the designation "(A)"; and (2) adding at the end thereof the following new subparagraph:

"(B) The Commission shall, by order, exempt any person, any class of persons, or any services or transportation performed under this Act from the provisions of this Act, in whole or in part, for such period of time as may be specified in such order, if the Commission finds, upon petition by the Secretary or an interested party or upon its own initiative, after notice and an opportunity for a hearing, that the requirements of this Act, in whole or in part, should not be applied to such person, class of persons, services, or transportation because the application of such requirements (i) is not necessary to effectuate the National Transportation Policy or to effective regulation by the Commission pursuant to such policy, and (ii) would serve little or no useful public purpose. The Commission may, by order, revoke any such exemption if it finds, after notice and an opportunity for hearing, that the conditions giving rise to such exemption no longer exist or that the continuance of such exemption is not consistent with the National Transportation Policy. All actions taken pursuant to this subparagraph shall be reported in the annual report of the Commission.".

RATE BUREAUS

SEC. 109. (a) Section 5a of the Interstate Commerce Act (49 U.S.C. 5b) is amended in paragraph (1) thereof by striking out "part I, II," and inserting in lieu thereof "part II".

(b) Part I of the Interstate Commerce Act is amended by inserting after section 5a thereof a new section 5b as follows:

"AGREEMENTS BETWEEN CARRIERS SUBJECT TO PART I

"SEC. 5b. (1) As used in this section, the term—

"(A) 'affiliate' means any person directly or indirectly controlling, controlled by, or under common control or ownership with any other person. As used in this subparagraph, the term (i) 'control' has the same meaning as in section 1(3)(b) of this part; and (ii) 'ownership' refers to equity holdings of 5 percent or more in any business entity;

"(B) 'antitrust laws' means the Act of July 2, 1890, as amended (15 U.S.C. 1, et seq.), the Act of October 15, 1914, as amended (15 U.S.C. 12, et seq.), the Federal Trade Commission Act (15 U.S.C. 41, et seq.), sections 73 and 74 of the Act of August 27, 1894, as amended (15 U.S.C. 8 and 9), and chapter 592 of the Act of June 19, 1936, as amended (15 U.S.C. 13, 13a, 13b, 21a); and

"(C) 'carrier' means any common carrier subject to part I of this Act.

"(2) Any carrier party to an agreement between or among two or more carriers relating to rates, fares, classifications, divisions, allowances, or charges (including charges between carriers and compensation paid or received for the use of facilities and equipment), or rules and regulations pertaining thereto, or procedures for the joint consideration, initiation or establishment thereof, shall under such rules and regulations as the Commission shall prescribe, apply to the Commission for approval of the agreement, and the Commission shall by order approve any such agreement if approval thereof is not prohibited by paragraph (4), (5), or (6) if it finds that, by reason of furtherance of the national transportation policy declared in this Act, the relief provided in paragraph (9) should apply with respect to the making and carrying out of such agreement; otherwise the application shall be denied. No such approval shall be granted or continued (A) if any of the terms and conditions which are prescribed under the last sentence of this paragraph are violated or not complied with, or (B) unless the Commission receives a verified written statement and an annual written supplement to update such statement setting forth, with respect to each carrier which is a party to such agreement (i) its name; (ii) the mailing address and telephone number of its headquarters' office; (iii) the names of each of its affiliates; (iv) the names, addresses, and affiliations of each of its officers and directors and of each person who, together with any affiliate, either owns or controls any debt, equity, or security interest in it having a value of $1,000,000 or more; and (v) such other information as the Commission directs to be included. The approval of the Commission shall be granted only upon such terms and conditions as the Commission shall prescribe as necessary to enable it to grant its approval in accordance with the standard above set forth in this paragraph.

"(3) Each conference, bureau, committee, or other organization established or continued pursuant to any agreement approved by the Commission under the provisions of this section shall maintain such amounts, records, files, and memoranda and shall submit to the Commission such reports, as may be prescribed by the Commission, and all such accounts, records, files, and memoranda shall be subject to inspection by the Commission or its duly authorized representatives. The Commission may conduct investigation, make reports, issue subpenas, conduct hearings, require the production of relevant documents, records, and property, copy and verify the correctness of information subject to inspection, and take depositions (A) to determine whether any such conference, bureau, committee, or other organization, or any carrier party to any such agreement, has acted or is acting in compliance with the provisions of this section, regulations issued under this section, and the public interest; (B) to determine whether any such organization or carrier is inhibiting an efficient utilization of transportation resources or has established practices which are inconsistent with efficient, flexible, and economic operation; and (C) for such other purposes as the Commission deems appropriate.

"(4) The Commission shall not approve under this section any agreement between or among carriers of different classes unless it finds that such agreement is, by its terms and in practice and effect as implemented, of the character described in paragraph (2) of this section and is limited to matters relating to transportation under joint rates or over through routes. For purposes of this paragraph carriers by railroad, express companies, and sleeping-car companies are carriers of one class; pipeline companies are carriers of one class; carriers by motor vehicle are carriers of one class; carriers by water are carriers of one class; and freight forwarders are carriers of one class.

"(5) The Commission shall not approve under this section any agreement which it finds is an agreement with respect to a pooling, division, or other matter or transaction to which section 5 of this Act is applicable.

"(6)(A) The Commission shall not approve under this section any agreement which establishes a procedure for the determination of any matter through joint consideration, unless it finds that under the agreement there is accorded to each party the free and unrestrained right to take independent action, without fear of any sanction or retaliatory action, at any time before or after any determination arrived at through such procedure. In no event shall any conference, bureau, committee, or other organization established or continued pursuant to any agreement approved by the Commission under the provisions of this section—

"(i) permit participation in discussions or agreements with respect to, or any voting on, single-line rates, allowances, or changes established by any carrier;

"(ii) permit any carrier to participate in discussions or agreements with respect to, or to vote on, rates, allowances, or charges relating to any particular interline movement, unless such carrier can practicably participate in such movement; or

"(iii) permit, provide for, or establish any procedure for joint consideration or any joint action to protest or otherwise seek the suspension of any rate or classification filed by a carrier of the same mode pursuant to section 15(17), 216(g), 218(c), 307(g), 307(i), or 406(e) of this Act where such rate or classification is established by independent action.

As used in clause (i) of this subparagraph, a single-line rate is an individual point-to-point rate, allowance, or charge which is proposed by a single carrier and as to which the total service (exclusive of terminal services provided by switching, drayage, or other terminal carriers or agencies) can be performed, by such carrier.

"(B) An agreement under subparagraph (A) may permit a carrier which has acted independently, or carriers which are participating in a movement, to give notice, through such a conference, bureau, committee, or other organization, in advance of publication of a decision to establish a rate change. The limitations set forth in subparagraph (A) shall not be applicable to general rate increases or decreases; or to class, mileage factors, or other rates, fares, charges or allowances, or to any changes therein, of general application or of substantially general application to both single-line routes and joint line routes in the territory or territories within or between which such rates are to be applicable. The prohibitions in such subparagraph shall not apply to any carrier to the extent necessary to comply with a valid and final order by the Commission pursuant to section 2, 3, or 4 of this part. In any proceeding in which it is alleged that a carrier discussed, voted or agreed upon a rate, allowance, or charge, contrary to the provisions of this section, the party alleging such violation shall have the burden of showing such discussion, vote or agreement; a showing of parallel behavior is not, by itself, sufficient to satisfy such burden.

"(7) (A) The Commission is authorized, upon complaint or upon its own initiative without complaint, to investigate and determine whether any agreement previously approved by it under this section, or terms and conditions upon which such approval was granted, is not or are not in conformity with the standard set forth in paragraph (2) and with the public interest and whether any such terms and conditions are not necessary or whether any additional or modified such terms and conditions are necessary for purposes of conformity with such standard, and, after such investigation, the Commission shall by order terminate or modify its approval of such agreement if it finds such action necessary to insure conformity with such standard, and shall modify the terms and conditions upon which such approval was granted to the extent it finds necessary to insure conformity with such standard or to the extent to which it finds such terms and conditions not necessary to insure such conformity. The effective date of any order terminating or modifying approval, or modifying terms and conditions, shall be postponed for such period as the Commission determines to be reasonably necessary to avoid undue hardship.

"(B) The Commission shall periodically, but not less than once every 3 years, review each agreement which the Commission has by order approved under this section to determine whether such agreement, or any conference, bureau, committee, or other organization established or continued pursuant to such agreement, still conforms with the standard set forth in paragraph (2) of this section and the public interest and to evaluate the success and effect upon the consuming public and the national rail freight transportation system of such agreement and organization. The Commission shall report to the President and to the Congress on the results of such reviews, as part of its annual report pursuant to section 21 of this Act. If the Commission makes a determination that any such agreement or organization is no longer in conformity with such standard, the Commission shall by order terminate or suspend immediately its approval thereof.

"(8) No order shall be entered under this section except after interested parties have been afforded reasonable opportunity for hearing.

"(9) Parties to any agreement approved by the Commission under this section and other persons are, if the approval of such agreement is not prohibited by paragraph (4), (5), or (6) hereby relieved from the operation of the antitrust laws with respect to the making of such agreement, and with respect to the carrying out of such agreement in conformity with its provisions and in conformity with the terms and conditions prescribed by the Commission.

"(10) Any action of the Commission under this section in approving an agreement, or in denying an application for such approval, or in terminating or modifying its approval of an agreement, or in prescribing the terms and conditions upon which its approval is to be granted, or in modifying such terms and conditions, shall be construed as having effect solely with reference to the applicability of the relief provisions of paragraph (9).

"(11) The Federal Trade Commission, in consultation with the Antitrust Division of the Department of Justice, shall periodically prepare an assessment of, and shall report to the Commission on (A) any possible anticompetitive features of (i) any agreements approved or submitted for approval under this section, and (ii) any conferences, bureaus, committees, or other organizations operating under such agreements, and (B) possible ways to eliminate or alleviate any such anticompetitive features, effects, or aspects in a manner that will further the goals of the National Transportation Policy and this Act. The Commission shall make such reports available to the public.

"(12) Any conference, bureau, committee, or other organization established or continued pursuant to any agreement approved by the Commission under this section shall make a final disposition with respect to any rule, rate, or charge docketed with such organization within 120 days after such proposal is docketed.".

FILING PROCEDURES

SEC. 110. (a) Section 6(6) of the Interstate Commerce Act (49 U.S.C. 6(6)) is amended by deleting "shall prescribe; and the" and inserting in lieu thereof the following: "shall prescribe. The Commission shall, beginning 2 years after the date of enactment of this sentence, require (A) that all rates shall be incorporated into the individual tariffs of each carrier or ratemaking association within 2 years after the initial publication of the rate, or within 2 years after a change in any rate is approved by the Commission, whichever is later, and (B) that any rate shall be null and void with respect to any carrier or association which does not so incorporate such rate into its individual tariff: *Provided,* That the Commission may, upon good cause shown, extend such period of time; a notice of any such extension and a statement of the reasons therefor shall be promptly transmitted to the Congress. The".

(b) Section 217(a) of the Interstate Commerce Act (49 U.S.C. 317(a)) is amended by deleting "shall prescribe; and the" in the third sentence thereof and inserting in lieu thereof the following: "shall prescribe. The Commission shall, beginning 2 years after the date of enactment of this sentence, require (A) that all rates shall be incorporated into the individual tariffs of each carrier or ratemaking association within 2 years after the initial publication of the rate, or within 2 years after a change in any rate is approved by the Commission, whichever is later, and (B) that any rate shall be null and void with respect to any carrier or association which does not so incorporate such rate into its individual tariff. The Commission may, upon good cause shown, extend such period of time. A notice of any such extension and a statement of the reasons therefor shall be promptly transmitted to the Congress. The".

(c) Section 306(b) of the Interstate Commerce Act (49 U.S.C. 906(b)) is amended by adding at the end thereof the following new sentence: "The Commission shall, beginning 2 years after the date of enactment of this sentence, require (A) that all rates shall be incorporated into the individual tariffs of each carrier or ratemaking association within 2 years after the initial publication of the rate, or within 2 years after a change in any rate is approved by the Commission, whichever is later, and (B) that any rate shall be null and void with respect to any carrier or association which does not so incorporate such rate into its individual tariff. The Commission may, upon good cause shown, extend such period of time. A notice of any such extension and a statement of the reasons therefor shall be promptly transmitted to the Congress.".

INTRASTATE RATES

SEC. 111. Section 13 of the Interstate Commerce Act (49 U.S.C. 13) is amended by adding at the end thereof the following new paragraph:

"(5) The Commission shall have exclusive authority, upon application to it, to determine and prescribe any rate, fare, charge, classification, regulation, or practice with respect to traffic moving in intrastate commerce, if (A) a carrier has filed, with the appropriate State administrative or regulatory body, a change in an intrastate rate, fare, or charge, or a change in a classification, regulation, or practice which has the effect of changing such a rate, fare, or charge, for the purpose of adjusting such rate, fare, or charge to the rate charged on similar traffic moving in interstate or foreign commerce; and (B) such State administrative or regulatory body has not, within 120 days after the date of such filing, acted finally on such change. Notice of an application to the Commission under this paragraph shall be served on the appropriate State administrative or regulatory body. Upon the filing of such an application, the Commission shall determine and prescribe the rate, fare, or charge thereafter to be charged, and the classification, regulation, or practice thereafter to be observed, in accordance with the standards set forth in paragraph (4) of this section. The provisions of this paragraph shall apply notwithstanding the laws or constitution of any State, or the pendency of any proceeding before any State court or any other State authority.".

TITLE II—INTERSTATE COMMERCE COMMISSION IMPROVEMENTS

ADMINISTRATION AND ACCOUNTABILITY TO CONGRESS

SEC. 201. (a) Section 11 of the Interstate Commerce Act (49 U.S.C. 11) is amended to read as follows:

"SEC. 11. (a) A Commission is hereby created and established to be known as the Interstate Commerce Commission. The Commission shall be composed of 11 Commissioners who shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioners appointed pursuant to this Act and their successors shall continue in office for terms of 7 years, except that any person chosen to fill a vacancy shall be appointed for the unexpired term of the Commissioner whom he shall succeed. Upon the expiration of his term of office a Commissioner shall continue to serve until his successor is appointed and shall have qualified. Any Commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. Not more than 6 Commissioners shall be appointed from the same political party. No person shall enter upon the duties of, or hold, the office of Commissioner if he (1) is employed by, (2) holds any official relation to, (3) owns any stocks or bonds of, or (4) is in any manner pecuniarily interested in, any common carrier which is subject to the provisions of this Act. Commissioners appointed under this section shall not engage in any other business, vocation, or employment during their tenure in such office. No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all of the powers of the Commission.

"(b) The President shall appoint one of the Commissioners to serve as the Chairman of the Commission (hereafter referred to as the 'Chairman'), by and with the advice and consent of the Senate. The Commissioner so appointed shall serve as Chairman at the pleasure of the President. An individual may be appointed as a Commissioner at the same time he is appointed as Chairman.

"(c) The Chairman, with the approval of the Commission, shall appoint a Secretary, and is authorized to appoint a General Counsel, a Managing Director, and the heads of major administrative units of the Commission. The Commission shall appoint such other officers, administrative law judges, attorneys, agents, consultants, and other full-time and part-time employees as it deems necessary or appropriate to the proper performance of the duties and responsibilities of the Commission. Appointments of individuals made under this subsection shall not be subject to approval by the Office of the President, the Office of Management and Budget, or any office or agency, other than the Commission or the Civil Service Commission.

"(d) (1) The Chairman shall be the chief executive officer of the Commisison and shall, in accordance with this Act and the decisions, orders, regulations, rules, and policies of the Commission, exercise the executive and administrative functions of the Commission with respect to the appointment and supervision of personnel employed by the Commission, the distribution of business among such personnel and any administrative units of the Commission, and the use and expenditure of funds.

"(2) The Chairman shall allocate to each of the other Commissioners funds determined by the Commission to be sufficient to assure that each Commissioner can obtain an adequate and qualified personal professional staff. Each Commissioner may, to the extent of such funds, appoint, assign the duties, and fix the compensation of such full-time and part-time personnel as such Commissioner deems necessary. Such appointments shall not be subject to the approval of the Chairman, and such personnel shall serve at the pleasure of the Commissioner on whose staff they serve.

"(3) The Chairman, subject to the approval of the Commission, may designate certain positions (not to exceed 45) within the Commission as 'noncareer positions'. Individuals may be appointed to such noncareer positions if their principal duties will involve significant participation in the determination of major Commission policies. Any such appointment or removal may be made without regard to any provision of title 5 of the United States Code governing appointments to and removals from positions in the competitive service, and shall not be subject to approval by the Executive Office of the President or the Office of Management and Budget, or any officer thereof, or by any official or agency of the Federal Government other than the Commission. The Chairman, subject to the approval of the Commission, may abolish any particular noncareer position, which was designated as such under this paragraph, upon a determination that such position is no longer needed. Such positions shall be graded at GS–16, GS–17, or GS–18 levels.

"(e) Not less than 10 months prior to the start of each new fiscal year, the Commission shall prepare and submit concurrently to the Congress and to the President budget estimates to carry out the provisions of this Act and all other authority of the Commission during such new fiscal year. Whenever the Commission submits or transmits any budget requests, supplemental budget requests or estimates, other budget information (including manpower needs), legislative recommendations, prepared testimony for congressional hearings, or comments on legislation, to any official or agency of the executive branch, it shall concurrently transmit a copy thereof to the Congress, and no such official or agency shall have any authority to require the Commission to submit or transmit to any such official or agency for any purpose any matter of a type mentioned in this sentence prior to the submission thereof to the Congress".

(b) Section 24 of the Interstate Commerce Act (49 U.S.C. 24) is repealed.

(c) The amendments made by this section shall take effect on the date of enactment of this Act, except that nothing in this section shall affect the terms of the Commissioners and the Chairman who are in office on such date.

(d) Section 5108(c) of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(12) the Chairman of the Interstate Commerce Commission, subject to the approval of that Commission, may place a total of 45 positions in GS–16, GS–17, and GS–18, without regard to the provisions of this chapter, except section 5114 hereof.".

TRANSPORTATION SERVICES PLANNING OFFICE

SEC. 202. (a) Section 205 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 715) is amended by (1) deleting in the title thereof "RAIL" and inserting in lieu thereof "TRANSPORTATION"; (2) deleting in the first sentence of subsection (a) thereof "Rail" and inserting in lieu thereof "Transportation"; and (3) deleting in the second sentence of subsection (a) thereof ", and shall cease to exist 5 years after the date of enactment of this Act" and inserting in lieu thereof a period.

(b) Section 102(8) of such Act (45 U.S.C. 702(8)) is amended by deleting "Rail" and inserting in lieu thereof "Transportation".

(c) Section 205(d) of such Act (45 U.S.C. 715(d)) is amended by (1) inserting "the Interstate Commerce Act and" after "under" in the clause preceding paragraph (1) thereof; (2) deleting "of this Act;" at the end of paragraph (2) thereof and inserting in lieu thereof "of this Act, or in the course of the reorganization process as provided by this Act;"; (3) deleting "and" at the end of paragraph (3) thereof; (4) deleting in the second sentence of paragraph (4) thereof "Such criteria should include the following considerations: Rail properties are suitable" and inserting in lieu thereof "In establishing such criteria, the Office shall consider whether rail properties are suitable,"; (5) deleting the period at the end of paragraph (4) thereof and inserting in lieu thereof a semicolon; and (6) adding at the end thereof the following two new paragraphs:

"(5) assist the Commission in studying and evaluating any transaction proposed under section 5(2) of the Interstate Commerce Act (49 U.S.C. 5(2)), with respect to any merger, consolidation, control, coordination, joint use of tracks or other facilities, acquisition of sale of assets, or other such project; and

"(6) assist the Commission in developing, with respect to economic regulation of transportation, policies which are likely to result in a more competitive, energy-efficient, and coordinated transportation system which utilizes each mode of transportation to its maximum advantage to meet the transportation service needs of the Nation.".

REPRESENTATION

SEC. 203. (a) Section 17 of the Interstate Commerce Act (49 U.S.C. 17) is amended by adding at the end thereof the following new paragraph:

"(13) (A) Except as otherwise provided in subparagraph (B) or (C), if—

"(i) before commencing, defending, or intervening in, any civil action involving this Act (including an action to collect a civil penalty) which the Commission, or the Attorney General on behalf of the Commission, is authorized to commence, defend, or intervene in, the Commission gives written notification and undertakes to consult with the Attorney General with respect to such action; and

"(ii) the Attorney General fails within 45 days after receipt of such notification to commence, defend, or intervene in, such action;

the Commission may commence, defend, or intervene in, and supervise the litigation of, such action (and any appeal of such action) in its own name by any of its attornews designated by it for such purpose.

"(B) Except as otherwise provided in subparagraph (C), in any civil action (i) relating to injunctive relief; (ii) relating to any consumer redress; (iii) to obtain judicial review of a rule, regulation, or order issued by the Commission; (iv) relating to enforcement of a subpena pursuant to, or relating to compliance with, an order under this act; or (v) brought pursuant to section 222(b) (1) of this Act; the Commission shall have exclusive authority to commence or defend, and to supervise the litigation of, such action (and any appeal of such action) in its own name by any of its attorneys designated by it for such purpose, unless the Commission authorizes the Attorney General to do so. The Commission shall inform the Attorney General of the exercise of such authority. The exercise of such authority shall not preclude the Attorney General from intervening, to the extent authorized by other law, in such an action (or in any appeal of such an action) on behalf of the United States.

"(C) (i) If the Commission makes a written request to the Attorney General, within the 30-day period which begins on the date of the entry of the judgment in any civil action in which the Commission represented itself pursuant to subparagraph (A) or (B), to represent itself before the Supreme Court in such action (through any of its attorneys designated by it for such purpose), it may do so, if—

"(I) the Attorney General concurs with such request; or

"(II) the Attorney General, within the 60-day period which begins on the date of the entry of such judgment, refuses to appeal or file a petition for a writ of certiorari, with respect to such civil action, or fails to take any action with respect to the Commission's request. If the Attorney General refuses so to appeal or file, he shall notify the Commission in writing of the refusal and of the reasons for such refusal, within such 60-day period.

"(ii) Whenever the Attorney General represents the Commission before the Supreme Court in any civil action in which the Commission represented itself pursuant to subparagraph (A) or (B), the Attorney General may not agree to any settlement, compromise, or dismissal of such action, or confess error in the Supreme Court with respect to such action, unless the Commission concurs.

"(iii) For purposes of this paragraph (with respect to representation before the Supreme Court), the term 'Attorney General' includes the Solicitor General.

"(D) If, prior to the expiration of the 45-day period specified in subparagraph (A) or the 60-day period specified in subparagraph (C), any applicable right of the Commission may be extinguished, due to any procedural requirement of any court with respect to the time within which any pleadings, notice of appeal, or other pertinent acts must be completed, the Attorney General shall have one-half of the time prescribed in such subparagraphs to comply with any such procedural requirement of such court (including any extension of such time granted by such court) (i) for the purpose of commencing, defending, or intervening in a civil action, pursuant to subparagraph (A), or (ii) for the purpose of refusing to appeal or file a petition for a writ of certiorari with written notification or of failing to take any action, pursuant to subparagraph (C) (i) (II).

"(E) The provisions of this paragraph shall apply notwithstanding chapter 31 of title 28, United States Code, or any other provision of law.

"(F) Whenever the Commission has reason to believe that any person is liable for a criminal penalty under this Act, the Commission shall certify the facts to the Attorney General, whose duty it shall be to cause appropriate criminal proceedings to be brought.

"(G) The provisions of this paragraph shall not apply to any civil action commenced before the date of enactment of this paragraph.".

(b) Section 2321 of title 28, United States Code, is amended in the first paragraph thereof by deleting the period at the end thereof and inserting in lieu thereof the following: ", except as otherwise provided in section 17(13) of the Interstate Commerce Act (49 U.S.C. 17(13)).".

(c) Section 2323 of title 28, United States Code, is amended (1) by striking out the first and fourth paragraphs thereof; and (2) in the second paragraph thereof by (A) deleting "The Interstate Commerce Commission and any" and inserting in lieu thereof "Any"; and (B) inserting "Interstate Commerce" immediately before "Commission, in which".

EFFECTIVE DATE OF ORDERS OF THE COMMISSION

Sec. 204. (a) Section 15(2) of the Interstate Commerce Act (49 U.S.C. 15(2)), is amended by deleting ", not less than thirty days", and inserting in lieu thereof "as the Commission may prescribe".

(b) Section 221(b) of such Act (49 U.S.C. 321(b)) is amended by deleting ", not less than thirty days,".

(c) Section 315(d) of such Act (49 U.S.C. 915), is amended by deleting ", not less than thirty days,".

(d) Section 416(c) of such Act (49 U.S.C. 321(b)) is amended by deleting ", not less than thirty days,".

CONDUCT OF PROCEEDINGS

Sec. 205. (a) Section 17(3) of the Interstate Commerce Act (49 U.S.C. 17(3)), is amended by inserting immediately after the sentence thereof the following new sentence: "Whenever the term 'hearing' is used in this part, such term shall be construed to include an opportunity for the submission of all evidence in written form, followed by an opportunity for briefs, written statements, or conferences of the parties, such conferences to be chaired by a division, an idividual Commissioner, an administrative law judge, an employee board, or any other designated employee of the Commission.".

(b) Section 17(5) of such Act (49 U.S.C. 17(5)), is amended to read as follows:

"(5) Any finding, report, or requirement of an individual Commissioner, employee board, or administrative law judge, with respect to any matter which is assigned or referred to such officer or board and which involves the taking of testimony at a public hearing, shall be accompanied by a recommended decision which shall consist of (A) a statement in writing of the reasons for such finding, report, or requirements, and (B) a recommended order. Each such recommended decision shall be filed with the Commission, except that the Commission or a duly designated division thereof may, in its discretion, waive such requirement or, in appropriate cases, may direct that any matter shall be considered forthwith by the Commission or such division, if it concludes that the matter involves a question of agency policy, a new or novel issue of law, or an issue of general transportation importance, or if the due and timely execution of its functions so requires. Whenever a recommended decision is filed with the Commission, copies thereof shall be served upon interested parties. Any such party may file an appeal with the Commission, with respect to such recommended decision. If no such appeal is filed within 20 days after such service, or within such further period as the Commission or a duly designated division thereof may authorize, the recommended order set forth in such recommended decision shall become the order of the Commission and shall become effective unless, within such period, the order shall have been stayed or postponed by the Commission or by a duly designated division thereof. The Commission or a duly designated division thereof may, upon its own initiative, and shall, in any case in which such an appeal is filed, review the matter, upon the same record or upon the basis of a further hearing. The Commission shall rule promptly on any appeal of a recommended order; such an order shall be stayed pending the determination of such appeal. Such a review shall be conducted in accordance with section 557 of title 5, United States Code, and such rules (limiting and defining the issues and pleadings upon review) as the Commission may adopt in conformance with section 557(b) of such title 5. With respect to this paragraph, the Commission may, in its discretion, authorize duly designated employee boards to perform, on such terms and conditions as it prescribes, functions of the same character as those which may be performed by a duly designated division of the Commission. If the initial review of any appeal under this paragraph is performed by such an employee board, the decision of such board may be appealed to the Commission or to a duly designated division thereof, in accordance with this paragraph.".

(c) Section 17(6) of such Act (49 U.S.C. 17 (6)), is amended to read as follows:

"(6) Any decision, order, or requirement of the Commission, or of a duly designated division thereof shall become effective within 30 days after it is served on the parties thereto, unless the Commission provides for such decision, order, or requirement, or any applicable rule, to become effective at an earlier date. Any interested party to a decision, order, or requirement of a duly designated division of the Commission may petition the Commission for rehearing, reargument, or reconsideration, subject to such rules and limitations as the Commission may establish. If the Commission finds that a matter of general transportation importance is presented, the Commission may reconsider the decision, order, or requirement, and it may, in its discretion, stay the effective date of such decision, order, or requirement.".

(d) Section 17(7) of such Act (49 U.S.C. 17(7)), is amended to read as follows:

"(7) Any decision, order, or requirement of the Commission, or of a duly designated division thereof, shall be final on the date on which it is served. A civil action to enforce, enjoin, suspend, or set aside such a decision, order, or requirement, in whole or in part, may be brought after such date in a court of the United States pursuant to the provisions of law which are applicable to suits to enforce, enjoin, suspend, or set aside orders of the Commission.".

(e) Section 17(8) of such Act (49 U.S.C. 17(8)), is amended to read as follows:

"(8) The Commission may, at any time, upon its own initiative, reopen any proceeding. The Commission may grant rehearing, reargument, or reconsideration with respect to any of its decisions, orders, or requirements, and it may reverse, modify, or change any such decision, order, or requirement. The Commission may establish rules allowing interested parties to petition for leave to request reopening and reconsideration based upon new evidence or changed circumstances.".

(f) Paragraph (9) of section 17 of such Act (49 U.S.C. 17(9)) is repealed.

(g) Section 17 of such Act (49 U.S.C. 17), is amended by (1) redesignating paragraphs (10), (11), and (12) thereof as paragraphs (9), (10), and (11) thereof, respectively; and (2) adding at the end thereof the following three new paragraphs:

"(12) Except as otherwise provided by this Act, whenever a proceeding which requires affirmative authorization or approval has been pending before the Commission for more than 2 years following the date on which such proceeding was initially instituted or commenced, it shall be presumed, as of such date, that such authorization or approval is warranted and is otherwise lawful in all respects. Such a presumption may be rebutted only by clear and convincing evidence on the record to the contrary. Such a presumption shall be conclusive as to the Commission on the third anniversary of the date on which such proceeding was initially instituted or commenced, and the Commission shall issue an order granting such authorization or approval as soon after such anniversary as is practicable.

"(13) Any formal investigation proceeding which is instituted by the Commission after the date of enactment of this paragraph shall be concluded by the Commission with administrative finality within 3 years after the date on which such proceeding is instituted. Any such proceeding which is not so concluded by such date shall automatically be dismissed.

"(14) Within 1 year after the date of enactment of this paragraph, the Commission shall conclude with administrative finality, or it shall terminate, any formal investigation proceeding which was instituted by the Commission on its own initiative and which has been pending before the Commission for a period of 3 or more years following the date of the order which instituted such proceeding.".

PUBLIC PARTICIPATION AND REPRESENTATION

Sec. 206. (a) Part I of the Interstate Commerce Act, as amended by this Act, is further amended by inserting after section 23 thereof, a new section 24, as follows:

"OFFICE OF PUBLIC COUNSEL

"Sec. 24. (a) There shall be established, within 60 days after the date of enactment of this section, a new independent Office affiliated with the Commission to be known as the Office of Public Counsel. The Office of Public Counsel shall function continuously pursuant to this section and other applicable Federal laws.

"(b) The Office of Public Counsel shall be administered by a Director. The Director shall be appointed by the President, from among persons recommended by the Commission by and with the advice and consent of the Senate. The Director shall be appointed for a term of 4 years. He shall be responsible for the discharge of the functions and duties of the Office of Public Counsel, unless removed for cause. He shall be appointed and compensated, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, classification, and General Schedule pay rates, at a rate not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title.

"(c) The Director is authorized to appoint, fix the compensation, and assign the duties of employees of such Office and to procure temporary and intermittent services to the same extent as is authorized under section 3109 of title 5, United States Code. Each bureau, office, or other entity of the Commission and each department, agency, and instrumentality of the executive branch of the Federal Government and each independent regulatory agency of the United States is authorized to provide the Office of Public Counsel with such information and data as it requests. The Director is authorized to enter into, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of his functions and duties. The Director shall submit a monthly report on the activities of the Office of Public Counsel to the Chairman of the Commission, and the Commission, in its annual report to the Congress, shall evaluate and make recommendations with respect to such Office and its activities, accomplishments, and shortcomings.

"(d) In addition to any other duties and responsibilities prescribed by law, the Office of Public Counsel—

"(1) shall have standing to become a party to any proceeding, formal or informal, which is pending or initiated before the Commission;

"(2) may petition the Commission for the initiation of proceedings on any matter within the jurisdiction of the Commission;

"(3) may seek judicial review of any Commission action to the extent such review is authorized by law for any person and on the same basis; and

"(4) shall evaluate and represent, before the Commission and other Federal agencies whose policies and activities affect transportation matters subject to the jurisdiction of the Commission, and shall by other means assist the constructive representation of, the public interest in safe, efficient, reliable, and economical transportation services. In the performance of its duties under this paragraph, the Office shall assist the Commission in the development of a public interest record in proceedings before the Commission.

"(e) The budget requests and budget estimates of the Office of Public Counsel shall be submitted concurrently to the Congress and to the President, and the provisions of section 11(e) of this part are applicable to the Office.

"(f) There are authorized to be appropriated to the Office of Public Counsel for the purpose of carrying out the provisions of this section not to exceed $500,000 for the fiscal year ending June 30, 1976, not to exceed $500,000 for the fiscal year transition period ending September 30, 1976, and not to exceed $2,000,000 for the fiscal year ending September 30, 1977.".

(b) Section 13 of the Interstate Commerce Act (49 U.S.C. 13) is amended by adding at the end thereof the following new paragraph:

"(6)(A) Whenever, pursuant to section 553(e) of title 5, United States Code, an interested person (including a government entity) petitions the Commission for the commencement of a proceeding for the issuance, amendment, or repeal of an order, rule, or regulation under this Act, the Commission shall grant or deny such petition within 120 days after the date of receipt of such petition. If the Commission grants such a petition, it shall commence an appropriate proceeding as soon thereafter as practicable. If the Commission denies such a petition, it shall set forth, and publish in the Federal Register, it reasons for such denial.

"(B) If the Commission denies such a petition (or if it fails to act thereon within the 120-day period established by subparagraph (A)), the petitioner may commence a civil action in an appropriate court of appeals of the United States for an order directing the Commission to initiate a proceeding to take the action requested in such petition. Such an action shall be commenced within 60 days after the date of such denial or, where appropriate, within 60 days after the date of expiration of such 120-day period.

"(C) If such petitioner can demonstrate to the satisfaction of such court, by a preponderance of the evidence in the record before the Commission or, in an action based on a petition on which the Commission failed to act, in a new proceeding before such court, that the action requested in such petition to the Commission is necessary and that the failure of the Commission to take such action will result in the continuation of practices which are not consistent with the public interest or in accord with this Act, such court shall order the Commission to initiate such action.

"(D) In any action under this paragraph, a court shall have no authority to compel the Commission to take any action other than the initiation of a proceeding for the issuance, amendment, or repeal of an order, rule, or regulation under this Act.

"(E) The term 'Commission', as used in this paragraph, includes any division, individual Commissioner, administrative law judge, employee board, or any other person authorized to act on behalf of the Commission in any part of the proceeding for the issuance, amendment, or repeal of any order, rule, or regulation under this Act.".

(c) Section 14 of the Interstate Commerce Act (49 U.S.C. 14) is amended by adding at the end thereof the following new paragraph:

"(4) Reports in writing and other written statements (including, but not limited to, any order, decision and order, vote, notice, letter, policy statement, rule, or regulation) of any official action of the Commission (whether such action is taken by the Commission, a division thereof, any other group of Commissioners, a single Commissioner, an employee board, an administrative law judge, or any other individual or group of individuals who are authorized to take any official action on behalf of the Commission) shall indicate the official designation of the individual or group taking such action; the name of each individual taking, or participating in taking, such action; and the vote or position of each such participating individual. If any individual, who is officially designated as a member of a group which takes any such action, does not participate in such action, the written statement of such action shall indicate that such individual did not participate. Each individual who participates in taking any such action shall have the right to express his individual views as part of the written statement of such action. The written statement of any such action shall be made available to the public in accordance with Federal law.".

PROHIBITING DISCRIMINATORY TAX TREATMENT OF TRANSPORTATION PROPERTY

SEC. 207. Part I of the Interstate Commerce Act is amended by redesignating section 27 thereof as section 28 thereof and by inserting after section 26 thereof a new section 27, as follows:

"SEC. 27. (a) Notwithstanding the provisions of section 202(b), any action described in this subsection is declared to constitute an unreasonable and unjust discrimination against, and an undue burden on, interstate commerce. It is unlawful for a State, a political subdivision of a State, or a governmental entity or person acting on behalf of such State or subdivision to commit any of the following prohibited acts:

"(1) The assessment (but only to the extent of any portion based on excessive values as hereinafter described), for purposes of a property tax levied by any taxing district, of transportation property at a value which bears a higher ratio to the true market value of such transportation property than the ratio which the assessed value of all other commercial and industrial property in the same assessment jurisdiction bears to the true market value of all such other commercial and industrial property.

"(2) The levy or collection of any tax on an assessment which is unlawful under paragraph (1).

"(3) The levy or collection of any ad valorem property tax on transportation property at a tax rate higher than the tax rate generally applicable to commercial and industrial property in the same assessment jurisdiction.

"(4) The imposition of any other tax which results in discriminatory treatment of a common or contract carrier subject to this part I, part II, part III, or part IV of this Act.

"(b) Notwithstanding any provision of section 1341 of title 28, United States Code, or of the constitution or laws of any State, the district courts of the United States shall have jurisdiction, without regard to amount in controversy or citizenship of the parties, to grant such mandatory or prohibitive injunctive relief, interim equitable relief, and declaratory judgments as may be necessary to prevent, restrain, or terminate any acts in violation of this section, except that (1) such jurisdiction shall not be exclusive of the jurisdiction which any Federal or State court may have in the absence of this subsection; (2) the provisions of this section shall not become effective until 3 years after the date of enactment of this section; (3) no relief may be granted under this section unless the ratio of assessed value to true market value, with respect to transportation property, exceeds by at least 5 percent the ratio of assessed value to true market value, with respect to all other commercial and industrial property in the same assessment jurisdiction; (4) the burden of proof with respect to the determination of assessed value and true market value shall be that declared by the applicable State law; and (5) in the event that the ratio of the assessed value of all other commercial and industrial property in the assessment jurisdiction to the true market value of all such other commercial and industrial property cannot be established through the random-sampling method known as a sales assessment ratio study, conducted in accordance with statistical principles applicable to such studies, to the satisfaction of the court hearing the complaint that transportation property has been or is being assessed or taxed in contravention of the provisions of this section, then the court shall hold unlawful an assessment of such transportation property at a value which bears a higher ratio to the true market value of such transportation property than the assessed value of all other property in the assessment jurisdiction in which is included such taxing district and subject to a property tax levy bears to the true market value of all such other property, and the collection of any ad valorem property tax on such transportation property at a tax rate higher than the tax rate generally applicable to taxable property in the taxing district.

"(c) As used in this section, the term—

"(1) 'assessment' means valuation for purposes of a property tax levied by any taxing district;

"(2) 'assessment jurisdiction' means a geographical area, such as a State or a county, city, township, or special purpose district within such State which is a unit for purposes of determining the assessed value of property for ad valorem taxation;

"(3) 'commercial and industrial property' or 'all other commercial and industrial property' means all property, real or personal, other than transportation property and land used primarily for agricultural purposes or primarily for the purpose of growing timber, which is devoted to a commercial or industrial use and which is subject to a property tax levy; and

"(4) 'transportation property' means transportation property, as defined in regulations of the Commission, which is owned or used by a common or contract carrier subject to economic regulation under part I, II, III, or IV of this Act or which is owned by the National Railroad Passenger Corporation.

"(d) The provisions of this section shall not apply in any State which, on the date of enactment of this section, has in effect a provision of its constitution (or an amendment thereto) which provides for the reasonable classification of property for State purposes.".

UNIFORM EXPENSE AND REVENUE REPORTING SYSTEM

SEC. 208. Section 20(3) of the Interstate Commerce Act (49 U.S.C. 20(3)) is amended by (1) inserting after "(3)" the designation "(A)"; and (2) adding at the end thereof the following six new subparagraphs to read as follows:

"(B) Within 3 years after the date of enactment of the Rail Services Act of 1975, the Commission shall establish standards and procedures for the presentation by carriers by railroad of expense and revenue data required in proceedings before the Commission. In formulating such standards and procedures, the Commission shall consult with and solicit the views of other agencies and departments of the Federal Government, representatives of carriers, shippers and their employees, and the general public. Such standards, and the methodology or methodologies recommended, should be designed to promote fairness, uniformity, consistency, and compatibility. The Commission shall consider the management and data collection expenses which such standards could impose upon such carriers in relation to the benefits which could be derived from such standards.

"(C) In order to assure the availability of accurate and pertinent economic and accounting data, and the application of relevant principles to the determination of matters subject to its responsibility, the Commission shall, in the establishment of standards and procedures under this paragraph, develop financial reporting methodologies and procedures with the intent of furthering the art of railroad financial management and reporting. Such activities should complement and support the efforts of individual carriers to develop detailed financial analysis systems which recognize the unique characteristics of their individual operations. The Commission shall identify the types of financial information which it should consider in making particular determinations under this part, and it shall develop standards and criteria for applying such information to these determinations.

"(D) In establishing standards and procedures for the presentation of expense and revenue data before the Commission, the Commission shall consider whether any modifications should be authorized or required in the uniform system of accounts. Such modifications shall be in accordance with generally accepted accounting principles uniformly applied to all carriers by railroad. Notwithstanding any other provision of this section, the Commission shall, to the extent feasible, implement changes in the uniform system of accounts which are cost effective, nonduplicative, and compatible with the present and desired managerial and responsibility accounting requirements of the carriers and which protect the confidentiality of competitive information.

"(E) The Commission shall periodically, but not less than every 5 years, review the uniform system of accounts and revise such system to the extent it deems necessary. Nothing in this paragraph shall be construed to prohibit the Commission from prescribing uniform accounting rules with respect to any particular matter prior to the establishment of uniform expense and revenue data standards and financial reporting methodologies under this section. The Commission shall prescribe, and may from time to time modify or revise, accounting rules in accordance with the provisions of section 553 of title 5, United States Code.

"(F) The Office of Management and Budget shall, within 180 days after the date of enactment of this subparagraph, establish and may thereafter revise, by regulation in accordance with section 553 of title 5, United States Code, a rate or rates at which and a period or periods within which transportation revenues and expenses should be discounted to best reflect the opportunity costs of the capital resources available for transportation needs.

"(G) There are authorized to be appropriated to the Commission for purposes of carrying out the provisions of this section such sums as may be necessary, not to exceed $1,000,000, to be available for—

"(i) procuring temporary and intermittent services, as authorized by section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed $250 per day plus expenses; and

"(ii) entering into contracts or cooperative agreements with any public agency or instrumentality or with any person, firm, association, corporation, or institution and without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5).".

EQUITABLE DISTRIBUTION OF CARS FOR UNIT TRAIN SERVICE

SEC. 209. Section 1 (12) of the Interstate Commerce Act (49 U.S.C. 1 (12)), is amended by adding at the end thereof: "In applying the provisions of this paragraph (12), however, unit-train service and non-unit-train service shall be considered separate and distinct classes of service and a distinction shall be made between these two classes of service and between the cars used in each class of service; Amdt. No. 1168 and questions of the justness and reasonableness of, or discrimination or preference or prejudice or advantage or disadvantage in, the distribution of cars shall be determined within each such class and not between them, notwithstanding any provision of sections 1, 2 and 3 of the Interstate Commerce Act (49 U.S.C. 1, 2, and 3), and of sections 1, 2, and 3 of the Elkins Act (49 U.S.C. 41, 42, and 43). Coal cars supplied by shippers or receivers shall not be considered a part of such carrier's fleet or otherwise counted in determining questions of distribution or car count under this paragraph or statutes referred to in this section. 'Unittrain service', as used herein, means the movement of a single shipment of coal of not less than four thousand five hundred tons, tendered to one carrier, on one bill of lading, at one origin, on one day and destined to one consignee, at one plant, at one destination, via one route.".

TITLE III—INVESTIGATIONS

STUDY OF GOVERNMENT AID TO TRANSPORTATION

SEC. 301. The Secretary shall conduct a comprehensive study and analysis of the policy past and present, of providing Federal, State, and local government aid and other assistance, and of the methods employed pursuant to such policy (including tax benefits and the replacement of potential capital costs through the subsidization of Federal projects, user charges, and other nondebt financing mechanisms), for the construction, improvement, operation, and maintenance of transportation facilities and services utilized by entities involved in any mode of transportation, including transportation by air, railroad, highway and waterway, whether or not such transportation is private or for hire. Such study and analysis shall compute and total the outlays made by all Federal, State, and local government entities for transportation services (including capital, maintenance, operating, and administrative and other overhead expenses) during the period from 1930 through 1975, by mode. As part of such study and analysis the Secretary shall examine alternative means and processes for determining and developing policy with respect to Federal aid to transportation, so as to encourage the establishment and maintenance of an open and competitive market (1) in which the various transportation modes are likely to compete on equal terms, and (2) in which the respective market shares of each will be governed by customer preference and full financial and economic costs. The Commission and the Secretary of the Army shall cooperate fully with the Secretary in carrying out the purposes of this section, and shall submit to the Secretary such independent and separate reports, comments and recommendations as each deems appropriate. In carrying out the purposes of this section, the Secretary may require by request, subpena, or other order all transportation carriers, other than carriers by water not subject to regulation under the Interstate Commerce Act (including (A) those operating under exemptions pursuant to sections 203(b) of the Interstate Commerce Act (49 U.S.C. 303(b)) and (B) the owners and operators of private or proprietary carriers) to file such reports containing such data and other information and any documentation thereof as the Secretary finds necessary to enable him to comply with the provisions of this section.

NATIONAL TRANSPORTATION PROGRAM

SEC. 302. (a) Within 720 days after the date of enactment of this Act, the Secretary shall study, formulate, publish, and submit to the Congress and the President (1) a national transportation program and (2) the criteria, standards, and data upon which this program is based and formulated. The Secretary shall consider all relevant factors, including (1) the need for coordinated development and improvement, with respect to all modes of transportation, and (2) the priority which should be assigned to the development and improvement of each such mode. In developing such program, the Secretary shall consider the studies conducted by the Association pursuant to section 202 of the Regional Rail Reorganization Act of 1973, as amended by this Act (45 U.S.C. 712). Such program shall include (A) a survey of existing transportation services and an analysis of the effectiveness of each in meeting the Nation's immediate and long-term transportation needs; (B) a plan (including an estimate of the costs of, and realistic plans for, financing the implementation of such plan on a continuing basis) to meet short-term and long-term transportation needs in each geographic area of the Nation; (C) a survey of the problems which the Secretary anticipates in the implementation of such program; and (D) a proposal for coordinating existing Federal laws relating to transportation. Copies of such program and materials shall be made available by the Secretary to interested persons upon request. There are authorized to be appropriated to the Secretary of Transportation not to exceed $5,000,000 for the purpose of carrying out the provisions of this section, such sums to remain available until expended.

(b) In addition to the national transportation program required in the previous section, the Secretary shall submit to the Congress within 90 days after the enactment of the Rail Services Act of 1975 a comprehensive report on the anticipated effect, including the environmental impact, of rail abandonments in States not previously studied by the Association pursuant to the Regional Rail Reorganization Act of 1973.

LAW REVISION

SEC. 303. The Commission shall prepare, or may cause to be prepared in whole or in part by consultants, a proposed modernization and revision of the Act of February 4, 1887, as amended (the Interstate Commerce Act), and a proposed codification of all Acts supplementary to the Interstate Commerce Act, and shall submit the final draft thereof to the Congress within 2 years after the enactment of this Act. The final draft shall include comments on each proposed provision, significant alternative provisions considered but not recommended, and such other information as may be useful to the Congress. The final draft shall be designed to simplify the present law and to harmonize regulation among the several modes of transportation.

TITLE IV—MERGERS AND CONSOLIDATIONS

RESPONSIBILITIES OF THE SECRETARY

SEC. 401. The Department of Transportation Act (49 U.S.C. 1651 et seq.) is amended by inserting after section 4 thereof the following new section 5:

"RAIL SERVICES

"SEC. 5. (a) The Secretary may develop and make available to interested persons feasible plans, proposals, and recommendations for mergers, consolidations, and other unification or coordination projects for rail services (including, but not limited to, arrangements for joint use of tracks or other facilities and any acquisition or sale of assets) which the Secretary believes would result in a rail system which is more efficient, consistent with the public interest.

"(b) (1) In order to achieve a more efficient, economical, and viable rail system in the private sector, the Secretary may, upon the request of any railroad and in accordance with this subsection, assist in planning, negotiating, and effecting a unification or coordination of operations and facilities with respect to two or more railroads.

"(2) As part of such assistance, the Secretary may conduct such studies as are deemed advisable (in addition to the study required under subsection (c) of this section) to determine the potential cost savings and possible improvements in the quality of rail services which are likely to result from such unification or coordination, through the elimination of duplicative or overlapping operations and facilities; the reduction of switching operations; utilization of the shortest, or the most efficient, and economical routes; the exchange of traffic rights; the combining of traffic and of terminal or other facilities; the upgrading of tracks and other facilities used by two or more railroads; reduction of administrative and other expenses, and any other measures likely to reduce costs and improve services. For purposes of such studies and of the study described in subsection (c) of this section, each railroad shall provide such information as may be requested by the Secretary in connection with the performance of functions under this section. In furtherance of any of the functions or responsibilities of the Secretary under this section, any officer or employee duly designated by the Secretary may obtain, from any railroad, information regarding the nature, kind, quality, origin, designation, consignor, consignee, and routing of property, without the consent of the consignor or consignee involved, notwithstanding the provisions of section 15(11) of the Interstate Commerce Act (49 U.S.C. 15(11)) and may, to the extent necessary or appropriate, exercise, with respect to any railroad, any of the powers described in section 203 (c) of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 713(c)), as provided therein, except that subpenas shall be issued under the signature of the Secretary.

"(3) When requested by one or more railroads, the Secretary may also hold conferences with respect to any proposed unification or coordination project. The Secretary may invite officers and directors of all affected railroads; representatives of employees of such railroads who may be affected; the Commission; appropriate State and local government officials, shippers, and consumer representatives; and representatives of the Federal Trade Commission and of the Attorney General to one or more such conferences with respect to such a proposal. The Secretary may mediate any dispute which may arise in connection with any proposed unification or coordination project. Persons attending or represented at any such conference shall not be liable under the antitrust laws of the United States with respect to any discussion at such conference and as to any agreements reached at such conference which are entered into with the approval of the Secretary, in order to achieve or determine a plan of action to implement any such unification or coordination project.

"(c) The Secretary shall conduct a comprehensive study of the American railway system. Such study shall commence not later than 45, and shall end not more than 360, days after the date of enactment of this section. Such study shall include—

"(1) a showing of the potential cost savings and of possible improvements in service quality which could result from restructuring the railroads in the United States through the means developed under or described in subsection (a) or (b) of this section;

"(2) an identification of the potential economies and improvements in performance which could result from the improvement of local and terminal operations;

"(3) an estimate of the potential net savings in the expense of rehabilitating railroads which are possible through improvement of traffic flows;

"(4) an assessment of the extent to which common or public ownership of fixed facilities could improve the national rail transportation system;

"(5) an assessment of the potential effects of alternative rail corporate structures upon the national rail transportation system;

"(6) a listing, in order of descending priority, of the rail properties which should be improved to the extent necessary to permit high-speed rail passenger or freight service over such properties, in terms of the costs and benefits of such improvements and the reasons therefor; and

"(7) a survey and analysis of the financial and physical condition of the facilities, rolling stock and equipment of the various railroads in the United States.

This study may be used by the Secretary as a basis for developing plans, proposals, or recommendations under subsection (a) of this section and, to the extent appropriate under subsection (b) of this section.

"(d) Whenever any railroad submits a proposal for a merger or other action the approval of which is subject to the jurisdiction of the Interstate Commerce Commission under section 5(2) of the Interstate Commerce Act (49 U.S.C. 5(2)), the Secretary may, if he has not already done so, conduct a study of such proposal in order to determine whether or not, in his judgment, such proposal is in accordance with the standards set forth in section 5 (2) (c) of such Act (49 U.S.C. 5(2) (c)). Upon making such a determination, the Secretary shall transmit a certified copy of such findings to such Commission. Whenever such proposal is the subject of an application and a proceeding before such Commission, the Secretary is authorized to appear before the Commission in any proceeding held with respect to such application.".

EXPEDITED MERGER PROCEDURE

SEC. 402. (a) Section 5(2) of the Interstate Commerce Act (49 U.S.C. 5(2)) is amended by adding at the end thereof the following new subparagraph:

"(g) In all cases arising under this paragraph and involving any carriers by railroad, the Commission shall—

"(i) within 30 days after the date on which an application is filed with the Commission and a certified copy of such application is furnished to the United States Railway Association, publish notice thereof in the Federal Register or, if such application is incomplete, reject the application by order, which order shall be deemed to be final under the provisions of section 17 of this part;

"(ii) provide that written comments on an application, as to which such notice is published, may be filed within 45 days after the publication of such notice in the Federal Register;

"(iii) require that copies of any such comments shall be served upon the Secretary of Transportation, the Chairman of the United States Railway Association, and the Attorney General, each of whom shall be afforded 15 days following the date of receipt thereof to inform the Commission whether he will intervene as a party to the proceeding, and if so, to submit preliminary views on such application;

"(iv) require that all other applications, which are inconsistent, in whole or in part, with such application, and all petitions for inclusion in the transaction, must be filed with the Commission and with the Association, within 90 days of the publication of notice of the application in the Federal Register;

"(v) conclude any evidentiary proceedings within 240 days following the date upon which notice of the application was published in the Federal Register, except that in the case of an application involving the merger or control of two or more class I railroads, as defined by the Commission, the Commission shall conclude any evidentiary proceedings not more than 24 months following the date upon which notice of the application was published in the Federal Register; and

"(vi) issue a final decision within 180 days following the date upon which the evidentiary proceeding is concluded. If the Commission fails to issue a decision which is final within the meaning of section 17 of this part within such 180-day period, it shall notify the Congress in writing of such failure and the reasons therefor. If the Commission determines that the due and timely execution of its functions under this paragraph so requires or that an application brought under this paragraph is of major transportation importance, it may order that the case be referred directly without an initial decision by a division, individual Commissioner, board, or administrative law judge to the full Commission for a decision which is final within the meaning of section 17 of this part.".

(b) Section 5 of the Interstate Commerce Act (49 U.S.C. 5) is amended by redesignating paragraphs (3) through (16) thereof as paragraphs (4) through (17) thereof, respectively, and by inserting immediately after paragraph (2) thereof the following new paragraph:

"(3) Any modification of any transaction governed by paragraph (2) of this section, which involves a carrier by railroad may be proposed by the Secretary of Transportation, who shall have standing to appear before the Commission in support of such proposed modifications.".

TITLE V—RAILROAD REHABILITATION AND IMPROVEMENT FINANCING

DEFINITIONS

SEC. 501. As used in this title, the term—

(1) "applicant" means any railroad, or other person, including a governmental entity, which submits an application to the Association for the guarantee of an obligation under which it is an obligor or for a commitment to guarantee such an obligation;

(2) "equipment" includes any type of new or rebuilt standard gauge locomotive, caboose, or general service railroad freight car the use of which is not limited to any spe-

cialized purpose by particular equipment, design, or other features. General service railroad freight car includes a boxcar, gondola, open-top or covered hopper car, and flatcar. The Association may designate other types of cars as equipment upon a written finding, with reasons therefor, that such designation is consistent with the purposes of this Act.

(3) "facilities" means all—

(A) track, roadbed, and related structures, including but not limited to, rail, ties, ballast, other track materials, grading, tunnels, bridges, trestles, culverts, elevated structures, stations, and office buildings used for operating purposes only, repair shops, enginehouses, and construction of public improvements;

(B) communication and power transmission systems, including electronic, microwave, wireless, communication, and automatic data processing systems, powerplants, power transmission systems, powerplant machinery and equipment, structures, and facilities for the transmission of electricity for use by railroads;

(C) signals, including signals and interlockers;

(D) terminal facilities, including trailer-on-flat-car and container-on-flat-car terminals, express or railroad terminal and switching facilities, and services to express companies and railroads and their shippers, including ferries, tugs, carfloats, and related shoreside facilities designed for the transportation of rolling stock by water; or

(E) any other property used or capable of being used in rail freight transportation services or in connection with such services or for originating, terminating, improving, and expediting the movement of rolling stock;

(4) "Fund" means the Railroad Rehabilitation and Improvement Fund;

(5) "holder" means the obligeee or creditor under an obligation, except that when a bank or trust company is acting as agent or trustee for such an obligee or creditor, the term refers to such bank or trust company;

(6) "obligation" means a bond, note, conditional sale agreement, equipment trust certificate, security agreement, or other obligation issued or granted to finance or refinance equipment or facilities acquisition, construction, rehabilitation, or improvement; and

(7) "obligor" means the debtor under an obligation, including the original obligor and any successor or assignee of such obligor who is approved by the Association.

THE RAIL FUND

SEC. 502. (a) ESTABLISHMENT.—There is hereby established in the Treasury of the United States the Railroad Rehabilitation and Improvement Fund. The Fund shall be administered by the Association, without the requirement of annual authorizations, in order (1) to secure the payment, when due, of the principal of, any redemption premium on, and interest on all fund anticipation notes and fund bonds, by a first pledge of and a lien on all revenues payable to and assets held in the Fund; and (2) to carry out the purposes, functions, and powers authorized in this title.

(b) PURPOSE.—The purpose of the Fund is to provide capital which is necessary to enable the Association to furnish financial assistance to—

(1) the Corporation, at such times and in such amounts as it requires or requests, in accordance with section 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726), as amended; and

(2) other railroads, to the extent of appropriated funds, for working capital, facilities rehabilitation and improvement, and such other financing as the Association approves, in accordance with this title.

(c) GENERAL POWERS.—In order to achieve the objectives and to carry out the purposes of this title, the Association may—

(1) issue and sell securities, including fund anticipation notes and fund bonds, as provided for in sections 507 and 508 of this title;

(2) make and enforce such rules and regulations, and make and perform such contracts, agreements, and commitments, as may be necessary or appropriate to carry out the purposes or provisions of this title;

(3) prescribe and impose fees and charges for services by the Association, pursuant to this title;

(4) settle, adjust, and compromise, and, with or without consideration or benefit to the Fund, release or waive, in whole or in part, in advance or otherwise, any claim, demand, or right of, by, or against the Association or the Fund;

(5) sue and be sued, complain, and defend, in any State, Federal, or other court;

(6) acquire, take, hold, and own, deal with, and dispose of, any property, including carrier redeemable preference shares, as provided for in section 505(d) of this title;

(7) determine, in accordance with congressional appropriations, the amounts to be withdrawn from the Fund and the manner in which such withdrawals shall be effected; and

(8) appoint, employ, fix, and provide for the compensation and benefits of such employees, attorneys, and agents as are necessary or appropriate in furtherance of the Association's direction and control of the Fund, without regard to any other law, except as may hereafter be provided by any Federal law which expressly limits any authority under this subsection.

(d) ASSISTANCE FROM OTHER AGENCIES.—The Association, with the consent of any department, establishment, or corporate or other instrumentality of the Federal Government, may utilize and act through any such department, establishment, or instrumentality. The Association may, with such consent, utilize the information, services, facilities, and personnel of any such department, establishment, or instrumentality, on a reimbursable basis. Each such department, establishment, and instrumentality is authorized to furnish any such assistance to the Association upon written request from the Association.

(e) JURISDICTION.—Whenever the Association or the Fund is a party to any civil action under this title, such action shall be deemed to arise under the laws of the United States. The district courts of the United States shall have original and removal jurisdiction of any action in which the Association or the Fund is a party, without regard to the amount in controversy. No attachment or execution may be issued against the Association, the Fund, or any property thereof prior to the entry of final judgment to such effect in any State, Federal, or other court.

(f) CONTENTS OF FUND.—There shall be deposited in the Fund, subject to utilization pursuant to subsection (i) of this section—

(1) funds received by the Association for deposit in the Fund, representing the proceeds from the issuance and sale by the Association to the Secretary of the Treasury of fund anticipation notes, as provided in sections 507 and 508 of this title;

(2) funds as may be hereafter appropriated to the Fund by Act of Congress, following the submission to the Congress of the Secretary's report, under section 504 of this title, with respect to the perceived needs of the rail industry for facilities rehabilitation and improvement, projected cash shortfalls within the rail industry, and the scope and sources of long-term public sector funding for the Fund;

(3) funds received by the Association for deposit in the Fund, representing the proceeds from the issuance and sale of fund bonds, as provided in section 508 of this title;

(4) debentures and series A preferred stock issued by the Corporation and purchased by the Association on behalf of the Fund together with all funds received by the Fund, representing interest, dividends and redemption payments, if any, with respect to such securities;

(5) carrier redeemable preference shares purchased by the Association on behalf of the Fund and funds received by the Fund representing dividends and redemption payments on such shares, as provided in sections 505(d) and 506 (a) and (b) of this title;

(6) income and gains realized by the Fund from any investment of excess funds, pursuant to subsection (g) of this section, and the obligations or securities comprising such investments; and

(7) any other receipts of the Fund.

(g) EXCESS FUNDS INVESTMENT.—If the Association determines that the amount of money in the Fund exceeds the amount required for current needs, the Association may, subject to sections 508 (g) and (h) of this title, direct the Secretary of the Treasury to invest such amounts as the Association deems advisable, for such periods as the Association directs, in obligations of, or obligations guaranteed by, the Government of the United States, or in such other governmental or agency obligations or other securities of the United States as the Secretary of the Treasury deems appropriate.

(h) DEPOSITORY.—The Association may deposit moneys of the Fund with any Federal Reserve bank, any depositary for public funds, or in such other places and in such manner as the Secretary of the Treasury deems appropriate.

(i) USES.—Moneys in the Fund shall be utilized (1) to provide financial assistance to the Corporation at such times and in such amounts as may be required or requested by the Corporation, in accordance with section 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726), as amended by this Act, (2) to provide financial assistance to railroads other than the Corporation for working capital, facilities rehabilitation and improvement projects, and for such other financial needs as may be approved by the Association pursuant to section 505 of this title, (3) to effect the payment, when due, of the principal of, and interest, if any, on, trust fund anticipation notes and trust fund bonds issued by the Association pursuant to sections 507 and 508 of this title, (4) to make payment of all expenses incurred by the Association in carrying out its functions under this title, (5) to redeem, as contemplated by section 507(c) and section 508(g) of this title, trust fund anticipation notes and trust fund bonds, and (6) to make transfers to the general funds of the United States.

(j) EXEMPTION FROM APPORTIONMENT.—Neither the Fund, nor any of the funds credited to it, shall be subject to apportionment under the provisions of section 7 of the Act of July 12, 1870 (31 U.S.C. 665).

CLASSIFICATION AND DESIGNATION OF RAIL LINES

SEC. 503. (a) TRAFFIC DENSITY ANALYSIS.—Within 180 days after the date of enactment of this Act, each railroad shall analyze its rail system and submit to the Secretary a full and complete analysis of such system. Each such analysis shall indicate the traffic density for the preceding 5 calendar years on each of the main and branch rail lines of the railroad submitting such analysis. The requirements of the preceding sentence shall not apply to (1) the Corporation; or (2) any railroad in reorganization in the region, as defined in the Regional Rail Reorganization Act of 1973, which has elected, pursuant to section 207(b) of such Act, to be reorganized pursuant to the provisions of such Act.

(b) Preliminary Standards and Designations.—Within 270 days after the date of enactment of this Act, the Secretary shall develop and publish—

(1) the preliminary standards for classifying both main and branch rail lines according to the degree to which they are essential to the rail transportation system, in at least three categories. Such classification shall be based on the level of usage measured in gross-ton-miles, the contribution to the economic viability of the railroad which controls such lines, and the contribution of such lines to the probable economic viability of any other railroads which participate in the traffic originating on such lines; and

(2) the preliminary designations with respect to each main and branch rail line, in accordance with such classifications.

In determining "level of usage" and "probable economic viability", for purposes of such classification, the Secretary shall take into account operational service and other appropriate factors, and he may make reasonable allowance for differences in operation among individual railroads or groups of railroads.

(c) Public Hearings.—Commencing 30 days after the date of publication of the standards and designations required under subsection (b) of this section, the Office shall hold public hearings (in the District of Columbia and in other parts of the country) on the preliminary standards for classification and on the preliminary designations. The Office shall give notice of the date, time, and place of each such hearing, and such notices shall be designed and placed in such manner that all interested parties will have a full and fair opportunity to be heard.

(d) Report by Office.—Within 120 days after the date of publication of the standards and designations required under subsection (b) of this section, the Office shall release and report to the Secretary its conclusions and recommendations with respect to such preliminary standards for classification and such preliminary designations. This report shall be based on the record which was developed by the Office during the hearings under subsection (c) of this section, as supplemented by such studies as may be undertaken by the Office.

(e) Final Standards and Designations.—Within 60 day after the date of receipt of the report required under subsection (d) of this section, the Secretary shall, after giving due consideration thereto, and with the cooperation and assistance of the Office, prepare and publish—

(1) the final standards for classification of main and branch rail lines; and

(2) the final designations with respect to each main and branch rail line, in accordance with these classifications. The Secretary shall include findings in support of any material change which is made in a designation from the preliminary designation under subsection (b) of this section.

CAPITAL NEEDS STUDY

Sec. 504. (a) Deferred Maintenance Schedule.—Within 180 days after the date of enactment of this Act, each railroad shall prepare and submit to the Secretary and the Association a full and complete statement (1) of such railroad's deferred maintenance and delayed capital expenditures, as of December 31, 1975; and (2) of the projected amounts of desired maintenance to be performed and capital expenditures to be made for such railroad's facilities, during each of the years from 1976 through 1985. Each railroad shall submit such additional information as may be required from it by the Secretary in connection with his duties under section 503 and this section prior to July 1, 1977, including the projected sources of and uses for the funds required by such railroad for such projected program.

(b) Preliminary Financing Recommendations.—Within 360 days after the date of enactment of this Act, the Secretary shall, after giving due consideration to (1) the final designations under section 503(e) of this title, (2) the information furnished under subsection (a) of this section, and (3) any other relevant information, develop, publish, and transmit—

(A) to the Association and to the Congress, his preliminary recommendation as to the amount of carrier equity financing to be effected through the Fund or through any other funding mechanism recommended by the Secretary, based upon his view of the rail industry's facilities rehabilitation and improvement needs, as projected through December 31, 1985; and

(B) to the Association and to the Secretary of the Treasury, his preliminary recommendation as to the means (consistent with his recommendations under section 301 of this Act) by which the Federal share, if any, of such equity financing should be provided. The Secretary shall specifically consider the public benefits and costs which would result from public ownership of railroad rights-of-way.

(c) Evaluations.—Within 90 days after the date of publication of the Secretary's preliminary recommendations under subsection (b) of this section—

(1) the Association shall publish and transmit to the Secretary and to the Congress its evaluation thereof and any recommendations with respect to the matters referred to in such subsection (b); and

(2) the Secretary of the Treasury shall publish and transmit to the Secretary and to the Congress his evaluation thereof and any recommendations with respect to the matters referred to in clause (B) of subsection (b).

(d) Final Recommendations.—Within 90 days after the date of receipt of the evaluation transmitted under subsection (c) of this section, the Secretary shall, after giving due consideration to such recommendations, prepare and transmit to the Congress his final recommendations with respect to the matters referred to in subsection (b) of this section.

REHABILITATION AND IMPROVEMENT FINANCING

Sec. 505. (a) Eligibility.—Following the date of enactment of this Act, any railroad, other than the Corporation, may apply to the Association, in accordance with regulations promulgated by the Association, for financial assistance for working capital and such other financial needs as may be approved by the Association. Following the final classification and designation of rail lines under section 503(e) of this title, any such railroad may apply to the Association, in accordance with regulations promulgated by the Association, for financial assistance for facilities rehabilitation and improvement.

(b) Application and Determination.—Each application for facilities rehabilitation and improvement financing shall set forth—

(1) a description of such carrier's proposed facilities rehabilitation and improvement program and of the current physical condition of such facilities;

(2) the essentially classification of each main and branch rail line included in such program as determined in accordance with the final standards and designation under section 503(e) of this title;

(3) the track standards to which each such line is then being operated and the reasons therefor and the safety standards and signal requirements necessary to prevent loss of life and serious accident or injury at grade crossings;

(4) the track standards necessary, in the judgment of the applicant railroad, to provide reliable and competitive freight service (and passenger service, where applicable) over such line, together with such railroad's recommendations as to the most economical method of improving the physical condition of such line to meet the desired track standard following: "and the cost of providing adequate safety standards and signals together with an economic analysis of the cost of such improvements in safety standards and signals.

(5) such railroad's estimated cost of labor and materials and completion time, and its opinion as to the priority to be accorded such portions of the proposed project as are reasonably divisible; and

(6) such other information as the Association shall by regulation require to assist it in evaluating such application in accordance with this section.

Applications for financial assistance, other than for facilities rehabilitation and improvement, shall contain such information as the Association shall by regulation require. The Association shall act upon each application for any financial assistance within 6 months after the date on which it is received. The Association may approve any such application if it determines that providing the requested financial assistance is in the public interest. When making such a determination, the Association shall consider (A) the availability of funds from other sources at a cost which is reasonable under principles of prudent railroad financial management in light of the railroad's projected rate of return for the project to be financed; (B) the interest of the public in supplementing such other available funds, if any, in order to increase the total amount of funds available for railroad financing; and (C) the public benefits to be realized from the project to be financed in relation to the public costs of such financing and whether the proposed project will return public benefits sufficient to justify public costs. The Association, in the granting of financial assistance to any applicant, shall assign the highest priority to applications for assistance for providing safety improvements and signals including underpasses or overpasses at railroad crossings wherein injury or loss of life has frequently occurred or is likely to occur.

(c) Financing Agreement.—Upon the approval of an application for financial assistance, the Association shall promptly enter into an agreement with such applicant railroad to provide financing in such amounts and at such times as is sufficient, in the judgment of the Association, to meet the reasonable cost, in whole or in part, of such railroad's financing program as is approved, in whole or in part. Each such agreement shall include such terms and conditions as are necessary or appropriate, in the judgment of the Association, to assure that the financing will be used only in the manner, and for the purposes, approved by the Association.

(d) Railroads Other Than the Corporation.—(1) In the case of a railroad other than the Corporation, financing shall be in the form of purchase, by the Association, at par, of redeemable preference shares of a railroad's stock. Such shares shall be specifically issued, in accordance with the terms and conditions set forth in section 506 of this title, for this purpose.

(2) The total par value of the redeemable preference shares which the Association may purchase, from the proceeds received by it from the issuance and sale of fund anticipation notes, shall not exceed $1,400,000,000.

(e) Future Purchases of Redeemable Preference Shares.—The total par value of the redeemable preference shares which the Association may purchase under this Act after December 31, 1977, shall be determined by the Congress following the receipt by the Congress of the Secretary's recommendations as to the scope and sources of funding of the Fund or any recommended alternative financing mechanism, as submitted pursuant to section 504 of this title, except that, (1) the amount of the Association's investment in redeemable preference shares in any fiscal year (out of proceeds other than those derived through the issuance and sale of trust fund anticipation notes) shall not, when added to the amount of its prior investment in such shares, exceed 200 percent of the aggregate principal amount of the trust fund bonds which (A) have been issued by the Association prior to such fiscal year, and (B) are projected to be issued by the Association through the end of such fiscal year; and (2) neither redemptions of trust fund bonds nor their payment at scheduled maturity shall have any bearing on the limitation in paragraph (1).

REDEEMABLE PREFERENCE SHARES

SEC. 506. (a) CHARACTERISTICS.—The redeemable preference shares acquired by the Association pursuant to section 505(d) of this title are securities which are issued by a railroad other than the Corporation for the purposes of obtaining facilities rehabilitation and improvement financing under this title. Each such redeemable preference share—

(1) shall be nonvoting and shall have a par value of $10,000;

(2) shall be senior in right to all common stock of the issuing railroad, whenever issued, and to any subsequently issued preferred stock, with respect to dividend and redemption payments and in case of liquidation or dissolution of such railroad, but shall be subordinate in such matters to any of such railroad's previously issued and outstanding shares which rank ahead of its common stock; except that, redeemable preference shares issued in exchange for the debentures and series A preferred stock of the Corporation, in accordance with section 507(d) of this title, shall have priority, in case of liquidation or dissolution, over the series B preferred stock of the Corporation, with respect to dividends, if any, and redemption payments;

(3) shall accrue dividends commencing on the tenth anniversary date of the date of its original issuance. After such 10-year period, such shares shall bear dividends at such rate as shall be fixed by the Association prior to the issuance thereof and which, when added to the amount of the mandatory redemption payments under subparagraph (4) of this paragraph, shall return to the Fund not less than 150 percent of the aggregate par value thereof, over the scheduled 30-year life of the issue and in annual payments which shall be as nearly equal as practicable; and

(4) shall be subject to mandatory redemption, at par, commencing on the eleventh anniversary date of the date of its original issuance, in annual amounts which shall, over the 20-year period ending on the thirtieth anniversary date of the date of its original issuance, aggregate the total par value of such share.

(b) DEPOSIT.—All redeemable preference shares which are acquired by the Association, pursuant to section 505(d) of this title shall, upon such acquisition, be deposited in the Fund.

(c) WHEN PAYMENTS IN ARREARS.—Whenever the dividend or redemption payments on redeemable preference shares, which are issued by any railroad, are in arrears for a period of 4 months, the Association shall be entitled to appoint two memebrs to the Board of Directors of such railroad. The term of office of such directors shall not extend beyond the period during which such dividend or redemption payments are in arrears.

FUND ANTICIPATION NOTES

SEC. 507 (a) IN GENERAL.—The Association may, until December 31, 1977, issue and sell, and the Secretary of the Treasury until such date shall, to the extent of appropriated funds, purchase fund anticipation notes, in an aggregate principal amount not to exceed $4,400,000,000, in order to provide financial assistance (1) to the Corporation, at such times and in such amounts as it may require or request, pursuant to section 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 216), as amended by this Act, and (2) to other railroads for working capital and such other financing needs as the Association approves.

(b) TERMS OF ISSUE.—Fund anticipation notes shall be issued in denominations of $100,000 (or any integral multiple thereof), upon such terms and conditions, with such maturities, such rates of interest, if any, and such redemption premiums, if any, as the Association in its sole discretion may determine. The date of maturity of each trust fund anticipation note may not exceed 7 years from the date of its issuance.

(c) REDEMPTION.—If the Congress, following its receipt of the recommendations of the Secretary, pursuant to section 504(d) of this title, with respect to the amount of facilities rehabilitation and improvement financing which should be effected through the Fund and the method of long-term public sector funding therefor, and, in such context, authorizes the issuance of fund bonds, the Association shall redeem the fund anticipation notes then outstanding, in such manner, and over such period of time, as the Association shall determine, from the proceeds of the sale of such fund bonds and from such other public sector moneys as have been appropriated to the Fund: *Provided*, That the amount of fund anticipation notes so redeemed shall be reduced by an amount equal to the sum of the aggregate principal amount of debentures of the Corporation and the aggregate par value of the series A preferred stock of the Corporation which have not been exchanged for redeemable preference shares, pursuant to subsection (d) of this section.

(d) EXCHANGE OR TRANSFER.—If the Congress authorizes the Association to issue fund bonds, as contemplated by subsection (c) of this section, the Association shall, unless otherwise provided—

(1) make the determination contemplated by section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 216(b)), as amended by this Act, and exchange all of the debentures and series A preferred stock issued by the Corporation and held in the Fund (pursuant to sections 502 and 506(b) of this title) for an amount of redeemable preference shares equal in par value to the sum of the principal amount of such debentures and such preferred stock; or

(2) transfer, from the Fund and hold in trust for the Secretary of the Treasury, any debentures or series A preferred stock of the Corporation which are held in the Fund (any such trust shall be in full satisfaction of the Association's obligations to the Secretary of the Treasury with respect to fund anticipation notes whose proceeds were utilized by the Association to purchase such debentures or series A preferred stock of the Corporation directly or by exchange).

(e) REMITTANCE AND TERMINATION.—If the Congress does not, on or before January 1, 1978, enact legislation of the type contemplated by subsection (c) of this section, the Association shall hold in trust all redeemable preference shares issued by railroads and the Corporation which are held in the Fund, and the Fund shall thereupon terminate. Such holding in trust shall constitute full satisfaction of the Association's obligations to the Secretary of the Treasury with respect to the trust fund anticipation notes whose proceeds were utilized by the Association to purchase such debentures and series A preferred stock of the Corporation.

FUND BONDS

SEC. 508. (a) ISSUANCE.—The Association may, following enactment of the legislation contemplated by section 504 of this title, issue fund bonds in denominations of $100,000 (or any integral multiple thereof), in such total amounts as may be authorized by the Congress. No fund bonds—

(1) shall be issued which mature less than 8, or more than 15, years from the date of original issuance thereof;

(2) shall be issued later than the tenth anniversary of the date of publication of the final standards and designations under section 503(e) of this title; and

(3) shall be subject to redemption (at the option of the Association) (A) at any time prior to the tenth anniversary of the date of original issuance thereof, and (B) at any time thereafter, except as contemplated by subsections (d)(5) and (g) of this subsection.

(b) PLEDGE AND LIEN.—The Association, subject to sections 502 and 508(g) of this title, shall impose a first pledge of, and a first lien on, all revenues payable to, and assets held in, the Fund, and appropriated for the use of the Asociation pursuant to this title. The Association may impose such a pledge of and lien on all other revenues or property of the Fund. The purpose of any such pledge and lien shall be to secure the payment, when due, of the principal of, any redemption premiums on, and any interest on, all fund anticipation notes and fund bonds, and for other purposes incidental thereto. Such incidental purposes may include the creation of reserve and other funds which may be similarly pledged and used, such extent and in such manner as the Association deems necessary or desirable. Any pledge made by the Association shall be valid and binding from the time it is made. The revenues and assets held in the Fund, and the revenues or property of the Fund which are so pledged and which are subsequently received by the Fund shall immediately be subject to the lien of such pledge without any physical delivery thereof or any further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise, against the Association or the Fund, without regard to whether such parties have notice thereof. No instrument by which a pledge is created need be recorded or filed to protect such pledge.

(c) ENHANCEMENT OF MARKETABILITY.—The Association may enter into binding covenants with the holders of fund bonds, and with the trustee, if any, under any agreement entered into in connection with the issuance of such bonds with respect to (1) the establishment of reserves, and other funds; (2) stipulations concerning the subsequent issuance of obligations; and (3) such other matters as the Association deems necessary or desirable to enhance the marketability of fund bonds.

(d) SPECIFIC DETERMINATIONS.—Subject to subsection (a) of this section, the Association may determine, with respect to fund bonds—

(1) the form and denominations in which they shall be issued;

(2) the time when they shall be sold, and in what amounts;

(3) the time when they shall mature;

(4) the price thereof at sale;

(5) the rate of interest thereon;

(6) whether, and in what manner, they may be redeemed prior to the date when they mature; and

(7) whether they shall be negotiable or nonnegotiable and whether they shall be bearer or registered instruments, and any indentures or covenants relating thereto.

(e) CHARACTERISTICS.—Fund bonds issued by the Association under this section shall—

(1) contain a recital that they are issued under this section. Such a recital shall be conclusive evidence of the validity, and of the regularity of issuance and sale of such fund bonds;

(2) be subject to such other terms and conditions as the Association may, by the resolution authorizing their issuance, determine;

(3) be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the Government of the United States. The Secretary of the Treasury or any other officer or agency having authority over, or control of, any such fiduciary, trust, or public funds may at any time sell any of the obligations of the Corporation acquired under this section;

(4) not be exempted from Federal, State, and local taxation; and

(5) not be debts or enforceable general obligations of, nor shall payment of the principal thereof or interest thereon be guaranteed by, the Government of the United States. Neither the full faith and credit, nor the general taxing power, of the Federal Government shall be pledged to the payment of the principal of, any premium on, or interest on, such fund bonds.

(f) No Personal Liability.—No officer of the Association, or any other individual, who executes any fund anticipation notes or fund bonds, shall be subject to any personal liability or accountability by reason of the issuance of any such notes or bonds.

(g) Redemption and Transfer.—If, from and after the tenth anniversary date of the original issuance of the initial series of fund bonds, the amount in the Fund, exclusive of the value of any redeemable preference shares held by the Fund, exceeds 250 percent of the amount required to satisfy amounts due in the succeeding fiscal year on account of fund bonds, the Association may use such excess to redeem fund bonds in accordance with their terms or, on the recommendation of the Secretary, may withdraw all or part of such excess from the Fund and transfer it to the general fund of the United States. When all fund bonds have been redeemed, all amounts remaining in the Fund or thereafter accruing to it shall be transferred to the general fund of the United States, except to the extent necessary to cover such expenses of the Association or the Funds as may be required to carry on and complete their remaining responsibilities.

(h) Purchase by Association.—The Association, subject to such agreements with holders of fund bonds as may then exist, shall have the power (out of any funds available) to purchase fund anticipation notes or fund bonds. Upon any purchase, such notes and bonds shall be canceled.

AUTHORIZATIONS

Sec. 509. There is authorized to be appropriated to the Secretary of the Treasury for the purposes of the Fund not to exceed $4,400,000,000, and the Secretary of the Treasury is authorized and directed to purchase, from time to time, prior to January 1, 1978, from the Association, out of such moneys in the Treasury as are appropriated under the authorization of this sentence, fund anticipation notes in such aggregate principal amounts, subject to the aforesaid limitation, as the Association may so offer for sale. There is authorized to be appropriated to the Fund or, upon termination of the Fund, to the Association, such additional sums as may be required to permit the Association to carry out its obligations under this title, for the fiscal year ending June 30, 1976, and the transitional quarter ending September 30, 1976, not to exceed $2,000,000; for the fiscal year ending September 30, 1977, not to exceed $2,000,000. No money in the Fund, regardless of source, shall be obligated, expended, or otherwise committed to any purpose from the Fund prior to or after January 1, 1978, without prior approval thereof in an annual appropriations Act. The Fund shall not qualify as one of the exceptions provided in section 401(d) of the Congressional Budget and Impoundment Control Act of 1974.

EXEMPTION

Sec. 510. Neither the provisions of section 20a of the Interstate Commerce Act, as amended (49 U.S.C. 20a), nor the registration and prospectus delivery requirements of the Securities Act of 1933, as amended, shall be applicable to the issuance and sale of redeemable preference shares by railroads, to the extent authorized, as provided by this title.

GUARANTEE OF OBLIGATIONS

Sec. 511. (a) In General.—The Association may, in accordance with the provisions of this section, guarantee and make commitments to guarantee the payment of interest on and the principal balance of an obligation prior to, on, or after the date of execution or the date of disbursement of such obligation the proceeds of which shall be or have been used to acquire or rehabilitate and improve facilities or equipment. Each guarantee of an obligation shall be made in accordance with the provisions of sections 511 through 513 of this title and such rules as the Association may prescribe to protect reasonably the interests of the United States. Each application for the guarantee of an obligation or for a commitment to guarantee an obligation shall be made in writing to the Association in such form and with such content as the Association prescribes. Such application shall be granted if the Association determines that the proposed, negotiated, or executed obligation is eligible for such guarantee. Each such guarantee or commitment to guarantee shall be extended in such form, under such terms and conditions, and pursuant to such regulations as the Association deems appropriate, consistent with the purposes of this title. Such a guarantee or commitment to guarantee shall inure to the benefit of the holder of the obligation to which such guarantee or commitment to guarantee applies. In no event shall any such holder receive or be entitled to retain payment from said guarantee in a total amount which, together with any other recovery, including a security interest in the equipment or facilities, exceeds the actual loss of such holder.

(b) Fund.—An obligation guarantee fund shall be established and administered by the Association as a revolving fund to carry out the provisions of section 511 through 513 of this title. Moneys in the obligation guarantee fund shall be deposited in the Treasury of the United States to the credit of such fund or invested in bonds or other obligations of the United States approved by the Secretary of the Treasury.

(c) Valuation.—Before granting any application for a guarantee or a commitment to guarantee any obligation, the Association shall make a determination of the value of the facilities or equipment which are or will be financed or refinanced by such obligation. Such determination of value shall be conclusive and not subject to review in any court.

(d) Modifications.—The Association may approve any modification of any provision of a guarantee, or of a commitment to guarantee an obligation, including the rate of interest, time of payment of interest or principal, security, or any other terms and conditions, if the Association makes a finding in writing that such modification is equitable and not prejudicial to the interests of the United States under this title, and that the holder of such obligation consents to such modification.

(e) Maximum Obligational Authority.—The aggregate unpaid principal amounts of obligations, including interest thereon, which may be guaranteed by the Association under this title shall not exceed $1,000,000,000 at any one time.

(f) Rate of Interest.—The rate of interest (exclusive of premium charges for a guarantee and service fees) which shall be paid on the unpaid principal balance of each obligation guaranteed by the Association, shall not exceed an annual percentage rate which the Association determines to be reasonable, taking into consideration of the prevailing interest rates for similar obligations in the private market.

(g) Notice.—Upon receipt of an application for the guarantee of an obligation, the Association shall cause a notice of such application to be published in the Federal Register and shall invite and afford interested persons an opportunity to submit comments on such application at a proceeding to commence after reasonable notice. Notice of such proceedings shall be published in the Federal Register. Such notice shall include (1) a statement of the time, place, and nature of the proceeding; and (2) a description of the subjects and issues involved.

(h) Prerequisites for Guarantees.—No obligation shall be guaranteed and no commitment shall be made to guarantee any obligation under this section, unless and until the Association makes a finding in writing that—

(1) an obligation for equipment acquisition, rehabilitation, or improvement is secured by the particular equipment which is to be financed or refinanced by such obligation;

(2) payment of the obligation is required by its terms to be made within 25 years from the date of its execution;

(3) the financing or refinancing is justified by the present and probable future demand for rail services to be rendered by the applicant and will serve to meet demonstrable needs for rail service and to provide shippers with improved service;

(4) the applicant has given reasonable assurances that the facilities or equipment to be acquired, rehabilitated, or improved with the obligation will be economically and efficiently utilized;

(5) the probable value of any equipment to be improved, rehabilitated, or acquired, and of any facilities to be acquired, is sufficient to provide the United States with reasonable security and protection in the event of default by the obligor in the case of repossession by the holder of the obligation or in the case of possession or purchase by the Association; and

(6) the transaction will result in an improvement in the ability of any affected railroad to transport passengers or freight.

(i) General Obligation.—The recipients of any guarantees of, or of any commitments to guarantee, an obligation under this section, shall, consistent with their capital resources, maintain their facilities, on a continuing basis, in accordance with standards promulgated under this subsection. The Secretary shall assure compliance with this obligation by regular periodic inspection.

(j) Conditions of Guarantees.—No guarantee of, and no commitment to guarantee, an obligation may be granted, approved, or extended under this section, unless the obligor first agrees in writing that so long as any interest or principal is due and payable on such obligation—

(A) there will be no increase in discretionary dividend payments over the average ratio which such payments bore to earnings for the applicable fiscal period during the 5 years preceding such proposed increase, without prior approval of such increase by the Association. Such approval may only be granted after a public hearing with an opportunity for interested persons to submit comments and a written finding by the Association that such increase in dividends will not materially affect the ability of the obligor to comply with the requirements of subparagraph (C) of this paragraph;

(B) the obligor will not use assets or revenues (other than cash) related to or derived from railroad operations in nonrailroad enterprises, without prior approval in writing from the Association. Such approval may only be granted after a public hearing with an opportunity for interested persons to submit comments and a written finding by the Association that such use of assets or revenues will not materially affect the ability of the obligor to comply with the requirements of subparagraph (C) of this paragraph and

(C) the obligor shall take all reasonable and practicable steps possible, in accordance with such guidelines as may be established by the Secretary and the Commission, to improve the equitable distribution and efficient and expeditious use of all equipment and facilities in order to improve rail service.

(k) Breach of Conditions.—The Attorney General shall commence a civil action in any appropriate district court of the United States to enjoin any activity which the Association finds is in violation of any condition specified in subsection (i) or (j) of this section, and to secure any other appropriate relief, including termination, suspension, and punitive damages.

(l) Investigation Charge.—The Association shall charge and collect from each applicant such amounts as it deems reasonable for the investigation of any application submitted, for appraisal of the value of the equipment or facilities involved, and for making the necessary determinations and findings. Such charges shall not aggregate more than one-half of 1 percent of the principal amount of the obligation with respect to which the applicant seeks a guarantee or commitment to guarantee.

(m) Premium Charge.—The Association shall levy and collect from the obligor an annual premium charge on each obligation guaranteed under this section. The amount of such premium may not exceed an annual rate of 1 percent on the unpaid balance of such obligation at the time payment is due. Payment is due initially when the obligation is guaranteed by the Association, and thereafter, on the anniversary date of such guarantee.

(n) Administrative Costs.—All moneys received by the Association under this section shall be deposited in the obligation guarantee fund. An amount, which shall not exceed 5 percent of the total annual premium charges authorized to be collected under subsection (m) of this section, may be used by the Association to pay administrative costs and expenses incurred by it pursuant to this section.

ISSUANCE OF NOTES OR OBLIGATIONS

Sec. 512. (a) Authorization.—The Association may issue notes or other obligations to the Secretary of the Treasury in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Association, with the approval of such Secretary, may prescribe. Such obligations may be issued whenever the moneys in the obligation guarantee fund are not sufficient to pay any amount which the Association is required to pay under section 513 of this title. Such obligations shall bear interest at a rate to be determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States on comparable maturities during the month preceding the issuance of such obligations. The Secretary of the Treasury shall purchase any such obligations and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force. The purposes for which securities may be issued under such Bond Act are extended to include any purchase of notes or other obligations issued under this subsection. The Secretary of the Treasury may sell any such obligations at such time and price and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such obligations by such Secretary shall be treated as public debt transactions of the United States. Moneys obtained under this subsection shall be deposited in the obligation guarantee fund, and redemptions of any such obligations shall be made by the Association from such fund.

(b) Disposition of Property.—Notwithstanding any other provision of law, the Association may, in its discretion, perform any acts which it considers necessary or appropriate to complete, recondition, reconstruct, renovate, repair, maintain, manage, operate, charter, lease, rent, sell or otherwise dispose of any property or other interests acquired by it pursuant to sections 511 through 513 of this title.

(c) Validity.—No guarantee by the Association and no commitment by it to guarantee an obligation, under sections 511 through 513 of this title may be terminated, suspended, canceled, or otherwise revoked, except in accordance with lawful terms and conditions prescribed by the Association. Such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of such sections of this title, and that such obligation has been approved and is legal as to principal, interest, and other terms. Such a guarantee or commitment to guarantee shall be valid and incontestable in the hands of the holder thereof, as of the date when the Association granted the application therefor, except as to fraud or material misrepresentation by such holder.

DEFAULT ON GUARANTEED OBLIGATIONS

Sec. 513. (a) In General.—If there is a default by the obligor in any payment of principal or interest due under an obligation guaranteed under sections 511 through 513 of this title, which has continued for 30 days, the holder of such obligation or his agent has the right to demand payment by the Association of the unpaid interest on, and the unpaid principal of, such obligation. Such payment may be demanded after or before the expiration of such period as may be specified in the guarantee or related agreements, but not later than 90 days from the date of such default. Within such specified period, but not later than 60 days from the date of such demand, the Association shall pay to such holder the unpaid interest on, and the unpaid principal of, such obligation; except that the Association shall not be required to make any such payment if it finds, prior to the expiration of such period, that there was no default by the obligor in the payment of interest or principal or that such default has been remedied.

(b) Rights of Association.—If the Association makes a payment to a holder, under subsection (a) of this section, it shall thereupon have all the rights granted to it by law or security agreements between it and the obligor, at such time. The Association shall also be subrogated to all of the rights which such holder had by law, assignment, or security agreements between such holder and the obligor. Notwithstanding any other provision of law, the Association may, in its discretion, complete, recondition, reconstruct, renovate, repair, maintain, operate, charter, rent, sell, or otherwise dispose of any property obtained by it pursuant to this section. The terms of any such sale or other disposition shall be as approved by the Association.

(c) Form of Payment.—Any amount required to be paid by the Association pursuant to subsection (a) of this section shall be paid in cash.

(d) Action Against Obligor.—If there is a default by the obligor in any payment due under an obligation guaranteed under sections 511 through 513 of this title, the Association shall take such action against such obligor or any other person as is, in its discretion, necessary or appropriate to protect the interests of the United States. Such an action may be brought in the name of the United States or in the name of the holder of such obligation. Such holder shall make available to the Association all records and evidence necessary to prosecute any such suit. The Association may, in its discretion, accept a conveyance of property in full or partial satisfaction of any sums owed to it, if the value of such property is not greater than the total of the unpaid interest, charges, and principal of such obligation. If the Association receives, through the sale of property, an amount greater than its cost and the amount paid to the holder under subsection (a) of this section, it shall pay such excess to the obligor.

AUDIT OF TRANSACTIONS

Sec. 514. (a) In General.—The operations of the Fund and of the obligation guarantee fund shall be audited annually by the Comptroller General of the United States, in accordance with such rules and regulations as he may prescribe. Any such audit shall be conducted at the place or places where accounts of the Fund or of the obligation guarantee fund are normally kept. The representatives of the Comptroller General shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to, or in use by or in connection with the Fund, the obligation guarantee fund, or the Association which pertain to the financial transactions of the Fund or the obligation guarantee fund and which are necessary to facilitate an audit. Such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books accounts, records, reports, files, papers, things, and property shall remain in the possession and custody of the Fund, the obligation guarantee fund, or the Association, guarantee fund, or the Association, as the case may be.

(b) Access to Information.—The representatives of the Comptroller General shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by any person or entity which has entered into a financial transaction, with or involving the Fund, the obligation guarantee fund, the Association, under this title, to the extent deemed necessary by the Comptroller General to facilitate any audit of financial transactions pursuant to subsection (a) of this section. Such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such property of such person or entity shall remain in the possession and custody of such person or entity, to the extent practicable.

(c) Report.—The Comptroller General shall make a report of each such audit to the Congress. Such report shall contain all comments and information which the Comptroller General deems necessary to inform Congress of the financial operations and condition of the obligation guarantee fund and any recommendations which he deems advisable. Such report shall indicate specifically and describe in detail any program, expenditure, or other financial transaction or undertaking observed in the course of such audit which the Comptroller General deems to have been carried on or made without lawful authority or which is inconsistent with the purposes and provisions of this title. A copy of such report shall be furnished to the President, the Secretary, the Commission, and the Association, at the time it is submitted to the Congress.

ANNUAL REPORT

SEC. 515. The Association shall report to the Congress within 90 days following the end of each fiscal year on the financial condition and operations of the Fund and of the obligation guarantee fund during such fiscal year, and on the anticipated condition and operations of the Fund and of the obligation guarantee fund during the next fiscal year.

EMPLOYEE PROTECTION

SEC. 516. (a) IN GENERAL.—Fair and equitable arrangements shall be provided, in accordance with this section, to protect the interests of any employees not otherwise protected under title V of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 510) who may be affected by actions taken pursuant to authorizations or approval obtained under this title. Such arrangements shall be determined by the execution of an agreement between the representatives of the railroads and the representatives of their employees, within 120 days after the date of enactment of this title. In the absence of such an executed agreement, the Secretary of Labor shall prescribe the applicable protective arrangements, within 150 days after the date of enactment of this title.

(b) TERMS.—The arrangements required by subsection (a) of this section shall apply to individual employees having an employment relationship with the particular railroad employer involved, on the date on which the applicable financial assistance under this title is first sought. Such arrangements shall include such provisions as may be necessary—

(1) to provide for notice, negotiation, and execution of agreements providing for the manner in which the protective arrangements shall be applied, which agreements shall be executed prior to implementation of work funded from assistance obtained under this title, except that (A) if such agreements have not been reached within 30 days after the date such assistance is approved, either party to the dispute may submit the issue for final and binding arbitration and the decision in any such arbitration shall be rendered within 30 days after such submission; and (B) the arbitration decision (i) shall in no way modify the protection afforded in the protective arrangements established pursuant to this section, (ii) shall be final and binding on the parties, and (iii) shall become a part of the agreement;

(2) for the preservation of compensation (including subsequent general wage increases, vacation allowances, and monthly compensation guarantees), rights, privileges, and benefits (including fringe benefits such as pensions, hospitalization, and vacations, under the same conditions and so long as such benefits continue to be accorded to other employees of the employing railroad in active service or on furlough, as the case may be) to such employees under existing collective-bargaining agreements or otherwise;

(3) to provide for final and binding arbitration of any dispute which cannot be settled by the parties, with respect to the interpretation, application, or enforcement of the provisions of the protective arrangements;

(4) to provide that an employee who is unable to secure employment by the exercise of his or her seniority rights, as a result of actions taken with financial assistance obtained under this title, shall be offered reassignment and, where necessary, retraining to fill a position comparable to the position held at the time of such adverse effect and for which he is, or by training and retraining can become, physically and mentally qualified, so long as such offer is not in contravention of collective bargaining agreements relating thereto; and

(5) to provide that the protection afforded pursuant to this section shall not be applicable to employees benefited solely as a result of the work which is financed by funds provided pursuant to this title.

(c) SUBCONTRACTING.—The arrangements which are required to be negotiated by the parties or prescribed by the Secretary of Labor, pursuant to subsections (a) and (b) of this section shall include provisions regulating subcontracting by the railroads of work which is financed by funds provided pursuant to this title V.

TITLE VI—IMPLEMENTATION OF THE FINAL SYSTEM PLAN

REFERENCES TO ACT

SEC. 600. (a) Unless otherwise specified, whenever, in this title, an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or provision of "such Act", the section or other provision amended or repealed is a section of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.).

(b) The table of contents of such Act is amended to read as follows:

"TABLE OF CONTENTS

"TITLE I—GENERAL PROVISIONS

"Sec. 101. Declaration of policy.
"Sec. 102. Definitions.

"TITLE II—UNITED STATES RAILWAY ASSOCIATION

"Sec. 201. Formation and structure.
"Sec. 202. General powers and duties of the Association.
"Sec. 203. Access to information.
"Sec. 204. Report.
"Sec. 205. Transportation Services Planning Office.
"Sec. 206. Final system plan.
"Sec. 207. Adoption of final system plan.
"Sec. 208. Review by Congress.
"Sec. 209. Judicial review.
"Sec. 210. Obligations of the Association.
"Sec. 211. Loans.
"Sec. 212. Records, audit, and examination.
"Sec. 213. Emergency assistance pending implementation.
"Sec. 214. Authorization for appropriations.
"Sec. 215. Maintenance and improvement of plant.
"Sec. 216. Purchase of debentures and series A preferred stock.

"TITLE III—CONSOLIDATED RAIL CORPORATION

"Sec. 301. Formation and structure.
"Sec. 302. Powers and duties of the Corporation.
"Sec. 303. Valuation and conveyance of rail properties.
"Sec. 304. Termination and continuation of rail services.
"Sec. 305. Supplementary transfers.
"Sec. 306. Certificates of value.
"Sec. 307. Supplementary assistance.

"TITLE IV—LOCAL RAIL SERVICES

"Sec. 401. Findings and purposes.
"Sec. 402. Rail service continuation assistance.
"Sec. 403. Acquisition and modernization loans.

"TITLE V—EMPLOYEE PROTECTION

"Sec. 501. Definitions.
"Sec. 502. Employment offers.
"Sec. 503. Assignment of work.
"Sec. 504. Collective-bargaining agreements.
"Sec. 505. Employee protection.
"Sec. 506. Contracting out.
"Sec. 507. Arbitration.
"Sec. 508. Acquiring railroads.
"Sec. 509. Payment of benefits.

"TITLE VI—MISCELLANEOUS PROVISIONS

"Sec. 601. Relationship to other laws.
"Sec. 602. Annual evaluation by the Secretary.
"Sec. 603. Freight rates for recyclables.
"Sec. 604. Separability.".

GENERAL

SEC. 601. (a) Section 202(a)(2) of such Act (45 U.S.C. 712(a)(2)) is amended to read as follows:

"(2) issue obligations under section 210 of this title; make loans under section 211 of this title; purchase or otherwise receive and hold securities (whether debt or equity) of the Corporation under section 216 of this title and exercise all of the rights, privileges, and powers of a holder of any such securities; and issue certificates of value under section 306 of this Act;":

(b) Section 303 of such Act (45 U.S.C. 743) is amended by adding at the end thereof the following new subsection:

"(e) TRANSFER AND OTHER TAXES AND RECORDING FEES.—All transfers or conveyances of rail properties (whether real, personal, or mixed) which are made under this section in accordance with designations in the final system plan, to the Corporation or pursuant to section 206(c) of the Act, or which are made in accordance with a supplementary transfer, pursuant to section 305 of this title shall be exempt from any taxes, imposts or levies now or hereafter imposed by the United States or by any State or any political subdivision of a State, on such transfers or conveyances or on the recording of deeds, bills of sale, liens, encumbrances, or other instruments evidencing, effectuating, or incident to any such transfers or conveyances, whether imposed on the transferor or on the transferee. Such transferors and transferees shall be entitled to record any such deeds, bills of sale, liens, encumbrances, or other instruments and, consistent with the designations and applicable principles in the final system plan, to record the release or removal of any pre-existing liens or encumbrances of record with respect to properties so transferred or conveyed, upon payment of any appropriate and generally applicable charges for the services performed.".

(c) Section 208 of such Act (45 U.S.C. 718) is amended by adding at the end thereof the following new subsections:

"(d) The provisions of the Association's Official Errata Supplement, dated December 1, 1975, to the Final System Plan, including all designations made therein, shall be treated for all purposes as if they had been included in the Final System Plan adopted by the Association and reviewed by the Congress and the Final System Plan shall for all purposes be deemed to be approved, as modified and amended by such Supplement.

"(e) Notwithstanding any other provision of this Act, the Association may, upon petition of any State, modify the final system plan to make further designations with respect to lines and related rail properties of railroads in reorganization in the region designated for transfer to the Corporation under such plan, if such designations are likely to result in improved rail service to users on such lines and connecting lines and would not materially impair the profitability of the Corporation. Such designations, including designations of such rail lines and properties to a State, a profitable railroad, or responsible person, may be made at any time prior to delivery of the final system plan to the special court under section 209(c) of this Act. Such further designations shall be treated for all purposes as if they had been included in the final system plan adopted by the Association and reviewed by the Congress and the final system plan shall for all purposes be deemed to be approved, as modified by such designations.".

SPECIAL COURT

SEC. 602. (a) Section 209(b) of such Act (45 U.S.C. 719) is amended by striking out the sixth sentence thereof and inserting in lieu thereof the following new sentence: "The special court may issue rules for the conduct of its functions, including rules with respect to the time within which motions may be filed seeking relief, and provisions which it deems necessary or appropriate for the representation of interests not otherwise represented.".

(b) Section 209 of such Act (45 U.S.C. 719) is amended by adding at the end thereof the following four new subsections:

"(e) CIVIL ACTIONS.—(1) Notwithstanding any other provision of law, any action—

"(A) for injunctive or other relief from the enforcement, operation, or execution of Act or any provision thereof, or from any action taken pursuant to authority purportedly conferred under this Act;

"(B) challenging the constitutionality of this Act or any provision thereof, or the illegality of any action or any failure to take any action pursuant to authority conferred or purportedly conferred under this Act; or

"(C) to enforce or declare any rights under this Act; or

"(D) to obtain, inspect, copy, or review any document in the possession or control of the Association that would be discoverable in litigation pursuant to section 303(c) of this Act,

shall be within the original and exclusive jurisdiction of the special court.

"(2) The original and exclusive jurisdiction of the special court shall include any action, whether filed by any interested person or initiated by the special court itself, to interpret, alter, amend, modify, or implement any of the orders entered by such court pursuant to section 303(b) of this Act in order to effect the purposes of this Act or the goals of the final system plan. During the pendency of any such proceedings, the special court may enter such orders as it determines or concludes to be appropriate, including orders which enjoin, restrain, condition, or limit any conveyance, transfer, or use of any asset or right which is subject to such an order or which is at issue in such a proceeding, or which involves the enforcement of any liens or encumbrances upon such assets or rights. Any orders which interpret, alter, amend, modify, or implement orders entered by the special court pursuant to this subsection, shall be final and shall not be restrained or enjoined by any court.

"(3) A final order or judgment of the special court in any action referred to in this section shall be reviewable only upon petition for a writ of certiorari to the Supreme Court of the United States, except that any order or judgment enjoining the enforcement or declaring or determining the unconstitutionality or invalidity of this Act, in whole or in part, or of any action taken thereunder, shall be reviewable by direct appeal to the Supreme Court of the United States in the same manner that an injunctive order may be appealed under section 1253 of title 28, United States Code: *Provided*, That such an appeal is exclusive and shall be filed not more than 20 days after entry of such order or judgment.".

"(f) SUPPLEMENTARY TRANSFERS.—(1) Within 180 days after the filing of a petition under section 305(e) of this Act, the special court shall decide, after a hearing, whether the proposed supplementary transfers, considered in their entirety, are (A) in the public interest, as defined by the purposes of this Act and the goals of the final system plan, and (B) fair and equitable. If the special court determines that such transfers, considered in their entirety, are in the public interest and fair and equitable, it shall, upon the making of such a determination, issue such orders as may be necessary to consummate, implement, or execute such transfers. If the special court determines that such transfers, considered in their entirety, are not in the public interest or are not fair and equitable, it shall file an opinion stating its conclusion and reasons therefor, and in such a case the Association or the Secretary may, within 30 days after the filing of such opinion, certify to the special court that the terms and conditions of such proposed supplementary transfers have been modified consistent with the opinion of the special court and are acceptable to each proposed transferor and transferee (other than the Corporation, where it is a proposed transferor, if the Association has determined that such transfers are likely to result in achievement of the goals specified in section 206(a) of this title in a manner less costly to the public than that specified in the final system plan), and may petition the special court for reconsideration of the proposal as so modified. With respect to any proposed transfer under section 305(d) of this Act, the Association shall certify to the special court that the terms and conditions of the proposed supplementary transfer have been modified consistent with the opinion of the special court and shall petition the special court for reconsideration of the proposal as so modified. Within 90 days after the filing of such petition, the special court shall decide, after a hearing, whether the proposal, as modified in the manner attested to by the certification of the Association or of the Secretary is in the public interest and is fair and equitable, and shall enter such further orders as are consistent with that determination.

"(2) The special court is authorized to exercise the powers of a district judge in any judicial district with respect to any proceeding under this subsection, and such powers shall include those of a reorganization court.

"(3) Any evaluation or determination of the Association, the Secretary, or the Commission under this section or under section 305 of this Act shall not be reviewable in any court except the special court in accordance with the provisions of this section. No supplementary transfer shall be restrained or enjoined or otherwise reviewed by any court other than the special court, as provided in this subsection.

"(4) Notwithstanding any other provision of this Act, no findings, determinations, or proceedings (whether administrative or judicial) shall be required with respect to any proposed supplementary transfers except as expressly set forth in this section and in section 305 of this Act.

"(5) Whenever any property or securities of the Corporation are required to be valued in order to determine whether the terms of a supplementary transfer are fair and equitable, the special court shall give proper recognition to the contributions to the Corporation by holders of all classes of securities except that the special court shall not assign to the series B preferred stock and common stock of the Corporation any values which have been added to such securities by reason of the Association's investment in the debentures and series A preferred stock issued by the Corporation in excess of any values required by constitutional principles applicable to a reorganization process.

"(6) A final order or judgment of the special court entering or denying an order pursuant to this subsection shall be reviewable in the same manner as provided in subsection (e)(3) of this section.

"(g) DISPOSITION OF CASH DEPOSIT.—Whenever the compensation which is deposited with the special court under section 303(a) of this Act is in the form of cash, such cash shall be invested and reinvested upon such terms and conditions as the special court shall determine, pending the making of the findings referred to in paragraphs (1), (2), and (3) of section 303(c) of this Act. Notwithstanding section 303(c)(4) of this Act, the special court may order (1) the income from such investments, (2) the dividends or interest, if any, received on any securities or obligations deposited with the special court under such section 303(a), and (3) the income, if any, received with respect to any other form of compensation so deposited, to be distributed to the trustee or trustees of each railroad in reorganization and to any person leased, operated or controlled by such a railroad which conveyed right, title, and interest in the rail properties with respect to which such cash, securities, obligations, or other compensation have been so deposited with the special court. Notwithstanding section 303(c)(4) of this Act, the special court may also order, within 90 days after the date of its order of conveyance of rail properties pursuant to section 303(b) of this Act, up to 25 percent of any cash (including investments made with cash) and other compensation so deposited to be distributed to each such transferor and, on petition of the applicable such transferors, it may order such additional distributions as it finds reasonable and appropriate, to be made prior to the making of the findings referred to in paragraphs (1), (2), and (3) of such section 303(c).

"(h) STAY OF COURT PROCEEDINGS.—The special court may stay or enjoin any civil action or proceeding in any State court or in any court of the United States other than the Supreme Court if such action or proceeding is contrary to any provision of this Act, impairs the effective implementation of this Act, or interferes with the execution of any order of the special court pursuant to this Act.".

OBLIGATIONS OF THE ASSOCIATION

SEC. 603. Section 210(b) of such Act (45 U.S.C. 720(b)) is amended by striking out the last sentence thereof and inserting in lieu thereof the following: "No additional obligations of the Association may be issued and no additional proceeds thereof may be made available to the Corporation under this section following the date on which the Association first makes a purchase of securities under section 216 of this title; upon such date, the aggregate amount of obligations of the Association which may be outstanding at any one time under this section shall be reduced by $1,000,000,000.".

DEBENTURES AND SERIES A PREFERRED STOCK

SEC. 604. Title II of such Act is amended by adding at the end thereof the following new section:

"DEBENTURES AND SERIES A PREFERRED STOCK

"SEC. 216. (a) IN GENERAL.—The Association may, in accordance with this section, invest periodically in securities of the Corporation. The Association may purchase, with the proceeds from the sale of trust fund anticipation notes pursuant to subsection (f) of this section, up to $1,000,000,000 (principal amount) of debentures issued by the Corporation, at a cost equal to the aggregate principal amount of the debentures so purchased. After the acquisition of all such debentures, the Association may, with the proceeds from the sale of trust fund anticipation notes pursuant to subsection (f) of this section, purchase shares of series A preferred stock of the Corporation in an amount not to exceed $2,000,000,000.

"(b) PURPOSES AND PROCEDURES FOR INVESTMENT.—

"(1) The Association shall purchase debentures and, thereafter, series A preferred stock of the Corporation at such times and in such amounts as may be required and requested by the Corporation in accordance with the terms and conditions governing such purchases (which shall be prescribed by the Association), to provide—

"(A) for the modernization, rehabilitation and maintenance of rail properties of the Corporation;

"(B) for the acquisition of equipment and other capital needs;

"(C) for the refinancing of indebtedness which was incurred by the Corporation under section 211 of this title or which was incurred under section 215 of this title and assumed by the Corporation; or

"(D) working capital as contemplated by the final system plan.

"(2) The Association shall purchase debentures and series A preferred stock of the Corporation up to an amount of $2,100,000,000, unless the Association makes an affirmative finding that—

"(A) the Corporation has failed in any material respect to comply with any covenant or undertaking made to the Association and such failure remains uncorrected; or

"(B) the Corporation has failed (as determined by its performance within margins prescribed by the Association) substantially to attain the overall operating and financial results projected in the final system plan, as they may be modified by the Association; or

"(C) there exists a less expensive means of fulfilling the goals of the final system plan and such means can be implemented in accordance with this Act.

"(3) The Association may purchase debentures and series A preferred stock of the Corporation in amounts in excess of $2,100,000,000 to the extent required and as requested by the Corporation, only if the Association makes an affirmative finding that—

"(A) the Corporation has not failed in any material respect to comply with any covenant or undertaking made to the Association.

"(B) the Corporation has not failed substantially (as determined by its performance within margins prescribed by the Association) to attain the overall operating and financial results projected in the final system plan, as they may be modified by the Association;

"(C) taking into consideration all relevant factors, including its overall operating and financial results, it is reasonably likely that the Corporation will be able to become financially self-sustaining without requiring Federal funds in excess of the amount authorized in this section; and

"(D) there does not exist a less expensive means of fulfilling the goals of the final system plan that can be implemented in accordance with this Act.

"(E) Subject to the other requirements of this paragraph, and to the requirements of this subparagraph, the Association shall purchase debentures and series A preferred stock of the Corporation in an amount adequate to enable the Corporation to meet obligations which have been either transferred to the Corporation by other provisions of this Act or which are determined by the Association to be obligations which the Corporation must assume in order to operate efficiently, including accrued employee benefits and claims, damages claimed by shippers, inter-railroad payments for per diem charges and rate divisions, and claims of States and political subdivisions thereof. The Association shall not purchase any such debentures and series A preferred stock for such purposes unless the Association first finds that—

"(i) such obligations were not, and could not have been, reasonably anticipated and for that reason provision for the payment thereof was not included in the financial projections of the final system plan, and

"(ii) such obligations are, under other applicable law, the responsibility of a railroad in reorganization in the region, and such obligation were incurred by any such railroad on rail properties which are conveyed to the Corporation on the date of conveyance pursuant to section 303(b)(1) of this Act:

"(4) The Association may elect to finance the needs of the Corporation from such Rail Trust Fund either—

"(A) at the time of implementation of such Fund (by surrendering for cancellation outstanding debentures and series A preferred stock of the Corporation in exchange for redeemable preference shares issued to the Association by the Corporation at par value); or

"(B) subsequent to the implementation of such Fund, through the purchase of redeemable preference shares issued by the Corporation.

"(5) The Association shall reimburse an acquiring carrier for the costs assumed by the Corporation or by an acquiring carrier under (A) section 504(g) of this Act, or (B) paragraph (3)(E) of this subsection. It shall be the responsibility of the Association to recover the amount of any such reimbursement, as a current expense of administration, from the estate of any railroad in reorganization in the region which was the employer at the time that the claim arose.

"(c) Findings and Election.—If the Association decides not to purchase securities of the Corporation in accordance with subsection (b) of this section, it may elect (1) not to purchase debentures or series A preferred stock of the Corporation after the date of such determination, or (2) notwithstanding subsection (e)(1) of this section to purchase debentures or series A preferred stock of the Corporation after the date of such determination only in such amounts, at such times, and on such terms and conditions as the Association determines to be appropriate to its role as an investor in the debentures and series A preferred stock of the Corporation.

"(d) Terms and Conditions.—The debentures and the series A preferred stock of the Corporation shall have such terms and conditions, not inconsistent with the final system plan, as may be prescribed by the Board of Directors of the Association, except that interest on such debentures, and dividends on such series A preferred stock, shall not be cumulative and shall be payable only at such times as the earned surplus of the Corporation exceeds $500,000,000, and only out of such earned surplus which extends $500,000,000.

"(e) Modification and Waivers.—(1) The Association may agree with the Corporation to modify any of the terms and conditions governing the purchase of the securities of the Corporation, upon a finding that such action is necessary or appropriate to achieve the purposes of this Act or the goals of the final system plan.

"(2) The Association may, in its discretion and upon a finding that such action is necessary or appropriate to achieve the purposes of this Act or the goals of the final system plan, waive compliance with any term, condition, provision, or covenant of the securities of the Corporation held by the Association, including any provision of such securities with respect to redemption of principal or issuance price, payment of interest or dividends, or any term or condition governing the purchase of such securities.

"(f) Trust Fund Notes.—The Association may utilize up to $3,000,000,000 of the funds realized, from the sale to the Secretary of the Treasury of trust fund anticipation notes (as authorized by section 507 of the Rail Services Act of 1975), for the purchase of securities of the Corporation in accordance with this section and for the purposes set forth in subsection (b)(5) of this section. All sums received by the Association, on account of the holding or disposition of any such securities, shall be remitted to the Secretary of the Treasury in satisfaction of the Association's obligations to such Secretary with respect to the trust fund anticipation notes utilized by the Association for the purchase of securities of the Corporation.

"(g) Electrification.—Upon application by the Corporation, the Association shall, without regard to the limitation contained in subsection (f) of this section, make available to the Corporation up to $200,000,000 of funds realized from the sale of trust fund anticipation notes, for the purpose of electrification of high-density mainline routes where such improvements will return operating and financial benefits to the Corporation and will facilitate compatibility with existing or renewed electrification systems.

"(h) Report.—The Association shall prepare on an annual basis a report to Congress on the performance of the Corporation within 90 days of the close of the fiscal year of the Corporation. Such report shall include an evaluation of—

"(1) the degree to which the goals of section 206(a) are being met;

"(2) the amounts and causes of deviations, if any, from the financial projections of the Final System Plan;

"(3) the amount of federal funds made available to the Corporation and a clear description of the uses of such funds;

"(4) the projected financial needs of the Corporation;

"(5) the projected sources of meeting the financial needs of the Corporation; and

"(6) the ability of the corporation to become financially self-sustaining without requiring government funds in excess of those projected in the Final System Plan.".

MISCELLANEOUS AMENDMENTS TO TITLE II

Sec. 605. (a) Section 201(h) of such Act (45 U.S.C. 711(h)) is amended to read as follows:

"(h) Executive Committee.—The Board of Directors of the Association shall have an executive committee which shall consist of the Chairman of the Board, the Secretary or his duly authorized representative, the Chairman of the Commission or his duly authorized representaive, and two other members who shall be selected by the members of the Board.".

(b) Section 202(e) of such Act (45 U.S.C. 712(e)) is amended by inserting after "obligations issued" and before "and loans" in clause (4) thereof the following: ", certificates of value issued, securities purchased,".

(c) Section 202(f) of such Act (45 U.S.C. 712(f)) is amended by inserting after "section" and before ")" in the first sentence thereof the following: "and receipts and disbursements under sections 216 and 306 of this Act,".

(d) Section 203(a) of such Act (45 U.S.C. 713(a)) is amended by deleting the last sentence thereof.

(e) Section 206(d)(3) of such Act (45 U.S.C. 716 (d)(3)) is amended by inserting after the first sentence thereof the following three new sentences: "All determinations made by the Association in the correction to the preliminary system plan published on April 11, 1975 (40 Fed. Reg. 16377) shall be treated for all purposes as if they had been made upon adoption and release by the Association of the preliminary system plan. All determinations made by the Commission with respect to such correction shall be treated for all purposes as if they had been made within 90 days after adoption and release by the Association of the preliminary system plan. All determinations made by the Commission with respect to acquisitions by profitable railroads referred to in any supplement to the preliminary system plan published under section 207(b)(2) of this title shall be deemed to be timely if made prior to the adoption of the final system plan under section 207(c) of this title.".

(f) Section 206(c)(1)(B) of such Act (45 U.S.C. 716(c)(1)(B)) is amended by inserting after "paragraph" and before "in the event" the following: "and what alternative designations shall be made under this subparagraph."

(g) Section 206(c)(1)(A) of such Act (45 U.S.C. 716(c)(1)(A)) is amended by deleting the semicolon and inserting in lieu thereof the following: ": *Provided,* That the Corporation shall, within 60 days after the effective date of the final system plan, give notice to the Association of which such rail properties, if any, are to be transferred to a subsidiary or affiliate of the Corporation in the event that the Board of Directors of the Association finds that such transfer would be consistent with the final system plan;".

(h) Section 206(c)(2) of such Act (45 U.S.C. 716(c)(2)) is amended by adding at the end thereof the following new sentence: "Any rail properties designated to be offered for sale to the Corporation may be sold instead to a subsidiary or affiliate of the Corporation.".

(i) Sections 206(d)(1), 209 (c) and (d), 215(d), 304(e), and 501 (1) and (2) of such Act (45 U.S.C. 716(d)(1), 719 (c) and (d), 744(e), and 711 (1) and (2)) are amended by inserting after "Corporation" each time it appears the following: "or any subsidiary or affiliate thereof".

(j) Section 206(c)(1)(D) of such Act (45 U.S.C. 716(c)(1)(D)) is amended by—

(1) inserting after "by" the designation "(i)"; and

(2) striking "; and" at the end thereof and adding the following: "or (ii) the National Railroad Passenger Corporation to meet the needs of improved passenger service over intercity routes, other than the Northeast corridor, identified by the Association pursuant to the final system plan; and".

(k) Section 210(c) of such Act (45 U.S.C. 720(c)) is amended by adding at the end thereof the following new sentence: "All guarantees entered into by the Secretary under this section shall constitute general obligations of the United States of America for the payment of which its full faith and credit are pledged.".

(l) Section 213 of such Act (45 U.S.C. 723) is amended by inserting at the end thereof the following new subsection:

"(c) Payments on Previously Deferred Interline Balances.—A trustee of a railroad in reorganization may not make any payment on account of interline balances, which were due and owing prior to the date of enactment of this Act but which were deferred, if such trustee has received financial assistance under this section (other than for improvements to properties designated in accordance with section 206(c)(1)(C) of this title) within 90 days prior to date of the proposed payment, or if the court having jurisdiction over such railroad in reorganization finds that such trustee is likely to be in need of such assistance within 90 days after the date of such proposed payment, notwithstanding any prior agreement or any order of any court.".

(m)(1) Section 214(b) of such Act (45 U.S.C. 724(b)) is amended by deleting "$5,000,000" and inserting in lieu thereof "$7,000,000".

(2) Section 214(c) of such Act (45 U.S.C. 724(c)) is amended by adding at the end thereof the following new sentence: "There are authorized to be appropriated to the Association for administrative expenses incurred under this Act and under the Rail Services Act of 1975 such sums as are necessary not to exceed $5,000,000 for the fiscal year ending June 30, 1976; not to exceed $3,000,000 for the transitional fiscal period ending September 30, 1976; and not to exceed $9,000,000 for the fiscal year ending September 30, 1977.".

TRANSFERS INVOLVING PROFITABLE RAILROADS

Sec. 606. Section 214(a) of such Act (45 U.S.C. 724(a)) is amended by (1) inserting "(1)" after "(a)"; and (2) adding at the end thereof the following new paragraph:

"(2) There are authorized to be appropriated to the Secretary such sums as may be necessary to discharge the obligations of the United States of America arising under section 303(c) of this Act.".

CAPITALIZATION OF THE CORPORATION

Sec. 607. Section 301(e) of such Act (45 U.S.C. 741(e)) is amended by striking the first two sentences thereof and inserting in lieu thereof the following: "In order to carry out the final system plan, the Corporation is authorized to issue debentures, series A preferred stock, series B preferred stock, common stock, redeemable preference shares, and other securities. Debentures and series A preferred stock shall be issued initially to the Association. Series B preferred stock and common stock shall be issued initially to the estates of railroads in reorganization in the region, to railroads leased, operated, and controlled by railroads in reorganization in the region and to other persons leased, operated or controlled by a railroad in reorganization who are transferors of rail properties in exchange for rail properties transferred to the Corporation pursuant to the final system plan. The series B preferred stock shall have terms and conditions not inconsistent with the final system plan: *Provided,* That so long as any of the debentures are outstanding and any of the series A preferred stock has not been redeemed, dividends on the series B preferred stock and common stock shall be payable only under such circumstances and at such times as the Association shall prescribe.".

SUPPLEMENTARY TRANSFERS

Sec. 608. (a) Section 102 of such Act (45 U.S.C. 702) is amended by (1) deleting "and" at the end of paragragh (14) thereof; (2) deleting the period at the end of paragraph (15) thereof and inserting in lieu thereof "; and"; and (3) adding at the end thereof the following new paragraph:

"(16) 'supplementary transfer' means a transfer which is supplemental to the final system plan and which is proposed within 4 years after the date on which the special court orders rail properties conveyed to the Corporation under section 303(b) of this Act, under which the Corporation (or any subsidiary or affiliate thereof) would (A) acquire rail properties not designated for transfer or conveyance to it under the final system plan; (B) convey any of its rail properties to a profitable railroad, to a subsidiary or affiliate of the Corporation (other than as designated in the final system plan), to the National Railroad Passenger Corporation, to a State (or a local or regional transportation authority) or to any other responsible person, for use in providing rail services; or (C) enter into contractual or other arrangements with any person (including a government entity) for the joint use of rail properties or for the coordination or separation of rail operations or services.".

(b) Title III of such Act is amended by adding at the end thereof the following three new sections:

"SUPPLEMENTARY TRANSFERS

"Sec. 305. (a) Initiation by the Association.—If the Association finds, at any time within 4 years after the date on which the special court orders rail properties conveyed to the Corporation under section 303(b) of this title, either upon its own motion or upon petition of the Secretary, that the goals of this Act would be better achieved by the transfer of additional rail properties to or from the Corporation, it may revise or supplement the designations made in the final system plan under section 206(c)(1) of this Act. A State (or a local or regional transportation authority) may petition the Association to transfer rail properties in accordance with this section. Notice of any proposal for such revised or supplemental designation shall be given through publication in the Federal Register. The Association, in any such notice, shall provide for a period of not less than 60 days for the receipt of public comment by the Association and the Commission. The Association shall analyze each proposal for any supplementary transfer, taking into account the comments of interested persons and statements and any exhibits submitted by the Office. The Association shall, within 120 days after the date of publication of such notice, publish in the Federal Register a report evaluating the proposal involved. Such an evaluation shall state whether the proposal for a supplementary transfer is (1) in the public interest, as defined by the purposes of the Act and the goals of the final system plan; and (2) fair and equitable. Prior to such publication, the Association may modify the initial proposal in accordance with public response or any comment submitted to the Secretary.

"(b) Review by the Commission.—Within 90 days after the publication in the Federal Register of each report referred to in subsection (a) of this section; the Commission shall determine whether the supplementary transfer would be in full accord and comply with the provisions and standards of section 5 and other applicable provisions of the Interstate Commerce Act (49 U.S.C. 1) considering, inter alia, any substantial impairment of the Corporation's ability to meet the purposes of this Act and the goals of the final system plan, and any possible increase in the public costs involved. The Commission may condition its approval of any such supplementary transfer on such reasonable terms and conditions as it may deem necessary in the public interest. Subject to the determination of the special court under subsection (e) of this section, no such supplementary transfer shall be made without the approval of the Commission, except that if the Commission fails to act within the time period provided in this subsection, the supplementary transfer involved shall be deemed to have been so approved. The Commission may prescribe such regulations as may be necessary for the administration of this section.

"(c) Final Revised Designations.—Within 30 days after the Commission makes a determination or is deemed to have given its approval under subsection (b) of this section, each proposed transferor or transferee shall notify the Association in writing whether the proposed supplementary transfer is acceptable to it. If any such proposed transferor or transferee fails to notify the Association that the proposed supplementary transfer is acceptable to it (other than the Corporation, where it is a proposed transferor, if the Association has determined that such transfer is likely to result in achievement of the goals specified in section 206(a) of this Act in a manner less costly to the public than that specified in the final system plan), no further administrative or judicial proceedings shall be conducted with respect to such proposed supplementary transfer, except that when the Corporation is the proposed transferor and the Association has made the aforementioned determination, further proceedings shall be conducted in accordance with subsection (e) of this section.

"(d) Profitable Light Density Lines.—Notwithstanding any other provision of this section, the Association shall, upon petition of any State (or local or regional transportation authority), designate for supplementary transfer to the Corporation any line of railroad which was not designated for inclusion in the final system plan if—

"(1) rail service over such line has been operated for a period of 2 years without the need for a rail service continuation payment; and

"(2) the Office has found that such service is economically viable under section 205(e) of this Act.

Notice of any such proposed transfer shall be published in the Federal Register and shall specify terms of the transfer which the Association determines to be fair and equitable. The Association shall afford a period of not less than 60 days for public comment. Not later than 120 days after the date of such notice the Association shall petition the special court pursuant to subsection (e) of this section for an order requiring the transfer of such line to the Corporation. Any transfer under this section shall be deemed to be in the public interest for the purposes of this section and section 209(f) of this Act.

"(e) Special Court Procedures.—If the Association determines that a proposal for a supplementary transfer as approved or conditioned by the Commission in accordance with subsection (b) of this section is in the public interest, as defined by the purposes of this Act and the goals of the final system plan, and is fair and equitable, or makes a designation pursuant to subsection (d) of this section the Association shall, within 40 days after the date of the Commission's determination under subsection (b) of this section or within 120 days after notice of a proposed transfer under subsection (d) of this section, petition the special court for an order (1) finding that such proposal for a supplementary transfer is in the public interest, as defined by the purposes of this Act and the goals of the final system plan and is fair and equitable, and (2) directing the Corporation to carry out the supplementary transfer specified in such proposal.

"(f) Fair and Equitable.—For all purposes of this section and of section 209(f) of this Act, the term 'fair and equitable' means fair and equitable, in accordance with the standards applicable to the approval of a plan of reorganization or a step in such a plan under section 77 of the Bankruptcy Act (11 U.S.C. 205), to (1) the estates of railroads in reorganization, and railroads leased, operated, or controlled by railroads in reorganization, or other transferors who have conveyed rail properties under section 303(b) of this title in exchange for securities of the Corporation, securities of the Association and other profitable railroads, and other benefits provided by the Act, and to subsequent holders of such securities, if any, at the time of such supplemental transfer; and (2) to the holders of other securities of the Corporation.

"(2) Employee protection.—Revised or supplemental designations under this section (other than a redesignation, upon petition of State or a local or regional transportation authority), shall subject the transferor and the transferee, under such supplementary transfer, to the requirements and other provisions of title V of this Act.

"CERTIFICATES OF VALUE

"Sec. 306. (a) General.—On the date when a certified copy of the final system plan is delivered to the special court, pursuant to section 209(c) of this Act, the Association shall deliver to the Corporation, for deposit with the special court pursuant to section 303(a)(1) of this title the certificates of value of the Association required by this title. The Secretary shall guarantee the payment of all certificates of value delivered in accordance with this title. All guarantees entered by the Secretary under this section shall constitute general obligations of the United States of America for the payment or redemption of which its full faith and credit are pledged. Such guarantees shall be valid and incontestable except as to mutual mistake of fact or as to fraud or material misrepresentation by the holder of such certificates.

"(b) Number and Distribution.—The number of certificates of value to be deposited pursuant to section 303(a)(1) of this title shall be equal to the number of shares of series B perferred stock of the Corporation which are required to be deposited by the Corporation with the special court, pursuant to section 303(a)(1) of this title. Certificates of value shall be distributed by the special court, pursuant to section 303(c)(4) of this title, at the same time, to the same transferors, and in the same numbers of units as shares of such series B preferred stock are distributed.

"(c) Redemption.—(1) Certificates of value shall be redeemed by the Association on December 31, 1987, or on such earlier date as the Association may determine and specify, but in no event prior to final determination (pursuant to section 303(c)(1) of this title) of the constitutional minimum value of the rail properties transferred pursuant to section 303(b)(1) of this title.

"(2) Each certificate of value shall be redeemable for an amount, payable in cash, equal to its base value on the date of redemption, minus the sum of the fair market value of the series B preferred stock applicable to such certificate and the fair market value of the common stock applicable to such certificate, any cash dividends previously paid on any such series B preferred stock and on any such common stock, and any judgments against the Corporation under section 303(c)(2)(C) of this title. The number of shares of series B preferred stock and common stock so applicable to each certificate of value shall be, respectively, one share of series B preferred stock and the number of shares of common stock determined by dividing the total number of shares of common stock distributed, pursuant to section 303(c)(4) of this title, to the transferor receiving such certificate of value, by the total number of certificates of value so distributed to such transferor.

"(3) The base value of each certificate of value originally issued to a transferor of rail properties pursuant to section 303(b)(1) of this title shall be the value obtained by taking the constitutional minimum value, if any (as determined pursuant to section 303(c)(1) of this title), with such interest as may be constitutionally required, of the rail properties transferred pursuant to section 303(b) of this title, in accordance with designations made under sections 206(c)(1)(A), (C), and (D) of this Act, by the transferor to which such certificate was initially issued under this title, minus any sums previously paid on such certificate from proceeds of sales or leases by the Corporation of properties transferred to it by the transferor to which such certificate of value was initially issued, divided by the number of certificates of value distributed to such transferor

"(4) The fair market value of series B preferred stock and of common stock of the Corporation shall be determined in accordance with regulations prescribed by the Association, on the basis of the average price of each such security in the primary established market in which such securities are traded over a period of 120 consecutive trading days ending not less than 20, nor more than 40, trading days preceding the redemption date, or, in the case of a security for which there is not an established trading market, on the basis of the fair market value as determined by the majority vote of three experts in the valuation of securities, one to be selected by the Association, one to be selected by the directors of the Corporation elected by the holders of the security to be valued, and one to be selected by the other two.

"(d) Authorization of Appropriations.—There is authorized to be appropriated to the Secretary such sums as are necessary to discharge the obligations of the United States arising under this section.

"SUPPLEMENTARY ASSISTANCE

"Sec. 307. (a) Purposes.—The Association may provide financial assistance, through the guarantee of obligations pursuant to title V of the Rail Services Act of 1975, to the Corporation, the National Railroad Passenger Corporation, other railroads, any State (or local or regional transportation authority), or any other responsible person, for the purpose of facilitating the implementation of supplementary transfers.

"(b) Loan Prerequisites.—The Association may provide financial assistance, under subsection (a) of this section, upon making a finding in writing that—

"(1) the assistance is necessary to achieve the purposes of this Act;

"(2) it is satisfied that the business affairs of the applicant will be conducted in a reasonable and prudent manner; and

"(3) the applicant has offered such security as the Association deems necessary to protect reasonably the interests of the United States.".

CORPORATION DIRECTORS AND OFFICERS

Sec. 609. (a) Section 301(e) of such Act (45 U.S.C. 741(c)) is amended by deleting the second sentence thereof and inserting in lieu thereof the following two new sentences: "The members of the executive committee of the Association and the chief executive officer of the Corporation shall also adopt the initial bylaws of the Corporation and serve as the Board of Directors of the Corporation until at least five members of the Board of Directors of the Corporation shall have been selected in accordance with subsection (d) of this section. The chief executive officer shall serve as chairman of such Board until a chairman thereof is selected pursuant to subsection (d) of this section, after which time such chairman shall serve at the pleasure of such Board."

(b) Section 301(d) of such Act (45 U.S.C. 741(d)) is amended to read as follows:

"(d) Board of Directors.—The Board of Directors of the Corporation shall consist of 13 qualified individuals selected in accordance with the articles and bylaws of the Corporation as follows: 6 individuals selected by the holders or holders in trust of the Corporation's debentures and series A preferred stock or redeemable preference shares, voting as one class; 3 individuals selected by the holders of the Corporation's series B preferred stock; and 2 individuals selected by the holders of the Corporation's common stock. Notwithstanding any provision of State law, the chief executive officer of the Corporation and the chief operating officer of the Corporation shall also serve on the Board and shall represent the holders of all classes of securities rather than the holders of any particular class or classes. Two members of the Board selected by the holder of the Corporation's debentures and series A preferred stock or redeemable preference shares shall resign when less than $1,500,000,000 of the securities of the Corporation are held by the Association; two additional members of the Board selected by the holder of the Corporation's debentures and series A preferred stock shall resign when less than $1,000,000,000 of the securities of the Corporation are held by the Association; the two remaining members of the Board selected by the holder of the Corporation's debentures and series A preferred stock or redeemable preference shares shall resign when less than $500,000,000 of the securities of the Corporation are held by the Association. As directors resign in accordance with diminished Association investment in the Corporation, the election of corporate directors shall be governed by applicable State law and the articles and bylaws of the Corporation. For the purposes of this subsection 'holder' includes a holder in trust.".

(c) Section 301 of such Act (45 U.S.C. 741) is amended by (1) striking out subsection (f) thereof; (2) redesignating subsection (g) thereof as subsection (h); and (3) inserting the following two new subsections:

"(f) Officers.—The officers of the Corporation shall include a chief executive officer and a chief operating officer, who shall be elected by the Board of Directors and who shall serve at the pleasue of the Board; and such other officers as shall be provided for in the bylaws of the Corporation.

"(g) Voting Trustees.—For and during the period between the deposit of securities of the Corporation with the special court, in accordance with section 303(a) of this title and the distribution of such securities, in accordance with section 303(c) of this title, the special court may appoint one or more voting trustees for each class of securities which is so deposited. Such voting trustees shall, on behalf of the distributees, exercise the rights of the holders of such securities as their interests may appear.".

MISCELLANEOUS AMENDMENTS TO TITLE III

Sec. 610. (a) Section 303(b)(3) of such Act (45 U.S.C. 743(b)(3)) is amended to read as follows:

"(3) Notwithstanding any other provision of this Act, if an interest in railroad rolling stock (defined as assets which could be carried in Interstate Commerce Commission account numbers 52, 53, 54, and 57) is included in the rail properties to be conveyed, the conveyance of such properties shall be deemed an assignment relieving the assignor of liability for any breach occurring after the date of such assignment, except that such assignor (and not the profitable railroad or the Corporation) shall remain liable for any breach, event of default, or violation of covenant which occurred, and any charges or obligations which accrued, prior to the date on which such properties are conveyed. Such a conveyance may only be effected (A) if the profitable railroad operating in the region, or the Corporation to whom the conveyance is made, assumes all of the obligations, under any conditional sale agreement, equipment trust agreement, or lease with respect to such rolling stock, and (B) such conveyance is made subject to such obligations. The provisions of this Act shall not affect the title and interests, except as provided, of any lessor, equipment trust trustee, or conditional sale vendee or assignee under such conditional sale agreement, equipment trust agreement, or lease under section 77(j) of the Bankruptcy Act (11 U.S.C. 205(j)). A profitable railroad operating in the region or the Corporation, to whom such a conveyance is made as assignee or as lessee, shall assume all future liability under such conditional sale agreement, equipment trust agreement, or lease. Such an assignment or conveyance to, and such an assumption of liability by, such a profitable railroad or the Corporation shall not be deemed a breach, an event of default, or a violation of any covenant of any such conditional sale agreement, equipment trust agreement, or lease so assigned or conveyed, notwithstanding any provisions of any such agreement or lease.".

(b) Section 201 of the Government Corporation Control Act (31 U.S.C. 856) is amended by (1) inserting "and" after the comma at the end of subsection (7) thereof; and (2) deleting ", and (9) the Consolidated Rail Corporation to the extent provided in the Regional Rail Reorganization Act of 1973." and inserting in lieu thereof ".".

(c)(1) Section 303(a)(1) of such Act (45 U.S.C. 743(a)(1)) is amended by inserting after "Corporation", the second time it appears "or any subsidiary or affiliate thereof".

(2) Paragraphs (1) and (2) of section 303(b) of such Act (45 U.S.C. 743(b)(1) and (2)) is amended by inserting after "Corporation" each time it appears therein (except the first time) "or any subsidiary or affiliate thereof".

(3) Section 303(c)(1)(A)(i) of such Act (45 U.S.C. 743(c)(1)(A)(i) and 744(3)) is amended by inserting after "Corporation" each time it appears "or any subsidiary or affiliate thereof";

(4) Paragraph (2)(A) of section 303(c) of such Act (45 U.S.C. 743(c)(2)(A)) is amended by striking "Corporation" and inserting in lieu thereof "Corporation or any subsidiary or affiliate thereof".

(d) Section 303(c)(2) of such Act (45 U.S.C. 743(c)(2)) is amended by (1) deleting "shall" in the clause preceding subparagraph (A) thereof and inserting "may" in lieu thereof; (2) deleting the semicolon at the end of subparagraph (A) thereof and inserting in lieu thereof ", except that at least one share of series B preferred stock and one certificate of value shall be allocated to each such railroad;"; and (3) amending subparagraph (C) thereof to read as follows:

"(C) enter a judgment against the Corporation if the judgment would not endanger the viability or solvency of the Corporation."

(e) Section 303(c) of such Act (45 U.S.C. 743(c)) is amended by adding at the end thereof the following new paragraph:

"(5) Whenever the final system plan or an order of the special court under section 303(b)(1) of this title designates the conveyances of rail properties to the Corporation or any subsidiary or affiliate thereof, under section 206(c)(1) (C) or (D) of this Act, or to a profitable railroad, the United States of America shall pay any judgment entered against the Corporation with respect to the conveyance of any such real properties or against such profitable railroad, plus interest thereon at such rate as is constitutionally required. The United States of America may, in its discretion, represent the Corporation or such profitable railroad in any proceedings before the special court that could result in such a judgment against the Corporation under paragraph (2) of this subsection or such profitable railroad under paragraph (3) of this subsection. The Corporation or any profitable railroad which is represented by the United States of America shall cooperate diligently in whatever manner the United States of America shall reasonably request of it in connection with such proceedings. Neither the Corporation, its subsidiaries or affiliates, nor any profitable railroad shall be obligated to reimburse the United States of America for any moneys paid by the United States pursuant to this section.".

(f) Section 303(d) of such Act (45 U.S.C. 743(d)) is amended by (1) striking out "5" and inserting in lieu thereof "20"; and (2) striking out the last sentence.

(g) Section 303(c)(4) of such Act (45 U.S.C. 743(c)(4)) is amended by (1) striking "subsection (b)" therefrom and inserting "subsection (a)" in lieu thereof; and (2) inserting after "region" the following: "and to persons leased, operated, or controlled by such railroads who so transferred or conveyed rail properties".

(h) Section 303 of such Act (45 U.S.C. 743) is amended by (1) adding ", certificates of value" after "securities" in subsection (c)(1)(A)(i) thereof, in the preamble of subsection (c)(2) and in subsection (c)(2) thereof, and in subsection (c)(3) thereof; (2) adding "and certificates of value" after "of the Corporation" in subsection (c)(2)(A) thereof and after "Corporation's securities" in subsection (c)(2)(B) thereof; (3) deleting "obligations of the Association" at each place where the phrase appears and inserting in lieu thereof "certificates of value issued by the Association"; and (4) deleting "obligations" at each place where it appears other than as part of such phrase and inserting in lieu thereof "certificates of values".

(i) Section 301(b) of such Act (45 U.S.C. 741(b)) is amended by inserting in the third sentence thereof after "of the Corporation" and before "shall be" the following: "or of its principal railroad operating subsidiary".

(j) Section 303(b)(4) of such Act (45 U.S.C. 743(b)(4)) is amended by (1) inserting after "is made assumes" and before "all of the terms and conditions" the following: "all future liability under such lease and"; and (2) adding at the end thereof the following new sentence: "Notwithstanding any contrary provision in any lease, the conveyance of such lease and the assumption of liability by the Corporation or such profitable railroad shall not be deemed a breach, an event of default, or a violation of covenant of any lease so conveyed.".

PROTECTED EMPLOYEES

Sec. 611. Section 501 of such Act (45 U.S.C. 771(1)) is amended by (1) inserting after "Corporation" at each place where such term is used the words "or any subsidiary or affiliate thereof", and insert after "Corporation or any subsidiary or affiliate thereof", as so amended, in paragraph (2) thereof the following: ", to the National Railroad Passenger Corporation,"; (2) amending paragraph (2) thereof by adding after the phrase "or operated by the railroad in reorganization", and before the phrase "except a president", the following: ", except a class I railroad which is not wholly owned, operated, or leased by a railroad in reorganization but which is controlled by a railroad in reorganization, and"; (3) amending paragraph (3) thereof to read as follows:

"(3) 'protected employee' means any employee of—

"(A) an acquiring or selling railroad who is adversely affected by a transaction;

"(B) the Corporation who, immediately preceding such employment by the Corporation, was employed by a selling railroad and who is adversely affected by the sale of rail properties to the Corporation pursuant to an offer designated under section 206(c)(2) of this Act; and

"(C) a railroad in reorganization;

"(D) a railroad who is adversely affected by a supplementary transfer under section 305 of this Act or by a consolidation project recommended under section 206(g) of this Act;

who, in any such case, has not reached age 65 on the effective date of this Act or, in the case of a supplementary transfer, on the effective date of such transfer;";

"(4) amending paragraph (8) thereof by (A) striking 'this Act or' and inserting in lieu thereof 'this Act, including section 305 thereof, or', and (B) striking 'and' at the end of such paragraph; (5) striking the period at the end of paragraph (9) thereof and inserting in lieu thereof '; and'; and (6) adding at the end thereof the following new paragraph:

"(10) 'selling railroad' means a railroad which sells rail properties pursuant to an offer designated under section 206(c)(2) of this Act; and".

EMPLOYMENT OFFERS

Sec. 612. Section 502(b) of such Act (45 U.S.C. 772 (b)) is amended to read as follows:

"(b) Mandatory Offer.—The Corporation shall offer employment, to be effective as of the date of a conveyance or discontinuance of service under the provisions of this Act, to each employee of railroad in reorganization who has not already accepted an offer of employment by the Association (where applicable), an acquiring railroad, or the Corporation. Such offers of employment to employees represented by labor organizations will be confined to their same craft and class. The Corporation shall apply to said employees the protective provisions of this title.".

COLLECTIVE BARGAINING AGREEMENTS

Sec. 613. Section 504 of such Act (45 U.S.C. 774) is amended by adding the following three new subsections:

"(e) Liability for Employee Claims.—In all cases of claims by employees, arising under the collective bargaining agreements of the railroads in reorganization and subject to section 3 of the Railway Labor Act (45 U.S.C. 153), the Corporation, the National Railroad Passenger Corporation, or an acquiring carrier, as the case may be, shall assume responsibility for the processing of any such claims, and payment of those which are sustained or settled on or subsequent to the date of conveyance and shall be entitled to direct reimbursement as a current expense of administration from the estates of the railroads in reorganization which were the employers at the time such claims arose: *Provided*, That in those cases in which claims for employees were sustained or settled prior to the date of conveyance, it shall be the obligation of the employees to seek satisfaction against the estates of their former employers.".

"(f) TRANSFER OF EMPLOYEES TO THE NATIONAL RAILROAD PASSENGER CORPORATION.—Notwithstanding any otherwise applicable provisions of this title, protected employees to whom the Corporation has made offers of employment may be transferred to the National Railroad Passenger Corporation in accordance with the following procedure:

"(1) Not later than 90 days after the date of completion of the transaction required by section 206(c) of this Act, implementing agreement negotiations between representatives of the various crafts or classes of employees associated with the involved properties, the Corporation, and the National Railroad Passenger Corporation shall commence. These negotiations shall (A) identify the specific employees of the Corporation to whom the National Railroad Passenger Corporation offers employment; (B) the procedure by which those employees of the Corporation may elect to accept employment with the National Railroad Passenger Corporation; (C) the procedure for acceptance of such employees into the National Railroad Passenger Corporation's employment; and (D) the procedure for determining the seniority of such employees in their respective crafts or classes on the National Railroad Passenger Corporation's system which shall to the extent possible, preserve their prior seniority rights. If no agreement regarding the matters referred to in this subsection is reached by the end of 60 days after commencement of negotiations, upon notice of any party, all parties shall within an additional 10 days select a neutral referee and, in the event they are unable to agree upon the selection of such referee, then the National Mediation Board shall promptly appoint a referee. Hearings thereon shall commence not later than 30 days after the date of selection or appointment of such referee, and a decision shall be rendered by such referee within 60 days after the date of commencement of the hearings. The referee shall resolve and decide all matters in dispute regarding the negotiation of the implementing agreement or agreements. All parties may participate, but the referee shall have the only vote. The referee's decision shall be final and binding and shall constitute the implementing agreement or agreements between the parties. The salary and expenses of the referee shall be paid pursuant to the provisions of the Railway Labor Act.

"(2) Prior to implementation of the agreement or agreements pursuant to the preceding paragraph, the representatives of the various crafts or classes of employees designated to be transferred to the National Railroad Passenger Corporation shall meet with representatives of the National Railroad Passenger Corporation for the purposes of negotiating agreements regarding rates of pay, rules and working conditions. If, 60 days after the date of commencement of such negotiations, no agreement has been reached, the bargaining agreement in existence on the property from which the employees are to be transferred and which is applicable to the craft or class of employees being transferred will apply and the implementing agreement will be put into effect.

"(3) Employees of the Corporation who are transferred to the National Railroad Passenger Corporation shall carry with them their protected status. The National Railroad Passenger Corporation, as employer, shall be responsible for payment of protective benefits and shall be entitled to reimbursement pursuant to section 509 of this title.

"(4) The National Railroad Passenger Corporation may offer employment to any noncontract employee prior to completion of any of the agreements referred to in this section. Noncontract employees accepting employment with the National Railroad Passenger Corporation shall carry with them all rights and benefits accorded to them under this title.

"(g) All cases or claims by employees or their personal representatives for personal injuries or death against a railroad in reorganization arising prior to the date of conveyance of rail properties pursuant to section 303 of this Act shall be assumed by the Corporation or an acquiring carrier, as the case may be, and the Corporation or the acquiring carrier shall process and pay any such claims that are sustained, and shall be entitled to direct from the Association pursuant to section 216(b)(5) of this Act.".

EMPLOYEE PROTECTION

SEC. 614. (a) Section 505(b)(1) of such Act (45 U.S.C. 775(b)(1)) is amended by striking "the last 12 months immediately prior to his being adversely affected" and inserting in lieu thereof "the 12 full calendar months immediately preceding February 26, 1975".

(b) Section 505(b)(3) of such Act (45 U.S.C. 775(b)(3)) is amended by deleting "his being adversely affected" and inserting in lieu thereof "February 26, 1975,".

(c) Section 505(b) of such Act (45 U.S.C. 775) is amended by (1) redesignating paragraph (4) thereof as paragraph (5) and (2) inserting a new paragraph (4) therein as follows:

"(4) If a noncontract employee exercises seniority rights in a craft or class of employees protected under this Act, then, during the period such seniority is exercised, such noncontract employee shall be entitled to the same protection offered under this Act to employees in the craft or class in which such seniority is exercised. However, in computing the monthly displacement allowance, the last 12 months in which such noncontract employee performed service under a collective-bargaining agreement prior to February 26, 1975, shall be used.".

(d) Section 505(f) of such Act (45 U.S.C. 775(f)) is amended to read as follows:

"(f) TERMINATION ALLOWANCE.—The Corporation may terminate the employment of an employee of a railroad in reorganization, who has less than 3 years' service as of the effective date of this Act. The Corporation's right to terminate an employee must be exercised within a perior of 1 year from the date of conveyance. Upon notification to the employee of the Corporation's intent to terminate his services, the employee shall have the option of accepting the termination allowance or accepting a voluntary furlough without pay: *Provided*, That in the event the employee entitled to receive a lump sum separation allowance accepts such an allowance, the amount shall be determined as follows:

2 to 3 years' service ____________	180 days' pay at the rate of the position last held.
1 to 2 years' service ____________	90 days' pay at the rate of the position last held.
Less than 1 years' service ________	5 days' pay at the rate of the position last held for each month of service.".

(e) Section 505(h) of such Act (45 U.S.C. 775(h)) is amended by adding at the end thereof the following sentence: "Provisions of this title should also be applied, upon a conveyance or discontinuance of service, to employees who are otherwise entitled to protective benefits and who were placed in furlough status on or after February 26, 1975.".

(f) Section 505 of such Act (45 U.S.C. 775) is amended by adding at the end thereof the following new subsection:

"(i) NONCONTRACT EMPLOYEES.—Compensation, severance, termination, and moving expense benefits for employees not governed by a collective-bargaining agreement shall be consistent with subsections (b), (c), (e), (f), and (g) of this section.

"(1) A protected employee, whose employment is not governed by the terms of a collective-bargaining agreement, may be required by the Corporation, upon reasonable notice, to transfer to any position on the Corporation's system. If such transfer requires a change in residence, the employee may either voluntarily suspend his employment at his home location in lieu of protective benefits, or he may sever his employment and receive a benefit computed in accordance with subsection (e) or (g) of this section. These provisions supersede all provisions or conditions in subsection (d) of this section.

"(2) If any dispute arises between the Corporation and a noncontract employee regarding the interpretation or application for the provisions of this title, the Corporation shall establish a resolution procedure with arbitration as the final step. Either party may request arbitration and the cost and expenses of such arbitration shall be shared equally by the parties.".

(g) Section 509 of such Act 45 U.S.C. 779) is amended to read as follows:

"SEC. 509. The Corporation, the Association (where applicable), and acquiring railroads, as the case may be, shall be responsible for the actual payment of all allowances, expenses, and costs provided protected employees pursuant to the provisions of this title. The Corporation, the Association (where applicable), and acquiring railroads shall then be reimbursed for the actual amounts paid to, or for the benefit of, protected employees, pursuant to the provisions of this title, not to exceed the aggregate sum of $250,000,000, by the Railroad Retirement Board, upon certification to such Board, by the Corporation, the Association (where applicable), and acquiring railroads, of the amounts paid such employees. Such reimbursement shall be made from a separate account maintained in the Treasury of the United States to be known as the Regional Rail Transportation Protective Account. Neither the Regional Rail Transportation Protective Account nor the Corporation nor an acquiring carrier shall be charged for any amounts of benefits paid to a protected employee under the provisions of the Railroad Unemployment Insurance Act or any other income protection law or regulation. There is authorized to be appropriated to such protective account annually such sums as may be required to meet the obligations payable hereunder, not to exceed the aggregate sum of $250,000,000. There is further authorized to be appropriated to the Railroad Retirement Board annually such sums as may be necessary to provide for additional administrative expenses to be incurred by the Board in the performance of its functions under this section.".

DUTIES OF ACQUIRING AND SELLING RAILROADS

SEC. 615. Section 508 of such Act (45 U.S.C. 778) is amended by (1) amending the title thereof to read as follows: "DUTIES OF ACQUIRING AND SELLING RAILROADS"; (2) inserting after "SEC. 508." and before the first sentence thereof the following: "(a) ACQUIRING RAILROADS.—(1)"; (3) inserting after "railroad from which it acquires properties or facilities" the following: "(including operating rights)"; (4) deleting "303" in the last clause thereof and inserting in lieu thereof "206(d)(4)"; (5) adding at the end thereof the following new sentence: "For purposes of this subsection, the National Railroad Passenger Corporation shall be deemed to be an acquiring railroad with respect to employees described in clause (3) of section 501(3) of this title."; and (6) inserting at the end thereof the following new paragraph and the following new subsection:

"(2) NATIONAL RAILROAD PASSENGER CORPORATION.—In the event the National Railroad Passenger Corporation acquires rail properties of a railroad in reorganization, prior to conveyance of rail properties to the Corporation under section 303 of this Act but after the adoption of the preliminary system plan, it shall offer such employment and afford such employment protection to employees of a railroad from which it acquires rail properties and shall further protect its own employees who may be adversely affected by such acquisition, as shall be agreed upon between the National Railroad Passenger Corporation and the representatives of such employees prior to said acquisitions: *Provided*, That the protection and benefits provided for employees in such agreements shall be the same as those specified in section 505 of this title, except that such agreements shall supersede conflicting provisions in any previously applicable job stabilization agreements or agreements implementing said stabilization agreements, and the National Railroad Passenger Corporation shall be reimbursed for expenses incurred as a result of any such acquisition as provided in section 509.";

"(b) SELLING RAILROADS.—A selling railroad shall offer such employment and shall provide such employment protection to each of its employees who are adversely affected by such sale, pursuant to agreements to be entered into between it and the representatives of such employees prior to said sale: *Provided*, That (1) the protection and benefits provided for protected employees in such agreements shall be the same as those specified in section 505; and (2) unless and until such agreements are reached, the selling railroad shall not enter into selling agreements pursuant to section 206(d) of this Act.".

EXEMPTIONS

SEC. 616. (a) Section 601(a)(2) of such Act (45 U.S.C. 791(a)(2)) is amended by (1) inserting "(A)" after "inapplicable" and before "with"; and (2) deleting the period at the end thereof and inserting in lieu thereof the following: "and (B) with respect to any action taken to formulate or implement any supplementary transfer.".

(b) Section 601(b) of such Act (45 U.S.C. 791(b)) is amended by (1) deleting "COMMERCE AND BANKRUPTCY.—" and inserting in lieu thereof "COMMERCE, BANKRUPTCY, AND SECURITIES.—(1)"; (2) deleting "to the extent necessary" and inserting in lieu thereof "taken (A)"; (3) deleting the period at the end thereof and inserting in lieu thereof "or (B) to any action taken to formulate or implement any supplementary transfer"; and (4) adding at the end thereof the following two new paragraphs:

"(2) All securities of the Corporation which are issued to the Association as the initial holder, or which are issued in connection with the transfer to the Corporation of rail properties under this Act, shall be deemed for all purposes to have been issued subject to section 20a of the Interstate Commerce Act (49 U.S.C. 20a).

"(3) The powers and duties of the Commission under section 77 of the Bankruptcy Act (11 U.S.C. 205), with respect to a railroad in reorganization which conveys all or substantially all of its designated rail properties to the Corporation or to any subsidiary or affiliate thereof, or to profitable railroads in the region, pursuant to the final system plan, and the duty of the trustee or trustees of such a railroad to file a reorganization plan with the Commission, shall cease upon the date of such conveyance. Thereafter, such powers and duties of the Commission shall be vested in the United States district court which has jurisdiction of the estate of any such railroad in reorganization at the time of such conveyance. Such court shall proceed to reorganize or liquidate such railroad in reorganization pursuant to (A) such section 77 on such terms as the court deems just and reasonable, or (B) any other provisions of the Bankruptcy Act, if the court finds that such action would be in the best interests of such estate: *Provided*, That this paragraph does not affect any obligation of any carrier by railroad subject to regulation under the Interstate Commerce Act. The powers and duties of the Commission under section 77 of the Bankruptcy Act shall continue in effect (1) if the railroad in reorganization continues to operate any line of railroad, or (2) if a plan of reorganization has been approved, in whole or in part, by the Commission as of the date of enactment of the Rail Services Act of 1975.".

(c) Section 601(c) of such Act (45 U.S.C. 791(c)) is amended by (1) deleting "(1)"; (2) deleting "the effective date of the final system plan" and inserting in lieu thereof "the date of conveyance of rail properties under section 303 of this Act or to any action taken in connection with a decision by the Association to purchase securities of the Corporation"; and (3) adding at the end thereof the following new sentence: "Such provisions shall apply with respect to any other action taken to implement the final system plan or to any action taken to formulate or implement any supplementary transaction: *Provided*, That, notwithstanding the provisions of any other law, any action taken to comply with such provisions shall not be subject to review in any court.".

DUTY OF TRANSFEREE

SEC. 617. Title VI of the Act is amended by adding at the end thereof the following new section:

"DUTY OF TRANSFEREE

"SEC. 605. (a) Whenever the transfer, sale, or acquisition of a rail line shall result in a significant increase in rail traffic, and such increase reasonably poses a potential hazard to public health, safety, or welfare, the transferee shall take such action as may be required by the Secretary to alleviate such potential hazard.

"(b) Notwithstanding any provision of this or any other Act, the Association may provide assistance to carry out the purposes of subsection (a) from funds available under title V of the Rail Services Act of 1975.".

TITLE VII—NORTHEAST CORRIDOR PROJECT IMPLEMENTATION

NORTHEAST CORRIDOR IMPROVEMENT CORPORATION

SEC. 701. (a) ESTABLISHMENT.—There is hereby established a wholly owned corporate subsidiary of the National Railroad Passenger Corporation to be known as the Northeast Corridor Improvement Corporation.

(b) ADMINISTRATION.—(1) The Northeast Corridor Improvement Corporation shall, to the extent consistent with this title, be subject to the supervision and control of the Board of Directors of the Northeast Corridor Improvement Corporation (hereafter in this title referred to as "the Board", unless the context otherwise requires). The Board shall consist of—

(A) six members of the Board of the National Railroad Passenger Corporation, such individuals shall be selected in accordance with bylaws adopted by the Board of the National Railroad Passenger Corporation;

(B) the President of the National Railroad Passenger Corporation; and

(C) four individuals representative of the States which are located in the Northeast corridor. Such representatives shall be appointed by the President from lists of qualified individuals recommended by the Governors of the States which are located in such corridor, by and with the advice and consent of the Senate. The term of office of each such representative shall be 4 years.

Each member of the Board, who is not otherwise an employee of the Federal Government, may receive up to $300 per diem, when engaged in the actual performance of duties under this title, plus reimbursement for travel, subsistence, secretarial, and reasonable professional staff support, and other necessary expenses incurred in the performance of such duties.

(2) As used in this subsection, the States which are located in the Northeast corridor are Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and the District of Columbia.

(c) GENERAL MANAGER.—The Board shall, upon the recommendation of the President of the National Railroad Passenger Corporation, appoint a qualified individual to serve as the General Manager of the Northeast Corridor Improvement Corporation. The General Manager shall serve at the pleasure of the Board, and he shall report directly to the President of the National Railroad Passenger Corporation. The General Manager shall, consistent with the purposes of this title, manage and supervise the affairs of such Corridor Corporation, and he shall be compensated at a rate no greater than that authorized for the President and Chief Executive Officer of the National Railroad Passenger Corporation.

POWERS AND DUTIES

SEC. 702. (a) IN GENERAL.—To carry out the purposes of this title, the Rail Passenger Service Act, and the Regional Rail Reorganization Act of 1973, the Northeast Corridor Improvement Corporation is authorized to—

(1) acquire by purchase, lease, exchange, gift, or otherwise, and to hold, maintain, sell, lease or otherwise dispose of, any real or personal property or interest therein which is necessary or useful in establishing and maintaining improved high-speed rail service, as specified in section 704 of this title;

(2) enter into and implement such contracts and agreements as are necessary or appropriate in the conduct of its functions;

(3) provide for the continuous operation and maintenance of rail freight, intercity rail passenger, and commuter rail passenger service over the properties acquired pursuant to this section;

(4) improve railroad rights-of-way between Boston, Massachusetts, and Washington, District of Columbia, to the extent necessary (including, at its option, the route through Springfield, Massachusetts) and routes to Harrisburg, Pennsylvania, and Albany, New York, from the Northeast corridor to enable improved high-speed rail passenger service to be provided between Boston, Massachusetts, and Washington, District of Columbia, and intermediate intercity markets, in accordance with the goals set forth in section 704 of this title;

(5) acquire, construct, improve, and install passenger station; communications, electric power, and other facilities and equipment; public and private highway and pedestrian crossings; and other safety facil-

ities or equipment; and any other facilities or equipment which it determines are necessary to enable improved high-speed rail passenger service to be provided over the railroad rights-of-way acquired under paragraph (1) of this section and as improved under paragraph (4) of this section;

(6) enter into agreement with other railroads and commuter agencies or other carriers for the purpose of granting or acquiring trackage rights, contract services, or other appropriate arrangements for freight and commuter services over the rights-of-way acquired under this title. Any such agreement shall be on such terms and conditions as are necessary to reimbursement for costs on an equitable and fair basis, except that cross subsidization among intercity, commuter, or rail freight services is prohibited; and

(7) enter into agreements with telecommunications common carriers consistent with and subject to the Communications Act of 1934, as amended, for the purpose of continuing existing and creating new and improved rail passenger radio mobile telephone service in the high-speed rail passenger service area specified in section 704(1) of this title.

(b) Transfer of Rail Properties.—The Consolidated Rail Corporation; on the date of conveyance under section 303 of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 743), shall transfer to the Northeast Corridor Improvement Corporation all rail properties designated pursuant to sections 206(c)(1)(C) and 601(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(C) and 791(d)), and it shall within 180 days of the enactment of this title execute agreements providing for such Corridor Corporation to assume (1) all appropriate operational responsibility for intercity services will respect to such properties, and (2) control and maintenance of the properties transferred. The parties may agree to transferring to the Northeast Corridor Improvement Corporation operational responsibility, in whole or in part, for freight or commuter rail services in the area specified.

OPERATIONS REVIEW PANEL

Sec. 703. (a) Establishment.—There is hereby established a Northeast Corridor Operations Review Panel which shall be representative of the various users of the Northeast Corridor facilities. The Operations Review Panel shall have the authority to take such actions as are necessary to resolve differences of opinion concerning operations (among or between the National Railroad Passenger Corporation, other railroads, and State, local, and regional agencies responsible for the provision of commuter rail, rapid rail, or rail freight services), with respect to all matters except those conferred on the Commission in section 706 of this title.

(b) Membership.—The Operations Review Panel shall consist of five members, as follows:

(1) one member who shall be selected by the chief executive officer of the National Railroad Passenger Corporation;

(2) one member who shall be selected by majority vote of the commuter rail authorities which are subject to the jurisdiction of the Operations Review Panel;

(3) one member who shall be selected by the chief executive officer of the Consolidated Rail Corporation; and

(4) two neutral members who shall be selected by the Chairman of the National Mediation Board.

The members shall each serve a term of 4 years from the date of such selection, or until a successor has been selected. If, within 45 days after the date of enactment of this Act, the National Railroad Passenger Corporation, the commuter authorities, or the Consolidated Rail Corporation fails to select the member who it is authorized to select under this subsection, the Chairman of the National Mediation Board shall, within 30 days after the expiration of such 45-day period, appoint a member on behalf of such party; the member so appointed shall serve until such time as the party so represented selects a successor.

(c) Decisions and Review.—All decisions of the Operations Review Panel shall be final and binding on the parties. All costs and expenses of the Operations Review Panel shall be paid by (1) the National Railroad Passenger Corporation, (2) the commuter rail authorities which are subject to such Panel, and (3) the Consolidated Rail Corporation, each of which shall pay one-third of such costs and expenses, unless otherwise determined by a majority of the members of such Panel. The Operations Review Panel may adopt such rules of procedure and may employ such resources as it deems appropriate. It may issue preliminary and final orders that shall have the force and effect of law with respect to the rights of the parties involved in any difference of opinion concerning any operational matter which is the subject of such an order. No order of the Operations Review Panel shall be reviewed in any court. Upon petition by any party subject to the jurisdiction of such Panel, the United States District Court for the District of Columbia shall enforce any final order issued by such Panel.

REQUIRED GOALS

Sec. 704. The Northeast Corridor improvement project shall be implemented in order to achieve the following goals:

(1) Intercity Passenger Services.—Within 4 years after the date of enactment of this Act, the establishment of regularly scheduled and dependable intercity rail passenger service between Boston, Massachusetts, and New York, New York, operating on a 3-hour schedule, including appropriate intermediate stops; regularly scheduled and dependable intercity rail passenger service between New York, New York, and Washington, District of Columbia, operating on a 2½-hour schedule, including appropriate intermediate stops. The Corporation shall, in accordance with route criteria approved by the Congress, also make improvements in service on routes to Harrisburg, Pennsylvania, and Albany, New York, from the corridor main line, and from Springfield, Massachusetts, to Boston, Massachusetts, and New Haven, Connecticut, that will facilitate compatibility with improved high-speed rail service operated on the corridor main line.

(2) Commuter Services, Rapid Rail Transit, and Local Transportation.—To the extent compatible with the goals contained in paragraph (1) of this section, the facilitation of improvements in and usage of rail commuter services, rapid rail transit, and local public transportation.

(3) Freight Services.—The maintenance and improvement of rail freight service to all users of rail freight service located on or adjacent to the corridor and the maintenance and improvement of all through freight services that remain on the corridor, to the extent compatible with the goals contained in paragraphs (1) and (2) of this section.

(4) Passenger Radio Telephone Service.—To the extent compatible with the goals contained in paragraph (1) of this section, the continuation of and improvement in passenger radio telephone service aboard trains operated in high-speed rail service between Washington, District of Columbia, and Boston, Massachusetts. The President and relevant Government agencies, including the Federal Communications Commission, are directed to take whatever actions are necessary to meet this goal, including authorization for the utilization of the necessary Government radio frequencies by common carriers in a manner which minimizes interference with competing governmental uses, subject to the provisions of the Communications Act of 1934, including necessary licensing, construction, operation, and maintenance standards for the radio service, as determined by the Federal Communications Commission to be in the public interest, convenience, and necessity.

FUNDING

Sec. 705. (a) Formula.—The cost of improvement of railroad rights-of-way, stations, and related facilities or any interest therein shall be borne by the Federal Government: *Provided,* That improvements in nonoperating portions of stations and related facilities by States or local or regional transportation authorities shall be encouraged.

(b) Authorization of Appropriations for Loans.—There is authorized to be appropriated to the United States Railway Association $3,000,000,000 to remain available until expended to permit the Association to make available non-interest-bearing 30-year loans to the National Railroad Passenger Corporation for the use of the Northeast Corridor Improvement Corporation, to other railroads, or to State and to local or regional agencies responsible for the provision of commuter rail service, rapid rail, or rail freight service, in order to effectuate the goals of section 704 of this title. If the improvements mandated by this title result in greater profits to the Corporation than anticipated, the Association may accelerate the repayment schedule appropriately.

(c) Authorization of Appropriations.—(1) There is authorized to be appropriated to the Northeast Corridor Improvement Corporation for system management and development cost a sum not to exceed $50,000,000 to remain available until expended; $25,000,000, to remain available until expended to be for nonrecurring costs related to the initial assumption of control and responsibility for maintaining rail operations on the Northeast Corridor; $85,182,956 to acquire the properties of the Northeast Corridor; $650,000, to remain available until expended for the development and utilization of mobile radio frequencies for high-speed rail passenger radio telephone service; $75,000,000, to remain available until expended for interim operating losses of intercity rail passenger services.

(2) There is authorized to be appropriated to the National Railroad Passenger Corporation an amount not to exceed $20,000,000, to remain available until expended for acquiring and improving properties designated pursuant to section 206(c)(1)(D) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(D)) and for the purpose of purchasing and improving the following properties: the rail lines (including right-of-way land, track structures, signals, communications systems, bridges, tunnels, towers, and other appurtenances) now or previously owned, operated, leased, or used by the Penn Central Transportation Company from Post Road to Rensselaer, New York; Porter to Kalamazoo, Michigan; Sand Bank to Hoffmans, New York; Royalton to Conewago, Pennsylviania; Parksburgh to Lancaster, Pennsylvania; the Panhandle bridge and approaches in Pittsburgh, Pennsylvania; and from Kankakee, Illinois, to Sheff, Indiana, to remain available until expended.

(3) No funds appropriated under this section or pursuant to section 601 of the Rail Passenger Service Act may be used to subsidize any operating losses of commuter rail or rail freight services.

(d) Other Federal Grants.—The Secretary shall coordinate all transportation programs related to the Northeast Corridor so that all such programs are integrated and consistent with the Northeast Corridor project implementation. If the Secretary finds any significant noncompliance with the implementation of the goals of section 704 of this title, he may deny funding to any noncomplying program until such noncompliance is corrected.

(e) EMERGENCY MAINTENANCE CONTINUATION.—After the conveyance of rail properties pursuant to section 303(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)) and section 702(b) of this title, not to exceed $25,000,000 of the funds appropriated pursuant to Public Law 94-6 (89 Stat. 11) shall remain available to be utilized by the Secretary of Transportation for the purpose of performing emergency maintenance on the rail properties designated in the final system plan in accordance with section 206(c)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(C)).

CONFORMING AMENDMENTS

SEC. 706. (a) Section 402(a) of the Rail Passenger Service Act (45 U.S.C. 562(a)) is amended by adding at the end thereof the following new sentences: "Notwithstanding any other provision of this Act, the Corporation may enter into agreements with any other railroads and with any State (or local or regional transportation agency) responsible for providing commuter rail or rail freight services over tracks and other facilities acquired by the Corporation pursuant to authority granted by the Regional Rail Reorganization Act of 1973, as amended, and the Rail Services Act of 1975. In the event of a failure to agree, the Commission shall order the continued provision of services and shall, consistent with compensation principles described in the final system plan, decide, within 180 days of the submission of a dispute to the Commission the proper amount of compensation for the provision of such services. The Commission, in making such a determination, shall consider all relevant factors, and shall not permit cross subsidization among inter-city, commuter, and rail freight services.".

(b) Section 601(d)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791(d)(1)) is amended to read as follows:

"(d) NORTHEAST CORRIDOR.—(1) Rail properties designated in accordance with section 206(c)(1)(C) of this Act shall be purchased by the Northeast Corridor Improvement Corporation. The Corporation shall negotiate an appropriate sale agreement with the Northeast Corridor Improvement Corporation for the properties designated for transfer pursuant to section 206(c)(1)(C) of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 716(c)(1)(C)), which shall take effect on the date of conveyance of such properties to the Corporation.".

(c) Section 403(b) of the Rail Passenger Services Act (45 U.S.C. 563(b)) is amended by inserting "(1)" immediately after "(b)" and before the first sentence thereof; and (2) deleting the second sentence thereof and inserting in lieu thereof the following: "The Corporation shall institute such service under an agreement if the State, regional, or local agency agrees to reimburse the Corporation for 50 percent of total operating losses and associated capital costs of such service if service can be provided with the resources available to the Corporation and if it is consistent with the following requirements:

"(A) The State or agency must make an adequate assurance to the Corporation that it has sufficient resources to meet its share of the costs of such service for the period such service is to be provided under this section; and

"(B) The State or agency has conducted a market analysis acceptable to the Corporation to insure that there is adequate demand to warrant such service. An agreement made pursuant to this section may by mutual agreement be renewed for one or more additional terms of not more than 2 years.

"(2) If more than one application is made for service and all applications are consistent with the requirements of this subsection, but all the services applied for cannot be provided with the available resources of the Corporation, the Board of Directors shall decide in its discretion which application or applications best serve the public interest and can be provided with the available resources of the Corporation, except that a proposal for State support of a service deleted from the basic system shall be given preference.

"(3) The Board of Directors shall establish the basis for determining the total costs and the total revenue of the service provided pursuant to this subsection.".

(d) Section 306 of the Rail Passenger Service Act (45 U.S.C. 546) is amended by adding at the end thereof the following new subsection:

"(i) The provisions of section 361 of the Public Health Service Act (42 U.S.C. 264) shall not apply to railroad conveyances operated in intercity rail passenger service."

(e) Section 303(a)(5) of the Rail Passenger Service Act (45 U.S.C. 543(a)(5)) is amended by (1) deleting "for each meeting of the board he attends." and inserting in lieu thereof "per diem when engaged in the actual performance of duties.", and (2) inserting ", secretarial or professional staff support which is reasonably required" after "necessary travel".

(f) Section 305(d)(1)(B) of the Rail Passenger Service Act (45 U.S.C. 545(d)(1)(B)) is amended by deleting "for the construction of tracks or other facilities necessary to provide".

(g) Section 402(d)(1) of the Rail Passenger Service Act (45 U.S.C. 562(d)(1)) is amended by deleting "the construction of tracks or other facilities necessary to provide".

(h) Section 403(c) of the Rail Passenger Service Act (45 U.S.C. 563(c)) is amended by adding the following sentence at the end thereof: "After January 1, 1977, all route additions shall be in accordance with the Criteria and Procedures for Making Route and Service Decisions approved by the Congress pursuant to section 404(c)(2) (45 U.S.C. 564(c)(2)), and this subsection shall no longer apply to route additions.".

(i) Section 4 of the Department of Transportation Act (49 U.S.C. 1653) is amended by inserting at the end thereof the following new subsection:

"(j)(1) Notwithstanding any other provision of law, no portion of the Union Station Building in Washington, District of Columbia, which was used in connection with the provision of rail passenger service on January 1, 1975, may be used for any other purpose until the Interstate Commerce Commission, after consulting with the National Railroad Passenger Corporation, the Secretary, and the Secretary of the Interior has reported to Congess that adequate replacement facilities are available for rail passenger service. This subsection shall apply to areas used by the public, including public parking as well as to support, storage, crew housing, and administrative facilities.

"(2) Within 90 days after October 1, 1977, the Secretary of Transportation, in consultation with the Secretary of the Interior, shall recommend to the Congress the proper amount of space which should be allocated to transportation purposes in such Union Station, and the proper amount of space that should be allocated for a visitor center therein.

"(3) The Secretary of Transportation shall consult with the National Railroad Passenger Corporation, any other railroads providing passenger services to or from such Union Station, and any affected commuter authorities prior to requiring the Secretary of the Interior to transfer or lease space (including air space) pursuant to subsection (h)(2) of this section.".

FACILITIES WITH HISTORICAL OR ARCHITECTURAL SIGNIFICANCE

SEC. 707. Section 4(i) of the Department of Transportation Act (49 U.S.C. 1653) is amended by (1) redesignating paragraph (1)(C) thereof and all references thereto as paragraph (D) thereof; (2) inserting after paragraph (1)(B) thereof and before "and" thereof the following new clause: "(C) acquiring and utilizing space in suitable buildings of historic or architectural significance, unless the use of such space would not prove feasible and prudent compared with available alternatives;"; (3) redesignating paragraphs (4), (5), (6), (7), (8), (9), and (10) thereof as paragraphs (5), (6), (7), (8), (9), (10), and (11) thereof, respectively; (4) inserting after paragraph (3) thereof the following new paragraph:

"(4) Acquisitions made for the purpose set forth in paragraph (1)(C) of this subsection shall be made only after consultation with the chairman of the National Endowment for the Arts and the Advisory Council on Historic Preservation."; and (5) amending paragraph (9) thereof, as redesignated by this section, to read as follows:

'(9)(A) There is authorized to be appropriated for the purpose set forth—

"(i) in paragraphs (1)(A) and (1)(C) of this subsection not to exceed $15,000,000;

"(ii) in paragraph (1)(B) of this subsection not to exceed $5,000,000; and

"(iii) in paragraph (1)(D) of this subsection not to exceed $5,000,000.

"(B) Of the sums available under clauses (ii) and (iii) of subparagraph (A) of this paragraph, there shall be available to the National Endowment for the Arts not to exceed $2,500,000 for planning under paragraph (1)(D) of this subsection and not to exceed $2,500,000 for interim maintenance under paragraph (1)(B) of this subsection.

"(C) Sums appropriated for the purposes of this subsection shall remain available until expended.".

TITLE VIII—LOCAL RAIL SERVICE CONTINUATION

EXTENSION OF SERVICE

SEC. 801. (a) Section 1(18) of the Interstate Commerce Act (49 U.S.C. 1(18)) is amended to read as follows:

"(18)(A) No carrier by railroad subject to this part shall—

"(i) undertake the extension of any of its lines of railroad or the construction of any additional line of railroad;

"(ii) acquire or operate any such extension or any such additional line; or

"(iii) engage in transportation over, or by means of, any such extended or additional line of railroad,

unless such extension or additional line of railroad is described in and covered by a certificate which is issued by the Commission and which declares that the present or future public convenience and necessity require or will be enhanced by the construction and operation of such extended or additional line of railroad. Upon receipt of an application for such a certificate, the Commission shall (I) send a copy of the application to the chief executive officer of each State that would be directly affected by the construction or operation of such extended or additional line; (II) send an accurate and understandable summary of such application to a newspaper of general circulation in such affected area or areas with a request that such information be made available to the general public; (III) cause a copy of such summary to be published in the Federal Register; (IV) take such other steps as it deems reasonable and effective to publicize such application; and (V) indicate in such transmissions and publications that each interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

"(B) The Commission shall establish and may from time to time amend rules and regulations (as to hearings and other matters) to govern applications for, and the issuance of, any certificate required by subparagraph (A). An application for such a certificate shall be submitted to the Commission in such form and manner and with such documentation as the Commission shall prescribe. The Commission may—

"(i) issue such a certificate in the form requested by the applicant;

"(ii) issue such a certificate with modifications in such form and subject to such terms and conditions as are necessary in the public interest; or

"(iii) refuse to issue such a certificate.

"(C) Upon petition or upon its own initiative, the Commission may authorize any carrier by railroad subject to this part to extend any of its lines of railroad or to take any other action necessary for the provision of adequate, efficient, and safe facilities for the performance of such carrier's obligations under this part. No authorization shall be made unless the Commission finds that the expense thereof will not impair such carrier's ability to perform its obligations to the public.

"(D) Carriers by railroad subject to this part may, notwithstanding this paragraph and section 5 of this part, and without the approval of the Commission, enter into contracts, agreements, or other arrangements for the joint ownership or joint use of spur, industrial, team, switching, or side tracks. The authority granted to the Commission under this paragraph shall not extend to the construction, acquisition, or operation of spur, industrial, team, switching, or side tracks if such tracks are located or intended to be located entirely within one State and shall not apply to any street, suburban, or interurban electric railway which is not operated as part of a general system of rail transportation.

"(E) Any construction or operation which is contrary to any provision of this paragraph, of any regulations promulgated under this paragraph, or of any terms and conditions of an applicable certificate, may be enjoined by an appropriate district court of the United States in a civil action commenced and maintained by the United States, the Commission, or the attorney general or the transportation regulatory body of an affected State or area. Such a court may impose a civil penalty of not to exceed $5,000 on each person who knowingly authorizes, consents to, or permits any violation of this paragraph or of the conditions of a certificate issued under this paragraph.".

(b) Section 1(19), 1(20), 1(21), and 1(22) of the Interstate Commerce Act (49 U.S.C. 1(19) through 1(22)) are repealed.

DISCONTINUANCE OR ABANDONMENT

SEC. 802. The Interstate Commerce Act is amended by inserting after section 1 thereof the following new section:

"DISCONTINUANCE AND ABANDONMENT OF RAIL SERVICE

"SEC. 1a. (a) No carrier by railroad subject to this part shall abandon all or any portion of any of its lines of railroad (hereafter in this section referred to as 'abandonment') and no such carrier shall discontinue the operation of all rail service over all or any portion of any such line (hereafter referred to as 'discontinuance'), unless such abandonment or discontinuance is described in and covered by a certificate which is issued by the Commission and which declares that the present or future public convenience and necessity require or permit such abandonment or discontinuance. An application for such a certificate shall be submitted to the Commission, together with a notice of intent to abandon or discontinue, not less than 60 days prior to the proposed effective date of such abandonment or discontinuance and shall be in accordance with such rules and regulations as to form, manner, content, and documentation as the Commission may from time to time prescribe. Abandonments and discontinuances shall be governed by the provisions of this section or by the provisions of any other applicable Federal statute, notwithstanding any inconsistent or contrary provision in any State law or constitution, and notwithstanding any decision, order, or procedure of any State administrative or judicial body.

"(b)(1) Whenever a carrier submits to the Commission a notice of intent to abandon or discontinue, pursuant to subsection (a), such carrier shall attach thereto an affidavit certifying that a copy of such notice (A) has been sent by certified mail to the chief executive officer of each State that would be directly affected by such abandonment or discontinuance; (B) has been posted in each terminal and station on any line of railroad proposed to be so abandoned or discontinued; (C) has been published for 3 consecutive weeks in a newspaper of general circulation in each county in which all or any part of such line of railroad is located; and (D) has been mailed, to the extent practicable, to all shippers who have made significant use (as determined by the Commission in its discretion) of such line of railroad during the 12 months preceding such submission.

"(2) The notice required under paragraph (1) shall include (A) an accurate and understandable summary of the carrier's application for a certificate of abandonment or discontinuance together with the reasons therefor, and (B) a statement indicating that each interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

"(c) During the 60-day period between the submission of completed application for a certificate of abandonment or discontinuance pursuant to subsection (a) and the proposed effective date of an abandonment or discontinuance, the Commission shall, upon petition, or may, upon its own initiative, cause an investigation to be conducted to assist it in determining what disposition to make of such application. An order of the Commission to implement the preceding sentence must be issued and served upon any affected carrier not less than 5 days prior to the end of such 60-day period. If no such investigation is ordered, the Commission shall issue such a certificate, in accordance with this section, at the end of such 60-day period. If such an investigation is ordered, the Commission shall order a postponement, in whole or in part, in the proposed effective date of the abandonment or discontinuance. Such postponement shall be for such reasonable period of time as is necessary to complete such investigaton. Such an investigation may include, but need not be limited to, public hearings at any location reasonably adjacent to the line of railroad involved in the abandonment or discontinuance application, pursuant to rules and regulations of the Commission. Such a hearing may be held upon the request of any interested party or upon the Commission's own initiative. The burden of proof as to public convenience and necessity shall be upon the applicant for a certificate of abandonment or discontinuance.

"(d) The Commission shall, upon an order with respect to each application for a certificate of abandonment or discontinuance—

"(1) issue such certificate in the form requested by the applicant if it finds that such abandonment or discontinuance is consistent with the public convenience and necessity. In determining whether the proposed abandonment is consistent with the public convenience and necessity, the Commission shall consider whether there will be a serious adverse impact on rural and community development by such abandonment or discontinuance;

"(2) issue such certificate with modifications in such form and subject to such terms and conditions as are required, in the judgment of the Commission, by the public convenience and necessity; or

"(3) refuse to issue such certificate.

Each such certificate which is issued by the Commission shall contain provisions for the protection of the interests of employees; such provisions shall be at least as beneficial to such interests as provisions established pursuant to section 5(2)(f) of the Interstate Commerce Act (49 U.S.C. 5(2)(f)) and pursuant to section 405 of the Rail Passenger Service Act (45 U.S.C. 565). If such a certificate is issued, actual abandonment or discontinuance shall take effect, in accordance with such certificate 60 days after the date of issuance thereof.

"(e)(1) Each carrier by railroad subject to this part shall, within 180 days after the date of promulgation of regulations by the Commission pursuant to this section, prepare, submit to the Commission, and publish, a full and complete diagram of the transportation system operated, directly or indirectly, by such carrier. Each such diagram shall include a detailed description of each line of railroad which is a 'low density line', as such term is defined by the Commission. Such term shall be defined by the Commission by rules and such rules may include standards which vary by region of the Nation and by railroad or group of railroads. Each such diagram shall also identify any line of railroad as to which such carrier plans to submit an application for a certificate of abandonment or discontinuance in accordance with this section. Each such carrier shall submit to the Commission and publish, in accordance with regulations of the Commission, such amendments to such diagram as are necessary to maintain the accuracy of such diagram.

"(2) The Commission shall not issue a certificate of abandonment or discontinuance with respect to a line of railroad if such abandonment or discontinuance is opposed by—

"(A) a shipper or any other person who has made significant use of such line of railroad during the 12-month period preceding the submission of an applicable application under subsection (a); or

"(B) a State, or any political subdivision of a State, if such line of railroad is located, in whole or in part, within such State or political subdivision;

unless such line or railroad has been identified and described in a diagram or in an amended diagram which was submitted to the Commission under paragraph (1) at least 4 months prior to the date of submission of an application for such certificate.

"(f)(1) Whenever the Commission makes a finding, in accordance with this section, that the public convenience and necessity permit the abandonment or discontinuance of a line of railroad, it shall cause such finding to be published in the Federal Register. If, within 30 days of such publication, the Commission further finds that—

"(A) a financially responsible person or a government entity has offered financial assistance to enable the rail service involved to be continued; and

"(B) it is likely that such proffered assistance would—

"(i) cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line together with a reasonable rate of return on the value of such line; or

"(ii) cover the acquisition cost of all or any portion of such line of railroad;

the Commission shall postpone the issuance of a certificate of abandonment or discontinuance for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment or discontinuance, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to it of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect.

"(2) A carrier by railroad subject to this part shall promptly make available, to any party considering offering financial assistance in accordance with paragraph (1), its most recent reports on the physical condition of any line of railroad with respect to which it seeks a certificate of abandonment or discontinuance together with such traffic, revenue, and other data as is necessary to determine the amount of assistance that would be required to continue rail service.

"(3) If a line has been operated under a rail service continuation payment provided in conformance with paragraph (1) or section 304(c)(2) and for 2 consecutive years the difference between the revenue attributable to such rail properties and the avoidable costs of providing rail service on such properties together with a reasonable return on the value of such rail properties has been $1 or less the Commission shall not issue a certificate of abandonment or discontinuance, if the rail line is now owned by the rail carrier providing service it shall be conveyed to such carrier for a fair and equitable value, and the railroad shall not again apply for a certificate of discontinuance or abandonment for 2 years from the date of such conveyance.

"(g) Whenever the Commission finds, under subsection (f) of this section, that an offer of financial assistance has been made, the Commission shall determine the extent to which the avoidable cost of providing rail service plus a reasonable return on the value of the rail properties involved exceed the revenues attributable to the line of railroad or the rail service involved.

"(h) Petitions for abandonment or discontinuance, which were filed and pending before the Commission as of the date of enactment of this section or prior to the promulgation by the Commission of regulations required under this section shall be governed by the provisions of section 1 of this Act which were in effect on such date of enactment, except that subsections (f) and (g) of this section shall be applicable to such petitions.

"(i) Any abandonment or discontinuance which is contrary to any provision of this section, or any regulation promulgated under this section, or of any terms and conditions of an applicable certificate, may be enjoined by an appropriate district court of the United States in a civil action commenced and maintained by the United States, the Commission, or the attorney general or the transportation regulatory body of an affected State or area. Such a court may impose a civil penalty of not to exceed $5,000 on each person who knowingly authorizes, consents to, or permits any violation of this section or of any regulation under this section.

"(j) As used in this section, the terms— (1) 'avoidable cost' means all expenses which would be incurred by a carrier in providing a service which would not be incurred, in the case of discontinuance, if such service were discontinued or, in the case of abandonment, if the line over which such service was provided were abandoned. Such expenses shall include all cash inflows which are foregone and all cash outflows which are incurred by the carrier as a result of not continuing or not abandoning such service. These cash inflows and incurred outflows shall, where foregone or incurred, include, but are not limited to, the market value of the land; the salvage value of the properties; the tax benefits from retirement of the properties from rail service; working capital; required capital expenditures; expenditures to eliminate deferred maintenance; and the current cost of freight cars, locomotives and other equipment; and (2) 'reasonable rate of return' means the applicant's cost of capital after allowance for applicable Federal and State income taxes.".

LOCAL RAIL SERVICE ASSISTANCE

SEC. 803. Section 4 of the Department of Transportation Act, as amended by this Act (49 U.S.C. 1654), is amended by adding at the end thereof the following 10 new subsections:

"(1) The Secretary shall, in accordance with this section, provide financial assistance to States for rail freight assistance programs that are designed to cover—

"(1) the cost of rail service continuation payments;

"(2) the cost of purchasing a line of railroad or other rail properties for future rail service;

"(3) the cost of rehabilitating and improving rail properties on a line of railroad to the extent necessary to permit adequate and efficient rail freight service on such line;

"(4) the cost of reducing the costs of lost rail service in a manner less expensive than continuing rail service.

"(m) The Federal share of the costs of any rail service assistance program shall be—

"(1) for the first year following the date of enactment of the Rail Services Act of 1975, 100 percent for rail service and other projects designated pursuant to a State rail plan; and

"(2) 90 percent thereafter of the estimated program costs, as stated in the applicable funding agreement.

The Secretary shall promulgate standards and procedures whereby the State share of such cost may be provided through in-kind benefits such as forgiveness of taxes, trackage rights, and facilities which would not otherwise be provided.

"(n) Each State which is, pursuant to subsection (i) of this section, eligible to receive rail service assistance is entitled to an amount equal to the total amount authorzed and appropriated for such purpose multiplied by a fraction whose numerator is the rail mileage in such State which is eligible for rail service assistance under this section and whose denominator is the rail mileage in all of the States which are eligible for rail service assistance under this section during such periods. Notwithstanding the provision of the preceding sentence the entitlement of each State shall not be less than 1 percent of the funds appropriated. For purposes of this subsection, rail mileage shall be measured by the Secretary, in consultation with the Interstate Commerce Commission. Any portion of the entitlement of any State which is withheld, in accordance with this section, and any such sums which are not used or committed by a State during the preceding fiscal year, shall be reallocated among the other States in accordance with the formula set forth in the first sentence of this subsection.

"(o) Rail service assistance to which a State is entitled under this section may be allocated by such State to meet the cost of establishing and implementing the State rail plan required by subsection (i) of this section or section 402(c)(1) of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 762(c)(1)). Such grants shall be made available by the Secretary during the course of the State rail planning process, and shall be distributed by the Secretary as needed by the States. The amount of State rail planning grants to which each State (including each State referred to in subsection (m)(1) of this section) is entitled shall be proportionate to the amount of rail service assistance to which such State is entitled under this Act.

"(p) A State is eligible to receive rail service assistance from the Secretary if—

"(1) such State has established an adequate plan for rail services in such State as part of an adequate plan for all transportation services in such State, including a suitable process for updating, revising, and amending such plan;

"(2) such State plan is administered or coordinated by a designated State agency and provides for the equitable distribution of resources;

"(3) such State agency has authority and administrative jurisdiction to develop, promote, supervise, and support safe, adequate, and efficient transportation services; employs or will employ, directly or indirectly, sufficient trained and qualified personnel; maintains or will maintain adequate programs of investigation, research, promotion, and development, with provisions for public participation; and is designed and directed to take all practicable steps to improve transportation safety and to reduce transportation-related energy utilization and pollution;

"(4) such State provides satisfactory assurance that it has or will adopt and maintain adequate procedures for financial control, accounting, and performance evaluation in order to assure proper use of Federal funds; and

"(5) such State complies with regulations of the Secretary issued under this section and the Secretary determines that such State meets or exceeds the requirements of paragraphs (1) through (4) of this subsection.

"(q) A project is eligible in any year for financial assistance from the applicable rail service assistance program only, if—

"(1)(A) the Commission has found that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad which is related to such project, or (B) the line of railroad, or related project, was eligible for assistance under title IV of the Regional Rail Reorganization Act of 1973; and

"(2) such line, or related project, has not previously been the subject of Federal rail service assistance under this section for more than 8 fiscal years.

"(r) The Secretary shall pay to each eligible State an amount equal to its entitlement under subsection (i) of this section, to be expended or committed to one or more projects which are eligible, pursuant to subsection (j) of this section.

"(s)(1) Each recipient of financial assistance under this section, whether in the form of grants, subgrants, contracts, subcontracts, or other arrangements, shall keep such records as the Secretary shall prescribe including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the project which was supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of receipts which, in the opinion of the Secretary or of the Comptroller General may be related or pertinent to the grants, contracts, or other arrangements referred to in paragraph (1) of this subsection.

"(3) The Secretary and the Comptroller General shall regularly conduct, or cause to be conducted—

"(A) a financial audit, in accordance with generally accepted auditing standards; and

"(B) a performance audit of the activities and transactions assisted under this section, in accordance with generally accepted management principles.

Such audits may be conducted by independent certified or licensed public accountants and management consultants approved by the Secretary and the Comptroller General, and they shall be conducted in accordance with such rules and regulations as may be prescribed by the Comptroller General.

"(t) As used in this section, the term 'State' means—

"(1) during the period from the date of enactment of this subsection through the second anniversary of the date on which rail properties are conveyed pursuant to section 303(b)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)(1)), any State in which a carrier by railroad subject to part I of the Interstate Commerce Act maintains any line of railroad, except that the term shall not include the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Indiana, Michigan, and Illinois, and the District of Columbia; and

"(2) during the period following the second anniversary of the date on which rail properties are conveyed pursuant to such section 303(b)(1), any State in which a carrier by railroad subject to part I of the Interstate Commerce Act maintains any line of railroad.

"(u) There are authorized to be appropriated to the Secretary for the purposes of this section an amount not to exceed $15,000,000 for the fiscal year ending June 30, 1976; not to exceed $15,000,000 for the transitional fiscal quarter ending September 30, 1976; not to exceed $50,000,000 for the fiscal year ending September 30, 1977, not to exceed $75,000,000 for the fiscal year ending September 30, 1978, and not to exceed $100,000,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983. Of the foregoing sums, not to exceed $5,000,000 shall be made available for planning grants during each of the 3 fiscal years immediately following the enactment of this section. Such sums as are appropriated shall remain available until expended.".

TERMINATION AND CONTINUATION OF RAIL SERVICES

SEC. 804. Section 304 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744) is amended to read as follows:

"TERMINATION AND CONTINUATION OF RAIL SERVICES

"SEC. 304. (a) DISCONTINUANCE.—(1) Except as provided in subsections (c) and (f) of this section, (A) rail service on rail properties designated for such conveyance in the region which transfers to the Corporation or to profitable railroads operating in the region all or substantially all of its rail properties designated for such conveyance in the final system plan, and (B) rail service on rail properties of a profitable railroad operating in the region which transfers substantially all of its rail properties to the Corporation or to other railroads pursuant to the final system plan, may be discontinued to the extent such discontinuance is not precluded by the terms of the leases and agreements referred to in section 303(b)(2) of this title if—

"(i) the final system plan does not designate rail service to be operated over such rail properties;

"(ii) not sooner than 30 days following the effective date of the final system plan, the trustee or trustees of the applicable railroad in reorganization or a profitable railroad give notice in writing of intent to discontinue such service on a date certain which is not less than 60 days after the date of such notice or on the date of any conveyance ordered by the special court pursuant to section 303(b)(1) of this title, whichever is later; and

"(iii) the notice required by paragraph (B) of this subsection is sent by certified mail to the chief executive officer and to the Commission, the transportation agencies of each State, to the government of each political subdivision of each State in which such rail properties are located, and to each shipper who has used such rail service during the previous 12 months.

"(2)(A) If rail properties are not, in accordance with the designations in the system plan, required to be operated, as a consequence of a recommended arrangement for joint use or operation of rail properties (under section 206(g) of this Act) or as part of a coordination project (under section 206(c)(1)(B) of this Act), rail service on such properties may be discontinued, subsequent to the date of conveyance of properties pursuant to such section 303(b)(1) if the Commission determines that such rail service on such rail properties is not compensatory and if—

"(i) the petitioner and any other railroad involved in such arrangement or coordination project have, prior to filing an application for such discontinuance, entered into a binding agreement (effective on or before the effective date of such discontinuance) to carry out such arrangement or project;

"(ii) such application is filed with the Commission not later than 1 year after the effective date of the final system plan; and

"(iii) such discontinuance is not precluded by the terms of the leases and agreements referred to in such section 303(b)(2).

"(B) For purposes of this paragraph, rail service on rail properties is compensatory if the revenue attributable to such properties from such service equals or exceeds the sum of the avoidable costs of providing such service on such properties plus a reasonable return on the value of such rail properties, as determined in accordance with the standards developed pursuant to section 205(d)(3) of this Act.

"(C) The Commission shall make its final determination, with respect to any discontinuance requested under this paragraph, not later than 120 days after the date of filing of an application therefor. The applicant shall have the burden of proving that the service involved is not compensatory. If the Commission fails to make a final determination within such time, the application shall be deemed to be granted.

"(D) The Commission may issue such rules, regulations, and procedures as it deems necessary for the conduct of its functions under this paragraph.

"(b) ABANDONMENT.—(1) Except as provided in subsections (c) and (f) of this section, rail properties over which rail service has been discontinued under subsection (a) of this section may not be abandoned sooner than 120 days after the effective date of the discontinuance. Thereafter, except as provided in subsection (c) of this section, such rail properties may be abandoned upon 30 days' notice in writing to any person (including a government entity) required to receive notice under subsection (a)(1)(iii) of this section.

"(2) In any case in which rail properties proposed to be abandoned under this section are designated by the final system plan as rail properties which are suitable for use for other public purposes (including roads or highways, other forms of mass transportation, conservation, and recreation), such rail properties shall not be sold, leased, exchanged, or otherwise disposed of during the 240-day period beginning on the date of notice of proposed abandonment under this section unless such rail properties have first been offered, upon reasonable terms, for acquisition for public purposes.

"(3) Rail service may be discontinued, under subsection (a) of this section, and rail properties may be abandoned, under this section, notwithstanding any provision of the Interstate Commerce Act or the constitution or law of any State or the decision of any court or administrative agency of the United States or of any State.

"(c) CONTINUATION OF RAIL SERVICES.—No rail service may be discontinued and no rail properties may be abandoned, pursuant to this section—

"(1) in the case of service and properties referred to in subsections (a)(1) and (b)(1) of this section, after 2 years from the effective date of the final system plan or more than 2 years after the date on which the final rail service continuation payment is received, whichever is later;

"(2) if a financially responsible person (including a government entity) offers—

"(A) to provide a rail service continuation payment which is designated to cover the difference between the revenue attributable to such rail properties and the avoidable costs of providing rail service on such properties together with a reasonable return on the value of such properties: *Provided*, That if a rail service continuation payment is offered for both freight and passenger service on the same rail property, the owner of such property may not be entitled to more than one payment of a reasonable return on the value of such property;

"(B) to provide a rail service continuation payment which is payable pursuant to a lease or agreement with a State or with a local or regional transportation authority under which financial support was being provided on January 2, 1974, for the continuation of rail passenger service; or

"(C) to purchase, pursuant to subsection (f) of this section, such rail properties in order to operate rail services thereunder; or

"(3) if a line has been operated under a rail service continuation payment provided in conformance with paragraph (2) for 2 consecutive years and the difference between revenue attributable to such rail properties and the avoidable costs of providing rail service on such properties together with a reasonable return on the value of such properties has been $1 or less.

"(d) FREIGHT SERVICE AGREEMENTS.—(1) If a rail service continuation payment is offered, pursuant to subsection (c)(2)(A) of this section, for rail freight service, the person offering such payment shall designate the operator of such service and enter into an operating agreement with such operator. The person offering such payment shall designate as the operator (A) the corporation or the other railroad which connects to the line of railroad involved, or (B) any responsible person (including a government entity) which is willing to operate rail service on such rail properties. A designated railroad may refuse to enter into such an operating agreement only if the Commission determines, on petition by any affected party, that the agreement would substantially impair such railroad's ability to serve adequately its own patrons or to meet its outstanding common carrier obligations. The designated operator shall, pursuant to each such operating agreement, (i) be obligated to operate rail freight service on such rail properties, and (ii) be entitled to receive, from the person offering such payment, the difference between the revenue attributable to such properties and the avoidable costs of providing service on such rail properties together with a reasonable management fee as determined by the Office.

"(2) The trustees of a railroad in reorganization shall permit rail service to be continued on any rail properties with respect to which a rail service continuation payment operating agreement has been entered into under this subsection. Such trustees shall receive a reasonable rate of return on the value of such properties, as determined in accordance with the provisions of section 205(d)(3) of this Act.

"(3) If necessary to prevent any delay in, or loss of, rail service, at any time after the date of conveyance pursuant to section 303(b)(1) of this title, the Commission—

"(A) shall take such action as may be appropriate under its existing authority (including the enforcement of common carrier requirements applicable to railroads in reorganization in the region) to ensure compliance with obligations imposed under this subsection; and

"(B) shall have authority, in accordance with the provisions of section 1(16)(b) of the Interstate Commerce Act (49 U.S.C. 1(16)(b)), to direct rail service to be provided by any designated railroad or by the trustees of a railroad in reorganization in the region, if a rail service continuation payment has been offered but an applicable operating or lease agreement is not in effect. For purposes of the preceding sentence, any compensation required as a result of such directed service shall be determined in accordance with the provisions of section 205(d)(3) of this Act. The district courts of the United States shall have jurisdiction, upon petition by the Commission or any interested person (including a government entity), to enforce any order of the Commission issued pursuant to the exercise of its authority under this subsection, or to enjoin any designated entity or the trustees of a railroad in reorganization in the region from refusing to comply with the provisions of this subsection.

"(e) Passenger Service Agreements.—The Corporation shall provide rail passenger service, for a period of 180 days after the date of conveyance, under section 303(b)(1) of this title, of the rail properties over which such service was being provided by railroads in reorganization immediately prior to such date of conveyance. Such service shall be provided on such properties regardless of whether or not such properties are designated in the final system plan as rail properties over which rail service is required to be operated, except with respect to rail properties over which such service is provided by the National Railroad Passenger Corporation. If a State (or a local or regional transportation authority) was providing financial support for the continuation of rail passenger service pursuant to a lease or agreement which was in effect immediately prior to such date of conveyance, the Corporation shall be bound by such lease or agreement for the duration of such 180-day period. If no such financial support was being provided, or if no such lease or agreement was in effect immediately prior to such date of conveyance, the Corporation shall provide, during such 180-day period, the same level of service as was being provided by the railroads in reorganization immediately prior to such date. In any case in which a State (or a local or regional transportation authority) was providing financial support for the continuation of rail passenger service immediately prior to such date of conveyance, such State (or local or regional transportation authority) shall maintain the same level of such financial support during such 180-day period. If such financial support is not provided, or if, at the end of the 180-day period, a State (or a local or regional transportation authority) has not offered a rail passenger service continuation payment pursuant to subsection (c)(2)(A) of this subsection or if such a rail passenger service continuation payment is not paid when due, or if any payment payable under a section 303(b)(2) or a section 304(c)(2)(B) lease or agreement is not paid when due, the Corporation, the National Railroad Passenger Corporation, and, where applicable, the trustee or trustees of the railroads in reorganization may discontinue such service, and, in the case of rail properties not designated for inclusion in the final system plan, abandon such properties, pursuant to subsections (a) and (b) of this section. Nothing in this subsection shall affect the obligation of the Corporation, or of the trustee or trustees of the railroads in reorganization, to provide rail passenger service pursuant to section 303(b)(2) or 304(c)(2)(B) of this title. If, at the end of such 180-day period, a State (or a local or regional transportation authority) has offered a rail passenger service continuation payment, pursuant to subsection (c)(2)(A) of this section, and compensation for operations conducted at a loss during such 180-day mandatory operation period pursuant to this subsection, the Corporation shall continue to provide such service, except as otherwise provided in this subsection. If a State (or a local or regional transportation authority) has not offered such a payment and such compensation, the Secretary shall reimburse the Corporation for all of the 180-day mandatory operation period operating loss, as determined pursuant to section 17(a)(1) of the Urban Mass Transportation Act of 1964, as amended, and under regulations issued by the office under section 205(e) of this Act. In the event of a dispute with respect to the application of any regulations promulgated pursuant to section 808 of the Rail Services Act of 1975, the parties thereto may agree to arbitration by a third party; if the parties cannot agree to an arbitrator, the Chairman of the Commission shall serve in that capacity, except as to those matters to be decided by the Commission pursuant to section 706 of that Act. The Corporation shall be relieved of any obligation under this subsection to provide rail passenger service on rail properties in which a State (or a local or regional transportation authority) contracts with an operator other than the Corporation to provide rail passenger service on such rail properties. The Corporation shall, subject to reimbursement, provide access to such rail properties for such service.

"(f) Purchase.—If an offer to purchase is made under subsection (c)(2)(C) of this section, such offer shall be accompanied by an offer of a rail service continuation payment. Such payment shall continue until the purchase transaction is completed, unless a railroad assumes operations over such rail properties of its own account pursuant to an order or authorization of the Commission. Whenever a railroad in reorganization in the region or a profitable railroad gives notice of intent to discontinue service pursuant to subsection (a) of this section, such railroad shall, upon the request of anyone apparently qualified to make an offer to purchase or to provide a rail service continuation payment, promptly make available its most recent reports on the physical condition of such property together with such traffic and revenue data as would be required under subpart B of part 1121 of chapter X of title 49 of the Code of Federal Regulations and such other data as are necessary to ascertain the avoidable costs of providing service over such rail properties.

"(g) Abandonment by Corporation.—After the rail system to be operated by the Corporation or any subsidiary or affiliate thereof under the final system plan has been in operation for 2 years, the Commission may authorize the Corporation or any subsidiary or affiliate thereof to abandon any rail properties as to which it determines that rail service over such properties is not required by the public convenience and necessity, if the Corporation or any subsidiary or affiliate thereof can demonstrate that no State (or local or regional transportation authority) is willing to offer a rail service continuation payment pursuant to subsection (c) of this section. The Commission may, at any time after the effective date of the final system plan, authorize additional rail service in the region or authorize the abandonment of rail properties which are not being operated by the Corporation or any subsidiary or affiliate thereof or by any other person. Determinations by the Commission under this subsection shall be made pursuant to applicable provisions of the Interstate Commerce Act.

"(h) Interim Abandonment.—After the date of enactment of this section, no railroad in reorganization may discontinue service or abandon any line of railroad other than in accordance with the provisions of this Act, unless it is authorized to do so by the Association and unless no affected State (or local or regional transportation authority) reasonably opposes such action, notwithstanding any provision of any other Federal law, the constitution or law of any State, or the decision or order of, or the pendency of any proceeding before any Federal or State court, agency, or authority.".

CONTINUATION ASSISTANCE

Sec. 805. (a) Section 402 of the Regional Rail Reorganization Act of 1973 is amended to read as follows:

"RAIL SERVICE CONTINUATION ASSISTANCE

"Sec. 402. (a) In General.—(1) The Secretary shall provide financial assistance in accordance with this section to assist in the provision of rail service continuation payments, the acquisition or modernization of rail properties, including the preservation of rights-of-way for future rail service, the construction or improvement of facilities necessary to accommodate the transportation of freight previously moved by rail service, and the cost of operating and maintaining rail service facilities such as bridges, car floats, lighters, ferries, yards, shops, docks, or other facilities useful in facilitating and maintaining main line or local rail service. The Federal share of the costs of any such assistance shall be (A) 100 percent during the first year following the date of conveyance of properties pursuant to section 303(b)(1) of this Act for rail service and other projects designated pursuant to a State rail plan, and (B) 90 percent thereafter.

"(2) The Secretary shall promulgate standards and procedures whereby the State share of such cost may be provided through in-kind benefits such as forgiveness of taxes, trackage rights, and facilities which would not otherwise be provided.

"(3) The Secretary, in cooperation with the Secretary of Labor, the Association, and the Commission, shall assist States and local or regional transportation authorities in negotiating initial operating or lease agreements and shall report to the Congress not later than February 1, 1976, on the progress of such negotiations. The Secretary may, with the concurrence of a State, enter directly into operating or lease agreements with railroads designated to provide service under section 304(d) of this Act, and with the trustees of railroads in reorganization in the region over whose rail properties such service will be provided, to assure the uninterrupted continuation of rail service after such date of conveyance. Such agreements may be entered into only during the period when the Federal share is 100 percent. Payments shall be made from the funds to which a

State would otherwise be entitled under this section.

"(b) ENTITLEMENT.—Each State in the region which is, pursuant to subsection (c) of this section, eligible to receive rail service continuation assistance is entitled to an amount equal to the total amount authorized and appropriated for such purpose multiplied by a fraction whose numerator is the rail mileage in such State which is eligible for rail service continuation assistance under this section and whose denominator is the rail mileage in all of the eligible States in the region which is eligible for rail service continuation assistance under this section. Notwithstanding the preceding sentence, the entitlement of each State shall not be less than 3 percent of the funds appropriated. Not more than 5 percent of a State's entitlement may be used for rail planning activities. For purposes of this subsection, rail mileage shall be measured by the Secretary in consultation with the Interstate Commerce Commission. Any portion of the entitlement of any State which is withheld, in accordance with this section, and any such sums which are not used or committed by a State during the preceding fiscal year, shall be reallocated among the other States in accordance with the formula set forth in this subsection. In addition to the amounts provided pursuant to such rail mileage formula, funds shall also be made available to each State for the cost of operating and maintaining rail service facilities such as bridges, car floats, lighters, ferries, yards, shops, docks, or other facilities useful in facilitating and maintaining main line or local rail services and which are also contained in each State's rail plan. Such Federal subsidy participation shall extend only one calendar year beyond the date of conveyance. During the period of such extension the Secretary, not later than 90 days prior to the termination of Federal participation in the support of rail facilities continuance, shall prepare a report to the Congress in conjunction with a designated State agency, recommending future action with respect to rail facilities referred to in this subsection. Notwithstanding the providing of any funds for the operation and maintenance of rail service facilities pursuant to this subsection, the Consolidated Rail Corporation, or any other solvent carrier, shall not be required to operate such facilities.

"(c) ELIGIBILITY.—(1) A State in the region is eligible to receive financial assistance pursuant to subsection (b) of this section if, in any fiscal year—

"(A) the State has established a State plan for rail transportation and local rail services (herein referred to as the "State rail plan") which is administered or coordinated by a designated State agency and such plan includes a suitable process for updating, revising, and amending such plan and provides for the equitable distribution of such financial assistance among State, local, and regional transportation authorities;

"(B) the State agency has authority and administrative jurisdiction to develop, promote, supervise, and support safe, adequate, and efficient rail services; employs or will employ, directly or indirectly, sufficient trained and qualified personnel; and maintains or will maintain adequate programs of investigation, research, promotion, and development with provision for public participation;

"(C) the State provides satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title to the State; and

"(D) the State complies with the regulations of the Secretary issued under this section.

"(2) The rail freight services which are eligible for rail service continuation assistance pursuant to subsection (b) of this section are—

"(A) those rail services of railroads in reorganization in the region which the final system plan does not designate to be continued;

"(B) those rail services of profitable railroads in the region referred to in section 304(a)(2) of this Act;

"(C) those rail services in the region which have been, at any time during the 5-year period prior to the date of enactment of this Act, or which are subsequent to the date of enactment of this Act, owned, leased, or operated by a State agency or by a local or regional transportation authority, or with respect to which a State, a political subdivision thereof, or a local or regional transportation authority has invested (at any time during the 5-year period prior to the date of enactment of this Act), or invests (subsequent to the date of enactment of this Act), substantial sums for improvement or maintenance of rail service; or

"(D) those rail services in the region with respect to which the Commission authorizes the discontinuance of rail services or the abandonment of rail properties, effective on or after the date of enactment of this Act.

"(3) The rail freight properties which are eligible to be acquired or modernized with financial assistance pursuant to subsection (b) of this section are those rail properties which are used for services eligible for rail service continuation assistance, pursuant to paragraph (2) of this subsection, including those properties, which are identified, in the applicable State rail plan as having potential for future use for rail freight service.

"(4) The facilities which are eligible to be constructed or improved with financial assistance pursuant to subsection (b) of this section are those facilities in the region (including intermodal terminals and highways or bridges) which are needed in order to provide rail freight service which will no longer be available because of the discontinuance of rail freight service under section 304 of this Act or other lawful authority. No funds provided under this paragraph may be used to pay the State share of any highway projects under title 23, United States Code.

"(5) Rail properties are eligible to be acquired with financial assistance pursuant to subsection (b) of this section if (A) they are to be used for intercity or commuter rail passenger service; and (B) they pertain to a line in the region (other than rail properties designated in accordance with section 206(c)(1)(C) of this Act) which, if so acquired, (i) would enable the National Railroad Passenger Corporation to serve, more efficiently, a route which it operated on November 1, 1975, (ii) would provide intercity rail passenger service designated by the Secretary under title II of the Rail Passenger Service Act, (iii) would provide such service over a route designated for service pursuant to section 403(c) of the Rail Passenger Service Act (45 U.S.C. 563(c)) or (iv) would enable a State (or a local or regional transportation authority) to provide rail commuter service more efficiently.

"(d) REGULATIONS.—Within 90 days after the date of enactment of this Act, the Secretary shall issue, and may from time to time amend, regulations with respect to the provision of financial assistance under this title.

"(e) PAYMENT.—The Secretary shall pay to each eligible State in the region an amount equal to its entitlement under subsection (b).

"(f) RECORDS, AUDIT, AND EXAMINATION.—(1) Each recipient of financial assistance under this section, whether in the form of grants, subgrants, contracts, subcontracts, or other arrangements, shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives shall, until the expiration of 3 years after completion of the project or undertaking referred to in paragraph (1) of this subsection, have access for the purpose of audit and examination to any books, documents, papers, and records of such receipts which in the opinion of the Secretary or the Comptroller General may be related or pertinent to the grants, contracts, or other arrangements referred to in such paragraph.

"(g) WITHHOLDING.—If the Secretary, after reasonable notice and an opportunity for a hearing to any State agency, finds that a State is not eligible for financial assistance under subsections (c) and (d) of this section, payment to such State shall not be made until there is no longer any failure to comply.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out the purposes of this section an amount not to exceed $45,000,000 for the fiscal year ending June 30, 1976; not to exceed $22,500,000 for the transitional fiscal quarter ending September 30, 1976; not to exceed $90,000,000 for the fiscal year ending September 30, 1977; and not to exceed $45,000,000 for the fiscal year ending September 30, 1978. Such sums as are appropriated shall remain available until expended, without regard to the provisions of section 806 of the Rail Service Act of 1975.

"(i) DEFINITION.—As used in this section, the term 'rail service continuation assistance' includes expenditures made by a State (or a local or regional transportation authority), at any time during the 5-year period preceding the date of enactmnt of this Act, or subsequent to the enactment of this Act, for acquisition, rehabilitation, or modernization of rail facilities on which rail services would have been curtailed or abandoned but for such expenditures."

(b) Section 403 of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 763), is amended (1) by striking the colon and the proviso in subsection (a) thereof and inserting in lieu thereof a period; and (2) by striking the last sentence of subsection (b) thereof.

REPEAL

SEC. 806. Effective on the date of the second anniversary of the date on which rail properties are conveyed, pursuant to section 303(b)(1) of the Regional Rail Reorganization Act of 1973; as amended (45 U.S.C. 743), title IV of such Act is repealed.

ACCOUNTING SYSTEM: EVALUATION OF VIABILITY

SEC. 807. Section 205 of the Regional Rail Reorganization Act of 1973, as amended by this Act, is amended by adding at the end thereof the following new subsection:

"(e) ADDITIONAL DUTIES.—(1) Within 270 days after the effective date of the final system plan, the Office shall issue additional regulations, after conducting a proceeding in accordance with section 553 of title 5, United States Code. Such regulations shall (A) develop an accounting system which will permit the collection and publication, by the Corporation or by profitable railroads providing service over lines scheduled for abandonment, of information necessary for an acaccurate determination of the attributable revenues, avoidable costs, and operations of light density lines as operating and economic units, and (B) determine the avoidable cost of providing rail freight service, as that phrase is used in section 1a(f)(1)(B) of the Interstate Commerce Act. The Office may, at any time, revise and republish the standards and regulations required by this section to incorporate changes made necessary by this accounting system.

"(2) Upon the request of a State in the region, within 90 days after the date of enactment of the Rail Services Act of 1975, the Office shall prepare and publish an evaluation of the economic viability of any or all light density lines within such State which are not designated for inclusion in the final system plan. Such an evaluation shall include an analysis of the actions which may be necessary to make the operation of rail services over any such line economical. The results of each such evaluation shall be transmitted to the requesting State and published in the Federal Register, not later than 1 year after the date such request is received by the Office.".

RAIL PASSENGER SERVICE

Sec. 808. (a) Within 180 days after the effective date of the final system plan, the Commission shall issue additional regulations, after conducting a proceeding in accordance with section 553 of title 5, United States Code. Such regulations shall contain—

(A) standards for the computation of subsidies for rail passenger service (except passenger service compensation disputes subject to the jurisdiction of the Interstate Commerce Commission under section 706 of this Act), which are consistent with the compensation principles described in the final system plan and which avoid cross subsidization among commuter, intercity, and freight services; and

(B) standards for the determination of emergency rail passenger service operating assistance provided by the Secretary pursuant to section 17 of the Urban Mass Transportation Act of 1964.

(b) Section 206(d)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716) is amended to read as follows:

"(5) All properties—

"(A) transferred by the Corporation pursuant to sections 206(c)(1)(C) and 601(d) of this Act;

"(B) transferred by the Corporation to any State (or local or regional transportation authority), pursuant to subsection (c)(1)(D) of this section, or

"(C) transferred by the Corporation to any State, local or regional transportation authority, or the National Railroad Passenger Corporation within 900 days after the date of conveyance to meet the needs of commuter or intercity rail passenger service,

shall be transferred at a value related to the value received for the transfer to the Corporation of such properties. The value of any such properties, which are transferred pursuant to subparagraph (B) and (C) of this paragraph, shall be adjusted to reflect the value attributable to any applicable maintenance and improvement provided by the Corporation (to the extent the Corporation has not been released from the obligation to pay for such improvements), and the cost to the Corporation of transferring such properties.".

EMERGENCY OPERATING ASSISTANCE

Sec. 809. The Urban Mass Transportation Act of 1964, as amended, is amended by adding at the end thereof the following new section:

"EMERGENCY COMMUTER RAIL SERVICE OPERATING PAYMENTS

"Sec. 17. (a) The Secretary shall provide financial assistance for the purpose of reimbursing—

"(1) the Consolidated Rail Corporation, the National Railroad Passenger Corporation, other railroads, and, if applicable, the trustee or trustees of a railroad in reorganization in the region (as defined in section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702)) for rail passenger service operations conducted at a loss during the 180-day mandatory operation period as required under section 304(e) of such Act (45 U.S.C. 744(e)). Such reimbursement shall cover all costs not otherwise paid by a State (or a local or regional transportation authority) which would have been payable by such State or authority, pursuant to regulations promulgated by the Commission under section 808 of the Rail Services Act of 1975, if such regulations had been in effect on the date of conveyance of rail properties under section 303(b)(1) of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 743(b)(1)); and

"(2) States and local bodies and agencies thereof for additional costs incurred by such States, bodies, and agencies with respect to rail passenger service, for the payment of rail passenger service continuation payments authorized by section 304 of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 744).

"(b) Such assistance shall not apply to intercity rail passenger service provided pursuant to an agreement with the National Railroad Passenger Corporation which was in effect immediately prior to the date of conveyance.

"(c)(1) Such assistance shall be subject to such terms, conditions, requirements, and provisions as the Secretray may deem necessary and appropriate with such reasonable exceptions to requirements and provisions otherwise applicable under this Act as the Secretary may deem required by the emergency nature of the assistance authorized by this section. Nothing in this section shall authorize the Secretary to waive the provisions of section 13(c) of this Act.

"(2) The Federal share of assistance made available for payment of operations required by section 304(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(e)) shall be 100 percent of the cost eligible under subsection (a)(1) of this section.

"(3) The Federal share of such assistance which is made available from the end of the 180-day period to the end of an additional 180-day period shall be 100 percent.

"(4) The Federal share of such assistance, which is made available for an additional 1-year period beyond the time specified in subsection (a)(3) of this section, shall not exceed 90 percent.

"(5) The Federal share of such assistance, which is made available for an additional 180 days following the time specified in subsection (a)(4) of this section shall not exceed 50 percent. No assistance may be provided beyond the time specified in subsection (a)(4) of this section, unless the applicant or other responsible agency provides satisfactory assurances to the Secretary that the service for which such assistance is sought will be continued after the termination of the assistance authorized by this section. The terms and provisions applied by the Secretary, for assistance provided pursuant to this subsection shall be consistent, insofar as is practicable, with the terms and provisions which are applicable to operating assistance under section 5 of this Act.

"(d) To finance assistance under this section, the Secretary may incur obligations on behalf of the United States in the form of grants, contract agreements, or otherwise, in such amounts as are provided in appropriations Acts, an aggregate amount not to exceed $125,000,000. There are authorized to be appropriated for liquidation of the obligations incurred under this section not to exceed $40,000,000 for the transitional fiscal period ending September 30, 1976, $95,000,000 for the fiscal year ending September 30, 1977, and $125,000,000 for the fiscal year ending September 30, 1978, such sums to remain available until expended."

CONVERSION OF ABANDONED RAILROAD RIGHTS-OF-WAY

Sec. 810. (a) Policy.—It is the purpose of this section to insure that—

(1) careful consideration is given to programs and proposals for future public utilization of abandoned railroad rights-of-way;

(2) adequate funds are available, where appropriate, to expedite the conversion of such rights-of-way for recreational uses; and

(3) sufficient steps are taken to insure that any such rights-of-way which may be needed to meet future transportation needs are kept intact for possible future reconversion to railroad uses.

(b) Study.—The Secretary shall, within 360 days after the date of enactment of this Act, and in consultation with the Secretary of the Interior, the Transportation Services Planning Office of the Commission, the Association, the Environmental Protection Agency, any other appropriate Federal agency, any appropriate State and regional transportation agency, and other appropriate State and local governmental entities, and any appropriate private groups and individuals, shall prepare and submit to the Congress and the President a report on the conversion of railroad rights-of-way. This report shall evaluate, and make suggestions concerning potential alternate uses of, and public policy with respect to the conversion of, railroad rights-of-way on which service has been discontinued. The report shall include, but need not be limited to—

(1) an inventory statement as to all abandoned railroad rights-of-way and significant segments of such rights-of-way which retain their linear characteristics, including, as to each, identification of the owner of record and an evaluation of its topography, characteristics, condition, approximate value, and alternate use suitability:

(2) an evaluation of the advantages of establishing a "bank" consisting of selected such rights-of-way, as means of assuring their availability for potential railroad use in the future, a discussion of interim uses for such rights-of-way, the development of conveyancing and leasing forms, conditions, and practices to assure such availability, a projection as to the costs of such a program, and recommendations regarding the administration of such a program;

(3) a survey of existing Federal, State, and local programs utilizing or attempting to utilize abandoned railroad rights-of-way for public purposes, including an assessment of the benefits and costs of each; and

(4) an assessment and evaluation of suggestions for more effective public utilization of abandoned railroad rights-of-way, including recommendations for legislative, administrative, and for regulatory action, if any, and proposals as to the optimum level of funding therefor.

(c) Information and Funding.—The Secretary of the Interior, after consultation with the Secretary, shall, in accordance with this subsection, provide financial, educational, and technical assistance to local, State, and Federal governmental entities for programs involving the conversion of abandoned railroad rights-of-way to recreational and conservational uses, in such manner as to coordinate and accelerate such conversion, where appropriate. Such assistance shall include, but is not limited to—

(1) encouraging and facilitating exchanges of information dealing with the availability of railroad rights-of-way, the technology involved in converting such properties to such public purposes, and related matters;

(2) making grants, in consultation with the Bureau of Outdoor Recreation of the Department of the Interior, to State and local governmental entities to enable them to plan, acquire, and develop recreational or conservational facilities on abandoned railroad rights-of-way. Such grants shall cover not more than 90 percent of the cost of the

planning, acquisition, or development activity of the particular project for which funds are sought;

(3) allocating funds to other Federal programs concerned with recreation or conservation in order to enable abandoned railroad rights-of-way, where appropriate, to be included in or made into national parks, national trails, national recreational areas, wildlife refuges, or other national areas dedicated to recreational or conservational uses; and

(4) providing technical assistance to other Federal agencies, to States, local agencies, and private groups for the purpose of enhancing conversion projects. To increase the available information and expertise, the Secretary may contract for special studies or projects and may otherwise collect, evaluate, and disseminate information dealing with the utilization of such rights-of-way.

(d) CONFORMING AMENDMENT.—Section 1a of the Interstate Commerce Act, as inserted by this Act is amended by adding at the end thereof the following new subsection:

"(j) In any instance in which the Commission finds that the present or future public convenience and necessity permit the abandonment of any railroad properties, the Commission shall make a further finding whether such properties are suitable for use for other public purposes, including roads or highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. If the Commission finds that the properties proposed to be abandoned are suitable for other public purposes, it shall order that such rail properties not be sold, leased, exchanged, or otherwise disposed of except in accordance with such reasonable terms and conditions as are prescribed by the Commission, including, but not limited to, a prohibition on any such disposal, for a period not to exceed 180 days after the effective date of the order permitting abandonment unless such properties have first been offered, upon reasonable terms, for acquisition for public purposes.".

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section, not to exceed $25,000,000 for the fiscal year and the transitional fiscal period ending September 30, 1976, not to exceed $25,000,000 for the fiscal year ending September 30, 1977, and not to exceed $25,000,000 for the fiscal year ending September 30, 1978, such sums to remain available until expended. Of the funds appropriated, at least four-fifths are to be made available to the Secretary of the Interior to carry out subsection (a) of this section.

TITLE IX—NATIONAL RAILROAD MINORITY RESOURCE CENTER

ESTABLISHMENT

SEC. 901. The Association shall, within 180 days after the date of enactment of this title, establish, as an administrative body within the Association, a National Railroad Minority Resource Center (hereafter in this title referred to as the "Center"). The Center shall be supervised by an Administrator who shall be appointed by a majority of the Board of Directors of the Association.

BOARD OF DIRECTORS

SEC. 902. The Center shall be directed in its activities by an independent Board of Directors. Such Board shall consist of 11 members who shall be appointed by the Chairman of the Association, as follows:

(a) two members of the Board of Directors of the Association who are not members of the Board of the Corporation;

(b) two members of the Board of Directors of the Corporation who are not members of the Board of Directors of the Association;

(c) the Secretary; and

(d) six individuals selected from minority businesses or minority-dominated trade associations in the minority business community. As used in this title, the term "minority" includes women.

POWERS AND DUTIES

SEC. 903. The Center shall, to the extent of available resources—

(1) establish and operate a national information clearing house for minority entrepreneurs and businesses for the purpose of supplying to such entrepreneurs and businesses information concerning business opportunities for projects related to the reorganization, restoration, and revitalization of the Nation's railroads;

(2) provide investment capital and debt financing assistance;

(3) conduct market research, planning, economic and business analyses, and feasibility studies to identify opportunities, and it may design and implement programs to encourage, promote, and assist minority business enterprises in securing contracts and subcontracts related to the reorganization, restoration, and revitalization of the national railroad system;

(4) contract with established minority business enterprises to provide the services described in paragraph (3) of this section;

(5) coordinate and serve as a liaison between the Association, the Corporation, Federal departments and agencies, State and local governments, and the railroad industry;

(6) develop support mechanisms, including venture capital, surety and bonding organizations, and management and technical assistance services which may be of assistance to support minority businesses participating in any and all aspects of the railroad reorganization and revitalization program; and

(7) participate in all Federal programs designed to provide financial, management, and other forms of support and assistance to minority entrepreneurs and business enterprises.

AUTHORIZATION

SEC. 904. There are authorized to be appropriated to the Association to carry out the provisions of this title not to exceed $175,000 for the fiscal year ending June 30, 1976; not to exceed $50,000 for the transitional fiscal quarter ending September 30, 1976; and not to exceed $500,000 for the fiscal years ending September 30, 1977 and September 30, 1978.

REPORTS

SEC. 905. No later than 1 year after the date of the establishment of the Center, and annually thereafter, the Administrator shall prepare and transmit to the appropriate committees of the Congress a report detailing the functions and activities of the Center together with recommendations concerning the problems of small business and minority enterprises in participating in the reorganization and revitalization of the Nation's railroads.

Mr. HARTKE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HARTKE. Mr. President, I ask unanimous consent that the bill as passed be printed for the use of the Senate and that 500 copies be printed for the Committee on Commerce.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, I wish to take this occasion to extend my sincere congratulations to all the members of the committee who have been so outstanding in helping us put through what I think is one of the most complex pieces of legislation that I have had the opportunity to work on since I have been in the Senate. Without the help of the distinguished Senator from Connecticut (Mr. WEICKER), it would have been absolutely impossible to conduct the hearings and do the massive investigation and work that was necessary to put together legislation of this kind.

In addition to that, I wish to say that Senator PEARSON was extremely helpful, not alone with the major part of the bill, but also in the abandonment section, which he has been working on for years. The chairman of the committee (Mr. MAGNUSON), and the other members of the committee have been of great assistance.

I also want to express, on behalf of the committee and the Senate our gratitude to the staff of the committee who worked so diligently on this measure. I pay special tribute to Tom Allison, Paul Cunningham, Lynn Sutcliffe, Robert Joost, Art Pankopf, Malcolm Sterrett, Geoff Baker, David Clanton, and John Kirtland who worked so hard and performed way beyond the call of duty.

I also thank Mary Schuman, Ed Cohen, Loyal Snyder, John Stafford, Chris O'Malley, Barbara Peter, Arlene Sidell, Margaret Chase, Kevin Curtin, Tim Lynch, Jeni Lessor, Mary Hassing, Aloah Kincaid, David Placek, and the many other staff members who worked to assist the Senate on this bill.

I also wish to thank Dan Murray on the staff of the Senate Legislative Counsel, and Lloyd Beasley of the Government Printing Office for the many hours of overtime spent drafting and editing the bill.

Mr. MANSFIELD. Mr. President, my colleagues and I, and the people of the entire Nation, are indebted to Senator HARTKE for the superb job he has done in managing the rail bill which the Senate has just passed. Senator HARTKE's mastery of the complex issues contained within this bill demonstrate that he is without question one of the Nation's leading experts in the field of transportation. Because of his hard work and his high degree of intelligence, the railroads of this Nation have been running and will continue to run.

The legislation which has today passed the Senate will permit the completion of the most significant industrial reorganization that this country has ever undertaken. The easy course for Senator HARTKE to have taken during these last 3 years would have been to call for nationalization of the insolvent railroads. But this he did not do. Rather, he conceived of an approach which put the Government in constructive partnership with private industry so as to put railroads back on their feet without involving the Government in their direct operation.

The people of Indiana are fortunate to have Senator HARTKE representing them in the U.S. Senate. Without his interest and dedication to the railroad crisis—at a time when everyone else was concerning themselves with other "crises"—this Nation could have experienced severe economic dislocation and that dislocation would have been felt particularly strongly in Indiana.

Of course, Senator HARTKE's own efforts were very much complemented by the efforts of Senator Weicker, Senator Pearson, and other members of the minority. I know that Senator Hartke is, as is the leadership of the Senate, very appreciative of the fine bipartisan support he has received and I would like to extend my own thanks to Senators Pearson and Weicker particularly for their very fine work on this most significant piece of transportation legislation. While differences with the administration remain, I am hopeful that through bipartisan efforts here in Congress the bill which Congress finally sends the President will be acceptable to him.

MISSOURI RIVER, MONT.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 489, S. 1506, a bill to designate a segment of the Missouri River, Mont., as a component of the National Wild and Scenic Rivers System. It has been cleared on both sides.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1506) to designate a segment of the Missouri River, Montana, as a component of the National Wild and Scenic Rivers System.

Mr. MANSFIELD. Mr. President, it just happens that this is the only bill on the calendar cleared at this time, so there is nothing parochial at all.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike all after the enacting clause and insert:

That section 3(a) of the Wild and Scenic Rivers Act (82 Stat. 906, 907), as amended (16 U.S.C. 1271, 1274(a) et seq.), is further amended by adding at the end thereof the following new paragraph:

"(11) Missouri, Montana.—The segment from Fort Benton one hundred and forty-nine miles downstream to Robinson Bridge, as generally depicted on the boundary map entitled 'Missouri Breaks Freeflowing River Proposal', dated October 1975, to be administered by the Secretary of the Interior. There are authorized to be appropriated such sums as are necessary for the purpose of this river segment.".

Sec. 2. After consultation with the State and local governments and the interested public, the Secretary shall, pursuant to section 3(b) of the Wild and Scenic Rivers Act and within one year of enactment of this Act—

(1) establish detailed boundaries of the river segment designated as a component of the National Wild and Scenic Rivers System pursuant to section 1 of this Act (hereinafter referred to as the "river area"): Provided, That the boundaries of the portion of the Landing shall be drawn to include only the river area from Fort Benton to Coal Banks river and its bed and exclude all adjacent land except significant historic sites and such campsites and access points as are deemed necessary by the Secretary, and to which the Secretary finds no reasonable alternative, as set forth in the management plan required pursuant to clause (2) of this section; and

(2) determine, in accordance with the guidelines in section 2(b) of the Wild and Scenic Rivers Act, which of the three classes—wild river, scenic river, or recreation river—best fit portions of the river segment, designate such portions in such classes, and prepare a management plan for the river area in accordance with such designation.

Sec. 3. (a) The Secretary of the Interior (hereinafter referred to as the "Secretary") shall manage the river area pursuant to the provisions of this Act and the Wild and Scenic Rivers Act, and in accordance with the provisions of the Taylor Grazing Act (48 Stat. 1269), as amended (43 U.S.C. 315), under principles of multiple use and sustained yield, and with any other authorities available to him for the management and conservation of natural resources and the protection and enhancement of the environment, where such Act, principles, and authorities are consistent with the purposes and provisions of this Act and the Wild and Scenic Rivers Act.

(b) (1) The Secretary may acquire land and interests in land only in accordance with the provisions of this Act and the Wild and Scenic Rivers Act and the limitations contained in section 6 of that Act and only: (A) at Fort Benton for the visitor facility as provided in subsection (g) (2) of this section; (B) at the site of Fort McKenzie; (C) in that portion of the river area downstream from Fort Benton to Coal Banks Landing for historic sites, campsites, and access points in accordance with section 2(1) of this Act; and (D) in that portion of the river area downstream from Coal Banks Landing so as to provide, wherever practicable and necessary for the purposes of this Act and the Wild and Scenic Rivers Act, rim-to-rim protection for such portion.

(2) In accordance with section 6(b) of the Wild and Scenic Rivers Act, the Secretary shall not acquire fee title to any lands by condemnation under the authority of that Act or this Act, except that the Secreary may use condemnation when necessary and within the limitations on acquisition set forth in clause (1) of this subsection to clear title, acquire scenic easements, or acquire such other easements as are reasonably necessary to give the public access to the river segment within the river area and to permit its members to transverse the length of said river area or of selected portions thereof.

(3) The Secretary shall, to the extent feasible, give priority in expenditure of funds pursuant to this Act for the acquisition and development of campsites and historic sites, including the site of a visitor center at Fort Benton and the site of Fort McKenzie.

(c) Consistent with the provisions of this Act and the Wild and Scenic Rivers Act, the Secretary may issue easements, licenses, or permits for rights-of-way through, over, or under the lands in Federal ownership within the river area, or for the use of such lands on such terms and conditions as are in accordance with the provisions of this Act, the Wild and Scenic Rivers Act, and other applicable law.

(d) The Secretary is authorized to permit the construction of a bridge across the river in the general vicinity of the community of Winifred, Montana, in order to accommodate the flow of north-south traffic. Such construction shall be in accordance with a plan which is mutually acceptable to the Secretary and State and local highway officials, and which is consistent with the purposes of this Act and the Wild and Scenic Rivers Act.

(e) The Secretary is authorized to permit for agricultural purposes such pumping facilities and associated pipelines within the river area as may be necessary in order to assure the continuation of an adequate supply of water from the Missouri River to the owners of lands adjacent to the river within the river area.

(f) The Secretary shall permit hunting and fishing in the river area in accordance with applicable Federal and State laws, except that he may designate zones where, and periods when, no hunting or fishing shall be permitted for reasons of public safety or administration.

(g) (1) The Secretary, acting through the Bureau of Land Management, shall exercise management responsibilities in the river area for:

(A) the grazing of livestock;

(B) the application of the United States mining and mineral leasing laws;

(C) the management of fish and wildlife habitat;

(D) the division and use of water for agricultural and domestic purposes;

(E) the acquisition of lands and interests therein;

(F) the administration of public recreational uses of, and any historic sites and campsites in, the river area; and

(G) all other management responsibilities except those set forth in paragraph (2) of this subsection.

(2) The Secretary, acting through the National Park Service, shall be responsible for the construction, operation, and management of any visitor facility in or near Fort Benton which is found necessary in accordance with the management plan developed pursuant to section 2 and the provision, at such facility, of interpretive services for the historic, archaeological, scenic, natural, and fish and wildlife resources of the area.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

NEW YORK CITY SEASONAL FINANCING ACT OF 1975

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 10481 to authorize the Secretary of the Treasury to provide seasonal financing for the city of New York, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 10481) to authorize the Secretary of the Treasury to provide seasonal financing for the city of New York.

The Senate resumed the consideration of the bill.

ADDITIONAL STATEMENTS SUBMITTED ON H.R. 10481

NEW YORK CITY—THE NEED FOR A NEW NATIONAL URBAN POLICY

Mr. RIBICOFF. Mr. President, in the short run the proposal before us now to authorize up to $2.3 billion a year in short-term Federal loans to New York City to prevent default will see this city through its immediate crisis.

But looking at the long-range realities, many of the problems that New York City faces are the type that many of this Nation's great cities also are struggling with.

The urban centers of this Nation are being crushed by the burdens of welfare, medicaid, poor housing, and many other problems. These problems are not solely of their own making. The fact is too many Federal programs are designed or operated in a manner which is detrimental to the cities.

It is time for this Nation to face up to its cities' needs. It is time for this Nation to develop a new urban policy that will save our dying cities.

To overcome this crisis of the cities, we must first face a hard political truism that Federal dollars quite often are divided on the basis of political cynicism and not according to basic human needs. To illustrate this, half of our Nation's total population is crowded into 9 of our 50 States. That means in the Senate that only 18 votes represent more than half of this Nation's total population.

Obviously this is a political reality that must be faced and honestly solved. To do this, those of us who want to see a nationwide urban renaissance must persuade our colleagues of the need for such a vital revitalization. We must move the Federal Government toward a national urban policy that will save such great cities as New York.

At this moment I can think of three broad areas of reform: welfare, revenue sharing, and grant and assistance programs.

Take welfare for example. Benefits and eligibility standards vary from State to State. As a result, there is a flood of welfare recipients to high-cost urban areas like New York City where benefits are higher.

New figures released dramatically illustrate this point. A New York State study shows that about two-thirds of the family heads who are on relief in New York City were born outside New York State. About 23 percent came from Puerto Rico and 22 percent from Southern States. These figures show a similar trend in other States with large manufacturing and urban centers. The percentage of out-of-State welfare recipients in Ohio was 52.5 percent; Illinois, 63 percent; California, 67.5 percent.

In contrast, comparable figures for some of the more rural Southern States were 10 percent in Mississippi; Alabama, 15 percent; Louisiana, 18 percent.

The meaning of these figures is quite clear. New York and other urban States are assuming the welfare and medicaid costs of other States. The problem is further complicated because while New York is paying for transient welfare cases from many parts of the Nation, particularly from the South and Puerto Rico, the State is reimbursed for only 50 percent of the cost. Most Southern States get a much higher reimbursement, reaching up to 83 percent.

It is clearly time to reverse this formula. The States with the biggest welfare caseload and the States who take in welfare cases from other States should get the largest reimbursement from Uncle Sam.

New York did not invite in these outsiders now on welfare. On the contrary, the State of New York unsuccessfully went to court to defend its requirement that welfare recipients must live in New York City for a reasonable period of time before receiving the city's money. But this requirement was struck down by the Supreme Court. The result is New York City must pay out $1 billion yearly for welfare. This is one-fourth of the total bill, and there are few other cities in this Nation who must pick up such a major portion of the welfare tab.

The current welfare system must be changed with the Federal Government—not States and cities—bearing the financial burden. Had we done this as I proposed in 1971, we would not only have saved New York City that $1 billion yearly, but New York State also would have had a $1-billion annual savings. This certainly would have kept New York City from its sad financial plight.

There is an antiurban bias evident in many of the Federal grant and assistance programs. Our national drug abuse program is a good example. Half of this Nation's total addict population lives in New York City, but it received only 6.5 percent of Federal Government expenditures on all drug abuse programs. New York City's expenses for drug addicts last year alone were $78 million, but the Federal Government paid only $8 million of that $78 million.

Revenue sharing is still another area that needs reform if our cities are to be saved. Cities must get a bigger share of these funds. A fairer share. Under the present revenue-sharing system, the allocation formula used to distribute money contains built-in biases against our cities. Is must be rewritten, giving greater weight to the critical factors of unemployment, poverty, and urbanization.

True, New York City has made many fiscal mistakes. But for the sake of the many innocent victims who are residents of this city, we must do the humane thing. We must help this city get back on its feet.

Both New York Gov. Hugh Carey and New York City Mayor Abe Beame have repeatedly told the Joint Economic Committee of which I am a member that they are not looking for a handout. They say they want a helping hand until the fiscal reforms that they now have undertaken take hold.

I believe these are sincere men who have presented a reasonable argument. As Mayor Beame has said, we as a nation surely can help a city which sends some $14 to $15 billion to the Federal Government but only gets back a little over $2 billion.

No one can say that New Yorkers do not pay their fair share of taxes. Even though New Yorkers now face higher taxes, they already are the highest taxed citizens in the Nation.

A recent study shows these tax-burdened people paid an average of $952 per person in State and local taxes in fiscal year 1974. Massachusetts residents were second, paying $767. Hawaii's residents averaged $765; California, $739.

In contrast, Alabama's citizens paid only $383 in State and local taxes. Other figures were Arkansas, $384; South Carolina, $422; Mississippi, $425; Oklahoma, $428, Kentucky $441; Florida, $520; Tennessee, $424.

If these heavy tax burdens continue, they will drive more industry and more middle-class dwellers from New York City.

More and more of the "Fortune 500" companies—those ranked annually by Fortune magazine as the Nation's 500 largest industrial firms—are moving from New York City.

New York City in the years from 1956 to 1968 was home base to as many as 140 of these companies and never had fewer than 130 of them. As of May, the city had only 98, and more sadly are leaving.

Employment in the city also is dropping. From a peak of 3,844,000 jobs in 1969, jobs fell by 550,000 as of September.

I think that these figures should shock Americans into reality. The world's financial capital is slowly dying from neglect. We cannot allow this to happen. Not to this city or any city in America.

INTERNATIONAL DEVELOPMENT AND FOOD ASSISTANCE ACT OF 1975—CONFERENCE REPORT

Mr. **HUMPHREY**. Mr. President, I submit a report of the committee of conference on H.R. 9005, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9005) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the RECORD of today.)

Mr. **HUMPHREY**. Mr. President, I wish to make a few remarks about the conference report on H.R. 9005.

This bill authorizes funds for fiscal years 1976 and 1977 for economic development, humanitarian and disaster assistance and for voluntary contributions to various international organizations.

As H.R. 9005 passed the Senate it authorized funds as follows:

Fiscal year 1976—$1.609 billion.

Fiscal year 1977—$1.154 billion, plus a possible additional $174 million for operating expenses.

The fiscal year 1977 figure did not include a figure for voluntary U.S. contributions to international organizations or for operating expenses.

By comparison, the funds authorized in the conference version now before the Senate are as follows:

	Billion
Fiscal year 1976	1.567
Fiscal year 1977	1.497
Total	3.064

Thus, the conference bill represents an increase of only $27 million over the original Senate version, despite the fact that it authorizes 1977 funding for both operating expenses and voluntary contributions to certain international organizations.

From the budgetary point of view the amount in the conference report for fiscal year 1976 is very close to the President's budget—conference $1.567 billion versus budget figure $1.511 billion—and is within the targets of the first and second concurrent—budget—resolutions.

H.R. 9005 represents a milestone in the evolution and maturing of the U.S. efforts to assist the developing world. This bill is a product of congressional initiative stimulated by the desire and willingness of the American people to help those in other parts of the world less fortunate than themselves.

This bill has a number of notable features:

It clearly separates development and humanitarian assistance from military and political aid;

It focuses increased emphasis on the world food needs;

It reinforces U.S. participation in and commitment to the objectives of the World Food Conference;

It provides the means for engaging the efforts of American voluntary agencies and the genius of American agricultural institutions in humanitarian and development efforts;

It seeks to insure against the misuse of economic assistance funds by governments which engage in repressive practices;

It provides for continued U.S. participation in multilateral development efforts including the important new International Fund for Agricultural Development which will be largely financed by the OPEC countries; and, finally

It calls for the establishment of criteria by which the effectiveness of our development efforts and the self-help efforts of recipients may be evaluated.

This is a bill which we can be proud of, one in which the Congress is providing long needed new direction and guidance. It is designed to insure that our foreign assistance dollars help those who really need and desire help and who are willing to help themselves.

The following brief summary of conference action on the more important points of difference in the two versions of the bill may be of interest to the Senate.

Reflows. The Senate conferees sustained the Senate position on eliminating the reuse of loan repayments by foreign governments, a device objected to by some in the Senate as a form of "backdoor financing." Elimination of reflows cut an estimated $756 million from the potential cost of the Senate bill.

Operating expenses. In order to obtain the agreement of the House conferees on reflows, the Senate had to give away to House objections to a separate appropriation account for AID operating expenses. The Senate had separated these sums from the various functional accounts—see table—and grouped them in a separate account. This was done on the motion of the chairman of the Foreign Operations Subcommittee of the Appropriations Committee, who felt it a necessary and desirable step which would facilitate the monitoring of such expenses.

The conferees finally took the view that the Appropriations Committee has the right to set ceilings on operating expenses and that adequate reporting could be obtained without the language in the Senate bill. Accordingly, language reaffirming the authority of the Appropriations Committee in this area was included in the bill and in the conference report. The Foreign Relations Committee intends to actively monitor operating expenses and would hope to work closely with the Appropriations Committee in this task.

Allocation of title I, Public Law 480 food. The Senate had decided upon a 80/20 formula for allocating title I, Public Law 480 food with 80 percent going to needy countries with an annual per capita gross national product of $250 or less. The conference modified this only slightly by allocating 75 percent of this food to needy countries with an annual per capita gross national product of $300.

Assuring minimum availabilities for title II, Public Law 480. The conferees accepted the smaller Senate overall figure—1.3 million metric tons—for title II food distribution and the slightly larger amount provided for in the House version—1 million metric tons—as a minimum for distribution abroad through private voluntary organizations and the world food program.

Voluntary U.S. contributions to international organizations. As H.R. 9005 passed the Senate it did not authorize U.S. voluntary contributions to international organizations for 1977. The conferees considered this matter closely and decided, in view of the fact that failure to authorize now would require the Congress to readdress this question within a matter of a very few weeks, that the 1977 authorization should be retained.

Human rights. The differences between the House and Senate versions of the provision to suspend development assistance to countries engaging in the violation of human rights were resolved so that the Foreign Relations and International Relations Committees have the authority to require evidence from AID that assistance provided to such countries is, in fact, benefiting needy people. If the Congress finds this justification unsatisfactory, then further aid may be terminated by concurrent resolution.

Famine Prevention. This important new authority which provides for the long-range involvement of U.S. academic institutions in efforts to prevent famine and institute genuine freedom from hunger was only marginally changed in the conference. Qualified institutions including but not limited to land- and sea-grant colleges will be primary U.S. implementing agencies but will play a major role in policy formulation and monitoring through the seven member Board for International Food and Agricultural Development. Appended to this statement is a more detailed comment on this program and the new Board.

International Fund for Agricultural Development. A $200 million dollar authorization for the U.S. contribution to the International Fund for Agricultural Development—IFAD—which was contained in the Senate bill is retained in the conference version, but funded from new authority rather than reflows. The fund was recommended by the 1974 World Food Conference in Rome and represents a particularly important international effort to help avert continuing world food shortages through establishing long-range agricultural development projects. The U.S. contribution to the Fund will be only 16 percent of a total proposed $1.25 billion fund, and it is anticipated that the OPEC countries will contribute about half of the Fund's total assets. The bill protects the position of the United States by providing that funds for IFAD may not be obligated until agreement is reached on the articles of agreement and the appropriate committees have approved them, unless all donor commitments total at least $1 billion in convertible currencies and until there is equitable burden sharing among the different categories of contributors. In short, this provision gives the United States the means to participate in this important international effort but insures that it will not be expecetd to carry a disproportionate burden.

Ceiling on assistance to the Government of Chile. The Senate bill provided a $90 million ceiling on economic assistance to Chile, including but not limited to Public Law 480 and housing guarantees. The House bill contained no similar provision. The conferees decided to retain the $90 million ceiling but to exclude from it title II, Public Law 480 which is not, strictly speaking, a form of government to government assistance. It is the expectation of the conferees that the approximately $19.3 million which is now uncommitted under the ceiling will be used to fund two agricultural development programs which have been described to the Congress and not for any other purpose. Similarly, it is the conferees understanding that the projected $8.7 million title II, Public Law 480 program will be fully implemented.

There were, of course, many other differences between these two bills. I have covered the major ones. Others are described in detail in a conference report document.

The separate versions of this bill passed both the House and the Senate by substantial margins—House 244 to 155; Senate 54 to 41. I urge that the Senate give its prompt approval to this conference report.

Mr. President, I ask unanimous consent to insert in the RECORD at this point the projected AID operating expenses.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.R. 9005—Projected AID Operating Expenses

[Dollars in millions]

	Fiscal year estimate	
	1976	*1977*
Food and nutrition	103.4	125.0
Population planning and health	39.4	41.6
Education and human resources development	15.2	16.8
Technical assistance, energy, research, reconstruction, and selected development problems	16.4	16.0
American schools and hospitals abroad	.2	.2
Total	174.6	199.6

Mr. HUMPHREY. The famine prevention and freedom from hunger program established under the International Development and Food Assistance Act of 1975 represents an important effort to more fully utilize the resources and expertise of the U.S. academic community in tackling the long-range problems of worldwide hunger. In order to facilitate the accomplishment of this objective and insure that universities are recognized and utilized as a prime resource and co-equal partners with the Agency for International Development, a Board for International Food and Agricultural Development with majority representation from universities has been established. This Board is not meant to be simply window dressing or just an advisory commission. On the contrary, the Board will share with AID decisionmaking on all aspects of policy development and execution for this program, and all aspects of development and execution of contracts and grants.

In more specific terms the Board will play a key role in: first, choosing participating universities, countries, and projects; second, monitoring and evaluating individual projects and the overall program; third, overseeing the relationship between AID and the universities and the countries and universities, and fourth, recommending the apportionment of funding. The seriousness with which the formulators of the legislation viewed the role of this Board is further reinforced by the authorization to establish subordinate units such as a Joint Research Committee and a Joint Committee on Country Programs to carry out these many tasks. In other words the Board has not only been assigned responsibilities and duties, but has been given the means to carry them out.

It is the intent of this legislation that qualified academic institutions will play the primary U.S. role in this program. Individual universities will join in negotiating foreign agreement proposals and ultimately be the primary U.S. presence abroad for the execution of the agreements. Since famine prevention—as opposed to simply providing relief—ultimately requires long-range planning and contracts, funds and authority should be provided on a long-term basis to U.S. land grant universities and similar schools. This would enable them both to strengthen their own faculty, administration, and courses to tackle these long-range problems and to help establish land grant programs overseas where appropriate. Indeed, the intent of the Congress is that the major portion of the effort under the program will take place in the developing countries themselves rather than in the United States.

It is hoped that having been given this authority, long-range funding possibilities, and a key role in the decisionmaking of the overall program the U.S. academic institutions will demonstrate a deep commitment to the task of famine prevention and establishing genuine freedom from hunger and will not simply view this program as an opportunity for on-the-job training in the art of overseas institution building. The Congress plans to monitor this program closely in order to ensure that it delivers the maximum possible benefit to those foreign nations and peoples most threatened by the scourge of famine.

Mr. President, the important features in this bill are that the bill for fiscal 1976 is less than the Senate authorized in the work of the Senate some weeks ago by a sum of approximately $42 million.

This bill provides a line item for $174 million for operating expenses, which was at the insistence of the Senate.

The bill also does away with—the Senate conferees sustained the Senate position on eliminating—the use of reflow payments.

The conference report modified the Senate provision by allocating 75 percent of title I for humanitarian concerns, limiting the humanitarian assistance, however, to needy countries where an annual per capita income exists of $300 or less.

The House joined with us on the International Fund for Agricultural Development, which was a specific authorization in the Senate amendments.

We also placed a ceiling on assistance to the Government of Chile of $90 million, but did not include the Public Law 480 under title II.

The overall estimate on this bill for fiscal 1976 is $1,567 million; for fiscal 1977 $1,497 million.

I submit the conference report for the approval of the Senate. Most of the Senate amendments, by the way, prevailed, and I believe it represents a good compromise on some of the money issues that were in the bill.

Mr. JAVITS. Mr. President, I was a conferee on this bill, and I would like to say, first, that I adopt, of course, everything Senator HUMPHREY has said. But the particular amendment which had a great deal of interest in the Senate, on the Senate floor, is amendment No. 74 entitled "Human Rights and Development Assistance."

I believe this conference has worked out a means by which we may relate our aid to the observance of basic human rights as contemplated even as recently as a few months ago by the Helsinki agreement, which has already been torn up by the Soviet Union but, nonetheless, remains a criterion for the civilized nations of the world.

The fundamental outline of that particular solution has two main points: One, that we must learn everything about the observance of human rights in the countries which we aid in any way; and, secondly, that the President is not required to brand any country or to make a finding which brands any country, which would be very unwise and unstatesmanlike, and certainly not in our interest. But the procedural plan is such as to give Congress full opportunity, in light of all the facts, to act to deny aid where we feel it is justified by the situation or to continue aid if we feel that notwithstanding violations respecting human rights it is in the highest national interest that it should be continued.

I believe this very gifted solution is a template for what we will face now in the military aid bill and, perhaps, in other measures here, and I would like to take this opportunity to congratulate Senator HUMPHREY upon the very fine leadership which he gave to the conference, one of the fruits of which is this very fine solution to which I referred.

Mr. HUMPHREY. I thank the Senator from New York.

Mr. President, I believe the conference report merits the support of the Senate.

The PRESIDING OFFICER. The question is on the——

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. HUMPHREY. I am not asking for a rollcall unless the Senator wishes one.

The second assistant legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I ask unanimous consent to waive the printing of the conference report as unnecessary.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

Mr. BROOKE. I move to lay that motion of the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I would suggest the Senators not leave yet. I ask for the regular order, that the Senate resume consideration of the New York bill.

NEW YORK CITY SEASONAL FINANCING ACT OF 1975

The PRESIDING OFFICER. The Senate will resume consideration of H.R. 10481 which the clerk will report.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate? Would the Chair clear the well?

The PRESIDING OFFICER. The Senate will be in order. The Senators will kindly resume their seats and will the Senate staffs kindly resume their seats.

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 10481) to authorize the Secretary of the Treasury to provide seasonal financing for the city of New York.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, I have an amendment at the desk which I will presently call up.

We had been told the bill must pass without amendments. Yet I feel the contributions made by the Senate and the Senate Committee on Banking which worked diligently and effectively for several weeks and which, I believe, drafted a bill, I feel that the Senate ought to have an opportunity to decide whether it shall accept the House version or the Senate version or a combination of both.

We heard debate here the other day—there has not been too much time permitted for debate on this matter, and I am going to make that point tomorrow when the cloture vote is being discussed—if we have an opportunity to discuss it—but the statement was made on the floor that in many respects there were more safeguards in the Senate bill than there were in the House bill for the taxpayers, and more stringent requirements on the big banks in the Senate bill than in the House bill.

I recall, as this bill was taking shape in the committee, that the distinguished Senator from Illinois put in a very fine provision or suggestion, which was adopted, I believe, about requiring 65 percent of the long-term securities to be exchanged for MAC bonds and 40 percent, I believe, of short-term obligations exchanged for MAC bonds before the guarantee could take effect.

That seemed to be a very fine provision.

So I hope that the Senate would accept the Senate version and let it go to conference and, as I say, decide which route they want to follow, or what combination of two routes they might wish to follow, and what combination of safeguards they might wish to use to protect the public and the taxpayer in this matter.

I do not favor the Senate bill myself. I feel that the President's suggestion was preferable. But I do not believe we ought to ditch the Senate bill which has had so much effort put into it—and a very fine effort I might say, because it reduced this problem down to a $4 billion program whereas the House had a $7 billion program. I prefer the President's position of a $2.3 billion solution.

I hope that we would not have strenuous objection on the part of the manager of the bill, the present bill, that we might have an opportunity to let the Senate decide which of the bills it might prefer.

Would the Senator object to that being submitted to the Senate?

(At this point Mr. LEAHY assumed the Chair.)

Mr. PROXMIRE. I would not object. If I did object, may I say, it would not do any good because the Senator has every right to do exactly what he is doing. He is well within his rights. I understand his action.

I would like to point out, however, about what the Senator is proposing, No. 1, the President made it clear he would veto the Senate bill. He said so in unmistakable terms. He will veto it.

I think we know that if the President vetoed the bill, there is no way it could become law.

The House had a very close vote on it. I doubt if they would have a majority in favor of the Senate bill.

Another argument is, of course, the bill now before the Senate, the President's bill, is a $2.3 billion direct loan bill maximum, whereas the Senate bill is a $4 billion bill.

So that the provision before the Senate is preferable in that sense as far as diminishing, holding down, reducing the burden on the Federal Government.

There is a reason for that. After the President indicated he would veto the Senate committee's bill, the State legislature in New York City passed legislation providing for a moratorium on the notes that were outstanding and an extension of the maturity.

By that act, they saved $1.6 billion. Therefore, they could reduce the amount from $4 billion down to approximately $2.4 billion or $2.3 billion.

That is the reason why the $4 billion which is in the amendment the Senator is offering, which was in the Senate bill, is not necessary.

In addition to that, the President's bill provides for only seasonal financing. The obligation must be paid back first in full on June 30, 1976. Second, the second-year loan must be paid back in full on June 30, 1977.

Finally, if we adopt the amendment of the Senator from Alabama, it would mean, of course, that this bill would be delayed. It would mean we would have to go to conference on the bill, would have to hold up any appropriation until that conference were resolved. It would mean, in effect, that in all realism New York would have to go bankrupt because we would not have the time between now and December 11, 12, or 13, which would be the deadline, something like that, the middle of the month, when New York simply has to have the money.

So for practical reasons, although I think there is great merit in our position, especially the contribution made by the Senator from Illinois (Mr. STEVENSON), who greatly improved the Senate bill, in spite of the fact that I think it is a good bill in many ways. I think under the circumstances it would be a grave error to take it. It would finish this legislation and it would also mean, if we did somehow adopt it and it became law, we would be providing more Federal money than necessary.

Mr. ALLEN. Not necessarily, if we had $2.3 billion in the House and $4 billion in the Senate bill, there would be nothing to prevent going to the House figure in conference.

Furthermore, unless I am mistaken as to the procedure, the Senate bill did not require an appropriation, and far from delaying this matter we might resolve the matter almost overnight.

Mr. PROXMIRE. The reason why the Senate bill did not require an appropriation is that it was a loan guarantee.

Mr. ALLEN. I understand.

Mr. PROXMIRE. The administration made it clear they strongly oppose that, they want a direct loan and we have complied with that here.

Today we had a vote in the Appropriations Committee of 15 to 6 in favor of providing an appropriation and in tandem with the Senate bill now pending, we can proceed on that basis.

Mr. ALLEN. I want to make one statement in answer to the Senator from Wisconsin.

He speaks of the threat of a veto of the Senate bill, yet I noticed the Senate, in the threat of a Presidential veto on the rail bill, the rail bailout, which was railroaded through here, there was the threat of a Presidential veto but that did not stop the Senate voting for cloture without any debate having taken place, and on the very first cloture vote.

The President said that he was going to veto it, and that did not stop the Senate from ramming that through.

I wonder why that would stop the Senate from ramming this bill through.

Mr. PROXMIRE. Before the Senator from Massachusetts speaks, I think we should recognize that there is a great difference between these two bills.

Time is of the greatest importance.

If the President vetoes the Senate bill and we try to pass it over his veto, not only would it be impossible for us to do this, but the time it would take to put the bill through, then it was vetoed, by that time, New York would be bankrupt.

Mr. ALLEN. Would it not be possible to pass the Senate bill and in conference cut the guarantee down to $2.3 billion and thereby avoid the necessity of putting that in the supplemental appropriation bill, which might save 4 or 5 days, instead of cutting days?

Mr. BROOKE. Will the Senator yield?

Mr. ALLEN. I yield to the Senator.

Mr. BROOKE. I know how strongly the Senator from Alabama feels about this legislation and how strongly he feels that this is not the proper course for the Federal Government to take, but I think by passing the Senate bill and sending us to conference with this, it might be even self-defeating for the Senator from Alabama.

I voted against the Senate bill, and it was carried by an 8 to 5 vote in the Senate Banking Committee, but I said then that we were spinning our wheels and that it was an exercise in futility, because the President had said very clearly that he would veto it.

I think because the President threatened to veto that—it was not an idle threat, I think he was sincere, that he would veto it and still would veto it—that we were able to get the city of New York, the State of New York, the private sector, and the labor unions, as well, to do what they have done during this interim period.

I think the distinguished chairman of our committee very clearly stated in the RECORD that this is quite different from the ConRail bill. ConRail is not under any pressure of December 11. New York is under pressure of December 11, or a few days thereafter.

If we were to do as the Senator has suggested and adopt the Senate bill so-called, or the Banking Committee bill so-called, and then go into conference, we would have to go into conference with the House.

Obviously, the deadline would not permit us to arrive at any conclusion, No. 1, unless we receded to the House, that we would have a bill which the President would sign into law and be in effect, timely enough for New York City to avoid default.

I believe we have a much better bill now, and I think that the Senator from Alabama will agree that we have a much better bill now for his purposes, for my purposes, and I believe really for the purposes of the country, than we had, with all due respect to the Senator from Illinois who did a tremendously effective job on that legislation.

We are certainly risking much less money than we were risking, not the $4 billion that was included in that bill but the $2.3 billion, as the Senator has wisely pointed out.

We now have sort of a gentlemen's agreement because New York has acted, their legislature has acted, and they have written in new taxes.

So I think the protection for the Federal Government is much greater with the bill the President has proposed than it would be if we had to go back now and adopt the Senate bill and go into conference with the House of Representatives.

Mr. ALLEN. I thank the distinguished Senator for his comments.

My thought in offering this amendment was that apparently there is no thought on the part of any member of the Senate committee or the managers of the bill on both sides of the aisle to try to save for this legislation some of the constructive provisions of the Senate bill. I tried to find out if any of the promoters of the bill would support constructive amendments, putting into the House bill some of the brilliant and soundly constructed features of the Senate bill. But there does not seem to be any indication on the part of any member of the Banking Committee to try to save any portions of the Senate committee bill.

It was the thought of the Senator from Alabama that we might be given the opportunity to put some of those features into the bill. With that thought in mind I did submit the amendment.

Mr. BROOKE. Will the Senator yield for a minute?

I think we had three steps or three phases. The first was the loan guarantee bill, which I would agree was not sound. I believe Senator Stevenson improved upon the loan guarantee bill by what is now referred to as the Senate bill. I believe the President has improved upon that by the third bill, which is the bill which we now have before the Senate for adoption.

So I believe we have progressed. We have made progress in each step that we have taken. I think it is a great improvement, certainly, over the loan guarantee bill which was asked for in the first instance. We have improved it so much since that time that I think it is now a bill that can be, and hopefully will be, accepted by the Senate and by the Congress.

Mr. ALLEN. I thank the distinguished Senator.

It is quite obvious to the Senator from Alabama that the Senate version has little support in the Senate or in the committee itself.

I feel that the amendment would be defeated. Certainly, I would vote against it and for that reason, I withdraw the amendment, Mr. President.

Mr. LEAHY assumed the Chair at this point.

Mr. ROBERT C. BYRD. Mr. President, is there any inclination on the part of any Senator to ask for a rollcall vote on any matter tonight?

If not, there will be no more rollcall votes tonight.

The PRESIDING OFFICER. The parliamentarian indicates that the amendment was not called up, so there is no need for withdrawing it.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask that there now be a routine period for the conduct of routine morning business, with statements limited therein to 5 minutes each, and not to extend beyond 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR FILING OF CONFERENCE REPORT ON S. 622

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the committee of conference on S. 622, Energy Conservation and Oil Policy Act of 1975, be given authority until midnight Saturday, December 6, to file a conference report thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR FILING CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 466

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent also that the same authority be granted with regard to the conference report on House Concurrent Resolution 466, congressional budget revision, until midnight Friday, December 5.

The PRESIDING OFFICER. Without objection, it is so ordered.

ARTS AND ARTIFACTS INDEMNITY ACT

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1800.

The PRESIDING OFFICER (Mr. Leahy) laid before the Senate the amendments of the House of Representatives to the bill (S. 1800) to amend and extend the National Foundation on the Arts and the Humanities Act of 1965, to provide for the improvement of museum services, and to provide indemnities for exhibitions of artistic and humanistic endeavors, and for other purposes.

(The amendments of the House are printed in the Record of December 1, 1975, beginning at page 37875.)

Mr. JAVITS. Mr. President, I am the ranking member on the Committee on Labor and Public Welfare from which this bill originates. I have had a lot to do with it. I wish to say to the Senate that I know of no opposition to it. It is a bill which relates to the effort to facilitate the bringing here of great exhibits of art from abroad and the delivery abroad of great exhibits of art from here. It is a back-breaking problem for the museums which are involved to pay insurance premiums upon this type of really interexchange which is on a high national level, such as the Russian exhibit of gold which came here, or the Chinese exhibit, and our exhibits which go there.

I do not want to go into all the finite details, but this will facilitate this kind of action on the part of ourselves and other countries.

Therefore, Mr. President, as I say, I do not know of any opposition to it. It represents a highly desirable activity in that government would be responsible anyhow, if not in an actual legal sense, in a moral sense, for such exhibits which simply cannot be valued, no matter what price one puts on them. There is no such price.

I hope very much the Senate will go along with the House.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. The question is on the motion.

The motion was agreed to.

FOREST SERVICE TIMBER SALE CONTRACTS

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 364.

The PRESIDING OFFICER (Mr. Leahy) laid before the Senate the amendment of the House of Representatives to the bill (S. 364) relating to certain Forest Service timber sale contracts involving road construction, as follows:

> Strike out lines 6 through 9 inclusive, and insert: rules and regulations as he shall prescribe, to permit the transfer of unused effective purchaser credit for road construction earned after the date of enactment of this sentence, from one timber sale to a purchaser to another timber sale to the same purchaser within the same National Forest.".

Mr. McCLURE. Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

DISAPPROVAL OF DEFERRAL OF BUDGET AUTHORITY FOR THE NORTHEASTERN APPALACHIAN REGIONAL FRUIT CROP LABORATORY, KEARNEYSVILLE, W. VA.

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared with the chairman of the Appropriations Committee (Mr. McClellan), with the ranking Republican member of that committee (Mr. Young), with Mr. McGee on the Agriculture Subcommittee, and with Mr. Muskie and Mr. Bellmon on the Budget Committee.

I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 313, reported today.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Reserving the right to object, what is that?

Mr. ROBERT C. BYRD. This resolution, if adopted by the Senate, would disapprove the President's Deferral Message D-76-68, which proposes the deferral of $7,570,000 contained in the fiscal year 1976 agricultural appropriations bill for the construction of the Northeastern Appalachian Region Fruit Crop Research Station in the eastern panhandle of West Virginia.

I do not concur with the rationale of the Office of Management and Budget—and that is where this deferral action originated—that construction of this facility should be further postponed. Senate Resolution 313 if approved by the Senate, will allow the construction of this facility to proceed in a timely manner.

I oppose this deferral of these funds for the following reasons:

First. This facility was considered by the Congress for many years. The Congress is thoroughly familiar with all of the details of the project, and the Congress recommended construction funding only after careful consideration of all factors involved.

Second. The Congress was aware of, and sympathetic to, the staffing needs cited in the deferral message; however, it should be noted that at least half of the staff for this facility are presently already working in inadequate temporary quarters and they are awaiting completion of the facility in order that they can move into the new facility. It should also be noted that this is a special purpose laboratory located in a special area of the Nation designed to meet special research needs.

Third. This research station has been under consideration for at least 13 years, and during that time costs have escalated drastically. As an example, costs have escalated from $2.9 million in 1971 to the current estimated cost of $7,570,000. If the project is not constructed now, further drastic cost escalations can be expected.

Fourth. The land on which the facility is to be located has been made available at no cost to the Federal Government. If the project is not constructed now, there is no firm assurance that this valuable tract of land will remain available to the Federal Government for this purpose.

Fifth. The decision to defer the expenditure of these funds was made for purely budgetary reasons by the officials of the Office of Management and Budget, without regard to the merits of the facility. I have always maintained close contact with USDA officials, and they have consistently shown support for, and urged the speedy construction of, this facility. The Department has conducted an exhaustive and comprehensive report on the need for this facility and that report fully justifies the construction of this facility.

I am also slightly puzzled by the way in which this deferral was handled.

Officials of the White House and of the Office of Management and Budget were apprised of my strong interest in this project, and I frankly am surprised that they did not take the time, or show the courtesy, to consult me before recommending this proposed deferral.

I wish to express my appreciation to the chairman and members of the Senate Appropriations Committee for their support, cooperation, and speedy consideration of Senate Resolution 313, and also to express special appreciation to Senators, McGEE, MUSKIE, YOUNG, BELLMON and FONG, who have worked with me not only with Senate Resolution 313, but in past years to make this Fruit Crop Research Station a reality.

Mr. ALLEN. I would be delighted to see it. I withdraw my reservation of objection.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

A resolution (S. Res. 313) disapproving the proposed deferral of budget authority for the Northeastern Appalachian Regional Fruit Crop Laboratory, Kearneysville, West Virginia.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was considered and agreed, to, as follows:

Resolved, That the Senate disapproves the proposed deferral of budget authority (Deferral D 76-68) for the Northeastern Appalachian Regional Fruit Crop Laboratory, Kearneysville, West Virginia, set forth in the special message transmitted by the President to the Congress on December 1, 1975, under section 1013 of the Impoundment Control Act of 1974.

TIME-LIMITATION AGREEMENT—PUBLIC WORKS APPROPRIATION BILL

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared with the chairman of the Appropriations Subcommittee on Public Works, the distinguished Senator from Mississippi (Mr. STENNIS), the distinguished ranking minority member of the subcommittee (Mr. HATFIELD), the distinguished chairman of the Appropriations Committee (Mr. McCLELLAN), the distinguished ranking Republican member (Mr. YOUNG), and with the leadership on both sides of the aisle.

I ask unanimous consent that at such time as the Public Works Appropriation bill is called up and made the pending business before the Senate, there be a time limitation thereon of 1½ hours, to be equally divided between Mr. STENNIS and Mr. HATFIELD; that there be a time limitation on any amendment, debatable motion, or appeal of 30 minutes; and that the agreement be in the usual form with regard to the division and control of time.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ANNOUNCED RETIREMENT OF SENATOR HUGH SCOTT

Mr. JAVITS. Mr. President, I shall not detain the Senate but a moment. We have all received copies of the remarks of the minority leader of the Senate (Mr. HUGH SCOTT) which he was to make at 6 o'clock tonight or thereabouts. The key statement therein is his statement that "I will not be a candidate for reelection to a fourth Senate term in 1976."

As a very old friend of Senator SCOTT, and one who has worked very closely with him during, I guess, just about all of his years here in the Senate, I would simply like to express my own satisfaction that a friend has worked so effectively in the interest of our Nation and of peace and justice in the world for so long, and that he attained, by sheer merit, intellectual power, and probity of character, so exalted a position in this Chamber.

Whatever people may say about HUGH SCOTT in terms of agreement or disagreement, he is a very gifted debater, a man with as keen an ear for turning a phrase which is both humorous and poignant as any I have ever met. He has had a very clear view of the basis of our country, what we stood for, and what we represented, and a very exalted view of it. He has had a very understanding grasp of his duty to his State, to the Nation, and to the world, and on a thousand battlefields has distinguished himself with these talents.

As a personal friend I am very sorry to see him go. His fine mind and excellent leadership qualities have made a very distinguished record here. He has won many friends, and not only the support of his own constituency, but the millions of people throughout America as well. I hate to see him go, but that is his decision, and he has a right to it, and to whatever remaining years the Lord allows him. I simply wish him and his wife Marion, on behalf of my wife and myself, a glowing future in whatever way he chooses to spend it, whether it is in his favorite field of acquiring oriental beauty in various works of art—of which he has one of the great collections, as a matter of fact, in this country. For a poor man to acquire that is not easy. He has done so by sheer dint of selection and electicism.

I hope that he will not relinquish his interest in the affairs of our country and of the world, but that, on the contrary, he will, if possible, become even more active in them, if in different capacities, and that the Lord will grant him and his lovely wife long years of happiness together.

The PRESIDING OFFICER (Mr. LEAHY). The Chair heartily concurs in the statement by the distinguished senior Senator from New York.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

The ACTING PRESIDENT pro tempore (Mr. METCALF) laid before the Senate a message from the President of the United States submitting the nomination of William J. Porter, of Massachusetts, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Kingdom of Saudi Arabia, which was referred to the Committee on Foreign Relations.

MESSAGES FROM THE HOUSE

At 11:20 a.m., a message from the House of Representatives, delivered by

Mr. Berry, one of its reading clerks, announced that the House has passed the joint resolution (H.J. Res. 733) making further continuing appropriations for the fiscal year 1976, and for other purposes, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (S. 233) for the relief of North Central Educational Television, Incorporated, with an amendment, in which it requests the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

S. 1537. An act to amend the Defense Production Act of 1950, as amended.

H.R. 9915. An act to make technical amendments to the Federal Rules of Evidence, the Federal Rules of Criminal Procedure, and to related provisions of titles 18 and 28 of the United States Code.

The enrolled bills were subsequently signed by the President pro tempore.

ENROLLED BILLS SIGNED

At 4:50 p.m., a massage from the House of Representatives, delivered by Mr. Hackney, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 568. An act to grant an alien child adopted by an unmarried United States citizen the same immigrant status as an alien child adopted by a United States citizen and his spouse.

H.R. 6669. An act to authorize the Secretary of the Interior to engage in feasibility investigations of certain potential water resource developments.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. METCALF).

At 6:30 p.m., a message from the House of Representatives by Mr. Hackney announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8069) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 63, 64, 71, 72, 84, and 85 and concurs therein; and that the House recedes from its disagreement to the amendments of the Senate numbered 4, 6, 23, 53, 66, 67, and 76, and concurs therein, each with an amendment in which it requests the concurrence of the Senate.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RANDOLPH, from the Committee on Public Works:

S. Res. 314. An original resolution waiving section 303(a) of the Congressional Budget and Impoundment Control Act of 1974 with respect to consideration of S. 2711. Referred to the Committee on the Budget.

By Mr. STENNIS, from the Committee on Appropriations, with amendments:

S. Res. 226. A resolution disapproving the proposed deferral of budget authority for the Second Bacon Siphon and Tunnel, Columbia Basin Irrigation Project, Washington (Rept. No. 94–504).

H.R. 8122. An act making appropriations for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commission for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes (Rept. No. 94–505).

By Mr. McGEE, from the Committee on Appropriations, without amendment:

S. Res. 313. A resolution disapproving the proposed deferral of budget authority for the Northeastern Appalachian Regional Fruit Crop Laboratory, Kearneysville, West Virginia (Rept. No. 94–506).

By Mr. EAGLETON, from the Committee on the District of Columbia, without amendment:

S. Con. Res. 78. A concurrent resolution disapproving the Act of the District of Columbia Council (1–57) entitled "An Act to authorize the issuance of $50,000,000 General Obligation Bonds of the District of Columbia to refund certain loans made to the District from the United States Treasury" (Rept. No. 94–507).

S. Res. 316. An original resolution authorizing supplemental expenditures by the Committee on the District of Columbia for inquiries and investigations (Rept. No. 94–508). Referred to the Committee on Rules and Administration.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. DOLE, from the Committee on Agriculture and Forestry:

William H. Walker III, of Tennessee, to be an Assistant Secretary of Agriculture.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

JOINT REFERRAL OF BILL—S. 2607

Mr. HATFIELD. Mr. President, I ask unanimous consent that the bill (S. 2607) to amend the Trading with the Enemy Act to repeal the embargo on U.S. trade with North and South Vietnam, which was referred to the Committee on Banking, Housing and Urban Affairs, be jointly referred to the Committee on Foreign Relations.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

HOUSE JOINT RESOLUTION REFERRED

The joint resolution (H.J. Res. 733) making further continuing appropriations for the fiscal year 1976, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, December 4, 1975, he presented to the President of the United States the enrolled bill (S. 1537) to amend the Defense Production Act of 1950, as amended.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolution were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BUCKLEY:

S. 2737. A bill to amend the Internal Revenue Code of 1954 to provide for automatic cost of living adjustment in the income tax rates, the amount of the standard and personal exemption. Referred to the Committee on Finance.

By Mr. STEVENS:

S. 2738. A bill to designate a fund source for the acquisition and maintenance of concession facilities in the National Park System, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. DOLE (for himself, Mr. BENTSEN, and Mr. BELLMON):

S. 2739. A bill to facilitate the sale of U.S. agricultural commodities to be stored in the United States not subject to export control and restricted from resale into the U.S. markets. Referred to the Committee on Agriculture and Forestry.

By Mr. BROCK:

S. 2740. A bill entitled the "Tennessee Valley Citizen Review Act of 1975." Referred to the Committee on Public Works.

By Mr. MONDALE:

S. 2741. A bill to establish a series of six regional presidential primaries at which the public may express its preference for the nomination of an individual for election to the office of President of the United States. Referred to the Committee on Rules and Administration.

By Mr. EAGLETON (for himself, Mr. MAGNUSON and Mr. JACKSON):

S. 2742. A bil to dedicate the Chesapeake and Ohio Canal National Historical Park to Justice William O. Douglas in grateful recognition of his contributions to the people of the United States. Referred to the Committee on Interior and Insular Affairs.

By Mr. BEALL:

S. 2743. A bill for the relief of Ellis McIntyre. Referred to the Committee on the Judiciary.

By Mr. BROCK:

S. 2744. A bill to establish a procedure under which proposed regulations of the Secretary of Health, Education, and Welfare, to implement the Social Security Act, will be submitted to appropriate Congressional committees for study and review, and under which either House of Congress, by adopting a resolution of disapproval, can prevent any such regulation from taking effect. Referred to the Committee on Finance.

By Mr. KENNEDY:

S. 2745. A bill to extend and strengthen the Teacher Corps program, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. JOHNSTON:

S. 2746. A bill to amend the Internal Revenue Code of 1954 to allow a deduction with respect to that portion of adoption expenses which are properly attributable to medical expenses incurred for the benefit of the adopted child. Referred to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BUCKLEY:

S. 2737. A bill to amend the Internal Revenue Code of 1954 to provide for automatic cost of living adjustment in the income tax rates, the amount of the standard and personal exemption. Referred to the Committee on Finance.

FAIR INCOME TAX ACT OF 1975

Mr. BUCKLEY. Mr. President, today I am introducing a bill entitled the Fair Income Tax Act of 1975. This bill is designed to eliminate one of the major inequities in the Federal income tax system. As I have pointed out in the past, during periods of inflation, the net effect of the current system is to push low- to middle-income taxpayers into significantly higher tax brackets even though the purchasing power of their income has not increased. By the same token, this sleight of hand, nonlegislated increase in real levels of taxation produce an inflation windfall—the so-called "inflation bonus"—for the Federal Government that can encourage inflationary practices by reducing their cost to Government. My bill will eliminate both the taxation by stealth that falls most heavily on those who are the most hard-pressed, while taking the profit out of inflation as far as the Federal Government is concerned. It will also accomplish a net reduction in projected taxes by in excess of $15 billion through the simple expedient of stabilizing the real levels of taxation.

The mechanism I propose to cope with this problem is usually described as "indexing." Indexing, or the adjustment of tax tables to reflect changes in the Consumer Price Index to reflect changes in price levels, does not in any way affect inflation nor does it imply a willingness to "live with" inflation.

Inflation can only be brought under control through the adoption of sound fiscal and monetary policies. What indexing can do, however, is to reduce the adverse consequences of inflation while otherwise painful anti-inflation efforts are being put into effect.

Tying the Federal income tax to the cost-of-living index would neutralize the tax impact of inflation by maintaining the effective rate of taxation for any given level of income—stated in terms of stable dollars—at the rate originally legislated. It would also eliminate the Federal Government's windfall profit from inflation that reduces the incentive to monitor the growth of existing programs. This windfall profit has been given the euphemism of "inflation bonus" by people who are careful not to mention the fact that it is a bonus payable to the Federal Government largely at the expense of taxpayers in the lower to middle income brackets.

By way of illustration, let us examine a specific example of the impact of inflation on real taxes paid. Suppose an individual is earning $5,000 per year in 1975, and that inflation causes prices to rise at an average rate of 7 percent per year from 1975 through 1985. If the individual receives cost-of-living pay increases sufficient to keep pace with inflation, his income would be $10,000 in 1985. Yet he would be no better off in 1985 than he was in 1975 in terms of what he could buy with his income. In fact inflation would make him significantly worse off in regard to his income tax.

Assuming he is the head of a typical family of four, he would be required to pay 2 percent of his 1975 earnings in Federal income taxes. However, because inflation would have the effect of lifting this same individual into ever higher tax brackets, by 1985, when he would be earning $10,000 merely to stay even in terms of purchasing power, he would be required to pay over 10 percent of his earnings to the Federal Government. Thus although his real income in terms of purchasing power remains unchanged, his increase in "money" income will cause him to pay five times as much in taxes leaving him poorer in 1985 despite a doubling of his dollar income. That 500-percent increase in the real burden of taxation contributes to the "bonus" which Government views as inflation's silver lining.

I ask unanimous consent that there be printed at this point in the RECORD a table which illustrates the impact of inflation on all levels of income, assuming a 7-percent annual rate of inflation and a family of four.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ASSUMING INFLATION CAUSES PRICES AND INCOMES TO DOUBLE IN 10 YEARS

1975		1985	
Income	Percent of income paid in taxes	Income	Percent of income paid in taxes
$5,000	2	$10,000	10
$10,000	10	$20,000	15
$20,000	15	$40, 000	25
$50,000	29	$100, 000	42
$100,000	42	$200, 000	54
$1,000,000	67	$2,000,000	68

Mr. BUCKLEY. At the high rates of inflation we are now experiencing, any anti-inflation techniques that are apt to be employed will take several years to reduce the growth of prices to an acceptable level. This means that the ordinary citizen might have to suffer the consequences of several years of relatively higher prices while his income and the value of his assets continue to be eroded.

I believe the Congress must enact appropriate legislation to protect the individual taxpayer from the consequences of inflation under circumstances where he is compelled to deal with the Government—the agency in our society principally responsible for inflation.

Indexing the income tax system would achieve this objective in the following ways:

First. It would require the Congress to show the political courage to vote the tax increases required to pay for the full cost of new Federal programs by removing the windfall Government profits from inflation. At the present time, if the forces of inflation cause prices and incomes to rise at a rate of 10 percent, Government tax revenues will rise by perhaps 12 or 13 percent. Under the bill I am introducing, Government revenues would rise in direct proportion to the rate of inflation, namely 10 percent.

Second. It would remove the most indefensible inequity of inflation from the statute books, namely the power of the Government to profit from the inflation it causes.

Third. Indexing the income tax system would eliminate the distortion in the allocation of resources between the public and private sectors that now occur as a consequence of inflation. As things now stand, the Government is in a position to increase the transfer of real resources from the private sector to the public sector by simply increasing the rate by which it prints money.

Fourth. Indexing the income tax system will restore to economic calculations the true legislative intent of the Congress by taxing an individual's "real" income at the originally intended statutory rates.

This legislation is an important reform to every taxpayer. I ask unanimous consent that the text of the "Fair Income Tax Act of 1975," be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2737

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Income Tax Act of 1975".

SEC. 2. RATE OF TAXATION.

(a) Section 1 of the Internal Revenue Code of 1954 (relating to tax imposed) is amended by adding at the end thereof the following new subsection:

"(e) COST-OF-LIVING ADJUSTMENT.—

"(1) CHANGES IN AMOUNT.—At the beginning of each calendar year as soon as the necessary data become available from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall report to the Secretary or his delegate the ratio which the price index for the preceding calendar year bears to the price index for the base period. Each dollar amount listed in the tables under subsections (a), (b), (c), and (d) of this section shall be multiplied by such ratio and, as multiplied, shall be the amount in effect for the calendar year in which such report is made.

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) the term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

"(B) the term 'base period' means the calendar year 1975.".

(b) Section 11(d) of the Internal Revenue Code of 1954 (relating to surtax exemption) is amended to read as follows:

"(d) SURTAX EXEMPTION.—

"(1) GENERAL RULE.—For purposes of this subtitle, the surtax exemption for any taxable year is $25,000, except that, with respect to a corporation to which section 1561 or 1564 (relating to surtax exemptions in case of certain controlled corporations) applies for the taxable year, the surtax exemption for the taxable year is the amount determined under such section.

"(2) COST-OF-LIVING ADJUSTMENT.—

"(A) At the beginning of each calendar year as soon as necessary data become available from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall report to the Secretary or his delegate the ratio which the price index for the preceding calendar year bears to the price index for the base period. The dollar amount in paragraph (1) of this subsection shall be the amount in effect for the calendar year in which such report is made.

"(B) DEFINITIONS.—For purposes of paragraph (1)—

"(i) the term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics, and

"(ii) the term 'base period' means the calendar year 1975.".

SEC. 3. STANDARD DEDUCTION.

Section 141 of the Internal Revenue Code of 1954 (relating to standard deduction) is amended by adding at the end thereof the following new subsection"

"(f) COST-OF-LIVING ADJUSTMENT.—

"(1) CHANGES IN AMOUNT.—At the beginning of each calendar year as soon as the necessary data become available from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall report to the Secretary or his delegate the ratio which the price index for the preceding calendar year bears to the price index for the base period. Each dollar amount listed in the table under subsections (b) and (c) of this section shall be multiplied by such ratio and, as multiplied, shall be the amount in effect for the calendar year in which such report is made.

"(2) DEFINITIONS.—For the purposes of paragraph (1)—

"(A) the term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics, and

"(B) the term 'base period' means the calendar year 1975.".

SEC. 4. PERSONNEL EXEMPTIONS.

Section 151 of the Internal Revenue Code of 1954 (relating to allowance of deductions for personal exemptions) is amended by adding at the end thereof the following new subsection:

"(f) COST-OF-LIVING ADJUSTMENT.—

"(1) CHANGES IN AMOUNT.—At the beginning of each calendar year as soon as the necessary data become available from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall report to the Secretary or his delegate the ratio which the price index for the preceding calendar year bears to the price index for the base period. Each dollar amount in subsections (b), (c), (d), and (e) of this section shall be multiplied by such ratio and, as multiplied, shall be the amount in effect for the calendar year in which such report is made.

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) the term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics, and

"(B) the term 'base period' means the calendar year 1975.".

SEC. 5. EFFECTIVE DATE.

By Mr. STEVENS:

S. 2738. A bill to designate a fund source for the acquisition and maintenance of concession facilities in the National Park System, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. STEVENS. Mr. President, I am today introducing a bill which would create for the National Park Service a separate account in the U.S. Treasury of franchise fees collected from park concessioners. The special account would be used for the purpose of purchasing, when appropriate, the possessory interest of a concessioner and for maintaining Government-owned facilities assigned to concessioners under their contracts.

Pursuant to section 6 of the act of October 9, 1965 (79 Stat. 969), concessioners in the national parks are allowed to acquire possessory interest in improvements they make on the properties they manage and operate within the park system. Those possessory interests are compensable. As such, a possessory interest cannot be taken for public use without just payment.

Occasionally it becomes necessary for the National Park Service to acquire the possessory interest of a concessioner. When a concession must be terminated for public safety reasons or when a concession for financial reasons can no longer continue service, the Park Service may be obligated to purchase the possessory interest.

Under the existing law, however, the Park Service must come to the Congress each time it needs funds to acquire a possessory interest in one of the units of the park system.

The great delay usually required to obtain the necessary funding to acquire possessory interest results in inequities to both the Park Service and concessioner. The quality of service to the visiting public is usually affected, and the concessioner who is in financial difficulty must struggle on trying to make loan payments for improvements made to the concession facilities. Under such a system, the public is usually required to bear the burden through lacking or inadequate services.

Recently it became necessary to terminate a concession facility at Lassen Volcanic National Park due to its location in an unsafe area because of potential earthquake damage. To acquire the possessory interest in this concession the Park Service was forced to reprogram $518,000 that was appropriated for the construction of buildings and utilities.

More recently, it has become necessary for the concessioner at Glacier Bay National Monument to terminate his concession contract for financial reasons. The Park Service will be acquiring the possessory interest of this concession through funds appropriated in the 1976 appropriation bill for general outdoor recreation facilities. The delay in obtaining this appropriation has placed a serious hardship on the concessioner in meeting loan payments.

The bill I introduce today would help alleviate this situation in two ways. First, it would establish in the Treasury of the United States a separate account made up of franchise fees collected from the concessioners. On a yearly basis the National Park Service collects approximately $1.2 million in concession fees, which under existing law must be credited to the general fund of the Treasury. As such, the fund is not available to the Park Service for use for enhancement or maintenance purposes related to the purpose or source from which the United States acquired the revenue. Instead it must be budgeted and can be appropriated for any purpose.

Under this bill, a special account, consisting of fees received from the concession operators, would be established for the purpose of purchasing when appropriate the possessory interest of a concessioner and for maintaining Government-owned facilities assigned to concessioners under their contract. This will assure that the revenues received by the United States from concession operations will be utilized to enhance those very operations for the public benefit.

Second, in creating a special account in the Treasury which would be available without further appropriation, the bill will enable the Park Service to act promptly when it becomes necessary to upgrade or acquire an existing concession facility. This bill would establish a procedure whereby funds would be immediately available for the purpose of preventing a deterioration of services provided the public or for the purchase of a possessory interest when the need arose.

Due to severe budgeting and financial restriction the National Park Service is very hard pressed to fund needed public facilities and maintain existing natural resources in the National Park system.

Mr. President, under the bill I introduced today, this situation would be partially alleviated as the revenues received from concessioners would be used directly for the enhancement of public facilities operated by them and to purchase possessory interests.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2738

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any provision of law requiring that the funds received by the United States from franchise fees charged concessioners pursuant to the Act of October 9, 1965 (79 Stat. 969), shall be covered into the general fund of the Treasury as miscellaneous receipts, there is established in the Treasury of the United States a separate account into which shall be covered all such franchise fees received on and after the first day of the first full fiscal year following the effective date of this section. Funds covered into such special account shall be available to the Secretary of the Interior without further appropriation for (1) the acquisition by the United States, when appropriate, of any possessory interest obtained by a concessioner pursuant to section 6 of said Act of October 9, 1965; and (2) maintenance of government-owned facilities assigned to concessioners pursuant to concession contract under said Act.

By Mr. BROCK:

S. 2740. A bill entitled the "Tennessee Valley Citizen Review Act of 1975." Referred to the Committee on Public Works.

TVA CITIZEN REVIEW COMMISSION

Mr. BROCK. Mr. President, the Tennessee Valley Authority has done a lot for our part of the country in its more than 40 years of existence. But, like many institutions, like the Federal Government itself, the TVA has grown very large, and has become isolated from the people it must serve. When the people of the valley have problems with the TVA—concerning projects, land acquisitions, rates, or other matters—there is no one in the area to turn to. No State public service commission has authority over the TVA. Those with determination and persistence seek out their elected representatives in Washington. We do the best we can for them, but again and again I hear the same plea: "Senator, there ought to be some group in the valley we can turn to when we have problems with TVA."

These people are right. The problem is a lack of responsiveness by the TVA. The problem is that the people lack a real voice in the operations of the TVA. It is a problem which cannot and should not be solved in Washington, but must find its ultimate solution in the Tennessee Valley.

The legislation I am introducing today will make that solution come to pass in the valley. This bill sets up a TVA Citizen Review Commission to review, investigate, and report upon TVA activities of substantial impact on Tennessee Valley residents, and to pursue individual citizen complaints against the TVA.

The Commission will be made up of nine members, appointed by the President with the advice and consent of the Senate. Seven must be residents of the Tennessee Valley. No more than two shall be employees of any governmental unit. And five of the members shall be chosen from names submitted by the Governors of Tennessee, Alabama, Mississippi, Kentucky, and Georgia. The Commission members shall serve for staggered 3-year terms.

The Citizen Review Commission will not trespass on the administrative authority of the TVA Board of Directors, but it will possess broad powers of review, supervision, and factfinding. These powers include the following:

RATES

To review rate changes and, if necessary in the public interest, delay those new rates for up to 90 days pending a review. The Commission may ask for a recommendation and review of the new rates by the Federal Power Commission during that 90-day period. The review will be nonbinding. In addition, the FPC shall undertake an annual review of the TVA rate structure, and shall report to the Citizen Review Commission and to the TVA Board of Directors.

PROJECTS AND LAND ACQUISITIONS

To review and hold hearings on TVA projects and land acquisitions as necessary in the public interest, and to delay if necessary strongly protested projects or acquisitions for up to 90 days pending full review.

HEARINGS

To hold regular public hearings on subjects of importance to Tennessee Valley residents regarding the TVA. All hearings will be public and a transcript will be made available for inspection.

INFORMATION

The Commission will have access to all TVA reports, documents, and studies, and is entitled to the full cooperation of TVA employees. It shall be illegal to threaten, harass, fire, or attempt to fire a TVA employee for reason of cooperation with the Commission.

INDIVIDUAL COMPLAINTS

To investigate individual citizen complaints regarding the TVA and, if necessary, report, and make recommendations to the TVA regarding disposition of these complaints.

BOARD OF DIRECTORS

The Citizen Review Commission will have authority to make presentations regarding citizen opinion at any TVA board of directors meeting. The chairman of the Commission will be an ex-officio member of the TVA board.

PUBLIC FORUMS

To hold, from time to time, public forums to receive citizen opinion on issues involving the TVA. A transcript of the forum will be made available for inspection.

ANNUAL REPORT

The Commission will file an annual report to the public detailing its work and findings.

The Citizen Review Commission will have no authority over personnel matters and will not be entitled to information regarding these confidential matters.

Mr. President, I believe this legislation mandates an effective "watchdog" for the TVA. It will require few full-time employees to make the Commission operate smoothly and successfully. Yet, the Citizen Review Commission will carry the still small voice of the people at full strength into the board room of the TVA. It will be good for the TVA. It will be good for the people.

The Citizen Review Commission will establish, for the first time, some substantive element of local voice in the decisions of the Tennessee Valley Authority. The idea of the commission is firmly rooted in our most sacred democratic ideals. Not bureaucrats watching over citizens, but citizens watching over the bureaucrats. Not Washington providing a solution, but the solution coming from the Tennessee Valley itself. Not government doing for the people, but the citizens doing for themselves.

The Citizen Review Commission, this TVA watchdog, will help build a bridge between the TVA board of directors and the citizens they must serve. I ask my colleagues to join me in supporting this legislation. Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2740

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Tennessee Valley Citizen Review Act of 1975".

Sec. 2. The Tennessee Valley Authority Act of 1933 (16 U.S.C. 831–831dd), as amended, is amended by inserting immediately below section 26 the following new section:

"Sec. 26A. (a) (1) There is established the Tennessee Valley Authority Citizen Review Commission (hereafter referred to as the 'Commission').

"(2) The Commission shall be composed of nine members appointed by the President, by and with the advice and consent of the Senate, of whom—

"(A) one member shall be appointed upon the recommendation of the Governor of Tennessee;

"(B) one member shall be appointed upon the recommendation of the Governor of Alabama;

"(C) one member shall be appointed upon the recommendation of the Governor of Kentucky;

"(D) one member shall be appointed upon the recommendation of the Governor of Georgia;

"(E) one member shall be appointed upon the recommendation of the Governor of Mississippi;

"(F) two members shall be appointed from among individuals who are residents of the Tennessee Valley region and are representative of the diverse interests of that region; and

"(G) two members shall be appointed from among individuals who reside outside the Tennessee Valley region and are representative of the general public.

"(3) At no time shall more than two members of the Commission be individuals who are employees of any governmental unit.

"(4) The terms of office of the members first taking office after the date of enactment of the Tennessee Valley Citizen Review Act of 1975 shall expire, as designated by the President at the time of appointment, three at the end of the first year, three at the end of the second year, and three at the end of the third year after the date of enactment of the Tennessee Valley Citizen Review Act of 1975. A successor to a member of the Commission shall be appointed in the same manner in which the original appointment was made and shall have a term of office expiring three years from the date of the expiration of the term for which his predecessor was appointed. Any vacancy in the Commission shall not affect its power.

"(5) Five members of the Commission shall constitute a quorum, but a lesser number may conduct hearings. The Commission shall elect a Chairman each year from among the members of the Commission. The Chairman shall be an ex-officio member of the board and he or his designate shall attend all meetings of the board.

"(b) It shall be the duty of the Commission to—

"(1) review any action which the board takes or proposes to take with respect to—

"(A) any change in the rates which the board establishes for the sale or resale of surplus power,

"(B) any project or land acquisition which the board undertakes or proposes to undertake when, in the opinion of the Commission, such project or land acquisition is of importance to the residents of the Tennessee Valley region, and

"(C) any other action which the board takes or proposes to take which in the opinion of the Commission will have a significant impact on the residents of the Tennessee Valley;

"(2) investigate any complaint of any individual with respect to any action of the board;

"(3) hold, and make transcripts of, such public hearings as the Commission finds necessary to provide an opportunity for any resident of the Tennessee Valley region to present his views on the Corporation to the Commission; and

"(4) report its findings and recommendations with respect to any review or investigation under paragraphs (2) and (3) of this subsection to the board.

"(c) The Commission shall submit to the President and to the Congress each year a report of its activities and its recommendations for improving the Corporation.

"(d) In carrying out its duties under this section, the Commission may—

"(1) delay for a period of not to exceed 90 days the implementation of any rate change, project, land acquisition, or other action of the board upon a determination that a delay is in the public interest and is necessary to provide time for the Commission to hold hearings and make its appropriate findings and recommendations;

"(2) make such presentations at any meeting of the board as the Commission finds are necessary to adequately inform the board of the opinion of the residents of the Tennessee Valley;

"(3) request the Federal Power Commission to make and submit to the Commission its findings and recommendations with respect to any change in rates which the board establishes for the sale and resale of surplus power.

"(e) (1) The Commission or any authorized subcommittee thereof may hold hearings and administer oaths for the purpose of taking evidence in any such hearings.

"(f) (1) The Commission is authorized to appoint and fix the compensation of an executive director and such other personnel as it deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. The executive director shall receive compensation at a rate not in excess of that provided under level V of the Executive Schedule under section 5316 of title 5, United States Code.

"(2) The Commission may procure the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

"(g) (1) Each member of the Commission who is an officer or employee of the United States shall serve without additional compensation, but shall continue to receive the salary of his regular position when engaged in the performance of the duties vested in the Commission.

"(2) All other members of the Commission shall receive compensation at the maximum daily rate for GS–18 of the General Schedule for each day, including traveltime, they are engaged in the actual performance of their duties as members of the Commission.

"(3) All members of the Commission shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

"(h) (1) A board member or any officer or employee of the Corporation is authorized and directed to furnish to the Commission, upon request made by the Chairman, such information as the Commission deems necessary to carry out its duties under this Act.

"(2) Any individual who knowingly and willfully intimidates, threatens, coerces, commands, or influences, or attempts to intimidate, threaten, coerce, command or influence any individual for the purpose of interfering with the furnishing of information under this subsection shall be guilty of a misdemeanor and fined not more than $5,000 and if such individual is a board member or Corporation officer or employee, such individual shall be removed from office or employment.".

Sec. 3. (a) Section 14 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 431m), as amended, is amended by adding at the end thereof the following new paragraph:

"The Federal Power Commission shall conduct an annual review of the rate structure of the Corporation with respect to the sale and resale of surplus power to determine if any change is necessary in such structure. Such review shall include, but not be limited to, an analysis of the efficiency of load factors and the relation of residential and industrial rates to cost of service. The Federal Power Commission shall submit its findings and recommendations to the board and the Tennessee Valley Authority Citizen Review Commission. If the Federal Power Commission determines that information other than that provided under this section is necessary to conduct such review, it shall make a request to the board for such information and the board is authorized and directed to provide such information.".

(b) The Federal Power Commission shall submit the first annual report required by the amendment made under subsection (a) of this section no later than one year following the date of enactment of the Tennessee Valley Citizen Review Act of 1975.

Sec. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. MONDALE:

S. 2741. A bill to establish a series of six regional presidential primaries at which the public may express its preference for the nomination of an individual for election to the office of President of the United States. Referred to the Committee on Rules and Administration.

REGIONAL PRESIDENTIAL PRIMARIES ACT OF 1975

Mr. MONDALE. Mr. President, the way in which we select Presidential candidates is indisputably one of the most important processes in our entire political system, but it is also, unfortunately, one of the most irrational. It has evolved over nearly 200 years without design, structure or purpose into a complex maze of State laws, party regulations and unwritten traditions. No other major nation chooses its leaders in such a chaotic manner and the question is whether we should continue to do so.

In their only serious lack of foresight, the Founding Fathers believed that political parties would not and should not play a role in the American political system. They provided instead that every 4 years the States would choose electors who, being acknowledged leaders in their communities and therefore learned in such matters, would wisely select the most qualified man to be President of the United States. It took less than a decade for the much-feared "factions" to appear, however, and not much longer for political parties to weave themselves forever into the political fabric of the new republic.

After experimenting with congressional caucuses to select their Presidential nominees, the parties soon adopted the uniquely American institution of the national nominating convention to do the job, and they have been at the heart of the process ever since. Parties have come and gone but the conventions have remained; the major changes in the last century have had almost exclusively to do with the manner in which the convention delegates were to be chosen.

Since the delegates would in turn select the nominee, their own selection was obviously the pivotal point of the process. The States opted for a wide variety of delegate selection procedures, some choosing precinct caucuses and State conventions, others choosing some kind of popular primary, and still others choosing some combination of these systems; no two States were—or are—exactly alike. Only seldom was it seriously argued that the Presidential nomination process was a national process that deserved a national design. It was viewed instead as a matter to be left exclusively to the States; to this day, neither the Congress nor the parties themselves have believed they could or should play more than a limited role in the process.

There are some people who believe that there is an accidental genius inherent in our present chaotic nominating process, that it provides a process of natural political selection which eliminates lesser candidates and which permits the more able and durable to survive. There may be something to this notion, but not much. It is a point usually made by those whose candidates have done well by the process and has thus crept into our political mythology. My own view is that it is often a mindless process from the candidates' perspective, too often a self-defeating one for the parties, and frequently an ineffective one for the Nation. A New York Times editorial summed it up this way:

> It is fatuous to describe as participatory democracy a nominating system that involves a wretchedly small proportion of the electorate, that in some states encourages Democrats to help choose Republican candidates and vice versa, that grossly distorts the significance of the first few primary contests in an election year and rewards with money and inordinate publicity the states that hold them. It is a system that, as now constituted, allows candidates to run in states where they expect to do well and avoid those where they can't, that turns the whole process into a contest for psychological momentum and that subjects a Presidential hopeful to a crazy guilt of conflicting rules, forbidding costs and a physically staggering campaign schedule.

I have been amazed at how little thoughtful discussion and analysis has been devoted to the process of running for the Presidency. It is a process, after all, at the very core of our governmental system, and yet there is an inexplicable absence of experienced and sophisticated literature on the manner in which we encourage or discourage Presidential candidates, on the burdens we impose upon them and the hurdles we erect in the path of their nomination and election, and on the relevance of these and other factors to the kind of Presidents we ultimately elect.

Until November, 1974, I spent a full year actively seeking the Democratic Presidential nomination. In the process I concluded that the manner in which we nominate and elect Presidential candidates is badly in need of fundamental and comprehensive review.

There are, as I see it, essentially four basic elements in the Presidential nominating process: the State primary and convention delegate selection structure; party rules and procedures governing the selection of delegates; the financing of Presidential campaigns; and the relationship of the candidates to the media. Too often, unfortunately, recent efforts to resolve difficulties in some of these areas have resulted in creating unforeseen difficulties in others. The nominating process desperately needs a comprehensive approach, one which attempts to consider problems in all of these areas and their relationships to the others, and which seeks to resolve them in a way that is most consistent with clearly defined and broadly agreed upon goals.

This process could be greatly assisted if President Ford, the first occupant of the White House whose Presidency has not been the product of an existing nominating process, would take the initiative. I would like to see him appoint, in consultation with the leadership of both parties, a broadly-based commission consisting of scholars, political figures and ordinary citizens to undertake an in-depth and comprehensive review of every aspect of our nominating process, to evaluate different alternatives, to explore the possibilities of widespread agreement on them, and to report back soon after the 1976 election. Without this kind of comprehensive national approach, I am convinced we will never achieve a rational and effective system. Nothing may come of such a commission, but I doubt it. Even if it proves impossible to agree on a new system, it is bound to produce a body of knowledge and experience which will tell us a great deal about what we have now and about how we might improve it. In any event, it is worth the effort, in my judgment, because the piecemeal, patchwork attempts at reform to date have not corrected the system's most serious shortcomings. I can think of no more worthy or appropriate undertaking in our Nation's 200th year as we celebrate the blessings of our democratic system than to begin a serious effort to improve one of the most important elements of that system.

It is in the interest of contributing to a national debate on this subject that I am today offering a proposal—which I realize cannot possibly be enacted for use in 1976—dealing with the structure of our Presidential primaries. Presidential candidates are confronted really with 55 different structures, each reflecting local biases and traditions and each unrelated to any comprehensible overall purpose or design. There is no rational basis for the schedule of primaries, for their timing, for the relationship of one to another, nor for the different statutory rules governing them. To complicate matters even more, the system is in a permanent state of flux.

There is also the question of how representative primaries are as they now exist. Is New Hampshire really a social, economic and political microcosm of the Nation? No one very seriously argues that it is, and yet New Hampshire casts an inordinate influence on the nominating process every 4 years simply because it holds the first primary. To a lesser degree the same point can be made about Florida and a number of other States. Every 4 years, it seems, several States engage in a frantic and unseemly competition to see whose primary will be first, only to be resolved by the New Hampshire Legislature meeting in emergency session to protect its favored position. New Hampshire is a wonderful State and I always enjoyed campaigning there, but no single State is sufficiently representative of the rest of the Nation to warrant its playing such a large and disproportionate role in the nomination process. The basic question is whether State boosterism and other equally irrelevant factors should continue to determine primary schedules, or whether there might not be a more rational national approach to the problem?

Despite the dramatic growth in the number of primaries, there are still many States which permit the selection of national delegates through individual participation in a combination of precinct caucuses and county, district and State conventions. This is the system we have had in Minnesota for many years and which has, all things considered, worked very well. It is one of the healthiest elements in our entire political process because it permits greater and more direct individual participation than any other system. If the current trend toward primaries continues, however, it may become an endangered political species.

Unfortunately, both the number and complexity of the rules imposed on these States by the Democratic Party are staggering. They are often also unfathomable. These rules largely accomplished their stated purpose of bringing greater openness and fairness to State delegate selection processes that badly needed both, but they have also regrettably prompted many States to opt for the relative simplicity of primaries and thereby hastened that unfortunate trend. As a result, the traditional blend of primary and convention States is becoming seriously out of balance.

It is much easier to criticize the present nominating system than it is to come up with an alternative which corrects its many faults. Because of the Constitutional nature of our political system and because every reform we attempt invariably brings with it unintended effects, it is impossible to devise a perfect system. It may even be impossible to devise a good system. But it should be possible to come up with a system that is far superior to the one we have at present.

Before looking at alternatives, however, it is necessary to consider what we want to achieve in a nominating process. Here are some of the things I would like to see it contain:

It should retain as its cornerstone the national nominating convention which has served effectively as a vehicle for national intra-party conciliation and for giving the parties whatever degree of national identity they now have.

It should offer the broadest possible range of candidates, and it should encourage or at least make possible the serious consideration of candidates who have neither the wealth nor the name recognition to be taken seriously at the outset.

It should encourage the broadest and most direct possible participation by those persons who seek to affect their parties' candidates and policies, but it should limit participation to those who choose to affiliate with that party.

It should structure State primaries and conventions in a way that recognizes that candidates cannot contest for delegates in every State in the Nation, and yet which will permit and perhaps even require each candidate to contest for delegates in a representative number of States in all parts of the country.

It should provide a difficult but fair test of the candidates' judgment, appeal to different sections of the country, and even his stamina and ability to perform under pressure.

It should above all be a national design, which permits no single State or region to cast an undue influence on the outcome and which focuses the candidates' and the country's attention on national concerns.

The acceptance of these criteria would obviously preclude adoption of a national primary system, which some people believe is the answer to the problem. A national primary would seriously if not completely undermine the value of the national conventions. It would also, I fear, give an inordinate advantage to those candidates who are already well known and who have greater access to campaign funds; it would virtually preclude consideration of lesser known candidates. Too much would depend on a single roll of the dice, if you will, which presents a number of obvious dangers.

My own strong preference is for a series of regional primaries which would be modest in its approach and simple in its design. The bill I am introducing today would divide the States and territories of the United States into six regions, each of which would hold its Presidential primaries on one of six designated Tuesdays between late March and mid-June of Presidential election years. The six election dates, which are separated from one another by 2-week intervals, would be assigned by lot to the six regions by the Federal Elections Commission 5 months before the first primary, that is, in late October of the preceding year.

It would still be up to the States to determine whether or not to hold Presidential primaries, but if a State elected to hold one it must be held on the date assigned to that State's region by the FEC. States would retain the right to determine the particular type of primary they wish to have, how candidates qualify for inclusion on the ballot, whether the delegates elected would be legally bound to vote for a particular candidate and other matters traditionally left to the States, except that: First, voters in State Presidential primaries would only be allowed to participate in the party of their registered affiliation, and second, States would be prohibited from listing the names of delegate candidates on the primary ballot without indicating which Presidential candidate, if any, he or she is pledged to support.

Finally, each candidate for his or her party's Presidential nomination who has qualified for and intends to receive Federal matching funds must agree to have his or her name entered on the ballot of at least one State primary in each of the six regions.

That is the bill in its entirety. Unlike other regional and national Presidential primary proposals, the imposition on traditional State prerogatives is minimal. States have been left to devise their own primaries except for: First, their timing, second, limiting participation in them to party adherents and third, requiring the appearance of the Presidential candidates' names on the ballot. The bill is an attempt to blend traditional State procedures with those requirements which are essential if some degree of order, fairness and rationality are to be brought to the overall process.

There were three criteria used in assigning States to one region or another: population, even distribution of primaries among regions, and community of interest. Each of the regions has approximately the same number of electoral votes, ranging from 84 to 95. Each region contains at least four States currently offering Presidential primaries and no region contains more than six such States. Community of interest is more difficult to delineate, but here too an effort has been made to achieve balance. It is entirely possible that a better division of States and territories could be devised using these criteria, and if so I would be pleased to adapt my plan accordingly.

There are several advantages that would result from the adoption of this proposal, in my judgment.

It would eliminate the disproportionate and unfair advantage which a few States now hold in the Presidential nominating process by virtue of their being held either very early or very late in the process, and it would also eliminate the unseemly race every 4 years to determine which State will hold that year's first-in-the-Nation primary. However representative of the Nation a particular State may be and however virtuous and knowledgeable that State's voters may be, no single State deserves to exercise such extraordinary and continuing influence on the nominating process out of all proportion to its size as has been the case in recent years.

There is no proposal, of course, which can be guaranteed to give each State a degree of influence exactly proportionate to its size. The best that can be done is to eliminate the inequities as far as possible and leave the rest up to chance. That is why I propose that the Federal Elections Commission draw lots to determine the order of the regional primaries, because there is absolutely no other fair way to do so; each region is just as important as the others and therefore the drawing of lots seems the only equitable way of determining order.

Also, this plan will compress the entire primary period into a shorter period of time and it will conserve the candidates' energies and resources. It will shorten the present primary season by approximately 1 month and thus hopefully hold the Nation's interest and attention at a higher level during that important period.

And the shortened time period together with the regional breakdown will also allow the candidates to concentrate their own time and funds more economically within each region. Although this benefit could be exaggerated, it will be welcomed by candidates and their travveling parties who all too often must spend inordinate amounts of time on transcontinental flights in order to campaign in primaries thousands of miles apart but on the same day. For example, on June 8, 1976, there will be primaries in four important States—Arkansas, California, New Jersey, and Ohio—in four separate regions of the country. Since there are four other scattered primaries 1 week earlier, it will be virtually impossible for any candidate to campaign effectively for more than one or two of the June 8 primaries.

This proposal will also offer a greater opportunity for public attention to be focused on the particular concerns of each region. For at least 2 weeks each region will have the media's and the Nation's undivided attention. Whether the issue is the use of water in the West, farm prices in the Midwest, or unemployment in the Northeast, the candidates' positions on legitimate regional concerns will have a greater chance to be heard and to be closely examined than is now possible.

There is great value also, I believe, in requiring each candidate who receives public campaign financing to have his name entered in at least one State primary in each region. There is no way to compel candidates to campaign actively in each region, of course, but at the very least each will be on record as agreeing to having his name entered in certain States and thus will have encouraged others to regard him as a serious candidate in those States.

Unlike a national primary and other regional primary plans, this proposal retains and hopefully strengthens the national convention as the cornerstone of the Presidential nominating process. I believe strongly that national conventions are essential for the reconciliation of regional and other differences and for the achievement of party unity once a nominee is selected. There is no guarantee a convention will bring about that result, of course, but without a convention there is very little hope indeed of bringing it about.

The convention as well as the nominating process as a whole will be immeasurably strengthened, in my judgment, by eliminating the possibility of crossover voting, that is, allowing registered Republicans to vote in Democratic primaries and vice versa. Even though only a few States permit this phenomenon, there is nothing perfidious and destructive of party responsibility in our nominating procedures. It is, simply, an invitation for mischief which can only distort the accuracy of a party's expressed preferences. There is absolutely no legal or other justification for crossover voting and it deserves to be eliminated altogether.

The same could be said of State laws which permit voters to cast their ballots for delegate candidates without any printed indication on the ballot of which Presidential candidate the delegate candidate supports. This practice can only be regarded as a subversion of the representative purpose of Presidential primaries and, although it is not widespread, it ought to be prohibited. Simply stated, people deserve to know which Presidential candidate they are really voting for.

Perhaps the greatest benefit offered by this proposal, however, is the degree of order and rationality it will bring to the Presidential nominating process. Selecting a nominee for President is, after all, a national process; it deserves a national structure. At present there is no structure whatsoever. There are instead 55 separate structures, each unrelated to the others and often seemingly unrelated to the ostensible goal of selecting the party's best candidate as its nominee.

I do not suggest that a regional primary system such as this is a perfect structure. It is not. But I believe it is vastly preferable to the irrational and chaotic system we now have and also vastly preferable to the other regional and national primary plans I have seen, most of which eliminate or at least weaken the role of the national convention.

I would not be disappointed if the adoption of this proposal resulted in a reduction of the number of States electing to hold primaries, because there are already too many of them in my judgment. If the proliferation of primaries continues, we will soon have a fragmented form of national primary without ever having adopted it as a matter of national policy.

It is my own belief that our national nominating process should be a blend of States holding preferential primaries and States using the caucus/convention system of electing convention delegates such as my own State of Minnesota. But this combination is now seriously out of balance and it shows no sign of getting any better. I would hope, however, that the adoption of a plan such as this would move some States which have recently enacted primary laws to reconsider and revert to the caucus/convention system. Since no single primary State would be allowed under this plan to stand uniquely apart from other States, but would be compelled instead to share with them the commercial, publicity and other benefits that they have previously enjoyed, perhaps the idea of holding a primary will be less attractive. This is not one of the primary purposes of the bill, but I would be pleased if it were one of its effects.

Happily, there will be an opportunity in 1976 to observe a regional primary on a very limited basis. The States of Oregon, Idaho, and Nevada have all agreed to hold their Presidential primaries on May 25 in order to further the concept of regional primaries. Although it would be a mistake to expect too much from such a limited experiment, hopefully it will add significantly to our experience and knowledge, as well as add impetus to what I sense is a steadily growing demand for a regional primary system that encompasses the whole country.

For 200 years, Mr. President, we have

avoided making a national decision on the question of how to select our Presidential nominees. I cannot think of any process more important to the Nation, and therefore I am at a loss to understand how we can continue to leave it in a continually changing state of chaos, disorder, and irrationality. I cannot guarantee that this bill, if adopted, will result in better Presidents being elected, but I believe it is worth the effort. If order, fairness, and rationality are qualities we strive to bring to other elements of our national life, then why not to this one as well? If we do, I believe we will do no worse than we have done up till now and hopefully do much better.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2741

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Regional Presidential Primaries Act of 1975".

Sec. 2. The Congress finds that—

(1) the numerous elections held by States for the expression of a preference for the nomination of individuals for election to the office of the President of the United States are conducted without any semblance of order,

(2) the conventions held by national political parties for the purpose of nominating candidates for election to the offices of the President and the Vice President are vital to the process of selecting such candidates for national office, and

(3) in order to preserve the effectiveness of the presidential election process and to provide for the public welfare of the Nation, Congress must regulate certain parts of the process for selecting candidates to the office of President.

Sec. 3. (a) No State shall conduct a presidential primary except in accordance with the provisions of this Act.

(b) Six regional presidential primaries shall be held during each presidential election year. The first regional primary shall be held on the last Tuesday in March, and the remaining five regional primaries shall be held on the second and fourth Tuesdays in April and May, and on the second Tuesday in June, respectively. On the last Tuesday in October in each year immediately preceding a presidential election year, the Commission shall determine by lot the date on which each regional presidential primary is to be held. A State may not hold a presidential primary on a date other than the date assigned by the Commission to the region in which such State is located.

(c) A State which conducts a presidential primary shall conduct that primary in accordance with laws of the State with the following exceptions:

(1) Each voter shall be eligible to vote only for a candidate for nomination by the party of that voter's registered affiliation, or if a State provides for registration as an independent, a voter registered as an independent may vote only for one candidate for nomination by a party with which such voter is not affiliated. If the law of any State makes no provision for the registration of voters by party affiliation, voters in that State shall register their party affiliation in accordance with procedures prescribed by the Attorney General in consultation with the Federal Elections Commission.

(2) Each ballot in an election for the selection of delegates to a national nominating convention of a national political party shall indicate the candidate of such party, if any, for whom each individual seeking the position of delegate is committed to vote at such convention. If an individual seeking the position of delegate is not committed to vote for any candidate, the ballot shall indicate that such individual is uncommitted.

(d) Whenever the Attorney General has reason to believe that a State is holding a presidential primary in violation of the provisions of this section, he may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

Sec. 4. In order to be eligible to receive any payments under section 9037 of the Internal Revenue Code of 1954, a candidate of a political party in a presidential primary shall, in writing—

(1) agree to have his name entered on the ballot of at least one State primary in each of the six regions established by this Act; and

(2) notify the Commission, not later than the last presidential primary filing date within a particular region, which primary he intends to enter within that region.

Sec. 5. For purposes of this Act, the term—

(1) "candidate" means an individual who seeks nomination for election to be President of the United States;

(2) "Commission" means the Federal Election Commission;

(3) "presidential primary" means an election for the expression of a preference for the nomination of individuals for election to the office of President of the United States or for the selection of delegates to a national nominating convention of a political party;

(4) "region" means any of the following six regions:

(A) Region 1 comprises Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont.

(B) Region 2 comprises Delaware, District of Columbia, Indiana, Maryland, Ohio, Pennsylvania, and West Virginia.

(C) Region 3 comprises Alabama, Canal Zone, Florida, Georgia, Kentucky, Puerto Rico, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and Virgin Islands.

(D) Region 4 comprises Iowa, Illinois, Michigan, Minnesota, Montana, North Dakota, South Dakota, and Wisconsin.

(E) Region 5 comprises Arkansas, Colorado, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, and Texas.

(F) Region 6 comprises Alaska, Arizona, California, Guam, Hawaii, Idaho, Oregon, Nevada, Utah, Washington, and Wyoming.

(5) "State" means the 50 States of the United States and the District of Columbia and the territories of the Canal Zone, Guam, Puerto Rico, and the Virgin Islands.

Sec. 6. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. EAGLETON (for himself, Mr. Magnuson, and Mr. Jackson):

S. 2742. A bill to dedicate the Chesapeake and Ohio Canal National Historical Park to Justice William O. Douglas in grateful recognition of his contributions to the people of the United States. Referred to the Committee on Interior and Insular Affairs.

Mr. EAGLETON. Mr. President, Senators Magnuson, Jackson and I today introduce a bill to dedicate the Chesapeake and Ohio Canal National Historical Park to retired Associate Justice of the U.S. Supreme Court William O. Douglas.

This bill will require that the words "Dedicated to Justice William O. Douglas" be prominently displayed on all existing and future signs bearing the name "Chesapeake and Ohio Canal National Historical Park" or any abbreviation thereof. It also authorizes the Secretary of the Interior to take such other appropriate actions as may be necessary to call to the attention of the public the fact that the canal park has been dedicated to Justice Douglas.

Justice Douglas was appointed to the Supreme Court by President Franklin D. Roosevelt on April 17, 1938. When he retired on November 12 of this year he had been sitting on the Supreme Court for 36 years—the longest tenure in the history of this country.

Preceding his appointment to the Court, William O. Douglas acted as a valued confidant of President Roosevelt. He was one of the bright young people who came to Washington in the 1930's who were collectively known as New Dealers.

Justice Douglas' career on the bench was but one aspect of his life as a public servant. From 1937 to 1939 he was Chairman of the Securities and Exchange Commission. Prior to his Chairmanship Justice Douglas served as a member of the Commission and also as the staff director of a Commission study.

At the age of 26 Justice Douglas became a faculty member of the Columbia Law School, where he taught for 4 years. He was also a member of the faculty at the Yale Law School for 8 years.

Justice Douglas is a prolific writer who has published over 30 books and numerous magazine articles. His travels around the world frequently became the subjects of his writing.

The day after his retirement from the Court, when asked how he would like to be remembered, he replied:

> I hope to be remembered as someone who made the Earth a little more beautiful.

His work as conservationist was, apparently, his most prized accomplishment.

Since his boyhood hikes in the Cascade Mountains in his home State of Washington, Justice Douglas has maintained a deep attachment to the land. At the age of 28 he turned down the offer of a substantial position with a top Wall Street law firm—passing up certain wealth. In his autobiography he explains his decision by saying:

> I looked around at the older men in my profession and I knew I didn't want to be like any of them. They couldn't climb a mountain, couldn't tie a dry fly; they knew nothing about the world that was closest to me, the real world, the natural world.

Justice Douglas devoted a considerable part of his life to the preservation of the environment. He spoke, wrote and became involved in many crusades to save rivers, lakes and trees across the country. In Hartford, Wash., he helped form a protest group to stop a dam which would wipe out some of the spawning grounds of the Chinook salmon and wintering areas for thousands of ducks and Canadian honkers. In eastern Kentucky he helped save the Red River Gorge from being flooded by a dam. In Arkansas, he ran the Buffalo River to dramatize the need to preserve the river bottom from a dam. In Allerton Park, Ill., he worked to prevent a dam from being built on the Sangamon River.

Justice Douglas' preservation of the Chesapeake and Ohio Canal, which runs west of Washington, D.C. along the north bank of the Potomac River, is probably his preeminent single accomplishment. In 1954 plans had matured to convert the C. & O. Canal into a highway. In a letter to the Washington Post, urging preservation of the Canal, Justice Douglas said:

> The stretch of 185 miles of country from Washington, D.C. to Cumberland, Maryland is one of the most fascinating and picturesque in the nation ... It is a refuge, a place of retreat, a long stretch of quiet and peace at the Capitol's back door ... a place not yet marred by the roar of wheels and the sound of horns ...

In his letter to the Post he proposed an 8-day hike down the length of the canal to expose its natural values. The Justice's hike attracted the attention of the radio and television networks and heightened public interest in the canal as a recreational property. Following the hike the Washington Post, the National Park Service and sentiment on Capitol Hill reversed—the highway was stopped. In 1971 a bill was passed making the canal a national historical park.

Today, the C. & O. Canal National Historical Park is an extraordinary recreational park enjoyed by thousands of Americans. Without the work of Justice Douglas, this would certainly not be the case. Dedication of the canal to Justice Douglas is an appropriate gesture.

According to the National Park Service there are between 120 and 150 signs which bear the name Chesapeake and Ohio Canal National Historical Park or an abbreviation thereof. If the signs are cut at an appropriate place and another piece of wood is inserted bearing the words "Dedicated to Justice William O. Douglas" the cost would be approximately $20,000. Replacement of all the signs would cost $50,000.

Certainly the dedication of the C. & O. Canal to Justice Douglas is a small tribute to so eminent a public servant. The body of law which bears his imprint—particularly as regards first amendment protection for the citizen—will be a truly appropriate tribute to an extraordinary jurist. The millions of trees and hundreds of waterways which owe their existence to him will be the suitable tribute to a resolute conservationist. The improvement of cross-cultural understanding and international harmony will be the proper tribute to his travels and writing.

Mr. President, all of the organizations associated with the Chesapeake and Ohio Canal National Historical Park have offered their endorsement of this legislation. At this time I ask unanimous consent to have printed in the RECORD letters which I have received from the Secretary of the U.S. Department of the Interior Thomas S. Kleppe, the Chesapeake and Ohio Canal National Historical Park Commission, the Chesapeake and Ohio Canal Association, the Canal and River Rights Council, the Friends of the Earth, the Izaak Walton League of America, the National Audubon Society, the National Parks and Conservation Association, the National Wildlife Federation, the Defenders of Wildlife, and the Wilderness Society.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., December 3, 1975.
Hon. THOMAS F. EAGLETON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR EAGLETON: I appreciate your giving us the opportunity to review your proposal to dedicate the Chesapeake and Ohio Canal National Historical Park to retired Associate Justice William O. Douglas.

I am advised by the National Park Service that the cost of revising approximately 150 signs in the Park as the bill describes would be about $15,000. Further, it is my understanding that the C&O Canal National Historical Park Commission has endorsed your proposal.

I would agree that the dedication of this Park, which is so important to Justice Douglas, would be a fitting tribute to his environmental concern.

Sincererly yours,
TOM KLEPPE,
Secretary of the Interior.

CHESAPEAKE AND OHIO CANAL
NATIONAL HISTORICAL PARK COMMISSION,
Glen Echo, Md., December 4, 1975.
Hon. THOMAS F. EAGLETON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR EAGLETON: The C & O Canal National Park Commission is pleased to support your proposed legislation to dedicate the C & O Canal National Historical Park to Justice William O. Douglas in grateful recognition of his contributions to the people of the United States. We deeply appreciate your desire to honor Mr. Justice Douglas in this appropriate way, and we are gratified to know that Senators Jackson and Magnuson will join you as major co-sponsors of the legislation.

It is right that the name of William O. Douglas be associated formally and permanently with that of the C & O Canal National Historical Park. The Canal is a national park rather than a highway due in great measure to Justice Douglas' tireless, persistent, and inspirational efforts to preserve it.

It is also right that present and future generations know of the seventeen-year struggle to preserve the Canal in national park status, and the preeminent role Justice Douglas played in that struggle. We therefore wish to suggest that the National Park Service develop an interpretive program to bring this story to the public. The national visitor to the Park should know why the Canal is dedicated to Justice Douglas. It is a story well known to conservationists and to the Washington area; it should also be known to all other visitors to the Park.

We hope that this legislation will also help to stimulate efforts to obtain additional funding for the C & O Canal, particularly for the aqueducts, the structures which prompted Justice Douglas and the Commission to recommend to the National Park Service that primary attention be given these architectural and engineering treasures when spending funds for the Canal. This was the first recommendation made by the Commission, specifically by Justice Douglas at the first Commission meeting.

We look forward to working with you on this significant legislation. With kindest regards.

Sincerely yours,
NANCY LONG,
Chairman.

CHESAPEAKE & OHIO CANAL
ASSOCIATION,
December 3, 1975.
Senator THOMAS EAGLETON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR EAGLETON: Twenty-one years ago, Justice William O. Douglas challenged the editor of the Washington Post to hike the length of the C&O Canal with him "and return a new man ... he would hear the roar of the wind in the thickets ... the whistling wings of ducks would make silence have new values for him."

The hike succeeded, and the Canal was saved from mutilation by a highway. In the tangled beauty of its neglected locks and culverts lay the work of quarrymen, masons, and generations of boatmen—men of humble origins like Justice Douglas himself.

As first president of the C&O Canal Association, and for seventeen years leader of its "reunion hikes," Justice Douglas was binding force and inspiration to the hundreds of ordinary people, young and old, who finally lobbied the C&O Canal National Historical Park into being.

With the preservation of the north bank of the Potomac River, half of Justice Douglas' dream for the Potomac Valley has been realized—and even now legislation is in the Congress to finish the job by preserving the "strange islands and promontories" of the south bank.

The C&O Canal Association is pleased that you and Senators Jackson and Magnuson have chosen to honor Justice Douglas. We urge the speedy passage of your bill.

Sincerely,
BARBARA S. YEAMAN,
(For the Board of Directors).

DECEMBER 3, 1975.
Senator THOMAS EAGLETON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR EAGLETON: In reading the Congressional Record of November 19, I was delighted that many of the Congressmen who paid tribute to Justice Douglas cited his dissenting opinion in "Sierra Club v. Rogers C. B. Morton" (1972).

In arguing that "the inanimate object about to be dispoiled" should have standing before federal agencies and courts, Mr. Douglas was quick to point out who should represent it: "those people who have so frequented the place as to know its values and wonders will be able to speak for the entire ecological community".

For the C&O Canal, its wild creatures and old memories, and the countless hikers, fishermen, and young lovers who are its guardians, Justice Douglas filled just that role: having "walked the canal in its full length," he came back to plead its cause "with the eloquence of a John Muir"—for seventeen long years.

We are pleased that you and Senators Jackson and Magnuson have chosen to honor Justice Douglas by joining his name to the Canal and Valley that he loves, and we urge the prompt passage of your bill.

We also pray that the Congress will protect the Canal's integrity by passing legislation now before it to preserve the south bank of the Potomac River—another great interest of Justice Douglas'.

Sincerely,

EDWIN F. WESELY, Jr.,
Director, Canal and River Rights Council.

FRIENDS OF THE EARTH,
Washington, D.C., December 3, 1975.
Hon. THOMAS EAGLETON,
Hon. WARREN MAGNUSON,
Hon. HENRY JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATORS: Friends of the Earth, with fourteen affiliate organizations in other nations, and 29,000 members in the United States lends enthusiastic support to the proposed legislation to honor former Supreme Court Justice William O. Douglas by dedicating the C and O Canal Historical Park in his name.

Justice Douglas has been a longtime advocate of natural areas and of environmental protection. The nation owes him a very large measure of gratitude for the sensitivity he has shown to environmental protection in his judicial decisions.

There is no more fitting honor for him than for his name to be forever memorialized in a Park that he has done so much to create and maintain.

Sincerely,

DAVID R. BROWER,
President.

THE IZAAK WALTON
LEAGUE OF AMERICA,
December 3, 1975.
Senator THOMAS EAGLETON,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR: The Izaak Walton League of America is happy to support your efforts to see the Chesapeake and Ohio National Historical Park dedicated to Justice William O. Douglas.

Justice Douglas' efforts to preserve the C & O Canal are well known to us and he richly deserves such recognition.

You are to be commended for this splendid proposal.

Cordially,

JACK LORENZ,
Executive Director.

NATIONAL AUDUBON SOCIETY,
Washington, D.C., December 3, 1975.
Senator THOMAS EAGLETON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR EAGLETON: We were delighted to learn that you, Senator Jackson and Senator Magnuson plan to introduce legislation to dedicate the C & O Canal to Justice William O. Douglas.

This is certainly an appropriate tribute to an eminent conservationist who has made so many important contributions to the cause of protecting the environment. We hope the Senate will take prompt action on this measure.

Sincerely,

CYNTHIA E. WILSON,
Washington Representative.

NATIONAL PARKS & CONSERVATION
ASSOCIATION,
Washington, D.C., December 3, 1975.
Hon. THOMAS F. EAGLETON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR EAGLETON: Thank you for your invitation to join in the endorsement of the dedication of the C&O Canal National Historical Park to Justice William O. Douglas.

I need hardly comment that Justice Douglas is one of America's great conservationists. His magnificent historical contribution to the protection of the C&O Canal and surrounding lands has been one of the milestones of his spectacular environmental career.

His friends revere him also as a great jurist and humanitarian.

It is indeed satisfying that the historical C&O Canal which he has loved so much and done so much to protect should be dedicated in his honor, and we of the National Parks and Conservation Association, and I personally are happy to be able to join in this dedication.

Cordially yours,

ANTHONY WAYNE SMITH,
President and General Counsel.

NATIONAL WILDLIFE FEDERATION,
Washington, D.C., December 3, 1975.
Hon. THOMAS F. EAGLETON,
Dirksen Building,
Washington, D.C.

DEAR SENATOR: We are extremely pleased to learn that you and Senators Henry M. Jackson (Wash.) and Warren G. Magnuson (Wash.) are co-sponsoring a move to dedicate the Chesapeake and Ohio National Historic Park to former Supreme Court Justice William O. Douglas.

The National Wildlife Federation long has admired and respected Justice Douglas for his many significant contributions to the cause of conservation while serving on the highest court for such a long period. Dedication of this park to him would appear to be particularly appropriate because of his long association with it and we offer our congratulations upon this action.

Sincerely,

THOMAS L. KIMBALL,
Executive Vice President.

DEFENDERS OF WILDLIFE,
December 4, 1975.
Hon. THOMAS F. EAGLETON,
U.S. Senator, Dirksen Office Building,
Washington, D.C.

DEAR SENATOR EAGLETON: Pursuant to your request, Defenders of Wildlife is pleased to comment on the proposal to dedicate the C & O Canal National Historical Park as a tribute to the career of former Supreme Court Justice William O. Douglas.

Your proposal was received at Defenders with enthusiasm and gratitude. On behalf of our nationwide membership, we fully support your efforts to redesignate this national preserve in the name of Justice Douglas. Coming close on the heels of his departure from Washington, D.C., this action stands as both a tribute and farewell to an individual whose brilliance has long since become legendary.

Widely known for his sensitivity to environmental values and commitment to conservation principles, Justice Douglas compiled a record unparalleled in the history of the Supreme Court. His contribution through more than three decades and seven Presidential administrations has been unerringly devoted to promoting qualitative improvements in American life.

To fully capture and preserve the dimensions of this man's career with any tangible memorial is of course impossible. However, the impact of his work is quite appropriately symbolized by the C & O Canal—the park he fought to save and publicized so effectively with his 1954 walk. Further, because we can never repay what he has given to the nation, rededicating the canal is simply one way of saying Thank You, Justice William O. Douglas.

Sincerely,

TOBY COOPER,
Wildlife Program Coordinator.

THE WILDERNESS SOCIETY,
Washington, D.C., December 4, 1975.
Hon. THOMAS F. EAGLETON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR EAGLETON: We appreciate the invitation to comment on legislation pertaining to the Chesapeake and Ohio Canal National Historical Park.

The Wilderness Society warmly commends your good effort to legislatively secure the dedication of the Park to former Supreme Court Justice William O. Douglas. Such an honor is greatly deserved, and we are pleased to join in the acclaim properly due Justice Douglas for his many years of dedicated and effective leadership in establishing this great Park.

Sincerely,

STEWART M. BRANDBORG,
Executive Director.

THE IZAAK WALTON LEAGUE OF AMERICA,
December 3, 1975.
Senator THOMAS EAGLETON,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR: The Izaak Walton League of America is happy to support your efforts to see the Chesapeake and Ohio National Historic Park dedicated to Justice William O. Douglas.

Justice Douglas' efforts to preserve the C&O Canal are well known to us and he richly deserves such recognition.

You are to be commended for this splendid proposal.

Cordially,

JACK LORENZ,
Executive Director.

Mr. EAGLETON. Mr. President, I ask unanimous consent that a statement by the distinguished Senator from Washington (Mr. JACKSON), who is a cosponsor of this bill, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR JACKSON

I am glad to join my distinguished colleague from Missouri, Senator Eagleton, in co-sponsoring legislation which would dedicate the Chesapeake and Ohio National Historic Park to its long time friend and most ardent supporter—Justice William O. Douglas, who retired last month from the Supreme Court after over 36 years of service.

Most of us are well aware of Justice Douglas' unwavering defense of our First Amendment freedoms of speech, press, religion, and assembly. He will always be remembered for his zealous protection of these rights during his tenure on the Court. But as dedicated as Justice Douglas has been to the high principles of freedom and individual liberty, his energies have demanded other interests. One such interest, from which all of us and generations to follow will benefit, is his long time love for the land and the environment.

As a young boy, Bill Douglas was afflicted with polio. In order to strengthen and rebuild his legs, he began hiking in the foothills of the beautiful Cascade Mountains near his home in Washington State. Thus began a life-long respect for this Nation's mountains, rivers, trails, streams, and the quality of life in general. William O. Douglas has been a staunch defender of our wildlife and the environment; a defense which has manifested itself in words and actions both on and off the Court.

Justice Douglas' opinion in *U.S. v. Standard Oil*, 384 U.S. 224, (1966) made it clear that the Court would not allow technicalities to offset the intent of Congress relative to pollution of the Nation's waterways. His dissent in *Sierra Club vs. Morton*, 405 U.S. 727, (1972), the famous Mineral King Case, sets forth his philosophy that the environment should have standing to bring suit against inlividuals and organizations which threaten its existence.

The language of his dissent is worth quoting today because it reflects so well his deep-seated concern for the environment:

"Inanimate objects are sometimes parties in litigation. A ship has a legal personality, a fiction found useful for maritime purposes. The corporation soul—a creature of ecclesiastical law—is an acceptable adversary and large fortunes ride on its cases. The ordinary corporation is a "person" for purposes of the adjudicatory processes, whether it represents proprietary, spiritual, aesthetic, or charitable causes.

"So it should be as respects valleys, alpine meadows, rivers, lakes, estuaries, beaches, ridges, groves of trees, swampland, or even air that feels the destructive pressures of modern technology and modern life. The river, for example, is the living symbol of all the life it sustains or nourishes—fish, aquatic insects, water ouzels, otter, fisher, deer, elk, bear, and all other animals, including man, who are dependent on it or who enjoy it for its sight, its sound, or its life. The river as plaintiff speaks for the ecological unit of life that is part of it. Those people who have a meaningful relation to that body of water—whether it be a fisherman, a canoeist, a zoologist, or a logger—must be able to speak for the values which the river represents and which are threatened with destruction. . . ."

His books—*Of Men and Mountains* (1950), *My Wilderness: East to Katahdin* (1953, and *My Wilderness: The Pacific West* (1961)—helped call attention to the need for a national wilderness preservation system. Enactment of the Wilderness Act coincided with yet another inspiring work—*A Wilderness Bill of Rights* (1965).

Justice Douglas is nearly as well known for his personal environmental activities as for his judicial and literary accomplishments in the field. He has aided many important environmental causes in my own State of Washington including the development of the North Cascades National Park. I am also certain that he is mindful and appreciates efforts currently underway to establish another beautiful recreation area in his beloved Cascades—the Alpine Lakes Wilderness Area. But perhaps the most vivid reminder of Justice Douglas' energy and dedication in the area of environmental protection is the Chesapeake and Ohio National Historic Park, located only a few miles from this Chamber.

Twenty-one years ago, Bill Douglas, then a youthful 55, led a footsore band on a seven-day hike the length of the C & O Canal, winding 184 miles down the Allegheny foothills from Cumberland, Maryland, to Washington. Of the 56 starters, only Douglas and eight others finished, but their trek ignited a citizen's protest that effectively thwarted plans to turn the scenic canal route into an asphalt freeway. This original group of hikers formed the Chesapeake and Ohio Canal Association whose purpose was to publicize and promote efforts to preserve the C & O Canal through legislation. By 1960, through the efforts of Justice Douglas and other members of the Association, the Canal had been designated a National Monument. Over a decade later, on January 8, 1971, legislation creating the C & O Canal National Historical Park ws signed into law.

Justice Douglas' efforts to save the Canal did not stop with its designation as a National Park. He and his wife have continued to join yearly Canal hikes which have attracted hundreds of participants and supporters. In June of 1972, tropical storm Agnes flooded the East Coast with seven days and nights of rain devastating the Canal and 20 acres of adjacent parkland. Again, Justice Douglas led the fight, pressing the need for the funds necessary to get the Canal back in shape. Most recently, in April of 1974, he and the Association sponsored an eleven day, 20th anniversary hike along the picturesque Canal thus culminating a twenty-year effort to protect this bit of our Nation's heritage.

A few years ago, several hundred conservationists gathered for a "victory" hike along an eleven-mile stretch of the Canal to celebrate its recent National Park designation. Justice Douglas used the occasion to issue a warning to the hikers and at the same time express his true feelings for the Park. He said:

"Today is not a time to celebrate the new status of the C & O Canal. Our concern should be—how is it going to be molded? We can make it a great show place in a metropolitan region. This is not Mount Everest, but backyard stuff—for the people."

I can think of no more fitting tribute to Bill Douglas than to dedicate this Park to him. Because of the Justice's tireless efforts, this scenic, narrow, 184 mile long stretch of America will be preserved forever—for the people.

I congratulate Senator Eagleton on his initiative in making this proposal and hope that the Senate will endorse this legislation in the near future.

By Mr. BROCK:

S. 2744. A bill to establish a procedure under which proposed regulations of the Secretary of Health, Education, and Welfare, to implement the Social Security Act, will be submitted to appropriate Congressional committees for study and review, and under which either House of Congress, by adopting a resolution of disapproval, can prevent any such regulation from taking effect. Referred to the Committee on Finance.

Mr. BROCK. Mr. President, today, I am going to introduce a companion measure to my rulemaking bill, S. 2258. The bill I am introducing today will apply the principles of my rulemaking bill to the Social Security Act. I have expressed great concern about executive rulemaking under the Social Security Act and its amendments.

I hope the Reports, Accounting, and Management Subcommittee of the Government Operations Committee and the Senate Finance Committee, Subcommittee on Health, will review S. 2258 and the Finance Committee the bill I introduce today. The time for action has come. Congress must live up to its responsibilities.

I ask unanimous consent that the bill—a proposed amendment to the Social Security Act—and my statement on S. 2258, which was submitted to the House Judiciary Committee's Subcommittee on Administrative Law and Governmental Relations be printed in the Record.

There being no objection, the statement and bill were ordered to be printed in the Record, as follows:

STATEMENT BY SENATOR BILL BROCK

Thank you Mr. Chairman.

Today, I am here to testify in favor of my rulemaking bill, S. 2258, and Mr. Del Clawson's companion bill H.R. 8231, which has been introduced in the House of Representatives. I ask that S. 2258 and H.R. 8231 be printed at the end of my testimony.

My bill, S. 2258, has been referred to the Senate Government Operations Committee and in turn to my Subcommittee on Reports, Accounting, and Management. Del Clawson's bill has been referred jointly to the House Rules Committee and the Committee on the Judiciary. The House bill now has over 130 co-sponsors and I would like to announce that my bill has broad bi-partisan support for instance, Senators Muskie, Helms, Huddleston, Young, Eastland, Fong, etc.

Let me quote from an article by Meg Greenfield which originally appeared in Newsweek and was reprinted in the Washington Post. I found the article very interesting and well considered. It clearly points out correctly the dilemma which Congress and the President face today. "President Ford has been saying he intends to cut back the entangled growth of federal rules and regulations that are choking so many enterprises in American life. I wish him well. I do not think he has a hope of succeeding."

We must give the President some help and at the same time help ourselves—the Congress. My bill will assist in this effort.

In June of this year the New York Times in an Editorial noted that "The Federal Register, with its daily avalanche of new rules and regulations, is the highest authority in American medicine, instructing physicians increasingly as to whom they may treat, how they may treat, how long they may treat the patients in hospitals, what drugs they may prescribe, and what fees they may charge. This historic autonomy of the medical profession is fast disappearing; and as controls proliferate so does anger among physicians who rightly or wrongly, see themselves reduced in status and usefulness to their patients."

This type of overregulation must end. We all recognize that regulation is necessary, but we must strike the proper balance. Congressional review of rules and regulations will in my opinion be a giant step towards more responsible rulemaking.

Let me quote from a recent compilation by the Tennessee Hospital Association of congressional dissatisfaction with HEW regulatory actions and "blatant ignoring of congressional intent."

"The Subcommittee on Health of the House Committee on Ways and Means, chaired by Representative Dan Rostenkowski (D-Illinois), on June 12 held public hearings on proposed or final regulations promulgated by DHEW in connection with (1) utilization and review of procedures, (2) termination of the inpatient routine nursing salary cost differential, (3) recognition of prevailing charge increases for physicians and certain other services tied to economic indices, and (4) revision in the schedule of limits on hospital inpatient general routine service cost The Subcommittee on Health intends to examine these policies and their implementation in the light of Congressional intent relative to the conduct of the Medicare Program, the Subcommittee stated."

"Senator Herman Talmadge (D–Georgia) Chairman of the Senate Finance Health Subcommittee, in a major speech in April, alluded to possible creation through legislation of stronger administrative controls on the new subbureaucracy within DHEW charged with administration of Professional Standards Review. 'In the administrative area, we seem to have people running off in all directions making different decisions affecting the same doctor or hospital, or nursing home.'

"In the Congressional Record of June 19, (No. 97, Page 19686), Senator Henry Bellmon (R-Oklahoma) criticized DHEW regulations on intermediate care facilities as unjustified, unrealistic and not in accord with the intent of an amendment he originally sponsored.

"In the same issue of the Congressional Record, Representative Peter A. Peyser (R-

New York) urges DHEW to modify new HEW regulations which arbitrarily impose a three day limit on home visits by Medicaid beneficiaries in long term care facilities."

It is time to end government by bureaucratic edict! We are becoming a government of regulation, rather than a government of law.

Far too often agencies and departments of the Federal government have imposed rules and regulations which are contrary to legislative intent. My bill would require each rule or regulation to be presented to the Houses of Congress before they go into affect. It is the Constitutional responsibility of Congress to enact law, but in recent years, Congress has allowed the bureaucrats to create their own laws which may in no way mirror the intent of Congress.

Nobody elects anybody in HUD, HEW, SEC, ICC, or any other agency. They elect congressmen or women or a Senator who is their voice in Washington. What has been happening is that the Congress writes a law, passes it, the President signs it and hands that law to an agency.

The agency starts writing regulations that go beyond what was in that law. Either direct or implied, the agencies have taken upon themselves power that the Congress did not give them. And people are losing their rights under the Constitution because of some of these regulations. They are suffering a lack of due process of Constitutional protection. My bill would require that at the same time they published the regulation in the Federal Register for public comment; they (the agency or department) would send it to the Congress; and the Congress will automatically be given an opportunity to say no if that regulation does not reflect the true intent of the law. In other words, it would give us a right, those who write the laws, to be sure that laws are being enforced as we wrote them.

There is no wonder that most Americans feel they have lost control of their government. It appears to many that more laws are being created by the bureaucrats than Congress. I happen to share those beliefs.

The Federal Register, the "rule book" of the government in which all new laws, rules and regulations are printed is daily becoming impossible to read. Each day, dozens of new rules are made, or changes are made in old ones, or some agency tells the world that it has decided to do something else with an existing rule or regulation. The net effect of this is that by reading the Federal Register we can discover how government has come into control of daily lives and how the bureaucracy has come to rule the country.

What can be done about it? Several things. One is a measure S. 2258 which I have introduced in the Senate which will put an end to the "law-making" practices of governmental agencies and departments. This measure would allow disapproval by Congress of rules and regulations or changes which would be submitted to Congress with a report from the agency or department detailing a full explanation of the proposal. Either House of Congress then would have sixty days in which to pass a resolution disapproving in whole, or in part the proposal.

For too many years Congress has abdicated its lawmaking authority to the bureaucracy. Congress passes legislation almost daily which instructs the agencies to make their own rules, in effect, interpreting the intent of Congress. Far too many times the intent of Congress is entirely changed by the bureaucratic rules. It is time to halt the procedure.

Power still rests with the people. No one elects a bureaucrat. Government agencies still have their responsibilities to carry through the intent of Congress, if Congress is not willing to accept that responsibility on the rules and regulations written by the bureaucrats as I propose.

Let me give a few examples of the problems that the people—poor people, health care people, business people—of this country are faced with.

For instance, The National Advisory Council on Economic Opportunity note in their Eighth Annual Report (June 30, 1975) that "the Congressional intent for poverty programs sometimes has been thwarted by federal policy makers who have arbitrarily set rules and regulations of their own design. The most glaring example occured several years ago when Congress enacted provisions calculated to insure the involvement of local government with Community Action Agencies. However, OEO headquarters issued regulations that contained so many technical and difficult-to-fulfill regulations that it was virtually impossible for communities to set in motion the machinery that would accomplish the intent of the provision.

Several members of the Congress reported to the Council that they were aware of and deplored a number of regulations deliberately designed to circumvent legislative intent.

The Advisory Council respectfully urges that those charged with Congressional review carefully monitor the rules and regulations promulgated by agencies administering programs for the poor to insure that they comply with "legislative intent."

In a letter to me, dated August 15, 1975, the marketing director of a health products company for the animal industry (Masti-Kure Products Company) presents a particularly illustrative example of a situation that my bill would help correct.

"This company has been victimized almost beyond belief by the practice you seek to halt. For a viable, respected and growing small business with around 125 employees, we were reduced to the edge of bankruptcy and forced into a 38% lay-off by FDA action based on illegally promulgated regulations contrary to the intent expressed by Congress in the 1968 amendments to the F.D. and C. Act. Ample documentation exist for this allegation—even a public statement to this affect by the former General Counsel of F.D.A.

"In fact, our position has been upheld in three recent successive court decisions—once before the District Court for the District of Columbia and twice before the U.S. Court of Appeals. Other phases of the incredible effect on this company of FDA's illegal actions are still pending before the courts. We fully expect to prevail.

"Yet, the cost to us is staggering. We were forced deeply into debt to finance our struggle before the courts. Gratefully, because of the favorable decisions we are on the road to recovery. Nevertheless, harrassment by FDA continues unabated and we continue to sustain overwhelming legal fees to protect our rights. Our management personnel has continued to be diverted from their proper goals of providing the public with safe, quality products."

"You are quoted as aptly stating:

"Rule by bureaucratic edict has got to end. This is one way in which the people can again gain control of their government."

In my own state of Tennessee, Mid-Tenn Aviation through their operator, Melvin Romine of Dickson, Tennessee, makes note of a problem that often accompanies improper or over-regulation—increased record keeping and paperwork.

"Already many hours are put into keeping records for VA. Our tickets must be written in such a way that a VA representative can understand it. That our tickets must also show information that involves State and local taxes, Federal taxes, and insurance information, information that is important to our business does not interest the VA officials. We must not only keep up with the total number of hours and money used by each Veteran, but also separate the hours spent in each aircraft by each Veteran and also if it was dual or solo and total for each area. We have to keep a running monthly average of instruction and a running 30-day (not monthly) percent of VA time compared to non-VA students above private pilot and not Part 61. This program is so extensive and involved that the last time our records were checked by the VA Federal Representative, I had to help him investigate my own records. (He reached the point that he could not figure flight time and cost.) To make this program available to our community already involves too much of our time and paperwork that should be applied to other areas of our business."

Finally, the American Hospital Association lends support to Mr. Clawson's and my efforts in a recent publication.

"The American Hospital Association, representing some 7,000 health care institutions across the nation, is deeply concerned over the increasingly heavy burden imposed on our health care delivery system through administrative rule making procedures. In the health field alone there are a multiplicity of federal agencies and departments which issue regulations directly impacting upon the operations of our nation's hospitals. In our view, the system of federal rule making is largely uncoordinated and often arbitrary, and as a result, it creates a substantial cost and administrative burden which can have a deleterious effect on the capacity of health care institutions to provide high quality care to all citizens."

"We strongly believe that a formal mechanism of Congressional review of administrative rule making is a necessary and overdue reform of current procedures. We recognize the need to provide the executive agencies with the authority to implement our laws, but at the same time we see an equally compelling need to insure that administrative rule making does not exceed or subvert the intention of the Congress or impose burdens which are counter productive to the provision of adequate health care."

These case examples present just an introduction to the problem. I believe that Congress must face up to its responsibilities of Congressional oversight and enact a bill that will mandate Congressional review of bureaucratic rule making.

A detailed analysis, section by section, of my bill, S. 2258, follows:

Introductory language in Section 1 of my proposal stipulates that Executive Branch agencies must submit copies of any rule or regulation to be used in the administration or implementation of any law of the United States or any program established by or under such a law, or which otherwise proposes to make or replace any change in such a rule or regulation, to Congress together with a report containing an explanation of the instrument in question. The proposed rule, regulation, or change will become effective in sixty legislative days after it is submitted unless disapproved by either house of Congress.

The effect of this section is to provide the Legislative Branch the opportunity to guide administrative discretion deriving from legislative action. Congress, of course, may not abdicate its legislative function by delegating legislative power to the Executive Branch. What has been provided, in varying degrees of latitude, is administrative discretion which with one exception (The National Industrial Recovery Act of 1933, 48, Stat. 195), the Supreme Court has approved, diligently refraining from conceeding that the discretion conferred partakes of the law making function.

Section 2 of my proposal stipulates that Executive Branch rules and regulations would automatically go into affect sixty days after issuance unless (1) a resolution of disapproval were ratified in either House of Congress or (2) a concurrent resolution was adopted specifying an earlier effective date.

Section 2(c) of the proposal stipulates that (1) the action authorized is an exercise of Congressional rule making power and as such shall be considered as part of the rules of each house, and (2) sets forth procedure to be followed in the Congress for acting on a resolution introduced in conjunction with the provisions of the measure.

This section constitutes no impediment to good administration in that an action of disapproval—not approval—is necessary to alter the course of executive implementation. There is no delay or debate unless there is, indeed, some questionable aspects to the instruction at hand. Furthermore, in its disapproval action, Congress engages in a valid legislative action—voting on a resolution or concurrent resolution—rather than issuing some quasi-judicial advisory opinion or commentary.

Historical and legal precedence for the procedure followed in Section 2(c) may be found in over thirty measures that have been signed into law. I ask that these precedents be printed at the end of my testimony as they appear in The Jefferson's Manual.

Various questions have been raised about my rulemaking bill and its companion measure, Del Clawson's bill, in the House. For example, do the committees have the time and the resources to study the proposed rule and regulation? I feel that the answer to this question is yes! I took the total number of pages projected to be in The Federal Register, this year, 55,000 up from 45,422 last year, and divided it by the number of professional committee staff in the Congress (1,000 +). The answer was 55 pages per year for each professional committee staff member, less than two-tenths (.2) of a page per day or around a page a week. I admit that this is an estimate, but my point is that Congress can and should be on top of rule making by executive departments and regulatory agencies.

I strongly feel that it is part of our oversight responsibility to keep up with executive and regulatory agency promulgation of our laws. If we do not review these regulations, then we are abdicating our constitutional powers.

There is a general recognition that Congress is not doing enough oversight. Congress is now in a position where it must increase its oversight activity, if it wishes to retain a significant policy making role in our society.

In recent months, we have seen great strives being made in Congressional oversight.

The establishment of the Joint Study Commission on Budget Control along with the reporting of the Budget bills by the House Rules and the Senate Government Operations and Rules and Administration Committees followed by the passage of the Congressional Budget Bill by each House is an indication that the Congress is on the way to establishing additional vehicles for oversight. These new vehicles include the Congressional Budget Office, oversight subcommittees on each authorized committee in the House and an Office of Program Analysis within the General Accounting Office. My bill offers the next logical step in our efforts to regain the lost authority.

The particular technique of congressional oversight that my bill, S. 2258, uses is the congressional veto. As I have mentioned earlier this is a well established oversight technique. There are over 30 instances where this technique has been enacted into law.

I do not pretend that all the answers are currently known about the manner in which this legislation should be implemented. S. 2258 and its companion House bill contain the basic structural components for the needed reforms. But what we must do is study such issues as: the definition of rules, procedures and regulations; should prompt judicial action be mandated in challenges to the congressional veto under this bill, as we have done in the Federal Election Commission's legislation; and what time frame should we use for counting the days for executive, regulatory, congressional formulation and review of these rules and procedures? This is an especially knotty issue—we do not want to slow down the rule making process, but speed it up!

These and many other questions must be resolved by careful but prompt study.

I am hopeful that we will see this legislation enacted into law before the end of the Congress. The time has come for the Congress to stand up to the bureaucrats and say "We are back in the game. We want to make sure that our legislative intentions are implemented. And by working with us the people are going to be a lot better off!"

S. 2744

Be it enacted by the Senate and House of Representatives of the United of America in Congress assembled, That (a) part A of title IX of the Social Security Act is amended by adding at the end thereof the following new section:

"PROPOSED REGULATIONS TO BE SUBMITTED TO CONGRESSIONAL COMMITTEES

"SEC. 1132. (a)(1) Whenever the Secretary proposes to prescribe or place in effect any rule or regulation to be used in the administration or implementation of any provision of this Act, or proposes to make or place in effect any change in such a rule or regulation, he shall submit the proposed rule, regulation, or change, together with a report containing a full explanation thereof, to each standing committee, of the Senate and of the House of Representatives, which has legislative jurisdiction over the subject matter to which such proposed rule, regulation, or change relates.

"(2) Except as provided in subsection (b), any proposed rule, regulation, or change described in paragraph (1) shall become effective sixty legislative days after the date of its submission to the appropriate standing committees of the Congress as provided in such paragraph, or at such later time as may be provided in the rule, regulation, or change itself or in the report submitted therewith to such committees.

"(b)(1) No proposed rule, regulation, or change described in subsection (a)(1) shall be placed in effect if, within the sixty-day period described in subsection (a)(1), either House of Congress adopts a resolution in substance disapproving in whole or in part such rule, regulation, or change because it contains provisions which are contrary to law or inconsistent with the intent of the Congress, or because it goes beyond the mandate of the legislation which it is designed to implement or in the administration of which it is designed to be used.

"(2) Nothing in this section shall be construed to preclude the Congress, at any time during the sixty-day period described in paragraph (1), from adopting a concurrent resolution specifically approving in whole or in part the rule, regulation, or change involved; and upon the adoption of any such concurrent resolution, the rule, regulation, or change which is the subject of such resolution may become effective immediately.

"(3) The referral, reporting, and consideration under this subsection of any resolution with respect to a proposed rule, regulation, or change in either House of Congress shall be governed by the rules of that House which are applicable to other resolutions in similar circumstances.

"(4) As used in this section, the term 'legislative days' does not include any calendar day on which both Houses of Congress are not in session.

"(c) This section shall apply only with respect to proposed rules, regulations, and changes therein which (but for the enactment of this section) would take effect on or after the first day of the first month which begins after the date of enactment of this section.

"(d) The provisions of this section shall not apply to regulations dealing with agency management or personnel matters.

"(e) Whenever, after the date of enactment of this section, there is enacted any law which amends any provision of this Act over which the Secretary has administrative responsibilities, the Secretary shall, unless such law otherwise provides, promulgate and submit, in accordance with the provisions of this section, to the standing committees, referred to in subsection (a)(1), any regulations, rules, or changes in existing regulations or rules, which he intends to propose in the implementation or administration of such laws, within 90 days."

By Mr. KENNEDY:

S. 2745. A bill to extend and strengthen the Teacher Corps program, and for other purposes. Referred to the Committee on Labor and Public Welfare.

TEACHER CORPS AMENDMENTS OF 1975

Mr. KENNEDY. Mr. President, November marked the 10th anniversary of the enactment of the National Teacher Corps as part of the Higher Education Act.

Today, I am submitting legislation, the "Teacher Corps Amendments of 1975," to extend and expand this successful program. As in 1965, when the original act was created, Senator NELSON also is introducing a similar bill. Together, our bills, combined in the legislative process into one product, can assure continued success, continued benefit, and continued improvement in the quality of teaching in America.

The past decade has seen the Teacher Corps draw a new breed of teacher into the Nation's schools. They served in poverty area schools not because they were assigned to them but because they wanted to serve there.

They were young people with a desire to serve and a dedication to social justice.

Under the supervision of experienced teachers, more than 10,000 of these interns have brought their intelligence, their enthusiasm, and their capabilities to the area of greatest educational need in our land.

Nor did they come unattached. Each program involved a cooperative effort between institutions of higher education and local school authorities. The combination has helped many colleges and universities alter their past view of local school districts as objects to be experimented on rather than partners with whom to work together to improve the education of schoolchildren.

I believe this involvement must increase, not only through this program, but in all areas. We know that we have unresolved educational bottlenecks within local districts that impede the learning process. Part of the answer may come through increased involvement of higher education institutions in the local school districts.

The Teacher Corps provides one mechanism for that to occur.

As we look back for a basis on which to plan the future direction of the program, it is clear that the 5,000 experienced teachers who served as team leaders, supervisors, counselors, and colleagues to the Teacher Corps interns were an invaluable part of the total process.

They often spent many hours beyond the level required to help train, orient, and support the interns. Their evaluations also meant direct feedback on techniques, on flaws, and on successes.

I believe all concerned can be proud of the record of the past decade. The 10,000 teacher interns, the 5,000 experienced teachers, the 770 school districts with their local school boards and administrators and the 459 colleges and universities—they all helped produce a program that worked. And the program directors and administrators in the Office of Education also deserve commendation for their efforts.

I believe together they produced many excellent teachers who otherwise may never have sought the classroom, they tested and developed some new teaching methods and concepts that work, and most important, they tried and, in a number of cases, succeeded in making education an opportunity instead of a burden.

The fundamental goal of the Teacher Corps remains the strengthening of educational opportunities for the disadvantaged. In the ghettoes of the cities, in the barrios of the Southwest, in the Indian reservations of the West, in the hidden and isolated rural communities, the need for the Teacher Corps has not disappeared.

When President Johnson signed the original act into law, he said:

> . . . when you look into the faces of your students and your children and your grandchildren, tell them that you were there when it began. Tell them that a promise has been made to them.

The promise is still in the process of being kept. The need remains in Massachusetts and in Montana. It remains in our cities and in our rural towns.

I believe we need an expanded Teacher Corps to move us closer to the fulfillment of the promise.

The Teacher Corps has changed over the past decade. Coming into being when headlines told of a national teacher shortage, we now see headlines describing a teacher surplus. For that reason, the trend authorized by the Congress for an emphasis on recruiting present teachers for in-service participation in the Teacher Corps is important.

The National Advisory Council on the Education of Disadvantaged Children concluded that:

> Unless the in-service education of teachers becomes a stronger component of disadvantaged programs and teacher education, not only will the disadvantaged not be served in schools, but the overall capacity of schools to remain vital, resilient and strong will deteriorate.

For that reason, I believe this element of the program must continue and I have included in this bill legislation to help finance the participation of current teachers.

However, the in-service trend already has seen a seven fold increase in their ratio to preservice participants, a level which I believe perhaps has gone too far.

We still must recruit new teachers in urban and rural poverty areas, teachers with backgrounds that will reflect the students they will be teaching. Also, these teacher interns often are the most receptive to the new ideas, new concepts and new methods that are being developed on our campuses and at NIE. They will continue to be a dynamic part of the experimentation process, but one in which the new concept works to improve the learning of the children in the classroom.

Therefore, I have sought to protect a strong preservice component to the program.

Lasting improvements in our schools will not come overnight. They will not come in a decade through the efforts of the Teacher Corps alone. Change takes time. It takes hard work and it takes commitment. But the Teacher Corps can continue to be a part of that process.

The bill does the following:

It extends the program for 5 years.

It increases the authorization to $50 million in fiscal year 1977, $75 million in fiscal year 1978, and $100 million in each of the following 3 fiscal years. What should be emphasized is that the ultimate level of authorization in the bill is the same level of authorization 5 years ago. The need remains and I believe the past reductions in authorizations did not reflect accurately our national priorities.

It provides for increased planning, monitoring, evaluating and technical assistance to insure that we learn what is working in the classroom and what is not.

The bill requires increased participation by the local communities in planning and supporting the Teacher Corps project. The involvement of the parents and the communities ultimately is a crucial factor in seeing education improve in our poverty neighborhoods.

The bill provides reimbursements to school districts to help cover a portion of the cost of present teachers participating in the Teacher Corps program.

I testified on the legislation I had introduced and the legislation Senator Nelson had introduced to create a National Teacher Corps 10 years ago. I said then, and I continue to believe, that "if a good education is the key to a better future for the disadvantaged child, then a good teacher is the key to that education."

The Teacher Corps is one way to provide that key to open educational horizons for our children.

By Mr. JOHNSTON:

S. 2746. A bill to amend the Internal Revenue Code of 1954 to allow a deduction with respect to that portion of adoption expenses which are properly attributable to medical expenses incurred for the benefit of the adopted child. Referred to the Committee on Finance.

Mr. JOHNSTON. Mr. President, under present law a taxpayer who adopts a child is not permitted to deduct any portion of the cost of that adoption. Those costs are often quite significant, with adoption agency charges amounting to $1,000 or more in many instances. The high cost of adoption is attributable in large part to the medical care expenses for both the mother and child, which are generally included in adoption agency charges. The legislation that I am introducing today would allow a taxpayer to deduct that portion of adoption agency charges allocable to medical expenses. To the extent that such expenses are unascertainable, the legislation would allow a deduction of an amount equal to 75 percent of the adoption agency charges or $500, whichever is lower.

There is, I feel, a real need for this change, as our tax laws presently work an irrationally based discrimination against couples who adopt, as opposed to those who gave birth to, their children. Taxpayers in the latter category can deduct the medical expenses involved in birth, yet the same benefit is not accorded adopting parents despite the fact that the very same costs are included in adoption agency charges. Furthermore, medical insurance benefits are often available to parents to help defray the costs of childbirth. And beyond its discriminatory effects, the present law stands as a disincentive to adoption.

It has been estimated that there are 200,000 children in foster homes. Unfortunately, a widely disproportionate number of these children belong to racial and ethnic minorities. Obviously, the high cost of adoption makes it difficult and often impossible for minority couples to adopt children and thus contributes significantly to the problem of parentless children. By permitting a tax deduction for what amounts to a sizeable proportion of adoption charges, we can assist in remedying a situation in which an increasing number of children are orphans by virtue of the color of their skin or ethnic background.

Mr. President, this bill does not attempt a monumental social reform. It does not create a vast bureaucracy, nor will it cost a great deal of money. What it will do is impart a measure of fairness in our tax laws to those parents who adopt their children. It will also mean that many children otherwise destined in their early years to knowing only the loneliness of an orphanage will be able to enjoy the benefits of a mother's and a father's love. I appeal to the great humanity of this body in urging passage of this legislation.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 144

At the request of Mr. McClure, the Senator from Nebraska (Mr. Hruska) was added as a cosponsor of the bill (S. 144) to prohibit the banning of lead shot for hunting.

S. 1843

At the request of Mr. Dole, the Senator from Texas (Mr. Bentsen) was added as a cosponsor of the bill (S. 1843) to amend and clarify certain regulatory authorities of the Federal Government over work and activities in navigable waters.

S. 1878

At the request of Mr. Tower, the Senator from Texas (Mr. Bentsen) and the Senator from Arkansas (Mr. Bumpers) were added as copsonsors of the bill (S. 1878) to limit the jurisdiction of the Corps of Engineers through the definition of "navigable waters."

S. 2015

At the request of Mr. Eagleton, the Senator from Illinois (Mr. Stevenson) was added as a cosponsor of the bill (S. 2015) to amend title 39, United States Code, to assure that certain publications of institutions of higher education continue to qualify as second-class mail.

S. 2607

At the request of Mr. Hatfield, the Senator from California (Mr. Cranston) was added as a cosponsor of the bill (S. 2607) to lift the trade embargo against the Governments of North and South Vietnam.

S. 2608

At the request of Mr. Fannin, the Senator from Oregon (Mr. Hatfield) and the Senator from New Mexico (Mr. Domenici) were added as cosponsors of the bill (S. 2608) to provide certain tax incentives for the development of geothermal energy resources.

S. 2635

At the request of Mr. Hartke, the Senator from Kansas (Mr. Dole) was added as a cosponsor of the bill (S. 2635) to amend title 38, United States Code, to modify the pension program for veterans of the Mexico border period, World War I, World War II, the Korean conflict, and the Vietnam era and their survivors, and for other purposes.

SENATE JOINT RESOLUTION 76

At the request of Mr. Dole, the Senator from Alabama (Mr. Sparkman), the Senator from Kansas (Mr. Pearson), the Senator from Louisiana (Mr. Johnston), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Minnesota (Mr. Humphrey), the Senator from North Dakota (Mr. Young), the Senator from Oklahoma (Mr. Bartlett), the Senator from Rhode Island (Mr. Pell), the Senator from South Dakota (Mr. McGovern), and the Senator from West Virginia (Mr. Randolph) were added as cosponsors of the joint resolution (S.J. Res. 76) to designate a "National Beta Sigma Phi Week."

SENATE JOINT RESOLUTION 137

At the request of Mr. Tower, the Senator from Georgia (Mr. Nunn) and the Senator from Nevada (Mr. Laxalt) were added as cosponsors of the joint resolution (S.J. Res. 137) proposing an amendment to the Constitution of the United States to insure the right of students to attend their neighborhood public schools.

SENATE JOINT RESOLUTION 148

At the request of Mr. Brock, the Senator from North Dakota (Mr. Young), the Senators from Arizona (Mr. Goldwater and Mr. Fannin), and the Senators from North Carolina (Mr. Morgan and Mr. Helms) were added as cosponsors of the joint resolution (S.J. Res. 148) to clarify and reaffirm Government purchasing policies.

SENATE CONCURRENT RESOLUTION 66

At the request of Mr. Hatfield, the Senator from Connecticut (Mr. Weicker) was added as a cosponsor of the concurrent resolution (S. Con. Res. 66) declaring as national policy the right of food.

SENATE RESOLUTION 314—ORIGINAL RESOLUTION REPORTED AUTHORIZING CONSIDERATION OF S. 2711 PURSUANT TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974

(Referred to the Committee on the Budget.)

Mr. RANDOLPH. Mr. President, I report from the Committee on Public Works a resolution authorizing consideration of S. 2711 pursuant to section 303(c) of the Congressional Budget and Impoundment Control Act of 1974 and ask that it be referred to the Committee on the Budget.

The ACTING PRESIDENT pro tempore. The resolution will be received and, without objection, will be referred to the Committee on the Budget.

The resolution (S. Res. 314), which was referred to the Committee on the Budget, reads as follows:

S. Res. 314

Resolved, That the prohibition of section 303(a) of the Congressional Budget and Impoundment Control Act of 1974 as to the consideration by the Senate of legislation authorizing new budget authority for a fiscal year if such legislation is not reported to the Senate on or before May 15 preceding the beginning of such fiscal year be waived with respect to the "Federal-Aid Highway Act of 1975" (S. 2711) reported to the Senate by the Committee on Public Works on November 20 (legislative day, November 18), 1975. The waiver is necessary for the Senate to complete action on legislation which provides authorizations for the Federal-aid highway program for the transition quarter ending September 30, 1976, and fiscal years 1977 and 1978. The authorization of funds in S. 2711 does not increase program levels but maintains continuity in the highway program and allows the States to continue highway construction at reasonable levels.

The waiver is also necessary since legislative requirements in other programs under the jurisdiction of the Committee on Public Works will occupy the time of the Committee during the second session of the 94th Congress.

SENATE RESOLUTION 315—ORIGINAL RESOLUTION COMMENDING JOHNNY WOODEN FOR HIS CONTRIBUTION TO YOUTH

(Considered and agreed to.)

Mr. Hartke submitted the following resolution, which was considered and agreed to:

S. Res. 315

Resolved, That it is the sense of the Senate that Mr. Johnny Wooden be commended for his contribution to the youth, and indeed all citizens, of our Nation during his many years of participating in coaching basketball, a native American sport.

Sec. 2. The Secretary of the Senate shall transmit a copy of this resolution to Mr. Wooden.

SENATE RESOLUTION 316—ORIGINAL RESOLUTION REPORTED AUTHORIZING SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON THE DISTRICT OF COLUMBIA

(Referred to the Committee on Rules and Administration.)

Mr. EAGLETON, from the Committee on the District of Columbia, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. Res. 316

Resolved, That section 2 of Senate Resolution 30, Ninety-fourth Congress, agreed to July 26, 1975, is amended by striking out the amounts "$130,300" and "$7,000" and inserting in lieu thereof "$175,300" and "$45,000", respectively.

AMENDMENTS SUBMITTED FOR PRINTING

YOUTH CAMP SAFETY ACT—S. 422

AMENDMENT NO. 1179

(Ordered to be printed and to lie on the table.)

Mr. TAFT. Mr. President, I submit an amendment in the nature of a substitute to the bill (S. 422) to provide for the development and implementation of programs for youth camp safety. This amendment is identical to my proposal, S. 298, the Youth Camp Safety Act, which I introduced on January 21, 1975, with introductory remarks which appear on page 882 of the Record.

Mr. President, I ask unanimous consent that the amendment be printed in the Record, as follows:

Amendment No. 1179

Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

Section 1. This Act may be cited as the "Youth Camp Safety Act".

STATEMENT OF PURPOSE

Sec. 2. It is the purpose of this Act to protect and safeguard the health and well-being of young persons in day camps and resident camps, by providing for the development of standards for safe operation of such camps, and to provide Federal technical assistance and leadership to the States in developing programs for implementing safety standards for youth camps, thereby providing assurance to parents and interested citizens that youth camps meet minimum safety standards.

DEFINITIONS

Sec. 3. As used in this Act—

(1) The term "youth camp" means any parcel or parcels of land having the general characteristics and features of a camp as the term is generally understood, used wholly or in part for recreational or educational purposes and accommodating for profit or under philanthropic or charitable auspices five or more children under eighteen years of age, living apart from their relatives, parents, or legal guardians for a period of, or portions of, five days or more, and includes a site that is operated as a day camp or as a resident camp.

(2) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(3) The term "State" includes each of the several States and the District of Columbia.

YOUTH CAMP SAFETY STANDARDS

Sec. 4. (a) The Secretary, in consultation with—

(1) the Advisory Council on Youth Camp Safety established pursuant to section 9 of this Act,

(2) appropriate State officials, and

(3) representatives of appropriate public and private organizations,

shall develop youth camp safety standards directed toward safe operation of youth camps and related to such matters as—but not limited to—personnel qualifications for director and staff; ratio of staff to campers; sanitation and public health; personal health, first aid, and medical services; food handling and mass feeding; water supply and waste disposal; water safety, including swimming and boat equipment and practices; vehicle condition and operation; building and site design; condition of equipment; and condition of facilities and density of their use. In developing such standards, the Secretary and the Council shall undertake a study of existing State and local regulations and standards, and standards developed by private organizations, applicable to youth camp safety, including the enforcement of such State, local, and private regulations and standards.

(b) The Secretary shall within one year after the enactment of this Act promulgate regulations setting forth the standards developed pursuant to subsection (a). Such regulations may be revised from time to time as determined by the Secretary.

TECHNICAL ASSISTANCE TO STATES

SEC. 5. The Secretary may provide technical assistance to any State desiring to develop a youth camp safety program. Pursuant to this section the Secretary may—

(1) assist States in coordinating existing activities relating to youth camp safety;

(2) assist States in creating or designating an appropriate State agency which will be responsible for administration of a youth camp safety program; and

(3) assist States in developing programs to monitor compliance with youth camp safety standards.

STATE YOUTH CAMP SAFETY PROGRAMS

SEC. 6. (a) Any State desiring to authorize youth camps in the State to advertise compliance with Federal youth camp safety standards, shall submit to the Secretary a plan which—

(1) provides for the creation or designation of an appropriate State agency which will be the principal agency in the State responsible for administration of the youth camp safety program;

(2) provides for a State youth camp safety program which includes State-supervised annual inspections of youth camps and certification of those camps found to be in compliance with the youth camp safety standards developed pursuant to section 4;

(3) provides that camps certified as being in compliance with those standards will be authorized to advertise that fact through use of the statement "This camp has been certified by [the appropriate State agency] as meeting the Federal Youth Camp Safety Standards.";

(4) provides that any camp not so certified will be prohibited from advertising or otherwise implying that it meets such standards; and

(5) provides that the State will make such reports and provide such information to the Secretary as he determines to be necessary to carry out his duties under this Act.

(b) The Secretary shall approve a plan submitted by a State if he finds that it meets the requirements set forth in subsection (a).

FAILURE TO COMPLY WITH STATE PLAN

SEC. 7. In the case of any plan of a State approved by the Secretary pursuant to section 6, if the Secretary, after reasonable notice and opportunity for a hearing to the State agency responsible for administering such plan, finds that the plan has been so changed as no longer to comply with the provisions set forth in section 6(a) or that in the administration of the plan there has been a failure to comply substantially with any provision required by section 6(a) to be included in such plan, the Secretary shall suspend the approval of the plan of the State until the Secretary is satisfied there is no longer any such failure to comply, and shall so notify the State agency.

PENALTIES

SEC. 8. Whoever, being an officer, director, agent, or employee of a youth camp located in a State which does not have a plan approved pursuant to section 6 and who uses or causes to be used any advertisement or statement which indicates that such camp is in compliance with the Federal youth camp safety standards is guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than $1,000.

ADVISORY COUNCIL ON YOUTH CAMP SAFETY

SEC. 9. (a) The Secretary shall establish in the Department of Health, Education, and Welfare an Advisory Council on Youth Camp Safety to advise and consult on policy matters relating to youth camp safety, particularly the promulgation of youth camp safety standards. The Council shall consist of the Secretary or his designate, who shall be Chairman, and eighteen members appointed by him, without regard to the civil service laws, from persons who are specially qualified by experience and competence to render such service. Prior to making such appointments, the Secretary shall consult with appropriate associations representing organized camping.

(b) The Secretary shall provide the Council with such technical, clerical, and administrative assistance as is necessary to carry out the functions of the Council.

(c) Members of the Advisory Council, while serving on business of the Advisory Council, shall receive compensation at a rate to be fixed by the Secretary, but not exceeding $100 per day, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(d) The Advisory Council shall cease to exist thirty days after publication of youth camp safety standards established pursuant to section 4.

ADMINISTRATION

SEC. 10. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress at least once each fiscal year a comprehensive and detailed report on the administration of this Act, including any changes which are planned in the youth camp safety standards.

(b) The Secretary is authorized to request directly from any department or agency of the Federal Government information, suggestions, estimates, and statistics needed to carry out his functions under this Act; and such department or agency is authorized to furnish such information, suggestions, estimates, and statistics directly to the Secretary.

AUTHORIZATION

SEC. 11. There are authorized to be appropriated to carry out the provisions of this Act $1,200,000 for the fiscal year ending June 30, 1975, and $1,200,000 for the fiscal year ending June 30, 1976.

NEW YORK CITY SEASONAL FINANCING ACT OF 1975—H.R. 10481

AMENDMENT NO. 1180

(Ordered to be printed and to lie on the table.)

Mr. EAGLETON (for himself and Mr. TAFT) submitted an amendment intended to be proposed by them, jointly, to the bill (H.R. 10481) to authorize the Secretary of the Treasury to provide seasonal financing for the city of New York.

AMENDMENT NO. 1181

(Ordered to be printed and to lie on the table.)

Mr. HARRY F. BYRD, JR. submitted an amendment intended to be proposed by him to the bill (H.R. 10481), supra.

AMENDMENTS NOS. 1183, 1184, AND 1185

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted three amendments intended to be proposed by him to the bill (H.R. 10481), supra.

AMENDMENTS NOS. 1190 THROUGH 1193

(Ordered to be printed and to lie on the table.)

Mr. HANSEN. Mr. President, in his November 26 statement proposing short-term loans to New York City, the President emphasized that under his plan "there will be no cost to the rest of the taxpayers of the United States."

To assure that the New York City aid plan will not be carried by the Nation's taxpayers, the President proposed a program of short-term Federal loans carrying an interest rate 1 percent above the Treasury borrowing rate. The loans were to be repaid when due or no further Federal loans were to be made, and the Secretary of Treasury could recover the amount of a loan in default by withholding Federal program funds to New York City.

I agree with the President: Under this arrangement the Nation's taxpayers would not have to pay the cost of assisting New York City. The Federal loans would be only short-term, would carry a fair interest rate, no additional loans would be made in the event of default, and the loans would be secured by authorizing the Secretary of Treasury to withhold pending and future Federal program funds to the city.

Mr. President, I believe that securing these loans by authorizing the Secretary of Treasury to withhold Federal program funds would be an important safeguard. In the event of default the Secretary could act quickly to recoup the loan security with the immediate withholding of Federal program funds. The ability to act quickly would encourage New York City to pay the Federal loan when due or face the effect of immediate withdrawal of other Federal program funds.

The ability of the Federal Government to act directly and without delay in the event of default is crucial not only to provide an additional stimulus for the city's prompt loan repayment, but also to assure that the loan security necessary to protect the Nation's taxpayers would be collected. Delay in withholding Federal program funds would make the concept of Federal loan security a myth. Under such a program of delay the Nation's taxpayers would surely have to carry the cost in the event New York City fails to repay a Federal loan.

Clearly, this is not the intent of the legislation before us. Yet, Mr. President, the bill before us has that effect.

The President's initial bill provided that the Secretary of Treasury would be authorized to withhold Federal program payments in th eevent of default. However, the bill before the Senate takes the power from the Secretary and provides that in the event of default, "(a)cts making appropriations may provide for the withholding" of Federal program payments.

Mr. President, this provision is almost meaningless as a form of loan security. If New York City defaults on a Federal loan, the appropriations process cannot deal with this problem, and provision for such an action as a means of loan security is merely a charade.

I assume it is envisioned that in the event of default on a Federal loan the appropriations process will reduce any appropriation intended for New York City by the amount of the loan which the city failed to repay. Mr. President, I cannot believe that this will work, nor even that in all seriousness it is intended to work.

By the method originally proposed by the President, the Secretary of Treasury would, in the event of default, immediately withhold Federal program payments. Under the method in the bill before the Senate, if New York City defaults nothing would occur immediately in an effort to collect the loan, but allegedly the appropriations process could eventually reduce the amount of Federal program or project appropriations to the city. Under this method there would be no immediate actual loss of Federal funds. It would take months for the appropriations process to affect New York City. Moreover, even when the appropriations process moves, the effect of that move will not be felt, in all probability for years thereafter. In sum, it may well be years before New York City would pay the price for its failure to repay a Federal loan.

Let us assume that New York City defaults on a $100 million loan. Under the loan security method in the bill before the Senate, the Appropriations Committee could conclude that if there had been no default New York City would have received $500 million in appropriations, but, because of the default, the $500 million would be reduced to $400 million. Aside from the fact that there would be no immediate threat of loss of program funds under a default, there is a very serious question of whether there will ever be any Federal recovery of the loan in default.

We all know too well that the appropriations process is not precise. The amount of Federal money a project or program will receive is much too subjective to allege that the final amount received will be reduced by the fixed amount of an outstanding debt. Moreover, it is difficult to assume the Appropriations Committee will make a diligent effort to make the proper deduction. While not intending any disrespect for the Committee on Appropriations, under the fine leadership of my friend, Senator MCCLELLAN, I do not believe it can be assumed that when the committee is working long after the fact of default, and surely having been presented a laundry list of pending pressing financial needs for New York City, a deduction as a result of a default will occur.

I therefore believe the bill before the Senate provides no real means to assure that in the event of the city's default on a Federal loan the American taxpayer will not have to carry the burden. Accordingly, I have submitted four amendments, any one of which I believe will remedy this problem.

Mr. President, amendment No. 1190 provides that the Secretary of Treasury has the authority and is required to withhold Federal payments to New York City in the event of default. Amendment No. 1191 provides the Secretary of Treasury with the same authority, but provides that he may exercise discretion whether to exercise that authority.

The final two amendments, No. 1192 and No. 1193, provide a compromise between the Secretary of Treasury and the Congress in the exercise of authority to recoup Federal money in the event of default. These amendments provide that in the event of default the Secretary of Treasury has the authority to devise a specific plan for the recoupment of Federal money. However, the Secretary must submit his plan to Congress, and it would become effective unless, prior to the expiration of 30 days of continuous session of the Congress after transmittal of the plan, first, either House passes a resolution stating in substance that it disapproves the plan; and, two, the Congress otherwise provides, by law, for the satisfaction of the claim.

The only difference between these last two amendments is that amendment No. 1192 provides that the Secretary is required, in the event of default, to devise a plan for recoupment of the amount of the Federal loan in default, whereas amendment No. 1193 provides the Secretary with discretion to act.

Mr. President, I send my amendments to the desk and ask that they be printed and lie on the table. I also ask unanimous consent that they be printed in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1190

On page 3, lines 13 and 14, strike out "Acts making appropriations may provide for the withholding of" and insert in lieu thereof "the Secretary shall withhold".

AMENDMENT No. 1191

On page 3, lines 13 and 14, strike out "Acts making appropriations may provide for the withholding of" and insert in lieu thereof "the Secretary may withhold".

AMENDMENT No. 1192

On page 3, line 5, after "Sec. 5." insert "(a)".

On page 3, lines 13 and 14, strike out "Acts making appropriations may provide for the withholding of" and insert in lieu thereof "the Secretary shall, subject to subsection (b), withhold".

On page 3, between lines 22 and 23, insert the following:

(b) Prior to withholding any payment from the United States to the city, either directly or through the State, to satisfy any claim the Secretary may have against the city pursuant to subsection (a), the Secretary shall transmit to the Congress his specific plan to accomplish this purpose. Such plan shall become effective upon the expiration of 30 days of continuous session of the Congress after transmittal of the plan unless prior to the expiration of such 30-day period—

(1) either House passes a resolution stating in substance that it disapproves the plan; and

(2) the Congress otherwise provides, by law, for the satisfaction of the claim.

The continuity of a session is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 30-day period.

AMENDMENT No. 1193

On page 3, line 5, after "Sec. 5." insert "(a)".

On page 3, lines 13 and 14, strike out "Acts making appropriations may provide for the withholding of" and insert in lieu thereof "the Secretary may withhold".

On page 3, between lines 22 and 23, insert the following:

(b) If the Secretary, pursuant to subsection (a), determines to withhold any payment from the United States to the city, either directly or through the State, to satisfy any claim the Secretary may have against the city, the Secretary shall transmit to the Congress his specific plan to accomplish this purpose. Such plan shall become effective upon the expiration of 30 days of continuous session of the Congress after transmittal of the plan unless prior to the expiration of such 30-day period—

(1) either House passes a resolution stating in substance that it disapproves the plan; and

(2) the Congress otherwise provides, by law, for the satisfaction of the claim.

The continuity of a session is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 30-day period.

FEDERAL-AID HIGHWAY ACT OF 1975—S. 2711

AMENDMENT NO. 1182

(Ordered to be printed and to lie on the table.)

Mr. DOMENICI. Mr. President, when the Senate considers S. 2711, the Federal-Aid Highway Act of 1975, I intend to offer an amendment that would allow localities to unilaterally submit highway projects to the Secretary of Transportation where States have failed to submit them within 1 year after program approval.

The origin of my amendment lies in my concern over the disappointing rate of obligation for the Federal-aid urbanized system. As of September of this year, only 30 percent, or $449 million of the over $1.4 billion available under the urban system program, has been obligated. This is in marked contrast to the primary and secondary systems which have been obligating funds as rapidly as they are apportioned. Needless to say, the rate of obligation for the urban systems falls far short of what Congress expected when it established the urban system program in 1970 and expanded it in 1973.

In proposing this amendment, I would like to stress two points. First, the power given to the cities is discretionary. In cases where a city receives State-matching funds and has a good working relationship with the State, a city could elect not to exercise the option of unilaterally submitting a project to DOT. Second, this amendment is designed to supplement several provisions already in S. 2711. Section 106(c)(3) and section 108 of the bill both contain amendments that place route and project selection under the urban system more fully under local control. My amendment represents a natural extension of these amendments by insuring that planning done at the local level bears fruit in the form of federally approved projects.

Mr. President, I ask unanimous consent that my amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1182

On page 22, strike out all in lines 5 and 6 and insert in lieu thereof the following:

PROJECT SELECTION FOR URBANIZED SYSTEM AND CONSTRUCTION ESTIMATES

SEC. 109. (a) Section 106(a) of title 23 of the United States Code is amended by inserting after the first sentence the following: "In the event the State highway department fails to make such submission for any project on the Federal-aid urbanized system within an urbanized area of 200,000 population or more within one year after program approval, the submission may be made by the appropriate local officials that selected such project pursuant to section 105(d), except that such officials shall not submit a project, approval of which would incur obligations in excess of the amount allocated to such urbanized area for the fiscal year for which such program approval has been given.".

(b) Section 106(c) of title 23, United States

200-MILE FISHERIES CONSERVATION ZONE—S. 961

AMENDMENTS NOS. 1186 THROUGH 1189

(Ordered to be printed and to lie on the table.)

Mr. STEVENS. Mr. President, today I would like to submit four amendments to S. 961, the bill to extend the fisheries conservation zone of the United States to 200 miles. Many opponents of S. 961 contend that the Law of the Sea negotiations are 90 percent complete and that there will be successful culmination of these negotiations within a year. They have repeatedly asked for the chance to conclude these negotiations before a unilateral extension of the U.S. fishery conservation zone is enforced against foreign fishermen.

Mr. President, I do not believe that S. 961 could be enforceable until about 1 year from its enactment in any event. After enactment the Governors of each State entitled to membership in a regional council must submit nominations to the President; the President in turn submits the names to the Senate where the nominations must be confirmed. The councils must then organize themselves, appoint staff and formulate their respective management plans and recommend regulations to the Secretary of Commerce. The Secretary then must promulgate the regulations. All these procedures must be carried out in compliance with the Administrative Procedures Act which insures that all interested parties will be afforded the constitutional guarantee of due process.

I am convinced that this process will take time—almost a year—before these management plans can be enforced. The amendments I am submitting today set out a time frame for the implementation of S. 961 and make clear what in my mind would be no enforcement of the provisions of this bill until at least January 1, 1977. Depending upon the inclination of the participants in the Law of the Sea Conference, this could allow for two more negotiating sessions in 1976.

I feel these amendments assure our negotiators the time should silence the objections of those who see the light at the end of the tunnel. S. 961 would not preempt the negotiations.

Mr. President, I ask unanimous consent that my amendments be printed in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1186

On page 54, line 11, after "shall" insert: "initiate action on the formulation of such management plans and recommended regulations not later than sixty days after the first day on which all initial members of the Council have been appointed and taken office, and shall".

AMENDMENT No. 1187

On page 70, between lines 3 and 4, insert the following:

"(d) Effective Date—Except as provided in subparagraph (e) of this subsection, the effective date of this act shall be the date of enactment.

(e) Enforcement Date—The provisions of this Act with respect to fishing within the fishery conservation zone and for anadromous species shall not be enforced until January 1, 1977."

AMENDMENT No. 1188

On page 51, between lines 6 and 7, insert the following:

"(4)(a) the governor of each state entitled to membership on a Council wishing to submit to the Preisdent, pursuant to this subsection, a list of names setting forth the individuals qualified to be appointed as members of such Council as representatives of each such state shall submit such a list to the President not later than 45 days after the date of enactment of this Act or March 15, 1976, whichever occurs last.

"(b) Presidential appointments pursuant to this subsection shall be sent to the Senate for confirmation no later than 90 days after the date of enactment of this Act of April 1, 1976, whichever occurs last."

AMENDMENT No. 1189

On page 54, line 4, insert the following: "(3) The Administrative Procedures Act shall be applicable to all proceedings in which management regulations are promulgated including proceedings of Regional Management Councils."

THE FOREIGN ASSISTANCE ACT—S. 2662

AMENDMENT NO. 1194

(Ordered to be printed and referred to the Committee on Foreign Relations.)

Mr. CLARK. Mr. President, in a speech before the Economic Club of Detroit on November 24, the Secretary of State warned that "the United States cannot remain indifferent" to Soviet and Cuban intervention in the Angolan civil war. There was, of course, a certain ambiguity to the phrase. Should the American public understand from the Secretary's remarks that he may recommend that the U.S. Government act unless the Russians and Cubans stop what they are doing in Angola?

Over the last few weeks a number of stories have appeared in the press describing an apparent sudden surge of Soviet activity in support of the Angolan MPLA movement. Other reports have disclosed the presence of units of the Zairian and South African armies and white mercenaries fighting with the two Angolan groups which oppose the MPLA.

But there is more to this picture than meets the eye. Outside involvement in Angola is not a recent phenomenon. It goes back at least to the early 1960's. Nevertheless, it is true that outside intervention in Angola has escalated considerably during the past few months. More recently, the Government of South Africa, undoubtedly encouraged by Secretary Kissinger's remarks, is reportedly seeking the overt backing of the United States for its own intervention in Angola.

Thus, I believe it is timely that the Secretary of State himself has called public attention to the problem of Angola. Moreover, I support his appeal to the Soviet Union to allow the Angolans to manage their own affairs. And I believe that the Secretary raises a legitimate question when he asks whether the Soviet Union's actions in Angola are consistent with détente. But such matters should not be left entirely to the executive branch.

The Congress should thoroughly examine the situation in Angola and determine what has happened and is happening. The Congress should have its own judgments on whether and how the U.S. interest is, or may be, involved in Angola. This cannot be done, however, and the public cannot comprehend the issues, unless we first cut through the ambiguous double negatives and lay the facts on the table.

If, as the Secretary suggests, "we cannot remain indifferent," about Angola, then the executive branch should come before the Congress, not the Economic Club of Detroit or the World Affairs Council of Pittsburgh to explain the facts and make its case. The Congress and the public are very poorly informed about the U.S. role in Angola. Opinions are being formed on the basis of partial and, what is worse, misleading reports. We have had too much of that in our recent history. This is as wrong today in the case of Angola as it was in the 1960's in Southeast Asia.

In order to correct this situation, I am submitting today a proposal which seeks to ensure that future decisionmaking regarding Angola takes place in full view of the public and with the participation of the Congress. Toward that end, I am introducing an amendment to S. 2662, the pending military and security assistance legislation. My amendment provides that funds or assistance may be provided to or expended on behalf of any individual, group or government in Angola only if specifically authorized under the Foreign Assistance Act of 1961. Congressional insistence that all expenditures for Angola be made under the Foreign Assistance Act would ensure a presentation of facts and rationale to the American public. The intent of the amendment is to transfer decisionmaking about Angola from a small secret executive branch committee to a forum where the public can participate.

This amendment does not seek to prejudge the issue of the U.S. role in Angola. It does not prohibit, encourage, condone, or condemn U.S. intervention there. Rather, it seeks to make the point that the regular congressionally established and monitored foreign assistance programs—both military and economic—would be the appropriate vehicles for the conduct of a policy of active involvement in Angola.

There is nothing in this amendment which would prevent the executive branch from submitting a specific request for Angola and from having that request considered right along with this amendment. Indeed, I would hope that if it is the intention of the executive branch to react to a real or imagined, new or old, Soviet initiative in Angola, it will first come before the Congress and make its case. In my view it would be wholly improper—even if I felt the objectives were sound—for the administration to spend 5 or 10 million, let alone tens of millions, dollars in Angola without the public's first being so informed and consulted.

What the administration should do, if it wishes to pursue a role of active intervention in Angola, and what my amendment seeks to compel it to do, is to come before the Congress, present its views, ask for money, and answer questions. It is essential, for example, that the Congress and the American people have the answers to questions such as these:

What does the administration believe we should do in Angola? Should we provide money, arms, communication equipment, logistic support, advisers, and propaganda support?

What, if anything, have we already done and what has it cost?

What is it that is now proposed to be done which would be different from past actions?

What would we expect our intervention to accomplish in terms of specific objectives and why, on the basis of past experience, do we believe that furnishing aid to groups of our own choosing now will enable them to improve upon their past performance?

What is the estimated cost of a U.S. effort to influence or control the flow of events in Angola? How far is the administration prepared to go in Angola in terms of dollars and the degree of U.S. involvement, either directly or indirectly? Do we propose to engage in joint efforts with Zaire? With South Africa?

Finally, are there to be any limits to our involvement? If, as the Secretary of State has suggested, Angola has an important bearing on U.S. relations with the Soviet Union, perhaps the Secretary of State is prepared to see American forces or advisers interposed against the Soviets in Africa. If this is the Secretary's view, the people should know. Such a view has been followed elsewhere in our recent past.

My amendment seeks to insure the Congress an opportunity to ask questions such as these—and to receive answers.

It seems that much of what we earlier feared about Angola is coming true. A discernable action and reaction cycle is at work. The effects of the conflict have already spread to neighboring countries.

It is not yet too late for us to understand what is happening in Angola. We must not lose sight of the origins of this conflict or lose our sense of perspective. We need no more secret wars and the amendment which I propose today is designed to insure that we will not have one in Angola.

I ask unanimous consent that the text of the amendment be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

On page 12, between lines 7 and 8, insert the following new section: Limitation on Certain Assistance to Angola:

SEC. 109. Chapter 3 of part III of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 665. LIMITATION ON CERTAIN ASSISTANCE TO ANGOLA.—Notwithstanding any other provision of law, no assistance may be furnished for military or paramilitary operations, or to provide police training, assistance, or advice, in, to, for, or on behalf of Angola or any individual, group, organization, or movement therein, unless such assistance is specifically authorized under this Act."

ANNOUNCEMENT OF HEARINGS ON THE CONGRESSIONAL LEGAL COUNSEL BEFORE THE COMMITTEE ON GOVERNMENT OPERATIONS

Mr. RIBICOFF. Mr. President, I wish to announce that the Committee on Government Operations will continue hearings on the Watergate Reorganization and Reform Act of 1975 (S. 495) Monday, December 8 beginning at 9:45 a.m. in room 3302, Dirksen Building. The committee will be considering proposals for a Congressional Legal Counsel. Specifically, the following bills are before the Committee: S. 495, S. 2036, and S. 2731.

Testimony will be heard from the following witnesses Monday, December 8: Senator ABOUREZK, Democrat of South Dakota; James Hamilton, an attorney with Ginsburg, Feldman and Bress of Washington, D.C., and former assistant chief counsel to the Watergate Committee; and Prof. Norman Dorsen, New York University School of Law.

Those wishing to comment on these proposals are invited to submit their comments or views to the Senate Government Operations Committee. The committee's office number is 224-4751.

NOTICE OF HEARINGS

Mr. STEVENSON. Mr. President, on December 9 and 10 the International Finance Subcommittee of the Committee on Banking, Housing and Urban Affairs will hold hearings on the recent United States-Soviet grain agreement; on S. 2492, a bill to subject such agreements to congressional review; and on the implications of such agreements for U.S. export control policy as expressed in the Export Administration Act.

The United States-Soviet grain agreement comes at a time when there is serious concern about the inadequacies of current U.S. agricultural policy. It is hailed by the administration as a major step in the direction of price and marketing stability. But it is seriously deficient. It could gravely impair reform of U.S. foreign agricultural policy. It erodes the President's authority under the Export Administration Act. And it was imposed on the United States without benefit of the congressional review which I proposed in S. 2492.

By failing to provide for access to Soviet crop information, by permitting Soviet sales of their own grains on world markets if purchases from the United States exceed needs, by failing to establish realistic protection for the United States in times of shortage, by the omission of any safeguards for traditional customers and for the poor nations of the world, and by its failure to involve the Soviets in commitments to world food reserves, the agreement could undermine efforts to maximize U.S. production and stabilize world agricultural trade.

For years the United States has been plagued by floundering agricultural policies. Surpluses which built up in the sixties, disappeared with aggressive foreign sales and disappointing crops in the seventies. The grain deal with the Soviet Union in 1972 left the U.S. larder empty, imposed crushing costs on U.S. meat and dairy producers, increased food prices, and contributed to pressures for the ill-advised soybean embargo in 1973.

Fluctuating farm prices, uncertainty over foreign markets, the vulnerability of farm incomes to falling farm prices and rising costs of production, and the absence of world food reserves to guard against mass starvation—all are symptomatic of the absence of a rational food policy—one which can be achieved only if the United States, as the world's largest food producer, exercises enlightened leadership. Yet we may have tied our hands with a one-sided agreement without anything in return, except, perhaps, an excuse for ignoring the serious long-term problems which we face.

The purpose of the hearings which the International Finance Subcommittee will hold next week is to explore the implications of the Soviet grain agreement for U.S. policy and to examine alternatives. Among the questions to be explored are: what precisely does the United States gain from the agreement; is the agreement enforceable; why does not the agreement require the Soviet Union to provide current and future crop forecasts; how good is U.S. intelligence on world food supply and demand; how can we expect rational production policy in the United States without more accurate assessments of Soviet crop projections and consumption objectives; what effect does the agreement have on negotiations for international grain reserves; what effect does the agreement have on the ability of the United States to meet its food supply commitments elsewhere; why was not an agreement on oil made a part of the agreement on grain; what effect does the agreement have on the President's responsibilities under the Export Administration Act in situations of short supply; what are the long-term prospects for adequate food production throughout the world; should the United States devise alternate ways—such as export license fees—to allocate scarce agricultural commodities; and do we need improved monitoring systems in order to identify changes in worldwide supply and demand.

Answers to these questions will help identify the failures of current U.S. policy. They will help point the way to alternates.

The need for reform is long overdue. The uncertainty caused by Government policy benefits no one and undermines U.S. authority and influence throughout the world.

The hearings will begin at 10 a.m. on December 9 and 9 a.m. on December 10 in room 5302, Dirksen Senate Office Building. Interested persons should contact Stanley J. Marcuss, Counsel to the Subcommittee at 202—224-8813.

ADDITIONAL STATEMENTS

AMBASSADOR DANIEL P. MOYNIHAN

Mr. RIBICOFF. Mr. President, the administration has come close to losing one of its most effective diplomats—our Ambassador to the United Nations, Daniel P. Moynihan. Ambassador Moynihan's departure was narrowly averted by a hasty show of support from President Ford 10 days ago. But the forces that threaten to discredit Ambassador Moynihan—forces within the administration as well as outside it—have not been dispelled.

Ambassador Moynihan has committed the mortal sin—the mortal diplomatic sin, apparently—of calling the shots as he sees them. It so happens that the way he is calling things is the way most Americans see them. And that is why the mention of his name evokes strong applause in any gathering; why he has become one of the most popular public officials in the Nation today; and why in this body he has been praised and quoted. And that is also why the administration could not afford to lose him, although there are those high in the administration who would find his departure convenient.

Basically, what Pat Moynihan has done is to blow the whistle on the United Nations, particularly, its Third World members. He has served notice that the United States will no longer suffer in seemingly helpless silence as taunts and insults are delivered by Third World countries. He has exposed much of what goes on in the U.N. General Assembly for what it is: a lot of hypocritical hot air. When he perceives that the United States has been hit rhetorically, he has hit back, and he has hit back hard—with eloquence, erudition, elegance and energy.

This posture and style were bound to make Pat Moynihan a center of controversy. President Ford knew as much when he appointed Moynihan. The policies advocated by Moynihan—the policies which have made him controversial—are the administration's own policies.

The latest round of controversy was triggered by Moynihan's strong advocacy of an especially important administration policy: opposition to the U.N.'s resolution equating Zionism with racism. Ambassador Moynihan led the free world in resisting the resolution. He argued movingly that it was not only wrong as a matter of history, logic, morality, and fact; but that it was dangerous because it would legitimize discrimination and persecution around the globe.

As I reread the speech that Ambassador Moynihan gave after the passage of this resolution, I cannot help but believe that his words will be given a prominent place in the annals of our time, and that he will be quoted for his poignant insights into the age we are entering. At stake here was more than one resolution or one religion. For the resolution gravely threatens this Nation's continued participation in the U.N. and the survival of that world body. And it presages in the long run an assault on our entire system of values and beliefs—on an ethic that we call Judeo-Christian.

The most damaging criticism of Ambassador Moynihan has come ironically from Great Britain's current representative at the U.N., Sir Ivor Richard, a statesman who has been a friend of the U.N. and the United States, and who has served his nation's foreign service with distinction. Sir Ivor gave his views in a speech to the Board of Directors of the United Nations Association of November 17, 1975. In his speech, a very personal rebuke of his U.N. colleague, Sir Ivor compared Ambassador Moynihan to Wyatt Earp at the OK Corral. He called for less confrontation and more patience. He apparently would have preferred that the United States, while resisting the resolution, go more quietly to defeat.

Ambassador Moynihan was given to understand that Sir Ivor's remarks had not displeased certain State Department officials, notably the Secretary of State, when the British gave prior signals that criticism of Moynihan would be made. When the remarks came, the Secretary of State stood mute. The administration did not offer on its own initiative any defense of its Ambassador. It left the Ambassador out on a limb, alone. It would have avoided comment altogether had the Ambassador not requested a clarification of his status. After an apparent threat of resignation, Moynihan received a gesture of support—not much more than a pat on the head—from President Ford.

Pat Moynihan has been treated shoddily, but the issue here is more important than Moynihan personally. There is the question, first, of the administration's continued support of the policies that Pat Moynihan has advocated at the U.N.—policies that the administration originated. Second, one has to question whether effective foreign policy can be executed with an administration that fails to back its diplomats and representatives. I urge both Secretary Kissinger and President Ford to declare unequivocally their support for Ambassador Moynihan at this very critical time.

URBAN-RURAL INTERDEPENDENCE

Mr. JAVITS. Mr. President, I would like to bring to the attention of my colleagues a speech recently given by Senator STAFFORD before the National Council for Urban Economic Development. The distinguished Senator from Vermont noted in his remarks:

> If we have learned anything from the developments of the last three decades—or from the crisis facing New York City and many other cities at this time—it is that the fate of the farms and the small towns and the suburbs and the big cities are interrelated—and interdependent.

For too long, many have failed to take cognizance of the importance of this principle.

Only recently has it become clear to many Americans that the fiscal crisis of New York City is not just an urban problem, but a State and national problem as well, requiring both State and national response.

Many of the issues confronting our Nation today may no longer be categorized as urban or rural, for they have profound implications for the lives of all Americans. My own State of New York, with the third largest rural population in the Nation, is an excellent example.

Responsible actions by the State in the face of New York City's fiscal crisis are indicative not only of the interdependence of our urban and rural citizens, but of the ability of political leaders from different regions to eschew parochial views in order to find solutions for the common good.

Senator STAFFORD eloquently examines the need for such urban-rural cooperation and while made before the President's seasonal loan proposal, my colleagues should have a better opportunity to review his remarks. I ask unanimous consent that the full text of Senator STAFFORD's speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

ADDRESS BY SENATOR ROBERT T. STAFFORD

It is most appropriate—and I hope even more that it is prophetic—that a United States Senator who represents the most rural of all of the 50 states should be invited to join with a group of distinguished specialists in urban affairs in a discussion of how to keep the cities of our nation healthy.

For, if we have learned anything from the developments of the last three decades—or from the crisis facing New York City and many other cities at this time—it is that the fate of the farms and the small towns and the suburbs and the big cities are interrelated—and interdependent.

I have been in this city too long to make any effort to pretend that I will be able to provide the instant wisdom in my brief remarks here today that will produce the solution to the many problems that plague our cities.

But, I do suggest that the first step in arriving at that solution will require that most of us in this room—and most officials at all levels of government—change our attitudes and our political habits in the way we have been going about our business.

Those attitudes and those habits developed as our nation developed.

Our nation is diverse. Our society is pluralistic.

We started with small settlements—small population units—and rapidly, almost explosively, grew to big cities.

Since then, we have been under the multiple tensions caused by the constant movement of people from the small unit to the big one; while at the same time people were moving from the center of the big city to its outer rim, then to the suburbs, and, most recently, even out to the countryside.

Let me remind you, as our nation nears the 200th anniversary of its birthday, that townships in my state have survived this process for 300 years. Other regions of the nation have other traditions and distinctions.

We are the United States of America. But, we are also formally divided into 50 different states. And, our states are divided into sections. In addition, at least so far as the 48 contiguous states are concerned, regions and subregions are superimposed over the formal boundary lines of the states.

It has been the conventional wisdom that those of us who labor in the fields of government and politics have had to reckon with, and respond to, regional and sectional appeals and pressures in the performance of our tasks.

Surely, this will always be one fact of our professional lives. And it will continue to be an appropriate one. It seems, however, that the time is long overdue for a change in the way this fact applies, since virtually everything else about our responsibilities has changed.

Every public opinion poll I have seen indicates that an overwhelming majority of Americans believe in our system of pluralistic democracy.

But, those same polls also tell us that, more than anything, Americans want that pluralistic democracy to work—to serve them.

One of the troubles with all of that is that the regionalism and the pluralism that provides so much of the strength of our nation also, at times, lead to antagonisms that have been accepted as part of our political and social balance sheets.

Surely, I don't have to detail many examples to this gathering. There is usually an urban-agrarian hostility. It may pit downstate Illinois against Chicago, or upstate New York against New York City. Or, even vast rural areas of the nation against New York City as some evidence suggests these days.

Geography, history, economics, culture and many other factors have combined in the formation of the great regions of our country: New England; the Middle-Atlantic Region; the Upper South; the Deep South; the Southwest; the Midwest; the Great Lakes Region; the Rocky Mountains Region; the Far West, and the Pacific Northwest.

Perhaps you have your own ideas on regional alignment, but it will be similar to that pattern.

Those of you who are urban specialists might say that Metropolitan New York City is a region by itself, or at least a regional city. New York City reaches into three states and across surrounding counties, and it is the center of the energies of millions of persons who work there, even though their homes are elsewhere.

Surely New York City is one of the great cities of the world, even if you wouldn't want to live there, yourself. Its force is a vital part of our nation.

The steady stream of young people who go to New York City to test their talents and to seek their careers brings a constant renewal of the American image.

Even as New York City receives this constant refreshment of talent and ideas and workers from the rest of the nation, it returns much to the nation in the form of its achievements in art, theater, radio and television, books and magazines, ideas and countless other intellectual and cultural efforts.

Perhaps it is because of this dual impact—its constant attraction of our young people and its seemingly endless production of new thought—that New York City is, at the very least, suspected and feared, and probably a little hated, by much of the rest of the United States.

In that regard, New York City may well be a good example of both the strengths and the hazards produced by our pluralistic system.

Which may be why so many people are either secretly a little sad or secretly a little happy to see this metropolis on its financial back.

That city's current plight is probably the result of a combination of its own mismanagement and of the forces imposed upon it by the way the federal, state and local governments have been doing business.

But, I do not want to join in the current popular pastime of seeking to place the blame for New York's ills. There will be a better time in the future for the careful examination needed to discover what went wrong—and how it can be prevented from recurring, in New York City and other cities.

I do want to say that I am prepared to support responsible and legitimate efforts to prevent New York City from going bankrupt. If that is not possible, I will support the President's proposal to assist the city after it goes into bankruptcy, even though I fear that may be more expensive and more burdensome over the long run.

I am prepared to support these efforts to assist New York City because I am convinced it is in the best interests of Vermont, as well as of New York, to do so.

I am not talking about bailing out New York City. I am talking about measures designed to force New York City to make necessary and fundamental reforms of its financial policies.

The measure approved by the Senate Banking Committee seems to me to have the elements necessary to achieve a national purpose. That bill would provide a maximum of $4 billion in federal guarantees of one-year securities isued to give the city time to put its financial house in order.

That proposal also carries with it a package of conditions so stringent that they may be unacceptable to New York City, but I fear those conditions are necessary to win support in the Congress.

All of this, of course, may be academic in view of the nature of the city's problem; in view of the threatened filibuster, and in view of the threatened Presidential veto. The only realistic option open to those who support federal assistance for New York City may be the proposed changes in the bankruptcy laws.

While New York City may suffer additional pain because so many Americans perceive that city to be so different from the rest of the nation, I suspect that perception is not shared broadly in this room.

I suspect that most urban specialists gathered here find they have much in common with each other, and possibly with those from New York City, despite the fact that you come from cities scattered across this nation.

I think that may also be true of the suburbs and the small towns that encircle our cities.

No matter where we live, no matter what our regional differences, we cannot be unaware that we are one nation and that we face many common problems and can agree on many national goals.

And, since we also share a common limit of our human and natural resources, perhaps the time has come to consider a change in our old political habits and to join in common cause for common achievement.

For those of you who are most concerned in the well being of our cities, I am sure it comes as no surprise that the rural bias in so many federal grant and aid programs is a reflection of the regional and political composition of the Congress of the United States, in general, and of the Senate in particular.

I can assure you that it has not been lost on me and my Senate colleague from Vermont that the votes we cast are the equal of the votes cast by the Senators from New York or from California.

What kind of change in attitude and in action, then, am I suggesting?

Perhaps I can explain it best by reviewing several pieces of major legislation under the jurisdiction of committees I serve as a member.

First, permit me to talk about transportation problems.

Many of our major cities are clogged by traffic and choked with pollution from cars and trucks trapped in that traffic.

That congestion and the reduced quality of life produced by it have contributed in a major fashion to the economic decline of many urban areas.

In the past, one response of the federal government has been to continue to build huge highways that deposited traffic jams on the doorsteps of cities, and often forced the construction of beltlines and inner-city highways that destroyed neighborhoods and generated more destructive traffic.

Several years ago, as the ranking Republican on the Senate Transportation Subcommittee, I joined in the successful effort to open up the Federal Highway Trust Fund to help pay for mass transportation systems in our cities. That same legislation also gave cities the option of trading in their Interstate Highway allocations for funds for alternate mass transit projects.

In my view, that legislation will be extremely helpful to many of our big cities in the long run. It will make many of the big cities more livable. That achievement will be in the best interests of Vermonters and other rural Americans for many reasons.

In meeting what I felt was my national responsibility in this matter, I did not overlook the direct needs of my rural state.

New York City needs an improved subway system. But, Vermont needs small bus systems to serve its citizens who live far from services and employment opportunities. Vermont also needs farm roads, for its own good as well as for that of the nation. Other rural states have similar needs.

Faced with limited resources to meet the needs of both the cities and the countryside, we have embarked upon an effort to apportion those resources fairly.

That effort will be tested regularly as we review our highway and mass transportation legislation, and time will tell whether we in the Congress are able to continue to change our traditional political response to meet changing conditions in the nation.

The conflict between environmental concerns and industrial growth and development provides another case study.

The great industrial and commercial centers of our nation must be permitted to grow—to build new and modern facilities. As a member of the Senate Subcommittee on Environmental Pollution, I have joined in the work on amendments to the Clean Air Act that will have an influence on how much—and what kind of—industrial and commercial growth will take place in our nation.

I agree with many of my urban colleagues that new factories are vital to the immediate economic health of their regions. I join willingly in the effort to permit that controlled growth.

But, in return I seek the cooperation of those colleagues in writing into the Clean Air legislation language that will restrain those plants from dumping pollution into the waters and the air of rural areas who depend on the quality of their environment for their economic strength and for the quality and the character of their lives. It will test changing attitudes.

As a member of the Senate Education Subcommittee, I have regularly joined with colleagues from urban states in drafting provisions that apportion federal aid to meet the singular problems of inner city schools.

At the same time, there are singular problems faced by rural schools, and it is important that my big city colleagues are as understanding of those concerns as they expect me to be of metropolitan problems.

In the matter of education, we have been more successful in changing old habits in our committee than we have been on the floor, but we have had enough successes to make me optimistic that needed changes will gain more support in the near future.

Let me not be misunderstood. I am not talking about traditional Congressional logrolling or back-scratching. The days of dealing on a quid pro quo basis on the assumption of a bottomless federal treasury are gone.

We are now dealing with difficult financial constraints that will force us to ration federal spending along lines of national interest and interdependence.

To be successful, we must break our old political habits that often put our vested, regional interests ahead of all other interests. If we are to survive and to prosper as a nation, both our cities and our countryside must be healthy.

Our great cities and their suburbs and the small towns and the farms are different places. The people who live in those places have different values and seek different goals in life.

At the same time, we are one nation and one people, and we depend upon each other.

We must strive to achieve a state of affairs in which people who prefer to live in cities will have livable cities in which to live, and in which rural Americans will have opportunties to support the life styles they prefer.

Vermonters and other rural Americans benefit when New York and other cities are made better places in which to live. And, city dwellers benefit when the quality of rural life is improved.

It is important for those of us in the Congress and in other branches of the Federal government to realize that times have changed, and that politics will have to change, also.

Just as it is important for those who serve our cities and our small towns to realize their interests may be better served by joining together, rather than by competing.

We hold each other's future in our hands.

FEDERAL FLOOD DILEMMA

Mr. EAGLETON. Mr. President, one of the most objectionable aspects of the Federal flood insurance program is its treatment of individual homeowners and businessmen who are unsuccessful in persuading their communities as a whole to adopt HUD land-use measures.

Such property owners not only are denied the right to buy insurance themselves, but are further penalized by loss of all forms of Federal construction aid, loss of all but emergency disaster assistance and—incredibly—denial of future private credit as well, if that credit is from a lending institution insured or in any way regulated by a Federal agency.

An individual caught up in this vicious web cannot obtain bank financing in order to sell his home.

He cannot use his property as collateral for a loan to send his son to college or his wife to the hospital.

He cannot obtain a bank loan to repair or improve the property.

And, he might not even be able to meet the terms of a prior Federal disaster loan and could face foreclosure as a result.

This latter situation was brought to my attention by a constituent who obtained a substantial disaster loan from the Farmers Home Administration to repair damage to his house caused by a 1973 flood. A condition of that loan is that he maintain the collateral property in A-1 condition.

It so happens that my constituent lives in one of the 247 Missouri communities that have been designated flood-prone but which have not agreed to adopt the required HUD land use and building standards.

My constituent very much wants to buy the insurance and is perfectly willing to comply with the HUD standards on his own property. But, he has not been able to convince the majority in his county—most of whom live in nonflood areas and are unaffected by the program—to accept Federal land use regulation. As a result, he is subject to the confiscatory penalties of this program.

Mr. President, my constituent is bound by contract with one Federal agency to maintain his property in good repair on pain of foreclosure. Yet, he is prevented by the operation of another, subsequent Federal program from obtaining private or public credit to make the repairs that may be needed. If there is anything more self-defeating than that, it could only be that if the Farmers Home Administration indeed does foreclose it will find itself with an unmarketable, virtually worthless property on its hands. For, no more than the previous owner, would it be able to sell the structure or to invest public funds in its repair and maintenance.

Until recently, I had regarded this provision of the law as only a gross injustice to the individual. But now I learn it is a gross stupidity as well.

No one knows how many Farmers Home Administration and Small Business Administration disaster loans could be affected by this situation, but there seems little doubt the number is substantial. In my own State of Missouri, there were more than 5,000 FmHA disaster loans in 1974, alone.

No one in the agencies involved seems to know exactly how they would respond when these situations arise as indicated by the letter from FmHA Administrator Frank Elliott which I ask unanimous consent to be printed at the conclusion of my remarks together with my letter to Mr. Elliott.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EAGLETON. The choices are limited and are not very appealing. The agency holding such a loan can do one of two things: First, it can foreclose on the unfortunate individual in which case the agency is left holding an unmarketable and deteriorating property; or, it can close its eyes to the situation and allow the property to deteriorate for want of repairs and quietly suffer the loss.

Mr. President, I have introduced legislation, S. 810, which would remedy the inequities of the flood insurance program and, incidentally, resolve the bureaucratic dilemma I have described.

Among other things, the bill would allow owners of any existing flood-plain property to buy insurance if he agrees to comply with relevant HUD building standards with respect to that property, but regardless of what his community as a whole might do. The Senate should have an opportunity before adjournment to act on S. 810 and I would hope that it will approve this important change in the program.

The articles follow:

[EXHIBIT 1]

U.S. DEPARTMENT OF AGRICULTURE,
FARMERS HOME ADMINISTRATION,
Washington, D.C.

Hon. THOMAS F. EAGLETON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR EAGLETON: This will reply to your letters concerning Farmers Home Administration (FmHA) loans in areas identified as having special flood hazards. You asked for certain information about FmHA loans in areas not participating in the National Flood Insurance Program and for possible ways a constituent could protect his property. Flood insurance is not available in some areas because elected officials of the community in which the property is located have not adopted land use and control measures required as a condition for participation in the National Flood Insurance Program.

The FmHA, prior to the passage of flood insurance laws, made a diligent effort to be sure that housing financed by this agency was located outside severe flood hazard areas. This action was taken to protect the interest of the borrower and the Government. While there may be some instances where this policy has not been followed because a flood prone area was not identified, we do not have information on the number or amount of loans secured by liens on property located in identified flood hazard areas. Furthermore, we do not identify and accumulate data on the type of disaster that damaged or destroyed a borrower's dwelling and entitled him to receive disaster assistance to repair or replace the property. We, therefore, are unable to provide the information you requested about the value of property securing FmHA loans in flood areas, the percentage of such properties with flood insurance, the net cost of FmHA flood disaster loans, or the percentage of flood disaster loans that were for repairs amounting to less than 50 percent of the market value of the home or business.

In cases where a borrower fails to maintain property securing an FmHA loan, we must determine whether the Government's financial interest would be best protected by continuing the loan with that borrower or whether the loan should be liquidated by transfer to another family or by voluntary conveyance or foreclosure. If the borrower's failure to maintain security property is caused by circumstances beyond his control, such as flooding or other natural disaster, we attempt to continue with the borrower by advancing funds to make emergency repairs needed to protect the property if this type action is determined to be appropriate. If, however, a borrower fails to maintain security property for reasons within his control, we have no alternative but to liquidate the loan.

We suggest that the constituent you mentioned and others should encourage their elected officials in the community in which they live to adopt and enforce the land use and control measures required to participate in the National Flood Insurance Program so that they may protect their property with flood insurance. We appreciate your interest in our rural housing program and regret that we are unable to provide much of the information you requested.

Sincerely,

FRANK B. ELLIOTT,
Administrator.

AUGUST 14, 1975.

MR. FRANK B. ELLIOTT,
Administrator, Farmers Home Administration, Washington, D.C.

DEAR MR. ELLIOTT: A potentially serious problem in the operation of the federal flood insurance program has been brought to my attention and I would like to have your comments. Briefly, this is the situation.

My constituent lives in a community which has refused to adopt the land use and control measures required as a condition of participating in the flood insurance program. He is, therefore, unable to buy insurance on his floodplain property. But, more than that, he is subject to several penalties as well. After July 1, 1975, he is ineligible for any form of federal assistance for construction, repair, improvement, or acquisition of property in the flood-designated area, including subsidization of mortgage; ineligible for similar credit from banks, credit unions and savings and loan associations which are insured or supervised in any way by a federal agency, and ineligible for most forms of federal disaster assistance.

As a result of these sanctions, my constituent will find it virtually impossible to meet the conditions of a 1972 FmHA flood rebuilding loan he received which requires him to maintain his property in first-class condition. Certainly if the property is damaged in another flood, he would be unable to obtain a loan for repairs.

Obviously, my constituent faces a dilemma. He is unable to fulfill a prior contractual commitment with one federal agency because of sanctions imposed by a second federal agency. He stands to lose his property as a result and FmHA stands to lose on its loan if it forecloses because resale of the property cannot be financed under any federal or conventional bank program.

I would like your comments on this case and any suggestions you might have for resolving it. Beyond that, however, it appears to me that FmHA and other federal lending agencies stand to lose a great deal if the case in question is in any way typical of situations in other flood-designated areas which are not participating in the flood insurance program. In order to have some feel for the magnitude of the problem with respect to your agency, I would appreciate having the following information on a nation-wide basis:

What is the approximate value of property-secured FmHA loans in flood-designated areas today?

Of this amount, what percentage is currently secured by flood insurance?

What steps has FmHA taken in the past when a loan recipient fails to maintain his property or repair it after damage?

I would appreciate an early response.

Yours very truly,

THOMAS F. EAGLETON,
U.S. Senator.

FLOOD INSURANCE

Mr. EAGLETON. Mr. President, the Senate Banking Committee today adopted part of my amendment to modify the flood insurance program. Specifically, the committee agreed to rescind the present ban on nonflood disaster aid for individuals who do not or cannot buy insurance.

The committee also agreed to drop the ban on conventional bank credit for homes and small businesses which were constructed prior to July 1, 1975.

I am pleased the committee has finally acknowledged the inequities of this program but I am disappointed that it went only part of the way toward correcting them. I believe the ban on conventional bank credit is an improper use of the banking laws to force compliance with Federal land use requirements and it should be rescinded in its entirety. I also believe it is not enough to restore some rights and benefits to individuals who are unjustly treated by this program. They are entitled to full and equal protection of the law including the right to buy insurance on the same terms and conditions as everyone else.

I intend to fight for these things and will offer an amendment to the bill when it comes to the Senate floor next week.

WOMEN'S ROLE IN OUR COUNTRY'S FOUNDING

Mr. HATFIELD. Mr. President, a recent Smithsonian magazine article pointed out the contributions of three women in founding this country. Abigail Adams, Mercy Otis Warren, and Martha Washington are described in brief articles by Samuel Eliot Morison, John J. Waters, and James Thomas Flexner.

In this International Women's Year, I think my colleagues would be interested in reading about these three women and their contributions to our country's beginning. I ask unanimous consent that this article from the Smithsonian magazine be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THREE GREAT LADIES HELPED ESTABLISH THE UNITED STATES

(NOTE.—Taken from an upcoming book, The Patriots, these biographies by leading historians celebrate the role of women 200 years ago.)

(By Samuel Eliot Morison)

ABIGAIL ADAMS

Abigail Adams kept her statesman husband, John, informed of conditions in wartime Boston. She was the First Lady tenant in the White House.

Wife of the second President of the United States and mother of the sixth, Abigail Adams was the most able and articulate of a remarkable group of New England women who were married to prominent leaders of the independence movement in Massachusetts.

Abigail, born November 11, 1744, was the daughter of the Reverend William Smith, Congregational minister of Weymouth, Massachusetts, and Elizabeth Quincy, daughter of Colonel John Quincy of nearby Braintree. "I never was sent to any school," she wrote in later life; but her Grandmother Quincy took her in charge, and she read widely. On October 25, 1764, she married a rising young lawyer of Braintree named John Adams. She bore him five children: Abigail, John Quincy, Susanna (who died shortly after her first birthday), Charles and Thomas.

During her husband's absence for sessions of the Continental Congress at Philadelphia, Abigail played to perfection the role of patriotic housewife and mother. Her letters give a vivid picture of a country household's privations during the siege of Boston. John loved her dearly and so appreciated her wisdom that he called her his "Portia." When the Declaration of Independence was coming up, she wrote to him playfully, "In the new code of laws which I suppose it will be necessary for you to make, I desire you would remember the ladies and be more generous and favorable to them than your ancestors. . . . That your sex are notoriously tyrannical is a truth so thoroughly established as to admit of no dispute."

During the war, John was absent more often than not—first at Congress and then as one of the ministers to France. Abigail carried on through the difficulties of war, blockade, inflation and severe New England winters. She joined him in Paris after the peace, in 1784. Then followed three years in London, where John was joint minister and plenipotentiary with Thomas Jefferson, and from there she wrote fascinating letters to her nieces describing the court, the theater and the social life.

First to use White House

Her husband's Vice Presidency and Presidency (1789-1801) meant, for Abigail, hired houses in New York and Philadelphia and after 1800, the White House in Washington. The plaster was still wet when they moved in, and Abigail had to use the East Room to dry her laundry with a roaring wood fire. She met the situation with her usual energy and cheerfulness, but was secretly happy that Jefferson's election deprived John of a second term.

The 17 remaining years of her life she spent at Quincy in company with her husband, in the comfortable mansion he had purchased out of savings. For that he was indebted to the prudent Abigail.

"No man ever prospered in the world without the consent and co-operation of his wife, wrote Abigail truly to her sister in 1809; and she added that, far from being overburdened with cares, she would rather have had too many than too few: "Life stagnates without action." The Adamses celebrated their golden wedding in 1814. John lived to see their son John Quincy become sixth President of the United States, but a sudden attack of typhus fever caused Agigail's death on October 28, 1818. Although secure of a place in history as the beloved and helpful wife of John, Abigail also deserves a niche of her own in American literature for the interest and vivacity of her letters.

MERCY OTIS WARREN

(By John J. Waters)

Mercy Otis Warren, the patriot, feminist and author, believed that the "faithful historian delineates characters truly, let the censure fall where it will." Her insightful letters, her satirical sketches and her boldness in attacking John Adams, the former Federalist and President, show that she practiced what she preached. Mercy (born on Cape Cod in 1728) was the first daughter of James Otis sr., a traditional provincial politician. She learned the basic literary skills from her uncle, Jonathan Russel, minister of the Barnstable church, who through his books opened up to her vistas of the larger world. However, once Mercy could read and write, she was forced into ladylike needlework while she enviously watched her brother James perfect his Latin and Greek. All of this she intensely resented, and wrote that if females dealt with trifles and men with power, the "deficiency lies not so much in [the] inferiour contexture of female intellects as in the different education bestowed on the sexes."

Marriages in the Otis family, as well as all career decisions, reflected the "patriarchship"—Mercy's own word for her father as an institution—who used his children as pieces in the chess game of power. Thus in 1754 Mercy married James Warren, scion of a distinguished Plymouth family, son of an ally of her father, and college friend of her favorite brother James. With her husband she shared a formally correct marriage and mothered five children. James Warren, less gifted and ambitious than his wife, realized her strength and said in an intended compliment that she had a "woman's temperament but a man's mind." In bringing up her own children, she rejected the "irksome methods of severity" that had marked her own childhood and favored greater liberty. Mercy chafed under the "narrow bounds" of the required female role even while she rationalized that women should accept the "appointed subordination" of the marriage state, not because they are really subordinate but rather "for the sake of order in families."

Mercy Otis Warren saw in the patriot struggle against Great Britain reflections of her own fight for an identity. She was first helped in this by her brother James Otis jr., who made her his confidante and assured her that "no man ever loved a sister better." Mercy, in turn, acted as his mediator before the "God of Heaven" and told him that he remained the "continual subject of both my sleeping and waking thoughts." Yet she realized that she needed a larger audience than her family.

When she took pen in hand, she faced the world and the future. Mercy knew that this was a bold and assertive act for a female, but then she held that the American Revolution revealed the hand of Providence and the unfolding in time of the spirit of "universal liberty." In her play *The Group* (1775) she cast her brother as Brutus and all her patriots are "resolved to die or see their country free." Mercy Otis Warren caught the temper of radical Boston with its protests against corrupt tax officials, police searches and British officeholders, and its resentment of the Hutchinson-Oliver "monopoly" of political jobs. Nor did the death of her brother in 1783 or family difficulties still her opinion that her generation partook in the "foundation of that glorious revolution which will be considered among the most interesting events in the annals of time."

In 1805 Mercy Warren, having championed the French Revolution and favored the Jeffersonian Republicans in Federalist Boston, published her unique three-volume *History of the Rise, Progress and Termination of the American Revolution*. Ever the democrat, she presented the thesis that revolutions are the "sudden rotations in human affairs . . . permitted by Providence, to remind mankind of their natural equality, to check the pride of wealth, to restrain the insolence of rank and family distinctions, which too frequently oppress the various classes in society." Until her death in 1814 she engaged in polemics, giving as she took. She knew that she was not loved, but by her writings ensured that she would be remembered.

Martha Washington

(By James Thomas Flexner)

When President Washington was embattled with the Jeffersonians, Albert Gallatin, who was to be Jefferson's Secretary of the Treasury, described Mrs. Washington as "a very good natured and amiable woman. Not so," Gallatin contended, "her husband." The most amazing thing about Martha Washington was that during her long life, at home and in the conspicuous stations she occupied, she charmed everyone she met and never made an enemy.

Born Martha Dandridge to a simple Virginia family, she was carried by her ability to soothe into wealth and position. Daniel Parke Custis had been unable to get married because his cantankerous father had repudiated every possible bride. But Martha charmed the tyrant, becoming at 18 the wife of the 37-year-old Daniel. When, eight years later, he left her a widow, she was, due to his estate, one of the richest marriageable women in Virginia.

The plump, diminutive lady—she was hardly five feet tall—became the bride of Virginia's tremendous—Washington was more than six feet—French and Indian War hero. The match was for him in part a marriage of convenience. He was trying to disentangle himself from a married woman he loved, and Martha's wealth raised him into the first rank of Virginia planters. There was trouble between the couple at first, but Martha's human gifts triumphed. Washington soon stated that marriage was the most important event in life, the most conducive to misery or happiness.

One of George Washington's greatest contributions to the Revolutionary victory was the steadfastness that helped him to keep, despite all discouragements, an army ever in the field. For eight years he never took one day of furlough. Perhaps even as strong a man as he could not have borne the strain had not Martha supported him and the cause by "marching" (as he put it) every year to whatever headquarters her husband occupied during the winter's pause in the fighting. She felt compelled to leave behind, however reluctantly, the gentleness of Mount Vernon, because "the poor general was so unhappy that it distressed me exceedingly." With her doing fine needlework beside him in his winter quarters, he could, as the snow fell outside, almost forget the war. Bringing with her always "domestic felicity," Martha Washington made—as she was again to do when her husband was President—a profound contribution to the creation of the United States.

However, she had no desire to interfere in great affairs or flash as a great belle. And her husband had enough of excitement away from her side. She brought him always the comfort of the hearth. She was the only human being whom he allowed to penetrate to the soft inner core of his nature, where dwelt that diffidence and extreme sensitivity which manifested itself in his excruciating vulnerability to criticism.

The Washington marriage was childless, but Martha had children and grandchildren from her previous marriage. For them she was overprotective, shielding them even from her powerful husband. For the rest, her life was wrapped up in his. Resentful always of the interference of the outside world, determined to keep something to herself at last, she burned, after her husband's death, all their letters to each other.

SITUS PICKETING

Mr. HATHAWAY. Mr. President, the House-Senate conference on situs picketing chaired by Frank Thompson of New Jersey with whom I had the pleasure of serving 8 years in the House, has been for the past 2 days reconciling differences in the House and Senate bills with amazing rapidity and little loss of face for either side. But one issue which may never be reconciled is the proper terminology of the bill which finally emerges. This matter was brought to the attention of the chairman by a flood of urgent letters from construction workers all over the Nation. A typical letter, a copy of which was distributed to the conferees follows:

December 1, 1975.

Re: Ex Trenton Semper Aliquid Novi
Hon. Frank Thompson, Jr.,
U.S. House of Representatives,
Washington, D.C.

Dear Mr. Thompson: A group of us construction workers were partaking of refreshment in a Trenton bar after a day's toil at a nearby construction situm. As usual (and contrary to popular belief about the habits of our profession) our conversation was on an intellectual plane. It was Paul who raised a matter we could not resolve and which we unanimously agreed to refer to you because not only are you our Congressman, but also the main sponsor of the bill known as "common situs picketing".

Paul, who operates a shovel with the precision of a Marine drill sergeant on parade, contends that situs should be in the accusative or objective case. Paul and several colleagues maintain that "common situs picketing" should be construed as "picketing at a common situs", and therefore "situm" should replace the nominative "situs" to be consistent with good Latin.

We all know that "situs" is a noun of the fourth declension, and some others among us suggested that "situs" may not be nominative but genitive. The Paul faction responded that if it were so, there would be a macron over the "u" and challenged us to look at the Latin dictionary in the possession of the owner of the bar. Spartacus, however, disagreed. Spartacus is our foreman and a large man of great muscular strength whose slowness of speech and brevity of phrase belie his powerful intellect. Moreover, Spartacus, after a lifetime of philosophical analysis, remains a firm believer in the dictum that the final arbiter of dispute is force. Spartacus pointed out that in Roman times the macrons were not used. Paul replied that we did not live in Roman times. The intellectual atmosphere was at a high pitch and, as sometimes happens in our debates at such moments, representatives of the law were called in by the owner of the bar to restore peace. Unfortunately, those who came that evening had not been recruited on the basis of their excellence in Latin and were unable to resolve the question, although they moved many of us to another situm, and Spartacus and Paul to a hospital.

Mr. Congressman, having just returned from a visit to Paul and Spartacus and a few others at the hospital, I am writing to apprise you of our concern over the case of "situs", and to solicit your reassurance that full thought has been given to whether it is nominative or genitive, or even should be in the accusative case.

Sincerely,

Benvenuto Cellini Pasanti.

Mr. HATHAWAY. Mr. President, after several hours of discussion and heated debate the chairman offered the following solution:

Remarks of Hon. Frank Thompson, Jr., House-Senate Conference on H.R. 5900

Based on correspondence from constituents, I believe there is a need for a perfecting amendment to clear up some doubts that might exist in the minds of construction workers throughout the nation. Concern has been expressed that "situs" in the phrase "common situs picketing" should not be in the nominative case, but should be "situm", the accusative or objective case. A shovel operator in my District believes the phrase should be construed as "picketing at a common site", where "site" would be in the objective case.

As a sponsor of H.R. 5900, I would like it to be known that the word "situs" in the phrase "common situs picketing" is not nominative, but genitive, the "us" ending being common to both cases.

In order to help everyone distinguish between the nominative and genitive, a macron may be used over the "us" in the genitive; and I wish to offer an amendment to substitute the word "sitūs" for the word "situs".

Mr. HATHAWAY. Mr. President, Mr. Thompson's amendment is pending.

"Non sub lege sed sub homine."

LEWIS ENGMAN—AN OUTSTANDING PUBLIC SERVANT

Mr. HATFIELD. Mr. President, last week, Lewis Engman announced his retirement as Chairman of the Federal Trade Commission. I think the FTC, and the public, is losing an outstanding public servant. Under his chairmanship, the role of the FTC has grown in a responsible manner. He has been a wise steward of the public trust. While some of my colleagues may disagree with some of the particular decisions made by the FTC, and I doubt if I would agree with them all, I think we all recognize his leadership.

Such leadership cannot operate in a vacuum, and the FTC has received some needed new spirit in recent years. Its membership and staff, its internal operations and organizations, and its substantive scope all have been revitalized. I hope this same direction and spirit will continue under a new chairman.

Sunday's Washington Post carried an article by Carole Shifrin profiling Lewis Engman. Mr. President, I call it to the attention of my colleagues who might not have seen it, and ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 30, 1975]

ENGMAN AT THE FTC: INITIATIVES EXPANDED

(By Carole Shifrin)

"When I leave . . . I would like to see the President name to succeed me a person who's a good lawyer, who's a good administrator, and who'll call the shots on the merits."—Miles W. Kirkpatrick, Nov. 20, 1972.

Viewed with apprehension at first, Miles Kirkpatrick's replacement, Lewis A. Engman, leaves the commission in another month with much the same kinds of plaudits heard at Kirkpatrick's exit: aggressive, independent, hardworking, tough, competent.

On Capitol Hill, in the commission itself, and in private groups, observers who may disagree with some of the commission's decisions and actions over the past three years during Engman's tenure, nevertheless seem to credit Engman with having fulfilled Kirkpatrick's hopes for a successor.

"He was a very good chairman," says one FTC official who has served under several. "He was conscientious and hard-working; I think the consensus is that he'll be hard to replace."

"Whatever criticisms I have of his chairmanship would be one of style, not substance," says another FTC source. "I think he was too cautious sometimes, but that's the only complaint I would have."

Kirkpatrick was a hard act to follow, too. He had come to the embattled agency in 1970 while it was still reeling from the criticism of two celebrated reports—a Nader study and an American Bar Association commission appraisal—and helped it build a reputation as a bold and innovative consumer protection agency.

When Engman, who had served as an assistant director of the White House Domestic Council, was appointed by President Nixon to head the agency following Kirkpatrick, some fear was expressed about whether the agency would continue in its newfound independent, aggressive, and imaginative role.

However, Engman not only continued the initiatives begun under Kirkpatrick, he supported them, added to them, and expanded on them.

Engman defended the agency's plan to collect controversial and sensitive financial data from the nation's largest corporations by their "lines of business," he expanded the agency's efforts to seek more meaningful data with which to analyze the marketplace and its problem areas. Besides the line of business program which has gone forward, the agency is currently seeking—and plans to publish much to the distress of the business community—the sales figures of the nation's 1,000 largest manufacturing companies by product categories. The last year for which such data is available to the public is 1950.

Another information-gathering program seeks data on the nation's natural gas reserves from 60 of the country's largest gas producers.

Engman has also led the agency into areas it had previously ignored. After Engman's October 1974 speech calling for a reexamination of the nation's regulatory activities to see whether some weren't having anticompetitive effects in the economy, the FTC began to involve itself in the affairs of other agencies as a spokesman for the consumer interest.

The speech itself seemed to kick off a full-dress continuing administration campaign to reduce government involvement in the regulated sector.

Since the speech, the FTC has sought to influence decisions in filings before the Federal Communications Commission, the Interstate Commerce Commission, Civil Aeronautics Board, and the courts. (The Antitrust Division of the Justice Department had been doing similar things for years.)

The FTC has also gotten involved in state activities in filings before state bodies and court opposing restrictions—such as advertising prohibitions on the prices of eyeglasses and licensing provisions for professional groups—the FTC says reduce competition and raise consumer prices.

A proposed FTC rule announced in June would preempt the laws and regulations of 32 states and the codes of ethics of at least three dozen state pharmaceutical associations which currently prohibit druggists from advertising the retail prices of prescription drugs.

Engman himself seems not unhappy about his tenure on the commission, though he emphasized that "we aren't all the way home yet."

In an interview after the announcement of his resignation last week, Engman said he believes many of the commission's initiatives over the last three years "should have some significant impact on the dollars that we all have to pay out for these particular goods and services."

He takes particular pride in his role in the general reexamination of regulation now going on, even if President Ford's deregulation program does not get through Congress, although he wouldn't rule out some progress there.

"I think something's happening already," he said. "I think the fact that there are some specific proposals before the Congress, the fact that they're being considered; the fact that Ted Kennedy held hearings about the performance of the CAB, is all healthy and is already having an impact.

"I suspect, for example, that the CAB has made some decisions recently which it would not have made a couple of years ago—such things as permitting National Airlines to experiment with lower fares, and opening up the charter business regulations," he said.

"The fact of the mattter is that at least there's greater awareness that maybe there's another side to some of these issues. I think that's beginning to become part of the process of some of these decisions."

"That doesn't mean there's not a long way to go," Engman emphasized.

He said there was a "long way" to go on a number of fronts, including enforcement of the nation's antitrust laws. Under his tenure, more of the agency's resources were shifted from the consumer protection side to antitrust enforcement activities.

"By and large, I think the substance of the antitrust laws are reasonably adequate," Engman said. "I think they're flexible and given vigorous enforcement desires that they can cover a number of problem areas.

"I do think, however, that perhaps the greatest need is the need for improvement in procedures—the kinds of issues that are being addressed in S. 1284 (an omnibus antitrust bill)—both with respect to the Justice Department and with respect to the enforcement of our compulsory process which introduce great periods of delay in terms of investigations.

"If I were going to pick out one most important change to try to effect to make the antitrust laws more effective, I would first look to the procedural side as opposed to the substantive side," he declared.

With respect to the FTC itself, Engman said the first priority would be to get five commissioners; Engman's announced resignation will make the second vacant seat on the agency. Beyond that, "We've tried to move I think in the areas that . . . need strengthening," he said. "I think we need to improve our ability to plan; we need to obtain better data to begin with so that we can do more effective analysis of areas which particularly need attention; and in the process of doing that I think we will be able to evaluate our own results in better fashion.

"We've begun in effect to undertake all of that . . . but we aren't all the way home yet."

Engman cited regulatory lag as his greatest failure at the commission—"not to move faster, not to reduce delay to a greater extent than we have—though we have reduced it—and not to have accomplished more with respect to the planning and analysis of our actions." They were the very criticisms Kirkpatrick had of his tenure as he assessed it looking back.

"I think we've taken giant steps," Engman said, "but I guess—in being naive at the beginning of the road—I would have thought that it would have been easier to go further than it in fact has been."

He said in part the problem is a lack of firmness of information and in part it is becaues of the difficulty of changing any organization. "But I think we're asking the right kinds of questions and beginning to try to analyze things from a number of different points of view, recognizing we won't always agree with one another but it doesn't hurt to get some of the discussion out on the table."

Though Engman seems to have won wide respect for his intellect and ability both inside and outside the commission, the man himself has remained a mystery to many people. Though Engman put in long hours at the commission, many there feel the well-dressed Engman was "hard to get to know," a man "who keeps things close to the chest," the chest usually being vested; his formal dress seemed to serve as a sign of a non-approachability and a reserved nature.

One prson who has worked closely with him—yet who still has trouble describing him—believes that while he probably is reserved anyway, his demeanor may in part be intentional out of a belief that that is the way to run a place—by keeping working relationships on a very professional level.

Having served in the executive branch, and the independent regulatory agencies, Engman is now considering a try in the legislative branch. During the interview, Engman, a Republican, confirmed as he has hinted before, that the Michigan Senate race—for the seat from which Democratic Sen. Philip Hart is retiring—is one option he was going to "think very hard" about.

"I'm basically going to explore whether or not there seems to be any significant basis for a candidacy on my part, and if there is, I'm going to run." Engman declared.

Though he has been approached both by Michigan politicans and others about other possible jobs—like with law firms—Engman said he has declined to talk specifics about "anything with anybody" because he didn't feel it was appropriate until after he leaves the commission.

What might he do in the Senate? "I'm concerned about some overall trends that I see, including increasing alienation, skepticism, criticism about the government; I think that's true about many institutions.

"There seems to be a lack of openness, willingness to call a spade a spade, and this helps generate that cynicism . . . some of which is good, but not to the extent that it creates a great gulf between people and their institutions.

He doesn't think his views outside the commission will change, as some regulators' views do.

FOREST SERVICE PROGRAMS—H.R. 10027

Mr. MOSS. Mr. President, I commend the Senate for its speedy approval of H.R. 10027, which authorizes the Secretary of Agriculture to enter into cooperative agreements which benefit certain Forest Service programs and to advance or reimburse funds to cooperators for work performed and for various other purposes. This bill was previously approved by the House and now waits the President's signature.

I strongly encourage the President to approve this legislation as it will greatly benefit not only the State of Utah, but all States which have land owned by the Federal Government.

Utah has approximately 53 million acres of land which are highly diverse in geologic, topographic, climatic, and vegetative features. Of this 53 million acres, about 8 million acres in the State of Utah are controlled by the Forest Service.

Recently, certain areas in Utah, much of the land in those areas being owned by the Forest Service, have been subjected to the happenings of nature which even now could bring disaster to the residents of those areas.

Manti, Utah, for example, is, right now, involved in a daily vigil because a giant slide, about 2 miles long and 1,000 feet wide, which has already destroyed the city's water supply, is moving at the rate of 2 feet a day from canyon. Manti has not been declared a disaster area due to certain technicalities in the law and the Forest Service has lacked the funds to go in and attempt to solve the problem. The slide is located entirely on Forest Service land. To the people of Manti, this slide is indeed a potential disaster which has already affected their lives.

Until H.R. 10027 was passed by the Congress, no law now in effect could be called upon to adequately deal with this situation. I appreciate its passage.

GRAIN SCANDALS THREATEN U.S. FARM EXPORTS

Mr. DOMENICI. Mr. President, we are now experiencing one of the detrimental effects of the recent exposure of corruption in the grain trade. Federal investigators have uncovered instances where grain has been shortweighted, misgraded, stolen, and contaminated because of corrupt inspection procedures at the Nation's export terminals. At this time, there have been over 50 indictments and 40 guilty pleas in the New Orleans area alone.

As a result of these disclosures, foreign buyers, many of whom have complained about U.S. shipments of grain for years, are looking for alternate markets. If this becomes a trend among foreign purchasers of our grain, farm prices and total U.S. income from trade will suffer enormously.

Farm exports are of vital and direct importance not only to the U.S. farmer but to many other U.S. industries and to the economic health of the Nation as well. The value of farm exports totaled $21.6 billion last fiscal year, which is up more than threefold since 1970. Production from more than a fourth of our cropland moves into export channels each year. In the coming year, the United States expects to export almost 60 percent of its wheat crop, around half of its soybeans, a fourth of its corn, and almost 40 percent of its cotton crop. These agricultural exports have been a major factor in improving the U.S. trade balance.

The export of these farm products have benefited both the farm and nonfarm sectors in terms of generating employment, incomes and purchasing power. As an example, farmers' purchases of fertilizer, fuel and other inputs to produce the export commodities have resulted in additional economic activity on the part of our manufacturing, trade, and transportation sectors. Also, with additional income earned from exports, U.S. farmers are able to purchase more household appliances, farm equipment, building supplies, and other capital and consumer goods. As a result of these transactions, more purchasing power is spread throughout the total economy. In addition, increases in trade and transportation stimulated by agricultural exports can boost investment in plants and equipment. As these sectors contribute output, they also receive income, thus illustrating the multiplier effects of agricultural trade.

In calendar year 1974, agricultural products valued at $22 billion were exported from the United States. These agricultural exports, in addition to their direct value of $22 billion, required total business activity of about $43 billion to supporting goods and services. Thus, each dollar of agricultural exports stimulated and additional 96 cents of output in the U.S. economy—a multiplier effect of almost two.

A drop in demand for our exports, in this case due to widespread corruption in the grain trade, will throw this whole beneficial process into disarray. Naturally, farm incomes will be the first to suffer.

Mr. President, this Congress and this administration must do whatever we can to protect the foreign markets for our farmers and insure the quality and integrity of our grading and exporting system. This Congress recently passed a $5 million appropriation for this purpose, and I would like to take this opportunity to applaud the recent announcement by Don Wilkinson, Agriculture Marketing Service Administrator, that the Department will be hiring an additional 200 Federal inspectors to examine grain bound for foreign lands.

Mr. President, I ask unanimous consent that an article entitled, "Grain Scandals Threaten To Cut U.S. Sales Abroad," from the November 30 issue of the New York Times be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GRAIN SCANDALS THREATEN TO CUT U.S. SALES ABROAD

(By William Robbins)

WASHINGTON, November 29.—An expanding investigation, reaching from America's farms to the foreign markets where the harvests are sold, has found that corruption in the grain industry has already hurt the interests of growers and threatens damage to the economy.

Many of the overseas buyers who are responsible for this country's $12 billion-a-year revenues from the grain trade are seeking other sources, after complaining for years that they were not getting their money's worth. In the important soybean trade, they are giving more and more of their business to Brazil.

"Foreign buyers indicated that they have more complaints with United States grain than with that exported from other countries, and they are therefore looking toward alternative markets," according to a staff memo for the House Agriculture Committee. The memo was based on a briefing given by investigative agents of the General Accounting Office.

The agents of the G.A.O., the investigative arm of Congress, gave the briefing after interviews with buyers in nine foreign countries. And, although the agents said that "in the short run" the search for grain from other countries might not have "any great impact on the United States," because of the reliability of United States supplies to others it seemed ominous.

They reason that, while this country's vast productive resources make it the world's major supplier, American farmers' prices and therefore total United States income from the grain trade could suffer if foreign buyers generally developed the habit of turning to other countries first for their grain. That attitude was expressed last summer by some European grain executives.

"You are No. 3," said Bill Duncan of Ireland, a director of Unilever Ltd. "Take soybean meal, for example. Our first choice is either European or Brazilian production, and we'd rather have it milled in Europe."

"This could hurt everybody, but especially the farmers," one Agriculture Department official said, referring to the corruption that was being exposed, including bribery of grain inspectors, misgrading of grain and shortweighting of ships.

But exposure of the corruption, which has led thus far to 57 indictments, is helping to repair the damaged image of the industry abroad, because it has led to a legislative reform movement.

That movement, however, is mired in controversy. The chief point of contention is the extent of change that should be made in the present inspection system.

PRIVATE COMPANIES' ROLE

Under that system, much of the nation's grain is inspected by private, profit-making agencies commissioned by the Department of Agriculture to grade and certify the grain under United States standards.

Private inspectors have been found involved in much of the corruption exposed. And their employers have generally been found to be individuals with political influence.

Both the Ford Administration and a majority of the House Agriculture Committee oppose elimination of the private inspector's role, an action sought by many reform leaders.

The Senate Agriculture Committee has decided to await completion of a G.A.O. report on inspection, scheduled for Feb. 15, but has passed an emergency bill to tighten present regulations. The House committee has ignored the bill.

Those who feel major reform is necessary to protect American interests are dissatisfied with the House committee's position. Senator Dick Clark, Democrat of Iowa, said recently:

"It's no secret that the Department of Agriculture and the grain companies are working hard to prevent any serious change in the present inspection system."

Despite its economic significance, the investigation of corruption in the grain trade appears to have left largely unmoved a general public accustomed to thinking of the grain industry as an arcane sector involved in activities of a highly technical nature.

ENORMOUS OPPORTUNITY

But there is nothing arcane about the corruption that has been exposed. It is as simple as a grocer's thumb on the scales or a butcher's switching plain hamburger for ground sirloin when a buyer is not looking. The opportunity for illegal profits in the grain trade is enormous.

How pervasive the corruption may be remains to be shown in the continuing inquiry. But every company operating through the important port of New Orleans, through which more than a third of the nation's grain exports is shipped, is known to be under investigation.

One of the largest of them has been found guilty of conspiracy in thefts of grain, after pleading no contest, and another grain corporation, a joint venture of two other large companies, has been indicted.

An intensive investigation is also under way in the Gulf ports of Texas, through which another third of the country's exports is shipped, and inquiries of varying intensity are under way in other major ports.

The investigation in New Orleans, which has produced the most significant results and most of the indictments, has been led by United States Attorney Gerald J. Gallinghouse and his first assistant, Cornelius R. Hensel. They have been aided by the Federal Bureau of Investigation, the Agriculture Department's Office of Investigation and the Internal Revenue Service.

Elsewhere, similar investigations have been headed by other United States Attorneys, with some coordination by high officials of the Justice Department.

Meanwhile, as the depth of the problems emerged, several committees of Congress began investigations of their own, aided by 41 agents of the General Accounting Office, who have pushed the inquiry into the interior and into foreign markets, where they have interviewed disgruntled buyers.

As the inquiry spread geographically, it also deepened. Recently, it was learned that a new phase, emphasizing civil damages against the Government, was reporting deceptions in the Food for Peace program and possible frauds in the grain storage program.

RAIL COMPLAINTS CITED

Meanwhile, other investigators, including some of the 41 agents of the G.A.O. now involved in the inquiry, have been led from the rivers and railroads that transport the grain to the interior where it is produced and sold to local, or "country," elevators.

The railroads in particular are reportedly following the investigation closely. They have long complained that they could not be losing all the grain that they were paying for in loss claims filed when their boxcars arrived at ports to be weighed and unloaded.

"If we lost all the grain we have paid for, we'd be up to our elbows in grain," one railroad executive said. One witness, in an interview, told of systematic shortweighing of rail cars.

Reports indicate that there is much more in the interior to be looked into, and that problems pervade the system. Informed sources tell of country elevators victimized by the purchase of grain that the sellers sprayed with water to increase its weight and of grain adulterated by the addition of old mercury-treated seed supplies.

Many country elevators have also charged that they were defrauded by rigged analyses of the protein content of wheat when they shipped it to some export points for sale to larger companies. A fractional variation in protein content, shown by laboratory analysis, can mean a big difference in prices paid for the wheat.

Farmers, on the other hand, tell of being victimized by rigged moisture meters and penalized in price when those meters showed higher moisture content than a grade allowed.

GRAIN STANDARDS ACT

At the heart of the problems that have emerged from the investigation is the United States Grain Standards Act of 1968, which was tailored under heavy lobbying to meet the wishes of the industry, and the grain standards themselves.

The act perpetuated a system under which the inspection and grading of grain is performed either by state agencies or by private, profit-making agencies or agencies run by Chambers of Commerce, Boards of Trade or grain exchanges, all employing inspectors licensed by the Department of Agriculture.

Federal employes act as supervisors, spot-checking the performance of the licensed inspectors, but are barred from performing the inspection themselves except in instances where a grading decision is appealed.

The private-inspector system has been found fraught with conflicts of interest, because the private agencies are paid for their services by the companies whose grain they inspect and depend for their own well-being on how well the companies fare.

As it went into law, the measure contained a provision against conflict of interest that has proved ineffectual. It forbids ownership of interest in a grain company by inspection-agency personnel, but contains no barrier to a reverse situation. Thus, grain companies or their officers can own interests in the agencies that inspect their grain, and many do.

The supervision of licensed inspectors by Federal employes, provided under the act, has proved ineffectual, according to the G.A.O. briefing, because the supervisors are able to observe the inspectors' performance for only limited periods, during which the inspectors know that they are being observed and presumably are on guard to avoid detection if they are inclined to irregularities

The grain standards themselves present problems, since they tend to reward adulteration of grain. The standards provide latitude, for example, for the amount of foreign matter that can be allowed within any one grade of grain.

In the case of No. 3 corn, up to 4 per cent can be broken kernels and foreign matter. As a result, foreign matter, such as rice hulls, can deliberately be blended into the product. One of the most valued employes at some grain elevators is the skillful blender who can come closest to the limits in blending foreign matter or debris from cleaning processes into the grain.

When the blender slips up, and grain containing more foreign matter than is allowed for the grade gets aboard ship, elevator officials have other recourses.

They can try to prevail on the inspector or Federal supervisor to overlook the fact that some of the grain is off-grade, and, failing that, appeal to Agriculture Department officials in Washington for a favorable ruling and an order for a United States certificate attesting to a higher quality than the grain justifies.

That stratagem has often worked, according to a number of present and former officials of the grain division, but they say that such appeals are now routinely rejected under the division's present leadership.

A question is whether the reform movement in Congress will prove effective. The Senate's emergency legislation provides for greater surveillance of inspection operations and stiffer penalties for violation of law, but chances for the measure in the House appear dim.

PANEL REVERSED ITSELF

Senator Clark has proposed a bill that would provide for inspection of all grain by Federal employees in a new, independent agency, but in light of the House Agriculture Committee's position, it also faces an uncertain fate.

The House committee, however, reversed itself recently on one feature of a bill that is has begun to consider. While retaining the private inspection system in the interior, it would give Federal inspectors the responsibility for grading all export shipments of grain.

The House bill contains a conflict-of-interest provision that, like the present Grain Standards Act, raises no barrier to ownership of inspection agencies by grain companies, their officials or shareholders.

However, that provision has not yet been reviewed in committee debate, and supporters of reform say that they are determined to strengthen it.

Critics of the bill generally say that it represents some improvement over the present Grain Standards Act, but many rest their hopes on the Senate Agriculture Committee and the chance that it may produce a stronger bill.

One hope is that a Senate bill may at least forbid adulteration of grain—as the House bill does not—and that such a provision would survive floor debate and a subsequent Senate-House conference.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, it has been 25 years since the Genocide Convention was first submitted to the Senate for ratification by President Truman. During that time—a full quarter-century—78 nations have acceded to this important human rights convention but the U.S. Senate has been unable to even schedule an up-or-down vote on the treaty.

Throughout history, the United States has been known for its leadership in the field of human rights. But our inability to act decisively on this treaty and a number of human rights conventions which are still pending before the Senate puzzles our allies and delights our enemies. In fact, former U.S. Ambassador Charles Yost has testified that our failure to ratify this treaty has been one of the most embarrassing things he has ever had to explain.

While we are late in coming to grips with the question of ratification, the psychological impact of our ratification should not be underestimated. International law grows incrementally, dependent upon the consensus that can be formed among nations. However, for any development to be effective the consent of the major powers is a sine qua non. The United States remains the only major Nation that has yet to ratify the convention. By acting now, the United States will not only remove a major stumbling block for this important development in human rights law but also serve to rekindle interest in the treaty among the newly-emergent nations, which have come into existence since the treaty was first drafted.

Mr. President, I can only echo the sentiments of all supporters of this human rights treaty when I urge that, while it is far too late for us to be among the first to ratify this treaty, I sincerely hope that we will not be among the last.

GEN. JOHN C. MEYER

Mr. GOLDWATER. Mr. President, the statement I have to make is one that saddens me because it involves the passing of an old and close, dear friend of mine, Gen. John C. Meyer. General Meyer's last assignment was Commander in Chief of the Strategic Air Command and Director of the Joint Strategic Target Planning Staff at Offutt Air Force Base, Nebr. General Meyer's experience in the Air Force is not to be equalled. He started as a fighter pilot assigned to the Eighth Air Force in England and became our leading American ace in Europe with 37½ aircraft destroyed in the air and on the ground. He was truly a pilot's pilot and a commander respected by all. His passing a few days ago at his home in California is a loss that this country can ill afford at this time and he will be interred at Arlington National Cemetery at 1:30 p.m. this Friday. So that my colleagues and others who read the RECORD will know of the great contributions of this man to our country, I ask unanimous consent that a résumé of his life and background of his experiences in the Air Force be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GEN. JOHN C. MEYER

General Meyer, born in Brooklyn, New York, attended schools in New York and graduated from Dartmouth College with a bachelor of arts degree in political geography. He enlisted in the Air Corps in November 1939. In July 1940 he was commissioned a second lieutenant and awarded pilot wings.

After several flying assignments as a pilot and commander, he was assigned to the Eighth Air Force in England. There he commanded the 487th Fighter Squadron and led it into combat during World War II. In November 1944 he was Deputy Commander of the 352d Fighter Group and the leading American Ace in Europe (37½ aircraft destroyed in the air or on the ground). By the end of the war he had flown 200 combat missions with 462 combat flying hours.

In 1948 General Meyer was selected as the Secretary of the Air Force's principal point of contact with the U.S. House of Representatives. General Meyer then returned to a tactical flying unit in August 1950 when he assumed command of the 4th Fighter Group at New Castle, Del. He took his F-86 Sabrejet group to Korea where it flew in the First United Nations Counteroffensive and Chinese Communist Forces Spring Offensive campaigns. He destroyed two communist Mig-15 aircraft, bringing his total of enemy aircraft destroyed to 39½.

After a tour of duty as Director of Operations for Air Defense Command and Continental Air Defense Command, General Meyer graduated from the Air War College, Maxwell Air Force Base, Ala., in June 1956, and was retained as an instructor at the College. He was then assigned to Strategic Air Command (SAC) where he commanded two air divisions in the Northeast United States. In July 1962 he moved to the headquarters of SAC at Offutt Air Force Base, Nebr., as the Deputy Director of Plans, and also served as the Commander in Chief Strategic Air Command's representative to the Joint Strategic Target Planning Staff.

In November 1963 General Meyer became the Commander of the Tactical Air Command's Twelfth Air Force with headquarters at Waco, Tex. Twelfth Air Force provided tactical air units for joint logistic and close air support training with Army ground units stationed in the western half of the United States.

In February 1966 he was assigned to the Organization of the Joint Chiefs of Staff where he served first as Deputy Director and then Vice Director of the Joint Staff. In May 1967 he became the Director of Operations on the Joint Staff.

He was then selected to be the Vice Chief of Staff of the United States Air Force, and assumed those duties in August 1969. He served as the Vice Chief of Staff through April 1972. On May 1, 1972, he became the seventh Commander in Chief of the Strategic Air Command, and the Director of the Joint Strategic Target Planning Staff.

General Meyer's military career has included a very broad variety of Air Force and Joint assignments. He has held operational jobs in air defense interceptors, tactical fighters and strategic bombers. He has also been a key member of the Joint Staff, the Headquarters U.S. Air Force staff, and the Strategic Air Command staff. He has been called upon to command major tactical and strategic units, and is now the Commander in Chief of the Strategic Air Command.

His military decorations include the Distinguished Service Cross with two oak leaf clusters, Distinguished Service Medal with one oak leaf cluster, Silver Star with one oak leaf cluster, Legion of Merit, Distinguished Flying Cross with six oak leaf clusters, Air Medal with 14 oak leaf clusters, Croix de Guerre with palm (France), and Croix de Guerre with palm (Belgium). In March 1973 he received the Frank Hawks Memorial Award for his many contributions to aviation.

General Meyer is married to the former Mary Moore of Fort Lee, New Jersey. Among her accomplishments is service as a Naval officer during World War II. General and Mrs. Meyer have five chidlren: M. Christine Mesh; John C., Jr.; Michael A.; Margaret D.; and Martha. John, Jr., is an Air Force Academy graduate undergoing pilot training at the present time.

BACKGROUND EXPERIENCE

June 1955–June 1956 Student, Air War College, Maxwell AFB, Ala.

July 1956–June 1959 Faculty Member, Air War College, Maxwell AFB, Ala.

June 1959–Sept 1961 Comdr., 57th Air Div., Westover AFB, Mass.

Sept 1961–July 1962 Comdr., 45th Air Div., Loring AFB, Maine.

July 1962–Oct 1963 Dep. Dir. of Plans, Directorate of Plans, SAC, Offutt AFB, Nebr.

Nov 1963–Jan 1966 Comdr., 12th Air Force, Waco, Tex.

Feb 1966–Dec 1966 Dep. Dir., The Joint Staff, OJCS, Washington, D.C.

Jan 1967–May 1967 Vice Dir., The Joint Staff, OJCS, Washington, D.C.

May 1967–Aug 1969 Dir. for Operations, J–3, The Joint Staff, OJCS, Washington, D.C.

Aug. 1969–Apr 1972 Vice CofS, USAF, Washington, D.C.

May 1972–Present Commander in Chief, Strategic Air Command, and Director, Joint Strategic Target Planning Staff, Offutt Air Force Base, Nebr.

Decorations and Service Awards

Distinguished Service Cross w/2 oak leaf clusters.

Distinguished Service Medal w/1 oak leaf cluster.

Silver Star w/1 oak leaf cluster.

Legion of Merit.

Distinguished Flying Cross w/6 oak leaf clusters.

Air Medal w/14 oak leaf clusters.

Army Commendation Medal.

Purple Heart.

Distinguished Unit Citation Emblem w/4 oak leaf clusters.

American Defense Service Medal w/1 service star.

American Campaign Medal.

Eurpean-African-Middle Eastern Campaign Medal w/5 service stars.

World War II Victory Medal.

National Defense Service Medal w/1 service star.

Korean Service Medal w/3 service stars.

Air Force Longevity Service Award Ribbon w/5 oak leaf clusters.

Croix de Guerre w/palm (France).

Croix de Guerre w/palm (Belgium).

United Nations Service Medal.

Small Arms Expert Marksmanship Ribbon.

Effective dates of promotions

Grade:	*Temporary*
1st lieutenant	Oct. 24, 1941.
Captain	Jan. 21, 1943.
Major	Sept. 2, 1943.
Lieutenant colonel	Apr. 18, 1944.
Colonel	Jan. 19, 1951.
Brigadier general	Aug. 1, 1959.
Major general	Apr. 1, 1963.
Lieutenant general	June 12, 1967.
General	Aug. 1, 1969.

(Dated of rank July 31, 1969.)

Grade:	*Permanent*
2d lieutenant	July 26, 1940.
1st lieutenant	July 5, 1946.
Major	Sept. 3, 1948.
Lieutenant colonel	July 12, 1951.
Colonel	July 1, 1958.
Brigadier general	Jan. 30, 1962.
Major general	Feb. 27, 1964.

HAPPY BIRTHDAY TO NELLIE TAYLOE ROSS

Mr. McGEE. Mr. President, the Nation's first woman Governor, Nellie Tayloe Ross, was born during America's Centennial in 1876. Mrs. Ross was elected Wyoming Governor in 1924. She is a former director of the U.S. mint. A resident of Washington, D.C., she celebrated her 99th birthday on November 29.

The current slogan "You've come a long way, baby" must have been written for her.

In his "History of Wyoming," Professor Emeritus Al Larsen of the University of Wyoming wrote about prohibition being a major national issue in the 1928 Presidential campaign:

> The three chapters of the Women's Christian Temperance Union in Cheyenne chose as their slogan: "We are going to dry clean Al Smith with a Hoover." Mrs. Nellie Tayloe Ross, who had been governor from 1925 to 1927, said at a Cheyenne rally just before the 1928 election that although she was a prohibitionist, she supported Al Smith because violations of the law were so numerous and flagrant. The state gave Hoover a majority of almost two to one, which should not be taken to mean that the state was vehemently dry in 1928, since other issues besides prohibition were involved.

Mrs. Ross has always been a colorful reminder of the history of the West and of outspoken politicians. In wishing her a happy birthday, noting she has lived through half of this country's history and looking forward to her centennial during America's Bicentennial, Mr. President, I ask unanimous consent that a short history of her career as Wyoming Governor by Al Larsen be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE FIRST WOMAN GOVERNOR

The death of Governor William B. Ross occurred just a month and two days before the general election of November 4, 1924, and necessitated the election of someone to fill out the last two years of his four-year term. Special party conventions met in Cheyenne on October 14. The Republicans nominated Eugene J. Sullivan, a Casper attorney, who had been mayor of Basin and speaker of the Wyoming House of Representatives. He had interests in irrigation farming in Big Horn County and in an independent oil company. The Democrats nominated the late Governor's widow, Mrs. Nellie Tayloe Ross, who had not been active in politics. She had taught kindergarten briefly in Omaha before her marriage in 1902, but since that time she had been satisfied to remain a housewife, busy bringing up two sons.

Sullivan campaigned vigorously for three weeks, while Mrs. Ross announced: "I shall not make a campaign. My candidacy is in the hands of my friends. I shall not leave the house." A few small advertisements quoted her as saying that she would "be governed by the underlying principles by which he and I, side by side, have sought to conduct our lives during our 22 years together." Mrs. Ross defeated Sullivan by more than eight thousand votes, polling more votes than Francis E. Warren, who won his seventh term in the United States Senate. The State Tribune-Leader (Cheyenne) correctly appraised the situation: "Chivalry and sympathy were the factors of chief consideration."

Few Wyoming governors have received more favorable notice outside the state than Nellie Tayloe Ross. Although she was elected on the same day as Mrs. Miriam A. "Ma" Ferguson of Texas, she was acclaimed the first woman governor because she assumed office twenty days before Mrs. Ferguson.

Like her husband, Mrs. Ross had to deal with a legislature that was predominately Republican (16 to 11 in the Senate, 45 to 17 in the House), and, also like her husband, she was the only Democrat among the five state elective officials. Predictably, she did not dominate the many state boards on which she sat with the four Republicans, and, predictably, too, she did not control the Republican legislature. In her brief opening message to the legislature, she dealt only with the subjects that she considered to be of "greatest immediate importance." She explained at the outset that she had been aided in preparing her message by extensive notes assembled by her husband for the message that he had planned to deliver. With pride she reported that during her husband's administration, the valuation of railroads for tax purposes had been increased by eleven million dollars and that the total state taxes had been reduced. She urged the legislature to continue shifting the tax burden from small property holders to large ones. Recalling a coal-mine disaster at Kemmerer in which one hundred persons had died on August 14, 1923, she asked for improved safety regulations. She called for increased state investment in farm loans to aid depressed agriculture. She repeated her husband's complaint that Wyoming had not kept pace with progressive states in restricting work hours for women, and she recommended ratification of the Child Labor Amendment, which had been submitted to the states by the United States Congress.

Republican drys who thought their own candidate too wet had helped elect Mrs. Ross's huband in 1922. Appropriately, Mrs. Ross announced that she stood "unequivocally for . . . thorough enforcement" and proposed the enactment of a statute that would make it as great a crime to buy liquor as to sell it.

Contemplating the awesome fact that 35 of the state's 120 banks had failed in the past year, Mrs. Ross asked for a "sound banking law" and "some form of a guaranty provision."

The legislature adopted new coal-mine safety regulations, passed a new banking code, and enlarged the farm-loan fund, but such actions were coincidental rather than indicative of Republican willingness to follow Democratic leadership. Also, a child-labor law barring employment of children under sixteen in hazardous occupations was adopted—a law which would stand virtually unchanged until 1963. Otherwise, the legislation enacted by the 1925 legislature showed little similarity to the Governor's message.

Although she was elected "on trust," as she herself once put it, Mrs. Ross proved to be a good governor who gave the state a respectable, dignified, and economical administration. Intelligent, tactful, and gracious, she soon became a competent administrator and an effective public speaker. Appropriately, in 1926 her party nominated her for a four-year term, while the Republicans advanced Frank C. Emerson, state engineer, whose ouster both she and her husband had tried to accomplish without success.

Considerations of sympathy, charity, and chivalry were no longer important by 1926. Moreover, many Republican women who had crossed party lines to vote for a woman in 1924 voted for Emerson in 1926. Mrs. Theresa A. Jenkins, venerable champion of woman suffrage who had delivered an oration at the statehood celebration in 1890, asked in an open letter during the 1926 campaign: "What has Mrs. Ross done to particularly deserve the votes of women? Has she ever, since coming to Wyoming taken any interest in Woman's Suffrage?" A prominent Casper Republican, Mrs. H. C. Chappell, declared in a public address: "I am not against a woman for governor, but I am against a woman who is not fitted for the office and who was elected through appeals and prejudices that have no place in politics." Mrs. Ross's critics charged that she had not given other women a chance to demonstrate their capacity for public office, that she had appointed 174 men and only 5 women, and that she had named not a single woman to an office formerly held by a man.

The Republicans alleged that Mrs. Ross was merely a figurehead and that four men were really running her administration: Cheyenne lawyer Joseph C. O'Mahoney, state examiner Byron S. Huie, Attorney General David J. Howell, and Interstate Streams Commissioner S. G. Hopkins. Democratic advertisements defended the Governor with statements that she had reduced the expenses of state government in all departments, had equalized the tax burden by increasing the share paid by corporations, and had upheld the state's water rights.

Frank Emerson was presented as a businessman and engineer who would bring development to the state. A typical advertisement asserted: "Wyoming has retrogressed while neighboring states progressed. What's wrong with Wyoming? Wyoming needs leadership. Frank Emerson can meet its need." Another Republican advertisement, placed in a box on the front page of the Wyoming State Tribune, said: "In 20 words Wyoming needs Vision, Experience, Leadership, Information, Comprehension, Knowledge of Men, Ability to read men's motives, in the office of governor."

Among that year's Democratic candidates, Mrs. Ross easily ran the best race, but she lost by 1,365 votes. She lost, not because she was a woman, but because she was a Democrat in a Republican state and because she could not avoid being blamed for the state's economic aches and pains. She never again sought public office in Wyoming. Her work for the Democratic national committee subsequently brought her appointment as director of the United States Mint, in which capacity she served for twenty years (1933–1953). Still vivacious and charming, living in retirement in Washington, D.C., she exclaimed in 1964 with obvious sincerity: "I am very grateful for all that the wonderful people of Wyoming have done for me."

A CRITIQUE OF BUSINESS REGULATION

Mr. FANNIN. Mr. President, one of the best general statements I have read on the subject of Government regulation of business was made by Robert M. Bleiberg in an address to a student audience at Hillsdale College in Michigan. Mr. Bleiberg has been editor of Barron's National Business and Financial Weekly for the past 20 years. He is also a trustee of the American Economic Foundation and a member of the New York Security Analysts, the New York Financial Writers Association, and the Mont Pelerin Society.

Mr. Bleiberg's analysis of the historic relationship between government and business makes scintillating reading. I was especially interested in his discussion of the growth of regulatory activity in the transportation field and of the cozy relationship that has developed over the years between industries and the agencies that are supposed to regulate them.

I call my colleague's attention to the conclusions reached by Mr. Bleiberg from his survey:

> (1) Measured in terms of number of bureaucrats involved, volume of decisions and decrees of sweeping significance, U.S. rules and regulations in recent years have increased at an almost geometric rate.
>
> (2) Weighed on a scale of input against output or cost vs. benefits, virtually all such activities, both old and new, invariably are found wanting. Some have proven counter-

productive, while a few are demonstrably a menace to the nation's health or welfare.

(3) Perhaps because of its blatant shortcomings, government regulation—for the first time in living memory—is running into criticism and resistance, from an unlikely coalition of conservatives and liberals alike.

(4) Ironically, some of the most powerful support for regulation is coming from quarters which by rights should be leading the fight against it, namely, the business community.

Perhaps the most perceptive judgment of Government regulation was made by Alan Greenspan, Chairman of the President's Council of Economic Advisers, quoted by Mr. Bleiberg:

> Protection of the consumer against 'dishonest and unscrupulous' business practices has become a cardinal ingredient of welfare statism. . . . it is argued, the Pure Food and Drug Administration, the Securities and Exchange Commission and the numerous building regulatory agencies are indispensable if the consumer is to be protected from the 'greed' of the businessman.
>
> What collectivists refuse to recognize is that it is in the self-interest of every businessman to have a reputation for honest dealings and a quality product. . . . Reputation, in an unregulated economy, is thus a major competitive tool.
>
> Government regulation is not an alternative means of protecting the consumer. It does not build quality into goods, nor accuracy into information. Its sole 'contribution' is to substitute force and fear for incentive as the 'protector' of the consumer.
>
> Protection of the consumer by regulation is thus illusory. Rather than isolating the consumer from the dishonest businessman, it is gradually destroying the only reliable protection the consumer has: competition for reputation.

It is regrettable that this principle is not better understood in Washington. If it were, regulatory reform would not be necessary.

Mr. President, I ask unanimous consent that the complete text of Mr. Robert Bleiberg's speech, as it appeared in Imprimis, the publication of the Center for Constructive Alternatives at Hillsdale College, be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD. as follows:

Government and Business

(By Robert M. Bleiberg)

While it may strike some of you as smacking of heresy, I'd like to begin tonight by saying a good word for modern economics. Poor Ricardo and Marshall. They lived and worked in an orderly, more or less rational society, where experimentation was confined to the laboratories of the newly emerging physical sciences, and the world—or at least the part of it that counted—was solidly wedded to the gold standard. Thus they were barred from such exciting pursuits as fine-tuning the gross national product, or manipulating corporate profit margins; as one Nixon price controller confessed to posterity when he first tackled the intricacies of Freeze One and Phase Two (and I quote): "It's fun."

On the contrary, nineteenth century economists were compelled to turn their talents to the dull, plodding and often thankless quest for truth. There were Gresham's Law, Say's Law and the Law of Supply and Demand—but relatively few lawbreakers. That was a time in which you could almost learn economics in one lesson. To prove (or disprove) a theory, few followers of the dismal science had the slightest inclination, let alone authority, to carve up either the body economic or the body politic.

What a backward day and age, with its mindless belief in pure reason. In striking contrast, today—and for roughly the past half century—economics has broken out of the confines of the classical mold, and we are all thereby infinitely richer. Thus, while experts might have argued the point endlessly, now we know for sure—thanks to the New Economics as practiced for decades in Washington, D.C.—that the dollar is not as good as gold. We have found out the hard way the heavy impact of minimum wage laws on teen-age unemployment, notably among minority groups. We have learned for ourselves that wage and price controls, notably in peacetime, do discourage capital formation, create artificial shortages and ultimately lead to debasement of the currency, both at home and abroad. And after subsidizing illegitimacy for a generation, through so-called federal aid to dependent children, we have belatedly come to recognize that we live in a world full of bastards.

All of which brings me—by a slightly roundabout route, to be sure—to my topic: Government and Business. Thanks to decades of social experimentation at a mounting pace, a large body or empirical evidence has now piled up as to the efficacy—or, more accurately, the lack of efficacy—of federal regulation of U.S. economic life. The evidence supports the following conclusions, each of which we shall explore in turn. (1) Measured in terms of number of bureaucrats involved, volume of decisions and decrees or sweeping significance, U.S. rules and regulations in recent years have increased at an almost geometric rate. (2) Weighed on a scale of input against output or cost vs. benefits, virtually all such activities, both old and new, invariably are found wanting. Some have proven counterproductive, while a few are demonstrably a menace to the nation's health or welfare. (3) Perhaps because of its blatant shortcomings, government regulation—for the first time in living memory—is running into criticism and resistance, from an unlikely coalition of conservatives and liberals alike. (4) Ironically, some of the most powerful support for regulation is coming from quarters which by rights should be leading the fight against it, namely, the business community.

In order to appraise properly the current regulatory explosion, some background is useful. In *The Wealth of Nations*—we will celebrate the two hundredth anniversary of its publication next year—Adam Smith wrote as follows (and I quote): "No regulation of commerce can increase the quantity of industry in any society beyond what its capital can maintain. It can only divert a part of it into a direction into which it might not otherwise have gone; and it is by no means certain that this artificial direction is likely to be more advantageous to the society than that into which it would have gone of its own accord."

Thanks to the wisdom of the Founding Fathers, this country heeded Adam Smith for nearly a century. Then a basic change occurred, one described concisely and well in the latest annual report of the President's Council of Economic Advisers, headed by my old friend Alan Greenspan.

(And I quote): "Until after the Civil War, the federal government's policy toward the economy involved little or no direct regulation. . . . The first steps toward regulation were designed to deal with problems of monopoly. In 1887, the Act to Regulate Commerce set up an Interstate Commerce Commission (ICC) to regulate the railroads, which eventually led to reduced competition throughout the surface transportation sector. In 1890 the Sherman Act outlawed contracts and activities designed to create monopolies in restraint of interstate trade, intending thereby to promote competition. In succeeding years, the transportation and anti-trust statutes were amended and complemented and direct economic regulation spread to other industries. There's been a marked trend toward more rather than less governmental regulation, [one which] has been particularly evident in recent years. More requirements have been placed on the private sector, often to achieve objectives such as safety, health and pollution control. . . ."

Some facts and figures underscore the point. In the past decade, according to the National Association of Manufacturers, Congress has enacted more than 60 major pieces of legislation affecting the conduct of business. For example, in 1965–1966, the 89th Congress passed the following measures: Child Protection Act; Cigarette Labeling and Advertising Act; Extension of Defense Production Act; Extension of Re-Negotiation Act; Fair Packaging and Labeling Act; Federal Housing Subsidies; Manpower Development and Training Amendments; Nuclear Indemnity; Patent Fees; State Technical Services; Taxation of Foreign Securities; Traffic Safety Act; Water Pollution; Water Resources Planning.

Similarly, the 90th Congress (1967–68) passed laws involving Age Discrimination in Employment; Air Pollution Control; Extension of the Defense Production Act; Extension of the Interest Equalization Tax; Flammable Fabrics Act; Interstate Land Sales Full Disclosure Act; Land and Water Conservation Fund Amendments; Natural Gas Pipeline Safety; Radiation Control for Health and Safety Act; Truth in Lending; Wholesome Meat Act; Wholesome Poultry Products Act.

Came 1969–1970, the 91st Congress and a fresh spate of legislation, as follows: Extension of Defense Production Act—Authorization of Economic Controls; Extension of the National Commission on Product Safety; Federal Standards for Occupational Safety and Health; National Environmental Policy Act; Poison Prevention Packaging; Public Health Smoking Act; Securities Investor Protection Act; Tax Reform; Water Quality Improvement; Workmen's Compensation.

In 1971–72, under the aegis of the 92nd Congress, came the following measures: Consumer Product Safety Act; Economic Stabilization Act Amendments of 1971; Emergency Unemployment Compensation Act of 1971; Equal Employment Opportunity Act; Federal Boat Safety Act; Federal Water Pollution Control Act Amendments of 1972; Lead-Based Paint Elimination Act; Longshoremen's and Harbor Workers' Compensation Act Amendments; Noise Pollution and Control Act; Ocean Dumping; Revenue Act of 1971.

Finally, the 93rd Congress, which spanned 1973–1974, left its mark on business as follows: Anti-Trust Procedures and Penalties; Commission on Federal Paperwork (there's a fine irony for you); Emergency Unemployment Compensation; Energy Supply and Environmental Coordination; Establishment of a Council on Wage and Price Stability; Export Controls; Federal Energy Administration; Federal Non-Nuclear Energy Research and Development; Federal Protection of Private Pension Plans; Minimum Wage.

Federal regulation has burgeoned in other ways, notably in the growth in the number of regulators and the amount of taxpayers' money which they spend. In the past two years, according to Murray L. Weidenbaum, Director of the Center for the Study of American Business at Washington University (and former Assistant Secretary of the Treasury for Economic Policy), the number of persons employed in the major federal regulatory agencies rose from 55,316 to nearly 64,000. In the 12 months ended June 30, 1972, federal spending for such purposes totalled $1.3 billion. By fiscal 1974, just 24 months later, such outlays had increased 46 percent, to $1.9 billion, while for fiscal 1975, the total is estimated at roughly $2.2 billion. In short, the federal regulatory establishment is growing at a greater rate than the industries which it oversees.

Notably impressive rates of gain were scored by the Department of Health, Education and Welfare, Department of the Interior, Department of Justice, Environmental Protection Agency, Equal Employment Opportunity Commission and the U.S. Treasury, all of which, from fiscal 1972 to fiscal 1975, more than doubled expenditures on business regulation.

In terms of costs to U.S. industry and the U.S. economy, moreover, the numbers cited above barely scratch the surface. Just to fill out federal forms—as of June 30, 1974, according to the Office of Management and Budget, there were 5,146 different ones—business spends over 130 million man-hours a year. Merely to work up the required data for the new line-of-business reports currently sought by the Federal Trade Commission (which, by the way, industry is contesting in the courts), eight companies, including Beatrice Foods, Dow Chemical, duPont, General Electric, Proctor & Gamble, Singer, Standard Oil of California, Union Carbide and Westinghouse, estimated that it would cost upwards of $8 million for start-up costs alone and over a million dollars a year in annual maintenance.

Similarly, in a recent study for the Brookings Institution, Professors Douglas and Miller concluded that in 1969, air passengers paid excess fares to domestic trunk airlines ranging between $366 million and $538 million. Deducting improvements in quality—notably, in less waiting time at airports—the authors concluded that the traveling public that year suffered a dead-weight loss put at between $248 million and $536 million. In an update of this estimate, offered in testimony two months ago before a Senate subcommittee, one of the authors observed: "In our judgment, this figure today would be in the neighborhood of $1 billion per year, or around 10 percent total domestic trunk-line revenues."

But the CAB looks like a bargain compared to the Interstate Commerce Commission. Two years ago, in a study, "Surface Freight and the ICC," the American Enterprise Institute for Public Policy Research concluded that the agency properly may be charged with worsening freight shortages and delaying such technical breakthroughs as the Big John Hopper Car and the unit train. All told, the study estimated that ICC regulation costs the railroad industry $1.7 billion to $2.4 billion per year, the U.S. economy perhaps as much as $10 billion. Early this month, Vice President Rockefeller told a group of concerned businessmen that nobody in government had the slightest idea how much regulation as a whole costs the country. To judge by the fragmentary figures cited above, it seems fairly clear that the annual total runs into tens of billions of dollars.

One reason is the way that regulation breeds regulation, a process clearly described by Thomas E. Kauper, assistant attorney general, at the Senate subcommittee hearings. Regarding airlines, for example, Mr. Kauper pointed out that after experimenting with different ways of handling a system for subsidizing the air transport of mail—it's worth noting that mail was Congress's chief concern at the time—the lawmakers in 1930 granted the Postmaster General broad powers over the routes, rates and practices of carriers hauling air mail under government contract. In 1935, Congress broadened the scope of regulation.

Mr. Kauper explained (and I quote): "The predominance of mail over passenger service was rapidly diminishing, however, and by 1937 air carrier income from passenger service was twice as great as mail income. Unregulated carriers without air mail contracts began to compete with air mail carriers, who naturally complained about their unregulated competitor's greater economic freedom." Thereupon the ICC pushed for extension of economic regulation over all air carriers, under the general theory that it is unfair and "chaotic" for unregulated firms to be allowed to compete with their regulated counterparts. Acting on the same so-called principle in 1938, when trucks became a ponderable element on the nation's transportation scene, the ICC—instead of opting for de-regulation, since the railroads plainly were no longer a monopoly—merely extended its sway to motor trucks and water carriers, too.

Dollars-and-cents-wise, as we have seen, the costs of regulation are staggeringly high. Perhaps even more significant is the threat to freedom of choice from illconsidered or unscientific regulatory decrees, the kind that seems to have proliferated along with regulation itself in recent years. On this score, take the case of cyclamate, the artificial sweetener which, for the past six years, despite a vast weight of evidence in its favor, remains banned to most Americans. First discovered by a scientist at the University of Illinois in 1937, cyclamate was licensed in 1950 to Abbott Laboratories, which proceeded to develop and exploit its unique properties (while non-caloric, it is 30–40 times sweeter than sugar and much cheaper to use).

By the late 60s, cyclamates had begun to revolutionize U.S. eating and drinking. From 1963 through mid-1969, consumption soared from five million to 17 million pounds per year and, prior to the abrupt ban late in 1969, 20 million pounds were projected for 1970. As the House Judiciary Committee reported (and I quote): "Cyclamates were extensively used in carbonated beverages, fruit drinks and weight control preparations. They also were used in canned fruits, jam, jelly, preserves, desserts, salad dressings, maple syrup, baked goods and candy, and direct application as a food sweetener." By 1969, diet soft drinks were pushing 15 percent of total production, while cyclamates in all formulations were displacing a ponderable quantity of sugar.

Alarmed at the competitive thrust, the sugar trade fought back. (And I quote): "As the low-calorie market was developing into a major industry," so Abbott has publicly charged, "the sugar interests openly launched a research, advertising and publicity program designed to raise doubts about non-caloric sweeteners, especially cyclamates. By 1967, anti-cyclamate publicity was strident, and FDA felt a thorough scientific evaluation was necessary." After weighing all available data, the National Academy of Sciences–National Research Council in November, 1968, issued a report which concluded that consumption of cyclamate in reasonable amount posed no health hazard to human beings.

However, NAS–NRC urged further tests, some of which Abbott proceeded to finance. One turned up evidence of tumors in rats fed huge doses of a cyclamate-saccharin mixture, which Abbott promptly reported to the Food and Drug Administration. The infamous Delaney Amendment, that unfortunate byproduct of food faddism written into law in 1958—and zealously defended ever since—by Congressional primitives, provides that (and I quote) "no additive shall be deemed safe if it is found to induce cancer when ingested by man or animal. . . ." Invoking its mischievous mandate, FDA in October, 1969, abruptly struck cyclamate off the list of substances "Generally Recognized As Safe." Early the following year, under further pressure from legislative know-nothings, the agency banned its use outright.

How sweet it is, said the Sugar Daddies (whose lawyer, Thomas G. Corcoran, known in New Deal days as Tommy the Cork, claimed credit for the move). Everyone else cried foul. In particular, processors, canners and farm cooperatives, caught with heavy inventories of cyclamate foods and beverages, suffered unrequited losses estimated at $100 to $125 million. Consumers by the millions overnight were deprived of access to low-calorie products. A great growth industry was stopped in its tracks—under new, less palatable formulations (largely of saccharin—itself the target of sugar industry-financed attacks)—diet drinks today command only a fraction of the market share they once commanded. Low-calorie foodstuffs are hard to find on grocery shelves. As in the Middle Ages, sugar once again is a luxury.

The blow to the pocketbook is bad enough. What is genuinely alarming is the FDA's stubborn refusal to admit and rectify a mistake. As an overwhelming mass of evidence now suggests, mistake it undoubtedly was. Since 1969, more than a dozen new scientific studies—conducted under such prestigious auspices as the British Industrial Biological Research Association, Curie Institute, German Cancer Research Association, Osaka University School of Medicine, U.S. National Cancer Institute and FDA itself—have been unanimous in finding that cyclamates, even when fed in large quantities or in combination with saccharin, are free of either carcinogenic (that's cancer-producing) or other adverse effects.

The German experiments, incidentally, involved the study of twice as many rats as before, and for a far longer time. Hence the Bonn Republic, which enacted stiff food and drug laws after the thalidomide tragedy of a decade or so ago, has rejoined the large number of Western countries, including Canada and Switzerland, where cyclamate in all its many uses freely may be bought and sold. Contrariwise, this country continues to suffer, financially and otherwise, from Big Brother's boneheadedness.

Let's turn now to the Environmental Protection Agency, which, as noted earlier, is one of the fastest-growing regulatory bodies in Washington. In just a few years, the agency has done an awesome amount of mischief, notably in its rulings on automotive exhausts and DDT. Let's first look at the latter, which has been under assault from environmentalists and other pseudo-scientific types ever since Rachel Carson published her highly alarming and equally misleading book, *Silent Spring*, over a decade ago.

Early in 1972, after 81 days of hearings, during which 125 witnesses filled nearly 10,000 pages with testimony, an EPA hearing examiner reached the following conclusions (and I quote): "DDT as offered under the registrations involved herein is not misbranded. DDT is not a carcinogenic hazard to man. The uses of DDT under the registrations involved here do not have a deleterious effect on fresh-water fish, wild birds or other wild life. . . . In my opinion, the evidence in this proceeding supports the conclusion that there is a present need for the essential uses of DDT."

Nonetheless, six months later EPA, for all practical purposes—except in cases of emergency—banned the pesticide's use. In the spring of 1973, despite anguished pleas by the cities of Walla Walla, Washington, and Milton-Freewater, Oregon, as well as both states, EPA refused to grant requests for emergency use of DDT. Regarding the proposed use of DDT to control an infestation of the tussock moth in the Pacific Northwest, the "benefits," so the agency decreed, failed to outweigh the risks.

Regarding risks, an agency spokesman, quoting the official decision to ban the stuff, mentioned "cause for concern given by unknown and possibly forever undeterminable long-range effects of DDT on man and the environment." As against such nebulous terrors, the costs of withholding its use turned out to be mercilessly real. Nearly 700,000 acres of forest land in Washington, Oregon and northern Idaho were defoliated. Dollars-and-cents-wise, the Department of Agriculture issued the following grim tally: loss in timber stumpage value, $3,650,000; loss of timber value that cannot be salvaged, $10 million; reforestation costs, $7,304,000; costs of reducing fire hazard to normal and extra fire protection over the next five years, $25,712,000. All told, including a few other expense items, nearly $50 million. As Sen. James A. McClure (R-Idaho) bitterly remarked in Congress: "Some risk. Some benefit."

Nor was the environment itself immune. Far from it. As the Tussock Moth Control Association and Pacific Legal Foundation cogently argued: "During a tussock moth epidemic, entire trees are often defoliated in one summer. . . . In an evergreen forest, once a large number of trees is suddenly killed, serious environmental degradation occurs at once. Dead leafless spires cannot properly diminish the forces of wind, rain and snow. Ground cover is torn off by snow-melt and heavy rain. Dependent plant and animal life do not obtain necessary support. The result is a desert. . . . The destruction of the forests by the tussocks moth has great adverse effect on wild life. . . ."

Finally, last spring, despite cries of rage from rabid ecologists, EPA relented and allowed the Pacific Northwest to spray the tussock moth with DDT. Nearly 426,000 acres were sprayed with dramatic results. According to the U.S. Forest Service, the pesticide achieved a mortality of 96.8 percent within a few days. Feeding in the treated areas stopped immediately. The 21-day post spray weighted insect mortality averages for all units was 98.8 percent. Thanks to DDT, the Pacific Northwest forests have been saved.

Or consider how EPA has handled the catalytic converter, the device which it seized upon years ago as the most feasible means of reducing automotive exhausts to the levels prescribed by the Clean Air Act of 1970. Back in 1971, *Barron's National Business and Financial Weekly* cited what happened in Japan when authorities ordered the lead content of gasoline cut in half. Following the changeover in motor fuel, Tokyo suffered several "white smogs," caused by sulphuric acid mist, which led to thousands of cases of breathing difficulties, burning eyes and sore throats.

A year or so later, Herbert L. Misch, Ford Motor Co. vice president, said that Ford had (and I quote) "noted the formation of some sulphuric acid particulates resulting from the use of catalysts [which] we reported to EPA. . . . The phenomenon merits further study to determine whether the levels which would occur in the atmosphere are deleterious to health." In the fall of 1973, the authoritative publication, *Science,* reported that (and I quote) "tests made by industry and EPA beginning in 1972 . . . showed that relatively large amounts of sulphuric acid . . . were coming from the tailpipes of catalyst-equipped cars."

Evidence pointing in the same ugly direction, i.e., that catalytic converters, while ridding automotive exhausts of some pollutants, cause dangerous emissions of sulphuric acid, continued to accumulate. As a result, Russell E. Train, EPA administrator, last month reluctantly announced that he had granted auto makers their request for a one-year delay in imposing emission standards for 1977 model cars. Not surprisingly, the move triggered a storm of protest from the hinterlands. Upset at the response, EPA swiftly went back to the drawing board. Last week, believe it or not, the agency leaked a brand new study purporting to show that perhaps the threat of sulphuric acid is not so deadly after all. Where the issue goes from here remains to be seen, but one thing is clear: the automobile industry, at official behest, already has spent several hundred millions of dollars working on a process which literally may do more harm than good.

So the dismal story goes. If time permitted, I could regale you all night with similar tales of bureaucratic excess and folly. Suffice it to say that the U.S. rejoices in a Federal Communications Commission and a so-called Fairness Doctrine—yet television shows bias toward collectivism and against private enterprise and the free market, while officialdom throws one roadblock after another in the path of technological developments that might expose the nation to a fresh diversity of viewpoint. There is the Federal Power Commission—and thanks to its policies, a worsening man-made shortage of natural gas. We have a Securities and Exchange Commission—and from 1968 through 1974, American investors suffered a financial disaster in many respects comparable to that of the Great Crash. The other day, a group of visiting students asked James Needham, president of the New York Stock Exchange, whether 1929 could ever recur. His reply—a fairly sensible one—was that history indeed could repeat. But what Mr. Needham failed to add was that on Wall Street, at any rate, we in effect have just lived through 1929–32. Nor should one overlook the fact that despite the menacing presence of the SEC, investors in the last few years have lost through fraud far more money, both absolutely and relative to their investment, than in any other era in American history.

Perhaps not surprisingly in the circumstances—though I must say that I am always surprised when something sensible seems to shaping up in the nation's capital—for the first time in decades, a discernible groundswell of opposition to regulation has begun to surface. Last October, Lewis A. Engman, head of the Federal Trade Commission, publicly charged that "much of today's regulatory machinery does little more than shelter producers from the normal competitive consequences of lassitude and inefficiency." The public, he added, was "beginning to view the price of government with the same jaundiced eye with which it views prices in the marketplace." In view of the source—Mr. Engman's agency, the FTC, has been perhaps one of the worst offenders of all—this was a fairly astonishing statement. Nor could it be simply shrugged off; next day, the White House asked Congress to create a study group "to identify and eliminate existing federal rules and regulations which increased costs to the consumer without any good reason in today's economic climate."

Congress has proven receptive. According to the authoritative *National Journal,* which keeps tabs on what goes on in the nation's capital (and I quote): "Reform has attracted Congressional supporters who make strange bedfellows, such as conservative Republican Senators John Tower of Texas and Bill Brock of Tennessee, and liberal Democratic Senators Edward M. Kennedy of Massachusetts and George McGovern of South Dakota. . . ."

National Journal added that Senator Kennedy "provided the platform from which the Ford Administration recently detailed an airline regulation reform proposal that shocked both the airlines and the Civil Aeronautics Board. Kennedy's Administrative Practices and Procedures Subcommittee of the Senate Judiciary Committee also aired its own criticisms of CAB. At a subcommittee hearing on February 6, Administration officials blasted 'uneconomical and irrational' regulation, adding that the White House will propose a measure to promote air fare competition, to allow new competitors into the airline business and to apply anti-trust principles to airline mergers." Incidentally, the White House shortly plans to introduce legislation aimed at achieving similar reforms in the regulation of railroads and trucks.

Other Congressional moves are afoot. In mid-January, Rep. James T. Broyhill (R-N.C.) introduced a bill to authorize an in-depth Congressional study of each of the major regulatory bodies every three years. It is designed to replace the current unsatisfactory state of affairs, whereby the agencies each year present their budgets directly to the House Appropriations Committee, thus by-passing most of the lawmakers. Again, various Congressional probes of the regulatory agencies—notably one soon to be launched by Rep. John E. Moss (D-Calif.), head of the Subcommittee on Investigations of the Interstate and Foreign Commerce Committee—will soon be afoot.

The shift in thinking—now highly visible, by the way, in the communications media, both electronic and print—is noteworthy. However, we would be well advised not to expect free-market miracles overnight. Bureaucrats are powerful and shrewd, and they're not about to give up their entrenched authority without a fight. Moreover, they command considerable support in the business community. Corporate executives seem to split into two camps on the issue: one that will voice muted criticism of the regulatory process, and another that wholeheartedly embraces the existing system. As to the first, the chairman of a major Midwest railroad last month spoke out as follows (and I quote): "The current dialogue over de-regulation, or re-regulation, reflects a healthy, overdue and widespread public questioning. . . ." However, he then proceeded to add (and I quote): "Most railroad executives accept regulation—they have all lived with it throughout their careers. They accept its usefulness and fairness in many situations, as I do."

The head of another Midwest carrier has had even harsher things to say about the ICC. Thus, in a speech in mid-February before the Mountain-Plains Shippers' Board in Lincoln, Nebraska, this executive caustically observed (and I quote): "Of all the regulatory agencies at the federal level, the ICC operates with the least regard for the economic realities of our times." Specifically, he charged it with behavior that is "not only erratic and irrational, but also clearly punitive." Then, having painfully documented his charges, he proceeded to voice the hope that (and I quote) "the Administration and Congress will see the wisdom of replacing the ICC with a federal railroad commission operating along the lines of the Federal Maritime Commission and the Civil Aeronautics Board."

His sentiments were echoed the other day by a major shipper, who, in view of the burdensome costs imposed on him by regulation, might have been expected to look for a change. So he does, but in severely limited fashion. Those who seek to abolish regulation, he said, are generally far removed from actual involvement in the transportation business. "The closer people are to that business," he added, "the less likely they are to support de-regulation."

Despite their angry words, such executives must willy-nilly (and sadly) be placed in the category of regulatory fellow travelers. From their own long experience, they see clearly that regulation has gone off the tracks, yet they blink at reaching the logical conclusion. More reprehensible, in our book at any rate, are their colleagues who have sprung to the defense of the sorry status quo.

To illustrate, we recently received the following communication from the American Trucking Associations, Inc. "Dear Mr. Bleiberg: To the typical American, the word regulation no doubt is repugnant. Proud of our freedom, jealous of our independence, confident of our system of private enterprise, we Americans just naturally get our backs up whenever anyone tries to slap laws or rules or regulations upon us. That's the way it ought to be, and that's the way it is. And that's what makes it so tough for the transportation industry to obtain a sympathetic, even an objective audience in support of government regulation of transportation.

"Yet economic and safety regulation . . . is the very foundation of the American transportation system, which is generally conceded to be the best in the world. . . . That system today, however, is threatened because the concept of regulation that makes it possible is threatened. Sweeping accusations, unsupported claims and baseless arguments are hurled at the regulatory structure—both the governmental regulatory framework and the carriers which provide the essential transportation services within that framework. . . .

"It is in recognition of this situation . . . that the American Trucking Association has compiled the enclosed 'White Paper' in support of sound economic regulation of transportation."

The White Paper dismisses as theoretical and unsubstantiated the impressive array of independent studies from a half-dozen different sources, including the American Enterprise Institute for Public Policy Research, Hoover Institution and the National Bureau of Economic Research, which document the heavy cost to the public of ICC regulation of railroads and trucks.

As to the inefficiency of airline regulation, and the financial penalties which it exacts from U.S. consumers, these are amply documented. As it happens, in two parts of the U.S., Texas and California, federally unregulated intra-state air carriers flourish, the operations of which may be compared to those of their CAB-controlled counterparts. The contrasts are striking. In the relatively free California intra-state market, air fares range from 4.76 cents per passenger mile to 7.31 cents. On the East Coast, contrariwise, the cost of similar hauls runs from 8.63 cents to 11.61 cents per passenger mile.

An equally striking disparity shows up in the Texas intra-state market, where Southwest Airlines, a carrier licensed solely by the Texas Aeronautics Commission, competes with Braniff Airways, a CAB-regulated trunk carrier, and Texas International Airways, a CAB-regulated local service carrier. Although it couldn't get off the ground for nearly four years because of judicial challenges by Braniff and Texas International, Southwest Airlines now serves the Golden Triangle (Dallas, Austin and Houston) at a profit, charging fares which average 20–50 percent less than comparable CAB-regulated tariffs.

Any way you look at it, regulatory reform will not come easy. Emphasis on cost-benefit ratios is all well and good, and may curtail the more blatant abuses. However, truly effective criticism of the regulatory process must cut deeper, to first principles, so to speak. On this score, one of the most powerful arguments against regulation which we have ever seen was penned over a decade ago by Alan Greenspan, Chairman of the President's Council of Economic Advisers. In *The Objectivist Newsletter* for August 1963, Mr. Greenspan wrote as follows (and I quote): "Protection of the consumer against 'dishonest and unscrupulous' business practices has become a cardinal ingredient of welfare statism. Left to their own devices, it is alleged, businessmen would attempt to sell unsafe food and drugs, fraudulent securities and shoddy buildings. Thus, it is argued, the Pure Food and Drug Administration, the Securities and Exchange Commission and the numerous building regulatory agencies are indispensable if the consumer is to be protected from the 'greed' of the businessman.

"What collectivists refuse to recognize is that it is in the self-interest of every businessman to have a reputation for honest dealings and a quality product. Since the market value of a going business is measured by its money-making potential, reputation or 'good-will' is as much an asset as its physical plant and equipment. . . . Reputation, in an unregulated economy, is thus a major competitive tool. Builders who have acquired a reputation for top quality construction take the market away from their less scrupulous or less conscientious competitors. The most reputable securities dealers get the bulk of the commission business. Drug manufacturers and food processors vie with one another to make their brand names synonymous with fine quality.

"Government regulation is not an alternative means of protecting the consumer. It does not build quality into goods, nor accuracy into information. Its sole 'contribution' is to substitute force and fear for incentive as the 'protector' of the consumer.

"Protection of the consumer by regulation is thus illusory. Rather than isolating the consumer from the dishonest businessman, it is gradually destroying the only reliable protection the consumer has: competition for reputation."

Let's hope that sooner or later the American people—and the powers-that-be in Washington—get the message.

THE FUTURE OF THE GI BILL

Mr. **HARTKE**. Mr. President, as my colleagues are aware, there presently is pending before the Committee on Veterans' Affairs, which I chair, a proposal to terminate the GI bill. I have questioned the wisdom of such a proposal in light of the GI bill program's demonstrated value to our Nation's veterans and to the country as a whole. Of great concern to me is the fact that too little is known of the effect that such a program termination might have with respect to educational opportunities for veterans—particularly those from disadvantaged backgrounds. More needs to be known about the effect that the termination of the GI bill might have on the ability of our armed services to perform their mission fully and effectively. And we need to know what the impact upon educational institutions would be.

In the past, Congress has been criticized occasionally for authorizing programs in haste with insufficient attention paid either to purpose or effect. Whatever merit such criticism may have there is little doubt that it would be equally applicable to precipitous action to end a program. Thus, it has been my conviction that the prudent and responsible course of action for the Committee on Veterans' Affairs is to proceed cautiously and thoroughly in its consideration of the future of in-service and post-service benefits for our servicemen and veterans.

The information and testimony we have received to date has for the most part either opposed the administration's proposal or urged that an alternate or modified educational assistance program be developed to replace the current GI bill. For example, the Veterans of Foreign Wars testified that: "educational benefits as they now exist should be continued and administered by the Veterans Administration but charged to the Department of Defense budget." Also testifying against terminating the program were the National Association of Concerned Veterans, the Paralyzed Veterans of America, and the Non-Commissioned Officers Association of the U.S.A. Others who testified in opposition to ending the GI bill included representatives of the American Association of State Colleges and Universities, who enroll one-quarter of all college students, and the American Association of Community and Junior Colleges, who enroll approximately 60 percent of veterans currently attending institutions of higher learning.

The VA, of course, testified in support of the President's proposal to terminate the GI bill but were unable to reconcile this position with their testimony from the year previous. At that time, in response to a committee member's question of the need for a GI bill, in a period of an all-voluntary army, the Veterans' Adminisration officially responded that:

> The purpose [of the GI Bill] is to continue to provide benefits for those under the all-volunteer army serving on active duty in order to aid them in adjusting to civilian life. As long as there is a need for active-duty personnel there is a need for readjustment benefits.

Of course, that testimony was and remains thoroughly consistent with congressional intent as expressed in section 1651 of title 38, United States Code, which states in pertinent part:

> The Congress of the United States hereby declares that the education program created by this chapter is for the purpose of (1) enhancing and making more attractive service in the armed forces of the United States. . . .

In their testimony, the Department of the Army, the only service to testify before the committee to date, loyally supported the proposal of their Commander in Chief, to terminate the GI bill. The Army's response to factual inquiries by the committee, however, revealed data which to my mind, seriously questions whether we would be able to maintain the sort of army which we expect and which can fully perform its mission.

I have previously cited studies that indicate nearly half of those enlisting in the Army today, regard the GI bill benefits as an important inducement. One in four said they would not have enlisted were it not for such benefits. And although our country's persistent recession has attenuated many of the Army's personnel problems, no long-term policy could or would want to be based upon a continuing suffering economy. The quality of personnel as well as the quantity would be adversely affected if we terminate the GI bill without an adequate alternative. The Assistant Secretary of the Army revealed under questioning, for example, that the Department's goal is to insure that 65 percent of their enlistees are high school graduates. Yet he admitted, that without an educational program such as the GI bill, it would be difficult to insure that even one-half of the recruits were high school graduates.

Obviously, this has important implications in a period when the Army needs a regular influx of young men and women who are capable of responding to requirements of the increasingly complex and sophisticated modern military force.

It has important implications further as to whether we will have a military service which is generally representative of the Nation as a whole. Recent research done at the Institute of Social Research at the University of Michigan has raised important issues which should be examined in greater detail. Tentative conclusions of this research indicate that in attempting to save money by terminating the GI bill, the President and Congress "will be doing so at the dangerous expense of this important enlistment incentive, which helps to insure the ideological balance of the all-volunteer military period." The study also concludes that those attracted to military service because of the GI bill are more intelligent and show greater ability and leadership potential.

Finally, it is concluded that by "introducing a wide cross section of citizens into its Armed Forces for relatively short terms of duty, the Nation can be assured of having an able military that is responsible and responsive to civilian interests."

Mr. President, I ask unanimous consent that an article describing the study be printed in the Record at this point.

Without objection, the material was ordered to be printed in the Record, as follows:

Promise of Paid Schooling May Be Crucial for Best All-Volunteer Military, Researchers Say

Current proposals to trim the funds available for GI educational programs could have serious effects on the makeup of the new all-volunteer military force and lead toward a more monolithically pro-military "career force." That is the conclusion of two ISR researchers following a series of studies dealing with attitudes toward the military and its role in society.

Despite the enthusiasm with which the public greeted the end of conscription as the Vietnam era drew to a close, there have been persistent concerns about the effectiveness of an all-volunteer force. Would the military be able to compete with civilian employers in recruiting enlistees? Would the program cost too much? Would the military attract the right kind of person? Some observers expressed apprehension about trading a reluctantly dutiful force of "citizen soldiers" for a force comprised largely of career officers and enlistees, which might develop a separate military ethos.

IDEOLOGICAL BALANCE

Several recent ISR studies have dealt with these issues, and the findings have been summarized by Jerald Bachman and John Blair in an article to appear in a forthcoming issue of the journal *Armed Forces and Society*. The article deals primarily with data collected from a nationwide sample of the civilian population and a representative cross-section of Navy ship and shore personnel.

Bachman and Blair argue that one of the most crucial factors in maintaining an ideological balance in the all-volunteer force could be the offer of paid schooling as an incentive to enlist. Previous ISR studies of young people's attitudes toward the military have shown that higher pay and guarantees of paid schooling are the two most attractive incentives to enlistees (*ISR Newsletter*, Spring 1972).

"Although the President and Congress may hope to save money by reducing some of the funds available for GI educational programs," Bachman and Blair warn, "they will be doing so at the dangerous expense of this important enlistment incentive which helps to ensure the ideological balance of the all-volunteer military."

Bachman and Blair cite evidence that the President's Commission on an All-Volunteer Armed Force (1970) "may have greatly underestimated the relative size of the 'career force' within the military." As the proportion of career-oriented men in the all-volunteer force increases, they say, that force will be less likely to match the values, perceptions, and preferences concerning the military held by civilians.

CRITICAL OF WASTE

The researchers have found that citizens view the military with a mixture of positive and negative feelings, depending upon the dimension being considered. "The evaluation of the military organization was generally favorable," Bachman and Blair say, "yet there was considerable reluctance to support the use of military force except in self-defense (even though those individuals most favorable toward the military organization were also more willing to support the use of military force under a wider range of circumstances).

"In the area of civil-military relations, we found mostly positive ratings of the role of the military in society and the level of military versus civilian influence; nevertheless, a majority of respondents were critical of waste, inefficiency, and excess spending in the military."

STRONG SUPPORT

Results from the questionnaire and an interview administered only to civilians indicated strong majority support for the concept of the all-volunteer force and relatively little concern about some of the issues which have been raised as potential problems, Bachman and Blair report. "The nationwide civilian sample supported the all-volunteer approach rather than the draft by nearly a two-to-one margin." There was also very strong support for the higher military pay levels considered necessary under a volunteer system.

There was a slight tendency for people to favor citizen soldiers over career men, but the views seemed rather mixed, Bachman and Blair report. "Civilian responses to open-ended interview items about the all-volunteer force left a dominant impression that most people have not thought much about the question of what kinds of servicemen will, or should, staff an all-volunteer armed force. The make-up of an all-volunteer force has been of considerable concern to us, however."

Bachman and Blair point to several research findings on which their concern for this issue is based:

First-term enlistees were more like the civilian population in values, perceptions, and preferences; re-enlistees and officers were detectably more pro-military.

Young men attracted to the armed forces by the higher pay incentives were slightly below average on socioeconomic background and ability ratings.

Young men attracted by the promise of paid schooling were slightly more intelligent, showing greater ability and leadership potential.

To Bachman and Blair, the most striking finding is that the career-oriented first-termers were remarkably similar ideologically to their later-term colleagues, with virtually all scores averaging on the pro-military side of the ledger. But those young men who planned to leave the military after their first term were rather similar to their civilian peers in most matters of ideology about the military—"both tended to be critical of the military," the researchers say, "sometimes quite strongly."

Bachman and Blair contend that one of the most attractive incentives to prospective young enlistees—the promise of four years of paid schooling for four years of military service—is also one of the most effective means available for ensuring an ideological balance in the military, thus allaying the vague but no less threatening prospect of growth in military power, autonomy, and adventurism. The educational incentive, they claim, will encourage greater turnover among the military ranks—even among the officer corps. By attracting a wide cross-section of citizens into its armed forces for relatively short terms of duty, the nation can be assured of having an able military that is responsible and responsive to civilian interests.

Mr. HARTKE. Mr. President, we cannot ignore either the impact of the GI bill as a device for upward mobility for many of our Nation's minorities, disadvantaged, and those whose families simply find it difficult to finance higher educational opportunities for their children. In this connection I ask unanimous consent that a recent letter to the editor of the Washington Star, on the plight of minority veterans with respect to termination of the GI bill be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Star, Oct. 15, 1975]

The Plight of Minority Veterans

A study conducted by the Educational Testing Service (ETS) of Princeton, N.J., brought to light a number of facts that directly reflect the plight and the exploitation of minority veterans, after release or discharge from active duty, and concluded that, "In the Vietnam conflict, blacks accounted for about 20 percent of combat fatalities even though they comprised only 12.6 percent of Armed Forces personnel.

"Upon returning to civilian life, a plethora of factors combined to make the participation rate among blacks the lowest of any sub-group in training. Generally, problems which affect all veterans are much more severe for the black GI."

Unemployment is central to the numerous problems confronting minority veterans (minority meaning blacks, Chicanos, Puerto Ricans and the American Indian). As a result, the study continued, minorities are often forced to turn to deviant means of survival, i.e., pushing drugs, using drugs, pimping, boostering, mugging and robbing.

The study clearly indicated that the unemployment rate among minorities is a futile battle, with very little assistance from the traditional veterans organizations, including the Veterans Administration. Not only are unemployment rates for black veterans higher, but blacks also express dissatisfaction with their jobs on the basis of salary and working conditions as compared with their white counterparts.

It has been only within the past seven years that inroads have been made to create in the ghettos and/or inner cities of this country an awareness of the provisions of the GI Bill. Although these inroads have been minimal, veterans, and particularly minority veterans, of the Vietnam era have been applying for educational and training benefits in increasing numbers.

According to figures released by the Veterans Administration for all veterans at the end of November, 1974, there were 951,234 veterans training at the college level. By the end of March, 1975, there were 1,153,583 veterans in training at the college level, an increase of 17.5 percent.

There are a number of reasons for this influx:

1. The devastating unemployment rate for Vietnam era veterans, and especially minority Vietnam era veterans.

2. The use of educational and training benefits as an alternative to employment. Currently and in the past, these benefits often had to be supplemented with employment by the vast majority of Vietnam veterans with even a middleclass or above income. More importantly, those coming from a middle-class or upper-income family background often have to appeal to their families for a monetary supplement in order to use these benefits solely for educational purposes. The

minority veteran almost never has even these advantages.

3. The emphasis placed by society on the need for a higher education.

4. The desire to learn.

These circumstances leave the minority veteran, who in most instances comes from an economically and educationally disadvantaged background, in a crisis situation. A recent study asked the hypothetical question: "What proportion of your present student veterans would be forced to discontinue their education were the GI Bill unavailable to them?" The same question was asked regarding minority student veterans. The results made it clear that minority student veterans would be more adversely affected than the veteran student population as a whole.

HR 9576, which will terminate the GI Bill for any Armed Forces enlistee after next Dec. 31, was passed by the House the other day and now goes to the Senate. The GI Bill has an impressive history of 35 years, but the minorities have only within the past seven years become acutely aware of the provisions contained in the program.

With the tremendous influx of minorities into the military service and especially with the all-volunteer Armed Forces, it becomes quite apparent that once again minority veterans are being stifled in their effort to make needed contributions to the greatness of this country. Needed contributions to this country can be made by its educated minority population, and the GI Bill is a useful tool in achieving that education. If the GI Bill is terminated, there is nothing to replace it but despair.

William E. Lawson,
Washington, D.C.

Mr. HARTKE. As a third area of concern, Mr. President, we cannot ignore the impact termination the GI bill will have on the educational community. The American Council on Education, which represents 1,361 colleges and universities and 172 regional and national educational associations has written the committee and urged us not to terminate the GI bill. Because these benefits constitute such a significant proportion of all Federal outlays for higher education, they are understandably concerned that we not terminate this program until other programs which meet our national educational policy objectives are developed to replace it. As they noted in their letter to me:

> Termination of the one form of aid provided as an entitlement could seriously impair progress toward the national goal of equal educational opportunity.

Mr. President, I ask unanimous consent that the full text of the letter to me be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

American Council on Education,
Washington, D.C., November 11, 1975.
Hon. Vance Hartke,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: This letter is to express the views of the American Council on Education on the proposed termination of G.I. educational benefits which is currently under consideration in the Committee on Veteran's Affairs.

On behalf of the Council, which represents 1,361 colleges and universities and 172 regional and national education associations, I ask the Committee to reject the provisions of H.R. 9587 which would end educational benefits for persons who enlist after December 31, 1975.

Other provisions of the House-passed bill may be desirable—such as the extension of benefits to 45 months without restriction—but the termination of educational benefits at this time is premature. Such action would have significant implications for the Nation's economy and for society as a whole, as well as for the educational system, and we believe these implications warrant thorough consideration.

With respect to the social implications: over the last three decades the G.I. bill has been one of the most significant factors in extending educational opportunities and advancing career prospects for disadvantaged and minority citizens. Many of the 15 million people who have received G.I. benefits would not otherwise have had the opportunity to pursue meaningful and rewarding careers. The termination of G.I. benefits without offsetting actions would clearly have a restrictive effect on opportunity in America.

Termination would also have an important impact on the educational system. G.I. benefits are currently the most important form of student assistance, accounting for over 40 percent of all Federal outlays for this purpose. What other forms of assistance would be available to fill this gap?

G.I. benefits are the only form of student aid now provided as an entitlement, so that recipients know in advance what their benefits will be. It is ACE's position that Federal grant assistance for all needy students should be based on a similar entitlement, so that they may make their educational plans in advance. The uncertainty of award levels is one of the most serious problems of other student aid programs.

The education committees of the Congress are now considering extension and amendment of student assistance authorized under the Higher Education Act. Until such time as major improvements in these programs can be made, termination of the one form of aid provided as an entitlement could seriously impair progress toward the national goal of equal educational opportunity. Consideration of termination, therefore, should involve close consultation with the education committees. It might be possible, for example, to work out jointly a means of assuring that the $1 billion a year which would be released by termination in the early 1980s would be channelled into other forms of student assistance.

Termination would negatively impact the financial stability of higher education, as well as educational opportunities. About 15 percent of all students in higher education are currently supported by veterans' benefits. Declining enrollments of veterans over time will have a dual effect on the resources available for higher education, since most public and some private institutions receive state funds on the basis of the number of students enrolled, and since a general enrollment decline is already projected for the early 1980s, when termination of the G.I. bill would have its full impact.

G.I. benefits are an important incentive for enlistment in the military service. What in-service educational benefits will be offered to servicemen and women to take their place? Until these can be described and analyzed, there will be no assurance that persons who complete their service obligations in the future will have the educational resources and the skills to support their families in a civilian career. The continuing high rate of veterans' unemployment indicates that readjustment is difficult even in peacetime, particularly with high general levels of unemployment. The most optimistic projections show a continuation of high unemployment into the early 1980s, and the extension of educational opportunity may thus be a crucial spur to economic recovery. The G.I. Bill function as an employment and training program—a builder of human capital—should be evaluated against investment in other social programs which might be required to replace it.

Until these implications can be explored, and alternatives designed to replace the social, economic, and educational contributions of the G.I. Bill, we do not believe that its termination would serve the national interest.

Sincerely,
Charles B. Saunders, Jr.,
Director, Office of Governmental Relations.

Mr. HARTKE. Mr. President, I believe the foregoing clearly demonstrates the continuing need to proceed cautiously in our consideration of any proposal to end the GI bill. Whatever decision is arrived at, should not be made in isolation but rather in the overall context of national policy objectives and Federal budgetary considerations. Once these national objectives are determined, and a consensus is reached in both the legislative and executive branch, I believe we can be in a position to take positive responsible action. I look forward to entering into a productive dialog in the coming months, which will enable us to meet our national policy objectives.

GEN. JOHN C. MEYER

Mr. HRUSKA. Mr. President, it was with great sadness that I learned of the death of Gen. John C. Meyer. John Meyer was one of those talented and patriotic Americans who dedicated his life to safeguarding and improving our country's way of life.

General Meyer was born in Brooklyn, N.Y., and graduated from Dartmouth College. He enlisted in the Air Corps in late 1939, receiving his commission as a second lieutenant in 1940. This was a start of an illustrious military career.

After several flying assignments as a pilot and commander, he was assigned to the Eighth Air Force in England. During World War II he commanded the 487th Fighter Squadron. In 1944 he was deputy commander of the 352d Fighter Group and the leading American ace in Europe having destroyed 37½ enemy aircraft. By the end of the war he had flown 200 combat missions with 462 combat flying hours.

General Meyer held various positions after the war and in 1950 he assumed command of the 4th Fighter Group at New Castle, Del. He was to take his group to Korea where it flew in the first United Nations counteroffensive and Chinese Communist Forces spring offensive campaigns. He destroyed two Communist Mig–15 aircraft, bringing his total of enemy aircraft destroyed to 39½.

After the Korean war he had a tour of duty as Director of Operations for Air Defense Command and Continental Air Defense Command, and graduated from the Air War College. Later he was assigned to Strategic Air Command—SAC—where he commanded two air divisions in the Northeast United States. In 1962 he became the Deputy Director of Plans, and also served as the Commander in Chief Strategic Air Command's representative to the Joint Strategic Target Planning Staff.

In late 1963 General Meyer became the commander of the Tactical Air Command's 12th Air Force with headquarters at Waco, Tex. In 1966 he was assigned to the organization of the Joint Chiefs of Staff where he served first as Deputy Director and then Vice Director of the Joint Staff. In 1967 he became the Director of Operations on the Joint Staff.

He was then selected to be the Vice Chief of Staff of the U.S. Air Force. On May 1, 1972, he became the seventh Commander in Chief of the Strategic Air Command, and the Director of the Joint Strategic Target Planning Staff. He retired as SAC Commander on August 1, 1974, and went to reside in Marina del Rey, Calif.

His military decorations included the Distinguished Service Cross with two oak leaf clusters, Distinguished Service Medal with one oak leaf cluster, Silver Star with one oak leaf cluster, Legion of Merit, Distinguished Flying Cross with six oak leaf clusters, Air Medal with 14 oak leaf clusters, Croix de Guerre with palm—France, and Croix de Guerre with palm—Belgium. In March 1973 he received the Frank Hawks Memorial Award for his many contributions to aviation.

General Meyer was married to the former Mary Moore of Fort Lee, N.J. In addition to Mrs. Meyer, he leaves behind five children.

Mr. President, our country has lost a fine patriot, a great man. Those of us who had the privilege of knowing General Meyer are much saddened by this loss. Mrs. Hruska and I join their many, many friends, in extending to all members of his family, our deepest sympathy.

MR. THURMAN SHERRY RETIRES FROM GSA IN CHEYENNE

Mr. McGEE. Mr. President, a faithful public servant in Wyoming since 1939, Mr. Thurman Sherry has retired from the General Services Administration. His service over the past 36 years has been continuous with GSA and its predecessor agencies.

Mr. Sherry was born in Crowder, Mo. He worked on the family farm until 1928 when he took employment with Standard Oil Co. in Casper, Wyo. He received his high school diploma after age 60. He served with the U.S. Navy for 2 years.

His public service prior to his transfer to Cheyenne included positions with GSA in Washington, D.C., and Denver, Colo. From 1958 to his retirement, Mr. Sherry was buildings manager for GSA in Cheyenne.

Awards presented to Sherry include two Quality Within-Grade awards for "excellent Cheyenne Field Office operations"; the Commendable Service Award for "outstanding managerial ability"; Special Achievement Award for "outstanding safety record of Cheyenne Field Office—no disabling work injuries for 22 years and almost 1 million man-years;" and the Certificate of Appreciation for "valuable contributions to promotions of occupational safety and health."

Mr. Sherry is now enjoying retirement with his family in Cheyenne, Wyo.

THE REAL CRISIS BEHIND THE FOOD CRISIS

Mr. PACKWOOD. Mr. President, a few weeks ago the Environmental Fund, a nonprofit and independently financed foundation active in the population field, published their estimates of the world's population.

To those who have followed world population trends, the results were not startling. The world's population is increasing faster than world food production. Further, according to Robert C. Cook, director of the study:

> The population is growing fastest precisely in those countries least able to afford it—the developing nations of Africa, Asia, and Latin America, where poverty, illiteracy, and hunger are commonplace.

In these nations, comprising nearly three-fourths of the world's population, almost 40 percent of the population is under 15 years of age. But that is not news. We can read the articles and be temporarily shocked and quickly move back into our everyday, complacent world. Once again, the "prophets of doom," as some would call them, failed to arouse us.

But these "prophets of doom" are preaching a message which is fast becoming a reality. We cannot afford this continuing indifference to the population problem, for the population problem is at the heart of a score of world problems dealing with developing nations, have and have nots, food crises, and even governmental viability. Countries with the bulk of their population under the age of 15 face serious dilemmas in the not-too-distant future.

As unpleasant as the reality is, the world population problem must be faced. It will not disappear or "get better" on its own accord. The United States cannot afford to sit complacently and watch the holocaust brewing. We must increase our worldwide efforts in family planning assistance, not limited to monetary assistance, but including exchanges of technology and dissemination of information.

Family planning is our great hope. But we cannot achieve our goals by complacent inaction, for rampant increases in population will not "go away," and like a cancer, will continue to fester and impede and possibly destroy any hope for the progress of mankind.

Mr. President, I ask unanimous consent that the summary statement of the Environmental Fund be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement on the Real Crisis Behind the "Food Crisis"

The world as we know it will likely be ruined before the year 2,000 and the reason for this will be its inhabitants' failure to comprehend two facts. These facts are:

1. World food production cannot keep pace with the galloping growth of population.

2. "Family planning" cannot and will not, in the foreseeable future, check this runaway growth.

The momentum toward tragedy is at this moment so great that there is probably no way of halting it. The only hopeful possibility is to reduce the dimensions of the coming disaster.

We are being misled by those who say there is a serious food shortage. This is not true; world food production this decade is the greatest in history. The problem is too many people. The food shortage is simply evidence of the problem.

It makes no difference whatever how much food the world produces, if it produces people faster.

Some nations are now on the brink of famine because their populations have grown beyond the carrying capacity of their lands. Population growth has pushed the peoples of Africa, Asia and Latin America onto lands which are only marginally suitable for agriculture. No amount of scientific wizardry or improved weather will change this situation.

For a quarter of a century the United States has been generous with its food surpluses, now vanished. We have given at least 80 billion dollars worth of food and development aid since World War II. The result? Today, the developing world is less able to feed itself than it was before the massive U.S. aid program began. A generation ago, the population of poor countries was increasing by 16 million a year; now it increases by 67 million each year and the imbalance grows.

Furthermore, our past generosity has encouraged a do-nothing policy in the governments of some developing nations. At the 1974 United Nations meetings in Bucharest and Rome, spokesmen for these nations asserted, incredibly, that they had no population problem. They defended these twin policy statements:

1. The hungry nations have the right to produce as many children as they please.

2. Others have the responsibility to feed them.

We believe that these statements are irresponsible and indefensible. Any nation that asserts the right to produce more babies must also assume the responsibility for taking care of them.

Some speak optimistically of progress within the hungry nations as evidenced by the modest acceptance of family planning programs in many countries. "Family planning will succeed," they tell us. But how is this possible? Family planning advocates, to gain acceptance, insist that parents everywhere may have as many children as they desire. If the number of children wanted had always been two (on the average) we would not now have a population problem. The crisis exists because parents want more than two children.

In Moslem countries, for example, the desired number of progeny per couple is "as many as God will send." This turns out, on the average, to be seven.

The country which has spent the most money on family planning over the longest period of time (India—24 years) has accomplished virtually nothing. Its population in 1951 grew by 3.6 million. Now it grows 16.2 million each year. Mexico adopted family planning only three years ago and the birth rate there has abruptly risen.

Yet many people insist that it is our moral obligation not only to continue but to increase our aid, totally overlooking the fact that it is impossible, from a practical standpoint. Eighty percent of the world's grain is not grown in the United States. All that we can sell or give away amounts to only 6% of the world's production and less than three years' population increase, alone, would consume this.

There can be no moral obligation to do the impossible.

No one really likes triage—the selection of those nations most likely to survive and the concentration of our available food aid on them. The question can only arise if we should reach the point where the world population outruns food resources. When such a situation arises, some people will die no matter what the disposition of the inadequate food supply will be. In that event, some hard decisions will have to be made.

At some point, we in the United States are going to find that we cannot provide for the world any more than we can police it.

In summary, our position is this: The sovereign right of each nation to control its own reproduction creates the reciprocal responsibility to care for its own people. The U.S. can help and will—to the limits of our available resources.

The belief that the crisis results from a "shortage" of food leads to disaster. Attempting to deal with this by producing and distributing more food, while doing nothing about population, is incubating disaster.

We must not permit our aid to underwrite the failure of some nations to take care of their own. When aid-dependent nations understand that there are limits to our food resources, there is hope that they will tackle their population problems in earnest.

We owe it to posterity—ours and that of the rest of the world—to promote policies that lead to solutions instead of catastrophe.

THE FIFTH ANNIVERSARY OF THE ENVIRONMENTAL PROTECTION AGENCY

Mr. PHILIP A. HART. Mr. President, I would like to take this opportunity to call to the attention of my colleagues that this week the Environmental Protection Agency is celebrating its fifth anniversary. Since its inception in 1970, EPA has been charged not only with administering a complex and uncharted set of Federal environmental statutes, but with the job of integrating into our society's long list of national priorities a permanent respect for the environment. While these tasks are not easy, and the results of EPA's efforts have not pleased everyone at all times, it is worth taking stock of where we have come since the first environmental consciousness of Earth Day.

Perhaps highest on the list of accomplishments is the continuing vitality of the environmental movement—not just after the initial enthusiasm of a new cause had worn off, but through the often acute conflicts of an energy crisis, and well into a time when concern over any Federal regulation is mounting. That the basic statutes which are the framework for a national environmental program have escaped major redirection is as much to EPA's credit as to the authors of those bills.

That so many steps have been taken to reduce automobile and factory pollution, to effectively regulate pesticides, and to lay both the regulatory and resource foundation for major improvements in water quality are strong testaments to the permanent status of both EPA and its mandates. The sophistication of our understanding of the relationships between environmental contamination and our national health has increased manyfold over its 1970 level—again due in large measure to the efforts of EPA, and the environmental awareness which that Agency has fostered throughout the Executive branch.

Finally, I think it is fair to say that very few major Federal decisions are made without consideration of their environmental consequences. Environmental protection has lost its "faddishness" and has become an important factor in national priority setting.

Mr. President, in applauding the achievements of the EPA I cannot help but also look forward to the tasks which remain. We have postponed realization of some of our environmental goals, in most cases with good reason, but this does not mean that these are not worth attaining. To get there, however, EPA must continue to press and preserve—not only through its own regulatory processes, but through its educational efforts to insure a responsive Congress and electorate. Congress still has not acted on several bills which would permit EPA to do its job most effectively—here I am thinking primarily of the Toxic Substances Control Act.

To illustrate the job which still needs to be done, Mr. President, I ask unanimous consent that a recent speech by EPA Administrator Russell E. Train be printed in the RECORD following these remarks. This shows not only where we have and have not come in the last 5 years, but where the road ahead lies. Also, this discussion exemplifies the caliber of continuing leadership which Administrator Train has shown in guiding our environmental decisions through a gauntlet of competing societal demands.

I congratulate EPA on its fifth birthday, but admonish that Agency it must not let up on the fine efforts it has begun.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY THE HONORABLE RUSSELL E. TRAIN

ENVIRONMENTAL PROTECTION: RX FOR PUBLIC HEALTH

More than four years ago, while I was serving as Chairman of the President's Council on Environmental Quality, a Federal interagency task force began addressing itself to the same basic question that concerns this conference: what do we know and what should we do about polychlorinated biphenyls, or PCBs?

In its report of May, 1972, the task force concluded that PCBs were highly persistent, could be found in all parts of the environment, could "bioaccumulate" to relatively high levels in fish, and could have serious adverse effects on human health. The task force recognized, at the same time, that for uses in closed electrical systems PCBs had some very real advantages over other materials. They conduct heat, but not electricity. The only available substitutes for use in capacitors and in transformers—which are widely used in indoor electrical systems—were flammable. It appeared that to ban PCBs from these uses would be, in effect, to substitute a safety hazard for a health hazard.

The task force, as a result, recommended the discontinuance of all current uses of PCBs except in closed electrical systems.

It also called for early enactment of the Toxic Substances Control Act to provide the regulatory authority required not only to deal more effectively with the problems posed by PCBs and other chemicals already in the environment, but to take sensible steps to prevent such chemicals from posing such problems in the first place.

Already, in 1972, the sole American producer of PCBs had voluntarily restricted the sales of PCBs to uses in closed electrical systems.

Both the Food and Drug Administration and the Environmental Protection Agency announced actions designed to reduce the levels of PCBs in our food and our waters.

The United States asked the Organization for Economic Cooperation and Development (OECD) to take appropriate action, on the international level, to control PCBs. In February, 1973, in the first international agreement aimed at limiting the production and use of chemicals in order to protect the environment, the member countries of the OECD announced their decision to prohibit the use of PCBs for industrial or commercial purposes except in certain closed systems. I might add that one member country, Japan, after PCB contamination of rice oil adversely affected 1000 people, has banned the future production or import of PCBs.

We believed that all these measures added up to an effective, comprehensive program that would "take care" of the PCB problem that would enable us to continue to take commercial advantage of the unique properties of PCBs while insulating the public and the environment against exposure to hazardous levels of these chemicals.

Instead, more than three years later, we find that, although PCB levels in food have steadily declined, PCBs are present in our environment to a far greater degree and at higher levels than we have previously thought. We have found high PCB levels—levels greatly exceeding FDA guidelines—in salmon, striped bass and other fish in the Great Lakes, the upper Mississippi River, Southern California, the Gulf of Mexico and in the Hudson River and other waterways in New York State. Our selective sampling of drinking water disclosed the presence of PCBs in the water supply of two communities.

The evidence we have accumulated over the past three years has underscored our original concern over the toxicity of PCBs and over the potential health hazard posed by the presence of high PCB concentrations in waterways, in water supplies and in fish.

This, in brief, is the situation we find ourselves in today.

We have called this conference to help us deal with it—to determine, as I said at the outset, what we know and what we should do about PCBs.

We do know one thing that we must do—that we should have done three years ago when the task force urged us to do so—that, had we done it, might have enabled us to really come to grips with the PCB problem and rendered this conference unnecessary—and that is to enact an effective Toxic Substances Control law. I cannot help but recall that when I became the first Chairman of the Council on Environmental Quality in February, 1970, my very first directive to our small staff was to develop a legislative proposal for dealing with this class of problem. The time had clearly come for an effective mechanism to deal broadly with such problems, not only after the fact, but also to help prevent their occurrence in the first place.

Almost five years have now passed since President Nixon first proposed such legislation to Congress.

Over those five years we have introduced into the commercial market an estimated 600 chemical compounds annually. We have done so without any systematic, advance assessment of their potential impact upon public health. Yet, as we have learned through our experience with such materials as vinyl chloride, we may not discover how harmful a compound can be until years after it has become a rather commonplace item in our everyday life, even a significant factor in our economy. And we, again and again, find ourselves engaged in an extremely difficult and drawn-out struggle to protect the public from a hazard to which it has already been exposed while at the same time trying to avoid putting people out of business or out of work. We find ourselves trying to choose between a health hazard and a safety hazard. We find ourselves without the authority we need to really cope with the problems posed by PCBs—the authority to limit selected uses and distribution of PCBs as well as to require testing concerning the health and ecological effects of proposed substitutes.

With regard to PCBs, we will continue to address the problem as effectively as we can under existing authorities—especially under the Water Act—while at the same time recognizing the inherent inadequacies of the piecemeal approach we are forced to take. We are also working on measures we would propose under any toxic substances bill that may be enacted. They would take into account, not only the available information on toxicity and exposure levels, but also the impact of any regulatory steps upon business, employment and the economy. I look forward to the contributions this conference can make to the development of an effective regulatory program for PCBs both under existing authority and under a Toxic Substances law.

About a month ago, in testimony prepared for delivery before the Environment Subcommittee of the Senate Commerce Committee, Dr. David Rall—who is scheduled to follow me this morning—said, and I quote: "Toxic substances control legislation which prevents the exposure of segments of the poulation to disease-producing substances is a key element of preventive medicine." There is, indeed, an increasing body of evidence, and an impressive array of expert opinion that we may be approaching the whole question of human health from the wrong side—that, as a matter of national policy as well as of personal practice, an ounce of prevention may well be worth a pound of cure.

The Department of HEW estimates that our total national health bill this year will add up to nearly $120 billion. Yet a good many informed observers believe that, because most of that money goes for cure rather than prevention, we are not getting what we pay for. Our traditional health care system, they say, simply cannot cope with environmentally-induced diseases. Dr. Ernst L. Wynder, president of the American Health Foundation, has pointed out that heart disease, cancer, stroke and accidents account for 70 percent of deaths among Americans. And the chief causes of these diseases are "environmental"—in the broadest sense of that term. "Thus," Dr. Wynder concludes, "in a society where infectious diseases have been largely overcome through sanitary measures, immunization and antibiotics, the major causes for today's death toll are chronic diseases. This death toll is largely due to unhealthy life styles, unhealthy working environments and disease-producing products."

The more sophisticated and sensitive our monitoring devices become, the more data we accumulate on the health effects of pollutants and other agents in the environment, the worse things look. Over a year ago, scientists uncovered disturbing evidence that children—whom we had believed unaffected in any lasting way—can contract chronic and acute disabilities as a result of air pollution. As many as 20 percent of the children in a city such as New York, one study concluded, can develop severe and chronic respiratory diseases. Another study in a southern city with relatively heavy air pollution had similar results. More recently, a group of scientists reported that the most significant factor in a dramatic drop in deaths in the San Francisco area during the gas shortage early last year—a 13.4 percent decrease in deaths compared with the same period over the previous four years—was reduced exposure to pollutants from auto exhausts.

We are spending around $1 billion this year on research into cures and causes of cancer. The National Cancer Institute has estimated that the actual cost of cancer to people amounts to tens of billions of dollars a year. Yet the World Health Organization estimates that from 60 to 90 percent of all cancer is the result of "environmental" factors—again, in the broadest sense of that term. We have all read the news stories recently concerning the 1975 Nobel award to three American scientists for research into possible links between viruses and cancer. I was struck by the fact that, in their first public statements upon receiving the award, two of these scientists stressed the fact that—in the words of one of them, Dr. David Baltimore of the Massachusetts Institute of Technology—"the role of viruses in cancer is small" and that "the best hope today for cures is research into environmental causes of cancer." "This," Dr. Baltimore went on to say, "is a good place to put funds now."

We should understand, as well, that while environmental protection often appears to involve substantial costs, we really have no choice about whether or not we are going to bear these costs. Society has already been bearing these costs in one form or another—in the loss of recreational uses of rivers and beaches, in the increased treatment costs of our drinking water, in the damage from air pollution to buildings, farm crops and forests, and most importantly through medical and hospital bills, time lost on the job because of illness, human suffering, earlier mortality and the like. When we control and cut pollution at the source, we are shifting its costs from the shoulders of society as a whole onto those of the polluter, where they belong in the first place. Such costs then tend to be passed on to the polluter's customers. But this is the most efficient way of allocating these costs and of encouraging, at the same time, the development of both processes and practices that generate less pollution. Moreover, all our experience indicates that the cost of the particular pollution to society as a whole is usually far greater than the cost of clean-up and control. We estimate, for example, that measurable annual damages of $11.2 billion from particulates and sulfur oxide are more than twice the annual costs of control.

What all of this suggests to a layman such as myself is that both our popular understanding of, and our public approach to, health care and disease control are going to have to undergo a searching re-examination and, I suspect, radical revision. It suggests that—at least when they are well spent—some of our most effective "health care" dollars may be the "disease prevention" dollars we spend to curb and control pollution and other agents that we introduce into our own environment. It suggests that the battle against disease must increasingly be fought, not simply in the hospitals and the doctors' offices, but in our streets and our homes and our offices, in our air and our water, in our food and our products, in our personal habits and lifestyles. It suggests that, if—in the words of Dr. Irving Selikoff of the Mount Sinai School of Medicine in New York—"environmental disease is becoming the disease of the century," then environmental protection, in the broadest sense of the phrase, must become the most important ingredient in any national health program.

Such a broad prescription may seem far removed from the more immediate—and urgent—concerns of this conference. But I think we all understand that it is our failure to get at the real roots of the problem that concerns us here—our preoccupation, instead, with the symptoms and surfaces and single instances of things—that has made this conference and the problem it addresses so critical.

At the start of my remarks, I successfully resisted the temptation to issue the dramatic announcement that this was my last PCBs conference.

It is, however, my fervent hope that you do your work so well at this conference that we will never need to call another one.

I thank you for coming, and I look forward to seeing the results of your work.

INTERNATIONAL REPERCUSSIONS OF THE 200-MILE LIMIT BILL

Mr. CLARK. Mr. President, the junior Senator from Alaska (Mr. GRAVEL) has provided the Senate Foreign Relations Committee with some useful testimony concerning the possible international repercussions of enactment of S. 961, the Fisheries Management and Conservation Act which would unilaterally extend U.S. fishery jurisdiction from 12 miles to 200 miles. Since S. 961 may be considered by the Senate in the near future, I think it might be helpful for other Members of the Senate to have the opportunity to study Senator GRAVEL's testimony, and I ask unanimous consent that his remarks be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EFFECT OF S. 961 ON U.S. FISHERIES TREATIES

Section 103(b) of S. 961 calls upon the Secretary of State to initiate negotiations to amend or terminate . . . agreements inconsistent with "the purposes, policy, and provisions of this Act." As a practical matter, this means that all our significant international treaties designed to protect our fisheries will have to be terminated. In short, S. 961 asks us to trade functional multilateral agreements for questionable unilateral claims that would be almost impossible to enforce.

S. 961 would undermine the freedoms of the high seas—navigation, overflight, fishing, and the laying of cables and pipe-lines—granted by the 1958 Geneva Convention on the High Seas, which we signed along with 43 other nations. Louis Sohn of Harvard Law School has said of S. 961: "The proposed legislation disregards the basic rule of international law, embodied in Article 2 of the Convention on the High Seas of 1958, which provides that in exercising its rights on the high seas each state must pay reasonable regard to the interests of other states in their exercise of the freedoms of the high seas, which include the freedom of fishing. This was clearly stated by the International Court of Justice in the Fisheries Jurisdiction Case between the United Kingdom and Iceland." Any interference with the ocean transport of energy or military navigation would have serious effects on the U.S. economy and national security.

Professor Sohn also notes that the 1958 Geneva Convention on Fishing and Conservation of the Living Resources of the High Seas would be affected by S. 961. The legislation would violate our obligations under this Convention to follow its detailed provisions in dealing with fisheries conservation matters.

Below are quotes from respected authorities which show how our major fisheries treaties are inconsistent with S. 961, and therefore would have to be terminated if other signatories were not willing to amend them in accord with our unilateral actions.

1952 SALMON TREATY

"Certain provisions of S. 961, if implemented, make it impossible to comply with the Convention . . . would run counter to the letter or spirit of the Convention. For example, implementation of Section 101(b) of S. 961, calling for the exercise of exclusive fishery management authority over anadromous fish spawned in the United States, would appear to be inconsistent with what is implicit in Article V, paragraph 2, and the Annex of the Convention—that Japan is permitted to salmon, even of American origin, if they are west of the line of meridian 175° West Longitude. Also the exclusivity of the fishery conservation zone to be established would not be consistent with the participation of Canada in the framing of the "necessary conservation measures" contemplated by the Convention."

R. R. BAXTER,
Professor of Law, President of the American Society of International Law, Harvard University.

BRAZIL-U.S. SHRIMP TREATY

"I can think of no logical basis upon which we could return to the bargaining table with the Brazilians. You will have removed from the hands of the American shrimp industry the only real lever we have. We will, in effect, be going to the table to talk to the Brazilians not as negotiators but as purchasers. They will be saying to us 'We own the shrimp.' With S. 961 as law, how could the U.S. claim otherwise?"—Bill Utz, Executive Director, National Shrimp Congress.

U.S. TUNA TREATIES

"In our opinion, [S. 961] will destroy the IATTC (Inter-American Tropical Tuna Commission) and ICCAT (International Commission for the Conservation of Atlantic Tuna) and will make the creation of new international fisheries organizations an impossible dream. This opinion is supported by factual information developed during the 25 year history of the IATTC"—August Felando, American Tunaboat Association.

ICNAF

"The proposed legislation would, in particular, violate the International Convention for the High Seas Fisheries in the North Atlantic, as the restrictions on foreign fishing and the unilateral conservation procedures provided for in the legislation do not conform to the provisions of the Convention."—Louis Sohn, Professor of International Law, Harvard University.

UNITED STATES FISHERIES TREATIES

Multilateral

International Convention for the Northwest Atlantic Fisheries, February 8, 1949.

International Convention for the Conservation of Atlantic Tunas, May 14, 1966.

Convention for the Establishment of an Inter-American Tropical Tuna Commission with Exchange of Notes, March 3, 1950, May 31, 1949.

International Convention for the High Seas Fisheries of the North Pacific Ocean, with Annex and Protocol, May 9, 1952.

Law of the Sea

Convention on the Territorial Sea and the Contiguous Zone, April 29, 1958.

Convention on the High Seas, April 29, 1958.

Convention on Fishing and Conservation of the Living Resources of the High Seas, April 29, 1958.

Convention on the Continental Shelf, April 29, 1958.

Bilateral

Brazil

Agreement Concerning Shrimp, with Annexes, Agreed Minute and Exchanges of Notes, May 9, 1972.

Canada

Convention for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, March 2, 1953.

Agreement on Reciprocal Fishing Privileges in Certain Areas Off the Coasts of the United States and Canada, June 15, 1973.

Agreement with Canada Concerning Reciprocal Fisheries Privileges, April 24, 1970.

Convention with Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and the Bering Sea, October 28, 1953.

Cuba

Convention for the Conservation of Shrimp, August 15, 1958.

Denmark

Agreement Relating to Conservation of Atlantic Salmon, July 6, 1972.

Japan

Agreement Concerning Certain Fisheries Off the Coast of the United States, December 24, 1974.

Agreement Concerning Salmon Fishing, December 24, 1974.

Agreement Concerning the King and Tanner Crab Fisheries in the Eastern Bering Sea, December 24, 1974.

Agreement with Japan on the King and Tanner Fisheries of the Eastern Bering Sea, November 25, 1964.

Agreement with Japan on the Contiguous Fishery Zone, May 9, 1967.

Romania

Agreement Regarding Fisheries in the Western Region of the Middle Atlantic Ocean with Related Letter, December 4, 1973.

Agreement with Romania on Fisheries in the Western Region of the Middle Atlantic Ocean, December 4, 1973.

Korea

Agreement Concerning the Improvement and Standardization of Shellfish Sanitation Practices and Exchanges of Information on Sanitary Controls Applied to the Production and Handling of Fresh or Frozen Oysters, Clams and Mussels, with Related Notes, November 24, 1972.

Poland

Agreement Regarding Fisheries in the Western Region of the Middle Atlantic Ocean, with Annexes and Agreed Minutes, June 2, 1973.

Agreement with Poland Regarding Fisheries in the Western Region of the Middle Atlantic Ocean, June 12, 1969.

USSR

Convention Regarding Navigation, Fishing and Trading on the Pacific Ocean and Along the Northwest Coast of America, April 17, 1824.

Agreement on Certain Fisheries Problems in the Northeastern Part of the Pacific Ocean Off the Coast of the United States, February 21, 1973.

Agreement Relating to Fishing for King and Tanner Crab with Appendix, February 21, 1973.

Agreement Relating to the Consideration of Claims Resulting From Damage to Fishing Vessels or Gear and Measures to Prevent Fishing Conflicts, with Annex and Protocol, February 21, 1973.

Agreement with the U.S.S.R. on the Middle Atlantic Fishery, March 21, 1969.

Agreement with U.S.S.R. on Fisheries Operations in the Northeastern Pacific (Gear Conflict), December 14, 1964.

Agreement with the U.S.S.R. on the King and Tanner Crab Fisheries of the Eastern Bering Sea, February 5, 1965.

Agreement with U.S.S.R. on the Contiguous Fishery Zone, February 13, 1967.

Agreement with U.S.S.R. Concerning Claims Resulting from Damage to Fishing Vessels or Gear and Measures to Prevent Fishing Conflicts, February 21, 1973.

South Korea

Agreement with South Korea Concerning Cooperation in Fisheries, December 12, 1972.

S. 961 VIOLATES INTERNATIONAL LAW

Claim: S. 961 is consistent with international law.

Fact: S. 961 makes *exclusive, unilateral* claims to ocean space. International law, however, forbids the unilateral or exclusive claim to ocean space beyond a 12 mile contiguous zone. Louis Sohn, Professor International Law at Harvard University and a leading authority on ocean fisheries matters, states: "The practice of states since 1960 shows there is general agreement that a state can extend its fishing limits to 12 miles . . . On the other hand, there is no basis in customary international law for an extension of a fishing zone to 200 miles."

Claim: The "Truman Proclamation" on fisheries conservation is a precedent for unilateral action recognized in international law.

Fact: President Truman proclaimed a fisheries conservation right on the "high seas contiguous to" the coast of the United States, at a time when international law was neither codified nor generally agreed to on this matter. Furthermore, this action was not taken in the midst of U.N. negotiations on the matter. In any case, the claim contained limitations of critical importance. It was limited to areas in which only U.S. nationals fished and it applied only to U.S. nationals. Any conservation regulations for foreign fishing had to be undertaken by negotiations.

Claim: S. 961 is consistent with a developing trend in international practice to more extensive claims to fisheries jurisdiction on the basis of "preferential rights" of coastal states.

Fact: In the recent Icelandic Fisheries Case, involving a unilateral claim to a 50-mile fisheries zone, the International Court of Justice noted that existing international law *did not* grant to coastal states the right to extend their jurisdictions unilaterally or on an exclusive basis. Far from declaring such practice a growing trend, the Court stated: "The concept of preferential rights is not compatible with the exclusion of fishing activities of other states . . . A coastal state is not free, unilaterally and according to its own uncontrolled discretion to determine the extent of those rights. The characterization of a coastal state's rights as preferential places a certain priority but cannot imply the extinction of the concurrent rights of other states."

Claim: S. 961 will help further negotiations at the Law of the Sea by bringing pressure to reach an early agreement.

Fact: U.S. unilateral action, as contemplated in S. 961, will bring unilateral *retaliatory* action by other nations. It is naive to assume that a unilateral and *illegal* assertion over ocean space will be met with a hastened willingness to cooperate at the U.N. negotiations.

Moreover, the Law of the Sea Conference is attempting to define not just the *rights*, but also the *duties* of a coastal state. If the U.S. leads the parade of nations claiming rights like the 200 mile zone without equally claiming defined responsibilities, it stands to reason that other nations will follow, giving even less heed to responsibilities under the unilateral claim.

Commercial navigation, military transit, pollution control, fisheries conservation, full utilization and recognition of historical fishing rights, and deep sea mining all are serious issues that must be resolved. S. 961 will destroy these efforts, which are already well under way at the Law of the Sea Conference. In addition, our action will spur other nations to act in a like manner, each claiming a different right, over wider ocean areas, clearly antagonistic to each other. The clear consensus reached at the last Law of the Sea meeting in Geneva on fisheries, scientific research, pollution and ocean navigation would surely be shattered into a host of conflicting and incompatible national claims and assertions.

Claim: A unilateral 200-mile extension of our fisheries zone is consistent with U.S. action in 1966 which extended our fisheries jurisdiction to 12 miles.

Fact: The 200-mile extension cannot be justified on the basis of the 12-mile extension since the latter was in accord with international law. The 1958 and 1960 Geneva Conventions, while not universally adopted, did become generally accepted international law. Louis Sohn of Harvard Law School has said recently: "The 1960 Law of the Sea Conference showed there was a strong majority for a 12 mile fisheries zone extension, the disagreement being limited to the narrow issue of the manner of maintaining historical rights" and the abstention of new entrants to coastal fishing. "The practice of states since 1960 also shows there is general agreement that a state can extend its fishing limits to 12 miles." The International Court of Justice in the Icelandic Fisheries Cases expressly stated that the concept that had "crystalized as customary law . . . arising out of the general consensus revealed at the Conference," is that coastal states may claim fisheries jurisdiction "up to 12 miles"—an extension that "appears now to be generally accepted."

Louis Henkin, Professor of International Law at Columbia University and an expert on Law of the Sea matters put it this way: "the principles of the Geneva Conservation Convention were generally acquiesced in when the treaty was made and have not been seriously challenged today."

As the President of the American Society of International Law, R. R. Baxter, has written: "There is ample basis for concluding that the extension of our exclusive fisheries zone to twelve miles in 1966 was in accordance with international law and the practice of states."

"Although many nations, like our own, have indicated that they would like to see a 200-mile economic zone become accepted by treaty as the international law of the future, this does not mean that they have accepted it as existing international law without any treaty. I believe that a considerable majority of the Foreign Offices of the world, and of international law scholars and commentators, would agree that unilateral assertion of a 200-mile fisheries zone would violate international law today. And in the event that the question should come before the International Court of Justice, I think that Court would be likely to rule that the proposed unilateral fisheries zone violates the international law of 1975."—William W. Bishop, Professor of International Law, Michigan University.

"It is of course true that at the United Nations Law of the Sea Conference, "there has been much support for agreement on a 200 miles economic zone, but it is generally recognized that this is a proposal for new law which can be valid only on the basis of general agreement through treaty."—Philip Jessup, Former Justice, International, Court of Justice.

"In my view, H.R. 200, if enacted, would not be consistent with the obligations of the United States under existing international law. It is established, and the International Court of Justice has recently reiterated (*in the Icelandic Fisheries Case*) that a coastal state cannot extend its exclusive fishing jurisdiction into the high seas at will, against all. In the *Icelandic* case the Court held that Iceland could not unilaterally assert even a 50 mile exclusive zone against the United Kingdom."—Louis Henklin, Columbia University, Professor of International Law.

"There is no question, in my mind, that such an extension would be invalid under international law and would violate the rights of other states. It would be in particular inconsistent with our various agreements on fisheries, especially the Northwest Atlantic Fisheries Convention. Such countries as the Soviet Union in the Atlantic and Japan in the Pacific could validly argue that their rights have been grossly violated by such action of the United States. Such legislation would also constitute a violation of the United States obligations under the Convention on Fishing and Conservation of the Living Resources of the High Seas, concluded in Geneva in 1958. This treaty provides various methods for safeguarding of a coastal nation's interests. The proposed legislation does not follow the detailed provisions of the Convention for dealing with the problem.

"In addition, the proposed legislation disregards the basic rule of international law, embodied in Article 2 of the Convention on the High Seas of 1958, which provides that in exercising its rights on the high seas each state must pay reasonable regard to the interests of other states in their exercise of the freedoms of the high seas, which include the freedom of fishing. This was clearly stated by the International Court of Justice in the Fisheries Jurisdiction Case between the United Kingdom and Iceland. As the Court noted, any legislation on the subject must be reasonable and equitable and should take into account the traditional fishing rights of other states. The proposed legislation does not fulfill these conditions."—Louis Sohn, Harvard University, Professor of International Law.

"Very few states have extended their exclusive fisheries zones to 200 miles. What these few states have done does not reflect "international custom, as evidence of a general practice accepted as law," within the meaning of Article 38 of the Statute of the International Court of Justice, dealing with the sources of international law. The great majority of states have been much more restrained in their claims.—R. R. Baxter, Professor of Law, President of the American Society of International Law, Harvard University.

Effect of S. 961 on the Negotiations

Unilateral action on the part of the United States in proclaiming an exclusive and expansive fisheries zone will destroy the Law of the Sea Conference.

(1) We will legitimize past actions of other countries which have made extravagant claims to ocean space. By doing so, we sanction their claims to exclusive fisheries ownership, thus depriving our own tuna and shrimp industry of traditional fishing areas.

(2) We will unilaterally abrogate and terminate the treaties to which we are party and which are the law of the land. This will include existing bilateral and multilateral agreements, as well as the four Geneva Conventions of 1958 and 1960.

(3) We will fly in the face of the practice of 92 other coastal nations which claim 12 or less miles of fisheries zones. We will be sanctioning the claims of only 11 states—states which traditionally have neither obeyed nor accepted basic international legal principles.

(4) If the United States decides unilaterally what type of fisheries jurisdiction it wants, every other nation in the world will do the same. In fact, members of the Law of the Sea Conference—especially the poor, landlocked nations—may retaliate and jeopardize many critical U.S. security and economic interests. If the U.S. is not bound by its treaty commitments, why should other nations feel bound by law or treaty?

(5) S. 961 calls on other nations to provide traditional access to U.S. distant water fishermen. But how can we, in the U.S. Congress, legislate unilaterally the possible future actions of other nations? We are providing an open invitation for all other nations to act in any manner they deem necessary to protect their fisheries or other ocean interests. How can we require them to act reasonably or adhere to good conservation practices and reasonable access? Forty percent of the entire ocean, almost half of the entire globe, will be subject to conflicting and antagonistic claims to ocean space. How can anyone assert that such claims will not torpedo the Law of the Sea Conference?

(6) A prime example of the disastrous results of unilateral action in disregard of treaty agreements is the 1973 unilateral declaration by the United States that the northern lobster was a "creature of the continental shelf" under the terms of the 1958 Convention, which had specifically decided to the contrary. That unilateral act by the United States was the justification recently given by the Bahamian Government when it declared the spiney lobster to be a creature of the shelf, thus depriving Florida of a $6 million lobster industry, reducing by 10% the total Florida fish industry, and causing the loss of jobs for 5,000 Floridians.

(7) If the United States, by legislative fiat, can declare the lobster a creature of the Continental Shelf, and declare a 200 mile fisheries zone (both contrary to international law and relevant conventions), why cannot other nations declare shrimp, for example, a creature of the shelf and thus cripple our $240 million shrimp industry, which fishes within 200 miles of their coasts? One cannot have unilateral cake and eat multilateral cake at the same time. We either honor agreements or we don't. We cannot pick and choose which segments of a multinational agreement we will honor.

(8) Unilateral action by the United States will constitute a direct challenge to the UN and the recently adopted resolution urging nations not to proclaim unilateral jurisdiction over ocean space. The United States will bear the brunt of accusations that we destroyed the conference and with it one of the most promising developments in the history of humankind. As a result, the emerging consensus toward a global regime to protect and wisely use the resources of the oceans will be shattered into a myriad of conflicting and antagonistic claims.

The above points are well summed up by Professor R. R. Baxter of Harvard University Law School, the current President of the American Society of International Law:

"If the United States were to move unilaterally, many other countries would feel free—indeed obliged to carve out their own maritime claims so that they would not be left behind. The flood gates would be open to every sort of unilateral claim that the U.S. has been resisting over the last decade—to 200 miles territorial seas, to control and restriction of traffic through straits, to deep-ocean resources, to uneconomic and politically motivated controls over shipping . . . Unilateral action by the U.S. will be taken as a signal that the U.S. is not really interested in a general multilateral agreement, because the very idea of that sort of agreement is inconsistent with the assertion of unilateral claims by coastal nations. Other nations will rightly conclude that we say one thing and do another. Our actions will speak louder than our words. The frustration and anger of our friends and the joy of those who have been making extravagant unilateral claims all along will be enhanced by the thought that the United States which has been preaching multilateralism under a treaty for the past decade, has gone unilateral. Such action would be the destruction of the Law of the Sea Conference."

Effect of S. 961 on Law of the Sea

"If one nation goes unilateral and then every other nation starts going unilateral, then if these unilateral actions don't mesh and if some nations don't recognize it and abrogate their existing agreements, then we are likely to have chaos and then we are likely to be hurt worse than we are now."—Henry Kissinger.

"We have contested the right of other states unilaterally to claim 200-mile zones for whatever purpose. If we take such unilateral action, we will be discredited and our word will be questioned on other matters as well. Anyone who objects to unilateral price controls of oil by OPEC should object to unilateral control of fisheries on the high seas which for centuries have been considered the common property of all nations. Unilateral action by the United States of this kind would stimulate and justify like action by other states to the injury, not only of the international processes, but also to our own economic interests which insist on freedom of the seas."—Philip Jessup, Former Judge, International, Court of Justice.

"I do not believe anyone would seriously suggest that unilateral action by a significant number of influential nations will help establish an atmosphere favorable to agreement. To the contrary, it is much more likely that the wilingness of these nations to seek their own interests through unilateral action will discourage and dampen the positive attitudes that are part of a favorable negotiating climate. More concretely, these actions may harden previously flexible positions and cast doubt upon the inclination, and even the capacity, of some states to reach necessary compromises."—William T. Burke, Professor of Law, University of Washington.

"Furthermore, the United States, subsequent to passage of this legislation, would be highly vulnerable to counterattack by those states who wish to act unilaterally on law of the sea matters in general and abandon the UN negotiations. No one that I know who is concerned with and has participated in international negotiations, believes that the status quo is changed during the course of negotiations. Unilateral action in anticipation of a negotiated agreement would subject the UN Conference to interminable delay and stalling tactics by nations unwilling to come to an effective and equitable agreement. It would be the height of folly for the United States to take action inconsistent with basic principles of international law and the international negotiating process."—Covey Oliver, Professor of Int'l. Law, University of Pennsylvania.

"It is not at all inconceivable, in fact it seems to me likely, that the reciprocal unilateral actions will imperil other important interests of the United States, including distant water fishing interests of parts of the U.S. fishing industry, the conduct of marine scientific research around the globe, and perhaps the transit of commercial and military navigation. It will be difficult indeed for the United States to make plausible objection to foreign unilateral action seriously inimical to these or other U.S. interests when our own Congress has itself taken unilateral actions."—William T. Burke, Professor of Law, University of Washington.

"I believe that unilateral extension of jurisdiction by the United States at this time could jeopardize international negotiations because of the complex nature of the negotiations and of the various issues at stake. It will be much more difficult to conduct research, and that research will become significantly more expensive. Yet the results of marine scientific research are increasingly necessary both for managing the harvest of living resources and for protecting the marine environment. Unilateral action by the United States is likely to lead to a universal regime of unilaterally extended zones of differing character, making it even more difficult than now to negotiate a uniform regime in which the international community retains a number of rights, including that of carrying out marine scientific research."—Warren Wooster, Dean, School of Marine and Atmospheric Science, University of Miami.

"One possible approach would have been to allow the development of international law for the oceans, including the law relating to navigation, resource development, fisheries, protection of the marine environment, and scientific research, to proceed through the practice of states, growing into international customary law. A new pattern of order might have emerged late in this century or early in the next through the establishment of an equilibrium between these demands and the resistance of the international community or individual states. But the period of readjustment would have been one characterized by chaos and conflict as states asserted their interests and resisted the claims of others. Open violence could have been expected on numerous occasions, any one of which might turn out to be the spark igniting a global conflict. The other possible strategy—the course adopted by the United States—was to seek the timely establishment of a pattern of order, fairness, and stability in the oceans in the form of a widely accepted treaty arrangement governing the major uses of the oceans.

"The election of that course reflected a conviction that the United States has in the long run more to gain through the creation of stability and order than through a process of confrontation. H.R. 200 is thus not simply a case of doing now what will ultimately be gone anyway under the terms of the treaty. In the words of the popular song of years ago "It's not what you do but the way that you do it." There is a world of difference between a generally agreed 200-mile economic zone, with jurisdiction over the coastal species, under the terms of a general international agreement, and a unilateral grab of a 200-mile fisheries zone, which would be the signal for other states to lay even more sweeping claims over the 200-mile zone, up to and including a 200-mile territorial sea claim.

"An impatient claim to 200 miles by the United States would thus, under the most optimistic prediction, gain us protection of *certain* fisheries one year or so earlier than might otherwise be the case. At the worst, it could be the downfall of the Law of the Sea Conference and the destruction of any immediate prospect of a treaty. The price would be the exclusion of our merchant vessels and Navy from large areas of the ocean and the end of certain of our distant-water fisheries—all for having one or two years earlier what we are going to get anyway. That, in my submission, would be the height of folly. [It] 961 is fundamentally incompatible with the realization of a sound, workable, and lasting legal regime for the oceans."—R. R. Baxter, President of American Society of International Law.

"As the world's leading maritime power, the United States has a very great interest both in establishing an agreed international order for the oceans, and in retaining, as far as possible, freedom of action of all nations throughout the ocean realm. On the other hand, it would be much against our interest for different coastal states each to declare its own version of sovereignty, or jurisdiction short of sovereignty, over an area which might extend several hundred miles off its coast."—Richard Rovere, Director, Center for Population Studies, Harvard.

"I believe that enactment of such legislation at the present time would seriously jeopardize the chances of our coming out of the current Third United Nations Law of the Sea Conference with the type of treaty which we want and need. Having in mind the difficulties of reaching world-wide consensus on the many important law-of-the-sea issues involved in the current efforts to reach international agreement and frame a "constitution" for the oceans, I believe that the proposed unilateral action by the United States would make it very much more difficult, if not impossible, for the Conference to produce such a treaty which meets our needs."—William Bishop, Professor of Int'l. Law, Michigan University.

"It is not the concept of the economic zone which is in question, but rather the timing of its adoption by the United States. [A] unilateral declaration of U.S. prerogatives on the high seas is a dangerous precedent for international law of the sea matters. There are lawless elements in the world and they would be encouraged if the United States joins their ranks by flouting international law applicable to the seas."—Philip Jessup, Former Judge, International Court of Justice.

"At the close of the Geneva session of the Law of the Sea Conference last spring, Ambassador Amerasinghe, President of the Conference, made a strong plea that participating States refrain from taking unilateral action in the wake of the Geneva meeting. It would be ironical if the United States, which for so long has supported the principles of international cooperation, should be among the first countries to respond to Conference President's plea by adopting a contrary course of action."—Lewis Alexander, Director, Law of the Sea Institute, University of Rhode Island.

THE PANAMA CANAL NEGOTIATIONS AND ALLEGED ACCEPTANCE BY PANAMA OF U.S. CONTROL

Mr. HELMS. Mr. President, recent news reports have suggested that the Panama Canal negotiations have been proceeding smoothly, and that the State Department negotiating strategy has been practical and successful. In recent weeks, State Department spokesmen have been trying to win converts to their theory that the wholesale granting of concessions to the Republic of Panama will increase respect for the United States, and secure the peaceful, safe, and efficient operation of the Panama Canal for generations to come.

NEW YORK TIMES ARTICLE

Yesterday's New York Times carries one such account. It reports that our chief negotiator, Ambassador Ellsworth Bunker, announced in Los Angeles that Panama had accepted the premise that the United States would retain "primary responsibility" for the operation and defense of the canal in the proposed new treaty. The headline was even more enthusiastic, saying that "Panama Accepts U.S. Control of the Canal." It is not fair to charge Ambassador Bunker with the work of a headline writer, but it is true that the headline gives the general impression which most people would get from reading the article. In fact, Ambassador Bunker is not the only State Department spokesman who has left audiences with the impression that the United States would retain significant control of the canal as a result of the negotiations.

But for those who have followed the negotiations closely—or who even read the news accounts of Ambassador Bunker's speeches closely—the story is considerably different. If the United States retains only "primary responsibility"—instead of all the attributes of sovereignty which we now exercise—then we have indeed opened the door for the complete loss of any effective control.

Indeed, when one speaks of "primary responsibility" one admits that jurisdiction is split into primary and secondary, and a split responsibility inevitably will give way to paralyzing disputes, with nobody really in control.

The key is in the Ambassador's admission that there would be "growing participation of Panamanian nations at all levels in day-to-day operations" of the canal. This means that there would be a diminishing proportion of employees loyal to the United States in the canal organization. The preponderance of U.S. citizen-employees in the canal organization today are in the skilled trades, executive level decisionmaking jobs, and in designated "security positions." These are the categories which have the responsibility for making the canal work. If we do not have employees loyal to the United States in these capacities, there is no way on Earth that the United States can retain control, or even "primary responsibility."

SECRET WORKING PAPERS

Moreover, I have seen some of the secret working papers which apparently are the basis of Ambassador Bunker's concept of "primary responsibility." I have no reason to doubt the authenticity of these papers. They are written in the special Orwellian rhetoric of the negotiations. They even contain many phrases which the Ambassador and his spokesmen have been using in public. It may be that some of these proposals have been discarded by the negotiating team.

If they have been discarded, then the American public deserves a clear statement from the Ambassador as to which ones have been discarded. The truth is that these kinds of proposals make the concept of "primary responsibility," with its connotations of adequate U.S. control, a mockery.

What develops from this working paper is a concept of shared responsibility which is incompatible with effective or decisive action, and is geared toward a constant lessening of the small amount of control proposed to the United States for the first 3 years. Indeed, within 3 years' time, U.S. practical control of operations and protection of its employees would be phased out. Thus for only 3 years of the 25-year treaty would our control be anything more than nominal. Let us look at the defense, administrative, and jurisdictional aspects of "primary responsibility" outlined in this working paper:

JOINT DEFENSE BOARD

Defense: A "Joint Board" would be composed of an equal number of Panamanian and U.S. military representatives, whose mission is "consulting and cooperating in all matters relative to the defense of the canal, and planning the measures which shall be taken jointly to insure the security or neutrality of the canal." Thus Panama would be privy to all defense preparations and decisions. Moreover, it would include "the guarantee that Panamanian participation includes the use of manpower and other Panamanian resources with regard to functions, personnel levels, and operation locations." The only defense "control" we would have would be sheer, overwhelming military force. We already have that kind of control without a new treaty. Moreover, "the structural position of the Joint Armed Forces" will be reviewed at 5-year intervals—making all talk of a 25-year treaty meaningless.

JOINT CONSULTATION GROUP

Administration: The working paper proposes "A Joint Consultation Group" established "on the basis of the principle of parity and at a high governmental level which shall constitute the liaison between the two governments in connection with Panamanian participation in the administration." Their job is to assure "growing participation on the part of Panamanian nationals at all levels and fields of employment in the canal operation, including participation in the drafting of overall policies as well as in daily canal operations." Essentially, the Joint Consultation Group is to draw up affirmative action plans to increase the number of Panamanians at all levels in the canal organization, including hiring, promotion, training, and policymaking to make Panama able to assume full responsibility for the canal administration operation and maintenance when the treaty expires. Obviously, the United States would soon lose control of the policymaking situation, and be unable to protect direct U.S. interests, or the U.S. conception of the international interest. Moreover, the United States would be unable to prevent the perversion of the hiring system into a corrupt "make-work" system inextricably involved in the internal politics and political favoritism of the host country. The inefficiency and exorbitant costs would be borne by tollpayers or by the U.S. taxpayers.

JOINT POLICE AND CRIMINAL JURISDICTION

In addition, there would be a Joint Technical Advisory Commission to make recommendations regarding the integration of electric power, water supply, roads, ports, and other systems of the canal infrastructure into that of Panama. When these recommendations are carried out, the canal would be unable to function if there is a breakdown in services or civil order in Panama.

Jurisdiction and "right of use": U.S. jurisdiction would cease, and the Canal Zone and the Canal Zone government would disappear. Panamanian law would be applicable, with certain exceptions not yet agreed upon. However, the following principles would be followed:

First. All relations of a private nature will be subject to Panamanian jurisdiction immediately.

Second. Panama would assume criminal jurisdiction over Panamanians and third country nationals—including U.S. citizens now living in the zone and third country residents of the zone. Lawsuits and legal procedures would be included.

Third. For 3 years, the United States would have "primary jurisdiction" in locations whose use has been granted by the Republic of Panama to the United States over all crimes committed by members of the Armed Forces, their dependents, and civilian employees of the U.S. Government.

Fourth. Only a limited number of high ranking officials of the United States would enjoy the same privileges and immunities as diplomatic personnel.

Fifth. Panama would assume general police authority immediately, but for a 3-year period a system of joint police patrols will be set up in which each member may arrest persons under the police authority of his respective country.

What is clear about this is that U.S. citizen-employees would have police protection only on U.S. installations; otherwise, they would be at the mercy of any Panamanian Government. They would be liable to arrest for alleged criminal activities by the Panamanian members of the joint police patrols, even on locations granted to the United States under the use-rights concept. For even though the United States has "primary jurisdiction" over all crimes committed in this area, it follows logically that Panama retains secondary jurisdiction, and that if a U.S. member of a joint police patrol failed to arrest a U.S. citizen-employee, the Panamanian member could do so. At any rate, this minimal protection vanishes with the U.S. Federal Court in 3 years, at which time it may be assumed that a good proportion of the U.S. citizens employed by the Canal will also vanish back to the United States. This working paper promises a hollow control.

Mr. President, I ask unanimous consent that the entire text of the working paper be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

UNRESOLVED ISSUES

Mr. HELMS. Perhaps even more significant, however, is Ambassador Bunker's list of "issues yet to be resolved," reported in the New York Times article referred to previously. From a practical, operational standpoint, the issues yet to be resolved are precisely those which matter most to the functioning of the canal organization. If the dubious "control" which Ambassador Bunker claims to have won has been granted at all, it is still only granted in principle, not in practice. And if we are to have "control" we must have it in practice. For example, the Ambassador says we have not agreed on:

First, duration of the treaty; second, economic benefits to Panama; third, right to expand the canal; fourth, location of land and water areas needed for defense; fifth, a formula for nondiscriminatory operation of the canal after the treaty's termination.

Indeed this account of the Ambassador's speech does not go far enough. There seems to be no progress either on adequate guarantees of the rights of the present employees of the canal, particularly U.S. citizen-employees. There is no firm guarantee that a third nation would be excluded from operating the canal after the treaty lapses, or from interfering should problems arise between the United States and Panama. We do not even have guarantees that our nuclear-powered ships will be able to transit the canal.

Mr. President, I ask unanimous consent that the text of the New York Times article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

NO PRACTICAL CONTROL

Mr. HELMS. Such things are not mere "unresolved issues." They are vital to the defense and operation of the canal, vital to any practical "control" which the U.S. might retain. If we do not have a fully adequate base structure, for example, we cannot protect our rights. If we cannot agree on land and water facilities that are necessary to the operation of the canal, we cannot even operate efficiently or safely. If we do not have the right to keep third nations out of canal affairs, we are practically asking for trouble. If we cannot keep United States employees satisfied that their proper interests are going to be taken care of, we will lose day-to-day control by attrition. And if we do not know how long the treaty is to last, what good is any of it?

TORRIJOS' ULTIMATUM

It is plain that Panama has not yet yielded on anything of consequence. This is clear also from the Spanish language news reports from Panama City and Buenos Aires. These reports say that General Torrijos gave Ambassador Bunker a written ultimatum: Either bring back a serious proposal on the canal negotiations or do not return. According to these reports, Torrijos confirmed the written note to Ambassador Bunker personally. None of this sounds like Panama "accepting" U.S. control, or even U.S. "primary responsibility." It is true that a nameless State Department spokesman denied that Torrijos had sent such a note; yet it is not the first time that Washington spokesmen seems to know less about communications with Torrijos than is known in Panama City.

Mr. President, I ask unanimous consent that translations of the broadcasts, provided by the Foreign Broadcast Information Service, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. HELMS. Mr. President, I think a more accurate assessment of the negotiating situation would note that the Panamanians remain intransigent both on a conceptual framework for cooperation, and on the practical aspects of how cooperation would take place. There is a fundamental flaw in the State Department's approach of conceding our sovereign rights. Once those rights have been given up, there is no way in which any practical, stable relationship can be maintained. Our whole posture of defensive concessions merely induces the Panamanians to imagine that the United States can be ousted completely from the canal, retaining the United States only in a managerial capacity until Panama believes itself ready to take over completely.

NEGOTIATING STRATEGY CREATES UNSTABILITY

An analysis of this posture reveals a conclusion that should be self-evident: namely, that Panama is not ready to take over. In fact, the negotiations are thrusting a tremendous burden upon a small country whose circumstances cannot support such a responsibility. The State Department is dreaming if it imagines that piling the top-heavy responsibility of sovereignty over one of the strategic waterways of the world on Panama will bring about stability. Such a relationship is inherently unstable, and is bound to bring about further misunderstandings and acrimony. Moreover, it opens the Panamanian Government to subversion—either internal or external. If Panama really controls the sovereignty over the canal, then there will be many forces both within the country and outside the country which will seek to control Panama.

It is time, I believe, for Ambassador Bunker to take the word of General Torrijos and break off negotiations which are premised upon such instability. Instead, we should try to work out a positive relationship with Panama, premised upon the guarantee of regional stability which our sovereign powers in the Canal Zone imply. We should speak frankly with those elements in the Republic of Panama which want to continue our working relationship, and use it as a basis for developing Panamanian aspirations in a constructive sense. It is time to stop negativism, concessions, and giveaway. It is time to build, so that both nations can enhance their mutual leadership and self-respect.

[EXHIBIT 1]

CONCEPTUAL AGREEMENT ON THE PROTECTION AND DEFENSE OF THE CANAL

Whereas:

The Panama Canal is a maritime interoceanic waterway wherein the Republic of Panama has an inherent interest as a territorial sovereign and the United States has an interest because it built it, and it contributes in a significant manner to the goal of an economically prosperous and peaceful world;

Panama, as a territorial sovereign, has the responsibility of protecting and defending its territory;

The United States shall have the main responsibility of protecting and defending the maritime waterway until the expiration of the treaty;

Upon the expiration of the treaty, Panama shall over total responsibility for the protection and defense of the waterway;

During the life of the treaty, Panama will increasingly participate with the United States in the protection and defense of the waterway, subject to a continuous examination so as to determine what changes can be made in the course of time, to the extent Panama's capacity will allow, and in accordance with the main responsibility of the United States for the protection and defense of the waterway;

To the extent this procedure exempts the United States from the requirements of operation, those installations not considered essential shall be turned over to Panama in accordance with the terms to be agreed upon; and

The agreements on the joint protection and defense of the Parties shall not restrict the identity or lines of authority of the Panamanian and U.S. military institutions,

It is agreed that:

A. Each of the parties, in accordance with its constitutional procedures, shall act to face the common danger arising out of an armed attack or other action which might threaten the security of the waterway and the transit of ships.

B. The contracting parties commit themselves to guarantee the permanent and effective neutrality of the interoceanic waterway, which shall remain open to the vessels of all nations on an indiscriminate basis, and they shall make efforts to have this neutrality recognized and guaranteed by all nations.

C. Both parties shall establish a Joint Board, composed of high level Panamanian and U.S. military representatives, in equal number, whose respective governments shall entrust them with consulting and cooperating in all matters relative to the defense of the Canal, and planning the measures which shall be taken jointly to ensure the security or neutrality of the Canal. The Board shall make provisions for the coordination and cooperation with regard to:

1. The management of the Panamanian and U.S. operations for the protection and defense of the waterway;

2. The preparation of plans for the protection and defense of the waterway for possible emergencies on the basis of the cooperative efforts of the two national forces;

3. Planning and performance of joint military exercises;

4. The implementation of the joint use of training areas; and,

5. The guarantee that Panamanian participation includes the use of manpower and other Panamanian resources with regard to functions, personnel levels, and operation locations.

D. The Panamanian Government shall grant to the United States rights of use for the purpose of protecting and defending the waterway as well as the transit of vessels through same, whereby:

1. The United States shall be allowed to maintain land, air and naval forces in specific locations to be made available by Panama;

2. An agreement shall be included regarding the laws applicable to the Armed Forces which shall allow an effective operation of such forces and their agencies; and,

3. Such rights shall end upon the expiration of the treaty, unless the parties reach another agreement through negotiations which shall take place five years prior to the expiration of the treaty.

E. Both Parties shall review the structural position of the Joint Armed Forces at five-year intervals during the life of the Treaty.

F. The matters relative to the costs of Panamanian participation in the protection and defense of the canal shall be established in the Treaty.

G. In view of the fact that the Republic of Panama is a signatory to the Treaty of Proscription of Nuclear Arms in Latin America (TLATELOLCO), the United States shall not install any type of nuclear armament in Panamanian territory.

DOCUMENT 2.—CONCEPTUAL AGREEMENT ON THE INCREASED PANAMANIAN PARTICIPATION IN THE ADMINISTRATION OF THE CANAL

Whereas:

Panama shall participate in the administration of the interoceanic waterway;

The primary objective of Panamanian participation is to guarantee that Panama is prepared to assume complete responsibility for the efficient operation of the interoceanic waterway once the treaty expires;

This objective shall be reached by guaranteeing a sufficient number of Panamanian personnel, qualified and available to operate the interoceanic waterway when the treaty expires;

This procedure should begin immediately as the treaty goes into effect;

The joint planning of the various stages of Panamanian participation should be begun before the new treaty goes into effect;

This Panamanian participation should be the basis for an effective partnership between the two countries regarding the administration of the interoceanic waterway;

The following is agreed:

A. During the life of the treaty, the United

States will have primary responsibility for canal operations and the transit of ships.

B. There will be a growing participation on the part of Panamanian nationals at all levels and fields of employment in the canal operation, including participation in the drafting of overall policies as well as in daily canal operations.

C. Employment preferences for citizens of the Republic of Panama will be established, in order to ensure the growth, in orderly stages, of Panamanian participation.

D. A Joint Consultation Group shall be established on the basis of the principle of parity and at a high governmental level which shall constitute the liaison between the two governments in connection with Panamanian participation in the administration. The functions of this group shall include:

1. Recommend specific programs for the hiring of personnel in order to provide employment to an increasing number of Panamanian citizens through horizontal transfers from the Panamanian economy.

2. Recommend specific promotion and training programs aimed at achieving a vertical promotion of Panamanian citizens from low level positions to higher positions at all levels;

3. Recommend other policies, programs and guidelines designed to make preparations for Panama to assume, in an orderly and efficient fashion, full responsibility for the canal administration, operation, and maintenance upon the expiration of the treaty.

E. The new administrative body shall appoint Joint Technical Advisory Commissions whose functions shall include making recommendations regarding the integration of electric power, water supply, roads, ports and other systems of the body's infrastructure with the rest of the Republic of Panama.

F. The present Pamana Canal Company shall be eliminated once the treaty goes into effect. It shall be replaced by a new administrative body, governmental or otherwise, which, in addition to taking over the management of the canal, shall implement programs to hire and train Panamanian citizens in accordance with the aforementioned principles and objectives, which shall be stipulated in the treaty.

G. Activities currently being carried out by U.S. Agencies and to be transferred to a Panamanian operation shall be specified in the new treaty. Such transfers shall be effected as soon as practicable and within the time periods to be agreed upon between the two governments in accordance with the recommendations of the Work Team to be created prior to the conclusion of the treaty, in order to plan the initial stage of Panamanian participation in the canal operation.

H. The government of Panama and the government of the United States shall be directly responsible for compliance with the treaty provisions.

CONCEPTUAL AGREEMENT ON JURISDICTION AND RIGHT OF USE

Whereas:

The Panama Canal is an interoceanic waterway in which the Republic of Panama has an inherent interest as territorial sovereign and the United States has an interest for having built it, and it contributes significantly to the objective of an economically prosperous and peaceful world;

The parties are prepared to carry out these objectives through the formulation of a new relationship of association between them, in accordance with the new treaty that shall eliminate the sources of conflict,

It is agreed:

A. Upon the abrogation on the treaties governing the relations between Panama and the United States concerning the Panama Canal, the U.S. jurisdiction over the Panamanian territory known as the Canal Zone shall cease.

B. The laws of the Republic of Panama shall be applicable in the Panamanian territory previously known as the Canal Zone, except as may be otherwise provided for in the treaty.

C. Upon the treaty's becoming effective, the U.S. entity known as the Canal Zone Government shall immediately terminate.

D. All relations of a private nature shall be subject to Panamanian jurisdiction immediately after the new treaty goes into effect.

E. By virtue of the abrogation of the treaties, the Republic of Panama shall reassume criminal jurisdiction over Panamanians and third country nationals.

F. The Republic of Panama, in the exercise of its sovereignty, shall reassume general police authority in that part of its territory known as the Canal Zone when the new treaty goes into effect.

1. The U.S. installations specified in the treaty are excepted.

2. In the agreed areas, the Republic of Panama shall grant the United States police authority up to a period of three years after the treaty goes into effect. During the stated three-year period, the parties shall set up a system of joint patrols in which each member may arrest persons under the police authority of his respective country.

G. The courts of the Republic of Panama shall exercise jurisdiction and shall have competence over all lawsuits and procedures that may arise in the Panamanian territory previously known as the Canal Zone, except as agreed in the treaty.

H. The new treaty shall contain the rights of use that the Republic of Panama grants to the United States relevant to the operation and maintenance of the Panama Canal.

1. The Republic of Panama shall grant the U.S. the rights, for a period of three years after the exchange of ratification instruments, of primary jurisdiction over all crimes committed in locations whose use has been granted by the Republic of Panama to the United States, as specified in the treaty, by members of the Armed Forces of the United States, civilian nationals of the United States employed by the U.S. Government and the dependents of members of the U.S. Armed Forces and of U.S. nationals and civilians employed by the U.S. Government.

2. U.S. courts of law in the old Canal Zone shall cease operation three years after the new treaty goes into effect.

3. The United States—acting through the administrative entity that shall assume the management of the Canal's operation—shall have the necessary rights for operation of the Canal, including the right to transport its officials and employees freely and without obstacles, to import the equipment and materials deemed necessary for the operation of the Canal, and to employ contractors.

1. There shall be no canal area or Canal Zone.

The Republic of Panama shall grant the United States the use of the areas needed to carry out the specific objective of operating, maintaining, protecting and defending, and carrying out regular canal improvements which do not alter the nature of same, including the right to transport themselves freely and without obstacles within said areas. (The areas, the use of which are to be granted to the United States, shall be specified in the treaty.)

J. The Government of the United States, its agencies and organizations, and its employees, shall be granted immunity from Panamanian civil jurisdiction regarding acts or omissions committed in the performance of their official duties. Panama shall be entitled to request repairs for damages from the Government of the United States, through diplomatic channels, regarding any cases that could arise to which such immunity would be applicable.

K. The records and installations of the United States shall be inviolable.

L. During the period specified in the treaty, United States citizen employees of the Canal Administration and their dependents shall enjoy the privileges and immunities specified in the treaty.

1. A limited number of high ranking officials of the United States shall enjoy the same privileges and immunities as diplomatic personnel.

M. The period of transition necessary for full compliance with the jurisdictional arrangements stated herein will in no case exceed a total of three years, computed following the exchange of ratification instruments of the new treaty. However, it may be reduced through agreement by both parties.

1. For the purpose of allowing an orderly and effective transition to the new jurisdictional relationship, the treaty shall go into effect six months after the exchange of ratification instruments.

N. The United States shall have jurisdiction over such matters as relations with its employees, the fixing and modification of tolls and the transit of ships through the Canal (including violations of navigation regulations.) Lawsuits against the United States Government (other than those coming under the jurisdiction of the United States) shall be subject to a lawsuit procedure mutually agreed upon.

O. Panama and the United States shall draw up agreements or separate agreements and for the period agreed to therein concerning the following activities: Tests in connection with tropical environment studies, training for jungle survival and combat, communications, activities of the Inter-American Geodetic Service, humanitarian aid operations, medical activities, operations of the Federal Aviation Administration, and other activities to which the parties may agree.

P. Panama and the United States shall agree, in separate agreements, and for whatever period is agreed to in them, to operational rights for the United States to render education, water supply, hospital, electricity and the prevention and firefighting services.

1. These activities shall be carried out in line with the exercise of jurisdiction by the Republic of Panama over its territory.

[EXHIBIT 2]

[From the New York Times, Dec. 3, 1975]

PANAMA ACCEPTS U.S. CONTROL OF THE CANAL, BUNKER DISCLOSES

(By David Binder)

WASHINGTON, December 2.—Ambassador Ellsworth Bunker said today that the United States would retain "primary responsibility" for the operation and defense of the Panama Canal for the lifetime of the new treaty it is negotiating with the Panamanian Government.

In a speech in Los Angeles, Mr. Bunker, the chief American negotiator at the canal talks, said that Panama had agreed "in principle" to this formula. However, no agreement has been reached on the duration of the new treaty.

Panamanian diplomats said they were not altogether happy with Mr. Bunker's formula since it seemed to imply a trimming back of Panama's demand for an ever increasing role in the operation and defense of the canal.

In his speech to the Los Angeles World Affairs Council, the text of which was made available here, Mr. Bunker said, however, there would be "growing participation of Panamanian nationals at all levels in day-to-day operations" of the canal.

"USE RIGHTS" FOR UNITED STATES

"Panama will grant the United States 'use rights' for defending the waterway," he added, "and Panama will participate in canal defense in accordance with capabilities."

Ambassador Bunker, who returned last week from the latest round of treaty talks with the Government of Brig. Gen. Omar Torrijos Herrera, said that issues yet to be resolved included the duration of the treaty, economic benefits to be accorded Panama and the right of the United States to expand the canal if it wishes. Other unresolved issues, he said, are the location of land and water areas needed for defense and operation of the waterway and a mutually acceptable formula for nondiscriminatory operation of the canal after the treaty's termination.

It was the most explicit description of the negotiations yet made by an American official, and it seemed to be directed primarily at domestic critics proposal to reach an entirely new arrangement with Panama.

MYTHS AND REALITIES

Mr. Bunker's address was entitled "The Panama Canal negotiations—prevalent myths and political realities."

"The United States," he said, "does not own the Panama Canal Zone. Contrary to the belief of many Americans, the United States did not purchase the Canal Zone for $10 million in 1903.

"Rather, the money we gave Panama then was in return for the rights which Panama granted us by treaty. We bought Louisiana, we bought Alaska. In Panama we bought not territory, but rights."

On the issue of sovereignty, Mr. Bunker said: "It is clear that under law we do not have sovereignty in Panama. From as early as 1905, United States officials have acknowledged repeatedly that Panama retains at least titular sovereignty over the zone."

"It is time to stop debating these historical and legal questions," he said, "It is time to look to the future."

Assailing another "myth," Ambassador Bunker contended that it was in the interest of Panama—as well as the United States—to keep the canal open and operating efficiently.

American insistence on retaining the canal "in perpetuity," as the 1903 treaty stipulates, would be not only unrealistic but dangerous, he said.

"The most likely avenue to the canal's closure and loss would be to maintain the status quo," he maintained, adding that this would be "a source of persistent tension in Panama."

[Exhibit 3]

Panama: Bunker Departs After Latest Round of Talks

[Text] Panama, 26 Nov—(ACAN-EFE)—Special U.S. Ambassador Ellsworth Bunker returned to Washington this afternoon along with Pentagon official Gen. Wellborn Dolvin. The U.S. negotiator arrived in Panama unexpectedly to participate in a new round of talks on the canal.

This was the first time a military official has accompanied Bunker to participate in the talks with Panamanian negotiators. The talks were held on Contadora Island (South Pacific). The Panamanian Government has not yet announced the advances made during this new round of talks.

The chief of the Panamanian negotiating team, Foreign Minister Juan Antonio Tack, did not take part in the talks this time, because he was in Madrid to attend the funeral of the late Spanish head of state, Gen. Francisco Franco, and the proclamation of Prince Juan Carlos as king of Spain.

Bunker and Dolvin were seen off at Tocumen International Airport by Panamanian Foreign Minister Carlos Ozores, Panamanian Ambassador to Washington Nicolas Gonzalez Revilla and other Foreign Ministry officials.

Torrijos Sends Ultimatum

(By Antonio Martinez Martin of ACAN-EFE)

[Excerpts] Panama City, 26 Nov—(ACAN-EFE)—Panamanian Government chief Gen. Omar Torrijos today gave U.S. Ambassador Ellsworth Bunker an ultimatum: Either bring back a serious proposal on the canal negotiations or do not return.

A new round of U.S.-Panama talks on a new canal treaty ended today on Contadora Island in the Pacific.

While Bunker was at the airport about to leave for Washington, he received the following message from Torrijos: "If you are not going to return to continue the negotiations with a proposal that commits [empene] the U.S. position in this negotiating process, do not return."

[Buenos Aires IPS in Spanish at 1616 GMT adds: "When he received the note from the Panamanian chief of government, Bunker was accompanied by the Minister in Charge of Foreign Affairs Carlos Ozores, Panamanian Ambassador to Washington Nicolas Gonzales Revilla and other Panamanian Foreign Ministry officials. A military officer, Gen. Wellborn Dolvin of the Pentagon, accompanied Bunker in this round of talks, which obviously was not to Panama's liking. The Panamanian chief of government officially confirmed his stand last night to the U.S. negotiators, reiterating a position which Panama has stated many times to the United States."]

Although at the beginning of the year it was repeatedly stated that the new U.S.-Panamanian treaty could be ready by August, it has been said lately that President Ford's administration, harrassed by Congress and the Pentagon, will not take any definite step until after the elections in the United States in September 1976.

Political observers and diplomats pointed out here tonight that the stalemate in the negotiations caused by these factors reportedly was the reason for Torrijos' message to Ambassador Bunker.

It should also be noted that during the current round of negotiations at Contadora Island, the chief of the Panamanian negotiating team, [Foreign Minister] Tack, went to Madrid to attend Gen. Francisco Franco's funeral and the proclamation of Juan Carlos de Borbon as king of Spain.

JUDY JOHNSON

Mr. BIDEN. Mr. President, last Friday, November 28, there appeared in the Baltimore Sun a delightful piece of writing about an old man named Judy Johnson, who happens to be Delaware's only representative in the Baseball Hall of Fame.

Judy Johnson played in the old Negro Leagues, in the days when Jim Crow ruled and segregation kept the black and white giants of the game from meeting on the same field.

Judy Johnson was one of those giants, and I take a great deal of pride in the fact that he is a Delawarean.

Mr. President, Alan Goldstein of the Sun has written a remarkable portrait of this great old man who has given his life to the game of baseball. I enjoyed it; I think many others will share that pleasure. I therefore ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Baltimore Sun, November 28, 1975]

Another Day

(By Alan Goldstein)

A brisk wind whistles through the trees surrounding the baseball diamond in a small park in Wilmington. A few weeks ago, they renamed the field "Judy Johnson Park" in honor of Delaware's only representative in baseball's Hall of Fame, Cooperstown, N.Y.

Sitting behind the backstop of the field where he first gained a reputation as a ballplayer, the grey-haired man rubbed a wet spot from the corner of his eye and reflected. At a time of Thanksgiving, Judy Johnson feels he has a lot to be thankful for this year.

"It fills me up inside, just thinking about it," he said. "All this excitement is kind of hard on an old man of 76. I had a slight stroke after I heard about being inducted into the Hall of Fame. Then, a couple of weeks ago, I had a hernia operation.

"But I can't complain. Every day, I get letters or calls from people who saw me play all around the country. I even hear from some who never saw me. But this field is where it all started. Every chance I got, I was on this field playing—morning, noon and night.

"We'd have so many kids waiting to play, most of us would only play an inning or two. We'd draw big crowds. They'd sit on orange crates and peach baskets. After the game, they'd pass around a hat and give the coins to the kids."

Even as one of the Negro Leagues' all-time greats, Judy Johnson never played for much more than nickels or dimes. "I remember playing Sundays in Dexter Park in Brooklyn [N.Y.]. We'd outdraw the Dodgers. But the players never got rich in those days. The promoters were always lining their pockets."

He played with and against the best players of his day—white and black. Babe Ruth, the Dean brothers, Lefty Grove and Bob Meusel were barnstorming rivals while legendary Negro stars like Satchel Paige, Cool Papa Bell and Josh Gibson were both teammates and foes. "Dizzy Dean told me once he made more money playing 16 games against us colored boys than he did in the whole regular season.

"There are only a few of us left," Judy said forlornly. "Papa Bell, Buck Leonard and Ted Page came to see me at Cooperstown. But Satch, I never heard from him. He was always eccentric. He could draw a crowd faster than Muhammad Ali. And he was just as great as they said he was. Or he said he was," Judy laughed.

"I remember when I was managing and playing third base for the Pittsburgh Crawfords. We were playing the Philadelphia Stars in a playoff game before a big crowd in Yankee Stadium, and, naturally, I picked Satch to pitch for us.

"Well, the game was scoreless when Philadelphia got bases loaded with nobody out. It looked like Satch didn't have his mind on the game. He was one of those guys, if someone hit a home run off him in the first, he wouldn't remember the next time the guy came up.

"So I walked over to the mound, and I tell him, 'You know, I heard these Philly cats were mouthing off about how they were going to beat you something fierce. They said you were nothing but a loudmouth.' Then I casually flipped him the ball and walked back to my position.

"Satch struck out the side on nine pitches. Then he walked right past their dugout and shouted, 'Now go back to Philly and tell the truth.'"

Playing in the big towns was a luxury compared to the annual barnstorming trips through the South when they worried more about Jim Crow than the name of the rival pitcher.

"We never drove through Mississippi in the daytime," Judy said. "And staying overnight was always a problem. Usually, we'd stay in private homes. If we had to stay in a hotel, we'd race to town in our two big Buicks, nine in a car. The guys that would get there first would run through the hotel checking for the best rooms. You'd throw your hat on the bed, and that was your claim check.

"No one got rich, but we had some memorable times," Judy said. "I remember one time we were playing Mackinaw City in the hard coal region. The umpire was a real stringbean. He was wearing a big stove pipe, but no chest protector.

"He turned out to be a real 'homer.' Our pitcher, Phil Cockrell, a little spitballer, would split the plate, but the umpire refused to call a strike. Finally, I told Cockrell, throw it right at his Adam's apple. Our catcher ducked, and Cockrell hit him right in the neck. He went down like he was dead.

"We had to leave town in a hurry. They chased us for almost 5 miles. I spent the whole time praying our old Buick wouldn't break down."

Judy remembered how he "discovered" Josh Gibson, the Negro Leagues' answer to Babe Ruth, sitting in the stands in old Forbes Field in Pittsburgh.

"We played one of the first night games there," he said. "Somebody built a dynamo inside the shell of a bus to power the lights. But it still was like playing in the shadows. We had a pitcher named Smokey Joe Williams, who could throw like Lefty Grove. Well, our regular catcher, Buck Ewing, didn't see one of his fast balls coming and it got him right in the shins.

"I saw this big kid sitting in the stands and asked him if he wanted to catch. That was Josh Gibson. And he turned out to be the best hitter I've ever seen.

"Every time we played a game in Washington, ol' man [Clark] Griffith would come to watch us play. And Josh never disappointed him. He'd take that real easy swing and hit it out of sight. Griffith told him, 'If you were only white, I'd pay $500,000 to get you.'"

But there is no bitterness in Judy's voice. "I just came along the wrong time," he says philosophically. "I missed out on all the big money. But I always wondered what would have been."

One day, Judy approached Connie Mack, the patriarch of baseball in Philadelphia, and asked about the color ban. "Both Connie and [his son] Earl thought a lot about me. That's why I could speak to them real plain. I said, 'Why don't you let us coloreds in your league?' And Connie said, 'I'm real sorry, but there's just too many of you to take in now.'"

Judy worked in later years as a scout for both the Athletics and Phillies, bird-dogging the Negro Leagues. One time he recommended a youngster named Hank Aaron, who was then playing for the Cincinnati Clowns. "I could have bought him for $3,500, but Art Ehlers, who was running the A's front office, told me that was too much money."

Today, Judy Johnson sees most of his baseball on television. In winter, he follows the sound of the bat and ball to Florida.

"I just go where baseball is. It'll never get out of me," he says, now laughing. "I guess I'll die with a baseball in my hand."

THE COMMISSION ON FEDERAL PAPERWORK—ELIMINATING BURDENSOME REPORTING REQUIREMENTS

Mr. McINTYRE. Mr. President, I wish to bring to the attention of our colleagues the organization on October 3, 1975, of the Commission on Federal Paperwork.

Created by Public Law 93–556 and signed by the President on December 27, 1974, the 14 member bipartisan Commission was established as a result of congressional efforts to respond to the public's overwhelming concern over the continuing expansion of Federal reporting requirements.

For the past several years Congress has been hearing cries of anguish from the citizenry about the ever-increasing number of Federal forms which must be completed and filed each year. Yet, little has been done to rectify this problem.

The Commission is not the first to attempt to seek solutions to or the simplification of Federal paperwork reporting requirements. Precedence was established in 1942 with the enactment of the Federal Reports Act.

Primarily a response by Congress to limit the abundance of paperwork generated by the rapid expansion of Federal programs, the act declared that:

> Information which may be needed by various Federal agencies should be obtained with a minimum of burden upon business enterprises (especially small business enterprises) and all other persons required to furnish such information, and at a minimum cost to the Government; that all unnecessary duplication of efforts in obtaining such information through the use of reports, questionnaires, and other such methods should be eliminated as rapidly as practicable; and that information collected and tabulated by any Federal agency should insofar as expedient be tabulated in a manner to maximize the usefulness of the information to other Federal agencies and the public.

Forms clearance and management responsibility for Federal executive and regulatory agencies was placed within the Bureau of the Budget—now the Office of Management and Budget. However, the Internal Revenue Service, Federal bank supervisory agencies, and certain divisions of the Department of the Treasury were excluded.

In November of 1973 the act was amended so as to require the General Accounting Office to review the forms of independent and regulatory agencies.

Unfortunately, for a variety of reasons, these attempts to monitor in a systematized fashion, the information gathering activities of and the generation of additional forms by Federal and independent regulatory agencies, have met with limited success. Perhaps this is due in part to the present realities of the reporting cycle.

A recent study on the paperwork burdens placed upon small business revealed that the reports cleared by the Office of Management and Budget under the Federal Reports Act account for only 18 percent of the burden; independent regulatory agencies another 18 percent; and IRS and State and local government, both of which rely primarily on self-regulation, account for 32 percent and 34 percent respectively.

In 1973, my Subcommittee on Government Regulation recommended that IRS be subject to monitoring by the Federal Reports Act. However, even if this were to occur, it remains questionable whether a substantive decrease in the reporting burden would be effected. Particularly when one considers the current deficiencies in the administration of the act and the fact that over a third of the burdensome reporting requirements placed upon small businessmen are generated at the State and local level of government.

The Reports Act is deficient in many areas and has not proven to be an effective piece of legislation. Congress must assume part of the responsibility, for it is the legislation emanating from these chambers that institutes much of the need for information.

Congress establishes approximately 40 percent of Federal mandatory reporting requirements. I have long advocated that no bill be reported to the floor unless there has been a full cost-effective assessment of the consequent paperwork burden on the public.

We are all affected by the endless problems associated with Federal and State reporting requirements. Complaints are many but workable solutions are few.

The Commission, during its 2-year life span, will seek to resolve many of the problems which presently exist. It has been empowered by Congress to conduct a thorough study and investigation of the policies and practices of the Federal Government vis-a-vis information gathering, processing, and dissemination, as well as the management and control of these information activities. Its mandate is clear and its investigation will encompass a broad spectrum of significant topics of concern.

A unique aspect of the Commission's function will be to determine the nature and extent that Federal agencies cooperate with State and local government and private agencies in the collection, processing, and dissemination of information and ascertaining the means by which duplicative reporting requirements can be eliminated. At the conclusion of its 2-year study the Commission will transmit its findings and recommendations to the Congress and the President for legislative and executive action.

I, of course, as cochairman of the Commission, will be devoting much time and energy to the undue hardships imposed on the public by Federal paperwork reporting requirements. However, this responsibility is also incumbent upon each and every Member of this distinguished body.

Today I have written a letter to my colleagues requesting that they give thoughtful consideration to the problems associated with Federal reporting requiremeints. As we participate in committee hearings we must examine the nature and extent of the management and control over Federal information needs and the methods by which information is gathered, processed, and disseminated; the nature and extent that Federal agencies cooperate with State and local governments and independent agencies; the most efficient and least costly means of collecting and providing information; the extent that information collected can be effectively utilized by all Federal agencies and the public; and the extent to which duplication of information, with regard to Federal paperwork requirements, can be eliminated.

Our efforts, in conjunction with those of the Commission, will surely result in the development of a more viable and efficient information reporting system.

TWO HUNDRED YEARS AGO IN THE SOUTHWEST

Mr. DOMENICI. Mr. President, as the Bicentennial approaches, and we recall the great acts of foresight, heroism, and statesmanship by our Founding Fathers, it should be brought to the attention of all Americans that in the Southwest of this continent, where New Mexico and Texas now are, many men appealed for freedom for the citizens of those areas, then under the rule of Spain.

Their work on behalf of the citizens of the Southwest are strikingly similar to the activity of better known colonial leaders on the eastern seaboard.

Today I wish to bring to the attention of my colleagues the work of Don Pedro Bautista Pino, prominent rancher, civic and political leader in Santa Fe, and the sole representative of the Territory of New Mexico to the first Cortes, or Parliament, held in Spain.

In his writings, entitled the "Exposicion," he reported accurately about the state of the citizens in the Southwest. And he warned, as others had earlier warned the British, that the Spanish Crown could no longer ignore the well-being of its subjects in the southwest part of what is now the United States. If Spain continued to do so, he accurately predicted, then Spain would lose its power there.

Don Pedro has been called the "Abraham of New Mexico." He spoke often and eloquently for better conditions for his neighbors. On one occasion he told the Cortes that all of his sacrifices for his people—

> I shall consider well spent if they contribute to remedy those misfortunes which afflict my fellow countrymen.

Don Pedro continued:

> It now remains only for me to request of you this most urgent aid for the relief of the province in order that it may begin to enjoy its legitimate prosperity.

He then asked for establishment of a bishopric in Santa Fe; establishment of a seminary college of higher learning and public schools; for uniformity in military service and salaries for all settlers who might enlist; and for the establishment of a civil and criminal audience in Chihuahua for the settlers.

As a statesman attending the Spanish Cortes, Don Pedro petitioned on behalf of the people of New Mexico for fundamental claims of liberty and justice from the Spanish empire. It is the contributions of men such as these that have brought to America the tradition of a free people, of a people dedicated to service of their fellow men.

I pay tribute to this farsighted man, who sounds often like a Jefferson or a Tom Paine in his pleadings for justice for settlers in the Southwest. Living descendants of Don Pedro in our State include Pedro, Virginia, Reynaldo, and Arthur Ortiz y Pino, and Josefita, Concha Ortiz y Pino de Kleven, and Mela Ortiz y Pino de Martin.

A recent ceremony in Cadiz, Spain, formally acknowledged Don Pedro as a great statesman and unveiled a marble and bronze plaque on the outer wall of the San Felipe de Neri Church where the first Spanish Constitution was drafted to commemorate the New Mexico representative.

As the Bicentennial approaches, I take this time to remind our colleagues that in other parts of our country 200 years ago, others struggled for the freedom of identity and purpose for their people. Don Pedro and his descendants have written an important chapter in the history of the Southwest and of the Nation.

THE MODERN LITTLE RED HEN

Mr. WILLIAM L. SCOTT. Mr. President, the Penwalt Corp. of Philadelphia has recently published a full page magazine advertisement entitled the "Modern Little Red Hen." The advertisement, tonque-in-cheek style, uses a barnyard scene to warn of the dangers of the growing philosophy in our Nation that those who do not work should reap the same profits as those who do. It is worth reading, and I ask unanimous consent that it be printed in its entirety in the Record.

There being no objection, the advertisement was ordered to be printed in the Record, as follows:

The Modern Little Red Hen

Once upon a time, there was a little red hen who scratched about the barnyard until she uncovered some grains of wheat. She called her neighbors and said, "If we plant this wheat, we shall have bread to eat. Who will help me plant it?"

"Not I," said the cow.

"Not I," said the duck.

"Not I," said the pig.

"Not I," said the goose.

"Then I will," said the little red hen. And she did. The wheat grew tall and ripened into golden grain. "Who will help me reap my wheat?" asked the little red hen.

"Not I," said the duck.

"Out of my classification," said the pig.

"I'd lose my seniority," said the cow.

"I'd lose my unemployment compensation," said the goose.

"Then I will," said the little red hen, and she did.

At last it came time to bake the bread. "Who will help me bake the bread?" asked the little red hen.

"That would be overtime for me," said the cow.

"I'd lose my welfare benefits," said the duck.

"I'm a dropout and never learned how," said the pig.

"If I'm to be the only helper, that's discrimination," said the goose.

"Then I will," said the little red hen.

She baked five loaves and held them up for her neighbors to see.

They all wanted some and, in fact, demanded a share. But the little red hen said, "No, I can eat the five loaves myself."

"Excess profits," cried the cow.

"Capitalist leech," screamed the duck.

"I demand equal rights," yelled the goose.

And the pig just grunted. And they painted "unfair" picket signs and marched round and round the little red hen, shouting obscenities.

When the government agent came, he said to the little red hen, "You must not be greedy."

"But I earned the bread," said the little red hen.

"Exactly," said the agent. "That is the wonderful free enterprise system. Anyone in the barnyard can earn as much as he wants. But under our modern government regulations, the productive workers must divide their product with the idle."

And they lived happily every after, including the little red hen, who smiled and clucked, "I am grateful, I am grateful."

But her neighbors wondered why she never again baked any more bread.

SIMPLIFIED TAX REFORM

Mr. HATFIELD. Mr. President, as the Senate prepares to consider House legislation which would extend tax cuts passed earlier this year, it is important to step back and ask ourselves, "Are we making progress toward some very important goals of tax reform and simplification?"

In this connection, I was greatly encouraged to learn of the thoughts expressed by Secretary William Simon at a recent meeting of the tax foundation. Secretary Simon is advocating removing the entire system of exemptions, deductions and credits from our individual income tax, leaving a greatly simplified and much more equitable tax. I fully agree with Secretary Simon that such a change is needed. For this reason I introduced on February 24, 1975 a bill which would do exactly what Secretary Simon suggests. While the interest in this bill, S. 802, has been extensive, some "experts" in tax policy have been slow to see its merits.

Mr. President, I ask unanimous consent that a story in the Wall Street Journal of December 4, 1975, summarizing Secretary Simon's remarks be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Simon Proposes U.S. Consider Overhaul of Income Tax

New York.—Treasury Secretary William Simon said the government should consider a sweeping overhaul of the individual income tax.

Mr. Simon said he is "increasingly attracted" to scrubbing the present system of exemptions, deductions and tax credits for a single, progressive tax. Under this structure an individual's tax rates would rise with his income, with all income being taxed—exclusions wouldn't be allowed.

The top Treasury official, addressing a conference of the Tax Foundation, a nonprofit research group, said he favors such a system "because of its simple elegance and its basic equity toward all taxpayers." Mr. Simon, who emphasized he wasn't "trying to float a trial balloon for the administration," said such a system probably would mean that taxpayers with moderate incomes would pay lower taxes than at present while wealthy taxpayers would have to pay more.

Mr. Simon cited studies suggesting that income-tax rates could be set at 10% to 12% for moderate-income taxpayers and 35% to 40% for the wealthiest. "Obviously, the wealthy taxpayer with income of $100,000 or more who is presently able to 'shelter' his income will stand to lose from this proposal," he said.

The official said the current corporate tax structure also could be simplified by eliminating tax preferences and closing "loopholes."

Mr. Simon said the complexity of the current tax structure is "threatening to erode the basic faith in the fairness of the system." He said many people believe "taxes are being imposed upon them without their consent, that too many of their fellow taxpayers are escaping their responsibilities through dozens of loopholes and that the code itself has become a labyrinth of legal double-talk."

ADDRESS BY SENATOR TALMADGE AT THE 153D ANNUAL MEETING OF THE GEORGIA BAPTIST CONVENTION

Mr. NUNN. Mr. President, it is my privilege to bring to the attention of our colleagues a recent speech delivered by the senior Senator from Georgia to the 153d annual meeting of the Georgia Baptist Convention.

Senator Talmadge has captured the essence of the Bicentennial observance in this stirring address, and I commend its reading to all Members of Congress.

I ask unanimous consent that the address may be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Remarks of U.S. Senator Herman E. Talmadge Before the Annual Meeting of the Georgia Baptist Convention, Columbus, Ga., November 12, 1975

I am honored to have this opportunity to join the Georgia Baptist Convention at your 153rd Annual Meeting.

The Baptist Church is my church, as it was my father's church and as it is my mother's church today. I feel at home here among so many warm friends of long standing.

I am grateful for your leadership and guidance in the affairs of our state and nation. The people of Georgia are in your debt for the good work you perform in your ministries.

I am humbly aware of the vital service you render our state, your congregations and your respective communities. I am respectfully mindful of your devotion and stewardship to God . . . Who governs us all.

Yours is no easy task. In this day and time, the work of the Church is difficult indeed. Many of the problems you face each day, I am sure, are personally frustrating and often seem insurmountable.

I can sympathize with you fully. I face similar frustrations every day in Washington. Many of the basic institutions of the America that you and I and Georgians hold dear are under severe attack.

But neither you nor I nor anyone else who cares about the future of our country can afford to abandon the courage of our convictions.

Just as I know you will never shrink from your sacred duty, I pledge to you I will never betray the trust placed in me by the people of Georgia. I will never back down on what I believe is right for America.

From time immemorial, preachers always have had a hard time, and had to work against overwhelming odds.

I am reminded of the story of a young preacher named George Whitefield, who came to Georgia in 1738 from England as a missionary at the age of 24. He founded an orphanage in Savannah. The principal source of his revenue came from his preaching—which was eloquent, forceful, and persuasive.

He struck like thunder in the hearts of hard men, and no less a Colonial celebrity than Benjamin Franklin once went to hear him preach. I'll let Franklin tell the story in his own words, and I quote:

"I happened to attend one of his sermons, in the course of which I perceived he intended to finish with a collection, and I silently resolved that he should get nothing from me. I had in my pocket a handful of copper money, three or four silver dollars, and five pistoles in gold. As he proceeded, I began to soften, and concluded to give the copper. Another stroke of his oratory made me ashamed of that, and determined me to give the silver. And, he finished so admirably, that I emptied my pocket wholly into the collector's dish, gold and all."

The history books say that the good Reverend Whitefield was a Methodist. That may be so, but any preacher who could separate the parsimonious Benjamin Franklin from all his money had all the credentials of a Baptist.

May I hasten to add that this is sincerely intended to be a high compliment to the Baptist ministry.

Baptists have dedication. Baptists have determination. Baptists have zeal.

Above all, Baptists have concern and compassion for their fellowman.

It is this great Baptist spirit and faith—founded on the solid rock of Christianity—that proves the utter fallacy of those false prophets who contend "God is dead."

No, my friends. God is not dead. And He will never die so long as He has good and faithful servants to do His work here on Earth.

This is a most auspicious occasion for the Georgia Baptist Convention. With this Annual Meeting, you embark upon the Convention's Bicentennial Year of Evangelism.

This meeting comes at a most historical time for the State of Georgia and for the nation. People and organizations all across the United States are preparing for a massive celebration of the 200th anniversary of the founding of our country.

I know of no force in American Society which ought to have a more prominent role in the Bicentennial than the Church.

Faith and spiritual motivation led people to these shores. It guided the pilgrims. It inspired the colonists and gave them strength during the dark days of the Revolution. It was ever present at Philadelphia when the Declaration of Independence was written.

Faith in God and recognition of a Supreme Being are as much a part of the history of the American nation as the Boston Tea Party or the signing of the Declaration of Independence.

Indeed, the deep and abiding faith in God of the Founding Fathers is recorded indelibly in the pages of our history. The great document of independence itself contains no fewer than four direct references to the Supreme Power.

Alexis deToqueville, writing about the young American nation in the mid 1800's, was quick to recognize this force. He wrote:

"The Americans combine the notions of Christianity and of liberty so intimately in their minds that it is impossible to make them conceive the one without the other."

Young Thomas Jefferson put it a different way two years before he drafted the Declaration:

"The God who gave us life, gave us liberty at the same time. The hand of force may destroy them but it cannot disjoin them."

Just as the Church must take a leading role in the Bicentennial, no other state and no other people can take more pride in this glorious time than the State of Georgia, and Georgia Baptists.

The early Baptist Church was the church of frontiersmen. Baptists were a force in the colonies long before any organization of formal government.

The first Baptist association was organized in Philadelphia in 1707 . . . . 80 years before delegates of the 13 original colonies met in that city to write the Constitution.

Then, as now, Baptists did not always agree, even among themselves. But history records that most Georgia Baptists were patriots and supported the cause of independence.

When the Revolution came, Georgia Baptists took up arms to fight for liberty. Georgia Baptists have ever since been forthright, fearless, and steadfast in fighting for what they believe is right and good in the eyes of God.

Never before has the need been greater for such men of stout heart and strong conviction to stand up and be counted.

We need more people who are proud—not ashamed—to stand up for their faith in God.

We need more people who are proud—not ashamed—to stand up for a high code of moral behavior in our personal lives and in public life.

We need more people who are proud—not ashamed—to be called Twentieth Century American patriots.

The Baptist Church is steeped in the same great values upon which this nation was founded. These values constitute the cornerstone of our government. They were embodied in both the spirit and the letter of the Declaration of Independence and in our Constitution, which the English statesman Gladstone described as the most remarkable work ever struck by the hand of man.

These values, the bedrock upon which the Founding Fathers placed their faith, have always been a beacon for our nation—in good times and bad.

These values made it possible for the American people to build the most productive, the most powerful, the most generous, and the freest nation on Earth.

As we approach the Bicentennial year, thoughtful Americans—concerned Americans—must ask, where do we stand today?

How firm are the foundations of the Republic? How secure are the fundamental values upon which this country was established? How strongly are our people committed to the American spirit that was embodied in the birth of our nation 200 years ago?

These are painful questions to me, as I know they are to you. But, just as we look to the past and honor it, we must also consider the present, because that foretells the future.

We have this warning from one of the Psalms of David:

"If the foundations be destroyed, what can the righteous do?" (PS.11:3)

And we know the story told by Jesus of the wise man, who built his house upon a rock:

"And the rain descended, and the floods came, and the winds blew, and beat upon that house; and it fell not: for it was founded upon a rock." (Matt. 7:25)

We also know that "great was the fall" of the house of a foolish man built upon the sand.

It so happens—either through an accident of history or an uncontrollable rush of events—that America's Bicentennial, certainly a cause for great celebration, comes at a most critical time in the history of the American republic, which is a cause for great concern.

More than just a cause for concern, it compels an urgent examination of the spirit of America.

I hasten to add that we had best get on with this re-examination, this reassessment of the American society, while we still have the will and the strength of character to do so.

The problems that confront our nation at every hand no longer can be ignored. We have sought to avoid them too long as it is, in the vain hope that they will go away. But they have only become worse and now threaten to overwhelm the country.

The time has come to face our nation's problems head-on.

At no time since our country was founded on faith, has faith in government been virtually so nonexistent.

Poll after poll reveals widespread public pessimism . . . dismay . . . distrust . . . even anger and cynicism about the way government is being run, and how the affairs of the country are being handled or, in the judgment of most people, mishandled.

Credibility in government must be restored . . . and it will be restored . . . when the people demand and elect responsible and responsive public officials who have the courage to put the welfare of the country above politics.

At no time since the Great Depression has the United States' economy been in such a shambles.

There are some hopeful signs lately that we may be working our way out of the worst. But I would be less than honest if I did not tell you that a basic economic problem remains unsolved, and indeed appears to be growing worse. I refer to unbridled federal spending, which has burdened the American people with rampant inflation and the government with more indebtedness than every other nation on Earth combined.

We must stop spending money we don't have for programs we don't need.

Government must discipline itself to live within its means.

People must stop demanding . . . and the government must stop promising . . . more than it can afford.

No more dramatic example of irresponsible and runaway government spending can be found than in the demise of the largest city in the United States.

Incredible as it may seem, New York City—the financial center of the world, the cultural center of the world, and the publishing center of the world—is broke.

New York City went bankrupt doing precisely what the federal government has been doing for the past quarter of a century. The only difference is the United States' government can print money, and New York City can't.

I am opposed to a federal bail-out of New York City. I do not believe the people of Georgia sent me to Washington to spend their tax dollars as a reward for political expediency, or to underwrite the most monumental government mismanagement of this century.

There is a great lesson for the federal government. I hope the big spenders in Washington are paying attention.

A major tragedy of this Bicentennial Year is that law-abiding citizens must live in fear of wanton violence, even in the sanctity of their own homes. The streets of many of our cities are unsafe to walk, night or day, even for the President of the United States.

It is appalling to hear the F.B.I. pronounce that crime is as constant in our society as birth and death . . . that an urban American boy born today is more likely to be murdered than an American soldier was to die in combat in World War II.

I for one reject the so-called "new morality" that holds individuals no longer personally responsible for their misdeeds.

I for one prefer the old morality which is based upon the enduring Christian-Judeo precepts which have guided the ethical conduct of civilized man and woman for centuries and centuries.

It is the so-called new morality which has injected drugs and narcotics into the lives of so many millions of young people and adults. It has also given rise to "the permissive society."

I believe most Americans find these departures from old-fashioned standards of moral conduct as repugnant as I do.

I have touched on only a few of the ills that beset our country in this Bicentennial Year. They represent a dark side of America. We do not celebrate them, or rejoice in them . . . but we cannot ignore their existence. We must not allow these ills to become an insidious cancer in the body of America.

Our problems are serious. But they are by no means hopeless. Rather than bow in despair to the forces that would destroy the spirit of America, I urge that we seize upon the Bicentennial as a time for action . . . a time for reawakening, a rededication, and religion.

I don't think too much emphasis can be placed on the need for a religious renewal in America.

Lenin regarded religion as the "opiate of the people." He saw the success or expansion of religion as a threat to the Communist, regimented state.

Thank god, religion does indeed constitute a threat to Communism. May it ever remain so.

By the same token, the decay of religion constitutes a threat to the free society.

We can and must prevent this.

The Greek mathematician Archimedes vowed:

"Give me a place to stand, and I will move the Earth."

So it is in America today. Give the American people a place to stand, a firm foundation upon which to build and guide their lives, and we need never fear for the future.

Our fundamental values must once again become the guiding light for our nation and for our people. The institutions that have given direction and purpose to our lives—the home and family, the church, the school, the community—must be restored to their rightful place in our society.

Instead of pretending we have outlived the Ten Commandments, we ought to work harder to live up to them. Instead of casting off these ageless rules of human conduct as relics of the past, we ought to restore them to our present lives, and enshrine them for future generations.

No longer then would people drift about on a sea of confusion and doubt . . . with no rudder to guide them, and no anchor to restrain them.

The French have a saying that the more things change, the more they are the same.

So it is with the fundamental principles of moral conduct and Christian citizenship. These principles are immutable. They are inviolate.

Thus, in order to secure the future, we need no more than to return to principles of the past.

I submit that America needs a crusade of standard bearers. We need a new generation of inspired leaders to set standards that hardworking, God-fearing Americans can follow. We need a virtual army of patriotic people to carry the banner high.

The banner of individual responsibility.

The banner of law and order.

The banner of respect for constituted authority.

The banner of brotherhood and fellowship among all people.

We must recruit these standard bearers from among each and every citizen who is more concerned with building than in tearing down . . . who will strengthen our great nation, rather than pick it to pieces . . . and who will work hard to give as well as to take from society.

If we will do these things . . . if we will return to the faith of our fathers . . . we will assure America's greatness—for now and for all time to come.

What better way to commemorate the 200th anniversary of our nation's birth than to seek total recommitment by the American people . . . recommitment to God and recommitment to country. We can then say in the words of the patriotic hymn:

"America! America!
  God mend thine every flaw,
Confirm thy soul in self-control,
  Thy liberty in law!
"America! America!
  God shed His grace on thee,
And crown thy good with brotherhood
  From sea to shining sea!"

ELECTRIC AUTOMOBILE

Mr. MOSS. Mr. President, on October 7 and October 10, the Commerce Committee held hearings on S. 1632 and H.R. 8800. These bills will provide a viable alternative to our present energy crisis by establishing an electric vehicle research and demonstration program. I must say that there is a future for the electric automobile.

Mr. President, the oral testimony was very thorough, objective, and comprehensive. I think the hearings will establish an excellent record for the future of S. 1632 and H.R. 8800. In addition to the oral testimony, more than 30 letters were sent out to the heads of major industries and associations which would be affected by or have some knowledge about the future of the electric automobile. One of those to whom questions were sent was Mr. E. A. Hunter, president and chief executive officer of Utah Power & Light Co., which is the single largest supplier of electric power for the State of Utah.

Mr. President, I ask unanimous consent that the questions which were sent to Mr. Hunter and his reply to those questions be printed in the RECORD.

There being no objection, the questions and answers were ordered to be printed in the RECORD, as follows:

QUESTIONS CONCERNING S. 1632 AND H.R. 8800

Question No. 1: Electric vehicle use will, to some extent, reduce oil imports since many central station power plants use non-petroleum fuels (coal and nuclear). Estimate the reduction in petroleum imports per 1 million electric vehicles replacing internal combustion engine cars, based on a national mix of fuels used to fire central station power plants.

Question No. 2: What are the implications for the utility industry with regard to generating capacity, investment capital, and pollution control, of widespread use of electric vehicles? Please identify any assumptions used to answer this question. What other implications does widespread electric car use have for utilities?

Question No. 3: What is the estimate of the projected increase in the national average electric utility capacity factor per 1 million electric cars in operation? How should this increase in capacity factor translate into a reduced average power cost to the nation?

Question No. 4: Water requirements for control station power plants are several times greater than they are for gasoline production per unit of output energy. Thus, substitution of electric cars for internal combustion cars will involve substantially greater water use. How serious is this problem likely to be?

UTAH POWER & LIGHT CO.,
Salt Lake City, Utah, October 2, 1975.
Attn: Electric Car.
Hon. Senator FRANK E. MOSS,
Commerce Committee, Dirksen Senate Office Building, Washington, D.C.

DEAR TED: I am very pleased to respond to your request for information concerning your bill S 1682 and HR 8800 which are intended to promote electric vehicle technology. We acknowledge that electric powered transportation is an important option for the future and we recognize the challenge our industry faces in preparing to supply the increased demand for electricity which will surely result as the transition from oil and gas to power generated by coal and uranium occurs.

Following is our response to your questions in the order listed:

Question 1.—We estimate that America can reduce annual petroleum imports in the range of from 20 to 30 million barrels per million electric vehicles by replacing internal combustion engined cars. Through 1980, it has been estimated that we will import 10 million of the 22 million barrels of oil used daily; therefore, the replacement per million vehicles would equal about 2 days' savings of the annual imported oil. This estimate is based primarily on the following data:

(1) The internal combustion engined car requires 14.1 units of energy input from the wellhead to obtain 1 unit of useful work at the rear wheels whereas an electric vehicle requires 5.3 units of energy input from the wellhead to obtain 1 unit of useful work at the rear wheels (P. M. Ross, *Development of the Nuclear-Electric Economy,* Westinghouse).

(2) In 1970, 14% of the electricity generated in the United States came from oil. In 1980, it has been estimated that 15% will come from oil (*Understanding the National Energy Dilemma,* Center for Strategic and International Studies, Georgetown University, 1973).

(3) We assume that small electric vehicles which use .6 kwh per mile will replace vehicles with internal combustion engines which are driven 12.000 miles per year and operate at 12 miles per gallon of gasoline.

Question 2.—Widespread use of electric vehicles (that is replacing nearly all gas driven vehicles with electric powered vehicles) without controls over the time at which they could be charged would require a significant increase in the electrical generating capacity of the United States along with increased requirements of capital investment for that added capacity and the associated pollution control equipment. Since the change from gasoline to electric vehicles will likely be quite gradual and if charging were regulated to be done entirely at off-peak times the required increase in generating capacity would not be so significant.

Question 3.—The potential for an increase in the national average electric utility capacity factor (load factor) does definitely exist because the cars' batteries could be charged at off-peak times. In 1973 the United States electric utilities sold 1.7 trillion kilowatt-hours. One million electric vehicles driven 12,000 miles per year at .6 kwh per mile would require about 7.2 billion kilowatt-hours. Therefore, if all cars were charged during off-peak hours, the average capacity factor would rise about .4 of 1% per million vehicles. This means much more efficient use of installed generating capacity as more cars are converted from gas to electricity. It is difficult to estimate what the average saving would be to the American family through this transition, but there is little doubt that the costs of total energy consumed from all sources would be reduced.

Question 4.—Generating facilities utilizing wet cooling towers, producing 500,000 kilowatt-hours per acre-foot of water, would require 14,400 acre-feet of water for each million cars. Generation using the new wet-dry cooling process producing 1 million kilowatt-hours per acre-foot of water would require only 7,200 acre-feet of water for every million cars. By the time there are so many electric vehicles that they would have a substantial effect on available water supplies a completely dry system of cooling will likely be far enough advanced so that there will be little additional water required.

I commend you highly for this attempt to minimize environmental impacts and to reduce our dependence on foreign oil. We are fortunate in our area that there is an adequate supply of electricity for the foreseeable future. This will only continue if such far-sighted legislation as you propose is implemented by the Congress and if obstacles to the construction of coal and nuclear powered generation are removed.

Sincerely,

Al.

DEVELOPMENTS IN BANGLADESH

Mr. KENNEDY. Mr. President, a recent series of violent acts in Bangladesh have set in motion forces which threaten the political and social fabric of that country. On November 7, I wrote to the Department of State concerning developments in Bangladesh, and strongly urging the Department to deny asylum to a group of Bangladesh army personnel involved in the recent assassination of the late President of Bangladesh, Sheikh Mujibur Rahman.

I received a reply from the Department indicating that the United States has refused asylum for these Bangladesh army officers, and that they are now in Libya. I take this opportunity to commend the Department of State for its action, and I hope that our diplomacy will continue to encourage restraint and stability in South Asia.

Mr. President, I ask unanimous consent that the text of my original letter, and the Department's reply, may be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., November 7, 1975.

Hon. Henry A. Kissinger,
Secretary of State,
Department of State,
Washington, D.C.

Dear Mr. Secretary: I am writing to express my deep personal concern over recent developments in Bangladesh and the requests for asylum in the United States by a group of Bangladesh Army personnel, now in Thailand, who were involved in the assassination of the late President to Bangladesh, Sheikh Mujibur Rahman, and others.

As I suggested in a statement today, the recent acts of violence in Bangladesh "have set in motion a tragic series of events which not only threaten the political and social fabric of Bangladesh, but the peace and stability of the entire area." The text of my statement is enclosed. Hopefully our Government will do what it can to support meaningful efforts to help bring peace and relief to Bangladesh, and deny as well the pending request for asylum by the group of Bangladesh Army personnel involved in the assassination of Sheikh Mujib and others.

I would appreciate learning of the Department's assessment of recent developments in Bangladesh, and their impact on American policy toward the area and on the peace and stability of the Subcontinent. I would also appreciate learning of action taken and decisions made over the pending request for asylum by the Bangladesh Army personnel in Thailand.

Many thanks for your consideration and best wishes.

Sincerely,

Edward M. Kennedy.

Department of State,
Washington, D.C., November 25, 1975.

Hon. Edward M. Kennedy,
U.S. Senate, Washington, D.C.

Dear Senator Kennedy: The Secretary has asked me to reply to your letter of November 7 regarding the recent tragic events in Bangladesh and the request for asylum by a group of Bangladesh Army personnel.

I appreciate the considerations you put forward in urging that we not grant political asylum in this case. You will be pleased to know that the request made to us by Major Syed Farook Rahman and his colleagues has been denied. We understand that a third country has agreed to admit this group and that they may be departing Bangkok in the near future.

We share your deep concern over the implications of recent events in Bangladesh both for internal stability and for peace in the South Asian region. The experienced civilian political leadership of Bangladesh has been decimated by the senseless killing of many prominent figures in previous governments, beginning of course with the tragic murder of Sheikh Mujib and his immediate family. The military services have been riven by internal divisions and badly shaken by mutinies among the lower ranks, and the capacity of the military to preserve order and stability in the country has been seriously weakened. The present martial law administration is concentrating on restoring discipline in the armed services and on maintaining civil order and communal harmony. Given the unrest of the recent past, even these minimal goals may be difficult to achieve.

It is our view that Bangladesh must be given the opportunity, free from external pressures and involvement, to tackle the urgent tasks of restoring order and returning to the vital work of economic development. We have discussed this matter with other governments in the area and have been assured that they share our assessment.

Throughout the recent political changes in Bangladesh, the overriding American interest there has remained constant, namely, a humanitarian concern for the Bangalee people. We want to see stability restored as quickly as possible so that the programs which we are assisting in the areas of food aid, agricultural development and family planning can proceed effectively.

Sincerely,

Robert J McCloskey,
Assistant Secretary for
Congressional Relations.

TED TRUEBLOOD

Mr. McCLURE. Mr. President, one of Idaho's most respected citizens has been honored by the Department of the Interior for his distinguished service to the cause of preservation and conservation of our most precious natural resources. For Idahoans who know Ted Trueblood, and for those literally millions of Americans who have been reading his columns for years, the honors given this dean of American outdoor writers cannot begin to reflect his true stature.

Idaho is proud to claim Ted Trueblood.

I ask unanimous consent that the text of the citation presented by Interior Secretary Tom Kleppe be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

CITATION FOR CONSERVATION SERVICE,
TED TRUEBLOOD

In recognition of outstanding contributions to the conservation principles and programs of the Bureau of Land Management and the Department of the Interior.

As a conservation leader and writer in the fields of wildlife and public land management, Mr. Trueblood has focused national attention to wise land use management. For more than forty years, he has distinguished himself by writing articles relative to environmental issues affecting our public lands and by taking an active role in advising Federal agencies on the proper management of the Nation's national resource lands. He has demonstrated a rare ability to communicate with readers of all ages and localities. He is a member of many conservation organizations, including the Bureau of Land Management Boise District Advisory Board, and has received many and varied awards for his outstanding service in the conservation field. In addition, his testimony on the Wild and Scenic Rivers Bill has been considered a major effort in developing the basis for that legislation. As a member of the Idaho Wildlife Federation, he has had major responsibilities in developing the present commission form of management for Idaho wildlife. In recognition of many years of outstanding leadership in the conservation movement, Mr. Trueblood is granted the Conservation Service Award of the Department of the Interior.

THOMAS S. KLEPPE,
Secretary of the Interior.

SURFACE TRANSPORTATION

Mr. HUDDLESTON. Mr. President, I want to commend the able chairman of the Surface Transportation Subcommittee for his diligent work on a most difficult problem and for bringing before the Senate a bill which addresses many of the very important rail transportation needs of this Nation. In many ways, this bill was thrust upon the chairman and his subcommittee. The Northeast situation existed and had to be met. But, beyond that, a number of other, less obvious, but extremely important problems regarding rail transportation throughout the Nation also existed and the chairman and his subcommittee have also addressed these.

I have been interested in our rail transportation system for some time now. Last year, as chairman of the Senate Agriculture Subcommittee on Production, Marketing, and Stabilization of Prices, I conducted a series of hearings on the relationship between agriculture and transportation. In June of this year, I introduced a rail revitalization bill, and I testified before the Surface Transportation Subcommittee in September.

I know that the work which the subcommittee undertook was complex and far-reaching. I know that they labored many hours to work out the many intricate problems which abound. I recognize that the bill before us seems to be an expensive one—and, indeed, in many ways it is, but it is important spending. And, it is an investment today in the hope that we will have to pay less tomorrow for essential rail services.

While cost is important, especially in this time of economic uncertainty, to focus solely on the cost of the legislation before us would be to miss some of the most important aspects of it.

First, and perhaps most important, the legislation answers in the affirmative a basic quuestion—do we need the railroads? The answer, I believe, is obvious to anyone who has looked into the matter.

Efficient and economical transportation is an essential of an industrialized society and a high standard of living. If transportation stops, much else stops. If transportation is imperiled, our food supplies, our industrial materials, our coal resources are imperiled. To cope with our energy problems we are going to have to rely more on coal for utility purposes, and to move the coal, we need railroads. The developing world shortages of food mean we will have to export more grain and soybeans, and we will need the earnings from these exports to pay for our essential imports of oil and other raw materials. To move the grain and other farm products we need modern, efficient railroads in good physical condition.

On the domestic consumption level, about half of all food is transported by rail. Most canned goods and a large proportion of perishables are shipped by train.

Railroads are also important energy savers. Their fuel efficiency for hauling heavy freight is much greater than that of motor trucks or airplanes, and they are particularly essential for moving bulk commodities.

Second, as the legislation recognizes, railroad problems extend throughout the Nation. They are by no means confined to the Northeast. The class I railroads of the United States have reported to the ICC that at the end of 1974 they had deferred maintenance and deferred capital improvements of nearly $7 billion; that is equivalent to about one-quarter of the total net investment in their properties, and is one-third greater than the combined net income of all these railroads for the past 10 years.

Last year, 1974, was the best for railroad earnings since 1966. This year, the class I railroads reported a combined net loss of $244 million for the first 6 months of 1975. Although traffic in some areas appears to be recovering slightly, it is entirely likely that the industry will suffer a combined net deficit in 1975—the first such deficit since 1938.

Third, the legislation acknowledges, as I pointed out in my September testimony, the railroad's scarcity of capital which, with the maintenance backlog, must be overcome if we are even to hope to place railroads on a viable economic footing. Railroads are highly capital intensive; the overall return on capital for most of them is relatively low, and they simply cannot compete in the current capital markets. In 1974, a relatively good year, the entire industry earned only 2.7 percent on net investment. Excluding the eastern district, which contained all of the bankrupt roads in 1974, the average return was about 4 percent.

Furthermore, the Rail Services Planning Office, in its report last April on the preliminary system plan, estimated that $5.35 billion, or 60 percent of the outstanding railroad funded debt, will mature during the next 10 years, and that the effect will be to more than double the burden of interest charges. This will happen without anything new being added—no rehabilitation or capital improvement programs.

Only 4 months ago the Louisville & Nashville Railroad, a Kentucky corporation, had to pay 11 percent interest for a $50 million issue of 10-year collateral trust bonds. This is one of the better managed and more prosperous railroads of the country, which had a return on investment in 1974 of nearly 5 percent. I understand that its bankers were unable to obtain longer term money, and in fact, that it is practically impossible to place long-term railroad bonds at any reasonable interest rate.

Fourth, the legislation before us provides for nationwide planning—not nationalization—but study and investigation, coordination and a process for planning similar to that I recommended in my own bill, S. 2027, and in testimony before the subcommittee. The legislation focuses planning responsibility on the Secretary of Transportaton, where it should be. The Department was created to develop policy not only for rails but for all modes of transportation and it should pursue this in a comprehensive manner. It requires each railroad to report to the Secretary and USRA on its deferred maintenance and delayed capital expenditures—a logical first step in developing the basic information needed to plan for a revitalized rail system. It requires the Secretary to develop standards for classifying main and branch lines, a move essential to determining where our national rail priorities must lie.

A process is not an end in itself—and should not be. It is designed to accomplish some objective. The objective here is clear—maintenance and regeneration of our Nation's rail system. But we are unlikely to meet that objective without careful and conscientious consideration of where we are now and where we want to go. The current rail system—while strong and healthy in parts—has problems and it cannot escape those problems by lumbering along hoping that deferred maintenance, capital problems, low earnings will go away. Instead, they are only likely to exacerbate. The unhappy picture under such conditions is, probably more Penn Centrals. The preferable alternative, it seems to me, is to review the situation in a comprehensive manner, examine the difficult problems such as duplication of lines in some areas and develop a realistic program for devising and maintaining a viable rail system which will meet our very real rail transportation needs.

I believe the bill before us goes far in that direction.

LABOR MARKET DATA

Mr. STEVENSON. Mr. President, adequate and accurate data on labor market conditions is essential to understand the economic difficulties the United States faces. This data is, in too many cases, not now available, and much of the data we do have is misleading.

I do not question the accuracy of the monthly unemployment rate reported by the Bureau of Labor Statistics; I do question its value.

We need to report figures in such a way that the distinctions between different groups of workers are clearly separated. In 1974 for example, the national unemployment rate was 5.6 percent—but the unemployment rate for nonwhites was 9.9 percent. For public policy purposes the unemployment rates for urban blacks, teenagers, and females, all of which are far above the national average, are of relevance.

The relationship between unemployment and economic hardship are obscured by the unemployment figures. A wife of a wealthy doctor who seeks part time work in a bookstore to provide her something to do in the afternoons is "looking for work" and swells the Nation's unemployment roles. The mother of three who can only find part-time work as an aide in a day care program, too little to support her family, is counted as "employed."

Unemployment statistics do not measure—except with a broad brush—economic well-being. Conventional unemployment measures do not count as unemployed those who are working part time while seeking full-time jobs, those who are unemployed but have ceased actively looking for work because they have become discouraged, and those who are working full time for less than poverty level wages. The 1970 Census of Employment gathered detailed information on the poverty area labor markets in some 51 major American cities and a number of rural counties as well. As analysed by the Senate Employment, Poverty and Migratory Labor Subcommittee in 1972, the Census documented that a third of the work force in these inner-city areas was "unemployed" if the definition of unemployment were broadened to cover these categories. In 1973, in passing the CETA legislation the Congress mandated the Department of Labor to develop such an index of subemployment. Two years later, nothing is in sight.

State and local unemployment data are less adequate—and yet substantial amounts of Federal dollars are distributed on the basis of this faulty data. The Comprehensive Employment and Training Act, for example, allocates funds to States and localities for job creation and training on the basis of local unemployment rates. Yet, for most jurisdictions in the Nation these rates are not available on a statistically reliable basis. Instead, they are estimated from unemployment insurance claims within each State. In these cases, the unemployment rate is calculated by dividing the number of people collecting unemployment insurance by the number covered by unemployment insurance. However, many workers are not covered by unemployment insurance and usually less than half the unemployed collect it. There is good reason to believe that the unemployment rate is higher in the sectors not covered by unemployment insurance and also good reason to believe that the difference between the two sectors may vary from State to State. Federal grant funds to States ought to be determined on more reliable data.

We have only half the information needed to understand the operation of the labor market. We have reasonably accurate national unemployment data, but we have no equivalent data on job openings or vacancies. We are actually reduced to looking at the want ads to determine the availability of jobs. In the 1969–73 period the BLS made a start at gathering vacancy data, but then let it drop. Actually we need more than national vacancy data. We need to know, by labor market, where the jobs are, what training they require, and what pay they offer so that they can be effectively matched with the existing work force and needed training programs can be realistically designed.

We do not know how many people are enrolled in vocational education courses, let alone what they are studying or a way of matching what they are studying to the job needs in the Nation. One study of vocational education graduates found that from 30 to 50 percent were not working in the areas for which they were trained.

The waste in the present system is illustrated by the school teacher situation. In the 1960's when demand for school teachers was high, we trained some 4 million. By the time they had all graduated the dropoff in new schoolchildren—easily predictable from the falling birthrates of 6 years before—left us with only 2 million teacher slots. Why were we not better prepared?

In the 1960's we attempted to right the wrongs without doing anything serious about basic institutional arrangements. We added a layer—or several layers—of Government services and transfer payment programs to the system in hopes that more child care, more years of schooling, some legal assistance and finally welfare payments would make a serious change in poverty conditions that afflict individuals and tax the entire economy. We did this against a background of macro-economic policy designed to stimulate the economy enough to reach full employment. That policy, or set of policies, was not enough. Inflation and recession have stopped social progress cold. But by the end of the 1960's welfare was the fastest growing social program. And, as the Census of Employment data shows, fully one-third of the inner city workforce was unable to make it in the economy. Meanwhile, for the middle class, we were drawing into college education millions more than the economy could provide with professional level jobs.

If we are to move forward it is necessary to frame our policies on a much better understanding of how our economic institutions, including labor market institutions function.

We can no longer rely on some "unseen hand" to make adjustments between what is taught in schools and training programs, and what the labor market needs.

We can no longer rely on stimulation of aggregate demand to provide enough jobs in inner city areas.

We can no longer allocate billions of dollars on the basis of informed estimates.

We must have accurate information if we are to pursue serious policy.

We need to appropriate sufficient funds to the Bureau of Labor Statistics to gather information by reliable sample survey for all 50 States and 275 standard metropolitan statistical areas—corresponding to the prime sponsorship areas under CETA. This ought to be done immediately.

We need to require that the Department of Labor comply with the law as passed and signed in 1973 and develop forthwith a subemployment measure.

And, finally, as Willard Wirtz, former Secretary of Labor, suggests in his recent monograph with former BLS Director Harold Goldstein, we need to establish a new Commission—like the Gordon Commission of 1962 that established the integrity of our current unemployment measures—to consider ways and means of improving and expanding our statistics.

In this system where groups such as the poor do not find parties pressing their interests, it is especially important that we develop sources of fact. It is clear that we have not done so. If we are to do better we must understand how our system works and fails. That understanding is dependent on statistics that tell us how things work and how well they are working. With the BLS we have made a good start. But it is only a start.

ORDER FOR RECOGNITION OF SENATOR MONTOYA TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, if it is agreeable to the distinguished Senator from Alabama (Mr. ALLEN), the Senator from New Mexico (Mr. MONTOYA) be recognized for not to exceed 15 minutes, the time to come out of the hour under rule XXII. If the distinguished Senator from Alabama would prefer, however, it would be perfectly agreeable with Mr. MONTOYA to put his 15 minutes ahead of the running of that hour.

Mr. ALLEN. Either way is satisfactory.

Mr. ROBERT C. BYRD. Then, Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized tomorrow, Mr. MONTOYA be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR RECESS UNTIL 9 A.M. ON SATURDAY AND 10 A.M. ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on tomorrow, it stand in recess until the hour of 9 a.m. on Saturday, which convening hour can be vitiated if the situation should require.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that when the Senate completes its business on Saturday, or if it is later decided that there should be no session Saturday when the Senate completes its business tomorrow, it stand in recess until the hour of 10 a.m. on Monday.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

PROGRAM

Mr. **ROBERT C. BYRD**. Mr. President, the Senate will convene at the hour of 10 o'clock tomorrow morning. After the two leaders or their designees have been recognized under the standing order, the Senator from New Mexico (Mr. MONTOYA) will be recognized for not to exceed 15 minutes, after which the remainder of the 1 hour which begins running at 10 a.m. will be divided between Mr. ALLEN and Mr. PROXMIRE.

At the hour of 11 a.m., the clerk will call the roll to establish the presence of a quorum.

Upon the establishment of a quorum, the Senate will proceed by automatic rollcall vote to vote on the motion to invoke cloture on the New York City legislation.

This does not rule out a possible rollcall vote during the hour between 10 a.m. and 11 a.m. I know of no rollcall vote that will occur between the hour of 10 a.m. and 11 a.m. tomorrow but such could occur as did occur unexpectedly today during the first hour.

So, unless something untoward develops, the rollcall vote on the motion to invoke cloture would occur at about 11:15 a.m., but again I say, by way of caveat, that a rollcall vote could occur during the 1 hour between 10 a.m. and 11 a.m.

It is at least hoped by some that cloture will be invoked on the New York City legislation, and it appears that it will be, in which case the Senate would remain on that legislation until it is disposed of tomorrow. This could mean a late session, and it could also mean that there would be a session on Saturday.

It is anticipated that upon the disposition of the New York City legislation, whether it be tomorrow or Saturday, the Senate will proceed to take up the Public Works Appropriations bill on which there is a time agreement.

So I say in summation that this would mean that there would very likely be a late session tomorrow in any event, and, if action is not completed on both the New York City legislation and the public works appropriation bill tomorrow, then there will be a session on Saturday for completion of whatever work remains to be done in regard to one or both of those measures.

As to the program between now and adjournment of the 1st session of the 94th Congress, the radar shows severe turbulence up ahead. Buckle your seat belts, hold on to the arms of your seats, be prepared for stormy weather, and hold your nerve. We are on course, but extremely strong winds are going to buffet us. There will be updrafts, downdrafts, headwinds and tailwinds, and the winds will vary from hot to cold and back again. Fog will be heavy at times, with visibility near zero. The days will be long, and will seem even longer under the less-than-marginal circumstances. No smoking at any time, and stay out of the aisles. The Senate weather forecast has never been worse; read it and weep.

The adjournment target date is December 19 or 20. If the clouds have any silver lining, we may do better—but do not bet on it. Sessions early and late will be necessary—probably including Saturdays—with rollcall votes daily. The menu is rough, not tasty, and could result in upset stomachs. Here it is:

A cloture vote on the House bill dealing with the New York City situation will occur tomorrow.

There is plenty of work to be done on Saturday of this week, depending on our progress tomorrow.

Cloture votes will again occur during the early days of next week on legislation making appropriations for New York City loans.

Filibusters may occur on other measures, and on conference reports.

The energy conference report will be coming along.

Legislation extending the tax cut must be acted upon.

A continuing resolution will constitute dessert—not a very appetizing one, naturally, but, after all, the same can be said for the foregoing courses.

Other conference reports, and lesser measures on the calendar will be taken up.

Possible Presidential vetoes ought to be anticipated—even if they never materialze.

Try to keep a cheery disposition, and be thankful that matters are not worse. There is, after all, a Santa Claus.

The leadership will appreciate the cooperation of all Senators in working out unanimous-consent agreements, and the leadership would urge Senators to maintain good attendance on the floor at all times so as to expedite the business. Much time is occasionally lost when Senators are slow in making live quorums.

RECESS UNTIL 10 A.M.

Mr. **ROBERT C. BYRD**. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 10 a.m. tomorrow morning.

The motion was agreed to, and at 7:12 p.m., the Senate recessed until tomorrow, Friday, December 5, 1975, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate December 4, 1975:

DEPARTMENT OF STATE

William J. Porter, of Massachusetts, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Saudi Arabia.

CONFIRMATION

Executive nomination confirmed by the Senate December 4, 1975:

DEPARTMENT OF AGRICULTURE

William H. Walker III, of Tennessee, to be an Assistant Secretary of Agriculture.

(The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE OF REPRESENTATIVES—*Thursday, December 4, 1975*

The House met at 10 o'clock a.m.

Father Ronald J. Naser, Corpus Christi Church, Fort Dodge, Iowa, offered the following prayer:

Come bless the Lord, all you servants of the Lord.—Psalms 134.

O God, our Creator, Saviour, and Counselor, as Your servants and servants of Your people to begin this day we praise and worship You.

We humbly acknowledge our past failure to serve perfectly; we acknowledge our sometimes fainthearted response to Your commands for justice; we ask forgiveness for our imperfections, generous Lord.

We realize that those who have authority in the state may oblige men in conscience only if their authority is intrinsically related with Your own authority and shares in it.

We ask Your blessing on the deliberations in this Chamber that all Americans can conscientiously obey laws that flow from here.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

FATHER RONALD J. NASER

(Mr. **BEDELL** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **BEDELL**. Mr. Speaker, it is my great privilege to welcome Father Ronald J. Naser of Fort Dodge, Iowa, to the House today.

A native of Fort Dodge, Iowa, Father Naser is well known and well respected for his outstanding efforts toward bringing about a better society for all the people of Fort Dodge. As an assistant pastor at Corpus Christi Church, as a full-time teacher at St. Edmund's High School and as a counselor in work to relieve the sufferings of alcoholism and mental illness among the people of Fort Dodge, Father Naser is to be commended for his excellent works.

Before joining Corpus Christi Church last August, Father Naser served as chaplain at Trinity Regional Hospitals in Fort Dodge. He received his bachelor of arts at Lords College in Dubuque, and he holds a Master of Science degree from Creighton University in Omaha. Father Naser completed his theological studies at Aquinas Institute in Dubuque.

It gives me great pleasure and pride to welcome Father Naser to the Congress of the United States.

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO SIT TODAY DURING 5-MINUTE RULE

Mr. STRATTON. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services may be permitted to sit today during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if the gentleman from New York could tell us what the necessity for this meeting is? We are considering under the 5-minute rule the rather complicated tax amendments, and on yesterday during the general debate there was no more than a maximum of 30 Members of this body here at any one time. Perhaps the gentleman from New York can tell us what the impelling reason for this meeting is.

Mr. STRATTON. Mr. Speaker, if the gentleman will yield, I will be happy to respond to the inquiry of the gentleman from Maryland.

The purpose of the meeting is so that the Committee on Armed Services can receive a prospectus of the 1977 defense budget, so that the committee may be in a better position to make its recommendations on defense expenditures to the Committee on the Budget by the deadline in March.

This is usually a very burdensome business and we feel that a meeting now is absolutely essential if we are going to get a handle on the 1977 defense budget, so that we may be better informed now, rather than waiting until after we come back in January.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for his response and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

REQUEST FOR PERMISSION FOR COMMITTEE ON EDUCATION AND LABOR TO SIT DURING 5-MINUTE RULE TODAY

Mr. DENT. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor be permitted to sit during the 5-minute rule today.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ERLENBORN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

REQUEST FOR PERMISSION FOR COMMITTEE ON EDUCATION AND LABOR TO HAVE UNTIL MIDNIGHT TOMORROW, DECEMBER 5, 1975, TO FILE REPORT ON H.R. 5900

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor may have until midnight tomorrow, December 5, 1975, to file a report on H.R. 5900, the so-called situs picketing bill.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, did the gentleman from Kentucky receive the agreement of the minority members to the making of this request?

Mr. PERKINS. Let me say to my distinguished friend, the gentleman from Maryland, that I just got through talking to the gentleman from Minnesota (Mr. QUIE), the ranking minority member, and I told him that it would be filed tomorrow in the pro forma session. He told me that he wanted the opportunity to go over the whole thing, and I told him that he would have more time; he would have until 11 o'clock tomorrow evening. He agreed under those circumstances to let me go ahead and make the unanimous-consent request, provided that he would have an opportunity to go over the conference report. I gave him my assurance that he would have the opportunity to go over the conference report tomorrow before it was filed.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

Mr. BAUMAN. Mr. Speaker, I appreciate the explanation, but I do object.

The SPEAKER. Objection is heard.

CALL OF THE HOUSE

Mr. WALSH. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 732]

Alexander
Ambro
Andrews, N.C.
Ashley
Badillo
Baucus
Bergland
Bolling
Brademas
Brown, Calif.
Broyhill
Burke, Fla.
Burton, John
Clay
Conyers
Crane
Davis
Dellums
Derwinski
Diggs
Duncan, Oreg.
du Pont
Eckhardt
Edwards, Calif.
Esch
Eshleman
Fenwick
Fithian
Foley
Fraser
Gaydos
Gibbons
Gude
Harrington
Harsha
Hawkins
Hébert
Heckler, Mass.
Hefner
Heinz
Helstoski
Hinshaw
Hungate
Litton
McDonald
McKinney
Macdonald
Matsunaga
Milford
Mitchell, Md.
Moakley
Moorhead, Calif
Moorhead, Pa.
Rangel
Rees
Riegle
Rose
Scheuer
Schulze
Sikes
Stokes
Teague
Udall
Vander Jagt
Wydler
Young, Alaska
Young, Ga.

On this rollcall 367 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

REQUEST FOR PERMISSION FOR SUBCOMMITTEE ON COAST GUARD AND NAVIGATION OF THE COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT TODAY DURING HOUSE SESSION

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that the Subcommittee on Coast Guard and Navigation of the Committee on Merchant Marine and Fisheries may be permitted to hold continuing hearings while the House is in session today.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. ROUSSELOT. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

CONFERENCE REPORT ON H.R. 9005, INTERNATIONAL DEVELOPMENT AND FOOD ASSISTANCE ACT OF 1975

Mr. HAYS of Ohio submitted the following conference report and statement on the bill (H.R. 9005) to authorize assistance for disaster relief and rehabilitation, to provide for overseas distribution and production of agricultural commodities, to amend the Foreign Assistance Act of 1961, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 94–691)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9005), to authorize assistance for disaster relief and rehabilitation, to provide for overseas distribution and production of agricultural commodities, to amend the Foreign Assistance Act of 1961, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 6, 11, 13, 17, 18, 20, 21, 23, 24, 29, 30, 41, 55, 64, 65, 67, 70, 72, 73, 75, 77, 78, 86, 87, 89, 90, 91, 92, 93, 94, 98, 99, 102, 105, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 120, 127, 132, 133.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 7, 8, 10, 15, 16, 26, 27, 28, 31, 36, 37, 39, 40, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 62, 63, 69, 79, 81, 82, 95, 96, 97, 100, 100a, 101, 107, 119, 121, 123, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with amendments as follows:

Restore the matter proposed to be stricken out by the Senate amendment; omit the matter proposed to be inserted by the Senate amendment; and on page 3 of the House engrossed bill, in line 6, immediately after the period, insert the following new sentence: "Amounts appropriated under this section are authorized to remain available until expended."

And the Senate agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: 639;

And the Senate agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

(7) in section 494B, as redesignated by paragraph (5) of this section—

(A) by striking out "Sahel" in the section caption,

(B) by inserting "(a)" immediately after the section caption,

(C) by striking out "supports" and inserting in lieu thereof "reaffirms its support of", and

(D) by adding the following new subsections at the end thereof:

"(b) The President is authorized to develop a long-term comprehensive development program for the Sahel and other drought-stricken nations in Africa.

"(c) In developing this long-term program, the President shall—

"(1) consider international coordination for the planning and implementation of such program;

"(2) seek greater participation and support by African countries and organizations in determining development priorities; and

"(3) begin such planning immediately.

"(d) There is authorized to be appropriated to the President, to carry out the purposes of this section, in addition to funds otherwise available for such purposes, $5,000,000 for the fiscal year 1976, which amount is authorized to remain available until expended. The President shall submit to the Foreign Relations and Appropriations Committees of the Senate and the International Relations and Appropriations Committees of the House of Representatives not later than April 30, 1976, a comprehensive proposal for carrying out the provisions of this section which shall include budget materials relating to programs for the fiscal year 1977."; and

And the Senate agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

(8) by adding the following new section immediately after new section 494B:

"Sec. 495. Cyprus Relief and Rehabilitation.—The President is authorized to furnish assistance, on such terms and conditions as he may determine, for the relief and rehabilitation of refugees and other needy people in Cyprus. There is authorized to be appropriated for the purposes of this section, in addition to amounts otherwise available for such purposes, $30,000,000. Such amount is authorized to remain available until expended. Assistance under this section shall be provided in accordance with the policy and general authority contained in section 491.".

And the Senate agree to the same.

Amendment numbered 9: That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: on a normal commercial basis.

And the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: "with emphasis on development of small, family farm agriculture, and improve their facilities for transportation, storage, and distribution of food commodities;

And the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

"(4) give special consideration to the potential for expanding markets for America's agricultural abundance abroad in the allocation of commodities or concessional financing; and

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: especially through small, family farm agriculture, to improve their facilities for transportation, storage, and distribution of food commodities.

And the Senate agree to the same.

Amendment numbered 22: That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: "Congress within 10 days of the date of such determination.".

And the Senate agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with amendments, as follows:

Omit the matter proposed to be inserted by the Senate amendment; and on page 15 of the House engrossed bill, immediately after line 5, insert the following:

"(e) In order to carry out the purposes of this section, the President is authorized to participate in and provide, on such terms and conditions as he may determine, up to $200,000,000 to the International Fund for Agriculture Development. There is authorized to be appropriated to the President without fiscal year limitation $200,000,000 for such contribution.

"(f) No funds may be obligated to carry out subsection (e) unless—

"(1) satisfactory agreement is reached on the Articles of Agreement for the International Fund for Agricultural Development;

"(2) such Articles of Agreement are reviewed and approved by the Senate Committee on Foreign Relations and the House Committee on International Relations;

"(3) all donor commitments to the International Fund for Agricultural Development total at least $1,000,000,000 equivalent in convertible currencies, except that the United States contribution shall be proportionally reduced if this combined goal is not met; and

"(4) there is equitable burden sharing among the different categories of contributors.

"(g) The President shall submit to the Congress full and complete data concerning United States participation in, and operation of, the International Fund for Agricultural Development in the annual presentation materials on proposed economic assistance programs.".

And the Senate agree to the same.

Amendment numbered 32: That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: of commodities.

And the Senate agree to the same.

Amendment numbered 33: That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with amendments as follows:

Restore the matter proposed to be stricken out by the Senate amendment; omit the matter proposed to be inserted by the Senate amendment; and on page 7 of the House engrossed bill, in line 5, immediately after "planning" insert the following: and to carry out the program described in section 406 (a) (1) of this Act,

And the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with amendments as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: and which programs are directed at and likely to achieve the policy objectives of.

On page 7 of the House engrossed bill, in line 12, immediately after "1961" and before the comma insert: and are consistent with the policy objectives of this Act.

And the Senate agree to the same.

Amendment numbered 35: That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: , except that for any fiscal year the total value of such payments may not exceed 15 per centum of the total value of all agreements entered into under title I of this Act for such fiscal year. Such payments.

And the Senate agree to the same.

Amendment numbered 38: That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

Sec. 207. Title I of the Agricultural Trade Development and Assistance Act of 1954 is amended by adding at the end thereof the following new section:

"Sec. 111. Not more than 25 per centum of the food aid commodities provided under this title in each fiscal year shall be allocated and agreed to be delivered to countries other than those with an annual per capita gross national product of $300 or less and affected by inability to secure sufficient food for their immediate requirements through their own production or commercial purchase from abroad, unless the President certifies to the Congress that the use of such food assistance is required for humanitarian food purposes and neither House of Congress disapproves such use, by resolution, within thirty calendar days after such certification. In determining per capita gross national product for the purposes of this section, the President is authorized and directed to make use of data developed by the World Bank for its most recent annual report and relied upon by the Secretary of the Treasury. A reduction below 75 per centum in the proportion of food aid allocated and agreed to be delivered to countries with a per capita gross national product of $300 or less and affected by inability to secure sufficient food for their immediate requirements through their own production or commercial purchase from abroad which results from significantly changed cricumstances occurring after the initial allocation shall not constitute a violation of the requirements of this section. Any reallocation of food aid shall be in accordance with this section so far as practicable. The President shall report promptly any such reduction, and the reasons therefor, to the Congress.".

And the Senate agree to the same.

Amendment numbered 54: That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

REPORT REGARDING IMPLEMENTATION OF RECOMMENDATIONS OF WORLD FOOD CONFERENCE

SEC. 213. The Congress calls upon the President to strengthen the efforts of the United States to carry out the recommendations of the World Food Conference. The President shall submit a detailed report to the Congress not later than November 1, 1976, with respect to the steps he has taken to carry out the recommendations of the World Food Conference, including steps to fulfill the commitment of the United States and to encourage other nations to increase their participation in efforts to improve the food security of the poorest portion of the world's population.

And the Senate agree to the same.

Amendment numbered 56: That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment as follows: On page 14 of the Senate engrossed amendments, in line 10, strike out "215" and insert in lieu thereof "214".

And the Senate agree to the same.

Amendment numbered 57: That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: "618,800,000".

And the Senate agree to the same.

Amendment numbered 58: That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: "$745,000,000".

And the Senate agree to the same.

Amendment numbered 59: That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with amendments as follows: Strike out the matter proposed to be stricken out by the Senate amendment; and on page 14 of the House engrossed bill, strike out "(a)" in line 2.

And the Senate agree to the same.

Amendment numbered 60: That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: "$243,100,000".

And the Senate agree to the same.

Amendment numbered 61: That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: "$275,600,000".

And the Senate agree to the same.

Amendment numbered 66: That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with amendments as follows:

On page 17 of the House engrossed bill, in line 23, strike out "subsection" and insert in lieu thereof "subsections"; and on page 18 of the House engrossed bill, in line 8, strike out the closed quotation mark and the second period.

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

"(c) Of the amount authorized to be appropriated by subsection (a), not less than $1,000,000 shall be available to support the southern African student program and the southern African training program, for the purpose of providing educational assistance to Southern Africans.".

And the Senate agree to the same.

Amendment numbered 68: That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

Of the amounts made available under this section, not less than $30,000,000 shall be available during the period beginning July 1, 1975, and ending September 30, 1977, only for reimbursement to private voluntary agencies of the United States for costs incurred with respect to the shipment of food and nonfood commodities provided through private donations.

And the Senate agree to the same.

Amendment numbered 71: That the House recede from its disagreement to the amendment of the Senate numbered 71, and agree to the same with amendments as follows:

Restore the matter proposed to be stricken out by the Senate amendment; and on page 20 of the House engrossed bill, beginning in line 23, strike out "meets the United Nations' criteria for relatively least developed countries" and insert in lieu thereof: the agency primarily responsible for administering part I of this Act determines is relatively least developed based on the United Nations Conference on Trade and Development list of 'relatively least developed countries'.

And the Senate agree to the same.

Amendment numbered 74: That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

HUMAN RIGHTS AND DEVELOPMENT ASSISTANCE

Sec. 310. Part I of the Foreign Assistance Act of 1961 is amended by inserting immediately after section 115 the following new section:

"Sec. 116. HUMAN RIGHTS.—(a) No assistance may be provided under this part to the government of any country which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial of the right to life, liberty, and the security of person, unless such assistance will directly benefit the needy people in such country.

"(b) In determining whether this standard is being met with regard to funds allocated under this part, the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House of Representatives may require the Administrator primarily responsible for administering part I of this Act to submit in writing information demonstrating that such assistance will directly benefit the needy people in such country, together with a detailed explanation of the assistance to be provided (including the dollar amounts of such assistance) and an explanation of how such assistance will directly benefit the needy people in such country. If either committee or either House of Congress disagrees with the Administrator's justification it may initiate action to terminate assistance to any country by a concurrent resolution under section 617 of this Act.

"(c) In determining whether or not a government falls within the provisions of subsection (a), consideration shall be given to the extent of cooperation of such government in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations, including the International Committee of the Red Cross, or groups or persons acting under the authority of the United Nations or of the Organization of American States.

"(d) The President shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, in the annual presentation materials on proposed economic development assistance programs, a full and complete report regarding the steps he has taken to carry out the provisions of this section.".

And the Senate agree to the same.

Amendment numbered 76: That the House recede from its disagreement to the amendment of the Senate numbered 76, and agree to the same with amendments as follows: Omit the matter proposed to be inserted by the Senate amendment.

On page 13 of the House engrossed bill, in line 12, strike out "subsection" and insert in lieu thereof subsections; in line 25, strike out the close quotation mark and the second period; and immediately after line 25, insert the following:

"(d) For the purpose of assuring that development assistance furnished under this chapter is increasingly concentrated in countries which will make effective use of such assistance to help the poor toward a better life (especially such countries which are suffering from the worst and most widespread poverty and are in greatest need of outside assistance), the President shall establish appropriate criteria to assess the commitment and progress of countries in meeting the objectives set forth in subsection (c) of this section and in other sections of this chapter. In establishing such criteria, the President shall specifically take into account their value in assessing the efforts of countries to—

"(1) increase agricultural productivity per unit of land through small-farm labor-intensive agriculture;

"(2) reduce infant mortality;

"(3) control population growth;

"(4) promote greater equality of income distribution, including measures such as more progressive taxation and more equitable returns to small farmers; and

"(5) reduce rates of unemployment and underemployment.

The President shall endeavor to bring about the adoption of similar criteria by international development organizations in which the United States participates. Presentation materials submitted to the Congress with respect to assistance under this chapter, beginning with fiscal year 1977, shall contain detailed information concerning the steps being taken to implement this subsection.".

And the Senate agree to the same.

Amendment numbered 80: That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with amendments as follows: Omit the matter proposed to be inserted by the Senate amendment; and on page 23 of the House engrossed bill, strike out lines 13 through 15, and insert in lieu thereof the following:

(A) in subsection (c), by inserting "and for each of the fiscal years 1976 and 1977, $25,000,000," immediately after "$19,000,000,"; and

And the Senate agree to the same.

Amendment numbered 83: That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

(3) in section 221, by striking out "$355,000,000" and inserting in lieu thereof "$430,000,000";

And the Senate agree to the same.

Amendment numbered 84: That the House recede from its disagreement to the amendment of the Senate numbered 84, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

(4) in section 222(c), by striking out "$550,000,000" and inserting in lieu thereof "$600,000,000"; and

And the Senate agree to the same.

Amendment numbered 85: That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with amendments as follows:

Restore the matter proposed to be stricken out by the Senate amendment; and on page 24 of the House engrossed bill, in line 2, strike out "(3)" and insert in lieu thereof "(5)".

And the Senate agree to the same.

Amendment numbered 88: That the House recede from its disagreement to the amendment of the Senate numbered 88, and agree to the same with amendments as follows: Restore the matter proposed to be stricken out by the Senate amendment.

On page 24 of the House engrossed bill, in line 16, strike out "on a pilot basis"; in line 17, strike out "such" and insert in lieu thereof housing; in line 17, immediately after "issued" and before the comma, insert under this title; and strike out line 23 and insert in lieu thereof the following: not exceed $25,000,000 in any fiscal year, and the average face value of guaranties issued in any fiscal year shall not exceed $15,000,000. Notwithstanding the provisions of the first sentence of this subsection, the President is authorized to issue housing guaranties until September 30, 1977, as follows: In Israel, not exceeding a face amount of $50,000,000, and in Portugal, not exceeding a face amount of $20,000,000.".

And the Senate agree to the same.

Amendment numbered 103: That the House recede from its disagreement to the amendment of the Senate numbered 103, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: FOOD AND AGRICULTURAL.

And the Senate agree to the same.

Amendment numbered 104: That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: FOOD AND AGRICULTURAL.

And the Senate agree to the same.

Amendment numbered 106: That the House recede from its disagreement to the amendment of the Senate numbered 106, and agree to the same with an amendment as follows: Omit the matter proposed to be inserted by the Senate amendment.

And the Senate agree to the same.

Amendment numbered 122: That the House recede from its disagreement to the amendment of the Senate numbered 122, and agree to the same with amendments as follows: Omit the matter proposed to be inserted by the Senate amendment; and on page 36 of the House engrossed bill, in line 14, immediately after the close quotation mark, insert the following: , (B) inserting "(1)" immediately after "(a)" and (C) adding at the end of the subsection the following new paragraph:

"(2) The Congress reaffirms its support for the work of the Inter-American Commission on Human Rights. To permit such Commission to better fulfill its function of insuring observance and respect for human rights within this hemisphere, not less than $357,000 of the amount appropriated for fiscal year 1976 and $358,000 of the amount appropriated for fiscal year 1977, for contributions to the Organization of American States, shall be used only for budgetary support for the Inter-American Commission on Human Rights.".

And the Senate agree to the same.

Amendment numbered 124: That the House recede from its disagreement to the amendment of the Senate numbered 124, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

ASSISTANCE TO FORMER PORTUGUESE COLONIES IN AFRICA

SEC. 314. Section 496 of the Foreign Assistance Act of 1961 is amended—

(1) by inserting "(a)" immediately after the section caption;

(2) by striking out "$5,000,000" and inserting in lieu thereof "$7,750,000";

(3) by striking out "$20,000,000" and inserting in lieu thereof "$17,250,000"; and

(4) by adding at the end thereof the following new subsections:

"(b) Notwithstanding the provisions of section 620(r) of this Act, the United States is authorized to forgive the liability incurred by the Government of the Cape Verde Islands for the repayment of a $3,000,000 loan on June 30, 1975.

"(c) The President is authorized to use up to $30,000,000 of the funds made available under this part for the fiscal year 1976, in addition to funds otherwise available for such purposes, to provide development assistance in accordance with chapter 1 or relief and rehabilitation assistance in accordance with chapter 9 (including assistance through international or private voluntary organizations) to countries and colonies in Africa which were, prior to April 25, 1974, colonies of Portugal.".

And the Senate agree to the same.

Amendment numbered 125: That the House recede from its disagreement to the amendment of the Senate numbered 125, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

FURNISHING OF SERVICES AND COMMODITIES

SEC. 315. Section 607(a) of the Foreign Assistance Act is amended by deleting the second full sentence, and inserting in lieu thereof the following: "Such advances or reimbursements may be credited to the currently applicable appropriation, account, or fund of the agency concerned and shall be available for the purposes for which such appropriation, account, or fund is authorized to be used, under the following circumstances:

"(1) Advances or reimbursements which are received under this section within one hundred and eighty days after the close of the fiscal year in which such services and commodities are delivered.

"(2) Advances or reimbursements received pursuant to agreements executed under this section in which reimbursement will not be completed within one hundred and eighty days after the close of the fiscal year in which such services and commodities are delivered: *Provided*, That such agreements require the payment of interest at the current rate established pursuant to section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (59 Stat. 526), and repayment of such principal and interest does not exceed a period of three years from the date of signing of the agreement to provide the service: *Provided further*, That funds available for this paragraph in any fiscal year shall not exceed $1,000,000 of the total funds authorized for use in such fiscal year by chapter 1 of part I of this Act, and shall be available only to the extent provided in appropriation Acts. Interest shall accrue as of the date of disbursement to the agency or organization providing such services.".

And the Senate agree to the same.

Amendment numbered 126: That the House recede from its disagreement to the amendment of the Senate numbered 126, and agree to the same with amendments as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SEC. 316. Section 661 of the Foreign Assistance Act of 1961 is amended by striking out "in each of the fiscal years 1975 and 1976" and inserting in lieu thereof "in the fiscal year 1975, $2,000,000 in the fiscal year 1976, and $2,000,000 in the fiscal year 1977,".

On page 37 of the House engrossed bill, in line 23, strike out "316" and insert in lieu thereof "317".

On page 38 of the House engrossed bill, immediately after line 11 insert the following:

DISCRIMINATION AGAINST UNITED STATES PERSONNEL

SEC. 318. Part III of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 666. DISCRIMINATION AGAINST UNITED STATES PERSONNEL.—(a) The President shall not take into account, in assigning officers and employees of the United States to carry out any economic development assistance programs funded under this Act in any foreign country, the race, religion, national origin, or sex of any such officer or employee. Such assignments shall be made solely on the basis of ability and relevant experience.

"(b) Effective six months after the date of enactment of the International Development and Food Assistance Act of 1975, or on such earlier date as the President may determine, none of the funds made available under this Act may be used to provide economic development assistance to any country which objects to the presence of any officer or employee of the United States who is present in such country for the purpose of carrying out any program of economic development assistance authorized by the provisions of this Act on the basis of the race, religion, national origin, or sex of such officer or employee.

"(c) The Secretary of State shall promulgate such rules and regulations as he may deem necessary to carry out the provisions of this section.".

And the Senate agree to the same.

Amendment numbered 128: That the House recede from its disagreement to the amendment of the Senate numbered 128, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

OPERATING EXPENSES

SEC. 319. Part III of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 667. OPERATING EXPENSES.—Nothing in this Act is intended to preclude the Committees on Appropriations, in appropriation legislation, from setting a ceiling on operating expenses of the agency primarily responsible for administering part I and limiting the availability of other sums therefor.".

And the Senate agree to the same.

Amendment Numbered 129: That the House recede from its disagreement to the amendment of the Senate numbered 129, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

LIMITATION ON ASSISTANCE TO CHILE

SEC. 320. Notwithstanding any other provision of law, the total amount of economic assistance (including but not limited to housing guaranties and sales under title I of the Agricultural Trade Development and Assistance Act of 1954) that may be made available to Chile may not exceed $90,000,000 during the fiscal year 1976.

And the Senate agree to the same.

Amendment numbered 130: That the House recede from its disagreement to the amendment of the Senate numbered 130, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SETTLEMENT OF DEBT OWED THE UNITED STATES

SEC. 321. No debt owed to the United States by any foreign country with respect to the payment of any loan made under any program funded under this Act may be settled in an amount less than the full amount of such debt unless the Congress by concurrent resolution approves of such settlement.

And the Senate agree to the same.

Amendment numbered 131: That the House recede from its disagreement to the amendment of the Senate numbered 131, and agree to the same with an amendment as follows: On page 31 of the Senate engrossed amendments, in line 10, strike out "320" and insert in lieu thereof 322

And the Senate agree to the same.

THOMAS E. MORGAN,
CLEMENT J. ZABLOCKI,
WAYNE L. HAYS,
DANTE B. FASCELL,
CHARLES C. DIGGS, Jr.,
WM. S. BROOMFIELD,
PAUL FINDLEY,
Managers on the Part of the House.

HUBERT H. HUMPHREY,
GALE MCGEE,
HERMAN E. TALMADGE,
JAMES B. ALLEN,
GEORGE MCGOVERN,
CLIFFORD P. CASE,
JACOB K. JAVITS,
ROBERT DOLE,
HENRY BELLMON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9005), to authorize assistance for disaster relief and rehabilitation, to provide for overseas distribution and production of agricultural commodities, to amend the Foreign Assistance Act of 1961, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

Except for clarifying, clerical, and necessary conforming changes, the differences between the two Houses and the adjustments made in the committee of conference are noted below. (The amendments not dealt with below because they deal with clarifying, clerical, and necessary conforming changes are 2, 3, 8, 10, 17, 20, 23, 26, 28, 40, 47, 49, 63, 64, 65, 67, 72, 73, 75, 77, 78, 79, 80, 82, 85, 86, 87, 89, 92, 98, 99, 100(a), 102, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, and 119.)

The committee of conference agreed to authorizations for fiscal years 1976 and 1977 in the amounts shown in the following table:

FUNDS AUTHORIZED FOR FISCAL YEARS 1976 AND 1977 BY H.R. 9005

[In millions of dollars]

	Executive request (H. Doc. 94–158)		House recommendations [1]		Senate recommendations [1]		Conference agreement [1]	
	Fiscal year 1976 (1)	Fiscal year 1977 (2)	Fiscal year 1976 (3)	Fiscal year 1977 (4)	Fiscal year 1976 (5)	Fiscal year 1977 (6)	Fiscal year 1976 (7)	Fiscal year 1977 (8)
Food and nutrition	$[2] 628.8	$760.0	$628.8	$760.0	$[3] 500.4	$[3] 631.6	$618.8	$745.0
Population planning and health	219.1	251.6	248.1	280.6	[3] 203.7	[3] 236.2	243.1	275.6
Education and human resources development	89.2	101.8	89.2	101.8	[3] 74.0	[3] 86.6	89.2	101.8
Technical assistance, energy, research, reconstruction, selected development problems	[4] 54.3 [5] 38.1	[4] 48.0 [5] 48.0	99.55	104.5	99.55	104.5	99.55	104.5
American schools and hospitals abroad	10.0	10.0	25.0	25.0	25.0	25.0	25.0	25.0
Local currency	(7.0)	(7.0)	(7.0)	(7.0)	(7.0)	(7.0)	(7.0)	(7.0)
International organizations	189.5	214.9	194.5	219.9	194.5		194.5	219.9
Indus Basin:								
Loans	[2,6] 10.0		[6] 10.0		[6] 10.0		[6] 10.0	
Grants	27.0		27.0		27.0		27.0	
International Fund for Agricultural Development	[7] 200.0		(8)	(8)	[9] 200.0	(9)	[9] 200.0	(9)
Disaster assistance	[10] 20.0	[10] 20.0	25.0	25.0	[10] 20.0	[10] 20.0	25.0	25.0
Sahel					50.0	50.0	5.0	
Cyprus	[11] 25.0		(11)		[11] 30.0		[11] 30.0	
Operating expenses	(12)	(12)	(12)	(12)	[13] 174.4	[14] 174.4	(12)	(12)
Total new funds	1,511.0	1,454.3	1,347.15	1,516.8	1,608.55	[15] 1,328.3	1,567.15	1,496.8
Reflows			[16] 250.0	[17] 403.0				
Total	1,511.0	1,454.3	1,597.15	1,919.8	1,608.55	[15] 1,328.3	1,567.15	1,496.8

[1] Bill includes authorization of such amounts as may be necessary for the interim quarter for programs funded in fiscal year 1976, but not to exceed one-fourth of the amount authorized for fiscal year 1976. (See "Amendment No. 127" below.)

[2] Reflects reduction of $10,000,000 in food and nutrition and corresponding increase in Indus Basin loans.

[3] Excludes operating expenses, for which authorization is included below.

[4] For purposes of old sec. 106—selected development problems.

[5] For purposes of old sec. 107—selected countries and organizations.

[6] The Foreign Assistance Act of 1967 authorized $51,220,000 for loans for the Indus Basin development for use beginning in fiscal year 1969. This authorization adds $10,000,000 to the authorization, which is without fiscal year limitation.

[7] The executive branch has made known its intention to request $200,000,000 for the International Fund for Agricultural Development upon successful completion of international negotiations.

[8] House earmarked $200,000,000 of repayments on past AID loans during fiscal years 1976 and 1977.

[9] Authorization without fiscal year limitation.

[10] Permanent authorization ceiling against which appropriations may be made to replenish funds used.

[11] $25,000,000 requested for Cyprus for fiscal year 1976 under the international security program. House has not acted on this request. Authorization is without fiscal year limitation.

[12] Included above in program accounts.

[13] Deducted from program accounts.

[14] Deducted from program accounts. Estimated level under authorization of such amounts as may be necessary.

[15] Includes no authorization for international organizations and programs.

[16] Estimate based on $353,000,000 for all of fiscal year 1976, minus amounts already turned over to the Treasury as of the date of House passage of H.R. 9005, Sept. 10, 1975.

[17] Estimated.

TITLE I—INTERNATIONAL DISASTER ASSISTANCE

Amendment No. 1

International Disaster Assistance Authorization

The House bill authorized $25 million for each of the fiscal years 1976 and 1977.

The Senate amendment authorized appropriation from time to time of such amounts as may be necessary, provided that the level of funds available which have not been previously obligated shall not exceed $20 million, such amounts to remain available until expended.

The committee of conference agreed to authorize $25 million for each of the fiscal years 1976 and 1977, with such amounts authorized to remain available until expended.

Amendment No. 4

African Drought Area Development Programs

The Senate amendment (1) struck the word "Sahel" from the title of the section of the Foreign Assistance Act dealing with assistance for the drought-stricken areas of Africa, (2) reaffirmed Congressional support for United States Government consultations and planning toward the development and support of a comprehensive long-term African Sahel development program, (3) authorized the President to furnish assistance to carry out a long-term development program for the drought areas, (4) set forth guidelines for development of the long-term program, including devoting sufficient resources by 1985 to reduce the need for more costly measures later, (5) authorized the appropriation of $50 million for each of the fiscal years 1976 and 1977 for development of the drought areas, and (6) called on the President to submit to the Congress not later than April 30, 1976, a comprehensive proposal for carrying out the provisions of this section.

The House bill did not contain a comparable provision.

The House receded, with amendments which (1) deleted the specific authority for the President to furnish assistance to carry out a long-term development program for the drought areas, in favor of authority to develop a comprehensive proposal for such a program, (2) deleted the reference to devoting sufficient resources by 1985 to reduce the need for more costly measures later, and (3) replaced the authorization to appropriate $50 million in each of the fiscal years 1976 and 1977 with an authorization to appropriate $5 million for the fiscal year 1976 to carry out the purposes of the section (planning, consultation, and program development).

It was not the intention of the committee of conference, in making these changes in the Senate amendment, to indicate a lessening of support for long-term development of the drought areas or for implementation of an adequate program for those areas in the short term. On the contrary, the committee of conference reaffirmed congressional interest in the long-term development of the area, authorized the appropriation of $5 million specifically for the purpose of developing proposals in consultation with other potential donors, and called on the President to submit a comprehensive proposal so that the Congress can review it. However, the committee of conference should not be considered as having endorsed particular activities or specific levels of future funding for the drought area, pending congressional consideration of a comprehensive proposal.

The committee of conference is of the view that in the meantime the Executive should carry out activities for the drought areas which are not dependent on comprehensive long-range development proposals. Such activities should be carried out in accordance with current policy guidelines for development assistance under chapter 1, at levels at least as high as those proposed for this fiscal year in A.I.D.'s congressional presentation materials.

Amendment No. 5

Cyprus Relief and Rehabilitation

The Senate amendment authorized the appropriation of $30 million for relief and rehabilitation of refugees and other needy people in Cyprus.

The House bill did not contain a comparable provision.

The House receded, with an amendment providing that the funds be used in accordance with the provisions of section 491 of the Foreign Assistance Act, which sets forth policy and general authority for international disaster assistance.

It was the view of the committee of conference that authorization for this activity was more appropriately contained in this bill than in a bill for international security assistance, as proposed by the Executive.

Amendment No. 6

Indochina Migration and Refugee Assistance Act Amendments

The Senate amendment made provisions of the Indochina Migration and Refugee Assistance Act applicable to refugees from Laos.

The House bill did not contain a comparable provisions.

The Senate receded. The committee of conference was sympathetic to the intent of the Senate amendment, but the provision would have been subject to point of order in the House as not germane to the bill.

TITLE II—FOOD AID TO POOR COUNTRIES

Amendment No. 7

Public Law 480 Food To Be Made Available to Countries Requiring It

The House bill added policy language to Public Law 480 stating that the President shall give priority consideration to making available the maximum feasible volume of food commodities to those countries most seriously affected by food shortages and inability to meet immediate food requirements.

The Senate amendment qualified this policy language by stating that the food commodities must be "required" by those countries.

The House receded.

Amendment No. 9

Public Law 480 Food To Be Provided to Countries Unable To Meet Requirements Commercially

The House bill added policy language to Public Law 480 stating that the President shall give priority consideration to making available the maximum feasible volume of food commodities to those countries most seriously affected by food shortages and inability to meet immediate food requirements.

The Senate amendment added, after requirements: "which such countries are unable to meet on a normal commercial basis."

The House receded with a clarifying amendment deleting the words, "which such countries are unable to meet," which are redundant.

Amendment No. 11

Relation of Food Aid to Recipients' Agricultural Consumption

The House bill required that in furnishing food aid, the President shall relate U.S. assistance to efforts by aid-receiving countries to increase their own agricultural production.

The Senate amendment required U.S. assistance to be related also to efforts by aid-receiving countries to increase their consumption.

The Senate receded.

Amendment No. 12

Emphasis on Small, Family Farm Agriculture; Transportation, Storage, and Distribution of Food

The House bill required Public Law 480 food aid to be related to efforts by aid-receiving countries to increase their own agricultural production, with emphasis on development of labor-intensive small-farm agriculture.

The Senate amendment deleted the clause putting emphasis on labor intensive, small-farm agriculture and added a clause stating that the U.S. aid should be related also to self-help efforts to improve facilities for transportation, storage, and distribution of food commodities.

The House receded, but with an amendment retaining the House language except for striking the words, "labor-intensive" and substituting the words "small, family farm" for the words "small-farm" agriculture.

Amendment No. 13

Expansion of Food Consumption

The House bill required Public Law 480 food aid to be related to efforts by aid-receiving countries to increase their own agricultural production.

The Senate amendment added further that U.S. aid should be related to self-help efforts also to insure the expansion of food consumption in balance with increases in food production and food aid supplies.

The Senate receded.

Amendment No. 14

Public Law 480 Allocations To Be Based on Market Potential

The Senate amendment required that the President in furnishing food aid shall assure that commodity allocation or concessional financing is based on the potential for expanding U.S. agricultural markets abroad.

The House bil did not contain a comparable provision.

The committee of conference adopted the Senate provision with a modifying amendment which requires that special consideration be given to market potential for U.S. farm sales.

Amendment No. 15

Food Aid Program To Recognize and Support American Farm Economy

The Senate amendment required that the President shall give appropriate recognition and support to a strong and viable U.S. farm economy in providing for food security of consumers in the United States and worldwide.

The House bill did not contain a comparable provision.

The House receded.

Amendment No. 16

World Food Conference Target

The House bill urged the President to maintain a significant U.S. contribution to the World Food Conference target of 10 million tons of food assistance annually, and to encourage other countries to maintain and increase their contributions as well.

The Senate amendment made clear that the World Food Conference target of 10 million tons of food assistance is directed "to needy nations."

The House receded.

Amendment No. 18

Increased Agricultural Consumption as a Self-Help Measure

The House bill required that the self-reliance efforts of friendly countries to be taken into account shall include efforts to increase their agricultural production.

The Senate amendment added increased agricultural consumption as a self-help measure.

The Senate receded.

Amendment No. 19

Self-Help Through Small, Family Farm Agriculture and Improved Food, Transportation, Storage, and Distribution

The House bill required that the self-reliance efforts of friendly countries to be taken into account in carrying out Public Law 480 shall include agricultural production increase efforts "especially through labor-intensive, small-farm agriculture."

The Senate amendment deleted the reference to labor-intensive, small-farm agriculture and added a reference to self-help efforts to improve facilities for transportation, storage, and distribution of food commodities.

The committee of conference agreed to retain the language of both the House and the Senate, but to modify the House language, as in Amendment No. 12, by deleting the words "labor-intensive" and substituting "small, family farm" agriculture for "small-farm" agriculture.

Amendments No. 21 and 22

Waiver of Prohibitions on Public Law 480 Title I Sales to Countries Trading With Cuba or North Vietnam

The House bill authorized the President to waive prohibitions on Public Law 480 Title I sales, if he determines that such waiver is in the national interest and reports his determination to the Congress.

The Senate amendment substituted "waiver" for "determination" in the House language and added that such waiver must be reported to the Congress within 10 days.

The committee of conference agreed to require that a "determination" be reported to the Congress within 10 days.

Amendment No. 24

Blended and Protein Fortified Foods

The Senate amendment mandated the President to require that, to the maximum practicable extent, processed U.S. grain products, including blended and protein fortified foods, be supplied under each Public Law 480 Title I grain sales agreement. The Senate amendment also authorized waiver of repayment of Title I sales to the extent that the costs of processing, enrichment, or fortification of high-protein blended or fortified foods are included in the sales price.

The House bill did not contain a comparable provision.

The Senate receded. The committee of conference was cognizant of the desirability of (1) recovering and maintaining for the United States a fair share of the international market for processed American grain products and of (2) the contribution blended and fortified food products can make to improving nutritional levels of the neediest individuals in the developing world, to which the Senate amendment was directed. However, without prejudice to the substance of the Senate proposals, the provisions in question were deleted because they exceeded the scope of the House bill and were thus subject to a point of order when the conference report would be considered in the House. Since under House rules the failure of any provision of a conference report to comply with the germaneness rule would endanger the entire conference report, the Senate conferees receded.

Amendment No. 25

International Fund for Agricultural Development

The Senate amendment authorized United States participation in the International Fund for Agricultural Development and authorized the appropriation of $200 million for that purpose. The amendment provided that no funds could be obligated unless (1) agreement is reached on Articles of Agreement for the Fund, (2) the Articles are reviewed and approved by the appropriate committees of the Congress, (3) commitments of all donors to the Fund equal at least $1 billion, and (4) different categories of donors share the burden equitably. The amendment also provided that the President must make reports to the Congress concerning the Fund.

The House bill did not contain a comparable provision. (The House bill instead contained a $200 million earmarking of payments on past aid loans for that purpose—see Amendment No. 59.)

The House receded, with an amendment transferring the authorization from title II to title III of the bill, where it is more appropriately placed.

Amendment No. 27

Senate Foreign Relations Committee to Receive Public Law 480 Notifications

The Senate amendment required certain notifications, regarding the activities of Public Law 480, now required to be submitted to the Senate Agriculture Committee, to be submitted to the Senate Foreign Relations Committee as well.

The Hous bill did not contain a comparable provisions.

The House receded.

Amendment No. 29

Prohibition on Use of Local Currencies for Development of Abortifacients or Abortion Techniques

The Senate amendment prohibited the use of local currencies generated by sale of Public Law 480 commodities for development of abortifacients or techniques of abortion.

The House bill did not contain a comparable provision.

The Senate receded.

Amendment No. 30

Agricultural Consumption as a Self-Help Measure

The House bill permitted forgiveness of payment for Public Law 480, Title I sales under specified circumstances for countries undertaking self-help measures "to increase agricultural production, improve storage and distribution, and reduce population growth in accordance with section 109" of Public Law 480.

The Senate amendment added increasing agricultural consumption to the list of self-help measures to be considered.

The Senate receded.

Amendment No. 31

Transportation of Food as a Self-Help Measure

The House bill permitted forgiveness of payment for Public Law 480, Title I sales under specified circumstances, for countries undertaking self-help measures "to increase agricultural production, improve storage and distribution, and reduce population growth in accordance with section 109" of Public Law 480.

The Senate amendment added transportation to the list of self-help measures to be considered.

The House receded.

Amendment No. 32

Self-Help in Storage, Distribution, and Transportation Specified To Refer to Food Commodities

The House bill permitted forgiveness of payment for Public Law 480, Title I sales under specified circumstances, for countries undertaking self-help measures "to increase agricultural production, improve storage and distribution, and reduce population growth in accordance with section 109" of Public Law 480.

The Senate amendment specified that the phrase "improve storage, transportation, and distribution" refer to "food commodities."

The committee of conference agreed to retain the words "of commodities," because the phrase food commodities was too narrow.

Amendment No. 33

Eligibility of Farmer-to-Farmer Program Under Payment Forgiveness Procedure

The House bill permitted forgiveness of payment for Public Law 480, Title I sales under specified circumstances, for countries undertaking certain self-help measures in accordance with section 109 of Public Law 480.

The Senate amendment extended the forgiveness procedure to cover the funding of certain aspects of the farmer-to-farmer program authorized under Public Law 480.

The House receded with a technical amendment.

Amendment No. 34

Applicability of Development Aid Provisions to Local Currency Uses Under Forgiveness Agreements

The House bill required that uses of local currencies in accordance with agreements permitting forgiveness of payment for Public Law 480, Title I sales be "subject to the policies, procedures, restrictions, and other provisions applicable to funds provided under sections 103 and 104 of the Foreign Assistance Act of 1961."

The Senate amendment required that such uses of local currencies be for "programs . . . directed at and likely to achieve the policy objectives of" sections 103 and 104 of the Foreign Assistance Act and of Public Law 480.

The House receded with an amendment which modified the Senate language to provide that the programs which may be financed under the forgiveness procedure be for programs directed at and likely to achieve the policy objectives of sections 103 and 104 of the Foreign Assistance Act and be "consistent with" the objectives of Public Law 480.

Amendment No. 35

Percentage Limitation on Forgiveness Agreements

The Senate amendment limited agreements for forgiveness of payment of Public Law 480 Title I loan obligations under the procedures described in section 205 of tax bill to 10 percent of the value of each sales agreement entered into for any fiscal year.

The House bill did not contain a comparable provision.

The committee of conference agreed to the Senate provision but with modifications of the Senate language. The limitation on the percentage of the value of Title I agreements which could be granted back was changed from 10 percent of each Title I agreement to 15 percent of *all* Title I agreements for any fiscal year.

Amendment No. 36

Priorities for Entering Into Sales Agreements Under Title I of Public Law 480

The House bill required that priority be given to certain countries in entering into agreements for the sale of agricultural commodities for dollars on credit terms.

The Senate amendment added clarifying language that priority be given to certain countries in entering into agreements for the sale of agricultural commodities for dollars on credit terms "under this title" (title I of Public Law 480).

The House receded.

Amendment No. 37

Inclusion of Improved Systems of Transportation of Agricultural Commodities in Measuring Self-Help

The House bill required priority in Title I sales to be given to countries agreeing to use the local currency proceeds for certain specified purposes, including services designed to improve marketing, storage, and distribution systems for agricultural commodities.

The Senate amendment added to those specified purposes services designed to improve transportation systems for agricultural commodities.

The House receded.

Amendment No. 38

Assistance to Most Seriously Affected Countries

The House bill added a new section 111 to Title I of Public Law 480 mandating that not more than 30 percent of the volume of food aid commodities provided under Title I shall be allocated to countries other than those most seriously affected by inability to meet their immediate food needs, unless the President certifies that such food assistance is required for humanitarian food purposes and neither House of Congress disapproves by resolution within 30 days. The House language provided further that in determining which countries are most seriously affected for purposes of this section, the President may be guided by the United Nations designation of countries as "most seriously affected" by the current economic crisis. A reduction below 70 percent in the proportion of food aid allocated to most seriously affected countries resulting from significantly changed circumstances occurring after the initial allocation shall not constitute a violation of this section; any reallocation of food aid shall be in accordance with this section so far as practicable, with the President promptly reporting any such reduction and the reasons therefor to the Congress.

The Senate amendment added a new section 111 of Title I of Public Law 480 mandating that not more than 20 percent of the value of all commodities provided under Title I shall be allocated and agreed to be delivered to countries other than those with a per capita gross national product of $250 or less, and affected by inability to meet their immediate food needs, unless the President certifies that such food assistance is required for humanitarian food purposes and neither House of Congress disapproves by resolution within 30 days. The Senate amendment further provided that in determining per capita gross national product for purposes of this section, the President is to use data developed by the World Bank for its most recent annual report and relied upon by the Secretary of the Treasury. A reduction below 80 percent in the proportion of food aid allocated to most seriously affected countries which results from critical and unforeseeable circumstances occurring after the initial allocation shall not constitute a violation of this section; any reallocation of food aid shall be in accord with this section so far as practicable, with the President to report any such reduction and the reasons therefor to the Congress.

The committee on conference agreed to the Senate provision but with several modifications of the Senate language. The limitation on Title I allocations was changed to 25 percent of the volume of food aid commodities allocated and agreed to be delivered to countries other than those having an annual per capita gross national product of $300 or less, as determined by the most recent annual report of the World Bank, unless significantly changed circumstances cause reallocations to be required outside the boundaries of this limitation.

While it has been the clear intention during the consideration of this provision that the allocation formula would apply over a fiscal year period, the words "in each fiscal year" were inserted for clarification. It is the intention of the managers that this allocation formula shall take effect for the entire 1976 fiscal year, and shall include agreements entered into prior to enactment of this provision but after the beginning of the current fiscal year.

It is the expectation of the committee of conference that, for the purposes of fiscal year 1976, an initial allocation shall be made and conveyed by the President to the Congress within 10 days of the enactment of this legislation, which covers the entire Title I food program for the current fiscal year. This allocation must be in accord with the criteria of this section. For fiscal year 1977, the initial allocation shall be made prior to the start of that fiscal year. The ratio applying to both allocations and agreements to deliver shall be calculated at the end of each fiscal year for that year. The interim quarter is not exempted from the criteria of this section, and for the purposes of their application the quarter may be included in fiscal year 1976 if so designated at the time of the initial allocation for that year. For the period after fiscal year 1977, the committee of conference took note of the current expiration date of Public Law 480 Title I sales authority which is scheduled for December 31, 1977.

The term "agreements to deliver" refers to written agreements to extend financing for sales of U.S. commodities under the authority of Title I of Public Law 480, which have been approved and signed by both contracting parties.

Amendment No. 39

Overall Minimum for Title II Distribution

The House bill required that the minimum quantity of agricultural commodities distributed under Title II shall be 1.5 million tons each fiscal year.

The Senate amendment set the minimum at 1.3 million tons.

The House receded. The term "tons" as used in this provision and elsewhere in this bill is intended to refer to "metric tons" or "metric tons grain equivalent" as commonly used in international agricultural trade.

Amendment No. 41

Title II Voluntary Agencies Minimum

The House bill required that the minimum distributed through nonprofit voluntary agencies and the World Food Program shall be one million tons for each fiscal year.

The Senate amendment set the minimum at 900,000 tons.

The Senate receded.

Amendment No. 42

Generation of Foreign Currencies Under Title II Subject to Written Agreement

The House bill prohibited Public Law 480, Title II, agreements permitting generation of foreign currency proceeds unless the specific uses of the proceeds are set forth and agreed to by the United States and the recipient country.

The Senate amendment provided that the uses must be set forth "in a written agreement" between the United States and the recipient country.

The House receded.

Amendments No. 43 and 44

Use of Foreign Currency Proceeds Under Title II Agreements

The House bill provided that no Public Law 480 Title II assistance may be provided under an agreement permitting generation of foreign currency proceeds unless the currencies are used for specified purposes.

The Senate amendment contained the same prohibition unless "such agreement provides that the currencies will be" used for the specified purposes.

The House receded.

Amendment No. 45

Applicability of Development Aid Provisions to Local Currency Uses Under Title II Agreements

The House bill required that uses of local currencies under Title II agreements be "in accordance with the limitations, restrictions, and other provisions applicable to funds provided under" the relevant section of the Foreign Assistance Act.

The Senate amendment struck this requirement.

The House receded.

Amendment No. 46

Advisory Committee

The House bill provided that the members of the Public Law 480 advisory committee (which consists of high executive branch officials and the chairmen and ranking members of the House International Relations and Agriculture Committees and the Senate Foreign Relations and Agriculture and Forestry Committees) may have designees representing them on the advisory committee.

The Senate amendment added a stipulation that the designees to the advisory committee must be members of the relevant congressional committees, or in the case of executive branch members, shall have had Senate confirmation.

The House receded.

Amendment No. 48

Year Covered by Reports to the Congress

The Senate amendment changed the year for which the President is required to file annual reports from calendar year to fiscal year.

The House bill did not contain a comparable provision.

The House receded.

Amendment No. 50

Date for Filing Report to the Congress

The House bill required the submission by the President of a revised global assessment of food production and needs and a revised food assistance program not later than October 1 of each year.

The Senate amendment required the report to be made by November 1, rather than October 1.

The House receded.

Amendment No. 51

Recipients of Presidential Report

The House bill required the revised global food needs assessment and food aid program to be submitted to the "Congress".

The Senate amendment required this information to be submitted to the House Committees on Agriculture and International Relations, and the Senate Committees on Foreign Relations and Agriculture and Forestry.

The House receded.

Amendment No. 52

Requirement of Congressional Approval of International Food Reserve System

The House bill authorized and encouraged the President to seek international agreement for a system of national food reserves.

The Senate amendment provided that any such agreement be "subject to congressional approval."

The House receded. Before any such agreement should enter into force, it is the intention of this provision that the President obtain congressional approval of such agreement.

Amendment No. 53

Holding of Food Reserves

The House bill authorized and encouraged the President to seek international agreement for a system of national food reserves.

The Senate amendment deleted the word "national".

The House receded.

Amendment No. 54

Report on World Food Conference Followup

The Senate amendment called on the President to strengthen U.S. efforts to carry out recommendations of the World Food Conference and required him to submit, within 90 days after enactment of this bill, a report on steps he has taken to carry out Conference recommendations.

The House bill did not contain a comparable provision.

The House receded with an amendment changing the date for submission of such report to November 1, 1976.

Amendment No. 55

Long-Term Commercial Agreements

The Senate amended section 22(f) of the Agricultural Adjustment Act of 1933 by adding a new paragraph. The new paragraph required Presidential consultation with respect to any trade or other international agreement involving any agricultural commodity covered by price support programs, other than agreements already statutorily authorized, prior to entering into discussions to negotiate such agreement, and every 90 days thereafter until such negotiations have been completed. The consultation was to be with the House and Senate Agriculture Committees and the Senate Foreign Relations Committee.

The House bill did not contain a comparable provision.

The Senate receded because of a possible point of order against the amendment in the House.

Amendment No. 56

Farmer-to-Farmer Program

The Senate amendment modified section 406(a) of Public Law 480 by vesting the authority thereunder in the President, instead of the Secretary of Agriculture as in present law; by striking existing language stating the farmer-to-farmer program shall be carried out "through existing agencies of the Department of Agriculture"; and by changing paragraph (a)(5) concerning coordination to provide authority to coordinate the program with other U.S. foreign assistance activities.

The House bill did not contain a comparable provision.

The House receded. In so doing the managers on the part of the House insisted and the managers on the part of the Senate agreed that nothing in the amendment is to be construed as authorizing any activities duplicating or competing with those of the Peace Corps, or as weakening the coordination with Peace Corps activities required under section 406(a)(5) of Public Law 480 prior to the enactment of this bill. The Peace Corps has a well demonstrated capability to administer such a program and is expected to have an important role in the effective operations of a "farmer-to-farmer" exchange.

The transfer of the authority in section 406 from the Secretary of Agriculture to the President is not to be construed as intent by the conferees to remove from the Agriculture Department the administration of the research program authorized in section 406(a)(4).

TITLE III—DEVELOPMENT ASSISTANCE

Amendment No. 57

Food and Nutrition Authorization, FY 1976

The House bill authorized the appropriation of $628.8 million for food and nutrition for FY 1976, including operating expenses.

The Senate amendment authorized the appropriation of $500.4 million, excluding operating expenses.

The committee of conference agreed on an authorization of $618.8 million, including operating expenses. (For discussion of operating expenses, see Amendment No. 128.)

Amendment No. 58

Food and Nutrition Authorization, FY 1977

The House bill authorized the appropriation of $760 million for food and nutrition for FY 1977, including operating expenses.

The Senate amendment authorized the appropriation of $631.6 million, excluding operating expenses.

The committee of conference agreed on an authorization of $745 million, including operating expenses. (For discussion of operating expenses, see Amendment No. 128.)

Amendment No. 59

Receipts From Past Aid Loans

The House bill authorized the appropriation of payments on past aid loans for use for the International Fund for Agricultural Development (for which $200 million was earmarked) and other activities in the area of food and nutrition.

The Senate amendment did not contain a comparable provision. (The Senate, however, authorized the appropriation of $200 million for the International Fund for Agricultural Development—see Amendment No. 25.)

The House receded.

Amendment No. 60

Population Planning and Health Authorization, FY 1976

The House bill authorized the appropriation of $248.1 million for population planning and health for FY 1976, including operating expenses.

The Senate amendment authorized the appropriation of $203.7 million, excluding operating expenses.

The committee of conference agreed on an authorization of $243.1 million, including operating expenses. (For discussion of operating expenses, see Amendment No. 128.)

Amendment No. 61

Population Planning and Health Authorization, FY 1977

The House bill authorized the appropriation of $280.6 million for population planning and health for FY 1977, including operating expenses.

The Senate amendment authorized the appropriation of $236.2 million, excluding operating expenses.

The committee of conference agreed on an authorization of $275.6 million, including operating expenses. (For discussion of operating expenses, see Amendment No. 128.)

Amendment No. 62

Population Earmarking

The House bill earmarked 67 percent of the funds appropriated for population planning and health purposes in any fiscal year to be used for population planning.

The Senate amendment contained the same earmarking, but made it clear that the earmarking applies both to separate population programs and to population programs carried out as an element of health programs.

The House receded.

Amendment No. 66

Southern African Educational Assistance

The Senate amendment earmarked $1 million of funds appropriated for education and human resource development purposes to be used to support southern African student and training programs in southern Africa.

The House bill did not contain a comparable provision.

The House receded, with an amendment substituting "for Southern Africans" for "in southern Africa".

Amendment No. 68

Earmarking of Ocean Freight Costs

The Senate amendment earmarked $14.75 million in FY 1976 and $16.1 million in FY 1977, out of the funds made available under section 106 of the Foreign Assistance Act, to reimburse voluntary agencies for ocean freight costs.

The House bill did not contain a comparable provision.

The committee of conference agreed to an earmarking of a total of $30 million for the period from July 1, 1975 through September 30, 1977.

Amendment No. 69

Intermediate Technology

The Senate amendment requires A.I.D. to prepare a proposal on coordination of private efforts in intermediate technology, to keep the House International Relations and the Senate Foreign Relations Committees informed during its development, to transmit the proposal to those committees no later than March 31, 1976, and to refrain from implementing the proposal for 30 days unless both committees approve earlier implementation.

The House bill did not contain a comparable provision.

The House receded.

Amendment No. 70

Inter-American Savings and Loan Bank

The Senate amendment amended the Home Owners' Loan Act of 1933 to permit savings and loan associations to invest up to 1 percent of their capital, up to a ceiling of $3.5 million, in the Inter-American Savings and Loan Bank.

The House bill did not contain a comparable provision.

The Senate receded, because the provision would have been subject to point of order in the House as not germane to the bill.

Amendment No. 71

Cost Sharing

The House bill permitted the President to waive the requirement that a recipient country put up at least 25 percent of the cost of each project or activity in the case of a project or activity in a country which meets the United Nations criteria for relatively least developed countries.

The Senate amendment struck out the House provision.

The committee of conference agreed to permit the President to waive the requirement in the case of a project or activity in a country which A.I.D. determines is "relatively least developed" based on the UNCTAD list.

Amendment No. 74

Human Rights and Development Assistance

The House bill prohibited development aid to the government of any country engaging in a consistent pattern of gross violations of internationally recognized human rights, unless (1) the President determines and reports to the Congress that the aid will benefit needy people, describing the aid and explaining how it will benefit needy people, and (2) neither house disapproves. In deciding if any government falls within such provisions, consideration must be given to the extent of its coopertaion with investigations by international agencies.

The Senate amendment prohibited development aid to such a government unless the aid will benefit needy people. In determining whether the standard is met, the Senate Foreign Relations Committee or the House International Relations Committee may require a written report from A.I.D. demonstrating either that (1) the government is not engaging in such practices, or (2) the aid will benefit the needy and will not be used to maintain in power the authorities responsible for such practices. If either committee or either House disagrees, it may initiate action to terminate aid under section 617 of the Foreign Assistance Act.

The committee of conference agreed to prohibit development aid to such a government unless the aid will benefit needy people. In determining whether the standard is met, either committee may require a written report from A.I.D. demonstrating that the aid will benefit needy people, describing the aid, and explaining how it will benefit needy people. If either committee or other House disagrees, it may initiate action to terminate aid under section 617 of the Foreign Assistance Act. In deciding if any government falls within such provisions, consideration must be given to the extent of its cooperation with investigations by international agencies. The President is to report annually on steps taken to carry out this section.

Amendment No. 76

Criteria for Allocation of Development Aid

The Senate amendment provided that development aid is to be increasingly concentrated on countries making maximum efforts to carry out land reforms, increase food production, reduce infant mortality, and control population growth, and the President is to establish criteria to measure progress toward these objectives. The President is also to propose similar criteria for international organizations and to report to the Congress on implementation of these provisions.

The House bill did not contain a comparable provision.

The committee of conference agreed that for the purpose of assuring that development aid is increasingly concentrated in countries which will make effective use of aid to help the poor toward a better life (especially such countries which are suffering from the worst and most widespread poverty and are in greatest need of outside assistance) the President is to establish criteria to assess commitment and progress of countries in meeting development objectives set forth in chapter 1 of part I of the Foreign Assistance Act. In establishing the criteria, the President is to take into account their value in assessing the efforts of countries to (1) increase agricultural productivity per unit of land through small-farm labor-intensive agriculture, (2) reduce infant mortality, (3) control population growth, (4) promote greater equality of income distribution, including measures such as more progressive taxation and more equitable returns to small farmers, and (5) reduce rates of unemployment and underemployment. The President is also to propose similar criteria for international organizations and to report to the Congress on implementation of these provisions.

Although explicit reference to certain specific measures of land reform were deleted from the text of the bill, the committee of conference wishes to stress that more equitable distribution of land tenure, more efficient use of land, and encouragement of operator-ownership of farms are among the important objectives of development sought by chapter 1 of part I of the Foreign Assistance Act, and should be considered as such for purposes of this subsection.

Amendment No. 81

American Schools and Hospital Abroad

The House bill limited American schools and hospitals funding in any fiscal year to no more than four institutions in the same country, of which not more than one may be a university and one a hospital.

The Senate amendment struck out the House provision.

The House receded.

Amendment No. 83

Worldwide Housing Guaranties

The Senate amendment increased the ceiling on issuing authority for worldwide housing guaranties from $355 million to $505 million.

The House bill did not contain a comparable provision.

The committee of conference agreed to increase the ceiling from $355 million to $430 million.

Amendment No. 84

Housing Projects in Latin American Countries

The Senate amendment increased the ceiling on issuing authority for Latin American housing guaranties from $550 million to $650 million.

The House bill did not contain a comparable provision.

The committee of conference agreed to increase the ceiling from $550 million to $600 million.

Amendment No. 88

Housing Guaranty Guidelines

The House bill restricted housing guaranties to projects in countries receiving development aid, projects coordinated with such aid, and projects designed to demonstrate feasibility and suitability of housing or institutional arrangements on a pilot basis. Not less than 90 percent of guaranties are to be for housing suitable for families below the median income, and no more than $5 million in guaranties may be authorized for any country in any fiscal year.

The Senate amendment did not contain a comparable provision.

The committee of conference agreed to adopt the House provision, with amendments (1) deleting the requirement that projects be "on a pilot basis"; (2) raising the ceiling on guaranties authorized for any country in any fiscal year from $5 million to $25 million, and providing that the guaranties authorized in any fiscal year average no more than $15 million; and (3) permitting issuance of $50 million in guaranties for housing in Israel and $20 million in guaranties for housing in Portugal. The $15 million average is to be determined by taking the total of all guaranties authorized for all countries during the fiscal year (and outstanding at the end of the fiscal year), and dividing by the total number of countries receiving the guaranties.

The committee of conference made specific exceptions from the general guidelines for Israel and Portugal, because it believes that the housing guaranty programs in those two countries should not be abruptly cut off, but should continue during a two-year transition period through the end of fiscal year 1977.

Amendments Nos. 90 and 91

Famine Prevention—Placement in Public Law 480

The House bill added to the Foreign Assistance Act, part I, chapter 2, a new Title XII—Famine Prevention and Freedom From Hunger.

The Senate amendment struck the House language placing the Famine Prevention title in the Foreign Assistance Act and substituted therefor language making the Famine Prevention title a new title V in Public Law 480.

The Senate receded. However, the Senate conferees clearly agreed that the jurisdictional responsibility in the Senate over this title of the Foreign Assistance Act would be vested with the Senate Committee on Agriculture and Forestry notwithstanding the fact that funds to carry out the activities will come primarily from section 103 of the Foreign Assistance Act and that the administration of such activities will be under the responsibility of the Agency for International Development. The Committee on Agriculture and Forestry has always had jurisdiction over the legislation creating the system of land grant institutions and over legislation related to agricultural colleges and experiment stations, agricultural economics and research, human nutrition and home economics, and agricultural education extension services. The conferees of the Committee on Agriculture and Forestry agreed to cooperate fully with the Foreign Relations Committee of the Senate which has jurisdiction over other aspects of the Foreign Assistance legislation to coordinate the activities of Title XII with other foreign assistance activities.

Amendment No. 93

Famine Prevention—General Provisions

The House bill provided that the United States should strengthen the capacities of U.S. land-grant and other eligible universities in program-related agricultural institutional development and research "consistent with sections 103 and 103A" (Food and Nutrition and Agricultural Research) of the Foreign Assistance Act.

The Senate amendment struck the reference to consistency with sections 103 and 103A of the Foreign Assistance Act.

The Senate receded.

Amendment No. 94

Famine Prevention—Consumption

The House bill provided that the United States should strengthen the capacities of the U.S. land-grant and other eligible universities to participate in the United States Government's international efforts to more effectively apply agricultural sciences to the goal of increasing world food production.

The Senate amendment added after production, "and consumption", so that the goal is defined as "increasing world food production and consumption."

The Senate receded.

Amendment No. 95

Famine Prevention—Definition of Universities

The House bill provided that the term "universities" be defined as those colleges or universities commonly known as land-grant universities and other U.S. universities which meet certain enumerated criteria.

The Senate amendment struck this House language and substituted language repeating the House definition of land-grant and other universities; adding to the definition those colleges commonly known as sea-grant colleges; and specifying "colleges" as well as universities among those in the definition provided they meet the enumerated criteria.

The House receded.

Amendment No. 96

Famine Prevention—Aquaculture

The Senate amendment added to the Famine Prevention title a new subsection 501(f) stating that the term agriculture, as used in this title, shall include aquaculture and fisheries.

The House bill did not contain a comparable provision.

The House receded.

Amendment No. 97

Famine Prevention—Fishermen

The Senate amendment added to the Famine Prevention title a new subsection stating that, as used in this title, the term farmers shall be considered to include fishermen and other persons employed in obtaining food resources from water.

The House bill did not contain a comparable provision.

The House receded.

Amendment No. 100

Famine Prevention—Commerce Department

The House bill stated that programs under the Famine Prevention title shall be carried out so as to build, whenever practicable, on existing programs and institutions including those of the U.S. Agriculture Department.

The Senate amendment added to the U.S. Agriculture Department, the U.S. Department of Commerce.

The House receded.

Amendment No. 101

Famine Prevention—Focus of Activities

The House bill stated that to the maximum extent practicable activities under this section shall (1) be designed to achieve the most effective interrelationship among teaching, research, and extension work in agriculture; (2) focus on agricultural producers' needs; and (3) be adapted to local circumstances.

The Senate amendment added a further emphasis, that such activities shall (4) be carried out within the developing countries.

The House receded.

Amednments Nos. 103 and 104

Famine Prevention—Name of Board

The House bill provided for establishment of a Board for International Agricultural Development.

The Senate amendment changed the name of the Board to Board for International Food Resource Development.

The committee of conference agreed that the name of the Board is to be the Board for International Food and Agricultural Development.

Amendment No. 105

Famine Prevention—Size of Board

The House bill established a Board consisting of seven members.

The Senate amendment provided that the Board shall be "not less than" seven members.

The Senate receded.

Amendment No. 106

Famine Prevention—Composition of Board

The House bill provided that not less than four members of the Board are to be from the eligible universities, and one of the seven shall be selected from a non-land-grant university.

The Senate amendment struck the provision concerning a non-land-grant university and stipulated that not less than one Board member be selected from a sea-grant institution as defined in this title, and one from other than a land-grant or sea-grant institution.

The House receded with an amendment deleting the new matter proposed by the Senate. The committee of conference intends that in the selection of membership to the Board, consideration must be given to including representatives of land-grant and sea-grant universities as well as those of other institutions eligible under this title.

Amendment No. 120

International Organizations and Programs

The House bill authorized the appropriation of $219.9 million for international organizations and programs for FY 1977.

The Senate amendment struck out the House provision.

The Senate receded.

The committee of conference noted that the Congress will have opportunities to review the extent of United States support for the United Nations and its activities in connection with other legislation.

Amendment No. 121

Namibia Institute

The Senate amendment provided that up to $250,000 of funds made available for international organizations and programs may be used for the Namibia Institute in FY 1976.

The House bill did not contain a comparable provision.

The House receded.

Amendment No. 122

Inter-American Commission on Human Rights

The Senate amendment reaffirmed congressional support for the work of the Inter-American Commission on Human Rights and set a minimum level of $357,000 in FY 1976 and $358,000 in FY 1977, out of total U.S. contributions to the Organization of American States, for budgetary support for the Commission.

The House bill did not contain a comparable provision.

The House receded.

It is the understanding of the committee of conference that funds made available under this section will be used, as necessary, and in accordance with OAS procedures, to supplement assessed contributions of the United States attributable to the Commission, in order to insure total U.S. contributions to the Commission from all sources at the levels specified in this section.

Amendment No. 123

International Fertilizer Development Center

The Senate amendment authorized the President to permit United States participation in the International Fertilizer Development Center and to use economic assistance funds to furnish assistance to the Center.

The House bill did not contain a comparable provision.

The House receded.

Amendment No. 124

Assistant to Former Portuguese Colonies in Africa

The Senate amendment specifically authorized the use of $30 million of the funds appropriated under the Foreign Assistance Act for FY 1976 to provide economic and relief and rehabilitation assistance to former Portuguese colonies in Africa. (The Senate amendment also changed the section caption from "Assistance to the Cape Verde Islands" to "Assistance to Former Portuguese Colonies in Africa".)

The House bill did not contain a comparable provision.

The committee of conference agreed to authorize the use of up to $30 million of the funds appropriated under part I of the Foreign Assistance Act for FY 1976 to provide development assistance or relief and rehabilitation assistance to the former Portuguese colonies. (The committee of conference also agreed to change the section caption as provided in the Senate amendment.)

Amendment No. 125

Furnishing of Services and Commodities

The Senate amendment permitted A.I.D. to reuse up to $1 million of reimbursements received in any fiscal year from countries for services or commodities furnished to such countries, even if the reimbursements are not received within 180 days of delivery in accordance with existing law, provided that the deferral of payments is made in accordance with an agreement requiring payment of interest at Export-Import Bank rates of interest, with repayment of principal and payment of interest to be completed within three years. Interest payments received in accordance with this section are to be paid into the Treasury.

The House bill did not contain a comparable provision.

The House receded, with an amendment authorizing funds received over 180 days from the end of the fiscal year to be available only to the extent provided for in appropriation acts.

Amendment No. 126

Discrimination Against United States Personnel

The Senate amendment required the President not to discriminate on the basis of race, religion, national origin, or sex, in the assignment of officers and employees of the United States to serve abroad. Effective no later than 6 months after enactment of this act, no assistance may be provided under the Foreign Assistance Act or the Foreign Military Sales Act to any country objecting to a U.S. officer or employee carrying out those acts on the basis of race, religion, national origin, or sex. The Secretary of State is to promulgate appropriate regulations.

The House bill did not contain a comparable provision.

The House receded, with an amendment making the provision applicable only to economic development assistance programs funded under the Foreign Assistance Act and to personnel carrying out such programs. The Senate amendment as originally written would be subject to point of order in the House.

The committee of conference urges the Executive, in implementing this provision, to examine carefully any allegations of discrimination in the assignment of officers and employees of the United States. In particular, the conferees note, with concern, the instance of the U.S. embassy and consulates in South Africa, in which only one black officer, now reassigned, has ever served. Noting the particular importance to the United States of communicating with the majority African population in South Africa, the committee of conference urges the Executive to take affirmative action in the implementation of this provision with respect to South Africa.

Amendment No. 127

Transition Provisions for Interim Quarter

The House bill authorized the appropriation for the interim quarter of one-fourth of the total amount authorized for FY 1976 by this bill.

The Senate amendment authorized appropriation of one-fourth of the amount authorized for each program or activity for FY 1976.

The Senate receded.

Amendment No. 128

Operating Expenses

The Senate amendment authorized $174.4 million for operating expenses in a separate authorization category and reduced certain other authorization accounts accordingly.

The House bill did not contain a comparable provision.

The committee of conference agreed to delete the separate category for operating expenses, but inserted an amendment reaffirming the right of the Appropriations Committees, in appropriation legislation, to set a ceiling on A.I.D. operating expenses and to limit the availability of other sums therefor. In inserting this provision it was not the intent of the committee of conference either to add to or to subtract from the existing prerogatives of the Appropriations Committees.

Amendment No. 129

Ceiling on Aid to Chile

The Senate amendment limited the total amount of economic assistance provided to Chile to $90 million in FY 1976 and $50 million in FY 1977.

The House bill did not contain a comparable provision.

The House receded, with an amendment deleting the FY 1977 limitation.

It is the understanding and the intention of the committee of conference that the $90 million ceiling apply to all economic assistance to Chile, but not to humanitarian aid provided through private voluntary agencies under Title II of Public Law 480.

Amendment No. 130

Settlement of Debt Owed the United States

The Senate amendment prohibited settlement of any debt owed to the United States by any foreign country for less than the full amount of the debt unless the Congress approves by concurrent resolution.

The House bill did not contain a comparable provision.

The House receded, with an amendment making the provision applicable only to loans heretofore or hereafter made under any program funded under this bill. The Senate amendment, as originally written, would be subject to point of order in the House.

Amendment No. 131

Participation by Other Countries in Providing Assistance to Israel or Egypt

The Senate amendment expressed the sense of the Senate that the President should attempt to negotiate participation by Western Europe, Japan, and the United Nations in providing aid to Israel or Egypt.

The House bill did not contain a comparable provision.

The House receded.

Amendment No. 132

Membership of North Vietnam or South Vietnam in the United Nations

The Senate amendment expressed the sense of the Congress that the United States should veto admission of North Vietnam and South Vietnam to the United Nations until they supply a full accounting of members of the U.S. Armed Forces missing in action in Southeast Asia.

The House bill did not contain a comparable provision.

The Senate receded, because the provision would have been subject to a point of order in the House.

Amendment No. 133

Agency for International Development Loans Report

The Senate amendment required A.I.D. to furnish a report on outstanding A.I.D. loans, indicating on a country-by-country basis with respect to each loan the terms, the repayment record, an estimate of the likelihood of repayment, and appropriate recommendations.

The House bill did not contain a comparable provision.

The Senate receded, since the bulk of the information required is already available in other reports provided to the Congress.

Thomas E. Morgan,
Clement J. Zablocki,
Wayne L. Hays,
Dante B. Fascell,
Charles C. Diggs, Jr.,
Wm. C. Broomfield,
Paul Findley,
Managers on the Part of the House.

Hubert H. Humphrey,
Gale McGee,
Herman E. Talmadge,
James B. Allen,
George McGovern,
Clifford P. Case,
Jacob K. Javits,
Robert Dole,
Henry Bellmon,
Managers on the Part of the Senate.

FURTHER CONTINUING APPROPRIATIONS, 1976

Mr. MAHON. Mr. Speaker, pursuant to the order of the House on Tuesday last, I call up the joint resolution (H.J. Res. 733) making further continuing appropriations for the fiscal year 1976, and for other purposes, and ask unanimous consent that the joint resolution be considered in the House as in the Committee of the Whole.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 733

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That clause (c) of section 102 of the joint resolution of June 27, 1975 (Public Law 94–41), is hereby amended by striking out "sine die adjournment of the first session of the Ninety-fourth Congress" and inserting in lieu thereof "March 31, 1976".

Mr. MAHON. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I would like for this to be one of those memorable moments in the history of the House of Representatives. It could be. It could be our last time to consider a continuing resolution, and what a heavenly blessing that would be.

Mr. Speaker, I would like to make a few remarks in regard to continuing resolutions generally. It is, of course, most regrettable that an extension of the continuing resolution is required. But it is.

Certainly, if a similar pattern is followed next year in handling authorization and appropriation bills, the Congress will fall flat on its face in attempting to meet the requirements of the new budget control legislation in its first year of full implementation. Any Member who will take a few moments to contemplate the schedule and the demands that confront us next year—and this is serious business, I will say to my colleagues—will quickly recognize we must sharply accelerate the handling of authorization bills. We must accelerate early in the next session the handling of authorization and appropriation bills if we are to comply with the new requirements of the Congressional Budget Act, which was widely heralded as a landmark fiscal reform. It could be a landmark fiscal disaster if we do not make it work.

I believe the new legislation has the potential of allowing the Congress to handle the many authorization bills and spending bills and tax bills only if we exercise the discipline to adhere to the scheduling demands inherent in the legislation, and they are very considerable. In order to meet such schedules, the Congress must perform with precision in the next session.

Mr. Speaker, the record this year and the record of recent years does not offer any encouragement with respect to the prospects for next year. We are confronted with a discouraging prospect, but that does not mean we will fail in our objective if we have the will to succeed.

We have studied the entire matter very carefully in the Committee on Appropriations, and we have had numerous conferences in regard to the problem, and thus it appears we are faced with a schedule about like this:

All hearings must be completed by Friday, April 9. We have hearings scheduled today, I will say, but next year all hearings must be completed by Friday, April 9, or Wednesday, April 14, prior to the Easter recess from April 14 to April 26.

So that all subcommittee markups will take place between Monday, April 26, and Friday, May 7, so that the full committee can consider all bills between Monday, May 24, and Friday, June 4, in order that all appropriation bills would be on the floor of the House of Representatives next year between June 15 and July 2.

The accomplishment of such a schedule hinges largely on the timely action of authorizing legislation. Under the new budget legislation, authorizing bills are to be reported by May 15, as the Members well know, but in view of the strict appropriation schedule that seems to be required, authorizing legislation that appears on May 15 is of little value if appropriation bills are to be marked up between April 26 and May 7.

Mr. Speaker, I shall not undertake to belabor this point, but I thought it was worthwhile to point out to the House the serious situation which confronts us.

Mr. Speaker, I ask unanimous consent to insert at this point in my remarks excerpts from the Congressional Budget Act setting forth the timetable of congressional budget legislation.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MAHON. Mr. Speaker, the material I have described as contained in section 300 of Public Law 93–344 is as follows:

TIMETABLE FOR CONGRESSIONAL BUDGET PROCESS

On or before:	Action to be completed:
November 10	President submits current services budget
15th day after Congress meets	President submits his budget
March 15	Committees and joint committees submit reports to Budget Committees
April 1	Congressional Budget Office submits report to Budget Committees
April 15	Budget Committees report first concurrent resolutions on the budget to their Houses
May 15	Committees report bills and resolutions authorizing new budget authority
May 15	Congress completes action on first concurrent resolution on the budget
7th day after Labor Day	Congress completes action on bills and resolutions providing new budget authority and new spending authority
September 15	Congress completes action on second required concurrent resolution on the budget
September 25	Congress completes action on reconciliation bill or resolution, or both, implementing second required concurrent resolution
October 1	Fiscal year begins

Mr. Speaker, returning now to the matter at hand, I am aware of no problem with respect to the joint resolution before us today. I refer to the continuing resolution. It is absolutely necessary. It is a very simple extension of the termination date of the existing continuing resolution which has been in operation since July 1 of this year. I urge the adoption of this continuing resolution without amendment.

Mr. Speaker, I think it is worthwhile now to point out something about the status of the various bills which are still pending at this point in this session of Congress.

The SPEAKER. The time of the gentleman from Texas (Mr. MAHON) has expired.

(By unanimous consent, Mr. MAHON was allowed to proceed for 5 additional minutes.)

Mr. MAHON. Mr. Speaker, first I will refer to the foreign aid bill. No appropriation can be provided for this because there is no authorization. The final piece of the budget itself was not sent to Congress until the last day of October and the justifications did not arrive until about 2 weeks later. So there was no way for the Appropriations Committee to act on the subject of foreign aid under the rules during this session.

With respect to the District of Columbia, the chairman of the subcommittee, the gentleman from Kentucky (Mr. NATCHER), has been immobilized from the standpoint of bringing that legislation to the floor because it was not until November 5 that the budget request for the District of Columbia was submitted to Congress. The subcommittee moved promptly and is in the process of conducting the usual thorough hearings on the D.C. budget.

Next, the Labor-HEW appropriation bill has been in conference. The conference report on the appropriation bill for the Departments of Labor and Health, Education, and Welfare will be before the House later today.

The defense bill is in conference. We anticipate filing a conference report next week so that we can send the bill to the President before we adjourn.

The public works bill is scheduled for the full committee in the Senate today; and we think that we will be able to clear the public works bill.

The interior bill has now passed the Senate and a conference is scheduled for next Tuesday. We feel confident this measure will be cleared before adjournment.

The $7.9 billion supplemental bill that passed the House last month which carries $5 billion for unemployment compensation and other funds for other programs is before the Senate Appropriation Committee this morning.

Mr. Speaker, it may be that some of these measures will not clear before the adjournment of this Congress or will not be enacted. Therefore, we have to have an all-embracive continuing resolution to provide for whatever contingencies may arise.

It is provided that the continuing resolution will be effective until and through the 31st day of March, 1976.

I would like to commend to Members the report on this bill. It is only four pages in length. It is a masterpiece of clarity in indicating just what the continuing resolution means. It is just the same process as has been used from year to year with respect to continuing resolutions.

I say again, Mr. Speaker, that I trust and suggest, in view of the heavy schedule of the day and the relative simplicity of the problem before us now, that we avoid amendments to the pending measure and pass it with just a change in date, which will continue the present situation until March 31 of 1976.

Mr. Speaker, I yield back the balance of my time.

Mr. CEDERBERG. Mr. Speaker, I move to strike the last word.

Mr. Speaker, we are met here again on the continuing resolution, which continues to be a monument to our legislative and administrative inefficiencies.

I recognize that there are many parts of this matter that are beyond our control and certainly beyond the control of the Committee on Appropriations.

I was interested in the remarks of the distinguished chairman as he referred to the fact that, hopefully and possibly, this could be the last continuing resolution. This is going to be an interesting thing to see as we go into next year and work under the Budget Control Act.

The distinguished chairman has gone into the details as to the necessity for this resolution, has gone into them in great depth, and I see no reason for me to take any further time except to say that I see no alternative but to extend this continuing resolution as the committee has proposed.

Mr. MICHEL. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker and Members of the House, I have come to the floor today prepared to offer an amendment that would address itself to what we consider the six double-dip items in this continuing resolution.

Members will recall that when we adopted the earlier continuing resolution, we provided for exemptions to section 101(e) that established a new precedent.

In years past, when we had a continuing resolution, it provided for funds for ongoing programs for the life of the continuing resolution, and then any legislation that was passed subsequent to that would ultimately prevail. However when we passed our earlier continuing resolution, with the exemption in it, we actually provided for additional sums of money for the balance of the fiscal year notwithstanding any other subsequent legislative enactment on the subject.

There are six items in this resolution so affected: Public service jobs, job opportunities, college work study, Youth Conservation Corps, community service employment for older Americans, and the rural water and sewer items.

I thought it bad precedent when we established it.

I share the Chairman's hopefulness that this will be the last continuing resolution that we will be considering in view of the new Budget Control Act, but I would like to have the Chairman's assurance that if perchance it is not, and we come up to the expiration date and for some reason unknown to us at this point have to extend it again, that consideration will be given at that time to eliminating these exemptions and getting back to what I consider to be a normal continuing resolution.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Speaker, let me say that I think it is bad practice to include full-year appropriations in a continuing resolution. It is true that in the continuing resolution which was enacted in June we did include certain direct appropriations which was rather unique. It was regretful but I am sure the gentleman will remember the circumstances at that time. But I certainly feel that it is bad practice. I hope we are through with continuing resolutions but if we are not, I would trust that in any future continuing resolutions we could content ourselves with the usual continuing authority.

Mr. MICHEL. Mr. Speaker, I thank the chairman for his response and with that I would defer from offering my amendment today in the interests of expediting the fulfillment of our obligations to pass the continuing resolution and get on with the tax bill and then on with the Labor-HEW conference report which, incidentally, will follow the consideration of the tax bill later today.

Mr. MAHON. Mr. Speaker, I move the previous question on the joint resolution to final passage.

The previous question was ordered.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution just passed, and that I may include extra tables and material.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

TAX REFORM ACT OF 1975

Mr. ULLMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

The SPEAKER. The question is on the motion offered by the gentleman from Oregon, Mr. Ullman.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 10612, with Mr. Natcher in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on yesterday, all time for general debate on the bill had expired.

Under the rule, the bill is considered as having been read for amendment.

No amendment to the bill in the Committee of the Whole or in the House shall be in order except the following:

First. Amendments offered by direction of the Committee on Ways and Means, but said amendments shall not be subject to amendment;

Second. The following amendments inserted in the Congressional Record of November 14, 1975, by Representative Mikva on pages 36652–36654 under the headings "Real Property," "Minimum Tax," "Portfolio Investments in United States of Nonresident Aliens and Foreign Corporations," "DISC Base Period," and "Capital Loss Carryback for Individuals," respectively;

Third. The amendment inserted in the Congressional Record of November 14, 1975, by Representative Jones, of Oklahoma, on pages 36656–36660 under the heading "Minimum Tax for Individuals";

Fourth. And the amendment inserted in the Congressional Record of November 19, 1975, by Representative Smith, of Iowa, on page 37350; and said amendment shall not be subject to amendment except amendments offered by direction of the Committee on Ways and Means.

Are there any Committee on Ways and Means amendments?

Mr. ULLMAN. There are no committee amendments, Mr. Chairman.

Mr. MIKVA. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Ninety Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The text of the bill reads as follows:

H.R. 10612

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Short Title; Table of Contents.

(a) Short Title.—This Act may be cited as the "Tax Reform Act of 1975".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Amendment of 1954 Code.

TITLE I—LIMITATION ON ARTIFICIAL LOSSES

Sec. 101. Limitation on artificial losses.
Sec. 102. Amendment of section 167(k).

TITLE II—OTHER AMENDMENTS RELATED TO TAX SHELTERS

Sec. 201. Recapture of depreciation on real property.
Sec. 202. Gain from disposition of interest in oil or gas property.
Sec. 203. Termination of additions to excess deductions accounts under section 1251.
Sec. 204. Method of accounting for corporations engaged in farming.
Sec. 205. Treatment of prepaid interest.
Sec. 206. Limitation on interest deduction.
Sec. 207. Limitation of loss with respect to motion picture films or livestock or certain crops to the amount for which the taxpayer is at risk.
Sec. 208. Deduction for intangible drilling and development costs allowable only to taxpayers at risk.
Sec. 209. Player contracts in case of sports enterprises.
Sec. 210. Certain partnership provisions.
Sec. 211. Scope of waiver of statute of limitations in case of activities not engaged in for profit.

TITLE III—MINIMUM TAX FOR INDIVIDUALS

Sec. 301. Minimum tax for individuals.

TITLE IV—EXTENSIONS OF INDIVIDUAL INCOME TAX REDUCTIONS

Sec. 401. Extensions of individual income tax reductions.
Sec. 402. Refunds of earned income credit disregarded in the administration of Federal programs and federally assisted programs.

TITLE V—TAX SIMPLIFICATION IN THE INDIVIDUAL INCOME TAX

Sec. 501. Revision of tax tables for individuals.
Sec. 502. Deduction for alimony allowed in determining adjusted gross income.
Sec. 503. Revision of retirement income credit.
Sec. 504. Credit for child care expenses.
Sec. 505. Changes in exclusions for sick pay and certain military, etc., disability pensions.
Sec. 506. Moving expenses.
Sec. 507. Effective date.

TITLE VI—BUSINESS RELATED INDIVIDUAL INCOME TAX PROVISIONS

Sec. 601. Deductions for expenses attributable to business use of homes, rental of vacation homes, etc.
Sec. 602. Deductions for attending foreign conventions.
Sec. 603. Change in tax treatment of qualified stock options.
Sec. 604. Deduction for guarantees of business bad debts to guarantors not involved in business.
Sec. 605. Legislators' travel expenses away from home.

TITLE VII—ACCUMULATION TRUSTS

Sec. 701. Accumulation trusts.

TITLE VIII—INVESTMENT CREDIT CHANGES

Sec. 801. Four-year extension of 10 percent credit and $100,000 limitation on used property.
Sec. 802. Investment credit in the case of movie and television films.

TITLE IX—CONTINUATION FOR TWO-YEARS OF 1975 CHANGE IN CORPORATE TAX RATES AND INCREASE IN SURTAX EXEMPTION

Sec. 901. Continuation for two years of 1975 change in corporate tax rates and increase in surtax exemption.

TITLE X—CHANGES IN THE TREATMENT OF FOREIGN INCOME

PART I—AMENDMENTS PRIMARILY AFFECTING INDIVIDUALS

Sec. 1011. Income earned abroad by United States citizens living or residing abroad.
Sec. 1012. Income tax treatment of nonresident alien individuals who are married to citizens who are residents of the United States.
Sec. 1013. Foreign trusts having one or more United States beneficiaries to be taxed currently to grantor.
Sec. 1014. Interest charge on accumulation distributions from foreign trusts.
Sec. 1015. Excise tax on transfers of property to foreign persons to avoid Federal income tax.

PART II—AMENDMENTS AFFECTING TAX TREATMENT OF CONTROLLED FOREIGN CORPORATIONS AND THEIR SHAREHOLDERS

Sec. 1021. Amendment of provision relating to investment in United States property by controlled foreign corporations.
Sec. 1022. Repeal of exclusion for earnings of less developed country corporations for purposes of section 1248.
Sec. 1023. Exclusion from subpart F of certain earnings of insurance companies.
Sec. 1024. Shipping profits of foreign corporations.
Sec. 1025. Limitation on definition of foreign base company sales income in the case of certain agricultural products.

PART III—AMENDMENTS AFFECTING TREATMENT OF FOREIGN TAXES

Sec. 1031. Requirement that foreign tax credit be determined on overall basis.
Sec. 1032. Recapture of foreign losses.
Sec. 1033. Dividends from less developed country corporations to be grossed up for purposes of determining United States income and foreign tax credit against that income.
Sec. 1034. Treatment of capital gains for purposes of foreign tax credit.
Sec. 1035. Transitional rule for foreign taxes on oil and gas extraction income.

PART IV—MONEY OR OTHER PROPERTY MOVING OUT OF OR INTO THE UNITED STATES

Sec. 1041. Portfolio investments in United States of nonresident aliens and foreign corporations.
Sec. 1042. Changes in ruling requirements under section 367; certain changes in section 1248.
Sec. 1043. Contiguous country branches of domestic life insurance companies.
Sec. 1044. Transitional rule for bond, etc., losses of foreign banks.

PART V—PUERTO RICO AND POSSESSIONS CORPORATIONS; WESTERN HEMISPHERE TRADE CORPORATIONS; CHINA TRADE ACT CORPORATIONS

Sec. 1051. Tax treatment of corporations conducting trade or business in Puerto Rico and possessions of the United States.
Sec. 1052. Western Hemisphere trade corporations.
Sec. 1053. Repeal of provisions relating to China Trade Act corporations.

TITLE XI—AMENDMENTS AFFECTING DISC

Sec. 1101. Amendments affecting DISC.

TITLE XII—ADMINISTRATIVE PROVISIONS

Sec. 1201. Income tax return preparers.
Sec. 1202. Declaratory judgments with respect to section 501(c)(3) status and classification.
Sec. 1203. Assessment in case of mathematical or clerical errors.
Sec. 1204. Voluntary withholding of State income taxes in the case of certain legislative officers and employees.
Sec. 1205. Withholding State and District income taxes from compensation of members of armed forces who are residents of the State or District of Columbia.
Sec. 1206. Withholding State and city income taxes from the compensation of members of the National Guard or the Ready Reserve.
Sec. 1207. Withholding tax on certain gambling winnings.
Sec. 1208. State conducted lotteries.
Sec. 1209. Jeopardy and termination assessments.
Sec. 1210. Minimum exemption from levy for wages, salary, and other income.
Sec. 1211. Administrative summons.
Sec. 1212. Public inspection of written determinations by Internal Revenue Service.

TITLE XIII—TECHNICAL INCOME TAX PROVISIONS

Sec. 1301. Tax treatment of certain cooperative housing associations.
Sec. 1302. Treatment of certain disaster payments
Sec. 1303. Tax treatment of certain 1972 disaster losses.
Sec. 1304. Tax treatment of certain debts owed by political parties, etc., to accrual basis taxpayers.
Sec. 1305. Clarification of definition of produced film rents.
Sec. 1306. Regulations relating to tax treatments of certain prepublication expenditures of publishers.

TITLE XIV—TREATMENT OF CERTAIN CAPITAL LOSSES; HOLDING PERIOD FOR CAPITAL GAINS AND LOSSES

Sec. 1401. Increase in amount of ordinary income against which capital loss may be offset.
Sec. 1402. Individuals may elect 3-year carryback of capital losses.
Sec. 1403. Increase in holding period required for capital gain or loss to be long term.
Sec. 1404. Allowance of 8-year capital loss carryover in case of regulated investment companies.

TITLE XV—INDIVIDUAL RETIREMENT ACCOUNT AMENDMENTS

Sec. 1501. Tax-free rollover of certain amounts distributed on account of termination of pension, etc., plan.
Sec. 1502. Limited employees retirement accounts.

TITLE XVI—REAL ESTATE INVESTMENT TRUSTS

Sec. 1601. Deficiency dividend procedure.
Sec. 1602. Trust not disqualified in certain cases where income tests were not met.
Sec. 1603. Treatment of property held for sale to customers.
Sec. 1604. Other changes in limitations and requirements.

Sec. 1605. Excise tax.
Sec. 1606. Effective date for title.

TITLE XVII—AMORTIZATION OF CERTAIN RAILROAD GRADING AND TUNNEL BORES; TAX TREATMENT OF CERTAIN RAILROAD TIES

Sec. 1701. Amortization over 50-year period of railroad grading and tunnel bores placed in service before 1969.
Sec. 1702. Treatment of certain railroad ties.

TITLE XVIII—TAX CREDIT FOR HOME GARDEN TOOL EXPENSES

Sec. 1801. Tax credit for home garden tool expenses.

TITLE XIX—REPEAL AND REVISION OF OBSOLETE, RARELY USED, ETC., PROVISIONS

PART I—AMENDMENTS OF INTERNAL REVENUE CODE GENERALLY

Sec. 1911. Amendments of subtitle A; income taxes.
Sec. 1912. Amendments of subtitle B; estate and gift taxes.
Sec. 1913. Amendments of subtitle C; employment taxes.
Sec. 1914. Amendments of subtitle D; miscellaneous excise taxes.
Sec. 1915. Amendments of subtitle E; alcohol, tobacco, and certain other excise taxes.
Sec. 1916. Amendments of subtitle F; procedure and administration.
Sec. 1917. Amendments of subtitle G; the Joint Committee on Internal Revenue Taxation.

PART II—REPEAL OF CODE PROVISIONS WITH LIMITED CURRENT APPLICATION; SAVING PROVISIONS

Sec. 1921. Provisions of subtitle A.
Sec. 1922. Provisions of subchapter D of chapter 39; cotton futures.

SEC. 2. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

TITLE I—LIMITATION ON ARTIFICIAL LOSSES

SEC. 101. LIMITATION ON ARTIFICIAL LOSSES.

(a) IN GENERAL.—Part II of subchapter E of chapter 1 (relating to methods of accounting) is amended by redesignating subpart D as subpart E and by inserting after subpart C the following new subpart:

"Subpart D—Limitation on Artificial Losses

"Sec. 466. Taxable year for taking certain accelerated deductions which would cause artificial losses.
"Sec. 467. LAL property; classes of LAL property.
"Sec. 468. Accelerated deductions; net related income.
"Sec. 469. Dispositions of LAL property.
"Sec. 470. Other definitions and special rules.

"SEC. 466. TAXABLE YEAR FOR TAKING CERTAIN ACCELERATED DEDUCTIONS WHICH WOULD CAUSE ARTIFICIAL LOSSES.

"(a) ACCELERATED DEDUCTIONS DEFERRED TO EXTENT THEY EXCEED RELATED INCOME.—

"(1) IN GENERAL.—Except as otherwise provided in this subpart, in the case of any taxpayer subject to this subpart, accelerated deductions which are attributable to a class of LAL property and which (but for this section) would be allowable for the taxable year shall not be allowed for such year to the extent that such deductions exceed the net related income for such year from such class of property.

"(2) TAXPAYERS SUBJECT TO SUBPART.—Except as provided in paragraph (3), the following shall be subject to this subpart:

"(A) an individual,

"(B) an electing small business corporation (within the meaning of section 1371 (b)), and

"(C) with respect to LAL farm property, a corporation to which section 447(a) (relating to method of accounting for corporations engaged in farming) does not apply.

"(3) EXCEPTION FOR CERTAIN ACCRUAL TAXPAYERS ENGAGED IN FARMING.—Paragraph (1) of this subsection and subsection (b) shall not apply to any taxpayer with respect to property described in section 467(a)(3) if the taxpayer uses an accrual method of accounting with respect to such property and capitalizes preproductive period expenses described in section 468(c)(1).

"(b) DEFERRED DEDUCTIONS PLACED IN DEFERRED DEDUCTION ACCOUNT.—Each taxpayer to whom subsection (a) applies for any taxable year shall establish and maintain a deferred deduction account for each class of LAL property. The deductions not allowed for any taxable year solely by reason of subsection (a) with respect to any class of LAL property shall be placed in the deferred deduction account for such class of property.

"(c) DEFERRED DEDUCTIONS ALLOWED IN LATER YEARS.—In the case of any taxpayer to whom subsection (a) applied with respect to any class of LAL property for any taxable year, if the net related income from such class of property for any subsequent taxable year exceeds the accelerated deductions attributable to such class of property for such subsequent year, there shall be subtracted from the deferred deduction account and allowed as a deduction for such subsequent year an amount equal to the lesser of—

"(1) such excess, or

"(2) the amount in the deferred deduction account for such class of property at the close of such subsequent taxable year (determined without regard to the application of this subsection to such subsequent taxable year).

"SEC. 467. LAL PROPERTY; CLASSES OF LAL PROPERTY.

"(a) LAL PROPERTY DEFINED.—For purposes of this subpart, the term 'LAL property' means property described in any of the following paragraphs:

"(1) LAL REAL PROPERTY.—Real property—

"(A) which is or will be either property described in section 1221(1) or property held for rental, and

"(B) which is not section 1245 property (as defined in section 1245(a)(3)).

"(2) LAL LEASE PROPERTY.—In the case of a lessor, any section 1245 property (as defined in section 1245(a)(3)) which is leased or held for leasing.

"(3) LAL FARM PROPERTY.—Any property—

"(A) which is held for use in the trade or business of farming, or

"(B) which is described in section 1221 (1) and held in connection with the trade or business of farming.

"(4) LAL FILM PROPERTY.—Any motion picture film or video tape created primarily for use as public entertainment and any right to produce, distribute, or display such a film or tape.

"(5) LAL OIL AND GAS PROPERTY.—Any interest in an oil or gas well which is not an exploratory well.

"(6) LAL SPORTS FRANCHISE PROPERTY.—Any interest in a franchise to conduct a sports enterprise.

"(b) CLASSES OF LAL REAL PROPERTY.—For purposes of this subpart, all property of the taxpayer described in subsection (a)(1) is one class of property.

"(c) CLASSES OF LAL LEASE PROPERTY.—For purposes of this subpart, each item of property described in subsection (a)(2) is a separate class of property.

"(d) CLASSES OF LAL FARM PROPERTY.—For purposes of this subpart—

"(1) IN GENERAL.—Except as provided in paragraph (2), all property of the taxpayer described in subsection (a)(3) is one class of property.

"(2) RULE FOR FARMING SYNDICATES.—In the case of any interest in a farming syndicate, property described in subsection (a)(3) attributable to each activity on each farm begun during any taxable year is a separate class of property.

"(3) FARMING SYNDICATE DEFINED.—

"(A) IN GENERAL.—The term 'farming syndicate' means—

"(i) a partnership engaged in the trade or business of farming if at any time interests in such partnership have been offered for sale in any offering required to be registered with a Federal or State agency having authority to regulate the offering of securities for sale,

"(ii) a partnership engaged in the trade or business of farming, if more than 50 percent of the losses during any period are allocable to limited partners, and

"(iii) any other enterprise engaged in the trade or business of farming if at any time interests in such enterprise have been offered for sale in an offering described in clause (i) or if the allocation of losses in such enterprise is similar to an allocation described in clause (ii).

"(B) HOLDINGS ATTRIBUTABLE TO ACTIVE MANAGEMENT.—For purposes of clause (ii) of subparagraph (A), in the case of any individual who has actively participated (for a period of not less than 5 years) in the management of any trade or business of farming, any interest in a partnership which is attributable to such active participation and which is held by such individual (or by any member of his family within the meaning of section 267(c)(4)) shall be treated as an interest which is not held by a limited partner. A rule similar to the rule provided by the preceding sentence shall apply for purposes of so much of clause (iii) of subparagraph (A) as relates to clause (ii) of subparagraph (A).

"(e) CLASSES OF LAL FILM PROPERTY.—For purposes of this subpart, each item of property described in subsection (a)(4) is a separate class of property.

"(f) CLASSES OF LAL OIL AND GAS PROPERTY.—For purposes of this subpart, each property (within the meaning of section 614) is a separate class of property.

"(g) CLASSES OF SPORTS FRANCHISE PROPERTY.—For purposes of this subpart, each franchise to conduct a sports enterprise is a separate class of property.

"SEC. 468. ACCELERATED DEDUCTIONS; NET RELATED INCOME.

"(a) REAL PROPERTY.—For purposes of this subpart, the term 'accelerated deduction', when used with respect to a class of property described in section 467(a)(1), means—

"(1) CONSTRUCTION PERIOD INTEREST AND TAXES.—All—

"(A) interest paid or accrued on indebtedness incurred or continued to acquire, construct, or carry real property, and

"(B) real property taxes,

to the extent such interest and taxes are attributable to the construction period for such property and would be allowed as a deduction under this chapter for the taxable year (determined without regard to this subpart).

"(2) ACCELERATED DEPRECIATION.—The excess of—

"(A) the deduction allowable under this chapter (determined without regard to this subpart) for the taxable year for depreciation or amortization, over

"(B) the deduction which would have been allowable for the taxable year had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life for which the taxpayer has held the property.

"(b) Lease Property.—For purposes of this subpart, the term 'accelerated deduction', when used with respect to a class of property described in section 467(a)(2), means the excess of—

"(1) the deduction allowable under this chapter (determined without regard to this subpart) for the taxable year for depreciation or amortization, over

"(2) the deduction which would have been allowable for the taxable year had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life for which the taxpayer has held the property.

For purposes of paragraph (2), useful life shall be determined as if section 167(m)(1) (relating to asset depreciation range) did not include the last sentence thereof.

"(c) Farm Property.—For purposes of this subpart, the term 'accelerated deduction', when used with respect to a class of property described in section 467(a)(3), means—

"(1) Preproductive period expenses.—

"(A) In general.—Any amount which is attributable to crops, animals, or trees (or to any other property having a crop or yield) during the preproductice period of such property and which is allowable as a deduction for the taxable year (determined without regard to this subpart).

"(B) Exceptions.—Subparagraph (A) shall not apply—

"(i) to taxes and interest,

"(ii) to any amount incurred on account of fire, storm, flood, or other casualty or on account of disease or drought,

"(iii) to wheat, alfalfa, barley, oats, rye, sorghum, and cotton, and

"(iv) to livestock other than poultry.

Clauses (iii) and (iv) shall not apply in the case of an interest in a farming syndicate (as defined in section 467(d)(3)).

"(C) Preproductive period defined.—For purposes of this paragraph, the term 'preproductive period' means—

"(i) in the case of property having a useful life of more than 1 year which will have more than 1 crop or yield, the period before the disposition of the first such marketable crop or yield, or

"(ii) in the case of any other property, the period before such property is disposed of.

For purposes of this subpart, the use by the taxpayer in the trade or business of farming of any supply produced in such trade or business shall be treated as a disposition.

"(2) Prepaid feed, seed, fertilizer, etc.—Any amount paid for feed, seed, fertilizer, or other supplies which are on hand at the close of the taxable year. This paragraph shall not apply to supplies which are on hand at the close of the taxable year on account of fire, storm, flood, or other casualty or on account of disease or drought.

"(3) Accelerated depreciation of animals, trees, etc., during productive period.—In the case of animals, trees, or other property having a crop or yield, the excess of—

"(A) the deduction allowable for the taxable year under section 167 (determined without regard to this subpart), over

"(B) the deduction which would have been allowable for the taxable year had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life for which the taxpayer has held the property.

"(d) Film Property.—For purposes of this subpart, the term 'accelerated deduction', when used with respect to a class of property described in section 467(a)(4), means any amount allowable for the taxable year under this chapter (determined without regard to this subpart) as a deduction—

"(1) for depreciation or amortization, or

"(2) for amounts attributable to producing, distributing, or displaying such property.

"(e) Oil and Gas Property.—For purposes of this subpart, the term 'accelerated deduction', when used with respect to a class of property described in section 467(a)(5), means the excess (if any) of—

"(1) the intangible drilling and development costs described in section 263(c) allowable under this chapter (determined without regard to this subpart) for the taxable year with respect to such class of property, over

"(2) the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in section 57(f)) had been used with respect to such costs. Such term does not include intangible drilling and development costs described in section 263(c) allowable under this chapter which are attributable to a well drilled solely to inject water or other substances to stimulate or increase the production of oil or gas.

"(f) Sports Franchise Property.—

"(1) In General.—For purposes of this subpart, the term 'accelerated deduction', when used with respect to a class of property described in section 467(a)(6), means any amount allowable for the taxable year under this chapter (determined without regard to this subpart) as a deduction under section 167 for the LAL portion of the basis of player contracts.

"(2) LAL portion of the basis of player contracts defined.—For purposes of paragraph (1), the LAL portion of the basis of player contracts means, in the case of any franchise, the excess of the amount allocated to player contracts by the transferee over the sum of—

"(A) the aggregate adjusted bases of the player contracts in the hands of the transferor immediately before the transfer of the franchise, plus

"(B) the ordinary income (if any) recognized by the transferor on the transfer of the franchise.

"(3) Player contract defined.—For purposes of this subsection, the term 'player contract' means any contract for the services of an athlete which, in the hands of the taxpayer, is of a character subject to the allowance for depreciation provided in section 167. Such a contract shall be taken into account for purposes of this subpart only if the franchise acquired such contract in connection with the transfer of the franchise.

"(4) Establishment of franchise treated as transfer.—For purposes of this subsection, the establishment of a franchise shall be treated as a transfer.

"(g) Net Related Income.—

"(1) In general.—For purposes of this subpart, the net related income from a class of property for a taxable year is the excess of—

"(A) the gross income from such class for such year, over

"(B) the sum of the deductions (other than accelerated deductions) for such year attributable to such class.

"(2) Special rules.—For purposes of paragraph (1)—

"(A) any excess of the deductions (other than accelerated deductions) attributable to an item of property shall not be taken into account,

"(B) the net operating loss deduction provided by section 172 shall not be taken into account,

"(C) any deduction under section 1202 (relating to deduction for capital gains) and any capital loss carryback or carryover under section 1212 (relating to capital loss carrybacks and carryovers) shall not be taken into account, and

"(D) any deduction allowed under section 469(a) by reason of section 469(b)(4) (relating to nonproductive oil and gas wells) shall be treated as a deduction which is not an accelerated deduction.

"(3) Certain processing income treated as farming income.—

"(A) In general.—For purposes of paragraph (1) of this subsection and for purposes of section 470(b)(3), the net income of any person from the processing of (including the application of one or more manufacturing processes to) a farm product produced by such person shall be treated as net income of such person attributable to the business of farming if such processing is performed by such person or by any partnership, electing small business corporation, or cooperative of which such person is a member.

"(B) Paragraph not to apply to syndicated farming interest.—This paragraph shall not apply with respect to any interest in a farming syndicate within the meaning of section 467(d)(3).

"Sec. 469. Dispositions.

"(a) General Rule.—If the disposition of any LAL disposition class is completed during the taxable year, there shall be allowed as a deduction any amount remaining in the deferred deduction account allocable to such class at the close of the taxable year after the application of this subpart other than this section.

"(b) Disposition Classes.—

"(1) In general.—For purposes of this section, except as provided in paragraphs (2), (3), and (4), the term 'LAL disposition class' means any class of LAL property (within the meaning of section 467).

"(2) Special rule for real property.—For purposes of paragraph (1), in the case of property described in section 467(a)(1), the term 'LAL disposition class' means any item of such property.

"(3) Special rule for farm property.—For purposes of paragraph (1), in the case of property described in section 467(a)(3), the term 'LAL disposition class' means—

"(A) except as provided in subparagraphs (B) and (C), all such property which is attributable to one activity on one farm begun during any taxable year,

"(B) in the case of any interest in a farming syndicate, all such property attributable to any one activity, and

"(C) any feed, seed, fertilizer, or other supplies consumed during the taxable year which were on hand at the close of a prior taxable year.

Notwithstanding the preceding sentence, in the case of an interest in farming which is not an interest in a farming syndicate, the taxpayer may elect to treat the portion of each crop or yield disposed of during any taxable year as a separate LAL disposition class.

"(4) Nonproductive oil and gas wells.—For purposes of this section, in the case of LAL property described in section 467(a)(5), the completion of a nonproductive oil or gas well shall be treated as the disposition of a separate LAL disposition class.

"(c) Deemed Dispositions.—

"(1) Property ceases to be real property or lease property.—For purposes of this section, property described in paragraph (1) or (2) of section 467(a) shall be deemed disposed of when in the hands of the taxpayer it ceases to meet the requirements of such paragraph.

"(2) Films.—Property described in paragraph (4) of section 467(a) which has not theretofore been disposed of shall be deemed disposed of at the earlier of—

"(A) the close of the 1st taxable year following any taxable year by the close of which 95 percent or more of the income forecast for such property has been received or accrued, or

"(B) the close of the 7th taxable year following the taxable year in which such property is placed in service by the taxpayer.

Subparagraph (A) shall not cause any property to be deemed disposed of earlier than the close of the 2d taxable year following the taxable year in which such property was placed in service by the taxpayer.

"(d) Certain Transfers Not Treated as Dispositions.—

"(1) In general.—For purposes of this subpart, a transfer of property—

"(A) by gift,

"(B) in a transaction in which gain or loss is not recognized in whole or in part,

"(C) in a transaction between parties whose relationship is described in section 267(b),

"(D) to the estate of a decedent by reason of the death of such decedent, or

"(E) in a transaction for which the taxpayer elects to return income under section 453 (relating to the installment method),

shall not be treated as a disposition.

"(2) Transferee succeeds to the deferred deduction account.—In the case of any transfer described in subparagraph (A), (B), (C), or (D) of paragraph (1) (other than a transfer also described in subsection (e)), the transferee of the property shall succeed to the deferred deduction account of the transferor with respect to such property.

"(e) Special Rules for Certain Transfers.—For purposes of this subpart—

"(1) Transfer by death.—In the case of the transfer of property by reason of death (other than a transfer to the estate of the decedent), the basis of the property in the hands of the transferee immediately after the transfer shall be the higher of—

"(A) its basis determined under section 1014(a) (relating to basis of property acquired from a decedent), or

"(B) the sum of (i) the lower of the adjusted basis of the property in the hands of the decedent or the fair market value of the property at the time of his death, and (ii) the balance in the deferred deduction account with respect to such property at the time of transfer.

If any transfer referred to in the preceding sentence is a transfer from the estate of the decedent, the basis so determined shall properly reflect adjustments to basis during the period the property was held by the estate.

"(2) Corporations or other persons to which subpart does not apply.—In the case of any transfer described in subparagraph (A), (B), (C), or (D) of subsection (d)(1), if the transferee of any property is a person which is not subject to this subpart, then the basis of the property in the hands of the transferee shall be increased by the balance in the deferred deduction account with respect to such property in the hands of the transferor.

"(3) Installment sales.—In the case of a transaction described in subsection (d)(1)(E), the final payment on the obligation or the disposition of the installment obligation (within the meaning of section 453(d)) shall be treated as a disposition.

"Sec. 470. Other Definitions and Special Rules.

"(a) Definitions.—For purposes of this subpart—

"(1) Construct.—The term 'construct' includes reconstruct and erect, and the term 'construction' includes reconstruction and erection.

"(2) Construction period.—The term 'construction period', when used with respect to any item of property described in section 467(a)(1), means the period—

"(A) beginning on the date on which construction of the building or other improvement begins; and

"(B) ending on the date on which the item of property is ready to be placed in service or is ready to be held for sale.

"(3) Residential real property.—The term 'residential real property' means property which is or can reasonably be expected to be—

"(A) residential real property as defined in section 167(j)(2)(B), or

"(B) real property described in section 1221 (1) held for sale as dwelling units (within the meaning of section 167(k)(3)(C)).

"(4) Low-income housing.—The term 'low-income housing' means—

"(A) property with respect to which a mortgage is insured under section 221(d)(3) or 236 of the National Housing Act, or housing financed or assisted by direct loan or tax abatement under similar provisions of State or local laws, and with respect to which the owner is subject to the restrictions of section 1039(b)(1)(B), or

"(B) dwelling units held or to be held (pursuant to commitments) for occupancy by families or individuals eligible to receive subsidies under section 8 of the United States Housing Act of 1937, as amended, or under the provisions of State or local law authorizing similar levels of subsidy for lower income families.

In the case of a building (or the portion of a building devoted to dwelling units), if 85 percent or more of the dwelling units are units described in subparagraph (B), such building (or portion thereof) shall be treated as low-income housing.

"(5) Farming.—The term 'farming' means the cultivation of land or the raising or harvesting of any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of animals. For purposes of the preceding sentence, trees shall be treated as an agricultural or horticultural commodity.

"(6) Exploratory well.—The term 'exploratory well' means any well—

"(A) each point on which, at the time such well is completed, is more than 2 miles from the nearest point on the nearest producing well, or

"(B) which—

"(i) is completed 2 years or more after the completion of the last producing well which does not meet the requirements of subparagraph (A), and

"(ii) the taxpayer establishes (in the manner provided in regulations prescribed by the Secretary) by maps and other evidence that the well will not tap any reservoir from which there has been significant oil or gas production.

Subparagraph (B)(ii) shall be treated as not having been met with respect to any well if, on completion of such well, the bottom hole pressure or any other evidence indicates that there has been significant oil or gas production from any reservoir tapped by such well.

"(b) Special Adjusted Gross Income Rule for Farming.—

"(1) Accelerated deductions not deferred where nonfarm adjusted gross income for taxable year does not exceed $20,000.—In the case of any individual (other than a trust), subsections (a) and (b) of section 466 shall not apply to deductions attributable to a class of property described in section 467 (a)(3) if the individual's nonfarm adjusted gross income for the taxable year does not exceed $20,000.

"(2) Phaseout between $20,000 and $40,000.—In the case of any individual (other than a trust), subsections (a) and (b) of section 466 shall not apply to so much of the excess for the taxable year of the accelerated deductions described in section 468(c) over the net related income from farming as does not exceed the excess of $40,000 over such individual's nonfarm adjusted gross income for the taxable year.

"(3) Nonfarm adjusted gross income defined.—For purposes of this subsection, the term 'nonfarm adjusted gross income' means adjusted gross income computed without regard to income or deductions attributable to the business of farming.

"(4) Married individuals filing separate returns.—In the case of a married individual filing a separate return for the taxable year, in applying paragraph (1) or (2) the items referred to therein of both spouses shall be combined. For purposes of this paragraph, marital status shall be determined under section 143.

"(c) Subpart Not To Apply to Certain Real Property.—

"(1) In general.—This subpart shall not apply to real property the construction period for which begins before January 1, 1976.

"(2) Residential real property.—In the case of residential real property, this subpart shall not apply to real property if—

"(A) before January 1, 1977, (i) the taxpayer has acquired the site (or has a binding option to acquire the site), and (ii) there is a firm commitment for the permanent financing of the property which (except for a clause under which the borrower may be relieved from his commitment if he does not receive the rezoning for which he has applied before January 1, 1977) is binding on both the lender and the borrower, and

"(B) the construction period for such property begins before January 1, 1978.

"(3) Low-income housing.—In the case of low-income housing, this subpart shall not apply to real property if—

"(A) before January 1, 1979, there is a subsidy commitment to support new construction or substantial rehabilitation under section 8 of the United States Housing Act of 1937, as amended (or under the provisions of State or local law authorizing similar levels of subsidy for lower income families) and such commitment was made before the beginning of the construction or rehabilitation of such property, and

"(B) the construction period for such property begins before January 1, 1981.

"(4) Coordination with section 167(k).—For purposes of this subpart, any expenditure incurred before January 1, 1978, to which section 167(k) (relating to depreciation of expenditures to rehabilitate low-income rental housing) applies shall not be treated as an accelerated deduction.

"(d) Other Special Rules.—

"(1) Basis adjustments under section 1016.—Any deduction not allowed for the taxable year by reason of section 466(a) shall be treated as allowed for such year for purposes of section 1016 (relating to adjustments to basis).

"(2) Deduction or income attributable to more than one class of property.—If any deduction or income is attributable to more than one class of LAL property or to more than one LAL disposition class, such deduction or income shall be allocated to one of such classes or among such classes in accordance with regulations prescribed by the Secretary.

"(3) Determination of straight line depreciation for leased property.—In determining what depreciation would have been for leased property under the straight line method, rules similar to the rules provided by section 1250(b)(2) shall apply.

"(4) Partnerships.—For purposes of this subpart—

"(A) Items treated as held directly by partners.—Any item of property held by a partnership shall be treated as held by each partner in accordance with his distributive share of the taxable income or loss (whichever applies) of the partnership for the taxable year.

"(B) Disposition of partnership interests.—The disposition of any partner's interest in the partnership shall be treated as a disposition of the partner's interest in each item of property.

"(5) Coordination with certain recapture sections.—In applying sections 1245 (relating to gain from dispositions of certain depreciable property), 1250 (relating to gain from dispositions of certain depreciable realty), 1251 (relating to gain from disposition of certain farm recapture property), 1252 (relating to gain from disposition of farm land), and 1254 (relating to gain from disposition of interest in oil or gas property), the adjustments to basis taken into account for purposes of such sections shall properly reflect any adjustment to basis provided by this subpart.

"(6) Coordination with certain other provisions.—This subpart shall be applied after section 461(g) (relating to accrual of prepaid interest), after section 464 (relating to deductions limited to amount at risk in case of films, livestock, and certain crops), and after the second sentence of section 263 (c) (relating to intangible drilling and development costs)."

(b) Technical Amendments.—

(1) Each partner makes separate election.—Section 703(b) (relating to elections of the partnership) is amended by striking out "or under section 163(d)" and inserting in lieu thereof "under section 163(d)", and by inserting after "investment indebtedness)," the following: "or under section 467 (b)(3) (relating to election to aggregate residential real property for purposes of limitation on artificial losses),".

(2) Percentage depletion.—Section 613A (relating to limitations on percentage depletion in case of oil and gas wells) is amended by adding at the end thereof the following new subsection:

"(f) Coordination With Limitation on Artificial Losses.—For purposes of subsection (d)(1) and section 613(a), taxable income for any taxable year shall be determined without regard to subpart D of part II of subchapter E of this chapter (relating to limitation on artificial losses)."

(c) 10-Year Spread of Adjustments Where Taxpayer Changes to Accrual Method of Accounting With Respect to Farming.—If, for his first taxable year ending after December 31, 1975, a taxpayer referred to in section 466(a)(2) of the Internal Revenue Code of 1954 computes his taxable income from farming on an accrual method of accounting and with the capitalization of preproductive expenses described in section 468(c)(1) of such Code, and if such method of accounting constitutes a change in his method of accounting with respect to his taxable income from farming, then—

(1) such change shall be treated as having been made with the consent of the Secretary of the Treasury,

(2) for purposes of section 481(a)(2) of such Code, such change shall be treated as a change not initiated by the taxpayer, and

(3) under regulations prescribed by the Secretary of the Treasury or his delegate, the net amount of the adjustments required by section 481(a) of such Code to be taken into account by the taxpayer in computing taxable income shall (except as otherwise provided in such regulations) be taken into account in each of the 10 taxable years beginning with the year of change.

(d) Clerical Amendment.—The table of subparts for part II of subchapter E of chapter 1 is amended by striking out the item relating to subpart D and by inserting in lieu thereof the following:

"Subpart D. Limitation on artificial losses.
"Subpart E. Inventories."

(e) Effective Dates.—

(1) General rule for real property, farm property, and oil and gas property.—Except as provided in paragraph (6), in the case of property described in paragraph (1), (3), or (5) of section 467(a) of the Internal Revenue Code of 1954 (as added by subsection (a)), the amendments made by this section shall apply to amounts paid or incurred after December 31, 1975, in taxable years ending after such date.

(2) General rule for lease property and movies and video tapes.—Except as provided in paragraphs (3) and (4), in the case of property described in paragraph (2) or (4) of section 467(a) of the Internal Revenue Code of 1954, the amendments made by this section shall apply to amounts paid or incurred after September 10, 1975, in taxable years ending after such date.

(3) Special rules for lease property.—

(A) In general.—In the case of property described in section 467(a)(2) of the Internal Revenue Code of 1954, the amendments made by this section shall not apply with respect to—

(i) leases entered into before September 11, 1975;

(ii) leases where the property was ordered by the lessor or lessee before March 11, 1975, and such property is placed in service before January 1, 1976; and

(iii) leases where the lessor is a partnership formed before September 11, 1975, for the purpose of acquiring and leasing personal property, the property was ordered before September 11, 1975, by the person who becomes the lessee, and the property is placed in service before January 1, 1976.

(B) Holding of interests for purposes of subparagraph (A)(i).—Subparagraph (A)(i) shall apply only to taxpayers who held their interests in the property—

(i) on September 11, 1975, or

(ii) in the case of property placed in service before January 1, 1976, on December 31, 1975.

(C) Holding of interests for purposes of subparagraph (A) (ii) and (iii).—Clauses (ii) and (iii) of subparagraph (A) shall apply only to taxpayers who held their interests in the property on December 31, 1975.

(4) Special rule for movies and video tapes.—

(A) In general.—In the case of property described in section 467(a)(4) of the Internal Revenue Code of 1954, the amendments made by this section shall not apply to—

(i) deduction for depreciation or amortization with respect to property the principal production of which began before September 11, 1975, and for the purchase of which there was on September 11, 1975, and at all times thereafter a binding contract, and

(ii) deduction attributable to producing, distributing, or displaying property the principal production of which began before September 11, 1975.

(B) Exception for certain agreements where principal photography begins before 1976.—In the case of property described in section 467(a)(4) of the Internal Revenue Code of 1954, the amendments made by this section shall not apply to deductions attributable to the producing of a film the principal photography of which began on or before December 31, 1975, if—

(i) on September 10, 1975, there was an agreement with the director or a principal motion picture star, or on or before September 10, 1975, there had been expended (or committed to the production) an amount not less than the lower of $100,000 or 10 percent of the estimated costs of producing the film, and

(ii) the production takes place in the United States.

Subparagraph (A) shall apply only to taxpayers who held their interests on September 10, 1975. Subparagraph (B) shall apply only to taxpayers who held their interests on December 31, 1975.

(5) Treatment of depreciation and amortization.—For purposes of this subsection, any amount allowed or allowable for depreciation or amortization for any period shall be treated as an amount paid or incurred for such period.

(6) Special rule for groves, orchards, and vineyards.—The amendments made by this section shall not apply to that part of a grove, orchard, or vineyard which was planted before September 11, 1975.

(7) Special rule for sports franchises.—In the case of property described in section 467(a)(6) of the Internal Revenue Code of 1954, the amendments made by this section shall apply in the case of franchises established or transferred after November 4, 1975 (or pursuant to a binding contract in existence on such date and at all times thereafter), in taxable years ending after such date.

Sec. 102. Amendment of Section 167(k).

(a) Extension for 2 Years.—Paragraph (1) of section 167(k) (relating to depreciation of expenditures to rehabilitate low-income rental housing) is amended by striking out "January 1, 1976" and inserting in lieu thereof "January 1, 1978".

(b) Increase in Aggregate Expenditures Taken Into Account With Respect to Any Dwelling Unit From $15,000 to $20,000.—Paragraph (2)(A) of section 167(k) is amended by striking out "$15,000" and inserting in lieu thereof "$20,000".

(c) Effective Date.—The amendment made by subsection (b) shall apply to expenditures incurred after December 31, 1975.

TITLE II—OTHER AMENDMENTS RELATED TO TAX SHELTERS

Sec. 201. Recapture of Depreciation on Real Property.

(a) In General.—Subsection (a) of section 1250 (relating to gain from dispositions of certain depreciable realty) is amended to read as follows:

"(a) General Rule.—Except as otherwise provided in this section—

"(1) Additional depreciation after December 31, 1975.—

"(A) In general.—If section 1250 property is disposed of after December 31, 1975, then the applicable percentage of the lower of—

"(i) that portion of the additional depreciation (as defined in subsection (b)(1) or (4)) attributable to periods after December 31, 1975, in respect of the property, or

"(ii) the excess of the amount realized (in the case of a sale, exchange, or involuntary conversion), or the fair market value of such property (in the case of any other disposition), over the adjusted basis of such property, shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(B) Applicable percentage.—For purposes of subparagraph (A), the term 'applicable percentage' means—

"(i) in the case of section 1250 property with respect to which a mortgage is insured under section 221(d)(3) or 236 of the National Housing Act, or housing financed or assisted by direct loan or tax abatement under similar provisions of State or local laws and with respect to which the owner is subject to the restrictions described in section 1039(b)(1)(B), 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 100 full months;

"(ii) in the case of dwelling units which, on the average, were held for occupancy by families or individuals eligible to receive subsidies under section 8 of the United States Housing Act of 1937, as amended, or under the provisions of State or local law authorizing similar levels of subsidy for lower income families, 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 100 full months;

"(iii) in the case of section 1250 property with respect to which a depreciation deduction for rehabilitation expenditures was allowed under section 167(k), 100 percent minus 1 percentage point for each full month in excess of 100 full months after the date on which such property was placed in service; and

"(iv) in the case of all other section 1250 property, 100 percent.

In the case of a building (or a portion of a building devoted to dwelling units), if on the average, 85 percent or more of the dwelling units contained in such building (or portion thereof) are units described in clause (ii), such building (or portion thereof) shall be treated as property described in clause (ii). Clauses (i) and (ii) shall not apply with respect to the additional depreciation described in subsection (b)(4).

"(2) Additional depreciation after December 31, 1969, and before January 1, 1976.—

"(A) In general.—If section 1250 property is disposed of after December 31, 1969, and the amount determined under paragraph (1)(A)(ii) exceeds the amount determined under paragraph (1)(A)(i), then the applicable percentage of the lower of—

"(i) that portion of the additional depreciation attributable to periods after December 31, 1969, and before January 1, 1976, in respect of the property, or

"(ii) the excess of the amount determined under paragraph (1)(A)(ii) over the amount determined under paragraph (1)(A)(i),

shall also be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(B) Applicable percentage.—For purposes of subparagraph (A), the term 'applicable percentage' means—

"(i) in the case of section 1250 property disposed of pursuant to a written contract which was, on July 24, 1969, and at all times thereafter, binding on the owner of the property, 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 20 full months;

"(ii) in the case of section 1250 property with respect to which a mortgage is insured under section 221(d)(3) or 236 of the National Housing Act, or housing financed or assisted by direct loan or tax abatement under similar provisions of State or local laws, and with respect to which the owner is subject to the restrictions described in section 1039(b)(1)(B), 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 20 full months;

"(iii) in the case of residential rental property (as defined in section 167(j)(2)(B)) other than that covered by clauses (i) and (ii), 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 100 full months;

"(iv) in the case of section 1250 property with respect to which a depreciation deduction for rehabilitation expenditures was allowed under section 167(k), 100 percent minus 1 percentage point for each full month in excess of 100 full months after the date on which such property was placed in service; and

"(v) in the case of all other section 1250 property, 100 percent.

Clauses (i), (ii), and (iii) shall not apply with respect to the additional depreciation described in subsection (b)(4).

"(3) Additional depreciation before January 1, 1970.—

"(A) In general.—If section 1250 property is disposed of after December 31, 1963, and the amount determined under paragraph (1)(A)(ii) exceeds the sum of the amounts determined under paragraphs (1)(A)(i) and (2)(A)(i), then the applicable percentage of the lower of—

"(i) that portion of the additional depreciation attributable to periods before January 1, 1970, in respect of the property, or

"(ii) the excess of the amount determined under paragraph (1)(A)(ii) over the sum of the amounts determined under paragraphs (1)(A)(i) and (2)(A)(i),

shall also be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(B) Applicable percentage.—For purposes of subparagraph (A), the term 'applicable percentage' means 100 percent minus 1 percentage point for each full month the property was held after the date on which the property was held for 20 full months."

(b) Property Disposed of Pursuant to Foreclosure Proceedings.—Subsection (d) of section 1250 (relating to exceptions and limitations) is amended by adding at the end thereof the following new paragraph:

"(10) Foreclosure dispositions.—If any section 1250 property is disposed of by the taxpayer pursuant to a bid for such property at foreclosure or by operation of an agreement or of process of law after there was a default on indebtedness which such property secured, the applicable percentage referred to in paragraph (1)(B), (2)(B), or (3)(B) of subsection (a), as the case may be, shall be determined as if the taxpayer ceased to hold such property on the date of the beginning of the proceedings pursuant to which the disposition occurred."

(c) Conforming Amendments.—

(1) Amendment of section 1250(a)(2).—Paragraph (2) of section 1250(f) (relating to special rule for property which is substantially improved) is amended to read as follows:

"(2) Ordinary Income Attributable to an Element.—For purposes of paragraph (1), the amount taken into account for any element shall be the sum of a series of amounts determined for the periods set forth in subsection (a), with the amount for any such period being determined by multiplying—

"(A) the amount which bears the same ratio to the lower of the amounts specified in clause (i) or (ii) of subsection (a)(1)(A), in clause (i) or (ii) of subsection (a)(2)(A), or in clause (i) or (ii) of subsection (a)(3)(A), as the case may be, for the section 1250 property as the additional depreciation for such element attributable to such period bears to the sum of the additional depreciation for all elements attributable to such period, by

"(B) the applicable percentage for such element for such period.

For purposes of this paragraph, determinations with respect to any element shall be made as if it were a separate property."

(2) Amendment of section 1250(g)(2).—Paragraph (2) of section 1250(g) (relating to special rules for qualified low-income housing) is amended to read as follows:

"(2) Ordinary income attributable to an element.—For purposes of paragraph (1), the amount taken into account for any element shall be determined in a manner similar to that provided by subsection (f)(2)."

(3) Amendment of section 167(e)(3).—Paragraph (3) of section 167(e) (relating to change in depreciation method with respect to section 1250 property) is amended by striking out "beginning after July 24, 1969," and inserting in lieu thereof "beginning after December 31, 1975,".

(d) Effective Date.—The amendments made by this section (other than subsection (b)) shall apply for taxable years ending after December 31, 1975. The amendment made by subsection (b) shall apply with respect to proceedings referred to in section 1250(d)(10) of the Internal Revenue Code of 1954 which begin after December 31, 1975.

SEC. 202. GAIN FROM DISPOSITION OF INTEREST IN OIL OR GAS PROPERTY.

(a) Recapture Rules.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by adding at the end thereof the following new section:

"SEC. 1254. GAIN FROM DISPOSITION OF INTEREST IN OIL OR GAS PROPERTY.

"(a) General Rule.—

"(1) Ordinary Income.—If oil or gas property is disposed of after December 31, 1975, the lower of—

"(A) the aggregate amount of expenditures after December 31, 1975, which are allocable to such property and which have been deducted as intangible drilling and development costs under section 263(c) by the taxpayer or any other person and which (but for being so deducted) would be reflected in the adjusted basis of such property, or

"(B) the excess of—

"(i) the amount realized (in the case of a sale, exchange, or involuntary conversion), or the fair market value of the interest (in the case of any other disposition), over

"(ii) the adjusted basis of such interest,

shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(2) Disposition of portion of property.—For purposes of paragraph (1)—

"(A) In the case of the disposition of a portion of an oil or gas property (other than an undivided interest), the entire amount of the aggregate expenditures described in paragraph (1)(A) with respect to such property shall be treated as allocable to such portion to the extent of the amount of the gain to which paragraph (1) applies.

"(B) In the case of the disposition of an undivided interest in an oil or gas property (or a portion thereof), a proportionate part of the expenditures described in paragraph (1)(A) with respect to such property shall be treated as allocable to such undivided interest to the extent of the amount of the gain to which paragraph (1) applies.

This paragraph shall not apply to any expenditures to the extent the taxpayer establishes to the satisfaction of the Secretary that such expenditures do not relate to the portion (or interest therein) disposed of.

"(3) Oil or gas property.—The term 'oil or gas property' means any property (within the meaning of section 614) with respect to which any expenditures described in paragraph (1)(A) are properly chargeable.

"(4) Special rule for paragraph (1)(A).—In applying paragraph (1)(A), the amount deducted for intangible drilling and development costs and allocable to the interest disposed of shall be reduced by the amount (if any) by which the deduction for depletion under section 611 with respect to such interest would have been increased if such costs incurred (after December 31, 1975) had been charged to capital account rather than deducted.

"(b) Special Rules Under Regulations.—Under regulations prescribed by the Secretary—

"(1) rules similar to the rules of subsection (g) of section 617 and to the rules of subsections (b) and (c) of section 1245 shall be applied for purposes of this section; and

"(2) in the case of the sale or exchange of stock in an electing small business corporation (within the meaning of section 1371), rules similar to the rules of section 751 shall be applied to that portion of the excess of the amount realized over the adjusted basis of the stock which is attributable to expenditures referred to in subsection (a)(1)(A) of this section."

(b) Partnerships.—Section 751(c) (relating to definition of unrealized receivables) is amended by striking out "and farm land (as defined in section 1252(a))" and inserting in lieu thereof "farm land (as defined in section 1252(a)), and an oil or gas property (described in section 1254)", and by striking out "or 1252(a)" and inserting in lieu thereof "1252(a), or 1254(a)".

(c) Technical Amendments.—

(1) The following provisions are each amended by striking out "or 1252(a)" and inserting in lieu thereof "1252(a), or 1254 (a)"—

(A) the second sentence of section 170 (e)(1);

(B) section 301(b)(1)(B)(ii);

(C) section 301(d)(2)(B);

(D) section 312(c)(3); and

(E) section 453(d)(4)(B).

(2) Section 341(e)(12) is amended by striking out "and 1252(a)" and inserting in lieu thereof "1252(a), and 1254(a)".

(d) Clerical Amendment.—The table of sections for part IV of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1254. Gain from disposition of interest in oil or gas property."

(e) Effective Date.—The amendments made by this section shall apply with respect to taxable years ending after December 31, 1975.

Sec. 203. Termination of Additions to Excess Deductions Accounts Under Section 1251.

Paragraph (2) of section 1251(b) (relating to additions to excess deductions account) is amended by adding at the end thereof the following new subparagraph:

"(E) Termination of additions.—No amount shall be added to the excess deductions account for any taxable year beginning after December 31, 1975."

Sec. 204. Method of Accounting for Corporations Engaged in Farming.

(a) General Rule.—

(1) Subpart A of part II of subchapter E of chapter 1 (relating to methods of accounting) is amended by adding at the end thereof the following new section:

"Sec. 447. Method of Accounting for Corporations Engaged in Farming.

"(a) General Rule.—Except as otherwise provided by law, the taxable income from farming of—

"(1) a corporation engaged in the trade or business of farming, or

"(2) a partnership engaged in the trade or business of farming, if a corporation is a partner in such partnership,

shall be computed on an accrual method of accounting and with the capitalization of preproductive expenses described in section 468(c)(1).

"(b) Exception for Small Business and Family Corporations.—For purposes of subsection (a), a corporation shall be treated as not being a corporation if it is—

"(1) an electing small business corporation (within the meaning of section 1371(b)), or

"(2) a corporation—

"(A) of which at least 66⅔ percent of the total combined voting power of all classes of stock entitled to vote, and at least 66⅔ percent of the total number of shares of all other classes of stock of the corporation, are owned by members of the same family, and

"(B) which, at such time and in such manner as the Secretary shall by regulations prescribe, elects the application of this paragraph.

"(c) Members of the Same Family.—For purposes of subsection (b)(2)—

"(1) the members of the same family are an individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors and lineal descendants of any of the foregoing, a spouse of any of the foregoing, and the estate of any of the foregoing,

"(2) stock owned, directly or indirectly, by or for a partnership or trust shall be treated as owned proportionately by its partners or beneficiaries, and

"(3) if 50 percent or more in value of the stock in a corporation (hereinafter in this paragraph referred to as 'first corporation') is owned, directly or through paragraph (2), by or for members of the same family, such members shall be considered as owning each class of stock in a second corporation owned, directly or indirectly, by or for the first corporation, in that proportion which the value of the stock in the first corporation which such members so own bears to the value of all the stock in the first corporation.

For purposes of paragraph (1), individuals related by the half blood or by legal adoption shall be treated as if they were related by the whole blood.

"(d) Two Families Treated as one Family Under Certain Circumstances.—For purposes of subsection (b)(2), if, throughout the 10-year period ending on the date of the enactment of this section and at all times after such date of enactment—

"(1) members of two families (within the meaning of subsection (c)(1)) have owned (directly or through the application of subsection (c)) at least 80 percent of the total combined voting power of all classes of stock of a corporation entitled to vote, and at least 80 percent of the total number of shares of all other classes of stock of such corporation, and

"(2) such corporation has been engaged in the trade or business of farming,

then the members of such families shall be treated as the members of the same family. For purposes of paragraph (1), subsection (c)(3) shall be applied by substituting '40 percent' for '50 percent'.

"(e) Certain Existing Holdings of Employees and Employees' Trusts.—

"(1) In general.—For purposes of subsection (b)(2) (but not for purposes of subsection (d)), stock—

"(A) which on Septmber 10, 1975, was owned directly by an employee of the corporation, a member of the family (within the meaning of section 267(c)(4)) of any such employee, or a trust for the benefit of the employees of such corporation which is described in section 401(a) and which is exempt from taxation under section 501(a), and

"(B) which continues to be held by the individual who held such stock on September 10, 1975, or by a member of the family (within the meaning of section 267(c)(4)) of such individual,

shall be treated as held by that one family (within the meaning of subsection (c)) which, without regard to this subsection, holds the greatest percentage of the total combined voting power of all classes of stock entitled to vote.

"(2) Limitation.—The stock taken into account under this subsection with respect to any corporation shall not exceed 16 percent of the total combined voting power of all classes of stock entitled to vote, or of the total number of shares of all other classes of stock of the corporation, as the case may be."

(2) The table of sections for such subpart A is amended by adding at the end thereof the following:

"Sec. 447. Method of accounting for corporations engaged in farming."

(b) Effective Date.—

(1) The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1975.

(2) In the case of any taxpayer required by section 447 of the Internal Revenue Code of 1954 (as added by subsection (a)(1)) to change its method of accounting for its first taxable year beginning after December 31, 1975—

(A) such change shall be treated as having been made with the consent of the Secretary of the Treasury,

(B) for purposes of section 481(a)(2) of such Code, such change shall be treated as a change not initiated by the taxpayer, and

(C) under regulations prescribed by the Secretary of the Treasury or his delegate, the net amount of the adjustments required by section 481(a) of such Code to be taken into account by the taxpayer in computing taxable income shall (except as otherwise provided in such regulations) be taken into account in each of the 10 taxable years beginning with the year of change.

Sec. 205. Treatment of Prepaid Interest.

(a) General Rule.—Section 461 (relating to general rule for taxable year of deduction) is amended by adding at the end thereof the following new subsection:

"(g) Prepaid Interest.—If the taxable income of the taxpayer is computed under the cash receipts and disbursements method of accounting, interest paid by the taxpayer which, under regulations prescribed by the Secretary, is properly allocable to any period after the close of the taxable year in which paid shall be charged to capital account and shall be treated as paid in the period to which so allocable. This subsection shall not apply to points paid in respect of any indebtedness incurred in connection with the purchase or improvement of, and secured by, the principal residence of the taxpayer."

(b) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to amounts paid after September 16, 1975, in taxable years ending after such date.

(2) Certain amounts paid before 1976.—The amendment made by subsection (a) shall not apply to amounts paid before January 1, 1976, pursuant to a binding contract or written loan commitment which existed on September 16, 1975 (and at all times thereafter), and which required prepayment of interest by the taxpayer.

Sec. 206. Limitation on Interest Deduction.

(a) In General.—Subsection (d) of section 163 (relating to limitation on interest on investment indebtedness) is amended to read as follows:

"(d) Limitation on Interest on Nonbusiness Indebtedness.—

"(1) Personal interest.—In the case of a taxpayer other than a corporation, the amount of personal interest (as defined in paragraph (4)(A)) otherwise allowable as a deduction under this chapter shall be limited to $12,000 ($6,000 in the case of a separate return by a married individual).

"(2) Interest on investment indebtedness.—In the case of a taxpayer other than a corporation, the amount of investment interest (as defined in paragraph (4)(E)) otherwise allowable as a deduction under this chapter shall be limited, in the following order, to—

"(A) the excess (if any) of $12,000 ($6,000 in the case of a separate return by a married individual) over the amount of the personal interest for the taxable year, plus

"(B) the amount of the net investment income (as defined in paragraph (4)(B)), plus the amount (if any) by which the deductions allowable under this section (determined without regard to this subsection) and sections 162, 164(a) (1) or (2), and 212 attributable to property of the taxpayer subject to a net lease exceeds the rental income produced by such property for the taxable year, plus

"(C) an amount equal to the net capital gain for the taxable year.

In determining the amount described in subparagraph (C), only gains and losses attributable to the disposition of property held for investment shall be taken into account.

"(3) Carryover of disallowed investment interest.—The amount of disallowed investment interest for any taxable year shall be treated as investment interest paid or accrued in the succeeding taxable year.

"(4) Definitions.—For purposes of this subsection—

"(A) Personal interest.—The term 'personal interest' means interest on indebtedness other than business interest and investment interest. For purposes of this subparagraph—

"(i) the term 'business interest' means interest on indebtedness to purchase or carry a trade or business or property held for use in a trade or business, and

"(ii) interest shall be presumed to be personal interest unless it is established that it is business interest or investment interest, as the case may be.

"(B) Net investment income.—The term 'net investment income' means the excess of investment income over investment expenses.

"(C) Investment income.—The term 'investment income' means—

"(i) the gross income from interest, dividends, rents, and royalties,

"(ii) the net short-term capital gain attributable to the disposition of property held for investment, and

"(iii) any amount treated under section 1245, 1250, or 1254 as ordinary income,

but only to the extent such income, gain, and amounts are not derived from the conduct of a trade or business.

"(D) Investment expenses.—The term 'investment expenses' means the deductions allowable under sections 162, 164(a) (1) or (2), 166, 167, 171, 212, or 611 directly connected with the production of investment income.

"(E) Investment interest.—The term 'investment interest' means interest paid or accrued on indebtedness incurred or continued to purchase or carry property held for investment.

"(F) Disallowed investment interest.—The term 'disallowed investment interest' means with respect to any taxable year, the amount not allowable as a deduction solely by reason of the limitations in paragraph (2).

"(G) Determination of marital status.—The determination of marital status shall be made under section 143.

"(5) Special rules.—

"(A) Property subject to net lease.—For purposes of this subsection, property subject to a lease shall be treated as property held for investment, and not as property used in a trade or business, for a taxable year, if—

"(i) for such taxable year the sum of the deductions of the lessor with respect to such property are allowable solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is less than 15 percent of the rental income produced by such property, or

"(ii) the lessor is either guaranteed a specified return or is guaranteed in whole or in part against loss of income.

"(B) Partnerships.—In the case of a partnership, each partner shall, under regulations prescribed by the Secretary, take into account separately his distributive share of the partnership's investment interest and the other items of income and expense taken into account under this subsection.

"(C) Shareholders of electing small business corporations.—In the case of an electing small business corporation (as defined in section 1371(b)), the investment interest paid or accrued by such corporation and the other items of income and expense which would be taken into account if this subsection applied to such corporation shall, under regulations prescribed by the Secretary, be treated as investment interest paid or accrued by the shareholders of such corporation and as items of such shareholders, and shall be apportioned pro rata among such shareholders in a manner consistent with section 1374(c)(1).

"(D) Interest on installment payments of estate tax.—There shall not be taken into account for purposes of this subsection any interest payable under section 6601 on any installment payment of the tax imposed by chapter 11 (relating to estate tax).

"(6) Indebtedness incurred before December 17, 1969, etc.—This subsection shall not apply with respect to investment interest, investment income, and investment expenses attributable to a specific item of property, if the indebtedness with respect to such property—

"(A) is for a specified term, and

"(B) was incurred after December 16, 1969, or is incurred after December 16, 1969, pursuant to a written contract or commitment which, on December 17, 1969, and at all times thereafter before the incurring of such indebtedness, is binding on the taxpayer.

"(7) Indebtedness incurred before September 11, 1975.—In the case of indebtedness attributable to a specific item of property which—

"(A) is for a specified term, and

"(B) was incurred before September 11, 1975, or is incurred after September 11, 1975, pursuant to a written contract or commitment which on September 11, 1975, and at all times thereafter before the incurring of such indebtedness, is binding on the taxpayer,

this subsection as amended by the Tax Reform Act of 1975 shall not apply, but this subsection as in effect before the enactment of the Tax Reform Act of 1975 shall apply.

"(8) Capital gains.—For purposes of sections 1201(b) (relating to alternative capital gains tax), 1202 (relating to deduction for capital gains), and 57(a)(9) (relating to treatment of capital gains as a tax preference), an amount equal to the amount of investment interest which is allowable as a deduction under this chapter by reason of subparagraph (C) of paragraph (2) shall be treated as ordinary income.

"(9) Real property leases.—For purposes of paragraph (5)(A)—

"(A) if a parcel of real property of the taxpayer is leased under two or more leases, paragraph (5)(A)(i) shall, at the election of the taxpayer, be applied by treating all leased portions of such property as subject to a single lease; and

"(B) at the election of the taxpayer, paragraph (5)(A)(i) shall not apply with respect to real property of the taxpayer which has been in use for more than 5 years.

An election under subparagraph (A) or (B) shall be made at such time and in such manner as the Secretary prescribes by regulations.

"(10) Trust.—In the case of a trust, the $12,000 amount specified in paragraph (1) and in paragraph (2)(A) shall be zero.

"(11) Coordination with LAL and certain other provisions.—The Secretary shall prescribe regulations providing for the coordination of this subsection with those provisions of this chapter which limit for any taxable year certain deductions attributable to property to the income from such property for such taxable year."

(b) Conforming Amendment.—Section 703(b) (relating to elections of the partnership) is amended by striking out "interest on investment indebtedness" and inserting in lieu thereof "interest on nonbusiness indebtedness".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1975.

Sec. 207. Limitation of Loss With Respect to Motion Picture Films or Certain Crops to the Amount for Which the Taxpayer Is at Risk.

(a) In General.—

(1) Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deductions taken) is amended by adding at the end thereof the following new section:

"Sec. 464. Deductions Limited to Amount at Risk in Case of Films or Livestock or Certain Crops.

"(a) General Rule.—In the case of a taxpayer engaged in a trade or business of—

"(1) producing, distributing, or displaying a motion picture film or video tape created primarily for public entertainment.

"(2) raising, feeding, or otherwise caring for livestock (not including poultry), or

"(3) raising or harvesting wheat, alfalfa, barley, oats, rye, sorghum, or cotton,

the excess of the deductions allowable by this chapter for the taxable year (determined without regard to this section and without regard to subpart D) and allocable to such business over the income received or accrued by the taxpayer during such year from such trade or business shall not exceed the aggregate amount with respect to which the taxpayer is at risk in such business at the close of the taxable year. For purposes of this subsection, the holding of a film or video tape for the production of income shall be treated as a trade or business.

"(b) Treatment of Disallowed Deductions.—Under regulations prescribed by the Secretary, any amount not allowable for any taxable year by reason of subsection (a)—

"(1) shall be allocated to the various deductions which would (but for this section) be allowable for the taxable year, and

"(2) shall be allowable for the first subsequent taxable year for which (after taking into account items arising in such subsequent taxable year) the allowance of such amount is not preventable by the operation of subsection (a)."

(2) The table of sections for such subpart C is amended by adding at the end thereof the following:

"Sec. 464. Deductions limited to amount at risk in case of films or livestock or certain crops."

(b) Effective Dates.—

(1) In general.—Except as provided in paragraphs (2) and (3), the amendments made by subsection (a) shall apply to amounts paid or incurred after September 10, 1975, in taxable years ending after such date.

(2) Exceptions.—The amendments made by subsection (a) shall not apply with respect to any film or video tape if—

(A) the principal production of the film or video tape began on or before September 10, 1975, or

(B) on September 10, 1975, and at all times thereafter there has been a binding agreement providing for the nonrecourse financing of the film or video tape.

(3) Exception for certain agreements where principal photography begins before 1976.—The amendments made by subsection (a) shall not apply to deductions attributable to the producing of a film the principal photography of which began on or before December 31, 1975, if—

(A) on September 10, 1975, there was an agreement with the director or a principal motion picture star, or on or before September 10, 1975, there had been expended (or committed to the production) an amount not less than the lower of $100,000 or 10 percent of the estimated costs of producing the film, and

(B) the production takes place in the United States.

This paragraph shall apply only to taxpayers who held their interests on December 31, 1975.

SEC. 208. DEDUCTION FOR INTANGIBLE DRILLING AND DEVELOPMENT COSTS ALLOWABLE ONLY TO TAXPAYERS AT RISK

(a) IN GENERAL.—Section 263(c) (relating to intangible drilling and development costs in the case of oil and gas wells) is amended by adding at the end thereof the following new sentences: "The deductions described in this subsection with respect to any property shall not be allowed until the taxpayer is at risk with respect to such property, and then only to the extent of such risk. Under regulations prescribed by the Secretary, any amount not allowable for any taxable year by reason of the preceding sentence shall be allowable for the first subsequent taxable year for which (after taking into account deductions arising in such subsequent taxable year) the allowance of such amount was not prevented by the operation of the preceding sentence."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts paid or incurred after December 31, 1975, in taxable years ending after such date.

SEC. 209. PLAYER CONTRACTS IN CASE OF SPORTS ENTERPRISES

(a) CLARIFICATION OF SECTION 1245.—

(1) Paragraph (2) of section 1245(a) (relating to recomputed basis) is amended by striking out "section 168" each place it appears and inserting in lieu thereof "section 167, 168".

(2) Paragraph (3) of section 1245(a) (defining section 1245 property) is amended by striking out "section 185" and inserting in lieu thereof "section 167 or 185".

(b) RECAPTURE OF DEPRECIATION IN CASE OF PLAYER CONTRACTS.—Section 1245(a) (relating to gain from dispositions of certain depreciable property) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE FOR PLAYER CONTRACTS.—

"(A) IN GENERAL.—For purposes of this section, the recomputed basis of any player contract which is held in connection with any franchise to conduct a sports enterprise shall be increased by the previously unrecaptured depreciation.

"(B) PREVIOUSLY UNRECAPTURED DEPRECIATION.—For purposes of subparagraph (A), the term 'previously unrecaptured depreciation' means, with respect to any player contract held in connection with any franchise to conduct a sports enterprise, the excess (if any) of—

"(i) the sum of the deductions which are allowed or allowable to the taxpayer for the depreciation of any other player contracts held in connection with such franchise and which are attributable to periods after December 31, 1975, and before the disposition of such player contract, plus the deductions allowed or allowable for losses with respect to such other contracts incurred after December 31, 1975, and before the disposition of such player contract; over

"(ii) the aggregate of the amounts treated as ordinary income by reason of this section with respect to prior dispositions of player contracts held in connection with such franchise.

"(C) PLAYER CONTRACT.—For purposes of this paragraph, the term 'player contract' means any contract for the services of an athlete which, in the hands of the taxpayer, is of a character subject to the allowance for depreciation provided in section 167."

(c) BASIS LIMITATION FOR CERTAIN PLAYER CONTRACTS.—

(1) IN GENERAL.—Part IV of subchapter O of chapter 1 (relating to special rules applicable to gain or loss on disposition of property) is amended by redesignating section 1056 as section 1057, and by inserting after section 1055 the following new section:

"SEC. 1056. BASIS LIMITATION FOR PLAYER CONTRACTS TRANSFERRED IN CONNECTION WITH THE SALE OF A FRANCHISE.

"(a) GENERAL RULE.—If a franchise to conduct any sports enterprise is sold or exchanged, and if, in connection with such sale or exchange, there is a transfer of contract for the services of an athlete, the basis of such contract shall not exceed the sum of—

"(1) the adjusted basis of such contract in the hands of the transferor immediately before the transfer, plus

"(2) the gain (if any) recognized by the transferor on the transfer of such contract.

"(b) EXCEPTIONS.—Subsection (a) shall not apply—

"(1) to an exchange described in section 1031 relating to exchange of property held for productive use or investment), and

"(2) to property in the hands of a person acquiring the property from a decedent or to whom the property passed from a decedent (within the meaning of section 1014(a)).

"(c) TRANSFEROR REQUIRED TO FURNISH CERTAIN INFORMATION.—Under regulations prescribed by the Secretary, the transferor shall, at the times and in the manner provided in such regulations, furnish to the Secretary and to the transferee the following information:

"(1) the amount which the transferor believes to be the adjusted basis referred to in paragraph (1) of subsection (a),

"(2) the amount which the transferor believes to be the gain referred to in paragraph (2) of subsection (a), and

"(3) any subsequent modification of either such amount.

To the extent provided in such regulations, the amounts furnished pursuant to the preceding sentence shall be binding on the transferor and on the transferee.

"(d) PRESUMPTION AS TO AMOUNT ALLOCABLE TO PLAYER CONTRACTS.—In the case of any sale or exchange described in subsection (a), it shall be presumed that not more than 50 percent of the consideration is allocable to contracts for the services of athletes unless it is established to the satisfaction of the Secretary that a specified amount in excess of 50 percent is properly allocable to such contracts. Nothing in the preceding sentence shall give rise to a presumption that an allocation of 50 percent or less of the consideration to contracts for the services of athletes is a proper allocation."

(2) CLERICAL AMENDMENT.—The table of sections for such part IV is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 1056. Basis limitation for player contracts transferred in connection with the sale of a franchise.
"Sec. 1057. Cross references."

(d) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1962.

(2) The amendment made by subsection (b) shall apply to dispositions after December 31, 1975, in taxable years ending after such date.

(3) The amendments made by subsection (c) shall apply to franchises to conduct sports enterprises sold or exchanged after December 31, 1975, in taxable years ending after such date.

SEC. 210. CERTAIN PARTNERSHIP PROVISIONS.

(a) DOLLAR LIMITATION WITH RESPECT TO ADDITIONAL FIRST-YEAR DEPRECIATION ALLOWANCE.—Subsection (d) of section 179 (relating to additional first-year depreciation allowance for small business) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) DOLLAR LIMITATION IN CASE OF PARTNERSHIPS.—In the case of a partnership, the dollar limitation contained in the first sentence of subsection (b) shall apply with respect to the partnership and with respect to each partner."

(b) CLARIFICATION OF TREATMENT OF PARTNERSHIP SYNDICATION FEES, ETC.—

(1) IN GENERAL.—Subpart A of part II of subchapter K of chapter 1 (relating to contributions to a partnership) is amended by adding at the end thereof the following new section:

"SEC. 724. DISALLOWANCE OF DEDUCTIONS FOR SYNDICATION FEES, ETC.

"No deduction shall be allowed under this chapter to the partnership or to any partner for any amounts paid or incurred to organize a partnership or to promote the sale of (or to sell) an interest in such partnership."

(2) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by adding at the end thereof the following:

"Sec. 724. Disallowance of deductions for syndication fees, etc."

(3) DETERMINATION OF AMOUNTS CHARGEABLE TO CAPITAL ACCOUNT.—Section 707(c) (relating to guaranteed payments) is amended by striking out "and section 162 (a)" and inserting in lieu thereof "and, subject to section 263, for purposes of section 162(a)".

(c) ITEMS MUST BE ALLOCATED TO PORTION OF YEAR PARTNER HELD INTEREST.—

(1) IN GENERAL.—Subparagraph (B) of section 706(c)(2) (relating to disposition of less than entire interest) is amended by striking out "or with respect to a partner whose interest is reduced" and inserting in lieu thereof "or with respect to a partner whose interest is reduced (by sale, exchange, or otherwise)".

(2) EXPRESS PROVISIONS OF SUBCHAPTER K MAY NOT BE OVERRIDDEN BY PARTNERSHIP AGREEMENT.—Subsection (a) of section 704 (relating to effect of partnership agreement) is amended by striking out "except as otherwise provided in this section" and inserting in lieu thereof "except as otherwise provided in this subchapter".

(d) DETERMINATION OF PARTNER'S DISTRIBUTIVE SHARES.—Subsection (b) of section 704 (relating to distributive share determined by income or loss ratio) is amended to read as follows:

"(b) DETERMINATION OF DISTRIBUTIVE SHARE.—

"(1) RULE FOR ALLOCATIONS.—A partner's distributive share of income, gain, loss, deduction, or credit (or item thereof) shall be determined—

"(A) in accordance with the partnership's permanent method of allocating the taxable income referred to in section 702(a)(9), if there is such a method, or

"(B) in accordance with the partner's interest in the partnership (determined by taking into account all facts and circumstances) if the partnership has no permanent method of allocating such taxable income.

"(2) PARTNERSHIP AGREEMENT TO CONTROL IN CERTAIN CASES.—Paragraph (1) shall not apply if—

"(A) the partnership agreement provides as to the partner's distributive share of income, gain, loss, deduction, or credit (or any item thereof), and

"(B) the partner receiving the allocation can establish both that there is a business purpose for this allocation and that no significant avoidance or evasion of any tax imposed by this subtitle results from such allocation."

(e) Effective Date.—The amendments made by this section shall apply in the case of taxable years of partnerships beginning after December 31 1975.

Sec. 211. Scope of Waiver of Statute of Limitations in Case of Activities Not Engaged in for Profit.

(a) In General.—Subsection (e) of section 183 (relating to special rule for activities not engaged in for profit) is amended by adding at the end thereof the following new paragraph:

"(4) Time for assessing deficiency attributable to activity.—If a taxpayer makes an election under paragraph (1) with respect to an activity, the statutory period for the assessment of any deficiency attributable to such activity shall not expire before the expiration of 2 years after the date prescribed by law (determined without extensions) for filing the return of tax under chapter 1 for the last taxable year in the period of 5 taxable years (or 7 taxable years) to which the election relates. Such deficiency may be assessed notwithstanding the provisions of any law or rule by law which would otherwise prevent such an assessment."

(b) Cross Reference.—Paragraph (2) of section 6212(c) (relating to restriction of further deficiency letters) is amended by adding at the end thereof the following new subparagraph:

"(E) Deficiency attributable to activities not engaged in for profit, see section 183 (e)(4)."

(c) Effective Date.—The amendments made by this Act shall apply with respect to taxable years beginning after December 31, 1969; except that such amendments shall not apply to any taxable year ending before the date of the enactment of this Act with respect to which the period for assessing a deficiency has expired before such date of enactment.

TITLE III—MINIMUM TAX FOR INDIVIDUALS

"Sec. 301. Minimum Tax for Individuals.

(a) In General.—Part VI of subchapter A of chapter 1 (relating to minimum tax for tax preferences) is amended by inserting before section 56 the following new section:

"Sec. 55. Minimum Tax for Individuals.

"(a) Imposition of Tax.—In the case of a taxpayer other than a corporation, in addition to the other taxes imposed by this chapter, there is hereby imposed for each taxable year, with respect to the income of such taxpayer, a tax equal to 14 percent of the amount (if any) by which—

"(1) the excess of—

"(A) the sum of the items of tax preference, over

"(B) the exemption (if any) provided by subsection (c),

is greater than

"(2) one-half of the liability for tax for the taxable year.

"(b) Deferral of Tax Liability in Case of Certain Net Operating Losses.—

"(1) In general.—If for any taxable year a person—

"(A) has a net operating loss any portion of which (under section 172) remains as a net operating loss carryover to a succeeding taxable year, and

"(B) has items of tax preference in excess of the exemption (if any) provided by subsection (c),

then an amount equal to the lesser of the tax imposed by subsection (a) or 14 percent of the amount of the net operating loss carryover described in subparagraph (A) shall be treated as tax liability not imposed for the taxable year, but as imposed for the succeeding taxable year or years pursuant to paragraph (2).

"(2) Year of liability.—In any taxable year in which any portion of the net operating loss carryover attributable to the excess described in paragraph (1)(B) reduces taxable income, the amount of tax liability described in paragraph (1) shall be treated as tax liability imposed in such taxable year in an amount equal to 14 percent of such reduction.

"(3) Priority of application.—For purposes of paragraph (2), if any portion of the net operating loss carryover described in paragraph (1)(A) is not attributable to the excess described in paragraph (1)(B), such portion shall be considered as being applied in reducing taxable income before such other portion.

"(c) Exemption.—

"(1) In General.—Except as provided in paragraph (2) and in section 58(a), the exemption provided by this subsection is $20,000.

"(2) Reduction where preference income exceeds $20,000.—The $20,000 figure set forth in paragraph (1) shall be reduced by one dollar for each full dollar of the excess of the taxpayer's items of tax preference for the taxable year over $20,000.

"(d) Liability for tax.—For purposes of this section, the liability for tax for the taxable year shall be the excess of—

"(1) the taxes imposed by this chapter for the taxable year (computed without regard to this part and without regard to the taxes imposed by sections 72(m)(5)(B), 402(e), and 408(f)); over

"(2) the sum of the credits allowable under—

"(A) section 33 (relating to foreign tax credit),

"(B) section 37 (relating to credit for the elderly),

"(C) section 38 (relating to investment credit),

"(D) section 40 (relating to expenses of work incentive program),

"(E) section 41 (relating to contributions to candidates for public office),

"(F) section 42 (relating to taxable income credit),

"(G) section 44 (relating to credit for purchase of new principal residence),

"(H) section 44A (relating to expenses for household and dependent care services necessary for gainful employment), and

"(I) section 44B (relating to credit for home garden tool expenses)."

(b) Amendments of Section 56.—Section 56 (relating to the imposition of the minimum tax) is amended—

(1) by striking out the heading and inserting in lieu thereof the following:

"Sec. 56. Minimum Tax for Corporations.",

(2) by striking out "person" in subsections (a) and (b)(1) and inserting in lieu thereof "corporation".

(3) by striking out clauses (ii), (v), (vi), and (vii) of subsection (a)(2)(A),

(4) by redesignating clauses (iii) and (iv) of subsection (a)(2)(A) as clauses (ii) and (iii), and by striking out the comma at the end of clause (iii) (as so redesignated) and inserting in lieu thereof "; and",

(5) by striking out subparagraphs (B), (E), (F), and (G) of subsection (c)(1),

(6) by redesignating subparagraph (C) of subsection (c)(1) as subparagraph (B) and inserting "and" at the end thereof, and

(7) by redesignating subparagraph (D) of subsection (c)(1) as subparagraph (C), and by inserting "exceed" at the end thereof.

(c) Amendments of Section 57.—

(1) Additional preference items.—Section 57(a) (relating to items of tax preference) is amended by inserting after paragraph (10) the following new paragraphs:

"(11) Excess itemized deductions.—An amount equal to the excess itemized deductions for the taxable year (as determined under subsection (d)).

"(12) Intangible drilling costs of development wells.—With respect to each oil or gas well which is not an exploratory well (as defined in section 470(a)(6)), the excess of the intangible drilling and development costs described in section 263(c) allowable under this chapter for the taxable year over the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles, had been used with respect to such costs."

(2) Excess itemized deductions defined.—Section 57 is amended by adding at the end thereof the following new subsection:

"(d) Excess Itemized Deductions.—For purposes of paragraph (11) of subsection (a), the amount of the excess itemized deductions for any taxable year is the amount by which the sum of the deductions for the taxable year other than—

"(1) deductions allowable in arriving at adjusted gross income,

"(2) the standard deduction provided by section 141, and

"(3) the deduction for personal exemptions provided by section 151,

exceeds 70 percent (but does not exceed 100 percent) of the taxpayer's adjusted gross income for the taxable year."

(3) Deductions deferred under LAL not to be treated as items of tax preference.—Section 57 is amended by adding at the end thereof the following new subsection:

"(e) Deductions Deferred Under LAL Not To Be Treated as Items of Tax Preference.—The amount of any item of tax preference taken into account for purposes of section 55 for any taxable year shall be reduced by the amount of any portion of such item which constitutes a deduction which for such taxable year or any prior taxable year was placed in a deferred deduction account under section 466(b)."

(4) Straight line recovery of intangibles defined.—Section 57 is amended by adding at the end thereof the following new subsection:

"(f) Straight Line Recovery of Intangibles Defined.—For purposes of paragraph (12) of subsection (a) and for purposes of section 468(e) (relating to accelerated deductions in the case of LAL oil and gas property)—

"(1) In general.—The term 'straight line recovery of intangibles', when used with respect to intangible drilling and development costs for any well, means (except in the case of an election under paragraph (2)) ratable amortization of such costs over the 120-month period beginning with the month in which production from such well begins.

"(2) Election.—If the taxpayer elects, at such time and in such manner as the Secretary may by regulations prescribe, with respect to the intangible drilling and development costs for any well, the term 'straight line recovery of intangibles' means any method which would be permitted for purposes of determining cost depletion with respect to such well and which is selected by the taxpayer for purposes of subsection (a)(12) and section 468(e)."

(5) Exclusion of corporations.—The last sentence of section 57(a) (relating to items of tax preference) is amended by striking out "Paragraphs (1) and (3)" and inserting in lieu thereof "Paragraphs (1), (3), (11), and (12)".

(d) Amendments of Section 58.—Section 58 (relating to rules for application of part) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) Married Individuals Filing Separate Returns.—In the case of a married individual who files a separate return for the taxable year, section 55(c) shall be applied by substituting $10,000 for $20,000 each place it appears.",

(2) by striking out paragraph (2) of subsection (c) and inserting in lieu thereof the following:

"(2) section 55(c) shall be applied by substituting for $20,000 each place it appears the amount which bears the same ratio to $20,000 as the portion of the sum of the items of tax preference allocated to the estate or trust under paragraph (1) bears to such sum.",

(3) by striking out "For purposes of section 56" each place it appears in subsection (g) and inserting in lieu thereof "For purposes of this part", and

(4) by adding at the end thereof the following new subsection:

"(i) REGULATIONS TO INCLUDE TAX BENEFIT RULE.—The Secretary shall prescribe regulations under which items of tax preference shall be properly adjusted where the tax treatment giving rise to such items will not result in the reduction of the taxpayer's tax under this subtitle for any taxable year."

(e) CONFORMING AMENDMENTS.—

(1) Paragraph (5) of section 5(a) (relating to cross references relating to tax on individuals) is amended to read as follows:

"(5) For minimum tax for individuals, see section 55."

(2) Paragraph (3) of section 46(a) (defining liability for tax) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(3) Paragraph (3) of section 50A(a) (defining liability for tax) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(4) Subsection (d) of section 443 (relating to adjustment in exclusion for computing minimum tax for tax preferences) is amended by striking out "the $30,000 amount specified in section 56 relating to minimum tax for tax preferences), modified as provided by section 58," and inserting in lieu thereof "the $20,000 amount specified in section 55 (relating to minimum tax for individuals), modified as provided by section 58, or the $30,000 amount specified in section 56 (relating to minimum tax for corporations)".

(5) Subsection (d) of section 511 (relating to tax preferences) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(6) Subsection (a) of section 901 (relating to allowance of credit for taxes of foreign countries and of possessions of the United States) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(7) Paragraph (1) of section 6015(c) (defining estimated tax) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(8) Paragraph (1) of section 6654(f) (relating to tax computed after applications of credits against tax) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(9) Section 6362(b)(2)(A) (relating to qualified individual income taxes) is amended by striking out "section 56" and inserting in lieu thereof "section 55".

(f) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter A of chapter 1 is amended by striking out the item relating to section 56 and inserting in lieu thereof the following:

"Sec. 55. Minimum tax for individuals.
"Sec. 56. Minimum tax for corporations."

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to items of tax preferences (as defined in section 57(a) of the Internal Revenue Code of 1954) for taxable years beginning after December 31, 1975.

(2) TAX CARRYOVER.—In the case of a taxpayer other than a corporation, the amount of any tax carryover under section 56(c) of the Internal Revenue Code of 1954 from a taxable year beginning before January 1, 1976, shall not be allowed as a tax carryover for any taxable year beginning after December 31, 1975.

TITLE IV—EXTENSIONS OF INDIVIDUAL INCOME TAX REDUCTIONS

SEC. 401. EXTENSIONS OF INDIVIDUAL INCOME TAX REDUCTIONS.

(a) TAXABLE INCOME CREDIT.—

(1) IN GENERAL.—Section 42 (relating to credit for personal exemptions) is amended to read as follows:

"SEC. 42. TAXABLE INCOME CREDIT.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the greater of—

"(1) 2 percent of so much of the taxpayer's taxable income for the taxable year as does not exceed $12,000; or

"(2) $30 multiplied by each exemption for which the taxpayer is entitled to a deduction for the taxable year under subsection (b) or (e) of section 151.

"(b) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year. In determining the credits allowed under—

"(1) section 33 (relating to foreign tax credit),

"(2) section 37 (relating to credit for the elderly),

"(3) section 38 (relating to investment in certain depreciable property),

"(4) section 40 (relating to expenses of work incentive programs), and

"(5) section 41 (relating to contributions to candidates for public office).

the tax imposed by this chapter shall (before any other reductions) be reduced by the credit allowed by this section.

"(c) SPECIAL RULE FOR MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—

"(1) IN GENERAL.—Nothwithstanding subsection (a), in the case of a married individual who files a separate return for the taxable year, the amount of the credit allowable under subsection (a) for the taxable year shall be equal to either—

"(A) the amount determined under paragraph (1) of subsection (a); or

"(B) if this subparagraph applies to the individual for the taxable year, the amount determined under paragraph (2) of subsection (a).

For purposes of the preceding sentence, paragraph (1) of subsection (a) shall be applied by substituting '$6,000' for '$12,000'.

"(2) APPLICATION OF PARAGRAPH (1)(B).—Subparagraph (B) of paragraph (1) shall apply to any taxpayer for any taxable year if—

"(A) such taxpayer elects to have such subparagraph apply for such taxable year, and

"(B) the spouse of such taxpayer elects to have such subparagraph apply for any taxable year corresponding, for purposes of section 142(a), to the taxable year of the taxpayer.

Any such election shall be made at such time, and in such manner, as the Secretary shall by regulations prescribe.

"(3) MARITAL STATUS.—For purposes of this subsection, the determination of martial status shall be made under section 143.

"(d) CERTAIN PERSONS NOT ELIGIBLE.—This section shall not apply to any estate or trust, nor shall it apply to any nonresident alien individual."

(2) TECHNICAL AMENDMENT.—Section 6096 (b) (relating to designation of income tax payments to Presidential Election Campaign Fund) (as in effect on the day before the date of the enactment of the Tax Reduction Act of 1975) is amended by striking out "'and 41" and inserting in lieu thereof "41, and 42".

(3) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 42 and inserting in lieu thereof the following:

"Sec. 42. Taxable income credit."

(b) PERMANENT EXTENSION OF INCREASES IN LOW INCOME ALLOWANCE AND PERCENTAGE STANDARD DEDUCTION.—The last sentence of section 209(a) of the Tax Reduction Act of 1975 is amended to read as follows: "The amendments made by section 203 shall cease to apply to taxable years ending after December 31, 1975."

(c) WAGE WITHHOLDING.—

(1) IN GENERAL.—The second sentence of section 3402(a) (relating to requirement of withholding) is amended to read as follows: "The tables so prescribed shall be the same as the tables contained in this subsection as in effect on January 1, 1975, except that the amounts set forth as amounts of income tax to be withheld shall reflect the amendments made by sections 201 and 202 of the Tax Reduction Act of 1975 and, in the case of wages paid during 1976, shall reflect the amendments made by section 401(a) of the Tax Reform Act of 1975."

(2) TECHNICAL AMENDMENT.—Section 209 (c) of the Tax Reduction Act of 1975 is amended by striking out ", and before January 1, 1976".

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to taxable years ending after December 31, 1975. Such amendments shall cease to apply to taxable years ending after December 31, 1976.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to taxable years ending after December 31, 1975.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall apply to wages paid after December 31, 1975.

SEC. 402. REFUNDS OF EARNED INCOME CREDIT DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

Any refund of Federal income taxes made to any individual by reason of section 43 of the Internal Revenue Code of 1954 (relating to earned income credit) shall not be taken into account as income or receipts for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds.

TITLE V—TAX SIMPLIFICATION IN THE INDIVIDUAL INCOME TAX

SEC. 501. REVISION OF TAX TABLES FOR INDIVIDUALS.

(a) IN GENERAL.—Section 3 (relating to optional tax tables for individuals) is amended to read as follows:

"SEC. 3. TAX TABLES FOR INDIVIDUALS HAVING TAXABLE INCOME OF LESS THAN $20,000.

"(a) GENERAL RULE.—In lieu of the tax imposed by section 1, there is hereby imposed for each taxable year on the taxable income of every individual whose taxable income for such year is less than $20,000, a tax determined under tables, applicable to such taxable year, which shall be prescribed by the Secretary. In the tables so prescribed, the amounts of tax shall be computed on the basis of the rates prescribed by section 1.

"(b) TAX TREATED AS IMPOSED BY SECTION 1.—For purposes of this title, the tax imposed by this section shall be treated as tax imposed by section 1."

(b) Conforming Amendments.—

(1) Section 4 (relating to rules for optional tax) is hereby repealed.

(2) Section 36 (relating to credits not allowed to individuals paying optional tax or taking standard deduction) is amended—

(A) by striking out "paying optional tax or" in the heading; and

(B) by striking out "elects to pay the optional tax imposed by section 3, or if he" in such section.

(3) Subsection (a) of section 144 (relating to election of standard deduction) is amended to read as follows:

"(a) Method of Election.—The standard deduction shall be allowed if the taxpayer so elects in his return, and the Secretary shall prescribe the manner of signifying such election in the return."

(4) Subsection (c) of section 144 is amended—

(A) by striking out paragraph (2);

(B) by inserting "or" at the end of paragraph (1); and

(C) by redesignating paragraph (3) as paragraph (2).

(5) Subsection (d) of section 144 is hereby repealed.

(6) Section 1211(b)(3) (relating to computation of taxable income for purposes of limitation on capital losses) is amended by striking out the last sentence thereof.

(7) Section 1304(b) (relating to certain provisions inapplicable for income averaging) is amended by striking out paragraph (1) and by redesignating paragraphs (2), (3), (4), and (5), as paragraphs (1), (2), 3), and (4), respectively.

(8) Section 6014(a) (relating to tax not computed by taxpayer) is amended—

(A) by striking out in the first sentence "entitled to elect to pay the tax imposed by section 3" and inserting in lieu thereof "entitled to take the standard deduction provided by section 141 (other than an individual described in section 141(e))"; and

(B) by striking out in the second sentence "pay the tax imposed by section 3" and inserting in lieu thereof "take the standard deduction".

(9) Paragraph (5) of section 6014(b) is amended to read as follows:

"(5) to cases where the taxpayer does not elect the standard deduction or where the taxpayer elects the standard deduction but is subject to the provisions of section 141(e) (relating to limitations in case of certain dependent taxpayers."

(c) Clerical Amendments.—

(1) The table of sections for part I of subchapter A of chapter 1 is amended by striking out the items relating to sections 3 and 4 and inserting in lieu thereof:

"Sec. 3. Tax tables for individuals having taxable income of less than $20,000."

(2) The table of sections for part IV of subchapter A of chapter 1 is amended by striking out "paying optional tax or" in the item relating to section 36.

Sec. 502. Deduction for Alimony Allowed in Determining Adjusted Gross Income.

(a) In General.—Section 62 (defining adjusted gross income) is amended by inserting after paragraph (12) the following new paragraph:

"(13) Alimony.—The deduction allowed by section 215."

(b) Conforming Amendment.—The first sentence of subparagraph (A) of section 3402 (m)(2) (relating to withholding allowances based on itemized deductions) is amended by striking out "under section 62" and inserting in lieu thereof "under section 62 (other than paragraph (13 thereof)."

Sec. 503. Revision of Retirement Income Credit.

(a) In General.—Section 37 (relating to retirement income) is amended to read as follows:

"Sec. 37. Credit for the Elderly.

"(a) General Rule.—In the case of an individual who has attained age 65 before the close of the taxable year, there shall be allowed as a credit aaginst the tax imposed by this chapter for the taxable year an amount equal to 15 percent of such individual's section 37 amount for such taxable year.

"(b) Section 37 Amount.—For purposes of subsection (a)—

"(1) In General.—An individual's section 37 amount for the taxable year is the applicable initial amount determined under paragraph (2), reduced as provided in paragraph (3) and in subsection (c).

"(2) Initial Amount.—The initial amount is—

"(A) $2,500 in the case of a single individual.

"(B) $2,500 in the case of a joint return where only one spouse is eligible for the credit under subsection (a),

"(C) $3,750 in the case of a joint return where both spouses are eligible for the credit under subsection (a), or

"(D) $1,875 in the case of a married individual filing a separate return.

"(3) Reduction.—The reduction under this paragraph is an amount equal to the sum of the amounts received by the individual (or, in the case of a joint return, by either spouse) as a pension of annuity—

"(A) under title II of the Social Security Act,

"(B) under the Railroad Retirement Act of 1935 or 1937, or

"(C) otherwise excluded from gross income.

No reduction shall be made under this paragraph for any amount excluded from gross income under section 72 (relating to annuities), 101 (relating to life insurance proceeds), 104 (relating to compensation for injuries or sickness), 105 (relating to amounts received under accident and health plans), 402 (relating to taxability of beneficiary of employees' trust), or 403 (relating to taxation of employee annuities).

"(c) Adjusted Gross Income Limitation.—If the adjusted gross income of the taxpayer exceeds—

"(1) $7,500 in the case of a single individual,

"(2) $10,000 in the case of a joint return, or

"(3) $5,000 in the case of a married individual filing a separate return,

the section 37 amount shall be reduced by one-half of the excess of the adjusted gross income over $7,500, $10,000, or $5,000, as the case may be.

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) Married couple must file joint return.—Except in the case of a husband and wife who live apart at all times during the taxable year, if the taxpayer is married at the close of the taxable year, the credit provided by this section shall be allowed only if the taxpayer and his spouse file a joint return for the taxable year.

"(2) Marital status.—Marital status shall be determined under section 143.

"(3) Joint return.—The term 'joint return' means the joint return of a husband and wife made under section 6013.

"(e) Election of Prior Law With Respect to Public Retirement System Income.—

"(1) In general.—In the case of a taxpayer who has not attained age 65 before the close of the taxable year (other than a married individual whose spouse has attained age 65 before the close of the taxable year), his credit (if any) under this section shall be determined under this subsection.

"(2) One spouse age 65 or over.—In the case of a married individual who has not attained age 65 before the close of the taxable year but whose spouse has attained such age, this paragraph shall apply for the taxable year only if both spouses elect, at such time and in such manner as the Secretary shall by regulations prescribe, to have this paragraph apply. If this paragraph applies for the taxable year, the credit (if any) of each spouse under this section shall be determined under this subsection.

"(3) Computation of credit.—In the case of an individual whose credit under this section for the taxable year is determined under this subsection, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of the amount received by such individual as retirement income (as defined in paragraph (4) and as limited by paragraph (5)).

"(4) Retirement income.—For purposes of this subsection, the term 'retirement income' means—

"(A) in the case of an individual who has attained age 65 before the close of the taxable year, income from—

"(i) pensions and annuities (including, in the case of an individual who is, or has been, an employee within the meaning of section 401(c)(1), distributions by a trust described in section 401(a) which is exempt from tax under section 501(a)),

"(ii) interest,

"(iii) rents,

"(iv) dividends,

"(v) bonds described in section 405(b)(1) which are received under a qualified bond purchase plan described in section 405(a) or in a distribution from a trust described in section 401(a) which is exempt from tax under section 501(a), or retirement bonds described in section 409, and

"(vi) an individual retirement account described in section 408(a) or an individual retirement annuity described in section 408 (b), or

"(B) in the case of an individual who has not attained age 65 before the close of the taxable year, income from pensions and annuities under a public retirement system (as defined in paragraph (8)(A)),

to the extent included in gross income without reference to this subsection, but only to the extent such income does not represent compensation for personal services rendered during the taxable year.

"(5) Limitation on retirement income.—For purposes of this subsection, the amount of retirement income shall not exceed $2,500 less—

"(A) the reduction provided by subsection (b)(3), and

"(B) in the case of any individual who has not attained age 72 before the close of the taxable year—

"(i) if such individual has not attained age 62 before the close of the taxable year, any amount of earned income (as defined in paragraph (8)(B)) in excess of $900 received by such individual in the taxable year, or

"(ii) if such individual has attained age 62 before the close of the taxable year, the sum of one-half the amount of earned income received by such individual in the taxable year in excess of $1,200 but not in excess of $1,700, and the amount of earned income so received in excess of $1,700.

"(6) Limitation in case of married individuals.—In the case of a joint return, paragraph (5) shall be applied by substituting '$3,750' for '$2,500'. The $3,750 provided by the preceding sentence shall be divided between the spouses in such amounts as may be agreed on by them, except that not more than $2,500 may be assigned to either spouse.

"(7) Limitation in the case of separate returns.—In the case of a married individual filing a separate return, paragraph (5) shall be applied by substituting '$1,875' for '$2,500'.

"(8) Definitions.—For purposes of this subsection—

"(A) Public retirement system defined.—

The term 'public retirement system' means a pension, annuity, retirement, or similar fund or system established by the United States, a State, a possession of the United States, any political subdivision of any of the foregoing, or the District of Columbia.

"(B) Earned income.—The term 'earned income' has the meaning assigned to such term by section 7701(a)(36), except that such term does not include any amount received as a pension or annuity.

"(f) Nonresident Alien Ineligible for Credit.—No credit shall be allowed under this section to any nonresident alien."

(b) Technical Amendments.—

(1) Section 904 (relating to limitation on foreign tax credit) is amended by redesignating subsection (g) as subsection (h), and by inserting after subsection (f) the following new subsection:

"(g) Coordination With Credit for the Elderly.—In the case of an individual, for purposes of subsection (a) the tax against which the credit is taken is such tax reduced by the amount of the credit (if any) for the taxable year allowable under section 37 (relating to credit for the elderly)."

(2) Section 6014(a) (relating to tax not computed by taxpayer) is amended by striking out the last sentence thereof.

(3) Section 6014(b) is amended—

(A) by striking out paragraph (4).

(B) by redesignating paragraph (5) as paragraph (4), and

(C) by inserting "or" at the end of paragraph (3).

(4) Sections 41(b)(2), 46(a)(3)(C), and 50A(a)(3)(C) are each amended by striking out "retirement income" and inserting in lieu thereof "credit for the elderly".

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 37 and inserting in lieu thereof the following:

"Sec. 37. Credit for the elderly."

Sec. 504. Credit for Child Care Expenses.

(a) Allowances of Credit for Child Care Expenses.—

(1) In general.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting before section 45 the following new section:

"Sec. 44A. Expenses for Household and Dependent Care Services Necessary for Gainful Employment.

"(a) Allowance of Credit.—In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (c)(1)), there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the employment-related expenses (as defined in subsection (c)(2)) paid by such individual during the taxable year.

"(b) Application With Other Credits.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under—

"(1) section 33 (relating to foreign tax credit),

"(2) section 37 (relating to credit for the elderly),

"(3) section 38 (relating to investment in certain depreciable property),

"(4) section 40 (relating to expenses of work incentive programs),

"(5) section 41 (relating to contributions to candidates for public office),

"(6) section 42 (relating to taxable income credit), and

"(7) section 44 (relating to purchase of new principal residence).

"(c) Definitions of Qualifying Individual and Employment-Related Expenses.—For purposes of this section—

"(1) Qualifying individual.—The term 'qualifying individual' means—

"(A) a dependent of the taxpayer who is under the age of 15 and with respect to whom the taxpayer is entitled to a deduction under section 151(e),

"(B) a dependent of the taxpayer who is physically or mentally incapable of caring for himself, or

"(C) the spouse of the taxpayer, if he is physically or mentally incapable of caring for himself.

"(2) Employment-related expenses.—

"(A) In general.—The term 'employment-related expenses' means amounts paid for the following expenses, but only if such expenses are incurred to enable the taxpayer to be gainfully employed for any period for which there are 1 or more qualifying individuals with respect to the taxpayer:

"(i) expenses for household services, and

"(ii) expenses for the care of a qualifying individual.

"(B) Exception.—Employment-related expenses described in subparagraph (A) which are incurred for services outside the taxpayer's household shall be taken into account only if incurred for the care of a qualifying individual described in paragraph (1)(A).

"(d) Dollar Limit on Amount Creditable.—The amount of the employment-related expenses incurred during any taxable year which may be taken into account under subsection (a) shall not exceed—

"(1) $2,000 if there is 1 qualifying individual with respect to the taxpayer for such taxable year, or

"(2) $4,000 if there are 2 or more qualifying individuals with respect to the taxpayer for such taxable year.

"(e) Earned Income Limitation.—

"(1) In general. — Except as otherwise provided in this subsection, the amount of the employment-related expenses incurred during any taxable year which may be taken into account under subsection (a) shall not exceed—

"(A) in the case of an individual who is not married at the close of such year, such individual's earned income for such year, or

"(B) in the case of an individual who is married at the close of such year, the lesser of such individual's earned income or the earned income of his spouse for such year.

"(2) Special rule for spouse who is a student incapable of caring for himself.—In the case of a spouse who is a student or a qualifying individual described in subsection (c)(1)(C), for purposes of paragraph (1), such spouse shall be deemed for each month during which such spouse is a full-time student at an educational institution, or is such a qualifying individual, to be gainfully employed and to have earned income of not less than—

"(A) $166 if subsection (d)(1) applies for the taxable year, or

"(B) $333 if subsection (d)(2) applies for the taxable year.

In the case of any husband and wife, this paragraph shall apply with respect to only one spouse for any one month.

"(f) Special Rules.—For purposes of this section—

"(1) Maintaining household.—An individual shall be treated as maintaining a household for any period only if over half the cost of maintaining the household for such period is furnished by such individual (or, if such individual is married during such period, is furnished by such individual and his spouse).

"(2) Married couples must file joint return.—If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and his spouse file a joint return for the taxable year.

"(3) Marital status.—An individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

"(4) Certain married individuals living apart.—If—

"(A) an individual who is married and who files a separate return—

"(i) maintains as his home a household which constitutes for more than one-half of the taxable year the principal place of abode of a qualifying individual, and

"(ii) furnishes over half of the cost of maintaining such household during the taxable year, and

"(B) during the last 6 months of such taxable year such individual's spouse is not a member of such household,

such individual shall not be considered as married.

"(5) Special dependency test in case of divorced parents, etc.—If—

"(A) a child (as defined in section 151(e)(3)) who is under the age of 15 or who is physically or mentally incapable of caring for himself receives over half of his support during the calendar year from his parents who are divorced or legally separated under a decree of divorce or separate maintenance or who are separated under a written separation agreement, and

"(B) such child is in the custody of one or both of his parents for more than one-half of the calendar year,

in the case of any taxable year beginning in such calendar year such child shall be treated as being a qualifying individual described in subparagraph (A) or (B) of subsection (c)(1), as the case may be, with respect to that parent who has custody for a longer period during such calendar year than the other parent, and shall not be treated as being a qualifying individual with respect to such other parent.

"(6) Payments to related individuals.—

"(A) In general.—Except as provided in subparagraph (B), no credit shall be allowed under subsection (a) for any amount paid by the taxpayer to an individual bearing a relationship to the taxpayer described in paragraphs (1) through (8) of section 152 (a) (relating definition of dependent) or to a dependent described in paragraph (9) of such section.

"(B) Exception.—Subparagraph (A) shall not apply to any amount paid by the taxpayer to an individual—

"(i) who, at the time the service is performed, is not a resident of the same household as the taxpayer, and

"(ii) with respect to whom, for the taxable year of the taxpayer in which the service is performed, neither the taxpayer nor his spouse is entitled to a deduction under section 151(e) (relating to deduction for personal exemptions for dependents),

but only if the service with respect to which such amount is paid constitutes employment within the meaning of section 3121(b).

"(7) Student.—The term 'student' means an individual who during each of 5 calendar months during the taxable year is a full-time student at an educational organization.

"(8) Educational organization.—The term 'educational organization' means an educational organization described in section 170 (b)(1)(A)(ii).

"(g) Rerulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(2) Clerical amendment.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting before the item relating to section 45 the following new item:

"Sec. 44A. Expenses for household and dependent care services necessary for gainful employment."

(b) Repeal of Deduction for Child Care Expenses.—

(1) In general.—Section 214 (relating to expenses for household and dependent care services necessary for gainful employment) is hereby repealed

(2) Clerical amendment.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the item relating to section 214.

(c) Technical Amendments.—

(1) Section 43(c)(1) (defininining eligible individual for earned income credit) is amended by striking out "section 214(b)(3)" and inserting in lieu thereof" "section 44A (f)(1)".

(2) Section 213(f) (relating to exclusion of amounts allowed for care of certain dependents) is amended by striking out "a deduction under section 214" and inserting in lieu thereof "a credit under section 44A".

(3) Section 6096(b) (defining income tax liability) is amended by striking out "and 44" and inserting in lieu thereof ", 44, and 44A".

(4) Paragraph (4) of section 3402(m) (relating to withholding allowances based on itemized deductions) is amended by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(C) may take into account tax credits to which employees are entitled."

Sec. 505. Changes in Exclusions for Sick Pay and Certain Military, Etc., Disability Pensions.

(a) Sick Pay.—Subsection (d) of section 105 (relating to amounts excluded from gross income under wage continuation plans) is amended to read as follows:

"(d) Certain Disability Payments.—

"(1) In general.—In the case of a taxpayer who—

"(A) has not attained age 65 before the close of the taxable year, and

"(B) retired on disability and, when he retired, was permanently and totally disabled,

gross income does not include amounts referred to in subsection (a) if such amounts constitute wages or payments in lieu of wages for a period during which the employee is absent from work on account of permanent and total disability.

"(2) Limitation.—This subsection shall not apply to the extent that the amounts referred to in paragraph (1) exceed a weekly rate of $100.

"(3) Phaseout over $15,000.—If the adjusted gross income of the taxpayer for the taxable year (determined without regard to this subsection) exceeds $15,000, the amount which but for this paragraph would be excluded under this subsection for the taxable year shall be reduced by an amount equal to the excess of the adjusted gross income (as so determined) over $15,000.

"(4) Married couple must file joint return.—Except in the case of a husband and wife who live apart at all times during the taxable year, if the taxpayer is married at the close of the taxable year, the exclusion provided by this subsection shall be allowed only if the taxpayer and his spouse file a joint return for the taxable year. For purposes of this subsection, marital status shall be determined under section 143.

"(5) Permanent and total disability defined.—For purposes of this subsection, an individual is permanently and totally disabled if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. An individual shall not be considered to be permanently and totally disabled unless he furnishes proof of the existence thereof in such form and manner, and at such times, as the Secretary may require.

"(6) Joint return.—For purposes of this subsection, the term 'joint return' means the joint return of a husband and wife made under section 6013.

"(7) Coordination with section 72.—In the case of an individual described in subparagraphs (A) and (B) of paragraph (1), for purposes of section 72 the annuity starting date shall not be deemed to occur before the beginning of the taxable year in which the taxpayer attains age 65, or before the beginning of an earlier taxable year for which the taxpayer makes an irrevocable election not to seek the benefits of this subsection for such year and all subsequent years."

(b) Certain Military, Etc., Disability Pensions.—Section 104 (relating to compensation for injuries or sickness) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) Termination of Application of Subsection (a)(4) in Certain Cases.—

"(1) In general.—Subsection (a)(4) shall not apply in the case of any individual who is not described in paragraph (2).

"(2) Individuals to whom subsection (a)(4) continues to apply.—An individual is described in this paragraph if—

"(A) on or before September 24, 1975, he was entitled to receive any amount described in subsection (a)(4),

"(B) on September 24, 1975, he was a member of any organization (or reserve component thereof) referred to in subsection (a)(4) or under a binding written commitment to become such a member,

"(C) he receives an amount described in subsection (a)(4) by reason of a combat-related injury, or

"(D) on application therefor, he would be entitled to receive disability compensation from the Veterans' Administration.

"(3) Special rules for combat-related injuries.—For purposes of this subsection, the term 'combat-related injury' means personal injury or sickness—

"(A) which is incurred—

"(i) as a direct result of armed conflict,

"(ii) while engaged in extrahazardous service, or

"(iii) under conditions simulating war; or

"(B) which is caused by an instrumentality of war.

In the case of an individual who is not described in subparagraph (A) or (B) of paragraph (2), except as provided in paragraph (4), the only amounts taken into account under subsection (a)(4) shall be the amounts which he receives by reason of a combat-related injury.

"(4) Amount excluded to be not less than veterans' disability compensation.—In the case of any individual described in paragraph (2), the amounts excludable under subsection (a)(4) for any period with respect to any individual shall not be less than the maximum amount which such individual, on application therefor, would be entitled to receive as disability compensation from the Veterans' Administration."

(c) Special Rule for Existing Permanent and Total Disability Cases.—In the case of any individual who—

(1) retired before January 1, 1976,

(2) either retired on disability or was entitled to retire on disability, and

(3) on January 1, 1976, was permanently and totally disabled (within the meaning of section 105(d)(5) of the Internal Revenue Code of 1954),

such individual shall be deemed to have met the requirements of section 105(d)(1)(B) of such Code (as amended by subsection (a) of this section).

Sec. 506. Moving Expenses.

(a) Decrease in Mileage Test From 50 Miles to 35 Miles.—Paragraph (1) of section 217(c) (relating to conditions for allowance of deduction for moving expenses) is amended by striking out "50 miles" each place it appears and inserting in lieu thereof "35 miles".

(b) Increase in Dollar Amounts.—

(1) Certain expenses of traveling, meals, and lodging after obtaining employment.—The first sentence of subparagraph (A) of section 217(b)(3) (relating to dollar limits) is amended by striking out "$1,000" and inserting in lieu thereof "$1,500".

(2) Aggregate dollar limit.—The second sentence of subparagraph (A) of section 217(b)(3) is amended by striking out "$2,500" and inserting in lieu thereof "$3,000".

(3) Separate returns.—The second sentence of subparagraph (B) of section 217(b)(3) (relating to dollar limits in the case of husband and wife) is amended to read as follows: "In the case of a husband and wife filing separate returns, subparagraph (A) shall be applied by substituting '$750' for '$1,500', and by substituting '$1,500' for '$3,000'."

(c) Rules for Members of the Armed Forces of the United States.—Section 217 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) Rules for Members of the Armed Forces of the United States.—In the case of a member of the Armed Forces of the United States on active duty who moves pursuant to a military order and incident to a permanent change of station, the moving expenses which are furnished in kind or reimbursed by the Secretary of Defense or the Secretary of Transportation, as the case may be, shall not be subject to subsection (c). Any such expenses which are so furnished in kind shall not be includible in gross income under section 82; and no reporting with respect to such expenses shall be required of the Secretary of Defense or the Secretary of Transportation, as the case may be."

Sec. 507. Effective Date.

The amendments made by this title shall apply to taxable years beginning after December 31, 1975.

TITLE VI—BUSINESS RELATED INDIVIDUAL INCOME TAX PROVISIONS

Sec. 601. Deductions for Expenses Attributable to Business Use of Homes, Rental of Vacation Homes, Etc.

(a) Nondeductibility of Certain Expenses.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"Sec. 280. Disallowance of Certain Expenses in Connection With Business Use of Home, Rental of Vacation Homes, Etc.

"(a) General Rule.—Except as otherwise provided in this section, in the case of a taxpayer who is an individual or an electing small business corporation, no deduction otherwise allowable under this chapter shall be allowed with respect to the use of a dwelling unit which is used by the taxpayer during the taxable year as a residence.

"(b) Exception for Interest, Taxes, Casualty Losses, Etc.—Subsection (a) shall not apply to any deduction allowable to the taxpayer without regard to its connection with his trade or business (or with his income-producing activity).

"(c) Exceptions for Certain Business or Rental Use; Limitation on Deductions for Such Use.—

"(1) Certain business use.—Subsection (a) shall not apply to any item to the extent such item is allocable to a portion of the dwelling unit which is exclusively used on a regular basis as—

"(A) the taxpayer's principal place of business, or

"(B) a place of business which is used by patients, clients, or customers in meeting or dealing with the taxpayer in the normal course of his trade or business.

In the case of an employee, the preceding sentence shall apply only if the exclusive use referred to in the preceding sentence is for the convenience of his employer.

"(2) Certain storage use.—Subsection (a) shall not apply to any item to the extent such item is allocable to space within the dwelling unit which is used on a regular basis as a storage unit for the inventory of the taxpayer held for use in the taxpayer's trade or business of selling products at retail, but only if the dwelling unit is the sole fixed location of such trade or business.

"(3) Rental use.—Subsection (a) shall not apply to any item which is attributable to the rental of the dwelling unit or portion thereof (determined after the application of subsection (e)).

"(4) Limitation on deductions.—In the case of a use described in paragraph (1) or (2), and in the case of a use described in paragraph (3) where the dwelling unit is used by the taxpayer during the taxable year as a residence, the deduction allowed under this chapter for the taxable year by reason of being attributed to such use shall not exceed the excess of—

"(A) the gross income derived from such use for the taxable year, over

"(B) the deductions allocable to such use which are allowable under this chapter for the taxable year whether or not such unit (or portion thereof) was so used.

"(d) Use as Residence.—

"(1) In general.—For purposes of this section, a taxpayer uses a dwelling unit during the taxable year as a residence if he uses such unit (or portion thereof) for personal purposes for a number of days which exceeds the greater of—

"(A) 14 days, or

"(B) 5 percent of the number of days during such year for which such unit is rented at a fair rental.

For purposes of subparagraph (B), a unit shall not be treated as rented at a fair rental for any day for which it is used for personal purposes

"(2) Personal use of unit.—For purposes of this section, the taxpayer shall be deemed to have used a dwelling unit for personal purposes for a day if, for any part of such day, the unit is used—

"(A) for personal purposes by the taxpayer or any other person who has an interest in such unit, or by any member of the family (as defined in section 267(c)(4)) of the taxpayer or such other person;

"(B) by any individual who uses the unit under an arrangement which enables the taxpayer to use some other dwelling unit (whether or not a rental is charged for the use of such other unit); or

"(C) by any individual (other than an employee with respect to whose use section 119 applies), unless for such day the dwelling unit is rented for a rental which, under the facts and circumstances, is fair rental.

"(e) Expenses Attributable to Rental.—

"(1) In general.—In any case where a taxpayer who is an individual or an electing small business corporation uses a dwelling unit for personal purposes on any day during the taxable year (whether or not he is treated under this section as using such unit as a residence), the amount deductible under this chapter with respect to expenses attributable to the rental of the unit (or portion thereof) for the taxable year shall not exceed an amount which bears the same relationship to such expenses as the number of days during such year that the unit (or portion thereof) is rented at a fair rental value bears to the total number of days during such year that the unit (or portion thereof) is used.

"(2) Exception for deductions otherwise allowable.—This subsection shall not apply with respect to deductions which would be allowable under this chapter for the taxable year whether or not such unit (or portion thereof) was rented.

"(f) Definitions and Special Rules.—

"(1) Dwelling unit defined.—For purposes of this section—

"(A) In general.—The term 'dwelling unit' includes a house, apartment, condominium, mobile home, boat, or similar property, and all structures or other property appurtenant to such dwelling unit.

"(B) Exception.—The term 'dwelling unit' does not include that portion of a unit which is used exclusively as a hotel, motel, inn, or similar establishment.

"(2) Personal use by electing small business corporation.—In the case of an electing small business corporation, subparagraphs (A) and (B) of subsection (d)(2) shall be applied by substituting 'any shareholder of the electing small business corporation' for 'the taxpayer' each place it appears.

"(3) Coordination with section 183.—If subsection (a) applies with respect to any dwelling unit (or portion thereof) for the taxable year—

"(A) section 183 (relating to activities not engaged in for profit) shall not apply to such unit (or portion thereof) for such year, but

"(B) such year shall be taken into account as a taxable year for purposes of applying subsection (d) of section 183 (relating to 5-year presumption)."

(b) Clerical Amendment.—The table of sections for such part IX is amended by adding at the end thereof the following new item:

"Sec. 280. Disallowance of certain expenses in connection with business use of home, rental of vacation homes, etc."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1975.

Sec. 602. Deductions for Attending Foreign Conventions.

(a) Nondeductibility of Certain Expenses.—Section 274 (relating to disallowance of certain entertainment, etc., expenses) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Foreign Conventions.—

"(1) Deductions with respect to not more than 2 foreign conventions per year allowed.—If any individual attends more that 2 foreign conventions during his taxable year—

"(A) he shall select not more than 2 of such conventions to be taken into account for purposes of this subsection, and

"(B) no deduction allocable to his attendance at any foreign convention during such taxable year (other than a foreign convention selected under subparagraph (A)) shall be allowed under section 162 or 212.

"(2) Deductible transportation cost cannot exceed cost of coach or economy air fare.—In the case of any foreign convention, no deduction for the expenses of transportation to and from the site of such convention shall be allowed under section 162 or 212 in an amount which exceeds the lowest coach or economy rate at the time of travel charged by any commercial airline for transportation to and from such site during the calendar month in which such convention begins. If there is no such coach or economy rate, the preceding sentence shall be applied by substituting 'first class' for 'coach or economy'.

"(3) Transportation costs deductible in full only if at least one-half of the days are devoted to business related activities.—In the case of any foreign convention, a deduction for the full expenses of transportation (determined after the application of paragraph (2)) to and from the site of such convention shall be allowed only if more than one-half of the total days of the trip, excluding the days of transportation to and from the site of such convention, are devoted to business related activities. If less than one-half of the total days of the trip, excluding the days of transportation to and from the site of the convention, are devoted to business related activities, no deduction for the expenses of transportation shall be allowed which exceeds the percentage of the days of the trip devoted to business related activities.

"(4) Deductions for subsistence expenses not allowed unless the individual attends two-thirds of business activities.—In the case of any foreign convention, no deduction for subsistence expenses shall be allowed except as follows:

"(A) a deduction for a full day of subsistence expenses while at the convention shall be allowed if there are at least 6 hours of scheduled business activities during such day and the individual attending the convention has attended at least two-thirds of these activities, and

"(B) a deduction for one-half day of subsistence expenses while at the convention shall be allowed if there are at least 3 hours of scheduled business activities during such day and the individual attending the convention has attended at least two-thirds of these activities.

Notwithstanding subparagraphs (A) and (B), a deduction for subsistence expenses of all of the days or half days, as the case may be, of the convention shall be allowed if the individual attending the convention has attended at least two-thirds of the scheduled business activities, and each such full day consists of at least 6 hours of scheduled business activities and each such half day consists of at least 3 hours of scheduled business activities.

"(5) Deductible subsistence costs cannot exceed per diem rate for United States civil servants.—In the case of any foreign convention, no deduction for subsistence expenses while at the convention or traveling to or from such convention shall be allowed at a rate in excess of the dollar per diem rate for the site of the convention which has been established under section 5702(a) of title 5 of the United States Code and which is in effect for the calendar month in which the convention begins.

"(6) Definitions and special rules.—For purposes of this subsection—

"(A) Foreign convention defined.—The term 'foreign convention' means any convention, seminar, or similar meeting held outside the United States, its possessions, and the Trust Territory of the Pacific.

"(B) Subsistence expenses defined.—The term 'subsistence expenses' means lodging, meals, and other necessary expenses for the personal sustenance and comfort of the traveler. Such term includes tips and taxi and other local transportation expenses.

"(C) Allocation of expenses in certain cases.—In any case where the transportation expenses or the subsistence expenses are not separately stated, or where there is reason to believe that the stated charge for transportation expenses or subsistence expenses or both does not properly reflect the amounts properly allocable to such purposes, all amounts paid for transportation expenses and subsistence expenses shall be treated as having been paid solely for subsistence expenses.

"(D) Subsection to apply to employer as well as to traveler.—This subsection shall apply to deductions otherwise allowable under section 162 or 212 to any person, whether or not such person is the individual attending the foreign convention. For purposes of the preceding sentence, such person shall be treated, with respect to each individual, as having selected the same 2 foreign conventions as were selected by such individual."

(b) Effective Date.—The amendments made by this section shall apply to conventions beginning after December 31, 1975.

"Sec. 603. Change in Tax Treatment of Qualified Stock Options

(a) In General.—Section 422(b) (defining qualified stock option) is amended by inserting "and before September 24, 1975 (or, if it meets the requirements of subsection (c)(7), granted to an individual after September 23, 1975)," after "section 424(c)(3)(A)),".

(b) Certain Options Granted After September 23, 1975.—Section 422(c) (relating to special rules) is amended by adding at the end thereof the following new paragraph:

"(7) Certain options granted after September 23, 1975.—For purposes of subsection (b), an option granted after September 23, 1975, meets the requirements of this paragraph if granted to an individual pursuant to—

"(A) a written plan adopted before September 24, 1975, or

"(B) a new option substituted, in a transaction to which section 425(a) applies, for an old option which was granted before September 24, 1074, or which met the requirements of subparagraph (A).

An option described in the preceding sentence shall be treated as ceasing to meet the requirements of this paragraph if it is not exercised before September 24, 1980."

(c) Restricted Stock Options Must Be Exercised Before September 24, 1980.—Section 424(c)(3) (relating to special rules for restricted stock options) is amended by adding at the end thereof the following new sentence: "An option described in the preceding sentence shall be treated as ceasing to meet the requirements of this paragraph if it is not exercised before September 24, 1980."

(d) Effective Date.—The amendments made by this section shall apply to taxable years ending after September 23, 1975.

"Sec. 604. Deduction for Guarantees of Business Bad Debts to Guarantors Not Involved in Business

(a) Repeal of Section 166(f).—Section 166 (relating to bad debts) is amended by striking out subsection (f) and by redesignating subsections (g) and (h) as subsections (f) and (g) respectively.

(b) Conforming Amendment.—Paragraph (1) of section 81 (relating to certain increases in suspense accounts) is amended by striking out "section 166(g)" in the text and inserting in lieu thereof "section 166(f)".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1975.

Sec. 605. Legislators' Travel Expenses Away From Home.

(a) In General.—The second sentence of section 162 (a) (relating to trade or business expenses) is amended by striking out "but amounts expended" and all that follows and inserting in lieu thereof the following: "and the place of residence of a State legislator within the legislative district which he represents shall be considered his home. Amounts expended by any individual referred to in the preceding sentence within each taxable year for living expenses (in connection with his trade or business as a legislator) shall not be deductible for income tax purposes in excess of the applicable dollar limitation determined under subsection (h)."

(b) Dollar Limitation.—Section 162 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Applicable Dollar Limitation for Purposes of Subsection (a).—

"(1) In general.—The Secretary shall establish the applicable dollar limitation for each calendar year for each legislature with respect to which the second sentence of subsection (a) applies. In establishing such dollar limitation for any legislature the Secretary shall apply rules of reasonableness and shall take into account—

"(A) the number of days during the calendar year on which the legislators are away from their home,

"(B) the cost of living during the calendar year at the place where the legislature meets, and

"(C) amounts normally allowed as living expenses of businessmen under similar circumstances.

"(2) Special rule for state legislators.—In the case of any individual who is a State legislator, the applicable dollar limitation for any calendar year shall be the dollar limit (established under paragraph (1) without regard to subparagraph (A) thereof) for each day of legislative participation in the State legislature concerned, multiplied by the total number of days of legislative participation by such individual during the calendar year. For purposes of this paragraph, each day on which an individual's physical presence is formally recorded during a meeting of the State legislature or a meeting of the committee thereof shall be a day of legislative participation."

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to taxable years beginning after December 31, 1974.

(2) Election by state legislators for past periods.—

(A) In general.—In the case of any individual who was a State legislator at any time during any taxable year beginning on or before December 31, 1974, and who elects the application of this paragraph, for any period during such a taxable year in which he was a State legislator—

(i) the place of residence of such individual within the legislative district which he represented shall be considered his home, and

(ii) he shall be deemed to have expended for living expenses (in connection with his trade or business as a legislator) an amount equal to the sum of the amounts determined by multiplying each legislative day of such individual during the taxable year by the amount generally allowable with respect to such day to employees of the United States for per diem while away from home but serving in the United States.

(B) Legislative days.—For purposes of subparagraph (A), a legislative day during any taxable year for any individual shall be any day during such year on which (i) the legislature was in session, or (ii) the legislature was not in session but the physical presence of the individual was formally recorded at a meeting of a commitee of such legislature.

(C) Limitation.—The amount taken into account as living expenses attributable to a trade or business as a State legislator for any taxable year under an election made under this paragraph shall not exceed the amount claimed for such purpose under a return (or amended return) filed before September 10, 1975.

(D) Making and effect of election.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall by regulations prescribe. Any such election shall apply to all taxable years beginning on or before December 31, 1974, for which the period for assessing or collecting a deficiency has not expired before the date of the enactment of this Act.

TITLE VII—ACCUMULATION TRUSTS

Sec. 701. Accumulation Trusts.

(a) Revision of Method of Taxing Accumulation Distributions From Trusts.—

(1) Section 667 (relating to denial of refund to trusts; authorization of credit to beneficiaries) is amended to read as follows:

Sec. 667. Treatment of Amounts Deemed Distributed by Trust in Preceding Years.

(a) General Rule.—The total of the amounts which are treated under section 666 as having been distributed by a trust in a preceding taxable year shall be included in the income of a beneficiary of the trust when paid, credited, or required to be distributed to the extent that such total would have been included in the income of such beneficiary under section 662(a)(2) (and, with respect to any tax-exempt interest to which section 103 applies, under section 662(b)) if such total had been paid to such beneficiary on the last day of such preceding taxable year. The tax imposed by this subtitle on a beneficiary for a taxable year in which any such amount is included in his income shall be determined as provided in this section and shall consist of the sum of—

(1) a partial tax computed on the taxable income reduced by an amount equal to the total of such amounts, at the rate and in the manner as if this section had not been enacted, and

(2) a partial tax determined as provided in subsection (b) of this section.

(b) Tax on Distribution.—

"(1) In general.—The partial tax imposed by subsection (a)(2) shall be determined—

"(A) by determining the number of preceding taxable years of the trust on the last day of which an amount is deemed under section 666(a) to have been distributed,

"(B) by taking from the 5 taxable years immediately preceding the year of the accumulation distribution the 1 taxable year for which the beneficiary's taxable income was the highest and the 1 taxable year for which his taxable income was the lowest,

"(C) by adding to the beneficiary's taxable income for each of the 3 taxable years remaining after the application of subparagraph (B) an amount determined by dividing the amount deemed distributed under section 666 and required to be included in income under subsection (a) by the number of preceding taxable years determined under subparagraph (A), and

"(D) by determining the average increase in tax for the 3 taxable years referred to in subparagraph (C) resulting from the application of such subparagraph.

The partial tax imposed by subsection (a)(2) shall be the excess (if any) of the average increase in tax determined under subparagraph (D), multiplied by the number of preceding taxable years determined under subparagraph (A), over the amount of taxes deemed distributed to the beneficiary under sections 666 (b) and (c).

"(2) Treatment of loss years.—For purposes of paragraph (1), the taxable income of the beneficiary for any taxable year shall be deemed not to be less than zero.

"(3) Certain preceding taxable years not taken into account.—For purposes of paragraph (1), if the amount of the undistributed net income deemed distributed in any preceding taxable year of the trust in less than 25 percent of the amount of the accumulation distribution divided by the number of preceding taxable years to which the accumulation distribution is allocated under section 666(a), the number of preceding taxable years of the trust with respect to which an amount is deemed distributed to a beneficiary under section 666(a) shall be determined without regard to such year.

"(4) Effect of other accumulation distributions.—In computing the partial tax under paragraph (1) for any beneficiary, the income of such beneficiary for each of his prior taxable years shall include amounts previously deemed distributed to such beneficiary in such year under section 666 as a result of prior accumulation distributions (whether from the same or another trust).

"(5) Multiple distribution in the same taxable year.—In the case of accumulation distributions made from more than one trust which are includible in the income of a beneficiary in the same taxable year, the distributions shall be deemed to have been made consecutively in whichever order the beneficiary shall determine.

"(c) Special Rule for Multiple Trusts.—

"(1) In general.—If, in the same prior taxable year of the beneficiary in which any part of the accumulation distribution from a trust (hereinafter in this paragraph referred to as 'third trust') is deemed under section 666(a) to have been distributed to such beneficiary, some part of prior distributions by each of 2 or more other trusts is deemed under section 666(a) to have been distributed to such beneficiary, then subsections (b) and (c) of section 666 shall not apply with respect to such part of the accumlation distribution from such third trust.

"(2) Accumulation distributions from trust not taken into account unless they equal or exceed $1,000.—For purposes of paragraph (1), an accumulation distribution from a trust to a beneficiary shall be taken into account only if such distribution, when added to any prior accumulation distributions from such trust which are deemed under section 666(a) to have been distributed to such beneficiary for the same prior taxable years of the beneficiary, equals or exceeds $1,000."

(2) Section 666 (relating to accumulation distribution allocated to preceding years) is amended by adding at the end thereof the following new subsection:

"(e) Denial of Refund to Trusts and Beneficiaries.—No refund or credit shall be allowed to a trust or a beneficiary of such trust for any preceding taxable year by reason of a distribution deemed to have been made by such trust in such year under this section."

(3) Section 668 (relating to treatment of amounts deemed distributed in preceding years) is hereby repealed.

(b) Income Accumulated Before Child Attains Age of 21 Years Not To Be Subject to the Throwback Rule.—Subsection (b) of section 665 (defining accumulation distribution) is amended by adding at the end thereof the following new sentence: "For purposes of section 667 (other than subsection (c) thereof, related to multiple trusts), the amounts specified in paragraph (2) of section 661(a) shall not include amounts paid, credited, or required to be distributed to a beneficiary from a trust (other than a foreign trust) as income accumulated before the birth of such beneficiary or before such beneficiary attains the age of 21."

(c) No Accumulation Distribution Where Distributions Do Not Exceed Accounting Income.—Section 665(b) (defining accumulation distribution) is amended by adding at the end thereof the following new sentence: "If the amounts distributed by the trust for the taxable year do not exceed the income of the trust for such year, there shall be no accumulation distribution for such year."

(d) Repeal of Special Capital Gain Throwback.—

(1) Section 669 (relating to treatment of capital gain deemed distributed in preceding years) is hereby repealed.

(2) Paragraph (1) of section 665(e) (defining preceding taxable year) is amended—

(A) by striking out subparagraph (C),

(B) by inserting "or" at the end of subparagraph (A), and

(C) by striking out ", or" at the end of subparagraph (B) and inserting in lieu thereof "; and".

(3) Section 665 (definitions applicable to subpart (D) is amended by striking out subsections (f) and (g).

(e) Special Holding Period Rules for Gain on Property Transferred to Trust at Less Than Fair Market Value.—Subpart A of part I of subchapter J of chapter 1 (relating to general rules for taxation of estates and trusts) is amended by adding at the end thereof the following new section:

"Sec. 644. Special Holding Period Rules for Gain on Property Transferred to Trust at Less Than Fair Market Value.

"(a) In General.—For purposes of this subtitle, if—

"(1) property is transferred to a trust and the fair market value of such property exceeds the amount paid by the trust therefor, and

"(2) the trust sells or exchanges such property at a gain not more than 2 years from the date of the transfer to such trust,

then such gain (in an amount not to exceed the excess referred to in paragraph (1)) shall be treated as gain from the sale or exchange of property held for not more than 6 months. In any case referred to in the preceding sentence, in determining whether the remainder of the gain is from property held by the trust for more than 6 months, any period during which such property was held by the transferor shall not be taken into account.

"(b) Exceptions.—Subsection (a) shall not apply to property—

"(1) acquired by the trust from a decedent or which passed to a trust from a decedent (within the meaning of section 1014),

"(2) acquired by a pooled income fund (as defined in section 642(c)(5)), or

"(3) acquired by a charitable remainder annuity trust (as defined in section 664(d)(1)) or a charitable remainder unitrust (as defined in section 664(d)(2)).

"(c) Coordination With Short Sales Provision.—For purposes of applying subsection (a), section 1233(b) (relating to short-term gains and holding periods) is amended by substituting '2 years' for '6 months' the first place it appears therein."

(f) Conforming Amendments.—

(1) Section 1233 (relating to gains and losses from short sales) is amended by adding at the end thereof the following new subsection:

"(h) Cross Reference.—

"For special holding period for property transferred to trust at less than fair market value, see section 644(c)."

(2) Subparagraph (B) of subsection (a)(2), and subparagraph (B) of subsection (b)(2), of section 1302 (definition of averageable income; related definitions) are each amended by striking out "668(a)" and inserting in lieu thereof "667(a)".

(g) Clerical Amendments.—

(1) The table of sections for subpart D of part I of subchapter J of chapter 1 is amended by striking out the items relating to sections 667, 668, and 669 and inserting in lieu thereof the following:

"Sec. 667. Treatment of amounts deemed distributed by trust in preceding years.

"Sec. 668. Treatment of amounts deemed distributed by a foreign trust in preceding years."

(2) The table of sections for subpart A of part I of subchapter J of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 644. Special holding period rules for gain on property transferred to trust at less than fair market value."

(h) Effective Date.—The amendments made by this section shall apply to distributions made in taxable years beginning after December 31, 1974.

TITLE VIII—INVESTMENT CREDIT CHANGES

Sec. 801. Four-Year Extension of 10 Percent Credit and $100,000 Limitation on Used Property.

(a) Four-Year Extension of 10 Percent Credit.—

(1) In general.—Subparagraph (D) of section 46(a)(1) (relating to determination of investment credit) is amended—

(A) by striking out "January 1, 1977" each place it appears and inserting in lieu thereof "January 1, 1981"; and

(B) by adding at the end thereof the following new sentence:

"For purposes of subparagraph (B), the preceding sentence shall be applied by substituting 'January 1, 1977' for 'January 1, 1981' each place it appears."

(2) Technical amendment.—The first sentence of section 46(f)(8) (relating to prohibition of immediate flowthrough of investment credit) is amended by striking out "the Tax Reduction Act of 1975" and inserting in lieu thereof "the Tax Reduction Act of 1975 and Tax Reform Act of 1975".

(b) Four-Year Extension of $100,000 Limitation on Used Property.—Paragraph (2) of section 301(c) of the Tax Reduction Act of 1975 is amended by striking out "January 1, 1977" and inserting in lieu thereof "January 1, 1981".

Sec. 802. Investment Credit in the Case of Movie and Television Films.

(a) Special Rules for Movie and Television Films.—Section 48 (relating to definitions and special rules for purposes of the investment credit) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) Movie and Television Films.—

"(1) Entitlement to credit.—

"(A) In general.—A cerdit shall be allowable under section 38 to a taxpayer with respect to any motion picture film or video tape—

"(i) only if such film or tape is new section 38 property (determined without regard to useful life) which is a qualified film, and

"(ii) only to the extent that the taxpayer has an ownership interest in such film or tape.

"(B) Qualified film defined.—For purposes of this subsection, the term 'qualified film' means any motion picture film or video tape created primarily for use as public entertainment. Such term does not include any film or tape the market for which is primarily topical or which is otherwise essentially transitory in nature.

"(C) Ownership interest.—For purposes of this subsection, a person's 'ownership interest' in a qualified film shall be determined on the basis of his proportionate share of any loss which may be incurred with respect to the production costs of such film.

"(2) Applicable percentage to be 66⅔.—Except as provided in paragraph (3), the applicable percentage under section 46(c)(2) for any qualified film shall be 66⅔ percent.

"(3) Election of 90-percent rule.—

"(A) In general.—If the taxpayer makes an election under this paragraph, the applicable percentage under section 46(c)(2) shall be determined as if the useful life of the film would have expired at the close of the first taxable year by the close of which the aggregate amount allowable as a deduction under section 167 would equal or exceed 90 percent of the basis of the film.

"(B) Making of election.—An election under this paragraph shall be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply for the taxable year for which it is made and for all subsequent taxable years and may be revoked only with the consent of the Secretary.

"(C) Who may elect.—If for any prior taxable year paragraph (2) of this subsection applied to the taxpayer or any related business entity, or if for the taxable year paragraph (2) applies to any related business entity, an election under this paragraph may be made by the taxpayer only with the consent of the Secretary.

"(D) Related business entity.—Two or more corporations, partnerships, trusts, estates, proprietorships, or other entities shall be treated as related business entities if 50 percent or more of the beneficial interest in each of such entities is owned by the same or related persons (taking into account only persons who own at least 10 percent of such beneficial interest). For purposes of this subparagraph, a person is a related person to another person if—

"(i) such persons are component members of a controlled group of corporations (within the meaning of section 1563(a), except that section 1563(b)(2) shall not apply and except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)), or

"(ii) the relationship between such persons would result in a disallowance of losses under section 267 or 707(b), except that for these purposes a family of an individual includes only his spouse and minor children.

For purposes of this subparagraph, the term 'beneficial interest' means voting stock in the case of a corporation, profits interest or capital interest in the case of a partnership, or beneficial interest in the case of a trust or estate.

"(4) Predominant use test; qualified investment.—In the case of any qualified film—

"(A) section 48(a)(2) shall not apply, and

"(B) in determining qualified investment under section 46(c)(1), there shall be used (in lieu of the basis of the property) an amount equal to the qualified United States production costs (as defined in paragraph (5)).

"(5) Qualified united states production costs.—

"(A) In general.—For purposes of this subsection, the term 'qualified United States production costs' means with respect to any film—

"(i) direct production costs allocable to the United States, plus

"(ii) if 80 percent or more of the direct production costs are allocable to the United States, all other production costs other than direct production costs allocable outside the United States.

"(B) Production costs.—For purposes of this subsection, the term 'production costs' includes—

"(i) a reasonable allocation of general overhead costs,

"(ii) compensation for services performed by actors and production personnel,

"(iii) costs of 'first' distribution of prints,

"(iv) the cost of the screen rights and other material being filmed, and

"(v) 'residuals' payable under contracts with labor organizations.

For purposes of this subparagraph (other than clause (v) thereof), participations shall be taken into account only to the extent such participations are guaranteed. For purposes of this subparagraph (other than clause (v) and the preceding sentence), costs shall be taken into account only if they are capitalized.

"(C) Direct production costs.—For purposes of this paragraph, the term 'direct production costs' does not include items referred to in clause (i), (iv), or (v) of subparagraph (B). The term also does not include advertising and promotional costs and such other costs as may be provided in regulations prescribed by the Secretary.

"(D) Allocation of direct production costs.—For purposes of this paragraph—

"(i) Compensation for services performed shall be allocated to the country in which the services are performed, except that payments to United States persons for services performed outside the United States shall be allocated to the United States. For purposes of the preceding sentence, payments to an electing small business corporation (within the meaning of section 1371) or a partnership shall be considered payments to a United States person only to the extent that such payments are included in the gross income of a United States person other than an electing small business corporation or partnership.

"(ii) Amounts for equipment and supplies shall be allocated to the country in which, with respect to the production of the film, the predominant use occurs.

"(iii) All other items shall be allocated under regulations prescribed by the Secretary which are consistent with the allocation principle set forth in clause (ii).

"(6) United States.—For purposes of this subsection, the term 'United States' includes the possessions of the United States."

(b) Overestimation of Useful Life and Dispositions Where 90-Percent Rule Applies.—Section 47(a) (relating to certain dispositions, etc., of section 38 property) is amended by adding after paragraph (6) the following new paragraph:

"(7) Motion picture films and video tapes.—

"(A) Disposition where depreciation exceeds 90 percent of basis or cost.—A qualified film (within the meaning of section 48(k)(1)(B)) which has an applicable percentage determined under section 48(k)(3) shall cease to be section 38 property with respect to the taxpayer at the close of the first day on which the aggregate amount allowable as a deduction under section 167 equals or exceeds 90 percent of the basis or cost of such film (adjusted for any partial dispositions).

"(B) Other dispositions.—In the case of disposition of the exclusive right to display a qualified film which has an applicable percentage determined under section 48(k)(3) in one or more mediums of publications or exhibition in one or more specifically defined geographical areas over the remaining initial period of commercial exploitation of the film or tape in such geographical areas, the taxpayer shall be considered to have disposed of all or part of such film or tape and shall recompute the credit earned on all of his basis or cost on that part of the basis or cost properly allocable to that part of the film or tape disposed of. In the case of an affiliated group of corporations, a transfer within the affiliated group shall not be treated as a disposition until there is a transfer outside the group. For purposes of the preceding sentence, the term 'affiliated group' has the meaning given to such term by section 1504 (determined as if section 1504(b) did not include paragraph (3) thereof). For purposes of this paragraph, section 1504(a) shall be applied by submitting '50 percent' for '80 percent' each place it appears."

(c) Alternative Methods of Computing Credit for Past Periods.—

(1) General rule for determining useful life, predominant foreign use, etc.—In the case of a qualified film placed in service in a taxable year beginning before January 1, 1975, with respect to which neither an election under paragraph (2) of this subsection nor an election under subsection (e)(2) applies—

(A) the applicable percentage under section 46(c)(2) of the Internal Revenue Code of 1954 shall be determined as if the useful life of the film would have expired at the close of the first taxable year by the close of which the aggregate amount allowable as a deduction under section 167 of such Code would equal or exceed 90 percent of the basis of such property,

(B) for purposes of section 46(c)(1) of such Code, the basis of the property shall be determined by taking into account the total production costs (within the meaning of section 48(k)(5)(B) of such Code),

(C) for purposes of section 48(a)(2) of such Code, such film shall be considered to be used predominantly outside the United States in the first taxable year for which 50 percent or more of the gross revenues received or accrued during the taxable year from showing the film were received or accrued from showing the film outside the United States, and

(D) section 47(a)(7) of such Code shall apply.

(2) Election of 40-percent method.—

(A) In general.—A taxpayer may elect to have this paragraph apply to all qualified films placed in service during taxable years beginning before January 1, 1975 (other than films to which an election under subsection (e)(2) of this section applies).

(B) Effect of election.—If the taxpayer makes an election under this paragraph, then section 48(k) of the Internal Revenue Code of 1954 shall apply to all qualified films described in subparagraph (A) with the following modifications:

(i) subparagraph (B) of paragraph (4) shall not apply, but in determining qualified investment under section 46(c)(1) of such Code, there shall be used (in lieu of the basis of such property) an amount equal to 40 percent of the aggregate production costs (within the meaning of paragraph (5)(B) of such section 48(k)),

(ii) paragraph (2) shall be applied by substituting "100 percent" for "66⅔ percent", and

(iii) paragraph (3) and paragraph (5) (other than subparagraph (B)) shall not apply.

(C) Rules relating to elections.—An election under this paragraph shall be made not later than the day which is 6 months after the date of the enactment of this Act and shall be made in such manner as the Secretary of the Treasury or his delegate shall by regulations prescribe. Such an election may be revoked only with the consent of the Secretary of the Treasury or his delegate.

(D) The taxpayer must consent to join in certain proceedings.—No election may be made under this paragraph or subsection (e)(2) by any taxpayer unless he consents to join in any judicial proceeding for determining the person entitled to the credit under section 38 of the Internal Revenue Code of 1954 with respect to any film covered by such election.

(3) Election to have credit determined in accordance with previous litigation.—

(A) In general.—A taxpayer described in subparagraph (B) may elect to have this paragraph apply to all films (whether or not qualified) placed in service in taxable years beginning before January 1, 1975.

(B) Who may elect.—A taxpayer may make an election under this paragraph if any court of competent jurisdiction has made a final determination, before September 1, 1974, of such taxpayer's rights to the allowance of a credit against tax under section 38 of the Internal Revenue Code of 1954 for any taxable year beginning before January 1, 1975, with respect to any film.

(C) Effect of election.—If the taxpayer makes an election under this paragraph—

(i) paragraphs (1) and (2) of this subsection, subsection (d), and subsection (e)(2) shall not apply to any film placed in service by the taxpayer, and

(ii) subsection 48(k) of the Internal Revenue Code of 1954 shall not apply to any film placed in service by the taxpayer in any taxable year beginning before January 1, 1975,

and the right of the taxpayer to the allowance of a credit against tax under section 38 of such Code with respect to any film placed in service in any taxable year beginning before January 1, 1975, shall be determined as though this section (other than this paragraph) has not been enacted.

(D) Rules relating to elections.—An election under this paragraph shall be made not later than the day which is 6 months after the date of the enactment of this Act, and shall be made in such manner as the Secretary of the Treasury or his delegate may by regulations prescribe. Such an election, once made, shall be irrevocable.

(d) Certain Rules Made Applicable for Past Periods.—In the case of any motion picture film or video tape placed in service in any taxable year beginning before January 1, 1975—

(1) paragraph (1) of section 48(k) of the Internal Revenue Code of 1954 (relating to entitlement to credit) shall apply, and

(2) no credit carryover (to the extent attributable to qualified films) shall be allowed under section 46(b) of such Code to any taxable year beginning after December 31, 1974, or to any taxable year to which an election under subsection (e)(2) of this section applies.

Paragraph (2) shall not apply in the case of a taxpayer who has made an election under subsection (c)(2) and who has not made an election under subsection (e)(2).

(e) Effective Dates.—

(1) In general.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1974.

(2) Election may also apply to property describe in section 50(a).—At the election of the taxpayer, made within 1 year after the date of the enactment of this Act in such manner as the Secretary of the Treasury or his delegate may by regulations prescribe, the amendments made by subsections (a) and (b) shall also apply to property which is property described in section 50(a) of the Internal Revenue Code of 1954 and which is placed in service in taxable years beginning before January 1, 1975.

TITLE IX—CONTINUATION FOR TWO YEARS OF 1975 CHANGE IN CORPORATE TAX RATES AND INCREASE IN SURTAX EXEMPTION

Sec. 901. Continuation for Two Years of 1975 Change in Corporate Tax Rates and Increase in Surtax Exemption.

(a) Corporate Normal Tax.—Section 11 (b) (relating to corporate normal tax) is amended—

(1) by striking out "December 31, 1975" and inserting in lieu thereof "December 31, 1977", and

(2) by striking out "January 1, 1976" and inserting in lieu thereof "January 1, 1978".

(b) Surtax Exemption.—The second sentence of paragraph (1) of section 305(b) of the Tax Reduction Act of 1975 (which provides the effective date for the change in the surtax exemption) is amended by striking out "December 31, 1975" and inserting in lieu thereof "December 31, 1977".

TITLE X—CHANGES IN THE TREATMENT OF FOREIGN INCOME

PART I—AMENDMENTS PRIMARILY AFFECTING INDIVIDUALS

Sec. 1011. Income Earned Abroad by United States Citizens Living or Residing Abroad.

(a) Amendments of Section 911.—

(1) Disallowance of foreign tax credit with respect to excluded amounts.—The last sentence of subsection (a) of section 911 (relating to earned income from sources without the United States) is amended to read as follows:

"An individual shall not be allowed as a deduction from his gross income any deductions (other than those allowed by section 151, relating to personal exemptions), or as a credit against the tax imposed by this chapter any credit for the amount of taxes paid or accrued to a foreign country or possession of the United States, to the extent that such deductions or credit is properly allocable to or chargeable against amounts excluded from gross income under this subsection."

(2) Phaseout of earned income exclusion.—Section 911 (relating to earned income from sources without the United States) is amended by redesignating subsection (d) as subsection (f) and by inserting after subsection (c) the following new subsections:

"(d) Phaseout of Earned Income Exclusion.—In the case of a taxable year beginning after December 31, 1975, and before January 1, 1979, the limitation on the amounts excludable under subparagraph (A) or (B) of subsection (c)(1) shall be (in lieu of $20,000 or $25,000, as the case may be) the applicable amount specified in the following table:

"For a taxable year beginning in:	The amount under subsection (c)(1)(A) shall be:	The amount under subsection (c)(1)(B) shall be:
1976	$15,000	$18,750
1977	10,000	12,500
1978	5,000	6,250

"(e) Reduction for Exclusion Under Section 125.—The amount which, but for this subsection, would be excludable under this section for the taxable year shall be reduced by amounts excluded from gross income under section 125 for the taxable year.".

(3) Repeal of earned income exclusion.—Section 911 (relating to earned income from sources without the United States) is hereby repealed.

(4) Conforming amendments.—

(A) Section 7701(a) (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(36) Definition of earned income.—The term 'earned income' means wages, salaries, or professional fees, and other amounts received as compensation for personal services actually rendered, but does not include that part of the compensation derived by the taxpayer for personal services rendered by him to a corporation which represents a distribution of earnings or profits rather than a reasonable allowance as compensation for the personal services actually rendered. In the case of a taxpayer engaged in a trade or business in which both personal services and capital are material income-producing factors, under regulations prescribed by the Secretary, a reasonable allowance as compensation for the personal services rendered by the taxpayer, not in excess of 30 percent of his share of the net profits of such trade or business, shall be considered as earned income."

(B) Section 72(f) (relating to special rules for computing employees' contributions for annuities) is amended by striking out the last two sentences thereof.

(C) Paragraph (1) of section 141(e) (relating to limitations on the standard deduction in case of certain dependent taxpayers) is amended by striking out "(as defined in section 911(b))".

(D) Each of the following provisions is amended by striking out "earned income" each place it appears therein and inserting in lieu thereof "earned self-employment income":

(i) Subsection (c)(1) of section 219 (relating to retirement savings);

(ii) Subsections (c), (e)(3)(B), and (j) (5)(C)(i) of section 401 (relating to qualified pension, profit-sharing, and stock bonus plans);

(iii) Subsections (a)(8), (c)(B), and (e) of section 404 (relating to deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred-payment plan); and

(iv) Subsection (c)(2) of section 4972 (relating to tax on excess contributions for self-employed individuals).

(E) Section 403(b)(3) (relating to includible compensation in case of certain employee annuity contracts) is amended by striking out "sections 105(d), 125, and 911" and inserting in lieu thereof "sections 105 (d) and 125".

(F) Subsection (b)(2)(C) of section 410 (relating to minimum participation standards) is amended by striking out "(within the meaning of section 911(b))".

(G) Paragraph (3) of section 415(b), and paragraph (3) of section 415(c), are each amended by striking out "sections 125 and 911" and inserting in lieu thereof "section 125".

(H) Subparagraph (A)(i) of section 1302 (b)(2) (relating to definition of average base period income) is amended by striking out "relating to earned income from sources without the United States)" and inserting in lieu thereof "(as in effect before the enactment of the Tax Reform Act of 1975)".

(I) The second sentence of section 1303(c) (2) (relating to eligibility of individuals receiving support from others is amended by striking out "within the meaning of section 911(b))".

(J) Section 1304(b) relating to special provisions which are inapplicable) is amended by striking out paragraph (3) and by redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively.

(K) Paragraph (3) of section 1304(c) (relating to failure to make joint returns in the case of community income attributable to services) is amended by striking out "(within the meaning of section 911(b))".

(L) Paragraph (11) of section 1402(a) (relating to definition of net earnings from self-employment) is amended by striking out "sections 125(a)(2) and 911(a)(2)" and inserting in lieu thereof "section 125(a)(2)".

(M) Paragraph (8)(A) of section 3401(a) (relating to definition of wages) is amended to read as follows:

"(A) for services for an employer (other than the United States or any agency thereof) performed in a foreign country or in a possession of the United States by a citizen of the United States if, at the time of the payment of such remuneration, the employer is required by the law of any foreign country or possession of the United States to withhold income tax upon such remuneration; or".

(N) Section 6012(c) (relating to persons required to make returns of certain income earned abroad or from the sale of a residence) is amended—

(i) by striking out the comma following the first parenthetical phrase and inserting in lieu thereof "and", and

(ii) by striking out all that follows the second parenthetical phrase and inserting in lieu thereof a period.

(O) Subparagraph (B) (iii) of section 6091 (b) (1) (relating to place for filing returns of persons other than corporations) is amended by striking out "section 911 (relating to earned income from sources without the United States),".

(5) CLERICAL AMENDMENT.—Part III of subchapter N of chapter 1 is amended by striking out the heading and table of sections for subpart B.

(b) DEDUCTION FOR CERTAIN TUITION EXPENSES OF DEPENDENTS OF TAXPAYERS EMPLOYED OUTSIDE THE UNITED STATES.—

(1) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals), as amended by section 1502 of this Act, is further amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

"SEC. 221. CERTAIN TUITION EXPENSES OF DEPENDENTS OF TAXPAYERS EMPLOYED OUTSIDE THE UNITED STATES.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a deduction amounts paid during the taxable year for tuition for the education of a qualified dependent of the taxpayer as a full-time pupil or student at an educational institution located in a foreign country during any qualified foreign residence period.

"(b) LIMITATIONS.—

"(1) $100 PER MONTH.—Subsection (a) shall apply to amounts paid only to the extent that the tuition is at a rate which does not exceed $100 a month.

"(2) DEDUCTION CANNOT EXCEED EARNED INCOME.—The aggregate amount allowable as a deduction under this section for any taxable year shall not exceed the taxpayer's earned income for such year from sources without the United States.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED FOREIGN RESIDENCE PERIOD.—The term 'qualified foreign residence period' means any period of 12 months during which both the taxpayer and the dependent are present in a foreign country or countries for at least 330 full days.

"(2) QUALIFIED DEPENDENT.—The term 'qualified dependent' means an individual who is a dependent of the taxpayer for the taxable year in which ends the calendar year in which falls the month in question, but only if such individual has not attained the age of 19 before the first day after the close of the month in question.

"(3) EDUCATIONAL INSTITUTION.—The term 'educational institution' means an educational organization described in section 170 (b) (1) (A) (ii).

"(d) REDUCTION FOR EXCLUSION UNDER SECTION 911 OR 912.—The amount allowable as a deduction under this section shall be reduced by amounts excluded from gross income under section 911 or 912."

(2) REPEAL OF SECTION 221(d).—Subsection (d) of section 221, as added by paragraph (1), is hereby repealed.

(3) CLERICAL AMENDMENT.—The table of sections for such part VII is amended by striking out the item relating to section 221 and inserting in lieu thereof the following:

"Sec. 221. Certain tuition expenses of dependents of taxpayers employed outside the United States.
"Sec. 222. Cross references."

(c) CERTAIN EXCLUSIONS FROM GROSS INCOME ATTRIBUTABLE TO SERVICES PERFORMED ABROAD.—

(1) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 124 as section 126 and by inserting after section 123 the following new sections:

"SEC. 124. FACILITIES AND SERVICES PROVIDED ABROAD BY EMPLOYER.

"In the case of an individual, gross income does not include any item furnished by the employer of the taxpayer which (but for this section) would be includible in gross income if such item consists of a municipal-type service furnished in a foreign country on a basis which does not discriminate in favor of officers or highly compensated employees. For purposes of the preceding sentence—

"(1) the term 'service' includes the use of a facility, and

"(2) the term 'municipal-type service' includes services of the type furnished within the United States by school districts.

"SEC. 125. EARNED INCOME FROM SOURCES WITHOUT THE UNITED STATES OF EMPLOYEES OF CERTAIN TAX-EXEMPT ORGANIZATIONS.

"(a) GENERAL RULE.—

"(1) BONA FIDE RESIDENT OF FOREIGN COUNTRY.—In the case of an individual citizen of the United States who establishes to the satisfaction of the Secretary that he is a bona fide resident of a foreign country or countries for an uninterrupted period which include an entire taxable year, amounts received from sources without the United States which constitute earned income attributalbe to qualified services shall not be included in gross income and shall be exempt from taxation under this subtitle.

"(2) PRESENCE IN FOREIGN COUNTRY FOR 17 MONTHS.—In the case of an individual citizen of the United States who during any period of 18 consecutive months is present in a foreign country or countries during at least 510 full days in such period, amounts received from sources without the United States which constitute earned income attributable to qualified services performed during such 18-month period shall not be included in gross income and shall be exempt from taxation under this subtitle.

"(3) DENIAL OF DEDUCTIONS AND CREDIT.—An individual shall not be allowed as a deduction from his gross income any deductions (other than those allowed by section 151, relating to personal exemptions), or as a credit against the tax imposed by this chapter any credit for the amount of taxes paid or accrued to a foreign country or possession of the United States, to the extent that such deduction or credit is properly allocable to or chargeable against amounts excluded from gross income under this subsection.

"(b) DEFINITION OF QUALIFIED SERVICES.—For purposes of this section, the term 'qualified services' means services performed by an employee for an employer created or organized in the United States, or under the law of the United States, any State or the District of Columbia, that meets the requirements of section 501(c) (3).

"(c) SPECIAL RULES.—For purposes of computing the amount excludable under subsection (a), the following rules shall apply:

"(1) LIMITATIONS ON AMOUNT OF EXCLUSION.—The amount excluded from gross income of an individual under subsection (a) for any taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of $20,000.

"(2) ATTRIBUTION TO YEAR IN WHICH SERVICES ARE PERFORMED.—For purposes of applying paragraph (1), amounts received shall be considered received in the taxable year in which the services to which the amounts are attributable are performed.

"(3) REQUIREMENT AS TO TIME OF RECEIPT.—No amount received after the close of the taxable year following the taxable year in which the services to which the amounts are attributable are performed may be excluded under subsection (a).

"(4) CERTAIN AMOUNTS NOT EXCLUDABLE.—No amount—

"(A) received as a pension or annuity, or

"(B) included in gross income by reason of section 402(b) (relating to taxability of beneficiary of non-exempt trust) or section 403(c) (relating to taxability of beneficiary under a nonqualified annuity or under annuities purchased by exempt organizations),

may be excluded under subsection (a).

"(d) CROSS REFERENCES.—

"For administrative and penal provisions relating to the exclusion provided for in this section, see sections 6001, 6011, 6012(c), and the other provisions of subtitle F."

(2) CONFORMING AMENDMENTS.—

(A) Section 72(f) (relating to special rules for computing employees' contribution for annuities) is amended by inserting after paragraph (2) the following new sentence:

"Paragraph (2) shall not apply to amounts which were contributed by the employer and which would not have been includible in the gross income of the employee by reason of the application of section 125 if such amounts had been paid directly to the employee at the time of contribution."

(B) Section 402(b) (3) (relating to includible compensation in the case of certain employee annuity contracts) is amended by inserting ", 125," immediately after "sections 105(d)".

(C) Paragraph (3) of section 415(b) and paragraph (3) of section 415(c) are each amended by striking out "section 911" and inserting in lieu thereof "sections 125 and 911".

(D) Subparagraph (A) (i) of section 1302 (b) (2) (relating to definition of average base period income) is amended by inserting a comma outside the first parenthetical phrase and by inserting "section 125 (relating to earned income from sources without the United States of employees of certain tax-exempt organizations)," immediately before "section 911".

(E) Section 1304(b) (relating to special provisions which are inapplicable) is amended by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (3), (4), (5), and (6), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) section 125 (relating to earned income from sources without the United States of employees of certain tax-exempt organizations),".

(F) Paragraph (11) of section 1402(a) (relating to definition of net earnings from self-employment) is amended by striking out "section 911(a) (2)" and inserting in lieu thereof "sections 125(a) (2) and 911(a) (2)".

(G) Paragraph (8) (A) of section 3401(a) (relating to definition of wages) is amended by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by inserting after subparagraph (A) the following new subparagraph:

"(B) For services for an employer performed by a qualified employee (within the meaning of section 125(b)) if, at the time of the payment of such remuneration, it is reasonable to believe that such remuneration will be excluded from gross income under section 125; or".

(H) Section 6012(c) (relating to persons required to make returns of certain income earned abroad or from the sale of a residence) is amended by inserting ", without regard to the exclusion provided for in section 125 (relating to earned income from sources without the United States of employees of certain tax-exempt organizations)," immediately before "and without regard".

(I) Subparagraph (B)(iii) of section 6091 (b)(1) (relating to place for filing returns of persons other than corporations) is amended by inserting "section 125 (relating to earned income from sources without the United States of employees of certain tax-exempt organizations)," immediately before "section 911".

(2) CLERICAL AMENDMENT.—The table of sections for such part III is amended by striking out the item relating to section 124 and inserting in lieu thereof the following:

"Sec. 124. Facilities and services provided abroad by employer.
"Sec. 125. Earned income from sources without the United States of employees of certain tax-exempt organizations.
"Sec. 126. Cross references to other Acts."

(d) ALLOWANCE OF FOREIGN TAX CREDIT TO INDIVIDUALS TAKING STANDARD DEDUCTION.—Subsection (a) of section 36 (relating to credits not allowed to individuals paying optional tax or taking standard deductions) is amended by striking out "sections 32, and 33, and" and inserting in lieu thereof "sections 32 and".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2), (3), and (4), the amendments made by this section shall apply to taxable years beginning after December 31, 1975.

(2) EXCEPTION FOR CERTAIN AMOUNTS ATTRIBUTABLE TO SERVICES PERFORMED BEFORE JANUARY 1, 1963.—The amendments made by subsection (a) shall not apply to amounts which are attributable to services performed on or before December 31, 1962, where there existed on March 12, 1962, a right (whether forfeitable or nonforfeitable) to receive such amounts.

(3) EXCEPTION TO THE LIMITATION ON EXCLUDABLE AMOUNTS WITH RESPECT TO CERTAIN FOREIGN CONSTRUCTION SERVICES.—In the case of the employment of an individual on a construction project for the erection or installation of a permanent facility (other than an oil or gas well) in a foreign country by a contractor or a subcontractor who is unrelated to the person for whom the facility is being erected or installed, in lieu of the limitations in section 911(d) of the Internal Revenue Code of 1954, as amended by subsection (a)(2), the limitations for taxable years beginning in 1976, 1977, and 1978 shall be $20,000. The amount excludable under section 911(a) of the Internal Revenue Code of 1954 (applied without regard to this paragraph) shall be reduced by amounts excluded from gross income under such section as applied by this paragraph.

(4) REPEALS.—The amendments made by paragraph (3) of subsection (a), by paragraph (4) of subsection (a) (other than the amendment made by subparagraph (A) of paragraph (4)), by paragraph (5) of subsection (a), and by paragraph (2) of subsection (b) shall apply to taxable years beginning after December 31, 1978.

SEC. 1012. INCOME TAX TREATMENT OF NONRESIDENT ALIEN INDIVIDUALS WHO ARE MARRIED TO CITIZENS OR RESIDENTS OF THE UNITED STATES

(a) ELECTION TO BE TREATED AS RESIDENTS OF THE UNITED STATES.—

(1) IN GENERAL.—Section 6013 (relating to joint returns of income tax by husband and wife) is amended by adding at the end thereof the following new subsections:

"(g) ELECTION TO TREAT NONRESIDENT INDIVIDUAL AS RESIDENT OF THE UNITED STATES.—

"(1) IN GENERAL.—A nonresident alien individual with respect to whom this subsection is in effect for the taxable year shall be treated as a resident of the United States for purposes of chapter 1 for all of such taxable year.

"(2) INDIVIDUALS WITH RESPECT TO WHOM THIS SUBSECTION IS IN EFFECT.—This subsection shall be in effect with respect to any individual who, at the time an election was made under this subsection, was a nonresident alien individual married to a citizen or resident of the United States, if both of them made such election to have the benefits of this subsection apply to them.

"(3) DURATION OF ELECTION.—An election under this subsection shall apply to the taxable year for which made and to all subsequent taxable years until terminated under paragraph (4) or (5); except that any such election shall not apply for any taxable year if neither spouse is a citizen or resident of the United States at any time during such year.

"(4) TERMINATION OF ELECTION.—An election under this subsection shall terminate at the earliest of the following times:

"(A) REVOCATION BY TAXPAYERS.—If either taxpayer revokes the election, as of the first taxable year for which the last day prescribed by law for filing the return of tax under chapter 1 has not yet occurred.

"(B) DEATH.—In the case of the death of either spouse, as of the beginning of the first taxable year of the spouse who survives following the taxable year in which such death occurred; except that if the spouse who survives is a citizen or resident of the United States who is a surviving spouse entitled to the benefits of section 2, the time provided by this subparagraph shall be as of the close of the last taxable year for which such individual is entitled to the benefits of section 2.

"(C) LEGAL SEPARATION.—In the case of the legal separation of the couple under a decree of divorce or of separate maintenance, as of the beginning of the taxable year in which such legal separation occurs.

"(D) TERMINATION BY SECRETARY.—At the time provided in paragraph (5).

"(5) TERMINATION BY SECRETARY.—The Secretary may terminate any election under this subsection for any taxable year if he determines that either spouse has failed—

"(A) to keep such books and records,

"(B) to grant such access to such books and records, or

"(C) to supply such other information, as may be reasonably necessary to ascertain the amount of liability for taxes under chapter 1 of either spouse for such taxable year.

"(6) ONLY ONE ELECTION.—If any election under this subsection for any two individuals is terminated under paragraph (4) or (5) for any taxable year, such two individuals shall be ineligible to make an election under this subsection for any subsequent taxable year.

"(h) JOINT RETURN, ETC., FOR YEAR IN WHICH NONRESIDENT ALIEN BECOMES RESIDENT OF UNITED STATES.—

"(1) IN GENERAL.—If—

"(A) any individual is a nonresident alien individual at the beginning of any taxable year but is a resident of the United States at the close of such year,

"(B) at the close of such taxable year, such individual is married to a citizen or resident of the United States, and

"(C) both individuals elect the benefits of this subsection at the time and in the manner prescribed by the Secretary by regulation, then the individual referred to in subparagraph (A) shall be treated as a resident of the United States for purposes of chapter 1 for all of such taxable year.

"(2) ONLY ONE ELECTION.—If any election under this subsection applies for any 2 individuals for any taxable year, such 2 individuals shall be ineligible to make an election under this subsection for any subsequent taxable year."

(2) CLERICAL AMENDMENT.—Section 871(g) (relating to cross references) is amended by adding at the end thereof the following new paragraph:

"(6) For election to treat married nonresident alien individual as resident of United States in certain cases, see subsections (g) and (h) of section 6013."

(b) TAX TREATMENT OF CERTAIN COMMUNITY INCOME IN THE CASE OF A RESIDENT OR CITIZEN OF THE UNITED STATES WHO IS MARRIED TO A NONRESIDENT ALIEN INDIVIDUAL.—

(1) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 (relating to nonresident alien individuals) is amended by adding at the end thereof the following new section:

"SEC. 879. TAX TREATMENT OF CERTAIN COMMUNITY INCOME IN THE CASE OF A RESIDENT OR CITIZEN OF THE UNITED STATES WHO IS MARRIED TO A NONRESIDENT ALIEN INDIVIDUAL.

"(a) GENERAL RULE.—In the case of a citizen or resident of the United States who is married to a nonresident alien individual and who has community income for the taxable year, such community income shall be treated as follows:

"(1) Earned income, other than trade or business income and a partner's distributive share of partnership income, shall be treated as the income of the spouse who rendered the personal services.

"(2) Trade or business income, and a partner's distributive share of partnership income, shall be treated as provided in section 1402(a)(5).

"(3) Community income not described in paragraph (1) or (2) which is derived from the separate property (as determined under the applicable community property law) of one spouse shall be treated as the income of such spouse, and

"(4) All other such community income shall be treated as provided in the applicable community property law.

"(b) EXCEPTION WHERE ELECTION UNDER SECTION 6013(g) IS IN EFFECT.—Subsection (a) shall not apply for any taxable year for which an election under subsection (g) or (h) of section 6013 (relating to election to treat nonresident alien individual as resident of the United States) is in effect.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) COMMUNITY INCOME.—The term 'community income' means income which, under applicable community property laws, is treated as community income.

"(2) COMMUNITY PROPERTY LAWS.—The term 'community property laws' means the community property laws of a State, a foreign country, or a possession of the United States.

"(3) DETERMINATION OF MARTIAL STATUS.—The determination of martial status shall be made under section 153."

(2) REPEAL OF SECTION 981.—Subpart H of part III of subchapter N of chapter 1 (relating to election as to treatment of income subject to foreign community property laws) is hereby repealed.

(3) CLERICAL AMENDMENTS.—

(A) The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 879. Tax treatment of certain community income in the case of a resident or citizen of the United States who is married to a nonresident alien individual."

(B) The table of subparts for part III of subchapter N of chapter 1 is amended by striking out the item relating to subpart G.

(c) EFFECTIVE DATES.—The amendments made by subsection (a) shall apply to taxable years ending on or after December 31, 1975. The amendments made by subsection 1 (b) shall apply to taxable years beginning after December 31, 1975.

SEC. 1013. FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES TO BE TAXED CURRENTLY TO GRANTOR.

(a) TAXATION OF INCOME TO GRANTOR OF TRUST.—Subpart E of part I of subchapter J of chapter 1 (relating to grantors and others treated as substantial owners) is amended by adding at the end thereof the following new section:

"SEC. 679. FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

"(a) TRANSFEROR TREATED AS OWNER.—

"(1) IN GENERAL.—A United States person who directly or indirectly transfers property to a foreign trust shall be treated as the owner for his taxable year of the portion of such trust attributable of such property if for such year there is a United States beneficiary or any portion of such trust.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply—

"(A) TRANSFERS BY REASON OF DEATH.—To any transfer by reason of the death of the transferor.

"(B) TRANSFERS WHERE GAIN IS RECOGNIZED TO TRANSFEROR.—To any sale or exchange of the property at its fair market value in a transaction in which all of the gain to the transferor is realized at the time of the transfer and is recognized either at such time or is returned as provided in section 453.

"(b) TRUSTS ACQUIRING UNITED STATES BENEFICIARIES.—If—

"(1) subsection (a) applies to a trust for the transferor's taxable year, and

"(2) subsection (a) would have applied to the trust for his immediately preceding taxable year but for the fact that for such preceding taxable year there was no United States beneficiary for any portion of the trust,

then, for purposes of this subtitle, the transferor shall be treated as having income for the taxable year (in addition to his other income for such year) equal to the undistributed net income (at the close of such immediately preceding taxable year) attributable to the portion of the trust referred to in subsection (a).

"(c) TRUSTS TREATED AS HAVING A UNITED STATES BENEFICIARY.—

"(1) IN GENERAL.—For purposes of this section, a trust shall be treated as having a United States beneficiary for the taxable year unless—

"(A) under the terms of the trust, no part of the income or corpus of the trust may be paid or accumulated during the taxable year to or for the benefit of a United States person, and

"(B) if the trust were terminated at any time during the taxable year, no part of the income or corpus of such trust could be paid to or for the benefit of a United States person.

"(2) ATTRIBUTION OF OWNERSHIP.—For purposes of paragraph (1), an amount shall be treated as paid or accumulated to or for the benefit of a United States person if such amount is paid to or accumulated for a foreign corporation, foreign partnership, or foreign trust or estate, and—

"(A) in the case of a foreign corporation, more than 50 percent of the total combined voting power of all classes of stock entitled to vote if such corporation is owned (within the meaning of section 958(a)) or is considered to be owned (within the meaning of section 958(b)) by United States shareholders (as defined in section 951(b)),

"(B) in the case of a foreign partnership, a United States person is a partner of such partnership, or

"(C) in the case of a foreign trust or estate, such trust or estate has a United States beneficiary (within the meaning of paragraph (1))."

(b) GRANTOR TO BE TREATED AS OWNER.—Subsection (b) of section 678 (relating to persons other than grantors treated as substantial owners) is amended by striking out everything after "modified," and inserting in lieu thereof "if the grantor of the trust or a transferor (to whom section 679 applies) is otherwise treated as the owner under the provisions of this subpart other than this section."

(c) TREATMENT OF CAPITAL GAINS AND LOSSES OF CERTAIN FOREIGN TRUSTS.—

(1) FOREIGN TRUSTS CREATED BY UNITED STATES PERSONS TREATED LIKE OTHER FOREIGN TRUSTS.—Subparagraph (C) of section 643 (a)(6) (relating to distributable net income in case of foreign trusts) is amended by striking out "foreign trust created by a United States person" and inserting in lieu thereof "foreign trust".

(2) TRANSITIONAL RULE FOR FOREIGN TRUSTS.—Section 643(a)(6) is amended by adding at the end thereof the following new subparagraph·

"(D) Effective for distributions in taxable years ending after December 31, 1975, the undistributed net income of each foreign trust for each taxable year ending on or before December 31, 1975, remaining undistributed at the close of the last taxable year ending on or before December 31, 1975, shall be redetermined by taking into account the deduction allowed by section 1202."

(d) RETURNS FOR FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.—

(1) Section 6048 (relating to returns as to creation of or transfers to certain foreign trusts) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) ANNUAL RETURNS FOR FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.—Each taxpayer subject to tax under section 679 (relating to foreign trusts having one or more United States beneficiaries) for his taxable year with respect to any trust shall make a return with respect to such trust for such year at such time and in such manner, and setting forth such information, as the Secretary may by regulations prescribe."

(2) Section 6677(a) (relating to failure to file information returns with respect to certain foreign trusts) is amended by striking out "to a trust" and inserting in lieu thereof "to a trust (or, in the case of a failure with respect to section 6048(c), equal to 5 percent of the value of the corpus of the trust at the close of the taxable year)".

(e) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart E of part I of subchapter J of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 679. Foreign trusts having one or more United States beneficiaries."

(2) Subsection (d) of section 643 is hereby repealed.

(3) Subsection (d) of section 6048 (as redesignated by subsection (c)) is amended to read as follows:

"(d) CROSS REFERENCE.—

"For provisions relating to penalties for violation of this section, see sections 6677 and 7203."

(4) The heading of section 6048 is amended to read as follows:

SEC. 6048. RETURNS AS TO CERTAIN FOREIGN TRUSTS."

(5) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking out the item relating to section 6048 and inserting in lieu thereof the following:

"Sec. 6048. Returns as to certain foreign trusts."

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section (other than subsection (c)) shall apply to taxable years ending after December 31, 1975, but only in the case of—

(A) foreign trusts created after May 21, 1974, and

(B) transfers of property to foreign trusts after May 21, 1974.

(2) CHANGES IN CAPITAL GAIN RULES FOR FOREIGN TRUSTS.—The amendments made by subsection (c) shall apply to taxable years ending after December 31, 1975.

SEC. 1014. INTEREST CHARGE ON ACCUMULATIONS DISTRIBUTIONS FROM FOREIGN TRUSTS.

(a) TAX TO INCLUDE SPECIAL INTEREST CHARGE.—Section 667(a) (as amended by section 701 of this Act) is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(3) in the case of a foreign trust, the interest charge determined as provided in section 668."

(b) COMPUTATION OF SPECIAL INTEREST CHARGE.—Section 668 is amended to read as follows:

"SEC. 668. INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS FROM FOREIGN TRUSTS.

"(a) GENERAL RULE.—For purposes of the tax determined under section 667(a), the interest charge is an amount equal to 6 percent of the partial tax computed under section 667(b) multiplied by a fraction—

"(1) the numerator of which is the sum of the number of taxable years between each taxable year to which the distribution is allocated under section 666(a) and the taxable year of the distribution (counting in each case the taxable year to which the distribution is allocated but not counting the taxable year of the distribution) and

"(2) the denominator of which is the number of taxable years to which the distribution is allocated under section 666(a).

"(b) LIMITATION.—The total amount of the interest charge shall not, when added to the total partial tax computed under section 667(b), exceed the amount of the accumulation distribution (other than the amount of tax deemed distributed by section 666 (b) or (c)) in respect of which such partial tax was determined.

"(c) SPECIAL RULES.—

"(1) INTEREST CHARGE NOT DEDUCTIBLE.—The interest charge determined under this section shall not be allowed as a deduction for purposes of any tax imposed by this title.

"(2) TRANSITIONAL RULE.—For purposes of this section, undistributed net income existing in a trust as of January 1, 1976, shall be treated as allocated under section 666(a) to the first taxable year beginning after December 31, 1975."

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part I of subchapter J of chapter 1 is amended by striking out the item relating to section 668 and inserting in lieu thereof the following new item:

"Sec. 668. Interest charge on accumulation distributions from foreign trusts."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1975.

SEC. 1015. EXCISE TAX ON TRANSFERS OF PROPERTY TO FOREIGN PERSONS TO AVOID FEDERAL INCOME TAX.

(a) AMENDMENT OF SECTION 1491.—Section 1491 (relating to imposition of tax) is amended to read as follows:

"SEC. 1491. IMPOSITION OF TAX.

"There is hereby imposed on the transfer of property by a citizen or resident of the United States, or by a domestic corporation or partnership, or by a trust which is not a foreign trust, to a foreign corporation as paid-in surplus or as a contribution to capital, or to a foreign trust, or to a foreign partnership, an excise tax equal to 35 percent of the excess of—

"(1) the value of the property so transferred, over

"(2) the sum of—

"(A) the adjusted basis (for determining gain) of such property in the hands of the transferor, plus

"(B) the amount of the gain recognized to the transferor at the time of the transfer."

(b) AMENDMENT OF SECTION 1492.—Paragraph (3) of section 1492 (relating to nontaxable transfers) is amended by striking out "section 367(d)" and inserting in lieu thereof "section 367".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of property after October 2, 1975.

PART II—AMENDMENTS AFFECTING TAX TREATMENT OF CONTROLLED FOREIGN CORPORATIONS AND THEIR SHAREHOLDERS

SEC. 1021. AMENDMENT OF PROVISION RELATING TO INVESTMENT IN UNITED STATES PROPERTY BY CONTROLLED FOREIGN CORPORATIONS

(a) DEFINITION OF UNITED STATES PROPERTY.—Section 956(b) (defining United States property) is amended to read as follows:

"(b) UNITED STATES PROPERTY DEFINED.—

"(1) IN GENERAL.—For purposes of subsection (a), the term 'United States property' means any property acquired after December 31, 1962, which is—

"(A) stock of a domestic corporation which is a United States shareholder of the controlled foreign corporation;

"(B) an obligation of a United States shareholder of the controlled foreign corporation; or

"(C) tangible property which is leased to, or used by, a United States shareholder of the controlled foreign corporation.

"(2) EXCEPTIONS.—For purposes of subsection (a), the term 'United States property' does not include—

"(A) deposits with persons carrying on the banking business;

"(B) any obligation of a United States shareholder arising in connection with the sale or processing of property—

"(i) if the amount of such obligation outstanding at no time during the taxable year exceeds the amount which would be ordinary and necessary to carry on the trade or business of both the other party to the sale or processing transaction and the United States shareholder had the sale or processing transaction been made between unrelated persons, and

"(ii) if such obligation does not have a maturity in excess of 12 months or has not been, at any time during the taxable year, outstanding for a period in excess of 12 months; and

"(C) an amount of the assets of the controlled foreign corporation equal to the earnings and profits accumulated after December 31, 1962, and attributable to items of income described in section 952(b)."

(b) CONSTRUCTIVE OWNERSHIP OF STOCK.—Section 958(b) (relating to rules for determining stock ownership) is amended—

(1) by striking out "954(d)(3)," the first place it appears and inserting in lieu thereof "954(d)(3), 956(b)(1),";

(2) by striking out "951(b)" the second place it appears and inserting in lieu thereof "951(b) or 956(b)(1)", and

(3) by adding at the end thereof the following new sentence:

"Paragraph (4) shall not apply for purposes of section 956(b)(1), and section 318(a)(3) shall not be aplied for purposes of section 956(b)(1) to treat a domestic corporation as a United States shareholder of a controlled foreign corporation if all of the stock of the domestic corporation is owned directly by the controlled foreign corporation and no significant part of the assets of the domestic corporation consists of United States property (within the meaning of section 956(b)(1))."

(c) TECHNICAL AMENDMENT.—Section 956(c) (relating to pledges and guarantees) is amended by striking out "United States person" and inserting in lieu thereof "United States shareholder".

(d) EFFECTIVE DATE.—

(1) The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1974, and to taxable years of United States shareholders (within the meaning of section 951(b) of the Internal Revenue Code of 1954) within which or with which such taxable years of such foreign corporations end. In determining for purposes of any taxable year referred to in the preceding sentence the amount referred to in section 956(a)(2)(A) of the Internal Revenue Code of 1954 for the last taxable year of a corporation beginning before January 1, 1975, the amendments made by this section shall be deemed also to apply to such last taxable year.

(2) At the election of the taxpayer (made within one year after the date of the enactment of this Act and in such manner as the Secretary of the Treasury or his delegate precribes), the amendments made by this section shall apply to taxable years of foreign corporations beginning before January 1, 1975, and to taxable years of the taxpayer within which or with which such taxable years of such foreign corporations end to the extent that such amendments if applicable to such periods would exclude from the definition of "United States property" investments made after the effective date of section 638 of the Internal Revenue Code of 1954 (added by section 505(a) of the Tax Reform Act of 1969, relating to Continental Shelf areas) in property situated on, or used exclusively in connection with, the Outer Continental Shelf (as defined in the Outer Continental Shelf Lands Act) or in stock or obligations of a domestic corporation substantially all of the assets of which consist of such property. No such election by a taxpayer shall be effective with respect to a foreign corporation unless the election is made by every person who has at any time been a United States shareholder (within the meaning of section 951(b) of the Internal Revenue Code of 1954) of such foreign corporation.

(3) If the assessment of any deficiency in income tax resulting from the filing of an election under paragraph (2), for a taxable year ending before the date of such filing is prevented before the expiration of one year after the date of such filing by any law or rule of law, such deficiency (to the extent attributable to such election) may be assessed at any time before the expiration of such one-year period notwithstanding any law or rule of law which would otherwise prevent such assessment.

SEC. 1022. REPEAL OF EXCLUSION FOR EARNINGS OF LESS DEVELOPED COUNTRY CORPORATIONS FOR PURPOSES OF SECTION 1248.

(a) AMENDMENT OF SECTION 1248(d).—Paragraph (3) of section 1248(d) (relating to exclusion from earnings and profits of gain from certain sales or exchanges of stock in certain foreign corporations) is amended to read as follows:

"(3) LESS DEVELOPED COUNTRY CORPORATIONS UNDER PRIOR LAW.—Earnings and profits of a foreign corporation which were accumulated during any taxable year beginning before January 1, 1976, while such corporation was a less developed country corporation under section 902(d) as in effect before the enactment of the Tax Reduction Act of 1975."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1975.

SEC. 1023. EXCLUSION FROM SUBPART F OF CERTAIN EARNINGS OF INSURANCE COMPANIES.

(a) IN GENERAL.—Paragraph (3) of section 954(c) (relating to foreign personal holding company income) is amended by striking out the word "or" at the end of subparagraph (A), the period at the end of subparagraph (B), and inserting in lieu thereof a comma, and by adding at the end thereof the following:

"(C) dividends, interest, and gains from the sale or exchange of stock or securities received from a person other than a related person (within the meaning of subsection (d)(3)) derived from investments made by an insurance company of an amount of its assets equal to one-third of its premiums earned on insurance contracts (other than life insurance and annuity contracts) during the taxable year (as defined in section 832(b)(4)) which are not directly or indirectly attributable to the insurance or reinsurance of risks of persons who are related persons (within the meaning of subsection (d)(3))."

(b) EFFECTIVE DATE.—The amendment made by this section should apply to taxable years of foreign corporations beginning after December 31, 1975, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

SEC. 1024. SHIPPING PROFITS OF FOREIGN CORPORATIONS.

(a) FOREIGN BASE COMPANY SHIPPING INCOME DEFINED.—Subsection (f) of section 954 (relating to the definition of foreign base company shipping income) is amended by striking "foreign commerce" and inserting in lieu thereof: "foreign commerce other than between two points within the country in which the vessel is incorporated and registered."

(b) CERTAIN UNSECURED LIABILITIES.—Paragraph (4) of section 955(b) (relating to amounts attributable to qualified investments in foreign base company shipping operations) is amended by adding at the end thereof the following new sentence: "In applying this paragraph, if substantially all of the property of a corporation consists of qualified investments in foreign base company shipping operations, the property shall be considered subject to any unsecured liability of such corporation which is evidenced by a written obligation."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1975, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

SEC. 1025. LIMITATION ON DEFINITION OF FOREIGN BASE COMPANY SALES INCOME IN THE CASE OF CERTAIN AGRICULTURAL PRODUCTS

(a) IN GENERAL.—The last sentence of paragraph (1) of section 954(d) (relating to definition of foreign base company sales income) is amended to read as follows:

"For purposes of this subsection, personal property does not include agricultural commodities which are significantly different in grade or type from and are determined by Secretary of the Treasury after consultation with the Secretary of Agriculture not to be readily substitutable for (taking into account consumer preferences) agricultural products grown in the United States in commercially marketable quantities."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of foreign corporations beginning after

December 31, 1975, and to taxable years of United States shareholders (within the meaning of section 951(b) of the Internal Revenue Code of 1954) within which or with which such taxable years of such foreign corporation end.

PART III—AMENDMENTS AFFECTING TREATMENT OF FOREIGN TAXES

SEC. 1031. REQUIREMENT THAT FOREIGN TAX CREDIT BE DETERMINED ON OVERALL BASIS.

(a) OVERALL LIMITATION ON FOREIGN TAX CREDIT.—Section 904 (relating to limitation on foreign tax credit) is amended to read as follows:

"SEC. 904. LIMITATION ON CREDIT.

"(a) LIMITATION.—The total amount of the credit taken under section 901(a) shall not exceed the same proportion of the tax against which such credit is taken which the taxpayer's taxable income from sources without the United States (but not in excess of the taxpayer's entire taxable income) bears to his entire taxable income for the same taxable year.

"(b) TAXABLE INCOME FOR PURPOSE OF COMPUTING LIMITATION.—For purposes of subsection (a), the taxable income in the case of an individual, estate, or trust shall be computed without any deduction for personal exemptions under section 151 or 642(b).

"(c) CARRYBACK AND CARRYOVER OF EXCESS TAX PAID.—Any amount by which all such taxes paid or accrued to foreign countries or possessions of the United States for any taxable year for which the taxpayer chooses to have the benefits of this subpart exceed the limitation under subsection (a) shall be deemed taxes paid or accrued to foreign countries or possessions of the United States in the second preceding taxable year, in the first preceding taxable year, and in the first, second, third, fourth, or fifth succeeding taxable years, in that order and to the extent not deemed taxes paid or accrued in a prior taxable year, in the amount by which the limitation under subsection (a) for such preceding or succeeding taxable year exceeds the sum of the taxes paid or accrued to foreign countries or possessions of the United States for such preceding or succeeding taxable year and the amount of the taxes for any taxable year earlier than the current taxable year which shall be deemed to have been paid or accrued in such preceding or subsequent taxable year (whether or not the taxpayer chooses to have the benefits of this subpart with respect to such earlier taxable year). Such amount deemed paid or accrued in any year may be availed of only as a tax credit and not as a deduction and only if the taxpayer for such year chooses to have the benefits of this subpart as to taxes paid or accrued for that year to foreign countries or possessions of the United States.

"(d) APPLICATION OF SECTION IN CASE OF CERTAIN INTEREST INCOME AND DIVIDENDS FROM A DISC OR FORMER DISC.—

"(1) IN GENERAL.—The provisions of subsections (a), (b), and (c) shall be applied separately with respect to each of the following items of income:

"(A) the interest income described in paragraph (2),

"(B) dividends from a DISC or former DISC (as defined in section 992(a)) to the extent such dividends are treated as income from sources without the United States, and

"(C) income other than the interest income described in paragraph (2) and dividends described in subparagraph (B).

"(2) INTEREST INCOME TO WHICH APPLICABLE.—For purposes of this subsection, the interest income described in this paragraph is interest other than interest—

"(A) derived from any transaction which is directly related to the active conduct by the taxpayer of a trade or business in a foreign country or a possession of the United States,

"(B) derived in the conduct by the taxpayer of a banking, financing, or similar business,

"(C) received from a corporation in which the taxpayer (or one or more includible corporations in an affiliated group, as defined in section 1504, of which the taxpayer is a member) owns, directly or indirectly, at least 10 percent of the voting stock, or

"(D) received on obligations acquired as a result of the disposition of a trade or business actively conducted by the taxpayer in a foreign country or possession of the United States or as a result of the disposition of stock or obligations of a corporation in which the taxpayer owned at least 10 percent of the voting stock.

For purposes of subparagraph (C), stock owned, directly or indirectly, by or for a foreign corporation, shall be considered as being proportionately owned by its shareholders.

"(e) TRANSITIONAL RULES FOR CARRYBACKS AND CARRYOVERS FOR TAXPAYERS ON THE PER-COUNTRY LIMITATION.—

"(1) APPLICATION OF SUBSECTION.—This subsection shall apply only to a taxpayer who is on the per-country limitation for his last taxable year ending before January 1, 1976.

"(2) CARRYOVERS TO YEARS ENDING AFTER DECEMBER 1, 1975.—In the case of any taxpayer to whom this subsection applies, any carryover from a taxable year ending before January 1, 1976, may be used in taxable years ending after December 31, 1975, to the extent provided in subsection (c), but only to the extent such carryover could have been used in such succeeding taxable years if the per-country limitation continued to apply to all taxable years ending after December 31, 1975.

"(3) CARRYBACKS TO YEARS ENDING BEFORE JANUARY 1, 1976.—In the case of any taxpayer to whom this subsection applies, any carryback from a taxable year ending after December 31, 1975, may be used in taxable years ending before January 1, 1976, to the extent provided in subsection (c), but only to the extent such carryback could have been used in such preceding taxable year if the per-country limitation continued to apply to all taxable years ending after December 31, 1975.

"(4) APPLICATION OF LIMITATIONS.—For purposes of this subsection—

"(A) the overall limitation shall be applied before the per-country limitation, and

"(B) where the amount of any carryback or carryover is reduced by the overall limitation, the reduction shall be allocated to the amounts carried from each country or possession in proportion to the taxes paid or accrued to such country or possession in the taxable year from which such amount is being carried.

"(f) CROSS REFERENCE.—

"For increase of limitation under subsection (a) for taxes paid with respect to amounts received which were included in the gross income of the taxpayer for a prior taxable year as a United States shareholder with respect to a controlled foreign corporation, see section 960(b)."

(b) CONFORMING AMENDMENTS.—

(1) Sections 901(a), 901(b), and 960(b) are amended by striking out "applicable limitation" each place it appears and inserting in lieu thereof "limitation".

(2) Subparagraph (B) of section 243(b) (3) is amended to read as follows:

"(B) the members of such affiliated group shall be treated as one taxpayer for purposes of making the election under section 901(a) relating to allowance of foreign tax credit), and".

(3) Paragraph (3) of section 1351(d) is amended to read as follows:

"(3) FOREIGN TAXES.—For purposes of this subsection, any choice made under subpart A of part III of subchapter N (relating to foreign tax credit) for any taxable year may be changed."

(4) Section 1503(b)(1) is amended by striking out ", and if for the taxable year an election under section 904(b)(1) (relating to election of overall limitation on foreign tax credit) is in effect".

(5) Sections 383, 6038(b)(1)(A), and 6501 (i) are amended by striking out "section 904(d)" each place it appears therein and inserting in lieu thereof "section 904(c)".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to taxable years ending after December 31, 1975.

(2) EXCEPTION FOR CERTAIN MINING OPERATIONS.—In the case of a domestic corporation or includible corporation in an affiliated group (as defined in section 1504 of the Internal Revenue Code of 1954) which has as of October 1, 1975—

(A) been engaged in the active conduct of the trade or business of the extraction of minerals (of a character with respect to which a deduction for depletion is allowable under section 613 of such Code) outside the United States or its possessions for less than 5 years preceding the date of enactment of this Act,

(B) had deductions properly apportioned or allocated to its gross income from such trade or business in excess of such gross income in at least 2 taxable years,

(C) 80 percent of its gross receipts are from the sale of such minerals, and

(D) made commitments for substantial expansion of such mineral extraction activities,

the provisions of this section shall apply to taxable years ending after December 31, 1978. In taxable years ending before January 1, 1979, the provisions of section 904(f) of such Code shall be applied to any corporation to which this paragraph applies under the principles of section 904(a)(1) of such Code as in effect prior to the Tax Reduction Act of 1975. In the case of any taxable year ending after December 31, 1978, to the extent that any loss has not been treated as income from sources within the United States under section 904(f) of such Code by application of this paragraph, such loss shall be treated as an overall foreign loss for purposes of section 904(f)(2) of such Code.

(3) EXCEPTION FOR POSSESSIONS SOURCE INCOME.—The amendments made by this section shall not apply to gross income from sources within a possession of the United States (and the deductions properly apportioned or allocated thereto).

SEC. 1032. RECAPTURE OF FOREIGN LOSSES.

(a) IN GENERAL.—Section 904 (as amended by section 1031 of this Act) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection.

"(f) RECAPTURE OF OVERALL FOREIGN LOSS.—

"(1) GENERAL RULE.—For purposes of this subpart and section 936, in the case of any taxpayer who sustains an overall foreign loss for any taxable year—

"(A) that portion of the taxpayer's taxable income from sources without the United States for each succeeding taxable year which is equal to the lesser of—

"(i) the amount of such loss (to the extent not used under this paragraph in prior taxable years), or

"(ii) 50 percent of the taxpayer's taxable income from sources without the United States for such succeeding taxable year,

shall be treated as income from sources within the United States (and not as income from sources without the United States), and

"(B) the amount of the income, war profits, and excess profits taxes paid or accrued (or deemed to have been paid) to foreign countries or possessions of the United States for such succeeding taxable year with respect to the taxpayer's taxable income from sources without the United States shall be reduced by an amount which bears the same proportion to the total amount of such foreign taxes as the amount treated as income from sources within the United States under subparagraph (A) bears to the taxpayer's entire taxable income from sources without the United States for such succeeding taxable year.

For purposes of this chapter, the amount of any foreign taxes for which credit is denied under subparagraph (B) of the preceding sentence shall not be allowed as a deduction for any taxable year. For purposes of this subsection, taxable income from sources without the United States shall be determined without regard to this subsection.

"(2) OVERALL FOREIGN LOSS DEFINED.—For purposes of this subsection, the term 'overall foreign loss' means the amount by which the gross income for the taxable year from sources without the United States (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) for such year is exceeded by the sum of the deductions properly apportioned or allocated thereto, except that there shall not be taken into account—

"(A) any net operating loss deduction allowable for such year under section 172(a) or any capital loss carrybacks and carryovers to such year under section 1212, and

"(B) any—

"(i) foreign expropriation loss for such year, as defined in section 172(k)(1), or

"(ii) loss for such year which arises from fire, storm, shipwreck, or other casualty, or from theft,

to the extent such loss is not compensated for by insurance or otherwise.

"(3) DISPOSITIONS.—

"(A) IN GENERAL.—For purposes of this chapter, if property which has been used predominantly without the United States in a trade or business is disposed of during any taxable year—

"(i) the taxpayer notwithstanding any other provision of this chapter (other than paragraph (1)) shall be deemed to have received and recognized taxable income from sources without the United States in the taxable year of the disposition, by reason of such disposition, in an amount equal to the lesser of the excess of the fair market value of such property over the taxpayer's adjusted basis in such property or the remaining amount of the overall foreign losses which were not used under paragraph (1) for such taxable year or any prior taxable year, and

"(ii) paragraph (1) shall be applied with respect to such income by substituting '100 percent' for '50 percent'.

In determining for purposes of this subparagraph whether the predominant use of any property has been without the United States, there shall be taken into account use during the 3-year period ending on the date of the disposition (or, if shorter, the period during which the property has been used in the trade or business).

"(B) DISPOSITION DEFINED.—For purposes of this subsection, the term 'disposition' includes a sale, exchange, distribution, or gift of property, whether or not gain or loss is recognized on the transfer.

"(C) EXCEPTIONS.—Notwithstanding subparagraph (B), the term 'disposition' does not include—

"(i) a disposition of property which is not a material factor in the realization of income by the taxpayer, or

"(ii) a disposition of property to a domestic corporation in a distribution or transfer described in section 381(a).

"(4) DETERMINATION OF FOREIGN OIL RELATED LOSS WHERE SECTION 907 APPLIES.—In any case to which section 907(b) applies, the foreign oil related loss shall be the amount by which the gross income for the taxable year from sources without the United States and its possessions (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) taken into account in determining the foreign oil related income for such year is exceeded by the sum of the deductions properly apportioned or allocated thereto, except that there shall not be taken into account—

"(A) any net operating loss deduction allowable for such year under section 172(a) or any capital loss carrybacks and carryovers to such year under section 1212, and

"(B) any—

"(i) foreign expropriation loss for such year, as defined in section 172(k)(1), or

"(ii) loss for such year which arises from fire, storm, shipwreck, or other casualty, or from theft,

to the extent such loss is not compensated for by insurance or otherwise."

(b) COORDINATION WITH SECTION 907.—Section 907 is amended—

(1) by striking out the second sentence of subsection (b), and

(2) by striking out subsection (f), and by redesignating subsection (g) as subsection (f).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to losses incurred in taxable years beginning after December 31, 1975.

(2) LOSSES FROM THE POSSESSIONS OF THE UNITED STATES.—The amendments made by this section shall not apply to losses incurred in a possession of the United States in taxable years beginning before January 1, 1981.

SEC. 1033. DIVIDENDS FROM LESS DEVELOPED COUNTRY CORPORATIONS TO BE GROSSED UP FOR PURPOSES OF DETERMINING UNITED STATES INCOME AND FOREIGN TAX CREDIT AGAINST THAT INCOME.

(a) FOREIGN TAXES DEEMED PAID BY DOMESTIC CORPORATIONS.—Section 902 (relating to credit for corporate stockholders in foreign corporations) is amended to read as follows:

"SEC. 902. CREDIT FOR CORPORATE STOCKHOLDER IN FOREIGN CORPORATION.

"(a) TREATMENT OF TAXES PAID BY FOREIGN CORPORATION.—For purposes of this subpart, a domestic corporation which owns at least 10 percent of the voting stock of a foreign corporation from which it receives dividends in any taxable year shall be deemed to have paid the same proportion of any income, war profits, or excess profits taxes paid or deemed to be paid by such foreign corporation to any foreign country or to any possession of the United States, on or with respect to the accumulated profits of such foreign corporation from which such dividends were paid, which the amount of such dividends (determined without regard to section 78) bears to the amount of such accumulated profits in excess of such income, war profits, and excess profits taxes (other than those deemed paid).

"(b) FOREIGN SUBSIDIARY OF FIRST AND SECOND FOREIGN CORPORATION.—

"(1) ONE TIER.—If the foreign corporation described in subsection (a) (hereinafter in this subsection referred to as the 'first foreign corporation') owns 10 percent or more of the voting stock of a second foreign corporation from which it receives dividends in any taxable year, it shall be deemed to have paid the same proportion of any income, war profits, or excess profits taxes paid or deemed to be paid by such second foreign corporation to any foreign country or to any possession of the United States, on or with respect to the accumulated profits of such second foreign corporation from which such dividends were paid, which the amount of such dividends bears to the amount of such accumulated profits in excess of such income, war profits, and excess profits taxes (other than those deemed paid).

"(2) TWO TIERS.—If such first foreign corporation owns 10 percent or more of the voting stock of a second foreign corporation which, in turn, owns 10 percent or more of the voting stock of a third foreign corporation from which the second foreign corporation receives dividends in any taxable year, the second foreign corporation shall be deemed to have paid the same proportion of any income, war profits, or excess profits taxes paid by such third foreign corporation to any foreign country or to any possession of the United States, on or with respect to the accumulated profits of such third foreign corporation from which such dividends were paid, which the amount of such dividends bears to the amount of such accumulated profits in excess of such income, war profits, and excess profits taxes.

"(3) VOTING STOCK REQUIREMENT.—For purposes of this subpart—

"(A) subsection (b)(1) shall not apply unless the percentage of voting stock owned by the domestic corporation in the first foreign corporation and the percentage of voting stock owned by the first foreign corporation in the second foreign corporation when multiplied together equal at least 5 percent, and

"(B) subsection (b)(2) shall not apply unless the percentage arirved at for purposes of applying subsection (b)(1) when multiplied by the percentage of voting stock owned by the second foreign corporation in the third foreign corporation is equal to at least 5 percent.

"(c) APPLICABLE RULE.—

"(1) ACCUMULATED PROFITS DEFINED.—For purposes of this section, the term 'accumulated profits' means, with respect to any foreign corporation, the amount of its gains, profits, or income computed without reduction by the amount of the income, war profits, and excess profits taxes imposed on or with respect to such profits or income by any foreign country or by any possession of the United States. The Secretary shall have full power to determine from the accumulated profits of what year or years such dividends were paid, treating dividends paid in the first 60 days of any year as having been paid from the accumulated profits of the preceding year or years (unless to his satisfaction shown otherwise), and in other respects treating dividends as having been paid from the most recently accumulated gains, profits, or earnings.

"(2) ACCOUNTING PERIODS.—In the case of a foreign corporation the income, war profits, and excess profits taxes of which are determined on the basis of an accounting period of less than 1 year, the word 'year', as used in this subsection, shall be construed to mean such accounting period.

"(d) CROSS REFERENCES.—

"(1) For inclusion in gross income of an amount equal to taxes deemed paid under subsection (a), see section 78.

"(2) For application of subsections (a) and (b) with respect to taxes deemed paid in a prior taxable year by a United States shareholder with respect to a controlled foreign corporation, see section 960.

"(3) For reduction of credit with respect to dividends paid out of accumulated profits for years for which certain information is not furnished, see section 6038."

(b) CONFORMING AMENDMENTS.—

(1) Section 78 (relating to dividends received from certain foreign corporations) is amended—

(A) by striking out "section 902(a)(1)" and inserting in lieu thereof "section 902(a)", and

(B) by striking out "section 960(a)(1)(C)" and inserting in lieu thereof "section 960(a)(1)".

(2) Paragraph (1) of section 960(a) (relating to special rules for foreign tax credit) is amended by striking out "bears to—" and all that follows down through the period at

the end of such paragraph and inserting in lieu thereof "bears to the entire amount of the earnings and profits of such foreign corporation for such taxable year."

(3) Section 535(b)(1) (relating to accumulated taxable income) is amended by striking out "section 902(a)(1) or 960(a)(1)(C)" and inserting in lieu thereof "section 902(a) or 960(a)(1)".

(4) Section 545(b)(1) (relating to undistributed personal holding company income) is amended by striking out "section 902(a)(1) or 960(a)(1)(C)" and inserting in lieu thereof "section 902(a) or 960(a)(1)".

(c) EFFECTIVE DATES.—The amendments made by this section shall apply—

(1) in respect of any distribution received by a domestic corporation after December 31, 1977, and

(2) in respect of any distribution received by a domestic corporation before January 1, 1978, in a taxable year of such corporation beginning after December 31, 1975, but only to the extent that such distribution is made out of the accumulated profits of a foreign corporation for a taxable year (of such foreign corporation) beginning after December 31, 1975.

For purposes of paragraph (2), a distribution made by a foreign corporation out of its profits which are attributable to a distribution received from a foreign corporation to which section 902(b) of the Internal Revenue Code of 1954 applies shall be treated as made out of the accumulated profits of a foreign corporation for a taxable year beginning before January 1, 1976, to the extent that such distribution was paid out of the accumulated profits of such foreign corporation for a taxable year beginning before January 1, 1976.

SEC. 1034. TREATMENT OF CAPITAL GAINS FOR PURPOSES OF FOREIGN TAX CREDIT.

(a) IN GENERAL.—Subsection (b) of section 904 (relating to taxable income for purposes of computing the foreign tax credit limitation), as amended by section 1031 of this Act, is amended to read as follows:

"(b) TAXABLE INCOME FOR PURPOSE OF COMPUTING LIMITATION.—

"(1) PERSONAL EXEMPTION.—For purposes of subsection (a), the taxable income in the case of an individual, estate, or trust shall be computed without any deduction for personal exemptions under section 151 or 642(b).

"(2) CAPITAL GAINS.—For purposes of subsection (a)—

"(A) CORPORATIONS FOR WHICH TAX IS IMPOSED BY SECTION 1201(a).—If the tax of any corporation under this chapter for the taxable year is imposed by section 1201(a)—

"(i) the taxable income of such corporation from sources without the United States includes gain from the sale or exchange of capital assets only in an amount equal to the product obtained by multiplying net foreign source gain by a fraction, the numerator of which is the alternative tax rate for corporations under section 1201(a), and the denominator of which is the sum of the normal tax rate and surtax rate under section 11 for the taxable year, and

"(ii) the entire taxable income of such corporation includes gain from the sale or exchange of capital assets only in an amount equal to the product obtained by multiplying net capital gain by the fraction described in clause (i).

"(B) OTHER TAXPAYERS.—In the case of a taxpayer other than a taxpayer described in subparagraph (A), taxable income from sources without the United States includes gain from the sale or exchange of capital assets only to the extent of the lesser of—

"(i) net capital gain attributable to sources without the United States, or

"(ii) net capital gain.

For purposes of clause (i), the source of gains and losses shall be determined in a manner similar to that provided by subparagraph (B) of paragraph (3).

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) NET FOREIGN SOURCE GAIN.—Except as provided in subparagraph (B), the term 'net foreign source gain' means the excess of long-term capital gain from sources without the United States over the sum of—

"(i) long-term capital losses from sources without the United States,

"(ii) net short-term capital losses taking into account only gains and losses from sources without the United States, and

"(iii) the excess of losses from sources within the United States from sales or exchanges of capital assets over gains from sources within the United States from sales or exchanges of such assets.

"(B) EXCLUSION FROM NET FOREIGN SOURCE GAIN OF GAIN FROM THE SALE OF CERTAIN PERSONAL PROPERTY.—There shall be excluded from net foreign source gain any gain from sources without the Unitd States from the sale or exchange of a capital asset which is personal property which—

"(i) in the case of an individual, is sold or exchanged outside of the country (or possession) of the individual's residence,

"(ii) in the case of a corporation, is stock in a second corporation sold or exchanged other than in a country (or possession) in which such second corporation derived more than 50 percent of its gross income for the 3-year period ending with the close of such second corporation's taxable year immediately preceding the year during which the sale or exchange occurred, or

"(iii) in the case of a corporation, is personal property (other than stock in a corporation) sold or exchanged other than in a country (or possession) in which such corporation derived more than 50 percent of its gross income for the 3-year period ending with the close of its taxable year immediately preceding the year during which the sale or exchange occurred,

unless such gain is subject to an income, war profits, or excess profits tax of a foreign country or possession of the United States, and the rate of tax applicable to such gain is 10 percent or more of the gain from the sale or exchange (computed under this chapter).

"(C) SECTION 1231 GAINS.—The term 'gain from the sale or exchange of capital assets' includes any gain so treated under section 1231."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years begininng after December 31, 1975.

SEC. 1035. TRANSITIONAL RULE FOR FOREIGN TAXES ON OIL AND GAS EXTRACTION INCOME.

(a) GENERAL RULE.—For any taxable year ending in 1975, 1976, or 1977, there shall be allowed a carryback to such taxable year of disallowed extraction taxes to the extent by which the product of—

(1) the amount of foreign oil and gas extraction income for such year, multiplied by

(2) the sum of the normal tax rate and surtax rate for the taxable year specified in section 11 of the Internal Revenue Code of 1954,

exceeds the amount of any income, war profits, and excess profits taxes paid or accrued (or deemed to have been paid) with respect to foreign oil and gas extraction income (as defined in section 907(c)(1)(A) of such Code). The amount so carried back shall be deemed to be a tax paid or accrued on the income from the extraction of foreign oil and gas in the year to which carried.

(b) DISALLOWED EXTRACTION TAXES.—For purposes of subsection (a), the term "disallowed extraction taxes" means the amount of any income, war profits, and excess profits taxes paid or accrued during a taxable year with respect to foreign oil and gas extraction income which would be taken into account for purposes of section 901 of such Code but for the provisions of section 907(a) of such Code.

(c) RULES OF APPLICATION.—

(1) Disallowed extraction taxes shall be carried to a year specified in subsection (a) under the principles of section 904(c) of such Code.

(2) Disallowed extraction taxes which are carried to a year specified in subsection (a) shall be taken into account for purposes of section 901 of such Code by applying the principles of section 904(a)(1) of such Code as in effect immediately before the date of the enactment of the Tax Reduction Act of 1975.

PART IV—MONEY OR OTHER PROPERTY MOVING OUT OF OR INTO THE UNITED STATES

SEC. 1041. PORTFOLIO INVESTMENTS IN UNITED STATES OF NONRESIDENT ALIENS AND FOREIGN CORPORATIONS

(r) AMENDMENT OF SECTION 872.—

(1) Paragraph (4) of section 872(b) (relating to exclusions from gross income in the case of nonresident alien individuals) is amended to read as follows:

"(4) INCOME OF NONRESIDENT ALIEN INDIVIDUALS RECEIVED FROM CERTAIN PORTFOLIO INVESTMENTS.—Interest (including original issue discount) received from any United States person (or from the United States or any agency or instrumentality thereof, or from any State or political subdivision thereof), and dividends received from a domestic corporation, by a nonresident alien individual, if—

"(A) such interest or dividends are not effectively connected with the conduct of a trade or business within the United States,

"(B) in the case of a dividend or interest received from a corporation either—

"(i) persons other than United States persons do not own, and are not considered as owning (within the meaning of subsection (c)), more than 50 percent of the total combined voting power of all classes of stock entitled to vote of such corporation, or

"(ii) the nonresident alien individual does not own, and is not considered as owning (within the meaning of subsection (c)), 10 percent or more of the total combined voting power of all classes of stock entitled to vote of such corporation, and

"(C) in the case of interest received from a partnership either—

"(i) persons other than United States persons do not own, and are not considered as owning (within the meaning of subsection (c)), more than 50 percent of the capital interest, or the profits interest, in such partnership, or

"(ii) the nonresident alien individual does not own, and is not considered as owning (within the meaning of subsection (c)), 10 percent or more of the capital interest, or the profits interest, in such partnership."

(2) Section 872 is amended by adding at the end thereof the following new subsections:

"(c) CONSTRUCTIVE OWNERSHIP.—For purposes of subsection (b)(4) and section 883(c)—

"(1) OWNERSHIP THROUGH OTHER ENTITIES.—

"(A) IN GENERAL.—An interest in an entity owned, directly or indirectly, by or for a corporation, parnership, trust, or estate shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries.

"(B) ATTRIBUTION FROM TRUSTS.—

"(i) In applying subparagraph (A), a trust shall be considered as owned by its beneficiaries in proportion to the actuarial interest of such beneficiaries in such trust.

"(ii) An interest in an entity owned, directly or indirectly, by or for any portion of a trust of which a person is considered the owner under subpart E of part I of subchapter J (relating to grantors and others treated as substantial owners) shall be considered as owned by such person.

"(2) Attribution to partnerships, estates, trusts, and corporations.—

"(A) To partnerships and estates.—An interest in an entity owned, directly or indirectly, by or for a partner or a beneficiary of an estate shall be considered as owned by the partnership or estate.

"(B) To trusts.—An interest in an entity owned, directly or indirectly, by or for—

"(i) a beneficiary of a trust shall be considered as owned by the trust, unless such beneficiary's interest in the trust is a remote contingent interest. For purposes of this clause, a contingent interest of a beneficiary in a trust shall be considered remote if, under the maximum exercise of discretion by the trustee in favor of such beneficiary, the value of such interest, computed actuarially, is 5 percent or less of the value of the trust property, and

"(ii) a person who is considered the owner of any portion of a trust under subpart E of part I of subchapter J (relating to grantors and others treated as substantial owners) shall be considered as owned by the trust.

"(C) To corporations.—If 50 percent or more in value of the stock in a corporation is owned, directly or indirectly, by or for any person, such corporation shall be considered as owning the interest in an entity owned, directly or indirectly, by or for such person.

"(3) Operating rules.—

"(A) In general.—Except as provided in subparagraph (B), an interest in an entity constructively owned by a person by reason of the application of paragraph (1) or (2) shall, for purposes of applying paragraph (1) or (2), be considered as actually owned by such person.

"(B) Partnerships, estates, trusts, and corporations.—An interest in an entity constructively owned by a person by reason of the application of paragraph (2) shall not be considered as owned by it for purposes of applying paragraph (1) in order to make another the constructive owner thereof.

"(4) Interest in an entity.—The term 'interest in an entity' means—

"(A) stock in a corporation,

"(B) an interest in the capital or profits of a partnership, and

"(C) a beneficial interest in a trust or estate.

"(d) Paragraph (b)(4) Not to Apply to Virgin Islands.—For purposes of applying the income tax laws of the United States with respect to the Virgin Islands under the Act of July 12, 1921 (48 U.S.C. 1397), paragraph (4) of subsection (b) shall not apply."

(b) Amendment of Section 883.—Section 883 (relating to exclusions from gross income in case of foreign corporations) is amended by adding at the end thereof the following new subsections:

"(c) Income of Foreign Corporations Received From Certain Portfolio Investments.—Interest (including original issue discount) received from any United States person (or from the United States or any agency or instrumentality thereof, or from any State or political subdivision thereof), and dividends received from a domestic corporation, by a foreign corporation (other than a controlled foreign corporation within the meaning of section 957) shall not be included in gross income, and shall be exempt from taxation under this subtitle, if—

"(1) such interest or dividends are not effectively connected with the conduct of a trade or business within the United States, and

"(2) in the case of a dividend or interest received from a corporation either—

"(A) persons other than United States persons do not own, and are not considered as owning (within the meaning of section 872(c)), more than 50 percent of the total combined voting power of all classes of stock entitled to vote of such corporation, or

"(B) the foreign corporation does not own, and is not considered as owning (within the meaning of section 872(c)), 10 percent or more of the total combined voting power of all classes of stock entitled to vote of such corporation, and

"(3) in the case of interest received from a partnership either—

"(A) persons other than United States persons do not own, and are not considered as owning (within the meaning of section 872(c)), more than 50 percent of the capital interest, or the profits interest, in such partnership, or

"(B) the foreign corporation does not own, and is not considered as owning (within the meaning of section 872(c)), 10 percent or more of the capital interest, or the profits interest, in such partnership.

"(d) Subsection Not To Apply to Virgin Islands.—For purposes of applying income tax law of the United States with respect to the Virgin Islands under the Act of July 12, 1921 (48 U.S.C. 1397), subsection (c) shall not apply."

(c) Amendment of Section 861.—The last sentence of section 861(c) (relating to interest on deposits, etc.) is hereby repealed.

(d) Removal of Exclusion From Gross Income in Case of Inadequate Exchange of Information.—

(1) Subpart C of part II of subchapter N of chapter 1 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"Sec. 897. Removal of Exclusion From Gross Income in Case of Inadequate Exchange of Information.

"Whenever the Secretary of the Treasury determines that the exchange of information between the United States and a foreign country is inadequate to identify the beneficial recipients of interest or dividend payments from sources within the United States and that such information is necessary in order to prevent evasion of taxes, the exclusion from gross income contained in section 872(b)(4) and section 883(c) shall not apply to any payments addressed to, or for the account of, persons within such foreign country after the date specified in such determination. Any such removal shall not apply to interest on obligations issued on or before the date of such determination. The removal of the exclusion from gross income contained in section 872(b)(4) and section 883(c) shall continue until the Secretary of the Treasury determines that the exchange of information between the United States and the foreign country is adequate to identify the beneficial recipients of interest and dividend payments from sources within the United States."

(2) The table of sections for such subpart C is amended by adding at the end thereof the following new item:

"Sec. 897. Removal of exclusion from gross income in case of inadequate exchange of information."

(e) Amendment of Section 2105.—Subsection (b) of section 2105 (relating to property without the United States) is amended to read as follows:

"(b) Certain Stocks and Bank Deposits and Other Debt Obligations.—For purposes of this subchapter—

"(1) amounts described in section 861(c) if any interest thereon (were such interest received by the decedent at the time of his death) would be treated by reason of section 816(a)(1)(A) as income from sources without the United States,

"(2) deposits with a foreign branch of a domestic corporation or domestic partnership, if such branch is engaged in the commercial banking business, and

"(3) stock or debt obligations, if any dividends with respect thereto or interest thereon (were such dividends or interest received by the decedent at the time of his death) would be eligible for the exclusion from gross income under section 872(b)(4), shall not be deemed property within the United States."

(f) Information Returns for Foreign Persons, Foreign Governments, and International Organizations.—

(1) Subsection (b)(2)(A)(ii) of section 6042 (relating to returns regarding payments of dividends and corporate earnings and profits) is amended to read as follows:

"(ii) to a foreign corporation, a nonresident alien, or a partnership (composed in whole or in part of nonresident aliens), a foreign government, or an international organization not engaged in trade or business in the United States; and".

(2) Subsection (b)(2)(B) of section 6049 (relating to returns regarding payments of interest) is amended to read as follows:

"(B) to the extent provided in regulations prescribed by the Secretary, any amount paid by or to a foreign corporation, a nonresident alien, or a partnership (composed in whole or in part of nonresident aliens), a foreign government, or an international organization not engaged in trade or business in the United States; and".

(g) Effective Dates.—

(1) The amendments made by this section (other than subsection (e)) shall apply to amounts paid after the date of the enactment of this Act.

(2) The amendment made by subsection (e) shall apply to the estates of decedents dying after the date of the enactment of this Act.

Sec. 1042. Changes in Ruling Requirements Under Section 367; Certain Changes in Section 1248.

(a) Amendment of Section 367.—Section 367 (relating to foreign corporations) is amended to read as follows:

"Sec. 367. Foreign Corporations.

"(a) Transfers of Property From the United States.—

"(1) General rule.—If, in connection with any exchange described in section 332, 351, 354, 355, 356, or 361, there is a transfer of property (other than stock or securities of a foreign corporation which is a party to the exchange or a party to the reorganization) by a United States person to a foreign corporation, for purposes of determining the extent to which gain shall be recognized, a foreign corporation shall not be considered to be a corporation unless, pursuant to a request filed not later than the close of the 183d day after the beginning of such exchange (and filed in such form and manner as may be prescribed by regulations by the Secretary), it is established to the satisfaction of the Secretary that such exchange is not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes.

"(2) Exception for transactions designated by the secretary.—Paragraph (1) shall not apply to any exchange (otherwise within paragraph (1)), or to any type of property, which the Secretary by regulations designates as not requiring the filing of a request.

"(b) Other Transactions.—

"(1) Effect of section to be determined under regulations.—In the case of any exchange described in section 332, 351, 354, 355, 356, or 361 in connection with which there is no transfer of property described in subsection (a)(1), a foreign corporation shall be considered to be a corporation except to the extent provided in regulations prescribed by the Secretary which are necessary or appropriate to prevent the avoidance of Federal income taxes.

"(2) Regulations relating to sale of exchange of stock in foreign corporations.—The regulations prescribed pursuant to paragraph (1) shall include (but shall not be limited to) regulations dealing with the sale or exchange of stock or securities in a foreign corporation by a United States person, including regulations providing—

"(A) the circumstances under which—

"(i) gain shall be recognized currently, or amounts included in gross income currently as a dividend, or both, or

"(ii) gain or other amounts may be deferred for inclusion in the gross income of a shareholder (or his successor in interest) at a later date, and

"(B) the extent to which adjustments shall be made to earnings and profits, basis of stock or securities, and basis of assets.

"(c) Transactions To Be Treated as Exchanges.—

"(1) Section 355 distribution.—For purposes of this section, any distribution described in section 355 (or so much of section 356 as relates to section 355) shall be treated as an exchange whether or not it is an exchange.

"(2) Contribution of capital to controlled corporations.—For purposes of this chapter, any transfer of property to a foreign corporation as a contribution to the capital of such corporation by one or more persons who, immediately after the transfer, own (within the meaning of section 318) stock possessing at least 80 percent of the total combined voting power of all classes of stock of such corporation entitled to vote shall be treated as an exchange of such property for stock of the foreign corporation equal in value to the fair market value of the property transferred.

"(d) Transitional Rule.—In the case of any exchange beginning before January 1, 1978—

"(1) subsection (a) shall be applied without regard to whether or not there is a transfer of property described in subsection (a) (1), and

"(2) subsection (b) shall not apply."

(b) Earnings and Profits of Subsidiaries of Foreign Corporations for Purposes of Section 1248.—Subparagraph (C) of section 1248(c) (2) is amended by striking out "; and" at the end thereof and inserting in lieu thereof the following: "(or on the date of any sale or exchange of the stock of such other foreign corporation occurring during the 5-year period ending on the date of the sale or exchange of the stock of such foreign corporation, to the extent not otherwise taken into account under this subparagraph); and".

(c) Certain Section 311, 336, or 337 Transactions.—

(1) General rule.—Section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations) is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

"(f) Certain Section 311, 336, or 337 Transactions.—

"(1) In general.—If—

"(A) a domestic corporation satisfies the stock ownership requirements of subsection (a) (2) with respect to a foreign corporation, and

"(B) such domestic corporations distributes, sells, or exchanges stock of such foreign corporation in a transaction to which section 311, 336, or 337 applies,

then, notwithstanding any other provision of this subtitle, an amount equal to the excess of the fair market value of such stock over its adjusted basis in the hands of the domestic corporation shall be included in the gross income of the domestic corporation as a dividend to the extent of the earnings and profits of the foreign corporation attributable (under regulations prescribed by the Secretary) to such stock which were accumulated in taxable years of such foreign corporation beginning after December 31, 1962, and during the period or periods the stock was held by such domestic corporation while such foreign corporation was a controlled foreign corporation. For purposes of subsections (c) (2), (d), and (h), a distribution, sale, or exchange of stock to which this subsection applies shall be treated as a sale of stock to which subsection (a) applies.

"(2) Exception for certain distributions.—In the case of any distribution of stock of a foreign corporation, paragraph (1) shall not apply if such distribution is to a domestic corporation—

"(A) which is treated under this section as holding such stock for the period for which the stock was held by the distributor corporation, and

"(B) which, immediately after the distribution, satisfies the stock ownership requirements of subsection (a) (2) with respect to such foreign corporation.

"(3) Nonapplication of paragraph (1) in certain cases.—Paragraph (1) shall not apply to a sale or exchange to which section 337 applies if—

"(A) throughout the period or periods the stock of the foreign corporation was held by the domestic corporation (or a predecessor referred to in paragraph (2)) all the stock of such domestic corporation was owned by United States persons who satisfied the 10-percent stock ownership requirements of subsection (a) (2) with respect to such domestic corporation, and

"(B) subsection (a) applies to the proceeds of the sale or exchange and also applied to all transactions described in subsection (e) (1) which took place during the period or periods referred to in subparagraph (A)."

(2) Interest in partnership holding stock in certain foreign corporations.—The last sentence of section 751(c) (relating to unrealized receivables) is amended—

(A) by striking out "(as defined in section 1245(a) (3))," and inserting in lieu thereof "(as defined in section 1245 (a) (3)), stock in certain foreign corporations (as described in section 1248)," and

(B) by striking out "1250(a)," and inserting in lieu thereof "1248(a), 1250(a),".

(3) Conforming amendments.—

(A) Subparagraph (A) of paragraph (2) of subsection (c) of section 1248 is amended by striking out "subsection (a) applies to a sale or exchange" and inserting in lieu thereof "subsection (a) or (f) applies to a sale, exchange, or distribution'.

(B) Subparagraph (A) of paragraph (3) of subsection (g) (as redesignated by paragraph (1) of this subsection) of section 1248 is amended to read as follows:

"(A) a dividend (other than an amount treated as a dividend under subsection (f)),".

(C) Subsection (h) (as redesignated by paragraph (1) of this subsection) of section 1248 is amended by striking out "subsection (a)" each place it appears and inserting in lieu thereof "subsection (a) or (f)".

(d) Declaratory Judgment Procedure for Review by the Tax Court of Section 367 Determinations.—

(1) In general.—Part IV of subchapter C of chapter 76 (relating to declaratory judgments) is amended by adding at the end thereof the following new section:

"Sec. 7477. Declaratory Judgments Relating to Transfers of Property From the United States.

"(a) Creation of Remedy.—

"(1) In general.—In a case of actual controversy involving—

"(A) a determination by the Secretary—

"(i) that an exchange described in section 367(a) (1) is in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes, or

"(ii) of the terms and conditions pursuant to which an exchange described in section 367 (a) (1) will be determined not to be in pursuance of a plan having as one of its prinicipal purposes the avoidance of Federal income taxes, or

"(B) a failure by the Secretary to make a determination as to whether an exchange described in section 367(a) (1) is in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes.

upon the filing of an appropriate pleading, the Tax Court may make the appropriate declaration referred to in paragraph (2). Such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(2) Scope of declaration.—The declaration referred to in paragraph (1) shall be—

"(A) in the case of a determination referred to in subparagraph (A) of paragraph (1), whether or not such determination is reasonable, and, if it is not reasonable, a determination of the issue set forth in subparagraph (A) (ii), and

"(B) in the case of a failure described in subparagraph (B) of paragraph (1), the determination of the issues set forth in subparagraph (A) of paragraph (1).

"(b) Limitations.—

"(1) Petitioner.—A pleading may be filed under this section only by a petitioner who is a transferor or transferee of stock, securities, or property transferred in an exchange described in section 367(a) (1).

"(2) Exhaustion of administrative remedies.—The Tax Court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines that the petitioner has exhausted administrative remedies available to him within the Internal Revenue Service. A petitioner shall not be deemed to have exhausted his administrative remedies with respect to a failure by the Secretary to make a determination with respect to whether or not an exchange described in section 367(a) (1) is in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes before the expiration of 270 days after the request for such determination was made.

"(3) Exchange shall have begun.—No proceeding may be maintained under this section unless the exchange described in section 367(a) (1) with respect to which a decision of the Tax Court is sought has begun before the filing of the pleading.

"(4) Time for bringing action.—If the Secretary sends by certified or registered mail to the petitioners referred to in paragraph (1) notice of his determination with respect to whether or not an exchange described in section 367(a) (1) is in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes or with respect to the terms and conditions pursuant to which such an exchange will be determined not to be made in pursuance of such a plan, no proceeding may be initiated under this section by any petitioner unless the pleading is filed before the 91st day after the day after such notice is mailed to such petitioner.

"(c) Commissioners.—The chief judge of the Tax Court may assign proceedings under this section to be heard by the commissioners of the court, and the court may authorize a commissioner to make the decision of the court with respect to such proceeding, subject to such conditions and review as the court may by rule provide."

(2) Technical and conforming amendments.—

(A) Section 7482(b) (1) (relating to venue for review of Tax Court decisions) is amended by striking out "or" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", or", and by inserting after subparagraph (C) the following new subparagraph:

"(D) in the case of a person seeking a declaratory judgment under section 7477, the legal residence of such person if such person is not a corporation, or the principal place of business or principal office or agency of such person if such person is a coporation."

(B) Section 7482(b)(1) is further amended—

(i) by striking out "subparagraph (A), (B), and (C) do not apply" in the second sentence and inserting in lieu thereof "no subparagraph of the preceding sentence applies"; and

(ii) by striking out "section 7476" in the last sentence and inserting in lieu thereof "section 7476 or 7477".

(C) The heading for section 7476 is amended to read as follows:

"Sec. 7476. Declaratory Judgments Relating to Qualification of Certain Retirement Plans."

(D) The table of sections for part IV of subchapter C of chapter 76 is amended to read as follows:

"Sec. 7476. Declaratory judgments relating to qualification of certain retirement plans.

"Sec. 7477. Declaratory judgments relating to transfers of property from the United States."

(E) The heading for part IV of subchapter C of chapter 76 is amended to read as follows:

"PART IV—DECLARATORY JUDGMENTS".

(F) The table of parts for subchapter C of chapter 76 is amended by striking out the item relating to part IV and inserting in lieu thereof the following:

"Part IV. Declaratory judgments."

(e) Effective Dates.—

(1) The amendments made by this section (other than by subsection (d)) shall apply to exchanges beginning after October 9, 1975, and to sales, exchanges, and distributions taking place after such date. The amendments made by subsection (d) shall apply with respect to pleadings filed with the Tax Court after the date of the enactment of this Act but only with respect to exchanges beginning after October 9, 1975.

(2) In the case of any exchange described in section 367 of the Internal Revenue Code of 1954 (as in effect on December 31, 1974) in any taxable year beginning after December 31, 1962, and before December 31, 1975, which does not involve the transfer of property to or from a United States person, a taxpayer shall have for purposes of such section until 183 days after the date of the enactment of this Act to file a request with the Secretary of the Treasury or his delegate seeking to establish to the satisfaction of the Secretary of the Treasury or his delegate that such exchange was not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes and that for the purposes of such section a foreign corporation is to be treated as a foreign corporation.

Sec. 1043. Contiguous Country Branches of Domestic Life Insurance Companies.

(a) Amendment of Subchapter L.—Subpart E of part I of subchapter L of chapter 1 (relating to life insurance companies) is amended by inserting after section 819 the following new section:

"Sec. 819A. Contiguous Country Branches of Domestic Life Insurance Companies.

"(a) Exclusion of Items.—In the case of a domestic mutual insurance company which—

"(1) is a life insurance company,

"(2) has a contiguous life insurance branch, and

"(3) makes the election provided by subsection (g) with respect to such branch,

there shall be excluded from each and every item involved in the determination of life insurance company taxable income the items separately accounted for in accordance with subsection (c).

"(b) Contiguous Country Life Insurance Branch.—For purposes of this section, the term 'contiguous country life insurance branch' means a branch which—

"(1) issues insurance contracts insuring risks in connection with the lives or health of residents of a country which is contiguous to the United States,

"(2) has its principal place of business in such contiguous country, and

"(3) would constitute a mutual life insurance company if such branch were a separate domestic insurance company.

For purposes of this section, the term 'insurance contract' means any life, health, accident, or annuity contract or reinsurance contract or any contract relating thereto.

"(c) Separate Accounting Required.—Any taxpayer which makes the election by subsection (g) shall establish and maintain a separate account for the various income, exclusion, deduction, asset, reserve, liability, and surplus items properly attributable to the contracts described in subsection (b). Such separate accounting shall be made—

"(1) in accordance with the method regularly employed by such company, if such method clearly reflects income derived from, and the other items attributable to, the contracts described in subsection (b), and

"(2) in all other cases, in accordance with regulations prescribed by the Secretary.

"(d) Recognition of Gain on Assets in Branch Account.—If the aggregate fair market value of all the invested assets and tangible property which are separately accounted for by the domestic life insurance company in the branch account established pursuant to subsection (c) exceeds the aggregate adjusted basis of such assets for purposes of determining gain, then the domestic life insurance company shall be treated as having sold all such assets on the first day of the first taxable year for which the election is in effect at their fair market value on such first day. Notwithstanding any other provision of this chapter, gain shall be recognized to the domestic life insurance company on the deemed sale described in the preceding sentence.

"(e) Transactions Between Contiguous Country Branch and Domestic Life Insurance Company.—

"(1) Reimbursements for home office services, etc.—Any payment, transfer, reimbursement, credit, or allowance which is made from a separate account established pursuant to subsection (c) to one or more other accounts of a domestic life insurance company as reimbursement for costs incurred for or with respect to the insurance (or reinsurance) of risks accounted for in such separate account shall be taken into account by the domestic life insurance company in the same manner as if such payment, transfer, reimbursement, credit, or allowance had been received from a separate person.

"(2) Repatriation of income.—

"(A) In general.—Except as provided in subparagraph (B), any amount directly or indirectly transferred or credited from a branch account established pursuant to subsection (c) to one or more other accounts of such company shall, unless such transfer or credit is a reimbursement to which paragraph (1) applies, be added to the life insurance company taxable income of the domestic life insurance company (as computed without regard to this paragraph).

"(B) Limitation.—The addition provided by subparagraph (A) for the taxable year with respect to any contiguous life insurance branch shall not exceed the amount by which—

"(i) the aggregate decrease in the life insurance company taxable income of the domestic life insurance company for the taxable year and for all prior taxable years resulting solely from the application of subsection (a) of this section with respect to such branch, exceeds

"(ii) the amount of additions to life insurance company taxable income pursuant to subparagraph (A) with respect to such contiguous country branch for all prior taxable years.

"(f) Other Rules.—

"(1) Treatment of foreign taxes.—

"(A) In general.—No income, war profits, or excess profits taxes paid or accrued to any foreign country or possession of the United States which is attributable to income excluded under subsection (a) shall be taken into account for purposes of subpart A of part III of subchapter N (relating to foreign tax credit) or allowable as a deduction.

"(B) Treatment of repatriated amounts.—For purposes of sections 78 and 902, where any amount is added to the life insurance company taxable income of the domestic life insurance company by reason of subsection (e)(2), the contiguous country life insurance branch shall be treated as a foreign corporation. Any amount so added shall be treated as a dividend paid by a foreign corporation, and the taxes paid to any foreign country possession of the United States with respect to such amount shall be deemed to have been paid by such branch.

"(2) United states source income allocable to contiguous country branch.—For purposes of sections 881, 882, and 1442, each contiguous country life insurance branch shall be treated as a foreign corporation. Such sections shall be applied to each such branch in the same manner as if such sections contained the provisions of any treaty to which the United States and the contiguous country are parties, to the same extent such provisions would apply if such branch were incorporated in such contiguous country.

"(g) Election.—A taxpayer may make the election provided by this subsection with respect to any contiguous country for any taxable year beginning after December 31, 1975. An election made under this subsection for any taxable year shall remain in effect for all subsequent taxable years, except that it may be revoked with the consent of the Secretary. The election provided by this subsection shall be made not later than the time prescribed by law for filing the return for the taxable year (including extensions thereof) with respect to which such election is made, and such election and any approved revocation thereof shall be made in the manner provided by the Secretary.

"(h) Special Rule for Domestic Stock Life Insurance Companies.—At the election of a domestic stock life insurance company which has a contiguous country life insurance branch described in subsection (b) (without regard to the mutual requirement in subsection (b)(3)) the assets of such branch may be transferred to a foreign corporation organized under the laws of the contiguous country without the application of section 367 or 1491. However, if the aggregate fair market value of all the invested assets and tangible property which are separately accounted for in the contiguous country life insurance branch of the domestic life insurance company exceeds the aggregate adjusted basis of such assets for purposes of determining gain, then the domestic life insurance company shall be treated as having sold all such assets on the first day of the first taxable year for which the election is in effect at their fair market value on such first day. Notwithstanding any other provision of this chapter, gain shall be recognized to the domestic life insurance company on the deemed sale described in the preceding sentence."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart E is amended by inserting after the item relating to section 819 the following new item:

"Sec. 819A. Contiguous country branches of domestic life insurance companies."

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1975.

SEC. 1044. TRANSITIONAL RULE FOR BOND, ETC., LOSSES OF FOREIGN BANKS

(a) GENERAL RULE.—Section 582(c) (relating to bond, etc., losses and gains of financial institutions) is amended by adding at the end thereof the following new paragraph:

"(4) TRANSITIONAL RULE FOR BANKS.—In the case of a corporation which would be a bank except for the fact that it is a foreign corporation, the net gain, if any, for the taxable year on sales and exchanges described in paragraph (1) shall be considered as gain from the sale or exchange of a capital asset to the extent such net gain does not exceed the portion of any capital loss carryover to such taxable year which is attributable to capital losses on sales or exchanges described in paragraph (1) for a taxable year beginning before July 12, 1969. For purposes of the preceding sentence, the portion of a net capital loss for a taxable year which is attributable to capital losses on sales or exchanges described in paragraph (1) is the amount of the net capital loss on such sales or exchanges for such taxable year (but not in excess of the net capital loss for such taxable year) "

(b) EFFECTIVE DATE.—

(1) The amendment made by subsection (a) shall apply with respect to taxable years beginning after July 11, 1969.

(2) If the refund or credit of any overpayment attributable to the application of the amendment made by the first section of this Act to any taxable year is otherwise prevented by the operation of any law or rule of law (other than section 7122 of the Internal Revenue Code of 1954, relating to compromises) on the day which is one year after the date of the enactment of this Act, such credit or refund shall be nevertheless allowed or made if claim therefor is filed on or before such day.

PART V—PUERTO RICO AND POSSESSIONS CORPORATIONS; WESTERN HEMISPHERE TRADE CORPORATIONS; CHINA TRADE ACT CORPORATIONS

SEC. 1051. TAX TREATMENT OF CORPORATIONS CONDUCTING TRADE OR BUSINESS IN PUERTO RICO AND POSSESSIONS OF THE UNITED STATES

(a) ALLOWANCE OF PUERTO RICAN AND POSSESSION TAX CREDIT.—Section 33 (relating to taxes of foreign countries and possessions of the United States) is amended to read as follows:

"SEC. 33. TAXES OF FOREIGN COUNTRIES AND POSSESSIONS OF THE UNITED STATES; POSSESSION TAX CREDIT.

"(a) FOREIGN TAX CREDIT.—The amount of taxes imposed by foreign countries and possessions of the United States shall be allowed as a credit against the tax imposed by this chapter to the extent provided in section 901.

"(b) SECTION 936 CREDIT.—In the case of a domestic corporation, the amount provided by section 936 (relating to Puerto Rico and possession tax credit) shall be allowed as a credit against the tax imposed by this chapter."

(b) RULES ON POSSESSION TAX CREDIT.—Subpart D of part III of subchapter N of chapter 1 (relating to possessions of the United States) is amended by adding at the end thereof the following new section:

"SEC. 936. PUERTO RICO AND POSSESSION TAX CREDIT.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), in the case of a domestic corporation which elects the application of this section, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to the portion of the tax which is attributable to taxable income, from sources without the United States, from the active conduct of a trade or business within a possession of the United States and from qualified possession source investment income, if the conditions of both subparagraph (A) and subparagraph (B) are satisfied:

"(A) 3-YEAR PERIOD.—If 80 percent or more of the gross income of such domestic corporation for the 3-year period immediately preceding the close of the taxable year (or for such part of such period immediately preceding the close of such taxable year as may be applicable) was derived from sources within a possession of the United States; and

"(B) TRADE OR BUSINESS.—If 50 percent or more of the gross income of such domestic corporation for such period or such part thereof was derived from the active conduct of a trade or business within a possession of the United States.

"(2) CREDIT NOT ALLOWED AGAINST CERTAIN TAXES.—The credit provided by paragraph (1) shall not be allowed against the tax imposed by—

"(A) section 56 (relating to minimum tax for corporations),

"(B) section 531 (relating to the tax on accumulated earnings),

"(C) section 541 (relating to personal holding company tax),

"(D) section 1333 (relating to war loss recoveries), or

"(E) section 1351 (relating to recoveries of foreign expropriation losses).

"(b) AMOUNTS RECEIVED IN UNITED STATES.—In determining taxable income for purposes of subsection (a) there shall not be taken into account as income from sources without the United States any gross income which was received by such domestic corporation within the United States, whether derived from sources within or without the United States.

"(c) TREATMENT OF CERTAIN FOREIGN TAXES.—For purposes of this title, any tax of a foreign country or a possession of the United States which is paid or accrued with respect to taxable income which is taken into account in computing the credit under subsection (a) shall not be treated as an income, war profits, or excess profits tax paid or accrued to a foreign country or possession of the United States, and no deduction shall be allowed under this title with respect to any amount so paid or accrued.

"(d) DEFINITIONS.—For purposes of this section—

"(1) POSSESSION.—The term 'possession of the United States' includes the Commonwealth of Puerto Rico, but does not include the Virgin Islands of the United States.

"(2) QUALIFIED POSSESSION SOURCE INVESTMENT INCOME.—The term 'qualified possession source investment income' means gross income which—

"(A) is from sources within a possession of the United States in which a trade or business is actively conducted, and

"(B) the taxpayer establishes to the satisfaction of the Secretary is attributable to the investment in such possession (for use therein) of funds derived from the active conduct of a trade or business in such possession, or from such investment,

less the deductions properly apportioned or allocated thereto.

"(e) ELECTION.—The election provided in subsection (a) shall be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall remain in effect until the expiration of the 9th taxable year following the taxable year for which such election was first effective and for which such domestic corporation satisfied the conditions of subparagraphs (A) and (B) of subsection (a)(1). Such an election may be revoked before the expiration of such 9th taxable year with the consent of the Secretary.

"(f) DISC OR FORMER DISC CORPORATIONS INELIGIBLE FOR CREDIT.—No credit shall be allowed under this section to a corporation for a taxable year for which it is a DISC or a former DISC (as defined in section 992(a)) or in which it owns at any time stock in a DISC or a former DISC."

(c) AMENDMENTS OF SECTION 931.—

(1) Subsection (a) of section 931 (relating to general rule in the case of income from sources within possessions of the United States) is amended to read as follows:

"(a) GENERAL RULE.—In the case of individual citizens of the United States, gross income means only gross income from sources within the United States if the conditions of both paragraph (1) and paragraph (2) are satisfied:

"(1) 3-YEAR PERIOD.—If 80 percent or more of the gross income of such citizen (computed without the benefit of this section) for the 3-year period immediately preceding the close of the taxable year (or for such part of such period immediately preceding the close of such taxable year as may be applicable) was derived from sources within a possession of the United States; and

"(2) TRADE OR BUSINESS.—If 50 percent or more of his gross income (computed without the benefit of this section) for such period or such part thereof was derived from the active conduct of a trade or business within a possession of the United States either on his own account or as an employee or agent or another."

(2) Subsection (c) of section 931 (defining the term "possession") is amended to read as follows:

"(c) DEFINITION.—For purposes of this section, the term 'possession of the United States' does not include the Commonwealth of Puerto Rico, the Virgin Islands of the United States, or Guam."

(3) Subsections (d), (e), and (f) of section 931 are each amended by striking out "persons" each place it appears and inserting in lieu thereof "a citizen of the United States".

(d) AMENDMENT OF SECTION 901(d).—Section 901(d) (relating to certain corporations treated as foreign corporations) is amended to read as follows:

"(d) TREATMENT OF DIVIDENDS FROM A DISC OR FORMER DISC.—For purposes of this subpart, dividends from a DISC or former DISC (as defined in section 992(a)) shall be treated as dividends from a foreign corporation to the extent such dividends are treated under part I as income from sources without the United States."

(e) AMENDMENT OF SECTION 904(b).—Section 904(b) (as amended by sections 1031 and 1034(a) of this Act) is amended by adding at the end thereof the following new paragraph:

"(4) COORDINATION WITH SECTION 936.—For purposes of subsection (a), in the case of a corporation, the taxable income shall not include any portion thereof taken into account for purposes of the credit (if any) allowed by section 936."

(f) DIVIDENDS RECEIVED DEDUCTION ALLOWED.—

(1) Section 243(b)(1) (defining dividends) is amended by adding "either" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B)

(ii) and inserting in lieu thereof a comma and "or", and by adding at the end thereof the following new subparagraph:

"(C) such dividends are paid by a corporation with respect to which an election under section 936 is in effect for the taxable year in which such dividends are paid."

(2) Section 243(b)(5) (defining affiliated group) is amended by inserting ", 1504(b)(4)," immediately after "1504(b)(2)".

(3) Section 246(a) (relating to dividends from certain corporations) is amended to read as follows:

"(a) Deduction Not Allowed for Dividends From Certain Corporations.—The deductions allowed by sections 243, 244, and 245 shall not apply to any dividend from a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations)."

(g) Consolidated Return Treatment.—Section 1504(b)(4) (defining includible corporation) is amended to read as follows:

"(4) Corporations with respect to which an election under section 936 (relating to possession tax credit) is in effect for the taxable year."

(h) Conforming Amendments.—

(1) Section 48(a)(2)(B)(vii) (relating to definition of section 38 property) is amended by striking out "(other than a corporation entitled to the benefits of section 931 or 934(b))" and inserting in lieu thereof the following: "(other than a corporation which has an election in effect under section 936 or which is entitled to the benefits of section 934(b))".

(2) Paragraph (2) of subsection 116(b) (relating to certain dividends excluded from partial exclusion of dividends received by individuals) is amended to read as follows:

"(2) a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations); or".

(3) Section 861(a)(2)(A) (relating to income from sources within the United States) is amended by striking out "other than a corporation entitled to the benefits of section 931", and inserting in lieu thereof the following: "other than a corporation which has an election in effect under section 936,".

(4) Section 6091(b)(2)(B)(ii) (relating to place of filing for corporations) is amended by striking out "section 931 (relating to income from sources within possessions of the United States)," and inserting in lieu thereof the following: "section 936 (relating to possession tax credit),".

(i) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1975.

Sec. 1052. Western Hemisphere Trade Corporations.

(a) Phaseout of Special Deduction for Western Hemisphere Trade Corporations.—Section 922 (special deduction for Western Hemisphere trade corporations) is amended by adding at the end thereof the following new subsection:

"(b) Phaseout of Deduction.—In the case of a taxable year beginning after December 31, 1975, and before January 1, 1980, the percent specified in subsection (a)(2)(A) shall be (in lieu of 14 percent) the percent specified in the following table:

"For a taxable year beginning in—	The percentage shall be—
1976	11
1977	8
1978	5
1979	2".

(b) Repeal of Western Hemisphere Trade Corporation Deduction for Taxable Years Beginning After 1979.—Subpart C of part III of subchapter N of chapter 1 (relating to Western Hemisphere trade corporations) is hereby repealed.

(c) Conforming Amendments.—

(1) The first sentence of section 922 (relating to special deduction) is amended by striking out "In the case of" and inserting in lieu thereof the following:

"(a) General Rule.—In the case of".

(2) Section 170(b)(2) (relating to percentage limitations on charitable contributions in the case of corporations) is amended by adding "and" at the end of subparagraph (C), by striking out subparagraph (D), and by redesignating subparagraph (E) as subparagraph (D).

(3) Section 172(d) (relating to modifications for purposes of the net operating loss deduction) is amended by striking out paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(4) Subsection (g) of section 907 is hereby repealed.

(5) Section 1503 (relating to computation and payment of tax in the case of consolidated returns) is amended by striking out subsection (b) and by striking out "(a) General Rule.—".

(6) Section 6091(b)(2)(B)(ii) (relating to place for filing returns of corporations) is amended to read as follows:

"(ii) corporations which claim the benefits of section 936 (relating to possession tax credit), and".

(7) The table of subparts for part III of subchapter N of chapter 1 is amended by striking out the item relating to subpart C.

(d) Effective Dates.—The amendments made by subsection (a) and paragraph (1) of subsection (c) shall apply with respect to taxable years beginning after December 31, 1975. The amendments made by subsection (b) and by subsection (c) (other than paragraph (1)) shall apply with respect to taxable years beginning after December 31, 1979.

Sec. 1053. Repeal of Provisions Relating to China Trade Act Corporations.

(a) Phaseout of Section 941.—Section 941 (relating to special deductions for China Trade Act corporations) is amended by adding the following new subsection:

"(d) Phaseout of Deduction.—In the case of a taxable year beginning after December 31, 1975, and before January 1, 1979, the amount of the special deduction under subsection (a) (determined without regard to this subsection) shall be reduced by the percentage reduction specified in the following table:

"For a taxable year beginning in—	The percentage reduction shall be—
1976	25
1977	50
1978	75."

(b) Phaseout of Section 943.—Section 943 (relating to the exclusion of certain dividends to residents of Formosa or Hong Kong) is amended by adding at the end thereof the following new sentence: "In the case of a taxable year beginning after December 31, 1975, and before January 1, 1979, the amount of the distributions which are excludable from gross income under this section (determined without regard to this sentence) shall be reduced by the percentage reduction specified in the following table:

"For a taxable year beginning in—	The percentage reduction shall be—
1976	25
1977	50
1978	75."

(c) Repeal.—Subpart E of part III of subchapter N of chapter 1 (relating to China Trade Act corporations) is hereby repealed.

(d) Technical and Conforming Amendments.—

(1) Section 116(b) is amended by striking out paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(2) Section 1504(b) is amended by striking out paragraph (5).

(3) Section 6072 is amended by striking out subsection (e).

(4) Section 6091(b)(2)(B)(ii) is amended by striking out the comma after "trade corporations)" and inserting in lieu thereof "or" and by striking out "or section 941 (relating to the special deduction for China Trade Act corporations),".

(5) The table of subparts for part III of subchapter N of chapter 1 is amended by striking out the item relating to subpart E.

(e) Effective Dates.—The amendments made by subsections (a) and (b) shall apply with regard to taxable years beginning after December 31, 1975. The amendments made by subsections (c) and (d) shall apply with regard to taxable years beginning after December 31, 1978.

TITLE XI—AMENDMENTS AFFECTING DISC

Sec. 1101. Amendments Affecting DISC.

(a) In General.—Section 995 (relating to taxation of DISC income to shareholders) is amended—

(1) in paragraph (1) of subsection (b) thereof, by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, by striking out "and (C)" in subparagraph (E) (as so redesignated) and inserting in lieu thereof "(C), and (D)", and by inserting after subparagraph (C) the following new subparagraph:

"(D) the taxable income for the taxable year attributable to base period export gross receipts (as defined in subsection (e)),";

(2) in paragraph (2)(B) of subsection (b) thereof, by striking out "more than the number" and inserting in lieu thereof "more than twice the number"; and

(3) by adding at the end thereof the following new subsections:

"(e) Definitions and Special Rules Relating to Computation of Taxable Income Attributable to Base Period Export Gross Receipts.—

"(1) Taxable income attributable to base period export gross receipts.—For purposes of this section, the taxable income attributable to base period export gross receipts shall be an amount equal to that portion of the taxable income of a DISC which—

"(A) the amount of the adjusted base period export gross receipts, bears to

"(B) the amount of the export gross receipts of the DISC for the taxable year.

"(2) Adjusted base period export gross receipts.—For purposes of this section, the term 'adjusted base period export gross receipts' means 75 percent of the average of the export gross receipts of the DISC for taxable years during the base period (as defined in paragraph (4)). For purposes of the preceding sentence, if any property would not qualify during the taxable year as export property by reason of section 993(c)(2), gross receipts from such property shall be excluded from export gross receipts during the taxable years in the base period.

"(3) Export gross receipts.—For purposes of this section, the term 'export gross receipts' means qualified export receipts described in subparagraphs (A), (B), (C), (G), and (H) of section 993(a)(1).

"(4) Base period.—For purposes of paragraph (2)—

"(A) for any taxable year beginning before 1981, the base period shall be the taxable years beginning in 1972, 1973, and 1974, and

"(B) for any taxable year beginning in any calendar year after 1980, the base period shall be the taxable years beginning in the 6th, 7th, and 8th calendar years preceding such calendar year.

"(5) No base period year.—If a DISC did not have a taxable year beginning in a calendar year specified in paragraph (4), then for purposes of computing the adjusted base period export gross receipts such DISC is deemed to have such a taxable year and export gross receipts of zero for that year.

"(6) Short taxable year.—The Secretary shall prescribe such regulations as he deems necessary with respect to a short taxable year for purposes of computing base period export gross receipts of a DISC, or a short taxable year in which deemed distributions (as described in subsection (b)) are made, including the circumstances under which the short taxable year shall be annualized, and the proper method of annualization.

"(7) Controlled group.—If more than one member of a controlled group (as defined in section 993(a)(3)) for the taxable year qualifies as a DISC, then subsection (b)(1)(D), this subsection, and subsection (f) shall each be applied in a manner provided by regulations prescribed by the Secretary by aggregating the export gross receipts and taxable income of such DISCs for the taxable year and by aggregating the export gross receipts of such DISCs for each taxable year in the base period.

"(8) Special rule where the ownership of DISC stock and the trade or business giving rise to export gross receipts of the DISC are separated.—

"(A) In general.—If, at any time after the beginning of the base period, there has been a separation of the ownership of the stock in the DISC from the ownership of the trade or business which (during the base period) produced the export gross receipts of the DISC, then the persons who own the trade or business during the taxable year shall be treated as having had additional export gross receipts during the base period attributable to such trade or business.

"(B) Exceptions.—Subparagraph (A) shall not apply—

"(i) where the stock in the DISC and the trade or business are owned throughout the taxable year by members of the same controlled group, and

"(ii) to the extent that the taxpayer's ownership of the stock in the DISC for the taxable year is proportionate to his ownership during the taxable year of the trade or business.

"(9) DISC base period attributed through shareholders in certain cases.—

"(A) In general.—If—

"(i) any person owns 5 percent or more of the stock of a DISC (hereinafter in this paragraph referred to as 'first DISC'), and

"(ii) such person at any time during the base period of the first DISC owned 5 percent or more of the stock of a second DISC,

then, to the extent provided in such regulations as the Secretary may prescribe to prevent circumvention of the application of subsection (b)(1)(D), an amount equal to such shareholder's share of the base period export gross receipts of the second DISC shall be added to the base period export gross receipts of the first DISC.

"(B) Ownership of stock.—For purposes of subparagraph (A), the ownership of stock shall be determined under section 318.

"(f) Small DISC's.—

"(1) Adjusted taxable income of $100,000 or less.—If a DISC has adjusted taxable income of $100,000 or less for a taxable year, subsection (b)(1)(D) shall not apply with respect to such year.

"(2) Special rule.—If a DISC has adjusted taxable income of more than $100,000 for a taxable year, then the amount taken into account under subsection (b)(1)(D) shall be deemed to be an amount equal to the excess (if any) of—

"(A) the amount which would (but for this paragraph) be taken into account under subsection (b)(1)(D), over

"(B) twice the excess (if any) of $150,000 over the adjusted taxable income.

"(3) Adjusted taxable income.—For purposes of this subsection, the term 'adjusted taxable income' means the income of a DISC for the taxable year, reduced by the amounts described in subparagraphs (A), (B), and (C) of paragraph (1) of section 995(b)."

(b) Amendment of Section 993(c)(2).—Section 993(c)(2) (relating to property excluded from export property) is amended—

(1) by striking out "or" at the end of subparagraph (B),

(2) by striking out "under section 611, or" at the end of subparagraph (C) and inserting in lieu thereof "under section 613 or 613A,",

(3) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", or" and by redesignating such subparagraph (D) as subparagraph (E),

(4) by inserting after subparagraph (C) the following new subparagraph:

"(D) agricultural and horticultural commodities and products (including but not limited to livestock, timber, poultry, fish, and fur-bearing animals) which are not commodities or products with respect to which marketing quotas under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) have been in effect—

"(i) for the year in which the sale of such commodities or products occur; or

"(ii) for 2 of the 5 years preceding the year in which the sale of such commodities or products occur,",

(5) by inserting after subparagraph (E) the following new subparagraph:

"(F) property which, at the time of sale, is an arms, ammunition, or implement of war designated in the munitions list published pursuant to the Mutual Security Act of 1954 (22 U.S.C. 1934), other than property which is to be used solely for nonmilitary purposes.",

(6) by striking out "Subparagraph (C) shall not apply" in the second sentence and inserting in lieu thereof "Subparagraphs (C) and (D) shall not apply", and

(7) by adding at the end thereof the following: "If the authority to impose marketing quotas with respect to a commodity or product which was a qualified export property under the provisions of subparagraph (D) does not exist in a taxable year, the Secretary of the Treasury, after consultation with the Secretary of Agriculture, shall make a determination as to whether the commodity or product would be in excess of normal supply under the standards of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) as in effect on October 2, 1975. For purposes of subparagraph (D), in any case in which the Secretary of the Treasury determines a commodity or product to be in excess of normal supply for a taxable year, marketing quotas shall be deemed to have been in effect for that commodity or product in that taxable year."

(c) Amendment to Section 993(d).—Paragraph (2) of section 993(d) (relating to definition of producer's loan) is amended by inserting immediately after "of property which would be export property" the following: "(determined without regard to subparagraph (C), (D), or (E) of subsection (c)(2))".

(c) Amendment of Section 603(b) of Tax Reduction Act of 1975.—Section 603(b) of the Tax Reduction Act of 1975 (relating to effective date) is amended to read as follows:

"(b) Effective Dates.—

"(1) In General.—Except as provided in paragraph (2), the amendments made by subsection (a) shall apply to sales, exchanges, and other dispositions made after March 18, 1975, in taxable years ending after such date.

"(2) Binding contract.—The amendments made by subsection (a) shall not apply to sales, exchanges, and other dispositions made after March 18, 1975, but before March 19, 1980, if such sales, exchanges, and other dispositions are made pursuant to a fixed contract. The term 'fixed contract' means a contract which was, on March 18, 1975, and is at all times thereafter binding on the DISC or a taxpayer which was a member of the same controlled group (within the meaning of section 993(a)(2) of the Internal Revenue Code of 1954) as the DISC, which was entered into after the date on which the DISC qualified as a DISC and the DISC and the taxpayer became members of the same group, and under which the price and quantity of the products sold, exchanged, or otherwise disposed of cannot be increased."

(d) Effective Dates.—

(1) For subsection (a).—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1975.

(2) For subsection (b).—

(A) In general.—Except as provided in subparagraph (B), the amendments made by subsection (b) (other than paragraph (2)) shall apply to sales, exchanges and other dispositions made after October 2, 1975, in taxable years ending after such date.

(B) Certain fixed contract sales.—The amendments made by subsection (b) (other than paragraph (2) shall not apply to sales, exchanges and other dispositions made after October 2, 1975, but before October 3, 1978, if such sales, exchanges and other dispositions are made pursuant to a fixed contract. The term "fixed contract" means a contract which was, on October 2, 1975, and is at all times thereafter binding on the DISC or a taxpayer which was a member of the same controlled group (within the meaning of section 993(a)(2) of the Internal Revenue Code of 1954) as the DISC, which was entered into after the date on which the DISC qualified as a DISC and the DISC and the taxpayer became members of the same group, and under which the price and quantity of the products sold, exchanged, or otherwise disposed of cannot be increased.

(C) For subsection (b)(2).—The amendments made by paragraph (2) of subsection (b) shall apply to sales, exchanges, and other dispositions made after March 18, 1975, in taxable years ending after such date.

(3) For subsection (c).—The amendment made by subsection (c) shall apply to taxable years ending after March 18, 1975.

(4) Proration of base period in case of fixed contracts.—For purposes of determining adjusted base period gross receipts (under section 995(e)(2) of the Internal Revenue Code of 1954, as amended by this section), if any DISC has export gross receipts from export property by reason of paragraph (2)(B) of this subsection or paragraph (2) of section 603(b) of the Tax Reduction Act of 1975, then the export gross receipts of such DISC for the taxable years of the base period shall be increased by an amount equal to the amount of gross receipts which were excluded from export gross receipts during each taxable year of the base period by reason of the last sentence of section 993(e)(2) multiplied by a fraction, the numerator of which is the amount of the gross receipts in the taxable year which are export gross receipts by reason of paragraph (2)(B) of this subsection or paragraph (2) of section 603(b) of the Tax Reduction Act of 1975 and the denominator of which is the amount of total gross receipts which are excluded from export gross receipts in the taxable year by reason of subparagraph (C), (D), (E), or (F) of paragraph (2) of section 993(c) (determined without regard to paragraph (2)(B) of this subsection and paragraph (2) of section 603(b) of the Tax Reduction Act of 1975).

TITLE XII—ADMINISTRATIVE PROVISIONS

SEC. 1201. INCOME TAX RETURN PREPARERS.

(a) DEFINITION.—Section 7701(a) (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(37) INCOME TAX RETURN PREPARER.—

"(A) IN GENERAL.—The term 'income tax return preparer' means any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return of tax imposed by subtitle A or any claim for refund of tax imposed by subtitle A. For purposes of the preceding sentence, the preparation of a substantial portion of a return or claim shall be treated as if it were the preparation of such return or claim.

"(B) EXCEPTIONS.—A person shall not be an 'income tax return preparer' merely because such person—

"(i) furnishes typing, reproducing, or other mechanical assistance,

"(ii) prepares a return or claim of the employer (or of an officer or employee of the employer) by whom he is regularly and continuously employed, or

"(iii) prepares a return or claim for any trust or estate with respect to which he is a fiduciary."

(b) ASSESSABLE PENALTIES WHERE PREPARER UNDERSTATES TAXPAYER'S LIABILITY.—

(1) IN GENERAL.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6694. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

"(a) NEGLIGENT OR INTENTIONAL DISREGARD OF RULES AND REGULATIONS.—If any part of any understatement of liability with respect to any return or claim for refund is due to the negligent or intentional disregard of rules and regulations by any person who is an income tax return preparer with respect to such return or claim, such person shall pay a penalty of $100 with respect to such return or claim.

"(b) WILLFUL UNDERSTATEMENT OF LIABILITY.—If any part of any understatement of liability with respect to any return or claim for refund is due to a willful attempt in any manner to understate the liability for a tax by a person who is an income tax return preparer with respect to such return or claim, such person shall pay a penalty of $500 with respect to such return or claim. With respect to any return or claim, the amount of the penalty payable by any person by reason of this subsection shall be reduced by the amount of the penalty paid by such person by reason of subsection (a).

"(c) EXTENSION OF PERIOD OF COLLECTION WHERE PREPARER PAYS 15 PERCENT OF PENALTY.—

"(1) IN GENERAL.—If, within 30 days after the day on which notice and demand of any penalty under subsection (a) or (b) is made against any person who is an income tax return preparer, such person pays an amount which is not less than 15 percent of the amount of such penalty and files a claim for refund of the amount so paid, no levy or proceeding in court for the collection of the remainder of such penalty shall be made, begun, or prosecuted until the final resolution of the proceeding begun as provided in paragraph (2). Notwithstanding the provisions of section 7421(a), the beginning of such proceeding or levy during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

"(2) PREPARER MUST BRING SUIT IN DISTRICT COURT TO DETERMINE HIS LIABILITY FOR PENALTY.—If, within 30 days after the day on which his claim for refund of any partial payment of any penalty under subsection (a) or (b) is denied (or, if earlier, within 30 days after the expiration of 6 months after the day on which he filed the claim for refund), the income tax return preparer fails to begin a proceeding in the appropriate United States district court for the determination of his liability for such penalty, paragraph (1) shall cease to apply with respect to such penalty, effective on the day following the close of the applicable 30-day period referred to in this paragraph.

"(3) SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS ON COLLECTION.—The running of the period of limitations provided in section 6502 on the collection by levy or by a proceeding in court in respect of any penalty described in paragraph (1) shall be suspended for the period during which the Secretary is prohibited from collecting by levy or a proceeding in court.

"(d) ABATEMENT OF PENALTY WHERE TAXPAYER DID NOT UNDERSTATE HIS LIABILITY.—If at any time there is a final administrative determination or a final judicial decision that there was no understatement of liability in the case of any return or claim for refund with respect to which a penalty under subsection (a) or (b) has been assessed, such assessment shall be abated, and if any portion of such penalty has been paid the amount so paid shall be refunded to the person who made such payment as an overpayment of tax without regard to any period of limitations which, but for this subsection, would apply to the making of such refund.

"(e) UNDERSTATEMENT OF LIABILITY DEFINED.—For purposes of this section, the term 'understatement of liability' means any understatement of the net amount payable with respect to any tax imposed by subtitle A or any overstatement of the net amount creditable or refundable with respect to any such tax. Except as otherwise provided in subsection (d), the determination of whether or not there is an understatement of liability shall be made without regard to any administrative or judicial action involving the taxpayer.

"(f) CROSS REFERENCE.—

"For definition of income tax return preparer, see section 7701(a)(37)."

(2) BURDEN OF PROOF UNDER 6694(b).—

(A) Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7427 as section 7428 and by inserting after section 7426 the following new section:

"SEC. 7427. INCOME TAX RETURN PREPARERS.

"In any proceeding involving the issue whether an income tax return preparer has willfully attempted in any manner to understate the liability for tax (within the meaning of section 6694(b)), the burden of proof in respect of such issue shall be upon the Secretary."

(B) The table of sections for such subchapter B is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 7427. Income tax return preparers.
"Sec. 7428. Cross references."

(c) PREPARER MUST FURNISH COPY OF RETURN TO TAXPAYER AND MUST RETAIN COPY OR LIST.—Subchapter B of chapter 61 (relating to information and returns) is amended by inserting after section 6106 the following new section:

"SEC. 6107. INCOME TAX RETURN PREPARER MUST FURNISH COPY OF RETURN TO TAXPAYER AND MUST RETAIN A COPY OR LIST.

"(a) FURNISHING COPY OF TAXPAYER.—Any person who is an income tax return preparer with respect to any return or claim for refund shall furnish a completed copy of such return or claim to the taxpayer not later than the time such return or claim is presented for such taxpayer's signature.

"(b) COPY OR LIST TO BE RETAINED BY INCOME TAX RETURN PREPARER.—Any person who is an income tax return preparer with respect to a return or claim for refund shall, for the period ending 3 years after the close of the return period—

"(1) retain a completed copy of such return or claim, or retain, on a list, the name and taxpayer identification number of the taxpayer for whom such return or claim was prepared, and

"(2) make such copy or list available for inspection upon request by the Secretary.

"(c) REGULATIONS.—The Secretary shall prescribe regulations under which, in cases where 2 or more persons are income tax return preparers with respect to the same return or claim for refund, compliance with the requirements of subsection (a) or (b), as the case may be, of one such person shall be deemed to be compliance with the requirements of such subsection by the other persons.

"(d) DEFINITIONS.—For purposes of this section, the terms 'return' and 'claim for refund' have the respective meanings given to such terms by section 6696(e), and the term 'return period' has the meaning given to such term by section 6060(b)."

(d) TAXPAYER IDENTIFYING NUMBER OF PREPARER TO BE FURNISHED.—Section 6109(a) (relating to supplying of identifying numbers) is amended by adding at the end thereof the following:

"(4) FURNISHING IDENTIFYING NUMBER OF INCOME TAX RETURN PREPARER.—Any return or claim for refund prepared by an income tax return preparer shall bear such identifying number for securing proper identification of such preparer, his employer, or both as may be prescribed. For purposes of this paragraph, the terms 'return' and 'claim for refund' have the respective meanings given to such terms by section 6696(e).

For purposes of this subsection, the identifying number of an individual (or his estate) shall be such individual's social security account number.

(e) PREPARER MUST FILE ANNUAL INFORMATION RETURN.—Part III of subchapter A of chapter 61 (relating to information returns) is amended by adding at the end thereof the following new subpart:

"Subpart F—Information Concerning Income Tax Return Preparers

"SEC. 6060. INFORMATION RETURNS OF INCOME TAX RETURN PREPARERS.

"(a) GENERAL RULE.—Any person who employs an income tax return preparer at any time during a return period shall make a return setting forth the name, taxpayer identification number, and place of work of each income tax return preparer employed by him at any time during such period. For purposes of this section, any individual who in acting as an income tax return preparer is not the employee of another income tax return preparer shall be treated as his own employer. The return required by this section shall be filed, in such manner as the Secretary may by regulations prescribe, on or before the first July 31 following the end of such return period.

"(b) RETURN PERIOD DEFINED.—For purposes of subsection (a), the term 'return period' means the 12-month period beginning on July 1 of each year; except that the first return period shall be the 6-month period beginning on January 1, 1976, and ending on June 30, 1976."

(f) OTHER ASSESSABLE PENALTIES WITH RESPECT TO THE PREPARATION OF INCOME TAX RETURNS FOR OTHER PERSONS.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new sections:

"SEC. 6695. OTHER ASSESSABLE PENALTIES WITH RESPECT TO THE PREPARATION OF INCOME TAX RETURNS FOR OTHER PERSONS.

"(a) Failure To Furnish Copy to Taxpayer.—Any person who is an income tax return preparer with respect to any return or claim for refund who fails to comply with section 6107(a) with respect to such return or claim shall pay a penalty of $25 for such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect.

"(b) Failure To Sign Return.—Any person who is an income tax return preparer with respect to any return or claim for refund, who is required by regulations prescribed by the Secretary to sign such return or claim, and who fails to comply with such regulations with respect to such return or claim shall pay a penalty of $25 for such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect.

"(c) Failure To Furnish Identifying Number.—Any person who is an income tax return preparer with respect to any return or claim for refund and who fails to comply with section 6109(a)(4) with respect to such return or claim shall pay a penalty of $25 for such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect.

"(d) Failure To Retain Copy or List.—Any person who is an income tax return preparer with respect to any return or claim for refund who fails to comply with section 6107(b) with respect to such return or claim shall pay a penalty of $50 for each such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to any return period shall not exceed $25,000.

"(e) Failure To File Correct Information Return.—Any person required to make a return under section 6060 who fails to comply with the requirements of such section shall pay a penalty of—

"(1) $100 for each failure to file a return as required under such section, and

"(2) $5 for each failure to set forth an item in the return as required under such section,

unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to any return period shall not exceed $20,000.

"(f) Negotiation of Check.—Any person who is an income tax return preparer who endorses or otherwise negotiates (directly or through an agent) any check made in respect of the taxes imposed by subtitle A which is issued to a taxpayer (other than the income tax return preparer) shall pay a penalty of $500 with respect to each such check.

"SEC. 6696. RULES APPLICABLE WITH RESPECT TO SECTIONS 6694 AND 6695.

"(a) Penalties To Be Additional to Any Other Penalties.—The penalties provided by section 6694 and 6695 shall be in addition to any other penalties provided by law.

"(b) Deficiency Procedures Not To Apply.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and chapter 42 taxes) shall not apply with respect to the assessment or collection of the penalties provided by section 6694 and 6695.

"(c) Procedure for Claiming Refund.—Any claim for credit or refund of any penalty paid under section 6694 or 6695 shall be filed in accordance with regulations prescribed by the Secretary.

"(d) Periods of Limitation.—

"(1) Assessment.—The amount of any penalty under section 6694(a) or under section 6695 shall be assessed within 3 years after the return or claim for refund with respect to which the penalty is assessed, was filed, and no proceeding in court without assessment for the collection of such tax shall be begun after the expiration of such period. In the case of any penalty under section 6694(b), the penalty may be assessed, or a proceeding in court for the collection of the penalty may be begun without assessment, at any time.

"(2) Claim for refund.—Except as provided in section 6694(d), claim for refund of an overpayment of any penalty assessed under section 6694 or 6695 shall be filed within 3 years from the time the penalty was paid.

"(e) Definitions.—For purposes of section 6694 and 6695—

"(1) Return.—The term 'return' means any return of any tax imposed by subtitle A.

"(2) Claim for refund.—The term 'claim for refund' means a claim for refund of, or credit against, any tax imposed by subtitle A."

(g) Authority To Seek Injunction Against Income Tax Return Preparers.—Subchapter A of chapter 76 (relating to civil actions by the United States) is amended by redesignating section 7407 as section 7408 and by inserting after section 7406 the following new section:

"SEC. 7407. ACTION TO ENJOIN INCOME TAX RETURN PREPARERS.

"(a) Authority To Seek Injunction.—Whenever the Secretary believes that any person who is an income tax return preparer has—

"(1) engaged in any conduct subject to penalty under section 6694 or 6695, or subject to any criminal penalty by this title,

"(2) misrepresented his eligibility to practice before the Internal Revenue Service, or otherwise misrepresented his experience and education as an income tax return preparer,

"(3) guaranteed the payment of any tax refund or the allowance of any tax credit, or

"(4) engaged in any other conduct which is similar in nature to conduct specified in paragraph (1), (2), or (3) and which substantially interferes with the proper administration of the internal revenue laws, then except as provided in subsection (c), a civil action in the name of the United States may be commenced to enjoin such person from further engaging in such conduct or acts or from further acting as an income tax return preparer.

"(b) Adjudication and Decrees.—Any civil action under this section shall be brought in the district court of the United States for the district in which the income tax return preparer resides or transacts business. The court shall exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the Untied States against such income tax return preparer or any taxpayer.

"(c) Bond To Stay Injunction.—No action to enjoin under subsection (a)(1) shall be commenced or pursued with respect to any income tax return preparer who files and maintains, with the Secretary in the internal revenue district in which is located such preparer's legal residence or principal place of business, a bond in a sum of $50,000 as surety for the payment of penalties under sections 6694 and 6695."

(h) Certain Information Made Available to State and Local Officials.—Section 6103 (b) (relating to inspection by States) is amended by adding at the end thereof the following new paragraph:

"(3) Information concerning tax return preparers.—The name, address, and taxpayer identifying number of any income tax return preparer, and whether or not any penalty has been assessed against such income tax return preparer under section 6694 or 6695, may be furnished to any official, body, or commission lawfully charged under any State or local law with the licensing, registration, or regulation of income tax return preparers. Such information may be furnished only on a written request by the Governor or chief executive officer of the State designating the official, body, or commission to which such information is to be furnished. Information may be furnished under this paragraph only for, and may be used only for, purposes of the licensing, registration, or regulation of income tax return preparers. For purposes of this paragraph, the term 'State' includes the Commonwealth of Puerto Rico and any possession of the United States."

(i) Cross References.—

(1) Section 6503 (i) is amended by adding at the end thereof the following new paragraph:

"(4) Income tax return preparers, see section 6694(c)(3)."

(2) Section 6504 is amended by adding at the end thereof the following new paragraph:

"(16) Assessment of civil penalties under section 6694 or 6695, see section 6696(d)(1)."

(3) Section 6511(g) is amended by adding at the end thereof the following new paragraph:

"(7) For a period of limitations for refund of an overpayment of penalties imposed under section 6694 or 6695, see section 6696(d)(2)."

(j) Conforming Amendments.—

(1) The table of subparts for part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Subpart F. Information concerning income tax return preparers."

(2) The table of sections for subchapter B of chapter 61 is amended by inserting immediately after the item relating to section 6106 the following new item:

"Sec. 6107. Income tax return preparer must furnish copy of return to taxpayer and must retain a copy or list."

(3) The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new items:

"Sec. 6694. Understatement of taxpayer's liability by income tax return preparer.

"Sec. 6695. Other assessable penalties with respect to the preparation of income tax returns for other persons.

"Sec. 6696. Rules applicable with respect to sections 6694 and 6695."

(4) The table of sections for subchapter A of chapter 76 is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 7407. Action to enjoin income tax return preparers.

"Sec. 7408. Cross references."

(k) Effective Date.—The amendment made by this section shall apply to documents prepared after December 31, 1975.

SEC. 1202. DECLARATORY JUDGMENTS WITH RESPECT TO SECTION 501(c)(3) STATUS AND CLASSIFICATION.

(a) General Rule.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7428 as 7429, and by inserting after section 7427 the following new section:

"SEC. 7428. DECLARATORY JUDGMENTS RELATING TO STATUS AND CLASSIFICATION OF ORGANIZATIONS UNDER SECTION 501(c)(3), ETC.

"(a) Creation of Remedy.—In a case of actual controversy involving—

"(1) a determination by the Secretary—

"(A) with respect to the initial qualification or continuing qualification of an organization as an organization described in section 501(c)(3) which is exempt from tax under section 501(a) or as an organization described in section 170(c)(2),

"(B) with respect to the initial classification or continuing classification of an organization as a private foundation (as defined in section 509(a)), or

"(C) with respect to the initial classification or continuing classification of an organization as a private operating foundation (as defined in section 4942(j)(3)), or

"(2) a failure by the Secretary to make a determination with respect to an issue referred to in paragraph (1),

upon the filing of an appropriate pleading, the United States Tax Court or the district court of the United States for the district in which the principal office or agency of the organization is located may make a declaration with respect to such initial qualification or continuing qualification or with respect to such initial classification or continuing classification. Any such declaration shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court, as the case may be, and shall be reviewable as such.

"(b) Limitations.—

"(1) Petitioner.—A pleading may be filed under this section only by the organization the qualification or classification of which is at issue.

"(2) Exhaustion of administrative remedies.—A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court or district court determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service. An organization requesting the determination of an issue referred to in subsection (a)(1) shall be deemed to have exhausted its administrative remedies with respect to a failure by the Secretary to make a determination with respect to such issue at the expiration of 270 days after the date on which the request for such determination was made if the organization has taken, in a timely manner, all reasonable steps to secure such determination.

"(3) Time for bringing action.—If the Secretary sends by certified or registered mail notice of his determination with respect to an issue referred to in subsection (a)(1) to the organization referred to in paragraph (1), no proceeding may be initiated under this section by such organization unless the pleading is filed before the 91st day after the date of such mailing.

"(c) Validation of Certain Contributions Made During Pendency of Proceedings.—

"(1) In general.—If—

"(A) the issue referred to in subsection (a)(1) involves the revocation of a determination that the organization is described in section 170(c)(2),

"(B) a proceeding under this section is initiated within the time provided by subsection (b)(3), and

"(C) either—

"(i) a decision of the Tax Court has become final (within the meaning of section 7481), or

"(ii) a judgment of the district court has been entered,

and such decision or judgment, as the case may be, determines that the organization was not described in section 170(c)(2),

then such organization shall nevertheless be treated as continuing to be described in section 170(c)(2) for purposes of section 170 for the period beginning on the date on which the notice of the revocation is published and ending on the date on which the court has first determined in such proceeding that the organization was not described in section 170 (c)(2).

"(2) Limitation.—Paragraph (1) shall apply only—

"(A) with respect to individuals, and in this case only to the extent that the aggregate of the contributions made by any individual to or for the use of the organization during the period specified in paragraph (1) does not exceed $1,000 (for this purpose treating a husband and wife as one contribution), and

"(B) with respect to organizations described in section 170(c)(2) which are exempt from tax under section 501(a) (for this purpose excluding any such organization with respect to which there is pending a proceeding to revoke the determination under section 170(c)(2)).

"(3) Exception.—This subsection shall not apply to any individual who was responsible, in whole or in part, for the activities (or failures to act) on the part of the organization which were the basis for the revocation."

(b) Technical and Conforming Amendments.—

(1) Section 7451 (relating to fee for filing petition) is amended by inserting before the period at the end thereof the following: "or under section 7428".

(2) Section 7459(c) (relating to date of decision) is amended by inserting after "under part IV of this subchapter" the following: "or under section 7428".

(3) Section 7476(c) (relating to use of Tax Court commissioners) is amended by striking out "this section" and inserting in lieu thereof "this section or section 7428".

(4) Section 7482(b)(1) (relating to venue for review of Tax Court decisions) is amended by striking out "or" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", or", and by inserting after subparagraph (D) the following new subparagraph:

"(E) in the case of an organization seeking a declaratory decision under section 7428, the principal office or agency of the organization."

(5) Section 7482(b)(1) is further amended by striking out "section 7476" in the last sentence and inserting in lieu thereof "section 7428, 7476,".

(6) The table of sections for subchapter B of chapter 76 is amended by striking out the item relating to section 7428 and inserting in lieu thereof the following:

"Sec. 7428. Declaratory judgments relating to status and classification of organizations under section 501(c)(3), etc.

"Sec. 7429. Cross references."

(7) Section 1346(e) of title 28 of the United States Code (relating to jurisdiction of district courts with the United States as defendant) is amended by inserting "or section 7428" immediately after "section 7426".

(8) Section 2201 of title 28 of the United States Code (relating to creation of declaratory judgment remedy) is amended by striking out "taxes" and inserting in lieu thereof "taxes other than actions brought under section 7428 of the Internal Revenue Code of 1954".

(c) Effective Date.—The amendments made by this section shall apply with respect to pleadings filed with the United States Tax Court or a district court of the United States more than one year after the date of the enactment of this Act but only wih respect to determinations (or requests for determinations) made after the date of the enactment of this Act.

Sec. 1203. Assessments in Case of Mathematical or Clerical Errors.

(a) In General.—Section 6213(b) (relating to exceptions to restrictions on assessment in certain cases) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and

(2) by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(1) Assessments arising out of mathematical or clerical errors.—If the taxpayer is notified that, on account of a mathematical or clerical error appearing on the return, an amount of tax in excess of that shown on the return is due, and that an assessment of the tax has been or will be made on the basis of what would have been the correct amount of tax but for the mathematical or clerical error, such notice shall not be considered as a notice of deficiency for the purposes of subsection (a) (prohibiting assessment and collection until notice of the deficiency has been mailed), or of section 6212 (c)(1) (restricting further deficiency letters), or of section 6512(a) (prohibiting credits or refunds after petition to the Tax Court), and the taxpayer shall have no right to file a petition with the Tax Court based on such notice, nor shall such assessment or collection be prohibited by the provisions of subsection (a) of this section. Each notice under this paragraph shall set forth the error alleged and an explanation thereof.

"(2) Abatement of assessment of mathematical or clerical errors.—

"(A) Request for abatement.—Notwithstanding section 6404(b), a taxpayer may file with the Secretary within 90 days after notice is sent under paragraph (1) a request for an abatement of any assessment specified in such notice.

"(B) Abatement or further explanation required.—Within 60 days after receipt of a request under subparagraph (A), the Secretary shall either—

"(i) abate the assessment, or

"(ii) send a notification to the taxpayer containing a further explanation of the basis on which such assessment was made.

"(C) Abatement if request confirmed.—If a confirmation of a request for an abatement is filed by the taxpayer within 30 days after a notification containing a further explanation is sent under subparagraph (B) (ii), the Secretary shall abate such assessment. If no such confirmation is filed within such 30-day period, the Secretary shall not be required to abate the assessment.

"(D) Stay of Collection.—In the case of any assessment referred to in paragraph (1), notwithstanding paragraph (1), no levy or proceeding in court for the collection of such assessment shall be made, begun, or prosecuted during the period in which such assessment may be abated under this paragraph."

(b) Definitions Relating to Mathematical or Clerical Errors.—Section 6213 is amended by redesignating subsection (f) as subsection (g), and by inserting immediately after subsection (e) the following new subsection:

"(f) Definitions.—For purposes of this section—

"(1) Return.—The term 'return' includes any return, statement, schedule, or list, and any amendment or supplement thereto, filed with respect to any tax imposed by subtitle A or B, or chapter 42 or 43.

"(2) Mathematical or clerical error.—The term 'mathematical or clerical error' means—

"(A) an error in addition, subtraction, multiplication, or division shown on any return,

"(B) an incorrect use of any table provided by the Internal Revenue Service with respect to any return if such incorrect use is apparent from the existence of other information on the return,

"(C) an entry on a return of an item which is inconsistent with another entry of the same or another item on such return,

"(D) an omission of information which is required to be supplied on the return to substantiate an entry on the return, and

"(E) an entry on a return of a deduction or credit in an amount which exceeds a statutory limit imposed by subtitle A or B, or chapter 42 or 43, if such limit is expressed—

"(i) as a specified monetary amount, or

"(ii) as a percentage, ratio, or fraction, and if the items entering into the application of such limit appear on such return."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 6213(b)(3) (relating to assessments arising out of tentative carryback adjustments), as redesignated by subsection (a), is amended—

(A) by striking out "he may assess" and inserting in lieu thereof "he may assess without regard to the provisions of paragraph (2)", and

(B) by striking out "mathematical error" and inserting in lieu thereof "mathematical or clerical error".

(2) Section 6201(a)(3) (relating to assessments regarding erroneous income tax prepayment credits) and section 6201(a)(4) (relating to assessments regarding erroneous credit under section 39) are each amended—

(A) by striking out "mathematical error" and inserting in lieu thereof "mathematical or clerical error", and

(B) by inserting immediately before the period at the end thereof the following: ", except that the provisions of section 6213 (b)(2) (relating to abatement of mathematical or clerical error assessments) shall not apply with regard to any assessment under this paragraph".

(3) Section 6212(c)(1) (relating to deficiency letters) is amended by striking out "(relating to mathematical errors)" and inserting in lieu thereof "(relating to mathematical or clerical errors)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to returns (within the meaning of section 6213(f)(1) of the Internal Revenue Code of 1954) filed after December 31, 1975.

SEC. 1204. VOLUNTARY WITHHOLDING OF STATE INCOME TAXES IN THE CASE OF CERTAIN LEGISLATIVE OFFICERS AND EMPLOYEES.

(a) GENERAL RULE.—Subchapter II of chapter 55 of title 5 of the United States Code is amended by inserting after section 5517 the following new section:

"§ 5517A. Voluntary withholding of State income taxes in the case of certain officers and employees in the legislative branch

"(a) The Clerk of the House of Representatives, the Sergeant at Arms of the House of Representatives, the Architect of the Capitol, and the Librarian of Congress (with respect to the employees of the United States Botanic Garden) shall each enter into an agreement with any State, at the request for agreement from the proper State official. The agreement shall provide that—

"(1) the Clerk of the House of Representatives, in the case of employees whose compensation is disbursed by him,

"(2) the Sergeant at Arms of the House of Representatives, in the case of Members of the House of Representatives, and

"(2) the appropriate disbursing officer in the case of employees under the jurisdiction of the Architect of the Capitol and in the case of employees of the United States Botanic Garden,

shall withhold income tax in the case of each Member and employee who is subject to such income tax and who voluntarily agrees to such withholding. This section shall apply with respect to a State only if—

"(A) the law of the State provides for the collection of an income tax by imposing upon employers generally the duty of withholding sums from the compensation of employees and remitting such sums to the authorities of such State, and

"(B) such duty to withhold is imposed generally with respect to the compensation of employees who are residents of such State.

"(b) For th purpose of this section—

"(1) 'State' means a State, the District of Columbia, and a possession of the United States.

"(2) The term 'Member' includes a Delegate and a Resident Commissioner."

(b) CLERICAL AMENDMENTS.—The table of sections for such subchapter is amended by inserting after the item relating to section 5517 the following:

"5517A. Voluntary withholding of State income taxes in the case of certain officers and employees in the legislative branch."

SEC. 1205. WITHHOLDING STATE AND DISTRICT INCOME TAXES FROM COMPENSATION OF MEMBERS OF ARMED FORCES WHO ARE RESIDENTS OF THE STATE OR DISTRICT OF COLUMBIA.

(a) WITHHOLDING OF STATE INCOME TAXES.—The last sentence of section 5517(a) of title 5, United States Code, is amended to read as follows: "In the case of pay for service as a member of the armed forces, the preceding sentence shall be applied by substituting 'who are residents of the State with which the agreement is made and elect to have the agreement apply' for 'whose regular place of Federal employment is within the State with which the agreement is made'."

(b) WITHHOLDING OF DISTRICT INCOME TAXES.—Subsection (a) of section 5516 of title 5, United States Code, is amended—

(1) by striking out in the third sentence "pay for service as a member of the armed forces, or to"; and

(2) by adding after the third sentence the following new sentence: "In the case of pay for service as a member of the armed forces, the second sentence of this subsection shall be applied by substituting 'who are residents of the District of Columbia and elect to have the agreement apply' for 'whose regular place of employment is within the District of Columbia'."

SEC. 1206. WITHHOLDING STATE AND CITY INCOME TAXES FROM THE COMPENSATION OF MEMBERS OF THE NATIONAL GUARD OR THE READY RESERVE.

Section 5517 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) For the purpose of this section and sections 5516 and 5520, the terms 'serve as a member of the armed forces' and 'service as a member of the Armed Forces' do not include—

"(1) participation in exercises or the performance of duty under section 502 of title 32, United States Code, by a member of the National Guard; and

"(2) participation in scheduled drills or training periods, or service on active duty for training, under section 270(a) of title 10, United States Code, by a member of the Ready Reserve."

SEC. 1207. WITHHOLDING TAX ON CERTAIN GAMBLING WINNINGS.

(a) IN GENERAL.—Section 3402 (relating to income tax collected at source) is amended by adding at the end thereof the following new subsection:

GAMBLING WINNINGS.

"(q) EXTENSION OF WITHHOLDING TO CERTAIN GAMBLING WINNINGS.—

"(1) GENERAL RULE.—Every person making any payment of winnings which are subject to withholding shall deduct and withhold from such payment a tax in an amount equal to 20 percent of such payment.

"(2) EXEMPTION WHERE TAX OTHERWISE WITHHELD.—In the case of any payment of winnings which are subject to withholding made to a nonresident alien individual or a foreign corporation, the tax imposed under paragraph (1) shall not apply to any such payment subject to tax under section 1441 (a) (relating to withholding on nonresident aliens) or tax under section 1442(a) (relating to withholding on foreign corporations).

"(3) WINNINGS WHICH ARE SUBJECT TO WITHHOLDING.—For purposes of this subsection, the term 'winnings which are subject to withholding' means proceeds from a wagering transaction determined in accordance with the following:

"(A) IN GENERAL.—Except as provided in subparagraph (B), proceeds of more than $1,000 from a wagering transaction, if the amount of such proceeds is at least 300 times as large as the amount wagered.

"(B) LOTTERIES.—Proceeds of more than $1,000 from a wager placed in a sweepstakes, wagering pool, or lottery (whether or not conducted by a State, or an agency or instrumentality of a State).

For purposes of the preceding sentence, proceeds which are not money shall be taken into account at their fair market value.

"(4) STATEMENT BY RECIPIENT.—Every person who is to receive a payment of winnings which are subject to withholding shall furnish the person making such payment a statement, made under the penalties of perjury, containing the name, address, and taxpayer identification number of the person receiving the payment and of each person entitled to any portion of such payment.

"(5) COORDINATION WITH OTHER SECTIONS.—For purposes of sections 3403 and 3404 and for purposes of so much of subtitle F (except section 7205) as relates to this chapter, payments to any person of winnings which are subject to withholding shall be treated as if they were wages paid by an employer to an employee."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to wagering transactions occurring after December 31, 1975.

SEC. 1208. STATE CONDUCTED LOTTERIES.

(a) EXEMPTION FROM WAGERING TAX.—Paragraph (3) of section 4402 (relating to State-conducted sweepstakes) is amended to read as follows:

"(3) STATE-CONDUCTED LOTTERIES, ETC.—On any wager placed in a sweepstakes, wagering pool, or lottery which is conducted by an agency of a State acting under authority of State law, but only if such wager is placed with the State agency conducting such sweepstakes, wagering pool, or lottery, or with its authorized employees or agents."

(b) EXEMPTION FROM OCCUPATIONAL TAX ON COIN-OPERATED DEVICES.—Section 4462(b) (relating to exclusions from definition of coin-operated gaming devices) is amended—

(1) by striking out "or" at the end of paragraph (1),

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or", and

(3) by adding at the end thereof the following new paragraph:

"(3) a vending machine which—

"(A) dispense tickets on a sweepstakes, wagering pool, or lottery which is conducted by an agency of a State acting under authority of State law, and

"(B) is maintained by the State agency conducting such sweepstakes, wagering pool, or lottery, or by its authorized employees or agents."

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply with respect to wagers placed after March 10, 1964.

(2) The amendments made by subsection (b) shall apply with respect to periods after March 10, 1964.

SEC. 1209. JEOPARDY AND TERMINATION ASSESSMENTS.

(a) REVIEW OF JEOPARDY AND TERMINATION ASSESSMENT PROCEDURES BY TAX COURT.—Subchapter A of chapter 70 (relating to jeopardy) is amended by adding at the end thereof the following new part:

"PART III—REVIEW OF TERMINATION OF TAXABLE PERIOD AND JEOPARDY ASSESSMENT PROCEDURES BY TAX COURT

"Sec. 6866. Review by Tax Court.

"Sec. 6866. Review by Tax Court.

"(a) Filing of Petition.—Within 30 days after the day on which there is notice and demand for payment under section 6861(a) or 6862(a) or notice of termination of a taxable period under section 6851(a), the taxpayer may file a petition with the Tax Court for a determination under this section.

"(b) Determination by Tax Court.—Within 20 days after a petition is filed under subsection (a) with the Tax Court, the Tax Court shall determine whether or not—

"(1) there was reasonable cause for making the assessment under section 6861 or 6862 or declaring the termination of the taxable period under section 6851, as the case may be,

"(2) the amount so assessed or demanded was appropriate under the circumstances, and

"(3) there is reasonable cause for rescinding (in whole or in part) the action taken under section 6861, 6862, or 6851, as the case may be.

"(c) Extension of 20-Day Period Where Taxpayer So Requests.—If the taxpayer requests an extension of the 20-day period set forth in subsection (b) and establishes reasonable grounds why such extension should be granted, the Tax Court may grant an extension of not more than 40 additional days.

"(d) Computation of Days.—For purposes of this section, Saturday, Sunday, or a legal holiday in the District of Columbia shall not be counted as the last day of any period.

"(e) Commissioners.—The chief judge of the Tax Court may assign proceedings under this section to be heard by the commissioners of the court, and the court may authorize a commissioner to make the determination of the court with respect to such proceeding, subject to such conditions and review as the court may by rule provide.

"(f) Finality of Determination.—Any determination made by the Tax Court under this section shall be final and conclusive and shall not be reviewed in any other court."

(b) Clerical Amendment.—The table of parts for such subchapter A is amended by adding at the end thereof the following:

"Part III. Review of termination of taxable year and jeopardy assessment procedures by Tax Court."

(c) Stay of Sale of Seized Property Pending Tax Court Determination Under Section 6866.—Section 6863 (relating to stay of collection of jeopardy assessments) is amended by adding at the end thereof the following new subsection:

"(c) Stay of Sale of Seized Property Pending Tax Court Determination Under Section 6866.—

"(1) General rule.—Where a jeopardy assessment has been made under section 6861(a) or 6862(a), or a taxable period has been terminated under section 6851(a), the property seized for the collection of the tax shall not be sold—

"(A) if a petition is filed in accordance with section 6866(a), before the day after the day on which the Tax Court makes its determination in the proceeding, or

"(B) if subparagraph (A) does not apply, before the day after the expiration of the period provided in section 6866 for filing the petition with the Tax Court.

"(2) Exceptions.—With respect to any property described in paragraph (1), the exceptions provided by clauses (i) and (iii) of subsection (b)(3)(B) shall apply."

(d) Effective Date.—The amendments made by this section shall apply with respect to action taken under section 6861, 6862, or 6851 of the Internal Revenue Code of 1954, where the notice and demand takes place after December 31, 1975.

Sec. 1210. Minimum Exemption from Levy for Wages, Salary, and Other Income.

(a) General Rule.—Subsection (a) of section 6334 (relating to property exempt from levy) is amended by adding at the end thereof the following new paragraph:

"(9) Minimum exemption for wages, salary, and other income.—Any amount payable to or received by an individual as wages or salary for personal services, or as income derived from other sources, during any period, to the extent that the total of such amounts payable to or received by him during such period does not exceed the applicable exempt amount determined under subsection (d)."

(b) Determination of Exempt Amount.—Section 6334 is amended by adding at the end thereof the following new subsection:

"(d) Exempt Amount of Wages, Salary, or Other Income.—

"(1) Individuals on weekly basis.—In the case of an individual who is paid or receives all of his wages, salary, and other income on a weekly basis, the amount of the wages, salary, and other income payable to or received by him during any week which is exempt from levy under subsection (a)(9) shall be—

"(A) $50, plus

"(B) $15 for each individual who is specified in a written statement which is submitted to the person on whom notice of levy is served and which is verified in such manner as the Secretary shall prescribe by regulations and—

"(i) over half of whose support for the payroll period was received from the taxpayer,

"(ii) who is the spouse of the taxpayer, or who bears a relationship to the taxpayer specified in paragraphs (1) through (9) of section 152(a) (relating to definition of dependents), and

"(iii) who is not a minor child of the taxpayer with respect to whom amounts are exempt from levy under subsection (a)(8) for the payroll period.

For purposes of subparagraph (B)(ii) of the preceding sentence, 'payroll period' shall be substituted for 'taxable year' each place it appears in paragraph (9) of section 152(a).

"(2) Individuals on basis other than weekly.—In the case of any individual not described in paragraph (1), the amount of the wages, salary, and other income payable to or received by him during any applicable pay period or other fiscal period (as determined under regulations prescribed by the Secretary) which is exempt from levy under subsection (a)(9) shall be an amount (determined under such regulations) which as nearly as possible will result in the same total exemption from levy for such individual over a period of time as he would have under paragraph (1) if (during such period of time) he were paid or received such wages, salary, and other income on a regular weekly basis."

(c) Conforming Amendment.—The paragraph heading for paragraph (8) of section 6334(a) is amended to read as follows:

"(8) Judgments for support of minor children.—".

(d) Levy on Wages, Etc., To Be Continuing.—

(1) Subsection (d) of section 6331 (relating to level on salaries and wages) is amended by adding at the end thereof the following new paragraph:

"(3) Continuing levy on salary and wages.—

"(A) Effect of levy.—The effect of a levy on salary or wages payable to or received by a taxpayer shall be continuous from the date such levy is first made until the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time.

"(B) Release and notice of release.—With respect to a levy described in subparagraph (A), the Secretary shall promptly release the levy when the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time, and shall promptly notify the person upon whom such levy was made that such levy has been released.".

(2) The second sentence of section 6331(b) (relating to seizure and sale of property) is amended by striking out "A levy" and inserting in lieu thereof "Except as otherwise provided in subsection (d)(3), a levy".

(3) The first sentence of section 6332(c) (relating to enforcement of levy) is amended by striking out "from the date of such levy" and inserting in lieu thereof "from the date of such levy (or in the case of a levy described in section 6331(d)(3), from the date such person would otherwise have been obligated to pay over such amounts to the taxpayer)".

(4) Paragraph (1) of section 6331(d) (relating to levy on salaries and wages) is amended by striking out the last sentence.

(e) Effective Date.—The amendments made by this section shall apply only with respect to levies made after December 31, 1975.

Sec. 1221. Administrative Summons.

(a) Requirement That Notice Be Served on Person Whose Book:, Etc., Are Being Summoned.—Subchapter A of chapter 78 (relating to examination and inspection) is amended by redesignating section 7609 as section 7610 and by inserting after section 7608 the following new section:

"Sec. 7609. Special Procedures for Third-Party Summons.

"(a) Notice.—

"(1) In general.—If—

"(A) any summons described in subsection (c) is served on any person, and

"(B) the books required to be produced under such summons are books relating to the business or transactions of one or more other persons who are identified in the description of the books which are to be produced contained in the summons,

then notice of such summons shall, on or before the day on which such service is made, be served on, or mailed by registered or certified mail to, such other persons. Such notice shall include the name of the summoned person and the purpose for which the information is to be obtained.

"(2) Exception.—Paragraph (1) shall not apply to—

"(A) any summons served on the person liable for tax or any officer or employee of such person, and

"(B) any summons described in subsection (f).

"(3) Nature of summons.—Any summons to which this subsection applies (and any summons in aid of collection described in subsection (c)(1)(B)) shall identify the taxpayer to whom the summons relates or the other person to whom the books pertain and shall provide such other information as will enable the person summoned to locate the books required under the summons.

"(b) Right To Intervent; Right To Stay Compliance.—

"(1) Intervention.—Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under subsection (a) shall have the right to intervene in any proceeding with respect to the enforcement of such summons under section 7604.

"(2) Right to stay compliance.—Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under subsection (a) shall have the right, not later than the 14th day after the day on which such summons is served, to notify (in writing) the person summoned not to comply with the summons. Such notification shall be by certified or registered mail or delivered directly. A copy of such notice not to comply with the summons shall be sent (not later than such 14th day) by certified or registered mail to the district director of internal revenue for the district in which the summons has been served.

"(c) SUMMONS TO WHICH SECTION APPLIES.—

"(1) APPLICABILITY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a summons is described in this subsection if it is issued under paragraph (2) of section 7602 or under section 6420(e)(2), 6421(f)(2), 6424(d)(2), or 6427(e)(2) and requires the production of books.

"(B) EXCEPTION FOR CERTAIN SUMMONS TO DISCOVER ASSETS FOR PURPOSES OF COLLECTION.—A summons shall be treated as not described in this subsection if it is in aid of the collection of—

"(i) the liability of any person against whom an assessment has been made or judgment rendered, or

"(ii) the liability at law or in equity of any transferee of fiduciary of any person referred to in clause (i).

"(2) BOOKS; CERTAIN RELATED TESTIMONY.—For purposes of this section—

"(A) the term 'books' includes papers, records, or other data, and

"(B) a summons requiring the giving of testimony relating to books shall be treated as a summons requiring the production of such books.

"(d) RESTRICTION ON EXAMINATION OF RECORDS.—No examination of any books required to be produced under a summons to which subsection (a) applies may be made—

"(1) before the expiration of the 14-day period allowed for the notice not to comply under subsection (b)(2), or

"(2) after expiration of the period described in paragraph (1) if the notice, and copy thereof, described in subsection (b)(2) has been mailed (or delivered directly) within the 14-day period of a person entitled to notice under subsection (a), except in accordance with a proceeding initiating to enforce the summons.

"(e) SUSPENSION OF STATUTE OF LIMITATIONS.—If—

"(1) any person is entitled under subsection (a) to notice of a summons, and

"(2) such person takes action with respect to such summons as provided in subsection (b),

then the running of any period of limitations for the making of an assessment of any tax for any taxable year to which such summons relates shall be suspended for the period during which proceeding with respect to the enforcement of such summons is pending.

"(f) ADDITIONAL REQUIREMENT IN THE CASE OF A JOHN DOE SUMMONS.—Any summons described in subsection (c) which does not identify the taxpayer with respect to whose liability the summons is issued may be served only after a court proceeding in which the Secretary establishes—

"(1) that there is reasonable cause to believe that there has been a transaction affecting the liability for tax of a person,

"(2) that there is reasonable cause to believe that this transaction has not, or is likely not to be, correctly reported, and

"(3) that other sources of information with respect to this transaction (or with respect to the identity of the taxpayer or taxpayers involved in the transaction) are not readily available.

"(g) JURISDICTION OF DISTRICT COURT.—The United States district court for the district within which the person to be summoned resides or is found shall have jurisdiction to hear and determine proceedings brought under subsection (f) of this section."

(b) CLERICAL AMENDMENT.—The table of sections of such subchapter A is amended by striking out the item relating to section 7609 and inserting in lieu thereof the following:

"Sec. 7609. Special procedures for third-party summons.

"Sec. 7610. Cross references."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to summons issued after December 31, 1975.

SEC. 1212. PUBLIC INSPECTION OF WRITTEN DETERMINATIONS BY INTERNAL REVENUE SERVICE.

(a) REQUIREMENT THAT WRITTEN DETERMINATIONS BE OPEN TO PUBLIC INSPECTION.—Subchapter B of chapter 61 (relating to miscellaneous provisions) is amended by redesignating section 6110 as 6111 and by inserting after section 6109 the following new section:

"SEC. 6110. PUBLIC INSPECTION OF WRITTEN DETERMINATIONS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, the text of any written determination shall be open to public inspection at such place as the Secretary may by regulations prescribe.

"(b) WRITTEN DETERMINATION DEFINED.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'written determination' means a written statement (or portion thereof) ruling with respect to the application of this title, a related statute, or treaty to a specific person on a specific set of facts which—

"(A) is issued by the Internal Revenue Service pursuant to a request made on or after September 25, 1975, and

"(B) is binding (unless revoked or modified) on the Internal Revenue Service with respect to the person to whom such statement pertains and which established procedures contemplate will be disclosed to such person by the Internal Revenue Service.

"(2) EXCEPTIONS.—The term 'written determination' does not include—

"(A) an agreement authorized by section 7121 (relating to closing agreements) which finally determines the total liability of a person under this title for a taxable year,

"(B) a determination with respect to an offer in compromise pursuant to section 7122, and

"(C) any written statement issued by the Internal Revenue Service and dealing with the qualification of a plan, account, or annuity described in clause (i) of subparagraph (B) of section 6104(a)(1), or with the exemption from tax under section 501(a) of an organization described in clause (ii) of such subparagraph (B).

"(c) WITHHOLDING OF CERTAIN INFORMATION.—

"(1) DELETION.—There shall be deleted from any written determination open to public inspection under subsection (a)—

"(A) commercial or financial information and other information, the disclosure of which could reasonably be expected to cause material financial harm to any person, and trade secrets;

"(B) information the disclosure of which could reasonably be expected to constitute an unwarranted invasion of personal privacy;

"(C) information specifically exempted from disclosure under a Federal statute (other than this title), which is applicable to the Internal Revenue Service;

"(D) information—

"(i) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy, and

"(ii) which is in fact properly classified pursuant to such Executive order; and

"(E) information contained in or related to examination, operating, or condition reports prepared by, or on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.

"(2) REQUESTS TO DELETE CERTAIN MATERIAL.—Except in the case of the intentional disregard of known facts or law, the Secretary shall not be required to delete (nor be liable for failure to delete) material described in paragraph (1) unless the Secretary has agreed to such deletion or the Secretary has been ordered by a court (in a proceeding under subsection (f)) to make such deletion.

"(3) DELETION OF IDENTIFYING DETAILS UNDER CERTAIN CIRCUMSTANCES.—If the Secretary determines that deletions pursuant to paragraph (1) would make the portion of a written determination made open to public inspection under subsection (a) inadequate to explain the application of the law to the facts, identifying details may be deleted in lieu of some or all of the material or information described in paragraph (1).

"(d) WITHHOLDING OF IDENTIFYING DETAILS FROM REQUIRED RULINGS ARISING OUT OF AUDIT-TYPE PROCEEDINGS.—

"(1) IN GENERAL.—Except as provided in subsection (e), the identifying details shall be deleted from any required ruling, and from any written determination arising out of an audit-type proceeding, open to public inspection under subsection (a).

"(2) REQUIRED RULING DEFINED.—For purposes of this section, the term 'required ruling' means any written determination concerning a transaction which has been designated by the Secretary as belonging to a class of transactions with respect to which a written determination is required by this title, or the regulations thereunder, to be obtained from the Internal Revenue Service in order for a person to have the transaction recognized for Federal tax purposes or to obtain specific tax treatment.

"(3) AUDIT-TYPE PROCEEDING.—For purposes of this section, a written determination shall be treated as arising out of an audit-type proceeding if it was made pursuant to an inquiry, investigation, examination, or inspection under this title.

"(4) IDENTIFYING DETAILS DEFINED.—For purposes of this section, the term 'identifying details' means the name, address, or other information which the Secretary determines could identify any person.

"(e) DISCLOSURE IN SUMMARY FORM OF CERTAIN DETERMINATIONS.—In the case of a written determination which relates solely to whether the Secretary approves the adoption or change—

"(1) under section 412 of the funding method or plan year of a plan,

"(2) under section 442 of a taxpayer's annual accounting period,

"(3) under section 446(e) of a taxpayer's method of accounting, or

"(4) under section 706 of a partnership's or partner's taxable year,

subsection (a) shall be treated as satisfied if a summary of such written determination is open to public inspection. Except to the extent provided in subsection (c)(3), such summary shall include the name and address of the person to whom such written determination pertains, the provisions of this title and the regulations thereunder which apply, and a statement indicating whether or not the Secretary approves the adoption or change.

"(f) PROCEDURE FOR DELETION OF INFORMATION.

"(1) CONSENT REQUIRED FOR ISSUANCE OF CERTAIN DETERMINATIONS.—No written determination (other than a required ruling or a written determination arising out of an audit-type proceeding) shall be issued unless the person to whom the determination pertains, and each person whose identifying details will be included in the portion of the determination which the Secretary finds to be open to public inspection under this section, consent in writing to the public disclosure of the factual information to be included in such portion.

"(2) REGULATIONS.—The Secretary shall

prescribe regulations establishing the administrative remedies of a person to whom a written determination pertains (or whose identifying details are included in a written determination) who does not agree with the findings of the Secretary as to the portion of the determination which is to be open to public inspection under this section.

"(3) Action to restrain disclosure.—

"(A) Creation of remedy.—Any person described in paragraph (2) who disagrees with the findings of the Secretary as to the portion of a required ruling or a written determination arising out of an audit-type proceeding which is to be open to public inspection, and who has exhausted his administrative remedies under paragraph (2) with respect to such disagreement may, at any time before the determination is made open to public inspection, file a petition in the United States Tax Court (anonymously, if appropriate) for a determination as to the portion of the determination which is open to public inspection under this section.

"(B) Notice to interested persons.—The Secretary shall notify all persons described in paragraph (2) (other than the petitioner) of the filing of a petition with respect to the determination, and such persons shall have the right to intervene (anonymously, if appropriate) in the proceeding. Such notice shall be sent by registered or certified mail to the last known address of such persons within 5 days after the petition is served on the Secretary. No person who has received such a notice may thereafter file a petition under this paragraph with respect to the determination.

"(C) Time of tax court determination.—The Tax Court shall make a decision with respect to a petition described in subparagraph (A) within 90 days after the date of the filing of the petition.

"(D) Publicity of tax court proceedings.—Notwithstanding sections 7458 and 7469, the Tax Court may, in order to preserve any person's anonymity, privacy, or confidentiality under this section, provide by rules adopted under section 7453 that portions of hearings, testimony, evidence, and reports in connection with proceedings under this subsection and subsection (i) may be closed to the public or to inspection by the public.

"(g) Time for Disclosure.—

"(1) In general.—Except as otherwise provided in this subsection, the text of a written determination (as modified under subsections (c), (d), and (e)) shall be open to public inspection no earlier than 30 days, and no later than 40 days, after the later of—

"(A) the date the written determination is issued, or

"(B) the date the decision of the Tax Court under subsection (f) (3) with respect to the determination becomes final.

"(2) Postponement of disclosure for up to 150 days.—At the written request of the person by or on whose behalf the request for the determination was made, the period referred to in paragraph (1) shall be extended (for not to exceed an additional 150 days) until the day which is 15 days after the date of the Secretary's determination that the transaction set forth in the written determination has been completed.

"(3) Additional 180 days.—If—

"(A) the transaction set forth in the written determination is not completed during the period set forth in paragraph (2), and

"(B) the person by or on whose behalf the request for the determination was made establishes to the satisfaction of the Secretary that good cause exists for additional delay in opening the determination to public inspection,

the period referred to in paragraph (2) shall be further extended (for not to exceed an additional 180 days) until the day which is 15 days after the date of the Secretary's determination that the transaction set forth in the written determination has been completed.

"(4) Alternative extension.—If the Secretary determines—

"(A) that a greater portion of the text of any written determination could be made open to public inspection if such inspection were delayed, and

(B) that such greater portion will significantly contribute to the ability of the public to understand the basis of the determination,

then the period referred to in paragraph (1) may be extended but not beyond the date which is 1 year after the date the written determination is issued.

"(h) Written Determination Not Precedent.—A written determination shall not be used or cited as precedent by any person in any case.

"(i) Procedure for Obtaining Additional Disclosure.—

"(1) Administrative procedures.—The Secretary shall, by regulations, establish administrative remedies for a person who requests public disclosure of a statement (or portion thereof) which has not been made open to public inspection.

"(2) Judicial review.—Any person who has filed a request for disclosure under paragraph (1) may, after the expiration of 45 days after such request is filed, or after he has exhausted his administrative remedies (whichever occurs earlier), file a petition in the United States Tax Court or file a complaint in the United States District Court for the District of Columbia for an order requiring that the written determination (or portion thereof) be made open to public inspection. Except as provided in paragraphs (3) and (4), the proceedings with respect to such petition or complaint shall be subject to the same rules which would apply under subparagraphs (C), (D), (E), (F), and (G) of section 552(a) (4) of title 5, United States Code, if the action were brought under section 552 of title 5, United States Code, on the date of the enactment of this section. The court shall examine the matter de novo (without regard to a decision of a court under subsection (f) (3) with respect to such statement) and may examine the statement in camera to determine whether such statement or any part thereof is open to public inspection under this section. The burden shall be on the Secretary and any other parties seeking to sustain the deletion.

"(3) Intervention.—If a proceeding is commenced under paragraph (2) with respect to a written determination, the Secretary shall, within 10 days after the petition or complaint is served on the Secretary, send notice of the commencement of such proceeding to all persons to whom the determination pertains or whose identifying details are included in such determination. Such notice shall be sent by registered or certified mail to the last known address of such person. Such persons shall have the right to intervene in the proceeding (anonymously, if appropriate). If such notice is sent, the Secretary shall not be required to defend the action and shall not be liable for public disclosure of the determination (or any portion thereof) in accordance with the final decision of the court.

"(4) Period of limitation.—No proceeding shall be commenced under this subsection with respect to a written determination unless a request under paragraph (1) is filed before the expiration of—

"(A) 3 years after the first date a portion of the determination is made open to public inspection under this section, or

"(B) 10 years after the date the determination is issued, if earlier.

"(j) Prior Rulings.—

"(1) In general.—Except as provided in paragraphs (2), (3), and (4), the foregoing provisions of this section shall apply to any written statement issued after July 4, 1967, which (but for the fact that it was requested before September 25, 1975) would be a written determination (within the meaning of subsection (b)).

"(2) Exceptions.—For purposes of this subsection, the term 'written statement' does not include—

"(A) a statement relating to a matter described in subsection (e), and

"(B) a statement with respect to the exempt status under section 501(a) of an organization described in section 501(c), the status of an organization as a private foundation under section 509(a), or the status of an organization as an operating foundation under section 4942(j) (3).

"(3) Identifying details to be deleted.—In the case of any written statement which is open to public inspection under paragraph identifying details shall be deleted.

"(4) Time for disclosure.—In the case of any written statement which is open to public inspection under paragraph (1)—

"(A) subsections (f) (1) and (g) shall not apply, but

"(B) the written statements shall be made open to public inspection at the earliest practicable date, contingent on the availability of funds specifically appropriated to the Internal Revenue Service for the purpose of making such statements open to public inspection.

To the extent, practicable, such statements shall be made open to public inspection in order of date of issuance, beginning with the first statements issued.

"(5) Notice that prior written statements are open to public inspection.—Not less than 6 months before making any portion of a determination described in this subsection open to public inspection under this section, the Secretary shall issue public notice in the Federal Register that such written statements are to be made open to public inspection. The Tax Court shall not consider a petition under subsection (f) (3) with respect to a statement described in this subsection unless, within 6 months after the date of the publication of notice under this paragraph with respect to the statement, the person to whom the statement pertains advises the Secretary (in accordance with regulations prescribed by the Secretary) that all or a portion of such statement should not be open to public inspection under this section.

"(6) Action to restrain disclosure.—Subsection (f) (3) shall apply as if a statement described in this subsection were a required ruling."

(b) Clerical Amendment.—The table of sections for subchapter B of chapter 61 is amended by striking out the item relating to section 6110 and inserting in lieu thereof the following:

"Sec. 6110. Disclosure of written determinations.

"Sec. 6111. Cross references."

(c) Effective Date.—The amendments made by this section shall apply on the date of the enactment of this Act. For purposes of section 6110(f) of the Internal Revenue Code of 1954, a written determination requested on or after September 25, 1975, and issued before 90 days after the date of the enactment of this Act shall be considered a required ruling issued 90 days after such date of enactment.

TITLE XIII—TECHNICAL INCOME TAX PROVISIONS

Sec. 1301. Tax Treatment of Certain Cooperative Housing Associations.

(a) General Rule.—Subchapter F of chapter 1 (relating to exempt organizations) is amended by adding at the end thereof the following new part:

"PART VII—CERTAIN COOPERATIVE HOUSING ASSOCIATIONS

"SEC. 528. Certain cooperative housing associations.

"(a) GENERAL RULE.—A cooperative housing association (as defined in subsection (c)) shall be subject to taxation under this subtitle only to the extent provided in this section. A cooperative housing association shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

"(b) TAX IMPOSED.—

"(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the cooperative housing association taxable income of every cooperative housing association. Such tax shall consist of a normal tax and surtax computed as provided in section 11 as though the cooperative housing association were a corporation and as though the cooperative housing association taxable income were the taxable income referred to in section 11. For purposes of this subsection, the surtax exemption provided by section 11(d) shall not be allowed.

"(2) ALTERNATIVE TAX IN CASE OF CAPITAL GAINS.—If for any taxable year any cooperative housing association has a net capital gain, then, in lieu of the tax imposed by paragraph (1), there is hereby imposed a tax (if such tax is less than the tax imposed by paragraph (1)) which shall consist of the sum of—

"(A) a partial tax, computed as provided by paragraph (1), on the cooperative housing association taxable income determined by reducing such income by the amount of such gain, and

"(B) a tax of 30 percent of such gain.

"(c) COOPERATIVE HOUSING ASSOCIATION DEFINED.—For purposes of this section—

"(1) COOPERATIVE HOUSING ASSOCIATION.—The term 'cooperative housing association' means an organization which is a cooperative housing corporation, condominium management association, or residential real estate management association if—

"(A) such organization is organized and operated to provide for the management, maintenance, and care of association property,

"(B) 60 percent or more of the gross income of such organization for the taxable year consists solely of amounts received as membership dues, fees, or assessments from—

"(i) tenant-stockholders in the case of a cooperative housing corporation,

"(ii) owners of residential units in the case of a condominium management association, or

"(iii) owners of residences or residential lots in the case of a residential real estate management association,

"(C) 90 percent or more of the expenditures of the organization for the taxable year are expenditures for providing management, maintenance, and care of association property,

"(D) no part of the net earnings of such organization inures (other than by providing management, maintenance, and care of association property, and other than by a rebate of excess membership dues, fees, or assessments) to the benefit of any private shareholder or individual, and

"(E) such organization elects (at such time and in such manner as the Secretary by regulation prescribes) to have this section apply for the taxable year.

"(2) COOPERATIVE HOUSING CORPORATION.—The term 'cooperative housing corporation' has the meaning given to such term by section 216(b)(1).

"(3) CONDOMINIUM MANAGEMENT ASSOCIATION.—The term 'condominium management association' means any organization meeting the requirement of subparagraph (A) of paragraph (1) with respect to condominium project substantially all of the units of which are used as residences.

"(4) RESIDENTIAL REAL ESTATE MANAGEMENT ASSOCIATION.—The term 'residential real estate management association' means any organization meeting the requirements of subparagraph (A) of paragraph (1) with respect to a subdivision, development, or similar area substantially all the lots or buildings of which may only be used by individuals for residences.

"(5) ASSOCIATION PROPERTY.—The term 'association property' means—

"(A) property held by the organization,

"(B) property commonly held by the members of the organization, and

"(C) property within the organization privately held by the members of the organization.

"(d) COOPERATIVE HOUSING ASSOCIATION TAXABLE INCOME DEFINED.—

"(1) TAXABLE INCOME DEFINED.—For purposes of this section, the cooperative housing association taxable income of any organization for any taxable year is an amount equal to the excess (if any) of—

"(A) the gross income for the taxable year (excluding any exempt function income), over

"(B) the deductions allowed by this chapter which are directly connected with the production of the gross income (excluding exempt function income), computed with the modifications provided in paragraph (2).

"(2) MODIFICATIONS.—For purposes of this subsection—

"(A) there shall be allowed a specific deduction of $100,

"(B) no net operating loss deduction shall be allowed under section 172, and

"(C) no deduction shall be allowed under part VIII of subchapter B (relating to special deductions for corporations).

"(3) EXEMPT FUNCTION INCOME.—For purposes of this subsection, the term 'exempt function income' means any amount received as membership dues, fees, or assessments from—

"(A) tenant-shareholders in the case of a cooperative housing corporation,

"(B) owners of condominium housing units in the case of a condominium management association, or

"(C) owners of real property in the case of a residential real estate management association."

(b) REQUIREMENT OF RETURN.—Section 6012(a) (relating to persons required to make returns of income) is amended by striking out "and" at the end of paragraph (5), by inserting "and" at the end of paragraph (6), and by inserting after paragraph (6) the following new paragraph:

"(7) Every cooperative housing association (within the meaning of section 528(c)(1)) which has cooperative housing association taxable income (within the meaning of section 528(d)) for the taxable year."

(c) CLERICAL AMENDMENT.—The table of parts for subchapter F of chapter 1 is amended by adding at the end thereof the following new item:

"Part VII. Certain cooperative housing associations."

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to taxable years beginning after December 31, 1973.

SEC. 1302. TREATMENT OF CERTAIN DISASTER PAYMENTS

(a) GENERAL RULE.—Subsection (d) of section 451 (relating to special rule for crop insurance proceeds) is amended by inserting after the first sentence the following new sentence: "For purposes of the preceding sentence, payments received under the Agricultural Act of 1949, as amended, as a result of (1) destruction or damage to crops caused by drought, flood, or any other natural disaster, or (2) the inability to plant crops because of such a natural disaster shall be treated as insurance proceeds received as a result of destruction or damage to crops."

(b) TECHNICAL AMENDMENT.—The subsection heading for such subsection (d) is amended by striking out "Proceeds" and inserting in lieu thereof "Proceeds or Disaster Payments".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments received after December 31, 1973, in taxable years ending after such date.

SEC. 1303. TAX TREATMENT OF CERTAIN 1972 DISASTER LOSSES.

(a) APPLICATION OF SECTION.—This section shall apply to any individual—

(1) who was allowed a deduction under section 165 of the Internal Revenue Code of 1954 (relating to losses) for a loss attributable to a disaster occurring during calendar year 1972 which was determined by the President, under section 102 of the Disaster Relief Act of 1970, to warrant disaster assistance by the Federal Government,

(2) who in connection with such disaster—

(A) received income in the form of cancellation of a disaster loan under section 7 of the Small Business Act or an emergency loan under subtitle C of the Consolidated Farm and Rural Development Act, or

(B) received income in the form of compensation (not taken into account in computing the amount of the deduction) for such loss in settlement of any claim of the taxpayer against a person for that person's liability in tort for the damage or destruction of that taxpayer's property in connection with the disaster, and

(3) who elects (at such time and in such manner as the Secretary of the Treasury or his delegate may by regulations prescribe) to take the benefits of this section.

(b) EFFECT OF ELECTION.—In the case of any individual to whom this section applies—

(1) the tax imposed by chapter 1 of the Internal Revenue Code of 1954 for the taxable year in which the income taken into account is received or accrued which is attributable to such income shall not exceed the additional tax under such chapter which would have been payable for the year in which the deduction for the loss was taken if such deduction had not been taken for such year.

(2) any amount of tax imposed by chapter 1 attributable to the income taken into account which, on October 1, 1975, was unpaid may be paid in 3 equal annual installments (with the first such installment due and payable on April 15, 1976), and

(3) no interest on any deficiency shall be payable for any period before April 16, 1976, to the extent such deficiency is attributable to the receipt of such compensation, and no interest on any installment referred to in paragraph (2) shall be payable for any period before the due date of such installment.

(c) INCOME TAKEN INTO ACCOUNT.—For purposes of this section, the income taken into account is—

(1) in the case of an individual described in subsection (a)(2)(A), the amount of income (not in excess of $5,000) attributable to the cancellation of a disaster loan under section 7 of the Small Business Act or an emergency loan under subtitle C of the Consolidated Farm and Rural Development Act received by reason of the disaster described in subsection (a)(1), or

(2) in the case of an individual described in subsection (a)(2)(B), the amount of compensation (not in excess of $5,000) for the loss in settlement of any claim of the taxpayer against a person for that person's liability in tort for the damage or destruction of that taxpayer's property in connection with the disaster described in subsection (a)(1).

(d) PHASEOUT WHERE ADJUSTED GROSS INCOME EXCEEDS $15,000.—If for the taxable year for which the deduction for the loss was taken the individual's adjusted gross income exceeded $15,000, the $5,000 limit set forth in paragraph (1) or (2) of subsection (c) (whichever applies) shall be reduced by one dollar for each full dollar that such adjusted gross income exceeds $15,000. In the case of a married individual filing a separate return, the preceding sentence shall be applied by substituting "$7,500" for "$15,000".

SEC. 1304. TAX TREATMENT OF CERTAIN DEBTS OWED BY POLITICAL PARTIES, ETC., TO ACCRUAL BASIS TAXPAYERS.

(a) GENERAL RULE.—Section 271 (relating to debts owed by political parties, etc.) is amended by adding at the end thereof the following new subsection:

"(c) EXCEPTION.—In the case of a taxpayer who uses an accrual method of accounting, subsection (a) shall not apply to a debt which accrued as a receivable on a bona fide sale of goods or services in the ordinary course of a taxpayer's trade or business if—

"(1) for the taxable year in which such receivable accrued, more than 30 percent of all receivables which accrued in the ordinary course of the trades and businesses of the taxpayer were due from political parties, and

"(2) the taxpayer made substantial continuing efforts to collect on the debt."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning on or after January 1, 1975. Such amendment shall also apply to any taxable year beginning before January 1, 1975, for which the assessment of a deficiency, or the making of a refund or the allowance of a refund or credit of any overpayment, is not barred on the date of the enactment of this Act.

SEC. 1305. CLARIFICATION OF DEFINITION OF PRODUCED FILM RENTS.

(a) IN GENERAL.—Subparagraph (B) of paragraph (5) of section 543(a) (defining produced film rents for purposes of personal holding company income) is amended by adding at the end thereof the following new sentence: "In the case of a producer who actively participates in the production of the film, such term includes an interest in the proceeds or profits from the film, but only to the extent such interest is attributable to such active participation."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending on or after December 31, 1975.

SEC. 1306. REGULATIONS RELATING TO TAX TREATMENT OF CERTAIN PREPUBLICATION EXPENDITURES OF PUBLISHERS.

(a) GENERAL RULE.—With respect to taxable years beginning on or before the date on which regulations dealing with prepublication expenditures are issued after the date of the enactment of this Act, the publication of sections 162, 174, and 263 of the Internal Revenue Code of 1954 to any prepublication expenditure shall be administered—

(1) without regard to Revenue Ruling 73–395, and

(2) in the manner in which such sections were applied consistently by the taxpayer to such expenditure before the date of the issuance of such revenue ruling.

(b) REGULATIONS TO BE PROSPECTIVE ONLY.—Any regulations issued after the date of the enactment of this Act which deal with the application of sections 162, 174, and 263 of the Internal Revenue Code of 1954 to prepublication expenditures shall apply only with respect to taxable years beginning after the date on which such regulations are issued.

(c) PREPUBLICATION EXPENDITURES DEFINED.—For purposes of this section, the term "prepublication expenditures" means expenditures paid or incurred by the taxpayer (in connection with his trade or business of publishing) for the writing, editing, compiling, illustrating, designing, or other development or improvement of a book, teaching aid, or similar product.

TITLE XIV—TREATMENT OF CERTAIN CAPITAL LOSSES; HOLDING PERIOD FOR CAPITAL GAINS AND LOSSES

SEC. 1401. INCREASE IN AMOUNT OF ORDINARY INCOME AGAINST WHICH CAPITAL LOSS MAY BE OFFSET

(a) GENERAL RULE.—Subparagraph (B) of section 1211(b)(1) (relating to limitation on capital losses for taxpayers other than corporations) is amended by striking out "$1,000" and inserting in lieu thereof "the applicable amount".

(b) APPLICABLE AMOUNT DEFINED.—Paragraph (2) of section 1211(b) (relating to limitation on capital losses for taxpayers other than corporations) is amended to read as follows:

"(2) APPLICABLE AMOUNT.—For purposes of paragraph (1)(B), the term 'applicable amount' means—

"(A) $2,000 in the case of any taxable year beginning in 1976;

"(B) $3,000 in the case of any taxable year beginning in 1977; and

"(C) $4,000 in the case of any taxable year beginning after 1977.

In the case of a separate return by a husband or wife, the applicable amount shall be one-half of the amount determined under the preceding sentence."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1975.

SEC. 1402. INDIVIDUALS MAY ELECT 3-YEAR CARRYBACK OF CAPITAL LOSSES.

(a) IN GENERAL.—Section 1212 (relating to capital loss carrybacks and carryovers) is amended by adding at the end thereof the following new subsection:

"(c) ELECTION OF CARRYBACK BY INDIVIDUALS.—

"(1) IN GENERAL.—If a taxpayer other than a corporation has a net capital loss for any taxable year (hereinafter in this subsection referred to as the 'loss year') which equals or exceeds $30,000, and if the individual elects, at such time and in such manner as the Secretary by regulations prescribes, the amount of such capital loss—

"(A) shall be a capital loss carryback to each of the 3 taxable years preceding the loss year, but only to the extent the carryback of such loss does not increase or produce a net operating loss (as defined in section 172(c)) for the taxable year to which it is being carried back; and

"(B) shall be treated as a long-term capital loss in each such preceding taxable year to the extent of the capital gain net income for such year.

The entire amount of the net capital loss for any taxable year shall be carried to the earliest of the taxable years to which such loss may be carried, and the portion of such loss which shall be carried to each of the other 2 taxable years to which such loss may be carried shall be the excess, if any, of such loss over the total of the capital gain net incomes for each of the prior taxable years to which such loss may be carried. For purposes of the preceding sentence, the capital gain net income for any such prior taxable year shall be computed without regard to the net capital loss for the loss year or for any taxable year thereafter. In the case of any net capital loss which cannot be carried back in full to a preceding taxable year by reason of subparagraph (A), the capital gain net income for such prior taxable year shall in no case be treated as greater than the amount of such loss which can be carried back to such preceding taxable year upon the application of subparagraph (A).

"(2) COORDINATION WITH SECTION 1211(b)(1).—In determining whether the taxpayer is eligible to make the election under this subsection for any taxable year, and in determining the effect of any such election, the amount of the net capital loss for the taxable year shall be determined by treating the amount referred to in paragraph (1)(A), (B), or (C) of section 1211(b) for the loss year or for any taxable year preceding the loss year by reason of any carryback under this subsection.

"(3) CARRYFORWARD OF REMAINING AMOUNT.—If the taxpayer has made an election under this subsection for the loss year, the determination of the amount which may be carried under subsection (b)(1) from the loss year to the succeeding taxable year shall be the amount of the net capital loss for the loss year remaining after the application of the carryback under paragraph (1). For purposes of the preceding sentence, short-term capital losses shall be treated as used before long-term capital losses."

(b) MINIMUM TAX FOR PRIOR YEARS NOT AFFECTED BY ELECTION TO CARRYBACK LOSS.—Section 58 (relating to rules for minimum tax for tax preferences) is amended by adding at the end thereof the following new subsection:

"(i) MINIMUM TAX FOR PRIOR YEARS NOT AFFECTED BY INDIVIDUAL'S ELECTION TO CARRYBACK CAPITAL LOSSES.—In the case of an individual, the minimum tax imposed under this part for any taxable year beginning before January 1, 1975, shall not be recomputed by reason of a capital loss carryback resulting from the application of section 1212(c)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to capital losses incurred in taxable years beginning after December 31, 1973.

SEC. 1403. INCREASE IN HOLDING PERIOD REQUIRED FOR CAPITAL GAIN OR LOSS TO BE LONG TERM.

(a) INCREASE IN THREE STEPS FROM 6 MONTHS TO 1 YEAR.—

(1) TAXABLE YEARS BEGINNING IN 1976.—Effective with respect to taxable years beginning in 1976, paragraphs (1), (2), (3), and (4) of section 1222 (relating to other terms relating to capital gains and losses) are each amended by striking out "6 months" and inserting in lieu thereof "8 months".

(2) TAXABLE YEARS BEGINNING IN 1977.—Effective with respect to taxable years beginning in 1977, paragraphs (1), (2), (3), and (4) of section 1222 are each amended by striking out "8 months" and inserting in lieu thereof "10 months".

(3) TAXABLE YEARS BEGINNING AFTER 1977.—Effective with respect to taxable years beginning after December 31, 1977, paragraphs (1), (2), (3), and (4) of section 1222 are each amended by striking out "10 months" and inserting in lieu thereof "1 year".

(b) CONFORMING AMENDMENTS.—

(1) TAXABLE YEARS BEGINNING IN 1976.—Effective with respect to taxable years beginning in 1976, the following provisions are each amended by striking out "6 months" each place it appears and inserting in lieu thereof "8 months":

(A) Paragraph (1) of section 166(d) (relating to nonbusiness debts).

(B) Paragraphs (1)(B) and (2)(A)(ii) of section 333(g) (relating to special rule as to recognition of gain in certain liquidations).

(C) Subsection (a) of section 341 (relating to treatment of gain to shareholders in the case of collapsible corporations).

(D) Paragraph (2) of section 402(a) (relating to capital gains treatment for certain distributions in the case of a beneficiary of an exempt employees' trust).

(E) Subparagraph (A) of section 403(a)(2) (relating to capital gains treatment for certain distributions in the case of a beneficiary under a qualified annuity plan).

(F) Paragraph (1) of section 423(a) (relating to employee stock purchase plans).

(G) Paragraph (1) of subsection (a) and paragraphs (1) and (2) of subsection (c) of section 424 (relating to restricted stock options).

(H) Paragraph (2) of section 582(c) (relating to capital gains of banks).

(I) Subparagraphs (A) and (B) of section 584(c)(1) (relating to inclusions in taxable income of participants in common trust funds).

(J) Section 631 (relating to gain or loss in the case of timber, coal, or domestic iron ore).

(K) Paragraphs (3) and (4) of section 642(c) (relating to charitable deductions for certain trusts).

(L) Section 644 (relating to special holding period rules for gain on property transferred to trust at less than fair market value).

(M) Paragraphs (1) and (2) of section 702(a) (relating to income and credits of partner).

(N) Subparagraph (A) of section 817(a)(1) (relating to certain gains and losses in the case of life insurance companies).

(O) Subparagraph (B) of paragraph (3), and paragraph (4), of section 852(b) (relating to treatment of capital gain dividends by shareholders of regulated investment companies).

(P) Subparagraph (A) of section 856(c)(4) (relating to definition of real estate investment trust).

(Q) Subparagraph (B) of section 857(b)(3) (relating to treatment of capital gain dividends by shareholders of real estate investment trusts).

(R) Paragraph (11) of section 1223 (relating to holding period of property).

(S) Section 1231 (relating to property used in the trade or business and involuntary conversions).

(T) Paragraph (2) of section 1232(a) (relating to sale or exchange in the case of bonds and other evidences of indebtedness).

(U) Subsections (b), (d), and (e) of section 1233 (relating to gains and losses from short sales).

(V) Paragraph (1) of section 1234(c) (relating to special rule for gain on lapse of an option granted as part of a straddle).

(W) Subsection (a) of section 1235 (relating to sale or exchange of patents).

(X) Paragraph (4) of section 1246(a) (relating to holding period in the case of gain on foreign investment company stock).

(Y) Subsection (i) of section 1247 (relating to loss on sale or exchange of certain stock in the case of foreign investment companies electing to distribute income currently).

(Z) Subsection (b), and subparagraph (C) of subsection (f)(3), of section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations).

(AA) Paragraph (1) of section 1251(e) (defining farm recapture property).

(2) Taxable years beginning in 1977.—Effective with respect to taxable years beginning in 1977, each provision referred to in paragraph (1) is amended by striking out "8 months" each place it appears and inserting in lieu thereof "10 months".

(3) Taxable years beginning after 1977.—Effective with respect to taxable years beginning after December 31, 1977, each provision referred to in paragraph (1) is amended by striking out "10 months" each place it appears and inserting in lieu thereof "1 year".

(c) Transitional Rule for Certain Installment Obligations.—In the case of amounts received from sales or other dispositions of capital assets pursuant to binding contracts, including sales or other dispositions the income from which is returned on the basis and in the manner prescribed in section 453(a)(1) of the Internal Revenue Code of 1954, if the gain or loss was treated as long-term for the taxable year for which the amount was realized, such gain or loss shall be treated as long-term for the taxable year for which the gain or loss is returned or otherwise recognized.

(d) Retention of 6-Month Period for Futures Transactions in Commodities.—Section 1222 (relating to other terms relating to capital gains and losses) is amended by adding at the end thereof the following new sentence: "For purposes of this subtitle, in the case of futures transactions in any commodity subject to the rules of a board of trade or commodity exchange, the length of the holding period taken into account under this section or under any other section amended by section 1403 of the Tax Reform Act of 1975 shall be determined without regard to the amendments made by subsections (a) and (b) of such section 1403."

Sec. 1404. Allowance of 8-Year Capital Loss Carryover in Case of Regulated Investment Companies.

(a) General Rule.—Paragraph (1) of section 1212(a) (relating to capital loss carrybacks and carryovers for corporations) is amended by striking out "and" at the end of subparagraph (A) and by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) except as provided in subparagraph (C), a capital loss carryover to each of the 5 taxable years succeeding the loss year; and

"(C) a capital loss carryover—

"(i) in the case of a regulated investment company (as defined in section 851) to each of the 8 taxable years succeeding the loss year, and

"(ii) to the extent such loss is attributable to a foreign expropriation capital loss, to each of the 10 taxable years succeeding the loss year."

(b) Effective Date.—The amendments made by this section shall apply to loss years (within the meaning of section 1212(a)(1) of the Internal Revenue Code of 1954) ending on or after January 1, 1970.

TITLE XV—INDIVIDUAL RETIREMENT ACCOUNT AMENDMENTS

Sec. 1501. Tax-Free Rollover of Certain Amounts Distributed on Account of Termination of Pension, etc., Plan.

(a) Termination of Employee Trust, etc.—Section 402(a)(5) (relating to rollover amounts) is amended—

(1) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) the balance to the credit of an employee is paid to him—

"(i) within one taxable year of the employee on account of a termination of the plan of which the trust is a part or a complete discontinuance of contributions under such plan, or

"(ii) in one or more distributions which constitute a lump sum distribution within the meaning of subsection (e)(4)(A) (determined without reference to subsection (e)(4)(B)),",

(2) by striking out "the lump sum distribution" in the last sentence and inserting in lieu thereof "a payment", and

(3) by adding at the end thereof the following: "For purposes of subparagraph (A)(i), a complete discontinuance of contributions under a plan shall be deemed to occur on the day the plan administrator notifies the Secretary (in accordance with regulations prescribed by the Secretary) that all contributions to the plan have been completely discontinued. For purposes of section 411(d)(3)(A), the plan shall be considered to be terminated no later than the day such notice is filed with the Secretary."

(b) Termination of Annuity Plan.—Section 403(a)(4) (relating to rollover amounts) is amended—

(1) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) the balance to the credit of an employee is paid to him—

"(i) within one taxable year of the employee on account of a termination of the plan of which such trust is a part or a complete discontinuance of contributions under such plan, or

"(ii) in one or more distributions which constitutes a lump sum distribution within the meaning of section 402(e)(4)(A) (determined without reference to section 402(e)(4)(B)),",

(2) by striking out "the lump sum distribution" in the last sentence and inserting in lieu thereof "a payment", and

(3) by adding at the end thereof the following:

"For purposes of subparagraph (A)(i), a complete discontinuance of contributions under a plan shall be deemed to occur on the day the plan administrator notifies the Secretary (in accordance with regulations prescribed by the Secretary) that all contributions to the plan have been completely discontinued. For purposes of section 411(d)(3)(A), the plan shall be considered to be terminated no later than the day such notice is filed with the Secretary."

(c) Savings Provision and Special Transitional Rule.—

(1) Period for rollover contribution.—In the case of a payment described in section 402(a)(5)(A) (other than a payment described in section 402(a)(5)(A) as in effect on the day before the date of the enactment of this Act) or section 403(a)(4)(A) (other than a payment described in section 403(a)(4)(A) as in effect on the day before the date of the enactment of this Act) of the Internal Revenue Code of 1954 (relating to distributions of the balance to the credit of the employee) which is contributed by an employee after the date of the enactment of this Act to a trust, plan, account, annuity, or bond described in section 402(a)(5)(B) or 403(a)(4)(B) of such Code, the applicable period specified in section 402(a)(5)(B) or 403(a)(4)(B) of such Code (relating to rollover distributions to another plan or retirement account) shall not expire before the 60th day after the date of the enactment of this Act.

(2) Rollover contribution for certain property sold.—Section 402(a)(5)(C) and 403(a)(4)(C) of the Internal Revenue Code of 1954 (relating to the requirement that rollover amount must consist of property received in a distribution) shall not apply with respect to that portion of the property received in a payment described in section 402(a)(5)(A) (other than a payment described in section 402(a)(5)(A) as in effect on the day before the date of the enactment of this Act) or 403(a)(4)(A) (other than a payment described in section 403(a)(4)(A) as in effect on the day before the date of the enactment of this Act) of such Code which is said or exchanged by the employee on or before the date of the enactment of this Act, if the employee transfers an amount of cash equal to the proceeds received from the sale or exchange of such property in excess of the amount considered contributed by the employee (within the meaning of section 402(e)(4)(D)(i) of such Code).

(3) Nonrecognition of gain or loss.—For purposes of the Internal Revenue Code of 1954, no gain or loss shall be recognized with respect to the sale or exchange of property described in paragraph (2) if the proceeds

are transferred by an employee in accordance with this subsection and the applicable provisions of section 402(a)(5) or 403(a)(4) of such Code.

(d) Effective Date.—The amendments made by this section shall apply with respect to payments made to an employee on or after July 4, 1974.

Sec. 1502. Limited Employee Retirement Accounts.

(a) Allowance of Deduction.—

(1) In general.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as 221 and by inserting after section 219 the following new section:

"Sec. 220. Deduction for Employee Retirement Savings.

"(a) Deduction Allowed.—In the case of an individual who is an active participant in a qualified defined benefit plan, a qualified defined contribution plan, or an annuity contract described in section 403(b) for any part of the taxable year, there is allowed as a deduction amounts paid in cash during such taxable year by or on behalf of such individual for his benefit—

"(1) to an individual retirement account described in section 408(a),

"(2) for an individual retirement annuity described in section 408(b),

"(3) to a limited employee retirement account described in section 408A, or

"(4) for a retirement bond described in section 409 (but only if such bond is not redeemed within 12 months of its issuance).

For purposes of this title, any amount paid by an employer to such account or annuity or for such bond constitutes payment of compensation to the employee (other than a self-employed individual who is an employee within the meaning of section 401(c)(1)) includible in his gross income, whether or not a deduction for such payment is allowable under this section to the employee after the application of subsection (b).

"(b) Limitations and Restrictions.—

"(1) Maximum deduction.—The amount allowable as a deduction under subsection (a) to an individual for any taxable year shall not exceed an amount equal to—

"(A) the lesser of 15 percent of the compensation includible in his gross income for such taxable year or $1,500, reduced by

"(B) the qualifying employer contributions for such taxable year.

"(2) Covered by governmental plan.—No deduction is allowed under subsection (a) for an individual for the taxable year if for any part of such year he was an active participant in a plan established for its employees by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing.

"(3) Contributions after age 70½.—No deduction is allowed under subsection (a) with respect to any payment described in subsection (a) which is made during a taxable year of an individual who has attained age 70½ before the close of such taxable year.

"(4) Recontributed amounts.—No deduction is allowed under this section with respect to a rollover contribution described in section 402(a)(5), 403(a)(4), 408(d)(3), 408A(c)(3), or 409(b)(3)(C).

"(5) Amounts contributed under endowment contract.—In the case of an endowment contract described in section 408(b), no deduction is allowed under subsection (a) for that portion of the amounts paid under the contract for the taxable year properly allocable, under regulations prescribed by the Secretary, to the cost of life insurance.

"(6) Double deduction disallowed.—No deduction is allowed under subsection (a) for the taxable year if any amount is allowable as a deduction under section 219 for such year.

"(7) Certain defined benefit plans.—No deduction is allowed under subsection (a) for the taxable year to an individual who is an active participant in a qualified defined benefit plan unless the method of computing the qualifying employer contributions under the plan for such year is acceptable to the Secretary.

"(c) Definitions and Special Rules.—

"(1) Compensation.—For purposes of this section, the term 'compensation' includes earned income as defined in section 401(c)(2).

"(2) Married individuals.—The maximum deduction under subsection (b)(1) shall be computed separately for each individual, and this section shall be applied without regard to any community property laws.

"(3) Qualifying employer contributions.—For purposes of this section, the term 'qualifying employer contributions' means an amount equal to the sum of—

"(A) in the case of a qualified defined contribution plan, the amount contributed during the plan year ending with or within the taxable year of the individual by an employer on behalf of the individual and the amount of forfeitures allocated for the benefit of the individual during such plan year,

"(B) in the case of a qualified defined benefit plan—

"(i) an amount equal to the cost (allocable to the plan year ending with or within the taxable year of the individual) of the employer-derived accrued benefit provided for the individual under the plan, or

"(ii) an amount equal to the present value of the employer-derived benefit accruing for the plan year ending with or within the taxable year of the individual, increased by the cost allocable to such plan year of the past service liability with respect to the individual amortized over the period beginning with the date the individual became a participant in the plan ending with the date the individual attains normal retirement age under the plan, and

"(C) in the case of an annuity contract described in section 403(b), the lesser of—

"(i) the amount contributed by the employer for an annuity contract described in section 403(b), or

"(ii) the exclusion allowance for the taxable year determined under section 403(b)(2)(A).

"(4) Qualified defined benefit plan.—For purposes of this section, the term 'qualified defined benefit plan' means a defined benefit plan (within the meaning of section 414(j)) which is described in—

"(A) section 401(a),

"(B) section 403(a), or

"(C) section 405(a).

"(5) Qualified defined contribution plan.—For purposes of this section, the term 'qualified defined contribution plan' means a defined contribution plan (within the meaning of section 414(i)) which is described in—

"(A) section 401(a),

"(B) section 403(a), or

"(C) section 405(a).

"(6) Reports.—The employer maintaining a qualified defined contribution plan or a qualified defined benefit plan shall furnish, or cause to be furnished, a report to each active participant who requests such report. The request and the report shall be made at such time and in the maner provided in regulations prescribed by the Secretary. The report shall provide such information as is required by such regulations, including the amount of qualifying employer contributions made during the taxable year on behalf of such active participant."

(2) Deduction allowed in arriving at adjusted gross income.—Section 62 (defining adjusted gross income) is amended by inserting after paragraph (13) the following new paragraph:

"(14) Retirement savings.—The deduction allowed by section 220 (relating to limited employee retirement accounts).".

(b) Limited Employee Retirement Accounts.—Subpart A of part I of subchapter D of chapter 1 (relating to retirement plans) is amended by inserting after section 408 the following new section:

"Sec. 408A. Limited Employee Retirement Accounts.

"(a) Limited Employee Retirement Account.—For purposes of this section, the term 'limited employee retirement account' means an account maintained within a trust which forms a part of a plan described in section 401(a), if the plan was in existence on September 2, 1974, and has been maintained since such date, but only if the governing instrument creating such trust meets the requirements of subsection (b).

"(b) Governing Instrument Requirements.—A governing instrument creating a trust meets the requirements of this subsection only if, under such instrument—

"(1) Except in the case of a rollover contribution described in subsection (c)(3), in section 402(a)(5), in section 403(a)(4), no contribution will be accepted by such trust for an account described in subsection (a) unless it is in cash, and contributions will not be accepted by such trust for an account described in subsection (a) for the taxable year in excess of $1,500 on behalf of any individual.

"(2) No part of the trust funds will be invested in life insurance contracts by such trust for an account described in subsection (a).

"(3) The interest of an individual in the balance in his account is nonforfeitable.

"(4) The assets of the trust allocable to the account described in subsection (a) will not be commingled with other property (other than other assets of the trust) except in a common trust fund or common investment fund.

"(5) The entire interest of an individual for whose benefit the account is maintained will be distributed to him not later than the close of his taxable year in which he attains age 70½, or will be distributed, commencing before the close of such taxable year, in accordance with regulations prescribed by the Secretary over—

"(A) the life of such individual or the lives of such individual and his spouse, or

"(B) a period not extending beyond the life expectancy of such individual or the life expectancy of such individual and his spouse.

"(6) If an individual for whose benefit the account is maintained dies before his entire interest has been distributed to him, or if distribution has been commenced as provided in paragraph (5) to his surviving spouse and such surviving spouse dies before the entire interest has been distributed to such spouse, the entire interest (or the remaining part of such interest if distribution thereof has commenced) will, within 5 years after his death (or the death of the surviving spouse), be distributed, or applied to the purchase of an immediate annuity for his beneficiary or beneficiaries (or the beneficiary or beneficiaries of his surviving spouse) which will be payable for the life of such beneficiary or beneficiaries (or for term certain not extending beyond the life expectancy of such beneficiary or beneficiaries) and which annuity will be immediately distributed to such beneficiary or beneficiaries. The preceding sentence does not apply if distributions over a term certain commenced before the death of the individual for whose benefit the trust was maintained and the term certain is for a period permitted under paragraph (5).

"(c) Tax Treatment of Distributions.—

"(1) In general.—Except as otherwise provided in this subsection, any amount paid, distributed, transferred or reallocated out of a limited employee retirement account shall be included in gross income by the payee or distributee, as the case may be, for the taxable year in which the payment or distribution is received. The basis of any person in such an account or annuity is zero.

"(2) Distributions of annuity contracts.—Paragraph (1) does not apply to any annuity contract which meets the requirements of paragraphs (1), (3), (4), and (5) of section 408(b). Section 72 applies to any such annuity contract, and for purposes of section 72 the investment in such contract is zero.

"(3) Rollover contribution.—An amount is described in this paragraph as a rollover contribution if it meets the requirements of subparagraphs (A) and (B).

"(A) In general.—Paragraph (1) does not apply to any amount paid or distributed out of a limited employee retirement account to the individual for whose benefit the account is maintained if—

"(i) the entire amount received (including money and any other property) is paid into an individual retirement account, an individual retirement annuity (other than an endowment contract), a retirement bond, or a limited employee retirement account for the benefit of such individual not later than the 60th day after the day on which he receives the payment or distribution; or

"(ii) the entire amount received (including money and any other property) represents the entire amount in the limited employee retirement account and no amount in the account is attributable to any source other than a rollover contribution from an employees' trust described in section 401(a) which is exempt from tax under section 501 (a) (other than a trust forming part of a plan under which the individual was an employee within the meaning of section 401(c) (1) at the time contributions were made on his behalf under the plan and other than a limited employee retirement account), or an annuity plan described in section 403(a) (other than a plan under which the individual was an employee within the meaning of section 401(c)(1) at the time contributions were made on his behalf under the plan and other than a limited employee retirement account) and any earnings on such sums and the entire amount thereof is paid into another such trust (for the benefit of such individual) or annuity plan not later than the 60th day on which he receives the payment or distribution.

"(B) Limitation.—This paragraph does not apply to any amount described in subparagraph (A)(i) received by an individual from a limited employee retirement account if at any time during the 3-year period ending on the day of such receipt such individual received any other amount—

"(i) described in that subparagraph from a limited employee retirement account which was not includible in his gross income because of the application of this paragraph, or

"(ii) described in section 408(d)(3)(A)(i) from an individual retirement account, individual retirement annuity, or a retirement bond which was not includible in his gross income because of the application of that section.

"(4) Excess contributions returned before due date of return.—Paragraph (1) does not apply to the distribution of any contribution paid during a taxable year to a limited employee retirement account to the extent that such contribution exceeds the amount allowable as a deduction under section 220 if—

"(A) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such individual's return for such taxable year,

"(B) no deduction is allowed under section 220 with respect to such excess contribution, and

"(C) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (C) shall be included in the gross income of the individual for the taxable year in which received.

"(5) Excess contributions transferred or reallocated before due date of return.—Paragraph (1) does not apply to the reallocation, from a limited employee retirement account to another account under a trust which is a part of the same plan, of any contribution paid during a taxable year to the limited employee retirement account of an individual to the extent that such contribution exceeds the amount allowable as a deduction under section 220. The preceding sentence shall not apply unless such reallocation is made on or before the day prescribed by law (including extensions of time) for filing such individual's return for such taxable year. If no deduction is allowed under section 220 with respect to such excess contribution for purposes of this paragraph, a reallocation includes a transfer from an account under a trust to an account under another trust.

"(6) Transfer of account incident to divorce.—The transfer of an individual's interest in a limited employee retirement account to his former spouse under a divorce decree or under a written instrument incident to such divorce is not to be considered a taxable transfer made by such individual notwithstanding any other provision of this subtitle, and such interest at the time of the transfer is to be treated as a limited employee retirement account of such spouse, and not of such individual. Thereafter such account for purposes of this subtitle is to be treated as maintained for the benefit of such spouse.

"(d) Tax Treatment of Accounts.—

"(1) Loss of exemption of account where employee engages in prohibited transaction.—

"(A) In general.—If, during any taxable year of the individual for whose benefit any limited employee retirement account is established, that individual or his beneficiary engages in any transaction prohibited by section 4975 with respect to such account, such account ceases to be a limited employee retirement account as of the first day of such taxable year. For purposes of this paragraph, the individual for whose benefit any account was established is treated as the creator of such account.

"(B) Account treated as distributing all its assets.—In any case in which any account ceases to be a limited employee retirement account by reason of subparagraph (A) as of the first day of any taxable year, paragraph (1) of subsection (c) applies as if there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day).

"(2) Effect of pledging account as security.—If, during any taxable year of the individual for whose benefit a limited employee retirement account is established, that individual uses the account or any portion thereof as security for a loan, the portion so used is treated as distributed to that individual.

"(3) Purchase of endowment contract by limited employee retirement account.—If the assets of a limited employee retirement account or any part of such assets are used to purchase an endowment contract for the benefit of the individual for whose benefit the account is established—

"(A) to the extent that the amount of the assets involved in the purchase are not attributable to the purchase of life insurance, the purchase is treated as a rollover contribution described in subsection (c)(3), and

"(B) to the extent that the amount of the assets involved in the purchase are attributable to the purchase of life, health, accident, or other insurance, such amounts are treated as distributed to that individual (but the provisions of subsection (e) do not apply).

"(e) Additional Tax on Certain Amounts Included in Gross Income Before Age 59½.—

"(1) Early distributions from a limited employee retirement account.—If a distribution from a limited employee retirement account to the individual for whose benefit such account was established is made before such individual attains age 59½, his tax under this chapter for the taxable year in which such distribution is received shall be increased by an amount equal to 10 percent of the amount of the distribution which is includible in his gross income for such taxable year.

"(2) Disqualification cases.—If an amount is includible in gross income for a taxable year under subsection (d) and the taxpayer has not attained age 59½ before the beginning of such taxable year, his tax under this chapter for such taxable year shall be increased by an amount equal to 10 percent of such amount so required to be included in his gross income.

"(3) Disability cases.—Paragraphs (1) and (2) do not apply if the amount paid or distributed, or the disqualification of the account under subsection (d), is attributable to the taxpayer becoming disabled within the meaning of section 72(m)(7).

"(f) Community Property Laws.—This section shall be applied without regard to any community property laws.

"(g) Reports.—The administrator of any plan which includes a limited employee retirement account shall make such reports regarding such account to the Secretary and to the individual for whom the account is, or is to be, maintained with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.

"(h) Accrued Benefit Attributable to Account.—For purposes of this section.—

"(1) Computation of accrued benefit.—The accrued benefit under a qualified benefit plan attributable to an employee's limited employee retirement account is the accrued benefit under the plan derived from the employee's contributions (within the meaning of section 411(c)(2)) multiplied by a fraction—

"(A) the numerator of which is the balance to the credit of the employee under such account, and

"(B) the denominator of which is the sum of—

"(i) the employee's accumulated contributions (within the meaning of section 411 (c)(2)(C), and

"(ii) the employee's voluntary contributions (within the meaning of section 411(d) (5), increased by interest (if any) under the plan.

"(2) Distribution of accrued benefit.—The portion of a distribution under a plan which is attributable to a limited employee retirement account shall be determined under the plan in accordance with regulations prescribed by the Secretary.

"(i) Effect of Disqualification of Plan.—If the plan of which a limited employee retirement account is a part is no longer described in section 401(a), such account shall be treated as an individual retirement account described in section 408(a) if it otherwise meets the requirements of section 408(a).

"(j) Cross Reference.—

"For tax on certain accumulations in limited employee retirement accounts, see section 4974."

(c) Conforming Amendments.—

(1) Section 37(e) (4) (A) (defining retirement income) is amended—

(A) by striking out "and" at the end of clause (v).

(B) by striking out "or" at the end of clause (vi) and inserting in lieu thereof "and", and

(C) by adding at the end thereof the following new clause:

"(vii) a limited employee retirement account described in section 408A, or".

(2) The second sentence of section 46(a) (3) and the second sentence of section 50A (a) (3) are each amended by inserting after "certain retirement accounts)," the following: "section 408A(e) (relating to additional tax on income from limited employee retirement accounts),".

(3) Paragraph (1) of section 55(d) (relating to minimum tax for tax preferences of individuals) is amended by striking out "and 408(f)," and inserting in lieu thereof "408 (f), 408A(e), and 409(c),".

(4) Section 72 (relating to annuities) is amended—

(A) by inserting after "408(b)" in subsection (m) (4) (A) ", a limited employee retirement account described in section 408A (a)", and

(B) by inserting after "408(a) or (b)" in subsection (m) (6) "or a limited employee retirement account described in section 408 (A) (a)".

(5) Section 219(b) (4) is amended by inserting, ", 408A(c) (3)" after "408(d) (3)".

(6) Sections 402(a) (5) and 403(a) (4) (relating to rollover amounts) are each amended—

(A) in subparagraph (B) (i), by striking out "endowment contract)," and inserting in lieu thereof "endowment contract), a limited employee retirement account described in section 408A(a)," and

(B) by striking out the second sentence and inserting in lieu thereof the following: "For purposes of this title, a transfer described in subparagraph (B) (i) shall be treated as a rollover contribution as described in section 408(d) (3) or 408A(c) (3), as the case may be."

(7) Section 402(e) (4) is amended by adding at the end of subparagraph (A) the following:

"For purposes of this subsection, the balance to the credit of an employee does not include the balance (determined in accordance with regulations prescribed by the Secretary) or a limited employee retirement account."

(8) Section 408(d) (3) (relating to tax-free rollovers) is amended—

(A) by striking out clause (i) of subparagraph (A) and inserting in lieu thereof the following:

"(i) the entire amount received (including money and any other property) is paid into an individual retirement account, an individual retirement annuity (other than an endowment contract), a retirement bond, or a limited employee retirement account for the benefit of such individual not later than the 60th day after the day on which he receives the payment or distribution; or".

(B) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) Limitation.—This paragraph does not apply to any amount described in subparagraph (A) (i) received by an individual from an individual retirement account or individual retirement annuity if at any time during the 3-year period ending on the day of such receipt such individual received any other amount (i) described in that subparagraph from an individual retirement account, individual retirement annuity, or a retirement bond which was not includible in his gross income because of the application of this paragraph or (ii) described in section 408A(c) (3) (A) (i) from a limited employee retirement account which was not includible in his gross income because of the application of that section."

(9) That portion of section 408(d) (4) which follows subparagraph (C) thereof is amended to read as follows: "In the case of such a distribution, for purposes of section 61, any net income described in subparagraph (C) shall be deemed to have been earned and receivable in the taxable year in which such excess contribution is made."

(10) The third sentence of section 901(a) (relating to allowance of foreign tax credit) is amended by inserting "against the tax imposed for the taxable year by section 408A(e) (relating to additional tax on income from limited employee retirement accounts)," before "against the tax imposed by section 531".

(11) Paragraph (12) of section 3401(a) (defining wages) is amended by striking out subparagraph (D).

(12) The first sentence of subparagraph (A) of section 3402(m) (2) (relating to withholding allowances based on itemized deductions) is amended by striking out "paragraph (13) thereof" and inserting in lieu thereof "paragraphs (10), (13), and (14) thereof".

(13) So much of section 4973(b) as follows paragraph (1) thereof is amended to read as follows:

"(2) the amount determined under this subsection for the preceding taxable year, reduced by the excess (if any) of the maximum amount allowable as a deduction under section 219 or 220 for the taxable year over the amount contributed to the accounts or for the annuities or bonds for the taxable year and reduced by the sum of the distributions out of the account (for the taxable year and all prior taxable years) which were included in the gross income of the payee under section 408(d) (1).

For purposes of this subsection, any contribution which is distributed from the individual retirement account, individual retirement annuity, or bond in a distribution to which section 408(d) (4) applies shall be treated as an amount not contributed if such distribution consists of an excess contribution solely because of employer contributions to a plan or contract described in section 219(b) (2) or by reason of the application of such section, and only if such distribution does not exceed the excess of $1,500 over the amount described in paragraph (1) (B)."

(14) Excess accumulations tax.—Section 4974 is amended by—

(A) striking out "or individual retirement annuity" in subsection (a) thereof and inserting in lieu thereof ", individual retirement annuity, or limited employee retirement account", and

(B) striking out "or 408(b) (3) or (4)" each place it appears and inserting in lieu thereof ", 408(b) (3) or (4), or 408A(b) (5) or (6)".

(15) Section 6693(a) is amended by striking out "408(i)" each place it appears and inserting in lieu thereof "219(c) (6) or 408 (i)".

(16) Section 415(c) (2) is amended by—

(A) striking out "and" in subparagraph (B),

(B) striking out "forfeitures." and inserting in lieu thereof "forfeitures, and" in subparagraph (C), and

(C) adding after subparagraph (C) the following:

"(D) employee contributions deductible under section 220."

(d) Clerical Amendments.—

(1) The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:

"Sec. 408A. Limited employee retirement accounts."

(2) The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the item relating to section 220 and inserting in lieu thereof the following:

"Sec. 220. Deduction for employee retirement savings.

"Sec. 221. Cross references."

(e) Effective Dates.—The amendments made by this section (other than the amendment made by subsection (c) (13)) shall apply to taxable years beginning after December 31, 1975. The amendment made by subsection (c) (13) shall apply to taxable years beginning after December 31, 1974.

TITLE XVI—REAL ESTATE INVESTMENT TRUSTS

Sec. 1601. Deficiency Dividend Procedure.

(a) In General.—

(1) Part II of subchapter M of chapter 1 (relating to real estate investment trusts) is amended by adding at the end thereof the following new section:

"Sec. 859. Deduction for Deficiency Dividends.

"(a) General Rule.—If a determination (as defined in subsection (c)) with respect to a real estate investment trust results in any adjustment (as defined in subsection (b) (1)) for any taxable year, a deduction shall be allowed to such trust for the amount of deficiency dividends (as defined in subsection (d)) for purposes of determining the deduction for dividends paid for such year.

"(b) Rules for Application of Section.—

"(1) Adjustment.—For purposes of this section, the term 'adjustment' means—

"(A) any increase in the real estate investment trust taxable income of the real estate investment trust (determined without regard to the deduction for dividends paid (as defined in section 561)),

"(B) any increase in the excess of (i) the net income from foreclosure property and section 1221 (1) property (as defined in section 857(b) (4) (B)) over (ii) the tax on such income imposed by section 857(b) (4) (A),

"(C) any increase in the amount of the excess described in section 857(b) (3) (A) (relating to the excess of the net long-term capital gain over the sum of the net short-term capital loss and the deduction for capital gains dividends paid), and

"(D) any decrease in the deduction for dividends paid (as defined in section 561) determined without regard to capital gains dividends.

"(2) Interest and penalties based on full amount of adjustment.—For purposes of determining interest, additional amounts, and assessable penalties—

"(A) the amount of the tax imposed on the real estate investment trust as a result of the determination shall be deemed to be equal to the amount of the adjustment attributable to the determination (within the meaning of paragraph (3)), and

"(B) the last date prescribed for payment of such amount shall be deemed to have been the last date prescribed for the payment of tax (determined in the manner provided by section 6601(c)) for the taxable year with respect to which the determination is made.

"(3) Amount of adjustment attributable to determination.—For purposes of this section, the amount of the adjustment attributable to the determination is an amount equal to the sum of—

"(A) the amounts of increase referred to in subparagraphs (A), (B), and (C) of paragraph (1), and

"(B) the amount of decrease referred to in subparagraph (D) of paragraph (1).

"(4) Deduction allowed as of date claim is filed.—The deficiency dividend deduction shall be allowed as of the date of the claim for the deficiency dividend deduction is filed.

"(5) Credit or refund.—If the allowance of a deficiency dividend deduction results in an overpayment of tax for any taxable year, credit or refund with respect to such overpayment shall be made as if on the date of the determination 2 years remained before the expiration of the period of limitation on the filing of claim for refund for the taxable year to which the overpayment relates.

"(6) Effect on shareholders or holders of beneficial interests.—The taxation of any distribution to shareholders or holders of beneficial interests in the real estate investment trust for the taxable year with respect to which the liability resulting from the determinatiin exists or any taxable year thereafter but before the taxable year in which the distribution of the deficiency dividend occurs shall not be affected by the provisions of this section.

"(c) Determination.—For purposes of this section, the term 'determination' means—

"(1) a decision by the Tax Court, or a judgment, decree, or other order by any court of competent jurisdiction, which has become final;

"(2) a closing agreement made under section 7121; or

"(3) under regulations prescribed by the Secretary or his delegate, an agreement signed by the Secretary or his delegate and by, or on behalf of, the real estate investment trust relating to the liability of such trust for tax.

"(d) Deficiency Dividends.—

"(1) Definition.—For purposes of this section, the term 'deficiency dividends' means the amount of the dividends paid by the real estate investment trust on or after the date of the determination and before filing claim under subsection (e), which would have been includible in the computation of the deduction for dividends paid under section 561 for the taxable year with respect to which the liability for tax resulting from the determination exists, if distributed during such taxable year. No dividends shall be considered as deficiency dividends for purposes of subsection (a) unless distributed within 90 days after the determination.

"(2) Limitation.—The amount of deficiency dividends paid by a real estate investment trust for the taxable year with respect to which the liability for tax resulting from the determination exists shall not exceed the amount of the adjustment referred to in subsection (b) (3).

"(3) Effect on dividends paid deduction.—

"(A) For taxable year in which paid.—Deficiency dividends paid in any taxable year shall not be included in the amount of dividends paid for such year for purposes of computing the dividends paid deduction for such year.

"(B) For prior taxable year.—Deficiency dividends paid in any taxable year shall not be allowed for purposes of section 858(a) in the computation of the dividends paid deduction for the taxable year preceding the taxable year in which paid.

"(e) Claim Required.—No deficiency dividend deduction shall be allowed under subsection (a) unless (under regulations prescribed by the Secretary or his delegate) claim therefor is filed within 120 days after the date of the determination.

"(f) Suspension of Statute of Limitations and Stay of Collection.—

"(1) Suspension of running of statute.—If the real estate investment trust files a claim as provided in subsection (e), the running of the statute of limitations provided in section 6501 on the making of assessments, and the bringing of distraint or a proceeding in court for collection, in respect of the deficiency established by a determination under this section, and all interest, additional amounts, or assessable penalties in respect thereof, shall be suspended for a period of 2 years after the date of the determination.

"(2) Stay of collection—In the case of any deficiency established by a determination under this section—

"(A) the collection of the deficiency, and all interest, additional amounts, and assessable penalties in respect thereof, shall, except in cases of jeopardy, be stayed until the expiration of 120 days after the date of the determination, and

"(B) if claim for a deficiency dividend deduction is filed under subsection (e), the collection of such part of the deficiency as is not reduced by the deduction for deficiency dividends provided in subsection (a) shall be stayed until the date the claim is disallowed (in whole or in part), and if disallowed in part collection shall be made only with respect to the part disallowed.

No distraint or proceeding in court shall be begun for the collection of an amount the collection of which is stayed under subparagraph (A) or (B) during the period for which the collection of such amount is stayed.

"(g) Deduction Allowed Only if Original Underdistribution Resulted From Reasonable Cause.—A deficiency dividend deduction shall be allowed under subsection (a) only if the entire amount of the adjustment was due to reasonable cause.

"(h) Penalty.—

"For assessable penalty with respect to liability for tax of real estate investment trust which is allowed a deduction under subsection (a), see section 6697."

(2) The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 859. Deduction for deficiency dividends."

(b) Penalty.—

(1) Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"Sec. 6697. Assessable Penalties With Respect to Liability for Tax of Real Estate Investment Trusts.

"(a) Civil Penalty.—In addition to any other penalty provided by law, any real estate investment trust which is liable for interest for any period by reason of any determination (within the meaning of section 859(c)) with respect to which a deduction is allowed under section 859(a) shall pay a penalty in an amount equal to the amount of such interest attributable solely to such determination.

"(b) 50-Percent Limitation.—The penalty payable under this section with respect to any determination shall not exceed one-half of the amount of the adjustment attributable to the determination (within the meaning of section 859 (b) (3)).

"(c) Deficiency Procedures Not To Apply.—Subchapter B of chapter 63 (relating to deficiency procedure for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a)."

(2) The table of sections for such subchapter B is amended by adding at the end thereof the following:

"Sec. 6697. Assessable penalties with respect to liability for tax of real estate investment trusts."

(c) Late Designation and Payment of Capital Gain Dividend.—The first sentence of subparagraph (C) of section 857(b) (3) (defining capital gain dividend) is amended by inserting before the period at the end thereof the following: "; except that, if there is an increase in the excess described in subparagraph (A) of this paragraph for such year which results from a determination (as defined in section 859(c)), such designation may be made with respect to such increase at any time before the expiration of 120 days after the date of such determination".

Sec. 1602. Trust Not Disqualified in Certain Cases Where Income Tests Were Not Met.

(a) Disqualification Not Applied.—Section 856(c) (relating to limitations) is amended by adding at the end thereof the following new paragraph:

"(8) If, as the result of a determination (as defined in section 859(c)) with respect to the real estate investment trust, such trust does not meet the requirements of paragraph (2), (3), or (5), or of two or more such paragraphs for any taxable year, such trust shall, nevertheless, be considered to have satisfied the requirements of such paragraphs for such taxable year if—

"(A) the nature and amount of the sources of its gross income as reported in a schedule attached to its income tax return for such taxable year satisfied the requirements of such paragraphs; and

"(B) it had, after reasonable investigation, reasonable ground to believe and did believe that the nature and amount of the sources of its gross income satisfied such requirements."

(b) Imposition of Special Taxes.—

(1) Section 857(b) (relating to method of taxation of real estate investment trusts, etc.) is amended by redesignating paragraph (5) as paragraph (7) and by inserting after paragraph (4) the following new paragraphs:

"(5) Imposition of tax on nonqualifying income.—

"(A) Imposition of tax.—There is hereby imposed for each taxable year of every real estate investment trust a tax in the amount determined by applying to the amount referred to in subparagraph (B) the percentage which equals the sum of the normal tax rate and the surtax rate for the taxable year prescribed by section 11.

"(B) Amount.—The amount referred to in this subparagraph is—

"(i) the amount by which the gross income of the real estate investment trust for the taxable year exceeds the portion of such gross income derived from sources referred to in section 856(c) (2), multiplied by

"(ii) a fraction the numerator of which is the real estate investment trust taxable income for the taxable year (determined without regard to the deductions provided in paragraphs (2) (C) and (2) (G)) and the denominator of which is the gross income for the taxable year (excluding gross income from foreclosure property and property which is described in section 1221(1)).

"(C) No tax where section 11 applies.—No tax shall be imposed by this paragraph for the taxable year if the corporation, trust, or association is taxable under section 11 as a domestic corporation for such year.

"(6) Imposition of tax in case of determination of failure to meet certain requirements.—

"(A) Imposition of tax.—If section 856(c) (8) applies to a real estate investment trust for any taxable year, there is hereby imposed on such trust a tax in the amount determined by applying to the amount referred to in subparagraph (B) the percentage which equals the sum of the normal tax rate and the surtax rate for the taxable year prescribed by section 11.

"(B) Amount.—The amount referred to in this subparagraph is the sum of—

"(i) the excess of 75 percent of the gross income of the real estate investment trust as determined for such taxable year over the amount of such gross income which is determined to be derived from sources referred to in section 856(c) (3), and

"(ii) the excess of the amount of such gross income which is determined to be from sources referred to in section 856(c) (5) over 1 percent of such gross income,

multiplied by a fraction the numerator of which is the real estate investment trust taxable income for the taxable year (determined without regard to the deductions provided in paragraphs (2)(C) and (2)(G)) and the denominator of which is the gross income for the taxable year (excluding gross income from foreclosure property and property which is described in section 1221(1)).

"(C) No tax where section 11 applies.—No tax shall be imposed by this paragraph for the taxable year if the corporation, trust, or association is taxable under section 11 as a domestic corporation for such year."

(2) Section 857(b)(2) (relating to real estate investment trust taxable income) is amended by inserting after subparagraph (F) the following new subparagraph:

"(G) There shall be deducted an amount equal to the taxes imposed by paragraphs (5) and (6) for the taxable year."

Sec. 1603. Treatment of Property Held for Sale to Customers.

(a) Elimination of Holding for Sale Rule as Qualification Requirement.—Section 856(a) (defining real estate investment trust) is amended by striking out paragraph (4).

(b) Limitation on Gains From Property Described in Section 1221(1).—Section 856(c) (relating to limitations) is amended by redesignating paragraphs (5) and (6) as paragraph (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) less than 1 percent of its gross income is derived from the sale or other disposition of property which is described in section 1221(1) and which is not foreclosure property;".

(c) Tax on Income From Property Described in Section 1221(1).—Section 857(b)(4) is amended by inserting " or section 1221(1) property" after "property" in the heading thereof, by inserting "and section 1221(1) property" after the word "property" in the first sentence of subparagraph (A) thereof, and by amending so much of subparagraph (B) thereof as precedes clause (ii) to read as follows:

"(B) Net income from foreclosure property and section 1221(1) property.—For purposes of this part, the term 'net income from foreclosure property and section 1221

(d) Technical Amendments.—

"(i) gain from the sale or other disposition of property described in section 1221(1), including foreclosure property described in section 1221(1), and the gross income for the taxable year derived from foreclosure property (as defined in section 856(e)), but only to the extent such gross income is not described in subparagraph (A), (B), (C), (D), or (E) of section 856(c)(3), over".

(d) Technical Amendments.—

(1) So much of paragraph (3) of section 856(c) (relating to limitations) as precedes subparagraph (A) thereof is amended to read as follows:

"(3) at least 75 percent of its gross income (excluding gross income from property described in section 1221(1) which is not foreclosure property) is derived from—".

(2) Section 856(c)(2) (relating to limitations) is amended by inserting before the semicolon in subparagraph (D) thereof "which is not property described in section 1221(1)".

(3) Section 856(c)(3) (relating to limitations) is amended by inserting before the semicolon in subparagraph (C) thereof "which is not property described in section 1221(1)".

(4) Section 856(e)(1) (defining foreclosure property) is amended by adding at the end thereof the following sentence: "Such term does not include property acquired by the real estate investment trust as a result of indebtedness arising from the sale or other disposition of property of the trust described in section 1221(1) which was not originally acquired as foreclosure property."

(5) Section 857(a)(1)(B) (relating to requirements applicable to real estate investment trusts) is amended by inserting "and property described in section 1221(1)" after "property".

(6) Section 857(b)(2)(F) (relating to the definition of real estate investment trust taxable income) is amended by inserting before the period at the end thereof "and property described in section 1221(1)".

(7) Section 856(b) (relating to determination of status) is amended by striking out "paragraphs (1) to (4)" and inserting in lieu thereof "paragraphs (1) to (3)" and by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (4)".

Sec. 1604. Other Changes in Limitations and Requirements.

(a) Increase in 90-Percent Gross Income Requirement to 95 Percent.—Section 96(c)(2) (relating to limitations) is amended by striking out "90 percent of its gross income" and inserting in lieu thereof "95 percent of its gross income (excluding gross income from property described in section 1221)(1) which is not foreclosure property)".

(b) Apportionment of Rental Income and Charges for Customary Services; Change in Definition of Independent Contractor.—Subsection (d) of section 856 (defining rents from real property) is amended to read as follows:

"(d) Rents From Real Property Defined.—

"(1) Amounts included.—For purposes of paragraphs (2) and (3) of subsection (c), the term 'rents from real property' includes (subject to paragraph (2))—

"(A) rents from interests in real property,

"(B) charges for services customarily furnished or rendered in connection with the rental of real property, whether or not such charges are separately stated, and

"(C) rent attributable to personal property which is leased under, or in connection with, a lease of real property, but only if the rent attributable to such personal property for the taxable year does not exceed 15 percent of the total rent for the taxable year atributable to both the real and personal property leased under, or in connection with, such lease.

For purposes of subparagraph (C), with respect to each lease of real property, rent attributable to personal property for the taxable year is that amount which bears the same ratio to total rent for the taxable year as the average of the adjusted bases of the personal property at the beginning and at the end of the taxable year bears to the average of the aggregate adjusted bases of both the real property and the personal property at the beginning and at the end of such taxable year.

"(2) Amounts excluded.—For purposes of paragraphs (2) and (3) of subsection (c), the term 'rents from real property' does not include—

"(A) any amount received or accrued, directly or indirectly, with respect to any real property, if the determination of such amount depends in whole or in part on the income or profits derived by any person from such property (except that any amount so received or accrued shall not be excluded from the term 'rents from real property' solely by reason of being based on a fixed percentage or percentages of receipts or sales);

"(B) any amount received or accrued directly or indirectly from any person if the real estate investment trust owns, directly or indirectly—

"(i) in the case of any person which is a corporation, stock of such person possessing 10 percent or more of the total combined voting power of all classes of stock entitled to vote, or 10 percent or more of the total number of shares of all classes of stock of such person; or

"(ii) in the case of any person which is not a corporation, an interest of 10 percent or more in the assets or net profits of such person; and

"(C) any amount received or accrued, directly or indirectly, with respect to any real property if the real estate investment trust furnishes or renders services to the tenants of such property, or manages or operates such property, other than through an independent contractor from whom the trust itself does not derive or receive any income.

"(3) Independent contractor defined.—For purposes of this subsection and subsection (e), the term 'independent contractor' means any person—

"(A) who does not own, directly or indirectly, more than 35 percent of the shares, or certificates of beneficial interest, in the real estate investment trust; and

"(B) if such person is a corporation, not more than 35 percent of the total combined voting power of whose stock (or 35 percent of the total shares of all classes of whose stock), or, if such person is not a corporation, not more than 35 percent of the interest in whose assets or net profits is owned, directly or indirectly, by one or more persons owning 35 percent or more of the shares or certificates of beneficial interest in the trust.

"(4) Constructive ownership of stock.—For purposes of this subsection, the rules prescribed by section 318(a) for determining the ownership of stock shall apply in determining the ownership of stock, assets, or net profits of any person; except that '10 percent' shall be substituted for '50 percent' in subparagraph (C) of sections 318(a)(2) and 318(a)(3).".

(c) Commitment Fees.—Paragraphs (2) and (3) of section 856(c) (relating to 95-percent and 75-percent income tests) are each amended by adding at the end thereof the following new subparagraph:

"(G) amounts received or accrued as consideration for entering into agreements (i) to make loans secured by mortgages on real property or on interests in real property or (ii) to purchase and leaseback real property (including interests in real property and interests in mortgages on real property);".

(d) Income From Sale of Mortgages Held Less Than 4 Years.—Section 856(c)(4) (relating to 30-percent income test) is amended to read as follows:

"(4) less than 30 percent of its gross income is derived from the sale or exchange of—

"(A) stock or securities held for less than 6 months;

"(B) section 1221(1) property (other than foreclosure property); and

"(C) real property including interests in real property and interests in mortgages on real property) held for less than 4 years other than—

"(i) property compulsorily or involuntarily converted within the meaning of section 1033, and

"(ii) property which is foreclosure property within the definition of section 856(e)(1); and ".

(e) Options To Purchase Real Property Treated as Interests in Real Property.—Section 856(c)(7)(C) (defining interests in real property) is amended to read as follows:

"(C) The term 'interests in real property' includes fee ownership and coownership of land or improvements thereon, leaseholds of land or improvements thereon, and options to acquire land or improvements thereon, leaseholds of land or improvements thereon, and options to acquire land or improvements thereon, but does not include mineral, oil, or gas royalty interests."

(f) Real Estate Investment Trusts May Be Incorporated.—

(1) In general.—So much of subsection

(a) of section 856 (defining real estate investment trust) as precedes paragraph (3) thereof is amended to read as follows:

"(a) IN GENERAL.—For purposes of this subtitle, the term 'real estate investment trust' means a corporation, an unincorporated trust, or an unincorporated association—

"(1) which is managed by one or more trustees or directors;

"(2) the beneficial ownership of which is evidenced by transferable shares, or by transferable certificates of beneficial interest;".

(2) EXCEPTION FOR FINANCIAL INSTITUTIONS AND INSURANCE COMPANIES.—Section 856(a) is amended by striking out "and" at the end of paragraph (6), by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) which is neither (A) a financial institution to which section 585, 586, or 593 applies, nor (B) an insurance company to which subchapter L applies; and".

(3) CONFORMING AMENDMENTS.—

(A) So much of section 856(c) as precedes paragraph (1) thereof is amended by striking out "A trust or association" and inserting in lieu thereof "A corporation, trust, or association".

(B) The second sentence of section 857(d) is amended by inserting "a domestic corporation or" before "a domestic unincorporated trust".

(g) INTEREST.—Section 856 (relating to definition of real estate investment trust) is amended by adding after subsection (e) the following new subsection:

"(f) INTEREST.—For purposes of paragraphs (2)(B) and (3)(B) of subsection (c), the term 'interest' does not include any amount received or accrued, directly or indirectly, if the determination of such amount depends in whole or in part on the income or profits of any person (except that any amount so received or accrued shall not be excluded from the term 'interest' solely by reason of being based on a fixed percentage or percentages of receipts or sales)."

(h) CERTAIN DIVIDENDS.—The first sentence of section 858(a) (relating to dividends paid by real estate investment trust after close of taxable year) is amended—

(1) by inserting "(and specifies in dollar amounts)" after "to the extent the trust elects in such return", and

(2) by striking out "paid during such taxable year" and inserting in lieu thereof "paid only during such taxable year".

(i) ADOPTION OF ANNUAL ACCOUNTING PERIOD.—

(1) Part II of subchapter M of chapter 1 (relating to real estate investment trusts) is amended by adding at the end thereof the following new section:

"SEC. 860. ADOPTION OF ANNUAL ACCOUNTING PERIOD.

"For purposes of this subtitle, a real estate investment trust shall not change to or adopt any annual accounting period other than the calendar year."

(2) The table of sections for such part II is amended by adding at the end thereof the following:

"Sec. 860. Adoption of annual accounting period."

SEC. 1605. EXCISE TAX.

(a) IMPOSITION OF TAX.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 44—REAL ESTATE INVESTMENT TRUSTS

"Sec. 4981. Excise tax based on certain real estate investment trust taxable income not distributed during the taxable year.

"SEC. 4981. EXCISE TAX BASED ON CERTAIN REAL ESTATE INVESTMENT TRUST TAXABLE INCOME NOT DISTRIBUTED DURING THE TAXABLE YEAR.

"There is hereby imposed on each real estate investment trust for the taxable year a tax equal to 3 percent of the amount (if any) by which 75 percent of the real estate investment trust taxable income (as defined in section 857(b)(2), but determined without regard to section 857(b)(2)(C) for the taxable year exceeds the amount of the dividends paid deduction (as defined in section 561 but computed without regard to capital gains dividends as defined in section 857(b)(3)(C) and without regard to any dividend paid after the close of the taxable year) for the taxable year. For purposes of the preceding sentence, the determination of real estate investment trust taxable income shall be made by taking into account only the amount and character of the items of income and deduction as reported by such trust in its return for the taxable year."

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of section 856 (relating to definition of real estate investment trust) is amended by striking out "this subtitle" and inserting in lieu thereof "this title."

(2) Section 857 (relating to taxation of real estate investment trust and their beneficiaries) is amended by adding at the end thereof the following new subsection:

"(c) CROSS REFERENCE.—

"For provisions relating to excise tax based on certain real estate investment trust taxable income not distributed during the taxable year, see section 4981."

(c) CLERICAL AMENDMENT.—The table of chapters for subtitle D is amended by adding at the end thereof the following:

"CHAPTER 44. Real estate investment trusts."

SEC. 1606. EFFECTIVE DATE FOR TITLE.

(a) DEFICIENCY DIVIDEND PROCEDURES.—The amendments made by sections 1601 and 1602 shall apply with respect to determinations (as defined in section 859(c) of the Internal Revenue Code of 1954) occurring after the date of the enactment of this Act, except that the amendment made by section 1602(a) requiring a schedule to be attached to the income tax return of certain real estate investment trusts shall apply only to taxable years of such trust beginning after the date of the enactment of this Act.

(b) OTHER AMENDMENTS.—The amendments made by sections 1603, 1604, and 1605 shall apply to taxable years of real estate investment trusts beginning after the date of the enactment of this Act.

TITLE XVII—AMORTIZATION OF CERTAIN RAILROAD GRADING AND TUNNEL BORES; TAX TREATMENT OF CERTAIN RAILROAD TIES

SEC. 1701. AMORTIZATION OVER 50-YEAR PERIOD OF RAILROAD GRADING AND TUNNEL BORES PLACED IN SERVICE BEFORE 1969.

Section 185 (relating to amortization of railroad grading and tunnel bores) is amended by redesignating subsections (d), (e), (f), (g), and (h) as subsections (f), (g), (h), (i), and (j), respectively, and by inserting after subsection (c) the following new subsections:

"(d) ELECTION WITH RESPECT TO PRE-1969 PROPERTY.—A taxpayer with respect to whom an election under subsection (c) is in effect for the taxable year may for any taxable year beginning after December 31, 1974, elect for purposes of this section to treat the term 'qualified railroad grading and tunnel bores' as including pre-1969 railroad grading and tunnel bores. An election under this subsection shall be made by filing with the Secretary, in such manner, in such form, and within such time, as the Secretary may by regulations prescribe, a statement of such election. The election under this subsection shall remain in effect for all taxable years, after the first year for which it is effective, for which an election under subsection (c) is effective. The election under this subsection shall apply to all pre-1969 railroad grading and tunnel bores of the taxpayer, unless, on application by the taxpayer, the Secretary permits him, subject to such conditions as the Secretary deems necessary, to revoke such election.

"(e) ADJUSTED BASIS FOR PRE-1969 RAILROAD GRADING AND TUNNEL BORES.—

"(1) IN GENERAL.—The adjusted basis of any pre-1969 railroad grading and tunnel bore shall be determined under this subsection.

"(2) PROPERTY ACQUIRED OR CONSTRUCTED AFTER FEBRUARY 28, 1913.—

"(A) In the case of pre-1969 railroad grading and tunnel bores—

"(i) acquired by the taxpayer after February 28, 1913, or

"(ii) the construction of which was completed by the taxpayer after February 28, 1913,

the adjusted basis of such property shall be equal to the adjusted basis (for determining gain) of such property in the hands of the taxpayer.

"(B) In the case of property described in subparagraph (A)(i)—

"(i) which was in existence on February 28, 1913,

"(ii) for which the taxpayer has a substituted basis, and

"(iii) such substituted basis for which would, but for the provisions of this section, be determined under section 1053,

then the adjusted basis of such property shall be determined as if such property were property described in paragraph (3)(A).

"(3) PROPERTY ACQUIRED OR CONSTRUCTED BEFORE MARCH 1, 1913.—

"(A) In the case of pre-1969 railroad grading and tunnel bores—

"(i) acquired by the taxpayer before March 1, 1913, or

"(ii) the construction of which was completed by the taxpayer before March 1, 1913,

the adjusted basis of such property shall be determined under the provisions of subparagraph (B), (C), or (D) of this paragraph.

"(B) In the case of any property valued under an original valuation made by the Interstate Commerce Commission pursuant to section 19a of part I of the Interstate Commerce Act (49 U.S.C. 19a), the adjusted basis of such property shall be equal to the amount ascertained by the Interstate Commerce Commission as of the date of such valuation to be such property's cost of reproduction new (as the term 'cost of reproduction new' is used in such section 19a).

"(C) In the case of property which was not valued by the Interstate Commerce Commission in the manner described in subparagraph (B), but which was valued under an original valuation made by a comparable State regulatory body, the adjusted basis of such property shall be equal to the amount ascertained by such State regulatory body as of the date of its original valuation to be such property's value.

"(D) I, in the case of any property to which this paragraph applies—

"(i) neither subparagraph (B) nor (C) applies, or

"(ii) notwithstanding subparagraphs (B) and (C), either the taxpayer or the Secretary can establish the adjusted basis (for purposes of determining gain) of such property in the hands of the taxpayer,

then the adjusted basis of such property shall be equal to its adjusted basis (for purposes of determining gain) in the hands of the taxpayer."

(b) DEFINITION OF PRE-1969 RAILROAD GRADING AND TUNNEL BORES.—Subsection (f) of section 185 (as redesignated by subsection (a) of this section) is amended by adding at the end thereof the following new paragraph:

"(3) Pre-1969 railroad grading and tunnel bores.—The term 'pre-1969 railroad grading and tunnel bores' means railroad grading and tunnel bores the original use of which commenced before January 1, 1969."

Sec. 1702. Treatment of Certain Railroad Ties.

(a) General Rule.—Section 263 (relating to capital expenditures) is amended by adding at the end thereof the following new subsection:

"(g) Certain Railroad Ties.—In the case of a railroad (including a railroad switching or terminal company) which uses the retirement-replacement method of accounting for depreciation of its railroad track, expenditures for acquiring and installing replacement ties which are not made of wood (and fastenings related to such ties) shall not be treated as chargeable to capital account."

(b) Effective Date.—The amendment made by subsection (a) shall apply to expenditures made on or after January 1, 1975, in taxable years ending on or after such date.

TITLE XVII—TAX CREDIT FOR HOME GARDEN TOOL EXPENSES

Sec. 1801. Tax Credit for Home Garden Tool Expenses.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by inserting before section 45 the following new section:

"Sec. 44B. Home Garden Tool Expenses.

"(a) Credit Allowed.—In the case of an individual (other than a trust or estate), there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 7 percent of the individual's home garden tool expenses for the taxable year.

"(b) Home Garden Tool Expenses Defined.—For purposes of this section, the term 'home garden tool expenses' means amounts paid by the taxpayer during the taxable year for the purchase of tools and equipment primarily for use in preparing, cultivating, irrigating, or maintaining a garden for the production of vegetables and other foodstuffs primarily for consumption by the taxpayer and members of his family.

"(c) Limitation.—The aggregate amount of home garden tool expenses taken into account for any taxable year shall not exceed $100 ($50 in the case of a married individual filing a separate return).

"(d) Application With Other Credits.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under—

"(1) section 33 (relating to foreign tax credit),

"(2) section 37 (relating to credit for the elderly),

"(3) section 38 (relating to investment in certain depreciable property),

"(4) section 40 (relating to work incentive program expenses),

"(5) section 41 (relating to contributions to candidates for public office),

"(6) section 42 (relating to taxable income credit),

"(7) section 44 (relating to purchase of new principal residence), and

"(8) section 44A (relating to expenses for household and dependent care services necessary for gainful employment).

"(e) Marital Status.—For purposes of this section, the determination of marital status shall be made under section 143."

(b) Clerical Amendment.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting before the item relating to section 45 the following:

"Sec. 44B. Home garden tool expenses."

(c) Technical Amendment.—Section 6096 (b) (defining income tax liability) is amended by striking out "and 44A" and inserting in lieu thereof "44A, and 44B".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1975.

TITLE XIX REPEAL AND REVISION OF OBSOLETE, RARELY USED, ETC., PROVISIONS OF INTERNAL REVENUE CODE OF 1954

Part I—Amendments of Internal Revenue Code Generally

Sec. 1911. Amendments of Subtitle A; Income Taxes.

(a) In General.

(1) Amendment of section 2.—Subsection (c) of section 2 (relating to certain married individuals living apart) is amended to read as follows:

"(c) Certain Married Individuals Living Apart.—For purposes of this part, an individual shall be treated as not married at the close of the taxable year if such individual is so treated under the provisions of section 143(b)."

(2) Amendment of section 11.—Subsection (c) of section 11 (relating to the surtax imposed on corporations) is amended to read as follows:

"(c) Surtax.—The surtax is equal to 26 percent of the amount by which the taxable income exceeds the surtax exemption for the taxable year."

(3) Repeal of section 35.—Section 35 (relating to partially tax-exempt interest received by individuals) is repealed.

(4) Amendment of section 39.—Section 39 (relating to certain uses of gasoline, special fuels, and lubricating oil) is amended by striking out subsections (b) and (c) and inserting after subsection (a) the following new subsection:

"(b) Exception.—Credit shall not be allowed under subsection (a) for any amount payable under section 6421, 6424, or 6427, if a claim for such amount is timely filed and, under section 6421(i), 6424(f), or 6427(f), is payable under such section."

(5) Amendments of section 46.—

(A) The second sentence of section 46(a) (3) is amended by striking out "section 408(e)" and inserting in lieu thereof "section 408(f)".

(B) The first sentence of section 46(b)(1) (relating to carryback and carryover of unused investment credit) is amended by striking out ", except that such excess may be a carryback only to a taxable year ending December 31, 1961".

(C)(i) Section 46(b) (relating to the investment credit) is amended by striking out paragraph (4) (relating to carrybacks of an unused credit to certain taxable years beginning before 1962), and by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(ii) Section 46(b)(5)(B), as redesignated by clause (i), is amended by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (4)", and by striking out "paragraphs (1), (2), and (5)" and inserting in lieu thereof "paragraphs (1), (2), and (4)".

(D) Clause (iii) of section 46(c)(3)(B) (relating to public utility property) is amended by striking out "47 U.S.C., sec. 222 (a)(5)" and inserting in lieu thereof "47 U.S.C. 222(a)(5)".

(6) Amendments of section 48.—

(A) Section 48(a)(2)(B)(vi) (relating to section 38 property used outside the United States) is amended by striking out "; 43 U.S.C., sec. 1331)" and inserting in lieu thereof "(43 U.S.C. 1331))".

(B) Section 48(a)(2)(B)(viii) is amended by striking out "47 U.S.C., sec. 702" and inserting in lieu thereof "47 U.S.C. 702".

(7) Amendment of section 50A.—The second sentence of section 50A(a)(3) (relating to liability for tax) is amended by striking out "section 408(e)" and inserting in lieu thereof "section 408(f)".

(8) Repeal of section 51.—Subchapter A of chapter 1 is amended by striking out part V (relating to tax surcharge).

(9) Amendment of section 56.—Section 56(c) (relating to tax carryover) is amended by striking out "to which excess may be carried" and inserting in lieu thereof "to which such excess may be carried".

(10) Amendments of section 57.—

(A) Section 57(a) (relating to items of tax preference) is amended by striking out paragraph (1) (relating to excess investment interest for taxable years before 1972).

(B) Section 57(a), as amended by section 301 of this Act, is further amended by striking out the last two sentences and inserting in lieu thereof the following: "Paragraphs (3), (11), and (12) shall not apply to a corporation other than an electing small business corporation (as defined in section 1371(b)) and a personal holding company (as defined in section 542)."

(C) Section 57 is amended by striking out subsection (b) (relating to rules regarding excess investment interest), by redesignating subsection (c) as subsection (b), and by redesignating subsections (d), (e), and (f), as added by section 301 of this Act, as subsections (c), (d), and (e), respectively.

(11) Amendments of section 62.—

(A) Section 62 (relating to definition of adjusted gross income) is amended by redesignating paragraph (11), as added by the Act of October 26, 1974 (Public Law 93–483), as paragraph (12).

(B) Section 62(12), as redesignated by subparagraph (A) of this paragraph, is amended by striking out "trade or business to the extent" and inserting in lieu thereof "trade or business, to the extent".

(12) Definition of ordinary income and ordinary loss.—Part I of subchapter B of chapter 1 (relating to definitions of gross income, adjusted gross income, and taxable income) is amended by adding at the end thereof the following new sections:

"Sec. 64. Ordinary Income Defined.

"For purposes of this subtitle, the term 'ordinary income' includes any gain from the sale or exchange of property only if such property is neither a capital asset nor property described in section 1231(b).

"Sec. 65. Ordinary Loss Defined.

"For purposes of this subtitle, the term 'ordinary loss' includes any loss from the sale or exchange of property only if such property is not a capital asset."

(13) Amendments of section 72.—

(A) Section 72(d)(1) (relating to employees' annuities) is amended by striking out "(whether or not before January 1, 1954)" and by striking out "(under this paragraph and prior income tax laws)".

(B) Section 72(m)(4)(A) (relating to assignments or pledges) is amended by striking out "an individual retirement amount" and inserting in lieu thereof "an individual retirement account".

(14) Repeal of section 76.—Section 76 (relating to mortgages made or obligations issued by joint stock land banks) is repealed.

(15) Amendment of section 83.—Section 83(b)(2) (relating to election to include the value of restricted property in gross income) is amended by striking out "(or, if later, 30 days after the date of the enactment of the Tax Reform Act of 1969)".

(16) Amendment of section 101.—Section 101 is amended by striking out subsection (f) (relating to effective date of section).

(17) Amendments of section 103.—

(A) Section 103(a) (relating to tax-exempt interest) is amended to read as follows:

"(a) General Rule.—Gross income does not include interest on the obligations of a State or a possession of the United States, or any political subdivision of any of the foregoing, or of the District of Columbia."

(B) Section 103 is amended by striking out subsection (b) (relating to certain exceptions) and by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

(C) Section 103(b)(1) (relating to industrial development bonds), as redesignated by subparagraph (B) of this paragraph, is amended to read as follows:

"(1) Subsection (a) not to apply.—Except as otherwise provided in this subsection, any industrial development bond shall be treated as an obligation not described in subsection (a)."

(D) Section 103(b)(6)(G) (relating to limitation on loss of tax exemption), as redesignated by subparagraph (B) of this paragraph, is amended by striking out "subsection (a)(1)" and inserting in lieu thereof "subsection (a)".

(E) Section 103(c)(1) (relating to arbitrage bonds), as redesignated by subparagraph (B) of this paragraph, is amended to read as follows:

"(1) Subsection (a) not to apply.—Except as provided in this section, any arbitrage bond shall be treated as an obligation not described in subsection (a)."

(F) Section 103(c)(2)(A) (relating to definition of arbitrage bonds), as redesignated by subparagraph (B) of this paragraph, is amended by striking out "subsection (a)(1)" and inserting in lieu thereof "subsection (a)".

(G) Section 103(d) (relating to certain cross references), as redesignated by subparagraph (B) of this paragraph, is amended to read as follows:

"(d) Cross References.—

"For provisions relating to the taxable status of—

"(1) Puerto Rican bonds, see section 3 of the Act of March 2, 1917, as amended (48 U.S.C. 745).

"(2) Virgin Islands insular and municipal bonds, see section 1 of the Act of October 27, 1949 (48 U.S.C. 1403).

"(3) Certain obligations issued under title I of the Housing Act of 1949, see section 102 (g) of title I of such Act (42 U.S.C. 1452 (g))."

(18) Amendments of section 104.—

(A) Section 104(a)(4) (relating to exclusion of compensation for injuries or sickness) is amended by striking out "; 60 Stat. 1021".

(B) Section 104(c)(2), as redesignated by section 505 of this Act, is amended to read as follows:

"(2) For exclusion of part of disability retirement pay from the application of subsection (a)(4) of this section, see section 1403 of title 10, United States Code (relating to career compensation laws)."

(19) Amendment of section 115.—Section 115 (relating to income of States, municipalities, etc.) is amended to read as follows:

"Sec. 115. Income of States, Municipalities, Etc.

"Gross income does not include—

"(1) income derived from any public utility or the exercise of any essential governmental function and accruing to a State or any political subdivision thereof, or the District of Columbia; or

"(2) income accruing to the government of any possession of the United States, or any political subdivision thereof."

(20) Amendment of section 116.—Subsection (a) of section 116 (relating to partial exclusion of dividends received by individuals) is amended by striking out "Effective with respect to any taxable year ending after July 31, 1954, gross income" and inserting in lieu thereof "Gross income".

(21) Amendment of section 126.—Section 126 (relating to cross references to other Acts), as amended by section 1011 of this Act, is amended to read as follows:

"Sec. 126. Cross References to Other Acts.

"(a) For exemption of—

"(1) Adjustments of indebtedness under wage earners' plans, see section 679 of the Bankruptcy Act (11 U.S.C. 1079).

"(2) Allowances and expenditures to meet losses sustained by persons serving the United States abroad, due to appreciation of foreign currencies, see section 5943 of title 5, United States Code.

"(3) Amounts credited to the Maritime Administration under section 9(b)(6) of the Merchant Ship Sales Act of 1946, see section 9(c)(1) of that Act (50 U.S.C. App. 1742).

"(4) Benefits under laws administered by the Veterans' Administration, see section 3101 of title 38, United States Code.

"(5) Earnings of ship contractors deposited in special reserve funds, see section 607(d) of the Merchant Marine Act, 1936, (46 U.S.C. 1177).

"(6) Income derived from Federal Reserve banks, including capital stock and surplus, see section 7 of the Federal Reserve Act (12 U.S.C. 531).

"(7) Railroad retirement annuities and pensions, see section 12 of the Railroad Retirement Act of 1935 (45 U.S.C. 2281).

"(8) Railroad unemployment benefits, see section 2(e) of the Railroad Unemployment Insurance Act (45 U.S.C. 352).

"(9) Special pensions of persons on Army and Navy medal of honor roll, see 38 U.S.C. 562(a)–(c).

"(b) For extension of military income-tax-exemption benefits to commissioned officers of Public Health Service in certain circumstances, see section 212 of the Public Health Service Act (42 U.S.C. 213)."

(22) Amendment of section 143.—Section 143 (relating to determination of marital status) is amended by striking out "this part" each place it appears and inserting in lieu thereof "this part and part V".

(23) Amendment of section 151.—Section 151(e)(4) (relating to definitions of student and educational institution) is amended to read as follows:

"(4) Student defined.—For purposes of paragraph (1)(B)(ii), the term 'student' means an individual who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins—

"(A) is a full-time student at an educational organization described in section 170 (b)(1)(A)(ii); or

"(B) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in section 170 (b)(1)((A)(ii) or of a State or political subdivision of a State."

(24) Amendments of section 152.—

(A) Section 152(a) (relating to definition of dependent) is amended—

(i) by inserting "or" at the end of paragraph (8),

(ii) by striking out ", or" at the end of paragraph (9) and inserting in lieu thereof a period, and

(iii) by striking out paragraph (10).

(B) Section 152(b)(3) (relating to rules concerning the definition of dependent) is amended to read as follows:

"(3) The term 'dependent' does not include any individual who is not a citizen or national of the United States unless such individual is a resident of the United States or of a country contiguous to the United States. The preceding sentence shall not exclude from the definition of 'dependent' any child of the taxpayer legally adopted by him, if, for the taxable year of the taxpayer the child has as his principal place of abode the home of the taxpayer and is a member of the taxpayer's household, and if the taxpayer is a citizen or national of the United States."

(25) Amendments of section 164.—Section 164(d)(2) (relating to apportionment of taxes on real property between the seller and purchaser) is amended by striking out subparagraphs (B) and (C), and by redesignating subparagraph (D) as subparagraph (B).

(26) Amendments of section 165.—Section 165 (relating to deduction of losses) is amended by striking out subsection (i) (relating to property confiscated by Cuba), and by redesignating subsection (j) as subsection (i).

(27) Amendments of section 167.—

(A) Section 167(d) (relating to agreement as to useful life for depreciation) is amended by striking out "after the date of enactment of this title" and inserting in lieu thereof "after August 16, 1954".

(B) Section 167(e) (relating to change in method of depreciation) is amended—

(i) by striking out paragraph (2), and

(ii) by redesignating paragraph (3), as amended by section 201 of this Act, as paragraph (2).

(C) Section 167(f)(2) (relating to definition of personal property) is amended by striking out "the date of the enactment of the Revenue Act of 1962" and inserting in lieu thereof "October 16, 1962".

(D) Section 167(l)(4)(A) (relating to election as to increased-capacity property) is amended by striking out "within 180 days after the date of the enactment of this subparagraph" and inserting in lieu thereof "before June 29, 1970,".

(28) Amendments of section 170.—

(A)(i) Section 170 (relating to charitable deductions) is amended by striking out subsections (f)(6) and (g) (relating to unlimited charitable deductions allowed for taxable years beginning before January 1, 1975), and by redesignating subsections (h), (i), and (j) as subsections (g), (h), and (i), respectively.

(ii) Section 170(b)(1) (relating to percentage limitations on deductions for individuals) is amended by striking out subparagraph (C) (relating to unlimited deductions), and by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively.

(iii) Section 170(b)(1)(A)(vii) is amended by striking out "subparagraph (E)" and inserting in lieu thereof "subparagraph (D)".

(iv) Section 170(b)(1)(B)(ii) is amended by striking out "subparagraph (D)" and inserting in lieu thereof "subparagraph (C)"

(v) Section 170(c) (relating to definition of charitable contribution) is amended by striking out in the last sentence "subsection (h)" and inserting in lieu thereof "subsection (g)".

(vi) Section 170(e)(1)(B)(ii) (relating to certain contributions of ordinary income and capital gain property) is amended by striking out "subsection (b)(1)(E)" and inserting in lieu thereof "subsection (b)(1)(D)".

(B) Section 170(d)(1)(A) (relating to carryover of excess charitable contributions) is amended by striking out "(30 percent, in the case of a contribution year beginning before January 1, 1970)".

(C) Section 170(h) (relating to disallowance of deductions in certain cases), as redesignated by subparagraph (A)(i) of this paragraph, is amended by striking out "64 Stat. 996;".

(D) Section 170(i) (relating to cross references), as redesignated by subparagraph (A)(i) of this paragraph, is amended to read as follows:

"(i) Other Cross References.—

"(1) For charitable contributions of estates and trusts, see section 642(c).

"(2) For nondeductibility of contributions by common trust funds, see section 584.

"(3) For charitable contributions of partners, see section 702.

"(4) For charitable contributions of nonresident aliens, see section 873.

"(5) For treatment of gifts for benefit of or use in connection with the Naval Academy as gifts to or for the use of the United States, see section 6973 of title 10, United States Code.

"(6) For treatment of gifts accepted by the Secretary of State under the Foreign Service Act of 1946 as gifts to or for the use of the United States, see section 1021(e) of that Act (22 U.S.C. 809(e)).

"(7) For treatment of gifts of money accepted by the Attorney General for credit to the 'Commissary Funds, Federal Prisons' as gifts to or for the use of the United States, see section 2 of the Act of May 15, 1952, as amended by the Act of July 9, 1952 (31 U.S.C. 725s–4)."

(29) AMENDMENTS OF SECTION 172.—

(A) (i) Section 172(b) (1) (relating to years to which loss may be carried) is amended by striking out subparagraph (E) and by redesignating subparagraphs (F) and (G) as subparagraphs (E) and (F), respectively.

(ii) Clause (i) of section 172(b) (1) (A) is amended by striking out "(F), and (G)" and inserting in lieu thereof "and (F)".

(iii) Subparagraph (B) of section 172(b) (1) is amended by striking out ", (D), and (E)" and inserting in lieu thereof "and (D)".

(iv) Section 172(b) (3) is amended by striking out subparagraphs (E) and (F).

(B) Section 172(c) (relating to definition of net operating loss) is amended by striking out "(for any taxable year ending after December 31, 1953)".

(C) (i) Section 172 (relating to net operating loss deduction) is amended by striking out subsections (f), (g), and (i), and by redesignating subsections (h), (j), (k), and (l) as subsections (f), (g), (h), and (i), respectively.

(ii) Section 172(b) (1) (C) (relating to regulated transportation corporations) is amended by striking out "subsection (j) (1)" and "subsection (j)", and inserting in lieu thereof "subsection (g) (1)" and "subsection (g)", respectively.

(iii) Paragraphs (1) (D) and (3) (C) (i) of section 172(b) (relating to net operating loss carryovers and carrybacks) are each amended by striking out "subsection (k)" and inserting in lieu thereof "subsection (h)".

(iv) Section 172(b) (2) (relating to amount of carrybacks and carryovers) is amended by striking out "subsections (i)and (j)" and inserting in lieu thereof "subsection (g)".

(v) Clause (i) of paragraph (2) (B) and paragraph (4) (B) of section 904(f), as amended by section 1032 of this Act, are each amended by striking out "section 172(k) (1)" and inserting in lieu thereof "172(h) (1)".

(D) Section 172(e) (relating to law applicable to computations) is amended by striking out the last sentence.

(E) Section 172(g) (2) (relating to certain regulated transportation corporations), as redesignated by subparagraph (C) of this paragraph, is amended by striking out paragraph (4).

(30) AMENDMENTS OF SECTIONS 174 AND 175.—Section 174(a) (2) (A) (i) (relating to research and development expenditures) and section 175(d) (1) (A) (relating to soil and water conservation expenditures) are each amended by striking out "the date on which this title is enacted," and inserting in lieu thereof "August 16, 1954,".

(31) REPEAL OF SECTION 242.—Section 242 (relating to partially tax-exempt interest received by corporations) is repealed.

(32) AMENDMENTS OF SECTION 243.—

(A) Section 243(a) (2) (relating to the dividends received deduction) is amended by inserting after "Small Business Investment Act of 1958" the following: "(15 U.S.C. 661 and following)".

(B) Section 243(b) (2) (A) (relating to dividends received by a member of an affiliated group) is amended by striking out "(except that in the case of a taxable year of a member beginning in 1963 and ending in 1964, if the election is effective for the taxable year of the common parent corporation which includes the last day of such taxable year of such member, such election shall be effective for such taxable year of such member, if such member consents to such election with respect to such taxable year".

(33) AMENDMENT OF SECTION 247.—Section 247(b) (2) (relating to preferred stock) is amended to read as follows:

"(2) PREFERRED STOCK.—

"(A) IN GENERAL.—The term 'preferred stock' means stock issued before October 1, 1942, which during the whole of the taxable year (or the part of the taxable year after its issue) was stock the dividends in respect of which were cumulative, limited to the same amount, and payable in preference to the payment of dividends on other stock.

"(B) CERTAIN STOCK ISSUED ON OR AFTER OCTOBER 1, 1942.—Stock issued on or after October 1, 1942, shall be deemed for purposes of this paragraph to have been issued before October 1, 1942, if it was issued to refund or replace bonds or debentures issued before October 1, 1942, or to refund or replace other preferred stock (including stock which is preferred stock by reason of this subparagraph or subparagraph (D)), but only to the extent that the par or stated value of the new stock does not exceed the par, stated, or face value of the bonds or debentures issued before October 1, 1942, or the other preferred stock, which such new stock is issued to refund or replace.

"(C) DETERMINATION UNDER REGULATIONS.—The determination of whether stock was issued to refund or replace bonds or debentures issued before October 1, 1942, or to refund or replace other preferred stock, shall be made under regulations prescribed by the Secretary.

"(D) ISSUANCE OF STOCK.—For purposes of subparagraph (B), issuance of stock includes issuance either by the same or another corporation in a transaction which is a reorganization (as defined in section 368(a)), a transaction to which section 371 (relating to insolvency reorganizations) applies, or a transaction subject to part VI of subchapter O (relating to exchanges in SEC obedience orders) or the respectively corresponding provisions of the Internal Revenue Code of 1939."

(34) AMENDMENT OF SECTION 248.—Section 248(c) (relating to organizational expenditures) is amended by striking out "the date of enactment of this title" and inserting in lieu thereof "August 16, 1954".

(35) AMENDMENT OF SECTION 265.—Section 265(2) (relating to tax-exempt interest) is amended by striking out "(other than obligations of the United States issued after September 24, 1917, and originally subscribed for by the taxpayer)".

(36) AMENDMENT OF SECTION 269.—Section 269 (relating to acquisitions made to evade or avoid income tax) is amended by striking out subsection (c) (relating to presumption in the case of disproportionate purchase price).

(37) AMENDMENT OF SECTION 275.—Section 275(a) (1) (C) (relating to nondeductible taxes) is amended by striking out ", and corresponding provisions of prior revenue laws".

(38) AMENDMENT OF SECTION 278.—Section 278(b) (relating to exceptions to capital expenditures incurred in planting and developing citrus and almond groves) is amended to read as follows:

"(b) EXCEPTION.—Subsection (a) shall not apply to amounts allowable as deductions (without regard to this section), and attributable to a citrus or almond grove (or part thereof) which was replanted after having been lost or damaged (while in the hands of the taxpayer), by reason of freeze, disease, drought, pests or casualty."

(39) AMENDMENT OF SECTION 281.—

(A) Section 281(d) (1) (A) (relating to definition of terminal railroad corporation) is amended by inserting after "Interstate Commerce Act" the following: "(49 U.S.C. 1 and following)".

(B) Section 281 (relating to terminal railroad corporations and their shareholders) is amended by striking out subsection (e) (relating to taxable years ending before October 23, 1962) and by redesignating subsection (f) as subsection (e).

(40) AMENDMENT OF SECTION 301.—Section 301 (relating to distributions of property) is amended by striking out subsection (e) (relating to certain distributions by personal service corporations).

(41) AMENDMENTS OF SECTION 311.—

(A) Section 311(d) (1) (relating to appreciated property used to redeem stock) is amended by striking out "then again shall be recognized" and inserting in lieu thereof "then a gain shall be recognized".

(B) (i) Section 311(d) (2) (relating to exceptions and limitations) is amended by striking out subparagraph (C) (relating to certain distributions before December 1, 1974) and by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (C), (D), (E), and (F), respectively.

(ii) The amendments made by clause (i) shall apply with respect to distributions after November 30, 1974.

(C) Section 311(d) (2) (C), as redesignated by subparagraph (B) of this paragraph, is amended by striking out "26 Stat. 209;" and "38 Stat. 730;".

(42) AMENDMENTS OF SECTION 312.—

(A) Section 312(d) (1) (relating to certain distributions of stock and securities) is amended by striking out "this Code" each place it appears and inserting in lieu thereof "this title".

(B) Section 312 (relating to earnings and profits) is amended by striking out subsection (h) (relating to personal service corporations) and by redesignating subsections (i) and (j) as subsections (h) and (i), respectively.

(C) Subsection (i) of section 312 (relating to distribution of proceeds of certain loans), as redesignated by subparagraph (B) of this paragraph, is amended to read as follows:

"(i) DISTRIBUTION OF PROCEEDS OF LOAN INSURED BY THE UNITED STATES.—If a corporation distributes property with respect to its stock and if, at the time of distribution—

"(1) there is outstanding a loan to such corporation which was made, guaranteed, or insured by the United States (or by any agency or instrumentality thereof), and

"(2) the amount of such loan so outstanding exceeds the adjusted basis of the property constituting security for such loan,

then the earnings and profits of the corporation shall be increased by the amount of such excess, and (immediately after the distribution) shall be decreased by the amount of such excess. For purposes of paragraph (2), the adjusted basis of the property at the time of distribution shall be determined without regard to any adjustment under section 1016(a) (2) (relating to adjustment for depreciation, etc.). For purposes of this subsection, a commitment to make, guarantee, or insure a loan shall be treated as the making, guaranteeing, or insuring of a loan."

(D) Section 312(j) (3) (relating to foreign investment companies), as redesignated by subsection (b) (31) (B), is amended to read as follows:

"(3) PARTIAL LIQUIDATIONS AND REDEMPTIONS.—If a foreign investment company (as defined in section 1246) distributes amounts in partial liquidation or in a redemption to which section 302(a) or 303 applies, the part of such distribution which is properly chargeable to earnings and profits shall be an amount which is not in excess of the ratable share of the earnings and profits of the company accumulated after February 28, 1913, attributable to the stock so redeemed."

(43) AMENDMENT OF SECTION 333.—Section 333(a) (relating to election as to recognition of gain in certain liquidations) is amended to read as follows:

"(a) GENERAL RULE.—In the case of property distributed in complete liquidation of a domestic corporation (other than a collapsible corporation to which section 341(a) applies), if—

"(1) the liquidation is made in pursuance of a plan of liquidation, and

"(2) the distribution is in complete cancellation or redemption of all the stock, and the transfer of all the property under the liquidation occurs within some one calendar month,

then in the case of each qualified electing shareholder (as defined in subsection (c)) gain on the shares owned by him at the time of the adoption of the plan of liquidation shall be recognized only to the extent provided in subsections (e) and (f)."

(44) AMENDMENT OF SECTION 334.—Section 334(b)(2)(A) (relating to liquidation of subsidiary) is amended to read as follows:

"(A) the distribution is pursuant to a plan of liquidation adopted not more than 2 years after the date of the transaction described in subparagraph (B) (or, in the case of a series of transactions, the date of the last such transaction); and".

(45) AMENDMENTS OF SECTION 337.—

(A) Section 337(a) (relating to nonrecognition of gain or loss on certain liquidations) is amended to read as follows:

"(a) GENERAL RULE.—If, within the 12-month period beginning on the date on which a corporation adopts a plan of complete liquidation, all of the assets of the corporation are distributed in complete liquidation, less assets retained to meet claims, then no gain or loss shall be recognized to such corporation from the sale or exchange by it of property within such 12-month period."

(B) The first sentence of section 337(d) (relating to certain minority stockholders) is amended by striking out "on or after January 1, 1958".

(46) REPEAL OF SECTION 342.—Section 342 (relating to the liquidation of certain foreign personal holding companies) is repealed.

(47) AMENDMENTS OF SECTION 351.—

(A) Section 351(a) (relating to transfer to corporation controlled by transferor) is amended by striking out "(including, in the case of transfers made on or before June 30, 1967, an investment company)".

(B) Section 351(d) (relating to application of June 30, 1967, date) is amended to read as follows:

(d) EXCEPTION.—This section shall not apply to a transfer of property to an investment company."

(C) The amendments made by this paragraph shall take effect with respect to transfers of property occurring after the date of the enactment of this Act.

(48) REPEAL OF SECTION 363.—Section 363 (a cross reference to other sections) is repealed.

(49) AMENDMENTS OF SECTION 371.—Section 371(a)(1) (relating to certain reorganization exchanges by corporations) is amended—

(A) by striking out "49 Stat. 922;" and

(B) by striking out "(52 Stat. 883–905; 11 U.S.C., chapter 10) or the corresponding provisions of prior law" and inserting in lieu thereof "(11 U.S.C. 501 and following)".

(50) AMENDMENT OF SECTION 372.—Section 372(a) (relating to basis in connection with bankruptcy proceedings) is amended by striking out "54 Stat. 709;".

(51) REPEAL OF SECTION 373.—Section 373 (relating to nonrecognition of loss in certain railroad reorganizations) is repealed.

(52) AMENDMENT OF SECTION 374.—Section 374(a)(1) (relating to nonrecognition of gain or loss in certain railroad reorganizations) is amended by striking out "49 Stat. 922;".

(53) AMENDMENT OF SECTION 381.—Section 381(c) (relating to items carried over in certain corporate acquisitions) is amended by striking out paragraph (20).

(54) REPEAL OF SECTIONS 391 THROUGH 395.—Subchapter C of chapter 1 (relating to corporate distributions and adjustments) is amended by striking out part VII (relating to effective dates of subchapter C).

(55) AMENDMENTS OF SECTION 401.—

(A) Paragraphs (12) and (13) of section 401(a) (relating to requirements for qualification) are each amended by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974".

(B) Paragraph (15) of section 401(a) is amended by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974,".

(C) Paragraph (19) of section 401(a) is amended by striking out "enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974".

(D) The last sentence of section 401(a) is amended to read as follows:

"Paragraphs (11), (12), (13), (14), (15), and (19) shall apply only in the case of a plan to which section 411 (relating to minimum vesting standards) applies without regard to subsection (e)(2) of such section."

(56) AMENDMENTS OF SECTION 402.—

(A) Section 402(a)(4) (relating to distributions made to nonresident alien individuals) is amended by striking out "basic salary" each place it appears therein and inserting in lieu thereof "basic pay", and by amending the last sentence in such paragraph to read as follows: "In the case of distributions under the civil service retirement laws, the term 'basic pay' shall have the meaning provided in section 8331(3) of title 5, United States Code."

(B) Section 402 (relating to taxability of beneficiary of employees' trusts) is amended by striking out subsection (d) (relating to certain trust agreements made before October 21, 1942).

(C)(i) So much of the third sentence of section 402(e)(4)(A) (relating to definition of lump sum distributions) as precedes "a distribution of an annuity contract" is amended to read as follows: "Except for purposes of subsection (a)(2) and section 403 (a)(2),".

(ii) The amendment made by clause (i) shall apply with respect to distributions or payments made after December 31, 1973, in taxable years beginning after such date.

(57) AMENDMENT OF SECTION 403.—The last two sentences of section 403(a)(4) (relating to taxation of employee annuities), as amended by section 1502 of this Act, are amended to read as follows: "For purposes of this title, a transfer described in subparagraph (B)(i) shall be treated as a rollover contribution described in section 408(d)(3) or 408A(c)(3), as the case may be. Subparagraph (B)(ii) does not apply in the case of a transfer to an employees' trust, or annuity plan if any part of the lump sum distribution described in subparagraph (A) is attributable to an annuity plan under which the employee was an employee within the meaning of section 401(c)(1) at the time contributions were made on his behalf under the plan.".

(58) AMENDMENT OF SECTION 404.—Section 404 (relating to deduction for contributions to pension plans, etc.) is amended by striking out subsection (d) (relating to carryover of pre-1954 unused deductions).

(59) AMENDMENTS OF SECTION 410.—

(A) Paragraph (5)(A) of section 410(a) (relating to breaks in service) is amended by striking out "purposes of subsection (a)(1)" and inserting in lieu thereof "purposes of paragraph (1)".

(B) Paragraph (1)(C) of section 410(c) (relating to application of minimum participation standards) is amended by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974,".

(C) Paragraph (2) of section 410(c) is amended by striking out "the day before the date of the enactment of this section" and inserting in lieu thereof "September 1, 1974".

(60) AMENDMENTS OF SECTION 411.—

(A) Subsection (a) of section 411 (relating to minimum vesting standards) is amended by striking out "subsection (a)(8)" and inserting in lieu thereof "paragraph (8)".

(B) Subsection (a)(3)(D)(iii) of section 411 is amended—

(i) by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and "the date of the enactment of such Act" and inserting in lieu thereof in both such places "September 2, 1974", and

(ii) by striking out "the date of the enactment of the Act" and inserting in lieu thereof "September 2, 1974,".

(C) The heading for subparagraph (C) of section 411(a)(7) is amended to read as follows:

"(C) REPAYMENT OF SUBPARAGRAPH (B) DISTRIBUTIONS."

(D) Subsections (b)(1)(D)(i) and (e)(1)(C) of section 41 are each amended by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974".

(E) Subsection (e)(2) of section 411 is amended by striking out "the date before the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 1, 1974".

(61) AMENDMENTS OF SECTION 412.—

(A) Subsection (h) of section 412 (relating to minimum funding standards) is amended by striking out "the day before the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 1, 1974".

(B) Subsection (h)(5) of section 412 is amended by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974".

(62) AMENDMENT OF SECTION 414.—Section 414(l) (relating to mergers and consolidations of plans or transfers of plan assets) is amended by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974".

(63) AMENDMENTS OF SECTION 415.—

(A) Section 415(b)(2)(A) (relating to adjustments for certain forms of benefits) is amended by striking out "and 409(3)(C)" and inserting in lieu thereof "and 409(3)(C))."

(B) Section 415(b)(2)(B) is amended by striking out "(as defined in section 401(a)(11)(H)(iii)" and inserting in lieu thereof "(as defined in section 401(a)(11)(G)(iii))".

(64) AMENDMENTS OF SECTION 453.—

(A) Section 453(c)(3) (relating to adjustment in tax for amounts previously taxed) is amended by striking out "corresponding provisions of the Internal Revenue Code of 1939" and inserting in lieu thereof "corresponding provisions of the Internal Revenue Code of 1954".

(B) Section 453(d)(4)(B) (relating to liquidations to which section 337 applies) is amended by striking out "or section 617(d)

(1)" and inserting in lieu thereof ", 617(d) (1)".

(65) AMENDMENT OF SECTION 455.—Section 455(c) (3) (B) (relating to prepaid subscription income) is amended by striking out "for his first taxable year (i) which begins after December 31, 1957, and (ii) in which he receives prepaid subscription income in the trade or business" and inserting in lieu thereof "for his first taxable year in which he receives prepaid subscription income in the trade or business".

(66) AMENDMENT OF SECTION 456.—Section 456(c) (3) (B) (relating to election without consent with respect to treatment of prepaid dues) is amended by striking out "for its first taxable year (i) which begins after December 31, 1960, and (ii)" and inserting in lieu thereof "for its first taxable year".

(67) AMENDMENTS OF SECTION 461.—

(A) Section 461(c) (relating to accrual of real property taxes) is amended by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(B) Section 461(c) (2) (relating to elections without consent), as redesignated by subparagraph (A), is amended by striking out "his first taxable year which begins after December 31, 1953, and ends after the date of enactment of this title in which the taxpayer" and inserting in lieu thereof "his first taxable year in which he".

(68) AMENDMENTS OF SECTION 481.—

(A) Section 481(b) (relating to limitation on tax where substantial adjustments are required by a change in accounting method) is amended by striking out paragraphs (4), (5), and (6) (relating to pre-1954 adjustments).

(B) Section 481(b) (1) and (2) are each amended by striking out ", other than the amount of such adjustments to which paragraph (4) or (5) applies," each place it appears.

(69) AMENDMENTS OF SECTION 508.—

(A) Subsections (a) and (b) of section 508 (relating to special rules relating to 501 (c) (3) organizations) are each amended by striking out the last sentence therein.

(B) Section 508(e) (2) (relating to special rules for existing private foundations) is amended by striking out subparagraph (A) (relating to taxable years beginning before 1972), by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively, and by striking out "(B)" in subparagraph (B) (as so redesignated) and inserting in lieu thereof "(A)".

(C) Section 508(d) (2) (A) (relating to disallowance of deductions for certain charitable gifts or bequests) is amended by striking out "(e) (2) (B) and (C)" and inserting in lieu thereof "(e) (2)".

(70) AMENDMENTS OF SECTION 514.—

(A) Section 514(c) (1) (relating to definition of acquisition indebtedness) is amended by striking out the comma at the end of subparagraph (C) and all that follows, and inserting in lieu thereof a period.

(B) Section 514 (relating to unrelated debt-financed income) is amended by striking out subsection (f) (relating to definition of business lease), by striking out subsection (g) (relating to definition of business lease indebtedness), and by redesignating subsection (h) as subsection (f).

(C) Section 514(b) (3) (C) (iii) (relating to definition of debt-financed property) is amended to read as follows:

"(iii) shall not apply to property subject to a lease which is a business lease (as defined in this section immediately before the enactment of the Tax Reform Act of 1975)."

(D) Section 514(f) (relating to personal property leased with real property), as redesignated by subparagraph (B) of this paragraph, is amended by striking out "and the term 'premises' include" and inserting in lieu thereof "includes".

(71) AMENDMENTS OF SECTION 534.—

(A) Section 534(b) (relating to mailing notices of deficiency) is amended by striking out the last sentence.

(B) Subsection (e) of section 534 (relating to effective date of section) is repealed.

(72) AMENDMENT OF SECTION 535.—Section 535(b) (1) (relating to adjustments in computing accumulated taxable income) is amended by striking out "(other than the excess profits tax imposed by subchapter E of chapter 2 of the Internal Revenue Code of 1939 for taxable years beginning after December 31, 1940)".

(73) AMENDMENTS OF SECTION 537.—

(A) Section 537(b) (2) (relating to definition of excess business holdings redemption needs) is amended by striking out ", with respect to taxable years of the corporation ending after May 26, 1969,".

(B) Section 537(b) (4) (relating to inferences as to prior years) is amended by striking out "or (2)".

(74) AMENDMENTS OF SECTION 542.—

(A) Section 542(a) (2) (relating to definition of personal holding company) is amended by striking out the last sentence.

(B) Section 542(b) (2) (relating to ineligible affiliated group) is amended by striking out ", other than an affiliated group of railroad corporations the common parent of which would be eligible to file a consolidated return under section 141 of the Internal Revenue Code of 1939 prior to its amendment by the Revenue Act of 1942,".

(C) Section 542(c) (2) (relating to financial institutions) is amended by striking out "without regard to subparagraphs (D) and (E) thereof".

(D) Section 542(c) (8) (relating to small business investment companies) is amended by inserting after "Small Business Investment Act of 1958" the following: "(15 U.S.C. 661 and following)".

(75) AMENDMENTS OF SECTION 545.—

(A) Section 545(b) (1) (relating to deduction of taxes in computing undistributed personal holding company income) is amended—

(i) in the first sentence, by striking out "(other than the excess profits tax imposed by subchapter E of chapter 2 of the Internal Revenue Code of 1939 for taxable years beginning after December 31, 1940)"; and

(ii) by striking out the last two sentences (relating to deduction of taxes).

(B) Section 545(b) (relating to adjustments in computing undistributed personal holding company income) is amended by striking out paragraph (7) (relating to payment of indebtedness incurred before 1934).

(C) Section 545(c) (2) (A) (relating to corporations to which special adjustment applies) is amended by striking out "the date of enactment of this subsection" and inserting in lieu thereof "February 26, 1964".

(76) AMENDMENT OF SECTION 547.—Section 547 (relating to the deduction of deficiency dividends) is amended by striking out subsection (h) (relating to the effective date).

(77) AMENDMENT OF SECTION 551.—Section 551(c) (relating to foreign personal holding company income tax returns), as redesignated by subsection (b) (2) (G) of this section, is amended by striking out "taxable income, foreign personal holding company," and inserting in lieu thereof "taxable income, foreign personal holding company income,".

(78) AMENDMENT OF SECTION 556.—The first sentence of section 556(b) (1) (relating to deduction of taxes in computing undistributed foreign personal holding company income) is amended by striking out "(other than the excess profits tax imposed by subchapter E of chapter 2 of the Internal Revenue Code of 1939 for taxable years beginning after December 1, 1940)".

(79) AMENDMENT OF SECTION 564.—Section 564 (relating to dividend carryovers) is amended by striking out subsection (c) (relating to carryovers from pre-1954 years).

(80) REPEAL OF SECTION 583.—Section 583 (relating to deduction of dividends paid on certain preferred stock by banks or trust companies) is repealed.

(81) REPEAL OF SECTION 592.—Section 592 (relating to the deduction by mutual savings banks for repayment of certain loans) is repealed.

(82) AMENDMENTS OF SECTION 593.—

(A) Section 593(b) (2) (relating to additions to bad debt reserves for mutual savings banks, etc.) is amended by striking out, in the table in subparagraph (A), the following:

"1969	60 percent.
1970	57 percent.
1971	54 percent.
1972	51 percent.
1973	49 percent.
1974	47 percent.
1975	45 percent."

(B) Section 593(c) (relating to reserves for mutual savings banks) is amended by striking out paragraphs (2), (3), (4), and (5), be redesignating paragraph (6) as paragraph (3), and by inserting immediately after paragraph (1) the following:

"(2) CERTAIN PRE-1963 RESERVES.—Notwithstanding the second sentence of paragraph (1), any amount allocated pursuant to paragraph (5) (as in effect immediately before the enactment of the Tax Reform Act of 1975) during a taxable year beginning before January 1, 1976, to the reserve for losses on qualifying real property loans out of the surplus, undivided profits, and bad debt reserves (determined as of December 31, 1962) attributable to the period before the first taxable year beginning after December 31, 1951, shall not be treated as a reserve for bad debts for any purpose other than determining the amount referred to in subsection (b) (1) (B), and for such purpose such amount shall be treated as remaining in such reserve."

(C) Section 593 is amended by striking out subsection (d) (relating to taxable years beginning in 1962 and ending in 1963), and by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(D) Section 593(b) (2) (E) (i) is amended by striking out "subsection (f)" and inserting in lieu thereof "subsection (e)".

(83) REPEAL OF SECTION 601.—Subchapter H of chapter 1 (relating to banking institutions) is amended by striking out part III (relating to special deduction for bank affiliates).

(84) AMENDMENTS OF SECTION 613A.—

(A) Section 613A(b) (1) (C) (relating to exemption for certain domestic gas wells) is amended by striking out "within the meaning of section 613(b) (1) (A)".

(B) Section 613A(c) (6) (i) (relating to limitations on percentage depletion in case of oil and gas wells) is amended by striking out "determined with" and inserting in lieu thereof "determined without".

(85) AMENDMENTS OF SECTION 614.—

(A) (i) Section 614(c) (relating to aggregation of mineral interests in mines) is amended by striking out paragraph (4) (relating to special rule as to exploration deductions prior to aggregation).

(ii) The amendment made by clause (i) shall apply with respect to elections to form aggregations of operating mineral interests made under section 614(c) (1) of the Internal Revenue Code of 1954 for taxable years beginning after December 31, 1975.

(B) The third sentence of section 614(c) (2) (relating to election to treat a single interest as more than one property) is amended to read as follows: "A separate property so formed may, under regulations prescribed by the Secretary, be included as a part of an aggregation in accordance with paragraphs (1) and (3)."

(C) Selection 614(c) (3) (relating to manner and scope of election) is amended to read as follows:

"(3) MANNER AND SCOPE OF ELECTION.—The elections provided by paragraphs (1) and (2) shall be made, in accordance with regulations prescribed by the Secretary, not later than the time prescribed for filing the return (including extensions thereof) for the first taxable year—

"(A) in which, in the case of an election under paragraph (1), any expenditure for development or operation in respect of the separate operating mineral interest is made by the taxpayer after the acquisition of such interest, or

"(B) in which, in the case of an election under paragraph (2), expenditures for development or operation of more than one mine in respect of a property are made by the taxpayer after the acquisition of the property.

An election made under paragraph (1) or (2) for a taxable year shall be binding upon the taxpayer for such year and all subsequent taxable years, except that the Secretary may consent to a different treatment of any interest with respect to which an election has been made."

(86) REPEAL OF SECTION 615.—Section 615 (relating to deduction of pre-1970 exploration expenses) is repealed.

(87) AMENDMENT OF SECTION 617.—Section 617(a)(2)(B) (relating to time and scope of election to deduct certain mining exploration expenditures) is amended by striking out "may not be revoked after the last day of the third month following the month in which the final regulations issued under the authority of this subsection are published in the Federal Register, unless" and inserting in lieu thereof "may not be revoked unless".

(88) REPEAL OF SECTION 632.—Section 632 (relating to tax in case of sale of oil or gas properties) is repealed.

(89) REPEAL OF SECTION 683.—Section 683 (relating to application in 1954 of part I of subchapter J to estates and trusts) is repealed.

(90) AMENDMENT OF SECTION 691.—Section 691(c)(1)(B) (relating to deduction for estate tax) is amended by striking out the last sentence.

(91) AMENDMENT OF SECTION 692.—The heading of section 692 (relating to income taxes of members of Armed Forces who die in a combat zone) is amended by striking out "ON" the first time it appears on the section heading and inserting in lieu thereof "OF".

(92) AMENDMENT OF SECTION 751.—Section 751(c) (relating to unrealized receivables), as amended by section 1042 of this Act, is amended by striking out "1245(a), or" and inserting in lieu thereof "1245(a),".

(93) REPEAL OF SECTION 771.—Part IV of subchapter K of chapter 1 (relating to effective date in 1954 of subchapter K) is repealed.

(94) AMENDMENTS OF SECTION 802.—

(A) Section 802(a)(1) (relating to tax imposed on life insurance companies) is amended by striking out "beginning after December 31, 1957,".

(B) Section 802(a)(2) (relating to alternative tax in case of capital gains) is amended by striking out "beginning after December 31, 1961,".

(C) Section 802(a) is amended by striking out paragraph (3) (relating to special rules for 1959 and 1960).

(95) AMENDMENTS OF SECTION 804.—

(A) Section 804(a) is amended by striking out paragraph (6) (relating to certain exceptions).

(B) Section 804(b)(2) (relating to short-term capital gains) is amended by striking out "In the case of a taxable year beginning after December 31, 1958, the" and inserting in lieu thereof "The".

(96) AMENDMENTS OF SECTION 805.—

(A) Section 805(b)(3)(B) (relating to average earnings rate) is amended to read as follows:

"(B) SPECIAL RULE.—For purposes of subparagraph (A), the current earnings rate for any taxable year of any company which, for such year, is an insurance company (but not a life insurance company) shall be determined as if this part applied to such company for such year."

(B) Section 805(b)(4)(B) (relating to basis of assets) is amended by striking out "(determined without regard to fair market value on December 31, 1958)".

(C) Section 805(d) (relating to pension plan reserves) is amended to read as follows:

"(d) PENSION PLAN RESERVES.—For purposes of this part, the term 'pension plan reserves' means that portion of the life insurance reserves which is allocable to contracts—

"(1) purchased under contracts entered into with trusts which (as of the time the contracts were entered into) were deemed to be (A) trusts described in section 401(a) and exempt from tax under section 501(a), or (B) trusts exempt from tax under section 165 of the Internal Revenue Code of 1939 or the corresponding provisions of prior revenue laws;

"(2) purchased under contracts entered into under plans which (as of the time the contracts were entered into) were deemed to be plans described in section 403(a), or plans meeting the requirements of section 165(a) (3), (4), (5), and (6) of the Internal Revenue Code of 1939;

"(3) provided for employees of the life insurance company under a plan which, for the taxable year, meets the requirements of sections 401(a) (3), (4), (5), (6), (7), (8), (11), (12), (13), (14), (15), (16), and (19);

"(4) purchased to provide retirement annuities for its employees by an organization which (as of the time the contracts were purchased) was an organization described in section 501(c)(3) which was exempt from tax under section 501(a) or was an organization exempt from tax under section 101(6) of the Internal Revenue Code of 1939 or the corresponding provisions of prior revenue laws, or purchased to provide retirement annuities for employees described in section 403(b)(1)(A)(ii) by an employer which is a State, a political subdivision of a State, or an agency or instrumentality of any one or more of the foregoing; or

"(5) purchased under contracts entered into with trusts which (at the time the contracts were entered into) were individual retirement accounts described in section 408(a) or under contracts entered into with individual retirement annuities described in section 408(b)."

(97) AMENDMENTS OF SECTION 809.—

(A) Section 809(b) (relating to definition of gain and loss from operations) is amended by striking out paragraph (4).

(B)(i) Section 809(d) (relating to life insurance company deductions) is amended by striking out paragraph (11) (relating to mutualization distributions before 1963), and by redesignating paragraph (12) as paragraph (11).

(ii) Section 809(e) is amended by striking out "subsection (d)(12)" and inserting in lieu thereof "subsection (d)(11)".

(C) Section 809 (relating to computation of gain and loss from operations) is amended by striking out subsection (g) (relating to deduction for certain mutualization distributions before 1963).

(98) AMENDMENT OF SECTION 812.—Section 812(b)(1) (relating to years to which operating losses of an insurance company may be carried) is amended to read as follows:

"(1) YEARS TO WHICH LOSS MAY BE CARRIED.—The loss from operations for any taxable year (hereinafter in this section referred to as the 'loss year') shall be—

"(A) an operations loss carryback to each of the 3 taxable years preceding the loss year,

"(B) an operations loss carryover to each of the 5 taxable years following the loss year, and

"(C) subject to subsection (e), if the life insurance company is a new company for the loss year, an operations loss carryover to each of the 3 taxable years following the 5 taxable years described in subparagraph (B)."

(99) AMENDMENTS OF SECTION 817.—Section 817 (relating to rules applicable to certain gains and losses) is amended by striking out subsection (c) (relating to treatment of pre-1959 capital losses) and subsection (e) (relating to certain 1958 reinsurance transactions).

(100) AMENDMENT OF SECTION 818.—Section 818 (relating to life insurance accounting provisions) is amended by striking out subsection (e) (relating to certain rules applicable to taxable years 1957, 1958, and 1959), and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(101) AMENDMENTS OF SECTION 819.—

(A) The first sentence of section 819(a)(2)(A) (relating to definition of minimum figure for foreign life insurance companies) is amended to read as follows: "The minimum figure is the amount determined by multiplying the taxpayer's total insurance liabilities on United States business by a percentage for the taxable year to be determined and proclaimed by the Secretary."

(B) The second sentence of section 819(a)(2)(A) is amended by striking out "under clause (ii)" and inserting in lieu thereof "under the preceding sentence".

(C) Clause (i) of section 819(b)(2)(B) (relating to distributions pursuant to certain mutualizations) is amended to read as follows:

"(i) the minimum figure for 1958 determined under subsection (a)(2)(A) computed by using a percentage of 9 percent in lieu of the percentage determined and proclaimed by the Secretary, or".

(102) AMENDMENT OF SECTION 820.—

(A) Section 820(c) (relating to optional treatment of certain reinsured policies) is amended by striking out paragraph (6) (relating to reimbursement for 1957 income taxes), and by redesignating paragraph (7) as paragraph (6).

(B) The last sentence of section 820(c) is amended by striking out "(5), and (6) and the rules prescribed under paragraph (7)" and inserting in lieu thereof "and (5) and the rules prescribed under paragraph (6)".

(103) AMENDMENTS OF SECTION 821.—

(A) Section 821(a) (relating to imposition of tax on certain mutual insurance companies) is amended by striking out "beginning after December 31, 1963,".

(B) Section 821(c)(1) (relating to alternative tax for certain small insurance companies) is amended by striking out "In the case of taxable years beginning after December 31, 1963, there is" and inserting in lieu thereof "There is".

(C) Section 821 (relating to tax on certain mutual insurance companies) is amended by striking out subsection (e) (relating to 1962 transitional rules) and by redesignating subsection (f) as subsection (e).

(104) AMENDMENTS OF SECTION 822.—

(A) Section 822(c)(5) (relating to reduction of interest) is amended by striking out "(other than obligations of the United States issued after September 24, 1917, and originally subscribed for by the taxpayer)".

(B) The last sentence of section 822(d)(2) (relating to amortization of premium and accrual of discount) is amended by striking out "For taxable years beginning after December 31, 1962, no accrual" and inserting in lieu thereof "No accrual".

(105) AMENDMENTS OF SECTION 825.—Section 825(g) (relating to unused loss deduction of certain insurance companies) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(106) AMENDMENT OF SECTION 831.—Section 831(a) (relating to tax on certain insurance companies) is amended by striking out "or

the taxable income" and inserting in lieu thereof "on the taxable income."

(107) Amendments of section 832.—Paragraphs (1) and (6) of section 832(b) (relating to definitions of insurance company taxable income) are each amended by striking out "Convention" and inserting in lieu thereof "Association".

(108) Amendments of section 851.—

(A) Section 851(a)(1) (relating to definition of regulated investment company) is amended by striking out "54 Stat. 789;".

(B) Section 851(b)(1) (relating to regulated investment companies) is amended by striking out "which began after December 31, 1941".

(109) Amendments of section 852.—

(A) Subparagraph (C) of section 852(b)(3) (relating to method of taxation of regulated investment companies and their shareholders) is amended by striking out the third sentence.

(B)(i) Section 852(b)(3)(D)(iii) is amended by striking out "by 75 percent of so much of such amounts as equals the amount subject to tax in accordance with section 1201(a)(1)(A) and by 70 percent (72 percent in the case of a taxable year beginning after December 31, 1969, and before January 1, 1971) of so much of such amounts as equals the amount subject to tax in accordance with section 1201(a) (1)(B) or (2)" and inserting in lieu thereof "by 70 percent of so much of such amounts as equals the amount subject to tax in accordance with section 1201(a)".

(ii) The amendment made by clause (i) shall not be considered to affect the amount of any increase in the basis of stock under the provisions of section 852(b)(3)(D)(iii) of the Internal Revenue Code of 1954 which is based upon amounts subject to tax under section 1201 of such Code in taxable years beginning before January 1, 1975.

(C) Section 852(d) is amended by inserting after "Investment Company Act of 1940" the following: "(15 U.S.C. 80a-1 and following)".

(110) Amendments of section 856.—

(A) Section 856(c)(1) (relating to real estate investment trusts) is amended by striking out "which began after December 31, 1960".

(B) Section 856(c)(6)(D) (relating to definition of other terms) is amended by inserting after "Investment Company Act of 1940, as amended" the following: "(15 U.S.C. 80a-1 and following)".

(111) Amendment of section 857.—Section 857(b)(3)(C) (relating to the taxation of capital gains in the case of real estate investment trusts) is amended by striking out the last sentence.

(112) Amendments of section 864.—

(A) Section 864(a) (relating to definitions) is amended to read as follows:

"(a) Produced.—For purposes of this part, the term 'produced' includes created, fabricated, manufactured, extracted, processed, cured, or aged."

(B) Clauses (i) and (iii) of section 864(c)(4)(B) and subparagraph (C) of section 864(c)(5) (relating to effectively connected income) are each amended by striking out "sale" each place it appears and inserting in lieu thereof "sale or exchange".

(C) Section 864(c)(4)(B)(iii) (relating to effectively connected income) is amended by striking out "sold" and inserting in lieu thereof "sold or exchanged".

(113) Amendment of section 905.—Section 905(b) (relating to proof of foreign tax credits) is amended by striking out the last sentence (relating to the treatment of certain royalty payments).

(114) Amendment of section 911.—Section 911(c) (relating to earned income from sources without the United States) is amended by striking out paragraph (7) (relating to taxable years ending in 1963, 1964, or 1965).

(115) Amendment of section 921.—Section 921 (relating to definition of Western Hemisphere Trade Corporation) is amended by striking out the last sentence (relating to taxable years before 1954).

(116) Amendments of section 931.—Section 931 (relating to income from sources within possessions) is amended by striking out subsection (h) (relating to certain persons taken as prisoners of war while working in a possession), and by redesignating subsection (i) as subsection (h).

(117) Amendment of section 934.—Section 934(b) (relating to gross income received by a corporation from the Virgin Islands) is amended by striking out the last sentence.

(118) Amendment of section 951.—Section 951(a)(1) (relating to treatment of subpart F income) is amended by striking out "beginning after December 31, 1962".

(119) Repeal of section 972.—Section 972 (relating to consolidation of export trade corporations) is repealed.

(120) Amendment of section 1001.—Section 1001(c) (relating to recognition of gain or loss) is amended to read as follows:

"(c) Recognition of Gain or Loss.—Except as otherwise provided in this subtitle, the entire amount of the gain or loss, determined under this section, on the sale or exchange of property shall be recognized."

(121) Amendments of section 1015.—

(A) Subparagraph (A) of section 1015(d)(1) (relating to increased basis for gift tax paid) is amended by striking out "the date of the enactment of the Technical Amendments Act of 1958" and inserting in lieu thereof "September 2, 1958".

(B) Subparagraph (B) of section 1015(d)(1) is amended by striking out "the date of the enactment of the Technical Amendments Act of 1958" and inserting in lieu thereof "September 2, 1958,".

(122) Amendment of section 1016.—Section 1016(a) (relating to adjustments to basis) is amended by striking out paragraph (19).

(123) Amendment of section 1018.—Section 1018 (relating to adjustment of capital structure before September 22, 1938) is amended by striking out "54 Stat. 709;".

(124) Repeal of section 1020.—Section 1020 (relating to election in respect of depreciation allowed before 1952) is repealed.

(125) Repeal of section 1022.—

(A) Section 1022 (relating to the basis of certain foreign personal holding company stock) is repealed.

(B) The repeal made by subparagraph (A) shall apply with respect to stock or securities acquired from a decedent dying after the date of the enactment of this Act.

(126) Amendment of section 1023.—Section 1023 (containing cross references) is amended by striking out paragraph (4).

(127) Amendment of section 1033.—

(A) Section 1033(a) (relating to involuntary conversions) is amended by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(B) Section 1033(a)(2) (relating to conversion into money), as redesignated by subparagraph (A) of this paragraph, is amended—

(i) by striking out "where disposition occurred after 1950" in the paragraph heading,

(ii) by striking out "and the disposition of the converted property (as defined in paragraph (2)) occurred after December 31, 1950," in the text; and

(iii) by adding at the end thereof the following new subparagraph:

"(E) Definitions.—For purposes of this paragraph—

"(i) Control.—The term 'control' means the ownership of stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock of the corporation.

"(ii) Disposition of the converted property.—The term 'disposition of the converted property' means the destruction, theft, seizure, requisition, or condemnation of the converted property, or the sale or exchange of such property under threat or imminence of requisition or condemnation."

(C) Section 1033 (relating to involuntary conversions) is amended by striking out subsection (b) (relating to certain conversions occurring before 1954) and by redesignating subsections (c), (d), (e), (f), (g), and (h), as subsection (b), (c), (d), (e), (f), and (g), respectively.

(D) The first sentence of section 1033(b) (relating to basis of a property acquired through involuntary conversions), as redesignated by subparagraph (C) of this paragraph, is amended by striking out "or (2)" and inserting in lieu thereof "or section 112(f)(2) of the Internal Revenue Code of 1939".

(E) Section 1033(f)(2) (relating to condemnation of real property), as redesignated by subparagraph (C) of this paragraph, is amended to read as follows:

"(2) Limitation.—Paragraph (1) shall not apply to the purchase of stock in the acquisition of control of a corporation described in subsection (a)(2)(A)."

(128) Amendments of section 1034.—

(A) Section 1034(a) (relating to gain on sale of residence) is amended by striking out "after December 31, 1953,".

(B) Section 1034(b) (relating to definition of adjusted sales price) is amended by striking out paragraph (3) (relating to effective date of subsection (b)).

(C) Section 1034(d) (relating to certain limitations) is amended by striking out "or section 112(n) of the Internal Revenue Code of 1939".

(D) Section 1034(i) (relating to involuntary conversions) is amended to read as follows:

"(i) Special Rule for Condemnation.—In the case of the seizure, requisition, or condemnation of a residence, or the sale or exchange of a residence under threat or imminence thereof, the provisions of this section, in lieu of section 1033 (relating to involuntary conversions), shall be applicable if the taxpayer so elects. If such election is made, such seizure, requisition, or condemnation shall be treated as the sale of the residence. Such election shall be made at such time and in such manner as the Secretary shall prescribe by regulations."

(E) Section 1034(j) (relating to statute of limitations) is amended by striking out "after December 31, 1950,".

(129) Amendment of section 1037.—Section 1037(b)(1) (relating to certain exchanges of U.S. obligations) is amended by striking out "section 1232(a)(2)(A)" and inserting in lieu thereof "section 1232(a)(2)(B)".

(130) Amendment of section 1051.—Section 1051 (relating to property acquired before 1929 during affiliation) is amended by striking out the last two sentences.

(131) Amendments of section 1081.—

(A) Subsection (c) of section 1081 (relating to distributions required by the SEC) is amended to read as follows:

"(c) Distribution of Stock or Securities Only.—If there is distributed, in obedience to an order of the Securities and Exchange Commission, to a shareholder in a corporation which is a registered holding company or a majority-owned subsidiary company, stock or securities (other than stock or securities which are nonexempt property), without the surrender by such shareholder of stock or securities in such corporation, no gain to the distributee from the receipt of the stock or securities so distributed shall be recognized."

(B) Section 1081(f) (relating to conditions for application of section) is amended by striking out "Except in the case of a distribution described in subsection (c)(2), the provisions" and inserting in lieu thereof "The provisions", and by striking out "49 Stat. 820;".

(C) Section 1081(g) (relating to applicability of other provisions) is amended by striking out "If a distribution described in subsection (c)(2), or an" and inserting in lieu thereof "If an", and by striking out the comma after "Commission".

(132) AMENDMENTS OF SECTION 1083.—

(A) Section 1083(a) is amended by striking out "49 Stat. 820;".

(B) Section 1083(b) is amended by striking out "49 Stat. 804;".

(C) Section 1083(e)(4) is amended by striking out "49 Stat. 820;".

(133) REPEAL OF SECTION 1111.—Part IX of subchapter O of chapter 1 (relating to distributions pursuant to orders enforcing the antitrust laws) is repealed.

(134) AMENDMENTS OF SECTION 1201.—

(A) Section 1201(a) (relating to the alternative tax on capital gain) is amended to read as follows:

"(a) CORPORATIONS.—If for any taxable year a corporation has a net capital gain, then, in lieu of the tax imposed by sections 11, 511, 821 (a) or (c), and 831(a), there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

"(1) a tax computed on the taxable income reduced by the amount of the net capital gain, at the rates and in the manner as if this subsection had not been enacted, plus

"(2) a tax of 30 percent of the net capital gain."

(B) Section 1201(c) (relating to computation of alternative tax) is amended to read as follows:

"(c) COMPUTATION OF TAX WHERE CAPITAL GAIN EXCEEDS $50,000.—The tax computed for purposes of subsection (b)(3) shall be the amount by which a tax determined under section 1 or 511 on an amount equal to the taxable income (but not less than 50 percent of the net capital gain) for the taxable year exceeds a tax determined under section 1 or 511 on an amount equal to the sum of (A) the amount subject to tax under subsection (b)(1) plus (B) an amount equal to 50 percent of the sum referred to in subsection (b)(2)(A)."

(C)(i) Section 1201 is amended by striking out subsection (d) (relating to the definition of subsection (d) gain) and by redesignating subsection (e) as subsection (d).

(ii) Section 1201 (b)(2)(A) (relating to alternative tax on noncorporate taxpayers) is amended by striking out "the amount of the subsection (d) gain" and inserting in lieu thereof "the sum of the long-term capital gains for the taxable year, but not to exceed $50,000 ($25,000 in the case of a married individual filing a separate return)".

(iii) Section 1201(b)(3) is amended by striking out "the amount of the subsection (d) gain" and inserting in lieu thereof "the sum referred to in subparagraph (A)".

(135) AMENDMENTS OF SECTION 1222.—

(A) Paragraph (9) of section 1222 (relating to definition of terms applicable to capital gains and losses) is amended to read as follows:

"(9) CAPITAL GAIN NET INCOME.—The term 'capital gain net income' means the excess of the gains from sales or exchanges of capital assets over the losses from such sales or exchanges."

(B) Paragraph (11) of section 1222 (relating to definition of terms applicable to gains and losses) is amended to read as follows:

"(11) NET CAPITAL GAIN.—The term 'net capital gain' means the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for such year."

(136) AMENDMENT OF SECTION 1233.—Section 1233(c) (relating to certain options to sell) is amended by striking out "the date of enactment of this title" and inserting in lieu thereof "August 16, 1954".

(137) AMENDMENT OF SECTION 1237.—Section 1237 (relating to real property subdivided for sale) is amended by striking out subsection (d) (relating to effective date).

(138) AMENDMENT OF SECTION 1239.—Section 1239 is amended by striking out subsection (c) (relating to effective date).

(139) REPEAL OF SECTION 1240.—Section 1240 (relating to taxability to employee of certain termination payments) is repealed.

(140) AMENDMENT OF SECTION 1245.—Section 1245(b)(7)(B) (relating to transfers to tax-exempt organization where property will be used in unrelated business) is amended by striking out "such organization acquiring such property,".

(141) AMENDMENT OF SECTION 1246.—Section 1246(f) (relating to gain on foreign investment company stock) is amended by striking out "beginning after December 31, 1962".

(142) AMENDMENT OF SECTION 1311.—Paragraphs (2)(A), (2)(B), and (3) of section 1311(b) (relating to mitigation of effect of limitations) are each amended by striking out "Tax Court of the United States" and inserting in lieu thereof "Tax Court".

(143) REPEAL OF SECTION 1315.—Section 1315 (relating to effective date of part II of subchapter Q of chapter 1) is repealed.

(144) REPEAL OF SECTION 1321.—Part III of subchapter Q of chapter 1 (relating to involuntary liquidation of LIFO inventories) is repealed.

(145) REPEAL OF SECTIONS 1331 THROUGH 1337.—

(A) Part IV of subchapter Q of chapter 1 (relating to war loss recoveries) is repealed.

(B) The repeal by subparagraph (A) shall apply with respect to war loss recoveries in taxable years beginning after December 31, 1975.

(146) AMENDMENT OF SECTION 1341.—Section 1341(b)(2) (relating to claim of right) is amended by striking out the last sentence.

(147) REPEAL OF SECTION 1342.—Section 1342 (relating to computation of tax on certain amounts recovered as a result of a patent infringement suit) is repealed.

(148) REPEAL OF SECTION 1346.—Section 1346 (relating to recovery of unconstitutional Federal taxes) is repealed.

(149) AMENDMENTS OF SECTION 1348.—

(A) Paragraphs (1) and (2) of section 1348 (a) (relating to 50-percent maximum rate on earned income) are amended to read as follows:

"(1) the tax imposed by section 1 on the highest amount of taxable income on which the rate of tax is not more than 50 percent,

"(2) 50 percent of the amount by which his earned taxable income exceeds the amount of taxable income specified in paragraph (1) of this subsection, and".

(B) Section 1348(a) is further amended by striking out the last sentence thereof.

(150) AMENDMENTS OF SECTION 1372.—

(A) Section 1372(b)(1) (relating to effect of election under subchapter S) is amended by striking out "(other than the tax imposed by section 1378)" and inserting in lieu thereof "(other than as provided by section 58(d)(2) and by section 1378)".

(B) Section 1372(c) (relating to subchapter S elections by small business corporations) is amended to read as follows:

"(c) WHERE AND HOW MADE.—An election under subsection (a) may be made by a small business corporation for any taxable year at any time during the first month of such taxable year, or at any time during the month preceding such first month. Such election shall be made in such manner as the Secretary shall prescribe by regulations."

(C) Section 1372 is amended by striking out subsection (g) (relating to certain elections for years beginning before 1961).

(151) AMENDMENTS OF SECTION 1374.—

(A) Section 1374(b) (relating to net operating losses of subchapter S corporations) is amended by adding at the end thereof the following new sentence: "The deduction allowed by this subsection shall, for purposes of this chapter, be considered as a deduction attributable to a trade or business carried on by the shareholder."

(B) Subsection (d) of section 1374 (relating to treatment of net operating losses of subchapter S corporations) is repealed.

(152) AMENDMENTS OF SECTION 1375.—

(A) The heading of subsection (b) of section 1375 is amended by striking out "RECEIVED CREDIT NOT ALLOWED" and inserting in lieu thereof "NOT TREATED AS SUCH FOR CERTAIN PURPOSES".

(B) Section 1375(f) (relating to elections as to certain distributions) is amended by striking out paragraph (3).

(153) AMENDMENT OF SECTION 1378.—Section 1378(b) (relating to the taxation of capital gain in the case of electing small business corporations) is amended by striking out the last sentence.

(154) AMENDMENTS OF SECTION 1388.—

(A) Section 1388(c)(2)(B)(i) (relating to patronage dividends) is amended by striking out "the date of the enactment of the Revenue Act of 1962" and inserting in lieu thereof "October 16, 1962".

(B) Section 1388(h)(2)(B)(i) (relating to per-unit retain certificates) is amended by striking out "the date of the enactment of this subsection" and inserting in lieu thereof "November 13, 1966".

(155) AMENDMENTS OF SECTION 1401.—

(A) Section 1401(a) (relating to rate of tax on self-employment income) is amended to read as follows:

"(a) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—In addition to other taxes, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax equal to 7.0 percent of the amount of the self-employment income for such taxable year."

(B) Section 1401(b) (relating to rate of tax on self-employment income for hospital insurance) is amended by striking out paragraphs (1) and (2) and by redesignating paragraphs (3), (4), (5), and (6), as paragraphs (1), (2), (3), and (4), respectively.

(156) AMENDMENTS OF SECTION 1402.—

(A) Paragraph (1) of section 1402(b) (relating to definition of self-employment income) is amended to read as follows:

"(1) that part of the net earnings from self-employment which is in excess of (i) an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective for such calendar year, minus (ii) the amount of the wages paid to such individual during such taxable year; or".

(B) Section 1402 is amended by striking out subsection (g) (relating to treatment of self-employment income for years prior to 1962), and by redesignating subsections (h) and (i) as subsections (g) and (h), respectively.

(C) Section 1402(g)(2) (relating to self-employment income of members of certain religious faiths), as redesignated by subparagraph (B) of this paragraph, is amended to read as follows:

"(2) TIME FOR FILING APPLICATION.—For purposes of this subsection, an application must be filed on or before the time prescribed for filing the return (including any extension thereof) for the first taxable year for which the individual has self-employment income (determined without regard to this subsection or subsection (c)(6)), except that an application filed after such date but on or before the last day of the third calendar month following the calendar month in which the taxpayer is first notified in writing by the Secretary that a timely application for an exemption from the tax imposed by this chapter has not been filed by him shall be deemed to be filed timely."

(157) REPEAL OF SECTION 1465.—Section 1465 (relating to definition of withholding agent) is repealed.

(158) AMENDMENTS OF SECTION 1481.—

(A) Section 1481(a)(1)(A) (relating to mitigation of effect of renegotiation of Government contracts) is amended by striking out "within the meaning of the Federal renegotiation act applicable to such transaction" and inserting in lieu thereof "within the meaning of the Renegotiation Act of 1951, as amended (50 U.S.C. App. 1211 and following)".

(B) Section 1481(a)(1) (relating to renegotiation) is amended by striking out subparagraph (D).

(C) Subparagraphs (B) and (C) of section 1481(a)(1) are each amended by striking out "applicable Federal renegotiation act" and inserting in lieu thereof "Renegotiation Act of 1951, as amended".

(159) AMENDMENT OF SECTION 1551.—Section 1551(a) (relating to disallowance of surtax exemption) is amended by striking out "determined under subsection (d)" and inserting in lieu thereof "determined under subsection (c)".

(160) AMENDMENT OF SECTION 1552.—The first sentence of section 1552(a) (relating to earnings and profits of an affiliated group) is amended by striking out "beginning after December 31, 1953, and ending after the date of the enactment of this title,".

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) AMENDMENTS CONFORMING TO REPEAL OF SECTIONS 35 AND 242.—

(A) Section 36, as amended by section 1011 of this Act, is futher amended by striking out "sections 32 and 35" and inserting in lieu thereof "section 32".

(B) Section 41(b)(2) is amended by striking out "section 35 (relating to partially tax-exempt interest),".

(C) Section 45(a)(3), as amended by section 503 of this Act, is further amended by striking out subparagraph (B), by inserting "and" at the end of subparagraph (A), and by redesignating subparagraph (C) as subparagraph (B).

(D) Section 50A(a)(3), as amended by section 503 of this Act, is futher amended by striking out subparagraph (B) and redesignating subparagraphs (C), (D), and (E), as subparagraphs (B), (C), and (D), respectively.

(E)(i) The heading of paragraph (1) of section 171(a) is amended to read "(1) TAXABLE BONDS.—".

(ii) The heading of paragraph (2) of section 171(a) is amended to read "(2) TAX-EXEMPT BONDS.—".

(iii) Section 171(a) is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(iv) Section 171(b)(1)(B)(ii) is amended by striking out "subsection (c)(1)(B)" and inserting in lieu thereof "subsection (a)(1)".

(v) So much of section 171(c) as precedes paragraph (2) is amended to read as follows:

"(c) ELECTION AS TO TAXABLE BONDS.—

"(1) ELIGIBILITY TO ELECT; BONDS WITH RESPECT TO WHICH ELECTION PERMITTED.—In the case of bonds the interest on which is not excludable from gross income, this section shall apply only if the taxpayer has so elected."

(F)(i) Section 551 is amended by striking out subsection (c), and by redesignating subsections (d), (e), (f), and (g), as subsections (c), (d), (e), and (f), respectively.

(ii) Section 1016(a)(13) is amended by striking out "section 551(f)" and inserting in lieu thereof "section 551(e)".

(G) Section 584(c)(2) is amended to read as follows:

"(2) DIVIDENDS RECEIVED.—The proportionate share of each participant in the amount of dividends received by the common trust fund and to which section 116 applies shall be considered for purposes of such section as having been received by such participant."

(H)(i) Section 642(a) is amended by striking out paragraph (1), and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(ii) Section 41(d) is amended by striking out "section 642(a)(3)" and inserting in lieu thereof "section 642(a)(2)".

(iii) Section 901(g)(3) is amended by striking out "section 642(a)(2)" and inserting in lieu thereof "section 642(a)(1)".

(I)(i) Section 702(a) is amended by striking out paragraph (7) and by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.

(ii) Section 702(b) is amended by striking out "paragraphs (1) through (8)" and inserting in lieu thereof "paragraphs (1) through (7)".

(iii) Section 704(b), as amended by section 210 of this Act, is further amended by striking out "section 702(a)(9)" and inserting in lieu thereof "section 702(a)(8)".

(iv) Section 1402(a) is amended by striking out "702(a)(9)" each place it appears and inserting in lieu thereof "702(a)(8)".

(J)(i) Section 804(a) is amended by striking out paragraph (3), and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(ii) Section 243(b)(3)(C)(iii), as redesignated by paragraph (19(A) of this subsection, is amended by striking out "sections 804(a)(4)" and inserting in lieu thereof "sections 804(a)(3)".

(iii) Section 804(a)(2) is amended by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (4)", and by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (3)".

(iv) Section 809(d)(10) is amended by striking out "section 804(a)(4)" and inserting in lieu thereof "section 804(a)(3)".

(v) Section 1561(a)(3) is amended by striking out "sections 804(a)(4)" and inserting in lieu thereof "sections 804(a)(3)".

(vi) Section 1564 (a)(1)(C) is amended by striking out "sections 804(a)(4)" and inserting in lieu thereof "section 804(a)(3)".

(K) Section 804(a)(2)(A) is amended by striking out clause (ii), by inserting "and" at the end of clause (i), and by redesignating clause (iii) as clause (ii).

(L)(i) Section 809(d)(8)(A) is amended by striking out clause (ii), by inserting "and" at the end of clause (i), and by redesignating clause (iii) as clause (ii).

(ii) Section 809(d)(8)(B) is amended by striking out "subparagraph (A)(iii)" and inserting in lieu thereof "subparagraph (A)(ii)".

(M) Sections 804(a)(1), 804(a)(2), 809(a)(1), 809(b)(1)(A), and 809(b)(2)(A) are each amended by striking out ", partially tax-exempt interest,".

(N) Section 809(e) is amended by striking out paragraph (6), and by redesignating paragraph (7) as paragraph (6).

(O) Section 815(b)(A)(iii) is amended by striking out "the deduction for partially tax-exempt interest provided by section 242 (as modified by section 804(a)(3))," and by striking out the comma after "809(d)(8)(B))".

(P) Section 822(c)(2) is amended by striking out "partially tax-exempt interest and".

(Q) Section 822(c)(6)(A) is amended by striking out "or to the deduction provided in section 242 for partially tax-exempt interest".

(R) Section 822(c)(7) is amended by striking out "partially tax-exempt interest and to".

(S) Section 822(d)(2) is amended by striking out ", the deduction provided in subsection (c)(1), and the deduction allowed by section 242 (relating to partially tax-exempt interest)" and inserting in lieu thereof "and the deduction provided in subsection (c)(1)".

(T) Section 832(c)(5)(A) is amended by striking out "or to the deductions provided in section 242 for partially tax-exempt interest".

(U) Section 832(c)(12) is amended by striking out "partially tax-exempt interest and to".

(V) Sections 852(b)(1) and 857(b)(1) are each amended by striking out the last sentence.

(W) Section 1244(c)(1)(E) is amended by striking out "sections 172, 242, 243" and inserting in lieu thereof "sections 172, 243".

(X) Section 1402(a)(2) is amended by striking out "(other than interest described in section 35)".

(Y) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 35.

(Z) The table of sections for part VIII of subchapter B of chapter 1 is amended by striking out the item relating to section 242.

(2) AMENDMENT CONFORMING TO REPEAL OF SECTION 51.—The table of parts for subchapter A of chapter 1 is amended by striking out the item relating to part V.

(3) AMENDMENTS CONFORMING TO AMENDMENTS OF SECTION 57.—

(A) Section 48(d)(4)(D) is amended by striking out "section 57(c)(2)" and inserting in lieu thereof "section 57(b)(2)".

(B) Section 57(a)(11), as added by section 301 of this Act, is amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (c)".

(C) Section 468(e)(2), as added by section 101 of this Act, is amended by striking out "section 57(f)" and inserting in lieu thereof "section 57(e)".

(D) Section 703(b) is amended by striking out "section 57(c)" and inserting in lieu thereof "section 57(b)".

(4) AMENDMENTS CONFORMING TO ADDITIONS OF SECTIONS 64 AND 65.—

(A) Paragraphs (1)(C), (5)(A), (6)(D), and (12) of section 341(e) are each amended by striking out "gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231(b)" each place it appears and inserting in lieu thereof "ordinary income".

(B) Section 483(f)(3) is amended by striking out "no part of any gain on such" and inserting in lieu thereof "all of the gain, if any, on such" and by striking out "gain from the sale or exchange of a capital asset or property described in section 1231" and inserting in lieu thereof "ordinary income".

(C) Section 707(b)(2) is amended by striking out "as gain from the sale or exchange of property other than a capital asset" and inserting in lieu thereof "as ordinary income".

(D) Paragraphs (1) and (2) of section 735(a) are each amended by striking out "gain or loss from the sale or exchange of property other than a capital asset" and inserting in lieu thereof "as ordinary income or as ordinary loss, as the case may be".

(E) Section 1234(d)(2) is amended by striking out "other than gain from the sale or exchange of a capital asset" and inserting in lieu thereof "ordinary income".

(F) Section 1236(b) is amended by striking out "loss from the sale or exchange of property which is not a capital asset" and inserting in lieu thereof "ordinary loss".

(G) Sections 1242 and 1243 are each amended by striking out "a loss from the sale or exchange of property which is not a capital asset" each place it appears and inserting in lieu thereof "an ordinary loss".

(H) Section 1244 is amended by striking out "a loss from the sale or exchange of an asset which is not a capital asset" each place it appears and inserting in lieu thereof "an ordinary loss".

(I) Section 1248(g)(3)(B), as redesignated by section 1042 of this Act, is amended by striking out "gain from the sale of an asset which is not a capital asset" and inserting "ordinary income".

(J) The following provisions are each amended by striking out "gain from the sale or exchange of property which is not a capital asset" each place it appears and inserting in lieu thereof "ordinary income": sections 341(a), 871(a)(1)(C) (i) and (ii), 881(a)(3) (A and (B), 996(d) (1) and (2), 1037(b)(1)(A), 1232(a)(2) (A) and (B), 1232(c), 1246(a), and 1385(c)(2)(C).

(K) The following provisions are each amended by striking out "gain from the sale of property which is not a capital asset" and inserting in lieu thereof "ordinary income": sections 306(a)(1)(A), 306(a)(1)(B), and 306(f).

(L) The following provisions are each amended by striking out "gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231" each place it appears and inserting in lieu thereof "ordinary income": sections 80(c)(1), 613(a), 617(d)(1), 995(b)(1)(C), 1238, 1239(a), 1245(a)(1), 1249(a), 1250(f) and (g), 1251(b)(3)(B), (c)(1), and (c)(2), and 1252(a)(1).

(M) The table of sections for part I of subchapter B of chapter 1 is amended by adding at the end thereof the following new items:

"Sec. 64. Ordinary income defined.
"Sec. 65. Ordinary loss defined."

(5) AMENDMENT CONFORMING TO REPEAL OF SECTION 76.—The table of sections for part II of subchapter B of chapter 1 is amended by striking out the item relating to section 76.

(6) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 103.—Section 6049(b)(2)(A) is amended by striking out "section 103(a) (1) or (3)" and inserting in lieu thereof "section 103(a)".

(7) AMENDMENTS CONFORMING TO AMENDMENT OF SECTION 143.—

(A)(i) Part V of subchapter B of chapter 1 is amended by striking out section 153 (relating to determination of marital status) and by redesignating section 154 as section 153.

(ii) The table of sections for part V of subchapter B of chapter 1 is amended by striking out the items relating to sections 153 and 154 and inserting in lieu thereof the following:

"Sec. 163. Cross references."

(B) Section 152(a)(9) is amended by striking out "section 153" and inserting in lieu thereof "section 143(a)".

(C) Section 153, as redesignated by subparagraph (A) of this paragraph, is amended by adding at the end thereof the following new paragraph:

"(5) For determination of marital status, see section 143(a)."

(D) Section 879, as added by section 1012 of this Act, is amended by striking out "section 153" and inserting in lieu thereof "section 143(a)".

(8) AMENDMENTS CONFORMING TO AMENDMENT OF SECTION 151.—

(A) The following provisions are each amended by striking out "educational institution (as defined in section 151(e)(4))" each place it appears and inserting in lieu thereof "educational organization described in section 170(b)(1)(A)(ii)": sections 117(a)(1)(A) and (b)(1), 152(d), 170(g)(1)(B) (as redesignated by subsection (a)(28)(A)(i) of this section), and 403(b)(1)(A)(ii).

(B) Section 103(c)(3)(A), as redesignated by subsection (a)(15) of this section, is amended by striking out "educational institution (within the meaning of section 151(e)(4))" and inserting in lieu thereof "educational organization described in section 170(b)(1)(A)(ii)".

(C) Section 163(b)(1) is amended by striking out "educational institution (as defined in section 151(e)(4)) and which is provided for a student of such institution" and inserting in lieu thereof "educational organization described in section 170(b)(1)(A)(ii) and which is provided for a student of such organization".

(D)(i) Subparagraphs (A), (B), and (C) of section 415(c)(4), are each amended by striking out "educational institution" each place it appears and inserting in lieu thereof "educational organization".

(ii) Subparagraph (D)(ii) of section 415(c)(4) is amended to read as follows:

"(ii) For purposes of this paragraph the term 'educational organization' means an educational organization described in section 170(b)(1)(A)(ii)."

(iii) Section 415(c)(4) is amended by striking out "EDUCATIONAL INSTITUTIONS" from the paragraph heading and inserting in lieu thereof "EDUCATIONAL ORGANIZATIONS".

(E) Section 508(c)(2)(A) is amended to read as follows:

"(A) educational organizations described in section 170(b)(1)(A)(ii), and".

(F) Section 512(b)(15)(B), as redesignated by section 1921(a)(8)(A) of this Act, is amended by striking out "educational institution (as defined in section 151(e)(4))" and inserting in lieu thereof "educational organization described in section 170(b)(1)(A)(ii)".

(G) Section 1303(d) is amended by striking out "educational institution (as defined in section 151(e)(4))" each place it appears and inserting in lieu thereof "educational organization described in section 170(b)(1)(A)(ii)".

(H) Sections 4941(d)(2)(G)(ii) and 4945(g)(1) each are amended by striking out "educational institution described in section 151(e)(4)" and inserting in lieu thereof "educational organization described in section 170(b)(1)(A)(ii)".

(9) AMENDMENTS CONFORMING TO THE AMENDMENTS OF SECTION 152.—Section 2(b)(3)(B) is amended by striking out clause (ii), by adding "or" at the end of clause (i), and by redesignating clause (iii) as clause (ii).

(10) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 342.—

(A) Section 551(f), as redesignated by paragraph (1)(F) of this subsection, is amended by striking out paragraph (3).

(B) The table of subparts for part II of subchapter C of chapter 1 is amended by striking out the item relating to subpart C and inserting in lieu thereof:

"Subpart C. Collapsible corporations."

(C) The table of sections for subpart C of part II of subchapter C of chapter 1 is amended by striking out the item relating to section 342.

(D) The heading of subject C of part II of subchapter C of chapter 1 is amended to read as follows:

"Subpart C—Collapsible Corporations"

(11) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 363.—The table of sections for subpart C of part III of subchapter C of chapter 1 is amended by striking out the item relating to section 363.

(12) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 373.—

(A) Section 372(b)(1) is amended by striking out "373(b) or".

(B) Section 374(b) is amended to read as follows:

"(b) BASIS.—

"(1) RAILROAD CORPORATIONS.—If the property of a railroad corporation, as defined in section 77(m) of the Bankruptcy Act (11 U.S.C. 205(m)), was acquired after December 31, 1938, in pursuance of an order of the court having jurisdiction of such corporation—

"(A) in a receivership proceeding, or

"(B) in a proceeding under section 77 of the Bankruptcy Act,

and the acquiring corporation is a railroad corporation (as defined in section 77(m) of the Bankruptcy Act) organized or made use of to effectuate a plan of reorganization approved by the court in such proceeding, the basis shall be the same as it would be in the hands of the railroad corporation whose property was so acquired, increased in the amount of gain recognized under subsection (a)(2) to the transferor on such transfer.

"(2) PROPERTY ACQUIRED BY STREET, SUBURBAN, OR INTERURBAN ELECTRIC RAILWAY CORPORATION.—If the property of any street, suburban, or interurban electric railway corporation engaged as a common carrier in the transportation of persons or property in interstate commerce was acquired after December 31, 1934, in pursuance of an order of the court having jurisdiction of such corporation in a proceeding under section 77 of the Bankruptcy Act (11 U.S.C. 501 and following), and the acquiring corporation is a street, surburban, or interurban electric railway engaged as a common carrier in the transportation of persons or property in interstate commerce, organized or made use of to effectuate a plan of reorganization approved by the court in such proceeding, then, notwithstanding the provisions of section 270 of the Bankruptcy Act (11 U.S.C. 670), the basis shall be the same as it would be in the hands of the corporation whose property was so acquired."

(C) Section 1232(b)(2) is amended by striking out "section 371, 373, or 374" and inserting in lieu thereof "section 371 or 374".

(D) The table of sections for part IX of subchapter C of chapter 1 is amended by striking out the item relating to section 373.

(13) AMENDMENT CONFORMING TO REPEAL OF SECTIONS 391 THROUGH 395.—The table of parts for subchapter C of chapter 1 is amended by striking out the item relating to part VII.

(14) AMENDMENT CONFORMING TO THE AMENDMENTS OF SECTION 481.—Section 381(c) is amended by striking out paragraph (21).

(15) AMENDMENT CONFORMING TO THE AMENDMENTS OF SECTION 545.—Section 381(c)(15) is amended by striking out "subsections (b)(7) and (c)" and inserting in lieu thereof "subsection (c)".

(16) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 583.—The table of sections for part I of subchapter H of chapter 1 is amended by striking out the item relating to section 583.

(17) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 592.—The table of sections for part II of subchapter H of chapter 1 is amended by striking out the item relating to section 592.

(18) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 601.—

(A) Section 535(b) is amended by striking out paragraph (8).

(B)(i) Section 545(b) is amended by striking out paragraph (6), and by redesignating paragraph (8) as paragraph (6).

(ii) Section 545(b)(2) is amended by striking out "paragraph (8)" and inserting in lieu thereof "paragraph (6)".

(iii) Section 545(c)(5) is amended by striking out "subsection (b)(8)" and inserting in lieu thereof "subsection (b)(6)".

(C) The table of parts for subchapter H of chapter 1 is amended by striking out the item relating to part III.

(19) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 615.—

(A) (i) Section 243(b) (3) (C) is amended—

(I) by striking out clauses (ii) and (iii) and inserting in lieu thereof the following:

"(ii) $400,000 limitation for certain expenditures under section 617(h) (1),", and

(II) by redesignating clauses (iv) and (v), as clauses (iii) and (iv), respectively.

(ii) Section 1564(b) (2) (C) is amended by striking out "section 243(b) (3) (C) (v)" and inserting in lieu thereof "243(b) (3) (C) (iv)".

(B) Section 381(c) (10) is amended to read as follows:

"(10) TREATMENT OF CERTAIN MINING DEVELOPMENT AND EXPLORATION EXPENSES OF DISTRIBUTOR OR TRANSFEROR CORPORATION.—The acquiring corporation shall be entitled to deduct, as if it were the distributor or transferor corporation, expenses deferred under section 616 (relating to certain development expenditures) if the distributor or transferor corporation has so elected. For the purpose of applying the limitation provided in section 617(h), if, for any taxable year, the distributor or transferor corporation was allowed a deduction under section 617(a), the acquiring corporation shall be deemed to have been allowed such deduction."

(C) Section 617(h) (1) is amended by striking out "and section 615(a) and the amounts which are or have been treated as deferred expenses under section 615(b)" and inserting in lieu thereof "and subsection (a) of section 615 (as in effect before the enactment of the Tax Reform Act of 1975)".

(D) Section 617(h) (3) is amended to read as follows:

"(3) APPLICATION OF PARAGRAPH (2) (B).—Paragraph (2) (B) shall apply with respect to all amounts deducted before the latest such transfer from the individual or corporation to the taxpayer. Paragraph (2) (B) shall apply only if—

"(A) the taxpayer acquired any mineral property from the individual or corporation under circumstances which make paragraph (7), (8), (11), (15), (17), (20), or (22) of section 113(a) of the Internal Revenue Code of 1939 apply to such transfer; or

"(B) the taxpayer acquired any mineral property from the individual or corporation under circumstances which make section 334(b), 362 (a) and (b), 372(a), 374(b) (1), 1051, or 1082 apply to such transfer."

(E) Section 617 is amended by adding at the end thereof the following new subsection:

"(i) CERTAIN PRE-1970 EXPLORATION EXPENDITURES.—If—

"(1) the taxpayer receives mineral property in a transaction as a result of which the basis of such property in the hands of the transferee is determined by reference to the basis in the hands of the transferor,

"(2) an election made by the transferor under subsection (e) of section 615(e) (as in effect before the enactment of the Tax Reform Act of 1975) applied with respect to expenditures which were made by him and which were properly chargeable to such property, and

"(3) the taxpayer has made or makes an election under subsection (a),

then in the application of this section with respect to the transferee, the amounts allowed as deductions under such section 615 to the transferor, which (but for the transferor's election) would be reflected in the adjusted basis of such property in the hands of the transferee, shall be treated as expenditures allowed as deductions under subsection (a) to the transferor."

(F) 703(b) is amended by striking out "under section 615 (relating to pre-1970 exploration expenditures),".

(G) Section 1016(a) is amended by striking out paragraph (10).

(H) The table of sections for part I of subchapter I of chapter 1 is amended by striking out the item relating to section 615.

(20) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 632.—

(A) The table of sections for part III of subchapter I of chapter 1 is amended by striking out the item relating to section 632.

(B) Section 5(b) is amended by striking out paragraph (1).

(21) AMENDMENT CONFORMING TO REPEAL OF SECTION 683.—The table of sections for subpart F of part I of subchapter J of chapter 1 is amended by striking out the item relating to section 683.

(22) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 771.—The table of parts for subchapter K of chapter 1 is amended by striking out the item relating to part IV.

(23) AMENDMENT CONFORMING TO THE AMENDMENT OF SECTION 802.—Section 815(c) (3) (B) is amended by striking out "(determined without regard to section 802(a) (3))".

(24) AMENDMENT CONFORMING TO THE AMENDMENT OF SECTION 812.—Section 844(b) (2) is amended by striking out "section 812 (b) (1) (A) (iii)" and inserting in lieu thereof "section 812(b) (1) (C)".

(25) AMENDMENTS CONFORMING TO THE AMENDMENTS OF SECTION 864.—

(A) Paragraphs (5) and (6) of section 861 (a) (relating to items treated as income from within United States) are each amended by striking out in the heading "SALE" and inserting in lieu thereof "SALE OR EXCHANGE", and by striking out "sale" in the text and inserting in lieu thereof "sale or exchange".

(B) Section 861(e) (1) (relating to income from certain aircraft and vessels) is amended by striking out "sale or other disposition" and inserting in lieu thereof "sale, exchange, or other disposition".

(C) Paragraphs (5) and (6) of section 862(a) (relating to items treated as income from without the United States) and paragraphs (2) and (3) of section 863(b) (relating to sources of income) are each amended by striking out "sale" and inserting in lieu thereof "sale or exchange".

(D) Paragraph (2) of section 863(b) (relating to sources of income) is amended by striking out "sold" each place it appears and inserting in lieu thereof "sold or exchanged".

(26) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 972.—

(A) Section 970(b) (1) (relating to inclusion of certain previously excluded amounts of subpart F income) is amended by striking out "application of section 972" and inserting in lieu thereof "treatment (under section 972 as in effect before the date of the enactment of the Tax Reform Act of 1975 of two or more controlled foreign corporations which are export trade corporations as a single controlled foreign corporation".

(B) The table of sections for subpart G of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 972.

(27) AMENDMENTS CONFORMING TO THE AMENDMENT OF SECTION 1001.—

(A) Subsection (c) of section 331 is amended to read as follows:

"(c) CROSS REFERENCE.—

"For general rule for determination of the section 1001."

(B) (i) Section 1002 (relating to recognition of gain or loss) is repealed.

(ii) The table of sections for part I of subchapter O of chapter 1 is amended by striking out the item relating to section 1002.

(28) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1020.—

(A) The third sentence of subsection (a) of section 1016 is amended by striking out "under section 1020" and inserting in lieu thereof "under section 1020 (as in effect before the date of the enactment of the Tax Reform Act of 1975)".

(B) The table of sections for part II of subchapter O of chapter 1 is amended by striking out the item relating to section 1020.

(29) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1022.—

(A) Section 1016(a) amended—

(i) by striking out paragraph (21), and

(ii) by redesignating paragraphs (20) and (22) as paragraphs (19) and (20), respectively.

(B) The amendment made by subparagraph(A) (i) shall apply with respect to stock or securities acquired from a decedent dying after the date of the enactment of this Act.

(C) The table of sections for part II of subchapter O of chapter 1 is amended by striking out the item relating to section 1022.

(30) AMENDMENTS CONFORMING TO AMENDMENTS OF SECTION 1033.—

(A) Section 1250(d) (4) (B) is amended by striking out "1033(a) (3) (A)" and inserting in lieu thereof "1033(a) (2) (A)".

(B) Section 1250(d) (4) (C) and (D) are each amended by striking "1033(a) (3)" and inserting in lieu thereof "1033(a) (2)".

(C) Section 6212(c) (2) (B) is amended by striking out "1033(a) (3) (C) and (D)" and inserting in lieu thereof "1033(a) (2) (C) and (D)".

(D) Section 6504(4) is amended by striking out "1033(a) (3) (C) and (D)" and inserting in lieu thereof "1033(a) (2) (C) and (D)".

(E) Sections 1071(b) and 1250(d) (4) (D) are each amended by striking out "1033(c)" and inserting in lieu thereof "1033(b)".

(31) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1111.—

(A) Section 301 is amended by striking out subsection (f), and by redesignating subsection (g) as subsection (e).

(B) (i) Section 312 is amended by striking out subsection (k), and by redesignating subsections (l) and (m) as subsections (j) and (k), respectively.

(ii) Section 1246(g) is amended by striking out "312(l)" and inserting in lieu thereof "312(j)".

(iii) Sections 964(a) and 1248(c) (1) are each amended by striking out "312(m) (3)" and inserting in lieu thereof "312(k) (3)".

(C) Section 535(b) is amended by striking out paragraphs (9) and (10).

(D) Section 543(a) (1) is amended by inserting "and" at the end of subparagraph (A), and by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following:

"(B) interest on amounts set aside in a reserve fund under section 511 or 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1161 or 1177)."

(E) Section 545(b) is amended by striking out paragraphs (10) and (11).

(F) Section 553(a) (1) is amended to read as follows:

"(1) DIVIDENDS, ETC.—Dividends, interest, royalties, and annuities,"

(G) Section 556(b) is amended by striking out paragraphs (7) and (8).

(H) Section 561(b) is amended to read as follows:

"(b) SPECIAL RULES APPLICABLE.—In determining the deduction for dividends paid, the rules provided in section 562 (relating to rules applicable in determining dividends eligible for dividends paid deduction) and section 563 (relating to dividends paid after the close of the taxable year) shall be applicable."

(I) The table of parts for subchapter O of chapter 1 is amended by striking out the item relating to part IX.

(32) AMENDMENTS CONFORMING TO AMENDMENT OF SECTION 1222.—

(A) Section 57(a) (9) (A) is amended by striking out "the amount by which the net longterm capital gain exceeds the net short-term capital loss" and inserting in lieu thereof "the net capital gain".

(B) So much of the first sentence of section 57(a)(9)(B) as precedes "by a fraction" is amended to read as follows: "In the case of a corporation having a net capital gain for the taxable year, an amount equal to the product obtained by multiplying the net capital gain".

(C) Section 527(b)(2) is amended by striking out "net section 1201 gain" and inserting in lieu thereof "net capital gain".

(D) Sections 535(b)(6) and 545(b)(5) are each amended—

(1) by striking out from the paragraph heading "Long-Term" and inserting in lieu thereof "Net",

(2) by striking out from the text "the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for such year" each place it appears and inserting in lieu thereof "the net capital gain for the taxable year", and

(3) by striking out from the text "such excess" each place it appears and inserting in lieu thereof "such net capital gain".

(E) Section 802(a)(2) is amended—

(i) by striking out "the net long-term capital gain of any life insurance company exceeds the net short-term capital loss" and inserting in lieu thereof "any life insurance company has a net capital gain", and

(ii) by striking out "such excess" each place it appears and inserting in lieu thereof "such net capital gain".

(F) Section 804(a)(2) is amended by striking out "by which the net long-term capital gain exceeds the net short-term capital loss" and inserting in lieu thereof "of the net capital gain".

(G) Sections 809(b)(1)(B) and 809(b)(2)(B) are each amended by striking out "by which the net long-term capital gain exceeds the net short-term capital loss" and inserting in lieu thereof "of the net capital gain".

(H) Section 815(b)(2)(A)(ii) is amended by striking out "by which the net long-term capital gain exceeds the net short-term capital loss" and inserting in lieu thereof "of the net capital gain".

(I)(i) Section 852(b)(2)(A) is amended by striking out "the excess, if any, of the net long-term capital gain over the net short-term capital loss" and inserting in lieu thereof "the amount of the net capital gain, if any".

(ii) Section 852(b)(3)(A) is amended to read as follows:

"(A) Imposition of tax.—There is hereby imposed for each taxable year in the case of every regulated investment company a tax, determined as provided in section 1201(a), on the excess, if any, of the net capital gain over the deduction for dividends paid (as defined in section 561) determined with reference to capital gain dividends only."

(iii) The second sentence of section 852(b)(3)(C) is amended by striking out "excess of the net long-term capital gain over the net short-term capital loss" each place it appears and inserting in lieu thereof "net capital gain".

(J)(i) Section 857(b)(2)(A) is amended by striking out "the excess, if any, of the net long-term capital gain over the net short-term capital loss" and inserting in lieu thereof "the amount of the net capital gain, if any".

(ii) Section 857(b)(3)(A) is amended to read as follows:

"(A) Imposition of Tax.—There is hereby imposed for each taxable year in the case of every real estate investment trust a tax, determined as provided in section 1201(a), on the excess, if any, of the net capital gain over the deduction for dividends paid (as defined in section 561) determined with reference to capital gain dividends only."

(iii) The second sentence of section 857(b)(3)(C) is amended by striking out "excess of the net long-term capital gain over the net short-term capital loss" each place it appears and inserting in lieu thereof "net capital gain".

(K) Section 1201(b) is amended by striking out "net section 1201 gain" each place it appears and inserting in lieu thereof "net capital gain".

(L) The first sentence of section 1202 is amended to read as follows: "If for any taxable year, a taxpayer other than a corporation has a net capital gain, 50 percent of the amount of the net capital gain shall be a deduction from gross income."

(M) Sections 381(c)(3)(B), 381(c)(3)(C), 852(d), 4940(c)(1), and 4940(c)(4) are each amended by striking out "net capital gain" and inserting in lieu thereof "capital gain net income".

(N) Section 1212(a)(1) is amended by striking out "net capital gain" each place it appears and inserting in lieu thereof "capital gain net income", and by striking out "net capital gains" and inserting in lieu thereof "capital gain net income".

(O) Section 1247(a)(1)(B) is amended by striking out "the excess (determined as if such corporation were a domestic corporation) of the net long-term capital gain over the net short-term capital loss" and inserting in lieu thereof "the amount (determined as if such corporation were a domestic corporation) of the net capital gain".

(P)(i) Section 1375(a)(1) is amended by striking out "the excess of the corporation's net long-term capital gain over its short-term capital loss" and inserting in lieu thereof "the corporation's net capital gain".

(ii) The second sentence of section 1375(a)(1) is amended by striking out "such excess" and inserting in lieu thereof "such net capital gain".

(iii) Section 1375(a)(3) is amended by striking out "the excess of an electing small business corporation's net long-term capital gain over its net short-term capital loss" and inserting in lieu thereof "an electing small business corporation's net capital gain".

(Q) The following provisions are each amended by striking out "the excess of the net long-term capital gain over the net short-term capital loss" and inserting in lieu thereof "the net capital gain': Section 1247(a)(2)(A)(i), 1247(a)(2)(C), 1247(d)(1) and (2), 1378(a)(1), 1378(b)(1), and 1378(c)(3).

(33) Amendment conforming to the repeal of section 1240.—The table of sections of part IV of subchapter P of chapter 1 is amended by striking out the item relating to section 1240.

(34) Amendment conforming to repeal of section 1315.—The table of sections for part II of subchapter Q of chapter 1 is amended by striking out the item relating to section 1315.

(35) Amendments conforming to repeal of section 1321.—

(A) Section 472 is amended by striking out subsection (f).

(B) Section 6422 is amended by striking out paragraph (2), and by redesignating paragraphs (3) through (13) as paragraphs (2) through (12), respectively.

(C) Section 6504 is amended by striking out paragraph (1).

(D) Section 6515 is amended by striking out paragraph (1).

(E) The table of parts for subchapter Q of chapter 1 is amended by striking out the item relating to part III.

(36) Amendments conforming to the repeal of sections 1331 through 1337.—

(A) Section 936(a)(2), as added by section 1051 of this Act, is amended by striking out subparagraph (C), and be redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(B) The third sentence of section 901(a) is amended by striking out "under section 1333 (relating to war loss recoveries) or".

(C) Section 6212(c)(2) is amended by striking out subparagraph (D), and by redesignating subparagraph (E), as added by section 211 of this Act, as subparagraph (D).

(D) Section 6504 is amended by striking out paragraph (6).

(E) Section 6515 is amended by striking out paragraph (2), and by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (1), (2), (3), (4), and (5), respectively.

(F) The table of parts of subchapter Q of chapter 1 is amended by striking out the item relating to Part IV.

(37) Amendment conforming to the repeal of section 1342.—The table of sections for part V of subchapter Q of chapter 1 is amended by striking out the item relating to section 1342.

(38) Amendments conforming to the repeal of section 1346.—

(A) The table of sections for part VI of subchapter Q of chapter 1 is amended by striking out the item relating to section 1346.

(B) Section 6504 is amended by striking out paragraph (7).

(39) Amendment conforming to amendment of section 1372.—Section 58(d)(2) is amended by striking out ", notwithstanding the provisions of section 1371(b)(1),".

(40) Amendment conforming to the repeal of section 1465.—The table of sections for subchapter C of chapter 3 is amended by striking out the item relating to section 1465.

(c) Amendments to Provisions Referring to Territories.—

(1) Sections 105(e)(2), 273, and 454(b)(2) are each amended by striking out ", a Territory,".

(2) Section 117(b)(2)(A)(iv) is amended by striking out "a territory,".

(3) Section 162(a) is amended by striking out "Territory,".

(4) Section 273 is amended by striking out "Territory,".

(5) Section 581 is amended by striking out ", of any State, or of any Territory" and inserting in lieu thereof "or of any State", and by striking out ", Territorial.".

(6) Section 801(b)(3) is amended by striking out "or Territorial".

(7) Section 861(a)(1) is amended by striking out ", any Territory, any political subdivision of a Territory,".

(8) Paragraphs (6) and (7) of section 1014(b) are each amended by striking out "Territory,".

(9) Section 1221(5) is amended by striking out "or Territory,".

(d) Effective Date.—Except as otherwise expressly provided in this section, the amendments made by this section shall apply with respect to taxable years beginning after December 31, 1975.

Sec. 1912. Amendments of Subtitle B; Estate and Gift Taxes.

(a) In general.—

(1) Amendment of section 2001.—Section 2001 (relating to the rate of the estate tax) is amended by striking out "dying after the date of enactment of this title".

(2) Amendments of section 2012.—

(A) Section 2012(b) (relating to credit for gift tax) is amended—

(i) by striking out "(b) In applying," and inserting in lieu thereof "(b) Valuation Reductions.—In applying,", and

(ii) by striking out in paragraphs (2) and (3) (Marital deduction)—then" and inserting in lieu thereof "marital deduction), then".

(B) Section 2012(c) (relating to gift by spouse to third party) is amended by striking out "(c) Where the decedent" and inserting in lieu thereof "(c) Where Gift Considered Made One-Half by Spouse.—Where the decedent".

(C) Section 2012(d)(1) (relating to computation of amount of gift tax) is amended by striking out "(d) (1) For purposes of" and inserting in lieu thereof the following:

"(d) Computation of Amount of Gift Tax Paid.—

"(1) Amount of tax.—For purposes of".

(D) Section 2012(d) (2) (relating to credit for gift tax) is amended by striking out "(2) For purposes" and inserting in lieu thereof:

"(2) Amount of gift.—For purposes".

(3) Amendments of section 2013.—

(A) Section 2013(b) (relating to computation of credit for tax on prior transfers) is amended by striking out ", or the corresponding provisions of prior laws," and by striking out ", or corresponding provisions of prior laws,".

(B) Section 2013(d) (3) is amended by striking out ", or the corresponding provision of prior law,".

(4) Amendment of section 2038.—Section 2038 (relating to revocable transfers) is amended by striking out subsection (c) (relating to effect of disability in certain cases).

(5) Amendments of section 2055.—

(A) Section 2055(b) (relating to powers of appointment) is amended to read as follows:

"(b) Powers of Appointment.—Property includible in the decedent's gross estate under section 2041 (relating to powers of appointment) received by a donee described in this section shall, for purposes of this section, be considered a bequest of such decedent."

(B) Section 2055(f) (relating to cross references) is amended to read as follows:

"(f) Cross References.—

"(1) For position as to time for valuation for purpose of deduction under this section, see section 2032.

"(2) For exemption of gifts and bequests to or for the benefit of Library of Congress, see section 5 of the Act of March 3, 1925, as amended (2 U.S.C. 161).

"(3) For treatment of gifts and bequests for the benefit of the Office of Naval Records and History as gifts or bequests to or for the use of the United States, see section 7222 of title 10, United States Code.

"(4) For treatment of gifts and bequests to or for the benefit of National Park Foundation as gifts or bequests to or for the use of the United States, see section 8 of the Act of December 18, 1967 (16 U.S.C. 191).

"(5) For treatment of gifts, devises, or bequests accepted by the Secretary of State under the Foreign Service Act of 1946 as gifts, devises, or bequests to or for the use of the United States, see section 1021(e) of that Act (22 U.S.C. 809(e)).

"(6) For treatment of gifts or bequests of money accepted by the Attorney General for credit to 'Commissary Funds, Federal Prisons' as gifts or bequests to or for the use of the United States, see section 2 of the Act of May 15, 1952, as amended by the Act of July 9, 1952 (31 U.S.C. 725s–4).

"(7) For payment of tax on gifts and bequests of United States obligations to the United States, see section 24 of the Second Liberty Bond Act (31 U.S.C. 757e).

"(8) For treatment of gifts and bequests for benefit of the Naval Academy as gifts or bequests to or for the use of the United States, see section 6973 of title 10, United States Code.

"(9) For treatment of gifts and bequests for benefit of the Naval Academy Museum as gifts or bequests to or for the use of the United States, see section 6974 of title 10, United States Code.

"(10) For exemption of gifts and bequests received by National Archives Trust Fund Board, see section 2308 of title 44, United States Code."

(6) Section 2102(b) (relating to property held by alien property custodian) is amended by striking out "60 Stat. 929;".

(7) Amendments of section 2106.—

(A) Section 2106(a) (2) (F) (relating to cross references concerning the charitable deduction for estate tax purposes) is amended to read as follows:

"(F) Cross references.—

"(1) For option as to time for valuation for purposes of deduction under this section, see section 2032.

"(2) For exemption of certain bequests for the benefit of the United States and for rules of construction for certain bequests, see section 2055(f)."

(B) Section 2106 (relating to taxable estate of nonresidents) is amended by striking out subsection (c) (relating to treatment of United States bonds).

(8) Amendment of sections 2107 and 2108.—Section 2107(a) (relating to estate tax on expatriates) and section 2108(a) (relating to application of pre-1967 estate tax provisions) are each amended by striking out "the date of enactment of this section" and inserting in lieu thereof "November 13, 1966".

(9) Repeal of section 2202.—Section 2202 (relating to missionaries in foreign service) is repealed.

(10) Amendment of section 2204.—The last sentence of section 2204(b) (relating to the discharge from personal liability of a fiduciary other than the executor) is amended by striking out "has not been" and inserting in lieu thereof "has been".

(11) Amendment of section 2501.—Section 2501(a) (1) (relating to imposition of gift tax) is amended to read as follows:

"(1) General rule.—A tax, computed as provided in section 2502, is hereby imposed for each calendar quarter on the transfer of property by gift during such calendar quarter by any individual, resident or nonresident."

(12) Amendment of section 2522.—Subsection (d) of section 2522 (relating to cross references) is amended to read as follows:

"(d) Cross Reference.—

"For exemption of certain gifts to or for the benefit of the United States and for rules of construction with respect to certain gifts, see section 2055(f)."

(13) Amendments to sections referring to territories.—

(A) The following provisions are each amended by striking out "Territory,": sections 2055(a) (1), 2056(c) (2) (B), and 2106 (a) (2) (A) (i).

(B) The following provisions are each amended by striking out "or Territory": sections 2011(a), 2011(e), and 2053(d).

(C) Section 2016 is amended by striking out "Territory or".

(D) Sections 2522(a) (1) and 2522(b) (1) are each amended by striking out "Territory,".

(E) Section 2523(f) (1) is amended by striking out "Territory, or".

(b) Conforming and Clerical Amendments.—

(1) Amendment conforming to repeal of section 2202.—The table of sections for subchapter C of chapter 11 is amended by striking out the item relating to section 2202.

(2) Amendments conforming to amendment of section 2055.—

(A) Section 6503, as amended by section 1201(i) of this Act, is further amended by striking out subsection (e), and by redesignating subsections (f), (g), (h), and (i) as subsections (e), (f), (g), and (h), respectively.

(B) Section 6167(h) (2) is amended by striking out "section 6503(f)" and inserting in lieu thereof "section 6503(e)".

(c) Effective Dates.—

(1) Estate tax amendments.—The amendments made by paragraphs (1) through (9), and paragraphs (13) (A), (B), and (C), of subsection (a), and by subsection (b) shall apply in the case of estates of decedents dying after the date of the enactment of this Act, and the amendment made by paragraph (10) of subsection (a) shall apply in the case of estates of decedents dying after December 31, 1970.

(2) Gift tax amendments.—The amendments made by paragraphs (11), (12), and (13) (D) and (E) of subsection (a) shall apply with respect to gifts made after December 31, 1975.

Sec. 1913. Amendments of Subtitle C; Employment Taxes.

(a) In General.—

(1) Amendments of sections 3101 and 3111.—

(A) Section 3101(a) (relating to rate of tax on employees for old-age, survivors, and disability insurance) and section 3111(a) (relating to rate of tax on employers for such insurance) are each amended by striking out paragraphs (1), (2), (3), and (4), and by redesignating paragraphs (5) and (6) as paragraphs (1) and (2), respectively.

(B) Section 3101(b) (relating to rate of tax on employees for hospital insurance) and section 3111(b) (relating to rate of tax on employers for such insurance) are each amended by striking out paragraphs (1) and (2), and by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (1), (2), (3), and (4), respectively.

(2) Repeal of section 3113.—Section 3113 (relating to application of social security tax on District of Columbia credit unions) is repealed.

(3) Amendments of section 3121.—

(A) Section 3121(b), relating to employment, is amended—

(i) by striking out "performed after 1936 and prior to 1955 which was employment for purposes of subchapter A of chapter 9 of the Internal Revenue Code of 1939 under the law applicable to the period in which such service was performed, and any service, of whatever nature, performed after 1954" and inserting in lieu thereof ", of whatever nature, performed", and

(ii) by striking out ", in the case of service performed after 1954,".

(B) Section 3121(b) (1) is amended by striking out "65 Stat. 119;".

(C) Section 3121(b) (6) (B) (v) is amended by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation".

(D) Section 3121(g) (3) (relating to agricultural labor) is amended by striking out "46 Stat. 1550, § 3;".

(E) Section 3121(k) (1) (relating to exemption of certain organizations) is amended by striking out subparagraphs (F) and (H) and by redesignating subparagraph (G) as subparagraph (F).

(F) Section 3121(l) (2) (relating to employees of foreign subsidiaries) is amended by striking out ", but in no case prior to January 1, 1955".

(G) Section 3121(m) (1) (relating to service in the uniformed services) is amended by striking out "after December 1956".

(4) Amendments of section 3122.—The last sentence of section 3122 (relating to Federal service) is amended by striking out "Secretary" each place it appears and inserting in lieu thereof "Secretary of Transportation".

(5) Amendment of section 3125.—Section 3125(c) (relating to returns in the case of governmental employees in the District of Columbia) is amended by striking out "Commissioners of the District of Columbia or such agents as they may designate" and by inserting in lieu thereof "Mayor of the District of Columbia or such agents as he may designate".

(6) Amendment of section 3201.—Section 3201 (relating to rate of tax on railroad employees) is amended—

(A) by striking out "of the Internal Revenue Code of 1954" each place it appears;

(B) by striking out "of such Code";

(C) by striking out "after September 30, 1973, as is" and inserting in lieu thereof "as is"; and

(D) by striking out "any month after September 30, 1973" and inserting in lieu thereof "any month".

(7) Amendments of section 3202.—

(A) The second sentence of section 3202 (a) (relating to deduction of tax by railroad employer) is amended—

(i) by striking out "after September 30, 1973," each place it appears;

(ii) by striking out "after September 30, 1973 and the aggregate" and inserting in lieu thereof "and the aggregate";

(iii) by striking out "of the Internal Revenue Code of 1954" each place it appears; and

(iv) by inserting a comma immediately after "for any month" each place it appears.

(B) Section 3202(b) (relating to indemnification of employer) is amended by striking out "made".

(8) AMENDMENTS OF SECTION 3211.—Section 3211(a) (relating to rate of tax on railroad employee representatives) is amended—

(A) by striking out "3111(a), 3111(b)" and inserting in lieu thereof "3111(a), and 3111(b)";

(B) by striking out "of the Internal Revenue Code of 1954" each place it appears;

(C) by striking out "rendered by him after September 30, 1973," and inserting in lieu thereof "rendered by him"; and

(D) by striking out "after September 30, 1973".

(9) AMENDMENTS OF SECTION 3221.—

(A) The first sentence of section 3221(a) (relating to rate of tax on railroad employers) is amended—

(i) by striking out "after September 30, 1973," each place it appears;

(ii) by striking out "after September 30, 1973; except that" and inserting in lieu thereof "; except that";

(iii) by striking out "after September 30, 1973 of the aggregate" and inserting in lieu thereof "of the aggregate";

(iv) by striking out "of the Internal Revenue Code of 1954" each place it appears; and

(v) by inserting a comma immediately before "the tax imposed".

(B) Section 3221(b) (relating to rate of tax on railroad employers) is amended to read as follows:

"(b) The rate of tax imposed by subsection (a) shall be increased by the rate of tax imposed with respect to wages by section 3111 (a) plus the rate imposed by section 3111 (b)."

(C) Section 3221(c) (relating to additional railroad retirement tax) is amended—

(i) by striking out "(1) at the rate of 2 cents for the period beginning November 1, 1966, and ending March 31, 1970, and (2) commencing April 1, 1970," and

(ii) by striking out "commencing with the quarter beginning April 1, 1970".

(10) AMENDMENTS OF SECTION 3231.—

(A) Section 3231(a) (relating to definition of employer) is amended by striking out "44 Stat. 577;".

(B) Section 3231(b) (relating to definition of employee) is amended by striking out "50 Stat. 312;".

(C) Section 3231(c) (relating to definition of employee representative) is amended by striking out "44 Stat. 577;".

(D) Section 3231(d)(7) (relating to definition of service) is amended by striking out "50 Stat. 308;".

(11) AMENDMENTS OF SECTION 3301.—Section 3301 (relating to Federal unemployment tax rate) is amended—

(A) by striking out "1970 and each calendar year thereafter", and

(B) by striking out the last sentence.

(12) AMENDMENTS OF SECTION 3302.—

(A) Section 3302(a) (relating to credits against tax) is amended by striking out "(10-month period in the case of October 31, 1972)".

(B) Section 3302(b) (relating to additional credit) is amended—

(i) by striking out "(10-month period in the case of October 31, 1972)", and

(ii) by striking out "12 or 10-month period, as the case may be," and inserting in lieu thereof "12-month period".

(C)(i) Section 3302(c) (relating to limitation on credits against unemployment tax) is amended by striking out paragraph (2) and the unnumbered paragraph immediately following such paragraph (2) (relating to advances made to a State unemployment account before September 13, 1960), and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(ii) Section 3302(c)(2) (relating to advances made to a State unemployment account after September 12, 1960), as redesignated by clause (i) of this subparagraph, is amended by striking out "on or after the date of the enactment of the Employment Security Act of 1960", and by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraph (1)".

(iii) Section 3302(c)(3) (relating to reductions with respect to certain agreements under the Trade Act of 1974), as redesignated by clause (i) of this subparagraph, is amended by striking out "paragraphs (1), (2), and (3)" and inserting in lieu thereof "paragraphs (1) and (2)".

(iv) Section 3302(d)(3) (relating to effect of repayment of advances) is amended by striking out "or (3)".

(v) Section 3302(d) (4), (5), and (6) (relating to special rules) are each amended by striking out "subsection (c)(3)" each place it appears and inserting in lieu thereof "subsection (c)(2)".

(vi) Section 3302(d)(7) (relating to determination and certification of percentages) is amended by striking out "subsection (c)(3) (B) or (C)" and inserting in lieu thereof "subsection (c)(2) (B) or (C)".

(D) Section 3302(d) (relating to special rules for credits against the unemployment tax) is amended by striking out paragraph (8) (a cross reference).

(13) AMENDMENTS TO SECTION 3303.—Section 3303(b) (relating to certification with respect to additional credit allowance) is amended—

(A) by striking out "(10-month period in the case of October 31, 1972)" each place it appears, and

(B) by striking out "12 or 10-month period, as the case may be," each place it appears and inserting in lieu thereof "12-month period".

(14) AMENDMENTS TO SECTION 3304.—

(A) Section 3304(a)(3) (relating to requirements) is amended by striking out "49 Stat. 640; 52 Stat. 1104, 1105;".

(B) Section 3304(c) (relating to certification) is amended by striking out "(10-month period in the case of October 31, 1972".

(15) AMENDMENTS TO SECTION 3305.—

(A) Section 3305(g) (relating to vessels operated by general agents of the United States) is amended by striking out "on or after July 1, 1953,".

(B) Section 3305(h) (relating to certain contributions to States) is amended by striking out "on or after July 1, 1953, and".

(C) Section 3305(j) (relating to denial of credits in certain cases) is amended by striking out "after December 31, 1971,".

(16) AMENDMENTS OF SECTION 3306.—

(A) Section 3306(c)(9) (relating to the exclusion of service performed by certain employees and employee representatives from the definition of employment) is amended by striking out "52 Stat. 1094, 1095;".

(B) Section 3306(c)(18) (relating to the exclusion of certain service performed by nonresident aliens from the definition of employment) is amended by inserting after the "Immigration and Nationality Act, as amended" the following: (8 U.S.C. 1101(a) (15)(F) or (J))".

(C) Section 3306(f) (relating to the definition of unemployment fund) is amended by striking out "49 Stat. 640; 52 Stat. 1104, 1105;".

(D) Section 3306(n) (relating to vessels operated by general agents of the United States) is amended by striking out "on or after July 1, 1953,".

(17) AMENDMENT OF SECTION 3402.—Section 3402(l)(3)(B) (relating to marital status) is amended by striking out "section 2(b)" and inserting in lieu thereof "section 2(a)".

(b) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 3113.—The table of sections for subchapter B of chapter 21 is amended by striking out the item relating to section 3113.

(c) AMENDMENTS TO PROVISIONS REFERRING TO TERRITORIES.—Sections 3401(c) and 3404 are each amended by striking out "Territory," each place it appears.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to wages paid after December 31, 1975, except that the amendments made to chapter 22 of the Internal Revenue Code of 1954 shall apply with respect to compensation paid for services rendered after December 31, 1975.

SEC. 1914. AMENDMENTS OF SUBTITLE D; MISCELLANEOUS EXCISE TAXES.

(a) IN GENERAL.—

(1) AMENDMENTS OF CHAPTER 31.—

(A) So much of chapter 31 (relating to retailers excise taxes) as precedes section 4041 is amended to read as follows:

"CHAPTER 31—SPECIAL FUELS

"Sec. 4041. Imposition of tax."

(B) Section 4041(g) (relating to exemptions from fuel taxes) is amended to read as follows:

"(g) OTHER EXEMPTIONS.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section—

"(1) on any liquid sold for use or used as supplies for vessels or aircraft (within the meaning of section 4221(d)(3));

"(2) with respect to the sale of any liquid for the exclusive use of any State, any political subdivision of a State, or the District of Columbia, or with respect to the use by any of the foregoing of any liquid as a fuel;

"(3) upon the sale of any liquid for export, or for shipment to a possession of the United States, and in due course so exported or shipped; and

"(4) with respect to the sale of any liquid to a nonprofit educational organization for its exclusive use, or with respect to the use by a nonprofit educational organization of any liquid as a fuel.

For purposes of paragraph (4), the term 'nonprofit educational organization' means an educational organization described in section 170(b)(1)(A)(ii) which is exempt from income tax under section 501(a). The term also includes a school operated as an activity of an organization described in section 501 (c)(3) which is exempt from income tax under section 501(a), if such school normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on."

(C) Section 4041 (relating to tax on fuels) is amended by adding at the end thereof the following new subsection:

"(1) SALES BY UNITED STATES, ETC.—The taxes imposed by this section shall apply with respect to liquids sold at retail by the United States, or by any agency or instrumentality of the United States, unless sales by such agency or instrumentality are by statute specifically exempted from such taxes."

(D) Chapter 31 is amended by striking out section 4042 (a cross reference) and subchapter F (special provisions applicable to retailers taxes).

(2) AMENDMENTS OF SECTION 4216.—

(A) Section 4216 (relating to definition of price) is amended by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(B) Paragraphs (3), (4), and (5) of section 4216(b) (relating to constructive sales price) are each amended by striking out "subsections (a) and (f)" each place it appears and inserting in lieu thereof "subsections (a) and (e)".

(3) Amendment of section 4217.—Section 4217(d) (relating to lease treated as sale) is amended by striking out paragraph (4) (relating to certain 1958 transitional rules).

(4) Repeal of section 4226.—Section 4226 (relating to floor-stock taxes imposed before 1967) is repealed.

(5) Amendment of section 4227.—Section 4227 (relating to cross references) is amended to read as follows:

"Sec. 4227. Cross Reference.

"For credit for taxes on tires and inner tubes, see section 6416(c)."

(6) Amendment of section 4253.—Section 4253 (relating to exemptions from the tax on communications services) is amended by adding at the end thereof the following new subsections:

"(i) State and Local Governmental Exemption.—Under regulations prescribed by the Secretary, no tax shall be imposed under section 4251 upon any payment received for services or facilities furnished to the government of any State, or any political subdivision thereof, or the District of Columbia.

"(j) Exemption for Nonprofit Educational Organizations.—Under regulations prescribed by the Secretary, no tax shall be imposed under section 4251 on any amount paid by a nonprofit educational organization for services or facilities furnished to such organization. For purposes of this subsection, the term 'nonprofit educational organization' means an educational organization described in section 170(b)(1)(A)(ii) which is exempt from income tax under section 501(a). The term also includes a school operated as an activity of an organization described in section 501(c)(3) which is exempt from income tax under section 501(a), if such school normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on."

(7) Amendments of section 4261.—

(A) Subsections (a) and (b) of section 4261 (relating to tax on transportation of persons by air) are each amended by striking out "which begins after June 30, 1970,".

(B) Section 4261(c) is amended by striking out "and begins after June 30, 1970".

(8) Amendment of section 4271.—Section 4271(a) (relating to tax on transportation of property by air) is amended by striking out "which begins after June 30, 1970,".

(9) Repeal of section 4292.—Section 4292 (relating to State and local governmental exemption from the tax on communications services) is repealed.

(10) Repeal of section 4294.—Section 4294 (relating to exemption of nonprofit educational organizations from the tax on communications services) is repealed.

(11) Repeal of section 4295.—Section 4295 (a cross reference) is repealed.

(12) Amendment of chapter 34.—Chapter 34 (relating to documentary stamp taxes) is amended to read as follows:

"CHAPTER 34—POLICIES ISSUED BY FOREIGN INSURERS

"Sec. 4371. Imposition of tax.
"Sec. 4372. Definitions.
"Sec. 4373. Exemptions.
"Sec. 4374. Liability for tax.

"Sec. 4371. Imposition of Tax.

"There is hereby imposed, on each policy of insurance, indemnity bond, annuity contract, or policy of reinsurance issued by any foreign insurer or reinsurer, a tax at the following rates:

"(1) Casualty insurance and indemnity bonds.—4 cents on each dollar, or fractional part thereof, of the premium paid on the policy of casualty insurance or the indemnity bond, if issued to or for, or in the name of, an insured as defined in section 4372(d);

"(2) Life insurance, sickness and accident policies, and annuity contracts.—1 cent on each dollar, or fractional part thereof, of the premium paid on the policy of life, sickness, or accident insurance, or annuity contract, unless the insurer is subject to tax under section 819; and

"(3) Reinsurance.—1 cent on each dollar, or fractional part thereof, of the premium paid on the policy of reinsurance covering any of the contracts taxable under paragraph (1) or (2).

"Sec. 4372. Definitions.

"(a) Foreign Insurer or Reinsurer.—For purposes of section 4371, the term 'foreign insurer or reinsurer' means an insurer or reinsurer who is a nonresident alien individual, or a foreign partnership, or a foreign corporation. The term includes a nonresident alien individual, foreign partnership, or foreign corporation which shall become bound by an obligation of the nature of an indemnity bond. The term does not include a foreign government, or municipal or other corporation exercising the taxing power.

"(b) Policy of Casualty Insurance.—For purposes of section 4371(1), the term 'policy of casualty insurance' means any policy (other than life) or other instrument by whatever name called whereby a contract of insurance is made, continued, or renewed.

"(c) Indemnity Bond.—For purposes of this chapter, the term 'indemnity bond' means any instrument by whatever name called whereby an obligation of the nature of an indemnity, fidelity, or surety bond is made, continued, or renewed. The term includes any bond for indemnifying any person who shall have become bound or engaged as surety, and any bond for the due execution or performance of any contract, obligation, or requirement, or the duties of any office or position, and to account for money received by virtue thereof, where a premium is charged for the execution of such bond.

"(d) Insured.—For purposes of section 4371(1), the term 'insured' means—

"(1) a domestic corporation or partnership, or an individual resident of the United States, against, or with respect to, hazards, risks, losses, or liabilities wholly or partly within the United States, or

"(2) a foreign corporation, foreign partnership, or nonresident individual, engaged in a trade or business within the United States, against, or with respect to, hazards, risks, losses, or liabilities within the United States.

"(e) Policy of Life, Sickness, or Accident Insurance, or Annuity Contract.—For purposes of section 4371(2), the term 'policy of life, sickness, or accident insurance, or annuity contract' means any policy or other instrument by whatever name called whereby a contract of insurance or an annuity contract is made, continued, or renewed with respect to the life or hazards to the person of a citizen or resident of the United States.

"(f) Policy of Reinsurance.—For purposes of section 4371(3), the term 'policy of reinsurance' means any policy or other instrument by whatever name called whereby a contract of reinsurance is made, continued, or renewed against, or with respect to, any of the hazards, risks, losses, or liabilities covered by contracts taxable under paragraph (1) or (2) of section 4371.

"Sec. 4373. Exemptions.

"The tax imposed by section 4371 shall not apply to—

"(1) Domestic agent.—Any policy, indemnity bond, or annuity contract signed or countersigned by an officer or agent of the insurer in a State, or in the District of Columbia, within which such insurer is authorized to do business; or

"(2) Indemnity bond.—Any indemnity bond required to be filed by any person to secure payment of any pension, allowance, allotment, relief, or insurance by the United States, or to secure a duplicate for, or the payment of, any bond, note, certificate of indebtedness, war-saving certificate, warrant, or check, issued by the United States.

"Sec. 4374. Liability for Tax.

"The tax imposed by this chapter shall be paid, on the basis of a return, by any person who makes, signs, issues, or sells any of the documents and instruments subject to the tax, or for whose use or benefit the same are made, signed, issued, or sold. The United States or any agency or instrumentality thereof shall not be liable for the tax."

(13) Amendments of section 4493.—

(A) Section 4493(b)(1) (relating to certain persons engaged in foreign air commerce) is amended by striking out "beginning on or after July 1, 1970".

(B) Section 4493(b)(2) is amended by striking out the last sentence.

(14) Amendment of chapter 37.—So much of chapter 37 as precedes section 4501 (relating to tax on sugar) is amended to read as follows:

"CHAPTER 37—SUGAR

"Sec. 4501. Imposition of tax.
"Sec. 4502. Definitions.
"Sec. 4503. Exemptions for sugar manufactured for home consumption."

(15) Repeal of sections 4591 through 4597.—Chapter 38 (relating to import taxes on oleomargarine) is repealed.

(16) Repeal of sections 4801 through 4806.—Subchapter B of chapter 39 (relating to tax on white phosphorus matches) is repealed.

(17) Repeal of sections 4811 through 4826.—Subchapter C of chapter 39 (relating to tax on adulterated butter) is repealed.

(18) Repeal of sections 4881 through 4886.—Subchapter E of chapter 39 (relating to tax on circulation other than of national banks) is repealed.

(19) Amendment of section 4901.—Section 4901 (relating to payment of occupational taxes) is amended by striking out subsection (c).

(20) Amendment of section 4905.—Section 4905(a) (relating to liability for occupational taxes in case of death or change of location) is amended by striking out "wife" and inserting in lieu thereof "spouse".

(21) Repeal of sections 4911 through 4931.—

(A) Chapter 41 (relating to interest equalization tax) is repealed.

(B) The repeal made by subparagraph (A) shall apply with respect to acquisitions of stock and debt obligations made after June 30, 1974.

(22) Amendments of section 4942.—Section 4942(e)(3) (relating to minimum investment return with respect to private foundations) is amended—

(A) by striking out the first sentence, and

(B) by striking out in the second sentence "The applicable percentage for any taxable year beginning after 1970" and inserting in lieu thereof "For purposes of paragraph (1)(B), the applicable percentage for any taxable year".

(23) Amendments of section 4973.—

(A) So much of section 4973(a) (relating to tax on excess contributions) as follows "of any individual," in paragraph (3) thereof is amended to read as follows:

"there is imposed for each taxable year a tax in an amount equal to 6 percent of the amount of the excess contributions to such individual's accounts, annuities, or bonds (determined as of the close of the taxable year). The amount of such tax for any taxable year shall not exceed 6 percent of the value of the account, annuity, or bond (determined as of the close of the taxable year). In the case of an endowment contract described in section 408(b), the tax imposed by this section does not apply to any amount allocable to life, health, accident, or other insurance under such contract. The tax imposed by this subsection shall be paid by such individual."

(B) Section 4973(c) is amended by striking out "subsection (a)(3)" and inserting in lieu thereof "subsection (a)(2)".

(b) Conforming and Clerical Amendments.—

(1) Amendments conforming to amendment of chapter 31.—

(A) Section 6416(a)(1) is amended by striking out "(retailers taxes)" and inserting in lieu thereof "(special fuels)".

(B) Section 6416(e) is amended by striking out "subchapter E of".

(2) Amendment conforming to amendment of section 4216.—Section 6416(b)(1) is amended by striking out "section 4216 (f) (2) and (3)" and inserting in lieu thereof "section 4216(e) (2) and (3)".

(3) Amendment conforming to the repeal of section 4226.—The table of sections for subchapter G of chapter 32 is amended by striking out the item relating to section 4226.

(4) Amendment conforming to the repeal of sections 4292, 4294, and 4295.—The table of sections for subchapter E of chapter 33 is amended by striking out the items relating to sections 4292, 4294, and 4295.

(5) Amendments conforming to the amendment of chapter 34.—

(A) Section 7270 is amended by striking out "the affixing of stamps on insurance policies, etc." and inserting in lieu thereof "liability for tax on policies issued by foreign insurers".

(B) Section 6808 is amended by striking out paragraph (4).

(6) Amendments conforming to the amendment of chapter 37.—

(A) Section 7240 is amended by striking out "subchapter A of".

(B) Section 7655(a) is amended—

(i) by striking out "Subchapter A of chapter 37" in paragraph (5) and inserting in lieu thereof "Chapter 37", and

(ii) by redesignating paragraph (5) as paragraph (3).

(7) Amendments conforming to repeal of sections 4591 through 4597.—

(A) Section 6808 is amended by striking out paragraph (7).

(B)(i) Section 7234 (relating to violations of laws concerning oleomargarine or adulterated butter operations) is repealed.

(ii) The table of sections for part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7234.

(C)(i) Section 7265 (relating to other offenses concerning oleomargarine or adulterated butter operations) is repealed.

(ii) The table of sections for subchapter B of chapter 75 is amended by striking out the item relating to section 7265.

(D) Section 7610(a), as redesignated by section 1211 of this Act, is amended by striking out paragraph (1).

(E) The table of chapters for subtitle D is amended by striking out the item relating to chapter 38.

(8) Amendments conforming to repeal of sections 4801 through 4806.—

(A) Section 4905(b) is amended to read as follows:

"(b) Registration.—

"For registration in case of wagering, see section 4412."

(B) Section 6808 is amended by striking out paragraph (12).

(C) Section 7012 is amended by striking out subsection (e).

(D)(i) Section 7239 (relating to violations of laws concerning white phosphorus matches) is repealed.

(ii) The table of sections for part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7239.

(E)(i) Sections 7267 and 7274 (relating to offenses and penalties concerning white phosphorus matches) are each repealed.

(ii) The table of sections for subchapter B of chapter 75 is amended by striking out the items relating to sections 7267 and 7274.

(F) Section 7272(b) is amended by striking out "4804(d),".

(G) Section 7303 is amended by striking out paragraph (6).

(H)(i) Part II of subchapter C of chapter 75 (relating to provisions common to forfeitures) is amended by striking out section 7328 (relating to confiscation of white phosphorus matches), and by redesignating section 7329 (relating to cross references) as section 7328.

(ii) The table of sections for part II of subchapter C of chapter 75 is amended by striking out the last two items and inserting in lieu thereof the following:

"Sec. 7328. Cross references."

(9) Amendments conforming to repeal of sections 4811 through 4826.

(A) Section 6808 (relating to cross references) is amended by striking out paragraph (10).

(B)(i) Section 7235 (relating to violations of laws concerning adulterated butter and process or renovated butter) is repealed.

(ii) The table of sections for part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7235.

(C)(i) Section 7264 (relating to offenses concerning renovated or adulterated butter) is repealed.

(ii) The table of sections for subchapter B of chapter 75 is amended by striking out the item relating to section 7264.

(D) Section 7303 is amended by striking out paragraphs (3), (4), and (5), and by redesignating paragraphs (7) and (8) as paragraphs (2) and (3), respectively.

(E) Section 7610(a), as redesignated by section 1211 of this Act, as amended by section 1701 of this Act, is further amended by striking out paragraph (2), and by redesignating paragraphs (5) and (6) as paragraphs (1) and (2), respectively.

(10) Amendments conforming to the repeal of sections 4911 through 4931.—

(A)(i)(I) Section 263, as amended by section 1702 of this Act, is further amended by striking out subsections (a)(3) and (d) (relating to the allowance of deductions for payment of interest equalization tax), and by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(II) Section 263(d), as redesignated by clause (i)(I) of this subparagraph, is amended by striking out "subsection (f)" and inserting in lieu thereof "subsection (e)".

(ii) Section 6011 (relating to requirement of return, statement, or list) is amended by striking out subsection (d) (relating to interest equalization tax returns, etc.), and by redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

(iii)(I) Section 6076 (relating to time for filing interest equalization tax returns) is repealed.

(II) The table of sections for part V of subchapter A of chapter 61 is amended by striking out the item relating to section 6076.

(iv) Section 6611 (relating to interest on overpayments) is amended by striking out subsection (h) (relating to overpayments of interest equalization tax) and by redesignating subsection (i) as subsection (h).

(v) Section 6651 (relating to failure to file tax return or to pay tax) is amended by striking out subsection (e) (relating to certain interest equalization tax returns).

(vi)(I) Section 6680 (relating to failure to file interest equalization tax returns) is repealed.

(II) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6680.

(vii) The amendments made by this subparagraph shall apply with respect to acquisitions of stock or debt obligations made after June 30, 1974, except that the repeal of paragraph (2) of section 6011(d) under clause (ii) shall apply with respect to loans and commitments made after such date.

(B) Section 861(a)(1)(G) (relating to income from sources within the United States) is amended—

(i) by striking out "4912(c)" and inserting in lieu thereof "subsection (c) of section 4912 (as in effect before July 1, 1974)"; and

(ii) by striking out "4912(c)(2)" and inserting in lieu thereof "subsection (c)(2) of such section".

(C) The second sentence of section 1232(b)(2) (relating to the definition of the issue price of bonds and other evidences of indebtedness) is amended by striking out "section 4911" and inserting in lieu thereof "section 4911, as in effect before July 1, 1974,".

(D) Section 6103(a)(2) (relating to publicity of returns) is amended by striking out "chapter 41" and inserting in lieu thereof "chapter 41 (as in effect before July 1, 1974)".

(E)(i) Section 6681 (relating to false equalization tax certificates) is repealed.

(ii) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6681.

(iii) The amendments made by this subparagraph shall apply with respect to actions occurring after June 30, 1974.

(F)(i) Section 6689 (relating to failure by certain foreign issuers and obligors to comply with United States investment equalization tax requirements) is repealed.

(ii) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6689.

(iii) The amendments made by this subparagraph shall apply with respect to stock or debt obligations issued after June 30, 1974.

(G)(i) Section 7241 (relating to penalty for fraudulent equalization tax certificates) is repealed.

(ii) The table of sections for part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7241.

(iii) The amendments made by this subparagraph shall apply with respect to statements and certificates executed after June 30, 1974.

(H) The table of chapters for subtitle D is amended by striking out the item relating to chapter 41.

(c) Amendments to Provisions Referring to Territories.—

(1) Section 4102 is amended by striking out "or Territory".

(2) Section 4482(c)(1) is amended by striking out ", a Territory of the United States,".

(d) Effective Date.—Except as otherwise provided, the amendments made by this section shall take effect on the first day of the first month which begins more than 90 days after the date of the enactment of this Act.

Sec. 1915. Amendments of Subtitle E; Alcohol, Tobacco, and Certain Other Excise Taxes.

(a) In General.—

(1) Amendment of section 5005.—Section 5005(c)(2) (relating to transfers in bond of distilled spirits) is amended by striking out the last two sentences and inserting in lieu thereof the following: "Such relief from liability shall be effective from the time of removal from the transferor's bonded premises, or from the time of divestment of interest, whichever is later."

(2) Amendments of section 5008.—

(A) Section 5008(b)(1) (relating to abatement, remission, refund, and allowance for loss of destruction of distilled spirits) is amended by inserting immediately after "the tax imposed by this chapter" the following: "or by section 7652".

(B) Section 5008(b)(2) is amended by striking out "the taxes imposed under section 5001(a)(1)" and all that follows and inserting in lieu thereof the following: "the taxes imposed under section 5001(a)(1), under subpart B of this part, or under section 7652 on the spirits so destroyed, to the proprietor of the distilled spirits plan who withdrew the distilled spirits on payment or determination of tax."

(C) Subsections (c)(1) and (d)(1) of section 5008 are each amended by inserting immediately after "under section 5001(a)(1)" the following: "or under section 7652".

(D) Section 5008(d)(1) is amended by striking out ", on or after July 1, 1959,".

(3) Amendment of section 5009.—Section 5009(b)(3) is amended by striking out "46 Stat. 694;".

(4) Amendment of section 5025.—Section 5025(j) (relating to stabilization of distilled spirits) is amended by striking out "the bottling of distilled spirits," and inserting in lieu thereof "the bottling of distilled spirits, or preparatory to exportation,".

(5) Amendment of section 5054.—Section 5054 (relating to determination and collection of tax on beer) is amended by striking out subsection (c) (relating to stamps or other devices as evidence of payment of tax) and by redesignating subsection (d) as subsection (c).

(6) Amendments of section 5061.—

(A) Section 5061(a) (relating to collections of alcohol taxes) is amended by striking out the last sentence.

(B) Section 5061(b) (relating to methods of collection) is amended to read as follows:

"(b) Exceptions.—Notwithstanding the provisions of subsection (a), any taxes imposed on, or amounts to be paid or collected in respect of, distilled spirits, wines, rectified distilled spirits and wines, and beer under—

"(1) section 5001(a) (5), (6), or (7)
"(2) section 5006(c) or (d),
"(3) section 5026(a)(2),
"(4) section 5041(d),
"(5) section 5043(a)(3),
"(6) section 5054(a) (3) or (4), or
"(7) section 5505(a),

shall be immediately due and payable at the time provided by such provisions (or if no specific time for payment is provided, at the time the event referred to in such provision occurs). Such taxes and amounts shall be assessed and collected by the Secretary on the basis of the information available to him in the same manner as taxes payable by return but with respect to which no return has been filed."

(C) Section 5061(c) (relating to applicability of other provisions of law) is amended to read as follows:

"(c) Import Duties.—The internal revenue taxes imposed by this part shall be in addition to any import duties unless such duties are specifically designated as being in lieu of internal revenue tax."

(7) Amendment of section 5113.—Section 5113(f)(1) (relating to retail dealers in liquors) is amended by striking out "wines or beer" and inserting in lieu thereof "distilled spirits, wines, or beer".

(8) Amendments of section 5117.—Section 5117 (relating to prohibited purchases by dealers) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) Limited Retail Dealers.—A limited retail dealer may lawfully purchase distilled spirits for resale from a retail dealer in liquors."

(9) Amendment of section 5121.—Section 5121(c) (relating to limited retail dealers) is amended to read as follows:

"(c) Limited Retail Dealers.—Every limited retail dealer shall pay a special tax of $4.50 for each calendar month in which sales are made as such dealer; except that the special tax shall be $2.20 for each calendar month in which only sales of beer or wine are made."

(10) Amendment of section 5122.—Section 5122(c) (relating to definition of limited retail dealer) is amended by striking out "beer or wine" each place it appears and inserting in lieu thereof "distilled spirits, wine, or beer".

(11) Amendment of section 5131.—Section 5131(a) (relating to eligibility for drawback) is amended by striking out "produced in a domestic registered distillery or industrial alcohol plant and withdrawn from bond, or using distilled spirits withdrawn from the bonded premises of a distilled spirits plant,".

(12) Amendment of section 5142.—Section 5142(c) (relating to payment of occupational taxes) is amended to read as follows:

"(c) How Paid.—

"(1) Payment by return.—The special taxes imposed by this part shall be paid on the basis of the return under such regulations as the Secretary shall prescribe.

"(2) Stamp denoting payment of tax.—After receiving a properly executed return and remittance of any special tax imposed by this subpart, the Secretary shall issue to the taxpayer an appropriate stamp as a receipt denoting payment of the tax. This paragraph shall not apply in the case of a return covering liability for a past period."

(13) Amendment of section 5171.—Section 5171(b) (relating to permits for operation of businesses as distillers, etc.) is amended—

(A) in paragraph (1), by striking out "49 Stat. 978;", and

(B) by striking out paragraph (3) (relating to continuance of business after June 30, 1959, pending application for permit).

(14) Amendments of section 5174.—Section 5174(a)(2)(A) (relating to withdrawal bonds for distilled spirits) is amended by striking out "such spirits" and inserting in lieu thereof "distilled spirits from bond".

(15) Amendment of section 5232.—Section 5232(a) (relating to transfer of imported distilled spirits) is amended by striking out "and the importer" and inserting in lieu thereof "and the importer, or the person bringing such distilled spirits into the United States,".

(16) Amendment of section 5233.—Section 5233(b)(4) (relating to bottling requirements) is amended by striking out "49 Stat. 977;".

(17) Amendment of section 5234.—The first sentence of section 5234(a)(2) (relating to the mingling of distilled spirits) is amended by striking out "8 years" and inserting in lieu thereof "20 years".

(18) Amendment of section 5314.—Section 5314(a)(2) (relating to application of certain provisions to Puerto Rico) is amended by striking out "section 5001(a)(4)" and inserting in lieu thereof "section 5001(a)(10)".

(19) Repeal of section 5315.—Section 5315 (relating to the status of certain distilled spirits on July 1, 1959) is repealed.

(20) Amendments of section 5368.—

(A) The heading of section 5368 is amended to read as follows:

"Sec. 5368. Gauging and Marking."

(B) Section 5368(b) (relating to removal of wines) is amended to read as follows:

"(b) Marking.—Wines shall be removed in such containers (including vessels, vehicles, and pipelines) bearing such marks and labels, evidencing compliance with this chapter, as the Secretary may by regulations prescribe."

(21) Amendment of section 5392.—Section 5392(f) (defining own production) is amended by striking out "49 Stat. 990;".

(22) Amendment of section 5601.—Section 5601(b) (relating to presumptions in the case of criminal penalties) is amended to read as follows:

"(b) Presumption.—Whenever on trial for violation of subsection (a)(4) the defendant is shown to have been at the site or place where, and at the time when, the business of a distiller or rectifier was so engaged in or carried on, such presence of the defendant shall be deemed sufficient evidence to authorize conviction, unless the defendant explains such presence to the satisfaction of the jury (or of the court when tried without jury)."

(23) Amendments of section 5685.—

(A) Section 5685(a) (relating to penalty for possession of devices for emitting gas, smoke, etc.) is amended by striking out "section 5848" and inserting in lieu thereof "section 5845".

(B) Section 5685(a) (relating to forfeiture of firearms, devices, etc). is amended by striking out "section 5862" and inserting in lieu thereof "section 5872".

(C) Section 5685(d) (relating to the definition of machinegun) is amended to read as follows:

"(d) Definition of Machine Gun.—As used in this section, the term 'machine gun' means a machinegun as defined in section 5845(b)."

(24) Amendment of section 5701.—Section 5701(e) (relating to imported tobacco products, etc.) is amended by striking out "such articles" and inserting in lieu thereof "such articles, unless such import duties are imposed in lieu of internal revenue tax".

(25) Amendments of section 5703.—

(A) Section 5703(a)(2) (relating to transfer of liability for tobacco taxes) is amended by adding at the end thereof the following new sentence: "All provisions of this chapter applicable to tobacco products and cigarette papers and tubes in bond shall be applicable to such articles returned to bond upon withdrawal from the market or returned to bond after previous removal for a tax-exempt purpose."

(B) The second sentence of section 5703(b) (relating to method of payment of tobacco taxes) is amended by striking out ", except that the taxes shall continue to be paid by stamp until the Secretary or his delegate provides, by regulations, for the payment of the taxes on the basis of a return".

(C) Section 5703 is amended by striking out subsection (c) (relating to stamps to evidence tobacco taxes) and by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(26) Amendments of section 5704.—Subsections (c) and (d) of section 5704 (relating to exemptions from tobacco taxes) are each amended by inserting immediately after "to a manufacturer of tobacco products or cigarette papers and tubes" the following: "or to the proprietor of an export warehouse".

(27) Amendment of section 5712.—Section 5712 (relating to application for permit) is amended by striking out the last sentence.

(28) Amendments of section 5723.—

(A) The heading of section 5723 is amended by striking out "NOTICES, AND STAMPS" and inserting in lieu thereof "AND NOTICES".

(B) Section 5723(b) (relating to marks, and so forth, on packages) is amended to read as follows:

"(b) Marks, Labels, and Notices.—Every package of tobacco products or cigarette papers or tubes shall, before removal, bear the marks, labels, and notices, if any, that the Secretary by regulation prescribes."

(b) Conforming and Clerical Amendments.—

(1) Amendments conforming to amendment of section 5054.—

(A) Section 5676 (relating to beer stamp penalties) is repealed.

(B) The table of sections for part III of subchapter J of chapter 51 is amended by striking out the item relating to section 5676.

(2) Amendments conforming to the amendments of section 5061.—

(A) Section 5007(b)(1) is amended by striking out the second sentence.

(B) Section 5026(b) is amended by striking out "Except as provided in subsection (a)(2), the taxes" and inserting in lieu thereof "The taxes".

(C) Section 5043(b) is amended by striking out "Except as provided in subsection (a)(3), the taxes" and inserting in lieu thereof "The taxes".

(D) Section 5662 is amended by striking out "stamp," each place it appears.

(E)(i) Section 5689 (relating to penalty and forfeiture for tampering with a stamp machine) is repealed.

(ii) The table of sections for part IV of subchapter J of chapter 51 is amended by striking out the item relating to section 5689.

(iii) Section 5061 is amended by striking out subsection (d).

(3) Amendments conforming to amendment of section 5142.—

(A)(i) Section 5104 (relating to method of payment of tax on stills) is repealed.

(ii) The table of sections for subpart C of part II of subchapter A of chapter 51 is amended by striking out the item relating to section 5104.

(B) Section 5111(a) is amended by striking out the second sentence.

(C) Section 5121(a) is amended by striking out the second sentence.

(D)(i) Section 5144 (relating to supply of stamps) is repealed.

(ii) The table of sections for subpart G of part II of subchapter A of chapter 51 is amended by striking out the item relating to section 5144.

(E) Section 5148(3) is amended by striking out "penalties" and inserting in lieu thereof "penalties, authority for assessments,".

(4) Amendment conforming to the repeal of section 5315.—The table of sections for part III of subchapter E of chapter 51 is amended by striking out the item relating to section 5315.

(5) Amendment conforming to the amendment of section 5368.—The item relating to section 5368 in the table of sections for part II of subchapter F of chapter 51 is amended to read as follows:

"Sec. 5368. Gauging and marking."

(6) Amendments conforming to the amendment of section 5601.—

(A) Section 5105(b)(2) is amended by striking out ", 5601(b)(1),".

(B) Section 5177(b)(2) is amended by striking out "5601(b)(2)," and inserting in lieu thereof "5601(b),".

(C) Section 5179(b)(1) is amended by striking out ", 5601(b)(1),".

(D) Section 5222(d) is amended by striking out "5601(b)(3), 5601(b)(4),".

(E) Section 5505(i) is amended by striking out "5601(b)(1),".

(7) Amendments conforming to the amendment of section 5723.—

(A) Paragraphs (2) and (3) of section 5751(a) are each amended by striking out "notices, and stamps" and inserting in lieu thereof "and notices".

(B)(i) Section 5752 is amended to read as follows:

"Sec. 5752. Restrictions Relating to Marks, Labels, Notices, and Packages.

"No person shall, with intent to defraud the United States, destroy, obliterate, or detach any mark, label, or notice prescribed or authorized, by this chapter or regulations thereunder, to appear on, or be affixed to, any package of tobacco products or cigarette papers or tubes, before such package is emptied."

(ii) Section 5762(a) is amended by striking out paragraphs (6), (7), (8), (9), (10), and (11) and inserting in lieu thereof the following:

"(6) Destroying, obliterating, or detaching marks, labels, or notices before packages are emptied.—Violates any provision of section 5752;".

(iii) The item relating to section 5752 in the table of sections for subchapter E of chapter 57 is amended to read as follows:

"Sec. 5752. Restrictions relating to marks, labels, notices, and packages."

(C)(i) Section 5763(a)(2) is amended by striking out "notices, and stamps" and inserting in lieu thereof "and notices".

(ii) Section 5763(b) is amended by striking out "internal revenue stamps,".

(D) The item relating to section 5723 in the table of sections for subchapter C of chapter 52 is amended to read as follows:

"Sec. 5723. Packages, marks, labels, and notices."

(c) Amendments to Provisions Referring to Territories.—

(1) Section 5114(b) is amended by striking out "or Territory" each place it appears and by striking out "Territories,".

(2) Section 5214(a)(2) is amended by striking out "or Territory" each place it appears.

(3) Section 5272(b) is amended by striking out "and Territories".

(4) Section 5362(c)(9) is amended by striking out "and Territories".

(5) Section 5551(b)(2) is amended by striking out "Territory, or".

(6) Section 5685(a) is amended by striking out "Territory or".

(d) Effective Date.—The amendments made by this section shall take effect on the first day of the first month which begins more than 90 days after the date of the enactment of this Act.

Sec. 1916. Amendments of Subtitle F; Procedure and Administration

(a) In General.—

(1) Amendments of section 6013.—

(A) Section 6013(b)(2)(C) (relating to petition to the Tax Court) is amended by striking out "of the United States".

(B) The heading of section 6013(d) is amended to read as follows:

"(d) Special Rules.—".

(C) Section 6013(d)(1) (relating to joint return after death of one spouse) is amended by striking out "and" at the end of subparagraph (A) and inserting in lieu thereof "or", and by striking out "and" at the end of the subparagraph (B).

(2) Amendment of section 6015.—Section 6015 (relating to declaration of estimated tax by individuals) is amended by striking out subsection (j) (relating to an effective date provision).

(3) Amendment of section 6037.—Section 6037 (relating to returns of subchapter S corporations) is amended by striking out "section 1371(a)(2)" and inserting in lieu thereof "section 1371(b)".

(4) Amendment of section 6046.—Section 6046(e) (relating to information as to organization of foreign corporation) is amended to read as follows:

"(e) Limitation.—No information shall be required to be furnished under this section with respect to any foreign corporation unless such information was required to be furnished under regulations which have been in effect for at least 90 days before the date on which the United States citizen, resident, or person becomes liable to file a return required under subsection (a)."

(5) Amendment of section 6051.—Section 6051(a) (relating to information required to be furnished to employees) is amended by striking out "and" where it appears at the end of paragraph (6).

(6) Amendment of section 6065.—Section 6065 (relating to verification of returns) is amended by striking out subsection (b) (relating to verification by oath), and by striking out in subsection (a) the following: "(a) Penalties of Perjury.—".

(7) Amendments of section 6103.—

(A) Section 6103(a)(2) (relating to publicity of tax returns) is amended by striking out ", subchapter B of chapter 37".

(B) The amendment made by subparagraph (A) shall take effect on the first day of the first month which begins more than 90 days after the date of the enactment of this Act, except that it shall not apply to returns made with respect to taxes imposed by subchapter B of chapter 37 of the Internal Revenue Code of 1954 before the first day of such month.

(8) Repeal of section 6105.—Section 6105 (relating to compilation of data for certain excess profits tax cases) is repealed.

(9) Amendment of section 6111.—Section 6111 (relating to cross references), as redesignated by section 1212 of this Act, is amended to read as follows:

"Sec. 6111. Cross Reference.

"For inspection of records, returns, etc., concerning gasoline or lubricating oils, see section 4102."

(10) Amendment of section 6152.—Section 6152(a)(1) (relating to installment payments by corporations) is amended to read as follows:

"(1) Corporations.—A corporation subject to the taxes imposed by chapter 1 may elect to pay the unpaid amount of such taxes in two equal installments."

(11) Amendments of section 6154.—

(A) Section 6154(c)(1)(B) (relating to definition of estimated tax) is amended—

(i) by adding "and" after the comma at the end of clause (i), and

(ii) by striking out clauses (ii) and (iii) and inserting in lieu thereof the following:

"(ii) in the case of a taxable year beginning before January 1, 1977, the amount of the corporation's temporary estimated tax exemption for such year."

(B) Section 6154(c)(2)(A)(ii) (relating to temporary estimated tax payments) is amended by striking out "clauses (ii) and (iii)" and inserting in lieu thereof "clause (ii)".

(C) Section 6154(c)(2)(B) (relating to estimated tax) is amended by striking out the following:

"1968, 1969, 1970, 1971, and

1972	100 percent
1973	80 percent
1974	60 percent".

(D) Section 6154(c) (relating to estimated tax) is amended by striking out paragraph (3) (relating to transitional exemption for taxable years beginning before 1972).

(12) Amendments of section 6157.—

(A) Section 6157 (relating to payment of Federal unemployment tax) is amended by striking out subsection (c) (relating to special rules for 1970 and 1971), and by redesignating subsection (d) as subsection (c).

(B) Section 6157(a) is amended by striking out "subsections (c) and (d)" and inserting in lieu thereof "subsection (c)".

(13) Repeal of section 6162.—Section 6162 (relating to payment of tax on gain on liquidation of certain personal holding companies) is repealed.

(14) Amendments of section 6166.—

(A) So much of section 6166(i) (relating to extension of time for payment of estate tax) as precedes paragraph (2) is amended to read as follows:

"(i) Treatment of Deficiency.—

"(1) In general.—If a deficiency in the tax imposed by section 2001 is assessed, and the estate qualifies under paragraph (1) or (2) of subsection (a), the executor may elect to pay the deficiency in installments. This subsection shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax."

(B) Section 6166(i) is amended by striking out paragraph (4) (relating to a taxable year ending before 1960).

(15) AMENDMENT OF SECTION 6205.—Section 6205(a)(4) (relating to District of Columbia as employer) is amended by striking out "Commissioners of the District of Columbia and each agent designated by them" and inserting in lieu thereof "Mayor of the District of Columbia and each agent designated by him".

(16) AMENDMENT OF SECTION 6207.—Section 6207 (relating to cross references) is amended by striking out paragraph (7).

(17) AMENDMENT OF SECTION 6213.—Section 6213(a) (relating to time for filing petition with the Tax Court) is amended by striking out "States of the Union and the District of Columbia" and inserting in lieu thereof "United States".

(18) AMENDMENT OF SECTION 6215.—Section 6215(b)(5) (a cross reference) is amended by striking out "60 Stat. 48;".

(19) AMENDMENT OF SECTION 6302.—Section 6302(b) (relating to collection of certain excise taxes) is amended by striking out "sections 4501(a) or 4511 of chapter 37, or sections 4701 or 4721 of chapter 39" and inserting in lieu thereof "section 4501(a) of chapter 37".

(20) REPEAL OF SECTION 6304.—Section 6304 (relating to a cross reference) is repealed.

(21) AMENDMENT OF SECTION 6313.—Section 6313 (relating to fractional parts of a cent) is amended by striking out "not payable by stamp".

(22) AMENDMENTS OF SECTION 6326.—

(A) Paragraph (2) of section 6326 (cross references) is amended by striking out "52 Stat. 851;".

(B) Paragraph (3) of section 6326 is amended by striking out "52 Stat. 867;".

(C) Paragraph (4) of section 6326 is amended by striking out "52 Stat. 867–877;".

(D) Paragraph (5) of section 6326 is amended by striking out "52 Stat. 938;".

(23) AMENDMENT OF SECTION 6365.—Section 6365(b) (relating to definition of governor) is amended by striking out "Commissioner of the District of Columbia" and inserting in lieu thereof "Mayor of the District of Columbia".

(24) AMENDMENT OF SECTION 6412.—Section 6412(a) (relating to floor stock refunds) is amended by redesignating paragraphs (2) and (4) as paragraphs (1) and (2), respectively.

(25) AMENDMENTS OF SECTION 6413.—

(A) Section 6413(a)(4) (relating to District of Columbia as employer) is amended by striking out "Commissioners of the District of Columbia and each agent designated by them" and inserting in lieu thereof "Mayor of the District of Columbia and each agent designated by him".

(B)(i) Section 6413(c)(1) (relating to refunds of certain employment taxes) is amended to read as follows:

"(1) IN GENERAL.—If by reason of an employee receiving wages from more than one employer during a calendar year the wages received by him during such year exceed the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective with respect to such year, the employee shall be entitled (subject to the provisions of section 31(b)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 3101 or section 3201, or by both such sections, and deducted from the employee's wages (whether or not paid to the Secretary), which exceeds the tax with respect to the amount of such wages received in such year which is equal to such contribution and benefit base. The term 'wages' as used in this paragraph shall, for purposes of this paragraph, include 'compensation' as defined in section 3231(e)."

(ii) So much of section 6413(c)(2)(A) (relating to Federal employees) as follows "and the term 'wages' includes" is amended to read as follows: "for purposes of this subsection the amount, not to exceed an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) for any calendar year with respect to which such contribution and benefit base is effective, determined by each such head or agent as constituting wages paid to an employee."

(iii) The amendments made by clauses (i) and (ii) shall apply with respect to remuneration paid after December 31, 1975.

(C) Section 6413(c)(2(F) (relating to government employees in the District of Columbia) is amended by striking out "Commissioners of the District of Columbia and each agent designated by them" and inserting in lieu thereof "Mayor of the District of Columbia and each agent designated by him".

(D) Section 6413(c)(3) (relating to special refunds) is amended by striking out "after 1967".

(26) AMENDMENTS OF SECTION 6416.—

(A) Section 6416(a)(3) (relating to special rules for refund of overpayment of tax) is amended by redesignating subparagraphs (C) and (D) as subparagraphs (A) and (B) respectively.

(B)(i) Section 6416(b)(2) (relating to overpayments of certain excise taxes) is amended by striking out subparagraphs (G), (H), (I), and (J), and by redesignating subparagraphs (F), (K), (L), (M), (R), and (S) as subparagraphs (E), (F), (G), (H), (I), and (J), respectively.

(ii) The repeals made by clause (i) shall apply with respect to the use or resale for use of liquids after December 31, 1975.

(27) REPEAL OF SECTION 6417.—Section 6417 (relating to coconut and palm oil) is repealed.

(28) AMENDMENTS OF SECTION 6420.—

(A) Section 6420(b) (relating to time for filing refund claims on gasoline) is amended to read as follows:

"(b) TIME FOR FILING CLAIMS; PERIOD COVERED.—Not more than one claim may be filed under this section by any person with respect to gasoline used during his taxable year, and no claim shall be allowed under this section with respect to gasoline used during any taxable year unless filed by such person not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A."

(B) Section 6420(e)(1) (relating to applications of other laws) is amended by striking out "apply in in respect" and inserting in lieu thereof "apply in respect".

(C)(i) Section 6420 is amended by striking out subsection (g) (relating to effective date) and by redesignating subsections (h) and (i) as subsections (g) and (h), respectively.

(ii) Section 6420(a) is amended by striking out "subsection (h)" and inserting in lieu thereof "subsection (g)".

(D) Section 6420(g) (relating to income tax credit in lieu of gas tax refund), as redesignated by subparagraph (C)(i) of this paragraph, is amended by striking out "with respect to gasoline used after June 30, 1965," and "for gasoline used after June 30, 1965".

(29) AMENDMENTS OF SECTION 6421.—

(A)(i) Subsections (a) and (e)(3) of section 6421 (relating to nonhighway use of gasoline) are each amended by striking out "after June 30, 1970,".

(ii) The amendments made by clause (i) shall only apply with respect to gasoline used as a fuel after June 30, 1970.

(B) Section 6421(c) (relating to nonhighway use of gasoline) is amended to read as follows:

"(c) TIME FOR FILING CLAIMS; PERIOD COVERED.—

"(1) IN GENERAL.—Except as provided in paragraph (2), not more than one claim may be filed under subsection (a), and not more than one claim may be filed under subsection (b), by any person with respect to gasoline used during his taxable year; and no claim shall be allowed under this paragraph with respect to gasoline used during any taxable year unless filed by such person not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A.

"(2) EXCEPTION.—If $1,000 or more is payable under this section to any person with respect to gasoline used during any of the first three quarters of his taxable year, a claim may be filed under this section by such person with respect to gasoline used during such quarter. No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the quarter for which the claim is filed."

(C) Section 6421(h) (relating to effective dates) is amended by striking out "after June 30, 1956, and".

(D) Section 6421(i) (relating to income tax credit in lieu of refund) is amended—

(i) by striking out, in paragraph (1), "with respect to gasoline used after June 30, 1965,",

(ii) by striking out, in paragraph (2), "subsection (c)(3)(B)" and inserting in lieu thereof "subsection (c)(2)", and

(iii) by striking out, in paragraph (3), "for gasoline used after June 30, 1965"

(30) AMENDMENTS OF SECTION 6422.—

(A) Paragraph (9) of section 6422 (cross references), as redesignated by section 1911(b)(35)(B), is amended by striking out "60 Stat. 48;".

(B) Paragraph (11) of section 6422, as so redesignated, is amended by striking out "47 Stat. 1516;".

(31) AMENDMENTS OF SECTION 6423.—

(A) Section 6423(b) (relating to filing of refund claim in case of alcohol and tobacco taxes) is amended to read as follows:

"(b) FILING OF CLAIMS.—No credit or refund of any amount to which subsection (a) applies shall be allowed or made unless a claim therefor has been filed by the person who paid the amount claimed, and unless such claim is filed within the time prescribed by law and in accordance with regulations prescribed by the Secretary. All evidence relied upon in support of such claim shall be clearly set forth and submitted with the claim."

(B) Section 6423 is amended by striking out subsection (c) (relating to suits barred from allowance on April 30, 1958), and by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(C) Section 6423(c) (relating to application of section), as redesignated by subparagraph (B) of this paragraph, is amended by adding "and" at the end of paragraph (1), by striking out ", and" at the end of paragraph (2) and inserting in lieu thereof a period, and by striking out paragraph (3).

(32) AMENDMENTS OF SECTION 6422.—

(A) The last sentence of section 6424(b)(1) (relating to refund claims with respect to lubricating oil) is amended by striking out ", except that a person's first taxable year beginning after December 31, 1965, shall include the period after December 31, 1965, and before the beginning of such first taxable year".

(B) Section 6424 (relating to lubricating oil not used in highway motor vehicles) is amended by striking out subsection (f) (relating to effective date of section), and by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(33) AMENDMENTS OF SECTION 6427.—

(A) Subsections (a), (b), and (c) of section 6427 (relating to fuels not used for taxable purposes) are each amended by striking out ", after June 30, 1970,".

(B) The amendments made by subparagraph (A) shall apply only with respect to fuel used or resold after June 30, 1970.

(34) Amendments of section 6504.—

(A) Section 6504 (relating to cross references) is amended by striking out paragraphs (13) and (14) and inserting in lieu thereof:

"(13) Assessments to recover excessive amounts paid under section 6420 (relating to gasoline used on farms), 6421 (relating to gasoline used for certain nonhighway purposes or by local transit systems), 6424 (relating to lubricating oil not used in highway motor vehicles), or 6427 (relating to fuels not used for taxable purposes) and assessments of civil penalties under section 6675, for excessive claims under section 6420, 6421, 6424, or 6427, see section 6206."

(B) Section 6504, as amended by this Act, is further amended by redesignating paragraphs (2), (3), (4), (5), (9), (10), (11), (12), (13), (15), and (16) as paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), and (11), respectively.

(35) Amendments of section 6511.—

(A) Section 6511(d)(2)(A)(ii) (relating to net operating loss carryback) is amended by striking out "September 1, 1959, or" and by striking out ", whichever is the later".

(B) Section 6511(d)(5) is amended by striking out "the later of the following dates: (A)", and by striking out ", or (B) December 31, 1965".

(36) Amendment of section 6601.—Section 6601(h) (relating to interest on estimated tax payments) is amended by striking out "(or section 59 of the Internal Revenue Code of 1939)".

(37) Amendment of section 6654.—Section 6654 (relating to payment of estimated income tax) is amended by striking out subsection (h) (relating to applicability of section).

(38) Amendment of section 6802.—Section 6802(2) (relating to supply and distribution of stamps) is amended by striking out the semicolon at the end and inserting in lieu thereof a period.

(39) Amendment of section 6803.—Section 6803 (relating to accounting and safeguarding) is amended to read as follows:

"Sec. 6803. Accounting and Safeguarding.

"(a) Bond.—In cases coming within the provisions of paragraph (2) of section 6802, the Secretary may require a bond, with sufficient sureties, in a sum to be fixed by the Secretary, conditioned for the faithful return, whenever so required, of all quantities or amounts undisposed of and for the payment monthly for all quantities or amounts sold or not remaining on hand.

"(b) Regulations.—The Secretary may from time to time make such regulations as he may find necessary to insure the safekeeping or prevent the illegal use of all adhesive stamps referred to in paragraph (2) of section 6802."

(40) Amendment of section 6863.—Section 6863(b)(3) (relating to stay of sale of seized property pending Tax Court decision) is amended by striking out subparagraph (C) (relating to effective date).

(41) Amendment of section 7012.—Section 7012 (relating to cross references), as amended by section 1914(b)(8)(C) of this Act, is amended to read as follows:

"Sec. 7012. Cross References.

"(1) For provisions relating to registration in connection with firearms, see sections 5802, 5841, and 5861.

"(2) For special rules with respect to registration by persons engaged in receiving wagers, see section 4412.

"(3) For provisions relating to registration in relation to the production or importation of gasoline, see section 4101.

"(4) For provisions relating to registration in relation to the manufacture or production of lubricating oils, see section 4101.

"(5) For penalty for failure to register, see section 7272.

"(6) For other penalties for failure to register with respect to wagering, see section 7262."

(42) Amendment of section 7103.—Section 7103 (relating to cross references regarding bonds) is amended by striking out subsection (d).

(43) Amendments of section 7271.—Section 7271 (relating to penalties for offenses concerning stamps) is amended by striking out paragraph (2), and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(44) Amendment of section 7272.—Section 7272(b) (relating to cross references) is amended by striking out "4722, 4753,".

(45) Amendments of section 7326.—Section 7326 (relating to disposal of forfeited property) is amended—

(A) by striking out "section 5862(b)" and inserting in lieu thereof "section 5872(b)", and

(B) by redesignating subsection (c) as subsection (b).

(46) Amendments of section 7422.—Section 7422(c) (relating to suits against collection officers) is amended by striking out "instituted after June 15, 1942,", and by striking out "where the petition to the Tax Court was filed after such date".

(47) Amendments of section 7429.—

(A) Paragraph (1) of section 7429 (cross references), as redesignated by sections 1201 and 1202 of this Act, is amended by striking out "52 Stat. 851;".

(B) Paragraph (2) of section 7429 is amended by striking out "52 Stat. 867;".

(C) Paragraph (3) of section 7429 is amended by striking out "52 Stat. 876–877;".

(D) Paragraph (4) of section 7429 is amended by striking out "52 Stat. 938;".

(48) Amendment of section 7448.—

(A) Subsection (a)(6) of section 7448 (relating to annuities to widows and dependent children of tax court judges) is amended—

(i) by striking out "The term 'widow' means a surviving wife of" and inserting in lieu thereof "The term 'surviving spouse' means a surviving spouse of"; and

(ii) by striking out "the mother of issue" and inserting in lieu thereof "a parent of issue".

(B) Section 7448(h) is amended—

(i) by striking out "surviving widow or widower" and inserting in lieu thereof "surviving spouse";

(ii) by striking out "such widow" each place it appears and inserting in lieu thereof "such surviving spouse";

(iii) by striking out "a widow" each place it appears and inserting in lieu thereof "a surviving spouse";

(iv) by striking out "widow's" each place it appears and inserting in lieu thereof "surviving spouse's"; and

(v) by striking out "surviving her" and inserting in lieu thereof "surviving such spouse".

(C) Sections 7448 (h) and (o) are each amended by striking out "she" and inserting in lieu thereof "such spouse".

(D) Section 7448(o) is amended by striking out "her" and inserting in lieu thereof "such spouse's".

(E) Sections 7448 (d), (j), (m), (n), (o), and (q) are each amended by striking out "widow" each place it appears and inserting in lieu thereof "surviving spouse".

(F) The section heading for section 7448 is amended by striking out "WIDOWS" and inserting in lieu thereof "SURVIVING SPOUSES".

(49) Amendments of section 7471.—

(A) Subsection (a) of section 7471 (relating to Tax Court employees) is amended by striking out "63 Stat. 954;".

(B) Subsection (b) of section 7471 is amended by striking out "63 Stat. 166;".

(50) Amendment to section 7476.—Section 7476(a) (relating to declaratory judgments) is amended by striking out so much thereof as follows paragraph (2)(B) and inserting in lieu thereof the following:

"upon the filing of an appropriate pleading, the United States Tax Court may make a declaration with respect to such initial qualification or continuing qualification. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such."

(51) Amendment of section 7502.—Section 7502(b) (relating to timely mailing treated as timely filing and paying) is amended by striking out "United States Post Office" and inserting in lieu thereof "United States Postal Service".

(52) Amendments of section 7507.—Paragraphs (2) and (3) of section 7507(c) (relating to insolvent banks) are each amended by striking out "after May 28, 1938,".

(53) Amendments of section 7508.—

(A) The heading of section 7508 (relating to time for performing certain acts) is amended by striking out "BY REASON OF WAR" and inserting in lieu thereof "BY REASON OF SERVICE IN COMBAT ZONE".

(B) Section 7508(a) (relating to time to be disregarded) is amended by striking out "States of the Union and the District of Columbia" each place it appears and inserting in lieu thereof "United States".

(54) Amendments of section 7509.—Section 7509 (relating to expenditures incurred by the Post Office Department) is amended—

(A) in the section heading, by striking out "POST OFFICE DEPARTMENT" and inserting in lieu thereof "UNITED STATES POSTAL SERVICE";

(B) by striking out "Post Office Department" each place it appears and inserting in lieu thereof "United States Postal Service";

(C) by striking out "such Department" and inserting in lieu thereof "such Service"; and

(D) by striking out ", together with the receipts required to be deposited under section 6803(a),".

(55) Amendment of section 7621.—Section 7621(b) (relating to boundaries of internal revenue districts) is amended to read as follows:

"(b) Boundaries.—For the purpose mentioned in subsection (a), the President may subdivide any State or the District of Columbia, or may unite into one district two or more States."

(56) Repeal of section 7641.—Subchapter C of chapter 78 (relating to supervision of operations of certain manufacturers) is repealed.

(57) Amendments of section 7652.—Section 7652(b)(3) (relating to disposition of internal revenue collections) is amended—

(A) by striking out "Beginning with the fiscal year ending June 30, 1954, and annually thereafter," and inserting in lieu thereof "After the close of each fiscal year,",

(B) by striking out subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B),

(C) by striking out "approved emergency relief purposes and essential public projects as provided in subparagraph (B)" and inserting in lieu thereof "emergency relief purposes and essential public projects, with the prior approval of the President or his designated representative", and

(D) by striking out ", including payments under subparagraph (B),".

(58) Amendments of section 7653.—Section 7653(d) (a cross reference) is amended by striking out "c. 512, 64 Stat. 392, section 30;".

(59) Amendments of section 7701.—

(A) Section 7701(a)(11) (relating to definition of Secretary) is amended to read as follows:

"(11) Secretary of the Treasury and Secretary.—

"(A) Secretary of the Treasury.—The term 'Secretary of the Treasury' means the Secretary of the Treasury, personally, and shall not include any delegate of his.

"(B) Secretary.—The term 'Secretary' means the Secretary of the Treasury or his delegate."

(B) Section 7701(a)(12)(A) (relating to definition of Secretary or his delegate) is amended to read as follows:

"(A) In general.—The term 'or his delegate'—

"(i) when used with reference to the Secretary of the Treasury, means any officer, employee, or agency of the Treasury Department duly authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context; and

"(ii) when used with reference to any other official of the United States, shall be similarly construed."

(60) Amendment of section 7803.—Section 7803 (relating to other personnel) is amended by redesignating subsection (d) as subsection (c).

(61) Amendment of section 7809.—Section 7809(a) (relating to deposit of collections) is amended by striking out "4735, 4762,".

(b) Conforming and Clerical Amendments.—

(1) Amendment conforming to the repeal of section 6105.—The table of sections for subchapter B of chapter 61 is amended by striking out the item relating to section 6105.

(2) Amendment conforming to amendment of section 6111.—The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6111. Cross reference."

(3) Amendments conforming to amendments of section 6154.—

(A) Paragraph (1)(B) of section 6655(e) is amended:

(i) by adding "and" at the end of clause (i), and

(ii) by striking out clauses (ii) and (iii) and inserting in lieu thereof the following:

"(ii) in the case of a taxable year beginning before January 1, 1977, the amount of the corporation's temporary estimate tax exemption for such year."

(B) Paragraph (2)(B) of section 6655(e) is amended by striking out "'clauses (ii) and (iii)" and inserting in lieu thereof "clause (ii)".

(C)(i) Section 6655(e) is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(ii) Section 243(b)(3)(C)(iv), as redesignated by section 1911(b)(19)(A) of this Act, is amended by striking out "sections 6154(c)(2) and (3)" and inserting in lieu thereof "section 6154(c)(2)", and by striking out "sections 6655(e) (2) and (3)" and inserting in lieu thereof "section 6655(e)(2)".

(4) Amendment conforming to the repeal of section 6162.—The table of sections for subchapter B of chapter 62 is amended by striking out the item relating to section 6162.

(5) Amendment conforming to repeal of section 6304.—The table of sections for subchapter A of chapter 64 is amended by striking out the item relating to section 6304.

(6) Amendments conforming to the amendment of section 6416.—

(A) Subparagraph (A) of section 6420(c)(3) is amended to read as follows:

"(A) by the owner, tenant, or operator of a farm, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife, on a farm of which he is the owner, tenant, or operator; except that if such use is by any person other than the owner, tenant, or operator of such farm, then for purposes of this subparagraph, in applying subsection (a) to this subparagraph, the owner, tenant, or operator of the farm on which gasoline or a liquid taxable under section 4041 is used shall be treated as the user and the ultimate purchaser of such gasoline or liquid;".

(B) The amendments made by subparagraph (A) shall apply with respect to the use of liquids after December 31, 1975.

(7) Amendment conforming to the repeal of section 6417.—The table of sections for subchapter B of chapter 65 is amended by striking out the item relating to section 6417.

(8) Amendment conforming to amendment of section 6420.—Section 39(a)(1) is amended by striking out "section 6420(h)" and inserting in lieu thereof "section 6420(g)".

(9) Amendment conforming to amendment of section 6424.—Section 39(a)(3) is amended by striking out "section 6424(g)" and inserting in lieu thereof "section 6424(f)".

(10) Amendment conforming to amendment of section 7448.—The item relating to section 7448 in the table of sections for part I of subchpater C of chapter 76 is amended to read as follows:

"Sec. 7448. Annuities of surviving spouses and dependent children."

(11) Amendment conforming to amendment of section 7508.—The item relating to section 7508 in the table of sections for chapter 77 is amended to read as follows:

"Sec. 7508. Time for performing certain acts postponed by reason of service in combat zone."

(12) Amendment conforming to amendment of section 7509.—The item relating to section 7509 in the table of sections for chapter 77 is amended to read as follows:

"Sec. 7509. Expenditures incurred by the United States Postal Service."

(13) Amendment conforming to repeal of section 7641.—The table of subchapters for chapter 78 is amended by striking out the item relating to subchapter C.

(14) Amendments conforming to amendments of section 7701.—

(A) The Internal Revenue Code of 1954, as amended by this Act, is amended by striking out "Secretary or his delegate" each place it appears and inserting in lieu thereof "Secretary".

(B) The following provisions are each amended by striking out "Secretary" each place it appears and inserting in lieu thereof "Secretary of the Treasury": section 405(b), 1037(a), 4293, 4483(b), 4975(e)(2), 5551, 6057(f)(1), 6103(d), 6802(1)(B), 7801(b), 7802(a), 9006(a), 9006(b), 9006(c), and 9007(d).

(C) The following provisions are each amended by striking out "to the Secretary" each place it appears and inserting in lieu thereof "to the Secretary of the Treasury": sections 3121(b)(12)(B), 3303(b), 3304(a)(3), 3304(c), 3305(j), 3306(c)(12(B), 9005(a), 9007(b), 9010(b), and 9012(e)(3).

(D) Section 31(b)(1) is amended by striking out "(or his delegate)".

(E) The last sentence of section 3304(c) is amended by striking out "the Secretary shall" and inserting in lieu thereof "the Secretary of Labor shall".

(F) Section 3310(d)(2) is amended by striking out "the Secretary's action" each place it appears and inserting in lieu thereof "the Secretary of Labor's action".

(F) Section 3221(a) and 3221(c) are each amended by striking out "of the Treasury" each place it appears.

(H) Section 3310(e) is amended by striking out "of the Secretary" and inserting in lieu thereof "of the Secretary of Labor".

(I) Section 4412(c) is amended by striking out "he or his delegate" and inserting in lieu thereof "the Secretary".

(J) Section 5845(f) is amended by striking out "of the Treasury or his delegate".

(K) Section 6047(c)(2) is amended by striking out "to the Secretary (or to such person as the Secretary" and inserting in lieu thereof "to the Secretary of the Treasury (or to such person as the Secretary of the Treasury".

(L) Section 6402(b) is amended by striking out "(or his delegate)".

(M) Section 7458 is amended by striking out "nor his delegate".

(N) Section 7514 is amended by striking out "functions of the Secretary" and inserting in lieu thereof "functions of the Secretary of the Treasury".

(c) Amendments to Sections Referring to Territories.—

(1) Section 6871(a) is amended by striking out "or Territory",

(2) Section 7622(b) is amended by striking out ", Territory,".

(3) Section 7701(a)(4) is amended by striking out "or Territory".

(d) Effective Date.—

(1) General rule.—Except as otherwise expressly provided in this section, the amendments made by this section shall take effect on the first day of the first month which begins more than 90 days after the date of the enactment of this Act.

(2) Amendments relating to income tax.—The amendments made by this section, when relating to a tax imposed by chapter 1 or chapter 2 of the Internal Revenue Code of 1954, shall take effect with respect to taxable years beginning after December 31, 1975.

Sec. 1917. Amendments of Subtitle G; The Joint Committee on Internal Revenue Taxation.

(a) In General.—

(1) Amendment of section 8001.—Section 8001 (relating to creation of the Joint Committee) is amended by striking out "Joint Committee on Internal Revenue Taxation" and inserting in lieu thereof "Joint Committee on Taxation".

(2) Amendment of section 8004.—Section 8004 (relating to compensation of staff) is amended by striking out "compensation of a clerk" and inserting in lieu thereof "compensation of the Chief of Staff of the Joint Committee".

(3) Amendment of section 8021.—Section 8021(d) (relating to authority to make expenditures) is amended to read as follows:

"(d) To Make Expenditures.—The Joint Committee, or any subcommittee thereof, is authorized to make such expenditures as it deems advisable."

(4) Amendment of section 8023.—Section 8023(c) (relating to reorganization plans) is amended to read as follows:

"(c) Application of Subsections (a) and (b).—Subsections (a) and (b) shall be applied in accordance with their provisions without regard to any reorganization plan becoming effective on, before, or after the date of the enactment of this subsection."

(5) All references in any other statute, or in any rule, regulation, or order, to the Joint Committee on Internal Revenue Taxation shall be considered to be made to the Joint Committee on Taxation.

(b) Amendments Conforming to the Amendment of Section 8001.—

(1) So much of section 6103(d)(2) (relating to inspection of returns) as precedes "and to inspect returns" is amended to read as follows:

"(2) Joint committee on taxation.—The Joint Committee on Taxation shall have the same right to obtain data".

(2) Section 6405(a) is amended by striking out "Internal Revenue".

(3) The heading of subtitle G is amended by striking out "Internal Revenue".

(4) The table of subtitles for the Internal Revenue Code of 1954 is amended by striking

out the item relating to subtitle G and inserting in lieu thereof the following:

"Subtitle G. The Joint Committee on Taxation."

(c) Effective Date.—The amendments made by this section shall take effect on the first day of the first month which begins more than 90 days after the date of the enactment of this Act.

PART II—AMENDMENTS OF CODE PROVISIONS WITH LIMITED CURRENT APPLICATION: REPEALS AND SAVINGS PROVISIONS

Sec. 1921. Provisions of Subtitle A.

(a) References to Internal Revenue Code.—Except as otherwise expressly provided, whenever in this section a reference is made to a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

(b) Amendments.—

(1) Amendment of section 72.—

(A) Repeal.—Section 72 (relating to annuities) is amended by striking out subsection (i) (relating to joint and survivor annuities where first annuitant died in 1951, 1952, or 1953).

(B) Savings provision.—Nothwithstanding subparagraph (A), if the provisions of section 72(i) applied to amounts received in taxable years beginning before January 1, 1976, under an annuity contract, then amounts received under such contract on or after such date shall be treated as if such provisions were not repealed.

(2) Amendments of section 108.—

(A) Repeal.—Section 108 (relating to income from discharge of indebtedness) is amended by striking out subsection (b) (relating to certain railroad corporations) and by striking out of subsection (a) the following: "(a) Special Rule of Exclusion.—".

(B) Savings provision.—If any discharge, cancellation, or modification of indebtedness of a railroad corporation occurs in a taxable year beginning after December 31, 1975, pursuant to an order of a court in a proceeding referred to in section 108(b) (A) or (B) which commenced before January 1, 1960, then, notwithstanding the amendments made by subparagraph (A), the provisions of subsection (b) of section 108 shall be considered as not repealed with respect to such discharge, cancellation, or modification of indebtedness.

(3) Amendments of section 164.—

(A) Repeal.—Section 164 (relating to taxes) is amended by striking out subsection (f) (relating to payments for municipal services in atomic energy communities) and by redesignating subsection (g) as subsection (f).

(B) Savings provision.—Notwithstanding subparagraph (A), any amount paid or accrued in a taxable year beginning after December 31, 1975, to the Atomic Energy Commission for municipal-type services shall be allowed as a deduction under section 164 if such amount would have been deductible by reason of section 164(f) (as in effect for a taxable year ending on December 31, 1975) and if the amount is paid or accrued with respect to real property in a community (within the meaning of section 21 b. of the Atomic Energy Community Act of 1955 (42 U.S.C. 2304(b))) in which the Commission on December 31, 1975, was rendering municipal-type services for which it received compensation from the owners of property within such community.

(4) Repeal of section 168.—

(A) Repeal.—Section 168 (relating to amortization of emergency facilities) is repealed.

(B) Savings provision.—Notwithstanding the repeal made by subparagraph (A), if a certificate was issued before January 1, 1960, with respect to an emergency facility which is or has been placed in service before the date of the enactment of this Act, the provisions of section 168 shall not, with respect to such facility, be considered repealed. The benefit of deductions by reason of the preceding sentence shall be allowed to estates and trusts in the same manner as in the case of an individual. The allowable deduction shall be apportioned between the income beneficiaries and the fiduciary in accordance with regulations prescribed under section 642(f).

(5) Amendments of section 171.—

(A) Repeal.—

(i) Section 171(b)(1)(B) (relating to amount of bond premium) is amended by striking out clause (iii) (relating to certain bonds acquired before 1958).

(ii) Section 171(b)(1)(B)(i) is amended by striking out "clause (ii) or (iii) applies," and inserting in lieu thereof "clause (ii) applies, or", and by inserting "and" at the end thereof.

(iii) Section 171(b)(1)(B)(ii) is amended by striking out ", or" and inserting ", and" in lieu thereof.

(iv) The second sentence in section 171 (b)(2) is amended by striking out "or (iii)".

(B) Savings provision.—Notwithstanding the amendments made by subparagraph (A), in the case of a bond the interest on which is not excludible from gross income—

(i) which was issued after January 22, 1951, with a call date not more than 3 years after the date of such issue, and

(ii) which was acquired by the taxpayer after January 22, 1954, and before January 1, 1958,

the bond premium for a taxable year beginning after December 31, 1974, shall not be determined under section 171(b)(1)(B)(i) but shall be determined with reference to the amount payable on maturity, and if the bond is called before its maturity, the bond premium for the year in which the bond is called shall be determined in accordance with the provisions of section 171(b)(2).

(6) Amendment of section 333.—

(A) Repeal.—Section 333 (relating to election as to recognition of gain in certain liquidations), as amended by section 1401 of this Act, is further amended by striking out subsection (g) (relating to the liquidation of certain personal holding companies).

(B) Savings provision.—Notwithstanding subparagraph (A), if any corporation meets all the requirements of section 333(g)(2) (B), as in effect before its repeal by this Act, the liquidation of such corporation shall be treated as if paragraphs (2), (3), and (4) of section 333(g) had not been repealed.

(C) Phase-in of 12-month holding period requirement.—For purposes of subparagraph (B), the period for holding of stock specified in section 333(g)(2)(A)(ii), as in effect before such repeal, shall—

(i) in the case of taxable years beginning in 1976, be considered to be "8 months";

(ii) in the case of taxable years beginning in 1977, be considered to be "10 months"; and

(iii) in the case of taxable years beginning after December 31, 1977, be considered to be "12 months".

(7) Amendment of section 453.—

(A) Repeal.—Section 453(b)(2) (relating to limitation on use of installment sales method) is amended to read as follows:

"(2) Limitation.—Paragraph (1) shall apply only if in the taxable year of the sale or other disposition—

"(A) there are no payments, or

"(B) the payments (exclusive of evidences of indebtedness of the purchaser) do not exceed 30 percent of the selling price."

(B) Savings provision.—Notwithstanding subparagraph (A), in the case of installment payments received during taxable years beginning after December 31, 1975, on account of a sale or other disposition made during a taxable year, beginning before January 1, 1954, subsection (b)(1) of section 453 (relating to sales of realty and casual sales of personalty) shall apply only if the income was (by reason of section 44(b) of the Internal Revenue Code of 1939) returnable on the basis and in the manner prescribed in section 44(a) of such Code.

(8) Amendments of section 512.—

(A) Repeal.—Section 512(b) (relating to unrelated business taxable income) is amended by striking out paragraphs (13) and (14) and by redesignating paragraphs (15), (16), and (17) as paragraphs (13), (14), and (15), respectively.

(B) Savings provision.—Notwithstanding subparagraph (A), income received in a taxable year beginning after December 31, 1975, shall be excluded from gross income in determining unrelated business taxable income, if such income would have been excluded by paragraph (13) or (14) of section 512(b) if received in a taxable year beginning before such date. Any deductions directly connected with income excluded under the preceding sentence in determining unrelated business taxable income shall also be excluded for such purpose.

(9) Amendments of section 545.—

(A) Repeal.—Section 454(b) (relating to adjustments in computing undistributed personal holding company income) is amended by striking out paragraph (9) (relating to deductions on account of certain liens in favor of the United States).

(B) Saving provision.—Notwithstanding subparagraph (A), if any amount was deducted under paragraph (9) of section 545 (b) in a taxable year beginning before January 1, 1976, on account of a lien which is satisfied or released in a taxable year beginning on or after such date, the amount so deducted shall be included in income, for purposes of section 545, as provided in the second sentence of such paragraph. Shareholders of any corporation which has amounts included in its income by reason of the preceding sentence may elect to compute the income tax on dividends attributable to amounts so included as provided in the third sentence of such paragraph.

(10) Amendments of section 691.—

(A) Repeal.—Section 691 (relating to income in respect of decedents) is amended by striking out subsection (e) (relating to certain installment obligations transmitted at death) and by redesignating subsection (f) as subsection (e).

(B) Savings provision.—Notwithstanding subparagraph (A), any election made under section 691(e) to have subsection (a)(4) of such section apply in the case of an installment obligation shall continue to be effective with respect to taxable years beginning after December 31, 1975. Section 691(c) shall not apply in respect of any amount included in gross income by reason of the preceding sentence. The liability under bond filed under section 44(d) of the Internal Revenue Code of 1939 (or corresponding provisions of prior law) in respect of which such an election applies is hereby released with respect to taxable years to which such election applies.

(11) Amendments of section 817.—

(A) Repeal.—Section 817 is amended by striking out subsection (d) (relating to certain gains occurring before 1959).

(B) Savings provision.—Notwithstanding subparagraph (A), if any gain in a taxable year beginning after December 31, 1975, from any sale or other disposition of property prior to January 1, 1959, would be excluded or not taken into account for purposes of part 1 of subchapter L of chapter 1 if subsection (d) of section 817 of such Code were still in effect for such taxable year, such gain shall be excluded for purposes of such part.

(12) Repeal of section 1347.—

(A) Repeal.—Section 1347 (relating to certain claims filed against the United States before January 1, 1958) is repealed.

(B) Savings provision.—Notwithstanding

subparagraph (A), if amounts received in a taxable year beginning after December 31, 1975, would have been subject to the provisions of section 1347 if received in a taxable year beginning before such date, the tax imposed by section 1 attributable to such receipt shall be computed as if section 1347 had not been repealed.

(13) Repeal of section 1471.—

(A) Repeal.—Subchapter A of chapter 4 (relating to recovery of excessive profits on certain Government contracts) is repealed.

(B) Savings provision.—If the amount of profit required to be paid into the Treasury under section 2382 or 7300 of title 10, United States Code, is not voluntarily paid, the Secretary of the Treasury or his delegate shall collect the same under the methods employed to collect taxes under subtitle A. All provisions of law (including penalties) applicable with respect to such taxes and not inconsistent with section 2382 or 7300 of title 10 of such Code, shall apply with respect to the assessment, collection, or payment of excess profits to the Treasury as provided in the preceding sentence, and to refunds by the Treasury of overpayments of excess profits into the Treasury.

(14) Amendment of section 1481.—

(A) Repeal.—Section 1481 (relating to mitigation of effect of renegotiation of Government contracts) is amended by striking out subsection (d) (relating to renegotiation for years prior to 1954).

(B) Savings provision.—If during a taxable year beginning after December 31, 1975, a recovery of excessive profits through renegotiation which relates to profits of a taxable year subject to the Internal Revenue Code of 1939, the adjustments in respect to such renegotiation shall be made under section 3806 of such Code.

(b) Conforming and Clerical Amendments.—

(1) Amendment conforming to the amendment of section 108.—Section 1017 is amended by striking out "section 108(a)" each time it appears therein and inserting in lieu thereof "section 108".

(2) Amendments conforming to repeal of section 168.—

(A) Section 1238 is amended by striking out "(relating to amortization deduction of emergency facilities)" and inserting in lieu thereof "(as in effect before its repeal by the Tax Reform Act of 1975)".

(B) Sections 642(f) and 1082(a)(2)(B) are each amended by striking out "168,".

(C) Sections 1245(a)(2) and 1250(b)(3) are each amended by striking out "168," each place it appears and inserting in lieu thereof "168 (as in effect before its repeal by the Tax Reform Act of 1975),".

(D) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 168.

(3) Amendments conforming to the repeal of section 1347.—

(A) Section 5(b) is amended by striking out paragraph (5) and by redesignating paragraphs (2), (3), and (4), as paragraphs (1), (2), and (3), respectively.

(B) The table of sections for part VI of subchapter Q of chapter 1 is amended by striking out the item relating to section 1347.

(C) The heading of part VI of subchapter Q of chapter 1 is amended to read as follows:

"PART VI—MAXIMUM RATE ON
EARNED INCOME"

(D) The table of parts for subchapter Q of chapter 1 is amended by striking out the item relating to part VI and inserting in lieu thereof the following:

"Part VI. Maximum rate on earned income."

(4) Amendments conforming to the repeal section 1471.—The table of subchapters for chapter 4 is amended by striking out the item relating to subchapter A.

(c) Effective Date.—Except as otherwise expressly provided, the amendments made by this section shall apply with respect to taxable years beginning after December 31, 1975.

Sec. 1922. Provisions of Subchapter D of Chapter 39; Cotton Futures.

(a) Short Title.—This section may be cited as the "United States Cotton Futures Act".

(b) Repeal of Tax on Cotton Futures.—Subchapter D of chapter 39 (relating to tax on cotton futures) is repealed.

(c) Definitions.—For purposes of this section—

(1) Cotton futures contract.—The term "cotton futures contract" means any contract of sale of cotton for future delivery made at, on, or in any exchange, board of trade, or similar institution or place of business which has been designated a "contract market" by the Secretary pursuant to the Commodity Exchange Act and the term "contract of sale" as so used shall be held to include sales, agreements of sale, and agreements to sell.

(2) Future delivery.—The term "future delivery" shall not include any cash sale of cotton for deferred shipment or delivery.

(3) Person.—The term "person" includes an individual, trust, estate, partnership, association, company, or corporation.

(4) Secretary.—The term "Secretary" means the Secretary of Agriculture of the United States.

(5) Standards.—The term "standards" means the official cotton standards of the United States established by the Secretary pursuant to the United States Cotton Standards Act, as amended.

(d) Bona Fide Spot Markets and Commercial Differences.—

(1) Definition.—For purposes of this section, the only markets which shall be considered bona fide spot markets shall be those which the Secretary shall, from time to time, after investigation, determine and designate to be such, and of which he shall give public notice.

(2) Determination.—In determining, pursuant to the provisions of this section, what markets are bona fide spot markets, the Secretary is directed to consider only markets in which spot cotton is sold in such volume and under such conditions as customarily to reflect accurately the value of middling cotton and the differences between the prices or values of middling cotton and of other grades of cotton for which standards shall have been established by the Secretary; except that if there is not sufficient places, in the markets of which are made bona fide sales of spot cotton of grades for which standards are established by the Secretary, to enable him to designate at least five spot markets in accordance with subsection (f)(3), he shall, from data as to spot sales collected by him, make rules and regulations for determining the actual commercial differences in the value of spot cotton of the grades established by him as reflected by bona fide sales of spot cotton, of the same or different grades, in the markets selected and designated by him, from time to time, for that purpose, and in that event differences in value of cotton of various grades involved in contracts made pursuant to subsection (f) (1) and (2) shall be determined in compliance with such rules and regulations. It shall be the duty of any person engaged in the business of dealing in cotton, when requested by the Secretary or any agent acting under his instructions, to answer correctly to the best of his knowledge, under oath or otherwise, all questions touching his knowledge of the number of bales, the classification, the price or bona fide price offered, and other terms of purchase or sale, of any cotton involved in any transaction participated in by him, or to produce all books, letters, papers, or documents in his possession or under his control relating to such matter.

(3) Withholding information.—Any person engaged in the business of dealing in cotton who shall, within a reasonable time prescribed by the Secretary or any agent acting under his instructions, willfully fail or refuse to answer questions or to produce books, letters, papers, or documents, as required under paragraph (2) of this subsection, or who shall willfully give any answer that is false or misleading, shall, upon conviction thereof, be fined not more than $500.

(e) Form and Validity of Cotton Futures Contracts.—Each cotton futures contract shall be a basis grade contract, or a tendered grade contract, or a specific grade contract as specified in subsections (f), (g), or (h) and shall be in writing plainly stating, or evidenced by written memorandum showing, the terms of such contract, including the quantity of the cotton involved and the names and addresses of the seller and buyer in such contract, and shall be signed by the party to be charged, or by his agent in his behalf. No cotton futures contract which does not conform to such requirements shall be enforceable by, or on behalf of, any party to such contract or his privies.

(f) Basis Grade Contracts.—

(1) Conditions.—Each basis grade cotton futures contract shall comply with each of the following conditions:

(A) Conformity with regulations.—Conform to the regulations made pursuant to this section.

(B) Specification of grade, price, and dates of sale and settlement.—Specify the basis grade for the cotton involved in the contract, which shall be one of the grades for which standards are established by the Secretary, except grades prohibited from being delivered on a contract made under this subsection by subparagraph (E), the price per pound at which the cotton of such basis grade is contracted to be bought or sold, the date when the purchase or sale was made, and the month or months in which the contract is to be fulfilled or settled; except that middling shall be deemed the basis grade incorporated into the contract if no other basis grade be specified either in the contract or in the memorandum evidencing the same.

(C) Provision for delivery of standard grades only.—Provide that the cotton dealt with therein or delivered thereunder shall be of or within the grades for which standards are established by the Secretary except grades prohibited from being delivered on a contract made under this subsection by subparagraph (E) and no other grade or grades.

(D) Provision for settlement on basis of actual commercial differences.—Provide that in case cotton of grade other than the basis grade be tendered or delivered in settlement of such contract, the differences above or below the contract price which the receiver shall pay for such grades other than the basis grade shall be the actual commercial differences, determined as hereinafter provided.

(E) Prohibition of delivery of inferior cotton.—Provide that cotton that, because of the presence of extraneous matter of any character, or irregularities or defects, is reduced in value below that of low middling, or cotton that is below the grade of low middling, or, if tinged, cotton that is below the grade of strict middling, or, if yellow stained, cotton that is below the grade of good middling, the grades mentioned being of the official cotton standards of the United States, or cotton that is less than seven-eighths of an inch in length of staple, or cotton of perished staple, or of immature staple, or cotton that is "gin cut" or reginned, or cotton that is "repacked" or "false packed" or "mixed packed" or "water packed", shall not be delivered on, under, or in settlement of such contract.

(F) Provisions for tender in full, notice of delivery date, and certificate of grade.—

Provide that all tenders of cotton under such contract shall be the full number of bales involved therein, except that such variations of the number of bales may be permitted as is necessary to bring the total weight of the cotton tendered within the provisions of the contract as to weight; that, on the fifth business day prior to delivery, the person making the tender shall give to the person receiving the same written notice of the date of delivery, and that, on or prior to the date so fixed for delivery, and in advance of final settlement of the contract, the person making the tender shall furnish to the person receiving the same a written notice or certificate stating the grade of each individual bale to be delivered and, by means of marks or numbers, identifying each bale with its grade.

(G) Provision for tender and settlement in accordance with government classification.—Provide that all tenders of cotton and settlements therefor under such contract shall be in accordance with the classification thereof made under the regulations of the Secretary by such officer or officers of the Government as shall be designated for the purpose, and the costs of such classification shall be fixed, assessed, collected, and paid as provided in such regulations. The Secretary is authorized to prescribe regulations for carrying out the purposes of this subparagraph and the certificates of the officers of the Government as to the classification of any cotton for the purposes of this subparagraph shall be accepted in the courts of the United States in all suits between the parties to such contract, or their privies, as prima facie evidence of the true classification of the cotton involved.

(2) Incorporation of conditions in contracts.—The provisions of paragraph (1) (C), (D), (E), (F), and (G) shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the memorandums evidencing the same, at or prior to the time the same is signed, the phrase "Subject to United States Cotton Futures Act, subsection (f)."

(3) Delivery allowances.—For the purpose of this subsection, the differences above or below the contract price which the receiver shall pay for cotton of grades above or below the basic grade in the settlement of a contract of sale for the future delivery of cotton shall be determined by the actual commercial differences in value thereof upon the sixth business day prior to the day fixed, in accordance with paragraph (1)(F), for the delivery of cotton on the contract, established by the sale of spot cotton in the spot markets of not less than five places designated for the purpose from time to time by the Secretary, as such values were established by the sales of spot cotton, in such designated five or more markets. For purposes of this paragraph, such values in the such spot markets shall be based upon the standards for grades of cotton established by the Secretary. Whenever the value of one grade is to be determined from the sale or sales of spot cotton of another grade or grades, such value shall be fixed in accordance with rules and regulations which shall be prescribed for the purpose by the Secretary.

(g) Tendered Grade Contracts.—

(1) Conditions.—Each tendered grade cotton future contract shall comply with each of the following conditions:

(A) Compliance with subsection (f).—Comply with all the terms and conditions of subsection (f) not inconsistent with this subsection; and

(B) Provision for contingent specific performance.—Provide that, in case cotton of grade or grades other than the basis grade specified in the contract shall be tendered in performance of the contract, the parties to such contract may agree, at the time of the tender, as to the price of the grade or grades so tendered, and that if they shall not then agree as to such price, then, and in that event, the buyer of said contract shall have the right to demand the specific fulfillment of such contract by the actual delivery of cotton of the basis grade named therein and at the price specified for such basis grade in said contract.

(2) Incorporation of conditions in contract.—Contracts made in compliance with this subsection shall be known as "subsection (g) Contracts". The provisions of this subsection shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the memorandum evidencing the same, at or prior to the time the same is signed, the phrase "Subject to United States Cotton Futures Act, subsection (g)".

(3) Application of subsection.—Nothing in this subsection shall be so construed as to authorize any contract in which, or in the settlement of or in respect to which, any device or arrangement whatever is resorted to, or any agreement is made, for the determination or adjustment of the price of the grade or grades tendered other than the basis grade specified in the contract by any "fixed difference" system, or by arbitration, or by any other method not provided for by this section.

(h) Specific Grade Contracts.—

(1) Conditions.—Each specific grade cotton futures contract shall comply with each of the following conditions:

(A) Conformity with rules and regulations.—Conform to the rules and regulations made pursuant to this section.

(B) Specification of grade, price, dates of sale and delivery.—Specify the grade, type, sample, or description of the cotton involved in the contract, the price per pound at which such cotton is contracted to be bought or sold, the date of the purchase or sale, and the time when shipment or delivery of such cotton is to be made.

(C) Prohibition of delivery of other than specified grade.—Provide that cotton of or within the grade or of the type, or according to the sample or description, specified in the contract shall be delivered thereunder, and that no cotton which does not conform to the type, sample, or description, or which is not of or within the grade specified in the contract shall be tendered or delivered thereunder.

(D) Provision for specific performance.—Provide that the delivery of cotton under the contract shall not be effected by means of "setoff" or "ring" settlement, but only by the actual transfer of the specified cotton mentioned in the contract.

(2) Incorporation of conditions in contract.—The provisions of paragraph (1)(A), (C), and (D) shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the document or memorandum evidencing the same, at or prior to the time the same is entered into, the words "Subject to United States Cotton Futures Act, subsection (h)".

(3) Application of subsection.—This subsection shall not be construed to apply to any contract of sale made in compliance with subsection (f) or (g).

(i) Liability of Principal for Acts of Agent.—When construing and enforcing the provisions of this section, the act, omission, or failure of any official, agent, or other person acting for or employed by any association, partnership, or corporation within the scope of his employment or office shall, in every case, also be deemed the act, omission, or failure of such association, partnership, or corporation, as well as that of the person.

(j) Regulations.—The Secretary is authorized to make such regulations with the force and effect of law as he determines may be necessary to carry out the provisions of this section and the powers vested in him by this section.

(k) Violations.—Any person who knowingly violates any regulation made in pursuance of this section, shall, upon conviction thereof, be fined not less than $100 nor more than $500, for each violation thereof, in the discretion of the court, and, in case of natural persons, may, in addition be punished by imprisonment for not less than 30 days nor more than 90 days, for each violation, in the discretion of the court except that this subsection shall not apply to violations subject to subsection (d)(3).

(l) Applicability to Contracts Prior to Effective Date.—The provisions of this section shall not apply to any cotton futures contract entered into prior to the effective date of this section or to any act or failure to act by any person prior to such effective date and all such prior contracts, acts or failure to act shall continue to be governed by the applicable provisions of the Internal Revenue Code of 1954 as in effect prior to the enactment of this section. All designations of bona fide spot markets and all rules and regulations issued by the Secretary pursuant to the applicable provisions of the Internal Revenue Code of 1954 which were in effect on the effective date of this section, shall remain fully effective as designations and regulations under this section until superseded, amended, or terminated by the Secretary.

(m) Authorization.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(n) Conforming and Clerical Amendments.—

(1) Section 6808 (relating to cross references) is amended by striking out paragraph (2), and by redesignating paragraphs (3), (6), and (11) as paragraphs (1), (2), and (3), respectively.

(2)(A) Section 7233 (relating to failure to pay tax on cotton futures) is repealed.

(B) The table of sections for part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7233.

(3)(A) Section 7263 (relating to penalties concerning cotton futures) is repealed.

(B) The table of sections for subchapter B of chapter 75 is amended by striking out the item relating to section 7263.

(4)(A) Subchapter E of chapter 76 (relating to miscellaneous provisions regarding cotton futures contracts) is repealed.

(B) The table of subchapters for chapter 76 is amended by striking out the item relating to subchapter E.

(5) Chapter 39 (relating to regulatory taxes) is amended by striking out the chapter heading and the table of subchapters.

(6) The table of chapters for subtitle D is amended by striking out the item relating to chapter 39.

(o) Effective Date.—The provisions of this section shall take effect on the 90th day after the date of the enactment of this Act.

AMENDMENT OFFERED BY MR. STARK

Mr. STARK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Stark:

Page 373, strike out line 9 and all that follows down through line 10 on page 376.

Page 376, line 11, strike out "1403" and insert "1402".

Page 381, line 17, strike out "1403" and insert "1402".

Page 381, line 19, strike out "1403" and insert "1402".

Page 381, line 20, strike out "1404" and insert "1403".

Mr. STARK. Mr. Chairman, the amendment I am offering would strike out a capital loss carryback provision for individuals which has never existed before. It also has a particular feature which makes it retroactive to 1974 so that it could do nothing to encourage new capital formation. It provides a specialized advantage to those who may have incurred losses in 1974—they could take those losses and go back to 1971, for example, and recapture taxes already paid.

It is estimated that we would lose $165 million worth of revenue in 1976 alone.

Mr. Chairman, at this time I would like to yield to the chairman of the Committee on Ways and Means, the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Chairman, the amendment that the gentleman from California (Mr. STARK) offers is one that I fully support. I opposed the provision when it was before the committee. It is very essential at this point that we recoup the revenue that the amendment would lose.

I support the amendment.

Mr. STARK. Mr. Chairman, I thank the gentleman from Oregon.

I would like to point out that the total revenue loss for the next 5 years would be $335 million. Actually, the amendment sits as somewhat of an embarrassment to many of us. It was written up in the press as one that was passed late at night.

I would like to add at this point that there was never any evidence that this amendment was placed before the committee for the benefit of any one individual, nor was it placed there at the insistence or urging of any one individual. It turned out later, much to our surprise, that this amendment would only benefit a very few rich individuals, because they have to have $30,000 worth of losses to even qualify. In my district, $30,000 worth of losses would wipe out most of my voters. I do not think I would have anybody qualifying. The point is that the amendment goes only to a few rich people. It would give them no further incentive to make speculative investments that might help the capital market, unless they could find a way to generate some kind of paper capital losses and really just dip into the Treasury for a double bonus.

Mr. Chairman, I hope my colleagues will join me in correcting what I see is a serious oversight. The Treasury Department supports the amendment. My feeling is that, if very wealthy investors need subsidies, we have provided through supplemental security income and other welfare agencies a proper procedure for wealthy people to go on welfare, rather than approaching it through the Tax Code.

Mr. MIKVA. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Illinois.

Mr. MIKVA. Mr. Chairman, I commend my colleague for offering this amendment. Whenever there is any retroactivity in the tax code, it is a bad idea. When there is a retroactive benefit, it has somebody's name on it and that is not a sound tax policy.

I think this was an aberration by the committee. I hope the House will help us correct it and take it out of the bill. The Treasury does support this amendment.

Mr. Chairman, I urge support for the amendment.

Mr. STARK. Mr. Chairman, I appreciate the gentleman's support and would ask all of us to join with me to save the taxpayers $165 million next year, running up to $335 million in the next few years.

Mr. Chairman, I ask support for this amendment and yield back the balance of my time.

Mr. LANDRUM. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the amendment seeks to strike a provision in the bill which I offered to provide for individuals the same privilege that the law now provides for corporations to carry back capital losses for a period of 3 years.

Mr. Chairman, this is not a new amendment. It has been floating around since 1969. It was thought at the time we built what became the 1969 tax law and put into law the provision allowing corporations to carry back for 3 years capital losses against the gain of other years that we included individuals in the bill; but through inadvertence, individuals were not included. So last year the House Committee on Ways and Means, with the great majority, and I know of no opposition from last year, supported the amendment to extend the same provisions to individuals that corporations have to carry back their losses for 3 years.

The provision was likewise in the Senate bill; so there is no surprise and should be no embarrassment to anyone by having been subjected to a vote on it.

I grant that the vote taken on the amendment when I proposed it this year was not unanimous. If I recall correctly, it was voted in by something like 21 or 22 to 14 or 15, but nevertheless by a majority.

Now then, this amendment was not offered for a thing in the world except to provide to individuals over this Nation the opportunity to carry back 3 years the losses that they suffer in a capital operation. The purpose of it was to give some incentive to individuals to invest, to raise capital. One of the weaknesses we have had in the last 2 or 3 years in our economy is that we have not had an opportunity to get small investors into the market to raise capital. This was done solely to provide the same measure in law to individuals that a corporation has today, and to offer him, not assurance but some expectation, of not losing all that he invested if he took a chance.

Mr. Chairman, really, from what I hear around here and what I have read in the papers, I really do not expect that the gentleman's amendment to take this out will be defeated, but I want this body to know, and I want the gentleman who offered the amendment to know, that the provision which I sought to put in here was placed there in good faith. It was a good amendment. It is right, it is morally right, it is justified under every aspect of the law. My proposal to defeat the amendment may not get but one vote, but it will get one vote, and that will be mine, because it is right. I am not running from anybody or anything when I know I am right.

Mr. SCHNEEBELI. Mr. Chairman, will the gentleman yield?

Mr. LANDRUM. I yield to the gentleman from Pennsylvania.

Mr. SCHNEEBELI. Mr. Chairman, I thank the gentleman for yielding to me. The gentleman is entirely correct in all the statements he makes. As a matter of fact, at the time of the voting on the amendment in the committee, the committee previously approved this amendment, and not just for this year. This was about the third or fourth time around for this amendment.

It provided for the same tax treatment for individuals, as corporations who already had this chargeback previously. The gentleman was entirely honest and forthright in presenting the amendment. The other 19 Members, including myself, who voted with him were not aware of a single individual who would have profited primarily by this amendment.

I congratulate the gentleman for having offered it, and if in the future he offers an amendment of this type on a prospective basis, I would support it.

Mr. LANDRUM. I thank the gentleman for that observation, and say to him that it does not matter whether this amendment benefits one individual or 1 million individuals. What does matter is whether or not it is right, morally right, and that is the question here. There is no reason to withhold a privilege from individuals which is available under our present tax laws to corporations.

PREFERENTIAL MOTION OFFERED BY MR. WAGGONNER

Mr. WAGGONNER. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. WAGGONNER moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

The CHAIRMAN. The preferential motion is in order. The gentleman from Louisiana (Mr. WAGGONNER) is recognized for 5 minutes.

Mr. WAGGONNER. Mr. Chairman, it is difficult to debate a matter of tax policy in 10 minutes and we cannot do it in 15 minutes. But, I hope the Members listened carefully to what the gentleman from Georgia (Mr. LANDRUM) had to say. This loss carryback for individuals is good tax law. It does, as he has said, provide for equity for the individual as is already provided for corporations. In the instance of the ordinary income taxes, there is an averaging provision for individuals who have erratic income, we will say, high income or no income, or maybe losses.

As far as speaking to the question of retroactivity being bad, which the gentleman from Illinois (Mr. MIKVA) referred to a moment ago when he said any retroactive provision is bad, I would call your attention to another provision of this same piece of legislation, which makes retroactive the investment credit for the movie industry for films which have already been produced. That in itself amounts to a windfall for a few individuals of something in the nature of $150 million next year. Pornographic films are eligible for this investment credit. Who of you can justify this?

This loss carryback is good tax policy.

Many people have raised the question as to why this applies—and they like to talk about it as if something was wrong—to only those with losses in excess of $30,000. And it is so simply because there is another provision in this same legislative proposal which provides for a loss carryforward for individuals who have small losses, and small losses can be carried forward forever, in perpetuity. This bill provides in an escalated way that the amount of ordinary income against which a capital loss may be deducted would be increased to $4,000 a year, and that takes care of small-loss individuals. That is the reason that it applies to losses in excess of $30,000, because another provision of the bill which I have just described takes care of the smaller losses. Presently they can only offset $1,000, but the bill provides for an offset of $4,000 a year beginning after 1977.

Mr. Chairman, I know what you are going to do. The only thing you are going to do, though, is to deny to the individual what corporations already have. You are going to hinder risk capital, because it does apply to the future and it will attract investors. And in denying individuals what corporations already have out of spite because you think some one or two people would benefit, you are going to reject a good provision which is good tax policy. That is exactly what is going to happen. You are going to mistreat the individuals of this country. Consider the plight of the individual, of his many losses, but just one capital gain in a lifetime.

Mr. Chairman, every individual is entitled to the same provision that a corporation is entitled to. I would urge the Members not to delete this provision from this bill. You are going counter to good tax policy if you do.

Mr. ULLMAN. Mr. Chairman, I rise in opposition to the preferential motion.

Mr. Chairman, whatever the merits of an individual carryback of capital losses may be—and I think a case can be made for an individual carryback of capital losses—that does not go to the central issue. The central issue here is the retroactivity of the provision. This is the reason there is a loss of $165 million in revenue in the first year. In the second year the revenue loss drops down to about $30 million, which is the normal course of events when we apply an amendment retroactively.

I oppose the amendment because it is a retroactive provison.

Mr. STARK. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from California.

Mr. STARK. I thank the distinguished chairman for yielding.

Mr. Chairman, there are many people who think we ought to look very carefully at the treatment of individual gains and losses. The small individual does not have the opportunity to carry back capital losses at this point, and the fact does remain this would provide an opportunity of at least a $165 million subsidy out of the Treasury for only those investors wealthy enough to have $30,000 in losses. It would provide no added incentive for investment.

For the life of me I cannot understand why somebody with great losses back in 1974 would be encouraged to invest anything this year unless that person got the money from the Treasury. Any of us, I am sure, would be willing to invest if the Treasury would give us a bonus.

Mr. Chairman, I urge the adoption of my amendment.

Mr. ULLMAN. Mr. Chairman, I urge support of the amendment.

Mr. WAGGONNER. Mr. Chairman, I ask unanimous consent that I may be permitted to withdraw my preferential motion.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. STARK).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. STARK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 379, noes 27, not voting 28, as follows:

[Roll No. 733]

AYES—379

Abdnor
Abzug
Adams
Addabbo
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Aspin
AuCoin
Badillo
Bafalis
Baldus
Barrett
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clay
Cochran
Cohen
Collins, Ill.
Conable
Conlan
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Giaimo
Gibbons
Gilman
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harris
Harsha
Hastings
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hutchinson
Hyde
Ichord
Jacobs
Jeffords
Jenrette
Johnson Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Matsunaga
Mazzoli
Meeds
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stratton
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NOES—27

Brown, Ohio
Burleson, Tex.
Casey
Clancy
Clawson, Del
Collins, Tex.
Edwards, Ala.
Esch
Flynt
Ginn
Hansen
Jarman
Ketchum
Landrum
McDonald
Martin
Mathis
Mills
Poage
Roberts
Satterfield
Stephens
Stuckey
Symms
Taylor, Mo.
Teague
Waggonner

NOT VOTING—28

Alexander
Ashley
Baucus
Brown, Calif.
Burke, Fla.
Cleveland
Crane
Diggs
du Pont
Foley
Gaydos
Harrington
Hébert
Helstoski
Hinshaw
Howe
Hungate
Jones, Ala.
Litton
Macdonald
Melcher
Milford
Moorhead, Calif.
O'Hara
Passman
Ruppe
Stokes
Udall

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. HOWE. Mr. Chairman, due to previous official business commitments, I was unable to be present during rollcall vote 733 on elimination of capital loss carryback amendment to the bill H.R. 10612, the Tax Reform Act of 1975.

Had I been present, I would have voted in favor of the amendment to H.R. 10612 and would like to be placed on the Record as having voted in that manner.

PREFERENTIAL MOTION OFFERED BY MR. GIBBONS

Mr. GIBBONS. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Gibbons moves that the committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

Mr. GIBBONS. Mr. Chairman, I take this time to try to focus the attention of this House upon this bill, the issues in this bill, and the desperate financial situation that our Government is in. I wish the Members would pay close attention to this.

Mr. Chairman, I see on the floor the gentleman from Washington (Mr. Adams) who is chairman of the Budget Committee, the man who has done a wonderful job in bringing order out of a situation which has been very chaotic as far as the Congress is concerned. In a minute I will yield to the gentleman but before I do let me urge the Members to pay close attention to these amendments that are being presented.

We have made a good start in improving this bill substantially and we need to improve it because the Government needs the money. Let me stress we have got deep financial, fiscal problems this year and the people these amendments are directed to people who are not paying their fair share of the taxes.

The amendments which are being presented—one by the gentleman from Illinois (Mr. Mikva), another by the gentleman from California (Mr. Corman), another by the gentleman from Virginia (Mr. Fisher) and another by the gentleman from Minnesota (Mr. Karth), and the ones the Members have just adopted which were offered by the gentleman from California (Mr. Stark)—will have the impact on this bill during calendar year 1976 of raising $1,468,000,000. This is revenue the U.S. Government badly needs. It will not come from people who cannot afford to pay the tax. It will come from people who by and large are getting large salaries but who because of certain provisions of the present tax law are paying very low taxes.

I will give the Members one illustration. When we pulled some tax returns and looked at them on a sanitized basis, the first return we looked at was of a fellow who was an employee of a corporation and he was paid a salary of $450,000. By using two or three of the loopholes we will close here, he had reduced that tremendous salary—and I am glad he can earn that ample salary—to where he paid only $1,200 in Federal income taxes. That is just not fair.

The Government needs the money. We are in conference right now on the budget report for this year. We are running a deficit that is going to be about $74 billion, cut and squeeze as much as we can. It is going to be bad next year. All we are asking the Members to do here is to put a little tax on people who can afford to pay the tax to help out the U.S. Government.

I yield to the distinguished chairman of the Budget Committee.

Mr. ADAMS. Mr. Chairman, I thank the distinguished gentleman from Florida for yielding.

I simply want to join with the gentleman in his remarks about what effect these amendments will have on the deficit. If we adopt these amendments we will reduce the deficit this year and we will reduce the deficit next year and years in the future.

If we do not have revenues then we are going to have to cut programs. As the gentleman said, we have been cutting programs day after day in that conference and a great many people on this floor have particular interests in particular programs.

I noticed applause from a couple of the gentlemen here when I said that we should cut programs, but I know a number of them have come to me and said: "But do not cut revenue sharing. Do not touch it."

I have tried to state the Budget Committee is not in the business of interfering with the jurisdiction of the committees of the legislative and appropriating committees any more than is necessary to carry out the Budget Committee's statutory responsibilities, but part of those responsibilities is to come here and try to show to the House what happens to the budget as the various bills come to the floor for action.

The Ways and Means Committee has a package here that affects revenues this year and we are supporting it and the revenue-raising amendments that help meet the target agreed to in the first concurrent resolution on the budget adopted by Congress. The comments of the gentleman in the well are absolutely correct. There is a series of amendments here to help protect the Nation's tax system and pick up revenues which will serve to reduce the deficit, and just as I have supported cutting a number of spending bills this year I support increasing revenues to get the budget in order and hold down the deficit.

Mr. GIBBONS. Let me repeat, the Mikva amendment will raise $167 million in the next year and more in the future.

The Corman amendment will raise $367 million in the next year and more in the future.

The Fisher amendment will raise $165 million in the next year and more in the future.

The Karth amendment will not raise money next year, but will in the future.

Now, Mr. Chairman, I have used this maneuver of striking the enacting clause only to gain additional time for debate, so I ask that all Members vote against my amendment.

Mr. Chairman, I ask unanimous consent that I may be permitted to withdraw my preferential motion.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. HAYS of Ohio. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

Mr. FRENZEL. Mr. Chairman, I rise in opposition to the preferential motion.

Mr. Chairman, this privileged motion has been used for the promotion of all the seven pending amendments. Therefore, it may be appropriate that someone speak up in opposition to some of the amendments.

The statement has been made by the distinguished gentleman from California that the Treasury needs money. I am not sure that there are no people in this hall more in agreement with that statement than those who sit on the right hand side. We Republicans gave this body the opportunity to save our Treasury yesterday and several weeks ago. But the majority group in this House, by almost a straight party line vote, turned that down. Apparently the Democrats were unwilling to set a spending ceiling which is absolutely demanded by the people of this country.

Sure, we can reduce the deficit slightly by adopting some of these amendments, but I would urge the House to look at these amendments from the standpoint of tax equity and national policy, not just from the standpoint of squeezing a buck or two out and thinking we are going to relieve the country's fiscal distress. Some of our Members may think they can relieve their own distress. But only by setting a spending ceiling can we relieve our fiscal distress which we are causing by our own unwillingness to set a limit of this country's spending.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman for yielding.

In response to the gentleman from Florida (Mr. Gibbons) there is absolutely no question that our country needs money.

Now, what do they need it for? They need it so they can make another $2 billion loan to India and then forgive it.

They need it to support the United Nations, that turns around and slaps us down.

They need it for a $2 billion package to New York.

They need it to give more money to Ecuador that seizes our fishing fleets.

They need it to give $2 billion more to Israel.

They need it so they can give nuclear plants to Egypt.

The gentleman is right. We need it. If that is what we want to spend the money for, have at it.

Mr. ARCHER. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Chairman, we have received no feedback revenue loss estimates as the result of the economic slowdown that will occur from the adoption of these amendments. I can assure this House that in the building of housing units and apartments and real estate construction in this country, that one of the amendments is going to have a significant deterring effect and the result on economic activity is going to be a revenue loss across the board and there are no revenue estimates with respect to that at all.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the distinguished gentleman from Ohio.

Mr. HAYS of Ohio. Mr. Chairman, my father used to say when he gave me a dose of castor oil, "Actually, you may not like this, but it may do you some good."

If you want to save some money, we should do away with revenue sharing. Every official in my district is willing to get the money and they have wasted it in most cases. In my own county, the county commissioners of my own party spent $150,000 to put glass blocks in the windows of the jail in front of the bars so prisoners could not escape. The only trouble, we found when summer came the prisoners were suffocating; so they had to spend another $150,000 to air condition it. It is probably the only air-conditioned jail in the country.

That is an example of what we are doing with revenue sharing. We are sharing revenues we do not have. What we ought to do is have the courage to tell these fellows back home, "If you need money, go to the taxpayers and ask them to vote a levy or bond issue and see how far you get."

Mr. du PONT. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Delaware.

PERSONAL EXPLANATION

Mr. du PONT. Mr. Chairman, a few moments ago I was absent from the floor at an appointment with the House physician and missed the vote on the Stark amendment to this bill. Had I been present, I would have voted "aye," in order to remove from the bill the capital loss carryback provision of section 1402 of the bill.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I cannot leave this attack on revenue sharing unanswered. There is no more important tax reform measure before this House than the extension of revenue sharing. If we want to cant the whole tax system toward regressive taxes, toward sales taxes and real estate taxes, then the best way is to refuse to enact the extension of revenue sharing.

To terminate revenue sharing will move the whole tax system away from progressivity, which supposedly is the issue in tax reform.

Mr. FRENZEL. I thank the gentleman, and I agree with him.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, we all agree in principle with what the gentleman from Florida has said, but I would say to the Committee that the purpose of the bill is not just solely to raise revenue. We are trying to give equity to all of our various industries, businesses, and individuals. Some of us will be opposing some of the amendments proposed, and we feel for good reasons. I hope the Members will consider the merits of the amendments, and not just in respect to the revenue-raising approach.

Mr. GIBBONS. Mr. Chairman, I ask unanimous consent that I may be permitted to withdraw my preferential motion.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The question is on the preferential motion offered by the gentleman from Florida (Mr. Gibbons).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 60, noes 355, not voting 19, as follows:

[Roll No. 734]

AYES—60

Archer
Ashbrook
Bauman
Bell
Brown, Mich.
Brown, Ohio
Buchanan
Burleson, Tex.
Casey
Clancy
Clawson, Del
Cochran
Collins, Tex.
Conlan
Crane
Daniel, R. W.
Derwinski
Devine
English
Flynt
Frey
Goldwater
Goodling
Hansen
Holt
Hutchinson
Jarman
Jones, Okla.
Kasten
Kelly
Ketchum
Kindness
Lagomarsino
Lott
Lujan
McClory
McDonald
Martin
Mathis
Michel
Miller, Ohio
Myers, Ind.
Myers, Pa.
Poage
Quillen
Roberts
Robinson
Rousselot
Runnels
Satterfield
Schulze
Shuster
Steed
Steiger, Ariz.
Symms
Taylor, Mo.
Vander Jagt
Whitehurst
Young, Alaska
Young, Tex.

NOES—355

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Armstrong
Aspin
AuCoin
Badillo
Bafalis
Baldus
Barrett
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Broyhill
Burgener
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clay
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Fuqua
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hastings
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Henderson
Hicks
Hightower
Hillis
Holland
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hyde
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson Colo.
Johnson, Pa.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Keys
Koch
Krebs
Krueger
LaFalce
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Macdonald
Madden
Madigan
Maguire
Mahon
Mann
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schneebeli
Schroeder
Sebelius
Seiberling
Sharp
Shipley
Shriver
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steelman
Steiger, Wis.
Stephens
Stratton
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Ga.
Zablocki
Zeferetti

NOT VOTING—19

Ashley
Brown, Calif.
Burke, Fla.
Cleveland
Dent
Foley
Gaydos
Hébert
Helstoski
Hinshaw
Hungate
Jones, Ala.
Litton
Milford
Mitchell, Md.
Moorhead, Calif.
Ruppe
Stokes
Udall

Mr. SISK changed his vote from "aye" to "no."

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MIKVA

Mr. MIKVA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Mikva:

Page 10, strike out lines 22 to 24, inclusive, and insert:

"(b) Classes of LAL Real Property.—For purposes of this subpart—

"(1) In general.—Except as provided in paragraphs (2) and (3), each item of real property described in subsection (a)(1) is a separate class of property.

"(2) Aggregation of items of real property on same tract under certain circumstances.—

"(A) In general.—If the taxpayer during the taxable year has an interest in 2 or more items of property described in subsection (a)(1)—

"(i) which are located on the same tract,

"(ii) which (as of the time the construction of the first of such item begins) were included in the plan for the use of such tract,

"(iii) which, in the case of property held or to be held for rental, if their construction has been completed, are under common operation and management, (in the case of items the construction of which is not completed) can reasonably be expected to be under common operation and management upon such completion, and

"(iv) the construction of which began during the 3-year period beginning with the date on which the construction of the first of such items begins,

then all of such items shall be treated as one class of property described in subsection (a)(1).

"(B) Extension of 3-year period in certain cases.—For purposes of clause (iv) of subparagraph (A), if the taxpayer establishes to the satisfaction of the Secretary that the requirements of such cause would have been satisfied with respect to an item of property but for—

"(i) the destruction or damage of property on such tract by fire, storm, or other casualty,

"(ii) a change made, after the date of the begining of the construction of the first of such items, in a Federal or State law or local ordinance of general application, or a change made after such date in rules and regulations of general application issued under such a law or ordinance, or

"(iii) circumstances which could not be reasonably foreseen on the date referred to in clause (ii),

the Secretary may extend the 3-year period for one or more periods (not exceeding 2 years in the aggregate) with respect to such item of property.

"(C) Same tract defined.—For purposes of this paragraph, the term 'tract' means a single piece of real property; except that 2 or more pieces of real property shall be considered a tract if at any time on or after the date referred to in subparagraph (B)(ii) and before the close of the taxable year (i) they were contiguous in the hands of the taxpayer or (ii) they would have been so contiguous except for the interposition of a road, street, railroad, stream, or similar property.

"(3) Election to aggregate residential real property where taxpayer does not have interest in more than 36 dwelling units.—

"(A) In general.—If—

"(i) the taxpayer elects (at such time and in such manner as the Secretary may by regulations prescribe) to have this paragraph apply with respect to the taxable year, and

"(ii) at no time during the taxable year does the taxpayer have an interest in more than 36 dwelling units each of which is an item of property described in subsection (a)(1) (determined without regard to section 470(c)), then the taxpayer may treat all dwelling units which are items of property described in subsection (a)(1) (plus appurtenant real property described in subsection (a)(1) used or to be used primarily by the residents of such units) which he owns (determined without regard to subparagraph (C)) as one class of property described in subsection (a)(1).

"(B) Dwelling units.—For purposes of subparagraph (A)—

"(i) the term 'dwelling unit' means any property which is, or can reasonably be expected to be, a dwelling unit as defined in section 167(k)(3)(C), and

"(ii) a dwelling unit shall be taken into account for periods only on or after the date on which construction of the buidling or structure in which such unit is located begins.

"(C) Attribution rules.—For purposes of subparagraph (A)—

"(i) property owned by or for an individual, the spouse of such individual (other than a spouse who is legally separated from the individual under a decree of divorce or separate maintenance), and the children of such individual (including legally adopted children) who have not attained age 18 shall be treated as owned by each such person,

"(ii) the interest of a corporation in dwelling units shall be taken into account if the taxpayer owns directly or indirectly (with the application of section 318) 50 percent or more of any class of stock in such corporation,

"(iii) property owned by or for a partnership shall be treated as owned by each of its partners,

"(iv) property owned by or for a trust (other than an employees' trust described in section 401(a) which is exempt from tax under section 501(a)) shall be treated as owned by each of its beneficiaries (other than a beneficiary having a remote contingent interest),

"(v) an individual who is a shareholder in an electing small business corporation (within the meaning of section 1371(b)) shall be treated as owning any interest in property owned by such corporation, and

"(vi) an electing small business corporation shall be treated as owning on any day the interests in property of that shareholder who on such day has the most interests in dwelling units of which is an item of property described in subsection (a)(1) (determined without regard to section 470(c)). For purposes of clause (iv), a contingent interest of a beneficiary in a trust is remote if, under the maximum exercise of discretion by the trustee in favor of such beneficiary, the value of such interest, computed actuarially, is 5 percent or less of the value of the trust property. An interest in property attributed to an electing small business corporation by reason of clause (vi) shall not be reattributed to a shareholder of such corporation under clause (ii) or (v).

Page 26, strike out line 8 and all that follows down through line 17, and insert:

"(2) Construction period.—The term 'construction period', when used with respect to any item of property described in section 467(a)(1), means the period—

"(A) beginning on—

"(1) the date on which construction begins on the 1st building or other improvement (or portion thereof) to be included in the class in which such item is to be included, if such class is a class to which section 467(b)(2) applies; or

"(ii) the date on which construction begins on such item of property, if such item of property is included in a class to which section 467(b)(2) does not apply; and

"(B) ending on the date on which such item of property is ready to be placed in service or is ready to be held for sale.

For purposes of subparagraph (A), the determination of whether an item of property is to be included in a class to which section 467(b)(2) applies shall be made without regard to any election to aggregate residential real property made under section 467(b)(3).

Mr. MIKVA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

It has already been printed in the RECORD of November 14, 1975. I believe it is printed in the RECORD in full.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MIKVA. Mr. Chairman, this is the second amendment that is supported by the Treasury. It will raise an additional $167 million in 1976.

By 1981 the revenue pickup under this amendment will be over $500 million. The cumulative total between now and 1981 is $2.275 billion. The Treasury supports it because it conforms to their original position. It was the original position of the Committee on Ways and Means. It was one of the instances in which the committee revised its opinion later on, but their original view was correct.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, I would like to state to the gentleman in the well that I support his amendment. It was part of my original recommendation. It is a sound amendment. I would like to say that it does not in any way affect the construction of residential real estate during 1976 nor during 1977 if there is a commitment to build the housing in 1976. In addition, it does not affect subsidized low-income housing until 1981 if there is a commitment with HUD by 1979. As a result, I believe there will be time to adjust interest rates slightly before that time and I believe that is all that is necessary to assure that there will not be any adverse effect on the economy. I support the amendment.

Mr. MIKVA. Mr. Chairman, I thank the chairman, the gentleman from Oregon (Mr. ULLMAN) for his comments. Let me add further that if we do not adopt this amendment, then we have created a shelter preference in the code, having closed up the other shelters as we have in movies, oil, farming and some of the rest of real estate. If we leave this piece of loophole open then we have tilted it in favor of shopping centers, et cetera, as a shelter device whereby people can take real income and shelter it with artificial losses.

We have an example which was presented before the committee of a gentleman who had $632,000 worth of income and who paid a 3-percent tax.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. Mr. Chairman, I believe the gentleman from Illinois is making a very erudite speech but I would like to know what the amendment is and what it does then I can perhaps make a decision on how to vote on the amendment.

Mr. MIKVA. What the amendment does is to say property shall be treated one by one. That was the original position of the committee. Under the amendment that was subsequently adopted, they held that it is permissible to allocate the properties in order to allow them to set off a loser against a winner. This would mean they have the same shelter provision as exists for this same purpose.

Mr. HAYS of Ohio. This does not in any way affect the case where a home owner sells a home and then reinvests in another home within 3 years, he does not have to pay the capital gain?

Mr. MIKVA. In no way. It does not affect any homeowner at all.

Mr. ROSTENKOWSKI. Mr. Chairman, if the gentleman will yield, the real estate covered by this is buildings of more than 36 units, in order to provide for units under decentralization.

Mr. MIKVA. Under the amendment provided by the gentleman from Illinois (Mr. Rostenkowski) there is an exception to be made for those who invest in no more than 36 units. The only people who would be affected by this amendment are the big rollers. We are again talking about limiting the shelter effect of artificial losses on real income, someone who has an income of $300,000 or $400,000 and who escapes taxes by paper losses, that kind of a tax shelter.

Mr. MURPHY of Illinois. Mr. Chairman, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman from Illinois.

Mr. MURPHY of Illinois. Mr. Chairman, I appreciate very well what the gentleman is attempting to do, but does the gentleman realize that by attempting to regulate the so-called high roller who gets a tax advantage, that the building trades, the unions, the carpenters, the machinists unions, they are all going to be out of work through a reduction in such building projects?

Mr. MIKVA. Mr. Chairman, let me reply to my colleague, the gentleman from Illinois, that the AFL–CIO thoroughly supports this amendment and the unions building trade unions support this amendment. This has nothing to do with jobs.

Mr. PICKLE. Mr. Chairman, if the gentleman will yield, I have had no such word specifically in my district.

Mr. MIKVA. The AFL–CIO supports the amendment. It was taken up with the building trade unions and they are in support of the amendment because this does not relate to jobs, this relates to tax equity. The question is: Should some people pay more because others are paying less? The people who pay the least are the people affected by this amendment.

The CHAIRMAN. The time of the gentleman has expired.

Mr. KETCHUM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I once again rise in opposition to this amendment.

The Committee on Ways and Means marched up and down the hill on aggregation time after time. We finally decided to permit a man in the real estate business to offset gains in one building with losses he sustained in another. For the life of me I cannot understand what is wrong with that. I assure my colleagues that in a business as risky as real estate this is the only way that you are going to get anything built.

Every Member of this body knows from first-hand experience that the real estate and construction industries are in a severe slump. Unemployment in the construction trade unions is several times that of industry in general. Real estate generates over 15 percent of our private sector gross national product and is directly or indirectly responsible for the employment of nearly 8 million Americans. So I think we had better stop and take a careful look before plunging in and striking a hard and cruel blow against the real estate and construction business.

I want to bring up again the all-important matter of the economic effects of our actions on the Nation, a subject I covered at some length in general debate.

The chairman has presented us with statistics to show the revenue gain occasioned by this provision. The supporters of this amendment tell us that prohibiting aggregation will bring in even more money. If that were the whole story, I am sure I need not be standing here now.

The real truth, however, is that by discouraging investment, canceling construction, and creating unemployment, this bill will cost the Treasury money. And this amendment will cost it even more money.

I have long suspected that this would be the case. But the committee staff, which has been remarkably precise in obtaining revenue gain estimates, could not tell me what the impact of investments in real estate incentives is. In fact, I could not even find out how much money is so invested.

Fortunately, I have been able to obtain this information from a study done by Norman B. Ture, Inc. As opposed to the spurious revenue gains, Dr. Ture's study gives us precise figures of what this amendment will do.

First, it will reduce real estate investment by $6.7 billion. It causes a GNP loss of $11.8 billion. This amendment means unemployment for 297,000 Americans. The Treasury loss, if this amendment is accepted, is $3 billion.

This is a far cry from a gain of several hundred million dollars, and a lot closer to the truth of the matter.

Let us not add insult to injury by tacking on yet another economic disincentive to this bill. The real estate and construction industries are just beginning to show the signs of a long-awaited recovery. If this amendment is adopted, such a recovery will come to a screeching halt and it is questionable whether it will every start again. This risky business needs our support. I urge you to pledge your support—to the real estate and construction industries as well as to the healthy national economy—by rejecting this amendment.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I now yield to my friend and colleague, the gentleman from Louisiana, a member of the committee.

Mr. WAGGONNER. I thank the gentleman for yielding.

Mr. Chairman and my colleagues, listen to me for a minute. The proposed amendment is bad. Existing law allows those in the real estate business to consolidate their real estate income for tax purposes. I offered the amendment in committee to continue this provision. The bill as proposed denies the construction period deduction of interest and taxes and restricts accelerated depreciation. The amendment offered by the gentleman from Illinois (Mr. Mikva) would deny to those in the real estate business the right to consolidate for tax purposes income from, for example, an office building and an apartment building.

What in the world is wrong with continuing what we are doing now and allowing those in the real estate business to consolidate real estate income? That is what the law provides for now. If we want to drive money out of real estate, just enact this provision. It will be detrimental, highly detrimental. We will get no venture capital; we will put people out of jobs. Keep doing what we are doing now and let the people in real estate consolidate real estate income. Vote this amendment down.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Texas.

Mr. PICKLE. I thank the gentleman for yielding.

Mr. Chairman, I rise in strong opposition to this amendment. We have already in this bill applied a rather heavy tax against the real estate industry. By 1978 when this takes effect under the bill that we have before us, we will already have brought in $195 million. If we add this amendment onto that, we are going to be nearly doubling that tax.

We need construction work, and we need real estate interest and investment to keep it moving. At a time of recession, we ought not to be taking steps now to hurt that industry.

I think what the committee has done has been a commendable step. I support it, and I think this amendment ought to be defeated.

This session of Congress seems to have one overriding goal—to create new jobs and to lower the unemployment rate in our country. This is a noble goal, and one all Americans believe in.

One area that is in desperate need of jobs is the construction industry. This industry along with the real estate industry, is in a depression right now, with many a working man on unemployment compensation or welfare because there are no jobs.

Mr. Chairman, if we adopt this amendment to apply LAL on a property-by-property basis, then we in my opinion dry up the capital needed to get the construction workers of America back on the job. This amendment in short time would mean nearly $200 million less money for jobs.

Right now, with the bill providing for real estate LAL on a combined property basis, we are getting at the speculator/tax shelter investor. Let's leave the bill that way and not go this second step to punish a segment of our economy that is already down. If you want this bill to become law don't get the construction and real estate industry against you.

I urge defeat of this amendment. Let us stay with your committee.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from New York.

Mr. CONABLE. I thank the gentleman for yielding.

Mr. Chairman, I oppose this amendment. In contrast to some of those who have spoken in opposition to this amendment, I generally support LAL, but this amendment would take us beyond the idea that we should keep the syndicated money, the dumb money, the outside money, out of investments in real estate for purposes of tax advantage. This amendment preventing aggregation will affect the real estate industry itself, and I see no reason why we should not permit people in the business legitimately to set off losses against gains, as we do in other areas of endeavor.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BARRETT. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Illinois. The amendment would impose an undue and unfair burden on those in the real estate business.

The provisions of the committe bill relating to limitation on accounting losses as pertains to real estate, have removed the situation where accounting losses from real estate could be offset against income from other sources. It has removed the abuses of the tax shelter aspects of real estate investment.

The bill restricts the application of real estate accounting losses to income derived from any real estate. The amendment would go further and unnecessarily restrict those losses to the individual project or property itself. It would prevent the aggregation of real estate income. The amendment would impose a special tax situation in the real estate business.

The adoption of this amendment would not only hamper, but strongly discourage those in the real estate business from continued investment, particularly for low- and moderate-income housing. It would also restrain and inhibit the recovery of the housing industry which is in such deplorable condition already.

Mr. Chairman, I strongly urge the Members to vote to defeat the amendment.

The question is on the amendment offered by the gentleman from Illinois (Mr. MIKVA).

RECORDED VOTE

Mr. MIKVA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 192, noes 226, answered "present" 2, not voting 14, as follows:

[Roll No. 735]

AYES—192

Abzug
Adams
Addabbo
Allen
Ambro
Anderson, Ill.
Ashley
Aspin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Brademas
Brodhead
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Chisholm
Clay
Cohen
Collins, Ill.
Conyers
Corman
Cornell
D'Amours
Danielson
Delaney
Dellums
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Fisher
Fithian
Ford, Mich.
Ford, Tenn.
Fraser
Giaimo
Gibbons
Gonzalez
Grassley
Green
Gude
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Heinz
Holland
Holtzman
Howe
Hubbard
Jacobs
Jeffords
Johnson, Calif.
Jones, Ala.
Jordan
Karth
Kastenmeier
Keys
Koch
Krebs
LaFalce
Leggett
Lehman
Lloyd, Calif.
Long, Md.
McCloskey
McCormack
McFall
McHugh
Macdonald
Madden
Maguire
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mineta
Minish
Mink
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murtha
Myers, Pa.
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patterson, Calif.
Pattison, N.Y.
Pepper
Pike
Price
Railsback
Rangel
Rees
Reuss
Richmond
Riegle
Rodino
Rooney
Rosenthal
Rostenkowski
Roush
Roybal
Ryan
St Germain
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Simon
Slack
Smith, Iowa
Solarz
Staggers
Stanton, James V.
Stark
Stratton
Studds
Symington
Thompson
Traxler
Tsongas
Ullman
Van Deerlin
Vander Veen
Vanik
Waxman
Weaver
Wilson, C. H.
Wirth
Yates
Young, Ga.
Zablocki

NOES—226

Abdnor
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
AuCoin
Bafalis
Barrett
Bauman
Beard, Tenn.
Boggs
Bowen
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burleson, Tex.
Butler
Byron
Carter
Casey
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conable
Conlan
Conte
Cotter
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Davis
de la Garza
Dent
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
English
Erlenborn
Esch
Eshleman
Evins, Tenn.
Findley
Fish
Flood
Florio
Flowers
Flynt
Forsythe
Fountain
Frenzel
Frey
Fuqua
Gilman
Ginn
Goldwater
Goodling
Gradison
Guyer
Hagedorn
Haley
Hammerschmidt
Hansen
Harsha
Hastings
Hefner
Henderson
Hicks
Hightower
Hillis
Holt
Horton
Howard
Hughes
Hutchinson
Hyde
Ichord
Jarman
Jenrette
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Krueger
Lagomarsino
Landrum
Latta
Lent
Levitas
Lloyd, Tenn.
Long, La.
Lott
Lujan
McClory
McCollister
McDade
McDonald
McEwen
McKay
Madigan
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Michel
Miller, Ohio
Mills
Mitchell, N.Y.
Montgomery
Moore
Murphy, Ill.
Murphy, N.Y.
Myers, Ind.
Natcher
Nichols
O'Brien
Passman
Patman, Tex.
Patten, N.J.
Perkins
Pettis
Peyser
Pickle
Poage
Pressler
Preyer
Pritchard
Quie
Quillen
Randall
Regula
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rogers
Rose
Rousselot
Runnels
Ruppe
Russo
Santini
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Shriver
Shuster
Sikes
Sisk
Skubitz
Smith, Nebr.
Snyder
Spellman
Spence
Stanton, J. William
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stuckey
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Treen
Vander Jagt
Vigorito
Waggonner
Walsh
Wampler
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wolff
Wright
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zeferetti

ANSWERED "PRESENT"—2

Bell
McKinney

NOT VOTING—14

Burke, Fla.
Foley
Gaydos
Hébert
Helstoski
Hinshaw
Hungate
Litton
Milford
Mitchell, Md.
Moorhead, Calif.
Roncalio
Stokes
Udall

The Clerk announced the following pairs:

On this vote:

Mr. Udall for, with Mr. Hébert against.

Mr. Mitchell of Maryland for, with Mr. Helstoski against.

Messrs, YOUNG of Texas, HOWARD, RUSSO, and ZEFERETTI changed their vote from "aye" to "no."

Mr. BELL changed his vote from "no" to "present."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. CORMAN

Mr. CORMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CORMAN: Page 82, strike out lines 13 to 20, inclusive, and insert:

"(1) the sum of the items of tax preference, exceeds

"(2) the exemption (if any) provided by subsection (c).

Page 84, strike out line 15 and all that follows down through line 17 on page 85.

Page 86, strike out line 23 and all that follows down through line 7 on page 87, and insert:

"(12) INTANGIBLE DRILLING COSTS.—The excess of the intangible drilling and development costs described in section 263(c) (other than costs incurred in drilling a nonproductive well) allowable under this chapter for the taxable year over the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles had been used with respect to such costs.

"(13) LAL LEASE PROPERTY.—The amount of the accelerated deductions (within the meaning of section 468(b)) for the taxable year with respect to section 1245 property (as defined in section 1245(c)(3)) which is leased or held for leasing. This paragraph shall not apply in the case of a net lease to which paragraph (3) applies.

"(14) CONSTRUCTION PERIOD INTEREST AND TAXES.—The amount of the accelerated deductions (within the meaning of section 468 (a)(1)) for the taxable year with respect to interest and taxes attributable to the construction period of real property described in section 467(a)(1).

"(15) DEPRECIATION IN CASE OF CERTAIN PLAYER CONTRACTS.—The amount of depreciation allowable under section 167 for the taxable year with respect to player contracts (within the meaning of section 1245(a)(4)(C)) acquired in connection with a sale or exchange described in section 1056(a) (relating to player contracts transferred in connection with the sale of a franchise)."

Page 89, line 14, strike out "and (12)" and insert "(12), (13), (14), and (15)".

Mr. CORMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CORMAN. Mr. Chairman, to refresh the committee's memory on this amendment, it is to strengthen and broaden the minimum tax which is presently a part of the Tax Code.

In 1969, when the Committee on Ways and Means looked at the problem of people having very large incomes and paying no income tax, it adopted the theory of a minimum tax. This theory provided that whatever one's economic income, one ought to have to pay some minimum amount of tax on it.

When the provision for a minimum tax left that committee and this House, it was in fairly good shape, and it would have collected about 10 percent on almost all income that was otherwise escaping taxation. An amendment was introduced in the Senate—and it finally wound up in the Code—which substantially weakened that minimum tax. This amendment would get us back to the original House version and would mean a substantial increase in revenues from the minimum tax.

Almost all taxpayers we talk to will concede that there ought at least to be a minimum tax on everybody's economic income. This tax will be 14 percent. We picked that because it was the lowest rate in the schedule.

This would only affect about 120,000 taxpayers, but it would involve in its first year a revenue pickup of $376 million. By the time it is fully effective it would involve revenues of $565 million, and over a 6-year period, $2,823 million.

Mr. Chairman, that is a lot of revenue. It is coming from a relatively small number of people, but we must remember it comes only at the rate of 14 percent. It means that people who have gigantic incomes and who escape the tax would continue to escape taxation unless we adopt this provision.

Another part of my amendment adds to the list of items that are considered preferential income. My original amendment offered three categories, and the gentleman from Louisiana (Mr. WAGGONNER) proposed a fourth. I accepted his proposal. That fourth category in the amendment involves player contracts transferred in connection with the sales of sports franchises.

Mr. SISK. Mr. Chairman, will the gentleman yield on that point?

Mr. CORMAN. I yield to the gentleman from California.

Mr. SISK. Mr. Chairman, I appreciate very much the gentleman's yielding. I recognize there is a very limited amount of time available.

I wish to say that I am going to support the amendment offered by my colleague, the gentleman from California (Mr. CORMAN).

However, Mr. Chairman, I have the strongest reservations to the inclusion of depreciation of sports player contracts in the minimum tax amendment and I oppose inclusion of that provision in the amendment. However, I shall not set forth in any extended detail my concerns at this point of time because we all anticipate that the reform provisions of this bill will be stricken by the Senate. Thus, it is quite clear there will be further consideration of this issue in the next session of Congress.

I urge that when the House again looks at the tax reform aspects of this bill that it consider in much greater detail the implications to baseball and other professional sports of the minimum tax provision as well as the five other amendments to the tax laws which would affect professional sports. It is, of course, quite appropriate for the Congress to close any loopholes and limit improper uses of tax shelters. However, there is the serious doubt that baseball has been used improperly as a tax shelter. If that is the case, then it is unjustified to impose stringent new tax burdens on baseball and other professional sports, particularly at a time when many sports franchises find themselves in a quite difficult position.

I intend to discuss this matter in more detail next year when the House considers this question further.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I want to express the same sentiments the gentleman from California (Mr. SISK) expressed. I am in favor of the Corman amendment, but I am concerned about the preferential aspect of it as it relates to baseball.

Mr. Chairman, one of the minor provisions of the minimum tax amendment imposes significant new tax burdens on baseball in the depreciation of its player contracts. I believe that the inclusion of baseball in this amendment is most unjustified. The bill already includes five changes to the tax laws which would affect professional sports. I have great concern that some of the provisions affecting sports in this bill are not justified and could have a devastating impact on baseball and other sports. I believe that they need a thorough review because the Congress certainly does not want to take unnecessary and unwarranted steps that could jeopardize professional sports teams.

We are concerned about moving a baseball franchise to this Washington area. We think this provision would be very injurious to that effort. I also hope that this portion of the amendment could be removed on the Senate side. We cannot, of course, move to strike it out here.

Mr. CORMAN. Mr. Chairman, I concede that this particular aspect of the amendment got very little consideration during debate.

Mr. FISHER. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from Virginia.

Mr. FISHER. Mr. Chairman, I rise in support of this amendment and I subscribe to what is being said by the gentleman from California (Mr. CORMAN).

This amendment would affect very few people. It would raise a lot of revenue. It would make it impossible to deduct regular taxes from loophole income. And it has great symbolic importance to the American people. There is no way we can go around and explain and justify the fact that a few people with enormous incomes pay almost no tax.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, I urge support of the amendment offered by the gentleman from California (Mr. CORMAN).

If there is any single proposal or any single amendment offered to improve this bill, it is this minimum tax proposal. It is an absolute outrage that all the working people in this country will be paying a higher percentage of their wages in terms of taxes than those who are proposed to be covered by the gentleman's amendment.

Mr. Chairman, the amendment deserves adoption.

Mr. VANIK. Mr. Chairman. will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, will the gentleman advise us how many taxpayers will be affected by this amendment?

Mr. CORMAN. It is estimated that about 120,000 taxpayers will be affected. That means that 120,000 persons have gigantic incomes on which no taxes are being paid now. A 14-percent tax would be paid under this amendment.

Mr. STEIGER of Wisconsin. Mr. Chairman, I rise in opposition to the Corman amendment. In my view, the amendment ought to be defeated for several reasons, and I hope that the Committee will pay close attention to what I am trying to say with respect to the rationale for the defeat of the amendment. The issue here is one of substance and not revenue.

Let us first understand that the amendment proposes to raise some $376 million, according to the estimates of the joint committee staff. Of that amount, $250 million is going to come out of capital gains. That is two-thirds of the amount that is proposed to be raised in the first year, and it is going to come out not only from the pockets of working men and women, but from all people who are involved in the capital gains effort, because that is the effect of the Corman amendment.

It is wrong. It is wrong tax policy. It is wrong equitably.

Let us, then, go back and take a look at what the bill does now. The bill, in its present form, raises $5.366 billion in the years between 1976 and 1981. The major changes come because we raise the rate from 10 to 14 percent, because we reduce the exemption from $30,000 to $20,000, because we reduce by half the deduction for regular taxes paid, and because we have preference items, and we add certain tax preference items such as oil and gas intangible drilling costs on developmental oil and gas wells. And the amount of itemized deductions in excess of 70 percent of the taxpayer's adjusted gross income.

The effect of these changes is to increase the effective minimum tax rate being paid from 4.4 percent—under existing law—to about 10 percent. Put another way, it hikes the effective tax rate for taxpayers with over $15,000 in preference income from 2.5 to 9.5 percent.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. Yes, I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I believe that what the gentleman is explaining is that there is an actual increase in the effective minimum tax rate already in the bill. In other words, the minimum tax is very substantially increased over existing law, and any implication that it is not is a mistaken implication.

Mr. STEIGER of Wisconsin. There is no question about that.

What is proposed to be done by the Corman amendment is that the Corman amendment takes a meat-ax approach, not in the interest of assuring that vital venture capital is available in necessary areas, but rather in the interest of gaining additional revenue.

It eliminates the offset for taxes paid, thus, in effect, applying a tax on a tax.

It adds as preference income categories intangible drilling costs on exploratory wells. It also adds as a preference item accelerated depreciation deductions for all leased property, despite the fact that many of our industries short of the capital needed to buy the property, cannot do so and therefore have to lease it.

Even though the committee had decided previously that this preference was crucial for real estate development, it imposes the minimum tax for the first time on construction period interest and taxes.

Also, it includes in the minimum tax base depreciation allowable on player contracts acquired in connection with the transfer of sport franchises.

In the case of the last three items discussed, the minimum tax would apply to the extent such items were allowed as current deductions under LAL. This is the crucial point, however. The Corman amendment is basically an attempt to get at those items which the committee itself decided should not be covered by LAL. In addition, it has one other critical result. It will increase the maximum effective capital gains tax rate from the present about 35 to 42 percent. Such a high capital gains rate surely will discourage equity investment at a time when our industries face huge capital shortages.

Mr. Chairman, the provisions in the committee bill dealing with LAL and the minimum tax were carefully drawn and represent sound tax policy. The Corman amendment would undo that work and have severe counterproductive effects on our economy. For these reasons, it should be rejected.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. Yes, I yield to the gentleman from Texas.

Mr. PICKLE. I must rise in opposition to the amendment offered by my good friend and distinguished colleague from California, Mr. CORMAN.

The principle of the minimum tax is right, and proper. Perhaps if our tax code had had a good minimum tax provision from the beginning, we might not have the disillusionment we have today with our tax code.

The committee bill strengthens the present minimum tax by taking an extra $700 million plus from the rich in America next year. In 5 years the committee bill's bite will be over $1 billion. This money will be coming from a small number of Americans, so it is tough. The minimum tax provision in the bill now was made upon motion by Mr. CORMAN, and it was voted for by the chairman, and approved by a 25-to-8 vote.

Now Mr. CORMAN offers an amendment that was hatched by a group late one afternoon when considering the request for a rule. It has not been given close scrutiny.

The amendment adds a double blow to some of the areas we have hit hard in the LAL sections.

I think its main attraction is that many believe that the Corman amendment is another big blow against the "horrible" oil industry; the sports or real estate industry. Yet, in the oil industry, it is the small independents who do most of the drilling in America. You will not hurt the big oil companies with the Corman amendment. You might drive out some of the competition in the industry.

Besides, when are we going to learn that the key word in the energy situation is not profit, but production.

So I urge that the Corman amendment be defeated. We have a tough minimum tax amendment in the bill. It received a 25-to-8 vote in committee—supported by the chairman. So stay with your committee and your chairman.

Mr. WAGGONNER. Mr. Chairman, I have a preferential motion which I send to the desk.

Mr. BAUMAN. Point of order, Mr. Chairman.

The CHAIRMAN. The Chair would like to advise the gentleman from Louisiana that at this particular time a motion to strike the enacting clause is not in order because the bill has not been modified since the last motion to strike was offered.

PARLIAMENTARY INQUIRY

Mr. WAGGONNER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. WAGGONNER. The Chair says the bill has not been modified and the Chair is correct that the bill has not been modified. I agree with the ruling of the Chair. I just simply wanted to take this time just to point out again that we do not have a chance to make a case.

The CHAIRMAN. The Chair will state that that is not a parliamentary inquiry.

Mr. ROSTENKOWSKI. Mr. Chairman, in supporting this amendment, I would concur with the remarks of my colleague, the gentleman from California (Mr. CORMAN). In removing the deduction for one-half of regular taxes paid, we are only adopting the position the House took in first proposing the minimum tax in the 1969 Tax Reform Act. The retention of the deduction for taxes paid, an amendment added in the Senate, is the chief reason why the present minimum tax has truly failed to do the job.

Adoption of this amendment will not insure that all Americans pay their fair share. But it will insure that individuals pay at least a minimum amount of additional tax on those preference items that have for various reasons escaped regular taxation.

In my years on the Ways and Means Committee, I have found it appalling not only that a few well publicized affluent people pay no tax, but that a growing number of affluent Americans pay a lower percentage of tax than we demand from a simple wage earner who makes less than $7,000 a year. Adoption of this amendment, and passage of this bill would not bring us tax equity overnight, but it will relieve us of some of the most acute injustices in the present system.

Mr. HARKIN. Mr. Chairman, I rise in support of the Corman amendment to strengthen the minimum tax on preference income. But, first I want to commend the Ways and Means Committee for their efforts on the Tax Reform Act of 1975. H.R. 10612 makes major improvements in the tax code, but it is obvious that major tax inequities remain intact and that the bill does not fulfill the requirements of the budget resolution. I am gratified that the Members of this body have the opportunity to consider a series of reform amendments which, if adopted, will correct the major flaws in the bill. If these amendments are adopted, we will have achieved a portion of the real tax reform needed.

The Corman amendment will eliminate two loopholes in the H.R. 10612 minimum tax proposal. First the amendment eliminates the deduction for taxes paid, which is the only way a minimum tax on loophole income can be achieved. Second, the amendment would apply the minimum tax provision to tax shelters left out of the limit on artificial accounting losses.

I am specifically concerned about strengthening the minimum tax by eliminating the deduction for regular taxes paid. The minimum tax was enacted when the Congress learned in 1969 that, in 1967, 155 taxpayers with adjusted gross incomes of over $200,000 and 21 taxpayers with incomes over $1 million paid no Federal income tax. In determining minimum tax liability, present law permits an individual to reduce his preference income by the amount of his taxes paid. This deduction, also known as the

Miller amendment, accounts for about half of the gap between the minimum tax's nominal rate of 10 percent and the effective rate of 4.4 percent.

The deduction for regular taxes paid was never part of the minimum tax as originally proposed by the Treasury. It was added to the 1969 Tax Reform Act by an eleventh hour Senate floor amendment. The amendment was sponsored by former Senator Jack Miller of Iowa. The amendment transformed the minimum tax into a compromise between the Treasury proposals, which imposed a minimum tax only in cases where a taxpayer's preferences were large in relation to his regular income and regular tax, and the Senate Finance Committee approach, which imposed a flat-rate minimum tax on preference regardless of the taxpayer's regular income; and presently allows 55 percent of those otherwise liable for minimum tax to avoid paying any minimum tax whatsoever. It shelters tax loophole income of more than $2.5 billion that would otherwise be taxable at a minimum rate.

This deduction has also been called the "executive suite" loophole because it is utilized by wealthy doctors, lawyers, and businesspersons who make large amounts of both regular and preference income. The situation has not changed much since 1969 when the Miller provision was enacted. In 1974, 622 persons with over $100,000 in gross adjusted income escaped taxation.

H.R. 10612 makes improvements, but it does not provide the reform required. In its present form, the bill applied a 14-percent rate to preference income reduced by a deduction of 50 percent of regular taxes paid and an exemption of $20,000 which is phased out as preference income rises to $40,000. Fourteen percent is the rate applicable to taxpayers with regular taxable income of less than $1,000; and, it is obvious, the effective rate for taxpayers subject to the minimum tax will be much less than this rate.

Under H.R. 10612 the 50-percent deduction would still allow high paid individuals to totally escape payment of the minimum tax. It is my belief that no deduction should be allowed for regular taxes paid. The minimum tax is imposed on income which would otherwise be sheltered. The fact that a taxpayer might pay regular taxes on other income, just like everybody else, should not justify reductions in the taxpayer's minimum tax liability. To be effective in reducing the tax disparity between preference income and wages and salaries, the minimum tax should tax preference income regardless of regular tax liability.

The Tax Reform Act of 1975 is not consistent with the second budget resolution. As reported, the bill does not provide the $1 billion savings due to closing tax loopholes as called for by the resolution. Adoption of the Corman amendment and the other four revenue-gaining reform amendments being considered today, which I support, will increase revenues by an estimated $1.6 billion in 1976.

Closing the Miller amendment loophole completely, and applying the minimum tax to preference items left out of the limitation on artificial losses will increase Federal revenues by an estimated $376 million in 1976, and will increase those revenues by $565 million in 1981. During the next 5 years this will amount to $2.25 billion in additional revenue for the Treasury. In light of the Nation's deficit and our budget resolution, I think we would be wise and prudent to adopt this, the Corman amendment.

There can be no doubt in anyone's mind, the American people want tax equity. In the interests of tax justice and good government, we should act responsibly today. By eliminating the Miller amendment, and by adopting the other strengthening amendments, the wealthy would no longer be able to shelter their incomes from taxation. They would have to pay at least a minimum tax on all income regardless of source.

Mr. BARRETT. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California.

This amendment has been described as one to strengthen the minimum tax. While I favor broadening the application of the minimum tax provisions generally, I do believe that we must examine each area to be covered separately. Unfortunately, the amendment covers a number of unrelated areas and my opposition results from the harmful effect one of the provision would have on the construction of low and moderate income housing.

The provision I refer to in the proposed amendment relates to the treatment of payments of taxes and interest during construction. It would classify these payments as tax preference items thereby making them subject to a minimum tax. Tax preference items have always been benefits from paper losses, costing the taxpayer nothing. The amendment would enlarge the tax preference category to include actual paid expense items.

Construction period interest and tax are not tax benefits. They are cash disbursements, payments made by a builder in order to get a project constructed and like most other taxes and interest, have always been deductible under the Internal Revenue Code. To classify them as a "tax preference" is unrealistic.

The adoption of this amendment would remove one of the incentives to continue the production of low and moderate income housing under the section 8 leased housing program and the various State housing programs during a period of critical shortage.

I urge the defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. CORMAN).

The question was taken; and the Chairman announced that the noes appear to have it.

RECORDED VOTE

Mr. MIKVA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 314, noes 107, not voting 13, as follows:

[Roll No. 736]

AYES—314

Abdnor
Abzug
Adams
Addabbo
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Brademas
Breckinridge
Brinkley
Brodhead
Broomfield
Brown, Calif.
Broyhill
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clay
Cleveland
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Derwinski
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Fuqua
Giaimo
Gibbons
Gilman
Ginn
Goodling
Gradison
Grassley
Green
Gude
Guyer
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hastings
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Henderson
Hicks
Hillis
Holland
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hyde
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Keys
Kindness
Koch
Krebs
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
McCloskey
McCormack
McDade
McFall
McHugh
McKay
McKinney
Macdonald
Madden
Madigan
Maguire
Mann
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pike
Pressler
Preyer
Price
Pritchard
Randall
Rangel
Rees
Regula
Reuss
Richmond
Riegle
Rinaldo
Risenhoover
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder

Solarz
Spellman
Spence
Staggers
Stanton,
J. William
Stanton,
James V.
Stark
Steed
Stratton
Studds
Sullivan
Symington

Talcott
Taylor, N.C.
Thompson
Thone
Traxler
Tsongas
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waxman
Weaver
Whalen

White
Wilson, C. H.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Ga.
Zablocki
Zeferetti

NOES—107

Alexander
Archer
Ashbrook
Bafalis
Barrett
Bauman
Beard, Tenn.
Boggs
Bowen
Breaux
Brooks
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burleson, Tex.
Butler
Casey
Clancy
Clawson, Del
Cochran
Collins, Tex.
Conable
Conlan
Crane
Daniel, Dan
Daniel, R. W.
de la Garza
Devine
Dickinson
Downing, Va.
Duncan, Tenn.
Edwards, Ala.
English
Erlenborn
Esch

Eshleman
Flynt
Forsythe
Frenzel
Frey
Goldwater
Gonzalez
Hagedorn
Hansen
Hightower
Holt
Hutchinson
Jarman
Johnson, Colo.
Jones, Ala.
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Ketchum
Krueger
Landrum
Lott
McClory
McCollister
McDonald
McEwen
Mahon
Martin
Michel
Milford
Mitchell, N.Y.
Montgomery
Moore
Myers, Ind.

Passman
Pickle
Poage
Quie
Quillen
Railsback
Rhodes
Roberts
Robinson
Rousselot
Ruppe
Satterfield
Schneebeli
Schulze
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stuckey
Symms
Taylor, Mo.
Teague
Thornton
Treen
Vander Jagt
Waggonner
Walsh
Wampler
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Young, Alaska
Young, Tex.

NOT VOTING—13

Armstrong
Burke, Fla.
Foley
Gaydos
Hébert
Helstoski

Hinshaw
Hungate
Litton
Moorhead,
Calif.
Murphy, N.Y.

Stokes
Udall

The Clerk announced the following pairs:

Mr. Udall for, with Mr. Hébert against.

Messrs. BREAUX, BOWEN, and HAGEDORN changed their vote from "aye" to "no."

Messrs. PATMAN and CARTER and Mrs. SMITH of Nebraska changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. JONES OF OKLAHOMA

Mr. JONES of Oklahoma. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JONES of Oklahoma: Page 7, strike out line 1 and all that follows down through line 2 on page 40 and insert:

TITLE I—MINIMUM TAX FOR INDIVIDUALS

SEC. 101. MINIMUM TAX FOR INDIVIDUALS—

(a) IN GENERAL.—Part VI of subchapter A of chapter 1 (relating to minimum tax for tax preferences) is amended by inserting immediately before section 56 the following new section:

"SEC. 55. MINIMUM TAX FOR INDIVIDUALS—

"(a) IMPOSITION OF TAX.—In the case of a taxpayer other than a corporation, in lieu of the tax imposed by sections 1 and 511, there is hereby imposed a tax (if such tax is greater than the tax imposed by such sections) equal to the tax which would be imposed by section 1 if the taxpayer's taxable income were an amount equal to 55 percent of this adjusted economic income.

"(b) ECONOMIC INCOME; ADJUSTED ECONOMIC INCOME.—For purposes of this section—

"(1) ECONOMIC INCOME.—The term 'economic income' means the sum of—

"(A) the adjusted gross income for the taxable year, plus

"(B) an amount equal to the items of tax preference.

"(2) ADJUSTED ECONOMIC INCOME.—The term 'adjusted economic income' means the economic income reduced by the sum of—

"(A) the deduction for personal exemptions provided by section 151,

"(B) the investment expense adjustment,

"(C) extraordinary medical expenses,

"(D) extraordinary casualty losses,

"(E) the charitable contribution adjustment, plus.

"(F) the exemption, if any, provided by subsection (c).

"(c) EXEMPTION.—The exemption provided by this subsection is $10,000.

"(d) DEFINITIONS.—For purposes of this section—

"(I) INVESTMENT EXPENSE ADJUSTMENT.—

"(A) The term investment expense adjustment' means investment expenses but not in excess of investment income.

"(B) The term investment expenses' means amounts allowable as deductions in computing taxable income but only if incurred for the production or collection of income or for the management, conservation, or maintenance of property held for the production of income and if not allowable as deductions in computing adjusted gross income under section 62.

"(C) The term 'Investment income' means—

"(i) the sum of the gross income from interest and dividends and the excess (if any) of the capital gains over the capital losses from the disposition of property reduced by

'(ii) the excess (if any) of the capital losses over the capital gains from the disposition of property to the extent such excess reduced taxable income for the taxable year.

For purposes of this subparagraph, property giving rise to the interest, dividends, gain, or loss shall be taken into account only if expenses incurred with respect to such property would have been investment expenses within the meaning of subparagraph (B).

"(2) EXTRAORDINARY MEDICAL EXPENSES.— The term 'extraordinary medical expenses' means the amount which would be allowable for the taxable year under section 213 (relating to medical, dental, etc, expenses) if '10 percent of the economic income' were substituted for '3 percent of the adjusted gross income' in section 213(a).

"(3) EXTRAORDINARY CASUALTY LOSSES.—The term 'extraordinary casualty losses' means the amount by which the deduction allowable under section 165(c)(3) for the taxable year exceeds 10 percent of the economic income for such year.

"(4) CHARITABLE CONTRIBUTION ADJUSTMENT.—The term 'charitable contribution adjustment' means the amount of the deduction allowed under section 170 for the taxable year.

"(e) NET OPERATING LOSS RULES.—

"(1) IN GENERAL.— If for any taxable year a taxpayer has no taxable income or has a net operating loss (as defined in section 172 (c)) or a net operating loss deduction under section 172(a), the taxpayer's economic income and adjusted economic income shall be computed under this subsection in lieu of subsection (b)

"(2) ECONOMIC INCOME.—For taxable years to which this subsection applies, the term 'economic income' means the sum of—

"(A) the adjusted gross income for the taxable year computed without regard to the amounts described in section 57(a) and without regard to the net operating loss deduction, plus

"(B) the amount described in paragraph (6) of section 57(a).

"(3) ADJUSTED ECONOMIC INCOME.—For taxable years to which this subsection applies, the term 'adjusted economic income' means the economic income reduced by the sum of—

"(A) the amounts described in subsection (b)(2), plus

"(B) the net operating loss adjustment (as defined in paragraph (4)).

"(4) NET OPERATING LOSS ADJUSTMENT.—

"(A) IN GENERAL.—For the purposes of this subsection, the 'net operating loss adjustment' means—

"(i) the amount of any nonpreferential net operating loss which may be carried to the taxable year which reduces taxable income computed without regard to the deduction under section 172(a) (but not below zero) for the taxable year, plus

"(ii) the amount of any nonpreferential net operating loss which may be carried to the taxable year in excess of the amount determined under clause (1) which may not be carried to a subsequent taxable year by reason of the modification of taxable income under section 172(b)(2), plus

"(iii) the amount of any nonpreferential net operating loss which may be carried to the taxable year which the taxpayer elects under subparagraph (C)(iii) to be allowed as a deduction for the taxable year.

"(B) DEFINITIONS.—For purposes of this subsection—

"(i) The term 'nonpreferential net operating loss' means the excess of a net operating loss over the amount of the preferential net operating loss.

"(ii) The term 'preferential net operating loss' means the excess of the net operating loss for the taxable year over the net operating loss for such year computed without regard to the amounts listed in section 57(a) and by treating as deductions allowable under section 172(d)(4) only the amount of such deductions which are also described in section 62 plus the amount of the investment expense adjustment described in subsection (d)(1).

"(C) OPERATING RULES.—

"(i) For purposes of applying clauses (i) and (ii) of subparagraph (A), in determining whether a net operating loss is used to reduce taxable income in a taxable year to which 2 or more net operating losses may be carried or in determining the amount of the net operating loss described in clause (ii) of subparagraph (A) which may not be carried to a subsequent year, the ordering rules of section 172(b) are to be applied.

"(ii) For purposes of applying clause (ii) of subparagraph (A), any reduction of a net operating loss by reason of the modification of taxable income under section 172(b)(2) shall be considered to be first from the preferential net operating loss.

"(iii) For purposes of clause (iii) of subparagraph (A), a taxpayer may elect to increase his net operating loss adjustment by the amount of any nonpreferential operating loss remaining after the application of clauses (i) and (ii) of subparagraph (A). Such election shall be made within the time prescribed for filing his income tax return for the taxable year (determined with regard to extensions) in accordance with regulations prescribed by the Secretary. Such election may not be revoked. Any amount deducted under clause (iii) of subparagraph (A) shall decrease the amount of such net operating loss which may be carried to a taxable year after the year of such deduction.

"(f) BASIS ADJUSTMENT.—

"(1) In general.—If subsection (a) applies to any taxpayer for any taxable year, the adjusted basis of each item of property to which an item of tax preference (other than an item of tax preference described in paragraph (9) of section 57(a)) is attributable shall be increased by the portion of the disallowed deductions which is allocable to such item of property.

"(2) Disallowed deductions defined.—For purposes of this subsection, the term 'disallowed deductions' means, with respect to any taxable year, the excess of—

"(A) 55 percent of the adjusted economic income for such taxable year; over

"(B) the taxable income for such taxable year.

"(3) Property to which items of tax preference are attributable.—For purposes of this subsection, the determination of to which item of property an item of tax preference (or portion thereof) is attributable shall be made under regulations prescribed by the Secretary.

"(4) Allocation of disallowed deductions to items of property.—For purposes of this subsection, the portion of the disallowed deductions allocable to any item of property referred to in paragraph (1) is an amount which bears the same ratio to the amount of the disallowed deductions for the taxable year as the amount of any tax preference (other than an item of tax preference described in paragraph (9) of section 57(a)) attributable to such item of property bears to the total of the items of tax preferences for the taxable year."

(b) Amendments of Section 56.—Section 56 (relating to the imposition of the minimum tax) is amended—

(1) by striking out the heading and inserting in lieu thereof the following:

"Sec. 56. Minimum Tax for Corporations."

(2) by striking out "person" in subsections (a) and (b)(1) and inserting in lieu thereof "corporation",

(3) by striking out clauses (ii), (v), (vi), and (vii) of subsection (a)(2)(A),

(4) by redesignating clauses (iii) and (iv) of subsection (a)(2)(A) as clauses (ii) and (iii), and by striking out the comma at the end of clause (iii) (as so redesignated) and inserting in lieu thereof "; and",

(5) by striking out subparagraphs (B), (E), (F), and (G) of subsection (c)(1),

(6) by redesignating subparagraph (C) of subsection (c)(1) as subparagraph (B) and inserting "and" at the end thereof, and

(7) by redesignating subparagraph (D) of subsection (c)(1) as subparagraph (C), and by inserting "exceed" at the end thereof.

(c) Amendments of Section 57.—

(1) Additional preference items.—Section 57(a) (relating to items of tax preference) is amended by inserting after paragraph (10) the following new paragraphs:

"(11) Intangible drilling costs of development wells.—With respect to each oil or gas well which is not an exploratory well (as defined in section 60B(a)(6)), the excess of the intangible drilling and development costs described in section 263(c) allowable under this chapter for the taxable year over the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles had been used with respect to such costs.

"(12) Excess accelerated deductions.—In the case of a taxpayer subject to subpart B, an amount equal to the excess accelerated deductions for the taxable year from any class of LAL property (as determined under section 59)."

(2) Special rule for deductions included in excess accelerated deductions.—Section 57 is amended by adding at the end thereof the following new subsection:

"(d) Special Rule for Deductions Included in Excess Accelerated Deductions.—The amount of any item of tax preference (other than an item described in subsection (a)(12)) taken into account for purposes of section 55 for any taxable year shall be reduced by the amount of any portion of such item which constitutes a deduction which for such taxable year is included in the excess accelerated deductions from any class of LAL property."

(3) Straight line recovery of intangibles defined.—Section 57 is amended by adding at the end thereof the following new subsection:

"(e) Straight Line Recovery of Intangibles Defined.—For purposes of paragraph (11) of subsection (a)—

"(1) In general.—The term 'straight line recovery of intangibles', when used with respect to intangible drilling and development costs for any well, means (except in the case of an election under paragraph (2)) ratable amortization of such costs over the 120-month period beginning with the month in which production from such well begins.

"(2) Election.—If the taxpayer elects, at such time and in such manner as the Secretary may by regulations prescribe, with respect to the intangible drilling and development costs for any well, the term 'straight line recovery of intangibles' means any method which would be permitted for purposes of determining cost depletion with respect to such well and which is selected by the taxpayer for purposes of subsection (a)(11)."

(4) Exclusion of corporations.—The last sentence of section 57(a) (relating to items of tax preference) is amended by striking out "Paragraphs (1) and (3)" and inserting in lieu thereof "Paragraphs (1), (3), and (11)".

(d) Amendments of Section 58.—Section 58 (relating to rules for application of part) is amended—

(1) by amending subsection (a) to read as follows:

"(a) Married Individuals Filing Separate Returns.—In the case of a married individual who files a separate return for the taxable year, section 55(c) shall be applied by substituting $5,000 for $10,000.",

(2) by amending subsection (c) to read as follows:

"(c) Estates and Trusts.—

"(1) Exemption not allowed to trusts.—In the case of a trust, the exemption provided by section 55(c) shall not be allowed.

"(2) Character of amounts.—In applying the second sentence of section 652(b) and the second sentence of section 662(b) for purposes of this part, the allocation of items of deduction shall be made under regulations prescribed by the Secretary which shall contain such rules as may be necessary to carry out the purposes of this part.

"(3) Distribution deduction.—Under regulations prescribed by the Secretary, the adjusted economic income of an estate or trust shall be reduced by the deduction allowed to such estate or trust under section 651 or 661.", and

(3) by striking out "For purposes of section 56" each place it appears in subsection (g) and inserting in lieu thereof "For purposes of this part".

(e) Determination of Amount of Artificial Loss.—

(1) In general.—Part VI of subchapter A of chapter 1 (relating to minimum tax for tax preferences) is amended—

(A) by inserting after the heading for such part the following:

"Subpart A. General provisions.
"Subpart B. Rules for computing amount of excess accelerated deductions.

"Subpart A—General Provisions"; and

(B) by adding at the end thereof the following new subpart:

"Subpart B—Rules for Computing Amount of Excess Accelerated Deductions.

"Sec. 59. Amount of excess accelerated deductions.
"Sec. 60. LAL property; classes of LAL property.
"Sec. 60A. Accelerated deductions; net related income.
"Sec. 60B. Other definitions and special rules.

"Sec. 59. Amount of Excess Accelerated Deductions.

"(a) General Rule.—In the case of a taxpayer subject to this subpart, for the purposes of subpart A, the excess accelerated deductions for any taxable year from any class of LAL property is the amount (if any) by which—

"(1) the accelerated deductions which are attributable to such class of LAL property and which are allowable for the taxable year; exceed

"(2) the net related income for such year from such class of property.

"(b) Taxpayers Subject to This Subpart.—

"(1) In general.—Except as provided in paragraph (2), the following shall be subject to this subpart:

"(A) an individual,

"(B) an electing small business corporation (within the meaning of section 1371(b)), and

"(C) with respect to LAL farm property, a corporation to which section 447(a) (relating to method of accounting for corporations engaged in farming) does not apply.

"(2) Exception for certain accrual taxpayers engaged in farming.—This subpart shall not apply to any taxpayer with respect to property described in section 60(a)(3) if the taxpayer uses an accrual method of accounting with respect to such property and capitalizes preproductive period expenses described in section 60A(c)(1).

"Sec. 60. LAL Property; Classes of LAL Property.

"(a) LAL Property Defined.—For purposes of this subpart, the term 'LAL property' means property described in any of the following paragraphs:

"(1) LAL real property.—Real property—

"(A) which is or will be either property described in section 1221(1) or property held for rental, and

"(B) which is not section 1245 property (as defined in section 1245(a)(3)).

"(2) LAL lease property.—In the case of a lessor any section 1245 property (as defined in section 1245(a)(3)) which is leased or held for leasing.

"(3) LAL farm property.—Any property—

"(A) which is held for use in the trade or business of farming, or

"(B) which is described in section 1221(1) and held in connection with the trade or business of farming.

"(4) LAL film property.—Any motion picture film or video tape created primarily for use as public entertainment and any right to produce, distribute, or display such a film or tape.

"(5) LAL oil and gas property.—Any interest in an oil or gas well which is not an exploratory well.

"(6) LAL sports franchise property.—Any interest in a franchise to conduct a sports enterprise.

"(b) Classes of LAL Real Property.—For purposes of this subpart, all property of the taxpayer described in subsection (a)(1) is one class of property.

"(c) Classes of LAL Lease Property.—For purposes of this subpart, each item of property described in subsection (a)(2) is a separate class property.

"(d) Classes of LAL Farm Property.—For purposes of this subpart—

"(1) In general.—Except as provided in paragraph (2), all property of the taxpayer described in subsection (a)(3) is one class of property.

"(2) Rule for farming syndicates.—In the case of any interest in a farming syndicate, property described in subsection (a)(3) attributable to each activity on each farm begun during any taxable year is a separate class of property.

"(3) Farming syndicate defined.—

"(A) In general.—The term 'farming syndicate' means—

"(i) a partnership engaged in the trade or business of farming if at any time interests in such partnership have been offered for sale in any offering required to be registered with a Federal or State agency having authority to regulate the offering of securities for sale.

"(ii) a partnership engaged in the trade or business of farming, if more than 50 percent of the losses during any period are allocable to limited partners, and

"(iii) any other enterprise engaged in the trade or business of farming if at any time interests in such enterprise have been offered for sale in an offering described in clause (1) or if the allocation of losses in such enterprise is similar to an allocation described in clause (ii).

"(B) Holdings attributable to active management.—For purposes of clause (ii) of subparagraph (A), in the case of any individual who has actively participated (for a period of not less than 5 years) in the management of any trade or business of farming, any interest in a partnership which is attributable to such active participation and which is held by such individual (or by any member of his family within the meaning of section 267(c) (4)) shall be treated as an interest which is not held by a limited partner. A rule similar to the rule provided by the preceding sentence shall apply for purposes of so much of clause (iii) of subparagraph (A) as relates to clause (ii) of subparagraph (A).

"(e) Classes of LAL Film Property.—For purposes of this subpart, each item of property described in subsection (a) (4) is a separate class of property.

"(f) Classes of LAL Oil and Gas Property.—For purposes of this subpart, each property (within the meaning of section 614) is a separate class of property.

"(g) Classes of Sports Franchise Property.—For purposes of this subpart, each franchise to conduct a sports enterprise is a separate class of property.

"Sec. 60A. Accelerated Deductions; Net Related Income.

"(a) Real Property.—For purposes of this subpart, the term 'accelerated deduction', when used with respect to a class of property described in section 60(a) (1), means—

"(1) Construction period interest and taxes.—All—

"(A) interest paid or accrued on indebtedness incurred or continued to acquire, construct, or carry real property, and

"(B) real property taxes,

to the extent such interest and taxes are attributable to the construction period for such property and would be allowable as a deduction under this chapter for the taxable year.

(2) Accelerated depreciation.—The excess of—

"(A) the deduction allowable under this chapter for the taxable year for depreciation or amortization, over

"(B) the deduction which would have been allowable for the taxable year had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life for which the taxpayer has held the property.

"(b) Lease Property.—For purposes of this subpart, the term 'accelerated deduction', when used with respect to a class of property described in section 60(a) (2), means the excess of—

"(1) the deduction allowable under this chapter for the taxable year for depreciation or amortization, over

"(2) the deduction which would have been allowable for the taxable year had the taxpayer depreciated the property under the straight line method for each taxable year for its useful life for which the taxpayer has held the property.

For purposes of paragraph (2), useful life shall be determined as if section 167(m) (1) (relating to asset depreciation range) did not include the last sentence thereof.

"(c) Farm Property.—For purposes of this subpart, the term 'accelerated deduction', when used with respect to a class of property described in section 60(a) (3), means—

"(1) Preproductive period expenses.—

"(A) In general.—Any amount which is attributable to crops, animals, or trees (or to any other property having a crop or yield) during the preproductive period of such property and which is allowable as a deduction for the taxable year.

"(B) Exceptions.—Subparagraph (A) shall not apply—

"(i) to taxes and interest.

"(ii) to any amount incurred on account of fire, storm, flood, or other casualty or on account of disease or drought,

"(iii) to wheat, alfalfa, barley, oats, rye, sorghum, and cotton, and

"(iv) to livestock other than poultry. Clauses (iii) and (iv) shall not apply in the case of an interest in a farming syndicate (as defined in section 60(d) (3)).

"(C) Preproductive period defined.—For purposes of this paragraph, the term 'preproductive period' means—

"(i) in the case of property having a useful life of more than 1 year which will have more than 1 crop or yield, the period before the disposition of the first such marketable crop or yield, or

"(ii) in the case of any other property, the period before such property is disposed of.

For purposes of this subpart, the use by the taxpayer in the trade or business of farming of any supply produced in such trade or business shall be treated as a disposition.

"(2) Prepaid feed, seed, fertilizer, etc.—Any amount paid for feed, seed, fertilizer, or other supplies which are on hand at the close of the taxable year. This paragraph shall not apply to supplies which are on hand at the close of the taxable year on account of fire, storm, flood, or other casualty or on account of disease or drought.

"(3) Accelerated depreciation of animals, trees, etc., during productive period.—In the case of animals, trees, or other property having a crop or yield, the excess of—

"(A) the deduction allowable for the taxable year under section 167, over

"(B) the deduction which would have been allowable for the taxable year had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life for which the taxpayer has held the property.

"(d) Film Property.—For purposes of this subpart, the term "accelerated deduction", when used with respect to a class of property described in section 60(a) (4), means any amount allowable for the taxable year under this chapter as a deduction—

"(1) for depreciation or amortization, or

"(2) for amounts attributable to producing, distributing, or displaying such property.

"(e) Oil and Gas Property.—For purposes of this subpart, the term accelerated deduction", when used with respect to a class of property described in section 60(a) (5), means the excess (if any) of—

"(1) the intangible drilling and development costs described in section 263(c) allowable under this chapter for the taxable year with respect to such class of property, over

"(2) the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in section 57(e)) had been used with respect to such costs.

Such term does not include intangible drilling and development costs described in section 263(c) allowable under this chapter which are attributable to a well drilled solely to inject water or other substances to stimulate or increase the production of oil or gas.

"(f) Sports Franchise Property.—

"(1) In general.—For purposes of this subpart, the term 'accelerated deduction', when used with respect to a class of property described in section 60(a) (6), means any amount allowable for the taxable year under this chapter as a deduction under section 167 for the LAL portion of the basis of player contracts.

"(2) LAL portion of the basis of player contracts defined.—For purposes of paragraph (1), the LAL portion of the basis of player contracts means, in the case of any franchise, the excess of the amount allocated to player contracts by the transferee over the sums of—

"(A) the aggregate adjusted bases of the player contracts in the hands of the transferor immediately before the transfer of the franchise, plus

"(B) the ordinary income (if any) recognized by the transferor on the transfer of the franchise.

"(3) Player contract defined.—For purposes of this subsection, the term 'player contract' means any contract for the services of an athlete which, in the hands of the taxpayer, is of a character subject to the allowance for depreciation provided in section 167. Such a contract shall be taken into account for purposes of this subpart only if the franchise acquired such contract in connection with the transfer of the franchise.

"(4) Establishment of franchise treated as transfer.—For purposes of this subsection, the establishment of a franchise shall be treated as a transfer.

"(g) Net Related Income.—

"(1) In general.—For purposes of this subpart, the net related income from a class of property for a taxable year is the excess of—

"(A) the gross income from such class for each year, over

"(B) the sum of the deductions (other than accelerated deductions) for such year attributable to such class.

"(2) Special rule.—For purposes of paragraph (1)—

"(A) any excess of the deductions (other than accelerated deductions) attributed to an item of property shall not be taken into account.

"(B) the net operating loss deduction provided by section 172 shall not be taken into account, and

"(C) any deduction under section 1202 relating to deduction for capital gains) and any capital loss carryback or carryover under section 1212 (relating to capital loss carrybacks and carryovers) shall not be taken into account.

"(3) Certain processing income treated as farming income.—

"(A) In general.—For purposes of paragraph (1) of this subsection and for purposes of section 60B(b) (3), the net income of any person from the processing of (including the application of one or more manufacturing processes to) a farm product produced by such person shall be treated as net income of such person attributable to the business of farming if such processing is performed by such person or by any partnership, electing small business corporation, or cooperative of which such person is a member.

"(B) Paragraph not to apply to syndicated farming interests.—This paragraph shall not apply with respect to any interest in a farming syndicate within the meaning of section 60(d) (3).

Sec. 60B. Other Definitions and Special Rules.

"(a) Definitions.—For purposes of this subpart—

"(1) Construct.—The term 'construct'

includes reconstruct and erect, and the term 'construction' includes reconstruction and erection.

"(2) Construction period.—The term 'construction period', when used with respect to any item of property described in section 60(a)(1), means the period—

"(A) beginning on the date on which construction of the building or other improvement begins; and

"(B) ending on the date on which the item of property is ready to be placed in service or is ready to be held for sale.

"(3) Residential real property.—The term 'residential real property' means property which is or can reasonably be expected to be—

"(A) residential real property as defined in section 167(j)(2)(B), or

"(B) real property described in section 221(1) held for sale as dwelling units (within the meaning of section 167(k)(3)(C)).

"(4) Low-income housing.—The term 'low-income housing' means—

"(A) property with respect to which a mortgage is insured under section 21(d)(3) or 236 of the National Housing Act, or housing financed or assisted by direct loan or tax abatement under similar provisions of State or local laws, and with respect to which the owner is subject to the restrictions of section 1039(b)(1)(B), or

"(B) dwelling units held or to be held (pursuant to commitments) for occupancy by families or individuals eligible to receive subsidies under section 8 of the United States Housing Act of 1937, as amended, or under the provisions of State or local law authorizing similar levels of subsidy for lower income families.

In the case of a building (or the portion of a building devoted to dwelling units), if 85 percent or more of the dwelling units are units described in subparagraph (B), such building (or portion thereof) shall be treated as low-income housing.

"(5) Farming.—The term 'farming' means the cultivation of land or the raising or harvesting of any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of animals. For purposes of the preceding sentence, trees shall be treated as an agricultural or horticultural commodity.

"(6) Exploratory well.—The term "exploratory well" means any well—

"(A) each point on which, at the time such well is completed, is more than 2 miles from the nearest point on the nearest producing well, or

"(B) which—

"(i) is completed 2 years or more after the completion of the last producing well which does not meet the requirements of subparagraph (A), and

"(ii) the taxpayer establishes (in the manner provided in regulations prescribed by the Secretary) by maps and other evidence that the well will not tap any reservoir from which there has been significant oil or gas production.

Subparagraph (B)(ii) shall be treated as not having been met with respect to any well if, on completion of such well, the bottom hole pressure or any other evidence indicates that there has been significant oil or gas production from any reservoir tapped by such well.

"(b) Special Adjusted Gross Income Rule for Farming.—

"(1) Accelerated deductions not deferred where nonfarm adjusted gross income for taxable year does not exceed $20,000.—In the case of any individual (other than a trust), this subpart shall not apply to deductions attributable to a class of property described in section 60(a)(3) if the individual's nonfarm adjusted gross income for the taxable year does not exceed $20,000.

"(2) Phaseout between $20,000 and $40,000.—In the case of any individual (other than a trust), this subpart shall not apply to so much of the excess for the taxable year of the accelerated deductions described in section 60A(c) over the net related income from farming as does not exceed the excess of $40,000 over such individual's nonfarm adjusted gross income for the taxable year.

"(3) Nonfarm adjusted gross income defined.—For purposes of this section, the term 'nonfarm adjusted gross income' means adjusted gross income computed without regard to income or deductions attributable to the business of farming.

"(4) Married individuals filing separate returns.—In the case of a married individual filing a separate return for the taxable year, in applying paragraph (1) or (2) the items referred to therein of both spouses shall be combined. For purposes of this paragraph, marital status shall be determined under section 143.

"(c) Subpart Not To Apply to Certain Real Property.—

"(1) In general.—This subpart shall not apply to real property the construction period for which begins before January 1, 1976.

"(2) Residential real property.—In the case of residential real property, this subpart shall not apply to real property if—

"(A) before January 1, 1977, (i) the taxpayer has acquired the site (or has a binding option to acquire the site), and (ii) there is a firm commitment for the permanent financing of the property which (except for a clause under which the borrower may be relieved from his commitment if he does not receive the rezoning for which he has applied before January 1, 1977) is binding on both the lender and the borrower, and

"(B) the construction period for such property begins before January 1, 1978.

"(3) Low-income housing.—In the case of low-income housing, this subpart shall not apply to real property if—

"(A) before January 1, 1979, there is a subsidy commitment to support new construction or substantial rehabilitation under section 8 of the United States Housing Act of 1937, as amended (or under the provisions of State or local law authorizing similar levels of subsidy for lower income families) and such commitment was made before the beginning of the construction or rehabilitation of such property, and

"(B) the construction period for such property begins before January 1, 1981.

"(4) Coordination with section 167(k).—For purposes of this subpart, any expenditure incurred before January 1, 1978, to which section 167(k) (relating to depreciation of expenditures to rehabilitate low-income rental housing) applies shall not be treated as an accelerated deduction.

"(d) Other Special Rules.—

"(1) Deduction of income attributable to more than one class of property.—If any deduction or income is attributable to more than one class of LAL property, such deduction or income shall be allocated to one of such classes or among such classes in accordance with regulations prescribed by the Secretary.

"(2) Determination of straight line depreciation for leased property.—In determining what depreciation would have been for leased property under the straight line method, rules similar to the rules provided by section 1250(b)(2) shall apply.

"(3) Partnerships.—For purposes of this subpart—

"(A) Items treated as held directly by partners.—Any item of property held by a partnership shall be treated as held by each partner in accordance with his distributive share of the taxable income or loss (whichever applies) of the partnership for the taxable year.

"(B) Disposition of partnership interests.—The disposition of any partner's interest in the partnership shall be treated as a disposition of the partner's interest in each item of property.

"(4) Coordination with certain other provisions.—This subpart shall be applied after section 461(g) (relating to accrual of prepaid interest), after section 464 (relating to deductions limited to amount at risk in case of films, livestock, and certain crops), and after the second sentence of section 263(c) (relating to intangible drilling and development costs)."

(2) 10-year spread of adjustments where taxpayer changes to accrual method of accounting with respect to farming.—If, for his first taxable year ending after December 31, 1975, a taxpayer referred to in section 59(b)(2) of the Internal Revenue Code of 1954 computes his taxable income from farming on an accrual method of accounting and with the capitalization of preproductive expenses described in section 60A(c)(1) of such Code, and if such method of accounting constitutes a change in his method of accounting with respect to his taxable income from farming, then—

(A) such change shall be treated as having been made with the consent of the Secretary of the Treasury,

(B) for purposes of section 481(a)(2) of such Code, such change shall be treated as a change not initiated by the taxpayer, and

(c) under regulations prescribed by the Secretary of the Treasury or his delegate, the net amount of the adjustments required by section 481(a) of such Code to be taken into account by the taxpayer in computing taxable income shall (except as otherwise provided in such regulations) be taken into account in each of the 10 taxable years beginning with the year of change.

(f) Taxes Taken Into Account in Case of Accumulation Distribution by Trusts.—Section 666(b) (relating to total taxes deemed distributed) is amended by adding at the end thereof the following new sentence. "For purposes of this subsection and subsection (c), if the taxes imposed on the trust for any taxable year are imposed by section 55 (relating to minimum tax on individuals), the taxes deemed imposed on the trust for such taxable year shall be the taxes which would have been imposed on the trust for such taxable year by section 1 if this title did not contain section 55."

(g) Modification of Net Operating Loss in Case of Individuals Subject to Minimum Tax.—Section 172(d)(4) is amended by adding at the end thereof the following new sentence: "If a tax under section 55 is imposed on the taxpayer, the deductions allowable under this paragraph shall not exceed the amount of any such section 62 plus the amount of the taxpayer's investment expense adjustment (determined under section 55(d)(1))."

(h) Conforming Amendments.—

(1) Paragraph (5) of section 5(a) (relating to cross references relating to tax on individuals) is amended to read as follows:

"(5) For minimum tax for individuals, see section 55."

(2) Paragraph (3) of section 46(a) (defining liability for tax) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(3) Paragraph (3) of section 50A(a) (defining liability for tax) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(4) Subsection (d) of section 443 (relating to adjustments in exclusion for computing minimum tax for tax preferences) is amended by striking out "the $30,000 amount specified in section 56 (relating to minimum tax for tax preferences), modified as provided by section 58," and inserting in lieu thereof "the $10,000 amount specified in section 55 (relating to minimum tax for individuals), modified as provided by section 58, or the

$30,000 amount specified in section 56 (relating to minimum tax for corporations)".

(5) Paragraph (1) of section 871(b) (relating to tax on nonresident alien individuals) is amended by inserting ", section 55," after "section 1".

(6) Section 877(b) (relating to expatriation to avoid tax) is amended by inserting ", section 55," after "section 1".

(7) Subsection (a) of section 901 (relating to allowance of credit for taxes of foreign countries and of possessions of the United States) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(8) Paragraph (1) of section 6015(c) (defining estimated tax) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(9) Paragraph (1) of section 6654(f) (relating to tax computed after applications of credits against tax) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(10) Section 6362(b)(2)(A) (relating to qualified individual income taxes) is amended by striking out "section 56" and inserting in lieu thereof "section 55".

(1) Clerical Amendment.—The table of sections for subpart A of part VI of subchapter A of chapter 1 is amended by striking out the item relating to section 56 and inserting in lieu thereof the following:
"Sec. 55. Minimum tax for individuals.
"Sec. 56. Minimum tax for corporations."

(j) Effective Date.—

(1) In General.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to items of tax preferences (as defined in section 57(a) of the Internal Revenue Code of 1954) for taxable years beginning after December 31, 1975. In the case of a taxpayer other than a corporation, the amount of any tax carryover under section 56(c) of the Internal Revenue Code of 1954 from a taxable year beginning before January 1, 1976, shall not be allowed as a tax carryover for any taxable year beginning after December 31, 1975.

(2) Special rules for lease property.—

(A) In General.—In the case of property described in section 60(a)(2) of the Internal Revenue Code of 1954, the amendments made by subsection (e) shall not apply with respect to—

(i) leases entered into before September 11, 1975;

(ii) leases where the property was ordered by the lessor or lessee before March 11, 1975, and such property is placed in service before January 1, 1976; and

(iii) leases where the lessor is a partnership formed before September 11, 1975, for the purpose of acquiring and leasing personal property, the property was ordered before September 11, 1975, by the person who becomes the lessee, and the property is placed in service before January 1, 1976.

(B) Holding of interest for purposes of subparagraph (a)(i).—Subparagraph (A)(j) shall apply only to taxpayers who held their interests in the property—

(i) on September 11, 1975, or

(ii) in the case of property placed in service before January 1, 1976, on December 31, 1975.

(C) Holding of interests for purposes of subparagraph (a)(ii) and (iii).—Clauses (ii) and (iii) of subparagraph (A) shall apply only to taxpayers who held their interests in the property on December 31, 1975.

(3) Special rule for movies and video tapes.—

(A In General.—In the case of property described in section 60(a)(4) of the Internal Revenue Code of 1954, the amendments made by subsection (e) shall not apply to—

(i) deductions for depreciation or amortization with respect to property the principal production of which began before September 11, 1975, and for the purchase of which there was on September 11, 1975, and at all times thereafter a binding contract, and

(ii) deductions attributable to producing, distributing, or displaying property the principal production of which began before September 11, 1975.

(B) Exception for certain agreements where principal photography begins before 1976.—In the case of property described in section 60(a)(4) of the Internal Revenue Code of 1954, the amendments made by subsection (e) shall not apply to deductions attributable to the producing of a film the principal photography of which began on or before December 31, 1975, if—

(i) on September 10, 1975, there was an agreement with the director or a principal motion picture star, or on or before September 10, 1975, there had been expended (or committed to the production) an amount not less than the lower of $100,000 or 10 percent of the estimated costs of producing the film, and

(ii) the production takes place in the United States.

Subparagraph (A) shall apply only to taxpayers who held their interests on September 10, 1975. Subparagraph (B) shall apply only to taxpayers who held their interests on December 31, 1975.

(4) Treatment of depreciation and amortization.—For purposes of this subsection, any amount allowed or allowable for depreciation or amortization for any period shall be treated as an amount paid or incurred for such period.

(5) Special rule for groves, orchards, and vineyards.—The amendments made by subsection (e) shall not apply to that part of a grove, orchard, or vineyard which was planted before September 11, 1975.

(6) Special rule for sports franchises.—In the case of property described in section 60(a)(6) of the Internal Revenue Code of 1954, the amendments made by subsection (e) shall not apply in the case of franchises established or transferred on or before November 4, 1975, (or pursuant to a binding contract in existence on such date and at all times thereafter).

Page 82, strike out line 1 and all that follows down through line 21 on page 92.

Mr. JONES of Oklahoma (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. JONES of Oklahoma. Mr. Chairman, this amendment is an amendment actually to substitute for the LAL provisions and the minimum tax provision which we just approved, and to establish a minimum taxable income in the tax code. This is not a new proposal. This idea was first offered in 1968 by Secretary of the Treasury Joe Barr as part of the Johnson administration package. It has been considered by the Ways and Means Committee since that time.

Basically, the proposal has three objectives, or goals. The first is to create tax equity. If there is one thing I have heard over the past 2 or 3 years, it is from constituents who object to uneven sharing of the tax burden. A blue collar worker, for example, says he pays more in taxes than the President of the United States or the head of a corporation. The perception in this country is that not every American is paying his or her fair share of the tax burden.

This proposal is designed to be the best catchall that we can devise, so that at least an estimated 175,000 to 200,000 tax returns will be affected, and these taxpayers will be paying taxes. That compares to the present law in which only 30,000 citizens pay taxes. Even under the minimum tax provisions—the Corman amendment—less taxpayers would have to pay a minimum tax than under my amendment.

So, the first goal of this amendment is to create tax equity and to have the perception in this country that all taxpayers are paying their fair share.

The second goal is tax simplification. Under the LAL and minimum tax features of the committee bill this is a relief bill for lawyers and accountants. It is not tax simplification. That would be the second purpose of my amendment, to simplify the tax code.

The third purpose is to accomplish these two goals without using the tax code as a means of directing where capital investment is to go or not to go. Under the committee bill, particularly the LAL provisions, the disincentives are built into the tax code against capital going into certain industries such as real estate, oil and gas, and farming.

One of the main objections to my amendment is that it raises less revenue than the committee bill, and the committee bill as amended by the Corman amendment. But, I submit that this worship at the shrine of revenue estimates is simply not sound thinking. The revenue estimates that have been projected in past tax bills have been shown to be inaccurate, and I think these are going to be inaccurate as far as this tax bill is concerned because they are based on the assumption that investment will continue at the same rate, in the same industries, as it has before these proposals are enacted. This assumption is not valid.

My colleague from California (Mr. Ketchum) mentioned earlier today that in the real estate industry alone these investments will not be made. Norman True, as economist here in Washington, estimates that the committee's provisions on LAL and minimum tax would result in $3.5 billion less revenue to the Federal Government. But even more important, the already depressed housing industry, which today has 18 percent unemployment, would be depressed even more because investments simply would not flow into that part of our economy. So, I submit that revenue argument simply does not hold water.

Under our proposal, the estimates are that we would pick up, over present tax law, $866 million in additional revenue in 1976, and that would increase to $1.335 billion in 1981.

Mr. Chairman, another argument that has been made against the minimal taxable income approach is that it would be adverse to charitable contributions, charitable giving. That is also a falacious argument because those fears are based on proposals and computer runs that were made when this idea was first proposed by Secretary Barr in 1968. His proposal differs substantially from my amendment on charitable giving.

Mr. Chairman, my amendment specifically excludes as a preference item charitable contributions. In the formula, to figure what the minimum tax would be, one can fully deduct charitable contributions; and I submit that the charities would not be affected by this amendment. The Corman amendment will definitely be adverse to charities.

Mr. KETCHUM. Mr. Chairman, I rise in support of the amendment offered by Mr. JONES of Oklahoma. The minimum taxable income approach may not be perfect, but it does have considerable advantages over the LAL minimum tax approach contained in the committee bill.

I have already pointed out to my colleagues the severe effects that the LAL approach will have on the real estate industry. I am convinced that these will apply to farms, equipment leasing, and drilling operations as well. What we are doing is singling out these industries, some of the most vital and important we have in this country, for particularly onerous tax treatment, which also will have far-reaching effects upon the economy in general.

It is therefore obvious to me that LAL must go. At the same time, we can make use of the existing minimum tax concept to provide far greater equity in our tax structure. That is what the MTI amendment will accomplish.

In essence, this amendment will insure that taxpayers in the higher income brackets pay their fair share in taxes. But by allowing for a deduction of $10,000 plus medical expenses and charitable contributions, the tax will be levied without disrupting the investment patterns of larger investors, as would LAL.

The MTI also has the advantage of using an existing tax structure, the minimum tax, without creating new and confusing categories as does LAL. It will bring us tax reform without adding to unemployment and decreasing business investments. It is the kind of approach that the committee should have taken, and deserves to pass.

Mr. GREEN. Mr. Chairman, I rise in opposition to this amendment.

My good friend, the gentleman from Oklahoma (Mr. JONES), says that this is not a new idea. It is not a new idea. It is an old idea. It is an idea whose time has already come and gone.

The gentleman says that it is not intended to subvert tax reform. But that is precisely what it does. Its principal deficiency is the fact that it just does away with the concept of LAL, the limitation on artificial losses; it does away with the concept that we have tried to put into this bill of eliminating the tax shelters; and it reinstitutes that system, because by its author's own admission the first thing it does is repeal LAL.

The gentleman says it has three goals. The first goal is simplification. The fact of the matter is, it is not at all simple. It is extremely complex. Its complexity creates great inequity, which is another goal of the amendment.

First of all, the Treasury Department opposes this precisely because it is complex. The fact of the matter is, what this does is that it gives a license to some people who have sheltered income and additional income that is nonsheltered to pay no minimum tax, while requiring other individuals with the same amount of sheltered income to pay a minimum tax.

For example, someone who has $45,000 of sheltered income, and no other income, would pay $7,000 tax under the gentleman's proposal. Yet someone else who had $45,000 of tax-free income would pay no minimum tax under this proposal, if that person had $55,000 more of additional nonsheltered income on which he or she paid regular income taxes.

Mr. Chairman, this amendment is neither equitable nor simple. According to its author, those are the chief reasons why he favors this amendment. The fact of the matter is, that under the bill as it existed prior to the Corman amendment being adopted, the Jones amendment would cost $271 million in revenue. Now that the Corman amendment has been adopted, it would cut an additional $367 million in revenues, the Jones amendment would cost $647 million in 1976, and almost $3 billion by 1981. If adopted to the bill as it now exists, $647 million.

The major weapon in this bill to end inequities in the tax code are LAL and the minimum tax. This amendment destroys both and it should not be adopted.

Those loopholes that this bill eliminates have been denounced by administration after administration, by George Shultz, for example, from the last administration, as "outrageous and wasteful." Now that we have finally done something to increase equity, to end this abuse, we are being asked to change our minds at the last minute. That would be outrageous.

The Treasury Department opposes this proposal. The committee rejected this proposal. The amendment is clear only in that it should clearly be rejected.

I want to add one thing, because we have heard much of what Mr. Norman Ture has to say about the effects of LAL.

Last winter he was quoted in the Wall Street Journal, as saying that at this juncture the tax bill we passed earlier this year would drive the prime interest rate in this country to 20 percent.

Mr. Chairman, I do not think I would rely on his judgment for predictions of what will occur as a result of bills eminating from the Committee on Ways and Means.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. GREEN. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, I applaud the gentleman from Pennsylvania (Mr. GREEN) for his statement, and I concur in his remarks.

The gentleman from Oklahoma (Mr. JONES) has done much work on this amendment as he always does but in my judgment it would be a mistake to adopt this amendment. I agree with the gentleman from Pennsylvania (Mr. GREEN), and I oppose the amendment offered by the gentleman from Oklahoma (Mr. JONES).

Mr. GREEN. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. JONES).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GREEN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 85, noes 334, not voting 15, as follows:

[Roll No. 737]

AYES—85

Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bowen
Breaux
Buchanan
Burgener
Burleson, Tex.
Butler
Casey
Clancy
Clawson, Del
Cochran
Collins, Tex.
Conlan
Cotter
Crane
Daniel, Dan
Daniel, R. W.
Devine
Downing, Va.
English
Flynt
Frey
Goldwater
Hagedorn
Hammerschmidt
Hansen
Hightower
Holt
Hyde
Jarman
Johnson, Pa.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Ketchum
Krueger
Landrum
Long, La.
Lott
McDonald
Mahon
Martin
Mathis
Michel
Milford
Montgomery
Moore
Passman
Poage
Pritchard
Risenhoover
Robinson
Rousselot
Runnels
Ruppe
Satterfield
Schulze
Shipley
Shuster
Spence
Steed
Steelman
Steiger, Wis.
Stephens
Stuckey
Symms
Taylor, Mo.
Teague
Treen
Vander Jagt
Waggonner
White
Whitehurst
Whitten
Wilson, Tex.
Wright
Young, Alaska
Young, Tex.

NOES—334

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Barrett
Baucus
Beard, R.I.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clay
Cleveland
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
Coughlin
D'Amours
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Fuqua
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Gradison
Grassley
Green
Gude
Guyer
Haley
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hastings
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Henderson
Hicks
Hillis
Holland
Holtzman
Horton
Howard
Howe

Hubbard
Hughes
Hutchinson
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jordan
Karth
Kasten
Kastenmeier
Keys
Kindness
Koch
Krebs
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, Md.
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Macdonald
Madden
Madigan
Maguire
Mann
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Pressler
Preyer
Price
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Roberts
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schneebeli
Schroeder
Sebelius
Seiberling
Sharp
Shriver
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steiger, Ariz.
Stratton
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Thompson
Thone
Thornton
Traxler
Tsongas
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Wampler
Waxman
Weaver
Whalen
Wiggins
Wilson, C. H.
Winn
Wirth
Wolff
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Ga.
Zablocki
Zeferetti

NOT VOTING—15

Brown, Calif.
Burke, Fla.
Dickinson
Foley
Gaydos
Hébert
Helstoski
Hinshaw
Hungate
Litton
Moorhead, Calif.
Roncalio
Stokes
Udall
Wilson, Bob

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Stokes against.

Messrs. SMITH of Iowa, O'HARA, and FITHIAN changed their votes from "aye" to "no."

Messrs. KELLY, RUPPE, and BUCHANAN changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. FISHER

Mr. FISHER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FISHER: Page 238, strike out line 3 and all that follows down through line 9 on page 248 and insert: "Sec. 1041. Existing Exemption for Interest on Bank Deposits, Etc., Made Permanent."

The last sentence of section 861(c) (relating to interest on deposits, etc.) is hereby repealed.

Mr. FISHER (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with, and that it be printed in the RECORD. It has been printed in the RECORD on a prior date.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. FISHER. Mr. Chairman, at this time I propose amending H.R. 10612 to retain the 30 percent withholding tax on U.S. portfolio income of foreign investors.

Opponents of the amendment claim that repeal of the tax would attract foreign capital to this country. The truth is: over the long run, repeal would do little to attract capital.

There are several reasons for this. In the first place, most foreign countries allow their citizens to offset taxes paid to the United States against taxes owed at home. Therefore, where a foreign investor now receives credit for his U.S. tax, repeal would not reduce his overall taxes. The foreign investor would still pay the same tax—but to his home country instead of the United States. We would simply be forgoing revenues so that other countries could collect them.

In the second place, most oil money—possibly most of the available foreign capital—already is exempt from tax. Most oil dollars are owned by foreign governments which, under present law, may invest in the United States without paying tax. Foreign central banks are also exempt.

Another reason why economists say that repeal would not increase capital over the long run, is this: If repeal did attract foreign investors at first, those investors would dispose of assets in other countries, leaving asset prices depressed. These assets, in turn, would become more attractive to investors in countries which already have favorable tax treaties with the United States. Repeal would not affect them, and they would be better off to sell assets here and buy the cheaper assets abroad. In short, repeal of the tax would result in a wash.

As reported out by Ways and Means, H.R. 10612 would provide substantial tax incentives for capital formation. The bill would increase the investment tax credit from 7 to 10 percent through 1980; would continue for 2 years the corporate tax rate reduction and corporate surtax exemption increase enacted earlier this year; and would liberalize the tax treatment of capital gains and losses. These legislative changes are expected to result in a net revenue loss of over $5 billion in 1977 alone.

Even if repeal temporarily drew capital to this country, foreign countries might lower their own taxes in self-defense. Then no one would win, and revenues would suffer all around.

Moreover, short-term attraction of foreign capital to this country could have harmful effects in the type of investment attracted. Making the United States into a tax-haven country could tend to draw unstable money. Long-term investors are interested primarily in asset appreciation, and the United States imposes no withholding tax on foreigners' capital gains.

While repeal of the tax would not have the positive effect of attracting capital, repeal would have negative effects. The tax is imposed on dividends and non-bank-account interest, items on which Americans pay Federal income tax. To repeal the tax on foreigners would excuse them from paying taxes Americans must pay. This would discriminate against American investors. Why should not foreigners pay U.S. tax on their U.S. investment income when Americans must?

And why should not foreigners pay U.S. tax on their U.S. investment income when Americans who invest abroad pay foreign tax on their foreign income? Most foreign countries tax Americans on their income from foreign securities.

Repeal of the tax would not only discriminate against the American investor, but also hurt the American taxpayer who would foot the bill. Repeal would lose $165 million of revenue in 1976 and almost $400 million a year by 1981. From 1976 through 1981, the total revenue loss from repeal would be $1.9 billion. This loss would mean higher taxes for all Americans, including those with no investment income of their own.

At the same time, repeal of the tax would produce windfalls for foreigners. National windfalls for the countries collecting taxes we chose not to collect. And personal windfalls for the investors paying no tax at all.

In closing, let me say this: The withholding tax on portfolio income has been in effect almost as long as the Federal income tax itself. Over the long run, the value of U.S. portfolio investment by foreigners has steadily grown. From 1962 to 1973, the value of such investment more than tripled. Foreign purchases of stock, which slumped to $0.5 billion in 1974, are now running at an annual rate of $4.6 billion. The purchase of these securities is related to the stock market, not the withholding tax.

I urge the House to retain the withholding tax on U.S. portfolio income of foreign investors. A vote for my amendment to retain the tax will be a vote to preserve the tax base and a vote against giving windfalls to foreigners at Americans' expense.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. FISHER. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, I commend the gentleman from Virginia for having offered this amendment. I think the controlling factor here is that this would pick up $165 million in the first calendar year and $60 million for the current fiscal year budget which is the most pressing problem we are facing. I agree with the gentleman this withholding tax should remain in effect.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. FISHER. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Virginia (Mr. FISHER), one of the most diligent and objective members of the committee and of this House.

If this amendment is not adopted foreign portfolio income will completely escape American taxation. Income on investments by foreigners in the United States totals over $2 billion per year. Investments by foreign governments remain exempt from American taxation with or without this amendment. The Fisher amendment imposes a 3 percent tax on investments by foreign nationals. Most developed nations impose a similar tax on American income. However, by treaty between countries the tax may be mutually reduced.

The Fisher amendment will help curb the development of tax haven investment in the United States by foreign nationals. The Congress and the administration have criticized the establishment of tax havens to attract capital. The Fisher amendment will prevent "tax holiday" or "tax free" investment. If investments in America are to enjoy the protection and security that is uniquely provided under our law and throughout our history—they should pay some small tax contribution for the privilege.

Capital can be invested at higher levels of return in other places. What investment in America cannot always provide by way of rate of return or tax exemption is more than compensated by the security of investment. America will continue to be selected by the prudent investor.

Our Nation's development and enterprise can survive without the "hot money" seeking income without taxation.

Mr. FRENZEL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, a vote in favor of the Fisher amendment is a vote against capital formation in this country, a vote against the building of capital and American jobs right here at home.

The gentleman from Virginia has indicated that if we do not pass his amendment, we will discriminate against the American investor, because the foreigner will pay no taxes here and Americans will pay taxes abroad on similar earnings.

The answer to that is that most countries in which Americans invest, or in which we invest most heavily, do not have such taxes, so if we defeat the Fisher amendment, we are really equalizing.

It has been said we will lose $165 million in tax revenues.

Mr. Chairman, if we attract only $3 billion of new investment, we will make that revenue up and there will be no change, or no revenue effect.

It has been said this is a windfall for foreigners. It really is not. If the amendment passes, there will be no less investment. Nobody will get a windfall.

If the amendment does not pass, there will be more investment and the windfall will go to American enterprise and American employees for whom jobs will be created.

This amendment, if it stands in the bill, simply equates foreigners with Americans. It allows us to sell our securities in foreign markets, as foreign borrowers and foreign companies selling their stocks can do now.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Louisiana.

Mr. WAGGONER. Mr. Chairman, I thank the gentleman for yielding.

I subscribe to the statement that the gentleman is making. If we have a problem in the private sector, as well as the Government sector today, it is the demand for money, the need for capital formation. The provision in the bill will help to solve at least a part of the problem of capital formation. It will make investment in U.S. debt and equity instruments more attractive for foreigners. We need foreign capital to build American jobs. We should not vote for this amendment. We should keep the provision as it is presently written in this bill if we believe that the shortage of capital is a real problem in this country.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for his contribution.

I would note that the committee voted for the feature that is in the bill 23 to 12 in a strong partisan act of support.

Mr. CONABLE. Mr. Chairman, will the gentlman yield?

Mr. FRENZEL. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I would like to say I also oppose the Fisher amendment. It seems to me this amendment does not recognize the changed circumstances in the world. There is a great pool of movable capital—the petro-dollars. We must try to attract that. We are not always going to have the balance of payments situation we have right now. These people will make a very substantial contribution to our economy that will not be made if we do not give them the kind of inducements other developed nations are offering them. Capital is valuable to our system, and this is a modest price to pay to get found money that otherwise will go to more hospitable tax climates in the developed world.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for his contribution and would point out that after we passed the interest equalization tax and provided for some bonds to be sold under some circumstances in Europe without this withholding in the period of the late 1960's, those sales advanced from $200 million to $2 billion annually. So there is a definite incentive to attract foreign capital if we eliminate this withholding.

It is true, as the gentleman said, that foreign governments are already exempt, so why should we not offer to foreign nationals, to foreign individuals, the same privileges we offer to foreign countries?

If an American corporation wants to borrow money, it should have the ability to go abroad and sell bonds without having a limited market. It is not so much the attractiveness of not having the withholding, but it is the ability of foreigners to resell that American security. We need a secondary market for our securities abroad.

We had a fairly active secondary market in Europe of American securities prior to the expiration of the interest equalization tax and the reinstatement of withholding of interest for those kinds of bonds. Since that happened, of course, our bonds have not sold well in those markets, and our American companies have not been able to borrow as cheaply as their foreign competitors because there is less of a supply of money available to them.

Mr. Chairman, I think that if any of us are interested in rebuilding our economy and speeding our recovery, and interested at all in the subject of capital formation, we simply have to vote against the Fisher amendment. It means American jobs, and I hope that this committee will reject the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. FISHER).

The question was taken, and the Chairman announced that he was in doubt.

RECORDED VOTE

Mr. FISHER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 301, noes 119, not voting 14, as follows:

[Roll No. 738]

AYES—301

Abdnor
Abzug
Adams
Addabbo
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Barrett
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broyhill
Buchanan
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Chappell
Chisholm
Clausen, Don H.
Clay
Cohen
Collins, Ill.
Conlan
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
English
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fuqua
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Grassley
Green
Gude
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Henderson
Hicks
Hightower
Hillis
Holland
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Keys
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas

Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
McCloskey
McCormack
McDade
McFall
McHugh
McKay
Macdonald
Madden
Maguire
Mann
Martin
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mink
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pike
Pressler
Preyer
Price
Railsback
Randall
Rangel
Regula
Richmond
Riegle
Rinaldo
Risenhoover
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Russo
Ryan
St Germain
Santini
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Stratton
Studds
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Thornton
Traxler
Tsongas
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
White
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Ga.
Zablocki
Zeferetti

NOES—119

Alexander
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bell
Bowen
Broomfield
Brown, Mich.
Brown, Ohio
Burgener
Burleson, Tex.
Butler
Carter
Casey
Cederberg
Clancy
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conable
Crane
Daniel, Dan
Daniel, R. W.
Devine
Dickinson
Downing, Va.
Duncan, Tenn.
Edwards, Ala.
Erlenborn
Esch
Findley
Fish
Flynt
Frenzel
Frey
Goldwater
Goodling
Gradison
Guyer
Hagedorn
Haley
Hammerschmidt
Hansen
Hastings
Holt
Hutchinson
Hyde
Jarman
Johnson, Pa.
Kasten
Kelly
Kemp
Ketchum
Kindness
Landrum
Lott
McClory
McCollister
McDonald
McEwen
McKinney
Madigan
Mahon
Mathis
Michel
Milford
Mills
Montgomery
Moore
Murphy, N.Y.
Myers, Ind.
Nichols
O'Brien
Passman
Pettis
Pickle
Poage
Pritchard
Quie
Quillen
Rees
Reuss
Rhodes
Roberts
Robinson
Rousselot
Ruppe
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Shriver
Shuster
Sikes
Smith, Nebr.
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stuckey
Symms
Teague
Thone
Treen
Vander Jagt
Waggonner
Wampler
Whitehurst
Whitten
Wiggins
Wilson, Bob
Winn
Young, Alaska
Young, Tex.

NOT VOTING—14

Brown, Calif.
Burke, Fla.
Fraser
Gaydos
Hébert
Helstoski
Hinshaw
Hungate
Litton
Mitchell, Md.
Moorhead, Calif.
Stokes
Thompson
Udall

The Clerk announced the following pairs:

On this vote:

Mr. Thompson for, with Mr. Hébert against.

Messrs. JOHNSON of California, COHEN, and BROYHILL changed their vote from "no" to "aye."

Mr. SIKES changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. KARTH

Mr. KARTH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KARTH: Page 286, strike out line 4 and all that follows down through line 12, and insert:

"(4) BASE PERIOD.—For purposes of paragraph (2)—

"(A) for any taxable year beginning before 1979, the base period shall be the taxable years beginning in 1972, 1973, and 1974, and

"(B) for any taxable year beginning in any calendar year after 1978, the base period shall be the taxable years beginning in the 4th, 5th, and 6th calendar years preceding such calendar year."

Mr. KARTH. Mr. Chairman, much has been said about the Domestic International Sales Corporation, commonly referred to as DISC. It has been much praised. It has been much maligned, but more than anything else, I think the purpose of DISC has been very much misunderstood.

The fact of the matter is that the purpose of DISC has been to provide an incentive for U.S. multinational corporations to compete in the world marketplace from within the United States instead of from a foreign country.

To invest and to build plant and equipment, to employ American workmen, to employ American technicians, professionals, supervisory and management personnel in the United States of America, Mr. Chairman, instead of in a foreign country.

In addition to that the purpose of this has been to keep the United States corporations at home and help the balance of trade and the balance-of-payments situation for this country rather than for a foreign country.

Having said all that, Mr. Chairman, let me state very emphatically that the DISC provision, as it now stands in the law, has a lot of fat in it, but we have changed that in the bill that is before us with but one exception. There is fat in the existing DISC provisions of law, Mr. Chairman, for several reasons. One is the DISC provision of law provides no base period; second, there have been at least two official devaluations of the dollar since DISC was passed in 1971. We now have floating currency all over the world. These two things combined have caused an expanded U.S. market to the benefit of the U.S. exporter. So in this bill, to remove some of the fat, we provide a base period, a base period of 1972, 1973, and 1974.

In addition to that, Mr. Chairman, we say in this bill that before a U.S. exporter, before any U.S. exporter is entitled to any DISC benefits, they must exceed 75 percent of that base period.

Here, Mr. Chairman, arises the problem that I see in the bill as it is today before us. Because of the high base, that is, the 1972, 1973, and 1974 base period, because of the new approach, and because we are asking the exporter to exceed 75 percent of this base period, it was necessary to provide also in the bill a grace period. That is a period over which there would be no change in the number of years, that is the first year being dropped off and the last year being added on. After very long and very careful study, Mr. Chairman—and I studied this proposition for more than a month—after long and careful study I proposed a 3-year grace period. I happen to think very candidly, Mr. Chairman, that 2 years is sufficient but I opted for 3 because I did not want to destroy the incentive for a U.S. exporting company to increase their exports by causing them to feel it might be an unattainable goal.

So, at the last minute, after several hours of debate in committee, an amendment was offered that provided a 5-year grace period.

Mr. Chairman, this puts fat back into the DISC program. And I do not think, whether it is an American exporter or anybody else, that anybody should feed off the largess of this Government.

So my amendment, very simply, Mr. Chairman, provides all of the incentive that is necessary for a U.S. exporter to continue to locate his plants and equipment in this country, to employ American taxpayers in this country and to provide whatever income he derives from foreign export from within the borders of the United States.

Beyond that let me say that a 5-year base period destroys the purpose and the objective of the incentive that is in this bill, because the incentive is to increase export sales on a fairly current basis. If it is not fairly current, then the 5 years makes it noncurrent and the incentive to increase and expand export markets or export sales each year is lost. In addition, the base period is always 5 years behind the current export year.

I suppose the exporters would like 5 years. I would not doubt, Mr. Chairman, that they would like 10. The fact of the matter is they did not want any change at all.

My amendment, very simply, will defer taxes for export reinvestment. Let me restate that. My amendment will defer taxes for export reinvestment nearly $1 billion this year, more than $1 billion next year, and for the next succeeding 3 years, Mr. Chairman, nearly $1,250,000,000.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CONABLE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, let me say at the outset that the gentleman from Minnesota has studied this subject very deeply, objectively, and has been, I think, a tower of strength in the committee in the consideration of DISC. I, therefore, regret having to oppose him on an issue of judgment whether or not we should have a grace period of 5 years before our base moves in considering the new incremental DISC which is proposed in this bill.

I would quite agree with my friend that the provision as originally enacted provided an export subsidy which went beyond what was necessary, particularly in the light of subsequent history.

However, our exporters in dealing with a tax subsidy of this complexity need to be able to plan. A 5-year grace period is more helpful for them from that point of view, and to have a 5-year grace period certainly will give notice to some of our trading partners, who themselves have extensive export subsidies, that this is a permanent part of our tax law. Other countries do subsidize exports in different ways.

This is one of the issues that we have asked in the trade bill to be addressed in the multilateral trade negotiations going on in Geneva. It seems to me we should not give away lightly the kind of bargaining chips that will help us in dealing with subsidies provided by other countries for exports. The burden of proof here in Congress should rest on those who want to cut back on the size of the American subsidy.

As the gentleman from Minnesota said, DISC has to do with American jobs. Very importantly, it provides encouragement for American companies, who might otherwise go abroad through subsidiaries to manufacture with foreign labor, to manufacture in this country. So a sound, stable base for our subsidy mechanism is an important addition to the law.

I believe the bill does fairly handle DISC, but I would hope that the Members of this Chamber will support the committee decision to have a 5-year grace period before the base begins to move so that adequate time and adequate planning can go into the export schedule of American companies producing goods with American labor for the foreign market.

Mrs. SMITH of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. I thank the gentleman for yielding.

Mr. Chairman, there are many features of the tax reform legislation before us about which I have grave reservations. Permit me at this time, however, to address myself to the section which alters the tax treatment of export sales by Domestic International Sales Corporations—DISCs.

Since 1972, U.S. companies, several of whom have plants in the Third District of Nebraska, have been able through the creation of a DISC to defer the taxation of one-half of the profits derived from export sales. This benefit has made it attractive for firms to enter the highly competitive area for world trade, and it has increased funds available for investment in productive facilities in the United States.

Mr. Chairman, the committee's own report on the tax bill testifies to the success of this tax benefit. As stated on page 263, the committee concluded that the legislation has had a beneficial impact on U.S. exports. Since the DISC provision was enacted, exports have increased from $43 billion to nearly $109 billion at an annual rate for the first quarter of 1975. It is pointed out by the committee report that part of the increase has resulted from the devaluation of the dollar which has taken place since that period, but the committee also concludes that a significant portion of the increase in exports which has taken place resulted from DISC legislation. As stated, this increase in exports provides jobs for U.S. workers and helps the U.S. balance of payments.

The changes proposed in the Tax Reform Act of 1975 could seriously affect jobs and the level of export trade by the United States at a time when all of us acknowledge that we need to increase export sales.

Plant managers in the Third District who have made use of DISC tell me that it goes without saying that unless U.S. companies secure from their Government tax treatment as favorable as that given to foreign companies by their governments, U.S. companies are simply not going to be able to compete as effectively for world markets, or even for sales within the U.S. market.

They also state that the establishment of the base period to be eliminated from the tax break will negate any of the gains which have been achieved in the past on a competitive basis. As one manager wrote me:

> It will reduce benefits in "hard" times when plants or corporations are fighting hardest to maintain business.

Mr. Chairman, I realize the rule we adopted for the consideration of this legislation permits one amendment to the language on DISC, but the reduction of the "grace period" from 5 years to 3 years, will not be any more acceptable to the firms I represent than the other changes the passage of this bill will make. I regret that we cannot leave the DISC deferral as it presently is. I think it is important to maintain U.S. jobs at a time when unemployment is a serious problem, and it is also important for the balance of payments, an area where we have been making solid gains with the DISC provisions now in force.

Mr. Chairman, Nebraska and the other farm States could be seriously hurt by these changes in the DISC deferrals. I feel these changes constitute one of the grievous flaws in this legislation.

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Texas.

Mr. MILFORD. I thank the gentleman for yielding.

Mr. Chairman, I rise in an attempt to defeat this trade strangling DISC amendment to this bill.

I am bothered by the logic of this amendment which would limit DISC amendments.

Since man began his first ventures in the world of commerce, he has depended on producing more than he needs in hopes of selling to his neighbors. Maybe we could call this the "little bit extra."

As nations developed and commerce began between nations, the same principle has continued: If you produce more than you need as a nation, then you can sell to another nation and profit just a little bit more.

Now, Mr. Chairman, at a time when we need to augment that trade, to profit a little bit more, the distinguished committee members are trying to hamstring foreign trade.

Back in 1971, this Government was aware that the United States needed to compete more readily in the international market in order to balance our payments.

So DISC was established.

And it has worked. Let me cite a couple of examples of industries in my area.

First, a division of Dresser Industries in Dallas increased their import of goods by 54 percent in 1974 over 1971. In doing so, this company paid 2.18 times more Federal income taxes on their increased export items in 1974 than in 1971.

Another firm in my area, E-Systems, has increased their export sales since 1972. In 1972, 13 percent of their sales was in export goods. In 1975, that figure will be 25 percent. In dollar figures, that is an annual increase of $20 million.

Now, Mr. Chairman, the distinguished committee members seem to be trying to strike a blow to reverse these trends.

The timing for such a reversal could not be worse.

DISC was established well over a year before the oil crisis—and may I remind you, that is when our balance of payments problem soared.

We need these increased foreign sales. We need the direct tax income to the Federal Treasury. We need the direct effect these sales have on our balance of payments. We need them now even more than we did in 1972.

And, need I remind you, we need the employment these foreign sales create within our own country.

For example, the first firm I mentioned in my area would have to lay off 300 of their 1,000 employees if this amendment is permitted to pass.

The second firm I mentioned employs 700 people directly on their foreign sales products.

That is a total of 1,000 employees and their families who would be forced into the already growing unemployment lines. And this is only in one small corner of this Nation. Multiply this nationwide, and we have a staggering problem created by our own shortsightedness if we fail to defeat this narrowing amendment.

And, just as an aside to the facts and figures which are the case for defeat eloquently, let me remind this Congress that as representatives of the people we must—on occasion—show a sense of fair play.

In 1972, these companies—based on the DISC program—expanded their plants, employed more people and made sizeable investments. They did this on the basis of DISC. And what it offered.

Now, if we pull the rug out from under them, we are saying to the businessmen of America: "You better not trust your Government, friend. We may not mean what we say."

So, because of the economics—an assist toward a better balance of payments, the continuing employment of Americans, the tax dollars Uncle Sam receives—and because of a moral commitment for this Government to be good for what it says, I urge each and every member here to defeat this onerous amendment, and to preserve DISC—intact.

Thank you.

Mr. CONABLE. Mr. Chairman, I yield back the remainder of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I would like to join my colleague, the gentleman from Minnesota, in urging the adoption of this amendment. Like the gentleman from Minnesota, I believe in the retention of DISC—not the termination of it. But as I have stated before, I believe that it is necessary to tighten the DISC provisions so that they actually work as a legitimate export incentive.

Under present law, DISC deferral benefits are not only given to companies who have increased their exports through DISC, they are given to those which are exporting more as a result of devaluation, they are given to those which are exporting simply because they have a monopoly on their product, and they are given to those which, except for inflation, are exporting at the same level now that they were before DISC was enacted. These, to me, are valid criticisms of DISC.

As a result of this, the Committee on Ways and Means developed a new approach to DISC exports. Under the committee bill, DISC benefits would only be given on that increment of export sales that exceeds a certain base period. In this manner, DISC benefits would be available for increases in exports and not simply for maintaining the status quo.

In developing the base period, the committee chose to use three-fourths of the average exports for each company over a 3-year period. The first period chosen was 1972, 1973, and 1974. It was decided that this base would move up 1 year each year beginning in 1979. The 3-year grace period was inserted to give each company a reasonable spread between the base years and the current year of exports. While I personally felt that it would have been better to move the base up without a grace period, a committee majority felt that a reasonable lag would be fairer.

After this concept was adopted in the committee, a proposal was made to extend the grace period to 5 years before the base would begin to move. It is this additional 2-year grace period that the Karth amendment seeks to eliminate today.

If the full 5-year grace period remains in the bill, in 1980, a DISC would only have to exceed 75 percent of the average of its exports in 1972 through 1974 in order to enjoy the benefits of tax deferral. However, due to the natural expansion of the economy, exports in 1980 will double the average for 1972 through 1974 without any real growth in export activity. Thus, I believe that a 5-year grace period is inappropriate and that the base period should move at least after 3 years.

In supporting amendments such as this to DISC, my goal is to preserve, in the long run, a viable export incentive tool. Failure of the Congress to tighten DISC to eliminate its much documented inefficiencies will only mean that the entire merits of this incentive will be argued on each and every tax reform bill in years to come.

I trust that those who advocate the retention of this export incentive will recognize the opportunity to act responsibly and to improve this much criticized provision while time still remains to do so.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. KARTH).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CONABLE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 199, noes 223, not voting 12, as follows:

[Roll No. 739]

AYES—199

Abzug
Adams
Addabbo
Allen
Anderson, Calif.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Barrett
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Brademas
Brodhead
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Chappell
Chisholm
Clay
Collins, Ill.
Conyers
Corman
Cornell
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Diggs
Dingell
Dodd
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fisher
Fithian
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fuqua
Gibbons
Gonzalez
Grassley
Green
Gude
Haley
Hall
Hamilton
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Henderson
Holtzman
Howe
Hughes
Ichord
Jacobs
Johnson, Calif.
Jones, Tenn.
Karth
Kastenmeier
Keys
Koch
Krebs
Leggett
Lehman
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, Md.
McCormack
McFall
McHugh
McKay
Macdonald
Madden
Maguire
Matsunaga
Meeds
Melcher
Metcalfe
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pressler
Preyer
Price
Rangel
Reuss
Richmond
Riegle
Rodino
Rogers
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Ryan
St Germain
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Simon
Skubitz
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, James V.
Stark
Studds
Sullivan
Symington
Traxler
Tsongas
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waxman
Weaver
Wilson, C. H.
Wirth
Wylie
Yates
Young, Ga.
Zablocki
Zeferetti

NOES—223

Abdnor
Alexander
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bell
Bevill
Biaggi
Biester
Boggs
Bowen
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burleson, Tex.
Butler
Carter
Casey
Cederberg
Clancy
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Conte
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
de la Garza
Derwinski
Devine
Dickinson
Downey, N.Y.
Downing, Va.
Duncan, Tenn.
du Pont
Edwards, Ala.
Emery
English
Erlenborn
Esch
Eshleman
Fenwick
Findley
Fish
Flowers
Flynt
Forsythe
Frenzel
Frey
Giaimo
Gilman
Ginn
Goldwater
Goodling
Gradison
Guyer
Hagedorn
Hammerschmidt
Hanley
Hannaford
Hansen
Harsha
Hastings
Heckler, Mass.
Hefner
Heinz
Hicks
Hightower
Hillis
Holland
Holt
Horton
Howard
Hubbard
Hutchinson
Hyde
Jarman
Jeffords
Jenrette
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Lent
Long, La.
Lott
Lujan
McClory
McCloskey
McCollister
McDade
McDonald
McEwen
McKinney
Madigan
Mahon
Mann
Martin
Mathis
Mazzoli
Meyner
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Pa.
Mosher
Myers, Ind.
Myers, Pa.
Nichols
O'Brien
Passman
Pettis
Peyser
Pickle
Pike
Poage
Pritchard
Quie
Quillen
Railsback
Randall
Rees
Regula
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Roncalio
Rooney
Roush
Rousselot
Runnels
Ruppe
Santini
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Shriver
Shuster
Sikes
Sisk
Slack
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stuckey
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Treen
Vander Jagt
Waggonner
Walsh
Wampler
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wolff
Wright
Wydler
Yatron
Young, Alaska
Young, Fla.
Young, Tex.

NOT VOTING—12

Burke, Fla.
Clausen, Don H.
Fraser
Gaydos
Hébert
Helstoski
Hinshaw
Hungate
Litton
Moorhead, Calif.
Stokes
Udall

The Clerk announced the following pairs:

On this vote:

Mr. Stokes for, with Mr. Hèbert against.

Messrs. RANDALL, AMBRO, TEAGUE, FORSYTHE, and EMERY changed their vote from "aye" to "no."

Messrs. METCALFE, McKAY, LEVITAS, and FOUNTAIN changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Smith of Iowa: On page 15, strike out lines 20 and 21 and insert:

"(iii) to grain, oil seed, fiber, pasture, tobacco, silage, and forage crops (including expenses of planting, seeding, residue processing, fallowing, plowing, or any other soil preparation), and".

On page 16, strike out lines 15 to 21, inclusive and insert:

"(2) Prepaid feed, seed, fertilizer, etc.—

"(A) In general.—Any amount paid for feed, seed, fertilizer, or other supplies which are on hand at the close of the taxable year.

"(B) Exceptions.—Subparagraph (A) shall not apply to—

"(i) any amount paid for supplies which are on hand at the close of the taxable year on account of fire, storm, flood, or other casualty or on account of disease or drought, or

"(ii) in the case of a taxpayer (other than a farming syndicate as defined in section 467 (d) (3)), who, on the average, produces more than 50 percent (by volume) of the feed consumed by such taxpayer's livestock (other than poultry), any amount paid for feed which is on hand at the close of the taxable year."

On page 69, strike out lines 3 and 4 and insert:

"(3) raising or harvesting grain, oil seed, fiber, pasture, tobacco, silage, or forage crops,".

Mr. SMITH of Iowa (during the reading). Mr. Chairman, in view of the fact that the amendment has been printed in the Record, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. SMITH of Iowa. Mr. Chairman, first I want to acknowledge the help that a number of Members have given on this amendment, Messrs. Preyer, Breckinridge, Long of Louisiana, Jeffords, Sisk, Thornton, Bergland, Matsunaga, Chairman Ullman and his staff, and others.

Most of the debate on these amendments thus far has included estimates of revenue losses or gains. That is not involved in this amendment. In an average year, the revenue loss or gain will be nil. It might be slightly more or slightly less in one particular year, depending on market conditions, but that is not the purpose of the amendment.

The principal purpose of the amendment is to clarify language that is in the bill and to preserve for thousands of farmers a more simple, accurate bookkeeping system which is much less expensive.

The committee recognized the merits of this objective, and so they provided that preproductive expenses for certain crops be excluded from the general restrictions on deductions. The language in the bill did not include some crops to which exactly and precisely the same arguments would apply as the ones that were included in the exception. So this would clarify that. I think it is in accordance with the overall committee objectives. It does not affect syndicates, nonfamily corporations, it does not affect big passive investments. A copy of the amendment and a detailed explanation is in the Record today on pages 38328 and 38329. The Members have had an opportunity to look at that detailed explanation, so I will not repeat it at this time.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, I commend the gentleman. He worked his amendment out very carefully with my staff, and in my judgment it complies with the intent of the legislation. It is a fine clarifying amendment, and I hope it is adopted unanimously by this body.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Chairman, I thank the distinguished gentleman from Iowa for yielding.

I, too, want to commend the gentleman for this amendment. It is an amendment that is entirely justified and one which should as a matter of equity be adopted.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Chairman, I want to endorse the amendment that has been offered by the gentleman from Iowa (Mr. Smith). I am in full support of the gentleman's proposal.

Under leave to revise and extend my remarks, I wish to submit some general observations in regard to the bill itself—the so-called tax reform bill.

While this bill may have some good features to it, as it applies to the independent petroleum industry, it is wholly unacceptable and I shall vote against the pending measure on final passage.

The bill will make this Nation increasingly more dependent on imported oil. It will take away incentives for accelerated domestic production. It will do a disservice to the consumer.

Mr. Chairman, I fear that in the not so distant future an energy crisis of major proportions will beset this Nation. When that day comes, all the energy legislation in the world will not be able to undo the damaging results which this measure may produce.

Mr. MARTIN. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from North Carolina.

Mr. MARTIN. Mr. Chairman, I support the amendment offered by the gentleman from Iowa which would liberalize slightly but fairly the provisions of H.R. 10612, relative to the treatment of farm losses under LAL.

The bill provides that the limitation on artificial losses applies to expenditures incurred before the productive period for certain crops and to prepayments for certain supplies. Basically, there are three items involved in the LAL application:

First. Prepaid feed;

Second. Accelerated deductions; and

Third. Preproductive period expenses.

Under the bill, except in the case of farming syndicates, preproductive period expenses of raising livestock and of certain annual crops—wheat, alfalfa, barley, oats, rye, sorghum and cotton—are not treated as accelerated deductions. That is they will not lose their present tax treatment. Unfortunately other similar annual crops were omitted from similar treatment. The Smith amendment rectifies this. It expands these exemptions to include all grain, oil seed, fiber, pasture, tobacco, silage, and forage crops. Such an expansion of the exemptions is necessary, since these crops are annual crops as are the ones in the bill, and I do not believe it was the committee's intention arbitrarily to treat these kinds of annual crops differently under the LAL provision previously mentioned.

The second part of the Smith amendment permits current deductions for prepaid feed in cases where a farmer raises his own feed for livestock and the amount he raises is over 50 percent of the feed consumed on his own farm. Thus, this feed would not be considered under the LAL provision dealing with prepaid feed so that it would retain the tax incentive of the present law. This provision is needed to insure that the average farmer who raises his own feed for use on his farm is not brought under the provision of LAL.

One further item is that the additional crops which would be exempted by the Smith amendment, would be placed under the so-called at risk limitation which requires the taxpayer to have investment in an operation at least equal to the excess deduction claimed. This change is designed to insure that there is no sheltering of outside income from the exemption and provides symmetry with the rest of the provisions.

I urge the adoption of this amendment.

Mrs. SMITH of Nebraska. Mr. Chairman, will the gentleman yield

Mr. SMITH of Iowa. I yield to the gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. Mr. Chairman, I wish to express agreement with the sponsors of this amendment. I am unable to understand why agriculture has been singled out for discriminatory treatment. The gentleman from California (Mr. Ketchum) is absolutely correct in his position:

> If we can export other items not in surplus, why not agricultural goods? If we don't hit the manufacturer, we shouldn't hit the farmer.

Agricultural exports are so vital to the economy of Nebraska that any action by the Congress which would impair this flow of goods overseas causes us grave concern. Farm export sales for the Nation are running over $20 billion per year and three-fifths of the Nation's total farm export volume is accounted for by just 10 States. With farm exports exceeding $1 billion annually, Nebraska is in the top 10.

Mr. SMITH of Iowa. Mr. Chairman, I urge the adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. Smith).

The amendment was agreed to.

Mrs. BURKE of California. Mr. Chairman, I would like to take this opportunity to discuss the injustice and perversity of a tax system in which housing-related tax expenditures disproportionately benefit one particular class of taxpayer. Tax expenditures are defined by the new Congressional Budget Act as the revenue losses attributable to preferential Federal tax provisions which encourage or reward specific activities. In practice, these tax credits, exemptions, exclusions, deductions, and preferential tax rates are concentrated heavily on taxpayers with the highest incomes. This leaves low-income housing to be financed by direct Government subsidy, which is at the mercy of budget cuts.

In 1949, Congress adopted the goal of the achievement "as soon as feasible" of "a decent home and a suitable living environment for every American family." Twenty-six years later, we find that we have, indeed, insured "a decent home and suitable living environment"—but only for the wealthy. We can trace this development directly to the tax code and to our attitudes toward direct housing subsidies.

The Treasury Department and OMB have estimated that tax expenditures for housing will total almost $15 billion in fiscal year 1976:

[In millions of dollars]

	Individual	Corporate	Total
Deductibility of mortgage interest on owner-occupied homes	6,500		6,500
Deductibility of property taxes on owner-occupied homes	5,270		5,270
Exclusion of interest on State and local debt (30 percent of total tax expenditure)	378	1,052	1,430
Tax credit for purchase of new home, as amended by Public Law 94–45	750		750
Depreciation of rental housing in excess of straight line	120	120	540
Deferral of capital gain on home sales	315		315
Housing rehabilitation: 5-yr amortization	60	35	95
Exclusion of capital gain on house sales if over 65	10		10
Total	13,703	1,207	14,910

Source: Table F-1, Special analyses: Budget for fiscal year 1976, except figure for tax credit as amended which is from Tax Notes, vol. III, No. 27, July 7, 1975.

The budget for fiscal 1976 shows that tax expenditures for mortgage interest and property tax deductions have increased to an estimated $11.8 billion and direct housing subsidies to $2.6 billion. The increase in these tax expenditures since 1973 is 1½ times the total amount for direct expenditures. In 1973, 25.3 million taxpayers deducted mortgage interest and property taxes at a cost to the Treasury of $7.9 billion.

Of the $58 billion in fiscal year 1974 total tax expenditures, over 23 percent went to individuals with incomes of over $50,000, who constitute only 1.2 percent of all taxpayers.

The 160,000 taxpayers with incomes of $100,000 or more received an average of $45,662 each in tax relief from the 57 tax expenditures on the Treasury list while the 9.9 million taxpayers earning between $15,000 and $20,000 saved and average of only $901 apiece, and those from $10,000 to $15,000 saved only $556 each. Of these 57 tax expenditures, housing-related expenditures include deductions for home mortgage interest totaling $4.9 billion and deductions for property taxes totaling $41.1 billion.

Housing-related tax expenditures such as the above benefit low- and moderate-income people even less than overall tax expenditures. The 1974 figures indicate that 16.6 percent of all tax expenditures went to taxpayers with incomes below $10,000, but this income group received only 6.9 percent of the housing-related expenditures.

In testimony last July before the House Ways and Means Committee, Cushing N. Dolbeare, executive secretary of the National Rural Housing Coalition, offered evidence of the regressive nature of our housing subsidy system. I have attached a table she offered indicating the approximate distribution of Federal housing subsidies by income class for 1973.

The top 1 percent of all taxpayers; that is, those with incomes over $50,000 receive more than 10 percent of all housing subsidies. At least 90 percent of all families and individuals with incomes at this level receive housing subsidies through the tax system.

Only 7 percent of all housing subsidies go to the 14 percent of the population with incomes below $3,000 although they have the most desperate housing needs. Less than 1 household in 10 in this income range receives any housing subsidy, either directly or through the tax system.

The bottom 50 percent of the taxpaying population receives only one-quarter of all housing subsidies. They had to be able to find housing, and that simply was not available.

Mr. Chairman, we all know that the basic concept of our income tax system is to raise revenue, and that, originally, all taxpayers and all forms of income were, as nearly as possible, to be treated alike. There are, of course, broad exceptions to this rule, including the progressive rate structure and the provisions which take into account differing family sizes, but these are recognized as attempts to rest the tax burden on the shoulders of those most able to pay.

When the subsidies go to the wealthy, thereby increasing the tax burden on the low- and moderate-income taxpayer, the system becomes regressive. Yet, when one looks closely at the tax system—whose effects are less obvious than a congressional appropriation—we realize that we are spending more money for a smaller return than we would by channeling funds directly into subsidized housing.

Turning our attention to a more straightforward means of achieving our national housing goals would not only save us money, but would also force us to analyze more carefully the true level of housing needs in this country as well as the true costs of meeting them. Mr. Chairman, it is high time for us to subject our tax system and tax legislation to the same careful scrutiny, on a regular basis, which we devote to substantive housing legislation and appropriations. We must stop being awed by the tax code and learn to make it work for our national goals rather than against them.

TABLE 1.—APPROXIMATE DISTRIBUTION OF FEDERAL HOUSING SUBSIDIES BY INCOME CLASS, 1973

Income class	Families and individuals	Tax subsidy recipients	LMI[1] subsidy recipients	Total recipients	Subsidy recipients as percent of total families and individuals
0 to $3,000	10,297,000	112,000	642,000	754,000	6.7
$3,000 to $5,000	8,385,000	490,000	474,000	964,000	11.5
$5,000 to $7,000	7,523,000	1,436,000	428,000	1,864,000	24.8
$7,000 to $10,000	10,688,000	4,000,000	227,000	4,227,000	39.5
$10,000 to $15,000	15,955,000	7,360,000	25,000	7,385,000	46.3
$15,000 to $20,000	9,838,000	5,688,000		5,688,000	57.8
$20,000 to $50,000	10,023,000	5,690,000		5,690,000	56.8
Over $50,000	606,000	597,000		597,000	98.5
Total	73,313,000	25,326,000	1,796,000	27,122,000	37.0

[1] LMI=low and moderate income.

Note: This approximation comes from a variety of sources, not strictly compatible with each other. The number of families and individuals is the total shown in "Money Income in 1973 of Families and Persons in the U.S.", Current Population Reports; Income distribution of tax subsidy recipients from table in appendix to "1974 National Housing Goals Report"; Income of low and moderate income housing subsidy recipients from information in HUD's "Housing in the Seventies." The point is clear and incontestable: the majority of housing subsidy recipients have incomes above $10,000 and, roughly speaking, the higher one's income, the more likely one is to receive a subsidy.

Mr. GOLDWATER. Mr. Chairman, I rise in opposition to this bill.

Our colleague from Florida (Mr. GIBBONS) put this bill in proper perspective in his dissenting views when he stated:

> It was with little regret that I voted against reporting this bill, which has been titled "The Tax Reform Act of 1975." I did so because I did not feel that I could support a 674-page bill, including 448 pages of substantive changes, which adds further unnecessary complications and tax loopholes to the Internal Revenue Code and raises virtually no new revenues in the coming year.

Mr. Chairman, I was under the impression that we were to have tax reform. This bill is not tax reform—it is tax confusion. The only people who will benefit from this bill are the tax lawyers. Heaven forbid, if the bill should ever become law, every wage earner in this country will need a tax lawyer at some point before April 15 each year.

Frankly, before the majority party

acted in what has become typical caucus "democracy" and limited amendments, I had hoped to introduce an amendment to strike the title of this bill in favor of the title "Tax Ripoff, and Economic Collapse Act of 1975."

What happened to all the cries for tax simplification and economic recovery? What happened to the commitment to give single taxpayers a better break? What happened to the commitment for spending reductions and capital formation?

The American people are going to be asking these questions, especially next year. They certainly would not get a satisfactory answer in a 674-page bill with a 476-page report. What they will get is more tax confusion which will result in more tax frustration, and you say what you will about the Internal Revenue Service, but IRS did not write this bill. Somehow, I have the impression that the American people will be aware of this fact.

People understand that Federal deficit spending is driving up the cost of everything. Witness the recent Gallup poll which indicated that two-thirds of the people favored President Ford's proposal to provide a tax reduction if accompanied by matching spending reductions. Did the majority party allow a vote on this issue? Hardly. King Caucus struck again. What is the difference between the old closed rule procedure of the Ways and Means Committee and the new procedure which only allows those amendments which the majority caucus agrees to come to the floor?

It never fails, the overweening desire of tax reformers to rewrite the Tax Code invariably results in redistributing capital investment and savings in favor of consumption and monetary expansion. This bill is no exception. It attempts to correct imagined inequities by using tax policy to destroy capital formation and productivity. A good example is title I which seeks in an arbitrary fashion to penalize major areas needed to get us out of the economic slump.

While the bill does extend the investment tax credit for 4 years at 10 percent and the $50,000 corporate surtax exemption for 2 years, such action results in no real benefit, because it is temporary and thus gives no basis to long range economic planning and industrial investment.

To add insult to injury, the House enacted an amendment to eliminate capital loss carryback in the name of raising revenue. All this does is discourage investment at a time when the market is floundering and investment is critical. It also will result in more unemployment because of no industrial expansion. When people are unemployed, they are paying no taxes. That is a real loss of revenue.

Mr. Chairman, this bill is designed to increase revenue. Is that the real purpose behind tax reform? In my judgment, the American people want us to reduce taxes and reduce Federal spending which makes the taxes necessary. Everytime the Government increases revenue through tax changes, it only shifts the economic burden from one segment of society to another, but more importantly, everytime the Government gets more money it always finds something new and frivolous to spend it on. It is a vicious circle.

If we want genuine tax reform, we should have a tax reduction and a simplification of the Tax Code. We can have the reduction if Congress is willing to bite the bullet and get Federal spending under control. Unfortunately, the bill before us today totally fails in that objective, and for that reason, I will not support it.

Mr. ASHLEY. Mr. Chairman, as a longtime advocate of tax reform, I am pleased that the Ways and Means Committee has reported a bill which will enable us to begin the long overdue job of revising and updating the tax laws of this country.

Overall, I believe that this legislation should be approved, but only after it is amended to eliminate certain objectionable provisions and to strengthen some of the weaker loophole-closing recommendations of the committee. The measure also includes important tax reductions for 1976 and subsequent years which are critical to keeping us on the road to economic recovery. Some $15.5 billion in personal and business tax benefits, extending the stimulative provisions of the Tax Reduction Act of 1975, must be approved and signed into law to prevent an increase in withholding rates in January that would undoubtedly put a damper on consumer spending and continued business expansion. Last month's weakening of the economic indicators showed how tenuous have been the recent advances in the economy, and I urge the passage of these additional tax reductions to maintain the slight upward momentum begun earlier.

Despite the importance of this legislation, Mr. Speaker, I felt constrained to vote against the previous question on the rule because of my displeasure with the inclusion in H.R. 10612 of a new tax break for Members of Congress. Section 605 would authorize a substantial increase in our away-from-home business deduction, in effect, granting a backdoor salary increase to Members without a separate rollcall vote to enable us to be recorded on this issue. I voted against the previous question because this course offered the only possibility of amending the bill to defeat section 605, and to object to the procedure by which we were denied a clear up-or-down vote on a tax break for Members in an otherwise commendable tax reform and reduction measure. I expressed my opposition to this provision in an earlier letter to the chairman of the Ways and Means Committee, and I intend to continue my efforts to end the practice of granting ourselves salary increases or other benefits without giving the voters an opportunity to know how each of us stands on these matters. We have a responsibility to the public, and I deeply regret that the rule on H.R. 10612 prevented us from exercising that responsibility through a record vote on section 605.

Mr. BADILLO. Mr. Chairman, at the beginning of this Congress, the Ways and Means Committee was enlarged and reorganized to make it more responsive to the needs of Americans, to open the door to reform, and to breathe new life into a committee that had become a testament to the power of a single individual. Now, months later, we have a "tax reform" bill before us that makes one nostalgic for the honesty of Mr. MILLS and his outspoken support of his positions. Mr. Chairman, I object to calling this bill a Tax Reform Act—it is misleading to the American public, and destructive to the cause of meaningful reform.

The bill before us is a mockery of reform. It is foolish to delude ourselves into thinking otherwise. My distinguished colleague from Ohio (Mr. VANIK) in his supplementary views to the committee report on the bill, puts it into proper perspective:

> I must confess little pride over the final product. The bill does little more than "reshuffle" tax loopholes and preferences. . . . The really big loopholes still exist.

What happened to reform? What happened to the proposals worked on so hard by the committee liberals, in conjunction with such public-oriented groups as Ralph Nader's; Taxation Without Representation, another reform group; and even the AFL–CIO? What happened to the removal of tax shelters for real estate investors? To the elimination of domestic international sales corporations, to the closing of loopholes on foreign oil dividends?

The November 29 issue of Congressional Quarterly provides part of the answer. Its story on the bill is headlined "Business Lobbying Helped Weaken Tax Bill." The story indicates that this intensive lobbying on the part of multinational corporations, real estate interests and large industries, was "rewarded as the committee scaled down it's efforts to eliminate tax shelters, to strengthen the minimum tax, and to revise the tax treatment of international transactions."

So what we are being presented with is a bill that makes a few cosmetic changes to appease the public and the so-called "reformers" on the committee. And, what is just as appalling as the bill itself, is the parliamentary maneuver that will prohibit any but eight proposed amendments from being offered from the floor.

What about those amendments? Simply, they are a sham. They close little loopholes, and even if they are all passed, they will provide revenues that amount to petty cash in terms of Federal spending requirements. If all the amendments are enacted they will increase tax revenues by 0.4 percent. In light of the tax moneys lost through the loopholes that the bill leaves open, it is nothing. The loss in revenues to the Government through tax preferences and loopholes now amounts to close to $100 billion a year. This shortage has to be covered by someone—and, unfortunately, the burden has fallen on the middle class, the poor, and the disadvantaged. The wealthy and the large corporations will continue to go blithely on their merry ways, unchallenged, delighted that their interests are being protected by our supposedly democratic tax laws.

It is a shame, Mr. Chairman, that the Congress is not being enabled to vote fairly on this bill. In order to avoid a 10-

percent increase in the withholding tax—a tax that will once again place an unfair burden on those least able to pay—we shall have to vote for all the bad and stop-gap provisions of this legislation.

And so I shall vote for this bill. But I shall vote for it with the certain knowledge that it is time that we stopped designing a patchwork quilt and started working toward a uniform tax structure that will provide equitably for each taxpayer, whether individual or corporate, and will finally put a fair burden of taxation on every citizen of this country.

Mr. KOCH. Mr. Chairman, I rise in support of the tax reform bill, H.R. 10612. The bill has many commendable aspects to it. It extends the tax cuts enacted earlier this year to enhance the prospects of economic recovery. The bill liberalizes tax benefits for the working couple's child care costs and helps individuals to save for retirement. But the crux of the bill is its tax reform features.

This bill goes a long way in ending the worst abuses of tax shelters. While only three of the five strengthening amendments were adopted, all of which I voted for, the bill will now recoup $1.3 billion in tax revenues, instead of $873 million, as the committee had reported the bill. This $1.3 billion figure exceeds the budget resolution mandate of raising an additional $1 billion in tax revenues this year.

Before discussing any of the specific provisions of this bill, I want to state openly the belief upon which I base my firm support for tax reform: If we do not equitably distribute the burdens of taxation among all segments of society, we are going to have a revolution in this country. Let us face it: the rich are ripping off the tax system, and the average American is then made to pay for this ripoff. The average American never even sees 10 to 20 percent of his or her paycheck because he and she pay taxes through the withholding system.

At the same time we learn that 622 persons with over $100,000 gross adjusted income paid no income tax in 1974. Some corporations, that pay precious little tax as it is, because of tax loopholes lobby us fiercely for even bigger tax breaks. Legal tax avoidance by the rich has become an art in this country. Through various devices the wealthy shield vast amounts of income from taxation. How can the average American maintain faith in our economic and political system under such circumstances? A fair tax system is but one way to restore confidence in government. To those who attack tax reform as radical, I can only say that the opposite is true: those of us who support tax reform are the ones who want to save our system.

Also, I am a firm believer in the free market system. I believe that the marketplace allocates capital in the most efficient manner. When the market does not, and cannot, do the things we want, as in, say, low-income housing, we need Government intervention and subsidies to spur construction. But I think it is the height of economic folly to direct investment decisionmaking almost solely on the basis of whether people can avoid taxes. The merit of a real estate or farm investment matters little to the executive who wishes to use that investment solely to create artificial losses in order to shield his salary from taxation.

The ways in which rich individuals abuse tax shelters in order to avoid taxes are really very clever. A deferral of taxes allows an individual to take accelerated deductions in the early years of the investment, instead of allowing deductions as income is generated by the investment. In effect, this is an interest-free Government loan. Perhaps most galling is what is known as leveraging. A person, by investing $25,000 and borrowing $175,000, and then prepaying interest and other costs, can take an artificial loss of $200,000, which can then be used to offset his salaried income. Result: an individual with an income of $200,000 can escape taxation entirely.

The Ways and Means Committee attacks these abuses by establishing LAL—limitation on artificial losses. Basically, what this means is that a person may only take deductions on an investment when that specific investment begins to create income. Fair enough. But the pressures on the Ways and Means Committee are great, and LAL was amended in real estate to allow "aggregation." That sounds quite technical, but it is not. What it means is that individuals may use artificial losses on one real estate venture to offset income from another real estate investment. That is a loophole; there's no other name for it. Congressman MIKVA's amendment would have restored LAL to its full effectiveness in real estate, and I am disappointed that the House did not accept this amendment.

The minimum tax on preferential income has been strengthened, both by the Ways and Means Committee's decision to raise that tax from 10 to 14 percent and by the House's adoption of the Corman amendment, which ends the deduction for regular taxes paid. We should be honest about the minimum tax. We originally adopted it in 1969 because the Tax Code had become so porous with loopholes that the large number of wealthy individuals paying no taxes had become too embarrassing to a country that purports to have a progressive income tax. Increasing the minimum tax rate and tightening up its provisions were the very least we could do to make the minimum tax meaningful.

We have rightly struck the provision to end the 30-percent withholding tax on dividends of foreign investors.

We have tax treaties with countries around the world, and abolition of the withholding tax might destabilize these arrangements. Furthermore, these kinds of tax changes will encourage wealthy individuals to play the "international tax dodge" game. Finally, I think we should consider in much greater depth whether we want to flood this country with Arab oil investors' money.

We have limited DISC in this bill. I supported the Karth amendment which would have further tightened the DISC provisions. Studies by the Treasury, the Office of Management and Budget, and the Congressional Budget Office indicate that DISC should be eliminated altogether because this $1.5 billion tax subsidy for exports has not played any significant role in increasing exports or in creating jobs here at home. In fact, the "jobs creation" argument is specious. If we are worried about unemployment, direct expenditures will create many times more jobs. It is estimated that DISC created 15,960 jobs in the United States. Direct expenditure of $1.5 billion would generate: 112,500 jobs in defense, or 120,000 in health, or 150,000 in education, or, potentially 240,000 public service jobs.

The jobs argument always seems to be raised when we try to close tax loopholes. And I think we should put that argument to rest. When we close tax loopholes, investment does not disappear, unless investors decide to put their money under a mattress. They will at least put the money in the bank, which will then be invested. Closing loopholes means that a marginal amount of capital moves to another sector of the economy or another area of the same sector. And that investment creates jobs just as surely as loophole investments do.

The H. Ross Perot amendment needs little discussion. The House had no choice but to strike this $165 million windfall for the wealthy. In fact, the Ways and Means Committee adoption of the capital loss provision represents an unfortunate episode of special interest influence in a generally commendable performance. One cannot but be impressed with the endurance, skill, and speed with which the Ways and Means Committee worked through a myriad of subject matters.

I believe that this bill represents only the first step on a long hard road to make our tax system fair. Our tax system rests on voluntary compliance, and we are going to face a tax revolt—and worse—if we do not see to it that all citizens pay their fair share. I happen to think that our economic and political system is a great one, and it distresses me to see it being destroyed by the tax ripoff artists. Let us begin to make them pay their share by adoption of this tax reform bill.

Mr. CORMAN. Mr. Chairman, earlier in the debate, remarks were directed to the subject of the investment tax credit for movie and television films by the gentleman from Louisiana (Mr. WAGGONNER). I would like to set the record straight. First of all, this is not something new in this bill. The master negative of a motion picture film has consistently been held by the courts to be tangible personal property. Congress concurred in that view in the Revenue Act of 1971.

Section 802 of this bill merely clarifies the application of the investment credit to films. It would provide a mechanism for taxpayers to settle their claims to the investment credit for prior years, thus avoiding costly and time-consuming litigation. It would establish a formula for determining the useful life of films for the purpose of the investment credit. And most importantly, since the major purpose of the investment credit is to produce jobs, this provision ties the amount of the credit available to production within the United States.

Less than 1 percent of the movies made in the United States are classified as X-rated. Most such films are foreign made, and since section 802 of this bill would deny the investment credit for foreign produced films, it is unlikely that very many X-rated films would qualify for the investment tax credit.

Mr. Chairman, more than 200,000 men and women are employed in the production of television and motion picture films and many thousands more are employed in the areas of distribution and exhibition of films. In addition more than 400,000 are enrolled in the various trade unions and creative guilds connected with the industry. Unemployment has been high in this industry. In 1974, in the unions and guilds, the unemployment rate was running at the rate of 37 percent. Clearly, encouragement for more U.S. production is vitally needed and this provision of the bill would do just that, by making the applicability of the investment credit dependent upon production of films within the United States.

Mr. MAGUIRE. Mr. Chairman, I have participated this year in the freshman Democrats Committee on Tax Reform chaired by my distinguished colleague from Virginia (Mr. FISHER). I voted for the Tax Reform Act today, and for all the strengthening amendments, many of which reflected reform proposals we urged the Ways and Means Committee to consider favorably during its writing of this legislation.

It should be obvious to us all that tax reform is one of the most pressing issues facing the Nation. A situation in which the statutory tax rate runs between 14 and 70 percent while the actual tax rate begins at 9 percent for persons making $10,000 a year and stops at 32 percent for millionaires is not fair. The discovery that 24 people with incomes of over $1 million in 1973 paid no Federal income tax—and that countless other wealthy individuals earning hundreds of thousands of dollars annually "shelter" their income in such a way that loopholes reduce their taxes to nearly nothing—can only create a sense of outrage among the American people.

This vote today is an important first step toward redressing the inequities of a piecemeal system of tax shelters that benefit the wealthy while leaving lower- and middle-class Americans to face the effects of inflation and unemployment without the help of such legal loopholes.

In passing this legislation today, we are taking an important first step in righting these wrongs while, hopefully, beginning to build new confidence in Government among the American people. We are also adding billions of dollars in revenues to the Treasury in coming years, money that should be used to feed hungry children, fight disease, eliminate pollution, help restore the health of our economy, and create a better standard of living for us all.

Mr. GUDE. Mr. Chairman, one of the unfortunate aspects of this bill is its section altering the sick pay/disability exclusion. I have been in contact with the committee both in the last Congress and in this one through testimony and correspondence seeking to dissuade the Members from taking action that will impose real hardships on the Nation's disabled. Though this bill is a marked improvement over last year's in respect to the sick pay exclusion, the proposed change is still inequitable, and I regret that section 505 will not be open to amendment.

It is true that some problems do exist with the sick pay exclusion, and I would urge the committee to seek to deal with those problems directly rather than in a manner which will adversely affect the many totally disabled retirees who depend heavily on the benefits of the exclusion. Regrettably it is this latter effect the bill will have.

The basic purpose of the sick pay exclusion has been to provide a measure of tax relief to those plagued by extended illness or those who have retired on disability. In such cases, the taxpayer is allowed to exclude from gross income $100 per week of his sick pay or disability pension, a total of $5,200 per year. This exclusion reduces taxable income for the disabled retiree, particularly those in lower-income brackets with small annuities.

In the case of retirees this benefit is available only for years up to what would otherwise be the year of the individual's mandatory retirement, at which time he becomes eligible for the retirement income credit. The determination of this date of normal retirement has been the subject of considerable controversy in the past. The Internal Revenue Service had previously considered it to be the earliest point at which an employee could have retired, 55, 60, 62, 65, and so forth depending on the individual case. The courts, however, have ruled against IRS in a number of cases, and in April 1974, the Service gave in and announced that henceforth it would consider only age 70, the mandatory retirement age, as the point when sick pay exclusion benefits would end. This extension of the exclusion provided sustained tax relief to disabled retirees.

From my point of view any problem with the sick pay exclusion does not lie in its magnitude or the age at which it no longer applies, but rather in what constitutes disability. Recognizing that disabling disease and the resulting early retirement is generally beyond individual control, and that retirement annuities are frequently too small at the point of retirement to adequately support such individuals and their families, particularly those with significant and sustained medical expenses, Congress has wisely provided this additional margin of tax relief.

Abuses have occurred, however, on the part of those individuals who have retired on disability yet are not so disabled that they cannot find another job. Often this new employment is either part time or work compatible with their disability, or occasionally the modest extent of the disability leads to questions about the legitimacy of disability status. In both cases the benefits of the exclusion have been pushed beyond the original intent, and such individuals are clearly taking advantage of their situation.

It was in attempting to eliminate these abuses that the committee in my view went too far last year. The committee's decision at that time was essentially in two parts. First, the exclusion was repealed completely except for the totally disabled, in general an appropriate limitation since those who are not totally disabled have been able to take other jobs and thus have a source of income beyond their retirement annuity.

Second, the committee voted to phase out the exclusion dollar-for-dollar above $5,200 per year. Thus a retiree making $10,400 per year would not qualify for any exclusion. According to Treasury Department estimates such a phase-out denies any exclusion benefit to approximately 73 percent of current beneficiaries and allows the full exclusion benefit to only 9 percent of those currently receiving it. This seems unduly restrictive since retirement annuities will be the principal—and often the only—source of income for totally disabled retirees, particularly those who have made Government their career. Those retirees with major ongoing medical expenses will be especially hurt.

Philosophically this restriction is even more objectionable because it does not attempt to take into account the merits of the various cases. To assume that any retiree with an annual income of more than $5,200 is abusing the sick pay provision and in some sense cheating the Government, sadly misses the point.

This year's bill is an improvement in some respects. The income phaseout limit has been increased from $5,200 to $15,000, a far more reasonable figure; and military retirees have been grandfathered, but these changes do not alter the basic inequity of the proposal.

Rather than basing the phaseout solely on an arbitrary level of income which will inevitably include both deserving and undeserving cases, better approaches in my view would be to either maintain the exclusion as is for the totally disabled, repealing it for other categories, or to maintain it generally, phasing it out above a certain level of earned income rather than all income.

The first approach clearly provides the benefits of the exclusion to those most in need—the totally disabled, but it raises the potentially thorny problem of defining total disability, possibly including restrictions on other income-producing activities. This could needlessly complicate the Tax Code and create unnecessary litigation.

The second approach avoids the cumbersome definitional problem, but it necessitates a judgment on the appropriate level of earned income at which a phaseout should begin. Inevitably, whatever decision would be made would not be satisfactory to some individuals. I do believe, however, that either of these approaches provides greater justice to disabled retirees than the provision in the bill.

In examining in detail the text of the sick pay exclusion provision of this bill, a further inequity comes to light. Since section 505(d)(4) requires that a joint return must be filed to claim the exclusion, the provision is discriminatory in that a married couple, both of whom retired on disability, would be entitled to only one exclusion, even though both are disabled and if not married to each other would both be entitled to an exclusion. Thus one spouse has lost the right to the exclusion.

This is a small problem compared to the inequity of the whole provision, but it is one which the committee ought to be able to take care of without difficulty as it runs counter even to the narrow conception of the exclusion outlined in the bill.

I have discussed this specific question with the chairman, the gentleman from Oregon (Mr. ULLMAN) and he agrees that there is a question of equity involved. He stated that the committee did not really focus on the case where both a husband and wife might be disabled and that he could support such a modification of the provision in conference if the other body were to make such a change.

In the absence of an open rule, we will not be able to deal with this section on the floor in isolation, and I anticipate that many Members will support this bill despite section 505 because of its other provisions. I would hope, however, that the Senate will act to moderate the effects of this section.

Mr. VANDER VEEN. Mr. Chairman, tax reform is one of the most important and pressing issues now before the Congress. As a member of the Ways and Means Committee, I want to convey to my colleagues my sense of urgency that the Congress must enact a substantive tax reform bill this year.

In my opinion, we will be able to produce an acceptable reform measure only if the five strengthening amendments to H.R. 10612 are adopted. As the bill now stands, it does not increase revenue enough to meet the target mandated by the House budget resolution. I feel it is vital that this revenue target be met. I strongly urge that the five proposed strengthening amendments be approved by the House.

In addition, this bill provides the tax relief necessary to stimulate the economy toward complete recovery. This is provided through the continued tax cuts for individuals principally in low- and moderate-income brackets and affords America's 12,000,000 small businesses three important relief provisions: the 4-year extension of the 10 percent investment credit, the increase in the corporate surtax exemption to $50,000, and the reduction in the tax rate to 20 percent of the first $25,000.

The American people expect—and deserve—a major tax reform bill from the Congress this year. To quote from the first paragraph of the Ways and Means Committee report:

> Tax reform is one of the highest priorities of the American people. They are demanding that all individuals and corporations bear a fair share of the tax burden and that it not be possible for some high income persons to avoid paying income taxes.

The American people are demanding that we close up the loopholes which permitted 370 individuals with incomes of $200,000 to $1,000,000 and higher to escape all income taxes in 1973.

The bill as written does not go far enough to correct these abuses. This bill will deserve the title "reform" only if five strengthening amendments are adopted by the House. The Ways and Means Committee worked hard for almost 6 months to produce a reform bill, only to drop several of the significant reforms during hectic latenight sessions on the last few days of markup. I think the full House should have the opportunity to reverse these decisions.

It is clear that this bill, with the strengthening amendments added, would be a significant reform measure. It might not be the best reform possible, but it would be a step in the right direction. Let me briefly review the amendments we are proposing.

First, the House should reconsider the committee decision which permits individuals to claim a 3-year carry-back of capital losses. This provision was passed by the committee while under severe time pressure, only minutes before final passage of the bill. Many committee members probably did not realize that this provision would benefit only wealthy individuals with capital losses of over $30,000 in 1 year, that its retroactive features would give large tax refunds to high-income persons, and that it would result in a $165 million revenue loss in 1976. Subsequent disclosure that one individual would benefit to the tune of $15 million in tax refunds if this provision were enacted demonstrate the inequity of this provision and the necessity for striking it from the bill.

The amendment to strengthen limitation on artificial losses—LAL—on real estate must also be adopted. LAL on real estate would prevent the sheltering of unrelated income through artificial real estate losses. Initially, the committee voted to apply LAL on a property-by-property basis. However, in another action taken on the last day of markup sessions, the committee decided to apply LAL to real estate investments on a consolidated basis instead. That action cuts the estimated revenue gain of real estate LAL by almost two-thirds, and reopened a loophole that earlier had been closed. LAL on a property-by-property basis must be restored to the bill. We must take action to end abuses such as the person who had income of $448,000 but paid tax of only $1,200 because of artificial real estate losses.

The minimum tax must be strengthened. The bill does make some improvements in the present law, but it does not go far enough. This loophole must be closed further. If the proposed amendment is adopted, an estimated additional $376 million would flow into the Treasury next year.

The withholding tax on U.S. portfolio income of foreign investors must be restored. These is no reason why foreigners should be exempted from the tax liability imposed on American investors.

Finally, the 5-year grace period for a DISC should be reduced to 3 years. The DISC export tax incentive should be exactly that, and not a windfall for exporters.

Not only would these amendments strengthen the reform aspect of the bill, Mr. Chairman, they would also increase tax revenue. The House budget resolution calls for $1 billion in additional receipts next year through tax reform. In its present form, the bill would raise no more than three-quarters of that. However, if the amendments are adopted, Federal revenues will be increased by $1.6 billion in 1976. It is essential that we meet, or surpass, the budget resolution target. The new budget controls have been called a "silent revolution" in Congress. For the first time, the Congress has a binding and rational guide for responsible spending policies. We must meet the budget resolution targets. Effective budget control must not be undermined before it even has a chance to get off the ground. Moreover, the bill's tax relief provisions, when coupled with the stregthening amendments, allow for a more equitable distribution of the Nation's tax burden. The cuts will principally benefit the low- and moderate-income taxpayer while the reform measures require the upper bracket taxpayer to pick a larger share of the burden.

These individual tax cuts along with the relief for small business will spur the Nation's lagging economy and should help to ease the present high unemployment situation. Specifically, the continued reduction to 20 percent of a corporation's first $25,000 income, the increase in the corporate surtax exemption to $50,000, and the 4-year extension of the investment tax credit will allow the 12,000,000 small businesses in this country to retain more funds for expansion and stimulate the hiring of new employees.

If this bill is to be significant reform, and if budget control is to be effective, the bill must be strengthened. Many of our colleagues have expressed to me their concern that the Congress enact real tax reform this year. I think we owe them the chance to pass a significant reform measure, not just a bill that is reform in title only. And, more importantly, we owe it to all Americans to pass a bill that will close unfair loopholes and increase equity in our tax system, while providing needed tax relief for individuals and small businesses.

Mr. FRASER. Mr. Chairman, recent economic statistics have shown that the economic recovery is faltering. Leading economic indicators released last week showed a decline for the second month in a row. This was the first 2-month decline since March.

While this decline does not mean that we are falling back into the recession, it does mean that the Congress must take action to put us back on the track of a strong recovery. Passage of H.R. 10612 will be an important step in that direction.

The Tax Reform Act of 1975 can have two important functions: First, to stimulate the economy by continuing the tax cuts passed last spring for another year; and second, to close some of the many tax preferences. The bill scores well on the first count.

Individual taxes will be cut by about $13 billion. Without this tax cut, recovery from the deepest recession since the 1930's will be aborted as taxes rise on two fronts for individuals—withholding for Federal income taxes will rise with the expiration of the Tax Reduction Act of 1975 and social security taxes are also scheduled to rise in January.

We cannot afford a double-barreled tax increase at this time. If the economy does not receive this much-needed stimulus, workers will continue to be jobless in record numbers for the post-war period. And the economy will continue to lose more than $200 billion in production because of this unemployment of labor and capital.

For these reasons, the tax cuts in H.R. 10612 must be approved.

But while the Tax Reform Act of 1975 is a good stimulus, it leaves much to be desired as a tax reform bill. I know the committee worked hard to close or narrow tax preferences which cost the Treasury too much for any benefits the economy received. The first decisions the committee made were courageous ones. But in the last weeks, many of the reforms evaporated in the heat of lobbying activity.

With this modified rule, the whole House has a chance to let the committee know that their first decisions on these tax preferences were wise ones. The package of amendments offered by 12 members of the Ways and Means Committee will restore some credibility to the word "reform" which is in the title of this bill. I will be supporting these amendments:

First. Mr. MIKVA's amendment to curb real estate shelters.

Second. Mr. CORMAN's amendment to strengthen the minimum tax.

Third. Mr. FISHER's amendment to eliminate tax forgiveness for foreign investors.

Fourth, Mr. STARK's amendment to eliminate the loss-carryback for individuals.

Fifth. Mr. KARTH's amendment to reduce the "grace" period for the 3-year DISC base period.

Mr. GRASSLEY. Mr. Chairman, if the faith of our citizens in America's tax system is to remain strong, we must insure that everyone pays his fair share of the cost of running this Government. It is unfortunate that in the past some small numbers of our very wealthy citizens have been able to manipulate provisions of the Tax Code to legally escape all tax liability. This cannot be tolerated.

In 1969, Congress moved to close the loopholes which provided this escape route for some of the rich, by establishing the "minimum tax." That law alleviated much of the problem, but unfortunately, not all of it. The action we have taken today will, hopefully, close these loopholes once and for all.

This action will be most appreciated by the middle class. Families whose incomes are between $5,000 and $25,000 per year currently pay 60 percent of the taxes paid in this country. These forgotten men and women pick up the tab but receive none of the "handouts" nor benefit from the most lucrative "loopholes." They bear their tax burden silently, but rightfully scream out when they see some of those earning much more than they are who are paying no taxes, and some of those who earn less wasting the public welfare distributions.

The forgotten middle class will thank us for our action here today, but we must not rest on our laurels. They are still asking us for action in the long neglected area of welfare reform.

If we now approach welfare reform with the same zeal that we approached tax reform today, the middle class citizens of our country will be thankful.

Mr. BEDELL. Mr. Chairman, it is my firm belief that meaningful tax reform should be a top priority for our country. The existing Tax Code does not treat all our Nation's taxpayers equitably, and this is a situation which must be redressed.

The original income tax law, enacted over 60 years ago, was intended to be progressive, with the burden of taxation based on the ability to pay. Unfortunately, the process of evolution has badly distorted the basic framework of our tax system and subverted its admirable intent. It has become extremely complex and contains a number of glaring loopholes of questionable utility which benefit a variety of special interest groups. In effect, the United States Tax Code has become the Magna Carta of the rich and powerful in America, providing unjustifiable tax benefits to wealthy individuals and large corporations and placing a disproportionate share of the tax burden on low- and middle-income taxpayers. Comprehensive reform of our Federal tax laws is much needed and long overdue.

Last spring, the House Ways and Means Committee began hearings on an omnibus tax reform bill with great hopes for meaningful reform. Their objective was to substantially improve the equity of the income tax at all levels, to simplify tax provisions and to improve the administration of our tax laws. Unfortunately, in the intervening months lofty ideals fell victim to expediency and declining expectations, and, in its final drafting sessions, the committee resolved many difficult controversies by stripping the bill of many of its most prominent reforms. An indication of what has happened is evidenced by the fact that at the eleventh hour the Committee made changes that reduced the bill's overall revenue-raising potential to a meager $750 million, far below the $2.6 billion estimate reached at earlier tentative markup sessions.

Today, the House will vote on H.R. 10612, which is the final product of the committee's effort. This measure, entitled the Tax Reform Act of 1975, would close certain tax loopholes, revise the taxation of some forms of income, simplify certain tax deductions and credits, and extend 1975 individual and corporate tax cuts.

This legislation does on balance constitute an improvement over existing law. However, in my judgment, it falls far short of the fundamental reform that is so urgently needed, and it certainly does not live up to the expectations fostered by its glowing title. Perhaps it is true, as the cynics would suggest, that the promise of spring has foundered in the sea of political reality. I hope that this will not prove to be the case.

It is highly significant that the House does have an historic opportunity to effect substantive tax reform despite the shortcomings of H.R. 10612. Due to the efforts of Chairman ULLMAN and a number of his colleagues on the Ways and Means Committee, this tax legislation was granted a modified open rule which will allow the House to vote on five specified "reform" amendments. These amendments would crack down on real estate tax shelters, strengthen the minimum tax, restrict tax deferral for export income of Domestic International Sales Corporations—DISC's—restore the withholding tax on U.S. portfolio income of foreign investors, and eliminate the refundable tax carryback of individuals' capital losses. Together, these five amendments would increase Federal revenues by an estimated $1.6 billion in 1976 and $3.4 billion a year by 1981.

The Ways and Means Committee has in effect given the House an opportunity to contribute to meaningful tax reform—or, alternatively, to share the responsibility for its failure. I support these five reform amendments. In my view, their adoption would make this legislation a constructive step toward true tax reform. Their defeat would leave a bill that purports to be substantive tax reform but which in actuality does not deliver on its promise.

In any event, I believe that regardless of what happens on the floor today our efforts to restore equity to our Tax Code must not stop. H.R. 10612 is not the end of the road for tax reform. To accept such a premise would be a disservice to the American people.

It is time to put special interest and the prerogatives of privilege aside, and create a tax system that provides no loopholes for extreme wealth and tax forgiveness for real poverty—with a just and progressive tax scale applying to those in between. The American people deserve a tax system that will provide tax justice for all Americans, not perpetuate special advantage for the rich and influential few. I hope that H.R. 10612 will contribute toward that goal. It should be the prolog to the tax reform effort, not its conclusion.

Much concern has been expressed in this Chamber about the provisions of section 605 of H.R. 10612 which expand that part of the Internal Revenue Code which allows Members of Congress to deduct their traveling expenses between Washington and their congressional districts—or in the case of Senators their States—including meals and lodgings while in Washington. I share this concern, and I am totally opposed to this unjustifiable tax break for Members of Congress. In my judgment, H.R. 10612 should eliminate this provision from our Tax Code, not expand it.

I am particularly disappointed, moreover, that the House will not have an opportunity to be recorded on this specific issue. I believe that it is most unfortunate that the rule on the bill granted by the Rules Committee does not allow for a vote on section 605. If such an amendment were in order, as I believe it should have been, I would have voted for elimination of this tax break for Congressmen and Senators. This shady supplement for congressional salaries should not be tolerated.

Mr. STRATTON. Mr. Chairman, I intend to support the pending bill. It is an important and essential piece of legislation that needs to be speedily enacted because it will continue into the next calendar year the tax reductions enacted early this year to provide a much-needed stimulus to our still lagging recession-hit economy.

Moreover, Mr. Chairman, this bill includes a number of important tax reforms which will help to equalize the tax burden on American citizens and, at least in a small way, recover some of the revenues that will be lost in the extension of the tax cut features. Some of these reform features have been added to the bill here this afternooon in several amendments. Several of these amendments I supported. One in particular I opposed, the DISC amendment, offered by the gentleman from Minnesota (Mr. KARTH). I opposed his amendment because in my judgment it would jeopardize over 4,000 jobs at the General Electric plant in Schenectady in my district, which are directly dependent on GE's growing export business. At a time when unemployment is already excessive in upstate New York, I believe we would be foolish indeed to risk any of the jobs of our area's largest employer. Accordingly, I voted against the Karth DISC amendment and I am delighted that it was defeated by the House.

Only one feature in this sizable overall bill troubles me, Mr. Chairman. I am strongly opposed to it, have been from the start, and wish to register my opposition to it once again. This is the proviion in Section 605 which provides for a sharply increased amount which Members of Congress may write off for the costs-of-living expenses in the Washington area. This feature really represents an indirect pay increase for Members of Congress, and I feel very strongly it is a most inappropriate action for us to take at a time when we are asking others to retrench or at least hold the line. We have already received one pay increase this year. I felt that was a mistake and I opposed it at the time. This second increase is even more unwarranted and should never have been included in this bill.

Unfortunately, Mr. Chairman, the parliamentary situation did not make possible a suitable opportunity to bring this particular part of the bill up for a specific vote, so it could be eliminated. It is true that when the rule for the consideration of this bill was before the House, a vote against the rule, or a vote against the previous question on the rule, would have provided a chance for a fully open rule on the bill, which would then have made it possible to offer an amendment to strike out section 605. However, a completely open rule would have subjected this bill to a whole deluge of separate amendments, such as was the case some months ago when the energy bill from the Ways and Means Committee was up for consideration. Such a rule would have bogged the consideration of the bill down for an indeterminate time, and would have run a serious risk that we would have been unable to get a 1977 tax cut enacted in time to continue the present withholding schedules into 1977.

For that reason, Mr. Chairman, I reluctantly felt it necessary to support the rule and to vote in favor of the previous question.

However, Mr. Chairman, there are reports in the press that when this bill gets to the Senate, the Senate will separate out the tax reduction feature, approve that and seek to send that to the White House. It will retain the other Tax Code changes of the bill, including section 605, for further, deliberate study next year. It is my sincere hope, Mr. Chairman, that this unfortunate provision in section 605 which provides for a rest, given the deep six, as we say in the Navy, over in the Finance Committee of the U.S. Senate.

Mr. JEFFORDS. Mr. Chairman, depite this Nation's strong need for tax reform and tax relief, I have severe reservations about the Tax Reform Act of 1975.

Although the original intentions of this legislation were good, the version presented to us by the committee does not live up to the bill's name. I say this because the term "tax reform" implies positive forward steps which remove the inequities and injustices of the past by rearranging the tax structure. Much publicity has been given to the fact that the Ways and Means Committee reversed itself during the final hours of its deliberations, making changes which benefit high-income special interests at the expense of the average taxpayer.

I am pleased that we will be able to vote on five amendments which would return this bill to its earlier form. I strongly support four of these amendments, which would restore some element of "reform" to the legislation.

We will also have an opportunity to improve this legislation with passage of an amendment which would allow farmers to continue the practice of deducting their expenses for seed, fertilizer, and other production costs, in the same year the expenses were incurred. If this bill were to go through without that amendment, a serious blow would be dealt the small family farmers in Vermont and the rest of the Nation, who are already struggling for survival.

It is true that even without these amendments, there are some good points in the bill. Certainly, it makes a great deal of sense to extend the tax cut for another year, to relieve the burden on the average taxpayer and help revitalize the economy. But extension of the tax cut is not only sound, it is also popular. Even if this bill is not adopted, it is safe to assume that the tax reduction will be extended, one way or another. In other words, it seems clear to me that we do not have to accept the bad points of this bill in order to get the extension.

What really bothers me is the fact that even if the bill is improved by adoption of a series of six amendments, there will still be some serious problems with the legislation. And, I am extremely disturbed by the parliamentary rules which prohibit discussion of amendments which, in my judgment, would make this a good bill.

The chief problem, in my view, is the fact that in order to vote a needed tax break for the average person, we will be forced to vote an additional tax break for ourselves. I am referring to the provision, which we are not allowed to consider changing, which would increase tax deductions for Members of Congress from $3,000 a year to more than $7,000.

I have always taken the position that it is wrong—dead wrong—for one session of Congress to raise its own benefits. I have voted against raising my own pay and office allotments, and I now oppose giving myself a new tax break. As a strong matter of principle, I believe that even if improvements in benefits for Congressmen are clearly merited—and I am not sure they are in this case—they should not go into effect until the following session of Congress. That would at least give the voters a chance to express their opinions before we reap personal benefits from our own actions.

I also object to the use of parliamentary rules to prevent us from even considering an amendment which would establish a ceiling on Federal spending. While I do not always agree with President Ford's spending priorities, I do agree with his philosophy that we need limits on overall spending. This is the only feasible way to keep spending within reason, and to prevent a new round of runaway inflation.

The appropriate time to place a ceiling on spending is the time when we are reducing our revenues by cutting taxes. Additionally, it is appropriate to make a politically difficult decision—limiting spending—in conjunction with a politically easy decision—reducing taxes.

Mr. Chairman, I find it extremely unfortunate that the balance of this legislation has shifted from what was originally intended. It is no longer weighted toward the interests of the average taxpayer. It is now weighted toward the personal benefit of Members of Congress, toward the benefit of high income special interests, and toward fiscal irresponsibility.

The circumstances surrounding this bill can only lead to further erosion in the general public's confidence in Congress. And rightfully so.

Mr. DON H. CLAUSEN. Mr. Chairman, the title of this bill is the Tax Reform

Act. Others are referring to it as the Tax Reform and Tax Reduction Act. Both titles are misleading.

This legislation falls far short of any meaningful reform and attempts to reduce taxes without basing these cuts on sound reasoning—a cutback in spending.

I appreciate the efforts of those of my colleagues on the Ways and Means Committee who have been working to advance our objective of simplifying the tax structure in its entirety so that the average, and I repeat, the average person can understand it and minimize the complexity.

It is clear that this bill is more of a smokescreen. The complexity is retained and, in fact, some of the amendments being offered add to that complexity. It is this sort of action that is causing John Q. Taxpayer to protest against government generally.

The Congressional Budget and Impoundment Control Act, which I supported, established the principle of correlating revenues with expenditures. This bill now being considered is inadequate because it ignores this basic principle. If we are going to have a meaningful reduction in taxes, we must first cut back on our spending then pass the savings on to the taxpayer, otherwise we have more deficits than inflation and inflation is literally taxation without authorization.

Cutting revenues while we continue to overspend will worsen the already serious deficit problem we face. This bill continues the deficit-inflation syndrome which so severely hurts the poor and the elderly. While I supported the tax cuts which were made last year, there has to be a coordination of a spending cut with any further reduction in revenues collected.

It is time for the Congress to think of the next generation and not the next election. This bill is hypocritical and aimed at winning votes but it is deceiving and is not a responsible approach to our economic problems.

The challenge of providing a balanced budget to stop inflation and reduce taxes is squarely presented to the Congress. The residents of my congressional district are crying for it. The failure by the leadership to even permit consideration of this concept compels me to vote against the bill.

Budget control is vitally important. Once accomplished we would lessen the demand on the money supply by the Federal Government which would allow the Federal Reserve to free this money for use by the private sector to build new housing and stimulate business investment.

Mr. DU PONT. Mr. Chairman, I will cast my vote in favor of this legislation, but I do so with a real sense of disappointment in what the Congress has failed to accomplish. My support for the bill centers on the progress that has been made in closing some "loopholes" and tightening up on others, plus the extension of some of the tax reductions for low and moderate income families that would otherwise expire January 1.

My disappointments are very nearly as great as my satisfaction with the bill. It contains no spending ceiling at all; the Congress having already spent its way to a $72 billion deficit seems enthusiastic to continue. Failure to curb continued irresponsible spending is propelling the Federal Government into the same quagmire into which New York City has already submerged. The lack of our spending ceiling is very nearly enough of a reason to oppose this bill in its entirety.

But the situation is even worse than that. This bill will add something close to a billion dollars to our deficit, since it does not raise the revenues projected by the congressional budget. According to the chairman of the Budget Committee, the bill as reported to the floor would add $1.3 billion to the deficit. The adoption of some floor amendments has reduced this figure somewhat, but the bill remains a budget buster.

And so, Mr. Chairman, it is with a sense of frustration and disappointment that I vote for a tax reform bill that has some merit in what it does in the tax field, but no merit at all in what it does to the economic health of our country.

The CHAIRMAN. Unless there are additional amendments to be offered by the Committee on Ways and Means, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10612) to reform the tax laws of the United States, pursuant to House Resolution 878, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. SCHNEEBELI

Mr. SCHNEEBELI. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. SCHNEEBELI. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. SCHNEEBELI moves to recommit the bill H.R. 10612 to the Committee on Ways and Means with instructions not to report the same back until the Committee has included in the bill a provision providing that no revenues raised by the provisions of this Act shall be used to finance a level of budgetary expenditures in excess of $395 billion by the U.S. Government during the fiscal year 1977.

Mr. ULLMAN. Mr. Speaker, I reserve a point of order on the motion to recommit.

The SPEAKER. The gentleman from Oregon reserves a point of order on the motion to recommit.

The Chair recognizes the gentleman from Pennsylvania (Mr. SCHNEEBELI) in support of his motion to recommit.

Mr. SCHNEEBELI. Mr. Speaker, this motion provides that the bill is to be recommitted to the Committee on Ways and Means and not reported back until the committee has included in it a provision which says that no revenues raised by this act shall be used to finance a level of budgetary expenditures in excess of $395 billion by the Government during the fiscal year 1977.

This will insure that the Committee on Ways and Means faces the issue posed by the President, and it will mean that the tax revenues from this bill cannot finance excessive Government spending in the next fiscal year.

Mr. Speaker, we have been trying to bring this issue before the House in many fashions. We tried to bring it before the Committee on Ways and Means. It was ruled that it was not germane. We tried to bring it up before the Committee on Rules. We had a vote yesterday on the previous question. At every opportunity we have tried to bring to this House a resolution and a vote on what this country has been demanding for a long time, and that is a restriction on our spending.

Mr. Speaker, we are not asking for a spending reduction. We are merely asking that the increase in spending for the next fiscal year be limited to 7 percent over the present fiscal year. Our present trend of spending is disgraceful, and I think it is underscored by one salient fact. At the present time the interest on our debt—and I would like to keep underscoring this point—at the present time the interest on our debt is almost $100 million a day.

Mr. Speaker, this request is not without precedent. The House adopted this in 1968 and again in 1973 on Ways and Means bills. We are now faced with two back-to-back $70 billion-plus deficits. Our deficits for the last fiscal year and for this fiscal year will approach $150 billion.

In the last 4 years our debt ceiling, our spending ceiling, has increased 69 percent. In 1973, our spending ceiling was $250 billion. For the fiscal year 1977, unless we do something about it by the adoption of this motion, our spending will be $423 billion. This is a 69-percent increase in spending in 4 years, and I submit, Mr. Speaker, that is totally disgraceful.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. SCHNEEBELI. I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Speaker, I congratulate the gentleman from Pennsylvania (Mr. SCHNEEBELI) for having offered this motion to recommit. I hope that it will be adopted.

Mr. Speaker, I have talked to the President of the United States today by long-distance telephone to verify that this bill, in its present form, would be vetoed. He has so verified that fact, and I suggest to my colleagues in the House of Representatives that the only way to get a bill which can actually have the result of reducing taxes and not reforming the tax system is to adopt the motion to recommit.

The $395 billion ceiling is not a skeletal budget at all. In fact, it is greatly in excess of the amounts of money that are being spent in this year, and it provides for plenty on which to operate the Federal Government, but also, it provides a semblance of relief for the overburdened American taxpayer.

Mr. Speaker, I think this is the right thing to do. It will insure that a bill will be passed which can become law, and I hope that the motion to recommit will succeed.

Mr. SCHNEEBELI. Mr. Speaker, I thank the gentleman from Arizona.

Mr. WAGGONNER. Mr. Speaker, will the gentleman yield?

Mr. SCHNEEBELI. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. As I understand, the net effect of the motion to recommit would be to prohibit the expenditure of any revenues raised by this bill for fiscal year 1977 which are in excess of $395 billion?

Mr. SCHNEEBELI. The gentleman is absolutely correct.

Mr. WAGGONNER. I thank the gentleman. I support it.

The SPEAKER. The gentleman from Oregon (Mr. ULLMAN) is recognized for 5 minutes.

Mr. ULLMAN. Mr. Speaker, I am not going to insist upon my point of order, but I do rise in opposition to the motion to recommit.

Mr. Speaker, if, indeed, this were a spending ceiling, it obviously would not belong in this bill. Unfortunately, although everyone recognizes that in practice it will be viewed as a spending ceiling, technically it is not.

There is no way of enforcing the spending ceiling as is presented in this motion. It relates to revenues that are created in this bill and says that they cannot be used as expenditures beyond $395 billion. However, there is no practical way of saying that these revenues can only be used for expenditures below $395 billion but that other revenues can be used to cover expenditures above that level.

So what we are doing is deceiving ourselves and by so doing we are deceiving, in my judgment, the American people by leading them to believe that this is a spending ceiling when in fact it is not.

No one could agree more that we need to establish a tight budgetary policy in the coming fiscal year.

I have been very much involved in the Committee on the Budget and in the new budget process. At the time the budget comes before this House we are going to face a test of setting a ceiling and setting priorities by categories and I hope we will be able to live with this ceiling and these priorities. Because there is going to be a tremendous need for cutting back on expenditures in the coming year, we need to do this in an orderly way. We need to do it through the budgetary process. When the resolution comes up, if the President wants a $395-billion ceiling, the President should send a budget to us that is not above $395 billion and then it will be up to the Congress to act responsibly in that matter.

But this token suggestion that we are being asked to put in this bill will not do that and we would only be deceiving ourselves and deceiving the American people. It is nonsense. I hope we reject it.

Mr. GREEN. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Pennsylvania.

Mr. GREEN. Mr. Speaker, I want to say that I think that we should remember that when it comes to a sensible and orderly budgetary procedure that the chairman, the gentleman from Oregon (Mr. ULLMAN) was the author of the bill that created a sensible procedure so as to get the budget of this Congress under control and I think that he should be commended for that and I do not believe that anyone is more interested in an orderly budgetary procedure than the gentleman from Oregon.

Mr. ULLMAN. I thank the gentleman.

Mr. ADAMS. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Speaker, I support the statement made by the gentleman from Oregon who is the chairman of the Committee on Ways and Means. This motion to recommit is indeed not a responsible one. We have no idea how we possibly would apply it to whatever revenues are raised here in fiscal year 1977. I hope the motion to recommit will be rejected and I support the chairman, the gentleman from Oregon (Mr. ULLMAN).

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, as one Member of Congress who strongly and honestly advocates a limit, and a conservative limit, on Federal spending, I must vote against this motion to recommit. It is a deception of the Congress and of the American people.

This motion provides that no revenues raised by the tax reform bill can be used to spend above $395 billion for fiscal year 1977. As anyone knows, there is no way to tell which dollars would go above the and vastly exceed a $395 billion limit. Since the revenues raised under this bill would be only a small fraction of $395 billion, it could all be spent on the 1977 budget and the budget could still legally and vastly exceed a $395 billion limit. Therefore, it is a deception that this motion could result in the needed spending limit.

Earlier in these proceedings I voted to make it in order to let a meaningful amendment be offered to place a limit on spending.

Unfortunately, that effort failed. Now the way to set a spending limit, which we need, is through the budget process and the new budget law which requires Congress to set a limit in advance on spending. This is what these new budget procedures will accomplish, as Congressman BROCK ADAMS, chairman of the Budget Committee, has said and shown by his actions.

I support the principle of President Ford's proposal that we must cut Federal spendng to respond to revenue loss or tax cuts. This needs to be done effectively at the right time and place. If we could make an across-the-board cut we probably should because failing that, every special interest group will pick and lobby for the program it favors not to cut and advocate cuts in the other person's program. I, therefore, would favor the across-the-board approach. Let every agency and program bear its share of the reduction. The President, however, has told us that the cuts should not be across the board, but he has not said where and in what programs they will be made. Defense? Social security? Health programs? Assistance to older Americans? Education? Transportation? Where, Mr. President? He has not even submitted to us his budget he wants us to cut. When the President submits his budget next January telling us where he wants the cuts made, then the public and the Congress can consider the priorities and make the appropriate judgment and take the appropriate action.

I believe this is the responsible approach. I believe it is the only fiscally acceptable way to begin to reduce Federal spending and yet not fail blindly in the dark.

To recommit or defeat this bill would destroy the important tax reforms which it provides. Under this bill, especially its strong minimum tax features, there is a meaningful move towards tax equity. Many people who had avoided paying taxes, by use of gimmicks and loopholes, will now have to begin to pay part of their fair share. Also, the defeat of this bill would result in the elimination of the tax reduction features that need to be extended into next year in order to stop the withholding taxes on wage earners from rising next January, in order to keep the economic stimulus to the economy in place to maintain the effort at economic recovery which the last congressional tax reduction accomplished, and in order to maintain the investment credit and similar provisions which provide for capital formation in the private sector that will put unemployed people back to work in a productive way, rather than being on the public dole.

When the opportunity presents itself to vote for a spending cut, when the time comes to adopt a budget spending ceiling in advance of spending, I will do so. But I will not be a party to this deception of a false spending limit as is proposed by this motion and which also jeopardizes tax reform, capital formation and the economic stimulus of the tax relief provisions.

Mr. ULLMAN. Mr. Speaker, I urge the defeat of the recommital motion and I yield back the balance of my time.

The SPEAKER. Without objection the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appear to have it.

Mr. SCHNEEBELI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 202, nays 220, not voting 12, as follows:

[Roll No. 740]

YEAS—202

Abdnor
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bell
Bennett
Bevill
Biaggi
Biester
Bowen
Breaux
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burleson, Tex.
Butler
Byron
Carter
Casey
Cederberg
Chappell
Clancy
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Conte
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Tenn.
du Pont
Edwards, Ala.
Emery
English
Erlenborn
Esch
Eshleman
Evans, Ind.
Fenwick
Findley
Fish
Flowers
Flynt
Forsythe
Fountain
Frenzel
Frey
Fuqua
Gibbons
Gilman
Ginn
Goldwater
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hamilton
Hammerschmidt
Hansen
Harsha
Hastings
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Henderson
Hightower
Hillis
Holt
Horton
Hughes
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Johnson, Colo.
Johnson, Pa.
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Krueger
Lagomarsino
Landrum
Latta
Lent
Lott
Lujan
McClory
McCloskey
McCollister
McDade
McDonald
McEwen
McKinney
Madigan
Mann
Martin
Mathis
Michel
Milford
Miller, Ohio
Mills
Mitchell, N.Y.
Montgomery
Moore
Mosher
Mottl
Myers, Ind.
Myers, Pa.
Neal
Nichols
O'Brien
Passman
Pettis
Peyser
Poage
Pressler
Pritchard
Quie
Quillen
Railsback
Randall
Regula
Rhodes
Rinaldo
Robinson
Rogers
Roush
Rousselot
Runnels
Ruppe
Santini
Sarasin
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Sharp
Shriver
Shuster
Sikes
Skubitz
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stuckey
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Treen
Vander Jagt
Waggonner
Walsh
Wampler
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.

NAYS—220

Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Barrett
Baucus
Beard, R.I.
Bedell
Bergland
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Chisholm
Clay
Collins, Ill.
Conyers
Corman
Cornell
Cotter
D'Amours
Daniels, N.J.
Danielson
Delaney
Dellums
Dent
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Evans, Colo.
Evins, Tenn.
Fary
Fascell
Fisher
Fithian
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Giaimo
Gonzalez
Green
Gude
Hall
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hays, Ohio
Hicks
Holland
Holtzman
Howard
Howe
Hubbard
Jenrette
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Keys
Koch
Krebs
LaFalce
Leggett
Lehman
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
McCormack
McFall
McHugh
McKay
Macdonald
Madden
Maguire
Mahon
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mineta
Minish
Mink
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pickle
Pike
Preyer
Price
Rangel
Rees
Reuss
Richmond
Riegle
Risenhoover
Roberts
Rodino
Roe
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Ryan
St Germain
Sarbanes
Scheuer
Seiberling
Shipley
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, James V.
Stark
Steed
Stratton
Studds
Sullivan
Symington
Teague
Thompson
Thornton
Traxler
Tsongas
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waxman
Weaver
Whalen
Wilson, C. H.
Wirth
Wolff
Wright
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—12

Burke, Fla.
Clausen, Don H.
Fraser
Gaydos
Hébert
Helstoski
Hinshaw
Hungate
Mitchell, Md.
Moorhead, Calif.
Stokes
Udall

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Mitchell of Maryland against.

Until further notice:

Mr. Burke of Florida with Mr. Udall.

Mr. Fraser with Mr. Stokes.

Mr. Gaydos with Mr. Helstoski.

Mr. Hungate with Mr. Hinshaw.

Mr. Don H. Clausen with Mr. Moorhead of California.

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SCHNEEBELI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 257, nays 168, not voting 9, as follows:

[Roll No. 741]

YEAS—257

Abzug
Adams
Addabbo
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Barrett
Baucus
Beard, R.I.
Bedell
Bergland
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breckinridge
Brinkley
Brodhead
Broomfield
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Chisholm
Clay
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
Delaney
Dellums
Dent
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Gaimo
Gibbons
Gilman
Green
Gude
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hays, Ohio
Heckler, Mass.
Hefner
Heinz
Henderson
Hicks
Holland
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Jenrette
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Keys
Koch
Krebs
LaFalce
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, Md.
McCormack
McDade
McFall
McHugh
McKay
McKinney
Macdonald
Madden
Maguire
Mann
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva

Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pickle

Pike
Preyer
Price
Railsback
Rangel
Rees
Regula
Reuss
Richmond
Riegle
Rinaldo
Risenhoover
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Seiberling
Sharp
Shipley
Simon
Sisk
Slack
Smith, Iowa

Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Stratton
Studds
Sullivan
Symington
Taylor, N.C.
Thompson
Thornton
Traxler
Tsongas
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
Wilson, C. H.
Wirth
Wolff
Wydler
Yates
Yatron
Young, Ga.
Zablocki
Zeferetti

NAYS—168

Abdnor
Alexander
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bell
Bennett
Bevill
Bowen
Breaux
Brooks
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burleson, Tex.
Butler
Byron
Carter
Casey
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conable
Conlan
Crane
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Tenn.
Edwards, Ala.
English
Erlenborn
Esch
Eshleman
Findley
Flowers
Flynt
Frenzel
Frey

Fuqua
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hammerschmidt
Hansen
Hastings
Hechler, W. Va.
Hightower
Hillis
Holt
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Johnson, Colo.
Johnson, Pa.
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Krueger
Lagomarsino
Landrum
Latta
Long, La.
Lott
Lujan
McClory
McCloskey
McCollister
McDonald
McEwen
Madigan
Mahon
Martin
Mathis
Michel
Milford
Miller, Ohio
Mills
Montgomery
Moore
Moorhead, Calif.
Mottl

Myers, Ind.
Neal
Nichols
O'Brien
Passman
Pettis
Poage
Pressler
Pritchard
Quie
Quillen
Randall
Rhodes
Roberts
Robinson
Rousselot
Runnels
Ruppe
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Shriver
Shuster
Sikes
Skubitz
Smith, Nebr.
Snyder
Spence
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stuckey
Symms
Talcott
Taylor, Mo.
Teague
Thone
Treen
Vander Jagt
Waggonner
Wampler
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wright
Wylie
Young, Alaska
Young, Fla.
Young, Tex.

NOT VOTING—9

Burke, Fla.
Fraser
Gaydos

Hébert
Helstoski
Hinshaw

Hungate
Stokes
Udall

The Clerk announced the following pairs:

On this vote:

Mr. Udall for, with Mr. Hébert against.

Until further notice:

Mr. Stokes with Mr. Burke of Florida.
Mr. Hungate with Mr. Fraser.
Mr. Helstoski with Mr. Gaydos.

Mr. NEAL changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that I be permitted to revise and extend my remarks, and to include extraneous matter, on the bill just passed, and that all Members have 5 legislative days in which to revise and extend their remarks on each of the amendments considered and on the bill itself which has just passed.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate disagrees to the amendments of the House to (S.J. Res. 121) entitled "A joint resolution to provide for quarterly adjustments in the support price of milk," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. TALMADGE, Mr. HUMPHREY, Mr. McGOVERN, Mr. HUDDLESTON, Mr. LEAHY, Mr. DOLE, Mr. YOUNG, and Mr. CURTIS to be the conferees on the part of the Senate.

NET REVENUE GAINS WHICH WILL BE REALIZED THROUGH H.R. 10612

(Mr. ULLMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ULLMAN. Mr. Speaker, later I shall put a full table in the RECORD with respect to this matter, but I should like to indicate the net revenue gains for the tax reform part of the bill (H.R. 10612), not the tax reduction part of the bill, but the tax reform part.

On the calendar year basis, for calendar year 1976, the revenue gain is $1.295 billion.

For fiscal year 1977 it is $1,389 billion.

For fiscal year 1978 it is $1.692 billion.

For fiscal year 1979 it is $1.913 billion.

For fiscal year 1980 it is $2.143 billion.

Finally, for fiscal year 1981, it is $2.486 billion.

The table referred to follows:

REVENUE FROM BILL—TAX REFORM

[In billions]

Title	1976	1977	1978	1979	1980	1981
I	423	271	313	335	376	415
II	87	151	251	334	433	506
III	1,083	1,188	1,302	1,416	1,544	1,656
V	—420	—435	—450	—470	—490	—514
VI	194	234	278	307	316	323
VIII	150					
X	+108	21	39	80	90	85
XI	551	531	509	497	509	690
XIII	—102	—57	—57	—42	—42	—42
XIV	—35	—14	46	40	19	8
XV	—405	—461	—498	—542	—568	—596
XVII	—18	—18	—18	—18	—18	—18
XVIII	—21	—22	—23	—24	—26	—27
Total	1,295	1,389	1,692	1,913	2,143	2,486

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. DELANEY. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

DISCHARGE OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION FROM FURTHER CONSIDERATION OF H.R. 10806 AND RE-REFERRAL TO COMMITTEE ON BANKING, CURRENCY AND HOUSING

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from the further consideration of the bill, H.R. 10806, to amend the Flood Disaster Protection Act of 1973, and that it be re-referred to the Committee on Banking, Currency and Housing.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR MANAGERS TO HAVE UNTIL MIDNIGHT, SATURDAY, DECEMBER 6, 1975, TO FILE CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 466

Mr. ADAMS. Mr. Speaker, I ask unanimous consent that the managers may have until midnight Saturday, December 6, 1975, to file a conference report on House Concurrent Resolution 466, the second concurrent resolution on the budget for fiscal year 1976.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, would the gentleman from Washington (Mr. ADAMS) tell us whether or not he expects this conference report to include the adjusted figures to cover the legislation to aid the city of New York, which we passed this week?

Mr. ADAMS. It will not. In other words, it depends upon what the Committee on Appropriations does because that requires an appropriation. If it does not come within the ceiling, then there would have to be another concurrent resolution.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

CONFERENCE REPORT ON H.R. 8069, DEPARTMENT OF HEW AND RELATED AGENCIES APPROPRIATIONS BILL, FISCAL YEAR 1976

Mr. FLOOD. Mr. Speaker, I call up the conference report on the bill (H.R. 8069) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 2, 1975.)

Mr. FLOOD (during the reading). Mr. Speaker, I ask unanimous consent that the further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER. The gentleman from Pennsylvania is recognized for 1 hour.

Mr. FLOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report before us today provides $36,073,748,318 for programs administered by the Departments of Labor, Health, Education, and Welfare, and other related agencies, such as ACTION and the Community Services Administration.

This bill along with the education appropriation bill which, as the Members know, has already been enacted, is the backbone of the Federal Government's domestic assistance programs. They include job training, unemployment assistance, health care, social security, public assistance, the programs for the older Americans, and that is what this appropriation bill is all about.

The bill also includes $8,953,070,000 for the 3-month transition period between fiscal 1976 and the new fiscal year which, as the Members know, begins, under our new setup, in 1977.

This is $14.7 million less than the House bill but that results mainly from changes made by the conferees in the amounts recommended for 1976. The amount recommended by the conferees is $94.1 million over the House bill and $198.8 million below the Senate bill.

So I think the conferees did a pretty good job in upholding the position of the House.

We agreed with most of the Senate decreases from the House bill—and we tried to pare down the Senate increases as much as possible, so that we could present to the House a responsible bill. All right.

Now where does this conference agreement stand in comparison to the President's budget? Well, I will tell you. The House bill was $826.3 million over the budget. The Senate bill was $1.1 billion over the budget. The conference agreement is $915.8 million over the budget. That figure is much, much closer to the House amount than to the Senate amount.

Compared with the budget, it may appear offhand that this bill is excessive and simply too much for the programs, no matter how worthy they may seem to be. But do not forget this, that budget proposed drastic cutbacks from last year in medical research at NIH, Maternal and Child Health Services, mental health, alcohol and drug abuse, vocational rehabilitation, and community services programs. In total the conference agreement is $4.6 billion below fiscal year 1975 appropriations.

Do not get carried away by that. Let me tell the Members what happened. This is simply a net figure, and this is composed of the increases and the decreases throughout the entire bill. The major reason for the apparent decrease from last year results from the fact that very large appropriations were made in 1975 for unemployment compensation. The funds required for unemployment compensation for 1976 are included in the pending supplemental appropriation bill. So, therefore, we have to make proper adjustments for that very simple fact in making any year-to-year comparison of these bills.

But in the interest of time, I would like to summarize the major changes from the bill as passed by the House.

First, and the Members want to hear this, almost two-thirds of the increase that I told them about over the House bill is for health—health programs. The conferees added $40 million for the National Cancer Institute, $20 million for the Heart and Lung Institute, $6 million for the other institutes at NIH, $22 million for mental health and alcohol abuse programs, and $5 million for Public Health Service Hospitals.

For the human development programs the conferees agreed to $16.8 million over the House bill. This is for such programs as Head Start, vocational rehabilitation, runaway youth projects, and the native American programs.

For the programs administered by the Community Services Administration—and, heavens knows, the Members are all receiving a stack of mail about the Community Services Administration; that is the former OEO Agency—the conferees recommended total increases of $20.3 million over the House bill. That is for such programs as veterans education and training services, rural housing, the emergency food and medical services, and the emergency energy conservation.

For the Occupational Safety and Health Administration in the Department of Labor, we agreed to $8 million more than the House bill. But in addition the conferees deleted two Senate amendments relating to OSHA. The first amendment would have prohibited OSHA from levying a fine of more than $50 for a nonserious violation of the act during the initial inspection of any establishment employing 15 or fewer people.

The second Senate amendment would have prohibited OSHA from inspecting firms employing 3 persons or less.

The conference agreement deletes several Senate amendments which earmarked specific figures for new positions in the bill for health agencies of HEW. But instead we have included a table in the statement of the managers detailing the distribution of positions for the health programs.

Finally, Mr. Speaker, the conferees were confronted with three amendments adopted on the Senate floor relating to the subject of school busing. This is a very emotional subject and could be debated interminably. The conferees, believe me, spent many, many hours discussing these amendments. We agreed to delete two, the so-called Biden amendments.

On the other amendment, that is the so-called Byrd amendment, we could not agree.

I have felt all along that an annual appropriation bill is not the proper place to deal with this question of busing. This is a subject that should be dealt with in permanent legislation. In fact, there is existing legislation, the Equal Education Opportunities Act, which was enacted a year ago, which relates specifically to the question of school busing. Any changes in that law should be handled by the proper legislative committee under the regular procedures of the House. I plan to offer a motion to modify the Byrd amendment to make it conform with existing law.

So, Mr. Speaker, I urge adoption of the conference report and of motions I shall offer in connection with the amendments in disagreement.

Mr. Speaker, I ask unanimous consent to insert at this point in the RECORD a detailed tabulation showing the amounts provided in the conference agreement for each appropriation in the bill, together with appropriate comparisons:

LABOR-HEW APPROPRIATION BILL, 1976 (H.R. 8069)—CONFERENCE SUMMARY

		Fiscal year 1976 and transition period				Conference compared with—			
	Appropriation, fiscal year 1975	Budget estimates	House	Senate	Conference	Enacted 1975	Budget estimates	House bill	Senate bill
TITLE I—DEPARTMENT OF LABOR MANPOWER ADMINISTRATION									
Program administration	$67,009,000	$66,438,000	$66,632,000	$66,632,000	$66,632,000	−$377,000	$194,000		
Transition period		16,195,000	16,748,000	16,748,000	16,748,000		553,000		
Trust fund transfer	(28,665,000)	(29,366,000	(29,866,000)	(29,866,000)	(29,866,000)	(1,201,000)	( )	( )	( )
Transition period	( )	(7,377,000)	(7,377,000)	(7,377,000)	(7,377,000)	( )	( )	( )	( )
Comprehensive manpower assistance	2,852,450,000	2,394,400,000	2,388,400,000	2,394,400,000	2,388,400,000	−464,050,000	−6,000,000		−$6,000,000
Transition period		599,000,000	597,500,000	599,000,000	597,500,000		−1,500,000		−1,500,000
Federal unemployment benefits and allowances	2,365,000,000	410,000,000	410,000,000	410,000,000	410,000,000	−1,955,000,000			
Transition period		95,000,000	95,000,000	95,000,000	95,000,000				
Advances to the Unemployment Trust Fund and other funds	5,750,000,000					−5,750,000,000			
Transition period									
Grants to States for unemployment insurance and employment services	64,400,000	74,000,000	81,300,000	82,800,000	81,300,000	16,900,000	7,300,000		−1,500,000
Transition period		18,500,000	20,300,000	20,700,000	20,300,000		1,800,000		−400,000
Trust fund transfer	(1,177,900,000)	(995,000,000)	(1,056,300,000)	(1,054,800,000)	(1,051,300,000)	(−126,600,000)	(56,300,000)	(−$5,000,000)	(−3,500,000)
Transition period	( )	(248,750,000)	(264,100,000)	(263,700,000)	(262,850,000)	( )	(14,100,000)	(−1,250,000)	(−850,000)
Total	11,098,859,000	2,944,838,000	2,946,332,000	2,953,832,000	2,946,332,000	−8,152,527,000	1,494,000		−7,500,000
Transition period		728,695,000	729,548,000	731,448,000	729,548,000		853,000		−1,900,000
LABOR-MANAGEMENT SERVICES ADMINISTRATION									
Salaries and expenses	36,845,000	42,000,000	41,232,000	41,232,000	41,232,000	4,387,000	−768,000		
Transition period		10,047,000	10,047,000	10,047,000	10,047,000				
EMPLOYMENT STANDARDS ADMINISTRATION									
Salaries and expenses	76,116,000	79,715,000	81,560,000	83,643,000	82,410,000	6,294,000	2,695,000	850,000	−1,233,000
Transition period		19,929,000	20,390,000	20,911,000	20,602,000		673,000	212,000	−309,000
Trust fund transfer	( )	(225,000)	(225,000)	(225,000)	(225,000)	(225,000)	( )	( )	( )
Transition period	( )	(56,000)	(56,000)	(56,000)	(56,000)	( )	( )	( )	( )
Special benefits	165,000,000	201,000,000	201,000,000	201,000,000	201,000,000	36,000,000			
Transition period		70,000,000	70,000,000	70,000,000	70,000,000				
Total	241,116,000	280,715,000	282,560,000	284,643,000	283,410,000	42,294,000	2,695, 00	850,000	−1,233,000
Transition period		89,929,000	90,390,000	90,911,000	90,602,000		673,000	212,000	−309,000
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION									
Salaries and expenses	102,006,000	116,025,000	108,221,000	123,221,000	116,221,000	14,215,000	196,000	8,000,000	−7,000,000
Transition period		20,000,000	27,000,000	29,500,000	29,000,000			2,000,000	−500,000
BUREAU OF LABOR STATISTICS									
Salaries and expenses	54,422,000	61,683,000	64,846,000	64,846,000	64,846,000	10,424,000	3,163,000		
Transition period		15,250,000	16,210,000	16,210,000	16,210,000		960,000		
DEPARTMENTAL MANAGEMENT									
Salaries and expenses	30,339,000	33,242,000	32,297,000	32,297,000	32,297,000	1,958,000	−945,000		
Transition period		7,781,000	7,781,000	7,781,000	7,781,000				
Trust fund transfer	(820,000)	(881,000)	(881,000)	(881,000)	(881,000)	(61,000)	( )	( )	( )
Transition period	( )	(221,000)	(221,000)	(221,000)	(221,000)	( )	( )	( )	( )
Special foreign currency program	200,000	200,000	70,000	70,000	70,000	−130,000	−130,000		
Transition period									
Total	30,539,000	33,442,000	32,367,000	32,367,000	32,367,000	1,828,000	−1,075,000		
Transition period		7,781,000	7,781,000	7,781,000	7,781,000				
Total, Department of Labor	11,563,787,000	3,478,703,000	3,475,558,000	3,500,141,000	3,484,408,000	−8,079,379,000	5,705,000	8,850,000	−15,733,000
Transition period		380,702,000	880,976,000	885,897,000	883,188,000		2,486,000	2,212,000	−2,709,000
TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE									
HEALTH SERVICES ADMINISTRATION									
Health services	483,226,000	426,782,000	553,685,000	560,302,000	557,693,000	74,467,000	130,911,000	4,008,000	−2,609,000
Transition period		136,656,000	135,501,000	135,126,000	135,126,000		−1,530,000	−375,000	
Trust fund transfer	(5,774,000)	(24,671,000)	(26,671,000)	(26,671,000)	(26,671,000)	(20,897,000)	(2,000,000)	( )	( )
Transition period	( )	(6,521,000)	(7.021,000)	(7,021,000)	(7,021,000)	( )	(500,000)	( )	( )
CENTER FOR DISEASE CONTROL									
Preventive health services	96,045,000	99,601,000	107,115,000	112,471,000	108,971,000	12,926,000	9,370,000	1,856,000	−3,500,000
Transition period		26,828,000	28,032,000	28,032,000	28,032,000		1,204,000		
NATIONAL INSTITUTES OF HEALTH									
National Cancer Institute	669,503,000	586,837,000	703,564,000	803,564,000	743,564,000	74,061,000	156,727,000	40,000,000	−60,000,000
Transition period		149,700,000	149,700,000	149,700,000	149,700,000				
National Heart and Lung Institute	303,515,000	271,840,000	329,059,000	379,059,000	349,059,000	45,544,000	77,219,000	20,000,000	−30,000,000
Transition period		58,015,000	58,015,000	58,015,000	58,015,000				
National Institute of Dental Research	44,233,000	38,039,000	45,794,000	45,794,000	45,794,000	1,561,000	7,755,000		
Transition period		7,674,000	7,674,000	7,674,000	7,674,000				
National Institute of Arthritis, Metabolism and Digestive Diseases	161,040,000	144,065,000	173,972,000	176,972,000	175,172,000	14,132,000	31,107,000	1,200,000	−1,800,000
Transition period		35,052,000	43,052,000	43,052,000	43,052,000		8,000,000		
National Institute of Neurological and Communicative Disorders and Stroke	129,475,000	107,055,000	136,546,000	136,546,000	136,546,000	7,071,000	29,491,000		
Transition period		27,964,000	32,964,000	32,964,000	32,964,000		5,000,000		
National Institute of Allergy and Infectious Diseases	110,492,000	100,777,000	118,918,000	118,918,000	118,918,000	8,426,000	18,141,000		
Transition period		26,974,000	26,974,000	26,974,000	26,974,000				
National Institute of General Medical Sciences	135,533,000	120,779,000	146,461,000	146,461,000	146,461,000	10,928,000	25,682,000		
Transition period		32,961,000	32,961,000	32,961,000	32,961,000				

LABOR-HEW APPROPRIATION BILL, 1976 (H.R. 8069)—CONFERENCE SUMMARY—Continued

	Appropriation, fiscal year 1975	Fiscal year 1976 and transition period				Conference compared with—			
		Budget estimates	House	Senate	Conference	Enacted 1975	Budget estimates	House bill	Senate bill
TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—Continued									
NATIONAL INSTITUTES OF HEALTH—Cont.									
National Institute of Child Health and Human Development	$132,578,000	$96,547,000	$126,889,000	$126,889,000	$126,889,000	—$5,689,000	$30,342,000		
Transition period		23,566,000	23,566,000	23,566,000	23,566,000				
National Institute on Aging		14,428,000	15,526,000	20,526,000	17,526,000	17,526,000	3,098,000	$2,000,000	—$3,000,000
Transition period		3,943,000	3,943,000	3,943,000	3,943,000				
National Eye Institute	39,486,000	34,554,000	42,608,000	50,000,000	45,565,000	6,079,000	11,011,000	2,957,000	—4,435,000
Transition period		9,103,000	9,103,000	9,103,000	9,103,000				
National Institute of Environmental Health Sciences	31,896,000	29,368,000	35,915,000	35,915,000	35,915,000	4,019,000	6,547,000		
Transition period		7,540,000	7,540,000	7,540,000	7,540,000				
Research resources	126,766,000	80,724,000	128,731,000	131,731,000	129,931,000	3,165,000	49,207,000	1,200,000	—1,800,000
Transition period		20,195,000	20,195,000	20,195,000	20,195,000				
John E. Fogarty Center	5,589,000	4,540,000	5,345,000	6,245,000	5,705,000	116,000	1,165,000	360,000	—540,000
Transition period		1,135,000	1,135,000	1,135,000	1,135,000				
National Library of Medicine	28,850,000	28,815,000	28,815,000	29,565,000	29,065,000	215,000	250,000	250,000	—500,000
Transition period		6,572,000	6,572,000	6,572,000	6,572,000				
Buildings and facilities	3,000,000	3,000,000	93,000,000	41,000,000	54,000,000	51,000,000	51,000,000	—39,000,000	13,000,000
Transition period		750,000	750,000	750,000	750,000				
Office of the Director	17,326,000	19,986,000	19,612,000	17,896,000	17,896,000	570,000	—2,090,000	—1,716,000	
Transition period		4,997,000	4,903,000	4,474,000	4,474,000		—523,000	—429,000	
Total	1,939,282,000	1,681,354,000	2,150,755,000	2,267,081,000	2,178,006,000	238,724,000	496,652,000	27,251,000	—89,075,000
Transition period		416,141,000	429,047,000	428,618,000	428,618,000		12,477,000	—429,000	
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION									
Alcohol, drug abuse, and mental health	619,329,000	476,279,000	557,654,000	601,998,000	579,554,000	—39,775,000	103,275,000	21,900,000	—22,444,000
Transition period		116,565,000	84,242,000	84,104,000	84,104,000		—32,461,000	—138,000	
St. Elizabeths Hospital (indefinite)	48,758,000	48,064,000	48,064,000	48,064,000	48,064,000	—694,000			
Transition period		15,500,000	15,500,000	15,500,000	15,500,000				
Buildings and facilities			2,500,000	5,400,000	5,400,000	5,400,000	5,400,000	2,900,000	
Transition period									
Total	668,087,000	524,343,000	608,218,000	655,462,000	633,018,000	—35,069,000	108,675,000	24,800,000	—22,444,000
Transition period		132,065,000	99,742,000	99,604,000	99,604,000		—32,461,000	—138,000	
HEALTH RESOURCES ADMINISTRATION									
Health resources	302,319,000	325,329,000	360,709,000	360,529,000	347,428,000	45,109,000	22,099,000	—13,281,000	—13,101,000
Transition period		81,790,000	78,790,000	78,255,000	78,255,000		—3,535,000	—535,000	
Trust fund transfer	(8,620,000)	(42,000)	(42,000)	(42,000)	(42,000)	(—8,578,000)	( )	( )	( )
Transition period	( )	(11,000)	(11,000)	(11,000)	(11,000)	( )	( )	( )	( )
Medical facilities guarantee and loan fund		10,000,000	10,000,000	10,000,000	10,000,000	10,000,000			
Transition period		7,000,000	7,000,000	7,000,000	7,000,000				
Payment of sales insufficiencies and interest losses	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000				
Transition period									
Total	306,319,000	339,329,000	374,709,000	374,529,000	361,428,000	55,109,000	22,099,000	—13,281,000	—13,101,000
Transition period		88,790,000	85,790,000	85,255,000	85,255,000		—3,535,000	—535,000	
ASSISTANT SECRETARY FOR HEALTH									
Assistant Secretary for Health	30,992,000	23,288,000	23,142,000	20,842,000	20,842,000	—10,150,000	—2,446,000	—2,300,000	
Transition period		6,302,000	5,785,000	5,210,000	5,210,000		—1,092,000	—575,000	
Trust fund transfer	(27,080,000)	( )	( )	( )	( )	(—27,080,000)	( )	( )	( )
Transition period	( )	( )	( )	( )	( )	( )	( )	( )	( )
Retirement pay and medical benefits for commissioned officers (indefinite)	39,200,000	45,013,000	45,013,000	45,013,000	45,013,000	5,813,000			
Transition period		13,552,000	13,552,000	13,552,000	13,552,000				
Total	70,192,000	68,301,000	68,155,000	65,855,000	65,855,000	—4,337,000	—2,446,000	—2,300,000	
Transition period		19,854,000	19,337,000	18,762,000	18,762,000		—1,092,000	—575,000	
SOCIAL AND REHABILITATION SERVICE									
Public assistance	13,841,227,000	14,999,085,000	15,000,000,000	15,009,400,000	15,003,050,000	1,162,723,000	4,865,000	3,950,000	—5,450,000
Transition period		3,964,682,000	3,965,000,000	3,965,000,000	3,965,000,000		318,000		
Work incentives	210,000,000	330,000,000	330,000,000	330,000,000	330,000,000	120,000,000			
Transition period		80,000,000	80,000,000	80,000,000	80,000,000				
Salaries and expenses	65,822,000	63,361,000	57,878,000	60,878,000	60,378,000	—5,444,000	—2,983,000	2,500,000	—500,000
Transition period		16,265,000	14,470,000	15,219,000	15,219,000		—1,046,000	749,000	
Trust fund transfer	(600,000)	( )	( )	( )	( )	(—600,000)	( )	( )	( )
Transition period	( )	( )	( )	( )	( )	( )	( )	( )	( )
Total	14,117,049,000	15,392,446,000	15,387,878,000	15,400,278,000	15,394,328,000	1,277,279,000	1,882,000	6,450,000	—5,950,000
Transition period		4,060,947,000	4,059,470,000	4,060,219,000	4,060,219,000		—728,000	749,000	
SOCIAL SECURITY ADMINISTRATION									
Payments to social security trust and other funds	3,345,323,000	4,175,255,000	4,123,363,000	4,123,363,000	4,123,363,000	778,040,000	—51,892,000		
Transition period		892,000,000	880,940,000	880,940,000	880,940,000		—11,060,000		
Special benefits for disabled coal miners	957,740,000	999,778,000	999,778,000	999,778,000	999,778,000	42,038,000			
Transition period		234,600,000	234,600,000	234,600,000	234,600,000				
Supplemental security income program	4,857,102,000	5,538,523,000	5,518,523,000	5,518,523,000	5,518,523,000	661,421,000	—20,000,000		
Transition period		1,508,541,000	1,503,541,000	1,503,541,000	1,503,541,000		—5,000,000		
Limitation on salaries and expenses	(2,125,987,000)	(2,373,132,000)	(2,373,133,612)	(2,373,133,612)	(2,373,133,612)	(247,146,612)	(1,612)	( )	( )
Transition period	( )	(620,000,000)	(629,900,403)	(629,900,403)	(629,900,403)	( )	(403)	( )	( )
Limitation on construction	(8,232,000)	(6,300,000)	(6,300,000)	(6,300,000)	(6,300,000)	(—1,932,000)	( )	( )	( )
Transition period	( )	(3,633,000)	(3,633,000)	(3,633,000)	(6,633,000)	( )	( )	( )	( )
Total	9,160,165,000	10,713,556,000	10,641,664,000	10,641,664,000	10,641,664,000	1,481,499,000	—71,892,000		
Transition period		2,635,141,000	2,619,081,000	2,619,081,000	2,619,081,000		—16,060,000		

LABOR-HEW APPROPRIATION BILL, 1976 (H.R. 8069)—CONFERENCE SUMMARY—Continued

		Fiscal year 1976 and transition period				Conference compared with—			
	Appropriation, fiscal year 1975	Budget estimates	House	Senate	Conference	Enacted 1975	Budget estimates	House bill	Senate bill
TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—Continued									
ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT									
Human development	$1,445,595,000	$1,404,682,000	$1,500,049,000	$1,528,758,318	$1,516,858,318	$71,263,318	$112,176,318	$16,809,318	−$11,900,000
Transition period		348,164,000	371,505,000	371,505,000	371,505,000		23,341,000		
Trust fund transfer	( )	(600,000)	(600,000)	(600,000)	(600,000)	(600,000)	( )	( )	( )
Transition period	( )	(150,000)	(150,000)	(150,000)	(150,000)	( )	( )	( )	( )
DEPARTMENTAL MANAGEMENT									
Office for Civil Rights	22,207,000	25,147,000	24,686,000	24,686,000	24,686,000	2,479,000	−461,000		
Transition period		6,494,000	6,379,000	6,379,000	6,379,000		−115,000		
Trust fund transfer	(1,466,000)	(1,351,000)	(1,351,000)	(1,351,000)	(1,351,000)	(−115,000)	( )	( )	( )
Transition period	( )	(352,000)	(352,000)	(352,000)	(352,000)	( )	( )	( )	( )
General departmental management	110,028,000	93,035,000	87,280,000	85,519,000	85,519,000	−24,509,000	−7,516,000	−1,770,000	
Transition period		24,106,000	22,670,000	22,160,000	22,160,000		−1,946,000	−510,000	
Trust fund transfer	(8,255,000)	(12,751,000)	(12,751,000)	(12,751,000)	(12,751,000)	(4,496,000)	( )	( )	( )
Transition period	( )	(3,284,000)	(3,284,000)	(3,284,000)	(3,284,000)	( )	( )	( )	( )
Policy research		29,260,000	26,300,000	24,950,000	24,950,000	24,950,000	−4,310,000	−1,350,000	
Transition period		7,315,000	6,575,000	6,575,000	6,575,000		−740,000		
Total	132,235,000	147,442,000	138,275,000	135,155,000	135,155,000	2,920,000	−12,287,000	−3,120,000	
Transition period		37,915,000	35,624,000	35,114,000	35,114,000		−2,801,000	−510,000	
Total, Department of Health, Education, and Welfare	28,418,195,000	30,797,836,000	31,530,503,000	31,741,555,318	31,592,976,318	3,174,781,318	795,140,318	62,473,318	−148,579,000
Transition period		7,902,501,000	7,883,129,000	7,881,316,000	7,881,316,000		−21,185,000	−1,813,000	
TITLE III—RELATED AGENCIES									
Action	100,000,000	101,574,000	101,313,000	105,623,000	103,266,000	3,266,000	1,692,000	1,953,000	−2,357,000
Transition period		21,083,000	21,083,000	25,591,000	21,083,000				−4,508,000
Community Services Administration	507,700,000	363,000,000	474,385,000	526,452,000	494,652,000	−13,048,000	131,652,000	20,267,000	−31,800,000
Transition period		90,750,000	144,975,000	129,746,000	129,746,000		38,996,000	−15,229,000	
Federal Mediation and Conciliation Service	16,245,000	18,250,000	17,704,000	17,904,000	17,904,000	1,659,000	−346,000	200,000	
Transition period		4,800,000	4,426,000	4,476,000	4,476,000		−324,000	50,000	
National Commission on Libraries and Information Science	409,000	502,000	409,000	468,000	468,000	59,000	−34,000	59,000	
Transition period		125,000	102,000	117,000	117,000		−8,000	15,000	
National Labor Relations Board	62,669,000	68,499,000	67,461,000	68,071,000	67,766,000	5,097,000	−733,000	305,000	−305,000
Transition period		17,127,000	16,865,000	17,018,000	16,941,000		−186,000	76,000	−77,000
National Mediation Board	3,236,000	3,105,000	3,405,000	3,405,000	3,405,000	169,000,	300,000		
Transition period		775,000	850,000	850,000	850,000		75,000		
Occupational Safety and Health Review Commission	5,512,000	5,675,000	5,638,000	5,638,000	5,638,000	126,000	−37,000		
Transition period		1,418,000	1,418,000	1,418,000	1,418,000				
Railroad Retirement Fund:									
Payments to Railroad Retirement Trust fund	3,516,000	250,000,000	250,000,000	250,000,000	250,000,000	246,484,000			
Transition period									
Regional Rail Transportation Protective Account		55,100,000	37,600,000	37,600,000	37,600,000	37,600,000	−17,500,000		
Transition account		10,030,000	10,030,000	10,030,000	10,030,000				
Limitation on salaries and expenses	(25,758,000)	(29,703,000)	(28,703,000)	(28,703,000)	(28,703,000)	(2,945,000)	(−1,000,000)	( )	( )
Transition period	( )	(7,430,000)	(7,175,000)	(7,175,000)	(7,175,000)	( )	(−255,000)	( )	( )
Soldiers' and Airmen's Home (trust fund appropriation):									
Operation and maintenance	15,391,000	15,665,000	15,665,000	15,665,000	15,665,000	274,000			
Transition period		3,905,000	3,905,000	3,905,000	3,905,000				
Total, Related Agencies	714,678,000	881,370,000	973,580,000	1,030,826,000	996,364,000	281,686,000	114,994,000	22,784,000	−34,462,000
Transition period		150,013,000	203,654,000	193,151,000	188,566,000		38,553,000	−15,088,000	−4,585,000
Grand total	40,696,660,000	35,157,909,000	35,979,641,000	36,272,522,318	36,073,748,318	−4,622,911,682	915,839,318	94,107,318	−198,774,000
Transition period		8,933,216,000	8,967,759,000	8,960,364,000	8,953,070,000		19,854,000	−14,689,000	−7,294,000
Consisting of—									
Definite appropriations	40,608,702,000	35,064,832,000	35,886,564,000	36,179,445,318	35,980,671,318	−4,628,030,682	915,839,318	94,107,318	−198,774,000
Transition period		8,904,164,000	8,938,707,000	8,031,313,000	8,924,018,000		19,854,000	−14,689,000	−7,294,000
Indefinite appropriations	87,958,000	93,077,000	93,077,000	93,077,000	93,077,000	5,119,000			
Transition period		29,052,000	29,052,000	29,052,000	29,052,000				

Mr. MICHEL. Mr. Speaker, I yield myself 12 minutes.

Mr. Speaker, I rise in opposition to the conference report.

The report provides Labor-HEW appropriations in the amount of $36,073,748,318. On the surface, this appears to be $4.6 billion under last year's level, but last year's figure includes $7 billion in supplemental unemployment benefits appropriated in June of this year, much of which will be spent this fiscal year. If we thus take out the abnormally high fiscal year 1975 Labor Department allocation, which ended up $8 billion over the fiscal 1976 appropriation for Labor contained in this bill, we get a truer appropriation picture, and we find that this bill is actually about $3.5 billion over last year's level. And this does not include the additional $5.7 billion for Labor-HEW we recently included in the first supplemental appropriation bill.

Most importantly, however, the conference report sets forth a bill that is almost a billion dollars over the budget—$915 million to be exact. If the excesses of the first supplemental are added in, the figure jumps to $1.2 billion, and even that does not include a number of still unauthorized HEW items.

It is ironic that this bill is before us on the same day that we pass a major tax cut bill. How can we, in good conscience, approve tax cuts and then turn right around and pass a budget-busting spending bill. How can we explain such irresponsibility to our constituents? We reduce revenues on the one hand, and increase spending on the other. Theoretically, the best of two possible worlds. We please the average taxpaying citizens in the one instance, and the special interests who have been living off the Federal gravy train in the other.

Passage of this bloated conference report represents the easy way out. It enables us to avoid coming to grips with the fact that somewhere along the line we are going to have to make some tough spending decisions. Unless we want to go the route of New York City, we certainly cannot continue with budget deficits of the $70 plus billion magnitude we are facing this year. We have no one around to bail us out. Nor can we hope to hold down the fires of inflation with deficits of such magnitude.

H.R. 8069 is clearly veto-bait as it

stands. Labor-HEW, as our fastest-growing spending area, is where we must take the bull by the horns if fiscal discipline is ever going to be instituted. The budget presented by the administration in this field may not be justifiable in every instance, but it does recognize the overall picture much better than this bill, and it does rightly recognize that a number of programs have essentially accomplished their intended purposes and thus need not be funded ad-infinitum. As I go through the individual items in this bill, I will be pointing out these other areas where the bill is excessive and where cuts can be made without undercutting needed efforts in the field.

LABOR DEPARTMENT

The total for the Labor Department in the conference report is $3,484,408,000, which is $8,850,000 over the House version, $15,733,000 under the Senate, and $5,705,000 over the budget.

The bulk of the increase over the House bill is in the Occupational Safety and Health Administration, where $4,000,000 was added for 333 additional compliance officers and support personnel, and another $4 million for consultation services. The bill thus provides $9 million for consultation in those States without State plans, an increase of $4 million over last year.

I am concerned over the increase for compliance officers, because Labor still has 134 positions which it has yet to fill. More importantly, we have included language in the conference report which calls on the Department to upgrade the skills of inspectors through intensive retraining, even if it results in the reduction of total inspections undertaken. Consequently, it simply does not make sense to add more inspectors at this time. We ought to wait until Labor fills the positions it has and accomplishes the retraining of present personnel before adding new positions.

We also have language in the report which calls for the review and simplification of existing OSHA standards, the elimination of nuisance standards, the redirection of enforcement emphasis into the area of worker health and away from industries with good health and safety records and into industries with poor records. This represents a rather significant overhaul of the program, and it seems logical to see how this develops before adding more inspectors.

I should also point out that with the ready, and perhaps eager, concurrence of the Senate conferees, the conference dropped two Senate floor amendments which would have prohibited OSHA inspection of firms with 3 or fewer employees and would have prohibited initial fines in excess of $50 for firms of 15 or fewer people.

In other areas under Labor, the conferees knocked out a Senate increase over the House of $10 million for increased Employment Service personnel, provided $15 million for expansion of computerized job matching, and eliminated a $6 million Senate increase for national training programs under CETA.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

The HEW appropriation is $62,473,318 over the House bill, $148,579,000 under the Senate, but a whopping $796,140,318 over the budget.

Four hundred ninety-six million dollars of the increase over the budget goes for the National Institutes of Health, with another $130 million for Health Services, $108 million for Alcohol, Drug Abuse, and Mental Health, and $112 million for Human Development.

Admittedly, the budget was probably unrealistically low in some of these areas, but we have gone beyond what should be prudent increases. For instance, had we stuck to last year's levels in just the nonmandatory areas, we could have cut the increase over the budget for HEW by some $450 million, or nearly 60 percent. Or even had we granted increases over last year's levels, but limited them to no more than the estimated inflationary rate for fiscal year 1976 of 7 percent, we would have cut nearly $180 million off the increase. Had we followed either criteria, particularly the former, the prospects for having the bill signed into law would be much greater than they are today.

HEALTH SERVICES ADMINISTRATION

In running down the various programs, it should be noted that there were only relatively minor differences between the House and Senate versions in the health services field, but a significant difference of $131 million between the conference report and the budget; $102 million of that $131 million increase over the budget goes for maternal and child health grants to the States.

The budget request of $194 million for these grants was geared to proposed legislation designed to increase the State matching share, and thus came in at some $73 million under last year's level. Since the legislation had not been enacted, our committee originally approved an amount equal to last year, an amount which I think is realistic because, as the chairman indicated on the floor in June, there are a number of other programs which also provide assistance to mothers and children, such as the community health centers, medicaid, the social services program, and the National Institute for Child Health and Human Development. The $29 million by which the final version of the bill exceeds our original bill for this item is thus an amount which we ought to be able to eliminate.

Other increases over the budget include $6.2 million for maternal and child health research and training, $2.5 million for sudden infant death information dissemination, $9.4 million for Public Health hospitals, and $12 million for emergency medical services. The latter was originally intended as a national demonstration program, to be gradually phased out after the demonstrations had been accomplished, but it appears this is another program which may end up being turned into a national service program.

CENTER FOR DISEASE CONTROL

The allocation for the Center for Disease Control is $1.8 million over the House bill and $9.4 million over the budget; $7.3 million of the increase over the budget goes for occupational health, an increase which the administration indicates is not likely to be spent because it exceeds the Labor Department's capacity to publish final regulations for hazardous substances.

NATIONAL INSTITUTES OF HEALTH

NIH is getting $2,178.006,000 in this bill, an increase of $239 million over last year. This amounts to an 11 percent increase, substantially over the inflationary rate. The amount is $89 million under the Senate figure, but $27 million over the House and a striking $497 million over the budget request.

Nobody can thus say that we are shortchanging health research. In fact, I have the feeling we are putting more money into this area than we can effectively utilize. Research, of course, is a tough area in which to determine the value received for the dollar committed, but $2-plus billion is a massive commitment for an area where the results are not always readily ascertainable.

The Director of NIH, in testifying before our subcommittee on behalf of the budget request, stated:

> That the total requested is an immense amount of money and to pretend that it is insufficient to sustain a very vigorous and wide-ranging research program, and its ancillary activities, would be disingenuous . . . In fact, this so-called "hard times" Budget is 50% greater than the appropriation of $1.2 billion just 5 years ago. Only a part of that large increase has been absorbed by inflation. In other words, I believe that the amount requested in the Budget continues to represent a major investment in biomedical research on a scale that no other country even attempts and in a way that will enable us to maintain a well-balanced program consistent with our present activities.

Considerable concern was, of course, expressed over a reduction in research which may have resulted had we gone along with the budget request, but I think it quite possible that we could reduce or at least stabilize the NIH budget and still increase actual research efforts if we start turning our attention toward weeding out some of the excess involved in the grantsmanship games being played at NIH.

Members may not be aware of the fact that NIH is currently funding nearly 16,000 grants and contracts, two-thirds of which are noncompetitive in nature. They are awarded through a system of peer group review, a method in which there is certainly plenty of opportunity for backscratching, padding of contracts, favoritism, and conflict of interest. This ought to be probed in depth.

The grants allow for overhead, and this used to be limited to 15 percent of the grant. With the ceiling off, it is now an average of 26 percent and rising. It is adjusted per institution, and there have been reports that as much as 60 percent of some grants are now going to overhead. We should look into this, because the difference in dollar terms between 15 and 26 percent represents around $165 million.

Grants also are being used to pay salaries of researchers in more and more instances, and there are indications that some academic institutions are charging off faculty salaries into the grants, thereby using grant money to finance normal university operations. To the extent that this practice is occurring it ought to be forbidden.

The size of these private research salaries should also be reviewed. Particularly noteworthy in this regard is another statement made by the NIH director before our subcommittee:

> For highly qualified and really competent people in the senior grades, the civil service scale compares unfavorably with salaries paid by leading academic institutions and other non-governmental research organizations to men and women of comparable talent and responsibility.

How much of the research grant money is going into research, and how much is being used to pay artificially high salaries?

I intend to undertake some investigative efforts in these areas in the months ahead and will follow up on this in our hearings next year.

With respect to the specific conference decisions on NIH, the conferees accepted 40 percent of the Senate increases over the House for the various institutes. This results in a budget of $743 million for the Cancer Institute, an increase of $74 million over last year, and a 320 percent increase since fiscal year 1971. There is little if any evidence that such large incremental increases in funding over a very large base produce much progress toward important findings but instead often result in the funding of low-priority projects. In fact, there is an increasing body of scientific opinion which is critical of such rapid increases in cancer funding. This was reflected to a great extent in debate on the Senate floor in connection with an amendment to reduce cancer funding by $100 million.

Many of the same arguments can be made with respect to the Heart and Lung Institute, which was increased in the conference report by $20 million over the House bill, $45 million over last year, and $77 million over the budget.

The conference report appears closer to the House bill than it really is, because it includes a $39 million reduction from the original House allocation of $64 million for the new facility for the National Institute of Environmental Health Sciences. The House amount covered the complete project, while the conference figure represents just the first two phases, so all this reduction does is put off the day of reckoning.

Actually, the need for this facility is questionable in the first place, as I indicated during our original floor debate on the bill. Our committee investigations staff reviewed the need, and found that current space is adequate and that a new facility would be underutilized. If we are intent on constructing a new building, we ought to consider the possibility of including the activity of the National Institute of Safety and Health in this facility, rather than also building a separate new facility for that Institute, as is provided elsewhere in this bill.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

A total of $633,018,000 is included in the bill for the Alcohol, Drug Abuse, and Mental Health Administration. This is $22 million under the Senate version, but $25 million over the House and $109 million over the budget. The conference report ends up $35 million under last year, but that is a misleading figure because an additional $50 million for community mental health centers was included in the supplemental appropriation bill we recently passed in the House, thus bringing the total above last year.

About 65 percent of the increase over the budget is in the area of training and research. The administration has been seeking to phase out the training programs in this field because the supply of manpower has reached current demand, because the earnings potential for most jobs in this field is relatively high, and because funds are available under regular Office of Education programs for student assistance.

The training programs were originally established to stimulate interest in these occupational fields, and they have done so. There have been projections of increased demand for services based on an increased utilization rate, but these are guesses only, and if they should turn out to be correct, students ought to be able to make use of other forms of assistance, such as the guaranteed loan program. With the salaries some of these people are making, there seems no reason why they cannot repay an educational loan during their period of employment.

The budget recommended a small reduction in research because much of the basic mental health related biological/chemical research conducted by ADAMHA is similar to that supported by NIH and other agencies.

Thirty-two million dollars of the total the bill is over the budget for ADAMHA falls under the alcoholism project and formula grant programs. The bill funds these programs at a level even over last year, and comes at a time when we have a committee investigation underway into their operation and effectiveness. There is increasing doubt as to what, if anything, these programs are really accomplishing, and thus, with similar services available under the medicaid and social services programs, now certainly does not appear to be the time to increase their level of funding.

HEALTH RESOURCES ADMINISTRATION

For the Health Resources Administration, we include $347,428,000, a decrease of about $13 million under both the House and Senate versions, but $22 million over the budget and $45 million over last year.

The decrease below both the Senate and House bills was achieved in essence by going along with the Senate reduction of $25.7 million for health facilities construction—the old Hill-Burton program—but at the same time accepting only $4 million of a Senate increase of nearly $20 million for the new health planning program.

The reduction for health facilities construction is also a decrease from the budget request, which means that the rest of the items are $48 million over the budget. Half of that increase is for the health planning program, but it is highly questionable whether the program can be geared up in time to enable all the money to be spent. Other increases over the budget include $10 million for health professions and nursing student loans and $9 million for District of Columbia medical facilities.

SOCIAL AND REHABILITATION SERVICE

The Social and Rehabilitation Service allocation comes in at close to the budget level, and particularly noteworthy in this area is the inclusion in the conference report of moneys to begin operation of the new child support enforcement program, which is designed to locate absent parents. Large sums of money are lost to the taxpayer each year because one or both parents flee to avoid their parental responsibility, and this program will hopefully enable us to begin recouping some of this money.

SOCIAL SECURITY ADMINISTRATION

The report provides $72 million less for the Social Security Administration than the budget request, but $39.9 million of this represents a refusal to appropriate money for standard level user charges. Another $12 million represents a request to cover estimated underfinancing of 1974 costs for hospital insurance for the uninsured, an amount which has been liquidated out of 1974 funds and thus is no longer needed, and $20 million represents a reduction from the estimated 8.7 to 8 percent of the SSI July cost of living increase.

HUMAN DEVELOPMENT

The conference report provides $1,516,858,318 for the various programs under human development, $11.9 million under the Senate version, but $16.8 million over the House, $112 million over the budget, and $71 million over last year.

The allocation for Headstart is $20.2 million over the budget and $13.5 million over last year. The key point to remember, however, is that the fiscal year 1975 appropriation was not enacted until June 12, with the result being that virtually all of the $34 million added as a cost-of-living increase will be spent during the current fiscal year. Taking this into account, then, the budget request actually represents about a 15 percent increase over last year's spending level, thus making the increases included in this bill far less justifiable.

The sum of $125 million is included for the nutrition program for the elderly, an increase of $25.4 million over the budget. Language is also included in the bill which specifies an operating level of $187.5 million. Last year, Congress mandated an operating level of $150 million, but because of the leadtime required to establish new projects, the program is just now reaching that level. Consequently, it might not be possible to reach an operating level of $187.5 million this year, particularly if an adequate review is to be given the projects. The budget request provided for a $150 million level, which represents a 50 percent increase over last year's beginning level.

The bill contains $40 million more than the budget request for State grants under the vocational rehabilitation program, bringing the total to $720 million. It should be noted that funds for vocational rehabilitation services are also made available through the social security program. Some $158 million are expected to be made available in this regard in fiscal year 1976, an increase of $24 million over last year.

Another $18 million over the budget is included for the vocational rehabilitation innovation and expansion grant program. The administration wanted to discontinue the program because it in essence duplicates what the States can do under the State grant program.

COMMUNITY SERVICES ADMINISTRATION

Among the related agencies the Community Services Administration is the biggest problem area. The conference report provides $494,652,000 for CSA, $31.8 million under the Senate version, but $20.3 million over the House and $131.7 million over the budget. The report is also $95 million over our original committee bill.

Of the increase over the budget, $35 million is included to fund the community action agencies at the fiscal year 1975 dollar level.

That level, of course, was based on 80 percent Federal funding for each agency, with a 20 percent local match.

The law, however, reduces the Federal level to 70 percent in the current year, so providing funding at the same amount as for the 80–20 match can only mean one of two things: That we intend a substantial increase in overall program resources, with non-Federal sources providing the increase to carry out the new matching requirement, or that we intend for the Director of CSA to grant a wholesale, across-the-board waiver to permit the local share to remain at 20 percent. If the latter is the case, it appears to me we are asking the Director to violate the intent of the law.

The purpose of the reduced matching share is to bring about greater local involvement and commitment in these agencies, and this is never going to occur as long as Federal moneys remain available. The Director has the power to waive the increased local share in individual cases, but certainly such waivers are not to be granted across the board, but only in the most dire of circumstances when CAA's are simply unable to raise local money despite a wholehearted, full-faith effort.

It is true, of course, that the House recently passed a bill increasing the Federal percentage back to 80 percent, but this bill will never become law. We are thus obliged to appropriate money on the basis of what the law is, not what we would like it to be, and if the Director properly exercises his waiver power in accordance with the intent of the law, he will not come close to spending the extra money we are allocating.

The sum of $13.3 million is included for the research and demonstration program, all of it over the budget. These functions were transferred to other agencies in 1974 in an effort to eliminate duplication, but now we are apparently moving back in the other direction and are using this program as a catch-all to accommodate various special interests. Included within the program are moneys for the basic skills demonstration program which is more properly a function of the Office of Education and is being pursued over there, for veterans' education and training, a program to assist down and out Vietnam veterans currently being undertaken with Community Action Agency moneys, and where it should continue to be located or over in the Veterans' Administration, and for rural housing, which is also a CAA program and should continue to be funded there if a separate CSA effort is needed.

Another unbudgeted item under CSA is the emergency energy conservation program, for which $27.5 million is contained in the bill. We have passed a bill in the House placing responsibility for the program under the Federal Energy Administration, and it seems logical that we await the outcome of this effort before building up a program in CSA. CSA is currently operating a winterization program at a level of $33 million, using last year's supplemental appropriation of $16.5 million and fiscal year 1976 continuing resolution authority in this amount. The additional amount is not likely to be available in time to have an impact this year, so why appropriate it now?

The sum of $26.6 million is also being appropriated for the emergency food and medical services program, also all over the budget. This program is little more than a recruitment effort for the food stamp program. In my view, I simply cannot see how we can justify spending taxpayer dollars in an effort to stimulate the expenditure of even more taxpayer dollars, particularly for a program as loosely structured as the present food stamp program.

Another $12 million over the budget is included for State economic opportunity offices and $10 million for the senior opportunities and services program.

SUMMARY

All in all then, this conference report is too far over the budget to be good for either the economy or the pocketbooks of our constituents. I am having inserted at the end of my remarks a table which itemizes the allocations in the bill and graphically points up the excesses and where they occur.

The increases I have cited represent ample reason for turning down this conference report. I urge that we do so.

The tables follow:

	Conference amount	Conference compared with— Fiscal year 1975	Budget	House bill	Senate bill
LABOR DEPARTMENT					
Manpower Administration:					
Program administration	$66,632,000	−$377,000	−$194,000		
Trust fund transfer	(29,866,000)	(+1,201,000)	( )	( )	( )
Comprehensive manpower assistance	2,388,400,000	−464,050,000	−6,000,000		−$6,000,000
Temporary employment assistance	( )	(−2,500,000,000)	( )	( )	( )
Community service employment for older Americans	( )	(−42,000,000)	( )	( )	( )
Federal unemployment benefits and allowances	410,000,000	−1,955,000,000			
Advances to the Unemployment Trust Fund and other funds		−5,750,000,000			
Grants to States for unemployment insurance and employment services	81,300,000	+16,900,000	+7,000,000		−1,500,000
Trust fund transfer	(1,051,300,000)	(+126,600,000)	(+56,300,000)	(−$5,000,000)	(−3,500,000)
Total	2,946,332,000	−8,152,527,000	+1,494,000		−7,500,000
Labor-Management Services Administration	41,232,000	+4,387,000	−768,000		
Employment Standards Administration:					
Salaries & expenses	82,410,000	+6,294,000	2,695,000	850,000	−1,233,000
Special benefits	201,000,000	+36,000,000			
Total	283,410,000	+42,294,000	2,695,000	850,000	−1,233,000
Occupational Safety and Health Administration	116,221,000	+14,215,000	196,000	8,000,000	−7,000,000
Bureau of Labor Statistics	64,846,000	+10,434,000	3,163,000		
Departmental Management:					
Salaries & expenses	32,297,000	1,958,000	−945,000		
Special foreign currency program	70,000	−130,000	−130,000		
Total	32,367,000	+1,828,000	−1,075,000		
Total, Labor	3,484,408,000	−8,079,379,000	+5,705,000	+8,850,000	−15,744,000
Transition period	883,188,000		+2,486,000	+2,212,000	−2,709,000

	Conference amount	Conference compared with—			
		Fiscal year 1975	Budget	House bill	Senate bill
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE					
Health Services Administration:					
Comprehensive health grants to States	(**)				
Community health centers	(**)				
Maternal and child health:					
Grants to States	$297, 700, 000	+$28, 749, 000	+$101, 788, 000		
Research and training	23, 708, 000	−2, 209, 000	+6, 208, 000	+$2, 208, 000	−$2, 209, 000
SIDS information dissemination	2, 500, 000	+500, 000	+2, 500, 000	+300, 000	−500, 000
Family planning	(**)				
Migrant health	(**)				
Health maintenance organizations	18, 612, 000	+11, 452, 000			
National health service corps	(**)				
Medical care standards	5, 537, 000	+482, 000	+1, 000, 000	−1, 000, 000	+1, 000, 000
Professional standards review organizations	47, 645, 000	+11, 441, 000	−2, 500, 000	−2, 500, 000	+2, 500, 000
Public Health Service hospitals and clinics	126, 468, 000	+8, 017, 000	+4, 000, 000	+5, 000, 000	−1, 900, 000
Emergency medical services	33, 625, 000	+1, 500, 000	+11, 925, 000	+1, 500, 000	−1, 500, 000
Buildings and facilities		−1, 300, 000			
Program direction	30, 569, 000	−3, 183, 000	+1, 000, 000	−1, 500, 000	
Total, Health Services	557, 693, 000	+74, 467, 000	+130, 911, 000	+4, 008, 000	−2, 609, 000
Center for Disease Control:					
Venereal diseases	(**)				
Immunization	(**)				
Rat control	(**)				
Lead-based paint	(**)				
Laboratory improvement	10, 601, 000	+1, 028, 000	+612, 000		
Health education	3, 513, 000	+486, 000	+500, 000	+500, 000	−500, 000
Disease surveillance	43, 429, 000	+1, 178, 000			
Occupational health	39, 533, 000	+7, 547, 000	+7, 352, 000	+1, 000, 000	−3, 000, 000
Program direction	10, 439, 000	+1, 278, 000	−550, 000		
Buildings and facilities	1, 456, 000	+1, 456, 000	+1, 456, 000	+356, 000	
Total, CDC	108, 971, 000	+12, 926, 000	+9, 370, 000	+1, 856, 000	−3, 500, 000
National Institutes of Health:					
National Cancer Institute	743, 564, 000	+74, 061, 000	+156, 727, 000	+40, 000, 000	−60, 000, 000
National Heart and Lung Institute	349, 059, 000	+45, 544, 000	+77, 219, 000	+20, 000, 000	−30, 000, 000
National Institute of Dental Research	45, 794, 000	+1, 561, 000	+7, 755, 000		
National Institute of Arthritis, Metabolism and Digestive Diseases	175, 172, 000	+14, 132, 000	+31, 107, 000	+1, 200, 000	−1, 800, 000
National Institute of Neurological Diseases and Stroke	136, 546, 000	+7, 071, 000	+29, 491, 000		
National Institute of Allergy and Infectious Diseases	118, 918, 000	+8, 426, 000	+18, 141, 000		
National Institute of General Medical Sciences	146, 461, 000	+10, 928, 000	+25, 682, 000		
National Institute of Child Health and Human Development	126, 889, 000	−5, 689, 000	+30, 342, 000		
National Institute on Aging	17, 526, 000	+17, 526, 000	+3, 098, 000	+2, 000, 000	−3, 000, 000
National Eye Institute	45, 565, 000	+6, 079, 000	+11, 011, 000	+2, 957, 000	−4, 435, 000
National Institute of Environmental Health Sciences	35, 915, 000	+4, 019, 000	+6, 547, 000		
Research resources	129, 931, 000	+3, 165, 000	+49, 207, 000	+1, 200, 000	−1, 800, 000
John E. Fogarty Center	5, 705, 000	+116, 000	+1, 165, 000	+360, 000	−540, 000
National Library of Medicine	29, 065, 000	+215, 000	+250, 000	+250, 000	−500, 000
Buildings and facilities	54, 000, 000	+51, 000, 000	+51, 000, 000	−39, 000, 000	+13, 000, 000
Office of the Director	17, 896, 000	+570, 000	−2, 000, 000	−1, 716, 000	
Total	2, 178, 006, 000	+238, 724, 000	+496, 652, 000	+27, 251, 000	−89, 075, 000
Alcohol, Drug Abuse and Mental Health Administration:					
General mental health:					
Research	92, 908, 000	+258, 000	+12, 719, 000		
Training	70, 266, 000	−5, 727, 000	+40, 000, 000	+40, 000, 000	−5, 727, 000
Construction of CMH centers	(**)				
Staffing of centers	135, 363, 000	−35, 426, 000			
Mental health of children	26, 844, 000	−1, 264, 000	+2, 064, 000	+2, 064, 000	
Management and information	22, 274, 000	+1, 845, 000	+2, 000, 000		
Subtotal	347, 655, 000	−40, 314, 000	+56, 783, 000	+12, 064, 000	−5, 727, 000
Drug abuse:					
Research	34, 000, 000	−63, 000	+2, 398, 000		−63, 000
Training	9, 803, 000	−3, 954, 000	+7, 000, 000		−3, 954, 000
Project grants and contracts	12, 925, 000		+1, 089, 000	+1, 089, 000	
Grants to States	(**)				
Management and information	14, 294, 000	−798, 000			
Subtotal	71, 022, 000	−4, 825, 000	+10, 487, 000	+1, 089, 000	−4, 017, 000
Alcoholism:					
Research	11, 808, 000	+800, 000	+2, 761, 000	+800, 000	−1, 200, 000
Training	6, 567, 000	−279, 000	+500, 000	+500, 000	+500, 000
Project grants and contracts	68, 408, 000	+3, 500, 000	+22, 957, 000	+3, 500, 000	−5, 500, 000
Grants to States	55, 500, 000	+3, 500, 000	+9, 900, 000	+3, 500, 000	−4, 500, 000
Management and information	8, 143, 000	−2, 185, 000	+1, 000, 000	+1, 000, 000	−1, 000, 000
Subtotal	150, 426, 000	+5, 336, 000	+137, 118, 000	+9, 300, 000	−12, 700, 000
Program direction	10, 451, 000		−1, 113, 000	−553, 000	
St. Elizabeths Hospital	48, 064, 000	−694, 000			
Buildings and facilities	5, 400, 000	+5, 400, 000	+5, 400, 000	+2, 900, 000	
Total	633, 018, 000	−35, 069, 000	+108, 675, 000	+24, 800, 000	+22, 444, 000
Health Resources Administration:					
National health statistics	25, 636, 000	+3, 639, 000			+3, 639, 000
Health planning and resources development	90, 000, 000	+80, 000, 000	+24, 000, 000	+4, 000, 000	−15, 740, 000
Health services research and evaluation	26, 000, 000	−2, 659, 000			+2, 600, 000
Health manpower:					
Health professions:					
Institutional assistance	(**)				
Student assistance:					
Loans	24, 000, 000	−12, 000, 000	+4, 000, 000	+4, 000, 000	−3, 000, 000
General scholarships	3, 500, 000	−3, 400, 000			
National health service scholarships	(**)				
Loan repayments	6, 000, 000	+3, 000, 000			
Dental health activities	8, 442, 000	+600, 000	+600, 000	+600, 000	−600, 000
Subtotal, Health professions	41, 942, 000	−11, 800, 000	+4, 600, 000	−4, 600, 000	−3, 600, 000

	Conference amount	Conference compared with—			
		Fiscal year 1975	Budget	House bill	Senate bill
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—Continued					
Nursing:					
Institutional assistance	(**)				
Student assistance:					
Loans	$15,000,000	−$7,800,00	+$6,000,000	+$6,000,000	
General scholarships	4,000,000	−2,000,000			
Traineeships	(**)				
Loan repayments	2,500,000	+2,400,000			
Educational research grants and contracts	(**)				
Subtotal, Nursing	21,500,000	−8,600,000	+6,000,000	+6,000,000	
Public health	(**)				
Allied health	(**)				
Special educational programs	(**)				
District of Columbia medical manpower assistance	9,050,000	+1,550,000	+9,050,000		
Subtotal, Health manpower	72,492,000	−18,900,000	+19,600,000	+10,600,000	−$3,600,000
Health facilities construction:					
Medical facilities	74,260,000	+74,260,000	−25,740,000	−25,740,000	
Health teaching facilities	(**)				
Interest subsidies	3,000,000	+3,000,000			
Special medical facilities (District of Columbia)	7,575,000	−14,425,000	+7,575,000		
Subtotal, health facilities construction	84,834,000	+60,834,000	−18,166,000	−25,740,000	
Program management	48,507,000	+1,544,000	−3,386,000	−2,141,000	
Medical facilities guarantee and loan fund	7,000,000	+7,000,000			
Payment of sales insufficiencies	4,000,000				
Total, HRA	361,428,000	+55,109,000	+22,099,000	−13,281,000	−13,101,000
Assistant Secretary for Health	20,842,000	−10,150,000	−2,446,000	−2,300,000	
Retirement pay and medical benefits for commissioned officers	45,013,000	+5,813,000			
Total	65,855,000	−4,337,000	−2,446,000	−2,300,000	
Social and Rehabilitation Service:					
Public assistance	15,003,950,000	+1,162,723,000	+4,865,000	+3,959,000	−5,450,000
Work incentives	330,000,000	+120,000,000			
Salaries and expenses	60,878,000	−5,444,000	−2,983,000	+2,500,000	−500,000
Total	15,894,328,000	+1,277,279,000	+1,882,000	+6,450,000	−5,950,000
Social Security Administration:					
Payments to social security trust and other funds	4,123,363,000	+778,040,000	−51,892,000		
Special benefits for disabled coal miners	234,600,000				
Supplemental security income program	5,518,523,000	+661,421,000	−20,000,000		
Limitation on salaries and expenses	(2,373,133,612)	(+247,146,612)	(+1,612)	()	()
Limitation on construction	(6,300,000)	(−1,932,000)	()	()	()
Total	10,641,664,000	1,481,499,000	−71,892,000		
Assistant Secretary for Human Development:					
Human Development:					
Child development:					
Head Start	454,500,000	+13,500,000	+20,200,000	+4,500,000	−1,500,000
Research, demonstration and evaluation	15,700,000				
Child abuse	18,928,000	+4,214,000			
Youth development	7,000,000	−3,000,000	+2,000,000	+2,000,000	−3,000,000
Aging programs:					
Community services	(**)				
Nutrition	125,000,000		+25,400,000		
Research, demonstrations and manpower	(**)				
Federal Council on Aging	(**)				
Rehabilitation Services and Facilities:					
Basic State grants	720,309,318	+40,309,318	+40,309,318	+40,309,318	
Service projects:					
Innovation and expansion	18,000,000	−5,000,000	+18,000,000	+3,000,000	−5,000,000
Deaf-blind center	2,100,000	+100,000			
Special studies and evaluation	4,900,000	−1,045,000	+500,000	+500,000	
Training and facilities grants	8,400,000	+400,000	+1,500,000	+1,500,000	−1,400,000
Research	24,000,000	+4,000,000	+4,000,000	+4,000,000	
Training	22,200,000				
Grants for the developmentally disabled:					
State grants	(**)				
Service projects	18,500,000				
University affiliated facilities	(**)				
Special programs for Native Americans	33,000,000	+1,000,000	+1,000,000	+1,000,000	−1,000,000
Salaries and expenses	44,921,000	+3,678,000	−733,000		
Total, OHD	1,516,858,318	+71,263,318	+112,176,318	+16,809,318	−11,900,000
RELATED AGENCIES					
Action	103,266,000	+3,266,000	+1,692,000	+1,953,000	−2,357,000
Community Services Administration:					
Research and Demonstration	13,300,000	+4,500,000	+13,300,000	+4,500,000	−8,000,000
Community Action Agencies	330,000,000		+35,000,000		
State Economic Opportunity Offices	12,000,000		+12,000,000		
Senior Opportunities and Services	10,000,000		+10,000,000		
Emergency Energy Conservation	27,500,000	+11,000,000	+27,500,000	+11,000,000	−11,000,000
Emergency Food and Medical Services	26,200,000	+3,800,000	+26,200,000	+3,800,000	−3,800,000
Community Economic Development	46,500,000	−14,500,000	+7,500,000		
Migrant and Seasonal Farmworker Programs					−10,000,000
Program Administration	28,652,000	−48,000	−358,000	−33,000	
Total, CSA	494,652,000	−13,048,000	+131,652,000	+20,267,000	−31,800,000
Federal Mediation and Conciliation Service	17,904,000	+1,659,000	−346,000	+200,000	
National Commission on Libraries and Information Science	468,000	+59,000	−34,000	+59,000	
National Labor Relations Board	67,766,000	+5,097,000	−733,000	+305,000	−305,000
National Mediation Board	3,405,000	+169,000	+300,000		
Occupational Safety and Health Review Commission	5,638,000	+126,000	−37,000		
Railroad Retirement Board:					
Payments to Railroad Retirement Trust Fund	250,000,000	+246,484,000			
Regional Rail Transportation Protective Account	37,600,000	+37,600,000	−17,500,000		
Limitation on salaries and expenses	(28,703,000)	(+2,945,000)	(−1,000,000)	()	()

	Conference amount	Conference compared with—			
		Fiscal year 1975	Budget	House bill	Senate bill
RELATED AGENCIES—Continued					
Soldiers' and Airmen's Home	$15,665,000	+$274,000			
Total, related agencies	996,364,000	+281,686,000	+$114,994,000	+$22,784,000	−$34,462,000
Transition period	188,566,000		+38,553,000	−15,088,000	−4,585,000
Grand Total	36,073,748,318	−4,622,911,682	915,830,318	94,107,318	−198,774,000
Transition period	8,953,070,000		19,854,000	−14,689,000	−7,294,000

**Not considered due to lack of authorizing legislation.

Mr. FLOOD. Mr. Speaker, I have no further requests for time.

Mr. MICHEL. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, the distinguished gentleman from Pennsylvania, when presenting this conference report originally, alluded to the fact that there is anti-busing language contained in section 209 which was added in the other body, the so-called Byrd amendment. The gentleman from Pennsylvania advises us, as he has in the past, that it is his opinion that an appropriation bill is not the vehicle on which to accomplish legislative action on the issue of busing.

Unfortunately, the party to which the gentleman from Pennsylvania belongs voted overwhelmingly only within the last few weeks in their caucus to forbid action by the majority party to bring an anti-busing Constitutional amendment to the floor. Also within the last few weeks, at a party caucus in Louisville, thousands of people, many of them traditionally adhering to the gentleman's party, demonstrated their opposition to busing. They were speaking for millions of Americans all across the country who, in every poll I have seen, have shown their opposition to this massive social engineering at the hands of bureaucrats and against the will of the Congress as expressed in many instances, and against the will of the people themselves.

We do not have any other legislative vehicle with which to express our opinions, and we are here to represent the people. The amendment that the gentleman from Pennsylvania will be offering in answer to the amendment of the other body on this issue is a considerable backdown from the strong position that the other body took. We have a right, here in the House, to try and sustain that position. It would be the intention of the gentleman from Maryland, at the appropriate time, to seek a rollcall and try to defeat any motion, so that the antibusing language would remain as the other body adopted.

Mr. Speaker, I can only say that this is another instance, another chance, for the Members of the House of Representatives, if they truly believe in the representative capacity to which they were assigned, to speak for the people of this country. I would hope, when we do have a rollcall on this issue, that the Members will indicate the strong position of the people they are representing and vote to oppose busing.

Mr. MINISH. Mr. Speaker, I rise in support of the conference report on Labor-HEW appropriations for fiscal 1976.

The conferees, led by the able gentleman from Pennsylvania (Mr. FLOOD) have labored long and hard to produce a compromise measure involving numerous important and complicated programs.

I would like to focus a small, but exceedingly important, aspect of this legislation. As one who has devoted much effort to the improvement of the Federal Government's anticancer effort, I want to commend the conferees for including $744 million for the National Cancer Institute in this legislation.

It should be noted that the amount in the pending measure for cancer research is $40 million more than the original House bill, $53 million more than last year's spending level, and an incredible $158 million more than the administration's totally inadequate budget request.

Cancer, Mr. Speaker, is the second greatest cause of death in the United States and it is surely the most terrifying disease facing us today. Furthermore, recent alarming reports indicate that people died of cancer at a higher rate in the first seven months of 1975 than at any time since the government began gathering nationwide mortality data 42 years ago. The cancer death rate is especially high in industrial Northeastern States like New Jersey.

Overall, it is estimated that 655,000 Americans will be afflicted with cancer this year and over 320,000 will die.

The Federal anticancer effort is one area that must not be permitted to fall victim to shortsighted budgetary restriction. The effort we began with the enactment of the National Cancer Act of 1971 must be permitted to expand until we have finally conquered this most dreaded of all diseases.

Mr. AMBRO. Mr. Speaker, I rise in opposition to the amendment proposed by the distinguished gentleman from Pennsylvania (Mr. FLOOD) to modify the so-called Byrd amendment to the Labor-HEW appropriations bill. I oppose Mr. FLOOD's amendment, not because I am in favor of busing for the purpose of achieving school integration, but for just the opposite reason. I am strongly opposed to busing to achieve racial balance, because I feel that it has not been an effective tool, and indeed, it has been a destructive procedure. Busing has been responsible for civil disobedience, riots, street confrontations, and violence. Its effects in achieving racial balance are spotty, and the benefits of the busing doctrine are more and more being reconsidered by both blacks and whites.

Because of the destructiveness and the divisiveness of this issue, I support the concept contained in the Byrd amendment that no Federal funds should be used for transportation beyond the school nearest the student's home. The amendment now being offered by the gentleman from Pennsylvania would change and dilute this prohibition to conform to existing law prohibiting busing the nearest, or the next nearest school to the student's home. In a gesture of opposition to busing, I intend to vote against this amendment even though I understand the argument that the only remedy to court-ordered busing is a constitutional amendment. This vote is highly symbolic and while the vote on this amendment can be misunderstood, I would hope this statement leaves no doubt as to my strong feeling against busing.

Ms. ABZUG. Mr. Speaker, the Byrd and Flood amendments are another attempt to impede the struggle for equal educational opportunities by prohibiting the use of HEW funds for the transportation of students to a school nearest or next nearest their home. While the language of the House amendment permits busing to the school next nearest a student's home, its intent is still the same. These provisions interfere not only with the achievement of integration in our public schools, but also will undermine our Federal courts.

HEW, as well as the courts, are aware of the limitations of busing as a tool for promoting school integration and equality of education, but it is still an acceptable means and should be used where necessary. Other means of achieving school integration and equality of education should be pursued, but so long as housing and other forms of segregation persist, the burden remains on our schools to socialize and educate children that all people, regardless of race, are equal and entitled to equal educational opportunities. These amendments are nothing more than thinly disguised efforts to perpetuate school segregation.

Clothing a restriction on busing in the guise of fuel conservation is spurious and an abuse of the legislative process. Although approximately 40 percent of the Nation's schoolchildren are bused, a mere 1 to 2 percent are bused for reasons of desegregation. No objections were raised to the busing of schoolchildren until it became a tool for desegregation. Most of the children bused for reasons other than desegregation live in rural areas and travel many miles to the nearest school. There is no evidence that these children suffer any harmful effects from busing. In contrast to this, the small number of children bused for integration, travel only short distances from schools in nearby communities. The amount of fuel conserved and tax dollars saved from these proposals would be miniscule compared to the severe costs incurred by the young children who will be barred from achieving a quality education.

I know that there are many problems in the busing of young children. I come from a community that was involved for many years in the struggle of busing and integrations of schools, in New York City as well as Westchester. However, I have also learned from my experiences that those who fight busing are also those who are fighting integration of our schools, the integration of our neighborhoods and the integration of our society.

Yet we need an educationally integrated society which will fulfill the needs of all of its people for food, housing, and jobs. We must open up the educational process so that we can provide for all children the expectation of an equal education and equal access to the tools for a decent future and a decent life.

It has been more than 20 years since the Supreme Court ruled that separate facilities for different races were inherently unequal. Passage of this amendment would be a great setback for the enforcement of that decision and for all those students who looked to our National Government to insure their right to equal educational opportunities.

The SPEAKER. Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. MICHEL

Mr. MICHEL. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the conference report?

Mr. MICHEL. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. MICHEL moves to recommit the conference report on the bill H.R. 8069 to the committee of conference.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. MICHEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 156, nays 265, not voting 13, as follows:

[Roll No. 742]

YEAS—156

Abdnor
Allen
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bell
Bennett
Bevill
Breaux
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burleson, Tex.
Butler
Byron
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Conte
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Derrick
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Tenn.
Edwards, Ala.
Emery
English
Erlenborn
Eshleman
Evins, Tenn.
Fenwick
Findley
Fish
Flynt
Forsythe

Frenzel
Frey
Goldwater
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hammerschmidt
Hansen
Harsha
Hastings
Holt
Hutchinson
Hyde
Ichord
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, Okla.
Kasten
Kelly
Kemp
Ketchum
Kindness
Krueger
Lagomarsino
Landrum
Latta
Lent
Levitas
Lloyd, Tenn.
Lott
Lujan
McClory
McCloskey
McCollister
McDade
McDonald
McEwen
McKinney
Mann
Martin
Mathis
Michel
Milford
Miller, Ohio
Mills
Montgomery
Moore
Moorhead, Calif.
Mosher

Mottl
Myers, Ind.
Myers, Pa.
Nichols
Pettis
Poage
Pritchard
Quie
Quillen
Regula
Rhodes
Robinson
Rousselot
Runnels
Ruppe
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Shriver
Shuster
Sikes
Skubitz
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steelman
Steiger, Ariz.
Steiger, Wis.
Stuckey
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Treen
Vander Jagt
Waggonner
Wampler
Whitehurst
Wiggins
Wilson, Bob
Winn
Wydler
Wylie
Young, Fla.

NAYS—265

Abzug
Adams
Addabbo
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Barrett
Baucus
Beard, R.I.
Bedell
Bergland
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Buchanan
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Carter
Casey
Chisholm

Clay
Cleveland
Collins, Ill.
Conyers
Corman
Cornell
Cotter
D'Amours
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Esch
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fuqua
Giaimo
Gibbons
Gilman
Ginn

Gonzalez
Green
Gude
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Henderson
Hicks
Hightower
Hillis
Holland
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Keys
Koch
Krebs
LaFalce
Leggett
Lehman
Litton

Lloyd, Calif.
Long, La.
Long, Md.
McCormack
McFall
McHugh
McKay
Macdonald
Madden
Madigan
Maguire
Mahon
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey

O'Brien
O'Hara
O'Neill
Ottinger
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pickle
Pike
Pressler
Preyer
Price
Railsback
Randall
Rangel
Rees
Reuss
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
St Germain
Santini
Sarbanes
Scheuer

Schroeder
Seiberling
Sharp
Shipley
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stark
Steed
Stephens
Stratton
Studds
Sullivan
Symington
Thompson
Traxler
Tsongas
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
White
Whitten
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Yates
Yatron
Young, Alaska
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—13

Anderson, Ill.
Burke, Fla.
Fraser
Gaydos
Hébert
Helstoski

Hinshaw
Hungate
Passman
Stanton, James V.
Stokes

Udall
Ullman

The Clerk announced the following pairs:

Mr. Hébert with Mr. Stokes.

Mr. Passman with Mr. James V. Stanton.

Mr. Gaydos with Mr. Helstoski.

Mr. Fraser with Mr. Anderson of Illinois.

Mr. Hungate with Mr. Burke of Florida.

Mr. Udall with Mr. Ullman.

Messrs. PICKLE and PHILLIP BURTON and Mrs. SCHROEDER changed their vote from "yea" to "nay".

Messrs. LANDRUM, DERWINSKI, and DERRICK and Mrs. LLOYD of Tennessee changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the conference report.

Mr. MICHEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 321, nays 91, not voting 22, as follows:

[Roll No. 743]

YEAS—321

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley

Aspin
AuCoin
Badillo
Bafalis
Baldus
Barrett
Baucus
Beard, R.I.
Bedell
Bergland
Bevill
Biaggi
Biester
Bingham

Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Buchanan

Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Casey
Chisholm
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fuqua
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Grassley
Green
Gude
Guyer
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Henderson
Hicks
Hightower
Hillis
Holland
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Keys
Koch
Krebs
Krueger
LaFalce
Leggett
Lehman
Lent
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCormack
McDade
McFall
McHugh
McKay
McKinney
Macdonald
Madden
Madigan
Maguire
Mahon
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Riegle
Rinaldo
Risenhoover
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Staggers
Stanton, J. William
Stark
Steed
Stephens
Stratton
Studds
Sullivan
Symington
Taylor, N.C.
Teague
Thompson
Thone
Tsongas
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitten
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wright
Wydler
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—91

Archer
Armstrong
Ashbrook
Bauman
Beard, Tenn.
Bell
Bennett
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burleson, Tex.
Butler
Cederberg
Clancy
Clawson, Del
Collins, Tex.
Conable
Conlan
Crane
Daniel, Dan
Daniel, R. W.
Derrick
Derwinski
Devine
Dickinson
Downing, Va.
Edwards, Ala.
English
Erlenborn
Flynt
Frenzel
Frey
Goldwater
Gradison
Hagedorn
Hansen
Hastings
Hutchinson
Hyde
Jarman
Johnson, Colo.
Jones, Okla.
Kasten
Kelly
Kemp
Ketchum
Kindness
Lagomarsino
Landrum
Latta
Levitas
McCollister
McDonald
McEwen
Mann
Martin
Mathis
Michel
Milford
Miller, Ohio
Montgomery
Moorhead, Calif.
Myers, Ind.
Pettis
Poage
Quie
Rhodes
Roberts
Robinson
Rousselot
Runnels
Satterfield
Schneebeli
Shuster
Snyder
Spence
Steelman
Steiger, Ariz.
Steiger, Wis.
Stuckey
Symms
Talcott
Thornton
Treen
Vander Jagt
Waggonner
Whitehurst
Wiggins
Wilson, Bob

NOT VOTING—22

Anderson, Ill.
Brademas
Burke, Fla.
Chappell
Fraser
Gaydos
Hébert
Helstoski
Hinshaw
Holt
Hungate
Karth
Passman
Richmond
Stanton, James V.
Stokes
Taylor, Mo.
Traxler
Udall
Ullman
Wirth
Wylie

The Clerk announced the following pairs:

Mr. Brademas with Mr. Hébert.
Mr. Udall with Mr. Passman.
Mr. Karth with Mr. Chappell.
Mr. Helstoski with Mr. Taylor of Missouri.
Mr. Stokes with Mrs. Holt.
Mr. James V. Stanton with Mr. Burke of Florida.
Mr. Gaydos with Mr. Anderson of Illinois.
Mr. Fraser with Mr. Hungate.
Mr. Ullman with Mr. Hinshaw.
Mr. Richmond with Mr. Wirth.
Mr. Traxler with Mr. Wylie.

Mr. JEFFORDS changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 4: page 5, line 17, strike "$1,056,300,000" and insert "$1,054,800,000,".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Flood moves that the House recede from its disagreement to the amendment of the Senate numbered 4 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert "$1,051,300,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 6: Page 6, line 22, strike "$264,100,000" and insert "$263,700,000".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Flood moves that the House recede from its disagreement to the amendment of the Senate numbered 6 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert "$262,850,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 23: Page 18, line 5, insert: "including $1,880,000 herein authorized to be expended for salaries and related costs of ninety-four new positions, and $25,000,000 for construction and renovation which shall remain available until expended."

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Flood moves that the House recede from its disagreement to the amendment of the Senate numbered 23 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: "including $25,000,000 for construction and renovation which shall remain available until expended."

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 53: Page 26, line 8, strike "$360,709,000" and insert "$360,529,000".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Flood moves that the House recede from its disagreement to the amendment of the Senate numbered 53 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert "$347,428,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 63: Page 37, line 5, insert: "*Provided further*, That all of the permanent positions authorized for this appropriation shall be full-time permanent positions without limitation as to the duration of the positions."

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Flood moves that the House recede from its disagreement to the amendment of the Senate numbered 63 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disageement.

The Clerk read as follows:

Senate amendment No. 64: Page 38, line 19, insert: "*Provided further*, That all of the permanent positions authorized for this appropriation shall be full-time permanent positions without limitation as to the duration of the positions."

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Flood moves that the House recede from its disagreement to the amendment of the Senate numbered 64 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 66: Page 39, line 24, insert: "of which $720,000,000 shall be for activities under section 110(a) of the Rehabilitation Act of 1973, $309,318 shall be for section 110(b) of such Act, and for carrying out sections 301 and 304(b)(3) of such Act, $2,900,000, to remain available until expended:".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 66 and concur therein with an amendment, as follows: In lieu of the sum of $2,900,000 named in said amendment, insert "$1,500,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 67: Page 40, line 12, insert: "*Provided further*, That the level of operations for the nutrition services for the elderly program shall be $200,000,000 per annum."

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 67 and concur therein with an amendment, as follows: In lieu of the sum of $200,000,000 named in said amendment, insert "$187,500,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 71, page 43, line 21, strike:

SEC. 205. None of the funds contained in this title shall be available for additional permanent Federal positions in the Washington area if the proportion of additional positions in the Washington area in relation to the total new positions is allowed to exceed the proportion existing at the close of fiscal year 1966.

And insert:

SEC. 205. None of the funds contained in this title shall be available for additional permanent positions in the Washington area if the total authorized positions in the Washington area is allowed to exceed the proportion existing at the close of fiscal year 1966.

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 71 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 72: Page 47, line 4, insert:

"SEC. 209. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, and which offers the courses of study pursued by such student, in order to comply with title VI of the Civil Rights Act of 1964."

POINT OF ORDER

Mr. CONTE. Mr. Speaker, I raise a point of order on the amendment. This is legislation on an appropriation bill, and I would like to be heard on the point of order.

The SPEAKER. The gentleman from Massachusetts may be heard on his point of order.

Mr. CONTE. Mr. Speaker, I rise in support of a point of order against Senate amendment No. 72 to the Labor-HEW Appropriations Act of 1976.

At this point, I should like to direct the Chair to rule 21, section 2 of the House regarding the prohibition of legislation in an appropriations bill. The pertinent language states:

> Nor shall any provisions in any such bill or amendment thereto changing existing law be in order.

Clearly, the purpose of this rule prohibiting legislation in an appropriations bill is to prohibit the overt alteration of fundamental law. This is the case where an amendment is concealed by the subterfuge of a limitation on spending.

While the Senate amendment No. 72 might appear to only act as a limitation on spending, it will actually change basic law as I will now set out.

Section 215(a), title II of the Equal Educational Opportunities Act of 1974 provides the following language, which limits the specific distance a student may be transported in a schoolbusing program:

> No court, department or agency of the United States shall, pursuant to section 214, order the implementation of a plan that would *require the transportation of any student to a school other than the school closest to his place of residence* which provides the appropriate grade level and type of education for such student. (Emphasis added.)

Notice that the distance a student can be transported is limited to the "school closest or next closest to his place of residence." I should now address myself to the language of the Senate amendment here in question:

> None of the funds contained in this act shall be used to *require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home*, and which offers the courses of study pursued by such student, in order to comply with title VI of the Civil Rights Act of 1964. (Emphasis added.)

As is readily apparent, where the Equal Educational Opportunities Act of 1974 (Public Law 93-380) limits busing to either the student's immediate or adjacent school district, the Senate amendment further limits the transportation to the student's immediate district. I am sure the Chair can see this apparent attempt to change the effect of section 215 (a) of Public Law 93-380.

I should like to note that while this is a Senate amendment and may be consistent with the rules of that House—it is not controlling. It is clear that since this is an appropriations bill and naturally originates in the House, it is the House rules which are controlling and I cite rule 20 on this point:

> Any amendment of the Senate to any House bill shall be subject to the point of order that it shall first be considered in the Committee of the Whole House on the State of the Union, if, originating in the House, it would be subject to that point.

For these reasons, Mr. Speaker, I contend that this amendment carries the standard of a simple limitation in an appropriations bill, but in reality is a prima facie case of legislation in an appropriations bill, which on its face changes existing law.

Therefore, I urge that this point of order be sustained.

Thank you, Mr. Speaker.

The SPEAKER. The Chair is ready to rule.

The Chair overrules the point of order raised by the gentleman from Massachusetts (Mr. CONTE) because when that stage is reached that an amendment is in disagreement between the two Houses, the rule—clause 1 of rule XX—cited by the gentleman from Massachusetts no longer applies and the amendment may be disposed of in the House. The Senate amendment is reported back in disagreement and not as part of the conference report, therefore clause 2 of rule XX is not applicable and the Senate amendment may be considered by the House.

Mr. BAUMAN. Mr. Speaker, I believe the gentleman from Pennsylvania (Mr. FLOOD) has offered or will offer a motion, and I have a preferential motion at the desk.

The SPEAKER. The Clerk will first report the motion offered by the gentleman from Pennsylvania (Mr. FLOOD).

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 72 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

"SEC. 209. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest or next nearest the student's home, and which offers the courses of study pursued by such student, in order to comply with title VI of the Civil Rights Act of 1964."

PREFERENTIAL MOTION OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Speaker I offer a preferential motion.

The Clerk read as follows:

Mr. BAUMAN moves that the House recede from its disagreement to Senate amendment No. 72 and concur therein.

Mr. SPEAKER. The Chair recognizes the gentleman from Pennsylvania (Mr. FLOOD).

Mr. BAUMAN. Mr. Speaker, may I inquire, who has the right to the time under the motion?

The SPEAKER. The gentleman from Pennsylvania (Mr. FLOOD) has 30 minutes, and the gentleman from Illinois (Mr. MICHEL) has 30 minutes. The time is controlled by the committee leadership on each side, and they are not taken from the floor by a preferential motion.

Mr. FLOOD. Mr. Speaker, my amendment is a very sincere attempt to resolve the dilemma which confronts us, of course, on this Senate amendment No. 72, the so-called Byrd amendment. Trying to resolve an issue like schoolbusing is like trying to walk a tightrope. As the Members know, I have tried that, too.

The conferees on the Labor-HEW appropriation bill were faced with three antibusing amendments. Let us recall that. They were adopted on the floor of the Senate some by a rather narrow margin, by the way.

These amendments were debated by the conferees, believe me, for many hours and many days.

The conferees finally agreed to delete two amendments, the so-called Biden amendments, but could not agree on the remaining one, that is, the Byrd amendment.

One of the main reasons for not resolving this amendment is that it is a direct change in the existing law, and this is an appropriation bill.

The Byrd amendment would prohibit the use of funds in this bill to require, directly or indirectly, the busing of students beyond the school nearest to the student's home.

Mr. Speaker, what my amendment does, very simply, is to add three words to the text of the Byrd amendment, and the effect would be to prohibit HEW from requiring busing beyond the nearest or next nearest school, which is the existing law.

My amendment recognizes that there is already permanent legislation on this subject of schoolbusing. It is on the books. It was specifically dealt with by the proper legislative committees, and the Members will remember it. That was over a year ago. We can all recall that. That was in connection with the extension of authorization for elementary and secondary education. The result was the enactment of the Equal Educational Opportunities Act of 1974. Section 215(A) of that act states:

> No court, department, or agency of the United States shall, pursuant to section 214, order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence. . . .

Mr. Speaker, no matter how we feel about school busing, we should not change the existing law by tacking an amendment onto an annual appropriation bill. On a major question such as this we should follow the normal legislative procedure of this body. If a change in the basic law is required, we should deal with it directly, but not indirectly through floor amendments to an annual appropriation bill.

Mr. Speaker, let me tell the Members that my main concern right here now is to enact this Labor-Health, Education, and Welfare appropriation bill. The Members will agree with me. Everybody will agree. This has been delayed now too, too, too long. This Labor-Health, Education, and Welfare bill has been delayed too long.

Incidentally, in case the Members have not realized, this bill provides over $36 billion for Labor-Health, Education, and Welfare—there it is—and the other related agencies.

Mr. Speaker, this is an appropriation bill, this is not a busing bill.

If we accept the amendment that I offered—now hear this—if we accept that amendment then one cannot be labeled as antibusing, and one cannot be labeled as probusing, one way or another. They will be an advocate of the orderly legislative procedure. We will focus the attention where it belongs today: What are the principle purposes of this appropriation bill that we all know about? Right? Let us face it. This appropriation bill—now, hear this—this appropriation bill is $915 million over the President's budget, for the things that the Members want. Did you hear that?

Now I have not heard anything about this one way or another, but this bill is in danger of being vetoed. Most of the Members have supported this bill and everything in it. Do you want this bill enacted into law? You do, do you not? I am sure you do. I am concerned that if the Members do not agree with my amendment, if we saddle this bill with a controversial school busing provision, the bill may never be enacted. Imagine that? Imagine this bill not being enacted? You know what that will mean to you and to your people. It is all in this bill. It is a bill for labor, health, education, and welfare. This touches directly every man, woman, and child in your districts, without exception.

I beg you, do not endanger the passage of this bill and do vote for my amendment.

Mr. ALLEN. Mr. Speaker, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from Tennessee.

Mr. ALLEN. Would the distinguished gentleman from Pennsylvania also yield for a question?

Mr. FLOOD. Yes, for the gentleman's first appearance on the floor, I do, yes.

Mr. ALLEN. I am CLIFFORD ALLEN of Nashville, Davidson County, Tenn. I represent an area known as the metropolitan government of Nashville and Davidson County.

Some 4 years ago the Federal courts, and by that I mean the Federal District Court and the U.S. District Court of Appeals of Cincinnati, and the Supreme Court of the United States, ordered a busing plan that was drawn by HEW. The most reliable figures that we have is that this is costing us an additional $3 million a year.

If this bill is permitted to pass as proposed by the conference committee would it not mean—and I want to make this clear—would it not mean that we would be denied any Federal funds at all?

Mr. FLOOD. No.

Mr. ALLEN. For carrying out this amendment? I am speaking of the Byrd amendment.

Mr. FLOOD. I understand.

Mr. ALLEN. Because the busing, of course, that is restricted in this, is to the next nearest school.

Mr. FLOOD. I know the problem. The answer is no.

Mr. ALLEN. Would the gentleman from Pennsylvania's amendment change that?

Mr. FLOOD. No.

Mr. ALLEN. Would the amendment offered by the distinguished gentleman from Pennsylvania permit the use of Federal funds?

Mr. FLOOD. Yes. The answer is no to the first part and yes to that part.

Mr. ALLEN. I thank the gentleman. That was what I wanted to know.

Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I rise in support of the Flood amendment to Senate amendment No. 72 in the Labor-HEW Appropriation Act of 1976 (H.R. 8069) conference report.

It is clear that the Byrd amendment, as it has been labeled, was designed to prohibit virtually all programs involving busing to achieve a racial balance. It is clear that the amendment also changes existing law as well. I should like to direct my colleagues attention to section 215(a) of the Equal Educational Opportunities Act of 1974 (Public Law 93–380):

> SEC. 215(a). No court, department or agency of the United States shall, pursuant to section 214, order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student.

Notice that this section effectively limits busing of students to "the school closest or next closest to his place of residence." The Byrd amendment as it is now would further limit this language by providing that a student can only be bused to the school nearest his home. While Public Law 93–380 limits busing to either the immediate or adjacent school district, the Byrd amendment limits busing to the student's immediate school district.

The Flood amendment which adds the words "or next nearest" modifies the Byrd amendment so as to place it in harmony with section 215(a) of Public Law 93–380. The pertinent section of the Byrd amendment would then read to limit busing to a school "nearest or next nearest the students home." Notice that this language is so similar to Public Law 93–380 which provides that busing will be limited to "the school closest or next closest to his place of residence."

It is most important that this language be inserted to insure consistency with existing legislation.

An appropriations bill is not a suitable vehicle to accomplish this end. The amendment has the appearance of a limitation on spending, but in reality is legislation. The Department of HEW is in the midst of various court proceedings to enforce Public Law 93–380 as it now applies. Adoption of the Byrd amendment without the Flood amendment would obviate all the preliminary, temporary, and permanent injunctions which have already been found necessary in these cases.

We must realize the importance of getting this bill out. We have been held up too long in conference over this one amendment. Vital labor and health services across the country are forced to operate on fiscal year 1975 appropriations levels in the continuing resolution.

The bill before us is almost $1 billion above the budget. If the bill should suffer a veto, it will take that much longer to finally get to those it is designed to reach. I sat as a conferee on this bill. The Byrd amendment is only one of three busing amendments. Fortunately, the Senate receded on amendments numbered 71 and 73, which are known as Biden amendments 1 and 2. It was virtually an impass—the Senate would insist on their amendments and the House would refuse to recede and concur—justifiably so, I might add. Finally, the conferees feel sure that the Senate will accept the Byrd amendment with the Flood language inserted. We must rise to this opportunity to get the bill through. Adding the Flood language will satisfy the Senate and the House, as well as create a consistency with existing case law and precedent. Fellow Members, those reasons alone justify the adoption of the Flood language. This bill is long overdue. It is for this reason that a waiver on the 3-day rule was granted so that the conference report could be on the floor so soon. This bill has provisions that directly affect every American. The vital services provided in this bill must not be held up any longer. Vital research programs at the National Institutes of Health have already suffered incalculable setbacks.

The various departments of employment security in the States which provides such an essential service in these times of high unemployment are waiting for passage of this bill in order to adjust their programs to accommodate the needs in their areas. These programs and other essential services have been prejudiced because of a busing amendment. Our priorities are in chaos. Acceptance of the Flood language will end this unnecessary delay.

Mr. Speaker, as responsible legislators, we must realize the importance of accepting the Flood language—"or next nearest" to create harmony with existing law, to provide a "just" compromise with the Senate, and to pass this long overdue bill, which is essential to every American.

Mr. MICHEL. Mr. Speaker, I yield myself such time as I might consume before I yield to the gentleman from Maryland (Mr. BAUMAN).

Mr. Speaker, I might say if Members will read the RECORD, particularly that made over in the other body when they were considering this particular HEW appropriation bill, they will find it rather distressing that so little time was given to the $36 billion that is involved here while better than a week was spent on the amendment which we are addressing ourselves to here this atfernoon.

I can concur in particular with what my chairman says, that discussing such a complex issue of busing within the 1-hour period granted under the rules on a motion in disagreement is inadequate, but earlier this day we were limited to 10 minutes on some very complex tax questions, and that did not seem to bother this House.

There is no question but that this is a burning emotional issue around the country.

The question is divisible. Any Member can demand a division of this question when we get to voting, and it is really simply a question here of whether or not we want to adopt the amendment offered by the gentleman from Pennsylvania (Mr. FLOOD), which is somewhat softer than the Byrd amendment, or whether we vote that motion down and we simply concur, we recede and concur not with an amendment, but we recede and concur. That is really the parliamentary situation in which we find ourselves this afternoon. If one is for a stronger, tighter antibusing amendment, then he would opt for the Byrd amendment.

If one is for something that is simply a reaffirmation of what we have today, then one would support the amendment offered by the gentleman from Pennsylvania (Mr. FLOOD).

Before yielding to the gentleman from Maryland I simply want to say I did not sign the conference report, not because of this issue but rather on the figures that were involved.

Mr. SNYDER. Mr. Speaker, will the gentleman yiled?

Mr. MICHEL. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Speaker, there has been considerable discussion about the urgency of getting this through and getting all this money available for these grants and programs. If we accept the language offered by the gentleman from Pennsylvania, which changes what the Senate has in their bill, does not the Senate have to take up again the language, whereas if we take the recede-and-concur in the motion offered by the gentleman from Maryland it is all over?

Mr. MICHEL. There is no question about that. The Senate would have to act again on the issue if we agree to the amendment.

Mr. FLOOD. Mr. Speaker, if the gentleman will yield, may I say to my friend, we will not have to go back to conference.

The Senate will have to act but we would not have to go back to conference.

Mr. SNYDER. But the Senate would not have to act with the Bauman amendment.

Mr. FLOOD. But it would not be necessarily a long, drawn-out process in the Senate.

Mr. MICHEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, first let us dispose of one bugaboo which has been raised repeatedly by the gentleman from Pennsylvania.

We just passed a continuing resolution on appropriations earlier today and we have one in force right now. There would be no funding held up for any of the purposes contained in this bill because the funds would be continued at the present level. Further the money for education is not in this bill because as I understand it we passed an entirely separate authorization bill for education this year. So the education funds in this bill are at a minimum.

I direct the attention of the Members of the House to the bill, on page 41, which does contain the total funding for the Office of Civil Rights in HEW, and in that is all the money HEW employs in any respect to enforce busing. This funds the HEW bureaucrats who write the plans for forced busing which they then impose on local officials for their submission. These are the funds used to take cases into the courts for forcing busing on the local officials and on the parents and on the children who live in our districts.

Now, the gentleman keeps saying that this is an improper legislative vehicle to solve this issue. This House has been denied by the vote of the majority caucus the chance of voting on any legislative cure to the busing problem we face in this country. Only within the last 2 weeks by a majority of almost 2 to 1 they refused to address an issue that every poll shows Americans are highly disturbed about. In my own district I can testify that no group is more disturbed than the black parents who have their children in kindergarten and the primary grades bused long distances away from their homes.

The gentleman from Pennsylvania (Mr. FLOOD) said if we vote for the gentleman's pending motion, although my motion comes first, we cannot be labeled antibusing or probusing. That is exactly right. The gentleman's amendment is a complete political copout on one of the most serious problems facing the country today. If his amendment prevails no corrective action will be taken. Instead we will be attempting to fool the people.

Orderly procedure requires us to vote on my pending motion to recede and concur. My motion requires us to recede from the weak language of the conference report and concur in the stronger language of the other body. The language of the other body, as the gentleman from Illinois has stated, adopted after a week's debate, has already been approved by the other body. That language plainly says there shall be no funds used for busing to a school other than the school which is nearest to the student's home.

The fundamental issue is the right to have a child go to the school nearest to its home, whether by walking or busing or any other means. That right is one that has been vindicated over the years. Professor Coleman and others who originally advocated busing now say they were wrong, that all those glittering arguments have turned to dust. Instead, educational standards have not gone up, racial tensions have been increased, families have been broken up, white flight has occurred from the inner cities, tax bases have been decreased; all this accomplished by this experiment in social engineering, which even the original advocates admit has failed completely.

So I ask the House to vote for my motion to recede and concur and insist on the strongest possible language against busing. Then we will, indeed, be addressing ourselves to the problems of the people of America as their Representatives in Congress, sworn to represent these people and to consider their problems.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, the gentleman made the statement that the decision in the majority caucus was going to prevent this House from taking any action on busing. That is not correct. The caucus simply voted not to compel the Committee on the Judiciary to report out any constitutional amendment which it offered.

Mr. BAUMAN. Based on the gentleman's remarks, I hope that the gentleman will forthwith propose an antibusing bill at the next meeting of the Committee on the Judiciary.

Mr. SEIBERLING. I certainly will not. The gentleman has just offered a motion on busing, thereby disproving the very statement the gentleman just made.

Mr. BAUMAN. The gentleman from Maryland has made his case and if the gentleman would like to concur in the stand taken by the majority party in favor of busing he can do that. I do not concur.

Mr. Speaker, I move the previous question on the motion.

Mr. FLOOD. Mr. Speaker, I demand the question be divided.

Mr. BAUMAN. Mr. Speaker, I move the previous question.

The SPEAKER. The gentleman from Pennsylvania has the floor and the Chair is trying to let the gentleman be heard.

Mr. FLOOD. Mr. Speaker, I demand a division.

Mr. BAUMAN. Mr. Speaker, I have not yielded. My time has not expired.

The SPEAKER. The gentleman has time for debate only.

Mr. BAUMAN. No; Mr. Speaker, it was not yielded for debate only.

The SPEAKER. The gentleman from Maryland has 15 seconds.

Mr. BAUMAN. Mr. Speaker, I move the previous question.

The SPEAKER. The gentleman was yielded to for debate only. The gentleman from Illinois had no authority under clause 2, rule XXVIII to yield for any other purpose but debate.

Mr. BAUMAN. Mr. Speaker, I was yielded to. There was no limitation on for what purpose.

The SPEAKER. The gentleman was yielded 5 minutes. He can use it for debate only. The gentleman's time has expired.

The Chair recognizes the gentleman from Pennsylvania.

Mr. FLOOD. Mr. Speaker, I demand a division of the question.

Mr. MICHEL. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The question will be divided.

Mr. MICHEL. A point of order, Mr. Speaker.

The SPEAKER. The gentleman will state it.

POINT OF ORDER

Mr. MICHEL. Mr. Speaker, the gentleman from Illinois was given to understand that the time was to be divided equally. There was no indication on the part of the gentleman from Illinois that he had concluded giving what time he wanted to allocate to Members for general debate.

The gentleman from Illinois still has a request pending.

The SPEAKER. The gentleman has 30 minutes for debate only. He can yield more time.

Mr. MICHEL. I am still entitled, if I understand it, to the balance of the time to which I have been originally allocated. The gentleman from Illinois has 17 minutes remaining.

The SPEAKER. That is correct, but the question has been divided.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BAUMAN. Mr. Speaker, when must a request for division be made?

The SPEAKER. Any time the motion is pending and before the question is put the question may be divided, and it is already divided.

Mr. FLOOD. Mr. Speaker, if the question has been divided, then I have a preferential motion.

The SPEAKER. The gentleman from Illinois has 15 minutes remaining, and the gentleman's motion may come later.

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may require, and yield to the gentleman from Massachusetts (Mr. Conte).

Mr. CONTE. Mr. Speaker, I would like to ask a question of my chairman, the gentleman from Pennsylvania (Mr. Flood): Is it the interpretation of the gentleman from Pennsylvania that no matter what happens here, or what amendment is adopted, whether the Byrd amendment or an amendment as amended by the gentleman from Pennsylvania, that this makes no difference at all; that we are bound in regard to the busing issue, by the 1954 case, Brown against Board of Education of Topeka, Kans., and these amendments makes no difference at all? We have got to amend the Constitution if we want to change the busing issue and the busing problem in this country? Is that the gentleman's interpretation? We discussed that in conference day after day.

Mr. FLOOD. None of this action taken today is binding upon the courts, of course.

Mr. CONTE. Of course not, and once there is a court order on busing, that is it?

Mr. FLOOD. Certainly.

Mr. MICHEL. I will simply say in conclusion, Mr. Speaker, that the other body spent considerable time debating this particular issue, much more than on the money figures themselves. It was a vote of 51 to 46, or something like that. I think the House is deserving of having an opportunity to express itself in the same fashion and let the chips fall where they may.

This is a regular, quite legitimate way for Members to express themselves. If it has been concluded pretty much by those in command in the majority that there will be no opportunity to vote on a constitutional amendment, on the issue of busing, then this is the only way left open for Members of this House to express themselves on the subject. We either get a shot at amending the authorizing legislation or in the absence of that opportunity have to speak as we will on this appropriation bill.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I would just like to observe for the edification of the Members that the tactic that we see here of demanding a division of the question is patently designed, although it certainly is in order, to prevent a direct vote or a clear vote for the strongest possible antibusing language, which is the Byrd amendment contained in the bill.

I assume the gentleman from Pennsylvania, by demanding a division of the question, will first get a vote on whether to recede. At that point, he will be able to offer an amendment watering down the antibusing provision. I am going to vote for the motion to recede because the House should recede from its weaker position. I want the stronger position of the other body to be upheld, but when it comes to the amendment of the gentleman from Pennsylvania I would urge a "no" vote against any substitute he offers, and ultimately I will offer a motion to concur in the language of the other body. That is the only way we can assure that this bill will contain the strongest possible antibusing provision.

Mr. MICHEL. Mr. Speaker, I have no further requests for time.

Mr. FLOOD. Mr. Speaker, I have no further requests for time.

The SPEAKER. The question is, Will the House recede from its disagreement to the amendment of the Senate No. 72?

The House receded from its disagreement to Senate amendment No. 72.

PREFERENTIAL MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a preferential motion.

The Clerk read the preferential motion as follows:

> Mr. Flood moves that the House concur in the amendment of the Senate numbered 72 with an amendment as follows: In lieu of the matter inserted by said amendment, insert the following:
>
> "Sec. 209. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest or next nearest the student's home, and which offers the courses of study pursued by such student, in order to comply with title VI of the Civil Rights Act of 1964."

The SPEAKER. The question is on the preferential motion offered by the gentleman from Pennsylvania (Mr. Flood).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 133, nays 259, answered "present" 15, not voting 27, as follows:

[Roll No. 744]

YEAS—133

Adams
Addabbo
Allen
Andrews, N.C.
Ashley
Aspin
AuCoin
Badillo
Baldus
Barrett
Baucus
Beard, R.I.
Bedell
Bergland
Biester
Bingham
Blouin
Bolling
Bonker
Brademas
Breckinridge
Brown, Calif.
Brown, Mich.
Brown, Ohio
Chisholm
Cohen
Conte
Corman
Cornell
de la Garza
Derrick
Dodd
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Emery
Erlenborn
Evans, Colo.
Fenwick
Findley
Fish
Fisher
Flood
Foley
Ford, Tenn.
Frenzel
Giaimo
Gilman
Green
Gude
Hall
Hamilton
Hannaford
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heinz
Hicks
Horton
Howard
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jordan
Kastenmeier
Keys
Koch
McCloskey
McCormack
McFall
McHugh
McKinney
Maguire
Matsunaga
Mazzoli
Meeds
Melcher
Meyner
Mezvinsky
Miller, Calif.
Mineta
Mink
Moffett
Moorhead, Pa.
Morgan
Moss
Murphy, N.Y.
Myers, Pa.
Nix
Nolan
Oberstar
Obey
O'Brien
O'Neill
Patterson, Calif.
Pattison, N.Y.
Perkins
Preyer
Price
Pritchard
Quie
Railsback
Rees
Rodino
Roncalio
Rose
Rosenthal
Roush
Roybal
Ryan
St Germain
Schroeder
Seiberling
Sharp
Simon
Smith, Iowa
Solarz
Staggers
Steiger, Wis.
Studds
Symington
Thompson
Tsongas
Ullman
Van Deerlin
Vander Veen
Weaver
Wiggins
Wilson, Tex.
Wirth

NAYS—259

Abdnor
Abzug
Alexander
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bell
Bennett
Bevill
Biaggi
Blanchard
Boland
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Broyhill
Buchanan
Burgener
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carney
Carr
Carter
Casey
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conyers
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
Delaney
Derwinski
Devine
Dickinson
Dingell
Downey, N.Y.
Downing, Va.
Duncan, Tenn.
du Pont
Early
Edwards, Ala.
Eilberg
English
Esch
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fithian
Florio
Flowers
Flynt
Ford, Mich.
Forsythe
Fountain
Frey
Gibbons
Ginn
Goldwater
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hammerschmidt
Hanley
Hansen
Harris
Harsha
Hastings
Hays, Ohio
Heckler, Mass.
Hefner
Henderson
Hightower
Hillis
Holland
Holt
Holtzman
Howe
Hubbard
Hughes
Hutchinson
Hyde
Ichord
Jarman
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Krebs
Krueger
Lagomarsino
Landrum
Latta
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McClory
McCollister
McDade
McDonald
McEwen
McKay
Macdonald
Madden
Madigan
Mahon
Mann
Martin
Mathis
Michel
Mikva
Milford
Miller, Ohio
Mills
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nichols
Nowak
O'Hara
Ottinger
Passman
Patman, Tex.
Patten, N.J.
Pepper
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Quillen
Randall
Rangel
Regula
Rhodes
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rogers
Rooney
Rostenkowski
Rousselot
Runnels
Russo
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schulze
Sebelius
Shipley
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Nebr.
Snyder
Spellman
Spence
Stanton, J. William
Steed
Steelman
Steiger, Ariz.
Stephens
Stratton
Stuckey
Sullivan
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Traxler
Treen
Vander Jagt
Vanik
Vigorito
Waggonner
Walsh
Wampler
Whalen
White
Whitehurst
Whitten
Wilson, Bob
Winn
Wolff
Wright
Wydler
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

ANSWERED "PRESENT"—15

Burke, Calif.
Burton, John
Burton, Phillip
Clay
Dellums
Diggs
Edwards, Calif.
Gonzalez
Harrington
Mitchell, Md.
Mosher
Reuss
Waxman
Wilson, C. H.
Young, Ga.

NOT VOTING—27

Anderson, Ill.
Boggs
Burke, Fla.
Cotter
Dent
Eshleman
Fraser
Fuqua
Gaydos
Harkin
Hébert
Helstoski
Hinshaw
Hungate
Karth
LaFalce
Leggett
Metcalfe
Minish
Richmond
Ruppe
Stanton, James V.
Stark
Stokes
Symms
Udall
Wylie

The Clerk announced the following pairs:

Mr. Fuqua with Mr. Hébert.
Mrs. Boggs with Mr. Helstoski.
Mr. James V. Stanton with Mr. Stark.
Mr. Symms with Mr. Stokes.
Mr. Eshleman with Mr. Dent.
Mr. Leggett with Mr. Hungate.
Mr. Gaydos with Mr. Harkin.
Mr. Anderson of Illinois with Mr. Cotter.
Mr. Burke of Florida with Mr. Fraser.
Mr. Karth with Mr. Metcalfe.
Mr. Udall with Mr. LaFalce.
Mr. Minish with Mr. Richmond.
Mr. Ruppe with Mr. Wylie.

Messrs. RANGEL, EVANS of Indiana, CARNEY, YATES, Ms. HOLTZMAN, Messrs. FARY, MIKVA, Mrs. COLLINS of Illinois, Messrs. ROSTENKOWSKI, FLORIO, SANTINI, and GOODLING changed their vote from "yea" to "nay."

Mr. MELCHER, Mr. WEAVER, and Mr. ANDREWS of North Carolina changed their vote from "nay" to "yea."

Messrs. CHARLES H. WILSON of California, OTTINGER, EDWARDS of California, PHILLIP BURTON, GONZALEZ, and WAXMAN changed their vote from "yea" to "present."

Mr. OTTINGER changed his vote from "present" to "nay."

So the preferential motion to the Senate amendment numbered 72 was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is, Will the House concur in the Senate amendment?

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SEIBERLING. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 260, noes 146, answered "present" 1, not voting 27, as follows:

[Roll No. 745]

AYES—260

Abdnor
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, R.I.
Beard, Tenn.
Bell
Bennett
Bevill
Biaggi
Blanchard
Boland
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carr
Carter
Casey
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conable
Conlan
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Derrick
Derwinski
Devine
Dickinson
Dingell
Downing, Va.
Duncan, Tenn.
du Pont
Early
Edgar
Edwards, Ala.
Eilberg
English
Esch
Evans, Ind.
Evins, Tenn.
Fish
Fithian
Florio
Flowers
Flynt
Ford, Mich.
Forsythe
Fountain
Frey
Giaimo
Gibbons
Ginn
Goldwater
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hansen
Harris
Harsha
Hastings
Hayes, Ind.
Hays, Ohio
Heckler, Mass.
Hefner
Heinz
Henderson
Hightower
Hillis
Holland
Holt
Howe
Hubbard
Hughes
Hutchinson
Hyde
Ichord
Jarman
Jenrette
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Krebs
Krueger
Lagomarsino
Landrum
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McCollister
McDade
McDonald
McEwen
McKay
Macdonald
Madigan
Mahon
Mann
Martin
Mathis
Mazzoli
Meyner
Michel
Milford
Miller, Ohio
Mills
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nowak
O'Hara
Passman
Patten, N.J.
Patterson, Calif.
Pettis
Pickle
Poage
Pressler
Preyer
Pritchard
Quillen
Randall
Regula
Rhodes
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rogers
Rooney
Rose
Roush
Rousselot
Runnels
Russo
Ryan
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schulze
Sebelius
Sharp
Shipley
Shriver
Shuster
Sikes
Skubitz
Slack
Smith, Nebr.
Snyder
Spellman
Spence
Stanton, J. William
Steed
Steelman
Steiger, Ariz.
Stephens
Stratton
Stuckey
Sullivan
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Traxler
Treen
Vander Jagt
Vanik
Vigorito
Waggonner
Walsh
Wampler

White
Whitehurst
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NOES—146

Abzug
Adams
Addabbo
Allen
Anderson, Ill.
Ashley
Aspin
AuCoin
Badillo
Baldus
Barrett
Baucus
Bedell
Bergland
Biester
Bingham
Blouin
Bolling
Bonker
Brademas
Breckinridge
Brown, Calif.
Brown, Ohio
Burke, Calif.
Burton, John
Burton, Phillip
Carney
Chisholm
Clay
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Dellums
Diggs
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
Eckhardt
Edwards, Calif.
Emery
Erlenborn
Evans, Colo.
Fary
Fascell
Fenwick
Findley
Fisher
Flood
Foley
Ford, Tenn.
Fraser
Frenzel
Gilman
Gonzalez
Green
Gude
Hannaford
Harrington
Hawkins
Hechler, W. Va.
Hicks
Holtzman
Horton
Howard
Jacobs
Jeffords
Johnson, Calif.
Johnson, Colo.
Jordan
Kastenmeier
Keys
Koch
Lehman
McClory
McCormack
McFall
McHugh
McKinney
Madden
Maguire
Matsunaga
Meeds
Melcher
Mezvinsky
Mikva
Miller, Calif.
Mineta
Mink
Mitchell, Md.
Moffett
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Nix
Nolan
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Patman, Tex.
Pattison, N.Y.
Pepper
Perkins
Pike
Price
Quie
Railsback
Rangel
Rees
Reuss
Richmond
Rodino
Roncalio
Rosenthal
Rostenkowski
Roybal
St Germain
Schroeder
Seiberling
Simon
Smith, Iowa
Solarz
Staggers
Steiger, Wis.
Studds
Symington
Thompson
Tsongas
Ullman
Van Deerlin
Vander Veen
Waxman
Weaver
Whalen
Wiggins
Wilson, C. H.
Yates
Young, Ga.

ANSWERED "PRESENT"—1

Sisk

NOT VOTING—27

Boggs
Burke, Fla.
Cotter
Dent
Eshleman
Fuqua
Gaydos
Harkin
Hébert
Helstoski
Hinshaw
Hungate
Karth
LaFalce
Latta
Leggett
McCloskey
Metcalfe
Peyser
Ruppe
Stanton, James V.
Stark
Stokes
Symms
Udall
Whitten
Wylie

The Clerk announced the following pairs:

On this vote:

Mr. Sisk for, with Mr. Stark against.
Mr. Hébert for, with Mr. Dent against.
Mr. Whitten for, with Mr. Stokes against.
Mr. Peyser for, with Mr. Helstoski against.
Mr. Hungate for, with Mr. Metcalfe against.
Mr. Cotter for, with Mr. Leggett against.
Mr. Fuqua for, with Mr. James V. Stanton against.

Until further notice:

Mr. LaFalce with Mr. McCloskey.
Mrs. Boggs with Mr. Burke, of Florida.
Mr. Gaydos with Mr. Harkin.
Mr. Eshelman with Mr. Karth.
Mr. Udall with Mr. Symms.
Mr. Ruppe with Mr. Latta.

Messrs. BARRETT and NIX changed their votes from "yea" to "nay."

Mr. HALL and Mrs. SULLIVAN changed their votes from "nay" to "yea."

Mr. GONZALEZ changed his vote from "present" to "nay."

Mr. SISK. Mr. Speaker, I have a live pair with the gentleman from California (Mr. STARK). If he had been present he would have voted "nay." I withdraw my vote and vote "present."

So the Senate amendment was concurred in.

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 76: Page 47, line 23, insert: *Provided,* That the appropriation for "Community service program" contained in title I, chapter VI of Public Law 94–32 (Second Supplemental Appropriations Act, 1975) is amended by striking out "September 30, 1975" and inserting in lieu thereof "December 31, 1975".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 76 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ": *Provided,* That the apgram" contained in title I, chapter VI of Public Law 94–32 (Second Supplemental Appropriations Act, 1975) is amended by striking out "September 30, 1975" and inserting in lieu thereof "June 30, 1976"

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate Amendment No. 84: Page 54, line 5, strike out:

SEC. 407. Funds contained in this Act used to pay for contract services by profitmaking consultant firms or to support consultant appointment shall not exceed the fiscal year 1973 level: *Provided,* That obligations made from funds contained in this Act for consultant fees and services to any individual or group of consulting firms on any one project in excess of $25,000 shall be reported to the Senate and House of Representatives at least twice annually.

And insert:

SEC. 407. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided therein except as provided in section 204 of Public Law 93–554.

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 84 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the last amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 85: Page 55, line 13, insert: "; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 in the current fiscal year and $625 in the period July 1, 1976, through September 30, 1976, from funds available for 'Salaries and expenses, Federal Mediation and Conciliation Service'."

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 85 and concur therein.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and on the several motions was laid on the table.

GENERAL LEAVE

Mr. FLOOD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

APPOINTMENT OF CONFEREES ON SENATE JOINT RESOLUTION 121, PROVIDING FOR QUARTERLY ADJUSTMENTS IN THE SUPPORT PRICE FOR MILK

Mr. FOLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 121) to provide for quarterly adjustments in the support price for milk, with the House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Washington? The Chair hears none, and appoints the following conferees: Messrs. JONES of Tennessee, VIGORITO, BOWEN, NOLAN, BALDUS, KREBS, MCHUGH, BERGLAND, WAMPLER, JEFFORDS, and KELLY.

SUBPENAS IN THE CASE OF COMMON CAUSE, ET AL. AGAINST BLAILAR, ET AL.

Mr. O'NEILL. Mr. Speaker, I offer a privileged resolution (H. Res. 903) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 903

Whereas, in the case of Common Cause et al. against Blailar, et al. (Civil Action 1887–73) pending in the United States District Court for the District of Columbia, several subpenas were served upon various employees of the House of Representatives during the 93rd Congress, 2nd session; and

Whereas, in response to the said subpenas the House of Representatives of the 94th Congress, 1st session, adopted H. Res. 85 on January 23, 1975, which resolution authorized the Speaker to retain counsel to represent the interest of the House and of the subpenaed employees of the House; and

Whereas, in the same case a subpena duces tecum was issued upon the application of Kenneth J. Guido, attorney for the plaintiffs, and served upon Mr. Jay Starling, Director, Republican Research Committee, on August 26, 1975, and laid before the House on September 23, 1975, which subpena directed him to appear as a witness before the said court and to bring with him certain papers in the possession and under the control of the United States House of Representatives; now therefore be it

Resolved, That by the privileges of this House no evidence of a documentary character under the control and in the possession of the House can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by its permission, and no House employee may be compelled to disclose information obtained pursuant to his official duties as an employee of the House, without the consent of the House; be it further

Resolved, That Jay Starling, Director, Republican Research Committee is hereby authorized to appear as a witness in response to the aforementioned subpena and to take with him certified copies of such documents as are requested therein; and be it further

Resolved, That the said Jay Starling as an employee of the House is entitled to representation by the attorneys previously retained by the Speaker under the authority of H. Res. 85, and the Speaker is hereby authorized to request the attorneys so retained to represent Jay Starling with respect to the subpena received by him.

The resolution was agreed to.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I have asked for this time for the purpose of inquiring of the distinguished majority leader if he will inform us as to the legislative program next week.

Mr. O'NEILL. Mr. Speaker, will the distinguished minority whip yield?

Mr. MICHEL. I am happy to yield to the majority leader.

Mr. O'NEILL. Mr. Speaker, the program for the House of Representatives for the week of December 8, 1975, is as follows:

Monday and Tuesday: Monday is District day, and there are no bills scheduled.

Then we will consider the following bills:

H.R. 8631, amendments to the Price-Anderson provisions of the Atomic Energy Act, under an open rule, with 1 hour of debate;

H.R. 9721, Inter-American Development Bank, under an open rule, with 1 hour of debate;

H.R. 10624, Bankruptcy Act amendments, under an open rule, with 2 hours of debate; and

S. 95, overseas citizens voting rights, under an open rule, with 1 hour of debate.

On Wednesday, Thursday, and Friday, we will take up the following legislation:

H.R. 12, Executive Protective Service. This is the consideration of a veto message;

S. 622, energy conservation and oil policy, a conference report;

H.R. 3474, Energy Research and Development Administration, a conference report;

H.R. 10979, railroad revitalization and regulatory reform, subject to a rule being granted;

H.R. 9924, National Women's Conference, under an open rule, with 1 hour of debate;

H.R. 8529, rice production, an open rule, with 2 hours of debate;

H.R. 9464, natural gas emergency, subject to a rule being granted; and

H.R. 6721, Federal coal leasing amendments, subject to a rule being granted.

Conference reports may be brought up at any time. Any further program will be announced later.

Mr. MICHEL. Mr. Speaker, I thank the gentleman.

ADJOURNMENT TO MONDAY, DECEMBER 8, 1975

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourn today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday of next week.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

HOUR OF MEETING ON TUESDAY, WEDNESDAY, THURSDAY, AND FRIDAY OF NEXT WEEK

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent for the House to meet at 10 a.m. on Tuesday, Wednesday, Thursday, and Friday of next week.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object—and I will not object—I just wish to say for the benefit of those of us who like to try to pay attention to what is occurring on the floor that since there are so many bills from various committees in which we have an interest, I will object to the committees' meeting after 10 o'clock on the days mentioned if such requests are made. I just want to state that to the Members.

Mr. O'NEILL. Mr. Speaker, if the gentleman will kindly yield, we took this matter up this morning in our whip organization, and the leadership felt that if there are committee meetings to be held, those Members concerned should come in and ask for permission individually and we would not ask for permission for all the committees to meet.

We thought it would be a good idea, if there were emergencies, for the House to hold committee meetings in the evenings.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, I clearly appreciate what the gentleman has stated, but I want it to be clearly understood that I feel myself, in my judgment—and I am sure other Members feel the same way—that it is very difficult for Members to be both in committee meetings and here on the floor. So I just wanted to announce my intention.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. MICHEL. Mr. Speaker, further reserving the right to object, may we assume that if we come in at 10 o'clock a.m. on Tuesday, Wednesday, Thursday, and Friday of next week, we will adjourn on those days at a reasonable hour so that if there are committee hearings to be held in the evenings, there would be sufficient time for that?

Mr. O'NEILL. Very definitely; we hope to adjourn each day at a reasonable hour. I hope it will be by 6:30 at the latest, as far as that is concerned.

Mr. MICHEL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

AUTHORIZING CLERK TO RECEIVE MESSAGES FROM THE SENATE AND THE SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS NOTWITHSTANDING ADJOURNMENT UNTIL MONDAY, DECEMBER 8, 1975

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that, notwithstanding the adjournment of the House until Monday, the clerk be authorized to receive messages from the Senate, and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, may I ask the majority leader what the necessity is for giving the Speaker authority to sign bills over the weekend?

Mr. O'NEILL. It is because of the fact that when we adjourn today, we adjourn to meet again on Monday of next week.

Mr. BAUMAN. I assume that if the Senate should pass the New York aid bill, it could then go directly to the President, under this authority until next Monday; is that correct?

Mr. O'NEILL. I do not think that is the fact at all.

Mr. BAUMAN. It could happen, could it not?

Mr. O'NEILL. No, I do not think so.

I talked to the leadership on the Senate side directly this morning, and there was nothing like that in the works.

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

Mr. O'NEILL. Mr. Speaker, did I understand that an objection was heard?

The SPEAKER. Yes, you did.

Mr. O'NEILL. Mr. Speaker, may I say to the gentleman that this only refers, of course, to bills that have already passed the House and passed the Senate without any amendments adopted. I am sure the gentleman is aware of that.

Mr. BAUMAN. How about the New York bill?

Mr. O'NEILL. There is no way by which the New York bill could pass in that time.

Mr. BAUMAN. Mr. Speaker, the gentleman is quite correct.

I will withdraw my objection.

The SPEAKER. Does the gentleman from Maryland (Mr. Bauman) withdraw his reservation of objection?

Mr. BAUMAN. Yes, Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

IF THE U.N. SUBMITS TO ARAB TERRORISM, ISRAEL WILL NOT

(Mr. KOCH asked and was given permission to address the House for 1 minute, to revise and extend his remarks.)

Mr. KOCH. Mr. Speaker, it should be painful to any decent human being to see innocent civilians killed as a result of actions undertaken by the military forces of legitimate governments or those of terrorists. No one, supporters of Israel least of all, can take any satisfaction in the deaths of such innocents in Lebanon resulting from the recent Israeli attack on PLO bases located in Arab refugee camps in Lebanon. But, what cannot be condoned, is the hypocracy of the U.N. Assembly, Security Council, and member governments or individuals who denounce Israel for having acted in its self-defense as it did by seeking out the terrorists who have slaughtered innocent Israelis when those same nations and persons stand mute as those terrorists maim and kill in Israel. And when a blood bath is taking place in Lebanon with the Arab Moslems seeking to destroy the Arab Christian community, the countries of the world again are mute and run for cover in fear of Arab State oil retaliation. The U.N. General Assembly, Security Council, world governments, and normal voices of reason sit silently by as the ancient Christian community in Lebanon is slowly being destroyed. An estimated 6,000 Lebanese civilians within the last year have been killed, mostly innocent women and children and civilian men. Has that outraged the world's concern? Regrettably, no. There is no condemnation of the terrorists who wantonly kill on the streets in Beirut. Indeed, the only government to aggressively raise the issue and denounce the Lebanon holocaust is that of Israel. It knows all too well the toll of such a program. Just as the terrorists will destroy the small Christian community if left to their own devices, they will seek to destroy the Jews and the State of Israel.

Knowing that the world is sitting by turning its face from what is taking place in the religious Lebanese war, is it any wonder that Israel, supporters of Israel, and, yet, decent human beings dedicated to justice, understand the necessity for pursuing terrorists into their liar in Lebanon?

The Lebanese Government encourages the terrorists by giving them free reign to operate refugee camps in Lebanon that are now centers of terrorism, and allowing the use of Lebanese radio and television facilities to glorify their acts of terrorism. When those terrorists placed a bomb in Zion Square in Jerusalem on November 13, 1975, which killed 6 teenagers and wounded 38 civilians, or when they earlier placed a bomb in the same Zion Square on July 11, 1975, killing 14 and wounding 60 civilians, did the U.N. General Assembly, Security Council, member states or otherwise decent human beings come rushing to condemn and end such terrorism? No indeed. Silence and perhaps a murmur of dismay. Mr. Speaker, the Israeli know that if the lives of their civilian population and indeed the very life of the country are to be secured, it will not be done by presenting themselves as passive victims offering their juglars to the mercy of the Arabs' knife. No, that security will be maintained only by making it clear that the military forces of Israel will protect its citizens and will use the right of self-defense seeking out murderers and terrorists in those countries in which they are given a haven.

Yes, all of us hunger for peace and an end to violence. But, Mr. Speaker, to expect that Israel will sacrifice its security so as not to affront members of the General Assembly unwilling to bear their responsibility, is an expectation that will not be fulfilled. Today, innocent victims and the survivors of innocents now dead in Lebanon and Israel mourn. The immediate perpetrators of the killings are the terrorists but their guilt is shared by their accomplices—the General Assembly, the Security Council, member states and individuals which by their actions have condoned terrorism and indeed enthroned it by according honors to the leader of the PLO, Yasir Arafat. It is they who must take primary responsibility for the deaths of the innocents.

CIVIL RIGHTS IN NORTHERN IRELAND: NEW YORK CITY PREHEARINGS

The SPEAKER pro tempore (Mr. Danielson). Under a previous order of the House, the gentleman from New York (Mr. Wolff) is recognized for 60 minutes.

Mr. WOLFF. Mr. Speaker, today I am privileged to join with 11 distinguished colleagues so that we may present for the Record, and for the consideration of this Congress, testimony on the tragic situation in Northern Ireland which was given at a special ad hoc prehearing I chaired in New York City last October 15.

The gentlemen joining me today, several of whom also participated with me in hosting the New York City hearing, share a common concern that the voices of Ireland are not being heard in the United States. Certainly we do not and cannot endorse the statements or the positions presented at the earlier hearing. But we know that ignoring those statements and positions solves nothing, for they will not go away—just as the tragic strife in Northern Ireland refuses to go away.

Let me also say that the spirit of many of the statements, and many of the positions—especially those which speak of human understanding and which plead for peace—we most heartily endorse, and we hope that Congress will heed the voices of peace despite the clamor of those still confused by the rhetoric of violence.

Mr. Speaker, I must say in all candor that I had hoped by now to have chaired official hearings on Northern Ireland before my Subcommittee on Future Foreign Policy of the International Relations Committee. The gentleman from New York (Mr. Rosenthal) chaired similar hearings in 1972, and I inherited the obligation—which I heartily endorsed and to which I now rededicate myself.

Unfortunately, as the submissions which follow my statement today will show, the State Department has opposed congressional hearings on the ground that they would constitute intervention. I have addresed myself to this point several times in this House in recent months, so I will today simply reiterate that congressional hearings on human rights do not and have never constituted more than a decent regard for the liberties which we, as Americans, hold dear. We have held such hearings on nations throughout the globe, and it is especially unfortunate that Northern Ireland—a land which has given so many sons and daughters to our country—should be denied official congressional interest at this crucial moment in her history.

Since the following statements by my colleagues, and my official opening statement of October 15, speak for themselves, I will now conclude by once again extending my heartfelt thanks to the following Members for their assistance in this important matter today: Congressman Joseph Addabbo, Congressman Jerome Ambro, Congressman Mario Biaggi, Congressman Thomas Downey, Congressman Benjamin Gilman, Congressman Norman Lent, Congressman Richard Ottinger, Congressman Peter Peyser, Congressman Benjamin Rosenthal, Congressman Stephen Solarz, and Congressman Leo Zeferetti.

The testimony of October 15 follows:

Statement by Representative Lester Wolff at Prehearing on Northern Ireland, New York City, October 15, 1975

Good morning. I welcome you to this rehearing forum to examine all aspects of the ceaseless strife and denial of human rights in Northern Ireland. As most of you are aware, an investigative process is a customary precedent to formal Congressional hearings and is geared to obtain as much up-to-date data and informed input as possible.

Today, I am gratified to be joined in this investigative effort by a bi-partisan and most distinguished ad hoc group of my colleagues from the metropolitan area, all of whom share a deep concern for the human and civil liberties of all peoples everywhere. They are Congressman Ambro (Nassau, Suffolk), Congressman Biaggi (Bronx), Congressman Gilman (Rockland), Congressman Lent (Nassau), Congressman Rosenthal (Queens), and Congressman Zeferetti (Brooklyn).

People and organizations involved with all sides of the situation in Northern Ireland were invited to take part in our discussions—including the British government and the Republic of Ireland, both of whom declined to help us ventilate the problem as one means of seeking an end to the violence and turmoil that has remained unchecked in Ireland for some 400 years.

Our own State Department also have opposed this platform on the Irish problem for, traditionally, they place a premium on smooth diplomatic relations abroad rather than on our close relations, our families, here at home. Witness State's fence-straddling in the area of international narcotics control while drug abuse in the United States is permitted to flourish, destroying a goodly percentage of our kids; State's callous disregard for the family budget with Soviet wheat deals that place foreign relations ahead of the American family's food needs; and State's covert approval of foreign carrier SST landings in the United States that threaten the very health and welfare of American families and their relations.

The time has long gone for the State Department to sit on its status quo, for that self-serving posture is no longer acceptable. I believe American, Irish-American families and their relations are just as important as our diplomatic or foreign relations and that our allies and the State Department must be made to understand this.

Personally, as Chairman of the Future Foreign Policy planning subcommittee of the House of Representatives, I intend to pursue every avenue available to me to bring about essential change and to re-direct our priorities. I have seen, at first-hand, the conditions in Northern Ireland and the consequences wrought on innocent persons by the ongoing shootings and bombings. I am committed to seeking an end to this terror and violence.

The pre-hearing today was not convened to inflame—but to inform. We are not here to promote revolutionaries—but to further the cause of justice and equality. We are not here to listen to any irrational or irrelevent philosophy—but to hear voices of reason that hopefully will focus greater public attention on the intolerable situation in Northern Ireland. The Irish are entitled to be heard in America for their rights have been jeopardized far too long.

Just as we in the Congress have fought for the rights of Soviet Jews, Blacks in South Africa and victims of oppression in Korea, the Philippines and other Asian nations, we are concerned with Everyman's moral right to a decent job, a secure home and a peaceful life in a free and open society.

We are not—as some have implied—meddling in the internal affairs of another nation but, as signators of the Human Rights Convention, are merely seeking to strip away the veil of confusion that prevails in a part of the world where human liberties and life are under siege. Indeed, there is significant precedent for this forum.

As our nation enters its bi-centennial era, it is especially meaningful to note that George Washington—200 years ago—called on "Patriots of Ireland, the champions of liberty in all lands, to stand true to the cause" for, as he said: "If I had failed (in mine) the scaffold would have been my doom. You must act likewise."

It is also meaningful to note that American interest in the "Irish Question" has an historical record in both Houses of the United States Congress, dating back nearly a century. For example, in 1888, both major U.S. political parties voiced their support of the Irish patriot, Parnell, and his "home rule" campaign. Again, in 1919, Congress passed a Resolution calling for U.S. recognition of Ireland's right to independence from the British crown. Fifty years later, in 1969, more than 100 Members of Congress officially expressed their concern over the continuing violence in Northern Ireland and urged then President Nixon to convey this concern to the governments of Great Britain and Ireland and to appeal to the United Nations to intercede as a peace mediator in the crisis. Unfortunately, this effort failed.

I make the point, too, that in none of these instances did Congress attempt to engage American troops or dollars, but focused its concern totally on moral suasion on behalf of the people of Northern Ireland.

What we seek here today is a free and fair chance for the American people to speak out for human rights and for dignity and to listen to the voices of the people of Ireland in the fervent hope that our interest and efforts may ultimately lead to a lasting and just peace in a troubled land that is held so dear to the hearts of millions of our fellow citizens.

It is time the Irish people were heard.

Thank you.

EMBASSY OF IRELAND,
Washington, D.C., October 10, 1975.

Hon. LESTER WOLFF,
Chairman, Subcommittee on Future Foreign Policy, Committee on International Relations, U.S. House of Representatives, Washington, D.C.

DEAR MR. WOLFF: It is good of you to suggest calling on me and I was glad to have an opportunity to give you an indication of my Government's views on the question of hearings in your Sub-Committee on Northern Ireland.

I think it might be useful if I set out in writing the fundamental points in our attitude on this important question.

1. The question of holding hearings is one for decision by the Congress.

2. The timing of hearings is also, of course, a question for decision by the Congress, which, in settling on a date, will, I know, wish to take full account of the political situation on the ground in Northern Ireland. We are now at a very delicate stage in negotiations between the political representatives of the two communities in Northern Ireland, against a background of intense intercommunal strife. In the light of propaganda (however misleading) being disseminated about the purpose of these proposed Congressional hearings by the supporters of the Provisional IRA in the United States, their convening at this time might, despite the best efforts of your Sub-Committee to maintain impartiality, be seen by Loyalist politicians and their supporters in Northern Ireland as an attempt by the Provisionals to mobilize American influence against their interest. This could well lead to a renewed hardening of attitudes on the part of those Loyalist politicians who have recently shown some willingness to compromise, and to an intensification of the continuing campaign of assassinations of Catholics by Loyalist extremists which could escalate to a civil war situation. As I mentioned to you, the immediate and over-riding concern of my Government, to which everything else must take second place, is to prevent civil war in Northern Ireland.

3. As my officials and I have repeatedly stated, it is my Government's firm view that, if hearings are held on Northern Ireland in the U.S. Congress, the witnesses should be confined to those whom the people of Ireland have authorised to speak for them, that is, those people democratically elected to the Dail and Seanad (the two Houses of Parliament in the Republic of Ireland) and the Constitutional Convention in Northern Ireland, or those whom they may nominate to speak for them. The electoral system now being used to return members to these assemblies is proportionally representative. In the case of the Dail and the Northern Convention, voters express their preferences as between candidates in geographical constituencies of from three to eight seats, thus giving representation even to local minorities in each of over fifty areas throughout Ireland—one of the most democratic systems of free elections in existence.

4. The democratic Government and the people of the Republic could not, as I told you, accept that it would be appropriate for the Congress of another country to call as witnesses on the affairs of Ireland, persons speaking for groups which the Irish people have overwhelmingly rejected in free elections, all the more so where the groups concerned are political organs of revolutionary bodies carrying out campaigns of violence against their fellow-countrymen. I believe that, in the event that a committee of the parliament of which I am a member, were to call as witnesses spokesmen for political groups representing revolutionary organisations in the United States which use violence to further their political purposes, the Government, Congress and people of your country would, very understandably, see such a procedure as an unfriendly act.

Yours sincerely,

GARRET FITZGERALD,
Minister for Foreign Affairs of Ireland.

Mr. ADDABBO. Mr. Speaker, I welcome this opportunity to express my concern over the continuing tragedy of Northern Ireland, and to express my hope that peace may be secured for that troubled land and her people—a nation and a race which has given so much to the United States.

On October 15 of this year, my good friend and colleague from New York (Mr. WOLFF) held a New York City ad hoc prehearing on civil rights in Northern Ireland in the hope that a full congressional hearing could be secured here, in Washington.

I am pleased today to be able to join with my many distinguished colleagues in presenting for the RECORD some of the testimony which was given at the New York hearing. As others of my colleagues have noted, we may not agree with all of the remarks and positions taken by the individual witnesses, but we certainly agree that the Congress and the American people can benefit from the knowledge that these positions—and their exponents—exist.

As an honorary member of the Ancient Order of Hibernians, I am pleased to insert in the RECORD the testimony of that organization:

THE ANCIENT ORDER OF HIBERNIANS IN AMERICA, INC.

Testimony of Jack Keane, President, National Ancient Order of Hibernians, presented by John W. Duffy, National Secretary, A.O.H., and Liam Murphy, Deputy National Chairman, Freedom for All Ireland Committee

Mr. Chairman, it is with a great sense of urgency that the Ancient Order of Hibernians in America address this appeal to the United States Congress. At present there is a very uneasy truce in Ireland between the Irish Republican Army ("Provisional" IRA) and the British occupation forces in those six of divided Ulster's nine counties known as "Northern Ireland". If the present truce negotiations do not lead to a just peace, the result will be renewed, tragic war, not only in the coming months, but for future generations as well.

Irish America (some twenty plus millions strong according to the last census) believes, and the AOH, as the oldest and largest Irish-American organization, represent their belief to you, that the United States can play a constructive role in restoring peace to that strategic corner of the North Atlantic. The United States is currently playing such a role in the Middle East.

Since our own revolution two centuries ago the United States has been a symbol to the world of Liberty and Justice. In the twentieth century we have fought for Freedom around the globe, expending vast amounts of blood and treasure in this worthy cause. Neither Irish America, nor the people of Ireland, suggest any such American sacrifice on behalf of the Cause of Irish Freedom. What we do ask is the opportunity for a fair hearing before the United States House of Representatives' Committee on International Relations.

This is important for a number of reasons in addition to the demands of simple Justice: it is desired by Irish America, a large community distinguished by its sacrifices and patriotic devotion to the United States; it is important that the United States Congress and the executive branch of our government be correctly and accurately informed of the facts and implications of the current conflict in Ireland in order that we might avoid any potentially dangerous errors (recent events underline the importance of this); the oil potential of the Irish sea-bed may well become a valued alternative to Arab oil; the United States is still de facto the "great power" in the North Atlantic, and should exercise that great power responsibility in the interest of world peace; the image of the United States as a defender of Freedom and impartial Justice in the world needs to be restored, and this can only be done through example, in this case by judicious application of our influence and moral force.

The Soviet Union recently completed extensive naval maneuvers in the North Atlantic. A casual glance at the map illustrates the strategic, geopolitical importance of a stable Ireland to the future security of not only the United States, but also the whole North Atlantic community.

We may have before us an example in the recent case of Portugal. A reactionary regime was finally overthrown by progressive, moderate nationalists under the leadership of General Antonio de Spinola. Thanks in part to our neglect of the Spinola government, he in turn has been deposed by a leftist junta, a most unhappy turn of events, not only for Portugal, but for the entire North Atlantic community (and, also, a potentially very happy event for Admiral Gorshkov and the growing Soviet Navy).

What has this to do with Ireland? Hopefully very little. But, Ireland's geography is either England or Portugal in relation to the potentially more important than that of movements of the Soviet Arctic or Baltic Sea fleets. All too well we remember the deadly U-Boats and raiders of two World Wars.

Are we suggesting that Ireland might go Red? Not at all; the inherent conservatism and religious devotion of the great mass of the Irish people, Protestant and Catholic, mitigate against that. But, there is a danger implicit in the United States neglect of the just aspirations of the Irish nation for reunification, Freedom, and Independence.

Ireland is presently mis-ruled by the artificial, foreign-imposed system of reactionary Partition governments. It is the honest belief of most Irish around the world that Ireland will be re-united and free, and that sooner than later. The question comes down to this: "How will the new national government of a reunited and reconstituted All-Ireland, Irish Republic view the role of the United States during the final phases of Ireland's struggle for Independence?" (Remember how the American watchword in France in 1917 was, "Lafayette, we are here!")

Will we be seen as heroes, as villians, or at least as honest, concerned neutrals? Will the Irish nation be permitted exercise of the right of self-determination? The residual policy of the Nixon administration would have us cast as accessories to the fact of English mis-rule in Ireland. The policy of earlier American Presidents, George Washington and Thomas Jefferson, not only inspired, but actually favored the Cause of Irish Freedom.

Honor, and the enlightened self-interest of the United States lie in giving a fair hearing to the progressive Anti-Communist proponents of Irish nationalism. Our government must be correctly informed if we are to have any hope of a foreign policy which will not be ultimately counter-productive.

The policy of the Nixon administration was (and to the extent that it persists, still is) doubly counter-productive. Abroad we are seen as accomplices of English imperialism and oppression. At home our government runs the risk of alienating millions of patriotic Irish-Americans through support of England's war effort in Ireland.

It is up to the United States Congress to illuminate the way for a new Irish policy on the part of our government: a policy which will secure for us a safe haven in that strategic corner of the North Atlantic; a policy which will restore peace and justice and earn for us the gratitude of the Irish nation; a policy which will satisfy the just aspirations of Irish America to see a prudent and honest attempt to assist the restoration of Peace, Freedom and Unity to the motherland of our race and of our Celtic culture which we contribute to the building of our America, E PLURIBUS UNUM.

In June of 1974 the Honorable Benjamin Rosenthal, M.C. of New York, Chairman of the European Subcommittee of the House Foreign Affairs Committee, promised the Ancient Order of Hibernians (through our past National President, Hon. Edward J. Fay of Pennsylvania) that his sub-committee would hold hearings on the Irish Question early in the First Session of the 94th Congress. Since the reorganization of the Congress earlier this year Mr. Rosenthal is no longer in that position; Hon. Lester L. Wolff of New York has very kindly consented to make good on this promise. We have no desire to obstruct the normal business of the International Relations Committee, therefore we appeal to the Chairman to schedule these hearings before Mr. Wolff's subcommittee as soon as is practicable. Time is of the essence, for the scrutiny of this committee could well inspire a higher degree of sober conduct among all the principals in Ireland and in England. The mere act of holding hearings could advance the cause of Peace.

We appeal to the United States Congress through its all-important House Committee on International Relations; we appeal to your patriotism; we appeal to your humanity. We appeal on behalf of the suffering Irish people with whom we have indefeasible bonds of affection and consanguinity; we appeal on behalf of the best interests of the United States and the world community of nations.

It is the lesson of history that: "Ireland unfree shall never be at peace." It is now your opportunity to make a meaningful contribution to the solution of a serious and long festering problem. We pray that you will be able to honor this request.

Questions and Answers

Congressman Lent. Thank you gentlemen. I would like to ask you a question, because I spent over an hour with Minister Fitzgerald when he was here, and that is the reasons I asked the question at the outset, as to whether or not you represented the A.O.H. or were just stating your individual opinion, because Mr. Fitzgerald said that you (the A.O.H.) were actually members of the Irish National Caucus in name only and that it did not represent the opinion of the membership. Would you like to comment on that?

Murphy. Well, as I said, this policy was laid down at the National Convention in California. And this policy was approved by the Convention. This policy is carried out by the National Board and by the National President. I am here only because the National President, John Keane, was unable to attend.

Congressman Lent. What is strange is that Mr. Fitzgerald, at the time he was here, criticized the organization's ties with the Caucus and just said in a letter to me which I just received today, that the only people he wanted at hearings in the United States were elected officials with the Irish government or the government in the North of Ireland. So, it's kind of a "double standard."

Murphy. Concerning the Irish National Caucus, I would like to point out that our National President is also the Chairman of the Board of Governors of the Caucus and chaired the meeting here in New York when the Caucus expanded greatly in obtaining additional membership of organizations throughout the country. I think the ties between the Caucus and the A.O.H. are quite valid and believe that the Caucus represents what we want them to represent—the policy adopted by our National Convention.

Mr. ZEFERETTI. Mr. Speaker, the situation in Northern Ireland remains a scandalous blot on our foreign policy, for our policy is to back Britain. Britain's policy is to continue to oppress the Catholic minority of Northern Ireland, showing that after all these centuries, the British have learned nothing about the determination of this country to be unified and free. The Roman Catholics of Ireland remain second-class citizens. They still do not enjoy the rights that England makes available to all of her people.

In response to the policy of British military occupation and sanction of formal discrimination, many Irish patriots have resorted to age-old patterns of response. The IRA has resorted to violence. accompanying a loss of life. This deplorable situation has prevailed in that country because the British still refuse to pack up their military occupation and get out. They still feel they can enforce their desires at the point of a gun, by detention camps, and through dual systems of government. Such policy is as sterile today as when it was begun.

I deplore the loss of life and wish it to cease. Simultaneously, I would like to see all the people of that country have a fair chance to determine their own destiny as equals.

Recently, this entire question was explored in a hearing in New York City under the chairmanship of my distinguished colleague, Lester Wolff. At these hearings, which I feel aired this subject in a long overdue manner, Thomas Gleason. international president of the International Longshoremen's Association, made an eloquent statement making specific recommendations. I commend this statement to the attention of my colleagues and insert it here in the Record at this point:

Statement of Thomas W. Gleason, International President, International Longshoremen's Association, AFL–CIO, and Vice-President, AFL–CIO

American Labor has always played its role in the international aspects of American politics—supoprting oppressed people struggling to obtain the freedom we, as Americans, cherish as a birthright.

AFL–CIO President George Meany has always been an outstanding spokesman for world freedom and has played his part in supporting the principles of liberty, on which the United States was founded some two hundred years ago.

Mr. Meany has continually spoken out against Communist repression; against the obliteration of Israel and has strongly supported a position to see Ireland a unified nation. To further support my remarks, I am also happy to include as a part of this record resolution No. 258 on Northern Ireland which was unanimously adopted under the distinguished leadership of AFL–CIO President George Meany and the entire AFL–CIO Convention at the 11th biennial Convention of the AFL–CIO held in San Francisco, California on October 2–8, 1975.

The resolution as unanimously adopted reads as follows:

This resolution describes the tragedy of warfare in Northern Ireland. It asks the AFL–CIO to call for the immediate abolition of imprisonment without trial in Northern Ireland and the replacement of British troops in Northern Ireland with a peace keeping force of the United Nations and that said United Nations forces be introduced in consultation with the governments of Great Britain and the Irish Republic.

It also asks that an election on the question of independence for Ireland be held in all of Ireland and not merely in the six counties of a partitioned province that is neither a political nor an historical entity.

In the event that the people of Ireland vote for an independent republic as they did in 1918, the resolution asks that a United Nations commission summon and supervise a constitutional convention to provide for laws assuring the civil and religious liberty of all people of the nation.

The recommendation of the Committee was unanimously adopted.

Mr. Chairman, the American people are concerned with the persistent bloodshed in Northern Ireland. There are upwards of 20 million Irish-Americans in these United States. Speaking as an Irish-American, echoing the concern of these Americans, the need for a full Congressional hearing and thorough investigation of the situation in Ireland is immediate and imperative.

British and Irish Government officials come to this country to freely give their views. I certainly do not object to that. However, when Irish Republicans are denied that same privilege, fair play and free speech are essentially non-existent. We Americans pride ourselves on fair play, and only a Congressional Forum will project the Irish Question in truth. At this time, bias media coverage and a pro-British stance by the executive branch of the Administration is forestalling a platform for a public hearing.

You gentlemen, by your efforts here at this preliminary discussion, can give further sustenance to the drive by concerned Americans to have Congressman Thomas Morgan, Chairman of the International Relations Committee to immediately schedule a date for a full Congressional inquiry. This would be the most constructive step toward peace with justice in Ireland. I personally sent a letter to Chairman Morgan requesting an immediate date for the Irish hearings.

Organized labor is prepared to play its role in seeing Ireland free and united. Not only do I refer to the American trade union movement, but I can strongly express the concern and interest of my brothers in the British and Irish Trade Union Councils. A program of principle to halt all military activities in Northern Ireland and the curtailment of all hostilities would permit peaceful negotiations supporting the right of self-determination, equal rights and civil liberties.

In conclusion, the concern expressed by the AFL–CIO, the Irish-American community and concerned peoples throughout the United States, warrants immediate attention and I cannot over-emphasize the importance for each one of you, as a member of the Congress of the United States, to relay this urgent plea to your colleagues.

I have made my remarks brief in order to allow ample time to answer any questions that you may wish to pose.

Questions and Answers

Congressman Wolff. Thank you for your interest in this issue, and for your fine statement here today. Let me ask you, as an important member of the American labor movement, you have been quoted as considering the possibility of a boycott of some sort should Great Britain not live up to its responsibilities as a member of the free nations of the world. Could you be more specific on any such planned actions at this time?

Mr. Gleason. Thank you, Mr. Chairman, for affording me the opportunity today to speak. In answer to your question, let me say this:

Organized labor is prepared to play its role in seeing Ireland free and united. After all, the Irish have played an immense role in the founding of America and the founding of the labor movement. We want to pay back a bit of the debt by exerting ourselves in this humanitarian cause.

As you may know, last February in Bal Harbor, Florida, at the convention of the Executive Council of the AFL–CIO, an NBC reporter asked me if I would consider a boycott of British goods. At that time I replied that it was not out of the question.

Let me speak to that issue today, indeed, let me carry it further. I will now state publicly that if I was convinced that a boycott would bring both sides to the bargaining table in Northern Ireland, I would not hesitate to call one. I would note that the American labor movement has already helped safeguard the interests of the American people in the grain deal with Russia.

Testimony

(Submitted by Kay Kelly, Vice President, Queens Irish-American Political Action Association, Inc., Woodside, N.Y.)

Mr. Chairman: Human Rights for the individual is a God-given right to every man. That is why the situation in the North of Ireland at the present cries out for help. Human rights are being denied in Northern Ireland at this very moment and have been for decades. There is a movement afoot to push it under the rug as an intramural affair of a religious nature. This is not so.

What is going on in Northern Ireland is an economic battle for survival, perhaps similar, in some respects, to our own problems in the South where the Negro and the poor whites have battled to survive.

One look at the map of this island at the east side of the Atlantic and one would say "here is an island of one people" but obviously this is not so because an infamous treaty of over fifty years ago ordained otherwise. A group of affluent "carpetbaggers" corralled the area of the northeast and through political gerrymandering were able to control the destiny of two and one-half million people.

What can we here in America do to help? We can ask for Congressional public hearings of this problem and for action by the United Nations Organization, which group was founded to resolve such international quarrels. The United Nations is in a position to examine and come to a lasting conclusion on how to help the people of Northern Ireland live together in peace and harmony. The people of the United States of America, if given a complete and true picture of the atrocious conditions existing in Northern Ireland will demand that their elected officials take the possible and necessary steps to help alleviate this inhuman situation and assist in reaching a workable conclusion to the bloody warfare destroying this part of the world.

Thank you, Mr. Chairman.

Mr. BIAGGI. Mr. Speaker, on October 15, I had the pleasure of participating in an ad hoc congressional hearing looking into the Northern Ireland situation. Testimony was received from a number of prominent Irish American individuals and organizations. The hearings were designed to be a prelude to full scale congressional hearing which I have advocated for some time.

I consider it imperative that the U.S. Congress begin to look seriously into the Irish question so we might be in a position to offer some viable solutions for peace.

At this time, I wish to insert into the Record the testimony presented by Matthew Higgins, national representative for the Irish Northern Aid Committee. In addition I have inserted a question and answer session which followed the testimony.

Statement Presented on Behalf of Irish Northern Aid Committee Before a Panel of U.S. Congressmen

On behalf of the thousands of members of Irish Northern Aid Committee, I want to thank all of you for the opportunity to address you today.

As you may know, Irish Northern Aid Committee is a group of concerned Americans, dedicated to alleviating some of the suffering which our friends and relations in Ireland endure.

It would be nice if I could spend this time telling you lovely stories about the Emerald Isle. Unfortunately, they would not be true. The truth of Ireland today is concentration camps; separated families; the absence of every basic human and civil right; torture and misery. These are words one might quickly gloss over—but behind every word is a face—an Irish face.

We in America *don't* belong to Irish Northern Aid Committee because it is the "fun thing to do." We belong to Irish Northern Aid because *we know the faces* behind those words—"torture" and "misery". We know the suffering our people endure and we believe it is our *duty* to help.

Five years ago, at the start of the most recent troubles, we received agonizing pleas for help from Ireland. Our people were homeless and they were hungry. Irish Northern Aid Committee was formed solely as the necessary humanitarian response to those pleas.

The commitment of Irish Northern Aid Committee transcends politics. Ours is a human commitment. As such, it cannot be denied. Our people in Ireland need our help. We are determined that need will continue to be answered—as it has been and is now being answered by Irish Northern Aid Committee.

Some of you here today are of immigrant stock. Many of your own families sent a few of their dollars back home to help out. Certainly, if their people were suffering, they did. That is the American way.

But what has been our government's response to this humanitarian effort? At the hands of the present and past Administrations in Washington, Irish Northern Aid Committee has been continually harassed and slandered. Time and again, we have seen individuals—who do not share our goal of freedom and independence for Ireland—being given privileged audiences at the very highest levels of our government—only to denounce us—American citizens, who are trying to help those less fortunate.

Questions have been raised by these spurious visitors about the use of monies collected by Irish Northern Aid Committee. In fact, we have been told by Members of Congress, your colleagues, that the State Department advises them against supporting Irish Northern Aid—solely on the "say-so" of these same visitors!

I must say here that anyone who is sincerely concerned could have—and hopefully did—check the records. And Cummann Currach in Dublin can readily acknowledge receipt of all INA funds. And, as the Administration in Washington well knows, all transactions are also on file for inspection with their own Department of Justice.

I want to make this very clear—the kind of malicious slander that has been spewed out against Irish Northern Aid Committee is to no avail. Our goal is sincere. Our cause just and the need urgent. We will continue and will ignore these phonies in the future.

We do not object to the Congress listening to different points of view. But, we strongly object to our being denied that same right.

We are—quite rightly, we think—outraged and must insist that this type of political harassment cease.

The point we are making here today is that the American Government—by its actions—is now determining what will happen to the Irish people. The Administration apparently feels it can tell the Congress that our people should go hungry. The British Government and its Irish Quislings have assured them that, if the American aid is shut off, they can starve the Irish patriots into submission. And all this is being done—in our name—without the knowledge or consent of our elected representatives—or the American people.

Two hundred years ago, this United States of America was founded on the premise that all men are endowed with the right to life, liberty and the pursuit of happiness. Since that time, the spirit of America has always been to help the oppressed throughout the world realize that same American dream of peace and freedom.

We in Irish Northern Aid Committee believe in that spirit and that dream. We believe we have the right—and the responsibility—to carry it forward. We find it deplorable that our government—as it celebrates its own independence from oppression—thwarts our effort.

Gentlemen, I believe the Congress should question this Administration very closely on its aims and its actions with regard to the entire Irish question. It is inconceivable—as well as ludicrous—that they are making such efforts to stop a humanitarian effort.

Again on behalf of thousands of your constituents—who support Irish Northern Aid Committee—I ask you to secure for us a full hearing before the appropriate Committee of Congress.

IRISH NORTHERN AID COMMITTEE QUESTION AND ANSWER PERIOD

Congressman WOLFF. We have been told that Irish Northern Aid Committee collects money in the United States to purchase guns to be shipped to northern Ireland. I wonder if you would respond to this, sir?

HIGGINS. Our collections are for relief purposes only. And, in fact, we are not really big enough to meet the need that exists in Ireland. But the need to help the families is vital and without Northern Aid Committee, the relief situation in Ireland would be in desperate condition.

Congressman WOLFF. Are you saying that none of the funds that are collected here in the United States are used to purchase weapons for use in the North?

HIGGINS. The monies collected are for relief purposes only and receipts are available for inspection.

Congressman WOLFF. May I ask you a further question? Do I understand that some of the people in the North of Ireland are part of Irish Northern Aid Committee?

HIGGINS. Our Trustees are in Dublin—because they wouldn't be able to operate in the North.

Congressman BIAGGI. To the point that's been raised by Congressman Wolff, I'd like, for the record, so we all can know exactly what occurs with Irish Northern Aid funds, discuss this further. If my memory serves me properly, I recollect that there was some inquiry by our government into your fund-raising?

HIGGINS. Well, we have to submit reports every six months to the Department of Justice. And there has been a very thorough audit made by that same Department. They actually had all of our records for about one week.

Congressman BIAGGI. As I recall, there was actually a question of harassment and you are very charitable in your presentation of what occurred. But, after the F.B.I. and the Department of Justice had your books, investigated and made proper inquiry, was there any action taken by the F.B.I. or the Department of Justice in connection with Irish Northern Aid?

HIGGINS. None at all.

Congressman BIAGGI. Was there any charge?

HIGGINS. We heard nothing further from them.

Congressman BIAGGI. Would it be fair to assume then, that if there was any evidence of wrong doing, that charges would have been preferred?

HIGGINS. I would think so—and there were no charges.

Congressman BIAGGI. That is the point I am making for the record, because Dr. Garrett Fitzgerald referred to this and representatives from Ulster and even from the United Kingdom, always put up that "strawman" and develop an image with relation to Irish Northern Aid, in order to disparage Northern Aid in its efforts and discourage those who participate by making it a fearful undertaking. The fact of the matter is, as I know and as you know, as a result of all this inquiry—and it was plentiful (there is many an American of Irish origin here and many an Irish national here who have been harassed by our federal government—we've been through that whole scene). But, for the record, as a result of all inquiries and investigations, there is absolutely no evidence that the monies collected by Irish Northern Aid Committee go into the purchase of arms.

HIGGINS. I would like that to be very clear.

Congressman BIAGGI. That is the point. I can't say it emphatically enough. That is the official result of a study conducted by the United States Government. But, somehow or another, the media or someone disseminates false propaganda. I think your assessment of the source and use of Irish Northern Aid funds is a reasonable one and a factual one.

I might suggest that it is unfortunate that it is necessary for Northern Aid to raise those funds to provide relief for those people who suffer in northern Ireland. This government has a moral obligation to do the same thing in that area as it has done for those who have suffered as a result of wrong-doing and violence in other countries—the same thing they have done in other countries for refugees and others who have been forced from their homes; deprived of the right to live in their homes and forced to live lives of deprivation.

Rather than taking the point of harassment and ally itself with the United Kingdom (which is obviously hostile to the entire cause) this government should reverse its position and provide funds to assist those unfortunates who are suffering.

Congressman ZEFERETTI. I would like to ask, does Irish Northern Aid Committee provide hard money—is it just money, or does it involve food, clothing and the like?

HIGGINS. We send clothing when we can have it transported for free. Because of the very high cost of transportation, it is generally more practical to send money.

Congressman ZEFERETTI. I was just thinking, maybe the goal of helping the people could be realized and the Committee itself wouldn't suffer the hardship of going through all this nonsense of investigation and the like, if, in fact, you dealt with the needs of the people by providing food and clothing as a government—as the U.S. gives aid to so many other individuals who need that kind of sustenance.

HIGGINS. If this government could take that burden off our shoulders, it would certainly be a relief. I would have no opposition to it.

Mr. OTTINGER. Mr. Speaker, I am very pleased to take part in this special order and to assist Congressman WOLFF in bringing the hearings on Northern Ireland which he held on October 15 in New York to the attention of my colleagues. I commend Congressman WOLFF on his efforts and am hopeful that the Committee on International Relations will address the issues raised by these hearings in the very near future.

The statements by Mr. Chris McLoughlin and Mr. Frederick O'Brien, recounting the horrors being committed in the prisons of Ireland, call into question the U.S. policies which are directly assisting the suppression of freedom in Ireland. The silence of the State Department in the face of the repressive measures being taken in Ireland is an embarrassment to all of us. The continuance of our present policies toward Ireland and Great Britain deny all of the ideals which the United States represents.

If we have heard the cries of Jews in the Soviet Union, political prisoners in Korea and Chile, and of blacks in South Africa how can we turn our backs on the people of Ireland? It is long past time for the United States to use its good offices in helping to restore peace and justice to Ireland.

I offer the statements of Mr. McLoughlin and Mr. O'Brien to the attention of my colleagues:

STATEMENT ISSUED FOR CONGRESSIONAL HEARING ON NORTHERN IRELAND BY THE JOINT ACTION COMMITTEE FOR IRISH POLITICAL PRISONERS

Gentlemen: I welcome this chance today to speak before a government which the late President John Kennedy once reminded us is the oldest republic on earth.

I am particularly struck by the fact that this opportunity should come on the eve of America's Bicentennial.

The victory of this country to exist as an independent, sovereign nation rather than as a chattel colony bears many striking parallels, I believe, to the hopes and dreams of the men and women who now struggle in the streets of Derry and Belfast, and who now are imprisoned in jails all over Ireland and England.

In part, these hopes and dreams are the remembrance of lost liberty—a remembrance which recalls such men as Theobald Wolfe Tone, an Irish Presbyterian who led the rebellion of 1798 and who was a close friend of America's own Tom Paine; and it recalls the Ulster-descended Patrick Henry who would fight before being denied liberty.

It also recalls the descendant of English immigrants—George Washington—who as an honorary member of the Friendly Sons of St. Patrick recalled with affection his 5 Irish-born generals who served under him.

It recalls also the prayer of Benjamin Franklin: "God grant that the iniquitous schemes of extirpating liberty by the British Empire" in Ireland may soon be defeated.

They remember all of this today—in the streets of Derry and Belfast—even as they remember their own, more recent past—when in 1969, peaceful street demonstrations were organized under the non-violent methods of one of America's greatest sons, Martin Luther King, on their first march to gain, in the land of their ancestors the simple right to vote, hope was high as they chanted "we shall overcome".

But on that first march, they were beaten and repelled—By the loyalist police force leading a fear-inspired loyalist mob.—Five hundred homes in Nationalist Derry were fire-bombed, in the opinion of the victims, by a British terrorist group, the S.A.S.—the secret "Special Air Services" corps—which operates as a British assassination squad in both the north and south of Ireland. Since the pogrom of 1969, the S.A.S. has of course been reinforced by the public presence of over 16,000 British troops.

Our committee—The Joint Action Committee for Irish Political Prisoners—was formed two years ago in response to the growing alarm of concerned citizens that the continuing civil and military strife and political and social oppression was not alleviated—but was in fact enhanced—by the presence of those troops.

Other speakers here today will perhaps focus on the repressive role of the troops and will give you some background on the civil strife and political repression. All of this is information which is badly needed, in view of the biased nature of much of this country's media coverage.

In my remarks I would like to concentrate on the most dramatic victim of political repression—THE PRISONER.

In the broadcast sense the entire Nationalist community of North Ireland are political hostages. The British army of occupation, through its policy of detention, internment, and house-to-house search, constantly seeks to frighten and intimidate the minority community from organizing politically to defend its right and to better its lot. This hostage status increasingly extends to the one million Irish-born exile community in England which under the recently-passed "prevention of terrorism" act now finds itself denied some of the basic rights of British citizens, and subjected to constant harassment—Political sympathizers in both the Republic of Ireland and the United States have often found that their governments cooperated with the British government in trying to stamp out any organized opposition to their rule in the North of Ireland. Quite a few have found themselves in jail, despite the fact that fair play and the right to dissent are said to prevail under Anglo-Saxon justice.

In the North of Ireland itself, in 1971, over 400 Irish nationalists were dragged from their beds in the early hours of August 9th to endure a nightmare of torture, which was later documented by the London-based organization "Amnesty International", that ended in their indefinite incarcerations at Long Kesh Prison camp without charge, or trial, or right of legal counsel. Once an airstrip from which many Irishmen left to battle Hitler's air fleet, this name—Long Kesh—has now become synonymous with Dachau.

The conditions under which the men are held at Long Kesh can only be described as inhuman. Caged in over-crowded huts, the men finally fulfilled the warnings of the International Red Cross when on October 16th, 1974, the prisoners burned this hated compound to the ground.

It was the most defiant and courageous act since the struggle began for this generation of Irish women and men . . . for of course they knew they would pay dearly in savage beatings for daring to destroy a modern symbol of age-old British repression. The claim of the British-appointed secretary of State Merlyn Rees that only 9 prisoners were detained in hospital, and a small number of others treated for minor wounds, was ridiculed by hospital sources in Belfast who knew from firsthand experience that at least 3 hospitals had been pressed into service to receive the wounded prisoners. In one hospital alone, more than 100 prisoners passed thru its doors.

Outside the barbed wire walls word spread of the burning of Long Kesh. At the women's prison in Armagh, the Governor and 3 Senior Officers were taken hostage in what was a virtual state of siege. In support of their brothers, the women hung white sheets from their cells with the message "end internment" scrawled thereon. Mass arrests were made in the Nationalist areas of Belfast as once more demonstrators faced the C.S. gas—the Saracen tanks—and the American made rubber bullets.

It must be emphasized that many of the women, like the men, are held without charge or trial according to the report of Amnesty International which was issued in April of this year, some have been tortured, and some held as hostage against the surrender of their male relatives.

It was to this prison in Armagh that two young Irish women were eventually transferred—after an ordeal that reminded the world that Irish women, no less than their men-folk, are capable of resisting their captors' brutalities.

In a trial marked by the flagrant denial of presumed innocence Marion and Delours Price were convicted in London for their alleged part in the so-called London car bomb conspiracy. Protesting the British government's refusal to grant political prisoner status and return them to a jail in Northern Ireland, they began on November 14th, 1973, a hunger and thirst strike.

As demonstrations were mounted against their sentences and to forestall their deaths the British government began the barbarism of force feeding. Bernadette Devlin, a member of the British Parliament, after a visit to the women, described their appearance at the end of 18 weeks. "Marion had lost over (28 lbs.) two stone. Her once dark hair is white at the roots. Her face appears to have changed shape, the bone structure now being so pronounced and her complexion ashen pale."

The sisters were fed by having a wooden board pressed between their teeth and a thick rubber tube passed through a hole in the board, down the throat into the stomach. Liquid food was then poured down the tube and if choking occurred the tube was hastily withdrawn to prevent it from entering the lungs. The prisoners were then held in place for 15 minutes to prevent the liquid from being brought up again.

Their ordeal ended after 167 days when another young hunger striker died in Britain's Parkhurst prison. Michael Gaughan, age 24, a native of Bellina in County Mayo, in the south of Ireland, became the 1st Irish Republican to die in this generation after a hunger strike of 64 days. His death occurred when prison officials opened the mouth of the fasting prisoner, and physically forced semi-liquid food into his throat. The substance filled his lungs and he died as a result. The return of his body to his native land brought mounting pressure for the transfer of Marion and Delours Price to Armagh prison in North Ireland. They are now serving sentences of life imprisonment there.

The brutality goes on. More recently we have learned of Frank Stagg, who, like Michael Gaughan, is a native of County Mayo. In 1973 he was arrested in Coventry, England, and charged with conspiring to cause damage to the factory which manufactures the armour for Saracen tanks. He was convicted after a trial which was held in an atmosphere of fear and suspicion. Sentenced to 10 years, he has now been on hunger strikes 3 times; the first with Michael Gaughan and later in protest for being stripped naked and indecently searched before and after the visits of friends. He went on his 3rd strike in sympathy with the hunger strikers at Port Laoise prison in the Republic of Ireland. For his refusal to work on items for the British Army, he has, since mid-April, been kept in solitary confinement.

As I said at the beginning of my remarks, I welcome the chance to speak of Ireland. I hope that through these hearings a light will finally be shed on events which until now have been cloaked only in such sinister words as "gunman", "terrorists" and "mad bombers".

Surely by now the American people are entitled to learn that this generation of Irish men and women are engaged in a struggle to end the centuries-old evil of forced emigration and to reclaim the right of the people of Ireland to the ownership of Ireland.

Respectfully submitted on behalf of the Joint Action Committee for Irish Political Prisoners.

Mr. DOWNEY of New York. Mr. Speaker, I welcome this opportunity to express my concern over the difficult situation in Northern Ireland. This is a matter that deserves our close attention because it involves questions of basic human rights and because it is being closely watched by millions of American citizens of Irish descent. These citizens in particular, of which I am one, have been torn as they witness the dramatic erosion of fundamental freedoms in the home of their ancestors.

The Irish people of both sides of this tragic confrontation may well benefit from a strong demonstration by their friends in the United States that we share their agony, and that we support every effort that they make toward a solution to their internal conflict. I think that with significant moral support from many of us here in America, we just may have an effect by drawing some of the extremists enough away from their present positions to allow meaningful discussions of compromise and settlement. Accordingly, Mr. Speaker, I hope that today's session will provide you with sufficient information to persuade the House International Relations Committee to convene open hearings on the trials of the people of Ulster. This should be done with sufficient speed and scale to serve as ample demonstration that will reach the ears of both factions over there.

We can do at least that much.

At this point in the Record I would like to submit additional testimony that was received by Congressman Lester Wolff at his prehearing on Civil Rights in Ireland in New York City on October 15.

STATEMENT OF DR. FRED BURNS O'BRIEN, INFORMATION DIRECTOR, IRISH NATIONAL CAUCUS

Mr. Chairman and Members of Congress: The Irish Caucus is alarmed at the present trend of the foreign policy of the United States with particular attention toward the attitude of the State Department toward the continuing conflict in Ireland. It is unfortunate that the United States has supported the policies of the aggressor nation, Britain. The U.S. Government has, for instance, supported the British effort in the following ways:

1. Trained British troops for duty in the North under a NATO cover.
2. Supplied arms to the British, i.e., CS and CR gas (outlawed under international

law), rubber bullets, ingram 9mm machine pistols, and other weapons.

3. U.S. domestic agencies have harassed and intimidated Irish Americans without any reason of legitimate investigation.

4. The CIA has consistently aided British intelligence in England, Ireland and on the European continent.

5. And through Mr. Kissinger and the Department of State have attempted to disrupt the legislative branch from holding hearings on Ireland by planting misleading information with you and your colleagues concerning activities of Irish organizations and individuals.

6. At the request of the British and Free State Governments, the U.S. government has banned Irish Republicans from entry to the U.S. to give views by an arbitrary and discriminatory preconceived plan.

7. The F.B.I. agents assigned to the American Embassy in England to monitor the activities of Irish Americans.

8. The Freedom of Information Act is not needed by British and Free State authorities who have complete access to files on Irish Americans and Irish American organizations.

9. Psychological-operation troops have received training at Ft. Bragg, North Carolina, under direction of the C.I.A. At a recent torture trial in Greece, Admiral Engolfopoulos connected the U.S. directly with torture in Greece under the Junta, citing his own training at Ft. Bragg, North Carolina. At least one British Army officer at Lisburn Barracks in Northern Ireland was trained similarly in psy-op procedures for duty in Ireland.

10. Threats upon the bodies of Irish Americans, i.e., Special Branchman Hegarty on Sean Walsh and myself this past August in Dublin.

11. Mr. Alan Roy, U.S. Consul in Belfast, stating Justice is out to get Irish Northern Aid.

Gentlemen, the list goes on but the fact remains that official United States policy on Northern Ireland is neutrality. Yet, the United States at every turn encourages British incursions and ensuing indiscretions.

In regard to the issue of the arbitrary revocation of the visas of Irish Republicans, the following should be considered:

Seamus Loughran, Ruairi O'Bradaigh and other members of Sinn Fein have been responsible for maintaining peace in Northern Ireland through negotiations with the British government. Certainly, everyone wants peace with justice firmly entrenched in Ireland. In a letter to me dated March 17, 1975, Mr. Carroll L. Floyd, Acting Officer in Charge, Irish Affairs at the Department of State, informed me on behalf of the Department: . . ."We have tried to offer all moral support and encouragement to those of good will on all sides who are working to break the vicious circle of violence and build a peaceful, just society in the area."

Is the revocation of visas of peace negotiators the manner the Department is giving moral support to purveyors of peace? Advocacy of the overthrow of British rule in Ireland is implied in Section 212(a) (28) (f). Does the United States purport to assume the extraterritorial right to protect the British in Ireland? Since when are we guardians of British interests?

The revocation of visas of Irish Republicans has prevented Irish Americans from hearing the opinion of these people, thereby infringing upon our rights and effecting censorship upon us. We cannot discuss issues that are not presented by their spokesmen; therefore, our freedom to exercise a view on this subject matter is impinged. Our right to assemble and hear the views of Irish Republicans has been prevented by the arbitrary action of the State Department.

The Irish National Caucus has invited members of the Republican Movement to the United States to meet both individually and in a group with United States legislators in Washington. In a seminar fashion, the I.N.C. intended to bring the Republicans to answer questions of concerned Members of Congress on their role in peace negotiations with the British. This is in the interest of long-term peace in Ireland and can only be accomplished through personal appearance of the negotiators.

By preventing entry of Republicans into the United States, the State Department has left us the choice of going to Ireland to acquire personal firsthand knowledge, or not getting it at all. This places an immense financial burden upon the individual Irish American when the view he or she seeks could be pronounced by speakers selected to address them in the United States. By its action, the Department of State is unequivocably contributing to further bloodshed and violence by blocking access to political discussion.

Gentlemen, in the Bicentennial year should the foreign policy of the United States not be directed along the principles of the founding of the United States, that of freedom for all the world's people? The Caucus holds the position that in support of American tradition, we will work to make the adjustments of our elected officials conform to the principles we hold dear in America. Who are we but the benefactors of rebellion against Britain, certainly the Irish of 1975 deserve the same status in this country accorded the heroes of 1776, many who were Irish-born.

To guide America relations with Britain and Ireland now and in future years, we need oversight by Congress so that support of a foreign government does not clash with American democracy.

We in the Caucus are attempting to speak for those who are silenced by oppressive laws in both parts of divided Ireland. The Irish People with views of unifying Ireland are not permitted normal access to the media. Provisional Sinn Fein, who are monitoring the present ceasefire in Northern Ireland are not allowed time on television or the radio; both owned by the Free State government.

Both you, Mr. Wolff, and you, Mr. Biaggi have been victims of the same type of censorship imposed upon Irish political dissidents. Both of you have travelled to Ireland on legitimate fact-finding missions at the request of the Irish National Caucus and at your respective press conferences you were banned from radio and television coverage. The Irish Foreign Minister, Garrett Fitzgerald, recently travelled to the United States and was not censored. Why is it that two members of the Congress of the United States are censored by the government of Garrett Fitzgerald?

In both visits Section 30 of a Media act was imposed as expressly told to me by a representative of Radio Telefis Eireann (RTE) the government radio and television outlet. Courtesy accorded to Irish Free State officials in the U.S. is not reciprocated in the Free State for U.S. officials. For this we apologize because this is not representative of the Irish People. They are held in check by the Amendment Act 1972 whereby they can receive a prison sentence for the expression of certain political views. Ireland 1975, North and South, all 32 counties share one thing in common, that is the fact that they share unity in a police state. A note to the members of Congress is the request by the Free State government for an increase in military supplies from America over the same request for arms in 1974 for 1975. It is an ominous sign.

The Irish National Caucus implores you to allow the Irish People to come before the elected representatives of the U.S. and offer political views they cannot propose in their own country. How can a political solution be implemented when equitable access to political procedure remains qualified. It is easy for the British and Free State governments to call for political participation and deny a role in the political system. This type of rhetoric is intended for the ears of outsiders who the British and Free Staters are attempting to deceive. The Irish People to be heard must seek out and rely on the friendly forum of the United States to present their views. Here they feel democracy dictates that all views should be permitted full dissemination.

Mr. LENT. Mr. Speaker, I was pleased to participate in the prehearing forum on Northern Ireland, which was conducted by my colleague from New York (Mr. WOLFF) on October 15, 1975. I want to include for the RECORD a portion of the testimony we received at the hearing. The crisis in Northern Ireland is indeed tragic and threatens to escalate into full-scale civil war. I found the October 15 hearing to be most illuminating, and while I cannot personally agreed with all of the statements which were made, I heartily commend the testimony to the attention of my colleagues:

TESTIMONY OF REV. SEAN McMANUS, NATIONAL COORDINATOR, IRISH NATIONAL CAUCUS, DEPUTY NATIONAL CHAPLAIN, ANCIENT ORDER OF HIBERNIANS

Mr. Chairman and Gentlemen: I appreciate the opportunity to speak before this Pre-Hearing Forum; and I deeply appreciate the concern you have consistently shown for my most tragic country.

Any deliberations about that part of my country which the British Government has forced us to call "Northern Ireland" must be based on the following fundamental principle: The state of Northern Ireland is an illegal and immoral political entity. It was arbitrarily and artifically created against the wishes of the Irish people—against the wishes, I emphasize, of Protestants and Catholics. This classic gerrymander—the basis of all subsequent gerrymandering in that area—had one purpose, or, rather, a two-fold purpose: (1) to ensure permanent English control and ownership of that part of Ireland; and (2) to ensure permanent supremacy for the section of the community that was loyal to England. (These Loyalists were, of course, a national minority; but, thanks to the expedient gerrymander, instantly became a majority. So much for English democracy and majority rule!)

This "convenient" State is, therefore, intrinsically anti-democratic. Its very reason for existence is to be undemocratic. And because it is essentially anti-democratic it is, therefore, inherently unstable. And an inherently un-stable system cannot survive by the normal rules of democracy; it needs evil props and a systematic repressive policy.

Thus the inherently unstable state has to institutionalize violence to survive. It must discriminate, intimidate and incarcerate, with or without trial. Discrimination, intimidation and incarceration—that is the inner logic of institutionalized violence. And that logic has been perfectly demonstrated in Northern Ireland ever since the inception of the state.

Another logic has, also, been demonstrated. Institutionalized violence and oppression logically produces resistance—passive at first but finally violent, open rebellion and revolution. The institutionalized violent state thus creates the classic cycle of violence: oppression, revolution, counter-revolution, and on and on.

This horrible spiral of violence in Northern Ireland must be broken. It is at best naive, and at worst dishonest to claim that this can be done within the present context: within the artificial and gerrymandered area of the six North East countries of Ireland. We have over fifty years proof that it cannot be done. There can be no real change, no real shift in perspective in that politically claustrophobic place.

The horrible spiral of violence can only be broken by a radical and absolute change.

The position of the Catholics will not change and the position of the Protestants will not change because there is a wedge between them: a wedge that has shaped and fixed their positions. In Northern Ireland both sections of the community have been diabolically treated: the ordinary working class Catholics have been abused and the ordinary working class Protestants have been used—used as political pawns in a sordid political game—for the benefit of the British overlords and the native political bosses in Northern Ireland. It is the old, old, story, the poor are always pitched against each other for the sake of the rich. And the rich get fat as the poor die fighting each other.

The symptoms will not change until the cancer that is destroying my part of Ireland is rooted out; the positions of the Protestants and Catholics cannot change until that divisive wedge which purposely separates them is removed. Nothing can change for as long as the English presence continues in Ireland. That is the cancer and that is the wedge.

I do not advocate an over-night English withdrawal; I do not claim that a mere withdrawal is a solution in itself—something has to be put in its place. But I do believe that there is a viable, intelligent plan that will be a solution; that will accommodate both communities in that part of Ireland. I leave it to Frank McManus to outline what that solution is.

Since English withdrawal is the key to a solution, the Northern Ireland issue is not a domestic one—it is an international one. That is why public opinion in the United States is so vital; even more vital still is public official opinion in the United States Congress.

I believe the United States Congress should be involved because justice is indivisible. I further believe that it should be involved because to be neutral between the oppressor and the oppressed is in fact to side with the oppressor.

I, therefore, respectfully request you gentlemen to do all in your power to ensure that there will soon be a full Congressional hearing before the Sub-Committee on Future Foreign Policy. I make this request not only respectfully, but, also, with a considerable feeling of vulnerability. Why should I expect the United States Congress to show concern when the Dublin Government does not? The only answer I can give is that I have faith in the United States Congress, I have none—absolutely none—in the Dublin Government.

REV. SEAN M'MANUS—QUESTIONS AND ANSWERS

Congressman Ambro. You not only said this, but you capitalized this sentence in your statement: "The horrible spiral of violence can only be broken by a radical and absolute change." That is a conclusion. Would you comment on this?

Reverend McManus. The radical and absolute change being the withdrawal of Britain from the occupied part of Ireland. Every other imaginable answer has been tried. Every other week, it seems, the British government is issuing a new policy. They have run out of policies. The only one that hasn't yet been tried is their leaving.

Congressman Ambro. If the Dublin government is committed to a policy of non-intervention, as they tell us they are, and if they are committed to negotiations of some sort, what do you think the result of the removal of Brlish troops will be on the Catholic minority in the North?

Reverend McManus. It depends, you see. It is a mistake to imagine the solution to the problem in terms of retaining the same government set-up that now exists in the Republic. I don't want that; nobody in northern Ireland warnts that. It's not really a question of the government in the Irish Republic refusing to get involved. It's that they do not want to get involved in any way. When the problem erupted again in 1969 the then Prime Minister of the Irish Republic stated that he and his government would "not stand idly by." Then he came to this country and even implied that his government would get the aid of the American government and the Congress. That was sort of an implicit suggestion. But the only thing the Dublin government has done in the past seven years has been to harass and incarcerate people from northern Ireland, who have been trying to do something about the problem. So, I don't want to see the Dublin government getting involved—just to get involved. The one thing I would like to see is for them to take a realistic position—not to persist in supporting *every* British proposition that takes place. The Dublin government in the present situation will not get involved—that they have made clear.

Congressman Ambro. But, Father, let's take it step by step. You said a "radical and absolute change means the withdrawal of British troops." What do we have then in northern Ireland? What happens next? There would be no government super-imposed by the British. The troops themselves may be oppressing to the minority, but what happens when they are removed?

Reverend McManus. The first step is not immediate evacuation. Nobody is advocating that. The first step is for the British government to make a declaration of intent that it is going to withdraw from Ireland at some date in the near future. Secondly, they might say that in 5-years time they will be totally gone from Ireland. That would introduce for a start a note of realism. Then Irish people could actually be more realistic about planning a future. And, Frank McManus will be outlining this and it has been mentioned often, the first step would be the creation of a nine-County Ulster Parliament, in which the Protestant people would still have the majority and then eventually the whole federal government with a Parliament in each of the four Provinces.

Mr. SOLARZ. Mr. Speaker, I welcome this opportunity to join with my distinguished colleagues today so that we may present for the consideration of Congress testimony received by the gentleman from New York (Mr. Wolff) at his New York City ad hoc prehearings on the tragic conflict in Northern Ireland last October 15.

While I am sure that many of us would not wish to endorse some of the attitudes expressed by certain witnesses during these valuable hearings, nonetheless those witneses spoke from the heart, and it is important that Congress understand that such attitudes exist. On balance, the hearings provided a dramatic insight into some of the causes of the conflict in a land whose sons and daughters have given so much to our country.

Mr. Speaker, I now submit for the Record the following testimony:

NATIONAL ASSOCIATION FOR IRISH FREEDOM

(By Tom Naughton)

Mr. Chairman, we, the National Association for Irish Freedom (NAIF) represent the Northern Ireland Civil Rights Association (NICRA) which has been concerned from the start with the violations of civil and human rights in Northern Ireland. The British government's suppression of these rights has been well substantiated by the Northern Ireland Civil Rights Association in its case detailing fifty years of administrative discrimination and brutality which is before the United Nations' Human Rights Commission, and the seven individual torture cases pending before the European Commission of Human Rights in Strasbourg as well as in its Congressional statement during the hearings held by Congressman Benjamin Rosenthal in 1972.

The NAIF has, from the beginning, maintained the position of non-violent action on behalf of the civil rights goals of the Northern Ireland Civil Rights Association. And, having its roots in the United States we have felt compelled at all times to remind the American people of the continuing role the successive U.S. Administrations and Congresses have played in support of these British violations. In the early phase of the current struggle the NAIF had hopes that the U.S. would recognize the justice of these demands and urge the British government to accept and implement them. Instead, we have witnessed the U.S. government's support of these repressive actions of the British government. Both Republican and Democratic Administrations and Congress have failed to take any principled stand on any issue affecting the "Irish question."

In August, 1971 internment was introduced once again into Northern Ireland. Internment is the arrest of an individual without charge or trial for an indefinite period of time. The U.S. government did not condemn this wholesale trampling of human rights.

In January 1972 we were witness to the cold-blooded murder by regiments of the British Army of 14 people who had been marching peacefully in a march sponsored by the Northern Ireland Civil Rights Association in Derry City calling for an end to internment and martial law. Again, no official U.S. condemnation of this action.

In February 1972, in response to the January Massacre in Derry, Congressional hearings on Northern Ireland were held by Congressman Rosenthal's Subcommittee on Europe. Thirty-three Congressmen and two Senators availed themselves of the opportunity to express concern over Northern Ireland. However, three years later at this "Pre-Hearing Forum" we can say that the situation in Northern Ireland has not changed; especially as concerns human rights. Except that the number of dead has tripled and hopelessness is on the rise and U.S. government support has moved from its more passive stage to active approval of British Policy.

In July, 1972, British NATO troops, with the approval of the U.S. Administration, were withdrawn from Germany to be used in Northern Ireland in addition to the troops already garrisoned there. This brought the troop level in Northern Ireland to 15,000. The first use of these troops was on the weekend of July 3–4 in Operation Motorman—a full-scale attack on the minority communities. In the ensuing years regiments of the British Army direct from Northern Ireland have come to the U.S. to "entertain" the public. Despite our, and others, repeated calls for protest by local politicians and Unions, there were none. In addition the U.S. government has trained British Marines in Camp LeJeune for use in Northern Ireland. They have been specifically trained in riot control and counterinsurgency techniques. Brigadier General Frank Kitson whose book "Low Intensity Operations," makes statements such as "law is just another weapon in the propaganda battle" and whose book is the manual of British Army operations in Northern Ireland thanks the U.S. Army for its help in preparing the book.

In 1973, the British government was once again "finding a solution to the Irish problem" by imposition rather than democracy or civil rights. Sunningdale and the Power-

Sharing Executive were met with general enthusiasm and optimism by American politicians—even prompting Senator Kennedy to suggest William Whitelaw, Secretary of State for Northern Ireland for the Nobel Peace Prize, despite the continuing presence of concentration camps administered by the same Mr. Whitelaw. Generally ignored amidst the shouting was the fact that no repeal of repressive legislation was included and the original civil rights demands of the Northern Ireland Civil Rights Association received short shift. As the Northern Ireland Civil Rights Association predicted, Sunningdale was a failure as it provided for a solution based on continuing repression and institutionalized sectarianism.

Here in the U.S. the lack of substantial political action by the political leadership; indeed, its exploitation of the Irish question, was becoming increasingly evident.

In 1972, five New Yorkers were arrested and jailed in Fort Worth, Texas in connection with Grand Jury proceedings. Proceedings which the U.S. government admitted were at the behest of the British government. Although some hearings were held by the House Judiciary Committee, the entire question of the legality of the actions against the Five was dropped when the Grand Jury term ended and the Five were released. Once again politicians, large and small, fulminated in public meetings from Gaelic Park to Brooklyn's Borough Hall—but nothing has happened to prevent another Fort Worth 5.

In March, 1973, in full view of a reviewing stand full of the leading politicians in New York the NAIF was forcibly removed from the St. Patrick's Day Parade. All found it polite to turn the other way. Included among these politicians were some who had found it expedient to use the publicity and concern surrounding the Derry Massacre to go to Ireland (the first of many such publicity seeking pilgrimages) and view the streets of Northern Ireland for themselves. They found it expedient to ignore the infringement of civil rights when it was happening to an Irish group, nor in Belfast or Derry, but on the streets of New York.

One year later, March 1974, the NAIF found itself once again calling to deaf ears when it learned that Mayor Beame planned to use the British ship Queen Elizabeth II for a floating Democratic Party Fundraiser. We were told that they were indulging in a bit of "nostalgia" because of Mayor Beame's London birth. (He left the country at the age of approximately 3 months). When we pointed out that such indulgence was an affront to the dead and dying people of Northern Ireland and the Irish-American community, we were pointedly ignored. The NAIF coordinator went on a week-long hunger strike to dramatize our objection. The result was that the Mayor's fundraiser went forward attended by most of the Irish and non-Irish, liberal and conservative leading lights of the Democratic Party; and Paul O'Dwyer, self-proclaimed Irish "friend at City Hall" waited until the last possible moment to announce that he would not attend, but would not attempt to influence anyone else. The Queen Elizabeth II incident was indicative of the hypocrisy of political leadership when it comes to the Irish question. Speeches flow like wine, but actions which involve some political risk are hard to come by.

In October, 1974, the NAIF made public a tape of a radio broadcast during which Governor Carey, (Congressman Carey at the time of the broadcast) stated unequivocally that the CIA was operating in Northern Ireland. Despite the fact that we have acquainted numerous Congressmen with this information and despite the continuing revelations of CIA activities throughout the world, neither of the Special Committees on Intelligence have indicated any willingness to investigate these allegations.

Late 1974, the NAIF heard rumors concerning the possibility of Congressional hearings at the end of January. We wrote to Congressman Rosenthal regarding this possibility, requesting that NAIF and NICRA be scheduled to testify. In later months we were given to understand that the full House Committee on International Relations was reorganized and Congressman Wolff who headed a Subcommittee on Foreign Policy Research & Development would be chairing these hearings, which were now to take place at the end of March. Time passed and the hearings were postponed with one excuse after another. A delegation of members of our Queens, New York affiliate, and NAIF Executive committee members met with Congressman Wolff and received a guarantee that we would be able to testify and the hearings would be held as soon as possible. As the months passed the excuses multiplied. Reorganization of the committee, staff to be hired, the fall of Saigon and Cambodia, Irish government pressure, British government pressure, State Department pressure, and finally, the onus fell on Thomas Morgan, Chairman of the Full House Committee who was refusing to set a date for the hearings. Congressman Wolff indicated this was absolutely necessary for official hearings. Our inquiries have indicated that this is not generally true and we have questioned it; however, putting our own doubts aside, in July the news was trumpeted that a commitment from Morgan had been obtained and hearings would probably be held in late September.

Time and time again, most recently on September 9, in a letter to the president of our Queens affiliate, all concerned had stated that Ad Hoc Hearings would be ineffective. Doubt was expressed over whether Congressman Wolff could chair such Ad Hoc Hearings. In fact at a meeting of many organizations concerned about these hearings, Congressman Wolff flatly stated he could not chair such hearings. And now, October 15 dawns, and we find ourselves at a "Pre-Hearing Forum" (a new name for Ad Hoc Hearings) Chaired by Congressman Wolff. What happened to Congressman Morgan's commitment? What happened to the question of Congressman Wolff chairing such unofficial hearings? What happened to the concern that this kind of exercise would be ineffective? Is it any wonder that after six months of flimflammery the Irish-American community doubts your sincerity, doubts the true depth of the commitment or concern felt by the Congress of the United States?

In summary, the incidents outlined in our statement, written and oral, are only a highlight of the hypocrisy, duplicity and exploitation indulged in by the political leadership of the U.S. on the Irish issue. There have been many others: the burning of Long Kesh which passed with barely an acknowledgment, the Hibernia-sponsored petition campaign against internment, response to which was abysmally poor from this country; Senator James Buckley's trip to the Soviet Union to talk and meet with political dissidents, followed by a trip to Ireland where he ostrich like "buried his head in the political sand," and ignored the existence of Irish political dissidents and concentration camps in Ireland.

Also, this year (1974), the NAIF mailed a petition to Congresspeople and others, asking them to make a submission to the Gardiner Committee at Westminster, in London, which was then reviewing the notorious Emergency Provisions Act. This Commission was empowered to make recommendations to Parliament for the repeal in tote, or in part, of this repressive Act. The NAIF petition called for submissions urging total repeal of the Emergency Provisions Act, and the enactment of a Bill of Rights for all the citizens of Northern Ireland. Only two Congresspeople made a submission. We can only draw one conclusion from this sorry performance, and that is that the majority of our Congresspeople, be they Democrat or Republican, liberals or conservatives, agree with the Ford-Kissinger support of British repressive policy in Northern Ireland.

The NAIF does not view the continuing lack of civil rights in Northern Ireland, and the support of this policy from the U.S. in a narrow insular way. We view the U.S. actions as part of its overall international foreign policy. We demand that the Congress give Northern Ireland the same priority as it accords the question of human rights violations in South Korea, Spain, Chile and the Soviet Union.

Before any Congressman can come to the Irish-American Community and expect support the following must be done:

The spirit of the Helsinki agreements must be made to apply to Great Britain.

The recently passed amendment dealing with restrictions on foreign aid other than that of a military nature to countries which are in violation of human rights must be applied to Britain.

On a similar amendment in the Senate applying to military aid we would expect all Senators and Congressman who claim concern for the situation in Northern Ireland to work for its passage, and it must be made to apply to Great Britain.

At a time when NATO has stated that the British troop withdrawal has weakened it and forced them to use more American troops during recent maneuvers in Northern Germany, and when Secretary Schlesinger states in London that there is a growing concern over the failure of NATO countries to live up to their commitments, we expect a move to have British NATO troops withdrawn to barracks, pending their total withdrawal from Northern Ireland.

Lastly, but certainly not least, the need for a Bill of Rights in Northern Ireland is paramount. Only with the guarantees that such legislation entails can there be any hope of providing an atmosphere of peace and political normalization. All the parties in Northern Ireland agree that such a Bill is necessary. At this time the British government has merely stated that it will take at least a year's study to determine if such a Bill is necessary. We call on each and every one of you and the rest of the Congress of the United States, to indicate to Britain that this would be a very positive first step in ending its current repressive regime.

William Whitelaw once stated that there could be "an acceptable level of violence in Northern Ireland." For many years, there has been an acceptable level of political rhetoric here in the United States. The rhetoric followed by nothing has allowed Britain to continue unchecked and uncensured by its major ally. For too long we have allowed this level of rhetoric to be acceptable. No longer. The people of Northern Ireland are dying and being brutalized daily by a policy of repression that has no parallel in Western European democracy. The support and assistance given by the United States and the Dublin Government to British policy in Ireland must come to an end. When your actions have matched your words, the Irish-American community will welcome you, and not until then—in other words the "Shadow Without the Substance" is no longer acceptable.

Mr. PEYSER. Mr. Speaker, the political situation in Northern Ireland becomes more and more severe every day, and of ever-increasing concern to the millions of Americans who have friends and relatives living there. It is, in my opinion, of the utmost importance that U.S. foreign policy directly address this situation and participate fully in the development of a peaceful and fair political solution to the problems of this region. It is necessary, therefore, that the Congress be informed of the true nature of the situation.

The report by Thomas Delaney is thus important as it represents a view of this crisis from a sheriff who recently visited the area.

I hope that Members will give his report their serious attention:

Popular Consent Is Essential to Law and Order

(By Thomas J. Delaney)

There seems to be a general break-down in respect for law and order and civilized practices in many parts of Ireland. This situation is most aggravated in those six of divided Ulster's nine counties known as "Northern Ireland", but is not unique to the "North."

During the past year I visited Ireland with the AFL–CIO and made a special side-trip to Dublin. I used the opportunity to make closer professional inquiry into the nature of the present "troubles" in Ireland. One thing which I found sadly lacking among significant portions of the Irish population, which is thankfully not lacking in this country, was an adequate measure of popular consent for the existing forms of government to insure domestic tranquility.

According to classical political theory all government exists by the consent, at least tacit, of the governed; this is known as "popular consent." Authority is properly vested in the whole people civilly united, who then transfer its exercise to an individual or group according to the form of government they approve; the implied contract does not establish political society as such, but only that of government and the ruler.

The people (the governed) can withhold from or deny popular consent to the government. The most obvious method is through armed resistance, i.e., violent "protest in arms." This has been done by someone from every generation of Irishmen for over eight centuries, preserving by bloody "apostolic succession" Ireland's claim to nationhood. The "Provisional" IRA, the Irish Republican Army, has done so in the present day, and stands ready to resume military action should that prove necessary.

But there are subtler, more pacific forms of withholding popular consent. Those 79% of the Irish electorate in the last all-Ireland election (14 December 1918) who voted for Sinn Fein, knew that they were voting for abstentionist republicans who would refuse to participate in the British Imperial system of government.

They were denying popular consent to the old established Imperial government, and, at the same time conferring that elemental popular consent upon the new government of the Irish Republic. A vote for the "Provisional" Sinn Fein in parliamentary elections today carries that same message: denial of popular consent to the partition and foreign governments which pretend legitimacy in Ireland, and, reaffirmation of the Irish Republic: Ireland united, Gaelic and Free.

The recent elections for a constitutional convention in the gerrymandered six counties of the so-called "North" is a different matter. No one was electing even pretended parliamentary members; no one was even pretending to form a government. Instead England was dictating to a part of the Irish people that they must ratify the Partition of Ireland, ratify the denial of their nationality, culture and heritage, ratify their permanent subservience and subordination to England's (and England's garrison's) own concept of Mother England's needs. Partition is the inherent denial of the democratic will of the Irish people. The six-county constitutional convention which seeks to re-institutionalize Partition is, by its very nature, the antithesis of democracy and republican government. The six-county state is, as the (London) Sunday Times Insight Team in their book ULSTER tell us, "an immortal concept," which "therefore had to be maintained from the first by immoral means." Participation in a gerrymandered convention whose whole purpose (subject to Westminster's veto) is to suggest to Mother England how the Partitioned six-counties might be governed within the British Empire is, in effect, praticipation in the perpetuation of Partition—an immoral form of government.

The Irish Republican movement rightly refused to be compromised by participation in this immoral act of appearing to give popular consent to demonstrable evil. In this they were joined by many other nationally mined elements of the Northern community, including the Unity Party, the Nationalist Party, Father Raymond Murray, Father Denis Faul, and the majority (56%) of the nationalist electorate.

The method by which the nationally minded people demonstrated their refusal to give popular consent to the six-county Partition system of government (and its attendant evils such as internment without charge or trial) was the simple, traditional Irish method—boycott.

Sinn Fein, in calling for a boycott of the convention election, is vindicated not only by having chosen the morally better course, but also by having represented correctly the sentiments of the majority of the nationally minded people, who joined them in the boycott.

A clear majority of the nationally minded people in the North joined the "Provo boycott. This is significant as a rejection of both the Partition system of government and of English rule; it is also a significant barometer of the level of support and sympathy for the aims and policies of the Irish Republican movement (it is also noteworthy that the N.L.F. received only 2.2% of the poll).

It has been claimed by some that the present truce is a sign of weakness. In truth it is a sign of strength and discipline. If, and we pray that it shall not be, but if the truce is violated to the extent that it becomes necessary for the Republican forces to resume active hostilities, then the I.R.A. will once again conduct its guerrilla campaign demonstrating that Ireland cannot be governed by foreigners, English or otherwise. Those who boycotted the election not only denied popular consent to Partition government, they also sent a loud and clear message to the British army forces of occupation: There is still a very friendly sea in which the fish can swim at will.

The military potential of the "Provisional" IRA is undiminished; it is greater than ever.

Fortunately the truce between the IRA and the British Army is still holding, however tenuously, but the killing continues. In fact the death toll for 1975 threatens to exceed the death toll for 1974 when there was no truce between the principal protagonists. There is still disorder and there seems to be no hope in present convention for formation of civil government which could command the respect and popular consent of either community in the North.

Irishmen of all persuasions must recognize and accept the reality that the English presence and the Partition of Ireland are the seed of the present troubles. So long as the Loyalist-extremist para-militaries believe that their campaign of "sectarian" murder and intimidation will prevent the reconciliation of the two communities in the North they will continue with a view toward preventing the ultimate reunification of Ireland and thereby preserving their Ku Klux Klan type of artificial privilege. So long as the British government refuses to give a declaration of intent to withdraw permanently from all of Ireland, the Loyalist-extremists will continue their campaign of intimidation, for they too, for different reasons, refuse to give popular consent to the present governmental forms in Ireland. Nor will they even consider reaching an accommodation with their nationalist neighbors so long as the presence of a foreign (English) army of occupation keeps alive their reactionary hopes.

A tiny group of violent men and the tragic gerrymander of Partition are preventing the reconciliation of the minority with the majority of the Irish Nation.

It would be well for us at this point to recall the words of a man upon whom Congress bestowed American Citizenship in recognition of his statesmanship, Winston Churchill:

"It would be a disaster to Ireland, if the Protestant population in the North stood aloof from a national parliament . . . Whatever Ulster's right may be, she cannot stand in the way of the whole rest of Ireland. Half a province cannot obstruct forever the reconciliation between the British and Irish democracies . . . I say that what the Southern Irish most desire and what Irishmen all over the world most desire is not hostility against this country but unity of their own."

Ireland will not know the domestic tranquility of Law and Order until there is a government which can command the respect of the people. That will not happen until there is a just peace and an all-Ireland constitution which will deserve the popular consent of all the communities within Ireland through respect for the principle of subsidiarity and for the rights of each individual.

U.S. Government Intervention in the Northern Ireland Crisis

(By Mark G. Barrett)

Despite the State Department's official line of neutrality in the struggle between Irish Nationalists and British military forces in the six counties of Northern Ireland, the Nixon and Ford administrations have over the past four years taken many positive acts to aid the British forces in their war against the Irish people; among them are:

1. September 1971—Veteran Irish representative Joe Cahill's visa to enter the U.S. was revoked, in flight, by State Department; he was coming to explain internment of Catholics without trial by British.

2. June 1972—5 Irish Americans (later known as Ft. Worth Five) held without charge or trial 1,500 miles from their homes for over a year for refusing to inform before a Federal Grand Jury on the pro-Irish Republican activities of friends and neighbors.

This case led to the Grand Jury Reform Bill (H.R. 8461, 93rd Cong.) introduced by Rep. Joshua Eilberg (Dem.-Pa.), the adoption of which we strongly endorse for the 94th Congress.

3. July 1972—White House approved the transfer of British forces, including tanks, from the NATO command to Ireland for use in Operation Motorman to crush the free Nationalist areas of Derry and Belfast; this weakened NATO and required the U.S. to pick up the slack militarily and financially for the defense of Europe.

4. Meanwhile the U.S. was training Royal Marine Commandos in counter-insurgency tactics at Camp Lejeune, N.C., prior to their service in Northern Ireland, and the U.S. State Department was issuing licenses for the export of war materials to Britain (these included the infamous "rubber bullets" for use against women and children in riot situations).

5. 1973—Federal Grand Jury inquisitions (similar to Fort Worth) held in Pennsylvania and California; these attempts to get

Irish Americans to turn informer were unsuccessful.

6. 1973—Also saw the Nixon administration's IRS political espionage unit (special services staff) investigate the tax records of individuals in this country known to support the cause of Irish freedom; also infiltrated the organization; this practice was admitted last week by IRS commissioner Donald Alexander before Sen. Frank Church's Senate Select Committee on Intelligence Activities.

7. 1974—Saw the solitary confinement, attempted deportation, "special offender" status, and general harassment by the Federal Bureau of Prisons INS and ATF of the imprisoned Irish militants known as the Baltimore Four.

8. 1975—We have wholesale revocation or denial of visas, by Department of State, to Irish Republican leaders wishing to come to this country to explain the Irish crisis.

Mr. ROSENTHAL. Mr. Speaker, I would like to commend my colleague from New York and fellow member of the International Relations Committee, Mr. WOLFF, for organizing and chairing an important forum on the future of Northern Ireland. I was pleased to participate in this debate on a subject in which I have had a long and sustained interest. The forum was a natural continuation of hearings held on the issue by the Foreign Affairs Subcommittee on Europe in 1972, which I had the honor to chair.

I wish to bring to my colleagues' attention the statement and testimony presented by one of the witnesses at the forum, the Honorable Frank McManus, former member of the British Parliament. Without taking a position on Mr. McManus' remarks, I would like to offer them as a clear articulation of a very important point of view. Mr. McManus' presentation follows:

PEACE PLAN FOR NORTHERN IRELAND

(By Hon. Frank McManus)

Mr. Chairman and gentlemen, I am grateful for the opportunity to testify before this Pre-Hearing Forum.

First, I wish to emphasize the great importance of, and necessity for, this hearing and above all for a full Congressional Hearing before the Sub-Committee on future foreign policy which I hope will be held in the near future.

The problem of Northern Ireland is complex. That complexity is compounded, rather than simplified, by the incomplete and often outright biased way it is presented to the American people by the mass media. A real understanding of the reasons for and the possible solutions to the problem can only come with knowledge of the true facts of the problem—its origins and present condition. A Congressional Hearing is perhaps the best possible way to discover and disseminate the facts.

Since fundamental questions of freedom and justice are involved, Congress and the American Nation ought to be concerned. Properly informed, I believe the American people will show concern because they love freedom and abhor injustice and because so many millions proudly acknowledge Irish blood.

I wish now to comment on the present political situation in Northern Ireland and examine the prospects for a solution. There are two political traditions in Northern Ireland. The ultimate source of our present trouble is found in the support Britain has always given to one tradition and the opposition she has always given to the other tradition. Britain has never taken a neutral stance. She has always been at war with the Republican tradition and she has always been the ally of the Unionist tradition. The six Counties of Northern Ireland were carved out of the rest of Ireland to form a State for Unionism. Overnight, what was the national minority became a majority in the new State of Northern Ireland. Britain has guaranteed this Statelet and has always resisted efforts to radically change it.

Since the Irish problem stems primarily from the British presence in Northern Ireland, I submit that the only British solution possible is a British withdrawal. The reasons why Stormont, the Northern Ireland, Parliament, failed and fell in 1972 are well documented. So too are the reasons why the Sunningdale experiment did not succeed. Since Sunningdale could not succeed, and Sunningdale did represent Britain's best attempt at working out a fair deal for all, we must accept the fact that there is no such thing as a British solution. There can only be an Irish solution, and so long as Britain remains in Ireland, she is preventing this solution from emerging. Britain must now try the only solution left, which, so far, she has not tried. That is—withdraw.

Following the collapse of the Sunningdale Agreement, Westminster announced yet another attempt at finding a solution. A Convention was in due course elected, and the task of this Convention was to find agreed structures of administration. Can the Convention succeed where the Assembly, or Stormont failed? And, even if the Convention agrees on a set of proposals, would those proposals ever be implemented? Discussions between the Loyalist parties and the SDLP may lead to some form of administrative compromise. They will never lead to a full accommodation of political philosophies in Northern Ireland because the Convention is a British devise, seeking an agreement about the exercise of British power in the administration of the Six Counties as part of the United Kingdom. This is simply unacceptable to the Republican tradition.

If the Convention parties make concessions toward the "Irish Dimension", if they agree on real power sharing and admit real anti-Unionists into a new Executive, and if amidst all this there appear once again signs of the Council of Ireland, then the Loyalist people will not accept and the Convention will fail. If Sunningdale could not succeed, neither can the Convention, because both Sunningdale and the Convention are based on the same assumptions, viz. that Ulster is British and that those of the Loyalist tradition must share power with those of the anti-Unionist tradition.

The central issue in Northern Ireland politics has always been constitutional. Under what Constitution should we live? Are we part of the United Kingdom? Do Irish people as a whole agree to this appropriation, by the British, of part of their country? Since the Convention cannot face this fundamental constitutional issue, since it was elected on the assumption of the British position that Northern Ireland is part of the United Kingdom, then the Convention cannot really come to grips with the political issues at stake. It may talk—and even agree—about how to administer Northern Ireland as part of the United Kingdom, but such agreement will not last.

The real issue is precisely the constitutional issue. Northern Ireland's status as part of the United Kingdom.

Those who want to see a return of some kind of parliamentary government to Northern Ireland must now face up to the hard political facts. We must agree on a minimum basis for government by consent. Without this basis for government by consent, there can be no democratic government in Ulster. Without this minimum basis for government by consent, we will be subjected to a form of permanent direct rule.

THE OPTIONS

Following the collapse of the Convention, what can Westminster do? The options are closing. She can resurrect Stormont and yield completely to the most extreme Loyalist demands, or she can force a power sharing administration and take on the Loyalists, or she can withdraw from Ireland.

STORMONT

Few people can seriously expect a return to the old Stormont. World opinion would never allow Britain to restore the hegemony of the Unionists. That would start the trouble all over again. We can safely assume that the old Stormont will not be coming back.

POWER-SHARING ADMINISTRATION

Britain has already tried this solution and it failed. Some would argue that the reason why it failed was because the British government refused to take on the Loyalist strikers and allowed them to wreck the New Executive. But, will Britain attempt another power-sharing administration and will she use the army to defend it? Very few people in Northern Ireland today expect that Britain will ever take on the Loyalist paramilitary organization. In the whole history of the State of Northern Ireland, Britain has always refused to move against Loyalist military organizations. There are no signs that she is considering doing so today. Britain will not be anxious to attempt to uphold another power-sharing administration against the wishes of the Loyalist people.

WITHDRAW FROM IRELAND

If British initiatives cannot produce a political solution in Northern Ireland, then Britain must openly declare that she is no longer responsible for finding such a solution and announce her intentions to withdraw from Northern Ireland. This will be the only course open to Britain once the Convention fails because the other solutions will be considered. Britain will not, for instance, consider full integration, as Mr. Enoch Powell is advocating. Nor will Britain be anxious to carry on a system of Direct Rule—which has patently failed to produce any results. In the aftermath of the failure of the Convention, a British withdrawal is to be expected.

What will Britain leave behind when she goes? What are the options then for the people of Northern Ireland. The options are few: an independent Northern Ireland, a new Ireland.

INDEPENDENT NORTHERN IRELAND

Suggestions for an independent State of Northern Ireland are coming today from many quarters. In itself, the idea of an independent Northern Ireland is not incompatible with the Republican tradition. But, Republicans would have to ask: what are the guarantees in such an independent State? What about the police force? The UDR and the Loyalist paramilitary organization? Would an independent Northern Ireland not quickly become a fascist, Protestant State? Would independence be negotiated or would it be by way of UDI? And, if we had a negotiated independence, how would the Republican people be consulted? Would negotiation begin between the two traditions, between the Loyalists and the Republicans, or would it simply be between the Loyalists and the British? A negotiated independence, the result of a genuine agreement between both traditions, is certainly one way forward for the people of Northern Ireland. But, if independence came by way of UDI, if there was a Loyalist coup, then the dangers of Fascism would be very real. And, such a State would not be pleasant to live in—not even for Loyalists.

A NEW IRELAND

Only in a new Ireland, will reconciliation become a reality. Only through reconciliation can a new Ireland become a reality. As long as the old system remains the old fears will remain too. And, as long as the old fears remain, the suspicion and the hatred and the refusal to cooperate will remain too.

Reconciliation is the only way forward. But, reconciliations must take political shape. New structures of government are necessary, structures which will embody justice and equality, just as the old structures embodied injustice and discrimination. Those who talk about "Christian Charity" as if this charity did not have to take political shape in a just social system, are not talking about Christian law of respect and love for all men. This is not time for a sentimentalist approach. Justice must be done. Justice is charity evenly distributed. Where there is no social justice, the even distribution of charity is impeded.

We are convinced that the suggestion of a Regional Parliament for the nine Counties of Ulster can be the corner stone of the new society which we all wish to build.

Obviously, the movement for a united Ireland is gathering momentum at Westminster. Unionists will have to face the fact. It would be in their interest now to determine the direction of this movement. They cannot stop it, but they can influence it. And, if they cooperate with the Republican people of Ulster in influencing this movement, they will find that the shape of the united Ireland will be to their liking. Together we can influence the movement and determine the shape of the new Ireland. I am convinced that when the Unionists come to the point when they realize the inevitability of some kind of Irish unity, they will welcome the idea of a nine county Parliament of Ulster.

Questions and Answers

Congressman Rosenthal. Thank you for your enlightening statement. Alluding to the concept of a Regional Parliament, I assume you mean within the framework of a united Ireland. How do you get there? Factually, do you agree with a British withdrawal over a 5-year or some other time period.

McManus. It is obviously, most important to assume that Britain does withdraw. Might I say the biggest fear in Ireland at the moment is that Britain will withdraw precipitously; that she will just go and leave a mess behind her—a vacuum that will be filled by all types of undesirable elements. But it is, I believe that it is obvious what must happen in the event of a British declaration to withdraw. There must then be, with the cooperation of the Dublin government and whatever Administration is holding operations in the North—whether that be a continuation of direct rule or some other type of Administration—there must be an effort to convene an all-Ireland conference of some description. And that must be done on an elected basis. I'm talking now about an election in all of Ireland, devised to produce a Constitutional Convention, whose task it would be to draft a new Constitution for all Ireland.

Congressman Rosenthal. How do you get from here to there? Tell me a scenario for Britain—a time frame.

McManus. I don't believe we should be all-consumed with the time-frame of itself. I believe the important thing is that the British say it. Because everyone in Northern Ireland at the moment—from the most fanatical Loyalists to the most fanatical Republicans—are now working under the assumption that Britain has made up her mind to leave. So the timing and the manner of Britain's leaving is all-important. I believe she should come right out and say now what we all suspect she's going to do later. That in itself, I believe, will create a new political reality. She should say that it is her intention to disengage finally from Ireland.

Congressman Rosenthal. And announce a time finality for the withdrawal of her Army?

McManus. Well, there is now a debate—and I'm not clear in my own mind where to come down in that debate as to whether she should announce a time-table, or whether she should announce her intentions and invite all parties of the dispute to negotiate the time table. Either way, I'm not convinced there is a great deal of difference between the two. Perhaps the most simple way would be for her to announce a time-frame. The only thing about a time-frame is that, if she should announce a period of 5 years, being practical, I don't think she would stay that long. Once she says "we intend to go", I would think she would obviously want to go as quickly as possible.

Congressman Rosenthal. The domestic-political pressures in Great Britain to leave would be tremendous.

McManus. Especially if that declaration was followed by any type of violence. It definitely would accelerate her move out. Therefore, it is important that all political elements in northern Ireland and in all Ireland be given the opportunity to sit down together as quickly as possible to resort to the political process rather than to the violent process. And, what I'm talking about is that Britain and Dublin between them could very easily conceive a scheme—I could give them the plan tomorrow morning.

Congressman Rosenthal. Is it your position that Dublin is retarding the development of political events?

McManus. I believe that this type of action has increased recently. We are told that the Dublin government has been asking the British government not to make the step to leave.

Congressman Rosenthal. Just to make it clear for the record, why do you think that is so? Are you suggesting that some people in political power in Dublin would sacrifice national interest for their own personal, political gain?

McManus. You're saying that as if you find it hard to believe. Congressman, I submit that you should not find that at all hard to believe. That is, unfortunately, the way of politics. There are many people in history—some of them very recent history—prepared to sacrifice quite a good deal of the national interest for their own gain.

Congressman Gilman. Your remarks certainly are enlightening and have given us a great deal of food for thought. Your scenario mentions a planned withdrawal—a specific date of withdrawal and a Convention. I assume somewhere between the withdrawal and the Convention there would have to be a national referendum before an election.

McManus. Well, no, Congressman. First of all, there would have to be a national election for a Convention, whose task it would be to draw up a Constitution. That Constitution would then have to be submitted to a national referendum for approval. That is the way it has to come. I can't conceive of a national referendum before an election.

Congressman Gilman. Would the proposition have to be put to the people as to what type government they want—an all-Ireland type or a separate government for the North?

McManus. That is the point. Supposing anyone—supposing I was elected to that Convention. I would be putting forth the point of view that we should have a federal government in Ireland. That we should have a number of Parliaments—specifically that we should have one in the North that the Loyalists could control and from that power-base they could defend against that which they claim to fear most—domination by the rest of Ireland. That is the cornerstone of the federal notion—that is the great advantage in it that I can see.

Mr. AMBRO. It was a pleasure to have an opportunity recently to participate in Chairman Wolff's prehearing forum in New York on the subject of human rights in Northern Ireland. On that date, October 15, 1975, those Members of the New York delegation who were present heard what could only be labeled "horror stories" of the present situation in Northern Ireland. City council president, Paul O'Dwyer, the second ranking elected official of New York City, delivered an especially eloquent and moving statement on the distressing situation and I commend his testimony, with the questions and answers that followed, to my colleagues' attention:

Testimony by Paul O'Dwyer

Ladies and Gentlemen: As the second ranking elected official of this City and on behalf of its citizens, I welcome you here. You do us honor in presenting the people with an opportunity to exhibit the raw evidence of almost unbelievable tyranny and oppression in a small but significant part of the European scene which is so closely bound to us by ties of blood, culture and tradition. We are pleased that you have chosen New York, this three hundred and fifty year old citadel of Liberty, as the place of your initial meeting. We hope to have the opportunity of presenting further evidence at the nation's capitol in the near future from eye witnesses who can describe the continued oppression and brutality of a defenseless people.

Two hundred years ago the Revolutionary forces of the United States, arrayed against the military might of an Empire, relied on the John Barrys, the Richard Montgomerys, who fought side by side with the LaFayettes, the Steubens, the Adams' and the Pulaskis to forge a Democratic form of government, which would give hope and encouragement to men everywhere in search of Freedom.

I do not here base my argument in favor of America's friendly intervention in Ireland's and England's present problem merely on the long history of friendship between the people of Ireland and the people of the United States; nor on the high percentage of Washington's Army, who first saw the light of day in Ireland; nor on the fact that the antecedents of many of our Presidents had their origins in Ireland.

For this presentation, I should prefer to begin with 1917 and the reasons presented to justify our entry into World War I which now require us, on our honor, to intervene in the explosive situation in Northern Ireland, which, for sheer savagery, threatens to surpass the genocidal mania of Adolf Hitler.

Our country's declaration of war proclaimed the sovereign right of small and ancient nations to choose their own form of government and to discard the shackles of conquest. With the solemn promise that these sacred rights should be available to all, President Woodrow Wilson committed our resources and our manpower and our prestige.

I lived in Ireland then and saw my older brother come to our home in the uniform of an American soldier and his visit brought us hope that American intervention would mean the end of a seven-century old nightmare. The effect of America's promise had a profound influence on the Irish people. They firmly believed the American pronouncement meant their speedy deliverance.

The people of Ireland, with the words of the President of the United States ringing in their ears, went to the polls in the General Election of 1918. Eighty-two percent of them voted to sever ties with Great Britain and to establish the independence which had been the reason for the rebellion two years earlier.

What happened thereafter has brought disgrace to the Allies and shame upon those who inspired a downtrodden people to opt for Freedom only to leave them to the mercy of the Black & Tans, A marauding British military whose atrocities have so clearly been documented by American Quakers.

The result of the three succeeding years of warfare between the British forces and the newly formed Irish Republican Army ended in a treaty which was forced on the war-sick natives of Ireland. The infamous Ireland Act, passed by the British House of Commons in 1920, imposed a partition of Ireland on the people which sundered the ancient and historic province of Ulster in two, creating a puppet government in Belfast to rule over Six of its Nine Counties. The division cut off Ireland's industrial North East from its agricultural South. It was deliberately created so as to divide the people along religious lines wherein one million Protestants would be pitted again half a million Catholics, thereby fostering a feud, which otherwise would have gone the way of the excesses of the Reformation in England and the rest of Ireland. The first leader of the newly created puppet, a British nobleman promptly proclaimed that his was "a Protestant Government for a Protestant people."

From 1920 to 1969, the Six-County Government waged a war of discrimination on its only minority. It denied to the Catholic population the equal opportunity for employment, housing and the social services which were available to the Protestant neighbors. It denied the right of representation on the local as well as on the national level, and by gerrymandering them out of representation took even the minority right to complain. As an example, Harlan & Wolff Shipyard in Belfast has almost always employed about ten thousand workers. Harlan & Wolff is financed by the British Government. Five hundred jobs there were assigned to Catholics. Their jobs are on the lowest economic level. There was no opportunity for advancement and, in times of stress, Catholics go to the shipyard at the risk of their lives. The Royal Ulster Constabulary are selected almost exclusively from the Protestant community and their record is one of callous indifference to the plight of the oppressed or open hostility against them. And all of this is by government design and plan.

The end result of Ireland's belief in our promises made matters immeasurably worse for the Catholic minority in Belfast and Derry. Right at this moment those same people are in danger of extermination and we have a moral obligation to do all in our power to prevent it.

Earlier in my testimony, I mentioned the year 1969. It has a relation to what was happening in our country. I have visited Dungannon, Belfast and Derry almost every year since the end of World War II and personally investigated those governmental acts of denial and brutality toward the Catholic minority there. In 1968, we, the people, of the United States challenged our Government's foreign policy and, in an amazing confrontation, we proved the virility of our democracy by changing the national outlook in the middle of a shooting war. This was accomplished, in great measure, through peaceful demonstrations.

The young people of Queens University in Belfast, again encouraged by our accomplishment, took up the cry for Civil Liberties. A handful of them sought to walk, unarmed, from Belfast to Derry. At Burntolet Bridge, now an historical spot, they proved to the world that violence against a minority was not only tolerated but fostered and encouraged by Government forces under the shadow of Westminster. The young people were clubbed and stoned while the policemen, whose duty it was to protect or defend them, joined in the assault.

Thereafter, the Six Counties took on an atmosphere of violence. The ghettos were fire bombed and burned out with none to defend their inhabitants. Into the breach came the Irish Republican Army and the campaign to burn out 'the Papists' was met with armed resistance. The British Army was sent over to protect the Catholics and was heartily welcomed by the minority. Within six months the same Army had joined the oppressors and no home in the Northern ghetto was safe from its depraved behavior during the customary midnight raids. Few dwellings escaped the experience.

Violence begot other violence. The majority and the minority were pitted against each other according to the script established a half century before. Finally, an election was held and many responsible, elected Protestant leaders met with the newly elected representatives of the Catholic minority to form a Government in which the power would be shared somewhat in keeping with the numerical strength of each.

What happened thereafter was clear proof of the discrimination in employment which had now been ingrained into the society. The majority was frightened of losing its special privileges. The Protestant Trade Union leaders called a general strike in protest against the Executive which sought to share power with the Catholics. The strike crippled the country. Instead of sending in the military to carry on governmental functions, the Government of Great Britain, supinely submitted to the lawless mob and the Executive was disbanded and, with it, all hope of a peaceful and just solution.

During direct rule by Great Britain which followed, the policy of internment without charge or trial was continued and it remains as the rule of law to this day. The benefits, rights and privileges of the Great Charter stop on the shoreline of Northern Ireland. Torture in prison has become an accepted practice at Long Kesh nad the Women's Prison at Armagh and the British Government now stands accused in the dock before the Court in Strasbourg.

I will address myself now to other reasons, in addition to those outlined, why I believe this country should take positive steps to intervene in the bloody struggle in Northern Ireland. This country has strong ties with Great Britain and in two wars in this century where the battlefield was thousands of miles removed from our shore we then intervened to turn the tide of battle. We have strong ties with the people of Ireland. These two friends are now in conflict with each other and we have an obligation to them, and to ourselves, to use our position as world leaders to prevent further bloodshed and help to bring about a just and lasting peace. If we did it with Egypt and Israel, surely we can bring about a similar result between England and the Irish people. And, if we were to make that offer in good faith, how could either of them reject such a gesture of genuine friendship?

Four years ago, I asked the Presidential candidate of my Party, what, in his opinion, we could do to ameliorate the conditions in Northern Ireland. He replied that it was a private matter solely in the realm of Great Britain and internal to that country. It was difficult to understand how a man, seeking the highest office within the gift of the American people, could show such ignorance and callous disregard for misery in any part of the world, but particularly in an area from which we drew our earliest inspiration and which supplied us with a considerable portion of the brains and manpower to make our democracy the living symbol of Freedom. The same candidate had a policy about every other part of the universe, including some definite ideas about our relationship with the moon.

Mr. Kissinger's odyssey has made it plain how downright silly such an argument is. Yet, it was repeated a few weeks ago by a White House hopeful in next year's election. I wish I could say that our other foreign involvement has been as praiseworthy as would be an effort to divert disaster and avoid a holocaust in Northern Ireland. Our involvement abroad has been described in the Congressional hearings and is, indeed, a sorry tale. It might make up for this dismal record if, for once, we followed the tradition of our political forebearers. I don't believe Washington would object or Jefferson or Paine or Otis, or Sam Adams or John Adams, if we stepped into the breach where friends found themselves unable to cope with a problem which must, of necessity, set them apart for another century.

I would hope that the Presidential candidates would continue to take a strong position to guarantee the survival of Israel, the other bastion of democracy which we created, fostered and nurtured. I would hope that they will have a different approach from the pronouncement of their predecessor or risk the accusation that their principles are based on whose ox is being gored.

Anyway, it is sheer nonsense to say we cannot become involved in Ireland. We already are. Our Department of Justice bends to every pressure from Dublin and London. Our State Department extends its visa privileges to those who fill our media with propaganda from the British Information Service and denies the right to the victims' defenders to reply, on American soil, to the accusations so glibly made. Among those who have been denied access to our shores is Maura Commerford, an outstanding Irish leader. It is difficult to imagine Mrs. Commerford as a danger to the United States. Our Division of Alcohol and Tobacco has a full compliment of agents chasing Irish men and Irish women here, while there are one to two million guns illegally in the possession of New Yorkers, imported from other states, and crime is rampant on the streets of the cities and towns of America. Our military at Camp LeJeune have trained British Army personnel in the new ways we learned in Vietnam. We have returned them to Northern Ireland to practice their art on a defenseless minority. Within a few hours' ride from Belfast and Derry there exists a United States military base on Irish soil. Our former President granted special permission to the British Government to move N.A.T.O. soldiers from Europe into combat in Northern Ireland and the British, in an unguarded moment six months ago, thanked the C.I.A. for its assistance in Belfast.

There is a special urgency which requires us to act promptly. Every Irish man and Irish woman, no matter what their religious persuasion or racial origin, will tell you that if the meeting of elected officials, now in session, ends in the failure of the Pro-British Unionist Parties to concede to the Catholic minority the assurances of fair treatment, which can come only from power sharing, the area will be in chaos and the militant majority, armed to the teeth, will descend on the minority to drive them to their death.

The British Army has already disarmed the minority and they will be helpless to withstand such an onslaught. The London Government and the Dublin Government are well aware that such an eventuality is not only probable but is inevitable and, yet, neither singly, nor together, have they come up with any plan to safeguard those people. The last, and only hope, lies in American intervention and public opinion and I beg you to use these precious moments to bring about an avoidance of such an unspeakable disaster.

We only ask that a fraction of the interest so wantonly expended on Franco's Government or on the departed Greek Junta be employed at this very crucial time. Surely, our earliest, if not our latest, tradition demands it. If we once felt that "a decent respect to the opinions of mankind" had a special importance, we now have the opportunity to earn that respect. We owe it to those whose sacrifices gave us our beginning, to act as they would have acted as they set a new course for humanity.

Again, I want to express my appreciation for your concern and for the opportunity you have afforded to us here today. And it is our hope that you will carry the message with you to our national leaders.

QUESTIONS AND ANSWERS

Congressman WOLFF. Thank you Mr. O'Dwyer. Congressman Rosenthal spoke about you being in the forefront on the question of human rights and we all remember the hawks and doves of Vietnam. It seems we have a group of ostriches in this country today when it comes to the problems of northern Ireland.

Congressman AMBRO. I use the same phrases with regard to your testimony as did Congressman Rosenthal—eloquent and informative. However, on pages 2, 5 and 7 of your statement, you use the same word "intervene". You say as well on page five "this country should take positive steps to intervene in the bloody struggle in Northern Ireland." What precisely do you mean by intervention?

O'DWYER. By intervention I do not mean armed intervention. By intervention, I mean the kind of moral leadership that we have used in other parts of the world. We are dealing here with friends and allies. I would suggest that the Congress of the United States—the spokesmen for the American people—could ask Great Britain to insist, at the very least, that the rights of the people be protected. I cannot say to the Congress that it ought to suggest to anyone what kind of government they should have, but certainly at this very crucial time, when everyone agrees the parties involved cannot make up their mind to go thru with power-sharing, it's possible to bring up the suggestion to withdraw their troops. Now these troops have been mischievous, to say the least. For the people in northern Ireland, its hard to say whether having the troops there or not having the troops there is the greater evil. However, if such a situation should develop, perhaps we could impose upon our relationship with the United Nations. I believe this is valid because nobody represents the 500,000 minority in northern Ireland. They are not represented by the Dublin government and they are not represented by the British government. Believe me, they are our orphans and we have an obligation to treat them in that sense. I think failing to use the UN is giving away a weapon that I think is extremely important. I would say that on a man-to-man basis, our government should go to the leaders of the British Parliament and get moving on some action. There is no leader coming forward with a plan that has any sense or any hope of approval. When they did come up with one, a general strike by the Loyalists was able to pull down the government. Now that couldn't happen anywhere else in Great Britain. We certainly wouldn't tolerate it here. Quite obviously what should have been done under those circumstances was to move the troops into the powerplants to make certain that the normal functions of government be maintained. Troops could have been moved into the hospitals, orphanages and whatever other government services had to be continued. But in no time at all they surrendered to the mob. There is some question and I don't think it has been properly explored as to whether the Loyalists have control of the Army. If that is so, it is a sorry picture indeed. It indicates you have an Army let loose upon the people, without proper controls.

Mr. GILMAN. Mr. Speaker, I commend and I am pleased to join my colleague. the gentleman from New York (Mr. WOLFF), in this special order on the Irish question.

On October 15, in New York City, under the chairmanship of the gentleman from New York, Congressman WOLFF, our ad hoc committee on the Irish question, conducted an extensive prehearing.

Preliminary to a more formal hearing to be held in Washington at a later date before the Subcommittee on Future Foreign Policy of the Committee of International Relations, these hearings sought to focus attention on the need to help bring an end to the prolonged era of the violence, bloodshed, and turmoil in Northern Ireland.

Sean Walsh, who is National Executive Director of the Irish National Caucus, testified, along with other distinguished Irish leaders, before our ad hoc committee, discussing the current situation in Northern Ireland and stressing the need for American support and concern in resolving the issue of independence for Ireland.

Mr. Speaker, in the interest of bringing this important issue to the attention of my colleagues, I request that the statements made by Mr. Walsh, before our committee, be made a part of today's RECORD, not only to help clarify the Irish question, but also to stress the need for some affirmative action by the Congress:

STATEMENT OF SEAN W. WALSH IV

Prehearing Forum: New York City, October 15, 1975.

Mr. Chairman and Members of Congress: On behalf of the thousands of Irish Americans concerned about the welfare of their people and their country, I would like to thank each of you for being here today. The concern you are showing for the Irish people is deeply appreciated.

I regret that all five hundred and thirty-five Members of Congress are not present. I regret and, yes, I resent the fact that we have not yet been permitted to address our representatives through the appropriate channel of Congressional hearings in Washington. It is my hope that you will take what is said here today back to your colleagues and implore them to do everything possible to obtain for us that right.

As many of you know, the Irish American community has been trying for years now to enlist the support of the American government in the struggle for Irish freedom and independence. Unfortunately, we still hear too often a lament, "What can Congress do?" I would like to tell you today, and again hope you will pass it along to your colleagues, not only what the Congress can do, but what it must do if it is to help in that struggle for freedom.

At the outset, it must be made clear that the American government is involved in the Irish problem. The United States at one time claimed it was "England's internal problem and not our concern," a so-called neutral posture. This can no longer be said. There are many examples of direct involvement, the most blatant of which is the Department of State's revocation policies aimed at preventing any member of the Republican leadership in Ireland, including elected officials of a legally constituted party (Sinn Fein), from entering the United States to speak on this question.

The first action that Congress should implement is to redirect American involvement away from that type of political harassment and direct it instead towards the support of human rights and human beings. It is quite obvious that neither England nor Dublin have any reasonable long-range plan to resolve the conflict in Ireland. Unfortunately, the American government seems to be willing to support each increasingly oppressive measure set forth.

But, gentleman, whether they like it or not, whether we like it or not, the situation in Ireland is not going to remain static. That it will change is clear. What is not clear is how it will change. The next few months are critical. There are many possibilities ranging from the continuance of the present military activities, or increases thereof, to the very real possibility of the formation too of dictatorship in Ireland in an effort to silence all attempts to freedom. These will all lead to more violence. Do you think the Administration in Washington would support such action?

There could also be a final resolution to the age-old problem of England's occupation of Ireland. At long last an end to hundreds of years of suffering. The American government should, of course, opt to that final resolution. The fact remains the situation in Ireland is going to change. America, because of her involvement, is now deciding how it will change. What plan do you think our government will support? Does the Congress know what the Administration is supposed to be supporting? Do the American people know? I ask if both do not have the right to know.

I would like to assume that our government wants peace and freedom for Ireland. But I am not certain. I respectfully submit that this Congress does not know either what the Administration in Washington supports, and it is my belief that our representatives in the Congress not only have the right to know, but they have the responsibility to find out. How can a responsible position be made for or against any solution, any singular effort, any involvement until all the facts are known?

You have heard today about a proposal that could well mean the final resolution of the Irish problem. I can tell you it is a good plan. A federal form of government for the whole of Ireland, much like these United States. I think this plan should be supported, but the Congress, our representatives, are not being allowed to hear it. This is just one reason for the Irish American community to show that Congressional hearings are not only desirable, but that they are an absolute necessity. We have the right to bring this before our representatives, and they have a right to hear us.

After full Congressional hearings, the Congress, our representatives, can re-evaluate American involvement and restructure foreign policy of the United States in such a way as to be consistent with the principles upon which this country was founded. What we ask of the Congress is simple—look at the facts, hear all sides of the issue, then determine for yourselves what role our country had best play in bringing peace to Ireland. We support the same freedom and independence for the Irish people that we here in America enjoy, and we think if they knew the truth the Congress would join with us.

Some of you gentlemen know from personal experience that our State Department does not want Congressional hearings on this issue. They do not want our side of the story told in this country. I ask you, what are they afraid of? The truth? Since when is the United States a closed society where free expression of views are suppressed?

In closing, on behalf of the Irish National Caucus and all of our endorsing organizations in all fifty states, I cannot over-emphasize the concern of the Irish American community. I have personally witnessed great concern in the seventeen states in which we have had organizational seminars since January. The consensus is that full Congressional hearings are essential and will serve as a concrete step to a sustained peace with justice in Ireland.

It is indeed a privilege to testify before this panel, and I express our most sincere appreciation to each of you for your personal interest and continued support.

Gentlemen, I am prepared to answer any questions you might wish to ask.

IRISH NATIONAL CAUCUS—QUESTIONS AND ANSWERS

(By Sean Walsh and Fred Burns O'Brien)

Congressman BIAGGI. I know you have both been very active on the issue before us today. One question comes to mind, I know you have dealt in depth with the members of the House of Representatives. Have you dealt in a like manner with the Senate?

WALSH. At the moment we are concentrating our efforts with the Committee in the House to obtain full hearings.

Congressman BIAGGI. Well, we have a pretty good idea of how the members of the House, insofar as New York is concerned, feel. Have you been able to determine how the Senators from New York feel?

WALSH. I believe Mr. Buckley has in fact rejected our position and has refused to make any positive statement regarding our request for hearings. Sen. Javits shows some concern, but as yet has not come forth in any positive manner.

Congressman BIAGGI. May I suggest that, in light of the fact that most people don't know how their Senators feel that the Irish National Caucus emphasize their efforts. There is no reason in the world why the Senators shouldn't demonstrate very clearly to you their support. Morality is not a double standard. It is a single standard—right or wrong and should be universally applied. Not selectively, as demonstrated by some in the Congress and some people in public life. I realize that you like to be on the affirmative and I appreciate that. But, on the other side, you should not permit those who choose to remain silent or who remain in opposition to go unscathed.

WALSH. You are aware that this is the primary objection of the Caucus; to make certain that the views on the Irish question on both sides of the Congress are made perfectly clear and they will be called to task.

Congressman BIAGGI. I mean vigorously and persistently. Because they are political creatures and if you do it right, they will bend to what is right. And this is right.

Congressman WOLFF. Mr. Walsh, we have been informed that you are a registered agent of a foreign government. Is that correct?

WALSH. Mr. Wolff, some 2½ years ago the Justice Department requested that I register as a foreign agent—demanded in fact that I register. After they had involved themselves in an investigation, they determined that I was closely affiliated with the leadership of the Provisional Sinn Fein's Public Information Service. At that time I was forced to register. However, this registration in no way conflicts with my services as Director of the Irish National Caucus. We have a determination in writing from Attorney General Saxbe, Levy and the Director of the F.B.I. Clarence Kelley, stating that I am not restricted under any Foreign Agent Registration Act.

Congressman WOLFF. As Executive Director of the Caucus, are you acting for Sinn Fein, or are you acting in another capacity?

WALSH. The Irish National Caucus is the vehicle of the Irish-American community. The endorsement body of the Caucus, including the A.O.H., INA, Amer. Committee for Ulster Justice and many others, by their endorsement have requested that the Caucus serve their express purpose, as set out, for Irish freedom.

Congressman WOLFF. You have on your letter head the membership of the AFL–CIO. Is this correct?

WALSH. On the 18th of February, 1975 in Bal Harbour, Florida, the Executive Council of the AFL–CIO, in their Executive Session, unanimously endorsed the Irish National Caucus and the principles upon which it was founded. At their Bi-annual Conference in San Francisco, the full convention for the AFL–CIO unanimously endorsed a resolution for the same. So, the AFL–CIO are definitely endorsement bodies of the Caucus.

Congressman WOLFF. Coming to one other point that was made in conversations I had with representatives of the Republic of Ireland, they indicated that the Caucus was an arm of Sinn Fein. Is it?

WALSH. No sir. The Caucus is a separate lobbying group for United States citizens.

Congressman WOLFF. Does the Caucus have any connection with Sinn Fein?

WALSH. No sir. We support the principles of the Republican Movement in Ireland. But, the Caucus is solely a vehicle for the representation of Irish Americans. It does not serve as a representative for any foreign entity.

Congressman WOLFF. Mr. Walsh, further on a point I raised earlier. We have talked a number of times and when I talked to Mr. Fitzgerald, he threw your registration in front of me and said "Do you know that the head of the Irish National Caucus is a representative of Sinn Fein?" I said No, that I did not know that. But I take it that you not only have seen the registration form, but filled it out?

WALSH. I filled out the registration form. But it seems Dr. Fitzgerald has more documentation on myself than I am allowed to see.

Congressman WOLFF. I do want you to know first of all, that this Committee does not support any faction within Ireland. It is just looking to provide a platform for all points of view. However, I did attempt to invite Ruairi O'Bradaigh here to testify. But, I could not get him here because of the fact that this is not an official hearing of the Congress. As a result we have no subpoena powers. Therefore, instead of having him here—and I was very much interested in finding out the relationship between Sinn Fein and the I.R.A.—I should like to play for my colleagues a portion of a tape I took with Mr. O'Bradaigh.

(Congressman Wolff then played Ruairi O'Bradaigh's taped interview.)

Congressman WOLFF. I think that a person, regardless of how people feel about an individual point of view, has the right to be heard—even if it has to be done by tape. I think this individual has the right for his point of view to be heard in the United States and that is why I played this tape.

Congressman BIAGGI. I have no questions. I think my views are known. I am familiar with the Irish National Caucus and I want to congratulate the Irish community for coming together in a spirited body such as is represented by the Caucus. In unity we know there is strength. Historically, the Irish effort has been fragmentized. I will say that I also am familiar with the harassment; I am familiar with the conduct of different agencies, both here and abroad in so far as your efforts are concerned. I would suggest that if they applied that course of conduct against you, they might apply it against anyone who supports your view. That tells the story more graphically than any words that have been pronounced here today. It is a conspiracy. That is exactly what it is. We, as a government, take the public position of neutrality, yet are in fact in league with Great Britain and the Unionists to preserve the status quo.

And, I would like to congratulate our Chairman, Congressman Wolff and I can't say that too often. Because some people, because of the hot Irish blood that is coursing through their veins become frustrated and impatient. They say "What are we doing? What's happening? Nothing is happening!" That couldn't be further from the truth. The fact of the matter is a great deal is happening. It may not seem as visible to the naked eye as you'd like, but there is attention, consideration and much energy being spent in this area. I know your commitment to this cause and we pledge you ours. Not simply on a partisan basis. Simply because the reason that brought us into this in the first place still exists. There is inequity and injustice by one people against another. This is wrong and has to be made right. In the atmosphere of this world of ours, I am confident that it will be made right.

This vehicle this afternoon (the pre-hearings) will be significant toward that end. We will follow up with further colloquy with our colleagues. And we plan to submit this testimony to the Chairman of the International Affairs Committee, Dr. Morgan, with the request that we have a formal hearing and at long last bring the issue in sharp focus under the official auspices of the U.S. Congress.

Congressman AMBRO. As they are fond of saying in Washington, I would like to associate myself with the remarks made by both Congressman Wolff and Congressman Biaggi.

During our recent break here, someone in the audience asked a staffer "Who's side is he on?" referring to me. I might say for the record, I am on the side of human justice and against oppression and human suffering. I am on the side of civil rights for all people. I agree with your statement that the role of the Congress is to investigate and to inform; to educate and to legislate. It seems to me in so doing we can exercise a great degree of influence and that is what these hearings are all about.

Some people may not like the kind of questions I asked, but it also seems to me that if the record is not credible; if all questions aren't asked and if spread across the record are not answers to all of the questions that are on my mind as a result of the things I hear from my constituents, both Irish and non-Irish, this won't be effective. So, I've come here with no preconceptions or conclusions, except that oppression and injustice must go. I would say that I completely agree with Cong. Biaggi that our primary mission must be when we conclude these all too brief hearings to go back to Washington and press for official hearings.

I say all of this in complete objectivity, never mentioning the fact that my wife's name is Helen McCooey.

FRED O'BRIEN. I would just like to say one thing. There are 535 Members of Congress and I think it takes a lot of guts for a Congressman to sit up there, as you are doing today, knowing full well that at the end of the day there will be harassment from the F.B.I. and everybody else.

WALSH. I would like to make it clear for the record that you, Congressman Wolff and Congressman Biaggi, have been working extremely hard. We certainly would not have accomplished near what we have up until this time without the efforts of dedicated and concerned Members of Congress, like yourselves. I can say that the U.S. government—the Executive Branch represented by the State Department and at the request of the Free State and English governments have done everything possible to prohibit these hearings from being held. They have implemented as much pressure upon the leadership in Congress as possible to prevent these hearings. However, thanks to you, we were successful and I think these preliminary hearings will allow us to succeed in demanding a full hearing in Washington.

On behalf of the Irish-American community, I want to thank you gentlemen very much for your help and participation.

GENERAL LEAVE

Mrs. LLOYD of Tennessee. Mr. Speaker, I ask unanimous consent that all

Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of the special order today by the gentleman from New York, Mr. Wolff.

The SPEAKER pro tempore (Mr. Danielson). Is there objection to the request of the gentlewoman from Tennessee?

There was no objection.

THE NEED FOR BETTER JOBLESS STATISTICS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Delaware (Mr. du Pont) is recognized for 10 minutes.

Mr. DU PONT. Mr. Speaker, I am offering legislation today that would create, for 1 year, an independent national commission—appointed by the President—to improve the Bureau of Labor Statistics' measurement of employment and unemployment.

Here is why. On the basis of the monthly jobless report being released by the BLS tomorrow, our Nation will formulate policies, administer social programs and make plans for the future. Yet there is strong evidence indicating that the Bureau's monthly reports are not adequate for these tasks.

Nowhere has this been more convincingly stated than in the study put together recently by Williard Wirtz, our Secretary of Labor under Presidents Kennedy and Johnson, and Harold Goldstein, a respected manpower statistician with many years' service in the BLS. Their report, "A Critical Look at the Measuring of Work," shows that we must reconsider how we define, gather, and use jobless statistics, something that has not been done in a thorough, reflective manner since the Gordon Commission appraised the measuring of employment and unemployment almost a decade and a half ago.

Three illustrations explain in a general way what is wrong:

A teenager drops by the neighborhood grocery store one afternoon next January trying to get a weekend job so he can buy gas for his motorcycle and is told that no help is needed. Because he did this during the measurement week, he will be counted as "unemployed" in the February BLS report. To put it another way, of those reported as "unemployed," a significant number—about one-fourth in 1973; one-fifth in 1974—of both adults and young people are available for and are seeking only part-time work.

Likewise, a parent of three children, constantly looking for work but managing to find only 1 day of it during the entire month, will—if that day falls in the measurement week—be included in the count of the "employed."

As a result, we cannot be sure what is meant when the BLS reports, as it did in October, that more than 8 million people are unemployed. Nor do these statistics tell us much about the economic welfare of our citizens—the duration and severity of their unemployment—a crucial point when we try to determine what social programs may be needed or even how healthy our economy is.

Or, take this example: the population census in 1970 showed that BLS methods for estimating State unemployment rates had resulted in errors of 20 percent or more in 13 States, and worse in some counties and cities. Since then, the BLS has tried to make some improvements, recently including the use of direct measurements in every State. Even so, indirect measurements, such as estimating unemployment by figuring backward from, among other incomplete lists, the count of those receiving unemployment insurance benefits, are still used widely.

Consider what this means for agricultural areas like those in my State. An unemployed head of a household in a rural community where unemployment is high may get no Government job assistance simply because the area's jobless rate is miscalculated by a fraction of a percentage point. Were it accurate, the locale would be eligible for Federal loans to create private jobs in agricultural areas.

And that is not all. These same rates determine whether businesses in a particular locale are eligible for preferential treatment on Government contracts, or whether a city is given Federal moneys to build new access roads or bring sewers—all of which create jobs and bring more money into the community. Moreover, the initiation of public employment and training programs is based on local unemployment rates.

Here's a third problem: In 1973, our schools had trained 140,000 more teachers than there were teaching positions. This regrettable allocation of resources might have been avoided if in addition to measuring the work force we had also measured the training force—those 20 million Americans undergoing some kind of schooling—and developed occupational employment data on an industry-by-industry basis. This data could, in turn, have been used to give our youngsters better career guidance. Or, to put it another way, BLS employment data should do more than tell what has been wrong; they should also help us solve or prevent future problems in the workplace.

After almost 2 months of investigating into the problems illustrated in those three examples, it is clear to me that there are no easy solutions. The inadequacies in incomplete and, therefore, misleading jobless rates cannot be corrected with a single piece of legislation.

Because the discrepancies are so complex, not to mention critical, it is difficult and unwise to suggest solutions or even think we have defined the problem without first conducting thorough, careful research. And then, there will still be the need for a variety of solutions, some that may need to be legislated and others that can be instituted by the BLS itself.

The best way to define and formulate these solutions, it seems to me, is to form an independent commission made up of experts from universities, industry and labor. This arrangement would in no way rule out BLS input—in fact, given the Bureau's demonstrated willingness to improve its statistics this would be advisable—but it would permit a fresh look from the outside.

It is clearly important to reexamine, from time to time, the assumptions underlying how we compute the statistics that determine what we do. The Gordon Commission established by President Kennedy in 1961 recognized that it could look only a few years ahead. In its final report in 1962, it stated:

> In formulating recommendations, the Committee has endeavored to assess, and even to anticipate, the mounting requirement for labor-force information which will develop in the next five to ten years.

Now, in 1975, after 13 years of "mounting" reliance on jobless data for forming policies and administering government programs, it is time to take another hard look. This can be done without creating a perpetual commission—the Gordon Commission lasted less than 1 year. And it can be done inexpensively.

Indeed, the Nation cannot afford to do otherwise.

ERDA AUTHORIZATION CONFERENCE REPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Bell) is recognized for 5 minutes.

Mr. BELL. Mr. Speaker, I wish to speak on the ERDA authorization bill, H.R. 3474. I am pleased to report to the House that today the conferees finished work on this important piece of legislation and will be bringing it before the House in the very near future for approval. As one of the conferees, I signed this conference report and therefore I endorse the bill and urge my colleagues to support our work.

However, even though I signed our conference report, I did so in the belief that this legislation was, on the whole, good and necessary. I still retain reservations about certain aspects of the bill, which I will explain later. Notwithstanding these reservations, I also note that the Congress urgently needs to make decisions on energy so that we can begin to develop our new energy sources for the future. We can no longer afford to wait because our energy shortages are creeping up on us.

My reservations on this bill relate to oil shale. I cannot urge my colleagues to support the oil shale provisions in this bill and especially I must oppose the inclusion of oil shale in the loan guarantee program for commercial demonstration facilities, section 103. In the conference I offered a motion to strike oil shale from this section on the grounds that it is not now ready to be accelerated to the commercial stage. The vast majority of the testimony that our Subcommittee on Energy received from the oil shale industry supported this conclusion. Unfortunately, my motion was defeated, although just narrowly on a 5-to-4 vote. However, I still remain unconvinced that oil shale is ready to be included in this program.

I do not wish my intentions to be misunderstood; I am wholeheartedly in favor of the loan guarantee program itself. I feel that it is especially needed for projects which produce high Btu gas from coal. Natural gas is one resource which is already starting to run short. The lack of gas is causing plants to shut down and people to be laid off. If anywhere, we must act quickly here.

Curtailments are already occurring on our interstate natural gas pipelines. My own home State of California will experience a curtailment of 9 percent this coming winter. The prospects for the future are even gloomier: Southern California will be curtailed so severely that even residential customers will be experiencing rationing by 1980, unless new supplies are found. The prospects for the Nation are just as bad: The Institute of Gas Technology estimates that if we continue our present growth rate of 3-to-4 percent, our present, proven reserves will be depleted by 2005. Clearly, the Congress must act soon to assure new supplies and this loan guarantee program will help to do just that.

I wish to point out also that Congress' decision is imperative here. Industry is already waiting to begin; they have their plans drawn up and their applications filed. As of early 1975, three companies have filed for the necessary certificates from the FPC. These companies are: El Paso Natural Gas Co.—filed November 15, 1972, No. CP–73–13; Transwestern Coal Gasification Co.—filed February 7, 1973, No. CP–73–211; and Michigan Wisconsin Pipe Line Co.—filed March 26, 1975, No. CP–75–278.

The three projects are similiar in many respects. They are each designed to produce about 275 million cubic feet per day of high-Btu—950 to 1,000 Btu per cubic foot—pipeline quality gas from western coal, using the Lurgi-plus-methanation process. Annual production from each plan would be on the order of 90 to 95 billion cubic feet of synthetic natural gas—SNG.

Thus, we in the Congress can be assured that if we act favorably on this bill we will see results very soon.

In conclusion I urge my colleagues to support the loan guarantee program in the ERDA authorization bill. Even though there are portions which I cannot support, the whole program is so urgently needed that we in Congress must act favorably on this.

AGAINST THE TAX BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Vermont (Mr. JEFFORDS) is recognized for 15 minutes.

Mr. JEFFORDS. Mr. Speaker, I would like to rise to explain why I cannot support the tax bill, H.R. 10612.

The provisions of the bill which provide an extension to the tax relief measures passed earlier this year are needed to continue to pull us out of the recession. I also favor the reform provisions which do something, although not enough, to remove inequitable provisions of the tax laws. My vote against the bill is based on a principle that I feel so strongly about that I cannot vote for the bill. I will not support a bill which has buried in it a substantial tax benefit to me as a Congressman. The relief affects not only those that will serve in Congress in the future but is retroactive to the beginning of 1975. This provision is unconscionable, unwarranted, and a flagrant violation of fairness to the millions of taxpayers who do not receive a benefit anywhere near this magnitude. Since there will be no vote, I feel it is important to point out to the public that many Members of Congress seriously object to this provision which is buried within the tax bill and have done all in their power to correct it. I would like to outline the efforts of Members to try and obtain at least a vote on this provision.

The gentleman from Pennsylvania, Congressman MYERS, ably helped by Congressman MARTIN, of North Carolina, attempted to defeat the rule so that an amendment would be in order to remove this provision from the bill. This effort failed due to the rules of the House and also due to the efforts to defeat the rule on a matter of higher national priority, that is to try and attach a spending limitation to the tax bill.

The gentleman from Pennsylvania's efforts having failed, I immediately decided to dig into the books on rules and past precedents to see if any other alternative could be used to open doors to bring this provision to a vote. After considerable study by myself and staff we seized upon a little-used procedure in an attempt to get around a restrictive rule. With the enthusiasm of a freshman Congressman who thought he had found a way to end run and the crafty Congressmen of many years' standing, I rushed to the Parliamentarian. But alas, I was leveled before even reaching the line of scrimmage. The Assistant Parliamentarian pointed out to me that the rule we had before us was stricter than any he had seen before. It even thwarted this little-used procedure. More about that later.

First, let us examine what the rule did so that those interested can better understand the difficulties in attempting to vote upon this self-serving provision.

Generally, when bills come to the House floor they are open for amendment at any point. This means that if anyone disagrees with the provisions in the bill they have a right to offer an amendment to change it. Each Member has a right to change a bill completely, within certain guidelines to insure relevancy. But when it comes to bills affecting millions of people and billions of dollars, the Members are almost totally restricted to either voting "yes" or "no" on the issue even though they have serious disagreement with parts of the bill. The rule for this bill provided only for seven amendments by members of the committee which had already been printed. No further amendments were allowed. In addition only 10 minutes of debate were allowed on each amendment. Complicated tax procedures were to be changed after only 10 minutes of discussion. Amendments under normal rules result in hours of discussion on much less significant measures. With this additional knowledge I am sure people can well sympathize with those of us who attempted to defeat the provision giving a pay increase of thousands of dollars to ourselves during the session in which we are serving.

Now let us return to an explanation as to why the final attempt to remove this condition failed. I am doing this primarily to let people know how this rule was drafted to prevent all possible attack on this pay provision. To restrict Members to only a few amendments, as this rule did, is not new or uncommon. However, generally, this does leave open one attempt to add one additional amendment through a motion to recommit with instructions.

The language in this rule was different than even that usually used for the Ways and Means Committee bills. Additional language prevented even a motion to recommit with instructions, if a point of order were raised. The words "in the House" were added after the normal provisions that no amendment could be added in committee. Since the motion to recommit with instructions is considered an amendment under the rules of the House, if a point of order were raised, the motion to recommit with instructions would be out of order. Thus, our strategy for a motion to recommit with instructions, or to object to the previous question on another motion to recommit with instructions, in hopes of amending that motion, were thwarted. The majority members of the appropriate committees are to be "commended" for their ingenious use of the rules to totally prevent any attack on this heinous provision to provide substantial pay increases to Congressmen. Although our attempts for a vote by each Congressman on this provision were for nil, each of us that participated in this attempt substantially increased our knowledge of the rules.

Perhaps next time with this new knowledge we will be able to outcraft the crafty. In the meantime, all I could do was to give a protest "no" vote.

FREE MARKET AND FOOD PROTECTION RESOLUTION OF 1976

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. SEBELIUS) is recognized for 10 minutes.

Mr. SEBELIUS. Mr. Speaker, I am taking this opportunity to discuss legislation I am introducing today, the free market and food protection resolution of 1976 (H.J. Res. 743).

This bill's primary purpose is to provide equity and consideration to the man whose job it is to feed this Nation and help feed a troubled and hungry world. I should like to point out we are witnessing a new era in American agricultural policy today, an era in which the farmer and his product have become a vital resource that is being utilized in unprecedented fashion to further many different national interests.

No longer is it the farmer's job to simply farm, produce, and provide quality food and fiber at the lowest comparative cost in the world. Today, we find the farmer and his product a prized national resource to be utilized in the conduct of our foreign policy, in the fight against inflation, in the humanitarian effort to alleviate malnutrition and hunger throughout the world, and in the effort to maintain our Nation's balance of payments and pay for the foreign oil we use in this Nation.

It is popular today for those within the organized labor movement, for State Department officials, for those involved in the humanitarian effort to alleviate hunger and malnutrition, for the consumer interests, and for the executive branch of Government to speak, with every good intention, about "our grain." Their grain in this instance is in fact the farmer's grain.

I realize and agree that it is in our national interest to keep food prices at a reasonable level. It is also in our national interest to conduct our export policy to enhance our foreign policy in such a way as to promote international understanding. There is no question but that this country also has a humanitarian responsibility to assist those who are less fortunate in the fight against hunger and malnutrition. I am thinking primarily of those emerging nations who are experiencing an ever-increasing population and decreasing energy and food supply. All of these things are in our national interest. But, I submit to my colleagues and those directly involved that these efforts should not be done at the farmer's expense. It is still the farmer's grain. He prepares the soil, he drills the wheat, he harvests the crop, and he will continue to do so only if he can receive a price that will enable him to stay in business.

I realize that sounds pretty basic, but I am convinced that there are too many folks today who simply do not understand that basic fact.

If it is in our national interest to suspend grain export sales for any number of reasons, and if these suspensions or export controls are punitive and discriminatory to the farmer, then it is also in our national interest to provide the farmer equity. If we are going to embargo the farmer's product in the interest of fighting inflation, conducting foreign affairs, or any number of other reasons, social or economic, we are going to have to pay for it. It is that simple.

In part, this legislation is intended to increase the realization that should future Government intervention in grain exports occur, there is a price that has to be paid and that price is, in truth, an investment in our national interest. This bill would assure the farmer minimum financial protection if Government interference or special interest pressure should cause future disruption in U.S. farm exports.

Should the executive branch of Government deem it in the national interest to suspend export sales of grain, national interest equity payments to farmers who still own their grain would be required.

The initial payment would become payable when export sales of grain are suspended. The payment would be 7.5 percent of the parity price per bushel of the commodity concerned. Payments for holdings beyond 20,000 bushels for an individual producer would be reduced to 5 percent.

For each additional 30-day period the suspension is in effect, there would be additional payments in the amount of 3 percent of the parity price per bushel of the commodity with holding in excess of 20,000 bushels at the rate of 2 percent of the parity price per bushel.

I wish to stress that these payments, or investments in our food production capability, in no way cover the precipitous decline in grain prices that farmers have experienced over the past months following Government intervention in grain exports. However, during this time of fiscal restraint, these equity payments will at least enable the farmer to maintain his economic position during future such suspensions.

Mr. Speaker, the farmer has been told it is in the national interest to maximize food production. He received assurances from the executive branch of our Government of free access to export markets. Despite record production costs, he responded in good faith and produced a record grain crop.

Unfortunately, the suspension of export grain sales has disrupted supply and demand marketing, effectively depressed grain prices in some cases below production costs, denied grain producers a fair and equitable price for their product, and imposed additional storage costs on grain producers who cannot market their products without a fair economic return.

This suspension has been deemed in the national interest. It has also been economically punitive to the farmer and discriminatory in nature to agriculture. I submit to my colleagues that equity payments to the farmer are also in the national interest and in turn become investments in this Nation's ability to fight hunger, stem inflation, provide jobs, improve our balance of payments, pay for foreign oil, and alleviate hunger and malnutrition.

I urge consideration and support for this bill by my distinguished colleagues.

JUSTICE DEPARTMENT OFFICIALS ACCUSED OF TRYING TO REPEAL ANTITRUST LAWS UNDER A COVER-UP DESCRIBED AS DEREGULATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, for a period of several months a group of attorneys in the Antitrust Division of the U.S. Department of Justice in Washington, D.C., under the guise of proposing deregulation of business, are moving to repeal portions of the antitrust laws.

President Ford has suggested that he wishes steps to be taken to reduce and eliminate some U.S. Government regulations and, in that connection, reduce Government bureaucracy. Some officials in the Antitrust Division of the U.S. Department of Justice have taken advantage of those suggestions by President Ford and are attempting to have considered proposals for repeal of vital provisions of our antitrust laws. In doing this, they have covered over and attempted to cover up their efforts by moving to have their efforts labeled as efforts to deregulate business.

As the truth about those efforts to repeal portions of our antitrust laws become known, they concern and disturb all of us who are for our public policy of antitrust and the laws enacted by the Congress to implement that policy. One of those laws is the Robinson-Patman Act, which prohibits monopolistic price discrimination practices destructive to competition.

These matters became of great concern to the Honorable JOE L. EVINS, chairman of the House Small Business Committee, and others who are interested in our national public policy to protect, counsel, and assist small business. Therefore, on September 23, 1975, Chairman EVINS and the members of the House Small Business Committee created an Ad Hoc Subcommittee on Antitrust, the Robinson-Patman Act, and Related Matters to investigate, study, hold hearings, and report on these moves and proposals by officials in the Antitrust Division of the U.S. Department of Justice to repeal those portions of the antitrust laws which include the Robinson-Patman Act.

In that connection, it must be kept in mind that the antitrust laws, including the Robinson-Patman Act, are not Government regulations of business; they were designed to avoid Government and private regulation of free and competitive enterprises. The Robinson-Patman Act, therefore, is not an exemption from the antitrust laws, but on the contrary is an amendment and an addition to such laws for the purpose of strengthening and making them more effective.

In announcing the creation of the Ad Hoc Subcommittee on Antitrust, the Robinson-Patman Act, and Related Matters, Chairman EVINS named the following to serve on the subcommittee: Representative HENRY B. GONZALEZ, chairman; Representative JAMES M. HANLEY, vice chairman; Representative WILLIAM L. HUNGATE, Representative JOHN BRECKINRIDGE, Representative JOHN J. LAFALCE, Representative FREDERICK W. RICHMOND, Representative MARTIN A. RUSSO, Representative M. CALDWELL BUTLER, Representative THOMAS N. KINDNESS, and Representative WILLIAM F. GOODLING. At that time, he stated that the Robinson-Patman Act should not be repealed, but should be retained and strengthened.

The ad hoc subcommittee commenced hearings on the subject on November 5, 1975, which continued at intervals through November 19, 1975. A large number of witnesses have appeared and testified. These include representatives of hundreds of thousands of small business firms. The small businessmen and their representatives who testified bitterly opposed the suggestions which have come out of the Antitrust Division of the Department of Justice for repeal of the Robinson-Patman Act. They testified at length on the reasons why it promotes competition, and is not anticompetitive as is claimed by some of the officials from the Antitrust Division of the Department of Justice. Indeed, one of those officials from the Antitrust Division has admitted that his views in that respect are based upon his bias against that portion of our antitrust laws.

On October 22, 1975, as chairman of the ad hoc subcommittee I directed letters to the Antitrust Division requesting that they submit the evidence they had before them and which supported them when they were out publicly propagandizing that the Robinson-Patman Act was anticompetitive. To this date, they have not responded by providing such information. In other words, it is becoming increasingly clear that these officials who would like to persuade President Ford to propose repeal of some of our antitrust laws, including the Robinson-Patman Act, have nothing on which to base their proposals except their personal bias. There are indications that this personal bias has been developed after such officials have had contacts with persons who had represented violators of our antitrust laws, including the Robinson-Patman Act.

These officials not only failed to respond to requests made by the ad hoc subcommittee with information which would have supported the views that they have expressed in propagandizing against the Robinson-Patman Act, but now they are obviously undertaking efforts to build an argumentative basis for their further propagandizing in that regard.

For example, the said officials of the Antitrust Division of the Department of Justice have arranged with members of the staff of the Domestic Council to hold some "hearings" to commence on December 8, 1975, for the purpose of attempting to secure support for their proposals. In that connection, reference is made to one of the Fairchild Business Newspapers published December 1, 1975, from which the following is quoted:

> The Justice Department will host three days of hearings—beginning next Monday—Designed to produce evidence to document its claim that the Act [Robinson-Patman Act] is anticompetitive.

That news item continues by referring to the appearance of some of the officials of the Antitrust Division of the Department of Justice who appeared as witnesses before the ad hoc subcommittee and in that connection stated:

> Justice Department officials, given a sound thrashing on Capitol Hill for proposing that the Robinson-Patman Act be repealed, will try to get their side of the story told at the Hearings.

The "hearings" thus referred to are the ones which the Department of Justice will host commencing December 8 in collaboration with the Domestic Council. Notice of this so-called Domestic Council Review Group hearing was published in the Federal Register on page 54855 on Wednesday, November 26, 1975, in the following words:

> Notice is hereby given that the Domestic Council Review Group on Regulatory Reform will hold public hearings on the Robinson-Patman Act, 15 U.S.C. §§ 13, 13a, 13b and 21a, on December 8, 9, and 10, 1975.

Mr. Speaker, it seems strange indeed that these officials of an important Government agency who have not seen fit to extend the courtesy of responding to the ad hoc subcommittee's request of October 22, 1975, for factual information are now attempting to conjure up some sort of a record which they apparently believe would support them in the propaganda they have heretofore spread around against provisions of our antitrust laws, including the Robinson-Patman Act.

Mr. Speaker, the history of antitrust legislation shows that the Sherman Antitrust Act was passed many years ago, specifically on July 2, 1890. The inadequacy of that law to deal with many monopoly problems became apparent with the growth of large corporations and the continuing trend toward mergers and other conglomerates as a result of price discrimination and other practices. Consequently, the Congress, in its wisdom, enacted the Clayton Act for the very purpose of halting monopolication in its incipiency. The principal difference between the Sherman Act and the Clayton Act is that the Sherman Act deals with consummated restraints whereas the Clayton Act seeks to reach monopolistic evils at their inception.

Today, we are confronted with strong and powerful attempts to emasculate, weaken, and even repeal the Robinson-Patman Act. As I stated, we are concerned over the fact that the officials referred to have allowed more than 6 weeks to elapse without taking pen in hand and acknowledging that they received from me a request for such factual evidence as they had before them when they made statements condemning the Robinson-Patman Act and which supported such statements of theirs. Moreover, it is of concern to this committee of the Congress that, according to reports, efforts are being made to withhold replies to that request for information until those to whom the requests were directed, with the assistance of the officials of the Office of Management and Budget and the Domestic Council, have made and effectuated a plan for hearings on the Robinson-Patman Act at the Executive Offices, commencing December 8, 1975.

It appears to this Member of the House of Representatives that such decisions and planning have not only resulted in ignoring requests from a chairman of a subcommittee of the House of Representatives, but also have the earmarks of thoughts that perhaps such a course of action may frustrate the hearing process of this subcommittee. In that connection, it has been reported that one of the movers in such decisions and planning has expressed his view that such course of action would be the expression of the adversary position to the points of view thereon thought by such person to be held by this subcommittee.

Let me advise those who hold such views that they should understand the truth This subcommittee does not regard the bureaucrats in the Antitrust Division of the U.S. Department of Justice as adversaries and it does not behoove them to regard this subcommittee as an adversary of theirs.

Testimony received by the Ad Hoc Subcommittee on Antitrust, the Robinson-Patman Act, and related matters indicates some of the strong bias held by officials against our antitrust laws. For example, Mr. Alan Greenspan of the Council of Economic Advisers, so it was testified, has stated that:

> The Sherman Act may be understandable when viewed as a projection of the nineteenth century's fear and economic ignorance. But it is utter nonsense in the context of today's economic knowledge. The seventy additional years of observing industrial development should have taught us something.
>
> If the attempts to justify our antitrust statutes on historical grounds are erroneous and rest on a misinterpretation of history, the attempts to justify them on theoretical grounds come from a still more fundamental misconception. * * *
>
> To sum up: The entire structure of antitrust statutes in this country is a jumble of economic irrationality and ignorance. It is the product: (a) of a gross misinterpretation of history, and (b) of rather naive, and certainly unrealistic, economic theories. (See "Antitrust" by Alan Greenspan, as compiled by Ayn Rand for publication in a volume entitled "Capitalism, the Unknown Ideal.")

In conclusion, it is seen that some of the officials are not merely endeavoring to arrange for deregulation, but they are for dismantling the structure of our antitrust laws.

RETIREMENT OF ROY C. MESKER, STAFF DIRECTOR, MANPOWER AND CIVIL SERVICE SUBCOMMITTEE, HOUSE COMMITTEE ON POST OFFICE AND CIVIL SERVICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. HENDERSON) is recognized for 5 minutes.

Mr. HENDERSON. Mr. Speaker, I asked for this time to offer my congratulations for a job well done to Mr. Roy C. Mesker, staff director of my Subcommittee on Manpower and Civil Service of the House Committee on Post Office and Civil Service, who will retire at the end of this month.

Mr. Mesker, a career employee with over 35 years of service in the field of personnel management, came to my subcommittee with the highest recommendations. His service has been exemplary and outstanding, as it was in the many positions he held in the U.S. Air Forces since 1941, particularly in his capacity as the Director of Civilian Personnel, U.S. Air Forces, Europe, Weisbaden, Germany, during 1969 to 1974, and as Director of Civilian Personnel, Headquarters, Pacific Air Forces, Honolulu, Hawaii, from 1958 to 1969.

I was particularly impressed by the meritorious performance and service awards he received from the Air Force in 1956, 1962, and 1969.

One of Mr. Mesker's major activities as subcommittee staff director with which I am particularly pleased is the extensive investigations he developed and conducted on behalf of the subcommittee on the abuses of the civil service merit system. The groundwork for this investigation was conducted under his immediate supervision and guidance, and is now nearing completion. There is no question in my mind but that his work in this field will lead to extensive revision and strengthening of the civil service laws.

Another outstanding performance by Mr. Mesker is evidenced by his leadership and staff work in developing legislation now being considered by the committee in connection with Federal service labor management relations.

When Mr. Mesker first approached me in June of this year about retiring, I urged him to remain until the end of 1975, even though I fully appreciated and understood his desire to retire after 35 years of service. Being the dedicated public servant he is, he agreed, but now it is time for him to leave and we will miss him.

Seldom in my career of 28 years of public service have I ever worked with any person with whom I have become so personally fond. My professional relationship with Roy Mesker was exemplary but I shall always treasure our personal friendship.

Mr. Speaker, my colleagues on the committee join with me in wishing Mr. Mesker and his wife Alice a very rich and full retirement. They certainly deserve the best.

THE NEED FOR A COMPREHENSIVE NATIONAL HEALTH CARE POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 10 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, on October 8, 1975, as chairman of the Subcommittee on Health of the Committee on Ways and Means, I circulated a draft statement to several of my colleagues in which I stated my current views on the nature of the problems we face in designing a national health program. In the statement I outlined both the problems and the way I believe that they can most effectively and efficiently be addressed.

Since the response to this statement has been most encouraging, both from within the Congress, and in the case of those who have had the opportunity to examine it, from other interested individuals in the health care field, I am today inserting this draft statement in the RECORD for all my colleagues' attention. While I must reiterate that this statement is still in draft form and as such subject to revision, I believe that the approach outlined in it provides us all with an opportunity to get out from under the jurisdictional constraints in both Houses that may block progress toward the development of a national health insurance bill. Adoption of such an approach would result in better coordination in the health area within the Congress so that we can more effectively deal with critical issues.

I encourage my colleagues to closely examine this statement and I solicit suggestions that might be made on the substance of it and its recommended course of action.

DRAFT HEALTH POLICY STATEMENT OF HON. DAN ROSTENKOWSKI, CHAIRMAN, SUBCOMMITTEE ON WAYS AND MEANS

During the more than nine months of its existence, the Subcommittee on Health of the Committee on Ways and Means has devoted a considerable portion of its time to an intensive exploration of the issues involved in designing a sound workable national health insurance program. It has been a challenging and illuminating task and what we have learned will be of invaluable benefit to us in carrying out the tasks that still lie ahead. It is clear that the problems that must be surmounted in constructing an acceptable program are exceedingly complex; but any lingering doubts we may have had about the public's acceptance of the idea that everyone is entitled to proper medical care as a matter of right have long since been dispelled. Above all else, it is abundantly clear that enactment of some form of comprehensive national health insurance is both necessary and inevitable. And it is our intention to undertake whatever actions are required to assure that the program that finally emerges is both fiscally sound and fully responsible to the needs of the American people.

As I have studied the strengths and weaknesses of the medicare and medicaid programs over their first decade of existence, and as I have concentrated additional study on the issues surrounding national health during the nine months since I became Chairman of the Subcommittee on Health, the vague disquiet that we were not approaching the basic issue correctly has hardened into conviction.

All too frequently, the idea of a national health insurance program has been taken to mean the provision of more health services and personnel for the management of episodes of acute illness, a greater application of sophisticated medical technology, and better financing of the costs of these types of services, personnel and technology—in short, a system for more effectively distributing the available medical resources for treating diseases and injuries to all people whenever a medical crisis creates the need for them. I believe, however, that this is too limited a conception both of the health care problems that now confront us as a nation and the possible solutions that may be available.

My conviction is that this nation urgently needs a national health care policy which addresses the issues of health care—the preservation and maintenance of health, as well as its restoration—much more broadly than do current proposals, almost all of which are aimed exclusively at the financing and delivery of services to ill and injured people. We need a health care policy that will also stimulate and give direction to a massive effort aimed at the prevention of preventable diseases and accidents, the amelioration of those environmental factors—natural and man-made—contributing to ill health, and the early detection and treatment of acute diseases and chronic ailments before they become severe enough to require expensive and extended medical care.

As one who has been continuously exposed during the past several years to the mounting scientific and statistical evidence of a serious disparity between the kinds of health problems endemic to our society and the solutions that have been offered, I am now certain that the time has come to formulate a comprehensive national health policy. And it seems to me that the underlying principles of such a policy can be formulated as follows: First, every citizen, whatever his economic status, place of residence, age or other consideration, must have guaranteed access to all necessary acute and chronic health care services. Second, assuring such access must be a public responsibility, with the major share of this responsibility carried out by the Federal Government in a productive partnership with the private sector. Third, since the cost of those medical care services for which the technology and demand now exist is beyond the unaided capacity of the private sector, substantial funding will need to continue to be provided through the resources of the Federal Government. Fourth, because of the increasing costs of health care and of governmental revenues that will have to be devoted to health care to make the nationwide provision of it a reality, the national health care system will have to both foster the idea that every individual has a responsibility to maintain his own health, and undertake major efforts aimed at the prevention and mitigation of those environmental factors which lead to ill health, disease and disability.

Viewed from such a perspective, I believe that most of the current proposals for a national health program share a common group of parochial limitations. Most of the proposals currently under consideration offer programs designed to provide insurance protection against the cost of health care only after diseases, accidents and other health limiting conditions occur—not before. These crisis-oriented approaches ignore the very considerable complex of immunological and other contributions the medical profession and its ancillary fields are now capable of making to preventive medicine. And they ignore the possibility of developing new and imaginative approaches to preventing accidents and disease which are spawned by our present environment and our life styles.

The second inherent weakness of most current proposals is that they are so involved in the sheer quantity of acute medical and hospital care now consumed by our population that they have inadvertently downgraded the critical functions of evaluating and improving the quality of care that is provided. Americans may have many urgent health needs, but inferior, substandard, or unnecessary care is not among them.

A third structural weakness of many proposals is their neglect of the related problems of the increasing cost and utilization of our health care resources. Four priorities of urgent change are becoming increasingly apparent to the administrators of our existing health care system: the need to relieve the growing economic and staffing pressures on our health facilities by screening out and treating many health disorders before they become acute enough to require hospitalization; the need to develop more effective techniques for delivering medical care through such measures as the training and use of skilled paramedical personnel; the need to introduce the use of realistic and practical incentives for encouraging restraint in the use of services; and the need to devise new financing mechanisms that will encourage efficient management of our resources and curtail rising costs without, at the same time, impairing the capacity of the health care system to meet our needs. By and large, however, most current proposals fail substantially to address these issues.

A fourth efficiency of these proposals is their failure to adequately address the basic, and by now critical, problem of how to effectively and humanely provide for the long-term care needs of our disabled and aged citizens. Most of the proposals content themselves with directives for increased enforcement of existing Federal and local regulations relating to the physical safety of facilities and the qualifications of institutional staffs. But this is no answer to the painful question of how to assure the availability and quality of needed convalescent, rehabilitative, custodial and terminal care, in settings consistent with the value we place on human dignity and responsibility, and at a tolerable cost. Until this question is seriously faced, we will continue to pour needless millions of tax dollars daily into high cost general hospital care for too many patients who no longer require acute hospital care but who cannot be discharged for lack of the appropriate post-hospital health services they still need. And millions more of

Federal, State, and local tax dollars will continue to be spent on keeping human beings in some nursing homes which barely meet even minimal standards of human dignity. We are all entitled to expect more of our society when we are incapacitated or when we grow old than consignment to institutions for our remaining days.

What reasonable conclusions can we draw from this bewildering array of critical, seemingly insoluble problems? One major conclusion, I believe, is that the current debate on the issue of national health insurance has been too narrowly and selectively focused on the insurance aspects of health care—selectively in the sense that little attention is paid to health maintenance measures or to chronic care needs. What is required is a substantially broader view, one that recognizes and takes into account the many and varied elements that make up our national health care problem. What we urgently need to do is begin the design of a comprehensive and coherent national health policy and system that can simultaneously lead to significant improvement in the general level of health of the American people and provide insurance protection against the costs of acute, convalescent and rehabilitative care.

I am convinced that it is no longer possible to think exclusively in terms of a program that simply provides insurance protection against the costs of acute illness, catastrophic or otherwise, after it occurs. The total cost of medical care in the United States has already reached staggering proportions, yet the health care status of our population still leaves much to be desired. We are, in essence, faced with a new order of urgency to achieve higher levels of health among the American people.

Moreover, there is widespread agreement that a considerable proportion of morbidity and illness in America is preventable, or at least detectible and treatable at an early stage and at less cost, and that our present health care system and our methods of financing health care costs do little to accomplish this objective. I will not cite the myriad of examples of tragic waste of human and financial resources resulting from this deficiency which already fill the literature. It may be enough, perhaps, to cite the conclusions expressed in 1970 by Dr. Paul Koten, the Director of the National Institutes of Environmental Health Sciences, who estimated the total health costs of human misuses of the American environment to stand at $35 billion a year. Of this amount, Dr. Koten estimated that $10 billion is spent each year for treating people with health disorders and disabling handicaps caused by environmental factors, and the remaining $25 billion represents the dollar costs of lost wages and services due to environmentally-caused diseases (the long-range phychological and social costs being truly incalcuable). And this estimate was made in 1970.

Increased attention to prevention and detection programs, therefore, can help both to improve our health status as a nation and to reduce overall costs by eliminating the need, in many cases, for subsequent expensive therapeutic procedures, medical services and facilities. Many members of the Subcommittee's expert advisory panels on national health insurance have stressed this point forcefully, as has HEW's recently published forward plan for health.

There will, no doubt, be many who will challenge the validity of this thesis on the grounds that it is too sweeping a proposition and, therefore, impractical. I believe, however, that the rising cost of health care, in itself, will soon dictate major changes in the way health care services are organized and delivered, and in the ways in which we may be compelled to accomodate our life styles to the biological requirements of health. I would suggest that we need to begin preparing ourselves now for these developments so that we can initiate and direct changes rather than reacting to crises later when our options are severely limited. More than anything else, I believe it is our current failure to seriously work toward a comprehensive national health policy that has been the major obstacle to the design of a soundly conceived and broadly acceptable national health program.

I believe, in short, that there are two fundamental elements to be embraced by a responsible national health policy: the preventive aspect I have been describing, aimed at laying an enduring foundation, through a variety of public health, environmental and other measures, for the effective maintenance of health for everyone, and the insurance and financing aspect aimed at assuring universal access to, and coverage of the costs of the full range of necessary health care services when acute illness strikes or chronic or disabling conditions impair the individual. These two elements are complementary and represent, in effect, a continuum running from the prevention or mitigation of those conditions contributing to ill health, through the early detection and treatment of disease, to the assured availability of all necessary acute, convalescent and rehabilitative care under a comprehensive program of national health insurance. These elements need to be worked on simultaneously. Both are needed and each must support the other.

Earlier I asked what conclusions could be drawn from a review of the many critical health care problems confronting us. If my first conclusion is that we must broaden our view and construst a comprehensive national health policy, my second conclusion is that this Congress needs to be working on both aspects of the national health policy now. I am well aware of the limited resources in the Congress to undertake a task of this magnitude. The range of issues to be addressed, the voluminous technical information to be amassed, the detailed analyses to be undertaken are such that no one Committee or Subcommittee can handle it. I am proposing therefore, that the Subcommittee on Health of the Ways and Means Committee and the Interstate and Foreign Commerce Committee simultaneously undertake work on these two aspects of a national health care program on the basis of a division of labor that takes into account the unique expertise, background, and knowledge of each Subcommittee.

To begin shaping the ingredients of a national health policy, I propose that the Commerce Subcommittee undertake hearings focusing on the issues involved in the application of the presently available knowledge developed by the medical, biological and environmental sciences, the effective employment of reductions in avoidable disease, disability and death. I have every confidence that the proven expertise of that Subcommittee and its leadership can lead to the development of the new perspective and new approaches which will be required.

At the same time the Ways and Means Subcommittee would focus its attention on the insurance and related financing aspects of health care. In this context the proposals which are now before the Subcommittee will appear much more rational as we work on them.

As I have indicated, the work of these two Subcommittees would be complementary and would need to be integrated into a coherent and comprehensive national health policy that would provide the necessary direction and policymaking machinery over the long-term to the implementation and continuous development of a national health program. To accomplish this objective, I believe it will be essential for the two Subcommittees to remain in continuous communication as they pursue their respective investigations, to exchange information acquired in the course of their hearings, to periodicaly assess progress and eventually to integrate the two parts into a single whole embodying a national health policy that can be enacted by this Congress as the major piece of domestic legislation in this decade.

I now invite other Members of the Congress involved in health legislation, the leadership of the Congress, and every other Member to begin movement toward the development of a national health policy. A great deal of work and effort will be needed from all of us, but the importance of the task requires it. I look forward to working with all Members of the Congress toward this goal so important to the welfare of the people we serve.

FOREIGN WORKERS ARE TAKING AMERICAN JOBS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. FORD) is recognized for 5 minutes.

Mr. FORD of Michigan. Mr. Speaker, despite alarming statistics indicating that unemployment in this country continues to rise, the U.S. Department of Labor has seen fit to once again certify the use of foreign workers to harvest apples.

During the course of oversight hearings in March conducted by the Subcommittee on Agricultural Labor, which I chair, we expressed great concern that foreign workers were taking jobs away from unemployed citizens.

The Department claimed that every effort was exerted to recruit domestic workers both from within and without the State before it would certify the use of foreign labor.

However, I was most discouraged to learn that the subcomittee staff has just received figures from the Department which indicate that in nearby Virginia, West Virginia, and Maryland, there were more foreign domestic workers picking apples this fall. The Department estimates that at the peak of the harvest there were 1,384 domestic apple pickers employed, while certification for the importation of 1,615 foreign workers had been issued for this region.

These figures, as bad as they are on their face, are even worse when you consider that unemployment in these States on an average was running over 55 percent higher in August of this year than it was in August of 1974.

Mr. Speaker, there are numerous proposals before us now designed to create jobs and put people back to work. There is no denying the need to pursue this goal. But I suggest to the Labor Department that it take an important first step in lowering the unemployment rate in these neighboring States by refusing to certify the use of foreign labor in the apple harvest when so many residents of these States are looking for jobs.

The principle of "supply and demand" has traditionally been one of the basic tenets of our free enterprise system. If there is truly a "demand" for more workers in the apple orchards, I am certain that it can be filled by unemployed Americans—if the growers are prepared to "supply" the wages at levels which are high enough to attract American workers.

OUTRAGE AT U.N. ACTION ON ZIONISM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New Jersey (Mrs. MEYNER) is recognized for 5 minutes.

Mrs. MEYNER. Mr. Speaker, I share the sense of outrage felt by many of my colleagues over the recent action by the U.N. General Assembly equating Zionism with racism. I am disturbed, however, by the possibility that many Americans may blame the entire United Nations organization for this action and reduce their support for the fine work being done quietly every day by many U.N. agencies.

One of these worthwhile agencies is UNICEF. I would like to insert in the RECORD at this point a letter to the editor of the New York Times from the President of the U.S. Committee for UNICEF which I recommend to all of my colleagues:

[From the New York Times, Nov. 22, 1975]

NONPOLITICAL UNICEF

To the Editor:

A number of UNICEF's well-wishers and volunteers associated with the programs of the U.S. Committee for UNICEF are understandably disturbed and confused by the recent U.N. General Assembly action of a majority of member countries in adopting a resolution which equates Zionism with racism.

The U.S. Committee deplores this action, which it considers divisive. The committee, an independent, nonprofit organization, wishes to reassure a public not versed in the intricacies of U.N. interagency relationships that, in the words of Henry R. Labouisse, executive director of the United Nations Children's Fund, "the resolution has no bearing on UNICEF operations."

The committee intends to continue its wholehearted support for UNICEF for the reasons it has often emphasized: UNICEF is totally nonpolitical; UNICEF is dedicated to helping children in need without regard to religion, race or nationality; UNICEF has its own budget, governing board and executive director; UNICEF is supported entirely by voluntary contributions. UNICEF is, therefore, in a unique position to transcend political conflict and turmoil in order to assist children. The help given to children on "both sides" of conflicts in the Middle East, Nigeria and Indochina, India and Pakistan exemplifies this position.

Contributions to UNICEF also transcend political divisions, as they come from more than 120 countries, including Arab countries and Israel.

To withdraw our assistance to the children of the developing countries would condemn them to continue to live in excruciating misery. We cannot believe any rational human being would want to penalize the children because of a political action that has no relevance to the operations of this unique organization—UNICEF—which has proved its usefulness over the span of a generation.

HELENKA PANTALEONI,
President, U.S. Committee for UNICEF.
NEW YORK, November 14, 1975.

THE ENERGY POLICY AND CONSERVATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DINGELL), is recognized for 5 minutes.

Mr. DINGELL. Mr. Sepaker, there has been much recent discussion on the subject of the conference report on H.R. 7014 and S. 622—the energy bill entitled, "Energy Policy and Conservation Act." We are told that a major campaign has been mounted by some Members of Congress, certain special interest groups, and by the major oil companies to have this conference report rejected, or to have the legislation vetoed when it reaches the White House.

One of the oil companies has gone so far as to base its arguments upon a New York Times editorial which had stated, among other things, that the bill approved by the conference was seriously flawed in several respects. Using this reasoning, the oil company urged disapproval of the legislation.

I believe that the record should be set straight. There are aspects of this legislation which I feel could and should have been improved upon. I suppose that one might properly term these to be "flaws" in what might otherwise have been a perfect bill. At the same time, I must add that I have seldom considered any legislation produced by the legislative process to be perfect in every respect. I have also voted for a majority of these imperfect bills, recognizing that the end product of the process should, on the whole, produce valuable results.

I doubt that there is a Member of this body who would not consider the comprehensive energy bill to be "flawed" in one respect or another. On that, I suspect that we can reach a degree of unanimity which is almost unheard of in these Chambers. I am just as certain that we can reach no such agreement on any individual element of this legislation: my "flaw" may be your critical element.

What counts is the net result of the legislation. On this I submit that, some Members, certain groups, and oil companies notwithstanding, the conference report takes an important step in the right direction and should be signed. This is so if for no other reason that it moves powerfully to protect a shaky economy from the devastating impact of sudden decontrol of the price of oil. We are just beginning to realize the extent to which this economy and our society are dependent upon low-cost energy, and the need to avoid a "cold turkey" solution to the problem. Cold turkey may be good eating, in these post-Thanksgiving days, but it is very bad medicine for a patient whose economic health is as poor as ours is today.

I include the most recent Times editorial on this subject, which makes this same point, in the RECORD.

The editorial follows:

[From the New York Times, Nov. 26, 1975]

"FLAWED" ARGUMENT

However deficient the pending energy bill may be—and we have found much in it to criticize—a Presidential veto would have the probable effect of an overnight lifting of all oil price controls, with the result that the future price of oil would henceforth be determined by the "free market" (sic) mechanism of the Middle Eastern oil cartel. Such a situation could be disastrous for this country's economic recovery and anti-inflation policies. A veto on grounds of the controversial oil pricing formula, moreover, would automatically nullify all the other worthwhile and hard-fought provisions in this omnibus energy bill—including establishment of a strategic petroleum reserve, mandatory fuel efficiency standards for automobiles and a variety of energy conservation measures.

In a triumphant advertisement in this newspaper yesterday, the Mobil Oil Corporation made much of a recent Times editorial. As we said, and as Mobil quoted in approving tones, we found the energy bill that emerged from the Senate-House conference committee two weeks ago to be seriously "flawed" in several important respects. Mobil obviously agrees.

But what, regrettably, Mobil failed to include in its advertisement was the conclusion of our Nov. 14 editorial, with which Mobil apparently does not agree. As we stated then, and as we repeat today: "Given the immediate danger to the nation's economy of sudden and total decontrol, we believe Congress should pass and the President should sign this bill."

FRANKLIN, IND., RECOGNIZES "FAMILY WEEK"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. EVANS) is recognized for 5 minutes.

Mr. EVANS of Indiana. Mr. Speaker, since we have just returned from a Thanksgiving holiday which traditionally marks the beginning of the Christmas season, I believe that we should all take a few minutes to reflect on what is possibly the greatest cause for celebration in this country, the family. At a time when personal goodwill abounds, family ties are strengthened, and home fires are rekindled, I would like to bring to your attention the efforts of one town in my district. The community of Franklin, Ind., has contributed significantly to the recognition of the family by designing and implementing a "Family Week" which recently completed its second successful year of community participation.

In a program supported, sponsored, and spirited by the Franklin Jaycees, Mr. and Mrs. James R. Johnson organized a family recognition week with the primary goal of involving the entire community of Franklin in a new look at the family institution. In order to have complete participation, the Johnsons guided the Franklin Jaycees in organizing a series of contacts and activities which ultimately included every sector of the population of the Indiana town. Events ranged from a grade school poster contest to the naming of the Paul Romans as "Family of the Year" and culminated in a holiday parade on the final day of the week. In every sense of the word, Franklin's family week was considered a success.

As a result of the job he did on the project, James R. Johnson was chosen as outstanding First-Year Jaycee in Indiana and at the U.S. Convention in Miami in June, 1975, Mr. Johnson was chosen as one of the five top First-Year Jaycees in the Nation. The Franklin Jaycees' family week was listed as the

Indiana Jaycees project of the year for 1974–75, the No. 1 project in the United States in the area of human relations and the project has been submitted to the Jaycee International World Congress for world competition.

I certainly consider it an honor to represent the community of Franklin, Ind., and to be able to count people such as Mr. and Mrs. Johnson and the Franklin Jaycees among my constituents. But even more important, I am proud to live in a country where the family is still recognized as the great institution that it has been in the past and will continue to be in the future.

IMMIGRATION LAW CHANGE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN), is recognized for 10 minutes.

Ms. HOLTZMAN. Mr. Speaker, today I am introducing a bill to change a provision of the immigration law that discriminates against fathers. Under section 101(b)(1) of the Immigration and Nationality Act, an illegitimate child can be brought into the United States by its mother, or even by an unrelated stepmother. The child cannot, however, be brought in by its natural father. Even when its mother has died or abandoned it, the illegitimate child cannot be brought into the United States by its U.S. citizen father.

Similarly, an illegitimate child who is a U.S. citizen may bring his mother or stepmother to the United States, but not his father.

This is blatant sex discrimination against fathers. The immigration law says in effect that the father of an illegitimate child is not a "parent" and that an illegitimate child is not a "child." But saying so does not make it so. Fathers can have a deep and abiding relationship with their children regardless of whether they were married to the mothers of these children. To pretend otherwise is cruel and inhumane. It is outrageously discriminatory to deny a father, solely on the basis of his sex, rights that a mother has.

The law is not designed to protect against false paternity claims since the natural father is not permitted to offer proof of paternity. It is not designed to prevent "kidnaping" of illegitimate children by parents without legal custody since the their mothers or stepmothers are not required to prove an award of custody and the father is not even permitted to do so. The law is not designed to keep children out of the hands of unfit parents since the mother or stepmother need make no proof of fitness. The law reflects, rather, a destructive and irrational stereotyping by sex: rights are given to a mother or stepmother but denied to a father without any basis.

This discriminatory law is also unconstitutional. Only 3 years ago the U.S. Supreme Court decided a very similar case in Stanley against Illinois. Under Illinois law the father of an illegitimate child was denied custody of his child even though the child's mother was dead. The Illinois statute preferred to place the illegitimate child in an orphanage rather than permit the natural father to have custody. The Supreme Court found such discriminatory treatment unconstitutional and held that the father of an illegitimate child must be considered a parent under the law.

This year the Supreme Court talked about the role that fathers as well as mothers play:

> It is no less important for a child to be cared for by its . . . parent when that parent is male rather than female. And a father, no less than a mother, has a constitutionally protected right to the "companionship, care, custody and management of the children he has sired and raised. . . .

Section 101(b)(1) of the immigration law works a continuous hardship on illegitimate children and their fathers who wish to be together.

I would urge prompt passage of my bill so that we can accord fathers and their natural children the due process and equal protection of the law guaranteed to them by our Constitution.

The text of the bill follows:

> A bill to amend section 101(b) of the Immigration and Nationality Act
>
> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section 101(b)(1) is amended—
>
> (1) by striking out clause (C);
>
> (2) by redesignating clauses (D), (E), and (F) as (C), (D), and (E), respectively; and
>
> (3) by striking out the semicolon at the end of the clause redesignated as (C) by paragraph (2) of this section and by inserting in lieu thereof "or natural father; or".

REDLINING—NO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, on October 2, I introduced the Urban Coinsurance Reinvestment Act, an insured loan program for the older housing areas of our cities designed to preserve these valuable communities and prevent them from becoming slums.

H.R. 9967 would benefit the people in these areas by making it easier for them to finance the purchase and improvement of homes.

It has been my experience that local community groups and financial institutions are more than willing to cooperate in neighborhood rejuvenation projects when there are adequate safeguards for saver's funds. Providing this insurance on a uniform and widespread basis and, therefore, encouraging investment in formerly risky neighborhoods, is the primary intent of this bill.

However, because of the number of inquiries I have been receiving from persons concerned that H.R. 9967 authorizes redlining I would like to clarify both my firm stand against this practice, and the reasons why I consider this bill to be the first concrete piece of legislation proposed to help solve the mortgage financing problems of our inner cities.

Under the provisions of H.R. 9967, the Federal Home Loan Bank Board would establish a subsidiary fund from which the insurance money could be drawn if necessary. Such a community reinvestment fund would insure 80 percent of a loan in designated neighborhoods against default; the other 20 percent would be absorbed by the lender as an incentive toward sound underwriting standards.

A $10 million loan from the Treasury would provide the money needed to establish the fund, but it should be noted that the insurance premium income generated from program participants will enable it to become entirely self-supporting in 15 years, if not less.

The proceeds of obtaining these new mortgages would be the same as with conventional mortgages: a person applies directly to the lending institution which makes a credit check, appraises the property and handles the paperwork. The only difference is that for certain older areas which could not otherwise attract mortgage investment from traditional sources, the community reinvestment funds assumes 80 percent of the risk in case of defauld.

By utilizing conventional loan sources and then protecting them against substantial loss, I believe this bill offers an answer to what the neighborhood associations say is their biggest problem: attracting and maintaining investment interest in older areas.

Unfortunate misinterpretation of the intent of the shared-risk plan has surfaced, however, among community groups who claim that designating a neighborhood as an urban reinvestment area will stigmatize it and, therefore, cause it to be redlined.

Title III of H.R. 9967 states that the consideration of an area should be based primarily on the need for mortgages in that community. Obviously, such a bill is not aimed at healthy communities which have no trouble getting enough financing; it is for those neighborhoods already in danger of becoming slums unless some relief can be arranged. With mortgage funds becoming more scarce every year, it is these areas which are suffering the most from investment phobia.

The built-in incentive to take more chances in these neighborhoods will not cause redlining. On the contrary, by eliminating the troubles many older communities have getting credit, coinsurance can help make them financially viable again. Because of the particular need for cooperation and understanding among community groups that this bill requires, I feel that the hearings stage will be a particularly important time. It is my hope that all involved groups will take advantage of them to become better acquainted with the provisions of this bill and more importantly, to contribute suggestions and criticism.

I have begun this process by authoring two changes which I believe will improve H.R. 9967 as well as reduce many of the redlining fears. The first provides strong encouragement for State and local governments to get actively involved in achieving financial stability for their areas. This amendment allows lesser—or possibly waived—insurance premiums in return for improving community services such as health care, schools, minimum standard codes, and planning programs.

A second amendment I am proposing will spread the insurance coverage around even further by not limiting qualification to neighborhoods alone, but to individual homes of 25 years or more in all areas.

A final point I would like to clarify involves the bill's provision that no more than 5 percent of the total assets of savings and loans can be invested in designated urban reinvestment areas. To those not familiar with the savings and loan industry in this country, 5 percent may sound small. But in actuality, this figure represents more than $15 billion. Surely some assurance of restraint is necessary to protect the fund. And if more reinvestment mortgage money than $15 billion is needed—especially if it has to be insured against default by a Federal agency—we need the high-water mark that this limitation provides.

I will say however, that there is nothing magic in the 5 percent figure. It is a working figure I would have no objection to changing if sound supportive evidence of that need can be produced in the hearings.

Mr. Speaker, I would like to point out that my track record against redlining is a clear indication that I would not stand for any bill allowing it. As you may remember, I was the congressional author of the FAIR plan insurance program and the Federal Crime Insurance program. Together, these measures have gone further than any other toward the elimination of redlining in the insurance industry.

I think I can speak with certainty that accomplishing the same goal in the mortgage field will not be easy. But I am willing to do everything I can to find a vehicle through which Congress, the city neighborhood associations and the lending institutions all can work toward correcting the damage already done by redlining. Serious consideration will be given to any amendment which seeks to improve the coinsurance plan that H.R. 9967 offers.

EXPRESSION OF APPRECIATION TO PRESIDENT FORD FOR EFFORTS HE MADE ON BEHALF OF MIA'S DURING HIS TRIP TO CHINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. MONTGOMERY) is recognized for 15 minutes.

Mr. MONTGOMERY. Mr. Speaker, speaking on behalf of the members of the House Select Committee on Missing Persons in Southeast Asia, I would like to express appreciation to President Ford for the efforts he made on behalf of the MIA's during his trip to China. Secretary of State Kissinger announced at a press conference in Peking that officials of the Peoples' Republic of China have given President Ford detailed information on seven deceased U.S. military personnel missing in Indochina and this number could be larger than the seven announced. Release of the names is not expected for another 48 hours until the families have been notified.

On behalf of the Committee, I had written to the President requesting him to seek information on Americans missing in Southeast Asia during his talks with Chinese officials.

I would also like to commend Congressman BEN GILMAN, a member of our select committee, for introducing a resolution with over 50 cosponsors which made the same request of the President. Making inquiries of the Chinese was a matter about which Mr. GILMAN felt very strongly, and rightfully so.

Mr. Speaker, we hope the release of this information is the result of initiatives taken by our committee. At any rate it indicates the very sincere interest Mr. Ford has in resolving the MIA matter. This new information which was being sought by our select committee, plus our trip to Paris this weekend to begin discussions with North and South Vietnamese diplomatic officials, indicates that the problems surrounding the missing in action is at last moving off dead center.

There is no doubt in my mind that the formation of the House Select Committee on Missing Persons in Southeast Asia has had a very beneficial effect on American efforts to determine factual information on the MIA's. We look forward to discussing this issue further with North and South Vietnamese officials, in Paris, as well as other matters of extreme interest to them.

Mr. Speaker, I would also like to thank you and the House leadership for the importance you have attached to our discussions this weekend. We appreciate your decision not to schedule any controversial legislative business tomorrow, Friday, out of deference to those Members who will be leaving early tomorrow morning for the trip to Paris and the first significant talks with the Vietnamese on missing Americans. Your support means a lot to us as a committee and as individuals.

In conclusion, I would like to include in my remarks the questions the committee asked President Ford to ask Chinese officials. They are as follows:

(1) Will the Peoples' Republic of China, in view of the fact that peace has finally been restored in Indochina, ask the governments of the two Vietnams, Laos and Cambodia to renew efforts previously impaired by the war to account for or obtain the release of any Americans identified by the United States as missing or a prisoner of war?

(2) Are any Americans, civilian or military, or remains to be recovered or identify still being held in the Peoples' Republic of China?

(3) Is it possible that Americans being held as prisoners or captives are being moved back and forth across the borders of Laos and North Vietnam into the territory of the Republic of China?

(4) If North Vietnam, Laos, Cambodia and South Vietnam were willing, would the Peoples' Republic of China provide personnel as members of a search team from neutral nations to search in any or all of those four nations?

(5) There are some known deceased Americans whose remains have not been returned to the United States. As a humanitarian gesture, would the People's Republic of China ask North Vietnam, South Vietnam, Laos and Cambodia to cooperate and assist in the repatriation of those remains?

THE WHITE HOUSE,
Washington, November 11, 1975.

Hon. GILLESPIE V. MONTGOMERY,
Chairman, Select Committee on Missing Persons in Southeast Asia, House of Representatives, Washington, D.C.

DEAR SONNY: Thank you for your November 5 letter enclosing the questions which you would like to have presented to the officials of the People's Republic of China during the forthcoming Presidential trip to that country.

The President has directed the appropriate members of the staff to give your request priority attention. He shares with you and the members of the Select Committee concern over this tragic situation and has asked me to assure you every appropriate effort will be made to assist the Select Committee.

With kindest regards,
Sincerely,
VERNON C. LOEN,
Deputy Assistant to the President.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding and I rise to commend and to associate myself with the remarks of the distinguished gentleman from Mississippi (Mr. MONTGOMERY).

In his brief tenure as chairman of the newly created Select Committee on Missing Persons in Southeast Asia, Representative MONTGOMERY has already achieved significant progress in working toward a full accounting of our MIA's.

Following the creation of the Select Committee on MIA's in September of this year, we received the welcome news of the release by the Vietnamese of the Christian Alliance missionaries. We have today received news of MIA information being released by China, and we are about to leave for a meeting with the Vietnamese this weekend in Paris which, hopefully, will lead to further information concerning this long lingering problem.

Much of this work has been accomplished not only a result of the committee's dedication but also because of the patient, diligent guidance of our effective chairman, Mr. MONTGOMERY.

Our Select Committee on Missing Persons recently met with Secretary of State Kissinger exploring the administration's support for assisting us in opening lines of communication with Vietnam.

Following our meeting, the Department of State, in a gesture of good will, granted permission to the United Methodist Church to send medical supplies and clothing to needy persons in Vietnam. Through actions such as this, our Nation is demonstrating its sincerity and willingness to explore a new relationship with Vietnam.

Our Select Committee was pleased to note, subsequent to our meeting with Secretary Kissinger, that he emphasized, in his speech on November 24 before the Economic Club of Detroit, Mich.:

> We shall seek a new structure of stability in Southeast Asia. This Administration inherited the conflict in Indochina and brought our involvement to an end. That chapter in our history, which occasioned so much anguish, is now closed. As for our relations

> with the new governments in that region, these will not be determined by the past; we are prepared to look to a more hopeful future. The United States will respond to gestures of good will. If those governments show understanding of our concerns and those of their neighbors, they will find us ready to reciprocate. This will be especially the case if they deal constructively with the anguish of thousands of Americans who ask only an accounting for their loved ones missing in action and the return of the bodies of Americans who died in Indochina. We have no interest to continue the Indochina war on the diplomatic front; we envisage the eventual normalization of relations. In the interim we are prepared to consider practical arrangements of mutual benefit in such fields as travel and trade.

As our committee embarks on our mission to Paris, we hope and pray that we will return with more information for those anguished families who have been waiting so long and so patiently for so much.

Mr. MONTGOMERY. Mr. Speaker, I should like to thank the gentleman from New York for all of his remarks and say that we have had some success, and we hope that we will have more success and that we can write the final chapter on our involvement in Southeast Asia by coming up with some type of good answers on what happened to these Americans.

The gentleman from New York (Mr. Gilman) certainly worked well with the committee. He is a leader in this field, and he has dedicated himself. Without him, certainly some of the accomplishments that have been made up to this time would not have been possible.

TAX REFORM AND THE HOUSING INDUSTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. AuCoin) is recognized for 5 minutes.

Mr. AuCOIN. Mr. Speaker, I would like to express my disappointment that, in the name of reform, the committee may have done serious damage to chances for recovery in the housing industry. It is incredible that what were originally seen as needed incentives to attract private capital to housing construction are now seen as loopholes which must be closed off. If anything, the housing industry is more in need of private capital today than it has ever been, and our Nation's housing needs are growing more desperate yearly.

I am particularly alarmed at the committee's single-mindedness of purpose. I have received information packets telling me how much the committee expects to pick up in additional revenues in the next few years, but nowhere do I see an assessment of how much private investment capital will be lost to housing, or what the effect will be on our national housing goals. To the best of my knowledge, the committee did not base its decisions on such information, which seems to me to be an absolute necessity.

Mr. Speaker, we must realize the interrelated nature of such matters as taxation and national housing policy. We cannot make changes in one area without carefully considering the anticipated effects in the other.

Yet the Congress does this entirely too often. If we are to remove the incentives for the investment of private capital, then we must make sure that an alternative source of funding is in place. I challenge the proponents of this bill to tell us where the alternative capital will come from. The truth is, they provide no alternative. And I submit to you that for anyone who is concerned about the Nation's housing, this should be a matter of greatest concern.

ADMINISTRATION FINALLY MOVES TO COMBAT ARAB BOYCOTT, FURTHER MEASURES ARE NEEDED

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Massachusetts (Mr. Drinan) is recognized for 10 minutes.

Mr. DRINAN. Mr. Speaker, since February of this year, when President Ford spoke out strongly against American participation in the Arab boycott, his administration has refused to take any action to combat this insidious form of economic blackmail.

While ignoring the statutory antiboycott policy contained within the Export Administration Act of 1965 and failing to exercise its discretionary powers under that and other legislation, the administration has affirmatively supported the boycott in a number of respects. First, it has continued to dissiminate tender offers containing boycott provisions to American firms. Second, it has actively promoted trade between American companies and Arab countries which perpetrate the boycott. Third, it has indirectly imposed discriminatory requirements on American firms through subcontracts awarded by the Corps of Engineers and the Department of the Interior for projects in the Middle East. Finally, it has steadfastly refused to disclose the names of American firms which have succumbed to boycott demands.

The administration's refusal to oppose the boycott prompted a number of responses from Members of Congress. More than 100 Representatives signed a letter to Attorney General Levi to request that the Justice Department investigate antitrust violations implicit in compliance with a secondary boycott. Several bills were introduced with numerous sponsors to strengthen the antiboycott provisions of the Export Administration Act and make compliance with discriminatory boycott demands unlawful. Several congressional committees held hearings on various facets of this issue and struggled to secure the disclosure of relevant information from the Department of Commerce.

Several weeks ago, a House subcommittee voted to cite the outgoing Secretary of Commerce for contempt of Congress for refusing to honor committee subpenas. On November 17, 25 Members of Congress filed suit in Federal district court in Washington against the Secretary of Commerce and the Secretary of the Interior for their complicity in the boycott.

The growing determination of Congress to press for effective action against the Arab boycott apparently had some impact, for on November 20 the administration initiated a dramatic shift in its policy toward the boycott. On that date, President Ford announced that Federal agencies would no longer abide by discriminatory policies in assigning personnel for U.S.-managed projects in the Middle East.

The President also directed the Secretary of Commerce to amend that Department's regulations to prohibit American exporters from complying with any boycott demand which would lead to discrimination against U.S. citizens or companies on the basis of race, color, religion, sex, or national origin. Those regulations were promulgated by the Commerce Department on November 21.

CONSISTENCY OR TURNAROUND?

Seven days later, the Commerce Department took further action constituting a complete reversal of an important element in its boycott policy. Secretary Morton announced that beginning December 1, the Commerce Department will no longer distribute contracts or tender offers containing boycott provisions to American firms. Morton asserted:

> This action is still another clear demonstration of the Administration's opposition to restrictive trade practices and boycotts of countries friendly to the United States.

In making that claim Secretary Morton conveniently ignored a contradictory statement on this same subject made by a Department spokesman 3 months earlier. On August 22, in response to a letter from Mr. Seymour Graubard, national chairman of the Anti-Defamation League, Acting Deputy Assistant Secretary Robert C. Shaw wrote:

> We do not believe that any useful purpose would be served if the Department of Commerce refused to disseminate bid invitations subject to restrictive clauses, thereby denying U.S. firms prompt access to business opportunities in the Arab markets. . . . A refusal by the Department to disseminate such opportunities could have an adverse impact on our balance-of-trade and increase unemployment in the United States.

The total repudiation of this stance by the Department on November 28 conceded the fraudulence of those earlier claims.

ADDITIONAL ACTION REQUIRED

I am gratified that the administration is finally acting, albeit belatedly, to oppose, rather than abet, the Arab boycott. I regret that such action has only taken place in the context of strong congressional pressure, including a contempt of Congress citation and a lawsuit against the Secretary of Commerce. The measures taken by the administration are significant, but they fail to address the basic issue of compliance by American companies with boycott demands directed against firms which do business with Israel.

The revised regulations issued by the Commerce Department on November 21 do not prohibit American firms from agreeing to avoid doing business with Israel, or with other firms doing business with Israel, in order to secure business within the Arab States. This sort of demand, not those requiring American firms to practice religious discrimination, has been indigenous to the Arab boycott. Under new regulations, American companies will still be subject to economic coercion to participate in a secondary boycott of other American firms.

Similarly, the refusal of the Commerce Department to distribute tender offers which contain explicit boycott provisions does not alter the Department's policy of promoting trade between American firms and the boycotting states. All American exporters are cognizant of the restrictive trade stipulations insisted on by the Arab States as a precondition of doing business with them.

The actual inclusion of those boycott provisions in the tender offers circulated to American firms is not as significant as whether or not these firms are, in fact, expected to comply with such provisions. That expectation is clear, yet the administration proposes to do nothing to prevent American companies from bowing to boycott demands. In fact, the administration will continue to promote trade with Arab States despite the fact that those nations insist on participation by American firms in their economic war against Israel.

The power of the Arab boycott will not be broken in our country until companies are prohibited from complying with all demands arising from a trade boycott imposed against Israel by the members of the Arab League. If the administration refused to promote trade with any nation imposing restrictive trade demands on American firms, the Arab League might relax or even abandon its efforts to enlist the United States in its commercial boycott of Israel.

Since the present administration shows no inclination to take these measures, action must be pursued in the Congress and the courts to bring our Government into compliance with the Export Administration Act of 1965. H.R. 5913 or other legislation to prohibit American companies from complying with boycott demands should be enacted. The suit filed by 25 Representatives against two Cabinet members should be prosecuted until we secure a consent agreement or court order which will stop our own Government from promoting business with the boycotters.

Efforts by the House Interstate and Foreign Commerce Committee to force the disclosure of key boycott-related documents must not be abandoned. The House Government Operations Committee should continue to pursue its oversight of the Commerce Department's "antiboycott campaign". Finally the Senate Commerce Committee should secure a commitment from Commerce Secretary-designate Elliot Richardson to enforce the antiboycott policy to the full extent of the law. The administration's recent actions are a constructive step, but a great deal remains to be done.

UNITED STATES PROBING SECRET MIAMI BANK ACCOUNTS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. MEZVINSKY) is recognized for 5 minutes.

Mr. MEZVINSKY. Mr. Speaker, an article of particular interest to the House during its debtate on tax reform appeared in the Los Angeles Times on December 1. This article revealed the existence of unnumbered bank accounts in the United States, similar to those in Switzerland.

As a member of the subcommittee with jurisdiction over the Comptroller of the Currency, the chartering agency for these banks, I am pleased that the distinguished chairman of that subcommittee, BENJAMIN ROSENTHAL, plans for the subcommittee to hold future hearings on this important matter. Many far-reaching issues have been raised by these revelations and these hearings should answer some of the unsettling questions of these accounts.

We can ill afford to encourage a practice that fosters, rather than constrains, tax avoidance. I would like to submit this article for the RECORD:

UNITED STATES PROBING SECRET MIAMI BANK ACCOUNTS

(By Gaylord Shaw and Robert L. Jackson)

MIAMI—Four federally chartered banks here have hundreds of Swiss-style numbered accounts with individual balances ranging up to $1 million or more.

The little-known practice of maintaining the no-name accounts dates back to 1959, when the U.S. government sought to help wealthy Cubans conceal their assets from the Fidel Castro regime.

Now the confidential accounts are coming under close scrutiny of the Justice Department and congressional investigators. Government sources said some of the funds might be linked to organized crime figures and to Latin American and U.S. politicians.

The Internal Revenue Service also is taking a new interest in the potential of the accounts for tax evasion. After initially refusing to join the case, IRS officials said they were willing to evaluate any data obtained by government lawyers.

Asst. U.S. Atty. Charles A. Intriago, heading an investigation of official corruption in Florida, recently won a court order that could crack the secrecy of the approximately 500 numbered accounts.

So far as can be determined, the practice of offering numbered accounts to wealthy clients is limited to the Miami area. But Robert Serino, enforcement chief for the U.S. comptroller of the currency in Washington, said other banks across the country could legally start numbered accounts without specific permission from the government.

The controversial policy has been under study by the staff of a House government operations subcommittee headed by Rep. Benjamin S. Rosenthal (D-N.Y.). Sources said the panel would conduct hearings on the issue.

The banks involved—some of Miami's largest, most prestigious institutions—have argued in court papers that they carefully screen depositors and have no knowledge of organized crime participation.

The banks are Southeast First National Bank of Miami, Flagship First National Bank of Miami Beach, City National Bank and Southeast First National Bank of Coral Gables.

Court papers show that contrary to published policies of some of the banks, numbered accounts have not always been limited to aliens or U.S. citizens living abroad. Intriago, who has not yet examined all of the accounts, said he had already found one depositor who is a U.S. resident.

Unlike the situation in Switzerland, where numbered accounts are beyond the reach of U.S. government subpoenas, the no-name American accounts can be subpoenaed.

But bankers acknowledged that they did not always search their numbered files when government lawyers sought the accounts of a specific suspect.

Nor have some banks always notified the IRS of interest income earned by persons holding numbered accounts that are subject to taxation, Intriago told the court.

J. Bernard Shumate, president of Southeast First National of Miami, which is by far the largest repository, with 465 numbered accounts, defended the practice in an interview.

Shumate said there were "a number of reasons why people may want to have these accounts," including political fears by wealthy Latin Americans.

"We have respected their desires," he said.

Conscious of criticism that Mafia figures might have tried to use the confidential accounts, Shumate said, "We screen our depositors very carefully. If we find one that is less than desirable, we ask them to take it out—or we don't let them in in the first place."

Shumate's bank, with deposits totalling $5.2 billion, has one-fourth the banking assets of Dade County.

A brochure prepared by Shumate's bank, entered as evidence in the court case, said under the heading of "numbered accounts":

"Southeast First National Bank of Miami was one of the first banks in the United States to establish this type of confidential account similar to the world-known Swiss system.

"First of Miami is one of the few institutions in the United States that offers this service at present and it is available only to nonresident aliens.

"To establish a numbered account, a minimum deposit of $25,000 is required . . ."

It was learned that many of the numbered accounts have balances of several hundred thousand dollars and that some contain more than $1 million.

In explaining the bank's policy, Shumate said in an affidavit that "the purpose of numbered accounts is to provide the customer with greater security than would otherwise be provided under normal banking practices."

"Normal bank accounts are maintained in a way that they are accessible to most personnel within the bank and the records are open to inspection by any bank employee," Shumate said. In contrast, investigators found that information on numbered accounts is limited to a few trusted bank officers and that the data is shielded from credit inquiries from other banking institutions.

According to other documents filed in court, the bank drafted new eligibility requirements in July, 1974, stating that nonresident aliens and U.S. citizens living and working abroad could open numbered accounts if they were known to be members of an "honorable family engaged in an above-reproach occupation."

Intriago's motion contended that the 1974 requirements "differ markedly from those that were in force" for the previous 15 years, "giving rise to the possibility that numbered account holders prior to July, 1974, do not meet the new criteria."

In fact, his filing said, "on at least one known occasion an alleged member of an organized crime gambling group maintained a numbered account at the bank."

This referred to Evaristo Garcia Vidal, a reputed associate of Florida mobster Santos Trafficante. Vidal, charged by U.S. authorities with obstructing justice in 1969, is a fugitive in Costa Rica.

Serino, the federal banking officer, said he knew no cities other than Miami that have numbered accounts, but he added: "There are no regulations which would preclude them."

"Our regulations require certain things on accounts like a signature card, a taxpayer identification number or a Social Security number," he said.

"Other than that, there would be no real prohibition for a bank to allow numbered accounts, quite frankly."

The Miami banks; according to government sources, have the identity of numbered account holders in special files. Their names are not part of computer records that most bank employes could see.

Serino said that "If a bank does have numbered accounts, they have to be made available to us for our review during examinations and if subpoenaed, I do not believe a bank could contest a subpoena for being overly broad."

Miami banks have made such a claim, however, until overruled by a federal judge.

When it came time to begin inspecting the numbered accounts, Intriago said, "The IRS declined to allow an agent to accompany me, even though the judge had authorized it."

Warren Williams, who as acting IRS intelligence chief for Florida was the official who declined Intriago's offer, told a reporter he could not discuss the matter. But Tom Murphy, recently named intelligence chief for the Jacksonville district, said: "We are aware of the investigation Mr. Intriago has going . . . We are willing to cooperate and will evaluate any information that is developed."

Intriago said he first became aware of the existence of the numbered accounts in 1972 when then-Rep. Cornelius Gallagher (D-N.J.) was accused of conspiracy, perjury and tax evasion in an indictment that charged he had hidden assets in a numbered bank account in Miami Beach.

The numbered account was in a bank, now known as Flagship First National, whose chairman is Frank Smathers, a brother of ex-Sen. George Smathers (D-Fla.).

Three years later when Intriago was placed in charge of a federal grand jury probing corruption in Florida's state government, he subpoenaed the bank's numbered accounts. Flagship responded with a motion to quash the subpoena, and Intriago countered with a filing that stated the accounts "are of importance to the ongoing investigation . . . since they may contain assets acquired illegally by those who are, or may be, under investigation."

A federal judge upheld the subpoena.

REGULATING THE LOBBYISTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 5 minutes.

Mr. KOCH. Mr. Speaker, there were hearings today in the Committee on Standards of Official Conduct on H.R. 8131, the Public Disclosure of Lobbying Act of 1975, which I have cosponsored. Sponsors TOM RAILSBACK and ROBERT W. KASTENMEIER have put together a bill that seeks to close the loopholes in the hastily fashioned Federal Regulation of Lobbying Act of 1946.

The impeachment investigations in general and the ITT and milk fund cases in particular offer compelling evidence of the need for measures to assure full public disclosure of lobbying activities. It is the secrecy of lobbying rather than lobbying per se that undermines accountability and contributes to the lack of confidence in the conduct of government. In fact, as representatives of nongeographic constituencies, lobbyists can have an important function. They may be in a position to give specialized information, alternative interpretations, and technical assistance.

I learn a lot from lobbyists, because after they have given me all the arguments on their side I invariably ask this question: "What are the three major arguments your opponents use and how do you respond to them?" This sometimes causes consternation. Then I will say "If you don't tell me, they will." This usually provides me with additional information which would not otherwise come to my attention.

In the past year the failings of the 1946 act have been documented in hearings before the Subcommittee on Administrative Practice and Procedure of the Senate Judiciary Committee, the Senate Government Operations Committee, and the Administrative Law and Government Relations Subcommittee of the House Judiciary Committee. The 1975 GAO report further reveals the incompleteness of reports and the inadequacy of enforcement provisions. While opinions may differ as to precise remedies, there seems to be a consensus that the existing legislation as limited by the courts is vague, ambiguous, and unworkable.

H.R. 8131 addresses major faults in the present law through the following:

First. It clarifies and broadens the definition of lobbyists required to register and make periodic reports, including those with their own funding sources and those whose principal purpose may not be lobbying.

Second. It specifies the same comprehensive reporting requirements for those who lobby Congress as well as for those who lobby executive agencies. It covers the lobbying of staff as well as Members of Congress and direct as well as indirect contacts. The latter would include grassroots efforts and newsletters generated by a lobbyist.

Third. It assigns enforcement authority to compile and publish reports as well as to check them for accuracy and completeness.

I am sure that this committee is aware of the various issues raised during the consideration of a counterpart bill by the Senate. I would like to address the subject of exemptions of public officials from the definition of lobbyist, which was part of an earlier version of the Senate bill. I am at a loss to understand which restraints would inhibit the connections of our own State officials with the Federal Government. My Governor, Hugh Carey, happens to be a good guy, after all he was a colleague and he is my Governor. But no Governor or public official is always right and we ought to know publicly what they are lobbying for. This same right to know should also apply to candidates for office and political parties.

I am also glad to see that the House bill uses a spending level test in its definition of lobbyist, a much more workable version than the current Senate bill which would involve the subjective pitfalls of counting contacts. I have a duty and find it a pleasure to meet with my constituents. However, I believe that they too should be subject to reporting procedures if they meet the legislative definition of lobbyist which includes their being paid to represent a point of view. Of course constituents representing their own interests and not for hire are not covered under this legislation, nor should they be. Lastly, on the separate matter of requiring congressional staff to log their contacts with lobbyists, I feel that whatever prohibitions and inhibitions we place on administrative officials we should also place on ourselves.

It is the intent of H.R. 8131 to create a means to insure that those who seek to influence public policy should be open to public scrutiny. It would focus the light needed to deter and expose improper influence and privileged access. This bill would not restrict legitimate communications and contributions and should not have a chilling effect on constituents operating on their own behalf. It places the greatest burden on those with substantial or expensive lobbying activities. It is interesting to note that the organization which reports the largest level of expenditures for its registered lobbyists claims to have no problem with the recordkeeping envisioned in this legislation.

I believe strongly that this form of "sunshine" is salutary. In keeping with that I have filed a certified net worth statement of my assets with the House every year and made it public since coming to Congress in 1969. I also made public my 1974 income tax return, by filing it with the Committee on Standards of Official Conduct and I intend to do this each year.

In the same spirit, I introduced H.R. 1330 in January and identical bills H.R. 3442 and H.R. 6271, which were referred to both this committee and the Committee on the Judiciary. This bill would require full public disclosure of gifts given and received by appointed and elected officials. It would require Federal employees to submit annually to the Federal Register a listing of gifts, loans, or contributions to other public officeholders where the total value given to an individual in 1 year exceeds $500.

Likewise, the bill would require disclosure of gifts received from any one source exceeding $500. Gifts to and from members of an individual's immediate family would be exempt from the reporting requirement. I believe that like all Americans, public officeholders as well as lobbyists are entitled to privacy. However, a balance must be struck between their privacy and the public's right to know in matters possibly affecting public policy.

CONGRESSMAN ASPIN ON U.S. MILITARY POSTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 15 minutes.

Mr. REUSS. Mr. Speaker, on December 3, my colleague, Congressman LES ASPIN, addressed the Pacem in Terris IV meeting which is being held this week in Washington, D.C. Congressman ASPIN thoughtfully addressed questions about the extent of U.S. military commitments abroad, the role of nuclear weapons, and the utility of military power. I would like to share his comments with my colleagues, and the text of his speech follows:

ADDRESS BY CONGRESSMAN LES ASPIN

Thank you Mr. Chairman, distinguished panelists, ladies and gentlemen. It is an honor to be here today to add my thoughts to this discussion of how we may achieve Pacem in Terris, Peace on Earth.

Too often, those of us on Capitol Hill, and elsewhere, who want to stop the arms race and to reduce military spending get so caught up with what we consider practical problems—whether to get this or that weapons system, whether to spend this much or that much money on it, and so forth—that we often lose sight of our original purpose.

I believe that it will always be necessary to fight these rear-guard actions. But unless we keep our larger purposes always in mind, our actions become dry and meaningless.

As it has been said, "Where there is no vision, the people perish." That is why it is so important for us to pause from time to time to reconsider our purposes.

I would like to start by considering something topical. It is an argument one frequently hears these days for increasing our military budget. It is worth considering not only because it is taken seriously by many people—and therefore must be addressed for itself—but because it illustrates the general level of public debate on military matters.

The idea, which may be stated as a proposition, is this: The United States should spend more on defense because, if we don't, Russia is going to outspend us. I'm sure you can recall hearing that. It was advanced most recently just as an Appropriations Committee was about to cut back slightly on the amount the Defense Department had requested for its budget.

According to this argument, the Russians are spending 36 percent more on defense than the U.S., and when you exclude pensions the Russians are spending 44 percent more. Even the most dovish of doves, so the argument goes, must now admit we have slighted our defenses for too long, that the Russians have used detente to lull us into complacency, and we must increase our defense spending.

However, a look behind the figures will give some insight, not only into the military establishment of the U.S. and Soviet Union, but also into the uses and abuses of statistics.

Basically, this is how the Pentagon experts arrive at this startling conclusion. They start with the observed military activities of the Soviet Union—manpower, equipment, etc.—and then they calculate the cost of procuring that force in the U.S. The goal is to compute what it would cost to purchase and operate the Soviet defense establishment in the U.S. at U.S. prices.

Now, at first glance, this sounds sensible enough—but it gives a biased picture. The Soviet defense establishment has a large number of men, which, because of conscription and low wages, doesn't cost them very much to maintain. But to pay for those men in the U.S. would cost a tremendous amount of money and that is why Soviet defense spending calculated in dollars is so high. The absurdity of all this becomes apparent when you realize that, using this method, the largest single factor causing Soviet defense spending to exceed that of the U.S. has been the U.S. decision to switch to an all-volunteer Army, with its attendant pay increases.

Now, suppose we did the reverse and made the calculations in rubles instead of dollars—that we look at the U.S. forces and figure out what it would cost for the Soviet Union to buy them in rubles.

Not surprisingly, this comparison—which, somehow, I have never seen the Pentagon make—gives a completely different picture. Just as manpower is very expensive in the U.S., technology is very expensive in the Soviet Union. And just as the Soviet military uses a lot of manpower, the American military uses a lot of technology. So if we were to calculate what it would cost for Russia to buy the U.S. defense forces in Soviet rubles, we would find that it would be a lot—in fact a lot more than the Soviets are spending on their own defense.

What all this means is that the question of who is spending more on defense depends on the price system being used. Use a dollar comparison and the Soviets are spending more; use a ruble comparison and the U.S. is spending more. The results differ because the relative costs of manpower and equipment in the two countries differ—what economists call the index number problem. In short, the spending gap with which we are now supposedly confronted, is in its own way as phoney as the missile gap of the early 1960s.

And when comparisons are made in terms of specific capabilities it is clear that the U.S. is more than holding its own. Contrary to Pentagon scare stories, our strategic nuclear weapons are substantial and expanding. We have more—and more accurate—warheads than the Soviets. And as Dr. Kissinger has pointed out it is the warheads which kill people and do the damage. In the European theatre there is, and has been, rough parity in conventional forces while we maintain an advantage in tactical nuclear weapons. And at sea the U.S. has built more tons of ships than the Soviet Union every year since World War II. The U.S. builds fewer, larger and more capable ships than the Soviets. In no meaningful sense, then can the Soviet Union be said to have a bigger defense budget than the U.S.

The Soviet Union is *not* spending more on its military than the U.S. is. That is the first point to be made.

The second point is this: Even if it were outspending the U.S., what difference—what real difference—would that make?

Whatever the level of defense spending in the two countries may be, it is true that since 1968 defense spending in the Soviet Union has been going up—about 2.7 percent per year. During the same period since the peak Vietnam year of 1968 U.S. military spending has been going down.

Former Secretary of Defense Melvin Laird believes it to be incontrovertible evidence that "the Soviet Union has engaged in a relentless effort to attain military supremacy." Others attribute it to bureaucratic politics within the Kremlin or to a matter of the timing of the budget decisions.

One thing is clear. Not all of the increases in Soviet spending threaten the U.S. First, it is necessary to consider the Sino-Soviet split. In the past 7 years the Russian Army has added 31 divisions, 28 of which have gone to the Chinese border. Second, there is Czechoslovakia. After the 1968 uprising five Soviet divisions were sent to Czechoslovakia and that is where they have remained. Third is the substantial growth in KGB border guards and MVD security troops. These paramilitary forces are maintained primarily for internal security purposes.

These three factors—the Sino-Soviet split, Czechoslovakia, and internal security—account for over 50 percent of the increase in Soviet spending since 1968. As it must be obvious, the implications of these increases for detente or for U.S. national security are virtually nonexistent. In addition, there have been shifts within the Soviet Union away from forces which threaten the U.S. to other threats like the Chinese.

This does not mean that there is absolutely no cause for concern about the increases in Soviet spending. But these increases are not the big deal that the Pentagon is making of them.

And the basic charge of irrelevancy can still be made about a number of other arguments frequently heard these days. Here, very quickly, are three of the commoner ones:

It is said that U.S. military spending, as a percentage of the Gross National Product, is dropping. This is true, but it is not relevant because it tells us nothing at all about how much we should spend on defense. Depending on the threats a country faces, maybe two percent of the GNP for defense is too much; maybe 20 percent is not enough. Defense does not depend on the GNP.

It is said that the U.S. has fewer forces than, say, in 1964. Again this is true. But it is also true that this is a different world than it was in 1964. There has been a Sino-Soviet split since that time and we are also out of Vietnam. Besides that, our forces are far better than they were in 1964. Army divisions have more mobility and firepower, for example.

It is said that we are spending more on human resources than on defense. These numbers are, in fact, subject to interpretation. But accepting the premise that there has been a reordering of U.S. priorities, the numbers still do not tell us how much we should spend on defense. The military defense of the country does not depend on how much we spend on domestic programs.

The defense of this country—force levels we must maintain, and the money we must spend to maintain them—depends on two things: the threat this country faces and the geography that it must defend against that threat.

All other considerations are irrelevant.

The question is not "How much are the Russians spending?" or "What percentage of the GNP are we spending?", or "How much did we spend in 1964?"

The question—the only question—is "How much is enough? How much is enough for the defense of this country and its vital interests?"

This means we must define—or redefine—our national interests: Just what do we want our military to do?

If our purpose—as I think it should be—is to defend the United States and a few, well-defined interests abroad, let's say so in unambiguous terms.

We must start out from ground zero in planning our military forces. We have already seen what happens when military planners are allowed to set force levels by manipulating theories and abstractions that mean anything the person using them wants them to mean.

There is currently debate in Washington over whether our nuclear strategy should be assured destruction or counterforce. Assured destruction, of course, is a strategy under which the United States threatens to destroy the other side's cities and industrial capacity if we are attacked. The argument is that this threat deters the other side from the attack. Under a counterforce strategy, we would be prepared to use nuclear weapons in a more limited way, including against the enemy's nuclear weapons. The argument is that this would add credibility to the deterrent.

The debate has been going on, in one form or another, for the past 15 years. There is little new on the subject that can be said. You either believe that "stability" is the most important thing and therefore, believe in Assured Destruction, or you believe that "credibility" is most important, and believe in Counterforce.

The only truly remarkable thing about the debate has been its irrelevance to our actual policies—as demonstrated by the weapons that we have bought. For some time now, the U.S. has had enough nuclear weapons in its arsenal for both Counterforce *and* Assured Destruction, with a surplus besides. What's more, most of the weapons that this country is now buying for Counterforce—and that were sold to Congress as Counterforce weapons—actually came into being when our stated policy was Assured Destruction.

Looking through the annual posture statements of the Secretaries of Defense you see a lot of changes in strategic policy. In 1962 the policy emphasis was on destroying the enemies' "war making capabilities." In 1963 the policy was "city avoidance." In 1964 it was "damage limitation." In 1965 and 1966 the doctrine was "assured destruction plus damage limitation." After 1967 the official policy was Assured Destruction, which is where it remained until 1973 when we completed the circle and went back to warfighting with Counterforce.

But while the policy went through five changes, and, in fact, turned a complete circle, the weapons that we bought did not reflect the changes. The Kennedy Administration decided on a 41-submarine Polaris force in 1961, and on a landbased missile force of 1,000 ICBMs by 1962—and there they have remained. When the U.S. developed MIRV technology we went ahead and MIRVed both landbased missiles and submarines. As we developed greater accuracy for our missiles we put in more accuracy. And the number of warheads has continued to climb without pause for these 15 years.

So much for lofty thoughts about strategic doctrine. Call it technological momentum, bureaucratic inertia, the undue influence of industry, or whatever, but the fact is that weapons programs have a life of their own. For it seems that whatever strategic doctrine happens to be enunciated by the existing Secretary of Defense, the Armed Services have always recognized only one doctrine and that is the same one that Samuel Gompers had for the union, "We want more." It is, of course, helpful if a weapons program fits into the prevailing doctrine. It gives it a rationale. But if not, the doctrine can always be stretched to fit the weapons.

Everyone plays the game. As we move from general policy to particular contingencies, and then to specific requirements, the Pentagon has learned how to fit whatever it wants into the policy and contingencies being enunciated. Our over-all foreign policy is no longer based on the doctrine of containment. Yet, our forces are deployed in much the same way around the world that they were when the policy was "containment."

Several years ago we changed from 2½ wars to 1½ wars as the basis for planning our conventional forces levels. Our military forces have dropped some, but not by 40 percent. I believe that if we went to a one-quarter war policy the army would still find a justification for 16 divisions, and the navy for 15 aircraft carriers.

Congress is not guiltless; it plays the game too. Congress, with few exceptions, does not argue with the Secretary of Defense about policy, or argue with the military services about what forces fit the policy. Instead, it shaves a little bit here and a little bit there, stretches out programs—which means of course that ultimately they will cost more—and cuts funds for operations and maintenance—which reduces force readiness, but as long as there is no war no one will notice.

The result is that we buy forces because they are in the tradition of the services, or because they are bargaining chips for the Soviets or because they create employment or because by buying them we will impress our adversaries with our determination. Sometimes we buy weapons simply because we have mastered the technology, and like the mountain, they are there.

We have then a military fighting force which spends much of its money on traditional missions of the Services when many of them are outmoded. We have a topheavy military with more 3- or 4-star admirals and more navy captains and colonels than at the height of World War II. We have a military procurement system which produces new weapons with an arithmetic increase in capability for a geometric increase in cost. We have in fact a military force which is more expensive than it ought to be and not as good as it should be.

No one has faced up to the problems of deciding how much is enough.

I would, therefore, like to take this opportunity to make three suggestions on how we may begin.

My first suggestion concerns our greatly over-extended military commitments.

About 70 percent of our military budget goes to conventional forces—forces which are scattered throughout the world fulfilling what the Pentagon calls "commitments" to various countries.

The commitments, of course, need not be formal. The United States has mutual defense treaties with some 43 nations, but, as Dr. Kissinger has pointed out, it has "informal" commitments to dozens more.

Sometimes these informal commitments are the result of our stationing troops in another country. Sometimes they arise from military aid or arms sales agreements. They are, in all, part of a new policy of exerting force indirectly, by proxy. It is easy to see how indirect involvement can become direct involvement.

We cannot afford to be the world's policeman, directly or indirectly. As we have seen in Vietnam, it is a policy that doesn't work anyway. So we must make some hard choices—which countries we are prepared to stand by because their survival is in our interest, and which we are not.

But that is not all. Once we have decided what our real commitments are we must go about the very difficult business of untangling ourselves from the others. That is the most difficult part of the problem. Somehow it never seems to be the right time to do it. So the debate should not be just on establishing our real commitments, but how, with minimum of instability can we get from here to there.

The point is this. The United States simply cannot afford to remain committed formally or informally, to the support of virtually two-thirds of the nations of the world.

My second suggestion concerns nuclear weapons.

Strategic arms limitation negotiations are now going on with the Soviet Union. They are, however, under attack, from both the left and the right. From the left we hear complaints that the SALT agreements have not succeeded in holding down defense spending; that, instead, they have been the cause of increased spending for bargaining chips and weapons not covered by the agreements. From the right come charges of Russian violations of SALT I and political pressure to turn our policy of essential equivalence into absolute equivalence on everything—the latest being throwweight.

In an election year this is dangerous. With attacks from the right and no strong support on the left the danger is that we will stop trying to negotiate or will be pushed into making impossible demands.

Maybe the SALT approach to arms control negotiations is not the best. It is a particular approach which identifies certain weapons and tries to establish ceilings for them. It is a complicated approach because detente—that strange relationship with the Soviets that involves co-operation in some areas, competition in other areas, and rivalry in still others—is complicated too. And SALT, like detente, has been grossly oversold politically to the American public. But if the SALT approach is abandoned—and we must always keep an open mind for other modes of arms control that may be better—some form of arms control negotiations must continue.

We must not allow the current attacks to succeed in wrecking the arms control negotiations, for if we lose this ongoing process of negotiation we will have lost the single most important opportunity we have for averting an unimaginable catastrophe.

The negotiating process has produced some favorable results. We are limiting some arms. We are reaching some agreements. The major advantages have been the ABM agreement (we spent $7 billion but it could easily have been $30 billion) and the stability which has come from an atmosphere of negotiation.

Perhaps most importantly, the continuing talks, just by their existence, increase the possibility that someday the superpowers will begin to consider not just arms limitation but arms reduction.

We must never forget that deterrence is, at best, a risky way to live. The fact that there has been no nuclear war since 1945 is consistent with the notion that deterrence works, but it by no means proves that deterrence works. We must begin to get rid of nuclear weapons.

The U.S. cannot have nuclear superiority any more than it can be policeman of the world. In fact, it is quite evident that any attempt by either side to gain nuclear superiority will only make both sides more unsafe than they already are. In the end, the attempt to solve all our problems through military force—and I'm talking about strategic and conventional weapons—only makes us weaker.

That brings me to my final suggestion.

We have come to the point where we as a nation must begin to examine our belief in the utility of military power.

Obviously any country that possesses great military power can get its way in certain situations. But, as we in the U.S. have seen, this is not true in all situations.

In the 1950s for example, when the U.S. had nuclear superiority, we learned something about the limits of power. We had the largest, most powerful weapons ever made—and we were the only country that had them—but that did not mean that other countries would automatically do our bidding; they didn't. Now we have even more nuclear weapons, and we are even less able to control the outcome of world events.

Again in Vietnam we learned something of the limits of military power when we tried to impose our political will on that country. More recently, the OPEC countries gave us another reminder that there are some things for which military power—even the greatest power on earth—is no help.

Yet, we are still making a lot of casual assumptions about the utility of military power. Lately, for example, we have heard a lot of talk about how the U.S. is becoming more dependent on foreign sources of raw materials, or, for another example, that there is great political unrest in some of the Mediterranean countries that we consider our allies—and somehow these examples are usually used to make the point that we need more military forces.

But, in fact, military power would be of very limited use in either of these situations, and to use military force in either of them would be, to use a favorite government term, counterproductive.

There are times when reliance on military might actually decreases our national security. There are other times when the term national security must be more broadly defined.

We must begin to see dangers where they are, not where they aren't. It is clear that one of the great emerging dangers to this country and the whole world is the proliferation of nuclear weapons. As nuclear weapons proliferate, the chances of their being used increases vastly—to say nothing of what happens if nuclear weapons fall into the hands of terrorist groups.

We must also bring our arms sales under control. Our present policy of allowing virtually unrestricted arms sales encourages conflicts around the world and increases the likelihood of our involvement in them.

A true appreciation of our national security must take these problems into account. If we use a broader definition of national security we might do things a lot differently in the Pentagon.

The point to emphasize is that national security is not just a military problem.

There are those who will tell you that the only way to achieve Pacem in Terris is a Pax Americana. History proves that this is a foolish and, ultimately self-destructive dream.

But we need an even broader definition of national security than that.

I'm not one who makes a habit of quoting the Bible to make a point, but somehow the situation seems to call for it:

"Where there is no vision, the people perish." That is from Proverbs 29:18.

It's a proverb worth reading in full. The vision that the prophet is talking about in it is not the vision of a nation that has enough nuclear weapons to destroy any enemy several times over, yet continues to build more. It is not the vision of a nation that persists in an attempt to exert its might among the nations of the world, even after it has discovered that such an attempt is destined to bring ruin, to itself and to others.

It is, if you read the proverb, the vision of a just society—a society in which men and women respect each other and live in peace with each other.

It is a society that is strong because it has provided, as we might put it today, for its true "national security."

That is the vision that we must keep before us as we go about establishing a new direction for the military policies of this country for the coming year.

Thank you.

HON. DANIEL J. FLOOD ON DISASTER INSURANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. BARRETT) is recognized for 10 minutes.

Mr. BARRETT. Mr. Speaker, I am pleased to place in the RECORD the remarks of my distinguished colleague from Pennsylvania, Mr. FLOOD, before my Subcommittee on Housing and Community Development of the Committee on Banking, Currency and Housing. This was a most excellent presentation on the need for disaster insurance.

REMARKS OF CONGRESSMAN FLOOD

Mr. Chairman, members of the committee, my sincere "thank you" for the opportunity once again to appear before you on a subject which is very close to my heart—disaster insurance.

Why disaster insurance? Is it the fact that my congressional district suffered through the greatest civil disaster in the history of this Nation in the great flood of 1972, Hurricane Agnes? Partly so. Or is it the fact that in September of this year another storm called Eloise missed topping the dikes and levees in Wilkes-Barre by less than a foot and a half and large sections of the rural communities were flooded? Partly so. Or is it the fact that nearly seventy-five percent of my constituents reside in areas which could flood again today, or tomorrow, or a year from now? Again, partly so. All of these things, of course, weigh heavily in my concern; however, my chief and primary concern are the tens of millions of persons across the country who will have to suffer through untold horrors of natural catastrophe in the years and generations to come. It is for these people that we can afford to delay no longer.

You have heard me before on this subject, but I will say it again—the national flood insurance program is an inadequate response to this problem. In my district alone, countless thousands of homeowners who are definitely exposed to flood disaster risks do not purchase insurance. Why? Some are complacent. "It will never happen again," they say. But you and I know it can and will. Some are completely unable to meet the high premiums, and some do not buy it because they feel the coverage amount is too limited. And some really unfortunate people, living virtually at streamside in my rural areas, cannot buy flood insurance at all because the local municipalities refuse to participate in the program for one reason or another. And this situation is not isolated in my district. It is a nationwide fact that there is a gross under-participation in the flood insurance program so that time and time again the small business administration is called upon to shell-out Federal tax dollars to disaster victims so that they may rebuild or restore their flood damaged homes. To force disaster victims to pile one mortgage on top of their already existing mortgage is a national disgrace and that is exactly what the situation is—a disgrace.

I mean in no sense to demean the many and fine people at the flood insurance administration who work diligently to help out in any way they can, but they have an unworkable program and a hostile citizenry to cope with. What I am trying to point out is that the costs of recovery from a natural disaster—no matter what it's type or geographic location—are borne by all of the American people through their hard-earned tax dollars.

Since all the American people are paying for it, then all the American people should be equally protected from the perils of natural disaster. Clearly what is needed is nothing less than some form of comprehensive national disaster insurance to cover all forms of catastrophe—including floods, hurricanes, windstorms of all types, earthquakes, mudslides, and also manmade disasters such as atomic accident. Such a response to the natural disaster problem would provide a systematic and certain means of making payments available to the homeowner and businessman as a matter of right, and not on the basis of charity. An insurance approach gives the taxpayer what he wants—protection against loss secured at the taxpayer's own initiative.

I have such a program in H.R 1677 a bill which would establish a national program of Federal insurance against catastrophic natural disasters. This bill has been pending before this committee for quite some time, yet the ravages of nature continue unabated. Only last week a three and one-half million dollar earthquake and tidal wave struck the island and State of Hawaii while the week before it was forest fires leading to a dangerous flood threat in California. As we sit here this very moment there is severe flooding in the northwest corner of this nation and mark my words when I tell you that the unfortunate victims of that flooding will be largely uninsured or under-insured—it's as certain as God made little green apples—flood insurance program or no flood insurance program.

What we need is my plan, my concept of an automatic coverage on each and every property insurance policy which is sold to the homeowner or businessman. For a small surcharge—not to exceed five percent—they would receive an extension of coverage to all the perils and risks noted previously.

This is no pipe dream. Over the span of time since I introduced this bill over one hundred Members of Congress have supported the bill by co-sponsoring it. In response to the introduction of the bill there was created—completely independent of me, but to my great joy—a "coalition on disaster insurance" or CDI. The coalition, comprised of such groups as the AFL–CIO, the Catholic charities, B'nai B'rith, Mennonite Disaster Services, the Steelworkers, the Salvation Army—you have the complete membership list from the last hearings at which the coalition testified. The coalition has passed a resolution in support of my bill and has vowed to work ceaselessly to pass it into law. And so will I.

I urge, therefore, two things upon this committee. Firstly, this committee should immediately secure a copy of the two reports compiled by the last administration dealing with disaster insurance. The first report, I believe completed in 1969 under then Insurance Administrator George Bernstein, has never been brought to light and would surely help this committee in its deliberations. A second report, conducted by the insurance administrator in conjunction with the Department of Housing and Urban Development in 1973 and 1974, was to be a comprehensive study of the feasibility of disaster insurance, and, again, to my knowledge, has never seen the light of day. The committee should secure a copy of this for its deliberations.

Secondly, I would urge that this committee, as soon as possible, expand its vision beyond the realm of the 1968 Flood Insurance Act and begin immediately the kind of in-depth exploration of the merits of my disaster insurance proposal which will lead to its enactment into law. Only then will Americans, whom we all know will be natural disaster victims by the thousands in years to come, only then will they have the financial security which will protect them from economic catastrophe. These will be your constituents and mine. With H.R. 1677 we can be sure to protect them.

Thank you.

ON H.R. 10612—THE TAX REFORM ACT OF 1975

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, since the action of the House included the adoption of amendments which double the revenue impact of the tax reform bill, I support the bill in its final form.

The amended version of the bill provides for a revenue gain of $1.4 billion, gradually rising to $2 billion by 1980.

Although this bill meets the revenue increase mandated by the House Budget Committee, I am disappointed that a more meaningful and substantial bill did not emerge from the Ways and Means Committee and from the House.

However, I was pleased to support the efforts to more effectively tax real estate shelters, foreign investments, and income excessively sheltered through the use of a DISC. The capital loss carryback provision should never have been included in the tax bill by the Ways and Means Committee. The House took a most appropriate action in striking this special loophole from the bill.

I opposed the Jones proposal to eliminate the limited income allowance and substitute for it a minimum tax on preferential sheltered income. The revenue loss of this amendment would have constituted a fatal defect in the tax reform proposal.

I regret the adoption of the "farm operator" amendment. This language was never considered in the Ways and Means Committee. I do not recall hearings or discussion on the issue. It was an amendment made in order by the Rules Committee. The Committees of the House and the entire membership of the House must more carefully monitor the insertion of new legislative language by the Rules Committee. The entire legislative process is threatened if the Rules Committee can bypass the proper legislative committee by making votes in order on legislation not recommended by the committee—and in this case—not even considered or discussed by the legislative committee charged with the responsibility.

I oppose the "farm operators" amendment because I was not able to determine either the impact or the true revenue loss the amendment may entail.

In the face of the horrendous tax loopholes and preferences which are estimated to range between $50 billion and $100 billion, this tax bill is not a significant achievement. Foreign source income is barely touched.

In the Tax Reduction Act of this year, language was quietly inserted to give a $35 million annual tax break to the American companies receiving dividends from the Aramco consortium. In no other place in American tax law are corporate dividends made totally tax exempt. This loophole remains firm in the code with little explanation.

The tax reform bill completely overlooked any consideration of capital gains at death, or estate taxes.

It is my hope that these items will be considered in a continuation of our tax reform efforts during the remainder of this Congress. Our work has only begun.

A CALL FOR A WHITE HOUSE NATIONAL CONFERENCE ON THE PROBLEMS OF OUR CITIES

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, the House on Tuesday passed a bill which will alleviate but not solve the financial problems of New York City. And it is expected that the Senate will shortly do the same. I would like to call to the attention of the House a letter that I sent to President Ford on October 30, 1975. In that letter I urged the President to sponsor a national conference before the end of the year on the problems of our cities. Such a conference, patterned after the economic conference held last fall in Washington and the previous White House conferences on aging, children and youth, the industrial world, and food and nutrition and health, would provide a needed total examination of the problems, assets and changing circumstances of our cities today. No such White House conference has ever been held, even though our cities have undergone dramatic changes in the past decade and are inhabited by the greater majority of our population.

It seems to me that such a conference is even more necessary today since we know that the legislation passed by the House and awaiting approval by the Senate will not solve the overwhelming financial problems of New York City. In fact, the bill does not even address itself to the present and potential financial difficulties faced by other cities.

While I realize that a national conference on the cities cannot be convened before the end of the year, I urge the President as soon as he returns from China to give this matter a first priority. I did call the White House this morning to ask if any action had been taken to date on my suggestion and I was told that it is now under review by the Domestic Council. I am pleased, of course, that it is receiving consideration.

My letter to the President follows:

House of Representatives,
Washington, D.C., October 30, 1975.

Hon. Gerald R. Ford,
President,
The White House,
Washington, D.C.

Dear Mr. President: Putting aside for a moment our disagreement on how to deal with the financial plight of New York City, I would like to make a proposal to you which I hope you will consider.

I propose that you sponsor a national conference before the end of the year on the problems of our cities. Such a conference, patterned after the economic conference held last fall in Washington and the White House conferences in previous years on aging, children and youth, the industrial world ahead, and food and nutrition and health, would provide a needed total examination of the problems, assets and changing circumstances of our cities today. No such White House conference has ever been held, even though our cities have undergone dramatic changes in the past decade and the Conference would relate to the lives of the greater majority of our population.

I should suggest that included in the conference's consideration should be the impact of our cities on national economic problems, rising local tax burdens, increased demands for social services, municipal labor relations, changes in educational patterns, sanitation and pollution problems, racial relations and transportation. An assessment must also be made of local versus State and national responsibilities in providing social services, local municipal management, and the impact of technological changes on rural versus city living patterns.

I would appreciate whatever comments you have on the merits of this proposal.

Sincerely,

Edward I. Koch.

ALIEN CHILD ADOPTION BY UNMARRIED U.S. CITIZENS PASSED BY BOTH HOUSES OF CONGRESS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record, and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I am elated to report that the Congress has now passed legislation which will ease immigration restrictions on alien orphans adopted by single parents. This legislation, H.R. 568, which I introduced, passed the House on April 21, 1975. The Senate subsequently passed the bill with amendments on December 2 and the House concurred with the Senate version on December 3. The basic changes from the original bill provide that the single adoptive parent must be at least 25 years old and, in addition, the Attorney General is given discretionary authority to withhold or refuse approval of a petition unless he "is satisfied that proper care will be furnished to the child if admitted to the United States."

Under existing law, section 101(b)(1)(F) of the Immigration and Nationality Act allows only married U.S. citizens and spouses, and not unmarried U.S. citizens, the right to petition for immediate relative status for an alien orphan desired to be adopted or already adopted abroad. Most single parents in this situation have had to register the child for a nonpreference visa. The child is then placed on the waiting list for a quota number. Often visas are unavailable for years. During this time the child may not permanently enter the United States. Obviously, the distinction in the law has caused much suffering for the single adoptive parent and the young alien orphan who had a prolonged wait to enter this country.

At my request earlier this year, the Library of Congress undertook a State survey to ascertain how many States allow single persons to adopt children. It found that at present, all 50 States, including the District of Columbia, permit the adoption of children by single adults. The States have various age and residency requirements, and, for some States, there must be a specific difference in age between the single adult and the child. The legislation that has passed the Congress is, of course, subject to the various State laws pertaining to preadoption requirements and by the applicable laws of the foreign countries. H.R. 568 brings the Immigration and Nationality Act into compliance with the spirit of State laws permitting adoptions by single parents.

I originally introduced this legislation in September 1972 after the injustice of the present law was brought to my attention by a constituent, a young woman who had adopted a Korean child. However, she found that she could not bring the adopted alien orphan to the United States as an immediate relative solely because she was a single, unmarried parent. The bill passed the House in September 1973, but no action was taken at that time by the Senate, so it died in that session to be revived and passed in the current Congress.

It has taken 3 years to pass this legislation. I am glad it has now been approved by both Houses of Congress and I hope it will be signed by the President when he returns. It will certainly be an appropriate and welcome holiday gift from the United States to some of the orphaned children of the world, and I am proud to have fathered the legislation.

A $6 BILLION SUBSIDIZATION OF ENERGY CONGLOMERATES WITHOUT HOUSE CONSIDERATION WOULD BE AN OUTRAGE

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, the ERDA Authorization Conference Report that will come to the floor now includes a $6 billion loan guarantee, section 103, for commercial scale development of synthetic fuel processing plants. This provision was added as an amendment on the floor of the Senate to the ERDA authorization for 1976 without hearings and was accepted by the House conferees. This major program therefore is coming to the floor as a part of the ERDA Authorization Conference Report with no opportunity for the House to work its will on it.

It is imperative that before Congress approves or disapproves such a vast national commitment there be an opportunity to have consideration and examination of the financing methods proposed, the wisdom of commercial-scale development at this time, the ramifications upon the ecology, the capital market requirements, "boomtown" developments, and the blocking out of other energy paths such as solid waste management and conservation.

Section 103 should be separated from the ERDA authorization. If this is not procedurally possible then the conference report should be defeated and the conference committee made to understand that the House will not have a precedent-setting $6 billion program jammed down its throat without opportunity for full consideration and amendments.

HISTORY OF PROVISION: BALLOONING COSTS

President Ford in his state of the Union message called for the development of a commercial synthetic fuel program for coal gasification and shale oil to provide 1 million barrels of oil per day or the equivalent in coal gasification. As a result of this Presidential request, the Office of Management and Budget established an interagency task force to investigate the feasibility, timing, and methodology to bring such a program forward. A draft of this task force appeared in June and the final report was printed in October. The recommendation of a $6 billion Government-guaranteed loan program for the development of 12 to 15 plants to produce 350,000 barrels per day of oil before 1985 and 1 million barrels per day by 1985 is the program upon which section 103 was substantially based by the Senate.

Since the conclusion of the task force recommendations and the passage of the Senate ERDA authorization bill, ERDA asked Congress in October for two new legislative authorization additions which it said were essential complements to the loan-guarantee program: a $4.5 billion price-support program and a $600,000,000 construction grant. Thus the synthetic fuel commercialization total authorization plan for 1976 has nearly doubled in 5 months—and it is the precursor of the $100 billion Ford-Rockefeller proposal for an energy independence authority almost 18 times the original proposal.

DISTORTED ENERGY PRIORITIES

Although section 103 states five categories for the synthetic fuel program—first, oil shale; second, coal gasification; third, industrial/utility low Btu gasification utilization; fourth, biomass development; and fifth, solar and geothermal development—the OMB Task Force stated that coal and oil shale should be the primary resources for synthetic fuel plants.

ERDA will have the responsibility to determine the program priorities with no congressional oversight, and its past track record shows a decided proclivity for dealing with giant conglomerates in giant programs and abysmal neglect of smaller scale projects and companies such as are involved in solar energy development.

The economics of the $6 billion loan guarantee is such that the three high Btu coal gasification plants and two oil shale conversion plants called for in the OMB Task Force report would absorb the entire authorization, permitting no substantial use of this program for development of biomass, solar, or geothermal resources. Indeed, it is doubtful if even these five plants could be financed within the $6 billion authorization provided.

This capital commitment could also significantly crowd out more economic and productive energy projects. The Alaska gas pipeline transportation system may require $5 to $10 billion according to the Department of the Interior. EPA Administrator Russell Train in a letter to Secretary Rogers Morton stated that from data provided by technology now being demonstrated we could reach a production level by 1985 to provide 100,000 barrels per day of oil equivalent from municipal solid waste technology. With estimated costs of $20 per barrel for oil shale according to a study done by the Colorado School of Mines Research Institute there could be pressure to increase all energy prices so that synthetics can appear competitive. Subsidizing one technology above others for a minimal amount of oil is locking the country into an unrealistic and uneconomic national plan.

COMMUNITY ECONOMIC AND ENVIRONMENTAL DISRUPTIONS

A high Btu gasification plant will involve creating a new community of 18,000 population. According to OMB, $5,500 per person for community development would be needed to service establishment of such expansion in undeveloped territories. Thus one gasification plant could involve $90,000,000 in "new" money, four times the amount spent by the entire State of Colorado for capital construction in 1975. The ramifications on social costs of rapid town development can be seen in Alaska where the rates of suicide, crime, and alcoholism increased disastrously as boomtowns were created.

In addition to the costs for the mining of both coal and oil shale there will be the extremely large costs of reclamation, disposal of spent shale, and expanded railroad service for the requirements of rock and coal for these synthetic fuel plants. One plant of oil shale processing for 50,000 barrels per day requires 84,000 tons of shale each day or four times the current coal production in Colorado. A coal gasification plant using the Lurgi system of gasification will need 25,000 tons of coal per day or more coal than has been mined in Utah.

The water needs of both these technologies require serious studies on the demand on the water reserves of the West, on the effects of the processing plants on the salinity and toxicity of the returned or runoff water and on the effects on the agricultural needs of these areas of the country.

The effects of air-borne health hazards could also be serious and require thorough investigation. Carcenogenic material is known to be released into the air as part of the oil shale processing stage.

COMMERCIALIZATION NOT READY

Although the Lurgi system of gasification has been tested at commercial scale in Germany and South Africa, the methanization program for high Btu gasification has no current large scale prototype. Studies by Union Oil Co. of California and the Colorado School of Mines Research Institute performed for the Gary Operating Co. of Colorado. Both recommend the development of several competing retort processes before investment is made in large-scale commercial plants.

THIS $6-$11-$100 BILLION PROGRAM SHOULD BE REJECTED

Sun Oil testified to the House Science and Technology Committee that subsidies should not be given for the development of synfuels but rather that companies should be allowed to compete in the free enterprise system. This also was the position stated in the Wall Street Journal editorial on the $100 billion proposed Energy Independence Authority. The Journal put it this way:

> In one swoop he (the President) embraced the principle of government preemption of the private sector, credit allocation, fiscal gimmickery, bigger bureaucracies and multi-billion-dollar subsidies.

We should not give a $6 billion subsidy to uneconomic fuel development, distorting energy priorities, upsetting capital markets, assuring environmental damage, and promoting vast community disruption. ERDA should concentrate on energy R.D. & D—not subsidization of commercial scale plant operations.

At the least, such a proposal should not be adopted in conference without full hearings and without an opportunity for the House to work its will through amendments in the normal legislative process.

A NATIONAL POLICY ON WORLD RIGHT TO FREEDOM FROM HUNGER

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, it is estimated that as many as 460 million persons throughout the world suffer from acute malnutirtion to a degree so severe that they do not receive even sufficient calories to sustain normal human life. This is equivalent to more than twice the population of the Unitde States. Tragically, over half of these people are young children. It is further estimated that half of the entire human race lives on a diet seriously deficient in proteins and other essential nutrients.

Several weeks ago our colleague from Minnesota, Don Fraser, had the foresight to introduce House Concurrent Resolution 393, expressing the sense of Congress that the United States should adopt a policy stating that all people everywhere have the right to a nutritionally adequate diet and that our Government should take positive steps toward doing our share to solve the problem of hunger both at home and abroad.

Within the United States the resolution calls for a concentrated effort to provide a full employment economy and a minimum income level for everyone, to make food assistance programs available to all who need them, and to improve these programs so that the recipients are insured of proper nutrition. On the international level the proposal seeks to increase self-help programs among the world's poorest people and sets a goal for assistance in this area to equal 1 percent of our total gross national product. At the present time we are devoting less than three-tenths of 1 percent of total GNP to international economic development assistance.

The following data compiled for 1973 by the Organization for Economic Cooperation and Development shows that the United States ranked significantly below most of the other major free, industrialized countries of the world in the percentage of GNP allocated for nonmilitary foreign aid:

OECD Member Nation:	*Percent of GNP devoted to foreign economic assistance*
France	.58
Sweden	.56
Belgium	.51
Australia	.44
Canada	.43
United Kingdom	.35
Germany	.32
United States	.23

The United States presently ranks 14th out of the 17 most developed nations of the world in terms of percentage of GNP which it provides for development assistance. Despite the call of the General Assembly of the U.N. in 1970 for each of the developing nations to earmark .07 percent of their GNP for such purposes, our own foreign assistance budget has dropped drastically from .31 percent in 1970 to the .01 percent of our GNP provided for in H.R. 9005, the International Development and Food Assistance Act of 1975, for fiscal years 1976 and 1977. We, the wealthiest, most technologically advanced society on Earth should do our share.

Today our foreign policy is characterized by militarism. We act as if the most important factor in people's lives is the arms capability of their government. We no longer reach out to the people of the world through their common human needs in a significant way. We look at the world down the barrel of a gun. Our resources go primarily to our own and allied military forces, and we have become the arms merchants of the world. We could pay for our 1-percent share in combating world hunger with just 1½ percent of our defense budget or of our arms sales.

I am cosponsoring Congressman Fraser's earlier proposal with congratulations to him for his humanitarian leadership. I want to reiterate my own personal commitment to eliminating world hunger both through direct food assistance programs and through support for research and development that will enable us to use the Earth's resources to full advantage in feeding our population. The text of the resolution follows:

CONCURRENT RESOLUTION

Whereas an estimated four hundred and sixty million persons, almost half of them young children, suffer from acute malnutrition because they lack even the calories to sustain normal human life; and

Whereas those who get enough calories but are seriously deficient of proteins or other essential nutrients may include half of the human race; and

Whereas the President, through his Secretary of State, proclaimed at the World Food Conference a bold objective for this Nation in collaboration with other nations: "that within a decade no child will go to bed hungry, that no family will fear for its next day's bread, and that no human being's future and capacities will be stunted by malnutrition"; and

Whereas all the governments at the World Food Conference adopted this objective; and

Whereas in our interdependent world, hunger anywhere represents a threat to peace everywhere, now and in the future; and

Whereas the coming Bicentennial provides a timely occasion to honor this Nation's founding ideals of "liberty and justice for all," as well as our tradition of assisting those in need, by taking a clear stand on the critical issue of hunger: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that—

(1) every person in this country and throughout the world has the right to food—the right to a nutritionally adequate diet—and that this right is henceforth to be recognized as a cornerstone of United States policy; and

(2) this policy become a fundamental point of reference in the formation of legislation and administrative decisions in areas such as trade, assistance, monetary reform, military spending, and all other matters that bear on hunger; and

(3) concerning hunger in the United States we seek to enroll on food assistance programs all who are in need, to improve those programs to insure that recipients receive an adequate diet, and to attain full employment and a floor of economic decency for everyone; and

(4) concerning global hunger this country increase its assistance for self-help development among the world's poorest people, especially in countries most seriously affected by hunger, with particular emphasis on increasing food production among the rural poor; and that development assistance and food assistance, including assistance given through private, voluntary agencies, increase over a period of years until such assistance has reached the target of 1 per centum of our total national production (GNP).

VOTING RIGHTS ACT REPEALER AMENDMENTS ACT OF 1976

(Mr. McCLORY asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. McCLORY. Mr. Speaker, today I am introducing legislation entitled the "Voting Rights Act Repealer Amendments Act of 1976." This legislation is designed to repeal the 1975 amendments to the Voting Rights Act that expanded the coverage of that act to include so-called language minority groups.

Members of Congrses are just now beginning to realize the folly embodied in the Voting Rights Act amendments of 1975. Many cities and towns are being forced to spend disproportionately large percentages of their budgets to provide bilingual ballots in languages such as Spanish, Mandarin, Cantonese, Tagalog, and various Indian dialects even though no members of those minority groups are within their constituencies. For example, the State of California has estimated an additional cost of $30 million to supply bilingual materials for one primary election.

Representatives of various language minority groups have approached Members of Congress complaining that this needless law diverts funds from many other worthy projects. These groups readily admit that almost all language minority persons who wish to participate in the political process may do so with materials provided in the English language.

An example of the absurdity of this law is typified by the current plight of the city of San Francisco. In a good faith attempt to comply with the bilingual amendments to the Voting Rights Act, the Registrar of Voters sent out cards printed in Cantonese, Mandarin, Spanish, and Tagalog to minority communities in order to find out which citizens would prefer written election materials or oral assistance at the voting places in these languages. A militant group felt that this effort did not go far enough and has brought suit against the city of San Francisco and the Department of Justice seeking declaratory relief to require these ballots to be printed and oral assistance to be given in these languages in all parts of the city.

Mr. Speaker, since the bilingual amendments of 1975 have proven to be overboard and unnecessary and in light of the outrageous burden these amendments are imposing on many of our political subdivisions, I am today introducing legislation to repeal the 1975 bilingual amendments to the Voting Rights Act.

I include for consideration by the Members a copy of the bill with a detailed section-by-section analysis.

H.R. 10997

A bill to amend the Voting Rights Act of 1965 to limit certain aspects of its coverage for other than racial groups

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Voting Rights Act Repealer Amendments Act of 1976".

Sec. 2. Section 4(a) of the Voting Rights Act is amended—

(1) by striking out "the first two sentences of" where it appears immediately after "determinations have been made under";

(2) by striking out the final sentence of the first paragraph;

(3) by striking out "an action under the first sentence of this subsection" and inserting in the third paragraph thereof "the action"; and

(4) by striking out the fourth paragraph thereof.

Sec. 3. Section 4(b) of the Voting Rights Act of 1965 is amended by striking out the final sentence of the first paragraph thereof.

Sec. 4. Section 4 of the Voting Rights Act of 1965 is amended by striking out subsection (f).

Sec. 5. Section 5 of the Voting Rights Act of 1965 is amended by striking out "or whenever a State or political subdivision with respect to which the prohibitions set forth in section 4(a) based upon determinations made under the third sentence of section 4(b) are in effect shall enact or seek to administer any voting qualification or prerequisite to voting different from that in force or effect on November 1, 1972," where it appears after "November 1, 1968,".

Sec. 6. Sections 3 and 6 of the Voting Rights Act of 1965 are each amended by striking out "fourteenth or fifteenth amendment" each place it appears and inserting in lieu thereof the following: "fifteenth amendment".

Sec. 7. Sections 2, 3, the second paragraph of section 4(a), and sections 4(d), 5, 6, and 13 of the Voting Rights Act of 1965 are each amended by striking out ", or in contravention of the guarantees set forth in section 4(f)(2)" each place it appears immediately after "on account of race or color".

Sec. 8. Section 14(c) of the Voting Rights Act of 1965 is amended by striking out paragraph (3).

Sec. 9. (a) The Voting Rights Act of 1965 is further amended by striking out section 203.

(b) Sections 204, 205, and 206 of the Voting Rights Act of 1965 are redesignated as 203, 204, and 205, respectively.

(c) Section 204 of the Voting Rights Act of 1965, as redesignated section 203 by subsection (b) of this section, is amended by striking out "or 203,".

(d) Section 205 of the Voting Rights Act of 1965, as redesignated section 204 by subsection (b) of this section, is amended by striking out ", 202, or 203" and inserting in lieu thereof the following: "or 202".

SECTION-BY-SECTION ANALYSIS

Section 2. This section strikes language from § 4(a) of the Voting Rights Act which incorporates a reference to the bilingual trigger established by the 1975 Amendments in § 4(b). Section 2 does not affect the traditional coverage of the Voting Rights Act accomplished by either the 1965 or the 1970 Amendments.

Section 3. This section deletes from § 4(b) of the Voting Rights Act the bilingual triggering provision added by the 1975 Amendments. Section 3 does not affect the traditional triggering mechanism with respect to the Voting Rights Act of 1975 or the 1970 Amendments.

Section 4. This section deletes §4(f) of the Voting Rights Act which was added by the 1975 Amendments to the Voting Rights Act. Section 4(f) of the Voting Rights Act is the heart of the bilingual expansion accomplished by the 1975 Amendments. That section prohibits English-only elections by finding an English-only election to be a literacy test equivalent to the literacy test imposed in the old South. Section 4(f) also mandates the printing of all registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, in the language of any covered language minority group. Section 4(f) was not part of the Voting Rights Act of 1965 or the 1970 Amendments and its repeal will not affect traditional coverage under the Act in any way.

Section 5. This section deletes from § 5 of the Voting Rights Act, the preclearance requirements, based upon coverage by the bilingual triggering mechanism added by the 1975 Amendments. This section does not affect the preclearance requirements of § 5 with respect to the Voting Rights Act of 1965 or the 1970 Amendments.

Section 6. This section limits the coverage of the Voting Rights Act to the fifteenth amendment of the Constitution by deleting references to the fourteenth amendment in §§ 3 and 6 of the Voting Rights Act which were inserted by the 1975 Amendments. Reliance on the fourteenth amendment is unnecessary since traditional fifteenth amendment guarantees have proven sufficient in our ten years of experience under this Act. The voting guarantees of the fifteenth amendment sufficiently safeguard any abridgement of voting rights on account of race or color. The courts have had little trouble in protecting the rights of language minority groups under the fifteenth amendment. This section in no way affects rights protected by the Voting Rights Act of 1965 or the 1970 Amendments.

Section 7. This section deletes a cross-reference in §§ 2, 3, 4(a), 4(d), 5, 6, and 13 of the Voting Rights Act to the guarantees established in § 4(f)(2) of that Act. Section 4(f)(2) is repealed in § 4 of this bill and any cross-reference in the Act to it must be eliminated. Section 7 in no way affects voting guarantees protected by the Voting Rights Act of 1965 or the 1970 Amendments.

Section 8. This section deletes the definition of "language minorities" and "language minority" groups from § 14(c) of the Voting Rights Act. Repealing the other bilingual provisions of the Voting Rights Act removes the need for a definition of language minority groups. This section does not affect the protection of the Voting Rights Act of 1965 or the 1970 Amendments.

Section 9. This section deletes § 203 of the Voting Rights Act which imposes bilingual election requirements in locations where language minority groups have a lower degree of education than the national average. The onerous requirements of § 203 are identical with the requirements in § 4(f) which is repealed in § 4 of this legislation. Section 9 also contains technical amendments re-numbering successive sections in Title 2 of the Voting Rights Act. This section does not affect traditional protections of the Voting Rights Act of 1965 or the 1970 Amendments.

FEDERAL ASSISTANCE TO NEW YORK

(Mr. ROUSSELOT asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. ROUSSELOT. Mr. Speaker, during argument on the House floor last Tuesday over the approval of Federal loans to assist New York City out of its financial crisis, we heard many Members speak in favor of Federal assistance to New York using as a rationale the dire state the municipal bond market would be in if the city had to default. Many times during debate on the New York measure we heard phrases like:

"It is clear that the New York crisis has bred an unprecedented instability in the municipal credit market. Municipalities are being forced to borrow funds at interest rates unparalled in their history."

Other familiar arguments were:

"[A default] will burden millions of our citizens throughout our country with increased property, income, sales and other taxes."

"We have had a glimpse of what the loss of confidence in government securities can mean."

It is important to point out for the record, in spite of the fact that the New York legislation has passed the House, the specious and fallacious nature of these arguments.

Time and time again it has been effectively shown how the bond market will not be adversely affected by a New York City default in its obligations and the economy will not be sorely crippled. In the week following the near default of New York City on October 17, the bond-market professionals made these observations: In Moody's Bond Survey:

> The possibility of a New York City note default last Friday led to a brief unsettlement in tax exempts. Other market sectors, however, showed little reaction.

In the Chase Manhattan Money Market Report the following appeared:

> On Friday, doubt over the timely payment on maturing New York City notes led to some price erosion, but there is still substantial improvement over the week.

Business Week reported:

> New York barely escaped default, but the municipal bond market held essentially firm. This casts some light on the favorite question of bond market analysts: To what extent do the current levels of municipal bond prices discount default?

An answer appeared in the Washington Post of October 23, 1975, we read the following:

> The state of Maryland and Fairfax County sold more than $95 million worth of bonds yesterday at interest rates substantially below those they have paid in recent years, indicating that New York City's financial crisis has not had an adverse impact on all municipal bond sales.
>
> William S. James, Maryland state treasurer, said that, contrary to his original fears, New York's problems appear to have actually helped his state rather than hurt it.

Mr. Speaker, a significant economic indicator and a reliable financial barometer is the Dow Jones industrial average. According to the arguments of the proponents of the New York legislation, one would expect that this indicator would go up in a favorable response to the action this body took on the New

York bill last Tuesday. It is most curious to note, however, that the Dow Jones reaction to the passage of the measure was just the opposite. The industrial average toppled over 17 points for the biggest loss sustained in over half a year.

I certainly hope that our counterparts in the Senate will take a close look at the sketchy arguments that were used to pass this legislation in the House and weigh them carefully with reactions occurring in the bond markets and the economy as a whole as a result of the New York crisis and our action on it.

COMMENTS ON HEW PROCEDURAL REGULATIONS

(Mr. HAWKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HAWKINS. Mr. Speaker, some months ago, on June 4, 1975, HEW published for comment proposed consolidated Procedural Rules for the Enforcement of Civil Rights Laws. These proposed procedural changes have the effect of eliminating HEW's obligation to act on individual charges of discrimination under title VI of the Civil Rights Act of 1964; title IX of the Education Amendments of 1972; and certain sections of the Public Health Service Act, the Rehabilitation Act of 1973, the Alcohol and Drug Abuse Office and Treatment Act of 1972, and the Comprehensive Alcohol Abuse and Alcoholism Prevention.

The initial response to these proposed changes was vociferous opposition on the part of civil rights and education organizations and others concerned with protecting individual rights under the civil rights law. After his appointment to be Secretary of HEW, F. David Mathews reopened the comment period on the proposed rule changes until November 17, 1975. Under the requirements of section 431(d) of the General Education Provisions Act, regulations affecting education programs must be referred to Congress for approval.

In anticipation of the congressional review of the consolidated procedural rules when they are submitted in final form and for the information of my colleagues, I am submitting for the RECORD comments by the Center for National Policy Review, the Project on Equal Education Rights, the Children's Defense Fund, the Southern Regional Council, and the Leadership Conference on Civil Rights.

These carefully developed analyses of the proposed rule changes, I believe, clearly challenge legality of the proposal to eliminate HEW's obligation to investigate individual charges of discrimination and raise valid questions as to the management necessity for such a drastic curtailment of antidiscrimination protections.

The material follows:

MEMORANDUM

To: Mr. Peter E. Holmes, Director, Office of Civil Rights, Department of Health, Education, and Welfare.
From: The Center for National Policy Review.
Re: Comments: The Consolidated Procedural Rules, 40 Fed. Reg. 24148 (June 4, 1975)
Date: July 21, 1975

I

During the 1960's several major pieces of civil rights legislation were enacted guaranteeing rights of individuals to non-discrimination on the basis of race, color, and national origin in programs receiving federal financial assistance. Similar legislation followed in the early 1970's guaranteeing such rights to women, the handicapped, and the addicted, among others.

This legislation evolved to fill a very specific need for governmental action. Congress, recognizing that litigation in the courts, was too slow and too expensive a process to alone insure the rights of all Americans, enacted legislation which conferred on the executive branch an independent duty to protect these rights in programs which received Federal financial assistance. Rep. Lindsay said:

> We emphasize further that the purpose of this bill is to safeguard individuals against denials of their constitutionally guaranteed rights. It insures that persons will be free of racial and religious discrimination in their relations with public institutions or private institutions which operate in the public arena.[1]

The administrative agencies, as the implementing arms of the executive, shouldered the responsibilities for overall enforcement.[2] Peculiar to the form and function of these agencies is an ability to develop and carry out broad coherent enforcement initiatives as well as to minister to specific individual complaints, providing a reasonably fast and inexpensive process through which an individual may obtain redress.

Under each of the statutes for which it has enforcement responsibility,[3] HEW has received a Congressional mandate to effectuate the prohibition against discrimination. In fulfilling these responsibilities, the agency must develop a program which takes full advantage of its particular functional strengths. Therefore, in devising its enforcement plan, the agency must incorporate both broad, comprehensive recipient review, and individual complaint investigation. Without broad and comprehensive reviews, individuls who are unaware of their rights, who do not complain or do not do so loudly enough will be forgotten. Without provision for investigations of individual complaints, aggrieved persons in small, isolated districts where their complaint is not one of hundreds, where the recipient is unlikely to undergo full-scale review, will have no redress.

All of these individuals have a right to federal efforts to protect their rights. HEW must fulfill its mandate by investigating each and every violation of law of which it is cognizant. It may not shut its eyes to violations about which it has information. It may not decide arbitrarily which ones it will investigate and which ones it will not or where it will make full-scale reviews and where it will not. In order to avoid denying individuals equal protection of the law and abusing its discretion, HEW must develop and state clearly its detailed bases for deciding where and when to investigate or review.

II

In analyzing the consistency of the Proposed Procedural Rules with the statutory mandates which HEW-OCR is charged to enforce, it is appropriate to put the thrust of such analysis upon Title VI of the Civil Rights Act of 1964. This is true both because of the agency's longer experience with it than the other statutory programs to which the proposed rules are designed to apply and because of the large universe of institutions which fall within its ambit.

Title VI was intended to make explicit the dual constitutional imperatives of the Fourteenth and Fifth Amendments which forbid the states from engaging in and the federal government from funding, or otherwise assisting, activities which are segregatory or discriminatory. The legislative history of Title VI, like that of the other portions of the Civil Rights Act of 1964 and indeed civil rights legislation generally, reflects both a concern for the protection of individual victims of such forbidden activity[4] and a desire to protect recipients of federal funds from arbitrary or capricious administrative termination of those funds.[5]

The current regulations have provided a balance between these two congressional objectives. The aggrieved individual may file a complaint directly with the agency and properly expect a "prompt investigation" under 45 C.F.R. 80.7(c). That such a right was not nugatory was made clear in the *Adams v. Weinberger* decisions and remedial orders.

The proposed regulations would fundamentally alter the balance between these congressional objectives. The procedural protections of the recipient remain intact, but the aggrieved individual now is to be deprived of any certitude of administrative investigation and resolution of his grievance (81.5). No longer would a victim of discrimination have the status of a complainant with a right to have his grievance investigated, instead he becomes simply an informant with a right only to a letter of acknowledgement (81.6(b)) and referral to other agencies, which may assist in resolution of the problem (81.6(c)). Alternatively, the individual is left to the slow and expensive process of seeking redress in the Courts. This clearly is not what Congress intended with the passage of Title VI.[6] Under the proposed new regulations, the individual's information will only have a direct input upon an investigation, if the agency already has scheduled the recipient institution for investigation within the next twelve months (81.6(b)). Even then the proposed regulations guarantee no further involvement to the individual. Should the case go to an administrative hearing, there is no provision that the individual complainant will be notified, let alone invited or even assisted to attend. Nor is there any provision for informing the complainant of the results of any investigation made pursuant to his allegations.

If no such investigation already is scheduled, the content of the individual complaint becomes merely "information" upon which the agency may, in combination with other unspecified sources of information, decide to undertake investigative action. Such determinations are to be made according to unspecified criteria and to serve unspecified objectives. The change from the status of a complaint entitled to an investigative response to "information" to be fed into a process which seems to border upon the arbitrary and capricious could hardly be more dramatic or total. What are couched in terms of "procedural regulations" are in fact substantive changes of major importance.

No colorable legal support has been offered by HEW for a change of this magnitude. The only case cited by HEW in defense of the proposed regulation as an exercise of "its discretion and expertise," is *United States v. Shimer*, 367 U.S. 374 (1961). This case, which deals with complications arising from the foreclosure on a home purchased with the assistance of the Veteran's Administration, describes the proper limits of discretion of an administrative agency in implementing a broadly worded statute designed to serve multiple and possibly com-

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Footnotes at end of article.

peting Congressional objectives. The case, however, speaks in terms of the agency's role in "reconciling" those policy objectives. Nowhere does it indicate that an agency is free to determine that it may renounce one objective while continuing to implement others, as is being attempted here.

One suspects that the agency's tendency to discount the significance of individual complaints arises from a failure to appreciate the way in which the law has continued to develop in terms of the implementation of the "highest national priority" policy of the elimination of discrimination. This priority was established by the Congress in the Civil Rights Act of 1964 and has continued to find expression in the passage of subsequent legislation, including those statutes which HEW–OCR proposes to administer under its new regulations. Nor have the highest Courts in the land lagged behind Congress in this commitment. In addition to the numerous Supreme Court cases which have held that the time for the elimination of discrimination in education is *now*, see also *Newman v. Piggie Park Enterprises*, 390 U.S. 400 (1968) and *Alexander v. Gardner-Denver Co.*, 415 U.S. 36 (1974), defining duties under Titles II and VII of the Civil Rights Act of 1964, epsecially the latter's emphasis on the Congressional desire for multiple avenues for redress of grievances.

This emerging body of law has come to recognize that individual complaints alleging discrimination on the basis of race, national origin, religion, or sex are in fact class complaints. This fundamental proposition in civil rights law was given its classic formulation nearly a decade ago when Judge Gray ruled that:

"Racial discrimination is by definition a class discrimination. If it exists, it applies throughout the class. This does not mean, however, that the effects of the discrimination will always be felt equally by all the members of the racial class ... But although the actual effects of a discriminatory policy may thus vary throughout the class, the existence of the discriminatory policy threatens the entire class. And whether the Damoclean threat of a racially discriminatory policy hangs over the racial class is a question of fact common to all members of the class." *Hall v. Werthan Bag Corporation*, 251 F. Supp. 184, 186 (D. Tenn. 1966).

One after another the United States Courts of Appeals have made this language their own. *Oatis v. Crown Zellerbach Corp.*, 398 F. 2d 496, 499 (5th Cir. 1968) (race); *Bowie v. Colgate-Palmolive Co.*, 416 F. 2d 711, 719 (7th Cir. 1969) (race, sex, religion, or national origin); *Blue Bell Boots, Inc. v. EEOC*, 418 F.2d 355, 358 (6th Cir. 1969) (race); *Graniteville Company (Sibley Division) v. EEOC*, 438 F.2d 32, 37 (4th Cir. 1971) (race); *Mosley v. General Motors Corporation*, 497 F.2d 1330, 1334 (8th Cir. 1974) (race); and *Evans v. Sheraton Park Hotel*, 503 F.2d 177, 188 (D.C. Cir. 1974) (sex).

Under such an approach individual complaints are not regarded as aimed only at the redress of isolated acts against individuals but are properly treated as problems affecting whole classes of persons. Certainly, nothing in the language of the current version of 80.7.(c) precludes such an interpretation. It appears to be only a disregard of this and similar developments in civil rights law that has caused the agency to hold out against such a reasonable construction.

The proposed procedures may also pose significant problems in terms of equal protection of the laws. To the extent that input from aggrieved individuals becomes less significant in determining the agency's targets for investigation, it becomes more dependent upon data which is self generated. In the past it has carried on both general annual statistical surveys and periodic specialized surveys (the latter generally being an outgrowth of data produced by the former). For instance, data collected on the 101 and 102 forms submitted annually by most public elementary and secondary schools were used as the bases for identifying possible violators to be subjected to further study. But such surveys were never truly comprehensive. For example, the Fall 1972 survey of *selected* public elementary and secondary schools omitted smaller rural systems enrolling an estimated 8.2% of all students. Now, even this survey is to be abandoned in the Fall of 1975. Other surveys, such as those dealing with bi-lingual problems, have focused only on districts having "substantial numbers of affected persons." Other groups, such as the handicapped, appear not to have been made the subject of systematic statistical gathering at all.

If this trend continues, it would appear, then, that individuals in smaller institutions or individuals who belong to small groups are unlikely ever to have their problems reflected in the information from which the agency will select its targets for intensive review for possible violations. Perhaps HEW would argue that this is an exercise of administrative discretion designed to provide "the greatest good for the greatest number." But acceptance of this argument would leave some persons with no effective administrative recourse at all. Coincidentally, these are likely to be precisely those persons who are least likely to have access to effective political redress for their grievances and thus are dependent upon the law for the vindication of their rights. See *NAACP v. Button*, 371 U.S. 415 (1963). It is a particular irony that the deprived who are poor, few in number and remote from urban centers and thus least able to either retain private counsel or enlist the aid of civil rights or other public interest legal representation are thus to be abandoned cruelly by the administrative process as well. This despite the fact that the Director of OCR has conceded that approximately 50% of such individual complaints are generally meritorious and do result in findings of noncompliance.[7] This surely is not consistent with the intent of Congress.

HEW has not demonstrated that it cannot fully meet its responsibilities to investigate and resolve complaints and to initiate full-scale reviews when indicated. Nothing offered so far substantiates HEW's argument that it lacks sufficient resources. The more the argument is examined, the more it dissolves into a self-serving series of misstatements designed to create an illusion that it is a lack of staff and money rather than a lack of commitment and efficiency that is responsible for poor results in civil rights enforcement.

HEW's recent discovery of a lack of resources poses fundamental questions about its intention to implement civil rights legislation. Indeed, after years of ligation in the *Adams v. Weinberger* case, HEW waited until 9 days before the deadline for compliance with Judge Pratt's order before suddenly pleading impossibility. Aside from the question of whether HEW has correctly stated the amount of time needed to handle complaints,[8] the failure to seek solutions to its alleged resources problem without the elimination of an important element of enforcement bears examination.

Obviously, once HEW promulgates regulations for § 504 and once Title IX regulations are approved, OCR's enforcement duties will increase. OCR's response to this expected increase, however, is totally inappropriate. While recently requesting 42 positions to handle implementation of § 504 and six positions to work on Title IX, no additional staff has been requested for several years in the important area of elementary and secondary education enforcement.

The reason for this is obviously not any expectation that a requested increase would be denied. Only once in its history has Congress denied OCR additional staff when it was requested. The request was reduced—not denied—in that instance because of the excessive number of unfilled positions. HEW has also received all of its budget request for OCR[9] from Congress from 1970 to 1975.[10] Now is not the time for OCR to throw up its hands and abandon individual complainants. HEW must reaffirm its Congressional mandate to enforce Title VI through resolution of complaint and broad reviews, and actively seek out the necessary resources. If additional staff is required to expeditiously investigate and resolve allegations of denial of civil rights, it should be requested.

As well as failing to seek out the means to follow its own regulations, HEW has not accurately characterized the amount of resources actually needed to handle personal complaints. The agency currently takes the position that most individual complaints have required extensive on-site investigations in order to verify or refute the alleged violations. Further, it contends that large amounts of staff time are required for their resolution. For instance, "The resolution of Title VI complaints involves a total of 20 person days."[11] Neither of these assertions is consistent with the agency's past or current practice. In the first nine months of fiscal year 1973, only 2 of 134 complaints received by the Dallas Regional Office alleging discrimination in elementary and secondary education resulted in on-site investgation.[12] Affidavits, based on analyses of the agency's current practice in handling individual complaints, filed this month in the *Adams v. Weinberger* case indicate that no more than 26% of such complaints result in on-site investigations. Estimates of staff time utilization prepared by the Regional Directors, actually in charge of investigating such complaints, indicate that such on-site investigations normally require only 6 to 10 person-days to carry out. Further, such on-site follow-up of individual complaints often is carried out in connection with visits designed to monitor the institution's compliance status for other programs or purposes. Finally, in 1974 the Director informed a Subcommittee of the Senate Appropriation Committee that "In the Elementary and Secondary Division, three working days were expended on the average, per complaint."[13]. Furthermore, Mr. Holmes also said that:

"... not all complaints require an 'investigation' in the sense of an intensive field visit; numerous complaints can be resolved through telephone communications or correspondence and generally a judgment of the potential merits of the case is reached before scheduling an on-site visit."[14]

Thus, there are serious questions regarding the degree and even the existence of a resource problem at this time.

If we were to grant for the moment HEW's "impossibility" argument, it would be clear that the agency should reorganize its efforts in order to insure the most rational and effective use of its resources. If it cannot investigate every complaint within a reasonable period and at the same time make the full district reviews which it considers necessary, and it cannot get the additional resources needed to do the job, then it must work out an appropriate compromise approach. Such a compromise, however, must not be based on the elimination of either the complaint investigation process or the self-initiated full district reviews. Either action would result in an effective denial of redress to a whole class of individuals, as the current regulations demonstrate by effectively stating that the agency will not protect the rights of any individual who lives outside of those districts which merit its full attention. An appropriate compro-

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Footnotes at end of article.

mise would be the judicious balancing of the two distinct approaches—feeding the personal complaint investigation process through the district review process, thus not ignoring individual complaints, but insuring comprehensive reviews as well. (See detailed recommendations below.)

IV

Recommendations

It is clear that HEW–OCR must issue regulations in some form to implement all of the responsibilities which have been placed within its jurisdiction. It is further clear that a uniform procedure for enforcement would be worthwhile. The current proposed regulations, however, fail to meet the Department's responsibilities to the American people. We recommend that:

(1) HEW–OCR withdraw its "Proposed Consolidated Procedural Rules" and instead extend its current procedures under 45 C.F.R. §§ 80.6–80.11 and 45 C.F.R. Part 81 to reach each of the statutes for which it has enforcement responsibilities;

(2) HEW improve these existing procedures by including a requirement that complainants be informed, at stated intervals, of the status and progress of their complaints through final resolution;

(3) HEW retain the 101/102 annual survey, as well as develop additional sources of non-compliance information;

(4) HEW request any further resources needed to carry on a full-scale enforcement effort; an effort which would encompass complaint investigation, as well as broad recipient-wide enforcement initiatives.

Should HEW find at some future time that it cannot obtain the resources necessary to maintain a fully comprehensive complaint investigation process and a complete program of recipient-wide reviews, we recommend that:

HEW establish within OCR a Complaint Investigation Unit (CIU) to share enforcement duties with a separate, but closely related Recipient Review Unit (RRU). The activities of these two sub-units of OCR must be closely coordinated. The boundary between them must be highly permeable allowing for the flexible shifting of resources and the easy flow of information.

(a) Within this loose division, OCR should: (i) first scan all complaints received, monitoring and evaluating them as pieces of compliance information; (ii) match them with list of recipients expected to undergo a full-scale review within 12 months; (iii) if a complaint arises from the actions of a targeted recipient, it should be included in its file to be handled on review; (iv) if a complaint is not in an area where the RRU plans to initiate a review within the succeeding 12 months, the complaint should be routed to the CIU.

(b) The Complaint Investigation Unit's sole duty would be to resolve specific grievances. Should the unit discover widespread violations throughout the recipient's activities, the information collected would be referred to the Recipient Review Unit for consideration for a full-scale OCR review;

(c) Should OCR find that the number of complaints received makes it impossible to resolve all of them promptly and that a simple chronological response priority by the CIU to the complaints received by it results in an unbalanced enforcement effort, the Director should establish an alternative priority system.

(i) Before doing so, however, the Director should take into consideration the balancing effect of the work of the RRU. Through it, OCR could compensate for a disproportionately large number of complaints from one group under one non-discrimination provision by having the RRU initiate on its own reviews of recipients whom OCR believes to be in non-compliance with other such provisions.

Thus, with this structure, a compliance effort need not be "complaint determined." If one group is overrepresented in the CIU, the RRU may balance this by concentrating more (not all) of its time initiating reviews to seek relief for "the underrepresented" groups. The "complaint" represented groups would obtain their redress through both the CIU complaint investigation and complaint initiated RRU reviews.

(ii) Should the Director ultimately decide to institute a revised priority system within the CIU, it must insure, although perhaps not the prompt resolution which would be most desirable, the final resolution of all complaints within a reasonable and specified period of time.

(d) OCR should specify clearly the criteria upon which the RRU will target districts for review and the time periods within which it must act in order to provide some measure of accountability;

(e) Essential to the effective operation of such a plan would be the maintenance of highly accurate and detailed records in an accessible and organized manner. OCR must know clearly what is going on within its own offices at every point in time. Today in several regions OCR's complaint logs are in a state of horrendous confusion. This would be fatal to the flexible, loosely structured division described above. The rapid and even flow of coherent information is the lifeblood of such a system.

By providing the flexibility necessary to compensate for any distortions which a resources problem or a "complainant class overload" might create under the current procedures (45 C.F.R. 80.6–80.11), a system such as this, with proper administration and good leadership could provide OCR with the type of structure required to insure the proper and comprehensive enforcement needed to protect those rights committed to its care.

FOOTNOTES

[1] 110 Cong. Rec. 15876.

[2] Provisions were included for referral to the Department of Justice, if and when necessary.

[3] The nondiscrimination requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) as implemented at 45 CFR Part 80; title IX of the Education Amendments of 1972 (20 U.S.C. 1681 set seq.) as implemented at 45 CFR Part 86; sections 799A and 845 of the Public Health Service Act (42 U.S.C. 295h–9 and 298b–2); section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); section 407 of the Alcohol and Drug Abuse Office and Treatment Act of 1972 (42 U.S.C. 1173); and section 321 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4587).

[4] In addition to the statement of Representative Lindsay see, for instance, Senator Gruening's emphasis upon "all our people" and "every person" 110 Cong. Rec. 14251 under Title VI and Senator Dole's focus upon "each handicapped American," 119 Cong. Rec. 24590, under Section 504 of the Rehabilitation Act of 1973.

[5] See especially Senator Pastore's statement that "Title VI does not vest arbitrary or dictatorial powers in Federal agencies" and his emphasis upon "procedural safeguards." 110 Cong. Rec. 7061 and 7066.

[6] See Senator Javits' references to "the painfully slow process of individual suits" as "hardly a satisfactory alternative." 110 Cong. Rec. 7104.

[7] Adams v. Weinberger, Deposition of Peter Holmes, June 7, 1975, pp. 6–7.

[8] See p. 11, *infra*.

[9] Compare the Budget Estimates submitted to Congress with the actual appropriations. Both figures include SSA transfers.

[In thousands]

Fiscal Year:	*Request*	*Appropriations*
1970	$6,115	$6,274
1971	9,528	9,528
1972	11,879	11,879
1973	14,178	15,948
1974	18,745	18,745
1975	24,327	24,328
1976	26,498	------

[10] There is no indication whether OCR has requested higher appropriations from HEW prior to submission of its budget to Congress, such information being privileged. (Deposition of Peter Holmes, Adams v. Weinberger, June 7, 1975.)

[11] Adams v. Weinberger, Affidavit of Peter Holmes, June 3, 1975.

[12] United States Commission on Civil Rights, The Federal Civil Rights Enforcement Efforts—1974. Vol. III, To Ensure Equal Educational Opportunity (Washington 1975), p. 118 n. 292.

[13] Hearings on H.R. 15580 before a Subcommittee of the Committee on Appropriations of the United States Senate, Ninety-third Congress, Second Session, p. 3945.

[14] Letter from Peter E. Holmes, Director, OCR, HEW, to John A. Buggs, Staff Director, U.S. Commission on Civil Rights, Nov. 15, 1974.

THE NOW LEGAL DEFENSE
AND EDUCATION FUND,
Washington, D.C., July 23, 1975.

PETER HOLMES,
Director, Office for Civil Rights, U.S. Department of Health, Education, and Welfare, Washington, D.C.

DEAR PETER: In response to your invitation for our comments on the Proposed Consolidated Procedural Rules for the Enforcement of Civil Rights Laws (new 45 CFR, Part 81), PEER, on behalf of the NOW Legal Defense and Education Fund, and the National Organization for Women strongly object to the new rule and urge its prompt withdrawal.

As you know, the heart of the new proposal is the absence of a provision assuring the investigation and resolution of complaints filed under Table IX of the Education Amendments of 1972, Title VI of the Civil Rights Act of 1964, and other civil rights laws for which HEW has enforcement responsibility. The current Title VI regulation which will apply to the Title IX as well as of July 21, provides under Section 80.7 "Conduct of Investigations," that the responsible HEW officials "will make a prompt investigation whenever a compliance review, report, complaint or any other information indicates a possible failure to comply with this part." If OCR finds that no action is justified, the regulation specifies that the complainant must be notified.

In contrast, the new rules pointedly exclude the proviso that OCR will undertake an investigation—prompt or no—whenever information indicates a possible violation. The proposed new Subpart B, "Compliance Inquiry," provides that a person or organization may inform HEW about possible violations. OCR would have no obligation to investigate meritorious "submissions of information". Instead, the rules specify that the agency will use "submissions of information" along with its other sources of information to determine priorities for its compliance program. These rules, the Department says, are designed to allow OCR to "handle its overall responsibilities in a manner responsive to the directives of Congress and the President, *regardless of what individual complaints may come to the Department's attention*." (emphasis added).

Under the new rules, a person or group subject to discrimination prohibited by the civil rights laws involved will receive only a letter informing him or her whether or not OCR intends to investigate that institution within 12 months and listing other public agencies, if any, with authority to investigate and act on the alleged case of discrimination. If OCR should decide to investigate an institution concerning which outside parties have submitted information indicating noncompliance, the agency will not notify these parties of progress on the case.

THE EXISTING COMPLAINT MECHANISM IS VITAL TO ENFORCEMENT

The existing complaint mechanism, including HEW's obligation to act promptly on all complaints, must be retained and strengthened. That mechanism—including the obligation to act on complaints—is essential to making civil rights enforcement work.

Without a guarantee that HEW will investigate complaints, citizens are likely to lose enthusiasm for notifying the Department about cases of discrimination. People generally file complaints if and only if they expect action. The Department cannot expect to end the promise of action and continue to receive a substantial number of complaints.

Complaints—particularly pattern or practice complaints exposing systemic discrimination—have been a valuable part of the enforcement system in the past, as a complement to OCR's own limited data collection system. In areas of discrimination where OCR has little experience, such as discrimination based on sex or physical handicap, complaints are particularly important since they provide HEW with crucial information about the nature of the problem. Without the promise of complaint resolution, this source of information is bound to decline.

In this context, we note that the Department's implication that complaints only deal with individual cases is misleading. Many of the complaints filed with OCR are "class action" or "pattern and practice" complaints—complaints against patterns of discrimination affecting a class of individuals within the institutions. A number are as broad as the compliance reviews OCR initiates on its own. By eliminating the obligation to act on complaints, OCR would not simply be ending its obligation to act on individual isolated cases. It would also be ending its obligation to act on evidence of broad, systemic patterns of discrimination.

ALTERNATIVE DATA SOURCES ARE INADEQUATE

In addition, HEW's alternative sources of information are nearly nonexistent, at least in the area of sex discrimination. We understand that you intend to eliminate the fall annual survey this year. Since last year's survey produced little information on sex, this decision means that for the next year OCR will have virtually no useful, up-to-date information on problems of sex discrimination aside from complaints.

Moreover, even if the Department were to send out its annual survey this fall with more questions based on sex, national surveys would only expose a part of the problem. Schools are reluctant to provide information which may be used against them, and data collected by survey may be unreliable. In addition, surveys rely on data centrally available to school districts and school offices. There are important aspects of sex discrimination which are unlikely to appear on the kind of surveys OCR has used.

For all these reasons, complaints must continue to be the major source of information on many kinds of discrimination for some time to come. And without some guarantee that complaints will be investigated, HEW stands to lose its most important source of information.

INDIVIDUAL COMPLAINTS ARE IMPORTANT

In addition, we take issue with the implication that individual complaints are by definition less important than broader compliance efforts. An individual case may have far-reaching implications within the institution accused of discrimination. For example, a school district's decision to fire a highly visible teacher because of her efforts to end illegal sex discrimination may have a drastic dampening effect on the efforts of students and other employees who want to end discrimination throughout the school system. Any enforcement approach which underutilizes complaints in favor of agency-initiated "systemic" reviews is likely to overlook the powerful impact of these individual cases of discrimination.

HEW NEEDS A BALANCED COMPLIANCE PROGRAM

We agree with the Department's argument that a completely complaint-oriented approach is inefficient. We know of no one who has suggested an enforcement program relying solely on complaints. A balanced effort must encompass both complaint investigation and HEW-initiated compliance reviews. We believe that OCR can do both adequately, if it has the will to use its existing resources efficiently to mount a vigorous enforcement program. We cannot accept the agency's current failure to do so as evidence that it cannot do so.

The Department's contention that a solely and complaint-oriented approach will be "skewed" in favor of some groups makes little sense since, as noted above, no one has proposed an entirely complaint-oriented approach. If HEW finds that some kinds of discrimination are accompanied by fewer complaints than others, it has a responsibility to collect information in those areas and initiate enough compliance reviews to assure a balanced enforcement program.

Moreover, we trust that HEW is not suggesting that HEW has an overabundance of sex discrimination complaints in higher education employment. HEW has received many such complaints because sex discrimination in higher education is ubiquitous and extremely serious, and because HEW's enforcement responsibilities in that area are well known.

We should note, in connection with the Department's comment about the difficulty non-English speaking people may have in filing complaints, that the organizations representing these people do not believe this to be a problem. At least one has suggested publicly that if HEW is concerned about these complaints, it might hire staff who can read languages other than English.

CITIZENS MUST HAVE A REMEDY UNDER THE LAW

In addition to these concerns, it is clear that citizens protected by the civil rights laws must have access to a remedy under the law. These laws were enacted to relieve individual citizens of the burden of fighting for their own rights. A right without a remedy makes a mockery of the law.

Nor is private litigation under the civil rights laws an effective remedy. Suits are prohibitively expensive for most individuals and groups. Even where aggrieved individuals or groups can afford to sue, justice through the courts is uneven and tortuously slow. Until the Supreme Court rules on some of these issues, different courts will continue to come down with contradictory rulings. Litigation is no substitute for an evenhanded national enforcement program.

HEW IS LEGALLY REQUIRED TO INVESTIGATE COMPLAINTS

We believe that HEW is legally and constitutionally required to act on complaints. Title IX of the Education Amendments of 1972 and several other authorities forbid federal assistance to institutions practicing discrimination in education programs. The due process and equal protection clauses of the Constitution similarly require that federal funds not be provided to discriminatory institutions. In neither instance is HEW empowered to ignore evidence of illegal discrimination.

LACK OF RESOURCES IS NOT THE CHIEF BAR TO EFFECTIVE ENFORCEMENT

We would like to turn now to the Department's argument that OCR lacks the resources to respond to complaints and conduct compliance reviews. Certainly OCR's enforcement responsibilities are substantial. It is unlikely that OCR will ever have the resources to undertake a maximally effective enforcement effort, such as a biannual compliance review for every institution receiving HEW funds. Certainly the Department must, within the limits of its basic obligations, establish priorities.

However, the Department clearly has the capacity to do a far better job with its existing resources than it has in recent years. The Department's own data do not indicate an inability to undertake both complaint investigations and compliance reviews in all its areas of responsibility. We agree that HEW's enforcement program has been highly inadequate, but we do not agree with HEW's contention that "lack of resources" is at fault.

As the Department has pointed out, OCR's staff has expanded many times over in the last decade. The staff has grown from less than 100 in fiscal year 1966 to 850 in 1975; it has doubled since 1970. Despite these increases, OCR's accomplishments by any measure have dropped drastically over the last five years. A number of reports, including those by the Center for National Policy Review, the U.S. Commission on Civil Rights, and the General Accounting Office, have documented OCR's inefficiency and inaction in recent years.

We should note two OCR policies which particularly limit the agency's ability to use existing resources effectively. First is the agency's publicly stated reluctance to apply the sanction provided by law: termination of federal funds. During the 1960's, HEW was able to achieve great progress in school desegregation for one reason—its well-publicized readiness to terminate funds when districts refused to comply. Unless HEW is willing to take that step now in enforcing laws against other kinds of discrimination as well, the Department can expect massive resistance and a great deal of wasted effort.

Second is OCR's decision to channel a substantial portion of its resources into a handful of big city reviews. The New York review is in its third year, and we understand it is not slated for completion until next year. We question the wisdom of assigning such high priority to this and several other big city reviews for several reasons. We are concerned that a heavy emphasis on big city reviews will ignore large segments of the female population, most of which is located outside of the four or five largest cities. The New York review is absorbing almost all of the New York region's elementary and secondary enforcement staff, and enforcement in other Region II school districts has come to a standstill. In addition, as we understand it, the New York review relies almost solely on data centrally collected and quantifiable, which suggests that many aspects of discrimination may be overlooked. Finally, the review's scope is so broad, the New York City school system so large, and the city in such desperate financial straits, that it is difficult to see that much change will result from the four-year effort or from similar efforts in the other largest cities.

We believe that HEW's reluctance to terminate funds and its heavy emphasis on big city reviews have been two factors limiting OCR's efficiency in the use of its own resources; other factors have been explored in detail in reports mentioned above.

In addition, if the Administration is concerned about lack of resources to do the job, its concern has not been reflected in budget requests. The Administration asked for no new positions in its Elementary and Secondary Division this year, despite the existence of two major suits against the Department charging nonenforcement of the civil rights laws in the schools. Currently, OCR has 58 unfilled positions.

If the Administration believes that its current staffing level will not support adequate civil rights enforcement, it has several logical courses of action it has not yet taken: fill the unfilled positions, undertake the management changes needed to eliminate the major inefficiencies identified by a number of outside reports, and request substantial staff increases. The fact that HEW has done none of the above raises questions about the seriousness of its "lack of resources" argument.

THE PROPOSED NEW APPROACH SHOULD BE DROPPED

In conclusion, we believe that the enforcement approach contained in the proposed procedural regulation would be a serious mistake for several reasons. The new approach appears to contravene the Department's own statutory and constitutional obligations to aid discrimination in federally-assisted programs. It leaves those subject to illegal discrimination without a realistic remedy, unless they happen to be in an institution which HEW selects as the target of a broad-based compliance review. And it is likely to result in the decline of one of OCR's most vital and sometimes the only up-to-date source of information concerning discrimination.

Again, we urge that you withdraw the proposed procedural regulation and continue operating under regulations which guarantee action on meritorious complaints. If the Department does issue new procedural regulations, we urge that the current Title VI procedures be strengthened to provide complainants with the same rights as those accused of illegal discrimination: the right to notice at all stages of the process, the right to request a hearing, the right to appeal adverse decisions, the right to question witnesses, and so on.

We attach additional comments on specific provisions of the proposed regulation (Attachment A).

We look forward to hearing from you, and we would welcome the opportunity to discuss these issues further.

Sincerely,
HOLLY KNOX,
Director, Project on Equal Education Rights; NOW Legal Defense and Education Fund.
MARY ELLEN VERHEYDEN-HILLIARD,
Coordinator, National Education Task Forces; National Organization for Women.

ADDITIONAL COMMENTS ON THE PROPOSED CONSOLIDATED PROCEDURAL RULE

SUBPART B—COMPLIANCE INQUIRIES

Sec. 81.4—Compliance information

Sec. 81.4(a) lists the kinds of data recipients must maintain. The list should include the participation of students in extracurricular activities.

Sec. 81.4(b) requires that data be preserved for 3 years, and that information concerning grievances and the effectiveness of grievance procedures be retained for three years from the time the case is closed. Since HEW has allowed civil rights cases to drag on for more than three years (e.g., the Berkeley case under Executive Order 11246), five years is a more realistic period.

Sec. 81.4(c) requires recipients to furnish data at the request of the Director. OCR should collect basic data annually, and this should be specified here.

Sec. 81.5—Submission of information and Sec. 81.6—Treatment of compliance information

This section would replace the existing regulation's provision for the submission and investigation of complaints. Sec. 81.5 provides that any person or organization may submit information suggesting possible noncompliance to OCR in writing.

Sec. 81.6 provides that OCR will consider all compliance information, regardless of source, in setting enforcement priorities. It also provides that OCR will notify those submitting compliance information as to whether the Department expects to conduct a compliance review covering the matters raised within 12 months. OCR will also notify the sender about grievance procedures and any other public agencies with authority to deal with the problem.

As discussed in greater detail elsewhere, we strongly oppose the inclusion of this provision as a substitute for the existing complaint enforcement mechanism. Procedures should provide for the submission of complaints, acknowledgement of the complaint within 30 days, and prompt investigation.

Sec. 81.7—Complance reviews

This section provides that the Director will periodically review recipients' practices and policies, and notify the recipients of the result in writing. OCR will decide where and on what schedule reviews will be made using all data available and "taking into account priorities and available resources."

Procedures should not provide for the use of "priorities" without specifying the priorities. Nor should "available resources" be included as a factor, since this is simply license to use lack of resources as an excuse for inaction.

Sec. 81.7(b) should specify that the complainant as well as the recipient will be notified of the results of a compliance review.

Sec. 81.8—Determination of compliance

Sec. 81.9—Preliminary finding of noncompliance

Sec. 81.10—Determination of noncompliance

These sections specify that based on a compliance review or other information the Director will notify the recipient in writing that it is in compliance or that it has failed to comply. The recipient will be notified that possible noncompliance exists and will have 30 days to submit further information. If the Director finds a failure to comply, the written notice must state the reasons. This section should cover complaint investigations as well as compliance reviews.

The Director should be required to notify the complainant as well as the recipient in each situation. In addition, we oppose the inclusion of Sec. 81.9 and the preliminary finding of noncompliance with a 30-day response period. This is an unnecessary procedure whose only result will be delay of at least 30 days, and probably a much longer period.

The Director should also notify the complainant in advance of the date of the compliance review or complaint investigation in writing, and the regulation should specify that complainants will be afforded an opportunity to submit additional information during the compliance review or complaint investigation. In addition, access to all records involved in the investigation should be afforded the complainant.

Finally, time limits are essential to making tihs system work. The regulation should specify a time limit for completion of the review or investigation and for notifying recipient and complainant after the completion of a review or investigation.

Sec. 81.11—Voluntary compliance

This section requires a recipient, within 90 days of receiving a notice of noncompliance, to either comply fully or submit a plan specifying a time by which it will comply fully. Under unusual circumstances, the recipient may take 90 days to submit to the Director a commitment to submit a plan.

We applaud the 90-day time limit here but oppose the "unusual circumstances" loophole. We see no reason why it should take three months to submit a commitment to submit a plan. This loophole would permit indefinite inaction on the part of the recipient.

In addition, the rule should place time limits on the period over which a plan may operate. Without that, the rule would permit 10, 20, 30 year plans: permanent noncompliance with a law (in the case of Title IX) already three years old.

SUBPART C—ENFORCEMENT ACTIONS

Sec. 81.12—Procedure for effecting compliance

This provides that if the Director finds that a recipient has failed to comply with the statute or any of the requirements of regulations under the statute, compliance may be effectuated by final termination or other authorized means.

The word "may" in this section appears to make enforcement action optional. We believe it is illegal for the Director not to act once a determination of noncompliance has been made. The word "shall" should therefore be substituted for "may" wherever it appears.

Sec. 81.13—Termination of or refusal to grant or to continue Federal financial assistance

This section provides that an order suspending or terminating federal aid will not take effect until HEW notifies the recipient, has failed to secure voluntary compliance, makes a finding on the record after opportunity for a hearing that the recipient has failed to comply, and notifies Congress of the action to be taken. The section also specifies the scope of a termination order and the circumstances under which it can be made.

Again, we urge that time limits be set for each stage of the process, and that notice to the complainant be required.

Sec. 81.14—Hearings

This section provides for notice to the recipient that a hearing may be requested or that it has been set. It also allows for waiver of a hearing and the submission of written arguments instead. It provides for notice in the *Federal Register* of hearing actions and decisions on appeal. Sec. 81.14(f) allows interested persons to petition the administrative law judge for permission to participate as amicus curiae.

As we have already stated in our comments on the Title IX regulation, we believe that the victims of discrimination should have the same procedural rights as the institutions charged with discrimination. Therefore, this section should provide for notice to complainants that they may request a hearing. Complainants should be allowed to submit written arguments and the opportunity to take part in a hearing as a party to the case rather than as *amicus curiae.*

Sec. 81.15—Deferral of consideration of applications

The Director *may* defer action on applications while administrative proceedings are underway.

Again, we urge that "may" be changed to "shall".

Sec. 81.16—Decisions and notices

This section provides for notice to the recipient and *amicus curiae* of the law judge's decision, and provides for appeal of such decision at the request of the recipient or HEW.

Again, the rights of the complainant and the recipient should be identical. The complainant should have the right to appeal, receive notices, present oral arguments, and so on.

Sec. 81.17—Post-termination proceedings

This provides for restoration of federal funds if the recipient corrects its noncompliance.

This section should provide for notice to the complainant that such a proceeding is being initiated and opportunity for the complainant to examine the relevant documents and comment to the Director on the recipient's plan for compliance. This section should also contain time limits to assure the recipient prompt consideration.

Sec. 81.20—Intimidatory or retaliatory acts prohibited

This forbids recipients from intimidating or discriminating against anyone who has assisted in an investigation under this regulation.

This provision has no teeth and provides no real protection from the many kinds of serious harassment to which complainants are frequently subjected. HEW should include stiff provisions for immediate action to stop intimidation: authority to go to court for an injunction, with attorney's fees and court costs going to the institution attempting intimidation, a provision for the immediate deferral of applications, an assurance that HEW will act on an intimidation complaint within 30 days, and so on.

Allowing harassment to continue unchallenged undermines the entire system of civil rights guarantees, since it makes individuals afraid to exercise their rights. The regulation should require swift action to stop this insidious process.

SUBPART E—RULES OF PRACTICE FOR CONDUCTING HEARINGS

This subpart spells out detailed provisions for hearings. Once again, we simply urge that complainants have precisely the same due process rights as recipients.

CHILDREN'S DEFENSE FUND OF THE
WASHINGTON RESEARCH PROJECT,
INC.

Washington, D.C., July 11, 1975.

Mr. PETER HOLMES,
Director, Office for Civil Rights, Department of Health, Education, and Welfare, Washington, D.C.

DEAR PETER: The Children's Defense Fund of the Washington Research Project is strongly opposed to the proposed regulation published June 4, 1975 establishing procedures for the enforcement of the various nondiscrimination requirements applicable to HEW administered programs, Part 81—Consolidated Procedural Rules for Administration and Enforcement of Certain Civil Rights Laws. We urge you (1) to withdraw the proposed regulation, and (2) to issue procedural regulations which would be similar to 45 CFR Parts 80 and 81 for all of the statutory nondiscrimination requirements enforced by HEW and which would include specific time periods for the resolution of complaints.

The heart of the proposed regulation is the elimination of the requirement that the HEW Office for Civil Rights (OCR) investigate and resolve all citizen complaints it receives. In essence, the proposal would deny the right of governmental redress to citizens alleging discrimination by federally funded institutions on the basis of race, color, national origin, sex, or handicap. In the future, a complaint would be used only as one of many bits of "compliance information" to set OCR priorities for "enforcement activities". Unless a complaint were investigated as part of a larger review, OCR's responsibility to the complainant would be nil.

We disagree with this proposal to deny citizens a right to redress of grievances as provided for by present HEW regulations under Title VI of the Civil Rights Act of 1964 and as required at least for complaints against educational institutions in the 17 Southern and Border states under the order in *Adams* v. *Weinberger*. We also take issue with the rationale for the change set out in the preamble to the proposed regulation. In stating that procedural revisions are necessary because the OCR enforcement program has become "complaint-oriented" and "geared toward securing individual relief for persons claiming discrimination", HEW has overlooked the fact that individual complaints arise out of institutional policies and practices of discrimination. The present Title VI regulation is not perfect and obviously procedural regulations are long overdue for new areas of HEW responsibility mandated subsequent of Title VI–Title IX of the Education Amendments of 1972, Sections 799A and 845 of the Public Health Service Act, Section 504 of the Rehabilitation Act of 1973, Section 407 of the Alcohol and Drug Abuse and Treatment Act of 1972, and Section 321 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970. But new regulations should strengthen the Title VI regulations under which OCR demonstrated some success in reducing discrimination, especially before 1970. The proposed regulation clearly weakens present Title VI procedures.

DISAGREEMENT WITH RATIONALE FOR PROPOSED REGULATION

In the preamble to the regulation a number of "problems" are cited which the new regulation will seek to address and correct—inadequate OCR resources to carry out all its responsibilities, imbalance in the nature and volume of complaints, and restrictive requirements in the court order under *Adams* v. *Weinberger*. OCR's actions over the past 6 years seriously call into question not only the validity of these claims but also the basic commitment of HEW to eliminate, as required by Congress, discrimination in federally funded programs on the basis of race, color, national origin, sex, and handicap.

Since 1970, OCR has taken on new responsibilities, but it has also doubled in size. In 1966 OCR staff totaled less than 100. In 1970 there were 400 professional and clerical employees and by 1975 the number had jumped to 850, distributed among Washington, D.C. and 10 regional offices. The OCR budget increased between those years from $6,750,000 to $23,675,000. These increases took place when civil rights enforcement activity by almost any measure was declining.

In May 1975 you told congressional appropriations subcommittees that no additional elementary and secondary education resources were needed to meet compliance responsibilities in race and sex discrimination. Less than a month later on June 3, 1975, you submitted to the court an affidavit claiming OCR cannot carry out its education complaint resolution requirements under the *Adams* v. *Weinberger* order because of insufficient resources. The actuality of OCR's resource problems are open to question when the agency has taken two such opposite positions within one month.

Furthermore, OCR admitted a year ago having 98 vacancies out of 165 new positions provided by Congress for FY '74. Still today it has 35 unfilled positions.

While more than doubling in size and tripling in budget since 1970, OCR's compliance efforts have declined dramatically in areas of past activity and have barely gotten underway in post-1970 areas of new responsibility. The preamble to the proposed regulation shows that large numbers of complaints have not been resolved by OCR in both old and new areas of responsibility. We do not understand why OCR has not had time to respond to complaints when it has done so little in areas where it has had in the past and/or should have a routine enforcement program. OCR's performance record speaks for itself:

1. While negotiation and voluntary compliance are important tools, only willingness to use the final enforcement mechanism of federal fund termination can make these other tools effective. During the 1960's, over 200 school systems had their federal funds cut off. More than 500 systems were noticed for administrative hearing but corrected their compliance problems before the fund termination procedure was completed. Since 1970, only 4 school systems have lost their federal funds, and today only one school system, Ferndale, Michigan, is not receiving federal funds because of OCR action. Since 1970, 62 school districts have been noticed for hearing.

2. Desegregation in student and faculty assignment is OCR's oldest priority activity. Evidence presented in *Adams* v. *Weinberger* and the September 1974 Center for National Policy Review study, *Justice Delayed and Denied*, demonstrates OCR's inadequate and subsiding efforts in elementary and secondary schools both north and south. Among several points documented in *Justice Delayed and Denied* was the fact that as of last fall, of 75 OCR initiated school district reviews in northern and western states, 52 remained unresolved even though an average length of 3 years time had elapsed since they began.

OCR action to desegregate institutions of higher education took place only in response to the *Adams* order. However, that action resulted in OCR approval of clearly inadequate desegregation plans.

3. With the 1974 Supreme Court ruling in *Lau* v. *Nichols*, OCR is required to ensure that limited or non-English speaking students be provided meaningful instruction. In January 1975, OCR notified 26 state departments of education that they have within their states approximately 350 school districts which may not meet the standards of *Lau*. Not one on-site investigation has been conducted in any of these 350 districts.

The preamble to the proposed regulation implies that OCR has and will continue to receive proportionately fewer complaints of national origin discrimination because "potential complainants speak and write English with difficulty." However, organizations representing non-English speaking people report numerous complaints sent to OCR which have gone unanswered.

4. In Health and Social Services OCR has done little since it desegregated hospitals in the South during the mid-60's.

5. OCR is mandated to enforce the prohibition against sex discrimination under Title IX of the Education Amendments of 1972. It has not only let hundreds of complaints go unanswered in this area but it has failed as well to establish a routine compliance program. While OCR requested for Fiscal Year 1976 6 additional positions in higher education to work on sex discrimination, as we noted above it requested no additional positions in elementary and secondary education. Only three visits to public schools to investigate sex discrimination complaints have been made.

The preamble to the proposed regulation emphasizes a skew in the substance of complaints received with the heaviest volume involving sex discrimination in higher education academic employment. Later in the same preamble, it is noted that many employment discrimination complaints have been referred to the Equal Employment Opportunity Commission and that even greater numbers probably will be referred to this overburdened agency in the future. These referrals should lessen the OCR complaint workload and make available resources for complaint response and routine compliance reviews in all areas of sex discrimination.

6. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of handicap. OCR was given the responsibility

of developing regulations under the provision, and in almost two years has produced only a first draft. We find it appalling that OCR is still delaying the issuance of regulations when, as recognized by Congress, so many handicapped persons are being discriminated against in the denial of services. Compounding this situation is the fact that the vast majority of handicapped persons and institutions and agencies serving them are unaware of OCR's responsibility to eliminate such discrimination by institutions receiving and administering federal funds. We applaud OSR's request for 42 new positions to enforce Section 504. We believe, however, with these new positions OCR should have the capability to respond to all complaints *and* to undertake systematic reviews in this area.

The Children's Defense Fund's analysis of OCR's own data shows widespread over-inclusion and possible discrimination in the assignment of minority group children to classes for the educable mentally retarded (EMR). While OCR is responsible under Section 504 for assuring access and receipt of an adequate education to all special needs children, it is also responsible under both Section 504 and Title VI for assuring children are not misclassified as handicapped. Data collected oyer four years demonstrates that such over-inclusion of minorities in EMR continues and that OCR's efforts to correct this situation are severely inadequate.

7. Probable discrimination in the discipline practices of thousands of school districts is also apparent from the Children's Defense Fund's analysis of OCR data. OCR inactivity in this area has been a major concern of the Children's Defense Fund. Along with other civil rights groups, we urged release in 1970 of an internal OCR memorandum specifically prohibiting racial discrimination in school discipline policy and practices. Obviously, OCR has been aware for a number of years of the specific problem of racial discrimination in discipline practices.

On May 21, 1974, you announced in congressional testimony that OCR was undertaking reviews of 5 school districts to examine possible discrimination in discipline practices alone. Only 4 specific discipline compliance reviews have been initiated and none has been completed and/or resolved. Many of OCR's unresolved complaints involve allegations of discrimination in school discipline practices.

In December 1974 we issued *Children Out of School in America* describing the grossly disproportionate suspension rates for minority group children shown by both our own analysis of OCR data and our own survey data. In December, we also wrote you detailing our findings. We urged OCR to draft and disseminate a specific compliance policy under Title VI outlawing racial discrimination in school discipline practices and policies and to design a specific compliance program. We met once with you and subsequently with other OCR staff on several occasions to discuss these issues. To date, no compliance policy has been adopted or routine compliance program undertaken.

In addition to the above specific areas of inadequate OCR performance, there are three other OCR activities with which we have serious question and where we find conflict with the preamble to the proposed regulation.

The first area is OCR's responsibilities with regard to the Emergency School Aid Act (ESSA). Since 1970, OCR has been charged with reviewing and giving a civil rights clearance to thousands of applicant school districts for ESAA and its forerunner, the Emergency School Assistance Program, funds. In the preamble to the regulation it is pointed out that "the ESAA obligation itself must be fulfilled by the end of each fiscal year . . . and must be allocated the needed staff and resources." But of the 165 new positions approved by Congress for Fiscal Year 1974—of which 98 were unfilled a year later—a majority were provided so OCR could meet its ESAA responsibilities. If those vacancies were filled then or even today, OCR might be able to handle both the investigation of complaints and routine, systematic compliance reviews in addition to meeting its ESAA responsibilities.

Secondly, OCR is wasting much of its resources on impossibly broad, untargeted investigations in some of our largest urban areas. It is in its third year of a comprehensive compliance review of the New York City public schools and has announced plans for similar reviews in Philadelphia, Chicago, Houston, and Los Angeles. OCR contends that since enormous numbers of minority group children attend public schools in these areas, correcting problems there will help many more minority group children than years of visits and negotiations with much smaller districts. This may be so—but only to the extent that OCR manages to focus its efforts and design specific compliance remedies.

The big city reviews are an overwhelmingly long, painstaking process involving enormous amounts of resources. Virtually the entire New York regional office education staff is working on the New York City review and will be until next summer when the review is scheduled for completion. In other regional offices almost 50 percent of the education staffs will be involved in big city reviews next fiscal year. By the time the data collected as evidence of discrimination in these cities is assembled, often it will be outdated as a tool for judging what school districts are doing and of dubious legal value. Much more current data could be obtained and acted upon with carefully targeted reviews in selected areas like discipline or special education or sex rather than on comprehensive reviews.

Moreover, a few reviews in big cities is no substitute for clear national compliance policies in all areas of possible discriminatory practices and consistent enforcement in a number of districts regardess of size. School officials throughout the country must be and deserve to be uniformly on notice of what is expected of them and of the possibility that they might be reviewed on the basis of clearly set forth standards.

Finally, in the preamble HEW proposes to carry out its responsibilities in education, health, and social services by establishing a "methodical approach," "a rational system of monitoring and of correcting systemic discrimination" rather than maintaining the "reactive or complaint-oriented approach" it apparently operates under now. Instead of carrying out its full responsibilities which would encompass both complaint investigation and self-initiated systematic reviews, it is choosing to treat complaints as merely one element in setting its overall enforcement priorities. However, we strongly question the "good faith" in even that limited effort, not only because of the inaction in the several areas mentioned above but also because we have learned recently that OCR is eliminating its annual elementary and secondary public school statistical survey for the fall of 1975.

The key to an effective compliance program is good information. In February, 1975 "[t]o assist in the planning process," OCR requested our organization and several others to fill out a questionnaire on the OCR public school civil rights survey. We sent a letter on March 6, 1974 with several recommendations and the completed questionnaire. In that letter and in many discussions with OCR officials we have pointed out not only how important we feel the survey is but also how necessary it is for OCR to analyze and use more effectively the data it already collects. We never received an answer to that letter nor any notification about the plans to eliminate the survey for next fall.

The fall 1975 public school civil rights survey was inadequate in a number of ways. Its most serious limitation was that it collected little information useful in identifying schools which discriminate against women and handicapped persons. The decision of HEW to collect less, not more information further undermines any credibility to its claim that it is setting up procedures for "identifying and eliminating systemic discrimination."

RECOMMENDATIONS CONCERNING PROPOSED REGULATION

1. We urge the withdrawal of the civil rights consolidated procedural regulation. We find nothing in the heart of the proposed regulation—investigation of only selected complaints—which is an improvement over present practice.

2. We recognize that HEW must issue procedural regulations under statutes which it more recently has been given responsibility to enforce. We feel these regulations should be similar to and stronger than present Title VI regulations. It may be true that there is "no substantial reason for differing enforcement procedures and, to the extent that individual programmatic aspects of particular statutes require particularized treatment, special provisions can be developed within the context of a consolidated procedural regulation." We urge HEW officials to consider this more thoroughly and to consult with outside organizations like ourselves and others representing minority groups, women, and handicapped persons before making a final decision.

3. We recommend that all complaints of discrimination on the basis of race, color, national origin, sex or handicap be investigated. Complaint investigations need to be carried out in conjunction with a routine program of OCR initiated systematic reviews. A well-balanced and well-administered program embodying both approaches is essential to meet the requirements of law.

To be effective and responsive, complaint investigation procedures must embody specific time periods for the resolution of complaints. The complaint investigation deadlines set out in the *Adams* v. *Weinberger* order may be too rigid, but the dramatically conflicting documentation presented about complaint resolution by OCR in that case leaves us very skeptical. Complaints concerning different types of discrimination may take different periods of time to resolve. But this too has not yet been demonstrated.

Effective complaint resolution procedures also necessitate notification of complainants of compliance review findings. We oppose the deletion in the proposed regulation of this requirement now present in the Title VI regulations.

We urge OCR to discuss problems inherent to satisfactory complaint resolution with organizations concerned about discrimination.

4. Administrative hearings, whether the result of complaint investigations or routine compliance reviews, often require the presence of witnesses for the prosecution. The omission in the proposed regulation of government reimbursement for witnesses' travel expenses to the site of administrative hearings will prohibit low-income witnesses from participating in hearings and consequently will weaken the government's cases. We recommend that the provision of travel expenses be continued in Title VI and included in other procedural regulations.

We hope you consider these comments carefully.

Sincerely,

Marian Wright Edelman,
Director.

Cynthia Brown.
Ann Rosewater.

Southern Regional Council, Inc.,
Atlanta, Ga., July 16, 1975.

Re Proposed HEW regulation changes concerning the administration and enforcement of certain civil rights laws.

Director,
Office of Civil Rights, Department of Health, Education, and Welfare, Washington, D.C.

Dear Sir: On June 4, 1975, the Secretary of the Department of Health, Education, and Welfare (HEW), proposed new regulations for the Office of Civil Rights (OCR) that would drastically alter current procedures for enforcing antidiscrimination provisions in a number of laws. (These laws include Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments, as well as certain sections of the Public Health Services Act, the Rehabilitation Act of 1973, the Alcohol and Drug Abuse Office and Treatment Act of 1972, and the Comprehensive Alcohol Abuse and Prevention, Treatment, and Rehabilitation Act of 1970). HEW claims that the new regulations are designed to eliminate confusion, overlap, and inconsistencies in the enforcement of these civil rights requirements. They may in fact succeed in accomplishing that purpose, but at the price of destroying whatever relief blacks, women, the handicapped, and other affected persons could have expected under existing procedures. This is so because, despite the articulated purpose of the changes, their primary thrust is to relieve OCR of the burden of taking any action whatsoever on individual complaints of discrimination. OCR's only duty will be to conduct compliance reviews in subject areas. At the same time OCR will be left with unfettered discretion to determine its own enforcement priorities. For these reasons—and because southerners will be especially hard hit by these changes—the Southern Regional Council is strongly opposed to the implementation of the proposed regulations.

1. The proposed regulations are inconsistent with the legislative framework created by the civil rights laws and other federal laws with anti-discrimination provisions. In these laws Congress clearly articulated the broad national policy against discrimination, a commitment to remove very specific forms of discrimination, and a variety of sanctions to be invoked by administrative agencies, including OCR, to combat discrimination. HEW now seeks to pre-empt these Congressional mandates by freeing itself to fulfill some of its obligations while ignoring or subordinating others. Despite his claim of broad discretion to enforce the law in any manner, the Secretary's overreaching is apparent on its face. He does not have the freedom to repeal the law by administrative fiat.

2. The Secretary's announced justification for the new "enforcement" scheme raises serious questions about his motives. According to the preface to the proposed regulations, the volume of complaints is biased or skewed in certain areas. For example, the most frequent complaints concern sex discrimination in higher education employment. HEW, therefore, proposes to seek what it terms a "balanced and organized approach" by setting enforcement priorities "regardless of what individual complaints may come to the Department's attention." By implication, enforcement activities in at least some sex discrimination areas will be reduced, in favor of more enforcement in other areas. This will have the effect—we fear, intentionally—of playing one affected group off against the other. If HEW were truly concerned about those unable to complain effectively, would not the better approach be to make it possible for them to do so rather than ignore those who have been complaining?

3. The proposed regulations appear to be a calculated effort to use the rule-making process to influence the courts to reverse their decisions in Adams v. Weinberger, which, among other things, required HEW to investigate complaints expeditiously. Contrast the Secretary's stated concern for uniformity and efficiency with the actual sequence of events preceding the publication of the pending regulations. On June 12, 1973, the Court of Appeals for the District of Columbia Circuit, sitting en banc, affirmed the opinion of the lower court requiring HEW to commence various compliance and enforcement proceedings against several segregated school systems. See Adams v. Weinberger, 351 F. Supp. 636 (D.D.C. 1972), 356 F. Supp. 92 (D.D.C. 1973), affirmed with modification, 480 F. 2d 1159 (D.C. Cir 1973). Interpreting this ruling as a requirement that the Department become almost totally complaint-oriented with regard to enforcement activities in the Southern and border states, HEW moved for extensions to comply with the Court's order. The Secretary's request for relief from this judgement fortuitously coincided with the publication of these proposed regulations. HEW has admitted that the Adams case is one cause for the new regulations, but the plaintiffs in that case make clear their full implication. They have said:

"Defendants' good faith is further questioned by their reference to a proposed regulation published on June 4, 1975, the same day they filed the instant motion, and by their candid admission that if the proposed regulation becomes final, 'any complaints covered by this Court's order which are outstanding at this time . . . would, of course, be processed under such new regulations.' The proposed regulation gives defendants complete discretion not to investigate or resolve complaints of discrimination (45 CFR § 81.6) (40 Fed. Reg. 24148, 24152). In other words, since under this regulation which defendants propose to make effective in 45 days HEW is authorized not to investigate complaints, the intended effect of three to six month extensions would be to enable HEW never to investigate the 176 unresolved complaints pending on March 14."

4. Protected by elaborate procedural safeguards contained in the proposed rules, the recipient or applicant accused of discrimination is comfortably insulated from the sanction of fund termination except as a last resort. As the Adams Court noted, "HEW's decision to rely primarily upon voluntary compliance is particularly significant in view of the admitted effectiveness of fund termination proceedings in the past to achieve the Congressional objective." *Adams v. Weinberger, supra.* n.5 at 1163. But under these proposed regulations, even if the Secretary determines that termination of funds is warranted, no action can be taken until an elaborate administrative proceeding is completed. The Secretary may not freeze funds pending the outcome, he may merely defer acting on applications on new funds.

5. While those charged with discrimination have substantial protections, those who complain as well as third parties and the general public are barred from effective participation in the proceedings. OCR is merely obligated by proposed § 81.6 to acknowledge the receipt of information concerning noncompliance by notifying complainants of its compliance review schedule and other sources of relief that are available to them. Pursuant to § 81.14(e) complainants and others would receive notice of the fund termination hearing in a monthly notice in the Federal Register. This is the only public notice HEW is required to make and the only notice complainants will receive after the initial acknowledgement. The rules also provide that persons interested in participating in proceedings as amicus curiae are required to petition the administrative law judge who may grant or deny permission to participate at will. Thus, while giving those charged with discrimination virtually unlimited opportunities to delay the proceedings and avoid enforcement actions, those who will object are reduced to pleading with an administrative judge to be allowed to participate. And even if they are allowed to participate, the judge is free to impose conditions that may make their participation meaningless.

6. There is no mention anywhere in the proposed regulations of the criteria the Department will use to establish its enforcement priorities. Section 81.7 of the proposed rules reads in pertinent part: "taking into account priorities and available resources, the Director will decide where and on what schedule compliance reviews will be made." Therefore, in the absence of objective standards to determine priorities and without disclosure of the nature of the priorities themselves, the department has absolute discretion in determining enforcement. It was precisely this type of enforcement discretion that the *Adams* court rejected.

If the Secretary is sincerely interested in maintaining a rational system of monitoring and correcting institutional discrimination, innovative approaches to the problem must be exposed. For example, an effective and efficient method of fulfilling the statutory requirement of prompt investigations would be to allow complainants or third parties to initiate enforcement proceedings in their own behalf. Thus, without sacrificing the substantive or procedural rights of any party, HEW's investigative burden would be lessened.

Given the long and continuing struggle for equal opportunity in education in the South, HEW's position is both insensitive and irresponsible. The proposed regulations, if they become final, represent yet another example of the federal government's retreat and almost total abdication of its responsibility in the area of civil rights and equal opportunity. The Council, therefore, urges that the proposed HEW regulations not be implemented in their present form and that any changes that might be made incorporate individual complaint mechanisms, including aproaches supporting initiatives by complainants to initiate and participate in enforcement proceedings.

Very truly yours,

George H. Esser, Jr.,
Executive Director.

Leadership Conference on Civil Rights—Position Statement on Proposed HEW Civil Rights Enforcement Regulations

Changes that HEW Secretary Caspar Weinberger proposes to make in his Department's civil rights compliance procedures would gravely weaken the rights of citizens to equal treatment under law. If the proposed regulations[1] are permitted to go into effect, people who have been victims of discrimination because of race, color, national origin, sex or handicapping conditions would no longer be entitled to have their complaints investigated by HEW, the agency charged by law with redressing their grievances.

This peremptory dismissal of enforcement procedures called for by Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Sections 799A and 845 of the Public Health Service Act and Section 504 of the Rehabilitation Act of 1973 is a shocking abdication of responsibility. In a strong and unified voice, the undersigned organizations call upon HEW to withdraw the proposed regulation and to submit new proposals for strengthening the rights of citizens through better HEW enforcement.

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[1] "Consolidated Procedural Rules for Administration and Enforcement of Certain Civil Rights Laws and Authorities", June 4, 1975.

HEW's rationale for the new regulation is that it seeks to articulate "a methodical approach toward identifying and eliminating systematic discrimination." In the future, HEW proposes to treat a complaint merely as one of many bits of "compliance information" to be used to set its enforcement priorities. Each complaint will be formally answered, but he acknowledges only a duty to tell the complainant whether or not it "expects" to investigate the complaint within the next twelve months. If the complaint is not to be investigated as part of a larger review, in HEW's eyes, its duty to the aggrieved citizen is at an end.

This new procedure is inconsistent with federal civil rights laws, HEW's current regulations and a federal court order (*Adams* v. *Weinberger*) to investigate and determine the validity of all Title VI education complaints in the South within 90 days of receipt.

HEW's suggestion that the regulations are needed because its civil rights enforcement program has become "complaint-oriented" and "geared toward securing individual relief for persons claiming discrimination" indicates a misunderstanding of how discrimination operates in our society. In most cases, individual complaints reflect personal experiences which stem from institutional policies and practices of discrimination. Whether the complaint is from the parents of a child denied educational opportunities because of his or her handicap, or the parents of a non-English speaking child provided with no bilingual/bi-cultural instruction, or an elderly black man denied admittance to a nursing home because of his race, or a young woman denied admittance to a post-secondary welder's training program because of her sex—all are victims of policies and practices which if HEW's view prevails may now go uninvestigated and unredressed.

The excuses by HEW for withdrawing from an obligation to investigate complaints simply do not stand scrutiny. HEW officials plead lack of adequate resources to undertake simultaneous resolution of citizens' complaints and systematic compliance reviews. Yet for Fiscal Year 1976, HEW requested of Congress no additional Office for Civil Rights positions in elementary and secondary education, its area of greatest activity.

HEW claims that complaints have skewed its enforcement efforts, since it has received an overabundance of sex discrimination complaints about higher education employment, and an under abundance of national origin discrimination complaints. In fact, HEW has avoided resolving complaints in both areas. The Department refers many of its sex bias complaints to the badly overburdened Equal Employment Opportunity Commission, and many Spanish-speaking citizens have heard nothing from HEW about their complaints.

The complaints of handicapped individuals go unanswered because, HEW officials say, no regulations under Section 504 of the Rehabilitation Act of 1973 exist and because they lack expertise in correcting discrimination against the handicapped. But, almost two years have elapsed since passage of this statute, clearly sufficient time in which to develop both regulations and expertise.

With respect to race discrimination, however, Office for Civil Rights officials maintain they have so much expertise and sophistication that routine compliance review rather than complaint response activities are much more effective ways to eliminate racism. Why then, we ask, has the action in the area of school desegregation and related problems declined so dramatically since 1970? At that time HEW's Office for Civil Rights, with half the staff it now has, had a far more effective enforcement program.

Our organizations will not be divided by HEW's suggestions that some groups will benefit and others will suffer if individual complaints must be investigated. Our joint answer is that HEW has a duty to investigate promptly the grievances of all citizens; *none* of us will rest while violations of the rights of *any* person go unredressed.

The true purposes of HEW's proposed action are revealed by the fact that at the very time the agency seeks to avoid responsibility for investigating complaints, it also plans to curtail collection of other "compliance information" needed to enforce civil rights. We have learned that the Office for Civil Rights plans to eliminate entirely its annual elementary and secondary public school survey for the Fall of 1975—a survey already inadequate in obtaining information on discrimination against women and handicapped citizens. The decision of HEW to collect less, not more, information makes a mockery of its claim that it is seeking a means for "identifying and eliminating systemic discrimination".

None of us is satisfied with the manner in which HEW is carrying out its enforcement responsibilities. But HEW's proposed regulations proclaim that an agency which is doing a bad job can deal with its problems not by improving its performance but by eliminating many of the requirements of the job.

The time is past due for HEW to affirm its responsibility to eliminate discrimination in programs and activities it subsidizes. The question is not one of complaint investigation against self-initiated systematic reviews. A well-balanced and well-administered program embodying both approaches is essential to meet the requirements of law and we are prepared to offer recommendations on how such a program can be achieved. The more fundamental issue is whether HEW recognizes that government has no more solemn obligation than to be accountable to citizens and to protect the rights guaranteed them by law, and whether the agency has the will to carry out those obligations.

HOW BRITISH CONTROL ADDICTS

(Mr. HALEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HALEY. Mr. Speaker, recently I expressed in my weekly newsletter to my constituents my concern that we are spending more money and getting less results in our so-called antidrug war. The spreading use of heroin not only in our large cities, but in our smaller communities as well is a cause of particular alarm.

Mr. Waldo Proffitt, Jr., the editorial director of my hometown newspaper, the Sarasota Herald-Tribune, subsequently wrote an editorial regarding the British approach to heroin addiction which I believe is worthy of our consideration. I commend this editorial to my colleagues:

HOW BRITISH CONTROL ADDICTS

(By Waldo Proffitt, Jr.)

Heroin addiction has been held to a very low level in Great Britain for more than 50 years. In the same period, the use of hard drugs in the United States has mushroomed beyond effective control.

It would seem there is a message here.

The message can be found in the October issue of "The Journal of Legal Medicine," which carries a review of the book, "Heroin Addiction in Britain," by Horace Freeland Judson.

The British have taken the profit out of the drug market. They allow addicts to get a legal dose of heroin for 30 cents.

The British system developed from the 1924 report of a blue ribbon committee chaired by the President of the Royal College of Physicians. Judson says that the entire cost of the inquiry, including printing the report, came to $325.

The British committee approached the matter of drug addiction as a medical problem. It concluded that there are people ". . . to whom the indefinite prolonged administration of morphine or heroin may be necessary; those in whom a complete withdrawal of morphine or heroin produces severe symptoms which cannot be treated satisfactorily under the ordinary condition of private practice and those who are capable of leading a fairly normal and useful life so long as they take a certain quantity, usually small, of their drug of addiction, but not otherwise."

It was therefore arranged that British physicians could prescribe heroin for a patient upon notification to the Home Office.

In 1968, because of abuse by a few unscrupulous doctors, the system was modified to provide that addicts could be treated only at clinics and the addict's prescriptions would be mailed directly to his pharmacy.

In 1972 there were 1,619 narcotics addicts in Britain. At approximately the same time there were an estimated 626,000 narcotics addicts in the United States.

If you give Great Britain a population of slightly more than 50 million and the United States a population of slightly over 200 million and run these figures through your pocket computer, you will find that the British system works about 100 times better than the American system.

If you take cost into account, the comparison becomes even more lopsided. The British spend almost nothing, while we spend hundreds of millions of dollars every year.

The key difference in the two approaches, of course, is the different motivations they encourage or permit to operate. In Britain, addicts have no reason to buy from illegal sources. They have no reason to entice others into the path of addiction. Criminals, organized or unorganized, have no incentive to get into the drug trade or to bribe law enforcement officers into cooperation or at least neglect.

In this country, the addict needs a considerable sum of money each day to feed his habit. One way to get it is to recruit other addicts for whom he can be a supplier. Incredible profits are to be made (and are being made) in the smuggling and illicit sale of hard drugs. The profits make it possible to bribe public officials on whatever scale is necessary. The whole process results in a sort of self-perpetuating drug culture.

All of which would seem to indicate that there may still be one or two things the British are doing right. We should not be too proud to admit it—even in the Bicentennial year.

LABOR-HEW APPROPRIATIONS CONFERENCE REPORT

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, I take this time to note that I missed rollcall No. 743 today on H.R. 8069, final passage of the conference report on the Labor-HEW appropriations bill.

I was in conference with two Roman Catholic priests who have just been released from prison in Chile and for this reason missed the rollcall.

Had I been present I would have voted in favor of the conference report, which was passed by a vote of 321 to 91.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Helstoski (at the request of Mr. O'Neill), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. Smith of Nebraska) to revise and extend their remarks and include extraneous matter:)

Mr. du Pont, for 10 minutes, today.
Mr. Kemp, for 1 hour, today.
Mr. Bell, for 5 minutes, today.
Mr. Jeffords, for 15 minutes, today.
Mr. Sebelius, for 10 minutes, today.

(The following Members (at the request of Mrs. Lloyd of Tennessee) to revise and extend their remarks and include extraneous matter:)

Mr. Gonzalez, for 5 minutes, today.
Mr. Henderson, for 5 minutes, today.
Mr. Rostenkowski, for 10 minutes, today.
Mr. Ford of Michigan, for 5 minutes, today.
Mrs. Meyner, for 5 minutes, today.
Mr. Dingell, for 5 minutes, today.
Mr. Evans of Indiana, for 5 minutes, today.
Ms. Holtzman, for 10 minutes, today.
Mr. LaFalce, for 10 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Diggs, for 10 minutes, today.
Mr. Montgomery, for 15 minutes, today.
Mr. AuCoin, for 5 minutes, today.
Mr. Drinan, for 10 minutes, today.
Mr. Mezvinsky, for 5 minutes, today.
Mr. Rangel, for 5 minutes, today.
Mr. Koch, for 5 minutes, today.
Mr. Reuss, for 15 minutes, today.
Mr. Barrett, for 10 minutes, today.
Mr. Brademas, for 5 minutes, today.
Ms. Abzug, for 15 minutes, today.
Mr. Flood, for 60 minutes, on December 9.
Mr. Vanik, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Hawkins, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the Congressional Record and is estimated by the Public Printer to cost $1,787.50.

Mr. Howe, to include a personal explanation after the vote on H.R. 10612 today.

(The following Members (at the request of Mrs. Smith of Nebraska), and to include extraneous matter:)

Mr. McClory.
Mr. J. William Stanton.
Mr. Bell.
Mr. Whitehurst.
Mr. Symms in two instances.
Mr. Gude.
Mr. McKinney.
Mr. Ashbrook.
Mr. Derwinski.
Mr. Gilman in two instances.

(The following Members (at the request of Mrs. Lloyd of Tennessee and to include extraneous matter:)

Mr. Gonzalez in three instances.
Mr. Anderson of California in three instances.
Mr. Bonker.
Mr. Howard.
Mr. Steed.
Mr. Solarz in two instances.
Mr. de la Garza in two instances.
Mr. Harkin.
Mr. Maguire.
Mr. Murphy of New York.
Mr. Long of Maryland.
Mr. Hawkins.
Mr. Blanchard in two instances.
Mr. Rogers in five instances.
Mr. Mikva.
Mr. Delaney.
Mr. Russo.
Mr. Rangel in two instances.
Mr. Mezvinsky.
Mr. Sisk.
Mr. Vanik in two instances.
Mr. Won Pat.
Mr. Breckinridge.
Mr. Simon.
Mr. Barrett.
Mr. McDonald of Georgia.
Mr. Byron in 10 instances.
Mr. Jones of Oklahoma.
Mr. Alexander.
Mrs. Meyner.
Mr. John L. Burton.
Mr. Milford.
Mr. Teague in two instances.
Mr. Karth in two instances.
Mr. Harrington.
Mr. Pepper in two instances.
Mr. Santini.

ENROLLED BILLS SIGNED

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 568. An act to grant an alien child adopted by an unmarried U.S. citizen the same immigrant status as an alien child adopted by a U.S. citizen and his spouse; and

H.R. 6669. An act to authorize the Secretary of the Interior to engage in feasibility investigations of certain potential water resource developments.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee did on December 3, 1975, present to the President, for his approval, bills of the House of the following title:

H.R. 5197. An act to authorize the employment of certain foreign citizens on the vessel *Seafreeze Atlantic*, official No. 517242; and

H.R. 6971. An act to amend the Sherman Antitrust Act to provide lower prices for consumers.

ADJOURNMENT

Mrs. LLOYD of Tennessee. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 10 minutes p.m.), under its previous order, the House adjourned until Monday, December 8, 1975, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2148. A letter from the Secretary of the Interior, transmitting certification that an adequate soil survey and land classification has been made of the lands in the Fruitland Mesa project and that the lands to be irrigated are susceptible to the production of agricultural crops by means of irrigation, pursuant to Public Law 83-172; to the Committee on Appropriations.

2149. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 1-70, "To amend the law of the District of Columbia relating to the licensing of funeral directors, exhibitions of martial arts, and for other purposes," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

2150. A letter from the Acting Executive Secretary to the Department of Health, Education, and Welfare, transmitting proposed regulations governing community education programs under the Community Schools Act and the Special Projects Act, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

2151. A letter from the Acting Director, Office of Labor-Management Standards Enforcement, Labor-Management Services Administration, U.S. Department of Labor, transmitting a report on compliance, enforcement and reporting in 1974 under the Labor Management Reporting and Disclosure Act; to the Committee on Education and Labor.

2152. A letter from the Chairman, Federal Election Commission, transmitting proposed regulations governing the disclosure of campaign finances by candidates and committees involved in Federal elections, pursuant to section 316(c) of the Federal Election Campaign Act of 1971, as amended (H. Doc. No. 94-293); to the Committee on House Administration and ordered to be printed.

2153. A letter from the Administrator of General Services, transmitting a draft of proposed legislation to amend chapter 33 of title 44, United States Code, to require mandatory application of the General Records Schedules to all Federal agencies and to resolve conflicts between authorizations for disposal; to the Committee on House Administration.

2154. A letter from the Assistant Secretary of the Interior, transmitting the annual report for fiscal year 1975 on receipts and expenditures of the Department of the Interior in connection with the administration of the Outer Continental Shelf Lands Act of 1953, pursuant to section 15 of the act [43

U.S.C. 1339(b)]; to the Committee on Interior and Insular Affairs.

2155. A letter from the Chief Commissioner, U.S. Court of Claims, transmitting a report on allowance of claims of Native associations in proceedings conducted under the Alaska Native Claims Settlement Act, pursuant to section 20(g) of the act (Public Law 92–203); to the Committee on Interior and Insular Affairs.

2156. A letter from the vice president for Government affairs, National Railroad Passenger Corporation, transmitting the financial report of the Corporation for the month of August 1975, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

2157. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of certain aliens, together with a list of the persons involved, pursuant to section 212(d)(6) of the act [8 U.S.C. 1182(d)(6)]; to the Committee on the Judiciary.

Received From the Comptroller General

2158. A letter from the Comptroller General of the United States, transmitting a report that more improvement is needed in equipment management practices in Government laboratories; to the Committee on Government Operations.

2159. A letter from the Comptroller General of the United States, transmitting a report that the classification of Federal white-collar jobs should be better controlled; jointly, to the Committees on Government Operations, and Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MORGAN: Committee of conference. Conference report on H.R. 9005 (Rept. No. 94–691). Ordered to be printed.

Mr. MURPHY of Illinois: Committee on Rules. House Resolution 905. Resolution providing for the consideration of H.R. 10624. A bill to revise chapter IX of the Bankruptcy Act. (Rept. No. 94–692). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ASPIN:

H.R. 10987. A bill to increase mortgage limits under homeownership assistance programs administered by the Secretary of Housing and Urban Development; to the Committee on Banking, Currency, and Housing.

By Mr. BERGLAND (for himself and Mr. Sisk):

H.R. 10988. A bill to amend the Perishable Agricultural Commodities Act, and for other purposes; to the Committee on Agriculture.

By Mr. DIGGS:

H.R. 10989. A bill to provide for adherence by the United States to its international legal obligations under the United Nations Charter; to the Committee on Ways and Means.

By Mr. du PONT:

H.R. 10990. A bill to establish a commission to develop measures for improving the method of collecting and analyzing national employment information and statistics; to the Committee on Education and Labor.

By Mr. FORSYTHE (for himself and Mr. Downing of Virginia):

H.R. 10991. A bill to amend title 37, United States Code, so as to extend from 1 to 3 years the period that a member of the uniformed services has following his retirement to select his home for purposes of travel and transportation allowances under such title, and for other purposes; to the Committee on Armed Services.

By Mr. HAMMERSCHMIDT:

H.R. 10992. A bill to provide that in civil actions where the United States is a plaintiff, prevailing defendant may recover a reasonable attorney's fee and other reasonable litigation costs; to the Committee on the Judiciary.

By Ms. HOLTZMAN:

H.R. 10993. A bill to amend section 101(b) of the Immigration and Nationality Act; to the Committee on the Judiciary.

By Mr. HYDE:

H.R. 10994. A bill to require the payment of interest on certain funds of the United States held on deposit in commercial banks, to provide for reimbursement of commercial banks for services performed for the United States, and for other purposes; to the Committee on Banking, Currency and Housing.

H.R. 10995. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

By Mr. JENRETTE:

H.R. 10996. A bill to authorize adjustments in the national marketing quota and acreage allotment for tobacco; to the Committee on Agriculture.

By Mr. McCLORY:

H.R. 10997. A bill to amend the Voting Rights Act of 1965 to limit certain aspects of its coverage for other than racial groups; to the Committee on the Judiciary.

By Mr. MOTTL:

H.R. 10998. A bill to amend the Internal Revenue Code of 1954 to increase the amount of the estate tax exemption from $60,000 to $100,000; to the Committee on Ways and Means.

By Mr. QUIE (for himself and Mr. Brademas):

H.R. 10999. A bill to authorize the Secretary of Health, Education, and Welfare to distribute funds to Recording for the Blind, Incorporated, to assist such corporation in carrying out certain projects; to the Committee on Education and Labor.

By Mr. RONCALIO:

H.R. 11000. A bill to provide for an additional office building for the House of Representatives and to authorize additional space for the Library of Congress; to the Committee on Public Works and Transportation.

By Mr. St GERMAIN:

H.R. 11001. A bill to provide grants to States or political subdivisions thereof or to certain other persons to assist the restoration of historical cemeteries or burial plots, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. STEIGER of Wisconsin:

H.R. 11002. A bill to amend the Flood Disaster Protection Act of 1973 to make compliance with its provisions voluntary; to the Committee on Banking, Currency and Housing.

By Mr. TREEN:

H.R. 11003. A bill to amend section 98 of title 28 of the United States Code to authorize the U.S. District Court for the Eastern District of Louisiana to be held at Houma; to the Committee on the Judiciary.

By Mr. TREEN (for himself, Mr. Ketchum, Mr. Beard of Rhode Island, and Mr. Mollohan):

H.R. 11004. A bill to extend from February 1, 1976, to October 1, 1977, the period during which payment may be made for certain child day care services under titles IV and XX of the Social Security Act without regard to certain new staffing standards imposed by or under such title XX; to the Committee on Ways and Means.

By Mr. YOUNG of Florida (for himself, Mr. Udall, and Mr. Weaver):

H.R. 11005. A bill to amend part A of title XVIII of the Social Security Act to freeze the inpatient hospital deductible under the medicare program at its 1975 level; to the Committee on Ways and Means.

By Mr. JONES of Oklahoma:

H.R. 11006. A bill to allow limited deferral of excise tax payments by manufacturers of certain sporting goods, specifically fishing tackle; to the Committee on Ways and Means.

By Ms. ABZUG (for herself, Mr. Fascell, Mr. Brooks, Mr. Conyers, Mr. Harrington, Mr. Macdonald of Massachusetts, Mr. McCloskey, Mr. Maguire, Mr. Moffett, Mr. Moss, and Mr. Ryan):

H.R. 11007. A bill to provide that meetings of Government agencies shall be open to the public, and for other purposes; to the Committee on Government Operations.

By Mr. BAUCUS:

H.R. 11008. A bill to provide for certain payments to be made to State or local governments by the Secretary of the Interior based upon the amount of certain public lands within the boundaries of such State or locality; to the Committee on Interior and Insular Affairs.

By Mr. DIGGS (for himself, Mr. Gude, Mr. Fraser, Mr. Harris, Mr. Fauntroy, Mr. McKinney, Mr. Mann, and Mr. Litton):

H.R. 11009. A bill to provide for an independent audit of the financial condition of the government of the District of Columbia; to the Committee on the District of Columbia.

By Mr. DRINAN (for himself, Ms. Abzug, Mr. Ford of Tennessee, Ms. Holtzman, and Mr. Stokes):

H.R. 11010. A bill to amend chapter 7 (relating to judicial review of agency action) of title 5 of the United States Code to provide for the recovery of attorney fees as a part of costs in certain civil actions to obtain judicial review; to the Committee on the Judiciary.

By Mr. DRINAN (for himself, Ms. Abzug, Mr. Ford of Tennessee, Ms. Holtzman, and Mr. Stokes):

H.R. 11011. A bill to amend the Civil Rights Act of 1964 to provide reasonable attorney fees in cases involving civil and constitutional rights; to the Committee on the Judiciary.

By Mr. FISH (for himself, Mr. Badillo, Mrs. Collins of Illinois, Mr. Dellums, Mrs. Fenwick, Mr. Ford of Tennessee, Mr. Gude, Mr. Krebs, Mr. Long of Maryland, Mr. Ottinger, Mr. Rooney, and Mr. Charles Wilson of Texas):

H.R. 11012. A bill to amend the Immigration and Nationality Act to provide for the refusal of nonimmigrant visas in certain instances; to the Committee on the Judiciary.

By Mr. FORSYTHE:

H.R. 11013. A bill to incorporate the Gold Star Wives of America; to the Committee on the Judiciary.

By Mr. KEMP:

H.R. 11014. A bill to amend title 18 of the United States Code with respect to the calculation of the amount of honorariums which may be accepted by certain officers and employees of the Federal Government, and for other purposes; jointly, to the Committees on House Administration, and Ways and Means.

By Mr. McKINNEY (for himself, Mr. Dodd, and Mr. Sarasim):

H.R. 11015. A bill to provide for a Veterans'

Administration outpatient clinic in Fairfield County, Conn.; to the Committee on Veterans' Affairs.

By Mr. MINISH (for himself, Mr. Mitchell of Maryland, Mr. Derrick, Mr. Hayes of Indiana, Mr. Gonzalez, Mr. St Germain, Mr. Evans of Indiana, Mr. Hansen, Mr. Rousselot, Mr. McKinney, Mr. John L. Burton, Mr. Brooks, Mr. Johnson of Pennsylvania, and Mr. Reuss):

H.R. 11016. A bill to extend the Renegotiation Act of 1951 for 6 months; to the Committee on Banking, Currency and Housing.

By Mr. PRITCHARD:

H.R. 11017. A bill to amend Public Law 89-260 to authorize additional funds for the Library of Congress James Madison Memorial Building; to the Committee on Public Works and Transportation.

By Mr. RISENHOOVER:

H.R. 11018. A bill to reinstate the Modoc, Wyandotte, Peoria, and Ottawa Indian Tribes of Oklahoma as federally supervised and recognized tribes; to the Committee on Interior and Insular Affairs.

H.R. 11019. A bill to prevent the discharge in bankruptcy of debts becoming due within 5 years of filing in bankruptcy on educational loans provided for in Federal loan programs; to the Committee on the Judiciary.

By Mr. ROGERS:

H.R. 11020. A bill to amend the Internal Revenue Code of 1954 to extend the credit for the purchase of a new principal residence for an additional year; to the Committee on Ways and Means.

By Mr. TALCOTT:

H.R. 11021. A bill to amend the Internal Revenue Code of 1954; to the Committee on Ways and Means.

By Mr. CHARLES WILSON of Texas:

H.R. 11022. A bill to authorize a demonstration program for the purpose of eliminating rail-highway crossings in the city of Orange, Tex.; to the Committee on Public Works and Transportation.

By Mr. PERKINS:

H.R. 11023. A bill to authorize a career education program for elementary and secondary schools, and for other purposes; to the Committee on Education and Labor.

By Mr. FITHIAN (for himself and Mr. Madden):

H.J. Res. 741. Joint resolution proposing an amendment to the Constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

By Mr. HAYS of Ohio:

H.J. Res. 742. Joint resolution authorizing and requesting the President to issue a proclamation designating January 11-17, 1976, as Bicentennial Printing Week; to the Committee on Post Office and Civil Service.

By Mr. SEBELIUS:

H.J. Res. 743. Joint resolution: Free Market and Food Protection Resolution of 1976; to the Committee on Agriculture.

By Mr. BURLISON of Missouri:

H. Con. Res. 500. Concurrent resolution relating to the authority of the Federal Trade Commission to prescribe rules preempting State and local laws; to the Committee on Interstate and Foreign Commerce.

By Mr. MORGAN:

H. Con. Res. 501. Concurrent resolution providing for the presentation of the patriotic production "America, O America, the Beautiful" to a joint meeting of the Congress during the Bicentennial year; to the Committee on Rules.

By Mr. RISENHOOVER:

H. Con. Res. 502. Concurrent resolution indicating the sense of Congress that every person throughout the world has the right to a nutritionally adequate diet; and that this country increase its assistance for self-help development among the world's poorest people until such assistance has reached the target of 1 percent of our total national production (GNP); jointly, to the Committees on Agriculture, and International Relations.

By Mr. PEYSER:

H. Res. 904. Resolution calling for the imposition of a reciprocal price increase on goods exported to member nations of the Organization of Petroleum Exporting Countries; to the Committee on International Relations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DRINAN:

H.R. 11024. A bill for the relief of Leopold Morse Tailoring Co., to the Committee on the Judiciary.

By Ms. HOLTZMAN:

H.R. 11025. A bill for the relief of Isaac Sztulman; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII:

329. The SPEAKER presented a petition of the Joint Baltic American Committee, Rockville, Md., relative to Soviet control of Estonia, Latvia, and Lithuania, which was referred to the Committee on International Relations.

EXTENSIONS OF REMARKS

THERE CAN BE AN AIRSHIP IN YOUR FUTURE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1975

Mr. BROWN of California. Mr. Speaker, a few weeks ago I introduced legislation that I hoped would re-focus attention upon a neglected area of transportation, the lighter than air aircraft. Since that time I have received a great deal of public support, as well as congressional support, for this.proposal. For those who have not had an opportunity to consider House Concurrent Resolution 445, expressing the sense of Congress with respect to increased Federal efforts to prove the commercial viability of lighter than air aircraft, I would recommend that they review pages 33290 to 33293 in the October 21 Congressional Record. If after review, any Member wishes to be a cosponsor, I encourage them to contact my office.

At this time I wish to insert a fair, and somewhat hard look at this subject which was published in the July/August 1975 issue of Technology Review, which is published by MIT.

The article follows:

Is There an Airship in Your Future?

(By Joseph F. Vittek, Jr.)

(Note.—Joseph F. Vittek, Jr., is Assistant Professor of Aeronautics and Astronautics and Associate Director of the Flight Transportation Laboratory, M.I.T. He received his B.S. degree from M.I.T., his Juris Doctor degree from Suffolk Law School, and his LL.M. degree from Harvard Law School. Professor Vittek is the Chairman of the American Institute of Aeronautics and Astronautics' Lighter-Than-Air Technical Subcommittee, and he directed the recent Interagency Workshop on Lighter-Than-Air Vehicles, sponsored by the National Aeronautics and Space Administration, the U.S. Navy, the Department of Transportation, and the Federal Aviation Administration. His other areas of research include public policy analysis and the interaction of law and technology.)

The only airship most of us have ever seen is a small advertising blimp. Few of us can remember the large airships of four decades ago. Airships with lounges, promenades, dining rooms and accommodations for 100 passengers, airships that launched and retrieved airplanes stored inside their cavernous hulls, airships over 800 feet long—these are things of the past. Yet there is talk about new airships that would dwarf the biggest giants of the past, fly several times faster, carry greater loads, and solve many of the world's current transportation problems. Whether such behemoths are actually possible or merely based in nostalgia and wishful thinking, remains to be seen.

AIRSHIPS FROM A(RCHIMEDES) TO Z(EPPELIN)

Archimedes' Principle states that a body immersed in a fluid is buoyed up with a force equal to the weight of the displaced fluid. Therefore, an airship that displaces more air than its weight will rise in the fluid atmosphere. As early as 1250 A.D., Roger Bacon suggested that a hollow globe filled with "aetherial air" or "liquid fire" would float in the air like a boat on water. He neglected, however, either to define these mystical substances or say how they might be obtained. It was not until the 1780s, when both hot air and hydrogen balloons were introduced, that buoyant flight became a reality.

But more than buoyancy was needed to make airships practical. They had to be steerable (the French adjective for steerable, "dirigible," has become synonymous with "airship"). And they had to have the ability to propel themselves against the wind.

The propulsion problem was the most difficult. Many schemes were tried—oars and hand cranked air screws, as well as more imaginative approaches that defy both description and reason. The difficulty lay in the low power-to-weight ratio of both men and early engines. Dirigibles powered by lightweight steam and electric engines met with limited success during the last half of the 19th century, but not until petroleum-fueled engines were used in the late 1890's did airships become practical.

The same reasoning and economies of scale that have produced today's huge supertankers can also apply to airships: buoyancy is proportional to displacement; displacement increases faster than structural weight as size increases; therefore larger vehicles carry larger cargoes, not only in absolute terms but also in terms of per cent available for payload. Also, payload increases faster than do crew and fuel requirements. Thus the tendency toward larger airships seems natural.

The first person to truly take advantage of size was Count (Graf) Ferdinand von Zeppelin. He realized that an airship had to be large to be successful. And to be large, it had to have some rigid structure. Zeppelin's first airship, flown in 1900, was over 400 feet long and used circular frames connected by longitudinal girders that ran the length of the ship. The circular frames were cross-braced with steel wire, and gas bags were inserted in the bays between the cross-braced frames. The outside of the structure was covered with stretched fabric.

With few exceptions, all large airships ever built have followed the Count's basic design, and "Zeppelin" is often used to describe all large rigid airships, whether actually constructed at the Zeppelin Works or not.

BUOYANCY IS UPLIFTING

Airships which use buoyancy aerostatic lift rather than powered aerodynamic lift are five to ten times more energy-efficient than airplanes because their energy is used only for motion, not for support. This is of course offset by the lower operating speed of the airship, whose most efficient cruise speed is between 50 and 120 miles per hour, depending on the design. It is possible to design airships for higher speeds, but energy consumption grows exponentially.

Lower energy consumption means less pollution and noise because smaller power plants are required. Also, the large lift capability of airships permits the use of pollution and noise abatement devices which would impose a severe weight penalty on an airplane.

Large lift means large loads in terms of both total weight and payload size. Airplanes are designed for optimal payloads with a density of approximately 10 pounds per cubic foot, but most payloads never reach this ratio because the density of most cargo is considerably less than this number. In contrast, the large cargo bays possible in airships could usually reach payload weight limits long before they fill up physically, and there would thus be no penalty for the transport of low-density, bulky products. Lower operating speeds would also allow external carriage of outsized objects that could not fit inside conventional aircraft.

Finally, buoyant lift permits airships to hover. In this mode, payloads can be winched on and off, lessening the need for ground facilities, allowing operations at undeveloped sites.

GRAND DAME TO MATA HARI

The advantages of buoyant lift make airships uniquely suited for certain missions. Although low speeds limit their use for general passenger transportation, their spacious accommodations could offer a level of luxury unknown in present air travel and create a new market for air transportation similar to that of ocean liner cruises. Airships are faster than truck, rail or water transport. This could lead to diversion of certain types of general cargo from these modes, especially where the airship's ability to hover would allow direct origin to destination service. These same characteristics make airships attractive in developing nations; airships can provide transportation to isolated villages, particularly in terrain where airstrips would be too difficult or expensive to construct. Perhaps their most important use would be to open up remote mineral resources or agricultural areas for development. When the costs of building roads or railroads into such areas are considered, airships are estimated to be better investments until traffic levels exceed 100 million ton-miles per year, especially when costly port facilities are needed for overseas export.

Other suggested commercial uses include the erection of modular housing—mass-produced at the factory then transported to the building site and lowered into place by airship. Power plant components can also be handled this way. There are several proposals to transport natural gas and other volatile substances by airship directly from the wellhead without the need for expensive liquification facilities and cryogenic tankers.

Airships could provide needed public services as well. Hospital facilities could be transported to disaster areas when the conventional transportation system has been disrupted or is inadequate. Pollution control and environmental monitoring are other social missions where the airship's ability to fly to a site and then loiter for long periods could be particularly useful.

Military uses are numerous. By taking advantage of the immense areas on the sides of the airship, phased array radars of unprecedented power and performance could be designed that would permit surface and air surveillance of extremely large areas, especially over the oceans. This would allow the early detection of low trajectory submarine-launched missiles. The airship could even launch intercepting missiles. Equipped with air-to-air, air-to-surface and anti-missile missiles, the airship would become an effective offensive as well as defensive sea-control weapons system. If aircraft were carried, the airship could be an even more potent tool.

Perhaps the biggest role of the airship would be for submarine surveillance and anti-submarine warfare. Faster than surface ships, and able to use more powerful search devices than airplanes, airships can sweep larger ocean areas in a given time period. In one to two weeks, for example, a fleet of approximately 20 airships could search the entire North Atlantic for enemy submarines. A considerably longer time or larger number of vehicles would be needed to perform this task by ship or airplane. And the airship alone has the speed and endurance to track and trail the enemy once detected and to attack, if necessary.

Airships could also be used for troop and cargo transport, for command and control missions, or as airborne platforms for the launch of strike aircraft or long-range ballistic missiles.

THE BIGGER THE BETTER?

The use of helium instead of hydrogen has eliminated the danger of catastrophic fire. But airstrips still have their own unique problems, many directly related to size. The Hindenburg and its sister ship, the Graf Zeppelin II, both over 800 feet long with a gas capacity of 7,062,940 cubic feet, were the largest airships ever built and flown. Yet many analysts feel that a 10,000,000 cubic foot airship is the smallest that would be commercially feasible today. Some even talk of 50 or 100 million cubic foot airships, 1,800 to 2,500 feet long.

The first decision in dealing with any airship even a fraction of the Hindenburg's size is where to build and maintain it. Large hangars were used in the past, and there are still about a dozen of these buildings that could house airships of the ten million cubic foot class in the United States. To build airships any larger, however, new and expensive facilities would have to be developed.

These new facilities would also require large land areas. When an airship is moored outside the hangar, it must be free to swing in the wind. Although expensive paved runways and apron areas are not needed, the land area required to handle just a few airships simultaneously is approximately that of many big city airports. When remote operations with the U.S. Macon were considered, the site selection guidelines recommended a three-mile radius clear zone even though the airship itself was less than 800 feet long.

Ground handling of large airships presents problems, too. In the past, crews numbering in the hundreds could not always control airships on the ground, particularly in cross winds.

Several ideas have emerged to improve ground handling. The first is to use hangars that float or are mounted on turntables so they could always face into the wind, but the expense of building a turntable large enough to accommodate an airship would probably be prohibitive. A floating hangar was used by Zeppelin for his first airships, but abandoned as unsatisfactory. A second idea is to keep the airship continuously airborne once it is built. All supplies, cargo, crew, etc., would be winched up and down in modules while the airship hovered overhead. The third idea is an extension of the techniques developed for handling large rigids in the 1930s and for U.S. Navy blimp operations in the late 1950s and early 1960s. When the airship lands, it is tethered to mobile vehicles (railroad cars were used for the large rigids) and then towed into the hangar. The same equipment used for the Navy blimps could be adapted to rigid airships of up to 3 million cubic feet. Larger, heavier models of that equipment could handle an airship of up to 15 million cubic feet. Beyond that, the hover mode may be the only answer.

AIRSHIPS HAVE THEIR UPS AND DOWNS

Even though vectored (directional) thrust or aerodynamic lift may be used to offset variations in buoyancy, airships are still buoyant vehicles. If an airship is "heavy"—if it weighs more than the air it displaces—it will descend. If it is "light," it will ascend. Because the density of air decreases with altitude, the higher the airship rises, the less the displaced air weighs. Eventually it will reach equilibrium—the airship's "static ceiling."

Atmospheric pressure also decreases with altitude, allowing the lifting gas to expand in the cells. At "pressure height," the cells are full. If the airship goes higher, gas must be vented or the cells will burst. But venting gas is expensive, particularly if helium is used, and the subsequent lessened lift during descent creates additional problems. Therefore airships are never intentionally operated above pressure height.

For a given airship to operate at a higher static ceiling, its gross weight at takeoff must be decreased, increasing the buoyant lift. To operate at a higher pressure height, less gas is placed in the cells at the start of a flight. This decreases lift and again gross weight must be decreased to compensate. Because the structural weight is fixed, gross weight can be reduced only by carrying less payload (or less fuel, which means less range). Therefore, airships are intrinsically low-altitude vehicles, with limited carrying capacity over mountainous terrains and limited ability to climb above storms. Airships of the 1930s were typically operated at pressure height of 2,000 to 4,000 feet with a static ceiling of 5,000 to 6,000 feet. (The Germans did design "height climber" Zeppelins during World War I to operate above 20,000 feet, but this was done at the expense of payload and structural integrity.)

During flight the airship consumes fuel, lessening its weight and destroying equilibrium. To compensate, ballast recovery systems were designed to condense water out of engine exhausts. Another method was to scoop water from oceans or lakes with buckets on ropes. Proposed nuclear powered airships do not face this problem because fuel is not consumed but converted.

Reliance on buoyant flight creates other problems as well. Airships can load and unload while hovering, but to do this they must maintain neutral buoyancy (or use vectored thrust and great power to overcome buoyancy fluctuations). As goods are unloaded, ballast must be taken on board, and as goods are loaded, ballast must be released. Obviously, arangements for ballast must be made in advance, lessening the airship's ability to serve undeveloped sites.

Thermal variations cause buoyancy variations. A Zeppelin ground crew often had a team whose sole responsibility was to climb on and off the moored out airship as alternating sun and clouds varied the heat, and therefore the lift, of the gas. In actual flight, thermal problems were caused by layers in the atmosphere. A warm airship descending into colder, denser air or a cool airship ascending into warmer, less dense air occasionally had to wait for the gas and air temperatures to equalize before it could penetrate the thermal barrier. (The use of swiveling propellors to vector thrust in the airships *Akron* and *Macon* greatly reduced this problem.)

In addition to vectored thrust, several other technological solutions to buoyancy control have been proposed. On-board compression or liquification of gas could be used to control gas volume, but the necessary equipment may be too heavy. The use of engine heat or the discharge of steam into the cells could control gas density thermally. Whether these methods require insulation of the gas cells and what the response time of the system is remains unknown. However, it is safe to say that ballast control and gas valving will always be required, at least for buoyancy control in emergencies.

A FAIR WEATHER FRIEND

Out of the 162 rigid airships that have been built (178 counting rebuilt or converted vehicles), 99 have met violent ends. But look below the surface: 62 were lost in enemy action or needless hydrogen fires; 18 were lost during landing or ground operations. These losses could have been avoided if modern techniques and equipment had been available.

Of the 19 airships lost in flight, the major culprit was structural failure in violent weather. This does not mean that airships cannot survive bad weather, or that the structures or designs were defective. In almost every case, the design was more than able to survive anticipated weather—the problem was that the weather encountered was much worse than anticipated.

With today's more precise knowledge of meteorological forces, modern computer-aided structural design and analysis techniques, and modern materials, there is no doubt that stronger, safer airships can be built. Until the 1930s, when commercial airship operations ceased, the fatality record of airships was comparable to that of airplanes. The German airship line founded by Zeppelin carried 40,000 passengers and flew almost 25,000 hours during 4,000 flights with the loss of only 13 passengers—all in the *Hindenburg* conflagration.

DOLLARS AND DIRIGIBLES

If any new method of transportation is to gain acceptance, it must offer an improvement over existing systems in terms of cost or performance or both. Therefore, the revival of airships will depend on their ability to capture traffic from an existing mode or generate new traffic by offering services in demand but currently unavailable. In a military context, airships must be able to perform missions better or more cheaply than present modes, or offer a capability desired but unavailable.

There is a clear performance gap in terms of speed between current surface transportation and jet aircraft that an airship might fill. The question is the cost of airship service.

Cost is dependent upon many variables: the cost of the vehicle, its service life, annual utilization, fuel and crew, etc. While these costs can be predicted for a new airplane well before its first flight because of the vast amount of data available on past and present aircraft construction and operating costs, airships lack that advantage. The last valid data for large airships come from the 1930s when airship costs were competitive with airplanes. Few would attempt to extrapolate that trend to the present.

Preliminary analysis indicates that there is a market for airship transport of large indivisible loads, if the cost remains below ten cents per ton-mile. If the cost could be further lowered to four cents per ton-mile, airships could start diverting traffic from airplanes, truck and rail. Several cost estimates by potential manufacturers and others indicate that the higher figure is indeed possible but the lower is still in doubt. Similar analyses to estimate the airship cost effectiveness for military missions are possible, but few have been completed.

MORE THAN ONE WAY TO GET HIGH

Among the many proposals for airships, some are for different types of vehicles which are not totally buoyant. These suggested "hybrids," which combine aerostatic and aerodynamic features, are quite varied: some are classic airship designs pulled and pushed and sprouting wings; others are based on balloon-rotary wing combinations; others are forms of lifting bodies that look much like large space shuttles or re-entry vehicles.

The hybrid vehicle can offer faster speeds, better control and easier handling than conventional airships. In comparison with airplanes it offers higher payloads and better energy efficiency. Indeed, studies show hybrids technically possible and economically practical. A proof-of-concept lifting body design has been successfully flown.

But hybrid concepts remain unproved and their use is probably farther into the future than is a revival of classic airship designs—if, indeed, that is to take place. And hybrids, to be accepted, must meet the same economic and market tests as conventional airships.

Several unmanned buoyant systems, which might be useful for special applications, are also receiving attention: tethered balloon systems for logging, communication, and radar applications are currently operational and earning profits for their operators and manufacturers; high altitude station-keeping vehicles for surveillance and communication will be flown shortly.

The military is interested in some of these systems for offloading supplies onto undeveloped beachheads. The communication and surveillance applications also have clear military as well as commercial potential.

HELD UP BY REDTAPE

The final barriers to airships are those imposed by government regulation, union contracts and the like.

How will airships be certified? The Federal Aviation Administration has been struggling for several years to develop standards for aircraft capable of using short runways, although the differences between these planes and conventional aircraft are not that dramatic. How long will it take to develop standards for commercial airships?

How will airships be handled by the air traffic control system? At the least, because of their relatively low speeds and altitude restrictions, special procedures of some type will be needed.

How will airships be tested? What safety standards will apply? Will airships be operated by airlines or by shipping companies? Will certificates of public convenience and necessity be required? Will the aviation or the maritime unions have jurisdiction? Will the Civil Aeronautics Board or the Federal Maritime Commission have regulatory control? What of our international bilateral agreements? Will they apply or will new negotiations be needed?

Although these issues are currently overshadowed by the technical and economic questions, they must at least be considered.

IS THERE AN AIRSHIP IN YOUR FUTURE?

Interest is strong in airships, and with some justification. They do offer the potential to solve some serious transportation problems and to improve service. Many of their previous drawbacks have been solved with new concepts and new technology. But do airships make sense economically?

Many advocates feel that further technical and economic studies are a waste of time. Because an airship must be built and flown to get data and end speculation, it may follow that once airships are flying and people can see what they can do, innumerable unsuspected uses will be found justifying the investment. This may be true, but who is going to pay for the construction and flight of that first airship?

Conservatives argue that, if airships are practical, the private sector will produce them. They also point to the development of the unmanned systems for logging and communications. But this argument ignores two factors. First, the logging and communications applications are not significant departures from the current state-of-the-art in sport and high altitude research ballooning. There is no state-of-the-art for large airships. Second, the magnitude of the investment and risk is much greater for large airships. Because of the large development costs of modern technology, it is claimed that American aircraft manufacturers no longer have the capital to undertake new large-scale airplane design programs. If this is true for airplanes, a field in which the United States leads the world, it is no wonder that manufacturers hesitate to begin private large-scale airship development programs. If a large-scale airship program is to start in the near future, it will have to be government supported.

But government support of commercial airship development is extremely unlikely. The SST experience is still too vivid. And Congress is too busy with the present problems of bankrupt railroads, airlines and manufacturers to chase potential will-o'-the-wisps.

In the military there is much interest in airships and other buoyant systems, but this is balanced by strong antagonistic forces. Some development will probably occur, but not rapidly or on a large scale.

Even if neither the aviation industry nor the government is willing to support development of airships, the airship underground will continue to function. At this moment a father and son team are building a small rigid airship in the desert of Arizona, a young southern California entrepreneur is building a sport blimp in his backyard, and a sport balloon company is about to introduce a thermal blimp—small companies with a concept and a dream keep appearing.

We may be seeing the rebirth of silk-scarf aviation. The same types of people who brought airplanes out of their infancy may bring airships out of oblivion in spite of established industry, the government—and the odds.

AIRSHIP TERMS

Dirigible: Any buoyant vehicle that can be steered in free flight with or against the wind.

Non-rigid: An airship without internal support or structure. The hull is the gas envelope and its shape it maintained by internal gas pressure. The actual car, crew quarters, payload, etc., are external to the gas envelope.

Blimp: A non-rigid airship. Several sources of the name are given. One well documented origin is that "blimp" resembles the sound made when a non-rigid airship is tapped with a finger.

Semi-rigid: An airship with a structural keel attached to the gas envelope, but without other support. The envelope still depends on gas pressure for support.

Non-pressure rigid: An airship with a rigid structural skeleton. The outer envelope is attached to the framework and does not depend on pressure for its shape. The gas is contained in cells inside the rigid structure.

Zeppelin: Strictly speaking, a non-pressure rigid airship produced by the Zeppelin Company. Often used synonymously for all airships of this type.

Pressure rigid: An airship with a rigid exterior shell partially supported by internal gas pressure. A blimp with a metal skin instead of fabric.

Hybrid: An aircraft that uses large amounts of both aerostatic and aerodynamic lift. A combination airship-airplane.

SENATE—*Friday, December 5, 1975*

(Legislative day of Tuesday, December 2, 1975)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. JOHN C. CULVER, a Senator from the State of Iowa.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Hear the words of the 145th Psalm:

The Lord is nigh unto all them that call upon Him, to all that call upon Him in truth.

He will fulfill the desire of them that fear: He also will hear their cry, and will save them.—Psalms 145: 18, 19.

In all our need we come to Thee, O Lord, in confidence that Thy presence is the answer to every prayer. Make us mindful of Thy nearness while we work. If we forget Thee do not forget us. Guard us and guide us so that our thoughts may be Thy thoughts, our words Thy words, our ways Thy ways, that blessing and honor may come to the Nation and Thy kingdom advanced on Earth.

In His name who is King of Kings and Lord of Lords. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 5, 1975.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JOHN C. CULVER, a Senator from the State of Iowa, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. CULVER thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Thursday, December 4, 1975, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

REMARKS OF SENATOR MANSFIELD BEFORE PACEM IN TERRIS IV

Mr. MANSFIELD. Mr. President, I ask unanimous consent that remarks I made before Pacem in Terris IV on yesterday be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR MIKE MANSFIELD

Foreign Policy will be an issue in the 1976 campaign. Barring the unexpected, however, it will be only an issue, not the issue. The emphasis in the coming campaign will be on affairs within the nation. In particular, it will be on the state of the nation's economy. Notwithstanding the effort to talk away our economic difficulties, there has yet to be a recovery from the worst recession in forty years. At best, we have managed only to hold on by fingertips; only a marginal momentum has been generated for recovery. The failure to face up to the nation's economic problems is to be seen in the continued high unemployment and inflation. Deeper consequences are visible in a general public disquiet and disaffection with government. Still deeper, in the bedrock of the nation, are the dangerous fissures of social division.

That is hardly a basis on which to build a national contribution to Pacem in Terris. So, I reiterate, the prime issue in the coming election will be a meandering economy. Unless we put a stop to the present drift and begin, also, to look with some coordinated foresight to the looming economic problems which are only a few years away, the international role of this nation for the next decade will be, at most, an indifferent one. Indeed, it could even become negative, insofar as contributing to international peace and stability is concerned.

As for foreign affairs, what is likely to be of major consideration in the next election will be the drain of outdated policies as a factor in the decline of the economy. Unlike earlier years when money was spent for activities abroad as though the nation had it to burn, every dollar that now goes into anachronistic policies and the military structure to support them is coming, not out of an affluent economy; it is coming out of the hides of the people. It is coming from those millions of Americans without tax havens and with no ways to hedge the inflation. Dated foreign policies are a double burden on an already overburdened segment of the populace.

Expenditures in the name of foreign policy or defense, even valid expenditures, require taxes and contribute to the pressure for inflation. If such expenditures are in excess of contemporary needs, they strain the economy unnecessarily and, in the end, do harm to the structure of the nation.

Take, for example, the policy of stationing troops in all parts of the globe. Whatever relevance such policies may have had in the immediate post-World War II period, it does not follow that they are still relevant three decades later. Nor does it mean that the nation's defense will collapse if we alter these deployments, scale them down or even in some cases cut them out entirely. Over half-a-million soldiers were returned from Viet Nam without endangering the national security. There are other areas where similar adjustments, far less drastic to be sure, seem to me to be entirely possible and very desirable.

The world changes. We have to change with it. But the wheels of government, regrettably, tend to remain in ruts, especially in regard to national security affairs. The lesson of Viet Nam, for example, has yet to be learned. Even now an effort is being made to maintain a military position on the Southeast Asian mainland. The Executive Branch beseeches the Thai government to permit us to keep at least a shadow of our former presence in that nation. What for? A toehold in Thailand will cost the nation millions of dollars—that much is clear. But into what grand design for national security and peace do we fit a few thousand American servicemen and a scattering of moth-balled military bases in Thailand? Similarly, there is great reluctance in the government to recognize that over a period of time, there has to be a reduction of U.S. forces in Korea and in Japan.

The emphasis of policy in Asia, in short, is as it has been for the past quarter of a century or more. It remains an emphasis on the United States as a "military defender." There is, to be sure, a military role for the United States to play in the Western Pacific. In any integrated concept of a durable peace in that region, however, the accent should have long since shifted to multilateral diplomacy and on how to sustain an expansion of commerce and other mutually beneficial relationships. In such a concept, too, I should think that we would have already moved to try to establish regular diplomatic relations with the present governments in Viet Nam, Cambodia and Laos as a contribution to stabilizing the situation in Asia.

That course would also be the best way to permit a final resolution of doubts concerning the still missing in action as a result of the Indochina war. It is not a sufficient answer to the question of their fate to proclaim over and over again our national concern or to memoralize our sympathy. Nor is there any real contribution to the peace of mind of the families of the still missing in demanding with words what cannot be obtained in the absence of diplomatic contact. That course, in my judgment, borders on making a political mockery of human heartaches.

It is time to get final answers on the MIA's. It is time to find out what can be found out and then to let the dead rest in peace. It is reprehensible in the extreme to treat the war casualties of this nation as "bargaining chips" of diplomacy or the pawns of politics.

In any design for durable peace, it is also time to drop the approach which led us into the tragic misadventure in Indochina and into two decades of alienation as regards the people of China. It is time to discard the assumption that this nation's power is such as to be able to control the flow of events on the Asian mainland. Viet Nam should have made clear that our ability even to exercise a rational influence on the affairs of that continent is limited. Underscoring the point are the wasted years and the squandered resources in dealing with China on the basis of the long-distance hostility of cold war.

The United States is, in my judgment, not an Asian power but a major Pacific nation. The difference is more than semantic. It is the difference between a sensible acceptance of the realities of Asia and the dangerous illusions of military omnipotence. It is the difference between what this nation can reasonably do for peace and freedom and the serious damage which it does to itself when it presumes to do more.

The outer limits of our unilateral and bilateral defense in the Pacific, in my judgment, are the Aleutians, Japan and the Philippines. Beyond that, insofar as this nation is concerned, the enhancement of the nation's security is properly sought in developing multilateral relationships of peace and in strengthening bilateral relationships with Asian governments, preferably those strongly rooted in their own people. In short, the projections of the military defense of the Western approaches to the United States should be confined to the Pacific Ocean. We ought not, as we have done, presume to extend them on to the Asian mainland.

Nor, in the name of defense, should we pursue a course which leads us militarily into a third ocean, the Indian Ocean, and its adjacent lands. The first step in that direction, I regret to say, has been taken by the backdoor acquisition of Diego Garcia through questionable leasing practices. The development of that base is probably the opening gun in a campaign to build an Indian Ocean fleet. What for? What interests of the people of this nation are involved that they should be called on to pay for a third-ocean navy? In truth, we have neither the manpower nor the resources to engage in an arms buildup in the Indian Ocean, without massive increases in Federal expenditures. If the Diego Garcia boondoggle materializes, what we will have gained, in my judgment, is not greater security for this nation but a further weakening of our capacity to meet the real needs of the American people. We will have established the nucleus of another massive burden of taxes and inflation.

One hopeful sign in this situation is that the Senate on its own responsibility and the House in conference with the Senate, directed that appropriations for fiscal '76, except for a $250,000 safeguard—on the airfield at Diego Garcia—be held off until April 1. During that period, the President has been asked to try to negotiate a settlement with the Soviet Union which could preclude both powers from establishing bases in the Indian Ocean. That is not much because if we are determined to waste our substance, I expect that the Russians are not going to help us to save it. At least, however, the measure does permit a brief period to stop, look and listen before we proceed further along this course.

On the other side of the globe, we have in excess of 500,000 military personnel and dependents in Western Europe, thirty years after the end of the Second World War. It is probably the most costly single expenditure for a nonproductive purpose in the Federal budget. This anacronistic deployment is a relic of World War II and the early years of the Cold War. Whatever relevance it may have once had to the nation's security has all but disappeared. Even as an interim measure, the U.S. military deployment in Europe has little significance in its present form, to the search for a durable peace in Europe. Much less does it relate to the actual defense of that continent against an invasion from the East. Nevertheless, the drain on U.S. military manpower and U.S. dollars is unabated. I can only reiterate what I have said many times over the past dozen years or more: The deployment can and should be cut substantially and unilaterally in line with the interests of the United States. It will not weaken our defense, in my judgment; rather, it will strengthen the nation by lightening the burden on the economy.

As of last July, including this European deployment, we had a total of 518,000 military personnel overseas. In addition, 37,000 U.S. citizens and in the neighborhood of 150,000 foreign nationals were engaged as civilian employees in support of these forces. Finally, 370,000 dependents of U.S. servicemen were overseas to accompany them. The total is 1,060,000 people, in one form or another stationed abroad, paid for by U.S. taxpayers, for what are termed "defense purposes." Not even mentioned are bargain-basement sales or gifts of military equipment to other nations also, presumably, for U.S. defense or foreign policy purposes. The subsidized cost of these activities, too, is borne by the people of the nation.

If, as the Executive Branch contends, the role of world policeman for this nation has been rejected, then where is the pattern in this vast military commitment abroad? The fact is that there is no pattern. What this nation has abroad, supports abroad and promotes abroad, is a composite put together out of carry-overs of World War II, the Korean War and the Southeast Asian misadventure. Add to this motley collection, a host of random undertakings over a period of several decades often for purposes long since forgotten. Add to it, finally, military aid to dozens of countries and vigorous arms merchandising by the Defense Department in the manner of some latter-day Sir Basil Zaharoff. Who is trying to sort out this immense, disparate and costly conglomerate? Where is the effort being made to separate the wheat from the chaff? The wasteful from the necessary? Where are the up-to-date integrated strategic concepts into which to fit specific U.S. defense activities abroad? The answers to these questions have yet to be supplied. They must be forthcoming. They are, in my judgment, an absolute requisite both for the restoration of the U.S. economy and for an effective U.S. contribution to peace on earth in the years ahead.

SENATOR HUGH SCOTT'S DECISION NOT TO SEEK REELECTION

Mr. MANSFIELD. Mr. President, it was with great sadness, but with no surprise, that I read of the desire on the part of the distinguished Republican leader of the Senate not to be a candidate for reelection next year. Senator Scott did me the honor of informing me approximately 2 years ago that he would not be a candidate for reelection. He asked me to keep in confidence what he told me. I did. Therefore, I was not surprised.

However, not being surprised does not lessen my sense of sadness; because of all the Republican leaders alongside whom I have worked—there have been three—none has been more cooperative, more understanding, more of a partner than the distinguished Senator from Pennsylvania.

He has represented his party and the Senate well. He is a man of integrity, so far as my personal relationships with him are concerned, and I have nothing but admiration and respect for him.

I am sorry that he has decided not to be a candidate for reelection, because he has represented his State with distinction, with honor, and with a wide area of knowledge. He is a good man and has been an extraordinarily good Senator. He has represented his party extremely well in the Senate—and representing the Republicans in the Senate is not an easy job. I would say that my job on this side of the aisle has been far easier than his job on that side of the aisle.

I could not let this moment go, now that I have been released from the period of confidentiality, without expressing my personal admiration, affection, and respect for the distinguished Republican leader of the U.S. Senate.

Mr. GRIFFIN. Mr. President, "a legend in his own time" is a description that fits very few. But for Hugh Scott of Pennsylvania—scholar, author, art expert, lawyer, naval officer, teacher, statesman, master politician, Senate leader—the fit is very comfortable and most appropriate.

In the days ahead, we will probably hear many attempts—in addition to my feeble attempt today—to pay tribute appropriately to the leadership of this great Senator from Pennsylvania, who is and has been such a friend and counselor to all of us. Some will list his legislative achievements. Any such compilation will include and refer the brilliant and dedicated leadership he has brought over the years to the development and enactment of civil rights legislation. Nothing could be more important, and I am sure that there is nothing of which he could be more proud than the contribution and the leadership he has provided in that field, moving our country closer and closer to the ideal of opportunity without discrimination.

But I join the senior Senator from New York (Mr. Javits) in his observation on yesterday that perhaps the greatest contribution of Hugh Scott to the Senate is associated not so much with particular bills or pieces of legislation as with his unique ability to make the Senate a more decent and comfortable place to work and to associate.

His matchless way with words and his keen ability to employ the analogies of history and literature to debate are admirable. But even more important and valuable, perhaps, is his marvelous sense of humor, his wit—his ability to sense the mood of the Senate, to say just the right thing at the right time, to make sure that serious people considering serious subjects do not take themselves too seriously in the process.

As he has said,

> If the Senate is to continue as the greatest deliberative body in the world, it is essential that at all times we recognize the leavening effect of humor and good will, and the importance of remembering that we exist only through mutual comity, cooperation, and tolerance of dissent.

It is very remarkable and a great tribute to this man, as the majority leader has suggested, that even though he has been a very strong partisan, leading and shaping the Republican Party throughout his political career, some of his strongest and closest friends are on the other side of the aisle. The friendship and respect he has earned knows no party line.

I join in noting the sadness of the announcement made last evening. I feel sorry for the State of Pennsylvania, which will lose such a great spokesman. I feel sorry for the Senate, and, of course, I feel sorry for my party. However, I also feel gladness for Hugh and Marian, who have seen fit, most appropriately, to reserve some years to themselves after devoting so many years to public service. We shall miss them after Hugh actually leaves the Senate. But at this time, we can also be grateful that he will continue to be around for another year. We can look forward to the opportunity to continue to walk in his shadow, to learn, and to benefit from his counsel and his guidance.

Mr. President, I ask unanimous consent to have printed in the Record the very eloquent statement made by Senator Hugh Scott in Pittsburgh last evening.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Remarks of Senator Hugh Scott Given at a Meeting of Pennsylvania Republican Leaders at the Pittsburgh Hilton Hotel, Pittsburgh, Pa.

Sir Philip Sidney once said: "It is fitting that a man should give a reason for the faith that is in him."

I have that faith in my country and in my party's role in our evolving future.

Let those who believe, rally. Let those who rally, work. Let those who work, persuade.

As one of you, I will campaign in 1976—as hard as I know how to elect President Ford and our Republican candidates at all levels.

I have been much honored by you, by Pennsylvanians and by my Senate colleagues.

I enjoy my work and the meaning of my work: the opportunity to share the problems of my constituents, the communication by mail with over 800,000 of them, the thousands of personal meetings.

That sharing has been made possible by the effective, competent and loyal service of the very finest staff on Capitol Hill. I would like to thank them all by name if that were possible. They have all been truly wonderful.

There has been much satisfaction in leadership in legislation on just about every national issue including civil rights, the opening up of the Senate through rules changes, limitations on Presidential war powers and the enactment of general welfare legislation. In short, the right to try over 33 years to move the massive wheel of government toward good purposes.

There have been a considerable number of persons, including the President, who have asked me to be a candidate once more. They have been persuasive. I must tell you here whether they have persuaded me.

In my working days I have never been aware of the clock. It is more difficult to disregard the calendar or, as Shakespeare says: "the unaudible and noiseless foot of time." I have, on the one hand, been blessed with good health and a strong constitution (with few amendments!). On the other, there are considerations of seniority. Not mine—I have that—but of the next occupant in the long line of Pennsylvania's Senators who might do more for Pennsylvania the earlier he (or she) is waved to the starting line.

Five years ago, Marian and I discussed at length whether this would be our last term in public office, and we have often discussed it since. Only those of you who have shared the experience of public service can realize the effect upon one's personal and family life, the difficulties of living within the limelight of full and proper examination of one's entire record. This is particularly trying on one's family, and Marian's advice and ever constant help during campaigns, and in between, have made bearable the stresses of a political life.

My good and beloved friend, the distinguished Majority Leader, Mike Mansfield, has known of my likely decision for about two years and he has kept my confidence well.

There is no dearth of attractive, articulate and well qualified potential candidates for the U.S. Senate. From those with previous experience can come a Senator of whom all Pennsylvanians can be proud.

Therefore, because there are numerous persons qualified to succeed the office, I will not be a candidate for re-election to a fourth Senate term in 1976.

I am deeply, warmly grateful to all who have supported me these 33 years in Congress. I will remember you always in my prayers and in my heart.

In over three decades I have campaigned hard and, I believe, with fairness. I have in my position been able to be of help to many other candidates, year in and year out.

I must be judged by each of you in your own way. I will say only that I have done my level best to be an honest, conscientious public servant, conscious of the laws and abiding by them.

The next Senator from Pennsylvania will have my full support.

And now, I thank you, every one of you, and especially those who would have been willing, in the words of Henry V, to leap "once more unto the breach, dear friends, once more."

Let us do that, together, for our next Republican candidate for the U.S. Senate.

The ACTING PRESIDENT pro tempore. Does the Senator from Pennsylvania seek recognition?

Mr. HUGH SCOTT. Mr. President, I am deeply grateful for friends, and I will say very little because a number have come up and said things to me.

I am especially grateful to my good and dear friend, the distinguished majority leader, who, when it is a time for confidences, is the one person, aside from my wife, to whom I turn for that confidence. I think that expresses the way I feel about him, the way I want him to feel about me. He is a just and a fair man, a good and wise counselor, and we need him very much in the Senate.

I am also very grateful indeed to my dear and personal friend, the distinguished assistant minority leader. We have counseled together day by day. We have done what we can to make our role in the Senate a role which is respectable and honored. We have abided by the rules of the House and the Senate and by the law of the land.

I am grateful to my good friend and distinguished senior Senator from Massachusetts (Mr. Kennedy) who has issued a very warm statement referring to me; and to my good friend also the distinguished senior Senator from New York who had some very kind words for me last evening.

Personally, a very great load has fallen from my shoulders. There is no Member of the Senate who does not know what I mean when I speak of the impact of public service, of what it does in the burdens it imposes, in the loss of family life, and in failure of the opportunity to see ones' children, in my case even one's grandchildren, grow up; of the lack of opportunity to write, to think, to teach, to work.

The Vice President said to me last night:

> You and I each have 13 months to go, and I was a month ahead of you in saying it.

I said he is out of touch with the new math. That makes 26 months. [Laughter.]

This is really no time for me to make great speeches or even to attempt it, except to say I am proud to be a friend of every person in this body and of all of the officials who serve the Senate. They have been good to me and they have in every way shown a thoughtfulness and a consideration which I will always remember.

I have believed that when one must make, as I have had to make, many difficult and important decisions that one should do it with as much flair as possible. One should remember always the necessity for grace, which was once defined to me by the Vice President as courage under pressure. One should summon, if he has it within him, a certain amount of class. One should learn not to hate anyone. One should learn to respect the press and their obligations even if one gravely disagrees with those things which they are obliged to present to public view.

One learns to wait out some of these things until the truth becomes known, and I have seen that happen every time in my life, for the truth makes one free, and waiting for the truth is a difficult time which I have learned to endure.

I think I have tried to live by Plutarch's definition, which is:

> To be turned from one's course by men's opinions, by blame, and by misrepresentation shows a man unfit to hold an office.

I believe it and I try to live by it. We used to have a custom in Washington when diplomats left town they left a card on which they said "Pour prendre conge." That means "Take one's farewell."

I have no such card to leave because I will never take a farewell. For 13 months I will be here. I hope my colleagues will wish me to continue as their leader. If they do I certainly will.

I will from time to time be a burr under the saddle of some of my dear friends. They know the spirit in which these necessary political barbs are exchanged and received in good humor. But, above all else, I think there is a love for this body which we share commonly and which will not go away. So I thank you all.

ADDITIONAL STATEMENTS SUBMITTED ON RETIREMENT ANNOUNCEMENT BY SENATOR HUGH SCOTT

Mr. CULVER. Mr. President, the decision by Senator Hugh Scott to retire from the Senate at the expiration of his present term brings regret to all his colleagues. During his many years of public service he has brought talent, intellectual acumen, and a gift for both leadership and friendship. By force of character and personal example he has left a large legacy of accomplishment and an influence that will endure far beyond the occasion of his formal retirement.

In a Democratic system the role of a leader of the opposition is particularly demanding. It calls for sensitive political antennae, an ability to balance the need for probing criticism and skepticism with the necessity to maintain the fabric of national unity. Nobody doubts Hugh Scott's partisanship, skepticism, and love of battle; equally no one questions his constitutional reverence and his awareness of overriding national needs and interests. And his leadership has been able to reduce many of the frictions and stalemates which can so easily occur when different parties are in control of the executive and legislative branches. Hugh Scott's largest legislative achievements have been in areas which combine craftsmanship, political courage, and an ability to transcend partisanship—the successive charters of civil rights guarantees, reform of political financing, recasting our system of criminal justice and administration.

As a first term Senator on the other side of the aisle, I should also like to add a personal note of gratitude to Senator Scott for his unfailingly gracious and generous counsel and consideration. This reflects an innate kindness and decency of a leader whose knowledge and culture are on a par with his personal amiability.

To those who know him Hugh Scott is also an exemplar of a politician who does not allow politics to be all-consuming. Not only does he possess a rare wit and a flair for both the written and spoken word; he also pursues a wide and varied span of interests—in art, in connoisseurship, in Chinese civilization, in history, in legal scholarship, and in gentle detection of the foibles of his contemporaries.

All this gives us assurance that Hugh Scott will not fade from public prominence and that his abundant physical and mental energies will not lack challenge in the years ahead. And we can be sure that in his remaining year in the Senate there will still be many brisk and bracing encounters to come.

SENATOR HUGH SCOTT

Mr. HUMPHREY. Mr. President, I wish to speak today on the announced retirement of a good friend, an uncompromising supporter of civil rights, a most distinguished Senate Republican leader for the past 6 years, a scholar and a superb craftsman of the English language. I refer, of course, to our colleague, Hugh Scott.

We shall miss the senior Senator from Pennsylvania as we could miss few other men. Rarely has a man given such long and devoted service to his country—33 years in Congress; and rarely has a man stood so steadfastly for his ideas. Even when I have disagreed with him, I have never ceased to admire his sincerity and the depth of his convictions.

I am proud to say, however, that Hugh Scott and I were in total accord on the necessity for enacting historic civil rights legislation. Not days or months, but many years were devoted to this struggle. It took great political courage, and Senator Scott was one of the few who could always be counted upon to stand firm and say, "we must do this, because it is right."

His public record also shows a man who believes that the American political system is a good one, but that it can and must be improved. His sponsorship of the two major political campaign reform laws of 1971 and 1974 merits strong commendation.

In this American system where political parties are composed of a wide range of people who have a wide range of beliefs, it takes an exceptional man to keep a party together. As Senate minority leader, Senator Scott has accomplished this difficult task with competence, sensitivity, and a clear mastery of the honorable and demanding art of politics.

But beneath his public record, there is an even more outstanding Hugh Scott. Author, scholar, voracious reader, insatiable student of life—all these are part of him. Most notable recently, has been his collection and his book on Chinese art.

And, the Senate has been the beneficiary of endless contributions by this fine student of the English language, to raising the level of debate. In particular, I can think of his extensive knowledge of Shakespeare. I was reminded of just how much we will miss him when he announced yesterday that it was the "unaudible and noiseless foot of time" that moved him to retire.

I know we should be grateful that Hugh can continue to be with us in the 94th Congress. And we can be certain that he will continue to act as a servant to his conscience and as a servant to his party and his country.

My only regret, though, is that such an exemplary American will not stay with us much longer; so that younger Americans and future politicians could see for themselves what is meant by the words: a great public official.

A SALUTE TO A NEIGHBOR

Mr. MATHIAS. Mr. President, one of the most famous boundary lines in the world is the Mason-Dixon line between Maryland and Pennsylvania.

Although there was some squabbling over that line about 200 years ago, Marylanders and Pennsylvanians have been good friends and neighbors most of the time, able to work together on common projects to achieve common aspirations and goals.

This has certainly been true in recent years with the kind of cooperation that has existed between the Maryland delegation in Congress and the Pennsylvania delegation, led by Senator Hugh Scott, who has been not only the senior Senator from Pennsylvania, but also the minority leader of the U.S. Senate.

So it is a matter of particular interest to us and particular sadness for us that Senator Scott has announced his intention to retire from the Senate.

I am not sure that everyone who studies the American political scene fully understands what a versatile and unusual man Senator Scott is.

His public image is of an astute, professional politician, who has made his way in politics for many years and has occupied that most professional of all political jobs, the chairmanship of the Republican National Committee.

But that is far from being the whole of Hugh Scott.

He is a literate and compassionate man. These are qualities that sometimes are obscured by the necessity for political action. He has been so successful that I think sometimes his very success has hidden some of those human qualities that are important in his total makeup.

I, for one, would reject the idea that the U.S. Senate is a council of elders. But I do think there are some other important personal qualities that go into the composition of the Senate—into the character of the institution as well as the personalities of its Members—that give it such a unique standing among the political institutions of the world. Hugh Scott embodies many of those special characteristics.

Although seniority in the sense of oldage is not a prerequisite for service in the Senate, experience is, and Hugh Scott has had a unique experience in life.

He was born in Virginia but moved to Pennsylvania. He served in the Navy and practiced law in Philadelphia. He is fluent in Spanish and German, he speaks and reads French, he quotes Latin, and he is a scholar of Chinese culture and an expert on Chinese art.

While many people think perhaps that these accomplishments are superfluous to service in a political institution and to public service, I think they help round out the man and give him a perspective of history—a perspective of human concern, human folly, of what is wise and what is foolish.

All these qualities have contributed to making Hugh Scott one of the unusual Members of the U.S. Senate. They are qualities which will be very much missed when he reaches the end of this term.

RETIREMENT OF SENATOR HUGH SCOTT

Mr. KENNEDY. Mr. President, Hugh Scott's retirement is a great loss to the people of Pennsylvania and to the Senate and the Nation. Few others in the Senate's history have achieved such a distinguished record of accomplishment in this body, and his career is all the more outstanding because it was compiled during a long period in which his party was the minority party in the Senate.

Two of Hugh Scott's finest and most lasting achievements are in the areas of civil rights and election reform. It is not too much to say that, without the leadership of Hugh Scott, the Senate would not have succeeded in breaking the filibusters and enacting some of the great Civil Rights Acts of the past two decades, and we would not have succeeded in enacting the landmark campaign financing reform legislation of 1974.

Even as we regret Hugh Scott's loss on both sides of the aisle in the Senate, we wish him well in his retirement and hope that there may yet be new horizons in public service to draw on his high abilities. As Justice Oliver Wendell Holmes said on his 90th birthday:

> The riders in a race do not stop short when they reach the goal. There is a little finishing canter before coming to a standstill. The race is over but the work never is done while the power to work remains.

Hugh Scott deserves his reputation as a giant in the Senate. We shall miss him, even as we honor his career and recall his friendship and his warm wit on the Senate floor.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New Mexico (Mr. Montoya) is recognized for not to exceed 15 minutes.

Mr. MONTOYA. Mr. President, I have a statement to make and I ask unanimous consent that Miss Kathleen Moody be granted the privileges of the floor during the discussion which I am about to indulge in and the submission of a resolution.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE RESOLUTION 317—SUBMISSION OF A RESOLUTION IN SUPPORT OF DANIEL P. MOYNIHAN, U.S. REPRESENTATIVE TO THE UNITED NATIONS

(Referred to the Committee on Foreign Relations.)

Mr. MONTOYA. Mr. President, I send a resolution to the desk and ask for its appropriate referral.

In sending the resolution to the desk I hope that eventually the Senate will approve the same. It is with respect to Daniel Patrick Moynihan, the U.S. Representative to the United Nations. It is in support of what he has said in the United Nations. I feel it imperative that we acknowledge the outstanding work he has performed in behalf of the United States and her allies in the past. We should also let it be known our continuing sustentation of the worthy ideals and realistic understanding of international politics which imbue this man's actions in the United Nations.

As the U.S. Ambassador to the United Nations, Daniel Moynihan has made it clear that he cannot and will not be muzzled on issues that are vital to the well-being of the United States and her allies. And, I might add, that is precisely the job an Ambassador is hired to perform—to protect the interests of that country which he represents. Time and time again Daniel P. Moynihan has managed to catch the vision of his responsibility to this Nation. Furthermore, his actions in the United Nations have consistently reflected a commitment to international decency.

Ambassador Moynihan has gotten down to basics in his dealings within the United Nations. He has cut through the double talk which has been all too prevalent in that body recently. Moynihan's guiding philosophy about the United Nations is admirable. In his view, the U.N. is truly undergoing an unfortunate conflict between political belief-systems. Ambassador Moynihan perceives the battle as very real; to him our survival and that of our allies may very well be at stake. In Daniel Moynihan's view, the world's minority of parliamentary democracies is under assault from a majority of the United Nations' 143 General Assembly members. The governments of many of these members are totalitarian in practice and are ideologically opposed to the United States. Ambassador Moynihan has not been overbearing in his role as United States Representative as so many of his critics have charged; he has merely recognized the state of being within the United Nations and is defending our interests with enthusiasm.

Daniel Moynihan has been especially concerned with the ever-increasing, and often unduly vociferous, Third World extremists in the U.N. He is notably troubled with the actions of the Cubans and some Arab and African radicals. Moynihan has made it clear that these developing countries can no longer abuse the United States and her allies in public and yet seek their economic and military aid in private.

Ambassador Moynihan has also been up front in promoting international justice through his role in the U.N. He was responsible for introducing a resolution calling for worldwide amnesty for all political prisoners jailed for nonviolent acts. Although this resolution did not pass, it was a major U.S. initiative.

Daniel Patrick Moynihan's most important work in the United Nations has been his fervent support, oftentimes in the face of great opposition, of Israel. In spite of the fact that Ambassador Moynihan did not receive much immediate support from the State Department, he spoke out quickly and loudly against the Arab-sponsored anti-Zionism resolution. He recognized the dire implications of this U.N. General Assembly resolution which equates Zionism with racism and spoke out against those who had voted for passage of the resolution. He perceived the resolution as granting international sanction to anti-Semitism. Moynihan argued that racism was a serious charge and had never been defined by the General Assembly before the vote. In a brilliant statement before the delegations, Ambassador Moynihan labeled the resolution that Zionism is a form of racism a political lie.

He further explained what Zionism truly is—a national liberation movement motivated by people whose common bind is their belief, not their birth. And, the common belief, he stated, was present regardless of race, color, descent, or national or ethnic origin. Ambassador Moynihan rightly declared that the state of Israel, which was the creation of the Zionist Movement, has been extraordinary in the range of "racial stocks" from which it has drawn its citizenry. Ambassador Moynihan argued that there were black Jews, brown Jews, Jews from the Orient, and Jews from the West. In doing so, Representative Moynihan exploded the myth that Zionism was a form of racism. He eloquently established the U.N. General Assembly resolution as a lie and a mockery to international justice, peace, and cooperation. We should be grateful for the brilliant candor which Daniel P. Moynihan has expressed on this and other occasions before the United Nations.

In recognition of the worthy service Ambassador Moynihan performs for this country and for international justice, I urge passage of this resolution of support. This resolution acknowledges the current alarming status in the United Nations. It affirms Ambassador Moynihan's philosophy that the world's democracies are under undue attack from a majority of the United Nations General Assembly members. It recognizes Daniel P. Moynihan as a defender and leader of these democratic nations' rights in this international arena. This resolution approves Ambassador Moynihan's abhorrence of the United Nations General Assembly's anti-Zionism resolution which inaccurately declared Zionism a form of racism. It also supports the determination of Daniel P. Moynihan in representing the United States in the United Nations and preventing the U.N. from becoming a mockery of international justice.

The ACTING PRESIDENT pro tempore. The resolution will be received and appropriately referred.

The resolution (S. Res. 317), which was referred to the Committee on Foreign Relations, reads as follows:

S. Res. 317

Whereas the United Nations General Assembly adopted a resolution on November 10, 1975 which declares Zionism a form of racism and therefore has the significance of an assault on the right of existence of the State of Israel as well as sabotage of the effort to achieve peace between Israel and the Arab states; and

Whereas the Senate has previously rejected this General Assembly anti-Israel resolution as constituting a disavowal of the role designated the United Nations to further solution of international problems and promote respect for human rights and fundamental freedoms; and

Whereas those nations that supported this anti-Zionism resolution against our ally Israel have assumed a heavy responsibility for a step which grants encouragement by the United Nations General Assembly to anti-Israel elements seeking to thwart any efforts toward the deserved peace of a people whose history is an unbroken record of contribution to human dignity and liberty; and

Whereas United States Ambassador to the United Nations Daniel Patrick Moynihan correctly and vociferously negated the anti-Zionism resolution of the General Assembly as undermining the purpose and founding principles of the United Nations and as symptomatic of the larger condition wherein the parliamentary democracies, which represent a minority in the United Nations General Assembly, are currently under attack from a majority of the members thereof; and

Whereas Ambassador Moynihan realizes the alarming situation that many members of the majority which stood against Israel are totalitarian governments which are ideologically hostile to the United States; and

Whereas Daniel Moynihan is determined by use of forthright diplomacy to prevent the United Nations from becoming a mockery of international justice, peace, and cooperation and has the support of the people of the Nation in this goal: Now, therefore, be it

Resolved, That the Senate supports the United States Ambassador to the United Nations, Daniel P. Moynihan, as a man whose frank and admirable style of diplomacy questions the assistance to people who ask for freedoms in a world context but would deny some to a little country like Israel which exemplifies the true aspirations of a people willing to sacrifice for the attainment of that goal.

NEW YORK CITY SEASONAL FINANCING ACT OF 1975

The Senate resumed the consideration of the bill (H.R. 10481) to authorize the Secretary of the Treasury to provide seasonal financing for the city of New York.

The ACTING PRESIDENT pro tempore. Under the previous order, the time

between now and 11 o'clock will be equally divided and controlled by the Senator from Wisconsin (Mr. PROXMIRE) and the Senator from Alabama (Mr. ALLEN).

Mr. PROXMIRE. Mr. President, how much time is available for debate before the quorum call preceding the cloture vote?

The ACTING PRESIDENT pro tempore. The quorum call will occur at 11 a.m. That will leave 35 minutes remaining for debate.

Mr. PROXMIRE. Is it correct that that time will be equally divided between the Senator from Alabama and myself?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that Mr. Jon Fleming, of Senator CRANSTON's office, be granted floor privileges during the course of debate on this bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Will the Senator yield?

Mr. PROXMIRE. Yes.

ORDER FOR NO COMMITTEE MEETINGS AFTER 12 NOON TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that no committees be allowed to meet, beginning at the hour of 11 o'clock until 11:15.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. ALLEN. Reserving the right to object, I did not hear the request.

Mr. MANSFIELD. Mr. President, I am glad that the Senator from Alabama raised that question, because I want to rephrase it.

I ask unanimous consent that no committees of the Senate be allowed to meet after the hour of 11 o'clock today.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. MONTOYA. Reserving the right to object, does that include conference committees?

Mr. MANSFIELD. No.

I shall change it to start from 12 o'clock on.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none. Without objection, it is so ordered.

NEW YORK CITY SEASONAL FINANCING ACT OF 1975

The Senate continued with the consideration of the bill (H.R. 10481) to authorize the Secretary of the Treasury to provide seasonal financing for the city of New York.

Mr. PROXMIRE. Mr. President, we have had a number of cloture votes in the Senate over the last few years. There have been persuasive arguments on both sides in most cases. In this particular case, I think we perhaps have the strongest argument to invoke cloture that we have had in a long, long time. One reason is that this legislation is unique in having a deadline. If this legislation is not enacted within the next 6 or 7 days, it will mean that New York will go bankrupt and any action on our part will be futile; we may just as well not pass any legislation. Therefore, cloture is essential in this particular case because of the urgency of the matter.

In the second place, Mr. President, I think that anybody would have to agree, anybody who has viewed what is going on or who can read the newspaper or has been in the Senate or watched television, for that matter, would have to agree that there has been extensive, widespread discussion of this issue. Last Wednesday, we had 8 hours of debate on the floor of the Senate. Last night, we had debate on the floor of the Senate, which could have continued if Members had wished to take advantage of it. We have had frequent floor discussion of this issue before the bill came to the Senate, over the last several weeks. We have had detailed hearings. I hold a copy of the hearings in my hand, consuming well over 800 pages.

During the course of those hearings, we had witnesses representing virtually every viewpoint. We had Senators, we had the Secretary of the Treasury, we had the director of finance of the city of Philadelphia, we had the Governor of the State of New York, we had the mayor of the city of New York. We had outstanding financial experts, economists, municipal finance experts from all over the country. We had outstanding bankers. We had experts from a wide variety of fields to testify.

Mr. President, the House of Representatives had very detailed hearings on this matter, covering a number of weeks. The Joint Economic Committee had hearings on this matter and went into great detail, having the mayors, representing some 17 major cities, appear before the Joint Economic Committee on this particular matter. This has been a thoroughly discussed issue.

We have a clear effort, in my view, at least, and I think in the view of most people who have eyes to see and ears to hear, on the part of Senators, who have every right to hold their views, a clear effort to try to delay this legislation. For that reason, cloture is necessary.

Mr. President, let me just say in conclusion that New York City will almost certainly not be able to meet its payroll or other expenses by December 11 if we do not provide Federal loan assistance.

This is not a matter of a few banks being assisted to save some of their securities and to be safeguarded from their bad investment judgments.

Mr. TOWER. Will the Senator yield for a question at that point?

Mr. PROXMIRE. I am happy to yield to the Senator.

Mr. TOWER. Is it not true, even with the present bill, a lot of investors in New York City paper are going to have to take a bath?

Mr. PROXMIRE. The Senator from Texas could not be more right. They will take a bath as much of the value of their securities will drop very sharply.

Securities that would have matured over the next several months will not mature for 10 years. Securities that had an interest rate of 11 percent will bear only 6 percent. When that happens, of course, it means the value drops very sharply, perhaps much as 40 or 50 percent.

Mr. TOWER. Would not the Senator from Wisconsin characterize this bill not as a bailout because it does not bail them out, but merely, as something that many of the members of the committee originally supported in the first place, simply an effort to maintain vital and essential services in the city while they are going through the financial restructuring?

Mr. PROXMIRE. The Senator from Texas is correct. I believe it is very significant that the Senator from Texas is supporting this bill, because he was very strongly critical of the original bill, that New York should not be bailed out, that New York should take some extremely difficult steps and painful steps in order to get its house in order. He has consistently been critical of legislation we had before us because it did not go far enough in requiring this kind of sacrifice.

I think the fact that the Senator from Texas has taken this position in support of the legislation should be persuasive with many Senators who have felt that they could not support this legislation, unless New York has taken every step it possibly can take—not only New York City, but New York State.

Mr. TOWER. I think in that connection I reflect the views of those of us who voted against reporting the bill. We were opposing that kind of loan guarantee which that bill contained, saying we all maintained we were prepared to support legislation aimed at maintaining essential services, providing a number of stiff and tough conditions were met, whether New York defaulted or not.

As I view it, what New York will be going through is almost tantamount to default when restructuring this debt from short-term to long-term. It is, in effect, an admission of default.

Mr. PROXMIRE. I thank the Senator from Texas and I agree wholeheartedly with that.

Mr. President, I would like to point out that in the event New York defaults, it will mean that overnight it will have to reduce its expenditures by 50 percent, because that is the seasonal impact it will have in December, January, February, and March.

That means that one out of two policemen will have to be laid off, one out of two firemen will have to be laid off, schools closed; they will not have any choice. It is possible they could just close all the schools and make somewhat lesser cuts in some other areas.

But the effect will not be on bond or noteholders. The effect is going to be on the people of the city of New York, innocent victims who had nothing to do with the mismanagement, unless we are going to charge the children who are not old enough to vote for not voting for the right administration in years past.

Mr. MANSFIELD. Will the Senator yield?

Mr. PROXMIRE. I am happy to yield to the Senator.

UNANIMOUS-CONSENT REQUEST—SENATE CONCURRENT RESOLUTION 78

Mr. MANSFIELD. Mr. President, I ask unanimous consent that immediately following the vote on cloture, a vote occur on calendar No. 492, Senate Concurrent Resolution 78, and that that vote occur without debate or intervening motions, and this request is made at the suggestion of the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.). It will be a rollcall vote.

Mr. HARRY F. BYRD, JR. Reserving the right to object, would it not be appropriate to have a brief debate or comment on it?

Why should it occur without any comment at all?

Mr. MANSFIELD. There is a question of time to be considered today. I think the situation is quite understandable. I am sure the Senator from Virginia understands what is involved.

If the Senator from Virginia wants to raise any questions, I will be prepared to withdraw my request because it makes no difference to me. It has been cleared on both sides.

I thought the Senator wanted a rollcall vote and he was going to get that.

Mr. HARRY F. BYRD, JR. That is quite right.

The only suggestion I was going to make, if the Senator from Montana would be willing, is to have a 20-minute time limitation or a 10-minute time limitation. There ought to be something.

Mr. MANSFIELD. All right.

Mr. President, I withdraw my request.

NEW YORK CITY SEASONAL FINANCING ACT OF 1973

The Senate continued with the consideration of the bill (H.R. 10481) to authorize the Secretary of the Treasury to provide seasonal financing for the city of New York.

CLOTURE MOTION

Mr. MANSFIELD. Mr. President, I send a cloture motion to the desk.

The **ACTING PRESIDENT** pro tempore. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate upon H.R. 10481, the Intergovernmental Emergency Assistance Act.

Mike Mansfield, Robert C. Byrd, Stuart Symington, Hubert H. Humphrey, Philip A. Hart, Gary W. Hart, John A. Durkin, Edward W. Brooke, Harrison A. Williams, Jacob K. Javits, Charles McC. Mathias, William D. Hathaway, Charles H. Percy, Edward M. Kennedy, John Tower, John O. Pastore, Edmund S. Muskie, Thomas F. Eagleton, Lowell P. Weicker, Jr.

Mr. MANSFIELD. I thank the Senator for yielding.

Mr. PROXMIRE. Mr. President, I shall conclude in the next minute or so, or less.

NEW YORK CITY SEASONAL FINANCING ACT OF 1975

The Senate continued with the consideration of the bill (H.R. 10481) to authorize the Secretary of the Treasury to provide seasonal financing for the city of New York.

Mr. PROXMIRE. Virtually everybody who has carefully studied this bill now supports the bill, including those who have vigorously, vehemently opposed it in the past.

It is supported by the President of the United States in spite of the very strong, clear speech he gave before the Press Club a few weeks ago saying he was opposed to any kind of assistance to New York short of a default. He supports this now. Why? Because he has had a chance to study it and he has had some of the most competent experts in the country study it and advise him.

I suppose there has been no more competent, vehement, effective opponent of this than Secretary Simon. He supports the legislation.

It is supported by the House Democratic leadership, by the House Republican leadership, it is supported by a majority of the House of Representatives, it is supported by members of the Senate Banking Committee where we had the most extensive hearings and had a very widespread ideological division, very representative of the Senate and the country, support it now 3 to 1.

Senators who opposed it, like Senator TOWER and Senator BROOKE, now support the legislation.

Mr. President, it seems to me that under these circumstances this legislation that has been so extensively debated, this legislation that has this widespread support, this legislation which is essential if New York City people are going to be saved from a catastrophic situation, this legislation that must be passed within the next 6 or 7 days, should be permitted to come to a vote.

The only way we can do it is to support the cloture motion which is now before the Senate.

Mr. President, I reserve the remainder of my time.

The **ACTING PRESIDENT** pro tempore. Does the Senator from Alabama wish to be heard?

Mr. ALLEN addressed the Chair.

The **ACTING PRESIDENT** pro tempore. The Senator from Alabama.

Mr. ALLEN. Mr. President, I yield myself 6 minutes.

Mr. President, there is no need for any hurry in voting cloture. The distinguished Senator from Wisconsin spoke of this bill, about it being an extraordinary bill, or some such term—and truly it is an extraordinary bill.

I believe it must be said it is unique. It is unique in this respect: This version of the bill that is pending before the Senate at this time has never been to a committee, in the House or in the Senate.

The Senate is not being given any opportunity to amend the legislation. I say they are not being given any opportunity. The statement has been made on the floor that we must pass this bill without amendment and they have a solid majority, of course, and can do anything that they want to.

If we are not going to have the bill molded and shaped in committee, why are we not allowed to mold and shape it on the Senate floor?

The distinguished Senator from Wisconsin has said that if this bill does not pass in the next 6 or 7 days, New York is going to default.

I would like to point out that this bill when enacted will not be able to tap the taxpayer's pocket until an appropriation bill is passed.

Whatever rights or authorities exist under this bill on its passage will be inchoate only. They will not spring into being until the appropriation bill is passed, and that could be many days down the road. So there is no hurry at all for that. Let us have a little bit of debate on this bill.

What happened to the bill when it came to the Senate? It was intercepted at the desk by a consent agreement that had been obtained, and within minutes, before anybody had spoken a word on the bill, they filed a cloture motion.

What happened yesterday? They had the railway bailout. As I pointed out yesterday, this is bailout week in the Senate—the bailout for the bankrupt railroads of the Northeast and the bailout for New York City.

So what did they do? They sandwiched the cloture vote on the railroad bailout into the proceedings, and on yesterday, instead of debating New York we had to have the debate on the bankrupt roads bailout. That little bailout will cost the Government, according to Secretary Coleman, and authorize approximately $14.4 billion.

There has been no meaningful debate on this measure, and there is no hurry at all in regard to this bill because no money will be coming to New York City under this bill without the appropriation.

What is important is the appropriation bill, not this authorization bill. The authorization bill does not provide for releasing any money.

We have heard the cry of "wolf" so often on this matter that I wonder why they are claiming that December 11 is default day and if they do not get this bill passed by December 11 they are going into default.

This problem started out as a $7 billion problem. The House provided the $7 billion solution in their bill. Then the Senate committee saw a $4 billion problem and they offered a $4 billion solution. The President saw a $2.3 billion problem and he offered a $2.3 billion solution. All of these downward steps were acquiesced in by the officials in New York.

Mr. President, even the President's plan calls for lending $1.3 billion between now and July 1. I am going to offer an amendment cutting it down to the $1.3 billion, which is all that they will need between now and July 1 in the hope that they can get their affairs in order.

On the matter of whether they ought to go the guarantee route or the loan route, if they had gone the guarantee route there would have been no necessity for an appropriation, but there is necessity for an appropriation when going the authorization route.

Last night I offered an amendment to substitute the provisions of the Senate bill for this bill. That would give the conferees an opportunity to take the best provisions of both plans. But there was no support from the committee members on that approach. They had all of these hearings, and the Senator from Wisconsin has a big thick book showing the hearings.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. ALLEN. Mr. President, I ask unanimous consent for an additional 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, the Senator has an additional 3 minutes.

Mr. ALLEN. All of the conclusions that the committee reached will never take place in this legislation because apparently the Banking Committee adopts the same view that has been expressed, that there must not be any amendments to this bill; we have to pass it without changing the dotting of an "i" or the crossing of a "t."

How are we going to have a deliberative body here in the Senate if we are not permitted to offer constructive amendments that have any chance of being passed?

This additional thought occurs to me on the matter of comparison between guarantee and loan: They say it is necessary to return New York City to the money markets. How are they going to return New York City to the money markets if the only one who will lend them anything is the Federal Government? I would think it would be a step toward returning them to the money markets if they would get somebody to lend on the basis of a Government guarantee. They would be back in the money markets then.

Mr. President, a little later on I am going to show that all the people in New York City do not feel that this is the right way to go. They feel that this bailout is not proper, that it is not in the best interest of the people of New York.

I believe I am standing for the people of New York, for the taxpayers of New York, and for the taxpayers of the Nation when I oppose the Federal Government branching out into this tremendous new field of lending money to municipalities who have mismanaged their affairs.

Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Does the Senator from Wisconsin seek recognition?

Mr. PROXMIRE. No, Mr. President.

The ACTING PRESIDENT pro tempore. Does either side yield time? If not, the time runs equally against both sides.

Mr. ALLEN. How much time remains to the Senator from Alabama?

The ACTING PRESIDENT pro tempore. Eight minutes.

Mr. PROXMIRE. I will speak very briefly, Mr. President.

The main point I would like to make in rebuttal to my good friend from Alabama is that he argued there was no hurry on this legislation because, after all, we also have to pass appropriation legislation. Mr. President, that is exactly why there is a rush on this legislation, why there is an emergency. The fact is that we have to pass this authorizing legislation first.

The Senator, who is a great expert on the rules—and I mean that, there is no Member of the Senate more expert on the rules than he is—knows that we should pass the authorizing legislation first. This is the authorizing legislation. Then we have to take the step of passing the appropriation legislation. That has to be debated. It is a complicated bill. The New York City provision is an important part of it but only one part of it. There are many other parts that could require discussion and debate. We do not know when that will be completed, but this must precede it. We must act on this legislation first.

For that reason, Mr. President, I believe it is most important that we invoke cloture now and not permit this to go further. If we do not invoke cloture this morning, I think, because this does have to go the additional step, as the Senator from Alabama pointed out, because there is an appropriation process, the prospects that we can provide the aid for New York in time would be in very serious jeopardy.

Mr. President, I reserve the remainder of my time.

Mr. President, I yield 2 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, there is one added fact to the situation which I think deserves to be recounted. We have heard discussion about why the Senate bill, which was reported out after such Herculean efforts by Senator PROXMIRE, is now obsolete and is no longer relevant to the situation.

If Members will refer to section 5 of that bill, which is S. 2615, they will find a series in the subsequent pages down to page 9, line 6, of a whole list of items, probably about 10 in number, which were conditions precedent to the utilization of the guarantee.

The examination of these items will indicate that a great many of them have been done already. Indeed, in terms of the exchange of securities, that is long-term for short-term securities, much more has been done than was even called for by the Senate bill.

But in any case, many of the conditions which are there stated have already been met, and therefore the key element of the Senate bill, to wit, what shall be the conditions precedent imposed for the guarantee, are no longer relevant. Time and events have just passed them by.

That is the reason why the President came to a different view. He said:

> I wanted New York City and New York State to do the things that they should do. Now I feel they have done many of them, and they are making good progress on others, and I feel justified in recommending a new policy to Congress.

So we are reaching a situation in which time and events have overtaken the Senate bill on the calendar; hence the reason for a new bill, the bill which has passed the House of Representatives.

Again I repeat what I said before: We hear constantly that people are going to be prevented from amending, and so on and so forth. Well, the Senate, Mr. President, will decide whether there is any amendment. Senator PROXMIRE will not and I will not. What we are urging is, in the best judgment of the Senate, in order to effectuate what we have talked about here, to wit, to resuscitate a live body, not a corpse, we should not complicate our situation, already complicated enough, by amendment.

The Senate will act. It will be the Senate, not we, who deal with the amendment question.

Mr. ALLEN. Mr. President, the vote of the House of Representatives on this issue, 213 for and 203 against, indicates very strongly that there is tremendous opposition to this bailout of New York City throughout the entire country; because we have had one of the strongest blitzes in behalf of a piece of legislation that I have ever observed since I have been in the Senate. The President and his people are for it, the Democratic and Republican leadership in the House of Representatives and the Senate are all in favor of the bill. Bankers from throughout the country have called on their Representatives and Senators; they make out like economic chaos is going to result if the bill does not pass. Yet, in spite of all that, it passes the House of Representatives only by a vote of 213 to 203.

I am hopeful that the Senate will not invoke cloture on this measure. I have reason to believe that they will, but I hope they do not, in order that some meaningful debate can take place on this issue.

I yield the remainder of my time to the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.).

Mr. HARRY F. BYRD, JR. Mr. President, the pending legislation has had no committee hearings. The able Senator from Wisconsin called the Senate's attention to a Banking Committee report in Senator's desks, an 830 page volume. But those are hearings on an entirely different piece of legislation. The Senate is now being asked to shut off debate on a new measure entirely different from the one on which the committee hearings were held.

Indicative of that fact is the debate on Wednesday in the Senate, wherein both the Senator from Wisconsin and the Senator from Illinois referred constantly to the committee bill, which is on the calendar, but which is separate and different from the proposal before the Senate.

I ask unanimous consent at this point, if the Senator from Wisconsin will not object, to have printed in the RECORD a portion of the debate of this past Wednesday, beginning at the top of the third column of page 38356 and going over to the end of the second column of 38358.

There being no objection, the excerpt from the debate was ordered to be printed in the Record, as follows:

Mr. Harry F. Byrd, Jr. May I ask the Senator from Wisconsin, the Chairman of the Banking Committee, whether there is available to the Senate the amount of bonds which are held by the various New York City banks?

As the Senator knows, the major bondholders are the New York City banks and I am wondering if the Senator from Wisconsin has information as to the amount of bonds held by each of those banks.

Mr. Proxmire. We have figures available that are estimates. They are not directly from the banks, they are not directly from the regulatory agencies, they are from a highly competent brokerage house which has a good reputation. They have made an estimate of the holdings of each of the banks in New York City.

I know the Senator from Virginia is not at all satisfied with this. He wants the banks themselves to own up as to how much they have in New York City notes and mortgages.

Mr. Harry F. Byrd, Jr. Yes.

Mr. Proxmire. I might say to the Senator from Virginia that I am sure he understands, as a man who has had good experience in business as well as experience in government for many years, why it is the banks are reluctant to disclose the holdings that they have in New York City obligations when for months now there has been some question as to whether New York City will go bankrupt and those notes might drop precipitously in value.

If that happens, then of course the bank is in a position where there could very easily be a run on the bank where the big certificates of deposit, not covered by Federal insurance, would go out of the bank and move to a smaller bank, and they would be highly vulnerable.

I think the advice of the regulators, including Dr. Burns and others, is that they not disclose this information and, indeed, the Federal Reserve Board, the Comptroller of the Currency, and the FDIC have resisted the inquiries from various Members of Congress for this information.

Mr. Harry F. Byrd, Jr. Is that the advice of the Senate Banking Committee also, that the New York City banks should not make available that information?

Mr. Proxmire. There has been no position taken by the committee, as such. The position taken by this Senator is that that information is understandably confidential.

If I were a banker, or the Senator from Virginia were president of one of those banks, he would not want to disclose that. Why should he, when it would put him in a very vulnerable position?

Mr. Harry F. Byrd, Jr. I will say to the Senator exactly why it should be done.

I agree it should be necessary to disclose provided—provided—those banks do not want to obtain a benefit from the American taxpayer, and that is what they are doing. They are being benefited by this legislation and no one knows to what extent each bank is being benefited.

Mr. Proxmire. May I say to the Senator that the banks that have big holdings in New York City notes are taking a very serious beating in those notes right now.

Mr. Harry F. Byrd, Jr. That may or may not be, but——

Mr. Proxmire. They put more money into these obligations at the urging of the city and State in order to help New York and they are now in difficulty and are being asked to do several things.

These notes are being extended for 10 years so that they will not come due in the next 6 months or a year. Interest rates are being reduced. The value, therefore, of those obligations is being sharply cut.

These banks are taking a very big loss on those particular investments. They are not benefiting, they are losing—as they should.

Mr. Harry F. Byrd, Jr. They are certainly benefiting by this legislation.

Now, if they are benefiting by the legislation, then I think we are entitled to know to what extent these banks are benefiting.

If they were not seeking Federal help, that would be a different matter, but they are seeking Federal help.

They have been the chief lobbyists for this legislation.

Mr. Proxmire. May I say to the Senator from Virginia on that last point, they certainly have not been the chief lobbyists by any means.

I have been approached by a number of people who have an interest in this, pro and con, and the first banker has yet to approach me from New York.

I have not received a word from them, I have not received a note. They have not had any friends see me. Nobody in Wisconsin got in touch with me at the insistence of a New York bank to tell me to do one thing or another. Not one word.

I do not know about any other members of the committee that are here or will be available to the Senator, if he wants to inquire, and I would like to ask him if there are any other members of the committee who have been lobbied in any way by New York banks.

Mr. Harry F. Byrd, Jr. The New York bankers, I realize, have tremendous power, and I said that from the beginning of this fight, going back to last August.

I do not underestimate their power; I do not underestimate the amount of time they have spent around this Capitol one way or another.

All I am asking is for information as to how much those banks will benefit by this legislation. How many bonds do they hold?

Mr. Proxmire. I will give the aggregate figures. We do have that, but not broken down by bank: New York clearing house banks have $11 billion in gross capital; total deposits, $102 billion; New York State obligations, $955 million; New York agency obligations, $679 million; New York City obligations of $1.695 billion, or a total of $3.3 billion in New York obligations.

That would be approximately about 3 percent of their total holdings.

In some banks, it would be more substantial. As the Senator may know, the capital of big banks only amounts to 4 or 5 percent of their liabilities and this could be, therefore, a very substantial part of their total capital and put them in a vulnerable position if New York City should go bankrupt.

Mr. Harry F. Byrd, Jr. I just cannot quite see the need for all this secrecy.

As a matter of fact, I think it is wrong from another point of view.

Most of these banks are listed on the stock exchange. The investors ought to know the facts which exist in regard to those banks. The Senator from Wisconsin has just said that if the facts become known, it could have a dreadful effect on those banks. Yet those stocks are being traded on the exchange every day. I would think that the Banking Committee would be particularly interested in having the information known as a protection to the investing public.

Mr. Proxmire. May I say to the Senator that I think we have whatever information is necessary for us to act. We do have the total amount that is invested by the banks. We have that verified. We have it verified by Arthur Burns, the Chairman of the Federal Reserve Board, and we can rely on this as being accurate.

We have a breakdown by individual banks estimated by a highly competent expert. This gives us some notion. We do not have the verified word either from Mr. Burns or from any other regulatory agency or from the bank itself. We do not have the official figures.

The Senator, I know, has been very interested in this for a long time. He has been very vigorous in asking me to provide him with that information.

Mr. Harry F. Byrd, Jr. I think it not only would perfrom a service, but I think it is something that, as a matter of policy, as a matter of practice, as a matter of appropriateness, should be done.

Those banks, as I say again, stand to benefit greatly by the pending legislation. We ought to know how much the taxpayers are benefiting these banks. To me, it is strange indeed that the Banking Committee of the Senate is either unwilling or unable to obtain that information for the Senate.

Mr. Proxmire. The Banking Committee is probably unable to obtain it.

We have a good estimate as to how much the banks have. We have an accurate and precise estimate as to how much they have in aggregate. I think this serves whatever legislative purpose we want to achieve. We know the banks will get some benefit out of this legislation as compared with bankruptcy, but they have paid a big price now and they are going along with a very substantial compromise on the basis of what the committee has done and what the President of the United States has done in order to make it possible for this legislation to proceed.

Mr. Harry F. Byrd, Jr. As each of us knows, if the bonds go into default then the bondholders lose the interest on those funds, lose the income, the tax-exempt income, and they lose the principal or have the principal payment deferred.

Mr. Proxmire. There is no way we can tell what would happen in bankruptcy. It may well be that the big banks would do well. If there is any sure development when we go to the courts, it is that those who have the money and who can hire the best lawyers come out on top. I think the Senator would agree that the New York banks have the money, would be in a position to hire the best lawyers, and would be in a position to defend their position very effectively.

The little bondholders who do not have that kind of money would be the ones to suffer, those who live in Virginia, Wisconsin, and elsewhere.

Mr. Harry F. Byrd, Jr. Not at all. Under existing law they must be treated fairly and alike. What is happening is, by this legislation, it is preventing a default on the bonds. That means that the banks, and they are the major bondholders. They testified to that before the Senator's own committee, they are having their investment guaranteed and they are getting tax-free income.

They have been getting tax-free income at a very high rate of interest. That is why I think it is very important and very significant as to the amount of holdings of each of these individual banks and as to how many tens of millions, or hundreds of millions of dollars in some cases, they will benefit by the pending legislation.

(Mr. Bumpers assumed the Chair at this point.)

Mr. Proxmire. May I say to the Senator they are not the major holders of New York City obligations. They are major noteholders, but as far as obligations altogether are concerned, those that would be primarily affected by this legislation, they only have about 12 percent of the obligations outstanding. As a matter of fact, now the pension funds, the insurance companies, and other institutions, would in aggregate have more, and individual bondholders would have far more.

Mr. Stevenson. Will the Senator yield?

Mr. Proxmire. I am happy to yield.

Mr. Stevenson. I think in fairness to the Banking Committee, it should be said that that committee was most interested in determining who held the obligations of the city and also the Municipal Acceptance Assistance Corporation, and to what extent those obligations were held by financial institutions in the city of New York.

The reason for our interest was the strong feeling that those financial institutions, including the larger banks, ought to bear their fair share of the burden.

It was not particularly relevant to that inquiry to find out which bank held how many obligations. We developed a pretty good idea of how many, and to what extent, obligations of the city were held by financial institutions in the city. That is why the Senate Banking Committee, among the many conditions it established before any guarantees could be made available, required that the holders of 40 percent of the city's maturing obligations between now and the end of this fiscal year, 65 percent of the maturing obligations of the Municipal Assistance Corporation, had to roll those over, and as they matured accept new, long-term, lower interest rate paper.

That 40 percent was aimed at making the banks and the other investors that the banks and the financial institutions in the city could reach share the burden, accept the loss, and exchange their maturing obligations for new long-term paper. They were not going to get paid off, in other words, at face value.

Mr. Harry F. Byrd, Jr. Will the Senator yield?

Mr. Stevenson. I have one final point. The Senator from Virginia says they are going to get helped.

Under the Senate Banking Committee bill, they would have had to take a beating on those maturing obligations of the city and of the Municipal Assistance Corporation.

The Senate is not now in a position to act on the Senate bill, and through no fault of any Member of the Senate Banking Committee. It is quite evident that to get any legislation passed in time to prevent a default, with all of the consequences, including very substantial Federal assistance for the city of New York, we have to act on the House-passed administration bill. That is the only way we can get any assistance for the city of New York before December 11, before a default.

So we have to act on the House-passed administration bill which does not contain any such conditions. It is much more liberal and open-ended than the Senate Banking Committee bill.

If we were in a different position, we could establish those minimal conditions which would assure that the burden was put on the banks. But it is not through any fault of the Banking Committee that we are not in that position. Those who are opposing this legislation, or any variation of it, would put New York into default, which means that the city could not market its obligations for as long as 20 years, in some States its essential services would have to be financed somehow. A trustee in bankruptcy, even if there was a procedure for the appointment of one, could not market any obligations, at least for some period of time. In those circumstances, the city of New York would have to be placed on a Federal dole. The obligations of the city and of MAC would be written off. The Federal Government, as a result, would lose substantial tax revenues, as well as end up financing essential services.

All of the concerns that were expressed by the Senator from Virginia and many others, including that concern about putting the burden on the banks, were addressed by the Banking Committee. Now we are faced with the necessity of passing the administration's House-passed bill, which does not explicitly address itself to that purpose of putting the burden on those banks.

Mr. Harry F. Byrd, Jr. That is correct.

Mr. Stevenson. It is quite possible that under this bill the Secretary of the Treasury will do that. We made absolutely certain that he would do it in the Senate Banking Committee bill, but we cannot act on that bill because of the obvious intention of some in this body to delay action on any legislation that would provide loans or guarantees for the benefit of the city of New York.

That being the case, the only way that Congress has now of providing assistance which could avoid default and all of its consequences is by acting on this bill. So with all respect to the Senator from Virginia—and I have the greatest respect for him, and share many of the concerns that he has expressed, including the concern about the power of the New York banks, which I have expressed myself—I have to say that the apparent efforts to delay action in this body are preventing the Senate from establishing by law preconditions to assistance for the city of New York, including the condition that would have put the burden squarely on the banks in New York City.

Mr. Harry F. Byrd, Jr. I thank the Senator from Illinois for his comment, because among other things it confirms my position that New York banks do benefit from this action, and that the legislation itself does not put a requirement on the banks.

The Senator from Illinois mentioned that a voluntary exchange of bonds, I do not know whether the Senator said had taken place or would take place——

Mr. Stevenson. No, if the Senator will yield, there was nothing voluntary about that exchange. The Senate banking bill——

Mr. Harry F. Byrd, Jr. I am speaking of the bill before us.

Mr. Stevenson. Required an exchange of maturing obligations for new long-term paper. I think we can reasonably assume that the Secretary of the Treasury, who exercises the authority in this bill before us, would establish similar conditions, but there is nothing in the bill to mandate it, as we did in the Senate Banking Committee bill.

Mr. Harry F. Byrd, Jr. But nothing in the bill that will be before the Senate.

Mr. Stevenson. That is right. As I pointed out to the Senator, through no design of the Senate Banking Committee, we are forced into this position of supporting the House-passed bill by those who seek to delay action on any assistance for New York, and time is running out.

Mr. Harry F. Byrd, Jr. Does the Senator have information that he could present to the Senate as to what the New York banks have done in the way of exchanging previous bonds or New York City paper for new paper, and how it differs from the original bonds and in what amounts?

Mr. Stevenson. The only information that I can give the Senator is the information that was embodied in the Banking Committee bill.

Mr. Harry F. Byrd, Jr. We are speaking, though, of the bill before us.

Mr. HARRY F. BYRD, JR. Mr. President, I also ask unanimous consent to have printed in the Record at this point a column by George F. Will entitled "Better To Borrow Than To Tax," published in the Washington Post of Wednesday, December 3.

There being no objection, the article was ordered to be printed in the Record, as follows:

BETTER TO BORROW THAN TO TAX

(By George F. Will)

New York—It is obvious to even the casual observer that New York politicians adhere to no known principles of logic, and are interested in facts only for the fun of disregarding them. What is not obvious to even serious students of New York politics is why a lot of those politicians are not indictable.

It is probable that a long line-up of New York politicians including Mayor Abraham Beame and his predecessor John Lindsay, violated (among other things) some of the laws that eight officials of the defunct Franklin National Bank were indicted for breaking. By falsely claiming for the city certain financial assets, and by issuing false financial statements, all to help sell bonds while avoiding tax increases, various politicians violated federal and state laws regarding deception in the sale of securities.

The motive for such crimes? Political power, of course. New York politicians, like most politicians, but even more than most, are devoted to only one principle: "Better to borrow than to tax."

To make all borrowing easier, and to make reckless borrowing possible, politicians misrepresented the city's financial capacity. A favorite trick was exaggerating the size of the tax base by including in it properties that are tax-exempt.

For example, the city government said it was going to reap $380 million in tax-anticipation notes by using taxes imposed on properties that included an urban renewal land site, city-occupied office buildings, a public park and high school, diplomatic properties, and Carnegie Hall—all tax exempt.

If such things interest you—and they should, gentle taxpayer, because you are about to lend billions of dollars to New York—consult the Dec. 1 issue of "New York" magazine, the article by Ken Auletta, whose reporting about New York's crisis has earned him the highest honors journalism can bestow.

For example, Auletta reports that in 1971 the head of the city's gambling operation, Off Track Betting, told the politicians that OTB might produce profits of $25 million. The politicians, unwilling to raise taxes or cut their budget, doubled the OTB estimate to $50 million. The actual OTB profit: $14 million.

In 1972 OTB estimated $43 million in profits. The chairman of the City Council's Finance Committee, without a shred of justification, said the Committee budget should allow for $70 million from OTB. The actual OTB profit: $34.3 million.

Auletta asks a good question:

"When a city leader forecasts revenues on the basis of nonexistent evidence, how different is he from Anthony DeAngelis, the great salad-oil swindler? . . . In the early sixties he claimed as collateral for his loans 161,111,881 pounds of soybean oil, which he said filled 100 tanks in Bayonne, New Jersey. The tanks were largely empty, but no one knew it, because DeAngelis would sneak into the warehouse and steal blank receipts, fill them out, forge signatures, and produce them as proof that there was oil in (the) tanks."

In 1972 Mayor Lindsay, borrowing a trick from Gov. Rockefeller, had the city count as income $400 million in federal funds that Congress had not appropriated and was not apt to appropriate. That was twice the sum the city eventually got.

Such budgetary legerdemain helped dedeceive lenders about the city's condition while the city piled up short-term debt. Since 1964 the cost of such debt has risen from 5.6 per cent to 23.8 per cent of the expense budget.

City trickery created and covered-up a deficit of $3.5 billion. According to a source in the city comptroller's office, the borrowing necessary to finance this hidden deficit cost the city taxpayers $4.3 billion.

According to state laws regarding larceny, it is a crime to "use or abuse (a) position as a public servant by engaging in conduct within or related to . . . official duties, or by failing or refusing to perform an official duty, in such manner, as to affect some person adversely."

In terms of the sums involved, the city government may have committed the largest fraud in history. In terms of the number of politicians involved, it has been a scandal larger than Watergate. The wages of such sin is federal aid—President Ford's proposed New York City Seasonal Financing Act of 1975.

Mr. HARRY F. BYRD, JR. How much time remains, Mr. President?

The ACTING PRESIDENT pro tempore. The Senator from Alabama has 3 minutes remaining. The Senator from Wisconsin has 1 minute remaining.

Mr. HARRY F. BYRD, JR. I yield the remaining 3 minutes which the Senator from Alabama has yielded to me to the Senator from North Carolina.

Mr. HELMS. Mr. President, I simply wanted to ask unanimous consent that a member of my staff, Molly Synon, be accorded the privilege of the floor during the debate on H.R. 10481 and any votes thereon.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I simply say again that the Senate is being asked to bring the debate to a close on a measure which has not been considered by the committee, and one which is entirely different from the one on which the committee hearings were held. Two of the Members of the Committee on Banking, Housing and Urban Affairs, during the debate on the floor of the Senate this past Wednesday, themselves pointed out the great difference between the two bills.

I yield back the remainder of my time to the Senator from Alabama.

Mr. PROXMIRE. Mr. President, I have 1 minute remaining, and I yield it to the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, in the short run the proposal before us now to authorize up to $2.3 billion a year in short-term federal loans to New York City to prevent default will see this city through its immediate crisis.

But looking at the long-term realities, many of the problems that New York City faces are the type that many of this Nation's great cities also are struggling with.

The urban centers of this Nation are being crushed by the burdens of welfare, medicaid, poor housing, and many other problems. These problems are not solely of their own making. The fact is too many Federal programs are designed or operated in a manner which is detrimental to the cities.

It is time for this Nation to face up to its cities' needs. It is time for this Nation to develop a new urban policy that will save our dying cities.

To overcome this crisis of the cities, we must first face a hard political truism that Federal dollars quite often are divided on the basis of political cynicism and not according to basic human needs. To illustrate this, half of our Nation's total population is crowded into 9 of our 50 States. That means in the Senate that only 18 votes represent more than half of this Nation's total population.

Obviously this is a political reality that must be faced and honestly solved. To do this, those of us who want to see a nationwide urban renaissance must persuade our colleagues of the need for such a vital revitalization. We must move the Federal Government toward a national urban policy that will save such great cities as New York.

At this moment I can think of three broad areas of reform: welfare, revenue sharing, and grant and assistance programs.

Take welfare for example. Benefits and eligibility standards vary from State to State. As a result, there is a flood of welfare recipients to high-cost urban areas like New York City where benefits are higher.

New figures released dramatically illustrate this point. A New York State study shows that about two-thirds of the family heads who are on relief in New York City were born outside New York State. About 23 percent came from Puerto Rico and 22 percent from Southern States. These figures show a similar trend in the other States with large manufacturing and urban centers. The percentage of out-of-State welfare recipients in Ohio was 52.5 percent; Illinois, 63 percent; California 67.5 percent.

In contrast, comparable figures for some of the more rural Southern States were: 10 percent in Mississippi; Alabama, 15 percent; Louisiana, 18 percent.

The meaning of these figures is quite clear. New York and other urban States are assuming the welfare and medicaid costs of other States. The problem is further complicated because while New York is paying for transient welfare cases from many parts of the Nation, particularly from the South and Puerto Rico, the State is reimbursed for only 50 percent of the cost. Most Southern States get a much higher reimbursement, reaching up to 83 percent.

It is clearly time to reverse this formula. The States with the biggest welfare caseload and the States who take in welfare cases from other States should get the largest reimbursement from Uncle Sam.

New York did not invite in these outsiders now on welfare. On the contrary, the State of New York unsuccessfully went to court to defend its requirement that welfare recipients must live in New York City for a reasonable period of time before receiving the city's money. But this requirement was struck down by the Supreme Court. The result is New York City must pay out $1 billion yearly for welfare. This is one-fourth of the total bill, and there are few other cities in this Nation who must pick up such a major portion of the welfare tab.

The current welfare system must be changed with the Federal Government—not States and cities—bearing the financial burden. Had we done this as I proposed in 1971, we would not only have saved New York City that $1 billion yearly, but New York State also would have had a $1 billion annual savings. This certainly would have kept New York City from its sad financial plight.

There is an antiurban bias evident in many of the Federal grant and assistance programs. Our national drug abuse program is a good example. Half of this Nation's total addict population lives in New York City, but it received only 6.5 percent of Federal Government expenditures on all drug abuse programs. New York City's expenses for drug addicts last year alone were $78 million, but the Federal Government paid only $8 million of that $78 million.

Revenue sharing is still another area that needs reform if our cities are to be saved. Cities must get a bigger share of these funds. A fairer share. Under the present revenue-sharing system, the allocation formula used to distribute money contains built-in biases against our cities. It must be rewritten, giving greater weight to the critical factors of unemployment, poverty, and urbanization.

True, New York City has made many fiscal mistakes. But for the sake of the many innocent victims who are residents of this city, we must do the humane thing. We must help this city get back on its feet.

Both New York Gov. Hugh Carey and New York City Mayor Abe Beame have repeatedly told the Joint Economic Committee of which I am a member that they are not looking for a handout. They say they want a helping hand until the fiscal reforms that they now have undertaken take hold.

I believe these are sincere men who have presented a reasonable argument. As Mayor Beame has said, we as a nation surely can help a city which sends some $14 to $15 billion to the Federal Government but only gets back a little over $2 billion.

No one can say that New Yorkers do not pay their fair share of taxes. Even though New Yorkers now face higher taxes, they already are the highest taxed citizens in the Nation.

The ACTING PRESIDENT pro tempore. All time of the Senator from Alabama has expired. The Senator from Wisconsin has 1 minute remaining.

Mr. PROXMIRE. Mr. President, I yielded my 1 minute to the Senator from Connecticut.

Mr. RIBICOFF. A recent study shows these tax-burdened people paid an average of $952 per person in State and local taxes in fiscal year 1974. Massachusetts residents were second, paying $767. Hawaii's residents averaged $765; California, $739.

In contrast, Alabama's citizens paid only $383 in State and local taxes. Other figures were Arkansas, $384; South Carolina, $422; Mississippi, $425; Oklahoma, $428; Kentucky, $441; Florida, $520; Tennessee, $424.

If these heavy tax burdens continue, they will drive more industry and more middle-class dwellers from New York City.

More and more of the "Fortune 500" companies—those ranked annually by Fortune magazine as the Nation's 500 largest industrial firms—are moving from New York City.

New York City in the years from 1956 to 1968 was home base to as many as 140 of these companies and never had fewer than 130 of them. As of May, the city had only 98, and more sadly are leaving.

Employment in the city also is dropping. From a peak of 3,844,000 jobs in 1969, jobs fell by 550,000 as of September.

I think that these figures should shock

Americans into reality. The world's financial capital is slowly dying from neglect. We cannot allow this to happen. Not to this city or any city in America.

The time has come to forget the political cynicism where New York is punished for the ills of the Nation and yet the rest of the Nation turns its back, plunges its hand into the Federal till, and then comes to the Chamber of the U.S. Senate and talks, with crocodile tears, about the waste of New York and the ill-management of New York City, when the problems are really Federal in scope.

ADDITIONAL STATEMENTS SUBMITTED ON H.R. 10481

Mr. PROXMIRE. Mr. President, this legislation will provide seasonal financing to New York City so that the city can maintain essential services while it works its way out of the current financial crisis.

This is emergency legislation, so it is vital that we act quickly and send the bill to the President for his signature. New York City faces the prospect of default as early as December 11. The city has to pay its bills and meet its payroll—next week and the week after that and the week after that. Without Federal assistance to cover the seasonal shortfalls in revenues which the city faces—indeed, which every city faces routinely—there is no way that New York City can maintain even a minimum level of municipal services.

ACTIONS TAKEN BY NEW YORK CITY AND NEW YORK STATE

New York City and New York State have accomplished an enormous amount in recent weeks. They have gone a very long way toward pulling the city out of the financial quagmire into which it had sunk over a period of years, as a result of fiscal mismanagement and profligate spending.

Consider the many tough and stringent measures the State and city have undertaken to bring the budget into balance and stretch out the city's debt burden:

The State has voted over $200 million in new city taxes. This is on top of a $300 million tax increase passed by the city last summer.

City employment has been reduced by 36,000—22,000 of this due to layoffs. In addition, the city government has made a substantial cut in spending.

The New York banks and pension funds have agreed to exchange $1.7 billion in short-term MAC bonds for 10-year bonds at only 6-percent interest.

The pension funds have also agreed to buy $2.5 billion of new MAC or city securities over the next 3 years.

The State has enacted a moratorium on payment of principal on $2.6 billion in city short-term notes for at least 3 years.

City employees will now be required to make contributions to their pension funds, which will total over $100 million a year.

Mr. President, I ask unanimous consent that a detailed list of actions taken by New York City and New York State, which accompanied the President's statement of November 26, be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

ACTIONS BY NEW YORK CITY AND NEW YORK STATE

Governor Carey and Mayor Beame have informed Administration officials that the actions listed below are being implemented. New York State and City officials are delivering documentation verifying such actions for the Administration to review.

The following actions are designed to insure a balanced city budget by June 30, 1978:

a. The three-year Emergency Financial Control Board (EFCB) plan will produce a modest surplus in the City's expense budget by fiscal year 1977–78.

b. The State Legislature has voted over $200 million of additional City taxes which will be imposed by the EFCB.

A portion of annual City contributions to the pension systems has been shifted to the employees by legislation. On an annual basis, the savings to the City would be $85 million and the impact on the employees would be $107 million per annum.

d. The City has laid off about 22,000 employees since January 1 and increased taxes over $300 million this past summer. Additional personnel reductions of over 40,000 employees are contemplated in fiscal years 1977–1978.

e. A partial wage deferral was imposed this fall.

f. The City has reduced its subsidy to the City University by $32 million.

g. The New York City transit fare has been increased from 35¢ to 50¢.

The following actions are designed to enable New York City to meet its financing requirements:

a. Moratorium legislation has been enacted with respect to $2.6 billion of City short-term notes.

b. An exchange offer has been approved by the MAC Board for an exchange of 10-year 8% MAC bonds for the $1.6 billion of City notes held by the public.

c. The New York banks and pension systems have agreed to take 10-year 6% City securities as part of the moratorium in exchange for $1 billion of City notes.

d. The New York banks and pension systems have agreed to take 10-year 6% MAC bonds in exchange for $1.7 billion of MAC bonds bearing higher interest rates and/or shorter maturities.

e. New York City pension systems have agreed to purchase $2.5 billion of new MAC and/or City securities over the next three years. This commitment is subject to appropriate trustee indemnification.

f. MAC has provided about $3.5 billion of financing to the City, of which $1.5 billion is refinancing of short term debt.

The City and State have implemented the following management changes:

a. Creation of MAC and EFCB control mechanisms.

b. Extensive management changes are being made in the City including a new Deputy Mayor for Finance and a new Chief of Planning.

The following proposals have been made to reform the New York City pension program:

a. The EFCB has passed a resolution directing the City to terminate the practice of using, for budgetary purposes, all income of the pension systems in excess of 4% per annum. In the year beginning July 1, 1976, this will result in approximately $136 million per annum of additional income to the pension systems and a commensurate increase in the City's expenses. The EFCB has also directed the City management to take action and report back within 30 days with respect to termination of the practices resulting in the abuse of overtime in the last year of employment, thereby creating excessive pension burdens on the City.

b. Governor Carey has directed Mr. Richard Shinn, President of the Metropolitan Life Insurance Company, to report to the EFCB by December 31 on the actuarial soundness of the City pension funds. The EFCB has directed the City to prepare and submit to the Control Board such legislative requests and other amendments as may be necessary as a result of the Shinn study to put the funds on a sound actuarial basis and to have those recommendations to the Control Board no later than January 31, 1976.

Mr. PROXMIRE. In a last-ditch effort to avert default, therefore, New York City and State have worked out an intricate financial package amounting to $6.8 billion. All the major actors in the city's financial crisis are participating; all will share in the risk and the burden. But final agreement on this package is contingent on the city's getting seasonal financing from the Federal Government. With this Federal aid—which will cost the taxpayers nothing—the city can keep going and set the foundation for financial recovery. Without it, everything falls apart.

PRESIDENT FORD NOW SUPPORTS AID TO NEW YORK CITY

President Ford has acknowledged that the city has come a long way. He says that New York City has bailed itself out. That is why he now supports Federal assistance to the city—in the form of Treasury loans of up to $2.3 billion to cover seasonal shortfalls in revenues.

The President recognizes, as we all should recognize, that so long as New York City cannot borrow on the private market—not even in anticipation of future revenues—there is no way it can keep on operating without financial help from outside. There is no way that the city can pay its police and firemen, and keep schools and hospitals unless it has a regular cash flow to pay for all these things. That is why we must pass this seasonal financial bill, and pass it very soon.

The bill we have before us today, H.R. 10481, is the President's bill. It is the bill the President says he wants; it is the bill he has said he will sign when it comes across his desk.

CONGRESS MUST ACT QUICKLY TO AVOID A NEW YORK CITY BANKRUPTCY

This legislation has already passed the House of Representatives. The House passed it in 1 day.

Now it is time for the Senate to act. I hope we can pass the House bill without amendment and send it directly to the President, and thereby avoid the delay of a conference.

Time is short. Today is December 5. Congress will adjourn in 2 weeks. After we pass this bill, we will then have to act on the supplemental appropriations bill, because that measure includes the $2.3 billion appropriation needed to establish the New York City seasonal financing fund, from which the loans will be made. We will probably see extended debate on the appropriation bill as we have on the authorizing legislation. If we have to go to conference on this bill, then the merits of the conference report are also likely to be discussed at some length.

I hope we can avoid a conference. I hope we can minimize the pitfalls of delay which line the path of this legislation. I hope we can pass the bill today.

New York City has come a long way in a short time. President Ford recognizes this; the American public recognizes it, in increasing numbers.

It is up to Congress to take the final step. It is up to Congress to supply the temporary financing which New York City must have to meet its cash flow needs during those periods of time when revenues fall short of expenses.

If we do not take this step, if we do not take it now, then the city will surely be forced into bankruptcy.

CONSEQUENCES OF A NEW YORK CITY BANKRUPTCY

I assure my distinguished colleagues that, on the basis of information received by the committee, I am convinced that a New York City bankruptcy would be far more costly and far more disruptive than any action taken to prevent default. Furthermore, bankruptcy would probably result in a much longer and deeper Federal involvement in New York City's affairs.

Let us examine for a minute some of the consequences of a New York City bankruptcy.

First, the $6.8 billion financial package so painstakingly assembled by the State and city, under the administration's watchful eye, would fall to pieces. It rests on a number of interlocking legal agreements, which would break apart under the strain of bankruptcy. The pension funds could not lend to a bankrupt city, so there would go $2.5 billion Likewise, the $1 billion note rollover and stretch-out by the banks and pension funds would not take place. Nor would the $800 million State advance be forthcoming. There you have $4.3 billion of the $6.8 billion gone at a stroke because of bankruptcy. Add to this the probable loss of real estate, sales tax and other revenues. There is no doubt that New York City financial condition would be far worse in bankruptcy than it will be if we pass this legislation and help the city get back on its feet.

We must also consider the legal ramifications of bankruptcy. Even if the proposed amendments to the Federal Bankruptcy Act were passed, so that the city could at least get into court, it would still be literally years before any agreement was worked out on a composition of New York City's debts. Bankruptcy proceedings in the Penn Central case—involving debt less than one-third the size of New York's—have been going on for over 5 years, with no end in sight. A New York City case would be far more complex—involving over 200,000 creditors in various classes, hundreds of labor and other executory contracts, and a host of legal issues. The average length of a bankruptcy proceeding in New York State is 8 years. It could well take at least that long to get a New York City bankruptcy settlement worked out, even under a new law.

Eight years, and then what? New York City will never be able to run its own financial affairs until it can regain investor confidence and get back into the private credit markets. The problem is that 30 States have laws barring banks and fiduciaries from buying the paper of a municipality in bankruptcy for 5, 10, up to 25 years after the event. Bankruptcy could shut New York City out of the credit markets for a generation, even if it balanced its budget and paid off all its creditors.

The irony of all this is that we would end up back at the same spot we are in today. With the city in bankruptcy and unable to borrow, the Federal Government would still have to supply seasonal financing to keep New York going in times when its revenues fell short.

Mr. President, I think we should spare ourselves the exercise in pain and futility that a New York City bankruptcy would represent. The Senate should vote to accept the legislation proposed by the President and passed by the House.

DESCRIPTION OF THE LEGISLATION

Let me describe what the legislation would do:

The bill authorizes the Secretary of the Treasury to make loans to New York City out of a $2.3 billion revolving fund set up for this purpose. According to estimates supplied to the administration, New York City will need loans of up to $1.3 billion through June 30, 1976, and then about $2.1 billion for fiscal years 1977 and 1978.

Mr. President, I ask unanimous consent that a memorandum showing New York City's seasonal cash flow needs through June 30, 1978, be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

New York City Seasonal Cash Flow Needs

New York City has estimated its seasonal cash flow needs as follows:

CUMULATIVE NEEDS

[In millions of dollars]

	Fiscal year—		
	1975–76	1976–77	1977–78
July		$1,100	$1,041
August		1,462	1,413
September	------	1,197	1,237
October		1,585	1,293
November		1,614	1,325
December	$141	2,063	1,670
January	465	2,062	1,697
February	775	2,017	1,645
March	[1]1,275	[1]2,120	[1]1,994
April	941	1,528	1,369
May	595	1,103	996
June	0	0	0

[1] Peak.

Mr. PROXMIRE. The loan program will not cost the Federal Government anything; in fact it will make money. All loans must be repaid in full by the end of each of the city's fiscal years, at an interest rate of 1 percent above the Treasury's cost of borrowing. The interest premium should earn the Treasury $31.5 million over the life of the act, and a net profit of $28 million when administrative expenses are taken out.

There are a number of conditions attached to the loan authority. These are designed to protect the Federal Government's interest and insure against losses.

A loan may be made only if the Secretary determines that there is a reasonable prospect of repayment, and then under such terms and conditions as he requires to insure repayment.

No loans may be provided unless all prior loans which have come due have been repaid.

The Secretary may require such security as he deems appropriate.

If any claims against the city arise under the act then the Secretary may withhold any Federal payments to which the city is entitled. This means, for instance, that revenue sharing payments may be withheld to cover any losses sustained by the Federal Government.

The bill contains provisions to permit adequate oversight of the city's financial affairs by the administration and the Congress during the life of the act. The Secretary of the Treasury is authorized to inspect and copy the city's financial records and other documents, and the General Accounting Office is authorized to do thorough audits of the financial affairs of New York City and State and report its findings to the Secretary and to the Congress.

Finally the act is limited to 2½ years; it expires on June 30, 1978.

COMPARISON OF THE PRESIDENT'S BILL AND COMMITTEE BILL

Mr. President, the Senate Committee on Banking, Housing and Urban Affairs spent many long hours in deliberations on the New York City financial crisis. We considered a number of different approaches to dealing with this problem. The bill reported by the committee, S. 2615, would have provided $4 billion in Federal guarantees of New York securities, with a number of strict conditions attached.

In the month which has passed since the bill was reported out—a month spent waiting for the President to finally come around on this issue—there have been a number of changes in the New York City situation.

Many of the conditions in the committee's bill have now been met. Banks and other institutional investors have agreed to stretch out their debt holdings and accept lower interest rates. City employees will now have to pay contributions to their pension funds. New York City's budget will be brought into balance.

Now the President has shifted his position and proposed his own legislation. We have that bill before us today. While in some ways I would have preferred to adopt the committee's bill, I think that the President's bill is also a good bill. It is a reasonable approach to the New York City financial problem. It also has the virtue of being the only bill which the President is willing to sign.

A chart prepared by the committee compares the financing plans contemplated in the Senate bill and in the President's bill. The figures are very similar; the main difference arises out of the State-passed debt moratorium. Mr. President, I ask unanimous consent that the table be printed in the Record.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

NEW YORK CITY FINANCING PLANS—COMPARISON OF SENATE BILL (S. 2615) AND PRESIDENT'S PLAN (H.R. 10481

[In billions of dollars]

	Senate bill (S. 2615)	President's plan (H.R. 10481)
I. Borrowing needs through June 30, 1978:		
1. Operating deficit	$1.0	$1.0
2. Capital program	3.0	3.0
3. Roll over of short-term notes	2.8	2.8
Total	6.8	6.8
II. Method of financing:		
1. Additional taxes	.5	.5
2. State advance	.8	.8
3. Voluntary exchange of short-term notes for long-term bonds by banks and pension funds	1.2	.9
4. Reduced MAC debt service	.2	.1
5. Increased real estate tax levy	.3	.4
6. New nonguaranteed securities	2.1	2.5
7. Guaranteed securities	1.7	0
8. Forced exchange of short-term notes via moratorium legislation	0	1.6
Total	6.8	6.8
III. Seasonal needs	2.3	2.3
IV. Total Federal aid (lines II.–7. plus III)	4.0	2.3

Mr. PROXMIRE. In some ways, the President's bill may be better than the bill reported by the Banking Committee—especially in view of recent developments. It has less money—$2.3 billion as opposed to $4 billion in the Senate bill, and the House originally wanted $7 billion. Also, it covers a shorter time period. Federal assistance will end on June 30, 1978, 2 years earlier than in the Senate bill. Finally, the President's bill is tied specifically to seasonal cash needs. Federal aid will only be given to cover essential services, and only with assurances of repayment in revenues coming in. This way, the city will be kept on a very short leash. The pressure will be on the city every month, every week, every day to keep its financial affairs in order, or else lose its cash lifeline from the Federal Government and go bankrupt.

I think this is a good bill, I think it will work. It provides the minimum amount of Federal financial exposure, the minimum degree of Federal involvement in the city's affairs.

I do have some reservations about the legislation before us now. There are definitely some drawbacks to the President's approach—drawbacks—which may give us pause but should not hold us up at this late date.

There is no denying that the plan relies very heavily on participation by the pension funds. Since the labor unions control the pension funds, we run the risk of placing the city in the clutch of the unions. Many believe that the unions already have too powerful a say in running New York City. Their influence will hardly be diminished under the President's plan, and this may hinder its progress.

Moreover the plan can only work if the financial package holds together and there are definite weaknesses in it. The moratorium on payment of principle passed by the State legislature is now under strong challenge in the courts. I believe the law will be upheld; I understand there is precedent for it. However should it be overturned, the President's plan for New York City would be in very serious trouble.

Mr. President there are no easy answers to the New York City financial crisis. The only thing certain is that we must act and act now to provide Federal assistance and prevent a New York City bankruptcy. President Ford agrees, the House of Representatives agrees, and I urge the Senate to act today and vote final passage of H.R. 10481, the New York City Seasonal Financing Act of 1975.

Mr. DOLE. Mr. President, early in the week I signed a cloture petition to bring to a close this debate, and I shall vote for cloture this morning. I do so with the conviction that whatever the merits or demerits of the Inter-Governmental Emergency Assistance Act, the people of New York City are entitled to a timely and final decision. It is almost certain that without Federal aid, the city will default on its obligations next Thursday, and it is only proper that Congress act on the Federal aid proposal before that date.

However, my desire to bring this matter to a vote should not be interpreted as an indication of support for H.R. 10481. Rather, I remain opposed to this and other proposals for Federal aid for New York City. The offer of direct Federal loans to a self-governing municipality, however limited or temporary in nature, sets an unfortunate precedent with distressing implications for the future of the Federal system of government. It is a precedent that this body may soon have cause to regret.

The bill before us is objectionable on other grounds. Massive loans to New York City will require additional Federal borrowing which will remove scarce capital from the private sector and boost interest rates throughout the Nation. Moreover, several knowledgeable observers have suggested that the maximum amount of credit available to the city under the terms of this legislation is insufficient to meet the city's cash-flow requirements during the next several years. Even supporters of this bill concede that the financial estimates, upon which these figures are based, are speculative and risky. If the proposed loans prove insufficient to bridge the city's deficit, this bill will simply prolong the crisis rather than solve it.

I am further distressed by several aspects of the board fiscal package which forms the context and justification of this measure. In the first instance, several of the city's new tax levies are of such a nature that they may prove counterproductive.

They may ultimately serve to discourage business, drive out jobs and further erode the city's tax base. Second, the New York State Moratorium Act, which governs the repayment of $2.6 billion of city short-term notes, is being challenged in court. If it is found unconstitutional, the entire fiscal package may be jeopardized. If it is sustained, other problems arise. The New York State bond market may be disrupted or inhibited by the fear that in a future crisis, in some other city, the State will invoke another moratorium and suspend repayment on maturing notes or bonds.

Apart from these considerations, I am left with the impression that New York City's officials have been unduly hesitant to take those tough but necessary steps to restore fiscal sanity. To be sure some economies have been made in recent weeks, but only under the most intense pressure. In the 8 weeks since the Banking, Housing, and Urban Affairs Committee began hearings on New York, city officials have pared their estimates of minimum assistance needs from $9 billion to $2.3 billion. I rather suspect that these loan requirements would shrink even more if additional economies in the city's expenditures were made.

FEDERAL ASSISTANCE TO NEW YORK—A BARGAIN FOR ALL TAXPAYERS

Mr. HUMPHREY. Mr. President, I rise today to support the cloture motion on legislation to provide temporary loans to State and local governments. I support this bill because it is essential to the survival of America's largest city and to the maintenance of the fragile economic recovery now underway.

As chairman of the Joint Economic Committee, I became very concerned back in August that a default by New York City could have serious adverse consequences for the Nation. In response to this concern, I initiated a series of Joint Economic Committee hearings—the first congressional hearings designed to examine the economic and financial consequences of a default by New York City. These hearings produced a great deal of evidence that the effects of default extend far beyond the boundaries of New York City. The Joint Economic Committee hearings also prompted me to introduce the Emergency Intergovernmental Assistance Act of 1975 (S. 2514)—temporary bond guarantee legislation which laid the foundation for the bills reported to the floor by the House and Senate Banking Committees.

Subsequent to these hearings, I requested the staff of the Joint Economic Committee to prepare a report analyzing the causes of New York City's financial crisis and identifying the effects of default by New York City. This report, titled, "New York City's Financial Crisis—An Evaluation of Its Economic Impact and Proposed Policy Solutions" has served as a valuable source of information in the debate about loan and guarantee assistance for New York City.

Because of my long-term involvement with this issue, I believe that there are many reasons for all Members of Congress to support this legislation. My principal concern is that New York City continue to possess the resources and the energy necessary to maintain the services that all cities must provide. Police, fire, and emergency health services are not enough. Schools must be kept open, water services must be provided, libraries and museums must continue to function, and the trash must be removed from the city streets. Without these services, New York will become a hollow city—a home for only the indigent, the aged, the infirm, and others whose small resources force them to remain captive in the city.

Yet, if we do not pass this legislation today, that is precisely the fate to which New York will be condemned. Without Federal help, New York City will have to cut the controllable portion of its budget by 50 percent in the next 4 months. The schools will have to be closed forcing 1 million children and young adults into the streets. Libraries and museums will become empty halls, depriving millions of Americans of the natural and productive outlet for their cultural and intellectual curiosity. Many essential human services—drug treatment programs, community health services, day care centers and others—will be discontinued, depriving hundreds of thousands of Americans of the faint glimmer of hope that presently makes their lives tolerable. Cuts in services of this magnitude can only result in outright chaos and unnecessary human suffering—a result which violates every principle of human dignity for which this country stands.

The time has come to put aside regional differences and prejudices and to unite behind a proposal which will maintain the minimum level of services necessary to preserve human dignity. The bill that we are considering today will preserve these basic services that each and every American has a right to expect. Anything less must be vigorously opposed because it will only condemn 8 million Americans to permanent second-class citizenship, depriving them of the services that all other Americans accept as a matter of right.

This legislation does not suggest that New York should not reform its management and budgeting practices: for the city must cut back. But it does recognize that these cutbacks are already occurring, as painful as they may be. The transit fare has been increased by approximately 50 percent. Almost 40,000 workers have been removed from the city payroll through attrition and layoffs since the first of the year. A 3-year freeze on employee wages has been enacted. A financial plan has been adopted which will cut $700 million out of the budget in the next 2 years. Moreover, $535 million in new taxes have been imposed. Even the city's budgeting and accounting practices have been standardized.

According to the Joint Economic Committee's staff study, the expenditure cutbacks alone will result in a real reduction in service levels of approximately 20 percent of the controllable budget. Clearly these actions are not token efforts. They constitute a massive cutback in services which will have a profound effect on the city's way of doing business and on the quality of services provided to its residents.

In my opinion, a bankruptcy procedure or any other proposal which requires more austere budget adjustments than those already contemplated, will be counterproductive. According to the New York State Development Agency, unemployment in the New York City region will rise to 16 percent, even under the program of gradual adjustments associated with the existing 3-year financial plan. A more rapid cutback would only serve to further accelerate the flight of jobs and people from the central city. Businesses will be reluctant to expand or remain in a city that cannot guarantee a constant flow of public services. Middle-income families with children will not remain in the city if the school system is closed. Even the upper income families that enjoy the culturally rich living experience that New York has to offer will be reluctant to remain in a city whose basic services are undependable.

The solution that we have before us today is not an easy one. But it does offer the city of New York the opportunity to gradually scale down its expenditures rather than abruptly to cut them off. In my opinion, it is much more sensible to allow the city to roll down the hill towards a balanced budget rather than to shove the city off the cliff and to hope that it lands in one piece.

But the reasons for supporting this legislation extend far beyond the boundaries of New York City. Other State and local governments are already paying higher interest rates as a result of the uncertainty surrounding the New York City financial crisis. According to the Joint Economic Committee staff study, State and local governments are already paying an additional $300 million in interest costs annually. Another study by the Municipal Finance Officers' Association, suggests that the additional cost is approximately $350 million and that these additional costs are being borne by every State in the Nation. Pennsylvania governments will incur an additional interest cost of $99 million over the life of the bonds issued this year; New Jersey—additional costs of $62 million; Texas—$30 million; California—$40 million; Massachusetts—$38 million. My home State of Minnesota, $7 million. These are real costs to American taxpayers—green dollars, not loans to be repaid in full with interest.

These higher interest rates are causing many State and local governments to drastically reduce expenditures, thus undermining the strength of the economic recovery. Thirty-eight States have interest rate limitations which prevent the State or local governments from borrowing at interest rates above a certain level. Typically, these laws prohibit interest payments in excess of 7 or 8 percent—a rate that is already precluding some State and local governments from borrowing and forcing the cancellation of many construction projects. Also high interest rates will induce many State and local governments to cancel or delay capital construction projects that are not immediately essential to their operations. These two factors will reduce State and local spending, thus undermining the strength of the economic recovery.

Banks will also be adversely affected by a default by New York City. Recently released data indicate that 546 banks, with deposits equal to roughly one-third of the Nation's primary money supply—currency and demand deposits—hold significant amounts of New York securities. While actions by the regulatory authorities will probably prevent these banks from becoming insolvent, a default could have a significant adverse effect on their lending practices and interest policies.

These banks can be found in every State in the Union; 65 in Florida, 32 in Arkansas, 39 in Missouri, 45 in Illinois, 21 in Texas, and 8 in Minnesota. The communities in which these banks are located will suffer enormous consequences if New York City defaults. These banks will reduce their lending activity in an attempt to rebuild capital positions. A reduction in lending activity means less money available for construction loans, for mortgages, for small business and even consumer loans. Banks will also be forced to charge higher interest rates in an attempt to rebuild their capital positions. This will significantly reduce the strength of the recovery in cities and regions that expect to have their recoveries fueled by the loans of these banks.

The combination of cutbacks in State and local spending, higher interest rates, and reduced bank lending practices, will significantly weaken the strength of the economic recovery now underway. According to the Joint Economic Committee staff study, the growth rate in gross national product will be reduced by one percentage point below expected levels by the fourth quarter of next year. That means that an additional 300,000 workers will be unemployed 1 year from now. That is a cost to this country in jobs, output, and human suffering that I am not willing to accept, and one that we may well be able to avoid by passing this bill today.

Moreover, the slowdown in the rate of recovery will impose direct costs on the American taxpayers. The Federal deficit will be increased by approximately $4 billion as tax receipts fall and expenditures rise due to increased unemployment. State and local governments will also suffer larger deficits as higher unemployment reduces their receipts and increases their expenditures. These costs are real costs to the American taxpayers. They mean higher taxes for each and every American family. As a result of these costs, default will inevitably cost the Federal Government, other State and local governments and ultimately the American taxpayers much more than a prudent program of Federal help to prevent default and its consequences.

Finally, I support this legislation because the only alternative, bankruptcy, will be an endless or arduous process from which no one will emerge a winner. There are approximately 250,000 creditors of the city of New York. That means that as soon as New York files for bankruptcy, one-quarter of a million people and corporations will want to have a say in the resolution of New York difficulties. The litigations will be endless, preoccupying the city for years to come. Moreover, the management capabilities of the city will be diverted from improving the efficiency of the city's operations to stemming the tide of litigations.

In my opinion, the country simply cannot afford the cost and potential shocks that could result from a New York City default. The uncertainties are just too great and the risks of damage to the economy too severe. Sure, New York must pay for its past errors but the issue no longer revolves around the number of counts of fiscal gimmickry of which the city is guilty. The city has already admitted responsibility for many of these errors. The challenge that we now face is not to find the punishment that fits the crime but to find the solution that minimizes any further damage to the country and the region.

Mr. President, the bill that we are considering today is not, in my opinion, the optimal solution to New York City's fiscal problems. Too many legal and economic clouds still hang overhead to conclude that this is the final answer. The legality of the moratorium used to induce the $1.6 billion note exchange program is currently being questioned in court. The $2.5 billion purchase of city notes by the pension funds is also being challenged on the grounds that it violates the "prudent man" rule used to govern fiduciary behavior. And the prospects of further job losses and middle class exodus from the city still loom very large. So we are not out of the woods yet.

For these reasons, I still believe that the loan guarantee legislation that I introduced in September and the bill that was finally produced through the hard work of the distinguished chairman of the Banking Committee, the junior Senator from Illinois and others are both more certain and final solutions. But I support this legislation today because it is the only bill that we can realistically expect to enact into law in time to avert default.

Mr. President, the bill we are considering today is the only politically feasible solution for preventing a default by New York City. It is a tough bill and a fair bill, but a modest bill. It will not cost the Treasury one dime. In fact, it will probably make money for the Government. It will provide Federal loans for only the intrayear borrowings of the city of New York—the borrowing that the city must make to smooth out its cash flow. The loans will have maturities of less than 1 year and none will be outstanding at the end of the fiscal year. They will be backed by real revenues of the city of New York, not by illusory revenues that past bonds and notes have depended upon.

Mr. President, this bill is a product of endless hours of legislative negotiations and of a major commitment by the Senate and the city of New York. I urge all of my colleagues to support it.

Mr. BAYH. Mr. President, I intend to support and to work toward the passage of the loan program for New York City that was proposed last week by the administration. I will certainly vote for cloture.

The reason for my support is not that the President's program is the best program—for New York City and for the Nation—that has thus far been placed before Congress. Far from it, I think the President's program has major flaws; it gives, for instance, William Simon—an opponent of aid to New York City—virtually unbridled discretion in determining when and to what extent loans will be made. I would have preferred a program along the lines of that developed and approved by the Senate Banking Committee. The committee bill would have provided greater assistance on more certain terms. Thus it would have allowed the city the discretion it and other localities deserve as a matter of right in making local policy decisions and planning for the future with greater precision. But I support the administration's bill because of the imperative need to prevent default by New York City.

Unfortunately, the President and his economic, political and campaign advisers originally did not think that such a program was in their—or New York City's—interests. Indeed, until the Gallup and Harris polls began to indicate wide national support for Federal assistance to New York City, the administration did not think any aid was in the national interest. Curiously, the administration's perspective of the national interest changed abruptly with the new findings of the public opinion polls. I cannot help but wonder whether what now passes as Presidential leadership is nothing more than a calculated reading of political polls.

Nonetheless, despite whatever caused the President's sudden shift from a demagogically delivered no-aid position to a limited direct-loan position, I am at least thankful that sufficient funds will be made available under his loan program to permit New York City to avoid bankruptcy. It has been my position, since the beginning of New York City's financial problems this June, that it is necessary and appropriate for the Federal Government to help New York City avert bankruptcy.

My support for assistance has been, and continues to be, based on three key factors. First, a default by the city would have drastic effects on the Nation's stock and bond markets, as well as on the banking system and the whole economy. Any hope that the country can soon recover from the recession of the past 2 years would have to be totally dismissed if New York City were to file for bankruptcy. Second, the cost of emergency assistance to the city after default would almost certainly exceed the cost of predefault assistance. This fact was repeatedly admitted by spokesmen for the administration even while it was opposing predefault assistance. And third, as the Nation's largest city and financial center, New York's problems are properly regarded as the Nation's problems. The economic chaos and social disruption that would be caused in New York City by bankruptcy cannot rationally be ignored by the rest of the country.

Mr. President, I am hopeful that we will promptly follow the House's action of Tuesday and approve the assistance bill recommended by the administration, even though that bill is far from ideal. In that way we can at least remove the crisis atmosphere in which we—and the officials of New York City and New York State—have been operating for the past few months.

Once the crisis atmosphere is removed, we can begin the task of ensuring that similar financial crises do not recur, in New York or any other city in this country—and there are presently a number of other cities not far behind New York in their financial difficulties. We can do this only by recognizing that the assistance bill we are considering today is nothing more than a short-term measure. What is needed are long-term measures—measures that will take from our cities many of the economic burdens they are now bearing but which should properly be borne—because the burdens are national and not local in nature—by the Federal Government.

Specifically, I think the following steps are necessary to prevent a repetition of the New York situation in cities across the country in the years ahead:

First. The entire cost of welfare should be assumed by the Federal Government. Poverty is a national problem, and requires a national response.

Second. Countercyclical revenue sharing, which the Senate passed months ago, should be enacted, to help localities cope with the financial problems that are the result of national economic failures.

Third. National health insurance, an important program many fail to associate with the plight of our cities, should be enacted. This will not only achieve our goal of providing all our citizens with proper medical care without regard to income, it will help localities cope with the enormous expense of providing health services for the poor.

Fourth. A new Federal housing program should be undertaken with a rededication to the decades-old goal of providing all our citizens with decent and affordable housing. This is essential to the revitalization of cities everywhere.

Fifth. An effective Federal transportation program to upgrade and to expand urban mass transit systems, including commuter railroads, should be initiated, and it should include as a high priority goal meaningful fare relief.

Mr. President, only after each of the steps I have outlined is undertaken can we expect to have all our Nation's cities on a sound financial footing. Unless they are undertaken—and soon—I am afraid we will have to continue to provide emergency financial assistance to our cash-strapped cities. I hope we can avoid that prospect. I know we can if we begin to attack the real causes of the problem.

As I said at the outset, Mr. President, I am supporting the administration bill because it is necessary to stave off default by New York City. In doing so I want to reemphasize that those of us who understood from the outset the responsibility of the Federal Government to help New York are merely settling for something that achieves our basic goal. But if we are settling for this minimal, and flawed, legislation, we are not relaxing one iota our continued commitment to stay abreast of the situation in New York and in other cities facing financial problems and to act even more decisively should that be necessary at some future date. We can compromise now to prevent default in the short term; we cannot and will not compromise our principles nor our long-term goal of recognizing and acting upon the clear Federal responsibility to all our cities.

CLOTURE MOTION

The PRESIDING OFFICER (Mr. CLARK). The hour of 11 a.m. having arrived, pursuant to rule XXII, the Senate will now proceed to the consideration of a motion to invoke cloture on H.R. 10481, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate upon H.R. 10481, the Intergovernmental Emergency Assistance Act.

Robert C. Byrd, Henry M. Jackson, Gary W. Hart, Edmund S. Muskie, Vance Hartke, Warren G. Magnuson, Jennings Randolph, John O. Pastore, Alan Cranston, George McGovern, Mike Mansfield, Jacob K. Javits, Walter F. Mondale, John Glenn, Robert Dole, Gaylord Nelson, Stuart Symington, Thomas J. McIntyre, William Proxmire, John V. Tunney, Philip A. Hart.

CALL OF THE ROLL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The second assistant legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 87 Leg.]

Abourezk
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bentsen
Biden
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Curtis
Dole
Domenici
Eagleton
Eastland
Fannin
Ford
Garn
Glenn
Goldwater
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott,
  William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

Mr. ROBERT C. BYRD. I announce that the Senator from New Hampshire (Mr. Durkin) is necessarily absent.

I further announce that the Senator from Colorado (Mr. Haskell) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. Fong) is necessarily absent.

The PRESIDING OFFICER. A quorum is present.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate upon H.R. 10481, an act to authorize the Secretary of the Treasury to provide seasonal financing for the city of New York, shall be brought to a close? The yeas and nays are mandatory under the rule, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Hampshire (Mr. Durkin) is necessarily absent.

I further announce that the Senator from Colorado (Mr. Haskell) is absent on official business.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. Durkin) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. Fong) is necessarily absent.

The yeas and nays resulted—yeas 70, nays 27, as follows:

[Rollcall Vote No. 553 Leg.]

YEAS—70

Abourezk
Baker
Bayh
Beall
Bentsen
Biden
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd, Robert C.
Case
Church
Clark
Cranston
Culver
Dole
Domenici
Eagleton
Ford
Glenn
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Taft
Tower
Tunney
Weicker
Williams

NAYS—27

Allen
Bartlett
Bellmon
Byrd,
  Harry F., Jr.
Cannon
Chiles
Curtis
Eastland
Fannin
Garn
Goldwater
Hansen
Helms
Hruska
Laxalt
McClellan
McClure
Morgan
Nunn
Roth
Scott,
  William L.
Sparkman
Stennis
Stone
Talmadge
Thurmond
Young

NOT VOTING—3

Durkin
Fong
Haskell

The PRESIDING OFFICER. On this vote, the yeas are 70, the nays are 27. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. Morgan). The Chair, on behalf of the Vice President, appoints the Senator from Alaska (Mr. Gravel) and the Senator from Alaska (Mr. Stevens) to attend the International North Pacific Fur Seal Negotiating Conference, to be held in Washington, D.C., December 1–2, 1975.

NEW YORK CITY SEASONAL FINANCING ACT OF 1975

The Senate continued with the consideration of the bill (H.R. 10481) to authorize the Secretary of the Treasury to provide seasonal financing for the city of New York.

The PRESIDING OFFICER. Each Senator has 1 hour for debate. Who yields time?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I have an amendment at the desk and I ask that it be called up.

The PRESIDING OFFICER. Will the Senator please refrain. Will the Senate please be in order?

Mr. JAVITS. Mr. President, will the Senator yield to me on my own time for a very brief statement, without losing his right to the floor?

Mr. THURMOND. In reply, I am only going to take a minute, may I say, or a minute and a half.

Mr. JAVITS. I will take just 1 minute.

Mr. THURMOND. Yes; I yield.

Mr. JAVITS. Mr. President, I am very understanding of what the Senate did in voting so overwhelmingly for cloture. It has decided to give New York its chance, and that is the right, honorable, and decent thing to do. I just wanted to express what I know will be the sentiment of 8 million New Yorkers in expressing appreciation to my colleagues.

Mr. MAGNUSON. Mr. President, will the Senator yield for a half minute?

Mr. THURMOND. Mr. President, I would like to on my time say this: The Senator says it is the honorable and decent thing to do. I presume by that he is not implying that those who had a different opinion are dishonorable.

Mr. JAVITS. Not at all, Mr. President. One cannot even say something nice around here without having a debate. [Laughter.]

The PRESIDING OFFICER. Will the Senators refrain from talking in the aisles, and will the Senator suspend until the Senate is in order? It will not continue until the Senate is in order.

Mr. THURMOND. Mr. President, I yield to the distinguished Senator from Washington for 1 minute.

CONSUMER PRODUCT SAFETY COMMISSION IMPROVEMENTS ACT OF 1975

Mr. MAGNUSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 644.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 644) to amend the Consumer Product Safety Act to improve the Consumer Product Safety Commission, to authorize new appropriations, and for other purposes.

(The amendment of the House in the nature of a substitute is printed in the Record of October 22, 1975, beginning at page 33692).

Mr. HELMS. Mr. President, we can neither hear nor see. I suggest we suspend until we have order.

The PRESIDING OFFICER. The Chair asks the Senators to please refrain from talking on the floor of the Senate. Will the Senators please take their seats? The Senators cannot hear and they are entitled to hear what is going on. The Senate will suspend until we have order.

Mr. NELSON. Mr. President, the Senate is not in order. There are still Members conversing in the aisles. I think all of us are entitled to hear the discussion, so I would hope we would not proceed until those in the aisles have retired to the cloakroom or to their seats.

The PRESIDING OFFICER. Will the Senators who are talking in the aisles and away from their seats please either retire to the cloakroom or take their seats? The Senate must be in order before we proceed.

Mr. MAGNUSON. Mr. President, I move the Senate disagree to the amendment of the House and request a conference with the House thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. MORGAN) appointed Mr. MAGNUSON, Mr. PASTORE, Mr. HARTKE, Mr. PHILIP A. HART, Mr. MOSS, Mr. FORD, Mr. STEVENS, Mr. WEICKER, and Mr. BUCKLEY conferees on the part of the Senate.

NEW YORK CITY SEASONAL FINANCING ACT OF 1975

The Senate continued with the consideration of the bill (H.R. 10481) to authorize the Secretary of the Treasury to provide seasonal financing for the city of New York.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I yield to the distinguished Senator from Kansas.

Mr. DOLE. Mr. President, I ask unanimous consent that two members of my staff be granted privilege of the floor during the debate on H.R. 10481: Stu Hardy and Ted Haggart.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Will the Senator yield for a unanimous-consent request?

Mr. THURMOND. I am pleased to yield to the distinguished Senator from Arkansas for that purpose.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Richard Arnold of my staff be granted privilege of the floor during this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Will the Senator yield to me?

Mr. THURMOND. I will yield to the distinguished Senator from Ohio.

Mr. TAFT. Mr. President, I ask unanimous consent that Stephen Entin of the Joint Economic Committee be granted the privilege of the floor during the debate and voting on this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STONE. Will the Senator yield to me?

Mr. THURMOND. I yield to the Senator from Florida.

Mr. STONE. Mr. President, I ask unanimous consent that Mary Repper of my staff be granted privilege of the floor during this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STONE. I thank the Senator for yielding.

Mr. FORD. Will the Senator yield for one more?

Mr,. THURMOND. I yield to the Senator from Kentucky.

Mr. FORD. Mr. President, I ask unanimous consent that Jim Flemming and Jim King, members of my staff, be granted privilege of the floor during the discussion and vote on this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that Mr. Luke Brown of my staff be granted privilege of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

On page 6, line 6, strike out "any" and insert in lieu thereof "the".

Mr. THURMOND. Mr. President, as I understand it, the assistance provided for under this bill is limited to the city of New York. In fact, the bill specifically defines "city" and "State" to mean the city and State of New York, respectively. However, on page 6, line 6, of the bill a reference is made to loans provided under the act "for the benefit of any State or city". It would occur to me that if this bill is, in fact, to be limited to New York City, the proper language to be used here is "the State or city".

Mr. President, in the interest of clarifying this point, I offer an amendment to make this technical change and urge its acceptance. As previously expressed to my colleagues, I am totally opposed to this legislation and believe that its passage would establish a dangerous precedent. My motive in offering this amendment is simply to prevent any confusion that might arise and to insure that any assistance provided under this measure will be limited to New York City.

Mr. PROXMIRE. Mr. President, in response to my good friend from South Carolina, he spoke to me about this legislation and I would point out that the title of the bill says, New York City Seasonal Financing Act of 1975.

The Senator from South Carolina points out the definition in this bill of city or State means city or State of New York respectively.

Under the loan section it is clear the loans may be made only to the city of New York.

The second item to which the Senator refers involved audits and it is true that the adverb "any" is somewhat confusing, but I think in view of this colloquy and the point made by the Senator from South Carolina, a very useful and proper point, that it is now clear that we are talking about the city of New York.

The definitions say that, the titles say that, and it is clear on the basis of this discussion, I think, that we are discussing New York and no other city.

Mr. TOWER addressed the Chair.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, I join with the Senator from Wisconsin in making it adequately clear that it is the intent of the Congress that only New York City is referred to here and not any other city.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, as I stated, I offer this in order to clarify the point there. However, in view of this colloquy and the history that has been made here, and if the managers of the bill wish to take the risk, I have no objection and I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The Senator from Texas (Mr. TOWER) is recognized.

Mr. TOWER. Mr. President, I ask unanimous consent that Gil Bray of the Banking Committee staff be granted privilege of the floor during the consideration and voting on this matter, H.R. 10481.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1181

Mr. HARRY F. BYRD, JR. Mr. President, I call up amendment No. 1181 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

(d) No loan shall be provided under this Act after June 30, 1976, unless (i) the city and all financing agents shall have submitted to the Secretary a balanced city budget for fiscal year ending June 30, 1977, and (ii) the Secretary determines that there is a reasonable prospect that this balanced budget will be accomplished.

Mr. HARRY F. BYRD, JR. Mr. President, I yield myself 10 minutes.

Mr. President, this amendment does not affect the current fiscal year. This amendment would apply to the new fiscal year beginning 7 months from now.

The amendment would require New York City officials to submit a balanced budget for fiscal year 1977, and require the Secretary of the Treasury to determine that there is a reasonable prospect that the proposed budget will be in fact balanced.

If we do not require the city of New York to balance its budget, in my judgment, we are not helping the people of New York.

New York's problem results from its living beyond its means. If the Senate is going to pass legislation to turn $2.3 billion over to the city without requiring a balanced budget, it seems to me it is not accomplishing purposes beneficial to the people of the city of New York.

Mr. BUMPERS. Will the Senator yield for a question?

Mr. HARRY F. BYRD, JR. I yield.

Mr. BUMPERS. I like the idea of the amendment and I am inclined to support it. One of the things that troubles me is that balanced budgets have different meanings to different people. I am curious whether or not the Senator would want the city of New York to repay the $2.3 billion loan at the end of the 1977 fiscal year. In other words, would he contemplate that the United States would make no additional loans after June 30, 1977, and that the city would have a balanced budget and have paid off the loan the United States makes them?

Mr. HARRY F. BYRD, JR. Under this proposal, at the end of June 30, 1976, and before an additional amount is loaned to the city, the Secretary of the Treasury must determine that there is a reasonable prospect that the city will balance its budget for the fiscal year ending June 30, 1977.

Mr. BUMPERS. The amendment says that it will submit a balanced budget for fiscal year ending June 30, 1977. In other words, before the end of this coming year, before our first loan would be due, they will submit a balanced budget for the ensuing year, which would be the fiscal year 1977. Is that correct?

Mr. HARRY F. BYRD, JR. That is correct.

Mr. BUMPERS. My only problem with this is I rather doubt as a taxpayer whether New York City will be able to submit a balanced budget that soon if it contemplates then repaying the United States $2.3 billion which will be loaned to them.

Mr. HARRY F. BYRD, JR. I will refer the able Senator from Arkansas to page 38371 of the Record of Wednesday, December 3. The able manager of the bill, the Senator from Wisconsin, in reply to a question from the Senator from Alabama asking what the deficit would be at the end of the current fiscal year, namely June 30, 1976, said:

> They will have a deficit of $141 million in this month, December; another $465 million in January—cumulatively, I should say. $775 million will be the cumulative deficit in February. The peak will be in March, when it will be $1.275 billion. Then it will decline, and by June it will be zero.

That is a statement for the current fiscal year made by the Senator from Wisconsin, the manager of the bill.

My amendment would require a balanced budget for the following year. I must say, I am more inclined to agree with the Senator from Arkansas if he feels New York will not balance its budget this year—I do not think it will—than I am to agree with the Senator from Wisconsin. Nevertheless, that is the manager of the bill's assertion, that there will be a zero deficit at the end of this fiscal year.

Mr. BUMPERS. I see the place in the Record to which the Senator has referred.

Will the Senator permit me to ask a question of the floor manager without his losing his right to the floor?

Mr. HARRY F. BYRD, JR. Can it be done on someone else's time?

Mr. BUMPERS. I shall do it on my time.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. BUMPERS. Perhaps I am not phrasing the question correctly, but I am curious whether or not the city of New York can balance the budget by June 30, 1977, and in that period of time also repay the $2.3 billion. In other words, if we are going to call the loan authority at that time, it occurs to me that the city would have had to pay us back or be in a position to pay us back at that time with no anticipation of a renewal of that amount.

Mr. PROXMIRE. Since September of this year, the city of New York has been under the direction of State law to balance its budget by fiscal 1978. They have been required to do that. That is part of the law now.

Furthermore, the Senator from Arkansas was absolutely right in saying there are all kinds of ways to balance a budget. This balanced budget would be in accordance with the municipal financing officer's definition, accounting definitions. So the budget would be truly balanced. In fact, they go a little farther than that. They require expenses to be on an accrual basis and revenues to be on a cash basis. So it would definitely be balanced in 1978.

The best judgment of not only the mayor but of the Governor, the judgment of the Secretary of the Treasury, the judgment of the Comptroller, the people who have studied this most carefully, is that there is no way New York can balance its budget in 1977 without drastically cutting essential services. They are going to cut them very sharply as it is.

This would be a reduction that all of those who have looked at this carefully say would be unwise and could not reasonably be achieved.

What the Senator from Virginia was talking about in his referring to our colloquy the other day was not a balanced budget but a cash flow situation. The requirement will be that New York must have a zero cash obligation, debt obligation, by June 30, 1976. Again, they must pay off the debt in fiscal 1977 by June 30, 1977.

Mr. BUMPERS. Let me ask the Senator another question, as far as the balanced budget is concerned. What I am curious about is under New York City's own projections, do they anticipate this balanced budget on June 30, 1978, will allow them to meet all of their obligations including their bonded indebtedness and the interest due thereon as they come due?

Mr. PROXMIRE. That is correct, for the fiscal year begining July 1, 1977, and extending to June 30, 1978. During that period their budget would be balanced, that is right, and they would be able to meet their revenue obligations.

Mr. BUMPERS. Is it anticipated under this bill that the United States would not have to offer any additional assistance in the form of guarantees, loans, or anything else, after June 30, 1978?

Mr. PROXMIRE. That is absolutely correct. As a matter of fact, the law is limited to $2.3 billion overall, and the Secretary of the Treasury has indicated in his scheduling of how that is going to be made available—$1.3 billion in this fiscal year, $2.3 billion in the next fiscal year, and $1.994 billion the third year.

Mr. BUMPERS. Let me ask the author of the amendment one additional question.

If the city of New York is proposing to do what he wants them to do on June 30, 1977, and if they are proposing to do that same thing on June 30, 1978, is there really any cogent reason why the Senate should not allow them that additional year?

Mr. HARRY F. BYRD, JR. I think there are several reasons, I say to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. BUMPERS. Mr. President, my colloquy with the Senator from Wisconsin was on my time. I hope that has not been charged against the Senator from Virginia.

The PRESIDING OFFICER. The Senator has 2 minutes remaining of his 10.

Mr. HARRY F. BYRD, JR. I yield myself an additional 3 minutes, making a total of 13 that I have yielded myself.

I say to the Senator from Arkansas that under the city charter itself the city has been required, if it had followed its own laws, to have balanced its budget every year.

But it has completely disregarded that. And now, if we come along as the Congress of the United States and put our stamp of approval on the lack of a balanced budget, then we are, in effect, superseding the State law in that regard.

The other reason why I think it is important that we require a balanced budget in fiscal 1977 is that the longer it is put off, the longer the city puts off living within its revenues, the more difficult it is going to be to get its fiscal house in order. I think if we do not require it as a condition for a Federal loan, it is not going to be done.

I wish to quote from the statement made by the manager of this legislation in the House of Representatives, Chairman Henry Reuss from the State of Wisconsin, who stated, in his opening remarks, that this is stopgap legislation that will come back to haunt the Congress.

That is in the Congressional Record. That is the statement of the manager of the bill, a man who voted for the bill, and a man who favors the bill.

So unless we are willing to add into this legislation a mandate that the city, at least at the beginning of the new fiscal year which begins 7 months from now, begin to live within its income, then all we are doing is creating a bottomless pit, in my judgment, for American tax dollars.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. BUMPERS. I am happy to yield to the Senator from Massachusetts.

Mr. BROOKE. Of course, it would be good if New York City could balance its budget in 1977. It would be better if it could balance it in 1976. But the fact remains that if they are going to operate on an unbalanced budget, it will be on pension funds, not Federal funds, so it will not really hurt the Federal Government. If the pension funds want to lend New York City the money to operate on an unbalanced budget, why should the Federal Government be concerned about it? It is not going to be our money. We are going to get our money at the end of the year anyway, and we will get interest on our money.

I do not see any real danger in New York City waiting until 1978, which is really the first practical time, to balance their budget, according to the best estimate and the best evidence we have been able to obtain.

Mr. BUMPERS. Mr. President, I might make one other comment on that. The Senator from Wisconsin and I talked about this one day in the policy committee meeting, and I have seen it in print many times since then: that the city has laid off 22,000 to 25,000 people since January of this year, and proposes to lay off an additional 40,000 over the next 2 years.

Obviously, that would loom large in their ability to balance their budget; but to the distinguished Senator from Virginia I would like to say I probably will not support the amendment, because I am inclined to give New York the additional time to discharge that many more employees without causing a very dramatic adverse effect on their economy, as well as perhaps their welfare rolls.

Mr. BROOKE. Mr. President, let me correct the RECORD. The city of New York, according to our information, has laid off 31,000 employees since the beginning of this calendar year.

Mr. BUMPERS. Was I correct about the additional number they propose to discharge?

Mr. PROXMIRE. Mr. President, if the Senator will yield, I think through attrition additional jobs have been eliminated, altogether about 36,000. I think the Senator is correct about the 22,000 through layoffs, and the remainder through attrition.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. HARRY F. BYRD, JR. Has my 13 minutes expired?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. NUNN. Mr. President, will the Senator from Virginia yield briefly on my time?

Mr. HARRY F. BYRD, JR. Mr. President, I reserve those 2 minutes and yield the floor to the Senator from Georgia.

Mr. NUNN. I would like to ask the Senator from Wisconsin and the Senator from Massachusetts a technical question, unrelated to the amendment of the Senator from Virginia.

On page 2, section 4, paragraph (b), I notice that the language of the bill refers to the city's fiscal year. I understand that fiscal year now coincides with the present Federal fiscal year; is that right? It runs from July 1 to June 30?

Mr. PROXMIRE. That is correct.

Mr. NUNN. The Federal fiscal year, under the new Budget Act, beginning next year, is going to be extended to October 1, and that will be the beginning of the Federal fiscal year from that point on.

Do I understand, however, that this legislation is not geared to the Federal Government fiscal year, but rather the city of New York's fiscal year?

Mr. PROXMIRE. The Senator from Georgia is correct; the city's fiscal year.

Mr. NUNN. Is there any technical possibility that the city itself could change its fiscal year, since there is no date in here, and therefore this law would be subject to that? In other words, suppose the city of New York came up, on May 1, 1976, and passed a city statute saying, "Our fiscal year now coincides with the Federal fiscal year, and will run from October 1 to October 1." Does that, by nature of this legislation, mean that they will have just granted themselves, by their own act, a 3-month extension?

Mr. PROXMIRE. The Secretary of the Treasury would have to approve that. If he felt there was a good reason for it, he would have that discretion. But it would have to be approved by the Secretary of the Treasury.

The Senator has made a very good point.

Mr; NUNN. I do not see where the Secretary of the Treasury would have any discretion to prevent New York City from doing that. Where would that authority of the Secretary of the Treasury be? It seems to me we have geared this law to the city fiscal year, and there is nothing in here to preclude the city from changing its fiscal year.

Mr. PROXMIRE. Well, the Secretary of the Treasury, under the loan authority clauses in the bill, which I shall cite in a moment, has the authority to provide loans at his discretion.

Mr. JAVITS. Mr. President, will the Senator yield to me on my time?

Mr. NUNN. I am glad to yield to the Senator on his time.

Mr. JAVITS. At the top of page 4, the bill contains the following provision:

> In making the loan, the Secretary may require such terms and conditions as he may deem appropriate to insure repayment.

I would subscribe to the statement of the Senator from Wisconsin, and state that my understanding of the legislative intent of that is that it means payment on time, according to the terms of the agreement the Secretary works out with New York.

Second, it is the intention of Congress that the present fiscal year of New York City is the time within which loans are to be made and repaid, and therefore it is the legislative intent, as I understand it, that the Secretary of the Treasury shall crank that into any agreement which he makes with New York City.

Mr. NUNN. So the legislative history would reflect that the authority the Secretary of the Treasury has would include the authority, if he deems it prudent, to allow additional time for repayment, independent of any action taken by the city of New York?

Mr. JAVITS. Provided that time was no more onerous than the present fiscal year time structure of New York City.

Mr. NUNN. I thank the Senator.

Mr. JOHNSTON. Mr. President, I have just been handed an in-depth poll which Louis Harris did on the New York question. I think my fellow Senators would be interested in hearing it.

It is interesting to note, I think, that the American people feel very generous in their attitude toward New York, and by a whopping 69 to 18 margin, the American people favor the Federal Government guaranteeing loans to New York City if the city balances its budget, and if such a plan would not cost the taxpayers any actual money.

I think that runs counter to what a lot of our colleagues have thought about what their people at home thought. The American people, I think, want us to help New York, and I think the vote on cloture is an indication that we are ready to help New York.

The interesting thing, in addition to that major finding, has to do with the amendment of the Senator from Virginia.

By a margin of 90 percent to 7 percent, the American people feel it is highly important for the city to be forced to ballance its budget, and not to spend more money than it takes in.

By a 52-to-17 majority, they think it is highly important that the city renegotiate its pension funds with city employees, so that an employee would have to work 30 years instead of 20 years before he retires.

Mr. President, I think it is a dangerous thing for us to legislate here based on public opinion polls, particularly when we get in so many esoteric areas as city finance, government bonds, and guarantees.

I think the American public understands this issue very well. It is a very simple issue, as far as they are concerned.

The greatest city in the United States, the greatest city in the world, has spent too much money, has been profligate in its spending, and now needs help. It is a state either presently shared or soon to be shared by other American cities unless they change their ways. The American people say, "Help New York out, but require them to toe the line."

The Senator from Virginia gives adequate time for that. By 1978, it is going to be tough. It is going to be very tough. They are going to have to change that pension fund. They are going to have to change the free university system. They are going to have to do some pay cutting. They are going to have to look at those free hospitals.

None of that has been done to this time.

I ask, on my time, the distinguished Senator from Wisconsin to, first, tell me whether the free universities have been changed.

Mr. PROXMIRE. I respond to the Senator from Louisiana that New York City is mandated under State law to balance its budget by fiscal 1978. They must do that. The law requires it. They are moving in that direction. The enormous layoffs they have would enable them to do that providing they are continuing.

What the Byrd amendment would do would be to advance that a full year. If that is done, then the city would be in very great jeopardy and very great difficulty.

Mr. JOHNSTON. Why is it that they cannot do it by 1977 as the amendment of the Senator from Virginia would require?

Mr. PROXMIRE. Because they would have to lay off a tremendous number of teachers, firemen, policemen, hospital people, and others to even a greater extent than they plan to do, which is at a very rapid rate.

The Secretary of Treasury went over this very carefully to see if they could do this more quickly, and he was satisfied that this is the best they can do.

They have laid off, as we pointed out, or through attrition, eliminated the jobs of 12 percent of their employees.

Under the present plan, within a year, they will have fewer employees per capita than any other major city in the country.

Mr. JOHNSTON. Mr. President, will the Senator answer a couple of questions?

Mr. PROXMIRE. Yes.

Mr. JOHNSTON. I am not asking these questions as an opponent of this legislation. I am asking them really, frankly, as someone who wishes some hard answers to justify a vote on it.

Mr. PROXMIRE. Very good.

Mr. JOHNSTON. On the hospitals, the hospitals are completely free, as I understand it, for anyone, regardless of his income. What are the plans to change that hospital system?

Mr. PROXMIRE. They do call for reductions over the next several years. The details have not been completely developed and finished.

I do think there is one point I wish to respond to the Senator. The President felt very strongly about this and so do the people in the administration. What they should do is to require New York to make its own decisions, the details of how they do this, their priorities are theirs. The Secretary of the Treasury, in effect, would not move in as a mayor or make the decisions, or Congress dictate where the savings have to be made.

All that the President's position requires is that they repay the loans on schedule and that they satisfy the Secretary of the Treasury that they can and will repay it on the schedule the Secretary proposes.

I think the Senator has made a very good point that free tuition and free hospitals are something that seem very profligate. They are moving in the direction of reducing these costs, but the conviction on the part of the President—and I think basically it is a wise conviction—is that they ought to make the decisions themselves, provided they can come up with the proper results.

Mr. JAVITS addressed the Chair.

Mr. JOHNSTON. The point is we do not know what the decision is with respect to the hospital system.

Mr. PROXMIRE. The Senator is correct.

Mr. JOHNSTON. With respect to the pension system, what is the decision and when will that be changed?

Mr. PROXMIRE. The State of New York passed a law that requires $85 million more per year contribution by city employees in the pension fund to relieve the burden of the pension fund.

Mr. JOHNSTON. Would they still be able to retire in 20 years with half-pay?

Mr. PROXMIRE. That is under consideration at the present time by the pension fund reform organization.

Mr. JOHNSTON. So we do not know what that will be.

Mr. PROXMIRE. They are going to propose drastic changes. We do not know as yet what they are going to propose.

Mr. BUMPERS. Mr. President, will the Senator allow me before he leaves the pension fund to ask a question ?

Mr. JOHNSTON. Yes.

Mr. BUMPERS. In the House RECORD on December 2, and I have seen this reprinted in a White House statement since that time, there is something I do not understand. It says "on an annual basis." First of all, they are increasing the contribution to the pension system by requiring the employees, city employees, to pay more into the fund. They say this is "on an annual basis" and the saving to the city would be $85 million, and the taxes on employees would be $107 million per annum.

I do not understand the difference. How is the city going to save $85 million?

Mr. PROXMIRE. The difference is they are building up the assets in the pension fund at the same time. They are not only requiring $85 million as an additional safety factor, but in addition to that, above and beyond that, there are $22 million built up in the assets of the pension fund.

Mr. BUMPERS. This is not a cut in the city's contribution. It is simply an increase in the employees' contribution.

Mr. PROXMIRE. That is correct.

Mr. BUMPERS. It is designed, then, to put the pension fund on a more actuarially sound basis.

Mr. PROXMIRE. That is right.

Mr. BUMPERS. I see.

I thank the Senator.

Mr. JAVITS. Mr. President, if I may yield myself a minute——

Mr. JOHNSTON. Mr. President, I believe I have the floor. I am happy to yield on my time to the Senator from New York.

Mr. JAVITS. I thank our colleague.

It is a cut to the city. The city will pay in $85 million less. The employees will pay in $107 million more. The difference has to be accounted for by Senator PROXMIRE.

Mr. JOHNSTON. I thank the Senator from New York.

I ask the Senator from Wisconsin, have there thus far been any pay cuts for any employees and are any planned?

Mr. PROXMIRE. The pension fund contribution constitutes, of course, less take-home pay, and that is about a 3-percent cut. In addition, there has been a wage freeze which has been accepted, and it is expected to be and will have to be extended in order for them to meet their financial plan, and that is their intention.

Mr. JOHNSTON. I thank the Senator.

Mr. JAVITS. Mr. President, will the Senator yield for one other fact?

Mr. JOHNSTON. Yes.

Mr. JAVITS. There also has been the rejection of a contract with the city's teachers, and that has to be renegotiated. In a showing of patriotism the teachers have not gone out on strike. So I only offer that fact, first, because it bears on the financial situation, and second, because it relates to the morale of the people of the city of New York.

Mr. JOHNSTON. I thank the Senator from New York.

Mr. President, I think this issue has been very sharply focused. The Senator from Wisconsin really put it very well. The administration takes the attitude that we ought to leave it up to New York as to when they balance their budget, how they spend their money, and the Senate ought to be satisfied with the mere fact that we have, according to the Secretary of the Treasury, a note that can be paid back, whether it is paid back from pension funds or by further borrowed money, or whatever.

The basic question then is: Should we require the city of New York to meet any deadline with respect to a balanced budget?

Mr. PROXMIRE. Mr. President, will the Senator yield on that point?

Mr. JOHNSTON. I think the Senator is going to say they have already set up their own deadline of 1978.

Mr. PROXMIRE. That is correct. That is by State law. They are mandated to do it with very tough and clear accounting standards. So there is no question about the balancing of the budget, and there are criminal penalties put in that law, also.

Mr. JOHNSTON. Very well. Of course, the State law may be changed.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Louisiana yield at this point?

Mr. JOHNSTON. Yes, I yield.

Mr. HARRY F. BYRD, JR. It has been part of the city charter and the law through the years, and they have paid no attention to the law.

Mr. PROXMIRE. I say that it has not been the law through the years. The law has been changed only a few months ago. Through the years they required a balanced budget, but now it is in the law that they require a balanced budget in accordance with certain clear specified definite accounting procedures. They say what they mean.

What they mean is the expenditure on an accrual basis and revenues on a cash basis.

Previously it was the reverse of that, and that is the reason New York got in this very great difficulty. It did not really balance its budget although it claimed it did so. That has been changed.

Mr. JOHNSTON. I thank the Senator from Wisconsin.

But I still say this issue is very clear. The budget of New York, in my judgment, can be balanced and it can be balanced not only by firing employees, but also by dealing with the whole panoply of things that concern the city of New York—the university system, the pension system, the hospital system.

I do not think we should leave out of this consideration the question of a pay cut. That happens in private industry. If private industry is going broke, they will consider a pay cut. It is very difficult politically, and I can understand that. I can understand why the mayor of New York and the council there do not want to cut pay. There is a union contract and all that. But if Congress requires them to do what is necessary by 1977, I think they can do it.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. JOHNSTON. In a moment, I shall yield to the Senator from Massachusetts.

When we look at the question of a balanced budget, it means that every month between now and the time that budget is balanced, New York not only fails to improve but also gets worse off. An unbalanced budget means that you are spending more than you are taking in; and if you are spending more than you are taking in or if you are obligating more than you think you are going to take in, you are going to be worse off. That is all there is to it.

The Secretary is supposed to be satisfied that the $2.3 billion will be paid back on time. But what if it is not? We will be back here the next year. Just as the floor manager in the House has said, it is a problem put off until next year. It is Bre'r Rabbit and the Tar Baby. You get that first hand in, and you just get carried away.

Mr. PROXMIRE. The facts are not that. The facts are that the budget this year will be unbalanced by $1 billion in 1976, a half billion in 1977, and in 1978 the budget will be balanced—zero. There will be no deficit at all. That is progress.

Meanwhile, they are laying people off, cutting services drastically, including police, including teachers, including everywhere you can look. I would like to hear any Senator in the Chamber tell us where they can make even more drastic cuts. The Senator has made some suggestions as to hospital patients, and he has suggested that wages might be reduced. A I pointed out, they are beginning to do these things, and the layoffs have been very substantial.

Mr. JOHNSTON. Laying off is not the only remedy here. There is a whole panoply of things that can be done. Perhaps we should not tell New York precisely where they should make the cuts.

The year 1977 is a long time from now, and the American people are demanding it, by 90 percent to 7 percent. They say we should do that immediately.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. BROOKE. Without repeating the litany of what has been required of New York City, and New York State, and the private sector, much of which already has been done, obviously, other than cutting back on expenditures the only action which can be taken to balance the budget is increasing of revenues and that is exactly what the city of New York is doing. That is exactly what the State of New York is doing. But I cannot understand why the Senator is so concerned about the balancing of the budget in 1977 insofar as the Federal Government is concerned.

I repeat, that the pension funds will have to supply the money so that New York can operate on an unbalanced budget for another year, so where is the injury to the Federal Government? We will be paid at the end of that year with approximately 8 percent interest.

They have said that they will be able to balance that budget by 1978—the figures have been given to the Senator by the chairman of the Banking Committee and indicate what their deficit will be in 1977, and that they will be zero in 1978.

That is what the American people want. The Senator from Louisiana has given us the statistics from the most recent poll, which is practically right on line with the vote in the Senate. I think he said 69 percent of the American people favor this. Seventy Senators voted today for cloture. That is some indication that the U.S. Senate is reading what the American people want.

But when the American people say, "We want to balance the budget," they probably do not know that you cannot say, "Yes, we are going to balance the budget today." We do not want just a paper balanced budget. We want to be sure that we have an honest balanced budget according to sound accounting principles.

Mr. JOHNSTON. If the Senator will read this poll in depth, he will understand that the American people have a pretty good picture of what is going on in New York. They understand that pension fund. They understand that the unions in New York sort of have the city by the throat. I am for the unions, but let us be plain about it, let us be frank. This is what the American people say. It says here——

Mr. BROOKE. While the Senator is looking at it, let me say that I carry no brief for those pension funds. I do not think we should have a 20-year pension plan. I believe that employees who benefit from the pension fund should contribute as well. But we have to deal with realities. We are dealing with contractual rights between individuals and the city of New York.

What we are trying to do here, by this legislation, is to give New York City an opportunity, without going into bankruptcy, to pay off its debts, to extend some of its debts, to get to a balanced budget situation in 1978, and at the same time pay back the Federal Government with interest on money we shall lend.

This is much better than what New York City asked us for in the first instance. The loan guarantees are out. The $7 billion is out. Even the $4 billion that we came in with from the Banking Committee is out. We are talking about a short-term, self-liquidating loan of not to exceed $2.3 billion, which will be repaid at approximately 8 percent interest to the Federal Government. That is all that is being asked for in this bill. In order to get that, the city of New York, the State of New York, the banking community, and, yes, even the labor unions, have been working as hard as they can. I believe we have exacted all that reasonably can be expected of that city and of that State and of that community.

Mr. NUNN. Mr. President, will the Senator yield on my time, on that point?

Mr. JOHNSTON. I will yield the floor in a moment.

Mr. President, it is a simple question; it is a simple amendment. I think the American people not only want the budget balanced by 1977; they want it balanced right now. I do not think that can be done. But whatever is done in New York so far as a balanced budget is concerned, it has to be imposed by the Senate, and I believe that is reasonable.

I am ready to vote for some aid, if we can put the right kind of pressures and requirements upon it. It may be Draconian to require a balanced budget by 1977, but I think that is exactly what we should do, and that is what the American people want.

I do not want to be back here every year, increasing this fund and dealing with a problem with New York, whereby we are putting good money after bad or whereby we are faced with the alternative of cutting off aid and letting the city go bankrupt. I do not believe those are proper alternatives.

Mr. BROOKE. But the Senator from Louisiana would not have us require that the city of New York do something we know they cannot do by 1977. That would be an exercise in futility.

Mr. JOHNSTON. I think the Senator from Virginia is correct in believing that they can balance the budget by 1977.

Mr. BROOKE. Can the Senator tell us how the city of New York can balance its budget by 1977?

Mr. JOHNSTON. I think it can be done by dealing with the university, by dealing with the pension funds, by considering a pay cut, which has not been considered.

Mr. BROOKE. All those things are being considered.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. BROOKE. I yield.

Mr. TAFT. I will give the Senator one way in which I think they can cut it, and I will get into a discussion on my own time.

One thing that could be done next week by the New York State Legislature, if they wished, would be to take over the city's share of the welfare, and they could do it. Their own budget would be in a jam, too.

Mr. BROOKE. Then we would be back here.

Mr. TAFT. They have the resources, and they can do it.

Mr. BROOKE. We would be back here with a bill for the State of New York the next day, because they would go broke.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield so that we may get the yeas and nays?

Mr. JOHNSTON. I yield.

Mr. HARRY F. BYRD, JR. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Pursuant to the statements by the Senator from Massachusetts that the question of balancing the budget in fiscal year 1977 really was not a Federal concern. Let me ask this question of the Senator from Massachusetts or the Senator from Wisconsin or the Senator from Texas. What is it in this bill—I have read the bill, but I have not studied it in great detail—that makes the $2.3 billion that the Federal Government is going to loan a priority loan in the sense of payback? In other words, what language in this bill gives the Federal Government precedence over, say, pension debt, bond debt, wages for employees, university fees, and those sorts of things? What sets up the Federal debt as a priority debt?

Mr. TOWER. It is required that they pay back the loan within the fiscal year in which the money was loaned. The money is loaned in increments, and new loans cannot be made until loans that have matured have been paid off.

Beyond that, too, the Secretary of the Treasury can withhold various sorts of entitlement payments to New York through revenue sharing or categorical grants in aid.

Mr. BROOKE. To respond to the question of the Senator from Georgia, there is no specific language, as the Senator points out very well. There is only general language in the bill. The President has said very strongly that this loan would take priority.

Mr. NUNN. But there is nothing legally in here, at all, that makes this debt any priority debt over any other debt of New York.

Mr. PROXMIRE. If the Senator will yield, I refer him to the bill, page 3, line 5 and following:

> In connection with any loan under this act, the Secretary may require the city and any financing agent and, where he deems necessary, the State, to provide such security as he deems appropriate.

This gives the Secretary, of course, the authority to require whatever collateral he may feel is necessary. It gives him full discretion.

Mr. NUNN. That is the second question the Senator from Georgia had: What collateral is available for these purposes? I am sure the committee has gone into it in detail. What collateral exists that the Secretary of the Treasury could take to assure that this loan is secured?

Mr. PROXMIRE. Several billion dollars in tax revenues could be insisted upon as collateral. The Secretary of the Treasury could say, "We insist that we have first claim on this tax revenue before salaries are paid or before any other payments are made."

Mr. NUNN. What I am searching for is how that is done legally. Maybe the Federal Government has some superstatus by contractual relationship.

Mr. PROXMIRE. It has that by bargaining power. It can say, "Either make that available or we provide no loan."

Mr. NUNN. How does the city of New York make that available if they have already made some other promise to bondholders? I am sure that bondholders have some words that say, "This shall be a first claim of revenue on the city of New York." How can the city of New York breach prior contracts set up as an obligation?

Mr. PROXMIRE. It is true that certain specific revenues are encumbered, but not all, by any means. There are certain tax revenues that can be required as collateral.

Mr. NUNN. Does the Senator mean the Secretary of the Treasury can get a contract with the city of New York saying: before you pay pension funds, or pay bondholders' interest, or pay policemen's salaries, or pay hospital operating expenses, or pay university expenses, the Federal Government shall be paid back first? Is that going to be a legal instrument? Is that within the power of the city of New York to contract?

Mr. PROXMIRE. It is certainly within the power of the Secretary of the Treasury to say, "Either you provide a reasonable prospect"—and we direct him, we tell him by law that he must do that—"of repayment, or you do not get the loan." It is that clear.

Mr. NUNN. Is there any kind of physical collateral, in addition to possible revenues? If the revenues are not sufficient, is there any kind of mortgage? Does the city of New York own any kind of property that the Federal Government could take lien on? What is the situation there?

Mr. BROOKE. Will the Senator yield?

Mr. NUNN. I yield.

Mr. BROOKE. I refer the Senator to page 3, line 12 of the bill. It states there:

> Notwithstanding any other provision of law, Acts making appropriations may provide for the withholding of any payments from the United States to the city, either directly or through the State, which may be or may become due pursuant to any law and offset the amount of such withheld payments against any claim the Secretary may have against the city or any financing agent pursuant to this Act. With respect to debts incurred pursuant to this Act, for the purposes of section 3466 of the Revised Statutes (31 U.S.C. 191) the term "person" includes the city or any financing agent.

That is certainly clear.

Mr. NUNN. I think that is collateral. I think that is addressing the problem I am getting at. I think that would be collateral.

Does the Senator from Massachusetts have any idea how much in annual revenue the Federal Government pays to the city?

Mr. BROOKE. That is what I was trying to get, the amount of general revenue sharing which the State of New York receives annually. The Senator from New York can answer that better than I.

Mr. JAVITS. The revenue sharing is about $263 million a year. In addition, there is education support, and various other types of Federal payments such as medicare and public assistance. My estimate, right off the top of my head, would be for New York City alone, let alone the State—remember, the State will be an obligor——

Mr. BROOKE. Not only that, the State is included, as the Senator from Georgia knows, from the section I have just read; it is not only the city but the State or any agent thereof.

Mr. JAVITS. It would be approximately 2½ billion.

Mr. NUNN. It is the clear intent of the authors of this legislation or the people supporting this legislation that the Secretary of the Treasury not only has the power but it is the intent that he will withhold these funds if, for any reason, there is default of payment? I am asking that in terms of a question.

Mr. TOWER. That is correct. Congress can do it. As a matter of fact, remember, this has to go through the appropriation process.

Mr. JAVITS. Every year.

Mr. TOWER. Otherwise, those funds are attached by Congress.

Mr. BUMPERS. Will the Senator yield to me on that?

Mr. NUNN. I yield.

Mr. BUMPERS. I think this point that the Senator from Texas has made should be clear in everybody's mind. The authority here is second-hand. There is not anything in this bill that authorizes the Secretary of the Treasury to withhold anything. The Senator from Texas has made the point, and I read from the bill:

> Notwithstanding any other provision of law, Acts making appropriations may provide for the withholding of any payments from the United States to the city. . . .

This means that if they default, we could, in appropriating general revenue sharing funds, for example, withhold whatever amount New York City would have coming to it. But the bill we are going to be voting on today does not empower that. We shall have to take that up at a future time.

Mr. NUNN. I am not sure I understand the point the Senator from Arkansas has made. The law says: "Notwithstanding any other provision of law, acts making appropriations may provide for the withholding of any payments from the United States to the city." It seems to me that does give Congress authority to withhold.

Mr. BUMPERS. The specific language, let me say again, is "acts making appropriations"—that means in the future—"may provide for the withholding of any payments."

We had an amendment on the floor not long ago to withhold funds from the Justice Department that we might otherwise use to enforce busing orders. Here, if New York City defaults on June 30, 1976, the Secretary of the Treasury cannot do anything. He could recommend to Congress that, in approving future revenue sharing funds, those funds that would otherwise go to New York City under that be withheld and be used in repayment of that obligation.

Mr. NUNN. In other words, what the Senator is saying is that there is no immediate collection or payment procedure, but the act provides subsequent action pursuant to the inherent authority Congress would have anyway.

Mr. BUMPERS. Precisely. This bill does not give any authority that we would not have at that time anyway.

Mr. JOHNSTON. Will the Senator yield?

Mr. NUNN. I was going to ask one other question, but I shall be glad to yield.

Mr. JOHNSTON. I point out that that language is totally meaningless, because it does not give Congress anything it does not already have. The Constitution gives us the right to withhold revenue-sharing funds and not this bill.

Mr. NUNN. Does the Senator think the Constitution gives Congress the right to withhold funds in consideration of funds that a city owes to the Federal Government? Is that an inherent right, or is there some statute?

Mr. JOHNSTON. That is correct. We do not have to share revenue, in effect, on any basis. We could leave New York out of the revenue sharing, anyway.

Mr. NUNN. Even under equal protection?

Mr. JOHNSTON. That is correct.

Mr. BUMPERS. There is one other point that the Senator from Georgia might like to have called to his attention. There is a pending amendment on this bill by the Senator from Wyoming (Mr. HANSEN) which provides precisely what he is talking about. It says that:

> That part of the bill which says, "acts making appropriations may provide for the withholding of" be stricken and insert in lieu thereof, "the Secretary may withhold. . . ."

What the Senator from Wyoming is proposing to do here is provide in this bill the precise authority the Senator from Georgia is asking whether or not we have.

Mr. NUNN. I think this amendment would improve the bill.

Mr. PROXMIRE. If the Senator will yield, on that point the Senator from Arkansas raises, the reason that language was inserted was—it was not the original language the Treasury Department wanted but the language the chairman of the House Committee on Appropriations wanted. He felt that Congress should have that authority and it should be made clear.

The point of the Senator from Louisiana was that Congress has that authority anyway. But we think that there is no authorization for that kind of withholding. This provides that authorization, and the chairman of the Appropriations Committee in the House felt the Congress ought to secure that and hold it.

Mr. NUNN. Mr. President, I yield the floor.

Mr. TAFT. Mr. President, I want to give strong support to the amendment of the Senator from Virginia. I think there is a good reason to do so. The reason to do so relates not so much to the city of New York as it does to the State of New York.

I think if we pass this amendment we will force the State of New York at a far earlier date than it would otherwise be willing to do so—indeed, if it is ever willing to do so—to face up to the problems of New York City and to do something about taking over some of the burden that has been put upon the city of New York.

As I have already mentioned in my colloquy with the distinguished Senator from Massachusetts, we have here a situation where one-half of the share, the State share, of the welfare burden is still borne by the city of New York in this particular case.

Most States—my own State of Ohio which is certainly very conservative about welfare payments and situations of this sort—in my State we found it totally necessary to take over this burden entirely at the State level some years ago now. It was taken over by a Republican administration even, so this is something the State of New York could do.

It is said, the distinguished Senator from Massachusetts said, "Well, this will put the State of New York in the red."

Well, I do not really think it will put the State of New York in the red. They have got a total taxing power. If they even passed a bill on welfare relief, to give the city welfare relief next year, even make it prospective, they can put it in their budget next year. This should give them a good enough credit to go ahead and borrow the rest of the money.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. TAFT. I will be glad to yield.

Mr. BROOKE. Does the Senator know the dollar figure he is talking about?

Mr. TAFT. The Senator is talking about $1 billion.

Mr. BROOKE. For welfare?

Mr. TAFT. Yes.

Mr. BROOKE. The Senator feels the State of New York can take that on and balance its budget?

Mr. TAFT. I certainly feel they can do it. Maybe they will have to do it prospectively because they have some lag in the revenue, but if they pass the bill next week, which they could do, there is nothing to prevent them from doing it—if they pass the bill next week—saying what they will take on, the whole picture would be changed.

Mr. BROOKE. With the help already given to the city of New York by the State of New York, does the Senator think they can take on the welfare burden and still balance their budget?

Mr. TAFT. I think they will have to go out and get additional revenue to do so. But other States all over the Union have done so. This is an anomaly for us to have such a situation.

Mr. WEICKER. Mr. President, will the Senator yield for a question? The Senator says "other States of the Union." Does the Senator understand that probably a half dozen cities and States of the United States bear the entire welfare burden of the United States? Probably about 40 States have nothing to do with it. That is the problem. Why should the State of New York pick it up? Why should the U.S. Government not pick it up?

Mr. TAFT. When we come to that point I may well go along with the Senator. It is a policy question and I do not want to get into the whole question of welfare payments today. As a matter of fact, I have gone along, we have gone along, with a negative income tax type of approach, but this is not the problem.

Why should the State of New York be different from any place else? Other States have done it. The situation in which the city of New York finds itself today is due to a large extent to the fact that the State has not picked up the burden.

Mr. BROOKE. My State picked it up, and I am sorry to report that it is almost bankrupt as well.

Mr. TAFT. The State of Massachusetts has recently taken some steps to get into relatively balanced position, and I want to commend the Senator on the action of his State.

Mr. BROOKE. Would the Senator want rather than helping the city of New York to help the State? Is it a matter of preference? Does the Senator want to give relief to New York State and not New York City?

Mr. TAFT. I feel the State of New York should take on this burden and should take it on now.

Mr. President, I do not go along with the legislation before us for some of the reasons I have indicated, and some of the questions raised by the distinguished Senator from Louisiana, I think, are very much to the point here. They point out things that have not even been done in the city budget as yet, never mind the State's fiscal situation.

But I do agree the Federal Government cannot afford to stand by and watch chaos come to the streets of Manhattan because of the city's failure to meet police payroll, and both the city and the State of New York know this. I think that both city and State felt that, as soon as they got the public on their side, they could push the Federal Government into coming in to take up whatever shortfall still remained. The city of New York has indeed made major efforts to balance its budget. I congratulate them on it. It has not succeeded on it yet. I also say if there is anybody who deserves credit for the steps which have been taken it is the President for taking the strong stand he has taken into requiring them to take some meaningful steps before the administration would agree to go along with any legislation in this connection.

As I say, I think the State has done little either to assist the city, or to put its own house in order. Yet, with much moaning and groaning, the State has given the impression to the public that it has borrowed as much as it can borrow, and done as much as it can do. I do not believe this is true. However, polls may show that the public believes this to be the case. Perhaps the city and State can now sit back and wait for public opinion to push the Federal Government into making up the difference. I believe they are firm enough and stubborn enough to do this.

Each year the State of New York raises approximatley $9¾ billion in taxes. So far this year they have managed to increase taxes by approximately 300 million dollars. This is an increase of slightly over 3 percent in New York State's taxes. This increase still leaves them with a deficit which, depending on whom you talk to, could be as high as $700 million. Clearly, New York State has not gone nearly far enough in straightening out its finances. However, the anguish and the breast-beating that is going on in Albany is not justified.

I think there is something very wrong with the President's proposals for aiding the city. The President states that New York City, except for seasonal fluctuations in receipts, has actually managed to balance its budget on an annual basis. Loans to the city would be for purely seasonal reasons, and would be repaid at the end of each fiscal year. If this is true, and if the city really intends to follow through with tuition and pension reform, which are needed to make the program successful in the long run, then surely New York City should have a triple A credit rating. In that case, private lenders should be perfectly willing to lend to New York. Thus, there should be no need for Federal intervention.

Granted, small investors would not be likely to touch New York with a 10-foot pole, because they are easily frightened and cannot afford to take such large risks. However, if New York really is on the road to fiscal recovery, the large New York banks, and other banks holding New York debt, should be perfectly willing to get together to refinance the amounts outstanding, as it is planned in the moratorium being proposed now. Furthermore, these banks should be able to come up with the approximately $2 billion dollars needed to smooth out New York City's seasonal shortfalls.

Why do they seem to be unwilling to do this? I suspect they do not believe the city is really going to come through on this matter. I believe they suspect a return to the same shady financial practices of previous years, and the same union pressures and pension difficulties and also the same lack of response from the State in this situation.

If this interpretation is correct, then the President's assumption that New York "has bailed itself out" is incorrect, and the Federal Government is being made to assume a very real risk that private institutions are perfectly justified in avoiding.

Mr. President, I think the amendment of the distinguished Senator from Virginia will have a considerable effect in trying to correct this and bringing the situation still into a pressure background which will result in further corrections in situations that exist in the State and the city that caused the problem. I think we will be doing them a favor if we pass this amendment.

I yield the floor.

Mr. TOWER. Mr. President, I would like to point to section 10 of the bill. I think it should be understood that:

> No loan may be made under this Act for the benefit of any State or city unless the General Accounting Office is authorized to make such audits as may be deemed appropriate by either the Secretary or the General Accounting Office of all accounts, books, records, and transactions of the State, the political subdivision, if any, involved, and any agency or instrumentality of such State or political subdivision. The General Accounting Office shall report the results of any such audit to the Secretary and to the Congress.

So we are going to know on a very intimate and continuing basis what is happening fiscally to New York City and New York State.

I think this is an adequate safeguard that the House—it was not in the measure, it was not in the President's request—included in the bill. So I simply wanted to call the attention of my colleagues to this provision.

Mr. President, I know my friend from Virginia has more comment to make, and I will at a seasonable time move to table the amendment.

Mr. HARRY F. BYRD, JR. Mr. President, I yield myself 4 minutes.

Mr. President, the Senator from Virginia is very glad he put in this amendment today. The discussion this morning brings into sharp focus just what this bill does do and what it does not do.

It was made clear today by both the distinguished manager of the bill, the able Senator from Wisconsin, and the able Senator from Massachusetts (Mr. BROOKE), that this bill does not require a balanced budget for New York City for the current fiscal year and, indeed, there will be a deficit for the current fiscal year for New York City.

It was made clear by both of these Senators also that this bill does not require New York City to balance its budget for the upcoming fiscal year, which begins 7 months from now and ends 19 months from now.

Not only does the bill not require it, but both the able Senator from Wisconsin and the able Senator from Massachusetts said that New York City cannot be expected to balance its budget at that time.

Now, I invite the attention of the Senate to an 8-hour debate which took place in the Senate Wednesday, 2 days ago.

Throughout the debate of this last Wednesday—and all I will do is suggest to those Members of the Senate who are interested to read those debates—the manager of the bill, the able Senator from Wisconsin, said this legislation mandates a balanced budget. Throughout that debate the Senator from Virginia disagreed with him.

If this amendment does nothing else, the debate today clears the atmosphere. Both the chairman of the committee and the acting minority member of the committee asserted today that this legislation not only does not mandate a balanced budget for New York City, but, further, there will be no balanced budget by New York City for the current fiscal year, and there will be none for the next fiscal year unless the pending amendment is adopted.

This debate sustains the position taken Wednesday by the Senator from Virginia.

How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. There is 1 minute remaining to the Senator of the 4.

Mr. HARRY F. BYRD, JR. A determined effort has been made to get across to the public that this legislation requires New York City to balance its budget.

It does nothing like that whatsoever and the debate this morning shows that. The RECORD this morning shows this clearly in statements made by the manager of the bill, Mr. PROXMIRE, by the Senator from Massachusetts (Mr. BROOKE), and by the Senator from New York (Mr. JAVITS).

In fact, the statements by the three Senators make clear they do not seek nor expect New York to balance its budget either this year or next year.

I ask, Does the Senate want to just give to New York City $2.3 billion and not even require that it balance its budget for the year which begins 7 months from now?

The able Senator from Louisiana (Mr. JOHNSTON) pointed out that the only way New York City is likely to balance its budget is to be forced to do so by the Congress of the United States, if it wishes to obtain special Federal funds. If my amendment is adopted, it would accomplish that purpose which, in my judgment, is a desirable purpose. New York must do what other cities must do and that is keep its expenditures within the revenues.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I will yield to Senator TOWER on his own time if he wishes me to. Does the Senator wish to make his motion?

Mr. TOWER. The Senator may go ahead, and I will say a word or two later.

Mr. JAVITS. That is fine.

Mr. President, I yield myself 3 minutes.

Mr. President, the point that has been missed so far in the debate is that the Secretary of the Treasury is named in this bill—this is the President's bill, he sent it to us—in order to be the agent of the President to carry out the President's plan. The basic document, therefore, is the President's plan. The President in his plan said that his plan contemplates that New York City must balance its budget within 3 years.

So that it is absolutely inconceivable that the Secretary of the Treasury will do anything else other than require that it be balanced within that time. And remember, these are 1-year loans, they do not have to be made again for 1977 or 1978 unless the United States is satisfied through the Treasury and the Congress. That is where the importance of Senator TOWER's point exists, we have audits which are being made.

So, Mr. President, the State of New York has got law on this subject.

Now, as to the State—I am sorry that Senator TAFT is not here—they have got approximately $4 billion due between now and June 30, 1976. The testimony before the Banking Committee was that they have no more access to the markets, the money-raising markets, than has the city of New York and that even the guarantee deal would not have bailed them out for short-term debt because nobody would even buy the short-term paper from the receiver, and so forth.

The only hope they had was this kind of seasonal loan facility which is provided for in this bill.

To look to the State of New York at this time would simply be trying to involve the State of New York in a near bankruptcy like the city of New York is involved in.

Here is the point: the State of New York generates in the area of $30 billion a year in Federal tax revenue. We are the highest taxed State in the country today and New York City is the highest taxed city in the country.

What are we trying to do, kill ourselves?

We can be very smart about curtailing it by another year. We might just as well say they should balance the budget tomorrow, or this fiscal year. Why not? No reason has been advanced why not according to these arguments.

If one can cut salaries, why cannot one cut them 50 percent instead of 15 or 10 percent, and if one can cut policemen, why not cut the police force from 30,000 to 5,000, then we will surely balance the budget, except the people will be dead and the United States will send Federal troops into New York City.

The 3-year plan has been the basic plan all along. The President agrees, the State of New York agrees, and has put it into law. There is some commitment made to people. These are not individual debtors who can turn on a dime. There are some commitments made to business concerns which we want to keep that there will be some minimal services, some ability to operate in the city of New York and in the State of New York.

Therefore, I say to my colleagues, what we are doing is just minimal, anyhow. We are $10 million away from the ragged edge by this $2.3 billion maximum. That is what the Governor analyzes it to be. That is our margin, $10 million out of $2.3 billion.

If we are that close, why jeopardize the whole enterprise in this way?

If we are not good for paying these debts every year for 1 or 2 years, and Senator BYRD says we are, then why not for the third year where we will be in even better shape because many of these economies will have already been effected?

Mr. President, 1 more minute.

And these economies are not going to be backtracked on. They cannot be. We cannot engage so many hundreds of thousands of people and employees and millions in the State of New York in the legislature and the business community and turn on a dime and repudiate everything we have done.

This is a total plan, every part of which leans on every other part.

The 3-year balanced budget makes us just about barely breathe. If we go beyond that, we cannot breathe.

So the plan has to hang together. If it hangs together, I deeply believe it will work. But it has got to hang together. Therefore, I hope this amendment is defeated.

Several Senators addressed the Chair.

Mr. HARRY F. BYRD, JR. Mr. President, I had not expected to say anything, except the Senator from New York brought my name into the discussion. I yield myself 2 minutes.

What the Senator from Virginia has been saying, and what the Senator from Virginia repeats, is that the Congress and the Federal Government cannot solve New York's problem. New York must solve its own problem by getting its expenditures in line with its revenues.

The time to start is in the new fiscal year which begins on July 1, 1976. That is just what this amendment would require.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I yield myself such time as I may require.

Mr. President, to the limited extent that debate has been permitted, I find myself welcoming the debate on this issue.

I commend the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) for his amendment. I believe he cuts through all of the rhetoric and, with his amendment, addresses a very fundamental question.

I listened with interest to the comments of the distinguished Senator from Louisiana (Mr. JOHNSTON) a few moments ago in which he referred, I believe, to the latest Harris poll taken on this issue. I have some doubts that this poll represents the public sentiment in this country on this issue. But even assuming that it does, I think the second aspect of that poll, as stated by the Senator from Louisiana, is vastly significant, that of those who responded to Mr. Harris' poll, 90 percent of them stipulated that they predicated their support absolutely on the condition that New York City balance its budget.

Senator JOHNSTON is not on the floor, so I would inquire of the Senator from Virginia, Did I hear the Senator from Louisiana correctly?

Mr. HARRY F. BYRD, JR. The Senator did hear correctly.

Mr. HELMS. I thank the Senator.

So, Mr. President, I cannot believe that the people of Texas, Arkansas, Virginia, and all the other States did not know what they were doing when they overwhelmingly stipulated that if New York City is to be bailed out by the American taxpayers, it should be on the basis of a balanced budget in the city of New York.

Mr. President, the Senator from North Carolina welcomes this discussion because so seldom in this Chamber, at least during the years that the Senator from North Carolina has been here, does the Congress give any real consideration to fiscal prudence. Certainly, the votes cast in this Chamber do not indicate any real concern about it.

The money that is involved in the bail out of anything—and, incidentally, this is "bailout week" in the Senate, with the railroads yesterday and New York City today—will come from the American taxpayers, the vast majority of whom earn far less than the employees of the city of New York.

The point being overlooked in this matter is this:

The only difference between the Federal Government and the city government of New York is that, in Washington, we have a printing press to produce money that is constantly declining in purchasing power. The last time I checked on the Federal debt—along about the second week in October—it stood somewhere in the neighborhood of $545 billion, the interest on which runs, if my calculations are correct, about $36 or $37 billion a year. If we break that down, it amounts to $1,200 in interest alone for every second of every minute of every hour of every day of every week of every month of the year.

Who are we to be called upon to bail out anybody? There is no money here. There is only a printing press and, I might add, almost total fiscal irresponsibility.

So I am glad in a way, in an ironic way, that this issue has come up. At least we have focused attention all over this country upon fiscal imprudence at all levels of government.

I hear reports not only from my State but from others that city, county, and State officials are living on a diet of fingernails. They are seeing the bitter fruits of irresponsibility.

Philosophically, what we are talking about is "liberalism." I think it can be said unquestionably that New York City is the symbol of this. Over the years it has come to represent certain values and attitudes toward government which, in my view, are destructive of American liberty and justice.

Of course, I am a fiscal conservative. I make no pretense about it. I believe my voting record will show it. I am, therefore, disposed to look upon the principle of government and public finance which produced the present financial condition of the city of New York with no slight degree of suspicion.

As to the question of whether the city of New York can balance its budget next year, of course it can, Mr. President. From the very beginning of this matter, we have heard repeatedly from New York, "Oh, we cannot do it with less than" x number of billion dollars from the U.S. Treasury. They found out they could not get that, so they came back and it was x minus $2 billion, and so on down. Every step of the way has been declared to be the irreducible minimum, to hear the New York politicians tell it.

"Bail us out. Bail us out. We will go under," they have cried.

I say, Mr. President, that plain economic sense dictates that if the leadership of New York is required, by a sensible Congress, to balance their budget, the city of New York will find a way to balance its budget.

I have heard several references, Mr. President, to the distinguished Secretary of the Treasury, Bill Simon, who is a good friend of mine, a man whom I respect. His name has been invoked a dozen or more times in the last hour or so.

Let me offer one quote from Mr. Simon which seems to me to sum up a warning not only to us in the Senate, but to the people of New York and to its leaders:

> Any entity that gives up its ability to make its own financial decisions has basically lost its power to rule. This not only opens up a whole pandora's box of problems, but also contravenes the constitutional principle of Federalism.

Mr. President, I am quoting the Secretary of the Treasury, Mr. Simon:

> Whatever happened to the concept of home rule that is so important to the fundamentals of democracy in the United States? I do not think that this is what the American people want.

Mr. President, I know the distinguished Senator from Virginia entertains no real hope that his amendment will be agreed to, though it should be. As the distinguished Senator from Alabama said yesterday in all friendliness but also in all candor, the steamroller is running in the Senate. No amendments to this bill will be approved, I daresay. That is the way things go these days. But I would hope that the steamroller would not resort to a tabling motion on this worthy amendment offered by the Senator from Virginia. Let Senators at least have the opportunity and responsibility of voting up or down on this proposition. If they vote against the Byrd amendment, which the Senator from North Carolina supports, fine. But I would hope that the leadership will lay aside its practice of tabling worthwhile amendments and let the Senate work its will on the basis of the issues before it.

Tabling motions, after all, are a parliamentary tactic which, while legitimate, nevertheless offers Senators a disguise to hide behind when they go home and try to explain their votes.

So, I hope that the Senator from Texas, whom I admire—he is an able Senator, and I enjoy my relationship with him—will reconsider his announced intention to move to table this amednment.

I reserve the remainder of my time.

Mr. TOWER. Mr. President, I wish to emphasize, as I have before, that this bill does not represent a bailout for New York City.

A Federal Government bailout would involve supplying Federal moneys to New York to enable the city to run an annually unbalanced budget. This bill does not do that.

The legislation would provide Federal loans only to operate during certain months when the city's spending exceeds revenue. These loans would be repaid in succeeding months when the city runs a surplus. Most American cities with balanced budgets still run deficits during certain months, and those deficits are financed through short-term borrowing. New York cannot now borrow such short-term funds in the credit markets. H.R. 10481 merely provides an alternative source for legitimate short-term borrowing.

This would be needed even if the city went into bankruptcy. Something would have to be done. Senator Javits suggests we might have to send Federal troops in. Something would have to be done to preserve order in the community, and it would be in the national interest for that not to happen.

During the years when Federal loans would be made under H.R. 10481, any additional funds needed by New York City would be borrowed from pension funds. We ought to stop referring to this as a bailout bill. We are not giving New York City anything nor are we taking any officials or bondholders off the hook. We are lending them $2.3 billion at 1 percent above the current Treasury borrowing rate, which means the American taxpayers can actually make $23 million out of this bill if it is properly implemented.

The Senator from North Carolina has urged me not to press for my tabling motion, which he has referred to as a way for Senators to disguise their votes.

I am almost persuaded by the lucidity and eloquence of my good friend from North Carolina, but not quite. Lest anyone think that I am disguising my vote, may I say that I think that the amendment of the Senator from Virginia has great merit, and I would probably vote for it were we able to accommodate the passage of this legislation and subsequently the passage of the appropriation bill to the time available. The practical matter is that we cannot. My reason for offering a motion to lay on the table, and my reason for opposing any amendment to this bill, is that I think we ought to vote a bill up or down. If Senators wish to be recorded in favor of the amendment, they can vote not to table.

The fact of the matter is that if we have to go to conference, and we have to go through a wrangle in the conference committee, and then come back to the floors of both Houses, and only then can work, we cannot act in a timely fashion. We should vote this bill, the way it is, either up or down today. And lest anyone think I am making any political hay out of this, I can assure you I am not. I may have a lot of explaining to do back home to make it clear this is not a bailout bill, but I believe the course I pursue here is a correct one, and one that is taken in the national interest.

I therefore move, Mr. President——

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold that motion?

Mr. TOWER. I yield to the Senator from West Virginia on his own time.

Mr. ROBERT C. BYRD. The Senator cannot do that under the cloture rule.

I ask unanimous consent that I may be permitted to proceed for 1 minute without the Senator's losing his right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I mean if there were an objection the Senator could not do it.

Mr. President, the Senate will undoubtedly be in a long time today. The leadership regrets to say this, but at the rate we are now proceeding, the Senate is in for a long day.

I have heard that in the history of the world, there was a long day, and in the Biblical history of the world, of course, there was a long day during the time of Joshua. We are going to witness another long day if we keep going at the speed we are making now. The leadership is constrained to have to state that the Senate will be in session until action on this bill is completed. Hopefully it will not be too late in the evening, but it could be late in the evening. It could be midnight. Conceivably it could be some time tomorrow morning. But the Senate will be in session until it finishes the action on this bill. The leadership is forced to say this because of the constraints of time involved in this critical problem.

The Senate will be in session tomorrow, regardless of whether or not the Senate finishes this bill today. If it does not finish this bill by midnight, the Senate will continue until it finishes with this bill, but, regardless of whether or not the action on the bill is completed before 9 o'clock tomorrow morning, at which time the Senate will be in session under the recess order, the Senate will be in tomorrow. There is the Public Works appropriation bill, with a time agreement on it, and there will be rollcall votes tomorrow.

So, if there are any doubters on this Hill anywhere, I hope they will disabuse themselves of any doubts as to whether or not this will really be a long day, and whether or not there will be a day tomorrow for the Senate to be in session, and whether or not there will be rollcall votes tomorrow. There will be plenty of rollcall votes today, until the end.

Mr. TOWER. Mr. President, I move that the amendment (No. 1181) of the Senator from Virginia (Mr. Harry F. Byrd, Jr.) be laid on the table.

Mr. HELMS. I ask for the yeas and nays.

Mr. TOWER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Hampshire (Mr. Durkin), the Senator from Idaho (Mr. Church), the Senator from Massachusetts (Mr. Kennedy), and the Senator from Wyoming (Mr. McGee) are necessarily absent.

I further announce that the Senator from Colorado (Mr. Haskell) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. Fong) and the Senator from Virginia (Mr. William L. Scott) are necessarily absent.

The result was announced—yeas 55, nays 38, as follows:

[Rollcall Vote No. 554 Leg.]

YEAS—55

Abourezk
Baker
Bayh
Beall
Bellmon
Brooke
Buckley
Bumpers
Byrd, Robert C.
Case
Clark
Cranston
Culver
Domenici
Eagleton
Ford
Glenn
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Hatfield
Hathaway
Huddleston
Humphrey
Inouye
Jackson
Javits
Leahy
Mansfield
Mathias
McGovern
McIntyre
Mondale
Moss
Muskie
Nelson
Packwood
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Symington
Tower
Tunney
Weicker
Williams

NAYS—38

Allen
Bartlett
Bentsen
Biden
Brock
Burdick
Byrd,
 Harry F., Jr.
Cannon
Chiles
Curtis
Dole
Eastland
Fannin
Garn
Goldwater
Hansen
Hartke
Helms
Hollings
Hruska
Johnston
Laxalt
Long
Magnuson
McClellar
McClure

Metcalf
Montoya
Morgan
Nunn
Pearson
Roth
Stennis
Stone
Taft
Talmadge
Thurmond
Young

NOT VOTING—7

Church
Durkin
Fong
Haskell
Kennedy
McGee
Scott,
William L.

So the motion to lay on the table amendment No. 1181 of Mr. HARRY F. BYRD, JR., was agreed to.

AMENDMENT NO. 1180

Mr. EAGLETON. Mr. President, I call up my amendment No. 1180.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON), for himself and Mr. TAFT, proposes an amendment numbered 1180.

The amendment is as follows:

At the appropriate place insert the following:

SEC. . (a) Section 3(a)(2) of the Securities Act of 1933 is amended—

(1) by striking out "or any territory thereof, or by the District of Columbia, or by any State of the United States, or by any political subdivision of a State or territory or by any public instrumentality of one or more States or territories,"; and

(2) by striking out "or any security which is an industrial development bond" and all that follows through the semicolon following "does not apply to such security".

(b) Section 3 of such Act is amended by adding at the end thereof the following new subsection:

"(d) The Commission may from time to time by its rules and regulations and subject to such terms and conditions as may be prescribed therein add to the securities exempted as provided in this section any class of securities issued by a State of the United States or by any political subdivision of a State or by any territory of the United States or political subdivision of a territory or by any public instrumentality of one or more States or territories if it finds, having regard to the purposes of this title, that the enforcement of this title with respect to such securities is not necessary in the public interest and for the protection of investors.".

(c) Section 15B(d)(1) of the Securities Exchange Act of 1934 is amended by striking out "Neither the Commission nor the Board is" and inserting in lieu thereof "The Board is not".

(d) The amendments made by this section become effective January 1, 1978, and apply to securities issued on or after such date.

The PRESIDING OFFICER. The Senate will be in order, and Senators will kindly clear the well.

Mr. EAGLETON. Mr. President, by next Thursday, as I understand it, New York City would face almost certain bankruptcy if the bill before us were not to pass. It appears that a major catastrophe is to be averted with only a matter of hours to spare.

Did this situation arise so quickly, without warning, that no action could have been taken in advance of the ultimate crisis? I am not speaking of the months since the bond market closed to New York City, for by that time the damage had been done.

Where were we 5, 10, a dozen years ago, when the problems were just beginning? I will tell you: We were in the dark. We did not know what was going on.

Mr. President, that is an intolerable situation. The fact of this bill before us now is all the evidence anyone should need.

The banks, the city officials, the bond rating services, the union leaders—many had some knowledge long ago that all was not well in New York City. But they all just went along, perpetuating the fiction of fiscal soundness, until the house of cards collapsed.

There is an urgent need for legislation to open up and clean up the books of our cities and States. Only then can we assess the magnitude of the problems and develop measures to resolve them in an orderly and deliberate manner, well in advance of a major crisis.

Mr. President, I introduced a bill a little more than a month ago to require the registration of tax-exempt bonds with the Securities and Exchange Commission. I believe that this is a constructive way of avoiding future situations such as we are facing today. The amendment I have called up, and which is cosponsored by the distinguished Senator from Ohio (Mr. TAFT), is identical to that bill.

This is something we can do now to curtail the artful accounting and management practices which either have destroyed or soon will destroy the creditworthiness of many of our large cities and even some of our States. The Securities Act of 1933 generally requires stock and bond offerings to be registered with the SEC. This act was originally set up during the depression to cope with the fiscal morass caused by the collapse of many corporate securities of dubious merit. Today we face a not dissimilar problem; this time our State and local governments are in trouble.

Issuers of tax-exempt bonds—States, counties, cities, and various other public authorities—were exempted from the registration provisions of the 1933 act. I think it is past time for them to be included. My amendment would amend the Securities Act of 1933 and the Securities Exchange Act of 1934 by removing the exemption for securities issued by State and local governments. In order to provide enough time for municipalities to bring their books into line with generally accepted accounting procedures, the effective date of this amendment is January 1, 1978.

Mr. President, a corporation seeking to issue new stock or bonds must meet a rigid set of requirements for accuracy and consistency in its reporting of financial data. The security itself, the terms of repayment, the use of the proceeds, and the company's operations must be described. Certified financial statements, earnings statements, and balance sheets for the previous 5 years must be submitted. Note that all of these submissions must be certified by an independent public accountant.

State and local governments are subject to much less stringent requirements when they seek to place a bond offering. There are no reporting or certification requirements at all. A municipality may tell a prospective buyer as much or as little as it chooses.

If municipal bonds were registered with the SEC, the many well-run States and communities would be better able to justify their high credit ratings and low rates of interest. At the same time, any bond-issuer who was manipulating figures to show a balanced budget would be exposed. Good issues could be more easily differentiated from bad issues, and fiscally responsible State and local governments might then see their prudence rewarded by lower interest rates.

Mr. President, I daresay if this amendment had been law 10 years ago we would not be here today debating New York City. Let me illustrate that point by quoting some testimony before the Committee on Banking, Housing and Urban Affairs, chaired by the distinguished Senator from Wisconsin (Mr. PROXMIRE).

In an exchange with the distinguished Senator from Massachusetts (Mr. BROOKE), the president of the First National City Bank of New York, Mr. Walter Wriston, made the following observation:

> The accounting system of the City of New York defies you finding out precisely what all the numbers are.

And then:

> We should have known earlier. We did not, but part of that is that the whole system was designed to prevent anybody from finding out.

Mr. President, we must change that very system to insure that everybody can find out. I ask unanimous consent that this brief hearing transcript be printed in the RECORD at this point.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

Senator BROOKE. Obviously my question to you is, why did you wait so long to come in—you must have known this crisis was building—and try to protect not only your own benefit, but for the City and the State of New York?

Mr. WRISTON. . . . I think it is true that some of the gimmicks were known about . . . but the clear facts are that the accounting system of the City of New York defies you finding out precisely what all the numbers are.

You are quite correct, I think, that we should have known earlier. We did not, but part of that is that the whole system was designed to prevent anybody from finding out. That is true of the rating services. It is true of the State and it was true of ourselves.

Senator BROOKE. You don't lend money to private borrowers under those same conditions, do you?

Mr. WRISTON. I think if an elected mayor certified to you that the budget is balanced and you have the controller, who is also elected, certifying numbers, a person has a certain right to rely on that in the same manner you would rely on an independent auditor in a private firm.

Senator BROOKE. You did act on reliance of that certification?

Mr. WRISTON. Yes, sir.

Mr. EAGLETON. Mr. President, here we have the president of one of the world's largest banks, the First National City Bank of New York, buying billions of dollars of bonds from a city it knew was in trouble, on the basis of figures it knew were not entirely accurate. Requiring registration of municipal bonds with the SEC would at least mean that generally accepted accounting principles were being followed. These borrowers then would be subject to at least as much scrutiny as an individual seeking a car loan.

I think this is not only fair, it is good public policy. It would not prevent future defaults by itself, but at least investors and bankers and the bond rating services and the U.S. Congress would know what sort of financial situation a municipality was in before a default became even a remote possibility.

Mr. President, let me present a number of views on the subject which have been expressed by those who work with these problems on a daily basis.

Mr. RANDOLPH. Mr. President, if my colleague would yield, and yet not break the continuity of his reasoned presentation, I would recall an earlier crisis.

Mr. EAGLETON. Mr. President, I am pleased to yield to my distinguished colleague from West Virginia.

Mr. RANDOLPH. Mr. President, the able Senator from Missouri (Mr. EAGLETON) has called attention to the action of Congress in 1933 in creating the Securities and Exchange Commission. Without focusing on seniority, which I do not want to do, it might give an indication of my age. I was, however, one of the House Members who worked very sincerely and I hope, very effectively, for the passage of that landmark legislation. That was a time, as the Senator stressed, of deep depression and financial distress. But it was a time when, in the first 100 days of the Franklin Roosevelt administration, we were attempting then, as we are now, to meet pressing national needs and to renew the confidence of the American people in our institutions of government. That is exactly what the gentleman from Missouri emphasizes in his arguments. We were then working to stop sales of bogus securities and stocks which had flooded the country and brought on, in part, the debacle that we experienced in that tragic depression period.

I should like the privilege, if the Senator would agree, to be added as a cosponsor of the pending amendment.

Mr. EAGLETON. I thank my distinguished colleague. I ask unanimous consent that the name of the distinguished senior Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor to the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Let me point out, in my thanks to the Senator from West Virginia, that he recalls history very accurately. When the act was passed in 1933, it was in the first 100 days of Franklin Roosevelt's term. It was a time when Congress was faced with corporate bonds and securities that had been issued in extravagant numbers, that were not backed by a solid corporate base or solid corporate financing. In that era, municipal bonds were a really tiny percentage of the market and it was thought we could leave that outside the scope of the SEC. But since 1933, in the intervening 42 years, the municipal bond market has increased tremendously. Whereas it was a tiny percentage of the securities market in 1933, it is now a significant percentage of the 1975 market. Whereas, in 1933, exclusion from the act may have been sound and prudent public policy, I think a new and better public policy is in order now.

Mr. RANDOLPH. Will the Senator yield?

Mr. EAGLETON. I yield.

Mr. RANDOLPH. The Senator steps back in history and he is very correct in what he is saying. There was a need, of course, to act then, and it was an attempt, not to cover all of the situations which, as the Senator indicates in this instance, have developed over the intervening years. The continuing complexity of our economy itself, indeed the very life of great metropolitan areas—all of these are involved.

Mr. President, I hope I am not too nostalgic in this point, but I remember in March of 1933 when President Franklin Roosevelt called small groups of Members of Congress there to the White House at night to confer with him on proposals to revitalize the economy.

We counseled together under FDR's dynamic leadership on these occasions. We were working, groups of us specifically, on items that were to be incorporated in that great legislative package which had substance. In some instances, of course, we did not go far enough or we went too far, but we were acting, with positive programs and redressing wrongs, and that was important.

I remember, as a new Member, one of those occasions in the White House. It was cold and rainy and the President sat at his desk on the second floor, and we were talking. There was a wood fire burning and there were those present who said, "No, we cannot do this," or, "We cannot do that." And the President, I remember now, as he gripped his fist, hit the desk, and declared,

> But, gentlemen, do you realize, we must act now? We may make mistakes in acting now, but if we do not act now—we will not have the opportunity later to make these mistakes. But we will have done a job which needs to be done if the country, very frankly, is to be saved.

Yes, Mr. President, these crises occur. Trying times come and we must be reasoned as we meet responsibility. I have given the most careful study to the New York City problems. I do not move eagerly to support the bill, but I believe the caution of President Ford and the terms he laid down for Federal aid. I shall vote for the measure now, in recognition of the efforts of New York State, New York City, banks, and people themselves, to provide self-help.

Mr. President, I ask unanimous consent to conclude my remarks by including a sensible editorial from the Pittsburgh Post-Gazette of December 1.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Pittsburgh Post-Gazette,
Dec. 1, 1975]

FUNDS FOR "FUN CITY"

It has been said that God helps those who help themselves. While he bears little or no resemblance to the divinity, President Ford has taken that attitude toward insolvent New York City. Since the city has taken long steps toward self-help, he has asked Congress to enact legislation that would save the improvident metropolis from early bankruptcy.

Like everything else the President does, this decision will be weighed in terms of political gain or loss. Did the President, as his critics gibe, reverse himself and surrender to enormous pressures to "bail out" New York City? Was this a weak-kneed expedient to avoid loss of New York votes in next year's presidential election?

Affirmative answers to those questions would oversimplify and distort an exceedingly complex issue. The President has, in fact, forced New York state and city officials to meet tough conditions under which the federal government can, without loss of face or money, provide temporary relief to the beleaguered city.

Since last May, New York's profligate politicians have engaged in their accustomed crisis tactics to pressure some external agency into financing the city's enormous deficits. Heat was applied to the federal government after the state and the banks would do no more.

President Ford stonewalled the issue for months, insisting that there would be no federal bailout. As a result, New York state and city officials had to hammer out a self-rescue program designed to balance the city's budget at the end of two and a half years. Higher taxes are a key element of the program.

In response to that effort, the President has asked Congress to enact the New York City Seasonal Financing Act of 1975. Under that act, the federal government would tide the city over with loans during deficit months and would be repaid—with interest higher than the cost of the borrowing—fully out of tax collections in the spring so that the outstanding loan balance would be zero at the end of each fiscal year on June 30.

If the city failed to repay the loans within any given year, the loans would be halted and the money would be recovered from federal aid, such as revenue sharing, which the city receives routinely.

In that connection, let it be understood that far from being niggardly or indifferent to New York City, the federal government already provides more than $3 billion of the city's $12-plus billion annual budget, through aid of one sort or another.

President Ford's rescue terms are tough but realistic. They reflect a justified belief that aid on lesser terms would simply invite a continuation of the irresponsibility which drove New York into insolvency.

The aid recommended by President Ford would be restricted to an aggregate of $2.3 billion. It would end on June 30, 1978. It doesn't set up a precedent in federal relationships with political subdivisions; states borrow from Washington, for example, when their unemployment compensation funds fall too low and the money is repaid when employment rises.

In the long run, only New York itself can cure its financial ills, through restraint and responsibility. President Ford has, in the interim, proposed a timely and reasonable way to get the city back on its feet. Congress should respond promptly and favorably.

Mr. EAGLETON. I know I speak for myself and my colleague, Senator TAFT, in welcoming the support and the encouragement of the distinguished Senator from West Virginia.

Mr. President, I was about to list certain views of interested and experienced observers with respect to this problem of municipal finance.

For example, the prestigious accounting firm of Arthur Andersen & Co. has prepared an excellent pamphlet entitled, "Sound Financial Reporting in the Public Sector: A Prerequisite to Fiscal Responsibility." I commend it to every Senator.

I shall quote briefly from the summary, and then ask for a larger portion to be made part of the RECORD:

Several large cities, States and other governmental units appear to be in serious financial difficulties. These problems may produce a devastating financial crisis unless timely corrective action is forthcoming. All too often, the financial statements of governmental units have proven to be less than adequate for providing basic financial information. Decision-makers, investors and the public have been misled by not being alerted to the problems which were developing. When difficulty occurred, they were confused and frustrated in their attempts to deal with the emerging financial crises.

Now let me quote briefly from a letter from the Comptroller General of the United States to the Secretary of the Treasury, dated November 4, 1975:

The need for better accountability and good financial reporting also extends to State and local governments as the Arthur Andersen booklet brings out. However, I believe that the Federal Government should take the lead in developing a comprehensive periodic financial report on its operations that could be used by other levels of government in considering how to improve their financial reporting.

Mr. President, I ask unanimous consent that the summary from the Arthur Andersen study and the letter from which I have just quoted be made part of the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SOUND FINANCIAL REPORTING IN THE PUBLIC SECTOR: A PREREQUISITE TO FISCAL RESPONSIBILITY

OVERALL SUMMARY

In the past 40 years, the government or public sector of our economy has been steadily growing from less than 10% of our Gross National Product to about 33% in 1974. If government credit, tax expenditures and "off budget" items were included, total government expenditures would probably exceed 40%. Within a few years, the combined budgets (Federal, state and local) may exceed $1 trillion. With a public sector this large, its operations have a major impact on the economy. This impact could be positive if properly planned. However, it could also accelerate economic problems if not properly coordinated.

Several large cities, states and other governmental units appear to be in serious financial difficulties. These problems may produce a devastating financial crisis unless timely corrective action is forthcoming. All too often, the financial statements of governmental units have proven to be less than adequate for providing basic financial information. Decision-makers, investors and the public have been misled by not being alerted to the problems which were developing. When difficulty occurred, they were confused and frustrated in their attempts to deal with the emerging financial crises.

Knowledge of current deficits and surpluses is important for the annual evaluations of our financial affairs. To be meaningful, these amounts should include all costs whether paid or accrued. Furthermore, the total accumulated deficit is crucial because this is the amount of future taxes required to pay present liabilities. To the extent that this amount exceeds the amounts that can reasonably be expected of future taxpayers, a potential for crisis develops. The crisis could become real if taxpayers are no longer willing to pay for the current costs of government or if investors become concerned that governmental units may default on their obligations.

In the private sector, proper accounting controls and sound financial reporting on an accrual basis are basic prerequisites to fiscal responsibility and a meaningful understanding of a unit's financial condition. If we are to have the same degree of accountability in the public sector, similar controls should be exercised over governmental affairs and meaningful financial reporting should be implemented.

As a result of our inquiry and our conviction that sound financial reporting is required to inform both shareholders in the private sector and the electorate in the public sector of the economic results for their specific groups, we have arrived at the following conclusions:

The United States Government should provide annual consolidated financial statements on an accrual basis including all entities in the Government and all programs which may require future taxes for present liabilities.

Cities, states and other political subdivisions should be required to publish similar statements annually and in connection with sales of securities to the public.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., November 4, 1975.
The Honorable the SECRETARY OF THE TREASURY.

DEAR MR. SECRETARY: I am writing to pass on to you some of my thoughts concerning recent observations made by Arthur Andersen & Co. for improving accountability and financial reporting in government. I understand that their report, titled "Sound Financial Reporting in the Public Sector—A Prerequisite to Fiscal Responsibility," was discussed with your staff before being published. A copy is enclosed.

We in the General Accounting Office do not endorse everything in the Arthur Andersen & Co. booklet but we do believe it serves a useful purpose in illustrating overall aspects of the Federal Government's financial operations and in highlighting some of the critical financial questions that need attention.

One of their recommendations which, in my opinion, has merit falls within the jurisdiction of the Treasury Department. That is that the Federal Government should take the leadership in developing greater fiscal responsibility by preparing and publishing consolidated financial statements.

This proposal is, of course, not entirely new. But I believe that current economic conditions and the extensive Government use of deficit financing have accentuated the need for the Federal Government to provide better overall financial reports that show clearly for the benefit of the Congress and the public the major aspects of its financial position and operations.

This does not mean that the form of the financial statements used in private business is necessarily appropriate for the Government. The formats may need to be changed and new kinds of statements will undoubtedly need to be developed. This will require some study and could be a very useful project to be carried out under the Joint Financial Management Improvement Program.

The need for better accountability and good financial reporting also extends to State and local governments as the Arthur Andersen booklet brings out. However, I believe that the Federal Government should take the lead in developing a comprehensive periodic financial report on its operations that could be used by other levels of government in considering how to improve their financial reporting.

We in the General Accounting Office will be glad to cooperate with you in any effort you undertake along these lines.

Sincerely yours,
ELMER B. STAATS,
Comptroller General of the United States.

Mr. EAGLETON. Mr. President, since I introduced my bill, I have received a number of letters from individuals who deal daily with municipal bonds. Let me quote from a few of them.

A stock and bond broker in St. Louis write, "I think that your proposed legislation requiring registration of new bond issues with the Securities and Exchange Commission is appropriate and overdue."

A financial analyst offered these comments: "I am well aware of the massive reporting requirements for public corporations that are required under current securities law. These regulations, while at times certainly inconvenient. have obviously helped to reduce tremendously the incidence of fraudulent reporting."

A broker in Cincinnati sent the following: "As a member of the investment community, I would support any bill which forced municipal issuers to disclose their financial condition. As the president of a local school board who will shortly be offering bonds, I am happy to disclose our financial condition, something we have done voluntarily in the past."

Mr. President, I ask unanimous consent that these letters be made part of the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DREXEL BURNHAM & CO., INC.,
St. Louis, Mo., October 27, 1975.
Senator THOMAS A. EAGLETON,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR EAGLETON: I think that your proposed legislation requiring registration of new bond issues with the Securities and Exchange Commission is appropriate and overdue.

I am pleased to see this occur.

Sincerely,
LARRY J. EISENKRAMER,
Vice President, Retail Sales.

MEDIA CLUB, INC.,
Los Angeles, Calif., Oct. 28, 1975.
Senator THOMAS EAGLETON,
Washington, D.C.

DEAR SENATOR: I applaud your efforts to introduce legislation to require states and cities to register new bond issues with Securities and Exchange Commission.

I hope you are effective in getting this passed. So often good intentions go to naught. But something as important as this should be fought all the way.

Good luck.

Sincerely,
SAM KLINE.

ST. LOUIS, MO.,
October 28, 1975.
Senator THOMAS EAGLETON,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR EAGLETON, I compliment and enthusiastically support you for introducing legislation that would place state and municipal securities under SEC jurisdiction.

Having worked as a financial analyst for several years, I am well aware of the massive reporting requirements for public corporations that are required under current securities law. These regulations, while at times certainly inconvenient, have obviously helped to reduce tremendously the incidence of fraudulent reporting. No doubt the strict penalties imposed on offenders have been effective deterrents. I would suggest you include provisions for prosecution of elected and appointed officials who knowingly deceive their constituents.

On another point, I would urge you to support legislation subjecting public pension funds to the same strict funding and reporting requirements that private funds are required to under the Employee Retirement Income Security Act of 1974 (ERISA). Laws of this type could eliminate the types of abuses that are now prevalent with many of the New York public funds and would, of course, greatly benefit the public worker.

Good luck on your new municipal reporting legislation.

Cordially,

RICHARD D. PHELPS, C.F.A.

BENJ. D. BARTLETT & CO.,
Cincinnati, Ohio, November 3, 1975.
Hon. THOMAS EAGLETON,
Senate Office Building.
Washington, D.C.

DEAR SENATOR: I just read of your bill to require issuers of municipal bonds to make the same kind of disclosure that is presently required of corporate issuers.

As a member of the investment community, I would support any bill which forced municipal issuers to disclose their financial condition.

As the President of a local school board who will shortly be offering bonds, I am happy to disclose our financial condition, something we have done voluntarily in the past.

Finally, as a fellow Amherst alumnus, I hope that your bill fares better than either of us did in our bid for trustee election.

Sincerely,

WILLIAM A. FRIEDLANDER, C.F.A.,
Managing Partner.

PIONEER BANK AND TRUST CO.,
St. Louis, Mo., November 13, 1975.
Hon. THOMAS F. EAGLETON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR EAGLETON: We are in favor of the proposed legislation for state and local bond issues to be registered with the Securities and Exchange Commission.

Please pursue vigorously.

Very truly yours,

WM. T. BOEHM.

THE UNIVERSITY OF TOLEDO,
Toledo, Ohio, November 19, 1975.
Senator THOMAS F. EAGLETON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR EAGLETON: I understand that you introduced a bill which would amend the Securities Act of 1933 by removing the exemption for securities issued by state and local governments.

I would appreciate it if you could send me information regarding your bill. As a professor of accounting, I have an interest in the financial and accounting aspects of state and local governments. It appears that this is an area that needs to be improved.

Any information will be appreciated.

Sincerely,

CHARLES GIBSON,
Chairman.

Mr. EAGLETON. In conclusion, Mr. President, let me say this. As I see it, we have little choice. Either we require the issuers of tax-exempt bonds to adhere to generally accepted accounting principles, or else we shall see them before us, one by one, asking for aid when the fiction collapses. It is just as simple as that.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. EAGLETON. I yield to my distinguished colleague from Wisconsin.

Mr. PROXMIRE. I beg the Senator's pardon. I will let the distinguished Senator from Ohio speak and then I will.

Mr. EAGLETON. I reserve the remainder of my time.

Mr. TAFT. Mr. President, I thank the distinguished Senator for allowing me to proceed at this time.

I commend the distinguished Senator from Missouri at the outset for his interest and leadership in this legislation. I have been looking at the New York problem and some of the ramifications of it for some time, and I noted that the Senator had come up in October with a bill, S. 2574, which I thought hit the nail on the head insofar as some aspects of this problem are concerned.

I therefore joined with him in cosponsoring that bill and in cosponsoring this amendment because the same language, in effect, is in that amendment as in that particular bill.

I think all of the arguments he has made for the necessity for this legislation are very valid. I myself have had the experience of presenting and trying to qualify registration statements before the SEC as an attorney for corporations issuing securities to the public, and I think the safeguards there, which are very, very material safeguards, are exactly what are needed in this particular case.

Let me point that out in a human context because I think we are dealing here not only with the particular situation relating to the banks in New York City and the crisis in which New York City finds itself and the crises in which other cities and States may find themselves through a lack of proper standards forced upon them from outside with regard to their accounting and fiscal practices, but also we are talking about people and small investors, because more and more as municipal and State bond markets expand in this country we find that individuals, often individuals with very small incomes, indeed, and seeking the utmost in security, have turned to this type of security, and what they have found is that they have a minimum of security now at this present time.

It is a great tragedy in the New York City situation as well as, I am sure, in the market situation, insofar as other municipal and State securities are concerned, that we see people taking a beating on account of it.

One of the most heartbreaking things about this situation is that some not too wise, very small investors may have put their life savings into New York bonds, and even some large banks, which should have known better, have been equally fooled by taking the city's word as to its own condition in this particular circumstance. If a bank is fooled, how natural it is for an investor, an individual investor, to put his confidence in a situation where really there was no basis for that confidence other than an outside rating put on the bonds originally at their issue by bond counsel and by the various private rating services.

(At this point Mr. GARN assumed the chair.)

If municipal bonds had been required to be registered with the SEC with the disclosure requirements of that agency in force these people would not have been fooled.

Furthermore, leaving it to operate or requiring the operating of its finances in the sunshine by a city would have, I think, prevented the kind of very shadowy practices which have brought New York City into its current condition. It would not have been able, for instance, to hide operating expenditures in capital budgets or trick itself and the public into believing that all was well in the budgetary situation annually.

As a matter of fact, I attended a hearing of the Joint Economic Committee in New York City just a couple of weeks ago in which I asked questions very similar to those the distinguished Senator from Missouri has mentioned that were brought up before the Banking Committee. At that time I asked Mr. Douglas Dillon of Dillon, Read, and also Mr. Thomas Platten, president of the Chemical Bank, whether if we had legislation such as this at the time the purchases were going on of these various securities and during the last several years of the fiscal practices of New York City, whether they would be in the shape they are in now. They assured me that they felt certainly that would not be the case. So there is a great deal to be said, they feel, for trying to bring some better accounting and reporting practices to this entire field of securities legislation.

This amendment to the Securities Act of 1933 would bring municipal securities into the light of day and give investors a real chance to know what they are getting into. This can be of nothing but benefit to those cities that have sound governments and strong finances and need to go to the public for financing. It would increase public confidence in municipal bonds and, in the end, would lower the interest rates for municipal borrowings and for State borrowings where such borrowings are good and prudent borrowings.

This amendment would reward good conduct and help prevent bad conduct. I give this amendment my strongest support.

Mr. EAGLETON. Mr. President, I thank my distinguished colleague for his strong support; it is most appreciated.

The distinguished Senator from Ohio (Mr. TAFT) in his remarks did mention the bond rating services. I also addressed this subject, Mr. President, in a separate speech. Therefore, I ask unanimous consent that a speech I delivered last Wednesday at Rutgers University in New Jersey dealing with the bond rating services be made a part of the RECORD at this point.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH BY SENATOR EAGLETON

It is impossible to fix the blame for New York City's financial plight on any one cause. There were dozens of factors which contributed to the situation—inept public officials, loss of tax-paying industry, swollen wage and pension contracts, crushing welfare costs, urban blight, scandalous accounting procedures, recession, and even, as one writer suggests, the invention of the automobile.

All of these things and more played a part in bringing the city to the brink of financial ruin and the Congress next week will be hearing much about them as it debates the question of what it can or should do to help.

In that debate, one important point should not be lost sight of. As badly as New York was administered and as shaky as its finances were, the fact remains that for years and years the city was able to sell itself to an unsuspecting public as a worthy credit risk and to market bonds. Were it not for that, this problem would never have reached the crisis stage. If the facts had been known, the city would have been forced to curb its spending and to straighten out its budgeting procedures long ago. No one would have invested a dime otherwise.

But the facts were not known except, perhaps, by a few privileged insiders. As far as the general public was concerned, New York City bonds were favorably regarded by the principal rating services. People were told the bonds were a good investment and so the public bought.

Even a banker of the stature of Walter Wriston, president of the First National City Bank, couldn't get all the facts. As he testified before the Senate Banking Committee:

"I think it is true that some of the gimmicks were known about . . . but the clear facts are that the accounting system of the City of New York defies you finding out precisely what all the numbers are.

"You are quite correct, I think, that we should have known earlier. We did not, but part of that is that the whole system was designed to prevent anybody from finding out. That is true of the rating services. It is true of the State and it was true of ourselves."

Parenthetically, I do not take this statement at full face value. I suspect that Mr. Wriston and other big bankers knew a great deal more than they now let on and if they didn't know it was out of a conscious desire to remain in the dark—a sort of what-I-don't-know-won't-hurt-me syndrome.

At any rate, if bankers had trouble getting all the facts, the general public was positively helpless. About all it had as a guide was what the rating services—principally Moody's and Standard & Poor's—said about the creditworthiness of New York City bonds. And what was that?

Let's examine how these two rating services in recent times have evaluated New York City bonds.

From 1968 through most of 1972, Moody's rated New York City bonds as Baa. On December 18, 1972, Moody's found the New York financial picture improving and upgraded New York City bonds to A.

Standard & Poor's initially had a lower opinion of the worth of the city's bonds, rating them BBB from 1968 until December 14, 1974. Then, unaccountably, it raised the rating to A.

Even into 1975, as New York was foundering on the financial rocks and was being abandoned by its crew of bankers and money men, Moody's continued to signal "All is well."

Thus, in its Municipal Credit Report of April 8, 1975—just seven months ago—Moody's had these words of advice for investors:

"The strong legal backing of the City's obligations and the City's unique position in the American economy provide a considerable amount of assurance to the creditor. These assets, managed by political leaders of even average competence, would represent adequate backing for any City's securities. In the case of New York City its securities become a good buy for investors seeking yield and willing to withstand adverse and often irrelevant publicity."

With that, Moody's put its stamp of approval on New York City bonds—confirming its A rating.

It is noteworthy that Moody's shipmate, Standard & Poor's, at least saw fit to start lowering the lifeboats by withdrawing all ratings for New York City securities that same month.

Moody's, however, continued to advise the public that New York bonds were a good investment. On May 23, 1975, for example, they again confirmed their "A" rating, and quieted investor concern about mounting city problems with this note: "the long-term problem ... may not be as much a problem for the City as it is sometimes made out to be." Again, on September 5, 1975, their credit report stated "New York City's general obligation, unlimited tax bonds, as protected under Chapter 8, Section 2, of the New York State constitution, continue to be rated A."

It wasn't until last month that Moody's finally awoke to the dangers, and even then its only action was to nudge the rating down a bit from "A" to "Ba."

History doesn't tell us who it was that advised the Indians to sell New York in the first place, but I think I could hazard a guess.

It is no crime, of course, to give bad advice and I suspect most of us can be thankful for that. But it strikes me as close to a crime that Congress has continued to allow municipal bonds and securities to be marketed like used cars and done nothing to protect the general public from being fleeced.

Forget the bankers and large investment houses. They are professionals and should be able to spot a bad risk when they see it. But what about the little people—the widows, the pensioners, the families investing a modest amount for the future. Who do they have to look to for counsel—only that literary guild known in financial circles as the rating service.

Corporations which seek to issue new stock or bonds are required by law to meet a rigid set of requirements for accuracy and consistency in their reporting of financial data. Company books must be submitted to an independent auditor and that information supplied in a formal registration filed with the Securities and Exchange Commission.

Issuers of tax-exempt bonds—states, counties, cities, various public authorities—were exempted from these registration requirements when the Securities Act was enacted in 1933. As a result, the public has no way of knowing the true financial condition of the issuing authority.

Each year there are billions of dollars invested in new municipal bond offerings—in 1973 and 1974 municipal borrowing exceeded federal borrowing. Yet state and local officials can issue $100 million in bonds and disclose less about their ability to repay than an individual seeking $1000 to buy a used car.

I have sought to remedy this growing problem by introducing a bill, S. 2574, which would bring the whole field of tax-exempt bonds under SEC authority. I intend to offer this bill as an amendment to whichever New York aid bill reaches the Senate floor.

To be sure, the bill will not keep the public from making foolish investments nor will it keep foolish investment advice from being touted in the marketplace.

But, at least, it would give the public an even break. It would assure that any state or municipal bond offering is based on an honest accounting of the jurisdiction's financial condition. It would put an end to the juggling of accounts and the phony revenue estimates that helped disguise New York City's desperate situation until it was too late.

It would be a mistake to think that these practices are confined to New York and that other cities have not played the game as well. I don't think there's any question about it. I only hope Congress will take the remedial action necessary before we find out the hard way just how many New Yorks we have.

Mr. PROXMIRE. Will the Senator yield?

Mr. EAGLETON. I am pleased to yield to my distinguished colleague.

Mr. PROXMIRE. I have had a chance to discuss this matter with Senator EAGLETON and as I have told him, I think the idea has real merit. I am certainly inclined to support it.

Senator WILLIAMS, chairman of the Subcommittee on Security, also indicated he favors the idea.

We would like to have hearings in our Banking Committee on it because it is an extensive and somewhat controversial proposal. We would like to have bankers appear, the municipal finance officers, the SEC, and so forth.

I assure the Senator that if he withdraws this amendment, we will be glad to hold prompt hearings and take action on it, and there is indication the action may be favorable.

Mr. EAGLETON. Mr. President, I am very pleased with the forthright attitude of the Senator from Wisconsin.

I realize that this is a matter of significance. Even in my own amendment, I delayed the effective date because I knew it would take a while to be geared up.

I do think the investment community should appear and give their judgment—the underwriters, officials of the SEC, the bond rating services, municipal officials and accountants—the whole host of professional experts should be brought to bear on this.

Therefore, with the understanding that he has given us that there will be early and prompt hearings, and realizing that if we tamper with the New York City bill in its present posture we run some risks of delay, I am pleased on that basis to withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Who yields time?

Mr. TAFT. Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. TAFT) proposes an amendment in the nature of a substitute.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That the Federal Reserve Act is amended by adding at the end thereof a new title as follows:

TITLE II—TEMPORARY ASSISTANCE TO NEW YORK CITY

SEC. 201. (a) The Board of Governors of the Federal Reserve System is authorized to extend the provision of discounting facilities on an annual basis to banks with assets in excess of $1 billion for the purpose of providing these banks with funds to purchase purely seasonal tax anticipation notes of New York City but only if the interest paid on such notes is subject to Federal income tax.

(b) Such discounting shall be at an annual rate of interest of nine-tenths of 1 per centum per annum greater than the current average market yield on outstanding marketable obligations of the United States with remaining maturities comparable to the maturities of such notes, as determined by the Chairman of the Board of Governors at the time of the issue of such notes.

(c) The Federal Reserve shall have explicit authority to exempt such banks from the usual restrictions on lending to one person or organization an amount in excess of ten percent of a bank's capital.

SEC. 202. Obligations submitted for discount by such banks shall be obligations of the United States; corporate bonds, notes or paper; or the tax-exempt securities of governmental units or agencies other than New York State or its agencies or political subdivisions; or the agencies of such subdivisions; *Provided*, That all such non-Federal discounted securities shall be of the three highest grades as determined by the leading bond-grading services.

SEC. 203. The aggregate amount of obligations purchased may not exceed $2.3 billion at any one time.

SEC. 204. The Chairman of the Board of Governors of the Reserve System shall consult with the officers and directors of banks which have assets in excess of $1 billion and which are also major creditors of New York City (as determined by the Chairman) to develop a program of purchases by such banks of tax anticipation notes of New York City.

SEC. 205. Each such tax anticipation note shall mature not later than the last day of the New York City fiscal year (which date may not be altered while this title is in effect), and shall bear interest at an annual rate of 1 per centum per annum greater than the current average market yield on outstanding marketable obligations of the United States with remaining maturities comparable to the maturities of such loans, as determined by the Chairman at the time of the issue of such note.

SEC. 206. In connection with any purchase of such tax anticipation notes under this title, the Chairman may require New York City and any financing agent and, where he deems necessary, the State, to provide such security in addition to the pledge of future tax revenues as he deems appropriate, including but not limited to assets of New York City and New York State pension funds.

SEC. 207. Discounting may be authorized for the purposes of this title only if the Chairman determines that there is a reasonable prospect of repayment of the tax anticipation notes in carrying out any function under this title. The Chairman may prescribe such terms and conditions as he may deem appropriate to insure repayment, including but not limited to his right to inspect the city's books and to recommend to the city changes in the city's fee structures, pension funding methods, pension payment levels, and accounting practices.

SEC. 208. Discounting shall proceed for the purposes of this title only if (1) the city and all financing agents shall have repaid according to their terms all prior tax anticipation notes under this Act which have matured, and (2) the city and all financing agents shall be in compliance with the terms of any such outstanding loans.

SEC. 209. This title will expire on June 30, 1978.

Mr. TAFT. Mr. President, I have proposed an amendment in the nature of a substitute to this bill, the Intergovernmental Emergency Assistance Act.

This amendment is broadly similar to the pending bill. However, it shifts administration of the program from the Treasury to the Federal Reserve, and funding from Treasury lending to private lending. While I realize at this late date that the amendment is not likely to be adopted, I offer it to demonstrate that if, indeed, governmental help is needed at all, it could be found in a far more appropriate way than in the current legislation before us.

Mr. President, I commend the President of the United States for the initiative he has taken in this matter. I think in bringing at least a degree of restraint and sanity into it, it appears to be trying to help New York in solving those problems.

I feel that the position he has taken has resulted in many, many improvements in the New York City financial situation. Perhaps it is at least a start in some new outlooks on the part of the State that would not have come if he had not taken the rather hard position he took.

But I still say he goes far too far, further than he needs to go, in the proposed legislation.

The substitute I am offering would authorize the Chairman of the Board of Governors of the Federal Reserve System to organize a consortium of banks with assets in excess of $1 billion, to purchase up to $2.3 billion in taxable tax anticipation notes for the city of New York. The discount window of the Federal Reserve Bank of New York would be open to assist any such bank which is "loaned up" to acquire cash for such purchases. The tax anticipation notes could be backed, at the Chairman's discretion, by other assets of the city or State of New York in addition to the pledge of anticipated tax revenue of the city.

The Chairman would have the authority to close the discount window against such assistance if he did not feel there were a reasonable chance of repayment of the tax anticipation notes. The Chairman would be allowed to examine the accounts of the city, and to make suggestions as to changes in the city's fee structure, accounting practices, expenditures, and pension funding plans, for the city's consideration.

Mr. President, we are told that the self-help program of New York State and New York City, involving debt restructuring, spending cuts, tax increases, pension fund loans, employee contributions, and a balancing of the State budget—yet to be achieved—has brought the city to within a hairbreadth of being able to stand on its own two feet. All that is needed is to overcome the purely psychological barriers that have closed the short-term credit markets to the city, and which are keeping the city from borrowing to smooth out intrayear cash-flow problems.

That is what the bill before us is designed to provide, really substitute for.

If what is said about the city's situation to be done is true, it would seem to me, although small investors might remain cautious and afraid to lend, the major banks of the Nation ought not to suffer from the same fears. They should be willing and able to step forward, and relieve the Treasury of the need to become involved.

If, on the other hand, "taffy is being distributed," and the condition of the city is worse than the President has been led to believe, then the banks would be right to shy away. But then, so should the taxpayer.

Indeed, if the official statement of the character of the city's remaining needs fail to tally with the facts, then the President's proposals will not work, and the city will be back here in 18 months or sooner asking for more help. This amendment would be a test of the confidence the city has in its figures and prospects. Indeed, it would be a test of the city's veracity and character in this matter.

This amendment would return New York's problem to its proper place, as a matter between the State and city on the one hand, and their creditors on the other. If we are being given all the facts, the problem can be handled in this fashion, and they can all "get by with a little help" from the Fed.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. The Senator offered the amendment, I call for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BROOKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

A quorum is not present.

The call of the roll was resumed and concluded, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 88 Leg.]

Abourezk
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bentsen
Biden
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Curtis
Dole
Domenici
Eagleton
Eastland
Fannin
Ford
Garn
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Laxalt
Leahy
Long
Magnuson
Mansfield
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy

Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

The PRESIDING OFFICER. A quorum is present.

Mr. BROOKE. I move to table the amendment.

Mr. ALLEN. I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that the Senator from Colorado (Mr. HASKELL) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. FONG), and the Senator from Virginia (Mr. WILLIAM L. SCOTT) are necessarily absent.

I further announce that the Senator from Arizona (Mr. GOLDWATER) is absent attending the funeral of a friend.

The result was announced—yeas 71, nays 22, as follows:

[Rollcall Vote No. 555 Leg.]

YEAS—71

Abourezk
Baker
Bayh
Beall
Bellmon
Bentsen
Biden
Brooke
Buckley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Clark
Cranston
Culver
Dole
Domenici
Eagleton
Eastland
Fannin
Ford
Glenn
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Leahy
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Packwood
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Tower
Tunney
Weicker
Williams

NAYS—22

Allen
Bartlett
Brock
Byrd, Harry F., Jr.
Chiles
Curtis
Garn
Hansen
Helms
Hruska
Johnston
Laxalt
McClellan
McClure
Metcalf
Nunn
Pearson
Roth
Taft
Talmadge
Thurmond
Young

NOT VOTING—7

Church
Durkin
Fong
Goldwater
Haskell
Kennedy
Scott, William L.

So the motion to lay Mr. TAFT's amendment on the table was agreed to.

Mr. BARTLETT and Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. BUCKLEY). The Senator from Oklahoma is recognized.

Mr. BARTLETT. Mr. President, I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Without the Senator losing his right to the floor. Mr. President, I yield myself 2 minutes on my own time, and I ask for order in the Senate.

Mr. BARTLETT. Mr. President, I yield to the Senator from West Virginia for that purpose, and I retain the right to the floor.

Mr. ROBERT C. BYRD. Mr. President, the last quorum call cost the Senate 23 minutes. It required 23 minutes to establish a quorum. Senators will be here until midnight, not because of the leadership, unless we stay on the floor.

There are 15 amendments to be disposed of; and if we have any more live quorums that call for 23 minutes, Senators can see how much longer we are going to be. They are taking 23 minutes off their own time beyond midnight tonight.

I use the word "midnight" for a good reason, which I do not want to explain at this particular point. It will not be the leadership that forces the Senate to stay in session beyond midnight. If Senators do not want to stay in session until midnight tonight, they should stay on the floor, so that we can get the yeas and nays when Senators request them, without having to get a quorum, and so that when a live quorum is demanded, Senators can answer to their names quickly. It is just that vital.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. McCLELLAN. I hope the Senator will recognize that the Committee on Appropriations conferees are meeting on the defense appropriation bill, and that explains the absence of many of them.

Mr. ROBERT C. BYRD. Yes.

Mr. McCLELLAN. It is not for any other purpose, other than to expedite our work.

Mr. ROBERT C. BYRD. I understand.

But if Senators will stay on the floor, believe me, it will pay off in the end.

Mr. President, I ask unanimous consent that time on any rollcall vote the remainder of the day be limited to 10 minutes.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ALLEN. Will the distinguished Senator yield to me 2 minutes?

Mr. McINTYRE. Will the Senator yield?

Mr. BARTLETT. Mr. President, without losing my right to the floor, I yield to the Senator from New Hampshire.

EXTENSION OF TIME FOR FILING COMMITTEE REPORT ON 200-MILE LIMIT

Mr. McINTYRE. Mr. President, I ask unanimous consent that the Committee on Armed Services have additional time to file a report on the 200-mile limit—(S. 961)—to next Monday, December 8.

The PRESIDING OFFICER. Without objection, it is so ordered.

NEW YORK CITY SEASONAL FINANCING ACT OF 1975

The Senate continued with the consideration of the bill (H.R. 10481) to authorize the Secretary of the Treasury to provide seasonal financing for the city of New York.

Mr. McCLURE. Will the Senator yield for a unanimous-consent request without losing his right to the floor?

Mr. BARTLETT. I yield.

Mr. McCLURE. Mr. President, I ask unanimous consent that Margo Carlisle be granted privileges of the floor at all stages of the proceedings throughout the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Without losing my right to the floor, I yield to the Senator from Alabama.

Mr. ALLEN. Mr. President, something has been said about the witching hour of midnight. I do not want to stay here until midnight. I am ready to vote on this bill. It is indicated that as soon as the bill is disposed of, we will recess. That will be the end of the legislative day. So to show that I am ready to vote on the measure, I ask unanimous consent that there be a final vote on this bill at 5 o'clock this afternoon and that, immediately thereafter, we recess in accordance with the previous order.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, this sounds good.

[Laughter.]

Mr. ALLEN. It is good.

Mr. ROBERT C. BYRD. It is good for the Senator from Alabama. I shall counter the Senator's proposal. I shall agree to his proposal, provided that the leadership be allowed to motion up the supplemental appropriations bill and offer a cloture motion prior to the recess today.

Mr. ALLEN. The Senator is not agreeing to my request, then.

Mr. ROBERT C. BYRD. I shall agree with that if we may couple my request to it.

Mr. ALLEN. Either object or agree. I asked unanimous consent that we vote on this bill at 5 o'clock and thereafter, in accordance with the previous order, the Senate stand in recess until Saturday.

Mr. ROBERT C. BYRD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Now, Mr. President, I make a request: I ask unanimous consent that the Senate vote on the pending bill at 5 o'clock p.m. today, immediately following which a motion by the leadership to call up the supplemental appropriations bill be in order to be followed by the Senate standing in recess until tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. I object.

[Laughter.]

Mr. ROBERT C. BYRD. Mr. President, I yield myself 2 minutes. I shall tell the Senators what this is all about.

In order for the Senate to vote on cloture on Monday on the motion to take up the supplemental appropriations bill, it is necessary for that motion to be made today, so that Saturday's session will intervene. It is also necessary to adjourn for a brief moment following passage of this bill today so that there will be a new legislative day; else, we cannot motion up that measure today and offer a cloture motion thereon today so as to vote cloture on Monday. The report has just been filed. A measure cannot be motioned up on the same legislative day that the report is filed, so it is necessary that there be a new legislative day before the leadership can move to call up the supplemental appropriations bill. If we recess, as we are supposed to, under the order, until tomorrow, we cannot motion up that measure without having first an intervening adjournment.

I am not telling the Senator from Alabama anything new about the rules. He knows that the leadership is going to have to adjourn today for 5 minutes or 1 minute or 10 minutes, in order that we may go into a new legislative day. The report on that supplemental appropriations bill was only filed today. Unless we have an adjournment, we can never move to that bill. That is why the Senator wants to get rid of this bill quickly and recess under the order. We would not be able to motion up the appropriations bill today. We would not be able to move until tomorrow, which would delay the cloture vote until Tuesday, since Monday—instead of Saturday—would be the intervening day of session required by the cloture rule.

If I were in the Senator's shoes, I would do everything I possibly could to keep the Senate in session past midnight so that it would be Saturday before the Senate passes this bill. One minute past midnight, I would say, "Go ahead and pass her, boys, let her go; because we are into Saturday. Let the leadership go ahead and move to adjourn for 1 minute, then we can move to take up the appropriations measure, and we have to wait beyond Monday, into Tuesday, to have a cloture vote."

Mr. PASTORE. Will the Senator yield?

Mr. MANSFIELD. Will the Senator yield?

Mr. ROBERT C. BYRD. It is for that reason that I say to Senators, stay on the floor, let us not go beyond midnight.

Moreover, once we adjourn, we will have the reading of the Journal first thing. That can be objected to. Then we have to go through the requirements of rule VII. Actually, Senators who are on the opposing side can spin out a couple of hours if they want to do it. The Senator from Alabama is very facile at this. He has shown he can do it.

What I am saying to the Senators is that we ought to pass this bill before 10 o'clock tonight—not midnight—if we really want to vote on cloture next Monday.

Mr. MANSFIELD. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. MANSFIELD. What is so important about holding up the supplemental appropriations bill?

Mr. PASTORE. That is my question.

Mr. ROBERT C. BYRD. Oh, well, the New York money is in that bill. [Laughter.]

Mr. MANSFIELD. Oh, I see.

Mr. PASTORE. So I do not have to ask the question.

Mr. ROBERT C. BYRD. I have said enough. Senators must stay on the floor. The less talk, the better, and I am going to quit, because when the Senators who favor this measure talk, they are playing into the hands of those who oppose it. So let us not have any more live quorums that consume 23 minutes. If we do, we are going to be here beyond midnight, and even then, we may not vote on cloture on Monday; we may vote on cloture on Tuesday, which delays the final action at least 1 day.

Mr. BARTLETT. Mr. President, I call up my amendment at the desk and ask to have it read.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 6, line 16, strike out "June 30, 1978" and insert in lieu thereof, the following:
>
> "December 31, 1976"

Mr. BARTLETT. Mr. President, I ask unanimous consent for the yeas and nays on my amendment, or if there is a motion to lay it on the table, I ask for the yeas and nays on the tabling motion.

Mr. ROBERT C. BYRD. Reserving the right to object, what is the request?

Mr. BARTLETT. The unanimous consent request is for the yeas and nays on this amendment or, if there is a motion to lay this amendment on the table, the yeas and nays on the motion to table.

Mr. ROBERT C. BYRD. The Senator does not need to ask unanimous consent for the yeas and nays on the amendment.

Mr. BARTLETT. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order for the Senator to get the yeas and nays with one show of seconds on both.

The PRESIDING OFFICER. Without objection, it is in order to order the yeas and nays on a motion not yet made.

Is there a sufficient second? There is a sufficient second. The yeas and nays were ordered.

Mr. BARTLETT. As I understand it, the yeas and nays are ordered for a vote on this amendment and, if there is a tabling motion, on the motion to lay on the table?

The PRESIDING OFFICER. That is correct.

Mr. BARTLETT. I thank the Chair.

I thank the distinguished Senator from West Virginia.

Mr. President, and I ask the attention of the Senator from Texas, I wish to say that if men were angels, this house——

Mr. CURTIS. Mr. President, may we have order? The distinguished Senator is entitled to be heard.

The PRESIDING OFFICER. The Senator will suspend. Will the Senators either keep quiet or retire to the cloakroom?

Mr. BARTLETT. Mr. President, I was saying, and I was also asking for the attention of the Senator from Texas, that if men were angels this resolution from the House would not be before us nor would I be standing here presenting my amendment.

But my amendment would shorten the term of the loans and end the program on December 31, 1976 and insure that the bill is exactly as it is being advertised, a program of seasonal assistance to New York City.

The supporters of the pending legislation have given the impression that they agree with President Ford when he said that New York City has "bailed itself out".

Others of us, however, have raised questions as to whether at the end of the 3-year term the city will be in any stronger position than it is today. We really do not know whether New York City is going to make the tough decisions necessary to achieve a solution.

This amendment would guarantee the Congress a chance, an opportunity, to review the progress they have made, and supporters of a continuation of a loan program could reintroduce legislation at that time.

In all likelihood, we would be debating the extension of this legislation in November or December of next year after the 1976 elections, and I have great concerns about these loan funds being a political football during next year's elections.

I believe that in December of next year Congress could sit down calmly and rationally to look at what New York City has done with the first sequence of loans to be disbursed in early 1976. We could see whether or not they were making progress, whether those in New York were making progress, toward a balanced budget. We could see whether or not the loans were helping to achieve a solution of New York City's financial crisis or whether we were simply postponing the inevitable and putting the city deeper and deeper into debt.

I believe this amendment would be an added incentive to New York City to correct its problems as quickly as possible. It would, quite frankly, put the burden of proof on New York City to show that these vast Federal outlays are not being wasted.

It is true that Congress would have a chance to appropriate yearly the money for this program. But it is no secret that debate on appropriation bills often turns into a compromise of how much we are going to spend. Seldom does the debate center on whether or not the programs should exist or should continue at all.

This amendment might help save us from a permanent new function of the Federal Government. If we keep the expiration date close at hand, it would weaken the temptation to keep the Federal Government in the bargain-basement bailout business permanently.

It is all too familiar that Government programs tend to solidify with age. By 1978 we could see an army of bureaucrats and special interest groups doing nothing but protecting the Federal handout for the bailout of cities.

I also point out that we are asking the GAO for an audit of New York City finances. The results of these audits might bring to light new information on the history of New York City's problems. It would be important for us to make use of this information.

If this bill is only a seasonal program, as its sponsors insist, my amendment would not affect New York City's plans very much.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

Mr. TOWER. Mr. President, I inquire if anyone wants to comment.

Mr. JAVITS. I would just take 2 minutes to comment.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. The fatal defect of the amendment, Mr. President, is simply the whole house which has been built upon this bill, to wit, pension contributions, reductions in appropriations respecting the city university, State aid to the tune of $800 million in direct aid, in budgetary aid about $1.5 billion, $4.5 billion from pension funds—the whole edifice upon which the President announced his new position collapses because it is based upon the fact that we will have this seasonal financing for 3 years, at the end of which time our budget must be and will be balanced. So this is just another way to pull out the keystone of the arch and it all collapses.

For that reason, if the Senator will allow me, I would like the privilege of moving to table this amendment. I do not do it yet. I am just asking Senator TOWER.

Mr. TOWER. Be my guest.

Mr. JAVITS. Mr. President, I move to table the amendment, unless Senator BARTLETT wishes to be heard further. I withhold that in that event. I yield without losing my right to the floor and then yield myself 2 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Will the Senator take it on his own time as I have?

Mr. BARTLETT. Yes.

I thank the distinguished Senator from New York. I think it makes it very clear because of the reaction taken to this amendment he is really saying even if this proposal, this very complicated proposal, based on commitments by New York State, New York City officials, bankers and many others, and the U.S. Government and the President, if this does not go as it is supposed to go then he still wants to be committed to have the Federal Government throw this money down the drain.

I think it is very clear that the Senator from New York is not interested in just approaching this 1 year at a time to see how it goes, to see whether it is possible.

I do not question the desire of the people of the city of New York to want a balanced budget. I do not question it at all that they would like to be able to provide the services without any question of whether they can continue providing them from now on.

I think there is a real question as to whether they can, with the mechanism that is created here, achieve the goals that the Senator from New York would like to see achieved.

I think it makes sense to approach this in a rather cautious way, cautious to the extent that Congress could look at their expenditures of $2.3 billion and see in this loan if it is properly repaid and to see also if the other commitments are met, and if they are not met then, of course, they could perhaps make changes in the proposal, they could look at the whole problem and could decide on what course of action would be fairest.

But, it seems to me, the chord I have struck with the Senator from New York indicates he wants this program to go regardless of what Congress would think come a year from this January.

Mr. JAVITS. Mr. President, I yield myself 1 minute. There are four locks on this door now.

One, the Secretary of the Treasury can set any kind of condition.

Two, the loan cannot be for in excess of 1 fiscal year. It must be repaid every fiscal year.

Three, it must be appropriated for, by Congress.

Four, at any time in the proceeding by any condition the Secretary of the Treasury sets, he can call the loan and, according to any condition of his contract, if anything goes wrong.

For those reasons I hope the amendment will be tabled, and I move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to lay on the table the amendment of the Senator from Oklahoma. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

(At this point Mr. CURTIS assumed the Chair.)

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Colorado (Mr. HASKELL) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. FONG), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

I further announce that the Senator from Arizona (Mr. GOLDWATER) is absent attending the funeral of a friend.

The result was announced—yeas 65, nays 25, as follows:

[Rollcall Vote No. 556 Leg.]

YEAS—65

Abourezk
Baker
Bayh
Beall
Bentsen
Biden
Brooke
Buckley
Bumpers
Burdick
Byrd, Robert C.
Case
Chiles
Clark
Cranston
Culver
Dole
Eagleton
Eastland
Ford
Glenn
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Hatfield
Hathaway
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McIntyre
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Tower
Weicker
Williams

NAYS—25

Allen
Bartlett
Bellmon
Brock
Byrd,
Harry F., Jr.
Cannon
Curtis
Domenici
Fannin
Garn
Hansen
Helms
Hollings
Hruska
Laxalt
McClure
Nunn
Packwood
Pearson
Roth
Stennis
Taft
Talmadge
Thurmond
Young

NOT VOTING—10

Church
Durkin
Fong
Goldwater
Haskell
Kennedy
McGovern
Metcalf
Scott,
William L.
Tunney

So the motion to lay on the table the amendment of the Senator from Oklahoma was agreed to.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I have another amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 6, line 5, strike out all through line 13 and insert in lieu thereof the following:
>
> "SEC. 10. No loan shall be made under this Act for the benefit of any State or City unless (a) The General Accounting Office commences such audits as may be deemed appropriate by either the Secretary, the General Accounting Office, or the Attorney General's Office of all accounts, books, records, transactions and all other activities of the State, the political subdivisions thereof, and their Financial Agents, and (b) The Attorney General's Office commences such investigations as may be deemed appropriate by either the Secretary, the General Accounting Office, or the Attorney General's Office of all accounts, books, records, transactions and all other activities of the State, the political subdivisions thereof, and their Financial Agents. The General Accounting Office and the Attorney General's Office shall report the results of any such audit and investigation to the Secretary and the Congress."

Mr. BARTLETT. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BARTLETT. Mr. President, I ask for the yeas and nays on any tabling motion that may be made on this amendment.

Mr. ROBERT C. BYRD. If the Senator will allow me to make a unanimous-consent request, I ask unanimous consent that it be in order at this time to ask for the yeas and nays on any tabling motion, if such motion is made.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BARTLETT. I thank the distinguished assistant majority leader.

Mr. President, this amendment adds the provision which was included in the original House amendment language which was later modified and became the auditing section of this bill. We have had questions raised both here and in the State Legislature of New York as to the propriety, reasonableness and even the legality of the financial practices of New York City and those who have worked with it to promote its debt sales over the past several years. This amendment would require that the results of the General Accounting Office audit of New York City finances be referred also to the Attorney General of the United States.

We have gone through a very difficult period in our country's history where we have shown that laws are something which cannot be flouted at the whim of political leaders. Many of my colleagues were appropriately shocked and outraged at the system of political corruption which was exposed during the Watergate hearings. If there was corruption or deception in the sale of New York City debt, it equally needs to be brought to light, and those responsible should bear the full legal responsibility.

I might point out to the Congress that we are about to entrust with $2.3 billion of the taxpayers' money the officials of New York State and a mayor of New York City who was city comptroller during the period in question, and we are, in fact, handing them $2.3 billion a year on a silver platter.

The supporters of the legislation have insisted that the holders of New York City bonds are not just the big New York banks but are thousands of small investors throughout the United States. Those people in Idaho, Oklahoma, and Illinois who are small investors and who have bought New York City bonds did so because the financial community gave certain indications about their security. Obviously, this assurance was not justified, and we could say that the buyers of New York City bonds were bilked just as surely as if they had been cheated.

I believe the citizens of this country are entitled to the protection offered by this amendment.

Certainly, if there were any matters of malfeasance, irregularities or improprieties that were uncovered, it could very definitely strengthen the position that this Congress would insist on creating as conditions for a further loan of $2.3 billion, assuming that it was the desire of Congress to do so on the anniversary date after the first year's experience.

So I think to deny an assurance of an investigation, if the conditions merit it, would then deny the opportunity of really knowing what all the facts are.

I feel that this is a good and proper amendment which would strengthen this legislation, and I hope the floor managers will accept it.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, there is merit in what the Senator proposes. I would like to point out that on page 6, lines 5 through 13, there is already a provision in the bill for an audit to be made by the General Accounting Office:

> No loan may be made under this act for the benefit of any State or city unless the General Accounting Office is authorized to make such audits as may be deemed to be appropriate by either the Secretary or the General Accounting Office.

And so forth.

I may say that as chairman of the Senate Banking Committee I intend to request the General Accounting Office to make this audit, which is a large part of what the Senator from Oklahoma has proposed. I would hope that that would satisfy the Senator.

Mr. BARTLETT. Mr. President, let me say to the distinguished Senator from Wisconsin that I certainly have full confidence in the Senator, but I think we also have full confidence in our laws and believe basically that we should have a provision in this resolution that would require just the information that is in this amendment.

Because what this says is that the Attorney General's office would commence, prior to loaning, under this act:

> Such investigations as may be deemed appropriate by either the Secretary, the General Accounting Office, or the Attorney General's Office of all accounts, books, records, transactions and all other activities of the State, the political subdivisions thereof, and their Financial Agents. The General Accounting Office and the Attorney General's Office shall report to the Secretary and to the Congress.

I do not think there is anything in this proposal which was not really in the initial presentation in the House, nor do I think there is anything here that is not straightforward and good for the enlightenment of the citizens of the country, and certainly also the enlightenment of the Members of this Congress who have felt a very strong desire to have all the facts come to the surface, with the chips to fall where they may.

I know the Senator from Wisconsin has been a strong advocate of that policy. So I think it would be very assuring and reassuring to the citizens of the country now, when $2.3 billion, which we all agree is a large sum, is to be advanced to be loaned to the city of New York, and I would certainly feel that it would be a step for the managers of the bill that would be well-received across the country, if this amendment were accepted, if the floor manager would support the amendment, because I do believe that it would add strength to the proposal.

Mr. PROXMIRE. Mr. President, in response to the Senator, as we all know, if we amend the bill it will delay it and delay it literally for days, and probably result in default and bankruptcy in New York.

As I said, I requested GAO to make this audit. I am confident they will make the audit. The audit is authorized in the bill, and for that reason, unless the Senator would like to speak further, I would——

Mr. BARTLETT. Mr. President, if the Senator will withhold that, I was hoping he was going to give that honor to the Senator from Texas, because I wanted to discuss this matter briefly with him.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. BARTLETT. I yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I would hope the Senate would stop moving to table these amendments. This Senate has reached a pretty low position, in my mind, when we do not have the fortitude to vote an amendment up or down.

The proponents know that they have the strength to carry a vote to table any amendment, but that is not the purpose of the Senate. Our purpose is to vote on the merits. We all recognize that they have this won hands down any time they want to call for the vote. But we also represent millions of people in this country who have no soft feeling in their hearts for New York, and there are many who feel this is probably the worst precedent this body has ever established, and every one of us will live to regret the day we ever allowed it to come to a vote on this floor.

I do not want to be around here and have my children point the finger at me and say, "He helped ruin this country." The Senator from Wisconsin knows as well as I that the United States of America is in just as bad shape as New York City, probably worse. The only difference is, we can print money. The day is going to come, within 5 years in my estimation, if we keep up this fiscal stupidity, when this country will fail, and we have no place to turn. There is no great big Uncle Sam up in the sky to save us.

So I would hope that those who want to make this bill at least a little bit more acceptable to the people of this country who do not want it would have a chance to vote up or down on these amendments, and not just on motions to table.

This body is getting ridiculous. We have not had a bill go through, in my memory, this year, when we have not had amendments tabled and tabled. What encouragement is that to those who wish to do a good job?

What difference does it make if it has to go to conference, and they have to spend an extra 12 hours, with the House refusing our amendments, which they always do? New York has until the 17th to live. I am not going to comment on that, but it has until the 17th, regardless of what we do.

Mr. PROXMIRE. Mr. President, I am going to have to make my remarks very brief. All I am going to say is, this is a right every Senator has, to move to table. We are moving under the greatest degree of urgency. It is not a matter of 12 hours; it is a matter of the bill going to conference and coming back, with another extended debate, another cloture, and another filibuster; and we will still have to pass the appropriation bill.

Mr. GOLDWATER. Mr. President, if the Senator will yield, this is not a filibuster. I can remember filibusters in this body when we came down and answered rollcalls in our nightclothes, and slept on the Senate floor. We file cloture motions now 6 months before a bill is called up. We do not even obey the rules of this body any more.

Mr. BARTLETT. Mr. President, I thank the Senator from Arizona; I think his points are well taken. I thank the Senator from Wisconsin for withholding his tabling motion.

I recognize the reason why he supports the thrust of this amendment. He gives, as the reason for moving to table it, the matter of urgency of time. I think the Senator from Wisconsin will agree with me that this urgency of time has resulted in an awful lot of bad legislation from this body, when the cloture motions are made very early.

Certainly debate has taken place in this case, but not to the extent of a filibuster that was going on indefinitely. And I think that to follow the requirement of amendments being placed at the clerk's desk prior to the commencement of a cloture proceeding prevents the normal give-and-take of a debate, and then the adoption of good amendments, if that is the will of the Senate, to improve the proposals.

I believe the Senator will agree further that the junior Senator from Oklahoma has not been involved in any delaying tactics on this bill. He has debated the issues early, as the Senator from Wisconsin did, in the morning hours, and he has taken up some time during the debate. I do not think the Senator from Wisconsin does harbor the opinion that this Senator is trying to delay.

I do believe that the legislative process can work very promptly in Congress when it wants to, and I think obviously in this case it wants to, and there certainly are the votes to accomplish that.

But I think that it is much more reassuring to the Members of this body to vote up or down, and to insist that the protection to the people afforded by this amendment be given. I am referring, in addition to the audit, to the investigation. I do not think they just want to have the requests come from the Senator from Wisconsin, but they want the requests to come from their own judgment, from the Congress, that this be done. And I think it would have even more meaning if everyone, or the majority of this body, were in agreement that there should be that kind of an investigation. I think that would provide even more assurance than legislation provided by the request made by the Senator from Wisconsin.

I am sorry that the Senator does not want to improve the bill by making this provision, one which certainly I believe a majority in this body would like to make.

I thank the Senator.

Mr. HANSEN. Mr. President, before yielding the floor, will the Senator yield to me on my time?

Mr. BARTLETT. I am glad to yield to the distinguished Senator from Wyoming on my time or on his.

Mr. HANSEN. I will do it on my time.

Mr. President, I think that the Senator from Oklahoma has made a very fair presentation of what is at issue here. I agree with what was said by the distinguished Senator from Arizona. I would call to the attention of Senators that I have four amendments in—may we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. HANSEN. I have four amendments that are not put in in order to try to consume time. They do address one of the issues that the President of the United States identified earlier, in spelling out what he felt should be done by New York City in order to merit and support the actions by Congress to help New York City through a very difficult situation.

It is my intention, or at least has been my intention, to support this bill. The amendments that I shall propose later on this afternoon are generally in the area of particularizing under what conditions the Secretary of the Treasury may withhold funds from Federal programs, including revenue-sharing programs, that otherwise would be due and payable to the city of New York in the event that that city were to default on loans that are made to it by the Government of the United States.

I asked earlier if we might get an agreement that I could have one up-and-down vote on one of those four amendments. I do not think that is unreasonable. I do not intend to talk long on it, or I did not intend to talk long on it. I was told by one of my good friends whom I respect, due to a prior commitment, that would not be possible.

So I only point out that if the Senate persists in denying me, as I suspect they will, the opportunity that the Senator from Oklahoma now seeks, which probably will be denied him, I will take the time as indeed I have the right to call up my four amendments. They are each addressing different facets of the issue about which I speak.

If that is the way the Senate wishes to move in trying to act expeditiously—may we have order, Mr. President? I know some Senators, even some near me, are not a bit interested in what I am saying.

The PRESIDING OFFICER. The Senate will be in order.

Mr. HANSEN. But maybe they might have to listen to me longer if they do not give me a little attention.

I am saying that if that is how we wish to move expeditiously, so be it. I am perfectly willing now, and I make my offer one more time, if those who are managing this bill will give me an up or down vote on one issue, specifically tailored after what the President of the United States called for when he first addressed this issue, I shall not call up the other three. If it is insisting that we are going to table them, I am going to call up the other three.

I thank our distinguished colleague from Oklahoma for yielding.

Mr. BARTLETT. Mr. President, I thank the distinguished Senator from Wyoming.

I appreciated his remarks about the remarks of the junior Senator from Oklahoma. I appreciate his position that is outlined as far as tabling his amendments is concerned.

I am about to yield the floor. I first say to the distinguished Senator from Wisconsin and my good friend, the distinguished Senator from Texas, that I hope that there not be a tabling motion. However, if there is, I recognize that. I thank the distinguished Senator from Wisconsin for withholding it if it is made.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

Mr. HELMS and Mr. PROXMIRE addressed the Chair.

Mr. PROXMIRE. Mr. President, I move to table that amendment.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 89 Leg.]

Allen
Bartlett
Brooke
Buckley
Bumpers
Byrd, Robert C.
Curtis
Dole
Fannin
Ford
Goldwater
Hansen
Hartke
Hatfield
Helms
Hollings
Jackson
Javits
Johnston
Mansfield
McClure
McGee
McIntyre
Mondale
Montoya
Nelson
Pearson
Proxmire
Randolph
Stafford
Talmadge
Tower

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, did the Chair not instruct the clerk to call the roll on my motion?

The PRESIDING OFFICER. The Chair so understood, yes. The rollcall is on the motion of the Senator from Alabama. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Delaware (Mr. Biden), the Senator from Delaware (Mr. Church), the Senator from New Hampshire (Mr. Durkin), the Senator from Ohio (Mr. Glenn), the Senator from Kentucky (Mr. Huddleston), the Senator from Massachusetts (Mr. Kennedy), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that the Senator from Colorado (Mr. Haskell) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. Fong), and the Senator from Virginia (Mr. William L. Scott) are necessarily absent.

The result was announced—yeas 84, nays 6, as follows:

[Rollcall Vote No. 557 Leg.]

YEAS—84

Abourezk
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bentsen
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd,
Harry F., Jr.
Cannon
Case
Chiles
Clark
Cranston
Culver
Curtis
Dole
Domenici
Eagleton
Eastland
Fannin
Ford
Garn
Goldwater

Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Hatfield
Hathaway
Helms
Hollings
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Laxalt
Magnuson
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Williams
Young

NAYS—6

Byrd, Robert C.
Gravel
Leahy
Long
Mansfield
Weicker

NOT VOTING—10

Biden
Church
Durkin
Fong
Glenn
Haskell
Huddleston
Kennedy
Scott, William L.
Tunney

The PRESIDING OFFICER. On this vote there are 84 yeas and 6 nays. The motion is agreed to.

A quorum is present.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for not to exceed 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, 28 minutes were consumed in this quorum call, before a quorum could be established. Some Senators may not have been here earlier, so I shall repeat a statement I made a while ago.

Unless the Senate is able to dispose of this bill—and the leadership is able to make a motion to call up the second supplemental appropriation bill in which there are moneys for loans to New York City—by midnight tonight, a cloture vote on that appropriations bill cannot occur until Tuesday, whereas if we can dispose of the pending bill and make that motion before midnight tonight, the cloture vote on the motion to proceed to take up the second supplemental appropriation bill will occur on Monday.

We cannot afford to lose a day. We are going to have to invoke cloture to shut off a filibuster on the motion to take up the second supplemental appropriation bill. Once that bill is before the Senate, we are going to have to invoke cloture on the bill. Once the bill is passed and goes to conference—and that second supplemental appropriation bill is bound to go to conference—there will probably be a filibuster on the conference report. So we have three filibusters ahead of us to break before the pending measure and the accompanying money measure can become law.

Now, the strategy of those who oppose this bill is as follows, and I do not blame them. They are using the rules to accomplish their purpose, and I would do the same if I were on their side of the question. Their purpose is this: to run that clock up there beyond midnight tonight, and once we pass midnight before the leader can make his motion to take up the appropriations bill, then we are into Saturday. There has to be an adjournment between the time we pass this bill and the time the leader can offer his motion. The cloture motion would then have been offered on Saturday, and the vote on cloture would take place on Tuesday.

If we can get that motion entered on today, Friday, then the cloture vote will take place on Monday instead of Tuesday—thus saving a day, which is important for New York City. Now, every time 25 or 28 minutes are taken in running a live quorum, that makes it so much easier for the opposition, because the clock is running.

Now, gentlemen, this is what we are up against. If we really mean business on this New York City proposition, it means we have to stay on the floor so that when the yeas and nays are asked for, there are 11 Senators here to support the demand. If, moreover, a quorum call is asked for, and a Senator will not let that quorum call be called off, the clerk can call the roll quickly and get 51 Senators for a quorum—thus saving the Senate's time.

Now, this is vital. Here is what we are up against. The leadership is not keeping the Senate in beyond midnight, the opposition is going to do that. I cast no reflection on the opposition. They are doing what they think is right and best, and we respect them for it. But we have got to play the game by the rules.

Now, if they are successful in getting us beyond midnight tonight before the Senate can pass this bill, adjourn for 1 minute, and get to the motion to proceed to the second supplemental, we will be forced to again be in session at midnight Saturday night and into Sunday morning. It is just that serious.

If this matter is so vital to New York City as to require a cloture vote on Monday—and I am told it is—there are only two ways to get that cloture vote on Monday. One way is to dispose of this bill, adjourn for 1 minute, and enter a cloture motion on the second supplemental appropriations bill—all before midnight tonight.

The only other way to have a cloture vote on Monday is for the Senate to be in session on Saturday evening until past midnight so that we are in session at 12:01 on Sunday morning. I believe the majority of Senators would much prefer the former course over the latter.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. If we are in session at 12:01 on Sunday morning on legislative business, that counts as the intervening day, and we will have the cloture vote on Monday. This is the hard way.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. ROBERT C. BYRD. I ask unanimous consent to proceed 2 more minutes on my time.

Mr. GOLDWATER addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. I will speak on my own time.

Mr. President, I think I am somewhat to blame for this dilemma in which we suddenly find ourselves, and I would like to explain it.

When the cloture vote came out, as it did this morning, I was perfectly willing to accept defeat, not offer any amendment. I offered my speech at the desk instead of making it, to save time. I was willing to vote at any moment against this bill; others were willing to vote for it. I even had gone so far as to urge friends of mine in this body not to offer amendments because I felt it was foolish to do so.

I have sat here and listened to the motion being made to table amendment after amendment and, frankly, at the present, I have gotten a little sick and tired of seeing Senators who have worked hard on amendments, offered these amendments, and then being refused to have an up or down vote.

Now, I know, as the Senator from Wisconsin says, that it is right. It is our right also to call quorum calls all day long and all night long.

I would like to get out of here. I have a family waiting for me in Arizona to have a dinner with this evening that I am going to miss.

That is beside the point. I do not think we want to filibuster this, but I do not think those of us who are opposed to the bill are going to sit here and see well-thought-out amendments merely tabled, tabled, tabled.

I think I can say, without having consulted any of my colleagues, that if the leadership on the other side will have up and down votes on these amendments, I know of one Senator on my side who has four amendments who will only offer one, and if we can have that assurance, that is all we will look for, up and down.

Let us face it, when we move to table an amendment that a Senator has worked hard on, it does not look good at home. It looks as if he has not thought it out, that the rest of the body does not think well of it.

They have the votes to defeat anything here including probably the Star Spangled Banner, if they want to offer it.

All I am asking on behalf of those people—I do not say that I represent them—but those of us who oppose this bill want to get out of here just as fast as we can, in 5 minutes.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. GOLDWATER. But let us have an up and down vote and that is the end of the battle.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. GOLDWATER. I am happy to yield to the Senator.

Mr. ROBERT C. BYRD. I have talked with the distinguished manager of the bill. He is willing to have up and down votes on each amendment—no more tabling motions—provided Senators are willing to forgo the demanding of live quorums when it is obvious from looking around that there is an ample number of Senators on the floor immediately prior to a vote.

Mr. GOLDWATER. Speaking for myself, I will not suggest the absence of a quorum, nor will I object to calling off a quorum.

I cannot speak for the other gentlemen that I have been supposedly talking for. I am not speaking for anybody.

I would like to speak for orderly process in this Chamber whereby a man can have his amendment judged by his brothers and not judged by a motion to table.

With the leadership's assurance on that, maybe others who oppose this bill would be willing to speak.

I am very anxious to get out of here. I do not want to filibuster this thing one minute, but I want to see orderly process.

Mr. MANSFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MANSFIELD. Mr. President, I yield myself 5 minutes.

Mr. President, the distinguished Senator from Arizona is not noted for his filibustering tactics, but he does have a reputation, by and large, for reasonableness and I commend him for his statement this afternoon.

I also commend, without equivocation, the remarks made twice by the distinguished assistant majority leader who laid it out for all to see and all to understand.

Some of the opponents of the measure before us are not so much interested in this bill which authorizes assistance for New York as they are in the supplemental appropriation bill.

So what we are seeing here is just a foretaste of things to come.

I am not one of those who has been voting for foreign aid over the past decade or so, and I was not too keen about assistance for New York in the beginning because I feared that if assistance was given to that city and State, with no restrictions, others would fall in line and that a pattern, a procedure, would be set.

But I commend the President of the United States for laying down rules, strictures, and proposals which had to be met by the city and the State of New York before he would give his approval to a piece of legislation, now before us, which would have the effect of avoiding giving the city and State of New York—bankruptcy, preventing default, and because they are both intertwined—a chance to stand on their feet.

Gentleman, this is a domestic aid program and there are Members opposed to this bill who have no compunction, because the votes will bear me out, against voting foreign aid for countries on all the continents of this world with the exception of Australia—and maybe a little goes there.

They do not lay down rules and regulations, they do not impose strictures, they do not say one has to do this, one has got to do that. But when it comes to our own people, what do we do? Why we treat them like trash. Our own people.

When are we going to wake up and recognize that we have wasted in large part, in excess of $150 billion in foreign aid?

Here we are, under the strictest kind of proposals, making it possible to extend to our fellow citizens in New York City and State a measly $2 billion or $3 billion in loans fully repayable.

We know what the story is. It has been laid out for us. The parliamentary situation could not be explained any better than the distinguished assistant majority leader explained it.

As far as our appropriations to our own people are concerned, what kind of people are we?

Give them $150 billion overseas. No questions. A large part of it is wasted.

But our own people, what are we going to do for them?

Think it over.

Mr. ROBERT C. BYRD. Will the Senator yield to me?

Mr. MANSFIELD. Yes; I yield.

Mr. ROBERT C. BYRD. Mr. President, the leadership is not forcing the Senate to go beyond midnight tonight. All the leadership wants to do is finish this bill; let every Senator vote as he wishes on the bill. If he is opposed to the bill, that is all right. But the leadership has the responsibility to get a vote on this bill one way or the other.

The leadership also has a responsibility to try to expedite action on the second supplemental appropriations bill which carries in it moneys for loans to New York City.

This bill, in itself, is nothing.

It must also be accompanied by the appropriation bill. Those who want to vote against the appropriation bill certainly have every right to do that, but we have a responsibility to have a vote up or down.

Those who oppose this matter in principle can keep us here past midnight, unless all Senators stay right on this floor ready to answer a quorum quickly.

The leadership will have to do the following: If we have not accomplished final action on this bill, and the making of a motion to call up the second supplemental so that we can throw a cloture petition on that motion before midnight the cloture vote will not occur on Monday. One minute after midnight, 1 second after midnight tonight, it will be Saturday. If the leadership is forced to wait until Saturday to offer a cloture motion, the cloture vote will not occur until Tuesday. It is important that that vote occur Monday.

Therefore, the leadership is confronted with two choices: One, getting the job done before midnight tonight. We have to come in tomorrow anyway as we have the public works appropriations bill and there will be votes on it. On the other hand, if we do not accomplish what we are trying to do by midnight tonight, then tomorrow we are going to work our way through the public works appropriation bill.

Then we will move at some point during the day to adjourn or recess until 11 p.m. tomorrow night, or whatever it may be, so that Senators can have as much of the day as possible, and as much of the evening as possible. Of course, Senators are not bound to come back here. They can leave the leadership out on a limb, if they want to. Undoubtedly, they will have good reasons not to come back, and I am sure they would have. But that is what the leadership is up against.

We will have to be here tomorrow evening, Saturday evening, for a while in order to go over into Sunday for at least 1 or 2 minutes so that we can still have that cloture vote on Monday. I urge Members to stay in the Chamber, therefore, to try to avoid a Saturady midnight session.

If that midnight session has to come on Saturday, remember, it is not the leadership that is forcing it upon us. I say this with all kindly respect to the opposition in this instance, but it will be they who will be forcing us beyond midnight tonight and, even worse, beyond midnight tomorrow night.

I ask the cloakroom at this moment to call my secretary and tell her to call the Congressman in Florida whom I have promised I will speak in Florida tomorrow evening, and tell him that I cannot come to Florida tomorrow evening. I shall have to cancel that engagement.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana has the floor.

Mr. DOLE. Will the Senator yield to me for 1 minute?

Mr MANSFIELD. Briefly.

Mr. DOLE. I have an engagement tomorrow night that I cannot cancel. [Laughter.]

Mr. MANSFIELD. May I say that I hope those who are opposing this bill and opposing the will of the majority, as I see it, will take cognizance of the fact that there will be an event of extreme significance concerning the Senator from Kansas and his bride-to-be tomorrow evening. We wish him well. That is the only legitimate excuse he could find for getting away from tomorrow's work.

Mr. HUGH SCOTT. If the Senator will yield, it is not necessary for the Senator from Kansas to get himself a pair. He is going to give himself one. [Laughter.]

The PRESIDING OFFICER. The Senator from Montana.

Mr. MANSFIELD. My wife called me to ask me what time I would be home for dinner. I told her probably after midnight, to put the chicken back in the icebox and I would eat down here. I have also told her, and the assistant majority leader has borne me out, that we would be here into midnight tomorrow and beyond.

I would hope that if we are through with the levity that has been engendered, and now that we have had a good talking to by the distinguished Senator from Arizona, that we recognize the realities of the situation.

Just as a minute comparison, the President has sent down a proposal for $3.4 billion for aid to the Middle East, to Israel and Egypt and other Middle East countries. He is asking for less than that to help the people of New York City and New York State. When it comes to the first, it will pass through the Senate without any difficulty. But when it comes to our own people we see nothing but obstacles, nothing but roadblocks.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may proceed for 30 seconds.

I ask unanimous consent that on each amendment called up during the remainder of the day there be an up-and-down vote, no tabling motion to be in order, provided that no live quorum call is made prior to that vote.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ALLEN. Mr. President, I ask unanimous consent that I may proceed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. I have been very much interested, Mr. President, in this colloquy or discussion which has taken some 25 minutes of valuable time. To show again that I am not trying to prevent the passage of this bill, I ask unanimous consent that at the hour of 6 o'clock there be an up and down on final passage of this bill, and that immediately thereafter, in accordance with the previous order, the Senate recess until Saturday.

Mr. MANSFIELD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

There is a motion to table pending.

Mr. TOWER. Mr. President, I ask unanimous consent that the motion to table be withdrawn.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

The pending question is a motion to table. Debate is not in order. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Ohio (Mr. GLENN), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Colorado (Mr. HASKELL) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. FONG) is necessarily absent.

The result was announced—yeas 61, nays 31, as follows:

[Rollcall Vote No. 558 Leg.]

YEAS—61

Abourezk
Baker
Bayh
Beall
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Dole
Eagleton
Ford
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Hatfield
Hathaway
Humphrey
Inouye
Jackson
Javits
Johnston
Leahy
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Packwood
Pastore
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Weicker
Williams

NAYS—31

Allen
Bartlett
Bellmon
Brock
Buckley
Byrd,
Harry F., Jr.
Curtis
Domenici
Eastland
Fannin
Garn
Goldwater
Hansen
Helms
Hollings
Hruska
Laxalt
McClellan
McClure
Metcalf
Nunn
Pearson
Percy
Roth
Scott,
William L.
Stennis
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—8

Church
Durkin
Fong
Glenn
Haskell
Huddleston
Kennedy
Tunney

So the motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HARRY F. BYRD, JR. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HARRY F. BYRD, JR. How much time have I consumed?

The PRESIDING OFFICER. The Chair advises the Senator from Virginia has consumed 16 minutes.

Mr. HARRY F. BYRD, JR. I yield myself 14 minutes.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, when President Ford reversed his position in regard to the use of Federal tax funds to bail New York City out of its financial difficulties, I had thought that perhaps he might have a plan that could be supported.

In studying the legislation, however, and in reading the debates in the House of Representatives and participating in the debates in the Senate——

Mr. HELMS. Mr. President, may we have order so the Senator may be heard?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Virginia.

Mr. HARRY F. BYRD, JR. I have concluded that this legislation not only is bad in principle but, indeed, is a sham.

It is significant that the manager of the legislation in the House of Representatives, the chairman of the House Banking Committee, Congressman HENRY REUSS of Wisconsin, termed it "stopgap legislation" and warned that it would be back to haunt Congress within 2 years, if not by midwinter.

This is a highly significant statement by one who voted for the bill and was the floor manager of the bill.

Mr. President, may we have order if we are going to conduct the business of the Senate?

The PRESIDING OFFICER. The Senate will please be in order.

Senate is in order, and the Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. New York City has been mismanaged for years. It has had a highly extravagant government, has been living beyond its means, and its city officials have been juggling its books.

As recently as 2 months ago—as is brought out in the Senate committee hearings—responsible officials could not agree on just how great is the anticipated city deficit for the current fiscal year.

New York's Governor Carey, in his testimony before the Senate Banking Committee, said that New York State has the highest taxes of any State in the Union. Yet he said it is facing bankruptcy.

Testimony before the committee brought out that New York City has very high taxes; yet it is in virtual bankruptcy.

The city of New York provides a tuition-free college education for every student who wishes to attend. No other city or State provides such a service.

Mr. President, as to those Senators who do not wish the opponents of this legislation to speak, I urge that the Chair secure order in the Chamber if the opponents are going to have an opportunity to present their views.

The PRESIDING OFFICER. The Chair advises the Senator from Virginia that in its judgment the Senate is in order, and the Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. So far as the senior Senator from Virginia is concerned, a tuition-free college education is fine, provided the people of New York want it and are willing to pay for it. But they cannot pay for it, so they are calling on the American taxpayers to foot the bill.

In Virginia, the tuition for students at State-supported institutions of higher education ranges from $420 to $944 per year. Why should Virginians, who pay these expenses, subsidize tuition-free college education in New York City?

Proponents of the New York bailout legislation ask, "What is the alternative?"

The Senator from Virginia says that the alternative to a Federal bailout is for the city to begin to live within its means. New York must do what every other city and State must do: that is, to keep its expenditures within its revenues.

Running to the Federal Government to bail it out is no answer to New York's problems.

In fact, the Federal Government is in worse shape financially than is New York City. If any Senator wants to dispute that, I shall be glad to hear what he has to say. The only difference is that the Federal Government has presses which print money, and which it can run at whatever speed it wishes. But the more money the Government prints, the less valuable the wage earner's dollar becomes. Already, the value of the dollar has declined 42 percent in 6 years.

The Federal Government this year will have the highest deficit in its history, an astounding $75 billion.

As a result, double-digit inflation is certain to plague the country again within the next 12 to 14 months.

A $75 billion deficit for the current fiscal year is, in my judgment, totally irresponsible.

On top of that, the pending proposal that the Federal Government borrow an additional $2.3 billion and loan it to New York City compounds the Federal Government's problem without solving the city's problem.

I shall give more specific reasons for opposing the New York City bailout.

The purpose of the legislation, as the proponents make clear, is to prevent default on New York City bonds. Thus, the chief beneficiaries are the bondholders; and the major bondholders are the New York banks.

The New York banks will benefit by this legislation to the extent of tens of millions of dollars, and some perhaps by hundreds of million of dollars.

Yet, no information has been presented to the Senate to show the holdings by each of these New York banks. It has been asserted on the floor of the Senate that such information must remain secret lest various banks holding these New York bonds be damaged.

I could buy that argument were it not for the fact that the New York banks are seeking to have the American taxpayers protect their investment. Thus, the American people have the right to ask, "To what extent and by how many millions of dollars will this legislation benefit you?" That is not an unreasonable question to ask.

Some contend that the New York banks should not be asked for this information because it might in some way jeopardize them. That itself opens up an entirely new question. Namely, is the investing public being treated fairly? The stocks of most of these banks are sold on the stock exchanges daily. Should not that information be available to the investing public?

The real effect of the pending legislation is to use the tax funds of all the people to protect the private investments of a few, namely the New York bondholders.

I do not approve of that principle of government.

As the able Senator from Massachusetts, Mr. Brooke, stated in the Senate on December 3, the New York banks bought the New York notes and bonds because they considered it to be a good investment. They were getting a high tax-free income. The banks miscalculated, however, and the investment is not as good as they had first thought.

But the same investing principle would apply to almost everyone who bought stocks in January of 1973. The price of virtually every stock has gone down substantially since that time. Yet those investors, of course, are not being bailed out, nor should they be.

Another reason I oppose the pending legislation is that it does not require a balanced budget. If the Federal Government is to bail out the city, at least the legislation should require that the city begin now to live within its means.

This legislation does not require that.

Although the President has asserted that an anticipated deficit of $4 billion has been reduced by certain city and State action to zero for the current fiscal year, such is not the case.

New York City officials have stated, and the White House confirmed to my office today, that the anticipated deficit for the current fiscal year will be $724 million.

Indeed, not only does the pending legislation not require a balanced budget, but is likely to lead to fiscal gimmickry similar to that the New York City administrators have used in the past to camouflage deficits.

While the legislation says that the loan matures at the end of each fiscal year, this not only does not mandate a balanced budget, but indeed makes it possible for the city to borrow money on June 30, pay the Federal Government back and then the next day, obtain a new loan from the Federal Government.

This is a foot-in-the-door piece of legislation. It is not precisely what the New York City politicians and the New York City bankers want, but they are happy to accept it with the view that once they get their foot in the Federal door, they will be able to pry out of the Federal Government more billions of dollars.

Let us recall that Chairman Reuss of the House Banking Committee called the legislation "stop-gap," and warned that it would return to haunt the Congress.

Another aspect has not been given adequate consideration.

The able economist, Eliot Janeway, says a vital legal question is this: "How can the New York State Legislature compel nonresidents to take a fast swap with Big Mac—Municipal Assistance Corporation—bonds or stop a slow test in the Federal courts?"

What he is saying is that the so-called moratorium on some of the short-term paper may not survive a court test.

Thus, the Congress should consider this question: If a bondholder suit results in the court throwing out a moratorium on certain city bonds or notes, how does the Federal Government then get repaid? Indeed, would not such court action result in a demand for an even greater Federal bailout?

So, there is a lot more to the pending legislation to bail out New York than meets the eye.

I am convinced that it is bad legislation, that it will create a dangerous precedent, and that it could become a bottomless pit for American tax dollars.

The PRESIDING OFFICER (Mr. Stone). The Senator's 14 minutes have expired.

Mr. HARRY F. BYRD, JR. Mr. President, I reserve the remainder of my time.

Mr. HELMS. Mr. President, I yield myself such time as I may require.

I am very impressed with the observations made on the floor just a few minutes ago by the distinguished majority leader and the distinguished assistant majority leader. Senator Mansfield made the observation that Senators opposing this bill do not hesitate to vote for billions of dollars for foreign aid.

I do not know to whom he was referring. Speaking only for the Senator from North Carolina, I have never voted for a foreign aid bill since I have been in the Senate. I do not believe the distinguished Senator from Alabama has, and I do not believe the distinguished Senator from Virginia (Mr. Harry F. Byrd, Jr.) has.

Then the distinguished majority leader mentioned what he called a "measly $2 billion or $3 billion" for this bill. Measly, Mr. President? That is exactly what is wrong with this country today. For too long, the Congress of the United States has been saying, "Oh, it's just a measly billion dollars here or a measly $200 million there," and look where it has brought us. Today we have a Federal debt of about $550 billion—far more than a half trillion dollars, which has triggered the most awesome inflation in history.

Also, the distinguished assistant majority leader appealed to his colleagues to stay on the floor, and I count—including the distinguished Senator from Florida, who is now presiding—seven Senators. Neither the distinguished majority leader nor the distinguished assistant majority leader is on the floor, I might add.

I want to cooperate with the distinguished assistant majority leader in his absence, and I suggest the absence of a quorum, Mr. President.

I reserve the remainder of my time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll, and the following Senators answered to their names:

[Quorum No. 90 Leg.]

Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bentsen
Biden
Brock
Brooke
Buckley
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Curtis
Dole
Domenici
Eagleton
Eastland
Fannin
Ford
Garn
Goldwater
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Laxalt
Leahy
Long
Magnuson
Mansfield
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

The PRESIDING OFFICER. A quorum is present.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 1185

Mr. HELMS. Mr. President, I call up my amendment No. 1185 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> In section 6, subsection (b) of the bill, delete the figure "$2,300,000,000", and substitute in lieu thereof the figure "$1,300,000,000".

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair.

Mr. ROBERT C. BYRD. Will the Senator yield without losing his right to the floor?

Mr. HELMS. I am delighted to yield.

Mr. ROBERT C. BYRD. I merely want

to state for the Record that it took 22 minutes to establish a quorum in that instance, the last one.

Mr. HELMS. I believe it took 24 minutes.

Mr. President, the pending amendment that I have offered would change the limitation on the amount of outstanding loans for New York City under this act from $2.3 billion to $1.3 billion.

In offering this lower limitation of the aggregate amount of outstanding loans, I do not do so for the purpose of challenging the computations upon which the larger figure is based. Rather, I seek to provide a lower level of Federal financial involvement. If the hardpressed taxpayers throughout the country are to be asked to subsidize the mismanagement of New York City, I feel that the City and State should take additional action to help themselves.

If, indeed, the sum of $2.3 billion is needed simply for the city to obtain seasonal financing, I suggest that the State of New York should and could shoulder the additional burden.

Nobody says it will be easy.

The PRESIDING OFFICER. The Senate will be in order. Will Senators kindly withdraw to the cloakroom if they wish to converse?

The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

In other words, Mr. President, the city of New York should and could, in the judgment of the Senator from North Carolina, reduce the level of its expenditures during this period when its financial condition is so unstable. By placing greater responsibility on the city and State, the Congress will be encouraging New York City to take additional hard steps—admittedly hard steps—but steps that are essential if fiscal responsibility is to be restored.

Mr. President, I have also offered this amendment in the certain knowledge that the projected deficit in the Federal budget for the current fiscal year is in the area of about $75 billion and the Federal debt exceeds half a trillion dollars. As I said earlier on this floor this afternoon, we talk about lending money to New York City, but it is obvious that the Federal Government has no money to lend.

When we talk about bailouts, the distinguished Senator from Arizona (Mr. Goldwater) put his finger on the precise point a little while ago when he said, "Who is going to bail out the Federal Government?"

Where will these bailout funds for New York City come from, Mr. President? They can come only from borrowed money, adding to the already enormous debt of the Federal Government.

Of course, in the final analysis, the only real difference between the financial condition of New York City and the financial condition of the Federal Government is that the printing presses are in Washington. But this distinction should not cause the Senate to simply use those presses irresponsibly. The sad inflationary result of that is all too obvious. Rather, I urge my colleagues to take this opportunity to reflect very thoughtfully upon the financial condition of the Federal Government, of what this Congress has done to the American dollar over the past 40 years, and what the long-range implications of a bailout of New York City will be.

But, some will suggest that the money will not simply be printed in Washington, it will be borrowed. The deficit in the budget will be enlarged, and the enormous national debt will be further expanded. The Federal Government will further invade the capital market at a time when it is generally conceded that we are suffering from a serious capital shortage. This capital shortage, further accentuated by this borrowing, could adversely impact upon the homebuilding industry and upon plant expansion. Of course, interest rates will increase, and all Americans will suffer the consequences. It may well feed the fires of inflation, slow the economic recovery, and adversely affect our national unemployment situation.

This is not a time for the Congress to simply spend more. Rather, it is a time for Congress to realize what it has in fact done over the years. It is a time to learn from the painful example of New York City.

As my colleagues are aware, I believe in the concept of States rights and the shared sovereignty of the State governments. I have said so many times. But, Mr. President, with States rights goes States responsibilities. The State of New York has the primary responsibility for the city of New York. That State should adhere to its responsibility. It should face the difficult realities of the situation, and it should take the painful steps that will return the city of New York to fiscal responsibility and financial integrity.

I, therefore, urge my colleagues to reduce the total amount of permissible, outstanding loans for New York City to a maximum of $1.3 billion and let the city and State address the question of any additional funds. I frankly believe that is the best way to address that question is reduce the level of expenditures.

I reserve the remainder of my time, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina. The yeas and nays have been ordered.

Mr. HARRY F. BYRD, JR., addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I yield myself 5 minutes to discuss the amendment.

Mr. President, as I understand the financial cash flow situation of New York City, and it was put in the Record the day before yesterday by the able manager of the bill, the information submitted for the Record by the Senator from Wisconsin shows, and I will just read into the Record the statement of the day before yesterday by the manager of the bill. It is on page 20990 of the Record:

> Mr. Proxmire. They will have a deficit of $141 million in this month, December; another $465 million in January—cumulatively, I should say. $775 million will be the cumulative deficit in February. The peak will be in March, when it will be $1.275 billion. Then it will decline, and by June it will be zero.

If by June it will, in fact, be zero, certainly the proposal of the Senator from North Carolina would be appropriate.

The proposal by the Senator from North Carolina to make the figure $1.3 billion is greater than the cumulative deficit enumerated yesterday by the manager of the bill. The Senator from Wisconsin put the accumulated deficit for the period December through April at $1.275 billion.

So the Senator from Virginia will support the amendment offered by the able Senator from North Carolina.

I have an editorial from the Richmond Times Dispatch of Tuesday, December 2, 1975. It is captioned "Ignoring the Truth." I will read just a few paragraphs of it and then will ask that it be printed in the Record.

I am quoting now from the Richmond Times Dispatch editorial of December 2.

> From the speech that he made in Miami Beach yesterday, it appears that New York City Mayor Abraham D. Beame is determined to ignore the truth about the causes of his city's fiscal catastrophe. Moreover, remarks he made to newsmen implied, alarmingly, that the rescue plan advocated by President Ford might not prevent a recurrence of the excesses which caused the city's financial collapse.

Then the editorial discusses the matter in some detail. Then toward the end it said:

> In Miami Beach, Beame seemed to be almost as determined to reject the influence of the special board as he was to reject the truth about the causes of the city's problems.
>
> "The mayor of New York," he told reporters, "is still manager. He runs the city and develops programs . . . (The board) does not determine priorities. They don't have any input in telling me how money is to be spent."

Mr. President, I take note that there is a bill pending in the New York City Council which was introduced at the request of Mayor Beame on October 9. It would provide for special tax abatement. We have been told that there has been an increase in taxes in New York to help its financial plight.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. HARRY F. BYRD, JR. I yield myself 2 additional minutes, Mr. President.

The legislation introduced in the New York City Council on October 9 suggests that the city is preparing for a reduction in taxes, perhaps based on the assumption that Congress will pass this bailout legislation.

Mr. President, at this point I ask unanimous consent to have printed in the Record the editorial from the Richmond Times Dispatch captioned "Ignoring the Truth."

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Richmond Times-Dispatch,
Dec. 2, 1975]

Ignoring the Truth

From the speech that he made in Miami Beach yesterday, it appears that New York City Mayor Abraham D. Beame is determined to ignore the truth about the causes of his city's fiscal catastrophe. Moreover, remarks he made to newsmen implied, alarmingly, that the rescue plan advocated by President Ford may not prevent a recurrence of the excesses which caused the city's financial collapse.

"Our crisis," Beame told the National League of Cities, "has served to expand the national dialogue about the many problems besetting cities of all sizes and has reawakened a sense of urgency in dealing with them."

In other words, Beame blames such familiar urban afflictions as high crime rates, high welfare costs and the housing and health deficiencies of the poor for most of New York City's financial troubles. The cost of combatting poverty-related problems, he implied, finally became too heavy for the city to bear alone.

Well, this is simply not true. More than one responsible analyst who has studied New York's tangled financial affairs has concluded that the city's problems stemmed primarily not from the pressures of poverty and demands of the *poor* but from the eagerness of powerhungry politicians to curry the favor of *middle-class* interests. Exorbitant pay scales for public employes, extravagant pension plans for retired workers, free college education for all comers, rent controls that heavily benefit middle-income groups—these have been among the major causes of New York's financial problems, and it is egregiously deceitful of Mayor Beame to suggest otherwise. Until and unless he and others who are responsible for New York's affairs accept the truth, the city may never fully regain its fiscal health, federal aid or no federal aid.

The proposal that Mr. Ford has submitted to Congress is predicated upon the assumption that New York officials *will* accept the truth and improve their financial habits. He agreed to recommend federal aid for the city only after it and New York state had adopted a plan designed to place the metropolis on a more responsible fiscal program and balance its budget by June 30, 1978. The plan calls for increases in taxes, reductions in spending, changes in the city's extremely liberal and expensive pension plan and the assignment of certain fiscal powers to a special board, the primary mission of which would be to keep city spending under control. The President's proposal would permit New York to borrow up to $2.3 billion from the federal government each year to offset seasonal variations in the city's receipts and expenditures. The loans would have to be repaid in full, with interest, at the end of each year, and the program would end after three years.

In Miami Beach, Beame seemed to be almost as determined to reject the influence of the special board as he was to reject the truth about the causes of the city's problems.

"The mayor of New York," he told reporters, "is still manager. He runs the city and determines priorities. He hires and fires and develops programs . . . (The board) does not determine priorities. They don't have any input in telling me how money is to be spent."

Beame's views are profoundly disturbing, for they indicate that he and his fellow budget manipulators will resist efforts by the board to impose significant restraints upon New York's expenditures. And their failure to cooperate to make the plan work, their refusal to accept guidance about "priorities" and "input" about programs, might mean that New York's basic financial condition would be no sounder at the conclusion of the three-year federal aid program than it is now.

Mr. HARRY F. BYRD, JR. I reserve the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays——

Mr. BUCKLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. BUCKLEY. Mr. President, I was extraordinarily impressed with what the Senator from Arizona (Mr. Goldwater) had to say about the abuse of the right to table amendments, whether they be sound or not sound. I would urge our friends to not table any further amendments. Do I understand from my friend from Texas——

Mr. TOWER. They will not be tabled.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from North Dakota (Mr. Burdick), the Senator from Idaho (Mr. Church), the Senator from New Hampshire (Mr. Durkin), the Senator from Ohio (Mr. Glenn), the Senator from Kentucky (Mr. Huddleston), the Senator from Massachusetts (Mr. Kennedy), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that the Senator from Colorado (Mr. Haskell) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. Fong) and the Senator from Maryland (Mr. Mathias) are necessarily absent.

The result was announced—yeas 26, nays 63, as follows:

[Rollcall Vote No. 559 Leg.]

YEAS—26

Bartlett
Brock
Byrd, Harry F., Jr.
Cannon
Curtis
Eastland
Fannin
Garn
Goldwater
Hansen
Helms
Hollings
Hruska
Laxalt
McClellan
McClure
Montoya
Morgan
Nunn
Roth
Scott, William L.
Stennis
Stone
Talmadge
Thurmond
Young

NAYS—63

Abourezk
Allen
Baker
Beall
Bellmon
Bentsen
Biden
Brooke
Buckley
Bumpers
Byrd, Robert C.
Case
Chiles
Clark
Cranston
Culver
Dole
Domenici
Eagleton
Ford
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Hatfield
Hathaway
Humphrey
Inouye
Jackson
Javits
Johnston
Leahy
Long
Magnuson
Mansfield
McGee
McGovern
McIntyre
Metcalf
Mondale
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Symington
Taft
Tower
Weicker
Williams

NOT VOTING—11

Bayh
Burdick
Church
Durkin
Fong
Glenn
Haskell
Huddleston
Kennedy
Mathias
Tunney

So Mr. Helms' amendment (No. 1185) was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BROOKE. I move to lay that motion on the table.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from North Dakota (Mr. Burdick), the Senator from Idaho (Mr. Church), the Senator from New Hampshire (Mr. Durkin), the Senator from Ohio (Mr. Glenn), the Senator from Kentucky (Mr. Huddleston), the Senator from Massachusetts (Mr. Kennedy), the Senator from California (Mr. Tunney), and the Senator from North Carolina (Mr. Morgan) are necessarily absent.

I further announce that the Senator from Colorado (Mr. Haskell) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. Fong), the Senator from Arizona (Mr. Goldwater), the Senator from Maryland (Mr. Mathias), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The result was announced—yeas 71, nays 15, as follows:

[Rollcall Vote No. 560 Leg.]

YEAS—71

Abourezk
Baker
Beall
Bellmon
Bentsen
Biden
Brock
Brooke
Buckley
Bumpers
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Dole
Domenici
Eagleton
Eastland
Ford
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Hatfield
Hathaway
Hollings
Humphrey
Inouye
Jackson
Javits
Johnston
Leahy
Long
Magnuson
Mansfield
McClellan
McGee
McGovern
McIntyre
Mondale
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Tower
Weicker
Williams

NAYS—15

Allen
Bartlett
Byrd, Harry F., Jr.
Curtis
Fannin
Garn
Hansen
Helms
Hruska
Laxalt
McClure
Metcalf
Montoya
Stennis
Thurmond

NOT VOTING—14

Bayh
Burdick
Church
Durkin
Fong
Glenn
Goldwater
Haskell
Huddleston
Kennedy
Mathias
Morgan
Tunney
Young

So the motion to lay on the table the motion to reconsider the vote by which Mr. Helms' amendment No. 1185 was rejected was agreed to.

Mr. WILLIAM L. SCOTT. Mr. President, I was away from the Chamber at least a portion of the day and did miss some information about the bill that is before the Senate. I stayed here sufficiently long to vote on the cloture motion, and then I had an engagement in Williamsburg, where I had promised more than a month ago to speak to a statewide organization, I did feel an obligation to keep that commitment. So I am sorry that I have missed the persuasive arguments of someone who might cause me to change my mind. But I do intend to vote against the bill.

I came back in sufficient time to hear the distinguished majority leader talk about the bill only being a measly $2 billion to $3 billion. I hasten to add that as he used the word "measly," he was comparing it with $150 billion, I believe he indicated, in foreign aid.

Mr. President, I have the greatest respect for the distinguished majority leader, but I do not believe that a billion dollars of taxpayers' money is ever measly. We are not talking about Monopoly money. We are talking about Federal currency. A billion dollars is 1,000 times 1,000 times 1,000 dollars. If somebody started spending a thousand dollars a day at the time of the birth of Christ and spent a thousand dollars a day every day from then until the present time, he would still have 765 years to go to spend a billion dollars. This is not measly.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. WILLIAM L. SCOTT. I am glad to yield.

Mr. MANSFIELD. Mr. President, the Senator indicated the contrast I had in mind—$2.3 billion for New York City and State, compared to in excess of $150 billion in the field of foreign aid. I think the comparison speaks for itself. But when a foreign aid bill is brought up in this Chamber, it passes through like Pluto water.

So far as domestic aid is concerned, aid to our fellow citizens, aid to Americans, we have stalling, filibustering, all sorts of dilatory tactics. It seems that we can find it most difficult, even after laying down inhibitions, prohibitions, regulations, and whatnot, to take care of our own, in comparison with what we have done for all too many years for all too many countries on all too many continents of the world.

Mr. WILLIAM L. SCOTT. If the distinguished majority leader will search the record, I have been in Congress for approximately 9 years, and I do not believe he will find that I voted for foreign aid bills——

Mr. MANSFIELD. I agree with the Senator. I said some of those who are opposing aid to fellow Americans are Senators who will vote for foreign aid without any qualms.

I could name them, but I shall not, because the records will speak for themselves.

Mr. WILLIAM L. SCOTT. I agree with the distinguished Senator that the record will speak for itself.

I say to the distinguished Senator that I know that there are many worthwhile measures that come before this body that I vote "no" on. I make no apologies for voting "no."

Mr. MANSFIELD. The Senator has always been forthright and candid, and I admire him for it.

Mr. WILLIAM L. SCOTT. Oftentime, within our own homes or within our own possessions, there are things that we would like to have and we cannot afford to have.

I submit, Mr. President, that I meant no criticism personally of our distinguished majority leader, because I have the highest respect for the distinguished Senator. The word "measly" was, really, the word that I was objecting to. When we talk about a billion dollars, regardless of whether I say it or he says it or any Member in this Chamber says it, it is not measly, in my opinion.

Mr. MANSFIELD. Will the Senator yield there?

Mr. WILLIAM L. SCOTT. I am glad to yield.

Mr. MANSFIELD. $2.3 billion for fellow Americans is the issue against in excess of $150 billion to foreign countries, with no regulations of any substance laid down, no inhibitions, and no method of repayment. With regard to New York, every dime has to be repaid with interest. Is that correct or is it not correct, under the proposal laid down by the President? And on a monthly basis.

Mr. WILLIAM L. SCOTT. I say to the distinguished Senator that oftentimes, we pass a measure and the next year, or the year after, we amend that measure. The distinguished Senator has been here much longer than I have and he knows that once we start this thing, we never know where it is going to end.

Mr. MANSFIELD. That is true, especially as far as foreign countries are concerned. But I call to the Senator's attention the fact that this administration has sent down to Congress a request for something on the order of $3.4 billion for Israel, Egypt, and other countries in the Middle East. Here, the administration is asking only $2.3 billion for New York City and New York State, on the strictest repayable basis possible. The first will pass through without any trouble. But look at what we are doing when it comes to helping our fellow citizens.

Mr. WILLIAM L. SCOTT. I would say to the distinguished Senator, if he would join me, that I would be glad to filibuster the foreign aid bill when it comes before us.

Mr. MANSFIELD. Not at all. I just do not vote for them any more, because I know the majority is for them and I never try to inhibit the will of the majority.

Mr. WILLIAM L. SCOTT. Well, Mr. President, the majority is not always correct.

Mr. MANSFIELD. No, but if the Senator will yield to me there, let me try to point out one possibility, based on the Senate's procedure in the last few months. If the minority can hold the majority by the throat, as it is doing on this bill, it will not be long, mark my words, before the 60 votes for cloture will be replaced by a bare constitutional majority. I hope that the Members will remember that, because the way we are going, the filibuster is not, any more, a weapon of significance; it is a normal factor in the life of the Senate. It is very bad for the Senate, because I think it denigrates an excellent weapon, if used under the right circumstances. It makes it so common that it becomes ineffective.

Mr. WILLIAM L. SCOTT. I agree with the distinguished Senator, but when he talks about the rights of the minority and the majority, we are talking about the American people. The will of the American people is far greater than the will of this body.

I submit that if the majority cuts this to 50 percent, if we continue with this unlimited spending, we are going to see a lot of changes in this body, and in the other body, as well.

Mr. MANSFIELD. If the Senator will yield, he is getting close to the core of my argument. If what I said occurs—and I think it is a distinct possibility—the tyranny of the minority—the tyranny of the minority, and that is what is being practiced now—will be replaced by the tyranny of a bare majority.

Some people may want that. I do not. But, gentlemen, if we keep on operating the Senate on the basis on which it has been operated for the past several months—every bill coming up stalled, delayed, filibustered—just the consideration of the bill—we are going to have a bare majority imposing cloture, and then we will have the tyranny of that bare majority, which will be just as bad as, if not worse than the tyranny of the minority, which is now operating against the overwhelming majority of the Senate, as far as this issue is concerned, and the votes will speak for themselves.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. WILLIAM L. SCOTT. As the distinguished majority leader knows, I have not been here for the past 3 or 4 hours. I have been away, so I have not been one participating.

Mr. MANSFIELD. I was not speaking of the Senator personally, and I am sure he understands that, because I know he had to go to Norfolk, I believe, and I knew that ahead of time.

Mr. WILLIAM L. SCOTT. Williamsburg.

I have not had an opportunity to speak on this bill and I wish to take a few minutes' time, I think, to speak on the bill and the merits and demerits of the bill.

Mr. MANSFIELD. The Senator has been most thoughtful. This is his first opportunity to speak.

Mr. CURTIS. Mr. President, I ask unanimous consent that I speak on my time and the distinguished Senator from Virginia will not lose any of his time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Any time I spoke, I took out of my time, and the Senator can have all the time he wants at his disposal. I am glad the Senator from Alabama reminded me of it.

Mr. CURTIS. I would say that the majority leader has discussed a problem that concerns many of us, but I cannot follow his reasoning. It was my understanding, when we changed the rules as to how many Senators were required to invoke cloture, that that did not lessen the rights of Senators under cloture. I thought it was understood and was the rule of the Senate that if cloture is voted, everybody had an hour if they wanted it.

What sort of thing is this, to try to browbeat Senators and ridicule them so that they do not take their hour? I think we are already suffering under the tyranny of the majority. There has scarcely been an amendment offered that there has not been an attempt to table it. What kind of government of law is that, that just because they have the power over there, amendments are tabled and never get to be considered on their merits?

Why did they not tell us, when they were going to go to the rule of 60 Senators to invoke cloture, that we would be harassed if we ever used our time under cloture? The cloture rule limits everybody to an hour. It provides that amendments will be offered. Yet we are faced with a situation where those who use their restricted time are ridiculed and harassed to the end that they might not use their time. Individuals will have, not dilatory amendments, not frivolous amendments, but amendents they believe in, and the tyranny of the majority tables them.

Mr. President, I do not feel that any Senator is abusing his privilege if he takes his full hour to tell why he is opposed to any expenditure that runs over $2 billion. If every Senator took an hours, we would still be authorizing $23 million an hour. That is what we would be doing.

What is the hurry? We lose more time here trying to agree on the program than it would take in most instances to debate matters on their merits.

It is not only this bill. I am picking out this particular committee or those in charge of the bill. A while back we had before us a bill that made it possible that I could offer an amendment for small businessmen, some relief under OSHA. I had to go down on my knees and beg the majority to let me have a vote because someone jumped up and said, "Let us table it." Why? Because they had the vote for the steamroller.

The Senate of the United States should be a deliberative body, not one of combat, not one of where those who can bring the most bodies in here and run over the others.

Mr. President, I resent efforts to try to browbeat people into not talking. I might remind the people, those who do that, it is self-defeating. Every time there is an effort to deny people consideration of their valid and well-intended amendments, it prompts others to protest. It prompts more quorum calls. It is self-defeating.

The individuals who are delaying the program in the Senate are those who are trying to cow Senators into submission so they do not use the hour the rules provide for.

Mr. President, for many months I have been disturbed over how fast this Senate is receding from its position as a deliberative body into an organization where if the votes can be rounded up from any source debate is shut off, amendments are tabled, and before a bill is ever considered cloture is invoked.

Those efforts retard and slow down the program of the Senate. It has been said if you want friends be one. A corollary of that is if you want fair play extend fair play.

Mr. President, I yield the floor.

Mr. ALLEN. Mr. President, will the Senator yield 1 minute on my time?

Mr. CURTIS. I yield. I believe the Senator from Virginia has the floor.

Mr. WILLIAM L. SCOTT. Mr. President, let me pose a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WILLIAM L. SCOTT. As I understand it, if I yield to these various Senators, the Parliamentarian, who is keeping time, will divide the time among the Senators. I know the distinguished Senator from Nebraska and the Senator from Montana did ask that the time they spent in talking be charged to them. But do we have to do this each time or does the Parliamentarian just prorate the time?

The PRESIDING OFFICER. The time is charged to the Senator speaking each time without request.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time I engaged in in colloquy with the Senator be charged to me.

The PRESIDING OFFICER. It will be done.

Mr. MANSFIELD. The Senator from Nebraska has already made that request.

The PRESIDING OFFICER. It has been done.

Mr. WILLIAM L. SCOTT. I believe the distinguished Senator from Montana previously made the request.

The PRESIDING OFFICER. That is so.

Mr. WILLIAM L. SCOTT. I will be glad to yield on his time to the distinguished Senator from Alabama.

Mr. ALLEN. I wanted to ask the distinguished Senator from Nebraska if it is not a fact that this version of the bill that is now before the Senate has not been to a House committee and it has not been to a Senate committee, and the statement has been made on the floor by some of the chief sponsors of the measure it must not be amended in the Senate; is that correct?

Mr. CURTIS. It is my understanding; yes, sir.

Mr. ALLEN. Is that an arrogant approach of the majority, in the Senator's judgment?

Mr. CURTIS. Well, the Senator forces me to criticize the majority in a rather unkind way.

I would say in my opinion it is.

Mr. ALLEN. I am talking about the majority on this bill not the majority as a party.

Mr. CURTIS. I certainly will agree that it is not carefully legislated. It is not restoring the Senate to a deliberative body. It is not recognizing the proper place of committees in open hearing.

Mr. ALLEN. Is that an approach that would be conductive to forcing those in opposition to this amendment or this bill to merely succumbing to the demands that are made on them to stop exercising their rights under the rules?

Mr. CURTIS. I would agree that it tends in that direction.

I want to say I think there are times, probably in many areas of legislation, the debt ceiling, for instance, and other things, where it has to be expedited to get it.

What I am protesting is legislating by fear, threatening with calamity if someone gets up and takes his limited time under cloture to state his position, and that is legislating by fear and intimidation. Here is one Senator who will not jump for it.

Mr. WILLIAM L. SCOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WILLIAM L. SCOTT. Mr. President, I hope as the hour proceeds all of us will attempt to maintain the decorum for which the Senate is noted. Certainly in the remarks I am about to make I do not intend to be critical of any Senator.

I heard the distinguished majority leader and the distinguished assistant majority leader a few minutes ago speak of the responsibility of leadership. I believe both of these distinguished Senators are trying to do the things they feel are necessary or are desirable in the positions they occupy.

Yet I believe each Member of the Senate, whether he happens to be in a position of leadership or happens to be one of the newer Members of the Senate, represents one of our sovereign States, and I believe each of us, regardless of our position, has a responsibility. I consider that I have a responsibility to the people of Virginia, and this is one of the reasons why I am going to vote against this bill.

I am told we have a debt of $565 to $570 billion; that the interest or carrying charge on our national debt today is approximately $70,000 a minute. We do not get anything for this $70,000 a minute that is being expended by our Treasury. This is taxpayers' money we are having to spend because of our deficit financing over the past years.

So I hope the Members of the Senate, as well as the other body, will learn the word "No," and I think we have to vote "No" on a number of matters that may be of value.

It is a short word, you know. It only has two letters in it, "N-o," that is all it is. I think all of us can learn to pronounce it if we try. If we could learn that word and use it with some degree of regularity, perhaps we could get our Federal budget in balance.

I heard the distinguished senior Senator from New York yesterday talking about the indebtedness in New York. As I understood him to say, and I believe he later confirmed it, the State is in rather dire financial circumstances, just as the city of New York is.

I would feel that unless Congress changes its way the U.S. Government could well be in as serious financial straits as the city and State of New York.

It has been mentioned that the bill we have before us has not been considered by any committee of either the House or the Senate. It is my understanding that a bill has been considered in both bodies by the Banking Committees.

Mr. President, these bills would have

guaranteed loans in differing amounts to the city of New York, but I doubt very much that either one of these bills would have passed.

It is my understanding that the Senate bill would have guaranteed a top amount of $4 billion and it would have run for 4 years, but each year the guarantee would decline under that proposal.

The sum of $4 billion the first year, $3.5 billion limitation the second year, $2.5 billion the third year, and $1.5 billion the fourth year.

The House bill, however, would have guaranteed a ceiling of $7 billion from the present to 1989 and it would have guaranteed $5 billion in long-term loans and $2 billion in short-term loans.

Then from 1989 to 1999, the amount would have dropped. It would then have guaranteed only $3 billion in long-term loans.

But that is not what we have before us tonight.

Our Judiciary Committee reported out what I believe would have been the best bill for the entire Senate to have considered. It added a new chapter to the bankruptcy laws.

It added a chapter which originally would have permitted cities with more than 1 million in population, when they were unable to meet their indebtedness, their obligations as they matured, to file a petition in bankruptcy.

We would have had a Federal district court judge substituting for the usual referee in bankruptcy, and there would have been a mechanism whereby the city could have gotten its fiscal house in order and the necessary money could be obtained from the private sector through the issuance of certificates of indebtedness without the Federal taxpayer getting into the matter at all.

Mr. President, I believe that would have been a much better bill than the matter we have before us.

Certificates of indebtedness by the city of New York, on the surface, would not appear to be worth very much, considering the financial condition of the city today, but these certificates would have had priority over any other indebtedness and, certainly, New York City does have tax funds coming in. I believe that individuals and business institutions would have been glad to purchase certificates of indebtedness from the city of New York when they would get all the cream off the top and they would have been preferred creditors. I believe that this would have worked.

I am very sorry that we do not have an opportunity to vote on that measure that was favorably reported by the Committee on the Judiciary.

What happened, of course, was that the President presented the present bill of direct loans, direct loans out of the Federal Treasury to the city of New York. I believe that this weighted the scales in favor of possible passage of a measure that otherwise would have been defeated in the Congress.

Mr. President, I know from examining this bill there are conditions attached to it. It indicates that they are security for loans. I do not know. It says that the secretary may take such steps as he deems necessary to realize upon any collateral on which the United States has a security interest.

Then there was an amendment offered in the House that I assume is in the measure that we are now considering whereby we would withhold Federal funds that are due the city of New York.

I suppose that means revenue sharing, at least in part.

But other than that, what security do we have? Do we sell city property? And the Secretary is not supposed to make these loans unless he is satisfied that we have the proper security.

I cannot picture the Secretary of the Treasury not making a loan after this bill is passed by the Congress.

I am reading from page 4, it says that at no time shall the amount of loans outstanding under this act exceed in the aggregate $2.3 billion.

I just wonder if that might be amended later by some subsequent act of the Congress.

I am wondering if we get to the point where we have loaned the maximum permitted under this bill and maybe some of the city employees go out on strike, saying that they feel that they should have more money, what do we do about such things as that?

Do we get the National Guard up there to collect the garbage, to do police work?

I think we are sort of opening a Pandora's Box here with what we are proposing.

What if the city of Chicago and or Philadelphia, or any of our larger cities, want the same type of treatment?

I know this bill, contrary to the other, relates only to the city of New York, but the distinguished majority leader talked about one of our own. Well, of course, any city in the United States is one of our own.

I would hope we would have an opportunity to go back to the bankruptcy amendments. It is the best thing we could do, in my judgment, but we are not going to have that opportunity to do this, Mr. President.

There is some dispute as to ownership of these bonds that the city of New York issued. According to the Bond Buyers Municipal Finance Statement submitted to the Banking and Currency Committee, as I understand it, 30.1 percent of the bonds were held by households, 3.7 percent were held by corporate business, 1.3 percent were held by State and local governments generally, 0.43 of 1 percent was held from pension funds of local and State governments, commercial banks own 48.21 percent, mutual savings banks own 0.43 percent, insurance companies 16.96 percent, and broker dealers own 0.43 percent.

This is in contrast to the statement made by James Lebenthal, the president of James Lebenthal & Co., brokers. He claims that households own two-thirds of the bonds and he claims that the bonds outstanding are $7,350,610,000 and that individuals own $4,895,000,000.

It is my understanding that he so testified before the committee.

Mr. President, I would just go back once again to a general statement. We have to think about what is best for the American people. We are each here to represent one of the States in our Union. In my own State of Virginia, the Governor of Virginia has indicated to the localities that he is reducing the State funds for schools by 5 percent because he wants to keep the budget of the Commonwealth of Virginia in balance.

He has also indicated that it may be necessary to cut back other places in the budget of the State of Virginia.

It just does not seem reasonable to me, speaking of my own State individually, for the people of Virginia to have to be denied some of the things that they might like to have and then for the Federal Government to make loans to the city of New York which pays far more to their school teachers than we do in Virginia; who pays more for their police and fire protection; who have free education for roughly 100,000 students in the college of the city of New York.

We are rather proud in Virginia of the 2-year colleges we have scattered around the State where the young people can attend and obtain a foundation for more education without leaving their home areas. But the tuition even then is not free. I do not see why the people of Virginia should be assisting a sister State and denying itself.

Charity may be a very fine thing, but I think it ought to be a voluntary thing. We know the American people do not voluntarily pay taxes. They pay taxes because they are obligated to pay these taxes as a matter of law. The pay taxes because there are civil and criminal penalties imposed for not paying taxes to the Federal Government. I am not in any way opposed to this. We have to have taxes in order to operate our Government. So even though we may not like the idea of paying taxes or heavy taxes, we do go ahead and meet that obligation.

I am saying that the taxes are becoming more burdensome. I am saying that we are not paying sufficient taxes to pay the Federal obligations. Otherwise, we would not have this huge national debt at this time, a debt of $565 billion to $570 billion.

Mr. President, just as the Federal Government, in my opinion, should reduce its expenditures, just as, in my opinion, each of us should become more familiar with the word "no" when these programs coms before the Senate or the other body, I believe that the people in the State and in the city of New York should learn this word "no." They should get their own fiscal house in order.

I believe this could be accomplished under the bill that was favorably reported by the Judiciary Committee, Mr. President. I wish it had come before us, but it has not. The present bill, in my opinion, is fiscally irresponsible. I intend to vote against it.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MORGAN. Mr. President, earlier in the discussion by the distinguished Senator from Virginia there was a colloquy between him and our distinguished majority leader concerning the limitations on debate. Our very distinguished majority leader, for whom I have the greatest respect, alluded to the tyranny of the minority, and that if it continued we might find the majority rule negated in the Senate.

Mr. President, I have not been involved in this debate on the question of aid to New York City for a number of reasons. I have not had the time; I have been too involved in other things. I think this bill is a better bill than the one we considered in the Banking Committee, but I was concerned about the distinguished majority leader's comments on the filibuster rule. Yesterday I was confronted with a situation that, frankly, I did not know how to handle, and I am not sure that many other Members of the Senate knew how to handle it.

We have taken the modified rule on limited debates, since it was modified, and we have abused it to such an extent that I think we would be just about as well off if we went to the majority rule.

For instance, Mr. President, yesterday we passed a bill in this Senate, the railroad bill, that called for an appropriation or expenditure of somewhere between $8 billion and possibly $14 billion. I have not been able to find anybody in this Chamber who could tell me exactly what the bill called for.

I want to relate for the RECORD, and I have earlier submitted a written statement for the RECORD, about the manner in which this bill was handled.

The committee report was not even ordered to be printed until November 26, which was a holiday, as I recall—maybe Thanksgiving.

If it was printed before Tuesday of this week, it was not made available to the Members of the Senate until Tuesday. That committee report was more than 300 pages. If my recollection serves me correctly, it was 329 pages of highly technical material.

I would say to the President and to Members of the Senate that I doubt there is a single Member of this Senate who had either the time or the staff to analyze that committee report between the time that it was made available to them on Tuesday morning and the time the bill was passed yesterday.

The bill that we passed had 243 pages in it.

This bill may have been considered by the committee for months, but those of us who were not on the committee had little access to it.

But what happened, Mr. President? Immediately, a cloture motion was filed and nothing else was done on the bill. There was no debate on the bill between that time and the vote on cloture.

Ordinarily, during this 3-day period we would expect the bill to be debated so that those of us who were not on the committee would have an opportunity to find out what it was about, to find out whether there were any wrinkles in the bill that we would like to amend to clarify it. But we were not afforded that opportunity because the real purpose and intent of that 3-day period was circumvented.

By the time we reached debate on the bill, cloture had been invoked and, therefore, it was impossible for me or any other Member of the Senate who knew nothing about the bill to offer any clarifying amendment or to make any changes whatsoever.

So we passed that bill, that was understood by almost none other than those on the committee, after 2 days of debate, under circumstances under which one could not offer an amendment.

While we are talking, Mr. President, about the tyranny of the minority, we might also think a little bit about the tyranny of the majority. I hope that the episode on the ConRail bill will cause our leadership to take a second look.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MORGAN. I hope that the leadership will take a look at what happened on that bill. It is not only important, Mr. President, that we be fair in the Senate in our deliberations, but it is important that we conduct our deliberations in such a way that they will be perceived to be fair. And I say again, when the cloture motion was filed and lay on the desk for 3 days with no debate, and then immediately cloture was invoked, it precluded those of us who lacked the staff and the time—and I would say that included all of us, on a bill like this—from making any meaningful contribution toward the passage of that bill whatsoever.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. MORGAN. Yes, I am delighted to yield.

Mr. DOMENICI. Mr. President, I commend the Senator for his remarks. I voted for cloture on ConRail. I had no philosophical preconceptions on cloture; anyone who looks at my record will find that I vote on cloture based on the substance. But the Senator from North Carolina makes a point I would have made awhile ago, and I am delighted to associate myself with his remarks.

If we have many more ConRails, I will quickly develop a philosophical notion on cloture, and vote against it all the time. That bill, in the form it was presented to the Senate, needed much debate. It was not in its final form. We hoped the Senate would work its will. And what will was worked on it? If I recall correctly, Senators offered a few piddling amendments. The Senator was presumptive in assuming that the committee understood it. I would say that only a few of them understood it, and I think if challenged I could cite names of those on the committee who say they did not know what it was all about. And I say that not in derogation of them, but of this system.

Mr. President, we are quickly arriving at a system of legislation by crisis. We have one here today, New York's legislation by crisis. We had one on the voting rights measure, if the Senator will remember; and we will be amending that bill, for it was unfair. It treats the Indians in a way that is impossible to enforce. It treats Spanish-Americans in a way that is absolutely unreasonable.

We had the same thing on the help for Israel and the Middle East, if the Senator will remember. We had several amendments, and every one was tabled, because the House was going out, so we had to get it out in the exact form. We have the same thing here.

I am not going to vote for the New York bill. I have been voting for cloture, and I am in sympathy with those who say "Let us get on with this bill," but not when it is to the detriment of those who have valid points, and not to the total derogation of the cloture process.

I would remind the Senator that once you have your hour, you also have to have your amendments at the desk, which is significantly giving up our rights in terms of floor participation and what we might find out about a bill as it develops. I think that, too, is being ignored.

I would also join with those who say there is beginning to be a serious abuse in tabling amendments once cloture is invoked. I say we had better be careful about that. We are worried about tyranny on either side, majority or minority; I do not mean partisan, but on issues. There is apt to be a growing number of Senators who join in resentment of that kind of approach. Either legislation by risk or tabling once cloture is imposed has a tremendous, far-reaching effect, because we only have 24 hours after the House has sent us their version. I think these are dangerous precedents. I know we live in a dangerous time, with difficult problems, but I commend the Senator for his thoughts.

I think we ought to be willing to stay here all night, if necessary, to grant the minimal rights under cloture, not because of the precedent but because it is a good thing to get legislation and the problems legislation has in it brought before the American people. I commend the Senator for bringing the relationship of that ConRail bill into this debate. I think they are related, and I think from this Senator's standpoint, it will be very difficult for me to vote for cloture hereafter unless I really believe we are going to get some honest participation on the amendments, and I fail to see that, especially on the five or six crisis-oriented bills where we have had real or dreamed-up clotures, where we do not debate at all for the intervening 3 days.

I thank the Senator for giving me the opportunity to join him.

Mr. MORGAN. I thank the distinguished Senator for his remarks. I would add that I hope my remarks are taken in a constructive vein. I have been so frustrated about the matter that, as I mentioned earlier, I had prepared a written statement setting forth my concern about the ConRail bill. I could not send an amendment to the desk to be considered after cloture was invoked unless I had either first had sufficient time to study the bill and the report, which opportunity the 2 days did not afford me, or unless I had been able to sit here on the Senate floor for 2 or 3 days and hear some debate on the bill before cloture was invoked.

Senators may very well remember that I got caught on one of the first debates. I had been voting for cloture on the New Hampshire election dispute up until that time, but after I had the point of order invoked against me, I said then that it would be a long, long time before I ever voted for cloture again, and I have not. I may some day.

I do not particularly like what we are doing here tonight, but I do not particularly like the arguments of the assistant majority leader. His argument is that if we can get this bill passed, we will adjourn for 1 minute or 5 minutes, and thus circumvent the rule which requires another legislative day.

So you see, Mr. President, I think we are all to blame a little bit, and I really think that if we all would take into consideration the views and points of view of our colleagues, we might be able to avoid some of the difficulties we are having in this situation. I do not think anyone really gains from this sort of debate. But if it had been debated from the very beginning, certainly on the Con-Rail bill, I think I could have offered some constructive suggestions on that bill, because there were some things I was very vitally interested in.

I do not think we ought to continue this practice of debating bills and saying we cannot accept any amendment because it would cause it to go to the conference committee. I do not think we ought to say, "Your amendment, Senator, is a good amendment, but, if we accept it, it will have to go to the conference committee."

Someone offered an amendment here today that I favored. I am not sure who it was. It may have been Senator TAFT. Had that amendment passed I am satisfied I would have voted for this bill. That was the amendment requiring the city of New York to come forth by 1977 with a balanced budget. But no, as I understand the floor leadership, it was acknowledged that this might be a good amendment, but it would send it to a conference committee and delay it. I have heard that in almost every piece of crisis legislation since I have been in the Chamber of the Senate.

Mr. President, I am not alone in my frustrations in this matter. I thank the Chair.

Mr. CURTIS. Mr. President, this is a rather good-sized bill. It involves something over $2 billion. I rise for the purpose of stating my position on it and reason for the position that I take.

It is not the fault of those who oppose this measure that the time is running out. If those in charge of the government of New York City did not know months, months, and months ago that this crisis was upon them, they certainly are not competent to handle the money this Congress is about to appropriate for them.

My feelings go out to the taxpayers of New York. The President, I think, very rightly put a burden on them to do something about balancing their budget, but the wrong remedy was applied. Instead of lessening expenditures to the fullest extent that could have been done, they imposed more taxes on them that causes a further strangling of business and activity in New York which may—I hope it will not—curtail and lessen the revenues they take in.

The illness that has brought New York to its knees has already infected the Federal Government. In broad terms, it can be described as the welfare State. Life may become more sophisticated and complicated, but the basic laws of nature and the basic economic laws never change. When life was primitive, an individual either had to produce his own food, build his own house, secure his own fuel, make his own clothes, or someone else had to do it for him.

That is still true today, even though we live in a time of credit cards, retirement benefits, credit, checks, and so on.

The laws of nature and the economic laws that said to primitive man, "You are going to have to kill your own game to eat, you are going to have to chop down trees to build your own house, and you are going to have to get hides and wool to make your own clothes, or somebody else will have to do it for you," still prevail and Congress or no one else can repeal them.

The life span has increased, and I am happy we live in a day when children and young men are relieved of the burdens of supporting themselves, and they can receive an education, have some time to play, and enjoy things. But under ideal circumstances they are probably close to 25 years of age before they take on the responsibility of carrying their load for people to have the necessities of life.

If some politicians to gain favor for themselves vote for a program that retires people at 20 years at age 45; they are having someone else to do the work, provide the food, the clothing, the shelter, and so on.

The average life is increasing. As to someone who reaches the so-called retirement age of 65, if he is a man he has a life expectancy of 9, 10, or 11 years; if she is a women, she has a remaining life expectancy of about 14 years.

So we end up with a short span of 20 years of productivity, with a life span of close to 70 years. It puts an unbearable burden on the people who do produce.

A lot of cities do it besides New York. We should not point our fingers at New York too much. If mayors and candidates for the office of mayor, councilmen, and others, in order to have themselves elected, yield to pressure groups and say, "Even though the life span may be 70 years, we are going to vote in a system where you only have to produce 20 and then you will get a check so that all these necessities will be provided for you," that city or that society is headed for chaos.

On the subject of pensions alone, the average large American city spends 10 percent of its budget for pensions. It is reported that New York spends 20 percent of its budget on pensions.

In this huge Federal budget of ours only 11 cents out of a dollar goes for general government, and 27 cents out of every dollar goes for the defense of the country, and that is getting smaller all the time. Two years ago it was about 29 cents. Ten years ago it was 40 cents out of a tax dollar that went for defense. The great bulk of our budget is going for payments to individuals, States, and localities. It is for providing.

Ten years ago the amount of our expenditures, sending checks to States and subdivisions was $11 billion. Today it is $55 billion.

It has not solved New York's problem. It has not solved anyone else's problem. It has created inflation, so that whether someone is a county commissioner or a city councilman, when he has repairs on a public building, or something else, it costs several times more than it used to. We have not given them a thing because we have given with borrowed money in order to bring about these programs. We have taken on the concept of big Government which means inflation, worthless money.

The Federal Government has done this in many fields. We embarked on a program of providing free medicine and hospitals, or nearly so, for everyone over 65 regardless of their financial conditions.

Some people are very wealthy at 65. A great many people have fewer obligations at that age than at any other time. Their homes are paid for. Their life insurance has already been established. Their children are educated. Yet, we chose to tax those who are producing, to provide free medicine for everybody just because of the date of their birth.

Mr. President, is there any wonder that the Federal Government's retirement programs, disability payments, unemployment compensation, and social security, which 10 years ago cost us $30 billion, next year will cost $120 billion?

I said that the wrong remedy had been applied in New York. In order to bring about a balance or a near balance, taxes were imposed on the people. What should have happened was that some of the excesses should have been corrected.

I do not know what goes on in New York. I do know that if there has been any major overhauling of the pension programs, I have not read about it. I do not think anyone here will dispute the fact that the tax on real estate is an important source of revenue, not only for cities but also for all States and local governments. How can the value of real estate be maintained and new real estate developed under a system of rent control? I have not heard anything about a retreat from that program in New York.

Mr. President, almost every State in the Union is having difficulty maintaining its institutions of higher education. They have to increase tuition fees because they cannot afford to give it away free. I am a firm believer in the church college and the private college. I think it has a very important place. But this whole movement toward big government, toward deficit financing, toward living beyond its means by the Government of the United States, has so lessened the value of our money that it takes a great deal more money to run a church college now than it did before.

Many fine, sturdy parents who had hoped to send their son or daughter to the college of their choice, to a small college, to a college whose curriculum fits in with what the parents desire, have to forgo that because the Government of the United States has created so much inflation that the costs are prohibitive.

I recall one night session in this body several years ago. It was about midnight, and we passed an education bill. How we loved the young people! We were going to give them an eduaction and lend them money to do it.

I made a short speech that night. I said that I thought it was hypocrisy, that the Congress of the United States did not even pay for running the Government; yet, we were pretending to give the students something. We gave them something, all right. We doubled or tripled the cost of education.

A little while ago, I mentioned our excesses in medical programs. By the time the old people pay their deductible and their cash payment for part B of medicare and their coinsurance, they are paying more for medical care now than they did before medicare was passed. One of the reasons is that in our desire to be generous and to be reelected, we gave them so much that we did not have the money, and we borrowed the money. We lighted the fires of inflation; and this very night, there are people in the hospital and people who should go to the hospital, without money or property, and they do not know where they are going to get the $92 for the deductible payment on their hospital bill. They do not know whether they can pay the monthly sum for part B. They do not know whether they can carry their part of the coinsurance—20 percent, or whatever it is.

I would not accuse the Congress of the United States of being hypocritical. I think that would be harsh and in violation of the rules. But, Mr. President, I can think of it.

We brought in a system of Government medicine and said that we were going to do something to people. We did. We made it so that it is most difficult for a poor person to pay his share for medical care. Prior to this Government program, we operated on the principle that every person who could not get adequate medical care from his own resources should have it provided, and it was provided, and it was provided in full. But we took on a system of providing it for everybody—those who do not need it all—and consequently there is not enough money to take care of the poor of the country and pay the total cost.

On top of that, our excesses in spending have so lessened the value of the dollar that every manager and administrator of a hospital is finding it most difficult to get enough money to keep the institution going. Look at how much more it is costing for the doctor to send out his bills. Postage has tripled. Under present conditions, he cannot expect the bills to be delivered first-class.

Mr. President, the President was right in bearing down on New York. They should do some things to help themselves. But instead of going at their programs that caused the situation, they came in and said, "We will further stifle our own people."

I think that the taxpayers of New York State and the taxpayers of New York City have been treated shamefully. Have we not come to a sorry pass over this issue? A mayor of New York City might be guilty of having added a billion dollars a year to the budget for New York City, and there is not one word of criticism. It is not even mentioned. Who is the villain? The President of the United States.

This did not happen overnight. I am sure that the leading citizens of New York could have known that it was coming a long time ago. After all, the Nation is sort of proud of New York. There was a time when if somebody in America needed a lawyer, he had better go to New York. That is where is located the headquarters of the brains that run our giant corporations. That is where is located all the television networks that decide what information the country should have.

There is great cultural leadership. How come they cannot run local government? Mr. President, I respect the views of those who totally disagree with my line of reasoning, who feel that we ought to appropriate this sum, and maybe a lot more, to help New York. But I say to them, we should do it in a responsible way. The amendment offered by the distinguished Senator from Oklahoma (Mr. BARTLETT) for a thorough investigation and audit ought to have been passed. We owe it to the people of New York City to go to the bottom of all the problems and see what remedies can be supplied.

This operation in the Senate has been sort of a mutual protective exercise to protect fellow politicians, to protect the politicians of New York City from the errors of their own ways. We are not protecting New York, its business, its property rights, its people. Why, we refuse to go into any matter that might point to what was wrong.

We are now in a position of saying, "If you will further stifle your State and city with more taxes, we will borrow some more money and loan it to you."

Mr. President, there is a small town in Nebraska. It has one bank. They also have a village drunk, and about once a week, he comes into the bank and insists on loaning them money.

Mr. President, the Federal Government has not any money to loan. Fifty cents out of every dollar that we spend this year will be borrowed money. Ten years ago, the interest on the national debt was about $10 billion. This year, it is over $35 billion. I believe that this disease that has brought New York to such a sorry pass is in a farther advanced stage with the Federal Government than most of us like to admit. I believe that we have extended ourselves too far.

I do not think we shall ever find the answer by debating the budget and debating whether or not we shall have a $60-billion deficit or a $70-billion deficit. We cannot live with either one, because a deficit of the smaller figure keeps a bigger government going than we can afford and leads to a bigger government the next year. That is why the junior Senator from Nebraska has introduced—and I have cosponsored, and there is a tremendous amount of support back in the grassroots for it—a constitutional amendment that would compel the Congress of the United States to live within its means. Most States have it. They had chaos before they adopted such a system.

I believe that if politicians had to collect the taxes or not spend, it would be a very wholesome situation. I think that then, programs would be analyzed, corrections would be made, waste would be stopped. And furthermore, I believe that we would establish some priorities. We would say, these programs are absolutely essential; this group is very essential; here are some that are desirable, but we cannot afford them. As long as we flirt with the idea that we can live with a deficit of any size, there will be no such restraint.

Mr. President, I respect the views of those who believe in a lot more government than I do, but I cannot understand why we can advocate and enact and enjoy more government than we are willing to collect the money for. I do not think that the Members of the House and the Senate would think of charging their living expenses to their children and their grandchildren. Why should they charge to future generations the cost of government? It is just plain dishonest.

This life of deficits, high taxes, tremendous interest loads, and inflation brought trouble to New York. Does anybody think that the U.S. Government can avoid such trouble? This New York matter is a national issue—not because of New York. It is a national issue because of what all the principles involved mean to the United States of America.

Mr. President, it is not necessary that the Federal Government wet-nurse everything in the United States or be the final payer.

The distinguished present Presiding Officer of the Senate represents one of the great agricultural States in the Union. What happened about a year ago? About the third largest meat-packing plant in the country went broke. Millions and millions of dollars of no-fund checks are floating around Iowa and Nebraska. There were farmers that had to go in and mortgage their farms to pay the bank. They had sold their livestock to the American Beef Packers. They got a no-fund check, so they had to mortgage their farms and, in some instances, put a second mortgage on, because they were already mortgaged.

One of the most heart-rending experiences I have ever had was the hearing we had out in Omaha. A mother was on the stand and she told how their son, who had started out as a 4-H clubber and had had some calves and built up a herd to 39, sold them and got a no-fund check.

Mr. President, almost a year has gone by and those checks are still not cashable. They are trying to work out a settlement. There was not anybody in the congressional delegation, House or Senate, from the States involved who arose in their places and said, "Mr. President, I send a bill to the desk to take care of these people who, unless a settlement can be worked out, are ruined for their entire lives."

A sad situation, but no one contended that it should be picked up and borne by the Treasury of the United States.

Other communities and cities and school districts in the past have run out of money. The intelligence and the leadership in their communities have met the issue.

They have gone to the bottom of problems so that people have confidence in them. They have issued scrip to schoolteachers and to other people. The merchants have accepted that scrip until the day that it could be paid off.

How are we to have such a feeling for the city of New York that we would say they do not have the intellect and leadership to do the same thing?

If New York is competent to be the place of leadership for America's business, why can it not operate local self-government? Why did they wait?

Mr. President, I am sure many of us have been quite disgusted at some of the lobbying practices that have taken place. I tune in the television—though not very often—and it has been rather insulting to have a master of ceremonies degrade the President of the United States, to imply that everybody who did not agree with him on how this crisis should be met was an ignoramus and was operating on prejudice against the great city of New York.

Just today a letter came to my office from an official in New York City that said, "We are enclosing a list of contracts that the State of Nebraska has in New York."

What does an argument like that have to do with the justice or the soundness of a proposal?

Mr. President, I am thoroughly convinced that the remedy that has been applied here is a disservice to New York and the taxpayers there. We are condoning the answer so far given, to give them higher taxes instead of correcting the excesses in government. I am thoroughly convinced it sends a wrong signal to the country, to the taxpayers of the United States. It sends them a signal that says, "Do not worry about these excesses. Do not worry about the extravagances of government. Do not worry about deficits and deficit financing. That is just a bunch of old fogies who tell you that is what causes inflation and gets everybody in trouble."

Mr. President, in yielding the floor, I want to say that I do not dislike New York. I am speaking in defense of New York. I believe the citizens and the taxpayers of New York have been shamefully treated and there has been no genuine effort to go to the root cause of the trouble and make a correction.

I yield the floor.

The ACTING PRESIDENT pro tempore (Mr. CULVER). Who yields time?

Mr. ALLEN. Mr. President, I suggest the absence of a quorum. The clerk will please note only nine Senators are present in the Chamber.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, with the understanding that no motion would be in order or any transaction of business, I ask unanimous consent that there be a brief period for the transaction of routine morning business.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 10:18 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House insists upon its amendments to the joint resolution (S.J. Res. 121) to provide for quarterly adjustments in the support price of milk, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. JONES of Tennessee, Mr. VIGORITO, Mr. BOWEN, Mr. NOLAN, Mr. BALDUS, Mr. KREBS, Mr. MCHUGH, Mr. BERGLAND, Mr. WAMPLER, Mr. JEFFORDS, and Mr. KELLY were appointed managers of the conference on the part of the House.

At 12:30 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the bill (H.R. 10612) to reform the tax laws of the United States, in which it requests the concurrence of the Senate.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. CULVER) laid before the Senate the following letters, which were referred as indicated:

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Personnel Management in the Small Business Administration" (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

REPORT OF THE SMALL BUSINESS ADMINISTRATION

A letter from the Acting Administrator of the Small Business Administration transmitting, pursuant to law, the 1975 annual report of the SBA (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

REPORTS OF THE NATIONAL RAILROAD PASSENGER CORPORATION

Two letters from the Vice President of the National Railroad Passenger Corporation transmitting, pursuant to law, two reports on the operations of Amtrak for the months of August and October 1975 (with accompanying reports); to the Committee on Commerce.

PROPOSED ACTS OF THE COUNCIL OF THE DISTRICT OF COLUMBIA

Three letters from the Chairman of the Council of the District of Columbia each transmitting, pursuant to law, a copy of act adopted by the Council (with accompanying papers); to the Committee on the District of Columbia.

REPORT OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION

A letter from the Chairman of the Overseas Private Investment Comporation transmitting, pursuant to law, the annual report of the Corporation for the fiscal year 1975 (with an accompanying report); to the Committee on Foreign Relations.

INTERNATIONAL AGREEMENTS OTHER THAN TREATIES

A letter from the Assistant Legal Adviser for Treaty Affairs of the Department of State transmitting, pursuant to law, copies of international agreements other than treaties entered into within the past sixty days (with accompanying papers); to the Committee on Foreign Relations.

PROPOSED LEGISLATION BY THE GENERAL SERVICES ADMINISTRATION

A letter from the Acting Administrator of the General Services Administration transmitting a draft of proposed legislation to provide that Federal agencies may relinquish all or part of the legislative jurisdiction of the United States over lands and interests under their control, and for other purposes (with accompanying papers); to the Committee on Government Operations.

REPORT OF THE SECURITIES AND EXCHANGE COMMISSION

A letter from the Assistant General Counsel of the Securities and Exchange Commission transmitting, pursuant to law, a report relating to the alteration of the Commission's Name-Relationship Index System (with an accompanying report); to the Committee on Government Operations.

REPORTS OF THE COMPTROLLER GENERAL

Seven letters from the Comptroller General of the United States each transmitting a report entitled as follows: (1) Department of the Interior Improves Its Financial Disclosure System for Employees"; (2) "More Improvement Needed in Equipment Management Practices in Government Laboratories"; (3) Classification of Federal White-Collar Jobs Should Be Better Controlled"; (4) "Action Being Taken To Correct Weaknesses in the System of Paying Taxes on Acquired Residential Porperties"; (5) Disincentives to Agricultural Production in Developing Countries"; (6) Federal Materials Research and Development: Modernizing Institutions and Management"; and (7) "Management of the Civilian Health and Medical Program of the Uniformed Services Needs Improvement" (with accompanying reports); to the Committee on Government Operations.

Reports of the Federal Energy Administration

Two letters from the Administrator of the Federal Energy Administration, each transmitting a report, pursuant to law, relating to changes in the market shares of statutory categories of retail gasoline marketers and changes in market shares for petroleum products (with accompanying reports); to the Committee on Interior and Insular Affairs.

Report of the Department of the Interior

A letter from the Director of Territorial Affairs of the Department of the Interior transmitting, pursuant to law, a report on the activities of the Guam Development Fund Act of 1968 for the fiscal year 1975 (with an accompanying report); to the Committee on Interior and Insular Affairs.

Report of the Department of the Interior

A letter from the Assistant Secretary of the Interior transmitting, pursuant to law, a report relating to matters contained in the Helium Act (with accompanying report); to the Committee on Interior and Insular Affairs.

Proposed Contracts for Research Projects

Two letters from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, two proposed contracts for research projects (with accompanying papers); to the Committee on Interior and Insular Affairs.

Orders of the Immigration and Naturalization Service

Two letters from the Commissioner of the Immigration and Naturalization Service transmitting lists of orders approving visa petitions and suspending deportation in the case of certain aliens (with accompanying papers); to the Committee on the Judiciary.

Housing Needs of Handicapped Individuals

A letter from the Chairman of the Architectural and Transportation Barriers Compliance Board transmitting, pursuant to law, a report entitled "Housing Needs of Handicapped Individuals" (with an accompanying report); to the Committee on Labor and Public Welfare.

Reports of the Secretary of Health, Education, and Welfare

Two letters from the Secretary of Health, Education, and Welfare each transmitting, pursuant to law, a report entitled as follows: (1) "Legal Barriers to the Effective Delivery of Emergency Medical Services"; and "National Institute on Alcohol Abuse and Alcoholism" (with accompanying reports); to the Committee on Labor and Public Welfare.

Reports of the Department of Health, Education, and Welfare

Four letters from the Acting Executive Secretary to the Department of Health, Education, and Welfare each transmitting, pursuant to law, published regulations regarding various aid to education programs administered by the Department (with accompanying papers); to the Committee on Labor and Public Welfare.

Prospectus of the General Services Administration

A letter from the Administrator of General Services transmitting, pursuant to law, a prospectus proposing a two-year extension for space presently occupied at 30 West Broadway, New York, New York (with accompanying papers); to the Committee on Public Works.

Report of the Director of Selective Service

A letter from the Director of Selective Service transmitting, pursuant to law, the semiannual report of the Director of Selective Service for the period January 1 through June 30, 1975 (with an accompanying report); to the Committee on Armed Services.

Proposed Loans by the Rural Electrification Administration

A letter from the Administrator and a letter from the Acting Administrator of the Rural Electrification Administration transmitting, pursuant to law, surveys in connection with proposed loans for the financing of certain generation and transmission facilities (with accompanying papers); to the Committee on Appropriations.

Proposed Legislation by the Central Intelligence Agency

A letter from the Director of the Central Intelligence Agency transmitting a draft of proposed legislation to amend the Central Intelligence Agency Retirement Act of 1964 for certain employees (with accompanying papers); to the Committee on Armed Services.

Report of the General Services Administration

A letter from the Acting Assistant Administrator of General Services transmitting, pursuant to law, the semiannual stockpile report on strategic and critical materials stockpiling program for the period January 1 through June 30, 1975 (with an accompanying report); to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Public Welfare, with an amendment:

S. 988. A bill to amend the Public Health Service Act to revise and extend programs of the National Heart and Lung Institute and National Research Service Awards (Rept. No. 94–509).

By Mr. PASTORE, from the Committee on Commerce, with amendments:

S. 2554. A bill to amend Public Law 93-107 with regard to the broadcasting of certain professional sports clubs' games (Rept. No. 94–510).

By Mr. McCLELLAN, from the Committee on Appropriations, with amendments:

H.R. 10647. A bill making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes (Rept. No. 94–511).

By Mr. McGEE, from the Committee on Post Office and Civil Service, with amendments:

H.R. 8617. A bill to restore to Federal civilian and Postal Service employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes (together with minority views) (Rept. No. 94–512).

By Mr. BURDICK, from the Committee on the Judiciary:

S. 2752. An original bill to improve judicial machinery by reorganizing the fifth judicial circuit, by creating additional judgeships in that circuit, and for other purposes (together with separate views) (Rept. No. 94–513).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare:

Charles Pence Slichter, of Illinois, to be a member of the National Science Board, National Science Foundation.

Ethel Bent Walsh, of the District of Columbia, to be a member of the Equal Employment Opportunity Commission.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before and duly constituted committee of the Senate.)

Mr. WILLIAMS. Mr. President, as in executive session, I also report favorably, from the Committee on Labor and Public Welfare, sundry nominations in the Public Health Service which have previously been printed in the Congressional Record and I ask unanimous consent, to save the expense of printing them on the Executive Calendar, that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the Record of July 18, 1975, at the end of the Senate proceedings.)

HOUSE BILL REFERRED

The bill (H.R. 10612) to reform the tax laws of the United States was read twice by its title and referred to the Committee on Finance.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolution were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. PHILIP A. HART:

S. 2747. A bill to promote reasonable rates for electricity and conservation of scarce capital and energy resources, and for other purposes. Referred to the Committee on Commerce.

By Mr. KENNEDY (for himself, Mr. Javits, Mr. Williams, Mr. Schweiker, Mr. Beall, Mr. Hathaway, Mr. Taft, and Mr. Randolph):

S. 2748. A bill to revise title VII of the Public Health Service Act, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. HUDDLESTON (for himself and Mr. Ford):

S. 2749. A bill to amend section 142 of title 28, United States Code, relating to the furnishing of accommodations to judges of the courts of appeals of the United States. Referred to the Committee on the Judiciary.

By Mr. NELSON:

S. 2750. A bill to extend the authorization for the Teacher Corps, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. CHURCH:

S. 2751. A bill to reform the food stamp program. Referred to the Committee on Agriculture and Forestry.

By Mr. BURDICK, from the Committee on the Judiciary:

S. 2752. An original bill to improve judicial machinery by reorganizing the fifth judicial circuit, by creating additional judgeships in that circuit, and for other purposes. Placed on the Calendar.

STATEMENTS ON INTRODUCED BILLS AND RESOLUTIONS

By Mr. PHILIP A. HART:

S. 2747. A bill to promote reasonable rates for electricity and conservation of scarce capital and energy resources, and for other purposes. Referred to the Committee on Commerce.

THE ELECTRIC UTILITY RATE AND STRUCTURAL REFORM ACT OF 1975

Mr. PHILIP A. HART. Mr. President, electricity comprises about one-fourth of our total energy usage and is essential to the prosperity and welfare of the United States.

Yet rates for electricity have increased at a frightening pace. Between January 1973 and January 1975, rates for large residential customers rose nearly 50 percent. In general, electricity rates increased more during 1974 than during the preceding 25 years combined.

What was lost by consumers was not gained by investors. Most of the rate increases have been absorbed by rising fuel and capital costs. However, these rising rates also reflect reduced efficiency.

The capacity utilization rates of electric utilities have fallen to a level of 49 percent, with the result that rates must stay at high levels to support idle capacity. This inefficiency is neither tolerable nor necessary.

The Federal Energy Administration has calculated that rate reform, coupled with effective load management techniques, can raise utilization rates to 57 percent, reduce electric utility capital requirements by $48 billion, and result in a savings of 1.3 million barrels of oil a day, all within 10 years. In sum, through improved management and enlightened public policy, rate increases due to inefficiency can be prevented while scarce energy and capital resources are conserved.

There is also evidence that regulation has failed to adequately protect consumers of electricity and that competition might be more effective in performing this task. One independent study calculated that regulation had reduced rates at most by 5 percent below the level which would prevail if the monopolistic electric utility industry were completely unregulated. In contrast, the value of competition was demonstrated in a classic case in which removal of a barrier to competition through intervention by the Justice Department resulted in wholesale rates for electricity lower than those obtainable under regulation.

The Electric Utility Rate and Structural Reform Act of 1975, which I introduce today, is designed to respond to these concerns. The bill seeks:

First, to increase efficiency in the electric utility industry, thereby conserving scarce energy and capital resources and reducing the need for further rate increases; second, to insure that rates for electricity reflect true costs of services; and third, to foster competition to supplement existing regulation, thus providing greater protection to consumers of electricity.

This bill enables the Federal Energy Administration to hasten adoption of rate reform by major electric utilities. It accomplishes this task without infringing on the authority of State regulatory agencies and without significant cost to taxpayers.

This bill also allows the Federal Power Commission to accelerate development of a national grid system and foster both competition and coordination through more effective use of electric transmission facilities. However, this bill does not require expansion of generating facilities and does not expand the rate authority of the Federal Power Commission.

In sum, this bill seeks to insure that consumers of electricity enjoy the cheapest, most efficient service consistent with conservation of scarce energy and capital resources and with protection of the environment. I ask unanimous consent that the bill, an accompanying section-by-section analysis, and questions and answers be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2747

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Electric Utility Rate and Structural Reform Act of 1975".

TITLE I—DECLARATION OF POLICY AND DEFINITIONS

FINDINGS

SEC. 101. The Congress finds and declares that:

(1) a reliable supply of electrical energy at reasonable rates is essential for economic prosperity and the general welfare of the United States;

(2) rates for electricity increased dramatically during 1973 and 1974;

(3) increases in rates for electricity have resulted in lower capacity factors for utilities which in turn have led to requests by utilities for still higher rates;

(4) rate reform, accompanied by effective load management techniques, can result in subtantial savings of scarce energy and capital resources;

(5) studies by independent economists indicate that regulation has not adequately replaced competition in protecting consumers of electricity;

(6) increased competition among electric utilities for wholesale and industrial sales can complement existing regulation in providing protection for consumers of electricity;

(7) the practice of vertical integration by electric utilities has reduced opportunities for competition in wholesale markets; and

(8) the electric utility industry possesses considerable potential for direct competition in wholesale and industrial markets and yardstick competition in residential and commercial markets.

POLICY

SEC. 102. The purposes of this Act are:

(1) to promote more efficient use of scarce capital and energy resources by electric utilities;

(2) to institute rate reform and greater use of load management techniques and thereby prevent unnecessary increases in electricity rates;

(3) to promote rates for electricity based on marginal costs;

(4) to discourage the installation of inefficient electric generating facilities and simplify regulatory processes;

(5) to encourage the construction of least-cost electric generating facilities and maximum effective use of electric transmission facilities; and

(6) to foster increased use of competition as a complement to existing regulation.

DEFINITIONS

SEC. 103. As used in this Act:

(a) "capacity factor" means the ratio of (1) the net generation in kilowatt-hours of an electric power system for a calendar year to (2) the product of that system's average generating capacity in kilowatts multiplied by 8,760 hours (for a 365 day year) or 8,784 hours (for a leap year);

(b) "marginal cost" means the change in long run total cost which results when one more kilowatt of capacity is added to meet demand at the peak, one more kilowatt-hour of electric energy is delivered to users, and/or one more customer is added to the electric utility system;

(c) "load management" means the application of storage and control technologies and consumer practices, rendered more cost effective by rate reform based on marginal costs, to optimize electric utility system load factors;

(d) "load factor" means the ratio of (1) the net generation in kilowatt hours of an electric power system for a calendar year to (2) the product of that system's integrated peak load in kilowatts for that year multiplied by 8,760 (for a 365 day year) or 8,784 (for a leap year):

(e) "peak service" means service provided during the seasonal, daily, or hourly periods in which the consumption of electricity in a service area is at a maximum for the periods over which the peak is calculated;

(f) "class A electric utilities" are those investor owned electric utilities which have annual electric operating revenue of $2,500,000 or more;

(g) "class B electric utilities" are those investor owned electric utilities which have annual electric operating revenue of $1,000,000 or more but less than $2,500,000;

(h) "vertical integration" means the organizational form consisting of common ownership and operation of electric generating, transmission, and distribution facilities;

(i) "Administrator" means the Administrator of the Federal Energy Administration;

(j) "regulatory agency" means any agency of the Federal government, a State, the District of Columbia, or a territory or possession of the United States, or political subdivision thereof, which has jurisdiction to establish or regulate rates or charges for the sale of electric energy;

(k) "wheeling" means the transmission by one electric utility of electric energy generated by another electric utility and delivered to another electric utility or other wholesale customer. Ordinarily this means the receipt from and delivery to another system of equal amounts of energy but not necesarily the same energy;

(l) "Commission" means the Federal Power Commission;

(m) "generation" means the process of transforming other forms of energy into electric energy;

(n) "transmission" means the process of transporting electric energy from the sources of generation to bulk substations; and

(o) "distribution" means the process of subdividing bulk electric energy and delivering such energy to ultimate users.

TITLE II—LOAD MANAGEMENT PROCEDURES REGULATIONS

SEC. 201. (a) The Administrator shall prescribe regulations requiring that class A and class B electric utilities shall formulate and, to the maximum extent possible, implement and maintain rate reform and effective load management techniques, and to comply with this requirement—

(1) such electric utilities shall submit reports on rate reforms and load management techniques adopted in each calendar year and proposed for future years;

(2) such reports shall be submitted to the Administrator and appropriate regulatory agencies initially in June 1976 and in June of each subsequent year through 1980;

(3) such reports shall include, but not be limited to, detailed descriptions of efforts to implement and maintain electric rate differentials for (seasonal and diurnal) peak and off-peak service and the correspondence

of these rate differentials to differences in marginal costs of service;

(4) upon receipt of such reports from each such electric utility, the Administrator shall recommend to the utility and appropriate regulatory agencies actions to improve or extend use of effective load management techniques.

(b) No provision of this section is intended to abrogate the authority of Federal, State, or local regulatory agencies to review, amend, or otherwise regulate the rate levels and rate structures of electric utilities subject to their jurisdiction.

TITLE III—AMENDMENTS TO FEDERAL POWER ACT

SECTION 202 AMENDMENTS

SEC. 301. The portion of the first sentence of section 202(b) of the Federal Power Act (16 U.S.C. 824a (b)) prior to the colon preceding the proviso is amended to read as follows: "Whenever the Commission, after notice and opportunity for hearing, finds such action necessary to promote competition or otherwise in the public interest, it shall by order direct a public utility to extend or improve its transmission facilities, to establish physical connection of its transmission facilities with the facilities of one or more persons or municipalities engaged in the transmission or sale of electric energy, to sell energy to or wheel for or exchange energy with such persons or municipalities."

ADDITIONAL SECTION

SEC. 302. Title II of the Federal Power Act is amended by adding at the end thereof a new section as follows:

"CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

"SEC. 210 (a) No public utility or person which will be a public utility upon completion of any proposed construction and extension shall engage in the transmission of electric energy, or undertake the construction or extension of any facilities therefor, or acquire or operate any such facilities or extensions thereof, unless there is in force with respect to such public utility a certificate of public convenience and necessity issued by the Commission authorizing such acts or operations: *Provided,* That if any such public utility or predecessor in interest was bona fide engaged in transmission of electric energy on the date of enactment of this section and has so operated since that time, the Commission shall issue such certificate without requiring further proof that public convenience and necessity will be served by such operation, and without further proceedings, if application for such certificate is made to the Commission within ninety days after the date of enactment of this section. Pending the determination of any such application, the continuance of such operation shall be lawful. In all other cases, the Commission shall set the matter for hearing and shall give such reasonable notice of the hearing thereon to all interested persons as in its judgment may be necessary under rules and regulations to be prescribed by the Commission; and the application shall be declared in accordance with the procedure provided in subsection (c) of this section and such certificate shall be issued or denied accordingly: *Provided,* That the Commission may issue a temporary certificate in cases of emergency, to assure maintenance of adequate service or to serve particular customers, without notice or hearing, pending the determination of an application for a certificate, and may by regulation exempt from the requirements of this section temporary acts or operations for which the issuance of a certificate will not be required in the public interest.

"(b) Application for certificates shall be made in writing to the Commission, be verified under oath, and shall be in such form, contain such information, and notice thereof shall be served upon such interested parties and in such manner as the Commission shall, by regulation, require.

"(c) Except in the cases governed by either proviso contained in subsection (a) of this section, a certificate shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operation, sale, service, construction, extension, or acquisition covered by the application, if it is found that the applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of this title and the requirements, rules, and regulations of the Commission thereunder, and that the proposed service, sale, operation, construction, extension, or acquisition, to the extent authorized by the certificate, is or will be required to promote competition or to otherwise serve the present or future public convenience and necessity; otherwise such application shall be denied.

"(d) The Commission shall attach to the issuance of the certificate and to the exercise of the rights granted thereunder such reasonable terms and conditions as the promotion of competition and the public convenience and necessity may require, including standards for reliability of service, capacity requirements, and availability of the certified transmission facilities for use by other persons engaged in the transmission or sale of electric energy.

"(e) When any holder of a certificate of public convenience and necessity cannot acquire by contract, or is unable to agree with the owner of property to the compensation to be paid for, the necessary right-of-way to construct, operate, and maintain facilities for the transmission of electric energy, and the necessary land and other property, in addition to right of way, for the location of equipment necessary to the proper operation of such transmission facilities, it may acquire the same by the exercise of the right of eminent domain in the district court of the United States for the district in which such property may be located, or in the State courts. The practice and procedure in any action or proceeding for that purpose in the district court of the United States shall conform as nearly as possible with the practice and procedure in similar action or proceedings in the courts of the State where the property is situated: *Provided,* That the United States district courts shall only have jurisdiction of cases when the amount claimed by the owner of the property to be condemned exceeds $100,000."

TITLE IV—MISCELLANEOUS

STUDY OF MEANS TO PROMOTE COMPETITION IN THE ELECTRIC UTILITY INDUSTRY

SEC. 401. The Commission shall complete, within two years of the date of enactment of this Act, a study of means to foster increased competition in the electric utility industry. This study shall consider, but not limit itself to, examinations of:

(a) means to promote greater use of wheeling and sales of electricity for resale;

(b) the feasibility, from a regulatory, economic and technological standpoint, of separately owned and operated facilities for the generation, transmission, and distribution of electric energy, respectively;

(c) the feasibility of separately owned and operated facilities for electric and gas distribution;

(d) means of eliminating territorial and contractual restrictions on sales of electric energy to distributors or large industrial customers;

(e) means of reducing or eliminating legal restrictions on entry into the generation of electric energy; and

(f) means to promote use of efficiency comparisons of electric distribution utilities by state and local regulatory commissions.

FEDERAL ASSISTANCE WITH ADDITIONAL COSTS

SEC. 402. The Administrator of the Federal Energy Administration is authorized to make grants to state or local regulatory agencies, in accordance with objective criteria and regulations established by the Administrator, in such amounts as are authorized and necessary to compensate such agencies for additional costs incurred in complying with Title II of this Act.

AUTHORIZATIONS

SEC. 403. (a) There is authorized to be appropriated to the Federal Power Commission an amount not to exceed $1,000,000 in any fiscal year to carry out the provisions of section 401 of this Act.

(b) There is authorized to be appropriated to the Federal Energy Administration an amount not to exceed $5,000,000 in any fiscal year to carry out the provisions of Section 402 of this Act.

(c) There are authorized to be appropriated such additional amounts as are necessary to carry out the provisions of this Act.

APPLICABILITY OF ANTITRUST LAWS

SEC. 404. All laws of the United States relating to unlawful restraints of trade and monopoly and to combinations, contracts, or agreements in restraint of trade are hereby declared to be applicable to the generation, transmission, and sale of electric energy.

SEVERABILITY

SEC. 405. If any provision of this Act or the applicability thereof to any entity or circumstances is held invalid, the remainder of this Act and the application of such provision to other entities or circumstances shall not be affected thereby.

SECTION-BY-SECTION ANALYSIS TO ACCOMPANY THE ELECTRIC UTILITY RATE AND STRUCTURAL REFORM ACT OF 1975

This bill is divided into four Titles. Title I contains findings, declaration of policy, and definitions. Title II enables the Federal Energy Administration to promote rate reform and encourage adoption of load management techniques. Title III requires certificates of convenience and necessity for utilities operating electric transmission facilities, thereby ensuring maximum efficient use of these facilities, and strengthens the authority of the Commission to order interconnection and wheeling of power. Title IV directs the Federal Power Commission to undertake a study of means to foster competition in the electric utility industry, provides grants to state agencies to facilitate compliance with Title II, and ensures continued surveillance of the electric utility industry by the Justice Department.

TITLE I—DECLARATION OF POLICY AND DEFINITION

Section 101 contains findings. Rates for large, residential users of electricity increased by nearly 50 per cent between January, 1973 and January, 1974. Reductions in electricity usage by consumers, in the face of higher rates, have occurred primarily during off-peak periods. As a result, the capacity utilization rates of electric utilities have declined, leading to pressure for still higher rates.

Federal Energy Administration calculations reveal that rate reform, accompanied by effective load management techniques, will raise capacity factors from 49 to 57 per cent, save 1.3 million barrels of oil per day, and forestall the need for $48 billion in capital expenditures.

Among the studies indicating lack of adequate consumer protection from regulation is that by Thomas Moore in the 1970 *Southern Economic Journal.* This study revealed that regulation has reduced electricity rates no more than 5 per cent below the private, unregulated monopoly level.

Instances of extensive industrial competition among electric utilities were presented in testimony and exhibits in the American Electric Power case, before the Securities and Exchange Commission, a few years ago. Evidence of the potential for wholesale competition among electric utilities is provided by the Bartow municipal utility example. In this instance rates for wholesale power were reduced through competition below the level available under regulation.

Vertical integration reduces the potential for competition because it necessarily means captive distribution facilities. Were distribution entities separate firms, they could "shop" for electricity and thereby obtain the best available terms and rates.

Yardstick competition occurs when enterprises operating in separate, but similar markets are compared in terms of prices, efficiency, etc. Such comparisons can be made, to some extent, by state regulatory agencies now; such comparisons could be made more easily if distribution entities were single-state, separate companies.

Section 102 presents policy goals. Essentially, this bill seeks reasonable rates, based on maximum efficiency, consistent with conservation of scarce energy and capital resources.

Marginal costs are the appropriate basis for rates, and rates not based on marginal costs lead not only to low capacity utilization rates, but also to the installation of high-cost, energy-wasteful generating facilities. Less than optimal facilities can also result if competition is thwarted, through vertical integration or otherwise, and electric utilities operate merely on a cost-plus basis.

Section 103 contains definitions of terms used in the Act.

Title II—Load Management Procedures Regulations

Section 201(a) requires annual reports from some 200-plus large, private electric utilities to the Federal Energy Administration for a period of five years, beginning in 1976. These reports will contain detailed analyses of rate reforms and load management techniques adopted by each utility during the given year and proposed for future years. The Federal Energy Administration will review these reports and offer criticism and suggestions to both electric utilities and state regulatory agencies.

These reports are designed to encourage use of peak load pricing and the redesign of rate structures to correspond with the incremental (i.e., true) costs of providing specific types of service. The words "marginal costs," defined in section 103, were used to ensure that inefficient and unfair methods of allocating fixed costs among customers were avoided. At present, customers who contribute most to the peak demand of electric utilities do not bear a fair proportion of the cost of installing the required generating equipment.

The words seasonal and diurnal were included because electric utilities have both seasonal (e.g., summer) and daily (e.g., three P.M.) peaks. Rates, to the extent possible, should reflect these seasonal and daily differences in long-run costs.

Section 201(b) is designed to ensure that the Federal Energy Administration is limited to suggesting reforms and that the various state commissions retain all existing powers to determine or approve rates.

TITLE III—AMENDMENTS TO FEDERAL POWER ACT

Section 301 alters section 202(b) of the Federal Power Act by enabling the Federal Power Commission, upon its own motion, to compel enlargement of electric transmission facilities, interconnection between separated utilities, and wheeling or sales of power. The existing proviso specifying no authority to compel expansion of generating facilities remains. Also remaining are a broad exemption if compliance would impair service to existing customers and a provision for adequate compensation to affected utilities.

This section will enable the Commission to eliminate bottlenecks in the development of our national grid system and promote the development of a larger, more competitive wholesale market.

Section 302(a) requires certificates of convenience and necessity for all electric transmission facilities, subject to an appropriate "grandfather clause." Sections 302(b) and (c) merely establish procedures for obtaining such certificates, while section 302(e) confers the power of eminent domain on the holder of a certificate. All four of these subsections parallel similar subsections contained in the Natural Gas Act.

Subsection (d) is the most important part of section 302. It makes electric transmission facilities *akin to* common carriers. Thus, to obtain a certificate, a utility must guarantee access to the transmission facilities by another utility who may, for example, want to use the facilities to transmit its own power to a third utility. Capacity requirements are included to forestall frustration of the wheeling and availability requirements due to inadequate capacity.

No new rate authority is established for the Federal Power Commission, since this agency already has the power to regulate both wholesale rates and charges for wheeling. The phrase "to promote competition" is included in Sections 301, 302(c) and 302(d) not only for emphasis and clarity, but to ensure that, for example, the newly granted power to compel wheeling (section 301) is not frustrated by excessive wheeling charges. Thus, if the Commission finds compulsory wheeling necessary to promote competition, it will—for consistency—have to use its existing authority to regulate wheeling charges effectively.

TITLE IV—MISCELLANEOUS

Section 401 specifies the major factors to be examined in a study of means to promote competition among electric utilities. The language was designed, not to promote a debate on the merits of competition, but rather to stimulate search for means to foster competition. The "feasibility" of vertical disintegration is an issue because such restructuring raises difficult issues concerning reliability of electricity supply, costs of necessary new financing, etc.

Section 402 enables the Federal Energy Administration to make grants, in amounts specified in Section 403(a), to state regulatory agencies. These grants could be used by the agencies to augment staffs, hire experts, and finance experiments in peak load pricing.

Minimal restrictions are imposed on the issuing of the grants. States vary considerably in the number and importance of large, private electric utilities within their domain. At the same time, restrictions based on criteria such as population could penalize states such as Vermont, which has been a leader in implementing rate reform. Finally, this is primarily a voluntary program, without penalties, and states will differ in the extent to which they desire to implement rate reform.

Section 403 provides a total of $2,000,000 over two years for the Federal Power Commission to complete the study required in Section 401.

Section 404 is included to ensure continued surveillance of the electric utility industry by the Department of Justice. Since Title III augments the regulatory authority of the Federal Power Commission for the purpose of promoting competition, future questions may arise about the need for and propriety of intervention by the Justice Department. Such intervention has served consumers well in the past and will still be needed in the future.

Questions and Answers To Accompany Electric Utility Rate and Structural Reform Act of 1975

1. Why is this bill necessary?

It's needed for several reasons:

First, electricity rates have increased at a rapid pace. To illustrate, from January 1, 1973 to January 1, 1975, residential rates for electricity increased:

(1) 32.5 per cent for consumption of 250 kilowatt hours per month,

(2) 42.8 per cent for consumption of 500 kilowatt hours per month,

(3) 45.8 per cent for consumption of 750 kilowatt hours per month, and

(4) 47.8 per cent for consumption of 1,000 kilowatt hours per month.

Second, the capacity factors (utilization rates) of electric utilities have fallen from 54 per cent in 1972 to 40 percent in 1974. These low utilization rates result from present rate structures, which do not adequately reflect true costs of service and which encourage the installation of excessive electric generating equipment. Under the present rate structure, efforts by consumers to conserve electricity, in the face of higher rates, have resulted in reduced capacity factors and requests by utilities for still higher rates.

Third, a Federal Power Commission study in December, 1974 estimated that expenditures by the electric power industry for new facilities over the next 15 years will total $650 billion. This estimate substantially overstates the need for new facilities since it was based on a study which failed to take account of the effect of actual and prospective rate increases or reforms of rate structures on electricity consumption or capital needs. Nevertheless, the clear implication was that, to reduce the need for further increases in electricity rates, either (1) efforts to reduce capital needs must be implemented, or (2) substantial financial aid must be provided to the electric utility industry.

Fourth, studies have disclosed that regulation of electric utilities fails to adequately protect consumers. One such study, by Thomas Moore in the 1970 *Southern Economic Journal* concluded that regulation had reduced electricity rates by at most 5 per cent below the level which would prevail if electric utilities were uncontrolled, private monopolists.

2. What is meant by rate reform?

Traditionally, rates for electricity have been block rates embodying quantity discounts: the more electricity consumed, the lower the price. Such rates were justified as reflecting the scale emonomies of electric utilities. Unfortunately, block rates—or for that matter constant or increasing rates per kilowatt-hour—do not adequately reflect the costs of providing electricity. The sale of additional electricity involves three basic costs: the cost of one more kilowatt of capacity, the cost of one more kilowatt-hour of electricity delivered to the user, or the cost of adding one more customer. These can be summarized as capacity cost, energy cost, and customer cost.

Rate reform would mean revising rates to reflect differences in these major cost categories. For example, if existing customers demand more electricity at peak times (e.g., 3 P.M. on July 1), more generating capacity must be added and capital costs are higher. In contrast, if customers demand more electricity during off-peak periods (e.g., 3 A.M. on December 1), no new capacity need be added. At present the same rate is charged at both times; thus, costs are not fairly apportioned and, since the utility has excess capacity most of the time, average rates are higher than they need be. With reform, different rates would be charged during peak and off-peak periods and these rate differences would reflect differences in costs.

Fortunately, variation in rates can be partially implemented now for all customers on a seasonal basis and for large customers on a daily or hourly basis, both without significant increases in metering costs. Complete implementation would involve significant metering costs, which is one of the major reasons this bill seeks rate reform on an essentially voluntary basis.

3. What can this bill accomplish?

It can encourage increased efficiency in the electric utility industry, thereby conserving scarce energy and capital resources and reducing the need for further rate increases. It can ensure that rates for electricity reflect the true costs of service. And, it can promote competition to complement existing regulation, thus providing greater protection for consumers of electricity.

The Federal Energy Administration, in testimony before the Senate Finance Committee on July 18, 1975, has calculated that rate reform, accompanied by effective load management techniques, would: (1) raise the capacity factors of electric utilities from 49 to 57 per cent; (2) reduce electric utility capital requirements by $48 billion; and (3) result in a savings of 1.3 million barrels of oil per day, all by 1985. Since capital expenditures must ultimately be paid by consumers, reducing these expenditures means lower (than otherwise) rates for consumers.

This bill would enable the FEA to encourage implementation of rate reform and load management techniques. It would also require electricity rates to be based on true costs of service. Thus, those consumers of electricity responsible for substantial additions to generating capacity would be required to pay the costs of installing such equipment. This would be both efficient and equitable.

Finally, greater reliance on competition would provide additional aid to consumers not adequately protected by regulation. One classic case demonstrates the potential for competition in this industry. Several years ago the Bartow, Florida, municipal utility, which for many years had purchased most of its wholesale power from the Florida Power Corporation, sought to put its total requirements from a neighboring company, Tampa Electric, at a lower rate. To keep Bartow's business, and that of other systems within transmission distance of Tampa Electric, Florida Power reduced its rates to meet those of Tampa. The new rate was lower than one that municipals had been able to negotiate after filing a complaint with the Federal Power Commission. It should also be noted that Florida Power offered the lower rate after the Justice Department had filed an antitrust suit against Tampa Electric and Florida Power to invalidate their territorial division of the wholesale power market.

This last fact explains why this bill also contains a provision ensuring continued surveillance of the electric utility industry by the Antitrust Division of the Department of Justice.

4. Will this bill reduce the power or authority of state regulatory agencies to review or determine retail rates?

No.

5. Does this bill confer new rate regulation authority on any federal agency?

No.

6. Who would be subject to this bill?

Title II, which deals with rate reform and load mangement, would apply to the 20-plus investor-owned utilities with annual revenues of $1 million or more. These large utilities account for approximately three-fourths of the total deliveries of electric energy to the ultimate consumer. The numerous small utilities, including all cooperatives and municipals, are excluded to keep administration of Title II manageable. We also anticipate that these other, typically smaller, utilities will emulate the practices adopted by the large utilities.

Title III, which amends the Federal Power Act, would apply to all those utilities currently within the jurisdiction of the Federal Power Commission.

7. What does Title II do?

Title II gives the Federal Energy Administration authority to require large electric utilities to prepare plans for rate reform and loan management techniques. The plans would be submitted to FEA and to the appropriate sale regulatory body. FEA would review the plans and make recommendations on implementing the plans. However, authority to require reform would be left to the state agencies.

The intent is to encourage utilities and state regulators to consider such reforms and speed their adoption by providing better information to state agencies, informing a state of successful reforms in other states, and generally making the expertise and resources of FEA available to utilities and state agencies.

There are no penalties for non-compliance. The program terminates after five years. By that time utilities and state regulatory agencies should be far enough along in reforming rate structures, etc. to proceed without further encouragement from the federal government.

8. What does Title III do?

Essentially, it gives the Federal Power Commission authority to regulate electric transmission facilities in the manner of a common carrier to promote competition and accelerate development of the national grid system which has been evolving over the years. Some specific examples of this new authority are the following. The Commission can: (a) order interconnection upon its own motion rather than wait for complaints; (b) compel one utility to wheel (i.e., transmit) electric power on behalf of another utility; (c) require a certified electric utility to expand its transmission facilities; and, (d) insist that the transmission facilities of a certified electric utility be available for use by other electric utilities.

On the other hand, Title III does not allow the Commission to: (1) require the enlargement of electric generating facilities; or (2) issue any order where effect would be to impair service to existing customers.

In addition, the Commission is required to apportion costs of compliance among affected utilities and fix compensation or reimbursement due any of them.

9. Why do we need a study of means to promote competition?

Title III, by making electric transmission facilities akin to common carriers, will eliminate some barriers to competition, such as those raised in the Otter Tail case some years ago. However, separately-owned and operated facilities for the generation, transmission, and distribution of electricity would create more competition which, in turn, might provide further benefits to consumers.

Such a separation would work this way: There would be no captive utilities. Each distribution company would shop around for the lowest cost source of bulk power. Generation companies would compete for wholesale customers. Long term contracts, with performance requirements to ensure reliability, would replace vertical integration. Consumers would cease to pay for generating equipment when it could no longer provide power at competitive rates, not when it had been fully depreciated for accounting purposes.

Besides vertical reorganization, elimination of territorial and contractual restrictions would foster greater competition. The study will seek means of eliminating such restrictions without infringing on the rights of individual firms or states.

Finally, vertical reorganization would simplify regulation by state agencies. Such agencies would no longer have to attempt regulation of gargantuan, multistate utilities. With state regulation confined to distribution companies, regulatory delays and similar problems would be substantially eliminated and comparisons with other distribution companies, regulated by other states, would be facilitated. Such comparisons would provide benefits comparable to the "yardstick competition" provided by publicly-owned electric utilities.

However, such a restructuring obviously raises a number of serious questions such as guaranteeing reliability, possible cost savings from current vertical integration, the effect on investments and costs to consumers during the transition period. The study would consider such questions in drawing up recommendations on restructuring the industry.

10. How much would this billl cost taxpayers?

Comparatively little.

The FPC study of means to promote competition would cost $2 million over two years. The Federal Energy Administration would be authorized to provide up to $25,000,000 over five years to state agencies to implement reforms.

However, this bill offers no multi-billion dollar tax credits, no forgiveness of taxes due on dividends, or other massive expenditures.

By Mr. KENNEDY (for himself, Mr. Javits, Mr. Williams, Mr. Schweiker, Mr. Beall, Mr. Hathaway, Mr. Taft, and Mr. Randolph):

S. 2748. A bill to revise title VII of the Public Health Service Act, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. KENNEDY. Mr. President, I am delighted today to introduce the administration's health manpower legislation. Joining me in cosponsoring this measure are seven distinguished members of the Committee on Labor and Public Welfare, Senators Javits, Williams, Schweiker, Beall, Hathaway, Taft, and Randolph.

In September of this year, Assistant Secretary for Health, Dr. Theodore Cooper, testified before the Health Subcommittee and presented the general outline of the new administration position respecting health manpower. His testimony was well received by the subcommittee. He has demonstrated remarkable leadership in the creation of the administration health manpower policy. The bill we are introducing today translates his testimony into legislative language. I am sure that all of the members of the Health Subcommittee will want to study this proposal carefully. It has a great deal of merit.

I look forward to continuing to work with the administration as the committee now begins its executive sessions during which time a comprehensive health manpower program will be created and approved by the committee.

Over the past 2 years, the subcommittee has considered the renewal of the authorizations for the major Federal health manpower programs. Over this time, the committee has identified four major problems that the legislation must address. These are: The geographic maldistribution of health professionals; the specialty maldistribution of physicians; the excessive reliance on foreign medical graduates; and the inadequacy of the state health manpower licensing programs.

The evidence for the extent of the problems in these four areas is impressive:

There are not enough doctors in rural areas; 60 percent, 312 of 510, of the State planning areas have an inadequate supply—less than 100 MDs per 10,000 residents—of physicians. The aggregate shortage of physicians in these 312 State planning areas exceeds 22,000 doctors.

More than 50 percent of the counties in the Nation had fewer doctors in 1970 than in 1960; 35 percent of physicians now practicing in rural counties are over 55 years of age and are expected to retire within 10 years. This will increase the shortage of physicians in rural areas by an additional 8,000 doctors.

Inner-city areas now have fewer than one-quarter of the physician supply of the affluent suburban areas. More than 10,000 additional physicians are now needed in inner-city areas.

The supply of physicians in inner-city urban areas has declined continuously since World War II. The number of physicians in the inner-city area of one city, Chicago, declined by 30 percent between 1950 and 1970.

There are not enough family practitioners and other primary care physicians. The American Medical Association has stated that 50 percent of new physicians should be in the primary care specialties. In the large prepaid group practices, 65 percent of physicians are in the primary care specialties; in Great Britain, the share is 75 percent. Only 38 percent of physicians in the United States are now practicing in the primary care specialties. And fewer still, only 31 percent of physicians now in training are in the primary care specialties.

Board certified surgeons in some areas now perform as few as 4 hours of surgery a week. The American College of Surgeons has called for a 23-percent reduction in surgical training positions.

One-third of the interns and residents in the country are graduates of foreign medical schools. In 1973, in 18 States more than 50 percent of new physician licenses went to foreign medical graduates. The quality of care provided by many foreign trained physicians is suspect, at best. Only 20 percent of foreign medical graduates entering the country can pass parts I and II of the National Boards Examination. Many do not speak good English.

The physician licensing system is inadequate. Only 12 physicians lost their licenses for malpractice or incompetence in 1973.

There are, however, certain aspects of the administration proposal which I cannot support.

These include:

The phaseout of capitation for schools of veterinary medicine, optometry, podiatry, and pharmacy. These schools provide important practitioners for America's health care system.

The Federal Government has a responsibility to continue to provide, in one form or another, support for their training activities.

The lack of adequate funding for schools of public health. For more than a decade the Federal Government has provided formula support for these schools. With the increasing realization that public and preventive health programs are the most effective means of improving the health of the American people, basic support for these schools should not be ended.

The phasing-out of much of the support for schools of allied health. These programs provide important personnel to support physicians, dentists, and other independent practitioners. While primary support for these programs must come from State and local sources, the Federal Government does have an important role to play which should not be terminated at this time.

The lack of new authority for the development of data concerning health manpower. It has become more than apparent over the past 2 years that we do not have adequate data concerning the location, activity, and need concerning health professionals. The development of such a data bases is essential at this time. A specific mandate for the procurement, analysis, and the dissemination of such data should be provided at this time.

The lack of any provision concerning the immigration of foreign physicians. It is clear that entirely too many of foreign trained physicians are immigrating to the United States. This situation robs many developing nations of desperately needed health manpower. At the same time, it results in a significant number of practitioners in the United States who cannot measure up to the standards met by graduates of U.S. schools.

The failure to establish a system to allocate residency training positions. Based on more than 4,000 individual programs, the current residency distribution system responds to the needs of hospitals and medical school departments and fails to take into account the needs of the people. Too many new physicians are now being trained in surgery and the subspecialties, and too few in the primary care areas. The Administration proposal fails to establish a comprehensive system to deal with this problem.

The insufficient authorization levels. While the Federal budget is limited, and additional funds may not be available for new programs, the total amount of funds for the Federal health manpower programs should not be reduced. In fiscal year 1975, $450 million was provided for health manpower programs. Given the extent of our problems in this area, this amount of funds should be continued to be provided for programs in this area.

I believe that it will now be possible to win approval in the committee and in the Senate for a health manpower bill which will address the major manpower problems which confront the Nation.

Mr. President, I ask unanimous consent that the text of the legislation be printed in the Record, together with a letter from Secretary of HEW Mathews to the President of the Senate, which highlights the major features of the legislation.

There being no objection, the bill and letter were ordered to be printed in the Record, as follows:

S. 2748

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Health Professions Education Amendments of 1975".

REVISION OF TITLE VII

Sec. 2. Title VII of the Public Health Service Act is amended to read as follows:

"TITLE VII—HEALTH PROFESSIONS EDUCATION

"Part A—Assistance for Expansion and Improvement of Health Professions Training

"Subpart I—Construction Assistance

"HEALTH TEACHING FACILITIES LOAN GUARANTEES AND INTEREST SUBSIDIES

"Sec. 701. (a) To assist nonprofit private entities to carry out construction projects for teaching facilities for the training of physicians, dentists, veterinarians, optometrists, podiatrists, and professional public health personnel, the Secretary may, during the period beginning July 1, 1971, and ending with the close of September 30, 1979, guarantee (in accordance with this section and subject to subsection (f)) to any non-Federal lender or the Federal Financing Bank which makes a loan to such an entity for such a project payment when due of the principal of and interest on such loan. The Secretary may make commitments, on behalf of the United States, to make such loan guarantees prior to the making of such loans. No such loan guarantee may, except under such special circumstances and under such conditions as are prescribed by regulations, apply to any amount which, when added to any grant under any provision of law of the United States, exceeds 90 per centum of the cost of construction of the project.

"(b) (1) To be eligible to apply for a loan guarantee to assist in the construction of any facility under this part, the applicant must be (A) (i) a nonprofit private school of medicine, dentistry, osteopathy, optometry, podiatry, veterinary medicine, or public health, and (ii) accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education, except that the requirement of subclause (ii) shall be deemed to be satisfied if (I) in the case of a school which by reason of no, or an insufficient, period of operation is not, at the time of application for a loan guarantee to assist in the construction of a facility under this section, eligible for accreditation by such a recognized body or bodies, the Commissioner finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of the first entering class in such school or, if later, upon completion of the project for which assistance is requested and other projects (if any) under construction or planned and to be commenced within a reasonable time, or (II) in the case of any other school, the Commissioner finds after such consultation and after consultation with the Secretary that there is reasonable ground to expect that with the aid of a loan guarantee under this section, having regard for the purposes of the loan guarantee for which application is made, such school will meet such accreditation standards within a reasonable time, or (B) any combination of schools which are described in and meet the requirements of clause (A).

"(2) Notwithstanding paragraph (1), in the case of an affiliated hospital or affiliated outpatient medical facility, an application which is approved by a school of medicine, osteopathy, or dentistry accredited as provided in paragraph (1)(A)(ii) with which the hospital or outpatient medical facility is affiliated and which otherwise complies with the requirements of this part may be filed by any nonprofit private entity.

"(c) A loan guarantee may be made under this section only upon an application (submitted in such manner and containing such information as the Secretary may by regulations require) approved by the Secretary. The Secretary may not approve an application for a loan guarantee unless he determines that the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States. The Secretary may not approve an application for a loan guarantee unless he determines that the loan would not be available on reasonable terms and conditions without the guarantee under this section. In the case of an application for a project for the construction of a facility intended, at least in part, for the provision of health services, an opportunity shall be provided for comment on the project by (A) the State health planning and development agency designated under section 1521, and (B) the health systems agency designated under section 1515 for the area in which such project is to be located, or if there is no such agency, such other public or nonprofit private agency or organization (if any) as performs, as determined in accordance with criteria of the Secretary, similar functions. Before approving or disapproving an application under this section, the Secretary shall secure the advice of the National Advisory Council on Health Professions Education.

"(d)(1) The United States shall be entitled to recover from the applicant for a loan guarantee under this section the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery; and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

"(2) To the extent permitted by paragraph (3), any terms and conditions applicable to a loan guarantee under this section may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

"(3) Any loan guarantee made by the Secretary pursuant to this section shall be incontestable in the hands of an applicant on whose behalf such guarantee is made, and as to any person who makes or contracts to make a loan to such applicant in reliance thereon, except for fraud or misrepresentation on the part of such applicant or such other person.

"(e) There is continued in the Treasury the loan guarantee and interest subsidy fund (hereinafter in this subsection referred to as the 'fund') established under former section 729, which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts, (1) to enable him to discharge his responsibilities under guarantees issued by him under this section or former section 729, and (2) for interest subsidy payments for which an agreement was entered into under former section 729 prior to July 1, 1974. There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required for the fund. There shall also be deposited in the fund amounts received by the Secretary or other property or assets derived by him from his operations under this section, including any money derived from the sale of assets. If at any time the sums in the fund are insufficient to enable the Secretary to discharge his responsibilities under guarantees issued by him under this section or to make interest subsidy payments for which an agreement was entered into under former section 729 prior to July 1, 1974, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, but only in such amounts as may be specified from time to time in appropriation Acts. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued hereunder and for that purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which the securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from the fund.

"(f) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under this section may not exceed such limitations as may be specified in appropriation Acts.

"(g) The Secretary, with the consent of the Secretary of Housing and Urban Development, may obtain from the Department of Housing and Urban Development such assistance with respect to the administration of this section as will promote efficiency and economy thereof.

"TECHNICAL ASSISTANCE

"SEC. 702. The Secretary may provide technical assistance (1) to applicants under this part and other entities in designing and planning the construction of any facility for which loan guarantees may be provided under this part, and (2) to planning agencies to plan programs for relieving shortages of training capacity for health personnel.

"SUBPART II—NATIONAL PRIORITY INCENTIVE GRANTS AND CAPITATION PHASE-OUT GRANTS

"SEC. 706. (a) GRANT COMPUTATION.—The Secretary shall make annual grants to schools of medicine, osteopathy, dentistry, optometry, podiatry, and veterinary medicine for the support of the education programs of those schools. The amount of the annual grant to each school with an approved application shall be computed for each academic year according to either clause (1) or clause (2), as follows:

"(1) Each school of medicine, osteopathy, and dentistry shall receive $1,500 for each full-time student enrolled in the school in the academic year preceding the academic year for which the grant is made.

"(2)(A) Each school of medicine, osteopathy, dentistry, optometry, podiatry, and veterinary medicine shall receive $1,000, $1,000, $1,000, $544, $644, and $1,166, respectively, for the academic year beginning in 1976 for each full-time student enrolled in the school in the academic year beginning in 1975.

"(B)(i) Each school of optometry, podiatry, and veterinary medicine shall receive, for the academic year beginning in 1977 for each full-time student enrolled in the school in the academic year beginning in 1976, 65 percent of the amount allotted per full-time student for each such school under subparagraph (A).

"(ii) Each school of medicine, osteopathy, and dentistry shall receive $500 for the academic year beginning in 1977 for each full-time student enrolled in the school in the academic year beginning in 1976.

"(C) Each school of optometry, podiatry, and veterinary medicine shall receive, for the academic year beginning in 1978 for each full-time student enrolled in the school in the academic year beginning in 1977, 35 percent of the amount allotted per full-time student for each such school under subparagraph (A).

In the case of a school that conducts a program designed to permit the student to complete, in more than four years, the requirements for the degree of doctor of medicine, osteopathy, or dentistry, only those students enrolled in the final four years of the school's program shall be considered enrolled in that school for the purposes of this section. In the case of a new school which applies under this section for a grant for the academic year in which it will admit its first class, the enrollment for purposes of this section shall be the number of full-time students which the Secretary determines, on the basis of assurances provided by the school, will be enrolled in that academic year.

"(b) APPORTIONMENT OF APPROPRIATIONS.—If the total amount of the grants to be made under subsection (a) for any academic year exceeds the amount appropriated under subsection (h) for the grants, the amount of the grant for that academic year to each school shall be an amount that bears the same ratio to the amount determined for the school for that academic year under subsection (a) as the amount appropriated for grants under subsection (h) bears to the total amount of the grants to be made under subsection (a) for that academic year.

"(c) CONDITIONS FOR GRANTS UNDER SUBSECTION (a)(1).—The Secretary shall not make a grant under subsection (a)(1) for any academic year to any school unless the application for such grant contains or is supported by reasonable assurances satisfactory to the Secretary that—

"(1) at least 15 percent of the places available for that academic year, if it begins in 1977, at least 20 percent, if it begins in 1978, and at least 25 percent, if it begins after 1978, for students in the first-year class shall be reserved for persons who prior to their admission by the school, agree in writing to submit applications for scholarships under the Health Service Scholarship Program, if admitted to that school (unless enrolled in the Armed Forces Health Professions Scholarship Program under chapter 105 of title 10, United States Code, no later than sixty days after admission), and agree in writing to accept such scholarships, if offered by the Secretary for a period of support of at least two academic years (unless enrolled in the Armed Forces Health Professions Scholarship Program under chapter 105 of title 10, United States Code, no later than sixty days after the Secretary of Health, Education, and Welfare has offered a scholarship under the Health Service Scholarship Program),

"(2) the school will establish or maintain a department or administrative unit with a major responsibility for ensuring that all students have, as a significant part of their education, training that stresses values of and approaches to providing continuous, comprehensive, and integrated health care,

"(3)(A) in the case of a school of medicine or osteopathy, at least 35 percent, for that academic year, if it begins in 1977, at least 40 percent, if it begins in 1978, and at least 50 percent, if it begins after 1978, of filled residencies (direct or affiliated), and (B) in the case of a school of dentistry, at least 50 percent, for that academic year, if it begins after 1976, of filled residencies (direct or affiliated) in excess of filled residencies for the academic year which began in 1975, will be in primary care, and

"(4) in the case of a school of dentistry, the school will maintain a first-year enrollment of full-time students for that academic year, if it begins after 1976, that will be not less than 105 percent of the school's first-year full-time enrollment for the academic year which began in 1975, or the school's first-year full-time enrollment for the academic year which began in 1975 plus ten students, whichever is greater.

"(d) CONDITIONS FOR GRANTS UNDER SUBSECTION (a)(2).—

"(1) The Secretary shall not make a grant under subsection (a)(2) to any school for any academic year if that school has been awarded a grant for that academic year under subsection (a)(1).

"(2) The Secretary shall not make a grant under subsection (a)(2) to any school for any academic year if that school has not been awarded a grant under former section 770 for the academic year beginning in 1975.

"(e) MAINTENANCE OF EFFORT.—The Secretary shall not make a grant under this section to any school for any academic year unless the application for such grant contains or is supported by reasonable assurance satisfactory to the Secretary that—

"(1) the school will maintain a first-year enrollment of full-time students for that academic year that will be not less than the school's first-year full-time enrollment for the academic year which began in 1975, and

"(2) the school will expand in carrying out its function as a health professions school during the academic year for which such grant is sought, an amount of funds (other than funds for construction as determined by the Secretary) from non-Federal sources which is at least as great as the average amount of funds expended by that applicant for that purpose (excluding expenditures of a nonrecurring nature) in the three academic years immediately preceding the academic year for which that grant is sought.

"(f) WAIVER OF GRANT CONDITIONS—The Secretary may waive (in whole or in part) any provision of subsection (c) or (e) if he determines, after consultation with the National Advisory Council on Health Professions Education, that the provision cannot, because of limitations of physical facilities available to a school for training, or because of other relevant factors, be enforced without lowering the quality of training provided by the school.

"(g) DEFINITION AND ENROLLMENT DETERMINATIONS.—

"(1) For purposes of this section, a student enrolled in the first year of the final four years of the program of a school described in the penultimate sentence of subsection (a) shall be considered a first-year student.

"(2) For purposes of this section, regulations of the Secretary shall include provisions relating to determination of the number of students enrolled in a school, or in a particular year-class in a school, or of the number of filled residencies in various fields in a school, as the case may be, on the basis of estimates or on such other basis as he deems appropriate.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $126,500,000 for fiscal year 1976, $123,400,000 for fiscal year 1977, $120,000,000 for fiscal year 1978, and $118,200,000 for fiscal year 1979 for grants under this section.

"Subpart III—Special Projects

"SPECIAL PROJECTS GRANTS AND CONTRACTS

"SEC. 711. (a) The Secretary may make grants to assist in meeting the costs of special projects—

"(1) to schools of medicine and osteopathy, and to public and private nonprofit hospitals, to establish or expand, in family medicine, direct or affiliated residency programs, clinical clerkships, supervised externships, or faculty development or improvement programs, and shall give special consideration to those applications which contain or are reasonably supported by assurances that a substantial portion of the experience of the residents in primary care of the school or hospital shall take place in ambulatory care settings which either are at sites geographically remote from the school or hospital or serve areas determined by the Secretary, under section 329(b)(1), to have critical health manpower shortages.

"(2) to schools of medicine, osteopathy, and dentistry, and to public and private nonprofit hospitals, to establish or expand, in general internal medicine, general pediatrics, general practice, general dentistry, or pedodontics, direct or affiliated residency programs, clinical clerkships, supervised externships, or faculty development or improvement programs, and shall give special consideration to those applications which contain or are reasonably supported by assurances that a substantial portion of the experience of the residents in primary care of the school shall take place in ambulatory care settings which either are at sites geographically remote from the school or serve areas determined by the Secretary under section 329(b)(1), to have critical health manpower shortages,

"(3) to schools of optometry, podiatry, and pharmacy to (A) develop affiliations with schools of medicine, osteopathy, or dentistry, (B) establish clinical training relationships with institutions providing health services (including nursing homes and home health agencies), (C) improve curricula, or (D) provide training in clinical pharmacy or pharmacology,

"(4) to schools of optometry, podiatry, pharmacy, and veterinary medicine to place graduates in areas which are determined by the Secretary, under section 329(b)(1), to have critical health manpower shortages,

"(5) to schools to provide graduate training in epidemiology, biostatistics, population studies, health education, environmental, occupational, and industrial health, and public health nutrition, and graduate training in health service systems planning and management, if that training includes training in quality and costs analysis and control, and in areawide health services planning, and shall give special consideration to those applications which contain or are reasonably supported by assurances that the school (A) is planning outreach activities in a sizable geographic region to work on a continuing basis with communities and health services systems and their components to both (i) analyze deficiencies in health resources, services, and status, and (ii) assist in designing and implementing remedies for those deficiencies, and (B) has or will notify State and area authorities that the school may be called upon to carry out those outreach activities,

"(6) to public and nonprofit private entities to (A) improve allied health professions training programs, (B) improve utilization of allied health professions personnel, or (C) develop uniform national standards for measuring professional competence for training or practice in the allied health professions, and shall give special consideration to those applications which contain or are reasonably supported by assurances that the school is training allied health professionals in fields which the Secretary has determined have critical health manpower shortages,

"(7) to schools of medicine, osteopathy, and dentistry, and consortia of any combination of schools of medicine, osteopathy, dentistry, and nursing, to train primary care physician extenders or expanded function dental auxiliaries in conjunction with the training of physicians or dentists, utilizing a curriculum designed to explore relative roles and identify and promote efficient task responsibilities, and shall give special consideration to those applications which contain or are reasonably supported by assurances that (A) the applicant will, as an integral part of its program, exert efforts to place graduates in areas determined by the Secretary, under section 329(b)(1), to have critical health manpower shortages, or (B) in the case of schools of medicine or osteopathy, or consortia including those schools, primary care physician extender students will be trained alongside (i) medical or osteopathic students serving externships, (ii) interns, or (iii) residents, in any case in settings which either are at sites geographically remote from the school or serve areas determined by the Secretary, under section 329(b)(1), to have critical health manpower shortages,

"(8) to consortia of health professions schools and health services providers, or to public or nonprofit private entities for the support of such consortia, to promote (A) community-based training of health professionals, (B) regional systems of continuing education, (C) rotation of health professions teaching staff to community health services facilities, or (D) programs to upgrade skills of health professionals in the community, and shall give special consideration to applications which contain or are reasonably supported by assurances that the project will involve participation by a school of medicine or dentistry, or the project will have from its inception some non-Federal support, include a plan to completely phase out Federal support within three years, and will assist in establishing a program of substantial size, impact, and duration,

"(9) to schools of medicine and osteopathy to establish or improve area health education centers affiliated with such schools,

"(10) to schools of medicine, osteopathy, and dentistry to establish or improve data transmisison and consultation linkages with remotely located rural physicians, osteopaths, and dentists,

"(11) to public and nonprofit private entities to assist, financially or otherwise, individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary, to undertake training in a health profession,

"(12) to schools of medicine and osteopathy to assist, financially or otherwise, United States citizens who have been enrolled in foreign schools of medicine and osteopathy to enter or remain in schools of medicine and osteopathy in the United States as full-time students with advanced standing,

"(13) to hospitals to provide persons employed by or associated with hospitals who are graduates of foreign schools of medicine and osteopathy with (A) intensive clinical instruction through negotiated contracts with schools of medicine and osteopathy, or (B) intensive instruction in the English language,

"(14) to schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, and public health, (A) to meet their costs of operation, if they are in serious financial straits, or (B) to meet accreditation requirements, if they have special need to be assisted in meeting those requirements,

"(15) to schools of medicine, osteopathy, and dentistry, to utilize innovative methods of training in medicine, osteopathy, and dentistry which are likely to cost less than customary methods of training, and to public and nonprofit private entities, to assist in meeting the costs of special projects to enable new schools of medicine, osteopathy, and dentistry to primarily utilize such innovative methods of training, and

"(16) to schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, public health, and the allied health professions, to assist in meeting the cost of special projects to (A) evaluate changes in admissions criteria as to the effect of such changes in selecting persons likely to practice in areas deficient in health manpower, (B) provide bilingual training to health professionals, (C) provide specialized training to health professions personnel in emergency health services, (D) demonstrate curriculum innovations, (E) develop or provide training focusing on the special problems of the aged or on the management of patients with chronic diseases, (F) provide interdisciplinary training, or (G) develop or provide training in the psychological and social aspects of substance abuse or sexually transmitted diseases.

"(b)(1) In making grants under subsection (a)(14), the Secretary shall give special consideration to those applicants which have been awarded grants under section 706(a)(1). In the case of a school that has received a grant under subsection (a)(14) or former section 773 in the immediately preceding fiscal year, the amount granted to that school under subsection (a)(14) in any fiscal year may not exceed 75 per centum of the amount granted to that school under subsection (a)(14) or former section 773 in that immediately preceding fiscal year.

"(2) Any grant under subsection (a)(14) may be made upon such terms and conditions as the Secretary determines to be reasonable and necessary, including requirements that the school agree (A) to disclose any financial information or data deemed by the Secretary to be necessary to determine the sources or causes of that school's financial distress, (B) to conduct a comprehensive cost analysis study in cooperation with the Secretary, and (C) to carry out appropriate operational and financial reforms on the basis of information obtained in the course of the comprehensive cost analysis study or on the basis of other relevant information.

"(3) An application for a grant under subsection (a)(14) must contain or be supported by assurances satisfactory to the Secretary that the applicant will expend in carrying out its function as a health professions school, during the period for which that grant is sought, an amount of funds (other than funds for construction, as determined by the Secretary) from non-Federal sources which is at least as great as the average amount of funds for such a period expended by that applicant for such purpose (excluding expenditures of a nonrecurring nature) in the three academic years immediately preceding the period for which that grant is sought. The Secretary may, after consultation with the National Advisory Council on Health Professions Education, waive the requirement of the preceding sentence with respect to any school if he determines that the application of that requirement to that school would be inconsistent with the purposes of subsection (a)(14).

"(4) The Secretary may provide to any school eligible for a grant under subsection (a)(14) technical assistance to enable the school to conduct a comprehensive cost analysis study of its operations, to identify operational inefficiencies, or to develop or carry out appropriate operational or financial reforms.

"(c) The Secretary may also enter into contracts with public or private entities to carry out projects described in this section (except for projects under subsection (a)(14)). Payments made by the Secretary pursuant to grants and contracts under this section may be made for (1) feasibility studies concerning and (2) planning for any projects described in this section (except for projects under subsection (a)(14)).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $112,000,000 for fiscal year 1976, $132,000,000 for fiscal year 1977, $133,000,000 for fiscal year 1978, and $127,000,000 for fiscal year 1979 for the purpose of making payments pursuant to grants and contracts under this section.

"Subpart IV—General

"APPLICATIONS FOR GRANTS

"SEC. 716. (a) The Secretary may from time to time set dates by which applications for grants under this part must be filed.

"(b) A school shall be eligible for a grant under this part only if it (1) is a public or other nonprofit school, and (2) is accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education, except that the requirement of this clause shall be deemed to be satisfied if (A) in the case of a school which by reason of no, or an insufficient, period of operation is not, at the time of application for a grant under this part, eligible for such accreditation, the Commissioner finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of students who are in the first year of instruction at such school during the academic year in which the Secretary makes a final determination as to approval of the application, or (B) in the case of any other school, the Commissioner finds after such consultation and after consultation with the Secretary that there is reasonable ground to expect that, with the aid of a grant (or grants) under those sections, having regard for the purposes of the grant for which application is made, such school will meet such accreditation standards within a reasonable time.

"(c) The Secretary shall consult with the National Advisory Council on Health Professions Education regarding any application for a grant under this part.

"(d) A grant under this part may be made only if the application therefor—

"(1) is approved by the Secretary upon his determination that the applicant (and its application) meet the applicable eligibility conditions prescribed by this part;

"(2) contains such additional information as the Secretary may require to make the determinations required of him under the section authorizing the grant for which the application is made and such assurances as he may find necessary to carry out the purposes of that section; and

"(3) provides for such fiscal control and accounting procedures and reports, and access to the records of the applicant, as the Secretary may require to assure proper disbursement of and accounting for Federal funds paid to the applicant under that grant.

"PART B—ASSISTANCE TO HEALTH PROFESSIONS STUDENTS

"Subpart I—Scholarships

"SEC. 721. (a) The Secretary shall establish the Health Service Scholarship Program (hereinafter in this section referred to as the 'Program'). The Secretary may, to obtain trained physicians and dentists for the Public Health Service or other Federal health service, or for the more adequate provision of health care to persons who reside in areas determined by the Secretary, under section 329(b)(1), to have critical health manpower shortages, accept persons as participants in the Program.

"(b) To be eligible for acceptance and continued participation in the Program, a person must—

"(1)(A) have agreed, under section 706(c)(1), to accept a scholarship under the Program, if offered, or (B) be or have been admitted as a full-time student in an accredited school, as provided in clause (2) of this subsection, for an academic year beginning before 1977,

"(2) be admitted as a full-time student in an accredited (as determined by the Secretary) school of medicine, osteopathy, or dentistry in the United States, or its territories or possessions,

"(3) pursue an approved course of study, and maintain an acceptable level of academic standing, as determined by the Secretary,

"(4) meet other relevant criteria, as determined by the Secretary, and

"(5) agree in writing to fulfill a service commitment as provided under subsection (d).

"(c)(1) Each person accepted as a participant in the Program shall be offered a scholarship for not less than two nor more than four years of training in an approved program or course of study. A participant's scholarship for each year of training shall consist of $3,600 plus an amount to cover the tuition and other educational expenses incurred by the participant which are approved by the Secretary.

"(2) The Secretary may contract with any school in which a participant in the Program is or will be enrolled for the payment to the school (rather than to the participant) of all or part of the participant's scholarship, but shall require the school to disburse at least $4,500 of that scholarship each academic year to the participant. Payments to such schools may be made without regard to section 3648 of the Revised Statutes.

"(3) Scholarships under the Program shall not be considered gross income for purposes of section 61 of the Internal Revenue Code of 1954.

"(d)(1) Each participant in the Program who completes his training and any additional clinical training required by law to permit the participant to engage in his profession shall perform a service commitment as prescribed by paragraph (2) for a period of time equal to one year for each year of training for which the participant was offered a scholarship. The period of service shall commence upon completion of a participant's period of training, plus any additional clinical training required by law to permit the participant to engage in the practice of his profession, except that the Secretary may, at the request of a participant, defer the beginning of the period of service for the period of time required for the participant to complete advanced clinical training.

Periods of advanced clinical training shall not be creditable in satisfying a service obligation under this subsection.

"(2)(A) Each participant shall, for his period of service, engage in full-time patient care—

"(i) as a civilian member of the Public Health Service or other Federal health service, or

"(ii) in the full-time private practice of his profession in a location chosen by the Secretary within an area determined by the Secretary, under section 329(b)(1), to have a critical health manpower shortage,

as the Secretary may determine, except that, in lieu of the service described in clause (i) or (ii), the participant, at his election, or the participant, at the election of the Secretary, shall engage in full-time patient care on active duty as a commissioned officer in the Public Health Service. A participant may, if the Secretary agrees, engage, for his period of service, in full-time patient care on active duty in a uniformed service other than the Commissioned Corps of the Public Health Service. If the Secretary chooses to require the participant to perform his service commitment as provided in subparagraph (A)(ii), the Secretary shall reimburse the participant for the amount (if any) the participant's net income (as determined by the Secretary) for the participant's period of service is less than 75 percent of the pay and allowances the participant would be receiving if he were serving under the Program as a commissioned officer in the Public Health Service.

"(B) A participant who fulfills his service commitment by engaging in the full-time private practice of his profession—

"(i) shall charge any individual who receives health services provided by the participant during the participant's period of service the customary rate prevailing in the area in which the services are provided, except that if any individual is unable to pay such charge, the individual shall be charged at a reduced rate or not charged any fee,

"(ii) shall not, during the participant's period of service, discriminate against any individual on the basis of the individual's ability to pay for health services or because payment for the health services provided to the individual will be made under the insurance program established under part A or B of title XVIII of the Social Security Act or under a State plan for medical assistance approved under title XIX of that Act, and

"(iii) shall meet other requirements established by the Secretary.

For purposes of clause (i), the Secretary shall by regulation prescribe the method for determining an individual's ability to pay a charge for health services and the method for determining the amount of the fee (if any) to be charged the individual based on such ability.

"(3) The Secretary shall provide by regulation for the postponement or waiver, in whole or in part, of the service commitment required under this subsection for circumstances beyond the control of a participant, and may provide for such postponement or waiver for other good cause shown. "(e)(1) If any participant in the Program—

"(A) fails to complete his training and any additional clinical training required by law to permit the participant to engage in his profession, or

"(B) fails to perform or to continue to perform his service commitment as required under subsection (d), the United States shall be entitled to recover from that individual, in the case of a failure under clause (A), upon the earlier of that individual's completion of his training and any additional clinical training required by law to permit that individual to engage in his profession, or that individual's ceasing to pursue his training or such additional clinical training, or, in the case of a failure under clause (B), upon that individual's failure to perform or to continue to perform his service commitment, an amount determined in accordance with the formula

$$A=2\left[\sum_{i=1}^{N} P_i e^{0.1t_i}\right]\left(1-\frac{C}{D}\right)$$

in which 'A' is the amount the United States is entitled to recover, 'N' is the number of payments tendered that individual for his training under the Program (including payments made on his behalf directly to a school under subsection (c)(2), 'P_i' is the amount of the ith payment tendered, 'e' is the transcendental mathematical quantity e, 't_i' is the time, measured in years, between the tender of the ith payment and the time at which the United States becomes entitled to recover 'A', 'C' is the period, measured in years, during which a service commitment was performed, and 'D' is the greater of 2 or the period, measured in years, for which that individual is obligated under subsection (d) to perform his service commitment.

"(2) The Secretary shall provide by regulation for the waiver of the monetary obligation under this subsection of any participant who, due to circumstances beyond his control, (A) fails to complete his training and any additional clinical training required by law to permit the participant to engage in his profession, or (B) fails to perform or to continue to perform his service commitment as required under subsection (d), and may provide for waiver, partial waiver, or postponement for other good cause shown.

"(f)(1) If any person who has made an agreement under section 706(c)(1) concerning the Health Service Scholarship Program fails either to submit an application for a scholarship or to accept a scholarship, as provided in the agreement, the United States shall be entitled to recover from that individual, upon the earlier of that individual's completing the training leading to his professional degree or that individual's ceasing to pursue that training, an amount equal to $1,500 multiplied by the number of years (but not more than four) that individual has pursued that training. In the case of a school that conducts a program designed to permit a student to complete, in more than four years, the requirements of a professional degree, only training pursued in the final four years of the school's program shall be considered training for purposes of this subsection.

"(2) The Secretary shall provide by regulation for the waiver of the monetary obligation under this subsection of any individual who, due to circumstances beyond his control, fails to carry out his agreement made under section 706(c)(1), and may provide for waiver, partial waiver, or postponement for other good cause shown.

"(g) Notwithstanding any other provision of law, persons undergoing training under the Program shall not be counted against any employment ceiling affecting the Department of Health, Education, and Welfare.

"(h) To carry out the Program, there are authorized to be appropriated $12,100,000 for fiscal year 1976, $17,700,000 for fiscal year 1977, $44,500,000 for fiscal year 1978, and $60,700,000 for fiscal year 1979.

"Subpart II—Student Loans

"LOAN AGREEMENTS

"SEC. 726. (a) Agreements entered into under former section 740 by the Secretary of Health, Education, and Welfare for the establishment and operation of a student loan fund with any public or other nonprofit school of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine which is located in a State and is accredited as provided in section 701(b)(1)(A)(ii) are continued in effect.

"(b) Each such agreement entered into shall—

"(1) provide for establishment of a student loan fund by the school,

"(2) provide for deposit in the fund of (A) the Federal capital contributions to the fund, (B) an amount equal to not less than one-ninth of such Federal capital contributions, contributed by such institution, (C) collections of principal and interest on loans made from the fund, (D) collections pursuant to section 727(j), and (E) any other earnings of the fund,

"(3) provide that the fund shall be used only for loans to students of the school in accordance with the agreement and for costs of collection of such loans and interest thereon,

"(4) provide that loans may be made from such funds only to students pursuing a full-time course of study at the school leading to a degree of doctor of medicine, doctor of dentistry or an equivalent degree, doctor of osteopathy, bachelor of science in pharmacy or an equivalent degree, doctor of podiatry or an equivalent degree, doctor of optometry or an equivalent degree, or doctor of veterinary medicine or an equivalent degree, and that while the agreement remains in effect no such student who has attended such school before July 1, 1975, shall receive a loan from a loan fund established under section 463 of the Higher Education Act of 1965, and

"(5) contain such other provisions as are necessary to protect the financial interests of the United States.

"LOAN PROVISIONS

"SEC. 727. (a) Loans from a loan fund established under former section 740 may not exceed $3,500 for any student for any academic year or its equivalent.

"(b) Any such loans shall be made on such terms and conditions as the school may determine, but may be made only to a student in need of the amount thereof to pursue a full-time course of study at the school leading to a degree of doctor of medicine, doctor of dentistry or an equivalent degree, doctor of osteopathy, bachelor of science in pharmacy or an equivalent degree, doctor of podiatry or an equivalent degree, doctor of optometry or an equivalent degree, or doctor of veterinary medicine or an equivalent degree.

"(c) Such loans shall be repayable in equal or graduated periodic installments (with the right of the borrower to accelerate repayment) over the ten-year period which begins one year after the student ceases to pursue a full-time course of study at a school of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine, excluding from such ten-year period all periods (up to three years) of (1) active duty performed by the borrower as a member of a uniformed service, or (2) service as a volunteer under the Peace Corps Act, and periods of advanced professional training including internships and residencies.

"(d) The liability to repay the unpaid balance of such a loan and accrued interest thereon shall be canceled upon the death of the borrower, or if the Secretary determines that he has become permanently and totally disabled.

"(e) Such loans made after the enactment of the Health Manpower Amendments of 1975 shall bear interest, on the unpaid balance of the loan, computed only for periods for which the loan is repayable, at the rate of 7 per centum per year.

"(f)(1) In the case of any individual—

"(A) who has received a degree of doctor of medicine, doctor of osteopathy, doctor of dentistry or an equivalent degree, doctor of veterinary medicine or an equivalent degree, doctor of optometry or an equivalent degree, bachelor of science in pharmacy or an equivalent degree, or doctor of podiatry or an equivalent degree,

"(B) who obtained, prior to the enactment of the Health Manpower Amendments of 1975, (i) one or more loans from a loan fund established under former section 740, or (ii) any other educational loan for his costs at a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, or podiatry, and

"(C) who enters into agreement with the Secretary to practice his profession (as a member of the National Health Service Corps or otherwise) for a period of at least two years in an area in a State designated under section 329(b) or otherwise determined by the Secretary, after consultation with the appropriate State health authority (as determined by the Secretary by regulations), to have a shortage of and need for persons trained in his profession,

the Secretary shall make payments in accordance with paragraph (2), for and on behalf of that individual, on the principal of and interest on any loan of his described in subparagraph (B) of this paragraph, whether obtained before or after the enactment of the Health Manpower Amendments of 1975, which is outstanding on the date he begins the practice specified in the agreement described in subparagraph (C) of this paragraph.

"(2) The payments described in paragraph (1) shall be made by the Secretary as follows:

"(A) Upon completion by the individual for whom the payments are to be made of the first year of the practice specified in the agreement he entered into with the Secretary under paragraph (1), the Secretary shall pay 30 per centum of the principal of, and the interest on each loan of such individual described in paragraph (1)(B) which is outstanding on the date he began such practice.

"(B) Upon completion by that individual of the second year of such practice, the Secretary shall pay another 30 per centum of the principal of, and the interest on each such loan.

"(C) Upon completion by that individual of a third year of such practice, the Secretary shall pay another 25 per centum of the principal of, and the interest on each such loan.

"(3) Notwithstanding the requirement of completion of practice specified in paragraph (2), the Secretary shall, on or before the due date thereof, pay any loan or loan installment which may fall due within the period of practice for which the borrower may receive payments under this subsection, upon the declaration of such borrower, at such times and in such manner as the Secretary may prescribe (and supported by such other evidence as the Secretary may reasonably require), that the borrower is then engaged as described by paragraph (1) or (2)(C), and that he will continue to be so engaged for the period required (in the absence of this paragraph) to entitle him to have made the payments provided by this subsection for such period; except that no more than 85 per centum of the principal of any such loan shall be paid pursuant to this paragraph.

"(4) A borrower who fails to fulfill an agreement with the Secretary entered into under paragraph (1) shall be liable to reimburse the Secretary for any payments made pursuant to paragraph (2)(A) or paragraph (3) in consideration of such agreement.

"(5) Notwithstanding the amendment made by section 105(b)(1) of the Comprehensive Health Manpower Training Act of 1971 to former section 741(f)—

"(A) any person who obtained one or more loans from a loan fund established under former section 740, who before the date of the enactment of such Act became eligible for cancellation of all or part of such loans (including accrued interest) under former subsection 741(f) (as in effect on the day before such date), and who on such date was not engaged in a practice for which loan cancellation was authorized under this subsection (as so in effect), may at any time elect to receive such cancellation in accordance with that former subsection (as so in effect); and

"(B) in the case of any person who obtained one or more loans from a loan fund established under former section 740 and who on such date was engaged in a practice for which cancellation of all or part of such loans (including accrued interest) was authorized under that former subsection (as so in effect), that former subsection (as so in effect) shall continue to apply to such person for purposes of providing such loan cancellation until he terminates such practice.

Nothing in this paragraph shall be construed to prevent any person from entering into an agreement for loan cancellation under this subsection.

"(g) Loans shall be made under this subpart without security or endorsement, except that if the borrower is a minor and the note or other evidence of obligation executed by him would not, under the applicable law, create a binding obligation, either security or endorsement may be required.

"(h) No note or other evidence of a loan made under this subpart or former section 741 may be transferred or assigned by the school making the loan except that, if the borrower transfers to another school participating in the Program under this subpart, such note or other evidence of a loan may be transferred to such other school.

"(i) Where all or any part of a loan, or interest, is canceled under this section, the Secretary shall pay to the school an amount equal to the school's proportionate share of the canceled portion, as determined by the Secretary.

"(j) Subject to regulations of the Secretary, a school may assess a charge with respect to a loan made under this subpart or former section 741 for failure of the borrower to pay all or any part of an installment when it is due and, in the case of a borrower who is entitled to deferment of the loan under subsection (c) or cancellation of part or all of the loan under subsection (f), for any failure to file timely and satisfactory evidence of such entitlement. The amount of any such charge may not exceed $1 for the first month or part of a month by which such installment or evidence is late and $2 for each such month or part of a month thereafter. The school may elect to add the amount of any such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due, or to make the amount of the charge payable to the school not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

(k) a school may provide, in accordance with regulations of the Secretary, that during the repayment period of a loan from a loan fund established pursuant to an agreement under former section 740 payments of principal and interest by the borrower with respect to all the outstanding loans made to him from loan funds so established shall be at a rate equal to not less than $15 per month.

"(l) Upon application by a person who received, and is under an obligation to repay, any loan made to such person as a health professions student to enable him to study medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, or podiatry, the Secretary may undertake to repay (without liability to the applicant) all or any part of such loan, and any interest or portion thereof outstanding thereon, upon his determination, pursuant to regulations establishing criteria therefor, that the applicant—

"(1) failed to complete such studies leading to his first professional degree;

"(2) is in exceptionally needy circumstances;

"(3) is from a low-income or disadvantaged family as those terms may be defined by such regulations; and

"(4) has not resumed, or cannot reasonably be expected to resume, the study of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, or podiatry, within two years following the date upon which he terminated such studies.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 728. (a) There are authorized to be appropriated to the Secretary $20,000,000 for fiscal year 1976, $9,000,000 for fiscal year 1977, and $1,000,000 for fiscal year 1978 to enable students who have received a loan under former section 741 for any academic year ending before July 1, 1975, to continue or complete their education.

"(b(1) The Secretary shall from time to time set dates by which schools must file applications for Federal capital contributions.

"(2) If the total of the amounts requested for any academic year in such applications exceeds the amounts available for that academic year from an appropriation, the allotment to the loan fund of each such school shall be reduced to whichever of the following is the smaller: (A) the amount requested in its application or (B) an amount which bears the same ratio to the amounts appropriated as the number of students eligible for a loan who received loans under former section 741 for any academic year ending before July 1, 1975, estimated by the Secretary to be enrolled in such school during such academic year bears to the estimated total number of students eligible for a loan who received a loan under former section 741 for any academic year ending before July 1, 1975, in all such schools during such year. Amounts remaining after allotment under the preceding sentence shall be reallotted in accordance with clause (B) of such sentence among schools whose applications requested more than the amounts so allotted to their loan funds, but with such adjustments as may be necessary to prevent the total allotted to any such school's loan fund from exceeding the total so requested by it.

"(3) Funds available in any fiscal year for payment to schools under this subpart which are in excess of the amount appropriated pursuant to this section for that year shall be allotted among schools in such manner as the Secretary determines will best carry out the purposes of this subpart.

"(4) Allotments to a loan fund of a school shall be paid to it from time to time in such installments as the Secretary determines will not result in unnecessary accumulations in the loan fund at such school.

"DISTRIBUTION OF ASSETS FROM LOAN FUNDS

"SEC. 729. (a) After September 30, 1981, and not later than December 31, 1981, there shall be a capital distribution of the balance of the loan fund established under an agreement pursuant to former section 740(b) by each school as follows:

"(1) The Secretary shall first be paid an amount which bears the same ratio to such balance in such fund at the close of September 30, 1981, as the total amount of the Federal capital contributions to such fund by the Secretary pursuant to section 726(b)(2)(A) bears to the total amount in such fund derived from such Federal capital contributions and from funds deposited therein pursuant to section 726(b)(2)(B).

"(2) The remainder of such balance shall be paid to the school.

"(b) After December 31, 1981, each school with which the Secretary has made an agreement under former section 740 shall pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by the school after September 30, 1981, in payment of principal or interest on loans made from the loan fund established pursuant to such agreement as was determined for the Secretary under subsection (a).

"ADMINISTRATIVE PROVISIONS

"SEC. 730. The Secretary may agree to modifications of agreements or loans made under this subpart or former sections 740 and 741, and may compromise, waive, or release any right, title, claim, or demand of the United States arising or acquired under this subpart or those former sections.

"PART C—GENERAL

"ADVANCE FUNDING

"SEC. 731. Any appropriations Act which appropriates funds for any fiscal year for grants, contracts, or other payments under this title may also appropriate for the next fiscal year the funds that are authorized to be appropriated for those payments for that next fiscal year, but no funds may be made available therefrom for obligation for those payments before the fiscal year for which those funds are authorized to be appropriated.

"NATIONAL ADVISORY COUNCIL ON HEALTH PROFESSIONS EDUCATION

"SEC. 732. (a) There is established in the Public Health Service a National Advisory Council on Health Professions Education (hereafter in this section referred to as the 'Council'), consisting of the Secretary (or his delegate), who shall be Chairman of the Council, and twenty members appointed by the Secretary (without regard to the provisions of title 5 of the United States Code relating to appointments in the competitive service) from persons who because of their education, experience, or training are particularly qualified to advise the Secretary with respect to the programs of assistance authorized by this title. At least four of the appointed members shall be selected from the general public and two shall be selected from among full-time students enrolled in health profession schools.

"(b) The Council shall advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title.

"DISCRIMINATION ON BASIS OF SEX PROHIBITED

"SEC. 733. The Secretary may not make a grant, loan guarantee, or interest subsidy payment under this title to, or for the benefit of, any school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatory, or public health, or any entity training allied health personnel, unless the application for the grant, loan guarantee, or interest subsidy payment contains assurances satisfactory to the Secretary that the school or entity will not discriminate on the basis of sex in the admission of individuals to its training programs. The Secretary may not enter into a contract under this title with any such school or entity unless the school or entity furnishes assurances satisfactory to the Secretary that it will not discriminate on the basis of sex in the admission of individuals to its training programs. In the case of a school of medicine which—

"(1) on the date of the enactment of this sentence is in the process of changing its status as an institution which admits only female students to that of an institution which admits students without regard to their sex, and

"(2) is carrying out such change in accordance with a plan approved by the Secretary,

the provisions of the preceding sentences of this section shall apply only with respect to a grant, contract, loan guarantee, or interest subsidy to, or for the benefit of, such a school for a fiscal year beginning after September 30, 1979.

"RECORDS AND AUDITS

"SEC. 734. (a) Each recipient of a grant or contract under this title shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and disposition by the recipient of the proceeds of a grant or under a contract, the total cost of the project or undertaking in connection with which such grant or contract is made, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such records as will facilitate an effective audit.

"(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of any grant or contract under this title which are pertinent to any such grant or contract.

"CONTRACTS AND GRANTS

"SEC. 735. (a) Contracts under this title may be entered into without regard to sections 3648 and 3709 of the Revised Statutes.

(b) Payments of any grant or under any contract under this title may be made in advance or by way of reimbursement, and in such installments and on such conditions, as the Secretary deems necessary to carry out the purposes of this title.

"DEFINITIONS

"SEC. 736. As used in this this title—

"(I) the terms 'construction' and 'cost of construction' include (A) the construction of new buildings, the expansion of existing buildings, and the acquisition, remodeling, replacement, renovation, major repair (to the extent permitted by regulations), or alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land or off-site improvements, and (B) initial equipment of new buildings and of the expanded, remodeled, repaired, renovated, or altered part of existing buildings; but such term shall not include the construction or cost of construction of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship,

"(2) the term 'nonprofit' as applied to any entity means an entity owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual,

"(3) the terms 'affiliated hospital' and 'affiliated outpatient medical facility' mean those terms as defined in section 1633,

"(4) the term 'school of medicine' means a school which provides training (A) leading to a degree of doctor of medicine or (B) for a period of two years which, when followed by two years of further training in a school of medicine as defined in clause (A), leads to a degree of doctor of medicine,

"(5) the terms 'school of dentistry', 'school of osteopathy', 'school of pharmacy', 'school of optometry', 'school of podiatry', 'school of veterinary medicine', and 'school of public health' mean a school which provides training leading, respectively, to a degree of doctor of dentistry or an equivalent degree, a degree of doctor of osteopathy, a degree of bachelor of science in pharmacy or an equivalent degree, a degree of doctor of optometry or an equivalent degree, a degree of doctor of podiatry or an equivalent degree, a degree of doctor of veterinary medicine or an equivalent degree, and a graduate degree in public health,

"(6) the term 'teaching facilities' means areas dedicated for use by students, faculty, or administrative or maintenance personnel for clinical purposes, research activities, libraries, classrooms, offices, auditoriums, or other related purposes necessary for, and appropriate to, the conduct of comprehensive programs of education (but not including off-site improvements or living quarters),

"(7) the term 'primary care' means (A) in relation to medicine, general internal medicine, general pediatrics, family medicine, and general practice, (B) in relation to dentistry, general dentistry and pedodontics, and (C) otherwise, health care of a general, rather than specialized, nature, and

"(8) the term 'full-time student' means a student pursuing a full-time program or course of study (as determined by the Secretary).

REPEAL OF SECTION 225

SEC. 3. Section 225 of the Public Health Service Act is repealed.

EXPANSION OF TITLE XVI TO INCLUDE EXPLICITLY MODERNIZATION PROJECTS TO INCREASE PRIMARY CARE HEALTH MANPOWER TRAINING CAPACITY

SEC. 4. (a) Section 1602(1) of the Public Health Service Act is amended—

(1) in subclause (D), by striking out "and",

(2) in subclause (E), by striking out the semicolon and inserting instead ", and", and

(3) by adding after subclause (E) the following new subclause (F):

"(F) to hospital and outpatient medical facilities modernization projects designed to increase the primary care health manpower training capacity of affiliated hospitals or affiliated outpatient medical facilities;".

(b) Section 1604(b)(1) of that Act is amended—

(1) in clause (A), by inserting immediately before the semicolon the following: "(but clause (A) shall not apply to projects designed to increase the primary care health manpower training capacity of affiliated hospitals or affiliated outpatient medical facilities)", and

(2) in clause (J), by inserting immediately before the period the following: "(but clause (J) shall not apply to projects designed to increase the primary care health manpower training capacity of affiliated hospitals or affiliated outpatient medical facilities)".

(c) Section 1633 of that Act is amended by adding at the end of that section the following new clauses:

"(17) The term 'primary care' means primary care as defined in section 736.

"(18) The terms 'affiliated hospital' and 'affiliated outpatient medical facility' mean, respectively, a hospital and an outpatient medical facility which is not owned by, but is affiliated (to the extent and in the manner determined in accordance with regulations) with, a school of medicine, osteopathy, or dentistry."

SAVINGS PROVISIONS

SEC. 5. (a)(1) The provisions of former section 225 of the Public Health Service Act (a section repealed by this Act) shall remain in effect with respect to those persons who have been accepted as participants in the Public Health and National Health Service Corps Scholarship Training Program prior to the enactment of this Act.

(2) To carry out that Program with respect to those persons there are authorized to be appropriated $19,900,000 for fiscal year 1976, $18,500,000 for fiscal year 1977, $6,500,000 for fiscal year 1978, and $900,000 for fiscal year 1979.

(b) The provisions of former sections 707, 723, and 791(d) of that Act, and former section 764 of that Act as in effect prior to the enactment of the Act of December 25, 1970 (Public Law 91-696), shall remain in effect with respect to those owners of facilities to which those sections would apply if those sections had not been repealed.

(c)(1) The health professions education fund created within the Treasury by former section 744(d)(1) of that Act shall remain available to the Secretary of Health, Education, and Welfare for the purpose of meeting his responsibilties respecting participations in obligations acquired under former section 744 of that Act. The Secretary shall continue to deposit in that fund all amounts received by him as interest payments or repayments of principal on loans under that section. If at any time the Secretary determines that the moneys in the fund exceed the present and any reasonable prospective further requirements of that fund, that excess may be transferred to the general fund of the Treasury.

(2) There are authorized to be appropriated without fiscal year limitation such sums as may be necessary to enable the Secretary to make payments under agreements entered into under former section 744 (b) of that Act prior to the enactment of this Act and to carry out his responsibilities under former section 744(d) of that Act.

(d)(1) The provisions of former section 771(a) of that Act shall remain in effect in respect to those schools which have received a grant under former section 771(a) prior to the enactment of this Act.

(2) There are authorized to be appropriated $4,500,000 for fiscal year 1976 and $2,000,000 for fiscal year 1977 for grants made pursuant to paragraph (1).

(e)(1) For fiscal year 1976 and thereafter, the Secretary shall make grants, pursuant to the provisions of former section 780 of that Act, to enable schools to continue making payments under scholarship awards to students who initially received scholarship awards out of grants made to schools under former section 780 for fiscal years ending before July 1, 1974.

(2) For the purpose of making grants under this subsection, there are authorized to be appropriated $3,500,000 for fiscal year 1976.

(f)(1) The provisions of former section 784 of that Act, and of former section 785 with the heading "ADMINISTRATION; CONTRACTUAL ARRANGEMENTS" shall remain in effect with respect to students who, prior to July 1, 1974, received a grant under former section 784.

(2) There are authorized to be appropriated $500,000 for fiscal year 1977 for scholarship grants under this subsection.

FINANCIAL DISTRESS GRANTS IN THE FISCAL YEAR TRANSITION PERIOD

SEC. 6. In the case of a school that has received a grant under section 711(a)(14) of the Public Health Service Act (as enacted by this Act) in fiscal year 1976, the amount granted to that school under section 711 (a)(14) in the period beginning July 1, 1976, and ending September 30, 1976, may not exceed 18.75 per centum of the amount granted to that school under section 711 (a)(14) in fiscal year 1976.

DEPARTMENT OF HEALTH,
EDUCATION AND WELFARE,
November 21, 1975.

Hon. NELSON A. ROCKEFELLER,
President of the Senate
Washington, D. C.

DEAR MR. PRESIDENT: Enclosed for the consideration of the Congress is a draft bill "To revise title VII of the Public Health Service Act, and for other purposes". The bill would be cited as the "Health Professions Education Amendments of 1975".

The draft bill would shift the emphasis of Federal support from merely increasing enrollments to addressing national specialty and geographic maldistribution problems. The emphasis of the Comprehensive Health Manpower Training Act of 1971 was to assist health professions schools to increase the numbers of students enrolled, in order to meet what was then seen as a serious aggregate shortage of health professionals, and to attemp to place these schools on a solid financial footing. During the subsequent four years, enrollments have increased by 34 percent and graduates by 45 percent, with further increases in graduates still to occur over the next few years. With maintenance of this training capacity, we believe that adequate numbers of health professionals will soon be in practice.

Two other problems now appear as most pressing:

Geographic Maldistribution.—Some rural and inner city residents have inadequate access to health professionals. The absence or inaccessibility of such health services infrastructure components as consultants, facilities and equipment, and continuing education to support professional practice in these areas makes it difficult to attract health professionals to these areas and to keep them there.

Specialty Maldistribution.—Between 1950 and 1970, the proportion of physicians in office-based primary care practice declined from 45 percent to 31 percent. Professional estimates are that 50 percent of our medical students should be trained in primary care. Yet, specialty training continues to attract large numbers of new graduates due to higher prospective incomes, more peer prestige, increasing medical complexity, and the role models students see in schools.

Current patterns among health professions graduate students and professionals entering practice indicate that without Federal initiatives to alter institutional and individual incentives, correction of these imbalances is likely to occur slowly, if at all.

We believe that the following initiatives represent a balanced, cost-conscious program that is sufficient to address these deficiencies:

CONSTRUCTION

The draft bill would extend through fiscal year 1979 the present authority to guarantee loans for the construction of teaching facilities for the training of physicians, dentists, veterinarians, optometrists, podiatrists, and professional public health personnel (but not pharmacists). We would no longer enter into new agreements to pay interest subsidies, but would continue to make payments (now at the level of $2.9 million annually) under previous commitments.

The authority to make grants for the construction of such facilities would be repealed (along with the obsolete authority for research facilities construction grants). The draft bill would, instead, amend title XVI of the Public Health Service (PHS) Act to explicitly authorize States to use Federal formula allotments, loans, loan guarantees and interest subsidies for modernization necessary to increase the primary care health manpower training capacity of hospitals and outpatient facilities affiliated with a medical, osteopathic, or dental school.

NATIONAL PRIORITY INCENTIVE GRANTS AND CAPITATION PHASE-OUT GRANTS

Present law authorizes the Department to make capitation grants to schools of medicine, osteopathy, and dentistry (MOD schools), schools of veterinary medicine, optometry, and podiatry (VOP schools), and schools of pharmacy, at a specified rate per enrolled student. As a condition for receiving these grants, recipients are required to increase enrollments and to undertake projects in three of nine specified categories.

The draft bill would eliminate capitation for schools of pharmacy, because their training programs are predominantly undergraduate in nature, and because specialty and geographic distribution of their graduates has not been shown to be a problem. Further, it would phase out capitation support for VOP schools. As with pharmacy, no national shortage has been demonstrated, nor are there substantial specialty and geographic distribution problems with respect to VOP graduates. VOP authorizations would be limited to the following proportions of amounts actually granted for the academic year 1975–1976:

[In percent]

Academic year 1976–77	100
Academic year 1977–78	65
Academic year 1978–79	35
Academic year 1979–80	0

MOD schools would have a choice: Those that did not desire to participate in high priority projects would have their capitation phased out at $1,000 per student in academic year 1976–77, $500 per student in academic year 1977–78, and nothing thereafter.

Those MOD schools agreeing to undertake efforts designed to address geographic and specialty maldistribution would be eligible to receive, instead of capitation phase-out grants, National Priority Incentive Grants in the amount of $1,500 per student. In order to receive such grants, MOD schools would agree to three conditions:

(1) They would agree to set aside 15 percent of their entering (first year) places in academic year 1977–78, 20 percent in 1978–79, and 25 percent in 1979–80, for applicants who agreed, when applying for admission to a school, that, (A) if accepted by the school, they would submit an application for a scholarship under the Health Service Scholarship Program (see below), and (B) if offered a scholarship under the Program, they would accept the scholarship and would perform a service commitment upon completion of their training. This provision would both heighten the awareness of schools and prospective students concerning the health manpower needs of certain areas of our country (and their responsibilities vis-a-vis those needs), and would create a pool of students from which the Federal government could draw to meet Public Health Service (PHS) and other Federal health service manpower requirements and the manpower needs of populations living in designated critically underserved areas. The number of students receiving scholarships would be determined by the size of the scholarship appropriations. If a student who agreed to submit a scholarship application and accept a scholarship, if offered, failed to honor that agreement, the student would be required to pay the Federal government $1,500 for each year (but no more than four) of professional school training.

(2) They would agree to establish or maintain within the school an *identifiable entity* charged with ensuring that all students receive a significant portion of their training in primary care, to be determined under the Secretary's regulations. The objective would be to introduce all students to primary care values and orientations, to provide primary care teacher-role models to balance specialization influences, and to provide a focus for institutional attention to the area of primary care.

(3) Medical and osteopathic schools would agree to take the steps necessary to ensure that the following proportions of schools' *direct or affiliated* filled residency positions would be in family medicine, general internal medicine, general pediatrics, or general medicine:

[In percent]

Academic year 1977–78	35
Academic year 1978–79	40
Academic year 1979–80	50

The objective of these residency requirements would be to ensure that the proportion of graduate students receiving training in primary care would rise substantially above the presently estimated 30 percent in the near term, thereby increasing the proportion of graduates entering primary care practice. Schools *of dentistry* would agree to ensure that, beginning in academic year 1977–78, 50 percent of all direct or affiliated residencies newly established after academic year 1975–76 would be in *general dentistry or pedodontics.*

In addition to the foregoing conditions, schools of dentistry wishing to receive National Priority Incentive Grants would be required to increase, in academic year 1977–78, (and thereafter maintain) their first year enrollments by the greater of 5 percent or ten students over academic year 1975–76 levels. If all dental schols participated, first year enrollments (and, four years later, graduates) would increase by 550 to 600 students. Based on current projections of the supply of dental services (including productivity increases) and demand for dental services (including increases occasioned by general economic recovery, increased coverage of dental benefits in employee health plans, and inclusion of dental benefits under national health insurance), this added training capacity would expand supply sufficiently to meet aggregate future demand.

Because the required enrollment increases would not be translated into practicing dentists for 4 to 5 years, we believe that now is the time to initiate these increases. All schools receiving either National Priority Incentive Grants or capitation phase-out grants would be required to maintain enrollment at the academic year 1975–76 level and to maintain the level of non-Federal funds spent. These maintenance of effort requirements (and the conditions for National Priority Incentive Grants) could be waived for a school by the Secretary in unusual circumstances, but only after consultation with the National Advisory Council on Health Professions Education. The draft bill would authorize appropriations of $126.5 million for fiscal year 1976, $123.4 million for fiscal year 1977, $120 million for fiscal year 1978, and $118.2 million for fiscal year 1979 for the National Priority Incentive Grants and capitation phase-out grants.

CONSOLIDATION OF SPECIAL PROJECT AND FINANCIAL DISTRESS AUTHORITIES

The authority for providing grants to assist various kinds of special health manpower activities is presently scattered among various sections of title III and title VII of the PHS Act: section 312 concerns public health traineeships, section 313 public health special projects and formula support, section 767 training in family medicine, section 771 start-up grants, section 772 various special projects, section 773 financial distress grants, section 774 Area Health Education Centers and Special Health Career Opportunity Grants, section 776 emergency medical services, section 792(b) allied health special improvement grants, section 792(c) allied health special projects, and section 793 allied health traineeships. The draft bill would revise and consolidate these existing authorities into a comprehensive special projects section in order to focus resources on those health manpower activities which we believe are most deserving of support.

This section would authorize grants to support the following projects—

(1) establishment and expansion of family medicine training programs (funding planned mainly for project grants and residency stipends),

(2) establishment and expansion of training programs in general internal medicine, general pediatrics, general medicine, general dentistry, and pedodontics (funding planned mainly for project grants and residency stipends),

(3) establishment of relationships between schools of optometry, podiatry, and pharmacy, and other health training and service entities; improvement of aspects of curricula and training in those schools; and placement of graduates of those schools and veterinary schools in underserved areas,

(4) provision of graduate training in important public health related fields,

(5) improvement of allied health professions training,

(6) provision for training of primary care physician extenders and expanded function dental auxiliaries,

(7) undertaking of training activities designed to address geographic maldistribution of health professionals,

(8) provision of financial and other assistance to individuals from disadvantaged backgrounds to enable them to enter health professions careers (we intend to offer stipends for a total of three years of support before and during professional school).

(9) provision for financial and other assistance to United States graduates of foreign medical schools to assist them to complete their medical or osteopathic education in the United States, and provision of intensive instruction to foreign medical graduates working in the United States,

(10) provision of financial aid to those schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, or public health which are in serious financial straits or are having serious accreditation problems, with amounts limited to 75 percent of any financial distress grant provided in the preceding fiscal year,

(11) The utilization of innovative training methods in medicine, osteopathy, and dentistry likely to reduce the costs of medical, osteopathic, and dental training, and for assisting new schools of medicine, osteopathy, and dentistry to primarily utilize such methods (such as schools which de-emphasize research or schools "without walls"),

(12) evaluating changes in admissions criteria, providing certain specialized kinds of training, providing interdisciplinary training, and demonstrating curriculum innovations.

The present start-up authority would be phased out. The Secretary could utilize contracts as well as grants under this consolidated section (except for financial distress). There would be authorized to be appropriated for special projects and financial distress $116.5 million for fiscal year 1976, $134 million for fiscal year 1977, $133 million for fiscal year 1978, and $127 million for fiscal year 1979.

STUDENT ASSISTANCE

Scholarships. The central feature of the "Health Service Scholarship Program" (HSSP), our student assistance proposal to replace the present Public Health and National Health Service Corps (NHSC) Scholarship Program, would be the provision of scholarships to medical, osteopathic, and dental (MOD) students in exchange for service in the Public Health Service, other Federal health service, or in a health manpower shortage area. Those eligible to receive scholarships under the Program would be students who, when they applied for admission to a health professions school, agreed to accept a scholarship, if offered (or who were enrolled in a health professions school prior to academic year 1977–1978). The bill would permit students to satisfy their commitment to accept a scholarship by accepting a Defense Department scholarship. They could, however, decline the offer of a Defense Department scholarship, in which case they would remain obligated to accept an HSSP scholarship, if offered.

The scholarships would be awarded for periods of two to four years in an annual amount of $3,600, plus tuition and other reasonable educational expenses. We expect that the full value of a scholarship would average $7,000. We believe that current NHSC stipend levels ($700 per month) are inappropriately high, and that $3,600 per year—or $400 per month while in school—is fully adequate to meet living expenses. For comparison, National Science Foundation fellowships provide living expenses of $300 per month. We believe that Health Service Scholarship Program stipends would not have to be set to compete dollar-for-dollar with military scholarships ($4,200 per year), because today's student would find nonmilitary service inherently preferable. We further believe that these scholarship amounts will be highly attractive to students and that higher stipend levels would be an inappropriate allocation of limited resources.

The scholarship recipient would be required to perform one year of service for each year of assistance. Upon completion of professional training, the individual would usually be given the choice of (1) serving as a commissioned officer or a civilian member of the Public Health Service or other Federal health service, or (2) practicing his profession in a health manpower shortage area as a private practitioner. Although the Secretary would have the final authority to choose the location and mode of service of participants (except that (1) a participant could not be required to serve in uniform in the military services, and (2) each individual desiring to satisfy his obligation by serving in the PHS Commissioned Corps would be permitted to do so), we intend, insofar as it is consistent with our manpower requirements, to permit the individual to make those choices.

In meeting the health manpower needs of the Public Health Service, critical health manpower shortage areas, and other Federal agencies, the Secretary would assign participants on the basis of priorities existing at the time such participants became available for service. All such individuals, regardless of the mode or location of service, would be required to engage full-time in patient care activities. Those persons serving in health manpower shortage areas as private practitioners would be protected against income so low as to compromise the effectiveness of their practice through a minimum income provision under which the Secretary would insure that a private practitioner's income did not fall below 75 percent of the amount of pay and allowances that the individual would have been receiving as a PHS commissioned officer (75 percent would average about $14,000 per year). Should a scholarship recipient fail to perform his service responsibilities, he would be required to repay twice the amount of the scholarship assistance tendered multiplied by the proportion of service not performed, plus interest.

The bill would authorize appropriations of $35.5 million for fiscal year 1976, $36.7 million for fiscal year 1977, $51 million for fiscal year 1978, and $61.6 million for fiscal year 1979 for the new scholarship program and to phase out the existing scholarship programs (National Health Service Corps, Physician Shortage Area, and general scholarships). These amounts would be sufficient to support some 8,300 students per year when the program is fully operational.

Loans.—Federal capital contributions to health professions schools' loan funds would be limited to $20 million for fiscal year 1970, $9 million for fiscal year 1977, and $1 million for fiscal year 1978 to phase out loans to students who received them prior to 1975. The program of Federally supported school loan funds was instituted in the 1960s to increase the attractiveness of health professions education in an era of declining numbers of applicants, and to attract more students from economically disadvantaged backgrounds.

The ratio of qualified applicants to places is now nearly 3 to 1 and increasing. The loans have contributed little to the objective of attracting more students from economically disadvantaged backgrounds because schools, rather than targeting loan funds on low income individuals, spread them in small amounts across large numbers of students of all income groups. In 1973–74, for example, 30 percent of all medical students received such loans, at an average amount of about $1,400 per student. Such spreading of loans represents an inappropriate subsidy to students from higher income families who would have attended school without the loans.

The approximately $285 million invested by the Federal government in schools' loan funds would remain available for re-loan by the schools as it was repaid by student borrowers, but future loans to students would be required to carry 7 percent, rather than 3 percent, interest. In addition, the Department, in its current review of general higher education student assistance authorities, is considering modifications to the Guaranteed Student Loan program that would take into consideration the special needs of health professions students. We are also examining the feasibility and desirability of instituting a new type of loan program for health professions students that would have as its central feature repayment of loans based on the amount of future income earned, with low earners repaying less than amounts borrowed, and higher income professional peers paying slightly more.

The draft bill would terminate the authority under which the Secretary repays any educational loans of individuals who go into practice in shortage areas (except for students who received loans prior to enactment of the bill). This authority has proven to be a highly limited inducement, and very difficult to administer. By the end of 1972, after six years of operation, only 1.1 percent of eligible physicians and 1.5 percent of eligible dentists participated in the loan forgiveness program.

The draft bill would continue to phase out residual Federal responsibilities under the health professions education fund.

HEALTH MANPOWER ANALYSIS

We plan to use existing authorities to establish a health manpower data analysis capability.

ADVISORY COUNCIL ON GRADUATE MEDICAL EDUCATION

We intend to utilize existing authority (section 222 of the PHS Act) to establish an Advisory Council on Graduate Medical Education. The Council would be composed of medical and osteopathic school leadership, health services experts, students, health specialty body representatives, planners, third party payers, and consumers. The Council would be charged with analyzing the distribution among specialities of physicians and medical students and evaluating alternative approaches to ensuring an appropriate balance. Recommendations would be provided to the Secretary within eighteen months. The Council could also encourage bodies controlling the number, types, and geographic location of graduate training positions to provide leadership in achieving the recommended balance.

This Council would not have regulatory powers to arbitrarily determine the number and geographic location of graduate training positions in each individual speciality and subspeciality. We strongly feel that such regulatory powers are premature, and there simply is no rational basis to justify one particular distribution over another. The strong positive incentives provided in this bill (National Priority Incentive Grants, special project grants and construction grants) would assure that medical students would be exposed to primary care training, and that about one-half of filled residencies would be in primary care by 1979. A regulatory mechanism is not needed to assure this goal, and may even be needlessly counterproductive.

FOREIGN MEDICAL GRADUATES

The Department is currently taking steps to assure the quality of foreign-trained physicians entering this country. We support the concept of a single examination for all physicians entering graduate training programs. Until such an examination is fully operational, we believe that administrative flexibility should be retained to structure the most appropriate screening examination for foreign-trained physicians. We do not support the imposition of legislatively mandated examinations or immigration requirements which arbitrarily restrict the inflow of qualified foreign physicians.

MISCELLANEOUS

The draft bill would repeal title VII authorities never funded or obsolete.

We feel that the draft bill offers a comprehensive, integrated approach in the area of health manpower to achieve maximum impact with limited resources. We urge the Congress to give the draft bill its prompt and favorable consideration.

We are advised by the Office of Management and Budget that enactment of this proposal would be in accord with the program of the President.

Sincerely,

David Mathews,
Secretary.

Mr. JAVITS. Mr. President, I am pleased to join in the introduction of the administration's Health Profession Education Amendments of 1975, S. 2748, with Senators Kennedy, Schweiker, Beall, Taft, Williams, Randolph, and Hathaway.

Traditionally the administration's health legislative proposals are introduced by Senator Schweiker, the ranking minority member of the Health Subcommittee or myself as ranking minority member of the parent Labor and Public Welfare Committee. However, in a spirit of bipartisan cooperation and in recognition of the bill's commitment to coming to grips with the critical health manpower problems confronting our Nation—geographic and specialty maldistribution of physicians and overreliance on alien residents who are foreign medical graduates—FMG's—we have agreed that Senator Kennedy, the chairman of the Health Subcommittee, should introduce the administration's bill.

Also, I believe great credit should be given to Dr. Theodore Cooper, Assistant Secretary of Health, who played a key role in developing the bill we introduce today, a bill that in great measure responds to the concerns expressed during the intensive debate during the 93d Congress on health manpower legislation.

INSTITUTIONAL CAPITATION SUPPORT

The need for our schools of medicine, osteopathy, and dentistry—which are indeed national resources—to have continued, stable, ongoing financial support is recognized by the bill. Yet, at the same time it is appropriate and reasonable for the American taxpayer to expect such national resources to be used to respond to national needs.

The bill addresses that issue. It phases down—not summarily ends—capitation for those schools which do not choose to respond to national needs. In addition, it maintains capitation, now termed National Priority Incentive Grants, at a level of $1,500 per student, which approximates recent appropriations, for those medical, osteopathy, and dental schools which meet certain requirements, such as: First, a percentage set aside of their entering class for students who volunteer to receive National Health Service Corps—NHSC—scholarships who are prepared to provide care—upon completion of their education—in the NHSC, in medically underserved areas; second, phase-up to 50 percent of their affiliated residencies in primary care; and third, maintenance of or increased student enrollment.

I believe that in its consideration of the bill the Labor and Public Welfare Committee should create an appropriate "triggering" mechanism to enable the scholarship funds to reach a certain level in the appropriations process before any other funds authorized under the bill come into being. It would be cruel indeed, to students and schools alike when, in good faith, they set aside slots and agreed to serve, only to discover that the money is not there because the Congress has failed to appropriate it.

Also, I want to express my support for the bill's requirement that schools receiving these incentive grants allocate 50 percent of their affiliated residencies to the primary care fields of family practice, general internal medicine, and general pediatrics. Almost without exception the testimony and evidence presented to the committee supports the national need for this ratio of primary to specialty care. I am sympathetic to those who urge the committee to include obstetrics and gynecology as a primary care field. If they are within primary care, then the committee may wish to consider that the overall proportion should be increased to 55 percent—as suggested in the HEW draft report, "Physician Specialty Distribution: 1975." I am not doctrinaire about applying these two provisions to every school and support the bill's provision for waiver authority by the Secretary of HEW but I believe the criteria for such waivers have to be articulated in the legislation and not left to vague, open-ended discretionary authority within HEW.

SPECIALTY TRAINING

I commend the administration for facing up to the highly controversial and complex issue of determining limits on the numbers and types of medical and surgical subspecialty residencies, beyond the 50 percent in primary care, by establishing an HEW advisory Council on Graduate Medical Education. However, I believe we need not delay any further in making some hard choices. Based on the evidence—from the HEW report, from HMO's, from other countries—the Advisory Council on Graduate Medical Education provided for in the bill should go beyond merely studying the problem and issuing recommendations. Some of the best minds in the health care field have given these matters a great deal of consideration. Indeed, the American College of Surgeons and the American College of Radiologists have already taken steps to correct what they themselves have studied and found to be an oversupply. We have a higher proportion of specialists to primary care physicians than any other Western nation, but there is no evidence whatsoever that our health status is better, or that it would be jeopardized by putting the lid on some of the specialties, or, at the very least, not letting them grow unchecked in house staff positions. I am not suggesting that Congress legislate the answers, but surely HEW and the Coordinating Council on Medical Education—CCME—can take some basic steps quickly, while working hard on the fine tuning.

FOREIGN MEDICAL GRADUATES

I am gratified that the administration's bill tries to come to grips with the problem of FMG's—who now are over one-fifth of our patient care physicians, almost 30 percent of our physicians in hospital-based practice, and who, in many States, almost entirely staff the mental hospitals. An excellent study of FMG's for the National Science Foundation by Inter-Study adds that there were between 7,500 to 12,000 unlicensed FMG's in the United States in 1973 as well.

We must deal with this problem in several ways: by changing immigration laws that now give preferential status to FMG's, thus depriving their home countries of vital resources; we must set limits to the numbers of residencies, as I stated so that the door for postgraduate FMG training will be less open; and we must insist that FMG's meet the criteria our own young physicians do—the national medical boards. Until and unless HEW can come up with a better testing instrument, I think it is appropriate to mandate the boards for FMG's, and I cite in support of this position the Inter-Study finding that over half of the FMG's would fail the Educational Council for Foreign Medical Graduates—ECFMG—exam—that allows them to enter this country for graduate training—if the passing score were raised by only three points. When you consider that 98 percent of U.S.-trained medical students would pass this exam, the quality of care implications are serious.

New York is one of a number of States that are heavily dependent on these foreign medical graduates to render care in areas that are not favored by our own physician citizens—namely, rural areas and our inner cities. FMG's also provide the bulk of care in certain essential specialities, such as rehabilitation medicine, nationwide. Therefore, we must phase down FMG's thoughtfully and with careful criteria that take into account the crucial patient care needs that FMG's are presently filling, otherwise we shall have a health care catastrophe in many of our cities and States.

MEDICALLY UNDERSERVED POPULATIONS

It is essential to develop meaningful definitions of "medically underserved" areas and populations to which National Health Service Corps personel can be assigned and from which FMG's can be gradually withdrawn. The physician-to-population ratios on which HEW heavily relies on making these designations simply do not address the problems of access and continuity of care faced by millions of Americans. This is particularly true in urban areas where "economically disadvantaged" is virtually synonymous with "medically underserved."

In my judgment, families who have to use the emergency room of a large city hospital as their "family doctor" are just not being served well. There are many causes of this problem, but we can at least begin to address it by giving priority assignment to these populations—and to certain of the populations who inhabit prisons and mental hospitals throughout the Nation and are not receiving even a modicum of decent health care. The administration proposes to guarantee minimum incomes to private practitioners in underserved areas, however defined. But we have to look carefully at who these physicians are and the quality of their care before we spend scarce program dollars here.

VETERINARY, OPTOMETRY, PODIATRY, AND PHARMACY

Capitation to schools of veterinary medicine, optometry, podiatry, and pharmacy in the context of this bill need careful consideration. While I understand scarce dollars are the underpinning for the administration's zeroing out schools of pharmacy and the gradual phaseout of the other schools, I am not convinced that the important functions they carry out in the public interest should be funded only through grants and contracts, as provided in the bill. Their proof of response—appropriately established—to social priorities should be required of these schools as it is of the medical, dental, and osteopathc institutions if they are to receive capitation.

With respect to the administration's elimination of schools of pharmacy from capitation support I note the Student Pharmacy Association testified in favor of scholarships as opposed to capitation. Moreover, it should be noted that the hearing produced no evidence that the Nation faces a shortage or maldistribution that would justify Federal support, except with respect to clinical pharmacy.

Also, while schools of public health are not included in this bill, I believe these schools are a national resource and deserve careful attention by the Congress. Their graduates perform crucial roles in the public interest and do not have the earning potential of physicians, dentists, and osteopaths. In regard to programs and degrees in hospital administration offered at universities other than schools of public health, I believe this must be further explored and considered by the committee.

STUDENT ASSISTANCE

I fully support the administration's scholarship provisions, yet I am concerned that students who may be denied access to scholarships because quotas are filled or appropriations inadequate may be discouraged from even applying to health professions schools of all kinds. This problem is made more acute by the varying and unstable State support to these schools and their students. For these students, it is essential to develop a loan program to complement the minimum 25-percent service-oriented scholarships. If New York, facing fiscal disaster and austerity, is forced to cut back on its support of its public medical schools, if the Massachusetts Legislature decides to withdraw its appropriation, if the District of Columbia is unable to support its schools, should we punish the students? Would it not be preferable to establish a viable loan program for tuition?

We have all heard a great deal about the skyrocketing costs of tuition. Yet any scholarship or loan program should not allow us to fall into the trap of medicare, with its "cost-plus" reimbursements.

I advocate authorizing HEW to establish a task force to oversee the true costs of all forms of medical education, based on an existing body of excellent research, and to monitor and approve any tuition increases, since tuition will be financed by a mixture of scholarships, loans, incentive, and other grants.

U.S. FOREIGN MEDICAL GRADUATES

We need to assist our young people who have begun to receive their medical training abroad—to bring them back home through COTRANS and Fifth Pathway programs so that they do not lag behind, as the evidence shows they would do otherwise. I support and endorse the bill's provisions to achieve such goals; however, this assistance should be time limited to those who are already enrolled or have been accepted for by some date certain in the legislation. The weight of the evidence by the experts is that we will have enough medical school places to meet our Nation's future requirements, thanks to the health manpower initiatives stimulated by the Congress in the past decade, and the pending measure. But it would appear to be a hard and sad fact of life that there simply are more qualified applicants for medical education than places for them and that not everyone who has the ability and the will to be a physician can achieve that goal, but that is the truth of the matter. By all means, let us lend a welcoming hand to our young people studying abroad, but let us agree that it is time to come to grips with a phaseout of this support as national policy. In the interim—and until a cutoff date is set—we must adequately fund the special project grant authority to achieve that "welcoming hand" goal and provide student financial assistance to them as established under existing law, based on legislation I authored, introduced, and cosponsored with Senator PELL.

SPECIAL PROJECT GRANTS

There are many other provisions of the administration bill that I fully support: assistance for disadvantaged students and special programs to recruit and encourage them; projects that foster interdisciplinary education and health team training; programs that productively integrate allied health professionals into the health care delivery system; programs in ambulatory and primary care; and residency stipend in family practice and other primary care fields. In addition, I believe it essential that the special project grant authority be broadened to include funding for humanistic medicine programs and centers. It would appear that humanistic medicine, which emphasizes the importance of the physician or other health professional seeing the patient in the context of his entire life and treating the patient as a responsible person and educating him to take meaningful responsibility for his health care, is a most worthwhile objective. To achieve that goal I intend to offer an appropriate amendment which I believe to have broad bipartisan support.

CONCLUSION

With the thoughtful legislative underpinning provided by the administration bill I believe that we will in the near future enact into law an effective and meaningful program to address the crucial health manpower problems facing the Nation—geographical and specialty maldistribution of physicians and overreliance on FMG's.

I am not convinced the authorization level should be locked-in at the $300 million annual level proposed in the bill.

An effective and meaningful program requires adequate funding and I intend to work to achieve that objective.

Mr. SCHWEIKER. Mr. President, I join in introducing today with Senator KENNEDY the administration's bill—the Health Professions Education Amendments of 1975—to revise and extend authorities of title VII of the Public Health Service Act to provide Federal support for the training of professional health manpower.

Since expiration of the Comprehensive Health Manpower Training Act of 1971—Public Law 92-157—on June 30, 1974, Federal support for the training of physicians, osteopaths, dentists, veterinarians, optometrists, podiatrists, pharmacists, and public and allied health personnel has been provided under continuing resolution. During this period the Congress and the administration have sought to define the nature and extent of health manpower deficiencies in this country, and to agree on the vigor with which these deficiencies ought to be addressed and the appropriate roles of the Federal Government, State governments, and the health manpower education system. The differences of judgment on these matters have been substantial, and despite the introduction and consideration of numerous bills, there has been no consensus.

On September 16, 1975, Dr. Theodore Cooper, Assistant Secretary for Health at the Department of Health, Education, and Welfare, appeared before the Senate Subcommittee on Health to present a new administration proposal for Federal support of health manpower training. In his testimony, Dr. Cooper spoke to the salient problems of geographic maldistribution, inadequate numbers of primary care professionals concomitant with excessive training of specialists, and the need to assure that incoming foreign medical graduates have high levels of professional competence. Foremost among the many positive features of this proposal was recognition that continued capitation support for schools of medicine, osteopathy, and dentistry offers a positive inducement for those schools to make the institutional changes necessary to assumption of a leadership role in addressing high priority national problems. I believe this proposal fashions a solid basis for consensus, and I am pleased to join with my colleagues in its introduction so that it may receive full consideration by the Senate.

While the fundamental components of this bill do address the most serious problem areas, I do wish to point out that there are, in my view, a number of areas that I believe need to be strengthened by amendment. These relate principally to four areas:

First, the proposed authorization level of $309 million is not sufficient to provide an adequate response to the geographic and specialty maldistribution problems that have been so thoroughly documented;

Second, the section on student assistance proposes too few scholarships to meet shortage area needs, and the student loan proposal will bear review;

Third, the administration proposes to take administrative steps to tighten controls on incoming FMG's. I believe these steps need to be specified in the legislation and should include more stringent technical and language examinations.

Fourth, the administration proposes to establish, under existing authorities, an advisory council to study the specialty distribution of residency training positions and discuss realinement with medical specialty bodies. To effect anything approaching a prompt response to obvious imbalances, a more vigorous approach is required.

Mr. President, the Congress has for nearly 20 months been considering various proposals for the Federal support of health manpower training. I urge my colleagues to join with me and the other cosponsors of this bill in the coming weeks to expeditiously complete action on this proposal.

By Mr. HUDDLESTON (for himself and Mr. FORD):

S. 2749. A bill to amend section 142 of title 28, United States Code, relating to the furnishing of accommodations to judges of the courts of appeals of the United States. Referred to the Committee on the Judiciary.

Mr. HUDDLESTON. Mr. President, I am introducing a bill today which I believe will bring a greater degree of fairness and reason to the procedure of providing office accommodations for judges of the U.S. circuit courts of appeals.

The provisions of section 142, title 38, United States Code, presently require that U.S. district judges and circuit judges have their office accommodations only at those places where regular terms of court are authorized by law to be held. While the statute was probably intended to apply only to district judges, the language is so broad that it also includes circuit judges. The result is that an extreme hardship is often worked on some circuit judges who spend a considerable amount of their time reviewing court matters when not actually sitting in court. Most of this work could be done near their homes but because of section 142, they must often travel many miles to their offices. The absurdity of this is compounded by the fact that office space is often readily available in Federal facilities close to the homes of these judges, but they are precluded from using it because regular terms of courts are not authorized to be held there. In some instances the Federal Government must incur additional expenses by constructing or renting suitable chambers in authorized cities while similar facilities go unused elsewhere.

The bill I am introducing today would eliminate this problem without any additional cost to the Federal Government. My bill would make it possible for circuit judges to have their offices near their homes when Federal facilities are available and the judicial council of the circuit approves. I believe that this change will result in a saving to the taxpayers and contribute to the efficiency of the courts of appeals.

By Mr. NELSON:

S. 2750. A bill to extend the authorization for the Teacher Corps, and for other purposes. Referred to the Committee on Labor and Public Welfare.

TEACHER CORPS AMENDMENTS OF 1975

Mr. NELSON. Mr. President, the Teacher Corps Amendments of 1975, which I am introducing today, would extend the authorization for the Teacher Corps for 6 additional years, through fiscal year 1982. The current authorization under title V of the Higher Education Act of 1965 expires at the end of fiscal year 1976. This bill would increase the authorized appropriations for the Teacher Corps from the current level of $37.5 million for fiscal year 1976 to $50 million for fiscal year 1977. Such sums as may be necessary would be authorized to be appropriated for fiscal years 1978 through 1982.

The proposed legislation would amend the current Teacher Corps legislation to authorize participation of educational personnel other than classroom teaching staff. The 1974 amendments broadened the program to enable Teacher Corps projects to retrain experienced teachers and teacher aides. The bill would also authorize Teacher Corps projects to include retraining activities involving the participation of other educational personnel, such as principals, assistant principals, counselors and other supportive staff, in addition to the teaching staff. Thus, the entire educational staff of a school could be involved in the Teacher Corps project.

The bill would also authorize enrollment of Teacher Corps members for periods of up to 5 years. The existing law places a maximum limit of 2 years on the enrollment of Teacher Corps members. While teacher-interns and experienced teachers participating in Teacher Corps projects will not always be enrolled for the full 5-year period, experience indicates that longer-term projects offer greater assurance of bringing about the kind of educational changes needed in the schools. The proposed amendments would therefore allow Teacher Corps members to participate for up to 5 years.

Ten years ago the Teacher Corps authorization, which I originally sponsored, was enacted as part of the Higher Education Act of 1965. The appropriation for its first year of operation was $9.5 million for fiscal year 1966. The annual appropriation rose to $37.4 million by fiscal year 1972 and has remained at the $37.5 million level from fiscal year 1973 through the current fiscal year 1976. The proposal to increase the appropriations level to $50 million in fiscal year 1977 is supported by the recommendation of the National Advisory Council on Education Professions Development in its July 1975 report.

In 1974, there were 94 Teacher Corps projects being carried out in 158 school districts in cooperation with 93 institutions of higher education. During its 10-year history, 11,000 individuals have enrolled in the Teacher Corps, and approximately 50 percent of the teacher-interns came from minority backgrounds. Of the children served by such projects, about 80 percent were in elementary schools. Over the 10 years, bilingual children have been involved in 69 projects and Indian children in 67 projects.

When the Teacher Corps was originally enacted 10 years ago, there was a widely recognized shortage of trained teachers, especially in poverty-area schools. The original Teacher Corps legislation was therefore focused upon attracting college graduates to the teaching profession. During its 10-year history, the preponderance of Teacher Corps members have been young persons—most of them from the ages of 19 to 25. During the first 6 years of operation, there were six times as many teacher-interns as experienced teachers enrolled in the Teacher Corps.

The teaching team approach was designed both to provide additional staff for the participating poverty-area school and to help the teacher-interns learn by experience how to meet the educational needs of disadvantaged children. In fact, just how successful the Teacher Corps was in attracting young persons to the teaching profession was shown by the fact that throughout its history there have been 10 times as many applicants for teacher-intern positions as there were slots available, and in the statistics for a recent year showing that 63 percent of the Teacher Corps members intended to remain in teaching and that 27 percent intended to remain in the school district where they serve as interns.

From the time I introduced the legislation authorizing the Teacher Corps in 1965, I have cooperated with the Office of Education in proposing amendments to the legislation. I have always believed that the Teacher Corps should be a flexible program, adapted to change with the needs of education.

In 1967, I introduced the amendments to provide for the enrollment of college undergraduates who had completed 2 years of college, relaxing the previous requirement that only college graduates could enroll as teacher-interns. In 1970, I proposed the Student Teacher Corps, allowing high school and college students to volunteers for service as tutors or instructional aides working with Teacher Corps projects.

Last year, I introduced the legislation in the Senate which was included in the 1974 education amendments authorizing the Teacher Corps to support demonstration projects involving the retraining of experienced teachers who are not members of teaching teams as well as training for teacher aides in schools carrying out Teacher Corps projects.

It is now generally recognized that the overall teaching shortage is no longer the severe problem it was in the past. The 1974 amendments authorized the Office of Education to demonstrate that the Teacher Corps model can be applied to the retraining of teachers and aides who are already in the teaching profession.

This legislation would further broaden the authority of the Teacher Corps to involve the entire school staff in the educational improvements which a Teacher Corps project seeks to bring to a school. All of the educational staff would be eligible for participation and membership in the Teacher Corps. Principals, assistant principals, and supportive staff would not be excluded, as they are now by the terms of the existing law. The Teacher Corps projects will thus make the entire school a demonstration project, based on total school staff participation.

Under the proposed amendments, the teacher-interns and experienced teachers leading teaching teams would, as in the past, be compensated by Teacher Corps funds. Regular school staff participating in the Teacher Corps retraining activities would continue to be regularly compensated employees of the school system, with the new legislation authorizing payment only of those expenses occasioned by the time devoted to Teacher Corps retraining activities. In addition, the Commissioner of Education would be authorized to reimburse the local educational agency for the reduced teaching load carried by its teachers while they are participating in retraining activities as a part of the Teacher Corps project.

Under the new legislation, the Teacher Corps is expected to continue to enroll a substantial number of teacher-interns, since new teachers are still needed to meet the special educational needs of such groups as Indian, migrants, and bilingual children, as well as to serve those children in rural and urban areas where there are still not enough trained teachers available. However, the previous ratio of 6 teacher-interns to 1 experienced teacher is already changing to a ratio showing more experienced teachers than teacher-interns, and this pattern will continue in the foreseeable future. Because the number of jobs available for new teachers is falling sharply, it makes sense for the Teacher Corps to concentrate upon retraining experienced staff while continuing to involve a few teacher-interns in each project. Larger groups of teacher-interns will still be supported in those special Teacher Corps projects where new teachers are still needed.

Mr. President, I ask unanimous consent that the bill and a summary thereof be printed in the RECORD.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 2750

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Teacher Corps Amendments of 1975".

SEC. 2. Section 511 of the Higher Education Act of 1965, as amended, is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsection:

"(b) For the purpose of carrying out the provisions of this subpart, there are authorized to be appropriated $50,000,000 for fiscal year 1977, and such sums as may be necessary for each of the five succeeding fiscal years."

SEC. 3. (a) Section 511 of the Higher Education Act of 1965 is further amended by striking out the words "and teacher aides" both places they appear and inserting in lieu thereof a comma and the following: "teacher aides, and other educational personnel".

(b) Paragraph (1) of section 513(a) of the Higher Education Act of 1965 is amended by striking out "two" the first time it appears in such paragraph (p) and inserting in lieu thereof "five" and by inserting after "teacher aides," the following: "and other educational personnel,".

SEC. 4. Paragraph (7) of section 513 of such Act is amended by inserting after the subparagraph designation "(7)" the clause designation "(A)", by inserting "State and" before "local educational agencies", and by striking out "under clause (1)" and inserting in lieu thereof "under this subpart, and (B) provide planning, technical assistance, monitoring, documenting, dissemination, and evaluation services for arrangements made under this subpart".

SEC. 5. Section 513(a)(3) of such Act is amended by inserting "primarily" before "in areas", and by striking out "teaching teams, each of which shall consist of an experienced teacher and a number of teacher-interns who, in addition to teaching duties, shall be afforded time by the local educational agency for a teacher-intern training program carried out under the guidance of an experienced teacher" and inserting in lieu thereof "Teacher Corps programs each of which shall include teacher-intern teams led by experienced teachers, and may include additional experienced teachers, teacher aides, and other educational personnel, who shall be afforded time by the local educational agency for a training program carried out in cooperation with an institution of higher education".

SEC. 6. Section 513(b) of the Higher Education Act of 1965 is amended by striking out "for teacher-interns while teaching" and inserting in lieu thereof "for Teacher Corps members while serving".

SEC. 7. Section 513 of the Higher Education Act of 1965 is further amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of law, the Commissioner shall develop and promulgate specific funding criteria based on the provisions of this subpart to assist potential grantees and contractors in developing proposals for Teacher Corps projects, and to assist the Commissioner in selecting proposals to be supported under this subpart."

SEC. 8. Section 514 of the Higher Education Act of 1965 is amended by adding at the end thereof the following new subsection:

"(f) The Commissioner is authorized, pursuant to arrangements made under this subpart, to make payments to local educational agencies to compensate for released time during which experienced educational personnel employed by such agency will be participating in Teacher Corps training programs and to enable such agency to secure substitute teaching services during such period of time."

SUMMARY OF "TEACHER CORPS AMENDMENTS OF 1975"

(Introduced by Senator GAYLORD NELSON)

The bill would extend for six additional years, through fiscal year 1982, the authorization for the Teacher Corps under title V–B of the Higher Education Act of 1965.

Appropriations would be authorized of $50 million for fiscal year 1977, and such sums as may be necessary for fiscal years 1978 through 1982. (The current fiscal year 1976 appropriations level is $37.5 million.)

The bill authorizes other educational personnel (in addition to experienced teachers, teacher aides, and teacher-interns) to be members of the Teacher Corps.

The bill increases from two to five years the maximum period of time for which an individual may be a member of the Teacher Corps.

The Teacher Corps would be authorized to provide planning, technical assistance, monitoring, documenting, dissemination, and evaluation services to State and local educational agencies and institutions of higher education carrying out Teacher Corps projects.

By Mr. CHURCH:

S. 2751. A bill to reform the food stamp program. Referred to the Committee on Agriculture and Forestry.

NATIONAL FOOD STAMP REFORM ACT FOR THE ELDERLY

Mr. CHURCH. Mr. President, I introduce for appropriate reference the 1975 National Food Stamp Act for the Elderly.

The Senate Committee on Aging has conducted field hearings in the last few months about the impact of inflation on the older American. Hearings in California, New Jersey, Iowa, Oregon, and Washington, D.C. have revealed the extent of the inflation's impact on the elderly.

Elderly persons have told how they have had to skimp on housing, medical, transportation or food costs because their meager incomes would not provide for all. Most often neglected are medical and food expenses which can result in even poorer health for the older person.

Therefore, programs which supplement the elderly's nutritional needs have increased in their importance. Congregate and home-delivered meals have increased in popularity and have enabled many older Americans to live more independently and healthier lives.

In addition, the food stamp program has provided essential help. Rising food costs, use of food stamps for home-delivered and congregate meals, and successful outreach programs have contributed to a substantial increase in participation by the elderly in the food stamp program. U.S. Department of Agriculture estimates show that approximately 74 percent of one-person household participants are 60 and older. In two-person households, USDA estimates that nearly 40 percent are 60 or above.

I think it crucial that, as the Agriculture Committee and Congress considers legislation to amend the food stamp program, the special needs of the elderly be carefully considered. Their physical impairments, their widespread need for special diets, their limited incomes and their often isolated existences put many of them squarely in the group the program was originally designed to serve—those most in need.

Several of the food stamp reform bills now before the Agriculture Committee contain provisions which would benefit the elderly, as well as all participants, including: Increased standard deductions; nutritional education; issuance of food stamps with public assistance payments; and, allowing food stamp participants who participate in congregate or home-delivered meals programs to do so without requiring them to have cooking facilities in their households.

However, other actions are necessary to make the program more helpful to the elderly, as my National Food Stamp Reform Act for the Elderly would do:

First, direct the Secretary of Health, Education, and Welfare to issue regulations permitting supplemental security income—SSI—recipients to be certified for food stamps at local or district social security offices. This certification would be conducted by State welfare personnel housed in the social security quarters. Social security personnel would merely have to direct the recipients to the appropriate desk for food stamp certification.

Moreover, the Food Stamp Act would be amended in order to require only 30 days between the applicants' filing date and the date of certification. The States would also be required to provide adequate nutrition education programs informing participants of methods of planning, purchasing and preparing foods.

Such streamlining of the administrative process for the recipient would substantially reduce the redtape barriers elderly must face when applying for food stamps.

Second, the bill would define the "nutritionally adequate diet" as required by the statute to be the cost of the food required to feed a family of four persons consisting of a male and female between the ages of 20 and 54, a child between the ages of 9 and 11, and a boy between the ages of 12 and 14.

This new definition would allow for all of the elderly to be able to purchase the "Thrifty Food Plan." At recent hearings of the Special Committee on Aging, the administration's proposed Thrifty Food Plan fell under heavy scrutiny. Witnesses pointed out that under this plan, elderly men would not even be able to purchase—with their current coupon allotments or those proposed for January 1 implementation—the amount of food as prescribed by the Thrifty Food Plan. Therefore, my bill's change in the definition of the composition of the household for four would allow the elderly, as well as other participants, to have more sufficient allotments to purchase, at a minimum, the value of food as contained in the Thrifty Food Plan.

Third, the bill would eliminate the purchase requirement allowing the participant to receive an allotment equal to the bonus value to which the recipient would be entitled. The bill would also provide for a 30 percent food stamp purchase price but only to be implemented in conjunction with the elimination of the purchase requirement. If such a measure to eliminate the purchase requirement is rejected, my proposal to increase the income benefit ratio to 30 percent should be totally disregarded, and the current 24 percent average purchase price would be retained.

The elimination of the purchase requirement would be beneficial for many elderly who fail to apply for food stamps because they cannot afford to buy their way into the program. Allowing recipients to receive the bonus value of stamps for no cost would open the program to those persons most in need.

Mr. President, my bill takes the form of amendments to the reform food stamp legislation now being considered by the Agriculture Committee. I endorse the need for food stamp reform, but while the Congress is considering such reform I do not want the particular needs of the elderly to be overlooked. Without such attention, genuine reform simply would not be possible.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2751

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "1975 National Food Stamp Reform Act for the Elderly".

EFFICIENT CERTIFICATION

SEC. 2. (a) Section 10 of the Food Stamp Act of 1964, as amended, is amended by adding at the end thereof a new subsection as follows:

"(j) The Secretary, in conjunction with the Secretary of Health, Education, and Welfare, shall prescribe regulations permitting applicants and recipients of supplemental security income benefits under title XVI of the Social Security Act to apply for food stamps at supplemental security income certification offices. Certification of food stamp eligibility in such offices shall be conducted by State agency personnel, and employees of the Social Security Administration in such offices shall refer supplemental security income applicants and recipients to the appropriate State agency personnel so that the application and certification for food stamp assistance is accomplished as efficiently and conveniently as possible.".

(b) Section 10(e) of the Food Stamp Act of 1964, as amended, is amended by deleting the word "and" before clause (8), deleting the period at the end of clause (8) and inserting in lieu thereof a semicolon and the following: "and (9) that the State agency shall (A) determine promptly the eligibility of applicant households by providing an opportunity for each household to receive and file an application for assistance under this Act on the same day of such household's first reasonable attempt to make an oral or written request for such assistance, (B) complete the certification of all eligible households and provide an authorization to purchase card to such households not later than thirty days after the filing of such application, and (C) conduct nutrition education programs for the purpose of informing food stamp recipients of effective means of planning, purchasing, and preparing foods in the most nutritionally adequate fashion.".

NUTRITIONALLY ADEQUATE DIETS

SEC. 3. Section 3 of the Food Stamp Act of 1964, as amended, is amended by adding at the end thereof a new paragraph as follows:

"(o) The term 'nutritionally adequate diet' means a diet costing an amount that could reasonably be expected to provide food stamp recipients under this Act with an opportunity to obtain the Recommended Dietary Allowances established by the National Academy of Sciences. The cost of such diet shall be the basis for uniform coupon allotments by household size, regardless of composition, and the cost of such diet, at a minimum, shall be an amount equal to the cost of the food required to feed a family of four consisting of four individuals (a man and woman both between the ages of 20 and 54 years, a boy between the age of 12 and 14 years, and another child between the age of 9 and 11 years), determined in accordance with the thrifty food plan developed by the Secretary in 1975, adjusted as appropriate to reflect the economies of scale as set forth in such thrifty food plan.".

ELIMINATION OF THE PURCHASE PRICE

SEC. 4. (a) The first sentence of section 4 (a) of the Food Stamp Act of 1964, as amended, is amended to read as follows: "The Secretary is authorized to formulate and administer a food stamp program under which, at the request of the State agency, eligible households within the State shall be provided with increased incomes, through the use of a coupon allotment, sufficient to provide such households with an opportunity to obtain a nutritionally adequate diet.".

(b) The section heading of section 7 of the Food Stamp Act of 1964, as amended, is amended by striking out "AND CHARGES TO BE MADE".

(c) Section 7(a) of the Food Stamp Act of 1964, as amended, is amended to read as follows: "The face value of the coupon allotment which State agencies shall be authorized to issue to any household certified as eligible to participate in the food stamp program shall be in such amount as the Secretary determines to be the cost of a nutritionally adequate diet, reduced by an amount equal to 30 per centum of such household's income, except that for single-person and two-person households the minimum allotment shall be $10 and $20 per month, respectively, and for all other households the minimum allotment shall be $25 per month. The coupon allotment for eligible households shall be adjusted semiannually to the nearest dollar increment to reflect changes in the prices of food published by the Bureau of Labor Statistics in the Department of Labor to be implemented commencing with the allotments of July 1, 1976, incorporating the changes in the prices of food through March 31, 1976.".

(d) Subsections (b) and (d) of section 7 of the Food Stamp Act of 1964, as amended, are repealed.

(e) Subsection (c) of section 7 of the Food Stamp Act of 1964, as amended, is redesignated as subsection (b), and such subsection is further amended by striking out "which is in excess of the amount charged such households for such allotment".

(f) (1) Clause (7) of the second sentence of section 10(e) of the Food Stamp Act of 1964, as amended, is amended to read as follows: "(7) notwithstanding any other provision of law, the institution of procedures under which any household participating in the program shall be entitled to have its coupon allotment distributed to it with any grant or payment to which such household may be entitled under title IV of the Social Security Act; and".

(2) Section 10(g) of the Food Stamp Act of 1964, as amended, is amended to read as follows:

"(g) If the Secretary determines that there has been gross negligence or fraud on the part of the State agency in the certification of applicant households, the State shall, upon request of the Secretary, deposit into a separate account established in the Treasury a sum equal to the face value of any coupons issued as a result of such negligence or fraud. Funds deposited into such account shall be available without fiscal year limitation for the redemption of coupons.".

(g) (1) The third sentence of section 16(a) of the Food Stamp Act of 1964, as amended, is repealed.

(2) Subsections (b) and (c) of section 16 of the Food Stamp Act of 1964, as amended, are repealed and subsection (d) is redesignated as subsection (b).

EFFECTIVE DATE

SEC. 5. The provisions in this Act shall become effective on July 1, 1976.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 123

At the request of Mr. INOUYE, the Senator from Massachusetts (Mr. BROOKS) was added as a cosponsor of S. 123, a bill to amend the Social Security Act.

S. 388

At the request of Mr. CHURCH, the Senator from Hawaii (Mr. INOUYE) and the Senator from North Carolina (Mr. MORGAN) were added as cosponsors of S. 388, a bill to amend the Social Security Act to provide for the administration of the old-age, survivors, and disability insurance program, the supplemental security income program, and the medicare program by a newly established independent Social Security Administration, to separate social security trust fund items from the general Federal budget, to prohibit the mailing of certain notices with social security and supplemental security income benefit checks, and for other purposes.

S. 1379

At the request of Mr. FANNIN, the Senator from Pennsylvania (Mr. HUGH SCOTT), the Senator from South Carolina (Mr. THURMOND), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 1379, a bill to amend the Internal Revenue Code of 1954.

S. 2020

At the request of Mr. RIBICOFF, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of the bill (S. 2020) to provide medicare coverage for optometric services.

S. 2389

At the request of Mr. INOUYE, the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of S. 2389, a bill to amend the Employee Retirement Security Act of 1974.

S. 2446

At the request of Mr. CHURCH, the Senator from Iowa (Mr. CLARK) was added as a cosponsor of S. 2446, a bill to amend the Social Security Act to freeze the medicare deductibles.

S. 2498—WITHDRAWAL

At his own request, the Senator from Oklahoma (Mr. BARTLETT) was withdrawn as a cosponsor of S. 2498, the Small Business and Small Business Act amendments of 1975.

S. 2560

At the request of Mr. FANNIN, the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 2560, a bill to amend the Social Security Act.

S. 2589

At the request of Mr. MCGOVERN, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 2589, a bill to foster and continue the family farm in the United States.

S. 2617

At the request of Mr. JOHNSTON, the Senator from Indiana (Mr. HARTKE) was added as a cosponsor of S. 2617, a bill to establish an Office for Minority Business Development and Assistance in the Department of Commerce.

S. 2621

At the request of Mr. NELSON, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 2621, a bill to amend the Federal Food, Drug, and Cosmetic Act.

S. 2631

At the request of Mr. MCINTYRE, the Senator from Kansas (Mr. PEARSON) was added as a cosponsor of S. 2631, a bill to provide for consumers a further means of minimizing the impact of inflation and economic depression by narrowing the price spread between costs to the producer and the consumer of needed goods, services, facilities, and commodities through the development and funding of specialized credit sources for, and technical assistance to, self-help, not-for-profit cooperatives, and for other purposes.

S. CON. RES. 66

At the request of Mr. HATFIELD, the Senator from New Hampshire (Mr. MCINTYRE) was added as a cosponsor of Senate Concurrent Resolution 66, a resolution declaring as national policy the right to food.

S. CON. RES. 69

At the request of Mr. CRANSTON, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of Senate Concurrent Resolution 69, relating to nuclear reduction, testing, and nonproliferation.

SENATE RESOLUTION 318—SUBMISSION OF A RESOLUTION WITH RESPECT TO AUTHORIZING DOMESTIC SATELLITES

(Referred to the Committee on Commerce.)

Mr. INOUYE (for himself, Mr. PASTORE and Mr. FONG) submitted the following resolution, which was referred to the Committee on Commerce:

S. RES. 318

Whereas the Communications Act of 1934, as amended, directs the Federal Communications Commission to regulate communications by wire and radio so as "to make available, so far as possible, to all of the people of the United States a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges. . . .";

Whereas in its Second Report and Order (Docket No. 16495 (1972)) establishing the nation's basic domestic communications satellite policy, the Federal Communications Commission stated that "With the availability of domestic satellites for communications between the mainland and Alaska, Hawaii, and Puerto Rico, distance should dramatically diminish as an excuse or justification for the historic high-rate treatment that has been accorded to these services";

Whereas in that same Report and Order the Federal Communications Commission found that, "with the inauguration of satellite systems to serve the domestic communications requirements of all of the United States, there will be justification for integrating Alaska, Hawaii, and Puerto Rico into the established rate scheme for communications service applicable to the mainland";

Whereas in that Report and Order the Federal Communications Commission determined that it would be its policy to condition grant of an application for a domestic communications satellite system which would include service to Alaska, Hawaii, and Puerto Rico upon integration of these three points into the established rate scheme for communications applicable to the contiguous forty-eight states, and that no later than six months from the issuance of the authorization for such service, the authorized carrier must submit a specific proposal for revised rates for review and approval of the Commission prior to authorization for the commencement of service;

Whereas in its Memorandum Opinion and Order (Docket No. 16495) reaffirming the above enunciated policy determination the Federal Communications Commission again stated that "the advent of domestic satellite service will be accompanied by the integration of all interstate services between the mainland and Alaska, Hawaii, and Puerto Rico into an enlarged domestic rate pattern";

Whereas the said applicants have not filed proposed tariffs reflecting the rates and regulations governing service to Hawaii, statements of how those rates and regulations comply with the Commission's policies, and economic data supporting such rates and regulations: Now, therefore, be it

Resolved, That it is the sense of the Senate that in accordance with such previously announced policies the Federal Communications Commission should take such action pursuant to law as is necessary in order to provide that the advent of domestic communications satellite service will be accompanied by the integration of all interstate services between the mainland and Alaska, Hawaii, and Puerto Rico into an enlarged domestic rate pattern.

Mr. INOUYE. Mr. President, the resolution I am submitting today is cosponsored by Senators PASTORE and FONG.

It expresses the sense of the Senate that the Federal Communications Commission take whatever action is necessary to assure compliance with its previously announced policy requirements governing the establishment of domestic satellite systems. In the matter of Establishment of Domestic Communications-Satellite Facilities by Non-governmental Entities, Second Report and Order, 35 FCC 2d 844 (1972), and Memorandum Opinion and Order, 38 FCC 2d 665 (1972).

In other words, Mr. President, this resolution merely expresses the sense of the Senate that the FCC proceed to do whatever it said it was going to do in 1972.

I have requested the distinguished chairmen of the Commerce Committee, and its Subcommittee on Communications, the senior Senators from Washington and Rhode Island respectively—Senator MAGNUSON and Senator PASTORE—to hold a committee hearing on this matter, and I am pleased to say one has been scheduled for December 9.

Mr. President, I believe such a hearing is necessary to eliminate the confusion which appears to surround the implementation of the FCC's second report and order, particularily as it applies to presently authorized and future domestic satellite systems.

According to information supplied to me the presently authorized domestic satellite systems are as follows:

First. American Telephone and Telegraph Co. has authority to construct a system to serve all 50 States uisng a Comsat General Corp. satellite to offer, initially, message telecommunications service. GTE Satellite Corp. may or may not participate in offering this service, depending on the outcome of a pending proceeding at the FCC.

Second. RCA has authority to construct and operate a system to provide nationwide private line service; it wants to offer message telecommunications service to Alaska, and private line service to Hawaii, but does not have authority to provide them.

Third. Western Union has a satellite system in operation to offer private line services in the continental United States, and wants to serve Hawaii but thus far has not been authorized.

In its second report and order the FCC said that it would be its policy to condition grants of any application for operation of a domestic communications satellite system which would include service to Alaska, Hawaii, and Puerto Rico upon integration of these three points into the established rate scheme for communications applicable to the contiguous 48 States.

The FCC's report and order went on to say that no later than 6 months from the time it issued an authorization for domestic communications satellite service, and prior to authorization for the commencement of the service, the authorized carrier must submit a specific proposal for revised rates for review and approval of the Commission.

Mr. President, with regard to the systems described above, in all but one case that 6-month time period has long since expired and not one of the applicants has filed the required plan to integrate Alaska, Hawaii, and Puerto Rico into the nationwide rate scheme, even though each proposes to serve Hawaii.

Quite obviously, Mr. President, it is not clear to these applicants what they are required to do under the terms of the FCC's second report and order, and the Commission has not enlightened them.

Confusion therefore surrounds the Commission's domestic communications satellite policy in this regard, at a time when the major domestic satellite facilities of these applicants will soon be ready to become operational, and one, in fact, is operational.

Mr. President, the use of satellites for nationwide domestic communications systems has been technically feasible for over a decade. Regulatory delay, however, has been a major factor in frustrating realization of these systems.

Consumers have, as a consequence, been denied the benefits of modern communications technology. And, nowhere has the consumer been more victimized than in Alaska, Hawaii, and Puerto Rico and those calling these points because long distance telephone rates to and from the contiguous 48 States are substantially higher.

When the FCC finally adopted its policy governing the authorization of satellites for domestic communications service in 1972, it expressly recognized that with the use of satellites whatever justification historically existed for this discriminatory treatment would cease.

It is clear from the FCC's announced policy that it viewed the advent of domestic satellites as the vehicle to remove existing discrimination in interstate communications with Alaska, Hawaii, and Puerto Rico.

Given the FCC's record of regulatory lag, if the present confusion regarding the requirements of its second report and order is not clarified now, it may take years before rates for Hawaii, Alaska, and Puerto Rico are integrated into the domestic rate structure.

Mr. President, it will, in my opinion, be a manifest injustice if this discriminatorily high rate treatment continues when the reasons therefore have ceased to exist.

Moreover, should it go on, I believe serious questions are raised as to whether the FCC is carrying out its statutory mandates, and whether the carriers providing domestic satellite service are in compliance with the law.

Section 151 of the Communications Act requires the FCC to make available to all the people of the United States a nationwide communications service with adequate facilities at reasonable charges.

Sections 214 and 309 require that the authorization of common carrier and radio facilities be in the public interest, convenience, and necessity. And, the people of Alaska, Hawaii, and Puerto Rico are part of that public.

Section 307(B) requires the FCC to make such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same.

Finally, section 202 of the Communication Act makes it unlawful for any common carrier to make any unjust or unreasonable discrimination in charges for or in connection with like communications service.

Mr. President, as I understand it, the hearing scheduled on this matter is very narrow in its scope.

It is intended to have the FCC explain unequivocably for the record what it requires applicants to show, and when, and how disputes will be resolved.

If that is accomplished each applicant will know beyond doubt what it must do. The consumer public will know what it may expect. And Congress will be aware of how the FCC is carrying out its statutory mandates in this area.

Mr. President, so that there will be no

misconception about the purpose of this resolution I would like to emphasize that it does not change existing law.

Nor does it ask the Senate to decide if Alaska, Hawaii, and Puerto Rico should be treated equally with respect to telephone and telegraph rates vis-a-vis the contiguous 48 States. The FCC decided that question affirmatively in the second report and order in 1972.

Although the question of whether these three points should be integrated into a nationwide rate scheme is not at issue, questions have been raised about the effect of such integration on existing telephone rates in the contiguous 48 States.

Based on the expert opinion I have received from outside counsel I have assured the distinguished Chairmen of the Senate Commerce Committee and the Communications Subcommittee, that integration of these three points would have no significant effect on existing intrastate rates, and only minimally, if at all, affect interstate rates in the contiguous 48 States.

At this point, I would like to cite my question on this matter, and the assurance I have received.

Question: If the FCC's policy is implemented as Hawaii urges, what effect will it have on users' telephone services in other States, such as Rhode Island and Washington?

> The effect would be minimal. First, we are dealing with interstate services, and initially, mostly Message Telecommunications Service (MTS), the long distance call with which most people are familiar. We are not dealing with local exchange services. Second, the revenues from MTS service to and from Hawaii (and Alaska and even Puerto Rico) are a small portion of total revenues for all interstate MTS. Thus, any shift in costs, cannot have that significant an effect on users in the forty-eight contiguous states. Third, any rate reductions for interstate services to off-shore points immediately and directly benefit users in the other states—on their calls to Hawaii, for example. Fourth, the Commission has found that the advent of domestic satellites will reduce the costs of facilities associated with long distances, i.e., the large number of microwave towers, many miles of cable, submarine or other, etc. Fifth, the off-shore points generally are known to receive a large number of visitors from the other states. These visitors will benefit from reduced rates when calling home. Given the large number of visitors to Hawaii from example, this is a significant benefit to be realized by citizens of all states.
>
> Finally, any discussion of potential cost would not be complete without a discussion of the present discriminatory rate pattern. Today Message Telecommunications Service between the 48 Mainland states is based on the average costs for that service, in the aggregate. In other words, the service costs the same in a densely populated or sparsely populated state; a mountainous or plains state, or one with numerous water barriers; or a state with high or low volume users, or high or low labor costs. Obviously, if costs were to be directly assigned on a state-by-state or local basis, the rates for some areas would go up and for other areas would go down. However, for the 48 states costs are averaged and rates are uniform. But for two states, Alaska and Hawaii, this is not done. Their rates are calculated as if they were foreign locations.

Mr. President, when there is confusion in the regulatory process everyone suffers.

In the dynamic field of telecommunications it is especially difficult for a regulatory policy to keep pace with technological advances.

Nevertheless the effort must be made if the public is to receive the benefits to which it is entitled.

Although the FCC has been delegated the authority to regulate telecommunications, ultimate responsibility for our nationwide communications systems must, of course, rest with the Congress.

When, therefore, uncertainty and confusion exists on such a far-reaching policy matter, I believe it is incumbent on the Congress to take whatever steps it deems necessary to assist the FCC in protecting the public's interest by eliminating that uncertainty and confusion.

It is for this reason I am submitting the Senate resolution which I now send to the desk.

AMENDMENTS SUBMITTED FOR PRINTING

SUSPENSION OF DUTIES ON CERTAIN CLASSIFICATIONS OF SILK—H.R. 7727

AMENDMENT NO. 1195

(Ordered to be printed and to lie on the table.)

Mr. HUDDLESTON submitted an amendment intended to be proposed by him to the bill (H.R. 7727) to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk.

SOCIAL SECURITY AMENDMENTS OF 1975—H.R. 10284

AMENDMENT NO. 1196

(Ordered to be printed and referred to the Committee on Finance.)

Mr. CHURCH submitted an amendment intended to be proposed by him to the bill (H.R. 10284) to amend title XVIII of the Social Security Act to assure that the prevailing fees recognized by medicare for fiscal year 1976 are not less than those for fiscal year 1975, to extend for 3 years the existing authority of the Secretary of Health, Education, and Welfare to grant temporary waivers of nursing staff requirements for small hospitals in rural areas, to maintain the present system of coordination of the medicare and Federal employees' health benefit programs, and to correct a technical error in the law that prevents increases in the medicare part B premiums.

INTERNATIONAL SECURITY ASSISTANCE ACT OF 1975—H.R. 10594

AMENDMENT NO. 1197

(Ordered to be printed and referred to the Committee on Foreign Relations.)

Mr. KENNEDY. Mr. President, I submit an amendment which I shall propose at the appropriate time to the International Security Assistance Act of 1975, H.R. 10594.

My proposal will provide $5 million in economic assistance for the newly indeernment in the Republic of Cape Verde.

On July 1, Cape Verde became an independent nation, after 500 years of Portuguese colonialization. The new government in the Republic of Cape Verde has announced its intention to establish a democratic society for all Cape Verdean people to strive for goals that will provide a wholesome life for their families.

Cape Verdean immigration to the United States extends back over 150 years during a period in which they have made extensive contributions to the development of our country. So that today, the Cape Verdean population in the United States is estimated to number over 300,000 people.

The Cape Verdean-American population in Massachusetts alone approaches 100,000. And it is from the concerned interests of the Cape Verdeans in Massachusetts that I have learned of the need to help sustain the efforts of the fledgling new government in the Cape Verde Islands.

Earlier this year the Congress approved a proposal for providing economic aid to Portugal and to all of Portugal's former African colonies, including Cape Verde. The bulk of that aid package has been used to meet requests from Portugal. Only $5 million has been directed toward Cape Verde. Yet, I have learned from Prime Minister Pedro Pieres, and from other officials in the Cape Verde government that the needs of the new Island nation are substantial. There is an ever present struggle for life in that drought ridden West African archipelago, where people are forced to scratch out a marginal level of subsistence from the barren lava beds of the islands.

To obtain the vital foodstuffs needed by its people the new government is searching for effective methods to produce the foods and other commodities that are so badly in short supply. Already the Cape Verdean government has begun to explore programs using hydroponics for food production; wind technology and solar energy applications in the development of energy sources; irrigation equipment and techniques for agricultural and industrial purposes, and the development of programs in community waste management, well drilling, seed stock technology, aquaculture and ferro and fibro cement product manufacture.

All of these are proposals that the new government is exploring in its efforts to establish programs to help the Cape Verdeans become as self-sufficient as possible.

I firmly believe that our government should continue the support and reinforcement of the programs already begun under provisions of the Foreign Assistance Act.

With the amendment I am submitting at this time, the people of the United States will make clear to the people of Cape Verde that their struggle for survival will not be in vain.

I urge the Senate to approve my amendment to the International Security Assistance Act.

FEDERAL AID HIGHWAY ACT OF 1975—S. 2711

AMENDMENT NO. 1198

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON (for himself and Mr. HELMS) submitted an amendment intended to be proposed by them jointly to the bill (S. 2711) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code and for other purposes.

(Ordered to be printed and to lie on the table.)

AMENDMENT NO. 1203

Mr. BUCKLEY. Mr. President, the Senate will consider the Federal Aid Highway Act of 1975 (S. 2711) sometime next week. During the deliberations of the Transportation Subcommittee, of which I am a member, I brought up the issue of the one-half of percent minimum interstate apportionment provision of the present law which is due to be continued under the 1975 act. By virtue of that provision an additional sum is authorized to supplement the apportionment due to States under the usual formula based on the ratio of each State's cost to complete its Interstate System compared to the cost to complete the whole system, nationwide. That additional sum is apportioned to those States which would be entitled to less than $16.25 million under the usual apportionment formula so that they would receive a total of $16.25 million. The amount authorized for this purpose under S. 2711 is $75 million for fiscal year 1977 and $125 million for fiscal year 1978.

The reason advanced in the past for the minimum apportionment has been that under the normal apportionment formula, each State's share of interstate funds would gradually diminish as it neared completion of its interstate mileage. This would mean that annual State funding levels would decrease before completion of their portions of the Interstate System to such levels that it would not be feasible to carry out an efficient construction program.

Those who support the present provision argue that the more sensible approach is to allow each State to fund its interstate program at a higher sustained rate of construction up to completion, at which time construction funding for interstates would be abruptly terminated—rather than gradually diminished.

This reasoning begs the point of the criticism that the provision in the law and S. 2711 continues interstate funding to States which no longer have interstate mileage to construct.

It makes sense to apportion interstate funds to maintain programs at feasible levels of construction activity and expenditure. It does not make sense to continue funding after the reason for funding no longer exists.

I raised this issue in 1973 when we last considered the Highway Act. I stated at that time that the Interstate System was established as a national system of highways designated pursuant to established criteria and having a definite limit in terms of mileage. This interstate program was not established so that it could be perpetuated and supplanted by a Federal-to-State pipeline of funds after interstate construction had ceased.

I would add at this juncture that this provision penalizes, and slows interstate construction, in those States which still have mileage to complete. As more and more States complete their interstate mileage the amount of money which will be required to fund the one-half percent minimum apportionment rule will grow—taking money away from States still striving to complete their interstate mileage.

Some States which have had to overcome environmental and local planning difficulties have had a relatively more difficult time using their Federal funds than other States. Under the S. 2711 formula those States which have had the easiest time building roads will be among those which will benefit under this provision at the expense of those who have had a more difficult time completing their systems.

On the floor of the Senate Chamber on March 15, 1973 I cosponsored an amendment which would have limited the minimum one-half of 1 percent interstate apportionments to those States which had interstate mileage to complete. At that time the Senate agreed to a substitute amendment incorporated into Public Law 93–87 expressing the sense of the Congress that the minimum apportionment rule "is an interim provision to be reconsidered at the expiration of this authorization."

Now is the time to reconsider this inequitable and unwise minimum apportionment provision as it applies to States without interstate mileage left to build.

This provision penalizes States striving to complete their interstate programs by giving them a decreasing share of interstate funding.

This provision apportions funds ostensibly for interstate construction but in reality to be expended on projects having no systematic connection with the interstate program.

This provision serves no national policy objective, neither does it apportion funds on the basis of proven local needs. Rather, it does so according to an arbitrary formula having no basis in relevant funding criteria.

There is no consideration expressed in the provision for the equities of the various States' competing claims for highway funding.

The provision diverts funds away from programs which would serve proven needs, needs answerable only by increased expenditure on nonexpressway modes of transportation.

For these reasons I am introducing an amendment to S. 2711 to restrict the minimum apportionment of one-half of 1 percent of interstate funding to only those States which have not completed their interstate funding. I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1203

On page 6, line 24, insert the following in lieu of the present section 104(b)(1):

"(b)(1) For each of the fiscal years 1977 and 1978, any State, including the State of Alaska, which has not completed Federal funding of the Interstate System within its boundaries shall receive at least one-half of one per centum of the total apportionment for the Interstate System under section 104(b)(5) but not more than that amount which is required to complete funding of the Interstate System in that State. In order to carry out this subsection, there are authorized to be appropriated, out of the Highway Trust Fund, not to exceed $25,000,000 for the fiscal year ending September 30, 1977, and $75,000,000 for the fiscal year ending September 30, 1978."

FINANCIAL INSTITUTIONS ACT OF 1975—S. 1267

AMENDMENT NO. 1199

(Ordered to be printed and to lie on the table.)

Mr. TOWER. Mr. President, I am submitting today, for Senator SPARKMAN and myself, an amendment to S. 1267, the Financial Institutions Act. This amendment would extend the date of repealing the prohibition against the payment of interest on demand deposits beyond the date provided for in that legislation.

As reported by the Committee on Banking, Housing and Urban Affairs, S. 1267 would repeal the prohibition against the payment of interest on demand deposits on January 1, 1977. However, the Federal Reserve, after consulting with the Secretary of the Treasury and the other financial regulatory agencies, could extend repeal to a date no later than January 1, 1978. This amendment would strike those two dates and extend the date for repealing the prohibition to 5½ years after enactment. This is the same date provided under the bill for the termination of interest rate ceilings on time and savings deposits.

The purpose of this amendment is to give Congress and the financial regulatory agencies ample opportunity to assess the impact of repealing the prohibition after the other provisions in the Financial Institutions Act have been implemented. In my opinion, repeal of the prohibition could have a significant impact on depository institutions and their customers. I feel that the impact of repealing the prohibition was not adequately explored during the committee's deliberations on S. 1267. The provision for repealing the prohibition was not part of the Financial Institutions Act as introduced. It was added during the committee's markup session on the legislation. Witnesses appearing before the committee, therefore, did not address the issue of repealing the prohibition as such.

The committee, of course, did consider a provision in the act authorizing NOW accounts. These accounts are very similar to checking accounts, except that interest is paid on them. However, NOW accounts represent a new type of account at depository institutions. Interest on those accounts can be expected to have a far different impact on those institutions and their customers than will allowing interest to be paid on existing demand deposits, which presently total more than $300 billion.

For that reason, the amendment would also require the Secretary of the Treasury, in consultation with the financial regulatory agencies, to assess the impact of repealing the prohibition against interest on demand deposits. The Secretary would make a report to Congress on this matter no later than 6 months prior to final repeal. This would be part of the study already provided for in the bill requiring the Secretary to assess the provision eliminating interest rate ceilings on time and savings deposits.

Among other things, the study would determine the benefits which consumers would derive from receiving interest on demand deposits, and assess the impact which repeal of the prohibition would have on the operating expenses of financial institutions, interest rates and other prices for financial services, the competitive balance between different types and size classes of financial institutions, financial markets in general, and any other financial variables deemed appropriate by the Secretary or the regulatory agencies.

This amendment should not be interpreted to mean that I necessarily disagree with interest being paid on demand deposits. It is simply that I do not feel the issue has been adequately explored, and not enough information is known regarding the impact which repeal could have on depository institutions, their customers, or financial markets.

The date of 5½ years after enactment seems appropriate because that date is the same as the date on which interest rate ceilings on time and savings deposits will be terminated. This will give Congress, the administration, and the financial regulatory agencies ample opportunity to assess the impact of repealing the prohibition once the other provisions of the act have been implemented.

I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1199

On page 103, line 1, strike out lines 1 through 9 and insert in lieu thereof the following: effect upon the expiration of five years and six months after the effective date of this Act.

(c) The Secretary of the Treasury, in consultation with the Secretary of Housing and Urban Development, the Administrator of the National Credit Union Administration, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board, shall conduct a study to determine the desirability of repealing the prohibition against the payment of interest on demand deposits. In the course of such study, the Secretary and such other officers and agencies shall take into account—

(1) the benefits which would be derived by consumers from the payment of interest on demand deposits;

(2) the impact of the payment of interest on demand deposits on the operating expenses of financial institutions;

(3) the effect which the payment of interest on demand deposits may have on interest rates and other prices for financial services;

(4) the effect that the payment of interest on demand deposits may have on the competitive balance among different types and sizes of financial institutions; and

(5) the impact of the payment of such interest on financial markets in general, and such other matters as the Secretary and such officers and agencies deem to be appropriate.

A full report on the findings and conclusions of such study shall be included in the report transmitted pursuant to section 106.

ADJUSTMENT OF INDEBTEDNESS OF MAJOR MUNICIPALITIES—S. 2597

AMENDMENT NO. 1200

(Order to be printed and to lie on the table.)

Mr. BUCKLEY submitted an amendment intended to be proposed by him to amend the Bankruptcy Act to add a new chapter thereto providing for the adjustment of the debts of major municipalities.

PUBLIC WORKS FOR WATER AND POWER DEVELOPMENT AND ENERGY RESEARCH APPROPRIATION ACT, 1976—H.R. 8122

AMENDMENT NO. 1201

(Ordered to be printed and to lie on the table.)

Mr. BROOKE submitted an amendment intended to be proposed by him to the bill (H.R. 8122) making appropriations for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commissions for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

AMENDMENT NO. 1202

(Ordered to be printed and to lie on the table.)

Mr. NELSON submitted an amendment intended to be proposed by him to the bill (H.R. 8122), supra.

AMENDMENT NO. 1204

(Ordered to be printed and to lie on the table.)

Mr. HANSEN (for himself and Mr. MCGEE) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 8122), supra.

FINISHING WHAT WE START

Mr. HANSEN. Mr. President, I submit an amendment to the Public Works Appropriation, H.R. 8122.

My amendment would add $30,000 to H.R. 8122 for finishing a study done by the Department of Atmospheric Science at the University of Wyoming for the Division of Atmospheric Water Resources Management of the Bureau of Reclamation.

During the 1974–75 winter season, the Department of Atmospheric Science at Wyoming conducted an atmospheric research program sponsored by the Bureau of Reclamation's Division of Atmospheric Water Resources Management.

In May, the University then submitted a proposal to the Bureau to complete the analysis of the data collected during the previous winter. It is my understanding that there is $25,000 in H.R. 8122 to finish this study. But that is not enough.

I earlier submitted a request for the additional $30,000 to finish it, but that request was denied by the Subcommittee on Public Works. Now my request is brought to the floor as an amendment.

Mr. President, in my opinion there are good reasons for the adoption of this amendment. It is well known that water is scarce in the arid West. With that in mind, it is important that the work started in this study be completed so that we may know more about efforts to augment precipitation falling to high mountain watersheds in my State of Wyoming and in other States of the West.

Also, I note that the use of water in Wyoming and throughout the West has intensified. Water is our region's life blood, used as it is for irrigation, recreation, in industry, or cities and towns, and in power generation.

Mr. President, the additional $30,000 would be well spent. This study is being conducted by the most competent of scientists. Funds have been expended in the past for this project, and this amendment will allow for a successful conclusion of this valuable project. The cost is small when balanced against the benefits to be gained. Further, I believe that it is important to complete something that we have already committed money to start.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1154

At the request of Mr. GRAVEL, the Senator from Pennsylvania (Mr. HUGH SCOTT), the Senator from South Dakota (Mr. ABOUREZK), and the Senator from Indiana (Mr. BAYH) were added as cosponsors of Amendment No. 1154, intended to be proposed to the bill (S. 2568) to revise the method for providing for public remuneration in the event of a nuclear incident.

NOTICE OF HEARING

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Thursday, December 11, 1975, at 9:30 a.m., in room 2228 Dirksen Senate Office Building, on the following nomination:

Patrick E. Higginbotham, of Texas, to be U.S. district judge for the northern district of Texas vice Sarah T. Hughes, retired.

Any persons desiring to offer testimony in regard to this nomination shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

The subcommittee will consist of the Senator from Arkansas (Mr. MCCLELLAN); the Senator from Nebraska (Mr. HRUSKA) and myself as Chairman.

NOTICE OF NOMINATION HEARING

Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on

Labor and Public Welfare has scheduled a hearing on Tuesday, December 9, 1975 at 2:30 p.m. in room 4232, Dirksen Senate Office Building, on the nomination of Robert E. Barrett, of Pennsylvania, to be Administrator of the Mining Enforcement and Safety Administration. Persons interested in testifying should contact Mr. Donald E. Elisburg, General Counsel, Committee on Labor and Public Welfare, room 4233, Dirksen Senate Office Building.

NOTICE OF HEARINGS

Mr. HATHAWAY. Mr. President, I wish to announce that the Subcommittee on Alcoholism and Narcotics of the Committee on Labor and Public Welfare will hold public hearings on the impact of certain social services laws and regulations on alcoholism and drug abuse treatment programs receiving funds under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act, the Drug Abuse Office and Treatment Act and other federal legislation. The hearings are scheduled to be held on December 17, 1975, at 9:30 a.m., in the Labor and Public Welfare Committee hearing room, 4232 Dirksen Senate Office Building. Persons or organizations interested in testifying or submitting testimony should contact the offices of the subcommittee, room A–605, Senate Annex III, 119 D Street NE., telephone 224–8386.

ADDITIONAL STATEMENTS

AN ENERGY FABLE

Mr FANNIN. Mr. President, in my opinion the Federal Energy Administration under Frank Zarb has been making a valiant effort to inform the Congress and the American people about the great dangers we face if we do not come up with an effective national energy policy. Yet, I find that there is a dangerous complacency among the American people, and there is no sign as yet that the Congress is going to take the steps necessary to restore economic stability and encourage energy self-sufficiency.

Last night on television there was a story about how General Washington and his soldiers at Valley Forge suffered and were driven to the brink of surrender because of a lack of courage and understanding and support in the Congress. I hope that the American people are not literally put through another Valley Forge because of the failure of Congress to respond to the energy issue.

In a speech last November 12 in Los Angeles the FEA Administrator sought to drive home the dangers we face by putting our story in the form of an ancient fable. I ask unanimous consent to have Mr. Zarb's speech printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

The Land of Us—An Energy Fable

In reading history, most of us expect to find it dry, factual and limited to what can be observed or demonstrated and proven. It would come as a surprise to most people to learn that the study of history actually grew out of the attempts by the ancient Greeks to describe and explain the past by using fables. Those ancient histories contained a great deal of fiction, and, at times, the truth was demonstrated better by fiction than by fact.

With your permission, I'd like to try that ancient approach and apply it to a very modern problem. I'd like to construct a fable and see if we can't illustrate today's truth using yesterday's technique.

Like all good fables, this one begins on a note of happiness. It seems there was once a large, bounteous and powerful country. This land was blessed with an abundance of all those things that are necessary for a tranquil and productive life.

It was a vast nation—so big, in fact, that it had taken several hundred years to explore and settle. It stretched across a continent and was protected on two sides from enemies by enormous oceans. Because of this natural defense, the country was almost immune to the conflicts that had periodically disrupted life in the old country from which most of the people had come.

As a result, those who came to this land had time—time to explore and time to settle—time to build and expand. And they were even further blessed because they did not have to go beyond their own country for the necessities or even the luxuries of life.

It was all within their own borders: rich, fertile topsoil, black as coal; thousands of swift streams to power mills and basic industry; natural harbors from which to export what they had produced; all of these were gifts from the land.

But the people also reciprocated. They brought their ingenuity, their determination, and their willingness to work and applied that to the abundance around them. They took that fertile land and made it fruitful.

They reciprocated also by applying their skill and creativity and pioneer spirit to the other natural resources around them. And in a relatively short time—a matter of moments really, when you think of the history of the earth—those hard working people had grown to be the most productive and powerful that the world had ever seen.

So resourceful and self-reliant and strong were they, that they became the standard of all of these qualities for the rest of the world. All other peoples evaluated themselves by comparing their progress with the achievements of this new, vibrant nation.

The country continued to grow and prosper, but progress was not without moments of uncertainty and crisis. Nevertheless, each obstacle was overcome and this fabled land emerged stronger every time.

But slowly, almost without notice, this people began to change. They found that they could produce more and enjoy themselves more by using certain kinds of resources. They began first with their own resources, and eventually found that there were enormous supplies elsewhere in the world—supplies that were far cheaper than their own.

So they began to use more and more, and as they became used to cheap supplies, their self-reliance—the thing that had made them a great people—began to decline. They hardly noticed their own complacency, but there were others in the world who took note. They saw the situation clearly—others who realized that the more this great nation needed from them, the greater would be their economic and political power in the world.

And so those few nations with most of the world's supply of this resource began to unite. They established an organization to watch out for their own interests. So, they could act together to control how much of this resource was produced and how much it sold for. They called themselves, in this story, "The Foreign Producers".

At first, their power was negligible, because that great fabled land still had much of its own developed resources—supplies that it could turn to if something happened to its external sources.

But eventually, the people were using up their own supplies so quickly that it wasn't long before they were truly in bondage to this small, but unified, group of countries.

Now all this had not taken place without some concern. There were some people in the country who realized what was happening and who, from time to time, would try to warn the others—and particularly their national leaders—but no one seemed to care. Even the pronouncements of "The Foreign Producers", who were quite open about what they intended to do with their power went unheeded.

But the Land of Plenty had grown so accustomed to the way it lived and worked and played that it just never seemed that any other nation or even any other group of nations could ever develop enough power to harm them.

Then one day, "The Foreign Producers" announced that they would no longer send their resource to the land of plenty until that land changed the way it conducted ititself in some of its international affairs.

So they withheld their resource and gradually the people of plenty began to feel the effects of their dependence. Many people could no longer work. What supplies could be found had to be controlled and dispersed by the government as people waited in lines and became frustrated and angry. And their once productive industry began to falter.

And as if choking off supplies weren't enough, 'The Foreign Producers" then said their resource was valuable—more valuable, in fact, than anybody had previously thought. "When we are willing to sell it again," they said, "you must give us more of your wealth, and we will tell you how much more."

And from time to time, "The Foreign Producers" would meet and decide that their resource had grown even more valuable. "We must have more," they would say. And the people of plenty were helpless to resist because they were so much in need.

But there were some things that the people of plenty had not relinquished: their ingenuity, their creativity. At the seat of government, they assembled some of the most knowledgeable specialists in the country and asked them to develop a plan that would break the bonds that now tied them to "The Foreign Producers".

These specialists studied the problem, evaluated the alternatives. It took a long time because the problem was so complex. But eventually, they formulated a plan that would not only reduce their country's reliance on the group, but would eventually make them exporters of much the same resources. Basically, the plan simply called on the people of plenty to return to the system of free enterprise and independence that had made them great in the first place.

The plan was proposed by the First Citizen of the land. But because the people of plenty feared excessive power in their government, he could not act on most of it without permission from an elected Assembly.

And so he presented himself to the Assembly and described the plan. He told them how there were other resources that could be substituted for what they were importing and how we could begin to reduce the power of "The Foreign Producers" by using less of their resource.

But he pointed out to the Assembly that none of this would happen unless the country returned to the free enterprise system where self-sacrifice, determination and hard work had made it the envy of the world. He pointed to the rules and regulations that the assembly had enacted in years past and explained how they had robbed the people of their spirit and self-reliance and severely limited their productive capacity.

He asked the Assembly to remove the restrictions and even told them how much more could be produced and saved if they would simply let the country act freely without unnecessary restrictions.

But he also warned them that many people had become used to those restrictions; had become comfortable with them and felt protected by them. He said that revising all the resource laws—which is essentially what was being asked—would be difficult. It would require great statesmanship and seriousness of purpose.

Meanwhile, he took some action on his own and promised more until the Assembly could act.

But he had no sooner explained his proposals than many of the members of the Assembly were horrified. They turned away from his call to freedom and began to propose more restrictions. "Why face all the pain and difficulty," they cried. "Why not simply pass a law and have the government ration the resources"—as though that would keep the price down.

And others said, "If we want to reduce our reliance, why, just pass a law and stop bringing "The Foreign Producers" resource into the country. Then we'll pass another law that tells everybody how much he can have, if any. That way we can continue to enjoy what we have and won't have to sacrifice. We'll let tomorrow take care of itself.

Still others in the Assembly said, "Let's just pass laws telling people how they can use the resource. We'll simply require them to save."

But what they called for loudest and longest was time. They said, "We too have a plan. You have got to give us time to formulate it and present it for debate. That's the way we have always acted. And the First Citizen agreed to postpone further action for a while.

Time passed and the Assembly debated and delayed. Finally the postponement ran its course and the First Citizen acted a second time to reduce the country's dependence, promising to take a third step in the future.

And as the third step approached, the Assembly again called for time. They won more time for debate, but more time for debate became more time for delay.

And all the while, the First Citizen kept submitting proposals to remove the restrictions that had made the country less productive. First he asked for immediate removal of restrictions and this was rejected; then for a gradual program and that was rejected; and then for even more gradual process and that was also refused. Finally, he offered to extend the process for more than three years, and the Assembly found even that unpalatable.

All the while, they made very high-minded statements of concern for the people. All the while they professed their commitment to equity and justice. But when the rhetoric was stripped away, when their actions were analyzed, all that could be detected was a lack of urgency and a lack of courage.

They would hold hearings and debates, take testimony and ask questions, but nothing ever seemed to happen to protect the country from the power of "The Foreign Producers".

But perhaps the most frightening thing about the Assembly's reluctance to act was that everyday "The Foreign Producers" got stronger; everyday their control over the country's wealth became tighter; and everyday by degrees the people of plenty drifted further and further from the independence they had once been so proud of.

Earlier, I began my fable on a happy note. I wish that I could end it the same way, but that is not possible. It's impossible, at this point to end it at all.

You see the ending is up to the people of that fabled country I've been talking about. And though they are beginning to make their preferences known, and demanding courage and action from the elected assembly, it's still not possible to tell the conclusion of the story with any certainty.

But despite the lack of an ending, this fable does have a title. I call it: "The Tale of The Land of Us." All of us.

Thank you.

UNIVERSAL RESPECT FOR HUMAN RIGHTS

Mr. CHURCH. Mr. President, with his accustomed and refreshing candor, United Nations Ambassador Daniel Moynihan recently introduced a resolution calling for universal amnesty for political prisoners. In it he called for universal respect for human rights and an end to the practice, evidenced by the recent United Nations vote on Zionism, of using human rights issues as a pretext for political judgment. While I might not agree with all that the Ambassador has said, I associate myself with his insistence that those who condemn others should set their own houses in order as well.

I must also note in passing, that the United States could do more than it does to promote human rights, or at a minimum, not to contribute to their deterioration. Consider, for example, the penchant evidenced over the years for giving aid to repressive governments such as Chile which now receives 85 percent of our food for peace in Latin America.

In this regard I was struck by a paragraph in the report submitted to the Foreign Relations Committee intended to discourage passage of the Harkin amendment. The report, submitted on November 14 by Under Secretary of State for Security Assistance Carlyle Maw, is also relevant to the military assistance package we will consider shortly.

The report suggested that:

> . . . suppression of human rights or failure to provide adequate protection for them is in many cases symptomatic of a basic insecurity on the part of the government in a particular country. It is possible, therefore, that U.S. security assistance, by contributing to the economic stability of such a country or by enhancing its sense of security from outside attack, may serve to improve local attitudes toward the protection of human rights.

With reasoning like this, the United States has for years justified training internal security police, supplying arms and giving active political support to governments which clearly violate human rights. The belief that our security is somehow strengthened by supporting such governments is as specious as is the claim that our arms are used purely for external defense when, in fact, our military aid only strengthens internal control over restless people.

Mr. Moynihan's laudable position would be immensely strengthened if the U.S. aid program was itself less political and more supportive of human rights. The Congress, at least, has been willing to strengthen his hand.

I ask unanimous consent that Mr. Moynihan's speech may be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

STATEMENT BY AMBASSADOR DANIEL P. MOYNIHAN

Mr. Chairman, my delegation rises to address the Third Committee in a matter which may be the most important social, cultural and humanitarian proposal which the United States has made in very many years and which we regard as one of the most important which this Committee will ever have had before it.

In an address on the occasion of the thirtieth anniversary of the United Nations, United States Secretary of State Henry A. Kissinger took note that we are living at one of the rarest moments in the modern history of the world. For at this moment, in all of the world, there is not a single nation-state engaged in war against another nation-state.

It appears to the United States that such a moment invites—calls for—not less extraordinary measures of reconciliation not only between nations, but within them. To this end, the United States desires to propose a world-wide amnesty for political prisoners. It proposes a General Assembly resolution which:

"Appeals to all Governments to proclaim an unconditional amnesty by releasing all political prisoners in the sense of persons deprived of their liberty primarily because they have, in accordance with the Universal Declaration of Human Rights, sought peaceful expression of beliefs and opinions at variance with those held by their Governments or have sought to provide legal or other forms of non-violent assistance to such persons."

The United Nations has, in truth, already taken, at this General Assembly, at least two steps in this direction.

A draft resolution in the Special Political Committee, entitled "Solidarity with the South African Political Prisoners," calls on "South Africa to grant an unconditional amnesty to all persons imprisoned or restricted for their oppositon to apartheid or acts arising from such opposition. . . ."

The United States voted for this resolution.

A draft resolution in the Social, Cultural, and Humanitarian Committee, entitled "Protection of Human Rights in Chile," called for the government there to ensure "The rights of all persons to liberty and security of person, in particular those who have been detained without charge or in prison solely for political reasons."

The United States voted for this resolution.

Is there, however, any reason to stop there, to limit our concerns to only two members of the United Nations, when there are all together 142 members? The resolution on "Protection of Human Rights in Chile" declares, inter alia, that "No one shall be held guilty of any criminal offense on account of any act or omission which did not constitute a criminal offense under national or international law at the time when it was committed. . . ." It was to be noted that more and more international pronouncements of this kind declare that there are crimes in international law for which individuals may be held responsible. Similarly, it is more and more held that there are actions against individuals for which governments may be held responsible, at least in the sense that they are expected not to take such actions. The exact state of the law in this area is not one on which there will be universal agreement. Yet, clearly, something akin to common law rights is emerging in international law which protects individuals where "universally condemned" or "abhorrent" actions are involved. It is to these standards that Secretary Kissinger appealed in his address to the General Assembly, earlier in this session, when he raised the issue of torture. Torture, he said, is:

". . . a practice which all nations should abhor. It is an absolute debasement of the function of government when its overwhelming power is used, not for people's welfare but as an instrument of their suffering."

Now it follows from these considerations that even as South Africa and Chile are obliged by certain standards concerning prisoners, for example, so equally are all other members of the United Nations. It is implicitly acknowledged, however, that it is for governments themselves to conform to international standards. And if some governments, then all governments.

Hence, at this moment, the singular appeal of amnesty. A moment of peace and of peacemaking, and a mode which allows governments to do what they ought without the appearance of coercion. All governments.

Universality in this matter is of special concern to the United States Government—and we would hope to all governments. There are two grounds for this concern which strike us with special force.

The first is that the selective morality of the United Nations in matters of human rights threatens the integrity not merely of the United Nations, but of human rights themselves. There is no mystery in this matter. Unless standards of human rights are seen to be applied uniformly and neutrally to all nations, regardless of the nature of their regimes or the size of their armaments, unless this is done, it will quickly be seen that it is not human rights at all which are invoked when selective applications are called for, but simply arbitrary political standards dressed up in the guise of human rights. From this perception it is no great distance to the conclusion that in truth there are no human rights recognized by the international community.

A generation ago the British poet Stephen Spender came to this perception in the course of visits to Spain during its long and tragic civil war. He had first come to Spain out of sympathy for one of the sides in that heartrending conflict. He had returned to England to report what he had seen of atrocities committed by the other side. Thereafter he made several trips to Spain, over the course of which he was forced to realize that atrocities were not a monopoly of one side only; they were indeed all too common on both sides. At which point, to his great and lasting honor, he wrote: "It came to me that unless I cared about every murdered child indiscriminantly, I didn't really care about children being murdered at all."

This is what the United States proposal is about. Unless we care about political prisoners everywhere, we don't really care about them anywhere. It is something else altogether that is on our minds, something we conceal with the language of human rights, in the course of which we commence to destroy that language, much as George Orwell, who fought in the Spanish Civil War, saw that it would be destroyed.

Our concern about discriminatory treatment is not eased by scrutiny of the list of cosponsors of the draft resolutions on South Africa and Chile. These are, to repeat, resolutions calling attention to the plight of political prisoners. The South African draft resolution has 60 sponsors. The Chilean draft resolution has 33. The United States has broken down these respective lists according to "The Comparative Survey of Freedom," that great contribution to clear thinking and plain speaking which is the work of Freedom House, an American institution of impeccable credentials, which traces its beginnings to the first efforts in the United States to win support for the nations then engaged in the mortal struggle against Nazism and Facism in Europe. "The Comparative Survey of Freedom" ranks the levels of political rights and civil rights in individual nations on a scale of 1 to 7, and then gives a general summary ranking "Status of Freedom," by which nations are classified as Free, Partly Free, or Not Free. One of the melancholy attributes of a nation judged Not Free is that, in the opinion of the distinguished political scientists who carry out this survey, the nation is one in which individuals are imprisoned for political beliefs or activities of a non-criminal nature. In other words a nation with political prisoners.

What does "The Comparative Survey of Freedom" tell us about the cosponsors of these resolutions? It tells us that in its judgment, no fewer than 23 of the cosponsors of the draft resolution calling for amnesty for South African political prisoners, have political prisoners of their own. In the case of the draft resolution calling attention to the plight of political prisoners in Chile, it would appear that 16 of the cosponsors fall into the category of nations which have political prisoners of their own.

This leads to a particularly disturbing thought about the processes by which the United Nations has come to be so concerned about human rights in some countries, but not in others. This is that we tend to know about violations of freedom—know at the time and in detail—only in those countries which permit enough freedom for internal opposition to make its voice heard when freedoms are violated.

This is the case. is it not, in South Africa, where there are said to be over one hundred political prisoners. For it is not necessary to *go* to South Africa to learn of violations of human rights there. One need only subscribe to the South African press, a press which while no doubt curbed in some ways, or even many ways, is nonetheless capable of frontal assault on the policies of the South African government.

The Cape Times, for example in its lead editorial of November 3 states, referring to an act that has been taking place here in the General Assembly by the United States Government:

"The controversy over detentions and opposition to apartheid between South Africa and the United States is unfortunate for it could harm the Republic's chances of establishing a firmer foothold on world opinion at a critical time. It also illustrates how indefensible the present system of detention is in South Africa. The fact is that unless Mr. Vorster is prepared to reveal reasons for detentions, he will be unable to answer convincingly the United States Government charge that people are detained whose only act is outspoken opposition to apartheid. To term this a 'downright lie' as Mr. Vorster has, might sound impressive for domestic consumption, but it is not really satisfactory."

The editorial concludes, and I have the honor to be associated here with my distinguished friend, Mr. Clarence Mitchell, about which this editorial is being written:

"For a start, Mr. Vorster should abolish the iniquitous terrorism act if he wants to deal effectively with the U.S. charge. The act provides for indefinite detention incommunicado and without trial, on the mere say-so of a police officer. There are no effective judicial reviews or guarantees. While the system remains on the statute books, charges such as the recent U.S. delegate's remarks in the U.N. will persist; and they cannot be answered convincingly. South Africa, moreover, will remain in the dubious company of countries which bypass the due process of law as part of the ordinary routine."

Is it also the case that the freedom of the press in South Africa—such as it may be, for we do not assert it to be complete—contrasts sharply with that of its neighbors? In the Monthly Bulletin of the International Press Institute of June 1975, Mr. Frank Barton, Africa Director of IPI, is reported as having told the Assembly of that impeccably neutral and scrupulous organization:

"The unpalatable fact is—and this is something that sticks in the throat of every self-respecting African who will face it—is that there is more press freedom in South Africa than in the rest of Africa put together."

And what of Chile, that troubled land where at least one estimate states that there are some five thousand political prisoners, and which is rated "Partly Free" by the Freedom House Comparative Survey?

One of the operative paragraphs of the draft resolution on Chile, for which the United States noted,

"Deplores the refusal of the Chilean authorities to allow the Ad Hoc Working Group of the Commission on Human Rights to visit the country, notwithstanding previous solemn assurances. . . ."

This is true. But it is only part of the truth. The whole truth would include the fact that Amnesty International and the International Red Cross were permitted to visit Chile. Moreover, if the visit of the Working Group had gone through, it would have been the first time in history that any government had permitted such a visit.

Are we not forced to acknowledge the point made recently by Mr. Robert Moss, the editor of the (London) Economist's Foreign Report:

"If the military regime in Chile, following the example of all self-respecting Communist revolutionaries, had flatly decided to shut out all foreign reporters . . . civil rights investigators, for a period of, say, six months after the coup, our diet of horror stories from Chile would have been meager indeed."

And are we not forced to take note of the report of Milton Friedman, the distinguished American economist who recently visited Chile:

"On the atmosphere in Chile, it is perhaps not irrelevant that at two universities, the Catholic University and the University of Chile, I gave talks on 'The Fragility of Freedom,' in which I explicitly characterized the existing regime as unfree, talked about the difficulty of maintaining a free society, the role of free markets and free enterprise in doing so, and the urgency of establishing those preconditions for freedom. There was no advance or ex post facto censorship, the audiences were large and enthusiastic, and I received no subsequent criticism."

It is not the purpose of this statement to be accusatory, or to arouse ill feeling. But is it not the case that this year we have seen any number of regimes completely or almost completely seal off their countries, barring or expelling foreign newsmen, such that at most rumor reaches the outside world as to what is going on inside?

Simple justice requires that the United States, for one, acknowledge that while we have supported resolutions critical of repressive practices of the governments both of South Africa and Chile at this General Assembly, we have done so in the company of nations whose own internal conditions are as repressive or more so.

And what of Israel, a country rated Free by Freedom House, with high if not perfect scores in Political Rights and Civil Rights? Is it not enough to say that much of the case being made against Israel by other nations today, is made in the first instance by the fully legal opposition parties within Israel, including Arab-based parties, many of which have been quite successful in electing members to public office, and that this opposition is given notable expression in the Arabic language press in Israel which has been described as the freest Arab-language press in the world?

Thus we come to the second of the concerns which animate the United States at this point. This is the concern not only that the language of human rights is being distorted and perverted; it is that the language of human rights is increasingly being turned in United Nations forums against precisely those regimes which acknowledge some or all of its validity and they are not, I fear, a majority of the regimes in this United Nations. More and more the United Nations seems only to know of violations of human rights in countries where it is still possible to protest such violations.

Let us be direct. If this language can be turned against one democracy, why not all democracies? Are democracies not singular in the degree to which at all times voices will be heard protesting this injustice or that injustice? If the propensity to protest injustice is taken as equivalent to the probability that injustice does occur, then the democracies will fare poorly indeed.

And it is precisely this standard which more and more appears among us, albeit in various disguises. In 1971, for example, the World Social Report presented to the General Assembly was virtually a totalitarian document—you know of which I speak. I was in this Committee at that time and I said so at that time. The fundamental premise on which the assessment of social conditions in respective countires was made was that the absence of social protest indicated the absence of social wrong. Hence, without exception, the police states of the world were judged most in the right.

Americans, and those who have studied the history of the United States, will perhaps recall the memorable image which Abraham Lincoln once used in a speech given in 1858, which we have come to call his "Framing Timber Speech." He was protesting what he judged to be the overall purpose being served by many seemingly unrelated legislative measures of the time—the purpose of extending slavery into our Western territories. (For the history of freedom in the United States is hardly without blemish.) Lincoln spoke of a "concert" of behavior:

"We cannot absolutely know that all these exact adaptations are the result of pre-concert. But when we see a lot of framed timbers, different portions of which we know have been gotten out at different times and places and by different workmen . . . and we see these timbers joined together and see they exactly make the frame of a house or a mill all the tenons and mortices exactly fitting, and all the lengths and proportions of the different pieces exactly adapted to their respective places, and not a piece too many or too few—not omitting even scaffolding—or, if a single piece be lacking, we see the place in the frame exactly fitted and prepared yet to bring such piece in—in such a case, we find it impossible not to believe that . . . all understood one another from the beginning, and all worked upon a common plan or draft drawn up before the first blow was struck."

The United States makes no such assertion at this time. But it reserves the right to judge, in the months and years ahead, that there has indeed been a "plan or draft" involved in all the multifarious activities at the United Nations concerning human rights which with nigh inhuman consistency seem always, somehow, to be directed towards nations at least somewhat more free than most members of the U.N., and which now most recently have been directed toward a democratic society that is unquestionably free. We reserve the right to learn that our worst suspicions have been confirmed. But in the hope that we will not be, we here and now declare what our suspicions are. Our suspicions are that there could be a design to use the issue of human rights to undermine the legitimacy of precisely those nations which still observe human rights, imperfect as that observance may be.

To those members of the United Nations who would allay our suspicions we make this simple appeal: Join us in support of our draft resolution calling for amnesty for all political prisoners. The list of know prisoners, a list assembled by organizations such as Amnesty International, is a sufficiently long and harrowing one. But there is far more horror to be felt at the thought of the names we do not know. It is time to free these men and women. The time for this amnesty is past due, and the path is long. Let us take the first step here and now.

AMNESTY FOR POLITICAL PRISONERS, UNITED STATES OF AMERICA: DRAFT RESOLUTION

Noting with satisfaction that, in spite of continuing denial of the right of self-determination in certain areas, great progress has been achieved towards eliminating colonialism and ensuring the right of self-determination for peoples everywhere,

Believing that the lessening of international tensions makes even more promising renewed efforts to assist people to exercise their human rights,

Deeply disturbed that there are frequent reports that many persons, including members of national parliaments, writers and publishers, persons who have sought through peaceful means to express views at variance with those held by their Governments or to oppose racial discrimination and persons who have sought to provide legal assistance to persons in the disfavour of their Governments, are detained or imprisoned, and in many cases have been subjected to torture, arbitrary arrest and detention and unfair or secret trials in violation of rights guaranteed by the Universal Declaration of Human Rights,

Recalling that, pursuant to Economic and Social Council resolution 1235 (XLII) of 6 June 1967, the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities have been authorized to examine information relating to such reports,

Noting with appreciation resolution 4 (XXVIII) (E/CN.4/SUB.2/L.635) adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities with respect to the human rights of persons subjected to any form of detention or imprisonment,

1. Appeals to all Governments to proclaim an unconditional amnesty by releasing all political prisoners in the sense of persons deprived of their liberty primarily because they have, in accordance with the Universal Declaration of Human Rights, sought peaceful expression of beliefs and opinions at variance with those held by their Governments or have sought to provide legal or other forms of non-violent assistance to such persons;

2. Requests the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities to strengthen their efforts on behalf of political prisoners, including the establishment of working groups to conduct studies including visits, whenever necessary, to determine the facts relevant to the rights of political prisoners and the response of Governments to this appeal;

3. Urges all Governments to co-operate with the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities in their efforts on behalf of political prisoners, including requests to make such visits as they may deem necessary for the purpose of investigating and reporting on the circumstances relating to the detention, trial or imprisonment of such persons;

4. Requests the Secretary-General to assist in any way he may deem appropriate in the implementation of this resolution, and to report to the General Assembly at its thirty-first session with respect to the activities of the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities in the implementation of this resolution.

ADDRESS BY CHARLES H. SILVER AT THE 1975 ALFRED E. SMITH DINNER

Mr. BUCKLEY. Mr. President, New York City has many assets. None is finer than Charles H. Silver who year in and year out dedicates his considerable energies to philanthropic work on behalf of the people of New York. He combines the wisdom of years with the enthusiasm and optimism of youth, as is evidenced by remarks he recently made at the annual Alfred E. Smith Memorial Foundation dinner in New York City.

Mr. President, I ask unanimous consent that those remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

SPEECH DELIVERED BY CHARLES H. SILVER

Each October, I welcome the annual summons from a beloved friend which signals the gathering of this traditional convocation devoted to the memory of our "Happy Warrior."

Each year, at the behest of our cherished leader, His Eminence Terence Cardinal Cooke, we convene to consider man's fate, his future and destiny, his hope of coping with the vast change and challenge of our times.

Our problems are far from simple. The tide of battle swells again in many lands. The frontiers of democracy are threatened in Portugal and Argentina. There is no true guarantee of peace in Spain and Lebanon, nor in India or Ireland or in the middle east. . . . No freedom from oppression or famine in many parts of the world. No freedom from fear. . . . The news often becomes worse before it gets better.

We weep for the dead and the dying after the bombs have fallen. . . . After the terror strikes and strikes again.

We worry and shake our heads in righteous concern because we are decent and conscientious people. But what of the neglected, the deprived, the abandoned in our homes and schools and streets? What of those who by some accident of color or belief or place of origin are still condemned to second class citizenship? Is this any less a challenge? It is time to speak, to act—to take a stand.

Constant crisis piles on crises in each day's headlines. The din of dissension and deceit outside our very door—and, indeed, within it—commands us to pause and to reflect on the old ideals of character, loyalty, and integrity in private life and public service.

I have lived long enough to remember when there were such things—and how much we thought they mattered. I think they matter still—and that there remains a breed of thinkers and doers who put principle above politics and honor above gain. I think they are waiting to take their place in building a better world.

People of every creed and color—the men of good will that have not yet vanished from the earth—the saviors that are still to come.

And, indeed, look about—at this impressive dais, and the caliber of guests that have come to join us. Marvel, as I do, at the varied racial strains which contribute so much to the creation and development of our civilization. It is like looking at a rainbow and realizing how many colors must fuse and blend to fashion its blazing glory.

The brotherhood of man we are seeking to establish burns in that rainbow. I feel confident that it will someday rekindle the eternal light of man's love and compassion—the flame, the soul, the conscience of humanity. That is the meaning of our Foundation—that is why we have met here tonight. And I enjoy this opportunity of addressing myself to one of the great and inspired new leaders, an outstanding example of the able stateswoman in whom the future of our nation and its principles are entrusted—the crusading governor of Connecticut—Mrs. Ella Grasso.

I am glad that I have been able to express these thoughts, so faithful to the guiding spirit of this dinner which honors an immortal Governor of our State in the presence of another great guardian of the destiny of New York who will address you this evening—my friend, Robert Moses.

We give thanks to our noble and cherished leader, whose faith has strengthened this foundation as a great humanitarian force in the advancement of philanthropy and fellowship—that prince of the church—and prince among men—His Eminence Terence Cardinal Cooke.

In his exalting example, we must keep our faith alive and strong so that liberty can never die. We must preserve a common bond of loyalty, respecting all our fellow men—all peoples and creeds—because we are all the children of God.

Instead of struggling for oil—for power, domain and dominion—it is time to stretch forth the blessings of friendship, compassion and understanding to every living creature on the face of the earth.

The opposing forces are mighty—and nothing less than the enslavement of every land will satisfy their lust for conquest. But they shall not conquer! For if ever there was a holy war, this is it—and we will wage it to win.

Prejudice and distrust—our ancient enemies—still rule too many men and nations. The times are unpredictable. Treacherous tides run high around us! Hate and fear are being stirred again.

But let us be strong, helping the hands of men to cling together—and the mind of man to come closer to the mind of God. And someday, we shall look into one another's hearts and find our own heart reflected there—shining with the same faith, in the same creator—and in each other—and in ourselves.

You and I have come through the best of times and the worst of times. Not all our yesterdays can be recalled with pride—but there is always tomorrow—and the hope and quality of that tomorrow rest in our hands.

Let us echo the words of Pope Paul, last Sunday, as fifty thousand human beings filled the great square of Saint Peters in Rome to hear his heartfelt prayer:

"Give us the precious gift of peace, so urgently needed today . . . the precious gift of peace . . . please God—and let us be worthy."

SENATOR CLINTON ANDERSON

Mr. CHURCH. Mr. President, I was saddened to learn of the passing of former Senator Clinton P. Anderson, a man whose kindly presence and pervasive intellect graced this Chamber for 24 years. It was my good fortune to serve with him for 16 of those 24 years. During that time I saw him leave his imprint on some of the most significant legislation of our time.

He was an early advocate of the peaceful uses of atomic energy. He was a stalwart guardian of our environment. He was a distinguished Secretary of Agriculture. And he played a stateman's role in advancing the Marshall plan, that vast American uplift to the tattered victims of World War II.

But I think I shall remember him most of all for his parental part in the enactment of the medicare program which has relieved some of the burdens on our Nation's aged. The intent of that program alone says much about Clinton Anderson and the Nation he served.

Mrs. Church joins me in expressing our mutual sense of loss to his wife, Henrietta, and to their children.

TAX INCENTIVES FOR SOLAR ENERGY UTILIZATION

Mr. FANNIN. Mr. President, recently I sent our colleagues a letter requesting cosponsorship of S. 1379, the Solar Tax Incentives Act of 1975, which was introduced on April 8, 1975. It is my intention to offer the substance of S. 1379 as an amendment at an appropriate time.

Despite the Senate's support of tax incentives for solar energy utilization during this session of the Congress, these incentives have not been enacted. The Senate adopted a floor amendment during discussion of the tax reduction legislation to provide similar tax credits for business and residential use of solar energy equipment. These provisions were excluded in conference committee, as it was felt that the energy tax bill then under consideration in the House, H.R. 6860, would be a more appropriate vehicle. Unfortunately, this legislation has yet to be reported out of the Finance Committee.

S. 1379 provides a two-phase tax credit for the installation of solar energy equipment both by homeowners and businesses. During the period January 1, 1975 through December 31, 1979, a 25-percent tax credit, not to exceed $2,000, is available to homeowners. This figure is reduced to 15 percent, not to exceed $1,200, during the period January 1, 1980 through December 31, 1984.

The tax incentive provided for businesses is a 12-percent tax credit for the period 1975 through December 31, 1979. This figure is reduced to 10 percent during the period January 1, 1980 through December 31, 1984.

It is clear to us all that many alternative energy sources are years away from commercial reality. This is not true in the area of solar energy. Present technology exists for the widespread use of solar energy heating and cooling devices in homes and businesses. All that remains is encouragement to individuals and companies to make the choice for solar utilization. S. 1379 encourages the utilization of solar equipment so that this infant industry can grow to the point where further tax incentives are unnecessary.

ADMISSION POLICIES IN OUR MEDICAL SCHOOLS

Mr. KENNEDY. Mr. President, I ask unanimous consent that an editorial entitled "The Giant Crap Game," and an article entitled "What Price Admission?" by Margot Slade from the October 1975, issue of The New Physician, be printed in the Record. The New Physician is the publication of the American Medical Student Association. These two articles address the nature of the admission policies of the Nation's medical schools. And I believe that they contain information which, if true, is very disturbing. I commend these two documents to those of my colleagues who share with me a strong interest in the health manpower policy of the Nation.

There being no objection, the articles were ordered to be printed in the Record, as follows:

The Giant Crap Game

If $50,000 will buy a place in medical school, how many parents would be willing to come up with such a large contribution to guarantee a son or daughter the chance of becoming a doctor? The answer is impossible to compute, but the evidence is that several hundred—and perhaps thousands—of well-meaning parents and others provided substantial contributions to a number of medical schools "in behalf of" applicants for admissions (See "What Price Admission?", p. 26). Contributions were made both directly and through third parties in an effort to affect the admissions process. Tales of such efforts to corrupt admissions criteria are mind-boggling—even in these post-Watergate times when a cynical public has gotten used to the end-justifies-the-means mentality so prevalent in our society.

How can we be critical of corrupt public officials if parents in "the best of circles" accept the premise that "if Johnny wants to be a doctor, anything I can do to get him into medical school is justified?"

And what about the thousands of applicants whose parents either cannot or will not (perhaps because they never thought of it) offer a substantial donation to a medical school in behalf of their child's application? Some of these applicants will receive favorable review by the admissions committee because they learned to cheat early and effectively, thereby guaranteeing themselves a better academic record than their potential competitors. The most celebrated case of this type was that of Steven Rosenfeld (TNP, March, 1975), who falsified letters of recommendation in his frantic effort to guarantee himself a place in the medical school of his choice. Applicants who travel this route to success deserve no less condemnation than those who buy their way in.

The message here is that the blame for such corrupt practices cannot be laid exclusively at the feet of those medical schools that accepted substantial donations and then acted favorably on the applications of those in whose names the contributions were made. The schools are merely part of a corrupt system—a system that rewards individual aggressiveness and cutthroat competitors with acceptance. Those who characterize it as a "giant crap game" are cynical, perhaps, but accurate.

When chastised for these conditions, medical school admission officials throw up their hands and blame the continuing increase in applicants for a relatively small number of places. The competition is a direct result of the numbers, they contend, and if the competitive process is not subverted by large contributions or other influences, it should work very well. At least the traditional American ethic of seeing the "best qualified" applicants admitted would be preserved—or so the argument goes.

That's just so much ———, of course, since the system—even if scrupulously protected from subversion—is designed to admit the worse possible applicants for careers in the healing arts. The current criteria—academic excellence (in the sciences, mostly), high Medical College Admission Test (MCAT) scores, good personal recommendations (from science professors) and finally an acceptable personal presentation during the admissions interview—are inadequate for the selection of those "best qualified" to be physicians.

The best evidence for this, of course, is the record of what has happened to the thousands of applicants judged "best qualified" who have been admitted, educated and graduated from our medical schools. Have they trooped forth to help solve the health-care needs of the American public? Hell, no! Increasing numbers have sought refuge in the academic womb, where they are not forced to see any more patients than they want to—particularly if the patients are unlucky enough to have "uninteresting" problems.

Certainly the relatively few applicants who were admitted because of substantial financial contributions could have done no worse in serving the needs of their profession and their nation.

Considering the poor ethical fabric of our society, it seems futile to expect that parents with adequate bucks will refrain from loading the dice in favor of their children. But if the medical schools would reform their admissions process to accept those "best qualified" to be doctors—no matter how rich or poor or academically outstanding—perhaps the achievement of admission would be lessened sufficiently to relieve the crunch in numbers of applicants.

WHAT PRICE ADMISSION?

(By Margot Slade)

"If you have enough money, you can buy your way into medical school. So what else is new?"

Albert Merlis, a New York City layer, says he's "in a position to know what goes on." Merlis has been practicing forensic medicine and medical law since 1941—and several years ago he bought his son's way into medical school.

"Buying a place is a time-honored concept," he says. "My aunt donated a laboratory to Flower Fifth Avenue (New York Medical College) in the 1930s and got her two kids in. I paid a middle-man to get my son into medical school, and he did. Nothing's really changed."

But Merlis is wrong. Something has changed. No longer is it only the very rich and well-connected who use dollars to push open the doors to medical school. Now middle-income parents by the hundreds are offering "contributions" to the medical schools to which their children apply. Several medical schools, while not soliciting such donations, have acknowledged their appreciation of them, and at least one school has admitted openly that it "looks favorably" upon applicants whose friends or parents contribute. Two recent court cases—one in Chicago and one in Nassau County, N.Y.—turned up evidence that suggests that buying into medical school is a far more widespread and more open practice than it ever was before.

Certainly not all—perhaps not even very many—medical schools are susceptible to a little financial persuasion, but some schools are rumored to be more susceptible than others. Among the schools most often mentioned in connection with contributions is Chicago Medical School. In its case, at least, there seems to be some basis for the rumors.

School records subpoenaed in a civil action brought by Pasquale DeMarco, a former student, against Chicago Medical School to force it to grant him a degree showed that in 1973 the families and friends of 77 of the 91 entering students pledged an average of $50,000 per student to the institution. According to newspaper tallies, pledges totaled $3,953,000. Pledge cards listed Herman Finch, chairman of the board of trustees, as solicitor for 51 pledges totaling $2,575,000. Pledges for the 1972–73 school year totaled $3,210,000, contributed in behalf of 74 entering students. Pledge cards credited Finch with soliciting 47 pledges totaling $2,165,000. At the trial, Finch testified that pledges of substantial cash contributions have influenced which students were accepted by the school.

In a memo offered in evidence at the trial, the school's president, Dr. A. Nichols Taylor, described the factors considered in admitting students—academic records, ethnic extraction, alumni relatives, Illinois residency (Illinois gives the school capitation grants based on the number of residents enrolled).

Taylor's memo continued: "Finally, we come to a point when there are some 200 applicants in the (acceptable) pool all of whom are qualified and have been approved, and from whom the remainder of the class will be selected. These applicants could be arranged in any number of arbitrary ways: the science grades, the MCAT (Medical College Admission Test) scores, the social background of parents or even their heights.

"If, however, a parent, friend or foundation comes to us and says that he will give or get all or a major portion of the difference in cost of education for an applicant who has been judged acceptable by the (Admissions) Committee, naturally we, like any other private school, will tend to favor that applicant."

To parents of applicants, it clearly was a quid-pro-quo arrangement. One pledge card, according to a *Chicago Tribune* report, was accompanied by a letter that stated, "I will contribute to Chicago Medical School $25,000 to be paid $5,000 annually if (my son) is admitted in fall. Enclosed is $2,500 with the remaining $2,500 to be forwarded in September."

DeMarco's attorneys said that he too "paid" to get into the school. Records showed that his application for re-admission was rejected repeatedly from 1946 to 1968. On December 24, 1969, he pledged $40,000 to the school. In September, 1970, DeMarco, a hospital administrator in the Chicago area, and his daughter entered Chicago Medical School. (Finch denied that the contribution influenced DeMarco's admission, saying that DeMarco's contribution was voluntary and had nothing to do with his acceptance.)

But Chicago Medical School is not the only one that might have looked favorably upon applicants who contribute. As Merlis puts it, Chicago is just "more notorious" than the others. It was one of several schools (including Howard University, New York Medical College, the State University of New York-Downstate Medical Center, Loma Linda University, University of Miami, University of Louisville, Meharry Medical College and several foreign medical schools) mentioned in another court case that involved medical school admissions, the trial of Nathan Lemler, a Long Island entrepreneur who tried to make a business of selling places in medical schools. (There is no evidence that Lemler ever contacted these schools or that they accepted contributions on behalf of applicants.) In 1974 Lemler was convicted of defrauding 20 families of fees ranging from $5,000 to $25,000 with what prosecutors called false promises that he could secure admission for medical school applicants.

"In a way, I'm convicted of not committing a crime—of not paying the right people and buying places for young men and women in some schools," said Lemler in an interview taped in the Nassau County Jail Annex. "I say that in many cases I was able to do just that."

At his trial, several of Lemler's clients—including Merlis—testified to his success in buying places in medical school. Even those who testified against Lemler indicated that it was their understanding, as one father phrased it, "that there are certain people that (Lemler) had to give the money to to enable (my son's) application to be fulfilled."

The parents who testified at Lemler's trial, as well as other parents we interviewed, assumed that medical school officials around the country are "on the take." The way they saw it, they weren't doing anything wrong in offering money. They simply were doing what any good parents would do—everything necessary to make their children happy and successful. As one father put it, "Medical school admissions is a giant crap game. You place your bet and take your chances." Merlis summed up the parent's view by saying, "So many premeds being equal now—having good grades, test scores and the like—some parents are out to see that their candidates for medical school are more equal than others. So they offer donations, contributions, whatever you want to call it."

In conversations with parents who donated or tried to donate cash or services to medical schools in behalf of their children, the stories were all the same: Johnny or Susan was a good child, a good student with high grades and a good MCAT score, who always wanted to be a doctor and nothing else but a doctor. "I know about the competition, how even excellent students are being turned down," the parents said. "I just wanted to help my child."

Several parents who testified at Lemler's trial tried to explain their actions. One father, a doctor, said: "When I went to see the dean at the medical school in Chicago, I had every intention of making a substantial donation to the school if it would accept my son . . . at that point I would have done anything."

Another parent testified: "I tried to convince (a medical school dean) that it would be to his advantage to have my son enter into the school, like any parent would. I gave him all the good points about my son. And I also told him that at some future time he could count on me since we manufacture videotape, that whenever they had a video program, they wanted to video, I would donate as much as they needed."

In every case, it was the parent, not the applicant, who made the offer. The applicants gladly stayed on the sidelines. Says one second-year medical student, "Even if you're highly qualified to make a good doctor, what student will admit that his parents, let's say, 'enhanced' his med school application with a little donation to the school? But if you knew it would help you get in, what student would refuse that kind of help?" Several students we interviewed at Chicago Medical School said that they had no idea whether their parents made contributions (we had evidence that they did) and that they didn't want to know.

It is not unusual for parents to play a major role in getting their children into medical school. Raymond J. Brienza, assistant dean for admissions and financial aid at New York University Medical School, recalls "one father (who) told me he just got our letter of rejection. The father said *he* got the letter, even though it was addressed to his son." Throughout my interviews with parents, they repeatedly talked about "our" application to medical school, "our" academic record or "our" career when they were referring to their children.

Dr. Frederick Hofman, associate dean of admissions at Columbia University's College of Physicians and Surgeons, describes the parents' feelings: "When parents call me, they are angry and frustrated. They want their children to be happy. They want their kids in medical school. They're often quite open about offering money or services to give their child an edge in a highly competitive field.

"The American ethic says that if you work hard and keep your nose clean you will succeed," he adds. "Well, many pre-med students do just this, and they are rejected. Their parents see the ethic failing, so they panic."

Is this panic justified? Is the admissions process so capricious or so corrupt that applicants must rely on money to improve their odds of getting into school? All the admissions officers we interview said that money never influenced admission decisions at their schools, but many admitted that the present selection system does leave medical schools vulnerable to "undesirable" influences.

"Our problem," says Hofman, "is that no one in medical education has been able to define a good physician. After we go through all the objective criteria, we're left with subjective, sometimes ill-defined criteria for candidate selections. There's the desire to get heterogeneous classes or an interviewer's perception that one student is more motivated or humanistic than another."

Another problem, say admission officers, is that too many qualified students are applying for too few places. An AMA report on medical education indicates that in the past ten years the number of applicants to medical schools has increased 130 percent, while enrollment has increased only 35 percent. For the first-year class of 1973–74, 40,506 students applied for the 14,335 available places at the country's 114 medical schools. According to a recent Association of American Medical Colleges (AMC) study, 75 percent of the rejected applicants were qualified to become physicians.

Is anyone responsible for this discrepancy between applicants and available places? Many parents blame the MA and the medical schools themselves for restricting the number of places in order, they charge, to keep medicine a "closed shop." One applicant's mother cited the draft and job cutbacks in other science fields, such as aerospace, as reasons for the upsurge in applicants in the 1960s and the current "tight market for even the qualified pre-med student."

Admission officers, in turn, put the blame on the parents. "Some parents," says NYU's Brienza, "have literally raised their children to dream of being doctors and nothing else. So too many students enroll in pre-med programs to begin with."

Pre-med advisors often seem to compound the problem, says Dr. Marvin Fogel, director of admissions at Mt. Sinai Medical School in New York, by "not weeding out, early in their college careers, those students who should not go to medical school or who won't qualify for medical school." Fogel also accuses college professors of "inflating" student grades, making the adviser's and student's task of evaluating performance and potential more difficult.

"A student looks at his GPA and thinks, 'I'm a damned good candidate for medical school,'" says Fogel. "Mommy and Daddy used to think so too. They all believed that with an A or A— average, you can do anything. They're learning this is just not true."

At Mt. Sinai, says Fogel, 300 of the 4,000 applicants for the 1974–75 entering class had the highest grade point average possible—4.0. More than 1,200 had averages higher than 3.75, while 1,300 had 3.65 averages.

Most medical schools use objective criteria such as grade point averages only to weed out unqualified applicants. Then candidates are interviewed, discussed at committee meetings, compared and ranked. Different schools use different methods for making their final choices, and some of the methods used make some schools more vulnerable to "undesirable" influences than others.

Chicago Medical School, for example, selected an "acceptable pool" of 400 to 500 students on the basis of grade point averages, science grades and MCAT scores, according to board chairman Finch. From this point on, Finch explained in a discussion with TNP staff members, "other factors," such as ethnic extraction and state citizenship, were given consideration. No one was allowed to make a contribution on behalf of an applicant until and unless the applicant was placed in the acceptable pool, said Finch. After that, "voluntary contributions" were taken into consideration in selecting the class.

For several years preceding the DeMarco suit, Chicago's faculty admission committee simply selected the pool and then delegated to the administration final responsibility for choosing the class. Since the DeMarco trial, Chicago has changed its method of selecting applicants, eliminating the pool system and establishing a computerized selection system. And now the faculty admission committee oversees the entire process.

In discussing the role "voluntary contributions" played in admissions decisions, Finch raised a crucial point. "All things being equal," he said. "I think institutionally we have the right, once we have fulfilled the other obligations, to accept those who help our institution defray our costs of educating their sons or daughters." What, he implied, is wrong with a school that needs money to meet its operating expenses choosing an applicant no more or less qualified than another because he makes a contribution?

At private medical schools, tuition pays only a third of the overall expense of a medical education, estimates Charles Fentress, the AAMC's public relations director. Two years ago the Institute of Medicine estimated the net cost per student per year of medical education at $9,600. Today medical educators estimate that costs range from $11,500 to $15,000 per student per year. Yet, at most schools, tuition is less than $5,000.

Traditionally, contributions and gifts, as well as state and federal funds, have made up the difference between tuition and costs at private schools. But Congress no longer seems willing to underwrite the costs of medical education. Whatever the federal government does give to the schools, there inevitably will be strings—such as demands for larger enrollments—attached to the funds.

This puts even more pressure on the small private medical schools. But according to one admissions officer, Dr. Thomas S. Cottrell of New York Medical College, contributions never will bail the small schools out entirely. Calling Finch's comments about voluntary contributions defraying Chicago Medical School's costs "naive," Cottrel said, "It is ridiculous for anyone to think that by accepting large contributions from parents that a medical school can offset its short-fall deficit." Columbia's Hofman disagrees. "Small private medical colleges—particularly those with mediocre reputations, particularly those having trouble attracting funds—may be vulnerable to this type of operation," he says. "One hears rumors about this all the time." In his view, federal requirements for increased enrollment would just make the situation worse.

Fentress predicts that some private schools may "simply refuse the capitation allowance" rather than agree to meet govrnmental demands. "They'll tighten their own belts as much as possible. And then they'll raise their tuition—significantly," he says.

What would a drastic increase in tuition mean to those who want to become doctors? "If you raise tuition by large amounts without provisions for more scholarships or loans," says Fentress, "you might as well be selling medical school places. Only those who could afford it would be able to attend." Which means that if the medical schools admission system is not already—as some suggest—a giant crap game where dollars can be used to load the dice, it very well might become one.

COMMON SITUS PICKETING BILL: A HIGH PRICE TO PAY

Mr. FANNIN. Mr. President, the distinguished columnist, William F. Buckley, Jr., has written an excellent analysis of the common situs picketing bill which the Senate has recently passed. As he points out, organized labor has been trying to get legislation passed that would exempt construction unions from the secondary boycott prohibition under Federal labor law ever since the Supreme Court upheld the NLRB's rules governing picketing at a common site in the Denver building trades case in 1951. Now, almost 25 years later, at a time when an overwhelming majority—68 percent—of the American people, including 57 percent of union members, oppose such legislation, the unions believe that victory may at last be theirs. Yet, as Mr. Buckley observes, their victory may be a pyrrhic one since the already ailing construction will be further weakened with a considerable loss in jobs for American workers.

In Mr. Buckley's view, to:

> Contribute at this economic moment a piece of legislation which will (1) make it easier for a single union to close down an entire construction project; and (2) put pressure on nonunion and free-lance laborers to organize and in many cases raise costs, which (3) will be passed along to the consumer, which (4) will lessen the demand for construction, (5) which will increase unemployment, is—a high price to pay for sating union pride.

I agree completely with with Mr. Buckley's view on this critical matter. I hope that Congress will take note of this important economic argument when the common situs legislation emerges from the House-Senate conference. I hope that the conference report will be rejected and, failing that, the President will see fit to veto this untimely and costly legislation.

Mr. President, I ask unanimous consent that the full text of Mr. Buckley's column, as it appeared in the Tucson Daily Citizen on November 20, 1975, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Tucson Daily Citizen, Nov. 20, 1975]

Threat to Business: Go Union—or Shut Down

(By William F. Buckley)

You are—let us suppose—the head of a company that specializes in the installation of elevators. You employ regularly 35 men and women, and when you have a big job, you go out into the market and add to your working force as necessary. Every couple of years, somebody in your organization proposes that the workers unionize. Following strictly the rules prescribed by the National Labor Relations Board, you facilitate a vote on the matter. Every time, the vote has come out heavily against joining the labor union. The collective right not to join has not been challenged anywhere—the majority is supposed to decide on these matters. It is a right that the Congress, with the backing of President Ford, is about to repeal for your company and others like it.

They call it the "common situs" bill. Situs is Latin for site, and since they insist on calling it that, I'll go along, just as I call Cassius Clay Muhammad Ali. Under the proposed common situs act, which breezed though the House and yesterday was passed by the Senate, you and your employes would, in effect, be faced with two choices. Either join the union, or go out of business.

The reason it is narrowed down to these two choices is that the construction trades are highly organized: the masons, carpenters, plumbers, electricians, bricklayers, etc., though here and there are exceptions.

In 1949, in Denver, a firm engaged in constructing a building subcontracted the electrical work to a small, nonunion firm.

The trades union council of the other workers threw up a picket line around the entire site, or situs as the solons denominate it.

Returning to Anglo Saxon, the contractor fired the subcontractor, pursuant to the capitalist ethic that profit comes first. But the subcontractor sued before the National Labor Relations Board, which ruled that he was entirely correct: the contractor didn't have a right under the law to fire him because the Taft-Hartley Act prohibits secondary boycotts against different employers engaged in different activity.

The Supreme Court absent-mindedly confirmed the NLRB in 1951, and ever since then it has been the dream of the construction unions to get legislation passed that would exempt them from the secondary boycott ban of the Taft-Hartley Act.

The fact of the matter is that a critical American liberty is about to be removed from the scene. The construction business, which does $130 billion worth of activity in America every year, is highly depressed, and it is highly depressed in part because costs are astronomical.

To contribute at this economic moment a piece of legislation which will 1) make it easier for a single union to close down an entire construction project; and 2) put pressure on nonunion and free-lance laborers to organize and in many cases raise costs, which 3) will be passed along to the consumer, which 4) will lessen the demand for construction, 5) which will increase unemployment, is—a high price to pay for sating union pride.

SCHLESINGER VIEWS FUTURE FOREIGN POLICY

Mr. SPARKMAN. Mr. President, the Foreign Relations Committee is in the midst of an interesting and provocative series of hearings titled "Foreign Policy Choices for the 70's and 80's" in which we are attempting to present before the Congress, the American public, and the world, the various options available to the United States in foreign policy during the next decade.

Next Monday, December 8, the committee will be hearing from AFL–CIO president, George Meany, concerning his views of our foreign policy options.

We, most recently, heard from former Secretary of Defense James Schlesinger. Dr. Schlesinger has strong views of the importance of the United States maintaining its leadership in the world and the alternatives placed before us under the rather vaguely defined series of policies that we all call détente.

I would like to compliment Dr. Schlesinger and the members of the Foreign Relations Committee for the well-thought-out questions and answers that were propounded during the December 3 hearing. The topics discussed ranged from philosophic and moral to specific and military.

Dr. Schlesinger's thoughtful prepared statement, I am sure, will be of interest to all of our colleagues. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

REMARKS OF JAMES R. SCHLESINGER

Mr. Chairman, Members of the Committee, I deeply appreciate the opportunity to appear before this Committee. The Committee has set for itself the difficult task of exploring the values and goals that should guide this nation, notably in its formulation of foreign policy. Though the task be difficult, it represents an invaluable service and one that is overdue. As a result of the lengthy involvement in Southeast Asia and the domestic travail of the last decade, the fundamental assumptions that have lain behind our foreign policy have now become blurred. A national consensus, indispensable in the long run for effective conduct of foreign policy in a democracy, has been at least battered. This Committee is engaged in reconstructing those fundamentals. In examining the values and the goals of this nation and the relationship between the two, and by obtaining public recognition of the vital importance of these matters, the Committee is engaged in the restoration of a national consensus.

The performance of any nation on the international scene must necessarily reflect the internal dynamics of the society—particularly so in the case of a democratic policy. National objectives at home and abroad must be in harmony with these internal impulses. Foreign policy objectives can only for brief and unsatisfactory periods be inconsistent with those broader national objectives. And, in addition, the various national instruments, including notably but not exclusively the nation's defense establishment, are derivative from and must faithfully reflect those broader national objectives.

For any nation, its values and its vision of itself flow from its history. Regrettably, though perhaps understandably in the light of our recent discontents, interest in history in recent years has been at a low ebb. For it is history that defines our national values and style, and determines what we as a nation are prepared readily to tolerate and what we are prepared to resist. Hopefully in this Bicentennial Year, a revived sense of history will assist in the process of sharpening our values and in redefining just what we stand for as a nation.

And we must also recognize that these values, not only provide the motivating power for this nation, but also impose a constraining influence upon the conduct of our foreign policy. Internal standards impose limitations upon what we can and cannot do externally. Democratic states must be true to their own values. Indeed, this is a source of strength. Yet it does impose certain handicaps in contesting for survival with states lacking the same scruples in a world increasing drifting toward totalitarianism.

Mr. Chairman, I have certain views regarding one crucial aspect of American foreign policy and I do not intend to be coy on the subject. In my judgment, the United States is inescapably the mainstay of a set of free nations that could not survive without our strength and presence and, also, is inescapably the principal guardian of freedom. That is our historic destiny, as it emerged after the second World War.

Indeed it is a difficult role, for the United States serves as a binding force in a coalition of disparate states—that in important respects strongly disagree one with another. The American role is an unenviable one, but a necessary one. This collection of open and partially open societies which we lead, but cannot control, must inevitably be pluralist and heterogeneous. Each responds to its own historic and cultural dynamic. For the leader, therefore, the task of organizing common effort and of achieving reconciliation is arduous. Unless, however, this set of free and heterogeneous states is to be swept away in whole or in part by the rising morale and aspirations of the totalitarian states, this nation must cope with that arduous task as well as it can. History will judge only whether we acquit ourselves well or ill.

In my judgment there is no acceptable alternative to accepting this historic role. The only other choice we have, other than to fulfill our broader international responsibilities, is gradually to withdraw into the Western Hemisphere and ultimately into the North American Continent—becoming in the process increasingly a beleaguered and mean-spirited nation. The proper choice is to remain involved overseas—accepting the many political difficulties and compromises that that imposes upon us. In addition, it implies that along with our allies we shall have to maintain sufficient military power to preclude military predominance by any nation in the Eastern Hemisphere.

Mr. Chairman, I should like to relate these matters to certain foreign policy objectives. First, however, it is essential to face—without circumlocution—one ineluctable characteristic of the current world scene. Only the United States has the requisite power to serve as an effective counterweight to the military—and political—power of the Soviet Union. There is no other nation that can fill the role. There is only one other superpower—an adversary in the past and a potential adversary for the future. In shaping our foreign policy we must remain continuously aware of this hard reality.

Other nations are keenly, even painfully, aware of this fundamental condition. It therefore poses a dilemma, as we proceed to chart our foreign policy. Indeed, we seek to avoid unnecessary tension with the Soviet Union and to reduce tensions where we can. To the extent that we are seen to be yielding too much and entering into, what is interpreted, as too cozy a relationship with the Soviet Union, other nations, which remain dependent upon us, fear that we will no longer be willing to play that necessary role—of counterweight to Soviet power. Misgivings in Europe, in Japan and elsewhere, notably in China, become manifest. A lack of recognized firmness in American foreign policy, thus, in itself can cause a type of instability. Between the twin objectives of reducing international tension and maintaining the requisite firmness in our foreign policy stance, we must strike a delicate balance. And maintaining that balance will remain the fundamental dilemma for effective American foreign policy.

The pursuit of detente—true detente—remains the proper, the morally necessary objective of our foreign policy. It is more than sensible to reduce political tensions, to avoid military confrontation, to reduce the burden of armaments provided that an appropriate military balance can be retained. But it is also incumbent upon us to pursue detente prudently and without illusion.

The absence of illusion implies that we must shape our own strategy toward detente in response to Soviet attitudes toward detente. Ultimately true detente would imply Soviet acceptance of the legitimacy of the western social order—and a live and let live attitude. Regrettably there exists strikingly little evidence that this indeed is the basic Soviet notion. To the contrary, the Soviets have repeatedly underscored that for them detente is a continuation of confrontation in a different form. They state that detente requires the intensification of ideological warfare. They have indicated that detente is itself a reflection of their growing military power, which in their interpretation has forced concessions from the West. Indeed, detente is stated to imply a continuing process of the improvement of the military balance—the so-called "correlation of forces"—in favor of the Soviet Union and against the West. As yet, therefore, scant comfort for the long run can scarcely be drawn from such expressed convictions.

Indeed, we must be cognizant that the Soviet expression for detente—"peaceful coexistence"—traces back to Lenin and presupposes continuing conflict between the two social orders. Khrushchev spoke glowingly of peaceful coexistence, but interspersed it with reminders that "we shall bury you". In Stalin's day a party spokesman put the relationship between peaceful coexistence and the continuing ideological struggle in the following manner:

"Our time will come in twenty to thirty years. To win, we shall need the element of surprise. The bourgeoisie will have to be put to sleep. So we will begin by launching the most spectacular peace movement on record. There will be electrifying overtures and unheard of concessions. The capitalistic countries, stupid and decadent, will rejoice to cooperate in their own destruction. They will leap at another chance to be friends. As soon as their guard is down we shall smash them with our clenched fist."

To be sure the ardor of revolutionary zeal may cool with time, especially as it confronts the reality of the external world. Yet, we should remain aware of the common thread that has run through the Soviet doctrine of peaceful coexistence. It differs quite sharply from the prevailing Western view of detente.

I submit, nonetheless, that we should continue to pursue détente—not alone on the basis of our own hopes and sentiments, but rather on the basis of an understanding of Soviet attitudes and a realistic assessment of Soviet objectives and tactics. Indeed, in some sense the United States has pursued détente since 1933. It should be our objective to reduce, where legitimately possible, political tension. In addition, it is the common interest of both sides to control the wholly needless expansion of the strategic nuclear forces on both sides, which continue to grow without in any way augmenting security. Ideally, if we can obtain agreement, there should be mutual reductions. Irrespective of the broader role of political détente, arms control of this character should be vigorously pursued on a bilateral basis. We cannot, however, afford to pursue arms control through unilateral reductions.

Irrespective of Soviet attitudes we should be prepared to meet them half way. But these measures should be pursued strictly on the basis of mutuality. Concessions granted in order to elicit future goodwill will fail in that objective.

The ultimate reality is that all endorse détente. The problem is an embarrassment of riches, that there are so many versions of what détente implies. Détente recalls to mind one of DeGaulle's wry observations—there appear to be as many versions of détente as there are fathers of Europe. Someone has observed that no one except a poet could understand the Commonwealth. We should be assured that détente is understood in terms, not of poetry, but of sober calculation.

Mr. Chairman, our relationship with the Soviet Union remains the central and underlying element in our foreign policy. How we manage that relationship will determine the future political balance. Determining the appropriate policy is far more complex than during the Cold War—when bipolarity determined the lines of other political relationships and the relation between the two power blocs was characterized purely by distance and distaste. We now live in a more complex period in which we must deal with the Soviet Union and, at the same time, be wary of the Soviet Union. This is the critical task of our foreign policy. If we err by being too compliant, we disturb our allies and dependents and we further whet Soviet appetites. By contrast, if we err by being too rigid, we forfeit the possible opportunity of leading the evolution of international relations in a more favorable direction.

Mr. Chairman, in my discussion I have concentrated on a central aspect of foreign policy, and have not touched on such important matters as energy, economic relations, agricultural policy and the like. I have also talked little about instruments, and notably little about the American military establishment. This is only one of several instruments, though an indispensable one. Given my prior responsibilities, I should rectify this, if even in a few words.

Maintenance of a worldwide military equilibrium is a necessary underpinning of detente—until such time as a live and let live attitude prevails. Without such a military balance, disturbing changes in political relationships would follow quickly—and we would have far too lengthy an opportunity for regret. In maintaining the independence of these strongholds of democracy, weakness or impotence will be far more corrupting than is power, irrespective of Lord Acton's aphorism.

However, we have choices in what manner we maintain our strength and achieve deterrence. In my judgment the proper maintenance of a military balance implies reduced emphasis upon nuclear threats. I have been distressed by the dwindling of American conventional power in recent years, which perforce pushes us in the direction of greater reliance on the threat of nuclear response.

In the 1950's, the era of the doctrine of massive retaliation, there was in my judgment an undue, yet effective, reliance upon the threat to employ nuclear weapons. In recent years it has been our objective to reduce that reliance, but that objective has been made more difficult to attain because of the reductions in the conventional force posture of the United States.

In my judgment it is an unsatisfactory state to be dependent for deterrance upon threats that cause as much concern on the part of those who are protected as it may on the part of those who presumably are deterred. A military posture which incorporates sufficient conventional strength that the burden of recourse to nuclear weapons will be shifted to the other side would represent the most satisfactory military posture for the United States.

To attain such a posture will require the continuing investment of major resources in this nation's military establishment and the continuing support of the Congress. In recent years we have faced the historic problem of all democracies in doing what is necessay—in peacetime—for self preservation.

Here again it is necessary to keep certain fundamentals in mind. Deterrence is not an incantation, that in itself excludes the possibility of conflict. Deterrence requires carefully thought-through measures involving force structures, strategy, logistics through which we would be prepared to defend ourselves. If we have made the necessary preparations to defend ourselves, happily we shall not be obligated to do so. We shall have successfully deterred the possibility of aggression.

By contrast if we are not prepared to defend ourselves, we may be forced to do so. But perhaps even more serious, the knowledge of our own inadequacies, including our allies as well as ourselves, will lead inevitably to an erosion of the will to resist political pressures—and an ultimate adjustment of the political landscape. Thus, an adequate military balance represents not only the necessary underpinning of detente, but a necessary hedge against its possible failure.

Mr. Chairman, you and the members of the Committee have borne with me patiently. Let me conclude with these observtions. First, this effort to redefine, in fact to rekindle the nation's values is of vital importance. As the leader of this coalition of hetrogeneous states, at times all things appear to be gray. Yet, as we redefine the values that infuse this nation, we will become increasingly aware of the contrast between freedom and its alternative. Given the current configuration of world power, it is our historic destiny to be the guardian of freedom. The studies of this Committee will, let me say gratefully, go a long way to the restoration of national purpose and unity, and that is the only way in which this nation will be able to fulfill its historic mission.

Thank you.

NATIONAL WOMEN'S AGENDA DAY

Mr. KENNEDY. Mr. President, it is an honor for me to take this occasion to pay tribute to the Women's Action Alliance and the National Women's Agenda.

December 2 was set aside as National Women's Agenda Day. National Women's Agenda Day will serve many purposes, but, most of all, it will call attention to the uncompleted business in the area of women's rights, and also set forth specific goals to be reached by the end of International Women's Year and the beginning of the Bicentennial.

I pledge my willingness to work with the National Women's Agenda in order to complete the as-yet-unfinished business in the area of women's rights.

Women today are not contented—nor should they be—merely with the acceptance of "equal pay for equal work," although that is a highly desirable objective. All the groups represented by the National Women's Agenda are made up of people who realize that there is much more to equality for women. Such goals as increasing the number of women appointed to political positions, enforcement of Federal, State, and local laws with respect to equal education and training, meaningful work and equal access to economic power, quality health care and expansion of private and public health insurance to include women's specific needs, equal treatment in the criminal justice system with special attention toward recognition of rape as a crime of violence, list only a small number of the massive tasks the National Women's Agenda has set for itself.

Fulfillment of these goals, however, is necessary if women are to play the necessary and active role in life that they seek.

With over 90 national organizations of women, with constituencies estimated at over 30 million, the National Women's Agenda has a powerful force with which to work in achieving these objectives. The agenda will serve as the key toward dispelling the old myths that women are not organized in their efforts and that goals set by the women's movement are only supported by a minority of women.

Again, I want to convey my respect and congratulations to the Women's Action Alliance on this effort, and I pledge my intention to work with them and support legislation beneficial to women's rights.

COMMENDATION FOR THE AMERICAN TAXPAYERS

Mr. CURTIS. Mr. President, I would like to announce that I am contemplating the introduction of a resolution soon to commend the American taxpayers for their contributions to our great Nation.

Surely such a resolution would receive unanimous consent in the Senate. I suspect that all my colleagues feel as I do, that no one is more deserving of commendation by this body than is the American taxpayer.

In recent months we have passed many resolutions in the Senate commending individuals and groups for their contributions to the youth of our land, to sports, to the arts, to our heritage, to our history and progress, and for the dedication to service, duty and jobs of Government officials. To the best of my knowledge, we have never commended the taxpayers without whose tax dollars and votes we would not be able to be sitting in this Chamber, or legislating for this country.

It is the average citizen, hard-working, income-earning and tax-paying individual who is responsible for providing the funds to run this Government. Yet, the average taxpayer seems to be too often forgotten by the Government. I, for one, think it is time that proper recognition be given the citizen taxpayer.

Before any of my colleagues dismiss my remarks as foolhardy, I would remind them of some of the recent important resolutions we have passed. On October 9, 1975, the Senate passed Senate Resolution 283 which congratulated the winners of the American and National League baseball pennants and expressed the sense of the Senate in support of the home team being victorious in each of the World Series games.

We have passed several resolutions—our total for this year in resolutions now is more than 300—which noted the dedicated service of Government employees, and others recognizing the contributions of various famous people in the entertainment, arts and sports fields. Why, just yesterday, on December 4, we passed Senate Resolution 315 commending the UCLA basketball coach for his contributions to youth and the Nation in his coaching.

Now, Mr. President, although there will be some among my colleagues who will think of me as such, I wish to assure you that I am not a spoilsport. I have only singled out these instances of resolutions of the Senate to show how seriously we sometimes take the business of representing the people of this country.

I enjoy a good football or baseball or basketball game as much as anybody, and when I cannot attend games myself, I join the millions of other Americans who enjoy team sports, and watch the competition on the television set. I think sports have indeed done much for the youth of our country, as they have done for the economy and probably the sanity of the country as well. But I suggest to my colleagues that the competition of sports properly belongs on the fields, in the arenas, and over the broadcast media—not in the halls of Congress and the pages of the CONGRESSIONAL RECORD.

Likewise, the entertainment industry, the arts, the theater, and other cultural fields have been praised in the official proceedings of the Congress.

Mr. President, while some may call it being a stick-in-the-mud, I do not think it wrong to criticize such official proceedings of the U.S. Senate at taxpayers' expense. I appreciate the arts for their additions to our cultural heritage, but I suggest that those various fields have their own annals for recording the great achievements that have been made in them, and that we do not need to take the time and expense of the public for such trivialities when the Nation is confronted with the many problems we have today.

Others in the past have been critical of the procedures which allow virtually anything to be inserted in the CONGRESSIONAL RECORD, citing a cost of nearly $300 per page for printing of the RECORD. I agree that this is an unnecessary and frivolous expenditure of tax dollars, that when added up in the course of a year or a Congress can be a substantial amount. But even more than the cost of printing such nonessential matters, must be the time that is devoted to it.

Besides the space and printing cost of the CONGRESSIONAL RECORD, and time taken on such matters on the floor, there is the cost and time of legal counsel, staff and floor personnel in drafting such resolutions, getting sponsors, and introducing them.

At a time when many Members of this body are complaining about lack of staff and insufficient time and expertise in critical legislative fields, it seems to me we could better put the talents of the Congress to work on important matters to help solve our energy crisis, reduce Government bureaucracy and redtape, and lessen the tax burden on the citizens.

I do hope that my colleagues will not think I am without a sense of humor. I agree that a sense of humor is needed when working within the grist mill of Congress and the vast Federal bureaucracy. I am not saying that humor should be removed from the workings of the legislative process. As a matter of fact, the existence of humor is quite evident without the various resolutions of commendation we routinely handle. We can find proof of the humor of the Senate in the proceedings of the RECORD on virtually any subject, any day.

Mr. President, Boston and Cincinnati will be remembered for having won their respective baseball league pennants in 1975, without a resolution of commendation from the U.S. Senate. John Wooden will be remembered in the decades to come as an outstanding coach in basketball. But these and all such individual and group efforts will be remembered as they are recorded in the records and annals of their respective fields—not because of any resolution passed by the Senate. Surely their professional recognition will be more meaningful than is recognition by a group of armchair experts.

Recognition is fine in its place, but when we take up the time and money of the taxpayers for such matters and we are unable to come up with solutions to the energy problem, to mounting inflation, and to the myriad of other national problems, then I think we are remiss in our responsibilities to the citizens.

REFLECTIONS ON THE LIFE OF A MINNESOTAN

Mr. MONDALE. Mr. President, the Minneapolis Tribune has begun a series of articles reflecting on the lives of Minnesotans during this Bicentennial year.

One of these Minnesotans is Louis Petrich, a friend of mine and a son of Yugoslavian immigrants who moved to Duluth in 1910. He was born and raised in West Duluth, an area then occupied largely by immigrants and their families. After serving his country in World War II, he returned to his family and friends in Duluth and still works there on the waterfront.

His courage, determination, and compassion exemplify the spirit of many Minnesotans. I am pleased that his story was told and wish to share it with our colleagues. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WAR IN THE PACIFIC AND LIFE IN DULUTH . . .

I went into the service right out of high school and was put into the Navy. I went to radio school down at the University of Wisconsin, and then they asked for volunteers for submarines and PT boats. I volunteered for both of them and was picked for PTs.

They sent me to Rhode Island, and I got another few months of training there, and from there I went out to the West Coast. I was shipped out from San Francisco . . . I went down to New Guinea and from New Guinea to the Philippines. It was in the Philippines we lost our boat—right off Luzon.

One night we were on patrol, and we were supposed to be looking for suicide boats. They'd take after the fleet, the big ships. They'd ram 'em right into the ships. We were supposed to go north from Mindoro. There was a certain point . . . we were supposed to stay on one side of a line. Well, a destroyer and a DE (destroyer escort) came down the line and went beyond that point. We had radio silence, and we picked them up on radar, and when we picked them up we didn't know for sure whether they were enemy or not.

We cut our engines—we were doing about 12 knots. Then all of a sudden, boom! Hell broke loose. They opened up on us and they shot up both of our boats. It was an American destroyer and a DE.

There were two boats, 15 men on each boat, and we lost four men that night. I had a good friend from Eveleth. His name was Berra. We were reading a Duluth newspaper just before that patrol. His boat got a direct hit and all I know is that he was blown over.

While we were in the water they (the larger ships) thought they'd found a suicide boat base, so they just strafed the heck out of us.

I was in the water at least two hours, maybe better. We hit the beach and when we got there we found out it was held by the Japanese, so then we went back out (into the water) and there was an old barge or the hull of a ship that was laying out there, and that's where we stood all night. We stood up in two parties.

Then the other guys went ashore and the Filipinos told them that that part of the island was held by the Japanese, that a patrol had just come down the day before. After that one of the Filipinos came out to us in a little outrigger, and he had binoculars from our skipper, who was with the other group. We didn't know for sure whether he was a phony, but we decided to hit the beach. We went back in again and the guerrillas took over and hid us out.

The first day, the guerrillas—they were led by a doctor—hid us. We marched about 15 kilometers that night and hid up on a hill. We didn't know if we could cross the line to get over to the American side, so we hid way up in the hills. And then they (American fliers) dropped some hand grenades and things like that to us. And there was a note saying we had to get the heck out of there because the Japanese knew we were there.

We sent a scout out to see if we could get through, and he came back and said that it would be pretty tough. So we waited and waited.

There was kind of a cove near where we were on this hill. One of the guerrillas had a big mirror and started flashing signals to one of the (American) planes flying overhead. Then two PTs came into the cove—they were looking for us—and we flashed a signal down there. Then we went down the hill and swam out to the boats and we were rescued. We were on the island about five days.

I didn't like having that boat shot out from under me by our own ships—that's one thing I really hated. I'm fortunate to be alive, but it hasn't changed the way I live.

After we got back to our base, I got a survivor's leave and I came back to the United States. I was supposed to be assigned to another squadron—and that's when the war was over. I was in Boston at the time and I didn't have to go back, so I was pretty happy.

I came back to Duluth and worked for Union Carbide until they closed up. I could have gone to Oak Ridge, Tenn., with them if I wanted to, but I didn't want to leave town, so I went to work for another company and when they shut down I came here, to the waterfront. I've been here about 15 years.

I was born and raised in this town. I'm happy with it. I like it here, although the winters are getting colder every year. There are strong friendships here, which come from a lot of things. A lot of it is athletics.

In competition, we played with and against the fellas, and you get certain ties. As you grow older, you meet these guys: one's a lawyer, this one's something else, but you never forget the guys. There's a lot in sports. Possibly that's why some people from here have done so well. They always want to be winners.

The families were closely united here years ago, too, I think. Like in the neighborhood where I came from: At Christmas you'd say, "Well, I'm a Yugoslav and I celebrate on the 7th, and the Catholics celebrate on the 25th. On the 25th we'd be invited over to their house. On the 7th, they'd come to our house. I'm Serbian Orthodox. It was the same thing with the priests. The Catholic priest would come to our house at Christmas, and our priest was the same way. We were a lot closer then than people are today, I think.

I live about four or five miles from where I grew up. I have my own house. I'm happy in this state—except for the climate in the wintertime. In the summertime I love it here. It's beautiful.

I don't get too involved with politics, but I hear a lot of pro and con from the fellas around here. The big problem here comes when people aren't working and they want to work. When there's no work, some of the people get, say $5,000 a year, and you can't get along on that. But if there's work here for everybody and everybody can make a good dollar, why I think they're all happy then. Work is the key to making the town work.

I'm pretty well set. I've worked all my life and, what the heck, I want to retire young. I figure I want to get back some of what I've put into the government, so I'm talking about retiring young, say at 62. I like to travel. I might go to Europe. I might go before I retire.

I've thought of going back to the Philippines, but it would be something. . . I don't know. I guess I'd like to go back there.

In the winter, I go to California or someplace where it's warm for a few weeks. I've traveled in this country. It's good experience to see how other people live.

I believe we should trade with all countries. Why not? I think it might help us get over some of the problems. When the foreign ships come in here, we get along with the people. When the Russians first started coming in here they were cold to us. And little by little as the ships kept coming in, a few fellows would go down the street and have a drink with us, and we got along fine with them after that.

We need more contact. If we deal in foreign trade with every country, even the Chinese, people will be meeting people. That's what we need in this world. You just can't be isolated. That's part of why I want to travel. I want to see other countries and see how the people live. I'd like to go to Yugoslavia and Italy and England. I've read so much about them and I've never been there.

Am I happy with this country? Definitely. There are things wrong. The law's too lenient, especially on dope. We've got to have work for people. But I couldn't live any other place.

We've got everything here—everything I want. We'd better keep it.

NOVEMBER UNEMPLOYMENT: NO IMPROVEMENT IN SIGHT

Mr. WILLIAMS. Mr. President, the November unemployment statistics released today by the Bureau of Labor Statistics are no cause for celebration, despite the fact that the figures indicate that unemployment declined and press reports are saying that it was down in November.

The statistics do, in fact, show a decline, but the manner in which those statistics are compiled undermines any conclusion that joblessness has declined in the real world.

Bear in mind, Mr. President, that not all of the unemployed are counted as unemployed. Those who have lost hope of finding work and stopped searching—the so-called discouraged workers—are not counted. So far as the monthly BLS survey results are concerned, these discouraged workers do not exist, either in the work force or among the unemployed.

Last month, 460,000 persons disappeared from the statistical work force. Many of them—and perhaps nearly all of them—stopped looking for work in despair of finding a job.

We may not know for several weeks whether that is the case; but if it is, then unemployment rose last month, not declined.

These considerations emphasize, Mr. President, that monthly fluctuations in unemployment are less meaningful than the trends over time, and it is several of these trends that give us reason to be cautious about prematurely celebrating economic recovery.

The pertinent fact about the trend in the unemployment rate is that, for several months, there has been no trend at all; unemployment has leveled off slightly above 8 percent.

Today, the Bureau of Labor Statistics conceded that joblessness "has been on a virtual plateau for 6 months," a fact that I have been pointing to since Labor Day and that has fed my resolve to pursue congressional enactment of additional stimulus for the economy, additional jobs for the jobless.

One other trend provokes increasing concern. It is the continued rise in the duration of unemployment. In November it reached 16.8 weeks, which is a new high for the current recession. More and more of the unemployed have been without a job for 6 months or longer. Eventually, their unemployment benefits will expire, and they will be consigned to the burgeoning welfare rolls or to bankruptcy.

Against this background, Mr. President, I wish to share the monthly report from the Bureau of Labor Statistics with my colleagues. I ask unanimous consent that today's press release from BLS be printed in the Record along with my statements to the Senate on previous monthly reports for August, September, and October.

There being no objection, the material was ordered to be printed in the Record, as follows:

The Employment Situation: November 1975

Unemployment declined in November, while employment showed little change, it were reported today by the Bureau of Labor Statistics of the U.S. Department of Labor.

The unemployment rate, which had risen to 8.6 percent in October, returned to the previous month's level of 8.3 percent. Unemployment has been on a virtual plateau for 6 months after dropping from the second quarter recession peak of 8.9 percent.

Total employment—as measured by the monthly survey of households—was little changed for the third straight month following a period of strong growth from March to August. The series on nonagricultural payroll employment—as measured by the monthly survey of establishments—also was about unchanged in November but has posted gains totaling 1.2 million since reaching a low in June.

UNEMPLOYMENT

The number of persons unemployed fell by 300,000 in November to 7.7 million (seasonally adjusted), following an increase of nearly the same magnitude in the previous month. As a result, the unemployment rate returned to its September level of 8.3 percent.

Over-the-month declines were registered among teenagers and adult men. The teenage jobless rate, which often fluctuates without regard to the general cyclical pattern, showed the largest drop—down 1.3 percentage points to 18.6 percent. The unemployment rate for adult men dropped from 7.1 to 6.9 percent; this improvement was mirrored by declines among married men and household heads. In addition, there was a large drop in the rate for full-time workers—from 8.6 to 8.1 percent. The rate for adult women, on the other hand, held steady at 7.8 percent, after having risen from 7.5 percent in September.

There was a sharp decline in the number of unemployed who had lost their last job. In November, about 52 percent of the jobless were in this category, compared with a high of over 57 percent in the second quarter. It had average 43.5 percent in 1974.

Whereas the movement in the jobless rate for white workers paralleled that for the total over the September-November period, dropping from 7.9 percent in October to the September level of 7.6 percent, there was little change for black workers (Negro and othe races). The black rate was 13.8 percent, about the same level as in the previous 3 months.

TABLE A.—HIGHLIGHTS OF THE EMPLOYMENT SITUATION (SEASONALLY ADJUSTED DATA)

Selected categories	Quarterly averages					Monthly data		
	1974		1975					
	III	IV	I	II	III	September 1975	October 1975	November 1975
Millions of persons:								
Civilian labor force	91.4	91.8	91.8	92.5	93.1	93.2	93.4	93.0
Total employment	86.4	85.7	84.1	84.3	85.3	85.4	85.4	85.3
Adult men	48.5	48.3	47.3	47.2	47.6	47.6	47.7	47.6
Adult women	30.5	30.1	29.8	30.1	30.6	30.6	30.7	30.5
Teenagers	7.4	7.4	7.0	7.0	7.1	7.2	7.1	7.1
Unemployment	5.0	6.1	7.0	8.2	7.8	7.8	8.0	7.7
Percent of labor force:								
Unemployment rates:								
All workers	5.5	6.6	8.3	8.9	8.4	8.3	8.6	8.3
Adult men	3.7	4.8	6.3	7.1	6.9	7.0	7.1	6.9
Adult women	5.4	6.5	8.2	8.5	7.7	7.5	7.8	7.8
Teenagers	16.1	17.5	20.5	20.5	19.8	19.3	19.9	18.6
White	5.0	5.9	7.6	8.2	7.7	7.6	7.9	7.6
Negro and other races	9.6	11.7	13.7	14.3	13.8	14.3	14.2	13.8
Househood heads	3.2	4.1	5.5	6.1	5.7	5.7	5.9	5.6
Married men	2.7	3.3	4.8	5.7	5.2	5.3	5.2	4.9
Full-time workers	5.0	6.2	7.9	8.5	8.1	8.2	8.6	8.1
State insured	3.4	4.3	6.0	6.9	5.9	5.8	5.7	5.5
Average duration of unemployment (weeks)	9.9	9.9	11.3	13.9	15.8	16.2	15.4	16.8
Millions of persons:								
Nonfarm payroll employment	78.7	77.3	76.9	76.4	77.0	77.3	[1] 77.5	[1] 77.5
Goods-producing industries	24.8	24.1	22.8	22.3	22.4	22.6	[1] 22.7	[1] 22.7
Service-producing industries	54.0	54.2	54.1	54.1	54.6	54.7	[1] 54.8	[1] 54.9
Hours of work:								
Average weekly hours:								
Total private nonfarm	36.6	36.3	36.1	35.9	36.1	36.1	[1] 36.2	[1] 36.3
Manufacturing	40.1	39.6	39.0	39.1	39.6	39.8	[1] 39.9	[1] 39.8
Manufacturing overtime	3.3	2.9	2.4	2.4	2.7	2.8	[1] 2.8	[1] 2.8
1967=100:								
Hourly Earnings Index, private nonfarm:								
In current dollars	160.6	164.3	167.7	170.7	174.3	175.2	[1] 176.5	178.1
In constant dollars	107.2	106.5	106.7	107.1	107.1	107.2	[1] 107.4	(2)

[1] Preliminary.

[2] Not available.

While the average (mean) duration of unemployment had declined in October, in November it reached a new high—16.8 weeks—for the current cyclical period. Contributing to this increase was a rise in the number of persons unemployed for 27 weeks or more and a sharp decline in short-duration joblessness.

There was no change in the number of persons working part time for economic reasons, a group often associated with the unemployed because they are unable to find work on a full-time basis. There were 3.3 million such persons in November, little changed since June but well below the high of 3.9 million reached in the spring.

TOTAL EMPLOYMENT AND LABOR FORCE

Total employment was 85.3 million (seasonally adjusted) in November, about the same level that has prevailed since August. However, agricultural employment has declined for 2 straight months after posting increases during the third quarter.

With declining unemployment and employment about stable, the civilian labor force fell by 460,000 in November to 93.0 million. This decline moderated the relatively strong growth in the labor force that has been evident since March of this year. As a result, the labor force participation rate dropped from the 61.4 percent level that had held between July and October to 61.0 percent, still a comparatively high figure.

INDUSTRY PAYROLL EMPLOYMENT

Total nonagricultural payroll employment was virtually unchanged in November at 77.5 million (seasonally adjusted). This was in contrast to the substantial gains posted in each of the 4 preceding months. Since June, payroll employment has grown by 1.2 million. Nevertheless, the November job total remained 1.3 million below the alltime high of 78.8 million reached in September 1974. Employment increases occurred in 57 percent of the 172 industries in the BLS diffusion index, compared with 62 percent in October and 82 percent in September.

Manufacturing employment stabilized in November after having recorded substantial increases in recent months. Neither the durable nor nondurable goods sectors experienced any significant changes in employment. However, there was a gain of nearly 20,000 in the transportation equipment industry.

Employment in contract construction was also unchanged in November, continuing the relative stability that has been evident since June. However, construction jobs remained about 700,000 below the pre-recession peak reached in early 1974.

Employment in services edged up by 30,000 in November, bringing to 300,000 the additions to this industry since June. This was the only industry division in the service-producing sector to show any significant growth from October. Nevertheless, since September 1974, employment in this sector has grown by over three-quarters of a million, while jobs in the goods-producing sector have declined by slightly more than 2 million.

HOURS

The average workweek for all production or nonsupervisory workers on nonfarm payrolls edged up 0.1 hour for the second straight month, reaching 36.3 hours, seasonally adjusted, in November. In manufacturing, the workweek declined by 0.1 hour to 39.8 hours. The factory workweek was 1.2 hours below the pre-recession high reached in February 1973, despite the gain of a full hour since the recession low of early this year. Factory overtime in November was 2.8 hours for the fourth consecutive month. (See Table B–2.)

The index of aggregate hours of private nonfarm production or nonsupervisory employees increased for the fifth straight month, advancing 0.3 percent to 108.9 (1967 equals 100). In manufacturing the aggregate hours index held at 90.9, after having increased steadily from the March low of 86.4.

HOURLY AND WEEKLY EARNINGS

Average hourly earnings of production or nonsupervisory workers on private nonagricultural payrolls rose 6 cents (seasonally adjusted), or an increase of 1.3 percent from October; hourly earnings were up 7.6 percent over the last 12 months. Average weekly earnings increased 1.0 percent in November and have risen 7.9 percent since last November.

Before adjustment for seasonality, average hourly earnings increased 3 cents to $4.68. Since November 1974, hourly earnings have increased 32 cents. Weekly earnings averaged $169.42 in November, $1.09 above the October level and $12.02 over November a year ago.

THE HOURLY EARNINGS INDEX

The Hourly Earnings Index—earnings adjusted for overtime in manufacturing, seasonality, and the effects of changes in the proportion of workers in high-wage and low-wage industries—was 178.1 (1967 equals 100) in November, 0.9 percent higher than in October. The index was 8.5 percent above November a year ago. During the 12-month period ended in October, the Hourly Earnings Index in dollars of constant purchasing power rose 0.5 percent.

(This release presents and analyzes statistics from two major surveys. Data on labor force, total employment, and unemployment are derived from the sample survey of households conducted and tabulated by the Bureau of the Census for the Bureau of Labor Statistics. Statistics on payroll employment, hours, and earnings are collected by State agencies from payroll records of employers and are tabulated by the Bureau of Labor Statistics. Unless otherwise indicated, data for both series relate to the week of the specified month containing the 12th day. A description of the two surveys appears in the BLS publication Employment and Earnings.)

[From the CONGRESSIONAL RECORD, Nov. 10, 1975]

LESSONS OF RECENT UNEMPLOYMENT IGNORED

Mr. WILLIAMS. Mr. President, on Friday the Bureau of Labor Statistics released its report on the Nation's employment situation in October. The figures were a severe disappointment for the 8 million Americans counted as unemployed and for over a million others who are not counted because they have lost hope and stopped looking for work.

The October figures confirm what had been strongly suggested in August and September—that the economic recovery measured by the human yardstick of joblessness, has stalled.

In August and September, we were unable to record any appreciable reduction in the July unemployment rate of 8.4 percent. In October, the rate rose slightly to 8.6 percent.

I sense a tendency these days to accept these monthly announcements without a great deal of anxiety, let alone alarm. Perhaps the country is becoming immune to the successive monthly announcements of unemployment in excess of 8 percent.

I would point out, Mr. President, that the October level of 8.6 percent is, with the exception of the second quarter of this year, the highest rate of unemployment since 1941. The number of persons counted as unemployed is greater than in all but two of the years of the Great Depression.

Within the overall national unemployment rate, there were several disturbing developments that must be noted. Joblessness increased last month for heads of households and for full-time workers. Unemployment among minority races stands at 14.2 percent, virtually unchanged from the devastating level reached in the second quarter of this year.

Among the States, there are those whose joblessness is far beyond the national level. My home State of New Jersey is one of the worst hit, with 13 percent unemployment.

There can be no reasonable rebuttal to the assertion that these latest developments relating to unemployment are grounds for alarm—continuing alarm at the persistence of joblessness and its disheartening effects on millions of American families, and new alarm at the evidence of the stalled economic recovery.

Mr. President, Friday's report of increased unemployment followed by one day the report of a startling increase in wholesale prices in October. Taken together, the news of 2 successive days signals continuing simultaneous recession and inflation.

One might tend to conclude that nothing was learned from the mistages of last winter when the Administration's preoccupation with inflation allowed festering unemployment to become our top ranking crisis.

If the history of the recent past is to be ignored, then we are in grave danger of reliving the history of more distant days—the days of Coolidge and Hoover and the dark period that followed them.

[From the CONGRESSIONAL RECORD, Oct. 3, 1975]

SEPTEMBER UNEMPLOYMENT CONFIRMS THE ECONOMIC DOLDRUM

Mr. WILLIAMS. Mr. President, the official unemployment figures released today can be taken as a serious disappointment. There was no good news in them.

Unemployment and total employment in September were fundamentally unchanged from the previous month. The unemployment rate of 8.3 percent is only a tick below the 8.4 percent rate in August; the number of unemployed held steady at 7.8 million persons, not counting over a million discouraged workers who have stopped looking for work or over 3 million whose workday is reduced for economic reasons.

It seems clear that the economy has settled into a doldrum and that the stimulus of the great April tax cut, which halted the economic decline and instigated a mild recovery, has run its course. We have lost the momentum of the climb and are in danger now of sliding back toward the recessionary pit.

The imperative for the Congress in these circumstances was aptly stated 2 days ago by the Joint Economic Committee in its 1975 mid-year review of the economy:

> The Congress is confronted with the choice of accepting a sluggish recovery, with lower income, production, and employment, or acting decisively to produce a healthy, sustainable, recovery which increases production, creates new jobs, increases income, and produces higher tax receipts.

The admonition implied by this statement is all the more pungent in light of today's report of unemployment statistics.

The statistics provide ample grounds for renewed concern about the plight of jobless workers and their families.

Unemployment increased sharply among adult men, most of whom are married and heads of households.

Layoffs increased in September by 300,000 over August.

Minority group unemployment increased again, this time by three-tenths of 1 percent to 14.3 percent.

The average duration of unemployment rose to 16.2 weeks, the highest since 1961.

The hardcore unemployed, jobless for more than 26 weeks, rose to the highest level since World War II.

Nearly 20 percent of the construction work force is out of work.

Mr. President, I am proud of the Senate and the Congress for what we have accomplished in confronting unemployment. The tax rebates and tax cuts we enacted have brought more than a million workers back to their jobs. We have appropriated $2.5 billion for emergency public service jobs and $500 million for new job opportunities in public works. A major new public works program on the scale of $5 billion is awaiting conference action after passage by both the House and the Senate. The Senate has adopted a $2.6 billion emergency program of countercyclical assistance to State and local government.

I earnestly hope that President Ford will embrace those initiatives still to be enacted so that the new stimulus, so direly needed at this moment to revive the economic recovery, can be injected into the blood stream of the Nation's work force.

I also hope that he will heed the advice of the Congressional Budget Office, of many leading economists, and even of Arthur Burns, Chairman of the Board of Governors of the Federal Reserve. That advice is to expand the emergency public service jobs program to employ the victims of economic misfortune in constructive and beneficial work in their communities.

[From the CONGRESSIONAL RECORD, Sept. 9, 1975]

THE UNEMPLOYMENT PICTURE: AUGUST 1975

Mr. WILLIAMS. Mr. President, it has been my custom these past several months to bring to the attention of the Senate the monthly unemployment report of the Bureau of Labor Statistics. The August report, released last Friday, is a report of mixed blessings.

The unemployment rate for August remained unchanged from July, standing at 8.4 percent. In numbers, there were 7,800,000 persons counted as unemployed. Of the total, 1,200,000 were not receiving unemployment compensation and presumably were relying on personal savings or public assistance for their sustenance.

As I have emphasized in the past, the unemployment data do not include either the discouraged workers, who have given up hope of finding a job, or the persons forced to work only part-time for economic reasons. Combined, they encompass over 4 million more persons who are victimized by the recession, forced into total or partial unemployment against their wishes.

Altogether, those counted as unemployed and those who are not counted but who nevertheless are affected number some 12 million Americans. Despite the positive signs of economic recovery, unemployment on this scale constitutes an enormous blight on the vitality and the spirit of the Nation.

The positive signs are exemplified by a continuation in the growth of civilian employment, which gained another 275,000 jobs in August. The data suggests that the major beneficiaries of this expanded force of employed persons were heads of households, married men, blue-collar workers, and factory workers.

On the negative side, unemployment among blacks and other racial minority groups rose a full percent, to 14 percent in August. Among teenagers it rose a full 2 percent last month. In other words, those most susceptible to joblessness again bore the brunt of declining opportunities to earn a living wage.

Among the most distressing developments is the continued deepening of long-term joblessness. The average duration of unemployment rose again in August to 15.7 weeks, 6 weeks longer than a year ago.

Those who have been unemployed the longest are having more difficulty finding work. At the same time, they are dropping off the unemployment compensation platform that has kept them afloat, or are nearing the edge and are in danger of exhausting their weekly benefits.

Data compiled by the Labor and Public Welfare Committee in a June survey of State unemployment officers indicate that as many as 1,640,000 persons will exhaust their benefits during fiscal 1976. A substantial majority of those will have exhausted all of the 65 weeks of benefits now available under State and Federal programs.

What will happen to them then? Will jobs materialize automatically? Of course not. As virtually all leading economists, including those of the Ford administration, have predicted, jobs will materialize with great reluctance over the coming year. Many of them would regard the Nation as fortunate if unemployment declined below 7 percent, below 6,400,000, by the end of 1976.

I believe it is our best course to create some of the jobs that will be needed. Without direct Federal action to combat joblessness with jobs, millions of Americans will needlessly suffer for many more months, and the economic recovery could founder from the failure to convert the unemployed to productive activity.

ADDRESS BY SENATOR MAGNUSON ON ENVIRONMENTAL PROTECTION AGAINST OIL SPILLS

Mr. JACKSON. Mr. President, in our effort to resolve the Nation's energy problems we should remember that important environmental goals can and must be preserved. We cannot take environmental shortcuts on the road to energy independence. This is as true at the regional and State levels as at the national level.

My distinguished colleague, Senator MAGNUSON, recently addressed himself to this issue in testimony before the Washington State Legislature's House Transportation and Utilities Committee. As many of you are aware, oil from Alaska's North Slope will soon be transported along the West Coast to refineries for processing. At the same time shipments to satisfy our petroleum requirements, due to the Canadian decision to phase out oil exports to the United States, will also be arriving by sea. These two developments will result in additional tanker traffic in Puget Sound. This poses a considerable environmental risk unless State and Federal officials work together to establish a sound State oil transportation policy.

It is clear that Puget Sound and the rest of Washington State's coastline must be protected from the disastrous consequences of oil spills. For this reason, the establishment of a single oil-transfer facility outside of the sound may make eminently good sense. It may also hold promise for protecting all of our State's coastline. Senator Magnuson's call for cooperation between State and Federal officials on this issue, and on the oil transhipment problem, is of special significance: "Working together on a day-to-day basis we can accomplish a great deal."

I believe Northwest energy needs can be met without jeopardizing our marine environment and the important economic and recreational assets it represents. This issue is important not only to the people of the Northwest, but to all the citizens of the Nation. A responsible approach to oil transportation in Washington State can provide a pattern to be followed elsewhere in the United States.

Mr. President, I ask unanimous consent that the text of Senator Magnuson's remarks be printed in the Record, and commend them to our colleagues.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Mr. Chairman:

I am particularly pleased to be invited to offer my views to your Committee on one of the most important—and most pressing issues in the history of this State. That issue is how to supply Washington State with oil, and equally important, how to supply that oil safely. Most of you have been active in seeking to develop a state oil transportation policy; the local news media have been showing true leadership in demanding such a policy; even the local head of the federal energy administration has loudly urged the legislature to enact such a policy. My message today is simple: the people of this state cannot wait any longer for an oil transportation policy, and that policy, to be effective, will require constant communication and cooperation between state and federal officials.

We all know why we must act now. In the past we have received our crude oil by pipeline from Canada, and that oil will soon be cut off. At the same time, the Alaska pipeline is nearing completion. In a few years, vast quantities of oil will be moving down our coast in tankers. We will become totally dependent on tankers—either from Alaska or from foreign countries—and we have to decide how to minimize both the environmental and economic dangers those tankers pose. There is no way we can avoid this problem; there is no one else to whom the people of this state can turn.

I wish I could say to you that this problem could be handled entirely at the federal level, Alternatively, I wish I could say that you must handle it entirely at the state and local level. Unfortunately, we all know this is impossible. Either we handle the problem cooperatively, or we fail to handle it at all—and in that case, we put the future of Puget Sound in the hands of a few multi-national oil companies. However legitimate the interests of these companies, they do not and cannot embrace the wide range of interests that we as public officials were elected to serve.

Looking first at what you have accomplished at the State level, there are major new laws of great importance. Earlier this year, you passed and sent to the governor house bill 527, the tug escort act, which aids tanker safety by requiring tug support for tankers in Puget Sound and by effectively zoning out of Puget Sound all tankers in excess of 125,000 deadweight tons. You have established an oil spill liability and clean-up fund; you have passed water quality legislation; you have passed and refused to weaken the shorelines management act.

Each of these efforts has been laudable, and you deserve thanks from each of us. But none of these efforts goes far enough. The tug escort act itself is now under challenge in the courts; I sincerely hope that the legislature as a whole will follow the lead of the house democratic caucus and vote to provide the attorney general with the funds he needs to hire the legal talent that defense of that law requires. And I hope you will reach a consensus on the major remaining issues:

How much population and economic growth do Washington residents want?

What controls must the State have in order to manage growth along our coastal areas?

How much petroleum do we need; where should we bring it ashore; how can we prevent the transport of petroleum we don't need, taking into account our responsibilities to land-locked States that also need a substitute for the vanishing Canadian oil?

In addressing these questions, two points need to be made. First, although the questions are complex, you cannot permit their complexity to paralyze all action. The public waits for the legislature to act, but events do not. Each week that you delay—or that we at the Federal level delay—our ability to manage our future, to decide on a policy and then enforce it, becomes a bit weaker. Second, neither the State nor the Federal Government can wait for the other to act, even though ultimately our efforts must mesh. In this less-than perfect world, with time on this particular issue running out, we may have to act at our respective levels more than once before optimum coordination is achieved. We should remind each other what generations of loggers here in Washington have told new recruits: "I don't mind if you fall from time to time, so long as you fall toward your work."

My comments tonight are meant to outline that work as I see it, and to offer you every bit of assistance that I possibly can.

TANKER OPERATION AND CONSTRUCTION STANDARDS

Oil tankers today are the dominant vessels in the world merchant fleet, even though in recent months the volume of oil transportation has declined. Tankers are responsible for virtually all of our marine oil pollution, both because they are vulnerable to disaster and because even during normal operations they steadily discharge oil wastes. For the first time in our history, the safety of vessels at sea has become interconnected with the safety and well-being of people on the shore, their property, and their quality of life.

We all know that clean-up efforts are no alternative to oil spill prevention. A relatively small spill of diesel oil wiped out the scallop industry of Falmouth Bay, Massachusetts—no clean-up effort can restore our sealife. Just this month, according to a Seattle paper, the Arco Juneau spilled 84 gallons of oil—about a barrel and a half—at Cherry Point. The paper reports that several hundred yards of beach were contaminated, and that because of high winds the Coast Guard and the Marine Oil Pickup Service needed almost a week to recover that tiny quantity of oil. On the same day, the Coast Guard reported that it had finally identified the tanker that had spilled 50,000 gallons of crude oil off the Florida coast last July. That spill coated 60 miles of the Florida coast—and it took more than four months to find the culprit, which turned out to be one of 247 ships the Coast Guard boarded.

The only alternative to the half-measure of oil spill cleanup is prevention of oil spills through safer tanker operations and more stringent tanker construction standards. These safety measures are contained, at the federal level, in Titles 1 and 11 of the ports and waterways safety act of 1972, which I sponsored and which passed through my committee.

I wish I could report that the ports and waterways safety act has been an unqualified success. It has not. It has only been a limited success, because the power to regulate vessel operations and tanker construction standards has simply not been used by the coast guard as we in congress expected—and as we were promised. The Coast Guard has done an excellent job with the vessel traffic control system established by that act, and particularly here in Puget Sound. It has not, however, gone beyond that system to require the controls needed.

Fortunately, that federal law does not prevent you from enacting regulations over vessel operations here at the state level. As the commandant of the Coast Guard said when he testified to congress on that law:

"The primary concern for the safeguarding of waterfront facilities and vessels has been and continues to be a matter of local concern. This legislation will in no way affect that primary responsibility. . . . Local regulations would continue to set forth requirements to assure port, harbor, waterways, and facility protection."

Your tug escort act is a step forward in providing that protection. The tug support provision will aid the maneuverability of tankers. Your vessel size limit will reduce the risk of a major spill by reducing the amount of oil dependent on the actions of one person at the helm, by insuring adequate depth and channel width for vessels with a hazardous cargo, and by guaranteeing that oil will be transported by smaller, more maneuverable vessels. As you know, I advocated the 125,000 ton limit for Puget Sound more than a year ago, so my support for this provision is clear. We must all realize, however, that this generous size limit is no guarantee of safety, even though it helps: the *Torrey Canyon* was only 119,000 tons; she wrecked at 8:45 am on a clear morning in calm seas, and caused the largest oil spill in world history. Remember that—and many other major disasters—when people tell you larger tankers are safer.

Your tug escort act also requires Washington state pilots on all tankers greater than 50,000 tons. I regard this as a wise measure, and the state's power to require pilots on registered vessels—vessels in the foreign trade—is clear. Unfortunately, current federal law preempts the power of the states to require pilots on any vessel engaged solely in the coast-wise trade. Such vessels can use federal pilots—often simply licensed masters in the employ of the oil companies—and the oil companies we are told have announced this intention for vessels in the Alaska trade.

The essence of safe pilotage is the pilot's freedom to use his own independent judgment—to be free from the coercion of the vessel—or cargo-owner. Current Federal law, by permitting oil company employees to pilot tankers in State waters, unfortunately compromises that independent judgment. I intend to introduce an amendment that will rectify this situation—and validate your new law—for vessels carrying hazardous cargoes in the coast-wide trade. I can't promise that this law will pass, since the oil companies may oppose it. But I can ask you to take steps to insulate our State pilots from oil company coercion here at the State level, by reforming the present pilotage commission and its authority. Never again should we see in this State the shameful episode of an oil company blackballing a State pilot who expressed minor reservations about tanker safety. But that incident will be repeated if you do not turn your attention to pilotage reform.

Title II of the Ports and Waterways Safety Act directs and authorizes the coast guard to establish construction standards for tankers. Here particularly the hope and intent of Congress has not been met. The administration promised us that double bottoms would be required on all tankers from Alaska—that promise has been broken. The coast guard promised me last year that tough requirements for partial double hulls and/or "defensive space" would be laid down—and that promise has been broken. The new coast guard regulations under title II—promulgated after a two-year delay—turn out to have been drafted by an advisory committee of so-called experts who happen to have been connected with organizations and companies opposed to double bottoms. This action violates the federal advisory committee act, and therefore the "defensive space" requirements have now been issued only as a proposed, rather than a final, rule.

On November 6, I complained bitterly to the secretary of transportation about these proposed regulations, and on November 14 I made a formal complaint to the commandant of the coast guard. I will not burden you with all the details of my struggle for double bottoms. The short of the matter is that the coast guard has now changed its position on the issue—and its new position happens to coincide with the oil companies'. It is sometimes said that we should wait for international negotiations to set higher tanker construction standards—but for years we have tried that route without success. I believe that the United States must do with tankers what we did with passenger vessels—set more stringent standards unilaterally, and let the world fleet that wishes to call at our ports comply. And I believe the coast guard must do with oil tankers what it has done with liquified natural gas vessels and with vessels carrying other hazardous polluting chemicals—require the most stringent safety standards possible.

The Congressional Office of Technology Assessment has recently taken an independent look at double bottoms, and concluded that they offer "a significant degree of protection from oil pollution." I am trying to impress upon the Coast Guard—and you should try too, by whatever means at your command.

OIL SPILL LIABILITY

This session I introduced S. 1754, the "National Oil Pollution Liability and Compensation Act." The potential impacts associated with a major oil spill in today's world of supertankers, far exceeds the capability of existing laws to compensate for possible economic and environmental damage. A comprehensive re-examination and modification of existing oil liability statutes is called for.

This bill is intended to provide incentives to minimize the possibility of damage from oil spills. It would establish a strict liability standard for cleanup costs and damages resulting from oil spills in the marine environment. A comprehensive fund would be established to pay without limitation for both cleanup costs and resulting damage. Early next year the Committee on Commerce will hold hearings on S. 1754. I am placing a copy of the bill in the RECORD for your information.

TRANS-SHIPMENT

It is commonly believed that turning Puget Sound into a trans-shipment center for Alaskan oil bound for the Midwest is now a dead issue, since SOHIO has decided to build such a facility in California. In fact, however, pressure from the Midwestern States on this issue is probably greater than ever before, with all sorts of schemes for running a pipeline across the cascades.

I believe trans-shipment would be a tragic mistake for this region. It would provide a handful of jobs for a few years, while threatening thousands of our permanent jobs in fishing, aquaculture and recreation. It could not be accomplished without a massive increase in tanker traffic through Washington State waters—the very danger we expressly directed the President to avert when we passed the Alaska Pipeline Act.

At the Federal level, I am again attempting to overt this danger by sponsoring legislation that would set up a Federal-State study on how to supply oil to the Midwestern States—a study that would examine all the alternatives. Other Federal action is obviously needed—and I hope you will advise me of your thoughts.

The F.E.A. advises me that we can not count on receiving even 100,000 barrels per day of Canadian crude here in Washington next year. Meanwhile, I continue to oppose trans-shipment, to oppose any increase in our refining capacity except to supply our region, and to oppose any tankers in our State waters except those needed to meet our local requirements.

At the State level, I hope you will examine the power of the State to prevent trans-shipment without Federal intervention—you can count on your colleagues in Olympia more easily than I can count on my colleagues from the Midwest. And I hope, as I will indicate in a moment, that you will immediately examine the possibility of a single oil-transfer facility outside of Puget Sound, even if you cannot be certain today that that facility will never become a trans-shipment link. With or without trans-shipment, the single oil-transfer facility makes sense.

SINGLE OIL-TRANSFER FACILITY OUTSIDE PUGET SOUND

As you know, Senator Jackson and I, along with Governor Evans and many of you here, have advocated that tankers eventually be kept out of the vulnerable inland waters of Puget Sound entirely, and restricted to a single oil-transfer facility, perhaps on the Strait of Juan De Fuca if that is economically feasible. The report of the Oceanographic Commission examines some of the alternatives, and recently your legislatively-mandated feasibility study has found that an underwater pipeline across Admiralty Inlet is safe and feasible. If you establish a single-oil transfer facility, therefore, you can do so without disturbing the location and operation of the refineries presently located on North Puget Sound.

Two problems arise: Whether the people of the state, once informed, will support such a facility, and how such a facility can be constructed and operated economically, if at all.

Let me address the "political" question first. Obviously plans for an oil transfer facility on the Strait of Juan de Fuca cause concern among people there. Some residents interpret it as an attempt to re-locate oil spill risks, not just oil transfer facilities. But in fact that need not be the result. The purpose of a single facility outside Puget Sound is to protect the entire coastal area by reducing the overall risk of spills. As tankers proceed east of Port Angeles, they encounter the navigational hazards that increase the likelihood of disaster. And if that disaster strikes, the Strait of Juan de Fuca—not just Puget Sound—will be affected. When the tanker *Metula* ran aground in the Straits of Magellan last year, it produced an oil spill that covered 1,000 square miles—an area equivalent to the entire surface of Puget Sound. Our local currents insure that even a smaller spill in the San Juan Islands or at Anacortes would be swept back into the Strait of Juan de Fuca—and the route through the San Juans and to Anacortes is precisely the most dangerous.

So the point we must make—all of us—is that every inch of our State's coastline is equally valuable. We are not trading a clean Puget Sound for a dirty Strait of Juan de Fuca. We want to save both—but the only way we can do so is to prevent oil spills, which we cannot do—literally cannot do—if the tankers in ever-increasing numbers continue to travel right up to the present refinery docks.

The second point—how to build and finance such a facility, and where it should be located—is primarily your responsibility here at the State level. You should know, however, that my committee has reported and the Senate has passed a bill that could assist you greatly, if the House can be persuaded to act. This bill, S. 586, the Coastal Zone Management Act amendments of 1975, would provide grants equal to as much as one hundred per cent of the cost of a State study and plan for constructing and siting a single oil-transfer facility.

In addition, loans or grants could be provided to the State to assist State projects designed to minimize adverse impacts. If you can bring your influence to bear, you can greatly aid passage of this bill in the House, and thus help provide the funds needed to insure that a single oil-transfer facility is a wise and carefully-planned measure. I am submitting a copy of the Senate report on S. 586 for your information and study.

Finally, I believe it is proper for the Legislature to enact a moratorium on new construction of oil transfer facilities so that you will have time to make a decision on the single oil-transfer facility itself. Obviously there must be some compromise between the needs of the oil companies to plan for the future and the need of the State to make a rational determination of what facilities are necessary, appropriate and safe. But without some form of moratorium, the danger is great that the oil companies will proceed with expansion plans at present refinery sites, and present the State with a *fait accompli*. There is simply no way for such unilateral and private action to fully safeguard the public interest in this complex and critically important issue.

I have taken a good deal of your time, and yet I have not fully catalogued the relevant actions at the Federal level nor the list of options at the State level. I hope, therefore, that you will receive this as merely the opening of a dialogue, and as an invitation to call on me for assistance. I would hope that you feel free to ask me for information, advise me as to your needs, and make use of whatever knowledge I have been able, with my staff, to glean at the Federal level. Testimony can accomplish only a little; working together on a day-to-day basis can accomplish a great deal.

Let me close by saying that each of us, as a public official, is only too aware of how little we can achieve when we act alone. We can push individual pieces of legislation, we can try to make some problems a little less acute, but we cannot by ourselves create a policy. We need a consensus to do so. Even with a consensus, we cannot necessarily restore the economy to working order or insure permanent would peace. But on a smaller scale, we *can* protect the waters of this State and insure that our State has adequate supplies of energy. We owe that to ourselves and to future generations, and together I deeply hope we can achieve it.

STATUS OF THE SALMON RUNS

Mr. GRAVEL. Mr. President, the State of Alaska, early this year, retained the firm of Kramer, Chin and Mayo, to prepare an independent analysis of Alaska's salmon fishery.

I have just been provided a copy of

that report which analyzes the reasons for the decline of the Alaska salmon industry.

The significance of their analysis is its support of my contention that the establishment of a 200-mile fisheries zone would have a disastrous impact upon Alaska's salmon resource, an industry which "involves more people in its production effort than any single economic activity in Alaska, other than government."

The report underscores that the 1952 Abstention Line Agreement—which would be placed in jeopardy by S. 961—affords virtually 100 percent protection for America's salmon stocks.

Declines in salmon catches are attributed to excessive catches, adverse climatic conditions, habitat degradation, increased predation by other species, foreign fishing, invalid management concepts, and illegal fishery.

It is noteworthy that foreign fishing is not considered a major or key reason for the decline in most salmon stocks.

Violations of the 1952 salmon agreement have been remarkedly infrequent—14 international violations since 1966.

The most dramatic conclusion of the study is that Japanese catches—legally—of Alaska salmon during a 60-day period have averaged 2.5 million over a 10-year period.

The report notes:

> In summary, it appears that foreign-fleet, high-seas fishing for Pacific salmon of North American origin is not having a major adverse effect statewide in Alaska, but does affect certain localized areas. There are indications that Japan's proportion of catch of North American salmon stocks is waning. Foreign fisheries cannot be regarded as a major cause for decline in the Alaskan salmon harvest.

Finally, the analysis supports my contention that a 200-mile limit would substantially harm the Alaskan salmon industry:

> It may seem, at first thought, that by establishing a 200-mile economic zone along all of Alaska's coastline, the state would be able to harvest much more of its salmon resources. However, if the 200-mile limit were to be established, a new basis for international negotiation could result in the elimination of the present INPFC abstention line. With it gone, foreign fleets would be able to fish for salmon legally in the Alaska gyre outside the 200-mile limit. Estimates of the potential catch of salmon in this area were made by R. A. Fredin (pers. comm.). This estimate was 23.5 million fish, which compares to 2.4 million fish now taken west of the abstention line by the Japanese mothership salmon fleet.

I ask unanimous consent that the relevant portions of the study be placed in the RECORD.

There being no objection, the study was ordered to be printed in the RECORD, as follow:

Status of the Salmon Runs

[Figures mentioned in text not printed in RECORD]

Alaska's salmon runs are one of the few remaining strongholds of a world food resource that has been drastically reduced over the past century. Among the Atlantic coastal nations, the effect of Man's disregard for salmon in his transition to an industrialized urban society has practically eliminated the Atlantic salmon. They have become prized as a rare sports fish in the United States.

In the North Pacific, salmon are still comparatively abundant, but their fight for survival is a matter of concern among many people. Further, there is a growing effort among the nations around the North Pacific to use all means at their disposal to increase Pacific-salmon resources. It would be sad indeed if these measures were not effective and this nourishing food was lost from our diet. The economic loss would be great too, particularly in Alaska.

Salmon were plentiful on the western coast of North America, from San Francisco Bay to Alaska, in the nineteenth century. Commercial fishing for these salmon became an important activity in the latter part of the century. In Alaska, which became the major area for fishing and packing salmon, the yield increased until the decade of the 1940's. Since then, there has been a sharp decline in the salmon harvest. This situation is shown graphically in Figure 3. Perhaps the greatest disappointment derived from these data is that some apparent real gains in the Alaska salmon fishery during the 1960's have been followed by fish harvests of the past few years that are near all-time lows. This has caused fishing and processing industries to be seriously depressed. Among the series of five-year periods since the peak harvest, five of six show a harvest reduction from the previous period.

The number of salmon available for harvest now is well below the number needed for the economic well-being of both fishermen and the packing industry.

The last year of relative abundance was 1970 when the commercial harvest totaled more than 68,000,000 fish, a quantity larger than in any year of the preceding two decades. From this peak, the decline trend was re-established and by 1973 and 1974, the harvest was less than one-third of 1970. The preliminary data for 1975 shows no general improvement. Of even greater significance to the industry is the fact that the major portion of the decline is in the pink and sockeye species, which have been the fish whose average run-size in most regions were the bread and butter of the industry. Occasionally, the runs were massive. They then provided the basis for a boom year in quantity, but often at some sacrifice in price.

Decline of the salmon runs has no single cause. Nor is the primary cause for decline in one spawning system in a particular region necessarily of equal importance to another system in the same or other regions. In spite of this variability, it is believed possible to list the several major reasons for decline of the runs. These are presented in Table No. 1. Perhaps the major item missing from this list is the question of food supply for each stage in the cycle of each species of Alaskan salmon. Availability of food for a particular population undoubtedly will have an effect, but it is very difficult to hypothesize this problem as being a cause for decline. Variability of the food supply always has been a condition of the environment and must have existed in past years when larger runs were sustained. So this factor is not likely to have caused a long-term decline. Consideration of of food supply in planning programs to enhance the fishery may provide an important bonus effect. This idea will be discussed in greater depth in a later section of this report.

There is certainly a wide range of regional variability in the relative importance of the several causes for decline. Even so, it is believed that they still can be reviewed from a general, state-wide perspective for the purpose of making appropriate judgments.

FISHING

There is little question among most knowledgeable observers that the most important cause for decline is that too many fish have been caught. A more subtle factor directly related to the catch is the lack of optimum escapement.

To be optimum, escapement must provide adequate spawning populations of both sexes to each water system that is contributing to the runs. So it is quite possible, and certainly it has happened many times, that while some numbers for total catch in a particular area might be acceptable, a run from a particular water system could be severely damaged by poor decisions regarding timing or location of the fishing. This occasion, occurring over a number of years has the effect of causing a significant reduction in the size of the runs.

Fishing in both of these facets, total catch, and sub-optimum escapement, is regarded as the most important reason for decline of the fishery. Obviously this is a most significant conclusion because the objective of this study is to develop concepts for an increased catch of Alaskan salmon. If the major cause of the reduced catch is fishing, then making it better is doubly difficult.

CLIMATE

Adverse climatic conditions certainly can have a negative effect in a particular location. The most common conditions that cause loss of eggs or mortalities among fry are very low temperatures, reduction of water supply due to unusual freezing, and silt or wash-out resulting from flood conditions.

The relationship between weather conditions and anadromous fish production is well known. Fluctuating "extrapensatory" mortality due to meteorological (and oceanographical) conditions is responsible for large year-to-year variations in the survival of salmon eggs and fry. The poor returns of adult salmon in 1973, 1974 and 1975 are believed to have been, in part, due to the unusually cold winters in the early 1970's. However, the depressed 1973–75 salmon harvest is superimposed upon an already-declining catch curve. The question of real significance is whether long-term climatological changes could be affecting salmon populations.

Meteorological data indicate that global temperatures increased throughout the first decades of the 20th century, reaching a maximum in the 1940's. Subsequently, a net cooling trend developed, which to date, has amounted to about 0.3° C (Mitchell, 1972). Some authorities have interpreted this cooling trend as the harbinger of a new ice age, while others have viewed this possibility with skepticism.

While the observed decline in global temperature corresponds roughly with the decline of the Alaska salmon fishery, a cause-and-effect relationship is very improbable. The most marked declines in the fishery have occurred in Southeastern Alaska, rather than farther to the north in Bristol Bay. Farther south, British Columbia salmon stocks have shown no evidence of debility. Certainly, a continued downward trend in northern-hemisphere temperatures, accompanied by increasingly severe winters and changes in sea-surface temperatures, could have an accumulative depressing effect upon Alaska salmon populations. However, this possibility lies in the realm of speculation.

HABITAT

Habitat degradation as a term covers a multitude of human actions and natural occurrences that result in losses to the habitat needed for the salmon's life support. Among the more frequently identified causes of habitat loss or damage are:

1. Logging
2. Mining
3. Hydroelectric Projects
4. Wind Storms
5. Floods
6. Earthquakes
7. Sand and Gravel Removal

There are many specific examples that can be investigated and documented to show that all of the occurrences have contributed to a pronounced decline in the salmon population of a specific water system. On the other hand, it is quite difficult to demonstrate that the occasions of loss or damage to habitat are sufficiently frequent and widespread to be considered a major cause of decline in the Alaskan salmon runs.

Of the above, logging is cited most frequently, by far, as the most significant cause of habitat problems in the regions where the dominant commercial salmon runs are based. Because of this belief, a more complete investigation was made of the effect of logging upon fish propagation.

Field studies attempting to document changes in anadromous fish production following logging generally have been inconclusive because fluctuations in survival from egg to returning adult are naturally large. Monitoring of physical, chemical and ecological conditions in a stream before, during and after logging has proven to be a more informative approach, although long-range consequences for fisheries usually must be inferred, rather than directly demonstrated.

Also, laboratory studies have shown that some logging practices can create conditions unfavorable to the survival of salmonid eggs and fry. Conditions recognized in the literature include:

1. Sediments introduced into streams by logging activities can smother or physically damage salmonid eggs and sac-fry. Excessive sedimentation also can alter basic stream ecology, lowering the production of aquatic plants and invertebrate animals.

2. Decomposing logging debris in streams can degrade otherwise suitable spawning areas.

3. Log jams can form barriers to the passage of adult and juvenile fish.

4. The annual water-temperature regimen is altered in streams following extensive removal of stream-side vegetation. Maximum summer temperatures are increased and may exceed temperature tolerances of fishes and other aquatic organisms.

Other, more poorly understood effects of logging include: altered wintertime stream temperatures; changes in the rate of introduction of terrestrial organic matter to streams; altered streamflow regiments; and alterations in the chemical properties of stream water. Understanding of the effects of logging upon Alaskan streams is particularly inadequate, since relatively little research has been done in Alaska. The results of studies performed in other areas cannot be extrapolated safely to Alaska, because of salient differences in watershed characteristics and climate.

Although logging certainly has been responsible for damage to some salmon streams in Alaska, the proportion of watershed areas seriously affected is small, relative to the vast acreage of unlogged forest land. The more destructive practices of the past have been eliminated to a large degree, and surveillance of logging operations by interdisciplinary teams of trained professionals has been initiated in some areas.

Despite increased awareness of the deleterious effects of logging upon fisheries, there is a large potential for increasing conflict between logging and fisheries interests in the future. The rate of timber cutting in Alaska has been increasing rapidly in recent years. In addition, the increasing use of silviculture practices, such as artificial fertilization and the use of herbicides and insecticides, introduces a new spectrum of possible deleterious effects upon the biota of streams. Still another factor is the pending transferral of large tracts of Federal forest land to private ownership.

The encouraging aspect of the conflict between forestry and fisheries is that many, if not most, of the deleterious effects of logging upon fish production may be avoided by proper silviculture practices. Legislation that defines proper silvicultural practices will be necessary. Detailed planning for environmental protection must be completed before initiation of timber harvest, and logging operations must be adequately supervised to insure compliance with established guidelines for stream protection. Existing gaps in our knowledge of the ecological effects of silviculture practices must be filled by carefully directed research efforts and these efforts must be sustained to keep pace with new developments in silviculture technology.

Attainment of these objectives will require increasing greatly the number of trained professionals available to the responsible state and Federal agencies, and a firm commitment to improvement of interagency cooperation.

PREDATION

Loss of salmon population to predators in every stage of the salmon life-cycle obviously is a very important factor in determining the size of the population. In one sense, man is a part of the predation with his uses for salmon eggs and for the returning fish. And, in fact, it may be a useful parallel to consider whether other predators can prosper any better than man when runs are declining.

Animal predation on young salmon tends to be proportionally more severe in years when relatively few young are produced. Such "depensatory" mortality may hinder or prevent the recovery of stocks already depleted by over fishing. For this reason, predator control often has been suggested as a means of increasing salmon production.

Large numbers of salmon fry and smolt are lost to predators in some stream and lake systems. *Rogers, et al*, (1972) estimated that 32 to 63 percent of the sockeye smolt migrating downstream past one point in the Wood River system were eaten by arctic char.

In Cultus Lake, British Columbia, reduction of predator populations by gill-netting increased the survival of young sockeye by three to four-fold (Foerster and Ricker, 1940). Cutthroat trout, dolly varden, squawfish and juvenile coho salmon were all important sockeye predators in Cultus Lake (Ricker, 1941).

The dolly varden often is mentioned as an important salmon predator, but this has not been confirmed by studies in Alaskan fresh waters. DeLacy and Morton (1943) found few sockeye fry or fingerlings in the stomachs of thousands of dolly varden from Karluk Lake, Alaska. Similar results were obtained by Roos (1959), who examined the stomachs of 5,050 dolly varden from the Chignik Lake system and found only 4.3 percent contained sockeye salmon. It is now believed that the arctic char is a much more destructive salmon predator than the dolly varden.

A bounty program was initiated in Alaska during the 1920's and 1930's to encourage the killing of char. (Dolly varden and arctic char were not recognized as distinct species until the 1940's.) Abuses of the bounty system have been described by Hubbs (1940). The tails of valuable species such as steelhead, trout and coho salmon often were submitted for bounty payments. Moreover, there was no firm indication that the bounty system benefited salmon runs.

Relatively small-scale, localized predator-control programs sometimes have had beneficial results. The Alaska Department of Fish and Game program at Bear Lake, on the Kenai Peninsula, is a case in point. Elimination of salmon predators and competitors from the Bear Lake watershed has increased greatly the capacity of the lake for rearing of coho salmon. However, costs and benefits must be considered carefully before the feasibility of any project of this sort can be determined.

In addition to direct costs, prediator-control programs also may involve indirect ecological costs. For example, Roos (1954) has pointed out that arctic char eat Aleutian sculpin and three-spine stickelbacks, as well as juvenile sockeye. Sculpin are known to prey upon sockeye fry, and sticklebacks are believed to compete with sockeye fry for food. Undesirable consequences of an arctic char control program might include increases in sculpin and stickleback populations.

The beluga whale also has taken its toll of Alaska salmon, particularly in Western Alaska. While no quantitative data exist that indicate the magnitude of this predatory problem, there is evidence that it is relatively serious in certain areas. Recently, the Bendix Corporation developed an electronic device to discourage the beluga from loitering in river-mouth areas. Called the Beluga Spooker, the device transmits an acoustic signal for distances of at least one mile, emulating the call of the hungry killer whale.

Birds also are important predators. Gulls, kingfishers, mergansers and certain raptorial species may harvest a significant portion of juvenile salmon in freshwater and estuarine environs. Managed release of salmon fry or smolt, with respect to time of day and location, can have a marked effect upon survival.

In total, it is not expected that general predator control would be a major part of programs to increase the salmon resource. The cost and potential ecological consequences are unknown and might well be unacceptable. On the other hand, in specific projects of limited scope, predator control may be inexpensively and conveniently accomplished with very desirable results. As an example, commercial harvest of dolly varden or char, if allowed in carefully selected areas, might produce income and accomplish predator control.

FOREIGN FISHERIES

Interviews with numerous Alaskans—fishermen, biologists, industry personnel and others—as to probable causes for the decline of Alaska's salmon stocks, revealed a common conviction that foreign fisheries was one of the principal problem areas. Several of those interviewed believed that a significant *illegal* fishery was being carried out by foreign fishing fleets. Accordingly, it was believed that an investigation into this difficult area clearly was warranted.

Illegal foreign fishing

Frequency of fisheries violations is difficult to determine because the surveillance aspect of treaty enforcement can be nearly impossible under some climatic conditions. Violations of the Japanese salmon fisheries abstention line (175° 20′W longitude) since 1961, as reported by the National Oceanic and Atmospheric Administration, are shown in Figure 4. Only three of the incidences reasonably might be classified as flagrant or intentional; the remainder (representing 23 vessels) easily could have been unintentional as these occurrences were west of 172°W longitude. All violations shown in Figure 4 are by Japan. Canada reportedly has violated the U.S.–Canada bilateral contiguous fisheries zone agreement for salmon only once between 1966 and 1974. No other violations have been officially observed with regard to salmon. The amounts of fish harvested in the illegal zones prior to arrest or seizure are not known; however, it appears from NOAA records that the increase in fines seen in recent years reflects not a flat fine proportional to the weight of illegally caught fish, but rather an increasing nonleniency attitude towards violators. Japan has shown an increase in surveillance over its own fishing fleets—a gesture of good will, or perhaps an indication of their concern over an impending U.S. decision to claim unilaterally a 200-mile contiguous fisheries zone. Regardless of their motive, the fact remains that surveillance is becoming more thorough, fines are becoming larger and indications show a decrease in violations by Japanese fishing fleets.

The reported violations of international treaties and agreements on salmon fishing have been almost entirely by Japan. Canada, in 1974, reported one violation of the contiguous fisheries zone. *Non-reported* violations of international salmon fisheries treaties and agreements undoubtedly occur; their frequency and magnitude remain an uncertainty, but indications are that they do not occur to an extent whereby the *illegal* catch comes anywhere near the *legal* catch by foreign fisheries of Alaskan stocks of Pacific salmon.

The aspect of foreign fishing that is most difficult to measure is the effect of trawl fleets on salmon stocks. There is undoubtedly some incidental catch of salmon by these vessels which operate over the North American continental shelf outside the twelve-mile limit. Their fishing effort is aimed mostly at round fish, swimming at or near the ocean bottom. This normally will not pick up salmon; however, in lowering and raising the trawl it is quite possible to catch salmon. There may be occasional salmon swimming near the bottom and some mid-water trawling is being done which will catch more salmon. Net mesh is small enough that this catch can include juveniles as well as adults. Even if these fish are returned to the sea, there is a good probability they will not survive the catch experience.

The two factors which give some assurance that this incidental catch is not a major factor in the salmon fisheries are first, a migratory and statistical review and second, a consideration of somewhat parallel conditions in British Columbia, Canada.

Neither migrating juvenile nor returning adult salmon are believed, for most stocks, to spend a major portion of their time in coastal waters where most trawlers operate. This factor, plus the modest length of time the trawls dwell at salmon swimming depths, suggests that their catch of salmon is truly incidental and not of major consequence.

Parts of Canada's western coastal seas also are fished by foreign trawlers with approximately the same opportunity to catch Canadian salmon. Their runs are not declining. In this comparison, it is difficult to accept that the impact would be greater on the Alaskan runs. The experience in Washington and Oregon is similar to that in British Columbia.

Legal foreign fishing

Sockeye and chinook salmon stocks of western Alaska—that is, Bristol Bay and areas north—are vulnerable to the Japanese mothership fishery over a large area of the Bering Sea west of the International North Pacific Fisheries Commission (INPFC) abstention line (175°20′W.). However, this abstention line affords nearly 100-percent protection for all other North American salmon stocks.

The sockeye salmon perhaps has been the most often and significantly intercepted species of North American salmon by Japanese mothership fleets which conduct a high-seas salmon fishery. However, in recent years, evidence has developed which points to a greater relative impact of the high-seas fishery upon western Alaska stocks of chinook than upon sockeye from the same region (R.A. Fredin, personal communication). The size of the chinook catch in numbers of fish, or even pounds, may not however, amount to as much as for sockeye.

Figure 5 shows the comparison of the U.S. catch of Alaskan sockeye to the catch of all species. This comparison shows that catches of sockeye in western Alaska compromise the major portion of total sockeye catches in the State. Obviously, then, any significant impact upon these western stocks by the Japanese will represent a significant impact upon the entire State's sockeye harvest.

An examination of the catch components by country reveals a relative decline in sockeye catches of Bristol Bay stocks by the Japanese highseas fishery (Figure 6). The percent of Japanese harvest during peak years has declined from 54 percent in 1961, to 29 percent in 1965 and down to 18 percent in 1970. In other words, Japanese catch has dropped from about one-half to one-fifth of the U.S. catch during peak years over a ten-year period.

To put the high-seas sockeye fishery into proper perspective, the "economic loss" to U.S. fishermen may be shown over this same ten-year period. As indicated in Figure 7, the Japanese catch amounts to only a small percentage of revenue lost from U.S. fisherman on an all-species basis, a percentage that has decreased from 19 percent in 1961 to 8 percent in 1970.

Another point that becomes apparent in this figure is the relative economic importance of sockeye salmon to the Alaskan fishery during peak years, when it represents between 40 and 50 percent of the annual harvest value.

In summary, it appears that foreign-fleet, high-seas fishing for Pacific salmon of North American origins is not having a major adverse effect statewide in Alaska, but does affect certain localized areas. There are indications that Japan's proportion of catch of North American salmon stocks is waning. Foreign fisheries cannot be regarded as a major cause for decline in the Alaskan salmon harvest.

It may seem, at first thought, that by establishing a 200-mile economic zone along all of Alaska's coastline, the state would be able to harvest much more of its salmon resources. However, if the 200-mile limit were to be established, a new basis for international negotiation could result in the elimination of the present INPFC absention line. With it gone, foreign fleets would be able to fish for salmon legally in the Alaska gyre outside the 200-mile limit. Estimates of the potential catch of salmon in this area were made by R. A. Fredin (pers. comm.). This estimate was 23.5 million fish, which compares to 2.4 million fish now taken west of the abstention line by the Japanese mothership salmon fleet (Figure 8).

MANAGEMENT

Management of the salmon fishery has been one of the major factors that contributing to the decline of the Alaskan runs. This is by no means only a recent phenomenon. In fact, most persons who have studied the Alaska salmon fisheries agree that the most injurious actions occurred in the first-half of this century. These had the character of both too little regulation, or more frequently, regulations promulgated with totally inadequate enforcement capability. It is only in the past quarter-century that a combination of population growth in Alaska and vastly improved transportation and communication systems caused an adequate level of awareness of the true need for a more carefully regulated fishery to come gradually into effect. This latter understanding has led to increased levels of funding for management activities and study of regulatory controls.

Even so, the question of effectiveness in fishery management must be related to its proper perspectives. The size of the state, the length of its coastline, the multitude of salmon streams, and the small human population all have their effect. Providing a regulatory and enforcement system that achieves good fishery management is very difficult when the physical and biological resources are so greatly out of balance with the human and financial resources that are applied to mnagement. This imbalance continues to exist today and is likely to continue in the foreseeable future. Consequently, the factors of size, variety and distribution of salmon streams and ruggedness of the coastline become part of the definition of the problem.

Even in British Columbia, where the Canadian Federal government manages the commercial fisheries, and the status of the salmon harvest is being sustained at a level approximately equal to the current harvest in Alaska, the ruggedness and variety of their much shorter coastline involves expenditures for salmon (primarily for management) that are a third greater than Alaska's Department of Fish and Game's total budget.

To some degree, lack of management effectiveness for the salmon resource reflects a lack of information. With perfect knowledge of how many salmon of each species have spawned, how many fry or smolt migrated to the ocean environment, and how many survived, fishery decisions would be much improved. Although this ideal cannot be realized, there certainly is a basis for concluding that a serious effort and expenditure to increase the current level of knowledge would be worthwhile. Reasonable programs for improving management's data base will be an essential part of any improvement effort for the fishery.

SUMMARY

No evidence was found that there are other major candidate casual factors for decline of the salmon harvest. At particular times and places in Alaska, illegal fishing has had its impact. In fact there probably are cases where "creek robbers" have destroyed runs to individual streams, but, in total context, even these cases do not appear to have had a very large impact upon the resource.

Table 2 is presented to summarize the foregoing discussions regarding causes of decline in the harvest of Alaskan salmon.

TABLE 1

Candidate reasons for decline of the harvest

1. Catch too large; inadequate or unbalanced spawning escapement.
2. Adverse climatic conditions in certain years or locations.
3. Habitat degradation by logging and other resources activities or natural events such as the Great Alaskan Earthquake.
4. Increased predation or loss of living space to competitive species.
5. Foreign fisheries.
6. Some management concepts not valid, including certain legislative directions.
7. Various, such as subsistence fishing, illegal fishing by Americans, et al.

TABLE 2

Relative validity of candidate reasons for salmon harvest decline based on consultant's review

1. Reason: Domestic catch too large; escapement not optimum. Comment: Primary importance.

2. Reason: Climate. Comment: Secondary importance generally; locally significant at times.

3. Reason: Habitat degradation. Comment: Less important generally; significant in some locations.

4. Reason: Predation. Comment: Secondary importance generally; significant in some locations.

5: Reason: Foreign fishery. Comment: Less important generally; sometimes significant for sockeye.

5. Reason: Foreign fishery. Comment: Less ments: Primary importance.

7. Various and miscellaneous. Comments: Less important generally.

MAKING THE TRADE ACT WORK

Mr. RIBICOFF. Mr. President, at this time of continuing economic recession, high unemployment, and international economic adjustment, trade problems can be an important source of trouble to American firms and workers. This is true both on the import and export side of our economy. In the present economic situation, I am more than ever concerned that our trade policies and the administration of our trade laws be sensitive to our economic needs. In this connection, I am increasingly concerned about the day-to-day management of the Trade Act of 1974. The administration has made good efforts to consult with the Committee on Finance regarding progress being made in the Geneva negotiations and regarding U.S. proposals as they are made. However, it was the intent of the Trade Act of 1974 that good working arrangements exist between Congress and the Executive throughout all aspects of trade policy and trade negotiations, not just concerning the procedural tactics in Geneva.

In order to assess the effectiveness of the industry-Government advisory committees which we established in legislation, I have written to the chairmen of the various Industry Sector Advisory Committees for their views on the functioning of these bodies. To assess the general workings of the Trade Act I also intend to hold oversight hearings beginning early next year.

But there are other aspects of the administration of trade policy that worry me in particular. At home, some of our industries are subject to unusual or severe import pressures at a time when even the strongest firms are in trouble. This situation can also be found in many other countries, as recession, high oil prices, and trade problems are causing severe adjustment problems everywhere.

Some companies in other nations have been tempted, during this period of weakness in their home markets, to intensify their selling activities abroad. Some governments, as I noted in my recent trip with Senator LONG to several European capitals, are basing their economic recovery policies on hopes for export-led growth, pulled along by a hoped-for recovery in the U.S. economy. This tendency throughout the world to look elsewhere, and especially to the U.S. market, for solutions is a dangerous situation.

When other nations' economies are in trouble, they seem to find ways to ease their own difficulties. For example, the European Community has been subject to unusually intense import pressures in steel products, primarily from Japan and Spain. The result has been that voluntary limitations on exports to the EC have been worked out by the Japanese steel producers. Talks are underway with Spain. And I am informed that the European Community will probably introduce shortly a minimum import price system to prevent further disruption of the EC market.

At home in the United States, we are also suffering from import pressures, particularly in specialty steel. This problem of specialty steel imports has been growing for several years. It is particularly painful now, with imports of tool and stainless steel at all-time record levels—in spite of world economic recession.

Specialty steels are made in Connecticut, but this industry also operates in Maryland, Pennsylvania, New York, Ohio, Indiana, Texas, and other States.

What is being done about this problem? I am worried because I do not know if anyone really cares in the administration. The European Community recently asked for consultations in the OECD concerning its own actions to protect itself, and to get tacit approval of other nations for its actions. U.S. representatives attended this meeting in Paris a couple of weeks ago. It seems to me that this was the time for the U.S. officials to point out that we also have problems, and that the time had come to look at the problem from our point of view, too. At a minimum we should have asked for a detailed examination of the problems we and the EC both face. Instead the U.S. representatives failed to raise American concerns. Why? I do not understand the administration line of reasoning on this. I venture to guess that if the United Kingdom puts on additional import restrictions as widely predicted in the press, steel products will figure largely in the new list of restrictions. Will the U.S. administration still fail in that case to point out our own difficulties? In any event, the legislative history of the Trade Act requires that intensive negotiation on the whole iron and steel sector be undertaken in Geneva. Yet the administration here, too, has made only modest efforts to get sector talks going.

At home, the U.S. specialty steel producers have filed for escape clause action. Their difficulties are being given intense scrutiny by the International Trade Commission. However, I am also worried here, too. First of all, Commerce Secretary-Designate Richardson said in an interview in the American Metal Market issue of November 6 that the position of the U.S. Government is to discourage any selective import controls. In the meantime, the International Trade Commission has found no injury in three other cases under the new Trade Act.

I am confident that the Trade Commission is doing a fair and thorough job in each case. I agree with the view that we should not be frivolous in finding injury and in applying import restrictions indiscriminately. But under the Trade Act of 1974, it was our intention in Congress to make selective import relief, for temporary periods, a more effective element of a sound, outward-looking, liberal trade policy. In particular, Secretary-Desginate Richardson's views, as reflected in the interview I mentioned, are out of step with our law, which specifically acknowledges the need for, and authorizes, use of selective controls when necessary.

So I am worried about how the Trade Act will be administered in coming months. I have posed one example, but there are others. The whole area of footwear is subject to a variety of import problems. We even added in the Senate specific amendments to focus attention on the problems of this sector—and to express our intention that the Executive make every effort to work out with other nations some form of international solution. Only the most restrained feelers have so far been undertaken by the Executive.

The U.S. industry instead was urged by the Executive to file for escape clause action. This case, too, is pending, with public hearings going on this very week. In the meantime the problem continues. In certain aspects of the industry, such as rubber footwear, there have been remedies in operation. The Korean Government, for example, unilaterally decided to moderate its rate of growth of sales to the United States for the last 2 or 3 years. This action was of great help to Connecticut producers—and Korea's exports nonetheless continued to grow. Now, I understand that the administration is making no real effort to encourage continuation of this mutually advantageous situation, and the Koreans are doubtful about continuing what I have felt was very wise policy on their part.

If those who administer the Trade Act are not sensitive to problems in each area of our economy, in the management of trade policy, we will face a dangerous situation of widespread frustration in industry and in Congress that the Trade Act does not really work. I want the act to work. Senator LONG, my colleagues, and I on the Committee on Finance spent many hard weeks going over the provisions of this act, line by line. We are proud of the Senate revisions. We are proud of the law. We want it to function effectively, in all its aspects.

If it does not, we all face a return to public pressures for automatic or mechanical rules to guide trade policy. This I personally would deplore. But unless the Trade Act works, and is seen to be working, we are going to be faced with another round of pressures for legislative change.

THE WORLD OF FRANKLIN AND JEFFERSON

Mr. PELL. Mr. President, I am delighted to note the outstandingly successful foreign tour of an American-sponsored exhibit marking the beginning of the observance in Europe of the Bicentennial of the American Revolution.

The exhibit, entitled, "The World of Franklin and Jefferson," was on display in Paris and Warsaw earlier this year and recently concluded a highly acclaimed showing at London's British Museum.

I commend the American Revolution Bicentennial Administration and its director, John W. Warner, for their sponsorship of this superb exhibit, and I am pleased that the exhibit will be returning to the United States in March of next year to be viewed by the American people.

The 7,000 square foot traveling exhibition was designed for the American Revolution Bicentennial Administration by the office of Charles and Ray Eames. The ARBA is presenting the exhibition in cooperation with the Metropolitan Museum of Art in New York through a grant from the IBM Corporation.

"The World of Franklin and Jefferson" exhibition spans 120 years of American history—1706–1826—from the American Colonial experience and its European heritage, to the point when the young Nation was able to make its great move Westward. The exhibition follows the careers of Franklin and Jefferson through the important times during the formulation of the Declaration of Independence, throughout the Revolutionary War, and during the early stages of the Constitutional Government.

From all accounts, the ARBA exhibition has been warmly received at all three European cities of showing: The exhibition first opened at the Grand Palais in Paris on January 10, 1975, and during 2 months of showing, was seen by 50,000 persons—the largest attendance ever recorded in a French national museum for a foreign show.

The exhibition then proceeded to Warsaw where it was on view at the national museum from May 17 through July 9. During its 7-week run, it was visited by 53,000 persons. According to the American Embassy in Warsaw, the Franklin/Jefferson exhibition was the most successful and impressive show the United States has ever mounted in Poland. At the British Museum, the exhibition was seen by one of the largest audiences ever recorded at that renowned institution.

Mr. Prseident, in March of 1976, "The World of Franklin and Jefferson" will begin its tour of the United States at the Metropolitan Museum of Art in New York and then visit the Art Institute of Chicago before ending in Los Angeles at the Los Angeles County Museum of Art.

I hope that all Americans interested in enhancing the observance of our Nation's 200th birthday will make an effort to see this exceptional exhibit.

I ask unanimous consent that excerpts from a number of reviews of the exhibition by French, Polish, and British magazines and newspapers be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

LE MONDE

This is a reconstruction of 125 crucial years in the history of liberty. It is literally an exemplary exhibition, not only for its richness and grouping of its contents, but also by its truly revolutionary presentation . . . The result is a feast. Nothing could be more fun than this sparkling collection. A living entity for those who do not come for a history lesson but more for impressions. Charles Eames has recreated the atmosphere of an era, the moral and social climate of the birth of a nation, forever marked by the principles on which it was founded.

LE FIGARO

The exhibit which opens today in the Grand Palais is worth a special visit. Its theme is The World of Franklin and Jefferson, two companions of one of the greatest revolutions of the universe, the veritable creators of the nation which was going to become, in less than a century-and-a-half, a power without equal. . . . This historical truth goes without saying. But it goes even better if it is said in the way that Charles and Ray Eames have said it; they succeed in bringing alive with a dazzling clarity, much talent, and infinite taste this World of Franklin and Jefferson installed for two months at the Grand Palais.

ZYCIE WARZAVY (POLISH NEWSPAPER)

The exhibition has been arranged like a richly illustrated portrait album of outstanding historical personalities, philosophers, politicians, and scientists whose activity and life were devoted to strengthening the foundations of the young nation.

The exhibition entitled The World of Franklin and Jefferson originated under the auspices of the ARBA, but the visual form was given to it by Charles and Ray Eames, the prominent exhibition designers. They deserve the credit for the fact that this enormous mass of historical material has been clearly conveyed . . . the physical setting of the exhibition is functional to such a degree that one does not actually perceive it.

KULTURA (POLISH WEEKLY MAGAZINE)

Together, Franklin and Jefferson understood very well the ideas of European enlightenment and they applied a practical knowledge of these ideas towards the growth of the United States. The authors of the exhibit, Charles and Ray Eames, have brought together a collection of original materials, reproductions, photographs, and texts that excellently illuminate the life and intellectual creativity of these men and of America in the 18th and 19th centuries, their revolt against a reactionary Europe, and their unity in bringing forward new ideals in politics and Science.

BRITISH VOGUE

It is the humanity and reality of the (Franklin/Jefferson) exhibition that is so striking; and the meticulous job of assembling the exhibition and casting aside conventional ways of seeing and showing that makes this Eames' masterpiece so outstanding. The layout and visual impact are staggering: one wants to spend days studying the documents, photographs and artifacts that bring the period vividly to life.

THE SUNDAY TIMES

Maxims and aphorisms float overhead on red, white and blue banners; elsewhere we see all manner of things, from a stuffed bison to paintings of the West by George Catlin, to fossil bones which Jefferson sent to France to show how big American animals were, silver tankards by Paul Revere, Franklin's glass harmonica and Jefferson's superbly crafted wooden plough blades, an important technical innovation, and various undeniably impressive yet amiable eighteenth-century experimental electrical apparatus. It does all strike a spark, in an energetic attempt to suggest aspects of American political, practical and social innovation as part of the European Enlightenment.

SOUTHWESTERN MICHIGAN ROADRUNNERS WIN NATIONAL CHAMPIONSHIP

Mr. PHILIP A. HART. Mr. President, recently Southwestern Michigan College's cross country team won the National Junior College Cross Country Championship for the third consecutive time, becoming the first team to accomplish this feat. We are very proud of this team, and I would like to share with you an account of their victory.

I ask unanimous consent that the account of the Roadrunner National Championship, as prepared by the Southwestern Michigan College public information office, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ROADRUNNER NATIONAL CHAMPIONSHIP

The Roadrunners of Southwestern Michigan College, under the leadership and guidance of Coach Ron Gunn, recently won the National Junior College Cross Country Championship for the third consecutive time.

On November 8, 1975, 278 of the nation's finest junior college runners met at Rochester, Minnesota to compete for the 17th National Junior College Athletic Association championship. The Roadrunners broke the scoring record for the meet, which they set in 1974, bettering their former record by five points for a total of 39. In outdistancing second-place Central Arizona (62 points), favorite Allegheny (145 points), and 61 other teams, Southwestern placed three men in the top seven, five among the top 20 and the entire team among the best 31 junior college runners in the nation.

The Roadrunner performance, in addition to setting a record scoring total, also produced six All-Americans, a national record, and allowed the Roadrunners to become the first team to win the NJCAA championship three consecutive times. Roadrunner Joe Ofsansky, who finished first in the meet, became SMC's second national champion in three years.

The Roadrunners followed the lead of Ofsansky, who finished the hilly five-mile course in 24:26.4 minutes. He was followed by SMC's Steve Serna in 5th place, John Reedy in 7th place, Arnie Jackson in 12th, Dennis Cordell in 18th, and Tom Ellspermann in 22nd. All six were named All-Americans as a result of finishing in the top 25. For all but Reedy and Cordell, that achievement was a repeat performance. Steve Bunn, the seventh Roadrunner team member, finished in 31st place among the 278.

Other Roadrunner victories this season included the Sept. 20 Olivet Invitational, the Sept. 27 Jackson Invitational, the Oct. 4 North Central Invitational, the Oct. 24 Western Collegiate Conference, and the Oct 31 Michigan Community College Athletic Association and National Junior College Athletic Association Region XII meet. The Roadrunners were runnerups in the prestigious Oct. 18 University of Wisconsin Invitational.

U.S. UNILATERAL CAPITULATION IN THE UNITED NATIONS

Mr. STONE. Mr. President, I bring to the attention of the Senate, an article in this morning's Washington Post by Mr. George F. Will entitled "U.S. Capitulation in the United Nations." It is a profound analysis of the background and true meaning of the U.S. vote on the United Nations Security Council Resolution last Sunday which yielded to Syrian demands for participation by the Palestine Liberation Organization in next month's United Nations debate on the Middle East.

It is particularly important to realize that the United States had assured Israel as late as the night before the vote that we would veto this resolution. Sunday morning—as Mr. Will reports—Henry Kissinger called our delegation and ordered them to side with Syria and the Soviets against Israel. Why was this done? For what purpose? Mr. Will suggests that this order was a purposeless de facto recognition of terrorism. Was this not a blatant violation of the spirit of the Interim Security Agreement with Israel which states that the United States will never have contact with or recognize the Palestine Liberation Organization unless and until it recognizes Israel and supports the Security Council Resolutions Nos. 242 and 338.

The Palestine Liberation Organization has already used this vote as justification for their terrorist attacks. They openly boast that the United Nations has given credence to these immoral activities. On Thursday, November 13, a band of Palestine Liberation Organization members set off explosives in Jerusalem's Zion Square killing six young people and wounding dozens of others. On November 20, they struck again from Syria and killed three students at a religious school. What effect did the United Nations Zionism resolutions have on these attacks? Radio Damascus said on November 20:

> The Fedayeen take one copy of the resolutions adopted at the UN, mix them with TNT and blow up Zion Square! These resolutions were adopted at the UN in order to enable each and every inhabitant of the stolen land to carry a copy that will convince him to join the Fedayeen, mix it with dynamite and blow up Zion Square or one of our other occupied squares or streets. Now the resolutions of the U.N. are turning into deeds, under the leadership of the Arab people—at whose head marches the Palestinian People—the warriors of this People and its Fedayeen.

The U.S. vote was indeed capitulation to the forces of extremism in the Middle East. I condemn our senseless action in promoting this terrorism and I urge that all our colleagues seriously study Mr. Will's observations in this article which I ask unanimous consent to have printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 5, 1975]

U.S. CAPITULATION IN THE U.N.

(By George F. Will)

Another tiger of extremism is loose in the United Nations, this time with the consent of the U.S. government, which could have prevented it. In a last minute policy swerve, the U.S. dashed Israeli hopes for a veto—hopes the Israelis felt were firmly based on U.S. assurances—and voted for a resolution that the U.S. knew would guarantee participation by the Palestine Liberation Organization in next month's U.N. debate on the Middle East.

The invitation to the PLO was attached to a Security Council resolution extending the mandate of the U.N. observer force on the Golan Heights, between Israeli and Syrian forces. On the eve of expiration of the disengagement agreement, Israel agreed to renewal. But Syria, aware of the brittleness of U.S. support for Israel, opposed renewal unless it included the invitation to the PLO.

The PLO is an unelected body funded by Arab governments. It is committed to the use of terrorism in pursuit of the destruction of Israel, a U.N. member.

There is a kind of majestic brazenness to the Ford administration's argument in defense of itself. The argument is that the U.S.—by supporting a resolution that the U.S. knew would result in an invitation to the PLO—is not compromising its diplomatic boycott of the PLO. The administration argues that the PLO is invited to debate, not negotiate, therefore . . .

Therefore nothing.

The distinction is a distinction without a difference. And the administration's feeble argument indicates that the administration is ashamed of itself. Why else does it argue so foolishly that it has not done what it obviously has done?

The U.S. voted the way it did for the reason that everything happens in U.S. foreign policy: Secretary of State Kissinger commanded it. As late as Saturday night, Nov. 29, the Israelis were assured that the U.S. would veto the resolution. Sunday morning Kissinger called the U.N. and ordered the U.S. to side with Syria and its chief sponsor, the Soviet Union, against Israel.

This is an example of the U.S. policy of preemptive concession. Kissinger reportedly was told by other diplomats before Sunday that U.S. firmness could get the Palestinian question deleted from the resolution.

This would have blocked the planned statement from the Soviet ambassador that "the understanding of the majority" is that the PLO is to participate in the U.N. debate. Instead of standing firm, the U.S. melted into the anti-Israel majority.

As always is the case with U.S. concessions, this one is being praised by people who contrive to see it as a deft stroke to encourage "moderates." What moderates?

The PLO, whose leader, Yasser Arafat, toted a gun to the U.N. rostrum last year?

Syria, which has been bitterly critical of Egypt's moderation, and which now appears vindicated in its contention that obduracy pays when dealing with Israel and the U.S.?

Advocates of softer U.S. negotiating positions lack originality, but not persistence. Whenever they are called up to rationalize a concession, they do so by asserting that the concession will strengthen the "moderates" against the "hawks"—the "moderates" in the Soviet Politburo, in the PLO, in Arab governments. You may remember those days, one peace settlement and one Nobel Peace Prize ago, when this was said with regard to "moderates" in Hanoi.

But the U.S. vote in the U.N. was clear capitulation to the forces of extremism in the Middle East, and for no clear purpose. Judging from past experience, it is probable that if the U.S. had credibly threatened to veto the resolution, Syria would have backed down, allowing renewal of the mandate of the U.N. observers without insisting on the invitation to the PLO.

And it is highly probable that if Syria had not backed down, and the mandate had not been renewed, nothing much would have happened. The Syrian government is not a feast of reason, but it is not crazy enough to contemplate a fair fight, alone, against Israel.

The U.S. vote was a giant step in a deplorable direction: it confers legitimacy on a dictatorial terrorist organization, the PLO, as the representative of the long-suffering Palestinian people. Perhaps the PLO's ruthlessness, and the support of its totalitarian allies has made inevitable the ascendency of the PLO. But the U.S. vote was needless complicity in that ascendency.

DECISION NEEDED ON ALASKAN GAS PIPELINE

Mr. GRAVEL. Mr. President, today I would like to place in the RECORD a statement from the National Chamber of Commerce calling for speedy approval of a route to bring Alaskan natural gas to the contiguous 48 States. The Chamber points out three compelling reasons to get started on the project now. They remind us that: First, unless work is commenced soon, some of the gas associated with the oil from Prudhoe fields will be wasted; second, that consumers in the lower 48 States will experience increasingly severe shortages; and third, that the costs associated with construction of either system will increase with delay. This last point is supported by Arctic's and El Paso's recent increases in cost estimates of $1 billion each.

Mr. President, I have introduced legislation that would compel the Federal Power Commission to make their decision on the route by June 30, 1976. Hearings have not yet been held on this legislation although there is much interest in it. I commend this article to my colleagues' attention and ask their consideration of congressional action on this critical isue, and I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DECISION NEEDED ON ALASKAN GAS PIPELINE

WASHINGTON.—The latest reports on Alaskan energy finds are encouraging. The latest reports on getting the fuel out of Alaska are not.

Right now it looks like millions of cubic feet of natural gas may be thrown away—at a time when we are seriously short of it—because of the years required for the Federal Government to make a simple decision to let private investors build a gas pipeline at their own expense.

Here's the situation: The exploration for petroleum in Alaska is also turning up large quantities of natural gas—more than 10% of the known U.S. supply, according to conservative Interior Department estimates.

Many of the gas deposits are mixed in with oil, as is often the case. When one comes out of the ground, so does the other. That's fine if the gas can be piped off to users. But what if there's no pipe? Natural gas is difficult to store. What comes up with the oil must either be distributed or burned off—wasted.

The famed trans-Alaskan oil pipeline is scheduled to begin limited operation in mid-1977. The wells will start pumping then, with or without a gas pipeline.

The four-year period required to build the oil line—the largest construction project in history—is surpassed slightly by the time it took to get all necessary governmental approvals—that largest pile of red tape in history.

If a similar amount of time is needed for approval of a gas pipeline, then three predictions can confidently be made: (1) Virtually all of the gas associated with the first oil through the oil pipeline will be wasted, perhaps for several years. (2) In the meantime, the lower 48 states will experience such severe natural gas shortages that even some private homes will be cut off. (3) The ultimate cost of building the gas pipeline will escalate by several billion dollars, due to inflation.

The history of the oil pipeline furnishes ample evidence in support of point number three. When first proposed in 1969—as a slightly smaller pipeline—its cost was estimated at $900 million. The current estimate is $6.3 billion, and even that is optimistic.

Two companies are now seeking permission to build gas pipelines. One proposed route would cross Alaska from north to south, near the oil line. The gas would be liquified at an ice-free port on the south coast and shipped to the lower 48 by special tanker. The other route would cross Canada and feed directly into existing gas pipeline networks here.

Each plan has its advantages and disadvantages. But neither, as far as I can see, has problems great enough to outweigh the critical need to get started—on something. Construction alone will take from three to five years.

Does it have to take another four years to get federal approval? No. But a great deal of effort and leadership and statesmanship would be required to cut the red tape. And I don't see much of it in sight.

Congress has floundered around for two years trying to come up with a national energy policy. The best they've been able to do is recommend a temporary rollback of prices (just long enough to get them through the 1976 elections). Our legislators evidently prefer to let crises develop, then charge off seeking scapegoats, rather than preventing trouble before it starts.

The problem—in more ways than one—is lack of enough energy where it's needed.

OSHA JURISDICTION OVER RAILROADS

Mr. WILLIAMS. Mr. President, on May 14, 1975, I introduced for myself and Senator Javits S. 1743, a bill to transfer nearly all of railroad safety jurisdiction from the Department of Transportation to the Department of Labor. My remarks on S. 1743, printed on page 14204 in the Congressional Record for that day, included the following statement:

> Two important occupations, mining and railroad work, remain outside the protection of the Occupational Safety and Health Act and the Department of Labor. Time has proven that in both instances the better course would have been to accord these employees the same protection as nearly all others now receive.
>
> We recently took the first step to correct this inequity in the industry with the introduction of the Federal Mine Safety and Health Amendments of 1975. It is now time to bring the railroad industry under the same protective umbrella.

There has been some misunderstanding of the meaning of this statement, and I would, therefore, like to make a clarification.

Section 4(b)(1) of the Occupational Safety and Health Act states that the Act shall not apply to working conditions of employees—

> With respect to which other Federal agencies . . . exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

By this section railroad employee safety and health remains outside the province of OSHA only as to specific working conditions respecting which the Department of Transportation exercises its authority to prescribe enforceable standards. To date the Department of Transportation has not in any meaningful way exercised its authority affecting occupational safety and health.

The advance notice of rulemaking which the Department of Transportation published 9 months ago does not itself impose legal obligations and therefore is not protecting one railroad employee. It does not, therefore, of itself constitute the exercise of authority to promulgate enforceable standards. The Occupational Safety and Health Review Commission has recently held that the advanced notice does not constitute an exercise of authority.

At present the lack of exercise of authority by Department of Transportation leaves many railroad workers' safety and health unprotected, unless the Department of Labor affords that protection. The Department of Transportation's attempts to assert what amounts to an industry exemption from the Occupational Safety and Health Act for railroads without regard to whether they are actually protecting employees lives is further demonstration of the need for S. 1743.

The Department of Labor has correctly interpreted the law which the Committee on Labor and Public Welfare, which I chair, wrote as authorizing the Department of Labor to exercise jurisdiction over the health or safety of railroad employees whenever there is a hazard involved which is not covered by an enforceable Department of Transportation standard.

Therefore, my statement of May 14, 1975, should not be construed in any way to mean that the Department of Labor has no authority over the railroads with respect to employee safety and health.

MURDER NO, KIDNAPING YES?

Mr. CLARK. Mr. President, following its lengthy—and revealing—investigation of past activities of U.S. intelligence organzations, the Senate Intelligence Committee has presented its recommendations, including one that assassination attempts against officials of foreign governments be outlawed.

No one can argue with that; in fact, one wonders how we could have operated for so long without such a prohibition. But—as the Des Moines Register points out in a recent editorial—why stop with assassinations? Surely, we cannot condone our agents participating in kidnaping, burglary, extortion, or other crimes linked with intelligence activities in the past. The Register argues that the Senate committee's recommendation needs to be broadened, and I would agree.

I ask unanimous consent that the text of the editorial of Nov. 27, 1975, be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Murder No, Kidnaping Yes?

The Senate Intelligence Committee's recommendation that it be made a crime for Americans to plot or carry out assassination attempts against foreign officials begs the question: Why prohibit only murder?

The committee condemned "the use of assassination as a tool of foreign policy" and said that it "violates moral precepts fundamental to our way of life." But kidnaping is no more in keeping with our way of life than is murder. Illegal mailopening, burglary, extortion, break-ins and similar covert intelligence practices by the Central Intelligence Agency and Federal Bureau of Investigation are equally repugnant.

The committee did not get into the propriety of these other practices, apparently because it was chiefly concerned with assassination in its report. The committee said its final report will take up the issue of covert action in general.

It is hard to see how the committee could espouse one principle in connection with murder and a different principle in connection with other improper conduct. As the committee stated in its assassination report, "We reject absolutely any notion that the United States should justify its actions by the standards of totalitarians."

The claim that "the other side does it" has been the chief justification for burglary, mail-opening and other excesses. Intelligence officials also have stressed that the targets usually are foreigners.

The plots against Fidel Castro; Patrice Lumumba and others are no more acceptable because the officials were not U.S. citizens. The U.S. government has no more right to break into the homes of foreigners than it has to burglarize the homes of Americans. Should torture be permissible when the victims are foreign nationals?

The U.S. cannot condone a double standard of conduct—one designed for Americans, another for the rest of the world.

The logic of the Senate committee's condemnation of assassination argues strongly for the tightest curbs on all covert, direct-action activities by U.S. intelligence agencies.

THE FUTURE OF SPACE EXPLORATION

Mr. MOSS. Mr. President, in a recent address at the National Academy of Engineering, Dr. James C. Fletcher, the Administrator of NASA, spoke eloquently about the outlook for our space program.

I agree with Dr. Fletcher that the space program already has expanded the human imagination in the same way that Copernicus' theory of the Sun-centered solar system and Darwin's theory of evolution did. He concludes:

> We have set sail upon an ocean . . . the cosmic sea of the universe. There can be no turning back. To do so could well prove to be a guarantee of extinction. When a nation or a race or a planet turns its back on the future, to concentrate on the present, it cannot see what lies ahead. It can neither plan nor prepare for the future, and thus discards the vital opportunity for determining its evolutionary heritage and perhaps its very survival.

Dr. Fletcher cautions that we must carefully balance the short-term needs of today and the requirements for longer range planning. Among the factors that tend to emphasize current goals at the expense of the longer view are the desire of the public for immediate results, the set terms of elected officials and the annual budget cycle of the Office of Management and Budget.

Nevertheless, he concludes:

> We must somehow keep the dreams of space exploration alive, for in the long run they will prove to be of far more importance to the human race than the attainment of immediate material benefits . . .

Mr. President, Dr. Fletcher's views provide much that should be considered, and I intend to be speaking more in the coming months about the challenges and opportunities that this Nation faces in space. Because of the importance of Dr. Fletcher's remarks, I ask unanimous consent that they be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Address by James C. Fletcher

I would like to thank Court Perkins for inviting me to speak to you this afternoon. It is indeed an honor to be here and to share the same platform with my friends from ERDA and the National Science Foundation.

I was asked to talk about the *Outlook for the Space Program* and some of the priorities as I see them.

When space exploration was first conceived, the primary motives were adventure, scientific investigation and national prestige. During this exciting and spectacular period we developed the technology to put satellites into orbit, to send men to the moon and to begin exploration of the planets with automatic probes.

Our leap towards the stars was curtailed sharply by the realities of the 1970s. After decades of apathy, man had become concerned about his own planet. The wastes from his growing affluence were polluting the land, the oceans and the atmosphere . . . mineral and energy resources were becoming scarce . . . at a time when adequate communications were paramount, he faced a crisis in communication . . . his cities were deteriorating from unwise management and were battered by floods, storms and earthquakes . . . overpopulation and food shortages threatened famine for millions.

It was inevitable that the technologies fostered by our venture into space would be arrayed against these myriad problems. Today, our space programs are heavily oriented in the "problem-solving" direction, and have produced notable accomplishments. Meterological satellites are adding a new dimension to weather forecasting and storm warning . . . communications satellites will soon carry the majority of the world's radio, telephone, television and data transmissions . . . navigation and traffic control for land, sea and air increasingly rely on space systems . . . resources satellites help us to manage our farmlands and natural resources; help us to locate new sources of water, minerals and energy; aid us in urban planning and keep a watchful eye on the inroads of pollution. Within a few years, the reusable Space Shuttle will add man's flexibility to the near-Earth space environment and open the way to the manufacturing and processing of new materials that cannot be duplicated on Earth.

These programs all have a common denominator—they are all space programs structured to provide a direct service to mankind. Their value is unquestioned, and they should and will be expanded. The very success of these and our other space programs, however, has whetted the appetite of the general public. Space technology has become a poultice for the physical and social ills of modern society. The often repeated question—If we can send men to the moon, why can't we do this or that?—has brought the space program down to Earth in search of . . . new energy sources . . . synthetic fuels . . . better engine design . . . new methods of mass transportation . . . environmental protection . . . and many other endeavors of a strictly terrestrial nature.

There is nothing wrong with this per se. Wherever and whenever space technology can help improve the quality and security of life beneath our atmosphere, it should be applied wholeheartedly and vigorously.

But . . . in concentrating on the "now" problems we are forced to ask questions about the future: are we losing sight of "the dream?" As one Congressman expressed it, Are we sacrificing our destiny in order to satisfy our desire for immediacy in everything?

The old saying that sometimes you can't see the forest because of all the trees certainly applies to our exploration of space. We should not overlook the hidden values—the vast potential—of our national space program. Unfortunately, there are few things harder to understand—and to pay for willingly—than a potential. Yet we have many classic examples of the results of such ventures. One of the greatest is the voyage of Charles Darwin, made more than a century ago.

Prior to Darwin's scientific expedition to the Pacific, thousands of ships had sailed its waters, and its geography was well known. Then Darwin made his journey. He did not restrict himself to what other men had seen, but looked deeper into the nature of this new area. What Darwin brought back from the Pacific with him uprooted convictions and beliefs, triggered off a wave of controversy that has still not subsided, and created the basis for dozens of sciences and research efforts. You couldn't see, touch, feel, weigh or otherwise measure the "theory of evolution."

Like Darwin, we have set sail upon an ocean . . . the cosmic sea of the Universe. There can be no turning back. To do so could well prove to be a guarantee of extinction. When a nation, or a race or a planet turns its back on the future, to concentrate on the present, it cannot see what lies ahead. It can neither plan nor prepare for the future, and thus discards the vital opportunity for determining its evolutionary heritage and perhaps its very survival.

Our attempts to explore the seas of space have already proven to be of incalculable value. Yet, there is a warning to be sounded that we might be staring too hard in one direction. We must be careful not to upset the balance between the realities of today and the promises of tomorrow. The grave problems that confront our times should not force us to hang a price tag on everything we do and then haggle over the prices as though we were shopping in some ancient eastern bazaar. The danger of this mercenary approach is that we may lose sight of the incalculable rewards beyond the innermost fringe of our space goals.

In writing the timetable for the future, we cannot allow ourselves to become shortsighted. It was narrow vision that prompted the Vikings to overlook the potential of America five hundred years before Columbus ever showed up. And history, as we know, passed by the Vikings.

Dwindling resources and contamination of the planet Earth's environment are more recent examples of man's tunnel vision. And the blinders are still on. Our answer to the looming energy crisis is apathy. We should have been concerned about energy a quarter of a century ago. Instead, we recklessly plundered a leftover treasure from the Sun as if it was unlimited. Now, we are about to pay the consequences.

The same analogy holds true for space exploration. Unless we proceed forward with the same adventuresome spirit that characterized the earlier years of the Space Age, tomorrow's dreams will become tomorrow's problems.

Now, I would like to change direction for a few moments and discuss some of our future options in space. Let me begin close to home.

With uranium and fossil fuels heading towards depletion, we should be giving serious attention to solar energy as a solution to our long-range energy needs. Terrestrial solar energy will find its place in applying these needs but it could be more useful as an energy source if solar energy should be collected constantly and in large amounts. This is difficult to do on Earth because of the problems of clouds, the day-night cycle, and the requirement of vast areas of open, uninhabited land for terrestrial solar collectors. No such restrictions are found in space. Large solar arrays could be positioned so that they are continually hovering in the sunlight above the same points on the Earth's surface. From these vantage points, they could beam solar energy in the form of microwaves to collecting stations below.

Space systems may not be the total answer to our solar energy needs, but they certainly represent one of the directions we should be looking in. What is important is that we begin to consider other alternatives. If we had placed the same emphasis years ago on ways to utilize solar energy as we have put into the development of a nuclear generating capacity, we might already be well along the road to solving the energy shortage.

We should begin to think seriously about putting up a permanent, manned space station, an engineering feat well within the limits of current technology. An orbiting space base crewed by scientists, engineers and technicians from all over the world would prove invaluable for studying the Sun, the stars and the near-Earth environment. It would have an unmatched capability for terrestrial weather, resources and environmental surveillance. It would offer a weightless laboratory for developing new materials and products impossible to duplicate on Earth. It could serve as an economical waystation for extended exploration of the moon, for establishing lunar bases and for manned and unmanned voyages to the other planets of the solar system.

We should not ignore new concepts such as the space colony recently proposed by Professor Gerard O'Neill. The wheel-shaped habitat would house up to 10,000 people along with shops, schools, light industry and a self-contained agriculture system. The principal industries would be the manufacture of more habitats and the construction of solar energy collectors that would be placed in orbit near the Earth to beam down cheap energy. Solar energy also would power the space colony. Heavy industry would be conducted outside the habitat to make use of the weightlessness and vacuum of space.

After completion of the first habitat, larger colonies could be constructed, some orbiting farther from Earth. The material of the asteroids, for instance, would be sufficient for the construction of colonies with a total land area thousands of times greater than all of Earth's continents.

We should also expand our exploration of the planets. From these undisturbed worlds we can gain a better understanding of the forces that shape our own planet and its evolution. It is not at all unlikely that someday we may look upon some of these distant worlds and their satellites as havens from a ravaged and teeming Earth—long-range alternatives to the orbiting space colony.

We have already completed flyby missions to Mercury, Venus, Mars and Jupiter. Soon, one of our Jupiter spaceships, Pioneer 11, will give us our first close-up look at ringed Saturn. Next summer, Viking spaceships will land on the surface of Mars to search for evidence of life on that planet. We are currently considering a probe to distant Uranus in the 1979 time period. But what about Neptune, Pluto and beyond? And should we consider the stars?

Why not!! Less than two decades ago, we were proudly pointing to a grapefruit-sized satellite in orbit. Today, we are sending robot spacecraft to explore the surface of other worlds. A proposal by the British Interplanetary Society for an unmanned mission to the nearest star, Alpha Centauri, has been received with more than casual interest. Such a mission would require a new type of propulsion system and years of planning.

But why bother about Alpha Centauri and points beyond when we have not completed the exploration of our own solar system? For the best of reasons. Although the discoveries we shall make on our neighboring worlds will revolutionize our knowledge of the Universe, and probably transform human society, it is unlikely that we will find intelligent life on the other planets of our Sun. Yet, it is likely we would find it among the stars of the galaxy, and that is reason enough to initiate the quest.

Long before interstellar probes become feasible, however, we could engage in interstellar communication. We should begin to listen to other civilizations in the galaxy. It must be full of voices, calling from star to star in a myriad of tongues. Though we are separated from this cosmic conversation by light years, we can certainly listen ten million times further than we can travel. Some may call this nonsense, that on the scale of galactic communications, we have just reached the level of smoke signals and semaphores. No doubt this is true. The chances of success could be close to zero for our generation. But if we don't try, the chances are exactly zero. It is hard to imagine anything more important than making contact with another intelligent race. It could be the most significant achievement of this millennium, perhaps the key to our survival as a species.

Having speculated on some of the dreams of space exploration, let's come back to Earth and examine the realities.

I might begin by posing a couple of questions that I am sure are on the minds of many in this audience.

Is NASA, itself, becoming shortsighted?

Isn't the Agency's pre-occupation with short-range projects a contradiction of its publicly espoused goals?

Granted, NASA's present actions seem to speak louder than its words. Our expenditures are weighted heavily in favor of contemporary needs. This course, however, does not presume an abandonment of tomorrow's goals or a lack of the vision and imagination that molded NASA into probably the most forward looking agency of government. Rather, it represents an accommodation with current constraints.

Let me explain. The most difficult task facing an administrator today is to maintain a future perspective in the face of growing consumer and public demands for solutions to todays' problems. In planning long-range objectives, he must take into account certain time horizons.

The public, for example, is "now" oriented. Studies—and I might add, past experience—have shown that the average person pays lip service to the kind of world he wants for his grandchildren. He is interested in what affects him now, not his descendants. He can easily translate the concept of meteorological satellites into his everyday experience. Thus, he is ready to bear the costs of developing the technology, the boosters and the satellites themselves not because he believes in space activities, but because he stands a far better chance of not having that ball game rained out when the forecast was for sunny skies. Selling him on the idea of financing a $100 billion space colony for the 1990s must be viewed by him in the same context as convincing an Eskimo that he needs a refrigerator for his igloo.

The attitude of the public leads to a second time horizon—the political term of office. A legislator must be responsive to the demands of his constituents. As a result, he seldom is afforded the luxury of thinking beyond his present term and thereby perpetuates the "now" philosophy.

A third time horizon evolves quite naturally from the other two. This is the budget cycle. The Office of Management and Budget, which controls the government's pursestrings, rarely plans beyond one or two years at a time. It is responsive to the dictates of political and economic pressures which more often than not reflect only the day-to-day needs of society.

NASA's Space Shuttle program is an excellent example of the effects of year-to-year budget cycles.

The program has never been funded in its entirety, but has been piecemealed together out of the Agency's overall yearly budget at the expense of many promising long-range programs. Yet, if NASA did not proceed with the development of the Shuttle, the nation would be without a major new space program for the 1980s.

A final time horizon is the active professional career of the individual. The leaders of any institution are motivated by the same "now" syndrome that affects the average citizen. They want to see the fruition of their plans and dreams, and they obviously tend to favor projects whose culmination lies within their own career spans . . . or at least within their lifetimes. This temptation is doubly strong in respect to an agency such as NASA whose programs are sometimes measured in decades.

The restrictive elements I have just described should not be construed as excuses for NASA's lowered sights. They are causes . . . emotional, political and economic facts of life that in whole or part are holding back our outward flight into the future.

We cannot afford to let these obstacles deter us from our ultimate goals. We must somehow keep the dreams of space exploration alive, for in the long run they will prove to be of far more importance to the human race than the attainment of immediate material benefits . . . just as the objects of Copernican astronomy or Darwin's theory of evolution far outweighed their immediate practical results.

Space offers us an alternative for the future. Our face can squander its potential and continue our unchecked momentum down the slopes of time towards the shore of the primeval sea to join the great reptiles and nature's other unsuccessful experiments. Or we can accept the challenge of the great spaces between the worlds and establish our citadels among the stars.

The choice, as the historian Wells once said: "Is the Universe or nothing."

EDUCATION APPROPRIATIONS—RESCISSION MUST NOT BE APPROVED

Mr. HUMPHREY. Mr. President, on September 17 I stated my concern that the President might propose some combination of deferrals or rescissions of the education appropriations passed by Congress. Even after both the House and Senate voted overwhelmingly to pass the bills, and after both Houses voted decisively to override the President's veto, the administration on November 18 confirmed my concerns by proposing massive cuts in Federal aid to education under the act.

The general question raised by the President's strategy is this: What is the purpose of Congress passing any appropriations bill if Executive actions undermine the Constitutional and statutory obligation of Congress to decide the levels of funding and determine budget priorities?

Specifically, upon termination of the continuing resolution with our rejection of the veto on September 10, the Office of Management and Budget had 30 days to apportion the fiscal year 1976 appropriated funds for education to the Department of Health, Education, and Welfare. Not until November 18 did the President choose to submit his rescission message to Congress. In doing this, the administration elected to employ tactics which are at best procrastinating and at worst irresponsible.

With respect to the justification and estimated effects of the proposed rescission of $150 million of grants for the education of disadvantaged children, the administration has made errors both of fact and shortsightedness.

While the President states that "the States have not yet spent nearly $1 billion in funds obligated from prior year appropriations for this program," our own research indicates that the carryover figure was less than $400 million. This represents an overstatement by the President on the order of magnitude of 2½ times the actual amount of unexpended funds.

Several factors apparently contributed to this overstatement. First, the administration did not consider that many local school districts operate on a reimbursable basis under the letter of credit system and may therefore expend their funds several years after they are obligated.

Second, States generally have advised their constituent school districts to carry funds over for use in the first few months of the next fiscal year because of the history, prior to advance funding, of late grant awards to the States. For example, in fiscal year 1973, States did not receive their allotments until a year and a half after the fiscal year had begun.

Third, several States received substantial increases in grant awards because of the shift in fiscal year 1975 to the Orshansky formula for allocating funds. For example, Florida's ESEA title I allocation for its local school districts increased from $25 million in fiscal year 1974 to almost $48 million in fiscal year 1975. Texas jumped from $67 million to $94 million, and Minnesota from less than $21 million to more than $25 million. The time required to plan programs, hire staff, and implement projects resulted in the consequent carryover of funds.

But the President's justification goes on to say that "These unexpended funds and growing State efforts for the disadvantaged indicate that a constant level of Federal support will not adversely affect these activities." These assertions are highly misleading. First, there are only 13 States that operate any compensatory programs whatsoever for disadvantaged children. Second, the State programs for the disadvantaged that do exist often do not provide services for the disadvantaged children from low-income families that are targeted under title I of the Elementary and Secondary Education Act.

The President also proposes to rescind $240 million which would terminate funding of the supplemental educational opportunity grants. However, there is a provision in the authorizing Higher Education Act, section 411(b)(4)(A), which mandates the appropriation of supplementary education opportunity grants in order to make basic grant payments.

It is my understanding that a GAO study on these rescission matters will be forthcoming in the near future.

Mr. President, I urge my colleagues not to approve these proposed rescissions of education appropriations. These funds are of vital importance to our schools and our children and youth. The time has come to recognize that education is a crucial investment in America's future.

EDITORIAL SUPPORT FOR YOUNG FARMERS HOMESTEAD ACT

Mr. McGOVERN. Mr. President, the unusually able and perceptive Secretary of Agriculture for the State of Pennsylvania, Jim McHale, points out the problems facing young farmers in an article entitled "Sky High Costs Force Young Off Farm" in the October 31, 1975, edition of the New Castle Pennsylvania News. Included in his analysis are generous references to legislation I have introduced in the Congress to cope with the credit problems facing young farmers. For these words of encouragement, I am grateful.

As an item of interest to cosponsors of my legislation as well as for the information of other Senators, I ask unanimous consent that the article I have referred to be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Sky-High Costs Force Young Off the Farm

(By James A. McHale)

The energy boys in Washington have won their battle on removing natural gas price controls. This means farming becomes an even more expensive enterprise.

Farming is not an occupation for young men. Today, the average age of an American farmer is 50.3 years.

Why? Aren't there young men interested in farming? Sure there are, but the start-up costs for a young farmer on an economical farm unit is estimated to be as high as $250,000.

With natural gas prices free to float upwards because a handful of companies will agree not to cut each other on prices, start-up costs for young farmers will go even higher.

At this rate only the sons of well-to-do farmers can ever hope to adopt farming and ranching as a career. Farm units are expected to decline by 200,000 to 400,000 over the next 20 years, and the U.S. Department of Agriculture (USDA) has estimated that by the turn of the century there will be fewer than one million farms in this country.

I regard farming as a basic occupation in this country. Anyone with an interest and talent in farming should be reasonably able to take up this occupation.

What can we do? Of course, we can and should confront and control the forces that are continually pushing up farm production costs. Energy is a big cost aid we can try to bring some competitive pricing into that industry or begin to consider a less energy-dependent agriculture.

We also can rethink our methods of financing young, potential farmers.

South Dakota Senators George McGovern and James Abourezk have been doing some thinking on this. The result is that the two senators are about to introduce legislation that is named "The Young Farmers' Homestead Act of 1975."

As McGovern explains it, the genesis for his legislation is an experiment started several years ago in the Canadian Province of Saskatchewan. While not accepting the extent of government ownership involved in the experiment, McGovern sees some innovations that are worthwhile in cushioning the original credit jolt a young farmer sustains to get in business.

McGovern's legislation provides for the creation within USDA of a Federal Farm Assistance Corporation which could purchase family-sized farm and ranch units on the market at prices no higher than appraisals made by Federal Home Administration.

This corporation then would lease the unit to qualified young farmers for terms of five to seven years. Rent during this period would be computed at real estate taxes plus the interest carrying charges of acquiring the property. At the end of the lease period, the corporation hopefully would sell the unit to the farmer on a 20-year term during which he would be required to repay half the purchase price plus interest and taxes.

At the end of 20 years, the borrower would be required to refinance the balance of the debt through normal commercial channels. McGovern contends his legislation would require no outlay of federal dollars since the corporation would borrow from the treasury at prevailing government rates.

McGovern's legislation differs from the Canadian experiment in that leases are aimed for nearly a lifetime in Saskatchewan.

The important point to consider about McGovern's legislation is that it seeks to relieve the farmer from an overwhelming land acquisition debt in his beginning years. He can begin farming with a manageable operating loan and start paying off his farm after he has had a good start as a farmer.

McGovern's bill bears watching when it is introduced. There are similar plans already at work in this country. Now York's Suffolk County for the past few years has been buying land to lease to farmers. The motive here was to save good framland from the developers' bulldozer. McGovern's legislation, if passed, would be the first attempt at government partnership in farming on a federal level.

REDUCED SOVIET HARVESTS AND THE ECONOMIC IMPACT

Mr. HUMPHREY. Mr. President, according to earlier Western estimates the Soviet harvest for this year was about 160 million tons, compared to the original Soviet goal of 215 million tons.

This disastrous harvest had a detrimental effect on the Soviet Union's national income and will substantially slow the Soviet economic expansion.

The increase in national income, comparable to the GNP, for the Soviet Union in 1975 was only 4 percent, more than one-third below the year's target of 6.5 percent. The last time the growth rate was this low was in 1972, when the Soviet Union experienced a very poor grain harvest.

The overall growth rate for next year, the first year of a new 5-year plan, is set at 5.4 percent. This was a cutback in Soviet planning targets according to Western experts. This is apparently the lowest target figure set since World War II.

The Soviet government recognizes the strong interrelationship existing between a strong agricultural economy and the economy of the nation. They appreciate the fact that a prosperous agricultural economy is beneficial to the entire nation's economy.

We need to keep in mind the connection between a strong agricultural economy and the health of the national economy, the development of a balanced food and agricultural policy in terms of our economy and the national interest.

On December 4, the New York Times included an article by Christopher Wren, "Moscow Indicates a Poor Grain Crop of 137 Million Tons."

If this information is accurate, the Soviet harvest will be below the 147.9 million ton harvest of 1967 but only slightly above the 121.1 million ton harvest of 1965.

This setback is certain to have repercussions at the next February Communist Party Congress.

Mr. President, I ask unanimous consent that this article and the December 3 Washington Post article, "Slowdown in Soviet Economy," written by Peter Osnos be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Moscow Indicates a Poor Grain Crop of 137 Million Tons

(By Christopher S. Wren)

Moscow, December 3.—The Soviet harvest, hit by severe drought conditions last summer, appears to have yielded as little as 137.2 million tons of grain, about a third less than planned, according to information in an official report delivered at the current session of the Supreme Soviet, or Parliament.

If the figure is correct, as some Communist diplomatic sources believe it is, the Soviet Union has suffered its most disastrous harvest failure in a decade.

The harvest, below the bad harvest of 147.9 million tons in 1967, would explain why Moscow has been so eager to cover up the crop results while shopping for grain abroad.

The estimate is based upon the most direct Soviet appraisal yet of this year's harvest. In his annual report to the Supreme Soviet yesterday, Deputy Premier Nikolai K. Baibako omitted mention of the harvest. The Soviet press has also avoided offering any figures on national or regional totals.

However, Mr. Baibakov did disclose that the crop failure was partly responsible for a cutback in Soviet economic goals next year to apparently the lowest since World War II, with economic priorities readjusted away from the consumer.

The 137-million-ton estimate was derived from remarks yesterday by Grigory I. Vashchenko, who is chairman of the Budget and Planning Commission of the Council of the Union, one of the Supreme Soviet's two chambers.

Mr. Vashchenko, who is also a member of the Communist Party's Central Committee, said that the total grain harvest for the 1971–75 period exceeded by 8 percent the total achieved in the previous five-year plan.

Calculations involving the nine earlier crop yields produced a figure of 137.2 million tons for 1975. The goal was 215.6, thus, leaving a gap of more than 78 million tons.

While the figure was obviously subject to some variation, a Communist diplomat versed in the elliptical Soviet use of statistics was convinced it offered a fairly accurate assessment of the harvest outcome.

The figure also falls well below the latest estimate of 160 million tons given by the United States Department of Agriculture on the Soviet harvest this fall. Some Western diplomats felt the estimate was too optimistic.

Yesterday, Mr. Baibakov said only that next year's harvest goal would be 14 percent above the average harvest in the period of 1971 to 1975. The inclusion of the new figure would put the 1976 goal at 206 million tons.

The pertinent extract from Mr. Vashchenko's speech was carried today first by the agricultural newspaper Selskaya Zhizn and then by the evening Government newspaper Izvestia. Mr. Vashchenko prefaced his disclosure by noting that "severe weather conditions in a number of regions of the country made it impossible this year to insure the planned level of production and purchases of certain agricultural products."

BAD CROP IN THE UKRAINE

Two months ago, the Ukrainian Communist Party leader, Vladimir V. Shcherbitsky, provided a similar arithmetic exercise when he said at a party meeting that the average annual harvest in the last five years for the Ukraine, a major grain region, would be about 40 million tons. An extrapolation produced a crop figure of a little more than 33 million tons, a third below the Ukraine's 1975 goal.

If the 137 million ton estimate is correct, it would represent the second worst harvest during Leonid I. Brezhnev's tenure as Communist Party chief, only modestly higher than the 121.1 million ton harvest in 1965, the year after Nikita S. Khrushchev was removed from power.

The agricultural shortcoming seems certain to create repercussions at the 25th Communist Party congress next February. It also sheds light on the Kremlin's willingness to sign a long-term agreement this fall to purchase American grain.

Signs of a Soviet crop disaster became clear as reports of extended drought came in from the major grain-growing regions of the Soviet Union including Kazakhstan. These were accompanied by reports of scorched crops and poor harvest preparations, including a widespread lack of spare parts that sidelined harvest combines.

Slowdown in Soviet Economy

(By Peter Osnos)

Moscow, December 2.—Soviet economic expansion was substantially slowed by this year's disastrous grain harvest, and the effects will be felt into next year—which will probably see the lowest growth rates since World War II.

These were the principal messages conveyed in year-end economic reports released today. The grain figure is evidently so bad that a decision was made not to release it at all for the time being. But other figures and official comments reflected the seriousness of the setback.

The increase in national income for 1975—an indicator roughly comparable to the American gross national product—was only 4 per cent, more than a third below the year's target of 6.5 per cent. The last time the growth rate was so low was in 1972, when the Soviets also had a very poor harvest.

Even then, however, Moscow did not conceal the grain figure in statistical jargon as Nikolas Baibakov, chairman of the state planning committee, did in his speech today.

Western estimates of the harvest have dropped to about 160 million tons, compared to the original Soviet goal of 215 million tons. All Baibakov said was that the 1976 harvest target would be 15 percent above the average for the years 1971–1975—an intriguing mathematical puzzle that makes it impossible to guess this year's total.

Baibakov and, in a companion report, Finance Minister Vasily Garbuzov did blame "extremely unfavorable climate conditions" and a resulting "shortage of raw agricultural materials" for much of this year's weak showing and next year's low estimates.

Overall growth for next year, the first of a new five-year plan, was set at 5.4 per cent. Western experts said they could not recall a lower target figure since World War II, although actual economic performance has fallen below that several times.

But the most surprising item in the economic reports was a prediction that the consumer sector will expand by only 2.7 per cent next year—as opposed to figures as high as 9.3 per cent in the five-year plan now coming to an end.

When it began, this plan was portrayed as an effort to raise Soviet living standards. Although some strides have been made, the original ambitious goals have been steadily reduced. The coming plan will also be billed as a boon to consumers, but evidently without the promises of big increases in output.

Soviet sources have been saying for some time that the main emphasis of the next plan—to be announced around the time of the 25th Communist Party Congress in February—will be on quality and labor productivity instead of the bulk capital growth that had marked the post-war period.

Consequently, the sources explain, growth rates will be somewhat lower, reflecting a shift to making better goods instead of just making more goods. Nevertheless, the estimates issued today are even lower than most specialists had thought likely. This apparently is the result of the harvest failure.

Another curious feature of the reports was that the two officials did not lay the expected stress on a need for quality improvements—the theme Soviet leader Leonid Brezhnev is thought to have emphasized in a report yesterday to the party's Central Committee.

The likely explanation is that neither Baibakov nor Garbuzov is a policy-maker, and therefore they confined their reports to the gloomy facts with a minimum of policy rhetoric. They were speaking to a session of the Supreme Soviet, the national parliament, which will now approve a budget already adopted by the Central Committee.

The 1976 budget also shows a small decrease in the reported percentage of Soviet defense spending—down to 7.8 per cent from 8.4 per cent this year—continuing a trend that has marked the detente period of recent years. The actual money figure, however, of 14.4 billion rubles ($23.4 billion) is the same as this year.

Western experts say that actual Soviet defense expenditures are considerably higher since research, development and production costs, among others, are not included.

Garbuzov said the announced defense budget demonstrates the sincerity of the Soviet "peace program" while maintaining vigilance against the threat of "imperialistic aggressive forces."

Today's economic reports again confirm the extent to which the country's growth depends on the agricultural situation. The best year of the plan was in 1973, when there was a record harvest.

RURAL DEVELOPMENT: NEW LEADERSHIP NEEDED

Mr. HUMPHREY. Mr. President, I wish to bring to the attention of the Senate an address I gave recently to the 10th annual Northwest Iowa Community Conference here in Washington. I wish to commend Representative Berkley Bedell who has continued this tradition of holding a conference whereby constituents can meet with administrators, legislators and other interested parties on a topic of mutual concern.

The focus of this year's conference was rural development. I pointed out some of the major recent trends whereby rural areas are in the process of growing while urban areas are losing population. This is a major change from only a few years ago. I indicated that between 1970 and 1973, the nonmetropolitan population grew by 4.3 percent while metropolitan areas increased by only 2.8 percent.

In Minnesota, the metropolitan areas lost 80,000 people in the last few years while rural areas gained 92,000 people.

I also dealt with some of the shortcomings of the Rural Development Act of 1972, including funding limitations and the need for a Rural Development Bank which would enable rural areas to have the capital needed to stimulate industrial development.

I also urged that encouraging employment programs in the rural areas be undertaken as a priority element of our rural development effort. There is a great deal of disguised unemployment in the rural areas, but at the same time there are a great number of productive conservation activities which can and should be undertaken.

We already have in place many of the needed elements of an effective rural development program. One important requirement now is to coordinate these elements more carefully and provide stronger leadership than has been offered thus far. An effective rural development program can be a great boon to our economy and help bring many rural communities out of the current depression.

Mr. President, I ask unanimous consent that my remarks be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Remarks of Senator Hubert H. Humphrey

Recently, people have become aware of revived economic growth of our rural areas.

However, we need to know more as to why this has happened, and whether the trend is likely to continue.

Will this growth bring greater opportunity and a better life for our rural citizens? Are we likely to have a balanced rural development, or will many areas of our country remain depressed and without hope for the future?

I am reminded of F.D.R.'s saying:

"The test of our progress is not whether we add to the abundance of those who have much; it is whether we provide enough for those who have too little."

It also has been said that you can judge a man by how he treats those who can do nothing for him.

I have always maintained that you can judge a society by how it treats its resources and people—particularly those most vulnerable, the very young and the elderly.

I am certainly hopeful that these sessions will lead to some new ideas and approaches on rural development. We particularly need to give some serious thought to the Rural Development Act of 1972, and any improvements which are needed in it.

When the act was adopted, many of us hoped that it would be a strong and effective vehicle for rural development. To date, it has not been allowed to meet its potential.

One of the major problems in any rural development program is the need for coordination. In many of our foreign assistance programs, we encourage rural economic development and, in particular, activities to improve the production of the small farmer.

However, as in the case of the United States, coordination involving many bureaucracies is a most difficult problem.

But this should not serve as an excuse for delay or inaction. Just as the pearls on a necklace have to be connected and strung, so too do the elements of a rural economic development program need to be tied together and coordinated.

I would hope that these sessions also would look at the future of the small towns and communities. What activities should be encouraged in towns of a particular size? What strategy is needed for the future?

We certainly should not write off the small towns of America as was happening a few short years ago.

Programs concerned with economic development outside the urban areas, until very recently, were accorded only secondary importance.

The steady migration of people to the large urban centers—35 million from 1940 to 1970—was accepted as a continuing fact of life.

And today, we seem unable, at times, to deal with either urban or rural problems.

We have known for some time that there are regional pockets of poverty and economic decline in this country. One early legislative vehicle devised to deal with this problem was the Public Works and Economic Development Act of 1965.

During the past three years, however, this program has been under constant threat of extinction. Annual outlays by the Federal government for regional economic development programs have never exceeded more than half a billion dollars a year.

This stands in sharp contrast to our neighbor, Canada, which spends as much as we do in regional development, even though that nation has only a tenth of our population.

Right now, E.D.A. clings tenaciously to life, a somewhat neglected and ignored agency within the Department of Commerce. In the Department of Labor, they are trying unsuccessfully to abandon the few manpower and training programs specifically designed for those "people left behind," described by the President's National Advisory Commission on Rural Poverty in 1967.

And Congress has had to prod and push the Department of Agriculture to implement the rural development programs for which it is responsible.

At present we have a national unemployment level of over 8 percent. And if you include those people who have given up looking for work and the part-time employees, you are looking at an 11 or 12 percentage level.

We do not have very good statistics on unemployed people in rural areas. This results from both a lack of coverage, and faulty definitions of unemployment.

With high unemployment levels expected to continue, some try to argue that public works programs will not help because of the long lead time needed to begin a project.

It's a very "in" thing these days to say that the WPA, PWA and CCC Programs of the depression were boondoggles—failures.

But those programs put people to work, and the fruits of their labors continue to dot the landscape of America with public buildings, schools and roads, parks and recreation areas.

Today we need to develop a shelf list of public service jobs whereby we can begin to put our people back to work. There still are roads to be built and improved, railroad beds to be rebuilt, shelterbelts to be replanted, canals and rivers to be dredged and forests to be replanted.

These projects will take our people off of unemployment and food stamps and make them proud taxpayers.

Plentiful employment opportunities are an essential part of a sound rural development strategy.

The tidal wave of rural people migrating to the cities—mostly family farmers forced off the land since World War II—caused problems for our cities and helped create social disruption.

But now it appears that the tide is going back out. Betweed 1970 and 1973, the non-metropolitan population grew by 4.3 percent, while metropolitan areas increased by only 2.8 percent.

The young men and women who were forced to leave their rural homes because of the lack of job opportunities are now coming back. So are the retired people, who have learned that their fixed incomes will stretch much farther in the rural setting.

And many families have decided that they like the healthy rural environment in which to raise their families.

In Minnesota, the metropolitan areas lost 80,000 people in the last few years, while the rural areas gained 92,000 people. This is a major turnabout, considering that 86 percent of the State's population growth from 1950 to 1970 was in the urban areas.

While there is evidence that the manufacturing sector of the economy is now moving into rural America, this has been a mixed blessing.

Today, we see that unemployment is as bad or worse in rural areas than in the urban areas because of the growing importance of industry in the rural areas.

During the period between 1965 and 1972, personal income in the United States increased at an annual average rate of more than eight percent—or over $1,700—in both metropolitan and non-metropolitan areas.

However, the differential between metropolitan and non-metropolitan income increased in favor of metropolitan counties. The amount of increase was greater in metropolitan counties—$1,807, compared to $1,474 in non-metropolitan counties.

And, while only 10 percent of the people of metropolitan America met the poverty standard, 14 percent of those in rural America were living below the poverty level.

The inescapable fact remains that much of rural America still remains outside the mainstream of American life.

Many farm families receive a considerable portion of their income from non-farm sources. Yet farmers are not counted as unemployed because they continue to work on their own farms as they look for non-farm jobs.

Congress provided a mechanism to improve incomes and create jobs when it enacted the Rural Development Act of 1972. And I am proud at having helped develop this important legislation.

In the proper hands, the Rural Development Act could have been used this year as a rural anti-recession act. Instead, the response of the Administration has been to go slow when decisive action was required.

A major shortcoming of the 1972 Rural Development Act was the failure to establish a separate rural credit institution. Such a financial institution is essential to spur the economic revival of rural America. Often, rural communities are prevented from taking steps to spur economic development because they lack sufficient capital to attract investors.

The 1971 Presidential Task Force on Rural Development recognized this need and recommended "a new credit institution to provide rural areas with greater access to private capital."

I have introduced legislation designed to carry through this recommendation, and I am hopeful that action will be taken on it.

The Rural Development Act includes a number of important programs to improve the quality of life and stimulate growth and development in the non-metropolitan areas.

I am thinking particularly of programs to encourage industrial development, research and education, and the construction of community facilities. And, we have provided programs to improve rural housing since there are over 1.4 million substandard rural housing units.

Education levels are directly connected with the low income levels and the occupational structure of the work force.

When the 1970 census was taken, the median years of school completed by all persons aged 25 and over was 12.1 years, but for residents of predominately rural counties, it was 10.5 years.

While the rural population accounts for about a third of the nation's total population, it is scattered over about 98 percent of our land, but at a density of only about 19 persons per square mile.

This creates the double-barreled problem of finding work and of receiving various kinds of government services.

Take health care, for instance.

As of December 1972, the ratio of active physicians per 100,000 people was more than twice as high in urban as in rural areas. Rural residents also have considerably less access to specialist care and to doctors with a hospital-based practice.

What this means is that 86 percent of the doctors serve 74 percent of the population, and rural Americans take what is left.

While I have emphasized programs to stimulate development and diversify the rural economy, I would like to make crystal clear that to have a strong rural America we need to have a viable farm economy.

Everyone knows of the prosperity which our rural communities experienced in 1973 when net farm income zoomed to over $29 billion.

But the figure dropped to just over $27 billion last year, and it is likely to drop again in 1975.

And our farmers have been beset by rising production costs and above all by a hit and run, stop and go agricultural policy.

We have asked our farmers to go all out in production and yet this Administration refuses to share in the risk in order to assure the farmers a fair return.

Our consumers receive the world's greatest variety of food and at only around 17 percent of their take home income. Our farm exports this year are expected to total around $22 billion. And our food aid to needy nations since 1954 has totalled $27 billion.

No country can begin to touch this record. And yet our farmers often feel as if they are being treated as second class citizens. We need to keep this system in operation, both to feed our people and many others throughout the world.

To do this and also support rural industrialization we need to pay more attention to our rural transportation system. This includes not just roads but also our railroads and waterways.

A rural transportation policy is a must.

I can take you to places in rural Minnesota where it takes a full day to go 50 miles because the rail bed is so bad. You can barely find the ties. It's understandable that there are frequent derailments.

Since 1960, track abandonments have averaged about 1,000 miles annually. Yet the railroads insist that they are losing $130 million a year on branch lines alone.

Around Redwood Falls they claim the trains don't run on that line until the quack grass is strong enough in spring to hold the ties together.

But we seem unable to develop a concerted program which recognizes the central importance of the transportation system in rural development.

There are a variety of other areas which we could develop as being central to a balanced rural economic development program.

I believe that improved communications, for example, can play a major role in not only improving the quality of life, but also helping attract new industrial opportunities.

But as a first priority we need to develop better mechanisms for establishing rural development priorities. This means looking at the resoruces available and allocating them according to a plan.

I know that this Administration cries out against planning ahead. But it is done—and very successfully—in the Defense Department where they have a whole host of long range plans.

Now I see no reason why planning, evaluation and coordination between agencies and departments shouldn't be followed in rural development. It's called good management.

But good management requires sound leadership. And you have to give these programs priority attention.

I share the view of the immortal Dante who stated: "Better the occasional faults of a government living in the spirit of charity than the consistent omissions of a government frozen in the ice of its own indifference."

We cannot do all that we would like to accomplish. But, we can do a great deal more than offer excuses and curse the darkness.

This is an important task which calls for the best talents and dedication of all of us. I pledge my best in this effort.

RAIL SERVICES ACT

Mr. MORGAN. Mr. President, on Thursday, the U.S. Senate voted to approve the Rail Services Act.

The result of this bill will be to reorganize seven railroads in the Northeastern United States that are now suffering from mismanagement and other economic ailments and generally place them under the control of the Federal Government. Their freight operations would be placed under ConRail, a Federal agency, and their passenger operations under Amtrak, another Federal agency.

The advertised cost to the Federal Government would be $8.6 billion, but the ultimate cost could be much higher, about $14 billion.

I voted against this measure, and for more than one reason.

For one thing, I have always questioned Government rescue operations for ailing private industries, just as I opposed the Government bailout of the Penn Central Railroad.

But a really compelling reason to vote against the bill was the manner in which it was approached by the Senate. On Tuesday, just 2 days before the vote, Members of the Senate were given a report of the whole situation concerning the ailing railroads. Then the measure was called to the Senate floor for action less than 48 hours later.

There was absolutely no opportunity for Members of the Senate to study what they were voting on, and I did not feel that any action which commits $14 billion, or $8 billion, of public money should be considered without an opportunity for a complete study and debate.

With a current deficit of some $70 billion and another certain deficit next year, I do not feel I can responsibly support a spending measure of this size when Members are given little or no chance to learn the details of what they are asked to decide.

DRUGS AND PUBLIC POLICY

Mr. HATHAWAY. Mr. President, this morning's edition of the Washington Post editorializes with considerable insight on the subject of the Federal drug abuse policy and the apparent lack of leadership in the Federal drug effort. As one who has spent many frustrating months attempting to resolve some of the issues raised in this editorial, I can fully appreciate and endorse the Post's plea for greater coordination among drug abuse functions, both in treatment and in enforcement, and for a greater dedication to providing leadership for this effort at the very highest levels of government. I agree that there was much in the Domestic Council White Paper on Drug Abuse that was rhetorically sound, but I have seen no adequate administration response to the White Paper's candid recognition of the scope and seriousness of the problem.

In Congress, we are currently nearing the end of a difficult and time-consuming attempt to legislate in the extremely sensitive area of national drug abuse policy. It continues to be our hope to be able to enhance or perpetuate existing treatment, research, prevention and enforcement functions currently being carried out by many different Federal agencies, while at the same time creating a central office with the mandate to assess and recommend ways to coordinate those various functions. But the Post is correct when it implies that congressional efforts in this area could come to naught without confident, effective Presidential leadership.

I ask unanimous consent that the Post editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Drugs and Public Policy

Those in a position to know about hard narcotics and street life say the supply of heroin is as great today as it was before the demise of the legendary "French Connection." The newest and most commonplace form of the drug is Mexican "brown" heroin, which has replaced the Turkish "white" heroin that used to reach the streets of America by way of southern France.

This copious supply of Mexican heroin is reaching the U.S. at a time when the federal effort to combat the influx of harmful drugs (and to treat the victims of those drugs) is virtually leaderless. With rare exceptions, the same can be said of most local efforts. The result is that little headway is being made against the drug problem. Some believe the problem, in fact, is getting worse.

There can be no serious or effective anti-drug program without strong federal leadership. But as matters now stand, the federal government has no mechanism for mounting a serious effort. In consequence, the dozen or so agencies and offices concerned with parts of the problem of heroin abuse are each going their own way. Some do not even communicate with other agencies that have related responsibilities. One example involves the Drug Enforcement Administration and the Customs Service. Their enmity is so bitter and of such long standing that a White House task force on drug abuse had to suggest to the President that he step in and somehow settle the squabble. As far as we know, the President has yet to act on that recommendation.

That is but one of the many examples of the policy disagreements that abound concerning an admittedly disagreeable subject. On Capitol Hill, the disagreement concerns the form federal leadership should take. The House has passed a bill that would extend the life of something called the Special Action Office on Drug Abuse Prevention, which went out of business last June. Some in the Senate argue that the Special Action Office was doing things that should be done by departments such as Health, Education and Welfare, and not by an agency lodged in the White House. Others on the Hill are arguing for a high-level White House office with the conferred influence of the President to "knock heads" between agencies and somehow to hammer out a coherent policy with respect to both the law enforcement and treatment aspects of drug abuse. They want the President to give the issue high visibility and to make it clear to cabinet and bureaucracy alike that he expects progress, and that he expects cooperation among and from the agencies.

The White House, leery of a highly visible and "activist" drug abuse office in its midst, wants a "cabinet committee" that would meet from time to time to discuss problems and a lower ranking working group that would see that the cabinet's wishes are carried out. But after all the various governmental parties have said what they wish to see, one thing stands out clearly: Nothing is possible unless the President makes his own intentions very clear to all his subordinates in the White House and in the agencies. And he must spell out his plans to Congress as well. Since the task force report, President Ford has been silent on the subject of drug abuse and how it should be dealt with. His task force produced a report that was widely admired for its candor and its pragmatic tone. If the President were to match that tone with utterances of his own, we might get past the arguments to some results.

The White House task force made it plain that federal policy should not be cast in terms of a "war on drugs" and that it should not be predicated on the notion that drug abuse can be eliminated totally. Instead, it argued for sensible priorities in attacking those drug problems that are the most serious and in applying public resources judiciously. Those goals are only attainable if a firm hand is applied to both the law enforcement and the treatment problems. As a model, the President might want to examine the kind of coordinative power to be found, for example, in the Office of Telecommunications Policy. If Congress can be persuaded that the administration means business, it seems to be in a mood to give it the tools. But the next move is up to the White House. Until Mr. Ford makes his wishes known and his interest felt, bickering and the chaos will only grow worse—and so will the drug problem.

DOES AMERICA WANT FAMILY VIEWING TIME?

Mr. HUGH SCOTT. Mr. President, a few years ago I was named to receive an award from the Pennsylvania Broadcasters Association. At that time, I endorsed Senator John Pastore's efforts to establish what was then called a "violence index." In doing so, I called on the broadcasting industry to place voluntary curbs on the showing of excessive and unnecessary violence during early evening viewing hours when children do most of their watching.

Since my call for voluntary restraint, there has been some progress. The broadcasting industry has developed the concept of family viewing time. Although FVT, as it is known, has been subjected to some criticism, a recent public opinion poll shows that American television viewers support such a concept, and by a very large margin.

Mr. President, the results of the poll which I have just mentioned are discussed in the current issue of TV Guide. I ask unanimous consent to have this article printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Does America Want Family Viewing Time?

(By Neil Hickey)

More than eight out of 10 Americans favor the concept of "family viewing time"—the new rule that restricts the early-evening hours to television programming that is suitable for parents to watch with their children.

More than seven out of 10 Americans are convinced that television programs, overall, are much too violent. Since 1973, the degree of concern over televised violence has risen markedly.

Nonetheless, most Americans are against stricter government controls of TV entertainment, and believe that each family should decide for itself what it will or won't watch on television.

Those conclusions, and scores of others, arise from a national poll—the first ever done on this subject—conducted for TV Guide by the Opinion Research Corporation of Princeton, N.J., during the period of Oct. 10–12. ORC is a company that performs public-opinion research for industry and government. In this case, it conducted telephone interviews with a scientifically selected sample of 1024 Americans (512 men, 512 women), all 18 or older and living in private households. This sample is comparable to that used by other public-opinion organizations for research of this sort.

Emerging from those interviews is a clear and intriguing picture of changing American attitudes toward television programming, and specifically toward the industry's loudly heralded "solution"—namely "family viewing time"—to widespread public and Congressional criticism that television programs were simply becoming too violent and too sexy for families to watch together.

Briefly, the historical context is this: Starting last September with the arrival of the 1975–76 television season, the industry began operating under the new "family viewing time" rule that had been written into the National Association of Broadcasters' Television Code. It stated, in effect, that: between the hours 7 and 9 P.M. (and 6–8 P.M. in the Central time zone) no program deemed "inappropriate for viewing by a general family audience" would be aired.

On the surface, the rule seemed well-meaning enough, and even noncontroversial. But it sparked one of the most contentious debates in TV's quarter-century history. "Censorship!" cried TV producers and writers. "Fraud!" cried some segments of the press and various industry watchdog groups. Congress had pressured the FCC, the critics hollered, and the FCC in turn had reportedly pressured the TV networks for some symbolic gesture that would take the heat off all of them.

It was a prime example of government meddling, the rule's opponents insisted; and besides, it wouldn't work. Children watch television at *all* hours, they pointed out—not just in the early evening. (More than 20 million 2-to-17-year-olds are still at the set at 9 P.M., 13 million at 10 P.M. and 5.3 million at 11 P.M., according to Nielsen figures.) And children simply don't go to bed an hour earlier in the Central time zone, where almost one-third of all TV households are situated.

Thus, the FVT rule was seen by many as a smoke screen laid down by the networks to protect the goose that lays golden eggs—and to acquire a government-sanctioned carte blanche to program sex and violence throughout the day, except in the newly created 7-to-9 P.M. demilitarized zone.

The rule's defenders were as vocal as its opponents. They insisted that, even though it wasn't perfect, FVT was a step in the right direction and a tangible expression of the industry's determination to ameliorate a problem that had bedeviled it for years. At the very least, they said, the rule did provide a daily two-hour period in which the programs were guaranteed inoffensive; and it would help parents oversee their children's viewing.

A month ago three industry trade unions—the Writers Guild of America, the Directors Guild of America and the Screen Actors Guild—brought suit against the FCC, the NAB and the three commercial networks to end "family viewing time" on grounds that it is "the product of political coercion." Writers Guild executive Michael Franklin told TV Guide: "The FCC network-prime-time censorship rule is a violation of the First Amendment. We don't think the Government has any business telling the people what they can see and when they can see it."

But nobody knew how the people themselves felt about the new rule—or indeed, whether they were even aware of its existence or of the controversy raging within the industry.

Against that background, TV GUIDE commissioned its national poll on public attitudes about "family viewing time." The interviewing was conducted roughly a month after the plan's effects began showing up in network TV schedules. (Shows like All in the Family, Kojak and The Rookies, for example, were nudged out of the 7-to-9 period, and shows like Rhoda and Movin' On were moved in.)

The first revelation of the poll is that 42% of the respondents claim varying degrees of familiarity with "family viewing time," but more (58%) have never heard of it. People who are opposed to FVT tend to be more familiar with its import than those who favor it. And families with children tend to be a good deal more aware of its existence than those without.

We asked two questions of all the respondents who claimed some degree of familiarity with FVT: What time period is covered by "family viewing time"? And what is the purpose of it? Although barely half (55%) knew that FVT embraced the first two nighttime hours, 72% of that subgroup did indeed know the general fact that "family viewing time" is a period set aside—at some time during the day—for programs appropriate for all members of the family, including young children.

Having established that the country at large has a rather inexact perception of what FVT is all about, we then provided our respondents with a definition: " 'Family viewing time' or the 'family hour' began with this fall's television season and runs in the evening from 7 P.M. to 9 P.M. (6 P.M. to 8 P.M. in the Central time zone). During the time period, only programs that are considered appropriate for viewing by all members of the family, including children, can be shown." And then we asked them, "Do you favor or oppose such a rule?" Overwhelmingly, they favored it (82%). Only 7% opposed it, and 11% had no opinion.

Women (85%) are more enthusiastic about FVT than are men (77%). Households with children are markedly more positive about it than those without. And the segment of the population that supports stricter controls for TV is the group most vigorously (nine out of 10) behind the FVT concept.

We then asked: "From your point of view, what do you consider to be the advantages or benefits, if any, of the 'family viewing time' rule? One-quarter of the respondents said it relieved them of the task of screening out programs they wouldn't want their children to see, and assured them a supply of acceptable family entertainment. Another 15% indicated that the absence of violence in that time period was its best recommendation. And 14% thought that FVT might bring the family together, at least for a couple of hours a day.

Other scattered responses were: FVT might cause late-evening programming to be more adult, less restricted, and thus better; assure that young children would go to bed earlier; and perhaps foster the production of more educational shows in the FVT period.

As regards the "disadvantages of shortcomings" of the FVT rule: only one person in five can think of any. Among those most often mentioned the overall quality of television is downgraded by FVT's presence; the rule constitutes a form of censorship; it creates an artificial and unrealistic entertainment environment for both children and adults; it interferes with the period when many children ought to be doing their homework; and it doesn't prevent children from watching at other hours when televised violence and sex are visible on the home screen.

Forty-four per cent of our respondents were parents, and we asked that group how helpful FVT had been to them in supervising their children's TV-watching. Here, the opinion was fairly equally divided. One-quarter said it was "not at all helpful"; another quarter said it was "fairly helpful"; about one in five thought it was "very helpful"; and another 15% deemed it "only a little helpful." (Thirteen per cent had no view on the matter.)

We also asked parents: "Do you believe the 'family viewing time' rule tends to keep your children from seeing a view of life the way it really is, or doesn't the rule have this effect?" Fully two-thirds of the parents thought it had no such effect.

All respondents were asked the following question: "Because of the 'family viewing time' rule, do you feel that, as an adult, you are having children's viewing standards forced on you during these hours, or don't you feel this way?" Eight out of 10 interviewers did not.

They were also asked: "In your opinion, will the 'family viewing time' rule improve television in any way, or won't there be any improvement because of it?" Over half—56%—considered that it might indeed help (by minimizing violence and sex, and by encouraging the production of educational programs in the 7-to-9 P.M. period). Twenty-six per cent doubted that it would bring any improvement at all.

For whatever reason, far more women than men (64% vs. 47%) believe that FVT will improve television. And college-educated people are much more likely than the national average to feel that it will bring no improvement.

DO YOU FAVOR OR OPPOSE SUCH A FAMILY VIEWING TIME RULE?

[The answers to the poll's key question show strong support for family viewing time in all sectors of the population. Here is the statistical breakdown by sex, geography, age, education, income and type of family (in percent)]

	Favor	Oppose	No opinion
Total public	82	7	11
Men	77	9	14
Women	85	6	9
Northeast	83	7	10
Midwest	85	5	10
South	80	7	13
West	77	11	12
18 to 24 yr of age	81	9	10
18 to 20 yr of age	84	10	6
21 to 24 yr of age	78	8	14
25 to 29 yr of age	81	11	8
30 to 49 yr of age	84	8	8
50 yr and over	80	4	16
8th grade or less education	74	4	22
High school incomplete	83	8	9
High school graduate	87	4	9
Some college or graduate	78	14	8
Under $10,000 annual income	82	5	13
$10,000 to $14,999	88	6	6
$15,000 to $24,999	81	10	9
$25,000 and over	80	12	8
Children in household	86	6	8
Under age 6	86	4	10
Ages 6 to 10	87	6	7
Ages 11 to 13	82	9	9
Ages 14 to 17	88	8	4
No children in household	78	8	14

We then asked a series of questions designed to probe our respondents' general attitudes about sex and violence on television. Each of them was told: "As you know, there have been many comments about sex and violence on television today. Some people think there is too much, other people disagree. We'd like to know how you feel." Three questions were posed:

In your opinion, do you think there is too much emphasis on sex in television, or don't you feel this way?

Yes—54%.

No—41%.

No opinion—5%.

Do you think there is too much violence on television, or don't you feel this way?

Yes—71%.

No—25%.

No opinion—4%.

Which do you think is more objectionable on television—scenes of sex or scenes of violence?

Sex—22%.

Violence—44%.

No difference—30%.

No opinion—4%.

Thus, violence, more so than sex, continues to be the No. 1 hobgoblin of American TV-watchers. (And that opinion has grown appreciably—from 35% to 44%—since 1973, when TV GUIDE asked the same question in another national survey.)

In the demographic breakdowns, women are far more likely than men to answer "yes" there is too much sex on television (64% to 43%), and "yes" there is too much violence on television (78% to 63%). Women are strongly supported in those views by two other subgroups in American society: people over 50 years of age, and those with an eighth-grade education or less.

When asked to choose between sex and violence as to which is more objectionable on television, younger people (under 29 years of age), the college-educated, and the more affluent (income over $15,000) are far more likely than the national average to condemn televised violence.

Finally, we asked: "Do you think there should be stricter controls exercised on the content of television programs, or do you think each family should decide for itself what it will or will not watch on television?" Almost seven out of 10 Americans feel that the family should make such decisions. Twenty-three per cent think there ought to be stricter controls. But more than half the people calling for stricter controls believe that the television industry itself ought to impose these regulations rather than have the Government do it.

In sum, the poll clearly establishes that public dismay over televised scenes of violence is stronger than ever; that Americans in overwhelming numbers—even those with little or no prior knowledge of "family viewing time" and its ramifications—are certain that a need exists for some such device to reduce the amount of violence on American television screens; and that the new rule meets with the approval of eight of 10 U.S. adults.

MISS INDIAN AMERICA XXII

Mr. BARTLETT. Mr. President, I would like to call to the attention of my colleagues in the Senate the forthcoming visit to the Nation's Capital on December 7 through 13 of Miss Indian America XXII, Miss Deana Jo Harragarra.

Miss Indian America is selected each year from contestants who represent federally-recognized Indian tribes to serve as a national representative of Indian people. The selection of Miss Indian America is the main event of the All American Indian Days Celebration which is held annually the latter part of July or early August in Sheridan, Wyo. Qualifications for the Miss Indian America title are a thorough knowledge of her tribal culture, tribal dress, and the significance of both to her tribe; affairs of her own tribe as well as current Indian affairs in general; possess those qualities that are representative of young Indian womanhood; and be able to readily respond to any given situation. During her tenure as Miss Indian America, Miss Harragarra will travel extensively throughout the United States to meet with Indian people, particularly Indian young people, on matters of concern to them, and talk with non-Indian people, groups, and organizations about Indians and their concerns.

Miss Harragarra will spend December 7 through 13 in the Nation's Capital, under the auspices of the Bureau of Indian Affairs, conferring with officials of the various Government agencies, Members of Congress, and members of the White House staff to learn about national affairs of today.

I am especially proud of this year's Miss Indian America because she is an outstanding young lady from my State of Oklahoma. She is of Kiowa-Otoe Indian descent and resides in Yukon, Okla. Miss Harragarra entered the Miss Indian America competition this year as the State of Oklahoma's first Miss Indian Oklahoma. She is a credit to her tribe and the Indian people, and I am sure she will represent her title and people in a most commendable manner.

To my colleagues I extend an invitation to each of you to meet this outstanding young lady and wish her well. To Miss Harragarra, Miss Indian America XXII, I extend my congratulations and a warm welcome to the Nation's Capital.

Mr. President, I ask unanimous consent that a brief résumé of Miss Deana Jo Harragarra, Miss Indian America XXII, be printed in the Record.

There being no objection, the résumé was ordered to be printed in the Record, as follows:

Deana Jo Harragarra, Miss Indian America XXII

Personal: Born: September 25, 1952; age 23. American Indian: Kiowa-Otoe. Chosen Miss Indian America XXII, August 1975, at the All American Indian Days Pageant in Sheridan, Wyoming. She entered the competion as the State of Oklahoma's first Miss Indian Oklahoma.

Education: Graduate of Yukon High School, Oklahoma—National Merit Scholar. Graduate of University of Oklahoma, 1974, BA Political Science, with honors. 1975 Graduate student, University of Oklahoma.

Awards: Oklohoma First Miss Indian Oklahoma (1973–1974), Oklahoma City Blazers Hockey Club Queen, Honorary Lt. Governor of the State of Oklahoma. Otoe-Missouria Tribal Princess 1971, American Indian Exposition Tribal Princess 1971, Otoe Tribal Encampment Princess 1972.

Experience: Public Relations, Oklahoma Tourism and Recreation Department, Public Relations, Office of the Lt. Governor of Oklahoma. Counselor, Southwestern Oklahoma State University Upward Bound Program. Church Pianist and Sunday School teacher. Summer missionary in Cortez, Colorado working with Navajos, Utes and other area tribes.

COMPUTER ASSISTED INSTRUCTION AMONG THE PUEBLO PEOPLE

Mr. MONTOYA. Mr. President, I have recently received a report from Dr. Sophie Aberle, a fellow New Mexican and a great and dedicated educator. She has been working for several years on a project for Indian education which I believe will be of great interest to my colleagues. Dr. Aberle's work has resulted in the creation of a new and exciting kind of instruction program for the children of 2 of the 19 Indian Pueblos in New Mexico. As a result of the successful work in those two schools, the All Indian Pueblo Council is now working on a proposal to extend the concept of computer assisted instruction to all of the Pueblos, and to also utilize the computer for management, communication, and information services of the Pueblo people.

Mr. President, I believe this story to be of great importance and interest to us all. It is a perfect example of an idea which came from a devoted teacher and a good friend—and which was put into action at the local level. It is the kind of grass roots participation which is responsible for most progress in our history as a Nation. The intelligence and eagerness which the Pueblo people displayed in welcoming and using this plan, and the joint effort by a scientist at a large university, the National Science Foundation, Dr. Aberle, and the Governors of the Pueblos themselves has resulted in a very new and worthwhile program.

I ask unanimous consent that Dr. Aberle's letter to me and her report on the history of the computer assisted instruction among the Pueblo people be printed in the Record following my remarks. I believe her report speaks for itself. I congratulate all those concerned for this ongoing effort and I want to promise my full support for the All Indian Pueblo Council's full utilization of this exciting concept.

There being no objection, the letter and report were ordered to be printed in the Record, as follows:

Albuquerque, N. Mex., November 20, 1975.

Senator Joseph M. Montoya,
U.S. Senate, Committee on Appropriations,
Washington, D.C.

Dear Senator Montoya: You asked how the computer assisted instruction (C.A.I.) got started as an entirely Indian conceived and organized endeavor and I said it was because of the sympathetic understanding of the plight of the undereducated by the National Science Foundation. This project is, as you know, and as far as the records can be determined, the first (perhaps only) computer assisted instruction among Indians.

The history of the National Science Foundation involvement commenced in 1970 when the National Science Foundation had funded a project which needed a rural area in which to evaluate the educational effectiveness of a satellite. The Isleta Indians were asked if they were interested in having such a project in their Federal school. Since the Isleta governor as well as governors from Santa Clara and Laguna had seen a temporary demonstration of a teletypewriter connected by telephone to a computer in California in the Spring of 1967, the Isleta people welcomed the project with pleasure.

When the satellite study was completed in the Spring of 1971 and the grant from the National Science Foundation exhausted, Juan Abeita (then Governor of Isleta) called the National Science Foundation, thanking them for past help and requesting another year of C.A.I. The Governor expected the Bureau of Indian Affairs to take over the project in 1973–74.

The Bureau has not yet assumed responsibility for this new and highly successful adjunct to the Indian education but the All Indian Pueblo Council asked the Office of Education for funding.

This project started by the National Science Foundation and kept alive until most of the pueblo people along the Rio Grande had an opportunity to see and study the help it was to their children, has now blossomed into a full scale centrally placed C.A.I. organization for all 19 villages.

For this the Indians have you and the National Science Foundation to thank.

Best wishes,

Sincerely,

S.D. Aberle, Ph.D., M.D.

1970–74 History of Computer Assisted Instruction Among the Pueblo People

The Computer Assisted Instruction (CAI) program for Indian children in the State of New Mexico was conceived and organized by the Indian people themselves. It is an excellent example of people who have a serious problem seeking out and utilizing the technical assistance they need.

This first Computer Assisted Instruction program for Indian school children was sparked by a demonstration in Isleta, New Mexico, in the spring of 1967. Following a discussion of education needs of the Pueblo Indian children, Dr. Sophie Aberle of New Mexico arranged for the pueblo governors to view a demonstration of CAI by Professor Patrick Suppes of Stanford University. Domingo Montoya, a prominent leader of the Indian people and a man deeply concerned about the education needs of the children, was involved in this first contact and request to Dr. Suppes.

The demonstration of CAI at Isleta evoked immediate interest by the governors. They asked the Bureau of Indian Affairs to try a CAI program in one pueblo as an experiment. Their petition to BIA was ignored.

In 1970 Professor Suppes received a grant from the National Science Foundation for a study of the effectiveness of a Stanford based computer connected with teletypewriters by means of a satellite which was in orbit over Venezuela. Remembering the interest and enthusiasm of the New Mexico Indian group, Professor Suppes telephoned Dr. Aberle to ask if any rural Indian group might be interested in using teletypewriters in the classroom. If this could be arranged his engineers could study a satellite as the connecting link between the Stanford computer and the school. Isleta seemed to be the logical location for this program.

Dr. Aberle discussed the matter first with the Chairman of the All Indian Pueblo Council, Bennie Atencio. He was not immediately convinced that the program was a good idea. Next, Dr. Aberle talked with Juan Abeita, Governor of Isleta. Governor Abeita expressed immediate enthusiasm and wanted to go ahead.

Francis Mansfield, Principal of the School in Isleta, was also enthusiastic, and assisted with unfailing patience as arrangements were made. Governor Abeita was resourceful and continually helpful during the innumerable delays. Finally, after many obstacles had been overcome, the project commenced on January 3, 1972.

The Indian allocation of this project, Grant No. GJ 443 of the National Science Foundation, was entirely under the direction of the Governor and the Council and Educational Committee of Isleta. Governor Abeita took the responsibility for immediate decisions, and helped install the heavy electric wires which were needed.

When the staellite study was completed in the spring of 1973, and the grant to Isleta was exhausted, it was Juan Abeita who kept the project going with the National Science Foundation.

The following are excerpts of Governor Abeita's telephone conversation with Mr. Melmed, Director of Computer Projects for the National Science Foundation. They are significant because they demonstrate the depth of the need and the feeling of the Pueblo Indian people about the education of their children:

I am the Governor of Isleta Pueblo, an Indian village on the Rio Grande.

I came into town today to get your telephone number so I could say to you "thank you"—thank you for giving Professor Suppes the 40,000 dollars last year so we could have another year of computer assisted instruction for our elementary school in Isleta. This computer assisted instruction means more to our children and the fathers and mothers in our village than I can tell you.

I want you to know that the children in my village are excited about the teletypewriters. They still fight for their turn to do arithmetic. Never before have I seen so much excitement among the children in my village about anything inside the school. They worked all summer on the machines and there was no school this summer. They came for fun, they think the machines are fun—not learning. Mostly always our children have kept away from school and played hooky whenever they could. We have better attendance with these machines.

I have worked hard to get the Bureau of Indian Affairs to take this over as part of our regular education. They tell me they will put money for our computer and teletypewriters in the 1975–76 budget. That is the one they are working on today.

I feel sure because you helped us with money for this year, that we will be able to get the Bureau of Indian Affairs to take over this computer business later on.

You see it means more to us, this new way to teach, than it does to people who have got a good education.

When we see our children learning something in school we are so happy, we have no words to say how much. We are all so grateful to you that I wanted to tell you myself how we felt.

Professor Suppes said he was going to ask you for some money for us for next year. I hope you can spare the money for us. I believe that maybe later on the Bureau of Indian Affairs may take this over for our federal schools, but not next year.

Thank you for listening to me for all of this time. I wanted so much to talk to you . . .

In 1972 the new Chairman of the All Indian Pueblo Council, Valentino Cordova, who had been watching the Isleta project with interest, decided that CAI should be continued at Isleta and also extended to another school to test its usefulness in different situations.

Therefore in the spring of 1973 the Chairman of AIPC, Inc., after consultation with the Isleta Governor, went to Washington to testify before the Committee on Interior and Insular Affairs and the Committee on Interior and Related Agencies in both the House and Senate. He asked that money be continued for Isleta and that money be earmarked for CAI but put into the BIA budget.

The Chairman of the House Committee on Interior and Insular Affairs, Mrs. Hansen, suggested to Chairman Cordova that he try to get education money which had been impounded by President Nixon and recently released by a court order. The Chairman acted on this suggestion, and the request for funds was completed and given to the Office of Education within about ten days.

In less than a month word was received that the request for funds had been approved for only half the amount requested. The original budget requested included money for Isleta and another Indian school. The money received ($300,000) would allow for the subsidizing CAI in only one school.

Governer Abeita and Chairman Cordova then got Isleta funded for the 1973–74 school year through the National Science Foundation. This left the Office of Education money for the Pueblo of Santo Domingo School, which was part of the Bernalillo Public School System. Governor Felix Calabaza of Santo Domingo and the Superintendent of Schools for Bernalillo District were pleased to accept this program. With both schools funded, it was now possible to assess the impact of CAI on both a BIA school (Isleta) and a public school (Santo Domingo).

It was assumed at this point that it was important to try out this new technology in both kinds of schools. BIA had still never shown any interest in the program and had not offered to fund it. It was essential that the program be tested as widely as possible in order to determine whether or not the program really assisted Indian children in learning math and English.

Chairman Delfin Lovato, as well as the Superintendent of the Bernalillo School District, and the Governor of Santo Domingo all worked together to develop the program in Santo Domingo.

From 1970 until 1974, Dr. Sophie Aberle had been the Project Director of Isleta, first under Governor Abeita, then under Governor Alvino Lucero and Governor Seferino Lente. Beginning in 1973 she had also been Project Director at Santo Domingo under two Chairmen, Valentino Cordova and Delfin Lovato.

In assessing the results of the programs, Dr. Aberle was able to recognize several facts clearly by the Spring of 1973. One was that most children were highly motivated by the teletypewriters. The Isleta pupils had never shown so much interest in school before.

However, it was also clear that CAI had not been a success in all places where it had been tried. A discussion in New York City with the evaluator, Miss Tittle, of CAI's history in that city revealed that many aspects of CAI other than the machinery had to be considered before it could be pronounced an unqualified success. Other educators were equally skeptical about CAI.

Third, it was observed that in Isleta some of the brighter children seemed to become bored with CAI after a short period of time. Why? No one had the answer. A study by a researcher working under Patrick Suppes in Stanford revealed in a paper written in 1974 that statistically the children of Isleta had gained considerably by the use of teletypewriters.

Long before the publication of the report, and as early as 1973, it was apparent that someone unconnected with the apparatus should study all aspects of the situation. Objective researchers were needed to determine the critical facts about learning potentials, learning accomplishments, and changes in education which could be made for Indian children through using this system. It was considered to be essential that any technical program used should be able to help Indian children learn at a sufficient rate to allow them to continue in any educational field in a post secondary education field. Medicine, law, computer engineering, and other fields which had not been open to these children in the past should be the ultimate goal of any educational method used to upgrade educational opportunities.

Consequently, early in 1973, after discussion with Indian leaders, the Office of Education, the National Research Council, and private foundations in New York, it was decided that an independent study would be essential. Expenses for such an evaluation were written into the 1974–1975 Office of Education budget proposal submitted in December of 1973.

A contract was given the Lawrence Hall of Science to do the study. Written into the contract was the provision for an evaluation study. The Lawrence Hall of Science, as of October 22, 1975, has not yet submitted a report for the 1974–1975 school year.

The budget for 1975–1976 was drastically cut, so a thorough evaluation study will not be possible without additional funds. A project on the basis of the need for an evaluation study is being prepared at this time. We hope we will be able to locate funding for this project.

The future use of CAI for these children hangs in the balance. We must evaluate what has been done. The Indian children who have been a part of this project deserve the full support of BIA in continuing CAI in these and other Indian schools. That support will not be forthcoming without statistical and independent analysis of the program.

FEDERAL INFORMATION CENTERS

Mr. MONTOYA. Mr. President, I have the honor of serving as chairman of the Subcommittee on Treasury, U.S. Postal Service and General Government which has appropriation jurisdiction for the General Services Administration.

One of the many public services performed by GSA is the Federal Information Centers. The centers provide the desired information or direct people to the proper office to assist them with their particular problem without the frustrating runaround which is often encountered when dealing with the Federal Government.

In GSA's effort to communicate with as many constituencies as possible, GSA has published the latest edition of its Federal Information Center brochure in the Spanish language as well as in English. The brochure lists 37 cities in which centers are located and the additional 37 toll free cities, among other information.

The major portion of the initial printing has been made available to the areas with the largest Spanish-speaking population. Additional brochures are available at all centers or can be obtained free of charge by writing to the Consumer Information Center, Pueblo, Colo. 81009.

Mr. President, I would have asked to have this very brief pamphlet entered into the Record at this point, but it is not possible to have the Spanish language printed in the CONGRESSIONAL RECORD. For that reason I must simply advise my colleagues that the name of the publication is Centros Federales de Information, and that it is available from GSA.

ABORTION-ON-DEMAND NOT A "ROMAN CATHOLIC" ISSUE

Mr. BUCKLEY. Mr. President, one of the most unfortunate aspects of the debate over abortion-on-demand has been the tendency of some groups and publications to categorize the prolife movement as a strictly "Roman Catholic" phenomenon, despite the fact that such a claim is demonstrably untrue—seven out of eight cosponsors of my constitutional amendment are not Catholics and many of the leaders of the prolife movement are Protestants and Jews.

There is abundant and available evidence to disprove the claim that only Catholics are morally concerned about abortion-on-demand. Despite this fact, the proabortion lobby still continues to use its "Roman Catholic" argument.

The attempt by abortionists and their allies to suggest a religious minority is attempting to deny freedom of conscience to others is abhorrent. Certainly Americans who are Roman Catholics are opposed to abortion—but Americans of other faiths are also opposed to the taking of innocent human life.

I recently came across a letter written by Harold O. J. Brown, visiting professor of theology, Trinity Action Council, a prolife organization of concerned Americans who happen to be Protestant. I would like to take this opportunity to quote part of that letter. The Reverend Brown writes:

> I am a Protestant theologian, not a publicist or politician. I have never written a letter of this kind. Yet I (and the others whose names appear on this letterhead) feel deeply that the time has come for us to take a clear, public stand on the abortion issue.
>
> Abortion is an issue that Protestants can no longer leave up to others. We can no longer permit our legislators and judges—most of them good people who would not knowingly destroy a basic element of our spiritual heritage—to think that the abortion question concerns only a sectarian minority (i.e., Catholics) in our "pluralistic" society. Does "pluralism" mean that we Christians have no right to contribute anything to the discussion of public morals and law if it comes from our Christian faith?
>
> That is the situation we face today: although there is almost no other moral issue on which Christian witness has been so united through the ages, pro-abortion activists never miss an opportunity to stamp abortion a "Catholic issue." They realize that if they can make abortion look like the specific concern of a particular minority, they can in effect silence the tens of millions of other Americans—the majority, I have no doubt—who also feel strongly about abortion. In the process, they effectively disqualify all Christians from saying anything, as Christions, about the kind of laws we have and must live by. What this means, in effect, is that our laws will be influenced only by that small minority who repudiate our whole Christian heritage and everything that it has meant to our civilization and society.
>
> Everybody knows that Roman Catholic bishops and theologians have taken a forceful stand against abortion. But how many people know that the very first Christian writings after the New Testament, such as the Teaching of the Twelve Apostles, written as pagans were beginning to turn in larger numbers to Christ, took a specific stand against abortion and infanticide as hallmarks of the degeneracy of the pagan empire (ii:2). Or that every early Christian teacher who mentioned the issue said the same thing? Or that John Calvin wrote, "If it seems more horrible to kill a man in his own house than in a field, because a man's house is his place of most secure refuge, it ought surely to be deemed more atrocious to destroy a fetus in the womb before it has come to light? (comment on Exodus 21:22)? Or that Dietrich Bonhoeffer, the German Lutheran who gave his life in the struggle against Hitler, wrote: "Destruction of the embryo in the mother's womb is a violation of the right to life which God has bestowed upon this nascent life" (Ethics, p. 175)? To say that American law should not be made to suit the wishes of a particular denomination or sect is one thing, but to say that it must be purged of all of the basic principles and wisdom of the Christian tradition is quite another. Yet that is what will happen if Protestants do not begin to speak out and be heard on this issue.
>
> For these reasons, I believe that we badly need not just another anti-abortion group, but a new, identifiably Protestant voice that can and will tell our lawmakers that we are not dealing with some kind of particular sectarian morality but with the absolutely fundamental conviction that man is made in the image of God, and has the right to the respect that is due human life, even unborn or allegedly "meaningless" life. I believe that it is necessary to establish a presence here in Washington: a reality that the Congress (which, after all, must first decide this issue, before it can be sent to the states) will see and hear. We must then make sure that Congress realizes it is dealing with a fundamental issue of human destiny, and that Christians have a right to be heard on it.
>
> Of course this is a big undertaking, and no one can guarantee success. But I myself feel strongly that not only is it worth undertaking, but that we will never forgive ourselves if we do not attempt it. (And remember that the abortion issue is only the beginning—euthanasia, eugenics, and biological control are already on the way too.) . . .

Mr. President, Professor Brown and the other members of the Christian Action Council are engaged in a work that transcends religious, political, social, and economic barriers. The cause of the unborn will triumph because the cause of the unborn is just. The Christian Action Council is a welcome newcomer to the ranks of those of all faiths and backgrounds who are engaged in a struggle for human dignity, human rights, and human life.

RECLAMATION OF STRIP-MINED LAND

Mr. BELLMON. Mr. President, in the Washington Post for December 4, 1975, a story entitled "West Germany Sets Pace in Reclaiming Strip-Mined Land" is printed. The article describes the work being done in the brown coal area of the Rhineland to reclaim land after the strip mining of coal has been completed.

Several years ago a Senate delegation headed by the distinguished Senior Senator from the State of Utah, Senator Moss, visited this area of Germany. Our delegation was greatly impressed by the success the Germans had achieved in preserving the fertility of the farmland and the desirability of the areas involved once the coal had been removed.

Mr. President, since the Senate has in the past and will in the future be considering strip-mining legislation, I believe this newspaper article will be helpful in considering these questions.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WEST GERMANY SETS PACE IN RECLAIMING STRIP-MINED LAND

(By Michael Getler)

BERGHEIM.—While giant machines scoop record amounts of brown coal from West Germany's Rhineland, new farms, villages and forests are beginning to flourish on the reclaimed and restored land of old strip-mined sites.

West Germany's battle to extract its vast soft coal reserves without permanently damaging the fertile and scarce land that lies on top of them has been going on in earnest here for two decades.

Spurred on in part by the global scramble to find energy sources cheaper than oil, the West Germans have pumped dollars into new mining technology and environmental planning in the last few years.

The result is that West Germany is now clearly in the forefront of Western industrialized nations in coping with the energy-ecology problem, and it is winning the applause of international specialists in the process.

Professor Carrol L. Wilson of the Massachusetts Institute of Technology calls the West German efforts "the most dramatic and important illustration for industrialized nations, especially the United States," of what can be done in the energy-environment field by private corporations—and "at a profit."

At the vast Fortuna-Garsdorf open-pit mining site near here, six mammoth bucket-wheel excavators—resembling Ferris wheels with steel shovels attached to them—bite continuously into the uncovered seams of dark-brown coal and extract some 42 million tons a year. That is more than any other single soft-coal mine in the world, according to the mine owners, the Rheinische Braunkohlenwerke of Cologne.

A mile and a half away, some 1,500 people live in the new village of Modrath, a community of modern homes and streets that has been built especially to resettle persons displaced by West Germany's quest for coal. Modrath is one of more than a score of new villages already built to resettle some 20,000 West Germans in the path of the bucket-excavators at five separate mining locations.

To the south and east of this 12-square-mile open-pit mine, sugar-beet and wheat farmers are once again raising crops on refilled and resurfaced land that six years ago was also a working brown-coal site.

The rich topsoil scraped away from the Fortuna site is stored—sometimes as far as 12 miles away—and then returned to provide a fertile upper layer over other filling materials.

Company officials claim that the new topsoil is especially rich, producing higher percentages of sugar content in the beets than normal fields yield.

New farms are also being laid out with about a 1½-degree "tilt" to the south in a technique that agricultural specialists here say artificially improves the warmth and growing condition of the land.

Water from the deep pits—the Fortuna site is some 800 feet deep—creates a massive engineering problem, requiring that some 12 tons of water be pumped out of the mine for every ton of coal. Yet, here too, this resource has been harnessed, with the water being added to supplies for sections of nearby Duesseldorf, and for recreational lakes.

Last week, in recognition of the work here, five specialists of the Cologne company and one government planner shared in what its sponsors say is the world's largest industrial prize—$200,000 awarded by West Germany's Alfred Krupp Foundation.

Though both the Soviet Union and East Germany now produce more brown coal than West Germany, the Federal Republic sits on an estimated 55 billion tons of brown-coal reserves, said to be the largest European deposit this side of the Ural Mountains.

But the great bulk of those reserves are under the densely populated regions between Cologne and Aachen in northwestern Germany, and the opening of new surface excavations is a major decision that can displace thousands of people and use up scarce land. Thus, the ability to prove that the land can be made useful again is viewed as essential by industry and government to gain approval for opening the new mines it needs to feed West Germany's increasing power demands.

Of some 400,000 acres of land taken for open-pit mining in the last 20 years, the company claims that more than half has now been turned back into forest, farms and lakes and that more land is being reclaimed now than is being newly mined.

Brown coal, or lignite, is not as rich in power or heating value as black, hard coal. But it can be mined much less expensively and as a result it now fuels roughly 27 per cent of the country's power generating plants.

PASSPORT FRAUDS—A MENACE

Mr. HRUSKA. Mr. President, on November 20, 1975, Mrs. Frances G. Knight, Director of the U.S. Passport Office, addressing the Women's Forum in Newark, N.J., on the subject of passport fraud in this country, said:

> Investigations by the U.S. Customs Service indicate that false identification becomes an absolute necessity for a successful international smuggling organization; that false identification is a conduit used by smugglers to recruit members with extensive criminal background into their organizations, that false identification conceals criminal backgrounds and provides these organizations with criminal expertise to evade law enforcement and that, when apprehended, false identification enables these persons to obtain immediate bail and flee the United States before prosecution. In a few weeks or months, these individuals assume a new identity, enter the United States as visitors or students or relatives of alleged citizens, and resume their racket in relative peace for an undetermined time.

The crimes committed in addition to smuggling are numerous. They range from narcotics trafficking to illegal entry of aliens. There is also considerable evidence of fraud in the documentation for social security, for relief checks, for food stamps, for health service, and for pensions of many kinds.

All of these activities are indirectly subsidized by the American taxpayer. Federal losses because of fraudulent use of passport documents are staggering. What makes matters worse is the fact that little is being done to correct this unfortunate situation.

Director Knight's address details vividly the economic and social costs of this illegal activity. I urge my colleagues to read her remarks and consider her message.

Mr. President, I ask unanimous consent that Mrs. Knight's thoughtful remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARK BY FRANCES G. KNIGHT, DIRECTOR, U.S. PASSPORT OFFICE

Thank you for inviting me to speak to you and to discuss with you some of the problems facing a relatively small office in the Federal Government. Some of you may think I wander off the main subject at times, but it all comes together in the end because what may seem to be unrelated causes of concern manage to form a tapestry which produces a costly and dangerous scene.

Listen carefully and keep in mind such questions as "What can I do to correct this situation?", "How can I help?", "How do I get involved?".

My subject is "Getting Involved", and since my primary interest and concern is "good government" I would like to take this opportunity to solicit your interest in what I consider one of the most damaging, dangerous and least understood aspects of criminal activity in this country which you and I and every taxpayer in this country support with our taxes. You will be shocked and startled by the knowledge that our taxes subsidize crime against the United States Government because of (1) lack of corrective legislation; (2) public ignorance; (3) political indifference; and (4) the widespread efficient and effective organization of international criminal and espionage activity.

On June 19, 1975, President Ford addressed a message to the Congress on a subject which he described "touches the lives of all Americans", namely crime. The message was good and very much to the point. The President pointed out that our country "has been far from successful in dealing with the sort of crime that obsesses America, day and night". He specifically cited the types of crime that "invades our neighborhoods and our homes: murders, robberies, rapes, muggings, hold-ups, break-ins—the kind of brutal violence that makes us fearful of strangers and afraid to go out at night". The President went on to state that the latest figures from the FBI show that the rate of serious crime, which includes murder, forcible rape, robbery, aggravated assault, burglary, larceny and auto theft was 17% higher in 1974 than in 1973. That was the largest annual increase in the 44 years of the Bureau's collection of statistics. These are facts, and there is no argument against them. But these crimes, with a few exceptions, are solely within the jurisdiction of state and local governments. The responsibility for calling state and local officials to account rests with the local citizen. The direct results of decades of permissiveness, lack of interest and concern with local politics, general laziness and the cult of "don't get involved" have come home to roost and we have earned the reputation in many parts of the world as a "crime ridden country". I have just returned from a trip overseas and was repeatedly asked if it was "safe" to visit the U.S. in the Bicentennial year. What a travesty and what a sad commentary on American citizens who, through their lackadaisical attitude towards insisting upon and supporting good government, have allowed this national shame to develop.

There is one category of crime, however, which is the subject of my discussion today, and it comes within Federal Jurisdiction. It is best described as "document and identity fraud" and it is costing the taxpayers of our country billions of dollars annually. One example of this type of crime is passport fraud.

The recorded history of passport frauds dates back to the early 1920's and indicates that the types of fraud were basically the same then as now; namely, impersonation, fraudulent evidence, and altered passports. In addition, during the 1920's and 1930's we encountered activity in counterfeit passports. The fact that the fraud patterns remain the same is not surprising because the primary purpose of the passport is to establish identity and nationality of the bearer. Hence, the types of frauds flow from the very nature of the document. In the 1930's we had extensive frauds perpetrated by covert agents of the international Communist movement. In reviewing the history of passport frauds I have noted that narcotic traffickers were involved in obtaining passports by fraud in the 1930's. And over the years it has been established beyond a doubt that narcotics traffickers and other individuals engaged in illegal activities obtain passports in false identities to facilitate what is known as the "appearance and disappearance" act.

For example, a person known to the narcotics authorities or to the police authorities as "John Smith" obtains through his criminal contacts fraudulent documents identifying him as "James Jones." He then in effect "disappears" as "John Smith." A new person "James Jones" is created. When the activities of "James Jones" become known to enforcement authorities he may repeat the process and assume another identity. So John Smith and James Jones disappear and a new identity appears on the scene. This technique is used not only by drug traffickers but by other criminals engaged in a variety of illegal domestic and international activities.

In the late 1940's and 1950's the Passport Office concentrated on the very complicated problem of Chinese frauds. It took us several years to get that situation under control because it had been simmering on the back burner for well over a decade. As a result of new techniques in investigations and interrogations initiated by the Passport Office and coordinated with the Immigration and Naturalization Service, the widespread Chinese citizenship fraud, existing over a period of 50 years was brought under control.

I do not underestimate the fantastic cost and human suffering resulting from worldwide drug traffic. But this should have been evident to any but the ridiculously naive back in the fifties and sixties. When the lack of action on the part of the Federal Government results from indifference or stupidity—the end results are the same: a fantastic burden on the American taxpayer.

The Passport Office has been ringing the alarm on passport and identification frauds for 43 years. The lack of decisive, expeditious action and effective control by the upper echelons of our Government where these warnings have been received is a sad commentary on those areas charged with official responsibility for our national well-being.

We have had hundreds of fraud cases backed up awaiting research, analysis and investigation. Documentation fraud not only affects the integrity of the passport, but there is evidence of fraud in the obtaining of visas; there is fraud in documentation for social security for relief checks, for food stamps, for health service, for pensions of various kinds. Phoney birth certificates, baptismal certificates, marriage licenses, military discharge papers, border crossing cards, driver's licenses and so forth ad infinitum can be purchased in virtually every large city in the United States for whatever price the traffic will bear. Credit card fraud was estimated at well over half a billion dollars in 1971. More secure credit cards have been developed to preclude counterfeiting, but credit card thefts continue to increase and tens of millions of dollars are lost monthly by businesses accepting credit card identification from persons using stolen or counterfeit cards. Who do you suppose is paying for all this? A company doing business with credit cards charges off the phonies as a cost of doing business. The tremendous dollar loss in this one area alone results in tens of millions of dollars less revenue to be taxed. Every taxpayer in this country is making up that loss. Every taxpayer, direct or indirect, is the ultimate victim.

The Division of Vital Statistics in the Department of Health, Education and Welfare has been working with state authorities, the Passport Office and other Federal Agencies in an endeavor to obtain standardization of not only the birth document itself, but strengthening the protection of these records to enhance the integrity of these documents. Birth certificates are becoming more formal and consistent, but no one knows whether an individual born 30 years ago or six months ago is still with us or has gone to his reward. In this country, preoccupied with global affairs and cosmic exploration, we have no marriage or coordination between the birth and death records of our citizens. Consider this appalling fact for a moment and its potential effect on the national social security program.

A news article reported that police recently arrested a man and found in his pocket 17 Social Security cards in different names, 15 drivers' licenses, and 11 starter check sets, indicating he was busy opening bank accounts under his phoney names. Also reported was an auto theft ring cracked by police on the West Coast using false identifications in an elaborate scheme in which more than 50 prestige cars in the $15,000 to $20,000 class had been stolen.

Investigators probing Chicago welfare frauds uncovered one case which must be near the top in sheer gall and ingenuity: a thirty-one count fraud indictment charged a welfare recipient with the receipt of illegal welfare benefits, medical assistance, food stamps, in addition to Social Security and Veterans Benefits from 4 non-existent spouses. An investigator stated that "when the entire story is told, I believe this will prove to be the most massive case of welfare fraud that has ever been perpetrated in the 50 states" The recipient of all these benefits used 80 different names; 30 different addresses and 15 different telephone numbers. The total annual benefits received by this one person was estimated at a minimum of $150,000 annually in cash assistance alone.

The Social Security Administration, by its own estimates, reports that more than 4.2 million people have two or more Social Security numbers. No one knows how many of these are getting two, three or more Social Security payments under false identifications. Last year the Postal Service estimated that $22 million worth of checks had been stolen from the mails, a large number of which were cashed by persons using false identification.

Investigations by the U.S. Customs Service indicate that false identification becomes an absolute necessity for a successful international smuggling organization; that false identification is a conduit used by smugglers to recruit members with extensive criminal background into their organizations, that false identification conceals criminal backgrounds and provides these organizations with criminal expertise to evade law enforcement and that, when apprehended, false identification enables these persons to obtain immediate bail and flee the United States before prosecution. In a few weeks or months, these individuals assume a new identity, enter the U.S. as visitors or students or relatives of alleged citizens, and resume their racket in relative peace for an undetermined time.

Pause for a moment—who do you suppose is paying for all this false identification?

Cases have been discovered, entirely by accident, where a recipient of Social Security benefits has been receiving not two or three checks but five, six and seven checks in different names. One woman who owned rental property in 3 different cities, drove expensive cars, and lived in a luxurious apartment, was receiving regularly four checks from Social Security for years. She had assumed four different identities, backed up with credit cards, passports, driver's licenses and the works, including very effective disguises.

Several years ago a top of that Agency told me that he was not concerned with the recipients who were getting two or three Social Security checks due to phoney identifications and impersonations, but he was concerned about the people who were getting eight and nine checks, including the family dog and cat listed as dependents. When I asked him "What do you do about prosecuting the culprits," he answered "We are not a law enforcement agency—we are a social service agency, so we simply pick up the extra cards from the individuals who have more than their share." Just another case of crime pays and pays and pays. The only crime against crime is getting caught.

The courts have been lackadaisical in levying heavy fines and prison sentences on those convicted of false identification and/or impersonations. The cost of prosecuting such criminals has become so high and so time-consuming that Government and business are inclined to charge the loss up to taxes. We have a breed of lawyers in this country who make a lucrative living out of defending criminals and are very adept at making deals out of court. This is known as "plea bargaining", the practice of dropping a stronger criminal charge and accepting a guilty plea for a lesser offense. A five hundred dollar fine and a slap on the wrist is a laugh to the criminal who clears $100,000 tax-free annually and can change his identity in a matter of hours while the lawyers and courts quibble about loopholes in the law or look the other way.

It is public knowledge that the Immigration and Naturalization Service has had a horrendous fraud problem for years regarding illegal aliens and no one knows this better than the Immigration officials at our ports of entry.

It is now estimated that there are between eight and ten million illegal aliens in the United States, but nobody knows for sure. There could be millions more. A recent estimate by the AFL–CIO indicates that eight million illegal aliens are holding down jobs in this country and such a situation is of considerable concern to organized labor when over eight million legal residents are unemployed.

The fact is that no one really knows the volume of illegals absorbed into our massive population. Even the illegal alien registration requirement is a farce because those who do not register are rarely apprehended. Another important factor delaying and frustrating the prosecution of the illegals is the very lucrative private legal business involved. This has been flourishing for years along the East Coast and in our metropolitan areas and these same legal-beagles have been active in opposing, through organizations and ethnic groups, any attempt by the Federal Government to tighten immigration laws and demand swift and stern action from the courts. To keep these lawyers in clover requires substantial loopholes in any legislation dealing with illegal aliens.

We have the distinction of being the only major power in the world today without a viable control over illegals and without a positive Federal program to protect our citizenry from this growing invasion. There is a move afoot at the present time, creeping through the Executive Branch of Government, advocating an amnesty to all illegals—eight to ten or twelve million, even going so far as to offer them U.S. citizenship at a propitious time during the Bicentennial election year. The program has been proposed as a sop to minority groups and ethnics—another costly give-away because it gets INS, the Department of Justice and past maladministrative practices off the hook.

I call to your attention an article appearing in the *New York Times* on April 11, 1975 which gives estimates on the annual cost to the U.S. economy directly due to the illegal use of false identity papers.

These estimates include ten billion dollars in earnings sent out of the country by more than six million aliens and at least one hundred million dollars in income taxes evaded by these aliens, according to a spokesman for the Immigration and Naturalization Service.

The Immigration and Naturalization Service further estimates that more than one million illegal aliens are holding down "desirable jobs," most of them on the basis of false papers and aliases, and as examples of these "desirable jobs," INS cites a products development engineer in Texas earning $17,000 a year; a salesman in Maine earning $30,000 a year; and workers such as plumbers earning $12.00 an hour; all of them using false identification.

There is a thriving business in the marriage racket whereby a U.S. citizen will marry an alien for a substantial down payment, bring the alien into the United States as a dependent, who in due course will apply for citizenship, apply for a passport, get a Social Security number, get a job and finish the farce by getting a divorce, thus freeing the U.S. citizen spouse for another marrying project. The going rate for this exercise is $3,000 to $5,000—negotiable, of course. Four such ceremonies a year could net $20,000 and no tax is paid on this income. Just another instance of crime that pays and pays and pays.

There is also a substantial baby racket connected with the passport frauds, details of which can only be pieced together with the cooperation of other governments. Phoney hospital records can be provided for a price and a child brought into the United States as a citizen can easily be farmed out again for a fee to a childless couple who, for reasons of their own, do not wish to go through legal adoption channels. Once again this provides a sterling opportunity for blackmail and blackmail money is never reported and there are no taxes paid on it.

Visa frauds and the entry of illegal aliens need microscopic examination. Counterfeit visas, the smuggling of bodies across borders, and the increasing number of aliens who come in on non-immigrant visas and disappear forever in the mass of humanity in our large cities should be areas of primary concern to the public, as well as to the Federal Government.

When one considers how these illegal aliens are exploited by employers and their vulnerability to blackmail; tax avoidance for fear of being discovered, it becomes obvious that their illegal employment in this country not only affects unemployed legal aliens and unemployed American citizens, but the illegal alien becomes fair game for the criminal underworld.

It is an open secret that many otherwise law-abiding householders are hiring full-time domestic help who came in on student visas but never set foot in a classroom.

Restaurants catering to high society are known to hire illegal aliens who for some reason are never around when the premises are raided.

In the state of California, officials report that there is a regular U.S. bus route across the Mexican border returning illegal aliens to their native villages. There is no indication that the establishments that repeatedly hire these illegal aliens at wages lower than the minimum allowed by law, ever go out of business. I've never heard of one going to jail or paying a substantial fine. These employers never seem to be aware that the aliens they employ are here illegally. They don't ask questions because they don't want to know. These aliens are shunted back and forth at great expense to the American taxpayer.

The illegal alien issue cannot be isolated from the crime issue; nor from the disastrous financial drain on the U.S. taxpayer; nor from the exorbitant cost of government, nor from document fraud, impersonations and false identities which directly affect more than a score of federal agencies.

Because of the past failure to keep track of illegal aliens, to concentrate action on their apprehension and deportation, no one knows how many are involved in criminal activities or, equally important, how many come into the U.S. as espionage agents, saboteurs, revolutionaries and allied professions.

A very small percentage of crime is ever reported and only a fraction of what is reported is ever made public. Nevertheless, the daily news seems to be dominated by crime of every description—rape, murder, burglary, hijacking, beatings, muggings, shoplifting—you name it and we have it, bigger and better than any place in the world.

All crime is a social problem of vital concern to society and all levels of government. Each citizen of this country must become involved if we are to successfully combat this menace.

The latest report on crime in the United States deals with the year 1974 and was released by the FBI a few days ago. Nationwide crime increased by an alarming 18% over 1973 with criminals killing an estimated 20,600 persons and stealing property worth at least $2.4 billion. The 1974 crime clock reads as follows:

1. nineteen serious crimes are committed in the country each minute,
2. violent crimes, involving murder, forcible rape, robbery or assault to kill occur at a rate of one every 33 seconds,
3. a murder occurs every 26 minutes,
4. a forcible rape occurs every 10 minutes,
5. aggravated assault occurs at the rate of one every 70 seconds,
6. a robbery occurs every 71 seconds,
7. a burglary occurs every 10 seconds,
8. larceny-theft occur every 6 seconds,
9. auto thefts occur at the rate of 1 every 32 seconds.

Remember these are the reported crimes. It has been stated that less than 25 percent of the rape cases are ever reported. Nobody really knows how many victims keep silent for fear of reprisal, shame, personal inconvenience, expense, lost working time, and last but not least, being subjected to verbal harassment of defense lawyers who are dedicated to getting the criminal off on a technicality or with a light sentence, or a few months probation.

Now let me give you some startling figures on the repeater criminal syndrome. Certainly this is an area where the public should get involved, since it is in great part a result of decades of permissiveness, uninhibited tolerance mixed with general listlessness and incompetence in our court system. Of the persons arrested in the 1970 to 1974 period 79% were repeaters in auto theft; 79% were repeaters in robbery; 73% were repeaters in stolen property; 73% were repeaters in forgery; 68% were repeaters in murder; 65% were repeaters in rape; 65% were repeaters in assaults; 58% were repeaters in fraud. The total average was 65% repeaters in all types of crime.

Of the persons rearrested within three years, 48% received a suspended sentence or probation; 64% were released on parole; 59% were fined and 59% were acquitted or case dismissed. One prosecuting attorney told me that frequently cases were dismissed because the court was bogged down with too many cases.

In 1974 a total of 132 local, county, state and federal law enforcement officers were killed in the United States and Puerto Rico due to felonious action. Most of these were killed in attempting arrests. Seventy-seven percent of the 1,329 persons identified with these killings had prior arrests for crimes.

You may remember a statement made a year or so ago by a government official to the effect that crime in the U.S. had been brought under control; that the crime rate had been checked, and law and order were about to prevail throughout the land. This was pure hokum. It was later discovered that the method of crime reporting had changed, giving the illusion of improvement. It is a recorded fact that shoplifting increased 76% between 1969 and 1974. Who pays for this crime? You do because you now pay for the electronic surveillance systems, the mirrors, the store detective and the increased size packaging.

Nighttime residence burglaries increased 60% during the past 5 years and daytime residence burglaries increased 67%.

Street robberies were up 29% and bank robberies increased 94%.

Document fraud is more subtle, sometimes it involves more skill and connivance than violent crime, but it is part of the same package for which the taxpayer pays and pays and pays, because in the final analysis our taxes are supporting crime.

Consider for a moment recent headlines related to crime, fraud and impersonations; on September 23, 1975 the D.C. Criminal Justice Coordinating Board released a study which indicated that 34% of the residents of our Nation's Capital are afraid to go out at night. It is no secret that crime is rampant on the streets of Washington, D.C. On October 17, 1975 the U.S. Attorney's Office in Washington uncovered a major food stamp fraud ring which bilked the District Government of thousands of dollars. But food stamp fraud is nation-wide and virtually unchecked. According to a Government Accounting Office survey ordered last year by the Chairman of the House Fiscal Policy Subcommittee, fathers earning up to $20,000 a year are cheating on court ordered child support payments. The total cost of this criminal evasion of responsibility is costing the American taxpayer one billion dollars annually.

Washington newspapers have had a rash of headlines on widespread fraud, cheating and error in Social Security payments. One report stated that the Social Security Administration's computerzied welfare program for the blind, disabled and the elderly had posted a 23% error rate in its payments during the first six months of this year. Another Social Security investigation reported that 69% of the welfare checks issued were overpayments due to faulty processing. In the State of California alone, the Social Security Administration overspent $179 million in the past fiscal year in its Social Security Supplemental Security Income program. The national overspending is estimated to reach one billion dollars down the drain.

According to a report of the Department of Health, Education and Welfare issued last month, this country's welfare costs increased by 20% in 1975 over 1974. Total welfare spending in fiscal 1975, which ended last June 30, reached $22.6 billion, an increase of $3.8 billion over the previous year. In virtually every metropolitan area of the country there is extensive fraud, due to multiple fraudulent identities. Who do you suppose is paying for this? Every Federal loss is made up one way or another with taxes—hidden or overt.

The Secretary of the Treasury, William Simon, and the Budget Director, James Lynn, informed the House Budget Committee last month that the national budget deficit may go as high as $90 billion. No wonder, considering the obvious lack of accountability, the Federal Government's disinterest in economy, and the national lack of involvement by the public. What a disgrace and what a travesty for a nation which seeks the role of world leadership in economic, social and spiritual well-being.

I am not making up these figures. They are a matter of record for all to see and pause to consider. Believe me, as the situation stands now it is all downhill, because the American public is too lazy to be a watchdog over their government. Permissiveness, disinterest, lack of involvement and the trend toward national mediocrity has brought us to this sorry situation.

I close this talk with a plea that you get involved in what appears to be a losing battle with organized crime, independent criminal activities, and the current vogue of high-pressured and vicious attacks on our law-enforcement community, and the well-financed attacks from vocal anti-law and order, anti-government groups on local, state and federal officials who combat crime and expose it.

I do hope you will try in your own way to do something about changing this situation. You've got more power than you think.

Once again, thank you for inviting me to join you today.

CAN WE BEAT BUREAUCRACY?

Mr. ABOUREZK. Mr. President, every reliable indicator of America's state of mind tells us that people have little faith in the way their governmental institutions are serving the public interest.

No Member of Congress can be oblivious to this problem. Among the great and immediate challenges we face today as a nation, none is more important than the restoration of the confidence of the people in their Government.

The New Englander magazine in its November issue contained an excellent article by the distinguished junior Senator from Vermont (Mr. Leahy), in which he outlines the present lack of responsibility and accountability in the bureaucracy and makes very cogent suggestions for correcting the problem.

I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Can We Beat Bureaucracy?

(By Patrick J. Leahy, U.S. Senator, Vermont)

On my desk is a light-blue paperback entitled, *United States Government Manual*. Published by the General Services Administration, the 799-page book calls itself "the official handbook of the federal government."

Leafing through its descriptions of the work of most government agencies is one of the easiest ways to get a glimpse of the size and complexity of the U.S. government. The job titles alone are enough to convey that the federal government is like no other institution in the world.

On page 252 of the manual, for example, one learns that there is an executive assistant administrator for development in the Saint Lawrence Seaway Development Corp., which is part of the Dept. of Transportation. *Assistant* and *development* are two of the most popular words in the government vocabulary. On page 594, there is reference to the deputy assistant administrator for construction in the Veteran's Administration. Page 618 reveals that there is a United States Territorial Expansion Memorial Commission, which, by the way, is different from the American Battle Monuments Commission on page 416.

Few of these—or the army of secretaries, clerks and assistants who serve them—are likely to appear on the front page of your newspaper, the evening news, or *Meet the Press*. Yet it is anonymous officials like these who comprise the heart of government.

The maze vs. the man. With Americans increasingly critical of the performance of their government, it is easy to make federal workers the butt of all kinds of jokes. It has been many years since the word *bureaucrat* was anything other than a term of derision. Yet, most federal workers are intelligent, dedicated people who do a day's work for a day's pay. Unfortunately, when you put these same people into the crazy-quilt of departments, agencies, commissions and bureaus that comprise the federal government, too often you get a radically different result: an intractable bureaucracy, which in size and power, is one of the most difficult-to-control creations man has ever yet devised.

Bureaucracy is a problem at all levels of government. And, not surprisingly, the cost of this self-generating public organism is getting to be more than our available resources will support. Many local and state governments, unable to control the money supply the way the federal government can, are desperate for funds. New York City is teetering on the verge of bankruptcy because it has been unable to resist paying too high a price of government services.

The same tendency to spend more afflicts the federal government—higher costs for a government that most Americans feel does not give them a dollar's worth of value for each dollar spent. Unless this trend is reversed, we will face a crisis in confidence nationally similar to the one now afflicting New York. And who bails out the federal government?

Keeping in touch. When I ran for the Senate last year, one of my major concerns was making government more responsive, at less cost. To many voters, a U.S. Senator becomes a distant figure in far-off Washington as soon as he is elected. To help break down this barrier, I set up a statewide WATS line that allows any resident of Vermont to call my office toll-free. To obtain a better understanding of the feeling of Vermont residents before I cast my vote in the Senate, I established a legislative liaison program. When significant legislation is introduced in the Senate, copies are sent to my office in Burlington, which then solicits opinions on the bill from a variety of state residents. For example, if a nurse training act is introduced, state's nursing schools and a variety of nurses' organizations are contacted for comment before I cast my vote on the Senate floor.

I've also found that one of the best ways to get a sense of what the residents of Vermont are concerned about is to personally read all letters from Vermont that come into my Senate office.

While some of the letters are obviously concerned with issues before the Senate, the largest single category of mail is complaints about the government gone wrong—tales about lost social security checks and veterans unable to obtain benefits. On Capitol Hill, problems like these are called casework, and each member of Congress assigns several staff members to help with these tasks.

Casework is key. Most Senate and House members place great importance on casework because they believe that when a constituent receives help from his representative in Washington, the favor tends to be remembered on election day. In some ways, casework *is* one of the most personally satisfying parts of being in the Senate. On days when national problems like the energy crisis seem out of control, it is a joy to do a good turn for someone who needs help.

Yet for every letter-writer with a complaint, there are three who are so discouraged that they don't think it is even worth the postage. And no matter how much time we in Washington devote to casework, it is impossible to intervene every time a social security check is not delivered because a computer can't get the address right.

Dump duplication. Congressional casework can only be a stopgap solution to a much larger problem—the failure of the federal government to operate effectively. It is easy to collect horror stories of particularly extreme examples of governmental mismanagement.

A few months ago, for example, my staff discovered the Federal Fire Council. This federal agency, whose operation costs $67,000 a year, has held just two meetings since 1968. No wonder, since over the years its functions have been assigned to other government agencies. This kind of duplication is almost inevitable, given the hydra-like growth of programs.

In the last 15 years, 236 new federal agencies and commissions have been created. In the same period, only 21 were abolished. As a result of our investigation of the bureaucracy, I introduced an amendment which was approved by the Senate to eliminate the Federal Fire Council.

Managing the vast federal work force is another part of the problem. While some government employes (like air traffic controllers) have jobs that are unbelievably demanding, others have far too few incentives to perform efficiently. One reason is that the incentive system in the civil service has been allowed to atrophy. The highest award given to federal employees, for example, is the Presidential Award for Distinguished Federal Civil Service. It has not been awarded since 1971.

Set up Select Committee. It is important to make our scrutiny of the federal bureaucracy as systematic as possible. This is a problem in the Senate, where these questions are the responsibility of a number of committees. That's why I recently introduced a resolution in the Senate (S. Res. 197) to establish a Senate Select Committee on Federal Responsiveness and Accountability. Such a committee would have a mandate to examine the issues that affect the performance of the federal bureaucracy: everything from revised incentive systems to ways of curbing the proliferation of agencies.

At first glance, it seems almost comic to suggest appointing a committee to study the proliferation of commissions. But a Senate Select Committee is not a body to be taken lightly. Although such committees do not have legislative powers, they do have a unique ability to focus public attention on a single issue. In recent years, the hunger problem and the plight of the elderly have been brought to the center of the political stage because of Senate Select Committees. If the Senate establishes such a committee on bureaucracy, it could set the tone of the emerging national debate on ways to make government more responsive.

It is clear that the American people are dissatisfied with the performance of their government. And that's why one of the most pressing political issues we face is to control and harness the federal bureaucracy and again point it toward solving our pressing national problems—and at a price even thrifty Vermonters would feel was worth the cost.

HUMAN RIGHTS AND THE MILITARY AID BILL

Mr. ABOUREZK. Mr. President, as my colleagues are well aware, the Senate adopted a strong human rights amendment to H.R. 9005, the foreign economic assistance bill. The amendment which I introduced was cosponsored by Senators McGOVERN and CRANSTON and a similar amendment was added in the House by Congressman HARKIN.

I congratulate the conferees on this legislation for agreeing to a strong human rights amendment. The Congress has the responsibility and the right to determine the conditions under which U.S. assistance is to be given. We have done that on the economic assistance bill, and hopefully we will again be successful on the military assistance bill.

Yesterday, the Foreign Relations Committee held a hearing on the security assistance request by the President. I am pleased to note that the first witness did not discuss arms sales or Middle East peace, but human rights. That witness was Senator CRANSTON.

He has authored, and I am pleased to cosponsor, a strong human rights amendment to the military aid bill. Hopefully, that amendment will also be included.

Mr. President, I ask unanimous consent that Senator CRANSTON's excellent statement on the need for human rights legislation in the military aid bill be printed in the RECORD for the benefit of our colleagues.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Mr. Chairman, and members of the Subcommittee on Foreign Assistance, I very much appreciate the opportunity to testify before the Foreign Relations Committee on the importance of human rights in American foreign policy and, more specifically, on the necessity of weighing human rights concerns when making decisions to extend security assistance to countries around the world.

I especially thank you Senator Humphrey for the consistent good faith you and your staff, Dick Moose and Dan Spiegel, have exhibited in allowing me and my staff to participate in your deliberations on these matters—as you promised me you would almost a year ago on the floor during consideration of the Foreign Assistance bill for Fiscal Year 1975.

I am very impressed, Mr. Chairman, with your ambitious effort to reform the body of legislation governing security assistance which the bill—the International Security Assistance and Arms Export Control Act of 1975—before this body represents. It is a pioneering piece of legislation, and a splendid example of how Congress can and should influence the formulation of American foreign policy.

Let me also take note of the extensive and unremitting efforts of several members of this Subcommittee in raising the flag on human rights. All of you have been active in this area, so I hesitate to name Senators. But I am aware of Senator Case's continuing efforts to prevent discrimination against Americans by those countries who receive some form of assistance from this country. And I was glad to be allied with Senator McGovern and Senator Abourezk in their recent, successful effort to attach a human rights amendment to the foreign economic assistance bill. (They have joiend me on the amendment I am presenting today.) Senator Javits has been active in so many human rights causes over the years, and I appreciate the serious consideration he is giving the amendment I am offering today.

I know that my friend from Massachusetts, Senator Kennedy, will be testifying later today on the subject of arms sales, another matter in this Subcommittee's domain. As we all know, he has eloquently and persistently spoken up for human rights around the world over the years.

Following testimony by Senators, you will hear from Mr. Leonard Sussman, the executive director of Freedom House. I appreciate your willingness to have him as a witness. As he will make clear, Freedom House does not take any position on my human rights amendment, since they do not oppose or support any legislation. But they do insist upon the relevance of the issue for American decisionmakers, and they are skilled in making judgments on the progression or regression of freedom within countries.

Mr. Chairman, with your permission, I would like to include in the record of the hearings at this point a thought provoking essay on "Dictatorships and American Foreign Policy." It was written by the editor of *Foreign Affairs*, William P. Bundy, and appeared in a recent issue of that distinguished quarterly.

Mr. Chairman, let me begin my testimony on the human rights amendment by stating what, I believe, the real issues are at this point in time in regard to this whole subject.

Simply put, these are tax dollars to the tune of over $4,500,000,000 that Congress is being asked to approve in security assistance for Fiscal Year 1976. As you know, when you take into account the foreign military sales that the Government is likely to underwrite or approve in this fiscal year, we are dealing with a new figure of well beyond $10 billion.

I maintain that Congress has the right and the duty under the Constitution to require any information from the President that we feel is relevant in reaching legislative decisions on matters of this magnitude. We cannot abdicate these judgments, nor control over the information behind the judgments, to the Executive branch. The security assistance bill authorizes American tax dollars and grants legislative approval for arming foreign governments. This is a decision for Congress in the final analysis, but the policy judgments are a joint responsibility with the President of course.

Unfortunately, the State Department and the White House do not seem to give the attention to human rights in reaching foreign aid decisions that majorities in both Houses of Congress desire. My amendment says that Congress is entitled to receive as much information as is available in regard to the status of human rights and freedom in countries receiving security assistance. Then we can take that information and weigh its relevance, along with the "national security" judgments made by the President and the Secretaries of State and Defense. If Congress—as the elected representatives of the people—wants to give more importance to human rights concerns in the total scheme of things, then we have the right and the power to do it.

But my amendment is not an automatic security assistance cut-off amendment in regard to particular countries. Rather it is an information amendment, designed to arm Congress with what it needs to make wise policy judgments *prior* to extending security assistance or allowing arms sales to countries around the world.

Obviously, Mr. Chairman, I believe that we should re-evaluate security assistance programs in regard to particularly repressive regimes. My amendment provides a formula for doing so. My amendment is designed to insure that human rights concerns will be a major factor in the future decisions of the U.S. Government to grant or sell weapons and training and other forms of security assistance around the world.

Our experience here in Congress, over the years with various administrations, in foreign and domestic policy legislation, can be summed up in a phrase: When we legislate policy in general terms, they ignore us at the other end of Pennsylvania Avenue; when we legislate in specific terms, they resent it. I believe it is time to get more specific in regard to human rights and foreign assistance as, indeed, the Senate was in its own human rights amendment last year.

The legislation I am proposing is considerably tougher than section 502B of the present law, and it builds upon the admirable efforts of Representative Harkin and Senators McGovern and Abourezk to raise human rights standards in connection with the foreign economic assistance program. Last December when Congress passed section 502B of the Foreign Assistance Act, many of us thought that a significant step forward had been taken. That law reads:

"SEC. 502B.[242] Human Rights.—(a) It is the sense of Congress that, except in extraordinary circumstances, the President shall substantially reduce or terminate security assistance to any government which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman or degrading treatment or punishment; prolonged detention without charges; or other flagrant denials of the right to life, liberty, and the security of the person.

"(b) Whenever proposing or furnishing security assistance to any government falling within the provisions of paragraph (a), the President shall advise the Congress [243] of the extraordinary circumstances necessitating the assistance.

"(c) In determining whether or not a government falls within the provisions of subsection (a), consideration shall be given to the extent of cooperation by such government in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations, including the International Committee of the Red Cross and anybody acting under the authority of the United Nations or of the Organization of American States.

"(d) For purposes of this section, 'security assistance' means assistance under chapter 2 (military assistance) or chapter 4 (security supporting assistance) of this part, assistance under part V (Indochina Postwar Reconstruction) or part VI (Middle East Peace) of this Act, sales under the Foreign Military Sales Act, or assistance for public safety under this or any other Act."

Mr. Chairman, yet, despite the wording of the law, and its clear intent, Congress has not received in fiscal year 1976 a report from the President advising the legislative branch of "the extraordinary circumstances" necessitating security assistance to governments that grossly violate human rights. Nor do we have from the President a "detailed plan for the reduction and eventual elimination of the present military assistance program" as required by section 17 of the Foreign Assistance Act of 1974.

Instead, we have a statement from the Secretary of State and a report from the State Department that ignore and evade the spirit and intent of the laws passed by Congress on this subject.

In the Secretary's statement to the House International Relations Committee on November 6, in regard to the security assistance program, there is incredibly no mention of human rights as a factor in the decisions to extend security assistance to particular countries. I understand he did not discuss human rights before your subcommittee on November 19.

Clearly, other considerations dwarf these concerns in the Secretary's mind. At one point he states:

"The United States cannot expect to retain influence with nations whose perceived defense needs we disregard. Defense supply links to these countries can significantly strengthen efforts to achieve cooperation on other issues."

He goes on to argue:

"And there are gains to our domestic position as well. Security assistance programs contribute needed jobs to several sectors of our labor force. They help us maintain a more favorable balance of payments. And they permit our defense industries to achieve significant economies through scale of production."

Somethiing is missing here, Mr. Chairman. There is no mention of human rights under "the criteria of security assistance" listed by the Secretary.

I find it very difficult to understand, in light of the wording of section 502B, why there are no statements by the President or the Secretary either in the document entitled "Security Assistance Program, Congressional Presentation, Fiscal Year 1976" or in the Presidential message to Congress of October 30, setting out the "extraordinary circumstances" that warrant military assistance and other forms of aid to certain regimes.

Does this omission mean that the State Department has concluded that not a single one of the 45 or so countries, for which security assistance is requested in fiscal year 1976, has a government that, in fact, consistently engages in serious violations of internationally recognized human rights?

In light of what everybody knows is going on in this world, that would be a preposterous conclusion, I assume it is not the Department's conclusion.

I draw attention to the belated, unsigned report received on the Hill from the State Department on November 18. It is entitled: "Report to the Congress on the Human Rights Situation in Countries Receiving U.S. Security Assistance."

After citing the law—section 502B—it states:

"We view Section 502B as an authoritative expression of Congressional concern for human rights in all countries receiving security assistance."

The report then states that each U.S. mission in 68 countries has submitted to Washington its classified analysis of the human rights situation within the country in which it is located.

The report goes on to declare that, based on the embassy submissions:

"Repressive laws and actions, arbitrary arrest and prolonged detention, torture or cruel, inhuman or degrading treatment or punishment, unfair trials or other flagrant denials of the rights of life, liberty and the security of the person are not extraordinary events in the world community."

But the report also states that:

"Some countries, of course, present more serious evidence of violations than others."

Then the report raises two questions:

"When we consider using security assistance as a possible lever to improve the human rights situation in a particular country we are faced at the outset with at least two fundamental questions:

"(1) Would the substantial reduction or termination of security assistance to that country damage our own national security?

"(2) Would the substantial reduction or termination of security assistance improve or worsen the human rights situation in that country or make it more difficult to make our views known?"

The report continues:

"We know that some members of Congress feel that the U.S. Government should simply disassociate itself from repressive governments, even if such actions would have no effect on human rights problems there. Others feel that if our security interests (or other kinds of national interests, for that matter) are strong enough, these interests should prevail. Our view is that while both security interests and human rights are important, each country needs to be looked at *individually* to determine where our predominant interests lie in every case.

"We believe, in the spirit of Section 502B and the statements of policy quoted above, that the USG should take positive actions to improve human rights wherever possible. There are many ways of doing so, however, by direct and indirect means, such as diplomatic representation, multilateral efforts in and exchange programs and the pressure of public and private opinion."

But, Mr. Chairman, the issue is not simply resolved by what the State Department considers, knows, believes. Because the Congress of the United States has made the judgment, the Congress of the United States has set the policy, the Congress of the United States has passed the law of the land—which is section 502B.

Near the end of this unacceptable report, there is this far-reaching conclusion:

"In view of the widespread nature of human rights violations in the world, we have found no adequately objective way to make distinctions of degree between nations. This fact leads us, therefore, to the conclusion that neither the U.S. security interest nor the human rights cause would be properly served by the public obloquy and impaired relations with security assistance recipient countries that would follow the making of inherently subjective United States Government determinations that 'gross' violations do or do not exist or that a 'consistent' pattern of such violations does or does not exist in such countries."

The attitudes so prevalent in this document might well be characterized as "malignant neglect."

There is the inference that "everybody does it"—so why make an issue of it? But this is America, Mr. Chairman. Of all the gifts bestowed on this country, the one that alone remains as the great American exception is the constitutional system in a democratic setting. For all our domestic and foreign mistakes, our record as a civilized society commands respect. If we do not respect our own history and hold up the torch of democratic ideas, who will? And if we do not, who are we?

When we hear about repression in another country—and there *are* gross violations against humanity occurring in countries to which we give military assistance—do we keep our distance? What would the Secretary of State have us do? Do we take the attitude that "After all, what does it have to do with us?"

I am aware, of course, that some would say this is lofty idealism in the face of the real facts of life on the international scene. It is argued that the realistic course is to continue military aid and military sales to repressive regimes, for various reasons. But is it realistic, Mr. Chairman, to aid particularly repressive regimes in the name of "stability" or "leverage" or "national security"? It didn't prove so in Vietnam.

I believe that, very often, idealism is the better part of realism on this issue; that the so-called "idealists" are rather realistic. I don't mean just in terms of our image in the world, but also in terms of concrete results. Do we advance our true national security interests over the long run by supporting or supplying very repressive regimes? I think not, although I recognize there *may* be some extraordinary circumstances in the case of certain countries, and my amendment takes this into account.

The Administration maintains in the report that there is "no adequately objective way" to determine if gross violations of human rights are occurring, and that no good cause is served by a "public obloquy" on the matter.

The testimony you will hear from Mr. Sussman contradicts the claim that there is no way to objectively assess the human rights situation in a particular country, especially to ascertain if there have been gross violations such as torture and detention without trial.

In addition, Mr. Chairman, we know that the State Department has prepared human rights reports on individual aid recipient countries. They gave a very detailed one on Korea to Representative Fraser's Subcommittee of the House International Relations Committee last summer.

I hope that the Foreign Relations Committee will ask for these reports before reaching its decision on security assistance. Under Secretary of State Carlyle Maw has indicated a willingness to cooperate in this regard.

But, this argument aside, Mr. Chairman, I would hope we as Americans have some subjective feelings about what is going on today in Chile, Brazil, Korea, Indonesia, Ethiopia, Zaire, the Philippines, and Cyprus—to name a few countries which have been touched by our security assistance program. Can the State Department give us some examples of where quiet, but forceful diplomacy have made a difference?

Let me hasten to note, Mr. Chairman that many responsible individuals in the State Department are deeply concerned over human rights.

Ambassador Moynihan in recent weeks has eloquently focused the attention of the world on the repressive practices of dictatorial regimes.

But the most impressive statement of all was given recently in Boston by Mr. William D. Rogers, the Assistant Secretary of State for Inter-American Affairs, in a November 4 speech before the Pan American Society. He, in effect, answers the indifference of others in his department.

I would like to quote one passage from his noteworthy address:

"We have not been immune to the imperial virus. But after each deviation from the conception of the U.S. as vanguard in an unrelenting struggle to enlarge the frontiers of human freedom and justice, we have purged ourselves with self-criticism and reaffirmed the original vision. In this country, the cynics and the Realpoliticians have not enjoyed permanent employment.

"How then to structure the human rights inquiry in a way which will recognize these complexities? What, in other words, are the standards against which national behavior in the human rights field is to be judged? And how is the process of judgment to occur?

"There is a yardstick of public inhumanity. Every country is represented somewhere on it. No national record is unblemished.

"But there are differences of degree, even after one makes a proper allowance for varying historical experiences and levels of economic, social and political evolution.

"And there are, in the end, qualitative thresholds. These are the limits below which no government can fall without international judgment. Mass murder, officially tolerated torture, mass imprisonment or exile of those who peacefully dissent, comprehensive denial to some racial, religious or ethnic group of the opportunity to participate in the various social values, these acts are beyond the pale. They transgress the minimal standards of decency declared by mankind at large in the Universal Declaration of Human Rights, and the American Declaration of the Rights and Duties of Man, as well as a plethora of UN Resolutions, regional covenants and virtually all national constitutions. These international governing norms are so unequivocal and so profoundly embedded in the contemporary conscience that even those governments that perpetrate these acts feel compelled to deny them and conceal their delinquencies."

Mr. Chairman, it should be obvious that Congress needs to pass new legislation to get its message taken seriously at the highest levels of the Executive branch. Therefore, today I submit my amendment to the security assistance bill designed to establish a formula for congressional approval of executive decisions to provide aid to regimes violating human rights. This, too, is a "sunshine bill." Its major provisions are:

First. No security assistance to any country engaged in gross violations.

Second. The President shall submit an annual report to Congress regarding the status of human rights within security assistance recipient countries.

Third. Further, upon the request of either the Foreign Relations or International Relations Committees, the President shall transmit within 30 days a certification stating that there are no gross violations, or that there are extraordinary circumstances warranting continuing the aid despite gross violations—within a particular country.

Fourth. Security assistance can then be terminated by Congress within 90 calendar days.

Fifth. The legislation covers grant aid, credit sales, cash sales, licenses, and training.

I am submitting Amendment No. 1155 to your Subcommittee. There is one change in the wording from the text placed in the CONGRESSIONAL RECORD on November 20. That change is in paragraph (b). It simply makes clearer what is required of the President in his annual security assistance presentation.

SYMPOSIUM ON ADVICE AND CONSENT ON SUPREME COURT NOMINATIONS

Mr. ABOUREZK. Mr. President, on November 21, 1975, I joined Senator KENNEDY and Senator MATHIAS in convening a Symposium on Advice and Consent on Supreme Court nominations. The purpose of this Symposium was to consider the Senate's "advice" role under the Constitution in Supreme Court nominations, general criteria relevant to Supreme Court appointments, and qualifications to be applied in assessing nominees. The symposium was open to the public and every member of the Senate was invited to participate.

A panel of distinguished lawyers and scholars also participated in the symposium, sharing with us their evaluations of the nominating and confirming process as well as their analysis of standards they considered relevant to selecting and confirming a nominee to the Court.

The panelists were:

Robert Meserve, of Boston, Mass., former president of the American Bar Association;

Dean Louis H. Pollak, University of Pennsylvania School of Law;

Prof. William F. Swindler, College of William and Mary;

Prof. Alfred H. Kelly, Wayne State University; and

Prof. A. E. Dick Howard, University of Virginia School of Law.

This symposium was intentionally held before the President submitted the name of his nominee in order to focus on the Senate's responsibilities in the advice and consent process without injecting personalities as an issue. The discussions were stimulating and extremely helpful in raising the various factors which the Senate might be expected to weigh in confirming not only a successor to Justice Douglas, but which would be relevant to any Supreme Court nomination.

In order to make the record of these proceedings available to the entire Senate, I ask unanimous consent that the transcript of the symposium be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD as follows:

SYMPOSIUM ON ADVICE AND CONSENT TO SUPREME COURT NOMINATIONS, NOVEMBER 21, 1975

Participants: Senator Edward M. Kennedy, Senator James Abourezk, Senator Charles Mac C. Mathias, Senator Jacob K. Javits, Robert Meserve, former President of the American Bar Association, Dean Louis H. Pollak, University of Pennsylvania School of Law, Professor William F. Swindler, College of William and Mary, Professor Alfred H. Kelly, Wayne State University, Professor A. E. Dick Howard, University of Virginia School of Law.

STATEMENT OF SENATOR KENNEDY

Senator KENNEDY. We will come to order, please.

I am pleased to join in welcoming our witnesses this morning.

One of the most important constitutional responsibilities of the Senate is the duty imposed by article II, section 2 of the Constitution to provide "advice and consent" in the appointment by the President of members of the Supreme Court.

As a result of the retirement of Justice William O. Douglas, the Senate will soon be facing the exercise of its confirmation responsibility. In the past, as befits the importance of the Supreme Court, the Senate has been diligent in the performance of its "consent" function with respect to such appointments. But the Senate has only rarely sought to exercise the "advice" part of its constitutional responsibility at a time when such advice may actually be most useful—at an early stage of the appointment process, after a vacancy occurs, but before a specific nomination is made.

In recent years the Senate has become more effective in asserting its constitutional role in other areas of policy, especially in foreign relations and in the budget process. To a large extent, these efforts have helped to redress the balance of power between Congress and the executive branch, and have made Congress more of an equal partner in our Federal system.

This morning's symposium is an effort to develop a constructive and nonpartisan approach to the Senate's neglected constitutional role of "advice" with respect to Supreme Court appointments. The relatively large number of potential nominees submitted by the administration for consideration by the American Bar Association is a clear indication that the President is conducting an extensive search for the most appropriate candidate.

By acting at this early stage of the appointment process, the Senate is in a position to participate in the process and render its advice on the qualifications and other characteristics of potential Justices, free of the personal considerations that inevitably arise once a specific individual is nominated and the actual confirmation proceedings begin.

We meet this morning with lawyers and scholars to discuss and to learn how individual Senators and the Senate as an institution can most effectively carry out this advisory role.

First, we shall be addressing questions concerning the meaning of "advice" in the Constitution and the form such advice may take. There are a few precedents to guide us.

In 1869, a large majority of both Houses of Congress signed a formal petition to President Grant, requesting him to nominate Abraham Lincoln's Secretary of War, Edwin M. Stanton, to the Supreme Court. President Grant was already in a struggle with the Senate over a previous nomination. He welcomed a chance for a reconciliation with the Senate, and promptly nominated Stanton. But in a tragic turn, Stanton died 4 days after his name was submitted.

In 1932, President Hoover let it be known that he would like to choose a noncontroversial western Republican as the successor to Justice Oliver Wendell Holmes. But the chairman of the Senate Judiciary Committee, George W. Norris of Nebraska, made it plain to the President that he and other members of the committee would insist on a distinguished successor in the Holmes mold. And Senator Borah of Idaho, chairman of the Senate Foreign Relations Committee, repeatedly called for the nomination of Benjamin Cardozo. After a search of several weeks, Hoover nominated Cardozo, surely one of his finest acts as President.

We know, of course, that the search has not always found the best. Judge Cardozo reached the Supreme Court, but Judge Learned Hand never did.

Second, we shall be discussing this morning the various criteria and qualifications and other considerations that have been applied in the past to appointments to the Supreme Court and that should be applied today. The experts will give us their views on factors such as geography; sex; age; religion; race; judicial, legislative and academic experience; political affiliation; philosophy; the desirability of seeking a balance of these factors among the nine Justices; whether the nominee should be a lawyer at all; and whether a predictable or consistent application of these criteria is wise policy, even if it could be achieved.

A truism of American history is that Presidents change, but the Supreme Court endures. On occasion, the appointment of a Justice has been the equivalent of a constitutional amendment. Justice Douglas was still a powerful influence on the Court and the country, 30 years after the death of the President who appointed him. President Ford's choice may well have a similar impact.

Our hope is that the President will seek out the best and the ablest person to fill the Douglas vacancy. In the early 1800's, President John Adams could say, "my gift of Chief Justice John Marshall to the people of the United States was the proudest act of my life." It is in that spirit that we meet this morning, and I am pleased to welcome our distinguished witnesses.

But first we will hear from Senator Abourezk and Senator Mathias who will join with us in bringing our meeting together today. And we ask Senator Abourezk for any comments that he may have.

STATEMENT OF SENATOR ABOUREZK

Senator ABOUREZK. As we are well aware, the Senate plays an essential role in the appointment of a new justice to the Supreme Court. The President makes his appointment with the "advice and consent" of this body. Our consent is given—or withheld—when we vote on a particular nominee's fitness to sit on our country's highest court.

While the "consent" aspect of the Senate's constitutional role is thus readily discernible, the same cannot be so easily said of the Senate's duty to give its "advice" on a Supreme Court appointment. Although the Senate must, under the Constitution, offer its advice to the President, it is difficult to state precisely just how that duty is to be exercised institutionally. I say "institutionally" because the constitution is not, in my view, referring to the President's personal requests to individual Senators for their advice on the best person to name to the Supreme Court. Such advice is obtained from Senators, but not from the Senate as such.

I think that it is easier to state what this duty to give advice is not. It is not the right to choose the nominee. The Constitution states that the President nominates, not the Senate. Therefore, our advice should not be expressed in the form of a list of names from which the President must then choose. That is not our role.

However, neither do I believe that the Framers inserted the word "advice" into the Constitution carelessly. They surely intended that the word in some way affect the process whereby the Executive and the Senate play their joint role in the appointment of a new Justice. In fact, the word "advice" cries out for Senate participation in the selection process at some point prior to the strictly "yes" or "no" exercise of consent. I would like to read a brief paragraph from a speech I inserted into the CONGRESSIONAL RECORD outlining the history of this part of the Constitution.

"The Senate appointment of judges was approved by the Constitutional Convention on July 21, 1787, and was included in the draft of the Committee of Detail on August 6. Hamilton, unhappy with the diminution of Executive power, proposed as a compromise that the President appoint and nominate with Senate power to 'reject or approve,' implying that the Senate not participate in the nominating power. The Committee of Eleven, on September 4, accepted Hamilton's compromise with one significant modification: the words 'reject and approve' were changed to 'advise and consent', thereby expanding, the role of the Senate. This compromise was finally agreed to in the very last days of the convention."

If that advice is to be anything but a sham, it must be received before a particular nominee is presented to the Senate for its consent. What, then, is our role, if our advice must be given prior to giving our withholding consent, yet does not extend to suggesting names ourselves?

It is our duty, I believe, to propose certain standards which any nominee must meet. In doing so, I do not suggest that the Executive, in making the nomination, is thereby limited to considering only the criteria we recommend. That would infringe upon his power to nominate. But we can articulate those standards by which every nominee will be measured before our consent is given to his or her appointment.

It is in this spirit that I think it appropriate that we meet here today. I am pleased and honored that these five distinguished gentleman have been able to join us for this symposium. I hope that, with their assistance, we can begin to examine those standards which the Senate should consider when it evaluates the fitness of the next nominee to the Supreme Court.

Thank you.

Senator KENNEDY. Thank you very much, Senator Abourezk.

We will start this morning with Mr. Robert Meserve. Bob Meserve is an attorney from Boston and an old friend of mine. He is past-president of the American Bar Association and former chairman of the ABA Standing Committee on the Judiciary. Mr. Meserve is appearing today to share his own experiences and perspective with us, but not as formerly representing the ABA at this symposium. And we are delighted to have you.

STATEMENT OF ROBERT MESERVE, LAWYER, BOSTON, MASS.

Mr. MESERVE. Thank you very much, Senator. It is a great pleasure to be here. I am very happy to participate in this process, and particularly happy that the Senate is interested in attempting to delineate and exercise its power of advice if it sees fit to do so.

I speak today on the basis of a long-time experience with judicial nominations, not only in my capacity as the President of the American Bar Association, but also as a former chairman of its committee. But I would like to emphasize your remarks, Senator, that I do not represent the American Bar Association here. I speak as a private individual with a tremendous interest in the subject matter in the hope that I can be helpful.

I should start off by saying that I think the objective to which we would all subscribe is obtaining for the vacancy the most distinguished and presumably the most able person that we can possibly find to discharge the duties of that high office. It is, indeed, a most significant one, and one which needs the cooperation of everybody concerned in the nominating process in order to reach that objective, which is clear, and I am sure is agreed to in principle by all the parties participating in it.

Lawyers, it seems to me, have a particular responsibility here but that responsibility, as far as the American Bar Association is concerned, its committee is limited to an analysis of what we might loosely call professional qualification. I think it would be very unfortunate if a committee which has been called upon repeatedly by Presidents to express its opinion on judicial nominations, both to this Court and to our other courts, should ever attempt to make a selection based on political or ideological grounds. Those are very important considerations, perhaps the most important considerations that the Senate should consider.

I think it would be unadvisable for the bar or a committee of the bar to attempt to exercise that prerogative. What the bar can do and what the American Bar Association committee attempts to do is to pass upon professional qualifications. And specifically, it has said in a report to the house of delegates of the bar that it will limit its report to professional qualifications of the nominee, his integrity, his judicial temperament, and his professional competence. It will not attempt to report on political or ideological matters. And as far as I know, that report, which was made in 1970, still states the policy both of the Bar Association and of its committee.

I have not myself, since I ceased to be chairman of the committee, regularly attended its meetings, taken part in any discussion of any nominee except as my advice might be asked as to some individual or individuals with whom I was acquainted.

I stand ready to answer any questions, but I think any more general remarks from me might not be helpful.

Senator Kennedy. Thank you very much, Mr. Meserve.

I would like to examine this criteria somewhat more elaborately. For example, in the area of integrity, is this just a question of honesty, or does it go beyond that?

Mr. Meserve. Well, I think I would rather define the word integrity as including all kinds of honesty. It seems to me that it is not just a question of whether a lawyer will make way with his client's funds, something obviously dishonest of that sort. The issue of integrity, as I see it, goes to his intellectual integrity as well, and his representation of his clients if he is a practicing lawyer, whether or not in his representation he makes clear the areas where he himself is speaking for himself and where he is speaking for his client. He makes clear his professional interest where one exists and does not try to tell people, in effect, that this is my opinion when it is an opinion that he is paid for giving.

That is the sort of integrity, Senator, to which we also address ourselves, although, of course, in the obvious cases where there is a question of financial integrity, we surely would be interested in that. I cannot concede that any President would knowingly, at least, nominate anybody whose character in something of that kind was attacked.

But on the field of professional integrity, it is a much broader scope I think than the word integrity alone would suggest.

Senator Kennedy. How do you go about measuring judicial temperament?

Mr. Meserve. I wish, sir, that I honestly could tell you that I knew. I think that it is a question of investigating attitudes, whether or not the person whom by definition by being a man who has been in the life for a period of years has an attitude which indicates that on the Bench he would try to decide the case on the merits of the matter and not on the basis of preconceptions, not on the basis of who is pressing the matter and so forth, and he will not be irritable with counsel or, in the case of the lower court judge, with his witnesses and parties. That he will give everyone an opportunity fairly to speak his mind, and will weigh the evidence or the arguments as best he can.

That is what we mean by judicial temperament. How you go about determining it is very difficult. With some people it is not. If you have the history of a judge who habitually harangues his litigants in court, and so forth, you know that his judicial temperament wears pretty thin pretty quickly and you surely would not recommend him for advancement.

Senator Kennedy. In the area of judicial competence, is the criteria of justice competence within the particular field where that individual has been practicing, or does it have a broader definition? Do you think political experience is considered professional experience?

Mr. Meserve. That, as you know, of course, as a lawyer is a double question. Let me first say that as far as political experience is concerned I think that our members of the American Bar committee, although they do not go into questions of political views, would regard political experience as a plus. We think it is obviously a duty of an American citizen to participate as far as he can in the political process, and we are very well aware that people that have occupied political office, particularly national political office in this case are people who have been subjected to ideas and have formed ideas which may be very valuable on the Bench, and we would regard it as a plus.

But we would not regard it as the equivalent of professional experience, which is the other issue to which your question directs itself. We would feel, and this gets back to a suggestion made by Senator Abourezk, we would feel that it would be at this time in the life of our country extremely unfortunate if the President or the Senate were to adopt the option, which is theirs under the Constitution of nominating someone to this Court who is not a lawyer. We feel that only a lawyer will have the ability to deal with the great number of cases which come before the Court, to determine those which are significant in the legal sense and so forth. We think it would be very unfortunate if a man were selected who had never studied law, and he would spend the next 4 or 5 years on the Bench studying law at Government expense. And we think this would be unfortunate, even though he had a very good mind, and even though he had a very good idea of the political process.

There are many, many cases which come before any court, including the Supreme Court, which are not heavy, at least in political content which involve a knowledge of the history of law and involves the knowledge of how the law is practiced from the point of view of a practitioner.

Senator Kennedy. Would the nonlawyer be automatically stamped nonqualified?

Mr. Meserve. The problem has never arisen, Senator. I would not want to commit my successors. But I think the chances are very good that a nonlawyer would not be regarded as having that professional standing.

Senator Kennedy. I know, and I am sure you know a certain reporter, and I will not mention his name, who prior to the time that he was going to report on the Supreme Court decisions went up to a distinguished law school in our part of the country, Harvard Law School, and in 1 year took courses in the first, second, and third year and received straight A's in all of them. He then reported his experiences and had a distinguished record in writing reviews of that. Obviously that is an extraordinary and unusual case, but I suppose, and your point I believe is well taken, in terms of the weight that has to be given to any qualified lawyer, regarding the burden that would have to be overcome by someone who is not trained as a lawyer.

Mr. Meserve. That, Senator, is exactly why I said I would not commit my successor. It is possible. Although I doubt it that such an extraordinary case could arise.

I would like to address myself to your other question, if I may, and it concerns the question of whether or not we look for a professional competence in a limited field as, for example, a lawyer who has spent his life practicing patent law and was a very good patent lawyer. I have a very strong feeling on that, Senator, and my feeling is that we are interested in lawyers for the Supreme Court particularly who have demonstrated that they are more than practicing lawyers. We want practicing lawyers or lawyers who have practiced, who may be teaching in law schools or something of that sort. But beyond that, we want lawyers who have shown in some way a knowledge beyond the knowledge of a specific field of law, who have covered many fields of law, who have shown an intellectual interest and an ability to get beyond a particular and search for the general; one of the duties I think of a Justice of the Supreme Court of the United States.

Senator Kennedy. Last summer the ABA adopted a resolution on women in the judiciary. As I understand the resolution, it is general in nature. Do you believe that special emphasis should be given to seeking a qualified woman as an appointee to the court?

Mr. Meserve. Yes. I feel very strongly that that language does not direct itself to the issue that at any given moment in history it is important to create a seat specifically for a woman, or to appoint a woman in an instance where it is clear that there are available people of the other sex who are more competent than she. I think it is, however, a very important generality.

I supported the idea that a competent woman should be on the Supreme Court. I think it is very unfortunate, Senator, when a given seat on the Court becomes designated as a Jewish seat, a New England seat. Incidentally, we don't have any now as you know. Or some other group representation. I think both the group and the individual may suffer. I think that in every instance the objective ought to be to find the best qualified person, male or female.

Senator Kennedy. People do think that special seats might be for special groups and they might be entitled to special seats on that Court. Doesn't this theory have an impact of lessening the stature because of the public perception that the nominee was not subjected to the same rigorous standards since he or she fits some category?

Mr. Meserve. Exactly.

Senator Kennedy. Some particular pigeonhole?

Mr. Meserve. That is the point that I was trying to make I think. You are absolutely correct. I think if I had the good fortune when I was young enough to do so, to have been appointed to that court, I hope I would not have been looked upon, if I had been appointed, as the holder of the New England seat, or as the white, Anglo-Saxon, Protestant seat, or whatever particular group I might fall into. I think that would be demeaning to me and demeaning to the Court. And I would surely hope that we would continue the process of surveying the whole field when a vacancy exists.

On the other hand, I do feel very strongly that the Court ought in a broad sense, and not in any theory of proportional representation, to be truly representative of the people of the United States. And I would hope that that general overall policy, which applies to geography as well as ethnic origin, race, sex, all of these things would be served by a President. But not to the extent of handicapping the President and the Senate in the selection process.

Senator ABOUREZK. On this panel you are, I think, the only practicing lawyer at this point.

Mr. MESERVE. I am very conscious of that, sir.

Senator ABOUREZK. I think I know what your views are on whether or not the nominee ought to be a practicing lawyer or someone who has practiced; but how valuable, in your view, is the nominee's activities as a legal scholar? Would legal scholarship be sufficient if he did not practice?

Mr. MESERVE. For the Supreme Court of the United States, I would feel that the qualifications are very difficult to define in advance. I would say that my good friend and former professor, Felix Frankfurter, for example, was a distinguished Justice of the Court, that his actual practicing experience was extremely limited, and that he came to the Court essentially from the cloister. And I think he did a very, very good job, although there were some I know who would disagree with me.

I think that generally speaking it is unfortunate that there are too many law school "legals" today who perhaps have not had the background of practice, because that would be useful to them as professors. But nevertheless, just as I would think that it is not necessary to appoint a sitting judge by promotion to the Supreme Court, but that the nomination could be made from the bar, so I would say the nomination clearly could be made, and in many instances might profitably be made from academia.

Senator ABOUREZK. Now, there have been a lot of commentators since Justice Douglas announced his retirement who have talked about the politically best thing for President Ford to do with this nomination. Some have said now is a perfect time to pick a woman because that would be good for his election next year. Others have said that in order to ward off the Reagan challenge he will pick a conservative or someone of Governor Reagan's philosophy. Would you comment on those kinds of observations?

Mr. MESERVE. I think you have suggested my answer. As a lawyer, I would feel in the first place that I was unable to comment upon the fitness of any person who is chosen on such a basis, and I would hope that no person would be chosen for a purely political reason. I would surely expect that any person that was chosen would be in part selected because of his or her political views, but I would hope that the person to be selected would not be selected in order to gain political advantage for the President or anyone else. And I surely have enough confidence in the Office of the Presidency to believe Presidents would not nominate to this distinguished office for that purpose. And if they do, I should think that the public reaction would on the whole be unfavorable rather than favorable.

Senator ABOUREZK. Now one final question. It has been suggested that perhaps the Senate ought not to be involved in establishing qualifications for a nominee. Given the circumstances under which President Ford came into office and the length of time he has left, and the difference between the Senate considering nominees for the Cabinet as opposed to the Supreme Court, do you view the increased activity of the Senate in this regard as good or bad or indifferent?

Mr. MESERVE. Well, it is in my opinion fully good, and I emphasize again I speak as an individual, and not as one connected with the American Bar Association. I think it is very desirable that in advance of a particular nominee as to whom there may possibly be ideological or political objection on the part of an individual Senator, that the Senate make it clear to the President that they are interested in obtaining for the office regardless of politics the most outstanding practitioner of the law that can be obtained at this time from the bar and who, and I hasten to add to that, who gives a reasonable prospect of being an effective member of that Bench for a reasonable period of time, given normal human life expectancy.

Senator ABOUREZK. Thank you.

Mr. MESERVE. Pleasure.

Senator KENNEDY. Given the fact of the importance and significance of the Court's workload, and the statutory interpretation, is legislative experience more or less important as it might have been in the past history of the country?

Mr. MESERVE. Everything is so much more intensified, Senator, that I think it just becomes a question of degree. I do not think legislative experience is any more or less important today than it was when Senator Black was nominated, for example.

I would say that given that, however, I regard legislative experience as a plus, but not as a replacement for adequate experience at the bar, professional experience.

Senator KENNEDY. Thank you very much. You have been very, very helpful.

Mr. MESERVE. Thank you, Senator.

Senator KENNEDY. Dean Pollak, we are glad to have you here this morning. Dean Pollak is with the University of Pennsylvania School of Law, and a distinguished author of "The Constitution and the Supreme Court; a Documentary History." Would you like to proceed?

STATEMENT OF LOUIS H. POLLAK, DEAN, UNIVERSITY OF PENNSYLVANIA SCHOOL OF LAW

Mr. POLLAK. Thank you, Senator Kennedy. It is a great pleasure and privilege to meet with you and Senator Abourezk this morning with this distinguished group of experts, including our one practitioner, Mr. Meserve. I am sorry that he had to depart to get back to the act of practice.

But I do want to say that I think the United States is greatly indebted to the efforts Mr. Meserve and his colleagues in the American Bar Association, most especially Mr. Bernard Segal, have made over the past many years to be of assistance to Presidents in the selection of members of the Federal judiciary, and especially the Supreme Court justices. Of course, as Mr. Meserve properly said, that assistance has to be characterized as one of responsiveness to requests for professional judgments rather than the individual function which the Constitution vests in the Senate, as you so well pointed out, Senator Kennedy, in your opening remarks.

There is no private group which can wish or be permitted to substitute itself for the responsibility of the Senate in this regard, and I know the American Bar Association feels very deeply that constraint on its role. And for these reasons I think I'm sure I speak for all of us here this morning whom you have asked to come and meet with you, we feel very happy to have the opportunity of discussing with Members of the Senate the responsibilities which the Senate bears, together with the President for assuring that appointments to the Supreme Court are of the highest quality and will carry forward our constitutional traditions.

I suppose no more important evidence of the consequences that we are discusing today could be adduced than simply a moment's recollection of the extraordinary career of the Justice whose place is now vacant. It is quite evident that Justice Douglas has given to this Nation an extraordinary constitutional heritage. I would like if I may, Senator, simply to pick up briefly on some of the matters which were in discussion between you and Senator Abourezk and Mr. Meserve.

Senator KENNEDY. I thought what we might do is to ask each of you for brief observations as to the remarks of Senator Abourezk and his opening statement and my own and in some of the areas we have just touched on here; and then come back to some discussion within the group. And I would hope that at any time you want to interrupt each other to comment, please do so. I want this to be as interactive as possible.

Mr. POLLAK. Fine. Well, I would certainly appreciate being interrupted, and I think it would lend some to the process.

First, Senator, you inquired as to whether politics and participation in politics is an important attribute, or one really not to be given weight. For myself, I would have to say that as we survey the persons, the 100 persons who have constituted the Supreme Court over our history, and those who have contributed most greatly to it, I think we would have to conclude that participation in public life of this country is a major qualification, not perhaps an indispensable qualification, but likely to be a major qualification predictive of important achievement. And I won't quite say, as I understood Mr. Meserve to say, that it cannot be a substitute for the active practice of law.

I think, picking up on your question, Senator, as to the utility of legislative experience, though I am not disposed to say it is more important, being a legislator is a more important qualification now than it has been in the past, and I do think that participation in the legislative process in certain other aspects can be very important as a preface to a judicial career. If I may reach back into an episode, for example, that has now passed, I recall when Congressman Poff's name was suggested for the vacancy that ultimately went to Justice Powell. The point was made that he had had very little experience in practice, and most of his professional life had been in Congress. It strikes me that there was a Congressman whose special participation in the work of the House Judiciary Committee at a number of devoted and disciplined professional levels gave his candidacy a seriousness which, with all frankness, I would not say would be spread over all Members of either the Congress or the Senate, whether lawyers or not. I suppose what I am saying then is that if one would look at particular instances one could conclude that in some circumstances participation in the legislative process could itself be regarded as professional attainment of an important kind.

But this gives me the opportunity to say something which I hope won't be taken as rudeness, Senator. But if it is taken as rudeness, then so be it. It would be, in my view, very regrettable if the Senate were to continue what I think has been a traditional practice of giving virtually no serious scrutiny to nominees from the Senate itself and nominations from the House of Representatives.

Senator KENNEDY. That is not rudeness, that is just accurate.

Mr. POLLAK. I thought what I said was descriptively accurate. The rude part might be my suggestion that it was time for the Senate to mend its ways.

Senator Black turned out to be one of the great ornaments, as we know, of our Bench. But it need not have been so. And I would hope that the Senate could begin to conclude that if a Member of the House of Representatives or the Senate were proposed for a seat on the Supreme Court of the United States, that Member should be subject to the same kind of rigorous scrutiny that any other nominee would, or suffer the fate which you identified, Senator, as being regarded as having lesser stature because he or she was cleared routinely. So that is my rude intervention.

With respect to whether a nominee needs to be a lawyer, I appreciate Mr. Meserve's opinion, and I guess I would have to disagree with it in principle. I was informed a few months ago by——

Senator KENNEDY. I do think that the point that is raised about the clubby atmosphere of the Senate in terms of the consideration of one of its own is a fair and legitimate point to be made. We have seen the review of the now President Ford's qualifications at the time that his name came up as Vice

President. There was a careful review that was made both in the House and the Senate that would indicate that there is also a situation where in the recent past they had exercised that responsibility in a meaningful way. The record is clear on both sides, and I think what you are doing is flagging an important warning. The judgment that the Senate must make from this particular constitutional requirement should be as strict for one of its own Members as it would be outside.

Mr. POLLAK. Well, I very much welcome that observation, Senator, and I certainly would applaud the candor with which the Congress addressed the nominations of Congressman Ford to be Vice President and, indeed, Governor Rockefeller to be Vice President. There is some chance that some people might perceive the 25th amendment standard and the congressional involvement there as a more searching one than at the judicial appointment level, and I am glad we are in agreement that they should not be.

I was simply going to say on the point of whether one had to be a lawyer at all, it was recently pointed out to me that Professor Corwin had had a lingering sense of neglect, that he had never been considered for the Supreme Court, and it seems to me quite clear that he would have been an ornament to that Court. I have been thinking before you mentioned your anonymous journalist, Senator, that there, indeed, was an example of a person, whose identity I would not reveal by referring to his book, "Giddeon's Trumpet" or his distinguished lectures at the University of Pennsylvania a couple of years ago on lawyers and civilization, but clearly one knows of nonlawyers who are as fully versed in the constitutional process as lawyers. I see no likelihood that a nonlawyer would be nominated, but I think the record, the constitutional record should be clear that there are nonlawyers qualified to participate in the constitutional process. I even think there may be journalists, and I think I know of one journalist in the room whose anonymity I will not break, who has shown in his writing of the Court's work the same kind of qualities that we would like to look for.

Senator KENNEDY. How do you think the other 10 journalists feel?

Mr. POLLAK. I have not indicated where I was throwing that golden apple, Senator.

If I may, I would like to turn to the question you raised and discussed with Mr. Meserve about the appropriateness of considering qualifications such as sex or race or religion. I think it is very important that we address these concretely. I think I would, in some respects, differ from Mr. Meserve in emphasis, though certainly not in his conclusion that the primary, the primary responsibility is to select a Justice of the highest professional rank, or with qualities of constitutional judgment which would forward our vital processes.

I would think that in 1975 it would be an important ingredient in a President's thinking and in a Senator's thinking to be concerned with finding within the universe of the highly qualified people, finding a woman to serve on the Supreme Court. I emphasize again within the universe of highly qualified people.

Why do I say that? Not because I think the Supreme Court ought to be a representative institution, but because it is an institution in whose composition and processes the American people must have confidence. I think it is entirely apparent that most of our two centuries of national existence were a period in which black citizens looking at the Supreme Court could not see in it any indication, from the endless procession of white males who served on it, that their citizenship was being taken seriously. And when Mr. Justice Marshall was appointed to the Court, it was an appointment long overdue. He is one of our most distinguished lawyers, quite obviously, at the highest level of professional achievement. But, he had been so for many years before his appointment. And one might add, that Judge Hasty had been at the same level of professional achievement for a long time, and there were other black lawyers, such as Charles Houston, before them who would have ornamented the Supreme Court of the United States and were not there. One cannot help but think that the institution suffered in terms of the view taken of it by millions of American citizens.

In that sense, it was important that there would be a time when a black Justice would be appointed. That does not mean, in my view, that one must always have a black member of the Supreme Court. But one must be sure that the Court over the long term fairly reflects our pluralist society.

For decades now, we have generally had, but not continuously had a Catholic Justice. I think it was an important thing which President Truman did after the death of Mr. Justice Murphy not to insist that his successor be a Catholic. In the same sense, I think, though I am not on the whole an admirer of some of President Nixon's views about the Judiciary, I think it was an important thing that he did in concluding that it was not essential that a Jew be appointed to succeed Justice Fortas, for the reason that the point had been made. Whether we have a Catholic or two or three on the Court at any given time, or a Jew, or two or three on the Court at any given time, is now no longer important. It was important. It was important when Brandeis was appointed that that supremely qualified Justice not be turned away for the variety of biased reasons for which he was opposed. It was very important when Chief Justice Taney was appointed to the Supreme Court of the United States, that that Catholic lawyer and political leader not be turned away because he was a Catholic.

But once we have established the principle I think there is no longer a claim for any particular ethnic or religious place on the Court. Therefore, in order to establish the pluralist principle as it relates to women, I think now, or very soon, it would be appropriate for a President to give affirmative consideration to the sex of the nominee.

Senator KENNEDY. Thank you Dean Pollak. Professor Swindler, we will now hear from you.

Professor Swindler is a distinguished professor at the College of William and Mary and the author of "Court and Constitution in the 20th century."

STATEMENT OF WILLIAM F. SWINDLER, PROFESSOR, COLLEGE OF WILLIAM AND MARY

Mr. SWINDLER. Thank you, Senator Kennedy.

I was interested in Senator Abourezk's remarks that the function of the Senate in advice and consent with reference to appointments, to the judicial branch, particularly to the Supreme Court, carried with it substantially more significance and responsibility on the Senate's part than perhaps other Executive nominations to other executive branches, because after all, the judiciary is the third branch of Government. Therefore, the other two branches would, in principle, seem to me to share equal responsibility in finding the people who are going to be permanent occupants of those positions, as distinguished from appointments that perhaps are terminal with the administration of a particular time.

Much has been suggested about the ambiguity or the lack of knowledge of the word advice, and I suggest that probably, in the beginning, it was assumed that it was a matter of political reaction on the part of the legislative branch to the proposals of the executive branch that were considered, but in the original drafting of the Constitution, it probably was a matter of politics in terms of the elite group who ran politics at that time. That was perhaps sublimely in the minds of the Founding Fathers.

Nevertheless, the record shows that almost immediately the politics that was practiced in advice and consent was politics in the well-known sense of the word.

Now, we perhaps have a good deal to learn from the procedures of some states. I am thinking of the judicial nominating commissions which have sprung up known as the Missouri plan and the California plan and so on, over the years, in an effort to avoid the most partisan and least responsible elements of political consideration going into judicial selections. We have gotten only as far as a proposal, I believe it was by Senator Nunn, that there be a judicial disciplining review committee, to act after the man is already on the Bench or already has been on the Bench, which might be the analogy to be drawn from the States that applies to the Federal government. Absent the possibility, perhaps even the constitutionality of the nominating commission at the Federal level, it would seem to me that the function of the Senate and particularly the Senate Judiciary Committee, in lieu of such a screening function, but all the more important, should be to address itself to the matter of what are the guidelines that the committee ought to follow.

In an article that I did for the American Bar Association Journal in 1970, I reviewed at that time the historical record of rejections by the Senate of Supreme Court nominations by various Presidents.

There were 11 that were on record as having been specifically rejected; there were 26 altogether who represented proposals of nominations by the Whole House which, for one reason or another, were not successful. Eleven of these were specifically rejected by a recorded vote. A substantial number of offers were withdrawn by the President when he saw the political handwriting on the wall. Still others were a matter of the Senate or Congressional Record euphemism called postponements of action, which simply meant that the Senate had no intention of taking action. This was usually when the end of a term was reasonably in prospect.

What this says, I suppose, is that essentially and perhaps desirably, some political considerations in a nonpartisan sense, are factors in the legislative review of the Executive proposal for the third judicial branch. Political considerations then probably are unavoidable, and perhaps desirable, and if that is so, I would voice what Dean Pollak probably was too diplomatic to voice, and say that it is probably politically opportune for all parties concerned to consider the candidacy of a well-qualified woman to the judiciary at this time. It would certainly be the last major social factor to be addressed and disposed of, whereafter, the question becomes academic.

I would hope that in the event of a woman candidate, once the qeustion of a woman's being capable of being nominated, politically capable of being nominated, has been settled, the Senate Committee would then address itself to qualifications with the same degree of pragmatism and political consideration as well as professional considerations that it would use with reference to a man.

Among various terms that perhaps we can discuss in due course would be this matter of colleagual courtesy or Senatorial courtesy, which I would hope would not be equated with or considered to be synonymous with absence of painstaking scrutiny of the candidate in any event. But the sum of what I wanted to say was essentially that it is a political proceding, it was undoubtedly considered from the beginning as being a proceding of high politics, and that this is essentially the ultimate effect that we will have to keep in mind when the decision is made in a prospective case, whoever the individual happens to be.

Senator Abourezk. Thank you, Professor.

Senator Kennedy. I want to recognize the presence of Senator Javits here who is a former member of the Judiciary Committee and has been enormously interested in and involved in all of the considerations of qualified individuals for the Supreme Court and in all of the debates. Jack, we welcome you here.

Senator Javits. Thank you, Mr. Chairman.

Senator Kennedy. We hope that you will participate to the extent that you wish during the course of this symposium.

Our next panelist is Professor Alfred H. Kelly. Professor Kelly is from Wayne State University and author of "The American Constitution: Its Origins and Development."

STATEMENT OF ARTHUR H. KELLY, PROFESSOR, WAYNE STATE UNIVERSITY

Mr. Kelly. Thank you, sir. It is an honor to be here. I appreciate it.

Let me make a statement which I think is almost the exact opposite, in one respect, of which Mr. Meserve made. I would argue that it is imperative that a Supreme Court appointee be a politician in the best sense of the word, that he be a public man who has participated in the public life of the Nation and that is aware of public issues and has participated in that procedure, as we understand it, and that he knows something of political reality as well as the technical aspects of the constitutional system.

I could approach that from a variety of different points of view. Just sitting here and jotting as my colleagues here spoke, I have put down a list of what might be called distinguished judges. Since I just did this off the cuff, I cannot claim that they represent any exclusive list. But the generalization that came to me as I thought about it, and I had thought about it before, is that they do not represent any particular kind of public man, but they are all politicians in the best sense of the word. Since they are dead, most of them or all of them, I suppose they are statesmen now.

But, in their day, they were involved very much in the political process: Marshall, a Congressman, a diplomat, as well as a practicing lawyer; Story, a Congressman, a Republican politician; William Johnson, Congressman, Republican politician; Taney, a Federalist and Jacksonian politician, Cabinet officer who got his payoff on the deposits question; Chase, Democratic Congressman, Lincoln's Secretary/Treasurer; Field, Republican Congressman; David Davis, Senator; The first Harlan, Republican Conrgessman; Hughes, before his first appointment, Governor of New York, before his second appointment, presidential candidate and Secretary of State. Brandeis is almost the only one you can think of offhand, with one or two exceptions, who had not held public office but he was a public man in the extraordinary sense of the word, and certainly a politician.

Black, the U.S. Senator, and Stone, law professor and Cabinet officer. Frankfurter, a public man, certainly as his writings revealed, even though technically he had been a professor for the most part at Harvard Law School.

The single thing that stands out in this list, and my colleagues here could add to it, or subtract from it, is that those men all had distinguished careers as public figures. They understood the give and take of the politics, they understood the political process, they had been successful at it. They knew that in a constitutional democracy there is a reflex arch relationship between the people and the political process and the responsibilities of office.

I do not think that can be put aside. I think it is naive to assume that the President of the United States would not take into consideration the element of politics in a nomination. I do not know the politics of every nomination, and I doubt if anybody has studied them that closely, but of the principal ones that I can think of, both successful and failures, the political aspect was prominent in the President's thinking, and it was also prominent in the Senate's thinking. I think it is ridiculous to say that it would not be a factor.

There is a second reason why I think it is important to appoint a public man. The word politician seems to be tainted, so let us speak of him more as a public man, although for me the word politician is not tainted. A public man is needed becaues of what I as a constitutional historian, I would call the somewhat altered character of judicial review. Now, I would argue that since the great judicial crisis of 1937, and after an initial period of self-denial, the Court has emerged as a new kind of legislative body. I am using that in a very broad way. But, it has taken on the characteristics of solving certain social, political, constitutional, and economic problems, which I am sure the Founding Fathers thought of as being essentially legislative in character. I am thinking of the *Brown* decision, for example. I am thinking of the birth control decision of 1965, the *Griswold* decision. I am thinking of the decision with respect to abortion, I am thinking of the death penalty decision. Those are public policy decisions, they are legislative decisions in the highest sense of the word.

I know the word legislative here can be subjected to technical objections, and I recognize that. But, what is involved here, if one reads, for example, the birth control or abortion opinions, one sees that they are a mixture of constitutional law and considerations of public opinion and public policy.

Though technically, in the *Brown* opinion, the Court didn't do this, nonetheless, if you look at the unanimous opinion of the Court in that case, what one sees behind it is very clearly a public policy position. What the Court is passing upon is an aspect of social revolution which it is recognizing and which it is giving life to in the Constitution.

I cannot conceive of a President of the United States not taking this factor into account, and I think it must be taken into account. And I think the success or failure of a Judge on the Supreme Court comes from whether or not he is a public figure in the highest sense of the word.

I keep saying the highest sense of the word. I do not mean in a narrow, partisan, mean sense of the word, but perhaps a partisan in the highest sense of the word also. I think if I were to describe Justice Douglas' career, or Justice Black's career, or the second Justice Harlan's career, or the first Justice Harlan's career, I would say that on the Court they were politicians in the highest sense of the word. They were aware of the meaning of what they did and the consequences of their action on the growth of the social order, the economic order, the political order, the political mix in the country, the thrust and direction of the American constitutional democracy.

I think that a President of the United States and the Senate must take that into consideration.

For the rest, I subscribe, I think, for the most part to the observations of my colleagues. And I will not detain you at length. I do think that the observation that the time has come to appoint a woman——

Senator Abourezk. Professor Kelly, may I interrupt you just a moment before you go on?

Mr. Kelly. Yes, sir.

Senator Abourezk. What you have just finished describing I think is perhaps a confirmation of the charge that is sometimes leveled at the Supreme Court that it merely follows the election returns, and perhaps anticipating them. You stated that all of these public men were well aware of the effects of their decisions on politics and society.

Mr. Kelly. It is not quite the same thing, Senator, as saying they followed the election returns. Though I think they often have. I agree with Mr. Dooley on that subject.

Senator Abourezk. Yet, I wonder if that kind of a judge, then, is able to make a decision, when he is aware that it might be a very unpopular decision but nevertheless one that is just in terms of what I guess you and I might think of as being a just decision. For example a desegregation decision which might be very unpopular politically at the time, but the right thing to do. Would your criteria then allow that kind of a Court or Justice to do that sort of a thing?

Mr. Kelly. I would even dare to apply the concept of independent judgment to a United States Senator on occasions. That is to say, I think the American political process at its best is not merely one in which politicians are supposed to be stifled. I am aware they often are, but I prefer to conceptualize the relationship as a reflex arc, that is a United States Senator should be a molder and a leader of public opinion, not just a siphoning process in a computer. I am aware of the paradox that is involved in that in a democratic state.

Senator Abourezk. That phrase is used on the stump all of the time, but in practical reality I do not see too much of it.

Mr. Kelly. Well, I think that as a constitutional historian, I would argue with you a little about that, but that is a little off the theme of what we are getting at here. But, I would insist that a Judge of the U.S. Supreme Court have the power to make independent and even unpopular decisions. And my colleagues here also could give you a list of a dozen decisions that were fraught with political implications and which I think, on a majority basis in the United States in the last 20 years, would have been voted down if they had been put to the public. That does not mean that they were not political decisions.

By saying they are political, I do not mean that they reflect, in the narrow sense, a computerized process of democratic development. What I mean is that the man who makes them is aware of the process, that constitutional law is dynamic, that is growing, that it has a relationship to the thrust and the direction of the democratic process and to the growth of the country at large. And he is aware of the meaning of it in that sense of the word. I would certainly expect him to have independence of mind, conviction, and philosophic awareness of what he was doing. He has an appointment for life to protect him against political reprisal and he certainly ought to be able to take advantage of that.

I think one could take, for example, the decision on separation of church and State. If the four or five great decisions on separation of church and State with respect to parochial schools in the last 5 years were put to a popular vote in the three States that they have affected the most—Pennsylvania, New York, and Rhode Island—I think they would have been voted down by a large majority. Yet those were political decisions in terms of a thrust and direction which they gave to the constitutional system.

I do not mean to say that they do not involve high questions of principle about the nature and the character and the destiny of the American constitutional system, because I think they did. One could argue that, on both sides, whether he disagreed or agreed. But, I also think that they were public policy decisions with profound public policy implications.

I think those Justices, from Justice Marshall, who understood this very, very well indeed, to Justice Warren, who certainly understood it also, have been the most successful as Justices on the Court. I do not think we ought to shy away from the political observation about the Court or the character of a political appointment. Beyond that, it seems to me that these men come from every conceivable kind of background. And one thing that stands out is that they have not particularly been experienced in the judicial process in the narrow sense of the word.

I deliberately gave you a list of men that does not include a single appellate or district judge, either on the Federal or the State level. We could put another list along with them. There obviously have been some great appellate judges that went to the Court, Taft, Holmes, Cardozo, White and so on, and someone could lengthen that list greatly.

But, the important fact is that many Justices have often been politicians, that is to say men whose roles have been that of legislators, Congressmen, Governors, or Senators and the like; these men have more often than not, I think, been the stuff out of which the great Justices have come. And I would argue that that is not an accident, that they have understood the political process and what the role of the Court was. And I would argue also that a more controversial point, is the changed character of judicial review which has caused the Court to take over certain legislative functions, when legislatures themselves seem to be paralyzed. I mean by that, for example, the *Baker* decision with respect to apportionment. The fact that the Court performs that function now, and it can be argued that they always have, but they certainly perform it now, makes it more important than ever that the President appoint and you confirm a public man.

I have ideas about a lot of these other questions, too, but I have spoken long enough.

Senator KENNEDY. Thank you Professor Kelly. Professor Howard, we are delighted to have you here. Professor Howard is professor of law at the University of Virginia, author of many articles on Justices Black and Powell, and currently writing a book on the Burger Court. And we will not hold the fact that you are an old classmate of Senator Tunney's and mine against you.

STATEMENT OF A. E. DICK HOWARD, PROFESSOR, UNIVERSITY OF VIRGINIA SCHOOL OF LAW

Mr. HOWARD. Thank you for getting to the most important part of my credentials.

Senator KENNEDY. Number one in our class.

Mr. HOWARD. Thank you. You will be remembered in a better world for that kindness.

Like my colleagues here, I have no prepared statements or remarks. But your introductory statements and those of Senator Abourezk suggest to me two fundamental questions which in my judgment would concern you and your colleagues on the Senate Judiciary Committee.

One of those questions is the essential and legitimate role of the committee and the full Senate in passing on a nominee, to what extent is the Senate to conceive of itself as being an equal and full partner in the process of seeing who goes on the U.S. Supreme Court. And the other question is one that has been addressed at greater length here today, and that is by what criteria do you make that judgment in passing on a nominee.

The first question need not detain us very long. A good deal could be said about it. There have been times in history when one might think that the Senate had slid into a somewhat junior partner kind of role; that unless the nominee were extravagantly out of the ball park, unless he were grievously unqualified and flawed in some singular kind of a way, then the Presidential nominee simply ought to be confirmed. Were we sitting here 10 years ago, one might well have argued that, whatever the original intention of the framers of Artile II, there had arisen, especially in the early part of this century, a generous presumption in favor of a nominee. Under such a presumption, only clearly unqualified nominees would be rejected. I think the events of the last few years have cleared the air on that point. The Senate has properly reasserted itself as having a full and plenary role to play along with the President, who makes the nomination.

There is certainly nothing in the text of the Constitution, there is nothing in the Philadelphia debates of 1787, nothing in the Federalist Papers, nothing in the Constitution's text or history which requires the Senate to assume a deferential role, and it seems to me, therefore, that constitutional law, as well as good public policy will both argue in favor of a thorough, ongoing kind of a review. The Senate, after all, will find its legislation passed on by the Court as much as the Executive will find its actions under review. That alone will argue for your taking great care with nominees.

So, I will not linger on that point, unless you perhaps later on have some questions about it.

Let me turn, therefore, to the question which has been more fully addressed by my colleagues on the panel, that is the question of by what criteria should the Senate pass on a nominee, and what sort of qualifications should one take into account, the ethics, integrity, professional competence, age, geography, race, religion, sex, politics, partisanship, and so forth. To answer that kind of question, one would do well to begin with some assumptions about what he thinks the Supreme Court is there to do. Were I sitting on the Judiciary Committee, the criteria which I would use would turn on some underlying assumptions about the Court.

For example, if one conceives the Court as sitting essentially as lower courts sit—trial courts, State courts, Federal district courts—as a court to try cases and give a legal judgment, if that is the kind of court the Supreme Court is, then one is primarily concerned about professional qualifications in the narrowest sense. That is to say, good lawyers with good credentials, with first-class legal reputations, respected at the bar, men of intellectual, legal, professional sharpness who can make a judgment and write a persuasive opinion and decide on a set of facts. There is some element of that in the work of the Supreme Court, and to that extent, I think a nonlawyer might well be handicapped on the Court.

But, one tends to be so engaged by the cases that have a public appeal, the church and State cases, the free speech cases, the civil rights cases, that one tends to overlook that a great range of very technical decisions come out of the Court. Labor, antitrust, regulatory agencies, and so forth. In cases of that kind, the nonconstitutional part of the Court's business, the lawyer's abilities I think become more important. But, surely, nobody living in 1975 can suppose that that is all the Court does. It is not simply like other courts.

Felix Frankfurter and others who have written about the Court have very persuasively driven home the point that men and women, appointees, nominees who go from other courts to the Supreme Court find that it is a new ballgame, it is not the one they played when they were on the New York Court of Appeals, or the Federal District Court or the Circuit Court of Appeals. That being the case, one has to take into account the sorts of things that Professor Kelly had in mind; namely, it is a court that does more than simply decide cases in the narrow, legal fashion. It is the Court that mediates between tradition and change, the Court that preserves the best of law and social heritage but also tries to accommodate the body of law and justice to changing needs and changing perceptions.

In that sense, I would concur with Professor Kelly that what one is looking for is more nearly the public kind of man, the man who has had to deal with those important public issues.

There is yet a third way to view the Court, which is important, too; and it is perhaps what Dean Pollak had in mind. That is that the Court is all of the above, all of the things that have just been mentioned, but it is also a mirrow of the American people. People whose aspirations are thought to be submerged in this country look ultimately to that tribunal as the outlet for some of their frustrations. It would be difficult for me to imagine the Supreme Court in the 1960's when they were dealing with street demonstrations, with sit-ins, and with all of the other racial questions that perculated up to the highest Court, to imagine that Court with no black member. And I am thoroughly grateful that Thurgood Marshall sat on that Court at that period in our history, not so much so for the precise votes that he cast in those cases, but rather because black citizens could perceive a court that was not a lily-white court, not a court for white people only. To that extent, I think it would be useful, whether with this nomination or some other, that a woman sit on the Court. Then that last significant social barrier would thereby fall. It seems to me that one is mistaken if he finally decides that of those models of the Court he is going to follow only one.

Since the Court is a law court and decides cases, since it is a mirror of the people and, therefore, to that extent, has a representative quality, and since it is finally and perhaps more fundamentally a mediator of social change, and arguably legislative, if it is all of those things, then I think one ideally judges nominees with those kind of criteria in mind.

Because of that, I would begin with Mr. Meserve's assumption. By professional credentials you do want a man other lawyers will respect as a good lawyer, if indeed, the nominee is a lawyer. And as I said a moment ago, there is some burden if the man or woman is a nonlawyer. But for me, I would try not to hang up too much on specifics of race, religion, sex, geography, and the rest. I would try to subsume those in some larger approach, looking for the kind of person who, as Professor Kelly was talking about, is a public person and who has dealt with public issues.

Because of that, I would reject the argument that one must have sat on a lower court, have been a judge before he came to the Supreme Court. I would reject the argument that he must have been a practicing lawyer, as opposed to an academic or other kind of lawyer. I would reject the argument that a politician, whether he sat in the Congress or somewhere else, was not the best person to choose. I would say now that the common denominator that cuts across those kinds of pigeonholes and those categories is a breadth of experience and vision; the kind of person who, in one way or another, in practice, politics, the bar, the lower court, or whatever, has had to engage himself with fundamental and important issues of a kind that would characterize the work of the Supreme Court.

Senator KENNEDY. Very, very fine indeed.

We have been talking about the public figure, the importance of such an experience in terms of service on the Court.

Let me ask Professor Swindler whether in view of the recent pay increases in the Supreme Court, whether the emoluments clause of the Constitution automatically disqualifies a sitting Senator or Congressman to appointment to the present vacancy?

Mr. SWINDLER. My personal opinion is that it does, indeed, because—for two reasons: one, that it was an across the board pay increase and any rollback for a specific individual would be conspicuously an accommodation for that individual or the political pressures behind him; the other, because it would establish a remarkable precedent, I think, for varying salary scales on the Supreme Court, granted that this discrepancy might be remedied at the normal end of that particular Senator's term, or Congressman's congressional term.

The case of William Patterson is a striking one here. You may recall that President George Washington nominated Patterson among the first six Justices of the Supreme Court that had been created by the first judicial act, and before the Senate could even address itself to his qualifications, apparently the Senate did not concern itself with this at all, all of them were approved immediately, but before the Senate could act on Patterson, his name was withdrawn because it was called to Washington's attention that Senator Patterson had been a member of the First Congress which passed the acts creating the Federal judiciary. He was in the second class of Senators who served only 4 years; therefore, when his 4 years were over, which was a matter of just a few months later, he was again nominated and duly confirmed.

It would seem to me that under the present circumstances you have one course of action which is self-defeating, and that is to roll back of the salaries of the Federal judges, and when the Chief Justice is saying he cannot retain people in office with what was proposed, then I do not think you will have any if you were to roll them all back.

The other is that——

Mr. Pollak. That would be unconstitutional, would it not?

Mr. Swindler. Well, suppose you could repeal the statutes and pass new statutes. But in any event, you certainly have this problem of having Associate Justices who, from the very beginning, I believe the first salary scale was $3,000 apiece, and they were considered to be substantially overpaid. But, at any rate, the Associate Justices have always had the same salary, and so I should think that as a matter of fiscal tradition, if for no other and better reason, this would be undesirable and perhaps a total barrier.

Senator Kennedy. You spoke about the individual statute that could be passed to permit an individual to be able to circumvent this requirement. Do you feel that would be constitutional?

Mr. Swindler. Yes.

Senator Kennedy. Yes, to eliminate the application of the pay increase for a particular individual?

Mr. Swindler. I am not sure what Dean Pollak had in mind in terms of the constitutional objection. It would seem to me that a general judicial salary increase could certainly have had in it certain exceptions, and it would be extended only to certain branches of the judiciary.

Senator Abourezk. I do not have a copy of the Constitution here, but I think it says that the salary shall not be diminished during his term of office, and that is in the Constitution.

Mr. Pollak. That was my problem, Senator. Any reduction in the general level of the judicial salaries would simply confront that insurmountable barrier.

Senator Abourezk. And Attorney General Saxbe, you will recall, when he was appointed out of the Senate, he had to take a cut in pay, and then we passed a law to take care of him after he got out of the Senate. But I do not think you could do that with the Court with that constitutional provision. I do not think that even would be allowable.

Mr. Swindler. I certainly agree. I understand his point now. I certainly concur.

Senator Kennedy. Perhaps the panel could talk about some of the examples of Presidents who conducted a search for the best individuals to serve on the Supreme Court. What did they do, and are there any lessons that we could learn from that experience?

Mr. Swindler. I believe, Senator Kennedy, you were enquiring about the historical record of procedures that Presidents have followed in seeking the best. My own matured reflection and conclusion after studying at least the processes for the period of the second century of the Court, from 1889, has been that this is lipservice that is paid, that when Presidents are seeking an outstanding candidate, particularly for the Supreme Court, they are seeking the best in the context of the political or philosophical accommodations they have already set up as their own personal criteria. It may be true that Judge Cardozo was recommended by almost unanimous academic and professional community, and that this amounted to a pressure that President Hoover recognized. But at the same time this would be a conspicuous exception, I suspect.

Senator Kennedy. Do any of the others on the panel want to make any comments?

Mr. Howard. Senator, I would simply underscore Professor Swindler's judgment that the process of selection of a nominee to the Supreme Court, and other offices generally could never be nonpolitical. I think it is unrealistic to suppose that politics, in whatever sense, never entered in. That means that the lesson to be learned, to borrow your phrase, is not so much perhaps trying to, as a citizen, give advice to the President on how he should come up with his nominee and how he should fashion the search and what criteria he should use; the lesson for me comes back to the purpose for which I think you have convened this symposium, which is to emphasize the importance that if, indeed, the process, while a search for the best person, has also the political connotations that both parties to that search, that party who nominated and that party, i.e., the Senate, which confirms or rejects, both enter into a process which brings out as much as one can learn about the name which was, in fact, put in nomination as well as those which might have been.

That there have been some useful examples in recent years of the Senate serving the role of bringing information to the public's attention as well as their own views; information which might not have come out in the first place.

Senator Kennedy. I know Dean Pollak has to leave shortly, but let me ask you a question. Would it not make some sense for the President to publish a list of names that he is thinking about so that you can get some comments from different groups on these individuals so that the President could make a final judgment? Would that not serve a useful purpose rather than just trying to keep the list quiet or secret, and then finally revealing one and popping it on the Senate?

Mr. Pollak. You are suggesting, Senator, that the President would publicly state that he is interested in and has asked for professional comments?——

Senator Kennedy. Suppose there are 10 different names that the President is going to choose from, unless of course some other names come up by some other kind of means. He asked the Bar Association for their comments. Why would one want to keep them secret and then make the recommendation? Is that useful in terms of the American public?

Mr. Pollak. Well, I guess I don't have a very strong view either way. I can certainly see that one would, as President, rather wish not to be, by publishing the names of 10 or a dozen possible appointees, the center of essentially a lobbying process in which groups begin to form to propose or to support or to attack a particular nominee. I am thinking beyond the question of what this may do for the particular persons that are in this public tug of war. I am really thinking that the President's ultimate freedom of action and freedom of sensible judgment may be prejudiced.

On the whole, I guess I do see some merit in your thought, Senator. I guess I am still a little more comfortable with the idea of having this scrutiny directed to the nominee after the President puts forward a particular name.

May I slightly change the subject, Senator, to go back to one of the other matters, because I am about to depart? I simply wanted to say with respect to this discussion which we have all had as to the qualifications, I fully subscribe to what I think my colleagues have said about the public person aspect of a nominee. I don't think we ought to be understood as saying, that the role of the court with respect to its larger, for the most part constitutional domain is really just a higher form or more elegant form of legislating. That was implicit in Senator Abourezk's original question, I think, to Professor Kelly. I do not mean that Senator Abourezk was embracing that concept, but he was putting that concept before us. It is a part of the general criticism of the Court. From my point of view, it has been an unwarranted and essentially an inappropriate generalization of what the Court is there for, and what, in fact, it has been doing although there may be particular cases to support this view. And I precisely subscribe to the observations made by Professor Kelly that if one gets a public person such as Governor Warren, if you will, when he has the Constitution in his custody, he will not be the reflex of the ordinary public opinion processes but will vindicate constitutional values wherever the chips may fall.

So the Court's role is really a very different one from this body's, if you will, and properly so. But it is one of making ultimate policy choices for the country at the highest levels, and that is why one wants a person of the greatest breadth. That breadth may be otbained in political life, it may be obtained in law practice, it may be obtained in teaching, as with Justice Frankfurter, or even as a State court judge, as with Holmes and Cardozo. There is no single definition of the right profile.

If you will excuse me, Senator, I have to go.

Senator Kennedy. I do not know whether the others wish to comment on the publication of the list. If we are talking about involving the public in the process, it may be looked upon as lobbying or subjecting these individuals to the worst aspects of political life. Hopefully you are subjecting them to the best aspects. Through this kind of a free flow of comments, suggestions, or observations about them, the people best qualified would emerge and there would be a natural process by which the President would make a recommendation; and the Congress and the Senate would embrace it.

But I don't know. Do any of you have comments on the open publication?

Mr. Swindler. One thing I might say, Senator Kennedy, is that this does become a matter of political manipulation and political gamesmanship, if you will, when the names are not officially announced. In almost all cases, they will all be known, thanks to the ingenuity of the media. When I used to be a newspaperman I heard a phrase used in Washington that nothing is easier to cover than a secret meeting. I suspect that that still obtains.

One think that worries me is that there seemed to be two groups of names that the President, any President tends to allow to be leaked out without his committing himself to one or the other. One group is a group that is submitted to the American Bar Association for professional review. A member of the judiciary or the standing committee of the ABA phoned me about a week ago and read me the names in confidence because he was soliciting some evaluations, and he said keep this very confidential. The very next morning the entire list was in the Washington Post. And I phoned him to tell him that I did not give the list. As a former newspaperman I was not surprised that it was there.

The other group of names apparently is a group of names that floats past the influential members of the President's own party, and apparently their political acceptability is being sought, I assume, so that somewhere in the processes of determining the specific candidate, the White House is trying to find the name that happens to surface most favorably in both the ABA's scrutiny and in the party's scrutiny.

I suggest that that may not always happen. There is a difficulty, it seems to me, and perhaps this is what you have in mind, of a President deliberately using both the ABA and the media to conceal his ultimate candidate. As I recall, when the last two nominations were made for the positions now held by Justices Powell and Rehnquist, every other name except those names found their way into the media, and the ABA went to a considerable length, apparently, to evaluate some of these and to hasten to say that some of them were not acceptable.

But as far as I know, the ABA did not have any invitation to consider either of the men who actually were nominated. And this is an example of perhaps Presidential manipulation of the media, and perhaps this could be avoided if a commitment to make all of the names public were made. I suspect it would be politically unacceptabe to the White House.

Senator KENNEDY. Mr. Kelly or Mr. Howard, do you have any reactions?

Mr. KELLY. I think, Senator Kennedy, you are suggesting something perhaps quite different than has ever been done before. My tentative reaction when you suggested this was to say that the idea was an unfortunate one. Many Presidents in the past have floated names; to mix up my metaphors, they have floated them both to the surface with the press and they have floated them underground through Congress, or newspapermen, in a confidential way. Franklin Delano Roosevelt did that; Harding did it regularly, and so on. Maybe it's inevitable that that process happen, and I do not think you are going to stop Presidents from seeking advice.

Some of them, such as Harding, for example, even turned to the Supreme Court to get advice, although Taft's relationship with Harding in that respect was not very successful. But certainly when President Nixon attempted in a kind of way to publish a list, gave it to the Bar Association and implied that his nomination somehow would come from there, and when the nominations leaked to the press, the result, and I am thinking of that summer of 1970, somehow had a bad effect both for the President and for the United States. Maybe that was intrinsic in the peculiar political circumstances of the Presidency at that moment. But it had a bad effect for the Presidency of the United States and it had a bad effect, I think, for the Bar Association. The process didn't work well.

Now, maybe if it were a formal public statement to the U.S. Senate of a list which the President had already worked out, in which he said I have privately cleared these names and they are now before you for your consideration, I do not promise to nominate from this list, but I should like your reaction, what you are really doing is suggesting that the phrase "advice" in the Constitution be invigorated for the first time in 180 years. As a constitutional historian, I would observe that that word "advice" started to die in the Washington administration, and except for occasional threats of one kind or another, it has been pretty much left alone ever since that time, never having had any real substance to it as a formal constitutional process since the famous confrontation between Washington and the Senate in 1789. And as a constitutional historian, I would even argue that probably the premise of the convention with respect to the role of the Senate when it used that word was that of the Senate as an advisory body in the sense that upper houses had a cabinet function in colonial times, and obviously the growth of the Senate, plus the tradition of the separation of powers, more or less destroyed that function. And it has never had it. And one can certainly understand the attempt and the interest of the Senate of the United States in restoring that word with some vigor. Conceivably this process you speak of would have meaning if it were done not as a legal process but as a formal public statement.

I think your difficulty, Senator, would be that the President of the United States would think himself limited by the process in a way that he might find politically unacceptable.

Mr. HOWARD. Senator, my reaction parallels that of Professor Kelly. I believe the suggestion you are airing might require some readjustments of constitutional assumptions about the separation of powers. Therein lies the hesitancy about it. I believe, as Professor Kelly has rightly pointed out, the advise and consent language might suggest, if one had nothing but the text of the Constitution before him, more than has come to be the case. I think the advise part has atrophied and what you are really talking about is consent. Therefore, one either has to pass a statute forcing the President to come up with a public list about which one might have constitutional reservations, or one simply has to ask and hope that the President will do it, in which case I suspect that the politics of the situation may overcome the good purpose.

Senator KENNEDY. Senator Mathias has joined us here this morning. Senator Mathias has joined with Senator Abourezk and myself in sponsoring this particular meeting this morning.

Before yielding to Senator Mathias and Senator Abourezk, I want to extend my very warm sense of appreciation to our panel here this morning for the obvious thoughtful considerations that you have been giving these issues. I think they will be helpful to us on this committee, and hopefully they will be helpful to the Senate as we try to fill our responsibilities in meeting the constitutional requirements of advise and consent on the next nominee. I think this meeting has been useful and helpful. I was asked by one of our colleagues when we were talking about this in the Judiciary Committee whether we would hope to extend this kind of a ventillation of both history and constitutional understanding to other appointive offices that would be before this Committee, and I think it may very well be helpful and useful in trying to establish criteria or at least some guidelines in the areas of other Federal judges or U.S. attorneys or others.

We are not making a decision on that today, but I just wanted to indicate to our panel how much I personally value your comments and your ideas and thoughts on this, and I wanted to say I appreciate your willingness to share your experience with us here this morning.

I want to thank you and yield to Senator Mathias and Senator Abourezk.

Senator MATHIAS. Well, I join with Senator Kennedy in thanking everyone who has participated in the panel. And I think we should confess that we have some selfish motives in stimulating this panel, the selfish motives being I think we are trying to lock the stable before the horse is out of it. Those of us who have spent many painful hours in this very room during some of the Supreme Court nomination hearings, have found the responsibility of withholding consent necessary, but not a pleasant experience. We would like to avoid that by building into the system whatever new and more thoughtful procedures can be devised.

Now, there are those, of course, who have objected even to this very formal proceeding on the grounds that it might invade the Executive prerogative. I think that is nonsense. I think we are entitled, if we feel the need, to develop a checklist of items that we might want to consider when nominees come before us. And I think it has some value to do it in advance when it is a completely objective and impersonal exercise.

I do not think it binds members of the committee or the Members of the Senate, because obviously Senator Abourezk may put more or higher priority on some items on the checklist than I would, and vice versa. But the value would be that there was a checklist against which every nominee could be impartially and impersonally measured. I think this could be helpful, and I think that this is a proper function of the Senate in the discharge of its portion of the appointment power.

So, I am grateful to you, and I merely regret that I did not have more opportunity to be here earlier. I was locked up with the CIA Committee in an airtight chamber with the Secretary of State all morning, and it was very difficult to escape. But we are nonetheless grateful, and I will review the record with great interest.

Senator ABOUREZK. In reflecting on the checklists that all of you have provided and, of course, the political requisites that President Ford is faced with in an election year, my only comment is that it is too bad that Nancy Reagan is not a lawyer.

In a serious vein, this has been highly enlightening for me and I cannot thank you eough for the great service you have performed in providing advice not only to those of us here, but those Members of the Senate who will read about what you have said in the press and in the committee print that we are going to provide. I want to express my personal gratitude.

This meeting is adjourned.

(Whereupon, at 1:05 p.m., the symposium adjourned.)

FEDERAL AID HIGHWAY ACT OF 1975—S. 2711

AMENDMENT NO. 1198

Mr. CRANSTON. Mr. President, Senator JESSE HELMS of North Carolina and I have joined tonight to offer an amendment to S. 2711, the Federal-Aid Highway Act of 1975, to repeal the authority of the Secretary of Transportation to terminate Federal highway safety and Federal-aid money to a State for its failure to comply with Federal standards which require that States must enact a mandatory motorcycle helmet law. Our amendment is virtually identical to Senator HELM's bill, S. 2243.

I wish to acknowledge the leadership and initiative that Senator HELMS has demonstrated on this issue, which has a direct impact on my State. I thank him for the kind remarks he made about California when he introduced S. 2293 last September.

California is one of two States not having a mandatory motorcycle law. Because of the consistent refusal of the California Legislature to enact such a law, the State could lose $50 million in Federal highway funds plus all of the State's share of Federal highway safety funds. I believe that the action of the Department of Transportation under section 402 of title 23 of the United States Code, in requiring States to enact mandatory motorcycle helmet laws, bears little direct relations to the legislative purposes of the Federal highway safety standards program, which are to protect the general public against accidents caused by traffic hazards and vehicle defects.

The threat to terminate Federal financial assistance because of noncompliance with federally imposed standards is a severe sanction. It should be invoked only on behalf of such overriding considerations as the protection of constitutional rights, the integrity of Federal programs and funds, and other paramount interests such as the public health, safety, and welfare, in situations when reliance on individual initiatives by States and localities is likely to prove fruitless or self-defeating. This standard has not been followed in the case of helmet requirement.

We should do everything possible to improve the safety of motorcycles on our highways. But Federal highway safety standards must be reasonably related to those situations which may endanger others. Motorcycle helmets do not raise such considerations.

Apparently, Secretary of Transportation Coleman agrees. He has been quoted as saying at an October 2 press conference in response to a question concerning cutting off highway safety funds because a State has failed to enact a motorcycle helmet law that—

> I think that provision doesn't make much sense, but I do have to follow the law.

I share Secretary Coleman's view, as reported.

A helmet may or may not protect its wearer, but there is no evidence that a helmet alone will prevent accidents. Some experienced riders suggest the contrary—that the wrong-type of helmet can reduce the rider's ability to hear and see; that heat and fatigue from its use create a greater risk of accident.

I make no judgment about how much protection a motorcycle helmet provides the wearer. The California Highway Patrol and other California law enforcement agencies require motorcycle officers to wear helmets. But the CHP helmets—which are designed to allow the wearer to see and hear—would be illegal under any motorcycle helmet law which met Federal standards.

A California Highway Patrol survey this summer revealed that 60 percent of motorcycle riders on California highways wear helmets. Many cyclists who have written to me opposing the federally imposed helmet standard say that as a matter of personal preference they wear a helmet.

Californians, however, are capable of judging for themselves whether or not to mandate motorcycle helmets. The only legitimate Federal interest is whether California's refusal to enact a motorcycle helmet law is endangering irresponsibly the lives and safety of the highway users of California and the Nation, which clearly is not the case.

The California Office of Traffic Safety, instead of seeking mandatory helmet legislature, has channeled its efforts in the direction of accident reduction through motorcycle safety education, licensing operators, and upgrading equipment standards. Motorcycle safety is included in driver education programs and each motorcycle operator must take a written and a driving test before being granted a license.

Under the California program, the public is protected and the purposes of the Federal highway safety standards program are being carried out. The safety of the general public is not enhanced by a mandatory motorcycle helmet law. The public safety is far better served by the State's strong licensing program for motorcyclists, motorcycle driver education courses, the continuing safety programs of motorcycle clubs, and enforcement of State and local traffic regulations.

This program currently is receiving financial support from the Department of Transportation. The State has been awarded $862,523 for a program to demonstrate that requiring higher entry skills for novice motorcyclists will significantly reduce accidents during the first year of motorcycle operation, which is the most hazardous year of a driver's career. Under this program some 18,000 novice cyclists selected at random will undergo additional licensing and training requirements designed to improve their skills as motorcycle operators.

It is ironic that with one hand, the Department of Transportation will provide California with significant funding to cut down on motorcycle accidents, while with the other it threatens to terminate those same funds for failure to enact a helmet law which has little to do with accident prevention.

To penalize California or any other State in this way makes no sense to me. Therefore, I have joined with Senator HELMS to repeal the Federal Highway Traffic Safety Administration's mandatory helmet standard by denying the Secretary the authority to terminate Federal funds for failure to comply with such a standard.

REPEAL OF COMPULSORY HELMET LAW

Mr. HELMS. Mr. President, the Highway Safety Act of 1966 is another example of Federal legislation encroaching upon the freedom of the American citizen and the reserved powers of the States. Section 402 of this statute authorizes the Secretary of Transportation to establish highway safety program standards. In pursance of this authority, the Secretary issued on June 27, 1967, the Motorcycle Safety Program Standard (23 C.F.R. Part 204), requiring every State in the Union to have a motorcycle safety program. In meeting the standards of this program, the States are required, among other things, to enact a compulsory helmet law, whereby every motorcycle operator and passenger is required to wear an approved safety helmet when the motorcycle is being operated on streets and highways.

State compliance through the enactment of compulsory helmet laws is practically guaranteed, by virtue of the fact the Secretary of Transportation has ruled that any State which refuses to follow the Secretary's commands is subject to severe economic penalties. These penalties include forfeiture by the State of all of its Federal highway safety funds and 10 percent of its Federal highway construction funds, an amount S. 2711 proposes to raise to 50 percent.

The supporters of compulsory helmet laws maintain that such legislation is a valid exercise of the State police power. Although it cannot be precisely defined, the State police power is a reserved power of the States, and includes the power to enact legislation to promote the public health, safety, morals, and welfare of its citizens. Traditionally, this power has been broadly construed by the Supreme Court, and some State courts have taken full advantage of this by relying on strained interpretations of the police power in upholding compulsory helmet laws. "Those decisions upholding the laws," reads a Case Note from the Wisconsin Law Review (1969), "rely on a strange mixture of catchphrases. The prevention of needless additions to the welfare rolls; the protection of 'the reckless citizens against himself'; and the promotion of a health citizenry 'capable of self-support, of bearing arms, and of adding to the resources of the country' have been stressed."

Conceivably, Mr. President, almost any law compels an individual to protect himself from possible personal injury could be justified on grounds such as these. As the Supreme Court of Michigan pointed out in the case of American Motorcycle Association against Davids (1968), it could be argued that all automobile drivers should also be required "to wear helmets or buckle their seat belts for their own protection." Indeed, motorcycles themselves, or automobiles, or planes, or boats, or guns, or any number of items could be outlawed through this extension of the State police power, as their use clearly involves an element of personal risk.

Fortunately, there are well-established limitations to the State police power, which stand in opposition to the kind of benevolent paternalism that is inherent in the motorcycle safety program. The Supreme Court has held that a State law creating an unreasonable, arbitrary, or oppressive infringement of individual liberty, and of the right to the free use of one's property, is a violation of due process. To meet the test of constitutionality, the law must bear a real and substantial relation to an end which is public. In the case of Mugler against Kansas (1887), the Supreme Court explained that:

> While . . . the state may control the tastes, appetites, habits, dress, food, and drink of the people, our system of government, based upon the individuality and intelligence of the citizen, does not claim to control him, except as to his conduct to others, leaving him the sole judge as to all that only affects himself.

Because a compulsory helmet statute is directed toward the safety of the individual rather than the safety of the public, it can thus be seen that such a law represents a clear departure from established principles regulating the State police power. Mr. Bruce Kogan, writing in the Dickinson Law Review (1968), emphasizes this crucial consideration in his analysis of headgear legislation:

> The ancient maxim *sic utere ut alienum no laedas* (so use your own that you do not injure that of another) has often been cited as one of the essential bases of the police power. In this regard, the protection of the public welfare through past applications of the police power has been limited to instances where one individual's conduct adversely affected others. The helmet statutes, if valid, represent an extension of the limits of the police power to include the regulation

> of an individual's conduct where he alone could be adversely affected.

The test of legitimacy of the exercise of the police power, then, is the existence of a direct and substantial relationship between the safety of the motorcyclist and the public health, safety, morals, or the general welfare. Clearly, as the Michigan Supreme Court observes, a compulsory helmet law "has a relationship to the protection of the individual motorcyclist from himself, but not the public health, safety, and welfare."

In my judgment, Mr. President, an individual has a fundamental right to determine for himself whether he wishes to increase his risks or reduce them—so long as he alone is endangered. Helmets may prevent injuries, but they do not prevent accidents, and the government has no business telling the individual when he can or cannot wear a helmet when only the individual's personal safety is involved. Even if it is true that helmets reduce traffic injuries and fatalities, the fact remains that the decision to wear a helmet should be left to the individual, using his own judgment and not having the government do his thinking for him. The individual has a right to be left alone when his actions do not affect the public health, safety, morals, and the general welfare. Justice Louis Brandeis stated this principle eloquently in his famous dissent in Olmstead against United States (1928).

He noted:

> The makers of our Constitution sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men . . . Experience should teach us to be most on our guard to protect liberty when the government's purposes are beneficient. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding.

During the last Congress, Mr. President, we abolished the National Highway Traffic Safety Administration's requirement that seat belt interlocks be installed in all new automobiles. We should now proceed to abolish the compulsory helmet provisions of the Highway Safety Act, in recognition of the fact that there are better ways to deal with the problem of motorcycle traffic fatalities. In the well-known case of Shelton against Tucker (1960), it was said that:

> In a series of decisions this Court has held that, even though the governmental purpose be legitimate and substantial, that purpose cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be narrowly achieved.

In my judgment, Mr. President, there are ways to protect the motorcyclist through a more traditional use of the police power. Motorcycle manufacturers and dealers, for example, could be required to include acceptable safety helmets as part of the original equipment of the motorcycle, in the same way that automobile manufacturers are required to provide safety seat belts. In this way, the motorcyclist would be encouraged, but not required, to wear a helmet and the decision to wear the helmet would be made by the individual rather than the Government.

The amendment that I am introducing today with Senator CRANSTON to achieve these ends amends section 204 of title 23 of the United States Code, and provides that any highway safety program approved by the Secretary of Transportation shall not include any requirement that a State adopt a law requiring motorcycle operators or passengers 18 years of age or over to wear a safety helmet while riding on the streets and highways.

ARMS CONTROL—FORD MUST STEP IN

Mr. McGOVERN. Mr. President, I think we have reached a point where the prospects for meaningful negotiated strategic arms control hang on a single factor—on the capacity of President Ford to end an inglorious squabble within his own administration, and to decide in favor of arms limitations.

I have been trying for some months to focus attention on the arms control implications of the strategic cruise missile. From what I gather the Secretary of State has been trying to make the same point within the administration, thus far to no avail. And thus far the President has seemed blissfully ignorant of the entire debate.

Yet this one system, to be flight tested early next year, has the potential to degrade any further strategic arms limitation talks into a futile exercise.

The crucial point in arms control is verification. The minimal progress we have made thus far in SALT has been possible because each side can determine unilaterally how many strategic delivery vehicles the other side has—submarines, strategic bombers, and ICBMs. And the fact that progress has been minimal is due in large part to our inattention to the verification problems posed by a system now in the force—the multiple independently-targetable re-entry vehicle. If we can count missiles, we cannot see inside to see how many warheads are there, or how many targets each missile can strike. That has been a major sticking point in SALT, with some of the most enthusiastic backers of a U.S. MIRV now complaining that the Russians are building it too. Well, what did they expect?

But compared to the cruise missile MIRV looks almost benign. For cruise missiles will remove nearly all the remaining verification parameters. They could be launched from airplanes, from any submarine with a 21-inch torpedo tube, from surface ships, and even from land. There would be no way to verify where and how they had been deployed. As I have suggested before, they would virtually turn the triad into a centipede.

The turning point will come next spring, when we will flight test cruise missiles for the first time. Once we have completed a test program the Soviet Union must assume they have been deployed. And at that point strategic arms control will become a pipedream. As with MIRV, the Soviet Union will insist on its own advanced cruise missile systems, and the chance to control them will be forever lost.

Why must we rush ahead with such a destabilizing system at such a critical time?

It is not because our deterrent is endangered. No one disputes the fact that existing forces are sufficient to wipe out the Soviet Union many times over. Right now, we have no less than 39 nuclear warheads for every Soviet city of over 100,000 people.

Nor must we move on the cruise missile because the Russians are about to pass us in this technology. They are years behind in the complex miniaturization and guidance techniques which make the cruise missile a serious threat.

The reason the cruise missile is barreling ahead is simply this: it is an impressive weapon, and the Pentagon wants it. And it is not the Pentagon's job to worry about arms control consequences. The perspective of the military is to move ahead as rapidly as possible on any system which promises to further complicate the defenses and to deliver more warheads on target. Certainly the cruise missile will do that. By Pentagon lights the whole concept of arms control is an irritant which can only obstruct what they see as the proper performance of their role.

News accounts, including an excellent summation in the New York Times of December 3, 1975, by John Finney, indicate that Secretary of State Kissinger takes a different view—that he is highly concerned about the cruise missile in the SALT context. According to this report:

> On cruise missiles, Mr. Kissinger says that with no restrictions, the United States could potentially deploy 11,000 cruise missiles on existing bombers and transport planes and 10,000 others on nuclear submarines, all capable of reaching targets in the Soviet Union. The result from the Soviet point of view would be to make meaningless the ceilings that the two sides are attemping to place on their strategic weapons.

The Pentagon has responded boldly to such observations. Not only, they say, should cruise missiles be excluded from the 2,400 delivery vehicle ceiling settled at Vladivostok, but now, they say, the Soviet Backfire bomber should be included in the ceilings—even through it was left out, with Pentagon acquiescence, when the Vladivostok agreement was made.

The Pentagon has developed a cheeky bureaucratic strategy whose obvious effect, if not its purpose, would be to eliminate this arms control nuisance and get on with building everything we can.

There was a tradeoff for leaving Backfire out before, and that was the Soviet Union's agreement to leave out our own forward based tactical aircraft which can easily strike the Soviet Union with nuclear bombs. That was a trade in our favor. But the Pentagon approach would not only prevent any new agreement; it would unravel the last one as well.

So the lines are drawn within the administration. Based both on public accounts and on Secretary Kissinger's private sessions with the Foreign Relations Committee, my sense of the situation is that the lines are drawn sharply indeed.

Never mind what we can negotiate

with the Russians; what can we negotiate the Pentagon into letting us do?

The President must end this unseemly spectacle. I call upon him to come down on one side or the other. And he must do it soon, before the cruise missile flight tests begin.

Let us find out whether this President is, indeed, the Commander in Chief, or whether he will wilt before the Pentagon brass. And if he follows the latter course, let us see if he at least has the intellectual courage to tell us what his submission really means—that his presidency will mark the end of hope for arms control; that he has opted instead for the costs, the dangers, and the absurdity of unrestrained competition in nuclear arms.

Surely this is not an extraordinary request. It is an essential Presidential duty. And it is particularly appropriate that it should be asked of a President who is so fond of identifying himself with a distinguished predecessor, President Harry Truman, who told us "The buck stops here."

For too long the cruise missile buck has bounced between the Pentagon and State. It is time the President stopped it.

Mr. President, I ask unanimous consent that the New York Times article to which I have referred, entitled "The Soviet Backfire Bomber and the U.S. Cruise Missile," and an excellent earlier article by the respected foreign affairs reporter, Marilyn Berger, carried in the November 14, 1975 issue of the Washington Post be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SOVIET BACKFIRE BOMBER AND THE U.S. CRUISE MISSILE

(By John W. Finney)

WASHINGTON, Dec. 2.—At a time when the strategic arms talks appear to be at an impasse, a highly technical yet political debate is going on within the Administration over what treaty constraints should be placed on two new weapons systems—the long-range cruise missile being developed by the United States and a bomber being produced by the Soviet Union.

How the issues are resolved may well determine whether the United States and the Soviet Union can settle their differences over a new agreement limiting strategic weapons.

Progress toward a new agreement is being blocked by differences over whether the cruise missiles and the bomber, designated as Backfire by the North Atlantic Treaty Organization, should be considered as strategic weapons within the numerical limitations proposed in the 1974 Vladivostok agreement between President Ford and Leonid I. Brezhnev. The agreement specified that a new arms treaty should limit each side to 2,400 "strategic" delivery vehicles.

"STRATEGIC" CONCEPT AT ISSUE

The basic issue now is whether the Backfire bomber and the cruise missile should be counted as "strategic" vehicles. The Soviet Union maintains that the Backfire is not a strategic weapon while the United States has contended that its long-range cruise missile does not fall into the same strategic category as ballistic missiles or long-range bombers.

The Administration hopes that a compromise can be found. But first it will be necessary to resolve differences between Secretary of State Henry A. Kissinger and the Defense Department.

Thus far, Mr. Kissinger's efforts to work out a compromise with the Soviet Union have been restricted by the Defense Department's general position that the Backfire bomber should be included and the long-range cruise missile should be exempted.

BACKGROUND

Both the Backfire bomber and the cruise missile emerged as controversial issues after the Vladivostok agreement.

At the time, the United States did not raise the issue of whether the Backfire bomber, which was about to go into production, should be included under the Soviet strategic weapons.

For its part, the Soviet Union dropped its insistence that American fighter-bombers based in Western Europe and in Asia should be considered in any new agreement.

The Backfire was generally considered at the time to be a medium-range bomber, designed for a "peripheral" role of attacking targets in Western Europe and in Asia, as well as shipping near the Soviet Union.

Since the Vladivostok agreement, the Defense Department has gradually increased its estimates of the range of the Backfire, which is a swing-wing bomber capable of supersonic speeds, to the point that it now considers that the Backfire would have certain capabilities for attacking the United States.

The Pentagon believes that the bomber, if based in the Chukchi Peninsula of northeast Siberia, would be capable on a round-trip subsonic flight without refueling of reaching targets in the United States from Southern California to the eastern tip of Lake Superior. On a one-way subsonic flight without refueling, it would be capable of attacking targets anywhere in the United States and flying on to Cuba, the Pentagon contends.

With refueling, according to Pentagon estimates, the bomber would be able to reach targets in all of the United States and return to Soviet bases so long as it flew subsonically at high altitude. There is general Pentagon agreement that in supersonic flight the Backfire would consume too much fuel to be able to reach the United States.

In return, the Soviet Union raised the issue of the American cruise missiles.

The Vladivostok agreement specified that airplane-launched missiles with a range of more than 360 miles were to be considered as strategic delivery vehicles. The United States interpreted this to cover only ballistic missiles, which are rockets that, after launching, follow a high trajectory to their targets.

The Soviet Union contended that it also covered air-breathing missiles, such as the cruise missile, which is a jet-powered drone with a highly accurate guidance system.

The Pentagon is now developing cruise missiles with ranges of 1,500 to 2,000 miles that could be launched from either airplanes or submarines.

It was only after the Vladivostok agreement that the Defense Department's interest in the cruise missile became evident.

In a nuclear role, the Defense Department now contemplates using long-range cruise missiles to assist bombers in penetrating Soviet air defenses and launching them from submarine torpedo tubes in demonstration attacks against the Soviet Union.

SOVIET REPLY NEGATIVE ON ARMS PLAN

(By Marilyn Berger)

The Soviet Union has told the United States that the latest American proposal on limitation of strategic weapons amounts to a revision of the Vladviostok accord and is unacceptable.

The United States had proposed adding a new category of limitations to cover the American cruise missile and the Soviet Backfire bomber.

Soviet officials said yesterday that when Secretary of State Henry A. Kissinger handed over the proposal Sept. 21, Soviet Foreign Minister Andrei A. Gromyko rejected it immediately. But Kissinger urged him to discuss it with the Politburo. Following the discussion, Soviet officials said, the response, delivered the last week of October, still was negative.

Kissinger said at his press conference Monday that the United States still is awaiting a "reasoned response" from Moscow.

Soviet officials said Kissinger is simply refusing to take no for an answer.

The Soviet position is that the ceiling of 2,400 for each nation's "strategic delivery vehicles" agreed to at Vladivostok Nov. 24, 1974, by Soviet Communist Party Chief Leonid I. Brezhnev and President Ford should cover all strategic weapons.

A new category, adding new weapons, they say, would lead to an upward spiral of the arms race.

"What kind of limitation is it," asked one Soviet official, "if each time you introduce a new weapon you increase the number?" He added: "What bothers us most is the trend away from limitation. If it persists, what's the use of an agreement?"

The American proposal would have added an equal number of cruise missiles with nuclear warheads and Backfire bombers to the 2,400 ceiling. The proposed number has not been disclosed by either side.

The Soviet Union is demanding that cruise missiles with a range exceeding 375 miles (or 600 kilometers) be included in the 2,400 limit.

The United States claims that the Backfire is a strategic bomber, although the Soviet Union claims its range is too short for it to be counted as a strategic weapon.

Kissinger said Monday that "the Backfire, on one-way missions, flying subsonically, can reach the United States from the Soviet Union." U.S. military officials have said the plane could be refueled in the air to give it intercontinental capability.

Soviet officials say the Backfire is not intended to be an intercontinental aircraft and that they are willing to accept limitations on refueling capability. They say that the American F-4 Phantom, which is not limited by SALT, also is capable of a one-way mission.

Cruise missiles are equivalent to low-flying, pilotless planes capable of carrying nuclear or conventional warheads or electronic sensors for reconnaissance.

Soviet officials believe they made concessions to get the Vladivostok accord, dropping their demand for limits on weapons that can reach the Soviet Union from U.S. or NATO bases in Europe and agreeing to equal totals of all weapons.

It was their expectation—and the expectation of American officials—that the Vladivostok accord would pave the way for a 10-year limitation agreement to be signed in 1975.

With the exception of the cruise missile-Backfire issue, all major problems are solved, a Soviet official said.

The Soviets have accepted the U.S. proposal that would count all missiles as MIRVed that have been tested with MIRVs (multiple independently targetable reentry vehicles), Soviet and American officials have said.

Agreement also has been reached, according to Soviet sources, on a definition of a "heavy missile."

This was one of the last outstanding issues involving how to determine whether a missile should be counted under a limit on "modern, large ballistic missiles."

In the SALT I agreement, a limit of 313 was put on these giant missiles. That limit is to be carried over in any second agreement.

Soviet officials say they have been told that the United States will be prepared to continue negotiations V despite the onset of an election year. Earlier, American officials had passed the word privately to the Soviet Union that it would be politically impractical to pursue SALT negotiations beyond early 1976.

It also had been reported that Brezhnev hoped to get a second SALT agreement and a Soviet-American summit before the Soviet Communist Party Congress begins Feb. 25.

But Soviet officials now take the position that Brezhnev would not suffer politically from failure to get a new SALT agreement.

They say Brezhnev would need only to explain that he tried to get a SALT agreement but that the United States reneged on the Vladivostok accord.

On the other hand, U.S. administration officials note that unless Mr. Ford can get a SALT accord, detente may become a major election issue.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask that morning business be closed.

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

NEW YORK CITY SEASONAL FINANCING ACT OF 1975

The Senate continued with the consideration of the bill (H.R. 10481) to authorize the Secretary of the Treasury to provide seasonal financing for the city of New York.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, debate is not in order during a rollcall, but I would like to call off the quorum so I might propound a unanimous-consent request.

I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, it is after 8 o'clock. Obviously Senators can—may we have order in the Senate?

The PRESIDING OFFICER. Will the Senators kindly take their seats? The Senate will be in order.

Mr. ROBERT C. BYRD. Obviously, Senators can prevent action on the pending bill until such time as the leadership would be precluded from offering a motion to proceed to the second supplemental appropriations bill which contains the money for New York City loans until after midnight, thus putting the Senate into Saturday before such a motion could be made. Until such a motion can be made no cloture motion can be offered on that motion.

This would mean that under rule XXII Monday would be the intervening day required under the cloture rule, and the vote would not occur until Tuesday.

By going the hard way—and that is a very hard way—to keep the Senate in until midnight in order to get this action accomplished—some Senators are tired, and we have a 9 o'clock tomorrow morning session already ordered, and we have a public works appropriation bill with a time agreement thereon which we hope to take up at that session tomorrow morning.

In order to vote on cloture on Monday it would then be necessary, if the Senators forced the leadership beyond midnight tonight, to have a session on Sunday so that Sunday would then be the intervening day between Saturday, the date of the offering of the cloture motion, and Monday, the date of the vote on the cloture motion.

The leadership is prepared to have a Sunday session, as was indicated earlier, and the approach would be that the Senate would be in session tomorrow evening beyond midnight, so that when the Senate went out it would go out Sunday.

There is an easier way to accomplish this, if Senators will accede to my unanimous-consent request. So we have the easy way and we have the hard way. There is no way eventually to avoid a cloture vote on the motion to proceed to the consideration of the second supplemental. Second, there is no way to avoid eventually a vote up or down on that bill; it is just a matter of time. So the Senate will have to vote up or down, and Senators will vote as they see fit, for or against. That is their privilege. They can vote the bill down, and that is their privilege. Of course, we now that they will not do that, but if they could, that would be their right and their privilege, just as it would be the privilege of those who wish to do so to vote for the bill.

So eventually there will be a vote on this bill, and it will come after midnight tonight if it does not come before midnight. If it comes after midnight, the motion will be made; when we can make the motion parliamentarily, the leadership will move to proceed to the second supplemental. And when that motion is made, the cloture motion will immediately be filed.

That will be Saturday. Eventually there will be a vote on that cloture motion, and I would suspect that that cloture vote would carry, judging from the cloture vote today.

At that time there will be a cloture motion offered on the bill, and eventually cloture will be invoked on that bill.

So we do not prevent something from happening, and eventually, no matter how hard we try, if the votes in the Senate are here to invoke cloture, then there will be a final vote, not only on the bill before us but also on the second supplemental appropriations bill. The only thing that can be done is to delay a final decision, and that delay is going to be costly, because it is eating up the time of the Senate, and it is causing Senators the discomfort of having to remain here when it can be avoided.

UNANIMOUS-CONSENT REQUEST

I ask unanimous consent that a vote occur on the pending bill at the hour of 9 o'clock tonight;

Provided further, that immediately after that vote the Senate adjourn for 1 minute;

Provided further, that upon the resumption of the Senate in a new legislative day, the leadership will be ready to offer a motion to take up the Second Supplemental Appropriations bill, and of course a cloture motion would be offered immediately;

That the Senate would then recess until 9 o'clock tomorrow morning;

Provided further, that that vote on cloture occur on Monday.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Mr. President, reserving the right to object, we are talking about a Sunday session. We are talking about all sorts of tactics and one thing and another.

On yesterday, unanimous consent was given that when the Senate completes its business on Saturday, or if it is later decided that there should be no session Saturday, when the Senate completes its business tomorrow—that is, today—it stand in recess until the hour of 10 a.m. on Monday. Now we are talking about a Sunday session.

The Senator from Alabama, hours ago, asked unanimous consent that we vote on this measure up or down at 5 o'clock, which is long since past, and that thereupon we recess in accordance with the previous order until tomorrow, not varying the unanimous-consent agreement at all.

So the Senator from Alabama is not willing to bother the procedure agreed to by unanimous consent, and at this time I have to assert an objection.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield the floor.

Mr. LONG. Mr. President, I think Senators should search their consciences about overusing the right of free debate in the Senate. This Senator has participated in most of the big filibusters that occurred in the last 26 years, and some of us have cautioned, back during those years, that if Senators overused—I do not say abused, I just say overused—their right of free debate in this body, that right was going to be curtailed. It has been curtailed.

It is clear on occasion, that this bill will pass. Cloture has been voted. It can be delayed awhile longer, for a matter of a day or two, but the bill will pass. This thing of just irritating and irritating Senators does not do anything but make them insist on a further rules change. I thought when we reduced this matter from a two-thirds to a 60-percent vote, we would have the prospect, in the future, of maintaining free debate unless 60 percent of the Senators wanted to close it off. But just one or two Senators—and I wish they would search their consciences—are just overusing and overusing the right of free debate, to conduct a filibuster even after cloture has been voted by the Senate—which I always thought was sort of tantamount to being subject to a resolution of censure, even when I was filibustering myself.

This overuse of the filibuster will lead to such anger and resentment on the part of others that in due course they will vote to simply impose the same rule that exists in most parliamentary bodies, a mere motion of the previous question, so that the leadership would call up a measure, and after having permitted Senators to call up a number of amendments, just move the previous question, and not even let other amendments be offered. That is the usual rule in most parliamentary bodies.

People should not overuse their rights in anger and frustration, having been voted down by their colleagues, to continue to irritate others to the extent that those people may eventually find they have to make this parliamentary body conform to the rules of practically every other parliamentary body on Earth.

That in my judgment would be a sad mistake. As much as I have on occasion enjoyed using the right of free debate, overusing it, irritating my friends, alienating those who might have been my friend otherwise, I am the first to say that people should carefully think about those matters and, when it is clear what the majority wishes to do, permit the majority to work its will. The cloture rule was drafted with that in mind.

I hope that Senators will realize that perhaps the other guy might be right, as strongly as they feel about their views, and permit the remainder of us to do what we think in our conscience we should do.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. LONG. Yes.

Mr. MANSFIELD. I recall the days of a great Senator, Richard Russell of Georgia, who was probably the most expert parliamentarian this body has ever seen, and the distinguished Senator from Mississippi (Mr. STENNIS), the distinguished Senator from Arkansas (Mr. McCLELLAN), the distinguished Senator from Mississippi (Mr. EASTLAND), the distinguished Senator from Georgia (Mr. TALMADGE) and others, are still aware of the many contributions which he made. But he used the filibuster only when it was on a measure of the most significant importance—where the greatest economic, social or political issues were at stake. He did not abuse it, as it is being abused today. Dick Russell would never descend to the level of filibustering the taking up of a bill. He would never descend to making it the normal procedure which it has become in this Senate. I believe that the filibuster has a significant part to play in this institution but that significance is gradually being eroded away.

The Senator from Louisiana who is probably, in my opinion, the most expert at this time on the art of the filibuster as it was intended, has laid the issue before us to consider and to contemplate.

I say to Senators that if this kind of operation continues what they are going to have is not 60 percent of the Senate imposing cloture, but 51 percent. What it is now is the tyranny of a willful minority—that is what is occurring right now and with regard to a number of bills. Continue on in this fashion and it will be replaced by the tyranny of a bare majority. So, think it over because what we have at stake is not our individual likes or dislikes but the welfare of this institution we know as the Senate and an institution which we should revere and build on rather than tear down and destruct.

I commend the distinguished Senator from Louisiana who has once again performed a service as to what the Senate is really about.

Mr. LONG. Mr. President, my thought about the subject is that sometimes one by using the rights that are available to him to talk at length can achieve something, sometimes he can gain a compromise, sometimes he can persuade people to see his point or at least make them respect what he is trying to do.

But when nothing is to be achieved, it seems to me at this point Senators would do well to meditate on two things: First, am I reducing my influence by carrying this thing any further, and, second, is this really doing any service to the cause that I am advocating? If a negative result is being achieved, I hope Senators would permit us to bring a matter like this to a vote, with a modest amount of intellectual tolerance, which is not common to a filibuster, that it just might be that the other fellow might be right.

The PRESIDING OFFICER. Who yields time?

The bill is open to amendment.

Mr. ALLEN. Mr. President, I call up my amendment, which is the shorter amendment, which is at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an amendment.

The amendment is as follows:

On page 4, line 9, strike out "$2,300,000,000" and insert "$1,300,000,000".

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from North Dakota (Mr. BURDICK), the Senator from New Hampshire (Mr. DURKIN), the Senator from Ohio (Mr. GLENN), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from California (Mr. TUNNEY), the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Colorado (Mr. HASKELL) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Kansas (Mr. DOLE), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nebraska (Mr. HRUSKA), the Senator from Maryland (Mr. MATHIAS), the Senator from Illinois (Mr. PERCY), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 18, nays 63, as follows:

[Rollcall Vote No. 561 Leg.]

YEAS—18

Allen
Bartlett
Bellmon
Byrd, Harry F., Jr.
Curtis
Fannin
Garn
Hansen
Helms
Hollings
Laxalt
McClellan
McClure
Montoya
Nunn
Roth
Scott, William L.
Thurmond

NAYS—63

Abourezk
Baker
Beall
Bentsen
Brooke
Buckley
Bumpers
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Domenici
Eagleton
Eastland
Ford
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Hatfield
Hathaway
Humphrey
Inouye
Jackson
Javits
Johnston
Leahy
Long
Magnuson
Mansfield
McGee
McGovern
McIntyre
Metcalf
Mondale
Morgan
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Tower
Williams
Young

NOT VOTING—19

Bayh
Biden
Brock
Burdick
Church
Dole
Durkin
Fong
Glenn
Goldwater
Haskell
Hruska
Huddleston
Kennedy
Mathias
Percy
Talmadge
Tunney
Weicker

So Mr. ALLEN's amendment was rejected.

Mr. HANSEN. Mr. President, I am sure all of us have been deeply concerned about the plight of New York City. Despite the fact that I represent a State with not many people, far removed from the great State of New York and from New York City, I have a number—may we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order. Will the Senators kindly take their seats? Those Senators conversing please go to the cloakroom, or take their seats.

Mr. HANSEN. Mr. President, despite the fact that the State of Wyoming is far removed from New York, I am, nonetheless, concerned, as I know every Member of this body is, with the difficulties that can very well and, indeed, to some extent have already, beset the city of New York.

I am also conscious, as other Senators are, of the possible repercussions that a failure of the city of New York to meet its obligations, might have on other communities throughout the United States and, indeed, as has been expressed by some, throughout the world. I do not have any apology to make for the management of that city. I think that the politicians there have been some of the most derelict I know of—may we have order, Mr. President?

The PRESIDING OFFICER. The Senate staff will kindly take their seats. The Senators will withdraw to the cloakroom if they wish to converse.

Mr. HANSEN. Mr. President, I think that the present mayor and other mayors have been very derelict in the State of New York in the kind of government that they have given that city. I think that evidences of union pressure are clearly on every hand. I remember when, a few weeks ago, the distinguished minority manager of this bill was talking about the influence in this body, and there was some criticism of the way things were going. He said that, if we really wanted to strike at the influences that needed most to be curbed—these are not his precise words, but the thrust of his observations was, let us address the problem of unionism. I think it is certainly evident that part of the trouble that is on the shoulders of the great ctiy of New York is a direct result of the political muscle that the unions have. Earlier this evening, Senator CURTIS spoke about the salaries that were paid, and the pension arrangements that have been entered into between the unions representing the municipal employees in the city of New York and those persons charged with administering the government of the city of New York.

Despite all of this, it is my intention, when we come to a final vote, unless I am persuaded differently between now and the time that vote comes up, to vote to grant the authority to the Secretary of the Treasury to make the loan to the State of New York. I have misgivings about the wisdom of doing it under the format of the bill now before us. I have been disturbed because, somehow, we can spend 6 months, as we did earlier this year, debating an issue like seating a Senator from one of our States, and no one gets disturbed or bothered about that.

It is perfectly all right to have efforts made, time after time, to invoke cloture, and no one gets disturbed then. But when we get near Christmas, I notice that if anyone wants to hold up anything now, he is putting in great jeopardy this institution. He is likely to bring down upon the traditions of the Senate a determination and a conviction which would result in the rules of cloture being revised yet another time.

I do not doubt at all that one of these times, in a hotheaded moment, that is about what we will do. I want to say that when we do that, I am going to remember the words of the distinguished Senator from Mississippi (Mr. STENNIS), when he said, one of these times, this thing is going to go full circle. I heard him utter these words when I first came to the Senate, when we were talking about civil rights. At that time, there were Members of this body, some still here now, who were pointing the finger of blame at the South and saying what a dastardly thing they had done to minority groups and to blacks, specifically, and how wrong they were. I have been here long enough to see this thing come around full circle.

I want to say to Senators on both sides of the aisle, when you change the rules of the Senate—and there is no doubt at all that you can do it. This sort of evening makes possible the climate that fires acrimony and bitterness to the point where somebody says, "Well, we will make it easier to get cloture; we will put it down to 51." When we do that, the people who are going to be complaining first, it is my guess, are going to be some of the so-called liberals, whom I have heard say on this floor that before we would have a vote on busing, as an example, they would filibuster that proposition until it got very cold.

Go ahead and change it, if you want to. And those persons who want to change it had better reflect for a little bit upon what the distinguished majority leader said, when he pointed out that, if we want to have the tyranny of a bare majority, drop it down to 51. I challenge people who, in the frustration of the present moment, say, if we keep on, that is the way it is going to be.

I have not participated very successfully in very many filibusters, because I do not seem to have, first, a comprehension of the rules that is necessary in order to be effective; and, second, I could never think of very much to say very long without starting to repeat myself.

I want to say tonight I think it is too bad that we are trying to ram something through here so quickly that we cannot take enough time to insure that our actions are well considered and appropriate.

One of the things the President of the United States called for when he asked that certain conditions be met by the city of New York was to grant the Secretary of the Treasury the authority to withhold certain payments from Federal programs that otherwise would be made to the city in the event it defaulted on its loan.

I do not know, Mr. President, if we need $2.3 billion available to the city. I talked with the Secretary of the Treasury just this evening to find out what his opinion was. I do not know if the safeguards that are necessary and are reasonable all have been written into the bill. My personal opinion is they have not.

I hope that Senators might see some merit in adopting an amendment that I propose before too long to call up in order that if the city of New York should default in the repayment of the moneys that have been loaned by the Government of the United States that funds such as I have referred to might be withheld.

I suspect there are not many people here tonight who anticipate that another major city could find itself in the same difficulties in which New York City finds itself.

Mr. PASTORE. Mr. President, will the Senator yield on my time?

Mr. HANSEN. I would be happy to.

Mr. PASTORE. Mr. President, I cannot rise in full honesty and say that I disagree with anything my distinguished colleague from Wyoming has said.

It is true there have been tremendous abuses. As a matter of fact, there have been tremendous abuses in the halls of Congress as well.

Under various administrations there have been abuses, whether these administrations be Republican or Democratic. But I do say here the President of the United States has agonized over this situation long and, I daresay, well.

We, in Congress, may be more amenable to something more liberal than the President suggested. There is no question at all but that the President has taken a hard line. He has laid down certain criteria which, if they are adhered to, will bring fiscal responsibility to the city of New York.

It is unfortunate that all this has happened, but it has been the trend of the times. I think in many respects American society has fallen into the habit of extravagance, of doing many things that we could not afford to do, and now it is beginning to catch up with us, and I quite agree with the Senator from Wyoming.

But the plight here tonight is not only of the city of New York; the plight here is also of the Senate of the United States of America, and I think every person ought to have his say.

What I think is wrong at this time of the evening, 10 minutes or 7 minutes to 9, is the idea that we call for these live quorums and quorums, and we delay a vote.

I think anyone who has an amendment ought to have full time to express his view on that amendment, and if it is within my power to give any of my time—I know under the rules I cannot do it, but I can ask a question and the Senator can develop his case, and I would be perfectly willing to do that, too—but the fact still remains that we must come to a vote. A vote is inevitable. Under the circumstances we have no way of avoiding it.

Now, whether we do it at 10 o'clock tonight or do it at 3 o'clock tomorrow morning we must come to a vote.

All I am asking is this, giving the full right—and I do not want to change anything about the filibuster role—I think it is sacred in this body. That is the one thing that distinguishes the Senate of the United States from all the other deliberative bodies in the world, the fact that when a man rises on his feet he is supreme, and I do not want to change that.

I cannot fault Mr. ALLEN, I cannot fault the Senator from Wyoming, I cannot fault anyone. But what I am saying here is that a vote is inevitable.

We have been told by the leadership that at some time either tonight or tomorrow we have got to conclude this matter, and then it will come up again on the appropriation bill.

All I am appealing to my colleagues in the Senate for is to preserve the prestige of this body that I love so much, that I will be leaving within a period of a year, preserve it because it is absolutely essential.

Say what you have to say, produce the bills and the amendments that you want to, but let us not get into dilatory tactics; let us not begin rubbing our noses in the sand. The faults, if there are faults that exist, are not of this body; they are of the city of New York.

If you are going to vote against the

city of New York, vote against the city of New York, but do not rub the noses of the Members of the Senate in the sand here tonight because I think what you do is denigrate, you deprecate, the Senate of the United States of America.

I want to applaud the Senator from Wyoming. He has made a very fine presentation. I hope he will advance his amendment. I hope that without asking for a quorum call, because we are all here, a quorum is here, that we will come to a vote. Let us resolve this matter. If this is the only plan we can have because the President of the United States said, "Anything else I will veto," and we have to go along with it, let us go along with it, but let us do in good judgment and in calmness what we need to do. That is all I beg of the Senate.

You will accomplish nothing by punishing us. If anybody has to be punished, it is the city of New York. If you are going to punish the city of New York, vote "Nay."

But, on the other hand, I do not see any essentiality in calling these quorum calls, making them live, delaying it and delaying it because, after all, let us face it, we have appointed two wonderful persons in the Senate as our majority leader and our majority whip, and I do not think we ought to take the leadership away from them. I think it would be a sorrowful day for this Senate when we become leaderless, and if we continue the way we are going here tonight, that is exactly what we are doing.

I want to thank the Senator from Wyoming for yielding to me.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. HANSEN. I thank my good and cherished friend from Rhode Island for his generous remarks.

I was not certain, Mr. President, whether he at times was lecturing me or someone else. I suspect that I will find out later exactly what he meant.

He leaves me unsure—although I must say he is one of the most erudite Members of this body, certainly one of the most articulate, one whom I seldom have any difficulty understanding at all—but I was not just sure precisely what he meant. Maybe he thought what I had said so far might better have been said at another time.

Mr. PASTORE. Mr. President, will the Senator yield? No, no. I agreed with everything the Senator said, and I hope he will bring up his amendment without asking for a quorum call, and that we will have a vote on it. That is all I ask, and I think that is what we all ought to do.

Mr. HANSEN. I say to my good friend from Rhode Island that I suspect he wondered what I might be trying to do. I think maybe the majority whip could put his mind at ease if he is concerned about what my tactics are. I have given my word, and I do not intend to indulge in the things he thought possibly could happen. I must say that—and I say this in all charity—I do not exactly appreciate having to be lectured as to what I might do before I have done anything. I did not think that I had taken too much time in saying what I had said so far.

Mr. PASTORE. Mr. President, if the Senator will yield, there is nothing personal in what I said. My remarks were not aimed at all at the Senator from Wyoming. I mean I was addressing myself to the body. I do not care who has an amendment, but it did not apply to him. I am not a lecturer, I am a friend, and I love the Senate of the United States of America, and I do not want to see anything done to shame it.

Mr. HANSEN. I appreciate the Senator's remarks.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Wyoming yield to me——

Mr. HANSEN. I would be happy to.

Mr. ROBERT C. BYRD (continuing). So that I may make a unanimous-consent request, without the Senator's losing his right to the floor.

Mr. President, as the distinguished Senator from Rhode Island has pointed out, a vote on this measure is inevitable. It is coming sooner or later, and the length of time we spend before we reach that decision will not change the outcome.

It is inevitable that there will be a cloture vote on Monday on the motion to take up. We may have to stay in a while on Sunday, past midnight tomorrow night, to accomplish this.

We are going to vote on cloture on Monday, on the motion to take up the second supplemental appropriation bill, which has New York funds in it.

Now, tomorrow we are going to work on the public works appropriation bill. We have a time agreement on it. Why can we not all be reasonable men and accomplish what is going to be done in any event, to wit, a vote on cloture on Monday, a vote on the public works appropriation bill tomorrow?

I propose the following unanimous-consent request, and if it is acceded to, it will save the Senate easily 3 hours tonight, it will save the Senate a session tomorrow, and all of us will have cast a better reflection on the Senate of the United States.

UNANIMOUS-CONSENT REQUEST

Mr. President, I ask unanimous consent that—as I understood the distinguished Senator from Wyoming told me earlier he would be willing to take something like 10 minutes on his amendment—that there be a 10-minute time limitation on the amendment by the distinguished Senator from Wyoming, with no motion to table in order; and that the Senate vote on that amendment and then proceed to vote on any other amendment that Senators have to offer.

They have had all day long in which to offer the amendments. They had yesterday in which to offer the amendments. They had previous days in which to offer amendments. That those amendments be called up if Senators wish to call them up. I have talked with some Senators who have indicated they may not even call up their amendments, but if they wish to call up those amendments, they call them up, take 5 minutes to explain them, and the Senate vote up or down on such amendments without any intervening quorum calls as long as it is obvious that there is a quorum here.

If we have votes in such quick succession, there will be quorums here at all times. I ask unanimous consent that the rollcalls be limited to 10 minutes each; that upon the disposition of this bill at no later than 10 o'clock tonight, the Senate then adjourn for 1 minute, and upon reconvening, the majority leader be permitted to motion up, without debate, the second supplemental bill, offer his cloture motion thereon, and that that motion then be set aside; that the Senate then proceed to the consideration of the public works appropriation bill; that there be a time limitation on that bill of 1 hour—which would reduce the time under the previous agreement—to be equally divided as heretofore ordered, with the time on any amendment to be reduced to 20 minutes, to be equally divided in accordance with the usual form.

That upon the disposition of the public works bill, the Senate go over until 12 noon on Monday and proceed to vote on the cloture motion at say, 2 o'clock.

Such an agreement would allow us to complete the work on the public works appropriation bill tonight, not have a session tomorrow, vote on cloture on Monday. By this agreement we would accomplish in a much simpler and easier way exactly what we are going to accomplish otherwise by going the hard way, to wit, staying until well after midnight tonight, coming in tomorrow, staying 3 or 4 hours tomorrow to act on the public works appropriation bill, coming back in tomorrow evening at 11:30, staying past midnight, staying in until Sunday, and then coming in on Monday when we will vote on cloture.

I propose this unanimous consent agreement and I hope it will be agreed to.

Mr. YOUNG. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. YOUNG. I hope the Senate will agree to that. I have been here for 13 hours already, arguing all day long with the House conferees on the defense appropriation bill. It has been a long day.

We are only torturing ourselves. We are going to vote on the New York legislation one day. I am opposed to it, but we are just torturing ourselves this way. I hope we agree to this time limit.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. ALLEN. Reserving the right to object, may I inquire of the distinguished Senator as to how long the public works bill is going to take tonight?

Mr. ROBERT C. BYRD. I would reduce the time on the bill to 1 hour, with time on any amendment to 20 minutes.

Does the Senator from Mississippi have any idea as to how many amendments there are?

Mr. STENNIS. If the Senator will yield, we worked this bill out in the subcommittee, full attendance of 17 or more, and it went on then before the full committee and was agreed on there.

There are some presentations, but I do not think it would take over an hour-and-a-half to complete the amendments and the bill.

That could be an error, but that is my judgment.

Mr. HANSEN. Reserving the right to object, Mr. President, I have an amendment that was filed here perhaps an hour-and-a-half ago.

As I understand the scenario that has been suggested and for which unanimous consent has been requested by the distinguished majority whip, it would be my understanding that if we were to do this, the necessary time would have elapsed by the 1 minute recess to meet the qualifications of having presented an amendment to an appropriations bill the day before it is to be considered.

I would ask the Parliamentarian if I am right about that.

The PRESIDING OFFICER (Mr. STONE). The Chair responds that there need not be an intervening day in that circumstance unless the Senator is going to give notice of his intention to move to suspend the rules.

Mr. HANSEN. I think that was implicit in the—the Parliamentarian may take a moment to look at it.

I was under the impression that we did need to have a day between.

The PRESIDING OFFICER. Has the Senator filed a notice to suspend the rules?

Mr. HANSEN. I think that was included in that.

The PRESIDING OFFICER. As part of his amendment?

Mr. HANSEN. I think so.

Mr. President, without——

The PRESIDING OFFICER. Assuming that the Senator did file such a notice, it would be one calendar day and he would need unanimous consent, if an objection were raised to the amendment.

Mr. HANSEN. May I ask now for that unanimous consent?

Mr. ROBERT C. BYRD. What rule would the Senator seek to suspend?

Mr. HANSEN. I was moving to amend the appropriation, the supplemental appropriation bill, to include $30,000 for a project that Senator McGEE and I are cosponsoring in the State of Wyoming to conclude an atmosphere weather research program.

Mr. STENNIS. If the Senator will yield, I believe that is in the public works appropriation bill.

Mr. HANSEN. I see.

Mr. STENNIS. Supplemental, the public works appropriation.

Mr. HANSEN. I see.

Mr. STENNIS. The one proposed to come up tonight.

The PRESIDING OFFICER. The Senator was filing a motion to the supplemental bill, not the public works bill.

Mr. ALLEN. Reserving the right to object——

The PRESIDING OFFICER. The amendments that the Senator filed, the notice on the supplemental, will not come up until next week, he does not have a problem on the supplemental and he has filed no notice on his amendment to the public works.

Mr. HANSEN. I am sorry I cannot be more precise on what was done.

Senator McGEE and I had determined to try to achieve a certain objective. I regret I am not as familiar as I wish I were at the moment on precisely what has been done.

Mr. ALLEN. Reserving the right to object, Mr. President——

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. I am reserving the right to object, Mr. President.

Mr. HANSEN. It is my understanding, Mr. President, just having conferred with the distinguished Senator from Mississippi (Mr. STENNIS), that apparently, by filing this amendment as I have, which was done about an hour ago, it would meet the requirements in order that it might be considered when that bill comes before the body. Insofar as that part of my request is concerned, I have no objection.

Mr. CURTIS. Mr. President, reserving the right to object, I join the others in urging that we ought to recess or adjourn now. I believe everyone has worked long enough. There is one point of the unanimous-consent request which I think would be a very, very bad precedent.

I believe that the weapon of cloture should only be used after there has been considerable debate and the bill has been explored through debate.

I think it would be a very bad precedent for us, by unanimous consent, before there is one word of debate, to grant consent for an instantaneous filing of a cloture motion. I believe the cloture motion is something that is to be used when debate goes on and on an unreasonable length of time.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. CURTIS. Yes.

Mr. ROBERT C. BYRD. In this instance the debate on the New York City proposal has gone on for a considerable length of time. The only thing that is involved in the second supplemental bill is the money for the New York City loans.

Mr. CURTIS. I am talking about the appropriations bill. The Senator seeks a unanimous-consent request before a bill is ever called up to instantaneously, when it is called up, present a cloture motion. I am not going to take it upon my responsibility to object, but I do know what is happening to the tradition of the Senate. It is power. "If you have the votes, move to table. If you have the votes, apply the instant cloture." It is the abandonment of the Senate as a deliberative body. Somebody else can take the responsibility for that. I do not.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Reserving the right to object, this whole matter of invoking cloture without an adequate right to debate, the whole manner in which this bill has been handled, with the present version of the bill not having gone to a committee in the House or the Senate, certainly does not promote any cordial good will when criticism is made of Senators, after cloture is invoked, following the rules set for action on a bill after cloture has been invoked.

Cloture was invoked at 11:30 today. It was not but about 3 hours later that they were complaining about the debate being misused.

Mr. President, how much time remains to the Senator from Alabama?

The PRESIDING OFFICER. The Senator from Alabama has 53 minutes, 45 seconds remaining.

Mr. ALLEN. The Senator from Alabama has used 7 minutes discussing this bill since cloture was invoked.

I know the leadership is in a spot here. I certainly want to cooperate with the leadership. They are threatening rough tactics in having a Saturday session and a Sunday session, and they want to avoid that. I certainly want to cooperate, even though I do not feel that this bill has yet been adequately discussed.

I ask the distinguished Senator if he would agree to this change: That at 10 o'clock instead of voting on the bill before us we proceed at that time to the consideration of the public works appropriations bill, returning to the present bill for a final vote at 12:15 in the morning.

I would suggest a further modification that instead of going through this hocus-pocus of having Saturday and Sunday sessions, we just agree on a cloture vote on Monday. I would feel that would be a reasonable compromise. The leadership would get what it wants.

We talk about abusing the right of debate. What about the method of having a 1-minute adjournment in order to change the legislative day? That seems to be kind of a strained version of applying the rules, it would seem to the Senator from Alabama.

I would be willing to agree to give the leadership what it wants, a cloture vote on Monday, and a vote on the New York bailout at 12:15 in the morning.

Mr. ROBERT C. BYRD. Mr. President, the Senator knows as well as any Senator in this body knows that the purpose of the 1-minute adjournment was to bring about a new legislative day. The Senator from Alabama knows that the supplemental appropriations bill was only reported today and that a motion to call up that bill is not in order on the same legislative day on which it was reported. It is necessary to adjourn—1 minute will be sufficient—in order to get into a new legislative day so as to allow the motioning up of that bill which was only reported today. That is the purpose of a brief adjournment. That is not hocus-pocus. It is required by the rules.

Mr. President, as to the reference the distinguished Senator made earlier, to the fact that the leadership on yesterday got a consent order going over until Monday, that is normal. Normally the Senate is not in session on Sundays and normally the Senate works up through Friday or Saturday and goes over until Monday. That order was obtained in accordance with what is customary.

Mr. ALLEN. But leaving out the Sunday session, with which the Senator is now threatening the Senate.

Mr. ROBERT C. BYRD. We have gone over this before as to the necessity for a Sunday session in order to have a cloture vote on Monday. We have gone over that. I do not see any purpose in going over that again. A Sunday session can be avoided and ought to be avoided and will be avoided if Senators will permit a cloture vote on Monday on the motion to take up the supplemental.

I ask unanimous consent, therefore, that a vote occur on the pending bill at 12:15 a.m. Saturday morning; that in the meantime, the Senate proceed to the consideration and dispose of the public works appropriation bill; that upon the disposition of the pending bill at 12:15 a.m., the leadership adjourn for 1 minute, and upon the Senate's reconvening, the leadership offer the motion to take up the supplemental bill and offer the cloture motion; that the Senate then recess over until Monday at 12 noon, and that the vote on cloture then occur on Monday at 2 p.m. just as though there had been an intervening day of session.

Mr. ALLEN. That is what the Senator from Alabama suggested as a possible change. If any other Senators disagree with that——

The PRESIDING OFFICER. Is there objection?

Mr. BARTLETT. Reserving the right to object, what time would the vote on cloture occur on Monday?

Mr. ROBERT C. BYRD. Two o'clock.

Mr. BARTLETT. Two o'clock would be fine.

Mr. MORGAN. Mr. President, reserving the right to object, and I shall object unless there is an agreement to debate the supplemental appropriation bill for at least an hour or two before cloture is invoked. This comes back to the same point that I was complaining about earlier, where cloture was invoked on the railway bill without any debate, and those of us who were not familiar with it had no opportunity to know whether or not we wanted to amend it.

So unless there is some substantive debate on the supplemental appropriation bill before we vote on cloture, then I will object.

Mr. ROBERT C. BYRD. Mr. President, may I say to the distinguished Senator from North Carolina that the vote on cloture on Monday would be only on the motion to take up the supplemental bill. Once cloture is invoked, the Senate cannot vote on that motion until each Senator has used his 1 hour, if he wishes to use it, under rule XXII; and that would give the Senator ample time to participate in debate before the Senate even voted on the motion to take up the bill.

Once the motion to take up the bill carriers, as I understand it, those who oppose the bill will force the Senate to invoke cloture again on the bill itself, which would require the expiration of 2 more days. This would give the Senator ample time again to participate in debate. During those 2 days between the vote on the motion to take up, and the vote on the motion to invoke cloture on the bill itself, the Senator would not be confined to 1 hour; he could speak at any length. So he would be guaranteed that he would have ample time to debate this bill before the Senate finally got down to voting on the motion to invoke cloture on the bill itself.

Mr. MORGAN. Does the Senator anticipate that committees will be meeting during the time of the motion to take up the bill?

Mr. ROBERT C. BYRD. There has been no objection lodged against committee meetings until today at noon. I do not think I am wrong in that.

Mr. McCLELLAN. Mr. President, I checked with the Parliamentarian, and there is no pending objection to committees meeting.

Mr. ROBERT C. BYRD. I think there was an objection today to committees meeting after 12 noon.

Mr. HANSEN. Mr. President, if the Senator will yield to me, it is my understanding that the subcommittee of the Committee on Interior and Insular Affairs holding hearings on the Alyeska pipeline was informed that they could not meet until 12 noon today.

Mr. ROBERT C. BYRD. All committees were prevented from meeting after the hour of 12 o'clock today, but up until that time no objections had been lodged against committee meetings either today or heretofore—as I recall.

Mr. MORGAN. Then, Mr. President, I do not object.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Mr. President, reserving the right to object, I would hope that if cloture is invoked and Senators follow rule XXII, there will not be any scolding of Senators for exercising their rights under rule XXII. I hope the leadership will bear that in mind.

Mr. SYMINGTON. Mr. President, will the Senator yield, in order that I may ask a question of the distinguished Senator from Alabama?

Mr. ROBERT C. BYRD. Yes.

Mr. SYMINGTON. If the Senator from Alabama is willing to vote at 12:15 on the New York situation, why is he not willing to vote at 9:30?

Mr. ALLEN. Well, the Senator has asked a fair question. The Senator from Alabama will give a fair answer. Because the leadership was saying we were going to vote on this bill before 12 o'clock, and I was determined we would not do it.

The PRESIDING OFFICER. Is there objection?

Mr. SYMINGTON. Will the Senator yield so I can ask one more question?

Mr. ROBERT C. BYRD. Mr. President, could we get consent to the agreement?

The PRESIDING OFFICER. Is there objection?

Mr. SYMINGTON. If the Senator will yield for one more question——

Mr. HANSEN. Mr. President, I think I have the floor, and under the same understanding as the majority whip originally stated, that he be permitted to interrupt without my losing my right to the floor, I yield.

Mr. SYMINGTON. I thank my friend from Wyoming.

That is a fair answer, and in response to it I ask a fair question. Would the Senator agree to 1 minute after 12?

[Laughter.]

Mr. THURMOND. Mr. President, reserving the right to object, the Senator from South Carolina has used only 3 minutes since cloture was invoked. He has 57 more minutes. I did intend to make some remarks along the line of the inadvisability of invoking cloture so quickly, as was brought out by the distinguished Senator from Nebraska; and furthermore, I was going to make a few remarks about that I felt some very harsh words have been said here, with insinuations that might be intended for the distinguished Senator from Alabama, and I thought that was completely uncalled for.

Further, they were remarks about threats and other things. In other words, I think a Senator has a right to rely on the rules. After cloture is invoked, he has 1 hour to speak. It is not a filibuster; he cannot speak but 1 hour, and I do not see why anyone would criticize another Senator for following the rules and speaking his 1 hour.

Some very harsh words have been said here today, and I intended to have some comments on that. But at any rate, I think what the assistant majority leader has advocated is reasonable, and I go along with it.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Mr. President, reserving the right to object, I wonder if the Senator from Wyoming would yield to me under the same understanding.

Mr. HANSEN. I am happy to.

Mr. HELMS. I thank the Senator. Mr. President, I am one of the newer Members of the Senate, and I hope it can be said that I try always to cooperate with the leadership as best I can, unless a matter of principle is at stake.

I must say that I regret the acrimony that has been evident today. Earlier this evening a distinguished Senator angrily shook his finger in my direction and stated flatly that Senators who are opposed to this New York City bailout bill have voted to send $150 billion to foreign countries, but are unwilling to look after their own people at home.

Mr. President, this Senator has never voted for foreign aid. Yet, I suspect that the news media have already fed the Senator's statement out to the entire country, and the people in North Carolina will assume that it is a fact. It is not factual that the Senator from Alabama (Mr. ALLEN) has ever voted for foreign aid, or that this Senator from North Carolina has ever voted for foreign aid, or the Senator from Virginia (Mr. HARRY F. BYRD, JR.).

Mr. PASTORE. Or the Senator from Montana.

Mr. MANSFIELD. Did I shake my finger?

Mr. HELMS. Pardon?

Mr. MANSFIELD. Did I shake my finger?

Mr. HELMS. Yes.

Mr. MANSFIELD. No, I did not.

Mr. HELMS. Well, I will say, then, that someone must have been standing behind you shaking his finger [Laughter.] It surely looked like the Senator's finger. [Laughter.]

Mr. MANSFIELD. That is in a different category.

Mr. HELMS. I will say with all respect to the distinguished majority leader that I hope comity can be restored in the Senate. On one other occasion, when things were not going to suit the leadership, tempers became hot, and the Senator asked what had happened to comity in the Senate. I said I thought it had been replaced by comedy.

But let us not threaten each other any more. Let it be understood that the Senator from North Carolina wishes to cooperate with the leadership, but that the Senator from North Carolina recognizes a steamroller when he sees one. I am not going to object to this unanimous-consent request; I hope we can get along without further threats. The Senator from North Carolina has his feelings about matters, and others have their feelings. I hope I have always operated under the rules. Incidentally, I have "filibustered" for precisely 20 minutes today.

Mr. MANSFIELD (shaking his finger). Mr. President, I have never shaken my finger at any Senator in this body at any time.

[Laughter.]

Mr. ALLEN. Mr. President, reserving the right to object, I would like to ask the Senator from West Virginia if he would agree to a final modification that if the public works bill is completed prior to 12:01, that we return to this bill in order that Senators who have used only 6 or 7 minutes of their hour might use the time remaining for further colloquy.

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Mr. President, reserving the right to object, I advise the distinguished——

Mr. MANSFIELD. The Senator is shaking his finger.

Mr. HELMS. I advise the distinguished assistant majority leader that I do not intend to call up any further amendments.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me for 1 minute?

Mr. HANSEN. I am happy to yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, may we have order? May we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Will the Senate kindly come to order. The Senate is not in order.

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it but first, if the Senator will withhold momentarily, will Senators kindly take their seats? The Chair is trying to obtain order in the Senate and Senators and staff members will kindly take their seats.

The Senator will state the parliamentary inquiry.

Mr. HANSEN. Mr. President, who has the floor?

Mr. ROBERT C. BYRD. The Senator from Wyoming has the floor.

The PRESIDING OFFICER. The Senator from Wyoming has the floor and has momentarily yielded to the Senator from West Virginia.

Mr. HANSEN. I yield to the Senator from West Virginia under the conditions he laid down.

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. The Chair inquires of the Senator from West Virginia did his unanimous-consent request contemplate that the amendment of the Senator from Wyoming would be disposed of first before proceeding to the public works appropriation bill?

Mr. ROBERT C. BYRD. It did not. I wish to explain what the Senate agreed to.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. I call this to the attention of the Senator from Wyoming, and I wish to make some arrangement for his amendment to be voted on in the extremity that time goes by and there is not time left otherwise before the time to vote on the bill.

Mr. HANSEN. Mr. President, let me point out to the Senator that I did not think that with the manner in which the Senator from West Virginia prefaced his request that I yield to him. I think he said temporarily or momentarily, without losing my right to the floor. Am I to assume that by having failed to raise the objection I have indeed forfeited my right to the floor?

Mr. ROBERT C. BYRD. Will the Senator allow me to explain?

Mr. HANSEN. I am happy to.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Every effort will be made to see that fairness is extended to the Senator from Wyoming.

Mr. President, in my initial request I included the amendment by the distingushed Senator from Wyoming, when the distinguished Senator from Alabama stated in his counter proposal that the Senate immediately go to the pubilc works appropriation bill, with the understanding that there be a vote on final passage of the pending measure at 12:15, Mr. HANSEN's amendment got lost.

Mr. ALLEN. Mr. President, I did not say we would go immediately to the public works bill. I said at 10 p.m., instead of having final vote on the bailout bill, that we would go to the public works bill. I had contemplated that would take care of these amendments.

Mr. ROBERT C. BYRD. Very well. I misunderstood the Senator.

Let me rephrase the request so that the amendment of the Senator from Wyoming will be included and the general intent of the Senate as previously understood will be carried out.

Mr. President, the leadership, to my knowledge, has not said at any time that there would be a vote on this bill today before 12 o'clock midnight. Instead, the leadership pointed out the necessity of having that vote before midnight.

May I say to the distinguished Senator from Alabama he misunderstood the leadership. No member of the leadership said there would definitely be a vote on the bill before midnight. That would not be within the power of the leadership to deliver on, in the face of the opposition we have encountered.

UNANIMOUS-CONSENT AGREEMENT

I ask unanimous consent that the Senator from Wyoming be permitted to offer his amendment, that there be not to exceed 10 minutes on the amendment to be controlled by him, that a vote occur then immediately up or down on his amendment, which vote would end at 10 p.m. tonight——

Mr. HANSEN addressed the Chair.

Mr. ROBERT C. BYRD (Continuing).—That the Senate then immediately proceed to take up the public works appropriation bill, that there be a time limitation of 1 hour on the bill, 20 minutes on any amendment, debatable motion, or appeal in relation thereto, and that upon the conclusion of action on the public works appropriation bill, or no later than the hour of 12 midnight, the Senate proceed to vote on that public works appropriation bill, and that immediately upon the disposition of that vote on the public works appropriation bill the Senate vote on the New York City bill which would mean that that vote would occur at 12:15 a.m. on the measure.

The PRESIDING OFFICER. Is there objection?

Mr. HANSEN. Mr. President, reserving the right to object——

Mr. ALLEN. I understood the distinguished Senator from Missouri (Mr. SYMINGTON) got that changed to 12:01 a.m., and on my statement that the Senator called attention to, when I said the leadership had said that it was going to pass the bill, possibly I should have said that they were seeking desperately to pass the bill. Would that be a correct statement?

Mr. ROBERT C. BYRD. The word "desperately" may be a bit strong, but we can live with it.

Mr. HANSEN. Mr. President, reserving the right to object, and I believe I will object, I wish to point out that I did not intend to talk very long. I yielded to the distinguished majority whip. I call attention to the fact that much of the time that has been consumed from the time I started speaking has been uttered by others, not on my amendment. Different Members chose for their own good reasons to lecture others around here about what was wrong with this institution and the way we were running this operation.

I do not think that I will take 10 minutes, but I am going to object. I intend and I serve notice now to take as much of an hour as I need. I have tried to be fair, and I may take only 5 minutes, but I object to the request that has been made.

Mr. ROBERT C. BYRD. The Senator did not smile when he did that, and he pointed his finger at me.

Mr. HANSEN. I find nothing wrong with pointing fingers, and I did intend to point my finger at the Senator and I meant it, and I have great respect for him.

Mr. ROBERT C. BYRD. He has pointed his finger again, and a third time.

Mr. HANSEN. There may yet be a fourth. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Wyoming has the floor.

Mr. HANSEN. Mr. President, I do not think I care to yield further.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will not mind yielding to me, I am trying to work out——

Mr. HANSEN. Not at all, if he has forgotten my finger pointing.

Mr. ROBERT C. BYRD. The Senator knows I did not mean any offense at that. I think if anyone in this body has learned to develop a thick skin I have. I was saying that facetiously. If I offended the Senator, I apologize.

Mr. President, I ask unanimous consent that the Senator from Wyoming be allowed to utilize whatever remainder of time is his under the 1 hour.

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HANSEN. Is it necessary that the majority whip ask unanimous consent that I be allowed to do what my right——

Mr. ROBERT C. BYRD. No.

Mr. HANSEN (continuing). By virtue of the rules seems to be mine to do?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. The Senator is correct.

But I was going to work that into the whole of the request, the entire request.

Mr. HANSEN. I only point out to my good friend that.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time that we have consumed thus far be charged against my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the amendment of the Senator from Wyoming the Senate then proceed to a consideration of the public works appropriation bill, under the time limitation of 1 hour on the bill, 20 minutes on any amendment, debatable motion, or appeal; that upon the disposition of the public works appropriation bill, or not sooner than 12:01 a.m. and not later than 12:15 a.m., the Senate proceed to vote on the New York City bill.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. A final vote. That upon the disposition of the vote, the leadership then be allowed to motion up the second supplemental appropriation bill, offer the cloture motion, and go over until Monday at 12 o'clock; and that the vote on the cloture motion occur on Monday at 2 p.m.

Mr. WILLIAM L. SCOTT. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. This gives full protection to the Senator from Wyoming, with all his rights under cloture.

Mr. WILLIAM L. SCOTT. Mr. President, reserving the right to object, why can we not dispose of the present bill before we go to another bill?

Mr. ROBERT C. BYRD. I beg the Senator's pardon?

Mr. WILLIAM L. SCOTT. Why can we not finish the present bill before we go to another bill?

Mr. ROBERT C. BYRD. That would be all right with me. That was in accordance with my earlier proposal, but the distinguished Senator from Alabama suggested that we go from the present bill to the public works appropriation bill, come back to the New York City bill, and have a vote thereon after midnight.

Mr. WILLIAM L. SCOTT. Mr. President, further reserving the right to object, I came to this city in 1934 to work for the Government. I worked the night shift at the Government Printing Office, from 12 o'clock midnight until 8 o'clock in the morning. I stayed there for about 5 years. When I was elected to the Senate, I thought I was going to work the day shift. [Laughter.] I do not like the idea of staying here until after midnight. I do object.

Mr. ROBERT C. BYRD. Mr. President, the objection is made.

The PRESIDING OFFICER. The Chair is under the impression that a unanimous-consent agreement had been reached and that what the Senator from West Virginia was attempting to do was to further refine the unanimous-consent agreement to protect the rights of the Senator from Wyoming.

Mr. ROBERT C. BYRD. To fully protect the rights of the Senator from Wyoming.

The PRESIDING OFFICER. So that if this unanimous-consent request is objected to, the Chair understands that there is a unanimous-consent agreement as first stated.

Mr. ROBERT C. BYRD. Which does not give the Senator from Wyoming his full rights under the cloture rule.

The PRESIDING OFFICER. Although the Senator from Wyoming has the floor.

Mr. STENNIS. A point of order, Mr. President. Is not the pending business now before the Senate, under the unanimous-consent request, the public works appropriation bill, H.R. 1222?

The PRESIDING OFFICER. The Senator is correct.

Mr. HANSEN. Is that the pending business, Mr. President?

Mr. MANSFIELD. Mr. President, I must demand that the rights of the Senator from Wyoming are protected before the public works bill is taken up.

Mr. GRAVEL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRAVEL. Does not the unanimous-consent agreement take precedence over the actual laying before the Senate of the public works bill? That was not laid before the Senate.

The unanimous-consent request was propounded and accepted. I think the Senator from Wyoming would still have the floor and the amendment still would be pending.

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HANSEN. What is the pending business?

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from Wyoming be allowed to use as much of his hour as he desires, that there be a vote on his amendment, and that then we turn to the public works bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. WILLIAM L. SCOTT. Mr. President, reserving the right to object, are we now on the public works bill or on the New York City bill?

The PRESIDING OFFICER. Under the latest unanimous-consent agreement just tendered, to which there was no objection, unless the Senator from Virginia——

Mr. WLLIAM L. SCOTT. I was on my feet, reserving the right to object. My question is, are we now on the New York City bill or on the public works bill?

The PRESIDING OFFICER. Under the unanimous-consent agreement, we would be on the public works bill. The Senator from Montana has just proffered a unanimous-consent agreement to dispose of the amendment of the Senator from Wyoming before turning to that bill.

Is there objection?

Mr. WILLIAM L. SCOTT. I have no objection at all to the distinguished Senator from Wyoming proceeding.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wyoming has the floor. The amendment of the Senator from Wyoming is the pending business, if the Senator from Wyoming calls it up. He has not yet called it up.

AMENDMENT NO. 1193

Mr. HANSEN. Mr. President, I call up my amendment No. 1193.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HANSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 5, after "Sec. 5." insert "(a)".

On page 3, lines 13 and 14, strike out "Acts making appropriations may provide for the withholding of" and insert in lieu thereof "the Secretary may withhold".

On page 3, between lines 22 and 23, insert the following:

"(b) If the Secretary, pursuant to subsection (a), determines to withhold any payment from the United States to the city, either directly or through the State, to satisfy any claim the Secretary may have against the city, the Secretary shall transmit to the Congress his specific plan to accomplish this purpose. Such plan shall become effective upon the expiration of thirty days of continuous session of the Congress after transmittal of the plan unless prior to the expiration of such thirty-day period—

"(1) either House passes a resolution stating in substance that it disapproves the plan; and

"(2) the Congress otherwise provides, by law, for the satisfaction of the claim.

The continuity of a session is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty-day period.".

Mr. HANSEN. Mr. President, I had mentioned earlier, before we got into several colloquies, that I thought it was important to understand what the President of the United States was calling for.

The PRESIDING OFFICER. Will the Senator suspend momentarily?

The Senate will be in order. Will Senators lend their attention to the Senator from Wyoming?

Mr. HANSEN. Mr. President, the amendment I have offered would insure that there is no cost to the taxpayer in the case of a default on the loan that may very well be made by the Government of the United States to New York City.

Security is an important safeguard in this amendment, and the amendment would provide an incentive for New York City to pay the loans or face immediate cutoff of other Federal program funds. It would assure that in the event of default, New York City will pay, rather than the American taxpayer as a whole.

The bill before the Senate takes security authority from the Secretary. The bill before the Senate does not have a loan security provision allowing the Secretary to act. The bill provides that in the event of default, acts making appropriations may provide for the withholding of Federal program payments. The provision in the bill provides no security. The appropriations process is slow. Accordingly, there will be no threat of immediate loss of funds to provide an incentive for New York City to repay the loans when due.

More important, the appropriations process will not assure loan repayment. The process is far too subjective to assure that there ever would be an accurate setoff. Moreover, there would be no assurance that there ever would be a setoff. The Appropriations Committee, acting long after the fact of default and surely being confronted with a laundry list of pending pressing financial needs for New York City, may never make a decision.

Authority to collect loan security must be with the Secretary, in my opinion. It makes no sense for the Secretary to be charged with the responsibility of this entire loan program and be denied the right to act on the loan security in the event of default.

Under the bill, the Secretary has the authority to require loan security, determine prospects for repayment, make loans in the event of default, act on collateral in which the United States has a security interest, has virtually absolute powers to administer the loan program and line of credit fund, and to inspect documents and participate on audits. If loan security authority does not at least initially rest with the Secretary, the loan security is a charade.

Mr. President, I will state very briefly what my amendment would do:

> If the Secretary, pursuant to subsection (a), determines to withhold any payment from the United States to the city, either directly or through the State, to satisfy any claim the Secretary may have against the city, the Secretary shall transmit to the Congress his specific plan to accomplish this purpose. Such plan shall become effective upon the expiration of thirty days of continuous session of the Congress after transmittal of the plan unless prior to the expiration of such thirty-day period—
>
> "(1) either House passes a resolution stating in substance that it disapproves the plan; and
>
> "(2) the Congress otherwise provides, by law, for the satisfaction of the claim.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HANSEN. I yield back my——

Mr. JAVITS. Mr. President, before the Senator yields, will he yield to me?

Mr. HANSEN. I am happy to yield to the distinguished Senator from New York.

Mr. JAVITS. I wish to call to the attention of the Senator, because we will not have any time to debate the issue, the statement in the speech by the President, himself, which laid down very stringent conditions.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point, because I think it is pertinent to the Senator's discussion, the President's statement, which he made publicly on November 26, as well as the White House background paper.

There being no objection, the statement and background paper were ordered to be printed in the RECORD, as follows:

STATEMENT BY THE PRESIDENT

I would like to comment briefly on recent developments in New York. Since early this year, and particularly in the past few weeks, the leaders of New York State and of New York City have been working to overcome the financial difficulties of the City which, as a result of many years of unsound fiscal practices, unbalanced budgets and increased borrowing, threatened to bring about municipal bankruptcy of an unprecedented magnitude.

As you know, I have been steadfastly opposed to any Federal help for New York City which would permit them to avoid responsibility for managing their own affairs. I will not allow the taxpayers of other States and cities to pay the price of New York's past political errors. It is important to all of us that the fiscal integrity of New York City be restored and that the personal security of eight million Americans in New York City be fully assured.

It has always been my hope that the leaders of New York would, when the chips were down, face up to their responsibilities and take the tough decisions that the facts of the situation require. That is still my hope, and I must say that it is much, much closer to reality today than it was last Spring. I have quite frankly been surprised that they have come as far as they have. I doubted that they would act unless ordered to do so by a Federal Court. Only in the last month, after I made it clear that New York would have to solve its fundamental financial problems without the help of the Federal taxpayer, has there been a concerted effort to put the finances of the City and the State on a sound basis. They have today informed me of the specifics of New York's self-help program. This includes:

One, meaningful spending cuts have been approved to reduce the cost of running the City; Two, more than $200 million in new taxes have been voted; Three, payments to the City's noteholders will be postponed and interest payments will be reduced through passage of legislation by New York State; Four, banks and other large institutions have agreed to wait to collect on their loans and to accept lower interest rates; Five, for the first time in years, municipal employees will be required to bear part of the cost of their pension contributions and other reforms will be made in the pension funds; Six, the City pension system is to provide additional loans up to $2.5 billion to the City. All of these steps—adding up to $4 billion—are part of an effort to provide financing and to bring the City's budget into balance by the fiscal year starting July 1, 1977.

Only a few months ago, we were told that that all these reforms were impossible and could not be accomplished by New York alone. Today they are being done.

This is a realistic program. I want to commend all those involved in New York City and New York State for their constructive efforts to date. I have been closely watching their progress in meeting their problem. However, in the next few months, New York City will still lack enough funds to cover its day-to-day operating expenses.

This problem is caused by the City having to pay its bills on a daily basis throughout the year, while the bulk of its revenues are received during the spring. Most cities are able to borrow short-term funds to cover these needs, traditionally repaying them within their fiscal year.

Because the private credit markets may remain closed to them, representatives of New York have informed my Administration that they have acted in good faith but that they still need to borrow money on a short-term basis for a period of time each of the next two years in order to provide essential services to the eight million Americans who live in the Nation's largest city.

Therefore, I have decided to ask the Congress when it returns from recess for authority to provide a temporary line of credit to the State of New York to enable it to supply seasonal financing of essential services for the people of New York City. There will be stringent conditions. Funds would be loaned to the State on a seasonal basis, normally from July through March to be repaid with interest in April, May and June when the bulk of its revenues come in. All Federal loans would be repaid in full at the end of each year. There will be no cost to the rest of the taxpayers of the United States.

This is only the beginning of New York's recovery process and not the end. New York officials must continue to accept primary responsibility. There must be no misunderstanding of my position. If local parties fail to carry out their plan, I am prepared to stop even this seasonal Federal assistance. I again ask the Congress promptly to amend the Federal bankruptcy laws so that, if the New York plan fails, there will be an orderly procedure available.

A fundamental issue is involved here: sound fiscal management is an imperative of self-government. I trust we have all learned the hard lesson that no individual, no family, no business, no city, no State and no Nation can go on indefinitely spending more money than it takes in.

As we count our Thanksgiving blessings, we recall that Americans have always believed in helping those who help themselves. New York has finally taken the tough decisions it had to take to help itself. In making the required sacrifices, the people of New York have earned the encouragement of the rest of the country.

NEW YORK CITY'S FISCAL SITUATION

BACKGROUND

Yesterday the New York State legislature put into place the final piece of a financial package designed to restore New York City's fiscal integrity. This action is the culmination of a series of efforts, the most important of which have occurred during the last three weeks, by the elected officials of New York State and New York City, labor unions, financial institutions and others. These efforts have set the stage for accomplishing three fundamental objectives:

Financing the past deficits of New York City without resort to Federal aid.

Financing the anticipated deficits of New York City during the next two years without resort to Federal aid.

Accelerating the period within which New York City's budget will be brought into balance.

The accomplishment of these objectives will insure that over the course of any New York City fiscal year, the City will have adequate funds to meet all of its financial obligations, a result many thought impossible a few weeks ago. Within any fiscal year, however, New York City will have deficits in some months and surpluses in others. According to information furnished by New York City, for the balance of the current fiscal year, the City will run a deficit of $141 million in December; $324 million in January; $310 million in February; and $500 million in March. In April, May and June, however, it will run monthly surpluses of $334 million, $345 million and $596 million, respectively, leaving receipts and expenditures in balance for the fiscal year.

Historically, the seasonal imbalance between a city's receipts and expenditures is usually financed by borrowing in private markets. Under current conditions, including the substantial existing commitments of the private financial sector in respect of New York City and State and the uncertainties which have prevailed over the recent past, private market financing for New York's seasonal imbalance is not available at this time.

Because seasonal financing is necessary to provide essential services to the people of New York City, the President will fulfill his pledge to insure the continuation of such services by transmitting to Congress the New York City Seasonal Financing Act of 1975.

SUMMARY OF THE NEW YORK CITY SEASONAL FINANCING ACT OF 1975

The Act provides for Federal short term loans to the City or any agency authorized by the State to act for the City, in an aggregate outstanding amount not to exceed $2.3 billion. Such loans will have a maturity date not later than the last day of the fiscal year of the City in which the loan was issued.

According to New York, the anticipated amount of such Federal seasonal assistance required is $1.3 billion in fiscal 1976 and $2.1 billion in each of the following two fiscal years.

Loans by the Federal Government will bear interest at a rate 1% higher than the Treasury borrowing rate. No loan will be provided unless all matured loans have been repaid in accordance with their terms and there is compliance with the terms of any such outstanding loans.

A loan may be made only if the Secretary determines that there is a reasonable prospect of repayment. Loans will bear such terms and conditions as may be established by the Secretary of the Treasury to insure repayment of such obligations in accordance with their terms. The Secretary may require such security as he deems appropriate. To offset any claim under the Act, the Secretary will be authorized to withhold any payments from the United States to the City, either directly or through the State, which may be due under any law.

The authority of the Secretary to make new loans will terminate on June 30, 1978.

ACTIONS BY NEW YORK CITY AND NEW YORK STATE

Governor Carey and Mayor Beame have informed Administration officials that the actions listed below are being implemented. New York State and City officials are delivering documentation veryfying such actions for the Administration to review.

The following actions are designed to insure a balanced city budget by June 30, 1978:

a. The three-year Emergency Financial Control Board (EFCB) plan will produce a modest surplus in thhe City's expense budget by fiscal year 1977–78.

b. The State Legislature has voted over $200 million of additional City taxes which will be imposed by the EFCB.

c. A portion of annual City contributions to the pension systems has been shifted to the employees by legislation. On an annual basis, the savings to the City would be $85 million and the impact on the employees would be $107 million per annum.

d. The City has laid off about 22,000 employees since January 1 and increased taxes over $300 million this past summer. Additional personnel reductions of over 40,000 employees are contemplated in fiscal years 1977–1978.

e. A partial wage deferral was imposed this fall.

f. The City has reduced its subsidy to the City University by $32 million.

g. The New York City transit fare has been increased from 35¢ to 50¢.

The following actions are designed to enable New York City to meet its financing requirements:

a. Moratorium legislation has been enacted with respect to $2.6 billion of City short-term notes.

b. An exchange offer has been approved by the MAC Board for an exchange of 10-year 8% MAC bonds for the $1.6 billion of City notes held by the public.

c. The New York banks and pension systems have agreed to take 10-year 6% City securities as part of the moratorium in exchange for $1 billion of City notes.

d. The New York banks and pension systems have agreed to take 10-year 6% MAC bonds in exchange for $1.7 billion of MAC bonds bearing higher rates and/or shorter maturities.

e. New York City pension systems have agreed to purchase $2.5 billion of new MAC and/or City securities over the next three years. This commitment is subject to appropriate trustee indemnification.

f. MAC has provided about $3.5 billion of financing to the City, of which $1.5 billion is refinancing of short-term debt.

The City and State have implemented the following management changes:

a. Creation of MAC and EFCB control mechanisms.

b. Extensive management changes are being made in the City, including a new Deputy Mayor for Finance and a new Chief of Planning.

The following proposals have been made to reform the New York City pension program:

a. The EFCB has passed a resolution directing the City to terminate the practice of using, for budgetary purposes, all income of the pension systems in excess of 4% per annum. In the year beginning July 1, 1976, this will result in approximately $136 million per annum of additional income to the pension systems and a commensurate increase in the City's expenses. The EFCB has also directed the City management to take action and report back within 30 days with respect to termination of the practices resulting in the abuse of overtime in the last year of employment, thereby creating excessive pension burdens on the City.

b. Governor Carey has directed Mr. Richard Shinn, President of the Metropolitan Life Insurance Company, to report to the EFCB by December 31 on the actuarial soundness of the City pension funds. The EFCB has directed the City to prepare and submit to the Control Board such legislative requests and other amendments as may be necessary as a result of the Shinn study to put the funds on a sound actuarial basis and to have those recommendations to the Control Board no later than January 31, 1976.

Summary of State financial plan to eliminate cash deficit for period December 1, 1975 through June 30, 1976

[In millions of dollars]

Estimated cash deficit as of October 29, 1975*	$3, 950
Less effect of Carey plan to reduce deficit—	
New city taxes	100
State advance	800
Debt moratorium, exchange offer, and restructuring	2, 450
Employee contribution to pension funds	50
Pension fund loans to New York City	550
Current estimate of cash deficit	0

*Estimate of New York City, New York State, and congressional committees.

NEW YORK CITY SEASONAL CASH FLOW NEEDS

New York City has estimated its seasonal cash flow needs as follows:

CUMULATIVE NEEDS

[Dollars in millions]

	FY 1975–76	FY 1976–77	FY 1977–78
July		$1, 100	$1, 041
August		1, 462	1, 413
September		1, 197	1, 237
October		1, 585	1, 293
November		1, 614	1, 325
December	$141	2, 063	1, 670
January	465	2, 062	1, 697
February	775	2, 017	1, 645
March	(peak) 1, 275	(peak) 2, 120	(peak) 1, 994
April	941	1, 528	1, 369
May	596	1, 103	996
May	596	1, 103	996
June	0	0	0

Mr. JAVITS. The Secretary of the Treasury would be violating his order from the President if he did not understand that he has to have a hold on whatever payments the Federal Government must make.

Second, I must tell the Senator, so he does not think we are all bad, that his amendment is subject to a point of order, which I shall not make.

Mr. HANSEN. Mr. President, I am well aware of that. If the Senator wants to make a point of order, he is at liberty to do so. I have three other amendments, two of which, I say, are not subject to a point of order.

Mr. JAVITS. I have said I shall not make it. The Senator has had a hard enough time putting his amendment. I just wanted that minute to put that statement in.

Mr. HANSEN. I, too, have read the message by the President of the United States.

Let me say, also, that I have read what the President has said. I have talked with the Secretary of the Treasury. These amendments were prepared in order to confer the kind of authority upon the Secretary of the Treasury that he felt would be useful in adding that extra measure of assurance that would make this the kind of bill that lots of people could support who otherwise may not be inclined to support it.

I have already indicated to the Senator from New York, my good friend, and others that it is my intention to support this bill. But I am certain I need not apprise the distinguished senior Senator from New York, nor others here, that there are many in this body who may, indeed, not support this bill. It was for that reason that I offer this amendment.

Mr. President, I am ready to vote on this. I do not yield back the remainder of my time.

Mr. MANSFIELD. Vote.

The PRESIDING OFFICER. The yeas and nays have been ordered on the amendment. The question is on agreeing to the amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Ohio (Mr. GLENN), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from California (Mr. TUNNEY), the Senator from Maine (Mr. HATHAWAY), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Wisconsin (Mr. NELSON) are necessarily absent.

I further announce that the Senator from Colorado (Mr. HASKELL) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The result was announced—yeas 26, nays 57, as follows:

[Rollcall Vote No. 562 Leg.]

YEAS—26

Allen
Bartlett
Bellmon
Byrd,
  Harry F., Jr.
Curtis
Domenici
Fannin
Garn
Griffin
Hansen
Hatfield
Helms
Hruska
Laxalt
McClellan
McClure
Morgan
Nunn
Packwood
Roth
Scott,
  William L.
Stennis
Stone
Talmadge
Thurmond
Young

NAYS—57

Abourezk
Baker
Beall
Bentsen
Brooke
Buckley
Bumpers
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Dole
Eagleton
Eastland
Ford
Gravel
Hart, Gary
Hart, Philip A.
Hartke
Hollings
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
McGee
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Symington
Taft
Tower
Weicker
Williams

NOT VOTING—17

Bayh
Biden
Brock
Burdick
Church
Durkin
Fong
Glenn
Goldwater
Haskell
Hathaway
Huddleston
Mathias
McGovern
Nelson
Percy
Tunney

So Mr. HANSEN's amendment was rejected.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a statement by the Senator from Colorado (Mr. HASKELL) on the New York City bill be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR HASKELL

On June 1, 1975, New York City had the most imbalanced financial structure of any city in this nation. With $5.3 billion in short term instruments this one city held 29 percent of the nation's tax exempt liabilities. Some 45 percent of the City's funded liabilities were short term. It was obvious that the City could not continue to generate a tremendous budgetary deficit and at the same time maintain a liability structure which required it to roll-over its obligations at frequent intervals.

The solution to the City's crisis required a restructuring of their debt—that is, an extension of the term of their short term instruments with a reduction in interest rates, plus revenue raising and saving measures which would bring their $750 million deficit into balance.

The methodology which seemed appropriate to achieve this solution was Federal bankruptcy proceedings. I first advocated bankruptcy as the City's solution almost two months ago. However, I saw the need to prevent the people of New York from suffering from the financial mismanagement of their political leaders. Therefore, then as now, I advocate a strong Federal role to assure the continued delivery of the City's essential services.

I would like to emphasize that bankruptcy was not an appealing alternative. However, at the time It represented the only prudent method by which the Federal Government could provide essential service maintaining financial assistance without seriously risking the taxpayers' money.

Since I enunciated this position on the Senate floor five weeks ago, the restructuring of the City's short-term debt has been accomplished through New York state legislation which imposes a moratorium on $2.6 billion of the City's short-term notes. Additionally, New York City's banks and pensions systems have agreed to exchange 10-year 6-percent MAC bonds for $1.7 billion of MAC bonds bearing higher interest rates and/or shorter maturities. This moratorium-rollover action provides for a total restructuring of $4.3 billion of City and MAC obligations. Of the total $4.3 billion package the New York banks and pension systems are assuming $2.7 billion of the restructuring. Further, subject to appropriate trustee indemnification the New York City pension systems have agreed to purchase an additional $2.5 billion of new MAC or City securities over the next three years. I am informed by the Senate Banking Committee that all of these agreements are in writing and copies have been deposited with the Secretary of the Treasury. As a result of these exchanges, the bondholders will suffer a reduction of interest income and a decrease in the market value of their bonds.

I am pleased that New York City, New York State, and the City's banks and pension systems have taken the initiative to redress the problem of their weak financial structure themselves. I am relieved that the City and State of New York have presented us with a viable alternative to default as a solution to the City's financial imbalance.

New York's crisis is a national crisis. Let us not forget that it was Federal programs and policies which helped cause New York's crisis. For example, welfare programs such as Aid to Families with Dependent Children and Medicaid cost the city of New York nearly $1 billion per year. Without this burden the City would have a significant budgetary surplus. Further, as we all know, the City has been the chief port of immigration to this country and the home of millions of disadvantaged minorities from the farms of the South and the Caribbean. For example, it was national policy not New York City policy that permitted unrestricted immigration from Puerto Rico.

The national ramification of a default has been debated exhaustively. But I think it is interesting to note that not only have the Mayors of almost every major city in this country urged prevention of default but they have been joined by groups such as the National Farmers Union—a family farmer organization. Further, according to a nationwide poll conducted by Louis Harris and Associates, a vast majority of the American people support federal assistance to New York assuming the City balances its budget and proper safeguards are instituted to prevent loss of taxpayers money.

I feel the seasonal financing bill before us does provide reasonable safeguards of the taxpayers money. I commend the President for his successful efforts to require that the City and State of New York and the City's investors and municipal unions take upon themselves the lion's share of the task of repaving their rough financial road.

I support the proposed New York City legislation and I urge my colleagues who have resisted earlier assistance proposals to recognize the positive steps already taken by the City to put its own house in order.

ADDITIONAL STATEMENTS SUBMITTED ON H.R. 10481

Mr. DOMENICI. Mr. President, I am relieved that the legislation dealing with New York's fiscal problems will be voted upon today. This is an extremely critical matter affecting more than 8 million Americans, and as such, I feel that procedural delays are not proper. Accordingly, I have consistently voted against all procedural parliamentary delays introduced these past few days. My desire for a quick vote on this issue, however, should not indicate my support for H.R. 10481.

I intend to oppose H.R. 10481 today because I feel the plan simply will not work. Upon serious study of the major provisions, I am convinced this legislation is merely a superficial response to extremely complicated problems. In fact, I believe the final result of this legislative thrust will ultimately result in a quagmire of legal entanglements and recurring congressional involvement in the years to come.

H.R. 10481 provisions do not include a basic component necessary to long-term cures. A fiscal reorganization rather than a piecemeal loan program is needed, and until such steps are taken, I feel certain future disasters are inevitable in New York and other careless municipalities. I would have supported a fiscal reorganization program as well as temporary financial "solutions." As matters stand, New York has not actually straightened out its own affairs. In actuality, the increased taxes imposed on the already burdened taxpayer of New York could have more serious long-term consequences than the current enormous problems

The precedent set by this legislation is clear—and extremely shortsighted. Mr. President, I urge my colleagues to carefully weigh the alternatives offered in H.R. 10481 and to vote against this approach to helping the most populous city in our country.

Mr. JAVITS. Mr. President, I cannot imagine any recent bill before this body for which a more compelling case can be made than the bill before us at the present moment. And yet, I can understand the controversy generated by the proposed legislation. Already, the New York City crisis has revolutionized the manner in which America's premiere city will be governed; for all practical purposes the fiscal affairs of the city are out of the hands of the mayor and in the hands of the State itself. And now Congress has been asked to place the capstone on this set of events by authorizing a specialized revolving loan of $2.3 billion maximum for any fiscal year.

This legislation is the final piece of a city, State, and Federal package to avoid a bankruptcy or legal default in the next week. New York City and New York State have done virtually everything they can to forestall it and yet the city is still faced with the imminent prospect of bankruptcy or legal default absent this Federal aid. Here are some of the steps that the city and State had taken before the President announced his plan for New York City on November 26:

The city reduced its payroll by almost 36,000 and has committed itself to further reductions of 8,374 by the end of the fiscal year.

More than $1.2 billion has been cut from this year's budget; $400 million of this is due to layoffs.

All New York City employees are on a wage freeze.

Several advisory boards and commissions have been set up to reorganize the city administrative structure and its financing. There is a new deputy mayor for fiscal affairs to help develop and implement the new fiscal balanced budget plan through the 1978 fiscal year.

The city is implementing a new accounting system to bring it into conforance with the State system of accounts.

The metropolitan transit authority has raised subway and bus fares more than 43 percent, to 50 cents.

Complete reforms are being instituted in the budget process so as to bring the designation of operating expenses and capital expenses into line.

City tax levy funds for the City University have been cut by $32 million, and an additional $32 million in State matching funds have also been cut from the City University budget.

The State has advanced more than $800 million in State aid funds to the city, and authorized new taxes and tax increases for the city, with an estimated annual yield of over $331 million, on top of a 10 percent increase in real estate taxes.

The State legislature has created the municipal assistance corporation—MAC—to help the city restructure its debt as between short and long term obligations. MAC has provided about $3.5 billion in financing to the city of which $1.5 billion is refinancing of short term debt.

The State is also lending the city an additional $750 million as part of the 3-month, $2.3 billion emergency financial plan which ends this month.

The State legislature has also created the emergency financial control board—EFCB—granting it powers over city spending that are unique in the history of intergovernmental relations. The board has promulgated a financial plan which will produce a modest surplus in the city's expense budget by the 1978 fiscal year.

These are the steps which have been taken by New York State and New York City until recently. These are the steps which the President had termed not enough, in terms of the city and State's steps to help themselves. Leaving aside for a moment the wisdom of the President's previous policies, additional steps have been taken. And the fact is, that the extra measure of sacrifice now being required of the city, and of the State, and of the business community, brings us very close to the line. Let me detail these extra steps:

Two hundred million dollars of new taxes have been levied as follows: Personal income taxes for New York City residents have been increased by 25 percent on the average, so that a family of four on the higher income level, earning $25,000 would have to pay $437.45 in additional city taxes.

Bank taxes in New York have been increased so as to yield $30 million.

Cigarette taxes have been increased, to yield $15 million.

Personal services taxes, for example, beauty and barber shops, have been expanded to yield $15 million.

A 50-percent surcharge on the State estate tax for resident estates in New York City has been imposed, with a price tag of $35 million.

New Yorkers must now pay a minimum personal income tax of 2.5 percent for the first time, and the corporate minimum income tax has been increased. The expected receipts: $15 million.

And, there are more steps, in addition to the tax financing I have just described.

Banks and city pension funds are rolling over $1 billion in city notes in exchange for 10-year, 6-percent city securities.

Another part of the moratorium affects any city notes maturing between now and the end of next June and held by individuals. Holders of those notes have the option to exchange them for 10-year MAC bonds at an interest rate of 8 percent, or to accept a reduced interest rate on their city notes, with an indefinite payback schedule; $1.6 billion in city notes are affected by this provision; $1.7 billion of MAC bonds held by banks and pension funds are being extended for 10 years at a lower interest rate of 6 percent.

Legislation has been passed requiring employees to contribute to the pension system which saves the city $85 million annually. Additional changes have been made more adequately to fund the pension plans and further studies are underway to make additional improvements.

City pension funds have agreed to invest a further $2.5 billion in city and/or MAC obligations over the next 3 years, over and above the present investment level of approximately $1.4 billion.

As I have said, these are the additional steps which the city and State have taken; and, together with the business community and with the sacrifices of many New Yorkers as well, they are the steps which apparently persuaded the President to alter his stand on aid to New York City and to propose the bill now before us. Together with this legislation, they constitute a complex financial package which has been negotiated with the participation of virtually all affected parties. It insures the provision of essential city services and the timely payment of city bills. No small business need go into bankruptcy for want of being able to collect on debts owed it by New York City. No person doing business with the city at the present time need fear the city's ability to pay on future orders. Without the Federal element contained in this bill, New York City faces certain default with terrible consequences for the city, State, and, I believe, the Nation.

If a default does occur it would have a devastating effect on New York City. Essential services would be disrupted in the chaos of default. Vendors and contractors would most likely not provide goods and services except for cash. With almost one-half of the New York City budget being composed of welfare, pensions, and debt service it would mean large cuts in services and employment—or further severe increases in taxes. This would be a cruel dilemma for the city, since decreased services could lead to violence and increased taxes on top of the new taxes just voted, would drive business and the middle class out of New York City. The city would also have to cope with problems such as assuring ongoing vendor credit for food and other essential supplies, for hospitals, prisons, and so forth, securing interim financing to cover immediate operating short-falls, assuring citizens of adequate protective and other essential services, and attempting to set some priorities for services and activities based on an uncertain revenue stream because of our almost certain falloff in taxpayments.

A bankruptcy law would also not solve many of the problems since there would be innumerable legal hurdles in just getting a judge to issue trustee's certificates to provide operating money for essential services for the city. There is grave doubt in the financial community whether trustee's certificates even issued in a New York bankruptcy would be marketable to any extent; our experience with the Penn Central bankruptcy shows that these trustee certificates would find little or no market acceptance.

The bankruptcy judge would also have the difficult task of approving a plan to run the city and which would be subject to endless challengers who would object to using money for any other purpose than paying off debt. In addition, certain provisions of the New York constitution would make it very difficult to devise an arrangement with creditors that would stand up under challenge. In short even under a bankruptcy statute a default would be a legal nightmare which the lawyers see as many years to resolve.

Finally, a legal default or bankruptcy would deny the city access to the markets under the laws of 30 States, including most of the large commercial States, from periods of 5 to 25 years. This could lead to a perpetuation of the city's problem for at least 10 years and completely destroy New York City as the major city of the world it is still today.

A default by New York City would also have vast repercussions for New York State and the Nation. New York State moral obligation agencies such as the housing finance agency, the dormitory authority, and others face financial problems themselves and would almost certainly be forced to default if the city defaults.

And, New York State itself has stretched its resources to such an extent to save the city that it cannot borrow in the market. By next June the State will need several billion to make good its own obligations to provide school and other aid to local governments, and would quite likely be driven into default if the city has suffered a legal default.

Finally, if there is a legal default by New York City followed by the State agencies and the State itself the national effects would be catastrophic. There has been much testimony before the Banking Committees of both Houses on the effects of a New York City legal default on the bond market—and on the ability of State and local governments to enter that market—on the Nation's banks and on the U.S. economy. Some, such as Secretary Simon and Dr. Arthur Burns, feel the effect on the bond market and on the banks will be bearable and that there will be no major adverse effect on the national economy, but even they say they cannot be sure; and, both favor the pending bill. Other prominent bankers and economists have testified that there would be seriously adverse effects on all of the bond markets and on the U.S. economy. And all agreed that the psychological effect of a default on investors and business executives could not be measured, and this gave even Secretary Simon and Dr. Burns great cause for concern.

It is a fact that some municipalities and States with reasonably good bond ratings have not been able to market their bonds except at materially higher interest rates and that others with slightly lower ratings have been foreclosed from the market entirely. Some States with the highest ratings have marketed their obligations at reasonable rates, but since the start of the New York City crisis these have been very few indeed and of the highest rating.

It is also a fact, based on surveys by the Federal Reserve Board, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation that 546 banks in 45 States hold obligations of New York City, New York State, and State agencies. Of that total 367 banks have 20 to 50 percent of their capital invested in New York obligations, and another 179 banks have over 50 percent of their capital invested in New York obligations. Thus it is likely that there will be serious adverse effects on at least some of the banks if there is an across-the-board default in New York.

Finally, the impact on the general economy could be very serious as the still sluggish recovery is going on. First, out-of-State firms doing almost $2 billion worth of business with New York City would be immediately affected by default. Those firms are located in over 20 States across the country, and the impact would be widespread. Then there is the psychological effect of a default on a city of 8 million people—and of a State with 18 million people—together with increased unemployment, lowered Federal tax payments and generally depressed business activities in New York City, the financial, cultural, and communications center of the country. This could lead to very serious repercussions nationwide which are at best very uncertain and at worst catastrophic. It would be folly to run such risks if they could—as they can—be avoided by Federal action now.

Thus we are being asked to vote today on a plan which has all the advantages and none of the disadvantages of an actual default. In so doing, we are being asked to aid a city which has bitten the bullet and which faces a medium-term future of halted capital projects, frozen civil service wages, sharply reduced essential services particularly in health and education, and a tax system which can only speed the departure of tax paying citizens and businesses to the suburbs or out of State.

We are also being asked to vote for a Federal loan which is fully collateralized, because of the Secretary's authority under this bill to withhold Federal aid payments if the loan is not repaid. This Federal aid coming to New York City, according to State emergency financial control board approved figures, will amount to approximately $2,522,000,000 during the current fiscal year—this figure includes public assistance payments of $528 million, medicare payments of $126 million, medicaid assistance amounting to $834 million, a revenue sharing entitlement of $263 million, and other miscellaneous grants in aid of approximately $770 million. As you can see, the amount of aid exceeds the maximum loan authority by $222 million, and is fully under the control of the Treasury, the agency which writes the checks. I ask my colleagues how many bank loans are as fully secured as this one. There can be no doubt, therefore, that the bill must be passed.

But, I must warn my colleagues of one danger which must be avoided at all costs, and that is the danger of thinking we have dispensed with our obligation to the Nation's cities by voting for the rescue package of New York. In fact, our job of developing policies to deal with our major cities is just beginning. With the help of this legislation, for example, New York will just barely scrape through the next three years. In the meantime, all the forces which have brought it to the point it is in now will continue to plague all metropolitan areas.

And many of these adverse forces have been set in motion by Federal policy. In fact, we have an urban policy which almost guarantees the deterioration of many of our older cities. Our "urban policy" in transportation, for example, is a policy of superhighways which has encouraged the flight to the suburbs. Our urban policy in health is negative—the absence of the national health system—thus requiring cities like New York to spend millions for health care services—in addition to Federal aid—to the poor who live there. Our U.S. urban policy on welfare is a policy which gives Mississippi 85 percent of Federal participation while requiring New York State to shell out at the rate of 50 percent. The State in turn gives half of that burden—about $1 billion—to New York City. I could name many other instances where Federal policy and legislation simply cry out for improvement, in order to help those areas of the country where between 70 percent and 80 percent of Americans now live.

I hope, therefore, that the New York City crisis and the legislation at hand will spur the Congress to develop a new urban policy to reverse the decline of our Nation's major cities. At a minimum, this policy should recognize the benefits which cities bring to the Nation at large and give back to them that fair share of Federal aid which is their due. It should recognize the realities of city government and thus encourage forms of regional cooperation for attacking those metropolitan problems which are clearly regional in scope. It should recognize that cities are a base of culture, of learning and, therefore, of high human fulfillment; as such, the purpose of an urban policy should be to attract a viable tax base into the center city areas and not to speed the flight to the suburbs.

Of course, this has implications for virtually every aspect of domestic government policy: Housing, education, welfare, transportation, et cetera. This is why I believe our job is just beginning. If we make some progress in this regard during the next 10 years we might be able to say that the legislation we passed began an exercise of congressional statemanship of the highest order. If we cannot, we can only say that while we have allowed New York City to breathe through the next 3 years we have not taken the lesson from this near catastrophe.

Finally we must recognize that New York City is not some foreign place occupied by some alien people. New York has been and remains the first city of America, the place where many new Americans first touched our shores, the financial, cultural and communications center of the country. It would be to our everlasting shame if we allowed this great resource to go down the ignominious road of default or bankruptcy which would result in the destruction of its central functions. Our country and the world would be a much poorer place for it.

Mr. BUMPERS. Mr. President, very few bills considered by the Senate this year or any other year have caused as much concern as the New York City bill. Three or 4 weeks ago, assistance of any kind, whether in the form of guarantees, direct loans, or outright aid would have had little chance of passing the Congress. Now we find ourselves debating a bill for the relief of New York City which has already passed the House of Representatives, which has the President's support, and which he has agreed to sign.

When it first became well known that New York City was facing bankruptcy, I felt that any assistance by the Federal Government would set a precedent which all of us would live to regret. The President was adamantly opposed to any assistance. My mail was running about 8 to 1 against any form of assistance.

At an appearance I made in New York City on November 6 at the New School for Social Research, the 1-hour question and answer session was almost completely devoted to questions as to my feelings about assistance to the city. I pointed out that it would be very difficult for me to vote for assistance because of the prolific spending habits in which the city had indulged itself for the last two decades, such as city hospitals operated at city expense with free care to virtually everyone without regard to financial ability, welfare assistance at levels far in excess of any other place in the country, free tuition to the City University of New York, and pension plans which provided for full pay retirement after 20 years of service for virtually all city employees.

All of these services and plans were highly laudable if affordable. New York State probably has the highest per capita income in the Nation, and many assumed that the city could always afford these things no matter how expensive. Now, we know it could not and cannot.

At the New School I pointed out the contrast between the services offered in New York City with its very high per capita income, and my own State of Arkansas, which is approximately 45th in per capita income with minimal welfare payments, free hospital care for the indigent only, tuition fees of approximately $500 annually to attend any State supported college or university, and actuarially sound pension funds providing rather limited benefits.

The Constitution of Arkansas requires not only the State but every city and county within the State to live within its means. We have not only done so but we have done so at considerable sacrifice to ourselves. All of New York's arguments about the reduction of welfare rolls by providing free education are valid, but they would be no less valid in my State than in New York City.

Mr. President, the people of my State are not insensitive to the plight of New York City. On the contrary, we understand that it is not the people but their elected representatives who have led them to this sad condition. Sadly, even in the face of providing so many services, the flight of middle and upper middle income families from New York City to the suburbs has caused a continually declining tax base and declining revenues. An interesting paradox is that now my State, which had an out-migration of citizens all through the 1930's, 1940's, and 1950's is experiencing an in-migration rate which has caused us in the past year to become the fourth fastest growing State in the Nation based on a percentage of population. I believe that among other reasons, they are coming to Arkansas because we have been a fiscally responsible people.

No, Mr. President, the people of Arkansas are not vindictive and they are not insensitive to the plight of 8 million innocent people who are, after all, American citizens.

As we approach the Bicentennial in 1976, it would be well for all of us to remember the Preamble to the Constitution which begins with "We the people." Surely the Founding Fathers meant that as long as the people of this country demonstrated a concern for each other, our system of Government would prevail. How can any Member of this body vote for foreign military sales, or foreign aid of any kind, to the tune of approximately $150 billion over the past 20 years and turn his back on 8 million of our own citizens?

Mr. President, I have read most of the testimony presented to the Banking Committee, and have read all of that committee's report. I am familiar with the very stringent actions taken by New York City in an effort to get its house in order and to get Presidential and congressional support for the $2.3 billion loan—not a grant—from the United States, to be repaid at the end of each fiscal year through June 1978.

In the past year, New York City has: First, laid off approximately 25,000 employees. An additional 10,000 have not been replaced as they retired or quit, and an additional 40,000 employees are contemplated to be discharged in the years 1977–78. Second, a partial wage deferral for all city employees was imposed this fall. Third, the city has reduced its subsidy to the City University by $32 million. Fourth, the New York City transit fare has been increased from 35 to 50 cents. Fifth, the State has declared a moratorium on payment of $1.6 billion of short-term city notes. Sixth, New York City banks and pension systems have agreed to take 10-year 6 percent city securities as part of the moratorium in exchange for the short-term city notes. Seventh, the city's financial affairs have been placed in the hands of the MAC Board and the Emergency Financial Control Board. Eighth, the State of New York is advancing $800 million to the city. Ninth, $300 million in new city taxes were imposed last summer, and the Emergency Financial Control Board has agreed to raise taxes an additional $200 million. Tenth, city employees will be required to contribute an additional $107 million annually to their pension funds, saving the city $85 million. Eleventh, the city has agreed to balance its budget by June 30, 1978, at which time, under the terms of this legislation, the United States will have been repaid its $2.3 billion loan, and New York City, hopefully, will be on its way to permanent fiscal stability.

Mr. President, unpopular as my vote may be in Arkansas, I consider the almost confiscatory taxes New York City has imposed upon itself, the burdens placed upon city employees, and the reduction of services to all its citizens, so stringent that no other city would ever want to take such drastic action in order to secure a Federal loan.

Finally, New York City is committing itself to a very difficult future. I have voted against several amendments to the New York City bill, in the belief that they would place a burden on New York City which it could not sustain. I am willing to take the city's proposals at face value and vote for this legislation. However, having done so, unless it lives up to its promises, and pays the Federal Government back as it has proposed, balances its budget, and stabilizes its financial condition, I would find it impossible to vote for aid again, in the absence of unforeseen circumstances of a magnitude I cannot now envision.

STATEMENT ON AMENDMENT NO. 1181 OF MR. HARRY F. BYRD, JR.

Mr. HOLLINGS. Mr. President, I sometimes wonder if we in the Congress have not locked ourselves away in an Ivory Tower on the Potomac where we cannot hear what the people are saying and where it is easy for us to presume that we are the fount of all knowledge. And I find it incredible that this Senate can see the handwriting on the wall and refuse to read it.

Here we have all been preaching fiscal responsibility, but when the time comes for us to put words into action, apparently we are men of poor promises. We suddenly find out that honesty is like insurance—while it is always the best policy, we invariably discover that when we need it the most, it has lapsed.

Clearly, the current debate over aid for New York City has given this Senate the opportunity to play fair with the American people and to be honest in its actions, but it seems to me today that we are being far from honest.

The handwriting is on the wall. New York City has gotten to its present dilemma because of a public policy that you solve all your problems with more and more money. We all know that. For years, the city of New York has thrown money down one rathole after another. And it has finally spent itself into near bankruptcy.

New York's municipal administrations from Mayor Wagner right on up have refused to read the handwriting on the wall. New York State officials have been just as irresponsible. Despite a declining tax base, the city has continued every over-worked welfare and fringe benefit program in the book.

And it refuses to cut back by any meaningful degree. Right now, there are more than 220,000 students attending the city's university system—free of charge. Right now, the city of New York maintains five times the amount of public hospital bed space as does the city of Chicago—all free. Right now, a garbage collector in the city of New York makes more than most mayors in my State of South Carolina. Right now, a municipal worker getting $19,000 a year gets $30,000 in his 20th year of service because of the pension program that balloons his benefits.

The Federal Government colludes. Just the other day, while poised at the precipice of bankruptcy, New York announced a HUD project, four luxury apartment towers for the poor with 11-foot-high ceilings, an indoor swimming pool, an auditorium, a greenhouse, a gymnasium, and an underground parking garage attended 24 hours a day. The cost of each unit runs to $68,000, and the easiest way for you to get in if you are a poor family is to burn down your present place. If you are burned out, the city moves you to the top of the list for subsidized housing and even gives you money to buy new clothing and furniture.

There has been adequate evidence presented that the officials of the State of New York and the officials of the city of New York have practiced some of the shoddiest bookkeeping and some of the most questionable financial practices ever brought to light to keep this merry-go-round going. For years, they went around issuing "moral obligation bonds" which now turn out to be about as valuable as the paper they are written on. For years, they vastly overprojected revenues—sometimes to the tune of 500 percent.

And then, when the bubble bursts and the city is staggering under millions of dollars in short-term debt, when the specter of default is standing at the door, when the State of New York itself is beginning to totter under the weight, why then Governor Carey and Mayor Beame and a plethora of bankers descend on Washington asking for help.

I can understand their concern. I have not turned a deaf ear to their plight. I know the problems facing New York City should be measured in human terms. I appreciate the potential impacts involved should New York City go under and New York State follow suit. As best I can, I would like to help.

But I want something in return. I want to set the right tone in Washington for the rest of this Nation to follow. I want to be sure that when we bail out New York City we are not setting a precedent whereby Washington will be called on to bail out every town and city in America that gets in trouble.

At the very least, I want to be assured that New York City eliminates its outrageous financial practices. I want to know that I can tell the people of South Carolina that the Congress has required New York City to cut out the frills and get back within a reasonable financial operation. I want to be able to tell them—and people all over the United States—that Congress is practicing in New York what it has been preaching in Washington.

I have no such assurance. Not one iota as I stand here now. The absolute minimum requirement we can make of New York City in return for the $2.3 billion we are about to lend it is that it work from a balanced budget. The President says the State and city have taken action to reduce an anticipated deficit of $4 billion to zero, but now we learn that, indeed, there will be a deficit of $724 million. We are told that a balanced budget is mandated because the city is required to pay back the loan at the end of each fiscal year, but that in no way requires the city to balance its budget. Requiring a balanced budget as part of this legislation is not a radical proposal. Even New York State officials have said the city should do this.

But today, when my distinguished colleague from Virginia, Senator HARRY F. BYRD, JR., was so bold as to suggest in the form of an amendment that the city of New York should work from a balanced budget in return for the graciousness of the Federal Government, that amendment was defeated in this Senate.

I find that appalling. As Senator BYRD pointed out, the Congress is going to have to bite the bullet sometime. This year alone, the Federal Government will have the highest deficit in its history—to the tune of $75 billion. For months, as a member of the Senate Budget Committee, I have worked to get congressional spending back in line. I think the future of our Nation depends on our doing that. Now we are asked to loan billions to the city of New York and without an assurance from the city that it will correct its profligate actions in return for the money. In one fell swoop, we are about to tear away the basic justification for our budgetary actions in this committee.

In spite of all the good that Congress does, millions of Americans tend to focus only on the bad. And gentlemen, we are about to fortify that tendency tonight by passing a bill that is, plain and simply, bad. Even with the actions New York has taken on its own to avert default, we have no assurances in this legislation that the same shady goings-on will not occur again. The only way to be sure they will not occur again is to require New York City to balance its budget.

Anything less than that, and we will have done a grave disservice to our budgetary process in the Congress. We will have substituted hollowness for conviction, and we will have demonstrated our inability to play fair with the American taxpayer. I feel called upon to remind my colleagues that that is where this legislation will ultimately be judged—not in the ivory towers here in Washington but among the taxpayers all over the United States.

Mr. GARN. Mr. President, as a member of the Banking, Housing and Urban Affairs Committee, I have long studied, analyzed, and otherwise dealt with the problem of New York default. I had the honor before coming to this body of serving Salt Lake City as its mayor and before that as a commissioner which has caused me to be sensitive and yet practical when dealing with the problems of a city. It was also my good fortune to have served on the board of the National League of Cities and for 2 years as one of its vice presidents. This has further expanded by concern for and understanding of cities across America.

I rise to urge that this body consider the New York issue in perhaps a slightly different light. We have all heard in recent weeks, review after review of how and why New York City has the problems it does. And it would be easy for me to repeat and expand along that line. I feel, however, that, for the moment, such a consideration must be set aside. I feel it is incumbent upon me to make a brief overview of what is before us as Members of the U.S. Senate.

A brief listing of the actions taken by New York City and New York State are:

First, creation of the Municipal Assistance Corporation; second, the creation of the State Emergency Financial Control Board; third, authorization of an exchange of city notes for long-term notes of MAC as a result of State moratorium legislation; fourth, enactment by the State legislature of $200 million of new city taxes; fifth, agreement that city pension funds be used to purchase $2.5 billion worth of MAC obligations; sixth, reform of the New York City pension program including overtime abuse in the last year of employment and an actuarial up-dating; and seventh, extension by the State of the repayment of $800 million advanced earlier this year.

Before reviewing my concerns about these steps and how my concerns relate to what we are considering today, permit me to quote Dr. Paul W. McCracken of the University of Michigan and a member of the Wall Street Journal Board of Contributors. He recently wrote in the Wall Street Journal—

> And it is critically important for those working on this problem in Washington and New York to be clear-headed about this, or their best efforts will court the risk of creating far more serious problems than it would solve.

The State of New York and the city have taken actions which they are hopeful will assist them with resolving the problem, when coupled with Federal loans. My basic concern is that one or more of the steps I have outlined above will be stopped, delayed, or otherwise prevented from implementation by force, beyond their control. Permit me to explain.

The first step has already been challenged in the courts by a New York bank and they have already been successful in delaying the deadline for the swap of New York City notes for MAC bonds. They have stated, and I quote Mr. Arthur Richenthal, their attorney:

> If the New York State court doesn't render a decision immediately, attorneys for the bank will then apply for a further delay. We will apply to the court for further delay of the expiration date until after a decision is rendered so note holders can make an informed judgment which I believe can be made before the constitutional issue is resolved.

He further said that if the court decision is appealed, whichever way it goes, the bank will seek still a further delay and that is just the first of seven very complicated steps.

The second step, the creation of the Emergency Financial Control Board requires that the Board carry the city to a balanced budget by 1978, which means severe cutbacks in city employees, wage freezes, cutbacks in city services, or whatever other decisions they might make. Those steps are obviously going to be the object of a great deal of concern on the part of municipal employee unions specifically, and organized labor in general.

A further amplification can be made regarding the fifth step, the city pension fund's purchase of $2.5 billion of MAC bonds. State Comptroller Arthur Levitt earlier was prevented by a court action from a similar investment of State retirement funds. We have every reason to be concerned that a similar action would be taken regarding city pension fund investment.

With regard to the sixth step, the reform of the city's pension program's actuarial soundness, it has been stated that the pensions are unfunded to the tune of $6.1 billion and the actuarial assumptions have not been revised for 60 years mainly in an effort to avoid necessary higher appropriations. Pension reforms have recently been challenged on the basis that "pensioners have a constitutional right to their pensions" and that any such renegotiation would constitute "impairing the obligation of contracts."

A few weeks ago while appearing on the Robert McNeil Report on the Public Television System I was told by Victor Gottbaum, a leading Federation of State, County, and Municipal Employees Union official, that they would "oppose to the death" any further cutbacks.

A recent news release of the Public Employee Department AFL–CIO stated "unions also are facing attempts by the city to unilaterally void legally binding contracts recently negotiated," and further that the executive board of the AFL–CIO Public Employee Department reiterated "its support of any Federal loans guaranteed to New York City while protecting the collective bargaining process and negotiated contracts of city workers." It appears to me they have drawn their battle lines. I am concerned, as are many others, that we may be in for a collision between unions and people.

Mr. President, I am deeply concerned that the Congress and the President not be finessed by New York whether intentionally or unintentionally.

Mr. BROCK. Mr. President, I view this legislation with deeply mixed emotions. No Member of this Senate would turn his back on a section of our Nation when it was faced with a natural disaster. Nor can we be immune to the difficulties faced by our neighbors in New York under these circumstances. I, for one, would like to help. For me, then, the question becomes one of means, because the end is not in dispute.

However, if we resolve this matter in a fashion which affords symptomatic and short-term relief, we fail not only the people of New York, but the people of the Nation as well. I recognize the imperative nature of the situation. Obviously under such circumstances fundamental questions cannot be dealt with in the legislation before us. Yet our actions must be considered in light of the genuine crisis facing all of urban America. And they must be considered in light of patterns and precedents which this bill will establish for the future.

Admittedly the difficulty of those who have labored to forge this legislation has not been eased by the rhetoric of either side. I regret the quality and substance of the language used—both in opposition to and in support of this much-beset city. Of course people have been defrauded, and that includes the citizenry of the city itself. Yet this fact should be used as a guide to the creation of protective devices for the future, not as an excuse to oppose some remedy now.

Of equal concern is the absence of debate on the urban crisis, a crisis in which we in Washington have played no small part. I refer not only to immigration policy, but to actions in the areas of welfare, education, housing, and so on which have in countless ways stretched city after city to the breaking point. I refer to the Federal inability to cope with unemployment and inflation, draining urban resources and adding to urban expenditures. Yet these issues too can be raised only in the more fundamental context of long-range Federal reforms—not as an excuse for inaction on today's question.

In the final analysis, my vote against the proposal must rest upon one basic objection—I believe direct Federal loans are enormously hazardous. They portend a future course of action which can only lead to political and social chaos. Should the Secretary of the Treasury, or any other Federal official, be put in the position of sending a major city into bankruptcy? He would have no choice if projected receipts fail to measure up to expectations. He would have no choice if some portion of a local organization chose to vent their frustration through an extended public service strike and thereby brought the city again to its knees.

I very much hope my fears of such events are groundless. It does seem that we could afford the State access to the financial markets through guarantees or some other device that would entail a great deal less risk—either to the people of this Nation or to their federal system of government.

If we could make such a response on the Congress part, couple it with the acceptance of self discipline on the part of the State and city governments, and in the process at least commit ourselves to the ultimate achievement of more fundamental long term reforms, the Nation would be well served.

It is apparent all of this will not happen today. If anything, the willingness of New York to finally face its responsibilities exceeds that evidenced by this Congress. Yet we too cannot long ignore our problems. The American people deserve better. After the lesson of New York, which at least they, if not their Congress, understand, they will demand better.

Mr. WILLIAMS. Mr. President, the issue before us today is what, if any, obligation does the Federal Government have toward the city of New York, its 8 million citizens and the other millions of citizens throughout New York State and the rest of our Nation who could be affected by a New York City default.

No one quarrels with the fact that over the past two decades, New York City has been horribly mismanaged; that it has not lived within its means; that it has been profligate and that through accounting gimmicks and sleights of hand, it has over the years, accumulated a steady stream of unprecedented budget deficits. The blame for this sorry state of affairs, which has brought the city to the brink of insolvency and its leaders scurrying to Washington, hat in hand, lays squarely at the feet of New York's elected leaders and financial advisers, both at the State and local level. On Democrats, as well as Republicans, on commercial bankers as well as investment bankers. And if default would adversely affect only these individuals, I would be the first to oppose the legislation before us today. Unforutnately, however, this is not the case.

New York City's publicly held securities total $12.3 billion. Of this amount, less than 25 percent are held by banks and while undoubtedly large amounts of the remainder are held by wealthy individuals, there are a significant number of individuals of modest means who will suffer severe financial hardships if New York defaults. At the same time, we have been treated to the spectacle of Arthur Burns, Chairman of the Board of Governors of the Federal Reserve System, vowing to keep all major banks liquid in the event of default. It is, therefore, obvious that if the Congress rejects proposals designed to prevent default, the greatest hardships will fall upon the many investors of modest means who have invested their hard-earned money in New York securities and who have been caught up in this catastrophe through no fault of their own.

Far worse, however, is the fact that the hardships of default would not be limited to New York City bond holders. Data Resources, a private consulting firm, used by the President's Council of Economic Advisors, estimates that default will cost our Nation $14 billion in lost national production and 500,000 jobs, while the Wharton School of Finance of the University of Pennsylvania estimates such losses to be at the $10 billion level with a 430,000 job loss. It does not take a trained economist to conclude that such results will drastically impede economic recovery and reverse recent efforts to stem double digit unemployment.

The ripple effect of the New York situation has already lead to the defeat of $7 billion worth of much needed bond referendums throughout our Nation. Moreover, well managed cities and counties within my own State have already begun to feel the pinch. Jersey City recently paid an unheard of interest rate of 10⅜ percent on a bond issue, and Bergen County—an area whose fiscal integrity has never been questioned—has refused to go to the market place at a 9.9-percent interest rate. If this situation is allowed to continue, financially sound cities, counties, and States throughout our Nation will either refuse to enter the marketplace and forgo much needed capital improvements, thus allowing such essential services as schools, hospitals, highways, and mass transportation to go to seed, or squander additional millions of dollars paying exorbitant interest rates.

In addition, default would make it all but impossible for New York City to reenter our money-lending markets for the foreseeable future. Thirty States have laws on their books prohibiting banks, insurance companies and other institutional investors within their boundaries from buying securities of a municipality that has defaulted for periods as long as 25 years.

Almost all major cities must borrow various sums of money at regular intervals to bridge the gap between the arrival of State and Federal aid programs. Moreover, if long term borrowing is not available, capital construction programs for such essential projects as schools, police stations, fire houses and water and sewer projects will be curtailed.

The bankruptcy approach which the administration until recently endorsed, would have authorized the sale of debt certificates to meet New York City's short term needs and thus insure the continuation of essential services. These needs are estimated to run between $1.2 and $2.5 billion. In the Penn Central bankruptcy, where a similar approach was attempted, the $125 million in trustees certificates which were offered to investors proved to be unmarketable without a Federal guarantee.

Under such an approach, there is considerable doubt that credit even for the continuation of essential services, would be forthcoming. The results are easily predictable; the laying off policemen, firemen and teachers. The curtailment of school, sanitation, hospital and day-care services. Surely no one would countenance this type of holocaust and more costly Federal assistance in the form of direct grants or loans would be necessary.

Mr. President, I wholeheartedly agree with the conclusion of the majority of my colleagues of the Committee on Banking, Housing and Urban Affairs when they state that the real issue is whether Federal assistance is to be provided before default or after default.

None of us disagree with the conclusions that New York City's debt must be restructed so that an orderly method is found for paying creditors and that New York City must achieve and maintain a balanced budget.

In fact New York City has already taken action which will achieve this result.

This legislation is far from a Federal bailout and will cause additional belt tightening for both the city and State of New York. The city has already increased taxes, required employee contributions to their pension plans, and curtailed capital expenditures. City employment has also been drastically reduced and worker's wages have been frozen.

In conclusion, Mr. President, I feel sure that it is the wish of all Members of this body to see New York put back on sound financial footing, its debt restructured, its budget balanced and wasteful spending curtailed. None of us wishes to see essential services curtailed and policemen, firemen and school teachers unemployed. It is my hope that the legislation before us today will achieve this result without the untold adverse effects of bankruptcy and without undue damage to our capital markets. The prompt enactment of this bill will enable New York City to place its own house in order without going through the rigors of insolvency which will be far more costly to all of our Nation's citizens.

Mr. JACKSON. Mr. President, the pending measure is vital not only to the city and State of New York, but to all Americans.

Finally, last week, the President listened to reason. Finally, he acknowledged some simple facts many of us have been urging on him for months.

First, he acknowledged that New York's financial problems are not a local matter. The effect of a default by New York City and State on our already fragile national economy would be disastrous. Even the administration's economists eventually came to recognize this.

Second, the President acknowledged that his previous criticisms of New York officials were unjustified. The fact is that New York City and State have taken drastic action to restore fiscal integrity. Taxes have been increased significantly, expenditures reduced, payrolls cut, and new accounting procedures adopted. New York has, in fact, gone as far as it can reasonably go. Further tax increases may, many have argued, damage the State's economy.

This loan bill is no bailout. It is very far from it. It has been preceded by a most stringment retrenchment. It provides only seasonal loans. It is the least—the very least—that can be done to stave off default.

I am confident that we will support this loan program. However, it provides no answer to the deeper problems of municipal finance.

Last summer, I circulated to mayors and other local government officials throughout the country a bill providing for Federal municipal bond guarantees. At that time, there was little public support for such a measure, although there was widespread support among mayors around the country. They were fully aware of the terrible pressures our present combination of recession and inflation have put on local governments, and fully aware of the effects a default by New York would have on the municipal bond market.

Today, municipal bond insurance has widespread support. It is one of the measures we can take to insure adequate access to the capital markets for our Nation's cities.

Two other major steps must be taken. We must move toward full Federal responsibility for the funding of welfare. In New York, approximately 70 percent of AFDC recipients were from out of State. Welfare is, obviously then, truly a national problem, and should be funded at a national level.

Second, Federal aid to education must be significantly increased. Today, it equals approximately 7 percent of school budgets. This figure should be raised to 33⅓ percent. Education, like welfare, is a national problem. The investment one city does not make in education, may ultimately be made by another city in welfare payments to a man or woman untrained for employment. Moreover, we must move away from reliance on the local property tax as the means of financing education. It is unfair to those school children living in districts where property values are low, and it is unfair to homeowners whose budgets are wrecked by enormous increases in property taxes.

Of course, most essential in restoring the financial integrity of our cities, is the restoration of prosperity for our country. Cities today are caught in the terrible double-bind of inflation and recession. The cost of providing public services rises, while revenues shrink. Until full employment and full production are restored, our cities will not emerge from the fiscal crisis which beset them.

Mr. President, passage of this bill, and provision of this loan to New York, is an essential first step. I am confident we will take this step. And then, I hope, we will move forward in the next months and years to deal with the many financial problems which beset all of America's cities.

Mr. GOLDWATER. Mr. President, having lived 2 years of my life in New York City and having done business in that city for many years, I have a natural feeling, in fact, almost an affectionate feeling for that gigantic mass of dirt and prettiness, of corruption and decency, so it is with mixed emotions that I face a decision I have made relative to the bill which would give aid to New York, in other words, to bail New York out of its troubles that she and her elected officials got New York into. What disturbs me, Mr. President, is not the amount of money; it would not make any difference to me if it were $5, $1 million, $1 billion, or $10 billion; it is the precedent that we will establish if we vote this aid for New York. Now, Mr. President, I served on a city council in my native city of Phoenix, and I know from personal experience the temptations that face a city council when things are needed done but there is no money to get them done with. The temptation is, let us do them and see what happens. Well, any prudently run city or any level of government cannot operate long on that touch-and-go basis. New York gave in to the pressure of unions; New York did not understand that you cannot give free college education to tens of thousands of people as desirable as that might be. New York City has agreed to pay exorbitant salaries and exorbitant retirement benefits to far too many people without having any way of meeting those promises. Now if we say to New York, we are sorry that through your lack of foresight, which borders on stupidity, you have gotten yourself in this fix, never worry, old Uncle Sam is going to bail you out, then cannot we expect every community in America that wants to spend money but does not have it, to go ahead and do what New York has done. That is the precedent we are establishing, Mr. President.

We are, in effect, telling every level of government in the United States to go ahead and yield to the pressure of unions, yield to other groups which have no real interest in the efficiency of the government, but rather what they can get for themselves, build all the parks you think you need, spend all the money you need, spend all the money you want to spend, and just come to the Federal Government if you get in trouble. Now let me remind my colleagues that the Nation's Capital is in as bad shape as New York City, and let me take another step and say that the Federal Government is probably in worse shape than New York City, the only difference being is that the Federal Government can print money and we will continue to do that at the present rate until the dollar is not worth much more than a few cents. If we continue the paternalistic attitude toward all levels of government in this country, if we continue the uncontrolled welfare state and centralized government that this Republic of ours has gotten into, then the question should come to the minds of each of us, who is going to bail this country out when we go the route that other countries have gone who have followed the disastrous course that we are on. I am going to vote against the suggested aid to New York City, not that I dislike the city for I rather like it, but because I do not want to be a part of the establisment of any precedent that would encourage wasteful spending at any level of government in our country.

Mr. BAKER. Mr. President, for the past several months, this Nation's attention has been regularly drawn to the financial plight of New York City. All of you are aware of the extreme difficulties, both fiscal and political, that this situation has helped create. I have said publicly on several occasions that while finding no joy in the plight of New York City residents, I believed the Congress should resist acting until forces in the Metropolitan New York and State of New York areas respond to the necessity of financial overhaul. I believe that response has now come. I believe, likewise, the time for Congress to act has also come.

The plan developed by President Ford in direct response to New York City actions is a fair and just one. The entire handling of this problem by the President is indeed one of the most praiseworthy acts of his administration. Had he acted any sooner, the forces to generate change in New York's financial structure would have been impeded. Had he acted any later, the forces of turbulence and suffering incumbent to a total collapse of New York's social order could have been devasting.

By acting as he did when he did, the President has not only stimulated fiscal reform in New York, but he has also eliminated a raid on the Federal Treasury. As a matter of fact, United States citizens need to note that they will benefit rather than suffer over the next 3 years from this particular bill. By requiring that New York fiscal agencies repay their Federal loan at the current Treasury rate plus 1 percent, the President has strengthened rather than weakened the U.S. financial situation. In a humoristic sense, one could argue New York City may end up helping bail out the Federal Government rather than the other way around. At the very least, we have avoided the fiscal responsibility of maintaining essential city services in New York as we would surely have had to do if the city defaulted.

In light of the fiscal response of New York City and State, and in light of the President's patterned response to the Empire State's initiative, I intend to support this legislation, H.R. 10481, and encourage my colleagues to do likewise. At the same time, however, I want to highlight for New York interests three assumptions on which I believe the Congress is acting. One is that the budgetary and fiscal information we have received during the past few weeks is valid and factual. Any attempt to deceive the Congress into believing that New York's 3-year plan for economic recovery is legitimately feasible, when actually it is not, will eventually be counterproductive to the interests of New York. I salute my distinguished colleagues from the State of New York, Senators BUCKLEY and JAVITS, for their oft-repeated statements the past week that New York's financial arrangements and all facets of this particular deal must be constantly open to public and governmental scrutiny. Only this will insure the effective application of this particular bill and the credible public understanding that it demands.

Second, I believe the Congress is acting on the assumption that the Metropolitan Assistance Corp., the State of New York, and New York City itself will remain steadfast to the reforms they have instituted. Any failure on the part of any of these institutions to adhere to the various reforms they have voted upon themselves will seriously jeopardize their hope for economic recovery.

Third, the Congress is assuming, based on statements of intent and display of facts by both the public and private sectors of New York, that this plan does offer the city a reasonable chance to set its own house in order. No one wants New York City to be a trusteeship of either the Federal Government or any Federal court. But, I am afraid that if New Yorkers do not make this plan work, that will be their only alternative in the future.

One of the most discouraging aspects of the entire New York City crisis has been the inflammatory and divisive rhetoric that has characterized much of the debate. We have allowed ourselves to become divided again not black against white, or North against South, but urban versus less-urban. On too many occasions recently on domestic issues of all stripes, the Congress and the American people have allowed themselves to become alienated from one another. Indeed, as problems common to metropolitan areas in all sections of our country proliferate, the Congress must reassess again its constitutional responsibility to "promote the general welfare" of all its citizens. I believe we must begin to assess each piece of legislation we pass for its potential negative impact on America's cities. If all of us here today are honest with ourselves, we will have to admit that certain Federal policies the last few years have aided and abetted the decline of America's metropolises. Among them are Federal spending patterns, welfare regulations, school busing programs, immigration excesses, and poor law enforcement administration, to name only a few. These are not singly the cause of New York decline, but some of them do apply.

Let me today go on record, while supporting this legislation and abhoring the New York administrative nightmares that contributed to its existence, as encouraging my colleagues in the Senate to begin exploring ways to strengthen the entire fabric of America's metropolitan areas. We must face the crises of the cities squarely and openly, or else I fear situations like this will present themselves again.

Mr. STENNIS. Mr. President, in expressing opposition to H.R. 10481—the New York City Seasonal Financing Act of 1975, I want to emphasize that I am not insensitive to the plight and financial problems of New York and other cities. Something must be done to deal with the problems. However, I am convinced that the lending of huge sums of the taxpayers' money to New York City is not the proper solution. The bill under discussion, it seems to me, would reward and ratify municipal mismanagement which has resulted in a steady stream of unbalanced budgets, a massive growth in the city's debt, extraordinary increases in public employee contracts, and disregard of repeated warnings that the city was courting financial disaster. Put shortly, the city of New York and the State of New York could and should carry this burden. It seems to me that Governor Carey has done splendidly in his efforts to solve this problem, but the State of New York can go further.

One of the primary reasons for my opposition to this bill is that it would set a completely untenable and unacceptable precedent. Numerous other cities, large and small, are confronted with serious financial problems. If we lend money to New York City to bail it out of its financial problems, would we not have to respond with more of the taxpayers' money if another municipality came forward and asserted that it was on the verge of financial collapse and would inevitably default on its obligations without Federal assistance?

We are facing a Federal deficit this fiscal year of about $75 billion. Our national debt is headed toward $600 billion. Another tremendous deficit is certain for fiscal year 1977. Under these circumstances I do not see how we can afford to embark on a program which would establish a precedent involving Federal funding in vast and unexplored areas on the State, municipal and local government level. This would be the height of fiscal irresponsibility.

Further, Mr. President, the bill as written authorizes loans only to New York City or to a financial agency which has been authorized by State law to act on behalf of or in the interest of the city with respect to the city's financial affairs. In case a loan is made to a financing agency the city and such agency are jointly and severally liable. However, there is no provision in the bill which makes the State of New York itself directly liable for a loan. In my view, this is such a serious deficiency that I would have to oppose the bill on this ground alone.

I say this because there is no certainty that New York City will be able to ride out this financial storm even if the bill is passed and a loan or loans are made to it. The New York fiscal plan is such that the loans which are authorized by the bill would barely cover the operating budget, interest payments, as extended, and other requirements. In other words, the bill, coupled with the New York fiscal plan, will barely keep the city afloat. Any major adverse circumstance or problem, such as worsening of economic conditions, could put the city flat on its economic back again and the U.S. taxpayer might be left holding an empty bag. Under these circumstances it would appear that any loan should be endorsed and guaranteed by the State.

I realize that the bill authorizes the Secretary of the Treasury, in his discretion, to require the State to provide such security as he may deem appropriate. However, this is not by any means a substitute for a hard and fast provision requiring the pledge of the full faith and credit of the State for the repayment of the loan.

Finally, Mr. President, the State of New York has enacted legislation providing for a moratorium on $2.6 billion of short-term city notes. This law has already been attacked in a New York State court as being an unconstitutional impairment of the obligation of contracts under article I, section 10 of the Constitution of the United States. If this attack should be successful—and this is certainly a real possibility—the entire comprehensive plan to save New York would collapse.

Mr. President, it is startling to me, under the circumstances, that this legislation is being seriously considered by the Senate. I just cannot go along with a bill which would take $2.3 billion of the money collected from taxpayers all over the country and lend it to New York City. I strongly urge that the bill be defeated.

Mr. PROXMIRE. Mr. President, I ask unanimous consent to include in the RECORD a copy of the financing agreement between the 11 New York City banks, the 5 city pension funds, and the Municipal Assistance Corp.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

MUNICIPAL ASSISTANCE CORP.,
New York, N.Y., December 5, 1975.

Hon. WILLIAM PROXMIRE,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR SENATOR PROXMIRE: Pursuant to George Gould's letter of December 4, 1975, I am enclosing herewith a xerox copy of the restated agreement dated November 26, 1975, among Municipal Assistance Corporation for the City of New York, the New York City Clearing House Banks, New York City Pension Funds and New York City Sinking Funds. The restated agreement embodies the final terms of the understanding among the parties and is in a form suitable for insertion in the CONGRESSIONAL RECORD.

Very truly yours,

FELIX G. ROHATYN, *Chairman.*

Enclosure.

AMENDED AND RESTATED AGREEMENT

Agreement made as of the 26th day of November, 1975, among the Municipal Assistance Corporation For The City of New York (the "Corporation") and each of the undersigned New York City Commercial Banks (the "Banks"), New York City Pension Funds (the "Pension Funds") and the New York City Sinking Funds (the "Sinking Funds") is hereby amended and restated to provide as follows:

The Corporation is proposing to offer to exchange (the "Exchange Offer") certain of its bonds (the "MAC Bonds") for certain outstanding short-term obligations of The City of New York, listed on Schedule A attached hereto (the "City Notes").

The Governor of the State of New York on November 25, 1975 made the following public announcement:

I wish to compliment the Legislative Leaders and the members of the New York Assembly and Senate on their work today. We have met, I believe, all the conditions laid down by the President as a prerequisite to his consideration of Federal involvement in the fiscal crisis facing New York City. We fully anticipate a favorable Federal response in recognition of the unusual and difficult steps taken by the people of New York.

While those achievements are a source of great satisfaction to all of us concerned about the potential default of New York City, for the State of New York it is only the first step. I shall ask the Legislature to return to Albany on December 3 to meet the problem of the State's own budget gap and to fully dispose of that matter through legislation during this extraordinary session. I am calling upon Comptroller Arthur Levitt to certify the existence and size of the gap on or about November 30th using the latest revenue figures available to him at that time. In addition, the Legislature will be asked to complete its work on the "moral obligation" agencies of the State—strengthening their reserves and removing those programs that will not pass the most rigorous credit test. This action is necessary to the long term build-out program that I shall then propose.

In my letter of November 14th to the Secretary of the Treasury Simon I committed myself to this legislation program. That commitment remains.

In reliance on the foregoing announcement, each of the Banks, Pension Funds and Sinking Funds, severally and not jointly, agrees with the Corporation as follows:

1. Each of the Banks and Pension Funds hereby agrees, severally and not jointly, not to tender or otherwise accept any offer for exchange of any City Notes held by it for MAC Bonds pursuant to the Exchange Offer. Each of the Banks and Pension Funds understands that, as a result of its not tendering or otherwise accepting any offer for exchange for its City Notes pursuant to the Exchange Offer, under the provisions of the New York State Emergency Moratorium Act for the City of New York enacted by the State Legislature at an extraordinary session and signed by the Governor on November 15, 1975 (the "Moratorium Act"), its City Notes will be subject to the moratorium therein provided for (the "Moratorium").

2. Notwithstanding any determination by any court of competent jurisdiction or by the State Legislature, which determination is applicable generally to all City Notes subject to the Moratorium and is not by its specific terms made applicable to the Banks or Pension Funds, that results in an increase in the rate of interest paid upon City Notes subject to the Moratorium (but does not affect the validity of the Moratorium on payment of principal), each of the Banks and Pension Funds hereby agrees that, after the scheduled date of maturity thereof, no interest need be paid on City Notes held by it subject to the Moratorium in excess of a rate of 6% a year.

3. Each of the Banks and Pension Funds hereby agrees (a) at the termination of the "moratorium period" under the Moratorium Act and any renewal or extension thereof to do one of the following: (i) to exchange City Notes held by it on the date hereof for short-term notes of the City, to renew such City Notes or to purchase short-term notes of the City, in each case such renewed City Notes or such short-term notes of the City to bear interest at the rate of 6% a year and to be in a principal amount equal to the principal amount of City Notes held by it on the date hereof, or (ii) to agree to present City Notes held by it on the date hereof for payment (or, if the City so agrees, to defer contractually the maturity of such City Notes) at such times and in such amounts as to result in a reduction of original principal amount in accordance with the schedule of reduction provided in clause (b) hereof, such City Notes to bear interest at the rate of 6% a year subsequent to their original stated maturity, and (b) thereafter, upon an election under clause (a)(i) having been made, from time to time upon the maturities of any such notes held or acquired pursuant thereto, to renew such notes, or to exchange such notes for or to purchase short-term notes of the City, in each case such renewed notes or such short-term notes of the City to bear interest at the rate of 6% a year, and to be in a principal amount which shall be reduced annually, beginning with the first such exchange, renewal or purchase under this clause (b) by an amount equal to the fraction (not to exceed 4/4ths) of the original principal amount of its City Notes of which the numerator is four and the denominator is the number of full three month periods remaining from the end of the Moratorium or any renewal or extension thereof to July 1, 1986; *provided, however,* that the foregoing obligations shall be subject to the performance or fulfillment of the following conditions: (A) the final maturity date of any note of the City referred to above shall not be later than July 1, 1986; (B) the City timely pays (i) interest at maturity with respect to the City Notes, at their respective stated rates to their respective scheduled dates of maturity, and thereafter interest at least annually at the rate of 6% a year and (ii) interest at maturity with respect to such short-term notes at the rate of 6% a year; (C) at the time of any exchange, renewal or purchase of such short-term notes or renewal of City Notes hereunder the City shall have timely paid when due principal and interest on all bonds of the City outstanding at such time; (D) at the time of any exchange, renewal or purchase of such short-term notes or renewal of City Notes hereunder the City shall not be under the jurisdiction of any court pursuant to any proceedings under the federal bankruptcy laws or Title 6–A of the Local Finance Law (or any statute analogous in purpose or effect to any such law or to such Law); (E) at the time of any exchange, renewal or purchase of such short-term notes or renewal of City Notes hereunder there shall be delivered to and for the benefit of the exchanging or renewing holders or purchasers or unqualified approving opinion as to legality from recognized bond counsel and such other documents as counsel for the Banks and the Pension Funds shall reasonably request in form and substance satisfactory to such counsel; (F) at the time of any exchange, renewal or purchase of such short-term notes or renewal of City Notes hereunder the Mayor and the Comptroller of the City of New York and the New York State Emergency Financial Control Board if such Board is then in existence shall have certified that the budget of New York City for the fiscal year of New York City in which such exchange, renewal or purchase occurs is balanced; and (G) at the time of any exchange, renewal or purchase of such short-term notes or renewal of City Notes, no other party to this Agreement shall be in breach of any provision hereof. If at any time any option to exchange, renew or purchase short-term notes pursuant to paragraph 3 could not be effected by reason of the non-satisfaction of any condition specified in clauses (B) through (G) hereof, any City Notes retained pursuant to paragraph 3(a)(ii) may be presented for payment in full.

4. The Sinking Funds hereby represent that the only short-term notes of the City held by them are bond anticipation notes dated January 13, 1975, and maturing January 13, 1976, in aggregate principal amount of $200,000,000 (the "Sinking Fund BANs"). The Sinking Funds hereby agree to purchase serial bonds of the City, bearing interest at the rate of 6% a year, in aggregate principal amount of $200,000,000 upon or in payment of the Sinking Fund BANs. The bonds so purchased by the Sinking Funds shall mature and be subject to payment of such annual installments of principal as shall be necessary, after first taking into account the other holdings of the Sinking Funds, to meet the legal obligations of the Sinking Funds.

5. (a) Each of the Banks hereby agrees with respect to bonds of the Corporation held by it which are listed on the schedule furnished by it to the Corporation prior to its execution of this Agreement and identified as its schedule referred to in this Paragraph and which bonds consist of either Series C, D, E, H or J Bonds of the Corporation (hereafter called "Bank Series Bonds"), and each of the Pension Funds and Sinking Funds may at its election agree with respect to any of the bonds of the Corporation it holds (hereinafter called the

"Fund Bonds") that commencing February 1, 1976 (i) such Bank Series Bonds and such Fund Bonds will, notwithstanding the terms thereof, bear interest at the rate of 6% a year payable on February 1 and August 1 in each year; (ii) each such Bank Series Bond and Fund Bond will mature on February 1, 1986, subject to redemption, in part, on February 1, in each of the years 1977 through 1985 in the respective principal amounts calculated to provide for level debt service on such Bank Series Bond and Fund Bond held by it to February 1, 1986; (iii) such Bank Series Bonds and Fund Bonds will be stamped by such holder with a stamp reading: "Principal of and Interest on this Bond are payable in accordance with an Agreement dated as of the 26th day of November, 1975 among the Municipal Assistance Corporation for The City of New York and certain Pension Funds, Sinking Funds and Banks"; (iv) no such Bank Series Bond and Fund Bond will be transferred, assigned or delivered by such holder unless the same is first exchanged for a newly issued bond of the Corporation, in an amount equal to the unpaid principal amount of such exchanged Bank Series Bond and Fund Bond which newly issued bond shall be issued pursuant to the first General Bond Resolution of the Corporation dated July 2, 1975 and shall bear interest and mature (subject to redemption in accordance with the first General Bond Resolution) as hereinabove provided in this paragraph.

(b) Each of the Banks, Pension Funds and Sinking Funds hereby agrees to exchange on February 1, 1976, in the case Banks, Series A and B bonds of the Corporation, in an amount at least equal to the amount of Series A and B bonds listed on the above-referred to schedule by such Bank and, in the case of such Funds, bonds of the Corporation equal to the amount of bonds of the Corporation that were heretofore purchased by such Funds from the Corporation less Fund Bonds with respect to which an election has been made under clause (a) above, for newly issued bonds of the Corporation issued pursuant to the first General Bond Resolution of the Corporation, dated July 2, 1975, bearing interest at the rate of 6% a year and maturing on February 1, 1986, subject to mandatory sinking fund payments calculated to provide for level debt service from February 1, 1977 to February 1, 1986; *provided, however,* that if prior to February 1, 1976 the consent of the requisite holders of Series A or B bondholders in the case of the Series A or Series B Bonds, respectively, of the Corporation is obtained to a revised amortization schedule for either or both such Series held by the Banks (the Corporation agreeing to solicit such consents) resulting in a maturity on February 1, 1986 and mandatory sinking fund payments calculated to provide for level debt service from February 1, 1977 to February 1, 1986, such bonds so held by the Banks shall be treated in the same manner as in the case of and for purposes of this Paragraph 5, shall be deemed to be Bank Series Bonds; provided, further, however, that if in the case of the Series A term bonds such consent is not obtained prior to February 1, 1976, each Bank, unless, prior to August 1, 1976, it effects the exchange required by this clause (b) with respect to the Series A term bonds, shall continue to hold its Series A term bonds, and hereby agrees to a reduction of the interest rate on the Series A term bonds held by it to 6% per annum, commencing February 1, 1976, payable February 1 and August 1 in each year, and may not otherwise elect to modify the sinking fund or redemption provision of such bonds.

(c) The Corporation hereby agrees not to issue any new bonds of the Corporation based upon debt service savings to the Corporation resulting from the operation of this Paragraph 5.

(d) Notwithstanding anything to the contrary in this paragraph 5, the undertaking of each such holder under this paragraph will be subject to the following: (A) the Corporation shall adopt a Series Bond Resolution and take such other steps on or before February 1, 1976 to permit the transactions provided for in clauses (a) and (b) above; (B) the Corporation shall have paid interest on the bonds held by such holder on February 1, 1976 at the respective rates of interest stated in such bonds; (C) on February 1, 1976, the city shall not be in default in the payment of the principal of or interest on any debt obligations of the City; (D) there shall be no failure of any condition (which has not been waived) to the performance of any obligation of the Pension Funds under Paragraph 7; and (E) there shall be delivered to and for the benefit of holders of bonds of the Corporation affected by this paragraph 5 an unqualified approving opinion as to legality from recognized bond counsel and such other documents as counsel for such holders shall reasonably request in form and substance satisfactory to such counsel.

6. Each of the agreements referred to in Paragraph's 3 and 5 is subject to agreement to and fulfillment of such agreements by all other parties referred to in such Paragraphs 3 and 5 and to enactment prior to February 1, 1976 of Federal Legislation that would provide, by way of guarantees or otherwise, for the seasonal financing needs of the City, over the period from the effective date thereof through a date not earlier than June 30, 1978, in a maximum amount of not less than $2,300,000,000 at any time outstanding.

7. The Pension Funds hereby agree, severally and not jointly, to purchase serial bonds of the City, substantially in the proportions set out in Schedule B, in the principal amount of $2,530,000,000 as follows:

(a) Prior to January 1, 1976, $30,000,000 serial bonds of City bearing interest at the rate of 6% a year and maturing on such date or dates as shall be mutually agreed upon; (it being understood that urban renewal notes of the City in the amount of $30,000,000, dated April 18, 1975 and maturing December 18, 1975, and held by the Pension Funds, are to be paid with proceeds of federal grant funds segregated therefor);

(b) As soon as possible but prior to June 30, 1976, up to $500,000,000 serial bonds of the City; during the 1976–1977 fiscal year of the City up to $1,500,000,000 principal amount of serial bonds of the City; during the 1977–1978 fiscal year of the City of $500,000,000 principal amount of serial bonds of the City; all such bonds shall bear interest at the rate of 9% a year and shall mature on such date or dates as shall be mutually agreed upon;

(c) To the extent the City is required by law to amortize, prior to June 30, 1978, any principal of the bonds of the City purchased by the Pension Funds pursuant to this Paragraph 7, the Pension Funds agree to purchase additional serial bonds of the City in an amount equal to such principal amortization and bearing interest at the rate of 9% a year and maturing on such date or dates as shall be mutually agreed upon;

(d) Any Pension Fund may, at its election, purchase MAC Bonds (issued pursuant to its second General Bond Resolution), up to an amount equal to its proportionate share of the difference between $1,600,175,000 and the principal amount of MAC Bonds issued pursuant to the Exchange Offer, in fulfillment of its obligation to purchase an equal amount of bonds of the City pursuant to this Paragraph 7, and any such MAC Bonds, so purchased shall bear interest at the rate of 8% a year and mature July 1, 1986, subject to mandatory sinking fund payments calculated to provide for level debt service to July 1, 1986;

(e) The obligations of the Pension Funds to purchase bonds pursuant to this Paragraph 7 shall be subject to agreement to and fulfillment of such agreements by all parties referred to in this Paragraph 7 and shall be conditioned upon each of the following facts being true on the date of each such purchase: (i) the City shall have timely paid when due principal and interest on all bonds of the City outstanding at such time, (ii) the City shall not be under the jurisdiction of any court pursuant to any proceedings under the federal bankruptcy laws or pursuant to title 6A of the Local Finance Law (or any statute analogous in purpose or effect to any such laws or such Law). (iii) a State law containing provisions with respect to the legal status of the Pension Funds and their Trustees' responsibilities, satisfactory to such Trustees, shall have been enacted and shall be effective, (iv) the City shall have made to the Pension Funds all contributions and other payments required by law, (v) the City shall, in conjunction with each purchase prior to February 1, 1976, or the first date on which the first seasonal financing moneys have been received by the City pursuant to the Federal Legislation referred to in Paragraph 6 (whichever is earlier), deliver to any Pension Fund so requesting a report of essential facts of the City in the form promulgated by the State Department of Audit & Control, and in connection with each purchase thereafter shall deliver to any Pension Fund so requesting an official statement with respect to the City in form and substance satisfacory to the Trustees of the Pension Funds, each of which shall include a current status of the City's financial plan as required and approved by the Emergency Financial Control Board, (vi) the Internal Revenue Service shall have ruled or the Congress of the United States shall have provided, that such purchases of obligations by the Pension Funds pursuant to this Agreement shall not constitute prohibited transactions or otherwise adversely affect the qualified status of the Pension Funds for the purposes of the Internal Revenue Code of 1954, as amended, (vii) the Federal Legislation referred to in Paragraph 6 above shall have been enacted and shall be in force, (viii) at the time of any such purchase, there shall have been delivered to and for the benefit of each Pension Fund an unqualified approving opinion as to legality from recognized bond counsel and such other documents as counsel for the Pension Funds shall reasonably request in form and substance satisfactory to such counsel, and (ix) no other party to this Agreement shall be in breach of any provision hereof.

(f) If any of the Pension Funds elects not to make any purchases of bonds of the City as a result of a failure of any conditions set forth in clause (v), (vi) or (vii) of Paragraph 7(e), such Pension Fund shall nevertheless, as soon as possible but prior to June 30, 1976, purchase its proportionate share of $500,000,000 of MAC Bonds pursuant to Paragraph 7(d) above provided that the President of the United States has announced publicly that he will support or not veto the Federal legislation referred to in Paragraph 6 above.

8. This Agreement shall become effective upon its execution by the Corporation and by each of the Banks Pension Funds and Sinking Funds.

9. Any reference herein to "City Notes held" or "short-term notes of the City held" by a Bank shall refer only to City Notes or short-term notes of the City, respectively, owned by such Bank for its own account.

10. Any Bank or Pension Fund which is the holder of a City Note subject to Paragraph 3(a)(ii) hereof may sell, assign or transfer any such Note provided that the transferee shall be satisfactory to the City and shall have agreed in writing in form and substance satisfactory to the City to exercise the same options and on the same terms and conditions as the Bank or Pension Fund so selling, assigning or transferring

such Note has agreed to exercise under Paragraph 3.

11. No waiver by a party hereto of any provision of this Agreement shall operate as a waiver by such waiving party of any other provision hereof, and then such waiver shall be effective only in the instance and for the purpose for which it was expressed to be given.

In Witness Whereof, each of the parties has caused this instrument to be executed by its duly authorized officer as of the date first above written.

MUNICIPAL ASSISTANCE CORPORATION FOR THE CITY OF NEW YORK, BY GEORGE D. GOULD,
Chairman, Finance Committee.

BANKS

First National City Bank, by Walter Wriston; Bankers Trust Company, by John Hannon; United States Trust Company of New York; by Edwin A. Heard; the Chase Manhattan Bank, N.A., by W. C. Butcher; Marine Midland Bank—New York, by Francis Murphy; National Bank of North America, by G. P. Matson; Morgan Guaranty Trust Company of New York, by Ellmore C. Patterson; Irving Trust Company, by John Rice; the Bank of New York, by Elliott Averett; Manufacturers Hanover Trust Company, by Gabriel Hauge; Chemical Bank, by Donald Platten.

PENSION FUNDS

New York City Employees' Retirement System, by Thomas F. Roche; Board of Education Retirement System for the City of New York, by Isaiah Robinson; New York City Fire Department Pension Fund, Article 1-B, by Stephen J. Murphy; Teachers' Retirement System for the City of New York, by Victor F. Condello; New York City Police Pension Fund, Article 2, by Dan O'Neal Vono.

SINKING FUNDS

Sinking Fund of the City of New York, by William T. Scott; Rapid Transit Sinking Fund of the City of New York, by William T. Scott; Water Sinking Fund of the City of New York, by William T. Scott; Transit Unification Sinking Fund of the City of New York, by William T. Scott.

SCHEDULE A

(Amounts in millions)

Type	*Amount*	*Date of Issue*	*Date of Maturity*
R.A.N. ---	$400.0	12/13/74	12/11/75
R.A.N. ---	500.0	1/13/75	1/12/76
R.A.N. ---	120.0	1/13/75	1/12/76
R.A.N. ---	290.0	2/14/75	2/13/76
B.A.N. ---	341.270	3/14/75	3/12/76
B.A.N. ---	150.0	3/14/75	3/12/76
B.A.N. ---	220.0	6/30/75	5/28/76
T.A.N. ---	90.0	6/11/75	6/10/76
T.A.N. ---	190.0	6/11/75	6/10/76
B.A.N. ---	51.5	6/11/75	6/11/76
B.A.N. ---	250.0	10/17/75	10/ 1/76
B.A.N. ---	59.875	10/17/75	10/15/76
R.A.N. ---	6.750	11/10/75	11/ 9/76

SCHEDULE B

(Amounts in millions)

New York City Employees' Retirement System	$1,175
Teachers' Retirement System for The City of New York	860
New York City Police Pension Fund, Article 2	365
New York City Fire Department Pension Fund, Article 1-B	50
Board of Education Retirement System for The City of New York	50
	$2,500

The Pension Funds owning the urban renewal notes referred to in Paragraph 7(a) shall purchase an additional $30,000,000 of bonds of the City pursuant to such Paragraph 7(a) (in proportion to their holdings of such urban renewal notes).

ASSISTANCE TO NEW YORK CITY

Mr. CHILES. Mr President, today I must decide on the President's bill to assist New York City. The issues do not seem to get any easier to deal with. I have repeatedly said I was against a New York bailout and I still am. I also said that when and if New York took those hard steps to free themselves from the problems that were causing them to sink as their high labor force—pension requirements, health and welfare programs, and so forth, then I felt the Federal Government should lend its assistance to help them reestablish their credit.

Now I must look at what New York City and the State of New York have done to rectify their problems and determine if the plan proposed by the President is proper.

New York City has raised taxes, imposed a limited wage freeze on city employees, and increased the employee share of contributions to pension funds. The city has laid off about 22,000 workers and anticipates cutting an additional 40,000 over the next 2 years. The transit fare has been raised from 35 to 50 cents.

For its part New York State has made repeated financial commitments to New York City since last spring. The State adopted a measure mandating the city to balance its budget in the fiscal year 1978. The State Legislature established an Emergency Financial Control Board which has approved the city's 3-year plan for balancing the budget by fiscal year 1978 and cut almost $400 million out of the city's capital budget for the 3-year period.

The President has stipulated in his legislation that New York must repay the Federal Government each year by the end of the year before a new advance would be granted. The President's bill provides the Secretary of the Treasury with the power to set whatever terms and conditions he deems necessary to insure the annual repayment of Federal loans.

This week I wrote to Dr. Arthur Burns who earlier opposed a bailout and asked him his opinion. In his reply he made a number of points I found persuasive. Of the actions taken thus far, Dr. Burns said:

> The planned extensions in maturity and reductions in debt service constitute a desirable and necessary adjustment, probably fully as great as could have been realized in the formal process of bankruptcy and adjudication by the Courts.

He goes on to say that:

> Despite these very considerable accomplishments, it is still abundantly evident that the City cannot return to the financial markets for additional credit at this time.

Dr. Burns concludes that:

> In the absence of access to any alternative seasonal credit accommodation, the City would have no option except to default on its obligations, with all that this might imply for investor confidence and the stability of our nation's financial markets. On balance, I am prepared to endorse the President's recommendation for limited Federal assistance, on the carefully circumscribed terms that have been proposed.

I agree but not without some misgivings. The President acted wisely. His hard stand forced New York City and the State to make major steps toward a solution to their problems. There are continuing steps that must be taken, but this bill gives the leverage to the Secretary of the Treasury to require them to continue or the funds will be cut off.

As Dr. Burns pointed out:

> The will of the governing officials of the City and State of New York to deal effectively with the City's financial problem has strengthened greatly as they have come to recognize the grave implications of New York's financial situation. This positive attitude was hardly in evidence last spring and summer.

Few people thought that New York would actually be able to lay off employees and reduce pension contributions, I think that if the city defaults and its finances are put into court, then we might lose the real reforms that have been achieved, and the city's firm commitment to achieve a balanced budget in 3 years. Ultimately this responsibility must be with the local government, not with Federal officials or Federal courts.

I would rather have seen a loan guarantee than a direct appropriation because I hate to set a precedent of providing Federal funds to a city even over a period of months to make up their cash shortfall—but I recognize that the direct appropriation gives much more control by allowing the releasing of funds on a month-to-month basis, and on a carefully monitored basis. It also makes the granting of loans subject to the limits of the congressional budget and appropriations process.

If this decision could be made in a perfect vacuum I would vote no, but when I consider the possible consequences to the financial markets and our national economy together with the possible cost to the Federal Government to maintain services and order for 8 million people in the event of default, I came down on the side of voting for the President's bill

The passage of this bill does not mean that New York City's problems are over or that they will not later go into default but it gives them a chance to continue to put their house in order and gives strong control to the Treasury to require them to continue a course of fiscal responsibility.

Everything New York City stands accused of could also be laid to the Federal Government. I recall when Jesus found the men of the village about to stone to death an adulteress and they asked Him to participate; He wrote in the sand, "Let he who has no guilt throw the first stone." When the mob left He told the adulteress to go and sin no more. Perhaps because of our own overspending we are having trouble throwing the first stone.

Mr. President, I ask unanimous consent that my letter of December 3 to Dr. Burns and his reply of December 4 be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington, D.C., December 3, 1975.
Dr. ARTHUR F. BURNS,
Chairman, Federal Reserve Board,
Washington, D.C.

DEAR DR. BURNS: As you are aware, Congress is currently approaching a decision on whether to provide some sort of financial assistance to New York City. The President has recently changed his position and suggested limited assistance; yesterday the House passed a bill providing for $2.3 billion in short-term loans; the Senate is now debating the House bill and alternative legislation.

I have consistently opposed using Federal aid to New York City as an alternative to having the City itself make the hard decisions necessary to balance its budget. It seems clear that New York's present situation is due to years of fiscal mismanagement compounded by providing a higher level of free services and employee benefits than it could afford. I have opposed having the Federal government provide any reward or encouragement for this sort of fiscal irresponsibility.

However, I have maintained that if New York City first shows that it is willing to take decisive actions and cut its expenditures to balance its budget, then some form of federal assistance might be in order. It seems to me that we would want to prevent any disruption of the nation's financial markets and make it possible for New York to regain access to the private credit market.

Recent reports indicate that New York has begun to take some necessary steps, such as raising taxes, imposing a limited wage freeze on City employees, increasing the employee share of contributions to pension funds. The City has laid off about 22,000 workers and anticipates cutting an additional 40,000 over the next two years. The transit fare has been raised from 35c to 50c. But are these actions sufficient or is there more that the City can do? Is this all that is possible to achieve in the first year? The City says it has undertaken a three year program to make further expenditure reductions and balance its budget by Fiscal Year 1978. Will their budget be balanced, given what they are doing? Are there clear facts to make an analysis and is such an analysis available?

I know that earlier you were opposed to any bailout for New York City. But with the current state of facts I would appreciate knowing what your present views are and whether you feel that Congressional action is warranted at this time. Have New York City and State done all that is possible at this time? Does the House-passed bill provide sufficient funds and sufficient financial controls that the dangers of default can truly be avoided without tying the Federal government into a long-term financial commitment? Given the state of facts and what has been done, what is your opinion now of the possible effects on our financial markets and on our economy if the Congress does not take action at this time?

I know that we share a commitment to fiscal responsibility by both local and Federal governments, and a concern that the nation's economic health not be endangered by disruptions of the private credit market. Your judgment on these questions will therefore be of great use as the Senate considers possible legislative action.

Most sincerely,

LAWTON CHILES.

FEDERAL RESERVE SYSTEM,
Washington, D.C., December 4, 1975.
Hon. LAWTON CHILES,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHILES: In response to your letter of December 3, I am glad to give you my current thoughts on the New York City financial situation. I too have been impressed by the recent efforts of City and State officials to move the City toward resolution of its financial problems. Proposed budget expenditures have been reduced, significant cutbacks appear to be in process in the City's work force, and City revenues from new taxes and other sources (such as the subway fare) have been increased substantially. For its part, the State has assisted the City with various arrangements for temporary loans and advances, by imposing management and administrative disciplines through the Municipal Assistance Corporation and the Emergency Financial Control Board facilities, and by enacting the legislation necessary to bring about a recasting of the City's seriously unbalanced structure of debt. Private interests, including particularly the City's financial institutions and employee pension funds, are also contributing materially toward that end.

It is very difficult to judge whether these efforts will prove sufficient to restore over time the City's financial standing. Many agreements with respect to expenditure limitations and financing plans will have to be honored. The City's budget still appears to be in deficit—though less so than before—for this and the next fiscal year. Moreover, revenue projections may prove too optimistic, or unexpected developments may threaten over-runs in budget ceilings—an outcome that must be strenuously resisted. Also, I understand that there are some legal ambiguities that could upset various parts of the City's complex financial plan.

It is clear, nevertheless, that the will of the governing officials of the City and State of New York to deal effectively with the City's financial problem has strengthened greatly as they have come to recognize the grave implications of New York's financial situation. This positive attitude was hardly in evidence last spring and summer. But it is surely essential to remedying the City's financial problems, since any lasting remedy must depend on a recognition by the entire citizenry of the need to make sacrifices in the interest of restoring financial balance and discipline in the public affairs of the City. The President's refusal to entertain premature proposals for Federal assistance, I believe, served a major purpose in awakening New Yorkers themselves to what had to be done at the State and local level.

The plans that have finally been worked out, if fully realized, accomplish a substantial measure of reform in New York City's finances. Significant improvements in financial accounting are envisaged, a budgetary balance by fiscal 1978 and thereafter is the clear goal, and the City's massive burdens created by the employee pension fund system are finally being attacked. As for the City's huge accumulated indebtedness, the planned extensions in maturity and reductions in debt service constitute a desirable and necessary adjustment, probably fully as great as could have been realized in the formal process of bankruptcy and adjudication by the Courts.

Despite these very considerable accomplishments, it is still abundantly evident that the City cannot return to the financial markets for additional credit at this time. Investors simply will not take the risk of committing their funds to new City securities until the City demonstrates that it can and will manage its affairs prudently in the future. The President's proposal that temporary Federal lending to the City be authorized, in limited amounts and for seasonal purposes only, therefore fills a clear and specific need. The City will be required to repay the balance of any such indebtedness by the close of each fiscal year, so that the funds cannot be used to support continued deficit financing. And in the absence of access to any alternative seasonal credit accommodation, the City would have no option except to default on its obligations, with all that this might imply for investor confidence and the stability of our nation's financial markets.

On balance, I am now prepared to endorse the President's recommendation for limited Federal assistance, on the carefully circumscribed terms that have been proposed.

Sincerely yours,

ARTHUR F. BURNS.

Mr. HANSEN. Mr. President, when the financial problems of New York City first began to dominate the headlines, I wrote President Ford urging him to stand firmly against a bailout. I said the city's problems had not appeared from nowhere, but were the predictable result of years of irresponsible spending and fiscal gimmickry. And, I said the taxpayers should not be called upon to pay for services and benefits to New York citizens which these taxpayers do not enjoy in their own communities.

Because President Ford refused requests for aid from New York officials, they have, over the past several weeks, taken important steps to reduce spending. These steps would not have been taken, had the President acquiesced.

New York State and city officials have enacted a series of proposals to cut spending and increase income. More than $200 million in new taxes has been imposed, banks and other large institutions have agreed to wait to collect on their loans, municipal employees are being required to pay part of the municipal pension system costs, the number of public employees has been substantially reduced, and significant spending cuts have been made in the city's operating budget.

No one wishes to inflict undeserved hardship on the citizens of New York, but our willingness to help provide essential services for the city's 8 million residents had to be conditioned on its taking steps to change lavish and irresponsible spending policies. Now that the city has taken action, the plan we have approved is a logical way to help New York through difficult times while encouraging fiscal prudence.

The plan approved by the Senate is not a bailout, which would have paid the past debts of New York while the city continued to incur new debts. Rather, the Senate bill will allow the city to borrow limited amounts of money on a short-term basis for maintaining essential services during those parts of the year when there is a cash shortage because revenues are not received until later.

This bill carries minimal risk of loss, and little danger that the taxpayers would be stuck with the burden, because it authorizes the withholding of Federal program money normally due New York, such as revenue sharing, if the loans are not repaid on time. Further, the $2.3 billion authorized by this bill would be spread over a 3-year period, and each individual loan would have to be fully repaid before the next loan could be considered. The interest rate would be 1 percent above the prevailing rate for Treasury borrowing. The Treasury Secretary could require any security he deemed appropriate, and has authority to audit the city's books and records.

Of course, I am disappointed that my

amendment, to return the authority for withholding Federal payments to the Secretary of the Treasury, was not passed. But I am convinced that we have done the best job we can to provide the necessary safeguards for loan repayment at the same time that we respond to a critical situation. The legislative process is one of compromise, and I am confident that this New York aid bill is a reasonable result of that spirit.

Mr. President, I hope all of us are mindful of the lessons to be learned from this whole situation. It was years of irresponsible management by the elected officials of New York which brought the city to its present sorry state. This Federal loan program is no panacea. Only a recognition of the need to spend within the confines of income will solve New York's problem. This program is a strict plan for encouraging New York to balance its budget and get its books in order. And this whole experience should serve as a strong warning to me and to other Government officials with authority and responsibility for the management of taxpayers' money. Let us recall the President's haunting question: "When that day of reckoning comes, who will bail out the United States of America?"

Mr. DOLE. Mr. President, I would like briefly to address several points that trouble me with regard to the legislation now before us. The first of these concerns the amount of Federal credit which is proposed for New York City. Is there any reasonable assurance that $2.3 billion annual credit will be adequate to bridge the city deficits that may occur in 1976 or 1977? The broad and ambitious fiscal package which Governor Cary has hammered together includes a number of variable factors, and it seems to me that the estimates upon which the $2.3 billion figure are based are highly tenuous. Supporters of this bill have stated in this Chamber that the proposed line of Federal credit is the bare minimum that the city can live with. There would seem to be little or no room for error. Other experts, such as the president of Standard and Poor, have criticized the $2.3 billion figure and suggested that the city may require up to $4 billion by June 1976 in order to meet its cash flow needs. New York City officials, for their part, have quoted a wide spectrum of figures. Eight weeks ago, when the Banking, Housing and Urban Affairs Committee began its hearings on the New York fiscal crisis, Mayor Beame stated that the city's needs were as high as $6 to $9 billion. Now he is willing to accept $2.3 billion in annual loans. I hope that he does not view this figure as a mere downpayment—a way of getting his foot in the Federal door. If the $2.3 billion in annual credit is insufficient to avert a city default at some future date, will we in Congress be confronted with yet another plea for emergency assistance? It would seem to me that the long-term prospects for New York City are far from healthy. Given the rent control laws and the present structure of city taxes, the long-term prospects for fiscal stability look bleak. The business climate will continue to decline, the number of jobs will continue to decline, and the tax base will continue to erode. This Emergency Assistance Act may prove to be just the first in a long series of Federal assistance measures.

My second concern relates to the New York State moratorium law. I understand that this act is being challenged in court. If the act is deemed unconstitutional, will that not ruin the plan to convert short-term city notes into long-term MAC bonds? The entire fiscal package, of which H.R. 10481 is a part, may fall apart. But even if the moratorium law is upheld, will not the New York State bond market be disrupted and inhibited by the fear that in a future fiscal crisis, in some other city or State agency, the moratorium will be reimposed and payments on notes or bonds will be suspended?

Mr. MUSKIE. Mr. President, the legislation presently before us, the Intergovernmental Emergency Assistance Act, represents a reasonable compromise to a very unhappy situation.

Just a few short weeks ago, consensus on a solution to the New York City problem was almost nonexistent. Since that time, however, the city has demonstrated increasingly serious intent to put its fiscal house in order. And the President has yielded from his previous stance of opposition to any assistance for the city.

As a result, we are able to move on this legislation today, to establish a revolving loan fund to provide assistance to New York City in meeting its seasonal borrowing requirements. Absent this bill, New York City will default.

No one can yet say precisely what the economic impact of default would be. But there is substantial evidence to indicate that default could pose very high risks indeed—both to national economic recovery and to the financial conditions of individual State and local governments around the country.

In a study of the New York problem last month, the Joint Economic Committee found that default by New York City could very well have a harmful impact on the strength and speed of national economic recovery.

New York's problems are already having a marked and adverse impact on the ability of small Maine communities to borrow money to finance needed public projects. Local utility and water districts, for example, are paying record high interest rates to borrow money. One utility district in the northern part of the State has been unable to obtain any money at all, even though it holds a commitment from the Farmers Home Administration to pay off the notes at the end of 30 months.

And an article in the December 2 New York Times suggested that the recession-related slowdown in the State and local government sector as a whole has apparently been intensified by the New York City financial crisis.

That these risks are not prudent ones to take is a judgment on which most of us now agree.

Yet the city must not mistake the intent of this congressional consensus. We are providing these loans in good faith, on the understanding that necessary reform will move forward toward a balanced budget as soon as possible, hopefully before the 1978 target date.

I am persuaded that the actions taken by the State of New York, New York City, the unions and the banks demonstrate their commitment to changing the way their business is done. But more can and must be done.

As a Senator from Maine, I will vote for this legislation, because I believe it is in the best interests of both the State and the nation to remove the threat of a New York default. And yet I know that Maine is a frugal State where every penny counts—and must be counted—and that the people of Maine are genuinely concerned that New York City must change its ways.

With regard to the pending legislation and the congressional budget process—the conference on the budget resolution recognized the likelihood of passage of authorization and subsequent appropriation bills to provide Federal loans for the fiscal year 1976–78 seasonal financing needs of New York City. While the second concurrent resolution does not specifically include budget authority for this purpose, the conference which is still in progress has discussed it, noting in the statement of managers that if subsequent action of the Congress puts pressure on the aggregate budget authority ceiling as a result of the New York legislation, a third concurrent resolution which would include budget authority in the amount of the appropriation for New York assistance will be considered. The conference assumed no net outlays in any case resulting from seasonal financial assistance to New York City.

PUBLIC WORKS FOR WATER AND POWER DEVELOPMENT AND ENERGY RESEARCH APPROPRIATION ACT, 1976

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 8122, which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 8122) making appropriations for public works for water and power development and energy research, and so forth, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with amendments.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, how much time is there on the bill and how much for each amendment, please? May we have order, Mr. President?

The PRESIDING OFFICER. Will the Senate kindly come to order so we can proceed expeditiously with this bill.

There is 1 hour on the bill, and 20 minutes for any amendment or appeal.

Mr. STENNIS. Mr. President, I yield myself such time as I may use, not to exceed 7 minutes to start with.

Mr. President, this bill covers as Senators may recall what we ordinarily call civil functions or public works for water and power development by the U.S. Army Engineers and the Bureau of Reclamation, and also energy research and development matters under the new Energy Research and Development Administration——

The PRESIDING OFFICER. If the Senator will suspend for just one moment—would the Senators conversing kindly withdraw to the cloakrooms? Time is limited on this bill. Would the Senators kindly take their seats and give attention to the Senator from Mississippi?

The Senator from Mississippi.

Mr. STENNIS. Related independent agencies and commissions are included. The Appalachia funds are in this bill; the TVA funds, and I had already mentioned the Bureau of Reclamation, and certain other development programs. I will briefly summarize the bill for the benefit of the Members.

INTRODUCTION AND SUMMARY OF THE BILL

The public works for water and power development and energy research appropriation bill, 1976, provides funds for fiscal year 1976 and the transition period under title I for the Energy Research and Development Administration programs; under title II for the Department of the Army, Civil Functions—Corps of Engineers' civil works program; under title III for the Department of the Interior's Bureau of Reclamation and power agencies; and under title IV for related independent agencies and commissions, including the Appalachian Regional Commission and regional development programs, the Federal Power Commission, the Nuclear Regulatory Commission, the Tennessee Valley Authority, and the Water Resources Council.

The grand total of new budget—obligational—authority recommended by the committee in the bill is $7,454,260,500 for the regular fiscal year and $2,094,526,000 for the transition period. This is an increase of $154,098,500 and $53,896,000 respectively over the revised and amended budget estimates of $7,300,162,000 (FY 1976) and $2,040,630,000 (transition). The changes to the House allowance is an increase of $228,859,000 for fiscal year 1976 and a decrease of $6,202,000 for the transition period. It should be noted that subsequent to consideration of the bill by the House, budget amendments in the amount of $242,700,000 for the regular fiscal year and $47,470,000 for the transition period were submitted and considered by the committee. These amendments are contained in Senate Documents 94-84; 94-112; and House Document 94-195.

The House-passed bill provides $7,225,401,500 for the regular fiscal year, an increase of $167,939,500 over the budget estimates of $7,057,462,000 considered by the House. For the transition period, the House considered budget estimates of $1,993,160,000 and provided $2,100,728,000, an increase of $107,568,000.

In addition to new budget—obligational—authority, the bill as recommended by the committee provides appropriations to liquidate contract authorizations in the amount of $18,940,000, the same as the House allowance and budget estimate.

Also, in addition to the amounts in the recommended bill, permanent legislation authorizes the continuation of certain Government activities without consideration by the Congress during the annual appropriations process. Details of these activities are listed in the tables appearing at the end of the report under the headings "Permanent—Federal Funds" and "Permanent—Trust Funds." In fiscal year 1975, these activities were estimated to total $63,662,000. The estimate for fiscal year 1976 is $47,438,000. Mr. President, all of the details with respect to the recommended appropriations and the changes made from the House allowance and budget requests are found in the narrative and tabulations included in the report.

DEVELOPMENT OF RECOMMENDATIONS AND TIMING OF THE BILL

The committee conducted extensive hearings on the budget requests, including the revised and amended estimates, and developed information and data in response to hundreds of unbudgeted items, requests and proposals. Each item was considered and analyzed in the context of overall spending constraints, the available authorization, the normal guidelines and criteria, and the relative priorities. High priority proposals were adopted whenever possible.

Because of delays in authorizing legislation and budget amendment transmittals, and the uncertainties caused thereby as to the level of funding permissible, the committee felt it was not practicable to proceed with the bill within a few days upon its receipt from the House as has been the effort and practice in recent years. The House passed the bill on June 24, 1975, as the major required authorizations had cleared the House by that date. However, final authorizations are still incomplete as of the date of the report. Because of the delay, agencies funded by this bill have been operating under the authority of the continuing resolution for fiscal year 1975—Public Law 94-41, June 27, 1975—since July 1, 1975.

Under the terms of the continuing resolution, the applicable rate for agency operations since July 1, 1975, has been the lower of two rates; namely, the current rate—the fiscal year 1975 rate—or the rate permitted by the House, whichever is lower since the House passed the bill prior to July 1—section 101(a)(4), Public Law 94-41. Because half of the fiscal year 1976 will have elapsed, the committee has reduced some budgeted programs increases to adjust to this half-year lapse, where applicable. This lapse factor is not applicable in a number of no-year appropriations involving ongoing construction projects and in other similar operations. These lapse reductions are identified in the various appropriation accounts. I believe the report fully and adequately explains the committee action and I refer the membership to the report and hope they will read it.

INCREASES RELATED TO WATER RESOURCES DEVELOPMENT

The major increases in the bill over the budget requests relate to water resources development projects. Specifically, most of the increases are made to meet critical funding deficiencies on certain projects currently under construction. To meet these essential funding requirements, the committee has made reductions in other areas and activities to the maximum extent possible.

The projects, under construction by the Corps of Engineers and Bureau of Reclamation, are funded on an annual basis only to the extent necessary to meet estimated contractors' earnings during the fiscal year. Clearly, the budget amounts are inadequate to fund a large number of the individual contracts on projects. Already, with only half of the fiscal year and transition period remaining, the Corps of Engineers and Bureau of Reclamation have identified projects faced with this critical funding situation. An approximate $93 million shortfall has been determined for earnings on existing contracts. And this is only through the first month of next year, 1976. In the past, sufficient flexibility existed within the appropriations made to adjust among projects so that essentially all of the contracts could be adequately funded. However, with restrictive budgets and expenditures, tremendous annual price escalation including fuel prices, and the overall economic climate, this flexibility generally appears to have been severely eroded and is not available according to the best information gathered by the committee.

A number of "out-of-funds" notices have already been sent to contractors. Without these increases, the alternatives would be that the contractor would have to suspend work, which is very costly, or would have to finance themselves by borrowing money at today's high interest rates. The committee does not believe this manner of doing business should be permitted. Therefore, the committee has increased amounts on those projects facing an out-of-funds situation as known at this time. Other increases made by the House on a number of projects which will probably face the same situation in the third and fourth quarters of fiscal year 1976 have been agreed to by the committee. Again, this manner of carrying on the Government's business should not be allowed. A more realistic approach to paying contractor earnings should be examined by the Executive Branch.

NEW STARTS

In this connection, the necessity to fund ongoing work made it necessary for the committee to limit funding for new starts to a few low-cost projects based on the priorities and justified needs. This required disallowing a number of projects included in the bill as passed by the House. Numerous meritorious projects simply could not be funded under the constraints with which the committee was faced. An exception, consistent with the policy of the last several years, is in the hydroelectric power generation category. To the extent possible, efforts were made to maintain power-on-the-line dates through the provision of maximum capability funding. Even so, all maximum capability amounts could not be fulfilled.

Mr. President, the committee agrees with the observations contained in the House report on this bill, which I quote as follows:

> Water is one of our Nation's most valuable resources. Its availability is essential to the

> very existence of communities and the operation of industry, the growth of crops and the provision of power by hydropower facilities. The question is not "Should we develop our water resources?", but rather, "What is the proper level of funding to develop our water resources?"
>
> Completed projects have made an enormous contribution to America. The Nation is served by the projects in this bill in many ways—communities and businesses receive water supplies, communities are protected from floods, energy is generated from hydropower facilities, commerce is transported on inland waterways, food is grown on irrigated acreage, widespread recreation benefits are available to millions. Additionally, massive amounts of water will be needed to develop and process future energy supplies.

Mr. President, these projects are a "capital investment" in America. They are wealth-producing projects that increase the income of the region and thereby to the Treasury. In this sense the costs are paid back and returned many times over. Just as a private company must make capital investments to assure future production, the American Government must make capital investments to assure a foundation for the future growth and prosperity of the Nation.

The committee believes that the jobs created by the construction funds in this bill are more beneficial to the American people than those jobs created by temporary public service programs. The results of the productive jobs created by this bill—electric power on line, flood control facilities constructed, improved harbors and navigation, expanded irrigation—will benefit the American people for decades to come.

The value of the projects included for planning or construction under the programs of the Corps of Engineers and the Bureau of Reclamation upon completion is evidenced by the table which appears on page 8 of the report which summarizes the estimated average benefits expected to accrue annually over the life of the projects.

Now briefly, Mr. President, I would like to summarize the major categories and amounts recommended. First, under title I of the Energy, Research, and Development Administration, a total of $4,037,784,000 is recommended for operating expenses and plant and capital equipment for fiscal year 1976. This is a reduction of $84.6 million below the budget estimates and reflects reductions in the weapons program for the most part. The increase over the House is $116.6 million, bearing in mind that the committee considered budget amendments in the amount of $242.7 million, not considered by the House. For the transition period, the recommendation is $1,119,388,000 with small reductions from the budget estimates and House allowances included.

Mr. President, this new Energy, Research and Development Administration is as important as that of any agency of the Government. The Nation's energy future rests on the success of its programs. Research, development, and demonstration of these new energy technologies will be costly and require substantial investments. Even though the costs involved will be substantial, it is the policy and conviction of the Congress and the administration that energy self-sufficiency and diversification of energy sources are important national goals that must be met and that the commitment of significant monetary resources is inescapable. Large amounts of funds are being made available for this expanded energy, research and development effort, including thrust and solar energy, geothermal energy, nuclear energy and the required and related research and development programs involving environmental, biomedical, and safety research. In most cases, even though one-half of the fiscal year will have passed, the entire amounts requested in the budget have been allowed.

Let me emphasize again, Mr. President, that these vital R. & D. efforts must be accelerated. The programs are all highly important and are entitled to special consideration in the budget process and the priorities established therein.

Title II, Mr. President, is the U.S. Army Corps of Engineers' Civil Works program, which, at the direction of Congress, provides for the planning and development of the Nation's water resources. Under the heading of "Civil Works," as assigned by Congress to the Department of the Army for accomplishment by the corps, the corps investigates present and potential problems, considers solutions, and recommends actions to conserve and develop our water resources. Thereafter, upon authorization from Congress, the construction, operation and maintenance of public works become the responsibility of the corps. Public works include flood control, navigation, generation of hydroelectric power, recreational areas and facilities, enhancement of fish and wildlife resources, water storage for irrigation and industrial and municipal uses, water quality control, and conducting comprehensive studies of river basins. Other services and activities include flood plain management services, disaster recovery assistance and management of a program for issuing permits for dredging, filling or construction in navigable waters.

For the corps programs, a total of $2,152,738,000 is recommended. This is an increase of $211.5 million over the budget and $111.6 million over the House. The greater portion of the funds by far are for the construction, general account for which $1,255,663,000 is recommended and $582,073,000 for O. & M., general. As I mentioned earlier in these remarks, approximately $93 million of the increase is needed just to maintain ongoing work. There is no great expansion of new starts. Also, priority attention has been given to maintenance work at a high level on hydroelectric power projects and to other ongoing projects which will provide navigation, urban flood control and water supplies for human and industrial consumption.

For operation and maintenance activities, the increased funds will be utilized to reduce the huge buildup of deferred maintenance. This deferred work must be accomplished if we are to protect the investment made and operate the projects effectively and efficiently. Maintenance of our waterways needs a special, close attention as inadequate maintenance has a significant impact on the viability of the economy of our country as the movement of commerce depends on our ability to keep the channels of our waterways, ports and harbors open to navigation.

Again, I refer the Members to the report on this important section of the bill, which points out various statistics on O. & M. activities.

For title III, the Bureau of Reclamation and Power Agencies of the Department of the Interior, the total amount recommended is $625,078,500 for fiscal year 1976, which is an increase of $37.7 million over the budget and $3.1 million over the House; $189,378,000 is recommended for the transition quarter. The major portion of these funds is for the bureau appropriation, construction and rehabilitation, which provides for the building of the water projects authorized by Congress and planned and developed by the bureau. Most of the amount of the proposed increase, likewise, is needed to meet estimated contractor earnings, and maintain power-on-the-line dates. The enormous contribution of the reclamation projects to the economy can easily be seen based on the annual value of crops produced with water from these projects. Out of approximately 9.4 million acres irrigated last year, the value of crops produced reached an alltime high of more than $4.1 million. This is irrigation benefits alone and does not include the additional benefits such as power, recreation, flood control, water supply and so forth.

Now, Mr. President, for the Independent Offices under title IV included in this bill, $638,660,000 is recommended for fiscal year 1976 and $138,655,000 is recommended for the transition period. These amounts represent small reductions overall, from the budget request. All of the independent agencies and the amounts included are listed in the tables and the narrative of the report.

Mr. President, this is a good bill—it has been thoroughly considered and is highly recommended for prompt action here today.

Now, Mr. President, this bill has been gone over thoroughly. It was written up by the full membership of the subcommittee. It is within line of the recommendations of the budget resolution from the Senate Budget Committee.

We had though, to bring it in line, to adopt some guidelines and criteria regarding new starts and other accepted methods of weighing and measuring items of this kind.

This bill went before the full committee where there was good discussion and high attendance, and is here now before the Senate with this printed report of 120 pages, with the printed hearings before each Senator, and this report was sent to each Senator's office, as well as being available here on the floor since it was reported.

We, of course, have to go to conference with the House as there are differences in the bill, and we will represent, whatever action the Senate takes here we will represent, it there the very best we can.

Many Senators have mentioned matters to me, and we have considered them even after the bill was reported and, just frankly, advised them of the criteria that we had adopted and the full committee had agreed to, and under that criteria we had to regretfully tell them we just could not recommend their amendment but would have to oppose it.

There are other questions to be asked by several Members regarding amendments in which they have a special interest.

Mr. RANDOLPH. Mr. President, will my able chairman of the Appropriations Subcommittee on Public Works yield to me?

Mr. STENNIS. Yes, I am glad to yield to the Senator from West Virginia who is our valued chairman of the Senate Public Works Committee and who sits with us ex officio and is a great deal of help. We want to thank him for his help.

I yield to him.

Mr. RANDOLPH. Mr. President, I am grateful for the words of my colleague. I recall a specific example of what the Senator refers to at this point. The able Senator from Alaska (Mr. STEVENS) pleaded earnestly for something he believed in, and in which the Senator from Mississippi agreed would be something that was worthwhile. But the Senator from Mississippi, with clarity and understanding, spoke of the problem he has just now spoken of, and there was an agreement that in a few weeks, when we returned, the matter would be given prompt attention, and the Corps of Engineers would have further counseling with the Senator from Mississippi and the Senator from Oregon, the chairman and ranking member of the subcommittee, along with the chairman and ranking member of the full Appropriations Committee, the Senator from Arkansas and the Senator from North Dakota.

The Senator from Alaska, understanding the fairness which the Senator from Mississippi expressed, why, he agreed to that situation.

I think, generally, that was throughout the subcommittee and the full committee as we deliberated on these important measures. And during the course of that review which was conducted very, very carefully by the Committee on Appropriations, full consideration was given to these many projects and items. This has been a partnership that reflects responsibility and attitude to detail, and the results of this work and the approval of those projects will make significant contributions to the building of a better and stronger America.

Mr. STENNIS. I thank the Senator very much for his words and his illustration here on how we have tried to handle this matter.

There were a few requests for investigations and studies that we just could not accept this time because of this ceiling. We did promise to hold some special hearings early in 1976 to see what could be done for those that proved meritorious by transfer of funds, or otherwise, that might be available by that time, and usually we do have some money out of the general investigations fund which can be shifted to reach important, high priority matters.

The ranking minority Member of our subcommittee, the Senator from Oregon (Mr. HATFIELD), has control of half the time. Does the Senator wish to have the floor?

Mr. HATFIELD. Will the Senator yield?

Mr. STENNIS. I believe the Senator has his own time, under the agreement.

The PRESIDING OFFICER. That is correct, the time is equally divided.

Mr. HATFIELD. I thank the chairman.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, the distinguished chairman of the Senate Subcommittee on Public Works has again won my admiration and deep respect for the outstanding manner in which he has handled this particular bill. He has been scrupulously fair to the members of the subcommittee and other members who have made requests of the subcommittee. And yet he has been firm in maintaining standards of fiscal responsibility and adhering to the priorities and guidelines established by the subcommittee.

Characteristically, the Senator from Mississippi has just provided an excellent summary of the bill before us. There are just a few points I wish to reaffirm and emphasize at this time.

Mr. President, seeking solutions to this country's predicted energy shortages through technological research and development has become a major, urgent, and popular Federal endeavor. In this bill, we are providing almost $4 billion for fiscal year 1976 and the transition quarter for research and development in the area of energy production and use. I believe the subcommittee has provided an optimum level of funds for ERDA, resisting the understandable temptation to provide even more than the agency can efficiently and productively use.

Mr. President, for water and power development—that is titles II, III, and IV of this bill—the committee has recommended a total of almost $4.4 billion for fiscal year 1976 and the transition quarter for power and water development. A significant portion of that amount is devoted to controlling floods. But it should be noted that the public works projects funded in this bill will provide other benefits which are of similar importance.

The development of this country's hydroelectric power potential, wherever economically feasible and environmentally sound, has been recommended by the subcommittee. Accordingly, a level of funding commensurate with the Corps of Engineers' or Bureau of Reclamation's full capabilities for many of the hydropower projects has been allowed in the bill.

Mr. President, the subcommittee has also recognized the economic importance and energy efficiency of keeping our waterways, ports, and harbors open to navigation. Funds in this bill will provide for the maintenance of inland and intracoastal waterways and ports, including dredging, to insure that our domestic and international waterborne commerce can proceed. In addition, the subcommittee has taken steps in this bill to prevent further decline in the Nation's hopper-dredge capacity. As the subcommittee chairman has pointed out, another high priority consideration by the subcommittee was that of water for people and for industrial use. Without the proper development of our water resources, this country could face a crisis even more fundamental to our economy and our daily lives than the one we are just beginning to experience in the field of energy.

Under the leadership of our distinguished subcommittee chairman, the subcommittee measured the public works projects proposed for funding in this bill against the priorities I have just outlined. Even when most of the projects meeting these objectives were eliminated, only some of the remaining projects could be funded within our fiscal constraint. Therefore, we had to establish further guidelines. We decided to focus our limited resources primarily on ongoing projects, as against new starts.

The result, I believe, is an excellent bill; one which undoubtedly passes over some commendable activities and projects, but which does so in order to provide for higher priorities and yet remain within the bounds of fiscal responsibility.

I join the subcommittee chairman, the Senator from Mississippi, in urging that the Senate pass this bill as reported by the subcommittee and by the full Committee on Appropriations.

Mr. YOUNG. Mr. President, I wish to commend the distinguished chairman of the subcommittee (Mr. STENNIS) and the distinguished ranking minority member (Mr. HATFIELD) for the fine job they have done in putting together this bill. I have attended the subcommittee and full committee sessions on this bill and have been impressed with the responsible approach of the subcommittee.

The bill does exceed the President's budget for public works, but almost half of the add-ons were to keep ongoing projects from running out of funds. The amount allowed for the Energy Research and Development Administration, which is more than half of the total amount in the bill, is under the amended budget request.

In short, I believe this is a responsible bill and I recommend its passage as reported.

Mr. BAKER. Mr. President, I wish to express my support for H.R. 8122 and to commend the committee for its diligence in evaluating the many, many opportunities that have come before the committee for public works investments. As an ex officio member of the Subcommittee on Public Works, I can attest to the strong and effective leadership of the distinguished subcommittee chairman (Mr. STENNIS) and to the subcommittee's distinguished ranking Republican (Mr. HATFIELD) in developing this bill. And I commend the committee for holding this bill within the second concurrent resolution.

This bill contains funds to accelerate work on several important projects in Tennessee. Because of the great significance of these decisions by the committee, I would like to point out these improvements for the benefit of my colleagues.

One of the most significant additions to the bill was the inclusion of an extra $450,000 for the Big South Fork National River and Recreation Area. This additional planning money in fiscal year 1976, plus $200,000 in the transition quarter, should enable the Corps of Engineers to complete its planning and preparation for land acquisition for the Big South Fork project. This $450,000, plus the $350,000 contained in the budget, raises the project to the full capability of the corps in preparing for land acquisition at a later date. This new funding level, included at my suggestion, will maintain the momentum that is necessary to effective development of the project.

The committee bill also increases by $100,000 the funding for the Memphis area urban study. That increase brings the total funding available in fiscal year 1976 for the comprehensive Memphis study to $150,000, a figure that is identical to the sum recommended in the budget and approved in this bill for a similar Nashville area urban study. This increase also places the Memphis study more in line with the corps' capability and the timing of the Environmental Protection Agency study now in process under section 208 of the Federal Water Pollution Control Act. These additional moneys for the Memphis urban study will accelerate the examination of such questions as water supply, hydraulics, and recreation, plus the environmental and economic evaluations.

There are also a number of Corps of Engineers' projects on which the committee has recommended that the Senate sustain the increase over the budget that was included in the House bill. I strongly support each of these improvements in the bill.

The committee agreed to retain the $300,000 that was added by the House for Cordell Hull Lake construction, plus the $770,000 added for Reelfoot Lake construction during the five quarters covered by this bill. This bill includes a five-quarters increase of $27,100,000 in the funds available to the Tennessee-Tombigbee Waterway project.

The increase in funding for the West Tennessee Tributaries project is particularly significant, I believe; $270,000 was added for the fiscal year, with $890,000 added for the transition quarter. This brings both figures up to full capability. This is particularly necessary since $705,000 that was appropriated to the project last year was subsequently siphoned off for use in emergency flood control work and has not yet been returned to the project. I have urged that the Office of Management and Budget request an appropriation for these emergency funds, thus enabling this project and others to be made whole again.

The bill includes a $2,500,000 increase in the funding available for the corps' program to purchase and install concrete mats to stabilize the banks of the Mississippi River channel. The Budget had sought $36,660,000 for the concrete mat program in fiscal year 1976, plus $14,645,000 for the transition quarter, figures well below the capability of the corps. While the committee lacked the flexibility to match the full capability for this program, I am pleased that the committee has demonstrated its support for this program with an increase, however modest.

This bill also covers appropriation for a number of vital programs of the Tennessee Valley Authority. The committee, on my recommendation, restored funds stricken by the House from the TVA fertilizer program. The restoration of $1,564,000 in fiscal year 1976 and $359,000 in the transition quarter means that this important program will not be diminished. This money will be used for fertilizer research, chemical facilities, fertilizer introduction, and agricultural projects. TVA's National Fertilizer Development Center is conducting important research and development work on new and improved fertilizers and on ways to improve the manufacturing and the efficient use of fertilizers. The House cuts, if they had been sustained, would have slowed the effort to obtain ammonia from coal and in finding ways to use marginal grade phosphate rock for fertilizer manufacturing.

The committee also approved, on my motion, the initiation of the funding of the TVA orphan mine reclamation effort. The bill appropriates $5,200,000 for fiscal year 1976, plus $700,000 in the transition quarter, for what should prove to be a 5-year program to recover 86,700 acres of strip mine land in Alabama, Kentucky, Tennessee, and Virginia. This initial funding for this labor-intensive effort will finance the restoration of 15,000 acres of orphan land.

In testimony before the Appropriations Committee, TVA explained the orphan mine program in these ways:

> Reclamation will be conducted to eliminate offsite damages to the environment from soil and acid water runoff. This will require establishment of vegetative cover and water control measures. Toxic wastes will be covered. Trees, wildlife shrubs, and grass will be planted and sown. Water barriers and silt basins will be constructed. Treatment will be prescribed for each site and will range from $50 to $100 for a site that requires tree planting only, up to $2,000 for an area that might need extensive grading, topsoiling, and lime application to provide for successful establishment of vegetation. Again, the average would be about $300 per acre. The offsite damages will be lessened immediately and will be eliminated over a period of years. Trees and shrubs will eventually screen high walls to eliminate visual impacts. And this will be a cooperative effort with the States. The States will develop and secure landowner agreements, prepare detailed prescription treatment plans, develop and train the labor force, supervise the onsite reclamation work, assign area work priorities, and maintain records of all restoration work.

I regret that the committee was unable to accept my proposals relating to several other items involving the TVA budget. The committee did not add funds allowing TVA to fund development of the Poor Valley State Park as part of the Cherokee Reservoir. That proposal calls for TVA, in conjunction with the State, to construct a dam across the mouth of the Poor Valley Creek embayment. This will stabilize water levels in Poor Valley for recreational purposes. Without this dam, the sharp fluctuation of TVA's Cherokee Reservoir leaves the Poor Valley embayment a muddy flat for much of the year. The eventual total project cost is estimated by TVA at $2 million, of which TVA's share is 80 percent, or $1.6 million. The present need is estimated at $80,000, enabling TVA to provide its share toward the preliminary design work that will be undertaken by the State of Tennessee under contract with TVA. I would hope that the TVA will attempt to work with the State of Tennessee to refine their plans so that the Congress may be able to fund this work in subsequent years.

It is also of real concern to me that the committee reduced the appropriation for TVA's Normandy Dam; the $2,300,000 that had been added by the House was the sum necessary to complete the project. I regret that the committee also deleted the additional funds for the Columbia Dam, as well as the $1,000,000 that the House included over five quarters to initiate the South Chickamauga Creek project in the Chattanooga area. It is regrettable that the committee was unable to join with the House in approving the program for Elkmont Village, for which the House included $1,000,000 for fiscal year 1976 and $953,000 in the transition quarter.

I hope that in the compromises that will be necessary in conference that the Senate will recognize the need for these proposals.

Mr. President, in closing I want to commend the committee for its work on this bill, holding it within the budget resolution. This action represents another step toward the fiscal restraint that is so necessary to effective management of Federal activities. I also commend, again, the chairman of the Subcommittee (Mr. STENNIS) and its ranking member (Mr. HATFIELD), as well as the chairman of the full committee (Mr. MCCLELLAN) and the ranking Republican (Mr. YOUNG), for their leadership and understanding in the development of this important bill. I urge its passage by the Senate.

Mr. STENNIS. Mr. President, I yield to the Senator from California.

Mr. CRANSTON. I appreciate very much the Senator yielding.

I note that the Senate Appropriations Committee deleted $2 million the House approved for the Consolidated Irrigation District project under the Bureau of Reclamation small projects loan program. This district serves portions of Kings, Tulare, and Fresno Counties in California.

I understand the funds were dropped for this California project because the water users in the Consolidated Irrigation District in the November 4, 1975, election rejected the repayment contract.

However, I further understand there will be a new election in March of 1976. I have been assured that a concerted effort will be made to gain approval of the repayment contract at that time.

If the bond measure passes and local

approval is obtained, will the Senate Appropriations Committee then consider appropriating funds for the Consolidated Irrigation District in the next following supplemental appropriation bill?

Mr. STENNIS. We certainly assure the Senator that we will consider the funds in the year 1976, should this election prove favorable.

So far as promising that for the second supplemental, let us leave it, if we may, that if we can, and the circumstances are such that projects of this kind are being considered, but sometimes on these supplemental bills, to confine it to one subject, or two or three, is difficult, certainly, we will hope there will be a favorable election. On these loan programs, especially, we always try to sufficiently provide the Federal loan money.

Mr. CRANSTON. I appreciate that very much.

Mr. STENNIS. I appreciate the Senator's very fine interest in the matter.

Mr. CRANSTON. I would like to ask a brief additional question.

The Calaveras County Water District failed to transmit its request in time. It was not before the committee for the appropriate and necessary 60 days. I trust the same consideration can be given it at the next opportunity.

Mr. STENNIS. Yes, that is correct. The same consideration will be given. That project had not matured where we could consider it on its merits.

Mr. CRANSTON. I thank the Senator very, very much.

Mr. GRAVEL. Will the Senator yield?

Mr. STENNIS. Yes, I am glad to yield to the Senator from Alaska.

Mr. GRAVEL. I thank the Senator from Mississippi.

This Senator has been reading over the report as hurriedly as I can to keep abreast of the rapid decision of the Senate.

I notice on page 24 of the report that the nuclear materials—and if I might, by way of background, refresh the memory of the Senator from Mississippi that I opposed the authorization, the amendment, that would have cut out new nuclear fuels for bombs. That would be plutonium and other materials. That had the authorization of $232 million.

I was dissuaded from pressing that matter at that time, saying it would be better applied to the public works bill when it came up.

Now it has come up, and I must apologize to the distinguished Senator for the shortness of time. I rely on the information that the Senator from Mississippi can give me. I notice there is a cutback in nuclear materials, and I confess I do not understand the divisions that are broken out. The total sum the committee came up with was $962 million. This is a cutback of some $9 million. Apparently the cutback is to focus on certain reactor products production which not only deals with the military sector but also deals with the ERDA sector, the private sector.

In point of fact, there is a total commingling between nuclear activities for peaceful purposes to generate electricity and nuclear activity for military purposes. I am trying to discern what the committee has done. I think the import of my whole question——

Mr. STENNIS. Mr. President, may we have order? May we have quiet?

The PRESIDING OFFICER. Will the Senate kindly come to order?

Mr. GRAVEL. What I am trying to do is to ascertain from the Senator from Mississippi if he can help me in this regard, if it is unclassified, obviously, if he can tell me what we are doing with respect to new nuclear materials for the construction of atomic and hydrogen bombs. I am very concerned about that. I think we as a Nation have more than enough in our stockpile. What we have we can recycle, the stuff that is obsolete, into new stuff. I am trying to get right to the jugular of the arms race. That is, are we, in these sums, continuing to get more plutonium and tritium for new bombs, or what does this cutback represent?

The only figure I have in my mind as a frame of reference was $253 million, which was in the ERDA authorization. I have no way of discerning from the report as to where this new money is. The only cut I see is $9 million, which, of course, is a far cry from an authorization of $253 million for new materials.

When we had the secret briefing, and not revealing anything from the briefing, it was understood, as it was in the ERDA public report at the time, that that money was for plutonium, tritium and other materials to go for bombs. Could the Senator help me in this regard?

Mr. STENNIS. The best answer, Mr. President, to the Senator's question of concern is that this is relatively a small reduction. Of course, in the production from the special reactor products program, some goes to civilian use and some goes to military. This reduction of $9 million was mainly because of the passage of time, the lapse, this being early December and so much of the time has already passed for fiscal 1976. This was just a hard figure that was agreed on, that it was all that could be properly used. It was not an attack on the program either way, not at all.

Mr. GRAVEL. Could I ask the chairman if he could give me the figure of this amendment of $962 million that goes for for new materials to make up nuclear weapons? That would be hydrogen bombs and atomic bombs. I know it is not a classified figure in the authorization, so I would see no reason why it would be any more classified in the actual appropriation. I think that would give me a fix on what our Nation is doing. This is probably the most vital thing that is happening on the globe today, this unbelievable arms race. I, as one Member of the Senate, would like to know, since this is where the money is going.

Mr. STENNIS. We would be glad to discuss this further with the Senator, but this is the way we thought it ought to be presented here in the report. We do not attempt to declassify material of this kind. I feel that the reduction is justified. If we could just talk to the Senator from Alaska, or any other Member, other than in open proceedings, I believe it would be better under the circumstances.

Mr. GRAVEL. Could I just renew the question this way. In the ERDA report—and I do not have it with me because I was caught unawares—there is $258 million for new nuclear weapons fuels. I had an amendment at that time and we debated it for 1 hour. I did not press for a vote as an accommodation to the Senators at that time. I will not press for a vote now. I am not properly equipped to handle a vote becuse this came on so fast. We secured a unanimous-consent request that I was unaware of.

I am not asking the Senator to declassify, but I believe every American citizen should know if we are spending $500 million on new fuels for atomic and nuclear devices, hydrogen devices. That is not a classified figure. That is something we should know, how much it is costing us to make these new bombs.

Mr. STENNIS. The Senator will find on page 4716 of the hearings, volume 5, a table showing that item. The budget request was $201,530,000. We took $9 million off of that due, as I say, to the passage of time, being well into the year. This is all new material. What it lacks in disclosing everything to the Senator we would be glad to supply, or supply it to any other Member. But it is classified, part of it is. But it is a relatively small amount, and under the budget estimate.

Mr. GRAVEL. Comparing what we are actually appropriating to what was authorized in the prior act, the ERDA authorization had $253 million. So for this year's activities the appropriation is $201 million. Is that the interpretation I could give?

Mr. STENNIS. I will have to ask the Senator to repeat his question. Will the Senator speak a little louder?

Mr. GRAVEL. I apologize for the complexity of it. I have the same difficulty as the Senator. I know a good deal less and I am a good deal less informed about the report.

What I am suggesting is to try and draw a parallel so that I will know in my mind. What this Senate did earlier this fall was to authorize in the ERDA budget, as in this budget, the plutonium, the tritium, and the other materials to make our atomic and hydrogen devices. The figure that I have in my mind that was authorized by the Senate was $253 million. What I understand from the information that has just been given to me is we are actually appropriating for those purposes $201 million plus. Is that the Senator's comparative understanding of what we are doing in this Nation in this regard?

Mr. STENNIS. The figure the Senator gave of $201 million is correct, but it is $9 million less than that, really.

Mr. GRAVEL. Fine. I understand the reason for the $9 million less. It is because of the lapse of time.

Mr. STENNIS. That is correct.

Mr. GRAVEL. So what we are talking about is around $200 million that we are spending for new nuclear materials—plutonium, tritium, and the like—in order to make new hydrogen bombs or new atomic bombs.

Mr. STENNIS. That is less than the executive's budget requested. We think the amount that we have in the bill is a very reasonable figure. We could go into it further with the Senator, or with any other Member of the Senate. But this is as far as we can go now.

Mr. GRAVEL. The only point I could make to that to the distinguished Senator from Mississippi is, I think it would be a most healthy question to ask as a Senator and to ask as an American citizen: Does the situation warrant, with the 30-some-odd thousand nuclear warheads we have—and I do not use that as a classified figure; those are figures that are in general consideration among the——

Mr. STENNIS. If I understand the Senator's question, now, he is merely concerned about the amount that is going for these new materials, and so forth. It is $192 million, in round figures, including the reduction, and there is a lot of processing required here from time to time, and replacements, and this is considered a rather modest figure under all the circumstances, and it is under control. It is gone into and really weighed the very best we can by our technical advisers. So this is the hard figure that we think is fully justified for the purposes the Senator stated.

Mr. GRAVEL. If I could state it again, being very careful not to go into any classified figures brought up in the session we had with Secretary Schlesinger, when I asked him to break down these figures he could not do it. I do not know who is well-informed on the subject, but I suspect a little of what we have in the intelligence community, that there is a little bit of inertia about the subject, and it goes on without any real consideration as to what happens.

So I raise the question on the basis of the very simple fact that I know we have enough weapons to defend ourselves and destroy the world. At the same time I know that, except for tritium, the technology permits taking the materials from old bombs and putting it into new bombs.

We have a sizable stockpile of obsolete bombs, and I know the military has a program where they recycle these weapons. So the question I ask in my mind is, Why do we need $192 million for new materials, when we have enough nuclear capacity where the United States alone can destroy every single human being on this Earth 15 times with our present capacity, and fight several hundred World War II's in explosive capacity?

Mr. STENNIS. Let me say this: These matters are gone into. The Senator from Alaska attended, as I understand, the session of the joint committee. The Senator heard the testimony there, and that testimony is classified under a special statute that only that committee can release it. That is a special setup for that, and that is as far as I can go.

Mr. President, timewise, I believe that is about all the time that the Senator from Mississippi can yield on that subject. If the Senator is going to file an amendment, that would give him some time.

Mr. GRAVEL. If I can just thank the Senator from Mississippi——

Mr. STENNIS. We are just going into an authorization bill, which is to be voted on in a short time by the Senate.

Mr. GRAVEL. I thank the Senator from Mississippi for his gracious efforts in replying to my question. I am not going to offer an amendment. I did offer an amendment on the ERDA budget, but I would like to most respectfully put the chairman, the Senator from Mississippi, on notice that henceforth, for as many years as I hope to be in the Senate, and I hope God will permit me at least 5, that I will be on the lookout for this item in this budget, and similarly in the atomic energy budget, in consideration of the present state of the nuclear arms race in the world.

Mr. STENNIS. I thank the Senator, congratulate him and thank him as well.

Mr. DOMENICI. Mr. President, will the Senator from Oregon yield me about 3 minutes?

Mr. HATFIELD. I yield.

Mr. DOMENICI. Mr. President, I have some rather detailed remarks summarizing the work the subcommittee did, in particular as it applies to the State of New Mexico.

I would like to take several moments to praise the leadership of the Public Works Subcommittee of the Appropriations Committee. Both the chairman, the esteemed Senator from Mississippi (Mr. STENNIS) and the highly respected ranking minority member from Oregon (Mr. HATFIELD) have provided the kind of distinguished leadership that does credit to themselves, and the Senate committee systems.

I do not offer this praise lightly. As a relatively new Member of the Senate, I often find the maze of committees somewhat bewildering, and often one feels a sense of frustration in trying to follow a project important to the welfare of one's constituents all the way from the initial authorization stage through the final appropriation stage.

However, in every case when I have asked for the assistance of the Public Works Subcommittee, Senators STENNIS and HATFIELD have been not only helpful, but the embodiment of tact and patience. Accordingly, I rise to personally thank them for the kindness they have shown this Senator.

In particular, I would like to commend the floor managers for their assistance with three projects crucial to the State of New Mexico. The first is a small flood control project in the Gallinas River near Las Vegas, N. Mex., that will be funded from the $450,000, in section 208 funds added by the committee. The President's budget sought no money for the section 208 shagging and clearing program.

As we are all aware, flood control is an essential ingredient to civilized life in many areas, and the Las Vegas project is the corps' top priority section 208 project in the Nation.

The second project is a larger flood control project at Gallup, N. Mex. Here the committee has thoughfully provided funds for a study critical to an overall flood control program for the area. Corps' efforts are tied to the protection of other Federal projects, such as a new HUD housing project and construction of an interstate highway. The importance of such flood control protection is heightened by the fact that Gallup has already committed $1,200,000 of its revenue-sharing funds to its own flood control efforts. Accordingly, I am deeply appreciative that the subcommittee had provided funds to initiate the critically needed corps' studies in this area.

Another area funded by the committee which deserves praise is the allocation of $1,540,000 for mitigation of lands of the Heron Reservoir, San Juan-Chama project. This action will permit the State of New Mexico to purchase the 8,000 acres of wildlife land lost during construction of the Heron Reservoir.

The State has already obtained an option on the Little Chama Valley Ranch which includes 20,300 acres. The State has already made one payment of $1,051,094 on this property and will make a second payment in February 1976 in the amount of $898,813. The prorated portion for the 8,000 acres needed to meet the mitigation obligation is $1,540,000 and this is approximately the amount which will be needed to purchase the area.

I am glad that the committee recognized the longstanding obligation to the State of New Mexico and provides for the funds in this bill.

Mr. President, I would also like to call the attention of the Senate to a matter that is not addressed in this bill. Just today, the Senate Committee on Public Works approved an important resolution to review the report on the Rio Grande and tributaries project in New Mexico to determine whether any addition or modification should be made in the recommendations contained therein with particular respect to the existing Abiquiu Dam in the interest of flood control, water supply, irrigation, recreation, fish and wildlife enhancement, power, and other related water and land resources needs. I am informed by the corps that the full cost of this study is estimated at $500,000.

Mr. President, I would like to direct a question now to the distinguished chairman of the subcommittee.

As the chairman knows, you have appropriated in this bill $375,000 for the Rio Grande and tributary survey for 1976, and $90,000 for the transition quarter.

That funding will go forward with the completion of an Albuquerque urban study. I know that it is too early to expect that you would fund, now, the Rio Grande survey on which a resolution was passed by the Public Works Committee today, authorizing it. I know it is too early for that, but my specific question has to do with this: In the event the Corps of Engineers determines that within the funds approved, they might study the feasibility of the Abiquiu Dam and its capacity. We want to make sure that the corps understands that this would be legal, for them to begin that kind of feasibility study within the money appropriated, so that we will be ready later to appropriate the full amount for the Abiquiu Dam project. I understand that the chairman concurs that they may do that, within their own discretion.

Mr. STENNIS. The Senator is correct; I do concur. To save time, I did not bring it up, but I am glad that we have such an agreeable answer. Any money in this bill now would be eligible for expenditure for that purpose since it is a study relating to the ongoing study and will be brought under the overall work and investigation going on now.

Mr. DOMENICI. And do I correctly understand that if that feasibility study dictates that additional funds might be needed for the Abiquiu part of this Rio Grande and tributaries study, even though it is not here, you will conduct hearings on that when you have the next supplemental?

Mr. STENNIS. The Senator from Oregon and I have agreed that we will have some hearings in January or very early February, and if the Senator comes in with the category of items he has outlined, we will be glad to hear him then.

I would just like to say that this Pecos River and tributaries project in Carlsbad is the very first project I ever saw of this kind out in the West. It made the dry land bloom, and they raised cotton 2 or 3 bales to the acre there in 1920 or 1921, and it is still going strong.

Mr. DOMENICI. The Senator is speaking of the Bradley Dam project on the Pecos River?

Mr. STENNIS. That is right.

Mr. DOMENICI. I remember the distinguished chairman saying when I first came here that it was New Mexico's bad fortune that he stopped over in Carlsbad, N. Mex., before he went back to Mississippi to practice law, and they coraled him there, or he probably would have been a Senator from New Mexico.

Mr. STENNIS. Well, I am glad the Senator stayed there.

I yield to the Senator from Wisconsin, who has a matter of interest.

Mr. NELSON. Mr. President, I call up an amendment which I have at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 7, line 3, insert the following:

(a) strike "$1,255,663,000" and insert in lieu thereof "$1,256,133,000, and $500,000 of this appropriations shall be available only for the LaFarge flood control and channel improvement project, LaFarge, Wisconsin,"

Mr. STENNIS. Mr. President, may I call the Senator's attention to the committee amendments first? The committee amendments would come first, under the procedural rules.

The PRESIDING OFFICER. The Senator is correct.

Mr. STENNIS. I ask unanimous consent, Mr. President, that the committee amendments be agreed to en bloc, and with the usual proviso that no point of order shall be considered as having been waived by agreeing to the request, and that the bill be considered as original text for the purpose of amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The committee amendments agreed to en bloc are ast follows:

On page 2, in line 20, strike out "$15,000" and insert "$27,000".

On page 2, in line 23, strike out "$3,049,120,000" and insert "$3,101,492,000".

On page 3, at the end of the line 16, insert a colon and the following:

Provided further, That this appropriation shall be available only upon the enactment into law of authorizing legislation.

On page 3, in line 20, strike out "$941,439,000" and insert "$935,152,000".

On page 4, at the end of line 1, insert a colon and the following:

Provided further, That this appropriation shall be available only upon the enactment into law of authorizing legislation.

On page 4, in line 16, strike out "$872,022,000" and insert "$936,292,000".

On page 4, at the end of the line 21, insert a colon and the following:

Provided further, That this appropriation shall be available only upon the enactment into law of authorizing legislation.

On page 4, in line 26, strike out "$183,286,000" and insert "$184,186,000".

On page 5, at the end of line 6, insert a colon and the following:

Provided further, That this appropriation shall be available only upon the enactment into law of authorizing legislation.

On page 6, in line 7, strike out "$63,924,000" and insert "$66,952,000".

On page 6, in line 17, strike out "$17,182,000" and insert "$16,811,000".

On page 7, in line 2, strike out "$1,157,015,000" and insert $1,255,663,000".

On page 7, in line 8, after the colon, insert:

Provided further, That not to exceed $8,000,000 of this appropriation or from any previous appropriation under this head shall be for construction or improvement of recreation facilities at full Federal expense at projects which were completed or which received an appropriation for project construction prior to the approval of Public Law 89–72:

On page 7, in line 23, strike out "$408,883,000" and insert "$401,578,000".

On page 7, beginning with line 25, strike out "None of the funds appropriated in this Act for the Corps of Engineers shall be used for the Tomahawk Lake project, Kansas".

On page 8, in line 7, strike out "$160,000,000" and insert "$163,250,000".

On page 8, in line 19, strike out "$59,000,000" and insert "$60,300,000".

On page 9, in line 7, strike out "$576,073,000" and insert "$582,073,000".

On page 9, beginning with line 12, insert:

REVOLVING FUND

For the design of hopper dredges, $700,000, to remain available until expended.

For "Revolving Fund" for the period July 1, 1976, through September 30, 1976, for the design and construction of hopper dredges, $950,000, to remain available until expended.

On page 10, in line 19, strike out "4601" and insert 4601.

On page 11, in line 7, after the semicolon, insert "not to exceed $10,000 for official reception and representation expenses;".

On page 11, in line 14, strike out "$248,000,000" and insert "$248,700,000".

On page 11, in line 26, strike out "$254,000,000" and insert "$255,000,000".

On page 12, beginning with line 1, insert

General Provisions

Sec. 201. To enable payment of any valid claims on the Federal Government for the construction of an airport facility at Kelley Flats, Montana, Section 502 of the Supplemental Appropriation Act, 1968 (81 Stat. 773) is amended by deleting the amount "$140,000" contained therein and inserting in lieu thereof the amount "$240,000": *Provided*, That this amendment shall not be construed to change any obligations which have been undertaken, in agreement with the Federal Government, by non-Federal sponsors of the airport facility to contribute to the payment of the construction costs of the facility.

On page 13, in line 23, strike out "$324,268,000" and insert "$327,158,000".

On page 14, in line 11, after the colon, insert

Provided further, That not to exceed $600,000 of the funds appropriated herein shall be made available for restoration of the Scoggins Valley Road from Oregon Highway No. 47 to Henry Hagg Lake (Scoggins Dam), which shall be nonreimbursable:

On page 14, in line 23, after "waters", insert a colon and the following:

Provided further, That funds appropriated herein for the repairs to the Savage Rapids Dam, of the Rogue River Basin Project, Grants Pass Division, may be transferred to the Oregon Fish and Game Commission on a reimbursable basis for such work on the south fishway facilities as determined desirable by the Secretary of the Interior.

On page 15, in line 6, strike out "$97,884,000" and insert "$98,584,000".

On page 15, in line 7, after "fund" insert a colon and the following:

Provided further, That not to exceed $1,400,000 of the funds appropriated herein shall be made available for restoration of the Scoggins Valley Road from Oregon Highway No. 47 to Henry Hagg Lake (Scoggins Dam), which shall be nonreimbursable.

On page 15, in line 16, strike out "$41,557,000" and insert "$41,867,000".

On page 15, in line 17, strike out "$38,985,000" and insert "$37,335,000".

On page 15, in line 20, strike out "$2,572,000" and insert "$4,532,000".

On page 17, in line 21, after "expended", insert a colon and the following:

Provided further, That the amount appropriated herein includes $15,394.83 for Colorado River Front Work and Levee System due the Cocopah Indian Tribe because of a revision of the reservation boundary provided for in a decision of the Department of the Interior and a final judgment of the United States District Court.

On page 18, in line 17, strike out "$23,315,000" and insert "$22,665,000".

On page 19, in line 2, strike out "$6,155,000" and insert "$9,205,000".

On page 19, in line 7, strike out "$400,000" and insert "$1,000,000".

On page 27, in line 4, after "the" insert "activities of the".

On page 27, in line 9, after the comma, insert "as specified in section 105 of the Appalachian Regional Development Act of 1965, as amended (40 App. U.S.C. 105), which activities are hereby authorized pending the enactment of H.R. 4073 or similar authorizing legislation,".

On page 27, in line 18, strike out "programs authorized by" and insert "activities specified in".

On page 27, in line 20, after "amended," insert "40 App. U.S.C. 2405".

On page 27, in line 24, after the comma, insert "which activities are hereby authorized pending the enactment of H.R. 4073 or similar authorizing legislation".

On page 28, in line 2, strike out "$293,200,000" and insert "$283,500,000".

On page 28, in line 2, strike out "$162,500,000" and insert "$160,000,000".

On page 28, in line 11, strike out "$50,000,000" and insert "$47,500,000".

On page 28, in line 11, strike out "$37,500,000" and insert "$35,000,000".

On page 30, in line 11, strike out "$1,000" and insert "$7,000".

On page 30, in line 14, strike out "$202,500,000" and insert "$215,423,000 and any moneys received by the Commission resulting from cooperative nuclear safety research programs notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), to remain available until expended.".

On page 31, in line 1, strike out "$49,230,000" and insert "$51,425,000, to remain available until expended."

On page 31, in line 24, strike out "$99,754,000" and insert "$91,000,000".

On page 32, in line 8, strike out "$27,984,000" and insert "$28,200,000".

On page 32, in line 19, strike out "$7,750,000" and insert "$10,722,000".

On page 32, in line 23, after "(b))," insert "$2,765,000, for preparation of assessments and plans (42 U.S.C. 1962d(c)), $303,000 for preparation of plans (33 U.S.C. 1289).

On page 33, in line 9, strike out $1,400,000" and insert "$2,350,000".

Mr. STENNIS. I am glad to yield to the Senator from Wisconsin. He has his own time on his amendment.

Mr. NELSON. Fine.

Mr. President, as the bill came over from the House of Representatives, there was $4.4 million for the continuation of the LaFarge Dam project on the Kickapoo River. The committee on this side eliminated all of the $4.4 million. The amendment that I have called up would provide for appropriation of $500,000 for the purpose of making a study as to the possible alternatives for the construction of the dam and a lock on the Kickapoo River. It has been my view for quite some time that this project should not be abandoned which would be the result——

Mr. STENNIS. It might.

Mr. NELSON (continuing). If the $4.4 million that was passed in the House were totally eliminated on the Senate side and if the House should agree to that.

So, Mr. President, since the Federal Government, the Corps of Engineers, has spent so many good years starting way back in the thirties studying the flood control problem in the Kickapoo Valley and starting in about 1960–61 in designing a flood control project, a dam, and the creation of a lake, and having invested some $15 million, in my opinion, the valley and the people in the valley should not be abandoned simply because a water quality study has indicated that the creation of a dam in an 1,800-acre lake would create a very eutrophic lake. This amendment would provide $500,000 for the purpose of making a study to determine whether or not a dry dam in which we did not create lake or nonstructural removal from the flood plain would be economically feasible. So this amendment proposes that $500,000 be allocated for that purpose.

At this stage the committee having eliminated all of the $500,000, it seems to me that debating and having a rollcall on that issue at this time may not be appropriate because we do not have the opportunity to debate the issue in any detail.

My question to the chairman would be that, when the committee goes to conference with all of the $4,400,000 having been eliminated, I wonder if the chairman could assure me that this special aspect of the problem which will, I understand, be advocated by some Members of the conference on the House side, for a minor appropriation compared to the total, some $500,000, that he would be prepared to go to that conference and give—and I shall not ask more—objective consideration to the merits of the argument of making a 10- or 12-month study so that the House and the Senate would have an opportunity to make a decision as to whether this project, that has been under consideration for so long, ought to have a further evaluation, without any commitment one way or the other as to whether or not the dam is built, or whether some alternative programs adopted, but only the question of a $500,000 study being made at that time.

My question is, would the chairman of the committee from at least his personal viewpoint, not expecting for the whole committee, which I understand he cannot, be willing to give consideration to that proposal which I understand will be made when the issue is in conference.

Mr. STENNIS. The Senator made his point very clearly and makes a good inquiry. He also covers the point that we cannot bind ourselves up too much in what we will do or say in conference because it is a conference where they really try to get together, but we will have this money that he has referred to the $4 million in conference, and from that can be considered this alternative to which the Senator has referred.

It can be considered, and I can assure him that one Member of the conference from the Senate will consider it. It will be one of the things that we will weigh. I do not know what we will finally agree on.

The Senator from Oregon is here. We have not had a chance to confer especially on this, but I ask if he will state if he is willing to consider that.

The situation is that we did not recommend any of the funds for this project.

Mr. HATFIELD. Mr. President will the chairman yield?

Mr. STENNIS. Yes, I yield to the Senator.

Mr. HATFIELD. I give assurance to the Senator from Wisconsin that, in going to the conference, as one member I will certainly be willing to urge very objective consideration for his request. I think it is a reasonable one.

I believe the Senator realizes the history of the action on this matter in the subcommittee and the intricate problems we were dealing with. It is not necessary to go into all the detail here.

But I can assure the Senator from Wisconsin that I will certainly urge the conferees to give serious consideration to his request, and we have a vehicle with which we can do this because of the House action.

Mr. NELSON. I thank the Senator from Oregon. All that at least I am asking is that a careful evaluation be made of the proposal for evaluating further with an independent study. I do not think the corps—and I believe the corps will probably agree with me—should make the study on its own. They should have some independent study to determine as to this project, which has been underway now for some 12 or 13 years whether or not there is a viable alternative so that we do not leave the people in that valley, where we have condemned and taken 9,500 acres and spent several million dollars, with no flood protection, no program whatsoever.

So I appreciate the response of the chairman of the committee and the distinguished Senator from Oregon (Mr. HATFIELD). I am not of course, a member of the committee, nor will I be a member of the conference. I simply like to urge, however, that if the committee——

The PRESIDING OFFICER. The 10 minutes of the Senator have expired. The Senator from Mississippi has 9 minutes remaining.

Mr. STENNIS. I yield.

Mr. NELSON. May I have 1 more minute?

Mr. STENNIS. I yield the Senator a minute, yes.

Mr. NELSON. I simply request that if the chairman of the committee and the Senator from Oregon and the majority on the Senate side are prepared to support a $500,000 appropriation, if they are, out of this $4.4 million which has been eliminated that it be an independent evaluation so that the public is satisfied that the whole issue has been carefully evaluated in an objective fashion.

Mr. STENNIS. In addition to what we have already assured the Senator, we will certainly assure him we will consider the point about an independent survey, but it is all in conference and we cannot be completely bound to any particular course of action.

Mr. NELSON. I understand.

Mr. STENNIS. All right.

Mr. NELSON. Mr. President, the Senate has before it today H.R. 8122, the fiscal year 1976 and transition quarter public works appropriations bill. This legislation, as reported by the full Appropriations Committee, does not contain funding for the LaFarge Lake flood control and channel improvement Corps of Engineers project located on the Kickapoo River in southwestern Wisconsin.

This dam raises serious fiscal, environmental, and human issues. In one form or another, the Federal Government has been involved in a flood control economic development program in the Kickapoo River Valley for over 40 years. The Government's activities have already had a serious and permanent impact on the area. It seems to me the Congress has a moral responsibility to leave the people of the Kickapoo River Valley better off than they were before the Federal Government began intruding into their lives.

The project has raised serious environmental questions. A number of distinguished national and international water quality experts have determined that the proposed Lake LaFarge would be extremely eutrophic, very rich in phosphorus and nitrogen. There is little disagreement that the water quality substantial questions have been raised by the General Accounting Office—GAO—regarding the economic impact of the project. GAO has determined that the corps is unable to reconstruct the benefit-cost ratio. The GAO also notes that the project's economic development recreational benefits, estimated by the corps, may never be achieved given the lake's poor water quality.

Finally, the valley which is slated to be inundated is a nationally significant natural resource. The National Park Service and the Bureau of Outdoor Recreation are currently studying the feasibility of adding the valley to the National Park System. A report is due by the end of March 1976.

While I continue to have serious reservations concerning the continued construction of the currently authorized project, I do, however, believe that all alternatives to the dam and lake must be impartially and fully evaluated before the project is terminated or continued construction takes place. Therefore, I am opposed to termination of funding at this time.

Moreover, I intend to offer an amendment to provide $500,000 for the LaFarge Lake-Kickapoo River project. I hope the Senate will agree to appropriate these funds so that an impartial, comprehensive, multipurpose analysis of all alternatives to the currently authorized project can be completed and evaluated before the ultimate fate of the project is decided. Such a study, in my judgment, should be coordinated by the Corps of Engineers, the President's Council on Environmental Quality, and the U.S. Environmental Protection Agency, and should be completed within 12 months of date of enactment of this Act.

There are four important reasons for adopting this approach:

First, despite the fact that the Federal Government has invested over $15 million in the project, in my judgment, the whole range of alternatives for flood control and economic development has yet to be impartially and fully explored. Over 9 years of Federal expenditures were made before the first water quality study was performed, notwithstanding the fact that other agencies of the Federal Government raised concerns 3 years after congressional authorization. The $12 million project that Congress approved in 1962, now is estimated to cost over $51.5 million. The bulk of the funds expended so far have been used to acquire land and relocate roads. It seems to me before the Congress makes a final commitment we must have all the facts.

Second, section 102(2)(d) of the National Environmental Policy Act—NEPA, Public Law 91-190—mandates that an environmental impact statement—EIS—must:

> Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources.

Section 1500.8(a)(4) of the President's Council on Environmental Quality—CEQ—regulations implementing section 102(2)(D) of NEPA states:

> A rigorous exploration and objective evaluation of the environmental impacts of all reasonable alternative actions, particularly those that might enhance environmental quality or avoid some or all of the adverse environmental effects, is essential. Sufficient analysis of such alternatives and their environmental benefits, costs, and risks should accompany the proposed action through the agency review process in order not to foreclose prematurely options which might enhance environmental quality or have less determinable effects.

On August 7, 1974, I wrote to CEQ Chairman Russell Peterson and asked for an international staff review of the corps' EIS. On December 17, 1974, Chairman Peterson informed this office that the CEQ had determined:

> . . . Our review of the final EIS reveals a number of deficiencies . . . These include inadequate assessments of existing and potential water quality and recreational activity . . . we agree with the recommendation of the EPA (November 22, 1974) that present construction be delayed until all possible project alternatives are reevaluated.

The CEQ also requested that the corps file a draft supplement to the final EIS. Despite this request, and numerous requests from my office, the corps has refused to comply and file such a draft supplement.

In my judgment, the corps is in violation of section 102(2)(D) of NEPA. CEQ's requests should be honored, a total impartial reevaluation of all alternatives should take place before further construction funds are appropriated.

Third, even the corps admitted there are problems with its own analysis of the project. All the alternatives studied were single purpose, flood control only. Naturally they did not receive a positive benefit-cost ratio. However, the corps is willing to invest over $6 million in recreational benefits and over $5 million in water quality measures on a lake that the corps' own technical experts tell them will be extremely rich in nutrients and have very poor quality.

In fact, the General Accounting Office at my request reviewed and evaluated the currently authorized project's benefit-cost ratio and determined that the corps could not reconstruct the recreational benefits. Repeated requests by my office, the Governor's office, the CEQ, and the EPA for a new impartial review of the flood control and economic problems of the valley have been ignored.

Fourth, such a study at this stage of the project will not set a new precedent. The Congress ordered such a study in the 1975 appropriations bill for the Tocks Island review—House Report No. 93-1274, 93d Congress, second session, page 25, August 1974. The conference report stated:

> Tocks Island Lake, Pa., N.J., and N.Y.: The Conferees are in agreement that the funds allocated to the Tocks Island project shall be made available for an impartial, comprehensive analysis, including alternatives, and review of the project under the direction of the Corps of Engineers, and in cooperation with the Delaware River Basin Commission. The Conferees direct that this investigation be completed and a final and definitive recommendation be submitted to the Committees within the next 12 months."

I respectfully request that the conferees adopt similar language for the Kickapoo River Dam.

Finally, there seems to be a number of alternatives to the currently authorized project that could provide a wider range of benefits for the people of Wisconsin at less cost to the Federal taxpayer. As managers of the Federal Treasury, it seems to me that we have a definite responsibility to explore these choices to determine if the previous investment can be salvaged before the project is terminated. In my judgment, the corps should let a contract to an outside, impartial consulting firm to look at alternatives including, but not limited to: First, a dry dam and riverway park concept, second, total relocation and evacuation of the urban floodplain areas combined with a greenbelt recreational segment, and third, a combination of relocation and levees.

Mr. President, the currently authorized project, raises the most serious environmental concerns. It would, in my judgment, be inadvisable for the Congress to authorize further construction on this project before the substantial outstanding questions have been thoroughly and impartially evaluated.

Mr. STENNIS. I thank the Senator very much.

Does the Senator now withdraw his amendment?

Mr. NELSON. Mr. President, I withdraw it.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. STENNIS. I yield, Mr. President, to the Senator from Nebraska. Before I do, may I inquire about the time remaining?

The PRESIDING OFFICER. Eight and a half minutes remain. The Senator has 8½ minutes.

Mr. STENNIS. Eight minutes on the bill.

The PRESIDING OFFICER. On the bill? Six minutes remaining on the bill.

Mr. CURTIS. I shall be very brief.

Mr. STENNIS. All right, I yield.

Mr. CURTIS. Mr. President, the hour is late, and I merely commend the committee, the chairman, and the ranking minority member for their dedication and care that they give to this bill.

It happens that in Nebraska we had a project that was rejected by the voters, and the Senator was kind enough to make a transfer of funds from other projects, and we stayed substantially within the budget, but it is very helpful to the State of Nebraska.

We thank the Senator.

Mr. STENNIS. We thank the Senator for his words, and we will try to maintain the position in conference.

Mr. President, I am not certain of any other amendments.

The PRESIDING OFFICER. The bill is open to amendment.

Mr. GLENN. Mr. President, I call up my unprinted amendment to this bill and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Ohio (Mr. GLENN), for himself and others, proposes an amendment.

The amendment is as follows:

> On page 2, line 23, strike $3,101,492,000 and insert in lieu thereof $3,131,892,000.

On page 3, line 20, strike $935,152,000 and insert in lieu thereof $942,252,000.

On page 4, line 16, strike $936,292,000 and insert in lieu thereof $941,292,000.

On page 4, line 26, strike $184,186,000 and insert in lieu thereof $186,686,000.

Mr. GLENN. Mr. President, I first ask unanimous consent that Dave Hafemeister and Len Bickwit of my staff be granted floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, the total ERDA budget as applied to solar energy, in particular, was split between Interior and this appropriation bill now.

The ERDA authorization bill has still to come to the floor, so we are in the process again of appropriating before the authorization bill has arrived.

In particularly the area of solar energy, which has such tremendous possibilities for the future, we find that in this bill before us the appropriation has cut back on what would be authorized in the long-considered and well-considered ERDA authorization bill that we have worked on. It is only now coming out of House-Senate conference committee but has not yet reached the floor.

We find, in the first instance, on page 2, line 23, there is a reduction of some $30 million from the solar energy budget from the authorization that will be coming shortly from that ERDA House and Senate conference. So this amendment proposes to restore that $30 million.

Furthermore, on page 3, it would make a corresponding amount to be increased for the transition period. On page 4, then, under plant and capital equipment, this bill would provide for only one solar demonstration project of $5 million in the ERDA authorization. In conference, we provided two solar demonstration projects which would mean that if we went back to that concept we would raise another $5 million. In addition on page 4, a similar corresponding increase has been included for the transition period.

I hope the Senators are able to follow that runthrough on the bill.

What this does basically is raise the amounts for solar energy back up to the amounts which we have worked on and was very, very carefully considered in the Interior Committee over a lengthy period of time and in the House-Senate conference, and the House agreed with this. We are only trying to restore these funds. I am sure there is not a single Member of this body who does not feel that solar energy may be a tremendous boon in working out our whole energy problem for the future.

I do not think it is in the best interest of helping solve our energy crisis to see these funds for solar energy cut. We have considered and worked over them so carefully over such a lengthy period of time and I urge our colleagues to vote in favor of this amendment so that we can restore this most important part. I am sure there are some other Members who wish to speak.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. GLENN. Certainly.

Mr. JACKSON. I commend the Senator from Ohio for offering the amendment. I have joined with him on this amendment, and I think the Senator has stated the situation quite accurately.

The Interior Committee held extensive hearings, as the Senator from Ohio is aware. The authorization finally worked out in the conference this past week, and which will come up next week for approval in the House and then in the Senate, provides the necessary authority to cover the amount included in the Senator's amendment.

This is a modest boost. This is a program that offers great promise, as the Senator knows, and it is an area where he has great expertise.

I hope that as we talk in this Chamber about alternative sources of energy we really make an effort to exploit the opportunity of solar energy.

I finally state the representatives of ERDA agree that they could properly and effectively use the funds that are included in the Senator's amendment. Am I not correct?

Mr. GLENN. That is correct. There seems to be some differences. We have had some indications that additional solar funds would be useful.

Mr. PASTORE. Mr. President, will the Senator yield to me?

Mr. STENNIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. PASTORE. Of course, I did not hear the testimony of subordinates, but we had Dr. Seamans before our committee, the Joint Committee on Atomic Energy, only the other day. I asked him specifically as to whether or not we were doing all we possibly could do under the circumstances with the money that was being made available for research in solar energy and he said, yes. I said, "Do you need any more money?" He said, "If you gave us more money we would not know how to use it."

That is where it gets a little bit in conflict. I think we ought to go full steam ahead insofar as research in solar energy is concerned. But there is no need of giving money to people that they cannot possibly use.

I am a little wary of that. That is the testimony we received only 2 days ago. It seems to me more or less at variance with what has been said here.

Mr. GLENN. In response to the distinguished Senator from Rhode Island. The testimony before the Interior Committee on a number of occasions during the year were affirmative and these were the figures that they asked for and wanted. That is the reason we wished to see them restored.

Mr. STENNIS. Mr. President, has the Senator from Ohio finished?

Mr. GLENN. Yes.

Mr. STENNIS. I want the floor in my own right when the Senator is finished.

Mr. FANNIN. I will be pleased to follow the Senator from Mississippi.

Mr. STENNIS. I defer to the Senator from Arizona.

Mr. FANNIN. Mr. President, I would like to support the distinguished Senator from Ohio. I just wish to explain the problem we have in the solar energy area.

When we talk about the general solar energy program, I agree that the ERDA people have not requested the additional money that I think should have been requested. At the same time, we have problems that go far beyond the generation of power. I am talking about large generation—10 megawatts and higher and going into 200 megawatt power—for irrigation pumps.

These are the fields in which we have fallen behind in our Federal support. We are not doing anything about them. We need to go forward with these programs. If we do not have the necessary funds and do not push ERDA to support these programs, I do not know when we are going to solve the Nation's energy problems.

We have important desalination projection commitments. But we need power to operate them. We need 52 megawatts of power just to run the desalination plant at Yuma, Ariz., which is a national obligation. This does not pertain to Arizona. Rather, it is an obligation we have with Mexico. We need to do something about generating the power needed for the project. We have the ability to do the job, if we can go forward with the testing and the laboratory work necessary and the construction of the facilities. We must have the funds if we are going to carry the program through.

If we want to wait, as they say, until mid-1980 before we carry through these programs, that is something the Senate must decide. I feel that we can go forward. Instead of saying that we can do it in 10 years, I feel that if we concentrate on it, we can do it in 3 to 5 years.

So, in answer to the distinguished Senator from Rhode Island, it is a matter of priority and a matter on which money can be wisely spent.

The PRESIDING OFFICER. All the time of the proponents of the amendment has expired.

The Senator from Mississippi has 10 minutes remaining on the bill.

Mr. PASTORE. Mr. President, I could not agree with the Senator from Arizona more in everything he has said. All I am saying is that when we were discussing this matter the other day before the Joint Committee on Atomic Energy, I categorically and specifically asked Dr. Seamans if we were doing everything we could possibly do, to furnish him with all the money he needed——

Mr. STENNIS. Mr. President, may we have quiet in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. PASTORE. I say, frankly, that I am putting up every dollar we have to in order to research these alternatives that are absolutely necessary if we are to achieve independence.

All I am saying is that I asked that question of Dr. Seamans. I am not quarreling with this amendment. As a matter of fact, I hope that the distinguished

Senator from Mississippi will take it to conference.

I do not think we even have to have a recorded vote on this matter, because I believe we are all in the same ball park. We all want to do everything we can in order to develop solar energy. All I am saying is that we do reach a point of no return. We reach a point where we throw in dollars, as we have with NIH, pouring in dollars without any real effect.

Mr. FANNIN. The Senator is correct. But I am saying that we have to push ERDA, to see that they do these jobs; and they will not do it unless we provide the funds and push them to do it.

Mr. STENNIS. Mr. President, what is the time situation? How much time do we have on the amendment?

The PRESIDING OFFICER. The Senator from Mississippi has 8 minutes remaining on the amendment.

Mr. GLENN. Mr. President, do the proponents have any time remaining?

The PRESIDING OFFICER. The proponents have utilized all their time.

Mr. STENNIS. Mr. President, I yield 8 minutes to the Senator from Oregon.

Mr. HATFIELD. I thank the Senator from Mississippi.

Mr. STENNIS. May we have quiet, Mr. President. This is a highly important matter.

The PRESIDING OFFICER. The Senate will be in order.

Mr. HATFIELD. Mr. President, I should like to review briefly what we are doing in this appropriation. We, in effect, are increasing the appropriation made in fiscal year 1974 by 425 percent, just in the solar program. In other words for fiscal year 1976, we are providing $74.9 million for solar energy R. & D., which is an increase of $54 million over the fiscal year 1974 appropriation.

I reaffirm what the Senator from Rhode Island has reported to the body by saying that Dr. Seamans, in our own hearings, indicated to us and cautioned us very carefully not to try to go beyond their capability of the present organization they have established to utilize properly the funds. We have appropriated in this measure the full budget request.

I also remind the Senate that there is $8.2 million for solar research in the National Science Foundation budget. If we take the $66.7 million we have appropriated and the $17.4 million for the transition quarter and the $8.2 million provided for the National Science Foundation, we are talking about a total of $92.3 million for fiscal 1976 and the transition quarter.

I sit on the authorization committee with the distinguished Senator from Ohio, and he knows that I have given full and complete support to solar development. But I have to say that, after we listened to the testimony of the ERDA organization, represented by Dr. Seamans, I think we cannot in good conscience impose upon that Agency more money than they have told us they have the capability of handling. We can do exactly what the Senator from Arizona and the Senator from Ohio have proposed, and that is to impress upon that Agency the need to accelerate their program, to expand their operation, to do everything within reason to utilize properly a higher funding level for next year.

But to impose upon this Agency these additional funds at this time, when, by all evidence that we have before both the Joint Committee, chaired by the Senator from Rhode Island, and our own Subcommittee on Appropriations, I think would be fiscally unwise. So, as much as I support the solar project, I cannot, in good conscience, acquiesce to the request of the Senator from Ohio until that Agency has put itself in a position to handle the additional funds that he proposes in this amendment.

Mr. President, I have some time left and I would like to yield to the Senator from Ohio a minute.

First, Mr. President, I yield the remainder of my time to the Senator from Mississippi.

Mr. STENNIS. How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. STENNIS. I shall yield to the Senator from Ohio a minute if he wants to say something.

Mr. GLENN. I thank the distinguished Senator from Mississippi. I shall use that minute. I appreciate that.

I can only say in reply that he has, obviously, conflicting testimony, because we have had extensive testimony on these projects from the people at ERDA throughout this year, as the Senator from Oregon is aware. For instance, on page 4, on plant capital equipment, the figures here would provide for only one single major demonstration for a solar facility. What we would provide in this amendment would give at least two of those.

Certainly, we could not think that one solar facility, with the importance that may have to the future, would be adequate to demonstrate major solar plans. I think this is an illustration of the type of conflicting testmony we have had. That would only account for $5 million of the difference.

Back on page 2, we are raising this by some $30 million, which reflects the desires of ERDA as expressed to us earlier in the year.

I appreciate the distinguished Senator's granting me this time.

Mr. STENNIS. Mr. President, let me bring to the Senator's attention the fact that the authorization bill containing his money has not yet passed the Senate. There is no authorization. This appropriation bill provides the funding subject to authorization—we do not know yet how much is going to be authorized by Congress. Solar energy is something that is popular, and I hope it has a tremendous future. I wish it were going faster than it is.

But how are we going to turn down the testimony here, as related by the Senator from Rhode Island, of just a few days ago, when he heard Dr. Seamans testify that this sum of money was in keeping with what he could use, that, in effect, he could not use any more?

Dr. Seamans is no fellow they picked up down at 12th and Pennsylvania and put in charge of this program. He is one of the big minds and administrators of this land. I have known him for several years. He has not mentioned this thing to me, he has not mentioned it in any way, directly or indirectly, to the Senator from Oregon.

The Senator from Ohio, with all deference, has not mentioned this matter or communicated his interest to the committee. He has not said anything. He does not have to, but there is some kind of unwritten rule that used to run through this Chamber, that on important matters of this kind, the committee would have a chance at least to take a look at it. I say we are just running wild.

I hope we do not approve this amendment for the time being. If there is one scintilla of real proof here that more money is needed than Dr. Seamans is asking for, we will take the lead in giving it to him. But just to come in here before the authorization bill and go to brawling around over the man we have put in charge over this program—I strongly advise, with great deference to the author of the amendment, against it. I hope that the Senators will take that view. If anything proves erroneous about it, there will be a chance to correct it.

We have in this bill the $66.7 million that I have already referred to. The House, early in the year, back in June, provided the $82.7 million. These amounts will be in conference. We can yield to the House amount based on what Dr. Seamans and other ERDA officials say at the time of the conference. I am going to call for the proof. The difference between the House amount and the amount recommended by the committee provides a possible increase of $16 million, even if we vote down this amendment, and half the year is already gone. Half the year has passed, and the information we have on the obligation heretofore just does not justify these larger increases.

Mr. President, have I used up my time?

Mr. GLENN. Will the Senator from Mississippi yield 30 seconds?

Mr. STENNIS. Oh, yes, if I have it.

The PRESIDING OFFICER. The Senator has 30 seconds.

Mr. GLENN. I appreciate that. It is true this conference report has not come on the floor of the Senate, but we have been through the House-Senate conference on the ERDA budget. All this does is try to reflect those authorizations that are in the House-Senate conference. Granted these have not been approved here, but it has been considered by the House, by the Senate, and these figures are the ones that are coming out of that conference committee.

The PRESIDING OFFICER. All time has been used up.

The question is on agreeing to the amendment of the Senator from Ohio.

Mr. STENNIS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the rollcall be limited to 10 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The rollcall will be 10 minutes.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STENNIS. Mr. President, may we have quiet so we can hear the rollcall?

The PRESIDING OFFICER. The Senate will be in order. Senators will kindly clear the aisles.

The clerk may proceed.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Delaware (Mr. Biden), the Senator from North Dakota (Mr. Burdick), the Senator from Idaho (Mr. Church), the Senator from New Hampshire (Mr. Durkin), the Senator from Kentucky (Mr. Huddleston), the Senator from Colorado (Mr. Hart), the Senator from South Dakota (Mr. McGovern), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that the Senator from Colorado (Mr. Haskell) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Brock), the Senator from Hawaii (Mr. Fong), the Senator from Arizona (Mr. Goldwater), the Senator from Nevada (Mr. Laxalt), the Senator from Maryland (Mr. Mathias), the Senator from Illinois (Mr. Percy), the Senator from Virginia (Mr. William L. Scott) are necessarily absent.

The result was announced—yeas 52, nays 31, as follows:

[Rollcall Vote No. 563 Leg.]

YEAS—52

Abourezk
Allen
Beall
Bentsen
Brooke
Buckley
Bumpers
Cannon
Case
Clark
Cranston
Culver
Dole
Domenici
Fannin
Ford
Garn
Glenn
Gravel
Hansen
Hart, Philip A.
Hartke
Hruska
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Mansfield
McClure
McGee
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Nelson
Packwood
Pastore
Pell
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevenson
Stone
Symington
Tower
Weicker

NAYS—31

Baker
Bartlett
Bellmon
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
Curtis
Eagleton
Eastland
Griffin
Hatfield
Hathaway
Helms
Hollings
Johnston
Long
Magnuson
McClellan
Muskie
Nunn
Pearson
Proxmire
Randolph
Roth
Stennis
Stevens
Taft
Talmadge
Thurmond
Williams
Young

NOT VOTING—17

Bayh
Biden
Brock
Burdick
Church
Durkin
Fong
Goldwater
Hart, Gary
Haskell
Huddleston
Laxalt
Mathias
McGovern
Percy
Scott, William L.
Tunney

So Mr. Glenn's amendment was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

The Senator from Massachusetts.

Mr. BROOKE. Mr. President, I call up my amendment which is at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, line 3, strike out "$1,255,663,000" and insert "$1,253,553,000".

On page 7, lines 23 and 24, strike out "$401,578,000" and insert "$401,143,000".

On page 7, after line 24, insert the following:

"None of the funds appropriated in this Act for the Corps of Engineers shall be used for the Dickey-Lincoln School Lakes program, Maine."

Mr. BROOKE. May we have order, please?

The PRESIDING OFFICER. If the Senator will withhold for just 1 minute.

Will the Senators conversing kindly withdraw to the cloakroom? Will the Senators who are conversing kindly withdraw?

The Senate will be in order.

Mr. FORD. Will the Senator yield for a unanimous-consent request?

Mr. BROOKE. Yes.

Mr. FORD. Mr. President, I ask unanimous consent that Jim King of my staff be granted privilege of the floor during debate and vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. BROOKE. Mr. President, this amendment would strike the nearly $2,545,000 appropriated in this bill for the completion of environmental and engineering design studies on the Dickey-Lincoln Lakes project. This dam has been the subject of controversy for nearly 15 years. Many claims and counterclaims have been made about its merits. I believe there is now more than enough evidence to indicate that pursuing the development of this huge project further would be an unforgivable waste of the taxpayers' dollar.

To be quite frank, this is a change in my own position of several years ago. I once had high hopes for the Dickey-Lincoln project as a new source of electric power for the New England States. Because of our heavy dependence on imported oil, New England has historically been burdened with the Nation's highest energy costs. This is particularly true of our electricity costs. In search of ways to pare these costs, many of us seized upon the proposed Dickey-Lincoln hydroelectric power project. We believed that the project would greatly reduce New England's electrical costs while providing a yardstick against which to measure private utilities operating in the region.

However, in the past year, analyses have cast considerable doubt on the validity of these predictions. One is that, when finished, the dam at Dickey would be the 11th largest dam in the world, yet in terms of energy supply, the combined dams would meet less than 1 percent of New England's electricity demands by 1983—the dam's projected completion date. This is because the St. John's water flow precludes any greater generation capacity. By way of comparison, the availabilities of the Dickey-Lincoln dams would, according to one estimate, allow us to "reduce" the size of one fossil fuel unit somewhere in Maine by 105 megawatts—from say 605MW to 500MW.

The Corps of Engineers in 1974 estimated the cost of the project to be $356 million plus $52 million in interest during construction with an additional $123 million for the construction of transmission lines. Yet these estimates do not figure in the probable effect of inflation over the 7 years needed to build the dams nor do they include any profit for the contractor. Revised estimates indicate that the project could cost as much as $1 billion.

It is argued in favor of Dickey-Lincoln that the project will serve two important functions. First, it will provide needed peaking power; and second, it will provide the already mentioned "yardstick" with which to measure the performance of the region's private utilities.

In the first instance there are legitimate questions which we must answer as to the desirability of constructing such a huge and expensive project to provide for only 2½ hours of peaking power per day. And in the second instance, there are legitimate doubts as to the suitability of using such an enormous and, therefore, unusual project as a standard for comparison.

The problem may very well be one of economics. We in the Congress are under attack for fiscal irresponsibility. As inflation continues its unprecedented rise, we will have to begin to take a hard look at many of our Federal projects, with an eye to reducing all unnecessary expenditures. Admittedly, the item before us is said to be for the environmental impact statement, but $2.5 million is an enormous sum. And it is a first step toward development. The time is now to ask the kind of hard, critical questions which this project deserves, for I fear that once the project gets underway we will be caught in a self-perpetuating cycle thereby precluding further serious review.

Another claim made for this project is that it will produce jobs for a New England already burdened by an unemployment crisis in which nearly 12 percent of our people are unemployed. I can certainly understand how citizens will tend to support anything that has even the remotest possibility of offering jobs. But this project has been oversold. Let me quote from Stephen Whitney and Paul Swatek's article, "Dickey-Lincoln: Large Dams, Larger Promises, and Even Larger Debts," published in the Sierra Club Bulletin, October 1975.

> First, the worst unemployment in the area occurs during the winter months, when the two main industries—logging and potato farming—must cut way back. Dickey-Lincoln will not alleviate this seasonal unemployment because dam construction will also have to virtually cease during Maine's fierce and abiding winters.
>
> Second, since construction would not begin until 1978, the project cannot help unemployment now. A Corps of Engineers' employment scale reveals further that a significant number of jobs would not be provided until 1981. Even then, at the time of maximum employment on the proposed dams, the unemployment rate in Maine would be reduced by only one-half of one percent, and then if, and only if, the anticipated maximum of 1,800 jobs all went to Maine residents, an unlikely possibility judging from experience elsewhere. Many of the jobs, for example, are technical and will probably be filled from out of state. Those that aren't are more likely to be filled by nearby Canadian labor than by Mainers.
>
> Third, there would be very few permanent jobs. Dam construction would provide jobs for only a few years, so the project offers no long-range solution to anybody's unemployment.

Mr. President, these are hard facts and they are true. More important, the expansion of the other electric generating stations planned for New England could provide both the peaking power and the additional jobs we need.

Mr. President, I reserve the remainder of my time.

Mr. STENNIS. Mr. President, I want to yield time to the Senator from Maine.

But first, I want to say that no project has ever been reviewed more thoroughly over the years than the Dickey-Lincoln project in New England. We are encouraged now that the people up there have gotten together. The committee has unanimously recommended these funds for the project to continue the preconstruction planning.

Now, I yield 7½ minutes to the Senator from Maine.

Mr. MUSKIE. I thank my good friend from Mississippi.

Mr. President, I have worked and fought for this project since 1961. The distinguished Senator from Massachusetts tells us that in the last year he has learned some new facts about this project. I listened to him closely. I have not heard a thing that has not been used against this project by the power companies of New England for most of the last 10 years.

Mr. President, in the short time available to me I could not go into all of the implications of what the distinguished Senator has said. But let me say this: This project is the product of 3 years of intensive study and development by the Department of the Interior under a direction from President Kennedy in 1961. When it was finally proposed to the Congress, it had a benefit-cost ratio which was more favorable than 75 percent of the power projects ever built by the U.S. Government in this country.

Interestingly, of the 170 that had been built prior to that time, not one had ever been built north of the Mason-Dixon Line and east of the Mississippi River. We were the one area of the country which was not given the benefit of public power as a test of private power and as an opportunity to develop our region.

This one stood up as against 75 percent of all those that had been built before.

The Senator from Massachusetts minimizes the impact of this project.

This project is not going to rebuild all of New England. No one ever suggested that. But this project, when built, will provide 10 percent of the peaking power for all of New England. Anyone who knows power knows that peaking power is the most expensive kind of power. It is ideally served by hydroelectric plants—not nuclear, not coal, not oil, but hydro. This is the biggest undeveloped hydro site in the Northeast, if not in the country.

As to cost, this project will repay its cost to the Treasury in 50 years. This project meets all the requirements of existing law that have ever been applied to any other hydroelectric project with respect to interest rates, payback, and every other standard. The Senate has approved this every year for the past 10 years. We have been blocked in the House. By whom? By the power companies. And when the power companies finally pulled off because the price of oil finally convinced them that they needed it, then we have a new group coming in, the environmentalists. So what did we do? We delayed the project and promised to produce an environmental impact statement to settle those questions.

That is what this money is all about.

But they are not content with that. They do not want the facts. They do not want the facts on the environmental implications. On economic feasibility, the project has met the test for 10 years. On the environmental questions we are asking the Congress of the United States to give us the chance to make the case because the project from an energy point of view is deserving.

No, the Senator from Massachusetts has not produced anything new in the statement presented to the Senate. I have heard that stuff for 10 years. It has not been sound before and it is not sound today.

Mr. President, I ask unanimous consent to have printed in the RECORD a fact sheet concerning this matter and comments on an article by Richard Saltonstall, Jr.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DICKEY-LINCOLN SCHOOL LAKES, MAINE FACTSHEET

I. GENESIS

Dickey-Lincoln School Lakes evolved as a result of a study of the Development of Tidal Power at Passamaquoddy, a system of tidal bays studied since 1919 by both private and public engineers. The most comprehensive report was that completed by the International Joint Commission in April 1961 after 3 years of study and a cost of $3 million. The Commission concluded that the project was not economically feasible under the then existing conditions. At the request of President John F. Kennedy, the Commission report was reviewed to determine if the project was feasible in view of the advanced engineering techniques and prevailing economic conditions. In July 1963, a report was submitted to the President, which concluded that application of a different use-concept of power coupled with advanced engineering techniques would result in a favorable report.

On July 16, 1963, the President directed the Departments of Interior and Army to make additional studies to supplement the July 1963 report. An Army-Interior Advisory Board on Passamaquoddy and Upper Saint John River was formed. Interior performed power studies, power transmission, marketing benefits and other economic aspects. The Corps of Engineers developed the physical components of the project.

The Study Committee completed its evaluation in August 1964, and submitted its report to the Secretary of the Interior. Recommendations included: early authorization of the Passamaquoddy Tidal Project and Upper Saint John River Developments and early construction of the project to develop low cost firm power for Maine and peaking power for the remainder of New England.

The Secretary of the Interior submitted a report on 9 July 1965 to President Johnson summarizing the August 1964 report. Subsequent to August 1964, a review updated the power benefits. The power rates were reduced due to larger, more economical developments by the power industry since the previous analyses. The reduction caused the benefit-to-cost ratio for the Passamaquoddy Power Project to fall below unity (.86 to 1). The benefit-to-cost ratio for Dickey-Lincoln School Lakes was a sound 1.81 to 1.

One recommendation included in the July 1965 report approved by President Johnson was: "Immediate authorization, funding, and construction of the Dickey and Lincoln School projects on the Saint John River and their associated transmission system. Construction would be contingent upon completion of necessary arrangements with the Canadian government. This would also have the immediate and major by-product of preserving the famed Allagash River in Maine, one of the few remaining wild rivers east of the Mississippi River."

The Dickey-Lincoln School Lakes Project was authorized by the 1965 Flood Control Act, Public Law 89-298 dated 27 October 1965, substantially in accordance with the plans included in the August 1964 report.

II. PROJECT DESCRIPTION

A. Physical Characteristics

Dickey Dam is located on the Upper Saint John River immediately above its confluence with the Allagash River near the Town of Dickey and 28 miles above Ft. Kent in Aroostook County, Maine. The dam would be an earthfill structure impounding a reservoir with gross storage capacity of 7.7 million acre-feet for power, flood control and recreation. The reservoir area would total 86,000 acres at maximum pool elevation of 910 feet mean sea level (msl). Three dikes would be located in saddle areas along the reservoir perimeter to prevent overflow into adjacent watersheds.

Dickey Dam would have a total length of 10,600 feet and a maximum height of 335 feet above streambed. Its outlet works consist of a 26-foot diameter concrete lined tunnel, 2,130 feet long. The power facilities include eight generating units at 95,000 Kilowatts (KW) for a total installed capacity of 760,000 KW. The project would be operated for peaking power purposes.

Lincoln School Dam is located on the Upper Saint John River, 11 miles downstream from Dickey Dam. It provides for an earthfill dam impounding a reservoir with useful storage capacity of 24,000 acre-feet for purposes of regulating discharges from Dickey Dam and for power generation. Its reservoir would encompass 2,150 acres at its maximum pool elevation of 610 feet msl.

Lincoln School Dam would be 1600 feet long and have a maximum height of 85 feet. Its power facilities consist of two units at 35,000 KW each for a total installed capacity of 70,000 KW. The project would be operated as a base load power plant.

The construction cost for the dams and appurtenances totals $428.0 million based on 1 January 1975 price levels.

B. Operational Characteristics

The project would be operated principally as a peaking power plant. In this role the project would not be a high energy producing (i.e. Kilowatt-hours) facility. A peaking power project is designed to operate for short periods of time to meet daily peak demands. It has quick starting capability and provides spinning reserve for load protection. Typical peaking plants are hydroelectric projects—both conventional and pumped storage—and gas turbine units. On the other hand, base load power is provided by large efficient fossil-fueled or nuclear steam plants which operate virtually continuously and as a result are high energy producing installations. However, these latter plants are not suitable for peaking use and load protection because of economic and operating considerations. The 1970 National Power Survey published by the Federal Power Commission notes that the current trend towards construction of very large fossil-fueled and nuclear steam-electric base load units has increased the need for plants designed specifically for meeting daily peak demands.

In addition to its reliability, a hydroelectric facility has a lower operating cost than alternative power sources because it does not rely upon costly fuels. Water is a continuous and clean source of power. Beyond the economic aspects, there would also be an annual savings in natural resources. To produce an equivalent amount of electrical energy, fuel consumption—dependent upon the type of alternate—would total 1.7 million barrels of oil or 600,000 tons of coal, or 9.2 billion cubic feet of gas.

C. Generating Time

The operation of Dickey Dam's power facilities is very flexible and can vary on any given day to meet a specific peak demand. The project is capable of generating to full capacity about 2½ hours per day for seven days a week or 3½ hours daily for five days a week. During periods of peak demand the generating time could be increased to seven hours per day, seven days per week if desired.

The Lincoln School reregulating dam can normally operate 10 hours per day seven days per week. When the Dickey project operates 7 hours per day, the Lincoln project is capable of generating energy 24 hours per day. In the event of an electrical blackout, the project is capable of generating electricty for a continuous period of up to 35 days. Under normal operating conditions, the project will generate energy 12 months per year.

D. Construction Period

Construction of the project, including all necessary land acquisition, will require approximately 7½ years. Initial power-on-line would be scheduled 6½ years after initiation of construction and total power-on-line would be realized one year later.

III. PROJECT ECONOMICS

A. General

The project's average annual benefits are currently estimated as follows: (1 January 1975 Price Levels)

Benefit:	*Amount*
Power	$52, 798, 000
Flood control	77, 000
Area redevelopment	983, 000
Recreation	1, 250, 000
Total benefits	55, 108, 000

The average annual cost of the project reflecting amortization of the initial investment and annual operation and maintenance cost totals $21,138,000. This results in a benefit-to-cost ratio of 2.6 to 1.

1. Power

As noted, power would be the principal benefit realized through construction of the Dickey-Lincoln School Lakes Project. Onsite annual power generation of 1.2 billion kilowatt hours would result from the total installed capacity of 830,000 KW. Additional power generation of 350 million kilowatt hours would also be gained by downstream Canadian power plants due to regulated flows from Lincoln School Lake of which 50% would be allocated to the United States.

The peaking power output from the project would provide an estimated 10% of the New England peaking power generation required in the mid-1980's.

2. Flood Control

The flood control benefit results from elimination of flood damages below the project site. Fort Kent, located about 28 miles below Dickey Dam, has experienced ten floods during the past 47 years of record. The most recent floods occurred in May 1961, May 1969, April 1973 and May 1974. The May 1974 flood stages exceeded the record flood of April 1973 and caused damages estimated at $3.0 million. These losses would be prevented by the project. In view of the uncertain status of Dickey-Lincoln School Lakes and the recurring flood problem at Ft. Kent, a small local protection project has been formulated under Section 205 of the 1948 Flood Control Act, as amended, that would provide some degree of protection to the Town of Ft. Kent. The proposed dike and pumping station would protect to a 100 year frequency flood level and would be limited principally to the commercial center of Ft. Kent. The proposal is presently under review by the office of the Governor of Maine.

Dickey-Lincoln School Lakes would provide full protection to the Ft. Kent area.

3. Redevelopment

The Area Redevelopment benefit represents the effect of added employment resulting from the project. The Dickey-Lincoln School Project is located in the part of Aroostook County which is classified as a Title IV (1) Economic Development Area denoting an area of substantial and persistent unemployment. Numerous employment opportunities would arise and the associated wages related to project construction and future operation and maintenance would result in substantial relief to the economically depressed area.

4. Recreation

The recreation benefit is a preliminary estimate of general recreation, hunting and fishing use developed at the close of earlier preconstruction planning activity. As presently envisioned limited facilities such as campsites, comfort stations and boat launching ramps would be provided. A preliminary recreational master plan will be developed—in conjunction with appropriate State and Federal agencies—in the early stages of current preconstruction planning effort.

B. Economic Analyses

The justification for authorization of all Corps of Engineers' projects is measured in terms of the benefit-to-cost ratio. The economic analysis used to develop this yardstick is based on standards prescribed by Senate Document No. 97, 87th Congress, entitled Policies, Standards and Procedures in the Formulation, Evaluation and Review of Plans for Use and Development of Water and Related Land Resources. Total project benefits for Dickey-Lincoln School Lakes are comprised of at-market power, total downstream energy, flood control, recreation and area redevelopment type benefits. The power benefits for Dickey-Lincoln School Lakes are equated to the cost of privately-financed equivalent alternative sources of power. The unit power values, furnished by the Federal Power Commission, are based on gas turbines for that portion of project power expected to be marketed in the Boston area for peaking purposes and a base load fossil fuel steam plant as an alternative for that portion to be marketed in Maine.

The project cost is evaluated on an annual basis reflecting amortization of the investment and annual operation and maintenance expenses. The cost has been increased to provide for the transmission of power by adding 50 percent of the annual cost of a line between the project and Boston. It has been assumed that the remaining one-half of the annual cost will be derived from the wheeling by others of off-peak power. The interest rate used in the economic evaluation is 3¼% and the period of analysis is 100 years. Attached as Table I is a summary of the economic analysis.

The 3¼% interest rate used in the economic analysis has been the subject of considerable discussion. Accordingly, an explanation of the derivation of this rate is appropriate. The interest rate is in accordance with a Water Resources Council (WRC) regulation implemented in December 1968. This regulation revised the method of computing the interest rate as previously outlined in SD 97. The regulation permitted an exception, however, for those projects already authorized such as Dickey-Lincoln School Lakes which was authorized in 1965. The exception noted that if an appropriate non-Federal agency provided—prior to 31 December 1969—satisfactory assurances that requirements of local cooperation associated with the project would be met, then the previous interest rate would be retained. At Dickey-Lincoln School Lakes, local cooperation would be required for the cost sharing of recreational facilities. Assurances were received from the Governor of Maine by letter, dated 24 February 1969, that the non-Federal requirements would be fulfilled at the appropriate time. As a result, the interest rate was retained at 3¼%.

The WRC subsequently established new principles and standards for water resource planning effective in October 1973. A section of these new standards includes the provision for increasing the interest rate to 6⅞%. However, the Water Resources Development Act of 1974, enacted by the Congress on 7 March 1974, includes a section which requires that interest rates used for water resource projects be consistent with the implementation of the December 1968 WRC regulation. Accordingly, the 3¼% interest rate remains firm for Dickey-Lincoln School Lakes. As a point of interest if the project were evaluated on a 6⅞% interest rate, it remains justified with a 1.3 to 1 ratio.

The Corps of Engineers also uses a procedure referred to as an "Economic efficiency test" to comprehensively evaluate proper resource development. The objective of an ideal system operation is to meet area power demands at least cost to consumers. Therefore the least costly addition to a region's capacity could be considered as a yardstick for purposes of making a decision regarding such additions. The "economic efficiency test" provides for such a determination. Basically the test provides for a comparison of the costs of providing an equivalent amount of power from the most feasible alternative, likely to develop in the absence of the project, evaluated on a basis comparable with the determination of the Federal project costs (with respect to interest rate, i.e. 3¼%, taxes and insurance). The Corps "economic efficiency test" indicates that the annual at-market charge for Dickey-Lincoln School Lakes power amounts to $21,138,000 while alternative equivalent power charges amount to $42,759,000. This results in a ratio of 2.0 to 1 in favor of Dickey-Lincoln School Lakes. This means that even if private utilities could obtain financing equivalent to the Federal rate, water resource benefits could be provided by Dickey-Lincoln School at half the cost of the private utility alternatives. The attached Table II illustrates the economic efficiency test".

C. Repayment Analysis

The above analyses are used to define the economic worth of the project. The financial value of power, however, is determined through the repayment analysis. Marketing of electric power from Federal projects is the basic responsibility of the Secretary of Interior as authorized by Section 5 of the 1944 Flood Control Act. Repayment rates must be sufficient to recover costs of power production and transmission including annual operation and maintenance expenses. The total investment allocated to power must be repaid over a reasonable period of years. As a matter of administration policy, this period has been specified as 50 years. On 29 January 1970, the Secretary of Interior, under his administrative discretion to establish power rates, instituted new criteria for determining interest rates for repayment purposes for projects not yet under construction. The current interest rate used for Dickey-Lincoln School Lakes repayment under this revised criteria is 6⅛%. The resulting analysis shows that power from Dickey-Lincoln School Lakes could be marketed at 30.98 mills/Kwh as compared to 40.90 mills/Kwh for the private alternatives. On an annual basis this represents a savings of about $12.4 million.

The difference between the economic analyses previously described and the repayment analysis warrants further clarification. This has caused a considerable amount of misunderstanding and misinterpretation. The economic analyses—both for the benefit-to-cost ratio determination and the "economic efficiency test" are economic parameters measuring a project's worth. These analyses are not unique to Dickey-Lincoln School Lakes. The benefit-to-cost ratio is employed universally by the Corps in measuring a project's economic justification. The "economic efficiency test" is also universally used by the Corps in conjunction with projects having generation of electric power as a project purpose. The economic analyses utilize a 3¼% interest rate and 100-year period of evaluation. On the other hand, the repayment analysis—which will ultimately be computed by the Department of Interior—is a financial analysis which determines the appropriate charge at which power costs must be marketed to return the total annual investment allocated to power. For this analysis an interest rate of 6⅛% and a 50-year repayment period are used.

IV. ENVIRONMENTAL STUDIES

A. General

Detailed data essential to a comprehensive environmental evaluation consistent with the National Environmental Policy Act of 1969 (NEPA) have not been developed for Dickey-Lincoln School Lakes. Preconstruction planning was terminated in the fall of 1967, prior to passage of NEPA, and not resumed until later 1974. Environmental studies and preparation of an Environmental Impact Statement will receive priority attention now that design activity is resumed. A final Environmental Impact Statement must be on file with the Council on Environmental Quality prior to initiating any land acquisition or construction.

Members of this Division had a series of meetings with the Bureau of Outdoor Recreation, the U.S. Fish and Wildlife Service, the Maine Division of Inland Fisheries and Game, and the Maine State Park and Recreation Commission during 1967 prior to termination of design. The objective of the meetings was to determine the impact of the project on recreation and conservation as well as determining what input would be provided by each group. All parties realized the need for detailed studies before final determination could be made. Coordination is now being reestablished with these agencies to evaluate the project's environmental impact.

An initial activity in environmental studies is the preparation of a scope-of-work for the Environmental Impact Statement. The scope-of-work will be the plan of action for developing a comprehensive Environmental Impact Statement. It will identify all significant environmental, social and economic impacts induced by the project and recommend methodology for measuring and evaluating these impacts. A contract with a private environmental engineering firm is currently underway to accomplish this task.

B. Project Effect on the Allagash River

Construction of the Dickey-Lincoln School project will have no adverse effect on the Allagash River. The project should, in fact, effectively supplement the valuable waterway. The Dickey Dam site is located on the Upper Saint John River immediately above its confluence with the Allagash River. Consequently, the impoundment would have no effect on its outstanding free flowing characteristics.

The lake created by the project totaling some 86,000 acres would complement the Allagash environs by furnishing a balanced resource to this upper region of Maine—for example providing lake fishing as opposed to the stream fishing of the Allagash. The project would also serve to alleviate some of the present heavy use being experienced along the Allagash—a use which could ultimately be detrimental to its wilderness appeal.

C. Effect of Reservoir Drawdown

The North Pacific Division of the Corps of Engineers conducted computer simulation studies for this office in 1966 which identified the extent of reservoir fluctuation. The operational characteristics of the project were analyzed by continuous simulation using 30 years of record. During the period of June to October, the lake surface would drop about three to four feet depending upon whether it was a hydrologically wet or dry year. The average daily drop in the pool would approximate one inch. The lake elevation at the start of the recreation season would be a function of the hydrologic conditions. For an average year, the pool elevation would be at 905.0 mean sea level (msl) in June. This is five feet below the maximum power pool elevation of 910.0 msl. At summer's end the pool would be about four feet lower, as previously noted, or nine feet below the maximum pool elevation.

Much has been written about the so-called "bathtub ring" effect due to drawdown. Based on the average year, the exposed area would total 4,000 acres (El. 905.0 msl) at the beginning of the recreational season and 8,000 acres (El. 901.0 msl) in October. The maximum drawdown, i.e. lowest lake elevation, in any given year would occur in March. The maximum drawdown periods occur during the winter months when heavy snow cover typical to the area exists. From an environmental viewpoint, this snow cover would effectively cover the exposed areas.

An analysis was also accomplished to reflect the most severe drawdown condition during the 30 years of record. This study indicated that the power pool would be lowered to El. 871 ft. msl only once during the 30-year period—again occurring in March. This event, with an approximate 3% chance of occurrence, would expose some 31,000 acres although the terrain would have a significant snow cover as previously described.

Computer simulation studies will be updated during the current preconstruction planning activities and will utilize 42 years of hydrologic record.

V. MARKETING OF POWER

The concept developed during the earlier studies envisioned the marketing of 725,000 KW of Dickey-Lincoln School Lakes output as peaking power to the Boston, Mass. area and the remaining 105,000 KW principally as base load power in the Maine market. This marketing concept will be reviewed by the Department of Interior.

The Department of Interior is vested with the responsibility of marketing the electric power from Dickey-Lincoln School Lakes per authority of Section 5 of the 1944 Flood Control Act. This Section states that power will be sold in such a manner as to encourage the most widespread use thereof at the lowest possible rates consistent with sound business practices. Section 5 further states that preference in the sale of power and energy is to be given to public and cooperative power interests.

It will not be known how much power—if any—will be available to private utilities until Interior finalizes its marketing plans. Historically, the Department of Interior has not proceeded with definitive marketing and transmission plans until construction of the project is under way and the power-on-line date is capable of being met with some degree of certainty. Prior to that time, their studies are of sufficient depth to determine marketability and evaluate the financial feasibility of the power installation.

The existence of the New England Power Pool (NEPOOL)—comprised of the major utilities within New England—provides an effective vehicle through which Dickey-Lincoln School Lakes output could be utilized to the mutual benefit of New England. A report dated November 21, 1974 submitted to the New England Planning Committee of NEPOOL stated that, "the Dickey project capacity would be fully effective capacity to the interconnected New England system if it were dispatched in a peaking assignment during the 1985–1986 power year. The enormous storage reservoir makes it possible to use Dickey with maximum flexibility. It can run at full capacity whenever it is needed and can sustain that power level for the duration of any peak that the system experiences. It makes an ideal source of reserve with quick response, a fact that is most valuable to have as an option open to those responsible for load dispatching."

VI. CURRENT RATES

Planning and design, previously terminated in late 1967 due to lack of funds, was resumed in the fall of 1974 with the allocation of $800,000 in Fiscal Year 1975 (July 1974 through June 1975) funds. The only work accomplished in the interim was the annual updating of project costs and benefits. Construction costs were escalated using selective cost indices for specific work items. The power benefits have been updated annually by the Federal Power Commission.

Efforts are now underway and/or resumed on the following preconstruction planning elements:

Preparation of a scope-of-work for an Environmental Impact Statement.

Hydrology and Hydraulic Studies.

Hydropower Studies including feasibility of adding pumped storage.

Water Quality Studies.

Preliminary Planning of Recreational Facilities.

Preliminary Real Estate Planning.

Surveying and Mapping of Construction Sites.

Construction Materials Explorations and Testing.

General Layout and Design Activity.

Highway Relocation Studies.
Seismic Studies.

Coordination will be established with appropriate Federal, State and local agencies and Canadian interests as preconstruction planning progresses.

The project cost estimate for major construction features has been updated by a private engineering firm experienced in hydroelectric facility design and construction. This update, supplemented with updated cost estimates for land and minor construction features prepared by this Division, constitutes the current project cost estimate.

TABLE I.—*Dickey-Lincoln School Lakes*

Economic analysis—Annual costs and benefits (January 1975 P.L.)

(Based on 3¼% interest rate and 100-year project life)

TOTAL INVESTMENT—DAMS

Construction Cost of Dams	$428,000,000
Interest During Construction	36,200,000
Total Investment	464,200,000
Capital Recovery factor 100 yr. life	.03388

ANNUAL COSTS—DAMS

Interest and Amortization	15,727,000
Operation and Maintenance	1,700,000
Major Replacements	298,000
Loss of Land Taxes	118,000
Sub-Total Dams	17,843,000

TOTAL INVESTMENT—TRANSMISSION LINES

Construction Costs of Transmission Line	144,230,000
Interest During Construction	7,030,000
Total Investment	151,260,000

ANNUAL COSTS—TRANSMISSION LINES

Interest and Amortization	5,125,000
Operation and Maintenance	1,016,000
Major Replacements	449,000
Sub-Total Trans. Line	6,590,000

TOTAL ANNUAL COSTS

Dickey-Lincoln School Lakes	17,843,000
Transmission (50%)	3,295,000
Annual costs	21,138,000
Annual benefits (See next page)	55,108,000
B/C ratio	2.61 to 1

ANNUAL BENEFITS

Marketed in Maine:	
105,000 kwh × $67.50	6,733,000
372,000,000 kwh × .95 × $.017	6,008,000
Marketed in Boston:	
725,000 kw × .905 × $22.50	14,763,000
782,000,000 kwh × .929 × $.030	21,794,000
Downstream:	
350,000,000 kwh × $.010	3,500,000
Sub-Total Power	52,798,000
Prevention of flood damages	77,000
Recreation	1,250,000
Redevelopment	983,000
Total annual benefits	55,108,000

Kw=Kilowatts.
Kwh=Kilowatt hours.

TABLE II.—Dickey-Lincoln School Lakes Economic Efficiency Test

(Comparably financed i.e., 3¼%)

ALTERNATIVE COSTS

Power marketed in Maine:	
105,000 kw x .95 x $32.50	$3,242,000
372,000,000 kwh × .95 × $.017	6,008,000
Power marketed in Boston:	
725,000 kw x .905 x $9.00	5,905,000
782,000,000 kwh x .929 x $.030	21,794,000
Downstream:	
350,000,000 kwh x $.010	3,500,000
Sub-Total	40,449,000
*Adjustment for flood control	77,000
*Adjustment for recreation	1,250,000
*Adjustment for redevelopment	983,000
Total Alternative Cost	42,759,000
Annual Cost, Dickey-Lincoln School	21,138,000
Comparability Ratio	2.0 to 1

*Flood control, recreation and redevelopment benefits which are provided incidentally to construction of Dickey-Lincoln School would be foregone by the alternative. Therefore, the values of these benefits are added to the alternative in order to obtain a valid comparison.

DICKEY-LINCOLN SCHOOL LAKES—COMPARISON OF PROJECT COST ESTIMATES

Description	Approved estimate (based on Stone & Webster update) (Jan. 1, 1975, price levels)	Fiscal year 1976 budget estimate (July 1, 1974, price levels)	Escalated estimate [1] (Jan. 1, 1975, price levels)
1. Lands and damages	[2] $24,000,000	$15,800,000	$24,000,000
2. Relocations	[2] 7,250,000	6,520,000	7,250,000
3. Reservoirs	16,000,000	10,980,000	11,500,000
4. Dams	199,900,000	182,000,000	202,400,000
7. Powerplants	134,800,000	130,600,000	143,800,000
8. Roads and bridges	[2] 1,730,000	1,530,000	1,730,000
14. Recreation	[2] 540,000	490,000	540,000
19. Buildings, grounds, and facilities	[2] $1,630,000	$1,510,000	$1,630,000
20. Permanent operating equipment	[2] 750,000	670,000	750,000
30. Engineering and design	[2] 18,600,000	17,000,000	18,600,000
31. Supervision and administration	[2] 22,800,000	20,900,000	22,800,000
Total project cost	428,000,000	338,000,000	435,000,000

[1] C.O.E. July 1974 estimate escalated to January 1975 P.L. using U.S. Bureau of Reclamation cost indices.

[2] Furnished by C.O.E. (not in S. & W. contract).

MAJOR PRECONSTRUCTION PLANNING ACTIVITIES—FISCAL YEAR 1975

Activities:	*Allocation of FY 75 Funds*
Project Cost Estimate Update	$40,000
Stone & Webster Contract (major constr. features)	
Sewall Co. (Timber Cruise—Timber & Land Values)	
Environmental Impact Statement	100,000
Meta Systems, Inc. (Plan of Study to Assess Impacts)	
Hydrology Studies	40,000
Power Studies (Incl. pump storage)	30,000
Impact of Impoundment on Water Quality	160,000
Multi-level intake studies	
Temperature & conductivity data collection	
Suspended Sediment data collection	
Physical & Mathematical modeling	
Sources of Construction Materials	100,000
Photo geology base maps	
Regional geologic structures map	
Field & Aerial resistivity surveys	
Seismological Studies	65,000
Seismic activity & probability	
Preliminary Dynamic Analyses	
Real Estate Studies	40,000
Community Relocations Assistance	
Real Estate Value Update	
Real Estate Mapping	
General Engineering	150,000
Project Layout Studies	
Highway Relocations	
Land Surveys	
Coordination	75,000
Total fiscal year '75 funding	800,000

MAJOR PRECONSTRUCTION PLANNING ACTIVITIES—FISCAL YEAR 1976

Activities:	*Tentative allocation fiscal year 1976 funds*
Environmental impact statement	$500,000
Hydrology studies	30,000
Power studies	40,000
Impact of impoundment on water quality	100,000
Geology studies	20,000
Real estate studies	50,000
General engineering	220,000
Coordination	100,000
Total fiscal year 1976 funding (Budget)	1,060,000

In addition the Corps of Engineers has requested and the Appropriations Committee has approved $650,000 for an Environmental Impact Statement and Additional preconstruction planning and engineering studies on the transmission corridors. These funds and additional funds for preconstruction tests and engineering bring the level of appropriation for fiscal year 1976 and the transition quarter to $2,110,000 and $435,000 respectively.

CRITICAL TARGET DATES

Draft environment impact statement, June 1976.

Revised general design memorandum, June 1976.

Final environmental impact statement on file with CEQ, April 1977.

Earliest construction start, April 1978.
Clearing
Highway relocations
Diversion tunnel

Earliest power on-line based on construction authority fiscal year 1978, March 1984.

Project completion based on construction authority fiscal year 1978, March 1985.

COMMENTS ON ARTICLE BY RICHARD SALTONSTALL, JR.

Subject: Dickey-Lincoln School Lakes, Maine.

Reference: Article written by Richard Saltonstall, Jr. placed in Congressional Record (pp. 16208–16210) by Hon. Silvio O. Conte on 22 May 1975.

Responses: The following responses are presented to specific issues cited in the referenced article. The location of issues within the Congressional Record are noted by page number, column and paragraph for ready reference.

P. 16209, 1ST COLUMN, 1ST FULL PARAGRAPH

Issue: Dickey Dam Bigger than Aswan Dam. . . .

Response: They are comparable in size. Based on statistics included in the 1973 World Register of Dams, the Aswan High Dam has a maximum height of 364 feet, is approximately 12,500 feet long at its crest, and has an embankment fill quantity of about 54 million cubic yards. The Dickey Dam would have maximum height of 335 feet, a crest length of 10,600 feet and a total embankment quantity of about 61 million cubic yards.

P. 16209, 1ST COLUMN, 1ST FULL PARAGRAPH

Issue: . . . "Power proposal that ultimately may cost over $800 million"

Response: The projected cost of the project is simply a matter of conjecture. Based on 1 January 1975 price levels the estimated total project cost is $572 million comprised of $428 million for the dam and appurtenances and $144 million for transmission. If this cost were to be projected to the estimated construction period at prevailing rates of escalation the total amount could approximate $800 million. However, it's important to note that the same economic forces that would influence the project's construction cost would similarly affect the cost of privately-financed alternatives which are a measure of the project's benefit. Dickey-Lincoln School Lakes, however, would not be subject to the availability of expensive fuels for future operation. For example, since design activity was terminated in 1967, the project cost has increased 96% due to escalation. During the same period the annual power benefit—measured in terms of the most feasible privately-financed alternatives—has increased over 170%. The benefit-to-cost ratio has increased over this period from 1.9 to 1 to 2.6 to 1.

It's also significant to note that hydroelectric sites normally have high initial construction costs in relation to other alternatives. However, the annual operation and maintenance expenses are significantly lower. For example, as noted earlier, the project is not dependent upon costly fuel for its operation. Water is a continuous free and clean source of power.

From the viewpoint of ultimate Federal project costs, all expenditures allocated to power are reimbursable through user charges. Of the total project cost, including transmission, of $572 million the net ultimate expenditure to the Federal government would be $17 million.

Issue: Marketing aspects of project's power output namely 725 MW to southern New England and 105 MW to Maine preference customers "mostly Federal installations and municipalities".

Response: Marketing of power from Dickey-Lincoln School Lakes will be accomplished by the Department of Interior under authority of the 1944 Flood Control Act. This act provides that power will be sold in such a manner as to encourage the most widespread use thereof at the lowest possible rates consistent with sound business practices. Preference in the sale of power and energy is to be given to public and cooperative power interests which in turn is delivered to all customers served by these respective power interests. Any power required by Federal installations would be purchased from these cooperatives.

The marketing concept cited is based on studies conducted by the Department of Interior during the mid-1960's. In conjunction with current preconstruction planning, the DOI has been requested to restudy and update the marketing aspect to reflect prevailing conditions.

SAME REFERENCE AS PRECEDING

Issue: "Dickey-Lincoln's total yearly output of 1.1 billion kilowatt hours is actually less than the generating capacity of a small fossil-fuel plant and is only around 1½ percent of New England's yearly consumption of 64 billion kilowatt hours."

Response: This statement measures the value of the project in terms of its energy producing capability, i.e. kilowatt hours. This is not an equitable comparison. The project is designed as a peaking power plant and not a base load plant. Any large power system is composed of a blend of various plants each having a particular fit within the system. Continuous or base load power demands are met by nuclear power plants or fossil fuel units. These facilities are designed to achieve their maximum economy by being operated almost continuously. As a result, they are high energy producing installations. However, these same plants are not suitable for meeting short duration peak power demands typical to a power system because of economic and operating constraints. Peak power demands are met principally by hydroelectric facilities—both conventional and pumped storage—or by gas turbine units. By design, they are not high energy producing facilities because of the relatively short operating periods. Projects such as Dickey-Lincoln School are specifically used to provide quick starting, reliable and economic power essential to meeting daily peak demands and to provide ready reserve for system load protection. The value of large peak power plants to the New England system is evidenced in the private sector by the construction of the large Northfield Mountain and Bear Swamp pumped storage projects.

SAME REFERENCE AS PRECEDING

Issue: ". . . peaking periods last as long as six hours. So other facilities will be needed during the 3½ hours when Dickey-Lincoln has no additional peaking capacity."

Response: Dickey-Lincoln School Lakes is operationally very flexible. For instance, Dickey Dam could generate to full capacity an average of 2½ hours per day, seven days per week; or 3½ hours daily, five days per week. The operating period can vary at any given time depending upon the specific daily power demand. During months of peak demand the average generating time could be increased to 7 hours per day, 7 days per week if desired. In the event of an electrical blackout, the project is capable of generating electricity for a continuous period of up to 35 days. This flexibility and its instant start-up capability are very positive characteristics for any power system.

However, there is no single project that can meet extended peak power periods in a large region. Rather it takes a combination of plants acting integrally in a system to assure that power demands are met with reliability and economy. Dickey-Lincoln School Lakes is the most economical addition to such a system.

P. 16209, 1ST COLUMN, LAST PARAGRAPH

Issue: Study of alternatives.

Response: The Environmental Impact Statement for Dickey-Lincoln School Lakes will include an evaluation of alternatives to the project.

P. 16209, 2ND COLUMN, LAST PARAGRAPH

Issue: "The 2.5 cents Corps' figure does not take into account cost increases and inflation that have affected Dickey-Lincoln during the past ten years whereas the 3.4 cents. . . ."

Response: *Not accurate*. Both values were based on the same cost reference date. The 2.5 cents represented the amount per kilowatt-hour that would be charged users to repay all project costs allocated to power. The repayment analysis was based on an estimated project cost as of 1 January 1974. The 3.4 cents value represented the composite cost for privately-financed alternatives to the project—namely gas turbines for that portion of project power to be marketed in the Boston area and a fossil fuel unit for that to be marketed in Maine. The costs for the alternatives were based on the same 1 January 1974 price level. The latest update based on 1 January 1975 price levels—for both the Federal project and the private alternatives—resulted in a value of 3.1 cents for Dickey-Lincoln School Lakes as compared to 4.1 cents for the alternatives. This represents a $12.4 million annual savings.

P. 16209, 3RD COLUMN, 2ND FULL PARAGBAPH

Issue: ". . . floods of the last two years prompted this office to proceed with plans for a dike system to protect Fort Kent for less than two million dollars, excluding compensation for the land, or about .0025 percent of the dam cost."

Response: Fort Kent has experienced three serious floods since termination of Dickey-Lincoln School design activity in 1967. As a result of a request from local interests in 1971, a small local flood control project has been formulated to provide some degree of protection to the community. The protection, however, is limited. It would extend only to the 100-year flood level and is confined chiefly to the commercial center of Fort Kent. Other areas would remain flood prone. Dickey-Lincoln School Lakes on the other hand would provide total protection to all flood prone areas in Fort Kent and protection at other downstream locations within the basin.

(The dike proposal is currently under review by the Maine Governor's Office. The latter is evaluating the feasibility of relocating the town's commercial center as a more desirable alternative.)

SAME REFERENCE AS PRECEDING

Issue: ". . . . the dubious appeal of a lake whose shoreline is a mudflat much of the time because of the rising and falling of the power pool."

Response: Computer simulation studies were conducted in 1966 which identified the extent of reservoir fluctuation. The operational characteristics of the project were analyzed by continuous simulation using 30 years of record. During the period of June to October, the lake surface would drop about three to four feet depending upon whether it was a hydrologically wet or dry year. The average daily drop in the pool would approximate one inch. The lake elevation at the start of the recreation season would be a function of the hydrologic conditions. For an average year, the pool elevation would be at 905.0 mean sea level (msl) in June. This is five feet below the maximum power pool elevation of 910.0 msl. At summer's end, the pool would be about four feet lower, as previously noted, or nine feet below the maximum pool elevation.

Based on the average year, the exposed area of shoreline would total 4,000 acres (El. 905.0 msl) at the beginning of the recreational season and 8,000 acres (El. 901.0 msl) in October. The maximum drawdown, i.e. lowest lake elevation, in any given year would occur in March. The maximum drawdown periods occur during the winter months when heavy snow cover typical to the area exists. (The average annual snowfall in the Fort Kent area totals 101.4 inches.) From an environmental viewpoint, this snow cover would effectively cover the exposed areas.

Computer simulation studies will be updated during the current preconstruction planning activities and will utilize 42 years of hydrologic record.

SAME REFERENCE AS PRECEDING

Issue: "Moreover while touting the possibilities of reservoir recreation, the Corps has not put a value on the camping, canoeing and fishing and activities that already are associated with the free flowing river and are growing each year."

Response: The Corps has not yet had the opportunity to evaluate the recreational impact of the project site. Only very preliminary conceptual studies were being developed when all project activity was terminated in 1967. With the recent resumption of preconstruction planning and the associated development of the Environmental Impact Statement, the recreational aspects of the project will be evaluated. The analysis will be based on with and without the project conditions thereby reflecting negative as well as positive impacts.

P. 12609, 3RD COLUMN, 3RD FULL PARAGRAPH

Issue: Deboullie Mountain as source of borrow.

Response: During the earlier design activity in 1966–67, Deboullie Mt. was identified as a readily apparent potential source for select rock slope protection for the dam and for concrete aggregate. About 670,000 cubic yards were required (equivalent to an area of 600 feet long x 600 feet wide x 50 feet deep). However, being aware of the potential adverse environmental impact, the Corps is currently studying other possible sources of suitable rock material through the use of aerial geologic structure techniques. Based on results to date, it appears alternative rock borrow sources may be available closer to the project site.

SAME REFERENCE AS PRECEDING

Issue: "Dickey-Lincoln will encompass 110,000 acres of the North Woods."

Response: Maine is the most heavily forested state in the Nation with 90 percent or 17.7 million acres of its land area in forest land. Over 95 percent of the forested area or 16.9 million acres is classified as commercial forest land. Aroostook County—within which Dickey–Lincoln School is located—has the greatest amount of commercial forest land totaling 3.8 million acres or 22 percent of the state total. The land required for the project would represent less than 3% of the commercial woodland available in Aroostook County.

SAME REFERENCE AS PRECEDING

Issue: reservoir. . . . "will isolate from the rest of Maine and the U.S. another 200,000 acres of producing timberland.

Response: Corps' personnel have met with representatives of timber management companies to discuss the project and its effect upon their operations. Access to the referenced 200,000 acres can be provided across the Big Black and Shields Branch Rivers adjacent to Canada but within the United States. Although travel distance would be increased ready access with a road network extending to Maine market areas is available. Access to Canada, which is a major marketing area for the timber, will not be affected.

P. 16209, COLUMN 3, LAST PARAGRAPH

Issue: Validity of past observations relative to fishlife habitat.

Response: Based on coordination with State and Federal agencies since resumption of current preconstruction planning activity, it is apparent that there is a paucity of reliable information on the fish habitat in the upper Saint John River. In conjunction with the preparation of an Environmental Impact Statement, field studies will be conducted to provide a reasonable assessment of the location, extent and type of habitat. Water quality studies of the proposed impoundment are also underway which will aid in defining the post project conditions. Until this data is developed and analyzed, the existing conditions and probable changes due to the project cannot be stated with any degree of validity.

P. 16210, COLUMN 1, 1ST FULL PARAGRAPH

Issue: "State biologists singled out some 34 deer yards in the upper region"

Response: An assessment of existing deeryards and the project's impact will be developed for the Environmental Impact Statement. Studies have been initiated utilizing aerial photography techniques to identify location of deeryards. The U.S. Fish & Wildlife Service prepared a report in 1968 which identified deeryards. However, since then timber harvesting has been very active within the project area. Undoubtedly changes have resulted in deeryard locations. The Service will update its report to reflect results of current studies.

SAME REFERENCE AS PRECEDING

Issue: "a reservoir fluctuating in size from 89,000 to 55,000 acres, etc."

Response: The reservoir area behind Dickey Dam at maximum power pool totals 86,000 acres. Based on past computer simulation studies encompassing 30 years of record, the most severe drawdown condition decreased the pool size to 55,000 acres but occurred only once in the 30-year period of record. Accordingly, an event of this magnitude has a 3% chance of occurrence.

P. 16210, 1ST COLUMN, 2ND FULL PARAGRAPH, FIRST HALF

Issue: "In January the U.S. General Accounting Office published a report saying that the Corps of Engineers consistently misled the public by exaggerating the benefits of hydroelectric projects throughout the nation."

Response: Representatives of the General Accounting Office have indicated that no such report was published by that agency. A GAO report was published 20 September 1974, titled "Improvements needed in making Benefit-Cost Analysis for Water Resources Projects," which discussed methods used by each of several Federal agencies in water resources economic analysis. Recommendations were made to improve procedures, but the Corps was not cited for "misleading the public."

P. 16210, 1ST COLUMN, 2ND FULL PARAGRAPH, LAST HALF

Issue: "While the GAO has not yet released specific information on Dickey-Lincoln, at least two researchers have produced carefully documented studies. They are Rosemary M. Manning and Bowdoin's Rick Freeman. Both pointed out a major flaw in the Corps' method of arriving at a 2.6 benefit to cost ratio."

Response: We are not aware of a major flaw in computation of the 2.6 benefit to cost ratio. It may be that Ms. Manning and Mr. Freeman are referring to the utilization of an interest rate of 3¼% in developing the B/C ratio of 2.6. However, use of the 3¼% interest rate in analyzing the project economics is authorized by Section 80(b) of the Water Resources Development Act of 1974 (PL 93–251). Utilization of the currently prescribed interest rate of 5⅞% yields a 1.54 B/C ratio.

P. 16210, COLUMN 1, LAST PARAGRAPH

Issue: ". . . . the Corp's basic data is seven years old. The original price tag of $356 million already has grown to over $500 million, etc."

Response: Since termination of project activity in 1967, and in the absence of further funding, the project cost estimate has been updated annually utilizing selected cost indices. The value of $356 million reflects the estimated cost of the dams and appurtenant structures, excluding transmission, based on 1 January 1974 price levels. (Escalated from $218 million in 1967.) In view of the long layoff in project activity and the critical comments relative to the adequacy of the Corps' estimate, an independent review of major construction features was conducted by Stone & Webster Engineering Co.—an internationally known firm. The current estimate of $428 million, based on 1 January 1975 price levels, incorporates the results of the Stone & Webster review. If the Corps had escalated its prior estimate (1 July 1974 price levels) of $388 million to 1 January 1975 prices using its application of cost indices, the estimate would have been $435 million. Accordingly, the independent review of the cost estimate resulted in a value within 2% of the Corps' projection.

SAME REFERENCE AS PRECEDING

Issue: "If . . . recommended discount rate of 6⅞% is applied to Dickey-Lincoln and realistic construction costs are taken into account, says Freeman, the project is hardly justified. . . ."

Response: In addition to the authorized interest rate of 3¼%, the project economics based on 1 January 1975 price levels have also been computed on the basis of 6⅞%. The resulting benefit-to-cost ratio is 1.3 to 1.

P. 16210, COLUMN 2, 1ST FULL PARAGRAPH

Issue: The $60,000 flood control benefit. "It only holds up if the dam is the least expensive way of obtaining protection."

Response: The flood control benefit (0.14% of the total project benefits) results from the multiple purpose use of the dams. Adequate storage within the large impoundment will be available each Spring to control flood runoff, which also serves to recharge the power pool. The costs allocated to flood control through multiple use of the project are less than any single purpose flood control project which would provide equivalent protection.

P. 16210, COLUMN 2

Issue: Discussion of power alternatives.

Response: The Federal Power Commission defines the most feasible power alternatives. In their analysis the Commission evaluates all potential equivalent sources of power. While some alternatives may be realizing limited success, none appear to provide an immediate solution to any of the problems facing the utility industry today. The alternatives cited, e.g. solar, windmills, forest wastes, solid wastes are in the experimental stage. Until reliable data can be developed on the economic feasibility, the operational characteristics, the size of development and the associated environmental impacts of these alternatives no realistic comparison can be made.

P. 16210, COLUMN 3, 2ND FULL PARAGRAPH

Issue: "Energy losses over long transmission distances also will run upward of ten percent."

Response: The power benefits for Dickey-Lincoln School Lakes reflect transmission line losses ranging from 5 to 10 percent.

General response: The article typifies the nature of opposition focusing on the project. The various issues raised—especially with respect to environmental aspects—can only be answered through continued project planning and preparation of an Environmental Impact Statement. The remoteness of the project area has resulted in a sparse amount of factual baseline data relating to its environmental resources. Continuation of planning will permit development of valuable baseline information and provide for a logical process through which the impacts of the project proposal can be objectively evaluated.

Mr. RIBICOFF. Will the Senator yield?

Mr. MUSKIE. I yield to my good friend from Connecticut.

Mr. RIBICOFF. Mr. President, the actions of the public utility companies during the last two decades against Dickey-Lincoln has been one of the national scandals in lobbying against the public interest. Coming from the State of Connecticut as Governor and U.S. Senator, I have always recognized the contribution that Dickey-Lincoln could make to all of the New England States. I commend the distinguished Senator from Mississippi for including this money for this project, and I support the Senator from Maine completely.

Mr. MUSKIE. I thank my good friend.

I yield to my colleague from Maine, who has been a staunch supporter, if I may.

Mr. STENNIS. Yes. I yield 7½ minutes to the Senator.

Mr. HATHAWAY. I thank the Senator for yielding. There is little that I can add to what my colleagues from the State of Maine and the State of Connecticut have already said. It seems to me that it is a very inappropriate time for us to be trying to knock out a source of energy other than oil and gas, or any other fossil fuels. We are looking for new sources of energy. Hydroelectric projects have been built all over this country for many, many years. This one has a benefit-cost ratio of 2.6 to 1, which is $2.60 for every $1 that the taxpayers are investing. That is better than 50 percent of all of the hydroelectric projects that have ever been built.

It seems even more ridiculous to be trying to knock out this project at this particular time when, as my colleague from Maine has said, this money is primarily for the environmental impact statement which is going to determine whether or not this particular project is causing any environmental damage and for that reason should not be built.

I thank the chairman for yielding to me.

Mr. President, I ask unanimous consent that rebuttal to testimony of the Friends of the St. John before the Public Works Appropriations Subcommittee on Dickey-Lincoln be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Rebuttal to Testimony of the Friends of the St. John Before the House Public Works Appropriations Subcommittee—Dickey-Lincoln Lakes Hydroelectric Project

In its budget request for Fiscal Year 1976, the Army Corps of Engineers has included a request of $1,060,000 for continued preconstruction planning of the Dickey-Lincoln Lakes Hydroelectric Project. Originally authorized and funded in the mid 1960's, Dickey-Lincoln received some $2,154,000 in pre-construction funding through 1967, and then was not funded again until the FY 1975 appropriation of $800,000. With passage of the National Environmental Policy Act in the years intervening since authorization of Dickey-Lincoln, the project must have a full environmental impact statement prior to construction in order to comply with NEPA. The Army Corps contracted out for the preliminary scope of review for the environmental impact statement this past winter with FY 75 funds. Over two-thirds of the money requested for FY 1976 will be spent on completion of a draft environmental impact statement, along with other necessary preconstruction planning which must be done.

Several environmental groups have opposed funding for Dickey-Lincoln and are represented by a coalition known as Friends of the St. John. Although opposing the project primarily on environmental grounds, the Friends of the St. John this year testified that they did not want funding continued for completion of the environmental impact statement, a seemingly contradictory position. The group presented their views to the House Subcommittee in the form of a rebuttal to proponent's arguments for continuation of Dickey-Lincoln funding. The Friends' rebuttal makes the following main points:

1. Dickey-Lincoln's contribution to New England's energy needs will be minimal.
2. Construction of Dickey-Lincoln will not provide "immediate economic relief" to Maine.
3. Dickey-Lincoln is not necessary for flood control and will be too long in coming.
4. Maine people do not want public power and the savings to consumers of power from Dickey-Lincoln will be minimal in comparison with the cost of electricity for all of New England consumers.
5. Dickey-Lincoln will "destroy finally and irrevocably the last major wilderness river left in New England."
6. Dickey-Lincoln is not the most economically viable alternative.

I. ELECTRICAL GENERATING CONTRIBUTION OF DICKEY-LINCOLN

Even the most avid supporters of the Dickey-Lincoln hydroelectric project would agree with the *Friends* statement that the project will not be a "near-term solution to New England's energy problem." Dickey-Lincoln will, however, be capable of generating approximately 10 per cent of New England's peaking needs projected for the mid 1980's, as well as providing baseload power both directly and indirectly through downstream benefits for northern New England. The NEPOOL-NEPLAN semi-annual load and capacity report of October, 1973, estimated the need for peaking capacity in 1983 at 20 per cent of the projected total generating capacity which will be needed. On this basis, there is a projected need for approximately 7,000 megawatts of peaking power, of which Dickey-Lincoln can supply 725 megawatts, just over 10 per cent of the total. Even if the need for peaking power should flatten out to some extent as a result of changed utility rate structures, as the *Friends* maintain, the need for peaking capacity will not be eliminated unless there is a drastic reversal of our present lifestyle, or strict regulation of energy use. To imply that the need for peaking capacity can be ended by changing our utility rate structures is misleading and unrealistic.

Although Dickey-Lincoln, as is common with hydroelectric projects, is primarily a peaking facility, it will also contribute to the areas' baseload needs. Of the nearly 1.2 billion KWH to be generated annually by Dickey-Lincoln, approximately 372 million KWH will be baseload power. This represents approximately 7 to 8 per cent of the electricity consumed in all of the State of Maine in 1974. Additionally, downstream benefits for Canadian powerplants will be split between the U.S. and Canada, with some 175 million KWH of baseload power accruing annually to the United States.

Finally, Dickey-Lincoln has the advantage over other sources of peaking power, such as pumped storage facilities, in being a self-sustaining source of energy, non-pollution, and not requiring any outside source of power for generation.

II. DICKEY-LINCOLN AND EMPLOYMENT

The Friends argue that Dickey-Lincoln will not provide any substantial or immediate economic relief in terms of employment for the State of Maine. There is no doubt that the primary employment opportunities on Dickey-Lincoln will not begin until construction starts, so there are no immediate employment benefits involved in this year's funding of the project. The Fort Kent labor market area, however, in April, 1975, had an unemployment rate of 18.8 percent. The area of Aroostook County where Dickey-Lincoln is located has been classified as a Title IV Economic Development area—an area of substantial and persistent unemployment—since 1966. The unemployment and concomitant economic problems of this area of northern Maine historically have been far more severe than the total unemployment and economic picture for the entire State. Assuming this pattern continues, the impact of building Dickey-Lincoln on unemployment in the surrounding area will be substantial even a few years from now. Seen in this context, the figures which the Friends of the St. John use showing the effect of building Dickey-Lincoln on the entire State's unemployment rate are not relevant, and are misleading.

III. FLOOD CONTROL

In May of 1974, flooding of the St. John River resulted in over 3 million dollars worth of damage to the Fort Kent, Maine, area. The previous April, similar flooding resulted in over 1 million dollars worth of damage to this same area. Dickey-Lincoln, while not an immediate solution to the flooding problems, does represent the best long-term flood protection for both Fort Kent and the St. John Valley. The dike, which the Army Corps of Engineers has proposed, is to be an interim measure only, and would protect only the commercial center of Fort Kent, Maine. It is not being put forth as an alternative to Dickey-Lincoln, rather it is a temporary solution to protect this Fort Kent area pending construction of Dickey-Lincoln.

IV. PUBLIC POWER

The Friends of the St. John do not deny that the construction of Dickey-Lincoln will result in savings to New England consumers of some $11.7 million in their electricity bills. For consumers who have seen up to 200 per cent increases in their energy bills over the past two years, and savings will not be deemed to be insignificant. A comparison of dollar figures which the *Friends* put forth—of the total savings to consumers compared to the total cost of electricity for all New England consumers—does not reflect the real savings which the consumers who are actually sharing in power generated from Dickey-Lincoln will receive. Nor does it reflect the fact that Dickey-Lincoln's power source will not be subject to uncontrollable price increases as is 90 per cent of New England's residual fuel oil which is imported, nor is there any future supply problem since Dickey is a self renewing source of electricity.

The argument that Maine voters did not approve the referendum to create a Public Power Authority in Maine two years ago is not relevant to the merits of Dickey-Lincoln. There were several and complex reasons for the defeat of this referendum, including a heavily financed campaign against the referendum by the private utility companies, and the vote was not one on the merits of the Dickey-Lincoln project itself.

V. ENVIRONMENTAL IMPACT OF DICKEY-LINCOLN

It should be emphasized again that this year's budget request for Dickey-Lincoln is largely to finance the formulation and drafting of an Environmental Impact Statement for the Dickey-Lincoln project. Dickey-Lincoln was authorized prior to passage of the National Environmental Protection Act, and no full scale EIS was previously done on the project. This past year, the Army Corps of Engineers contracted out to a private firm in Cambridge, Massachusetts, for a review of the scope necessary for a complete environmental impact statement. That plan of study for the EIS will be completed by the end of this month, June, and the Army Corps of Engineers would be able to complete a draft environmental impact statement by August, 1976, if funding is continued in Fiscal Year 1976. Public comment and hearings will be held on this draft statement, and all comments must be considered and answered prior to issuance of a final statement. The *Friends of the St. John*, then, are arguing the Dickey-Lincoln should be stopped on environmental grounds, prior to the time when the data and issues have been looked at, discussed thoroughly and alternatives and means of mitigating any adverse impacts thoroughly investigated. There is no doubt that Dickey-Lincoln will have an impact on the ecology and environment of the St. John River; that environment, however, is not limited to the brook fishing, the canoeing, and the deer. The contention that Dickey-Lincoln will destroy the last major wilderness river left in New England also ignores the history of Dickey-Lincoln. The project originally would have affected the Allagash River and was relocated above the Allagash to preserve that area in its present state. The question as to whether this area of the St. John River will be "finally and irrevocably" destroyed by the changes which Dickey-Lincoln will effect is subject to debate. A lake will be created, and the downstream flow of the river evened out, changing the river as to white-water canoeing. It should be noted however, at present the duration of the canoeing opportunities are rather limited. Generally canoe trips should not be planned before June, and canoeists in July and August should prepare for the possibility of a dry river bed.

The loss of brook trout fishing in the tributaries of the St. John River is a possible impact which the EIS will be examining. Stocking of the lake area which will be created has been suggested, and other alternatives will undoubtedly be forthcoming in the EIS.

The flooding which will be done by the dams at Dickey and Lincoln does indeed involve some 89,000 acres of land. It should be noted however, that this represents less than ½ of 1 per cent of Maine's forested land. This statistic puts this acreage somewhat in perspective.

Additionally, the "bathtub" effect of the lakes fluctuation has been much discussed. The *Friends* refer to the fluctuation up and down of the lake of some 25 feet per year. This figure of 25 feet is the maximum fluctuation to be expected. Further, it is not an up and down fluctuation in the sense of a tide or a change that occurs on a daily or weekly basis. Rather, it is a very gradual draw-down of the lake during the dry months of summer, fall and winter, at a rate of perhaps an inch or two a day. At the time of the maximum drawdown in the winter months and March, the exposed acreage will be covered by snowfall in this area of northern Maine. The spring thaw will then precede the next drawdown cycle which will follow the rise in the water level. This up and down fluctuation, then, is a very gradual one and its visibility dependent on the steepness of the lake's bank. The implications of this fluctuation will be thoroughly investigated in the EIS.

VI. ECONOMIC FEASIBILITY OF DICKEY-LINCOLN

The benefit/cost analysis for Dickey-Lincoln has been a subject of great controversy because of the legally authorized discount rate which is used. This discount rate is the same as was used originally—three and one-quarter per cent. Using this rate, Dickey-Lincoln presently has a benefit cost ratio of 2.6 to 1. Even using a discount rate of 6 and ⅞ per cent, a rate above that currently in use, Dickey-Lincoln is still economically justified—with a B/C ratio of 1.3 to 1.

As the Friends point out, however, the ratio itself is not the point. Under the analysis used in funding other comparable public works projects, Dickey-Lincoln is economically justified. It should be pointed out that all government spending is not required to undergo such a rigorous economic analysis—programs requiring the outright expenditure of federal funds with no paycheck over time are authorized and require much larger federal investments.

The economic justification must also be seen in the context of the payback which will be realized over time. In a fifty year period, it is estimated that the total federal contribution will be only 3 per cent, with 97 per cent of the federal cost reimbursed.

Accepting that Dickey-Lincoln is justified under the economic analysis applied to all similar projects, the Friends make the argument that the money which will be spent on Dickey-Lincoln could produce more immediate savings in energy use and pollution control by spending the equivalent amount on waste water treatment systems, solid waste and recycling centers, and rail upgrading. These projects are, of course, all valuable and worthy of support. However, none of these projects, with the possible exception of home insulation, will provide immediate savings, as they too have a lead time prior to becoming operational. For example, the lead time for a waste water treatment plant may vary from 30 months to 7 or 8 years, depending upon the complexity and size of the project. Additionally, diverting the Dickey-Lincoln funds to these projects will spread these monies so thinly as to be of minimal value. For example, the amount estimated to be needed for complete upgrading of the rail system nationwide varies from 4 to 7 billion dollars, with a projected need of some 3 billion dollars in the Northeast alone. Finally it should be noted that none of the alternative projects which the Friends suggest are comparable to Dickey-Lincoln in the results which they will achieve. They will not provide peaking power for the Northeast region, nor will they solve the flooding problems of the St. John River Valley. The alternatives suggested, then, while worthy of consideration on their own merits, beg the question as to the merits of Dickey-Lincoln.

CONCLUSION

In summary, if constructed, Dickey-Lincoln will be capable of making a significant contribution to New England's peaking power needs, as well as provide 372 million KWH of baseload power annually, and some 175 million KWH of electricity from downstream benefits. Additionally, it will provide long-term and complete flood protection to the St. John River valley, most significantly to the Fort Kent area, which has been subject to recurrent, devastating spring floods. The lake which will be created will provide recreational opportunities, albeit of a different nature than those now existing in the area to be flooded. These opportunities, however, will diversify the types of recreation now available in this area of northern Maine, and be accessible to a greater number of people than those now existing. Construction of the project will be of benefit in redevelopment of this chronically economically depressed area of Northern Maine.

The Dickey-Lincoln project is undeniably a large undertaking and will have a significant impact on this area of Northern Maine where it will be constructed. Argument as to whether each of these impacts is totally desirable may never be resolved to everyone's satisfaction. However, we do not yet have all the data and the information necessary to making as objective an evaluation of the enviromnental impacts as will be possible. As the Friends concede, it is difficult to be against the funding of an Environmental Impact Statement which will determine just what all the impacts of the Dickey-Lincoln project will be, their magnitude, and the ways of mitigating any impact which might be adverse. Grant the funding request for FY 1976 for Dickey-Lincoln will result in this thorough evaluation of the impacts of Dickey-Lincoln and allow the environmental debate to take place on a more solid and complete factual basis. It is ironic that the groups who are most concerned about possible adverse environmental impacts of Dickey-Lincoln prefer to cut off debate prior to a rigorous examination of those impacts, their implications and investigation of the need and means to mitigate these impacts.

Mr. GRAVEL. Mr. President, will the Senator yield to me for a brief moment?

Mr. STENNIS. I yield.

Mr. GRAVEL. Last year was the first year that I brought to the Senate the bill for water resources.

The point I wish to make is that this cost-benefit ratio is much better than most of the projects we all voted for last year which we passed and which were of a similar nature. If we look around the country and spot the areas of the Nation which enjoyed the cheapest energy rates, we will find it is the Northwest and parts of the Central Southeast. That is, of course, because of the hydro dependency. In an era when we are trying to make ourselves independent, it would not seem wise to obviously atrophy the possibilities of expanding the major type of renewable energy resource we have in this country today, and that is hydro. That is just to let the water come through the penstock and generate power.

The reason why we use it for peaking is because it is so horrendously expensive to use any other form of energy production for peaking. With respect to oil or gas generators, it takes too long to get the turbines going. With respect to a dam, all you do is open the gates, then, zappo, you have the turbines turning immediately and producing its power.

Based on my own knowledge of the projects in my short tenure as chairman of the committee, I am not prejudging the environmental statement, but coming forth with the kind of cost-benefit ratio, this will offer you fine qualities in the State of Maine.

Mr. BROOKE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. BROOKE. Mr. President, I would just like to point out to the Senator from Alaska that this cost-benefit ratio is obtained by using a 3¼ percent borrowing rate, without any built-in inflation at all, and not providing for any profit.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. BROOKE. On your time, yes. I only have a minute left.

Mr. MUSKIE. I would say the rates for this project are completely consistent with those that apply to any other project authorized at the same time, under the laws and regulations established, and that is clear in the RECORD.

Mr. BROOKE. I can understand the Senator's strong feeling about this. As I say, I once supported it myself.

The fact is that here we are eventually to spend a billion dollars for two dams in Maine——

Mr. **MUSKIE.** Will the Senator tell me where he gets that estimate of $1 billion. I have never seen any such estimate.

Mr. **BROOKE.** We have the cost estimate and will make it available. They are analyses of the Corps of Engineers studies which take into account such factors as inflation, delays, and interest rates.

Mr. **MUSKIE.** You should not use figures you cannot support.

Mr. **BROOKE.** I can support the figure.

Mr. **MUSKIE.** Then why have you not done so?

Mr. **BROOKE.** The chief problem is that the dam will not do the job it has been claimed that it will do. That is the whole reason for this amendment. I wish that there were more time to debate it. We had only 20 minutes, 10 minutes to a side. We are not getting what we are paying for in this Dickey-Lincoln Dam, and it would be a great mistake for us to build it. It will not give us employment; it will not get electricity at a cheap cost for the people of New England; and I think it is farcial to proceed with this ill-conceived, massive project.

Mr. President, the senior Senator from Maine has argued that this dam would supply 10 percent of New England peaking power.

Analysis of the Corps of Engineers own study shows this not to be true. The facts are:

Dickey-Lincoln will meet less than 1 percent of New England's electricity needs, measured in kilowatt-hours, by the time it is finished. Yet, the proponents argue, this is not so relevant because Dickey-Lincoln is a peaking unit and therefore contributes to meeting a more important need: meeting peak demands. This argument is spurious, however, for the following reasons:

First. New England's peak summer demand lasts from about 11 a.m. to 5 p.m. Therefore, Dickey-Lincoln will not reduce the need for installing any peaking units. This only effect will be to allow some of these peaking units to be turned off for 2½ hours per day.

Second. Dickey-Lincoln as a base-loaded unit—that is, running 24 hours each day—would eliminate the need for 1.9 million barrels of oil per year. As a peaking unit it would eliminate the need for 2.5 million barrels of oil per year, because peaking units are less efficient than base-loaded units. Therefore, the only difference to New England between running the dams as a peaking unit, as opposed to a base-loaded unit, would be a savings of 600,000 barrels of oil per year.

Third. Since New England utilities currently burn around 90 million barrels of oil per year, the total "savings" of 600,000 barrels is only 0.7 percent, a tiny amount and one that will become progressively less important with time.

The inescapable conclusion is that, even as a peaking unit, Dickey-Lincoln will have a negligible effect on New England's electricity needs.

Despite claims of cheap power, savings to consumers would be minimal, if there are savings at all. This point is very much in dispute. The answer depends very much on what assumptions you make in comparing this scheme with alternative power sources.

The $11.7 million in savings claimed is based on the ridiculous assumption that there will be no escalation of labor and materials costs above January 1974 levels through the period of construction which lasts until after 1983.

If there should be cost overruns for the dams, the price advantage of Dickey-Lincoln power would vanish. In addition, the 2.5 cents per KWH estimate for Dickey-Lincoln power assumes substantial subsidies from Federal, State, and local taxpayers. Because this would be a Federal project, it would be exempt from taxes. Dickey-Lincoln power would actually be very expensive. The only reason why the price of electricity from it has a chance of being lower than the price of electricity from alternative sources is because some of its cost would show up on our tax bill.

The Senator from Maine has argued, and some of my colleagues have joined him in arguing, that the cost-benefit ratio of this project is particularly favorable. This is the crux of our dispute.

Because of the strength of the dam-builder's lobby in Congress, the Army Corps of Engineers is permitted to use a borrowing rate of 3¼ percent to calculate the annual "cost" for the benefit-cost ratio. On the other hand, they use a borrowing rate of 8¾ percent to judge the cost of the alternative which they do not want to see come to pass. They also build taxes into the cost of the power from the fossil fuel alternative, while the federally financed dams would produce power "tax free"—meaning taxpayer subsidized. If the corps had to use the 8¾ percent borrowing rate in figuring the annual "cost" of the dams, this number would jump from $17.7 million to $46.8 million or more than the alternative.

Furthermore, the fossil fuel alternatives like coal fired plants are cheaper than Dickey-Lincoln when both are compared at 8¾ percent. The corps, however, figured the dam at 3¼ percent and the fossil fuel alternative at 8¾ percent. So comparable assumptions were not used. Accepting doubtful cost estimates of corps of $356 million for the dams and $61.5 million for transmission we have:

	Rate (percent)		
	3¼	5⅞	8¾
Annual interest and amortization of D-L	$15.2m	$29.5m	$44.3m
Fossil fuel alternative which includes fuel costs at equivalent of $12.50/bbl oil price	32.0m		41.6m

Finally, some of those opposing this amendment have implied that utilities take the same position as have I. The supporters are describing the position of the power companies years ago.

Although some of the electric companies in the Northeast have been against the Dickey-Lincoln project in the past, many are now reversing their previous leanings. Now, they are on the same side as Senator MUSKIE has taken. Northeast Utilities, the largest private utility in New England favors funding and continuation of the planning phase of Dickey-Lincoln. This is a change from its position over the past 7 years. The New England Electric System, the second largest utility, has also modified its opposition.

On the other side, opposing the dam, there is a wide collection of Maine groups, New England groups, and national groups. Among these are: Maine Natural Resources Council, American Rivers Conservation Council, Massachusetts Forest and Park Association, American Canoe Association, Appalachian Mountain Club, Penobscot Paddle and Chowder Society, Northeast Audubon Society, Old Colony Sportsmen Association, Environmental Policy Center, Friends of the Earth, National Wildlife Federation, Sierra Club, Wilderness Society, American League of Anglers, Trout Unlimited, Union of Concerned Scientists, and the Massachusetts Audubon Society.

And most telling of all, 11 members of the small New England congressional delegation took the same position as have I and opposed the funding for this useless study project in the House of Representatives this fall. These opponents of Dickey-Lincoln included one Congressman from Maine. Mr. President, I certainly hope the Senate will begin to reconsider this project in the months ahead as have so many of my colleagues in the House.

I ask for the yeas and nays, Mr. President.

The **PRESIDING OFFICER.** Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. **STENNIS.** Mr. President, I will not detain the Senate. I am authorized to speak for the Senator from Oregon, and say that he is opposed to this amendment and lends his support to the project.

I yield back such time as I have remaining.

Mr. **KENNEDY.** Mr. President, I would like to comment briefly on the reasons for my support of the preconstruction planning funds for the Dickey-Lincoln hydroelectric project in the Public Works Appropriations bill we are considering tonight.

The Dickey-Lincoln project, if it is demonstrated to be economically and environmentally sound, holds great promise for the New England area. It would provide us with our first indigenous source of power; it would provide us with our first source of public power; it would provide a yardstick against which to measure the efficiency and performance of the private electric utilities.

For New England as a region, it would provide 10 to 20 percent of our peaking power requirements. Massachusetts, presently expected to receive 67 percent of the power generated by Dickey-Lincoln, would receive electric power valued at $34 million a year.

Mr. President, the importance to New

England of new sources of electric power to reduce our dependence on residual oil and to lower our energy costs which are now 35 percent above that of any region of the country, has been well documented. We need to find out whether the promise of Dickey-Lincoln can be realized.

Therefore, I support the position so articulately presented by Senator MUSKIE and Senator HATHAWAY. The $2.5 million included in the Public Works Appropriation will allow the Corps of Engineers to complete project design and planning studies, marketing and transmission studies, and the very important environmental impact statement.

When the studies provided for in this appropriation are completed, I will give them careful study prior to making any decision on appropriations for construction, as, I am certain, will all my distinguished colleagues. Tonight we vote on the funding required to give us the information we need to make an intelligent decision on this project—a project which holds such great potential for consumers of electric power in Massachusetts and New England.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Idaho (Mr. CHURCH), the Senator from Kentuckey (Mr. HUDDLESTON), the Senator from California (Mr. TUNNEY), and the Senator from New Hampshire (Mr. DURKIN) are necessarily absent.

I further announce that the Senator from Colorado (Mr. HASKELL) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Illinois (Mr. PERCY), and the Senator from Virginia (Mr. WILLIAM L .SCOTT) are necessarily absent.

The result was announced—yeas 13, nays 73, as follows:

[Rollcall Vote No. 564 Leg.]

YEAS—13

Beall
Brock
Brooke
Buckley
Curtis
Helms
McClure
Proxmire
Roth
Scott, Hugh
Taft
Tower
Weicker

NAYS—73

Abourezk
Allen
Baker
Bartlett
Bellmon
Bentsen
Bumpers
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Dole
Domenici
Eagleton
Eastland
Fannin
Ford
Garn
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Hatfield
Hathaway
Hollings
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
McClellan
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Randolph
Ribicoff
Schweiker
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Talmadge
Thurmond
Williams
Young

NOT VOTING—14

Bayh
Biden
Burdick
Church
Durkin
Fong
Goldwater
Haskell
Huddleston
Laxalt
Mathias
Percy
Scott,
  William L.
Tunney

So Mr. BROOKE'S amendment was rejected.

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HATHAWAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, I know of no other amendments and I now ask for the third reading of the bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. MUSKIE. Mr. President, H.R. 8122 the public works/energy research appropriations bill provides nearly $7.5 billion in funds for the Corps of Engineers and the Bureau of Reclamation, the Federal Power Commission and the Nuclear Regulatory Commission, the Power Administrations of the Department of Interior, the Energy Research and Development Administration, and several miscellaneous agencies.

As reported from the Appropriations Committee the bill is consistent with the second concurrent resolution.

Most of the funds in this bill are classified in function 300, the natural resources, environment, and energy category. In this function the budget resolution provides funds sufficient to cover regular appropriations bills such as this one as well as authorizing bills not yet enacted that will require funding in fiscal year 1976.

Mr. President, I support this measure and commend the distinguished floor manager of the bill, Senator STENNIS, for reporting a bill that provides needed funds yet stays within the budget resolution.

Mr. BIDEN. Mr. President, the Public Works Appropriations bill that will soon be before us contains a lump sum appropriation of $582,073,000 to fund Corps of Engineers operating and maintenance activities. In so doing, the Senate Appropriations Committee has sought to allow the corps a certain amount of flexibility, which they understandably need, in establishing priorities and carrying out their port, harbor, and channel dredging and maintenance activities.

I want to commend the committee for its efforts to provide the corps with sufficient funds so that significant progress in reducing the huge backlog of dredging and maintenance work, which has been accumulating over the last several years, can be made.

In allocating these funds, I hope that the Corps of Engineers will take special note of a project in the State of Delaware that I feel requires the most immediate attention. I know my colleague, Senator ROTH, concurs in this belief.

The Nanticoke River located in the southern part of Delaware provides the State's only access to the Chesapeake Bay. It is the only river in lower Delaware capable of supporting commercial navigation.

The river is important to the economic and social welfare of the entire State. It is the primary waterway for oil-bearing-vessel traffic serving Sussex County. In addition, agricultural exports travel this river and large-scale farming equipment for which there is no other means of transportation into Sussex County travels by barge on the Nanticoke.

However, ever-increasing shoaling effects threaten the navigability of the river. The dredging and maintenance required to keep this waterway a viable commercial passage for the State of Delaware is long overdue.

Mr. President, the Sussex County Council has complied with all requests to date from the U.S. Army Corps of Engineers District Office, Baltimore, Md., to facilitate dredging the Nanticoke. Copies of easements entered into between the Sussex County Council and private property owners for spoil disposal areas that are necessary to hold the dredged river material have been forwarded to the Corps of Engineers.

I am, therefore, urging that the corps uphold its obligations and proceed in dredging the Nanticoke with the greatest possible expediency.

NEED FOR NANTICOKE RIVER DREDGING

Mr. ROTH. Mr. President, when the House debated the public works appropriations bill, H.R. 8122, funds were earmarked for the dredging of the Nanticoke River. I understand the Senate traditionally has not earmarked funds for Corps of Engineers projects of this nature. I am compelled, however, to express my interest and concern for this crucial project.

The Nanticoke River is lower Delaware's only access to the Chesapeake Bay and is a significant avenue for waterborne commerce for the State. The river is a key component in the Eastern Shore's total transportation requirements. Given an adequate depth, the river will continue to carry important bulk commodities including fertilizer, grain, coal, chemicals, and petroleum products. Much of the heating oil delivered to the Eastern Shore is carried in barges navigating this and other rivers.

The availability of this means of transportation is being restricted by severe shoaling occurring in the upper reaches of the river in Delaware. Assigned a control depth of 12 feet, parts of the river restrict vessels drawing six feet of water. Many tugs and tows limit their movements to periods of rising tides, and many vessels have significantly reduced their capacity to minimize the possibility of grounding.

Furthermore, one towing company has threatened to prohibit its masters and vessels from navigating the river for fear that tug masters would lose their licenses if they were to run aground. The threat was prompted by an incident that resulted in the filing of a negligence charge against one of their tug masters.

The Nanticoke River is an important river to Delaware and to the economy of the region it serves. If my State is to benefit from the economic efficiency and fuel efficiency of maritime commerce, the Nanticoke must be dredged.

Sussex County has obtained the necessary dredge spoil sites and is anxious to begin this important project. As I said earlier the House demonstrated its interest in this project by earmarking funds for it. I am confident the Senate is equally concerned over this situation. I urge the Corps of Engineers to give close attention to this problem, so that the Nanticoke River may serve the needs of the region once again.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. STENNIS. Mr. President, I yield back the remainder of my time.

Mr. HATFIELD. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. STENNIS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Colorado (Mr. HASKELL) is absent on official business.

I also anounce that if present and voting, the Senator from North Dakota (Mr. BURDICK), would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Illinois (Mr. PERCY), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

The result was announced—yeas 81, nays 5, as follows:

[Rollcall Vote No. 565 Leg.]

YEAS—81

Abourezk
Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Brooke
Buckley
Bumpers
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Curtis
Dole
Domenici
Eagleton
Eastland
Fannin
Ford
Garn
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Hatfield
Hathaway
Hollings
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—5

Brock
Byrd,
Harry F., Jr.
Helms
Proxmire
Roth

NOT VOTING—14

Bayh
Biden
Burdick
Church
Durkin
Fong
Goldwater
Haskell
Huddleston
Laxalt
Mathias
Percy
Scott,
William L.
Tunney

So the bill (H.R. 8122) was passed.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MOSS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical corrections in the engrossment of the Senate amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. I move that the Senate insist on its amendments and request a conference with the House, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. STONE) appointed Mr. STENNIS, Mr. MAGNUSON, Mr. ROBERT C. BYRD, Mr. PASTORE, Mr. MONTOYA, Mr. JOHNSTON, Mr. MCCLELLAN, Mr. RANDOLPH, Mr. HATFIELD, Mr. YOUNG, Mr. HRUSKA, and Mr. CASE conferees on the part of the Senate.

SECOND BACON SIPHON AND TUNNEL, COLUMBIA BASIN IRRIGATION PROJECT

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 490, Senate Resolution 226.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 226) disapproving the proposed deferral of budget authority for the Second Bacon Siphon and Tunnel, Columbia Basin Irrigation project, Washington.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution, which had been reported from the Committee on Appropriations with amendments, as follows:

On page 1, line 2, strike "Deferral Numbered D76-13)," and insert "Deferral Numbered D76-13, as modified by Deferral Numbered D76-13A,";

On page 1, line 8, after "1974" insert ", as modified by the supplementary report in the special message transmitted by the President to the Congress on July 26, 1975, pursuant to section 1014(c) of Public Law 93-344";

So as to make the resolution read:

Resolved, That the Senate disapproves the proposed deferral of budget authority, Deferral Numbered D76-13, as modified by Deferral Numbered D76-13A, for the Second Bacon Siphon and Tunnel, Columbia Basin Irrigation Project, Washington, set forth in the special message transmitted by the President to the Congress on July 1, 1975, under section 1013 of the Impoundment Control Act of 1974, as modified by the supplementary report in the special message transmitted by the President to the Congress on July 26, 1975, pursuant to section 1014(c) of Public Law 93-344.

Mr. MAGNUSON. Mr. President, this resolution actually belongs on the public works bill, but I thought it would be better, because it is a Senate resolution, to vote on the public works bill first and then to have a voice vote on this measure.

The subcommittee and the full committee have voted unanimously to approve this resolution, which goes with part of the construction work for the Bureau of Reclamation.

Mr. President, Senate Resolution 226, sponsored by me and my colleague from Washington (Mr. JACKSON), disapproves the President's deferral of $1,030,000 appropriated in previous Congresses for the Second Bacon Siphon and Tunnel in the Bureau of Reclamation's Columbia Basin project in Washington. I feel strongly about this matter and urge Senate approval of the resolution.

Congress authorized the Columbia Basin project in 1935. The authorized size of the project is 1,095,000 acres. Currently, it is about half complete with some 526,600 acres under irrigation and highly productive. The remaining acreage continues, essentially, to lie dry and unproductive because there is, at present, no way to move additional water to that land. Construction of the Second Bacon Siphon and Tunnel will make that water available and make much of that land productive.

There is nothing particularly complex about the proposed siphon and tunnel. The Bureau of Reclamation has completed the design work and specifications could be issued within 3 months once a decision is made to go forward on the project. Essentially, the structure will be a large concrete pipe about 11,000 feet in length and 28 feet in diameter. Running parallel to the First Bacon Siphon and Tunnel, the new structure will carry water from Banks Lake near Grand Coulee Dam south to the main canal of the present water distribution system within the Columbia Basin project.

Beginning in 1967, Congress has repeatedly approved my amendments to the annual public works appropriations bills adding funds for the Second Bacon Siphon and Tunnel. Just as consistently, however, OMB and the White House have blocked the expenditure of those funds and thus prevented the Bureau of Reclamation from proceeding with construction. Presently, $1,030,000 is available from previous appropriations for the project, but deferred by the President. The resolution now before the Senate would terminate that deferral.

Mr. President, the Bureau of Reclamation estimates that the Second Bacon

Siphon and Tunnel can be built over 4 years at a cost of $48.8 million measured at July 1975 price levels. The State of Washington has in hand $15 million which it is prepared to commit to this project as soon as the Federal Government makes a commitment to pay its share of the cost of constructing the siphon and tunnel and to develop additional land within the Columbia Basin project. In other words, my State is not coming to the Federal Government with beggar's hands. Instead, it is coming with hard dollars in hand.

At the urging of the Washington congressional delegation, the Governor, and the State legislature, OMB earlier this year directed the Bureau of Reclamation to make a detailed analysis of the proposed siphon and tunnel project. That analysis was completed and submitted to OMB in early September. The Bureau's findings and recommendations are clear, straightforward, and affirmative.

The Bureau recommended that construction begin in this fiscal year and that an additional 136,200 acres within the Columbia Basin project be developed over a period of years with the water the siphon and tunnel would make available. That recommendation was based on the Bureau's determination that the project is economically justified. Specifically, the Bureau made six different benefit-to-cost analyses and concluded that in each case the benefit-to-cost ratio would exceed unity, ranging from a high of 2.09-to-1 to a low of 1.08-to-1. Yet, despite the recommendations of their own experts in the Bureau of Reclamation, the administration continues to defer the $1,030,000 in previous appropriations and continues to delay making a decision to go forward with this project.

Mr. President, Congress has repeatedly voted to support construction of the second Bacon siphon and tunnel. The State of Washington is ready to spend $15 million on it. And the Bureau of Reclamation's experts have determined that it is economically justified and have recommended that construction begin this year. Mr. President, I urge that Congress approve the resolution of disapproval.

I have checked with the distinguished minority leader, with Senator YOUNG, and with all the members of the committee and the chairman, and they all agree to this.

The PRESIDING OFFICER. The question is on agreeing to the resolution, as amended.

The resolution (S. Res. 226), as amended, was agreed to.

NEW YORK CITY SEASONAL FINANCING ACT OF 1975

Mr. TOWER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TOWER. Does the Senate now return to the consideration of H.R. 10481?

The PRESIDING OFFICER. That is correct.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 10481) to authorize the Secretary of the Treasury to provide seasonal financing for the city of New York.

Mr. TOWER. Mr. President, I should like the attention of the distinguished Senator from Wisconsin (Mr. PROXMIRE).

Lest there be any misconstruction on the amendment offered by the distinguished Senator from Wyoming (Mr. HANSEN), on the authority of the Secretary of the Treasury to withhold funds from the city of New York or its financing agent or the State, I should like to read a portion of section 5 of the bill and a portion of section 6 and then address an inquiry to my distinguished colleague.

I read from page 3, line 8:

> The Secretary may take such steps as he deems necessary to realize upon any collateral in which the United States has a security interest pursuant to this section to enforce any claim the United States may have against the city or any financing agent pursuant to this Act. Notwithstanding any other provision of law, Acts making appropriations may provide for the withholding of any payments from the United States to the city, either directly or through the State, which may be or may become due pursuant to any law and offset the amount of such withheld payments against any claim the Secretary may have against the city or any financing agent pursuant to this Act.

On page 4, lines 2 through 7:

> In making the loan, the Secretary may require such terms and conditions as he may deem appropriate to insure repayment. The Secretary is authorized to agree to any modification, amendment, or waiver of any such term or condition as he deems desirable to protect the interests of the United States.

The question to my distinguished friend from Wisconsin is, Does this not give to the Secretary of the Treasury and, indeed, the Committee on Appropriations of the Senate, the authority to withhold payment, such as revenue-sharing or categorical grant-in-aid, to insure collection of the loans to the city of New York or its financing agent?

Mr. PROXMIRE. The Senator from Texas is absolutely correct. What the legislation does now in its present form, unamended, is to provide that the Appropriations Committees of the House and Senate, and the Secretary of the Treasury may make these conditions and may withhold funds that would otherwise be due the city, unless the city makes the payments that are required.

Mr. TOWER. I thank my disinguished friend, the chairman of the committee.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. HASKELL, I call up an amendment by Mr. HASKELL.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 3, line 4, insert the following new Subsection:

(c) Authority of the Secretary of the Treasury to provide loans is contingent upon compliance by the parties executing agreements presently deposited with the Secretary to extend maturities, reduce interest rates, and purchase additional securities.

Mr. ROBERT C. BYRD. Mr. President, I am going to read this statement for the RECORD.

Mr. HASKELL intends to vote for the legislation which is before us. He could not be here. He says:

> I intend to vote for the legislation which is before us. I believe that the prime parties to the New York City financial crisis have provided us with an exceptable alternative to bankruptcy as a solution to the city's problems.
>
> However, I am sure my colleagues share my view that Federal loans to New York are part of a large restructuring package. Each part of this package is essential to maintaining the integrity of the whole. Therefore, we must be assured that compliance with the agreements to extend maturities, reduce interest rates, and purchase additional securities is an ongoing prerequisite to federal assistance.
>
> The Administration has provided us with summaries of these agreements. They indicate that $4.3 billion in short term debt has been extended, that the New York banks and pension system have agreed to roll-over $2.7 billion with reduced interest rates, and that the pension systems have agreed to purchase $2.5 billion in additional securities. But there is no provision in the bill which links continued federal assistance to *compliance* with these undertakings.
>
> Further, I am amazed that we have not yet received these agreements. We have not had the opportunity to review them in their entirety. We do not even know with certainty what the agreements say.
>
> My amendment assures that the taxpayer's money will not be offered to New York if the parties which have signed the agreements which create the debt restructuring package fail to maintain their side of the bargain.
>
> My amendment simply assures by statute that which we are assuming to be true. Prudence dictates that we do not leave this important issue to chance.

Mr. PROXMIRE. May I say to the Senator from West Virginia that we have received those agreements. I have a copy in my hand. I did not take the time of the Senate to call attention to it. I have asked to have that printed in the RECORD. We have the signatures of the banks, we have the signatures of the trustees of the pension funds, we have the full agreement of all the parties that were required. Senator HASKELL had every reason to be concerned about that. We have that in hand. As I say, copies have been printed in the RECORD.

I also call to the attention of the Senator from West Virginia, that we have the assurance on page 3, lines 24 and 25, that loans may be made under this act only if the Secretary determines that there is a reasonable prospect of repayment of a loan in accordance with its terms and conditions.

The only way I can read that clear direction, regardless of who is Secretary of the Treasury, is that he would have to be assured of compliance of the kind this Secretary is asking.

Mr. ROBERT C. BYRD. I am sure that the Senator from Colorado will be pleased with the statement of the Senator from Wisconsin and will be reassured by it.

I am constrained to ask for a voice vote on it.

Mr. JAVITS. Will the Senator yield for one further fact?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. JAVITS. That is that the President's only statement will require the Secretary of the Treasury to do that which Senator Haskell has asked that we do.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was rejected.

The PRESIDING OFFICER. The hour of 12:15 having arrived, the question is on passage of H.R. 10481.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent to have a statement in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

New York City Tax Accounting

Mr. President, in connection with the current financial crisis in New York City, questionable accounting practices by city administrations have been talked about, but not spelled out.

We are now in a position to take a hard look at one such questionable practice.

I have analyzed a report from the Comptroller of the State of New York.

This shows how city administrators have used techniques which might well be fraudulent.

Here are examples of how it was done:

There will soon be opening in New York, an apartment complex with indoor swimming pool, sauna, 11-foot ceilings, floor-to-ceiling glass for panoramic views of Manhattan, a greenhouse, theater, underground parking, 24-hour-a-day attendants and imported Italian tiles in lobbies and halls.

Who will be the residents of this palace? Welfare recipients and other low income persons.

The Taino Towers project, 35 stories high, isn't being built by some Greek shipping magnate or an oil-rich sheik. It's backed with taxpayers' money.

The rents of somewhere over $100 per month are subsidized with $88 million from the pockets of working men and women, and will go to house the "less fortunate," in a style few Americans can hope to enjoy.

One aspect of this project is that the City of New York is assisting it by declining to collect 80% of the normal municipal taxes, which are based on rents. As a result, the city will lose revenues of approximately $157,000 per year. This is not a large sum—but it is only one example of a widespread practice in New York called "tax abatement".

In a much larger project, "Co-op City," the annual tax abatement totals $20 million. For similar subsidized housing in the City, there has been an accumulated loss of revenue through tax abatement of $53 million.

But tax forgiveness goes much farther. It costs the City massive amounts. Taxes also are abated for the massive World Trade Center, which certainly is not a subsidy to the poor.

New York City has gone overboard in tax forgiveness, and that is one of the reasons it has inadequate income.

The New York State Comptrollers Report on New York City's Central Budgetary and Acounting System (Interim Report No. 2—Uncollected Real Estate Taxes) has some revelations about this topic and City bookkeeping which will be of interest to all Senators.

First, the City has counted legally "abated" real estate taxes as "uncollected real estate taxes". These in turn were counted as assets, as though these were taxes that would be paid in the future.

Subsequently, Tax Anticipation Notes (TAN's) were issued, and in the words of the Comptroller's report, "72% or $274 million of the TAN's (were) unsupported." In other words, the city overstated the revenue it could justifiably expect from this account, and issued securities backed only by phoney bookkeeping.

According to the report, the City issued TAN's on a sum which included unpaid taxes that will never be paid on housing projects, property pending foreclosure, bankrupt Penn Central property, and even publicly owned property. The City counted on its tax rolls 18,000 parcels of land, including an urban renewal land site, a public park, a high school, and even Carnegie Hall.

Overstatement of revenues of this nature not only allowed the City to float funny money in the form of Tax Anticipation Notes (TAN's). The report states, "The inclusion of these inflated tax levies on the rolls served to understate the tax rate, increase the City's overall debt limit, permit borrowing against inflated receivables, and, of course, permit the City's budget to appear in balance when it was actually out of balance."

It is understandable why City officials and bondholders want the federal government to bail out the City. After reviewing the practices of New York City administrators, it is now certainly understandable why they would not want a federal court looking into the way they have done business.

Mr. President, I ask unanimous consent that the Managerial Summary from the Report on New York City's Central Budgetary and Accounting System be printed in the record along with supporting fraud.

Managerial Summary

BACKGROUND

We are examining into New York City's central budgetary and accounting practices in order to (1) identify shortcomings which have a bearing on the accuracy of the City's financial statements, and (2) develop data leading to the adaptation of the State Comptroller's "Uniform System of Accounts for Cities" to the financial operations of New York City. Our first report (NYC-3-76, dated July 1, 1975) concerned the validity of amounts recorded as due from the State and Federal governments. This second report deals with the collectibility of unpaid real estate taxes due the City, as well as the City's procedures and practices in establishing the assessment amounts which form the basis of the real estate tax rate.

The City Charter requires the City's expense budget to be balanced by the real estate tax levy. To help finance the 1974–75 expense budget of $11.1 billion, the real estate tax levy amounted to $2.9 billion. The City's budgeting and financial procedures make no provision for real estate taxes which are not expected to be collected during the tax year, nor do they provide for tax cancellations, abatements or other downward revisions to be subtracted from the gross tax levy. These amounts, when netted against collections of prior year real estate taxes, resulted in a cash flow deficit of $232 million for the fiscal year ended June 30, 1975. This was critical because the City does not have any reserves to cover such deficits.

The City's records also show a decreasing trend in the collection of real estate taxes in the year of levy. The collection rate of 95 percent in 1969–70 dropped to 90.4 percent in 1974–75. The cumulative uncollected taxes at year-end were two and one-half times higher—$502.3 million at June 30, 1975 compared with $204.9 million at June 30, 1970. This condition further aggravated the City's cash flow situation.

MAJOR OBSERVATIONS AND CONCLUSIONS

The City's budgetary practices result in an inflated estimate of real estate taxes that it can reasonably expect to collect to balance the annual expense budget. Unless expenditures are reduced to make up the shortfall, the City's budget is automatically out of balance; borrowings thus become necessary to meet the cash flow deficiency.

We estimate that the $502 million of real estate taxes receivable on the City's books at June 30, 1975 are overstated by approximately $408 million; thus, the available balance is only $94 million. Most of those unpaid real estate taxes were pledged to repay $380 million of tax anticipation notes issued by the City on June 11, 1975; therefore, the pledged support was largely absent.

There are two major causes for the tax shortfall:

1. The City included significant amounts of property on its tax rolls which were not subject to real estate taxes or for which taxes would not be collected.

2. The City made no provisions for the increasing volume of cancellations and abatements, and for the inability to collect from defaulting taxpayers.

Our analysis of the uncollected real estate taxes at June 30, 1975 follows:

[In millions]

Total uncollected real estate taxes	$502.3
Less:	
Specific categories either not collectible or not readily available—	
Publicly-owned property	126.6
Diplomatic property	4.7
Mitchell-Lama property	53.0
In rem property (pending foreclosure)	54.4
Penn Central property (bankrupt corporation)	43.9
Total	282.6
Grand total	219.7
Less: provision for estimated nonpayment of other taxes	125.7
Estimated available amount	94.0

The City's Finance Administration had prepared certain analyses of real estate taxes receivable as of June 30, 1972 and June 30, 1974. Although we were told that these analyses were prepared for other purposes, they showed an alarming growth not only in uncollected taxes, but also in the amounts of real estate taxes due from publicly-owned properties primarily the City itself ($59 million out of $283 million at June 30, 1972, and $150 million out of $409 million at June 30, 1974).

The inclusion of publicly-owned properties on the tax rolls resulted in the City assessing significant amounts of real estate taxes which could not possibly be collected—at a rate of about $36 million a year, leading to an accumulation of $126.6 million in uncollectible taxes at June 30, 1975. Included in the 18,000 parcels in this category were vacant land, City-occupied office buildings, an urban renewal land site, Carnegie Hall and even a public park and high school. This practice would continue until exemption certificates were processed; but, under present City procedures, exemption certificates are not processed timely.

We found similar delays in reducing the tax rolls for diplomatic properties and tax abatements on Mitchell-Lama properties. For example, the City's records showed $41.4 million due from Co-Op City (a Mitchell-Lama property), when the amount should actually have been $1.8 million because of tax abatements authorized under shelter rent exemptions. Diplomatic properties were carried on the rolls unless the owner government initiated tax exemption requests. However, these governments took very little action because they could not be required to pay the taxes in any event. (In this connection, we were told of efforts by the Finance Administration and the City Commission on the United Nations to secure their cooperation.)

Another tax loss results from tax cancellations (write-offs of prior year taxes) which were increasing each year. For the last five years, cancellations totaled $291 million. However, adequate provision for these reductions were not made in the budget.

The inclusion of these inflated tax levies on the rolls served to understate the tax rate, increase the City's overall debt limit, permit borrowing against inflated receivables, and, of course, permit the City's budget to appear in balance when it was actually out of balance. There did not appear to have been any high level discussions of these facts by City officials, or aggressive action to correct the situation; for example, by compensating for these practices when preparing the City's budget or borrowing on tax anticipation notes. The City needs to overhaul its real estate tax accounting, budgeting and reporting systems to preclude further distortion of its financial status and to make available accurate fiscal information on which to base decisions. Among other things, the City should:

Analyze uncollected real estate taxes at June 30, 1975, write off clearly uncollectible amounts, and establish reserves against amounts partially collectible or not readily available.

Remove exempt properties from the tax rolls.

Establish an adequate reserve for uncollectible real estate taxes in future budgets, in accordance with the requirements of the State Comptroller's Uniform System of Accounts.

Ensure that TAN's issued in the future are adequately secured by collectible real estate taxes.

F. Tax Anticipation Notes

The City's cash flow situation requires frequent sale of tax and revenue anticipation notes to provide operating funds pending receipt of revenues. The collateral is uncollected real estate taxes for the tax anticipation notes (TAN's) and other receivables for the revenue anticipation notes (RAN's). Since the estimated tax revenue has been overstated, TAN's should not have been issued for the full amounts recorded as receivable.

The City issued $380 million of TAN's on June 11, 1975 secured by $448 million of uncollected real estate taxes. We found that real estate taxes that could be reasonably construed as "collectible" or "available" would support less than one-third of these TAN's. According to our analysis, only $106 million of the $448 million of uncollected real estate taxes were potentially collectible at June 10, 1975, leaving 72 percent or $274 million of the TAN's unsupported. (Between June 10 and our later study as of June 30, 1975, a total of $12 million was collected or cancelled.)

ANALYSIS OF UNSECURED TAN'S AS OF JUNE 10, 1975

(All amounts in millions)

	Uncollected taxes, per Comptroller's June 10, 1975 **Certification**	Taxes determined to be uncollectible by our analysis	Reserve for other uncollectibles, based on prior years experience	Maximum amount of TAN's to be issued (Differences)	Amount of TAN'- actually issued	Amount of under collateralized TAN's
	a	b	c	d=a—(b+c)	e	f=e—d
Year:						
1974–75	$218. 7	$74. 2	$55. 6	$88. 9	$190. 0*	$101. 1
1973–74	105. 3	61. 4	31. 7	12. 2	90. 0*	77. 8
1972–73	70. 0	49. 1	18. 1	2. 8	60. 0**	57. 2
1971–72	54. 0	40. 1	11. 8	2. 1	40. 0**	37. 9
	$448.0	$224. 8	$117. 2	$106. 0	$380. 0	$274. 0

*Sold to a consortium of banks.
**Sold to the newly established Municipal Assistance Corporation.

The certificates issued by the City Comptroller included a certification as to the amount of real estate taxes uncollected and not cancelled after June 10, 1975. However, real estate taxes was not determined and deducted from the certified amount.

The pattern of borrowing by the City through the issuance of TAN's over the last three fiscal years indicated a fairly large amount ($600 million–$800 million) at the beginning of each fiscal year, a much smaller borrowing ($99 million–$115 million) about mid-November, and another borrowing ($265 million–$380 million) about mid-June. While TAN's issued earlier in the fiscal year would be fully supported by collective tax receivables, the year-end borrowings may not have fully secured by collective receivables as shown in the preceding illustration.

The PRESIDING OFFICER. The bill is open to amendment. If there be no further amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to a third reading and was read the third time.

UNANIMOUS-CONSENT AGREEMENT—S. CON. RES. 78

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, there is a measure on the calendar, order No. 492, Senate Concurrent Resolution 78, a concurrent resolution disapproving the act of the District of Columbia Council, entitled "An Act to authorize the issuance of $50 million General Obligations bonds of the District of Columbia to refund certain loans made to the District from the United States Treasury."

This resolution has been cleared on both sides. However, the distinguished Senator from Virginia wants a rollcall vote on this measure, and he is willing to agree to a two-minute time limitation on that measure if he may be allowed to speak for 2 minutes, after which the Senate may vote on that measure by rollcall vote.

I ask unanimous consent that the Senator from Virginia be recognized for 2 minutes immediately following the vote on the pending measure and that the vote then occur on that measure. That will be a rollcall vote.

I ask unanimous consent that it be in order also at this time to order the yeas and nays on that measure.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Has the order been entered for the Senator from Virginia to have 2 minutes?

The PRESIDING OFFICER. That was a part of the unanimous consent.

Mr. ROBERT C. BYRD. Mr. President, do I understand that the vote on the pending measure will be limited to 10 minutes?

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. Then, following that vote, there will be 2 minutes for the Senator from Virginia, after which the vote will occur on the measure to which I have just alluded.

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. I ask unanimous consent that that be 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

NEW YORK CITY SEASONAL FINANCING ACT OF 1975

The Senate continued with the consideration of the bill (H.R. 10481) to authorize the Secretary of the Treasury to provide seasonal financing for the city of New York.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Colorado (Mr. HASKELL) is absent on official business.

On this vote, the Senator from New Hampshire (Mr. DURKIN) is paired with the Senator from North Dakota (Mr. BURDICK). If present and voting, the Senator from New Hampshire would vote "yea" and the Senator from North Dakota would vote "nay."

On this vote, the Senator from Idaho (Mr. CHURCH) is paired with the Senator from Kentucky (Mr. HUDDLESTON). If present and voting, the Senator from Idaho would vote "yea" and the Senator from Kentucky would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Illinois (Mr. PERCY), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

On this vote, the Senator from Maryland (Mr. MATHIAS) is paired with the Senator from Nevada (Mr. LAXALT). If present and voting, the Senator from Maryland would vote "yea" and the Senator from Nevada would vote "nay."

I further announce that, if present and voting, the Senator from Arizona (Mr. GOLDWATER) would vote "nay."

The result was announced—yeas 57, nays 30, as follows:

[Rollcall Vote No. 566 Leg.]

YEAS—57

Abourezk
Baker
Bayh
Beall
Bentsen
Brooke
Buckley
Bumpers
Byrd, Robert C.
Case
Chiles
Clark
Cranston
Culver
Eagleton
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hathaway
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
McGee
McGovern
McIntyre
Metcalf
Mondale
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Symington
Tower
Weicker
Williams

NAYS—30

Allen
Bartlett
Bellmon
Brock
Byrd, Harry F., Jr.
Cannon
Curtis
Dole
Domenici
Eastland
Fannin
Ford
Garn
Hartke
Hatfield
Helms
Hollings
Hruska
McClellan
McClure
Montoya
Morgan
Nunn
Roth
Stennis
Stone
Taft
Talmadge
Thurmond
Young

NOT VOTING—13

Biden
Burdick
Church
Durkin
Fong
Goldwater
Haskell
Huddleston
Laxalt
Mathias
Percy
Scott, William L.
Tunney

So the bill (H.R. 10481) was passed.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. Mr. President, I yield a minute and a half to the Senator from Missouri.

DISAPPROVAL OF THE DISTRICT OF COLUMBIA COUNCIL REFUNDING BOND AUTHORIZATION ACT

Mr. EAGLETON. Mr. President, I ask unanimous consent that the Chair lay before the Senate, Senate Concurrent Resolution 78, which is a resolution to disapprove the issuance of $50 million in general obligation bonds.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

> S. Con. Res. 78, disapproving the act of the District of Columbia Council, and for other purposes.

The Senate proceeded to consider the resolution.

Mr. EAGLETON. Mr. President, the matter before us is a resolution to disapprove an act of the District of Columbia City Council authorizing the issuance of $50 million in bonds. With the experience of New York City heavily upon us, now is not the time for the District to be venturing into the bond market.

Mr. President, it is now early Saturday morning. I realize that my colleagues are weary after a long, hard day. I only hope they will hear me out as I attempt to explain this matter of importance to the District and the country as a whole.

When the Home Rule Act was passed by Congress in 1973, a large measure of control over the District of Columbia was turned over to the local elected government. Congress retained veto authority over acts passed by the Council, although to date it has not been exercised.

In the fiscal area, however, Congress retained express authority, as well as the general veto power. There was some difference of opinion on this subject when the home rule bill was before the two Houses, but it was finally the will of Congress that sound public policy required retention of jurisdiction in the fiscal sphere.

As a matter of law, Congress—and specifically the two Committees on the District of Columbia and the two Appropriations Subcommittees—must consider and consent to the annual budgets and any other city legislation which bears on financial matters. I must emphasize that this is not a question of interpretation or judgment, it is the law.

So as the bonding authorization moved through the city's approval process, I directed the staff of the Committee on the District of Columbia to begin studying the ramifications of this action. When the Council approved the bond issue and submitted it to Congress, I asked for the information necessary to make an informed decision on the merits of this action. Let me explain briefly what I have discovered and my reasons for introducing the resolution of disapproval.

The Home Rule Act gave the District of Columbia authority to sell municipal bonds to the public for the first time. That is what the Council seeks to do. Also in the Home Rule Act, first claim on the annual Federal payment was given to debt service. There would be, in effect, a Federal umbrella over District of Columbia bonds. Today, the bulk of the $250 million Federal payment goes toward normal and necessary operating expenses. The Federal payment is one of four major items in the District budget. The other three items are locally raised revenues on the income side, and operating expenses and debt service on the outgo side of the ledger. These four budget components must remain in balance. Future income and expenditures are therefore inextricably linked both to the ability to meet debt payments and to the potential claim on the Federal budget.

It is in these areas of spending and taxing that my reservations lie. On Tuesday of this week, in hearings before the Senate District of Columbia Committee, we enumerated and explored some of these topics: Unfunded pension liabilities, operating deficits, accounting for expense items, the size of the payroll, the magnitude of the District's public debt, and the stability of the tax base.

I have examined some of these issues and it is my conclusion that not enough is known about the District's financial situation to permit the bonding authority to go through at this time. As chairman of the District Committee, I have a quasi-fiduciary responsibility—to Congress, the Nation, and the District—to intervene when the facts dictate. I would be remiss if, having these questions unresolved, I were to remain silent and permit these bonds to go through with the implicit cachet of the Senate and Congress. Even though the bonds are intended only to refinance existing debt, they mark the entry of the District into the municipal bond market and the first sale of District securities to the general public. Before any bonds are marketed, I want to be assured that investors can be paid off in a timely fashion and that the implications for the Federal budget are clearly understood.

The future fiscal viability of the District is at the heart of this issue. We have seen clearly in the case of New York City what can happen when seemingly minor problems are left alone to fester. I do not mean to suggest that the problems of the District are identical to those of New York. Yet the symptoms are distressingly similar, and they are better addressed now than later.

I intend to call a series of hearings next year which will look into these areas. My goal is to assure the health of the District of Columbia over the rest of this century. Central to this goal are two objectives: the maintenance of necessary municipal services, and the establishment of tax policies designed to enhance the revenue base. The size of the Federal payment necessary to close any gap between income and outgo must also be discussed.

As a result of these investigations, the District of Columbia will be healthier, more sure of its future, and better able to enter the municipal bond market having had these problems raised and resolved. In the meantime, there may be some dislocation and plans may have to be changed. The District of Columbia Committee, I believe, would be sympathetic to requests from the city for special borrowing authority necessary to bridge this period of investigation. No city, especially the District of Columbia, can stand still for a year or more while its problems are being worked out.

Our committee understands that, and we all consider fiscal remedies for the short term even as we discuss the greater long term issues. But to proceed with the bond issue now would only postpone the day of reckoning and intensify the problems which must inevitably be confronted.

Therefore, Mr. President, and in conclusion, I urge the Senate to support my position and disapprove this premature and fiscally imprudent authorization of $50 million in refunding bonds.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the 1 minute for adjournment occur now before this vote.

The PRESIDING OFFICER. Is there objection?

There being no objection, at 12:30 a.m. on Saturday, December 6, 1975, the Senate adjourned until 12:31 a.m., the same day.

SENATE—*Saturday, December 6, 1975*

The Senate met at 12:31 a.m., pursuant to adjournment, and was called to order by Hon. RICHARD STONE, a Senator from the State of Florida.

INTRODUCTION OF A BILL

The following bill was introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. ABOUREZK:

S. 2753. A bill to amend section 5532 of title 5, United States Code, relating to the reduction of retired or retirement pay of retired officers of the uniformed services who are employed by the Federal Government. Referred, by unanimous consent, jointly to the Committee on Armed Services and the Committee on Post Office and Civil Service.

DOING AWAY WITH DOUBLE-DIPPING—BETTER LATE THAN NEVER

Mr. ABOUREZK. Mr. President, today I am again introducing legislation that would outlaw the "double dip" practice of the reservists collecting military retirement pay and Government civilian salaries at the same time. I have introduced this legislation before. But I am reintroducing it today because the President has tentatively agreed to recommended cuts in the Defense budget suggested by the Office of Management and Budget. One of these proposed cuts is the "double-dipping."

I strongly feel that the dual compensation in Federal jobs at the supergrade and high-grade pay levels is a real area of Pentagon fat that needs to be cut immediately. And I have made this argument before. In fact, last August 19, I stated that "with President Ford's recent emphasis on the need for concrete action to fight inflation, I would like to introduce the following anti-inflation, antifat, and proveteran bill," doing away with double dipping. That bill never made it out of committee.

Hopefully, with the President urging its adoption the Congress will see the wisdom of doing away with this unnecessary, and expensive provision. I guess it is better late than never.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that the bill (S. 2753) introduced today by Mr. ABOUREZK be referred jointly to the Committees on Armed Services and Post Office and Civil Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS OF BILLS

S. 283

At the request of Mr. HELMS, the Senator from New York (Mr. BUCKLEY) was added as a cosponsor of S. 283, a bill to limit the jurisdiction of Federal courts in cases involving voluntary prayer in the public schools.

S. 1897

At the request of Mr. BELLMON, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 1897, to bill to amend title XVIII of the Social Security Act to authorize payment under the supplemental medical insurance program for services furnished by physician extenders and clinical staff of community mental health centers.

AMENDMENTS SUBMITTED FOR PRINTING

SUPPLEMENTAL APPROPRIATIONS, 1976—H.R. 10647

AMENDMENTS NOS. 1205 THROUGH 1208

(Ordered to be printed and to lie on the table.)

Mr. HANSEN submitted four amendments intended to be proposed by him to the bill (H.R. 10647) making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

SUSPENSION OF DUTIES ON CERTAIN SILK—H.R. 7727

AMENDMENT NO. 1209

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON (for himself, Mr. GRIFFIN, Mr. BAYH, Mr. FANNIN, Mr. TALMADGE, Mr. DOLE, Mr. HARTKE, Mr. PACKWOOD, Mr. NELSON, Mr. ROTH, Mr. MONDALE, Mr. BROCK, Mr. GRAVEL, Mr. BENTSEN, Mr. HATHAWAY, and Mr. HUMPHREY) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 7727) to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk.

STATE LEGISLATORS' TRAVEL EXPENSES AWAY FROM HOME

Mr. CRANSTON. Mr. President, I am introducing today on behalf of myself and Senators GRIFFIN, BAYH, FANNIN, TALMADGE, DOLE, HARTKE, PACKWOOD, NELSON, ROTH, MONDALE, BROCK, GRAVEL, BENTSEN, HATHAWAY, and HUMPHREY, an amendment to H.R. 7727, the suspension of duties on silk yarns bill, which will establish for purposes of the Federal tax laws that a State legislator's home is in his or her home district, not the State capital.

Section 162(a) of the Internal Revenue Code now provides that for Members of Congress the Member's home for tax purposes shall be his or her home district. My amendment simply puts State legislators on the same footing for tax purposes as Members of Congress with respect to living expenses in connection with legislative business.

Earlier this year, a U.S. Tax Court decision, Montgomery against Commissioner of IRS, ruled that if a State legislator received most of his income as a member of the legislature, or spent most of his time on legislative business, then his home for income tax purposes would be the State capital.

Although this ruling is consistent with IRS views on tax treatment of living expenses away from home, it has presented immediate tax problems for legislators in States having long legislative sessions, as in California and a number of other States, and in other States for those key members of the legislature, such as the leadership and committee chairmen who have active interim duties.

IRS, buttressed by the Montgomery decision, is maintaining that a State legislator's home for tax purposes is in the State capital rather than the legislator's home district—unless the legislator earns the greater share of his income from business or other interests back home. The result of this decision works a hardship.

Legislators, State or Federal, occupy unique positions. To perform their duties they must spend a considerable length of time in the capital, yet they are usually required by law to maintain a residence in their home districts.

Yet, as a consequence of the Montgomery ruling, a State legislator now may not charge his living expenses away from home against the per diem allowance he receives from the State during his attendance in the legislature, except in those cases in which his legislative duties occupy only a small portion of his time or account for only a small portion of his total income.

For the average legislator, whose principal source of income may be his salary as a member of the State legislature, the tax consequences can be substantial.

When this tax home question was raised many years ago with respect to Members of Congress, the code was amended to establish a Member's home for tax purposes in his legislative district. It is only fair that we now take similar action in favor of State legislators.

The amendment I am proposing will do the following:

First. It establishes the legislative district of the legislator as his home for tax purposes under section 162(a) of the Code—relating to trade or business expense.

Second. It permits legislators to claim amounts as having been spent for living expenses without additional substantiation if the amount claimed do not exceed specified dollar limits. The dollar limits may not exceed the per diem amounts payable by the State or the amount allowed by the IRS for ordinary businessmen under section 274(d)—whichever is the lesser.

For example, the legislative per diem in California is $30 per day. The dollar amount allowable by IRS for businessmen's living expenses away from home without substantiation is $44 per day. Therefore, under the amendment a California legislator could claim only the lesser amount—$30 per day—without submitting additional substantiation to IRS.

Third. The amendment affects only State legislators. In this respect it differs from a similar provision approved by the House of Representatives in the Tax Reform Act of 1975.

Fourth. The amendment is effective, January 1, 1976.

Fifth. An election for past periods is allowed State legislators to apply the new standards to those returns for which the period for assessing or collecting a deficiency has not expired.

Sixth. No estimate of the revenue cost to the Treasury is available, but it is obvious that the cost will not be large enough to raise any difficulties with the new budget process and the revenue estimates established through it.

I ask unanimous consent that the text of the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1209

At the appropriate place in the bill add the following section:

SEC. . CERTAIN EXPENSES OF STATE LEGISLATORS

(a) IN GENERAL.—Section 162(a) of the Internal Revenue Code of 1954 (relating to trade or business expenses) is amended by adding at the end thereof the following:

"The place of residence of a State legislator within the legislative district which he represents shall be considered his home. Any individual referred to in the preceding sentence shall be deemed to have expended for living expenses (in connection with his trade or business as a legislator) an amount at least equal to the lesser of (i) the amount received by such individual under a per diem or other expense reimbursement arrangement, or (ii) the amount determined by multiplying the total number of days of legislative participation by such individual during the calendar year (established under paragraph (2) of subsection (h)) by an amount equal to the per diem dollar limitation prescribed by the Secretary or his delegate under subsection (d) of section 274 which is used generally to determine for the taxable year whether the requirements of such subsection apply to certain expenses incurred in the United States while away from home. Amounts expended by a State legislator within the taxable year for living expenses (in connection with his trade or business as a legislator) shall not be deductible for income tax purposes in excess of the applicable dollar limitation determined under subsection (h)."

(b) DOLLAR LIMITATION.—Section 162 of such Code is amended by redesignating subsection (h) as subsection (i) and by insertin gafter subsection (g) the following new subsection:

"(h) APPLICABLE DOLLAR LIMITATION FOR PURPOSES OF SUBSECTION (a).—

"(1) IN GENERAL.—The Secretary or his delegate shall establish the applicable dollar limitation for each calendar year for each legislature with respect to which the third sentence of subsection (a) (relating to State legislators) applies. In establishing such dollar limitation for any legislature the Secretary or his delegate shall apply rules of reasonableness and shall take into account—

"(A) the number of days during the calendar year on which the legislators are away from their homes,

"(B) the cost of living during the calendar year at the place where the legislature meets, and

"(C) amounts normally allowed as living expenses of businessmen under similar circumstances as not being lavish or extravagant under the circumstances.

"(2) SPECIAL RULE FOR STATE LEGISLATORS.—In the case of any individual who is a State legislator, the applicable dollar limitation for any calendar year shall be the dollar limit (established under paragraph (1) without regard to subparagraph (A) thereof) for each day of legislative participation in the State legislature concerned, multiplied by the total number of days of legislative participation by such individual during the calendar year. For purposes of this paragraph, each day on which an individual's physical presence is formally recorded or excused during a meeting of the State legislature, a meeting of a committee thereof, or for purposes of transacting legislative business, shall be a day of legislative participation."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1975.

(2) ELECTION BY STATE LEGISLATORS FOR PAST PERIODS.—

(A) IN GENERAL.—In the case of any individual who was a State legislator at any time during any taxable year beginning before January 1, 1976, and who elects the application of this paragraph, for any period during such a taxable year in which he was a State legislator—

(i) the place of residence of such individual within the legislative district which he represented shall be considered his home, and

(ii) he shall be deemed to have expended for living expenses (in connection with his trade or business as a legislator) an amount at least equal to the sum of the amounts generally allowable with respect to such day to employees of the United States for per diem while away from home but serving in the United States.

(B) LEGISLATIVE DAYS.—For purposes of subparagraph (A), a legislative day during any taxable year for any individual shall be any day during such year on which (i) the legislature was in session (including any day in which the legislature was in recess for a period of 4 consecutive days or less), or (ii) the legislature was not in session but the physical presence of the individual was formally recorded at a meeting of a committee of such legislature.

(C) LIMITATION.—The amount taken into account as living expenses attributable to a trade or business as a State legislator for any taxable year under an election made under this paragraph shall not exceed the greater of (i) the amount claimed for such purpose under a return (or amended return) filed before September 10, 1975, or (ii) the amount received by a State legislator under a per diem or other expense reimbursement arrangement.

(D) MAKING AND EFFECT OF ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall by regulations prescribe. Any such election shall apply to all taxable years beginning before January 1, 1976, for which the period for assessing or collecting a deficiency has not expired before the date of the enactment of this Act.

NOTICE OF MOTION TO SUSPEND THE RULE

Mr. HANSEN submitted the following motion in writing:

Pursuant to the provisions of rule XL of the Standing Rules of the Senate, I hereby give notice in writing that I shall hereafter move to suspend Paragraph 4 of Rule 16, for the purpose of proposing to the bill (H.R. 10647) making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes, the following amendment, viz, at the appropriate place in the bill, insert the following:

SEC. . Nothwithstanding the provisions of section 5 of the New York City Seasonal Financing Act of 1975, the Secretary of the Treasury may withhold any payments from the United States to the City of New York, either directly or through the State of New York, which may be or may become due pursuant to any provision of Federal law in order to satisfy any claim of the United States in conenction with a loan under such Act to New York City or to any financing agent for New York City. The authority of the Secretary to withhold such payments shall become effective upon the expiration of 30 days of continuous session of the Congress after transmittal to the Congress of a plan specifying the amount and types of payments proposed to be withheld, unless, prior to the expiration of such 30-day period—

(1) either House passes a resolution stating in substance that it disapproves the plan; and

(2) the Congress otherwise provides, by law, for the satisfaction of the claim.

For the purpose of the preceding sentence, the continuity of a session is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 30-day period.

NOTICE OF HEARINGS

Mr. ABOUREZK. Mr. President, I wish to announce that the Subcommittee on Separation of Powers of the Senate Judiciary Committee will begin hearings on "Justice Department Policies Affecting the Independence of Congress." The hearings will begin on December 12 at 10 a.m. in room 2228, Dirksen Senate Office Building. On this first day the Justice Department will testify.

Any person wishing to appear and testify or to submit a statement should contact the subcommittee staff in room 1418, Dirksen Senate Office Building, telephone 202–224–4434.

ANNOUNCEMENT OF CHANGE IN HEARING ROOM AND DATES

Mr. STEVENSON. Mr. President, the hearing room for the previously announced December 9 hearing of the International Finance Subcommittee of the Banking, Housing and Urban Affairs Committee on the United States-Soviet grain agreement has been changed to room 6202 of the Dirksen Senate Office Building.

The previously announced December 10 hearings in room 5302 of the Dirksen Senate Office Building will begin at 1:30 p.m. instead of 10 a.m.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I take it that morning business has been closed?

The PRESIDING OFFICER. Morning business is now closed.

SUPPLEMENTAL APPROPRIATIONS, 1976

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of H.R. 10647, the supplemental appropriations bill for 1976.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 10647) making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The legislative clerk read as follows:

Cloture Motion

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the motion to proceed to the consideration of H.R. 10647, the Supplemental Appropriations Bill, 1976.

Mike Mansfield, Hubert H. Humphrey, Edward W. Brooke, Robert C. Byrd, Jacob K. Javits, Charles McC. Mathias, Harrison A. Williams, Charles H. Percy, William D. Hathaway, Edward M. Kennedy.

John Tower, John O. Pastore, Edmund S. Muskie, Daniel K. Inouye, Thomas E. Eagleton, Lowell P. Weicker, Jr., Adlai E. Stevenson, Abraham Ribicoff, J. Glenn Beall, Jr., Robert P. Griffin.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that instead of having the cloture vote occur at 2 p.m. on Monday, the cloture vote occur at 4 p.m. on Monday.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I send a second cloture motion to the desk.

The purpose of this cloture motion is that we may have a vote on Tuesday in the event the cloture motion fails on Monday.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII the Chair, without objection, directs the clerk to read the motion.

The assistant legislative clerk read as follows:

Cloture Motion

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the motion to proceed to the consideration of H.R. 10647, the Supplemental Appropriations Bill, 1976.

James Abourezk, Alan Cranston, Dick Clark, John C. Culver, Stuart Symington, Claiborne Pell, Abraham Ribicoff, Warren G. Magnuson, Jennings Randolph, Harrison A. Williams.

Lee Metcalf, Adlai E. Stevenson, Patrick J. Leahy, Mike Mansfield, Jacob K. Javits, Robert C. Byrd, Edward W. Brooke, Lowell P. Weicker, Jr., John Tower, William Proxmire.

Mr. ROBERT C. BYRD. Mr. President, I have a problem with 4 o'clock.

I ask unanimous consent that the vote on cloture occur at the hour of 3:45 p.m. on Monday—well, I have objection to that, so I guess we will have to stay at 4 o'clock.

ORDER FOR CLOTURE VOTE TO OCCUR AT 3:30 PM ON MONDAY—H.R. 10647

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on cloture occur at 3:30 p.m. on Monday and that it be a 30-minute rollcall vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISAPPROVAL OF THE DISTRICT OF COLUMBIA COUNCIL REFUNDING BOND AUTHORIZATION ACT

The Senate continued with the consideration of the concurrent resolution (S. Con. Res. 78) disapproving the act of the District of Columbia Council (1–57) entitled "An act to authorize the issuance of $50,000,000 general obligation bonds of the District of Columbia to refund certain loans made to the District from the U.S. Treasury."

The PRESIDING OFFICER. The Senate resumes consideration of Senate Concurrent Resolution 78.

The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. Mr. President, in the interest of time, I commend the Senator from Missouri (Mr. Eagleton) and I urge the adoption of the resolution.

Mr. EAGLETON addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. EAGLETON. Mr. President, yesterday I asked my colleagues to vote "aye" on this resolution. Today I again ask them to vote "aye".

The PRESIDING OFFICER. The question is on agreeing to Senate Concurrent Resolution 78. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Delaware (Mr. Biden), the Senator from North Dakota (Mr. Burdick), the Senator from Idaho (Mr. Church), the Senator from New Hampshire (Mr. Durkin), the Senator from Kentucky (Mr. Huddleston), the Senator from Arkansas (Mr. McClellan), the Senator from Georgia (Mr. Talmadge), the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that the Senator from Colorado (Mr. Haskell) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. Fong), the Senator from Arizona (Mr. Goldwater), the Senator from Nevada (Mr. Laxalt), the Senator from Maryland (Mr. Mathias), the Senator from Illinois (Mr. Percy), the Senator from Virginia (Mr. William L. Scott), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The result was announced—yeas 80, nays 3, as follows:

[Rollcall Vote No. 567 Leg.]

YEAS—80

Abourezk
Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Brock
Buckley
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Curtis
Dole
Domenici
Eagleton
Eastland
Fannin
Ford
Garn
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hatfield
Hathaway
Helms
Hollings
Hruska
Humphrey
Inouye
Jackson
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Thurmond
Tower
Weicker
Williams

NAYS—3

Brooke
Hartke
Javits

NOT VOTING—17

Bayh
Biden
Burdick
Church
Durkin
Fong
Goldwater
Haskell
Huddleston
Laxalt
Mathias
McClellan
Percy
Scott, William L.
Talmadge
Tunney
Young

So the Senate concurrent resolution (S. Con. Res. 78) was agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the Congress disapproves of the action of the Council of the District of Columbia described as follows: The Act enacted by the Coucil of the District of Columbia (1–57) entitled "An Act to authorize the issuance of $50,000,000 General Obligation Bonds of the District of Columbia to refund certain loans made to the District from the United States Treasury", passed by the Council of the District of Columbia on October 21, 1975, signed by the Mayor of the District of Columbia on October 22, 1975, and transmitted to the Congress on October 24, 1975, pursuant to section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act.

CHANGE OF REFERENCE—SENATE RESOLUTION 299

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare be discharged from the further consideration of Senate Resolution 299, a supplemental appropriation for the Senate Select Committee on Nutrition and Human Needs, and that the resolution be referred to the Committee on Rules and Administration for appropriation action. The chairman and ranking minority member of the Committee on Labor and Public Welfare and the Select Committee on Nutrition and Human Needs are in agreement on this action, and it has been cleared by the minority leadership.

The PRESIDING OFFICER. Without objection, it is so ordered.

NORTH CENTRAL EDUCATIONAL TELEVISION, INC.

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 233.

The PRESIDING OFFICER (Mr. Stone) laid before the Senate the amendment of the House of Representatives to the bill (S. 233) for the relief of North Central Educational Television, Inc.

(The amendment of the House is printed in the Record of December 3, 1975, beginning at page 38263.)

Mr. ROBERT C. BYRD. I move that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, there has been so much confusion this afternoon, I would ask the Chair, what is the convening time on Monday?

The PRESIDING OFFICER. The convening time is 10 a.m.

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, this request having been cleared, that at such time as S. 2597, a bill to amend the Bankruptcy Act, is called up and made the pending business before the Senate, there be a time limitation of 4 hours on the bill, to be equally divided between Mr. Burdick and Mr. Hruska, and that there be a time limitation on any amendment of 1 hour, with a time limitation on an amendment by Mr. Buckley of 3 hours, a time limitation on any debatable motion or appeal of 30 minutes, and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, I do not intend to object, but for the information of the Senate, to the extent that it can be provided, what about the scheduling of that bill?

Mr. ROBERT C. BYRD. It would not be scheduled for Monday, I can say that.

Mr. GRIFFIN. But it is anticipated at some early date, following the disposition, perhaps, of the supplemental appropriation bill?

Mr. ROBERT C. BYRD. Well, certainly not Monday, but at some date after Monday.

Mr. ALLEN. Mr. President, I object at this time. I believe that is the bill, is it not, the substance of which was offered as an amendment to the bill just passed?

Mr. ROBERT C. BYRD. I think that is right.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

UNANIMOUS-CONSENT AGREEMENT—S. 2771

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as S. 2711, a bill to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, is called up and made the pending business before the Senate, there be a time limitation on the bill of 2 hours, to be equally divided between Mr. Bentsen and Mr. Stafford; that there be a time limitation of one-half hour on any amendment, debatable motion, or appeal; that there be a time limitation of 1 hour on any amendment or amendments by Mr. Weicker, and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 11 A.M. ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 11 o'clock a.m. on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on Monday there will be a vote on the motion to invoke cloture, such vote to occur at the hour of 3:30 p.m. That will be a 30-minute rollcall vote.

On Monday prior to that cloture vote, it is possible that the Senate might proceed to the consideration of the highway bill, it being my understanding, in talking with Mr. Bentsen, that he hopes to have the Senate act on that bill either Monday or Tuesday, in which event rollcall votes may occur on Monday prior to the cloture vote.

So Senators are alerted to the possibility that rollcall votes may occur prior to the 3:30 cloture vote. The leadership will endeavor to delay any rollcall votes which may be ordered prior to that vote, but it would require unanimous consent at the time.

Following the rollcall vote on cloture, of course, the schedule will depend on the outcome of that vote. So at least one rollcall vote will occur on Monday, and very likely other rollcall votes. I reiterate, possibly some before and some after the cloture vote.

Also for next week, there will be a vote on the motion to invoke cloture on the second supplemental bill itself. There will be votes on amendments thereto during the week. There will be action on the highway bill. Hopefully, action can be taken sometime during the week on the bankruptcy bill.

Also waiting in the wings is S. 1136, a bill to authorize appropriations for increased investigation and prosecution by the Federal Trade Commission and the Department of Justice of unfair methods of competition, restraints of trade, and other violations of the antitrust laws. The Senator from Michigan (Mr. Philip A. Hart) and others are the authors of this bill, and it was reported from the Committee on the Judiciary by Mr. Hart; so the leadership hopes to be able to take action on that bill next week.

Also, the bill (S. 67) to establish the Nantucket Sound Islands Trust in the Commonwealth of Massachusetts, to declare certain national policies essential to the preservation and conservation of the lands and waters in the trust area, is awaiting action, and I am advised by the distinguished majority leader that the leadership would hope to call up that bill.

Other than those measures, various conference reports will need to be acted upon, including the energy conference report.

The extension of the tax cut is looming on the horizon, and in addition thereto there will be the continuing resolution and other measures, including conference reports that may be on the calendar now or that may yet appear on the calendar.

So it is possible, again may I say, that the Senate would have to have a Saturday session next week, as it is having this week, with long sessions daily and with rollcall votes occurring daily.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the HEW conference report will also be taken up on Monday.

ADJOURNMENT UNTIL 11 A.M., MONDAY, DECEMBER 8, 1975

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 11 a.m., Monday morning.

The motion was agreed to, and at 1:01 a.m., the Senate adjourned until Monday, December 8, 1975, at 11 a.m.

EXTENSIONS OF REMARKS

CHANUKAH—THE FIGHT FOR FREEDOM

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. SOLARZ. Mr. Speaker, today is the sixth day of Chanukah, the Jewish festival commemorating the victory of the Maccabees over oppression and injustice.

As you may know, the celebration of Chanukah recalls the first time a nation went to war in the course of freedom of thought, religion, and speech. This year as Americans celebrate the Bicentennial of our Nation, the successful fight for liberty and the establishment of the Bill of Rights, I thought it fitting to insert in the Record a brief history of a similar struggle the Jewish nation had over 2,000 years ago.

Rabbi Baruch Silverstein, the spiritual leader of Congregation Emanu-el in the Borough Park section of Brooklyn, has brilliantly captured the significance of Chanukah, and I though it would be valuable if I shared his observations with my colleagues.

Rabbi Silverstein is a vice president of the New York Board of Rabbis, and past president of the Brooklyn Board of Rabbis, and the Zionist Organization of America, Brooklyn Region. He has been the rabbi at Emanu-el for over 20 years and is a valued and esteemed member of the Borough Park community. As a devoted spiritual and civic leader, Rabbi Silverstein has worked tirelessly with boundless energy on behalf of all members of the community. I am privileged to be associated with Rabbi Silverstein and honored to have him as a constituent. I am sure that my colleagues will be as inspired as I by his words:

CHANUKAH

2,123 years ago, when our people yet dwelt upon its own land and the beautiful Temple stood in Jerusalem, Palestine fell under the rule of Antiochus, the king of Syria. In his attempt to completely subjugate the Jews and destroy their faith, he proclaimed paganism to be the state religion of Judea and turned the Temple into a heathen shrine. The Jewish population was ordered to offer public sacrifices to idols. Antiochus might well have succeeded in his sinister purpose to destroy our faith had it not been for a courageous band of pious people. They took up the struggle against him under the leadership of Judah the Maccabee.

Inspired with a spirit of loyalty to their people and devotion to God, the small untrained Maccabean army succeeded in defeating the numerically superior Syrian army. The Temple was then purified and rededicated. An unused cruse of oil containing sufficient oil for but one day's burning miraculously lasted for eight days. It is therefore that we celebrate this festival for eight days, while we praise the Lord for the miracles which He performed for our ancestors in ancient days during this season.

Chanukah, then, recalls the first time a nation went to war for freedom of thought and religious liberty. This year, as we kindle our menorahs, each flicker of the candles reminds us that we must continue to guard all our precious freedoms today just as the Maccabees did in days of old. For without the gallant defense of their country by these patriots of the Jewish faith, the worship of one God and the belief in one humanity could not have survived as basis for an ideal future of peace and democracy for all. Without this victory, there would probably not be a single church, synagogue or mosque anywhere in the world today.

As we look upon the glow radiated by the Chanukah candles, we pray that their brightness will presage a year of redemption for our less fortunate brothers throughout the world, especially in Soviet Russia, and the rededication of our hearts to the rebuilding of a world in which the people of every religion, race and nationality will live and work together in peace and in harmony.

RALPH BECKER HONORED BY SMITHSONIAN INSTITUTION

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. McCLORY. Mr. Speaker, it was my privilege to be in attendance recently at the Smithsonian Institution where one of Washington's most distinguished citizens, Attorney Ralph E. Becker, was awarded the James Smithson Medal for his contributions to the National Museum of History and Technology of the Smithsonian Institution.

I will not delineate the numerous civic and public activities of Ralph Becker which have added so abundantly to the social and cultural life of our Nation's capital. As a founding board member of the John F. Kennedy Center for the Performing Arts of which he has served as general counsel for 18 years, his contributions to the National Portrait Gallery as well as director of the Metropolitan Washington Board of Trade and his numerous citations and awards for civil and public service are all important parts of his useful and active life in behalf of the citizens of Washington, D.C. and of the Nation.

The James Smithson Medal was presented to Ralph Becker at special ceremonies on Monday, November 3, at the National Museum of History and Technology as a result of his donation of more than 30,000 items of political memorabilia which began in 1958 and which represents the most valuable collection of political campaign materials gathered together by any collector.

Following the presentation to Ralph Becker by Dr. Brooke Hindle, Director of the National Museum of History and Technology, and a further appropriate statement by the Secretary of the Smithsonian Institution, Dr. S. Dillon Ripley, Ralph Becker presented a response which described the role of a collector and provided insight from his experiences which resulted in the valuable collection of political campaign materials which are now an important addition to the National Museum of History and Technology.

In addition to this recognition given to Ralph Becker, it is most appropriate to acknowledge also the important part which his talented and attractive wife, Ann Becker, has played in Ralph Becker's professional, public, and civic career.

My wife, Doris, joins me as well as those many others who salute Ralph Becker on the occasion of this official recognition by extending our congratulations. We know that millions of Americans will now have the opportunity to benefit from the political memorabilia which now are on view in the National Museum of History and Technology, and we are all grateful to Ralph Becker for this gift.

His response follows:

RESPONSE OF RALPH E. BECKER

Mr. Secretary, Dr. Hindle, distinguished guests, and friends:

Naturally, I am thrilled with the honor bestowed on me, which I want to share with my devoted family and friends.

Perhaps I should say something about a collector, because just about everyone is a collector in his or her own way. One of my partner's little two-year old filled his pockets with stones and last summer my grandchildren collected sea shells as though they were the brightest of diamonds. The sports fan who lets the football programs pile up, and then occasionally thumbs through them to remember the event—the stamp collector who may have a half dozen postage stamps or a half million. Each in his own way attempts to collect items which he deems of significance in his lifetime.

And, then we progress to the collector who feels that his collection is and will continue to be an object upon which he will lavish attention out of proportion to his daily callings. I am such a collector. There are many others who are such collectors, too.

I respect the man who has collected and catalogued ten thousand baseball bubble gum cards as much as I do a person who has done the same with the finest coin collection or Rembrandts. For each wants to add something to posterity in his area of expertise. Each wants to put his items together so that people can get an added or new dimension or perspective.

My point has been illustrated articulately the past few days:

1. New York Times—Saturday, November 1—Tools as Art
2. Yesterday's Potomac Sunday Magazine Section—Larry Mooney Collection—Treasury of "idiosyncratic anomalies"
3. Bicentennial—yesterday's Times—Government paying $28,465 to catalog coins of Bicentennial
4. Collector of chic sales
5. Buckart-Horse Museum
6. Washington Items—today's Post—sale November 8—41 Washington items owned by Mrs. Walter Peter, Jr., will be dispersed.
7. FDR-Halstead sale.

So, in some cases, perhaps one or two people will get that added perspective and, in others, hundreds or thousands or millions will see the interaction of the pieces the collector has assembled.

I am in the latter category because of this great Institution. An Institution which knows no equal. An Institution which is operated by dedicated men and women who inject life and beauty into the collector's raw materials and who give full meaning to the Smithson vision of an establishment for the "increase and diffusion of knowledge among men".

This occasion would have made one person very happy and we miss him very much. Dillon, he was your distinguished predecessor, Leonard Carmichael. He was a truly great man whose handiwork is indelibly written on this Institution. When he retired, he told me of the talented and gifted person who would succeed him—and he was right. I am honored to have his widow, Pearl, and his daughter, Martha, here tonight.

Dillon, though you are an internationally known authority and collector in your own right, officially as Secretary of the Smithsonian, you have the unique supreme position of "collecting collectors". You, too, have been such a dedicated individual—a creative architect of not only material items but also of ideas. And now your work and the work of your countless associates will be the focal point of our Bicentennial celebration.

I can recall when you first came to the Smithsonian with your innovative ideas, you stated that if they did not like what you were doing, you could always return to your "duck pond". Now, you only go back for a respite.

As a fellow trustee of the John F. Kennedy Center for the Performing Arts, a bureau of the Smithsonian, there is another source of gratification and satisfaction as a member of the Smithsonian family. When it was ordained that Washington be our Nation's Capital, the Founders of our Country made it clear that it should be a "seat of government and culture". Although we have the finest museums in the world, not until 1958, when President Eisenhower signed into law the National Cultural Center for the Performing Arts, did we witness the capital as a "seat of culture" making the full circle. At the same time President Eisenhower with the same pen, figuratively speaking, signed into law the restoration of the Ford Theatre, the Air and Space Museum which will open on July 4, 1976, the Theodore Roosevelt Bridge and the Stadium. Now Congress has given you, Dillon, the last parcel on the Mall for a Museum of Ecology. Therefore, it is fitting that in this Bicentennial year that we all can be thankful to the Good Lord for all our blessings in this Nation's Capital.

Thus, I take a great risk by singling out people in this Institution, but I must mention Jim Bradley, a pillar of strength and a wise counsellor to me on Kennedy Center matters in the early, crucial years, and his assistant, Dorothy Rosenberg. Charlie Dorman advised me and sweated many hours and nights cataloguing my collection. Herb Collins succeeded him. Like all of the unsung heroes of a museum, he as a curator devoted countless hours in research on my collection and has become today an author and lecturer on American political memorabilia and history. His knowledge and expertise is available to everyone and has been of incalculable assistance to me personally.

Now the idea for placing my collection in an institution where it would come to some public and beneficial use for posterity came during a visit in the early fifties when my patient wife, Ann, and I came to obtain authentication of some items. Another dedicated Smithsonian scholar, Margaret Klapthor, suggested that the gift be made. But, I want to set the record straight on the malicious story that my wife, Ann, jumped at the opportunity to donate my collection to the Smithsonian so that she could rid the basement and the attic of the uncatalogued crates, boxes, and barrels of materials. Nothing could be further from the truth. She knew full well that I would manage to fill them up with something else, which I proceeded to do.

Let me close by thanking each and everyone of you for coming here to take part in this event which means so much to me and members of my family; and in making me feel that the collection I have put together over the past 50 years and the small efforts I otherwise have made on behalf of this Institution, will live on for all to enjoy and benefit from.

But although the gift has now been made to the Smithsonian, my interest in the collection does not end. I, and I trust all of us here, will continue our efforts to improve and nurture this great Institution which uniquely and broadly reaches the minds of people throughout our country and the world.

THE RETIREMENT OF JUSTICE WILLIAM O. DOUGLAS

HON. EDWARD MEZVINSKY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 19, 1975

Mr. MEZVINSKY. Mr. Speaker, it is with great sadness that I comment today upon the retirement of Justice William O. Douglas, from the Supreme Court. I also feel great gratitude—gratitude for the gifts of wisdom and legal scholarship he left not only to us but to our children and grandchildren as well.

Justice Douglas' monumental efforts to protect individual liberties as well as the sanctity of this great country will affect the people of this Nation as long as we are a Nation. His 36-year fight for the rights of the disadvantaged was only matched in ferocity by his struggle to overcome his most recent illness to maintain his place on the Court. I believe that all who love the law, those who agree or disagree with Justice Douglas, fervently hope that he can find relief from the agonizing pain he suffers and take solace from knowing that he served the United States so devotedly.

IOWA FIFTH DISTRICT POLL RESULTS

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. HARKIN. Mr. Speaker, this August I sent out a questionnaire to my constituents in central and southwest Iowa. While every Congressman is of course fascinated by the views and opinions held by his own constituents, I do feel these particular results are a straw poll of more than usual significance.

Therefore, I offer them here for the benefit of my colleagues in the Congress, and for anyone else who may like to know what the American heartland is thinking:

IOWA 5TH DISTRICT POLL RESULTS, AUGUST 1975

[Respondents=12,661. Answers may not add to 100 percent due to rounding]

	Percent		
	Yes	No	NA
Economy: Do you favor—			
1. Wage, price, rent and profit controls?	40	50	8
2. Strengthening antitrust laws and enforcement?	81	8	9
3. Tax relief for low and middle income families?	81	13	4
4. Continued general revenue sharing to State, country, and municipal governments?	69	21	9
5. A luxury tax on items like jewelry, furs, nightclub entertainment, etc.?	73	21	4
6. Increasing Federal estate tax exemptions from $60,000 to $200,000?	55	37	7
7. The Federal Government owning and maintaining the nation's railbeds?	35	55	8
8. Creation of a WPA or CCC type program of direct Federal employment for people who cannot find work in the private sector?	61	31	6
9. Creation of a Reconstruction Finance Corporation to extend credit to jeopardized small businesses?	59	30	10
10. Funds for subsidized low and moderate income housing?	50	40	8
Agriculture: Do you favor—			
1. Higher target prices and loan levels?	44	34	21
2. A grain reserve held on farms, by farmers?	67	17	14
3. A nationwide beef check-off system?	33	34	31
4. Banning the use of DES in cattle feed?	51	31	17
5. Requiring Federal grain inspectors at port facilities?	79	9	10
6. Multiple grain delivery points?	66	9	23
7. Changing the beef grading system, as proposed by the USDA?	27	50	22
8. An antitrust type bill to prohibit corporations with over $3,000,000 in nonfarm assets from farming?	79	11	9
Energy: Do you faror—			
1. Higher gasoline prices with tax rebates to low and middle income persons and businesses?	28	62	8
2. Nationwide rationing of gasoline?	26	66	7
3. Aid to mass transit?	62	28	9
4. Increased funding for solar energy research?	79	14	5
5. Increased funding for nuclear energy research?	58	33	8
Human needs: Do you favor—			
1. Increased funding for rural development programs?	46	39	14
2. Cost-of-living increases to senior citizens under the Supplemental Security Income (SSI) program?	72	20	7
3. Increased funding for such senior citizens' programs as Congregate Meals, Meals on Wheels, Homemaker Services, etc.?	65	27	7
4. A national health insurance program?	48	41	10
If yes, should this program be run:			
(A) By the Social Security Administration?	(*)		
(B) By private insurance companies?	(*)		
5. Increased block grants to primary and secondary schools?	41	40	18
6. A Constitutional amendment to restrict abortions?	31	60	8
7. A bill to require registration of handguns?	56	37	5
Foreign policy: Do you favor—			
1. Military aid to other countries?	22	68	9
2. Economic aid to other countries?	46	44	9
3. More efforts to promote better relations between the United States and Russia?	64	27	8
4. Increased trade with mainland China?	65	24	9
5. Sending United States troops to defend South Korea, if war breaks out between North and South Korea?	23	67	8
6. Maintaining our commitment to Israel?	48	36	15
7. Reducing the number of troops stationed abroad?	61	29	8
8. Cutting the Pentagon's budget?	70	21	7
9. Use by the United States of nuclear weapons in limited war?	28	60	11
Governmental reform: Do you favor—			
1. Eliminating the seniority system in Congress?	71	20	7
2. Direct public financing of congressional elections?	45	43	10
3. Creation of a Consumer Protection Agency, to represent consumers before other Federal agencies?	61	27	11
4. Creation of a blue-ribbon panel of nonpoliticians to suggest congressional reforms?	61	25	13
5. Reorganization of the Federal bureaucracy?	75	10	14
6. Congressional breaks, so Congressmen can spend time with the people in their home States?	55	32	11

*Results of the question on who should run a national health insurance program were inconclusive, because the question was confusing. However, the results were: (A) Yes—28 percent, No—15 percent, N.A.—55 percent; (B) Yes—22 percent, No—17 percent N.A.—60 percent.

BANGLADESH ILLUSTRATES POPULATION PROBLEM

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. SIMON. Mr. Speaker, I have been impressed by efforts being made by the developing world to raise the standard of living for people at the lowest rung of the economic ladder.

I find it distressing, however, when earnest efforts in the field of agricultural production are not matched by comparable effort in dealing with the population issue.

In reading of the current difficulties facing Bangladesh, I note that their population growth continues to mount at a rate in excess of 3 percent, while their agricultural production is increasing at the rate of only 1 percent. Unless positive measures can be taken to match these two parts of the equation, no amount of external assistance can help stave off disaster for the people of Bangladesh.

If this present rate of growth is allowed to continue, the population of Bangladesh, with an area the size of the State of Kansas, would be 230 million by the year 2005. In contrast, the World Bank estimates that Bangladesh's current population of 80 million would grow to 160 million by the year 2005 if active measures were taken now in the population field.

In fiscal year 1976 the United States will contribute $224,357,000 in economic assistance to Bangladesh. I must reluctantly question whether it makes sense for donors to continue to invest such a large amount of resources in developing countries unable to face up to the basic problems. To do so represents a depressing inability to connect our aid with the humanitarian results we seek to achieve.

OUTSTANDING YOUNG WOMAN OF AMERICA FOR 1974

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. DE LA GARZA. Mr. Speaker, I am proud to announce that a young lady from my area, Mrs. Pearl Garcia Gilchrest, has been selected as "Outstanding Young Woman of America for 1974."

I hereby include a report on this outstanding lady, daughter of Ricardo and Manuelita Rodriguez of San Benito, Tex., and respectfully recommend that my colleagues review the account which I am incorporating:

[From the San Benito News, Jan. 5, 1975]

OUTSTANDING YOUNG WOMAN OF AMERICA NAMED FOR 1974

Pearl Garcia Gilchrest, daughter of Ricardo and Manuelita Rodriguez of 636 Carlos St. in San Benito has been named to the "Outstanding Young Women of America" of 1974, which honors the remarkable achievements of the nation's young women.

The editions honor women's achievements—past and present—in their homes, communities and professions—as positive proof of contributions toward a better America.

"Involvement in profession and community is just one part of an Outstanding Young Woman. The best of our nation's character is also expressed in each young woman's exciting achievements. Each Outstanding Young Woman, in her own way, is concerned with making the world a better place to live."

Mrs. Gilchrest was one of the 51 women in the state of Texas to be distinguished as an Outstanding Young Woman of America.

Mrs. Gilchrest lives in Waco, Texas where she is the Financial Aid Director of the McLennon Community College. She was born Feb. 1, 1945. Her husband is Norman Logan Gilchrest.

Mrs. Gilchrest received her Bachelor of Science degree from Texas A&I University where she studied from 1964 to 1968. She received her Master of Education Degree from Baylor University, where she studied from 1973–74.

During her career, the former San Benito woman was assistant director of the Upward Bound program at Baylor University from 1973–74. During the same time, she was a physical education teacher at Vanguard High School.

She was the National YWCA Y-Teen, and Young Women Consultant for 13 states from 1972–73. Previously, in 1971–72, she was assistant director of the Upward Bound program at Texas Tech University. In 1970–71, she was consultant for Texas and New Mexico Headstart programs at Texas Southern University.

Her civic activities include membership in both the AAH–PER and in the Texas Association for Health and Physical Education and Recreation since 1967.

In 1973 she joined the Southern Association of Physical Education for College Womend and the Southwest Association of Student Assistance Programs. She also joined the Delta Psi Kappa Sorority in that year.

She was a board member of the Lubbock YWCA from 1970 to 1972, and has been a YWCA National Teen Volunteer since 1973.

In 1974, she joined the American Association of University Women, and the Manpower Advisory Council of Region XI. She was also named to the 1974 Volume of Upward Bound.

Her teaching experience include terms with the Lubbock Public Schools, as a headstart summer teacher in 1969, and physical education teacher from 1968 to 1970; and with the Harlingen Public Schools from 1966 to 1967.

She earned the Miss Congeniality distinction at the 1963 Rio Grande Valley Pageant. She is a 1962 graduate of San Benito High School.

FINNISH SISU AND PAYING DEBTS

HON. JAMES J. DELANEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. DELANEY. Mr. Speaker:

A strong will takes a man through gray granite stone . . .

This is an inscription that appears on one of many Finnish monuments in this country. It speaks of the will that has helped to forge both our nations, our civilizations, and our freedom.

When Bolsheviks gained control of Russia in October 1917, the Finnish Diet declared itself the supreme power of the Finnish people and on December 6 issued their declaration of independence. It is this anniversary we celebrate on Saturday. The constitution which they promulgated is an outstanding document, providing individual rights, property rights, and freedom of worship and speech in a fashion uniquely similar to our own.

Finland has had to contend with a civil war and two extremely costly wars with the U.S.S.R. to preserve her hard-won freedom. But preserve that freedom she did, even at a time when many other states were falling beneath the yoke of Moscow's hegemony.

The Finns are known for many things—theirs is "The Land of a Thousand Lakes," theirs is Sibelius the composer, Paavo Nurmi the athlete, Marshal Mannerhein the commander-in-chief, They are pioneers in modern architecture and have paved the way for design in furniture, glass, ceramics, jewelry, and textiles. But perhaps above all else, the Finns are known for their hard work and fiscal integrity.

U.S. relief in the turmoil following World War I helped the Finnish people to stave off starvation. They have never forgotten and are determined to pay off that debt.

Following World War II, although ravaged by war, they recovered from destruction using their own stamina and not a penny of Marshall Plan aid. And during the period from 1946–66 when they received $134 million in economic assistance from our Government, they returned $104 million to repayments and interest.

On November 4, the Senate overwhelmingly adopted an amendment to the foreign aid authorization bill concerning "foreign debt settlements." I have repeatedly submitted joint resolutions of my own to Congress on this issue of debts-owed-our-Government by foreign powers.

I commend the people of Finland for their outstanding integrity. I call upon Congress to insure that other nations not consider this a trifling matter. And I join with Finland's friends throughout the world in wishing her good fortune and continued success in realizing her aspirations as a freedom-loving and independent nation.

ESSEX AVENUE

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. LONG of Maryland. Mr. Speaker, the Essex Avenue which serves the Essex community in Baltimore County, Md., has been actively investigating the question of diked spoil disposal areas as a service to its readers, because its readers may if the State of Maryland has its way, be faced with a 1,000-plus acre spoil disposal area practically in their backyards.

Mr. William Pacer, a reporter for this 1-year-old community newspaper, made several visits to the Army Corps of Engineers diked spoil disposal area at Craney Island, Va., to relate it to the one proposed by the State of Maryland which would be placed at Hart and Miller Islands in the northern Chesapeake Bay.

Mr. Pacer in his extensive series reports on the visit to Craney Island of the Peer Review Steering Committee, a citizens' group appointed by State and local officials to monitor a reevaluation of the Hart-Miller Islands project. He also reports on interviews with residents of the Craney Island area.

To bring to your attention the problems diked spoil disposal areas can create, I am pleased to present excerpts from Mr. Pacer's series for the Essex Avenue:

ESSEX AVENUE

Craney Island was first proposed as a spoil disposal site in the 1930's. In 1944, the first definitive plan was submitted; two years later, the project was approved by Congress. However, the first appropriation was not forthcoming until 1954, when construction began. Presently, it is calculated that fill will be completed in 1979 or 1980. Under existing regulations, the levee and fill will top off at 17 feet (the slated height for the Hart and Miller Islands dike). The Corps wants to lift the ceiling to 29 feet above mean sea level.

Over 4.5 million cubic yards of dredge spoil are deposited into the Craney Island site annually. Tolls are charged for all private dredge dumped into the dike.

Unlike the proposed isolated dike at Hart and Miller Islands, Craney Island is attached to fast land on the south side. This feature naturally offers some protection to the massive structure, which has withstood several severe storms.

The size of the Craney Island containment area is awesome. As the bus carrying the PRC members journeyed along the roadway on the perimeter of the site, the first impression was puzzlement. The levee, basically constructed from sand, towered several feet above the vehicle. The area had the atmosphere of a construction site. Stone riprap blocked the calm sea surrounding Craney Island. Approximately a half mile down the west dike road. foamy water was spotted in the sea adjacent to the dike. The bus stopped at this question mark, so the PRC could investigate the situation.

The sudsy-looking sea, which did not have an odor, was discovered to be merely organic matter at a weir exit in the dike. The matter seemed to dissolve into the Hampton Roads water within a few yards.

After witnessing the water exit, a sojourn to the top of the levee was in order. For over a mile, a man-made lake extended. A few gulls rested unassumingly on a small sand-bar in the contained sea.

Col. Ayers said, "We don't have too many birds in the dike area itself, because there are no fish in the dike.

He pointed out, "The lake has formed where the solids have settled. In the enclosure, the level of the water is about two or three feet. Outside the dike, the water is six feet deep."

Careful examination of the water within the diked area, revealed the lake contained a vast amount of green algae.

John Boland, Associate Professor in Environmental Engineering at Johns Hopkins, and a consultant to the PRC noticed, "There is only a slight smell now, but it would probably be smelly at times."

He added, "Green algae live in this area because they have no predators in here. Once they are out in the open sea, they are kept in check by their various enemies."

In response to a question, Dr. Michael Bender, Oceanographic Biologist at the Virginia Marine Institute of Marine Sciences, declared, "The dredge here is quite comparable in contamination to Baltimore Harbor. There are slight variations, but it is very similar."

The nearby weir, which controlled the outflow that initially aroused the PRC curiosity, seemed to be a jigsaw puzzle of sticks of timber. The green water charged through this construction and obstruction with the calmness and quiet of a stream over rocks.

As the bus traveled on, the mess of a construction site seemed evident. Col. Ayers explained that the Corps is continually working on the levees in order to reach the final height of 17 feet. Yet, despite the mud and mess on the dike side, several people on the bus were surprised to see dozens of crab pots floating 50 feet from the shore of the dike.

The bus continued on its course. In the distance, the nuclear aircraft carrier U.S.S. Nimitz broke the horizon in resolute manner. Other U.S. Navy vessels sat anchored in dramatic pause.

When the bus headed down the east dike, the boats of pollution caught the eye. Small piers could be seen in the near distance. "Those are the places where the hopper dredges tie-up," mentioned a spokesman. Some craft appeared to be more than just visiting the locale. It was obvious that dredge was being deposited.

HOME FOR SPOILS

Thick black lifeless dredge gushed out of the pipe like blood from a severed jugular vein. Seemingly awestruck, PRC members stared at the display spewing before them. Even with an unattentive ear, the spoil could be heard as it chortled and choked with a resounding deathly heartbeat as it danced through the artery to the great bowl of Craney Island.

No intense odor permeated the region, but it did have a distinct fishy smell, similar to the fragrance that surrounds an oyster processing area. Nevertheless, on this particular day, the perfume did not extend farther than a couple hundred yards.

Unappetizing muck paved the territory immediately adjacent to the speedy spoil. An old tire floated unassumingly in the mire. The first impression was that nothing could ever grow in this wasteland. However, the lake of Craney Island, with an abundance of marsh grass on the perimeter, gave testimony to the contrary.

Colonel Robert Ayers, Norfolk District Engineer for the Army Corps of Engineers, reminded, "This area (where we are depositing the dredge) is the farthest possible distance from where the water empties out. It is two miles to the other side, and as you noticed at the weir, the water quality is as good as the water on the outside."

The pipe delivering the spoil snaked down the levee and disappeared beneath the waters of Hampton Roads. A few hundred yards offshore, dredge vessels reposed peacefully as they sent their cargo scurrying into the containment site. Farther out, small piers for hopper dredges sat vacant and waiting.

As the PRC members sauntered back to the bus, it was impossible to ignore the cracked earth remnant of past spoil. Col. Ayers explained, "It is usually broken up rather rapidly. But, we have had some heavy rains here recently and some of it may be from the drying process following those storms."

Miniature pools along the perimeter of the levees lent credence to Col. Ayers' words.

Col. Ayers mentioned, "We do segregate our spoils. Sand dredge is deposited in one area, contaminated dredge is pumped to a different section, etc. We do this so we can get maximum use from the dredge. For example, we can use the sand to help brace up the levees."

Along the perimeter of the levees, there are numerous poles stretching skyward. These structures, similar to telephone poles (without the wires), have small white markings approximately two-thirds of the way up from the base. These doodles signify the 17-foot line, the present authorized limit of the dike. However, the Corps is seeking permission to raise Craney Island to 29 feet above mean high tide.

But these appendages were upstaged slightly as the PRC saw smoke billowing merrily into the heavens. Col. Ayers quickly pointed out, "This is a small incinerator for burning driftwood. . . . We get all sorts of debris here. It is amazing what is dredged up. . . ."

With all of the various types of paraphernalia dumped into the enclosure, many wondered whether they were viewing a fabulous mosquito breeding ground.

Dr. Michael Bender, Oceanographic Biologist at the Virginia Institute of Marine Sciences (VMS) stated, "I don't know if there is a mosquito problem. Any area near the sea has mosquitoes, but I can't determine whether it is aggravated (by Craney Island)."

Col. Ayers volunteered, "We are definitely not the main source of mosquitoes in the area. . . ."

VMS Physical Oceanographer, John Ruzecki, acknowledged, "The design (of the dike) is not as good as it could have been."

Bender interjected, "It has caused some sedimentation along the west . . ."

Mr. Milton Rehbein, a PRC member from Bowleys Quarters, queried, "Since the Hart and Miller Island dike would be isolated (and not attached to fast land like Craney Island), wouldn't it be a good idea to use the Chesapeake Bay hydraulic model?"

Before there was time to answer, Rehbein explained, "At a meeting with the Watermen, (Natural Resources) Secretary James B. Coulter stated that use of the Bay model for Hart and Miller Islands would be 'misuse of the model.' "

Durkin confirmed the allegation, "Apparently, Coulter did not want to waste any more time."

Ruzecki declared, "I don't think it would be a misuse of the model at all. I thought that's why the model was done . . ."

Stated Bender, "The Bay model works great with currents. I think you should gain a lot of use of the model. It will do better than you would expect."

However, most people refused to let this problem bother them.

Andrew Bristow, representing Jack Ashley, Chairman of the Queen Annes County Commissioners, joined the legion of people impressed by the Federally owned and operated facility. However, he emphasized the people of Queen Annes County were tired of being everyone else's dumping ground.

"The hole around Kent Island is filled up. We are getting the affects of the worse conditions; gunk is surfacing on the edge of the Island. This problem doesn't start to happen until perhaps 20 or 30 years after the dumping begins. And we are stuck with it. That hole is full, and they still want to dump more in it. . . . We are vehemently opposed to open dumping."

Bristow then proposed, "The counties should share the dredge. . . . They should have to take the dredge that has to be done in their county. . . . I know there may be some problems to this, but we are nearing an impossible position, and when you get to that point, you have to look for answers. We simply have to see what is left at the bottom of the pot."

V. EXIT PARADISE

Once upon a time, River Shore Road bordered on an apparent Elysian Field. Water slapped delightfully against the sandy shore. Crabs and fish swam abundantly above mussel beds. Dozens of trees overlooked the pleasant Hampton Roads sea. A fragrance of spring pervaded even on a winter's day. People flocked to the dreamland, ignoring the gradually growing "little pile of rocks" in the near distance, as they strolled leisurely on the sand, sailed gracefully on the sea, or sought the fruits of Neptune's cornucopia.

But, enter reality; exit paradise. Craney Island refused to become an idyllic addition to the scene. Posidian decided he would not be as kind as previous years. The sea had changed. So had the world of River Shore.

"Crabbing's not worth a damn anymore," claimed Lloyd Walker. "Just a few years ago, you couldn't walk for the crabs around here. The water used to be just full of crabs. Now, you have to look all over just to find some."

He quoted statistics of personal knowledge, "My neighbor had three pots out there and he got about three crabs out of each pot. We used to get anywhere from 12 to 15."

Physician P. A. Wilhite, who frequented the area before he bought a lot in 1955, confirmed, "Crabbing was a great deal better. One could easily pick up five or six dozen soft shell crabs in an hour or two from 1955 to 1966; but nothing since then."

Tom Womble moved into the area in 1968, and he too found change. "Crabbing hasn't been as good as it was in the latter part of the 1960's."

Walker attested that other palate pleasing items have also fallen victim to the contemporary environment. "In the past, they used to have mussel beds. Everything was just matted with them. You could pick them up by the gallons; but, no more. They are all gone. The fish are not here either. You used to be able to go out and get a lot of fish, but they don't come in this area anymore."

He remembered, "We only got small fish . . . spot, croaker, flounder. Not any big stuff;

things that weighed about 12 ounces or a pound. Out around the lighthouse, they used to have 200 to 300 boats fishing . . . but you don't see them anymore. Now, the only thing you see around here is just babies . . . I don't know whether this is caused by pollution or Craney Island."

However, despite poor catches where the sea's bounty was once plentiful, many crab pots dot the water fifty feet north of the spoil disposal site's perimeter. Walker explained the apparent contradiction, "Those pots are probably commercial. Nothing is disturbed out there because the flow of water is about the same (in the channel)."

Walker declared, "The water in here evidently doesn't flush out properly. I'm not qualified to say, but that appears to be the thing. You can see all the trash and the mess that comes in here and pollutes everything."

"The biggest problem I see is the silt coming in. There used to be some sand out here, but now there's a bunch of mud."

Walter Griggs, technical director of the Atlantic Division of the Naval Electronic Systems Command and a River Shore homeowner since 1955, observed, "The river bottom has obviously silted in. We can see that the contour of the bottom is very gradually coming up. And it is changing from a sandy bottom to a very silty bottom. The water flow is not outward, but in circular motion."

He noted studies by the Army Corps of Engineers, which operates the Hampton Roads facility, "The model studies the Corps had run at Vicksburg, indicated that this would happen. Those model studies have been proven right. Their reports have said the sediment will drop out of the water where you have this condition, because the waterflow doesn't go continuously out to the channel."

Tom Womble advised, "The bottom is not as sandy as it once was. We used to have a beach that extended from our property about 15 feet and that has eroded away in the last five years. I think Craney Island had something to do with that."

Walter Galliford, a neighbor since 1968, admitted, "The silting has been more considerable than I anticipated. It has put a damper on boating and caused some other problems . . ."

Wilhite, recalling an era when only farms and nature occupied the district, looked toward Craney Island and eyed a spot where he fished and went crabbing in the early 1950's. "That terrace was a couple of feet above normal high water. It was covered with myrtle, pine, black cherry trees, etc. And then down a step or two, you went out to a white sand beach that extended out. At low water, one could walk out as far as a mile. All of this was washed out—the trees, the terrace. It was replaced with nothing but a silting beach."

He indicated another locale, closer to the spoil depository, farther from where he stood, perhaps 150 yards away. "Over here you see a white sand beach that is scooped out. This is deeper than it used to be by the shore. That beach went out much further. Twenty years ago, the beach was wide all the way down there (to where Craney Island is). Perhaps it's deeper here and more shallow farther out. I used to enjoy walking on this sand beach at low tide. It was 50 to 60 yards wide and perfectly dry. The sand was hard. No mess at all."

Wilhite sighed calmly. For an instant, he stared at the sandbar that leaned out to touch the west levee of the monster that many believed had devoured paradise.

He shrugged philosophically, "But, that is the picture as it was 20 years ago. The last time when I did it two or three years ago, I couldn't walk far before I began to get mixed sand and mud."

X. ANYTHING BUT CRANEY ISLAND

"There was a fantastic article in *Scientific American* about dredge disposal, and the control conditions at sea," announced Mr. John Tuttle, a stockbroker and President of the River Shore Civic League. "The article pointed out that dumping at sea is the way to go. The government has funded studies in California and New York that support that concept. It does work."

He continued, "I think it is better to pollute some fish in the ocean, than it is to pollute the river. It ruins the natural environment. It is just appalling to us, that the construction of containment areas is a solution only good for 20 to 50 years. After 100 years, you've got the same problem, but your constraints are more critical. And you have no solution. We talked to the government, and they said that is long-range planning. They told us, 'We don't plan for long-range, we plan for mid-range.' "

Tom Womble volunteered, "I know they have a problem where to dump the muck, but I think they ought to look at the positive side of it. In time, they are going to have to have a deep water port off the coast of some state. There is no reason in the world why they can't take that dredge, haul it out off the Chesapeake Bay or some place, and make a deep water port out there. That would give them someplace to dump the spoil, and when it is completed, there would be something positive there also."

He mentioned a major problem preventing the new generation of "super tankers" from docking in Norfolk harbor, "They can't come across the Hampton Roads tunnel. There is no reason in digging the channel deeper if they can't come across the tunnel. They have got to have a deep water port."

Tuttle noted, "The Army Corps of Engineers made a very lengthy study, and they said the dredge material should be dumped around the Chesapeake Bay Bridge-Tunnel to create islands there, because the Bridge system itself would carry people to the islands. These islands could be built up for recreational and light commercial activity. And according to the Corps, the test bores have already been made, because they were made for the bridge-tunnel system."

The "Report of Survey Investigation (on) The Craney Island Disposal Area . . . Replacement or Extention," published by the Army Corps of Engineers in October 1974, urged further study on a plan to construct a spoil disposal area on the east side of the Chesapeake Bay Bridge-Tunnel complex, between the Thimble Shoal and Chesapeake Channels. The study stated, "Necessary levees would be constructed to an elevation of 17.0 feet (above) mean sea level, enclose an area of 2,980 acres, and provide a useful life of 57 years." Under present conceptions, if Craney Island levees were raised and a westward extention added at the increased height, the Hampton Roads facility would have a useful life of 53 years.

Lloyd Walker, glanced disgustedly at the dredge depository after he checked his empty crab traps. The twenty year resident of the area concurred with his neighbors, "The solution would appear to take the dredge material out to sea or find some permanent solution instead of having a group come in every twenty years and take a piece . . . and then another piece . . . My God, they'll end up in Richmond eventually."

He paused to eye the placid waves and the water he loved.

"They all say, 'Oh well, 100 years from now, what difference does it make.' It is very much like the time when the country was settled. They didn't give a damn about the forests. They thought, 'Oh, the whole country is covered with trees, so let's get rid of all them damn trees.' So, they cut them all down and burned them up. Now, one of our most precious commodities is all gone. And the same thing will happen with all of our water. Before you know it, all we will have left is a bunch of channels."

And the controversy continues. The pleasant people of River Shore Road constantly battle the proposals of Craney Island expansion submitted by the Army Corps of Engineers. The Corps charges on with slide rule hearts and tons of statistics to prove their contentions of economic and environmental feasibility. Somewhere amidst the morass of emotions and figures, an answer lies awaiting discovery.

PROVISION H.R. 19267

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. SANTINI. Mr. Speaker, although I am supportive of the concept of tax reform and feel it is important to our economic recovery, I must point out a serious reservation I have about a certain provision of H.R. 19267 which we are considering today.

Section 1207 of this bill contains a provision which would impose a 20-percent withholding tax on all gaming winnings of more than $1,000 when the odds exceed 300 to 1. This affects more than my State of Nevada which has various forms of legal gaming. The provision would also include winnings in horse and dog racing, lotteries, wagering pools, sweepstakes, and many other forms of legal gaming in other States. It would even affect winnings in church and civic raffles, if you can believe that.

This provision, I believe, represents an unwarranted intrusion by the Federal Government into the legal territory of the States. In addition to it being a flagrant example of a Federal power grab, the provision bothers me for another reason. It would force the State or the owner of the gaming establishment to collect the 20-percent tax on the spot. This is unfair for a number of reasons. First, why should Nevada's legal gaming establishments—and for that matter, why should any establishment—be forced into a position of collecting the taxes for the IRS? It is difficult to envision a law in which a private entity becomes the extension of the IRS, but this is what, in effect, the bill would do.

Secondly, a bettor may lose several hundreds of dollars before winning the $1,000 or more. To withhold 20 percent of the winnings on the spot without consideration of losses would be patently unfair. Operators of the legalized gaming operation in Nevada have voiced their strong opposition to this provision because, understandably, it would seriously impair the attraction of legal gambling. Anyone who was lucky enough to hit a $1,000 winning would then be unlucky enough to receive 20 percent less, and be faced with filling out a report on the winnings for the IRS.

The committee report on this section requiring IRS data reads:

> The person who is to receive payment of the winnings subject to withholding would be required to furnish the payor with the name, address, and taxpayer identification number of the person receiving the payment and of each person entitled to any portion of such payment under penalty of perjury.

IRS would no longer accept the information return on such payouts which are filed on form 1099 with the Treasury Department.

There is another reason I strongly oppose this gaming section of the tax bill. There is a serious question whether such a tax would have any impact on the revenue for the Federal treasury. On page 297 of the report on this bill, it is stated:

> Although most wagering transactions have no tax significance since the majority of bettors end up the year with no net wagering gains, the special types of wagers mentioned above represent unique and occasional windfalls that generally produce significant tax liability.

I do not know the authority for this language, as no committee hearings were held on section 1207. One thing I do know is that the majority of bettors end up the year with no net earnings. I also have sound reason to believe that all but 15 percent of the winners of such wagers report their winnings.

If this provision guaranteed millions of dollars per year for the U.S. Treasury—which it does not and cannot—then possibly some Members would be included to support it. But even the IRS will admit that the impact on revenue will be negligible.

Finally, this provision is not only unnecessary and burdensome but it is also premature. In 1971 Congress established a Commission on the Review of the National Policy Toward Gambling. Congress appropriated $3 million for the Commission to conduct a comprehensive examination of the implications of all forms of gambling in this country, including the problems of taxation. The Commission—made up of seven Members of Congress—four from the House and three from the Senate—and seven other private members appointed by the President—is to report its findings to Congress and the President in October 1976. Many Commission hearings have been held, the most recent in Nevada where I testified on the abuses of the IRS in overseeing the legal gaming industry. Over 200 witnesses have been heard by the legal gaming industry commission.

I believe any action taken by the Congress this year on major tax legislation affecting the gaming industry would be premature. We should wait for the Commission to report its recommendations.

Because there is an open modified rule on this bill, I regret that there is nothing we can do to alter section 1207 on the House floor. But I wanted to point out to my colleagues the inherent dangers that this section imposes, and to inform them that everything possible will be done on the Senate side to see that this damaging section is eliminated from the tax reform package.

INFLATION—OIL—AND THE DEFENSE PRODUCTION ACT OF 1950

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. BLANCHARD. Mr. Speaker, yesterday the House of Representatives overwhelmingly adopted amendments which strengthen and toughen the antitrust provisions of the Defense Production Act.

Those of us on the Subcommittee on Economic Stabilization feel that this action is a positive step toward preventing anticompetitive behavior in the United States. All of us understand that anticompetitive practices on the part of some businesses have been and can be a cause of high prices or inflation.

It should be pointed out that under the existing Defense Production Act, America's major oil companies have been given, by our Government, antitrust immunity in order to administer allocations from OPEC, the oil cartel.

All experts agree that one of the principle causes of inflation in the United States is the skyrocketing cost of oil. The blackmail of OPEC is obviously a root cause of this condition.

I believe that we should take steps to break up OPEC, the oil cartel. This could prevent OPEC from injecting periodic rounds of inflation into our economy.

Inasmuch as our own U.S. oil companies, under the Defense Production Act of 1950, are essentially administering the cartel with antitrust immunity, this is a matter of serious concern to me. In the near future we need to learn more about how this came to happen, how it works and what can be done about it. The relationship of this situation to our inflationary problems is obvious.

I will be addressing this issue in the future and consulting with my colleagues on this subcommittee and our distinguished chairman, Mr. Ashley of Ohio, to see what action can be taken.

ROSS PEROT

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. TEAGUE. Mr. Speaker, recently the newspapers carried an article that associated the tax loss carryback amendment which is being considered here today as being created for the benefit of a prominent businessman in Dallas, Mr. Ross Perot, who I believe to be one of the finest men in our country today. To the contrary, this particular amendment was in the offing several years ago and was not presented for floor action until now.

The purpose of this amendment is to eliminate an inequity in the tax laws, allowing individuals the same tax planning flexibility given to corporations on capital losses. This amendment will encourage individual investment during periods of economic uncertainty, when investors run significant risks of incurring capital losses. If incentives to invest are eliminated, the working American, not the wealthy, will suffer. As investment diminishes, the tax base and the job base that creates these taxes will be seriously damaged.

I have known Ross Perot for many years and would like to draw to your attention what a great American this prominent businessman is and how much he has contributed to the communities of America.

Since 1968, Ross Perot has paid over $29 million in personal income taxes to the Federal Government. During this same period, Electronic Data Systems, the company he founded, has paid over $53 million in taxes. The employees of EDS have paid $35 million in taxes, for a total of $117,000,000.

Mr. Perot has succeeded financially. Through one of his close associates, I have determined that approximately 85 percent of all the funds received by Ross Perot have either gone to taxes or worthwhile causes.

Some of the ways in which Mr. Perot has put his after tax personal funds to use are as follows:

He contributed $1 million to the Boy Scouts of America, to be used to bring scouting to minority groups and the underprivileged.

He contributed a 1,000 acre camp to the Girl Scouts, stipulating that no child would ever be denied admission for lack of funds and thus assuring that underprivileged children would have equal access to the facility.

To the Dallas Public Schools, he gave $2½ million, the major portion of which fund went toward the creation of a special school for underprivileged and minority children, to give the deprived child an education superior to that received in any part of the Dallas school system. It has become a model for the State of Texas. Its methods have been incorporated in Texas colleges to train future teachers. Additionally, school systems throughout the United States and Europe have sent teams to study this school. This special school serves 1,000 children each year. Through his efforts, there has been created a program to teach leadership in the Dallas schools. Also, Mr. Perot has provided funds for a research and development department that will continue to improve the quality of teaching and the efficiency of operation in the Dallas schools.

Mr. Perot provided $100,000 for the purpose of recognizing excellence in teaching in the Dallas/Fort Worth area.

He also funded the development and construction of an outdoor learning center in Fort Worth so that inner-city children would have the opportunity to live in this center and learn how things grow.

When the city of Lubbock, Tex, was devastated by a tornado in 1970, Ross Perot sent truckloads of food, clothing and other essentials and a team to assist the people of Lubbock.

Because of his deep personal concern for our prisoners of war during the Vietnam conflict, Ross Perot spent over $3 million in the campaign to change the treatment of our POW's. The treatment was changed and any prisoner of war can attest to the effectiveness of his efforts. To date, Mr. Perot has spent several hundred thousand dollars continuing efforts toward determining the status of men who are still missing.

Due to deep personal conviction to provide education for all children, he has funded a college scholarship program for the children of career military officers, with top priority going to those children whose fathers were killed or disabled on active duty. At the present time, there are 27 children participating in this program.

Ross Perot has been successful in his own business and has made numerous loans to minority businessmen. He has made a $200,000 grant to several graduate schools of business in the State of Texas to develop plans for significantly improving the quality of their graduate business school training. The economic impact of this grant will be felt over the years in the Southwest as our colleges produce better businessmen.

Not only has the State of Texas benefited from Ross Perot's generosities, but colleges and universities throughout the country have benefited from his substantial contributions. Mr. Perot has contributed hundreds of thousands of dollars to such organizations around the country as the Salvation Army, YMCA, YWCA, Future Farmers of America, 4–H Clubs, and many others. It is apparent that Mr. Perot has had a deep personal interest in helping build a stronger America through his generous contributions.

The most recent project being undertaken by Mr. Ross Perot is the proposed construction of a large memorial to be situated in an appropriate location in our Nation's Capital in tribute to all those who fought in the Vietnam conflict. He proposed that the following words be carved on the memorial—"First commit the Nation—then commit the troops" so that future Presidents would never forget that it is morally wrong to send our men into battle unless we, as an entire Nation, are first committed to a cause worth fighting, sacrificing and dying for.

When the newspapers carried the article concerning the capital loss carryback, Mr. Perot wrote to the chairman of the Ways and Means Committee, the Honorable Al Ullman, clearly setting forth his position and insisting that in order to eliminate the emotional climate and to allow this amendment to be considered on its own merits, he would have no objection to being excluded from its provisions by name, or by agreement with the Internal Revenue Service. Copy of such letter follows:

November 14, 1975.

Hon. Al Ullman,
Chairman, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C.

Dear Mr. Chairman: As part of its Tax Reform Bill, the House Ways and Means Committee has proposed a capital loss carryback for individual taxpayers. Recent press reports have incorrectly labeled this legislation the "Perot Amendment", stating that the proposal was created for my benefit.

The facts are:

The tax loss carryback amendment is not special interest legislation created or introduced at my request, or for my benefit. No one representing my interests created this amendment on my behalf. I understand that this amendment was drafted and introduced as part of a proposed tax reform bill several years ago I knew neither the author nor anything about the origin of this amendment.

Mr. Cohen, a tax attorney retained by me, has been following this legislation because of its potential interest to several clients, including me.

The news stories have inferred a relationship between past political contributions and recent action on the tax loss carryback amendment. My political contributions were properly made from personal funds and reported as required by law. No requests were made to support legislation of any type, as a condition of these contributions.

The news stories have incorrectly described my financial and tax status and the relevance of the capital loss carryback to me.

The real question is—is this good legislation? The purpose of the amendment is to eliminate an inequity in the tax laws, allowing individuals the same tax planning flexibility given to corporations on capital losses. This amendment will encourage individual investment during periods of economic uncertainty, when investors run significant risks of incurring capital losses. If incentives to invest are eliminated, the working American, not the wealthy, will suffer. As investment capital diminishes, the tax base and the job base that creates these taxes will be seriously damaged.

This amendment is sound legislation. It appears that I, and not the merits of the amendment, have become the central issue.

If it becomes necessary, in order to eliminate the emotional climate and allow this amendment to be considered on its merits, I would have no objection to being excluded from its provisions by name, or by agreement with the Internal Revenue Service.

The Ways and Means Committee members who voted for this amendment had no way of knowing of my interest. I sincerely regret that these fine men have been subjected to unjustified criticism.

Thank you for your consideration.

Sincerely,

Ross Perot.

OVERT ACTS—THE DELAWARE LAW SCHOOL, PART II

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. McDONALD of Georgia. Mr. Speaker, as noted in my remarks of October 2, 1975, the assistant dean of Delaware Law School, a prominent conservative lawyer and academic writer in the malpractice field, John H. Tovey, is suing because of the fact that the American Bar Association accreditation officials have forced conservatives out of control of the law school. I have previously set forth the complaint. Professor Tovey also alleges a number of specific "overt acts," which he annexes to his complaint. These actions are sorry reading for those who believe that conservatives have equal rights with liberals to be in the field of education:

Overt Acts

(By Prof. John H. Tovey)

1. Ruud advised Trustees Roberts and Crutchfield that Avins' presence on the Board of Trustees of the law school might violate Standard 203 at a luncheon in November 1973, and by letter of December 1, 1973, well knowing that membership of deans occurred at other law schools and did not violate the Standards for accreditation, with intent to have them eliminate Avins from said Board.

2. At a meeting with Avins on November 8, 1973, Ruud falsely advised Avins that the law school was in reasonable shape for an accreditation inspection, well knowing that inspection was premature, and with intent that Avins should invite inspection and there should be an adverse report.

3. On December 1, 1973, Ruud appointed himself and White to conduct an inspection on January 14–16, 1974, with intent to assure the most unfavorable possible report.

4. During the January 1974 inspection, Ruud and White told a large meeting of students that they were McGovern supporters, with intent to emphasize the ideological gulf between Avins and A.B.A. officials.

5. On January 30, 1974, Ruud and White delivered a one-sided report of inspection to the Accreditation Committee, with intent to emphasize only the school's weaknesses.

6. The January 1974 report again suggested that Avins' presence on the Board of Trustees violated Standard 203, although they knew that it did not.

7. The January 1974 report attacked, without basis, Dean Avins, the faculty, and students for "academic ennui" and lack of "intellectual spark."

8. During the Spring of 1974, while litigation was ensuing about the school's degree-granting power, Ruud advised officials of the Delaware Bar that the January 1974 report was highly critical, and such report should be given as much publicity as possible to stop new degree-granting power for the school.

9. Knowing the Avins' methods of building up the library involved great economy, on May 15, 1974, White selected as library inspector for the May 28–29, 1974, inspection, a law librarian who had overspent his budget in the previous two years by an amount greater than the total cost of the Delaware Law School library, with the expectation and intent that the school should fail inspection because of alleged library deficiencies.

10. During the meetings of the Accreditation Committee and Council held in Chicago on July 19–21, 1974, White, Ruud, and Bamberger induced those bodies to overlook errors in the library report and updating thereof, and to find that the school did not substantially comply with the Standards, although judged by recently approved schools, it was discriminatory not to accredit it at that time.

11. During the July 19–21, 1974, meetings, the Council declined the request of the law school delegation to state the precise standards which the school was allegedly violating, the reason for non-compliance with each.

12. On July 21, 1974, White, Ruud, and Bamberger, and others unknown, induced the Council to pass a resolution criticizing the progress of the school under Dean Avin's administration, although they well knew that the school was exceeding the Standards for accreditation in many respects (i.e., size of library, tutorial research program) and met the accreditation standards then used for other law schools, with intent to induce students and parents to obtain Avins' removal as Dean.

13. During the August, 1974, meeting the Council was induced not to alter its resolution about the school's administration and not to issue a resolution specifying the alleged deficiences.

14. During the Summer of 1974, White issued or caused to be issued false and conflicting reports about why the school was not accredited, viz:

a. White gave information to A.B.A. President Chesterfield Smith which caused President Smith to write the parent of a student on June 18, 1974, that the Accreditation Committee considered the library, physical plant and long-range financial support deficient.

b. During the August 1974 meeting of the A.B.A. in Honolulu, White conveyed misleading information to Sharp Whitmore, Section of Legal Education Delegate, which caused Whitmore to advise Delaware State Delegate Howard L. Williams that the Accreditation Committee would accredit the law school in February 1975 if several faculty members were put on tenure and if a business manager was hired, and that Avins' resignation as dean was not necessary, which information was false.

c. On September 6, 1974, White wrote to the Trustees stating that correction of the physical deficiencies found in the second inspection report would not bring the law school into compliance with the Standards.

d. On August 29, 1974, White wrote to Avins setting forth a list of alleged deficiencies of the law school which varied materially from those identified in the second inspection report of May 1974, and which identified sundry standards which the Council allegedly found that the law school was not meeting, whereas in fact many of these standards were never considered by the Council, and were in fact being met by the school (i.e., "207. The allocation of authority between the dean and the faculty is a matter for determination by each institution.").

15. During the August 1974 A.B.A. Convention in Honolulu, White and other Council members told Judge G. Fred DiBona, parent of a student, they would never accredit Delaware Law School as long as Avins was Dean, on the Board of Trustees, or living in any school property, with intent that such information should be conveyed to students and parents, in order to demand Avins' ouster.

15. a. On September 8, 1974, White told the Delaware Law School Trustees that a majority of the Council would probably vote against accreditation if Avins remained on the Board of Trustees.

16. In a letter to Avins, with copies to other Council officials, of August 29, 1974, White falsely denied that Judge DiBona was representing the Council's views to students.

17. In August and September, 1974, White told DiBona that Avins' friends on the faculty, particularly Professors Tovey, Hakola and Pincoffs, should be discharged.

18. During the Fall, 1974, White told Dean Arthur Weeks that Avins should be removed from the Board of Trustees and school living quarters, and that Avins' friends on the faculty should be removed.

19. During the Fall, 1974, White told Dean Pasco Bowman of Wake Forest Law School, inspector for the Attorney General of Delaware, that Avins should not be on the Board of Trustees and that his influence over the school should be reduced.

20. During Fall, 1974, White told Weeks that White would appoint himself to the January 1975 inspection team, it being White's intent to write an unfavorable inspection report for the February 1975 meeting of the A.B.A., for the further purpose of having accreditation denied at that time, in order to put additional pressure on graduating students to demand elimination of Avins and those deemed friendly to him from the Board of Trustees.

21. During the inspection conducted between January 9–11, 1975, White asked numerous students about Avins' influence over the school, whether he would return as Dean, and the extent of possible future control.

22. On February 21, 1975, White delivered an inspection report falsely concluding that the Delaware Law School did not substantially meet accreditation standards, whereas it exceeded said standards, as used for other law schools, and whereas the alleged deficiencies were non-existent, discriminatory, meaningless, inherently self-contradictory, or willfully false. (A copy of the criticisms and replies is annexed hereto as an exhibit.)

23. On February 21, 1975, White drafted and caused to be issued over the name of the Accreditation Committee and Council a resolution adopting the criticisms of the said inspection report, well knowing that many members of those bodies had no knowledge of these criticisms.

24. The said February 21, 1975, resolution drafted by White was inherently and fraudulently self-contradictory, in both praising and condemning the school's admissions system.

25. During Fall 1974, and again during the A.B.A. mid-winter meeting in February 20–23, 1975, White told DiBona, Weeks, students and others that U.S. Senator Jesse Helms should be eliminated from the Board of Trustees, this being motivated by his conservative views and by White's fear of a congressional investigation of the Delaware Law School accreditation scandal.

26. During the February 20–23, 1975, meeting, White, and other Council members told Weeks, students, and parents that for the school to be accredited Avins should be forced off the Board of Trustees and out of school property, and the Board of Trustees should either be flooded with new members or preferably it should be abolished by affiliation with another college or university.

27. On March 4, 1975, White wrote Avins falsely denying that he had stated that Avins must be removed from the Board of Trustees for the school to be accredited. (The reply of Avins of March 10 is annexed hereto.)

28. On March 19, 1975, White wrote to Weeks and the Chairman alleging that the Accreditation Committee and Council found that the school was violating standards significantly different from those set forth in the resolution of February 21, and fraudulently including standards which the school was in fact complying with and which had never in fact been considered by the Council, with the intent of putting additional pressure on the Trustees to affiliate by demonstrating the futility of attempting to comply with vague standards of shifting interpretation.

29. During the Spring, 1975, White encouraged President Clarence Moll of Widener College to take over the Delaware Law School by advising Moll that the school was meeting A.B.A. accreditation standards, that it was in a good student market and financially stable, and that White controlled the accreditation process and would see that the school was accredited if Widener took it over.

30. During Spring, 1975, White told Moll and Weeks that most of the faculty particularly Avins' friends should be eliminated, but Professor Andrew Green, who was teaching full-time at West Chester State College in violation of the Standards, should be retained because Green was hostile to Avins due to the latter's objection to his dual employment status.

31. On April 14, 1975, White told Mitchell, Miller, a parent of a student, that without affiliation there was a small chance of accreditation, but that affiliation would increase this almost to a certainty, with intent that this statement should be quoted to graduating seniors in order to induce them to press the Board of Trustees to vote for an affiliation with another institution so that the school would be accredited in time for the seniors to take the July 1975 bar examination.

32. On April 17, 1975, at a meeting, White induced two trustees to agree to affiliation by advising them that accreditation would be withheld without it.

33. In April 1975, White refused the request of the law school trustees to send as inspectors deans of independent law schools, and instead chose inspectors unfamiliar with the operation of trustees of independent law schools, with the intent of having the trustees of Delaware Law School found not to be meeting the Standards.

34. Pursuant to White's instructions, Inspector Norvell, chairman of the team, inquired about Avins' influence with other members of the Board.

35. On May 10, 1975, Inspector Norvell advised the Board of Trustees that he would recommend accreditation only if the school made a binding agreement to affiliate by August 1, 1975.

36. Inspector Norvell found that none of the criticisms found in the January 1975 inspection report, other than those dealing with trustees, finances, and number of faculty, were valid, although no substantial change had been made in respect to any of them, and omitted any finding in respect to the new alleged deficiencies as set forth in White's letter of March 19, 1975.

37. Norvell's report was withheld from most of the trustees before their votes to affiliate of May 24, 1975; June 8, 1975; July 22, 1975.

38. On July 11, 1975, after the law school trustees had voted to enter into the contract to affiliate with Widener College dated July 8th, members of the Accreditation Committee and Council pressed the law school delegation for assurances that said affiliation would not be broken, and that Avins would not be on the Widener Board of Trustees, and the Council recommended approval based on said assurances.

39. Pursuant to suggestions of Council and Accreditation Committee members, on August 7, 1975, even before receipt of stock in the Delaware Law School, Widener College elected a majority to the newly-expanded law school Board of Trustees.

40. During the A.B.A. meeting in Montreal, held August 7–14, 1975, Weeks showed the new amendments to the law school certificate of incorporation, the new by-laws, a copy of the share of stock issued to Widener College, and a list of the Trustees elected by Widener to the law school board by virtue of the stock, to White, Accreditation Committee members, and Council members, to demonstrate that Avins and those associated with him had permanently lost control of the law school, and hence the Council should not revoke its prior recommendation of provisional approval.

POSSIBLE TYRANNY OF FEDERAL GUN CONTROL LAWS

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. SYMMS. Mr. Speaker, the constitutionally guaranteed freedom of the American people to own firearms is today threatened by the prospect of increased Federal gun control. Legislation now pending before this Congress calling for coercive measures to protect law-abiding Americans from themselves is not unlike the initial steps taken in such totalitarian states as Cuba in bringing the population of that country into total subjugation. It is instructive to learn from the experiences of others in similar circumstances, and if we are to remain a free people, with Government as our servant and not our master, we would do well to heed the lesson of the Cuban gun control experience, as related in the following article from Gun Week newspaper. For as I told the House Judiciary Committee earlier this year, in testifying in opposition to new Federal firearms restrictions, if one group can, by popular political demand, be denied its rights and sacrificed on the altar of legislative authoritarianism, then one by one all groups can receive the same treatment. In the end, no rights will remain sacred nor freedoms safe. The end result is tyranny—and with a disarmed and defenseless population, very likely that tyranny would be here to stay.

I ask my colleagues to consider that prospect while reading the article that follows:

[From Gun Week, Nov. 14, 1975]

WHY WE ARE FIGHTING: CUBAN LESSON

(By Gene B. Crum)

Some months ago, I wrote a recapitulation of the basic reasons why we are fighting bad gun legislation. I thought it was a routine article, intended to bring up to date the citizens who're just now entering the battle. Apparently the Lord blessed the article, because the response to it was very favorable. With this sort of encouragement, a writer needs little more to hit the same theme again.

This time, we're focusing on the argument that national disarmament leads to tyranny. Anti-gunners scorn this observation, claiming that such things not only cannot, but do not happen. History refutes them strongly, but they are not willing to learn from history.

However, millions of people in the nation, still uncommitted on the issue, are willing to learn; so as information comes available, we'll provide you with the data-"ammo" to use. First, a place close to home: Cuba.

CUBA IN 1958

In 1958, most Americans were aware of Cuba: a warm, Latin nation 90 miles south of Florida, covered with sugar-cane plantations, palms, tourist resorts, private businesses, rumbas and Ernest Hemingway. The newspapers and Life magazine also reminded us that Cuba had some internal problems: some weird "revolutionaries," which some rabid U.S. rightwingers insisted were Communists, but which our media insisted were merely "agrarian reformers" sprinkled with a few "socialists" and liberals, were waging a guerrilla war of attrition against the Cuban government, which itself drew earned criticism.

Leader of the revolutionaries was a bearded fellow named Fidel Castro, who really didn't have all that much to say about his own politics, particularly when interviewed by the U.S. news media. In 1959, Castro celebrated the New Year by taking over Cuba. Liberals and the news media all over the U.S. applauded wildly. Cubans started leaving Cuba in little streams. The remaining Cubans became very watchful.

As the "agrarian reformers" settled in, their policies quickly brought terror to the Cuban people. The streams of refugees became massive rivers, huge numbers fleeing to South and Central America, Mexico, and the United States. More fled to the Old World, primarily to Spain.

MANY CUBANS IN U.S.

By 1975, estimates hold that roughly 10 percent of the Cuban population has fled to the United States alone, where they are generally very welcome, and are received with a great deal of sympathy by ordinary citizens, but not all that much by the "liberal" political element, due to rather strong "conservative" sentiments held by these who have already tasted the full fruition of "liberalism."

How was it that these people had to leave a land which most of them miss dearly? How was it that a handful of badly-equipped guerrillas could war an established government to destruction, then, still small in numbers, utterly subjugate a large nation of freedom-loving people?

An important basic answer to this question was sent to me some time ago by a Cuban-American who is a strong member of our Gun Week readership fraternity. In his own words, we'll continue:

LETTER FROM CUBAN

"At this time in which the media is encouraging friendship between the U.S. and the dictator Fidel Castro, Cubans remember our own sad story of 'gun control.' Do Americans ever wonder what has enabled Castro to remain in power through so many years of blood, repression and tyranny? What they now call 'effective gun control' in the U.S. certainly proved very effective indeed in Cuba.

"It began innocently enough, years before Castro, with the registration of weapons. This was ostensively done to 'combat crime.' Certainly an honest citizen, the argument went, would not object to registration. Only a criminal would not want gun registration. 'Good Cubans' want gun registration!

"Ironically enough, this was happening at the time when Cuba was fast becoming the International Playground of the Mafia. Mafiosi vacationed and operated openly in Cuba. Somehow the arguments were lost on them. But, 'good Cubans' had gun registration.

HANDGUN CONTROL IN CUBA

"Handgun control was next. After the ground had been prepared by the appropriate media blitz of 'crime control,' humanitarian motives, accident control, arguments of 'only good for killing other people,' etc., stiff—very stiff indeed—handgun controls were legislated into law.

"All handguns of 'military' caliber were forbidden (such as .45 ACP, 9mm Luger, .380 ACP) to civilians and confiscated by police. How did they know where the handguns were? The Registration Lists were their source of information.

"The remaining handgun owners (civilians) needed to be licensed and to show good cause for handgun ownership. It was a system guaranteed to insure that only friends of the party then in power retained their handguns. Penalties for breaking the law were harsh.

"At about this time, more restrictive rules on shotguns and rifles were legislated. So far, the history of Cuban gun control was one of progressively more stringent and regulatory steps. Each one made it more hard and restrictive for the average, honest Cuban to have or use weapons for sport or self-defense.

END OF OWNERSHIP

"The end of all Cuban civilian firearms ownership came suddenly with the coming of Fidel Castro's Communist Revolution:

"Fidel Castro took over Cuba on January 1, 1959, on January 2, 1959, his militia (armed group)—with unregistered submachine guns, automatic rifles, handguns and grenades—were taking over the police precincts and confiscating the gun registration lists. These were scrutinized for 'enemies of the revolution' and total gun confiscation began in earnest.

In many cases, this was not easy to do as armed resistance took place when courageous Cubans did not submit to turning their firearms over. It was a hopeless resistance since in those cases, the Cuban Revolutionary Army simply converged on that house and slaughtered everyone in it. Many innocent women and children were cruelly murdered this way. An already largely disarmed population could only stand by impotently as the Communists completed total confiscation of all the firearms.

"The disarmed Cuban people were then made ready for many more horrible things to come.

NOW ONLY ONE PARTY

"Today, Fidel Castro and his army are still in control in Cuba. The Communist Party is the only party. Nevertheless, there have been no elections in Cuba since the elections of 1958. The jails and concentration camps are full of abused, beaten and starved political prisoners.

"The International Red Cross has never been permitted and will never be permitted to inspect these jails. The only weapons are in the hands of the armed forces and the secret police. Only government people are allowed the privilege of firearms.

"Cubans bitterly remember when Fidel Castro used to tell them, 'Armas? Para Que?,' which means: "Arms? What For?" They remember how Castro assured them that 'Cubans no longer need weapons,' and that 'the Army and the Police will protect you.' So, Cubans are now 'protected.'

"The vast majority of Cubans who left Cuba for political reasons now live in the United States. They understand and watch with dismay as 'Cuban Gun Control' happens here in the United States. It is a rare and strange Cuban indeed who is for even the mildest form of gun control. They know all about gun control: it cost them their country.

SAME STEPS IN U.S.

"Gene, it is surprising to me how this same set of gun control steps, despite the fact that it has happened in all Communist or dictatorial countries (lately in Jamaica and the Philippines) is ignored in the United States."

I do not think there can be much to add to a straight-forward testimonial such as the above. The man has, as we put it, "been there," and not very long ago. As he points out, there is every evidence that we are "going there," and very soon, unless we individually begin doing our basic civic duty, spurred by our own consciences.

As a starter, you might make copies of this article and see to it that your local, state and federal leaders receive them, along with a firm letter directing their attention to the lessons which we can learn.

(Note: the identity of the Cuban source for this article will not be revealed unless he agrees. Lately, physical attacks have begun to occur on pro-gun citizens, and we do not intend to make this man a target for harm.)

CITIES, COUNTIES ENDORSE CLEAN AIR AMENDMENTS

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. ROGERS. Mr. Speaker, the Committee on Interstate and Foreign Commerce will begin markup on the amendments to the Clean Air Act this week.

The Subcommittee on Health and the Environment has worked on this legislation for 8 months in trying to bring forth all the information necessary to make decisions which affect all Americans.

During this period we have considered data and rationale from both individuals and organizations on both sides of the clean air question. And, I believe, we have worked out a reasonable compromise which does address these concerns.

In doing so, we have tried to maintain the goal of cleaner air, but realized and accepted the necessity of extending some of the deadlines and procedures for reaching those goals. Consideration was also given to the problems of energy and the economy.

Additionally, one of the major provisions in the legislation transfers much of the authority of the Environmental Protection Agency to State and local government.

Evidence that we have reached a balance in placing authority with State and local governing bodies comes in two endorsements; one from the National League of Cities and the other from the National Association of Counties.

I would like to include for the RECORD these two letters, which were sent to Chairman STAGGERS and members of the Commerce Committee. I think they say more than I could of the balance which this legislation has achieved and why it should meet congressional approval.

The letters follow:

NATIONAL ASSOCIATION OF COUNTIES,
New York, N.Y., November 13, 1975.
Hon. HARLEY O. STAGGERS,
Chairman, Interstate and Foreign Commerce Committee, Washington, D.C.

DEAR MR. CHAIRMAN: The National Association of Counties would like this opportunity to express their support for H.R. 10498, "The Clean Air Act Amendments of 1975", which will be before your committee in the near future.

This bill offers a rational approach to achieving the clean air standards of the country while affording reasonable deadline extensions for achieving these standards. H.R. 10498 also ensures the proper involvement of those levels of government charged with the actual task of implementing pollution abatement programs.

Of most concern to our organization, which represents almost 1,500 member counties, has been the intergovernmental problems that have plagued implementation of the 1970 Clean Air Act. As you know, the existing law never delineated a role for local governments. Instead, states were given primary responsibility for devising and implementing plans to achieve clean air standards. Where states failed in their task, the Environmental Protection Agency was given the authority to come in and dictate the necessary measures for achieving the standards. And so, throughout the country EPA and/or states were given the authority to dictate measures which strongly affected economic, social and environmental conditions within local jurisdictions without even consulting local officials.

This situation, which aroused loud cries at the local level, prompted NACo to testify last spring before the Subcommittee on Health and Environment urging the adoption of measures to remedy this critical problem.

We believe H.R. 10498 has carefully addressed this situation in Section 305 by requiring states to establish a consultation process which gives local elected officials the opportunity to take part in those decisions which will most certainly affect their citizens. In addition, it enables EPA to authorize actual delegation of authority to local governments where states have not adopted the necessary programs.

In essence, Mr. Chairman, for the first time in five years the nation's counties will have the opportunity to actively participate with states and EPA in planning programs to clean up the air.

There are a number of other provisions in this bill which our organization strongly endorse.

In particular, we strongly urge your committee to support Section 203 of this bill which deals with automobile emission standards. This proposal requires the automobile inndustry to meet the statutory emission standards in an expedient but realistic time span. This is a very necessary requirement from the county viewpoint. The pressure for meeting emission standards has been repeatedly relaxed for the auto industry while local governments are forced to compensate by instituting more severe pollution controls. We believe that pollution can be most effectively controlled at its source, and therefore urge the automobile industry to meet its responsibility.

We also strongly support Section 201, the subcommittee's provision on indirect source review. Section 201 acknowledges the controversial nature of indirect source review by requiring a study to determine the effectiveness of the program before it can be federally mandated. No state or locality would be precluded from implementing their own program in this time span. If the EPA Administrator determines that indirect source review will aid in the achievement of air quality, he may require, but not federally impose, a requirement for states and local governments to implement such programs.

There are a number of additional provisions in this bill which also balance the need for meeting our clean air standards while ensuring the necessary intergovernmental cooperation in this effort.

NACo urges you to move quickly and positively on this important legislation. If we can be of any assistance to you in your consideration of this bill, please contact our organization.

Sincerely,

RALPH L. TABOR,
Director of Federal Affairs.

NATIONAL LEAGUE OF CITIES,
Washington, D.C., November 11, 1975.
Hon. HARLEY O. STAGGERS,
Chairman, Interstate and Foreign Commerce, Washington, D.C.

DEAR MR. CHAIRMAN: As your committee prepares to consider H.R. 10498, the Clean Air Act Amendments of 1975, we wish to take this opportunity to express the nation's cities' support for this measure as reported by the Subcommittee on Health and Environment. The bill, as reported, reflects the careful consideration of intergovernmental problems identified by cities throughout the country during the initial stages of Clean Air Act implementation. Further, the bill is conceptually and in a number of cases explicitly endorsed by the Environmental Quality statement adopted by the League's 15,000 city membership in plenary session last December.

Basically, H.R. 10498 would:

Give greater authority to state and local governments in developing air quality strategies;

Require auto emission standards to be met within a reasonable time;

Grant compliance date extensions to transportation control plan cities on a case-by-case basis if proposed strategies would cause economic and social disruptions; and

Require states to receive the approval of local governments when making critical decisions regarding reclassification of clean air areas within the state.

I wish to briefly elaborate on some of the more important—from a local point of view—aspects of the legislation.

AUTO EMISSIONS

The most important environmental priority of the National League of Cities is retention of the most stringent yet practical emission standards on automobiles. Relaxation of stringent emission controls increases the quantity of carbon monoxide and hydrocarbons cities will have to clean up. This in turn decreases cities' flexibility in choosing the various economic and environmental trade-offs for meeting the primary air standards. Section 203 of the proposed legislation represents a reasonable mid-course compromise between retention of the present standards and the extended delay proposed by the Administration. Under the proposal, current emission standards for all three auto-related pollutants would remain in effect until 1978, thus effectively granting one year of the Administration's requested moratorium. More stringent standards, yet not as stringent as called for in the present law, would be imposed during the 1978 and 1979 model years. Statutory standards would have to be attained in 1980.

INTERGOVERNMENTAL PROCEDURES

Councilman Walter Rockenstein, II, testified earlier this year before the Subcommittee that the "initial phases of Clean Air Act implementation were an intergovernmental nightmare for local governments." You have no doubt heard of the many instances in which the Federal Environmental Protection Agency went into cities and prescribed the manner in which residents were to travel, where they were to park, the amount they were to pay for parking spaces, and the street improvements that had to be initiated. Fortunately, due to increased public awareness of the problems of implementing such unrealistic transportation plans, these proposals were never implemented as prescribed.

One of the major deficiencies in the existing law is the requirement for air pollution control plans to be devised and implemented primarily at the state level. This has left many local governmental units with a limited role in the process, although the plans adopted by the states would have significant effects on local governments and metropolitan areas. Section 305 provides a mechanism whereby, we believe, this situation would be substantially corrected. It requires a consultation process to be established within each state which would assure an adequate opportunity for general purpose local governments to present their views prior to adoption of measures of concern to localities.

The consultation process may take a variety of forms, so long as it adequately involves local governments in the state's decision-making process. Any local government which feels it has not been adequately involved in such an intergovernmental process has the right to appeal to EPA. If EPA determines that the complaint is justified, it may disapprove the section of the state plan involving the aggrieved locality.

COAL CONVERSIONS

Section 106 would require the governor of a state, in which a compliance date extension is contemplated, to give his approval prior to the issuing of such an order. We support this provision as necessary to affirm the prerogative of state and local governments to establish standards more stringent than those set at the federal level. This section properly returns to states and local governments the ability to determine their own level of environmental quality and economic growth.

INDIRECT SOURCE REVIEW AND LAND USE

Federally-mandated preconstruction review of indirect sources, such as convention centers, stadiums, shopping centers and parking lots, is clearly inappropriate within the context of our American federal system. If indirect source controls are shown to be an effective way of improving air quality in urban areas—a view not yet established as fact—then local governments, not the federal government, must be afforded the authority for development and implementation of these programs. Section 201 would restrict EPA's power to require a state to implement an indirect source review program by requiring the agency to conduct a one-year study of the effectiveness of indirect source controls as an air quality attainment strategy. EPA would also be required to meet the ambient air standards even with the application of 1975 statutory motor vehicle emission standards. Importantly, states and localities would not be precluded from initiating their own programs for indirect source reviews in the interim period.

EXTENSIONS OF COMPLIANCE DEADLINES

Section 202 would authorize the EPA Administrator to extend the deadlines cities are required to be in compliance with the Act, if adoption of the measures required to meet the standards would be socially or economically disruptive. Extensions up to 1985 may be granted where a commitment is made to improve the public transportation system in the area.

There is no doubt that a number of cities will be unable to meet the 1977 deadlines for achieving primary air standards. Section 202 recognizes this fact and provides the minimum amount of authority needed to grant extensions on a case-by-case basis, where absolutely necessary, while at the same time preserving the nation's commitment to the attainment and maintenance of clean air goals in other areas of the country.

PREVENTION OF SIGNIFICANT DETERIORATION

As you know, the issue of preserving the air quality in clean air areas of the country is one of the most controversial matters contemplated by this legislation. In 1972, the Supreme Court upheld a lower court decision which ruled that the Clean Air Act required protection of "significant deterioration" of air quality in clean air areas of the country. The Court, however, failed to specify what constituted "significant" deterioration. During the ensuing discussions, environmentalists have advocated a strong nondeterioration standard and have pushed for all pristine areas of the country to be strictly maintained. On the other hand, a number of groups, including the U.S. Chamber of Commerce, have maintained that no such provision is needed. We believe that H.R. 10498 represents a reasonable balance between these two positions. Further, it gives local officials the authority to determine the level of air quality desired by their own community, without excess federal interference.

The overall regulatory strategy developed under the Clean Air Act utilizes: motor vehicle emission controls to reduce the amount of noxious pollutants emitted from the automobile; transportation controls to reduce the overall level of carbon monoxide, hydrocarbons and nitrogen oxides in order to meet the primary standards; preconstruction review of indirect sources to bring about development in a manner which enables the region to meet air quality standards; and, air quality maintenance plans (currently being developed in 168 metropolitan areas) to ensure that air quality standards attained through the above-mentioned strategies are maintained. Within this context, the "significant deterioration" provision serves as an equalizer, enabling all areas of the country to join in the fight for clean air without fighting each other. It is in many respects the cornerstone of the Clean Air Act on which the eventual realization of clean air goals is predicated. In the absence of such a foundation, it is difficult to predict whether the institutional commitment, required for attainment of even the primary air standards at the state and local levels, can ever be developed.

I hope you will take these comments into consideration when you deliberate on this legislation this session. The nation's cities stand ready to assist you in this most important matter of urban concern.

We greatly appreciate the opportunity to express these concerns and look forward to your Committee's favorable action on this legislation.

Sincerely,

ALAN BEALS,
Executive Vice President,
National League of Cities.

SIMONS LEANS TO ENDING LOOPHOLES IN TAX CODE

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. MIKVA. Mr. Speaker, I was pleased to read in this morning's New York Times that Treasury Secretary Simon is giving serious thought to a tax reform proposal advocated by me and several other members of the Ways and Means Committee during the committee's recent tax reform deliberations. The proposal, first formulated by economist Joseph Peachman, calls for the abolition of virtually all tax preference with a concurrent reduction in the tax rates. By eliminating the tax preferences, which now cost the Treasury over $100 billion a year, maximum tax rates could be reduced from the present 70 percent to 40 percent without a loss in revenue. Not only would this reform produce an across-the-board tax cut, but it also would insure that all taxpayers, even those 292 taxpayers with incomes over $200,000 in 1974 who paid no Federal income tax, pay their fair share of the Nation's tax bill.

We also support the Peachman proposal, welcome Secretary Simon's support. I only wish we had had it during the Ways and Means Committee's 3 months of tax hearings and markup sessions.

For the benefit of my colleagues, I insert the New York Times article at this point in the Record:

[From the New York Times, Dec. 4, 1975]

SIMON LEANS TO ENDING LOOPHOLES IN TAX CODE

(By Ronald Smothers)

Treasury Secretary William E. Simon said here last night that he was "increasingly attracted" to the idea of eliminating the "myriad so-called loopholes which now litter our tax code."

His comments, in a speech he had prepared for delivery at the 27th national conference of the tax foundation, were part of a general, three-part prescription for economic recovery. They represented the first time that a Ford Administration official has indicated that the Administration was seriously looking at the simplified graduated tax on individuals as an alternative to the current, complicated system of credits, special deductions, exclusions and personal tax preferences.

The idea, considered a radical one by many, has never gained broad acceptance within the Administration or on Capitol Hill. In fact, the tax bill currently on the floor of the House has been criticized by many as a watering-down of earlier measures aimed at reducing the tax savings available through these mechanisms.

The Secretary said that any serious attempt to change the system along the lines of a simplified tax would probably have to be put off until 1976 and possibly until after the Presidential election.

He said that studies indicated that a lowering of tax rates across the board that would come with the elimination of the special deductions and credits could be accomplished without lowering total income tax revenue.

He said that by eliminating the special tax advantages and setting a tax rate of from 10 to 12 percent for the lower income taxpayer and 35 to 40 percent for the higher income taxpayer, "everyone would be paying a percentage or paying his or her fair share."

Current rates are 14 percent at the lower end of the taxpaying spectrum and up to 70 percent at the higher end.

Mr. Simon said that elimination of all but the standard deduction allowed under the 1975 tax reduction act and treating capital gains and other currently sheltered income as ordinary income, the Federal Government could increase its tax income by $50 billion. This in turn could be converted into a 30 percent across-the-board tax cut without any revenue loss, he said.

Another part of Mr. Simon's prescription for recovery was an immediate cut in Government spending. He said that Congress' refusal to link continuation of tax reductions to a $28 billion spending cut as requested by President Ford imperiled any tax cut at all.

The final step suggested by Mr. Simon was a reform in what he said was the tax system's discouraging of savings and capital investment while encouraging consumption. Such measures were driving corporations toward a greater dependence on borrowing over investment in order to expand, he said.

FIGHT AGAINST ALCOHOLISM

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. ROGERS. Mr. Speaker, on November 18 in the Gold Room of the Rayburn House Office Building, many of my colleagues and several hundred representatives of voluntary alcoholism agencies witnessed the signing of an historic agreement between the National Council on Alcoholism and Talent Four Artists, Ltd., in the fight against alcoholism which claims 9 million victims.

The signing followed a reception honoring Robert Thomsen, author of the best selling book, "Bill W.," and William Borchert and Harold Rand, Talent Four Artists, Ltd., producers of the forthcoming production of the film based on the life of Bill W.

As most of us know, since its foundation in 1935 by Bill W., Alcoholics Anonymous has saved literally millions of people from this disease.

The thrust of the agreement between the National Council on Alcoholism and the film producers is that both organizations will work closely together to promote the film, to publicize the fact that help is available to our country's 9 million alcoholics through the local affiliates of the National Council on Alcoholism and that the producers will explore all possibilities in providing a share of the profits from this motion picture to the great work of the National Council on Alcoholism.

Mr. Speaker, this is a fine example of the efforts upon the part of the voluntary sector to deal with the enormous problem of alcoholism. We are working at the Governmental level to reduce the staggering incidence of alcoholism through the various programs of the National Institute on Alcohol Abuse and Alcoholism, but we cannot do it all, and we are extremely heartened that the voluntary sector is moving forward so effectively.

The following is the text of the actual agreement signed on November 18, 1975:

AGREEMENT

1. Every effort will be made to arrange for a series of premiere benefit performances of the motion picture "Bill W." throughout the country to benefit NCA and NCA affiliated organizations.

2. Wherever possible, the producers will include mention of the fact that help is available to the alcoholic population of the United States through local affiliates of the National Council on Alcoholism.

3. Whenever possible, personalities associ-

ated with the motion picture, "Bill W." will make appearances at major NCA meetings, such as the National Alcoholism Forum.

4. NCA will use its channels of communication to keep its constituency current on the progress of the motion picture so that its interest will be sustained.

5. NCA, if requested, will render technical assistance to the producers to assure that the technical aspects of alcoholism are projected accurately in the motion picture.

6. The producers will explore all possibilities to provide a share of the profits from this motion picture to NCA.

Talent Four Artists purchased the motion picture and television rights to the "Bill W." biography in June for a cost in excess of $250,000. The production budget for the film is expected to be around $4,000,000. Stuart Millar has been signed as director-producer. Andy Lewis is currently working on the screenplay.

A. A. founder Bill Wilson, who died in 1971, was an intense young man, a successful Wall Street investment banker who drank himself into total financial ruin and degradation, failing family and friends.

In June of 1935, Bill was pronounced a hopeless alcoholic by prominent psychiatrists, had a miraculous spiritual awakening and launched Alcoholics Anonymous, a program of recovery that continues to save millions from depravation, insanity and death.

A.A. today is a world-wide organization with more than 25,000 groups in more than 94 different countries. In just 40 short years, Bill Wilson helped spark one of the greatest social revolutions of this century.

ENVIRONMENTAL PROTECTION SYSTEM

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. DE LA GARZA. Mr. Speaker, Union Carbide Corp. recently announced plans for a landmark environmental protection system using solar evaporation at its chemical plant in Brownsville, Tex., in my congressional district.

When the system is completed all wastewater discharges to the Brownsville Ship Channel will be eliminated. This zero-discharge goal can be achieved because of the area's climate. I might add that the climate is only one of the numerous advantages offered industry in South Texas.

I congratulate the management of Union Carbide on its vision and initiative in moving ahead with this significant environmental protection system. As a fuller explanation of what is involved, I include as part of my remarks a news release giving details about the process:

UNION CARBIDE SOUTH TEXAS PLANT PLANS $4.4 MILLION ZERO-DISCHARGE ENVIRONMENTAL PROTECTION SYSTEM

BROWNSVILLE, TEX., November 7.—Union Carbide Corporation today announced plans for a $4.4 million, zero-discharge environmental protection system using solar evaporation for the process wastewater at its chemical plant here.

All wastewater discharges to the Brownsville Ship Channel will be eliminated when the system is completed. Zero-discharge is achievable because the arid climate at Brownsville makes solar evaporation work. The system will enable the Brownsville plant to meet the U.S. Congress 1985 clean water goals in 1977, the completion date for the project. The corporation emphasized that the zero-discharged goal is attainable at Brownsville because of the climate, but is not achievable at similar plants in other areas.

Construction is scheduled to start this year on a four-section, 100-acre evaporation pond on a site behind the chemical plant. Nine-foot dike walls will surround the pond. An expanded process wastewater and rainwater collection system will be built to gather all process wastewaters for the evaporation pond.

In addition, changes will be made within production units at the plant to reduce the hydraulic and organic waste loads and to eliminate seawater from the process wastes going into the new system.

Union Carbide's environmental managers explain that liquid waste materials pumped into the evaporation pond will be oxidized to harmless carbon dioxide and water. Although Brownsville's arid climate is expected to result in efficient evaporation, aerating pumps will be used as needed to speed the oxidation and evaporation process.

Studies indicate that it will take almost 20 years before there is a substantial buildup of solids in the evaporation pond. At that time, solids can be dredged out and safely land-filled.

Weather data from Brownsville, recorded from 1931 to 1960, shows an annual rainfall average of about 27 inches. Water in the area evaporates at the rate of about 88 inches a year, according to pan evaporation data.

Plant environmental experts state that with the pond, 35 inches of wastewater—equalling 96 million gallons a year—can be evaporated. This means the evaporation rate with the arid climate will far exceed even the maximum flow of wastewater to the pond. After evaporation, the pure water returns to the earth as clean rainfall, free of any wastes.

The pond will use aerobic treatment to eliminate odors. Extensive soil studies on the permeability of the ground at the pond site concluded that there is no problem with leakage of chemical wastes.

Since the evaporation system will use only small horsepower pumps, it will offer substantial energy savings compared to other systems that were considered.

Union Carbide's Brownsville plant burns 97 per cent of its liquid wastes as boiler fuel—both to conserve energy and to cut the wastewater treatment load. The evaporation pond will treat the remaining three per cent.

COMPOSTING SEWAGE SLUDGE

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. GUDE. Mr. Speaker, I recently had the opportunity to visit with scientists at the Agricultural Research Service in Beltsville, Md., where they have developed a useful process for composting raw sewage sludge. The process, which is basically quite simple, offers enormous potential for both small and large communities throughout America which have struggled over the problems of sludge disposal for years. With the development of more and more treatment facilities as a result of the environmental cleanup of the last several years, sludge disposal has increasingly become an even greater problem. Some processes which have been developed are not only costly but are consumers of great quantities of energy.

It has long been recognized that sludge held great potential as a fertilizer, but until now, various processes developed have not proven cost effective. The composting process developed by the ARS is unique not only because it is an economical method, but because ARS tests indicate the process destroys all bacteria and viruses in the raw sludge, making it very safe to use.

George B. Willson and John M. Walker have prepared a paper which appeared in the Journal of Waste Recycling entitled, "Composting Sewage Sludge: How?" The paper explains the basic composting process and I would like to include it in the RECORD at this point:

COMPOSTING SEWAGE SLUDGE: HOW?

(By George B. Willson, Agricultural Engineer, College Park, Md., and John M. Walker, Soil Scientist, Beltsville, Md.)

Before I became involved with the sewage sludge composting project, I had been investigating the composting of animal manures for several years. The sludge project provided an opportunity to expand my research to another kind of waste and test some of my laboratory findings on a large scale.

Sewage sludge has been used as an additive to municipal refuse to enhance composting, but very little effort has been made to compost sludge itself. Our objective was to adapt currently available technology and equipment to the composting of sewage sludge. There was an urgent need to develop within a few months the capacity for processing the 600 tons of sludge per day produced by the Blue Plains Sewage Treatment Plant in the Washington, D.C. area. Considering the composting equipment available, our only feasible choice was a windrow operation.

In December 1972, we obtained several dump truck loads of sludge for experimentation to determine the need for conditioning the sludge to facilitate the composting process. This sludge has a solids content of 20 to 25%.

We wanted to utilize the aerobic thermophilic compost process because it is relatively quick. In this process, biological oxidation of the wastes generates heat which may raise the temperature as high as 160° F. The high temperatures should provide some pathogen control.

Convective air movement is essential to provide oxygen for the microorganisms. In dense windrows with little air movement, oxygen levels drop to zero in less than one hour after turning. The aerobic organisms, which need oxygen, provide the heat for warming the windrow. Convective forces cause the air to rise as it is heated, therefore producing a natural chimney effect. The rate of air exchange can be regulated by controlling the porosity and size of the windrow. If the windrow is too dense or too large, it will be mainly anaerobic and will emit offensive odors. Conversely, if the air moves too rapidly, the temperature cannot rise and the process will be slowed.

Three bulking agents—sawdust, shredded paper, or woodchips—were mixed with various quantities of sludge to test their potential for developing the necessary porosity in the windrow. Twenty-two combinations of materials, including both raw and digested sludge, were tested. The sludge and bulking materials were mixed in approximately five-cubic-yard batches and stacked in a coneshaped pile, to simulate the effect of a windrow. The piles were turned every few days with a front-end loader. Temperatures and oxygen levels within the piles were monitored to determine the effectiveness of the convective aeration. Bulk density and moisture content were measured for their potential use to control the process.

These tests were conducted outdoors during January, February and March 1973. Low air temperatures affected pile temperature less than the frequent heavy rains received. All trials showed some signs of composting; however, the shredded paper-sludge mixtures soon settled into a compact mass that air could not penetrate. Both the chip and the sawdust continued to compost satisfactorily. Woodchips were selected for the pilot operation because they were readily available and can be screened out and reused.

While these tests were progressing, a composting site was selected at the Beltsville Agricultural Research Center. The windrow area is paved with 18 inches of crushed stone to support heavy truck traffic and the windrow composter. When expanded, it will cover about five acres. Another area will be used for stockpiling materials and for final curing of the compost. A scale is located at the entrance to the site to weigh all materials. A separate windrow area adjacent to the entrance will be used for more detailed research investigations. The entire site is graded to collect all runoff in a detention pond. Accumulated runoff will be spray irrigated on a wooded area adjacent to the site. Several wells were installed in January to monitor ground-water quality around the site. As a precaution against possible odor problems, odor-masking equipment was installed.

By March 30, 1973 a portion of the windrow area was ready for use, and received the first delivery of sludge. We have been in continuous operation on a limited scale for one month despite unfavorable weather. Additional research will provide a basis for more efficient processing and selection of alternative modes of operation.

The compost site operations are as follows:

1. A layer of chips 15 inches deep and 15 feet wide is placed on the paved area. The sludge is distributed on the chips at a ratio of one part sludge to three parts chips by volume. The compost machine then forms the sludge and chips into a windrow. Several more turnings are necessary to thoroughly blend the two materials.

2. The windrow is turned five times a week. Interior temperatures in the windrows have reached 140° F. Turning mixes the surface material to the center of windrow for exposure to the high temperatures and increases the porosity of the windrow for better air distribution.

3. After two weeks, the windrow is flattened out in place to a 12-inch layer, and harrowed for further drying. When the material has dried to less than 35% moisture content, a second loading of sludge is applied. Rain or high relative humidity can delay reaching this moisture content. The windrow is then subjected to another two week heating cycle. Additional sludge loadings will be made as long as satisfactory composting conditions can be maintained.

4. When material is removed from the windrow operation, it will be stockpiled for an additional 30 days' curing and storage. The curing phase is expected to improve the quality of the compost for use as a soil conditioner. I also expect that the curing may be important in controlling pathogens.

5. After curing or windrowing, the chips may be screened out of the compost for reuse as a bulking agent. Further experimentation will determine whether they should be screened out before or after the stockpiling. For some uses, the chips may be left in the compost.

We have been able to receive sludge continuously and start it composting during some relatively unfavorable weather. There has been some odor from the fresh sludge, but better process control at the sewage treatment plant may reduce that. The final product has the same faintly earthy odor as other composts. When construction at the site is completed, we will have the capability for composting most of the sludge produced by the Blue Plains Sewage Treatment Plan.

SUMMARY

Preliminary tests indicate that sewage sludge can be windrow composted if a bulking agent is added. Good results were obtained with either woodchips or sawdust. Finely shredded paper was not a satisfactory bulking agent. Woodchips were used for the pilot operation, since they can be screened out of the compost for reuse. The sludge can be composted outdoors in Maryland, despite some operational problems mainly due to rainfall.

PITTSBURGH NEWSPAPER WOMAN RETIRES AFTER 35 YEARS OF WORK

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, the Pittsburgh newspaper world is one stalwart less today.

Flora B. Good has announced her retirement after 35 years of newspaper work.

A life-long resident of Pittsburgh's Mount Washington area, as were her father and grandfather, Miss Good chronicled the activities of the Mount's residents for three and a half decades as editor of the community newspaper, the Mount Washington News.

Miss Good is as well known and loved in her community as is the breathtaking panoramic view of surrounding Pittsburgh that Mount Washington offers its many visitors.

In announcing her retirement from full-time newspaper work, Miss Good already has made it clear that she will manage to come back to her old desk—and its window on Mount Washington and its residents—at least a few hours each week.

Everybody who knows Flora Good and what she means to the community of Mount Washington—and vice versa—wishes this delightful woman a most happy and fruitful retirement.

At this time I would like to introduce into the Congressional Record, the lead news story from the Mount Washington News, of November 27, announcing Miss Good's retirement:

Flora B. Good Retires as Editor of News After 35 Years With Paper

After 35 years of faithfully chronicling the events of the community, Flora B. Good has retired as editor of The Mount Washington News.

And with her editorial farewell ends an era.

For Miss Good is a member of a pioneer Mount family. Her father and her grandfather also were local lifetime residents.

HOST OF FRIENDS

Beloved and respected for her efforts to impartially present the news, Miss Good won a host of friends in all walks of life during her long association with the newspaper.

She still receives many letters from some of the hundreds of carriers who worked for her and are now scattered and raising families throughout the country.

Miss Good came to know most of the families and their members on the Mount and was a recognized authority on streets here.

DEPARTING WISH

Her departing wish on the eve of her retirement were for the good health of others and prosperity and the return of the Mount to its active, bustling business community.

For herself she intends to take life easier at her home at 39 Cushman St. where she resides with a brother, George.

Miss Good was born Nov. 22, 1910, at 42 Greenbush St. in the same house where her father, George E. Good, was born. Her mother's name was Marie.

She attended St. Mary of the Mount School and in the fourth grade transferred to Prospect.

SOUTH HILLS GRADUATE

She graduated from South Hills High School in January, 1929, as she recalls "at the height of the depression."

Unable to secure work at the time with the slump spragging the economy to a near halt, she helped out at home.

Miss Good started to work on Oct. 12, 1940—Columbus Day—at the newspaper.

She was hired by Bernhard C. Zitzmann, owner of the South Hills Publishing Co., and grandfather of Roger (Mike) Zitzmann, present owner of the firm.

After the death of the elder Zitzmann, she continued to work for Karl N. and Bernhard G. Zitzmann, both deceased.

WAVES FROM MANY

With her 35 years spent in the same building—a former theater—on Shiloh Street, she became well acquainted during the years with a large number of people.

Many waved or stopped in for a chat on their way down Shiloh Street to the incline and also had a wave when returning at the end of the day.

Her long association caused one Shiloh businessman to wryly remark, "I thought she came with the building."

NUMBER OF AWARDS

She received a number of awards and honors during her tenure as editor. On one occasion, Flora B. Good Day was proclaimed as the Boy Scouts paid tribute. She also has received honors from the Lions Club and the Allegheny County Health Department.

She is a member of the Woman's Club of Mt. Washington and was secretary of the Grandview Lions Blood Bank since its start.

She is a charter member of St. Justin's Catholic Church, on Boggs Avenue.

In addition to her brother, George, mentioned, she has a sister, Mrs. Helen Ayotte. Another brother, Albert, is deceased.

COVERED MEETINGS

During her earlier years in writing, Miss Good attended a large number of community meetings, working until 10 or 11 o'clock to write up the proceedings.

Her activity has been limited after suffering a broken knee in a fall.

One of her greatest joys came through her Blessed Events column in which she recorded the births of children here. She has watched many of them graduate and become parents.

Her father worked for the P&LE Railroad and her grandfather, Anthony, was a miner and millman.

Through talking with both her father and grandfather, she built a firm foundation for her knowledge of the Mount.

RECALLS COMMUNITY EVENTS

She recalled the many pleasures at family picnics at Olympia Park and expressed the hope the oldtime spirit of such occasions can be revived.

Miss Good will continue to work, probably one day a week at the office.

Speaking on behalf of the South Hills Printing Co., publisher of The News, Mr. Zitzmann, president, paid glowing tribute to Miss Good for the fine association and record over the 35 years and voiced the wish on behalf of fellow employes for happiness and health in the years of retirement.

H.R. 21, TO CREATE A NATIONAL SYSTEM OF HEALTH SECURITY

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. PEPPER. Mr. Speaker, I was pleased to testify before the Health Subcommittee of the Ways and Means Committee today to urge congressional approval of H.R. 21, the National Health Security Act, which I am cosponsoring.

I have supported the social insurance approach to the financing and providing of health care since 1936 when I first became a member of the U.S. Senate. I commended the distinguished chairman of the subcommittee, Representative DAN ROSTENKOWSKI, and the members of the subcommittee for their steadfastness in the consideration of national health legislation which is such an important part of the Congress responsibility for this Nation's total economic and social welfare. I urge my colleagues' careful study of the policy and provisions which I presented in my testimony, as follows:

H.R. 21, TO CREATE A NATIONAL SYSTEM OF HEALTH SECURITY

(Statement of Congressman CLAUDE PEPPER)

Mr. Chairman and distinguished members of the Subcommittee on Health, I am pleased to have this opportunity to testify today in support of H.R. 21, the National Health Security Act, which I am cosponsoring. I commend the Subcommittee in persisting in the consideration of national health legislation especially in these times when the economy, taxation and energy legislation has required so much of the full Ways and Means Committee's time. I feel honored to join 111 of my colleagues in the Congress in pressing for favorable consideration of H.R. 21 which is based on the finding that "the health of the Nation's people is the foundation of their well-being and of our Nation's strength, productivity, and wealth." In view of the continuing declining state of public health and rising health care costs, it is clear that an improved health care program is an integral part of the Congress' responsibility for this nation's total economic and social welfare.

I am aware of the plethora of reliable evidence which has been presented to this Subcommittee in support of H.R. 21 by many competent and distinguished witnesses, and I am cognizant of the long history of the national debate on health insurance. I have supported the social insurance approach to the financing and providing of health care to all Americans since 1936 when I first became a member of the United States Senate. That was just one year after the enactment of the Social Security Act, when the need for health care reform was recognized but was not favorably considered.

The Second World War came along in the 1940's and the Nation was shocked by the fact that over 40 percent of the United States selectees were found physically unfit for military duty, and at least a sixth of these had defects which were remediable; many more had preventable defects.

A Subcommitte on Health and Education of the Senate Committee on Education and Labor was established in 1943 and I became Chairman. I had introduced the Resolution. In March 1946, the Subcommittee published a report after an investigation of health care, and the following facts published in that Report showed the gravity of the Nation's health problem:

". . . . more than 23,000,000 people in the country, have some chronic disease or physical impairment. On any one day, at least 7000,000 people in the United States are incapacitated by sickness or other disability, half of them for 6 months or more. Illness and accidents cause the average industrial worker to lose about 12 days from production a year, a loss of about 600,000,000 man-days annually. Sickness and accidents cost the Nation at least $8,000,000,000 a year, half of this amount in wage loss and half in medical costs."

The Subcommittee concluded:

"Even before modern medicine had reached its present peak of complexity and specialization, the fee-for-service, individual practice method of providing medical care did not meet the Nation's health needs. Now it is a complete anachronism. It results in barriers to good health care which keep not only low-income people, but most middle-income families, from the fruits of modern medical science. It inhibits the full use of modern preventive medicine since it forces most people to wait until they are seriously ill before going to a doctor. And it leaves any family the prey of unexpected crippling costs from medical bills and wage loss. On top of the natural tragedy of illness may be heaped economic catastrophe."

The Subcommittee recommended:

"The need for health insurance has become clear. The well-tried American way of meeting the hazards of life by spreading risks and by prepaying costs is applicable to health services."

This Senate report was followed by a Gallup Poll published May 20, 1946, which indicated that a Federally sponsored, comprehensive health insurance program for all Americans, had the support in a Gallup poll of 55 per cent of the public. The Truman-backed Wagner-Murray-Dingell bill which I cosponsored had been introduced at that time, but it never reached the floor of the Congress.

I am sure this Subcommittee is aware of the Caddell report published in *The Washington Post "Parade"* for November 30, 1975, which indicated that interviewees when offered a series of four health care alternatives: only 13 per cent endorsed "keeping things as they are today," 23 per cent favored "a small system where poor people are given medical insurance and everyone is protected against major illness," another 35 per cent supported "a system of national health insurance which guarantees every person as much care as he or she needs," and an amazing 22 per cent lined up behind the most radical alternative—"a totally nationalized system where not only is everyone guaranteed as much health care as he or she needs, but doctors and hospitals are taken over by the government and prices are regulated."

A recent survey of business on national health insurance, released August 25, 1975, is relevant to the increasing public demand for reform in our nation's health care delivery system. According to *The Business Round Table*, extensive national survey, 59% of a sub-sample of 1,039 respondents in the business world indicated they felt that "some kind of national health insurance plan is a good idea; 23% responded it was a bad idea; and 18% indicated they did not know.

As a result of the increasing need and the increasing pressure of public opinion, the American Medical Association and the insurance industry no longer debates about whether we should have a national health care program, but rather what kind of program we need. However, the health insurance proposals that have their support are, in my opinion, inadequate. Only H.R. 21 provides for a single standard of comprehensive benefits; universal coverage; access to health care as a matter of right for all Americans despite their income levels; strong cost controls; built-in quality controls; incentives for reform of the health care delivery system; minimum administrative overhead cost; equitable financing; and substantive consumer representation. Only H.R. 21 includes all of these provisions and only H.R. 21 provides for the scope of preventative health care services that were found to be so lacking in our health care system during the Senate Congressional hearings back in the Forties.

The other major health insurance proposals also persist in providing for coinsurance, deductibles, or copayments, which have proven to be an illusory deterrent to overutilization and instead only discourage many Americans, especially those in the middle-income range, from securing medical care. It is well established also that the physician controls utilization rather than the patient under our present delivery system.

Mr. Chairman, many of my distinguished colleagues favor enactment of a catastrophic health care bill now as an interim measure, However, I believe until we have the reform provided for in H.R. 21, a catastrophic compromise, like the Medicare compromise of 1965, will not serve the purpose intended by the Congress. We must also have the grants to develop social care services to aid chronically ill, aged and other homebound patients along with the acute benefits.

Strong cost controls must be provided for in health care legislation. Under H.R. 21, the same costs being borne today by individuals, insurance companies and governments to purchase health care for some more fortunate Americans would be used to provide comprehensive health care services for all our nation's citizens. It will not cost an additional $118 billion to enact H.R. 21, but only approximately the same $118 billion the nation spends today! The cost control provisions, the incentives for reform of the health care delivery system, and the minimum administrative overhead cost, assure this result.

This bill does not socialize medicine—the radical alternative supported by 22% of Americans according to the Caddell survey. It merely provides for the reimbursement of practitioners on a fee schedule or capitation basis, and reimbursement of facilities on a prospective budget basis. The delivery of health services remains in the private sector, but the budgeting system for the financing of health care would be the responsibility of a single Federal agency. All American taxpayers have contributed to the education of doctors through Federal capitation grants, scholarships and other aid to medical education. Hospitals have been built with matching Federal Hill-Burton funds. Millions of Federal dollars too have been allocated for medical research to conquer cancer and other crippling diseases. It is time now to provide a system whereby all Americans may benefit from the advances in medical knowledge and technology by comprehensive utilization of all preventative and acute health services and facilities.

The National Health Security Act creates a national climate more conducive to effective and consistent cost control because it encourages preventative health care measures. It fully promotes the development and the utilization of preventive health care delivery systems. The public would be educated and encouraged to visit physicians for routine examinations or for diagnoses of possible symptoms of serious ailments before prolonged illness or disease occurs.

Our physicians advise us that the stresses inherent in the "active" life-styles of the twentieth century and those brought about by the environment, including pollutants, noise, radio-activity and other eternal factors, cause many of our medical problems. The heart and circulatory diseases (including strokes) account for more than half of our national deaths and cancer causes another 20 per cent. These "mortal" diseases can be detected by "premortal" signs, such as high blood pressure, ulcers, and neurological conditions, which can be treated if the symptoms are discovered early enough in the course of preventative medical practice.

Congress has recognized fully the need for the expenditures of approximately $91 billion for our national defense, but I maintain the foundation of national defense is the health of the American people which must take equal priority in national concern. The Federal government regulates the defense industry. It also regulates and imposes cost controls on the transportation industry and many other industries and this has proven not to have impeded the growth and vitality of the free enterprise system. The success of these programs are documented in history—no longer hypothetical dreams. It is my belief that this historical pattern can be duplicated with national health insurance for all Americans.

Mr. Chairman, distinguished colleagues, let me now recall for you the immortal words of our late President John F. Kennedy, when over a decade ago he stated: "Ask not what your country can do for you, but ask what you can do for your country!" In an effort to illustrate the importance and vitally urgent need for the legislation I appear before you today supporting—I have reflected on this statement, and I have rearranged it in a manner even more consistent with our recognized democratic ideals. Perhaps today, it might be said: "Ask not *only* what your country can do for you, but ask what you can do for your country." The addition of the word "only" implies this Nation's responsibility to provide for its people. Rephrasing this statement, we are now provided with the necessary double-edged sword now lacking in our democratic society. It is clear that a government that has been, throughout its history, asking its people to defend its boundaries from those external forces bearing upon them, must now recognize its role in combatting those forces bearing upon the health and vitality of its people. Our country is only as strong as the strength of the citizens who defend it.

JOHN L. BRENNAN

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. JOHN L. BURTON. Mr. Speaker and Members, last week marked the untimely death of a dear and close friend of mine and of Congressman PHILLIP BURTON.

John L. Brennan, a San Francisco trial lawyer prominent in Democratic political circles, died unexpectedly of a heart attack at the age of 43.

A third generation San Franciscan, and the son of the late attorney William Brennan, John graduated from the University of San Francisco and the University of San Francisco Law School. He was the senior partner in the law firm of Brennan & Brass.

John Brennan was an officer in the San Francisco Lawyers' Club, and a member of the San Francisco and California Bar Associations, the American Trial Lawyers' Association, and the American Board of Trial Advocates.

He was also a member of the Olympic Club and the University of San Francisco Century Club. He was an Army veteran, having served in the 1950's as an officer in Europe.

John Brennan is survived by his wife, Marty, two daughters, Grace and Erin, and three sons, Sean, Padraic and Christopher, as well as a brother, Patrick.

John Brennan was one of my closest friends. We met during our years in law school, where we became inseparable as members of the "Cowards' Corner Study Group."

He was one of the most remarkable human beings I have ever met. He worked his way through law school working at a full-time job, and at the same time raising a family of three children. He was outstanding in his ability to capture the essence of legal study "on the head of a pin." His examination paper on the subject of wills was the best in his law school class.

In a relatively few short years, he gained a reputation as one of the finest trial attorneys in the State of California. Many of the jury verdicts received on behalf of the clients of John Brennan were of landmark proportions.

There are many things that can be said about John Brennan, but I believe the statement by San Francisco's world renowned columnist, Herb Caen, puts it as beautifully as can be stated:

> Too young to die: that insipid phrase kept buzzing through my brain Monday when I heard that lawyer John Brennan was dead of a heart attack at 43. He was a bright and delightful fellow with a big and beautiful family—a true life-enhancer—and should have been adding his distinctive lilt to the lyrics of San Francisco for long years to come.

Mr. Speaker, I know that you and the other Members of the U.S. House of Representatives would like to join with me and Congressman PHILLIP BURTON, in sending our deepest regrets to the family of John L. Brennan.

"WE'VE LOST A GOOD MAN"

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. MILFORD. Mr. Speaker, distinguished colleagues, there are a couple of articles I would like to share with you. They are written by two columnists on the Dallas Morning News about a third columnist.

Frequently we hear the comment, "a prophet is without honor in his homeland."

But, if that is so, then front page columnist Paul Crume was the exception that proved the rule for over 23 years. He wrote a column "Big D" about people and ideas for the people of Dallas.

When he died last month, Bob Baskin and Frank Tolbert who have shared many a newspaper assignment with Mr. Crume wrote of his talent—as a journalist and as a person. And as his colleagues, they attested to the fact that Paul Crume was a prophet very much with honor in his homeland during his lifetime.

All three of these men hold high the standards of our first freedom—freedom of the press.

And I offer their columns so that all may know the virtue of good journalism when executed by a good man who left his mark on a city and his colleagues as a 39-year veteran newsman.

I have to echo Bob Baskin's personal note. "Yes, we have lost a good man."

The articles follow:

[From the Dallas Morning News, Nov. 17, 1975]

BIG D'S PAUL CRUME DIES AT 63

(By Frank X. Tolbert)

Paul Crume, The Dallas News' peerless columnist, died of cancer early Sunday morning. He was 63.

Crume was nationally renowned as a writer of wise humorous essay columns. He had been terribly ill for about six months. Still, he continued to compose brilliant columns until four days before his death in a Dallas hospital.

Last Thursday's Dallas News was graced by the final column of this extraordinary man. The subject was death. He wrote at the start:

"The courts continue their gradual enslavement of the people. The judge who has been trying the Karen Quinlan case up in New Jersey has now declared that nobody has a constitutional right to die.

"We wish that people would rise up against this latest usurpation of legislative power. Legislatures cannot only authorize you to die; sometimes they help you along . . ."

Crume must have sensed he was about to die. And yet he could write with humor in his final printed words:

"The question of the constitutionality of dying raises some interesting questions about basic law. We have searched the Constitution diligently and can find in it no constitutional right to be born. We are talking here about the United States Constitution; nobody can find anything in the Texas Constitution. Since a man has no constitutional right to be born or to die, his whole life appears to be unconstitutional . . ."

Ernest Paul Crume physically resembled Abraham Lincoln. Also he resembled the 16th president in compassion and native wit and wisdom. And like Lincoln he was born in February. The date was Feb. 24, 1912, and the scene was his parents' farm in the Ozarks near the village of Alpena Pass, Ark.

The Crume family moved westward in 1918, in a covered wagon. And they finally settled in Parmer County, Texas, adjoining the New Mexico border. Crume made the hamlet of Lariat, Parmer County, famous in his columns and in his remarkable book, "A Texan at Bay."

He was near the top scholastically in his class when he was graduated from the University of Texas at Austin in 1936. This despite the fact that he had to work his way through the university, sometimes long hours as a cafe dishwasher.

Crume came to The Dallas News in June, 1936. He didn't know it but the great University of Texas historian, Dr. Walter Prescott Webb, had called the publisher of The News, Ted Dealey, urging Dealey to "sign up Crime." Paul was dumbfounded when he came in The Dallas News building and was sent immediately to the publisher, Ted Dealey told him: "Go to work tomorrow."

Crume had written his Page 1 column, "Big D" since 1952, seldom missing an issue Sunday through Friday. He never took a vacation without leaving columns to cover a brief vacation period.

The book of his select columns was published in 1961 by McGraw-Hill of New York, and he also wrote articles for Encyclopedia Britannica on Texas. His stories were printed in Readers Digest and other national magazines, and columnists all over the country cribbed his material.

Except for four years of service as a U.S. Navy officer in World War II, mostly in the North Pacific, Crume performed for The Dallas News since that June in 1936.

He is survived by his wife, Marion, a teacher at the Hockaday School, and by their son, Christopher Crume, and by seven brothers and one sister.

Funeral services will be Monday at 3 p.m. at Cochran Chapel United Methodist Church, 9027 Midway Road in Dallas.

The services will be conducted by Paul Crume's friend, Dr. E. C. Rowand Jr., pastor of Central Christian Church in Dallas.

[From the Dallas Morning News, Nov. 19, 1975]

Goodby Old Friend: You'll Be Missed

(By Robert E. Baskin)

Most *Dallas News* readers knew Paul Crume, who died Sunday, only as the columnist on the front page who brightened their day with his wit, his story-telling knack and his priceless essays on human foibles, including his own.

But he was more than that. He was the best all-around newspaperman I have ever known, and his talents included a perceptive news judgment, great skill at editing and a broad educational background that enabled him to view events of the day in an historical context.

It may have been true that he did not suffer fools gladly, but he was too much of a soft-spoken gentleman to show it often.

He was more than ready to assist in the training of any young person in our business who showed a grain of talent or enterprise. And he believed that training was one of the most important functions of an editor or a senior newsman.

Paul and I served stints as editors—he on the night city desk and I on the telegraph desk of *The News*—in the early 1950s. Those were the days of the Korean War, of intense domestic strife and of a Dallas that was suddenly beginning to realize that it was becoming one of the great cities of the United States.

The overall daily editing task was to put these elements into proportion and hope what we were presenting was a balanced report to our readers.

I can hardly recall a time when Paul and I, handling diverse aspects of the days news, disagreed on what we were trying to do. It was a nightly challenge to fit the bits and pieces of current history into the space available.

TYPOGRAPHER EXTRAORDINAIRE

As an editor, Paul had the ability to sharpen stories with quick strokes of the pencil, to prod reporters gently for missing facts and to see that stories emerged into print in their proper relationship to others.

He knew typography to a detailed extent, and he worked well with the printers, having learned "the case" and the problems of the composing room when he was a young printer. In emergency situations he could edit directly at the page form, working with hurriedly produced proofs.

In his journalistic philosophy (and he probably would have scorned that inexact phrase), Paul was highly discriminating and insistent on good taste. He rejected all that was inconsequential, trashy, maudlin or trite.

THE "COMMON" TOUCH

He did not believe in writing down to young readers, believing that this was an insult to their intellects. He did not find erudition offensive, and the idea that you had to write for the Kansas City milkman he considered a calculated affront to the bulk of your readers in a fairly sophisticated community.

After his Big D column, an idea of the late E. M. Ted Dealey, was in production, Paul frequently was called upon for specific writing tasks. These included occasional obituaries of remarkable people, and he brought new dimensions to this frequently neglected field of the news.

His piece on Wick Fowler comes to mind as being a particularly memorable one. But there were plenty of others equally as good. And his columns from the 1972 Republican National Convention in Miami Beach, Fla., were among his best and revealed a refreshing perception of the political scene.

But I think probably his most spectacular and ably done special writing assignment came Nov. 22, 1963, the most traumatic day in Dallas history.

Paul was given the task of writing the general lead story, pulling together all the events of the assassination of President Kennedy and what followed.

It was a story which was taking new turns almost hourly, and his was an assignment that required the highest talents of journalism under intense deadline pressures.

The story in its final form was a masterpiece. It was unsigned, but the imprint of Paul Crume's skill was unmistakable.

Editor, columnist, humorist, instructor, special writer—you name it. He was all of those things, and a great and understanding friend.

ORANGE BLOSSOM CLASSIC MAKES NATIONAL TELEVISION DEBUT

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. PEPPER. Mr. Speaker, having long been a supporter of public broadcasting, I am particularly pleased at an event happening this week in my city of Miami. The event is the Orange Blossom football classic between Florida A. & M. and Kentucky State.

My special pleasure comes from the fact that the game will be televised by the Public Broadcasting Service. I believe it is uniquely appropriate that the Public Broadcasting Service provide this recognition to these predominantly black colleges.

The Congress has asked public broadcasting to pay special emphasis to the interests of black people. This event is a fine indication of their interest, and I wish to share with my colleagues the full announcement of the PBS telecast as follows:

Orange Blossom Classic Makes National Television Debut

The 43rd Orange Blossom Classic, the oldest and most prominent black college football game in the nation, will be broadcast live December 6 at 8 p.m., Eastern Standard Time on PBS from the Orange Bowl in Miami, Florida. The Classic culminates a week of parades and festivities and promises to attract a crowd of over 40,000 fans.

The Florida A&M Rattlers, 7–2, will host the Kentucky Thoroughbreds in this, the third oldest Bowl Game in the nation.

Coach Rudy Hubbard's Rattlers are battling for the Southern Intercollegiate Athletic Conference Title and are ranked among the top ten black colleges in the nation.

The Thoroughbreds, under the coaching of Leroy Smith, have completed a surprise season earning their best record in recent years and are eager to avenge a 27–9 loss to the Rattlers in the 1971 Classic. In this invitational contest, the home team has a 2–1 edge over Kentucky State and a 22–18–1 overall record including their recent four year winning streak.

The Florida A&M Marching 100, renowned for its formations and cadence versatility, will lead Saturday's festivities with a mid-morning parade through Miami and an exceptional half-time show. The PBS Network will broadcast the Classic and the half-time show.

Ron Pinkney, Sports Director of the Mutual Black Network, will provide play by play commentary for the Orange Blossom Classic to be televised live by the Public Broadcasting Service, Saturday, December 6th at 8 PM, EST. Buddy Young of the National Football League will work with Pinkney as an analyst.

Pinkney joined the Mutual Black Network in January, 1973 and now has two daily sports shows broadcast nationally. He also handles play by play for their weekly black college football broadcasts.

Buddy Young, a former Baltimore Colt, joined the NFL's Commissioner's Office in 1965.

The Classic is produced by WGBH Sports Exec-Producer-Greg Harney, Director-Al Muir.

MOORHEAD'S SPEECH ON REDLINING

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. PATTERSON of California. Mr. Speaker, the Congress and several of the States are in the midst of a debate over the issue of redlining of older neighborhoods by mortgage lenders. Both the extent of the problem and the efficacy of alternative remedies are hotly debated.

Every Member of the House will benefit from the approach to this problem taken by our colleague from Pennsylvania, the Honorable William Moorhead. In his speech before the American Jewish Committee in New York City last month, he offered the example of lenders and community leaders working together to solve the problem of redlining. Mr. Moorhead's remarks are well thought out and offer a practical approach to this thorny problem.

I urge my colleagues to read the speech printed below as well as the accompanying press report from the American Banker:

Remarks of William S. Moorhead

Thank you Mr. Nimick. My good friend Sholom Comay, Mr. Greendale, ladies and gentlemen of the American Jewish Committee and other guests—I welcome the opportunity to speak at your conference today.

To those of you determined to leave this meeting with some answers to the problem of urban disinvestment—I hope you will find my comments interesting.

To those of you just as concerned about the scarcity of credit for urban residents, but also eager to get on with lunch, I promise to keep my remarks brief.

My message today should be interpreted by lenders as a friendly warning. Potential borrowers, especially those who have been denied mortgages for less than worthy reasons, I hope will find words of encouragement in my comments.

I have been a Member of Congress for the past 17 years, most of them spent as a member of the Housing Subcommittee and more recently as Chairman of the Joint Economic Committee's Urban Affairs Subcommittee.

If there has been a common thread guiding my activities in the housing and community development area, it has been my simple, but unyielding belief in the mandate of the 1949 Housing Act, stating the national goal of a safe home in a suitable living environment to all Americans.

In this regard, I first came across the term redlining in 1967, when our housing subcommittee investigated the problem of urban residents who were unable to secure property and crime insurance.

Back then, lenders seemed willing to make loans to inner-city residents but insurance companies would not write policies in those areas which they felt were subject to large urban riots. Consequently, mortgage money was shut off because lenders would not issue loans on uninsured properties.

The Federal response to that problem was creation of the FAIR (Fair Access to Insurance Requirements) Plans; insurance underwriting pools in each state, charged with issuing policies on all properties—regardless of location—that could not get coverage in the market place.

Now we have a new variation of redlining—the refusal of lenders to make mortgage or home improvement loans in certain urban communities even though the property is insured.

This problem really is not new—but it is just now getting the kind of national attention it deserves.

I refuse to engage in the chicken and egg debate on redlining. Whether a neighborhood declines because credit is not available or whether lenders refuse to put money into a declining neighborhood, the result is still the same.

The entire matter is better approached by admitting the situation exists and then seeking solutions to the dilemma.

That's what we did in Pittsburgh, when Fran Nimick and representatives from the savings and loans came to me with their idea of a public citizen review committee. They didn't quibble about what was redlining or what was prudent investment. They set up a unit to examine every single mortgage turndown in Pittsburgh, with an eye toward making that loan if possible, or letting the borrowers know exactly why the loan cannot be made.

As Pittsburghers were developing their plan, the Congress was at work on its response to redlining.

As you know, both the House and Senate have passed slightly different versions of mortgage information disclosure bills. The proposals each would require lending institutions to disclose the number and total dollar amounts of real estate loans made during each fiscal year.

The Senate version requires the information by zip codes while the House demands the information by census tract where available and zip codes at minimum. The Senate bill has a three year limit. The House bill, four years.

A House-Senate conference later this year will mix the two and probably report a bill requiring information by census tract, with a three year life. I know the Congress will approve, and I think the President will sign this idea into law.

By itself this bill will not produce mortgage money where before there has been only refusals.

The aim of this legislation is to provide Congress and borrowers with information about the responsiveness of lenders to their communities. It also will allow a borrower—who happens to be a depositor—to withdraw his funds and reinvest them in another institution if he finds his first bank or S&L is not making mortgage loans in certain neighborhoods, particularly his own.

I point to this legislation, not because I believe it is the solution to redlining. It is not, but it certainly will help. I point to this bill because it is evidence that Congress has taken a first step toward getting credit into the inner-city for mortgage purposes. Though they ranted and raved about this simple information requirement, it is the next stage of the legislation that should truly concern the financial community.

I do not believe I am overstating the case when I say, at the end of this three year experiment with information disclosure, if there is not sufficient evidence that redlining no longer is a problem, there will be a great demand on the Congress to approve some type of direct credit allocation mechanism to assure that credit worthy individuals no longer are denied mortgage money.

This may seem grossly unfair to lenders—and typical of Congress' penchant for using howitzers to kill mosquitoes—but unless lenders end their practice of refusing loans merely because a property is located in an older neighborhood, lived in by lower or middle-income families, the federal government is going to be pressured to find ways to make that loan for the lender—and use the lender's money to do it.

I don't want this to sound like a threat. It isn't. But it is a prediction from a veteran Congressman who is blind to the implications of the simple mortgage disclosure legislation which soon will go to the President's desk for signature.

Before the financial community begins panicking and calling for Moorhead's scalp, let me suggest an alternative that I believe will serve both the lender and borrower better than a massive federal program—and one which if realized would forestall further congressional activity in the area.

What I hope would occur—in view of Congress' willingness to act—is for lenders and interested community people throughout the country to join and attack the redlining problem locally, similar to what we've done in Pittsburgh.

I am not suggesting that the federal government ignore the problem—we cannot and will not.

But I do think, with the federal government at least three years away from enacting other forms of anti-redlining legislation, our best and most immediate hope for more direct mortgage assistance is the creation of local plans for local needs.

Already this is happening in different parts of the country.

You know what we are doing in Pittsburgh. In Boston, the mutual savings banks are spearheading an inner-city lending plan. In Philadelphia, the two largest commercial banks have developed a plan for channeling mortgage money to urban neighborhoods. And recently, the New York mutual savings banks announced plans to establish a program to review loans that have previously been turned down.

Quite honestly, I know the financial community—with its fear of federal involvement—will be more satisfied by a local plan aimed at the redlining problem. And I think there are several advantages here for the borrower also.

For the borrower, a local plan often means that it is designed for those unique characteristics that his community alone possesses. A local arrangement probably can get off the ground and working much faster than any congressional scheme. A local plan often features active citizen participation and citizen participation generally means more lender responsiveness. And finally, local plan bears the identity of that community thus there is local pride acting as an incentive to make a plan work.

For the lender, a local arrangement means that the financial community shares in developing the plan, as opposed to carrying out an idea imposed by Washington. A local plan often contains flexibility that a federal statute will not feature. And probably the most compelling reason for lenders to develop their own program is the near certainty that if they don't the federal government will.

In closing let me reiterate the congressional awareness of the causes and effects of the refusal to grant credit to urban residents—our mortgage disclosure act reflects this.

Lenders would do well to take note of the bill we just passed and realize that they have about 36 months to open loan windows that—in the past—have been closed to certain neighborhood elements.

The role those of you here today can play is to carry this message back to your respective communities and their lenders and then act as a catalyst to get a local plan mortgage credit plan working. Thank you.

[From the American Banker, Nov. 24, 1975]

More U.S. Laws Seen if Redlining Continues

(By Laura Gross)

New York.—Rep. William S. Moorhead, D., Pa., warned members of the financial community Friday that if they do not take responsibility for solving the problems of redlining locally, the Federal government may have to support proposed mortgage disclosure laws with credit allocation measures.

Mr. Moorhead addressed a conference on urban reinvestment sponsored by the American Jewish Committee's Institute of Human Relations in cooperation with the National Urban League, the urban reinvestment task force of the Federal Home Loan Bank Board, the Interreligious Coalition for Housing, the Federal Reserve Board and the Department of Housing and Urban Development.

The conference was attended by about 50 representatives of financial institutions, social action agencies, government agencies and corporations and neighborhood housing development projects.

Mr. Moorhead explained that he expects enactment shortly of pending Federal legislation requiring disclosure of mortgage loans made by financial institutions—with a House version as the final one. The House version requires banks and other lenders to disclose location and amount of mortgage loans by census tract rather than zip code area. The Senate version uses zip code areas.

But, the congressman emphasized, this legislation is not the answer to redlining. If, after a three-year experiment with disclosure, "there is not sufficient evidence that redlining no longer is a problem, there will be a great demand on the Congress to approve some type of direct credit allocation mechanism to assure that creditworthy individuals no longer are denied mortgage money," he declared.

His warning, he said, is a friendly one, especially in light of progress being made in opening up more mortgage funds for inner-city residents in several cities. He pointed to voluntary programs in Pittsburgh, New York State and Boston, and added that local plans are better not only for lenders but also for the borrowers.

He applauded work being done at the conference to form an effective national coalition of bankers, social action agencies and community groups built around common concerns for urban reinvestment. Representatives of the various groups who were present Friday will be contacted in the near future to discuss putting such a plan into action, Sholom D. Comay, chairman of the national housing committee of the Institute of Human Relations, explained.

Mr. Moorhead was instrumental recently in helping formation of Pittsburghs Home Mortgage Opportunity Committee, a group of savings and loan associations, commercial banks and social action agencies dedicated to reviewing mortgage loan turndowns by financial institutions in the city.

Also speaking at the meeting was William Whiteside, executive director of the urban reinvestment task force, which has been responsible for helping to establish 16 Neighborhood Housing Service programs in cities throughout the country. NHS programs provide high-risk revolving loan funds for inner-city borrowers who are not considered creditworthy by financial institutions. The program also catalyzes mortgage loan investments by banks and savings and loan institutions in the neighborhoods they serve.

Mr. Whiteside explained the FHLBB strongly supports a recently introduced congressional measure that would provide an urban reinvestment fund to absorb 80% of a loss on any mortgage foreclosure insured under this proposal. A lender would face a 20% loss on any foreclosure, he said.

The co-insurance measure, as he called it, "won't let the lender sell out and walk away" on a foreclosure, whereas, he added, the lender might do so more readily if the loan were 100% insured by the Federal Housing Administration.

The co-insurance program would apply, he explained, to all homes anywhere that are 25 years or older, and will also involve the private mortgage industry in reinsuring the bank or saving and loan association's part of the risk so that the cost is not passed on to the borrower.

Mr. Whiteside emphasized he thinks this would be a good tool for aiding urban reinvestment where Neighborhood Housing Services programs are not already in existence.

He also announced establishment of a group called Neighborhood Housing Services of America, a sort of umbrella funding group made up of representatives of Neighborhood Housing Service programs from over the country. It would buy mortgage loans from individual NHS high-risk funds when these programs have lent all funds available to them.

The NHSA group would be funded by a $250,000 grant from the urban reinvestment task force of the FHLBB. Mr. Whiteside said its funding power could possibly be increased through contributions from charitable organizations, foundations and financial institutions, or long-term loans from some of these sources.

Vernon Jordan, executive director of the National Urban League, also addressing the group, made it clear that he felt "the need for the private sector to return to the housing financing market for low- and moderate-income families is of paramount importance."

He contended that the reason neighborhoods decline is that lenders do not want to risk funds on blacks. "The recent study by the Comptroller of the Currency demonstrated beyond any shadow of a doubt that black applicants for mortgage loans are turned down almost twice as frequently as whites, even when socio-economic levels were held constant," he asserted.

There is no reason why "workingclass black ghettos cannot be stabilized and rehabilitated, just as working-class white neighborhoods have been maintained with the aid of institutional mortgage lending" he stated.

Carl Westmoreland, executive director of Cincinnati's Madisonville area Neighborhood Housing Service, contended, however, that many neighborhoods begin to decline long before a really visible socio-economic or race change occurs. In his neighborhood, where the NHS program has been highly successful, he said, "disintegration and decline began before blacks got there and those that watched the decline and left will now have to help those of us who want to be there fix the neighborhood up."

The group discussed housing code enforcement, community development agencies where housing is owned by community members, and, in New York, specific problems of urban reinvestment where the city planning agency has a budget of only $102 million to cope with a multibillion-dollar community redevelopment problem.

The tone of the conference, however, was one of hope that with nationally based agencies, private business and banking institutions and public agencies working together, urban disinvestment can be reversed in many cities.

PEER REVIEW SYSTEM

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. TEAGUE. Mr. Speaker, I received the following communication from Prof. Jerome Gavis, Johns Hopkins University, recently which I think is extremely thought-provoking. I think it speaks for itself in suggesting that there are several sides to the coin of the so-called peer review system which has been under review lately.

I believe that Members may find this letter and my response to it useful in assessing our Federal system of supporting basic research:

THE JOHNS HOPKINS UNIVERSITY,
Baltimore, Md., October 24, 1975.

Hon. OLIN E. TEAGUE,
Rayburn Building,
Washington, D.C.

DEAR MR. TEAGUE: I have recently been awarded a research grant by the National Science Foundation to fund a two-year study on "Diffusional Transport and the Kinetics of Nutrient Uptake by Phytoplankton". I am writing this letter to you in view of the controversy now going on about NSF funding and granting procedures, to tell you about the work I plan to do and why it is important, and to express and to explain my feeling that the NSF review and selection procedures for research grants are not only fair but most productive and should be continued.

Despite the imposing title, the study is simple in conception. Phytoplankton are algae; the word denotes these kinds of algae, algae that float in water and color it green. Such algae can become nuisances in rivers and lakes under certain conditions. When plant nutrients like phosphate and nitrate are added to water bodies, phytoplankton grow and multiply very rapidly, then die and rot, coloring the water deeply, causing odors, killing fish, etc. In order to learn how to control algal nuisance efficiently and at low cost we must understand, among other things, how rapidly these organisms grow when presented with the nutrients. We also need to know how rapidly phytoplankton can grow, if we wish to utilize the biological productivity of the oceans most efficiently. Algae provide the basic food supply for higher forms of aquatic life like fish.

Phytoplankton grow at rates controlled by the concentration of the nutrient in least supply. My idea is that the nutrient in least supply may not be able to diffuse to an organism through the surrounding water as rapidly as the organism requires it for growth. That is, an organism responding to a given nutrient concentration sucks it up, but depletes the region around it of nutrient. Nutrient then moves by diffusion toward the depleted region from farther away, but may not be able to move through the water as rapidly as the organism requires it. The organism can only grow as rapidly as the nutrient can reach it. This is slower than the growth rate would have been if diffusion were more rapid. In past work the slowing effect of diffusion had not been considered.

Apparently the idea was intriguing to the scientific community, because the NSF awarded me a small, short-term grant a couple of years ago to see what could be made of it. One of my students and I showed by experiment that the idea was sound and potentially important to our understanding of the mechanisms of algal growth. The NSF has now funded a more extensive study so that we can thoroughly investigate and establish the role of diffusional transport in algal growth.

The results will not be spectacular nor lead to immediate technological advances. We are not going to solve the algae nuisance problem nor provide for greater oceanic productivity with this grant. No one can honestly claim to be able to do these things at this time. Our work, however, is not less important because of this. What we will do is provide another scientific fact that must be added to the large number of scientific facts, known and yet to be discovered, that we must have in order to solve these problems. We are providing the scientific groundwork for future technological advances.

It is unfortunate that the pace of science is so slow and that we cannot now economically solve our environmental problems. My colleagues and I, as well as other scientists, are striving to provide as quickly as we can the information that must be known before the technological advances can be made that will allow our myriad environmental problems to be solved at acceptable cost.

The NSF is one of the very few agencies for funding the basic research necessary to provide the essential scientific facts. I believe that, while its granting procedures are not perfect, they have been worked out over a long period of time and are better than others that have been proposed. The peer-review system, in particular, is an excellent means of insuring the scientific merit of research proposed for funding. It has, however, been attacked as a means of providing for "insiders" and of keeping unknowns out. I do not believe this, because I am an "outsider" and unknown in the field in which my grant was made. Although I have done competent and published scientific work in the past, I am a chemist, have never published in the biological literature, and am totally unknown in the world of aquatic biological science. My contacts in NSF were in the physical and engineering sciences group and were made more than ten years ago. The people I knew are no longer there. I know no one in the marine sciences group, nor have I met anyone from that group personally. Yet the aquatic biological community and NSF were willing to give me an initial chance and an opportunity to continue the work. An "insider"-based system would have left me out. So would a geography-based system, since I am at a small but major university in the mid-Atlantic states. So would a system biased toward youth, since I am no longer young.

Support should go to scientists doing good work, not to those chosen in some arbitrary way. The best mechanism for awarding the limited support funds available is the peer-review system. The least costly and quickest way to obtain them in the long run is by adequate support for basic research and meritorious award of funds.

Sincererly yours,

JEROME GAVIS,
Associate Professor.

COMMITTEE ON SCIENCE AND TECHNOLOGY,
Washington, D.C., October 29, 1975.

Prof. JEROME GAVIS,
Department of Geography
and Environmental Engineering,
The Johns Hopkins University,
Baltimore, Md.

DEAR PROFESSOR GAVIS: I receive a lot of letters in my capacity with the Committee on Science and Technology, but rarely does a scientist write and explain to me what he is doing as clearly as you did in your recent letter. Thank you for taking the time to do it so well.

I also appreciate the fact that you must be following the course of oversight of the National Science Foundation under our Subcommittee on Science, Research and Technology chaired by my colleague James Symington. The Subcommittee, I assure you, is considering the matter of peer review closely. In this connection it is always helpful to hear from people such as yourself who are directly involved with the Foundation. I am sharing your letter with Mr. Symington and his staff.

Thank you again, and best regards.

Sincerely,

OLIN E. TEAGUE,
Chairman.

RED CROSS CERTIFICATE OF MERIT

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. RUPPE. Mr. Speaker, I would like to bring to your attention the courageous deeds of two individuals from my distirct in East Jordan, Mich.

On August 29, 1974, Mr. William Breakey and Mr. Richard Oleniacz were working at their jobs as part of a construction crew for a sewer project. Nearby a backhoe boom suddenly came in contact with a 7,200-volt transmission line which caused an electrical current to pass through the body of one of their coworkers. Both of these alert gentlemen rushed to the accident, cleared the victim's air passages as he had stopped breathing, and immediately began to alternate in giving mouth-to-mouth resuscitation to the victim until he regained consciousness and was breathing through his own efforts. There is no doubt that had Mr. Breakey and Mr. Oleniacz not been there to perform these lifesaving techniques, their coworker would not be alive today.

Messrs. Breakey and Oleniacz will be receiving the highest award that the American National Red Cross can bestow on an individual, their Red Cross certificate of merit and accompanying pin. As I am sure you will agree, these two fine individuals are most deserving of this award based on their efforts in saving a life.

A TRIBUTE TO RABBI ABRAHAM B. HECHT

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. SOLARZ. Mr. Speaker, I rise today to pay tribute to a constituent and good friend, Rabbi Abraham B. Hecht.

As a devoted spiritual and civic leader of the Jewish community, Rabbi Hecht has worked tirelessly and with boundless energy on many worthy projects—most notably on the fight to secure emigration rights for Syrian Jews. Rabbi Hecht has exhibited noble leadership in his organizing endeavors tempered with a humanistic dedication to the cause of freeing Syrian Jews. I have been fortunate to be able to join with Rabbi Hecht in this important cause and his inspirational dedication has served as a model of courage and humanity in seeking the inalienable human rights of freedom and security for this group of Jews in search of their homeland.

I am privileged to represent the largest Sephardic Jewish community in the world, outside of the Middle East, and certainly, this community is in good hands under the talented and committed leadership of Rabbi Hecht. In Hebrew the word rabbi means "teacher" and few are more deserving of this title than Rabbi Hecht. In setting up educational centers, classes, lecture series, and numerous scholarly endeavors, he has demonstrated his ability to organize and implement educational programs of the highest caliber.

Mr. Speaker, at this time I would like to insert into the RECORD an article that appeared in the Jewish Press about Rabbi Abraham B. Hecht—a dedicated and inspirational leader of the Jewish community.

[From the Jewish Press, November 28, 1975]

RABBI DR. ABRAHAM B. HECHT

(By Chaim Yerushalmi)

The Sephardim are known to be a very close-knit people. Years of difficulty with the Ashkenazim have made them understandably clannish and a bit chauvinistic about their particular status and ancestry. Though today, the traditional rivalry and enmity between chassidim and misnagdim has broken down almost completely, and a marriage between the two is no longer rare, the barriers between the Sephardim and Ashkenazim are still unfortunately very much in evidence.

As marriage between the two groups, which would go a long way towards integrating them, is still not commonplace, it is especially surprising that for their most important religious activities, involving a spiritual leader, the Sephardim of Flatbush have chosen an Ashkenazic rabbi.

And these Sephardim are not just a small, isolated group. They constitute the largest Syrian Jewish community outside of the Middle East. Their Shaare Zion Congregation is one of the biggest Sephardic centers in the Western Hemisphere. They have created an entire community of schools, kosher stores and businesses along the southern part of Ocean Parkway in Brooklyn.

It is thus a particular tribute to Rabbi Dr. Abraham B. Hecht that he was selected almost two decades ago to officiate at Shaare Zion, and it is a further testimonial to him that he has maintained his durability there.

Rabbi Hecht is not only an Ashkenazi, but he is also a Lubavitcher chassid and a fourth generation American.

He was born in Brooklyn in 1922 and his father, Samuel, (also a native American) was descended from an old Galician family, who came here in 1890. His mother, Sadie, also hailed from Galicia. Incidentally, the senior Hechts produced six sons who are rabbis, with almost every major Jewish urban center throughout the United States having been served at one time or another by at least one of the Hecht brothers.

Rabbi Abraham Hecht had a varied and well-travelled education, having followed in the footsteps of his father, who was sent at the age of 12 to learn in Mea Shearim in Israel for six years. Rabbi Abraham started off in Torah Vodaath in Brooklyn and at the direction of T.V.'s illustrious founder, Reb Shraga Feivel Mendelowitz, ztl, was one of the first 10 bochurim from Torah Vodaath to join the initial class of the Lubavitcher Yeshiva in the United States.

In 1939, he continued his Lubavitch studies in Otwosk, Poland, directly under the last Lubavitcher Rebbe, ztl, but his sojourn didn't last there too long, due to the outbreak of World War II.

Returning to America, he was ordained at the Lubavitcher Yeshiva Rabbinical College and married the former Liba Greenhaut.

It was then that he began his travels, but this time as an educator, rather than as a student, to improve the quality of religious life throughout the United States. He was the founder of yeshivas in Newark, New Haven, Buffalo, Worcester and Dorchester. When he return to New York, he became a day school principal and the rabbi of B'nai Mogen David Congregation.

He used his talents to establish publications, employment agencies, organize classes, lecture series, book drives and again to set up educational centers and institutions.

In the past 30 years, most of this work was done wiith the Sephardic community, who came to accept and love this Ashkenazi as one of their own. In 1958, he was named the head of the large and prestigious Shaare Zion Congregation, which he helped build and today it boasts of having a membership of over 1000 families.

In outside work, too, Rabbi Hecht has exhibited boundless energy. He has often visited Israel and has served as the president of the Rabbinical Alliance of America, the Rabbinical Board of Flatbush, as well as on a Presidential conference on children. He has taken an active part in local politics, and has, ironically, attended functions all over the world as THE representative of his Sephardic community.

In the field of publication, he first made his mark 11 years ago with a widely acclaimed book of essays and sermons called "Spiritual Horizons."

It is rather fitting that he continues with something "Spiritual" now, with the recent printing of "Spiritual Freedom", a collection of some of his most prophetic and analytical sermons of the past 10 years.

NEW YORK ASSISTANCE

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. MAGUIRE. Mr. Speaker, although I strongly favored Federal action, contingent upon stringent fiscal and budgetary reforms, to assist New York to avert default, I voted present on H.R. 10481 to avoid any possible conflict of interest, or appearance of conflict, arising from the fact that my wife, Margaret, owns municipal assistance corporation bonds.

On October 28, 1975, I inserted in the CONGRESSIONAL RECORD at page 34128, the details concerning my wife's holdings, together with the disclosure of same contained in my letter of October 20, 1975, to the Committee on Standards of Official Conduct.

GREYHOUND BEGINS PLAN TO AID THE HANDICAPPED

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. RHODES. Mr. Speaker, Greyhound Lines, Inc., has started a program that will open new vistas for the handicapped and allow many of them to see America during this Bicentennial year.

The firm is offering a special fare, which provides that a companion may travel free to assist any handicapped person who needs aid in boarding, exiting, or traveling on a bus. The Greyhound company says the new rate will apply to all regular runs and special fares such as the unlimited travel Ameripass.

This is a fine program. It means that the handicapped can travel at no additional cost and have the assistance they need. Greyhound has, truly, opened a window on America for many who could not afford double fares. This is a good example of private enterprise at work, helping to solve the problems of the disadvantaged, and I believe Greyhound is to be commended highly for innovating this travel opportunity for the handicapped.

Text of the Greyhound statement which explains the new plan is as follows:

GREYHOUND BEGINS PLAN TO AID THE HANDICAPPED

PHOENIX, October 15.—A special "Helping Hand" service to assist the handicapped in traveling by bus has been announced by Greyhound Lines, Inc., the world's largest bus line.

Key feature of the "Helping Hand" service is a special fare which allows a companion to travel free to assist any handicapped person who needs help in boarding, exiting and traveling on a bus.

James L. Kerrigan, president of Greyhound Lines, said that the special fare will apply to all Greyhound regular rates and special fares such as the unlimited travel Ameripass. "Handicapped persons frequently have been unable to travel because of the added cost of being with a companion who could minister to their needs," Kerrigan said. "Our new program will make transportation costs no more for a handicapped person than for anyone else and still provide for their special requirements."

To be eligible for the special fare which goes into effect at midnight Sunday, Oct. 19, a handicapped person will need a written statement from a doctor stating that he or she needs a companion to assist in boarding, existing and traveling by bus.

"The 'Helping Hand' service is only a part of an ongoing comprehensive program for the handicapped," Kerrigan said. "In several of our new terminals and those planned for construction or remodeling, we are putting in facilities such as wider doors, ramps, handrails and specal restroom features.

"We are studying other programs and services designed to make travel easier for the handicapped."

Both the handicapped person and the companion will travel on a single ticket. The pair must travel together for the complete trip and the companion must be capable of assisting the disabled person in boarding and alighting during the trip.

"Nonmotorized wheelchairs and other aids will be carried as baggage without additional charge," according to Kerrigan.

"Greyhound recognizes its responsibilities to all the citizens of this country. Our 100,000 miles of routes throughout the country and Canada represent the best way to see this country up close. This is especially important during the upcoming Bicentennial and Greyhound wants to do its part to make sure no one is deprived of the opportunity to see this great country because of a handicap," Kerrigan said.

"We believe this service is so important that we are asking all other bus companies to join with us in this program," Kerrigan said. "We are also contacting organizations representing the interests of handicapped persons to obtain their support and guidance," he concluded.

EDWARD KUSNETSOV, SOVIET PRISONER OF CONSCIENCE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. BIAGGI. Mr. Speaker, I want to call to the attention of my colleagues the plight of a Jewish prisoner of conscience who is serving a sentence in a Russian prison camp for his role in the abortive Leningrad airplane hijack attempt of 1970. His name is Edward Kusnetsov, who with his wife Sylva Zalmanson-Kusnetsov and two other Soviet Jews, attempted to gain their freedom in this desperate fashion. Such is an example of how the Soviet Union's inhumane policies can drive their citizens to take such extreme measures to gain their basic humanitarian rights.

Sylva Zalmonson finally gained her release after worldwide protests in her behalf. Since that time, this 30-year-old champion of her people has been attempting to gain the release of her husband and brothers. Sylva herself suffers from tuberculosis and an ulcer which she contracted while enduring harsh punishment and severe workloads in prison.

Edward Kuznetsov was originally sentenced to death for his heroic escape attempt. After worldwide protests, however, he received a reduced sentence of 15 years in a Russian prison camp, where he is now serving the remaining 11 years of that sentence.

Sylva's efforts to have her husband released from prison and obtain an exit visa to leave the Soviet Union have been unsuccessful so far. Even her recent hunger strike at the United Nations did not bring a sympathetic response from Soviet officials. In recent years, the Soviet Union has seen fit to allow other Jews to leave their nation and find peace in Israel, the United States or other countries. Hopefully, Sylva's protests, with the support of those of us here in Congress, will enable Edward Kusnetsov and other prisoners of conscience to obtain their freedom from Soviet oppression. Her struggle to help her loved ones realize their freedom should become our fight too, for who will be around to protect our rights in the future, rights which we have come to take for granted, if we do not take a strong stand on behalf of those being denied their rights today.

AFL-CIO'S 20TH ANNIVERSARY—A RECORD OF ACHIEVEMENT

HON. JOSEPH E. KARTH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. KARTH. Mr. Speaker, I would like to call the attention of Members of this House to the fact that December 5 is the 20th anniversary of the merger of the AFL and CIO and the creation of the largest and most effective labor movement in the free world.

For nearly 20 years preceding December 5, 1955, the American labor movement had been divided and in conflict, ideologically and organizationally. Because of that division and despite a phenomenal growth of industrial unionism in the mass production industries during that period, organized labor suffered. Resources, talents, and loyalties were devoted to internal competiton, instead of tc the building of a larger, stronger, and more united house of labor.

But on December 5, 1955, the conflict ended as George Meany and Walter Reuther jointly wielded the gavel that once again achieved American trade union solidarity.

As the AFL-CIO celebrates its 20th birthday, the united labor movement has much to look back upon with satisfaction and much to view in today's American world with pride.

With 14,200,000 members and 110 national and international affiliates, the AFL-CIO is, by a large margin, the biggest and most successful labor movement in the free world.

But first and foremost among the accomplishments of the American labor movement are the highest living standards enjoyed by working men and women anywhere in the world.

American workers' families own more homes, autos, motor boats, television sets, and all kinds of household appliances than do working families in other countries. More important, to buy all these things requires far fewer hours of labor by Americans than by workers in other countries around the globe.

For the most part these high living standards have been won through collective bargaining and the gains won by unions in contract negotiations have also lifted the living standards of unorganized workers.

Therefore let it be immediately said that one of the salvations of our economy in this deep and continuing recession has been the sustained purchasing power that flows from the wage levels negotiated by organized labor.

But not only union wage scales are supporting the Nation's economy. The pensions negotiated by unions for their retired members also help sustain purchasing power and enable the Nation's retailers and manufacturers to sell merchandise that otherwise would remain piled up on the shelves of stores or in the stockrooms of factories. Today—and this is indeed an impressive figure—more than 30 million American men and women are covered by pension programs negotiated by unions and management.

Many, many other benefits and protections—some of them are so important to people and to the Nation that they can no longer be called fringes—today strongly bolster our economy. These include: health, medical and hospital insurance programs, dental care, paid maternity leave, paid holidays and vacations, union-management financed cooperative housing for workers' families, and so on.

In another extremely important area of economic achievement, the American labor movement has a long way to go, but still leads the labor movements of the free world. Job security is well on the way; it is an idea whose time has come.

Job security may be viewed today as a radical innovation, but there is every likelihood that 20 years from now—when the AFL–CIO is 40—job security will be taken for granted and it, too, will be seen by economists as a major support of the free enterprise system.

The AFL–CIO's accomplishments over the past 20 years have been equally significant in still another vital area: Federal and State legislation.

The American labor movement has been on the side of the angels, so to speak, in backing every major legislative undertaking to improve the social, economic and political welfare of the mass of the American people over the past 20 years.

The AFL–CIO has labored successfully to strengthen such measures as social security, workmen's compensation, unemployment compensation, medicare and medicaid, public housing and public transportation, pure food and drug protections, better education, and much more.

Labor's concern, it is clear, has far transcended bread-and-butter issues and the results of collective bargaining. The AFL–CIO's concern today is with a healthy American economy and with the improved social and economic welfare of all the American people, not just those who are union members. The AFL–CIO's record on racial democracy and on opposing discrimination everywhere it appears has been superb.

There is an old tradition in the American labor movement summarized in the slogan: "Citizens First, Unionists Second." Never was that truer than today. Union members and union officials are in the thick of every local and national campaign for the United Way and various charities. The unions themselves contribute in large amounts to such causes as muscular distrophy and cancer crusades.

Literally hundreds of thousands of young Americans who might otherwise never be able to continue their education have been sent to colleges and universities on scholarships provided by trade unions.

The AFL–CIO's 20-year record in aiding the struggling young democratic unions of emerging African and Asian countries is one of remarkable accomplishment. That record has been far more than the safeguarding of these democratic unions against capture by communism; it has been a magnificent and memorable record, for example, of leadership training and vocational training.

The history of the AFL–CIO's first 20 years, therefore, is a history of strengthening democratic unionism at home and abroad, of reinforcing America's democratic institutions and encouraging democratic institutions in Asian and African countries, of successful efforts to give the United States a more effective economy serving all the people instead of a privileged few.

The AFL–CIO's first 20 years have been a force, a driving force, toward creation of a new and happier and more peaceful world, a tomorrow of more encompassing social and economic justice.

The AFL–CIO's first 20 years have been rich in accomplishment; they are even richer in their promise for the next two decades.

BOB SHARP, "MR. SENIOR CITIZEN"

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. LEHMAN. Mr. Speaker, during the Thanksgiving recess I was honored to attend a testimonial luncheon for my constituent, Mr. Robert Sharp of North Miami Beach. Bob has worked diligently for many years on the issues most important to senior citizens. Bob's exceptional dedication to older Americans and his extraordinary energy in fighting to improve the lot of our often-neglected elderly have more than earned him the title given him at this testimonial, "Mr. Senior Citizen."

These excerpts from the welcoming remarks made at the testimonial, better than any words of mine, express the esteem in which Bob Sharp is held by his friends and coworkers:

> In honor of Robert Sharp, a National Senior Citizen Regional Director, who has been President of the American Federation of Senior Citizens for the past 12 years and who is currently Commissioner on Aging Director for the City of North Miami Beach. . . .
>
> Having great compassion for the downtrodden, and having witnessed the privations and the suffering of the unorganized older citizens, caused him to become a man of fierce dedication to the cause of organizing the Senior Citizens, and raising their standard of living.
>
> He was instrumental in organizing the 28 organizations in the Dade County Council of Senior Citizens where he presently serves as first Vice President. He was active in the building of the three and one half million National Council of Senior Citizens.
>
> Bob Sharp led the fight to get the City of North Miami Beach to be the first city in the country to support the Medicare Bill. He prevailed on city of North Miami Beach officials to be the first in Dade County to proclaim Senior Citizens Month. Other Municipalities later followed his dramatic leadership.
>
> This is the man, Robert Sharp, honored by this Testimonial. The man who has relentlessly worked for years behind the scenes for Senior Citizen causes. The man we proudly salute as "Mr. Senior Citizen", Bob Sharp.

COMMISSIONER DONALD ALEXANDER OF INTERNAL REVENUE SERVICE RESPONDS TO CONGRESSMAN EDWARD MEZVINSKY'S CRITICISM

HON. EDWARD MEZVINSKY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. MEZVINSKY. Mr. Speaker, a few weeks ago, I addressed the House, criticizing several practices and procedures of the Internal Revenue Service. The Commissioner of the Internal Revenue Service, Donald Alexander, responded by letter to my remarks. I believe that the Government Operations report on its IRS oversight hearings should be the proper vehicle to provide direction to the Commissioner. Pursuant to his request, I am submitting his letter, along with my reply, for the CONGRESSIONAL RECORD:

> INTERNAL REVENUE SERVICE,
> *Washington, D.C., November 17, 1975.*
>
> Hon. EDWARD MEZVINSKY,
> *House of Representatives,*
> *Washington, D.C.*
>
> DEAR MR. MEZVINSKY: Since the statement which you made on the floor of the House of Representatives on November 11, 1975, entitled "Congressional Oversight of the Internal Revenue Service," is based upon statements made to you during Subcommittee hearings, and perhaps other statements made directly to you, that are erroneous, I would like to take this opportunity to set the record straight, lest the errors be perpetuated.
>
> First, I did not intend any of my remarks to refer to any member of Congress, including yourself. I sincerely regret that this impression may have been conveyed and I want to apologize for whatever imprecision in the article or my language may have contributed to that result.
>
> Secondly, I agree with you that in the past the Congress has not exerted much oversight over the Internal Revenue Service, apart

from two searching and highly critical hearings conducted by Senator Montoya, in 1973 and 1974. Since shortly after I became Commissioner, I have frequently called for more oversight of the IRS. You will recall that the way in which your Subcommittee announced to us that it was going to hold oversight hearings was through a telephone call from your Chairman, who indicated that he had become aware of my statements calling for additional oversight and that he was "answering my ad." We welcome oversight, including, and in particular, the oversight of your Subcommittee. Indeed, on several occasions we have specifically asked for comments and guidance on various of our activities.

For example, in June we provided the Subcommittee with a copy of our revised Information Gathering Guidelines and we solicited its comments on those Guidelines at the June 24 hearing. We look forward to receiving those comments. Similarly, we have raised with you, at open hearings, some of the problems that are currently facing the Internal Revenue Service, such as the proper extent of its participation in general (nontax) law enforcement and many others. Although, to date, we have had some spirited questioning by members of the Subcommittee (which Chairman Rosenthal tells us we cannot interpret as indicating the views of the Subcommittee since it may merely be "devil's advocacy"), we have not yet received guidance on this issue. An expression of Subcommittee views, even though preliminary in nature, prior to final development of its report, would be of great benefit to the Service, the Department of Justice, and to the public.

As to your statement that each time we appear before your Subcommittee a new undercover operation or coded project or covert activity of the IRS is revealed, I want to again make clear (as I believe I have at every hearing) that I cannot give you negative assurances for the past that all improper activities of the IRS have been publicly revealed. I believe the Service is a fine organization that does its difficult job well, but I have pledged to do my best to correct any unchecked and unauthorized practices that may exist. Since early 1973, other IRS officials and I have been attempting to correct what we perceived to be some improper or excessive practices on the part of a few investigators. To that end, IRS top management officials and I temporarily suspended general information gathering and instructed special agents to provide their immediate management supervisors with the names of their confidential informants. This is necessary to enable top management to assure itself that funds being paid to confidential informants were being expended in accordance with appropriate guidelines and to ascertain the types of activities that such confidential informants may have engaged in. I would appreciate your views (and the views of the Subcommittee) on whether either or both of those steps were appropriate ones for IRS management to have taken in the wake of the Leprechaun revelations. If not, what preferable course of action should we have taken?

As to our follow-up on tax-related information revealed during the Watergate Hearings, I believe that if you review the October 1975 Report of the Watergate Special Prosecution Force and our responses to the letters we received from your Subcommittee relating to our political campaign contributions project, you will agree that the statement that "the IRS subsequently rendered the computer and all the information programmed into it virtually useless" is simply erroneous. Presumably it was based on uninformed testimony furnished to you by a former Intelligence Division Director.

As regards Project Haven, you will recall from testimony at the recent October 6 Hearing that the investigation was not itself suspended; rather, career IRS officials merely temporarily delayed the dissemination to our field offices of investigative leads that had been gathered. This temporary suspension has already been lifted in large part. It is also clear that the incident that precipitated the suspension involved at the very least a violation of Bahamian law. As you will recall from that Hearing, I attemped to get some guidance from the members of the Subcommittee as to whether the Internal Revenue Service should engage, through informants, in violations of law. The transcript seems to indicate that it may be your personal opinion that it may be appropriate for the Internal Revenue Service to violate foreign law, at least where that law had been enacted for the purpose or was being used to facilitate tax evasion. I personally do not agree with that view, and believe very firmly that the Internal Revenue Service should not violate the law to enforce the law. I do not believe that the end justifies the means. However, since this is a continuing and important problem, I would like to have a formal expression of the views of the Subcommittee on this issue.

In connection with your statement that my former law firm was mentioned in some Castle Trust records, you will be glad to learn that our Inspection Service was investigating this allegation before I was even aware of it. It seems to me that under any standard that is timely action.

As to the allegation that I revealed sufficient details concerning Confidential Informant TW-24 to readily identify him or her, I simply do not understand the basis for this contention. Members of my staff have personally reviewed very carefully the transcript of the press conference to which you refer and have advised me that there is a total absence of any discussion by IRS officials of any details concerning the identity of the informant. This matter is, or may be in litigation, and we flatly deny that we have identified TW-24. Prior to September 29, certain news media appeared to know more information about TW-24 than I then knew.

Finally, I agree completely with the statement near the end of your speech that "the task of the Internal Revenue Service is to be the tax collector for the nation. As such, it traditionally has not, and indeed cannot become embroiled in politics. Our voluntary tax system is based on the IRS' mandate to collect taxes fairly and even-handedly." That is why I have repeatedly called for nonpartisan Congressional oversight and have looked for an expression of views of the Subcommittee on whether such activities of the IRS as the Narcotics Traffickers Program, generalized information gathering and illegal activities by informants can exist in the "tax collector of the nation" following Congress' mandate to "collect taxes fairly and even-handedly."

I would like to take this opportunity to again state that I am hopeful that the IRS will receive affirmative guidance from you and your Subcommittee in the near future on the role that it should play in society. I, too, believe that it is very important to restore the faith of the American public by assuring it that the IRS enforces the law as it is written and that it does not violate the law to enforce the law.

Because your statement was picked up by some of the news media, I have taken the liberty of releasing this letter to the press. I would appreciate it if you could arrange to have a copy inserted in the Congressional Record.

With kind regards,

Sincerely,

DONALD C. ALEXANDER.

HOUSE OF REPRESENTATIVES,
Washington, D.C., December 4, 1975.

DONALD ALEXANDER,
Commissioner, Internal Revenue Service,
Washington, D.C.

DEAR COMMISSIONER ALEXANDER: I have received your letter and appreciate your comments on the issues raised by my remarks on the House floor.

As you are aware, the Subcommittee is currently preparing a report on the IRS oversight hearings conducted thus far which will be presented to the whole Government Operations Committee. I believe this report is the appropriate vehicle through which to give you the comments and direction you seek.

I want you to know that I do not view this as a personal matter and believe that we share the same goal of insuring that the Internal Revenue Service act within the letter and spirit of the law. Success in this task certainly involves the cooperative effort of the Congress and the IRS. Obviously, there are some serious matters of disagreement between us, and I look forward to speaking with you at length on this subject.

I will submit your letter for the Congressional Record today.

Sincerely,

EDWARD MEZVINSKY.

JUSTICE—FOR WHOM?

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. RANGEL. Mr. Speaker, the image of blind justice has become a tarnished one in the United States. Nor perhaps, can we ever claim to have been guided by that ideal. Democracy is rooted in the belief that the wishes of the majority—peacefully and intelligently enacted—are to be followed by all. But we cross the fragile boundary between democracy and arbitrary rule when prejudice and subjectivism dominate the majority rule.

American justice is most blatantly revealed as injustice in our court system. We cannot focus the blame entirely on the individuals who hold power in our courts. But we can see clearly here how cultural values and assumptions shape our notions of fairness, due process, and appropriate punishment. It is a far too easy tendency to dismiss such values as fixed and immutable, and therefore to escape the collective responsibility of changing our judicial practices. Rather, we must recognize the biased and oppressive nature of American justice, as it operates in our tribunals, as a first step toward achieving practical equality for all.

Joseph C. Howard, associate judge of the Baltimore Supreme Court, has written an article in the recent issue of Judicature which takes a critical look at the social values influencing judges and juries alike. I commend this most articulate and well-documented study to the attention of my colleagues:

RACIAL DISCRIMINATION IN SENTENCING

(By Joseph C. Howard)

The nature and extent of racial discrimination in criminal sentencing is seldom addressed by legal authorities or discussed in judicial circles. Yet such discrimination is widely perceived in our communities and clearly supported by statistics. Little wonder so many citizens feel that judges have developed an uncanny capacity to look and not see and to listen and not hear, and a corresponding incapacity to appreciate the consequences of their own acts. We seldom see that people who are subjected to dual standards of justice will adopt dual standards of morality, that people who are subjected to values which make them valueless will create values of their own, and that people who find they cannot participate peaceably in the order of things will create disorder.

Because of our imperceptiveness, few of us realize that in our lifetime we have witnessed an almost total transformation of the attitude of minorities toward our courts and system of justice. This change manifests itself in decreased confidence in and cooperation with our courts; continuous conflict in our correctional institutions; and the creation of collateral systems of justice. If all we perceive from these developments is some sort of unilateral problem—that some elements of society have a greater propensity to commit crime and others are more prone to cause trouble—then perhaps our frame of reference is a bit too restricted.

Instead of facing these facts and engaging in serious introspection, it has been customary for those of us responsible for administering justice to discount racial discrimination as a basic cause of disparity and to assign other reasons for this inequity. However, when we are inescapably confronted with racism in the judicial process we tend to impute blame to those whose conduct is so conspicuous and calloused it cannot be condoned. This reaction leads us to misjudge the depth of the problem by indirectly suggesting that the majority of judges arrive at decisions uninfluenced by the race of defendant and victim. Therefore we overlook the characteristic human tendency to relate negatively or positively to individuals and events before us for evaluation. Further, we fail to take into consideration the subconscious effect that history and social climate have upon the orientation, attitude, and action base of all judges.

THE JUDGE IN SOCIETY

Judges relate consciously or unconsciously, favorably or unfavorably, not only to the principals before the court and to the offense charged, but to the relationship between the two. Like other human beings, they tend to relate more favorably to that which is familiar and to fear or become frustrated by that which is foreign. They tend to empathize and sympathize more easily with individuals who look and think like they do, and who share the same history and a similar life style. Findings in other fields converge on the fact that cultural distance tends to determine attitude and tolerance, and the greater the distance in this respect, the greater the tendency for imagination and bias to influence judgement and decisions. Like others, judges relate differently to various crimes, depending largely on their position in society and the hopes and fears of our communities.

Finally, they relate to the victim of a criminal offense. The records show that intergender and interracial charges are dealt with far more severely than intra-gender and intra-racial charges. For example, a touching, association, or attitude which under most circumstances would be quite ordinary, might become suspect or extremely serious depending upon the race and sex of both culprit and victim.

However, I think it is a mistake to start with the judge when analyzing disparity in sentencing. Judges, like all other human beings, are products of their experiences. The way they think, their value systems and defenses come largely from society and its influence on them. Therefore a more fundamental and fruitful point of departure for such a discussion is society itself.

Our quest for criminal justice is frustrated because we fail to recognize that criminal justice is inextricably interwoven with, and largely derived from, a broader social justice. Consequently, the social climate at a given time or place contributes considerably to a judge's attitude, orientation, and action base, which in turn is translated into judicial behavior.

Let me suggest three conceptions growing out of the social milieu which may shade judicial thinking at the time of sentencing. Each is deeply rooted in every American institution and is a product of our historical experience.

THE LESS THAN HUMAN

First, I suggest that our society conceives of some citizens as human and others as something less; those who are considered less than human are perceived as being materially different—different in psychological make-up, with different feelings and outlooks, and, of course, deserving of less. How else can we account for the brutal mistreatment of racial minorities in this country for the past 300 years? Or by what other rational theory can we explain our contemporary conduct, which is symbolized by the school bus and the For Sale sign, the systematic development of our segregated suburbs, and the preparation of our cities for absentee ownership?

Subhuman treatment is frequently seen in our criminal justice system, which both influences and is influenced by the larger society. Our recent history of law enforcement includes the killing of 200 unarmed black men, women, and children, the wounding of thousands of others during the civil disorders of the 1960's; the use of dogs, cattle prods, and fire hoses on blacks petitioning their government for redress; and the shooting by police of black pilferers 10, 11, and 12 years of age. Until recently in some of our cities, youngsters, the great majority of whom are black, have been treated as adults at age 16, while those in the surrounding counties, who are predominantly white, are protected from such treatment until the age of 18.

The 1973 *Philadelphia Inquirer* study of that city's courts puts it all in a capsule. That extended computerized analysis found that blacks were treated far more harshly at every single stage of the criminal process. The subsequent study of the Detroit Recorder's Court in the fall of 1973 supported these findings in almost every detail.

In our criminal courts the death penalty has been used disproportionately upon people of color. Since 1930, more than half (54.6 per cent) of the 3,859 individuals executed in this country were nonwhite. Of the 36 people executed for robbery or burglary, 30 were black. And, of course, blacks have a monopoly on death sentences at ages 14, 15, 16, and 17. Of the 455 men put to death for rape, 407 were black or brown. Indeed these statistics on rape, together with those of several states throughout the United States, would suggest that the principal use of the death penalty has been to deter black men from raping white women.

My study of *The Administration of Rape Cases in the City of Baltimore and the State of Maryland* (1968) revealed that all of the 55 death penalties issued for rape in that state were for attacks upon white women; only five of the 55 were white men. Even though black women were raped more than ten times as often as white women, never in the history of Maryland had any man been executed for raping a black woman. Moreover, according to an examination of all rape indictments between 1960 and 1967, 47 per cent of all blacks who were convicted of criminal assaults upon blacks were immediately returned to their community on probation, confirming the low regard Maryland judges had for both black women and the black community. The average sentence, exclusive of those for life imprisonment and death, was 4.2 years when blacks raped blacks, 16.4 years when blacks raped whites, 5.7 years when whites raped blacks, and 4.7 years when whites raped whites. Almost 25 per cent of the white men who raped black women avoided the sentencing stage of trial by pleading "not guilty by reason of insanity".

THOSE WHO BELONG

The second social concept which interferes with equitable sentencing is that of "belonging". When society conceives of a people as not belonging because of certain perceived social or cultural defects, it is disposed to deliver disparate treatment.

These perceptions are developed by dogma, transmitted as truth, and internalized without much examination. Scattered impressions become the basis for expectations, and all too often the behavior patterns of a few become character traits of an entire race. It is like looking at yellow through blue glasses and seeing green, and, if what we happen to see corresponds with what we are looking for, our notion is reinforced.

These visions become functional in our dealing with individuals of different groups. If we visualize the life style of a given racial group as settling their disputes on Saturday night with deadly weapons, it may subconsciously affect our whole approach toward both accused and victims of that race. If black enclaves in the city are considered high-crime communities, when a defendant from the area requests bail, a judge might set an unattainable one and thereby remove the temptation of the resident to get into additional trouble before trial. If at the time of sentencing a defendant is without education, vocational skill, or probability of employment, a practical resolution of society's burden is to incarcerate him or to extend the period of imprisonment.

DETROIT

The recent study of the Detroit Recorder's Court revealed that psychiatric reports are ordered three times as often for whites as for blacks. It appears that when judges are confronted with criminal conduct committed by a member of the "in" (white) group, the culprit is considered a misfit, maladjusted, or a mental problem, so a psychiatric analysis is ordered to find out how and where he went wrong. But when the offender belongs to the "out" (black) group, the judges seem to view his conduct as consistent with his life style and consequently to feel that no medical attention is indicated.

The Detroit statistics also show that probation was granted to those on higher economic ("belonging") levels approximately twice as often as to those in lower economic ("non-belonging") brackets. This suggests a judicial belief that for those who "belong" the fact of conviction coupled with personal and family embarrassment and possible ostracism is punishment enough. On the other hand, many judges think that incarceration is a normal experience of non-belongers, and in the final analysis all "they" understand is naked power and brute force.

This report also disclosed that execution of sentence was withheld four or five times more frequently in cases of those of substance as compared with those of more modest means. Maybe this happens because we recognize that those who occupy socioeconomic status similar to ours need time to put their business affairs in order and to prepare their families for the traumatic experience they must endure.

THREATS TO THE SYSTEM

The third social attitude which affects equitable sentencing is our penchant for punishing people whom we regard as a threat to the system. I am not referring to the subversive or terrorist, but to the so-called militant, power advocate and political activist. When we are confronted with affirmative demands for change, the minuscule is magnified, and peaceful action is met with unreasonable reaction. This paranoia transcends all races and age groups, but because blacks have been at the cutting edge for change throughout the past two decades, they have borne a large measure of the reaction.

Magnifying this unreasonable fear and frustration is the notion that there is something intrinsically wrong with anyone who speaks out for change, or with anything that symbolizes change. Consequently, the stereotype may tend to color a judge's conduct and his innate prejudice may be stamped upon the evidence as it is received.

In 1972, the University of California at Berkeley conducted a study in which 100 students of various races permitted the placing of a Black Panther bumper sticker on their cars. None of the participants had ever been arrested for a traffic violation. Within six months these students accumulated over $2,000 in fines in the California courts for moving violations. To further illustrate this problem, in 1971–72 while I was serving on the United States Department of Defense Task Force examining the quality of justice in the armed forces, we discovered that the Black Power handshake and/or salute was considered sufficiently dangerous to draw company punishment, produce summary court martial convictions, and to be used as a factor in the issuance of less than honorable discharges. In a similar vein, the Internal Security Division of the Baltimore Police Department has been attacked for infiltrating the campaigns of black politicians since 1969, keeping dossiers on black ministers and community leaders, and photographing prominent blacks who participated in public demonstrations and community protests.

SPECIAL TREATMENT

A more capricious, but nonetheless dangerous mindset of this nature is displayed by many judges throughout the country. These are the judges who give "special treatment" in issuing arrest and search and seizure warrants, setting bail, granting injunctions, and imposing sentences when they are dealing with unpopular causes. Not only is disparate treatment meted out to defendants, but also to those who represent them and to others who may or may not be associated with them. ACLU, civil rights, and legal services lawyers are held in contempt, criticized, humiliated, and treated far more callously than other lawyers who appear before those judges.

In recent years more than a dozen notorious cases have diminished the dignity of the judiciary. Classic examples include the recent Cairo, Illinois, case in which all of the judges in an entire circuit were charged with prejudicial findings and with abusing their discretionary power with respect to demonstrators in that city; and the recent San Francisco "Zebra" case in which state courts refused to grant black citizens injunctive relief against illegal stop-and-frisks.

These thoughts are not to suggest that judges account for the totality of inequity in our criminal justice system. However, we bear a major responsibility for insuring the promise of equal justice in our courts. This obligation cannot be fully discharged if we fail to appreciate how racial discrimination can affect our thinking at the time of sentencing.

JUDICIAL INITIATIVE

The three conceptions discussed herein are intended to suggest how social thought can be translated into judicial behavior and diminish our ability to do justice. I believe these conceptions are responsible, in a large measure, for disparate dispositions in criminal cases, and the resultant disrespect many have for our courts. Neither problem will disappear or diminish in intensity unless those of us charged with the maintenance of the criminal justice system take the initiative in corrective action.

We can nether afford to ignore the plethora of inequities explainable only in terms of race, nor avoid discussion regarding their impact. It is incumbent upon us to correct the procedural and systematic defects involved in the sentencing process. We should re-examine our basic concept of justice, not in terms of definition, but in terms of value, motive, and purpose. We should ask ourselves whether or not our socio-economic orientation does not inadvertently give preferential treatment to the powerful and penalize the odd man out. We should concern ourselves with whether or not the justice we dispense is consistent with what our rhetoric suggests, and with the effect our actions might have on the survival of our entire system of justice.

But beyond all this, we should engage in introspection to create the kind of consciousness which will permit a broader base for judgment and an even larger vision of a just society.

WHY CANNOT LIBERALS ATTACK BIG GOVERNMENT

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. ASHBROOK. Mr. Speaker, Edmund Muskie, Senator from Maine and former candidate for President, recently asked a very penetrating question—

> Why can't liberals start raising hell about a government so big, so complex, so expensive, and so unresponsive that it's dragging down every program we've worked for?

This is something I have often wondered about myself. Why cannot liberals work to reduce the size and cost of the Federal Government? Why does it always seem to be the conservatives who are concerned about big government?

Perhaps it is force of habit. For years the liberals have voted to increase the size of government. They have created countless new Federal agencies with thousands of employees and miles of red tape.

Each new agency and each increase in the power of the Federal Government has been hailed by most liberal politicians as a great step forward. Instead of improving the situation, however, these actions have made the Government even more distant and even more unresponsive to the needs of the people. It has also added to the cost.

Perhaps, then, the problem is just force of habit. After having voted for big government all these years, it is difficult for the liberal politicians to change their ways.

Or perhaps the problem is that the liberals cannot admit to the American people that their philospohy has failed. Big government is not the panacea it was thought to be. It is not the cure-all for everything in our society.

Perhaps the liberal politiciains, after years of promoting big government, are embarrassed to admit they were wrong. They decline to attack big government because they have helped create this monster in the first place. And now they have no other solutions.

Whatever the reason may be, it is clear that the liberal majority in Congress is unwilling to cut big government down to size. It continues to be the conservatives rather than the liberals who are concerned about the costly bureaucratic nightmare that has become dominant in Washington, D.C. It continues to be the conservatives rather than the liberals who attack big government.

DOORMEN'S SOCIETY AWARDS BANQUET DINNER

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. ROGERS. Mr. Speaker, on Tuesday, December 2, 1975, the Doormen's Society of the U.S. House of Representatives held their annual awards banquet. Representative Barbara Jordan, of Texas, presented the awards to the honorees and Representative Corinne (Lindy) Boggs, of Louisiana, presided over the presentation ceremonies. The banquet was highlighted by the presentation of the Congressional Correspondent Award to Mr. Joseph McCaffrey. Joe was honored by the Doormen's Society for his more than 25 years of outstanding service as a congressional correspondent. He has served as the Washington correspondent for CBS, for the Mutual Broadcasting Co., and as the editor of McCaffrey Reports.

A special commemorative award was presented to Mr. Sid Yudain, the editor and founder of Capitol Hill's most respected and widely read newspaper—Roll-Call. Sid first came to Capitol Hill as a special assistant to Connecticut Congressman A. P. Morano in 1951.

Awards for "Outstanding Doorman" were presented to Gaston (Ray) Bethea, Jr., and James A. Winchester, Jr. Ray Bethea has served as a doorman since 1973 and is a retired first sergeant of the U.S. Marine Corps. Jim Winchester is an honors graduate of the University of Florida, where he was president of the Pi Sigma Alpha fraternity.

Mr. Robert Marshall, a 21-year veteran of the Air Force, who has been a Capitol policeman for 7 years was named Policeman of the Year at the banquet. While in the Air Force, Officer Marshall received two Air Force Commendation Medals and three Presidential Unit Citations.

After these awards were presented, friends and members of the Doormen's Society were prepared for a special surprise tribute to the society's founder and president—Warren Hamilton Jernigan. They were not disappointed when "Mr. Florida," Congressman Robert L. F. Sikes, dean of the Florida congressional delegation, stepped to the microphone and asked Helen Jernigan, wife of the beloved president and a tireless worker in her own right on behalf of the Doormen's Society and its many social, educational, and civic causes, and the Jernigans' two sons, Robert and Warren to join him on the platform. Congressman Sikes told the assembled crowd about a hypothetical ceremony that had taken place earlier in the day. He said that the Doormen's Society was awarding a special award to Warren in recognition of his continued outstanding and meritorious service to the Congress of the United States. Congressman Sikes noted that as the Member of Congress who originally sponsored Warren for employment on Capitol Hill, he was privileged to tell the attendees that the "H" in Hamilton, Warren's middle name, really stands for "hinge."

Congressman Sikes continued his praise of Warren Jernigan by reminding the people at the banquet that Warren has served in the House of Representatives for 18 years, and has served as Chief Doorman longer than any other person in the history of the U.S. Congress—12 years. Mr. Sikes concluded his remarks on this happy occasion by saying that over the years that Warren has been Chief Doorman he has heard words of great praise about his work from nearly every Member of the House.

HELP FOR NEW YORK AT LAST?

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. McKINNEY. Mr. Speaker, for weeks the Economic Stabilization Committee of which I am ranking minority member has been wrestling with the debt financing problems of State and local governments. After hearing over 100 hours of testimony from witnesses representing all facets of municipal debt financing, the subcommittee and full Banking Committee reported out legislation which would have assisted not only New York City but any municipality whose financial condition could result in the serious impairment of the financial structure of the locality and/or the State in which it is situated. The legislation provided a means for the municipality to "get back on its feet" by requiring that certain prerequisites were carried out before Federal assistance is provided. In return the Federal Government would establish loan guarantees which would insure that the credit market remained open, thereby enabling the municipality to continue to provide public services to its residents.

The protection of the governments interest was provided for and fees were to be paid by the participating locality for the administration and processing of the guarantees. The cost to the American taxpayer? Zero.

While New York City's fiscal decline was the catalyst which resulted in this legislation, our hearings indicated that other cities are in danger of defaulting on their municipal debt. Therefore, while the legislation was tailored to New York City's immediate problem it would have provided a mechanism which could have been used by other municipalities who were in danger of imminent fiscal disaster.

During the deliberation of the subcommittee the Administration consistently stated that it was against "one cent being used to bail out New York City." Now the administration proposes legislation which will require an appropriation from the U.S. Treasury amounting to $2.3 billion. Even more difficult to comprehend is that the White House bill is a private bill. It is entitled "The New York City Seasonal Financing Act of 1975." Therefore, if New York City or any other municipality in this Nation were to require additional or similar assistance from the Federal Government, new legislation would be required. Therefore, the White House substitute, I believe is a short sighted vehicle which merely places a bandaid over a festering sore.

The question which the subcommittee attempted to answer during its hearings was whether the Federal Government has a responsibility to aid municipalities whose fiscal distress may well result in a weakening of the economic base of the entire country. The answer was definitely in the affirmative however. I believe that if a repetition of the New York City crisis is not to take place, it is imperative that a more long-term approach be analyzed and developed. The subcommittee bill set up a procedure which would enable further modifications and improvements in debt financing while at the same time providing a mechanism for fiscal assistance during the implementation of these changes. Under the provisions of the White House bill, no such mechanism is provided. It is a cut and dried "bail-out of New York City" bill with no assistance for other municipalities in the future.

While I am disappointed in the administration position on the whole municipal debt financing crisis, I am pleased that the President has decided to provide assistance to New York. However, I believe that while New York City's immediate fiscal crisis has been, at least temporarily relieved by this legislation, it is the responsibility of this Congress and of this administration to reevaluate our priorities and reallocate our resources so as to correct the obvious instances of excessive municipal debt which is evident throughout the Nation. Until a comprehensive review of municipal debt financing requirements is undertaken, or an overhauling of our welfare and revenue sharing system is made, our near disastrous experience of the default of New York City will return to haunt the hallowed Halls of Congress for many years to come.

SYMPOSIUM ON THE WORLD FOOD CRISIS, XIII—KEYNOTE ADDRESS

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. BRECKINRIDGE. Mr. Speaker, the senior Senator from Kentucky, Walter "Dee" Huddleston, gave a penetrating keynote address at the World Food Crisis Symposium at the University of Kentucky April 1 and 2. Senator Huddleston, who serves on both the Senate Agriculture and Forestry and Appropriations Committees, put into perspective compassionately but realistically what the United States can and should do to alleviate hunger in the world. Senator Huddleston's address follows:

Address by Senator Huddleston

It is a pleasure to be with you and to participate in your forum on the world food crisis.

Of all the traumatic experiences of the past several years—and they have been many—perhaps the least understandable and the one with the most universal implications has been the change in the world food situation.

At times, the situation has been brought dramatically home to us—as housewives boycotted meats or farmers slaughtered cattle or the television cameras focused on the tragedy in the Sahel. Often too, it has been a quiet, hidden type of deprivation. The Indian child no one fed one day, the low-income American waiting for the moment when he could rummage through a garbage pail, or the average shopper pushing a basket a little faster past the expensive counter items.

The manifestations were many—and certainly of varying degree. But, the fact was inescapable—there was trouble in the world food system, and the question was asked again and again whether we had reached that Malthusian future of gloom and doom or whether we were making our way through a period of aberration.

After two decades of steadily increasing food production, world grain output actually declined by about three percent in 1972. Bad weather in the chief grain producing areas of the world resulted in a drawdown of cereal stocks to the lowest level in almost 30 years. And the resulting increase in food prices had two extremely significant results. It reversed a three decade trend, causing the percent of individual U.S. disposable income spent on food to rise. And, it added to the financial difficulties of the emerging nations which were already saddled with higher costs for energy imports.

These developments, quite understandably, brought to the forefront questions about our abilities to feed ourselves and much of the world at acceptable costs in the years ahead.

Thus, we need to look in some detail at world food demand projections and at the capabilities of our own, fine agricultural system.

World food production must increase 25 million tons or almost 3 percent annually just to keep up with growth in demand. That does not even include the upgrading of millions of diets which need improving. Until recently, increases in production have just been able to match the expanding needs of a growing and more affluent population. But the gap between food consumption and the world's ability to produce is beginning to widen.

The food demand/production gap is most significant for the poorest nations of the world. Unless food production is greatly expanded in these regions, the developing world may face 85 million ton cereal deficits by 1985. If we compare this 85 million figure with a 1969–71 average annual cereal deficit of 16 million tons, we see that this means arrangements will have to be made by these countries to provide for up to five times their current shortfall. Otherwise, the impact of a grain decline will be staggering.

We must, therefore, begin to plan for the food needs of future generations. One approach to meeting the deficit is a greatly expanded program of food aid. In this regard it should be pointed out that the United States has been the most generous nation in the world when it comes to food assistance. Over the past twenty years we have shipped over $25 billion of agricultural commodities to needy nations abroad under our Food for Peace program. Since 1965, the United States has provided over three quarters of all food assistance to the developing world. During the current year we will be increasing foreign food assistance by over 50% to about $1.6 billion. It is clear that our record in food aid is unmatched by any nation of the world.

Yet it is clear that the United States cannot bear the burden of food aid alone. Over recent years other nations have reached a level of economic strength which permits greater participation in foreign food assistance. Some of these nations can contribute commodities directly. Others, which do not have the surplus food producing capabilities to donate food directly, can provide resources with which to finance food assistance. Certainly, the oil producing nations of the Middle East are in such a position. And, our government should initiate discussions with these nations to develop a more equitable basis for sharing the burden of food assistance and for the financing of food assistance. Working in partnership with other nations, we can expand the resources available for food aid.

But food aid can at best provide only a small fraction of the total food need projected for the developing world. Over the past 10 years, total food aid from all developed countries has amounted to a little over $1.2 billion. However, because commodity prices rise when supplies are tight, food aid in terms of volume has tended to be the least when the need is the greatest. Thus, food aid from all sources dropped from 11 million tons in 1972 to about 5 million tons in 1973.

Yet, even at its height in 1970, food aid only provided for a little over 3% of the cereal consumption in the developing world. The facts indicate that even substantially increased food aid would represent only a small percentage of the total food import requirements of the food deficit nations.

Another approach is for the deficit countries to greatly increase their food imports, financing them with their own resources. Total food imports of the 32 developing countries most severely affected by food shortages cost close to $1 billion during the 1975 crop year. Of this, well over half was covered by commercial purchases. For most of these nations the cost of these imports has virtually depleted their reserves of foreign exchange and interrupted their import requirements for other developmental programs. It is just not possible to imagine where these nations could find the foreign exchanges to purchase three to five times their present import volume.

A third possible approach to meeting the food requirements of the developing world is for these nations to increase their own agricultural production capabilities. Presently, developing countries produce most of their own food requirements. Certain countries such as Korea, Thailand and even India are essentially self-sufficient in food production in good years. But grain deficit years represent a constant threat. And, the growth in demand continues upward at a rate which outstrips increases in production. Unless these nations intensify efforts to bring their population growth in line, and to increase food production, the gap between food production and demand is going to widen substantially.

Increasing food production in the developing world can, however, be accomplished only at greatly increased costs. Most of the easy projects to increase food production have already been initiated. Further increases are going to be accomplished at much greater expense. But, hopefully, the recently created Consultative Group on Food Production and Investment which was recommended by the World Food Conference can help identify new sources of financing for agricultural development.

Coming back to our own country and our own agricultural system, we need to reexamine our potential and our policy to insure that we use our resources in the best manner possible.

Over the past three decades, the American food production and marketing system has supplied U.S. consumers with the widest variety of the most wholesome foods at reasonable prices of any nation in the history of mankind. There is no doubt that it can perform admirably in the future.

That same system has produced about half of all cereals recently moving in world trade. In fact, the United States is by far the largest single source of food imports for other countries. This is important both because it enables us to dispose of those commodities we cannot use here at home—we produce two to three times more wheat annually than can be utilized—and because it helps us earn foreign currencies.

Therefore, the most important contribution the United States can make to the future food security of consumers at home, and to customers and aid recipients in other nations of the world is to assure a strong and viable American farm system.

The Committee on Agriculture and Forestry, on which I serve, has just completed action on legislation designed to keep that system strong and viable by providing a reasonable level of income security for the American producer. Without at least some assurance against bad weather or overproduction, the risks of farming will eventually drive our producers out of business. Without reasonable loan and target prices, farmers will be discouraged from producing at full capacity. With the world food situation as it is, we cannot afford the likely results of an agricultural policy which fails to provide the required income security.

One of the world's most valuable resources is the American farmer. With less than one percent of the world's farm work force, he produces almost 20% of the grain consumed in the world.

The future food security of the world lies largely in his continued productivity. We need to do our best to assure that he will be able to remain strong and viable.

AMENDMENT TO PERISHABLE COMMODITIES ACT

HON. BOB BERGLAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. BERGLAND. Mr. Speaker, I am introducing today, joined by Congressman SISK, a bill to amend the Perishable Agricultural Commodities Act.

The bill does essentially three things; First, it clarifies the coverage of potatoes and potato products under the act. Second, it adds to categories of action prohibited by the act, any unwarranted preferential treatment or retaliation by a processor against a grower, and provides for nondisclosure of the name of the complainant under certain conditions to reduce the possibility of retaliation. Third, it strengthens the remedies available to the Secretary of Agriculture to enforce the prompt payment provisions of the act.

Mr. Speaker, this bill results from specific problems that have been experienced recently under the Perishable Agricultural Commodities Act, and for that reason I would hope that early action might be taken on it.

H.R. 5901

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mrs. SPELLMAN. Mr. Speaker, on September 9 and 10, the Senate and House successfully overrode the President's veto of the education appropriations for fiscal year 1976 (H.R. 5901). The override insured Federal funding to our schools for 1976 and a subsequent $3.3 million in Federal aid for the schools within my district.

On November 18, the President demonstrated his disapproval of this veto override by proposing a rescission of approximately $1.3 billion in education funds, which would have the immediate effect of reducing education appropriations for 1976 by $182 million.

Prince Georges County, Md., lies adjacent to the District of Columbia and, as a result, has a great number of Federal employees living within its boundaries. Impact aid funding is vital to the county's education system. The administration's proposals could reduce these funds by as much as 25 percent. This reduction would seriously threaten the present quality of our county schools and might force the elimination of many of our county education programs.

In a statement accompanying the outline of his proposed rescissions, the President attempted to justify his actions by reiterating his belief that the American people wanted to avoid unnecessary increases in Federal expenditures. Congress does not disagree. However, by classifying funds appropriated for education as an unnecessary increase in Federal expenditures, the President illuminated a basic philosophical difference between his administration and the Congress and, I feel, most of the citizens of our Nation.

The importance of our system of education to the past, present, and future of these United States cannot be overstated. If we expect this country to continue to prosper, the quality and availability of a free education for our children must be, at the very least, maintained at the level it has reached after 200 years of growth and improvement. To propose an action which would jeopardize this system, is not an exercise in fiscal responsibility, but, instead, is an action which reflects a shallow understanding of the reasons for this Nation's unprecedented rise to greatness.

I cannot feel that I am faithfully representing the people who have elected me to this office if I permit the uncertainty and confusion caused by Mr. Ford's actions to linger within my constituency. Therefore, I urge my colleagues in the House and Senate to actively reassert their beliefs, as quickly as possible, in the vital importance of our educational system. By opposing the President's budget rescissions, either by the adoption of a resolution to disapprove or by ignoring the President's proposed measures, we will restore H.R. 5901 to its original scope and move in the direction of providing the children of this country with education befitting this Nation.

KIRKSVILLE, MO., HOME OF OSTEOPATHIC MEDICINE

HON. JERRY LITTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. LITTON. Mr. Speaker, a city in my district, Kirksville, Mo., has the unusual honor of being the home of osteopathic medicine. Having just observed the 83d anniversary of the opening of classes at the American School of Osteopathic Medicine, founded by Andrew Taylor Still in 1892 in Kirksville, I thought this would be an appropriate time to tender the congratulations of the Congress and reflect on the history of this relatively new and remarkable medical profession.

Andrew Taylor Still was a medical student when the Civil War broke out. He promptly enlisted with the Union forces and was discharged in 1864, having attained the rank of major. By the end of 1874 he had defined and developed his osteopathic concepts because he had become convinced that the accepted medical practices of the day were inadequate. After outlining those concepts, he sought to present them formally to the medical world at Baker University in Baldwin, Kans., but his request was denied. He subsequently returned to Missouri and treated his patients according to his concepts, acquiring the admiration of those he helped and arousing the anger and suspicion of those who felt his concepts unfounded. On May 10, 1892, he received a charter for the first school of osteopathic medicine, the American School of Osteopathy in Kirksville. It began classes late in November of 1892.

This first school of osteopathic medicine was truly unique in a number of ways. Its admissions standards were extremely liberal for the age; it was open to both Negroes and women. The American School of Osteopathy was 70 years old before the first black, James Meredith, was allowed admission into the University of Mississippi in 1962. Regarding women, Still was just as progressive. He was an ardent supporter of women's suffrage, and by granting them admission equality, he preceded the women's suffrage amendment by 28 years.

Equally intriguing and unique were Still's osteopathic concepts, which deviated from the medical norm of the time. He realized, from his earlier medical studies, that the musculoskeletal system, the muscles, bones, and joints, make up over 60 percent of the total body mass. All body systems, Still theorized, are interrelated and, therefore, interdependent. Thus, this interrelationship of the musculoskeletal and other body systems is affected through the nervous and circulatory systems. He also recognized that a disturbance in any one of the body systems, including the musculoskeletal system, caused altered functions in the other systems of the body.

These concepts require a thorough understanding of anatomy and the development of special skills in recognizing—diagnosing—and correcting—treating—structural problems through manipulative therapy. Doctors of Osteopathy, both physicians and surgeons, use structural diagnosis and manipulative therapy along with all of the other more traditional forms of diagnosis and treatment to care effectively for patients and to relieve their distress.

Just as Still was way ahead of his time concerning the equality of Negroes and women, present data indicates that his medical theories are today accepted unequivocally. Besides the original school in Kirksville, Mo., now called the Kirksville College of Osteopathic Medicine, there are schools throughout the United States located in Chicago, Ill.; Des Moines, Iowa; Kansas City, Mo.; East Lansing, Mich.; Tulsa, Okla.; Philadelphia, Pa.; Fort Worth, Tex.; and Louisville, Ky. Other osteopathic colleges are currently in the planning stage as the demand for osteopathic surgeons and physicians consistently increases. Presently there are 210 osteopathic hospitals in the United States, and all 50 States and the District of Columbia now provide for the unlimited practice of medicine and surgery by doctors of osteopathy.

Again, Mr. Speaker, Andrew Taylor Still and his inherent gifts of fairness and equality with regard to his fellow human beings and his willingness, in the face of strong opposition, to embark on a new and successful medical adventure deserve the congratulations of the Congress. Equally deserving of our praise is the community of Kirksville, Mo., which served as the willing culture for the growth of this remarkably unique medical profession.

MS. ANNE ACKERMAN

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. LEHMAN. Mr. Speaker, last weekend I had the distinct personal pleasure of attending a testimonial banquet for a constituent of mine, Ms. Anne Ackerman. The affair was sponsored by the B'nai B'rith Women, Point East Chapter, in honor of Ms. Ackerman, who has unselfishly given of her time in service to her community of North Miami Beach for many years.

The cause Ms. Ackerman has championed is at best stated in the program that was prepared for the occasion:

> Her personal leadership in improving intergroup relations and her opposition to bigotry and discrimination significantly advanced the cause of human rights in our democratic society.

Anne has earned the respect and admiration of her friends and peers. She has a dynamic and tireless personality. The energy she exerts on any project she undertakes is highly contagious to those who know her. She is therefore not only a "Woman of the Year," as she was recently chosen, but also a woman for all seasons, and I was pleased to join with her and her friends in paying tribute to this remarkable woman.

ASSASSINATION PLOTS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. HAMILTON. Mr. Speaker, I include my Washington Report entitled: "Assassination Plots":

> ASSASSINATION PLOTS
>
> One reads with disbelief the findings of the Senate Committee report on assassination plots against foreign leaders. In a word, the report is horrifying. The report makes these points about U.S. government officials:
>
> They initiated plots to assassinate Cuba's Castro and the Congo's Lumumba;
>
> They encouraged plots which resulted in the deaths of South Vietnam's Diem and the Dominican Republic's Trujillo;
>
> They made use of persons associated with the criminal underworld in attempting to achieve the assassinations.
>
> After drawing on 10,000 pages of testimony from 100 witnesses, a unanimous panel of United States Senators of both parties—liberals and conservatives—found it necessary to recommend somberly that the United States not engage in assassinations or make use of criminals.
>
> It is simply hard to believe that these things would have been done in the name of the United States of America. The plotting against leaders of the Dominican Republic, the Congo, Cuba, South Vietnam and Chile span a period of more than 13 years and four Presidents. These actions were carried out by our leaders, among the brightest people in the country, who enjoyed power and acceptance in the nation's capital.
>
> They acted in a cold war atmosphere, perceived to be of crisis proportions, when most Americans shared the view that our country faced monolithic communism. They thought not only that they were working under proper authority but that they were acting in the nation's best interest. That perception helps explain, but it does not justify, the assassination plots. In that period we developed a hysteria about the leaders of small countries, thinking that they represented a threat to the security of the United States.
>
> The Senate report gives us a picture of our leaders engaged in a dirty business, adopting the worst features of governments that we

have always detested and spurned, and evoking in each of us not only disbelief, but moral outrage.

It is some consolation, but not much, that none of these gangster tactics were shown to have been directly authorized by a President, although even here the likelihood that Presidents knew of the plots is strong. There is also consolation in that the assassination plots did not work, proving, said one observer, that Americans are no good at lying and killing. There is some hope that reassuring statements are now coming from our leaders that they oppose political assassinations as an instrument of national policy. There is some pride in the fact that the report is a remarkable demonstration of confidence in this country's capacity to confront its own misdoings, to learn from them and to change policy. The embarrassment caused by the publication of the report may well be worthwhile if it burns into the minds of future policy makers the moral imperative against making assassination an instrument of foreign policy.

I agree with the Senators that the report, as distasteful as it may be, should be made public. Some contend that the report should be kept secret to avoid embarrassment to the United States, but in a democracy the people are entitled to know what their government is about. Despite the temporary injury to our reputation, other nations will respect us more for keeping faith with our democratic traditions than they will condemn us for the misconduct revealed. As the report says, "We doubt that any other country would have the courage to make such disclosures."

My hope is that we have now learned the worst of the secret CIA operations and that this and other reports by Congressional Committees will have a cleansing effect. Hopefully, the CIA's long night of embarrassment will soon be over.

The Senate Committee recommends that it be made a crime to assassinate a foreign official and such a law could very well be useful, but the real deterrent in the future must be a general political atmosphere and moral climate which simply rejects, and refuses even to consider, criminal acts as a means of carrying out American foreign policy.

We must not believe that this sordid chapter is representative of the conduct of our government. If we do believe that, the future of democratic government is bleak.

Rather, we must see it as an aberration, and resolve to put aside the excesses of the past, overcome the abuses that have been exposed, and cleanse our institutions so that they can carry on the nation's business abroad, including the conduct of an active intelligence service.

Legitimate intelligence activities, including the collection of current information concerning the strengths and weaknesses of any potential adversary, must continue and be strengthened. But the intelligence apparatus must be controlled by effective presidential and Congressional oversight. I certainly do not want to destroy the intelligence agencies, but I do want to put them on a short leash to prevent them from straying beyond the legal and moral limitations necessary to preserve a free and lawful society.

REASSURING THE BALTIC PEOPLES

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. HOWARD. Mr. Speaker, as we prepare to celebrate our 200th anniversary as a nation we reaffirm our belief in the rights of self-determination and independence for all peoples by extending our compassion to those nations whose struggles for freedom still continue. The Baltic nations of Estonia, Latvia, and Lithuania have been denied these rights since they were illegally occupied by the Soviet Union in 1944. This week by passing unanimously a resolution reaffirming U.S. policy, in light of the Helsinki Conference, of nonrecognition of the Soviet Union's illegal seizure and annexation, we reassured the Baltic peoples that an action so flagrantly in opposition to International law and our own cherished ideals would never be acceptable to us.

I represent many fine Estonian-Americans, many of whom are leaders in their communities. They have maintained a strong national identity and rich culture. It is this and a strong desire for independence which has been instrumental in allowing the Baltic peoples to resist assimilation into Russian society thus far. But their struggle is far from over and the future remains uncertain. By demonstrating our belief in their continued struggle, we encourage their faith and spirit to remain strong.

NATIONAL OIL JOBBERS COUNCIL RESOLUTION

HON. TOM STEED

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. STEED. Mr. Speaker, the National Oil Jobbers Council, representing people who retail oil products, has sent me the following resolution on possible legislation. They have asked that Congress not pass any legislation requiring horizontal or vertical divestiture until it has had an opportunity for a committee to study the matter. This resolution merits your consideration.

Resolution

Whereas, there have been recent efforts in the Congress to attach to vital emergency natural gas legislation, certain amendments, that would accomplish a restructuring of the energy industry; and,

Whereas these amendments do not directly relate to the natural gas legislation; and,

Whereas attempts to amend other important legislative proposals in a similar manner are continuing; and,

Whereas the consideration of the many complex factors inherent in any proposal, to restructure the energy industry, necessarily involves factors central to the survival of the national economy, our national security, the cost of living, the impact upon the consuming public, and the preservation of competition in this most vital industry; Now therefore be it

Resolved, the critical nature of this matter requires that the U.S. Senate and U.S. House of Representatives conform to their traditional legislative procedures and consider such matters only after holding full legislative hearing; further be it

Resolved, to accord a question of such critical importance less than full legislative consideration would deprive the members of your body of the many benefits of the usual procedure of sub-committee and committee deliberations.

PACEM IN TERRIS IV

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. RONCALIO. Mr. Speaker, the convocation now underway at the Sheraton-Park Hotel has brought to Washington a series of provocative discussions. Tuesday's presentation of détente by Ambassador Daniel Moynihan and Senator EDWARD M. KENNEDY received national recognition.

I was privileged yesterday morning to hear Maurice F. Strong, executive director of the United Nations environment program, and Robert O. Anderson, chairman of ARCO, on a discussion of our global condition, "The Economic Dimension of Foreign Policy." A lively critique that followed dealt directly with the ugly realities we face. I regret that I was unable to obtain the comments of Mr. Eqbal Ahmad, of Lord Ritchie-Calder of Britain, and of others who made such thoughtful contributions and excellent approaches to the new directions this Nation must take if we are to make the best of the difficult years ahead.

That new direction seems to dictate the retention of the free market system while nevertheless blending it into the best moral and social goals that have so far been devised. It is no longer expedient to point with pride to our own fashions and to deprecate the systems under which others choose to live.

We were pointedly reminded by R. O. Anderson that there is yet no socialist nation on Earth that is able to provide enough food for its own people. Yet we were also reminded that there is something close to moral bankruptcy when our so-called free market system results in the exportation of more and more arms to more and more of the Third World countries who can least afford to provide them, and with virtually no purpose for them.

The Anderson remarks were particularly of value to Members of the House, and I am happy to enclose them herewith.

The Economic Dimension

In looking at the current economic problem and prospects for the global community, I think it best to step back a moment in time and examine where we have been.

I—THE PROBLEM

Up until the eighteenth century, civilized as well as uncivilized men viewed the future with ill-concealed uncertainty. Human experience gave little to hope for in the future and it was better and happier to contemplate the pleasures and glories of the past.

The 18th century concepts of Hume, Locke and Voltaire that man could improve his world and future was an electrifying thought. It was a revolutionary idea that created this nation and all of the democracies of the world today. The concept was simple: free men working together, without oppression, could govern their lives in such a fashion as to not only offer a secure but better future. Since that time, western man has looked ahead with hope for a better future.

Today that dream suddenly appears to be in serious jeopardy and thoughtful and informed men the world over are contemplating the future with an uneasiness that would have been unthinkable a few years ago. The validity of a society which views the individual as endowed with sovereign and basic rights is in serious trouble and man's ability to govern himself is in question.

For the last 300 years western civilization has been riding the crest of a giant wave of growth that has carried us constantly forward and upward. Growth and new opportunities have been the mode of life and nowhere more apparent than in the optimistic world of we Americans. That wave may now have crested and we may now be on the long down slope.

As a people we have had the remarkable and singular fortune to have discovered and enjoyed the riches of a new and vast continent. The great years of European discovery fueled the renaissance and the New World provided the inspiration and intellectual resources for both the old and the new. We, who fell heir to the new continent, have tended to take our good fortune thoughtlessly and with benign recklessness have depleted not only many of its resources, but now encroach heavily on all of the resources of the globe. The land itself has provided the richest resource of our society and today more than ever it is our hope for the future. The corn belt of Iowa and Illinois provided the basis for the unprecedented growth of this country. Without our rich agricultural lands this would have been a vastly different and much poorer America. Today the entire world including the socialist countries are to some extent totally dependent on our heartland.

During the centuries of growth, we witnessed a remarkable phenomenon as world population began a long and sustained period of growth during which the human species multiplied nearly tenfold.

The industrial revolution provided the means for improved production and transportation to support a population that doubled in a century. It also permitted the growth of a new phenomenon that is quite unique in world history, the great cities. A hundred years ago there were few cities with as much as a million people.

Cities are constrained in their growth by the ability to move food and essential supplies to a central point and again redistribute them to the individual consumer. The distance that a man could reasonably walk was the basic unit in the development of urban life up until the end of the last century.

Those cities which had been established on water had the advantage of water-borne transportation to facilitate their growth in this country. New York, Philadelphia, Baltimore and Boston were the evident beneficiaries of such a development.

London, the first great city of the world to reach the million population level, was based on a life pattern centered around the rapid and extensive development of canals and steam railroads in England. Cheap and abundant energy has fueled and made possible the phenomenal growth of urban areas.

Social scientists of future generations will undoubtedly see the population explosion of this century as one if not the central phenomenon of the 20th century. Aside from this explosive growth, the distribution of the population is possibly of even greater significance. We have witnessed a phenomenal and massive migration of hundreds of millions of people from rural to urban life. Even in our country during the last twenty-five years the migration of people from farm to urban centers dwarfs all other known movements of people in a civilized country.

Yet in spite of the massive migration, which will put one-third of the global population in major urban centers during this century, at least half of the world population continues to live on small subsistence farms in an economy that has shown little if any change during the last one thousand years.

These people, almost exclusively of the peasant class, have hardly been touched by the modern world. Whether they are found in China, South America, Africa, Indonesia, India or a few remote villages in Eastern Europe, there are striking similarities in their values and style of life. Survival is the central and simple issue about which all else revolves. They have never known anything but hardship and have never thought of the future without some modicum of fear. Strangely enough, the peasant life is a remarkably stable one and they have an enduring resilience in the face of adversity. They still remain in the world of the Middle Ages and are silent witnesses of the traumas facing the developed world. In all probability they are far better prepared for the future than we are.

For reasons that I will subsequently develop at greater length, I have the strong feeling that the world has moved through a hinge line in human events and that a future predicted on the near or immediate past no longer holds validity. Among those reasons is the quiet addition of an additional billion people to a planet that even a quarter of a century ago was probably overextending its basic resources. Popular wisdom has never questioned the availability of resources and it has been generally accepted that man's future could only be limited by his ability and ingenuity. Absolute limits were and are still unthinkable to most Americans. Yet there is unmistakable evidence that we have finally reached a point in our relentless development where we can no longer be sanguine about many things that have been accepted without question or objective analysis.

The concept that we mortals may be bound and limited by an even greater force is a shocking concept at best. We have discovered that the limitless blue sky of the future has a ceiling and even more disquieting, we may be much too close to it. Given unlimited time, resources and research, it is quite possible that this ceiling could be extended indefinitely but within the confines of the 20th century world, these are dreams for the far distant future. We may dream of them, but they are not consistent with the needs, the time and the resources currently available to us.

The idea of unlimited and cheap resources was basic to our hopes and social designs for the future. Any view to the contrary has and continues to be rejected by our intellectual community as it requires rethinking virtually all of the social thought of contemporary science and public policy. Many a distinguished academic career hangs in the balance over this simple concept.

An egalitarian and populist society can hardly contemplate limitations without realizing the great personal constraints that the concept entails. Our public officials and our national goals are completely inconsistent with such a devastating concept. Yet, I believe that the constraints are not only growing in number but they portend a very basic change in our way of life. It is a virtual certainty that we are moving from an age of affluence to one of greater austerity.

A century from now, when our times are reviewed by future historians, it will become evident that the great wave of growth and affluence peaked during the late 1960's. For the last six or seven years we have been undergoing a period of change in which levels of personal consumption have leveled off and are now starting to decline. This decline will be further aggravated in the developed countries as the developing world realizes that resources that contributed to the rise of western civilization may no longer be available to them and that they are now confined to future growth only if some more equitable distribution of the world resources can be made. The call for a new world economy leaves no doubt as to this awareness.

The inevitable and painful redistribution of global wealth has already started among the petroleum importing nations and the process appears to be moving into other resources. At the best this particular process of redistribution is haphazard and inequitable, yet it is both absolute and irreversible.

For the last quarter of a century public policy has been totally oriented toward greater consumer consumption as the key to a higher standard of living. Today the demand for goods and services exceeds our ability to produce to such an extent that we are faced with accelerating inflation as too much money pursues too few and costly goods. Our previous economic and monetary experience suggests certain remedies that inevitably have worked under conditions of growth and abundance. These remedies which are essentially directed toward even greater consumption will not work in a long and structural period of decline. In fact, the responses that have been effective in the period of expansion may be highly ineffective and counter-productive in conditions of basic decline. The economic philosophy of Lord Keyes may no longer apply in our 20th century world in which economic growth may be limited.

There are four areas of major difficulty as we face the future which interact and compound each other. They are capital, food, resources and time. They have one thing in common, they are all in inadequate supply. Ironically, virtually all of our hopes for the future are tied to their availability. The dimension of time may well be the most important and limiting factor in framing the future.

I must confess a personal sense of helplessness in contemplating these constraints and also an even more ominous feeling as to how such a period of massive change can be accomplished without catastrophic social disruption. Its effects are already evident in the political unrest which is almost universal in the world community of today. Political instability and terrorism are becoming the hallmarks of our time and occur at a period in history when all of our institutions are finding great difficulty in accommodating to changes that we have not yet recognized. More and more governments are moving towards military or totalitarian societies as the democratic process appears to have failed us.

As the net grows tighter, we look for scapegoats on every side without recognizing that society itself and its leaders over the last few decades are the guilty parties. The give away-throw away society is a thing of the past and even governments such as ours are now facing an era of accountability. We must finally live within our means or face complete social and financial collapse.

With intelligent and strong leadership in the western world one could be somewhat more hopeful about the future but there is little solace to be found in this quarter. In looking at our governments we must recognize that they reflect ourselves and I believe that this has never been more true than at the moment. Like our politicians, we would prefer to put the problems off even at the danger of aggravating them and making them more difficult to solve.

The free western societies have rarely been more split and divided than they are today. Factionalism is rampant and society has fragmentized into groups dedicated toward self-serving and self-interest goals. The endless list of factions not only continues to grow but their mood and tone become ever shriller and more strident as they press for greater advantage.

There is a great danger that as a nation, we may elect to go it alone and abandon the rest of the world to its problems. If we do, it will be a move that will never come back, and one that will isolate America for generations to come. Unthinkable as this may seem, we have already made a number of moves in this direction. President Nixon's actions on August 15, 1971, were the first step and more recently and much more significant was the first step toward agricultural export control a few months ago. In effect, we told the rest of the world that if people were to face hunger and starvation, we were not prepared to share unless it was over and above our own needs and did not affect our own costs. The result can only push food prices even higher outside the United States and accentuate already acute shortages. Politically, the decision was an easy one, yet we will now live for years having to decide whom we shall deny food to. At the best we have politicized food in the same manner that the OPEC countries have politicized petroleum. In a historical perspective, instituting export controls on grain may be one of the major global decisions of this century. It may signal to each and every nation of the world that the United States and the rest of the world will fend for themselves when the going is rough, even if starvation is the ultimate end. I hesitate to think that we Americans have made a conscious decision to go it alone as we have been the principal and most vocal advocates of global interdependence when things were going our way. Yet cynicism is deep among the nations and few believe that our magnanimity will supersede political expediency at home.

IN CONCLUSION

If one objectively contemplates the global problem areas of money, food and energy and adds the dimensions of political and social reality it is quite evident that we face a problem of extraordinary proportions. If there be hope, it can only come from a united effort determined to make the best of our problems together with the leaders' willingness to face reality. Sacrifices will and must be made, voluntarily or involuntarily we are all going to see unwelcome changes in our lives. None can or will escape the forces of change that are now about us. A stable or declining economy will certainly test our adaptability and ingenuity.

GRAIN-CAR ALLOCATION RULES PROPOSED BY ICC UNIT

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. PICKLE. Mr. Speaker, I have noticed with great interest a proposal by the Interstate Commerce Commission to allocate scarce grain railcars.

In early 1973, I conducted hearings showing that the massive sale of wheat to the Soviet Union led to a massive shortage of railcars, and that shortage led to massive double digit inflation.

Since then, Mr. Speaker, in many speeches and a special order, I have urged that the limited number of grain railcars be allocated in an equitable manner.

I cannot say the ICC staff proposal is the perfect plan, but it is a plan.

I urge the Commission members to adopt such an allocation system.

Without a plan we will again have train car chaos leading to a transportation catastrophe.

I include in the RECORD an article from the December 2, 1975, Washington Star:

GRAIN-CAR ALLOCATION RULES PROPOSED BY ICC UNIT

CHICAGO.—The Interstate Commerce Commission's Bureau of Enforcement said it will propose to the commission a strict set of rules governing the allocation of railroad cars among shippers of grain. The quota system is designed to forestall massive shortages of grain cars such as occurred in 1973.

In a surprise move, the bureau distributed an outline of the proposal to the railroads and shippers attending an ICC hearing here on alleged "black marketing" of grain cars during the 1973 crunch.

Midwest grain elevator operators told ICC investigators that exporters who owned or leased large numbers of cars at times charged several cents a bushel for providing the cars to desperate elevator operators.

Such privately held cars are considered outside ICC authority but further allegations accuse the major exporters of exacting charges for railroad-owned cars placed at the exporters' disposal by the railroads. At the hearings that began here Monday and are slated to continue for two weeks, railroads and exporters are cross-examining an ICC investigator and the elevator operators on their previously published testimony.

Under the ICC plan, a grain elevator operator couldn't order cars more than a week in advance and would have to limit its order to no more than the number of cars its loading facilities could handle in five days.

At the start of the week, the railroad would classify and tabulate the orders in three rates categories—unit train (20 or more cars as a unit from one origin to one destination), multiple cars (from two to 20 from one consignor to one consignee), and single-car.

On each day, the railroad would then allocate grain cars under the three categories according to the proportion of each category to the week's total orders. However, any cars in the unit-train category which would be insufficient to make up a train at a unit-train elevator on a particular day would be reallocated on the same day to the two lesser categories on a pro-rata basis. Cars would likewise be released from the multiple category.

Categories thus giving up cars would receive a credit for each such car and a grain car would be set aside the next day for each credit and added to the category's quota for the day.

Orders remaining unfilled at the end of the week would be carried over to the following week and accorded priority in distribution over new orders.

"FIND CBS IN NIXON WHITE HOUSE WEB"

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. MURPHY of New York. Mr. Speaker, back in the summer of 1971, the distinguished chairman of the Interstate and Foreign Commerce Committee, HARLEY O. STAGGERS, led a gallant, but losing battle, on the floor of this House to have Dr. Frank Stanton, the President of CBS, cited for contempt of Congress.

Even with the White House against Chairman STAGGERS, the leadership of both the Republican and Democrat sides of the House against him, and the most powerful lobby in the country, the television networks and news media against him, STAGGERS still managed to convince 180 Members of this body, from all sections of the country to stand and be counted with him.

What is even more important, is that he fought for over 200 million Americans and their right to know.

As a steward of the public interest, this was surely HARLEY STAGGERS' finest hour.

The unexpected defeat stunned and perplexed those of us who shared HARLEY STAGGERS' concern.

Now another footnote to history has appeared in the public press which may shed some further light on the situation. It deserves the attention of my colleagues, and I am therefore inserting into the RECORD an article on this subject from the November 26, 1975, issue of Variety:

FIND CBS IN NIXON WHITE HOUSE WEB—STANTON DENIES TALKING ABOUT ANY DEALS

(By Paul Harris)

WASHINGTON, November 25.—Continuing investigation of TV network involvement with the Nixon Administration has indicated that CBS president Frank Stanton offered in 1971 to cooperate on network news stories in return for White House muscle to quash a Congressional contempt citation over the controversial web documentary, "The Selling of the Pentagon." The Administration subsequently intervened in the House vote with the aid of then minority leader Gerald R. Ford, reliable sources maintain.

The alleged incident, flatly denied by Dr. Stanton, occurred in July 1971 following a House Investigations Subcommittee probe into the CBS documentary that was highly critical of Pentagon propaganda methods and expenditures. The panel, headed by Rep. Harley Staggers (D-W. Va.), voted to push for a contempt citation against Stanton after the latter refused to honor a subpoena for outtakes of the show (see separate story).

Several former White House staffers have told *Variety* that following the committee vote, Stanton and several of his attorneys contacted White House counsel Charles Colson offering network "cooperation" with the media-troubled Administration if the White House would persuade the House minority leader and Rep. Les Arends (R-Ill.) to vote against the contempt citation that was headed for the floor.

Reached at his New York office today (Tues.), Stanton categorically denied any attempts to enlist White House aid in the citation vote. "I recall no such meeting . . . I know damn well there was no meeting," he told *Variety*. Stanton, who eventually left CBS after becoming its vice chairman, is currently head of the American Red Cross.

White House Congressional liaison Clark MacGregor was reportedly dispatched by Chief of Staff H. R. Haldeman to meet with Ford and obtain a promise to vote against contempt. Ford was advised of the Administration position on the contempt vote, although it is not known whether he was given any particulars of the Stanton-Colson gabs. On July 13, the House voted instead to recommit the contempt citation to the Commerce Committee, the investigation subcommittee's parent also headed by Staggers. Ford joined the majority in the 226–181 tally.

Three days later, on July 16, Stanton and attorney Alexander Lankler reportedly met with Colson in his White House office along with Presidential assistant Henry Cashen. During the 90-minute conversation, Stanton reportedly told Colson that he wanted to be more cooperative with the Administration, and suggested that the White House counsel call him any time he thought CBS news coverage was biased against the Administration.

Unknown to the two CBS officials, however, was that the entire conversation was taperecorded by the White House aide. The recording, and a transcript, are currently on file at the White House, according to a reliable source.

Reached in Washington this week, both Colson and Cashen confirmed that they met with Stanton in the White House and that the session was taperecorded. However, both declined to discuss the matter further.

WHITE HOUSE'S TROUBLES

Indications are that the White House had reasons apart from the alleged Stanton arrangement to aid the then CBS prez in his moment of peril. It was at the same time battling in court over the release of the Pentagon Papers to the N.Y. Times, and had no wish to see its Attorney General tied up with another media-related case, which would have been the upshot if Stanton were held in contempt. The upcoming election was also no doubt a consideration.

Whatever its motives, the White House seized the opportunity to play politics with the world's most powerful news organization. But while overall web news coverage apparently remained unaffected, the Stanton meeting reportedly spawned a new era of White House-CBS brass relations that also included board chairman William S. Paley, insists the former White House source.

Reportedly also on file at the White House are taperecordings of "numerous" telephone conversations between Colson and the two web chieftains that suggest instances of network programming changes made after prodding from the Executive Mansion: Included:

A 1971 decision by CBS not to continue the "Loyal Opposition" series begun in 1971 before FCC interference. Show featured Democratic National Committee chairman Lawrence O'Brien, and was vigorously objected to by the Administration because of fund-raising appeals to the DNC included in the vidcasts. The Republican National Committee had officially protested.

Telephone conversations between Colson and Paley about White House displeasure with the CBS "instant analysis" that followed President Nixon's speeches. The network briefly pulled the impromptu summaries from its sked.

It was learned that the entire episode has been brought to the attention of the House Intelligence Committee of Rep. Otis Pike (D-N.Y.) for possible link with its probe into connections between media orgs and the CIA. However, it could not be ascertained whether the Pike panel has requested that the White House turn over its memos and tapes to aid in the investigation.

ARKANSAWYER NAMED COTTON FARMER OF THE YEAR

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. ALEXANDER. Mr. Speaker, it is with great pleasure that I bring to the attention of my colleagues the selection of one of my constituents, Chauncey Denton of Denwood, Ark., as "1975 Cotton Farmer of the Year."

Chauncey, in addition to being a working farmer, is currently president of the National Cotton Council. I commend to my colleagues the Cotton Farming magazine tribute to this outstanding spokesman for cotton and agriculture in general:

THE 1975 COTTON FARMER OF THE YEAR: CHAUNCEY L. DENTON, JR.

(By Tom Griffin)

Our 1975 Cotton Farmer of the Year is a man proud of his heritage as a farmer, proud of the fact that he has lived since he was eight months old on the land he now farms, and proud of the fact that four generations of his family remain on that land. This industry pride, coupled with a willingness to get into the fray when cotton and agriculture needed a spaokesman, has led Chauncey L. Denton, Jr., into a series of positions of leadership, the latest being as president of the National Cotton Council.

Scanning a list of his accomplishments, you find a man of firm conviction and an inability to sit quietly by when he feels something needs to be done or said. His files contain clippings and carbons of letters to presidents, congressmen, governors, agricultural organizations and the public press . . . all speaking up for agriculture, defending the industry or urging correction of an administrative or legislative position he considered adverse.

Denton served as president of the Agricultural Council of Arkansas for two consecutive terms, 1960 and 1961, and is currently a member of the board of directors. He became a member of the ASCS Arkansas state committee in 1964 and served through most of 1969. He became second chairman of the Cotton Producer's Steering Committee of the National Cotton Council and served in that position for four consecutive terms, during that important group's formative years. In addition to the presidency of the National Cotton Council, he is a member of the USDA's National Advisory Committee on safety in agriculture.

Before turning to other activities of this busy individual, it should be noted that he was an active participant in agriculture's behalf when the Agricultural Act of 1970 was being put together, responding to an invitation to participate in a fall 1969 meeting sponsored by the National Cotton Council to see that cotton's interests were reflected in the legislation.

In addition to these activities, Denton has served as a member of the Arkansas Highway Commission and is a member of the board of directors of the Bank of Wilson, Wilson, Arkansas; Delta Products Company, Wilson, Arkansas; and the St. Francis Levee District of West Memphis, Arkansas.

His agricultural operations include farming 2,000 acres of heavy land just beyond the edge of the Mississippi River Delta in Arkansas, and managing a cotton gin and a chemical business.

All of this involvement would be impossible, he is quick to point out, if it weren't for the fact that he has readily available supervisory help from his family. One of his three sons, Trey (the nickname given Chauncey Denton III), is a full partner in the farming operation and Denton says without his presence to run the farm he could not have undertaken some of the outside obligations he has assumed. Another son, David Denton, recently graduated from the University of Mississippi and has joined his father and brother in active operation of the farm. A third son, Chris Denton, lives in Houston, Texas.

Denton's father, now 89, lives next door to the house where Chauncey Denton, Jr. lives as a widower. The elder Denton, who was in his earliest years a minor league baseball player, began farming in Belen, Mississippi. He wanted to buy some land of his own and found, in 1917, at a good price in Mississippi County, Arkansas, land recently cleared in a logging operation. When cotton prices plunged to eight and ten cents a pound in 1920, it brought temporary financial distress. The farm operation was built back up, only to fall into the abyss of the 1930's Depression. Pushed by a love for farming, an attitude apparently passed on to later generations, the older Denton used what credit he had and purchased 4,000 acres during the depression.

By the time Chauncey Denton, Jr. returned from the University of Missouri at Columbia in 1936, after graduating cum laude in business administration, the farm was on a solid footing again and he became a partner with his father in 1946. Denwood Plantation, as the farm is called, later was operated by Denton Brothers, as was a gin and a small store built by the elder Denton when he first moved to Arkansas. The gin and store retain that designation even though one of the brothers, Bill Joe Denton, died in 1964.

The name Denwood, incidentally, is a fair indication of the love for agriculture and farm life that led the elder Denton to persist despite the early adversities. He chose that name because the farm was his "den in the woods."

Chauncey Denton, Jr., and the two sons, farm around 2,000 acres at present; some land is rented out. Of this, 500 acres were devoted to cotton in 1975, about half the number of acres planted in cotton in 1974. More than 1,300 acres are devoted to soybeans and approximately 120 acres of the heavier black land were planted in 1975 to a successful first year crop of rice.

Land is heavy. The land is heavy when compared to the Delta land that begins just a few miles east of Denwood Plantation. Some is very heavy and some might be called medium heavy. It is considered, because of this heaviness, to be bale-to-the-acre land, and 500 pounds of lint per acre is the Dentons' projected yield. Chauncey Denton, Jr., however, is quick to point out that the unfavorable weather that has marked the Mid-South region for the past three years, has hurt. Denwood Plantation did make a good crop in 1973, but Denton, echoing numberless other Mid-South farmers in that disastrous harvest season, says "the weather didn't let us harvest it."

The Dentons have been in agri-business since shortly after the elder Denton moved into the area with his family. "We have had some sort of agri-business all along." Denton says. "We have sold tires, fertilizer and farm chemicals, operated this little country sundry store and kept the gin operating. We would have had to close the country store years ago if it hadn't been for our chemical business.

"We began buying chemicals in connection with our ginning operation, to keep our crew together for ginning time. Finally, we developed a moderate chemical business, buying from Helena Chemical, Riverside Chemical and Thompson-Hayward out of Memphis and selling to area farmers."

MINIMUM TILLAGE EXPERIENCE HELPED OVERCOME BAD SPRING

Like so many Mid-South farmers, the Dentons early in 1975 found themselves facing another adverse spring when it was time to prepare the beds and plant the cotton crop. They, however, took advantage of their experience with minimum tillage—an experience forced on them by circumstances in earlier years—and, working during a spell of dry weather from April 21st through the 24th, planted the 1975 crop on the 1974 beds.

"We made up our minds around the first of April that we would have to plant on the old beds because we had been unable to get into the fields due to the weather," Chauncey Denton, Jr. says. "But actually, this wasn't a new experience. We have had strange weather for the last four or five years. If we hadn't used minimum tillage in 1975, as wet as it was in our area, we would not have planted a crop of cotton.

"We normally believe our time to start planting is around the 20th of April, if we can get the ground ready and if the weather permits. If we were on lighter soil, we would wait another week, until around the first of

May, but we believe it is better to plant earlier on our black soil. But with the weather of recent years we often find ourselves looking at a planting time up into May."

The Dentons' first experience with minimum tillage was in 1970. "We had a wet spring and by the first of April we had been unable to get any cotton land put up," Denton says. "So we decided in desperation to plant without the usual land preparation. You can't just go out and break this black land one day and plant it the next. You have to break the land, let it dry, wait until you get a rain on it to slack it down, and then, when it gets dry again, harrow it off and plant."

Plant on old beds. The minimum tillage practiced by the Dentons consists of disking the old bed lightly, followed by a very light hipping over the old stalks. Then the bed is harrowed off and the crop planted. The old beds haven't been destroyed.

They wondered the first year whether or not the old stalks would snarl up their planters, but found this was not a problem. "The only thing they do is to wear out some rubber tires on the planter packer wheels," Denton says. "You have to replace these tires a little more frequently. However, to our surprise, the stalks weren't any problem to the planter."

The 1970 venture into minimum tillage worked out fine and the Dentons have found it helpful on black soil in succeeding years. Denton says yields off the minimum tillage plantings have been at least as good as yields from fields prepared in the standard manner. He says it also results in an obvious savings of money due to fewer trips over the field.

However, it does have its shortcomings. One is compaction and rutting from machinery and another is the prevalent vine problem of the area.

Vines are a problem. "You get a lot of compaction and rutting in the fields when you travel the same middles year after year," Denton says, "and vines are a major problem. With minimum tillage, you don't cut them back at all. They are out of the ground just as soon as it gets warm, and they then become a real headache.

"If you go through regular land preparation, you disk three or four inches and work the land with a middle buster or ridge hipper. When you do this, you cut those vines back three or four inches and you have a better chance of avoiding a nearly insurmountable problem with them later.

"We have two fields that haven't been broken since 1970, but it is a mess with ruts and vines and we are going to have to do something about it next year. We would like to go with more minimum tillage, but for no longer than two years on a given field. We like it and have had quite a bit since 1970. If it wasn't for the vine problem, we probably would practice it more."

All of Denwood Plantation's cotton is planted solid. "Skip-row just hasn't done anything for farmers in this area," Denton says. "It shows so little benefit that a man is better off putting that land into another crop, like soybeans." The preferred variety is Stoneville 213 and the Dentons plant mechanically delinted seeds at a rate of between 20 and 25 pounds per acre. These are hill-dropped on about 10 inch centers on 38 inch rows.

TRIPLE-TREATED SEED

Seed are triple treated: a seed treatment, a fungicide and a systemic insecticide. "We have planted triple treated seed side by side with seed that didn't have this advantage and we believe this is the way to go," Denton says.

The systemic insecticide protects the crop during a good part of the thrip season, but the Dentons often have to spray again for thrips. "If you plant in April, as we do, you have to spray for thrips in our area," Denton says. "But this seed treatment certainly keeps us from having to spray as much."

EARLY SPOT SPRAYING REDUCES LATER PROBLEMS WITH WEEVILS, WORMS

Insect control is turned over to a consulting entomologist. "This has become a very specialized field," Denton says. "It takes a long time to learn about the life cycle of all the insects and what you should do and when. So we decided to quit worrying about it and hire a consulting entomologist as a professional to do the job for us."

Their consultant likes to try and reduce the number of insecticide applications needed to control the bollworm and boll weevil by spot spraying isolated spots, such as ditch banks and around wooded areas, in June to catch some of the early emerging insects. This helps delay the time when all out spraying must be started.

"Usually we will spray for thrips and then, at the direction of our consultant, spray around some wooded areas and up and down some ditch banks to catch the boll weevil in his early emergence. We have done this for the past two or three years. These are aerial applications on areas our consultant suspects as potential sources of later trouble."

Denton says the consultant watches closely for plant bugs, "but we usually don't have to do much spraying for them."

OVICIDE REDUCES PROBLEM

"A little later, our consultant likes to come in with an ovicide, Fundal or Galecron, in a light dose as a preventive measure against the bollworm. And we have had less of a bollworm problem since we started this."

While the Dentons' two principal insect pests, the boll weevil and the bollworm, move in during July, the spot spraying and early light spraying holds the infestations to economically bearable levels until sometime during August. "In early August, sometimes a little later, we may finally spray the farm," he says. He points out that Denwood Plantation doesn't usually experience the pressure of insect infestations of the intensity that occur to the South of them, in Mississippi and Southeast Arkansas.

The Dentons don't practice a diapause program for the simple reason that the practice is not general in their area. "We used an insecticide with our defoliant for a year or two," he says, "then we became convinced that, unless it was done all around us, we were wasting our money. I wish we did have a diapause program for our county, and for our State for that matter."

TREFLAN IS APPLIED ON 19-INCH BAND JUST AHEAD OF PLANTER

Control of weeds and grasses begins with Treflan and Cotoran, both banded at the time of planting. Treflan is applied on a 19-inch band by a sprayer mounted on a rolling cultivator. This incorporates the Treflan ahead of the planter. The cotton seed are then planted and Cotoran sprayed on a 19-inch band immediately behind the planter.

"We cover the entire top of the row with our bands," Denton says. "This gives us a little room to spare when we cultivate. We will cultivate some up in the edge of the band. We have tried a narrower band, but we just don't think that gets the job done."

"We don't like to disk Treflan in for cotton," he adds. "We disk it in for soybeans and then row the whole thing up broadcast, but on cotton we band it. We think that under unfavorable weather conditions, rains and cool weather, you can get some early damage on young cotton. When you put those disks in, you put the Treflan down three to four inches deep, and you are going to prune off all the little roots just as deep as it is disked in."

JOHNSONGRASS A DIRTY WORD

Asked if banding Treflan doesn't leave him with Johnsongrass problems in the middles, Denton replies that it doesn't because Johnsongrass has been almost eliminated from the fields. "My father has always thought Johnsongrass was a dirty word," he says, "and, as a result, we don't have much of a problem with it. You won't see much of it on our place.

"It has been our policy for years never to let a hoe hand chop down a sprig of Johnsongrass. It will just show up again. We always have spot sprayed with chemicals, something like Dowpon, particularly back when labor was cheaper. So we have literally cleaned up this place as far as Johnsongrass goes. That's the reason we can band and get away with it."

Denwood Plantation normally uses two directed sprays on cotton. Some spots may be treated a third time if a problem develops.

When the crop reaches three to six inches in height, the Dentons like to use DSMA and Cotoran. This is DSMA, not MSMA, this trip. "These (DSMA and Cotoran) are two chemicals to which cotton is tolerant and you can afford to take the chance of getting the mixture up a little higher on cotton without harming the plant. After the cotton is up, you can use a little hotter material," Denton says. MSMA and Karmex DL are used for the later directed sprays.

Sweep cleans middles. In addition to the chemical program, fields usually are walked by hoe hands once, primarily to catch some big weeds and grasses that have escaped the chemicals and to catch the ever present vines. The crop is cultivated three or four times with at least one of these, usually the last, being made with a Chemplow. This has a wide sweep that destroys vegetation in the middles, providing, in effect, layby control for the middles.

Denton says Denwood Plantation has gotten away from a layby application of herbicides for the past two or three years. "We believe we are getting enough chemical in the soil and it just doesn't seem as necessary for us as it once was," he says. When they used a layby it was usually Cotoran or Karmex.

Denton says teaweed is becoming more of a problem for them and Johnsongrass less of one. Cotoran, he says, controls the teaweed somewhat if it is used when the weed is small, but teaweed can become a problem as the season progresses.

AQUA SOLUTION LIKED AS NITROGEN SOURCE ON HEAVY LAND

Although the Dentons once handled anhydrous ammonia as part of their agri-business, they now prefer to use aqua ammonia in a 32 percent solution as their nitrogen source.

"We went with anhydrous ammonia for many years," Denton says, "but you have some problems with this in black land. You put the anhydrous down pre-plant. If you fail to get a rain after you put it out, you have a trench from end to end in your bed from the anhydrous ammonia knives.

"When aqua ammonia came out at a reasonably competitive price per acre, we began to drift over to it. This is a liquid that can be handled with small knives and it can be sidedressed on each side of the plant after the crop comes up to a stand. You don't have any root damage because you are just putting it down an inch or an inch and a half. You don't have to make the ground penetration that you do with anhydrous. All you really want to do is just cover it up so it doesn't escape.

The Dentons are geared up to harvest 1,000 acres of cotton, their normal acreage in years past, in as short a time as possible. To do this they have one John Deere and two International Harvester pickers.

They were among the first to purchase a

seed cotton handling system and still use the system they bought before the cotton module builder came on the market.

COTTON CADDY SYSTEM DOES GOOD JOB OF HANDLING SEED COTTON

This is the Cotton Caddy system, a tailer with a removable pallet bottom. The pallet bottom is left at a central storage point with its load of seed cotton while the trailer, or caddy, with an empty pallet bottom, returns to the field. While they see some advantage to the module builder system, such as the fact that seed cotton is tamped into tighter modules, they like their caddy system.

"We bought two Cotton Caddies and 50 pallets at least three years ago, before the modules were being made," Denton says. "We have increased the number of pallets since then to 100, which is actually more than we need with the current short crop."

Easier to concentrate seed cotton. "With the Cotton Caddy, you have to have the manpower to compact it. But once you get it filled, you hook your tractor onto it and take it wherever you want to concentrate the seed cotton. We concentrate all of ours together on a high dry place instead of having the caddy drive all over the farm. We put it on a field within a quarter of a mile of the gin yard.

"When you get to your concentration spot, you jack the caddy up with your hydraulic control system and pull the caddy right out from under the pallet. You leave it there for storage until you are ready to gin and go right back to the field for a new load.

"When you are ready to gin the cotton, you run the caddy over and get it. Since we have two caddies, you can go and get a second pallet while the first caddy is at the gin."

It is much easier to concentrate the seed cotton at a central point with the caddy system than it is with the module system, Denton says. "With the module, the full pallets usually are left by the module on a turnrow near where the cotton was picked. You have to come out with something to load it on and then haul it in to the gin.

"We got the caddies to take the pressure off the ginning of our own cotton and it has helped," he says. "It significantly reduced our dependence on night labor, and it is a problem to get night labor anymore. Also, with the wage and hour law, we have become liable for overtime pay at the gin. Seed cotton storage helps prevent this additional expense at a time when volume is shrinking."

SHRINKING VOLUME PUTS SQUEEZE ON DENTON'S GINNING OPERATION

The Dentons have attempted to keep their gin up to date, but short crops have made this difficult. "The last investment we made in our gin was in the early 1960's," Denton says. "At that time we brought the gin up to date with double lint cleaners and other improvements."

They have not found it worthwhile in recent years to put any additional investment in the gin in the face of a shrinking volume of business. "We have ginned as much as 7,200 bales at the gin in a season, but, as the cotton acreage shrank, we drifted down to about 3,500 bales. And last year, and this, because of the acreage cutbacks, we may gin 1,500 to 2,000 bales. Cotton in our area this year was cut back 50 percent below last year.

SEED PRICE HELPED SOME

"We just haven't made much money at the gin in recent years. The price of seed has a lot to do with what a ginner can make and the seed were barely paying the cost of ginning during the latter part of the 1960's and the early 1970's. We did make a moderate profit in 1973 when the price of seed went up. The seed price was good in both 1973 and 1974, but we didn't have any volume so this didn't help a great deal."

As a moderate sized ginner, Denton faces OSHA regulations which could pose a financial hazard. Another problem is disposal of gin waste, a problem currently solved by piping the waste to a burner near the gin. The burner has a 60-foot stack, which efficiently carries the pale smoke high over the surrounding fields.

"Some of us who have decent burners and are in isolated areas without high volume gins are being permitted to continue to burn the waste," Denton says. "If we are ever denied this practice, it could mean $20,000 to $25,000 to get the proper equipment to capture the waste and haul it off, and that is nonproductive money, particularly considering the short time the gin actually operates."

DENWOOD HAS SOLD ON FORWARD CONTRACT SINCE LATE 1960'S

Denton has sold his cotton on forward contracts since the late 1960's. While he has been caught short by selling ahead like this, at times he also has gained.

"I believe we first sold on contract in 1967," he says. "And that was the year we made a mistake. There was a short crop and the price went up to 35 or 40 cents after we had sold for 27. But the next year we sold for 29 cents and the price went down to the loan level, so we got it all back." He did get caught in 1973, as did countless others, when prices went out of sight in late 1973 and early 1974.

He says he sells his crop on forward contract to the same individual each year. "We have a man in Memphis, Tennessee, who we know will pay for it and he knows we will deliver."

50 cents is breakeven point. Denton figures it costs a little over $200 an acre to produce an acre of cotton and harvest it. This doesn't include land and machinery costs. So he figures he is just about getting his money back at a price of 45 to 50 cents and a bale to the acre yield, if things go right and he produces the land's potential.

"I have seen arguments revolving around whether or not you should include land rent when you own the land," Denton says. "But I think you have to. You could be renting that land out if you weren't using it and you would have that much income coming in. So it seems to me you have to figure that in just like you do fuel and labor, if you are trying to figure how you are coming out on return."

CHURCH CELEBRATES 125TH ANNIVERSARY

HON. MARTIN A. RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 18, 1975

Mr. RUSSO. Mr. Speaker, the Faith United Methodist Church in Dolton, Ill., is celebrating its 125th year of ministry. What a rich and rewarding heritage this fine church has.

Its story dates back to 1849 when several German-speaking families moved into the Sandridge area 18 miles south of what is now Dolton, Ill. They were followed by a Methodist circuit rider of the German-speaking branch of the Methodist Episcopal Church. The following year the Sandridge Methodist Episcopal Church was formally organized with six charter members and five probationary members. Thus began a ministry which has continued uninterrupted to this day.

In 1970 the Sandridge church merged with the Dolton United Methodist Church and the Grace United Methodist Church to form the Faith United Methodist Church. As each of the three congregations has served their communities, so has Faith Church, with a congregation of over 1,000, played a major role in ministering to the local community as well as taking a responsible share in the wider ministry of the church.

I would like to share with my colleagues a letter I sent to the senior pastor, Rev. Clark Holt, commemorating the church's anniversary:

OCTOBER 31, 1975.

FAITH UNITED METHODIST CHURCH,
Dolton, Ill.
Attention: The Reverend Clark Holt.

DEAR REVEREND HOLT: So often we search for the opportunity to hear the Word of God from the great men of our times. Too often we overlook the fact that they may be right in our hometown. These men, such as yourself, have been the backbone of congregations throughout the world. They have dedicated their life to the teachings of the gospel. In these troubled times it is a pleasure to hear of a church that is commemorating its 125th Anniversary.

For the past 125 years, Faith United Methodist Church has been an important and vital part of the community. As the community has grown, so too, has the church grown to fulfill the needs of its congregation. Through the years it has provided spiritual guidance and has served the town faithfully. Its work and accomplishments are indelibly written not only in the hearts and minds of those it has touched, but upon the pages of the history of its heritage.

It gives me great pride and pleasure to be able to have this opportunity to offer my warmest and sincerest congratulations on your 125th Anniversary.

Wishing you and your congregation all of life's blessings, I remain,

Respectfully yours,
MARTIN A. RUSSO,
Member of Congress.

SCHOLARSHIP-ESSAY CONTEST

HON. J. WILLIAM STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. J. WILLIAM STANTON. Mr. Speaker, during the Thanksgiving recess, it was my personal privilege to participate in a very outstanding public service program in Ashtabula County, in my congressional district.

The chief executive officer of the Molded Fiber Glass Co's., Mr. Robert S. Morrison, initiated a project with all of the high schools in Ashtabula County in the form of a scholarship-essay contest using the topic, "What Are Our Country's Problems, and What Can Young People Do To Solve Them?" Twenty-two money prizes were given to the winning students, topped with a $1,000 scholarship for any type of advanced education beyond high school.

Morrison said at the awards dinner, November 25:

> We wanted something that would encourage them to think about where the country needs to go. The essays submitted show a high level of student awareness and initiative toward our national difficulties. Their imaginative approach to solutions increases my faith in the new generation.

Solutions ranged from grandiose plans for a third political party, to busing teachers instead of students. A strong commonsense ethic underlies the many constructive ideas. One student wrote:

> Young people must do their part to help solve the problems facing this nation. That part may be to show respect for others, do every job assigned with pride, eagerness to do it correctly, and to stand by his beliefs. Remember that the people are the United States of America.

The tally at contest's end showed that 19 percent of the problems identified by the students were about the environment, energy conservation, and pollution. Drugs and related problems were second with 9 percent, and economic ignorance rated third with 8 percent. A big middle group included lack of confidence in government, family communications, violence, crime, apathy, education, health, alcoholism, prejudice, and sexual behavior. The final group included boredom, poverty, welfare, future shock, the court systems, and the elderly.

The solutions offered to these problems included a heavy dose of career planning and cooperation with existing resources. However, there also were many unique suggestions made. One student said:

> America is great because greatness lies in being able to change when necessary.

The top five winners and their prizes are:

First place: Pattie Newsome, Edgewood High, Ashtabula, Ohio, $1,000.

Second place: Lois J. Stoops, Edgewood High, Ashtabula, Ohio, $500.

Third place: Sam Ashman, Conneaut High, Conneaut, Ohio, $350.

Fourth place: Alice Shadle, Pymatuning Valley High, Andover, Ohio, $150.

Fifth place: Nancy Jamison, Geneva High, Geneva, Ohio, $75.

Mr. Speaker, I include the first place winning essay written by Miss Pattie Newsome of the 11th grade, Edgewood High School in Ashtabula, Ohio.

Choices, Decisions, and Values

(By Pattie Newsome)

Ice cream cones or barbiturates? Walking in the park or rioting in the streets? Accepting responsibility or living irresponsibly? Each American makes his choice. Ice cream cones—soft, mellow, cool and refreshing. Barbiturates—a dull memory, cramps, dizziness, convulsions, malfunctions of the brain, visual hallucinations, or sometimes a sudden and painful death. Walking in the park—watching the children play, hearing the birds chirp, feeling a gentle breeze. Rioting in the streets—throwing rocks, inviting violence, getting knifed, handcuffed, or even thrown behind bars. Accepting responsibility—getting a meaningful education, becoming dependable, respecting others and their rights, learning to pay one's way through life with work and service. Living irresponsibly—abusing one's rights as a free citizen, ignoring goals or permanent values, acting on impulse, drifting through the school routine, controlled by the crowd or the "kicks" of the moment.

As we all know, there are many problems in the world today. There is no possible way to deny this fact. Inflation, poverty, abortions, pollution, and alcoholism are just a few of our problems. But I believe the worst issues in the world are drugs, riots and people who live irresponsibly. This group certainly includes the adolescents who fail to develop constructive choices. These, to me, are the noticeably crucial problems that deserve our immediate attention.

As young Americans, we have to make our decisions now. But first we have to know what these decisions should be. We need to care about what our beliefs are and what we are going to do with our lives. We need the concern to act now. We need to concentrate on school studies, to develop skills, to respect the authority of our laws and the folkways of our social system. We need to be involved in school and community service programs. We need to understand that people are different, and, finally we need to respect these differences.

Young people are very fortunate today with many excellent opportunities to support the progressive programs aimed at solving current problems. In addition to beneficial programs in the schools, there are state sessions available for students to attend to help develop and create new ideas. Here, the students participate in programs and discussions on drug abuse, riots, and other problems resulting from irresponsible living. Certainly we have every educational advantage in preparing ourselves to cope with the problems of our social system.

I believe there is a magic word—respect. If we want to be respected, we must earn that right. As young and eager people, we want to be admired, to be respected. One step towards earning respect is for each of us to develop the ability to respect all people, especially those with viewpoints different from our own. It is easy to respect and listen to our parents and friends; however, it is admirable to listen to people whose social standing is different, whose religion is different, and whose color of skin is different from our own.

As we mature, as we grow in understanding our relationships to one another, as we become more competent in fulfilling our responsibilities to ourselves and our society, we then become responsible, successful citizens, with the special skill to stand up and be counted.

So far I find I have taken my life and my advantages for granted. My mother and father have given me a sense of security and well-being. In addition to providing my material needs, they have inspired me to form moral and spiritual values. Now, as an adolescent I realize I must work for things which at one time seemed so effortless. I am at a very important period in my life, where, if I am to reach my potential, I must make important decisions, set values, reach goals, and accept all the responsibilities which should be mine.

Each pattern of life must be shaped by the individual. I must develop my character, my set of values. I must respect myself before I respect others. I must dedicate myself to service. All around America there are young people who have said, "I can help." We have proven to ourselves and to the world that we are ready to meet challenges and make decisions. We are ready to assume our American citizenship. We will hold our tomorrows and set good examples not only for our peers, but also for our families now and for generations to follow. People are willing to listen to us, for we are the future.

STUDENT-LOAN MESS

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. BELL. Mr. Speaker, during recent years, I have been extremely concerned about the amount of money taxpayers spend relative to defaults in the student loan program run by the Federal Government. The sum of such defaults has cost the taxpayers millions of dollars—and these defaults are increasing every year.

Because of my concern, I introduced legislation in the 93d and 94th Congress concerning this subject. I am pleased that the abuses in this program are finally beginning to be given serious consideration by both Congress and the media.

Following is a recent Time magazine article on this multimillion-dollar predicament that I would like to bring to the attention of my colleagues:

Student-Loan Mess

Enrique Ponce, a construction laborer from El Puente, Calif., and Michael Ward, a resident physician at the University of California Hospital in Los Angeles, exemplify two reasons that a federal program to guarantee loans to needy students is in deep trouble. Ponce borrowed $1,500 from a trade school that offered to teach him to become a TV repairman, but dropped out after two weeks because he found the courses too difficult. The school by then had already sold the loan to a credit union, which is now trying to collect the $1,500 from the Government. Dr. Ward and his wife Cheryl, a lawyer, declared themselves bankrupt at the start of their careers and thus unable to repay $32,000 in student loans, so the Government was stuck with that bill too.

Neither experience is uncommon. Under the Federally Insured Student Loan (FISL) program, the Government since 1965 has directly guaranteed repayment of almost $4 billion in loans made to students by banks or other lenders—often schools themselves. All students attending institutions approved by the program are eligible for loans. Students are charged no more than 7% annual interest; the Government pays as much as 3% more to make the interest rate competitive with that of other kinds of loans. Repayment begins nine months after a student's graduation.

Default Rate.—In addition, the Government has reinsured student loans of about $4.9 billion guaranteed by 25 states, the District of Columbia and one private nonprofit agency; Washington reimburses the states for 80% of any money they lose paying off defaulted loans. To date, the Government has lost nearly $400 million on the two programs; states have apparently lost almost $47 million more. And the losses are mounting; this year the default rate on student loans guaranteed by Washington is running at a startling 19%.

Why? According to testimony taken by the Senate Permanent Subcommittee on Investigations, about half of last year's losses involved specialized or technical schools, most of them privately owned and operated for profit. Such schools have burgeoned since FISL began, in large part because the Office of Education of the Department of Health, Education and Welfare, which administers FISL, has allowed many of them to lend to their students directly. Although many of these "proprietary" schools do a valuable job of educating, others victimize both their students and the Government. In too many cases, a high-pressure salesman working on a commission basis recruits students from low-income backgrounds by offering career-improving courses to be financed by federally guaranteed loans. Many of the students quickly drop out, but the school neglects to inform anyone that they have left. The dropouts, of course, do not feel obliged to pay for an education they never received, so the Government is left to pay the school or an institution that has bought the loan. "It's a field day for foxes," says Richard Gibbons of the Federal Trade Commission. Last year the default rate on student loans made by privately owned schools was a shocking 46.3%.

One case: Los Angeles-based West Coast Schools recruited mostly black and Chicano students—"because that's where the gravy is," as President Fred Peters told his ex-wife, according to subcommittee testimony. It then sold nearly $5.4 million in federal insured loans to financial institutions for cash, leaving the institutions to dun drop-outs like Ponce for the money or collect from the Government. The Senators heard testimony that at least $312,000 of the school's money found its way into Peters' personal accounts. W.C.S. folded in 1973. Peters was excused from testifying because of ill health. His lawyer told TIME that Peters feels "he is a victim of a gigantic bureaucracy."

Another 5% of the losses are caused by students who, like Dr. Ward, declare bankruptcy shortly after finishing their education. In most cases the bankruptcies are quite legal: a recent graduate may have very high future earning potential, but his assets immediately after leaving school may well total less than the student loan and other debts, thus fulfilling the legal requirements for bankruptcy. Though the bankruptcy problem is small compared with the one represented by privately owned schools, it is growing. In California, Federal Bankruptcy Judge Robert Hughes estimates that as many as 20% of all personal bankruptcy claims are filed by student borrowers.

Many defaults, of course, come about because, at a time of high unemployment, new graduates either cannot find jobs or earn too little to pay off their loans. Still, the default rate obviously indicates lax Government administration of FISL. John J. Walsh, an investigator for the subcommittee, reported to the Senators that he found files on student loans strewn all over some HEW regional offices. HEW officials told the Senators that they have not kept track of the total number of loans outstanding, much less the amount of insured loans at any one school, or whether any particular student borrower is still in class.

HEW now is belatedly tightening up. It has charged nine schools with violations of loan-program rules, begun testing in California a computerized system of monitoring the status of loans, added 70 new field investigators, and established a staff of eleven people to keep a close eye on lenders who have outrageous default records. In addition, several bills before Congress would forbid students to declare bankruptcy shortly after graduation simply because their student loans exceed their assets. The Nunn subcommittee is expected to recommend prohibiting many schools from making Government-guaranteed student loans and making it a federal crime for a school to falsify data to obtain grants and loans, or to divert such funds for personal use.

The efforts come none too soon. Says Howward Feldman, chief counsel of the subcommittee: "Unless we reform the program, conservatives, liberals, everyone is going to take a look at that half-billion-dollar default and say, 'Let's get rid of the whole goddam program!'" That would be a tragedy for needy and well-intentioned students—still the great majority—who fully intend to repay their loans, and for the society that needs their educated skills.

NATIONAL HEALTH INSURANCE

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. VANIK. Mr. Speaker, as many of us know, the Subcommittee on Health of the House Ways and Means Committee has been conducting extensive hearings on proposals for a national health insurance program. Recently, a constituent of mine, Rev. Paul A. Woelfl, S.J., came to Washington in order to testify at these hearings.

Reverend Woelfl is a professor of political science at John Carroll University in Cleveland and spoke in behalf of the Cleveland Committee for National Health Insurance. I commend his thoughtful testimony to your attention:

TESTIMONY RE NATIONAL HEALTH INSURANCE

(By Rev. Paul A. Woelfl, S.J.)

My name is Fr. Paul Woelfl. I am a professor of political science at John Carroll University in Cleveland. I am here representing the Cleveland Committee for National Health Insurance, a coalition of labor, community action and citizen organizations. I can say that I speak for a substantial number of people in the Cleveland area.

Mr. Chairman, I am very grateful for this opportunity to urge passage of the Health Security Act (H.R. 21), because it appears to the people I represent that this is the only proposal you have before you which makes sense and satisfies the needs.

People wonder how a government which was founded to "promote the general welfare" could have neglected for almost two hundred years to see the necessary connection between good health and all the other blessings desired for the community—contentment, prosperity, peace, productivity, security and just plain happiness. They have reasonably assumed that a government forbidden to deprive them of "life, liberty and property without due process" should be equally prepared to promote life, liberty and property *with* due process. They base this assumption on the fact that life is not a privilege granted by government; and therefore neither is health. Both are natural endowments, or rights, which ought to be cherished, protected and safeguarded by government. Neither life nor health have any value for the society unless they are relatively vigorous and satisfactorily productive.

Though I certainly do not mean to imply that the infirm and disabled contribute nothing to the overall good of the society, I do say that sickness, suffering and disability, in their varying intensities, strain the capacity for the good life and diminish the potential for the common good. Chronic illness has always been the most common cause of poverty, and sickness is the number one reason for absenteeism in the school and on the job. It is as difficult to call a sickly life a good life as it is to call a life of crime or a life of ignorance or a life of abject poverty a good life. None of them are life as it should be.

Yet, Mr. Chairman, it is rather disquieting to reflect how logically and realistically government has approached the maladies of crime and illiteracy, and how illogically and, if I may say so, insensitively it has dealt with the more basic requirement of health.

It has never been difficult to see that protection against crime—and analogously protection against fire and various other calamities—cannot be placed on an open, competitive market for voluntary purchase at a price; for some would buy it, others would not. Some would settle for less protection than they need. Some would refuse to purchase police protection and the like. Therefore, the public has made police and fire protection available to all as a public service paid for in common, whether the individual ever has occasion to use them or not.

For similar reasons, governments (federal, state, and local) have provided public roads and highways, public parks and libraries—all free of charge and supported at large. I might go on to remind you that there are many today who suggest that circumstances may be such as to require that rail and other forms of transportation may have to be supplied by government, because the private sector is no longer able to sustain the costs, provide the quality of services and evenly distribute the resources.

These were the very reasons which, in another day and in different contexts, justified the creation of a free, public school system. They are the reasons which, we maintain, justify the present demand for a national, public, free health delivery system.

To standardize quality and costs, and to equitably distribute the burdens, a health program has to be nation-wide for the same reasons that roads and currency have to be national.

Since only the national government has the capacity to administer a uniform and coordinated program, the federal government must supply the machinery and the means.

Because of the peculiar nature of health and its problems,—because some people need more than others, and because the element of choice is practically absent (since one can hardly decide to buy only $6.89 worth of surgery because that is all he can afford), and because so accidental and unpredictable a thing as health should not introduce an arbitrary difference in the cost of life,—there ought to be a way of removing the discriminating and inhibiting element; namely, the graduated fee-for-service cost system which now dominates the system. We should treat health like taxes—as something we pay proportionate to our means, and whose benefits we share according to our needs and circumstances.

Not too many months ago, Mr. Chairman, the Administration acknowledged the existence of a health delivery crisis. I suspect that you have been deluged with data to underscore that fact. I have no intention of adding to that volume. Nor do I think it is necessary. As health consumers we all know from our own experience that we cannot afford to get sick beyond the limits of our insurance policies. But who can control that matter? We are all threatened by the unpredictables. We never know how much care we are going to need; how much it is going to cost us; how adequate our insurance will be when we need it; and how successful the professional service will be. No doctor, surgeon or hospital can guarantee that the commodity we are buying will be delivered.

People are entitled to the peace of mind which comes from reasonable security. Today the price of such security purchasable through the private insurance system is far beyond the reach of all but the very wealthy who really do not need insurance. The poor, elderly, and worker fortunate enough to have a steady job gets partial coverage of his health needs through Medicaid, Medicare and group insurance; but they are not secure nor are they in any position to buy real security under the present system.

Moreover, since health is a life-time condition, we need a delivery system which is more concerned with keeping us well than with merely curing our illnesses. We want a system which we can use to the full extent when we need it, without fear of encumbering the other members of our family. We want a program that does not discriminate, exploit and dehumanize.

Mr. Chairman, I would think that these desires are generally shared by everyone. At the same time, I hope that I am sophisticated enough to know that to have ideals is one thing and to accomplish them is something else. The question you have been wrestling with all too long is whether a full-scale national health program is feasible or not. I submit that, if health care is the right which I assume it is, and if good health is as essential to the nation as you know it is, you have little choice. Sooner or later, whether piece-meal or otherwise, you must eventually come to a comprehensive, free, public, national health delivery system.

As I see it, there are three possible routes to follow. You can deal with health care as you have dealt with roads, police, fire and to a large extent, education. You can preempt the business. Own and operate the facilities. Thoroughly socialize the system. This is the route that a number of countries have gone—some with more success than others. Most Americans, I suspect, would prefer not to go this radical route, if they can avoid it.

Or secondly, you can underwrite extensions of the present system; buy insurance for those who cannot afford it; subsidize private institutions; furnish incentives to the providers; and let it go at that. You have already done this with Medicare and Medicaid. Most of the proposals you have before you are conceived along these lines. All of them can be criticized as being no real solution to the problem. They provide no costs-controls, leave millions unprovided for, do little to improve quality, and continue the burdens of deductibles, co-payments and limited benefits. We urge you not to give us more of this.

There is, however, still another route which could be described as a middle-way; an approach which, on the one hand, avoids taking over all the providers; yet, on the other hand, coordinates them and regulates them so that they acquire a public character. There is a way of superimposing a governmental policy and a governmental superstructure on private enterprises without destroying them. The Federal Reserve System has done this; NASA and National Institutes of Health have done it. Almost all medical research is already supported and controlled by government. We would not get more or better research at lower costs by removing government from this area. The laboratories involved in these programs have not lost their private, competitive character.

H.R. 21 proposes to go this route; to make use of the already existing health delivery personnel and facilities; to encourage their ambitions and subsidize their efforts. It would create the machinery for coordinating the work of professionals, institutions and industries. It would effectively eliminate wasted effort, duplication and inefficiency. And at the same time, it would give everyone the best possible quality of care as one of their civil rights.

The crucial question of whether we can afford this program is, as others have noted, really a "non-issue." We are already spending $104 billion or an average of $496 per person or $1,984 per family of four for health care. The trouble, of course, is that not everyone is paying that share and not everyone is getting the equivalent service.

Government is already the largest health care spender. It buys about thirty-four percent of all the health services at a market price which is inflated and which continues to escalate at an inordinate rate. Government's willingness to pay the providers their inflated prices affected the insurance rates and out-of-pocket costs of the consumer.

Mr. Chairman, the ordinary individual will pay what he has to pay to stay alive. He really has no choice. In a true sense, no amount of money value can be placed on health. Yet it does not make sense to purchase life or health at a cost of going so deeply in debt as to mortgage the future. And this happens all too often.

The public wants better health care at a price it can afford. If a national referendum could be held to assess its will, I am sure that the choice would be overwhelmingly in favor of H.R. 21. As representatives of the people it is your responsibility to consider their wishes and try to make them a reality.

Again, I am grateful for your attention and will try to answer any questions my comments may have prompted.

TULSA HONORS ROMAN JASINSKI AND MOSCELYNE LARKIN

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. JONES of Oklahoma. Mr. Speaker, on Sunday, December 7, 1975, the Tulsa Civic Ballet will honor Roman Jasinski and Moscelyne Larkin with a testimonial dinner. It is with great pleasure that I will take part in honoring these unusually talented and dedicated couple.

The cultural life of Tulsa took a great leap forward when internationally famous ballet dancers Roman Jasinski and Moscelyne Larkin decided to settle in Tulsa to raise their son and rechannel their energies, talents, and the direction of their lives from that of performing artists to that of teachers, choreographers, and artistic directors.

Roman Jasinski was an honor graduate of the ballet school of his native Warsaw, Poland. He appeared with the Ida Rubenstein Ballet in Paris, then with Leonide Massine at Milan's La Scala, and was premier danseur with the George Ballanchine Co. in Paris. He was the favorite partner of the world's greatest ballerinas, among them Alicia Markova, Tamara Toumanova, and Alexandra Dnilova. Choregraphers Fokine, Ballanchine, Massine, and Niginska created leading parts for him in many of their ballets.

Moscelyne Larkin, born in Miami, Okla., of a Russian mother and an American Indian father, received her early dance training from her mother, Eva Matlogova. She then studied under Mordlin, Vilzak-Shalla, Celli, and other great teachers, before touring Europe, South America, and the United States with the original Ballet Russe. In 1949 she joined the Ballet Russe de Monte Carlo and danced leading roles until 1952 when she and Roman Jasinski were chosen by Serge Denham to head the Ballet Russe de Monte Carlo Concert Co. This group toured the United States and Canada for 3 years, and its success under the Jasinskis was such that dance groups are still being patterned after it.

Tulsa Civic Ballet, for which the Jasinskis are the artistic directors, began as an informal organization in December 1956, when Moscelyne Larkin and Roman Jasinski presented a program at Temple Israel as a bonus attraction of the celebrity series of the Tulsa Jewish Community Council. The following year the Tulsa Pilot Club sponsored a benefit performance, and the Pilot Club continued to sponsor ballet for 8 years. In the meantime, a nonprofit corporation, Ballet Arts, Inc., was formed "to give professional performances and to offer young dancers of Tulsa and the surrounding area the opportunity to get their ballet training at home." Ballet Arts, Inc., was reorganized in January 1962, as Tulsa Civic Ballet, Inc. For the second consecutive time, Tulsa Civic Ballet has been named a major company, one of only four in the entire Nation so honored for 1975–76.

The Jasinskis are well known in the ballet world for their prodigious memories and knowledge of ballets. Together they bring more than a half-century of training and experience to Tulsa Civic Ballet, which now has a repertoire of over 40 ballets, many of them originals, choreographed by Mr. Jasinski. Their Tulsa School of Ballet is recognized as one of the outstanding schools in the country. Both Jascha and Moussia, as those who know them well call them, are in demand as teachers, lecturers, and choreographer-directors for ballet companies and schools throughout America. Mr. Jasinski has choreographed for Tulsa Opera, and TCB dancers have appeared many times in concerts with the Tulsa Philharmonic Orchestra. Miss Larkin, through her association with the Tulsa Public Schools as part of title II: Destination Discovery, inspired increased development of dance programs in the Tulsa school system. Dancers have gone on from the rigorous professional discipline of the Tulsa Civic Ballet to positions of prominence in ballet companies here and abroad.

I would like to share with you a thought written by Roman Jasinski and Moscelyne Larkin.

> At a time in space and place when ugliness and the sordid seem to prevail in so much of our lives, it gives us inspiration and strength of purpose to know that ballet is a part of the creative force of beauty which lives in the human spirit and which survives over all else.

Tulsa and the dance owe the Jasinskis a rather large debt. Their creative talent has been a moving force in our community and I salute and congratulate them on their many accomplishments.

ANOTHER FATUOUS U.N. ACTION

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. WON PAT. Mr. Speaker, there is ever-growing fear and concern throughout the World about the future and effectiveness of the United Nations in light of recent trends to convert that organization into an instrument to further the international political ideologies and goals of certain movements with total disregard to the basic principles of the United Nations.

I have been a supporter of the United Nations since its inception, hoping it would accomplish many of the high ideals to which it was dedicated and be an effective global force promoting peace and the betterment of mankind.

Unhappily, today I bring to your attention yet another action of the United

Nations which adds to the doubts overshadowing the UN's future.

On November 21, the General Assembly's Colonialism Committee voted 103 to 1, with 16 abstentions and 23 absentees, for a resolution calling for independence for American Samoa, Guam, and the United States Virgin Islands and deploring the policy of the "administering power"—the United States—in continuing to maintain military installations on Guam.

For the information of my colleagues, the resolution text follows:

> The General Assembly:
>
> Having considered the question of American Samoa, Guam and the United States Virgin Islands.
>
> Having examined the relevant chapters of the report of the special committee on the situation with regard to the implementation of the declaration on the granting of independence to colonial countries and peoples, (1)
>
> Recalling its resolution 1514 (XV) of 14 December 1960, containing the declaration on the granting of independence to colonial countries and peoples, and all other resolutions and decisions of the United Nations relating to the territories listed above, in particular its resolutions 3289 (XXIX) and 3290 (XXIX) of 13 December 1974,
>
> Taking into account the statements of the administering power relating to developments in those territories, (2)
>
> Conscious of the need to accelerate progress towards the full implementation of the declaration with respect to the territories listed above,
>
> Deploring the policy of the administering power in continuing to maintain military installations on Guam.
>
> Bearing in mind the constructive results achieved as a consequence of previous visiting missions to colonial territories and reiterating its conviction that the dispatch of such visiting missions is essential for securing adequate and first-hand information in regard to the conditions prevailing in those territories and to the views, wishes and aspirations of the peoples therein with respect to their future status,
>
> Mindful that the territories listed above require the continued attention and assistance of the United Nations in the achievement by their peoples of the objectives embodied in the charter of the United Nations and in the declaration on the granting of independence to colonial countries and peoples.
>
> Aware of the special circumstances of the geographical location and economic conditions of the territories, and stressing the necessity of diversifying their economies as a matter of priority, in order to reduce their dependence on fluctuating economic activities.
>
> 1. Approves the chapters of the report of the special committee on the situation with regard to the implementation of the declaration on the granting of independence to colonial countries and peoples relating to American Samoa, Guam and the United States Virgin Islands; (3)
>
> 2. Reaffirms the inalienable right of the peoples of those territories to self-determination and independence in accordance with the declaration on the granting of independence to colonial countries and peoples;
>
> 3. Reaffirms its conviction that the question of territorial size, geographical location and limited resources should in no way delay the implementation of the declaration with respect to the territories concerned;
>
> 4. Calls upon the government of the United States of America, as the administering power, in consultation with the freely elected representatives of the people, to continue to take all the necessary steps to ensure the full and speedy attainment of the goals set forth in the declaration with respect to the territories;
>
> 5. Strongly deprecates the establishment of military installations on Guam as being incompatible with the purposes and principles of the chapter of the United Nations and of general assembly resolution 1514 (XV);
>
> 6. Calls upon the administering power to take all possible steps to diversify the economies of the territories listed above and to work out concrete programmes of assistance and economic development for those territories;
>
> 7. Calls upon the administering power to reconsider its attitude towards receiving United Nations visiting missions and to permit access by such missions to the territories concerned;
>
> 8. Urges the administering power, with the co-operation of the governments of the territories concerned, to safeguard the inalienable right of the peoples of those territories to the enjoyment of their natural resources by taking effective measures which guarantee the rights of the peoples to own and dispose of those natural resources and to establish and maintain control of their future development;
>
> 9. Requests the administering power to continue to enlist the assistance of the specialized agencies and the organizations within the United Nations system in accelerating progress in all sectors of the national life of those territories;
>
> 10. Requests the special committee to continue to seek the best ways and means for the implementation of the declaration with respect to American Samoa, Guam and the United States, Virgin Islands, including the possible dispatch of visiting missions in consultation with the administering power, and to report to the general assembly at its thirty-first session on the implementation of the present resolution.

Mr. Speaker, I note actions such as this with great dismay. They represent intentional distortions of truth and disregard for realities to foster dissension and some inapplicable, hazy concepts.

Representatives of the people of the Virgin Islands and Samoa can best express the sentiments of their constituents. For me, as the congressional representative of the people of Guam, I consider the sponsors and supporters of this resolution as, at best, ignorant and perpetrators of false ideas.

The resolution implies Guam is a society closed off from the rest of the world and controlled by a malevolent totalitarianism similar to the governments of several of the countries which voted for the resolution. In reality, Guam is a cross-roads of the Pacific Ocean open to visitors from all parts of the world. To sample the sentiments and desires of the people of Guam, all any of these delegates need to do is join the many thousands of individuals from all parts of the world who throng to our island regularly.

The term "colonial" is totally inappropriate when referring to Guam. The people of Guam are U.S. citizens, enjoying the full protection of the U.S. Constitution.

The people of Guam have freely and often expressed their desires to remain an integral part of the United States. Guamanians voluntarily serve in the U.S. armed services at a rate more than six times the national average.

To "deplore" U.S. military installations on Guam is fatuous. Guam has served as the most western bulwark of the U.S. defense in the Pacific Ocean for many years. As U.S. citizens, its people are extremely proud to be the showcase of U.S. democracy on the periphery of Asia. Their rights and citizenship are the envy of many neighboring countries in its part of the world. They are equally proud to be an important part of the defense of their country and, in fact, welcome assuming an even more active role.

It is equally fallacious to characterize the Federal Government as an "administering power" of Guam any more than it is of California, Nebraska, or any of the other 50 States.

If the supporters of this resolution are truly interested in "the inalienable rights of the people" of Guam "to self-determination" they would accept that the people of Guam have overwhelmingly indicated their desires many times, directly and indirectly, but at all times freely.

To contend Guam requires "the continued attention and assistance of the United Nations" in the achievement by its people of their aspirations is, to say the least, arrogant. The people of Guam enjoy a level of self-determination and participation in representative, democratic government far beyond that of millions of residents of many countries endorsing this resolution.

I have personally appeared before this United Nations committee to attest to the political, economic, and social conditions of Guam. As everywhere, Guam does have its problems. However, a lack of basic human freedoms is certainly not one of them. I can only assume my statements did not coincide with what many delegates wanted to hear and thus were disregarded.

It is this frequent and obvious disregard of reality to pursue fatuous positions and policies that causes me to have grave forebodings for the future of the entire United Nations. I urge my colleagues to join me in resisting this derogation of the United Nations and its ideals.

For their information, the U.N. Colonialism Committee delegates of the following nations voted for the November 21 resolution:

Afghanistan, Algeria, Argentina, Bahamas, Bahrain, Bangladesh, Barbados, Bhutan, Bolivia, Botswana, Bulgaria, Burma, Byelorussian SSR, Canada, Chile, China, Colombia, Congo, Cuba, Cyprus, Czechoslovakia, Dahomey, Democratic Yemen, Ecuador, Egypt, El Salvador, Ethiopia, Fiji, Finland, Gabon, German Democratic Republic, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Honduras, Hungary, Iceland, India, Indonesia,

Iran, Iraq, Ivory Coast, Jamaica, Jordan, Kenya, Kuwait, Laos, Lebanon, Lesotho, Libyan Arab Republic, Madagascar, Malaysia, Mali, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Nepal, Nicaragua, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Poland, Portugal, Qatar, Romania, Rwanda, Saudi Arabia, Sierra Leone, Singapore, Somalia, Spain, Sri Lanka, Sudan, Swaziland, Sweden, Syrian Arab Republic, Thailand, Togo,

Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine SSR, USSR, United Arab Emirates, United Republic of Cameroon, United Republic of Tanzania, Upper Volta, Uruguay, Venezuela, Yemen, Yugoslavia, Zaire, Zambia.

BALANCED BUDGET HEARINGS

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. BYRON. Mr. Speaker, today under the auspices of the Balanced Federal Budget Committee of the Democratic Research Organization, hearings are being held on proposed constitutional amendments to require a balanced federal budget.

The witnesses to appear before the ad hoc committee have maintained a long standing interest in the subject of a constitutional amendment requiring a balanced budget. The Honorable William S. James testified today as he did earlier this year before the Subcommittee on Constitutional Amendments of the Senate Judiciary Committee. Mr. James was president of the Maryland Senate before attaining his present position as Treasurer of the State of Maryland. His prior legislative experience and his present position provide a unique background from which to judge the need for this legislation.

Leading a nationwide effort to garner support at the State level for the balanced budget constitutional amendment, Maryland State Senator James Clark, Jr. was the third witness. Senator Clark has been instrumental in bringing the budget resolution to the attention of state officials and representatives throughout the United States. As a result of his efforts, resolutions of support for the balanced budget concept have been passed by the Annual Convention of the National Association of State Auditors, Comptrollers and Treasurers; the Southern Legislative Conference of the Council of State Governments; and the National Conference of State Legislators.

Constitutional amendments on balanced budgets have been introduced by many Members of Congress with many cosponsors. These bills, although different in their details, all express the same general requirement—that the appropriations made by the United States shall not exceed its revenues except in time of war or national emergency.

In the States, the balanced budget concept is hardly new. About 60 years ago Maryland concluded that its representative body needed fiscal discipline to conduct State affairs in a financially responsible manner. The result was a constitutional amendment in 1916 requiring that Maryland's budgets be balanced. At least 38 States have similar constitutional or binding legal requirements regarding a balanced budget.

The Congress has made major improvements in its approach to the problems of budgeting; however, the ultimate question of fiscal responsibility remains undecided. The budget resolution recently passed by the House and the Senate makes provision for a massive budget deficit. It seems increasingly difficult for politicians to make the necessary decisions regarding priorities and programs; however, the dilemma of perennially unbalanced budgets will persist until such time as the issues of spending priorities and program reevaluation are addressed.

At the end of the 19th century and at the beginning of this century, a grassroots movement culminated in the passage of the fiscal measures now public law in most States. The purpose of the Ad Hoc Committee on the Balanced Federal Budget of the Democratic Research Organization is to join with all those interested parties in organizing grassroots effort to pass similar Federal budget restrictions. I believe that such support exists; it is simply a matter of channeling that support into effective political channels.

WHAT IS ZIONISM?

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. LONG of Maryland. Mr. Speaker, a thoughtful article entitled "What Is Zionism?" recently was brought to my attention by the highly respected Baltimore City Councilman, Allen B. Spector. This excellent piece, written by Prof. Joseph Dan of the Hebrew University of Jerusalem, sees the United Nations' resolution equating Zionism with racism as an attempt to strike a blow at the heart of the Jewish religion. On two occasions I have spoken out in the House to condemn this demagogic resolution, and I insert Professor Dan's comments to my own statements on the question:

WHAT IS ZIONISM?

Once a word becomes linked with other words often enough, it loses its original meaning because the sense of every word in any language is decided by the context in which it appears, not by some definition in a dictionary. This plain fact is known very well to Arab and Communist propagandists, and their insistent linkage between Zionism and evil-sounding words like racism, colonialism and aggression is evidence of their design to fight the Jewish people everywhere; otherwise they would have attacked only the State of Israel, but their onslaught on Zionism is intended to malign Jews in all countries. This is a very effective technique of propaganda, because it automatically puts every Zionist on the defensive; he has to explain why Zionism is not racist, or not colonialistic, or not aggressive, which is much more complicated than the simple name-calling, and has much less impact. Some recent international forums have adopted this tactic, and we are going to experience it again and again. It is necessary, therefore, to return to fundamental facts, and to use a self-evident, clear and unambiguous definition of Zionism. This is not difficult, because Zionism does not have an intricate ideology; it is a simple answer to a simple question.

The question that Zionism asks is this: Can the Jewish people exist when all its communities are scattered around the world, and subject to different non-Jewish regimes and States, whose policies change from day to day and where anti-Semitism may flourish from time to time? The Zionist answer is: No! The Jewish people can continue to exist only if it has an independent State in its one and only Homeland, the Land of Israel. There is nothing more to add to that basic definition of Zionism: Jewish independence in the Land of Israel. Anyone who agrees that such a State should exist is a Zionist; anyone who opposes it is a non-Zionist. Anyone who thinks that this State should be destroyed is an anti-Zionist.

Zionism does not define what kind of State the Jews should have, whether a democratic or a Communist one, governed by a President or a Prime Minister, with an agricultural or an industrial economy, and so on. All that Zionism requires is a Jewish State in the Land of Israel. Zionism does not define the borders of it, whether it should include this village or that. Zionism is only the demand for the existence of the Jewish State in the Land of Israel. All other questions, the policy, economy and borders of that State, are subject to discussion and dispute—between those who agree that it should exist. Those who oppose Zionism, and therefore also the existence of the Jewish State, care very little for its policies, or even its borders.

The dividing line is, therefore, completely clear: Anyone who opposes Zionism is demanding the destruction of the Jewish State in the Land of Israel, and declaring that the Jewish people should not have a State at all, anywhere, regardless of any problem of borders or of its policies. The fight against Zionism is a very thin disguise of the demand to destroy the Jewish State and the Jewish people.

RHODESIA MARKS 10TH ANNIVERSARY

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. ASHBROOK. Mr. Speaker, on November 11 Rhodesia celebrated its 10th year of independence. The leaders and people of that nation have reason to be proud, for Rhodesia has achieved this milestone against great odds.

I had the opportunity to visit Rhodesia as part of a fact-finding mission only a few weeks after it had declared its independence. I was impressed with what I saw there. Unfortunately the average American has never been given a true picture of Rhodesia.

Upon returning from my trip I stated on the House floor in March of 1966 that the Smith regime is secure. I also said that the Rhodesian people are independent and they have the fortitude to remain independent. Despite great pressures exerted on the Rhodesian nation, these statements have held true.

In particular, Rhodesia has withstood a decade of economic sanctions. These sanctions were imposed by the United Nations on the totally ludicrous grounds that Rhodesia constituted a threat to world peace. But then, one can hardly expect common sense to prevail in the United Nations.

After a decade of trying to force Rhodesia out of existence, it is time to adopt a more realistic policy. If the United Nations is still unwilling to correct this mistake, the United States should on its own completely terminate its support for the economic sanctions.

Following is an excellent editorial on Rhodesia and the United Nations by columnist James J. Kilpatrick:

[From the Washington Star, Nov. 20, 1975]

RHODESIA AND THE U.N.

(By James J. Kilpatrick)

A nice round anniversary passed the other day, and it is not too late to remark the event. On November 11, Rhodesia completed 10 years of independence.

There is a certain irony here. One might have assumed that the hypocrites who dominate the United Nations would have learned something from their folly in Rhodesia. Ten years, after all, is a fair term of instruction. But, no. The General Assembly observed the tenth anniversary of its blunder as to Rhodesia by blundering anew as to Israel.

The assembly is amazing. The vote on the resolution to condemn Zionism as "a form of racism" was 72 to 35, with 32 delegations abstaining. Among the 72 were some of the most gorgeous practitioners of racism within the U.N.

The resolution was a lie, but lies weigh lightly upon the assembly's collective conscience. Truth and falsehood, they are all the same. Consistency, principle, fealty to the U.N. Charter—such considerations are the merest trifles. For at least the last 10 years, since it slithered into the Rhodesian fiasco, the U.N. has been as empty of substance as a sucked egg. It is not even an honest bordello. What's a nice country like the U.S.A. doing in a place like this?

The U.N. sanctions against Rhodesia were predicated from the outset upon a lie. The lie was that Rhodesia constituted a "threat to the peace." Not one scintilla of evidence ever was adduced. The last 10 years have refuted it utterly.

Those who voted for the U.N. sanctions were not fazed by double standards. Their charge, at bottom, was that Rhodesia was not democratic; it was not governed by majority rule. And this charge, mind you, came largely from a gaggle of one-party states, tinhorn dictatorships and Communist puppets. At the time of the Rhodesian resolution, half the member states of the U.N. paid not even lip service to "majority rule." The picture has not improved in the ensuing decade.

The outcry against Rhodesia was led by Third World spokesmen who constantly declaim against colonialism. And what was their demand as to Rhodesia? Why, sir, they demanded that Britain forthwith declare Rhodesia a "crown colony," to be governed absolutely by proconsuls from London.

Membership in any constituted body demands some degree of respect for the body's written constitution. In the matter of Rhodesia, no such respect could be seen. The unprecedented sanctions were imposed to do something expressly forbidden by paragraph 7 of Article 2. That paragraph says the United Nations is to keep hands off matters essentially within the domestic jurisdiction of states.

The sanctions against Rhodesia bore no trace of morality, no trace of principle, no respect for the charter. Setting all such considerations to one side, these 10 years have exposed an additional shortcoming also: The sanctions did not work. Prime Minister Harold Wilson was chortling a decade ago that the "rebels" would be brought to their knees in weeks, if not days. In the annals of prophecy a more ludicrous prediction seldom has been voiced.

On the eyewitness testimony of every visitor to Salisbury, the U.N. sanctions have functioned as rotten nets to catch the wind. The commerce of the world flows through Salisbury's streets. Her economy has suffered—of course it has suffered!—but trade and tourism go on. Crops are planted, harvested and sold. The people, and the republic, survive.

How much folly is folly enough? When will the United States have a bellyful of this nonsense? Our fawning deference to Great Britain has gained us no credit with Third World nations. They are experts in travesty and they recognize mere pretense when they see it. The continuing sanctions against Rhodesia are just that: mere pretense, nothing more.

Ten years are aplenty. If Congress lacks the moral courage to withdraw from a corrupt and corrupting U.N., Congress could at least strike a blow for integrity by renouncing the Rhodesian sanctions. This would also be a blow for common sense; but where the U.N. is concerned, this is doubtless too much to ask.

THIS TIME WE ALMOST MADE IT DIDN'T WE?

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. HAWKINS. Mr. Speaker, on October 30 just passed, Earl B. Dickerson was presented the Legal Defense Award at the 1975 NAACP Legal Defense Fund Dinner in Chicago. The principal speaker at the dinner was Secretary of Transportation, William T. Coleman, himself a long and active participant in the work of this organization. Gov. Daniel Walker of Illinois also spoke.

Earl Dickerson, now 84 years old, has had a distinguished career in the law and in business, but he is most noted as a pioneer fighter for civil rights and equal opportunity for all. He was a member of President Franklin D. Roosevelt's Fair Employment Practices Committee, which was a forerunner of the present Equal Employment Opportunity Commission.

I am including in my remarks the text of the response of Earl B. Dickerson upon receiving the award:

COMMENTS OF EARL B. DICKERSON

It is really a considerable presumption for me to have accepted the honor you have so graciously conferred upon me this evening. I, perhaps more than any of you recognize the truth in Wordsworth's caveat, "the old order changeth, giving way to the new." And as I review the details of my career—punctuated only now and then with the bright flashes of success and momentary satisfaction, I am tempted to adopt as my theme song, the current tune entitled, "This Time We Almost Made It Didn't We?"

Yes, I am so glad to be here this evening; among friends and those of you who have taken the law as your profession, the intellectual environment you represent here has kept me young these many years, because I have had to be most flexible and capable of moving quite fast in order to keep abreast of the concepts and developments in the law as they control the continuing evolution of our society.

On July 4, 1976 we will celebrate the Bicentenntial of this great Nation's founding, and proudly salute those Founding Fathers, who, in their collective wisdom created a theory of government, the complex, but necessary tools for its implementation, and finally a system that has excelled all previous and subsequent attempts in the history of civilized man. Yet, as we approach our 200th anniversary I am reminded that the pathway to our present greatness has not been smooth; that we have endured aberrations in our pursuit of democracy, and most important that it has been the voices of dissent and cross-examination that gave us back our purpose and direction.

Among the deliberations on September 17, 1787, the last day of the Constitutional Convention, was the thorny question as to whether slaves should be counted when determining the basis of representation. The famous compromise that counted blacks as three-fifths of a person was destined to cast a long and lasting shadow, for it was the forerunner of all subsequent mechanisms for denying rights to blacks.

I will not dwell here on the system of slavery that constitutes one of history's greatest crimes against humanity other than to underscore that it was ultimately the central issue leading to the Civil War. And despite the fact that it was fought with so much bloodshed and passion it brought no real and lasting improvement in the status of black people.

With the war ended and with slavery deposed, blacks throughout the country expressed optimism and hope regarding their future, but, this was not to be the case—black codes, designed to take the place of the then defunct slave codes, were rushed through many State legislatures—including the State of Illinois—in order to reestablish ante-bellum white supremacy. Notwithstanding the intent and purposes of the 14th amendment (1866) establishing citizenship and equal protection of the laws, and the 15th amendment (1870) establishing that a citizen's right to vote should not be denied because of race or color—blacks were ruthlessly intimidated and victimized. The hooded violence of the Ku Klux Klan, the Knights of the White Camelia and other terrorist organizations aided and abetted by "know-nothing" politicians, poll-taxes and grandfather clauses, all served to precipitate the compromise of 1877 which boldly reaffirmed white supremacy in America.

Although the treadmill of black history to this point had been interrupted by the heroic dissents and protests of such giants as Thaddeus Stevens, Charles Sumner, Frederick Douglas, William Lloyd Garrison, Wendell Phillips, Harriet Beecher Stowe, Abraham Lincoln and a great host of others, this period was indeed the nadir of the blacks status in this country. The black American, to borrow from Robert Frost, had "nothing to look backward to with pride, and nothing to look forward to with hope."

Further compounding the miserable condition was the U.S. Supreme Court which consistently interpreted the 14th and 15th amendments in such a way as to cripple their protection of blacks and thereby relegate them to a second class status as citizens.

The most publicized of the court's decisions affecting blacks were the civil rights cases of 1883 and Pressy *v.* Ferguson rendered 13 years later which was the final imprimatur for black separation. Although Justice John Marshall Harlan raised a dissenting and prophetic voice, saying, "the Constitution is color-blind, and neither knows nor tolerates classes among citizens," this pernicious ruling remained the law of the land for over half a century.

At the turn of the century and in stern opposition to Booker T. Washington's acquiescence to the subordinate role of blacks imposed by "separate but equal," there arose a new voice of dissent in the person of W. E. B. DuBois. Continuously attacking the Washington position, DuBois insisted that black people persist in their political action, civil rights agitation and their education in the institutions of higher learning. DuBois was convinced that college trained blacks, the "talented tenth," as he referred to them, would furnish the leavening for the ultimate rise of the race. He also believed very early that the individual voice of dissent could be amplified and complemented manifold through the medium of a well-structured organization created for such a purpose. On the centennial of the birth of Abraham Lincoln (February 12, 1909) he and 53 other black and white Americans sent forth a plea urging all believers in democracy to join in a national conference for "the renewal of the struggle for civil and political liberty." Out of this call emerged the NAACP—"to make 11,000,000 Americans physically free from peonage, mentally free from ignorance, politically free from disfranchisement and socially free from insult."

During the middle decades, at the nagging insistence of the NAACP, the Federal judiciary, and particularly the supreme Court, began to concern itself with civil rights and individual liberties. And in 1939 the NAACP gave birth to a new child, the legal defense and educational fund, in order that these issues be more doggedly pursued. As a result of our initial challenges the Supreme Court in the 1940's made a series of landmark rulings concerning discrimination in voting, in transportation and in housing. And most importantly, during this same period the court had its most profound impact through its rulings on public, tax-supported education. In all of these cases the NAACP had authored the litigation. Little can be added to the words of Chief Justice Earl Warren, speaking for a unanimous court on May 17, 1954, when he said, "We conclude that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal."

As the Nation began to grasp the import of this epoch making decision, and its extension into other areas where State law had enforced segregation, the larger society came face-to-face with human beings whose origins in this country dated back before the *Mayflower*—but prior to the Brown decision had, for the most part, been invisible.

The swift events that followed in the wake of Broawn *v.* Board of Education of Topeka need not be detailed here except to pay homage to those gallant and heroic voices of dissent and cross-examination, not the least of whom among them was that magnificent knight errant, Martin Luther King, Jr.—who carried us all with him as he pursued his dream.

As we approach the Bicentennial jubilee, with particular reference to the Constitution, let us begin by applauding the magnificent efforts of those dissenters and cross-examiners who would make the Constitution speak the truth. Therefore we must sincerely acknowledge the monumental perseverance and skills of the men and women comprising the legal defense fund and the progress they have made thus far toward bringing a realization to all of us of the full meaning of the ideals expressed in the Declaration of Independence. I sincerely believe that the legal defense fund is the most powerful single force in America for the ultimate realization of racial equality!

I would urge further, however, in recognition of how much more there is to be done, that we not wait another 200 years in order to chronicle our progress. Instead, I submit that each year following the Bicentennial, 1975+1, 1976+2, etc., that we take time to make an appraisal of the achievements made in the previous year and to assess their impact on the programs of the following year. As an organization of responsible advocates we must continuously monitor, with a never ending vigilance, the right of every citizen of the United States to:

1. Opportunity, freedom and personal security to permit optimal development.
2. Opportunity for a quality education.
3. Opportunity for maximum length of life in good health.
4. Opportunity for employment commensurate with education and skill.
5. Equality and impartiality in the administration of justice.
6. An environment controlled in the interest of society that includes adequate housing.
7. A system of government based on democratic principles, fully representative and with majority rule.

As you may suspect, I have always been a dissenter, a cross-examiner and a questioner of the status quo. From those days in Canton, Miss., where, as a small child, I delivered laundry for my mother and to whatever heights by career may have taken me, I have had an undying quarrel with those forces in the world that would impede and deny progress to black people. Too, I have a passion for continuity, for the extension of life through others—so much so that I believe that organizations, such as the legal defense fund should have never-ending programs.

Finally, I believe that hope cannot be ordered into being. Society in a condition of despair cannot be commanded to generate glorious dreams. But, it can be encouraged to rediscover itself and to be reminded of past achievements under circumstances of enormous difficulty. It can be given confidence in its visions and in the infinite reach of the human mind.

All these things considered, I salute the NAACP legal defense and educational fund and from the bottom of my heart, I thank its Chicago committee for the high honor bestowed upon me tonight.

THE NEED FOR A NATIONAL FOREST POLICY

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. BONKER. Mr. Speaker, the demand for timber is increasing in the United States. The foreign demand for American timber is also on the rise. Yet, under present levels of timber management, the output of the Douglas fir region—the most prolific timber producing area in the Nation—has been projected to decline by the year 2000. As a result, employment in timber-based industries is projected to drop 45 percent between 1970 and the year 2000.

A recent Federal court ruling has further complicated the outlook by questioning the legality of timber harvests by clear-cutting in the Monongahela National Forest and other Federal timber lands within the jurisdiction of the Fourth Circuit Court.

Clear-cutting is the dominant timber harvest practice in Douglas fir forests. Highlighting both the potential seriousness of the situation for that region and the implications for public and private timber management nationwide are the following two editorials—one from the Tacoma, Wash., News Tribune and the other from the Longview, Wash., Daily News.

I urge my colleagues to heed their message. We otherwise will all share in the dire economic consequences that will follow if no action is taken to develop a national forest policy.

The articles follow:

Hatfield's Good Advice

We who live in the Douglas fir country can thank Sen. Mark Hatfield of Oregon for the good advice he has given President Ford and the President's advisers. The senator has warned them not to walk into any political traps on the question of clearcutting in the forests.

Sen. Hatfield said he told Mr. Ford that if clearcutting is prohibited throughout the national forest system, that would drastically reduce production of essential forest products, drive up the prices of lumber and housing, adversely affect the administration's attempt to curb inflation, and cause greater unemployment in the construction and forest products industries.

The topic is live again because a federal court ruled against clearcutting in the Monongahela National Forest in West Vriginia and Pennsylvania, in a suit brought by the Sierra Club and other environmentalists.

The Monongahela forest bears no semblance to the Snoqualmie, or other Western forests. The eastern forest consists largely of leafy, deciduous trees. The evergreen trees there are pine and spruce. There is some fir, but it is not Douglas fir. In other words, there are different species, different mixes, different growth rates.

Douglas fir found in such abundance in western Washington and Oregon needs the sun and grows best under clearcutting. Areas logged off are immediately reforested and soon become green timber stands. If selective logging is used, or if the forest is left untouched, fallen or cut trees usually are replaced by other species than Douglas fir, and you have a haphazard mix. Western forests are not clearcut indiscriminately. Management practice on both federal and private lands is aimed at perpetuating the forests by constantly renewing them. It can be done and is being done in Douglas fir country.

Senators and congressmen who have visited the Pacific Northwest and observed how the forest industry works have changed their first impressions about clearcutting and have come to favor it. America must keep the forests productive. Congress will have to act on the West Virginia decision so that it is not applied to the Douglas fir region.

As Sen. Hatfield has told the President, there can be dire economic consequences with a rough political kickback for those who vote or use their influence to stymie forest production and the jobs dependent upon it.

Forests at Crossroads—New Policies Needed—Common Effort

(By Ted M. Natt)

Washington.—America's national forests are at a crossroads and decisions made in the months ahead will have an impact on the people and industry which surround and use them for many years ahead.

Although a number of forest policy problems have been building towards the critical decision points for years, the single event which thrust the U.S. Forest Service to the crossroads was a decision by the U.S. Court of Appeals for the Fourth Circuit.

It has ruled that the Forest Service's organic act prohibits clearcutting on federal forest lands in the Monongahela National Forest of West Virginia.

The government must decide by Nov. 20 whether to appeal the decision to the U.S. Supreme Court. Agriculture Department lawyers think the U.S. Solicitor General will decide not to appeal.

* * * * *

The Forest Service, Congress and the President must decide not only how trees will be cut, but how fast. Private industry, like Weyerhauser, believes big old trees should be cut fast because they are not growing much and should be replaced with fast growing young trees.

McGuire says, "We can't handle our lands like Weyerhauser." The Forest Service lives in a political world where the pressures brought by environmentalists, campers, hikers, boaters and fishermen can be enormous. The national forests are used for more than producing timber.

What McGuire sees coming are smaller clearcuts and more attention to clean-up, reforestation and recreation.

McGuire hopes that experiments like the one now being tried in the Gifford Pinchot National Forest will prove worthwhile. The Gifford Pinchot is going to gear the amount of timber it produces to the level of management it can operate at. If it has the dollars to manage the forest as it should, the timber volume will be larger than it will be otherwise.

Perhaps, he says, timber supply should be planned regionally, combining both private and federal supplies to provide a constant level of timber volume. Perhaps the Forest Service should impose some utilization requirements.

Whatever happens, "I don't think we can concentrate on just maximum growth," McGuire says.

In changing the national forest policy, McGuire faces a difficult situation. There is no one in the White House or the Office of Management and Budget who understands forest needs or problems. In Congress, there are only a handful who do and they are from the Pacific Northwest.

What McGuire is trying to do is prevent the decision-making from degenerating into a clearcutting argument in Congress where sides would tend to become polarized.

He fears the White House is hearing only from the lobbyists from the wood products industry.

Unless everyone works together and compromises, the forests and the people who depend upon and enjoy them will suffer.

What is certain is that the Monongahela decision and its potential political consequences (no clear cuts, fewer and more expensive trees, higher lumber and plywood costs, higher housing costs) have gotten the attention of the White House, Congress and the wood products industry. The discussion and decisions which will be made in the coming weeks and months should be of great concern to the public.

McGuire touched on four other points worth noting.

On the log export problem, he says the Forest Service is working with the Japanese to standardize lumber grading and sizing requirements with the U.S. to eliminate the 10 per cent Japanese tariff on U.S. lumber. He says some progress is being made and it should result in more Japanese purchase of cants and lumber instead of raw logs. Gov. Dan Evans, just back from a Far East trade mission, says he sees a rising demand for U.S. lumber in Japan because of housing needs there.

On Forest Service reforestation, he says the backlog of lands which have not been replanted with trees has been reduced somewhat. The Funds are available or will be to replant 1 million of those acres. Of the backlog, only 571,000 acres are in the Oregon-Washington region.

On the relatively new program to provide financial subsidies to owners of small forest tracts for reforestation, he says the best use of it is being made in the South. Currently about $15 million a year is being spent for restocking small lot timber tracts.

And on federal land use controls, McGuire sees a drift toward more federal control over private land owners, particularly in recreation areas where private owners have a choice of "behaving" or getting condemned. He sees more of such authority coming from Congress.

POLLUTED AIR IS HEALTH HAZARD

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1975

Mr. ROGERS. Mr. Speaker, the House Commerce Committee began consideration of H.R. 10498, the Clean Air Act Amendments of 1975, yesterday. This important public health legislation is the work of the Subcommittee on Health and the Environment, which I chair.

As we all know, there is growing concern about the serious health hazards of industrial and transportation pollution. Moreover, there are obvious economic and energy problems facing our country. Therefore, the legislation will be among the most important to come before the 94th Congress, requiring a careful balancing between various goals.

I believe H.R. 10498 is a careful balancing of health, economic, and energy goals.

Mr. Speaker, I include in the RECORD my opening statement to the Commerce Committee introducing the bill and briefly highlighting some of its key sections:

STATEMENT OF CHAIRMAN PAUL ROGERS INTRODUCING H.R. 10498, THE CLEAN AIR ACT AMENDMENTS OF 1975 TO THE HOUSE COMMERCE COMMITTEE, DECEMBER 3, 1975

The Health and Environment Subcommittee devoted more than seven months to consideration of this bill. Two weeks of hearings were convened on March 13 of this year, followed by almost daily discussion sessions during April, May and June. From July to October, the Subcommittee hammered out a final bill, which was reported to the full Committee on October 16 by a bipartisan vote of 11–3.

The present Clean Air Act was enacted in 1970. Its primary purpose is to protect the public health and welfare. The law provides for the establishment of minimum Federal standards for protection of public health and welfare. The drafting and enforcement of implementation plans to achieve these minimum standards is left to the individual State governments. If a State fails to adopt an adequate implementation plan, or fails to enforce its plan, then Federal intervention to enforce the standards is authorized. Compliance deadlines were set for 1975, or 1977, at the latest.

Events of the past few months again demonstrated the serious, even deadly effects of air pollution on human health. All of us who suffered through Washington pollution alerts in July and August need no reminder of the significant health impact of air pollution. Then, just a few weeks ago, on November 19th and 20th, pollution levels in Pittsburgh exceeded the level which presents "an imminent and substantial endangerment to health." Drastic steps—including cutting back power plants and curtailing steel production and other industrial activities—were initiated as a result of this health emergency.

Emergencies such as in Pittsburgh—or in Birmingham in 1970—seized front-page headlines and they refocus our attention on the need for tight controls which will prevent the escape into the air of dangerous industrial emissions. Clearly there can be no other course if we are to make our air safe to breathe.

But there are no headlines alerting us to the quietly growing concern in the scientific and medical communities over the serious health effects of everyday levels of industrial pollution. Increasingly, evidence demonstrates that there are potential serious health dangers from air pollutants at levels far below the standards set by the EPA. For instance, in its 1975 Report to Congress on the health effects, the National Academy of Sciences concluded, "It is not clear that there is any level of these pollutants (sulfur oxides) above background that will not have an acute effect on the most susceptible individual."

Another major concern of health researchers is the wide range of currently unregulated air pollutants. These are the perhaps 200 to 300 different substances, acting separately or in combination, for which sufficient data are not yet available on which to base firm health standards. In the case of just one of these—sulfates—the National Academy has found that they "are more toxic than the parent compound (sulfur dioxide) and appear likely to be responsible for a substantial portion of the adverse effects on health associated with stationary source combustion fuels." Furthermore, just last July a prominent air pollution researcher testified that there may be a relationship between ambient SO_2 and sulfate levels and lung cancer.

Within the next few years, EPA intends to establish health standards for the control of sulfates. At this time, it appears that much of the Eastern United States regularly reports sulfates exceeding the level EPA feels it will have to set as the health standard.

There are scores of compounds in the air we breathe for which we have little hard data detailing exact concentrations and their health effects. We do know, however, that proven cancer-causing agents now have been reported in the ambient air. These include dimethyl bromide, polycyclic organic-matter, arsenic, polyvinyl chloride, and nitrosamines, the latter perhaps the most deadly carcinogen known to man.

Dr. David Baltimore—a Nobel Prize winner for his research linking some cancers to viruses—has concluded that environmental causes of cancer are much more serious than viral causes. In fact, recently Dr. Baltimore stated: "The role of viruses in cancer is small. The best hope today for cures is research into environmental causes of cancer."

Apparently, then, grave concerns about the adequacy of our air pollution control efforts are quite justified. And proposed changes in the present Clean Air Act must take into account these grave health concerns. We cannot surrender what progress we have already made in controlling hazardous air pollution.

But the past few years have brought the recognition that responsible adjustments in the present law are necessary. Adjustments are needed if we are to sensibly achieve our ultimate goal of protecting the public health and welfare from dangerous pollutants. Serious economic and energy problems along with new, more complete information on the serious effects of various air pollutants, dictated comprehensive review of the 1970 act. H.R. 10498 is the product of that review.

During its long deliberations the Subcommittee was bombarded by widely divergent demands for changes in the law. On the one hand, there were those who argued for air pollution clean-up without concern for cost. Opposing them were those who would roll back the progress we have won over the past five years.

The Subcommittee bill rejects the arguments of both these extremes.

Our public health protection standards are not abandoned. We would continue to move forward to clean up air pollution and to do it as expeditiously as practical. The Subcommittee also recognized, though, that our Nation's economic, industrial and energy resources are limited.

The resulting bill, H.R. 10498, maintains our goal of protecting the public health from dangerous and toxic air pollutants, but it also provides State and local governments and industry with increased flexibility for achieving air quality standards.

Here are just a few examples of provisions which take a middle ground on balancing environmental goals with other social needs:

1) The bill authorizes the States and the EPA to grant extensions and variances to industrial polluters where necessary. For instance:

Extensions of up to five years would be allowed where a plant found it impossible to meet its compliance deadline;

Plants converting from the use of gas or oil to coal would be eligible for an extension up to 1980;

Both new and existing sources would be eligible for variances for the development and use of innovative air pollution control technology.

2) The bill defers until 1980, or as late as 1985 in the case of nitrogen oxides, the date that automobile manufacturers must meet final, new-car emission standards.

3) Where necessary, States and localities are provided extensions up until as late as 1985 for achieving automobile-related air quality standards.

4) The Administrator's authority to require State and local governments to adopt or implement indirect source review programs is sharply restricted.

5) H.R. 10498 restores broad discretion to the States for determining the future air quality in presently clean air regions. Simultaneously, the bill strictly curtails EPA's authority to "second guess" the State's ultimate decisions.

Mr. Chairman, this bill is a thoughtful, balanced approach which safeguards public health while realizing our other social, economic, energy and environmental goals. I urge the committee to carefully consider it and expeditiously report it to the full House.

SENATE—*Monday, December 8, 1975*

The Senate met at 11 a.m. and was called to order by Hon. DALE BUMPERS, a Senator from the State of Arkansas.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, who so loved the world as to send Thy Son in the Child of Bethlehem, endow us with the prerequisites of Christmas—open hearts, expectant moods, simple faith, the sure guidance of the wise men, the tender love of mother and family.

May the Christmas spirit brood over the whole land that peace and justice and brotherhood may prevail. Complete the good work of past generations by the manifesting in all people a living faith, a true piety, and a lofty patriotism. Grant to the President, his counselors, the Members of the Congress and all who serve in the Government the grace and wisdom of those who call upon the Lord in spirit and in truth.

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, D.C., December 8, 1975.*
>
> *To the Senate:*
>
> Being temporarily absent from the Senate on official duties, I appoint Hon. DALE BUMPERS, a Senator from the State of Arkansas, to perform the duties of the Chair during my absence.
>
> JAMES O. EASTLAND,
> *President pro tempore.*

Mr. BUMPERS thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, and Saturday, December 5 and 6, 1975, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

WAIVER OF CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the Legislative Calender, under rule VIII, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

S. 2615, VOLUNTARY MUNICIPAL REORGANIZATION ACT OF 1975, PLACED UNDER "SUBJECTS ON THE TABLE"

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 429, S. 2615, be removed from "General Orders" and placed under "Subjects on the Table."

The ACTING PRESIDENT pro tempore. Without objection, it is ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be allowed to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations will be stated.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

The second assistant legislative clerk read the nomination of Ethel Bent Walsh, of the District of Columbia, to be a member of the Equal Employment Opportunity Commission.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NATIONAL SCIENCE FOUNDATION

The second assistant legislative clerk read the nomination of Charles Pence Slichter, of Illinois, to be a member of the National Science Board, National Science Foundation.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—PUBLIC HEALTH SERVICE

The second assistant legislative clerk proceeded to read sundry nominations in the Public Health Service which had been placed on the Secretary's desk.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

ORDER FOR ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a period for the conduct of morning business, of not to exceed 15 minutes, with statements therein limited to 3 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE PRESIDENT'S PACIFIC DOCTRINE

Mr. MANSFIELD. Mr. President, the President of the United States has returned to Washington after an arduous 9-day visit to the People's Republic of China, Indonesia, and the Republic of the Philippines, culminating yesterday in a speech at the Arizona War Memorial, commemorating Pearl Harbor Day 34 years ago, and giving a speech at the East-West Center at the University of Hawaii, at which time he set forth what he referred to as "The Pacific Doctrine."

I believe that this is a most important statement on the part of the President of the United States, because the six points of the doctrine are as follows, in the President's words:

> The first premise of a new Pacific Doctrine is that American strength is basic to any stable balance of power in the Pacific.
>
> The second basic premise of a new Pacific doctrine is that partnership with Japan is a pillar of our strategy.
>
> The third premise of a new Pacific doctrine is the normalization of relations with the People's Republic of China, the strengthening of our new ties with this great nation representing nearly one-quarter of mankind.
>
> A fourth principle of our Pacific policy is our continuing stake in the stability and security of Southeast Asia.
>
> A fifth tenet of our new Pacific policy is our belief that peace in Asia depends upon a resolution of outstanding political conflicts.

In that connection, he has the following to say, and I quote him exactly:

> In Indochina, the healing effects of time are required. Our policies toward the new regimes of the peninsula will be determined by their conduct toward us. We are prepared to reciprocate gestures of good will—particularly the return of the remains of Americans killed or missing in action or information about them. If they exhibit restraint toward their neighbors and constructive approaches to international problems, we will look to the future rather than to the past.

The President continued:

> The sixth point in our new Pacific policy is that peace in Asia requires a structure of economic cooperation reflecting the aspirations of all the peoples of the region.

In that context, the President had the following to say:

> The Asian-Pacific economy has recently achieved more rapid growth than any other region of the world. Our trade with east Asia now exceeds our transactions with the European community. America's jobs, currency, and raw materials depend upon economic ties with the Pacific basin. Our trade with the region is now increasing by more than 30 percent annually—reaching $46 billion last year.

Then, toward the end of his remarks, he said the following:

> I emphasized to every leader I met that the United States is a Pacific nation. I pledged that, as President, I will continue America's active concern for Asia and our presence in the Asian Pacific region.

Mr. President, this is a most important, historical document, and it is an exceedingly significant formulation of a foreign policy procedure which I think should be noted by all Americans. The President has placed the stress where it belongs—on the Pacific rather than Asia. He has indicated that with the growth of that part of the world, there will be new economic opportunities and that up to this time, the trade with the Asian rim countries has exceeded that which we have had with the European community for so many years.

It is important to note that in the Pacific, the Soviet Union, the People's Republic of China, Japan, and the United States all are located on the shores, on the rim, of that great ocean.

So I hope that, on the basis of the Pacific doctrine laid down by President Ford, a new era in understanding between all the countries concerned will develop. I commend the President of the United States for laying it out in such straightforward language, easily understood and applicable to a new era.

I ask unanimous consent that excerpts from the President's speech declaring the new Pacific doctrine, which appears in today's issue of the New York Times, be printed at this point in the RECORD, unless someone has the full text, which I would prefer to have inserted instead.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 8, 1975]

EXCERPTS FROM FORD SPEECH DECLARING NEW PACIFIC DOCTRINE

HONOLULU, December 7.—Following are excerpts from a speech delivered by President Ford today at the East-West Center here:

This morning I reflected on the past at the shrine of Americans who died on a Sunday morning 34 years ago. I came away with a new spirit of dedication to the ideals that emerged from Pearl Harbor and World War II, dedication to America's bipartisan policy of pursuing peace through strength, and dedication to a new future of interdependence and cooperation with all the peoples of the Pacific.

I subscribe to a Pacific doctrine of peace with all—and hostility toward none. The way I would like to remember Pearl Harbor is by preserving the power of the past to build the future. Let us join with the new and old countries of the Pacific in creating the greatest of civilizations on the shores of the greatest of oceans.

America, a nation of the Pacific basin, has a vital stake in Asia, and a responsibility to take a leading part in lessening tensions, preventing hostilities and preserving peace. World stability and our own security depend upon our Asian commitments.

The center of political power in the United States has shifted westward. Our Pacific interests and concerns have increased. We have exchanged the freedom of action of an isolationist state for the responsibilities of a global power.

As I return from this trip to three major Asian countries, I am even more aware of our interests in this part of the world.

The security concerns of great world powers intersect in Asia. The United States, the Soviet Union, China, and Japan are Pacific powers. Western Europe has historic and economic ties with Asia. Equilibrium in the Pacific is essential to the United States and to the other countries of the Pacific.

The first premise of a new Pacific doctrine is that American strength is basic to any stable balance of power in the Pacific. We must reach beyond our concern for security. But without security, there can be neither peace nor progress. The preservation of the sovereignty and independence of our Asian friends and allies remains a paramount objective of American policy.

We recognize that force alone is insufficient to assure security. Popular legitimacy and social justice are vital prerequisites of resistance against subversion or aggression. Nevertheless, we owe it to ourselves, and to those whose independence depends upon our continued support, to preserve a flexible and balanced position of strength throughout the Pacific.

The second basic premise of a new Pacific doctrine is that partnership with Japan is a pillar of our strategy. There is no relationship to which I have devoted more attention. Nor is there any greater success story in the history of America's efforts to relate to distant cultures and people. The Japanese-American relationship can be a source of pride to every American and to every Japanese. Our bilateral relations have never been better. The recent exchange of visits symbolizes a basic political partnership.

We have begun to develop with the Japanese and other advanced industrial democracies better means for harmonizing economic policies. We are joining with Japan, our European friends, and representatives of the developing countries this month to begin shaping a more efficient and equitable pattern of north-south economic relations.

The third premise of a new Pacific doctrine is the normalization of relations with the People's Republic of China, the strengthening of our new ties with this great nation representing nearly one-quarter of mankind. This is another recent achievement of American foreign policy. It transcends 25 years of hostility.

I visited China to build on the dialogue started nearly four years ago. My wide-ranging exchanges with the leaders of the People's Republic of China—with Chairman Mao Tse-tung and Vice Premier Teng Hsiao-ping—enhanced our understanding of each other's views and policies. There were, as expected, differences of perspective. Our societies, philosophies and varying positions in the world give us differing perceptions of our respective national interests.

But we did find common ground. We reaffirmed that we share very important areas of concern and agreement. They say and we say that the countries of Asia should be free to develop in a world where there is mutual respect for the sovereignty and territorial integrity of all states; where people are free from the threat of foreign aggression; where there is noninterference in the internal affairs of others; and where the principles of equality, mutual benefit, and coexistence share the development of a peaceful international order. We share opposition to any form of hegemony in Asia or in any other part of the world.

I reaffirmed the determination of the United States to complete the normalization of relations with the People's Republic of China on the basis of the Shanghai Communiqué. Both sides regarded our discussions as significant, useful and constructive. Our relationship is becoming a permanent feature of the international political landscape. It benefits not only our two peoples but all peoples of the region and the entire world.

A fourth principle of our Pacific policy is our continuing stake in the stability and security of Southeast Asia.

After leaving China, I visited Indonesia and the Philippines. Indonesia, a nation of 140 million people, is one of our important new friends and a major country of the region. The Republic of the Philippines is one of our oldest allies. Our friendship demonstrates America's long-standing interest in Asia.

A fifth tenet of our new Pacific policy is our belief that peace in Asia depends upon a resolution of outstanding political conflicts.

In Korea, tension persists. We have close ties with the Republic of Korea. And we remain committed to peace and security on the Korean Peninsula, as the presence of our forces there attests. Responding to heightened tension last spring, we reaffirmed our support of the Republic of Korea.

Today, the United States is ready to consider constructive ways of easing tension on the peninsula. But we will continue to resist any moves which attempt to exclude the Republic of Korea from discussion of its own future.

In Indochina, the healing effects of time are required. Our policies toward the new regimes of the peninsula will be determined by their conduct toward us. We are prepared to reciprocate gestures of good will—particularly the return of the remains of Americans killed or missing in action or information about them. If they exhibit restraint toward their neighbors and constructive approaches to international problems, we will look to the future rather than to the past.

The sixth point in our new Pacific policy is that peace in Asia requires a structure of economic cooperation reflecting the aspirations of all the peoples in the region.

The Asian-Pacific economy has recently achieved more rapid growth than any other region of the world. Our trade with east Asia now exceeds our transactions with the European community. America's jobs, currency, and raw materials depend upon economic ties with the Pacific basin. Our trade with the region is now increasing by more than 30 percent annually—reaching $46 billion last year.

Our economies are increasingly interdependent as cooperation grows between developing and developed countries.

There is one common theme which was expressed to me by the leaders of every Asian country I visited. They all advocate the continuity of steady and responsible American leadership. They seek self-reliance in their own future and in their relations with us. Our military assistance to allies and friends is a modest responsibility but its political significance far surpasses the small cost involved.

We serve our highest national interests by strengthening their self-reliance, their relations with us, their solidarity with each other, and their regional security.

I emphasized to every leader I met that the United States is a Pacific nation. I pledged that, as President, I will continue America's active concern for Asia and our presence in the Asian Pacific region.

If we remain steadfast, historians will look back and view the 1970's as the beginning of a period of peaceful cooperation and progress—a time of growing community for all the nations touched by this great ocean.

Mr. GRIFFIN. Mr. President, I wish to commend the distinguished majority leader upon his statesmanlike observations concerning the President's trip and the very important Pacific doctrine announced in connection with it.

I cannot help but contrast his remarks with criticism I have heard from some quarters, suggesting that the President should have stayed at home and tended to domestic problems.

I share the views expressed by the distinguished majority leader. The Pacific community is vitally important to the United States. It is very important to our prospects for economic prosperity at home as well as for peace abroad. So, I salute the President upon his leadership in maintaining and building upon the good relations we have with other nations in the Pacific.

Accordingly, I consider the remarks of the distinguished majority leader to be most appropriate, and I am glad to be associated with them.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes each.

Is there morning business?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. BUMPERS) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE CYPRUS PROBLEM—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. BUMPERS) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am submitting, pursuant to Public Law 94–104, the first of a series of reports on efforts this Administration is making to help resolve the Cyprus problem. Subsequent progress reports, as required by this legislation, will be forwarded to you at 60-day intervals.

In his speech before the U.N. General Assembly on September 25, 1975, the Secretary of State outlined the Administration's policy on the complex Cyprus problem as follows:

"The details of a Cyprus settlement are for the two communities themselves to decide. However, in keeping with U.N. resolutions which the United States has fully supported, the following principles are essential:

"A settlement must preserve the independence, sovereignty, and territorial integrity of Cyprus;

"It must insure that both the Greek-Cypriot and the Turkish-Cypriot communities can live in freedom and have a large voice in their own affairs;

"The present dividing lines cannot be permanent. There must be agreed territorial arrangements which reflect the economic requirements of the Greek-Cypriot community and take account of its self-respect;

"There must be provisions for the withdrawal of foreign military forces other than those present under the authority of international agreements; and

"There must be security for all Cypriots; the needs and wishes of the refugees who have been the principal victims and whose tragic plight touches us all must be dealt with speedily and with compassion."

These elements, which we consider essential to a settlement, are consistent with the aspirations of the overwhelming majority of the people of Cyprus. Beyond that, only the Cypriot people can decide how to rebuild and preserve their sovereign, independent nation so it may again serve the interests of all its citizens.

With this appreciation of both the opportunities and limitations of U.S. action, I declared immediately following enactment of P.L. 94–104 on October 6 that the United States would make a major effort to encourage a resumption of the Cyprus negotiations and to facilitate progress by all the parties involved—Greece, Turkey and Cyprus—toward a peaceful and equitable solution. I also stated that the United States would undertake whatever role the parties themselves wanted us to play in achieving a settlement.

Immediately thereafter, we took a number of steps through diplomatic channels aimed at helping the parties find a basis for resuming the intercommunal talks under the aegis of U.N. Secretary General Waldheim. As a first step, I wrote directly to the Prime Ministers of Greece and Turkey to stress the importance the United States attaches to the resumption of the intercommunal Cyprus talks and to emphasize our wish that the Cyprus problem be removed as a source of instability in the Eastern Mediterranean. My letters were followed by a series of communications from Secretary Kissinger to the Foreign Ministers of Greece and Turkey and to President Makarios of Cyprus. In each of these communications, an effort was made to define the differences as we saw them between the negotiating positions of the other parties and to urge that an effort be made to narrow the gap.

The Secretary of State, during the past sixty days, also has consulted extensively with several of our major European allies who have engaged in corresponding and complementary initiatives with the Greek, Turkish and Cypriot governments. Parallel initiatives also were undertaken during this period by the European community.

These initiatives have not produced a major breakthrough; but taken together they have advanced prospects for a negotiated settlement. A new appreciation now exists in Athens, Ankara, and Nicosia that delay in resuming the intercommunal talks will harden attitudes and make future progress more difficult. In each capital, there is a desire to begin anew an earnest search for a solution. Each party also has a realistic understanding of what it must do to make progress possible.

In Ankara, the Turkish Foreign Minister announced on October 21, shortly after the Turkish senatorial elections, that the time was opportune to search for a solution and that all aspects for a settlement could be discussed at the intercommunal talks. Turkey has also indicated that it would encourage the

Turkish Cypriots to engage in meaningful negotiations within the intercommunal framework. There is also a recognition in Ankara that a discussion of their position on territory is essential once the intercommunal talks have been resumed and that troop reductions as well as steps to resolve the refugee issue are essential ingredients to any Cyprus settlement.

Similar meaningful changes have occurred in the Greek and Greek-Cypriot negotiating positions with respect to such subjects as the organization of the future central government and the division of responsibilities and delegation of authority to the future regional administrations.

In sum, we have seen, as have our principal Western allies, a narrowing of differences on most of the key issues necessary to negotiate a Cyprus solution. The range of disagreement between the parties now seems to us surmountable. Under such circumstances, it should have been possible in November to bring the parties back to the negotiating table. However, once a date had been scheduled in New York for the Cyprus debate at the U.N. General Assembly, the parties felt compelled to await the outcome before sitting down with the U.N. Secretary General to resume actual negotiations.

Now that the United Nations has completed its consideration of the Cyprus question and passed a new resolution calling for intercommunal negotiations, efforts to schedule new talks are underway. We have consulted U.N. Secretary General Waldheim and the Governments of Greece, Turkey, and Cyprus. Our common interest is to have renewed negotiations of sufficient depth and duration to allow full discussion of all key substantive issues. There is every reason to believe this kind of negotiation will begin in the very near future. To facilitate this effort, I have asked the Secretary of State to give special emphasis to the subject of Cyprus negotiations when he meets with the Turkish and Greek Foreign Ministers during the NATO Ministerial meeting in Brussels in the second week of December.

We now find ourselves at an important juncture in the search for a Cyprus settlement. The negotiating framework which has emerged finally should allow early and orderly discussion of the most serious substantive issues, including refugees which hold the key to a final settlement. We have succeeded in moving to this point in large part because, since early October, the United States has been free to resume an active, evenhanded role among all the parties. The outcome of the resumed Cyprus negotiations may depend upon our ability to maintain this role in the months ahead.

An important beginning has been made in the past sixty days toward the elusive goal of a peaceful, equitable, and enduring Cyprus solution. In the days ahead, I believe our efforts will bring results if we continue to have the support and understanding of the Congress. I intend to review with you in subsequent reports the progress that has been made in the common quest to restore peace and stability to the island of Cyprus.

GERALD R. FORD.

THE WHITE HOUSE, *December 8, 1975.*

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

At 1:05 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the enrolled bill (H.R. 10481) to authorize the Secretary of the Treasury to provide seasonal financing for the city of New York.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION—CONFERENCE REPORT—REPORT NO. 94–514

Mr. JACKSON. Mr. President, I submit a report from the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3474) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes, and I ask unanimous consent that the text of the report and the joint statement of the managers be printed in the RECORD.

The PRESIDING OFFICER. The report will be received and printed; and, without objection, the report will be printed in the RECORD.

[For conference report referred to above, see House proceedings in today's RECORD.]

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. RANDOLPH (for himself, Mr. STAFFORD, Mr. WILLIAMS, and Mr. JAVITS):

S. 2754. A bill to authorize the Secretary of Health, Education, and Welfare to distribute funds to Recording for the Blind, Incorporated, to assist such corporation in carrying out certain projects. Referred to the Committee on Labor and Public Welfare.

By Mr. BUCKLEY:

S. 2755. A bill to amend the Age Discrimination in Employment Act of 1967 to prohibit an employer from requiring evidence of age of an applicant for a job, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. ROTH:

S. 2756. A bill to amend the Communications Act of 1934 in order to remove certain limitations on cable television systems operating in any State which does not have a commercial television broadcasting station. Referred to the Committee on Commerce.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. RANDOLPH (for himself, Mr. STAFFORD, Mr. WILLIAMS, and Mr. JAVITS):

S. 2754. A bill to authorize the Secretary of Health, Education, and Welfare to distribute funds to Recording for the Blind, Inc., to assist such corporation in carrying out certain projects. Referred to the Committee on Labor and Public Welfare.

STRENGTHENING SERVICES FOR BLIND AMERICANS

Mr. RANDOLPH. Mr. President, the Senate Subcommittee on the Handicapped is deeply involved in and interested in equal opportunities for all handicapped Americans. I am introducing a measure which would assist blind and other visually handicapped individuals. Recording for the Blind—RFB—is a tax-exempt, nonprofit corporation which provides recordings of materials to help students whose visual, perceptual, or physical impairments prevents them from reading print. RFB provides taped books free of charge, on a loan basis, primarily to high school, college and graduate school students throughout the United States; it also serves adults engaged in business and professional careers who require specialized reading materials in their respective employment.

RFB is faced with two major projects resulting from the increased demands for its services which it finds it is unable to accomplish through its normal sources of income. The corporation houses over 32,000 titles at its present site; however, should the headquarters be destroyed for any reason, this valuable resource would also be destroyed. Accordingly, it is anxious to make a duplicate copy of each master tape and store the duplicate in a fireproof vault. On the basis of the current cost and current available manpower, RFB estimates that it will cost $496,415 to complete the master taping project begun with its own resources. Once the present inventory of tapes has been duplicated, the corporation is confident that it could provide duplicate copies of new titles with private funds.

Mr. President, in addition, if RFB could computerize the process of ordering recorded titles, it could: Dramatically reduce the time it takes to return a recorded book to the person requesting it; offer a true library service to its users; provide an employment referral service matching the needs of employers with the qualifications of RFB's graduating student users. Such a service would be of particular significance by the congressional adoption of section 503 of the Rehabilitation Act of 1973. RFB estimates that the total cost for the computerization program would be $430,000.

Mr. President, my bill, cosponsored by Senators STAFFORD, WILLIAMS, and JAVITS, authorizes $925,000 for distribution to Recording for the Blind in order to carry out these services. I wish to emphasize to my colleagues that this is a one-time authorization, that after these funds have been utilized, RFB assures me that private funds will be sufficient to continue the services. In effect, the Federal funds are for start-up costs only. It is my belief that these funds will be spent very wisely; for they will enable handicapped students to pursue their education, training, and their careers with more resources and, therefore, more chance for success.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2754

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there are authorized to be appropriated $925,000 to the Secretary of Health, Education, and Welfare (hereinafter in this Act referred to as the "Secretary") for distribution to Recording for the Blind, Incorporated, a corporation incorporated under the laws of the State of New York (hereinafter in this Act referred to as the "corporation") in order to carry out the provisions of subsection (b).

(b) Any sums distributed to the corporation by the Secretary from sums appropriated under subsection (a) shall be used by the corporation—

(1) to complete the duplication of the master tape recording library of the corporation; and

(2) to establish and maintain a data processing system to be used (A) in connection with orders and other requests for materials from handicapped individuals desiring to use the services and facilities of the corporation; and (B) to make available a complete library lending service for use by handicapped individuals.

SEC. 2. The corporation shall, before receiving any sums from the Secretary under this Act, provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, such sums.

SEC. 3. (a) Except as provided by subsection (b), the provisions of this Act shall cease to be effective upon the effective date of any appropriations Act which makes an appropriation to carry out the first section of this Act which, together with any other such appropriation, is equal to the authorization made by subsection (a) of the first section of this Act.

(b) Any appropriation made to carry out the first section of this Act shall remain available until obligated or expended.

By Mr. BUCKLEY:

S. 2755. A bill to amend the Age Discrimination in Employment Act of 1967 to prohibit an employer from requiring evidence of age of an applicant for a job, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. BUCKLEY. Mr. President, today I am introducing a bill which is a brief but important amendment to the Age Discrimination in Employment Act of 1967. That legislation made it illegal for an employer, a labor union, or an employment agency to discriminate arbitrarily against an applicant for employment on the grounds of age, except when age is a bona fide consideration in assessing a person's ability to perform the job for which he or she is applying.

Middle-aged job seekers often complain, however, that, whether or not an age limitation was appropriate for the particular position for which they applied, their application forms were discarded as soon as an employer, employment agency or union official saw their birth date on it. They do not get a fair shot at employment. An employment agency may fail to refer them to potential employers. A union may reject their membership application for unstated reasons. Their experience, their abilities, their eagerness to work are all dismissed without examination.

The amendment I am offering to the Age Discrimination in Employment Act tightens up the safeguards in that law against such discrimination. Under its provisions, an individual between the ages of 40 and 65 could not be required, as a condition of employment, to give his or her date of birth on an application form, except when age is a bona fide consideration for employmet.

Although this measure will not entirely end discrimination against workers in their middle years, it will go a long way toward ensuring them more equitable treatment in the job market. It will help them to be judged on their merits, rather than by the artificial criterion of age.

Especially now, in its far less than satisfactory condition, the American economy needs to utilize the neglected resources of its most experienced and seasoned workers. In factories and offices, in labor skilled and unskilled, whether the work is manual, managerial, or mental, persons who are no longer young are nonetheless valuable. To guarantee them a greater measure of fairness in their work, I am pleased to propose for the consideration of the Senate this simple, straightforward bill. I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2755

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 of the Age Discrimination in Employment Act of 1967 is amended by redesignating subsection (f) of such section, and all references thereto, as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) It shall be unlawful—

"(1) for any employer as a condition for hiring an individual,

"(2) for an employment agency as a condition for referral for employment of an individual, or

"(3) for a labor organization as a condition for membership of an individual to require evidence of age or the date of birth of that individual."

SEC. 2. Subsection (g), as designated in Section 1 of this Act, of the Age Discrimination in Employment Act is amended by striking out "or (e)" and inserting in lieu thereof "(e), or (f)".

SEC. 3. The amendments made by this Act shall take effect 30 days after the date of enactment.

By Mr. ROTH:

S. 2756. A bill to amend the Communications Act of 1934 in order to remove certain limitations on cable television systems operating in any State which does not have a commercial television broadcasting station. Referred to the Committee on Commerce.

Mr. ROTH. Mr. President, I am today introducing a bill to provide for special relief for the State of Delaware from the regulations of the Federal Communications Commission governing cable television.

The present regulations of the FCC provide substantial limitations on the signals which can be carried by cable television systems in smaller television markets. These limitations impose an unusual and severe burden on the citizens of Delaware, which has no commercial television broadcasting stations.

The bill which I propose would provide a one sentence exception to the FCC's statutory authority so that the present limitations on cable television broadcasting will not be applicable to Delaware.

There are several important reasons which warrant such an exception for the State of Delaware. Delaware is unique because of its geographical location and size. The major metropolitan areas of the State, Wilmington and Dover, are located in the northern portion of the State. Both have a close affinity and proximity to Philadelphia, Pa. The entire State, however, relates in business, commerce, and public affairs to Philadelphia, Pa., Washington, D.C., and Baltimore, Md., the metropolitan areas from which television signals are received by some residents of Delaware.

Southeastern Delaware is an area including several communities and vacation resorts which are presently unable to receive Philadelphia television by conventional means, even though much of the remainder of Delaware is able to view Philadelphia stations. Southeastern Delaware is highly dependent upon television as a principle source of its daily news and other public information.

The problem created by the FCC's regulations is that the present cable television system serving this area is prevented from carrying the signals of Philadelphia.

In a recent effort to raise these issues with the FCC for their consideration of relief the Lower Delaware CATV Co. was unsuccessful. Although the company is willing and able to carry the Philadelphia signal, the arbitrary conclusion of the FCC continues to prevent their broadcast. The administrative remedy has been exhausted.

Justice White, in his opinion for the Supreme Court in *Red Lion Broadcasting* v. *Federal Communications Commission*, 395 U.S. 367 (1969), pointed out in the analysis of the relationship of broadcasting to the first amendment that:

> It is the right of the public to receive suitable access to social, political, esthetic, moral, and other ideas and experiences which is crucial . . . That right may not constitutionally be abridged either by Congress or by the FCC.

I submit that the continued application of an arbitrary rule preventing access by viewers in Delaware is inconsistent with that right of the public.

The bill which I introduce would alleviate the present inequity. It would provide as follows:

> Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 303(r) of the Communications Act of 1934 is amended by inserting before the period at the end thereof a comma and the following: "except that the provisions of section 76.59 of chapter 1 of title 47 of the Code of Federal regulations (relating to cable television systems operating in smaller television markets) shall not apply in any State in which there is no commercial television broadcasting station".

While the language is brief, it would provide for the necessary exception so that the present regulation would no longer apply to Delaware.

The present regulation is 47 C.F.R. section 76.59, and provides as follows:

> **§ 76.59 Provisions for smaller television markets.**

A cable television system operating in a community located in whole or in part within a smaller television market, as defined in § 76.5, shall carry television broadcast signals only in accordance with the following provisions:

(a) Any such cable television system may carry or, on request of the relevant station licensee or permittee, shall carry the signals of:

(1) Television broadcast stations within whose specified zone the community of the system is located, in whole or in part;

(2) Noncommercial educational television broadcast stations within whose Grade B contours the community of the system is located, in whole or in part;

(3) Commercial television broadcast stations licensed to communities in other smaller television markets, within whose Grade B contours the community of the system is located, in whole or in part;

(4) Television broadcast stations licensed to other communities fhich are generally considered to be part of the same smaller television market Example: Burlington, Vt.—Plattsburg, N.Y., television market);

(5) Television translator stations with 100 watts or higher power serving the community of the system and, as to cable systems that commence operations or expand channel capacity after March 30, 1972, noncommercial educational translator stations with 5 watts or higher power serving the community of the system. In addition, any cable system may elect to carry the signal of any noncommercial educational translator station;

(6) Commercial television broadcast stations that are significantly viewed in the community of the system. See § 76.54.

(b) Any such cable television system may carry sufficient additional signals so that, including the signals required to be carried pursuant to paragraph (a) of this section, it can provide the signals of a full network station of each of the major national television networks, and of one independent television station: *Provided, however,* That, in determining how many additional signals may be carried, any authorized but not operating television broadcast station that, if operational, would be required to be carried pursuant to paragraph (a)(1) of this section, shall be considered to be operational for a period terminating 18 months after grant of its initial construction permit. The following priorites are applicable to the additional television signals that may be carried:

(1) *Full network stations.* A cable television system may carry the nearest full network stations or the nearest instate full network stations;

Note: The Commission may waive the requirements of this subparagraph for good cause shown in a petition filed pursuant to § 76.7.

(2) *Independent station.* A cable television system may carry any independent television station: *Provided, however,* That if a signal of a station in the first 24 major television markets (see § 76.51 (a)) is carried pursuant to this subparagraph, such signal shall be taken from one of the two closest such markets, where such signal is available.

Note: It is not contemplated that waiver of the provisions of this subparagraph will be granted.

(c) In addition to the noncommercial television authority.

educational television broadcast signals carried pursuant to paragraph (a) of this section, any such cable television system may carry the signals of any noncommercial educational stations that are operated by an agency of the State within which the system is located. Such system may also carry any other noncommercial educational signals, in the absence of objection filed pursuant to § 76.7 by any local noncommercial educational station or State or local educational

(d) In addition to the television broadcast signals carried pursuant to paragraphs (a) through (c) of this section, any such cable television system may carry:

(1) Any television stations broadcasting predominantly in a non-English language; and

(2) Any television station broadcasting a network program that will not be carried by a station normally carried on the system. Carriage of such additional stations shall be only for the duration of the network programs not otherwise available, and shall not require prior Commission notification or approval in the certificating process.

(3) Any television station during the period from sign-off of the last station which the cable television system must carry pursuant to § 76.59(a) to the sign-on of the first station which the cable television system must carry pursuant to § 76.59(a); *Provided, however,* That if a station terminates operations less than thirty minutes after the hour or half hour, it shall be deemed to have signed off on the prior hour or half hour respectively. A cable system may carry a program to its completion. Carriage of such additional stations shall not require prior approval in the certificating process and shall be consistent with the program exclusivity rules of Subpart F of this Part.

(e) Where the community of a cable television system is wholly or partially within both one of the first 50 major television markets and a smaller television market, the carriage provisions for the first 50 major markets shall apply. Where the community of a system is wholly or partially within both one of the second 50 major television markets and a smaller television market, the carriage provisions for the second 50 major markets shall apply.

I urge that the Senate give serious consideration to this proposal, for I am confident that it has the substantial support of the citizens of Delaware.

Mr. President, I ask unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2756

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 303(r) of the Communications Act of 1934 is amended by inserting before the period at the end thereof a comma and the following: "except that the provisions of section 76.59 of chapter 1 of title 47 of the Code of Federal Regulations (relating to cable television systems operating in smaller television markets) shall not apply in any State in which there is no commercial television broadcasting station".

ADDITIONAL COSPONSORS OF RESOLUTIONS

SENATE CONCURRENT RESOLUTION 74

At the request of Mr. Roth, the Senator from Georgia (Mr. Nunn), the Senator from Wisconsin (Mr. Proxmire), and the Senator from California (Mr. Tunney) were added as cosponsors of Senate Concurrent Resolution 74, to reduce Federal travel expenses.

SENATE RESOLUTION 175

At the request of Mr. Roth, the Senator from Utah (Mr. Garn) was added as a cosponsor of Senate Resolution 175, amending rule XLIV of the Standing Rules of the Senate to require that copies of confidential personal financial disclosure reports filed under such rule be furnished in response to subpenas issued in criminal cases.

SENATE RESOLUTION 302

At the request of the Senator from Michigan (Mr. Griffin), the Senator from Alabama (Mr. Allen), the Senator from Oklahoma (Mr. Bartlett), the Senator from Nebraska (Mr. Curtis), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Fannin), the Senator from South Carolina (Mr. Thurmond), and the Senator from Texas (Mr. Tower) were added as cosponsors of Senate Resolution 302, a resolution to establish a select Senate committee to conduct an investigation and study of the extent, if any, to which criminal or other illegal, improper or unethical activities are engaged in by any persons acting individually or in combination with others in the field of labor-management relations.

SENATE JOINT RESOLUTION 147

At the request of Mr. Randolph, the Senator from Minnesota (Mr. Humphrey) was added as a cosponsor of Senator Joint Resolution 147, to designate 1976 as National Bicentennial Highway Safety Year.

AMENDMENTS SUBMITTED FOR PRINTING

SUPPLEMENTAL APPROPRIATIONS, 1976—H.R. 10647

AMENDMENT NO. 1210

(Ordered to be printed and to lie on the table.)

Mr. MONDALE (for himself and Mr. Baker) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 10647) making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

AMENDMENT NO. 1212

(Ordered to be printed and to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to the bill (H.R. 10647), supra.

FEDERAL-AID HIGHWAY ACT OF 1975—S. 2711

AMENDMENT NO. 1211

(Ordered to be printed and to lie on the table.)

Mr. HUDDLESTON (for himself and Mr. Mansfield) submitted an amendment intended to be proposed by them jointly to the bill (S. 2711) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

Mr. HUDDLESTON. Mr. President, the amendment that I offer to S. 2711, the Federal-Aid Highway Act of 1975, has a simple purpose. It is aimed at focusing the long overdue attention of the Federal Government on a problem that could have disastrous consequences on our Nation's push toward energy self-sufficiency. My amendment calls on the Secretary of Transportation to work with appropriate, energy-related department heads in an investigation of the extent to which the Federal-aid highway system must be upgraded and expanded to meet the very urgent need of transporting increasing amounts of critical energy supplies from point of origin to point of use.

To date, the attention I am asking for has been sorely lacking. My contacts with the Federal Highway Administration, the Department of the Interior, the Federal Energy Administration, and ERDA have yielded nothing in the way of a positive approach to what all admit to be a significant problem. The Congressional Research Service, in a bibliographical search performed at my request, came up with nary a source dedicated solely to the adequacy of energy delivery highway systems.

Everyone seems to be waiting for someone else to do it. A national responsibility is not being met. The State and local governments cannot handle this task alone. Kentucky has this year pumped some $21.6 million into needed projects in Appalachia. Counties are using portions of their return from coal severance taxes in efforts to improve deficient roads and bridges. It is not enough. The Nation will be the major beneficiary of any particular region's increased energy production. Thus, it is clear the Federal Government should become involved.

If we do not size up the dimensions of the problem soon and develop strategies to deal with it, time will pass us by. We will be left standing with needed energy supplies locked in place because of the unavailability of adequate transportation.

I should be quick to point out that Federal funding must not be the sole concern of the requested study. I would certainly hope that planning and design procedures could be viewed as possible aides in coping with not only rehabilitating those portions of the Federal-aid system already in place but also in providing for the orderly development of additions to that system which may become necessary as we continue to expand our energy supplying abilities.

This amendment directs the Secretary to report back to the Congress within 1 year. I am confident that this will leave us more than adequate time to formulate recommendations dealing with the problem to present the concerned committees which, in the 95th Congress, will be charged with developing a comprehensive, long-range highway program.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 1199

At the request of Mr. TOWER, the Senator from Utah (Mr. GARN) was added as a cosponsor of amendment No. 1199 intended to be proposed to the bill (S. 1267) the Financial Institutions Act of 1975.

ANNOUNCEMENT OF HEARINGS

Mr. INOUYE. Mr. President, the Committee on Commerce has scheduled hearings on "The American Role in East-West Trade: Prospects, Problems, and Issues, 1976–80," for December 11 and 12. The hearings will commence at 10 a.m. in room 5110, Dirksen Senate Office Building on both days.

Additional hearings on this subject will be scheduled during the second session.

THE NARCOTICS ASSISTANCE PROGRAM AND AMERICAN CITIZENS JAILED ABROAD

Mr. MANSFIELD. Mr. President, all of us are aware of the growing concern in this country about the treatment of American citizens jailed in Mexico, Turkey, and elsewhere. Press reports over the last several months have provided detailed accounts of torture, bribery, and corruption; of prisoners being held incommunicado; of unscrupulous lawyers preying on prisoners' relatives; and of the State Department's lack of concern for Americans jailed in Mexico—some 550 at last count, most of them accused or convicted of transporting narcotics.

Mr. President, these charges are very serious, whether they originate in Mexico, Turkey, or elsewhere. But my purpose in taking the floor is not to recount what has already appeared in the press. My purpose is not to deplore the deplorable.

Rather I take the floor in an effort to draw attention to the fact that, like the proverbial coin, there are two sides to this issue. Neither one is particularly pleasant but both need to be examined if there is to be a real understanding of the issue.

One side of the issue—the one which the press has exposed—concerns the mistreatment of American citizens overseas. The other side of the issue—the one which the press has largely overlooked—concerns the U.S. effort to encourage other countries to join us in the "war on drugs" and drug peddlers, be they American citizens, Mexican citizens, or somebody else's citizens.

Mr. President, I do not believe it takes much imagination to discern a cause-and-effect relationship in this situation and the existence of that relationship leads me to the conclusion that the United States itself bears some of the responsibility for the mistreatment of its own citizens jailed abroad on narcotics charges. In the case of Mexico, for example, the responsibility we bear derives from the severe pressure we have exerted on the Mexican Government to beef up its drug enforcement program—a program which we have helped to underwrite to the tune of $18 million, with an additional $8 million requested for the 15-month period ending September 30, 1976.

Before I go further, Mr. President, let me express the general concern that I have about this type of bilateral assistance. It is the type of assistance that inevitably draws us deeper and deeper into the internal affairs of another country. It lays the groundwork for an inching process: First, our guys appear in a limited advisory role. Then some of their guys are sent here for training. Then come the orders for more modern equipment. Then our guys and their guys develop joint plans. Then our guys and their guys team up to do "the job." And then, somewhere in all of this, their problem becomes our problem.

To underscore this point I want to bring to my colleagues' attention an article entitled "The Drug Enforcement Agency Abroad," which appeared in the November 1975 issue of the Foreign Service Journal. The narcotics assistance program, as the author points out, raises a serious foreign policy dilemma because it directly involves U.S. narcotics agents in the police functions of foreign countries. First, the nature of the involvement:

> The agents who are placed in the field are operation-oriented. They see themselves as holding hunting licenses in an open season on drug pushers. Although their stated aim may be to make local drug law enforcement effective, the barriers which they usually encounter tend to increase their action orientation.

And where it leads:

> The result is that the longer the agents are in the field, the more they will want to "supervise" local police action, to insure that "things are done right." The pressures for more involvement lead to a situation in which the DEA agents displace the local police.

Second, the foreign policy dilemma:

> Foreign Service officers cannot resolve the basic ambivalence of our foreign policy—that of having DEA catch criminals (including Americans), while consular officers try to protect U.S. citizen interests to the fullest.
>
> This ambivalence is accentuated when DEA officers participate in training foreign officials. By encouraging local drug enforcement officials to take a more stringent view of drug use we virtually ensure that more American citizens, many of them casual marijuana users, will be arrested abroad.

These observations take on added meaning in the specific case of Mexico, as evidenced by a statement contained in a recent New York Times article based on an interview with the U.S. Consul General in Mexico City, Mr. Frederick Smith, Jr. According to the Times interview, Mr. Smith lays much of the blame for the mistreatment of narcotics suspects right at our own doorstep.

> Mr. Smith described the entire problem as one of "fallout of the vigorous antidrug campaign undertaken by the Government of Mexico at the urging of the United States Government."

To my way of thinking, Mr. President, this statement says one thing and one thing only: our drug enforcement assistance program in Mexico and the combined efforts of United States and Mexican officials to stem the flow of narcotics into the U.S. market have been at the expense of safeguarding the rights of American citizens.

Mr. President, we as a nation; we as a government, cannot talk out of both sides of our mouth and expect other countries to know what we want or what we stand for.

We cannot enlist the cooperation of others in the cause of protecting basic human rights and at the same time espouse a doctrine of law and order at any price. And, last but not least, we cannot have it both ways—and then refuse to accept any responsibility when things go sour.

Before pointing an accusing finger at the Mexican Government on the treatment of American prisoners, I want to make sure that our own house is in order, that this Government is not talking out of both sides of its mouth and that our right hand does know what our left hand is doing. The Foreign Service Journal article and the Times statement, which I mentioned above, are not very reassuring on this score. In fact, they serve only to reinforce the doubts that I have about the narcotics assistance program.

Mr. President, I know from personal experience that the United States has no better friend in the world than Mexico. And there is no doubt in my mind that the Government of Mexico will cooperate fully with us if we can decide on the type of cooperation we want. Until then, however, I am unwilling to place the blame on such a trusted friend when we ourselves bear some of the responsibility.

All of this leads me to one final point: during the next couple of weeks the Humphrey Subcommittee on Foreign Assistance will be considering the administration's $42.5 million request for narcotics-control assistance to 22 countries, 4 international organizations, and 1 regional program. In considering this request, I hope Senator Humphrey and the other members of the subcommittee will take a long, hard look at the narcotics assistance program.

I ask unanimous consent that the articles from the Foreign Service Journal and the New York Times be printed in the Record, together with some observations on the U.S. drug enforcement assistance program in Thailand, which are contained in my recent report on developments in Southeast Asia.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Foreign Service Journal,
November 1975]

THE DRUG ENFORCEMENT AGENCY ABROAD

(By Donald C. Johnson)

The Drug Enforcement Administration should serve as an object lesson for bureaucracy. It has used its singularly unsuccessful record in the domestic "War on Drugs" as the rationale for assigning people abroad. It is my thesis that the DEA's "War on Drugs" abroad will be no more successful than it is at home—a series of costly and inconclusive skirmishes in which the principal casualty is the U.S. taxpayer. We should therefore scrap the entire "DEA abroad" policy and replace it with domestic policies which show more promise of ultimate success.

The export of DEA agents rests on a simple, seemingly logical, rationale. If our drug fighting effort is conducted only on our shores, the smuggler need only clear one major hurdle before he is "home free." By establishing a series of "points of interdiction" the risks to smugglers are multiplied and the prospects of catching them are increased. Stated another way, the theory is that by casting a wider net, more and bigger fish will be caught. The United States has therefore trotted its agents off to places like Jamaica, Guatemala, and Afghanistan in hopes that drugs will be kept out of the United States.

Upon more careful examination, I believe that the rationale upon which we are basing our "War on Drugs" abroad is extremely weak. In the first place, there is some confusion about what drug is the enemy in this war. If measured in terms of social impact, it should be heroin. If measured against amount consumed, it should be marijuana. If measured against some intermediate standard, it should be cocaine. When we examine DEA operations it turns out that in different parts of the world we are fighting different kinds of drugs: marijuana in Mexico and Jamaica, heroin in the Near East, the Far East, and Mexico; cocaine in South America and points north. This paper concentrates primarily on heroin and cocaine, two hard drugs that the DEA is most interested in stopping, and not on marijuana because the war on marijuana has been such an acknowledged flop that it is hardly news to say it again.

In the second place the entire program is based on the assumption that a reduction in supply of illegal drugs will ultimately reduce demand. The criminal laws are not enforced merely for their own sake, but to accomplish some relatively definite social objective. Therefore the short-term objective of catching smugglers must be related to the long-term objective of having fewer addicts at home.

Even one with only a rudimentary knowledge of economics, such as this writer, knows that where demand is inelastic, a reduction in supply merely increases price. A simple illustration will suffice. Every human being needs a minimum supply of water with which to stay alive. Human beings need that water regardless of its price. Even if water decreases in availability, people will seek to satisfy their need for it. In such a situation a decrease in supply will simply produce an increase in price, as people reallocate their resources in order to compete for the indispensable item. The heroin addict is a person whose demand for heroin is relatively inelastic. The addict needs heroin regardless of its price. As price increases, he simply must compete harder in order to achieve satisfaction.

Our efforts to constrict supply of the addictive drugs, mainly heroin, have affected price in two ways. In the first place, by making possession, importation and sale of those drugs a crime, we inexorably raise prices by creating a situation in which only those willing to expose themselves to risk of criminal penalties will act as suppliers. We thus create an "oligopoly of risk" which excludes all except those willing to risk criminal penalties from the marketplace. This creates a perfect opportunity for organized crime.

Naturally, the more hurdles the government sets up in its efforts to catch the drug smugglers, the greater the risk the smugglers must incur. The greater the risk incurred, the higher the price. So by sending agents abroad we automatically help inflate the cost of heroin in the United States.

Aside from the law's effects on risk creation, how does effective enforcement affect persons in the United States? Because price is dependent on a small supply and on inelastic demand, a successful War on Drugs would disrupt supply, not demand. Prices would therefore be expected to go up. This consequence of a successful drug program would not be important except for the fact that increased effectiveness means more crime in the United States. This is because most heroin addicts (some 250,000 of them) finance their habits through crime. And since it takes $5 stolen to produce $1 in revenue from fencing stolen items, the multiplier effect is huge. Some simple arithmetic: if 250,000 addicts finance $30-a-day habits through crime, the amount which they would have to steal over a year would be in excess of $13 billion. A successful War on Drugs therefore results in doubly victimizing the taxpayer. On the one hand he must contribute to pay for the vast network of agents worldwide, and on the other hand he is the victim of the effects produced by reduction in supply.

Fortunately the taxpayer need worry only about the expense of the War on Drugs because the effort has not produced any long-lasting reduction in drug supplies in the United States and is, in my estimation, unlikely ever to produce them. On the contrary—we can see that even the few federal successes have created challenges which DEA cannot possibly expect to meet.

The basic reason for my belief that DEA effort abroad is fated to be only a series of skirmishes is that the net can never be cast so wide, nor can agents be posted so carefully as to catch the traffickers. The net simply has too many holes—there are so many variables for transporting a shipment of drugs that it is virtually certain that DEA is missing many, probably most, of them. A kilo of heroin can be concealed in so many different places, and shunted through such a maze of different places and persons before reaching the U.S. that it would take a simply unimaginably expensive detective apparatus to prevent its reaching US shores. It does not take a great deal of space to conceal a shipment of heroin that could supply the entire addict population of the City of New York.

Present problems with finding and tracking the shipments of illegal drugs are in my view directly linked to an operation we proclaimed as an immense success only a few years ago. Through some uncanny bit of self-deception, we managed to convince ourselves that if only opium production in Turkey were eliminated, our drug problem would disappear. We then coupled energy to lack of foresight and managed to convince the Turkish government to prohibit poppy production, in exchange for some $40 million in US aid. What were the results? The French Connection was disrupted, but while we were waiting for our drug problem to disappear from the scene, the smugglers were busy changing their zone of operations. Heroin from the Far East's Golden Triangle (Thailand, Laos, Burma) took the place of the Turkish heroin—with the problem compounded by the Vietnam War. Brown heroin from Mexico began to be sold in the US. And cocaine from South America was introduced to the United States as a substitute for heroin. Turkey later acceded to demands from its farmers and lifted the ban on opium cultivation. The result: we still must contend with Turkish opium, but at the same time fight Far Eastern opium, Mexican brown heroin, and South American cocaine. Not to mention marijuana from just about everywhere.

The net result of the Turkish experiment has been to make the present problem so much more complex as virtually to guarantee that DEA will be unsuccessful. But probably the best indicator of the magnitude of DEA's inability to do anything but convince Congress of the need for more millions is the addict population. Returning Vietnam veterans swelled the numbers of addicts in the late '60s and early '70s. Then the number dropped somewhat. But in 1974 the US government estimated that the number had leveled off at 250,000, and that there were some indications that the number was on the rise again.

These figures should be contrasted with the DEA'S efforts. At the time that the number of addicts was not dropping, the DEA was pouring millions into setting up its overseas operations. And we are still waiting for some indication that the millions spent have produced significant results. Lack of sustainable progress in these areas may have played a part in the recent resignation of the DEA chief.

The preceding sections have, I believe, outlined why DEA probably cannot and will not be effective. In this section I will argue that the dangers caused by DEA to our foreign relations are sufficiently compelling so that DEA should be completely removed from such operations abroad.

In the first place, the idea that we can in effect expand our frontiers for the purpose of fighting the drug traffic is rather presumptuous. We assume the right to enlist support of foreign governments for the eradication of a problem which in many cases does not really affect them. We argue that "We have a problem so we need you to accept our law enforcement officials." In an age when taking up the American burdens is not every country's aspiration, our invitation to do so can only reinforce prejudices.

Secondly, the agents who are placed in the field are operation-oriented. They see themselves as holding hunting licenses in an open season on drug pushers. Although their stated aim may be to make local drug law enforcement effective, the barriers which they usually encounter tend to increase their action orientation. This is because most places where we have agents are less developed countries, usually ones in which the police are underpaid, unsophisticated, and sometimes corrupt. These institutional weaknesses make for a situation in which DEA's brand of professionalism is often met with a great deal of indifference. The combination of institutional weaknesses and professional indifference makes for a situation in which substandard performance is guaranteed.

The result is that the longer the agents are in the field, the more they will want to "supervise" local police action, to insure that "things are done right." The pressures for more involvement lead to a situation in which the DEA agents displace the local police.

The greater the involvement, however, the greater the risks. There are reports that at least two DEA agents have been wounded in a foreign country, and although the DEA has been able to spirit the agents out of the foreign country without a major incident, we cannot expect that DEA will be successful indefinitely. If a DEA agent were to kill or seriously wound a foreigner in a foreign country, even in self-defense, the prospects for an acutely embarrassing incident are very great. The host country would naturally turn to us to "bail them out," and we would have a very difficult time trying to do so.

The whole process can (and has) worked in reverse, too. A recent case should be illustrative. DEA agents fingered an American citizen who was arrested by the authorities of country Y. In the process of interrogation, the American was hog-tied and beaten by the local police. When the American was visited by the US consular officer, he naturally aired his complaint. The Embassy therefore had to make a complaint to officials of country Y for doing too zealously what we had asked them to do in the first place.

Our desire to ensure that the prospects for embarrassment are never realized has led to the investment of a great deal of time by Foreign Service officers who must help devise standards of conduct, lines of communication, staffing levels (because the DEA can always justify more people), and in general coordinate relations between agencies.

Try as they might, however, Foreign Service officers cannot resolve the basic ambivalence of our foreign policy—that of having DEA catch criminals (including Americans), while consular officers try to protect US citizen interests to the fullest.

This ambivalence is accentuated when DEA officers participate in training foreign officials. By encouraging local drug enforcement officials to take a more stringent view of drug use we virtually ensure that more American citizens, many of them casual marijuana users, will be arrested abroad. This is because the big drug pushers will remain beyond the level of competence of most local officials, and the inevitable temptation for them will be to go after the easy cases, where large numbers of arrests make for good public relations. To have DEA promote, wittingly or unwittingly, a situation in which more Americans are arrested is a prospect which I do not believe is supported either by the public or by the executive.

The ambivalence produced by DEA on our foreign policy has also in my mind affected our judicial system. Our judiciary has recently been faced with the question of how to treat some of the less savory tactics allegedly adopted by drug agents abroad. Two recent cases have sought to have the federal courts reconsider the so-called Ker-Frisbie rule (first announced by the Supreme Court in 1866) that states that it is irrelevant how a court acquires jurisdiction over a defendant: as long as he is found within the court's district the court will not inquire into how he appeared there. In one of the recent cases the defendant alleged that he was kidnapped and brought to Brazil, where he was interrogated and tortured, supposedly with the approval of U.S. agents. He was then shipped off to New York. The man moved to dismiss the indictments on the grounds that violations of due process robbed the court of jurisdiction. The trial judge denied his motion to dismiss, but the appeals court reversed, remanding the case for a hearing on defendant's allegation of brutality. If the allegation were found true, then the motion should be granted.

The second case is probably more interesting. Here the Argentine defendant was lured into Bolivia by a ruse worked by American agents, where he was seized by Bolivian police and packed off to New York. He also moved to dismiss the indictment, charging due process violations precluded jurisdiction. Here the appellate court affirmed the lower court's denial of the motion. Probably the most succinct statement of the rule of law is the following: "whenever a foreign national is abducted or kidnapped from outside the United States and is forcibly brought into this country by United States agents by means of torture, brutality or similar abuse the federal court acquires no jurisdiction because of a violation of due process. Otherwise the holdings of the Supreme Court in Ker vs. Illinois and Frisbie vs. Collins govern."

This new legal standard is open to criticism in two respects. First of all it makes the constitutional principle of due process rest on the relative outrageousness of police conduct. This is a standard which allows, indeed encourages, the police to continually probe for the outer limits of permissible conduct. By having our judicial system look the other way in cases and places where we have a reasonable certainty that due process will not be observed, we inevitably cheapen our own judicial system.

The reluctance of courts to set a standard is compounded by their unwillingness to enforce one either. The courts have been all too willing to defer to the executive in matters relating to foreign policy, even when police operations are involved, clinging to an anachronistic standard which is no longer even bad law—it is wrong law.

The United States is concerned about drug abuse because of its perceived pernicious effects on citizens and because of drug users' association with criminality. So far we have concentrated our effort on supply reduction, in the hopes that less supply would mean less demand and therefore less crime. So far efforts to curb supply, both at home and abroad, have been resounding failures. The only way in which supply reduction would in my view be effective would be to have the United States buy up all the supply worldwide—going to the sources in Turkey, Indochina, Mexico, and South America and paying top dollar to buy the entire stocks of opium and cocaine.

Such an effort to displace criminal monopolies in favor of a governmental drug monopoly would have the advantage of making unnecessary the posting of hordes of DEA agents in countries which now serve only as transshipment points. But there would be problems. Since most countries have laws which make possession of drugs illegal, the US would have to negotiate agreements whereby American agents could be allowed to purchase clandestine stocks. That might be a ticklish business in Third World countries which would view this as an admission of their inability to effectively enforce their own drug laws. More important, however, is the fact that an announced US government intention to become a hard drug monopolist would give potential growers an incentive to produce the drugs in order to sell them to a guaranteed purchaser.

The best solution would be to have the United States abandon its efforts to become the monopolist of drugs—either through the criminal law or through a buying program. It would be both more productive and more humane for the United States to concentrate on reducing demand, with the knowledge that reduced demand makes efforts to control supply unnecessary. For the short and intermediate term this would mean a system under which the United States would adopt one of two plans. The first would be to simply ignore supply and concentrate on making rehabilitation available and attractive, while attempting to educate potential drug users and convince them that the disadvantages far outweigh the advantages of drug use. The principal drawback of this program would be its lack of short-term results.

The plan which would have the greatest impact on crime in the United States would be one in which the government supplied the drug for the addicts. At the same time, the Government could accelerate its research to develop blocking drugs or other agents that would eliminate the physiological craving for the drug. The whole program would be combined with compassionate rehabilitation efforts and with intelligent education campaigns that would eliminate the socially disruptive aspects of drug use. The most attractive feature of a program of this kind would be that it would greatly reduce incidence of crime. If addicts were no longer required to steal $5 for every $1 in heroin consumed, society would be a good deal better off.

One thing is certain: the program proposed above would not only free society from the costs of crime, but would also free it from the swollen costs of maintaining hundreds of agents, confidential informants, and equipment in the field. The yearly cost of one small clinic to provide heroin to addicts would not even come close to the cost of the four helicopters we recently gave Jamaica to fight its marijuana production.

Best of all, however, would be that our foreign policy (and our Embassies) would be freed from the weight of a criminal law enforcement program. Our foreign policy can no longer afford the luxury of preserving or expanding policies of known worthlessness and certain embarrassment.

[From the New York Times, Nov. 18, 1975]

Mexico Changing on U.S. Prisoners

(By Edward Cowan)

Mexico City, Nov. 13—The State Department recently submitted to Congress a qualified but generally positive report to the effect that the Mexican law-enforcement authorities were beginning to give better treatment to Americans arrested on charges of transporting narcotics.

As seen at this end, however, the picture is more qualified.

"Americans arrested here are caught in the Mexican system of justice," Frederick Smith Jr., the United States Consul General in Mexico City, said in an interview, "We can't change that system."

According to Mr. Smith and to the Congressional testimony of Leonard F. Walentynowitz, the State Department's administrator of security and consular affairs, the principal problems are failure to notify American diplomats promptly of the arrest of United States citizens, physical abuse by interrogating officers and long delays before to trial, which are sometimes caused by the changing of lawyers.

TOTAL REACHES 550

In four years the number of Americans in Mexico prisons has reached 550. Most have been accused or convicted of illegally transporting drugs. Sentences have typically run to six or seven years, with the possibility of release in four or five.

About 175 prisoners, including 40 women, are held in Mexico City. The great majority were caught at the airport en route to the United States from Colombia or other Latin-American countries, according to Mr. Smith.

Mexico requires "in transit" passengers to go through Mexican customs. "They stop at Mexico City and they get nailed," Mr. Smith said.

The progress that Mr. Walentypnowicz reported to a House International Relations subcommittee on Oct. 22 concerned prompt notification of consular officials. He said that as a result of repeated meetings of senior American diplomats with the Mexican authorities, their Government had instructed officials throughout the country to notify the appropriate United States consular office upon the arrest of United States citizens.

Reporting that there had been such notifications, Mr. Walentynowicz concluded: "We now detect clues of at least one beginning of an attitudinal change toward American prisoners, even though almost no tangible response is yet visible."

NO REMEDY IN LAW

Mr. Smith, who was making no predictions, said there was no remedy in Mexican law if a prisoner, foreign or Mexican, did not get a speedy trial. However, time served before trial is counted toward sentences.

Mr. Walentynowicz told Congress that the problem of "extortionate attorneys"—those who have made false representations to families of American prisoners or collected large fees in advance and done no work—was being dealt with. He said the embassy had prepared a letter "outlining the procedures required for pressing charges of this nature under Mexican law."

The letter leaves the impression that sustaining such charges, whether in criminal or civil proceeding, would be difficult and costly. Embassy officials confirm that, as the letter implies, the hiring of a second Mexican lawyer would almost surely be necessary.

Indeed, the letter hints that it might be inadvisable to try to recover fees already paid. "Travel and translation costs and the time you would have to devote to the effort should be considered in deciding whether to press a complaint against an attorney," the letter says.

A MATTER OF PRINCIPLE

Asked whether any Mexican lawyer, as some have intimated to prisoners' families, use large fees to buy prisoners' freedom by bribery, Mr. Smith replied, "Yes, but not very often."

He said the United States had pressed for prompt notification of arrests as a matter of principle and because "we think the earlier we can get to them the better." During a 72-hour investigative period following arrest, he explained, a prisoner can legally be held "virtually incommunicado," and often the period is much longer, he added.

"Most of the physical abuse occurs in that early period," he said.

Mr. Smith described the entire problem as one of "fallout of the vigorous antidrug campaign undertaken by the Government of Mexico at the urging of the United States Government."

Mexican officials and commentators often respond to complaints from the United States about the flow of drugs by saying that the United States, which provides the market, is the source of the problem and that most carriers are Americans.

Excerpt From Foreign Relations Committee Print, "Winds of Change—Evolving Relations and Interests in Southeast Asia," a Report by Senator Mike Mansfield, October 1975

DRUGS

Thailand is a major site in the international drug problem, not so much as a producer but as the route of transhipment of opium brought in from elsewhere in Southeast Asia. Estimates indicate that about 40–45 tons of opium per year are actually produced in Thailand. This level is sufficient only to meet local demand.

Although some Thai officials may still be parties to the drug trade, the level of involvement is reported to be much lower than in the past. Contrary to the situation in Burma, drugs do not seem to be a significant source of financial support for insurgents but, rather, a means for personal or syndicate enrichment.

Thailand receives equipment from the United States under the narcotics control program. In fiscal year 1975, $4.8 million was provided, with $3.7 million more programmed for FY 1976. Bangkok is a regional headquarters for the U.S. Drug Enforcement Agency (DEA) which is active throughout Southeast Asia. The agency has a regional budget of $500,000, but the figure does not include assistance to other governments which runs into the million. There are 26 U.S. agents in Thailand and they are involved in operational actions as well as intelligence gathering. The day before my arrival, for example, U.S. agents and Thai police had carried out a joint raid on an opium refinery.

This sort of U.S. anti-drug activities in Thailand seems to be highly dubious. Quite apart from the expenditure of U.S. funds, the direct participation by U.S. agents in police activities within Thailand amounts to involvement in internal Thai affairs. While it undoubtedly is meritorious in objective, it is a foot-in-the-door, a point of entry which could lead to extensions and in the end, renewed entrapment in the internal affairs of that nation at renewed cost to the people of the United States. The sorry history of military and economic aid and other activity in Indochina and Thailand over the past two decades should serve as a precaution in this respect. Police actions, including local drug enforcement, are functions of indigenous governments. If there is a U.S. role, it should be limited to the exchange of information and intelligence with appropriate Thai or other officials. Beyond that point, U.S. financial assistance for anti-drug operations at whatever level may be set by the Congress, in my judgment, is best channeled through international or regional organizations.

PAT MOYNIHAN

Mr. RIBICOFF. Mr. President, I commend to the attention of my colleagues an article by Tom Buckley entitled "Brawler at the U.N." that appeared in the New York Times Magazine yesterday, which deals with Pat Moynihan's performance as this Nation's ambassador to the United Nations.

Pat Moynihan does not believe in confrontation for its own sake. For him, as for all of us, the substance of policies and of U.S. interests, not personal style, is of paramount importance.

I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Brawler at the U.N.

(By Tom Buckley)

On the night before the General Assembly of the United Nations was to vote on the resolution proclaiming that "Zionism is a form of racism and racial discrimination," Daniel P. Moynihan, the chief of the United States Mission, was putting a high gloss of outrage on a speech he hoped he wouldn't have to make.

For three weeks, all over the world, from Santiago to Lagos to Katmandu, a battle for the votes of uncommitted nations had been taking place between the Arab and Communist blocs, which supported the resolution, and the United States, the members of the European Economic Community and Israel, which opposed it.

Moynihan was aware, as he worked on the night of Nov. 10 in the library of his official residence on the top floor of the Waldorf Towers, that the odds favored the other side. As the membership of the U.N. has increased past 140, the old democracies have regularly found themselves in the minority, especially on Middle Eastern questions. Once, it had been subsidies channeled through the Central Intelligence Agency that could persuade where reason failed. Now it was more likely to be a flood of oil money from the sheiks.

For this reason, Moynihan knew, there was disagreement in the State Department and among the Western European nations as to the strategy he was pursuing. Don't make an issue, his opponents said, of a vote that the United States and its allies probably can't win. Ignore the resolution. It's minor mischief-making by the Palestine Liberation Organization.

Moynihan listened to these arguments and shook his head. The resolution, in his view, was only a step away from an endorsement of anti-Semitism—a short step that the leaders of sects and factions, even of governments, might be only too ready to take. It was, moreover, he told me a couple of nights before, wrong, a lie of Hitlerian size.

There was another reason, Moynihan believed for striking back hard if the resolution was passed: The actions of the United Nations mattered. Resolution passed by the General Assembly mobilized no armies. Indeed, they might seem like so much gas discharged into the atmosphere. Perhaps so he reasoned, but too much of it could be poisonous.

For too long, as Moynihan saw it, this country had been utterly passive in the United Nations and other international organizations partly out of disdain for them and partly out of fear of wounding the feelings of the new nations that make up a majority of their memberships.

Moynihan wrote a lengthy analysis of this "massive failure of American diplomacy" during the final months of his two-year tour as Ambassador to India. It appeared, under the title "The United States in Opposition," in the March issue of Commentary.

"It is time," Moynihan wrote, "that the American spokesman came to be feared in international forums for the truths he might tell. It is past time we ceased to apologize for an imperfect democracy. Find its equal. . . . It is time we asserted that inequalities in the world may be not so much a matter of condition as of performance. . . . The Third World must feed itself, for example, and this will not be done by suggesting that Americans eat too much."

For thoughtful Americans, whose stomachs were paralyzed by guilt every time they bit into the inefficient proteins of sirlon steak or even the humble hamburger, and who suffered severe chest pains when they thought of Vietnam, Chile, the Congo and countless other examples of wickedness now coming to light, Moynihan's words soothed like a magical compound of aspirin, liniment, bicarbonate of soda and Valium.

Secretary of State Henry Kissinger saw the article and immediately felt better. He showed it to President Ford, whose spirits soared. They sent for Dr. Moynihan and offered him the U.N. job. He reported there on July 1 with what seemed like a clear mandate to raise some hell. Not surprisingly, the U.N. didn't go for the new tough kid on the block. Anyhow, when the Zionist resolution was passed, Moynihan ringingly denounced it. When he was attacked in turn, he suddenly looked around for suppport and, so far as he could see, nobody was behind him.

On Nov. 21, only 11 days after making his speech, he decided to resign. Ten minutes before the announcement, he got a call from the White House that restrained him. The President wanted him to come down for a chat. Two days later, the word went out loud and clear from the White House: "The President wants it clearly understood that Ambassador Moynihan has his complete confidence."

I spent a good deal of time with Moynihan during this period, and what I saw and heard may provide some insights into the hazards that can arise in introducing Moynihan's Reality Principle into the exotic work of the United Nations.

With Moynihan that night at the Waldorf Towers, listening to his shouts, his groans, his rhetorical flourishes, were Suzi Weaver, who is on leave from the Yale University faculty to serve as his special assistant, and Norman Podhoretz, the editor of Commentary, which is published by the American Jewish Committee. Podhoretz is an old friend and fellow old leftist or neoconservative, depending on how you look at it.

When it came to the politics of the Middle East, an area in which he had never set foot, Moynihan was happy to take his direction from the State Department, he had told me, but when it came to Zionism, Jewish history, anti-Semitism and related topics, Podhoretz is Moynihan's maven.

Buzzing between the library, the vast drawing room, where I was waiting, and the kitchen was Liz Moynihan, the Ambassador's wife, accompanied by Mr. Dooley, their elderly wirehaired fox terrier. I followed her into the kitchen, and while she stacked State Department china—white with rims and seal in gold—in the dishwasher, I mixed myself a black velvet of Guinness and the remains of a bottle of champagne.

"We had a big luncheon today and this is the fifth batch," she said, laughingly. "I can't believe it. We have people to serve meals but there's no one but me to clean up. I've been spoiled. When Pat was the Ambassador in New Delhi we had a staff of 13."

She showed me the pictures she borrowed from the Metropolitan Museum, among them a Childe Hassan, a Walt Kuhn and an early Larry Rivers, that brought some small breath of life to the endless damask vistas of the drawing room, and the witty, lifelike, papier-máché figure, wearing a Waldorf-Astoria waiter's jacket with a silver tray under one arm, made by their son, Tim, 19, the oldest of their three children.

About this time Moynihan and his helpers walked into the drawing room. He towered over them like a jolly green giant—he is 6 foot 4 but tends to stoop—except that he was wearing a bright red shirt, an old pair of flannel trousers and soft suede moccasins instead of leaves and vines.

"I think we've got a pretty good speech here," he said, plunking himself onto one of the slippery yellow sofas, lighting a long cigar and reaching for the cognac bottle.

"You took that out, didn't you?" asked Liz Moynihan. She is as humorous as her husband, a handsome woman with graying hair, deep-set eyes and the long nose and dark coloring of County Kerry, and she is usually calmer.

"It's out," said Suzi Weaver as she departed, taking the manuscript back to the mission on First Avenue for retyping.

"What part is that?" I asked.

"The part where Pat said that passing the resolution meant that the lunatics were taking over the asylum," Liz Moynihan replied.

"No, we couldn't say that, even though it might be true," said Moynihan, adding a little benedictine to the cognac and swirling it around in the snifter. He has several tones of voice, and this was dark and explosively sardonic.

"I think we've got them another way," he went on. "The resolution doesn't define what racism is. And we looked through all the documents and we couldn't find any place where the United Nations had defined what racism is. The closest thing to a definition, and Suzi found it, dated from debate in 1968. The Soviet Union—the Soviet Union, mind you—said that racism and Nazism were the same thing! Identical! So if Zionism is racism it means that Zionism is Nazism, and if that isn't lunacy, I don't know what is."

Moynihan's laughter shook the windows. His high-arched eyebrows, which give his face a look of perpetual astonishment, almost disappeared under his silver-gray hair, which is always falling across his forehead. His blue eyes danced a jig, his round cheeks puffed out and the tilting tip of his nose turned pink. Mr. Dooley barked and ran around in circles.

After Podhoretz had said goodnight and Liz Moynihan had gone to bed, Moynihan said, "Come on, we're going out for a drink." He put on a worn tweed jacket and a floppy Irish tweed hat. One of the State Department security men who are stationed outside the door of the apartment around the clock fell in behind us, and we headed for P. J. Clarke's on Third Avenue.

Like a real native—he is 48 and grew up in tenements in Hell's Kitchen and the Upper West Side—Moynihan pushed across Lexington Avenue against the light. "I walked Mr. Dooley last Sunday," he said. "It was the first time I'd done it since we got here and I was beginning to feel guilty about it. Anyhow, I went over to 11th Avenue, where I grew up. First time I'd been over there in years. There's nothing there anymore. It's been improved right out of existence.

"No, I'm wrong," he said. "The old Landmark Tavern is still there. It goes back to 1866. It's still there and, I must say, it has been lovingly restored. It's a gay bar now, I think, but it isn't the least bit precious. They have good beer on draft and things like pea soup on the menu."

Moynihan was one of the millions of young men for whom World War II, if they survived it, was a blessing. Without it, his prospects would have been limited, his way up far more difficult. He had begun working early, helping to support a mother, brother and sister in a fatherless household. Even so, he managed to get in a year at the Baruch School of City College before enlisting in the Navy in 1944. He got into an officer-candidate course and was sent to Tufts University. He received his commission, did some sea duty, and after his discharge returned to Tufts rather than C.C.N.Y. to get his degree, thanks to the G.I. Bill. He received his master's degree and eventually his doctorate at the Fletcher School of Law and Diplomacy at Tufts, winning a Fulbright Fellowship for study at the London School of Economics along the way.

London was his finishing school; a taste for cognac and cigars a soigné manner, gestures, a voice that became an instrument, plummy, incisive, gargly, by turns.

At Clarke's, crowded and cheerful as always, he ordered Watney's Red Barrel, an English lager. After a couple of glasses, he decided he didn't like it. He switched to Ballantine's India Pale Ale, and ordered a cheeseburger.

After his return from London, Moynihan worked in Averell Harriman's successful campaign for the governorship of New York in 1954. He got a succession of statehouse jobs out of it—ending up as Harriman's acting secretary—and a wife, the former Elizabeth Brennan.

When Nelson Rockefeller came in, Moynihan went out, to a research assignment at Syracuse University. He worked in the John F. Kennedy campaign, of course. He got an appointment as special assistant to Secretary of Labor Arthur Goldberg. By 1963 he had risen to Assistant Secretary in charge of policy planning and research.

In Washington, Moynihan found he had a couple of things going for him. He came up with ideas, which were always in short supply in a place better known for intrigue than inspiration. He presented them with a pleasing mixture of common sense, wit and charm. He also found that his tenement upbringing, which had seemed only sordid and distressing when it was going on, conferred an advantage. Others in the Kennedy Administration may have studied urban sociology but he had lived it. While they were playing tennis at Choate, he was—he swears—shining shoes or sweating in a laundry; at 16, being large for his age, he worked on the railroad piers of what used to be called the North River. When they talked in theory about welfare, he could talk about having once been on it.

After Kennedy's death, he stayed on with Lyndon Johnson. He returned to Washington to work for Richard Nixon and then for Gerald Ford. To work for four successive Presidents of both parties in senior and Cabinet-level posts must be a modern record.

At the same time he remained an independent thinker, often too far ahead of the public and his colleagues for his own good, and consequently often embroiled in controversy.

In 1965, for example, his report "The Negro Family: The Case for National Action" was released with the approval of President Johnson as one of the underpinnings of the New Society legislation that he sought. The report emphasized for the first time the social instability created by the extraordinarily large number of broken black families and suggested remedies. It engulfed Moynihan in the first of three controversies that seem to have come along at five-year intervals.

Ironically, the report, the work of a man who himself had known the pain and confusion of growing up without a father—an alcoholic journalist who deserted his family—and who can scarcely talk about that experience even now, was denounced in liberal circles as antiblack.

The next thing Moynihan knew, he was up in New York, making his only try for elective office, running in the 1965 Democratic primary for President of the City Council on the ticket headed by Deputy Mayor Paul Screvane. The ticket was beaten by one headed by Comptroller Abe Beame, who then lost in the general election to John V. Lindsay.

From there he went to Cambridge to take up joint appointments as director of the Joint Center for Urban Studies of Harvard and Massachusetts Institute of Technology and as a professor at the Kennedy School of Government at Harvard.

In 1969, he returned to Washington to serve as Nixon's urban affairs expert. Moynihan had decided long before that he wanted to do something about the welfare system. What it did, he believed, was to break up homes, to stimulate the production of unwanted children and to discourage recipients from taking low-paid jobs, the only kind likely to be available to them. As he saw it, a disproportionate share of the benefits of the social programs of the Johnson Administration flowed to the bureaucrats and professionals who ran them. The family-assistance plan that he outlined to Nixon attempted to get around these objections. At first the President supported it. Gerald Ford, then the minority leader, pushed it through the House, but it then died in the Senate, caught between Nixon's cooling enthusiasim and the objections, which Moynihan thought strange indeed, of many liberal Democrats.

Moynihan, who had campaigned for Hubert Humphrey in 1968, disappointed many of his liberal friends by going to work for even the pre-Watergate Nixon. He angrily denied their accusations of opportunism, which have been repeated one way or another many times in his career.

"I did it," he told me, "because there were machinegun emplacements on the White House steps facing north. What was being called the urban crisis was at its most intense. The country was in a state of intense internal crisis. I was the director of the Joint Center for Urban Studies and I thought I had at least as good an idea of how to end it as anyone else who was likely to get the position. So when Nixon asked me I accepted. And may I point out that the riots stopped. We never had another riot after 1968."

In 1970, the controversy cycle came around again. A private memorandum on racial problems—the famous "benign neglect" memo—that he had written for the President was leaked to the press. It caused a sensation, mainly, I think, because the left and right willfully misinterpreted it.

Speaking in the context of the improved economic status of blacks and the concurrent rise of such firebrands as Eldridge Cleaver, Rap Brown and Angela Davis on one side and George Wallace on the other, and a hard-line attitude growing in the White House, Moynihan wrote, "The time may have come when the *issue of race* [my italics] could benefit from a period of benign neglect. The subject has been too much talked about. The forum has been too much taken over by hysterics, paranoids and boodlers on all sides.

"We may need a period in which Negro progress continues and racial rhetoric fades. The Administration can help bring this about by paying close attention to such progress—as we are doing—while seeking to avoid situations in which extremists of either race are given opportunities for martyrdom, heroics, histrionics or whatever."

In reading the full memorandum I had noted that the "benign neglect" quotation was attributed to Lord Durham, the reformist Governor General of Canada in 1838–39 and the author of the notable "Report on the Affairs of British North America."

That night in Clarke's after a few more beers I told Moynihan that I thought his memorandum had been right on the mark, but I taxed him with having succumbed to an academic weakness by dressing up his prose with a sententious quote from a source obscure enough to constitute a certain parading of knowledge.

"You're right," he replied, blushing into his glass, the tables having been turned on the pedagogue who lectures his staff in clarity and directness in writing. "What's more, I don't think Lord Durham ever said it. Irving Kristol researched it, and couldn't find it anywhere. What I think I did was to confuse it with the phrase used by Edmund Burke, 'salutary neglect,' about the American colonies."

Nixon, who liked to chin with Moynihan during his Dr. Jekyll moments in those pre-Watergate years, offered him the United Nations job. Moynihan accepted and then withdrew in some distress when a Harvard friend leaked the news to the press before Charles Yost, a career diplomat, had been notified that he was to be replaced.

Moynihan made his way back to Cambridge, but not for long as it turned out. After being elected to his second term, Nixon offered the Indian Embassy to him. Knowing a challenge when he saw one, he said yes.

A difficult place in the best of times, India had become bitterly anti-American as a result of Nixon's "tilt" to Pakistan in the 1971 war. Bad karma hung over the embassy like a tent. Moynihan, trying to ameliorate hurt Hindu feelings, persuaded Washington to cancel two-thirds of the enormous debt that India had run up during the 1950's and 60's for grain shipments from the United States.

Nothing helped. On the rare occasions when he was admitted to the presence, Prime Minister Indira Gandhi fixed him with her Siva-the-Destroyer glare. Feeling like an untouchable at a convention of maharajahs, Moynihan kept his mouth shut in public. But he could see the world's largest democracy blighted, economically and socially. He evolved a theory that was to figure prominently in his Commentary article. It was that India and most of the other British possessions that had gained independence since World War II were being fatally stricken by their adherence to the principles of British Socialism.

This form of government was, he decided, far better at redistributing wealth than in creating it. As Mrs. Gandhi lectured the capitalist West on its duty to provide—the long and short of it—endless charity to her country, Moynihan's attitude came to be: Pull up your socks and help yourself.

He resigned at the end of last year. On his way back to the United States, he toured China. The country seemed clearly successful to him on one level, no doubt of that, but he was more conscious than many Western visitors of the fact that there was no trace of personal freedom, and no foreseeable likelihood of its appearance.

Moynihan arrived at the United Nations in July. It was a fairly quiet time, and he was able to get to know his staff of more than 100 and to acquaint himself with the convoluted operations of the General Assembly, its standing committees, the Security Council and the Secretariat. He and his family vacationed at their home in the Finger Lakes region and Moynihan returned with two and a half pounds of wild ginseng root for the Chinese Ambassador, reminding him that there had been a thriving industry in Delaware County a century ago in exporting this fabled Oriental invigorator.

Moynihan's 1975 installment of controversy began on Oct. 3. Gen. Idi Amin, the President of Uganda, had visited the United Nations not long before and in the spirit of international fellowship made a speech calling for the "extinction" of Israel. The time had come, Moynihan decided, to implement the plan set out in the Commentary article.

Instead of looking the other way, implicitly acknowledging that Amin was a fat African lunatic, Moynihan, in a speech he made to the A.F.L.-C.I.O. convention meeting in San Francisco, endorsed The Times' editorial description of Amin as "a racist murderer," and added, "and it is no accident, I fear," that Amin is also the head of the Organization of African Unity. Well, as it turned out, it was an accident, since the post was rotated among the members, many of whom were already seriously embarrassed by Amin and didn't need to have it rubbed in.

In the same speech Moynihan returned to the theme of another essay, "Is Freedom Necessary?" which appeared a few months ago in the Atlantic. Moynihan thought it was necessary, of course, and he went on to say that its existence was offensive to the growing number of despotisms in the world. Israel, in his view, would have been in less trouble if it had been a communist dictatorship.

"At this very moment in New York, for example," he declared, "[we] are fighting back the latest such move, a resolution now before the Third Committee which equates 'Zionism' with 'racism,' calling for the eradication of both. I put it to you that this outrage is likely as not to be voted for by a majority of the membership of the United Nations."

That document had been drawn up and circulated, on the very day that Amin was addressing the General Assembly, by five junior diplomats from Somalia, Southern Yemen, Libya, Syria—all extremist Arab-bloc states—and Cuba, and the chief of the Palestine Liberation Organization's observer team at the U.N., Zehdi Labib Terzi.

It was originally drawn up as an amendment to the resolution establishing a 10-year campaign against racism and colonialism, a measure aimed at South Africa and Rhodesia. Then, during debate in the General Assembly's Social, Humanitarian and Cultural Committee, it was transformed into a separate document, and was passed on Oct. 17. Having been taken by surprise, the Western powers now began lobbying frantically against the resolution in the full assembly.

On Nov. 10, the day of the vote, I saw Moynihan sitting in a quiet corner outside the General Assembly Hall. With him was David Rowe, the mission secretary, and Podhoretz. The speech, bound in a loose-leaf notebook, lay open on a coffee table in front of them. From what Moynihan was saying, some changes had been ordered by Washington. This came as something of a surprise to me. The night before, at Clarke's, Moynihan had said that he wasn't even going to show it to the State Department before he delivered it.

On questions like the participation of the Palestine Liberation Organization in the Middle East peace talks in Geneva—on which he had recently given a speech that had been written in Washington and consequently sounded as if it had come out of a defective computer—he said he didn't mind being turned into a ventriloquist's dummy.

"Kissinger and his people have been working on that for years," he had said. "I wouldn't dream of saying anything they didn't want me to say. That's their work and they are doing it very hard and if they don't know what they're doing then I sure as hell don't. But there are a few things on which I have to say what I want to say. I didn't take this job to be told what to say on this question—the resolution—and about three others like it. If they don't like what I say a sufficient number of times I assume they will fire me. I saw the President at dinner on Wednesday night in Washington. He said, 'Pat keep on fighting.' So, at this point, I assume he thinks I know what I'm doing."

So I asked, why was he changing the speech?

"I got a bad bounce," he said with a laugh. "There was a wire-service story over the weekend that I was ready to do or say something really wild after the vote. The Secretary of State read the story this morning and he went a little bit ape. 'O.K., let's see your speech,' he told me. I had to tone it down a little, not very much, and it's still a pretty good speech."

The meeting was called for 3 P.M. but it wasn't until well after 3:30 that Gaston Thorn, the Prime Minister of Luxembourg, who is President of the General Assembly this session, called it to order. After the *rapporteur* of the Third Committee, a woman from

Zaire who wore a white cap and a long blue dress, had presented the resolutions, the delegate from Belgium rose, according to plan, to move for postponement of consideration of Draft Resolution III, the condemnation of Zionism. This was it, the showdown, one of the pivotal votes in the world organization's long and generally turgid history.

Chaim Herzog, the Israeli delegate, a stocky man with graying hair and a gray mustache, strode to the platform. He was born in Belfast, the son of the Grand Rabbi of Ireland, served in the Guards Armored Division in World War II, and had been a major general and chief of intelligence in the Israeli Army. There still is a trace of a brogue there, and with Moynihan ready to let loose for the United States it had to be put down as a great day for the Irish.

His voice calm, he began by recalling that exactly 37 years before had occurred the *Kristallnacht*, the orgy of anti-Semitic burning and looting that left the streets of German cities covered with the broken glass of Jewish homes, businesses and synagogues.

"It is indeed befitting that the United Nations, which began its life as an anti-Nazi alliance, should 30 years later find itself on its way to becoming the world center of anti-Semitism," he went on. "Hitler would have felt at home."

The Kuwait delegate had brought in a ringer, an eminent professor, to reply. There was no hatred of the Jews among the Arabs, he said. Quite the contrary: Moslems revered Moses and Abraham and the prophets of old. It was Zionism, another matter altogether, that was the object of their scorn.

"The essence of the political doctrine of Zionism," he said, "is the concept that Jews are one people and the corollary that Jews must have a *Judenstaat*, a state of the Jews, of their own; and the program of Zionism in fullfillment of that objective was the dual program of the ingathering of Jews, ethnically defined, from wherever they might be throughout the world to one area, and the displacement of as many as possible of the non-Jews of that area in order to make room for the imported Jews."

The voting on the Belgian motion began. Delegates announced their votes and then pushed one of three buttons on their desks that switched on lights next to the names of their countries on the big tally boards on each side of the chamber. Moynihan shouted his "yes," but the final tally was 55 for postponement, 67 against and 15 not voting.

It was clear that the Zionist resolution would be passed. Nations that had sided with the West, seeing their efforts had failed, would try to salvage whatever credit they could with the Arab states and the Communist bloc by shifting to their side or by abstaining. After 20 speeches, the roll was called again, and this time the vote was 72 to condemn Zionism—the automatic majority—35 against the resolution and 32 abstentions.

Moynihan strode to the platform, tall and slim, perhaps the tallest man in the chamber.

"The United States rises to declare before the General Assembly of the United Nations, and before the world, that it does not acknowledge, it will not abide by, it will never acquiesce in this infamous act," he declared.

Moynihan didn't go into the endless, intricate arguments of Middle East politics that the United Nations has been chewing over since its founding. In the interests of détente, he declined to indict the Russians. He didn't call the extremist Arabs bad names. He didn't touch on the fact that many persons sympathetic to Isarel find the case of the Palestine Liberation Organization not without merit. Instead, he emphasized that in Israel there were Jews of every color, of every national background, Jews by birth and Jews by conversion, all of whom fit no known definition of racism.

I am here making one point, and one point

"Now I should wish to be understood that only," he said, "which is the whatever else Zionism may be, it is not and cannot be 'a form of racism.' In logic, the State of Israel could be, or could become, many things, theoretically including many things undesirable, but it could not be and could not become racist unless it ceased to be Zionist."

Moynihan hurried from the chamber to a press conference in the Secretariat building.

That was on Monday night. By the next day the storm had broken all over the Western world. Resolutions were introduced in Congress. A giant protest meeting was held in New York. On Wednesday, Moynihan counterattacked, introducing a draft resolution urging the freeing of political prisoners all over the world. On Wednesday night he flew to Washington for dinner at the White House. The shuttle sat on the runway at LaGuardia for an hour and a half and he arrived during the fish course. But he got another pat on the back from the President and then had a long meeting with Kissinger.

"I wanted a drink," Moynihan told me a couple of days later. "I told Henry I'd love a brandy. He sent his girl out to look for something. She came back in about 20 minutes with some *mai tai*—that awful Chinese drink—which I had in a plastic mug."

Moynihan pushed himself back into the sofa later in the Waldorf Towers. He beamed at me. "Anyhow, for now I seem to be a hero. It will last, maybe, six weeks or so."

Not even that long, as it turned out. The Arabs, the Communist bloc, most of the nonaligned nations—none had liked the speech very much. They hadn't much liked Moynihan's combativeness since his arrival there. That sort of thing wasn't done at the United Nations. Some Westerners didn't seem to like it either.

"Most of my time is spent trying to achieve agreements," Ivor Richard, the British Ambassador to the U.N., told me a couple of days later, "and I don't mind saying that Pat isn't making my job any easier. I'm haggling in corridors trying to get Britain back on good terms with its former colonies. Many of them are extremely sensitive and jealous of their political independence. When we can't agree we can say 'no' quite firmly. Pat says 'no' but so firmly, so bluntly, so comprehensively that it's difficult to come to accommodation on other issues."

A few days after that Richard repeated these criticisms in more vivid terms in a speech at a meeting of the board of directors of the United Nations Association, an unofficial body of supporters of the world organization. He likened an unnamed Western diplomat who could only have been Moynihan to a Savonarola, an avenging angel or a King Lear raging futilely against the storm.

Reading that in the papers on Nov. 21, a Friday, Moynihan felt like Lear, all right, double-crossed and abandoned, and he began thinking of the State Department as Regan and Goneril. He figured, someone close to him told me, that Richard would never have said that without the approval of the Foreign Office, which would never have let him say it without clearing it with Henry.

At the United Nations, ugly rumors circulated. One was that he had come on strong for Zionism as a means of getting the Jewish vote if he should campaign for the Senate in New York next year, although he had said on television a couple of weeks earlier that he could be regarded as guilty of "dishonorable" conduct if he left his post to run for any office. Another, which stung, was that the Zionist resolution might have been beaten if Moynihan hadn't played rough. When he became convinced that State Department officials were spreading that story, he decided to quit.

"That's no way to treat a guy," he told me a couple of days after talking to Ford. "You say, O.K., he's a son of a bitch, but he's our son of a bitch. When you've got people out in an exposed position, you've got to clear them on."

The President, an old football player, understood that. He told Moynihan he was with him all the way. "Like all conversations with the President, it was private," Moynihan said, but he obviously asked me to stay in the strongest possible terms. He thinks what I'm doing is great. It's the old hit 'em again' spirit."

Even so, those who study the signs and auspices in Washington think that Moynihan's position is shaky. What may have prevented the President from accepting his resignation was his reluctance to lose support among Jewish voters—who overwhelmingly backed Nixon against McGovern in 1972 because of Israel—and to have another significant change in his senior staff so soon after his dismissal of Secretary of Defense James R. Schlesinger and William Colby of the C.I.A.

Kissinger's endorsement of Moynihan seemed muted, to say the least, and it seems likely that if Moynihan is going to continue what has come to be called his confrontational diplomacy at the U.N., he had better keep his back against the nearest wall.

Where the State Department goes wrong in criticizing him, Moynihan believes, is in failing to grasp the difference between diplomacy involving two or three countries and diplomacy involving more than 140, as it does at the United Nations.

"The main object of public diplomacy, which is the U.N. is," he told me, "is not to paper over differences, but to make their existence known and to make them clear, to define these differences so as to reduce the possibility of misunderstandings between countries.

"While we have done our diplomacy elsewhere, we have settled into a pattern of accepting enormous, although nominal, defeats and insults at the U.N.," he went on. "I think we were insufficiently aware of the impression that we made by submitting to a kind of treatment no other great power would dream of accepting. It arose from indifference on our side but it was seen as appeasement by others."

Moynihan began to heat up again. "I'll give you an example," he said. "Last Friday, by a vote of 108 to 1, the Fourth Committee condemned the American naval base on Guam. *Nobody* in my mission even bothered to tell me. And do you know"—he spaces out his words when he gets sore—"the State Department did not want us to issue even a simple statement saying, 'We wish you weren't doing this.'

"The old view was that, if we don't pay any attention to it, then the other countries won't," he said. "On the contrary, they say, 'You see, you can do something to the U.S. you wouldn't *dare* to do to the Soviet Union or the Chinese.' Do you think the Russians would forgive you for voting for them to get the hell out of their naval base in Somalia!"

With that, he headed back across First Avenue from the mission to defend his country's interests in that strange hermetic world of the United Nations.

IN THE AFTERMATH OF VIETNAM

Mr. CASE. Mr. President, the Senator from Indiana (Mr. BAYH) recently gave an important policy speech in which he emphasized that the United States should not misinterpret the lessons of Vietnam and retreat from the world.

Senator BAYH, in his November 15 speech in Portland, Oreg., emphasized that world problems such as the arms race and food shortages cannot be ignored while the United States tries to sort out its thoughts.

I ask unanimous consent that a copy of the speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH BY SENATOR BIRCH BAYH

For years it has been conventional wisdom that foreign policy questions do not rank high on the personal agenda of the American people.

We are told that international relations are not the issue on which elections turn, that voters make their decisions on the matters which are said to affect them most directly, and that foreign relations do not touch the ordinary citizen.

For a country which has so recently suffered the deaths of 55,000 of its own sons in an unexplainable foreign misadventure, a public mood which neglects foreign policy may be conventional wisdom, but political figures which follow such conventional wisdom are totally irresponsible and must forfeit the right to lead.

Certainly, we must learn from our experience in Vietnam. But we must be wise enough to learn the right lesson.

If all that our agonies in Southeast Asia have taught us is that we must retreat from the world, we will have learned little and we will be forced to suffer the consequences. The dynamics of world politics will not accommodate America by giving us a respite from global involvement. Inertia is not the ordinary state of the world. We must not delude ourselves into thinking that the frustrations of developing nations, and the temptations to use force by totalitarian nations will be suspended while we sort out our thoughts and proceed at a relaxed pace. Ominous trends are abroad in the world and we must not postpone facing up to them. Left unattended they will reach out for us and force us to confront them at times and places and in ways which are not of our choosing.

We must develop a positive foreign policy anticipating, studying and resolving tomorrow's problems before they reach crisis proportions.

I am running for President because our country—indeed our entire planet—is on a collision course with an uncertain and perilous future. It is a future that we seem unwilling to recognize. If the limits of our imagination and the poverty of our policies cause us to be unprepared, the judgment of history will be merciless. A new generation must be prepared to think imaginatively about these problems and redirect America now. Otherwise we will continue the disastrous drift toward a future in which the world has too many people and too little food; too much hatred and too little compassion; too many nuclear weapons and too few inhibitions about using them. This is a rendezvous with doom.

The most hopeful thing that can be said of this dark vision of the future is that such an ominous future is not inevitable if this country takes timely and decisive action—if America has positive leadership, and we are determined to act and not retreat.

Tonight I would like to present the outlines of a new foreign policy for America.

A foreign policy which will liberate America and the world from the nuclear terror which has dominated and distorted our history for three decades;

A foreign policy which reconciles the legitimate needs of mankind with the fragile and diminishing resources of our natural environment;

And a foreign policy which reaffirms the fact that as the world's oldest democracy, we must remain the world's leading advocate for democratic change.

A new American foreign policy must be founded upon a greater degree of public awareness of and participation in those critical decisions which collectively constitute both foreign and defense policies. Our people must be made aware of the alternatives available to us. They must understand the total costs involved in both foreign and defense policy.

Today we continue to exclude the American people and their representatives from the discussion of these policies and dismiss all objections by invoking the self-fulfilling prophecy that they know little about them and care even less.

Although the actors have changed, somewhat, the momentous questions of war and peace are still too much the private preserve of the same policy-makers whose record for wisdom is so eloquently refuted by the graves of 55,000 American soldiers. Foreign policy is not some magical ceremony or mysterious rite where only the initiated can participate.

The first goal of our new foreign policy must be major progress toward nuclear disarmament. In the past we have been taught to distrust "disarmament" and to regard it as a dangerous and visionary idea. We have been told that security comes only from being armed to the teeth and that any addition to our array of weapons—no matter how costly—is an increment to our well-being. This is wrong.

At the top of our list of priorities must be a steady and significant decrease in the balance of nuclear terror which exists among the technologically advanced nations.

Despite all the talk of detente, peace under President Ford is still the product of a precariously patched together fear of mutual nuclear annihilation. Rather than true disarmament, the SALT negotiations have really resulted in the escalation of the nuclear arms race. The U.S. has doubled the number of its strategic nuclear weapons, which now total more than 8,000, since SALT began. The Russians have tested and begun the deployment of four new nuclear systems since SALT began.

The Defense budget proposed by the Ford Administration calls for as much spending in one year as the entire amount of money expended by this nation to fight World War II. This is not my definition of disarmament. And that's why I voted against the bloated military spending bill in the Senate. I have also led the opposition to efforts to build the SAM–D system, a $5.7 billion missile program in search of a mission. I have a very simple definition of disarmament: to me it means a smaller percentage of the world's wealth invested in the economy of death each year. That means fewer nuclear weapons and fewer missiles, but it also means fewer planes, fewer tanks and fewer men and women stationed at foreign military bases.

But the destructive power of the strong is only slightly less ominous than the destructive impulses of the weak. In a relatively short period of time two dozen nations will have nuclear weapons technology in their grasp. Fourteen nations who do not yet possess the bomb have already begun to operate nuclear power reactors with the capacity to produce enough plutonium for a bomb a year. Some of these nations are the same ones that are trying to cope with the frustrations and instability of underdevelopment.

Ford and Kissinger may have nightmares about nuclear confrontations between the United States and the Soviet Union, but I have nightmares of developing nations with too many people and too little food and possessing the technology of nuclear power capable of destroying millions of human beings.

Such nations have little to lose by brandishing nuclear weapons. A world technology which cannot provide them with adequate food has given them destructive power in abundance. The millenium is beyond their reach, but the apocalypse is within their grasp.

It is fashionable to minimize the threat posed by these weapons in the hands of the poor states. We are told that these weapons cannot be delivered on bullock carts or rickshaws. What these doubters fail to consider is the fact that they can be carried by a commercial airliner or assembled in the heart of an adversary's city. We are living in a world where science fiction and scientific fact have begun to converge, and the nuclear club is now open to all regardles of race, religion or national origin.

We, in this country, must lead the way. We must put together a foreign policy designed to negotiate with our allies as well as our adversaries, to establish a world compact which will stop the sale of nuclear technology without sufficient controls to the highest bidder. We must insist on adequate safeguards, and we must insist that not only does the technology which we give be subject to adequate international control but that other similar adventures going on in the questioned country also be subject to the same controls. We must have international recognition of the broader problem—the so-called peaceful nuclear technology. Not only from a waste standpoint what plutonium means in excessive quantities, but what the easy availability of quantities of plutonium in sufficient amounts to build destructive devices means. In too many of the places in the world I fear, as this plutonium stockpile is increased, the security to protect it from theft will be far from adequate. I'd like to have the chance to use the power of the presidency—to let the United States out in front to lead the way—to deal in advance with this kind of problem—the dual problem of too many people and too little food with horrible consequences of nations confronting this problem while at the same time possessing nuclear technology. I believe it is possible to meet this challenge. I paint a pessimistic picture but I think it is a realistic picture. There is also a great deal of hope, but we cannot hope to solve the problem unless we recognize its dimensions. Time tempts over-simplification to which I am about to sucumb.

Let me say, that to meet this challenge, we must stop squandering American wealth, American power and, if it is still possible, to suggest American good will—on short term national advantages which postpone real solutions to long-term problems. Let me be specific. We all know that world population and world food production are on a collision course.

It took some 2 million years for man to reach a population of 1 billion. Demographers tell us this happened about 1830. It took only the next 100 years to reach 2 billion. At our present rate of growth, the fifth billion will occur in the next nine years. By the year 2000, the global population will be 7 billion.

Today, the globe produces 1.2 billion tons of grain each year. If we assume a continuation of present consumption habits, with the substantial malnutrition that this implies for the majority of the world's residents, a popualtion of seven billion will consume 2.5 billion tons of grain a year. Given existing agricultural methods, and the best estimates of technological breakthroughs possible in the intervening years, there is simply no way we can produce that much food.

The world was already experiencing a 10 million ton annual food shortage two years ago when the Rome Food Conference convened. By the 1980's, most experts agree that the shortage will have grown to 85 million tons a year. Measure this reality against the 1.3 billion ton increase which is actually needed and you get some idea of the enormity of the problem.

The less developed countries of the world are increasing their population at a rate of about 2.5% a year, in other words, a doubling in thirty years.

These are the broad outlines of the problem. We face a future of mass starvation, international chaos, and possible food wars or a future in which population and food supply will be brought into balance by world leadership that is determined that it will resolve this kind of problem. If we start investing significant amounts of world wealth and energy into vastly expanded agricultural economy, I think we can meet that challenge.

American agriculture is the most productive in the history of man. We must use this vast productive capacity to help restructure the world food supply. That means our national economic policy must be geared to stimulating maximum farm production—both to stabilize food prices at home and produce the vast reserves which the world demands. Am I saying that America can feed the world? The answer is an emphatic "no." I am saying that America, if it moves rapidly to a new agricultural policy, can help the world to feed itself.

These are the steps which I would take as President to accomplish this goal. First, we must create an international system of reserves against famine. Such a reserve would help alleviate the problems caused by fluctuations in weather, fertilizer production or natural pests with disrupt national food supplies. Our nation has been committed to this course of action since the Rome Food Conference, and despite Secretary Kissinger's reiteration of his pledge before the special U.N. session in September, we have failed to take concrete steps to establish this reserve.

Second, we must apportion world agriculture resources to achieve maximized crop yields. Specifically we must help increase world fertilizer supplies.

As President, I would work with Congress to reshape the Foreign Assistance Act and the AID program to give priority to helping less developed countries significantly upgrade their agriculture production. Technology alone, of course, cannot do the job. There must be basic reforms in patterns of land ownership and utilization. I have no hesitation of tying American aid to land reform, specifically because the aid will not be effective without land reform.

Finally, I think we must commence a major new family planning program on a world scale. We have learned so much in this area in recent years: I'm afraid that more has been learned from our failures than from our successes.

The basic lesson is that reduction in family size can't be imposed by government fiat. Population growth seems to be inversely related to economic growth. But this does not mean that family size won't fall until everyone in the world earns at least $10,000 a year and is saving for a second car. We have come to recognize that even modest increases in economic security—accompanied by other basic improvements including literacy, minimum but adequate health care and a minimum assured supply of food—can significantly reduce population growths.

We in the U.S. are in an ideal position to enlist the rest of the world in establishing the threshold levels of social well-being necessary to begin the natural deceleration in population growth.

This then is what I mean by a new "planetary bargain": the willingness of the advanced nations to make continuing investments in basic social and economic improvements for the less developed countries in return for the long-term changes which will reduce world population, stabilize world food supplies and substantially de-escalate the growing world arms race and regional tensions which threaten to draw the entire world into a nuclear conflagration. Unless such a bargain is struck and held to by the nations of the world, we will bequeath a barren future to the generations which follow us.

There are no patent medicine formulas, no quick fixes for these problems. But a President who is determined to deal with these very real problems that affect world peace—real problems that go beyond detente and cocktail parties in China—can begin now the long difficult process which will lead to real solutions, if not in our lifetime, then in the lifetime of our children. In the future as we solve these problems, I want America to be strong and free and prosperous. It does not follow that other nations of the world should be less strong or less free or less prosperous. As we take inventory of where we are 200 years after independence, as the first nation to accomplish freedom and throw off the shackles of colonialism, we cannot, we must not continue as the chief defender of the status quo in a changing world.

I would like for us as we restructure our foreign policy to deal with the specifics to which I have alluded—deal with the moral concept of our foreign policy. We must deal with the tragic fact that although we were the first nation to attain freedom—wherever the same battle is being fought around the world today, we are on the wrong side. We must face the tragic fact that we are on the side of the status quo, the side of suffering and totalitarianism.

I think as we look to the future and try to structure a foreign policy to deal with the problems of the world; we must emphasize those basic values which have served us so well here at home, then we can build a new and enlightened foreign policy to restore the prestige and the good will which is what America should be all about.

GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the U.S. record of ratification of major human rights conventions is poor. In many vital areas, we have yet to affirm our commitment to basic principles of American democracy on the international level. Why did we join the United Nations and wholeheartedly endorse the human rights provisions of its charter if we had no intention of enacting such policies into law?

In particular, I think that it is vital that in a turbulent world, there be basic provisions to safeguard humanity against the excesses of war and political oppression. I am referring to the Genocide Convention, which was sent to the Senate in 1949 but is still bottled up in the Senate Foreign Relations Committee. Most legal experts agree that its ratification is constitutional, that is, within the bounds of the treaty-making power. Nor can one argue that it extends the bounds of the Federal Government, for the convention is based on rights already guaranteed by the Constitution.

I welcome a reasoned challenge to my position because I believe all such arguments can be refuted. Since no such opposition has come to my attention I assume there is no obstacle to Senate ratification of the Genocide Convention. I urge such action immediately.

GOV. AVERELL HARRIMAN: BIPARTISAN ADMIRATION

Mr. PERCY. Mr. President, at a period in our national history when politicians are held in such low esteem by the public, it was refreshing to read in the Sunday, December 7, 1975, issue of the Washington Post's "Potomac" section an excellent article by Myra MacPherson about Gov. Averell Harriman. It is a story of a lifetime of accomplishment, of "being where the action is," of making a difference, and an individual having an impact on society at home and abroad in a meaningful and significant way.

Pamela and Averell Harriman are an exciting couple and contribute greatly toward making our Nation's Capital a stimulating and interesting place to live and work. Admiration for them is not limited to members of the Democratic Party, but is bipartisan and just as deeply felt by Republicans who know them well.

My only quarrel with Gov. Averell Harriman is the significant role he played in urging my son-in-law, Jay Rockefeller, to become a Democrat almost a decade ago. I felt that we needed him more in the Republican Party. But aside from this, I take my hat off to an outstanding statesman, a wonderful friend, and one of the great political figures of our times, Gov. Averell Harriman.

I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Averell Harriman Knows the Right People

(By Myra MacPherson)

He is still giving tryouts for Democratic presidential hopefuls. Little dinners where the guest list is powerful, the wine impeccable and everyone tries to outdo everyone else with toasts of wit and clarity.

Democratic National Committee Chairman Robert Strauss, Senator Edmund Muskie, Representative Les Aspin, editors Clay Felker and Ben Bradies were at a dinner the other week for Senator Frank Church. Clark Clifford, Senator Fritz Hollings, columnist Rowland Evans and Mrs. Charles Engelhard, widow of the platinum king and a big Democratic supporter, showed up for a dinner with Senator Hubert Humphrey.

And then, a few nights after the recent Sunday night massacre, W. Averell Harriman was at it again, toasting Henry Kissinger. Former Secretary of Defense James Schlesinger was no great loss, said Harriman. Detente was the most important issue.

At 84, Harriman is still the loyal Democrat of much wealth and much prestige who, far from having relaxed into the neutral role of elder statesman, gives what one guest calls "parties that are statements."

Harriman has known every president since Calvin Coolidge. He was a friend and intimate advisor to four Democratic presidents—Roosevelt, Truman, Kennedy, Johnson. He was with Winston Churchill on that December morning, 34 years ago today, when the Japanese bombed Pearl Harbor. He was with Roosevelt, Churchill and Stalin at Yalta. He knew Mussolini, DeGaulle, Chiang Kai-shek. He was one of the architects of the Marshall Plan, negotiated the first nuclear test ban treaty in 1963, and was America's top negotiator at the 1968 Paris Peace Talks. A governor of New York and a secretary of commerce and ambassador to the world, Harriman steps out of the pages of history and into his Georgetown drawing room, a tall slightly stoop-shouldered man of easy dignity: gray hair, jutting jaw, soft brown eyes.

An engima to some, a pariah to the wealthy patricians who never understood his embracing the Democratic party, a multi-millionaire driven by ambition and an obsessive sense of duty to work all his life as hard as any stevedore. He is a Groton and Yale man who mixed with ward heelers and self consciously donned firemen's helmets and smiled at babies in his disastrous campaigns to become President of the United States. John F. Kennedy once said that, with the exception of John Quincy Adams, Harriman had held "as many important jobs as any man in our history."

"It's so difficult to name one major achievement," says long time friend New York congressman Jonathan Bingham, adding, hyperbolically, "It's almost like Jefferson—it's the composite of his life that is so extraordinary." Another friend, columnist Joe Kraft, says, "The reason some people see an enigma there is that Harriman is one of the few men who I would say is wise—but he is wise beyond his capacity to express it."

Harriman sits in the long and narrow pale brown drawing room of his Georgetown house, a home filled with priceless Chinese porcelain, French impressionist paintings, busts of the famous—Churchill, Kennedy, FDR—now dead, who were his friends. He turns up his hearing aid, leans forward and plunges into a wide-ranging conversation: past presidents, 1976 Democratic candidates, Russia and detente, the economy. Harriman the gentleman struggles to find a reasonable reason for what he calls today's "ghastly" economic policy of President Ford and his administration. But then, partisanship and characteristic bluntness takes over: "I think it's just stupidity myself."

A man who often held views controversial for the times, he is still at it. He is granting interviews and doing television shows because, as do lesser mortals, he is, to put it bluntly, "flacking" his new book "Special Envoy to Churchill and Stalin," 1941–46. It was written by Elie Abel, dean of Columbia journalism school, based on Harriman's papers and recollections. Harriman smiles a half smile and says, "I haven't done this sort of thing for a long time." His last major profile, in the New Yorker, was, again, for an ulterior reason. He was about to run for president. That was 23 years ago.

Harriman's book promo was only temporarily derailed when he fell a few weeks ago and fractured his right elbow and pelvis. He was impatiently mending in a hospital and wondering how he would ever sign books, while his doctors were marveling at the shape he was in. "They said he had the X-rays of a man of 20," says his wife, Pamela. "He's tougher than most of us. He was brought up to live such a Spartan life. I found his diaries when he was a little boy. It was work, then play—which meant strenuous sport—then back to work again."

Harriman struggled up to political prominence from a 190-foot steam yacht, a family fortune of $100 million and a 75-room mansion on a 20,000 acre estate. One of the most fabulous financers of the 19th century, his father, E. H. Harriman, owned the Union Pacific Railroad empire. Although young Harriman saw the world from his father's private railroad car and chartered ships, he was also left a legacy of "duty" and "responsibility" and "work." He's not one for small talk, nor is he overcome with a sense of whimsey. He is not introspective and abstract philosophizing is not for him. He wants to tackle and, hopefully, settle a problem—now. Since he could have loafed his life away there are those who marvel at his jealousness and who also question his motivation. The less enchanted surmise that it may have something to do with his conscience—for his father, old E. H., did not escape the "robber baron" taint of a financier exploiting the turn-of-the-century American laborer. Others see a millionaire-by-inheritance who wanted to do something on his own. Harriman himself once explained his philosophy. He was only 29 but already sounded like a venerated ancient sage: "It is the duty of everyone, rich or poor, to work. I love work—I cannot see how anyone can prefer to be idle."

His third wife, Pamela, has known him since World War II. She was at that time Churchill's daughter-in-law. His seriousness is "kind of a family characteristic," she says.

"The great part of their lives they were taught as Harrimans that they play down the personal, anything that might be looked on as froth. It is almost as if they were frightened of treading the light fantastic; that wealth carries a great responsibility."

A fierce competitor, Harriman attacks sports with such absorption that it could hardly be called relaxation. "I've given up downhill skiing," he said with total seriousness a few days before his 84th birthday in November. "I do ski a bit cross country. I ride a bit. I swim."

Sports have always had more meaning than mere pleasure to Harriman; one's success at games is a serious measure of the person. So Harriman mastered them all—bowling, skiing, bridge, bezique, backgammon, badminton, sulky driving, swimming, croquet. In his mid-30s Harriman took up polo, became an eight-goal player and kept up with such pros as Tommy Hitchcock. Then, at 45, he took up skiing—partly to further business. Searching for something to attract cold-weather patrons to the Union Pacific, Harriman bought a 3,300-acre Idaho ranch and built a million dollar resort hotel. Harriman had just invented, created and named Sun Valley. By the time Harriman was U.S. Ambassador to Russia in 1943, he was skiing so expertly that he would get to the top of steep Sparrow Hill, where Napoleon had watched Moscow burn, and zoom down, checking his speed with only two turns. The NKVD security agents assigned to him landed in a heap halfway down. The next time Harriman went skiing, the NKVD deputized a champion Russian skier to track him.

Such physical persistence began at an early age. The rich don't have to send their children to the YMCA for lessons and Averell's father hired the great Syracuse University crew coach, Jim Ten Eyck, to teach his two sons how to row on the Harriman private lake.

E. H. Harriman rarely missed a chance to impress upon his son the necessity of work. When Averell was at Groton, his father wrote, "Can you not 'jack up' on the English? It is very encouraging to have you so improved, and I am sure you will catch on and go on and on and be something and somebody."

Elie Abel writes, "To be, 'something and somebody' was Harriman's fondest wish for Averell." E. H. Harriman himself had started as a $5 week Wall Street office boy. By the age of 22, he had learned enough to borrow $3,000 from an uncle to buy his seat on the New York Stock Exchange. He was fond of saying, when his personal fortune was around $70 million, "My capital when I began was a pencil—and this—" tapping his head. E. H. Harriman has been called many things—brilliant, bold, gifted, cold and ruthless. Matthew Josephson in "The Robber Barons" wrote, "He feared neither God nor (J. P.) Morgan nor the pangs and scruples of conscience. An obituary notice of him declared that the secret of his victorious career was his utter lack of moral scruples. . . ." He made friends—such as August Belmont, Commodore Vanderbilt, Bernard Baruch—and enemies—such as Theodore Roosevelt, who considered Harriman among his "malefactors of great wealth." E. H. Harriman and J. P. Morgan battled to the finish for the control of the railroads, then joined ranks, only for their merger to be slapped down by the government and Roosevelt, who was earning his reputation as a Trust Buster. Yet Harriman sponsored many good causes and in an age when such ideas were considered socialistic, started a medical care plan and pension system for employees and insisted on tougher safety standards.

At an early age, Harriman learned from his father the perquisites of power. When the intractable Rev. Endicott Peabody, Groton headmaster, would not excuse Harriman from the opening of school to continue on a family tour from Japan to China, father Harriman still managed to keep Averell with him several days longer. He merely rerouted a Pacific Mail liner, after persuading the Secretary of State, William Howard Taft, to sail home from the Philippines by way of Japan and Seattle, thereby cutting the journey to 10 days instead of the 17 normally required to cross the Pacific. Such clout, such security of being among the "right" people, and such wealth have always abided with Averell Harriman.

He followed into his father's railroad business, then into shipping and international banking before politics. A vital part of Harriman's success as a negotiator is that he has always been at ease with the great powers and important people. (An acquaintance once rather snidely said that Harriman was a Very Important People collector, a power snob who derived his own sense of importance from being the man to whom VIPs spoke.) As far back as 1926 he was VIP collecting. Harriman decided to go to Russia to settle a matter that involved his investment banking firm's getting a concession to exploit the manganese deposits in the Caucasus. So who did the 33-year-old Harriman talk to? Leon Trotsky. The beleaguered revolutionary listened courteously to Harriman's request but gave no answers. In his book, Harriman recounts, "His coldness may have been due to his difficult situation at that time. He behaved as if our conversation was being overheard and he was taking no chances that his talk with me would add to his trouble." Harriman decided to terminate his business with Russia, faring, in the long run, better than did Trotsky.

Through the years as a neighbor, he operated the same way. The Shah of Iran was an "old friend" who stayed at his Sun Valley cottage. In 1966, on one 22-day talking mission Harriman touched down in 12 capitals. He had met every one of those countries' leaders before, except Egypt's Gamal Abdel Nasser. In Warsaw, Communist Party boss Wladislaw Gomulka say him for "old time's sake." He had once been a Harriman house guest. Australia's Robert Menzies was a buddy from World War II. Yugoslavia's President Tito was grateful for the planes and tanks Harriman once helped negotiate for his country.

While such political leaders were admittedly one sort of "right people," Harriman, the New Dealer, was scorned by another tribe of "right people." He was ostracized by former Wall Street friends who would walk across the street to avoid a man with such "radical liberal" politics. One friend says today, "I think such a rebellion came more easily to him because his father was "new" New York. In comparison he was not all that patrician. Everything is relative. The Edith Whartons and company looked down on them."

His older sister, Mary, was an influence in developing Averell's social consciousness. In 1901, she founded the Junior League, to aid a New York settlement house. Well connected debutantes the country over were soon flocking to join the League. The group could hardly be controversial today, but at the turn of the century, Mary Harriman was signalling to the 400 that she was not going to live a trivial life. Mary and Averell split from the Republican party in 1924 when they voted for their friend, Al Smith. When Mary was appointed chairman of the Consumers Advisory Board of the National Recovery Administration and moved to Washington her roommate was Frances Perkins, first woman cabinet member. At Mary's urging, Harriman came to the NRA and by the mid '30s was the chief administrator for the entire country. When Mary died in 1934, after being thrown by a horse, Harriman continued his work in part to further what she would have wanted. In 1941 when the Lend Lease program was getting underway, Roosevelt sent Harriman to London to run the project. Churchill and Harriman soon became close and Churchill would introduce Harriman as Roosevelt's personal envoy, displaying him as a major indicator of American support. By May of 1941, Harriman, then "defense expeditor," was dispatching memos urging U.S. "direct participation." "Every day we delay—at least use of our Navy and Air Force—we are taking an extreme risk that either the war will be lost or the difficulty of winning it multiplied."

Harriman spent most weekends at Chequers, the Prime Minister's country estate. So close had they become that Churchill thought nothing one dawn of bursting into Harriman's bedroom—in a yellow sweater, short nightshirt, pink legs exposed—to shout that the famous British ship the *Hood* had been sunk. Harriman went with Churchill to Bristol, a city still smoldering from incendiary bombs. As their train pulled out of the station, Churchill and Harriman watched the crowds waving goodbye. Suddenly, tears were streaming down Churchill's face. "He picked up a newspaper to hide his face, 'They have such confidence,' he said to me. 'It is a grave responsibility'."

"Harriman marries interesting women," says one friend, who knew both Marie, his second wife, and Pamela—a stunning redhead with blue eyes and freckles. She was 51 when she married Harriman in 1971, after both Marie and Pamela's second husband, the producer Leland Hayward, had died.

That Harriman attracts, and is attracted to, warm and amusing women like Marie and Pamela is something of a mystery to those who see him as humorless and work-consumed. But Harriman is a man of contrasts—he can be both generous and frugal to the point of stinginess, thoughtful and insensitive, charming and rude, honest but so blindly loyal that he sometimes sees friends unrealistically.

His first marriage was in 1915, to the daughter of a New York banker. They had two daughters, Kathleen and Mary, before they divorced in 1929. Mary is married to a New York doctor, Shirley Fisk. She and Kathleen grew up living mostly with their mother. Kathleen, now Mrs. Stanley Mortimer, figures prominently in Harriman's book and says she only got to know him well during the war years when she was a journalist and often his traveling companion.

Shortly after his first divorce, Harriman wed Marie—who was divorced from Cornelius ("Sonny") Vanderbilt Whitney. Marie was an irreverent, funny sort who could swear with ease and poke fun at Harriman and get away with it.

Soon after their marriage, Marie opened an art gallery in Manhattan and the Harrimans moved after hours with famous artists and writers. The Harrimans had several homes and Arden House—the 75-room mountain-top estate in Harriman, N.Y. inherited from Harriman's father—functioned with great style in the thirties and until the war. There was bowling on the private lanes, the organ room was turned into a badminton court and Marie and Alexander Woolcott concocted a three-day party that became an annual Thanksgiving bash. George S. Kaufman and Moss Hart, the Heywood Brouns, the Herbert Swopes, the Robert Sherwoods, the Bennett Cerfs, the William Paleys, the Ernest Hemingways, Helen Hayes and Charles MacArthur, S. N. Behrman, Harold Ross, Ben Hecht, Neysa McMein all felt it a must.

When Marie died in September, 1970, friends were worried about Harriman, into his late seventies and alone, but his marriage to Pamela countered any possible geriatric downhill plunge. The daughter of a "quite wealthy" Englishman, Pamela Harriman has had 13 members of her family in the House of Commons. She married Winston Churchill's son, Randolph, when she was 19 and the war had just begun. "It was one of those wartime marriages. I don't think it would have lasted anyway."

Pamela says most stories told today about Winston Churchill are untrue. "All this business about Winston being drunk a great deal! In all the years I lived there, I never saw him drunk." There were World War II meetings behind closed doors; and messages filtering out about touchy personalities and unsettling moods. "My mother-in-law would get a message before lunch, 'Be careful and don't discuss the war,' and then there'd be General DeGaulle sitting there at lunch."

For all his soberness, Harriman was, and still is, a dashing figure. Pamela recalls Harriman as "very, very good looking," as does everyone from those days. The actress, Madeline Carroll, named him one of the 10 most handsome men in America. "He wasn't so young in a sense; he must have been 49 but he seemed so very young," says Pamela, who saw him frequently during that period. "Very dark, very good looking. He always looked very solemn." In fact, there were those who said Harriman looked like the man the undertaker sent around to make funeral arrangements. He drove himself so hard that he acquired ulcers, deep circles under his eyes and an ashen hue. George Kennan, who was Harriman's chargé d'affaires at the American Embassy in Moscow, recalled once, "When he's working he behaves as though his body were just something that trails around with him."

Pamela, meanwhile, was one of those upper class English women who organized clubs for servicemen. "To show you how time goes on, if we had a program with art people and someone couldn't make it, we would fill in with Kenneth Clark—a young man we felt was very good."

After the war, Pamela decided it was time to play. "Everything had been so serious." She got her divorce, put her son in boarding school in Switzerland and lived in Paris and the south of France. One of her closest friends was Kathleen "Kick" Kennedy, a sister of John Kennedy's, whose British officer husband was killed in the war. She was later killed in a plane crash. "I put Kick on the plane she crashed in. She was going for a holiday weekend to the south of France." After several years in Paris, collecting antiques and friends, Pamela married Leland Hayward in 1960 and quickly embraced the theater. "I liked it all. Politics and the theater are very much alike. They have such marvelous wins and awful, agonizing defeats." After Hayward's death in March 1971, Pamela and Harriman resumed their friendship. They married that fall and soon after, Pamela became an American citizen.

Their world is a well ordered one, with secretaries and servants and people to remind you that Saturday night's dinner is black tie. Harriman is a gracious host—that is, until someone offends him. When reporter Sally Quinn ignored his edict to join the women after dinner, he was angry to the point of shaking his finger at her and shouting "This is my house and in my house I make the rules—and in my house the ladies go upstairs!" She left the party.

Friends speak fondly of Harriman, offering the inconsistencies of his character as small virtues. Though he can afford the most expensive of tailors and valets, he often wears crumpled suits and allows his black socks to bag at the ankle, unconcerned with the "skin gap" between wrinkled socks and pants.

He often roams around the world with no money in his pockets—an indifference which has forced people who can't afford it to pay for his dinners. (He once was refused entrance to a showing that included a painting from his private collection at a Paris Museum because he didn't have the necessary change for the entrance fee.)

After several long, dry flights with a few regular reporters in the small planes that took him around New York when he was governor, Harriman once surprised the reporters with a bottle of scotch. However, Harriman was getting off in New York City while reporters were continuing on to Albany. As he got ready to leave, he motioned an aide to pick up the half-empty bottle of scotch and departed with it.

He can work his staff to great lengths, oblivious to the fact that they may have any other lives. Yet one aide recalls that on a transcontinental flight, Harriman was up in the middle of the night, tucking blankets around the sleeping members of that peace mission. Recently, when a young man admired his tie at a reception, Harriman took it off and gave it to him.

His loyalty to friends is intense. At the recent wedding of Edgar M. Bronfman, a New Yorker neighbor and father of the youth who had been released by kidnappers, helicopters filled with reporters hovered overhead. Harriman growled, "They really ought to be shot down."

One friend says that "His devotion to the Kennedys is extraordinary. I remember I once said something about Jack and he turned to me and said, ' I will not have that kind of talk under this roof,' and ordered me out. That was one time I saw a bit of humor. He looked around and said, as he realized we were not in his own home, 'Well, I guess this isn't my roof.' A few days later he was calling and very solicitously inviting me to dinner."

Harriman's loyalties have led him to diverse alliances, from Frank Sinatra who supported both him and Kennedy, to his Old Boy CIA ties. Last spring he said, "CIA information is by far the most reliable and objective source of information." And, he joined in toasting Richard Helms at a dinner at Joan and Tom Braden's home at a time when Nelson Rockefeller, the Bradens' close friend, was supposed to be investigating Helms-directed CIA activity.

After years of diplomatic negotiating, Harriman decided in 1952 that he would run for something. His first choice was the Presidency. "He believes you must win, and winning in politics is getting to be President," says Joe Rauh, who ran his primary in 1952, "but he was the world's worst speaker."

Harriman, the artful and blunt tactician and worldwide negotiator, was not a skilled politician. He ran and lost in 1952 and 1956 for the presidency. He likes to be called "Guv" for the only elected office he held—Governor of New York, 1955–58—but when he sought a second term in 1958, his political naivete gave the election to Nelson Rockefeller in what became known as the "Battle of the Millionaires."

Eloquent in small groups, he was poor in a public forum. "He wanted to be liked and one of the boys," says Bingham, who worked for him in Albany. "But in those days he was terribly stiff."

"His greatest advantage was that he succeeded Thomas E. Dewey, one of the most arrogant politicians who ever walked," says a reporter who covered Albany at that time. Harriman was then struggling with his one vanity, which sometimes led to confusing answers to questions he hadn't fully heard. All those World War II trips in non-pressurized planes left him quite deaf in one ear. John Kennedy in the '60s insisted that Harriman purchase a hearing aid before he would give him a job in his administration.

"People used to say he took a downhill job in the State Department," says his wife about the Kennedy appointment, "but anything he believes will help the country, he will take." When asked why JFK had given him a secondary position—assistant secretary of state and undersecretary of state for political affairs and ambassador at large—instead of making him Secretary of State, Harriman says, "I was supposed to be too old."

Nor had President Truman offered Harriman the expected job and that, say friends, was a major disappointment in Harriman's life. He will only say rather tersely, "Truman decided on Acheson in 1949. It was his decision."

In the long run, Averell Harriman fared well, becoming Truman's special assistant on foreign affairs in 1950 and later, in the Kennedy administration, answering only to the President, often as his top negotiator, which didn't sit well with Dean Rusk. Harriman represented Kennedy at the Geneva conference which brought about the neutralization of Laos. He played a major role in negotiating the first nuclear test ban treaty in 1963, which really marked the beginning of detente.

Harriman's style of negotiation—no-nonsense bluntness—earned him the nickname "The Crocodile." It takes someone with the prestige and history of Harriman to shout, as he once did to the late Sen. Richard Russell, who sounded off against giving military aid to India, "Senator, you just don't know what you are talking about!"

He also had shouting matches with Stalin—as well as drink-them-under-the-table vodka toasts—and Stalin respected him for it. Today, Harriman feels that Stalin was better informed than Roosevelt and more realistic than Churchill. "He was capable of being kind to me but he was utterly ruthless." Why was Stalin, the jovial toastmaster, also the century's greatest mass murderer? Harriman shrugs. "It is still totally ununderstandable."

Harriman talked with Brezhnev a year ago and feels they share a proper view of detente. "People read into 'detente' a situation that doesn't exist. They get 'detente' mixed up with 'rapprochement'. Detente means the relaxation of tensions between nations. My experience is that the Russians are suspicious as hell, but Brezhnev is absolutely committed to peace. It takes patience. If we let the Pentagon have its way, we'll have war."

In looking at foreign policy, Harriman says, "The most ghastly blunder we made was getting into Vietnam. We should have never let France go back into Indochina. I have a telegram on file in which I objected to our aid to France in Indochina in 1949. If it hadn't been for Vietnam Humphrey would have been President, we never would have had Watergate and Nixon, and we would not have had the recession."

Harriman, who often has total recall and an outstanding memory, has one major flaw, friends say, concerning the political past. "Like many people, he's a self-fooler. He's a champion self-fooler at times in his recollections of things," a friend says. "He recalls the Vietnam negotiations differently than it was, for example. He wasn't essentially all that critical of Johnson's position. He was trying to work within the framework. Only later did he develop a rationale to coincide with the outrage over Vietnam."

This, most assuredly, is not Harriman's version as he reflects on his years of service. "As I look back, what I regret most was that I wasn't able to influence Johnson to abandon the war in Vietnam. To see that war go on, to find him listening to people with such a completely wrong point of view. Every day there were those whispering in his ear, 'No president ever lost a war.' That was red meat for a Texan."

In his book, Harriman wrote of Churchill wistfully complaining that he never made much money. "Worldly goods have never come my way." Recalling that, Harriman says, "I think you'll find that people who are successful minimize their weaknesses." He laughed at Churchill's paraphrase of Samuel Johnson: "Only a fool writes for anything except money." Harriman did his book "out of a sense of obligation; to get my impressions and involvement recorded. So many revisionists have written such awful rot." As for the future, Harriman has not come out for a 1976 presidential candidate. "I think it'll go to the convention.

"The Democratic party ought to pay attention to what Wallace is saying that appeals to these people. As a group the lower middle class white and blue collar worker feels more and more endangered." He feels the federal government should eventually take over all welfare. "But things are improving, Roosevelt said there was a nation one-third ill-clothed, ill-housed and ill-fed. That's way down to 12 per cent. It shouldn't be there at all, of course, but it is."

Reflecting on the Republicans, Harriman says, "If Ford goes along being as sloppy about a program for recovery and inflation he'll not have an easy time. He spends too much time looking over his shoulder (at other Republican contenders). He should assume he's got the nomination and do the job."

As for any long looks at himself, Harriman, as usual, seems disinterested in gauging his own negative and positive attributes. "I don't want to psychoanalyze myself." He smiles, a trifle condescendingly. "The older you get the less concerned you are in that sort of thing."

He continues to care about the world around him and the future. And always there is hope. As one friend said, "I think there is still a part of Harriman that is saying, 'Well, the Democrats may pull it off in '76 and if that happens, there's always Secretary of State . . . and I'll only be 84. . . .'"

SENATOR WALLACE BENNETT SPEAKS TO PRAYER GROUP

Mr. HANSEN. Mr. President, all of us who have been privileged to be Members of this body for more than a short time recognize that the greatest reward is the friendships we establish here. One of the highlights for the Senate prayer breakfast group was to hear, last week, from our dear friend and former leader, Wallace Bennett.

Because he handles the subject so well, so comprehensively, and because his conclusions are so firmly rooted in the Christian ethic and commonsense, request for copies of his address continue to pour into my office. Believing that his message will be appreciated by all privileged to read it, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD as follows:

SENATE PRAYER BREAKFAST, DECEMBER 3, 1975

I am very grateful for the privilege of being with you this morning and of enjoying again the warm and sustaining spirit that marks these meetings. I am further honored by Cliff's invitation to be the leader for today, which gives me the opportunity to share with you a point-of-view on today's problems which has come more clearly into focus since I left the active arena of the Senate.

None of us needs to be reminded of the existence of serious problems both in our own country, and in the world. To me they seem to have become more numerous, more difficult, and farther from solution than they were a year ago. And they cover the waterfront. The economy is weak, our society is being torn apart with conflicting forces and demands, political partisanship has reached new heights of intemperance, peace is a chancy thing—both at home and abroad, crime is enjoying real double-digit growth, men everywhere are confused, frustrated, angry or apathetic. And you as Senators are supposed, by passing laws, to find solutions to all the nation's and the free world's ills. I think you are certainly entitled to say, as Hamlet did:

"The time is out of joint
Oh cursed spite.
That I was ever born to set it right."

I hope I may be forgiven for what I am about to say. It represents some conclusions I have reached after a year out of the Senate—spent two thousand miles from Washington. Frankly stated, it is that you, the Congress, and we, the whole Federal Government, cannot produce the needed solutions because whether we know it or not, we are a very large part of the problems. In fact, by mistakenly assuming that we possess any such power, we over-emphasize the political dimension of the socio-economic mix, and tend to completely ignore a much more important factor, the personal responsibility of the individual, both for the creation of these problems and the hope for their solutions.

The world's basic problems have not grown so much out of any failure of man-made institutions, as out of the spiritual failure of men themselves. They have their roots in the evils and weaknesses the Savior denounced—greed, selfishness, lust, lack of compassion, the worship of worldly goods, you name it. And no juggling or restructuring of agencies, procedures or penalties can wipe these out. In fact, by promising to do so, they actually lessen the prospect that men will search within themselves for the spiritual solutions. Faith in government is a sorry substitute for faith in God.

If I were to be asked to identify the dominant source of today's economic and social problems, I would say that it is not poverty, but exactly the opposite, our inability to maintain our spiritual strength and balance in the face of affluence. In searching for a basic beginning landmark, I turn back to the end of World War II, a point in time at which we stood at our unbelievable pinnacle of power—greater than any other nation in history—greatest in the world of that time. And this was true in every field, military strength, productive capacity, financial resources, international influence, comparative tranquility at home. I dare even include spiritual capacity because we were compassionate even to our enemies, and willing to help other peoples rebuild their lives out of the rubble of war.

But this condition clearly no longer exists. Of course, strength is relative, and never constant. But in contrast now we are beset internally by crime, by industrial strife, by partisan extremism, by lack of faith in ourselves, in each other, and in government.

Why?

I believe that the real reason is that as a nation we have succumbed to the temptations of affluence—which are not only very real—but spiritually debilitating.

The first and most damaging temptation is best represented by the Parable of the Rich man: (Luke 12:16–20)

And he spake a parable unto them, saying:

"The ground of a certain rich man brought forth plentifully, and he thought to himself, what shall I do because I have no room where to bestow my fruits. And he said, this will I do, I will pull down my barns and build greater—and these will I bestow all my fruits and my goods.

And I will say to my soul, soul thou hast much goods laid up for many years. Take thine ease, eat, drink and be merry." But God said unto him "Thou fool, this night shall thy soul be required of thee."

I know that the usual interpretation of God's requirement is that the Rich Man lost his life, but for my purposes today, I'd like to suggest a slightly different one, namely, that he lost, not his life, but his spiritual strength, his ability to make judgments based on spiritual values. He shifted his priorities from production to consumption, and from service to selfishness, from work to idleness.

And so have too many of us Americans.

The second temptation of affluence might be called the temptation of inflation—the search for unearned progress—something for nothing. It is a subtle deceiver. It produces the illusion of growth, progress, well being, without increasing the true value. Economists can argue learnedly about what causes it, but its real roots lie in human self-deceit. In practical terms, more pay for less work, expanded credit to buy things we do not need with money we have not earned, debt instead of equity investment, in Congress—the basic approach represented by the old wisecrack—vote for every appropriation bill and against every tax bill, which translates into the willingness to legislate social security benefits today—to be paid in increased taxes twenty years from now. "Having sown the wind, we are reaping the whirlwind." Or, if you prefer, "reaping where we have not sown."

From where I sit, one of the most dangerous aspects of this temptation is the growth of what has been called "consumerism," stated by altering the old saying to read—"It is more blessed to consume than to produce." If we accept that approach to life—from that point it is a short and easy step to the idea that consumption and production are in fact not only not necessarily part of the same economic process, but that consumption being pleasant, is good, and production, being laborious and tiresome, is bad. The next step is that the opportunity to consume is a right and does not involve the responsibility to produce, and that, in fact, those who do produce for a profit are somehow tainted with evil. As a nation we seem to have already reached that point, and have institutionalized that conception in our welfare system. In fact, we have gone so far down that road that Congress with all its wisdom cannot find a practical way to provide an incentive for able-bodied men and women on welfare to come back into the process of production—except perhaps for children who become a new generation of welfare recipients.

Looking from the safety of my retirement, I would say that a temptation which is very strong in Congress today—is the tendency—to find scapegoats instead of solutions, now that I am a professional constituent, I am particularly concerned about its presence in the process of finding solutions to the energy problem—but that's not the only area involved. You know the others better than I.

A fourth temptation of affluence is represented in the fact that in the face of the increasing complexity of our society, we have violated or abandoned the counsel given in James I:11–25:

"But be ye doers of the word, and not hearers only—deceiving your own selves.

For if any be a hearer of the word and not a doer, he is like a man beholding his natural face in a glass: For he beholdeth himself and goeth his way and straightway forgetteth what manner of man he was. But whoso looketh into the perfect law of liberty, and continueth therein, he being not a forgetful hearer, but a doer of the work, this man shall be blessed in his deed."

To too many Americans, life and government—yes, and the church—have become spectator sports. We can get your opinions over-simplified and neatly time-capsuled from professional pundits every night over the tube. We can crowd our responsibilities of citizenship into a few hours every two years—and less than half of us do that much. And for church—we can dial-a-prayer. This business of being a hearer and not a doer translated into one word, "apathy," is a serious spiritual disease, particularly in a country where sovereignty rests on us as individual citizens—a majority of whom seem to have the disease in a debilitating form.

The fifth temptation of affluence I want to identify, and one which in many respects is the most serious, is in some aspects an extension of the fourth. There is a great and growing tendency among us to think we can avoid the obvious evil of complete passivity and "don't-get-involved" by creating man-made institutions and loading our problems onto them. In our complex society such institutions have a place. In theory they are representatives, just like the Federal Government. In practice, just like the Federal Government, they soon take on an independent existence of their own, with leaders who have interests to protect and who enjoy the multiplied power that has come into their hands. Often, in the process, the sights and goals of the individual members are either lost or subtly translated and submerged into the personal goals of the leadership. To me, the international labor unions are the prime examples of this. I shall never forget an experience I had in the early 30's at the beginning at the depression. Facing the drop in income of our small family business, my Father and I decided that we would not lay anyone off, but would divide all the company's income, plus part of its surplus, among the employees. That meant equal wage reductions for everybody. We had a few employees belonging to the Glaziers Union and when this was reported to their walking delegate, he came storming into my office with a demand. The Union would not stand for our plan, he said. If the business would not support the men lay them off. Lay them all off, if necessary, but do not break the scale!"

Needless to say, the men chose to stay with us—which meant that they left the union. This created problems for them and for us when the depression ended. But that is another story. The lesson was that to the union their rules were more important than the welfare of the men they were supposed to serve.

I think it is safe to say that today there are one or more organizations—mostly national—representing every facet of every identifiable activity and interest in the country—educational, commercial, industrial, political, professional, ad infinitum. And one of the chief reasons for the emergencies of these thousands of man-made institutions is that they claim to be able to represent the interests of their members to the ultimate and most powerful institution of all, of which you and I are a part, the Federal Government.

Institutions have no spiritual capacity—only men do. Institutions are like computer operated robots, programed for certain express, and therefore limited, goals. But they, both private and government, provide ideal places in which to deposit human problems that are difficult, inconvenient or unpleasant. And, as a corollary of this trend, once in the hands of institutions these problems tend to be shifted from local to state and from state to national levels, and this shift seems irreversible. Care of the aged is the perfect example. When you and I were young, the wage-earners in the family took care of the non-producers, aged as well as children. When they could not, the county or church took over. Now the economic responsibility for the care of the aged and indigent has largely been assumed by the Federal Government and the same process has begun for medical services to all citizens. We have also moved significantly into the field of home ownership and consumer credit.

Please do not assume that I believe that the growth of institutionalism is all bad. In a society as big and complex as ours it was inevitable. But it begins to become bad when it gets beyond the control of its members, and like Dr. Frankenstein's creation—has a life of its own. A current example that disturbs me is the changing status of the National Educational Association. Once a professional organization, it is becoming a labor union. I know this because we have had our teacher strikes in Utah—as you may have had them in your States. Once dedicated to improving the capabilities of its members, it has entered the political arena and intends to campaign openly for those candidates for Congress who agree in advance to support it, not in its professional goals, but in its economic demands.

There are two institutions that have lost ground in these changing patterns. Both are divinely based, rather than man-made, and any hope we may have of raising the level of spiritual strength of America still rests with these as it has always done. They are the family and the church. And these can only be strengthened by individuals operating from within them, or by mutually reinforcing each other. Moreover only these have the mission, and the capacity, to build and protect the spiritual strength of the individual, and enable him to repent and raise above temptation, including the temptations of affluence to which I have referred. Believe me, this is not going to be easy. Too many young people rebelling against all man-made institutions lumped together as "The Establishment," have rejected family and the church as well, without realizing that these are different. Too many zealots in the name of freedom, or anti-discrimination, are even rejecting marriage the basis of the family.

I say "too many" because one is too many. But I am not discouraged. The vast majority have not rejected these divine institutions. The seeds of spiritual growth and maturity are still alive in them needing only to be recognized and nourished.

Christ said: "Render unto Caesar the things that are Caesar's, and unto God the things that are God's." In today's America we need to learn again which things are which—and which have the greatest priority. You as members of the Senate are a part of the force and function that may be described as "Caesar," and in this sense your official realm is of the material world. God's realm is of the powers of individual human spirit—which must always underlie our American version of the world of Caesar, if it is to survive in its present form. One of the reasons for today's problems is that many people, including some in Congress, can't make the distinction, and have tried to render unto Caesar things which in fact are God's. This makes it all the more important that you, as Senators, know the difference and the priorities.

Let me close now, as I have done before in this group, with a quotation from the Book of Mormon:

"Behold this is a choice land and whatsoever nation shall possess it shall be free from bondage and from captivity, and from all other nations under heaven if they will but serve the God of the land—who is Jesus Christ."

I have full faith that it will be so.

"ANCHORS" FOR OUR SOCIETY

Mr. MATHIAS. Mr. President, the Most Reverend Donald Coggan, Archbishop of Canterbury, recently held a press conference at Lambeth Place in which he made some comments on the current state of affairs in Great Britain. It occurred to me that the value of the archbishop's observations is not confined by any national boundaries and that what he has said can be helpful on our side of the Atlantic.

I ask unanimous consent that an excerpt of the archibishop's remarks published in the New York Times on December 7, 1975, be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

AN OFFERING OF "ANCHORS" TO THE BRITISH

(By Donald Coggan)

LONDON.—We in Britain are without anchors. We are drifting. A common enemy in two world wars drew us together in united action—and we defeated him. Another enemy is at the gates today, and we keep silence. We are afraid to speak out: It is time we spoke plainly.

A friend of mine put it this way: "We are like children in a class room when the teacher is not there. We fight each other for the cream buns and we kick and scream when we do not get what we want. We see the big and strong children getting what they want and the weak ones helpless to look after themselves. The strong struggle to keep their power and the weak suffer. Nothing gets done in the classroom, and what is more no one feels happy about it."

Part of our trouble today is that we think the individual is powerless. That is a lie. He is not powerless.

EACH MAN AND WOMAN MATTERS

Each man and woman counts. Your vote counts. Your voice counts. You count. Each man and woman is needed if the drift toward chaos is to stop. Your country needs you.

THE FAMILY MATTERS

Give us strong, happy, disciplined families, and we shall be well on the way to a strong nation. The best way to cut at the roots of a healthy society is to undermine the family. So many young people who get into trouble with the law come from broken homes. The family matters, and it's worth working hard to build it, protect it and provide for it.

GOOD WORK MATTERS

"A good day's work for a fair day's pay" isn't a bad motto for workers and for management. But pay isn't everything. "Each for himself and the devil take the hindmost" makes for chaos. Guzzling doesn't satisfy. Grabbing and getting is a poor creed. Envy is a cancer. Sacrifice is an unpopular word; discipline even more so. But without sacrifice, without discipline, and without a sense of responsiiblity at the heart of our society, we're likely to perish. A bit of hardship hurts none of us. Can you deny it? We're growing soft!

THE OTHER FELLOW MATTERS

I believe the only creed that makes sense is:

God first.
Others next.
Self last.

ATTITUDES MATTER

Of course we need money. We must think about money, but if we think about nothing else except money—and we are getting dangerously near that sorry state today—the standards of our life will decline, yes, even in the material sphere! Stark materialism does not work. It does not deliver the goods. We must adopt a different attitude to money, and to materials and to machines. They are useful servants but they are degrading masters. It is the kind of people who handle them that matters and what their attitudes to life are. So stop making money the priority.

I am not offering a detailed plan or any kind of blue-print as a way out of her troubles for Britain. There are no easy answers to our problems. I do not pretend to know all the answers. But this is the point I want to make: Unless there is a concerted effort to lift our whole national debate up into the moral sphere, not being afraid to ask individuals as well as the community what is right and what is wrong, we shall never find the answers. I am concerned for the spirit which is abroad in the country, because our national problems will not be solved unless we improve it.

I also want to encourage the enormous number of good people in Britain. They want a better country. They are saddened by the low level to which we have fallen. But they have no spokesman. It is the extremists who tend to receive the publicity, and often they win the round. What I am attempting is to strengthen this group of responsible people.

And here is a third aim: I want to see opening up all over Britain groups of men and women, of all denominations and of none, who will sit down and face these two questions:

"What sort of society do we want?" and "What sort of people do we need to be in order to achieve it?" At first sight these questions seem extremely simple. But set them side by side and they imply something which to our great loss we have largely forgotten in our nation today—which is, that the sort of people we are makes the society we get. Put another way, it means that we cannot leave out the moral factor and succeed in the long run.

RUSSIAN ARMS FLOW TO ANGOLA CAUSES CONCERN

Mr. CASE. Mr. President, in view of the disturbing reports that the Soviet Union is escalating the fighting in Angola by shipping in relatively large amounts of equipment, I have sent Secretary of State Henry Kissinger a letter urging him to discuss the issue during his Moscow trip.

I ask unanimous consent that the letter be printed in the RECORD along with some recent press reports on the Angolan conflict.

There being no objection, the letter and press reports were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., December 8, 1975.

Hon. HENRY A. KISSINGER,
Secretary, Department of State,
Washington, D.C.

DEAR MR. SECRETARY: I appreciate the importance of your forthcoming talks in Moscow on the SALT issue and wish you well. At the same time, I hope you have the chance to discuss the disturbing conventional arms race in such sensitive areas as the Middle East and Angola.

In particular, I hope you will take the opportunity to do your utmost to urge Russian officials to halt the flow of weapons to Angola.

It would be best if all outside powers stay out of the Angolan conflict and terminate whatever assistance they may have been giving to the various factions.

However, the Russians should realize that it will be difficult to persuade other nations to stay out of the situation as long as the Soviet Union is playing such a major role.

I am deeply concerned by the widespread reports that the Russians have shipped rockets, armored cars, light tanks and perhaps even MIG jet fighter planes to Africa to support one of the Angolan factions, the Popular Front for the Liberation of Angola. Additionally, several thousand Cubans are reported to have entered Angola to help operate the equipment.

The shipments appear to represent a major escalation of involvement in Angola by an outside power.

They also raise serious questions about Moscow's willingness to abide by the nonintervention principles of the Helsinki agreement and apply the spirit of detente. A major objective for the Soviet Union in entering the essentially tribal-based conflict may be the possibility of air and sea bases on the South Atlantic.

As long as the Soviets seem to think the U.S.-Soviet detente does not inhibit them from adventurism in regional conflicts, such as in the Mideast and Africa, the Russians should be reminded of the growing Congressional skepticism about detente and the recent U.S.-Russian grain deal and other efforts to obtain economic benefits from the U.S. For example, the Senate Foreign Relations Committee or its Subcommittee on Multinational Corporations, is expected to hold hearings next year on the Russian grain deal. The recent press reports that the Russians were backing down on the part of the agreement relating to shipping costs raise additional questions about the negotiations.

As you may know, I recently urged the Administration to submit the grain agreement to Congress for scrutiny as a treaty.

Sincerely,

CLIFFORD P. CASE,
U.S. Senator.

[From the New York Times, Dec. 8, 1975]

CUBANS WITH SOVIET ARMS SAID TO TURN ANGOLA TIDE—U.S. IS CONCERNED

(By David Binder)

WASHINGTON, December 7.—A Cuban expeditionary force equipped with Soviet armored vehicles and rocket launchers is turning the tide of civil war in favor of the Popular Movement for the Liberation of Angola, according to American officials.

The officials, who are assigned to watching developments in Angola, made this estimate on the basis of information reaching here through intelligence channels as well as from friendly governments.

They said Cuban infantry and artillery units had spearheaded columns of the Popular Movement in their advance north of Luanda, the old Portuguese colonial capital, against the National Front for the Liberation of Angola.

The National Front has set up a coalition government in Huambo—formerly Nova Lisboa—with the National Union for the Total Independence of Angola, known as Unita, and the National Front have been fighting the Soviet-armed and Cuban-aided troops of the Popular Movement, which has proclaimed itself sovereign and has its capital in Luanda.

The Popular Movement has pushed more than 50 miles up the coast during the last 10 days, the American officials said, capturing the town of Caxito and moving toward the Atlantic port of Ambriz.

Cuban infantry and artillery units, the American officials said, have been responsible for advances in the south-central battle area where they are contesting for control of the 896-mile Benguela railroad, which links the countries of Zaire and Zambia to the large Angolan harbor of Lobito.

CUBANS PUT AT 3,100

In that area, the Popular Movement's forces, stiffened by the Cubans, have been fighting sizable numbers of men of the National Union, who are said hereto be supplemented by soldiers from South Africa. The Cubans and the Popular Movement are said to have taken the town of Cangumbe, which is on the rail line.

[Correspondents in Angola, however, say they have seen no evidence that South African soldiers are actually fighting there, though the South African Government has admitted giving training and logistical support.]

"The Cubans are involved everywhere," an American official observed. A Latin-American official who has just arrived here from Havana said today that Cuban officials had told him that 3,100 soldiers were now serving in Angola. He said Cuban soldiers had also been south of Luanda in a third battle region, centered around the rich agricultural belt between Gabela and Quibala.

This region, about 120 miles south of Luanda, is where Unita's forces advanced in the first half of November, driving back the Popular Movement. The American officials said the National Union and the South Africans still hold the Atlantic port of Novo Redondo, but apparently have fallen back from Porto Amboi, farther up the coast.

At the moment the coalition's forces still hold about three-quarters of the 1,000-mile coast of Angola. The American officials said however, that they were skeptical about the coalition's ability to keep control of areas it now holds.

"There are indications that the Cubans are turning the tide or will turn the tide," one official said.

"It could still reach a stalemate," another said, "but the M.P.L.A. has been making all the military gains lately."

Both officials said there was clear evidence that the Soviet Union was continuing large-scale shipments of military supplies directly to Luanda by sea and by air.

The last big Soviet airlift to Luanda occurred last Monday, the officials here said, when several huge AN–22 transports came in.

DISPUTE OVER NUMBERS

There is still a dispute within the Ford Administration on the size of the various Angolan forces. Some officials, drawing on Portuguese intelligence estimates, believe the Popular Movement has as many as 30,000 soldiers, while others believe there are only 10,000. Similarly, Portuguese intelligence rates the National Front at more than 20,000 men, while other sources believe the number is closer to 10,000.

Finally, the Portuguese estimate of the National Union's military strength is about 4,000 troops, while some American officials put it closer to 6,000. The Americans also believe about 1,000 troops from Zaire are involved in Angolan battle areas, and about 1,000 South Africans.

KISSINGER EXPRESSES CONCERN

TOKYO, December 7.—The position of Secretary of State Henry A. Kissinger that Soviet action in Angola is sure to have a bad effect on United States relations with the Russians—was reiterated today to reporters traveling with the Secretary to Japan.

Mr. Kissinger, who had been accompanying President Ford on his Asian tour left the Presidential party in Manila to come here and brief Japanese leaders here on the meetings in Peking.

On the flight to Tokyo, reporters aboard Mr. Kissinger's plane were told that in July, American efforts prevented a take-over of the West African territory by forces armed by Moscow and aided by Cuban troops. Angola became independent on Nov. 11.

But now, Mr. Kissinger said, the situation has worsened in Angola, and will have an effect on American-Russian efforts to achieve a new agreement in limitation of strategic arms.

[From the New York Times, Dec. 8, 1975]

CUBANS WITH SOVIET ARMS SAID TO TURN ANGOLA TIDE—LUANDA'S ARMIES GAIN

(By Michael T. Kaufman)

HUAMBO, ANGOLA, December 4.—As seen from here, the Popular Movement for the Liberation of Angola, aided by vast quantities of Soviet arms and by Cuban fighting men, has made sharp military advances on three fronts in recent days.

Huambo, in south-central Angola, is the capital of a government in opposition to the Popular Movement's regime that is based at Luanda, in the north. Here in Huambo, military strategists acknowledged that their troops were losing ground rapidly under a continuing barrage of missile fire from the Popular Movement's forces.

"This is a war of men against weapons—we have the men and they have the weapons," said Holden Roberto, the president of the National Front for the Liberation of Angola. On Nov. 27 his group joined in a coalition government in this area with the National Union for the total Liberation of Angola.

The armies of these two factions continue to fight the Popular Movement's forces inspite of the fact that they have nothing to match the Soviet-supplied tanks and rockets of the other side.

Huambo was called Nova Lisboa until Portugal relinquished control of Angola last month.

Two weeks ago the National Front and the National Union together controlled close to 80 percent of Angola's huge territory, with the Popular Movement's forces holding only a corridor stretching east from Luanda.

In the days just before Nov. 11 when the Portuguese officially departed from this, their last African colony, National Front forces, moving behind a motorized column with many white soldiers, swept north from the southern port city of Mossamedes to take firm control of the port cities of Benguela and Lobito. They still control some 80 percent of the country's 1,000-mile West African coast.

A BREAKTHROUGH CONCEDED

But with independence, Soviet arms began pouring into the harbor at Luanda. Some 3,000 Cuban soldiers had arrived some time before; in the last weeks the weapons and the Cubans have turned the tide.

For months, the Popular Movement was bottled up on a floating front 35 miles north of Luanda around the junction town of Caxito. Now National Front leaders, whose forces controlled that northwestern area, say gloomily that their enemies have broken through.

Popular movement forces have also taken Caxito, northeast of Luanda, and are threatening the national front stronghold of Ambriz, still farther north. Long-range missiles were reportedly fired into Ambriz, forcing an evacuation of the civilian population to Zaire, over Angola's northern border.

On the south-central front, the Popular Movement's forces have taken the town of Luso, a critical railroad terminus that was destroyed in earlier fighting between the forces of the National Front and the National Union before they entered into their marriage of necessity. From Luso, the Popular Movement has taken Cangumbe, a town 80 miles west along the railroad.

RAILROAD IS CRITICAL

This is a particularly serious blow to the coalition, since its forces control the Benguela railroad from the coast to Silva Porto, 100 miles east of Huambo. The coalition leaders had hoped to open the entire road and resume shipments of copper to Angola's Atlantic ports from Zaire and Zambia. While the Popular Movement controls the banks in Luanda, the old Portuguese colonial capital, and receives concessions from oil and diamond companies, the coalition here is strapped for revenue. It was counting heavily on railroad-transportation fees.

The third front, just north of here, is now reported to be along the Cuvo River, near the towns of Cela and Ebo. Three weeks ago the motorized column, led by whites, some of whom are believed to be South Africans, had moved northward from here and was threatening Dondo, about 200 miles north of Huambo; at Dondo there is a hydroelectric plant that supplies Luanda's power.

Now it is reported that Cuban infantry and missile technicians, backed by some of the 3,000 soldiers from Zaire who are fighting along with the Popular Movement's men, repulsed that advance and pushed south more than 100 miles, taking the towns of Gabela and Quibala.

On all three fronts, the Popular Movement reportedly relies primarily on 122-mm. Soviet rockets, nicknamed "Mona Caxitos," after the town where they were first used here.

A PORTUGUESE IN THE FIGHT

Carlos Ferreira, a 29-year-old Portuguese who commands a National Front unit, returned the other day from the front at Cela and described the battle.

"The Cubans placed armored cars on high ground and from the back of the trucks they fire the rockets, 24 at a time," he said. "The things have a range of eight miles and they fire hundreds of them." He is a former Portuguese soldier who says he is fighting without pay because he is "against Communism."

Just how many men the various factions have under arms is difficult to pin down. The Popular Movement says it has 30,000 Angolan fighters, though independent intelligence sources believe a third of that would be more accurate. These sources say, however, that the Popular Movement does have some 3,000 Cubans, 3,000 well-trained Zairians and smaller numbers of soldiers from Mozambique and Congo.

The National Union says it has 40,000 men; again, the independent intelligence sources believe there are probably not more than 5,000. Many of these seen here are boys in their teens. The National Front, the sources say, has about 10,000 Angolans under arms.

There are also numbers of whites fighting in the National Front and National Union forces, most of them Portuguese. They are either native-born Angolans, or, like Captain Ferreira, men who came from Mozambique where they sought to overthrow the leftist Frelimo Government last year.

There are also some Belgian and French soldiers, and some pale-blond men who are described as Norwegians. When these men speak, these Norwegians seem to have South African accents.

[From The Washington Post, Dec. 6, 1975]

Soviet Rockets Shifting Angola War Balance

(By David B. Ottaway)

KINSHASA, ZAIRE, December 5—The Western-backed National Front for the Liberation of Angola, has begun to evacuate its headquarters at Ambriz, 70 miles north of the Angolan capital of Luanda, under mounting military pressure from the Soviet-backed Popular Movement for the Liberation of Angola.

Both Western diplomatic sources and a National Front spokesman today confirmed that a partial evacuation of the coastal town, including civilians, heavy artillery and the political office there, is in full swing.

The spokesman added, however, "We are not going to abandon Ambriz. We are going to fight."

Ambriz has served as both the main military and political headquarters of the National Front since it was driven out of Luanda in July. Its fall would constitute both a major psychological and military victory for the Popular Movement.

It now appears that the entire National Front army immediately to the north of Luanda is being routed by the Popular Movement's superior firepower.

Front forces there have been steadily retreating for the past two weeks under a deadly barrage of 122-mm. rockets supplied to the Popular Movement by the Soviet Union and reportedly being manned by Cubans.

The Popular Movement has been receiving massive deliveries of arms by boat and plane from Cuba and the Soviet Union, including a Soviet convoy of 12 ships that arrived in Luanda last week.

National Front sources say their forces are now at a serious military disadvantage because they have nothing comparable to the long-range Soviet 122-mm. rocket.

They said the Front is seeking equivalent ground-to-ground missiles and long-range artillery from friendly Western nations, including the United States.

(South Africa is sending reinforcements across the border between Namibia (Southwest Africa) and southern Angola to protect the $300 million Cunene River hydroelectric and irrigation project from attack by Angolans, news agencies reported.

(The South African troops reportedly control the area around the project and apparently are cooperating with local contingents of the National Front.)

"The situation in Angola," said the Kinshasa newspaper Salongo today, "was already a matter of serious concern after the intrduction of the Mwana-Caxito (the 122-mm. rockets nicknamed "Son of Caxito"), Cubans and Soviets into the fighting.

"Now it is bordering on catastrophe," the newspaper added.

The partial evacuation of Ambriz follows the capture by the Popular Movement of Caxito, Barra Do Dande and several other towns closer to the Angolan capital that were in the hands of the National Front.

Diplomatic sources here said the National Front's initial fallback defense lines along the Lifune River had also been reached and that its troops risked being trapped in Ambriz if they were not immediately evacuated. Ambriz is considered extremely vulnerable because it is located on a peninsula and could easily be cut off from the mainland.

One report put the Popular Movement's advancing column about 30 miles south of Ambriz as of two days ago, but the precise military situation today was not known here.

National Front sources said their heavy guns, including several 130mm. howitzers, had been pulled out of Ambriz to prevent their capture in any surprise attack from the sea by the Popular Movement. Without those guns it would appear to be much more difficult to defend the town against the Soviet 122-mm. missiles.

A new military and political headquarters for the National Front will probably be established at Ambrizete, about 50 miles north of Ambriz and also on the coast but easier to defend, according to diplomatic and National Front sources.

It is not known whether the Popular Movement plans to continue its push into National Front territory beyond Ambriz.

The northernmost districts of Angola are regarded as a National Front stronghold and are the heartland of the Bakango people who are its main supporters. The further the Popular Movement penetrates into the north, the more hostile the population is likely to become.

Some Angolan war analysts here expect the Popular Movement to concentrate its attention instead on the southern and eastern fronts, where its troops are under considerable pressure from the white mercenary-led and South African-supported allied forces of the National Front and the National Union for the Total Independence of Angola (UNITA).

Reports of the fighting on these two fronts have become extremely rare in the past few days.

A UNITA spokesman described the situation on the southern front about 250 miles from Luanda as "stable" with apparently no major offensive by either side recently.

(The Organization of African Unity said today that 29 member states had now officially joined the call for a meeting of heads of state to consider the situation in Angola, Reuters reported from Addis Ababa, Ethiopia, This is two short of the 31 necessary for the meeting to be convened.

(In Dar Es Salaam, Tanzania announced that it has recognized the government of the Popular Movement.)

[From the New Republic Magazine, Dec. 6, 1975]

A Russian Satellite in Africa? Angola up for Grabs

(By Tad Szulc)

It is quite possible that by the end of this year Angola—until last November 11 a wealthy and strategic Portuguese colony—will become the first full-fledged Soviet satellite in Africa. That would substantially advance Moscow's worldwide influence at the expense of both the US and China.

The alternative, it appears, is a protracted, savage civil war certain to involve most of the big powers and quite a few of the lesser ones—ranging from South Africa and Zaire to Cuba and Mozambique. The civil war is already underway, and it is being rapidly internationalized.

Last week, in fact, Secretary of State Kissinger warned the Soviet Union that its involvement threatened détente; he also told Cuba, whose forces are engaged in combat in Angola, that their involvement may kill all chances for improved relations between Washington and Havana. For the US, the urgent question is whether to tolerate the emergence of a Soviet-controlled Angolan state or to allow ourselves to be dragged into active participation in this latest African civil war. US involvement is now limited. Angola is probably the most dangerous African conflict since World War II. It has extraordinary international ramifications and all the potential overtones of a new Vietnam, especially if the West decides to go for broke against the Soviet Union over Angola. The American decision must be made rather quickly if the US chooses to play a meaningful role in the Angolan situation and to back the anti-Soviet side all the way. (Congress, however, may well block major American involvement; legislation has been proposed denying military aid to any of the Angolan factions.)

A "People's Republic of Angola" was proclaimed in Luanda, the capital, on November 11 by the Soviet-supported Popular Movement for the Liberation of Angola (MPLA) as the last Portuguese forces were leaving the colony. Simultaneously, the two rival nationalist movements—the National Front for the liberation of Angola (NFLA) and the National Union for the Total Independence of Angola (UNITA) together established a "People's Democratic Republic of Angola" in the city of Huambo (previously known as Nova Lisboa) several hundred miles southeast of Luanda. For the time being, FNLA and UNITA have merged their armies in the war against the MPLA.

The MPLA enjoys extravagant Soviet and Cuban support in equipment and military advice and leadership. There are at least 3000 Cuban specialists and combat troops supporting the MPLA's operations, and in late November more Cubans were being flown in. Soviet advisers are on the ground though probably not involved in combat; there is no confirmation that any Soviet personnel have been captured.

The FNLA's principal sponsors are China, the US and Zaire.

UNITA is Washington's favorite instrument and it is backed by South Africa which, late in October, organized a force of UNITA troops led by white South African, British, French, Portugese and other mercenary officers. A South African regular army mechanized battalion also reportedly entered Angola in mid-November and may already be engaged in combat. Just as the Soviets are providing light armor and tanks to the MPLA, the South Africans have equipped the mercenary-led column with armored personnel carriers and other modern weapons. The FNLA and UNITA also have American and Chinese arms. There are no clear indications that US advisers are active with the FNLA-UNITA detachments (except for Central Intelligence Agency operatives), but there are reliable reports that American transport planes are delivering military equipment at the Kinshasa airport to be flown aboard Zaire aircraft to landing and drop zones in Angola controlled by the FNLA and UNITA. South African C-130s (from the US) also fly equipment.

China's aid to the FNLA is on a much smaller scale than Soviet help to the MPLA. Late in November, in fact, the Chinese seemed to be reassessing their activities in Angola.

Angola is, in effect, divided in three main sections held by the rival movements. The MPLA is in command of Angola's central section, running from the Atlantic to the Zaire border in the east. It has Luanda. The FNLA and some UNITA forces cover most of northern Angola; some of their best units are stalled some 30 miles north of Luanda after their failure to take the MPLA capital in the days preceding independence. The south is in the hands of UNITA and its FNLA allies. During the first weeks of November, this force—led by the South African mercenary column—was able to capture all the Angolan ports south of Luanda, and it was attempting to move further north. Having taken Benguela and Lobito, the anti-Soviet movements completely controlled the crucial Benguela Railway over which copper from Zaire and Zambia is transported to the port of Lobito for export.

At first glance, then, it might seem that the MPLA is trapped in the Luanda enclave and in what remains of the central zone of Angola. Likewise the MPLA holds Cabinda, the oil-rich sliver of territory between Congo-Brazzaville and Zaire. Although Cabinda belonged to Portugal, it was separated from Angola by the Congo River and a slice of Zaire Territory. In Cabinda, a major prize in the African war, the MPLA is supported by the well-trained former gendarmes from Katanga, the secession-minded Zaire province.

Western intelligence sources, however, tend to think that the situation may soon become reversed in favor of the MPLA because of the volume and quality of Soviet and Cuban military assistance flowing to the Luanda regime since the beginning of November. The Soviets have been backing the MPLA all along, but the scope of this aid grew substantially in recent weeks. The pessimistic judgment in the Washington intelligence community is that, as matters now stand, the MPLA may defeat its rivals because of the superiority it is developing, thanks to Soviet and Cuban support.

The forthcoming test, according to US intelligence, will be between the Cubans and the mercenary-led anti-Soviet forces. If the Cubans prevail, the MPLA may well be the winner. If they fail, the prospect is for extended warfare.

It was the Soviet-Cuban help that made it possible for the MPLA to resist the pre-independence offensive by the FNLA north of Luanda; now, my sources say, Cuban-led and Soviet-equipped MPLA troops are in an excellent position to knock out the FNLA/UNITA army despite the presence of the white mercenaries on the latter side. This may be true even if Zaire's President Mobutu orders his own troops and planes to become directly involved in the conflict. Mobutu, however, faces insurrectional dangers at home; those problems might restrain his involvement in Angola.

South Africa's apparent decision to commit covertly its regular troops in Angola may have been a response to the arrival of the Cubans.

Angola's future is hard to predict but, short of a major Western intervention—at least a full scale South African involvement—the likelihood is that before long the MPLA will hold sway over much of the country. Once the MPLA has consolidated its power, however, the chances are that the FNLA and UNITA will seek—with Western help—to reorganize themselves as guerrilla forces fighting the Luanda regime. In its current stage, the Angola battle is for the most part a conventional war—a war that will escalate in coming weeks if Zaire puts its Mirages into the fray and Cuban pilots take to the air in the MiG-21s now being delivered in Luanda.

While Washington does not appear to have decided whether to become fully involved in Angola to block a MPLA victory, there is no question that the US, China, South Africa and Zaire will go on providing some degree of backing to their Angolan clients. This is, to be sure, a peculiar alliance—and an informal one—but in this case it is unified in the objective of thwarting the Soviet Union in Africa.

A perplexing question is why Moscow has decided to risk a possible confrontation with the West in Angola through its open and large scale involvement there. Evidently a high-level policy decision was made jointly by the Russians and the Cubans to shift from a backdoor support of "liberation movements" to the launching of a conventional war. Moscow, in fact, has gone even further in Angola than in Vietnam to internationalize a civil war. Hanoi had received a certain amount of Soviet technical advice and military equipment, but Moscow played no direct military-political role in Vietnam. Likewise no foreign troops fought on the side of the North Vietnamese.

It appears in Washington that Angola was irresistible to the Soviets, even if to go in were to risk ending détente with the US. While Moscow has influence in such African countries as Somalia, it has never had outright control of any state in Africa. The prospect of such control motivates the Russians to bolster the MPLA regime.

There are numerous reasons for this Soviet interest. Quite aside from its wealth—oil, diamonds, sugar and coffee—Angola is strategically located on Africa's west coast. Control would give Moscow a military presence on the South Atlantic. The Soviets have a foothold in Cuba in the Caribbean and a foothold in Somalia right below the entrance to the Persian Gulf. Bases in Angola, if they were to be obtained, would be crucial in supporting the Soviet fleet both in the South Atlantic and the Indian Ocean, thus facilitating operations along the oil tanker routes around Cape Horn. Politically an Angolan presence would go far to reduce the influence China has been trying to develop in such African nations as Tanzania.

If the MPLA reconquers Lobito and south-central Angola, the Soviets may have a major say in the operations of the Benguela Railway, possibly placing Zaire and Zambia at their mercy in terms of copper exports. Finally a Soviet-controlled state in Angola would add to the pressures on the white regimes in Rhodesia and South Africa. Mozambique, another new radical nation that has emerged from the collapse of Portuguese colonialism, is outflanking the Rhodesians and the South Africans from the east. Thus far Mozambique, where the Chinese influence is strong, has been relatively restrained in its dealings with the racist governments. To upstage the Chinese, however, the Russians might wish to turn Angola into an operational base against Rhodesia and South Africa.

In brief, then, Moscow has obviously decided that the risk is worth the prize. Evidently Prime Minister Fidel Castro felt impelled to demonstrate his loyalty to Moscow through the dispatch of his forces to Africa, not a natural area of Cuban interest.

The next question is what, if any, major response will come from the West, particularly from the U.S. Large scale involvement would make Angola, where tens of thousands have already died in the fratricidal war, the scene of what the London Economist has called a "proxy war" between the East and the West. If the U.S. refrains from involvement, the outlook is for an indefinite cycle of guerrilla wars. In any event the West's—and China's—interest in weakening the Russians in Angola is not likely to vanish.

There is one more unknown in the Angola equation. That is whether the MPLA leadership, notably its president, Dr. Agostinho Neto, wishes to see Angola turned into a Soviet satellite. Dr. Neto is a radical nationalist, but there is no proof that he is a Communist. It is possible that Dr. Neto—and even his military commander, Nito Alves (now interior minister in the new Luanda regime)—may resent or reject Soviet control. His problems are complicated by the Cuban military whose continued presence in Angola may prevent any efforts by Dr. Neto to free himself of excessive Soviet influence.

Moscow has contrived to create a new area of dangerous tension in Africa with wide implications for international relations. It is up to the U.S. to judge whether this represents further damage to the increasingly fragile fabric of détente, and to react accordingly, bearing in mind American interests in Africa.

But it is very difficult to encourage a new U.S. intervention overseas. In any case, the Ford administration would certainly run into congressional obstacles. It may be wiser for the U.S. to stay out of Angola, reasoning that, in the end, the perils outweigh the rewards. There usually is a self-defeating quality about Soviet power-grab attempts in Africa. The wisest strategy might be to let the Chinese, the South Africans and Zaire go it alone in Angola.

[From the Washington Star, Dec. 7, 1975]

CUBANS IN ANGOLA HIT 5,000

(By Jeremiah O'Leary)

A Cuban army lieutenant captured by the anti-Russian UNITA forces in Angola has admitted that the Cuban force in the former Portuguese African colony has now risen to 5,000 men.

U.S. sources said the Cuban officer acknowledged that the forces sent to rebellion-torn Angola are not volunteers, as Moscow and Havana have claimed. He talked readily to his UNITA captors, U.S. officials have learned, and said the Cuban troop units felt deceived when they arrived in Angola believing they were to fight "colonialists" and found themselves killing other Angolans.

UNITA is allied with Holden Roberto's FNLA rebel forces against the pro-Soviet MPLA which controls the capital of Luanda and four of Angola's 16 provinces. South Africa, Zaire, the Peoples Republic of China and—with great caution—the United States are backing the FNLA-UNITA group against the MPLA of Marxist leader Agostino Neto. The Soviet Union is using giant Antonov transport planes, similar to the U.S. C5, to fly cast amounts of arms and ammunition to the Luanda forces.

The anti-MPLA nations are encountering severe difficulties in attempting to counter the massive Soviet and Cuban intervention. China is lending moral support, but is too far away from the scene.

U.S. involvement is limited to the $40 million in arms it can legally provide to Zaire, the former Belgian Congo.

The South Africans, who dread the rise of a pro-Russian Marxist regime in Angola, would probably step up their intervention considerably if the United States would make its position more clear. Secretary of State Henry A. Kissinger has warned that the United States cannot remain indifferent to the foreign intervention in Angola's civil war, but generally has limited himself to supporting any move to keep external powers out of the bloody conflict.

More than 48 Cubans have been reported killed. U.S. officials fear that the continuing influx of Russian arms and Cuban troops soon will turn the tide against the Roberto and Savimbi forces. They say that MPLA is bound to emerge victorious unless the Russo-Cuban intervention is either halted or countered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

ORDER OF PROCEDURE

Mr. MANSFIELD. Mr. President, it had been anticipated by the leadership, and so stated, that the Senate would take up the public roads bill, the highway bill, this morning. But because of a situation which has arisen in respect to its relation to the Budget Committee's deliberations, we find it is not possible to do so.

Therefore, I ask unanimous consent that the Senate stand in recess until the hour of 1 o'clock.

I withhold that.

Mr. ALLEN. Reserving the right to object, I would like to——

Mr. MANSFIELD. Mr. President, I withhold that request.

The ACTING PRESIDENT pro tempore. The request is withdrawn.

The Senator from Alabama.

Mr. ALLEN. Mr. President, since there is no unfinished business, I would like to ask the distinguished majority leader if he would object if the Senator from Alabama would make a motion to proceed to the second supplemental appropriations bill as a vehicle for discussion inasmuch as the motion we had pending on Friday has died with the adjournment.

Mr. MANSFIELD. The Senator from Alabama has raised a very pertinent question because the purpose of going into recess until the hour of 1 o'clock was to make sure that the 2 hours were disposed of, and then I had intended to move to that question so there could be discussion. But if the Senator wants to do that now——

Mr. ALLEN. Well, that is all right. If the Senator planned to move to that item of business at 1 o'clock that will give the Senator from Alabama ample opportunity to discuss it.

Mr. MANSFIELD. If the Senator from Alabama would allow me just a little leeway, we had hoped maybe in the meantime the Nantucket bill could be cleared up and not take too much time, and then the Pastore bill on blackouts, which would not take too much time, and maybe the metric system as well. But if they took too much time, of course, we would not go to them. But if the Senator will allow us, we would like to, if those can be worked out and not take too long a time, turn to them at that time.

Mr. ALLEN. At what time then would we come to the motion to proceed?

Mr. MANSFIELD. I would hope around the hour of 1:30 or 1:45.

Mr. ALLEN. Very well. I would certainly be glad to accommodate my time to that.

RECESS UNTIL 1 P.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 1 p.m.

There being no objection, the Senate, at 11:23 a.m. recessed until 1 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. NUNN).

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

METRIC CONVERSION ACT OF 1975

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to consideration of Calendar No. 487, S. 100.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 100) to provide a national program in order to make the international metric system the predominant but not exclusive system of measurement in the United States and to provide for converting to the general use of such system within 10 years.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce with an amendment to strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Metric Conversion Act of 1975".

SEC. 2. The Congress finds as follows:

(1) The United States was an original signatory party to the 1875 Treaty of the Meter (20 Stat. 709), which established the General Conference of Weights and Measures, the International Committee of Weights and Measures and the International Bureau of Weights and Measures.

(2) Although the use of metric measurement standards in the United States has been authorized by law since 1866 (Act of July 28, 1866; 14 Stat. 339), this Nation today is the only industrially developed nation which has not established a national policy of committing itself and taking steps to facilitate conversion to the metric system.

SEC. 3. It is therefore declared that the policy of the United States shall be to coordinate and plan the increasing use of the metric system in the United States and to establish a United States Metric Board to coordinate the voluntary conversion to the metric system.

SEC. 4. As used in this Act, the term—

(1) "Board" means the United States Metric Board, established under section 5 of this Act;

(2) "engineering standard" means a standard which prescribes (A) a concise set of conditions and requirements that must be satisfied by a material, product, process, procedure, convention, or test method; and (B) the physical, functional, performance and/or conformance characteristics thereof;

(3) "international standard or recommendation" means an engineering standard or recommendation which is (A) formulated and promulgated by an international organization and (B) recommended for adoption by individual nations as a national standard; and

(4) "metric system of measurement" means the International System of Units as established by the General Conference of Weights and Measures in 1960 and as interpreted or modified for the United States by the Secretary of Commerce.

SEC. 5. (a) There is established, in accordance with this section, an independent instrumentality to be known as a United States Metric Board.

(b) The Board shall consist of 17 individuals, as follows:

(1) the Chairman, a qualified individual who shall be appointed by the President, by and with the advice and consent of the Senate;

(2) sixteen members who shall be appointed by the President, by and with the advice and consent of the Senate, on the following basis—

(A) one to be selected from lists of qualified individuals recommended by engineers and organizations representative of engineering interests;

(B) one to be selected from lists of qualified individuals recommended by scientists, the scientific and technical community, and organizations representative of scientists and technicians;

(c) one to be selected from a list of qualified individuals recommended by the National Association of Manufacturers or its successor;

(D) one to be selected from lists of qualified individuals recommended by the United States Chamber of Commerce, or its successor, retailers, and other commercial organizations;

(E) two to be selected from lists of qualified individuals recommended by the American Federation of Labor and Congress of Industrial organizations or its successor, who are representative of workers directly affected by metric conversion, and by other organizations representing labor;

(F) one to be selected from a list of qualified individuals recommended by the National Governors Conference, the National Council of State Legislatures, and organizations representative of State and local government;

(G) one to be selected from lists of qualified inviduials recommended by organizations representative of small business;

(H) one to be selected from lists of qualified individuals representative of the construction industry;

(I) one to be selected from a list af qualified individuals recommended by the National Conference on Weights and Measures and standards making organizations;

(J) one to be selected from lists of qualified individuals recommended by educators, the educational community, and organizations representative of educational interests; and

(K) five at-large members to represent consumers and other interests deemed suitable by the President and who shall be qualified individuals.

As used in this subsection each "list" shall include the names of at least three individuals for each applicable vacancy. The terms of office of the members of the Board first taking office shall expire as designated by the President at the time of nomination; five at the end of the 2d year; five at the end of the 4th year; and six at the end of the 6th year. The term of office of the Chairman of such Board shall be 6 years. Members, including the Chairman, may be appointed to an additional term of 6 years, in the same manner as the original appointment. Successors to members of such Board shall be appointed in the same manner as the original members and shall have terms of office expiring 6 years from the date of expiration of the terms for which their predecessors were appointed. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term. Each member of such Board shall be authorized such sums as are necessary to enable him or her to appoint and compensate a qualified full-time professional staff assistant responsible and subject to such member's control, but not otherwise subject to control by the Board. Beginning 45 days after the date of incorporation of the Board, six members of such Board shall constitute a quorum for the transaction of any function of the Board.

(c) Unless otherwise provided by the Congress, the Board shall have no compulsory powers.

(d) The Board shall cease to exist when the Congress, by law, determines that its mission has been accomplished.

SEC. 6. It shall be the function of the Board to devise and carry out a broad program of planning, coordination, and public education, consistent with other national policy and interests, with the aim of implementing the policy set forth in this Act. In carrying out this program, the Board shall—

(1) consult with and take into account

the interests, views, and conversion costs of United States commerce and industry, including small business; science; engineering; labor; education; consumers; government agencies at the Federal, State, and local level; nationally recognized standards developing and coordinating organizations; metric conversion planning and coordinating groups; and such other individuals or groups as are considered appropriate by the Board to the carrying out of the purposes of this Act. The Board shall take into account activities underway in the private and public sectors, so as not to duplicate unnecessarily such activities;

(2) provide for appropriate procedures whereby various groups, under the auspices of the Board, may formulate, and recommend or suggest, to the Board specific programs for coordinating conversion in each industry and segment thereof and specific dimensions and configurations in the metric system and in other measurements for general use. Such programs, dimensions, and configurations shall be consistent with (A) the needs, interests, and capabilities of manufacturers (large and small), suppliers, labor, consumers, educators, and other interested groups, and (B) the national interest;

(3) publicize, in an appropriate manner, proposed programs and provide an opportunity for interested groups or individuals to submit comments on such programs. At the request of interested parties, the Board, in its discretion, may hold hearings with regard to such programs. Such comments and hearings may be considered by the Board;

(4) encourage activities of standardization organizations to develop or revise, as rapidly as practicable, engineering standards on a metric measurement basis, and to take advantage of opportunities to promote (A) rationalization or simplification of relationships, (B) improvements of design, (C) reduction of size variations, (D) increases in economy, and (E) where feasible, the efficient use of energy and the conservation of natural resources;

(5) engineering the retention, in new metric language standards of those United States engineering designs, practices, and conventions that are internationally accepted or that embody superior technology;

(6) consult and cooperate with foreign governments, and intergovernmental organizations, in collaboration with the Department of State, and, through appropriate member bodies, with private international organizations, which are or become concerned with the encouragement and coordination of increased use of metric measurement units or engineering standards based on such units, or both. Such consultation shall include efforts, where appropriate, to gain international recognition for metric standards proposed by the United States, and, during the United States conversion, to encourage retention of equivalent customary units, usually by way of dual dimensions, in international standards or recommendations;

(7) assist the public through information and education programs, to become familiar with the meaning and applicability of metric terms and measures in daily life. Such programs shall include—

(A) public information programs conducted by the Board, through the use of newspapers, magazines, radio, television, and other media, and through talks before appropriate citizens' groups, and trade and public organizations;

(B) counseling and consultation by the Secretary of Health, Education, and Welfare; the Secretary of Labor; the Administrator of the Small Business Administration; and the Director of the National Science Foundation, with educational associations, State and local educational agencies, labor education committees, apprentice training committees, and other interested groups, in order to assure (i) that the metric system of measurement is included in the curriculum of the Nation's educational institutions, and (ii) that teachers and other appropriate personnel are properly trained to teach the metric system of measurement;

(C) consultation by the Secretary of Commerce with the National Conference of Weights and Measures in order to assure that State and local weights and measures officials are (i) appropriately involved in metric conversion activities and (ii) assisted in their efforts to bring about timely amendments to weights and measures laws; and

(D) such other public information activities, by any Federal agency in support of this Act, as relate to the mission of such agency;

(8) collect, analyze, and publish information about the extent of usage of metric measurements; evaluate the costs and benefits of metric usage; and make efforts to minimize any adverse effects resulting from increasing metric usage;

(9) conduct research, including appropriate surveys; publish the results of such research; and recommend to the Congress and to the President such action as may be appropriate to deal with any unresolved problems, issues, and questions associated with metric conversion, or usage, such problems, issues, and questions may include, but are not limited to, the impact on workers (such as costs of tools and training) and on different occupations and industries, possible increased costs to consumers, the impact on society and the economy, effects on small business, the impact on the international trade position of the United States, the appropriateness of and methods for using procurement by the Federal Government as a means to effect conversion to the metric system, the proper conversion or transition period in particular sectors of society, and consequences for national defense;

(10) submit annually to the Congress and to the President a report on its activities. Each such report shall include a status report on the conversion process as well as projections for the conversion process. Such report may include recommendations covering any legislation or executive action needed to implement the programs of conversion accepted by the Board. The Board may also submit such other reports and recommendations as it deems necessary; and

(11) submit to the Congress and to the President, not later than 1 year after the date of enactment of the Act authorizing appropriations for this Act, a report on the need to provide an effective structural mechanism for converting customary units to metric units in statutes, regulations, and other laws at all levels of government, on a coordinated and timely basis, in response to voluntary conversion programs adopted and implemented by various sectors of society under the auspices and with the approval of the Board. If the Board determines that such a need exists, each report shall include recommendations as to appropriate and effective means for establishing and implementing such a mechanism.

SEC. 7. In carrying out its duties under this Act, the Board may—

(1) establish an Executive Committee, and such other committees as it deems desirable;

(2) establish such committees and advisory panels as it deems necessary to work with the various sectors of the Nation's economy and with Federal and State governmental agencies in the development and implementation of detailed conversion plans for those sectors. The Board may reimburse, to the extent authorized by law, the members of such committees;

(3) conduct hearings at such times and places as it deems appropriate;

(4) enter into contracts, in accordance with the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.), with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties;

(5) delegate to the Executive Director such authority as it deems advisable; and

(6) perform such other acts as may be necessary to carry out the duties prescribed by this Act.

SEC. 8. (a) The Board may accept, hold, administer, and utilize gifts, donations, and bequests of property, both real and personal, and personal services, for the purpose of aiding or facilitating the work of the Board. Gifts and requests of money, and the proceeds from the sale of any other property received as gifts or bequests, shall be deposited in the Treasury in a separate fund and shall be disbursed upon order of the Board.

(b) For purpose of Federal income, estate, and gift taxation, property accepted under subsection (a) of this section shall be considered as a gift or bequest to or for the use of the United States.

(c) Upon the request of the Board, the Secretary of the Treasury may invest and reinvest, in securities of the United States, any moneys contained in the fund authorized in subsection (a) of this section. Income accruing from such securities, and from any other property accepted to the credit of such fund, shall be disbursed upon the order of the Board.

(d) Funds not expended by the Board as of the date when it ceases to exist, in accordance with section 5(d) of this Act, shall revert to the Treasury of the United States as of such date.

SEC. 9. Members of the Board who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the Board or while otherwise engaged in the business of the Board, be entitled to receive compensation at a rate not to exceed the daily rate currently being paid grade 18 of the General Schedule (under section 5332 of title 5, United States Code), including traveltime. While so serving, on the business of the Board away from their homes or regular places of business, members of the Board may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service. Payments under this section shall not render members of the Board employees or officials of the United States for any purpose. Members of the Board who are in the employ of the United States shall be entitled to travel expenses when traveling on the business of the Board.

SEC. 10. (a) The Board shall appoint a qualified individual to serve as the Executive Director of the Board at the pleasure of the Board. The Executive Director, subject to the direction of the Board, shall be responsible to the Board and shall carry out the metric conversion program, pursuant to the provisions of this Act and the policies established by the Board.

(b) The Executive Director of the Board shall serve full time and be subject to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code. The annual salary of the Executive Director shall not exceed level III of the Executive Schedule under section 5314 of such title.

(c) The Board may appoint and fix the compensation of such staff personnel as may be necessary to carry out the provisions of this Act in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code.

(d) The Board may (1) employ experts and consultants or organizations thereof, as authorized by section 3109 of title 5, United States Code; (2) compensate individuals so employed at rates not in excess of the rate currently being paid grade 18 of the General Schedule under section 5332 of such title, including traveltime; and (3) may allow such individuals, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title 5 for persons in the Government service employed intermittently: *Provided, however*, That contracts for such temporary employment may be renewed annually.

SEC. 11. Financial and administrative services, including those related to budgeting, accounting, financial reporting, personnel, and procurement, and such other staff services as may be needed by the Board, may be obtained by the Board from the Secretary of Commerce or other appropriate sources in the Federal Government. Payment for such services shall be made by the Board, in advance or by reimbursement, from funds of the Board in such amounts as may be agreed upon by the Chairman of the Board and by the source of the services being rendered.

SEC. 12. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. Appropriations to carry out the provisions of this Act may remain available for obligation and expenditure for such period or periods as may be specified in the Acts making such appropriations.

Mr. INOUYE. Mr. President, I rise in support of S. 100, the Metric Conversion Act of 1975. The legislation was unanimously reported out of the Committee on Commerce and it is supported by the administration.

The issue of metric conversion has been before the Congress for several years, and after much debate, it appears that consideration of this issue will soon be concluded. This morning, I would first like to discuss the situation in which the United States finds itself and second to discuss the provisions of S. 100.

We are the world's leading technological power. However, we have been slow to adopt the measurement system which most of the world follows. Although we are the leading industrial nation, we are the only major nation which has not adopted a metric conversion policy or which is not already metric. Within recent years all the English-speaking nations except the United States have decided to convert. Australia, Canada, the United Kingdom, and New Zealand, the Republic of South Africa, Japan, and India have all decided to adopt the metric system. Only Brunei, Burma, Liberia, Yemen, and the United States are nonmetric countries

In spite of the lack of an official conversion policy in the United States, metrication is proceeding rapidly, and we are well into the early stages of conversion. Many individual firms and industries have announced that they are changing measurements of their products. Some industries, such as the film and pharmaceutical industries, have been metric for years, while others are just beginning to convert.

A review of the record will reveal how extensive this private metrication movement is. Four of the top 10 companies in sales are on the list of converting companies. It has been estimated by the National Bureau af Standards, which is responsible for keeping track of metric conversion activities for the Federal Government, that the total sales of companies which have converted or are in the process of converting are approximately $130 billion.

Some of America's best-known firms are on the list of metric companies. Among these are General Motors, Ford, Chrysler, Caterpillar, Clark Equipment, IBM, Xerox, Honeywell, International Harvester, John Deere, Hewlett Packard, Regal Beloit, Rockwell International, Sears, Seven Up, Dow Corning, Allis Chalmers, and others.

Metrication activity is increasing in other sectors of the economy besides business. All 50 States now maintain some sort of metric education program, ranging from teacher training, pupil instruction, or conversion planning. Some State agencies have taken independent metric conversion programs, including changing highway signs.

Numerous Federal agencies are also undertaking metrication activities. A metric subcommittee of the Interagency Committee on Standards Policy has been established to serve as a focal point for coordinating Federal agency metric activities. The list of metric programs is too numerous to detail, but the programs range from changing the size of wine bottles, to issue crop yield data in metric units, to encouraging the publication of dual measurements.

On a more mundane level, the ordinary consumer is becoming increasingly familiar with metric units. Many labels now give the metric equivalents of the customary measurement. In some cookbooks metric measurements are provided in addition to the customary units.

In summary metric conversion is a fact of life even without the expression of a national policy. Industry, education, and government are moving ahead with metric programs for many reasons: in the case of industry, companies which have adopted metric programs obviously believe that they will be financially beneficial or, at a minimum, avoid the detrimental effects of failure to convert.

The question facing us, therefore, is not whether we convert but the manner in which we convert. If we continue in the manner which we have been following thus far, we shall end up with a patchwork of conversion programs and dual measurements that will result in costly and unnecessary duplication.

The bill before the Senate today, S. 100, addresses itself to this process of uncoordinated metric conversion by expressing a national policy on metric conversion and establishing a mechanism to deal with this phenomenon.

The arguments about metrication have usually centered around the benefits or drawbacks of the metric system of measurements. Advocates and critics of metric conversion have ordinarily based their arguments on issues of cost, but the determination of the final conversion cost figures is highly speculative. What is clear, however, is that metric conversion is going on and that it is in the interest of the United States to insure that that process occurs with the maximum degree of coordination to prevent undue disruption and to result in the largest number of benefits to this country.

It must be made clear here that the bill being considered today does not make conversion compulsory or that the metric conversion is adopted as the sole system of measurement. Rather, the legislation establishes a mechanism for coordinating conversion and for assisting those sectors of society or the economy which decide to convert. It is conceivable that some industries may decide to forego conversion, in which case the U.S. Metric Board is expected to honor that decision. Nevertheless, I would hope that industry would take this opportunity to rationalize its measurements and standards and, where feasible, to participate in this process.

The bill would establish an independent U.S. Metric Board broadly representative of society, to devise and implement a comprehensive program of planning and coordinating the increased use of the metric system and to conduct public education consistent with other national interests.

The Board would consist of 17 persons from the public sector appointed by the President with the advice and consent of the Senate. One of the members would be designated chairman. Eleven members would be chosen by the President from lists submitted by groups especially affected by metric conversion, including State and local government, manufacturers, scientists and technicians, the construction industry, small business, organized labor, engineers, standards-making organizations, and educators, The remaining members would be appointed at large to represent other sectors in the economy, including consumers and other groups. The terms of office would be staggered, and the original members may be appointed for an additional term of 6 years.

Unless otherwise specifically provided by the Congress, the Board will have compulsory powers. It will cease to exist when the Congress determines that its mission is accomplished. It is anticipated that the Congress will use the opportunities offered by the submission of annual reports and not permit the Board to continue beyond its useful life.

The Board will perform three major functions. First, it will develop a broad program of planning and coordination. Second, it will conduct research and submit recommendations to the Congress and President. Finally, it will conduct a program of public education in the metric system at all levels to familiarize Americans with the meaning and use of metric terminology in their daily lives.

The Board shall consult with and take into account the interests and views of industry, labor, business, including small business, labor, industry, commerce, science and engineering, education, government agencies at all levels, and all other groups which would be affected by conversion. The intent of this consultation process is to encourage individual sectors or industries to develop on a voluntary basis, if it desires to participate, their own plan based on the group's own interesst and characteristics. It is our belief that each group knows far better how to maximize any benetfis from metrication and that accordingly it can plan its program far better than any other body. The Board is required to consult with existing organizations in the area of standards development and coordination.

The Board is to develop procedures whereby industry groups can meet on a voluntary basis under the auspices of the Board to discuss and agree on the best dimensions and configurations in the metric system or other measurements for general use consistent with the needs and capabilities of manufacturers, suppliers, consumers, and other interested and affected groups and on the time schedule for the conversion process for each group.

The Board shall encourage the development of new or revised engineering standards based on metric measurements in those specific fields or areas where such standards will result in improved design or increases in economy consistent with the efficient use of energy and the conservation of natural resources.

The Board shall encourage the retention, in the metric language, of those U.S. engineering standards, practices, and conventions that are internationally accepted or which embody superior technology.

The Board shall cooperate with foreign governments and international organizations which have become concerned with the encouragement and coordination of the metric system with the objective of gaining international recognition for metric standards proposed by the United States.

The Board shall consult with foreign governments and organizations and groups in other countries, including international standards organizations, to the extent it determines appropriate. Such contacts by the Board shall be accomplished through consultation with the Department of State.

The Board shall carry out programs of public education and information designed to make every citizen of the United States familiar with the metric system. These programs shall include public information activities conducted by the Board itself through the use of newspapers, magazines, radio, television, and other media; consultation by the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Administrator of the Small Business Administration, and the Director of the National Science Foundation with education associations and other education groups to insure that the metric system is made a part of the curriculum in all of the Nation's educational institutions and that teachers are trained to teach the metric system; consultation by the Secretary of Commerce with the National Conference of Weights and Measures to assure that weights and measures officials in each State and local jurisdiction are fully involved in the metric changeover activities in the country and are assisted in their efforts to bring about timely amendments to weights and measures laws; and such other public information activities by any Federal agency which could relate to the mission of the agency.

The Board shall also collect, analyze, and publicize information about the extent to which the metric system is being used. It shall evaluate the benefits and costs of such metric usage and shall make efforts to minimize any adverse effects resulting from the increasing metric usage.

The Board is directed to conduct research on any unresolved problems associated with the conversion to and the use of the metric system and is to publicize the results of this research. Among the issues which it might study are the impact of metrication on workers who own their own tools, on small business, and on national security. There are additional subjects which are not specified but which the Board may decide are deserving of attention, including the study of body shapes and sizes as they are affected by metric conversion.

The Board is to submit an annual report to the Congress and to the President on the status of conversion and containing any such recommendations as it deems appropriate.

Furthermore, the Board will be required to submit a report not later than 1 year after appropriations are provided for this act on the need to provide an effective structural mechanism for converting customary units to metric units in statutes, regulations, and other laws at all levels of government on a coordinated and timely basis in response to voluntary programs adopted and implemented by various sectors of society under the auspices and with the approval of the Board.

The Board is further authorized to establish an executive committee and other appropriate committees and to conduct hearings and receive the recommendations of various groups and individuals.

The bill authorizes to be appropriated such funds as may be necessary to carry out the provisions of this act. Based on preliminary work, it is not anticipated that these funds will exceed more than $2 million in the first year of operation and $3 million thereafter.

In closing, I should stress again that the bill will leave the decision of metric conversion to the individual economic sector. It will not be compulsory and is designed to achieve maximum economic efficiency based on the best informed determination of each separate industry.

Mr. PELL. Mr. President, as the sponsor of S. 100, the metric conversion legislation now before the Senate, I urge approval of this legislation by the Senate.

It was in 1963, 12 years ago, that I first introduced metric conversion legislation in the Senate. The logic for converting from our confusing system of English measures to metric measurements was, I believe clear then. In the intervening years the growth in world trade and the successful conversion to metric measurements by other industrialized countries have added compelling and persuasive force to the arguments for metric conversion in the United States.

The necessity for metric conversion is now recognized. The House of Representatives has passed a metric conversion bill, and the Senate, having passed similar legislation in 1972, now has the opportunity to move forward with this historic step in the development of world systems of weights and measures.

The New York Times article of December 7, 1975, outlines the development of U.S. metric conversion to date, and I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE QUIET REVOLUTION: AMERICA GOES METRIC

(By Rita Reif)

The race throughout industry to replace feet, quarts and pounds with meters, liters and kilograms is entering the home stretch.

Dozens of major corporations announced 10-year metrication programs and Congress is about to legislate this nation's intention to switch. After years of debate, the questions surrounding conversion from the English to the metric system are no longer why or whether it should happen, but how and when it will commence.

In fact, it already has. Metric measurement is a reality for those who purchase half-liters of Seven-Up, drive a 1.6-liter Chevette, descend the slopes on 180-centimeter skis, use 35-millimeter film in their cameras, consume two 350-milligram tablets of aspirin or puff cigarettes that are as long as the 120-millimeter More or as low in nicotine as the 0.2-milligram Carlton.

What's more, metric opposition is crumbling now that early predictions of astronomical conversion costs have been revised. Reduced estimates have been reported both by industry giants that are already predominantly metric—the Eastman Kodak Company, Eli Lilly & Company, E. R. Squibb & Sons Inc. and Sterling Drug Inc.—and by those that are moving rapidly in that direction—including the General Motors Corporation the United States Steel Corporation, Honeywell Inc., and the Seven-Up Company.

The cost revisions are based, some claim, on the fact that some inch-based equipment can be adapted to the production of metric parts.

Others attribute the reduced estimates to long-range programs that incorporate change gradually, or that apply metrics only to new designs or innovative packaging. In this way metric sizing is determined at the start and, in some executives' views, means virtually no additional cost.

"To date we cannot identify any increase in cost or delay in delivery because of metric dimensioning," said Everett L. Baugh, executive engineer in charge of General Motors' metric program.

When General Motors decided to go metric in 1973, letters announcing the move were sent to its 47,000 suppliers. Six months later the manufacturer held a meeting for 600 of its suppliers of nuts and bolts to explain the thread system it had adopted. The mostly metric Chevette was the result.

Spurred on by General Motors, the Caterpillar Tractor Company and others, United States Steel introduced in February a range of metric-sized bar, rod, wire, sheet and plate products.

"We are converting because our customers are," conceded J. Michael Curto, a U.S. Steel group vice president.

Steel industry executives had told Congress two years ago that metrication in their plants would cost $2 billion-plus. "Right now I wouldn't be able to put a dollar figure on it," Mr. Curto said. "It will be expensive, but nothing close to what we originally envisioned."

Honeywell, the big electronics company, has pinned it down more precisely. Lowell W.

Foster, director of corporate standardization, devised a cost-estimate table for the company's 10-year conversion plan. The program, commenced in July 1972 with a two-year period of preparation, is now in a three-year phase of adaptation, and will go into a five-year stetch of application. Then, Honeywell will be a "totally metric company," he said.

"Exact numbers are impossible to predict," Mr. Foster said. But, based on $100 million gross sales a year, the total conversion costs over 10 years would be about $1.2 million, he said.

Of that amount, some $250,000 would be spent on design and documentation, $150,000 on modification or replacement of machines and equipment and $250,000 on maintaining dual supplies of tools, parts and materials during the transition. In addition $210,000 would be used for modification and replacement of testing equipment and gauges, $160,000 for education and training and $100,000 for marketing, sales, legal costs and taxes.

Despite the quickened momentum in industry, most metric-minded executives assert that the next move must come from Congress, officially committing the United States to the decimal-based system. That action may come this week if the Senate, before its scheduled adjournment next Friday, passes S. 100, the Administration-backed bill that, virtually in the same form, sailed through the House in September by a 300-to-63 vote. The bills set no deadline for conformance but would establish a 17-member commission to coordinate metric activities.

Passage, and President Ford's signature, would leave only Brunei, Burma, Liberia and Yemen uncommitted to metrication.

While Congress has until this year resisted making metric official, Federal, state and local government agencies have not.

Today, some road signs in at least 14 states show distances in kilometers as well as miles. Sunrise, Fla., a city of 25,000 that is in the forefront of the metric movement, has all signs on its roads, in its stores and at its gasoline stations scheduled to show metric equivalents by July, 1976.

Seventeen state boards of education and seven legislatures have adopted go-metric educational resolutions.

And Federal agencies now issue crop yields in metric volume, are developing weather-forecast data in Celsius (centigrade) temperature, have urged inventors to submit their patent applications in dual measurements or metric only, and ordered all new merchant ships be metric by 1980. The Treasury Department's Bureau of Alcohol, Tobacco and Firearms has established six metric (liter) sizes as the standard for wine bottles, effective January 1979.

Whether or not Congress acts, other pressures will probably make metrication inevitable in most industries before 1985. Multinational corporations and exporters cite the directive by the European Economic Community requiring exporters to the nine Common Market countries to label their products in metric units by 1978.

In the food industry, the General Foods Corporation and others have opted for "soft conversion," labeling packages with ounces and pounds in bold type and adding a gram translation in smaller type or in parenthesis. Evenutually it will be metric-only—but not for several years.

The impact of metric in stores—notably J. C. Penney; Sears, Roebuck, and Montgomery Ward—is best seen in hardware stocks, where as much as 25 percent of the wrenches and drill bits sold are now metric.

In clothing, Sears is expected to add metric equivalents in 1976, so shoppers can get used to seeing men's shirts with a 15-inch collar and 35-inch sleeve length labeled 15–36 and 35–90, the near equivalents in centimeters.

The subjective world of women's clothing presents other problems, according to William L. Nikel, metric system project manager at J. C. Penney.

"An American size 8 bathing suit," Mr. Nikel reported, "is comparable to a 36 in West Germany, a 42 in Italy, a 44 in Greece and a 32 in Britain. So it's foolish to think that when we go metric we'll finally achieve true standardization in sizing."

Civil aviation is one field where no one is hurrying a switch to metric, because in no other areas is safety so dependent upon measurement. The foot, pound and nautical-mile system is used in all but Communist countries for runway dimensions, in calculating distances and altitudes, for visibility and pressure gauges and in some thermometers.

"Whatever change is made, it must be carefully thought out and accepted internationally," said Louis F. Sokol, a meteorologist and secretary of the United States Metric Association Inc. of Boulder, Colo.

For aircraft themselves, designs are expected to go metric as new planes are developed, according to Alfred Peterson, manager of engineering standards of the Boeing Company.

Most corporate metrication programs came after the publication in 1971 of a three-year study by the National Bureau of Standards authorized under the Metric Study Act of 1968. That report recommended the change and industry responded, establishing the Washington-based American National Metric Council to conduct further research, to correlate data from other countries and to dovetail efforts at standardization here with Le Systeme International d'Unités (International System of Units).

The S.I. metric standards have been accepted, more or less, internationally since the 1969 meeting of the General Conference of Weights and Measures, the diplomatic organization of adherents to the Metric Convention, set up in the 1875 Treaty of the Meter. The International Bureau of Weights and Measures in Sevres, France, is headquarters for the convention's secretariat.

At some companies, progress is hard to see. At International Business Machines Corporation a 10 year program is in its fourth year, but one of the few visible results so far is a poster program that delivers such messages as "The S.I. metric system is measurably better."

The rest is, it would seem top secret. Although all of I.B.M.'s new office machines and computers are being designed to be produced in metric measurements within six years or less, no introductory dates have been announced and no details of the new dimensions have been released.

Other multinational producers intend to move faster. At the Dow Corning Corporation, for example, 20 to 30 percent of the $277 million annual sales is already in metric. Joseph P. Closs, Dow's manager of management information services, reports that a 1974 survey of its customers showed many more are ready for metric. More than half had metricated or planned to by 1976 and 85 percent of those answering said they are able to adapt to metric invoicing and packaging.

Among American labor leaders, resistance to metrication persists.

"There are too many unanswered questions regarding implementation of metric conversion on the United States economy," said Thomas A. Hannigan, assistant to the international secretary of the International Brotherhood of Electrical Workers.

He warned the Senate Committee on Commerce recently that metric conversion could contribute to the "premature obsolescence of many plants," and, being "analagous to technological change," could affect wages, hours and other conditions of employment.

And the American Bar Association has urged Congress to recognize that the proposed legislation contains no provisions for the legal groundwork necessary to metric conversion. William E. Zeiter, appearing for the A.B.A., said the pending law as now written could throw users into "a metric ocean without any legal life preservers."

The industrial goods that would be produced in metric measure, he noted, are subject to thousands of government regulations, including building codes, public utility rates, transportation and custom tariffs and sales taxes. For example, before gasoline can be sold by the liter—even before pumps are converted—local and state governments must grant approval and Federal, state and local governments must calculate taxes in numbers rounded to the nearest metric equivalents.

Mr. PELL. Mr. President, the Senate Commerce Committee is to be commended for its thorough, fair, and wise handling of this legislation. In particular, I express my thanks to the distinguished Senator from Hawaii (Mr. Inouye), who cosponsored S. 100 and guided the legislation through hearings and debate in the Commerce Committee, to produce a bill that meets with the approval of the broad-range government of private, business, and labor groups that will participate in the metric conversion process.

It has been said many times, but bears repeating, the United States is the world's only major industrialized Nation still adhering to a nonmetric system of weights and measures.

Our industries are feeling trade limitations because of their unique position of having to use dual dimensions in competing for international trade.

Practically all of our foreign trade is with nations either solely metric or who are on their way. By 1978, Common Market countries will require metric measurements on all goods traded with them.

If we seize this opportunity to join our fellow nations in adopting a precise, simple and logical system of weights and measures, we will be able to reduce costly and wasteful dual dimensioning now necessary for American industries to insure continuing trade, both foreign and domestic.

In my own State of Rhode Island, the Brown & Sharpe Manufacturing Co. has recently experienced difficulty in trading with firms in such countries as South Africa, Australia, and Taiwan, which now require solely metric measurements on imported tools, thus creating an added and unnecessary cost.

Mr. President, I ask unanimous consent that the article entitled "South Africa Rejects Dual-Unit Gages," which appeared in the November 14, 1975, edition of the Metric Reporter, be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

South Africa Rejects Dual-Unit Gages

Several countries which are now converting to the SI metric system are cracking down on the importing of machines which are calibrated in inches, or even dual dimensioned in SI metric and U.S. customary units.

An example is South Africa, which is currently in the latter stages of a mandatory national metric conversion program. South African customs recently refused entry into the country of a large number of vernier height gages which were calibrated in U.S. customary units on one side and SI metric on the other. The gages had been shipped by their manufacturer, Brown and Sharpe of North Kingstown, R.I. to a South African customer which had specified that exact gage.

The tools were shipped back to Brown and Sharpe which will replace them with gages calibrated exclusively in metric.

This situation is not limited to South Africa. Austria and Taiwan are also very strict, said Joseph E. Kochhan, product director of Brown and Sharpe's Industrial Products Division. "Australia is not quite as strict as South Africa," said Kochhan, "but Taiwan is not accepting any measurement machines dimensioned in English without a special license."

As SI metric becomes more and more dominant in world measurement, similar occurrences will likely increase. The European Common Market has directed that, by January 1, 1978, SI metric units shall be used in commercial transactions by the nine member states of the Common Market (Great Britain, West Germany, France, Luxembourg, Belgium, Denmark, the Netherlands, Italy, and the Irish Republic.) While this applies only to language describing the product, it is a definite sign that the world is gravitating to SI metric as the eventual sole language of measurement. (An in-depth report on this directive is available from ANMC at two copies for $1.)

Brown and Sharpe has taken into account the increasing emphasis on metric around the world. The company, which manufactures machine tools, precision measuring tools, cutting tools, quality control equipment, and hydraulic controls, has a policy to adopt these tools to customer requirements, be they in metric or inch. The SI system will be used in the design of new products that begin in the layout stage. New product design will be based on marketplace requirements and normal tool obsolescence. However, existing drawings will remain in inches for the foreseeable future, as will new design parts for existing products.

Mr. PELL. Mr. President, I believe the legislation before us today adequately meets our Nation's needs. Although not mandating a conversion to metric, the bill clearly states that the United States of America is switching in a coordinated and deliberate fashion to the use of metric as its predominant systems of units.

Of course, S. 100 as reported by the committee has been changed considerably from the bill I introduced last January, a bill which I still believe is the optimum metrication solution. In its original form, S. 100 called for mandatory conversion over a 10-year period, with small businesses and workers to be assisted by the Federal Government in meeting conversion costs. In this fashion, the goal of attaining use and acceptance of the International System of Units would be met much more quickly and efficiently. However, I also realize that this approach does not lie on the consensus path to metrication.

Despite my individual preference for another method, I enthusiastically endorse and lend support to the approach laid out in the committee bill. The voluntary conversion plan received overwhelming backing in the vote of the House of Representatives last September and stands the best chance for enactment.

The idea of federal legislation providing for coordinating and assisting the growing American use of metric has been an important goal of mine since my first days in the U.S. Senate. I trust that my colleagues will bear with me for a moment while I look back over the legislative history of metric conversion during that period.

Working with former Representative George P. Miller, I introduced legislation providing for a comprehensive study of the advantages and disadvantages of conversion to metric. In 1967, that legislation passed. The study which resulted, the National Bureau of Standards Report entitled, "Toward a Metric America," has had a profound impact in accelerating the movement toward metric conversion since that time. In addition, the study had the effect of persuading the executive branch to advocate metric conversion as administration policy, and it gave everyone confidence that metric conversion in the United States is a matter of serious, practical policy consideration.

In the last Congress, we took another step forward. As part of the Education Amendments of 1974, I proposed a metric education program to be administered through the U.S. Office of Education in the Department of Health, Education, and Welfare. That program was included in the legislation approved by the Congress and included significantly, a statement of findings by the Congress: "that the metric system will become the dominant system of weights and measures in the United States," and a statement of policy:

"It is the policy of the United States to encourage educational agencies and institutions to prepare students to use the metric system of measurement with ease and facility as a part of the regular education program."

Mr. President, these years have been ones frustrating in part, as time and time again our efforts to enact legislation in this area were rebuffed.

It is, therefore, doubly satisfying now to see the Congress move toward this long-sought goal.

Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 23, beginning at line 1 through line 6, delete the sentence beginning "Each" and ending with Board".

On page 28, beginning at line 12 strike all down through the period in line 21:

(11) "submit to the Congress and to the President not later than 1 year after the date of enactment of the Act making appropriations for carrying out this Act, a report on the need to provide an effective structural mechanism for converting customary units to metric units in statutes, regulations, and other laws at all levels of government, on a coordinated and timely basis, in response to voluntary conversion programs adopted and implemented by various sectors of society under the auspices and with the approval of the Board."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 1172

Mr. INOUYE. Mr. President, I send to the desk an amendment on behalf of the Senator from California (Mr. TUNNEY) which increases the number of small business representatives on the Metric Board, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 21, line 19, strike out "one" and insert in lieu thereof "two".

On age 22, line 8, strike out "five" and insert in lieu thereof "four."

Mr. INOUYE. Mr. President, I ask unanimous consent that a statement by the Senator from California (Mr. TUNNEY) relative to his amendment be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR TUNNEY ON S. 100

The amendment to S. 100, the Metric Conversion Act, which I have authored is designed to assure the small business sector in this country the type of representation in the decisions on metric conversion that it deserves and desperately needs.

My amendment would give small business representatives a second seat on the 17 member U.S. Metric Board which will be the focus for the voluntary metric conversion effort.

The small business sector deserves this additional voice because it is such a large and vital sector of our national economy. The distinguished Chairman of the Senate Select Committee on Small Business, Senator Nelson, states that small business constitutes:

More than 95% of the business establishments in this country.

Nearly $385 billion in goods and services, or 37% of the Gross National Product.

Fifty-two percent of private employment.

Thus, on the basis of sheer numbers, such an amendment seems justifiable. Yet there is a more pressing reason.

While small business has the seeming numerical advantage, it is essential to consider the background of those numbers. They in no way resemble The Dow Jones Industrials, or Fortune's 500. They are indeed small businesses. The impact of metrification upon small business will be enormous because it cannot afford the new machinery costs as easily as corporate giants. Nor can small businesses afford to engage high priced lobbyists to protect their interests. We must guarantee them that representation, and that is what my amendment does.

It is high time that small business is recognized as the essential segment of our economy that it is. I urge you to join me in this effort.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. INOUYE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 8674, a similar bill, and that the Committee on Commerce be discharged from further consideration of the bill.

The PRESIDING OFFICER. Without objection, the committee will be discharged as to H.R. 8674, and the Senate will proceed to its immediate consideration.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 8674) to declare a national policy of coordinating the increasing use of the metric system in the United States, and to establish a United States Metric Board to coordinate the voluntary conversion to the metric system.

Mr. INOUYE. Mr. President, I move to strike all after the enacting clause of H.R. 8674, and to substitute therefor the text of S. 100, as reported and as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Hawaii.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 8674), as amended, was passed, as follows:

That this Act may be cited as the "Metric Conversion Act of 1975".

SEC. 2. The Congress finds as follows:

(1) The United States was an original signatory party to the 1875 Treaty of the Meter (20 Stat. 709), which established the General Conference of Weights and Measures, the International Committee of Weights and Measures and the International Bureau of Weights and Measures.

(2) Although the use of metric measurement standards in the United States has been authorized by law since 1866 (Act of July 28, 1866; 14 Stat. 339), this Nation today is the only industrially developed nation which has not established a national policy of committing itself and taking steps to facilitate conversion to the metric system.

SEC. 3. It is therefore declared that the policy of the United States shall be to coordinate and plan the increasing use of the metric system in the United States and to establish a United States Metric Board to coordinate the voluntary conversion to the metric system.

SEC. 4. As used in this Act, the term—

(1) "Board" means the United States Metric Board, established under section 5 of this Act;

(2) "engineering standard" means a standard which prescribes (A) a concise set of conditions and requirements that must be satisfied by a material, product, process, procedure, convention, or test method; and (B) the physical, functional, performance and/or conformance characteristics thereof;

(3) "international standard or recommendation" means an engineering standard or recommendation which is (A) formulated and promulgated by an international organization and (B) recommended for adoption by individual nations as a national standard; and

(4) "metric system of measurement" means the International System of Units as established by the General Conference of Weights and Measures in 1960 and as interpreted or modified for the United States by the Secretary of Commerce.

SEC. 5. (a) There is established, in accordance with this section, an independent instrumentality to be known as a United States Metric Board.

(b) The Board shall consist of 17 individuals as follows:

(1) the Chairman, a qualified individual who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) sixteen members who shall be appointed by the President, by and with the advice and consent of the Senate, on the following basis—

(A) one to be selected from lists of qualified individuals recommended by engineers and organizations representative of engineering interests;

(B) one to be selected from lists of qualified individuals recommended by scientists, the scientific and technical community, and organizations representative of scientists and technicians;

(C) one to be selected from a list of qualified indinviduals recommended by the National Association of Manufacturers or its successor;

(D) one to be selected from lists of qualified individuals recommended by the Na-States Chamber of Commerce, or its successor, retailers, and other commercial organizations;

(E) two to be selected from lists of qualified individuals recommended by the American Federation of Labor and Congress of Industrial organizations or its successor, who are representative of workers directly affected by metric conversion, and by other organizations representing labor;

(F) one to be selected from a list of qualified individuals recommended by the National Governors Conference, the National Council of State Legislatures, and organizations representative of State and local government;

(G) two to be selected from lists of qualified individuals recommended by organizations representative of small business;

(H) one to be selected from lists of qualified individuals representative of the construction industry;

(I) one to be selected from a list of qualified individuals recommended by the National Conference on Weights and Measures and standards making organizations;

(J) one to be selected from lists of qualified individuals recommended by educators, the educational community, and organizations representative of educational interests; and

(K) four at-large members to represent consumers and other interests deemed suitable by the President and who shall be qualified individuals.

As used in this subsection, each "list" shall include the names of at least three individuals for each applicable vacancy. The terms of office of the members of the Board first taking office shall expire as designated by the President at the time of nomination; five at the end of the 2d year; five at the end of the 4th year; and six at the end of the 6th year. The term of office of the Chairman of such Board shall be 6 years. Members, including the Chairman, may be appointed to an additional term of 6 years, in the same manner as the original appointment. Successors to members of such Board shall be appointed in the same manner as the original members and shall have terms of office expiring 6 years from the date of expiration of the terms for which their predecessors were appointed. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term. Beginning 45 days after the date of incorporation of the Board, six members of such Board shall constitute a quorum for the transaction of any function of the Board.

(c) Unless otherwise provided by the Congress, the Board shall have no compulsory powers.

(d) The Board shall cease to exist when the Congress, by law, determines that its mission has been accomplished.

SEC. 6. It shall be the function of the Board to devise and carry out a broad program of planning, coordination, and public education, consistent with other national policy and interests, with the aim of implementing the policy set forth in this Act. In carrying out this program, the Board shall—

(1) consult with and take into account the interests, views, and conversion costs of United States commerce and industry, including small business; science; engineering; labor; education; consumers; government agencies at the Federal, State, and local level; nationally recognized standards developing and coordinating organizations; metric conversion planning and coordinating groups; and such other individuals or groups as are considered appropriate by the Board to the carrying out of the purposes of this Act. The Board shall take into account activities underway in the private and public sectors, so as not to duplicate unnecessarily such activities;

(2) provide for appropriate procedures whereby various groups, under the auspices of the Board, may formulate, and recommend or suggest, to the Board specific programs for coordinating conversion in each industry and segment thereof and specific dimensions and configurations in the metric system and in other measurements for general use. Such programs, dimensions, and configurations shall be consistent with (A) the needs, interests, and capabilities of manufacturers (large and small), suppliers, labor, consumers, educators, and other interested groups, and (B) the national interest;

(3) publicize, in an appropriate manner, proposed programs and provide an opportunity for interested groups or individuals to submit comments on such programs. At the request of interested parties, the Board, in its discretion, may hold hearings with regard to such programs. Such comments and hearings may be considered by the Board;

(4) encourage activities of standardization organizations to develop or revise, as rapidly as practicable, engineering standards on a metric measurement basis, and to take advantage of opportunities to promote (A) rationalization or simplification of relationships, (B) improvements of design, (C) reduction of size variations, (D) increases in economy, and (E) where feasible, the efficient use of energy and the conservation of natural resources;

(5) encourage the retention, in new metric language standards, of those United States engineering designs, practices, and conventions that are internationally accepted or that embody superior technology;

(6) consult and cooperate with foreign governments, and intergovernmental organizations, in collaboration with the Department of State, and, through appropriate member bodies, with private international organizations, which are or become concerned with the encouragement and coordination of increased use of metric measurement units or engineering standards based on such units, or both. Such consultation shall include efforts, where appropriate, to gain international recognition for metric standards proposed by the United States, and, during the United States conversion, to encourage retention of equivalent customary units, usually by way of dual dimensions, in international standards or recommendations;

(7) assist the public through information and education programs, to become familiar with the meaning and applicability of metric terms and measures in daily life. Such programs shall include—

(A) public information programs conducted by the Board, through the use of newspapers, magazines, radio, television, and other media, and through talks before appropriate citizens' groups, and trade and public organizations;

(B) counseling and consultation by the Secretary of Health, Education, and Welfare, the Secretary of Labor; the Administrator of the Small Business Administration; and the Director of the National Science Foundation, with educational associations, State and local educational agencies, labor education committees, apprentice training committees, and other interested groups, in order to assure (i) that the metric system of measurement is included in the curriculum of the Nation's educational institutions, and (ii) that teachers and other appropriate personnel are properly trained to teach the metric system of measurement;

(C) consultation by the Secretary of Commerce with the National Conference of Weights and Measures in order to assure that State and local weights and measures officials are (i) appropriately involved in metric conversion activities and (ii) assisted in their efforts to bring about timely amendments to weights and measures laws; and

(D) such other public information activities, by any Federal agency in support of this Act, as relate to the mission of such agency;

(8) collect, analyze, and publish information about the extent of usage of metric measurements; evaluate the costs and benefits of metric usage; and make efforts to minimize any adverse effects resulting from increasing metric usage;

(9) conduct research, including appropriate surveys; publish the results of such research; and recommend to the Congress and to the President such actions as may be appropriate to deal with any unresolved problems, issues, and questions associated with metric conversion, or usage, such problems, issues, and questions may include, but are not limited to, the impact on workers (such as costs of tools and training) and on different occupations and industries, possible increased costs to consumers, the impact on society and the economy, effects on small business, the impact on the international trade position of the United States, the appropriateness of and methods for using procurement by the Federal Government as a means to effect conversion to the metric system, the proper conversion or transition period in particular sectors of society, and consequences for national defense;

(10) submit annually to the Congress and to the President a report on its activities. Each such report shall include a status report on the conversion process as well as projections for the conversion process. Such report may include recommendation covering any legislation or executive action needed to implement the programs of conversion accepted by the Board. The Board may also submit such other reports and recommendations as it deems necessary; and

(11) submit to the Congress and to the President not later than 1 year after the date of enactment of the Act making appropriations for carrying out this Act, a report on the need to provide an effective structural mechanism for converting customary units to metric units in statutes, regulations, and other laws at all levels of government, on a coordinated and timely basis, in response to voluntary conversion programs adopted and implemented by various sectors of society under the auspices and with the approval of the Board. If the Board determines that such a need exists, such report shall include recommendations as to appropriate and effective means for establishing and implementing such a mechanism.

SEC. 7. In carrying out his duties under this Act, the Board may—

(1) establish an Executive Committee, and such other committees as it deems desirable;

(2) establish such committees and advisory panels as it deems necessary to work with the various sectors of the Nation's economy and with Federal and State governmental agencies in the development and implementation of detailed conversion plans for those sectors. The Board may reimburse, to the extent authorized by law, the members of such committees;

(3) conduct hearings at such times and places as it deems appropriate;

(4) enter into contracts, in accordance with the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.), with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties;

(5) delegate to the Executive Director such authority as it deems advisable; and

(6) perform such other acts as may be necessary to carry out the duties prescribed by this Act.

SEC. 8. (a) The Board may accept, hold, administer, and utilize gifts, donations, and bequests of property, both real and personal, and personal services, for the purpose of aiding or facilitating the work of the Board. Gifts and bequests of money, and the proceeds from the sale of any other property received as gifts or bequests, shall be deposited in the Treasury in a separate fund and shall be disbursed upon order of the Board.

(b) For purpose of Federal income, estate, and gift taxation, property accepted under subsection (a) of this section shall be considered as a gift or bequest to or for the use of the United States.

(c) Upon the request of the Board, the Secretary of the Treasury may invest and reinvest, in securities of the United States, any moneys contained in the fund authorized in subsection (a) of this section. Income accruing from such securities, and from any other property accepted to the credit of such fund, shall be disbursed upon the order of the Board.

(d) Funds not expended by the Board as of the date when it ceases to exist, in accordance with section 5(d) of this Act, shall revert to the Treasury of the United States as of such date.

SEC. 9. Members of the Board who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the Board or while otherwise engaged in the business of the Board, be entitled to receive compensation at a rate not to exceed the daily rate currently being paid grade 18 of the General Schedule (under section 5332 of title 5, United States Code), including traveltime. While so serving, on the business of the Board away from their homes or regular places of business, members of the Board may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service. Payments under this section shall not render members of the Board employees or officials of the United States for any purpose. Members of the Board who are in the employ of the United States shall be entitled to travel expenses when traveling on the business of the Board.

SEC. 10. (a) The Board shall appoint a qualified individual to serve as the Executive Director of the Board at the pleasure of the Board. The Executive Director, subject to the direction of the Board, shall be responsible to the Board and shall carry out the metric conversion program, pursuant to the provisions of this Act and the policies established by the Board.

(b) The Executive Director of the Board shall serve full time and be subject to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code. The annual salary of the Executive Director shall not exceed level III of the Executive Schedule under section 5314 of such title.

(c) The Board may appoint and fix the compensation of such staff personnel as may be necessary to carry out the provisions of this Act in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code.

(d) The Board may (1) employ experts and consultants or organizations thereof, as authorized by section 3109 of title 5, United States Code; (2) compensate individuals so employed at rates not in excess of the rate currently being paid grade 18 of the General Schedule under section 5332 of such title, including traveltime; and (3) may allow such individuals, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title 5 for persons in the Government service employed intermittently: *Provided, however,* That contracts for such temporary employment may be renewed annually.

SEC. 11. Financial and administrative services, including those related to budgeting, accounting, financial reporting, personnel, and procurement, and such other staff services as may be needed by the Board, may be obtained by the Board from the Secretary of Commerce or other appropriate sources in the Federal Government. Payment for such services shall be made by the Board, in advance or by reimbursement, from funds of the Board in such amounts as may be agreed upon by the Chairman of the Board and by the source of the services being rendered.

SEC. 12. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. Appropriations to carry out the provisions of this Act may remain available for obligation and expenditure for such period or periods as may be specified in the Acts making such appropriations.

The PRESIDING OFFICER. Without objection, S. 100 will be indefinitely postponed.

NANTUCKET SOUND ISLANDS TRUST, MASS.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 480, S. 67.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 67) to establish the Nantucket Sound Islands Trust in the Commonwealth of Massachusetts, to declare certain national policies essential to the preservation and conservation of the lands and waters in the trust area, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs, with an amendment to strike out all after the enacting clause and insert the following:

FINDINGS AND STATEMENTS OF POLICY

SECTION 1. The Congress finds and declares—

(a) that the Nantucket Sound Islands in the Commonwealth of Massachusetts, known generally as the Islands of Nantucket, Tuckernuck, Muskeget, Martha's Vineyard, Noman's Land, and the group of islands known collectively as the Elizabeth Islands, possess unique natural, scenic, marine, ecological, scientific, cultural, historic, and other values and resources;

(b) that there is a national interest in preserving, conserving, and enhancing these unique values and resources for the present and future well-being of the Nation and for present and future generations;

(c) that in some portions of the Nantucket Sound Islands these unique values and resources are being irretrievably damaged and lost through growth pressures leading to ill-planned development, and that such development threatens heretofore successful local government and private voluntary preservation, conservation, and planning efforts;

(d) that the growth pressures resulting in the rapid and ill-planned development in some portions of the islands are partially the result of the use of the island by citizens of many States and regions of the United States;

(e) that the present State, regional, and local powers and authorities for controlling land and water uses are inadequate to insure the prudent use of resources and the preservation, conservation, and enhancement of the values and resources of the said islands, and it is in the national interest to establish a new system to assist the Commonwealth of Massachusetts, regional agencies, and local governments to preserve and manage the values and resources of the islands;

(f) that the key to more effective preservation and conservation of the unique values and resources of the Nantucket Sound Islands is a program encouraging coordinated action by the Federal and State Governments, acting in trust, to assist local governments (in partnership with private individuals, groups, organizations, and associations) to administer sound acquisition and management policies regulating and guiding development on the Nantucket Sound Islands;

(g) that such a new system for the protection and management of the values and resources of the islands requires the establishment by the Commonwealth of Massachusetts of local commissions as operational entities to give effect to the trust relationship;

(h) that such a program can protect and enhance the natural character and cultural and historic heritage of the Nantucket Sound Islands consistently with the maintenance of sound local economies, private property values, and efficient public services, thus preserving and conserving unique values and resources of the islands; and

(i) that because expanded access to the said islands would seriously impair their unique values and resources and contravene the purposes of this Act, it shall be national policy that no bridge, causeway, tunnel, or other direct vehicular access be constructed from the mainland to the islands.

NANTUCKET SOUND ISLANDS TRUST

SEC. 2. (a) In order to protect the national interest in the preservation and conservation of the unique natural, scenic, ecological, scientific, cultural, historic, and other values and resources of the Nantucket Sound Islands, there is established in the Commonwealth of Massachusetts the Nantucket Sound Islands Trust (hereinafter referred to as the "trust"), comprising the area described in section 3 herein.

(b) Pursuant to the said trust relationship, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall be responsible for the following:

(i) approval of the commissions, as established by the Governor of the Commonwealth of Massachusetts (hereinafter referred to as the "Governor") pursuant to section 4 of this Act;

(ii) distribution of appropriations under this Act to said commissions for the development of land use control plans and for the costs of the implementation and enforcement of such plans by the commissions;

(iii) approval of any land use control plans adopted by the respective commissions under this Act, and of any revisions to any such plans to the extent that any such revisions substantially affect the expenditure of funds granted pursuant to section 11 herein or the land classifications established pursuant to section 5 herein; and

(iv) enforcement of the land use control plans of the commissions and of the policies and guidelines of this Act, including the making of recommendations to the Department of Justice or other appropriate agency that legal proceedings be brought for enforcement of the policies of the Act with respect to any private or governmental violation of the policies of the Act or of plans and regulations issued pursuant thereto.

(c) Pursuant to the trust relationship, and in consideration of the funds received in relation thereto, the individual commissions shall be responsible for the following:

(i) the development and adoption of land use control plans as authorized and described in section 5 herein;

(ii) the administration and implementation of said plans; and

(iii) the monitoring of said administration and implementation.

(d) The administration of the trust relationship by the commissions shall at all times be consistent with the policies of this Act, to wit: to conserve and protect the unique values and resources of the trust area in a manner designed to encourage prudent stewardship of land and water resources while being responsive to the need to maintain sound local economies and efficient public services.

(e) The commissions may take such actions, adopt such procedures, and assume such powers as are reasonably necessary to carry out this Act including the following:

(i) be designated by any State or Federal agency to participate in or receive funds and technical assistance from any State or Federal programs, especially as those programs relate to environmental protection, conservation, land use planning, water and air quality control, economic development, transportation, or the development of region-wide public services;

(ii) receive for the purposes of this Act any funds or moneys from any source, including grants, bequests, gifts, fees, or contributions made by any individuals, association, corporations, or by municipal, county, State, or Federal Governments;

(iii) authorize debt by a majority vote of the commission in anticipation of revenue to an amount not in excess of that to be received during the current fiscal year from all Federal, State, county, and local sources;

(iv) transfer moneys from its accounts to the accounts of a municipal agency in reimbursement of such costs, where the imposition of a regulation promulgated by a commission imposes costs on a municipal agency;

(v) purchase or accept gifts of land or interests in land, or accept grants, bequests, gifts, or contributions for the purpose of acquiring land or interests in land;

(vi) sue and be sued; and

(vii) assume the duties, powers, and responsibilities given it by action of State, local, or county government: *Provided*, That they are not inconsistent with the functions of the commissions under this Act.

SEC. 3. (a) The area comprising the trust shall encompass the lands and waters in the counties of Dukes and Nantucket in the Commonwealth of Massachusetts.

(b) NOMAN'S LAND.—The lands and waters of Noman's Land Island are hereby declared part of the National Wildlife Refuge System and the Secretary is directed to prepare and execute forthwith the necessary documentation to give effect to such declaration. The Secretary and the Secretary of Defense shall, within twelve months after the date of enactment of this Act, survey Noman's Land Island and the surrounding waters for unexplored military ordnance and render such ordnance, wherever it may be found, harmless; and thereafter, Noman's Land Island shall be administered pursuant to the National Wildlife Refuge System Administration Act (16 U.S.C. 668dd).

NANTUCKET SOUND ISLAND TRUST COMMISSIONS

SEC. 4. (a) Within three months after the date of this Act, the Governor shall establish trust commissions which shall be known collectively as the Nantucket Sound Islands Trust Commissions (hereinafter referred to as the "commissions") and individually as the Nantucket Trust Commission, the Martha's Vineyard Trust Commission, and the Elizabeth Islands Trust Commission. After any commission has been established pursuant to this Act, it shall have the responsibilities specified in this Act for that portion of the trust area assigned to it.

(b) NANTUCKET TRUST COMMISSION.—The Nantucket Trust Commission shall have the responsibilities as established herein over the lands and waters in Nantucket County, and shall consist of eleven members nominated by the Governor and approved by the Secretary. The members shall serve three-year staggered terms which shall commence on the first Monday in April. Members shall be nominated and approved as follows:

(1) one member recommended by the Governor;

(2) two members recommended by the board of selectmen of the town of Nantucket, who shall be members of the board of selectmen;

(3) two members recommended by the board of selectmen of the town of Nantucket within two weeks after the annual town meeting, who shall be seasonal resident property owners;

(4) two members who shall be qualified voters of the town and who shall be elected at the annual election which is a part of the annual town meeting; and

(5) four members, one each recommended by the Nantucket Planning Board, the Nantucket Conservation Commission, the Nantucket Historic Districts Commission, and the Nantucket Housing Authority within two weeks after the annual town meeting, each of whom shall be a qualified voter of said town.

(c) MARTHA'S VINEYARD TRUST COMMISSION.—The Martha's Vineyard Trust Commission shall have the responsibilities as established herein over the lands and waters in Dukes County, excepting the Elizabeth Islands, and shall consist of twenty-one members nominated by the Governor and approved by the Secretary, twelve of whom shall be appointed and nine elected. The members shall serve two-year staggered terms which shall commence on January 1 of each year. Members shall be nominated and/or elected as follows:

(1) one member recommended by the Governor;

(2) one member recommended by the board of selectmen of each town on Martha's Vineyard, who may be a selectman, a member of a planning board, or of any other municipal agency, board, department, or office of that town;

(3) one member recommended by the Dukes County commissioners, who may be a Dukes County commissioner;

(4) nine members elected at large in an islandwide election, with not less than one member nor more than two members to be elected from any one town on Martha's Vineyard; elections held subsequent to the initial election of members shall be held concurrent with the biannual elections for State and county offices; and

(5) four members whose principal residence is not on Martha's Vineyard but who are seasonal residents, who shall be recommended by the Governor: *Provided*, That such members shall have voice but no vote in deciding matters before the commission.

(d) ELIZABETH ISLANDS TRUST COMMISSION.—The Elizabeth Islands Trust Commission shall have the responsibilities as established herein over the lands and waters of the Elizabeth Islands, and shall be composed of six members nominated by the

Governor and approved by the Secretary. The members shall serve three-year staggered terms which shall commence on the first Monday in April. Members shall be nominated and/or elected as follows:

(1) one member recommended by the Governor;

(2) one member elected at the annual election which is a part of the annual town meeting;

(3) two members recommended by the board of selectmen to represent the Island of Cuttyhunk, one of whom shall be a permanent resident of Cuttyhunk and one of whom shall be a seasonal resident of Cuttyhunk; and

(4) two members appointed by the board of selectmen to represent the other islands in the Elizabeth Islands, one of whom shall be a permanent resident of one of such other islands, and one of whom shall be a seasonal resident of Cuttyhunk; and

(4) two members appointed by the board of selectment to represent the other islands in the Elizabeth Islands, one of whom shall be a permanent resident of one of such other islands, and one of whom shall be a seasonal resident of one of such other islands.

(e) Each commission shall elect from its members at least the following officers: chairman, vice chairman, and clerk-treasurer.

(f) Pursuant to subsection (a) of this section, the Governor may establish the Martha's Vineyard Commission, established by chapter 637 of the Acts and Resolves of 1974 of the Massachusetts Legislature, as amended, as the Martha's Vineyard Trust Commission in lieu of the commission otherwise to be established pursuant to subsection (c) of this section.

PREPARATION OF LAND USE CONTROL PLANS

SEC. 5. (a) Each commission shall, within six months of its formation, develop a land use control plan to govern the preservation, conservation, and enhancement of the lands and waters within the trust area, and the provision of efficient public services, where appropriate, within the trust area. A land use control plan shall consist of three parts:

(i) Part I: such maps, text, and statements of general policies and specific implementation programs as each commission shall deem necessary to carry out the policies of this Act;

(ii) Part II: the assignment of lands and waters within the trust area, except as may be excluded by specific provisions of this Act, to one of the classifications designated in subsection (b) of this section; and

(iii) Part III: regulations which shall apply to the preservation, conservation, use, and development of lands within each classification.

(b) Lands and waters within the trust area shall be assigned by each commission to one of the following classifications as part of the land use control plan:

(1) OPEN LANDS.—Lands and waters so classified shall remain forever free of improvements, as defined hereinafter, of any kind except as provided herein. If improvements exist on any lands so classified on the date of enactment of this Act, then there shall be permitted a right of use and occupancy to the legal or beneficial owner or owners thereof, or their successors or assigns, for so long as such successors or assigns are members of the same family or families as the legal or beneficial owner or owners. If, however, the legal or beneficial owner or owners seek to sell or otherwise convey the improvement with or without the land thereunder to others than legal or beneficial owners or members of the same family or families as the legal or beneficial owner or owners, then the commissions shall have an exclusive option to purchase said improvement with or without the land thereunder at full and fair market value, which shall be promptly determined, and such option shall exist for sixty days after such determination. If such option is exercised, then the land acquired shall be held by the commissions in trust for the Secretary, and administered pursuant to the land use control plan, and if such option is not exercised, then the sale or other conveyance may proceed in the ordinary course. For the purposes of this paragraph, family shall mean siblings of a legal or beneficial owner or owners, lineal descendants natural or adopted, or relatives by marriage. Any substantial change in access to and/or use of land classified as "Open Lands" must be approved by the commissions if such change is substantially contrary to a respective land use control plan.

(2) RESOURCE MANAGEMENT LANDS.—Lands and waters so classified shall not be developed beyond their present intensity of use except as provided in this paragraph. Owners of such lands, or of improvements thereon, or of both, may transfer, sell, assign, or demise such land or improvements, or both. Reasonable replacement and extension of improvements shall be permitted, under the regulations approved and/or issued by the commissions. Development on lands so classified beyond their present intensity of use shall be permitted only under regulations approved and/ issued by the commissions, which shall be consistent with the following policies:

(i) the overall intensity must take into account the capability of the land for such development, which shall include consideration of existing land use, intensity and types of uses in the immediate vicinity, areawide water quality and quantity, soil conditions, roadway utilization, and visual and topographic conditions;

(ii) overal intensity regulations shall not create uniform lot sizes and shall be defined and applied with flexibility to encourage sound land use planning respecting the varying natural values of the different geographical areas of land; and

(iii) the area upon which intensity is calculated shall not include bodies of water or wetlands classified as such under Massachusetts Wetlands Protection Act (131 M.G.L. 40).

Said regulations shall be adopted only after (i) public hearing or hearings and (ii) approval by the Secretary of the relevant portions of the land use control plan. The Secretary shall indicate his approval or suggested modifications to such regulations of each commission within ninety days of receipt. After the Secretary has given his final approval of the relevant portions of the land use control plan of the respective commissions, construction of improvements on the lands or in the water classified as Resource Management Lands within the jurisdiction of each commission may thereafter be permitted only upon the granting of a permit therefor by each commission acting pursuant to its regulations: *Provided*, That such a permit may be granted only if all other necessary local and State approvals have been received.

(3) TOWN ZONED LANDS.—Lands and waters so classified shall remain under the jurisdiction of the town in which located for purposes of planning and zoning ordinances and other land use regulations: *Provided*, That such planning and zoning ordinances and other land use regulations shall be reviewed and commented upon by the commissions as to consistency with the purposes of this Act prior to the adoption of such ordinances or regulations or amendments thereto: *And provided further*, That the commissions may review and comment upon variances and special permits proposed to be granted pursuant to any local zoning ordinance.

(c) The land use control plan adopted by each commission shall be consistent with the policies, objectives, and guidelines contained in this Act, and shall include, but not be limited to, the following components which shall be contained in part I of the plan:

(1) a program for the preservation of significant, natural, scenic, ecological, scientific, cultural, marine, or historical resources, including areas which, because of their local, regional, or other importance, should be preserved in their natural state (such lands may include, but need not be limited to, lands assigned by the commissions to the "Open Land" classification under this Act). This program may include regulation of uses of land and water pursuant to the constitutional authority of the State; other noncompensatory land use regulations which may be appropriate; compensatory land use regulations; tax incentives and payments in lieu of taxes; acquisition of the fee title or of lesser interests in lands and/or waters; or any combination of land use control methods which best meets the purposes and policies of this Act;

(2) a program for the development of public recreational facilities;

(3) a program and regulations for the preservation of beaches and for the development of public access to beaches and passages along them;

(4) a transportation program including regulations for and a review of all existing public and private access by air and water to lands within the trust area, and a review of public and private transportation systems for land transportation on each of the major islands. Said review shall be accompanied by recommendations for legislative and administrative action to harmonize such access, and the use of land and facilities incident thereto, with the conservation and preservation policies of this Act, and shall further include a system for regular reviews of such access and of their impact on development pressures on the trust area. This review shall also include recommendations for the development of trails, bicycle paths, observation points, and exhibits deemed by each commission to be appropriate for the public enjoyment of and understanding of the values and resources of the trust area;

(5) a program for the identification and promotion of new employment opportunities for residents of the trust area which would be consistent with the policies of this Act, which shall include recommendations for action by the Commonwealth and the Secretary and other Federal agencies; and

(6) a program for the development of resident homesites for year-round residents of the islands in the trust area, said program to include recommendations for action by Federal agencies and for the expenditures of appropriations under this Act, upon approval of the Secretary, for the resident homesite plan. A resident homesite plan shall mean a plan established by the appropriate commission designating parcels of land which may be acquired by the commission at fair market value and resold at a lower price to year-round residents who meet criteria established by the commission.

(d) Each commission shall include as part of its land use control plan a listing of improvements the construction of which commenced after April 11, 1972. Such listing shall include improvements for residential, commercial, industrial, recreational, or any other purpose. If any such improvement is located on lands or waters classified as "Open Lands", the commission may acquire the improvement forthwith, notwithstanding the provisions of section 5(b)(1) herein. If any such improvement is located on lands or waters classified as "Resource Management Lands", the commission may, for those improvements for which no certificate of need was granted or sought, acquire the improvements, notwithstanding the provisions of section 5(6)(2) herein.

(e) Any acquisition by the commissions of a fee or less than fee interest in lands or waters shall conform to the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. 4601).

(f) A land use control plan developed by a commission may utilize land use control regulations developed by regional or county authorities pursuant to applicable State laws; and the land use control methods made a part of the program authorized by section 5(c)(1) of this Act may be utilized to supplement or complement such regulations.

PRIVATE NONPROFIT ORGANIZATIONS

SEC. 6. (a) In order to encourage and provide an opportunity for the establishment of natural and scenic preserves by voluntary private action of owners of lands and waters in the trust area, and notwithstanding any provision in this Act or in any other provision of law, the authority established by this Act to acquire lands or interests therein for preservation and conservation purposes without the consent of the owner shall be suspended when—

(i) lands or waters or interests therein which are designated as being presently or from time to time needed to carry out the purposes of this Act are irrevocably in the ownership of private nonprofit conservation, preservation, historic, or other organizations or associations, and the restrictions against the development of such lands meet the standards of the land use control plan; or

(ii) lands or waters or interests therein which are designated as being presently or from time to time needed to carry out the purposes of this Act are, to the satisfaction of the commissions, the Governor, and the Secretary and within twenty-four months after enactment of this Act, irrevocably committed to be sold, donated, demised, or otherwise transferred to such organizations or associations.

(b) The provisions of this section shall be applied only to those organizations and association which are determined to be bona fide and general purpose.

(c) All of the provisions of this Act, except sections 1, 2, and 3, shall be suspended with respect to any lands, waters, or interests therein so long as such lands, waters, or interests therein are within twenty-four months of the enactment of this Act subject to a revocable or irrevocable conservation restriction created, approved, and recorded under sections 31 through 33 of chapter 184 of the General Laws of Massachusetts, which forbids, or in the judgment of the commissions, and the Secretary, as evidenced by their joint written approval of such restriction, substantially limits all or a majority of the land referred to in clauses (a) through (g) of the first paragraph of said section 31. With respect to any revocable restriction, notice of the intention to revoke must be given to the appropriate commission and the Secretary not less than twelve months prior to the proposed effective date of the revocation unless the lands, waters, or interests therein are in whole or in part made subject to a taking by eminent domain. The entity carrying out such eminent domain proceedings with respect to property covered by such a conservation restriction shall give notice of such proposed taking to the commission having jurisdiction over the property proposed for condemnation.

INDIAN COMMON LANDS

SEC. 7. (a) The Martha's Vineyard Commission is directed to establish as part of its land use control plan an orderly program for determining the precise extent of Indian Common Lands on Martha's Vineyard. The program shall include a survey or surveys and such other research or field work as may be necessary to establish the boundaries of the Common Lands belonging to the Wampanog Tribe of Gay Head and known generally as the Cranberry Bogs, the Clay Cliffs and Herring Creek. The commission is further directed to determine the location boundaries, and owners of record title of the monuments and burial grounds of the Wampanog Tribe of Gay Head on Martha's Vineyard. Funds to carry out the program may be drawn from those authorized to be appropriated by section 19.

(b) Upon completion of the program described in subsection (a) of this section. Lands shall be acknowledged as an Indian reservation owned by the Wampanoag Tribe of Gay Head pursuant to recognized Indian title and entitled to the full protection of Federal laws pertaining to Indian lands.

(c) Nothing contained in this Act shall be construed to prejudice or limit any claims which the Wampanoag Tribe of Gay Head Indians, or any member of that tribe, may have for past violations of their rights as Indians, including but not limited to claims arising under the Indian Trade and Intercourse Act (25 U.S.C. 177).

(d) The Wampanoag Tribe of Gay Head is hereby acknowledged as and declared to be eligible for the services and assistance now or hereafter provided to Indians because of their status as Indians by or through any department, agency, or instrumentality of the United States Government including, but not limited to, the Bureau of Indian Affairs, Department of the Interior, and the Indian Health Service, Department of Health, Education, and Welfare, or pursuant to any statute of the United States.

COOPERATION OF OTHER AGENCIES

SEC. 8. The Secretary and the heads of other Federal agencies shall cooperate with the commissions in the formulation of their land use control plans upon the request of the respective commissions and to the extent of available funds.

COMMISSION EXPENSES AND PROCEEDINGS

SEC. 9. (a) Members of the commissions who are employees of a State or local government shall serve without additional compensation as such. All other members may, if a commission so votes, receive $50 per diem when actually engaged in the performance of the duties of the commissions.

(b) The Secretary shall reimburse all commission members for necessary travel and subsistence expenses incurred by them in the performance of the duties of the commissions.

(c) Financial and administrative services (including those relating to payment of compensation, budgeting, accounting, financial reporting, personnel, and procurement) shall be provided by the Secretary from the funds appropriated to carry out the provisions of this Act.

(d) The commissions shall have the power to appoint and fix the compensation of such additional personnel, including experts and professionals, and for such temporary and intermittent services as may be necessary to carry out their duties, without regard to the provisions of the civil service laws and the Classification Act of 1949, and they shall have the power to hold hearings and administer oaths.

(e) The commissions shall act by affirmative vote of a majority thereof. Vacancies shall be filled in the same manner as the original appointment.

SUBMISSION AND APPROVAL OF PLANS

SEC. 10. (a) Each commission within six months of being established, shall submit a land use control plan to the Secretary who shall, within one hundred and twenty days of the day it is received by him, either approve or disapprove it. The plan must be complete, or if divided into phases, must clearly state the reasons for the division into phases and the date or dates by which subsequent phases will be submitted. Approval or disapproval of phases or resubmissions shall be made within one hundred and twenty days of receipt by the Secretary.

(b) The Secretary shall approve the plan if he finds that (1) the commission has afforded adequate opportunity in the area within its jurisdiction for public comment on the plan, and such comment was received and considered in the plan or revision as presented to him; (2) State and local units of government identified in the plan as responsible for implementing any portion of its provisions have the necessary legislative authority to do so, and the chief executive officers of the State and local units of government have indicated their commitment to utilize such authority in implementation of the plan in accordance with the program established by the commission; (3) the plan will preserve significant natural, cultural, marine, or historical values; and (4) the plan is consistent with the preservation, conservation, and enhancement policies of this Act and will fulfill the objectives of the land classifications and policies established in section 5 of this Act.

(c) If the Secretary disapproves a plan, a phase of a plan, or any revisions thereto he shall advise the commission of the reasons therefor and convey his recommendations for revision. The plan, phase, or revision, following its disapproval, may be resubmitted to the Secretary for his approval as soon as the commission is able to make revisions which are responsive to the Secretary's recommendations.

(d) Upon approval of a plan, the Secretary shall publish a notice thereof in the Federal Register and shall transmit copies of the plan together with his comments to the President of the Senate and the Speaker of the House of Representatives.

(e) No substantial revision to an approved plan or land classification assignments may be made without the approval of the Secretary. The Secretary shall either approve or disapprove such a proposed revision within ninety days from the date on which it is submitted to him. Whenever the Secretary approves a revision and prior to such approval, he shall publish notice thereof in the Federal Register.

TRUST GRANTS BY THE SECRETARY

SEC. 11. Upon approval of a plan, the Secretary shall made implementation grants in the total amount of $5,000,000 to the commissions. Prior to submission of a plan, the Secretary may, upon application therefor, make grants to the commissions for the development of a land use control plan: *Provided*, That such development grants shall not exceed $1,000,000 of the total $5,000,000. Such development or implementation grants shall be supplemental to any other Federal financial assistance for any purpose, and shall be subject to such reasonable terms and conditions as the Secretary deems necessary to effectuate the purposes of this Act. In making the grants, the Secretary shall take into consideration that there are three commissions with responsibilities pursuant to this Act, and shall insure that the grant funds are equitably distributed among the three commissions, taking into account such factors as population, acreage, land and water resources, existing and projected development, and the special tasks imposed by this Act relative to Indian Common Lands.

TRUST ACCOUNT

SEC. 12. There is hereby established a special account in the Treasury of the United States for the purpose of holding moneys to be used for trust grants, pursuant to section 11 of the Act, to the commissions. There shall be covered into such special account $5,000,000 from revenues due and payable to the United States under the Outer Continental Shelf Lands Act (67 Stat. 462) as amended and or under the Act of June 4, 1920 (41 Stat. 13) as amended, which would otherwise be credited to miscellaneous receipts of the Treasury. Moneys covered into the account shall be used only for grants made pursuant to section 11 of this Act and shall be available for expenditure only when appropriated therefor.

APPROPRIATIONS

SEC. 13. There are authorized to be appropriated to defray the expenses of the commissions, established pursuant to section 3, including salaries and other expenses incident to the operation of the commissions, such sums annually as may be necessary; and for grants to the commissions to develop and implement land use control plans and regulations approved pursuant to this Act, $5,000,000 from the special account created in section 12 of this Act.

Mr. JOHNSTON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 63, line 10, insert the following: strike "$5,000,000" and insert in lieu thereof "$10,000,000".

On page 63, line 14 strike "$5,000,000" and insert in lieu thereof "$10,000,000".

On page 64, line 6 strike "$5,000,000" and insert in lieu thereof "$10,000,000".

On page 64, line 22 strike "$5,000,000" and insert in lieu thereof "$10,000,000".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

Mr. HANSEN. In view of the fact that S. 67, as reported by the committee, represents a novel approach to large open space preservation, I am concerned that misunderstandings over the bill might prejudice future efforts in this direction. The distinguished Senator from Louisiana (Mr. JOHNSTON) and I had a lengthy discussion with several witnesses over this new approach when the subcommittee held hearings on the Santa Monica measure. I found that discussion informative and I think that any misapprehensions about this approach could be avoided if the Senator and I could go very briefly over some of the provisions which have been questioned.

Mr. JOHNSTON. I thoroughly agree with the distinguished Senator from Wyoming (Mr. HANSEN). The Senator and I have both been concerned over the future of this Nation's dwindling open space, especially in urban areas. The land and water conservation fund is of great assistance, but it is inadequate to handle extremely large projects. The lack of Federal zoning authority makes Federal acquisition and preservation of urban areas almost impossibly expensive. This approach provides a limited amount of Federal front-end money to States and localities which are willing to employ those tools at their command to preserve an area. It is important to remember that this is Federal assistance not Federal protection. Passage of this act will not itself protect the Nantucket area, but it will provide the necessary financial support to the commissions if the commissions wish that support. There are no Federal sanctions on the commissions for failure to act. What the measure does, very simply, is provide a fixed amount of money to the State if the State is willing to develop and implement a management plan for the area. The content of the plan is up to the commissions, subject to Federal approval, but the Federal Government will not dictate the plan nor implement it. I would be most happy to review the provisions of this bill with my distinguished colleague.

Mr. HANSEN. Are there sufficient protections on the expenditure of Federal funds to assure that they will be spent in accordance with the approved plan?

Mr. JOHNSTON. I believe that there are. Section 11 of the measure makes the Federal grants subject to such reasonable terms and conditions as the Secretary deems necessary. Much as Land and Water Conservation Fund grants, I expect the application for funds will state the reason for the request and that an accounting will be made. These are reasonable terms, and I expect the Secretary to follow this program carefully. The committee can, if necessary, hold oversight hearings and I expect that we will want to review this program carefully in the future.

Mr. HANSEN. What will be the impact on county governments under this program?

Mr. JOHNSTON. The impact will be minimal. Counties in Massachusetts do not exercise land use controls so the development and implementation of a plan will not affect their authorities. Other responsibilities such as law enforcement and maintenance of courts would be unaffected.

Mr. HANSEN. There has been concern expressed that sections 5(b)(1) and 5(b)(2) might constitute a taking without compensation. Could the Senator clarify that?

Mr. JOHNSTON. Those two provisions merely describe two categories for land classification. If the commissions' judgment to assign a particular parcel of land to a certain category results in a "taking" of real property rights from an owner rather than only a regulation within the scope of the State's police power, then either the classification must be altered or the owner compensated. The Senator knows my deep feelings about depriving property owners of their rights and I would like the record to be absolutely clear that any "taking" must be compensated.

Mr. HANSEN. Would it be accurate to characterize the enforcement provision of section 2(b) as a kind of Federal zoning?

Mr. JOHNSTON. I do not believe that would be accurate. The enforcement provision is analogous to the Secretary's rights against States which request Land and Water Conservation Fund grants. If a State receives a grant to purchase land for a park and later decides to put an industrial plant on the property, the Secretary can enjoin that action because of the conditions of the grant. Similarly if the commissions submit a plan which is approved and request the Federal funds, the Secretary will be able to enforce commission adherence to the approved plan.

The enforcement provision only applies if the commissions request funds to implement the plan. Their request carries with it the promise to implement the plan and the Secretary will be able to see that they do. This is not Federal zoning, but rather a quasi contractual relationship and codifies the traditional right of Federal agencies to intervene to prevent the expenditure of Federal funds in contravention of the legislation authorizing such funds.

Mr. HANSEN. Given the detailed standards set for the Commission plans, could this legislation be viewed as a major Federal encroachment on State and local authorities?

Mr. JOHNSTON. Possibly if we penalized the State for failing to follow the guidelines, that characterization would be accurate, but there is no penalty attached if the State decides not to formulate a plan. There is a carrot in this bill, but no stick. The standards are detailed, I agree, but they are discretionary. The Commission must decide how to classify a given area. The commissions if they are to do a decent job should consider where and to what extent there should be public recreational facilities, how to ensure access to the beaches, et cetera. It is important that these questions be thought out and discussed. We are not saying what the answer will be, all we are requesting is that the commissions come up with answers as a part of their plan.

Mr. HANSEN. Section 12 exempts three categories of land and waters from eminent domain acquisition. Will all other lands be subject to federally enforced condemnation proceedings?

Mr. JOHNSTON. As the Senator remembers, this was a major problem with the legislation we considered last year. The change to this new formula eliminates the problem. All private land is subject to condemnation by the Government. Usually there are restrictions such as "public purpose" on a Government exercise of eminent domain and of course the Constitution requires just compensation. What the bill provides is that three categories of land must be exempted from this inherent State power. All other lands would remain as they are today. There is no Federal requirement of condemnation of anyone's property, but rather a requirement that three categories of land not be condemned.

Mr. HANSEN. Why is the provision with respect to Noman's Land Island necessary? Will it be a precedent?

Mr. JOHNSTON. I do not believe this will be a precedent as interdepartmental agreements have worked well in other areas. The major problem here is the unexploded ordinance which is a threat to human and animal use and the ongoing right of the Navy to use the island for target practice. For the protection and use of the area, I believe that this provision is necessary.

Mr. HANSEN. One of the categories of land use to be considered by the local commissions is "open land." Do we have any estimate of the cost of lands to be placed in this classification and do we know exactly what the Federal Government's obligation for enforcement will be for "open lands"?

Mr. JOHNSTON. Since the legislation leaves the issue of which lands are to be placed in open land categories up to the commissions as they draw up their plans, it is impossible to estimate at this time the cost of such actions. In any event, the Federal Government will not be committed to more than the authorized amount in the measure. The commissions will have to consider the limited amount of Federal funding available when they draw up their plans.

Mr. HANSEN. Will the Federal Government be liable under section 2(e)(iii) for the "debt" assumed by the State-local agency under this legislation?

Mr. JOHNSTON. No the Federal Government will not be liable. The ability for the commissions to borrow in anticipation of appropriated sums is an important safeguard of the continuity of their efforts. The precedents for "advance borrowing" by other State and local agencies provides assurance that the obligations will be those of the commissions only.

Mr. HANSEN. Section 7 of the legislation confers Federal recognition to the Wampanoag Indian Tribe of Gay Head and declares the common lands belonging to the tribe to be a reservation. Has the Wampanoag Tribe already received any compensation from the Federal Government in payment for these lands?

Mr. JOHNSTON. The Wampanoag Tribe has never received payment of any kind in any amount for these lands. I think we should make clear that section 7 does not contemplate transferring any lands to the tribe which the tribe does not already own. By Indian common lands, we mean those lands which belong to the tribe and only those lands. There will be no cost in the recognition of these lands as a reservation.

Mr. HANSEN. Under section 5(c)(1) the land use plans submitted by the commissions may include compensatory land use regulations, tax incentives, payments in lieu of taxes, and acquisition of fee or less than fee interests to protect the lands and waters on the Nantucket Sound Islands. Since the Secretary of the Interior has some responsibility for the enforcement of the plans, will the Federal Government be liable for these compensatory costs? Is there any estimate of these costs?

Mr. JOHNSTON. The implementing agency in this legislation is the local commission, and the bill authorizes the commission to "sue and be sued", section 2(c)(ii). It is the commission and only the commission which will be liable for its actions. A similar situation exists in the comprehensive State outdoor recreation plan under the Land and Water Conservation Fund. The Secretary does not become liable for the content of the plan. He authorizes the State or local agency designated in the plan to acquire the specified lands included in a project if the project is consistent with the plan. If a project costs more than originally estimated, the Federal Government is not liable for any of the additional cost.

The estimated cost is not known at this time since the plans have not been drawn up by the commissions, nor approved by the Secretary. In any event, the Federal Government will not expend more than is authorized in this measure due to the plans.

Mr. HANSEN. The Department of the Interior has raised a specific question over the use of Federal money to acquire private development rights with no assurance of access or use of the area by the general public.

Mr. JOHNSTON. The commission plans will address the question of access and use, and the Secretary of the Interior will have to approve the plan. There is enormous visitation of this area every summer and I would expect that to continue. With the plan, however, there will be beach access and recreational facilities where the general public can enjoy the area and the residents remain relatively undisturbed. I must disagree with the Department's objection.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HANSEN. Mr. President, I have an amendment that has been incorporated into the colloquy that the Senator from Louisiana and I have had in the RECORD. On page 2 of the reported bill, on line 18, my amendment would strike the words "private or". That is discussed in the colloquy.

The PRESIDING OFFICER. Will the Senator please send the amendment to the desk?

Mr. HANSEN. Yes.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 42, line 18, strike "private or".

Mr. HANSEN. I offer this amendment to clarify the intent of this legislation. We do not intend to preempt State authorities and neither do we intend to relieve the State of its responsibilities. Any private violation of the approved plans should be dealt with by the agency responsible for implementing the plan—the local commission. It is up to public interest groups and the local commissions to oversee the day-to-day activities within the trust area, and to make certain that illegal activities do not occur. The responsibility of the Secretary is to insure that the commissions do not violate the plan to make alterations without approval.

Mr. JOHNSTON. I think the amendment offered by my distinguished colleague is not only appropriate and useful, but accurately reflects the intent of the committee. The primary purpose of this new formula for Federal-State-local efforts is for the Federal Government to protect the recognized national interest in preserving this area by assisting the proper State and local authorities in fulfilling their obligation and responsibilities to the American people. I heartily concur in the Senator's amendment. The Federal Government has a responsibility in approving the plan and any subsequent revisions and to insure that the commissions do not make any changes without approval, but it is not appropriate for the Federal Government to preempt the local jurisdictions from enforcing the plans. I am satisfied that the commissions will be diligent in the implementation of these plans and that any private violation can be handled by the commission or local public interest groups through the State courts just as it is done presently. I congratulate my colleague for his amendment which will avoid any misapprehension over the Federal role in this trust area.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The bill is open to further amendment.

Mr. HANSEN. Mr. President, I have no further amendments to propose. However, before final passage, I should like to make a statement.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. HANSEN. Mr. President, I have some observations to make with regard to S. 67 before we vote upon it. My colleagues should be aware that this bill contains important precedents and new departures of far-reaching significance to the Nation.

Mr. President, this bill has not received the mature deliberation for which the Interior Committee and this body is renowned. Earlier, but different versions of a Nantucket Island trust bill were introduced in the 92d and 93d Congresses. Subcommittee hearings were held in 1973 and 1974 on these earlier versions. S. 67 was introduced on January 15, 1975, Mr. President.

No hearings have been held by either the Parks and Recreation Subcommittee or the full Interior Committee. Furthermore, an extremely revised new bill, amendment No. 1015, introduced on October 21, 1975, was substituted for S. 67 as originally introduced, but no hearings were held upon this substitution nor was it widely distributed.

Mr. President, this bill was scheduled for markup by full committee on November 12, 1975, but due to the press of other business and an executive session of the Senate, that scheduled markup was canceled. At the height of the Senate consideration of common situs and the ERDA conference on November 19, 1975, the chairman of the full committee scheduled a business meeting of the committee in S. 207, a Senate meeting room off the floor. In the usual press of business, it was difficult to obtain a quorum at this meeting and, when the quorum was obtained, the chairman announced that he would not call up the nominations of the general counsel of FEA and the Under Secretary of the Interior unless and until several bills, including S. 67, were first ordered reported.

No substantive discussion was ever held by the full committee on the provisions of this bill. My staff had prepared some substantive questions which I desired to have answered before S. 67 was reported by the committee at the request of the chairman, who assured me that the answers to my questions would be contained in the report on the bill. I submitted the questions for such answers and became part of a quorum which unanimously recommended that the Senate adopt S. 67.

Mr. President, many of my questions were left unanswered in the report and are unanswered today. I reiterate that there have been no substantive discussions of this bill by a quorum of the Parks and Recreation Subcommittee, nor by a quorum of the full committee, and I venture to say that only a few Senators of the 14 on the Interior Committee have fully read and digested the contents of the bill.

Mr. President, among the important provisions of this bill, which is to be passed by this body without further consideration, are the following:

First, the creation of a brand new, formally organized and bounded Indian Reservation on the island of Martha's Vineyard with the noncomitant recognition of the Wampanoag Tribe as a federally recognized tribe of Indians entitled to be eligible for all services and assistance provided to other federally recognized Indian tribes.

Mr. President, there are numbers of Eastern Indian tribes which have long requested Federal recognition only to be denied, and whose claims to such recognition are equally as good as if not better than those of the Wampanoags. I submit that we should not depart from the policy of nonrecognition of these Eastern tribes without mature consideration and a statement of policy which will cover other tribes, if deserving.

Second, Mr. President, this bill creates and funds a totally new and different concept in the recreation area under the Federal wing and adds another member to the family of federally funded recreation projects. The island trust is not a national park, it is not a national monument, it is not a national recreation area, and yet it involves the Federal Government in the preservation, use, and management of lands which are essentially a State's responsibility. I do not say, Mr. President, that the concept is not valuable, could not be developed for the good of the people of this Nation, or ought not to become a part of our governmental structure. I do say that it should not be done without full and proper deliberation.

Third, Mr. President, S. 67 mandates the Governor of a sovereign State, thorugh a commission provided by the bill, to assign lands within the island trust boundaries to one of three categories. One category requires that no improvements whatever be placed on land in that category and, furthermore, does not allow its ownership outside the family of its present owner without allowing a first refusal to the trust at a price which may be different and less than obtainable from the proposed buyer. The second category allows no development of lands in that category beyond their present intensity of use and occupation, possibly to the great detriment of the owner.

Mr. President, I submit that these provisions of S. 67, while perhaps legal under the laws of the State of Massachusetts and of the United States, are questionable as property taking without just compensation and thus in violation of the Constitution of the United States. Such provisions should not be adopted without full committee consideration prior to action by the Senate.

Third, Mr. President, this bill requires the Secretary of the Interior specifically to enforce against the commissions provided by the act and, in consequence the State of Massachusetts, the land use control plans mandated by the act.

Mr. President, this puts the Secretary of the Interior in the position of enforcing local zoning laws. True, such enforcement will not be against the individual owner or user of the land, but yet it could result and probably will lead to voluminous litigation, the joining of the Secretary of the Interior as defendant in many suits and conceivably result in the Federal Government becoming liable to huge damage and compensation payments.

Mr. President, the land on at least one of the islands we are talking about is said to be worth from $20,000 to $40,000 per acre. There are in excess of 113,000 acres within the boundaries of this proposed trust. I submit, Mr. President, that we are opening the door by this legislation to astronomical claims and demands against the United States and that we should not do so without full awareness of the consequences of our actions.

Mr. President, I am not unaware of the charm and of the fragile esthetic characteristics which special places like the Nantucket Sound islands presently possess. I share the concern—I recognize the urgency—imposed by the timetable of increasing visitations and by the onslaught of heedless developers.

Americans are discovering, oftentimes nearly too late, that efforts to preserve pristine beauty, the simple elegance of nature undefiled, can be postponed only at risk of losing for all time those unique and rare qualities which are so singularly important to all of us. Our determination to protect and preserve such resources is the measure of our appreciation and constitutes recommitment of this generation to the goals and ideals that fired and inspired the founders of this Nation.

I am privileged to live in an area that epitomizes the glories of nature while at the same time experiencing the impact of millions of people and who annually seek relief from tension, improvement of health, and regeneration of spirit which so often come from a visit to or a leisurely stay in our national parks.

But as ranking member on the Parks and Recreation Subcommittee I owe a duty to that committee and to the Senate which I must discharge.

Mr. President, because in the haste and flurry of the business meeting of November 19, 1975, I voted to report this bill to the full Senate; because my concerns, doubts, and questions concerning S. 67 arose so late; and because my actions may have given rise to an implied commitment to my colleagues, the distinguished Senators from Massachusetts, I do not insist on full floor debate on this bill, I do not propose the numerous amendments or restructuring of the bill, which would be required to meet my concerns, and I do not demand a rollcall vote of this body. However, I do request that, if S. 67 is brought to voice vote of this body, my vote be recorded as "nay."

Mr. JACKSON. Mr. President, I commend my distinguished colleagues from Massachusetts (Mr. KENNEDY and Mr. BROOKE) and the distinguished chairman of the Subcommittee on Parks and Recreation (Mr. JOHNSTON) for their long and thoughtful work in helping to make this measure a reality.

The Nantucket Sound islands trust bill represents a bold and imaginative step forward in combining the resources and expertise of all levels of government—Federal, State, and local—in partnership for the benefit of the American people.

In recent years, the Federal Government has moved forward to provide increased recreational opportunities for the American people. Our efforts, especially in urban areas, have been stymied by the enormous costs of land acquisition which are attendant upon a strictly Federal involvement. This legislation will enable the Federal Government to assist the State and local governments to fully perform their obligations and responsibilities to the American people to preserve and protect this beautiful and scenic area.

The islands of the Nantucket Sound were shaped by the Ice Age glaciers which overran the area, rounded and carved the land, then retreated leaving this outstanding coastline and island chain.

These islands are alive with history. The high prowed ships of the Vikings may have landed at Martha's Vineyard at early as the year 1000. Giovanni da Verrazano explored the Northeast coast in the early 16th century and noted the "pleasing appearance" of the islands. Eighteen years before the pilgrims landed at Plymouth Rock, Capt. Bartholomew Gosnold went ashore on Cutty Hunk in the Elizabeth Islands and established a short-lived fort which is now commemorated by a granite tower.

The three groups of islands total slightly more than 100,000 acres and have come under increasing pressures from development. The islands population rises dramatically during the summer months and only through concerted efforts by the Commonwealth of Massachusetts and the local citizens have the islands' majestic scenic integrity been maintained.

Mr. President, this legislation represents several years of long and arduous work by the Interior Committee with the assistance of both distinguished Senators from Massachusetts and I firmly believe that this legislation, if implemented, will not only enable future generations to enjoy the unspoiled beauty which first greeted the Vikings and later the Pilgrims, but will point the way for a new chapter in the Federal Government's role in preserving and enhancing the quality of life for the American people.

Mr. HANSEN. Mr. President, I ask

unanimous consent to have printed in the Record two letters, one from Jon Ahlbum, the president of Martha's Vineyard Chamber of Commerce, addressed to me; another from Alvin S. Lane of the firm of Wien, Lane & Malkin, of New York City.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Martha's Vineyard
Chamber of Commerce,
Vineyard Haven, Mass., December 3, 1975.
U.S. Senator Clifford P. Hansen,
Senate Office Building,
Washington, D.C.

Dear Senator Hansen: This is to register a special concern over Senate Bill 1929 (The Nantucket Sound Islands Trust Bill sponsored by Senator Edward M. Kennedy).

The Martha's Vineyard Chamber of Commerce opposes this legislation on the grounds that we prefer to solve our land-use problems on a state and local level and that the proposed trusteeship arrangement would deprive us of our rights, economic and civil.

Of special concern, moreover, is the fact that Senator Kennedy has promised on a number of occasions that he would not press for passage of a bill that would put Martha's Vineyard under a federal trusteeship unless a majority of the people here favored such a step.

On November 2, 1972, four fifths of the registered voters on Martha's Vineyard voted on a state-election referendum question on the Kennedy proposal. The vote was 2469 against the trusteeship and 1570 in favor.

There has been no referendum here since that time on the question of federal regulation of land use on Martha's Vineyard. It is hard to believe that the Congress would impose this federal control over the Island unless a majority of the Islanders is shown to be in favor.

Senator Kennedy should keep the promise to his Island constituents and delay any further legislative action on Senate Bill 1929 until and unless the plan is approved in a referendum here.

Jon Ahlbum,
President.

Wien, Lane & Malkin,
New York, N.Y., December 4, 1975.
Hon. Clifford P. Hansen,
U.S. Senate,
Washington, D.C.

Dear Sir: I am writing to you at the request of Bruce Bailey, Chairman of the Gay Head Taxpayers Association, with respect to the Nantucket Sound Trust Bill which will be coming up for a vote in the Senate. Our concern is the common lands in Gay Head which have been Town lands for over one hundred years and which under the Bill will become Indian common lands administered by the Wampanoag Indian Council. Our concern is not whether the lands in fact remain Town lands or Indian Tribal lands but rather how they will be used and who will be able to use them.

The lands in question are fragile, precious lands of extreme natural beauty which are visually enjoyed by all who visit the Vineyard. They also include unique beaches and moorings that have been available to all the people in Gay Head for over a century. As you probably know, before the land became Town land, it was Indian common land and there is now pending a lawsuit brought by the Wampanoag Indian Council to vitiate the transfer of these lands by the Commonwealth of Massachusetts to the Town of Gay Head when it was created.

Because of the strong feelings that the Wampanoag have evidenced for this land and because of the questions of title which they have raised, we, as I mentioned above, do not object to the land being returned to them if there is adequate protection against violating the natural beauty of the land by development and a right of all citizens, Indians and non-Indians alike, to have access to the beaches and the harbor. It would seem that such an arrangement would equitably preserve the legitimate rights of all the parties and we do hope that you will agree and amend the Bill accordingly.

Very truly yours,

Alvin S. Lane.

Mr. HANSEN. Mr. President, in support of the statement I have made, I point out some observations made in today's Wall Street Journal. The story on the left side of the front page of the Wall Street Journal is headed "Laws Under Repair. Congress Is Moving to Patch Up Its Acts That It Now Regrets. Less Haste, an 'Audit' of Bills Are Urged To Avoid Woes Like Flood-Curb Outcry."

Later in the story, I find this:

IN TOO GREAT A HURRY?

"We pass too much legislation too hurriedly without any realization of its eventual effect," says freshman Sen. Patrick Leahy of Vermont, a liberal Democrat. "The trouble with correcting it after the fact is that it's a lot more expensive. It just isn't a good way of legislating."

Sen. Leahy thinks the Senate needs a new internal rule that would prevent a bill from coming to the floor unless outside auditors had put it to a special test: Is it drafted so that the purpose is sharply defined, and does the bill include some means of measuring its effectiveness? The Senator says the General Accounting Office, an arm of Congress, is already making a trial run at such an auditing job.

Freshman Sen. Jake Garn of Utah, a conservative Republican, agrees on the need for more careful screening of bills the first time around. "Most of the legislation we're passing shouldn't be passed at all," he says. And more than just newcomers want to crack down; cosponsors of Sen. Leahy's proposed screening rule are such veterans as Hubert Humphrey of Minnesota and Paul Fannin of Arizona, normally ideological opponents.

I ask unanimous consent that that portion of the story in the Wall Street Journal be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

In Too Great a Hurry?

"We pass too much legislation too hurriedly without any realization of its eventual effect," says freshman Sen. Patrick Leahy of Vermont, a liberal Democrat. "The trouble with correcting it after the fact is that it's a lot more expensive. It just isn't a good way of legislating."

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Freshman Sen. Jake Garn of Utah, a conservative Republican, agrees on the need for more careful screening of bills the first time around. "Most of the legislation we're passing shouldn't be passed at all," he says. And more than just newcomers want to crack down; cosponsors of Sen. Leahy's proposed screening rule are such veterans as Hubert Humphrey of Minnesota and Paul Fannin of Arizona, normally ideological opponents.

The PRESIDING OFFICER (Mr. Nunn). The question is on the engrossment and third reading of the bill.

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator from Wyoming. It is true that this bill rather rapidly approached its final consummation. The early stages of the bill, though, went much more slowly, including hearings in the islands concerned, at Nantucket and Martha's Vineyard, and a rather intense study over a long period of time, both as to the plan to put together the islands trust, and the new concept which this bill embodies. I think it is to the real credit of the distinguished senior Senator from Massachusetts (Mr. Kennedy) and the distinguished junior Senator (Mr. Brooke) for having put together a plan which not only preserves these natural values of immense importance to the Nation, but does so in a way consistent with the views of the overwhelming majority of the people of the areas concerned.

I think that if we could use this as a model of cooperation of the State and local communities, as well as a model of preservation for the country, we shall be doing very well indeed. I congratulate the two Senators from Massachusetts for their leadership in this area.

Mr. KENNEDY. Mr. President, I want to thank the chairman of the Interior Committee, Senator Jackson and the chairman of the Subcommittee on Parks and Recreation, Senator Johnston, on behalf of all our constituents on Nantucket, and Martha's Vineyard, and the Elizabeth Islands for their personal interest in legislation to protect these unique islands from overdevelopment.

Over 3 years of hard work by both the islands' residents and the committee have resulted in an imaginative solution to the complex questions of unplanned development in one of the most beautiful areas of the United States. For a long time, in the history of our efforts to preserve and protect unique natural resources and scenic areas, Congress provided for large areas of acquisition to be set aside in natural parks and seashores. For some areas along the east coast particularly, no such large undeveloped tracts exist any longer. Our most beautiful and our most fragile areas have been home to generations of Americans who have struggled without substantial financial resources and without clear authority to ward off the kinds of unplanned or ill-planned growth and development that plagues so many areas of the United States.

Senate approval of the Nantucket Sound Islands Trust legislation today is a landmark in congressional efforts to find appropriate ways to preserve fragile areas which have been developed over the years to provide homes and services. Indeed, much of the development during the last 200 years in these lovely areas has contributed to the charm and character familiar to many Americans as the "New England town." And the families who settled in areas such as Nantucket and Martha's Vineyard took special care over the years to assure that the qualities that make these islands uncommonly attractive, the rare scenic beauty, the land and water resources, the sense of community living in an island environment—would be protected against the selfish and shortsighted goals of developers who view these areas only as a source of profit.

But in the last decade, particularly, we have seen local and State laws and local efforts to control and plan growth outstripped and undercut by developers who leave in their wake strings of shoddily planned buildings and the broken dreams of local residents. The burden of proof has been on the local elected representatives to stop developments which devastate the character of the community.

The Nantucket Sound Islands trust bill unanimously approved by the Senate today accomplishes four important objectives:

First, the rights of local residents to plan community growth in an orderly manner are enhanced and protected by the commissions which will draw up plans to meet long-range planning goals;

Second, the desires of those who would move to these unique areas are protected, because future development is not prohibited, but planned;

Third, visitors to the Nantucket Sound Islands from all over this Nation will be assured that the qualities of these islands which are the source of their attraction will be preserved for generations to come; and

Fourth, the islands themselves, the water quality and quantity, the woods and moors and shores, the scenic, ecological, cultural, and historic resources of the islands will be protected against time and against the profitseekers.

The Nantucket Sound Islands trust bill authorizes funding to organize and establish commissions of local citizens to draw up plans for orderly growth and preservation of dwindling resources. The Secretary of the Interior approves the plans prior to any commitment of funds for implementation of the plans.

When the Nantucket Sound Islands Trust legislation was first introduced on April 11, 1972, the response of island residents was overwhelmingly opposed to the bill. Residents feared that the threat of a Federal Government takeover of the islands was more deadly than the threat of rampant overdevelopment. A great deal has happened in the 3½ years since then. That original legislation was used as a blueprint by island residents on which they sketched their own plans and programs. The Commonwealth of Massachusetts approved State legislation for land use planning on Martha's Vineyard. Both former Gov. Francis Sargent and Gov. Michael Dukakis have given us their support and shared their expertise with the committee in developing the present bill. Senator Edward Brooke, the cosponsor of the bill acted on today by the Senate, was instrumental in revising the bill to meet the concerns of local residents who want the responsibility and the tools to direct the future of their islands. Today, the Nantucket Sound Islands Trust bill represents a consensus of island comment and suggestions resulting from long hours of difficult discussion and decisionmaking by local residents.

The most serious objection raised by the Department of Interior to the legislation centered on the issue of a Federal taking. There is no taking, nor is there any imposition of a plan. The plan is drawn up locally, by local residents, and approved by the Secretary prior to implementation. Both the residents and the Secretary have clear options under this legislation: if any island does not wish to participate, no plan is drawn up or submitted to the Secretary for his approval; if any plan submitted does not meet the Secretary's approval, no funds are released for implementation.

The Senate acts today on the most innovative and imaginative mechanism yet developed for the protection of natural resources in populated areas. We in Congress and all future generations of Americans owe a debt of gratitude to the people of Martha's Vineyard and Nantucket and the Elizabeth Islands for sharing with us their wisdom and their dreams.

I thank the Senator from Louisiana and his committee for recommending this proposal, which means so much to the people in the northeast part of our country and for the people from across the Nation.

Mr. BROOKE. Mr. President, I wish to add my words of appreciation to the distinguished Senator from Louisiana for all the work he did to help with this legislation. It means a lot not only to the people of Massachusetts, but to the people from all over the country and now, people from all over the world, who come and enjoy the beautiful islands off the Commonwealth of Massachusetts. I am very, very grateful, personally, to the Senator from Louisiana.

Certainly, I want to commend my distinguished senior colleague from Massachusetts, who has taken such a leadership role and who has worked so diligently on this legislation. I am very pleased and proud to join with him. I think we have a good piece of legislation. I think it is going to do what we had hoped it would do and I am very, very grateful to him.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 67

An act to establish the Nantucket Sound Islands Trust in the Commonwealth of Massachusetts, to declare certain national policies essential to the preservation and conservation of the lands and waters in the trust area, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS AND STATEMENTS OF POLICY

Section 1. The Congress finds and declares—

(a) that the Nantucket Sound Islands in the Commonwealth of Massachusetts, known generally as the Islands of Nantucket, Tuckernuck, Muskeget, Martha's Vineyard, Noman's Land, and the group of islands known collectively as the Elizabeth Islands, possess unique natural, scenic, marine, ecological, scientific, cultural, historic, and other values and resources;

(b) that there is a national interest in preserving, conserving, and enhancing these unique values and resources for the present and future well-being of the Nation and for present and future generations;

(c) that in some portions of the Nantucket Sound Islands these unique values and resources are being irretrievably damaged and lost through growth pressures leading to ill-planned development, and that such development threatens heretofore successful local government and private voluntary preservation, conservation, and planning efforts;

(d) that the growth pressures resulting in the rapid and ill-planned development in some portions of the islands are partially the result of the use of the island by citizens of many States and regions of the United States;

(e) that the present State, regional, and local powers and authorities for controlling land and water uses are inadequate to insure the prudent use of resources and the preservation, conservation, and enhancement of the values and resources of the said islands, and it is in the national interest to establish a new system to assist the Commonwealth of Massachusetts, regional agencies, and local governments to preserve and manage the values and resources of the islands;

(f) that the key to more effective preservation and conservation of the unique values and resources of the Nantucket Sound Islands is a program encouraging coordinated action by the Federal and State Governments, acting in trust, to assist local governments (in partnership with private individuals, groups, organizations, and associations) to administer sound acquisition and management policies regulating and guiding development on the Nantucket Sound Islands;

(g) that such a new system for the protection and management of the values and resources of the islands requires the establishment by the Commonwealth of Massachusetts of local commissions as operational entities to give effect to the trust relationship;

(h) that such a program can protect and enhance the natural character and cultural and historic heritage of the Nantucket Sound Islands consistently with the maintenance of sound local economies, private property values, and efficient public services, thus preserving and conserving unique values and resources of the islands; and

(i) that because expanded access to the said islands would seriously impair their unique values and resources and contravene the purposes of this Act, it shall be national policy that no bridge, causeway, tunnel, or other direct vehicular access be constructed from the mainland to the islands.

NANTUCKET SOUND ISLANDS TRUST

Sec. 2. (a) In order to protect the national interest in the preservation and conservation of the unique natural, scenic, ecological, scientific, cultural, historic, and other values and resources of the Nantucket Sound Islands, there is established in the Commonwealth of Massachusetts the Nantucket Sound Islands Trust (hereinafter referred to as the "trust"), comprising the area described in section 3 herein.

(b) Pursuant to the said trust relationship, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall be responsible for the following:

(i) approval of the commissions, as established by the Governor of the Commonwealth of Massachusetts (hereinafter referred to as the "Governor") pursuant to section 4 of this Act;

(ii) distribution of appropriations under this Act to said commissions for the development of land use control plans and for the costs of the implementation and enforcement of such plans by the commissions;

(iii) approval of any land use control

plans adopted by the respective commissions under this Act, and of any revisions to any such plans to the extent that any such revisions substantially affect the expenditure of funds granted pursuant to section 11 herein or the land classifications established pursuant to section 5 herein; and

(iv) enforcement of the land use control plans of the commissions and of the policies and guidelines of this Act, including the making of recommendations to the Department of Justice or other appropriate agency that legal proceedings be brought for enforcement of the policies of the Act with respect to any governmental violation of the policies of the Act or of plans and regulations issued pursuant thereto.

(c) Pursuant to the trust relationship, and in consideration of the funds received in relation thereto, the individual commissions shall be responsible for the following:

(i) the development and adoption of land use control plans as authorized and described in section 5 herein;

(ii) the administration and implementation of said plans; and

(iii) the monitoring of said administration and implementation.

(d) The administration of the trust relationship by the commissions shall at all times be consistent with the policies of this Act, to wit: to conserve and protect the unique values and resources of the trust area in a manner designed to encourage prudent stewardship of land and water resources while being responsive to the need to maintain sound local economies and efficient public services.

(e) The commissions may take such actions, adopt such procedures, and assume such powers as are reasonably necessary to carry out this Act including the following:

(i) be designated by any State or Federal agency to participate in or receive funds and technical assistance from any State or Federal programs, especially as those programs relate to environmental protection, conservation, land use planning, water and air quality control, economic development, transportation, or the development of region-wide public services;

(ii) receive for the purposes of this Act any funds or moneys from any source, including grants, bequests, gifts, fees, or contributions made by any individuals, association, corporations, or by municipal, county, State, or Federal Governments;

(iii) authorize debt by a majority vote of the commission in anticipation of revenue to an amount not in excess of that to be received during the current fiscal year from all Federal, State, county, and local sources;

(iv) transfer moneys from its accounts to the accounts of a municipal agency in reimbursement of such costs, where the imposition of a regulation promulgated by a commission imposes costs on a municipal agency;

(v) purchase or accept gifts of land or interests in land, or accept grants, bequests, gifts, or contributions for the purpose of acquiring land or interests in land;

(vi) sue and be sued; and

(vii) assume the duties, powers, and responsibilities given it by action of State, local, or county government: Provided, That they are not inconsistent with the functions of the commissions under this Act.

SEC. 3. (a) The area comprising the trust shall encompass the lands and waters in the counties of Dukes and Nantucket in the Commonwealth of Massachusetts.

(b) NOMAN'S LAND.—The lands and waters of Noman's Land Island are hereby declared part of the National Wildlife Refuge System and the Secretary is directed to prepare and execute forthwith the necessary documentation to give effect to such declaration. The Secretary and the Secretary of Defense shall, within twelve months after the date of enactment of this Act, survey Noman's Land Island and the surrounding waters for unexplored military ordnance and render such ordnance, wherever it may be found, harmless; and thereafter, Noman's Land Island shall be administered pursuant to the National Wildlife Refuge System Administration Act (16 U.S.C. 668dd).

NANTUCKET SOUND ISLAND TRUST COMMISSIONS

SEC. 4. (a) Within three months after the date of this Act, the Governor shall establish trust commissions which shall be known collectively as the Nantucket Sound Islands Trust Commission (hereinafter referred to as the "commissions") and individually as the Nantucket Trust Commission, the Martha's Vineyard Trust Commission, and the Elizabeth Islands Trust Commission. After any commission has been established pursuant to this Act, it shall have the responsibilities specified in this Act for that portion of the trust area assigned to it.

(b) NANTUCKET TRUST COMMISSION.—The Nantucket Trust Commission shall have the responsibilities as established herein over the lands and waters in Nantucket County, and shall consist of eleven members nominated by the Governor and approved by the Secretary. The members shall serve three-year staggered terms which shall commence on the first Monday in April. Members shall be nominated and approved as follows:

(1) one member recommended by the Governor;

(2) two members recommended by the board of selectmen of the town of Nantucket, who shall be members of the board of selectmen;

(3) two members recommended by the board of selectmen of the town of Nantucket within two weeks after the annual town meeting, who shall be seasonal resident property owners;

(4) two members who shall be qualified voters of the town and who shall be elected at the annual election which is a part of the annual town meeting; and

(5) four members, one each recommended by the Nantucket Planning Board, the Nantucket Conservation Commission, the Nantucket Historic Districts Commission, and the Nantucket Housing Authority, within two weeks after the annual town meeting, each of whom shall be a qualified voter of said town.

(c) MARTHA'S VINEYARD TRUST COMMISSION.—The Martha's Vineyard Trust Commission shall have the responsibilities as established herein over the lands and waters in Dukes County, excepting the Elizabeth Islands, and shall consist of twenty-one members nominated by the Governor and approved by the Secretary, twelve of whom shall be appointed and nine elected. The members shall serve two-year staggered terms which shall commence on January 1 of each year. Members shall be nominated and/or elected as follows:

(1) one member recommended by the Governor;

(2) one member recommended by the board of selectmen of each town on Martha's Vineyard, who may be a selectman, a member of a planning board, or of any other municipal agency, board, department, or office of that town;

(3) one member recommended by the Dukes County commissioners, who may be a Dukes County commissioner;

(4) nine members elected at large in an islandwide election, with not less than one member nor more than two members to be elected from any one town on Martha's Vineyard; elections held subsequent to the initial election of members shall be held concurrent with the biannual elections for State and county offices; and

(5) four members whose principal residence is not on Martha's Vineyard but who are seasonal residents, who shall be recommended by the Governor: *Provided,* That such members shall have voice but no vote in deciding matters before the Commission.

(d) ELIZABETH ISLANDS TRUST COMMISSION.—The Elizabeth Islands Trust Commission shall have the responsibilities as established herein over the lands and waters of the Elizabeth Islands, and shall be composed of six members nominated by the Governor and approved by the Secretary. The members shall serve three-year staggered terms which shall commence on the first Monday in April. Members shall be nominated and/or elected as follows:

(1) one member recommended by the Governor;

(2) one member elected at the annual election which is a part of the annual town meeting;

(3) two members recommended by the board of selectmen to represent the Island of Cuttyhunk, one of whom shall be a permanent resident of Cuttyhunk and one of whom shall be a seasonal resident of Cuttyhunk; and

(4) two members appointed by the board of selectmen to represent the other islands in the Elizabeth Islands, one of whom shall be a permanent resident of one of such other islands, and one of whom shall be a seasonal resident of one of such islands.

(e) Each commission shall elect from its members at least the following officers: chairman, vice chairman, and clerk-treasurer.

(f) Pursuant to subsection (a) of this section, the Governor may establish the Martha's Vineyard Commission, established by chapter 637 of the Acts and Resolves of 1974 of the Massachusetts Legislature, as amended, as the Martha's Vineyard Trust Commission in lieu of the commission otherwise to be established pursuant to subsection (c) of this section.

PREPARATION OF LAND USE CONTROL PLANS

SEC. 5. (a) Each commission shall, within six months of its formation, develop a land use control plan to govern the preservation, conservation, and enhancement of the lands and waters within the trust area, and the provision of efficient public services, where appropriate, within the trust area. A land use control plan shall consist of three parts:

(i) Part I: such maps, text, and statements of general policies and specific implementation programs as each commission shall deem necessary to carry out the policies of this Act;

(ii) Part II: the assignment of lands and waters within the trust area, except as may be excluded by specific provisions of this Act, to one of the classifications designated in subsection (b) of this section; and

(iii) Part III: regulations which shall apply to the preservation, conservation, use and development of lands within each classification.

(b) Lands and waters within the trust area shall be assigned by each commission to one of the following classifications as part of the land use control plan:

(1) OPEN LANDS.—Lands and waters so classified shall remain forever free of improvements, as defined hereinafter, of any kind except as provided herein. If improvements exist on any lands so classified on the date of enactment of this Act, then there shall be permitted a right of use and occupancy to the legal or beneficial owner or owners thereof, or their successors or assigns, for so long as such successors or assigns are

members of the same family or families as the legal or beneficial owner or owners. If, however, the legal or beneficial owner or owners seek to sell or othewise convey the improvement with or without the land thereunder to others than legal or beneficial owners or members of the same family or families as the legal or beneficial owner or owners, then the commissions shall have an exclusive option to purchase said improvement with or without the land thereunder at full and fair market value, which shall be promptly determined, and such option shall exist for sixty days after such determination. If such option is exercised, then the land acquired shall be held by the commissions in trust for the Secretary, and administered pursuant to the land use control plan, and if such option is not exercised, then the sale or other conveyance may proceed in the ordinary course. For the purposes of this paragraph, family shall mean siblings of a legal or beneficial owner or owners, lineal descendants natural or adopted, or relatives by marriage. Any substantial change in access to and/or use of land classified as "Open Lands" must be approved by the commissions if such change is substantially contrary to a respective land use control plan.

(2) RESOURCE MANAGEMENT LANDS.—Lands and water so classified shall not be developed beyond their present intensity of use except as provided in this paragraph. Owners of such lands, or of improvements thereon, or of both, may transfer, sell, assign, or demise such land or improvements, or both. Reasonable replacement and extension of improvements shall be permitted, under the regulations approved and/or issued by the commissions. Development on lands so classified beyond their present intensity of use shall be permitted only under regulations approved and/or issued by the commissions, which shall be consistent with the following policies:

(i) the overall intensity must take into account the capability of the land for such development, which shall include consideration of existing land use, intensity and types of uses in the immediate vicinity, areawide water quality and quantity, soil conditions, roadway utilization, and visual and topographic conditions;

(ii) overall intensity regulations shall not create uniform lot sizes and shall be defined and applied with flexibility to encourage sound land use planning respecting the varying natural values of the different geographical areas of land; and

(iii) the area upon which intensity is calculated shall not include bodies of water or wetlands classified as such under Massachusetts Wetlands Protection Act (131 M.G.L. 40).

Said regulations shall be adopted only after (i) public hearing or hearings and (ii) approval by the Secretary of the relevant portions of the land use control plan. The Secretary shall indicate his approval or suggested modifications to such regulations of each commission within ninety days of receipt. After the Secretary has given his final approval of the relevant portions of the land use control plan of the respective commissions, construction of improvements on the land or in the waters classified as Resource Management Lands within the jurisdiction of each commission may thereafter be permitted only upon the granting of a permit therefor by each commission acting pursuant to its regulations: *Provided*, That such a permit may be granted only if all other necessary local and State approvals have been received.

(3) TOWN ZONED LANDS.—Lands and waters so classified shall remain under the jurisdiction of the town in which located for purposes of planning and zoning ordinances and other land use regulations: *Provided*, That such planning and zoning ordinances and other land use regulations shall be reviewed and commented upon by the commissions as to consistency with the purposes of this Act prior to the adoption of such ordinances or regulations or amendments thereto: And *provided further*, That the commissions may review and comment upon variances and special permits proposed to be granted pursuant to any local zoning ordinance.

(c) The land use control plan adopted by each commission shall be consistent with the policies, objectives, and guidelines contained in this Act, and shall include, but not be limited to, the following components which shall be contained in part I of the plan:

(1) a program for the preservation of significant, natural, scenic, ecological, scientific, cultural, marine, or historical resources, including areas which, because of their local, regional, or other importance, should be preserved in their natural state (such lands may include, but need not be limited to, lands assigned by the commissions to the "Open Land" classification under this Act). This program may include regulation of uses of land and water pursuant to the constitutional authority of the State; other noncompensatory land use regulations which may be appropriate; compensatory land use regulations; tax incentives and payments in lieu of taxes; acquisition of the fee title or of lesser interests in lands and/or waters; or any combination of land use control methods which best meets the purposes and polices of this Act;

(2) a program for the development of public recreational facilities;

(3) a program and regulations for the preservation of beaches and for the development of public access to beaches and passages along them;

(4) a transportation program including regulations for and a review of all existing public and private access by air and water to lands within the trust area, and a review of public and private transportation systems for land transportation on each of the major islands. Said review shall be accompanied by recommendations for legislative and administrative action to harmonize such access, and the use of land and facilities incident thereto, with the conservation and preservation policies of this Act, and shall further include a system for regular reviews of such access and of their impact on development pressures on the trust area. This review shall also include recommendations for the development of trails, bicycle paths, observation points, and exhibits deemed by each commission to be appropriate for the public enjoyment of and understanding of the values and resources of the trust area;

(5) a program for the identification and promotion of new employment opportunities for residents of the trust area which would be consistent with the policies of this Act, which shall include recommendations for action by the Commonwealth and the Secretary and other Federal agencies; and

(6) a program for the development of resident homesites for year-round residents of the islands in the trust area, said program to include recommendations for action by Federal agencies and for the expenditures of appropriations under this Act, upon approval of the Secretary, for the resident homesite plan. A resident homesite plan shall mean a plan established by the appropriate commission designating parcels of land which may be acquired by the commission at fair market value and resold at a lower price to year-round residents who meet criteria established by the commission.

(d) Each commission shall include as part of its land use control plan a listing of improvements the construction of which commenced after April 11, 1972. Such listing shall include improvements for residential, commercial, industrial, recreation, or any other purpose. If any such improvement is located on lands or waters classified as "Open Lands", the commission may acquire the improvement forthwith, notwithstanding the provisions of section 5(b)(1) herein. If any such improvement is located on lands or waters classified as "Resource Management Lands", the commission may, for those improvements for which no certificate of need was granted or sought, acquire the improvements, notwithstanding the provisions of section 5(6)(2) herein.

(e) Any acquisition by the commissions of a fee or less than fee interest in lands or waters shall conform to the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. 4601).

(f) A land use control plan developed by a commission may utilize land use control regulations developed by regional or county authorities pursuant to applicable State laws; and the land use control methods made a part of the program authorized by section 5(c)(1) of this Act may be utilized to supplement or complement such regulations.

PRIVATE NONPROFIT ORGANIZATIONS

SEC. 6. (a) In order to encourage and provide an opportunity for the establishment of natural and scenic preserves by voluntary private action of owners of lands and waters in the trust area, and notwithstanding any provision in this Act or in any other provision of law, the authority established by this Act to acquire lands or interests therein for preservation and conservation purposes without the consent of the owner shall be suspended when—

(i) lands or waters or interests therein which are designated as being presently or from time to time needed to carry out the purposes of this Act are irrevocably in the ownership of private nonprofit conservation, preservation, historic, or other organizations or associations, and the restrictions against the development of such lands meet the standards of the land use control plan; or

(ii) lands or waters or interests therein which are designated as being presently or from time to time needed to carry out the purposes of this Act are, to the satisfaction of the commissions, the Governor, and the Secretary and within twenty-four months after enactment of this Act, irrevocably committed to be sold, donated, demised, or otherwise transferred to such organizations or associations.

(b) The provisions of this section shall be applied only to those organizations and association which are determined to be bona fide and general purpose.

(c) All of the provisions of this Act, except sections 1, 2, and 3, shall be suspended with respect to any lands, waters, or interests therein so long as such lands, waters, or interests therein are within twenty-four months of the enactment of this Act subject to a revocable or irrevocable conservation restriction created, approved, and recorded under sections 31 through 33 of chapter 184 of the General Laws of Massachusetts, which forbids, or in the judgment of the commissions, and the Secretary, as evidenced by their joint written approval of such restriction, substantially limits all or a majority of the land uses referred to in clauses (a) through (g) of the first paragraph of said section 31. With respect to any revocable restriction, notice of the intention to revoke must be given to the appropriate commission and the Secretary not less than twelve months prior to the proposed effective date of the revocation unless the lands, waters, or interests therein are in whole or in part made subject to a taking by eminent domain. The entity carrying out such eminent domain proceedings with respect to property covered by such a conservation restriction shall give notice of such proposed taking to the commission having jurisdiction over the property proposed for condemnation.

INDIAN COMMON LANDS

SEC. 7. (a) The Martha's Vineyard Commission is directed to establish as part of its land use control plan an orderly program for determining the precise extent of Indian Common Lands on Martha's Vineyard. The program shall include a survey or surveys and such other research or field work as may be necessary to establish the boundaries of the Common Lands belonging to the Wampanoag Tribe of Gay Head and known generally as the Cranberry Bogs, the Clay Cliffs, and Herring Creek. The commission is further directed to determine the location, boundaries, and owners of record title of the monuments and burial grounds of the Wampanoag Tribe of Gay Head on Martha's Vineyard. Funds to carry out the program may be drawn from those authorized to be appropriated by section 13.

(b) Upon completion of the program described in subsection (a) of this section, lands determined to be Indian Common Lands shall be acknowledged as an Indian reservation owned by the Wampanoag Tribe of Gay Head pursuant to recognized Indian title and entitled to the full protection of Federal laws pertaining to Indian lands.

(c) Nothing contained in this Act shall be construed to prejudice or limit any claims which the Wampanoag Tribe of Gay Head Indians, or any member of that tribe, may have for past violations of their rights as Indians, including but not limited to claims arising under the Indian Trade and Intercourse Act (25 U.S.C. 177).

(d) The Wampanoag Tribe of Gay Head is hereby acknowledged as and declared to be eligible for the services and assistance now or hereafter provided to Indians because of their status as Indians by or through any department, agency, or instrumentality of the United States Government including, but not limited to, the Bureau of Indian Affairs, Department of the Interior, and the Indian Health Service, Department of Health, Education, and Welfare, or pursuant to any statute of the United States.

COOPERATION OF OTHER AGENCIES

SEC. 8. The Secretary and the heads of other Federal agencies shall cooperate with the commissions in the formulation of their land use control plans upon the request of the respective commissions and to the extent of available funds.

COMMISSION EXPENSES AND PROCEEDINGS

SEC. 9. (a) Members of the commissions who are employees of a State or local government shall serve without additional compensation as such. All other members may, if a commission so votes, receive $50 per diem when actually engaged in the performance of the duties of the commissions.

(b) The Secretary shall reimburse all commission members for necessary travel and subsistence expenses incurred by them in the performance of the duties of the commissions.

(c) Financial and administrative services (including those relating to payment of compensation, budgeting, accounting, financial reporting, personnel, and procurement) shall be provided by the Secretary from the funds appropriated to carry out the provisions of this Act.

(d) The commissions shall have the power to appoint and fix the compensation of such additional personnel, including experts and professionals, and for such temporary and intermittent services as may be necessary to carry out their duties, without regard to the provisions of the civil service laws and the Classification Act of 1949, and they shall have the power to hold hearings and administer oaths.

(e) The commissions shall act by affirmative vote of a majority thereof. Vacancies shall be filled in the same manner as the original appointment.

SUBMISSION AND APPROVAL OF PLANS

SEC. 10. (a) Each commission within six months of being established, shall submit a land use control plan to the Secretary who shall, within one hundred and twenty days of the day it is received by him, either approve or disapprove it. The plan must be complete, or if divided into phases, must clearly state the reasons for the division into phases and the date or dates by which subsequent phases will be submitted. Approval or disapproval of phases or resubmissions shall be made within one hundred and twenty days of receipt by the Secretary.

(b) The Secretary shall approve the plan if he finds that (1) the commission has afforded adequate opportunity in the area within its jurisdiction for public comment on the plan, and such comment was received and considered in the plan or revision as presented to him; (2) State and local units of government identified in the plan as responsible for implementing any portion of its provisions have the necessary legislative authority to do so, and the chief executive officers of the State and local units of government have indicated their commitment to utilize such authority in implementation of the plan in accordance with the program established by the commission; (3) the plan will preserve significant natural, cultural, marine, or historical values; and (4) the plan is consistent with the preservation, conservation, and enhancement policies of this Act and will fulfill the objectives of the land classifications and policies established in section 5 of this Act.

(c) If the Secretary disapproves a plan, a phase of a plan, or any revisions thereto he shall advise the commission of the reasons therefor and convey his recommendations for revision. The plan, phase, or revision, following its disapproval, may be resubmitted to the Secretary for his approval as soon as the commission is able to make revisions which are responsive to the Secretary's recommendations.

(d) Upon approval of a plan, the Secretary shall publish a notice thereof in the Federal Register and shall transmit copies of the plan together with his comments to the President of the Senate and the Speaker of the House of Representatives.

(e) No substantial revision to an approved plan or land classification assignments may be made without the approval of the Secretary. The Secretary shall either approve or disapprove such a proposed revision within ninety days from the date on which it is submitted to him. Whenever the Secretary approves a revision and prior to such approval, he shall publish notice thereof in the Federal Register.

TRUST GRANTS BY THE SECRETARY

SEC. 11. Upon approval of a plan, the Secretary shall make implementation grants in the total amount of $10,000,000 to the commissions. Prior to submission of a plan, the Secretary may, upon application therefor, make grants to the commissions for the development of a land use control plan: *Provided*, That such development grants shall not exceed $1,000,000 of the total $10,000,000. Such development or implementation grants shall be supplemental to any other Federal financial assistance for any purposes, and shall be subject to such reasonable terms and conditions as the Secretary deems necessary to effectuate the purposes of this Act. In making the grants, the Secretary shall take into consideration that there are three commissions with responsibilities pursuant to this Act, and shall insure that the grant funds are equitably distributed among the three commissions, taking into account such factors as population, acreage, land and water resources, existing and projected development, and the special tasks imposed by this Act relative to Indian Common Lands.

TRUST ACCOUNT

SEC. 12. There is hereby established a special account in the Treasury of the United States for the purpose of holding moneys to be used for trust grants, pursuant to section 11 of this Act, to the commissions. There shall be covered into such special account $10,000,000 from revenues due and payable to the United States under the Outer Continental Shelf Lands Act (67 Stat. 462) as amended and/or under the Act of June 4, 1920 (41 Stat. 13) as amended, which would otherwise be credited to miscellaneous receipts of the Treasury. Moneys covered into the account shall be used only for grants made pursuant to section 11 of this Act and shall be available for expenditure only when appropriated therefor.

APPROPRIATIONS

SEC. 13. There are authorized to be appropriated to defray the expenses of the commissions, established pursuant to section 3, including salaries and other expenses incident to the operation of the commissions, such sums annually as may be necessary; and for grants to the commissions to develop and implement land use control plans and regulations approved pursuant to this Act, $10,000,000 from the special account created in section 12 of this Act.

Mr. HANSEN. Mr. President, I wish to be recorded as voting nay.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, pending the arrival of the distinguished Senator from Rhode Island, Mr. PASTORE, I yield to the Senator from Washington for the purpose of calling up the report of the committee on conference.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES APPROPRIATIONS, 1976—CONFERENCE REPORT

Mr. MAGNUSON. Mr. President, I submit a report of the committee of conference on H.R. 8069, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8069) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the RECORD of December 2, 1975, at page 38206.)

Mr. MAGNUSON. Mr. President, this is the very important Labor-HEW appropriations bill which has been held up in conference for some time—not over the money items in the bill, whatsoever; we are agreed on all of those—but over the question of the so-called Byrd amendment, which was attached to the bill when it passed the Senate.

The House has now voted by an overwhelming majority to accept the Byrd amendment.

The Senator from Massachusetts and the rest of us worked a long, long time on the money items in this bill.

Mr. President, I would like to say a few words about the conference report on the Labor-HEW bill (H.R. 8069).

Many of us have devoted a great deal of time and energy on this bill since the budget was transmitted 11 months ago. This is a complex bill—one that affects the lives of every man, woman, and child in the country. Some of the programs covered include: Maternal and child health, nutritious meals for 375,000 of our senior citizens, and community programs to combat alcoholism and drug abuse. This bill also provides $2 billion to carry out basic research on the overhanging shadows of disease that affect so many of our people—such as cancer, heart and lung disease, blindness, and stroke.

HEALTH PROGRAMS

For the health items in this bill, the conferees targeted funds to selected programs, including preventative medicine, biomedical research, and community health activities. Over 40 percent of the Senate increases were sustained in conference—the largest percentage in recent years. Even with these increases, however, we are still only 2½ percent over the budget. But, Mr. President, we have not been discussing percentages over these last 11 months. We are talking human lives. This Nation has made impressive strides in its search for knowledge. This did not come by accident—it came from a deliberate national commitment. We have no intention of giving up on this commitment; it should stand as an unending promise to the people of this country.

As I said, we are already seeing payoffs on past research and treatment programs. Last year, for the first time in our history, deaths by heart attacks and strokes declined. We have a long way to to go though. Over 650,000 people will find that they have cancer in 1975—and one woman in the United States will die from breast cancer every 15 minutes. But we are making progress here, too. In the 1930's, when we first established the Cancer Institute, one in five Americans survived a fight with cancer—now, one in three survives.

There is another statistic which is not as encouraging. We have dropped from 15th to 17th place on the world's infant mortality list. This is where increases in this bill for preventive programs can make a difference.

The bill also contains funds to help local communities treat those who are fighting the damaging effects of alcohol and drug abuse. This is our best hope for getting these people back to active and useful lives. The conferees also want to emphasize the importance of having a good public information system at all levels. This is the best way to get at the root of problems—before they occur.

LABOR DEPARTMENT

For the Labor Department programs, the bill contains $3.5 billion. The largest share—$2.4 billion—is for employment and training programs to help get our citizens trained and back into productive jobs. The bill includes $400 million to extend the current level of 310,000 public service jobs through June 30, 1976. Even now, though, we are hearing reports that some areas may be running out of funds this month. We urge the President to keep a close watch on this. A supplemental request should be transmitted to Congress immediately in order to avoid any layoffs before June 30, 1976.

Perhaps the most controversial area in the labor section is the Occupational Safety and Health Administration—OSHA. The bill contains $116 million. Four million dollars was added to hire 333 more compliance officers, for total of 1,678. This is enough to allow inspection covering 9.6 million workers. This is a far cry from the total of 40 million workers in States with Federal OSHA enforcement, but it is a step in the right direction.

Another $4 million increase over the budget is earmarked to expand consultation services to employers. The total amount for consultation is now $9 million, almost double the President's request. These services, in addition to State funds to augment services, will be especially helpful to small businesses that might otherwise be cited and fined for violations they did not realize are contrary to the law. It should be made clear that the $9 million in the bill is available to all States, regardless of State plan status.

It should also be clear that the conference report language would not stand in the way of requiring immediate action if imminent danger situations exist at workplaces. If employers fail to correct hazards within a reasonable time, consultants are still authorized to notify OSHA inspectors of the situation.

PROGRAMS FOR THE ELDERLY

I also call the Labor Department's attention to report language on the jobs for the elderly program. The Older Americans Act was recently extended and significantly expanded. We expect the administration to rework its budget estimates in that light and submit them to Congress immediately.

I am also pleased that the conference bill retains the Senate bill language which specifically identifies the spending levels for the Older Americans Act, title VII nutrition program. The conference agreement of $187,500,000 will provide nutritional services daily to 375,000 elderly and deserving people—almost double the level requested by the President. This still does not meet the nationwide need, but it tells many thousands of our elderly poor citizens facing the cruel crunch of recession and inflation that we have not forgotten them. We expect the Department of Health, Education, and Welfare to immediately begin obligating these funds and getting nutritious meals to our needy senior citizens.

SOCIAL SECURITY STAFFING

I am particularly pleased that for social security, the conferees agreed to retain Senate language insisting that permanent staff be hired instead of maintaining 6,000 temporary employees. This should help strengthen the administration of the supplemental security income program. This is a vital step toward putting an end to the inefficiency, instability, and mismanagement that unfortunately abound in the SSI program. Well-trained, permanent staff are essential to handle the complex problems of this program, such as the massive overpayments recently reported in the media. Nevertheless, Senator **Brooke** and I plan to press forward with our review of the SSI overpayment situation, realizing that many factors may be involved.

RELATED AGENCIES

The conferees agreed to provide $996 million for the related agencies in the bill. This amount includes $495 million for the community services program. This is an example of where Congress has been forced to add more than $130 million over the budget request, just to restore the Nation's antipoverty efforts back to last year's level. We believe the poor should not be the budget-ax victims of inflation and recession; they desperately need our special attention in the face of economic hard times. Funding levels for the following programs, for which the administration requested no appropriation whatsoever, were settled in conference: Emergency energy conservation services, $27,500,000; emergency food and medical services, $26,300,000; veterans' education and training services, $2,500,000; and rural housing development, $3 million.

Two of these programs are particularly noteworthy: energy and food. The energy program primarily provides for winterization of homes of low-income elderly people in rural areas; experience has so far indicated fuel savings many times greater than this program's total cost, including home insulation and repair. The emergency food program provides services to more than a million nutritionally starved individuals, filling in the gaps of needed services not available under provisions of other Federal programs.

For the ACTION Agency, we have succeeded in reorienting priorities of spending. We cut special volunteer programs, many of which have not demonstrated their merit, while adding money for the highly effective older American volunteer programs.

BUSING PROVISIONS

The most controversial part of the bill, as the Members well know, dealt with the busing provisions. The Senate added three new language provisions—two so-called Biden amendments and the Byrd amendment. Frankly, I do not believe any of these provisions belong on an appropriation bill. They are legislation—and should be dealt with by the legislative committees. Nevertheless, the Senate conferees were responsible for defending the Senate position. After many meetings with the House, we arrived at the following: The Senate receded on the two Biden amendments. Both were subject to many different legal interpretations, and the one thing we do not need is more confusion on the busing issue.

The Senate insisted on its position with respect to the Byrd amendment. The House conferees were unyielding in their position, so they took this item back in disagreement for a separate vote in the House.

As the Members know, the House voted 260 to 146 to agree with the Senate's amendment number 72—the Byrd amendment.

The bill is large—$36 billion—but it is necessary from several standpoints. From the standpoint of the individual, this bill helps prolong life and helps make that life more productive. From an economic standpoint, this bill represents a profitable domestic investment. By keeping people healthy and working, we strengthen our tax base; by providing job training and child care for the poor, we can help hold down welfare costs. As far as I am concerned, these domestic goals do not divert energy from our security—they provide the foundation for this country's strength and success. This bill will help expand the productivity of our own people here at home.

The amounts in the bill were arrived at after long and difficult deliberations with the House conferees. In many cases, the bill simply maintains last year's level—sometimes less.

I hope the Senate will approve this conference report. I also hope that those at the White House who advise the President will encourage him to sign the bill. Considering all that this bill provides, it should be a source of confidence and commitment, instead of a cause of contention. It is the best way to prove, by doing, that we really want to help people.

The total of the bill is exactly $36,073,748,318. It is under the Senate by $198,744,000, and over the House by $94,107,318. With regard to the 1975 level, we are under by $7,233,685,682, almost 19 percent. The conference agreement is over the President's request by only $915,839,318, or 2.5 percent. Nearly all of the Senate cuts were agreed to in the area of administration, travel, conferences, and construction. Of the 87 amendments in conference, the Senate receded 28 times; the House receded 21 times; we compromised or split amendments 26 times; and the House disagreed, receded, and concurred with Senate amendments 12 times. The items on which the Senate receded include 18 amendments related to positions which were compromised and specifically earmarked in the conference report.

When the bill was first being considered on the Senate floor, we were told that the House bill was $400 million below the ceiling. Almost $94 million of the Senate add-ons were sustained in conference. Therefore, the bill is still about $300 million below the budget ceiling.

If anyone has any questions, the Senator from Massachusetts and I shall be glad to answer them.

The Byrd amendment still remains in the bill, but we dropped the two Biden amendments. That is the status of the bill now.

We would like to get this passed as soon as possible today, for the simple reason that there is a 10-day period in which the President could veto the bill. We would not like a pocket veto, so we are running against time.

After I yield to the Senator from Massachusetts, I am going to ask that the conference report be adopted. I want to thank the subcommittee staff at this point, Harley Dirks, Dom Ruscio, Jim Sourwine, Terry Lierman, Sam Hunt, Kay Humphrey, and Barbara Kennedy. The excellent work of this staff has made it possible to surmount many difficult problems while handling the huge workload associated with this bill, which gets more complex every year.

I yield to the Senator from Massachusetts.

Mr. BROOKE. I thank my distinguished chairman.

Mr. President, I recommend the conference report on the fiscal year 1976 Labor-HEW appropriations bill and ask for its adoption.

The pending bill is one of the most important measures that comes before Congress each year. It is a measure that affects the lives of most, if not all, Americans.

The development of the Labor-HEW bill is a lengthy process. It began back in January with our analysis of the new budget, continued with weeks of hearings in the spring and markup of the bill in the summer, and concluded with the long and difficult conference with the House that we just have come through.

I believe we have developed a responsible and responsive bill. I believe it responds to the needs of our people in labor, in health, welfare, and a number of related fields.

While the bill is almost $1 billion over the budget, it is well to remember that we were dealing with unrealistically low budget requests in many instances. I believe our committee had no choice but to provide increases where possible often simply to maintain the previous year's level.

The conference bill totals $36,073,748,318. This is some $915.8 million above the budget and $94.1 million over the House. On the other hand, it is $198.7 million lower than the Senate level. I am advised that overall the conference bill is 2.6 percent over the budget. This is not extravagance by anyone's measure in a bill as large as this one.

Following are some highlights of the conference bill:

We provide almost $3.5 billion for the Department of Labor. This includes programs in the field of manpower assistance, veterans reemployment rights, measures against discrimination in employment, and occupational health and safety, to cite only a few of the many important programs in that agency.

The largest amount, almost $2.4 billion, is for the manpower assistance program which is the foundation stone of our effort to train people and put them into useful jobs.

Within this total is some $400 million to maintain public service jobs at the 310,000 level until next June 30. However, even now we are hearing reports that some prime sponsors are running out of money. We recognize that it may be necessary to provide additional funds for public service jobs to deal with this problem and we urge the administration to move quickly to submit such requests as may be needed so that Congress may consider them in a future supplemental.

For occupational health and safety, OSHA, we have provided funds to hire an additional 333 compliance officers and support personnel for a total of 1,678. At present OSHA has the capability for inspecting only about 5 percent of the Nation's workplaces. The increase in compliance officers will not improve this capability much, but it is a needed step in the right direction.

At the same time we provide $9 million, an increase of $4 million over the budget, for consultation services. This should be of help in particular to the small businessman in determining what is expected of him under the OSHA law.

In the health area, we provide more than $3.9 billion in the pending bill. The largest portion, some $2.1 billion, is for the National Institutes of Health where we are doing vital research on such age-old diseases as cancer which kill or bring suffering to millions.

Cancer and heart and lung diseases account for some 71 percent of the Nation's deaths from disease. I believe it is only natural, therefore, that this bill place great emphasis on the research institutes dealing with these diseases.

And we do so with the knowledge that last year for the first time, deaths from heart disease declined in the United States. Deaths from breast cancer also declined. These developments encourage us to go forward and, indeed, to step up our efforts to conquer these diseases.

Beyond this we have provided funding for maternal and child health, public health service hospitals, disease surveillance, alcohol, drug abuse and mental health programs and programs to assist students in the health professions and nursing.

Other highlights of our conference bill are:

$15 billion for welfare, covering such relatively uncontrollable programs as medicaid, social services, and child welfare services.

Additional permanent staff to strengthen the supplemental security income program which has been reporting huge overpayments of benefits.

$454.5 million for Head Start, some $20.2 million over the budget request.

A $187.5 million program level for the essential nutrition for the elderly program.

$494.6 million for the Federal antipoverty program including $27.5 million for emergency energy conservation services, as well as funds for rural housing and emergency food and medical services.

We often hear the comment that the Labor-HEW bill contains the major social programs of the United States. This is true, but it does not capture the true spirit of this vital measure. I prefer to think of Labor-HEW as a "people bill"—one that embodies our most compassionate instincts as a nation.

Congress has labored long and hard and done a good job on this measure. It does not deserve to be vetoed, for this could mean there will be no bill, but rather a continuing resolution through which to operate the vital agencies and and programs funded under this measure. This would be a tragedy for all concerned and must not happen.

I urge the adoption of the conference report and further urge that the President sign this most essential bill into law.

Before I conclude, let me say this:

There is one aspect of the bill I do not like—and that is the so-called Byrd antibusing amendment. As is well known I strongly opposed this and the Biden antibusing amendments. The Biden amendments were dropped in our conference with the House, but the Byrd amendment, unfortunately, was kept in by the House in a separate vote last week.

I originally planned to vote against the conference report because of this. However, it is clear the fight on the Byrd amendment is over, at least for the moment. The problem now is to get this otherwise excellent bill passed and signed into law.

The funds in this bill are sorely needed both by HEW and the thousands of people the programs serve.

We cannot—we dare not—delay any longer.

We have an obligation to clear this bill for the President's signature and we earnestly hope he will affix his signature.

So I join with my distinguished chairman, who has done so much work on this legislation, in trying to get it to the President just as soon as possible, with the hope the President will sign this bill into law.

I commend the chairman and Mr. Harley Dirks of the majority staff, and Mr. Gar Kaganowich of the minority staff, both of whom did so much work on this bill.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. BROOKE. Yes.

Mr. JAVITS. I wish to identify myself in every respect with the views stated by the Senator.

I, too, was minded to oppose the report exactly for the reasons stated by the Senator, but I have been persuaded that the course he is adopting is the right course.

I would like to express my thanks and that of my constituents to Senators MAGNUSON and BROOKE for the splendid way in which they have worked on this matter, and the outstanding effort they have devoted to try to shape the bill the way Senator BROOKE and I would want it, but with the result which we have seen and which, as he said, we simply have no alternative but to accept.

Mr. BROOKE. I thank my esteemed colleague from New York.

I am sure, as he has indicated, we realize this is a matter we would not want to support. But, on the other hand, we have to consider the fact that there are just too many programs, too many people who are involved in this HEW appropriations bill that we must have this bill signed into law.

Mr. JAVITS. We will fight this battle on another day.

Mr. BROOKE. We will fight this battle at another time.

Mr. EAGLETON. Mr. President, as a member of the conference committee I endorse the conference report, and urge my colleagues to adopt it.

I was chairing a hearing when the conference papers were being circulated for signatures, and was unable to interrupt the hearing to review the conference papers and sign them. But for that, I would have signed the report.

I would like to address one particular item in the report now before us which, in my judgment, is so noteworthy that it deserves special attention by the Members of this body. I am referring to the section providing appropriations for the elderly feeding program, title VII of the Older Americans Act.

The elderly feeding program provides warm and nutritious meals for senior citizens, particularly for aged persons who are needy and have difficulties in obtaining adequate diets. These meals are provided either in group feeding sites or through Meals-on-Wheels. Unfortunately, because of inadequate funds, at least 116,000 aged persons are on project waiting lists waiting to be served by the program. Unless additional funds are made available soon, these people's applications for aid will not be acted upon and they will remain improperly nourished.

It is, therefore, good to note that the Labor-HEW appropriations conference bill will make a substantial improvement in the funding of the elderly feeding program. In addition to appropriating $125 million for this year, the conference bill requires "that the level of operations for the nutrition program for the elderly shall be $187,500,000 per annum." This directive is $12.5 million lower than the directive in the Senate's bill, and it is noteworthy to point out that no directive at all was contained in the House bill. Thus, with only slight modification, the House receded to the Senate's expenditure mandate.

Through this directive it is made clear that the Congress now mandates an immediate expansion of elderly feeding program funding. The program's annualized rate of expenditure must be increased right away to the amount necessary so that the $187.5 million actually is spent. By directing that the program's "level of operations" be increased to $187.5 million, we, in essence, require the expenditure of $62.5 million in funds carried over from previous years, plus the $125 million appropriated in this bill so that local agencies spend $187.5 million during the course of fiscal 1976.

This appropriations improvement in the elderly feeding program is of substantial importance to the aged people of our Nation. As a result, we expect the Secretary of HEW to inform State and local agencies of the expenditure mandate as soon as possible. If this is accomplished the much-needed expansion of the program will be made possible and the program's waiting lists will diminish or be eliminated. Thus, I urge all Members of the Senate to pass this important appropriations bill.

Mr. STEVENS. Mr. President, as a conferee on H.R. 8069, I would like to direct the Senate's attention to the appropriation granted for the ACTION Agency's special volunteer programs. Conference has accepted the House figure of $3.7 million, a cut of over 40 percent from fiscal year 1975. As a member of the Appropriations Committee, I requested funding at the level of the original budget request of $6.1 million, and noted that the original budget request was already lower than the previous year.

The special volunteer programs were established by title I, part C of the Domestic Volunteer Service Act of 1973 to develop new and dynamic ways of providing volunteers to deal with the needs of local communities particularly in poverty related programs. These new programs complement the traditional ACTION activities by stimulating larger numbers of volunteers to effective action and by spreading more activities to communities throughout the country.

Under special volunteer programs, ACTION provides grants of relatively small amounts for a limited time period to State and local governments and to private nonprofit organizations to stimulate their efforts to enlist volunteer workers and to direct the efforts of such volunteers toward the alleviation of specific locally identified social and economic problems, particularly those related to poverty. ACTION furnishes some seed money and technical assistance. The grantee pays part of the bill and runs the program.

Although these programs have been in operation for less than 2 years, 2,000 full-time volunteers have already been placed in assignments in 750 projects across the Nation; 24 State volunteer services coordinators projects have been established, 12 ACTION city projects are underway, and a national minigrant program has provided more than 200 grants reaching into all 50 States. In my State of Alaska, there are three special volunteer programs which have proven quite successful and popular.

However, it is only in recent months that evidence of the success of several special volunteer programs has become apparent across the Nation. Because these programs were so new, the ACTION Agency did not have enough solid information needed to demonstrate the successes of the special volunteer programs to Members of Congress at the time the Appropriations Committee was considering ACTION.

Next year, these special volunteer programs designed to support, complement, and enrich ACTION's basic volunteer programs, will be again before us accompanied by evaluations proving their success. I hope they will receive a substantial increase in funding at that time.

Mr. MAGNUSON. Mr. President, this bill affects every citizen in the whole of the United States.

I ask unanimous consent that a summary of the bill as agreed to by the conferees be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL (H.R. 8069)

	1975 comparable appropriation	1976 budget estimate	House allowance	Senate allowance	Conference agreement	Conference compared to 1975 comparable	Conference compared to 1976 estimate	Conference compared to House bill	Conference compared to Senate bill
TITLE I, DEPARTMENT OF LABOR									
MANPOWER ADMINISTRATION									
Program Administration									
Planning, evaluation and research	$5,110,000	$4,921,000	$5,118,000	$5,118,000	$5,118,000	+$8,000	+$197,000		
Manpower program administration	33,930,000	32,506,000	32,537,000	32,537,000	32,537,000	−1,393,000	+31,000		
Apprenticeship services	9,961,000	11,528,000	11,528,000	11,528,000	11,528,000	+1,567,000			
U.S. employment service	609,000	627,000	627,000	627,000	627,000	+18,000			
Unemployment insurance service	239,000	244,000	264,000	264,000	264,000	+25,000	+20,000		
Investigation and compliance	773,000	796,000	721,000	721,000	721,000	−52,000	−75,000		
Executive direction and management	16,387,000	15,816,000	15,837,000	15,837,000	15,837,000	−550,000	+21,000		
Total	67,009,000	66,438,000	66,632,000	66,632,000	66,632,000	−377,000	+194,000		
Transition period		16,195,000	16,748,000	16,748,000	16,748,000	+16,748,000	+553,000		
Trust and fund transfer	(28,665,000)	(29,866,000)	(29,866,000)	(29,886,000)	(29,866,000)	(+1,201,000)			
Transition period		(7,377,000)	(7,377,000)	(7,377,000)	(7,377,000)	(+7,377,000)			
Comprehensive Manpower Assistance									
State and local programs:									
Title I: Manpower revenue sharing	1,580,000,000	1,580,000,000	1,580,000,000	1,580,000,000	1,580,000,000				
Title II: Public service jobs	400,000,000	400,000,000	400,000,000	400,000,000	400,000,000				
Summer program	458,050,000					−458,050,000			
National programs:									
National training programs	371,960,000	371,960,000	365,960,000	371,960,000	365,960,000	−6,000,000	−6,000,000		−$6,000,000
Program support	42,440,000	42,440,000	42,440,000	42,440,000	42,440,000				
Total	2,852,450,000	2,394,400,000	2,388,400,000	2,394,400,000	2,388,400,000	−464,050,000	−6,000,000		−6,000,000
Transition period		599,000,000	597,500,000	599,000,000	597,500,000	+597,500,000	−1,500,000		−1,500,000
Temporary employment assistance	2,500,000,000					−2,500,000,000			
Community service employment for older Americans	(42,000,000)	(1)	(1)	(1)	(1)	(−42,000,000)			
Federal Unemployment Benefits and Allowances									
Payments to Federal employees	330,900,000	384,000,000	384,000,000	384,000,000	384,000,000	+53,100,000			
Trade adjustment assistance	34,100,000	26,000,000	26,000,000	26,000,000	26,000,000	−8,100,000			
Special unemployment assistance and payments under other Federal unemployment programs	2,000,000,000					−2,000,000,000			
Total	2,365,000,000	410,000,000	410,000,000	410,000,000	410,000,000	−1,955,000,000			
Transition period		95,000,000	95,000,000	95,000,000	95,000,000	+95,000,000			
Advances to the extended unemployment compensation account	750,000,000					−750,000,000			
Advances to unemployment trust fund and other funds	5,000,000,000					−5,000,000,000			
Grants to States for unemployment insurance and employment services	64,400,000	74,000,000	81,300,000	82,800,000	81,300,000	−16,900,000	+7,300,000		−1,500,000
Transition period		18,500,000	20,300,000	20,700,000	20,300,000	+20,300,000	+1,800,000		−400,000
Trust fund transfer	(1,177,900,000)	(995,000,000)	(1,056,300,000)	(1,054,800,000)	(1,051,300,000)	(−126,600,000)	(+56,300,000)	(−$5,000,000)	(−3,500,000)
Transition period		(248,750,000)	(246,100,000)	(263,700,000)	(262,850,000)	(+262,850,000)	(+14,100,000)	(−1,250,000)	(−850,000)
(Employment Service, Total Trust and Federal Funds)	(448,700,000)	(461,900,000)	(530,500,000)	(530,500,000)	(525,500,000)	(+76,800,000)	(+63,600,000)	(−5,000,000)	(−5,000,000)
(Unemployment Insurance Service, Total Trust and Federal Funds)	(515,600,000)	(531,100,000)	(531,100,000)	(531,100,000)	(531,100,000)	(+15,500,000)			
(Contingency Fund, Total Trust and Federal Funds)	(2,748,000,000)	(76,000,000)	(76,000,000)	(76,000,000)	(76,000,000)	(−2,672,000,000)			
Labor-Management Services Administration									
Salaries and expenses:									
Labor-management relations service	1,145,000	1,179,000	1,168,000	1,168,000	1,168,000	+23,000	−11,000		
Labor-management policy development	2,194,000	2,209,000	2,198,000	2,198,000	2,198,000	+4,000	−11,000		
Administration of reporting and disclosure laws	14,412,000	14,864,000	14,771,000	14,771,000	14,771,000	+359,000	−93,000		
Veterans reemployment rights	2,432,000	2,509,000	2,503,000	2,503,000	2,503,000	+71,000	−6,000		
Federal labor-management relations	4,268,000	4,375,000	4,341,000	4,341,000	4,341,000	+73,000	−34,000		
Employee benefits security	10,326,000	14,756,000	14,175,000	14,175,000	14,175,000	+3,849,000	−581,000		
Executive direction and administrative services	2,068,000	2,108,000	2,076,000	2,076,000	2,076,000	+8,000	−32,000		
Total	36,845,000	42,000,000	41,232,000	41,232,000	41,232,000	+4,387,000	−768,000		
Transition period		10,047,000	10,047,000	10,047,000	10,047,000	+10,047,000			
Employment Standards Administration									
Salaries and expenses:									
Improving and protecting wages	33,279,000	36,647,000	36,443,000	36,443,000	36,443,000	+3,164,000	−204,000		
Elimination of discrimination in employment	11,713,000	13,493,000	13,421,000	13,421,000	13,421,000	+1,708,000	−72,000		
Worker's compensation	22,272,000	19,473,000	21,627,000	23,710,000	22,477,000	+205,000	+3,004,000	+850,000	−1,233,000
Program development and administration	8,852,000	10,102,000	10,069,000	10,069,000	10,069,000	+1,217,000	−33,000		
Total	76,116,000	79,715,000	81,560,000	83,643,000	82,410,000	+6,294,000	+2,695,000	+850,000	−1,233,000
Transition period		19,929,000	20,390,000	20,911,000	20,602,000	+20,602,000	+673,000	+212,000	−309,000
Trust fund transfer		(225,000)	(225,000)	(225,000)	(225,000)	(+225,000)			
Transition period		(56,000)	(56,000)	(56,000)	(56,000)	(+56,000)			

See footnote at end of table.

DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL (H.R. 8069)—Continued

	1975 comparable appropriation	1976 budget estimate	House allowance	Senate allowance	Conference agreement	Conference compared to 1975 comparable	Conference compared to 1976 estimate	Conference compared to House bill	Conference compared to Senate bill
TITLE I, DEPARTMENT OF LABOR—Continued									
MANPOWER ADMINISTRATION—Continued									
Employment Standards Administration—Continued									
Special benefits:									
Federal employees compensation act benefits	$155, 054, 000	$178, 859, 000	$178, 859, 000	$178, 859, 000	$178, 859, 000	+ $23, 805, 000			
Disabled coal miners benefits	8, 000, 000	20, 000, 000	20, 000, 000	20, 000, 000	20, 000, 000	+12, 000, 000			
Longshore and harbor workers' benefits	1, 946, 000	2, 141, 000	2, 141, 000	2, 141, 000	2, 141, 000	+195, 000			
Total	165, 000, 000	201, 000, 000	201, 000, 000	201, 000, 000	201, 000, 000	+36, 000, 000			
Transition period		70, 000, 000	70, 000, 000	70, 000, 000	70, 000, 000	+70, 000, 000			
Occupational Safety and Health Administration									
Salaries and expenses:									
Safety and health standards	5, 552, 000	5, 153, 000	6, 653, 000	6, 653, 000	6, 653, 000	+1, 101, 000	+$1, 500, 000		
Enforcement:									
Federal inspections	43, 756, 000	48, 050, 000	51, 246, 000	67, 946, 000	59, 246, 000	+15, 490, 000	+11, 196, 000	+$8, 000, 000	−$8, 700, 000
State programs	37, 335, 000	48, 500, 000	35, 600, 000	33, 900, 000	35, 600, 000	−1, 735, 000	−12, 900, 000		+1, 700, 000
Training, education, and information	5, 674, 000	4, 838, 000	4, 838, 000	4, 838, 000	4, 838, 000	−836, 000			
Safety and health statistics	5, 526, 000	5, 607, 000	6, 007, 000	6, 007, 000	6, 007, 000	+481, 000	+400, 000		
Executive direction and administration	4, 163, 000	3, 877, 000	3, 877, 000	3, 877, 000	3, 877, 000	−286, 000			
Total	102, 006, 000	116, 025, 000	108, 221, 000	123, 221, 000	116, 221, 000	+14, 215, 000	+196, 000	+8, 000, 000	−7, 000, 000
Transition period		29, 000, 000	27, 000, 000	29, 500, 000	29, 000, 000	+29, 000, 000		+2, 000, 000	−500, 000
Bureau of Labor Statistics									
Salaries and expenses:									
Manpower and employment	17, 269, 000	20, 500, 000	24, 725, 000	24, 725, 000	24, 725, 000	+7, 456, 000	+4, 225, 000		
Prices and cost of living	9, 270, 000	11, 089, 000	10, 313, 000	10, 313, 000	10, 313, 000	+1, 043, 000	−776, 000		
Wages and industrial relations	7, 867, 000	9, 232, 000	9, 127, 000	9, 127, 000	9, 127, 000	+1, 260, 000	−105, 000		
Productivity and technology	2, 161, 000	2, 222, 000	2, 206, 000	2, 206, 000	2, 206, 000	+45, 000	−16, 000		
Economic research	1, 345, 000	1, 028, 000	1, 023, 000	1, 023, 000	1, 023, 000	−322, 000	−5, 000		
Executive direction and staff services	9, 921, 000	10, 517, 000	10, 357, 000	10, 357, 000	10, 357, 000	+436, 000	−160, 000		
Revision of the consumer price index	6, 589, 000	7, 095, 000	7, 095, 000	7, 095, 000	7, 095, 000	+506, 000			
Total	54, 422, 000	61, 683, 000	64, 846, 000	64, 846, 000	64, 846, 000	+10, 424, 000	+3, 163, 000		
Transition period		15, 250, 000	16, 210, 000	16, 210, 000	16, 210, 000	+16, 210, 000	+960, 000		
Departmental Management									
Salaries and expenses:									
Executive direction	7, 151, 000	7, 410, 000	7, 345, 000	7, 345, 000	7, 345, 000	+194, 000	−65, 000		
Legal services	9, 012, 000	9, 484, 000	9, 316, 000	9, 316, 000	9, 316, 000	+304, 000	−168, 000		
International labor affairs	2, 899, 000	4, 721, 000	4, 301, 000	4, 301, 000	4, 301, 000	+1, 402, 000	−420, 000		
Administration and management	9, 720, 000	10, 035, 000	9, 745, 000	9, 745, 000	9, 745, 000	+25, 000	−290, 000		
Appeals from determination of Federal employee claims	260, 000	264, 000	262, 000	262, 000	262, 000	+2, 000	−2, 000		
Promoting employment of the handicapped	1, 297, 000	1, 328, 000	1, 328, 000	1, 328, 000	1, 328, 000	+31, 000			
Total	30, 339, 000	33, 242, 000	32, 297, 000	32, 297, 000	32, 297, 000	+1, 958, 000	−945, 000		
Transition period		7, 781, 000	7, 781, 000	7, 781, 000	7, 781, 000	+7, 781, 000			
Trust fund transfer	(820, 000)	(881, 000)	(881, 000)	(881, 000)	(881, 000)	(+61, 000)			
Transition period		(221, 000)	(221, 000)	(221, 000)	(221, 000)	(+221, 000)			
Special foreign currency program	200, 000	200, 000	70, 000	70, 000	70, 000	−130, 000	−130, 000		
Total, Labor Department	14, 063, 787, 000	3, 478, 703, 000	3, 475, 558, 000	3, 500, 141, 000	3, 484, 408, 000	−10, 579, 379, 000	+5, 705, 000	+8, 850, 000	−15, 733, 000
Items not authorized	(42, 000, 000)					(−42, 000, 000)			
Transition period		880, 702, 000	880, 976, 000	885, 897, 000	883, 188, 000	+883, 188, 000	+2, 486, 000	+2, 212, 000	−2, 709, 000
Trust fund transfer	(1, 207, 385, 000)	(1, 025, 972, 000)	(1, 087, 272, 000)	(1, 085, 772, 000)	(1, 082, 272, 000)	(−125, 113, 000)	(+56, 300, 000)	(−5, 000, 000)	(−3, 500, 000)
TITLE II—DEPARTMENT OF HEALTH, EDUCATION AND WELFARE									
Health Services Administration									
Health Services									
Community health services:									
(a) Comprehensive health grants to States	(90, 000, 000)	[1]	[1]	[1]	[1]	(−90, 000, 000)			
(b) Community health centers	(196, 648, 000)	(155, 190, 000)	[1]	[1]	[1]	(−196, 648, 000)	(−155, 190, 000)		
(c) Maternal and child health:									
(1) Grants to States	266, 951, 000	193, 922, 000	295, 700, 000	295, 700, 000	295, 700, 000	+28, 749, 000	+101, 778, 000		
(2) Research and training	25, 917, 000	17, 500, 000	21, 500, 000	25, 917, 000	23, 708, 000	−2, 209, 000	+6, 208, 000	+2, 208, 000	−2, 209, 000
(3) Sudden infant death information dissemination	2, 000, 000		2, 200, 000	3, 000, 000	2, 500, 000	+500, 000	+2, 500, 000	+300, 000	−500, 000
Subtotal	294, 868, 000	211, 422, 000	319, 400, 000	324, 617, 000	321, 908, 000	+27, 040, 000	+110, 486, 000	+2, 508, 000	−2, 709, 000
(d) Family planning	(100, 615, 000)	(79, 435, 000)	[1]	[1]	[1]	(−100, 615, 000)	(−79, 435, 000)		
(e) Migrant health	(23, 750, 000)	(19, 200, 000)	[1]	[1]	[1]	(−23, 750, 000)	(−19, 200, 000)		
(f) Health maintenance organizations	7, 160, 000	18, 612, 000	13, 612, 000	18, 612, 000	18, 612, 000	+11, 452, 000			
(g) National Health Service Corps	(17, 131, 000)	(12, 529, 000)	[1]	[1]	[1]	(−17, 131, 000)	(−12, 529, 000)		

See footnotes at end of table.

DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL (HR-8069)—Continued

	1975 comparable appropriation	1976 budget estimate	House allowance	Senate allowance	Conference agreement	Conference compared to 1975 comparable	Conference compared to 1976 estimate	Conference compared to House bill	Conference compared to Senate bill
TITLE II—DEPARTMENT OF HEALTH, EDUCATION AND WELFARE—Continued									
Health Services Administration—Continued									
Health Services—Continued									
Quality assurance:									
(a) Medical care standards	$5,055,000	$4,537,000	$6,537,000	$4,537,000	$5,537,000	+$482,000	+$1,000,000	−$1,000,000	+$1,000,000
(b) Professional standards review organizations	36,204,000	50,145,000	50,145,000	45,145,000	47,645,000	+11,441,000	−2,500,000	−2,500,000	+2,500,000
Patient care and special health services	118,451,000	115,468,000	121,468,000	128,368,000	126,468,000	+8,017,000	+11,000,000	+5,000,000	−1,900,000
(PHS hospitals)	(83,382,000)	(80,262,000)	(84,660,000)	(91,560,000)	(89,660,000)	(+6,278,000)	(+9,398,000)	(+5,000,000)	(−1,900,000)
Emergency medical services	32,125,000	21,700,000	32,125,000	35,125,000	33,625,000	+1,500,000	+11,925,000	+1,500,000	−1,500,000
Items not authorized	(4,875,000)	(3,400,000)	(1)	(1)	(1)	(−4,875,000)	(−3,400,000)		
Buildings and facilities	1,300,000					−1,300,000			
Program direction	33,752,000	29,569,000	32,069,000	30,569,000	30,569,000	−3,183,000	+1,000,000	−1,500,000	
Less trust fund transfer	−31,367,000	−24,671,000	−26,671,000	−26,671,000	−26,671,000	+4,696,000	−2,000,000		
Total	497,548,000	426,782,000	553,685,000	560,302,000	557,693,000	+60,145,000	+130,911,000	+4,008,000	−2,609,000
Items not authorized	(433,019,000)	(269,754,000)	(1)	(1)	(1)	(−433,019,000)	(−269,754,000)		
Transition period		136,656,000	135,501,000	135,126,000	135,126,000	+135,126,000	−1,530,000	−375,000	
CENTER FOR DISEASE CONTROL									
Center for Disease Control									
Preventive Health Services									
Disease control:									
(a) Project grants:									
(1) Venereal diseases	(28,000,000)	(19,840,000)	(1)	(1)	(1)	(−28,000,000)	(−19,840,000)		
(2) Immunization	(6,200,000)	(4,960,000)	(1)	(1)	(1)	(−6,200,000)	(−4,960,000)		
(3) Rat control	(13,100,000)	(5,410,000)	(1)	(1)	(1)	(−13,100,000)	(−5,410,000)		
(4) Lead-based paint poisoning prevention	(9,000,000)	(3,500,000)	(1)	(1)	(1)	(−9,000,000)	(−3,500,000)		
(b) Laboratory improvement	9,573,000	9,989,000	10,601,000	10,601,000	10,601,000	+1,028,000	+612,000		
(c) Health education	3,027,000	3,013,000	3,013,000	4,013,000	3,513,000	+486,000	+500,000	+500,000	−500,000
(d) Disease surveillance	42,251,000	43,429,000	43,429,000	43,429,000	43,429,000	+1,178,000			
Occupational health	31,986,000	32,181,000	38,533,000	42,533,000	39,533,000	+7,547,000	+7,352,000	+1,000,000	−3,000,000
Program direction	9,161,000	10,989,000	10,439,000	10,439,000	10,439,000	+1,278,000	−550,000		
Buildings and facilities			1,100,000	1,456,000	1,456,000	+1,456,000	+1,456,000	+356,000	
Total	95,998,000	99,601,000	107,115,000	112,471,000	108,971,000	+12,973,000	+9,370,000	+1,856,000	−3,500,000
Items not authorized	(56,300,000)	(33,710,000)	(1)	(1)	(1)	(−56,300,000)	(−33,710,000)		
Transition period		26,828,000	28,032,000	28,032,000	28,032,000	+28,032,000	+1,204,000		
National Institutes of Health									
National Cancer Institute	669,198,000	586,837,000	703,564,000	803,564,000	743,564,000	+74,366,000	+156,727,000	+40,000,000	−60,000,000
Transition period		149,700,000	149,700,000	149,700,000	149,700,000	+149,700,000			
Items not authorized	(22,163,000)	(18,163,000)	(1)	(1)	(1)	(−22,163,000)	(−18,163,000)		
National Heart and Lung Institute	303,269,000	271,840,000	329,059,000	379,059,000	349,059,000	+45,790,000	+77,219,000	+20,000,000	−30,000,000
Transition period		58,015,000	58,015,000	58,015,000	58,015,000	+58,015,000			
Items not authorized	(21,115,000)	(20,954,000)	(1)	(1)	(1)	(−21,115,000)	(−20,954,000)		
National Institute of Dental Research	44,233,000	38,039,000	45,794,000	45,794,000	45,794,000	+1,561,000	+7,755,000		
Transition period		7,674,000	7,674,000	7,674,000	7,674,000	+7,674,000			
Items not authorized	(5,769,000)	(5,499.000)	(1)	(1)	(1)	(−5,769,000)	(−5,499,000)		
National Institute of Arthritis, Metabolism, and Digestive Diseases	160,899,000	144,065,000	173,972,000	176,972,000	175,172,000	+14,273,000	+31,107,000	+1,200,000	−1,800,000
Transition period		35,052,000	43,052,000	43,052,000	43,052,000	+43,052,000	+8,000,000		
Items not authorized	(12,474,000)	(4,344,000)	(1)	(1)	(1)	(−12,474,000)	(−4,344,000)		
National Institute of Neurological and Communicative Disorders and Stroke	129,011,000	107,055,000	136,546,000	136,546,000	136,546,000	+7,535,000	+29,491,000		
Transition period		27,964,000	32,964,000	32,964,000	32,964,000	+32,964,000	+5,000,000		
Items not authorized	(13,023,000)	(7,934,000)	(1)	(1)	(1)	(−13,023,000)	(−7,934,000)		
National Institute of Allergy and Infectious Diseases	110,409,000	100,777,000	118,918,000	118,918,000	118,918,000	+8,509,000	+18,141,000		
Transition period		26,974,000	26,974,000	26,974,000	26,974,000	+26,974,000			
Items not authorized	(8,960,000)	(7,900,000)	(1)	(1)	(1)	(−8,960,000)	(−7,900,000)		
National Institute of General Medical Sciences	135,423,000	120,779,000	146,461,000	146,461,000	146,461,000	+11,038,000	+25,682,000		
Transition period		32,961,000	32,961,000	32,961,000	32,961,000	+32,961,000			
Items not authorized	(51,867,000)	(40,851,000)	(1)	(1)	(1)	(−51,867,000)	(−40,851,000)		
National Institute of Child Health and Human Development	116,679,000	96,547,000	126,889,000	126,889,000	126,889,000	+10,210,000	+30,342,000		
Transition period		23,566,000	23,566,000	23,566,000	23,566,000	+23,566,000			
Items not authorized	(9,587,000)	(9,515,000)	(1)	(1)	(1)	(−9,857,000)	(−9,515,000)		
National Institute on Aging	13,905,000	14,428,000	15,526,000	20,526,000	17,526,000	+3,621,000	+3,098,000	+2,000,000	−3,000,000
Transition period		3,943,000	3,943,000	3,943,000	3,943,000	+3,943,000			
Items not authorized	(1,817,000)	(1,762,000)	(1)	(1)	(1)	(−1,817,000)	(−1,762,000)		
National Eye Institute	39,393,000	34,554,000	42,608,000	50,000,000	45,565,000	+6,172,000	+11,011,000	+2,957,000	−4,435,000
Transition period		9,103,000	9,103,000	9,103,000	9,103,000	+9,103,000			
Items not authorized	(4,647,000)	(4,647,000)	(1)	(1)	(1)	(−1,647,000)	(−4,647,000)		
National Institute of Environmental Health Sciences	31,884,000	29,368,000	35,915,000	35,915,000	35,915,000	+4,031,000	+6,547,000		
Transition period		7,540,000	7,540,000	7,540,000	7,540,000	+7,540,000			
Items not authorized	(3,275,000)	(1,745,000)	(1)	(1)	(1)	(−3,275,000)	(−1,745,000)		
Research resources	127,816,000	80,724,000	128,731,000	131,731,000	129,931,000	+2,115,000	+49,207,000	+1,200,000	−1,800,000
Transition riod		20,195,000	20,195,000	20,195,000	20,195,000	+20,195,000			
Items not authorized	(434,000)	(334,000)	(1)	(1)	(1)	(−434,000)	(−334,000)		
John E. Fogarty International Center	5,406,000	4,540,000	5,345,000	6,245,000	5,705,000	+299,000	+1,165,000	+360,000	−540,000
Transition period		1,135,000	1,135,000	1,135,000	1,135,000	+1,135,000			
Total, Research Institutes	1,887,525,000	1,629,553,000	2,009,328,000	2,178,620,000	2,077,045,000	+189,520,000	+447,492,000	+67,717,000	−101,575,000
Items not authorized	(155,401,000)	(123,648,000)	(1)	(1)	(1)	(−155,401,000)	(−123,648,000)		
Transition period		403,822,000	416,822,000	416,822,000	416,822,000	+416,822,000	+13,000,000		

See footnote at end of table.

DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL (HR-8069)—Continued

	1975 comparable appropriation	1976 budget estimate	House allowance	Senate allowance	Conference agreement	Conference compared to 1975 comparable	Conference compared to 1976 estimate	Conference compared to House bill	Conference compared to Senate bill
TITLE II—DEPARTMENT OF HEALTH, EDUCATION AND WELFARE—Continued									
National Institutes of Health—Continued									
National Library of Medicine	$28,848,000	$28,815,000	$28,815,000	$29,565,000	$29,065,000	+$217,000	+$250,000	+$250,000	−$500,000
Transition period		6,572,000	6,572,000	6,572,000	6,572,000	+6,572,000			
Buildings and facilities	3,000,000	3,000,000	93,000,000	41,000,000	54,000,000	+51,000,000	+51,000,000	−39,000,000	+13,000,000
Transition period		750,000	750,000	750,000	750,000	+750,000			
Office of the Director	17,986,000	19,986,000	19,612,000	17,896,000	17,896,000	−90,000	−2,090,000	−1,716,000	
Transition period		4,997,000	4,903,000	4,474,000	4,474,000	+4,474,000	−523,000	−429,000	
Total NIH	1,937,359,000	1,681,354,000	2,150,755,000	2,267,081,600	2,178,006,000	+240,647,000	+496,652,000	+27,251,000	−89,075,000
Items not authorized	(155,401,000)	(123,648,000)	(1)	(1)	(1)	(−155,401,000)	(−123,648,000)		
Transition period		416,141,000	429,047,000	428,618,900	428,618,000	+428,618,000	+12,477,000	−429,000	
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION									
Alcohol, Drug Abuse, and Mental Health									
General mental health:									
(a) Research	92,650,000	80,189,000	92,908,000	92,908,000	92,908,000	+258,000	+12,719,000		
(b) Training	75,933,000	30,266,000	60,266,000	75,993,000	70,266,000	−5,727,000	+40,000,000	+10,000,000	−5,727,000
Items not authorized	(18,232,000)	(15,134,000)	(1)	(1)	(1)	(−18,232,000)	(−15,134,000)		
(c) Community programs:									
(1) Construction of centers	(14,250,000)	(1)	(1)	(1)	(1)	(−14,250,000)			
(2) Staffing of centers	170,789,000	135,363,000	135,363,000	135,363,000	135,363,000	−35,426,000			
(3) Mental health of children	28,108,000	24,780,000	24,780,000	26,844,000	26,844,000	−1,264,000	+2,064,000	+2,064,000	
(d) Management and information	20,429,000	20,274,000	22,274,000	22,274,000	22,274,000	+1,845,000	+2,000,000		
Subtotal	387,969,000	290,872,000	335,591,000	353,382,000	347,655,000	−40,314,000	+56,783,000	+12,064,000	−5,727,000
Items not authorized	(32,482,000)	(15,134,000)	(1)	(1)	(1)	(−32,482,000)	(−15,134,000)		
Drug abuse:									
(a) Research	34,063,000	31,602,000	34,000,000	34,063,000	34,000,000	−63,000	+2,398,000		−63,000
(b) Training	13,757,000	2,803,000	9,803,000	13,757,000	9,803,000	−3,954,000	+7,000,000		−3,954,000
Items not authorized	(278,000)	(197,000)	(1)	(1)	(1)	(−278,000)	(−197,000)		
(c) Community programs:									
(1) Project grants and contracts	12,935,000	11,836,000	11,836,000	12,925,000	12,925,000	−10,000	+1,089,000	+1,089,000	
Items not authorized	(109,065,000)	(126,126,000)	(1)	(1)	(1)	(−109,065,000)	(−126,126,000)		
(2) Grants to States	(35,000,000)	(35,000,000)	(1)	(1)	(1)	(−35,000,000)	(−35,000,000)		
(d) Management and information	15,092,000	14,294,000	14,294,000	14,294,000	14,294,000	−798,000			
	75,847,000	60,535,000	69,933,000	75,039,000	71.022,000	−4,825,000	+10,487,000	+1,089,000	−4,017,000
Items not authorized	(144,343,000)	(161.323,000)	(1)	(1)	(1)	(−144,343,000)	−(161,323,000)		
Alcoholism:									
(a) Research	11,008,000	9,047,000	11,008,000	13,008,000	11,808,000	+800,000	+2,761,000	+800,000	−1,200,000
(b) Training	6,846,000	6,067,000	6,067,000	7,067,000	6,567,000	−279,000	+500,000	+500,000	−500,000
Items not authorized	(1,001,000)	(891,000)	(1)	(1)	(1)	(−1,001,000)	(−891,000)		
(c) Community programs:									
(1) Project grants and contracts	64,908,000	45,451,000	64,908,000	73,908,000	68,408,000	+3,500,000	+22,957,000	+3,500,000	−5,500,000
(2) Grants to States	52,000,000	45,600,000	52,000,000	60,000,000	55,500,000	+3,500,000	+9,900,000	+3,500,000	−4,500,000
(d) Management and information	10,328,000	7,143,000	7,143,000	9,143,000	8,143,000	−2,185,000	+1,000,000	+1,000,000	−1,000,000
Subtotal	145,090,000	113,308,000	141,126,000	163,126,000	150,426,000	+5,336,000	+37,118,000	+9,300,000	−12,700,000
Items not authorized	(1,001,000)	(891,000)	(1)	(1)	(1)	(−1,001,000)	(−891,000)		
Program direction	10,451,000	11,564,000	11,004,000	10,451,000	10,451,000		−1,113,000	−553,000	
Total	619,357,000	476,279,000	557,654,000	601,998,000	579,554,000	−39,803,000	+103,275,000	+21,900,000	−22,444,000
Transition period		116,565,000	84,242,000	84,104,000	84,104,000	+84,104,000	−32,461,000	−138,000	
Saint Elizabeths Hospital	48,758,000	48,064,000	48,064,000	48,064,000	48,064,000	−694,000			
Transition period		15,500,000	15,500,000	15,500,000	15,500,000	+15,500,000			
Buildings and Facilities			2,500,000	5,400,000	5,400,000	+5,400,000	+5,400,000	+2,900,000	
Total, Alcohol and Drug Abuse	668,115,000	524,343,000	608,218,000	655,462,000	633,018,000	−35,097,000	+108,675,000	+24,800,000	−22,444,000
Items not authorized	(177,826,000)	(177,348,000)				(−177,826,000)	(−177,348,000)		
Transition period		132,065,000	99,742,000	99,604,000	99,604,000	+99,604,000	−32,461,000	−138,000	
HEALTH RESOURCES ADMINISTRATION									
Health Resources									
National health statistics	21,997,000	25,636,000	25,636,000	21,997,000	25,636,000	+3,639,000			+3,639,000
Health planning and resources development	10,000,000	66,000,000	86,000,000	105,740,000	90,000,000	+80,000,000	+24,000,000	+4,000,000	−15,740,000
Comprehensive health planning	37,900,000					−37,900,000			
Regional medical programs	50,000,000					−50,000,000			
Health services research and evaluation	28,659,000	26,000,000	26,000,000	23,490,000	26,000,000	−2,659,000			+2,600,000

See footnote at end of table.

DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL (H.R. 8069)—Continued

	1975 comparable appropriation	1976 budget estimate	House allowance	Senate allowance	Conference agreement	Conference compared to 1975 comparable	Conference compared to 1976 estimate	Conference compared to House bill	Conference compared to Senate bill
TITLE II—DEPARTMENT OF HEALTH, EDUCATION AND WELFARE—Continued									
HEALTH RESOURCES ADMINISTRATION—Continued									
Health Resources—Continued									
Health manpower:									
(a) Health professions:									
(1) Institutional assistance:									
(a) Capitation grants	($150,000,000)	($101,100,000)	(1)	(1)	(1)	(—$150,000,000)	(—$101,100,000)		
(b) Start-up and conversion assistance	(4,700,000)	(3,000,000)	(1)	(1)	(1)	(—4,700,000)	(—3,000,000)		
(c) Financial distress grants	(5,000,000)	(5,000,000)	(1)	(1)	(1)	(—5,000,000)	(—5,000,000)		
(d) Special projects	(37,583,000)	(45,472,000)	(1)	(1)	(1)	(—37,583,000)	(—45,472,000)		
(2) Student assistance:									
(a) Loans	36,000,000	20,000,000	$20,000,000	$27,000,000	$24,000,000	—12,000,000	+4,000,000	+$4,000,000	—$3,000,000
(b) General scholarships	6,900,000	3,500,000	3,500,000	3,500,000	3,500,000	—3,400,000			
(c) National health service scholarships	(22,500,000)	(22,500,000)	(1)	(1)	(1)	(—22,500,000)	(—22,500,000)		
(d) Loan repayments	3,000,000	6,000,000	6,000,000	6,000,000	6,000,000	+3,000,000			
(3) Dental health activities	7,842,000	7,842,000	7,842,000	9,042,000	8,442,000	+600,000	+600,000	+600,000	—600,000
Subtotal	53,742,000	37,342,000	37,342,000	45,542,000	41,942,000	—11,800,000	+4,600,000	+4,600,000	—3,600,000
Items not authorized	(219,783,000)	(177,072,000)	(1)	(1)	(1)	(—219,783,000)	(—177,072,000)		
(b) Nursing:									
(1) Institutional assistance:									
(a) Capitation grants	(34,343,000)	(1)	(1)	(1)	(1)	(—34,343,000)			
(b) Start-up and conversion assistance		(1)	(1)	(1)	(1)				
(c) Financial distress grants	(4,750,000)	(1)	(1)	(1)	(1)	(—4,750,000)			
(d) Special projects	(19,000,000)	(18,000,000)	(1)	(1)	(1)	(—19,000,000)	(—18,000,000)		
(2) Student assistance:									
(a) Loans	22,800,000	9,000,000	9,000,000	15,000,000	15,000,000	—7,800,000	+6,000,000	+6,000,000	
(b) General scholarships	6,000,000	4,000,000	4,000,000	4,000,000	4,000,000	—2,000,000			
(c) Traineeships	(13,016,000)	(1)	(1)	(1)	(1)	(—13,016,000)			
(d) Loan repayments	100,000	2,500,000	2,500,000	2,500,000	2,500,000	+2,400,000			
(3) Educational research grants and contracts	(1,200,000)	(1)	(1)	(1)	(1)	(—1,200,000)			
Subtotal	28,900,000	15,500,000	15,500,000	21,500,000	21,500,000	—7,400,000	+6,000,000	+6,000,000	
Items not authorized	(72,309,000)	(18,000,000)	(1)	(1)	(1)	(—72,309,000)	(—18,000,000)		
(c) Public health	(20,520,000)	(1)	(1)	(1)	(1)	(—20,520,000)			
(d) Allied health	(28,321,000)	(1)	(1)	(1)	(1)	(—28,321,000)			
(e) Special educational programs	(53,475,000)	(91,086,000)	(1)	(1)	(1)	(—53,475,000)	(—91,086,000)		
(f) D.C. medical manpower assistance	7,500,000	(1)	9,050,000	9,050,000	9,050,000	+1,550,000	+9,050,000		
Subtotal, Health Manpower	90,142,000	52,842,000	61,892,000	76,092,000	72,492,000	—17,650,000	+19,650,000	+10,600,000	—3,600,000
Items not authorized	(394,408,000)	(286,158,000)	(1)	(1)	(1)	(—394,408,000)	(—286,158,000)		
Health facilities construction:									
(a) Medical facilities:									
(1) Formula grants		780,000,00	78,000,000	57,922,800	57,922,800	+57,922,800	—20,077,200	—20,077,200	
(2) Special projects		22,000,000	22,000,000	16,337,200	16,337,200	+16,337,200	—5,662,800	—5,662,800	
(b) Health teaching facilities	(114,000,000)	(1)	(1)	(1)	(1)	(—114,000,000)			
(c) Interest subsidies	2,000,000	3,000,000	3,000,000	3,000,000	3,000,000	+1,000,000			
(d) Special medical facilities	22,000,000		7,575,000	7,575,000	7,575,000	—14,425,000	+7,575,000		
Subtotal	24,000,000	103,000,000	110,575,000	84,835,000	84,835,000	+60,835,000	—18,165,000	—25,740,000	
Items not authorized	(114,000,000)	(1)	(1)	(1)	(1)	(—114,000,000)			
Program management	46,963,000	51,893,000	50,648,000	48,507,000	48,507,000	+1,544,000	—3,386,000	—2,141,000	
Total	309,661,000	325,371,000	360,751,000	360,571,000	347,470,000	+37,809,000	+22,099,000	—13,281,000	—13,101,000
Less trust fund transfer	—8,542,000	—42,000	—42,000	—42,000	—42,000	+8,500,000			
Total, Health Resources	301,119,000	325,329,000	360,709,000	360,529,000	347,428,000	+46,309,000	+22,099,000	—13,218,000	—13,101,000
Items not authorized	(508,408,000)	(286,158,000)	(1)	(1)	(1)	(—508,408,000)	(—286,158,000)		
Transition period		81,790,000	78,790,000	78,255,000	78,255,000	+78,255,000	—3,535,000	—535,000	
Medical Facilities Guarantee and Loan Fund		10,000,000	10,000,000	10,000,000	10,000,000	+10,000,000			
Transition periods		7,000,000	7,000,000	7,000,000	7,000,000	+7,000,000			
Payments of sales insufficiencies	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000				
Total, Health Resources Administration	305,119,000	339,329,000	374,709,000	374,529,000	361,428,000	+56,309,000	+22,099,000	—13,281,000	—13,101,000
Items not authorized	(508,408,000)	(286,158,000)	(1)	(1)	(1)	(—508,408,000)	(—286,158,000)		
Transition period		88,790,000	85,790,000	85,255,000	85,255,000	+85,255,000	—3,535,000	—535,000	

See footnote at end of table.

DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL (H.R. 8069)—Continued

	1975 comparable appropriation	1976 budget estimate	House allowance	Senate allowance	Conference agreement	Conference compared to 1975 comparable	Conference compared to 1976 estimate	Conference compared to House bill	Conference compared to Senate bill
TITLE II—DEPARTMENT OF HEALTH, EDUCATION AND WELFARE—Continued									
ASSISTANT SECRETARY FOR HEALTH									
Assistant Secretary for Health	$22, 025, 000	$23, 288, 000	$23, 142, 000	$20, 842, 000	$20, 842, 000	−$1, 183, 000	−$2, 446, 000	−$2, 300, 000	
Transition period		6, 302, 000	5, 785, 000	5, 210, 000	5, 210, 000	+5, 210, 000	−1, 092, 000	−575, 000	
Retirement pay and medical benefits for commissioned officers	39, 200, 000	45, 013, 000	45, 013, 000	45, 013, 000	45, 013, 000	+5, 813, 000			
Transition period		13, 552, 000	13, 552, 000	13, 552, 000	13, 552, 000	+13, 552, 000			
Total	61, 225, 000	68, 301, 000	68, 155, 000	65, 855, 000	65, 855, 000	+4, 630, 000	−2, 446, 000	−2, 300, 000	
Transition period		19, 854, 000	19, 337, 000	18, 762, 000	18, 762, 000	+18, 762, 000	−1, 092, 000	−575, 000	
Total, Health Agencies	3, 565, 364, 000	3, 139, 710, 000	3, 862, 637, 000	4, 035, 700, 000	3, 904, 971, 000	+339, 607, 000	+765, 261, 000	+42, 334, 000	−$130, 729, 000
Items not authorized	(1, 330, 954, 000)	(890, 618, 000)	(1)	(1)	(1)	(−1, 330, 954, 000)	(−890, 618, 000)		
Transition period		820, 334, 000	797, 449, 000	795, 397, 000	795, 397, 000	+795, 397, 000	−24, 937, 000	−2, 052, 000	
Social and Rehabilitation Service									
Public Assistance:									
Maintenance assistance	4, 861, 927, 000	5, 166, 639, 000	5, 166, 800, 000	5, 166, 800, 000	5, 166, 800, 000	+304, 873, 000	+161, 000		
Medical assistance	6, 966, 375, 000	7, 766, 000, 000	7, 766, 000, 000	7, 766, 000, 000	7, 766, 000, 000	+799, 625, 000			
Social services	1, 891, 905, 000	1, 948, 000, 000	1, 948, 000, 000	1, 948, 000, 000	1, 948, 000, 000	+56, 095, 000			
State and local training	53, 172, 000	60, 246, 000	54, 000, 000	54, 000, 000	54, 000, 000	+828, 000	−6, 246, 000		
Child welfare services	50, 000, 000	46, 000, 000	50, 000, 000	55, 000, 000	52, 500, 000	+2, 500, 000	+6, 500, 000	+2, 500, 000	−2, 500, 000
Research	9, 200, 000	12, 200, 000	9, 200, 000	10, 700, 000	9, 200, 000		−3, 000, 000		−1, 500, 000
Training projects	8, 900, 000		6, 000, 000	8, 900, 000	7, 450, 000	−1, 450, 000	+7, 450, 000	+1, 450, 000	−1, 450, 000
Total	13, 841, 479, 000	14, 999, 085, 000	15, 000, 000, 000	15, 009, 400, 000	15, 003, 950, 000	+1, 162, 471, 000	+4, 865, 000	+3, 950, 000	−5, 450, 000
Transition period		3, 964, 682, 000	3, 965, 000, 000	3, 965, 000, 000	3, 965, 000, 000	+3, 965, 000, 000	+318, 000		
Work incentives:									
Training	140, 000, 000	233, 000, 000	233, 000, 000	233, 000, 000	233, 000, 000	+93, 000, 000			
Child care	70, 000, 000	97, 000, 000	97, 000, 000	97, 000, 000	97, 000, 000	+27, 000, 000			
Total	210, 000, 000	330, 000, 000	330, 000, 000	330, 000, 000	330, 000, 000	+120, 000, 000			
Transition period		80, 000, 000	80, 000, 000	80, 000, 000	80, 000, 000	+80, 000, 000			
Salaries and expenses	51, 453, 000	63, 361, 000	57, 878, 000	60, 878, 000	60, 378, 000	+8, 925, 000	−2, 983, 000	+2, 500, 000	−500, 000
Transition period		16, 265, 000	14, 470, 000	15, 219, 000	15, 219, 000	+15, 219, 000	−1, 046, 000	+749, 000	
Trust fund transfer	(600, 000)					(−600, 000)			
Total	14, 102, 932, 000	15, 392, 446, 000	15, 387, 878, 000	15, 400, 278, 000	15, 394, 328, 000	+1, 291, 396, 000	+1, 882, 000	+6, 450, 000	−5, 950, 000
Transition period		4, 060, 947, 000	4, 059, 470, 000	4, 060, 219, 000	4, 060, 219, 000	+4, 060, 219, 000	−728, 000	+749, 000	
SOCIAL SECURITY ADMINISTRATION									
Payments to Social Security trust funds	3, 345, 323, 000	4, 175, 255, 000	4, 123, 363, 000	4, 123, 363, 900	4, 123, 363, 000	+778, 040, 000	−51, 892, 000		
Transition period		892, 000, 000	880, 940, 000	880, 940, 000	880, 940, 000	+880, 940, 000	−11, 060, 000		
Special benefits for disabled coal miners	957, 740, 000	999, 778, 000	999, 778, 000	999, 773, 000	999, 778, 000	+42, 038, 000			
Transition period		234, 600, 000	234, 600, 000	234, 600, 000	234, 600, 000	+234, 600, 000			
Supplemental security income program	4, 857, 102, 000	5, 538, 523, 000	5, 518, 523, 000	5, 518, 523, 000	5, 518, 523, 000	+661, 421, 000	−20, 000, 000		
Transition period		1, 508, 541, 000	1, 503, 541, 000	1, 503, 541, 000	1, 503, 541, 000	+1, 503, 541, 000	−5, 000, 000		
Limitation on salaries and expenses	(2, 125, 978, 000)	(2, 373, 132, 000)	(2, 373, 133, 612)	(2, 373, 133, 612)	(2, 373, 133, 612)	(+247, 155, 612)	(+1, 612)		
Transition period		(629, 900, 000)	(629, 900, 403)	(629, 900, 403)	(629, 900, 403)	(+629, 900, 403)	(+403)		
Limitation on construction	(8, 232, 000)	(6, 300, 000)	(6, 300, 000)	(6, 300, 000)	(6, 300, 000)	(−1, 932, 000)			
Transition period		(3, 633, 000)	(3, 633, 000)	(3, 633, 009)	(3, 633, 000)	(+3, 633, 000)			
Total	9, 160, 165, 000	10, 713, 556, 000	10, 641, 664, 000	10, 641, 664, 000	10, 641, 664, 000	+481, 499, 000	−71, 892, 000		
Transition period		2, 635, 141, 000	2, 619, 081, 000	2, 619, 081, 000	2, 619, 081, 000	+2, 619, 081, 000	−16, 060, 000		
ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT									
Human Development									
Child development:									
(a) Headstart	441, 000, 000	434, 300, 000	450, 000, 000	456, 000, 000	454, 500, 000	+13, 500, 000	+20, 200, 000	+4, 500, 000	+1, 500, 000
(b) Research, demonstration, and evaluation	15, 700, 000	15, 700, 000	15, 700, 000	15, 700, 000	15, 700, 000				
(c) Child abuse	14, 714, 000	18, 928, 000	18, 928, 000	18, 928, 000	18, 928, 000	+4, 214, 000			
Youth development	10, 000, 000	5, 000, 000	5, 000, 000	10, 000, 000	7, 000, 000	−3, 000, 000	+2, 000, 000	+2, 000, 000	−3, 000, 000
Aging programs:									
(a) Community services	(105, 000, 000)	(96, 000, 000)	(1)	(1)	(1)	(−105, 000, 000)	(−96, 000, 000)		
(b) Nutrition	125, 000, 000	99, 600, 000	125, 000, 000	125, 000, 000	125, 000, 000		+15, 400, 000		
(c) Research, demonstrations, and manpower	(15, 000, 000)	(7, 000, 000)	(1)	(1)	(1)	(−15, 000, 000)	(−7, 000, 000)		
(d) Federal Council on Aging	(500, 000)	(500, 000)	(1)	(1)	(1)	(−500, 000)	(−500, 000)		
Rehabilitation Services and Facilities:									
(a) Basic State grants	680, 000, 000	680, 000, 000	720, 000, 000	720, 309, 318	720, 309, 318	+40, 309, 318	+40, 309, 318	+309, 318	
(b) Service projects:									
(1) Innovation and expansion	23, 000, 000		15, 000, 000	23, 000, 000	18, 000, 000	−5, 000, 000	+18, 000, 000	+3, 000, 000	−5, 000, 000
(2) Deaf-blind Center	2, 000, 000	2, 100, 000	2, 100, 000	2, 100, 000	2, 100, 000	+100, 000			
(3) Special studies and evaluation	5, 945, 000	4, 400, 000	4, 400, 000	4, 900, 000	4, 900, 000	−1, 045, 000	+500, 000	+500, 000	
(4) Training and facilities subgrants	8, 000, 000	6, 900, 000	6, 900, 000	9, 800, 000	8, 400, 000	+400, 000	+1, 500, 000	+1, 500, 000	−1, 400, 000
(c) Research	20, 000, 000	20, 000, 000	20, 000, 000	24, 000, 000	24, 000, 000	+4, 000, 000	+4, 000, 000	+4, 000, 000	
(d) Training	22, 200, 000	22, 200, 000	22, 200, 000	22, 200, 000	22, 200, 000				

See footnote at end of table.

DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL (H.R. 8069)—Continued

	1975 comparable appropriation	1976 budget estimate	House allowance	Senate allowance	Conference agreement	Conference compared to 1975 comparable	Conference compared to 1976 estimate	Conference compared to House bill	Conference compared to Senate bill
TITLE II—DEPARTMENT OF HEALTH, EDUCATION AND WELFARE—Continued									
ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT—Con.									
Human Development—Continued									
Grants for the Developmentally Disabled:									
(a) State grants	($30,875,000)	($30,875,000)	(1)	(1)	(1)	(−$30,875,000)	(−$30,875,000)		
(b) Service grants	18,500,000	18,500,000	$18,500,000	$18,500,000	$18,500,000				
(c) University affiliated facilities	(4,250,000)	(4,250,000)	(1)	(1)	(1)	(−4,250,000)	(−4,250,000)		
Special programs for Native Americans	32,000,000	32,000,000	32,000,000	34,000,000	33,000,000	+1,000,000	+1,000,000	+$1,000,000	−$1,000,000
Salaries and expenses	41,243,000	45,654,000	44,921,000	44,921,000	44,921,000	+3,678,000	−733,000		
Less trust fund transfer	−600,000	−600,000	−600,000	−600,000	−600,000				
Total	1,458,702,000	1,404,682,000	1,500,049,000	1,528,758,318	1,516,858,318	+58,156,318	+112,176,318	+16,809,318	−11,900,000
Items not authorized	(155,625,000)	(138,625,000)	(1)	(1)	(1)	(−155,625,000)	(−138,625,000)		
Transition period		348,164,000	371,505,000	371,505,000	371,505,000	+371,505,000	+23,341,000		
Departmental Management									
Office for Civil Rights	23,673,000	26,498,000	26,037,000	26,037,000	26,037,000	+2,364,000	−461,000		
Less trust fund transfer	−1,466,000	−1,351,000	−1,351,000	−1,351,000	−1,351,000	+115,000			
Total	22,207,000	25,147,000	24,686,000	24,686,000	24,686,000	+2,479,000	−461,000		
General departmental management	92,211,000	105,786,000	100,040,000	98,270,000	98,270,000	+6,059,000	−7,516,000	−1,770,000	
Less trust fund transfer	−13,946,000	−12,751,000	−12,751,000	−12,751,000	−12,751,000	+1,195,000			
Total	78,265,000	93,035,000	87,289,000	85,519,000	85,519,000	+7,254,000	−7,516,000	−1,770,000	
Policy research	24,950,000	29,260,000	26,300,000	24,950,000	24,950,000		−4,310,000	−1,350,000	
Total	125,422,000	147,442,000	138,275,000	135,155,000	135,155,000	+9,733,000	−12,287,000	−3,120,000	
Transition period		37,915,000	35,624,000	35,114,000	35,114,000	+35,114,000	−2,801,000	−510,000	
Total, title II	28,412,585,000	30,797,836,000	31,530,503,000	31,741,555,318	31,592,976,318	+3,180,391,318	+795,140,318	+62,473,318	−148,579,000
Total, HEW items not authorized	(1,486,579,000)	(1,029,243,000)	(1)	(1)	(1)	(−1,486,579,000)	(−1,029,243,000)		
Total, transition period		7,902,501,000	7,883,129,000	7,881,316,000	7,881,316,000	+7,881,316,000	−21,185,000	−1,813,000	
Trust fund limitations	(2,134,219,000)	(2,379,432,000)	(2,379,433,612)	(2,379,433,612)	(2,379,433,612)	(+245,214,612)	(+1,612)		
Trust fund transfer	(47,379,000)	(39,415,000)	(41,415,000)	(41,415,000)	(41,415,000)	(−5,964,000)	(+2,000,000)		
TITLE III—RELATED AGENCIES									
Action (domestic programs)	100,000,000	101,574,000	101,313,000	105,623,000	103,266,000	+3,266,000	+1,692,000	+1,953,000	−2,357,000
Transition period		21,083,000	21,083,000	25,591,000	21,083,000	+21,083,000			−4,508,000
Community Services Administration	507,700,000	363,000,000	474,385,000	526,452,000	494,652,000	−13,048,000	+131,652,000	+20,267,000	−31,800,000
Transition period		90,750,000	144,975,000	129,746,000	129,746,000	+129,746,000	+38,996,000	−15,229,000	
Corporation for Public Broadcasting	(62,000,000)	(70,000,000)	(1)	(1)	(1)	(−62,000,000)	(−70,000,000)		
Transition period		(17,500,000)	(1)	(1)	(1)		(−17,500,000)		
Federal Mediation and Conciliation Service	16,245,000	18,250,000	17,704,000	17,904,000	17,904,000	+1,659,000	−346,000	+200,000	
Transition period		4,800,000	4,426,000	4,476,000	4,476,000	+4,476,000	−324,000	+50,000	
National Commission on Libraries and Information Science	409,000	502,000	409,000	468,000	468,000	+59,000	−34,000	+59,000	
Transition period		125,000	102,000	117,000	117,000	+117,000	−8,000	+15,000	
National Labor Relations Board	62,669,000	68,499,000	67,461,000	68,071,000	67,766,000	+5,097,000	−733,000	+305,000	−305,000
Transition period		17,127,000	16,865,000	17,018,000	16,941,000	+16,941,000	−186,000	+76,000	−77,000
National Mediation Board	3,236,000	3,105,000	3,405,000	3,405,000	3,405,000	+169,000	+300,000		
Transition period		775,000	850,000	850,000	850,000	+850,000	+75,000		
Occupational Safety and Health Review Commission	5,512,000	5,675,000	5,638,000	5,638,000	5,638,000	+126,000	−37,000		
Transition period		1,418,000	1,418,000	1,418,000	1,418,000	+1,418,000			
Railroad Retirement Board:									
Payments to Railroad Retirement Trust Funds	3,516,000	250,000,000	250,000,000	250,000,000	250,000,000	+246,484,000			
Regional Rail Transportation Protective Account		55,100,000	37,600,000	37,600,000	37,600,000	+37,600,000	−17,500,000		
Transition period		10,030,000	10,030,000	10,030,000	10,030,000	+10,030,000			
Limitation on salaries and expenses	(25,758,000)	(29,703,000)	(28,703,000)	(28,703,000)	(28,703,000)	(+2,945,000)	(−1,000,000)		
Transition period		(7,430,000)	(7,175,000)	(7,175,000	(7,175,000)	(+7,175,000)	(−255,000)		
Soldier's and Airmen's Home (trust fund appropriation): Operation and maintenance	15,391,000	15,665,000	15,665,000	15,665,000	15,665,000	+274,000			
Transition period		3,905,000	3,905,000	3,905,000	3,905,000	+3,905,000			
Total, Title III	714,678,000	881,370,000	973,580,000	1,030,826,000	996,364,000	+281,686,000	+114,994,000	+22,784,000	−34,462,000
Total, items not authorized	(62,000,000)	(70,000,000)	(1)	(1)	(1)	(−62,000,000)	(−70,000,000)		
Total, transition period		150,013,000	203,654,000	193,151,000	188,566,000	+188,566,000	+38,553,000	−15,088,000	−4,585,000
Final total, Labor-HEW	43,191,050,000	35,157,909,000	35,979,641,000	36,272,522,318	36,073,748,318	−7,117,301,682	+915,839,318	+94,107,318	−198,774,000
Final total, items not authorized	(1,590,579,000)	(1,099,243,000)	(1)	(1)	(1)	(−1,590,579,000)	(−1,099,243,000)		
Total, transition period		8,933,216,000	8,967,759,000	8,960,364,000	8,953,070,000	+8,953,070,000	+19,854,000	−14,689,000	−7,294,000
Trust fund limitations	(2,159,977,000)	(2,409,135,000)	(2,408,136,612)	(2,408,136,612)	(2,408,136,612)				
Trust fund transfer	(1,253,944,000)	(1,065,387,000)	(1,128,687,000)	(1,128,687,000)	(1,128,687,000)				

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[1] Not considered due to lack of authorizing legislation.

ACTION (DOMESTIC PROGRAMS)

	Fiscal year—				
	1975 appropriation	1976 budget request	1976 House action	1976 Senate action	1976 conference agreement
Title I: National volunteer antipoverty programs	$36,567,000	$35,639,000	$33,282,000	$35,639,000	$33,282,000
Part A: VISTA	22,800,000	22,300,000	22,300,000	22,300,000	22,300,000
Part B: Service-learning programs	7,108,000	7,251,000	7,251,000	7,251,000	7,251,000
Part C: Special volunteer programs	6,659,000	6,088,000	3,731,000	6,088,000	3,731,000
Title II: Older Americans volunteer programs (OAVP)	43,980,000	45,070,000	47,427,000	49,427,000	49,427,000
Retired senior volunteer program (RSVP)	15,980,000	17,500,000	17,500,000	17,500,000	17,500,000
Foster grandparents	28,000,000	25,930,000	28,287,000	(1)	(1)
Senior companions		1,640,000	1,640,000	(1)	(1)
Title III: SCORE/ACE	400,000	400,000	400,000	400,000	400,000
Title IV: Program support	19,053,000	20,465,000	20,204,000	20,157,000	20,157,000
Total appropriation/request	100,000,000	101,574,000	101,313,000	105,623,000	103,266,000

(1) Distribution of committee action at Agency's discretion—to total $31,927,000 for these 2 programs.

COMMUNITY SERVICES ADMINISTRATION

[In millions]

	Legislative citation	1975 appropriation	1976 request	1976 House allowance	Fiscal year 1976 Senate action	Fiscal year 1976 conference agreement
Local initiative (Community Action agencies)	Sec. 221	$330,000,000	$295,000,000	$330,000,000	$330,000,000	$330,000,000
Emergency energy conservation services	Sec. 222(a)(12)	16,500,000	0	16,500,000	38,500,000	27,500,000
Research and demonstration	Sec. 232	8,800,000	0	8,800,000	8,800,000	8,800,000
Senior opportunities and services	Sec. 222(a)(7)	10,000,000	0	10,000,000	10,000,000	10,000,000
State economic opportunity offices	Sec. 231	12,000,000	0	12,000,000	12,000,000	12,000,000
National summer youth sports program	Sec. 227	3,000,000	0	0	0	0
Emergency food services (Community Nutrition)	Sec. 222(a)(5)	22,400,000	0	22,400,000	30,000,000	26,200,000
Community economic development	Title VII	61,000,000	39,000,000	46,500,000	46,500,000	46,500,000
Summer youth recreation	Sec. 222(a)(13)	15,300,000	0	0	0	0
Veterans' education and training services	Sec. 232	0	0	0	5,000,000	2,500,000
Migrants	Title III–B	0	0	0	10,000,000	0
Rural housing development and rehabilitation	Sec. 222(a)(11)/Sec. 232	0	0	0	7,500,000	3,000,000
Community partnership	Sec. 235	0	0	0	0	0
Consumer cooperative programs	Sec. 228	0	0	0	0	0
Technical assistance and training	Sec. 230	0	0	0	0	0
Rural loan program	Title III–A	0	0	0	0	0
Evaluation	Title IX	0	0	0	0	0
Community design program	Sec. 226	0	0	0	0	0
Program administration	Title VI	28,700,000	29,000,000	28,185,000	28,152,000	28,152,000
Total		507,700,000	363,000,000	474,385,000	526,452,000	494,652,000

Mr. MAGNUSON. Mr. President, I move the Senate adopt the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. MAGNUSON. Mr. President, I suppose if we did have a rollcall right now on this report it would pass the Senate practically unanimously, now that all these matters have been settled.

I ask, Mr. President, that the Chair lay before the Senate certain amendments in disagreement.

The PRESIDING OFFICER. The clerk will report the amendments in disagreement.

The assistant legislative clerk read as follows:

The House recedes from its disagreement to the amendments of the Senate numbered 4, 6, 23, 53, 66, 67, and 76.

The amendments in disagreement are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 4 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the sum proposed in said amendment, insert: $1,051,300,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the sum proposed in said amendment, insert: $262,850,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 23 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert: $25,000,000 for construction and renovation which shall remain available until expended.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 53 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the sum proposed in said amendment, insert: $347,428,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 66 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the sum of $2,900,000 named in said amendment, insert: $1,500,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 67 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the sum of $200,000,000 named in said amendment, insert: $187,500,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 76 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

: *Provided,* That the appropriation for "Community service program" contained in title I, chapter VI of Public Law 94–32 (Second Supplemental Appropriations Act, 1975) is amended by striking out "September 30, 1975" and inserting in lieu thereof "June 30, 1976"

Mr. MAGNUSON. Mr. President, I move that the Senate concur in the amendments of the House to the amendments of the Senate numbered 4, 6, 23, 53, 66, 67, and 76, en bloc.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington.

The motion was agreed to.

PROFESSIONAL SPORTS ANTI-BLACKOUT LAW EXTENSION

Mr. PASTORE. Mr. President, I ask unanimous consent that the Chair lay before the Senate Calendar No. 494.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2554) to amend Public Law 93–107 with regard to the broadcasting of certain professional sports clubs' games.

The Senate proceeded to consider the bill which had been reported from the Committee on Commerce with amendments as follows:

On page 2, line 16, strike "and"

On page 3, at the end of line 2, insert "; and"

On page 3, beginning with line 3, insert the following:

(4) amending subsection (d) thereof in the first sentence thereof by striking out "April 15" and inserting in lieu thereof "June 15".

Mr. PASTORE. Mr. President, S. 2554 would extend for an additional 3 years the sports antiblackout law presently embodied in section 331 of the Communications Act of 1934, as added by Public Law 93-107.

The bill would also amend the existing legislation to provide a 24-hour sellout cutoff for the application of the antiblackout law to postseason championship series games of professional baseball, basketball, and hockey.

As reported by the Committee on Commerce, S. 2554 also contains a committee amendment changing the annual Federal Communications Commission reporting date from April 15 to June 15.

The existing antiblackout law has substantially benefited the American public without causing any significant demonstrable harm, financial or otherwise, to the professional sports. It represents a reasonable public interest quid pro quo for the sports antitrust law exemption which permits league pooling of game telecast rights and the commercially successful use of the public's airwaves.

S. 2554 does recognize that various factors may have precluded a definitive test of the existing law, and thus the bill provides for a limited 3-year extension of the legislation. The bill also will continue the study and annual reports by the FCC so that objective data, analysis, and findings on the effect of the law will be available.

I must emphasize at this point that this is merely an extension for 3 years of the so-called sports antiblackout law which will expire on December 31.

The bill was reported out of committee unanimously. There was no objection to it. As a matter of fact, the hearings were held by our distinguished colleague from Maryland, and I understand he is in full accord with its passage.

Mr. BEALL. The Senator is correct.

Mr. PASTORE. Mr. President, I move that the committee amendments be considered and agreed to en bloc.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 2554) was ordered to be engrossed for a third reading, was read the third time and passed as follows:

S. 2554

An Act to amend Public Law 93-107 with regard to the broadcasting of certain professional sports clubs' games

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of Public Law 93-107 (87 Stat. 351) is amended by striking out "December 31, 1975" and inserting in lieu thereof "December 31, 1978".

SEC. 2. Section 331 of the Communications Act of 1934 (47 U.S.C. 331), as added by Public Law 93-107 (87 Stat. 350), is amended by—

(1) amending subsection (a) thereof in the first sentence thereof by inserting after "sports club" and before "is to be" the following: ", other than a postseason game of a professional baseball, basketball, or hockey club,";

(2) amending subsection (a) thereof by inserting at the end of the first sentence thereof the following new sentence: "If any postseason game of a professional baseball, basketball, or hockey club is to be broadcast by means of television pursuant to a league television contract and all tickets of admission for seats at such game which are available for purchase by the general public have been purchased twenty-four hours or more before the scheduled beginning time of such game, no agreement which would prevent the broadcasting by means of television of such game at the same time and in the area in which such game is being played shall be valid or have any force or effect.";

(3) amending subsection (c) thereof by inserting at the end thereof the following new paragraph:

"(5) The term 'postseason game' means any game which is played by a professional sports club (A) after the conclusion of such club's regular season, and (B) in order to determine or in the case of determining the championship of the sport in which such club is engaged."; and

(4) amending subsection (d) thereof in the first sentence thereof by striking out "April 15" and inserting in lieu thereof "June 15".

SUPPLEMENTAL APPROPRIATIONS, 1976

Mr. MANSFIELD. Mr. President, if I may have the attention of the Senate, I am about to make a request which may or may not be acceptable.

Mr. President, I ask unanimous consent that it be in order at this time to call up Calendar No. 495, H.R. 10647.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Is this the second supplemental appropriation bill?

Mr. MANSFIELD. Yes.

Mr. ALLEN. Does the Senator wish to go forward and complete the request for unanimous consent or is there another feature? I will be glad to wait. Reserving the right to object, may I address myself to the question?

Mr. MANSFIELD. Yes, indeed.

Mr. ALLEN. I ask unanimous consent that I may address myself to the request.

The PRESIDING OFFICER. Is there objection to the Senator addressing himself to the request? Without objection, it is so ordered.

Mr. ALLEN. Mr. President, there are those of us in the Senate who object to the appropriation to provide funds for the loan by the Treasury to New York City. The authorization bill has already been passed by a vote of 57 to 30, I believe, if the cloture had been invoked by a vote of 70 to 27.

The Senator from Alabama felt that this bill, the authorization bill and, of course, the appropriation bill, are bad bills in that they establish a bad precedent, and it is the opening wedge in the establishment of yet another massive Federal program that will cost the taxpayers of the Nation billions of dollars, that will result in more Federal takeover of local governments, that would encourage wasteful management of local government, and would serve as a disincentive to sound fiscal management of local government.

Unquestionably, the deciding factor in this issue has been the President's changed position. At the outset, he was adamant against a New York bailout, but for reasons best known to himself and his advisers he did change his position. That changed position, of course, sounded the death knell to the opposition to the bailout.

I must commend the President, however, for the constructive effect of his opposition in that it resulted in, for now, an authorization and soon to be an appropriation of $2.3 billion, whereas at the outset under the House bill the bail out provision was for $7 billion and the bailout amount of the Senate bill was $4 billion.

So it is quite obvious that at least for now the President's opposition to the bailout has resulted in a saving of almost $5 billion to the taxpayer.

Mr. President, as I see it, the problem diminished from a $7 billion problem as seen by the House, a $4 billion as seen by the Senate, to a $2.3 billion problem as seen by the President. Even his plan requires a loan of only $1.3 billion between now and July 1 of next year.

So, actually, the problem got down to where it was only $1.3 billion between now and July 1 of next year and I believed, and still believe, that New York City and New York State could have solved this matter themselves.

Much as I oppose this measure, the Senate has acted in no uncertain terms; one, on the authorizations by invoking cloture by a vote of 70 to 27, and by enacting the authorization bill by a vote of 57 to 30.

It has never been the intention of the Senator from Alabama and those who have taken a leading part in opposing this measure to oppose the measure for delay's sake only. To do so would have been, certainly, a petty attitude, as the Senator from Alabama sees it.

As long as there was any possibility of defeating the measure, the Senator from Alabama would be pleased to discuss the matter hour after hour here in the Senate. But now the matter has been merged with the second supplemental appropriation bill. If we could not defeat the authorization where this matter was decided on its merits, how in the world can we defeat the appropriation bill when such matters as agriculture, defense, housing and urban development, labor and health, education and welfare, the Congress itself, State, Justice, Commerce and the Judiciary, Transportation, Treasury, Postal Service and the general government, all have a piece of the $10 billion pie provided by the second supplemental appropriation bill?

Mr. President, I state positively that it is within the power of the opposition to this measure in the Senate to delay its passage here in the Senate alone, not taking into account a possible conference report, and to delay this matter until Friday which would be beyond the last mentioned default date.

Of course, I set no store by that suggested default date because other dates have been suggested in the past and they always come up with a solution, but there is no disposition on the part of the opposition of the bill merely to embarrass the officials in New York City by carrying the matter beyond the default date.

Mr. President, my inclination to discuss the matter further, if I so wished, would be based more not on the New York City question, but on the issue of whether or not an adequate opportunity is being given—as these major bills are rammed through the Senate—of having a meaningful discussion of the bill here on the Senate floor.

Mr. President, I have great admiration and respect for the leadership here in the Senate, and great affection for the leadership, but with all due respect to the leadership and the problems they face as they seek to conclude the first half of the 94th Congress, I feel that, certainly speaking for the Senator from Alabama, I could accept being run over here in the Senate with a whole lot better taste in my mouth if we were given, initially, a better opportunity to discuss these measures.

I have reference to the last two major bills before the Senate. One was a little bill calling for, I believe the sponsor of the bill said, some $8 billion. Secretary Coleman, the Secretary of Transportation, said it could run up to $14.4 billion in authorization to take over the bankrupt railroads in the Northeast.

That bill was railroaded through the Senate. I am not charging the leadership with this, but it was railroaded through the Senate without any opportunity whatsoever for there to be a meaningful discussion here in the Chamber of such a complex matter. The committee report had just been out for 2 or 3 days, yet the very night that bill was taken up and opening statements made by the proponents of the bill, cloture was filed.

Then the next day over from the House comes the New York bailout bill, and that was stopped at the desk under a unanimous-consent agreement. Within 3 minutes after it reached the Senate a cloture motion was filed against it.

So that day, while cloture was running on the transportation bill, we discussed the New York bailout for 1 day. The very next day cloture was invoked on the transportation bill, the bailout bill for the bankrupt Northeast and Midwest railroads. Then we went into that $14.4 billion bill with the amendments limited to those at the desk. There was no discussion whatsoever, no meaningful discussion, prior to cloture on that tremendous bill.

After 1 day's discussion of the bailout bill, cloture was invoked on that. Soon after we got into a discussion of it after cloture was invoked, we were criticized for not going ahead and letting it come to a vote.

The point I am making, Mr. President, is that it seems it would be fairer—and I am not trying to suggest what the leadership might do—and there would be less insistence on a full discussion after cloture of these matters if we had some little opportunity before the vote on cloture to make a meaningful contribution to the bill here in the Senate.

Of course, with respect to the bailout bill it would not matter how much we talked about it or how many amendments we offered, an unspoken agreement had already been reached that no amendments would be passed, no matter how good they were. They turned down one requiring that they have a balanced budget in New York City. I do not know what was wrong with that, except it would have been an amendment and they decreed that this bill was going to be like of the laws of the Medes or Persians that we read about in the Bible, that once agreed upon it could never be changed.

I did not see anything particularly mystic about the words of the House bill. I thought it should be subject to change.

To get back to the proposition, the Senate has authorized the bill by a top-heavy vote. Now the question is going to be whether we might delay acting on the second supplemental appropriation bill.

What chance has delaying action on the second supplemental appropriation bill which has a $10 billion appropriation, with everybody getting a little bit of it?

If the Senate votes an authorization bill by a 57 to 30 vote, what will be the vote on the second supplemental appropriation bill?

Getting back again to weighing the desirability of holding the matter up until Friday or allowing action to proceed, what can be gained by the delay other than an embarrassment of the officials of New York City? That is certainly not the situation to be desired.

The distinguished Senator from Virginia (Mr. HARRY F. BYRD, Jr.), the distinguished Senator from North Carolina (Mr. HELMS) and the the junior Senator from Alabama, myself, who have been taking, I guess, the leading part in seeing that this matter has been fully discussed, are of the opinion that no useful purpose could be served by extending the debate against the measure.

The Senate has numerous other important matters to come before it during the remaining days of our session, and I feel it would not be in the public interest to devote the next 5 days to a discussion of whether or not we are going to pass this second supplemental appropriation bill.

We could delay it until Friday, but what will we have accomplished if we do so?

The Senator from Alabama sought to kill this bill. If he had an opportunity and ability at this late date to kill the bill, he would do so, but he is not disposed merely to delay it for 5 days.

Another circumstance, Mr. President, that I believe was a contributing factor is the final vote on the authorization bill. As I say, they sandwiched the transportation bill in between the Senate and the authorization bill. In this $14.4 billion providing for the takeover of the Northeast and Midwest railroads there was a little item calling for spending, I believe the committee said, $3 billion, but Secretary Coleman said it would be $4 billion, providing a roadbed for a train from Washington to Boston that would cost $4 billion, and which would enable trains to travel at a speed of 150 miles per hour.

Secretary Coleman says the same job can be accomplished to let trains travel at a speed of 110 miles an hour for $1.2 billion. So this bill was providing $2.8 billion just to make the difference between a train traveling 110 miles an hour and one traveling 150 miles an hour. I said here on the floor that I would a whole lot rather vote for the New York bailout than vote $2.8 billion to provide for a train that would travel 150 miles an hour instead of 110 miles an hour. That was to be the only difference.

So, Mr. President, I am hopeful that in the future the leadership will allow a little meaningful debate on these issues before ramming cloture down our throats.

This bill has had an unusual history—the bailout bill that is now authorized, not the appropriation bill. It was tacked onto an existing bill over there in the House of Representatives, which was used as a vehicle, but the actual House version never went to the House committee, and when it came over here to the Senate, it did not go to the Senate committee. Talking about what people would think about the way the Senate acted, what will people think about going around the rules in the handling of bills, not sending it to a committee in either body, and then, when it hits the Senate, slapping cloture on it?

We should have discussions before a bill is clotured, because I know on these big spending bills they can get cloture; there are always enough folks for big spending of any sort to invoke cloture. But let us have a little discussion beforehand, or at least discussion afterward. There has got to be discussion one way or the other, as the Senator from Alabama sees it.

Mr. President, the Senator from Alabama knows that those he has conferred with in this matter have never stated that they were going to discuss the matter after there was no chance whatsoever of defeating it. As a matter of fact, no one spoke to the Senator from Alabama whatsoever about whether or not the matter was going to be discussed after the authorization was passed. They threw us into that all-night session on Friday. If they had bothered to ask, we would not have had that long session, as far as the Senator from Alabama was concerned.

The issue was decided when the Senate invoked cloture by 70 to 27, and then passed the bill by a vote of 57 to 30. Nothing could be accomplished by continuing discussion, and needless tying up of the Senate would result. That would seem to indicate that any need to invoke cloture to proceed on with the bill does not exist, and since the appropriation is now a part of the general second supplemental appropriation bill, comprising of some $10 billion, obviously there is no chance of defeating that bill.

So, in order to allow the Senate to proceed with its business, at the same time I seek to make the point that these historic measures, these tremendous appropriation bills in areas outside the general scope of government, need to be discussed.

Mr. President, one of the biggest scare campaigns in history was carried on in behalf of this New York bailout. Every crossroads banker in the country who had New York securities was called on to contact his Representatives and Senators. I must say, Mr. President, that whoever was charged with selling the New York City bonds did a tremendous job in selling them in every hamlet throughout the country. There is better distribution of those bonds than any other security, I guess, except U.S. Government securities. There were literally hundreds and hundreds of small town bankers who were involved.

I am proud to say the bankers in my State urged me to use my judgment, and persevere.

I see the distinguished Senator from Texas (Mr. Tower) is here. I remember squaring back my shoulders a little bit and taking a great deal of pride when I saw the distinguished Senator, on television, there in committee saying, "There ain't going to be any bailout."

Mr. TOWER. Mr. President, will the Senator yield at that point?

Mr. ALLEN. No; not until I finish my point. Then I noticed the distinguished Senator, the other day, was engaged in a little colloquy and told us this was not a bailout, this was something else. I guess he did that to kind of salve his conscience, having made that statement.

I remember someone sent me an editorial from a newspaper in Texas in which Senator Tower was quoted as having said, "There isn't going to be any bailout." They said they felt sure John would not have said that, that he would have said, "There ain't going to be any bailout" rather than "There isn't going to be any bailout." I thought the Senator might be interested in that comment.

Mr. TOWER. Mr. President, the Senator from Texas said, and I quote him, "There ain't going to be no loan guarantee." And there is none. And, indeed, there is not going to be any loan guarantee. My conscience is in good shape, because I have always said I would support legislation aimed at maintaining essential services to the city of New York, and that is what I have done. I make no apologies for it, and I think I have done the right thing. This is no bailout, because the New York bankers are not benefiting in any way. In fact, they are taking a bath, because this short-term indebtedness has been converted to long-term indebtedness at lower interest.

Mr. ALLEN. The Senator from Texas did not quite get my point. I was actually speaking facetiously.

Actually, I would prefer the guarantee to the direct loan. I will tell the Senator why.

They have been saying, and still say, that there is a great need to restore or to return New York to the money markets of the country. I would think that it would better facilitate their returning to the money markets to get out in the money market and borrow, even if they had to lean on the crutch of a guarantee from the Federal Government than merely to borrow from the Federal Government. That is not any return to the traditional money markets of the country.

Be that as it may, it all boils down to the fact that further delay and discussion of this issue would be futile, and I do not offer any objection to the request of the distinguished majority leader that we prcoeed to the consideration of this bill.

The PRESIDING OFFICER (Mr. Tower). Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

> A bill (H.R. 10647) making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that beginning at 12 o'clock on Wednesday next, there be 4 hours of debate on the $2.3 billion New York allocation; that the time be divided equally between the distinguished chairman of the committee, the Senator from Arkansas (Mr. McClellan), and the distinguished Senator from Alabama (Mr. Allen); that the vote occur on final passage of the supplemental at 4 o'clock that day.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. I have no objection to that. In the absence of the Senator from Alabama, the time would go to the distinguished Senator from Virginia (Mr. Harry F. Byrd, Jr.).

Mr. MANSFIELD. The Senator from Alabama or whomever he may designate.

Mr. BROOKE. Mr. President, reserving the right to object, has any agreement been made as to the remainder of the supplemental appropriation bill?

Mr. MANSFIELD. No.

The PRESIDING OFFICER. Without objection, it is so ordered.

Rule XII is waived.

ADJUSTMENT OF INDEBTEDNESS OF MAJOR MUNICIPALITIES—UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, in view of the agreement that has just been reached, I renew my request that I made on last Saturday, to which an objection was entered by the distinguished Senator from Alabama (Mr. Allen).

I ask unanimous consent that at such time as S. 2597, a bill to amend the Bankruptcy Act, is called up and made the pending business before the Senate, there be a time limitation of 4 hours on the bill, to be equally divided between Mr. Burdick and Mr. Hruska; that there be a time limitation on any amendment of 1 hour, with a time limitation of an amendment by Mr. Buckley of 3 hours; with a time limit on any debatable motion or appeal of 30 minutes, and that the agreement be in the usual order.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, I have not had an opportunity to examine very carefully the bankruptcy bill. It affects not only New York State, which has other municipalities and problems, such as Yonkers, but municipal finance throughout the country. I have no idea what Senator Buckley's amendment is or anything like that.

I reserve the right, as part of the unanimous-consent request, to propose an amendment or to amend amendments which are proposed to have an hour and a half limitation on debate on any such amendment. I ask—I think the Senator knows me very well, I may not propose any amendments—that any such amendments that I propose, which will relate to the bill or other amendments thereto, be considered in proper order. It is just a precaution.

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. It is very important. I have not yet gone over it.

Mr. ROBERT C. BYRD. I include the modification in my request.

Mr. ALLEN. Mr. President, reserving the right to object, the Senator mentioned that the Senator from Alabama objected to a time limit before. I believe this is, in effect, the very same provision that the Senator from Alabama sought to add to the bailout authorization as amended, is it not?

Mr. ROBERT C. BYRD. I think that is right.

Mr. ALLEN. I will state that it is. Of course, the Senator from Alabama felt that if the amendment had been added at that time, there would not be any necessity for this action now and that the whole matter should have been considered as one package. That is the reason why the Senator from Alabama objected the last time to taking them up separately.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the unanimous consent agreement is as follows:

> *Ordered,* That during the consideration of S. 2597 (Order No. 447), a bill to amend the Bankruptcy Act to add a new chapter thereto providing for the adjustment of the debts of major municipalities, debate on any amendment (except an amendment to be offered by the Senator from New York (Mr. Buckley), on which there shall be 3 hours, and any amendment to be offered by the senior Senator from New York (Mr. Javits), on which there shall be 1½ hours each), shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill, and that debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: Provided, That in the event the manager of the bill is in favor of any such amendment, motion, or point of order, the time in opposition thereto shall be con-

trolled by the Minority Leader or his designee: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill, debate shall be limited to 4 hours, to be equally divided and controlled, respectively, by the Senator from North Dakota (Mr. BURDICK) and the Senator from Nebraska (Mr. HRUSKA): Provided, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

VITIATION OF ORDERS FOR VOTES ON CLOTURE MOTIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the orders for votes that were to occur on cloture today and possibly tomorrow, depending upon the outcome today, be vitiated.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest that the cloakrooms notify the Senators on both sides of the aisle to the effect that there will be no cloture vote today and that there will be no cloture vote tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPLEMENTAL APPROPRIATIONS, 1976

Mr. JAVITS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 10647) making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

Mr. JAVITS. Mr. President, may I be recognized, on the bill?

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. I shall speak for only a few minutes. If any Senator desires to answer, I hope he will feel free to do so.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. BROOKE. If the supplemental bill is before the Senate, it seems to me that we should have the chairman of the Committee on Appropriations in the Chamber at this time. I do not see anyone in the Chamber representing him, for the majority. I am here for the minority. I believe the Chairman should be here, and perhaps the Senator from New York would have some questions he might want to direct to the committee about any part of this bill.

Mr. JAVITS. Will the Senator allow me to have 5 minutes, first before calling for a quorum?

Mr. BROOKE. All right.

Mr. JAVITS. Mr. President, I simply wish to express my appreciation for the statesmanship which has just been shown by the very doughty opponents of the New York bill and by the extraordinary effort of the leadership on the Democratic side, aided by that on our side, especially by Senators TOWER and BROOKE, to bring this matter to a head before it would be too late to do anybody any good, no matter what the Senate decided.

I am very grateful for this, and it is only in that spirit that I speak. I have made many representations to the Senate on this subject, obviously a subject in which I am very well grounded, not only from study but also from life. I have lived in this city all my life, except for the war years, and I understand its troubles, and nobody knows its derelictions better than I. So I speak with a certain—I cannot say objectivity, but certainly with knowledge, from which objectivity comes.

First, we always must bear in mind that it is not only those bankers—and they serve a critical purpose in our country, as we all know—but also 160,000 individual holders, to who Senator ALLEN quite properly called attention.

It is a fact that New York City's securities have been considered tops; and even when the city and the State began to go wrong, in terms of using the tax anticipation notes, because of the great reputation of New York City and New York State, people continued to buy them. I am very well aware of that and consider it an important element of conscience on the part of the people of the State and the city and on my part to see that those holders ultimately suffer no damage.

Second, the conditions of the loans, believe me, are truly tight. It will be a matter of conscience to me to do my utmost to see that they are dealt with honestly. I emphasize the word "honestly" because of the financial gimmickry for which New York City has been guilty and was kind of allowed to do it, to give it the kindest word, by the State.

Third, we have an enormous tax-paying ability, which is of great aid to the Federal Government. Roughly, in round figures, an estimated $25 billion to $30 billion comes out of our State every year. The New York business community can make the difference in whether or not that continues to be, in New York, the great source of revenue for all the things the rest of the country does. It may be remembered by some of my colleagues who have been here some time that even so beloved and close a friend and colleague of mine as Kenneth Keating and I differed very materially on education aid, for which New York was paying four to five times what it received. This did not throw me, but it did throw him, and I can understand why. But I stuck to my guns, and I always will, realizing that it is part of our duty. While we must get a better break in many of these formulae, and I have always fought for that, the fact is that we are destined to pay a considerable amount more than we have received and it simply cannot be simplistically run the other way. If you want to be the outlet and the intake for the United States, you have to pay for the franchise—that is what it really comes to.

So, I pledge to the Senate my utmost effort to marshal the enormous New York business community in the effort to make up for our problems in what looks like a very serious downhill slide for New York in terms of what it can generate in revenue in order to maintain it for the next quarter of a century as that kind of revenue source for the Federal Government.

Next, the State itself has financial problems and we are in grave danger of losing great business elements in our State, because it will just be too expensive and too difficult to do business there. Nobody is tied down; they can go elsewhere. It may be trouble and it may cost money, but ultimately they can do it. So I shall make it my business, to the maximum extent possible, to cooperate with the Governor of the State, who has done a wonderful job in respect of this particular problem and crisis, in order to make it possible for New York to be New York, notwithstanding the terrible drain which this is going to be for the next 3 to 5 years.

Finally, on the bailout issue, without arguing the use of the term—and I understand why it is used by Senator ALLEN and other opponents. I am too much of a trial lawyer myself to say, "Do not do it." But I should rather address myself to the merits there. This will take, in addition to the business community, a highly disciplined New York City, by 8 million people, who will have learned from this terrible experience what it means to run a tighter ship. That goes not only for taxes and financing, but it also goes for crime and drug addiction and the many other things which have dragged our city down and have been responsible for many of the adverse developments with respect to it. There, too, I have been responsible, with the alliance of Senator BUCKLEY, in organizing an outstanding citizens committee, chaired by Osborn Elliott, who is the editor-in-chief of Newsweek, secretaried by a man who used to be my New York assistant and is now the secretary of this citizens committee, named Dennis Allee, who has a fine record, and joined in by some of the leading citizens of our city of all kinds, from the financial and artistic side to the highest business levels, with the honorary chairmanship of the leading political people—myself, Senator BUCKLEY, Congressman DELANEY, the head of the New York delegation, the Governor and the mayor and the comptroller of the State of New York. We shall do a job there, with the citizens, in terms of self-help and the discipline which is going to be required of the people of New York.

Mr. President, I believe that that is a proper accounting by me to the Senate of what I hope to do for what I consider to be a certain faith placed in my good faith and intentions by the Senate in voting this New York bill, which was no pleasure to any Members of the Senate, including myself.

Mr. ALLEN. Will the Senator yield?

Mr. MANSFIELD. Mr. President, if the Senator will allow me, I want to say that I took note of the criticism of the leadership by the distinguished Senator from Alabama. I must admit, in all candor, that there was merit to what he had to say, and I wish to take this opportunity to thank him for the temperateness of the criticism which he directed at the leadership.

Mr. ALLEN. Will the Senator from New York yield?

Mr. JAVITS. I yield to the Senator.

Mr. ALLEN. I commend the Senator from New York for his statement. I certainly admire the fight he has put up here in the Senate and elsewhere in behalf of his city and State. He certainly started out with an underdog position, but, through circumstances that developed, he was able to win his case here in the Senate. Now that the issue has been decided, certainly, I shall express my best and kindest wishes for New York and its people, which has never been other than my attitude. I have felt, all along, that in taking the position that I have against this, shall I say, assistance rather than bailout—this assistance to New York City—I was standing for the people of New York.

I felt that the assistance at the Federal level would serve to freeze in this wasteful level of public expenditures in New York City, but that by solving the matter themselves, or taking the protection of the bankruptcy statutes, New York would emerge with a level of expenditures that the taxpayers could better support. I am hopeful that this $2.3 billion will be sufficient to tide New York over until it can put its affairs in better shape.

The distinguished Senator has my very best wishes for the success of this program and for better days, economically, for New York. Certainly, I appreciate the pledges the distinguished Senator has made to use his best efforts and his good offices in seeing that the agreements and stipulations that New York is entering into are carried out in order that this will be a program that is beneficial to all.

Again, I want to commend the distinguished Senator from New York for the role that he has played. It is a role that I have opposed, but still, I have admired him for his tenacity, and for the evenness of his disposition through the trying hours this matter has been under consideration. I applaud him for the success of this measure on the Senate floor.

Mr. JAVITS. I am very grateful to my colleague. He is very generous. I have never had the least doubt of the sincerity of my colleagues, and I have always believed that liberals and conservatives, be we what we may, it is our amalgam that makes our country what it is. I thoroughly believe in it, just as the Senator does, and I welcome and applaud his efforts in what he felt, in deep conscience, he should do.

May I say, finally, that if the Lord will give me years, I shall do my utmost to see that the investment made by our country is the right one and that it is a success.

Mr. ALLEN. Mr. President, I thank the Senator.

Seeking recognition in my own right, I am delighted that the distinguished majority leader commented so generously on the remarks the Senator from Alabama made with regard to the piloting of these two bills, the rail transportation bill and the New York assistance measure—I say out of deference to the distinguished Senator from New York (Mr. JAVITS)—through the Senate. He was kind enough to say there is some merit in the criticism—and I guess it was criticism—offered by the Senator from Alabama. I think it might be noted that he made no pledge to mend his ways in the conduct of Senate business here, so I shall have to say that, as long as that is the attitude of the leadership, we are going to have to look for more extended discussions on subjects here in the Senate.

Mr. ROBERT C. BYRD addressed the Chair.

Mr. JAVITS. Mr. President, may I have a unanimous-consent request?

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. I ask unanimous consent that Mr. Charles Warren have the privileges of the floor during the debate on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I join with the distinguished majority leader in saying there is merit in what the distinguished Senator from Alabama had to say earlier. There is special merit in what the distinguished Senator from Alabama had to say when one looks at the subject solely from the standpoint of the Senator from Alabama.

On the other haid, there are two sides to every question, and there are two sides to this matter—the matter of filing cloture motions in attempting to expedite the business of the Senate.

So I think I cannot let the record go without some response beyond that of saying the distinguished Senator from Alabama had merit on his side.

I also congratulate him for his temperateness of his criticism of the leadership. But, Mr. President, the leadership gets no joy out of filing cloture motions and having to proceed through the cloture approach to bring bills to final action in the Senate.

As to the ConRail bill, it was my understanding that that was an urgent matter, and it was my understanding also that there was going to be a filibuster on that bill.

I went to the distinguished Senator from Alabama and asked him on one occasion if it was his opinion that a filibuster would ensue on that bill. I did not ask him if he was going to participate in a filibuster or lead one. I merely asked him if, in his opinion, a filibuster would develop, and he indicated that, in his opinion, it would.

That, being the case, the leadership felt constrained to proceed by way of cloture motion, and so advised Mr. HARTKE, who was the manager of that bill.

It was also the impression of the leadership that a filibuster would occur on the ConRail bill for the purpose, as much as for any other purpose, of further delaying the final action on the New York City legislation.

I voted against the ConRail bill on final passage.

The PRESIDING OFFICER. Let us have order, please.

Mr. ROBERT C. BYRD. So the leadership was confronted, in its judgment, with the likelihood of a filibuster on the ConRail bill and, having been advised that final enactment of the New York City legislation was of the gravest importance, realizing that a number of filibusters could be expected, before final action on the authorization measure and the appropriation bill carrying moneys for loans to New York City, the leadership had no other choice, as we viewed the situation at that time, but to proceed as the leadership did.

The leadership makes no apology for that. The leadership has a responsibility to expedite the Senate's business.

So, while some may say that the leadership has "railroaded" bills and "rammed bills down the throats" of Members of the Senate, the leadership takes no pleasure in what may appear to be such, and the leadership certainly does not intend to or want to resort to the use of cloture motions except when the leadership feels it is imperative to do so.

So, while I can see the matter from the standpoint of the very able Senator from Alabama, I am also in a position to see the matter from the standpoint of the leadership. I welcome the criticism of the distinguished Senator from Alabama, and I also welcome the opportunity to state on behalf of the leadership what the leadership's problems are, as well.

As to the amendments that were offered to the authorization bill dealing with the New York question, I say to the distinguished Senator from Alabama there were some very plausible amendments and I would have liked to have supported some of those amendments.

They were sound amendments, but we were confronted with the possibility, at least we thought, that there would be a filibuster on the conference report if any changes were made, and that consideration alone guided me in my votes against some of the amendments that I thought were, otherwise, wise amendments. I so stated on the floor that if that bill were amended in any way, it would go to conference and then the Senate would be confronted with the likelihood of a filibuster on the conference report upon its return.

Now, as I look back, I wish the Senators who were speaking in opposition to the bill had assured the Senate that in the event amendments were agreed to, the Senate could be assured there would be no filibuster on a conference report. I certainly would have supported some of those amendments that were offered if I had been assured there would be no filibuster on the conference report. I wish I had been assured of that, because

I think the bill would have been a better bill if some of those amendments had been included.

But the leadership had no indication that there would not be a filibuster on the conference report and, for that reason, speaking personally as a Senator from the State of West Virginia, I had no alternative but to oppose, in support of the managers of the bill, any and all amendments to that legislation.

I just wish we had been informed that we could be assured of no filibuster on the conference report because I certainly would like to turn back the pages of the RECORD and cast my vote differently on some of the amendments.

Mr. ALLEN. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. Of course, the Senator from Alabama did not know what was going on in the mind of the Senator from West Virginia on the conference report.

Mr. ROBERT C. BYRD. The Senator from Alabama was on the floor.

Mr. ALLEN. I wonder if the Senator from West Virginia bothered to inquire from anybody if there was going to be a filibuster.

Mr. ROBERT C. BYRD. The Senator from Alabama, I think, was on the floor at the time I stated on one occasion that I was opposed to any amendment to the bill, because any amendment could force it to conference, and this would necessitate a filibuster on the conference report when it returned.

Mr. ALLEN. I am sure the Senator made that statement. I do not personally recall it. But the adoption of constructive amendments would not necessarily guarantee a conference.

Mr. ROBERT C. BYRD. Not necessarily.

Mr. ALLEN. The amendments were so plain that it seemed to the Senator from Alabama that the argument they would create a conference committee failed to impress the Senator from Alabama, in any event.

Mr. ROBERT C. BYRD. It failed to impress the Senator from Alabama, but it certainly was used time and time again by the managers of the bill on both sides of the aisle, and by others. It was a persuasive argument. We had no way of knowing whatsoever that the Senate would not be confronted by another filibuster upon the return of the conference report, in the event the House did not agree to the amendments.

Mr. ALLEN. I am sure, if anybody bothered to say that the bill would really be open for amendment, on condition that it would be agreed, there would be no filibuster on the conference report, such an agreement could have been obtained.

Mr. ROBERT C. BYRD. When the distinguished Senator passes the burden back to the leadership, I am perfectly willing to accept that and let the matter go. But I must say to the distinguished Senator that I have been around this place for a little while, and for a number of years I would not vote for cloture. But in recent years I have seen the use of the filibuster used so increasingly that I am constrained to vote for cloture more and more.

Not only that, I am constrained to think that the Senate may at some point in time, perhaps not in the too distant future, give consideration to a further modification of the cloture rule.

I think that the use of the filibuster is the use of a powerful weapon. But I think, as is the case with any utilization of power, there must be restraint used. Restraint in the use of power and restraint in the use of the filibuster.

I can only say that I would hope in the future that the leadership would not be confronted quite so often with having to deal with filibusters.

So while we are passing our constructive criticism around, I would like to offer that as what I consider a constructive suggestion to the distinguished Senator from Alabama.

He has, certainly, a right to his viewpoint. He certainly has a right to vote against any measure. He has the right to oppose any measure. He has the right to utilize the Senate rules to any extent he deems necessary in opposing any measure. But as we are seeing, this filibuster weapon, utilized increasingly so much, and quite effectively may I say, I think that the leadership just has to deal with the situation as it finds it. If we are nearing the end of the session or we are confronted with a time factor in the enactment of urgent matters, we just have to deal with the situation and use the Senate rules likewise.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

QUORUM CALL

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAXATION OF DEPOSITORIES ACT EXTENSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration, for the time being, of Calendar Order 459 and that the supplemental appropriation bill be laid aside temporarily for the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2672) to extend the State Taxation of Depositories Act, reported without amendments.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. McINTYRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I intend to discuss S. 2672 which is before the Senate now, and S. 2327, which I understand the leadership may bring up suddenly. It is at the desk.

Meanwhile, I would like to ask unanimous consent that during the consideration of these two measures the following staff members of the Banking Committee be permitted to have access to the floor: Kenneth McLean, Ralph Rohner, Charles Marrinaccio, Robert Kuttner, Tony Cluff, Jerry Buckley, Bill Weber, Tommy Brooks, and Pat Abshire; and then also Peter Wenz from the office of Senator BIDEN, Dan Woll from the office of Senator GARN, and Rom Parker, from the office of Senator HELMS.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I have previously submitted a report of the Committee on Banking, Housing and Urban Affairs on S. 2672, and ask for its immediate consideration.

As you know, Mr. President, Public Law 93-100, the State Taxation of Depositories Act, approved on August 16, 1973, sought to defer the imposition of all types of "doing business" taxes in States other than the States in which depositories have their principal offices until such time as uniform and equitable methods could be developed for determining jurisdiction to tax and for dividing the tax base.

Public Law 93-100 directed the Advisory Commission on Intergovernmental Relations to make a study of all pertinent matters relating to multistate taxation of depositories and to make a report to the Congress of the results of its study and recommendations not later than December 31, 1974. In order that Congress would have 1 year to consider the Commission's recommendations a moratorium or interstate taxation of depositories was provided to expire on January 1, 1976.

Mr. President, the Commission did not submit its completed report to the Congress until September 12, 1975. S. 2672 would extend the moratorium provided for in Public Law 93-100 over interstate taxation of depositories from January 1, 1976 to September 12, 1976. This extension of the moratorium will give the Congress 1 full year to consider the important matter of multistate taxation of depositories as was provided for in the original legislation.

Mr. BROOKE. Will the Senator yield?

Mr. PROXMIRE. I am happy to yield.

Mr. BROOKE. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated. The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE), proposes an amendment on behalf of himself and the Senator from Maine (Mr. HATHAWAY).

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following: SEC. 2. Section 2 (a) of Public Law 93-100 (12 U.S.C. 1832 (a)) is amended by inserting after "Massachusetts" a comma and the following: "Connecticut, Rhode Island, Maine, Vermont,".

Mr. BROOKE. Mr. President, this is a very simple amendment. The purpose of the amendment would be to extend NOW accounts to Connecticut, Rhode Island, Maine, and Vermont.

Mr. President, in June 1972 the Consumers Savings Bank of Worcester, Mass., began offering its customers a new kind of account, a NOW account. NOW accounts, as my colleagues well know, give the customers of financial institutions an opportunity to write negotiable orders of withdrawal against their savings accounts while still receiving interest on the savings in these accounts, and it is not hard to understand why this type of account is very popular with consumers.

In the 3 years since NOW accounts were introduced, the number of accounts has risen to over 500,000 in Massachusetts alone, and that number is growing at a rate of approximately 30,000 per month.

In 1973 some Members of Congress, at the urging of certain segments of the financial community, sought to enact a nationwide ban on NOW accounts. However, Senator MCINTYRE and I were able to secure an exemption from the ban on NOW accounts for Massachusetts and New Hampshire, and these accounts have fluorished in our two States.

In September, Senator MCINTYRE and I went to Massachusetts and New Hampshire for oversight hearings on NOW accounts in the Financial Institutions Subcommittee, which Senator MCINTYRE chairs. Testimony at these hearings revealed that NOW accounts have been enthusiastically accepted by the consuming public and are widely offered by all types of financial institutions. No witness, not even the institutions which originally opposed NOW accounts, testified in favor of their discontinuation. In fact, there are widespread agreements that NOW accounts should be extended nationwide.

S. 1267, the Financial Institutions Act, which is presently on the calendar, would extend NOW accounts nationwide. And while there is still some reluctance to support this approach on the part of certain financial institutions, it is generally recognized that NOW accounts are the "wave of the future."

But while we look for early passage of FIA and the extension of NOW accounts nationwide, a situation has developed in New England which calls for immediate attention. The New England States other than Massachusetts and New Hampshire have anticipated FIA and already granted State chartered institutions third-party payment powers. In effect, all State-chartered thrift institutions as well as all commercial banks—both national and State-chartered—in Connecticut, Maine, Rhode Island, and Vermont will or already have some type of transaction account power by January 1, 1976. In fact of the 941 financial institutions in New England, only the 31 Federal savings and loan associations will not have some type of third party payment powers or access to such powers as of the first of the year.

The amendment I offer today would remedy this inequity by exempting all financial institutions in Maine, Vermont, Connecticut, and Rhode Island from the ban on NOW accounts presently existing. In effect, institutions in these States would be put on the same footing as their counterparts in Massachusetts and New Hampshire.

The amendment is essential to maintain the dual banking system and to preserve competitive parity between State and federally chartered financial institutions in the affected States. In order to have a workable dual banking system, Congress and the various State legislatures are asked from time-to-time to enact laws which will give financial institutions under their respective jurisdictions adequate investment and deposit authority to allow them to compete with one another without being placed at a competitive disadvantage. Without this amendment, the 31 Federal savings and loan associations located in the four New England States previously mentioned will not be able to offer any form of transaction account by January 1 and will thus be placed at a severe competitive disadvantage.

The Senator from Texas has expressed some concern to me about the possibility that by extending NOW accounts throughout New England, we shall be "piecemealing" the Financial Institutions Act, and weakening its chances for early enactment.

The Senator well knows that I strongly support the Financial Institutions Act, and I shall continue to work with him for its early passage. I do not believe that this amendment will diminish the drive to get FIA passed, and if I did, I would not offer the amendment.

To be sure, if the amendment extended authority to issue NOW accounts throughout the country, then it could take some of the momentum out of FIA. But the granting of NOW account powers to all institutions in New England, where most institutions already have third party payment powers, will not, in my opinion, take the momentum from FIA.

This amendment, passed under emergency circumstances, should not be regarded as a precedent for piecemealing the Financial Institutions Act. And I want the Senator from Texas and the Senator from New Hampshire to know that I will work with them to assure the earliest possible enactment of the Financial Institutions Act.

Mr. PROXMIRE. May I say to my good friend from Massachusetts that, as far as I am concerned, I believe this amendment has real merit and I am happy to support it.

I recognize that the amendment is a matter of timing. The situation in New England now is that there is an emergency there, in effect. A number of mutual savings banks and even S. & L.'s are in the position of offering, in effect, the NOW accounts. They are offering checking accounts with interest on them and the situation makes it extremely difficult for the Federal savings and loans because the State S. & L.'s are doing this. The competitive situation is unfair and unhealthy. The amendment of the Senator from Massachusetts, as I understand it, would cure that. So I am happy to support the amendment.

Mr. BROOKE. I thank the Senator.

Mr. McINTYRE addressed the Chair.

The PRESIDING OFFICER (Mr. GARN). The Senator from New Hampshire.

Mr. McINTYRE. Mr. President, I wish to express my concern over the impact which enactment of this NOW account amendment will have on efforts which have been underway for several years to bring about a meaningful and comprehensive restructuring of our financial institutions.

On the amendment itself I am ambivalent. On the one hand, I am a strong supporter of NOW accounts. New Hampshire and Massachusetts are the only two States in which NOW accounts are presently permitted. Earlier this year, the Subcommittee on Financal Institutions, which I chair, held 2 days of hearings—one in Worcester, Mass., the other in Concord, N.H.—to assess the impact of NOW accounts on location, so to speak. The bottom line of our inquiry, in my opinion, is that NOW accounts have proven their worth to the benefit of the consumer and without adverse impact to the financial institutions offering them.

There is, therefore, no reason why the benefit of NOW accounts should not extend, not only to New England, but to the rest of the country as well.

Nevertheless, I recognize the unique situation which presently exists in New England which warrants the offering of this amendment today. I am sympathetic with maintaining competitive parity among different types of financial institutions, both Federal and State. Nevertheless, however justified, this amendment represents an attempt to piecemeal provisions contained in S. 1267, the Financial Institutions Act.

With the senior Senator from Texas (Mr. TOWER), the distinguished ranking Republican member on the Banking, Housing, and Urban Affairs Committee, who is also the ranking Republican member on the Subcommittee on Financial Institutions, on the floor, I would state that I think that bill (S. 1267) should be before the Senate this week for passage, and that the Senator from Texas, if he has some problems with his colleagues, should try to get them under control and be ready to go forward with the Financial Institutions Act.

The competitive situation which prompts the sponsors of this amendment to extend NOW accounts New England-wide is exactly the kind of impetus which is required if meaningful financial restructuring is ever going to take place.

Therefore, while I am more than sympathetic to NOW accounts and while I am also very sympathetic to the problems of New England, I am extremely reluctant to see this kind of piecemealing action take place.

So, Mr. President, I want the supporters, the distinguished Senator from Massachusetts and the chairman of our committee, the distinguished Senator from Wisconsin, to be aware of my concerns. I also want to express here and now my opposition to any further attempts to piecemeal the Financial Institutions Act. We have 12 months left in this Congress. This should be ample opportunity for both Houses of Congress to consider the issues presented in financial restructuring and to address them forthrightly. They must be considered as an interrelated package.

Finally, Mr. President, if this amendment prevails I trust that support for NOW accounts New England-wide will be translated into support for NOW accounts nationwide, as contained in the Financial Institutions Act.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. McINTYRE. I yield.

Mr. TOWER. I wish to associate myself with the remarks of the Senator from New Hampshire. I have the same concern he does, that we are piecemealing the Financial Institutions Act, and that this might set a precedent for further piecemealing on the Senate floor. I believe the act should be considered as it is, and without addressing ourselves to specific aspects of it in amendments to other bills.

I have no objection to taking up the Financial Institutions Act this week. My only concern was not the kind of act it was, but that it might have a Christmas-tree effect, which is, of course, perfectly proper for this festive season, but I was wondering whether we could expect to finish it within a reasonable time if we took it up before the Christmas recess. That was my only concern.

I will certainly join with the distinguished Senator from New Hampshire in trying to expedite the passage of that act.

Mr. McINTYRE. I might say to my good friend from Texas that all of the indications that I have indicate that we do not really face any possible Christman tree. There will undoubtedly be some amendments to be offered. Some of them, in my opinion, have little or no merit, but I am sure their sponsors will think they have a great deal.

Mr. TOWER. The Senator from Texas does have one amendment. That is all I am aware of.

Mr. McINTYRE. I am very much aware of the amendment of the Senator from Texas. I am sure he will find the Senator from New Hampshire reasonable, and we can work out something on that, I am sure.

So I would hope we could, this week, bring this FIA bill to the floor and dispose of it. I would think it could be done in 3 or 4 hours, if not less.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. McINTYRE. I yield to the Senator from Wisconsin.

Mr. PROXMIRE. I agree with the Senators. I would hope we can bring the bill to the floor as soon as possible. I have no amendments, and intend to support the bill. The Senator from New Hampshire has done a great deal of work on this measure, literally for years. It is ready for passage, and I hope we can pass it and send it to the House of Representatives promptly.

Mr. McINTYRE. I thank the chairman. Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Delaware (Mr. BIDEN) proposes an amendment.

Mr. BIDEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN's amendment is as follows:

Add the following section at the end thereof:

"2. The Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended as follows:

"(a) Section 111(b) of the Truth in Lending Act is amended by striking out 'This' and inserting in lieu thereof 'Except as provided in section 167(c), this'.

"(b) Section 167(a) of such Act is amended by inserting after 'discount' the phrase 'not in excess of 5 per centum'.

"(c) Section 167 of such Act is amended by adding at the end thereof the following new subsection:

"(c) Any discount which meets the requirements of subsection (b) shall not be taken into account for the purpose of applying the laws of any State relating to permissible types, amounts, or rates of charges, or any element of charges, or for the purpose of the laws of any State relating to the disclosure of information, in connection with the extension of consumer credit."

Mr. BIDEN. Mr. President, in the hearings before the Consumer Affairs Subcommittee, witnesses testified that the interplay between section 167 of the Fair Credit Billing Act and State usury laws, after the effective date of that section, October 28, 1975, would probably throw credit card issuers into violation of some of the usury laws, in at least 19 States.

Section 167 of the Fair Credit Billing Act permits merchants to offer discounts to cash customers, and says that "any discounts" up to 5 percent need not be disclosed as a part of the finance charge.

The intent was to encourage merchandisers to offer a two-tier pricing system, so that cash customers would not have to subsidize credit card customers. It was based upon the assumption that the discount any merchant offered would approximate what the card issuers charged to him for handling his credit accounts.

This section provides that any discounts up to 5 percent from these payments in cash do not constitute a finance charge for the purpose of the truth in lending disclosure requirements.

Thus, card users who are already charged interest at the usury ceiling might be charged to be in violation of the usury laws if the seller gives a discount in cash in addition to the credit card issuer's charge for handling. They would have no way of knowing whether a specific transaction violates State laws.

The solution, in my opinion, Mr. President, and in the opinion of the two major cosponsors of this bill, the chairman of the Banking Committee (Mr. PROXMIRE) and the Senator from Massachusetts (Mr. BROOKE), is to amend section 167 to provide that to the extent that the amount of discount does not constitute a finance charge, for truth-in-lending disclosure purposes it shall not constitute interest or a finance charge under the State usury or time-price differential laws.

Witnesses pointed out that since the discount concept which causes the problem was a creation of Congress, and a fair implementation of the concept requires a preemption, it would not be an unwarranted step for Congress to pass a narrowly framed preemption provision. The section was not only urged by the banking industry, but also endorsed by the Federal Reserve and the Consumers Union, which, as the Presiding Officer (Mr. GARN) knows, is an unusual occurrence.

The amendment to preempt State loan laws would permit discounts to card issuers, as well as cash discounts not in excess of 5 percent, and would annul the provisions of any State law which treats discounts not in excess of 5 percent as interior finance charges under State usury or time-price differential laws.

Mr. President, one further point. Because of our concern about the possible State usury violations if merchants offer these discounts, some card issuers have indicated they may inform merchants about these usury problems and require the merchants to hold the issuer harmless for any of his liability thereunder, as well as any liability under Federal legislation.

There is no justification for issuers imposing hold harmless clauses on merchants, or for imposing any other device that will make merchants fear usury liabilities. These devices would undoubtedly cause merchants to be so concerned about possible financial liability that they would simply not offer cash discounts at all. The effect would be the same as a direct prohibition on cash discounts, and would be contrary to the goal of section 167.

I do not believe it is necessary to amend the act to prohibit these devices explicitly, because the language is already broad enough to prohibit them.

Mr. President, this amendment has been discussed with the chairman of the committee and the Senator from Massachusetts (Mr. BROOKE).

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. BIDEN. I yield.

Mr. BROOKE. Mr. President, I join my distinguished colleague from Delaware in support of this amendment.

The amendment would remove an unintended liability from those card issuers whose participating merchants opt for some form of two-tier pricing. Under the laws of a number of States, discounts imposed at the point of sale are counted as part of the finance charge for purposes of the State's usury laws.

Even though the price differential is imposed, collected, and retained by the merchant, the laws in those States would appear to make the card issuer liable for usurious charges if the total of the differential and the regular monthly finance charge exceeded the permissible rate.

There is nothing in the history of the present law to indicate that Congress intended to subject card issuers to this kind of liability, and it is unfair to do so where the card issuers cannot control the merchant and may not even know the merchants are using a form of two-tier pricing.

This bill contains a direct response to this problem: a limited exemption from State usury laws for price differentials which conform to this law.

Mr. President, I believe this is a good, sound amendment, and one that is needed. I am pleased to join the Senator in offering this amendment, and to urge my colleagues to accept it.

Mr. PROXMIRE. Mr. President, I also commend the Senator from Delaware, and I am happy to join him.

We all recognize the times when we would like to buy things for cash and not use credit cards. That is almost historic these days, because people use credit cards widely. When we do use credit cards, there is a cost. There is a delay in paying the money, and interest is charged on that money. There is also recordkeeping, and other matters are involved.

So it is desirable and wholesome and healthy that we can follow a policy in the future, as much as possible, in this credit card age, that would permit people to buy for cash and get a reasonable consideration for doing so. That is precisely the action the Senator from Delaware is taking today. It clarifies the law so that cash discounts would not be subject to usury laws. The Federal Reserve Board and the Consumer's Union are in favor of this.

I recall that at the hearing the Senator from Delaware and I conducted, there were a number of witnesses, and they agreed on the substance of this amendment, that this amendment would be in the public interest, something that they could support. I certainly support it enthusiastically, and I congratulate the Senator from Delaware.

Mr. BIDEN. I thank the chairman of the committee.

I point out that the whole idea of this amendment was generated—at least, initially, to me—through the chairman of the full committee, the Senator from Wisconsin; and I am happy to have been the chairman of the subcommittee and to have been able to hold the hearing on this matter.

Mr. President, I have nothing further to say. I do not know of any objection to this amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. HATFIELD). The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2672) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2672

An act to extend the State Taxation of Depositories Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (c) of the State Taxation of Depositories Act (section 7(c) of Public Law 93–100) is amended by striking out "January 1, 1976" and inserting in lieu thereof "September 12, 1976".

SEC. 2. Section 2(a) of Public Law 93–100 (12 U.S.C. 1832(a)) is amended by inserting after "Massachusetts" a comma and the following: "Connecticut, Rhode Island, Maine, Vermont,".

SEC. 3. The Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended as follows:

(a) Section 111(b) of the Truth in Lending Act is amended by striking out "This" and inserting in lieu thereof "Except as provided in section 167(c), this".

(b) Section 167(a) of such Act is amended by inserting after "discount" the phrase "not in excess of 5 per centum".

(c) Section 167 of such Act is amended by adding at the end thereof the following new subsection:

"(c) Any discount which meets the requirements of subsection (b) shall not be taken into account for the purpose of applying the laws of any State relating to permissible types, amounts, or rates of charges, or any element of charges, or for the purpose of the laws of any State relating to the disclosure of information, in connection with the extension of consumer credit.".

UNANIMOUS-CONSENT REQUEST—ERDA CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, the Senate proceed to the consideration of the ERDA conference reports; that there be a time limitation of not to exceed 1 hour, the time to be divided equally among Mr. JACKSON, Mr. FANNIN, Mr. BAKER, and Mr. PASTORE, which would mean 15 minutes under the control of each of those four Senators.

Mr. GRIFFIN. Mr. President, reserving the right to object, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceed to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REAL ESTATE SETTLEMENT PROCEDURES ACT AMENDMENTS OF 1975

Mr. PROXMIRE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2327.

The PRESIDING OFFICER (Mr. HATFIELD) laid before the Senate the amendment of the House of Representatives to the bill (S. 2327) to suspend sections 4, 6, and 7 of the "Real Estate Settlement Procedures Act of 1974", and an amendment to the title.

(The amendment of the House is printed in the RECORD of November 17, 1975, beginning at page 36914.)

The amendment to the title reads as follows: "An Act to amend the Real Estate Settlement Procedures Act of 1974."

Mr. PROXMIRE. Mr. President, I move that the Senate proceed to the consideration of the House Amendment to S. 2327, which is at the desk, and that the Senate concur in the amendment of the House to the text of the bill (S. 2327) to suspend Sections 4, 6, and 7 of the "Real Estate Settlement Procedures Act of 1974", with the following amendments:

On page 3 of the House engrossed amendments strike out lines 8 through 10 and insert in lieu thereof the following:

"(b) The form prescribed under this section shall be completed and made available for inspection to the borrower by the person conducting the settlement at least one business day prior to settlement,

On page 7 of the House engrossed amendments strike out lines 19 and 20 and insert in lieu thereof the following:

SEC. 11. Section 121(c) of the Truth in Lending Act as amended to read as follows:

"(c) For the purpose of subsection (a), the Board is authorized to require by regulation the disclosure of all or part of the information required to be disclosed under this chapter at or before the time a creditor makes a written commitment with respect to a consumer credit transaction involving real property which is used or expected to be used as the principal residence of the person to whom the credit is extended."

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wisconsin.

Does the Senator request that the amendments be considered en bloc?

Does the Senator request that the amendments be considered en bloc?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I should like to explain these amendments.

The first amendment provides a change in the present law. Under the present law, which has caused great consternation and unhappiness in the real estate industry and has prevented the closing of many real estate arrangements, there is a 12-day waiting period. It has been excessive, and that is one of the difficulties of the law. It has been one of the principal difficulties, and it undoubtedly has prevented many closings from taking place. It is something consumers did not want. It inconvenienced them greatly and aggravated the real estate industry. This provides for inspection by the borrowers just one business day prior to settlement. The borrower will have the opportunity to inspect and to be aware of the terms of the settlement just one day in advance, 24 hours. We think this is a reasonable compromise.

The second amendment was requested by Chairman Arthur Burns of the Federal Reserve Board. In substance, it simply provides that the real estate transactions, which obviously involve a great amount of credit, will not be exempt from the Truth in Lending Act, will not fall through the cracks. There would be no duplication here. It simply would provide timely disclosures for real estate transactions under the Truth in Lending Act, which has been the law of the land for 6 years.

Mr. President, this action was recommended unanimously by the Senate Banking Committee at our markup November 20. This revision of RESPA, which has proven so burdensome to both consumers and lenders, will retain the features that provide genuine protection and repeal sections 6 and 7, which have not worked.

Mr. President, I move that the Senate concur in the House amendment to the title of the bill.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wisconsin.

Mr. GARN. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Incidentally, Mr. President, the Senator from Utah was perhaps the most vigorous and effective fighter for the repeal of this legislation. He fought very hard in committee and he has pressed extremely hard to get this measure enacted as soon as possible. Senator TOWER also was a fighter in the same cause, and I think they are absolutely right in doing so.

Mr. GARN. Mr. President, S. 2327 originated in the Senate—by Senator MORGAN and myself—to merely suspend sections 4, 6, and 7 for 1 year, while we worked on another bill. This was passed by the Senate, went to the House, and came back with amendments to permanently suspend or to revoke sections 6 and 7.

Prior to the recess, I was very much in favor of just accepting the House bill so that this very onerous law could immediately be signed by the President. It was the only real reason for my opposition to the two amendments in committee that the Senator is proposing today. However, I will not, Mr. President, oppose these two amendments. I do believe they can be worked out with the House of Representatives, although, for purposes of possible conference with the House of Representatives, making certain that this bill, S. 2327, does what we would like it to do, I should like to have the distinguished chairman respond so that we may make certain that we both agree on what these amendments would do.

First, Mr. President, I ask the distinguished chairman of the Banking Committee to confirm one point with respect to the amendment proposed by the committee to S. 2327 that would require the completed uniform settlement statement to be made available to the borrower at least one business day prior to settlement.

In many cases, Mr. President, the attorney or title company handling the transaction may not have all of the information necessary to complete the settlement statement the day before the settlement. For example, if the lender does not send its letter of instructions itemizing the charges to be paid to the lender until the acual day of settlement, the attorney or title company may be unable to include these charges in the settlement sheet to be made available to the borrower on the day before the closing. In addition, in many rural areas it is customary for the seller to bring with him to the settlement the information that is needed by the attorney or title company to determine such matters as how accrued real estate taxes are to be allocated between the parties. These are just a few of the reasons why the person handling the closing may be unable to itemize all of the settlement costs the day before the closing.

Our colleague from Illinois (Senator STEVENSON), who urged that this amendment be adopted by the committee, agreed during the course of the committee debate that if the person handling the closing did not have the information needed to indicate the exact amount of a charge he should be able to provide an estimate, if that was possible. If that is not possible, and in the case of the proration of taxes, for example, the person handling the closing may not have a basis for making an estimate, the Secretary of HUD should provide sufficient flexibility to allow such line items to be left blank or for an appropriate notation to be made on the settlement statement. If such flexibility is not permitted, I am fearful that many settlements will have to be delayed until at least one day after the person handling the closing has collected information on all of the charges. I believe we have had enough experience with section 6 of RESPA to know that we will only be creating additional problems for ourselves if we try to lay down rigid rules for the many types of diverse settlement transactions that take place around the country. I would appreciate it, therefore, if the chairman of the committee would confirm that the one-day provision recommended by the Committee does not preclude the attorney, title company or other person who may be handling the settlement from giving an estimate for any charge where the precise amount of the charge is not known by him the day before the closing and that the Secretary of HUD has sufficient flexibility in issuing regulations to take care of any charges for which the settlement attorney may have no basis for making a good faith estimate.

Mr. PROXMIRE. I say in response to the Senator from Utah that I would expect HUD to issue regulations making clear that where feasible the precise figure should be made available by the settlement agent 1 day in advance. However, in cases where information is not normally known by the settlement agent until the actual settlement, estimates could suffice. Nonetheless, there would have to be a good valid reason for providing less than the actual, final figure.

Let me give an example. There would be no reason why such items as title insurance premium, title examination and the various miscellaneous charges imposed by the lender should not be known to the settlement agent a day in advance of closing. Simple failure to get the paperwork done in time is not a valid reason to use estimates, and HUD's regulations should make it clear that the lender must cooperate with the settlement agent so that the settlement agent gets all the information he needs. However, certain other items, such as the exact property tax pro ration might not be known down to the last penny until the actual settlement, and in that situation a good faith estimate of the item should be adequate.

Mr. GARN. I thank the chairman. That satisfies my question on that point. I do have two other questions that have arisen concerning the interpretation of the proposed amendment to substitute new language for section 121(c) of the Truth in Lending Act. Under that proposal the Federal Reserve Board is given authority to "require the disclosure of all or part of the information required to be disclosed under this Chapter * * *." Chairman Arthur F. Burns in his letter of November 12, 1975, to the chairman of the Senate Banking Committee recommended that in revising RESPA the Congress also amend the Truth in Lending Act to authorize the Board to require that creditors disclose "pertinent credit costs" at the time a creditor makes a firm written offer to extend credit secured by an interest in real property that is to be the primary residence of the borrower.

From Chairman Burns letter, it is my understanding that the Board is requesting the authority to require disclosure of finance charges which would include such items as interest, service charges, loan fees, or points, and charges of premiums for credit life insurance if any. It would not include those items generally referred to as closing costs such as fees for title examination, fees for preparation of deeds and statements, and attorney's fees. It is important that these latter items not be covered by this legislation because if they are we would simply be moving backward into the situation we are attempting to correct by the RESPA amendments. I would like to ask the chairman of the Senate Banking Committee if he concurs with me in this interpretation of the language of this amendment?

Mr. PROXMIRE. Mr. President, I concur with the Senator from Utah. He is correct. It is my understanding that closing costs would not be covered under this authority.

Mr. GARN. Mr. President, it is my understanding that under the current section 121(c) of the Truth in Lending Act, the Federal Reserve Board is specifically authorized to provide by regulation that any portion of the information required to be disclosed by the section may be given in the form of estimates where the provider of such information is not in a position to know exact information. The proposed amendment does not contain similar language to specifically authorize the Board by regulation to permit estimates under section 121(c).

I am informed that the reason that this specific authority is not included in the pending amendment is that the Federal Reserve has general authority which it has exercised in section 226.6(f) of regulations Z to permit creditors to use an estimated amount of approximation of information where the complete information is unknown to the creditor. I would like to ask the distinguished chairman of the committee if this is not his understanding and that it would be contemplated that the Board would by regulation permit the use of estimates in appropriate cases under section 121(c)?

Mr. PROXMIRE. Mr. President, the Senator from Utah is correct. The Board has general authority which it may exercise to use estimates where appropriate.

Mr. GARN. I thank the chairman.

Mr. President, another question has been raised concerning the provision requiring that the settlement statement be available one day in advance of settlement. What does "made available for inspection" mean? Does it mean merely to have a completed form on hand at the settlement office one day before settlement? Or does it mean that a copy must be given to the borrower? It is my assumption that it means that it should be available in the office of the person conducting the settlement for inspection by the borrower but it need not be mailed to the borrower. Does the chairman of the Senate Banking Committee agree with my interpretation of this language?

Mr. PROXMIRE. Yes, Mr. President, the intention here is that the borrower should have the right to inspect the settlement statement at the office of the settlement agent. There is no requirement that the settlement agent take any additional affirmative action such as mailing the statement, and I want to be absolutely clear that the borrower is not obligated to make the inspection. The problem under the existing law was that borrowers were forced to wait the 12 days even when they wanted to close in a hurry. That could not happen under this provision. We are simply providing that the borrower has a right to see the information a day in advance if he wants to. Obviously, I would hope that if a particular borrower telephoned a settlement agent and asked to know a particular charge, the settlement agent would cooperate, but there is no need for the borrower to have to sign anything to prove that he read the form in advance or anything of that sort.

Mr. GARN. Mr. President, the distinguished chairman of the Senate Committee on Banking has answered all the questions and cleared up the problems I had on his two amendments. With those clarifications, the minority has no objection to these amendments.

The PRESIDING OFFICER. The question is on agreeing to the House amendment, with the amendments en bloc.

The amendments were agreed to.

Mr. ROBERT C. BYRD. Mr. President, may the Senate proceed to third reading?

Mr. PROXMIRE. As far as I know, there are no further amendments.

The PRESIDING OFFICER. There is no further action necessary on the bill.

Mr. PROXMIRE. I beg your pardon. That is correct.

The PRESIDING OFFICER. This is concurring with the action by the House. That will be communicated to the House.

SUPPLEMENTAL APPROPRIATIONS, 1976

The PRESIDING OFFICER. The Senate will now resume consideration of H.R. 10647, which will be stated.

The assistant legislative clerk read as follows:

A bill (H.R. 10647) making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, earlier today, I was discussing with the distinguished Senator from Alabama (Mr. ALLEN) the problems of the leadership in connection with the necessity, at times, of attempting to shut off filibusters.

At that time I indicated that had I been assured there would be no filibuster on the conference report in the event the bill were amended and sent to conference and a conference report had to be voted on by the Senate, I would have supported some of the amendments that were offered to that bill.

My statement—to which I was referring—appears on page 38439 of the CONGRESSIONAL RECORD of Thursday, December 4, 1975. The pending question at that time was the amendment offered by the distinguished Senator from Alabama (Mr. ALLEN) which dealt with bankruptcy, and the Senator from Montana, the distinguished majority leader, indicated it was his intention, I believe, to move to table the amendment by the distinguished Senator from Alabama.

I ask unanimous consent, Mr. President, that my statement be printed in the RECORD at this point, together with the colloquy which followed in which the distinguished Senator from Alabama assured the Senate it was not his feeling that the adoption of that particular amendment would in itself, necessitate a conference.

There being no objection, the statement and colloquy were ordered to be printed in the RECORD, as follows:

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield without losing my right to the floor.

Mr. ROBERT C. BYRD. Mr. President, I, too, favor the bankruptcy legislation. I also favor the New York bill that has been passed by the House and sent to the Senate, and which has been under debate. I believe, however, in view of the fact that the leadership has assured the Senate that the Senate will have an opportunity expeditiously to consider the bankruptcy legislation separately and on its own merits, that the Senate ought to support the majority leader's motion to table the pending amendment.

It is very important that the House bill not be amended. If there is an amendment to the House bill, this means a possible conference report that the Senate would have to vote on, which could entail another filibuster and delay even longer the final action on this legislation. I think it is imperative that action be taken as soon as possible on the New York legislation. I think it is critical to the city of New York. It is for that reason, the reason that we must not amend this bill and run the risk of a filibuster on a conference report, that I shall support the majority leader's motion to table.

Mr. ALLEN. Will the distinguished majority leader yield to me?

The ACTING PRESIDENT pro tempore. As the Chairman understands it, the Senator from Montana has withdrawn his motion to table, when he yielded to the Senator from Michigan.

Mr. MANSFIELD. I have withheld it.

The ACTING PRESIDENT pro tempore. The motion is not debatable. Therefore, the Chair has let it run along and the Senator will renew his motion at the proper time.

Mr. MANSFIELD. That is correct.

I yield to the Senator from Alabama without losing my right to the floor.

Mr. ALLEN. Much has been said about how everybody favors the substance of this amendment; yet they are going to vote against it. It has been expressed that this would necessitate a conference report. Why would it necessitate a conference report, Mr. President, when this is what the President is proposing? He proposed this, as a matter of fact, before he proposed the loan of $2.3 billion. The House followed the President's leadership and suggestion on the $2.3 billion loan. I do not believe there is a single Member of the Senate who feels that the House would refuse to go along with this bill if this alternate plan is added to the loan bill. I see no harm, no danger to the pending bill, but merely an expediting of option No. 2, that the city would have an opportunity to avail itself of. I do not see that it is going to slow the bill down and I do not see that it necessitates a conference report. I do not believe that others feel it would necessitate a conference report. I hope the motion to table will not be agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

GENERAL FEDERATION OF WOMEN'S CLUBS

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 240.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 240) to amend the act entitled "An act granting a charter to the General Federation of Women's Clubs," as follows:

Page 2, after line 6, insert:

SEC. 2. Section 1 of Public Law 88-504 (78 Stat. 635; 36 U.S.C. 1101) is amended by adding a new item 49, as follows:

"(49) General Federation of Women's Clubs.".

Mr. ROBERT C. BYRD. Mr. President, I have been asked to move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

UNANIMOUS-CONSENT AGREEMENT—H.R. 3474

Mr. ROBERT C. BYRD. Mr. President, I now renew my request that I stated earlier. I will modify it only slightly. I ask unanimous consent that following the recognition of the two leaders under the standing order on tomorrow, the Senate proceed to the consideration of the conference report on the ERDA authorization. I ask unanimous consent that the following four Senators be in control of not to exceed 15 minutes each on that conference report: Messrs. JACKSON, FANNIN, BAKER, and PASTORE.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. GRIFFIN. I would like to state for the RECORD now we have had the opportunity to check with Senators FANNIN and BAKER, and there is no objection to the unanimous-consent request.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, for the RECORD, the conference report is on H.R. 3474.

ORDER TO RESUME CONSIDERATION OF SUPPLEMENTAL APPROPRIATION BILL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the conference report the Senate resume consideration of the supplemental appropriation bill on tomorrow.

LEGISLATIVE PROGRAM

Mr. ROBERT C. BYRD. Mr. President, if Senators wish to debate the supplemental appropriation bill tomorrow they will have opportunity to do so. If Senators wish to offer amendments to the bill, they will have that opportunity also.

In the event that, time permitting, the debate and the action on the supplemental appropriation bill were to end at a reasonably early hour tomorrow—taking into consideration that final action on that bill will not occur until 4 o'clock on Wednesday—the leadership would like to call up the bankruptcy bill on which an agreement was entered into earlier today. That bill is numbered S. 2597. Other measures may also be called up during the afternoon, and rollcall votes could occur.

I would expect rollcall votes to occur tomorrow on motions or amendments relating to the same or another conference reports and measures I have not referred to specifically.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR CERTAIN ACTION TO BE TAKEN DURING THE ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the adjournment of the Senate over to 10 o'clock tomorrow morning, the Secretary of the Senate be authorized to receive messages from the President of the United States and the House of Representatives.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the adjournment of the Senate over until 10 o'clock tomorrow morning, the Vice President, the President of the Senate pro tempore, the Acting President of the Senate pro tempore, be authorized to sign duly enrolled bills and joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT TO 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 10 o'clock tomorrow morning.

The motion was agreed to; and at 3:34 p.m., the Senate adjourned until tomorrow, Tuesday, December 9, 1975, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate December 8, 1975:

DEPARTMENT OF DEFENSE

William I. Greener, of Virginia, to be an Assistant Secretary of Defense, vice Joseph Laitin, resigned.

Thomas C. Reed, of California, to be Secretary of the Air Force, vice John L. McLucas.

FEDERAL RESERVE SYSTEM

J. Charles Partee, of Virginia, to be a member of the board of governors of the Federal Reserve System for the unexpired term of 14 years from February 1, 1972, vice Jeffrey M. Bucher, resigned.

INTERSTATE COMMERCE COMMISSION

Betty Jo Christian, of the District of Columbia, to be an Interstate Commerce Commissioner for the remainder of the term expiring December 31, 1979, vice Willard Deason, resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 8, 1975:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Ethel Bent Walsh, of the District of Columbia, to be a member of the Equal Employment Opportunity Commission for the term expiring July 1, 1980.

NATIONAL SCIENCE FOUNDATION

Charles Pence Slichter, of Illinois, to be a member of the National Science Board, National Science Foundation, for the remainder of the term expiring May 10, 1978.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

IN THE PUBLIC HEALTH SERVICE

Public Health Service nominations beginning James H. Erickson, to be senior surgeon, and ending Donald R. Tillery, to be assistant health services officer, which nominations were received by the Senate and appeared in the Congressional Record on July 18, 1975.

HOUSE OF REPRESENTATIVES—*Monday, December 8, 1975*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The Lord is my strength and my song; He has become my salvation.—Psalms 118: 14.

We come to Thee, our Father, with grateful hearts for Thy loving providence which guided our Founding Fathers in establishing our Nation 200 years ago. We thank Thee that Thy same unfailing providence is with us today seeking to guide us in strengthing the foundations of our national life and in leading our people to a greater life together in peace, for justice and with good will.

May the remembrance of Thy goodness awaken in us the spirit of courage and faith that we may not grow proud in our periods of prosperity nor become bitter in our times of trouble. Make us true to the best in our past, eager for a still greater future, and above all loyal to Thee.

In the spirit of Him who is the Life, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 10481. An act to authorize the Secretary of the Treasury to provide seasonal financing for the city of New York.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9005) entitled "An act to authorize assistance for disaster relief and rehabilitation, to provide for overseas distribution and production of agricultural commodities, to amend the Foreign Assistance Act of 1961, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 233. An act for the relief of North Central Educational Television, Inc.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 8122. An act making appropriations for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commissions for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 8122) entitled "An act making appropriations for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commissions for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. STENNIS, Mr. MAGNUSON, Mr. ROBERT C. BYRD, Mr. PASTORE, Mr. MONTOYA, Mr. JOHNSTON, Mr. MCCLELLAN, Mr. RANDOLPH, Mr. HATFIELD, Mr. YOUNG, Mr. HRUSKA, and Mr. CASE to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 644) entitled "An act to amend the Consumer Product Safety Act to improve the Consumer Product Safety Commission, to authorize new appropriations, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MAGNUSON, Mr. PASTORE, Mr. HARTKE, Mr. PHILIP A. HART of Michigan, Mr. MOSS, Mr. FORD, Mr. STEVENS, Mr. WEICKER, and Mr. BUCKLEY to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and resolutions of the following titles, in which the concurrence of the House is requested:

S. 1506. An act to designate a segment of the Missouri River, Mont., as a component of the National Wild and Scenic Rivers System;

S. 2718. An act to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes;

S. Con. Res. 78. Concurrent Resolution disapproving the act of the District of Columbia Council (1–57) entitled "An Act to authorize issuance of $50,000,000 General Obligation Bonds of the District of Columbia to refund certain loans made to the District from the United States Treasury."

S. Res. 313. Resolution disapproving the proposed deferral of budget authority (Deferral D76–68) for the Northeastern Appalachian Regional Fruit Crop Laboratory, Kearneysville, W. Va., set forth in the special message transmitted by the President to the Congress on December 1, 1975, under section 1013 of the Impoundment Control Act of 1974; and

S. Res. 226. Resolution disapproving the proposed deferral of budget authority Deferral Numbered D76–13, as modified by Deferral Numbered D76–13A, for the Second Bacon Siphon and Tunnel, Columbia Basin Irrigation Project, Washington, set forth in the special message transmitted by the President to the Congress on July 1, 1975, under section 1013 of the Impoundment Control Act of 1974, as modified by the supplementary report in the special message transmitted by the President to the Congress on July 26, 1975, pursuant to section 1014(c) of Public Law 93–344.

REPORT NO. 94–693, PROCEEDINGS AGAINST HENRY A. KISSINGER

Mr. PIKE, from the Select Committee on Intelligence, submitted the following report (Rept. No. 94–693) which was referred to the House Calendar and ordered to be printed:

Proceedings Against Henry A. Kissinger (Pursuant to title 2, United States Code, sections 192 and 194): Report of the Select Committee on Intelligence citing Henry A. Kissinger, together with concurring and dissenting views.

CALL OF THE HOUSE

Mr. RONCALIO. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 746]

Addabbo
Andrews, N.C.
AuCoin
Badillo
Barrett
Bell
Biaggi
Boland
Bowen
Burke, Calif.
Burton, John
Chisholm
Clancy
Conlan
Conte
Conyers
Cotter
Coughlin
Crane
Davis
de la Garza
Diggs
Dingell
Dodd
Drinan
Duncan, Oreg.
Eckhardt
Esch
Eshleman
Fascell
Fithian
Foley
Fraser
Fuqua
Gaydos
Gilman
Guyer
Harkin
Harsha
Hébert
Heckler, Mass.
Helstoski
Hillis
Hinshaw
Holland
Holt
Ichord
Jarman
Jones, Okla.
Jordan
Krueger
Landrum
Leggett
Litton
Lujan
McCloskey
McDonald
Macdonald
Mathis
Metcalfe
Mills
Moakley
Montgomery
Murphy, Ill.
Murphy, N.Y.
Nichols
O'Neill
Ottinger
Pressler
Quillen
Railsback
Randall
Rangel
Richmond
Riegle
Rosenthal
Roybal
Ruppe
Scheuer
Schroeder
Staggers
Stanton, James V.
Stark
Steiger, Ariz.
Stephens
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Traxler
Treen
Udall
Ullman
Vander Jagt
Wampler
Wilson, Tex.
Wolff
Young, Ga.

The SPEAKER. On this rollcall 334 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

AMENDMENTS TO THE PRICE-ANDERSON PROVISIONS OF THE ATOMIC ENERGY ACT

Mr. PRICE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8631) to amend the Atomic Energy Act of 1954, as amended, to revise the method of providing for public remuneration in the event of a nuclear incident, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Illinois (Mr. PRICE).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 8631, with Mr. MAZZOLI in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Illinois (Mr. PRICE) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. ANDERSON) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. PRICE).

Mr. PRICE. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, this bill provides for a 10-year extension of the Price-Anderson legislation which has had from its beginning two objectives. These objectives are: First, to protect the public in the event of a nuclear accident by assuring the availability of funds for the prompt payment of claims when justified without either undue administrative or legal redtape; and second, to protect the nuclear industry against unlimited liability in the highly unlikely event of a catastrophic nuclear accident. Although the Price-Anderson Act has provided the public with protection against a nuclear accident for more than 18 years, the Government has never had to make a single indemnity payment for public injury under the act. In fact, the indemnity fees paid to the Government by the electric utilities for the indemnity protection have been a source of revenues for the Government—over $10 million. No accidents have occurred at commercial nuclear powerplants which have resulted in the filing of a single claim.

The question of whether to extend the Price-Anderson Act received extensive consideration during the 93d Congress. The Joint Committee on Atomic Energy held some 8 days of hearings last year to evaluate the past operation of the Price-Anderson system and to consider a number of proposals for modifying the existing system. Following those hearings, the Joint Committee on Atomic Energy reported out a bill, H.R. 15323, which was passed with three amendments by the House of Representatives on July 10, 1974, by a vote of 360 to 43. The bill was passed by the Congress and sent to the President on October 1, 1974. The President vetoed the measure on October 12, 1974, citing his approval of the substantive sections of the bill and basing his veto on "the clear constitutional infirmity of a provision in the bill which allowed the Congress to prevent it from becoming effective by passing a concurrent resolution within a specified time." The present bill was proposed by the Federal Energy Administration on July 10, 1975.

The bill, as initially considered by the committee, is identical to the bill which was passed by the 93d Congress with two exceptions: First, the provision which caused the President to veto the bill has been omitted, and second, the bill calls for a 10-year rather than a 5-year extension of the act. Again, the committee held hearings on the measure, receiving testimony from the nuclear power and insurance industries, the electric utilities, the administration, and a number of public organizations interested in this area. H.R. 8631 is unanimously supported by the executive branch as well as the entire electric utility industry—privately owned utilities, rural electric cooperatives and municipals—the nuclear power suppliers, the private insurance industry, and the AFL-CIO.

The amendments which the Joint Committee has made in H.R. 8631 as reported are of a minor technical nature and do not change the substantive provisions of the bill. In addition to the extension of the Price-Anderson Act for an additional 10-year period which would end on August 1, 1987, the bill would also amend the Price-Anderson Act to phase out the Government's present role as an indemnitor. This would be done by requiring utilities which have operating nuclear power reactors to make deferred payments in the event a nuclear accident occurs for which the existing liability insurance—which at present is $125 million—is not adequate to fully compensate all injured parties. Although the amount of such payments would be established by regulations issued by the Nuclear Regulatory Commission, the maximum payment for each reactor could not exceed $5 million. As the number of reactors increases, the sum of the insurance available, plus the deferred premiums, would grow into the billions of dollars. The existing limitation on liability of $560 million is expected to be exceeded by the sum of these two available sources at least by 1985. At such time, the Government would no longer be an indemnitor and in the event of a catastrophic accident the limitation of liability would no longer be limited to $560 million, but would be whatever greater amount is available from the sum of the financial protection which is provided in the form of liability insurance and the total amount of the deferred premiums which would be assessed on each utility for each of its operating reactors.

Although the Government would not be an indemnitor after the sum of these two funds reaches $560 million, the Government would continue to guarantee the payment by each utility of its deferred premiums. The insurance industry has advised the Joint Committee that at the present time it is able to provide an additional $30 million of insurance to cover any defaults in the payment of deferred premiums. Testimony before the Joint Committee indicates that utilities would honor their commitments to make these deferred payments when required. There remains, however, the possibility of default. In view of the paramount objective of the Price-Anderson Act to insure prompt and adequate compensation of members of the public, there should be no uncertainty created because of a possible gap in such protection which could be caused by any default on the part of utilities. For this reason the committee in H.R. 8631, as it did last year, included the provision that the Government would act as a guarantor to insure the payment of deferred premiums in the unlikely event of a default. If any payments are made by the Government as a guarantor, the Government would under the bill have all of the usual rights of a creditor against the defaulting utility.

Mr. Chairman, although the support for this legislation is overwhelming, there are some who question its need. Put very simply, they argue that if the risk to the public from a nuclear accident is slight, there is no need for the Price-Anderson system, which among other things provides for a limitation of liability on the part of the nuclear industry. On the surface this may seem to by an appealing argument. However, the record made before the Joint Committee last year as well as this year clearly demonstrates that the Price-Anderson system is still needed to meet its two objectives of protecting the public and insuring the orderly development of nuclear power. Insofar as protection to the public is concerned, it is not enough to say that the risk of a serious nuclear accident is very low.

For, until we can say with absolute certainty that such an accident will not occur, there is a need to insure that the public will be adequately compensated for its losses under a system which does not require any litigation for the payment of just claims. In that regard, the record before the Joint Committee is clear: If Price-Anderson is permitted to expire, the resulting legal situation in the event of a nuclear accident would be chaotic. Recovery by members of the public for their losses could be uncertain and, even if successful, might be delayed for many years by litigation.

Insofar as the orderly development of the industry is concerned, the record before the Joint Committee points out the potential problems which would be presented to the nuclear energy industry, and ultimately to the consumers of electricity, if the limitation of liability is removed from the Price-Anderson Act or if the act is not extended. In substance, the problems which would have an adverse impact on the growth of the nuclear power industry are as follows:

First. The construction of a nuclear powerplant is not a minor undertaking. It requires the involvement of many suppliers of components, materials, and engineering services. Many of these organizations are small businessmen. In many instances these organizations are the sole suppliers of their particular product or service to the nuclear industry and the nuclear share of some of these businesses is only a small percentage of their overall business. Prudent business judgment would require that these suppliers take the necessary action to protect themselves against a complete wipeout of all their business assets such as could be caused if they were exposed to unlimited liability for a catastrophic accident. They now receive the limitation-of-liability protection under the Price-Anderson Act. Indeed, a number of these businesses have stated on the record that if the limitation on liability is removed, they will no longer provide to the nuclear industry their particular products or services which may be essential to the construction of additional nuclear plants.

Second. The utilities now have to borrow considerable sums of money to finance the construction of nuclear powerplants. If they are made subject to the risks of unlimited liability in the event of a catastrophic nuclear accident, the lending institutions will undoubtedly demand a higher return on their investment or perhaps refuse to lend the money. This is a very real problem which simply cannot be avoided.

The foregoing problems would be avoided by the extension of the Price-Anderson Act. The public interest would continue to be protected in the unlikely event of a nuclear accident. No public funds would be used to subsidize the nuclear industry, and the financial protection which is required would be completely at the expense of the nuclear industry.

In view of all of the foregoing, H.R. 8631 which would extend and amend the

Price-Anderson Act, is clearly in the public interest and should be enacted at the earliest opportunity.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, the Congress, in 1957, enacted the Price-Anderson legislation to provide for a well-fined system of financial protection which would apply in the unlikely event of a catastrophic nuclear accident. From the beginning, the need for such a system has been predicated on the magnitude of a catastrophic accident and not on the probability of such an accident occurring.

Since its inception, the Price-Anderson Act has served its purpose well. Fortunately, in the commercial nuclear power area there has never been an accident which has called for the system to be placed in operation. With the continuing growth of the nuclear industry, the Joint Committee, last year and this year, decided that the system should be amended to impose an increasing share of the financial risk on the utilities which operate nuclear powerplants. This feature of the bill encountered no opposition last year and I am not aware of any this year. The one feature of the bill which I believe will be the subject of an amendment later on today, is the provision in the act which establishes a limitation of liability on the private sector in the event of a catastrophic nuclear accident.

Of course, an argument that the public should have the right to seek additional recovery from the private sector has great appeal, at least on the surface. But, the effect of the adoption of such an amendment should be clearly understood. Much more is involved than simply the broad question of whether any industry, including the nuclear energy industry, should be protected by a limitation of liability which would have the effect of preventing citizens from seeking legal remedies in the courts. An analysis of whether or not the limitation of liability should be removed, should, I suggest, take into account the following considerations:

First. First of all, the principle of limitation of liability is not unique in our legal system. Elements of limitation of liability go to the heart of the State and Federal workmen's compensation laws, no-fault insurance, malpractice insurance, as well as the extent of recoveries in the maritime and international air transport fields. So this is a legal principle which is not unique to the nuclear energy area. Indeed, I have seen several bills recently which would establish a limitation of liability on the part of those who may pollute our oceans and coastlines, as a result of offshore oil exploration and transport.

Second. In the case of the Price-Anderson Act, one should recognize that the Price-Anderson system, which includes the provision for limited liability, is designed to permit public interest goals to be accomplished through the development of nuclear energy in this country. As early as 1957, 17 years before the OPEC nation's demonstrated to us the critical importance of forms of energy other than oil, Congress had the wisdom to put in place a system designed to make the nuclear option a usable one. Certainly in view of developments, the public purpose goals of the Price-Anderson system are needed more today.

Third. The public interest goals recognize that there is the possibility of financial obligation of considerable magnitude which could result from public liability claims resulting from an unlikely catastrophic nuclear accident. The system recognizes, of course, that there must be public protection, as well as some protection of the various participants in the nuclear energy industry. Although one may wish to separate the public protection and industry protection purposes of the Price-Anderson, they are in fact, inseparable. The firms which build and operate nuclear power plants in this country do not operate in a vacuum. Rather, they must compete with other sectors of the economy for scarce resources including money to finance construction and essential materials and services. Electric utilities in this country have a legal responsibility to provide adequate and reliable sources of power to their customers. But beyond that legal responsibility, there is the importance of electricity to the public health and safety and to the economic well-being of our society. In view of the very important public purposes which are served by an electric utility, it is difficult, if not impossible, to divorce actions which have an impact on the utility from those affecting the public interest. I could point out here that the extension of this legislation was enthusiastically endorsed not only by investor-owned utility but by American Public Power Association and National Association Rural Electric Cooperatives.

Fourth. The foregoing perhaps deserves a brief explanation on my part. Let us assume that an amendment to the Price-Anderson system is adopted which would subject a public utility to unlimited liability. If this is done, we should clearly understand who will bear the ultimate burden of such unlimited liability. Will it just be the stockholders who invest their money in the utilities? The answer is clearly "No." There is no escape from the fact that those who will ultimately bear the burden will be the consumers of electricity in the region served by the utility.

In view of the importance of the services which the utility provides, public liability judgments which would place the utility in bankruptcy would not be allowed to interfere with the viability of the utility or its obligation to furnish reliable and adequate power. But, for the purpose of argument, let us assume that this did happen. Those who would suffer would clearly be the consumers of electricity in the region served by the utility. On the other hand, let us assume, as is by far more likely, that the viability of the utility would not be disrupted. In order to accomplish that, the utility would have to satisfy a large public liability judgment, and at the same time repair necessary damages to its own property and continue to provide reliable and adequate power to its customers. The money to do all of these things, including the satisfaction of public liability judgments, must come from some place. The utilities do not have unlimited resources; and indeed, quite the reverse is true. In fact, the only source of sizable sums of money available to the utility would probably be in the form of high rates for electricity. The ones who would suffer, I repeat, would be the consumers of electricity in the region served by the utility which operates the reactor which caused the accident. Such a result would impose a most unjust and unreasonable burden on a very small segment of our society. The Price-Anderson Act was enacted in 1957 to avoid this very kind of problem, and this is why its extension with the limitation of liability is needed at this time.

Fifth. How does the Price-Anderson Act avoid this problem? It establishes a legal regime which would assure that there would be prompt and efficient payment of all legitimate claims. An enactment of the bill before you today would result in the vast bulk of those claims being satisfied from funds paid by the utilities which operate nuclear facilities. In other words, the risk would be spread throughout the industry so that particular members of our society would not end up paying the ultimate burden. Also, the bill before us today would result in the limitation of liability escalating to over a billion dollars by at least the 1980's. This assured source of funds in all probability covers any accident which will ever happen. But there is still more involved in the system to assure that the public purpose goals of the Price-Anderson Act are met.

In the unlikely event that the limitation of liability is exceeded by the losses from a nuclear accident, there is still another avenue available for the prompt settlement of outstanding legitimate public liability claims. The bill provides for a prompt report to the Congress with regard to the situation, which would include the amount of additional funds needed to pay all such claims. On the basis of this report, the Congress would be in a position to decide what specific action should be taken. This is exactly as it should be in the event of a major catastrophe, whether caused by a nuclear accident—the only catastrophe that the Price-Anderson system covers—or whether caused by some other event. No limited segment of our society should be expected to bear the brunt of the sacrifices and suffering which would prevail in the event of such disaster.

Thus, the limitation of liability features of the Price-Anderson Act do not simply protect the electric utilities and other participants in the nuclear energy industry. Instead, they serve a much broader purpose. They insure that no single segment of our society will be forced to carry the burden of such catastrophe above and that instead, the burden will be spread as broadly as possible. In this way, all segments of our society will share the risk just as all segments share the full benefits of the development of nuclear power in this country:

Early resolution of Price-Anderson issue will contribute substantially to rational energy planning—John Simpson, AIF.

Mr. RONCALIO. Mr. Chairman, will the gentleman yield for a point in support of his position?

Mr. ANDERSON of Illinois. I am most pleased to yield to my friend and a member of the committee, the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. I appreciate the gentleman's yielding.

In support of his statement just made on the necessity of nuclear power. I would like to support his argument with something from this morning's newspaper—an article on Con Ed, a company that for several years has been the whipping boy of the utilities. A utility that skipped dividends and had immense difficulties in meeting power requirements for New York, is now in an excellent position due principally to the fact that it had nuclear power generation to sustain it.

Mr. Charles F. Luce, its board chairman, is to be commended for what has been accomplished by Con Ed, thanks to the basic safety and economy of nuclear power generation.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield myself 1 additional minute.

I wish to thank the gentleman from Wyoming for a very valuable contribution. I read that article myself this morning with great interest, and it is a very current corroboration of the point that I was trying to make.

The Atomic Energy Commission had commissioned the Rasmussen reactor safety study, and I have a copy of the executive summary of it in my hand. It required 3 years to complete and was a multimillion-dollar study headed by one of our most respected scientists in this country, Dr. Norman Rasmussen. It is interesting to point out that the individual chances each American has of being involved in a motor vehicle accident in a year is 1 in 4,000 of becoming one of those grim statistics reported by various organizations from time to time. As far as air travel, we have been reading something about the risks involved and to which we may be subjected in that regard, and recently they are 1 in 100,000.

When we come to the figure for nuclear reactor accidents regarding the commissioning of 100 plants, which is roughly double what we have onstream at the present time, that figure becomes 1 in 5 billion.

So I hope the Members will not be confused by any of the argument we hear this afternoon about the difference between possibility and probability. I assure the Members that in fashioning this legislation we fashioned it on the premise that we ought to give reasonable protection to the American people on the probabilities, the probabilities involving the accidents which literally fall in the range of 1 in 5 billion.

I urge adoption of the legislation without amendment.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Chairman, I have a great deal of respect for the gentleman's opinion, as he knows. The gentleman alluded to the contemplated amendment to lift the probability ceiling out of the Price-Anderson Act. I have some material sent to me by some of my colleagues, including a New York Times editorial on "Nuclear Safety." I would like to ask for the gentleman's comments on the last sentence of the New York Times editorial of December 2, 1975, wherein it states:

> If the maturing nuclear industry is genuinely confident in its safety assurances, it should willingly accede to the removal of this special protection.

Could the gentleman comment on that last sentence?

Mr. ANDERSON of Illinois. I certainly can. Let me do it, I think most efficiently, by quoting from some remarks made before the Joint Committee by Commissioner Rowden, of the Nuclear Regulatory Commission, in which he said:

> It was recognized at the outset that actuarial considerations have very little correspondence to the realities of insuring nuclear risk because there is very little experience.
>
> In addition to that, there is a very unique consideration involved here, something which the Joint Committee's report on last year's legislation I think very aptly characterized when it said that insurance concept become less valid as the frequency of the events decreases and the potential consequences of these low probability events increase. You are dealing with a situation that really can't be dealt with within the framework of normal insurance considerations.

Therefore it is literally impossible at the present time for the insurance industry to acquire or get public liability insurance in excess of the present layer I referred to in this three-tier system of $125 million, for which they pay a premium of between $250,000 and $600,000 a year for operating a 1,000-megawatt reactor.

So the point is the insurance industry has doubled over the years from $60 million to $125 million what they are willing to furnish in the way of public liability insurance. What we have got to do in view of the fact that there is this extreme outside remote possibility is to provide public protection, and we do that under this act, but given the difficulties in computing the actuarial experience, even though this industry has been operating for the last 18 years and, as the gentleman from Illinois has said, not a single member of the public has even been injured as a result of an incident at a nuclear reactor, so we are doing the best we can, given the experience on reactors and given the remote possibility we would ever have one of these incredible accidents.

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield myself 1 additional minute.

Mr. Chairman, I hope that answers the gentleman's question, because it goes to the very heart of those who propose that we simply lift the ceiling on liability. If we do that, the answer is that we are not going to get the financing we need to continue this viable industry in this country.

Mr. DON H. CLAUSEN. Mr. Chairman, I thank the gentleman and I commend the gentleman for his knowledge and background on this matter and for his detailed explanation.

Mr. PRICE. Mr. Chairman, I yield 7 minutes to the gentleman from Texas (Mr. YOUNG).

Mr. YOUNG of Texas. Mr. Chairman, I wish to associate myself with the remarks heretofore made by our distinguished vice chairman, the gentleman from Illinois (Mr. PRICE), as well as the ranking minority member, the distinguished gentleman from Illinois (Mr. ANDERSON).

Mr. Chairman, I do not know in my nearly 20 years here of any program anywhere in this land that has been more extensively supported by more and varied groups than the nuclear energy program. Industry needs it so badly they cannot really wait until they get the necessary implementation and necessary techniques to bring in nuclear power in all of its enormous impact. Labor unions absolutely have to have it, because it means jobs, it means whether or not they are going to have the energy to produce in this country a production that is falling off drastically, a production that is being exported drastically, an absence of production that is needling employment and individuals drastically.

Mr. Chairman, without energy it is, indeed, horrifying to contemplate what would happen to our great Nation. Historically, great industrial nations have been built either on an abundance of the supply of energy or on slave labor. We have been, indeed, fortunate in this great country of ours that we have organizations to prevent the imposition of slave labor. That is why these very organizations are out in the forefront in defending and promoting the generation of electricity by nuclear power. That is why these organizations, Mr. Chairman, are out in the forefront seeing that no hampering amendments are placed on the Price-Anderson bill.

The plain fact of the matter is, Mr. Chairman, that the overwhelming number of individuals and groups that are opposed to Price-Anderson could not care one dime about the insurance aspects of this program. They only see in this opposition an opportunity to place an impediment in the way of this most urgently needed program, one more obstacle.

Mr. Chairman, we must see, as we have already heard, the Price-Anderson is essential to the orderly and consistent and safe development of nuclear energy in this country.

I want to go to something else, Mr. Chairman. We are all concerned about what happens to the conservation of natural resources in our great Nation. I weary when I hear people referring to when oil and gas is gone there will be time enough to start thinking about nuclear energy. I say to this House, Mr. Chairman, oil and gas is already gone, gone in the sense that it is needed for myriads of other applications besides the burning to boil water to create energy in this country.

There are few things we can do with heat generation of nuclear power than generating electricity. That is what we think of when we think of nuclear power, even though there are many other applications, such as in medicine, and so forth.

But I say, Mr. Chairman, that do what we will, there is no way that we can convert the energy of nuclear power into making the raw materials of plastics; there is no way that we can make pantyhose or other plastic products out of nuclear fission. But, we need oil and gas for so many things, for the chemical industry, the agricultural industry, the drug industry, and innumerable industries where we need fossil fuels. So, with this comes the great hope of energy for the future of this nation.

I say to the Members, Mr. Chairman, that we will have here a situation where we know that we have a technology to supply, anytime this Nation is willing to supply hardware, the wherewithal to meet the energy requirements of this Nation, whatever they are, forever.

Mr. Chairman, over the years my colleagues in Congress and on the Joint Committee on Atomic Energy have constantly worked for the development of energy sources in this country. We believed years ago that nuclear energy, created initially for military purposes, could be used for the benefit of people and not for their destruction.

We are now facing an energy crisis in this country which would be much worse if we did not have the nuclear capacity which we now have. Without question our energy future will become more reliant on nuclear energy as the supplies of oil and natural gas diminish. Even now, we are rapidly approaching the end of major energy production from oil and natural gas, while the energy needs of our Nation and the entire world continue to expand. The time has long since passed when multiple-use fossil fuels such as oil should be burned in boilers to produce electricity.

Dr. Seamans, the Administrator of Energy Research and Development, has stated:

> If we don't increase our capacity to generate electricity other than with oil and gas, we are going to be in deep trouble. The two alternatives are coal and nuclear.

The Nation's energy needs will be so great in the 1980's that coal simply cannot satisfy the demand alone. There would be a need for quadrupling of present coal output with similar expansion of transporting capacity. But let there be no misunderstanding, we need all of the energy resources which are available to us if we are to maintain and allow for reasonable expansion and improvement in our society and strong international relations.

If the views of those who challenge the use of nuclear energy are followed, there would be a large and long gap in our energy needs. This would be disastrous. Energy is the mainstay of our industrially based society. It is needed for our people. It is an essential ingredient in helping to forge strong and beneficial international relationships.

Our entire economic fabric is dependent on the electric utility industry. Our economy cannot function without electric power. The long run interests of all types of consumers—industrial, commercial and residential—is to have power.

Terse, sensational-type statements by their very simplistic presentations may lead some to believe that nuclear energy technology should be avoided at all costs. Such statements usually are made out of context and fall apart on analysis. Nuclear power is essential to our future for many reasons:

It saves substantial amounts of oil and gas.

Nuclear power is one of only two reasonable energy resource alternatives which are now available to reduce our demand for foreign oil and subsequently enhance our national security and economic well-being. We are consuming more imported oil today than we were at the time of the 1973 Arab embargo.

Nuclear energy is good for competition. Without the competitive pressures that nuclear fuel can exert on the prices of other fuels, there would be no moderation in the increase of electric rates.

Nuclear energy can be safely produced. It is environmentally sound. The regulatory review process employed in the atomic energy program is such that no reactor would be licensed if there were a reasonable likelihood that it could not be safely operated.

Starting nearly three decades ago, the scientists and engineers developing nuclear power for commercial use concentrated on public safety as a prime goal because of the recognized unusual nature of this new technology. This well publicized concentration on public safety has resulted in very safe nuclear plants as well as a great deal of public awareness and concern with the substantial impact possibilities of very low probability accidents.

These are not exaggerations of one who had visions and dreams years ago of the contributions which could be made by the peaceful atom. Even last year, with nuclear energy supplying less than 8 percent of all the electricity generated in the United States, it saved electric utilities and their customers some $810 million in fuel costs. It generated power which would have otherwise taken 185 million barrels of oil or 45 million tons of coal. A thimbleful of nuclear fuel produces as much energy as 1,100 gallons of fuel oil or 7 tons of coal.

When the plants now licensed for construction or in advanced planning stage come on the line, there will be even greater savings. As nuclear power approaches the 50-percent mark for the production of electricity in this country, that energy source will be doing the work of almost 3 billion barrels of oil per year, worth many billions of dollars even at current prices.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield 7 minutes to the gentleman from New Mexico (Mr. LUJAN), a member of the committee.

Mr. LUJAN. Mr. Chairman, I take this opportunity to point out to the Members that this is really a totally different concept that we are going into. It is not simply the extension of Price-Anderson legislation, which we have had before, but this is really a step further.

Everyone has been saying, "Let's get the government out of the insurance business. Let us not have the government guaranteeing these huge amounts of money," and that is exactly what we are doing here.

We are setting up the mechanism so that eventually the insurance company, along with the industry itself, the nuclear power industry, can provide that insurance. We started off with $60 million of private insurance, and with the Government guaranteeing $500 million. We are now at the point where the insurance industry provides $125 million and the Government guarantees the balance. The Government is now on the hook for $435 million.

Hopefully, we will have enough reactors in the short period so that the entire $560 million will be covered. From then on, we are in a plus position. Every additional reactor that is built is additional guarantee to the public. And so we are doing what has been asked for so many, many years by those who fear the nuclear power industry.

They tell us that we ought to remove the limit of liability. And what is going to happen if we remove that $560 million limit? To begin with, we are going to kill the nuclear power industry if we do that. And how are we going to kill it? It was pointed out to us in oversight hearings that the minute the limited liability is taken away, we are going to have trouble building any more reactors. But even beyond that, look at the suppliers of the different parts that are needed to make reactors. Maybe 2 percent of their business is in providing nuclear hardware. Do the Members think they are going to expose the rest of the company, the 98 percent of the company, for the 2 percent of the amount of business they are going to do? They are going to get out of the nuclear business.

Some people will say, "You know, these are large companies, companies like Westinghouse and General Electric, and they will not get out." They will, because such a small part is the nuclear business.

Then what will we have? Then we will have a company formed—one can call it a fly-by-night outfit—to come in and manufacture these parts because they have nothing to lose anyway.

So I think it is very necessary that we keep that limited liability.

We are told that we are doing something special for nuclear energy here. I have no objection to that. We are doing something that is needed in this country. We cannot survive without nuclear energy.

But there are limitations of liability for other industries.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. I thank the gentleman for yielding. Mr. Chairman, I think the gentleman has made a very important point that ought to be emphasized, because we do hear the argument frequently, "Why do giants in the industry, like Westinghouse and General Electric, need protection on the limited liability? Why do we not have unlimited liability?

There are many small companies providing necessary valves and components and parts for these nuclear reactors that are simply not going to be interested in participating or even bidding on these matters if that limited liability section is removed.

Mr. Chairman, I happen to have in my hand a letter from Duke Power Co., addressed to Mr. Saul Harris, National Association of Electric Companies, that bears this out. A portion of the letter, which is dated November 25, 1975, reads as follows:

> We sought bids from Ingersoll-Rand on some pumps for planned nuclear units. Ingersoll-Rand has indicated that without this Price-Anderson clause they are not interested in bidding. They say that they have plenty of pump business without us, and that over a small pump contract they are not willing to assume the large exposure which they would have without Price-Anderson.

So the gentleman is eminently correct. It is not just the big business people in this country. It is the small businessman, the small supplier, who is not going to be able to participate in this vitally important industry if we do not have the present limited liability provision of Price-Anderson.

Mr. LUJAN. I thank the gentleman for his additional comments.

Mr. Chairman, I would just have one more comment to make. Limitation of liability is not a new thing. I have before me five areas in which we do that. Under the Federal Water Pollution Control Act of 1972, the limited responsibility for clean up costs per spill, it is limited to $100 million per spill. That is a limitation of liability.

The Alaska pipeline, I will tell the gentleman from Alaska, limited the liability of the Alyeska pipeline to $15 million per incident under the Mineral Leasing Act.

And so there we have an example of that.

Workmen's compensation laws throughout the country limit the liability for injury to so much per finger, so much per hand, or so much per arm, and so on.

It is pointed out that the airlines have no limited liability. That testimony has been brought out. However, even the airlines, Mr. Chairman, have a limited liability, according to the Geneva Convention, for international air flights, of $75,000 per person. So that, Mr. Chairman, there is ample evidence and ample precedent for limitation of liability here.

Mr. RONCALIO. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Chairman, certainly my good friend, the gentleman from New Mexico, would not want this House to believe from what he stated that it is an impossibility for the survivor of one whose life has been wrongfully taken to recover any more than $75,000 from a domestic air carrier in America. Is that what the gentleman is trying to say to this House?

Mr. LUJAN. No. Mr. Chairman, I am pointing out that this precedent does exist for limited liability. I am not going to get into that argument with my friend, the gentleman from Wyoming. I am stating that the precedent exists, and that is the only reason I mentioned those five examples.

Mr. RONCALIO. Mr. Chairman, I thank the gentleman.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN of Tennessee. Mr. Chairman, I thank the gentleman for yielding this time to me.

I would like to ask a question perhaps of the gentleman from Illinois (Mr. ANDERSON).

If a lending agency or an individual makes a mortgage loan to an AEC licensee who later has an atomic spill and the value of the building is reduced because of radiation, would he or the agency or the individual who made the loan be covered as a third party?

Mr. ANDERSON of Illinois. Mr. Chairman, if the gentleman will yield, if I understand the question, the gentleman is asking if the lending agency would be guaranteed against a depreciation in the value of the property or the building?

Mr. DUNCAN of Tennessee. That is correct, depreciation in the value of the building because of the loss occurring from the radiation.

Mr. ANDERSON of Illinois. No. Counsel informs me that in that event they would not be covered.

Mr. DUNCAN of Tennessee. Why not?

Mr. ANDERSON of Illinois. Well, I think that that is not felt to be one of those contingencies which falls within the purview of public protection, which is what we are trying to provide under this legislation.

Mr. DUNCAN of Tennessee. Mr. Chairman, I thank the gentleman.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, perhaps I can help, but I am not completely certain I understand the question.

I will remind the gentleman, however, that under the law and separate from Price-Anderson there is a $175 million property damage policy that the utilities must carry. This is carried for property damage, and if it were leased property, then, of course, that would apply.

Mr. Chairman, that is the only statement I had to make. If that helps at all, I will be glad to try to help further in following up on the question.

Mr. ANDERSON of Illinois. Mr. Chairman, if the gentleman from Tennessee (Mr. DUNCAN) will yield on the time I have given him, I think the gentleman from Washington makes an excellent point, one which I forgot to mention. There is this $175 million property damage insurance, and if the licensed reactor operator does carry that, certainly within the parameters of that he is covered for property damage in the question the gentleman described.

Mr. DUNCAN of Tennessee. Mr. Chairman, the question has come up in my district, in Oak Ridge, Tenn. In one case the building has gone down in value to about 10 percent from the cost, and the mortgagor stands to lose a great sum of money, and as far as I know, AEC did not require the licensee to have insurance.

The CHAIRMAN. The time of the gentleman from Tennessee (Mr. DUNCAN) has expired.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield 1 additional minute to the gentleman from Tennessee (Mr. DUNCAN).

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, as I understand it, this has to do with private property near Oak Ridge, Tenn.

Mr. DUNCAN of Tennessee. It is in Oak Ridge. It is private property.

Mr. McCORMACK. Then the relationship here between the private property owners and the Government for the operation of the research and development facilities and the uranium processing facilities is a completely separate relationship, totally outside of any function of the Price-Anderson Act and outside the $175 million, because that applies only to nuclear generating facilities.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. Yes, I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, as a further explanation, it would be no different from a case in which a building burnt down 10 percent. What would happen is that the company would pay 10 percent to repair the damage.

In this particular case the insurance company would simply pay to clean it up.

I do not suppose that one would be saying the same thing if a building had been damaged 10 percent by fire; that is, I do not know whether the mortgagee would get some money back.

Mr. DUNCAN of Tennessee. It would not require private insurance?

Mr. LUJAN. No, this does not require that, according to my understanding. It is the company which very prudently buys insurance on its own property.

Mr. BEARD of Tennessee. Mr. Chairman, I thank the gentleman.

Mr. PRICE. Mr. Chairman, I yield 5 minutes to the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Chairman, I want to thank the chairman of the committee, the gentleman from Illinois (Mr. PRICE); and I wish to say that I deem it an honor to serve on the committee with the gentleman from Illinois and a distinction to serve with his colleague, the leader of the minority conference, who is also a member of this committee.

I do not suppose many of our minds are going to be changed by what is said here today, but I would like to say something from a personal viewpoint.

Last year I voted against a 5-year extension of Price-Anderson. It follows that I can hardly be expected to approve its 10-year extension now.

I believe it is time we clip the Federal umbilical cord to the nuclear industry that is epitomized by this legislation. It is 20 years since nuclear power was given to the private sector along with its Price-Anderson immunity from liability for nuclear harm. Now is the time to end that coverage.

In 1957, the situation was much different in nuclear power generation than today. There was no nuclear industry, nor were there actuarial or experimental data to assess risks involved in nuclear power. It was a fledgling technology, an industry aborning, and Price-Anderson was enacted for two reasons: "First, to protect the public by assuring the availability of funds for the payment of claims arising from a catastrophic nuclear incident; second, to remove a deterrent to private industrial participation in the atomic energy program posed by the threat of tremendous potential liability claims."

Price-Anderson was needed 20 years ago to establish and stimulate the nuclear industry. It is no longer necessary today. Today the industry is an $80 billion reality, including 50 large nuclear reactors now in operation, contributing nearly 8 percent of the total electrical generating capacity in the United States; and including plans for more than 70 facilities being built in the United States and at least 15 in foreign nations by American manufacturers. It is now time for the industry to take its rightful place in our free market system, to buy its insurance upon the open market, and to accept total responsibility for its actions, as should all other industrial enterprises in this Nation.

When I hear its proponents insist that Price-Anderson must be extended or the industry will perish—I am reminded of a book that was very popular shortly after World War II, entitled, "A Tree Grows in Brooklyn." It included a hilarious chapter about a youngster in Brooklyn who was suckled to his mother's breast as a baby. The problem developed as he reached the firm age of 12, he was still being suckled at her breast and refused to be weaned—he had to be literally slapped off his mother's breast.

The nuclear industry is much too content with feeding at the Government breast and simply does not want to assume its rightful responsibility as a mature, powerful, and safe sector of our free market economy.

There are irrefutable reasons why Price-Anderson should end. In 1957, the possibility for a catastrophe did exist and the degree of that catastrophe was unknown. Not so today. The Nuclear Regulatory Commission has now released the final version of Wash–1400, the reactor safety study, better known as the Rasmussen report. This $4 million, two-and-a-half-year study concludes that the chance for such catastrophe is still in existence, but its occurrence is a very, very remote possibility. The Rasmussen report affirms that nuclear power is a very safe technology.

I believe in the Rasmussen report. I believe in the future of nuclear power generation. I believe we must have nuclear power generation and that it must take its place as a safe industry in America as it is in Canada, in Germany, in France, and in other nations of the world. Every member of the Joint Committee on Atomic Energy believes the Rasmussen report has a sound conclusion, so much so that the committee decided to mark up H.R. 8631 without holding any independent review or hearings on this 12-volume report. And every member of this committee is asking that the American people believe the Rasmussen report. How can we thus expect the citizens of this Nation to believe us if we retain the limit of liability for nuclear plan accidents? The two stands are contradictory in appearance and in fact, in my opinion.

The Rasmussen report outlines probabilities and consequences of such disasters in a number of fields: air travel, the chemical industry, dam failures, and others. In each of these cases, industry accepts full responsibility for the possibility of catastrophic incidents. Yet in each of these industries, management does not buy full insurance coverage for the worst possible case. There is not an insurance company in existence that equates assets with total exposed liability. If insurance companies are willing to insure against low-probability high consequence accidents in such fields as aviation and chemicals; if these pursuits are able to accept limited insurance, but unlimited liability and full responsibility to the public for their actions, and if capital is available from our private markets to finance these pursuits, then how can it not be true for the nuclear industry? Others may think it is so because nuclear power is unsafe. I disagree with them. I think it is so because the nuclear industry itself has simply fed too long at the Government trough.

Price-Anderson includes a Government indemnity provision which now guarantees $435 million to private utilities in insurance, in return for a payment that is hardly more than a pittance, when compared to the private insurance rates.

H.R. 8631 purports to phase out this Government commitment and the Government's role in nuclear insurance. But how soon will this happen, and how final will it be? It may not happen for 10 years, and it may not be at all final. Through H.R. 8631 the Government will abandon its role as indemnitor and become a guarantor. It will become a guarantor for potentially more than the $435 million it now shoulders. This may result through the deferred premium pool that is established by H.R. 8631. The pool will be funded by contributions from each nuclear reactor on line, to be paid retrospectively in the event of an accident.

This commits the Federal Government to guarantee the payment of all premiums on which payment is defaulted. This new insurance mechanism thus purports to phase out the Government indemnity as the size of this pool expands with the growth of the nuclear industry. Unfortunately, this new pool is clearly contradictory to one purpose of the original Price-Anderson Act, to have a large source of funds immediately and readily available after an accident. Under this proposal they are not immediately available. These funds must be raised on short notice by the utilities and then collected by the Government, and if there is industry default after an "incident," then the Federal Government must pay all money due. This will not speed relief to victims, nor is it guaranteed to "phase out" the Government's role. It may camouflage and alter that role, but it does not phase it out.

As I quoted in my separate views on this issue last year, "The act thus did not fully achieve the legislative goal of assuring compensation to the public," and, "the decision to limit liability represents a determination that a major share of the costs of an accident should be borne by its victims."

Price-Anderson has succeeded in achieving the goal of stimulating the nuclear industry, but not the goal of protecting the public—the two goals cited in 1957 by the Joint Committee. It is time for us to focus on that neglected goal and achieve it, by ending the Government's role and by abolishing the limits on liability.

After all, it is safety with which we are most concerned. Former Defense Secretary James Schlesinger, when AEC Commissioner, testified that in his opinion Price-Anderson be permitted to expire in 1977. Dixy Lee Ray also stated similar statements which I used in my separate views last year. Surely all members recognize that placing full financial responsibility on any entity will make it act more responsibly. I am confirmed in this view by the remark made by former Atomic Energy Commissioner William Kreigsman earlier this year who said of Price-Anderson:

> Do away with it, and you'd probably see nuclear valves coming off the assembly line in a lot better shape. (Science, Vol. 187, p. 1060, Mar. 25, 1975).

Hearings were held this year regarding hairline leaks, faulty valves, and other problems in redundant secondary backup coolant systems. It is natural to assume that a better product will be manufactured if the manufacturer is responsible for the damage that might ensue from that product.

It is no longer amusing or ironic to view the very companies who are spending millions to propagandize the public on the end of Big Brother's role, the end of Federal intervention, "the end of the bureaucracy," and the need for reliance and faith upon the free enterprise system, yet be so hesitant to give up this element of control that will not let them be responsible for their own actions.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I will be happy to yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Chairman, I just do not quite understand the statement the gentleman from Wyoming has just made that this act originally adopted in 1957 has not succeeded in its goal of protecting the public. The gentleman from Wyoming is well aware that not a single claim has ever been filed involving an accident from the operation of a reactor. There are some $570,000 in claims that have been paid out in conjunction with other incidents but not in connection with the operation of a reactor itself. So I wonder what the basis of the gentleman's statement is that it has not achieved its goal of protecting the public. The public has not suffered a dime of loss.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RONCALIO. Mr Chairman, will the gentleman from Illinois yield me additional time?

Mr. ANDERSON of Illinois. Yes, I yield one minute to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Chairman, it is my position, and I concur again that there were no losses that have had to be covered. That is why I conclude that it is safe. And, because of that, I will throw back to the gentleman from Illinois the inquiry that if it is such a safe industry and is so safe then why are we so reluctant to let it insure itself?

That is my point in opposing this legislation.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. Fish).

Mr. FISH. Mr. Chairman, the private development of nuclear power for generating electricity is approaching an important crossroad. Serious questions have been raised by a number of responsible and articulate spokesmen as to the wisdom of "going nuclear." Once thought to be a source of generating electricity that would be too cheap to meter, nuclear powerplants are now being challenged seriously on economic grounds as in competition with traditional fossil-fueled and coal-fired plants. As to safety, the only point that emerges with clarity from the highly emotional debate is that large numbers of knowledgeable and respected scientists with years of experience in nuclear technology cannot, I repeat—cannot, reach any agreement on whether our ciitzens are safe from the deadly radioactive poisons produced by these plants.

What is clear, however, is that the Price-Anderson Act currently limits liability associated with potential nuclear accidents at $560 million. It is also clear that this artificially low limit is a form of subsidy in view of the fact that studies sponsored by the AEC have found that a catastrophic nuclear accident might cause somewhere between $7 and $17 billion in property damage.

Mr. Chairman, this represents a curious kind of Federal subsidy that Congress has given the nuclear industry and the electric utilities. On the one hand, it requires no Federal outlay—at least until a nuclear accident occurs with damages exceeding the amounts provided by private insurers. On the other hand, the electric utilities and nuclear industry are not required to internalize the true costs of engaging in this potentially catastrophic activity, either through purchase of additional insurance or self-insurance. The effect is to cause an underestimation of the costs associated with nuclear power.

The questions might well be asked, "What is unusual about congressional enactment of subsidies for the purposes of providing incentives and relief?" There is nothing unusual about this and the passage of Federal disaster assistance program and the national flood insurance program come to mind as obvious examples. However, an important distinction must be drawn.

Mr. Chairman, you will recall that when the Price-Anderson Act was first enacted in 1957 it was based on the flat refusal of the private insurance industry, the electric utilities, and the nuclear industry to participate in the development of nuclear powerplants without the adoption of this artifically low limit on liability. It was argued that there were no powerplants in operation from which the insurance industry could make a reasonable risk assessment. The industry argued persuasively that Congress could not expect them to proceed blindly. Yet, Congress likewise suffered from the same lack of reliable information. Nevertheless, to induce the development of this alternative source of power, the Price-Anderson Act was enacted with the understanding that the limit on liability would be temporary and for the expressed purpose of giving us operating experience from which important judgments could be made on the wisdom of developing nuclear power. In other words, Congress provided the incentives and subsidies before reaching a judgment on the safety and economics of this technology.

Nearly 20 years have passed and 56 nuclear powerplants are presently under operation. The experience is there.

It is not necessary for us to ramble down the divided path of whether or not this Nation should promote a nuclear-powered economy. The amendment offered by our distinguished colleague, Congressman Bingham would allow, once again, free market forces to assist us in that important judgment. The nuclear industry wanted time. They have been given that. The industry wanted experience. They have been given that. Our citizens have gone for nearly 20 years without adequate financial protection. Let us support the Bingham amendment and allow free market forces to create realistic parameters for a rational nuclear power policy.

Mr. PRICE. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. Bingham).

Mr. BINGHAM. Mr. Chairman, I thank the chairman of the Joint Committee for yielding to me this time and I would like to take this opportunity to express my appreciation to that gentleman for the courtesy shown in deferring consideration of this bill until such time as I might be in position to offer the amendment that I have advised the Members of.

Like the gentleman from Wyoming, Mr. Chairman, I am not an opponent of the nuclear power industry. The amendment that I propose does not go as far as the gentleman from Wyoming would go in urging defeat of the entire Price-Anderson Act. All my amendment would do is to remove the ceiling on liability. It is just a one-sentence amendment which eliminates a paragraph of the bill that continues the absolute ceiling on liability.

This amendment is widely supported. I have been honored to have the amendment supported by a number of my colleagues. It is supported by a number of groups including the California State Bar Association, the UAW, the United Mine Workers, Common Cause, and a number of environmental groups. I hope that later on in the afternoon my colleague, the gentleman from California (Mr. McCloskey) who is one of the cosponsors of the amendment, will be here to make a point which I will just touch on lightly now, and that is a point which I think should be of interest to the members of the Joint Committee who are so strongly in favor of this bill and up to now have been so strongly in opposition to my amendment. Since they constitute a considerable proportion of the Members on the floor at this time, I would like to address this point to them.

The gentleman from California's (Mr. McCloskey) point is that there is a referendum pending in California which has a very substantial chance of passage. If passed, it will prohibit any further construction of nuclear facilities until the limit on liability is removed. There are similar initiatives pending or in the offing in a total of 18 States. So it seems to me rather ironic that here is a real threat to the industry being proposed in a number of States that can very simply be met by removing the limit on liability.

I would also like to make a brief reference to the comments made by the gentleman from New Mexico about the precedents, the other cases, in which liability has been limited by law. He mentioned workmen's compensation. Of course, in workmen's compensation the standard provision is that the worker can either sue for tort liability in the full amount, or he has his choice of taking an amount that is provided in the workmen's compensation statute on a simple procedure and without having to prove fault—but he has his choice. He is not deprived of his opportunity to sue for full tort liability.

Similarly, in the other cases that the gentleman from New Mexico mentioned, the deepwater ports bill, the Alaska pipeline bill, the Federal Water Pollution Control Act—in all of those cases the limitation on liability is a limitation on absolute liability, strict liability, no-fault liability. That is not what the law before us contains. It contains a limitation on common law tort liability. That is what we are complaining about.

Mr. Chairman, the Price-Anderson Act, which H.R. 8631 proposes to renew for 10 years, is the product of a very specific moment in the history of atomic energy. When it was first passed, in 1957, fission technology was largely a decade old. To most Americans, at the time, atomic energy still brought to mind the race with Hitler for a bomb, atom spies, air raid shelters, and mushroom clouds. Atomic energy was still a field virtually monopolized by the Government, and the public thought of it almost exclusively in terms of military endeavour.

The crucial decision to bring private industry into the field of nuclear energy was made by the Government in the mid-fifties. The decision was determined, of course, to a very large extent by capital needs: It was a decision to utilize private, rather than public capital in the highly capital-intensive development of atomic energy. But the decision had another important level of meaning as well: it was taken in the hope that atomic energy would soon be "normalized," that atomic reactors would differ from coal plants only in that the electricity produced would be substantially cheaper. At once, splitting the atom would be turned from the greatest menace to mankind, into a great boon. Atoms for Peace would both redeem the reputation of science, and would soon—some dreamed—provide the world with electricity "too cheap to be metered."

Standing between rhetoric and reality, however, was the fact that private corporations refused to risk their entire worth on what was still an infant technology. Visions of instant bankruptcy led private industry to insist that if the Government planned to get private capital to implement its atomic energy dreams, it would have to lift the as yet unknown risk of massive disaster from the shoulders of the industry. The Government agreed to this condition. The Price-Anderson Act is the embodiment of this agreement.

Within this context, the act is not a difficult one to understand. Private industry was required to carry the maximum amount of insurance that insurance companies would make available to it. Beyond this level—which now stands at $125 million—the Government would insure the industry up to the $560 million. The fee for this has been minimal, more an administrative fee than a real charge for insurance. Then—and this was a key feature of the act—it was provided that there would be no liability to the public of any kind beyond $560 million.

It should be emphasized that, when the act was first passed, it was conceived of as a temporary shelter for the nuclear industry. The limit on liability was enacted not because the damages caused by a major reactor accident could be huge—though this was assumed—but because the probability of such an accident occurring was unknown. Private firms could not be expected to comply with the Government nuclear development scheme, and to risk bankruptcies, when the extent of the risks they were running, with an infant technology, was unknown.

Nearly two decades have passed since passage of the Price-Anderson Act. With the blanket protection and subsidies granted by the act, the nuclear industry has grown from infancy into an $80 billion colossus. The future of this giant industry has now become a matter of sharp controversy—especially since public recognition of the energy crisis, and especially since the occurrence of incidents, like the Brown's Ferry near catastrophe, which have cast doubt on the safety of fission technology.

The amendment I will be offering today—along with 32 cosponsors—would lift the $560 million liability ceiling contained in both the old Price-Anderson Act, and the proposed renewal in H.R. 8631.

The liability ceiling in the present law has two fundamental results. First, it lifts much of the burden of the risk of major reactor accidents from the nuclear industry. Damages under $560 million are covered by a combination of private and Government insurance; damages over $560 million are legally defined out of existence. Thus, the second fundamental result of the liability limitation: namely, that the risk of damages above that amount is placed entirely upon the public. The most fundamental principles of the common law are thus abrogated: he who has caused the injury is held harmless while the victim of the injury must suffer the loss without adequate compensation.

I submit that this makes no sense from the point of view of economic and energy policy, that it is grossly unfair to the public, and that it is probably also unconstitutional.

From an economic policy point of view, I have said that the only acceptable justification for establishing a liability ceiling in 1957 was not the magnitude of potential damages, but the fact that the probability of those damages occurring was completely unknown. This is now no longer the case. The Rasmussen reactor safety study, which has taken 60 men 3 years, and has cost us $60 million, has estimated—at least to the satisfaction of the nuclear industry—that the probability of a nuclear accident causing $1 billion of damage is only one in a million, and the probability of a $14 billion accident is only one in a billion.

The study—which the industry relies upon to prove its safety—also claims that the probability of a multibillion dollar accident in the nuclear industry is lower than it is for the airlines, chemical, and explosives industries. Yet those industries, without arbitrary liability limits, continue to attract investors, who take upon themselves the risk of a disaster; they continue to operate, and to generate both products and profits.

What is the excuse for treating the nuclear industry differently from the chemical and airlines industries? Why should the Government—in effect—guarantee investors in nuclear energy against catastrophic losses, and not do the same for airlines?

Investors—or manufacturers of parts—in the nuclear industry are no more exposed to total loss than are investors in the chemical and airlines industries. If the Rasmussen report is to be believed—and belief in it is the basis upon which we in the Congress have been sold on continued reliance upon fission energy—then removal of the liability limit will have little or no effect on the future of nuclear energy.

Furthermore, ending the liability ceiling will have genuinely positive effects. First, by treating nuclear energy as a normal industry within the free enterprise system, we will not only know the the true cost of nuclear energy—and the added cost, if we believe the Rasmussen report, should be near zero—but we add an element to the cause of safety. Knowing that stockholders' equity is at stake, reactor managers and component manufacturers should be less likely to cut corners, and to slight safety features. Nuclear reactors will be sited not right next to major cities—there are three right now within 26 miles of New York City—but where they are likely to cause the least damage.

We come now to the unfairness of asking our constituents to bear the risk that the Rasmussen report is wrong, or that—even if it is accurate—the one in a billion possibility will happen anyway, and that a multibillion-dollar reactor accident will occur.

Why, if this happens, should the victims of the accident bear the entire loss above $560 million? And let me note here that the $560 million figure has remained unchanged since 1957—eons ago, in inflationary terms. Why should those legally responsible for a catastrophic accident, who have owned and profited from the responsible reactor, be completely insulated from legal responsibility for the damages—while innocent victims collect as little as 3 cents on the dollar for their injuries.

The liability limit in the Price-Anderson Act makes the determination that, in order to keep one responsible utility out of the bankruptcy courts, thousands of innocent people and businesses will have to bear the risk that their losses will not be adequately compensated.

Opponents of my amendment have two points to make against this argument. First, they claim that in the case of a catastrophe, Congress will certainly appropriate adequate funds to compensate the victims anyway, so why bother now with granting victims access to the courts. Second, they say that without a congressional appropriation, utility assets might not cover the total damages of the victims, and thus there is a practical limitation of liability even if the utility were forced into bankruptcy.

Neither of these arguments is valid.

First, if Congress can be depended upon to make victims of a nuclear accident whole, why not make the utilities as dependent on this after-the-fact largesse as thousands of citizens will be?

My amendment, it should be plain, does not require utilities to go bankrupt in case of a multibillion-dollar accident. All it does is that it gives victims legal right to full compensation. If Congress wants to pay the damages bill—as Price-Anderson suggests it may—but it does not have to—that is all well and good. The industry will then, in effect, be held as harmless as Price-Anderson holds it. My point is simply this: The responsible utility should not be automatically held harmless, while innocent victims get on line to beg money from Congress. The responsible utility should not be in a better position than its victims. It should, instead, at the very least be forced to stand on line before Congress along with every other relief-seeking victim of an accident. If Congress regards it as vital to keep the utility solvent, it will vote compensation to victims quickly—in fact, the threat to a utility's liquidity could—sad to say—be an important spur to Congress to compensate victims of a national policy of excessive reliance on nuclear energy.

Second, Price-Anderson's proponents' argument that the utility's assets might be insufficient to cover total damages is quite beside the point. To begin with, these assets would certainly add to the adequacy of compensation of accident victims—assuming Congress did not itself vote speedy and adequate compensation.

Moreover, it may be that after an accident, Congress would want to force utilities to make some contribution to the fund that compensates victims of an accident. Under Price-Anderson, this will be absolutely impossible. Neither Congress, nor the courts—under H.R. 8631, unamended—has the legal power to force the responsible utility—or parts manufacturer—to pay 1 cent more than its insurance premium. This means that even if a catastrophic accident occurred because the utility—or parts manufacturer—behaved negligently, recklessly, or even willfully, Price-Anderson would relieve him of any further liability to persons injured by his conduct. Let me repeat: Not even known, willful misconduct—that is, deliberately covering up flaws in a part—will subject the guilty party to any liability to those injured.

This state of affairs is not only intolerably unjust, it is—probably—unconstitutional. To take without compensation the right of an injured person to sue a grossly negligent party to receive his complete monetary damages is almost certainly a violation of the fifth amendment's due process guarantees.

But it is the unfairness of the liability limit, and not the constitutional aspect, that bothers me most to go ahead with atomic power while retaining the liability limit tells the American people, "nuclear energy is safe, but." The but is a loud one. But: The nuclear industry will not take the financial and legal responsibility for its technology. But: The nuclear industry insists that the burden of risk of a catastrophe be placed upon its victims. But: The industry states that unless Congress shifts this burden, in accord with the industry's wishes, the industry's expansion may be halted.

Now what conclusion are your constituents most likely to draw? Inevitably, the public will interpret the Price-Anderson Act to mean that an unsafe technology is being foisted upon the United States.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LUJAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, in past years I have supported the concept of the Bingham amendment which has just been discussed by several speakers here. I came awfully close to becoming a cosponsor this year because I believe both in the right of people to recover damages without unreasonable limitations, and in the justice and effectiveness of a system of full liability.

At a time when other forms of energy were more available, more reliable, and cheaper, at a time when the country was less dependent on the swift and safe development of nuclear electricity generation, I would sponsor and vote for the Bingham amendment.

But a careful scrutinizing of the hearing record of the Joint Committee on Atomic Energy reveals some of the problems of converting now to private insurance of full liability. The slow development of nuclear energy—55 generators to date—forces a new installations and a relatively small number of electricity users to absorb a big risk. The committee testimony indicates that not only would the price be prohibitive, but that the coverage would not be available.

A comparison cited by one witness was that of $300 million in airline premiums supporting a single accident exposure of $300 million in risk against $30 million in nuclear premiums which support a $300 million total risk. It is just unreasonable to ask this fledgling industry, or its consumers, to absorb that much risk. I do not think it could be done.

The gentleman from New York (Mr. BINGHAM) suggested that the West Coast States might ban all nuclear development unless full liability is established by Congress. I suppose that the West Coast States, whose oil pool is, and will be in great surplus, can afford to be holier than the rest of us who are energy short.

My own State is heavily dependent on Canadian crude oil for its energy requirements. Canada has reduced its shipments and given official notice that it will terminate all shipments in 1981. Coal is probably our best alternative, but development of western coal is delayed by the lack of national strip mining legislation. We need our existing nuclear power and we may need additional nuclear power.

I hope that private, unlimited liability is established as soon as possible, but I regret that it is not possible now. As long as our national energy policy includes nuclear development, and as long as we have exercised responsible safety precautions, we will have to structure the liability limits so that nuclear generators will not have to be shut down because of either price or availability of insurance.

Mr. PRICE. Mr. Chairman, I yield 5 minutes to the gentleman from Washington (Mr. MCCORMACK).

Mr. McCORMACK. Mr. Chairman, I rise to add my voice to those in support of the Price-Anderson Act. I want to describe this as simply and as directly as I can. The bill we have before us will continue the no-fault protection offered to any claimant in this country, but at the same time phase out the Federal indemnity for this program. It is, indeed, as we have written this bill, the best of both worlds. We will have no-fault absolute liability for any claim for any nuclear incident for any citizen of this country, and at the same time we will phase out Federal liability for the program.

I also rise to ask that this bill be supported and that all amendments to the Price-Anderson Act that will be submitted today be rejected.

I want to frame my remarks today in the context of the benefits of nuclear energy to this country. Today there are 56 nuclear plants operating in this country. During the first 6 months of this year these 56 plants produced 8.3 percent of our electricity. They had a greater reliability factor, that is they were on the line a higher percentage of the time than comparable fossil fuel plants of the same approximate age and size.

Nuclear energy provides for this country the cheapest, cleanest, safest, most dependable, and most environmentally acceptable significant energy option this Nation has available to it during this century.

This year—and I think this is terribly important for us to know—the savings by rate payers in this country for the nuclear energy that has been produced will be more than $1 billion. The rate payers of the United States have saved this year more than $1 billion from the nuclear electricity that they have used as compared to what they would have paid for the same electricity produced by the same utilities using fossil fuels.

Each new nuclear plant saves 10 million to 12 million barrels of oil a year. But even more, there is a direct relationship between energy production in this country and jobs; employment in this country. Each new nuclear plant produces energy for 27,000 permanent productive jobs in this country. That is why Andy Biemiller of the AFL–CIO wrote us a letter and asked us to support the Price-Anderson bill without any amendments, because of the fact that the electricity provides so much employment for this country.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I think the gentleman will recall that Mr. Biemiller's letter said without any crippling amendment.

Mr. McCORMACK. I have not heard of any amendment so far that would not be crippling.

I would like to ask the Members to think with me for a moment. There are 56 nuclear plants on the line today. Sixteen more will be on the line during the next 14 months, and about 170 more that will be under construction or on order within the next few years, so we can have 240 nuclear plants on the line by 1985.

The energy produced by those 240 plants that we can have on the line in 1985 is equal to all the oil that this country imports today. Just the plants we have on the line or under construction or on order is equal to all our oil imports and we can have them all by 1985, if we do not goof it up by crippling amendments to the Price-Anderson Act, if we do not sabotage the most important part of our energy program.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Chairman, I think this would be an appropriate time to observe that in defending the nuclear option the gentleman does not thereby I think in any way detract from his credentials as being one of the foremost fighters in this House for a solar option, for going forth with the orderly program in special areas such as geothermal power, and so forth. But I am impressed by the gentleman's support today for the objectives of this legislation which would guarantee the preservation of the nuclear option, particularly in view of his very effective and enthusiastic espousal of these other forms of energy as well.

Mr. McCORMACK. I thank the gentleman for his kind remarks.

The CHAIRMAN. The time of the gentleman from Washington has expired.

Mr. PRICE of Illinois. Mr. Chairman, I yield 2 additional minutes to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, I thank the gentleman.

Mr. Chairman, what we are talking about here is maintaining a realistic balance of national energy and a policy program to carry it into effect.

We have now reached a point where we can phase out Federal indemnity in the nuclear program over the next 10 years, but we have not reached the point where we can invite all those individuals in this country that want to bring lawsuits against nuclear powerplants.

Let me just read a letter that I received just recently, which says:

> How do you explain why your oath of office and the United States of America Constitution do not prohibit causing widespread anemia, hair damage, skin damage, kidney disease, stroke, liver disease, cardiovascular disease, leukemia, mental illness, mental impairment, sterility, shortened lifespan, heart disease, arthritis, birth defects, diabetes, MS, cancer, etc. by poisoning our environment with nuclear pollution?
>
> How do you justify your continuation in office and your continued presence as a free man in a constitutional democracy which guarantees life, liberty, and the pursuit of happiness?
>
> Since there can be no explanation and no justification I am hereby requesting the Justice department to bring the necessary criminal actions against you, and I demand your immediate resignation.

Now, in my opinion, Mr. Chairman, the amendment that the gentleman from New York proposed would give this sort of correspondent a hunting license to bring lawsuits against every nuclear plant in this country. This is the sort of thing that we are not ready to allow. So I want to say to this House that the time has come for us to now go ahead and recognize why we have the Price-Anderson Act at all. It is to stimulate the nuclear industry, to give them a chance to get along. This law has been in effect now for 20 years and it has done a good job. Now we can phase out the Federal indemnity over the next 10 years, but keep the strict, no-fault provisions of this law to protect the people of this country, but not invite a lot of people who really believe, or who are invited to believe that nuclear power is the cause of all this world's problems and allow them to bring endless lawsuits against nuclear powerplants.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I respect the gentleman as a scientist. I am a lawyer.

The CHAIRMAN. The time of the gentleman from Washington has expired.

Mr. PRICE. Mr. Chairman, I yield the gentleman a concluding minute.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, as a lawyer I ask the gentleman, how would removal of the limitation of liability encourage or give anyone the opportunity to bring additional lawsuits against nuclear energy plants? It seems to me it would have exactly the opposite effect.

Mr. McCORMACK. I do not agree. The Bingham amendment, as constructed, as I understand it, would allow endless lawsuits by people with imagined ills. I recently read of a college professor who insisted that crime was created by nuclear powerplants. I believe the evil in this amendment is that it would invite such persons to bring lawsuits against nuclear powerplants.

Mr. SEIBERLING. If the gentleman will yield further, I do not see how a lawsuit can be brought, unless there is a nuclear accident.

Mr. WIRTH. Mr. Chairman, it is time that we lift the Federal limit on the nuclear industry's liability for harm arising from nuclear accidents and require the industry to accept full financial responsibility for its acts.

When the Price-Anderson Act was passed 20 years ago, atomic energy was a new and unproven technology. Since the risks involved in nuclear power were uncertain, Congress placed a ceiling on the industry's liability to remove a possible deterrent to nuclear development.

Today, the nuclear industry is no longer a fledgling industry but a burgeoning $80 billion giant, with 56 nuclear reactors in operation and plans to construct nearly 100 more. Moreover, nuclear power has been demonstrated to be safer and less risky than the chemical, explosives, and airlines industries, all of which are fully liable to the public for catastrophic accidents which may occur.

Mr. Chairman, as one who believes strongly in our free enterprise system, I think the nuclear industry should be subject to the same market pressures as other hazardous industries for which no Government insurance subsidy is provided. Private utilities should be fully responsible for their acts, as are the air travel and chemical industries.

Immunity from full liability, in my view, can no longer be justified. The two reasons for originally enacting Price-Anderson—to stimulate nuclear growth and to protect the nuclear industry from uncertain risks—no longer exist. By every measure, nuclear power has come of age.

In addition, there is a growing concern on the part of the American public that institutions, both governmental and nongovernmental be accountable for their acts. Making the nuclear industry fully responsible for all the damages and injuries that it may cause, goes a long way toward this end.

I would hasten to add that these judgments are not mine alone. They reflect the views of a large number of people in the Second District of Colorado, of a broad range of interest groups, and of the Rocky Flats task force, a citizens task force appointed last December by Governor Lamm of Colorado and myself to study the operations at the Rocky Flats plutonium facility in my district.

In its final report, issued in October, the task force recommended:

> The Price-Anderson Act should be repealed and replaced with a nuclear industry liability act which requires contractors and licensees to bear the risk of doing business in the industry and to obtain and maintain their eligibility for adequate insurance without limits of liability. Strict liability on the part of the contractor or licensees should be provided for by Federal law in the event of accidents which cause any injury or damage to persons or property not employed by or owned by the government or the contractor/licensee. A reasonable statute of limitations, not unrealistically short, should be provided. Waivers of all defenses including sovereign immunity must be the condition of all contracts and licensees in this field. All distinctions under existing legislation should be eliminated between different kinds of incidents and administrative discretion by Government agencies should be prohibited in determining the nature of an incident and scope of liability.

I agree with the task force recommendation that limits of liability should be eliminated and would urge my colleagues to support the amendment offered by Mr. BINGHAM that would make the nuclear industry fully responsible for its acts.

Mr. DRINAN. Mr. Chairman, I rise in strong opposition to the Price-Anderson Act, H.R. 8631, which the House is presently considering today. I believe that the time has come for the nuclear industry to stand on its own, and to sever the Federal Government's longstanding umbilical cord to the nuclear industry. Public utilities have been very persuasive in indicating that nuclear power is safe for widespread energy production—if this is the case, there should be no hesitation on the part of the nuclear industry and the Congress to let the Price-Anderson Act lapse.

It has been nearly 20 years since the Price-Anderson Act first came into being in 1957. At that time, the situation was far different than that which we experience today. Nuclear power generation was a mere fledgling technology, an industry whose potential was promising but whose availability of funds was scarce. In order to encourage the further development of nuclear power, Congress felt that the Price-Anderson Act could be used to both protect the public and remove a deterrent to the private development of peaceful atomic use.

Mr. Chairman, the contrast between the atomic industry in 1957 and that which presently exists in 1975 is truly dramatic. The nuclear industry has become an $80 billion giant, with over 50 reactors in operation in the United States. These reactors contribute nearly 8 percent of the total electrical generating capacity in the United States, and plans are now in existence for more than 70 new facilities being built in the United States in coming years. Consequently, the original rationale for establishing the Price-Anderson Act, the encouragement of a new but promising industry, has literally vanished as the nuclear industry assumes its place alongside of other corporate giants in this country.

The current Price-Anderson Act sets up a two-tier liability system in the aftermath of a nuclear powerplant disaster. The first part of the law provides for an absolute limit on liability, the public being allowed to collect no more than $560 million in damages from the offending utility and the Federal Government. The second major aspect of the Price-Anderson approach divides the $560 million liability between the public and private sectors. In the event of a nuclear catastrophe, the Federal Government would shoulder up to $435 million of the resulting injuries and damages, while the utilities' liability would total no more than $125 million.

Mr. Chairman, the new extension of the Price-Anderson Act, H.R. 8631, has been drafted to refute arguments on one of the two major provisions of the existing legislation. Although the section on limiting absolute liability remains unchanged, H.R. 8631 attempts to deal with the argument that the Government indemnity program is a subsidy of nuclear power. It tries to remedy this situation by inserting a third layer of insurance between the Government and private utility roles outlined above. This new intermediary layer would be another pool of insurance funds put up by the nuclear utilities with contributions made on a per reactor basis.

The new feature in this intermediary arrangement, which is designed to make the Price-Anderson Act more palatable to the Congress, involves the shrinking indemnity of the Government as the nuclear industry continues to grow. The more reactors "on the line," the less the Government will have to pay should a disaster occur. For example, while the Federal share would amount to several hundred million dollars when 50 nuclear power stations are in operation, the Government indemnity is supposed to shrink to nothing when 100 reactors or more are operating.

Despite the inclusion of this new section, Mr. Chairman, I still staunchly oppose the continuation of the whole Price-Anderson rationale. The same basic arguments still ring true. First, the limit on the public's right to fair and compensatory damages in the event of a nuclear accident is totally unconscionable. Second, the Price-Anderson Act still amounts to a Government subsidy to the nuclear industry, long after such financial sustenance should have ceased. And third, the continuation of the act represents a deterrent to a safer nuclear technology.

The limit on tort liability for the injured public should an accident occur is perhaps the most unfair aspect of the Price-Anderson Act. This was one of the primary objections to the legislation when it was first enacted in 1957, and with the tremendous inflationary rate experienced in the last 20 years, the liability limit is even more unjust now. Beyond the $560 million in damages which could be collected from the utilities and the Federal Government, the victims are defenseless, being unable to recover once the initial fund is depleted. The only avenue for these victims would be to appeal to the Government for additional help, regardless of the fact that they might have bona fide claims for damages.

Mr. Chairman, the liability limit is especially inequitable when one considers that the present extension in H.R. 8631 would maintain the same figure of $560 million which was initially agreed upon in 1957. A study completed by the Library of Congress in 1972 estimated that if $500 million was an appropriate amount for the act back in 1957, then the combined effect of larger reactors, inflation and locations nearer to population centers would make minimum indemnity of $2.6 to $3 billion necessary in 1972. But these figures do not even relate to possible damage estimates. The final Rasmussen study indicated that the worst possible nuclear accident would kill a maximum of 3,300 people and result in property damage of $14 billion. Even the old Atomic Energy Commission admitted that the $560 million limit was ridiculous. An appropriate figure which AEC officials discussed as early as 1964 suggested that $22.4 billion would be more in keeping with actual estimates.

I have come to the conclusion that the entire concept of a liability limit must be scrapped. No other industry receives such blanket protection from the Federal Government, even though the risk of catastrophic accidents is much higher in other fields, as in the chemical, explosives and airlines industries. The notion runs contrary to our established system of jurisprudence, and it is my belief that this aberration ought to be stricken from the law. Consequently, I fully intend to support the Bingham amendment to H.R. 8631 which would eliminate the third-party tort liability limit in the proposed legislation. Numerous environmental groups, in addition to organizations such as the New England Fuel Institute, support this amendment.

My second objective to H.R. 8631, Mr. Chairman, involves the Federal Government's continued subsidy to the nuclear industry. As I have mentioned previously, the bill attempts to blunt this criticism by inserting the third layer of insurance into the Price-Anderson equasion, the insurance fund created by assessing the industry on a per reactor basis. This arrangement purports to phase out the Federal Government's commitment and role in nuclear insurance. Yet closer analysis shows that not only is the Government's role unlikely to fade in the near future, but that it will merely abandon its indemnitor status and become a guarantor instead.

In order for the Government's role to disappear in the Price-Anderson scheme, enough nuclear powerplants would have to go into operation in the coming years to pick up the present Government quota of liability. However, we have no way of knowing how soon this transition will take place and how final it will be. Given the number of plants which have been canceled or delayed in the last 2 years, it is quite conceivable that this new plan is merely a smokescreen to allay the very justified fear on the part of Congress that H.R. 8631 will continue the nuclear subsidy for years to come.

Before moving on to the safety issue, I would like to call attention to how the proposed bill will provide for the third layer of insurance. Under H.R. 8631, the insurance layer—in essence a public utility pool—will be filled by the utilities only in the case of an accident. This would mean that in the event of a nuclear catastrophe, each operating reactor facility would be assessed a several million dollar fee. Yet if any of the utilities fail to pay their allocated share, the bill states that the Federal Government will guarantee payment. Thus, the Government role is hardly shrinking. It merely becomes an insuring agent instead of an indemnitor.

Mr. Chairman, my third and final major objection to the Price-Anderson Act centers on the fact that this program is in actuality a disincentive to safety in the nuclear industry. It seems clear that the $560 million limit on liability lessens the incentive of atomic powerplant operators to build and operate facilities at the highest possible standards. This point was doubly underscored by former Atomic Energy Commissioner William Kreigsman. Commissioner Kreigsman said of Price-Anderson:

> Do away with it, and you'd probably see nuclear valves coming off the assembly line in a lot better shape.

The Rasmussen report indicated in great detail the low probability of a major nuclear accident. Compared to other industries and natural disasters, the public is well protected by nuclear safeguards, the report states. If this is, indeed, the case, Mr. Chairman, I would like to know why the same Joint Committee which so enthusiastically recommends Dr. Rasmussen's findings to the public is not similarly persuaded that the nuclear industry should "go it alone." There is an inherent inconsistency to the position, and I think this inconsistency has been allowed to go unnoticed for too long. For it is safety that we are most concerned about, and if the nuclear technology is safe, there should be no hesitation on the part of the industry to finally accept the full responsibility inherent in their undertaking.

In conclusion, Mr. Chairman, I believe that the time has come to end the nuclear industry's dependence on the Federal Government. The Price-Anderson Act was established in 1957 as a temporary measure, and the number of operating nuclear power stations attest to its success in promoting peaceful atomic technology. However, the safety record of the nuclear plants and the fact that the nuclear business is now a multibillion dollar industry clearly indicates that the original rationale for the subsidy has disappeared. Therefore, I oppose H.R. 8631, and I urge the Congress to similarly oppose the extension of this unwarranted measure.

Mr. BEDELL. Mr. Chairman, the Price-Anderson Act was implemented in 1957 for two reasons. First, to insure the availability of funds for the payment of claims to the public in the event of a large-scale nuclear accident. And second, to encourage private industrial investment in the development of nuclear power as an energy source by providing immunity from liability in the event of a nuclear catastrophe. The act was successful in its original intent, and the nuclear industry has grown into an $80 billion reality. Now, however, almost 20 years after the enactment of Price-Anderson, significant questions have been raised about the equity and efficacy of its liability coverage and, indeed, about the validity in the 1970's of the premise on which the act is based.

In studying this issue, I quickly became aware of the inherent paradox of the Price-Anderson debate. The proponents of nuclear power argue how safe today's powerplants are. Yet, at the same time, they insist that the nuclear industry still needs special protection in the form of a statutory limit to public liability in the event of a catastrophic nuclear accident.

A Nuclear Regulatory Commission-sponsored study of nuclear reactor safety, entitled the "Rasmussen Report," highlights this apparent dilemma. This study concludes that the likelihood of a serious nuclear accident with severe consequences for the public is extremely slight, and that the liability coverage provided by Price-Anderson is adequate to cover any "credible" accident which might occur. But it also estimates that damages in the worst possible nuclear accident could run as high as $14 billion—others estimate that damages could exceed that alarming figure by a significant amount. And, in addition, the report does not even address the question of breeder reactors.

In my view, this is a most disturbing prospect, and I believe that it is imperative that the existing statutory ceiling on liability of $560 million be abolished. Under current law, even if the victims were to get only a minimal settlement, Price-Anderson would prevent him from recovering further from the nuclear industry. This situation is simply unacceptable.

Later during this debate, the distinguished gentleman from New York, Mr. BINGHAM, will offer an amendment to H.R. 8631 which would eliminate the current liability ceiling, thus restoring the right to citizens to sue for all compensation in the event of a nuclear powerplant accident. It would, in the process, also provide greater incentive to the industry to manufacture and operate nuclear powerplants as safely as possible. I think that this is a very necessary amendment, and it has my full support.

Yet, it is important to understand that, even if the Bingham amendment is incorporated into H.R. 8631, the question of whether or not the Federal Government, and the American taxpayer, should continue to subsidize the cost of insuring. nuclear development will still remain. This is a highly significant issue.

During my brief tenure in Congress, I have become increasingly concerned about our evident preoccupation with the development of nuclear power as an alternative energy source. One need only look at the proposed Energy Research and Development Administration budget for fiscal 1976 for evidence of this fact. Fifty-six percent of the operating expenditures for direct energy related programs contained in that budget were earmarked for nuclear development, while only 27 percent were targeted for fossil fuels, 6 percent for solar and 2 percent for geothermal. In my judgment, it is imperative that, in this era of energy shortage, we thoroughly investigate a wide range of possible alternative sources, not concentrate primarily on one.

It is clear that Price-Anderson has succeeded in achieving the goal of stimulating the nuclear industry. It is also evident that, in the process, it has made nuclear power look more attractive than it actually is.

I believe that it is time to find out if nuclear fission—given its full cost accounting—does in fact constitute an economically sound, and safe, investment when compared with alternative energy sources. After 20 years of sheltered energy development, it is time for the nuclear industry to enter the free market system and accept full responsibility for its actions.

Mr. Chairman, the Price-Anderson Act was never intended to be permanent. It was designed to be a temporary measure which would tide the fledging industry over until it could stand on its own feet and buy liability coverage in the open insurance market. I believe that that time has arrived. H.R. 8631 continues special treatment for the nuclear industry for an additional 10 years. And, as reported by the committee, it does so without providing adequate protection for the public in the event that a nuclear accident should occur. I cannot support such a bill.

Mr. ANDERSON of Illinois. Mr. Chairman, I have no further requests for time and reserve the balance of my time.

Mr. PRICE. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 11 of the Atomic Energy Act of 1954, as amended, is amended by amending subsections q. and t. to read as follows:

"q. The term 'nuclear incident' means any occurrence, including an extraordinary nuclear occurrence, within the United States causing, within or outside the United States, bodily injury, sickness, disease, or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material: *Provided, however,* That as the term is used by subsection 170 l., it shall include any such occurrence outside the United States: *And provided further,* That at the term is used in subsection 170 d., it shall include any such occurrence outside the United States if such occurrence involves source, special nuclear, or byproduct material owned by, and used by or under contract with, the United States: *And provided further,* That as the term is used in subsection 170 c., it shall include any such occurrence outside the United States or any other nation if such occurrence arises out of or results from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material licensed pursuant to chapters 6, 7, 8, and 10 of this Act, which is used in connection with the operation of a licensed stationary production or utilization facility and/or moves outside the territorial limits of the United States in transit from one person licensed by the Commission to another person licensed by the Commission.

"t. The term 'person indemnified' means (1) with respect to a nuclear incident occurring within the United States or outside the United States as the term is used in subsection 170 c., and with respect to any nuclear incident in connection with the design, development, construction, operation, repair, maintenance, or use of the nuclear ship Savannah, the person with whom an indemnity agreement is executed or who is required to maintain financial protection, any other person who may be liable for public liability; or (2) with respect to any other nuclear incident occurring outside the United States, the person with whom an indemnity agreement is executed and any other person who may be liable for public liability by reason of his activities under any contract with the Commission or any project to which indemnification under the provisions of subsection 170 d. has been extended or under any subcontract, purchase order, or other agreement, of any tier, under any such contract or project.".

SEC. 2. Subsection 170 a. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"a. Each license issued under section 103 or 104 and each construction permit issued under section 185 shall, and each license issued under section 53, 63, or 81 may, for the public purposes cited in subsection 2 i. of the Atomic Energy Act of 1954, as amended, have as a condition of the license a requirement that the licensee have and maintain financial protection of such type and in such amounts as the Commission in the exercise of its licensing and regulatory authority and responsibility shall require in accordance with subsection 170 b. to cover public liability claims. Whenever such financial protection is required, it may be a further condition of the license that the licensee execute and maintain an indemnification agreement in accordance with subsection 170 c. The Commission may require, as a further condition of issuing a license, that an applicant waive any immunity from public liability conferred by Federal or State law.".

SEC. 3. Subsection 170 b. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"b. The amount of financial protection required shall be the amount of liability insurance available from private sources, except that the Commission may establish a lesser amount on the basis of criteria set forth in writing, which it may revise from time to time, taking into consideration such factors as the following: (1) the cost and terms of private insurance, (2) the type, size, and location of the licensed activity and other factors pertaining to the hazard, and (3) the nature and purpose of the licensed activity: *Provided*, That for facilities designed for producing substantial amounts of electricity and having a rating capacity of 100,000 electrical kilowatts or more, the amount of financial protection required shall be the maximum amount available at reasonable cost and on reasonable terms from private sources. Such financial protection may include private insurance, private contractual indemnities, self-insurance, other proof of financial responsibility, or a combination of such measures and shall be subject to such terms and conditions as the Commission may, by rule, regulation, order, prescribe. In prescribing such terms and conditions for licensees required to have and maintain financial protection equal to the maximum amount of liability insurance available from private sources, the Commission shall, by rule initially prescribed not later than August 1, 1976, include, in determining such maximum amount, private liability insurance available under an industry retrospective rating plan providing for premium charges deferred in whole or major part until public liability from a nuclear incident exceeds or appears likely to exceed the level of the primary financial protection required of the licensee involved in the nuclear incident: *Provided*, That such insurance is available to, and required of, all of the licensees of such facilities without regard to the manner in which they obtain other types or amounts of such financial protection: *And provided further*, That the maximum amount of any deferred premium which may be charged following any nuclear incident under such a plan shall be not less than $2,000,000 nor more than $5,000,000 for each facility required to maintain the maximum amount of financial protection. The Commission is authorized to establish a maximum amount which the aggregate deferred premiums charged for each facility within one year may not exceed. The Commission may establish amounts less than the standard maximum premium for individual facilities taking into account such factors as the facility's size, location, and other factors pertaining to the hazard. The Commission shall establish such requirements as are necessary to assure availability of funds to meet any assessment of deferred premiums within a reasonable time when due, and may provide reinsurance or otherwise guarantee the payment of such premiums in the event it appears that the amount of such premiums will not be available on a timely basis through the resources of private industry and insurance. Any agreement by the Commission with a licensee or indemnitor to guarantee the payment of deferred permiums may contain such terms as the Commission deems appropriate to carry out the purposes of this section and to assure reimbursement to the Commission for its payments made due to the failure of such licensee or indemnitor to meet any of its obligations arising under or in connection with financial protection required under this subsection including without limitation terms creating liens upon the licensed facility and the revenues derived therefrom or any other property or revenues of such licensee to secure such reimbursement and consent to the automatic revocation of any license.".

SEC. 4. Subsection 170 c. of the Atomic Energy Act of 1954, as amended, is amended by deleting the phrase "and August 1, 1977, for which it requires financial protection," in the first sentence and substituting therefor the phrase "and August 1, 1987, for which it requires financial protection of less than $560,000,000," and by deleting the date "August 1, 1977" in the last sentence wherever it appears and substituting therefor the date "August 1, 1987".

SEC. 6. Subsection 170 e. of the Atomic Energy Act of 1954, as amended, is amended by deleting the phrase "until August 1, 1977," in the first sentence and substituting therefor the phrase "until August 1, 1987,".

SEC. 6. Subsection 170 e. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"e. The aggregate liability for a single nuclear incident of persons indemnified, including the reasonable costs of investigating and settling claims and defending suits for damage, shall not exceed (1) the sum of $500,000,000 together with the amount of financial protection required of the licensee or contractor or (2) if the amount of financial protection required of the licensee exceeds $60,000,000, such aggregate liability shall not exceed the sum of $560,000,000 or the amount of financial protection required of the licensee, whichever amount is greater: *Provided*, That with respect to any nuclear incident occurring outside of the United States to which an agreement of indemnification entered into under the provisions of subsection 170 d. is applicable, such aggregate liability shall not exceed the amount of $100,000,000 together with the amount of financial protection required of the contractor.".

SEC. 7. Subsection 170 f. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"f. The Commission is authorized to collect a fee from all persons with whom an indemnification agreement is executed under this section. This fee shall be $30 per year per thousand kilowatts of thermal energy capacity for facilities licensed under section 103: *Provided*, That the Commission is authorized to reduce the fee for such facilities in reasonable relation to increases in financial protection required above a level of $60,000,000. For facilities licensed under section 104, and for construction permits under section 185, the Commission is authorized to reduce the fee set forth above. The Commission shall establish criteria in writing for determination of the fee for facilities licensed under section 104, taking into consideration such factors as (1) the type, size, and location of facility involved, and other factors pertaining to the hazard, and (2) the nature and purpose of the facility. For other licenses, the Commission shall collect such nominal fees as it deems appropriate. No fee under this section shall be less than $100 per year.".

SEC. 8. Subsection 170 i. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"i. After any nuclear incident which will probably require payments by the United States under this section or which will probably result in public liability claims in excess of $560,000,000, the Commission shall make a survey of the causes and extent of damage which shall forthwith be reported to the Joint Committee, and, except as forbidden by the provisions of chapter 12 of this Act or any other law or Executive order, all final findings shall be made available to the public, to the parties involved and to the courts. The Commission shall report to the Joint Committee by April 1, 1958, and every year thereafter on the operations under this section.".

SEC. 9. Subsection 170 k. of the Atomic Energy Act of 1954, as amended, is amended by deleting the date "August 1, 1977" wherever it appears and substituting therefor the date "August 1, 1987".

SEC. 10. Subsection 170 o. of the Atomic Energy Act of 1954, as amended, is amended by adding at the end of the second sentence in subparagraph (3) the words "and shall include establishment of priorities between claimants and classes of claims, as necessary to insure the most equitable allocation of available funds.".

SEC. 11. Section 170 of the Atomic Energy Act of 1954, as amended, is amended by adding subsection p., to read as follows:

"p. The Commission shall submit to the Congress by August 1, 1983, a detailed report concerning the need for continuation or modification of the provisions of this section, taking into account the condition of the nuclear industry, availability of private insurance, and the state of knowledge concerning nuclear safety at that time, among other relevant factors, and shall include recommendations as to the repeal or modification of any of the provisions of this section.".

Mr. PRICE (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: On page 2, line 11, after the word "outside", insert "both".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: On page 2, line 12, strike the word "or" and insert "and".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: On page 2, line 17, strike "and/or" and insert "or which".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: On page 3, line 4, after the comma insert the word "and".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 5, line 7, strike "August 1, 1976," and insert, "Twelve months from the date of enactment of this Act,"

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 5, line 18, strike "maximum amount of any" and insert "standard".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 5, line 23, strike "protection" and insert "protection: *And provided further*, That the amount which may be charged a licensee following any nuclear incident shall not exceed the licensee's pro rata share of the aggregate public liability claims and costs arising out of the nuclear incident. Payment of any State premium taxes which may be applicable to any deferred premium provided for in this Act shall be the responsibility of the licensee and shal not be included in the retrospective premium established by the Commission."

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 6, line 11, strike "maximum".

The committee amendment was agreed to.

The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 6, line 17, after the word "or" insert "shall".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 7, line 16, strike "SEC. 6. Subsection 170c." and insert "SEC. 5. Subsection 170d."

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 8, line 7, after the word "greater:" insert "*Provided*, That in the event of a nuclear incident involving damages in excess of that amount of aggregate liability, the Congress will thoroughly review the particular incident and will take whatever action is deemed neccessary and appropriate to protect the public from the consequences of a disaster of such magnitude: *And provided further*,".

PARLIAMENTARY INQUIRY

Mr. BINGHAM. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BINGHAM. Mr. Chairman, if this committee amendment is agreed to, will the gentleman from New York—this gentleman—still be in a position to offer an amendment to strike the entire section?

The CHAIRMAN. The gentleman from New York will be advised that his right to offer an amendment will be protected, and he can offer it if the committee amendment is agreed to.

Mr. BINGHAM. I thank the Chair.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 9, line 14, strike "section" and insert "subsection".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the last committee amendment.

The Clerk read as follows:

Committee amendment: Page 10, line 13, strike "funds.' ". and insert: "funds.", and by adding a new subparagraph (4) to read as follows:

"'(4) the Commission shall, within ninety days after a court shall have made such determination, deliver to the Joint Committee a supplement to the report prepared in accordance with subsection 170i. of this Act setting forth the estimated requirements for full compensation and relief of all claimants, and recommendations as to the relief to the provided.'."

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. BINGHAM

Mr. BINGHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BINGHAM: Page 7, beginning with line 21, strike out all down through line 19 on page 8, and insert in lieu thereof the following:

SEC. 6. Section 170 of the Atomic Energy Act of 1954, as amended, is amended by striking out subsection e.

Mr. MOFFETT. Mr. Chairman. I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. A quorum is not present.

The Chair announces that pursuant to rule XXIII, clause 2, he will vacate proceedings under the call when a quorum of the committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

When the point of order of no quorum was made, the gentleman from New York (Mr. BINGHAM) had been recognized for 5 minutes in support of his amendment.

The Chair recognizes the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, the Members will ask: What does this amendment do?

It does just one thing.

It eliminates from the continuation of the Price-Anderson law the absolute limit of liability at $560 million for a nuclear accident. This is the same limit and the same amount that has been in effect for 20 years.

Incidentally, inflation has just about cut the value of that amount in half during that period of time. This bill would extend it for another 10 years, and in that period of time it is all too likely, I am afraid, that the value of that sum will be cut in half again.

I want to emphasize that this amendment does not in any way affect the heart of the Price-Anderson bill, which is the sharing between the insurance companies and the Government of liability—of absolute liability—up to a certain amount. This removes the limit of liability only with respect to normal tort liability beyond $560 million.

When we stop to think about it, it is almost incredible that the law has been in existence for this period of time and has cut off that normal tort liability. In fact, there is a serious question as to whether that is constitutional or not.

One argument I have heard in opposition to my amendment is that the $560 million limit is enough, and the reason for that is that an accident that would cause more damage than that is extremely unlikely. According to the Rasmussen report which has been so much discussed, the chances of a greater accident depending on how one figures the assumptions, are one in a million or one in 10 million. In any event, it amounts to a very, very slight risk. But if the risk is so slight, why should the public bear that risk? Why should the industry not bear that risk?

The second argument that is made against the amendment is really inconsistent with the first argument.

It is that the removal of the limitation on liability will interfere with finances or will interfere with the industry.

As I said before, I am not an opponent of the nuclear industry. Some of those who support this amendment are, but by no means all.

This amendment is supported by the United Auto Workers, United Mine Workers, the California bar, Common Cause, and a number of environmental organizations, and a number of distinguished Members of this body who want to see the nuclear industry continue, but want to see it continue standing on its own feet, the way other industries are expected to do.

Indeed, the other day in the Subcommittee on Energy and the Environment of the Committee on Interior and Insular Affairs, on which I have the honor to serve, we had testimony from a representative of the nuclear industry, who made it quite clear that the big companies are not going to be deterred from going ahead by removing the limitation of liability. He did argue that small suppliers might be deterred.

I think the answer to that is, as the Rasmussen report itself point out, that there are other industries where there are equal risks of catastrophic accidents, the aircraft industry, the chemicals industry, and the explosives industry, for example. In none of these is there a limitation of liability to a certain amount, and yet the major concerns involved work it out so that they can get their suppliers to provide them with parts and whatever is needed. If need be, the major contractors can enter into indemnity agreements. In any event, a limit on liability is not necessary in these other industries, in which, as the Rasmussen report points out, the risks of a major catastrophic accident are just as great as in the nuclear power industry.

Mr. Chairman, this is a mild amendment. This is not, by any means, the end of Price-Anderson. It is not a crippling amendment to Price-Anderson. It does not affect the basic principle of no fault or of quick recovery up to the $60 million, or of the insurance companies taking the load that they can and the Government stepping in after that point and providing indemnity up to $560 million.

The committee has come in with a

proposal so that the industry's share of that will rise and the Government's share will decrease, but always within that $560 million ceiling, and provisions of the bill would not be affected.

Removing the liability limit would provide an additional incentive for safety for the companies that are engaged in this industry. As was pointed out earlier by the gentleman from Wyoming (Mr. RONCALIO), a former Commissioner of the AEC, William Kreigsman, said:

> Do away with it (the liability limit) and you'd probably see nuclear valves coming off the assembly line in a lot better shape.

The CHAIRMAN. The time of the gentleman from New York (Mr. BINGHAM) has expired.

(By unanimous consent, Mr. BINGHAM was allowed to proceed for 2 additional minutes.)

Mr. BINGHAM. Mr. Chairman, this the liability limitations might have been justified when this was an infant industry, when nobody knew what the risks were, when it was just trying to get started; but these are big boys in the industry now and they should be able to stand on their own feet and not say that if the damages from an accident exceed a certain amount, they will only be liable for a set figure so that the people who might be outside the limit in terms of numbers of people or degree of severity of the accident would have no remedy.

It is a very far cry from the free-enterprise system to say that a major industry, which is in the multibillion-dollar category, cannot stand on its own feet, cannot carry the burden of the kind of basic tort liability for its own fault, which would be comprised by lifting the limit on liability.

Whatever the risk is, however slight it is, let the industry carry the risk from now on and not the public.

Mr. MOTTL. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I would be glad to yield to the gentleman from Ohio.

Mr. MOTTL. Mr. Chairman, I thank the gentleman for yielding to me and I would like to associate myself with the remarks of the gentleman from New York and compliment him for the amendment he is offering. I urge my colleagues in the House to join in supporting this amendment.

Mr. Chairman, 20 years ago, the Price-Anderson Act was passed to remove the "roadblock" to the development of nuclear power and to protect the public in the event of a major accident. The truth is, it does not protect the public. It protects the nuclear power industry.

For the past 20 years, the Price-Anderson Act has encouraged the nuclear power industry to make vital decisions without reckoning their full social costs. It has saddled the American people with the burdens of risk and liability.

In the event of sabotage or a major accident, thousands of lives would be lost, and hundreds of thousands of people would lose their homes and belongings. The liability limitation would restrict their compensation to a paltry few cents on the dollar, and force them to go begging to the Federal Government for further relief. Over a year ago, the Ford Foundation's energy report concluded that it is now time for a revision of the Price-Anderson Act to make the marketplace reflect the potential social costs of nuclear power.

It is time for Congress to clearly state that this 20-year-old industry is mature.

It is time for Congress to demand that this $80 billion industry face up to its responsibilities. It is time for the nuclear power industry to stand fully behind its pronouncements to the American people that nuclear power is safe and economical.

Today we have that opportunity, and I strongly urge the adoption of the Bingham amendment.

Mr. BINGHAM. I thank the gentleman for his contribution and for cosponsoring the amendment.

Mr. KOCH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York (Mr. BINGHAM) and if I may have the attention of the gentleman from Washington (Mr. McCORMACK) I would address a question to him.

I have listened to the gentleman's statement. I was impressed with his logic with one exception and that related to his opposition to the Bingham amendment. My impression from his statement is that the gentleman feels that simply by removing the limitation in tort cases where one has to establish liability, that that in some way is going to encourage lawsuits.

Will the gentleman explain to me how removing the limitation will encourage lawsuits?

Mr. McCORMACK. I will try to answer the gentleman if the gentleman will yield.

Mr. KOCH. I would be delighted to yield to the gentleman.

Mr. McCORMACK. As I understand section e, it provides a limit on liability of $560 million, but also provides that the Federal Government will indemnify the program. As I understand it, if this entire section is stricken, then the effect would be to remove this protection that is set by the liability and the indemnity and that this would then have the effect of inviting lawsuits. That is my understanding of the provision.

Mr. KOCH. Mr. Chairman, I am going to rely on the gentleman from New York (Mr. BINGHAM) to clarify that. But what is important is this: Do I understand that the gentleman has no objection to removing any limitation on tort liability so long as that aspect which the gentleman now raises is cleared up? Is that the gentleman's statement to me now?

Mr. McCORMACK. No, it is not.

Mr. KOCH. That is what I want to get to the heart of. It appears that the opposition to the Bingham amendment has nothing to do with the way the language in the amendment reads, it has to do with the fact that the gentleman believes that one ought not to be able to sue for his or her real damages in the event of negligence on the part of nuclear operators, and that there should be some limit on the amount of damages that can be collected. Is that a fair statement of the gentleman's position?

Mr. McCORMACK. The bill provides that until the $560 million is reached from the use of the insurance pool which the utilities buy, and then the obligation that the Nuclear Regulatory Commission would put upon the utilities, the limit would be $560 million. After that time the limit could increase, as the bill points out, and the amount could exceed $560 million. So I have no objection to the total amount increasing above $560 million, when the time arrives. However, I do object to any inference or any provision in the law which invites individual citizens to attempt to institute harassing lawsuits against utilities, especially when they imagine an ill which may not exist at all.

Mr. KOCH. Before I recognize the gentleman from Illinois, a good friend whose logic I value, let me just address myself to the statement made by my other good friend, the gentleman from Washington (Mr. McCORMACK). The gentleman, otherwise logical in his thought processes, is not logical here. Let me tell the Members why. What the gentleman is saying is that if the amount of moneys that go into this fund increases, he has no objection to someone being able to sue and have the limitation set by that fund. But the gentleman from New York (Mr. BINGHAM'S) amendment says, no, that is not what he wants to do. What he wants to do is to provide that if there is an accident and there is negligence involved—we are not now talking about no-fault but where there is negligence established—there should be a limit based on what is in the insurance fund, instead of going after these people who cause the accident, through negligence, to occur, even if it means levying against the nuclear plant itself.

I must say to the gentleman, having practiced law, everybody in this room, if he or she engages in a negligent act and who happens to have liability insurance, and the person who sues suffers an injury which exceeds his liability insurance, is personally liable for the amount awarded above the insurance coverage.

Would the gentleman tell me why if he, the gentleman from Washington, is personally liable for a tortious act on his part above his liability insurance, these nuclear energy plants ought not to be?

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. KOCH. I yield to the gentleman from Washington.

Mr. McCORMACK. It is my belief that the Price-Anderson Acts sets up—and the whole philosophy is to set up—a no-fault strict or absolute liability program, and that this is what we are trying to continue. If there is any nuclear incident, then it is protected under the law. This is what the bill continues.

Mr. KOCH. What the gentleman is saying is that in exchange for no-fault where everybody can collect whether or not they show tortious liability, he is willing to give up for everybody else in this country—not just for the gentleman, but for everybody else in this country—the right to sue for actual damages caused by negligence. I simply do not accept that premise.

Mr. ANDERSON of Illinois. Mr. Chairman, would the gentleman from New York yield?

Mr. KOCH. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. I thank the gentleman for yielding.

I can appreciate the gentleman's concern over the fact that there is a limitation on liability.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. ANDERSON of Illinois and by unanimous consent, Mr. KOCH was allowed to proceed for two additional minutes.)

Mr. ANDERSON of Illinois. If the gentleman will yield further, the simple fact of the matter is that we are trying to balance here the great public interest that we feel does exist in perpetuating a viable nuclear option, and those private interests that might conceivably somehow in the future be affected by this limitation on liability, although the language of the bill on page 8, lines 7 through 12, makes it clear that in the event of an incident involving damage beyond the aggregate amount of liability, the Congress would, in the language of the bill, undertake to thoroughly review the incident and take whatever action is deemed necessary and appropriate to protect the public. We would undoubtedly do what we did in the Texas City case.

Let me point out again that frequently legislatures in the State and legislatures at the national level are called upon to make this kind of decision. We did it in Illinois recently where we passed a law under the medical malpractice law that a $500,000 limitation would be placed on the recovery by an individual where a doctor was negligent.

I think the Congress in essence has done that where we decided that $1 billion in Black Lung payments would not fall on the operating owners of the coal mines, would not come out of their profits; we would take them out of the Federal Treasury. So the balance of public and private interests is what has led us to this particular limitation.

Mr. KOCH. May I respond to the gentleman on that? I understand the gentleman's position, but let me tell the gentleman where I disagree with him. I would rather have a situation develop if we ever came to such a tragedy—which I hope would never occur—where the companies would come in and say to the Congress, "Bail us out," than to have people who have suffered the consequences of a nuclear tragedy come to this Congress and ask for assistance, because my experience is that the energy companies will get better attention from this Congress than the people, unfortunately.

Mr. SEIBERLING. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Bingham amendment.

Mr. Chairman, the issue posed by the Bingham amendment to the Price-Anderson Act is very simple: The act says that if there is a nuclear accident that results in injury to third persons, the persons injured will not be compensated if and to the extent that their total damages exceed $560 million.

This is not a technical question and one does not have to be an atomic scientist or an insurance actuary in order to understand it. It is a question which every one of us can understand and which our constituents can understand. The question is whether individual members of the public are going to be forced to assume most of the risk of a major nuclear accident or whether the nuclear power industry is going to assume the entire risk—except to the extent that the risk is assumed by the Federal Government itself as provided in the act.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Chairman, the gentleman must understand under the provisions of the Price-Anderson as now existing and as it would be if amended and passed by this Congress, that the utility companies, the operators of each of these plants remain under the obligation to go out and buy the maximum amount of public liability coverage that is available from the insurance industry.

Mr. SEIBERLING. I understand that perfectly. I spent hours in the hearings and in other ways studying this question, and the Bingham amendment does not touch that at all. What it does do is remove the ceiling on the industry's liability for damages to the extent total damages exceed $560 million for any one incident.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank the gentleman for yielding.

I am truly puzzled by this. As I read the Bingham amendment, starting with line 21 on page 7, it strikes everything through line 19 on page 8. That is the section limiting liability but also referring to a nuclear incident. By removing any reference to a nuclear incident through passage of the Bingham amendment, would somebody—as was suggested by the gentleman from Washington—be able to sue for the rise in the crime rate on the ground that nuclear plants made people nervous?

Mr. SEIBERLING. One can always sue, the question is, can he collect?

Mrs. FENWICK. Is there any other reference to a nuclear incident remaining in the bill with passage of the Bingham amendment which would confine liability to nuclear accidents?

Mr. SEIBERLING. The bill is replete with references to nuclear incidents and the bill redefines a nuclear incident. All the Bingham amendment does is remove the ceiling on recovery for a nuclear incident. It does not change the law as to what a nuclear incident is or what the recovery should be except as to amount.

Mrs. FENWICK. Would it not be wise to leave in something that one cannot sue except for nuclear incidents?

Mr. SEIBERLING. I cannot yield any more of my time, but the Bingham amendment does not deal with that at all. It neither changes it nor repeals it nor puts anything in its place. That question should be addressed to the authors of the bill.

Mr. Chairman, we have heard a lot about the Rasmussen Committee report. The report estimates that the claims resulting from a major nuclear accident could reach a maximum of $14 billion for a single accident. But unless the Bingham amendment is adopted, the Price-Anderson Act says that, in such event, injured persons could collect only 4 cents on the dollar for their physical injuries, loss of income and damage to their homes, farms, offices, and factories. Nuclear industry spokesmen say that such an accident is highly unlikely, that a person has about the same chance of being injured by such an accident as he does of being struck by a meteorite. They point to the fact that with 56 nuclear powerplants in operation for periods as long as 19 years, the insurance industry has not had to pay one single claim for personal injuries resulting from a nuclear accident.

The Rasmussen report states:

> The likelihood of reactor accidents is much smaller than that of many non-nuclear accidents having similar consequences. All non-nuclear accidents examined in this study, including fires, explosions, toxic chemical releases, dam failures, airplane crashes, earthquakes, hurricanes and tornadoes, are much more likely to occur and can have consequences comparable to, or larger than, those of nuclear accidents.

It further states:

> The possible consequences of potential reactor accidents are predicted to be no larger and in many cases much smaller, than those of non-nuclear accidents. The consequences are predicted to be smaller than people have been led to believe by previous studies which deliberately maximized estimates of these consequences.

For example, the Rasmussen report estimates that the probability of a major reactor accident causing injury to 1,000 or more people is only 1/500 as great as the probability of such an accident in the airline industry. And less than 1/1000 of the probability of such an accident in the chemical industry.

There is a basic inconsistency in the position of those who ask the Congress to continue the limit on liability that was imposed by the Price-Anderson Act 18 years ago. The inconsistency is this: On the one hand, they contend that the atomic power industry is basically safer than the airline industry, the chemical industry and others, and that the chances of large numbers of people being injured by an accident in the atomic power industry are far less. On the other hand, they contend that this industry, unlike any other industry, cannot accept the financial responsibility for such injuries.

There may have been some excuse for such a limit in 1957, when the industry was in its infancy with only one reactor in operation. But today it is an $8-billion-plus industry with over 50 reactors in operation. Is there any valid reason why it should not stand on its own feet the same as other industries, as far as liability for the consequences of its activities is concerned.

Could it be that the nuclear power industry does not believe its own safety claims? Perhaps. The Rasmussen report itself says that—

> The risks had to be estimated, rather than measured, because although there are about 50 such plants now operating, there have been no nuclear accidents to date resulting in significant releases of radioactivity in U.S. commercial nuclear power plants.

Comparing the final Rasmussen report, issued in October of this year, with the draft released by the committee a year earlier, one gets the sense that these estimates are not as solid as we might have been led to believe. In fact, the final Rasmussen report made substantial increases in the maximum consequences in a major reactor accident in every single category. Let me be precise: The estimate of early fatalities in the final report was increased 44 percent over the published draft. The estimate of genetic defects was increased 60 percent. The estimate of property damage was increased 127 percent. The estimates of early illnesses was increased 700 percent. The estimate of decontamination areas was increased 700 percent. The estimate of evacuation areas was increased 800 percent. And the estimate of latent cancer was increased 1,300 percent.

Now it is expected that the industry will have 100 nuclear plants in operation by 1980. With that number of plants, the Rasmussen report indicates that the chance of these maximum consequences occurring in a single year is about 1 in 10 million. And yet the nuclear industry does not want to accept that risk. Rather it wants you to tell your constituents that you have voted to impose that risk on them. This means that, if the risk should materialize, they would have no legal recourse for up to 96 percent of their losses.

There is one other fact that I think you will want to know. A case is now pending in the Federal courts in which a major issue is whether the limitation on liability amounts to a potential deprivation of personal and property rights in violation of the fifth amendment to the Constitution, which prohibits the taking of private property for public use without just compensation. Are we prepared to explain to our constituents why we authorized such legislation if, as it may and, I believe, should, the Supreme Court declares such legislation to be unconstitutional?

Now why, in the face of all this, would this industry have the gall to seek a continuation of this extraordinary legislation transferring the risk from the industry to those who may be injured by the industry. I suppose the realistic answer is: Why not, so long as the industry can get the Congress to relieve the industry of that burden and place it on the public.

It seems clear to me that the proponents of this bill recognize the inherent weakness of their position on this issue, for the bill would add to the present act a proviso which states:

> That in the event of a nuclear incident involving damages in excess of that amount of aggregate liability, the Congress will thoroughly review the particular incident and will take whatever action is deemed necessary and appropriate to protect the public from the consequences of a disaster of such magnitude.

Obviously this language provides no legal protection whatsoever to persons injured as a result of a nuclear accident. Furthermore, it is obviously not binding on any future Congress, and even if it were, it would commit Congress only to do what it deemed necessary and appropriate. If it means any more than that, then I think it is incumbent on the proponents of this legislation to tell us what they think it means and what burdens we would be imposing on the taxpayers and on future Congresses by such an open-ended provision.

Finally, I think I should point out that the public is not nearly as convinced of the safety of the nuclear power industry as the industry or the Rasmussen report indicates. In fact, 18 States—including California, Washington, and Oregon—now have initiative actions going ahead to place on the ballot the question of whether to prohibit building of nuclear powerplants in those States so long as the law limits the liability of the plant operators and builders. If the Congress votes to remove the limit on liability in the Price-Anderson Act, it will be saying to the public: we believe this is a safe industry. If we do not remove the limit, do you have any doubt as to the inferences that will be drawn by the public?

There is another reason why we should remove the limit on the industry's liability, quite apart from fairness to our constituents. That is that, by requiring nuclear utilities and their equipment suppliers to bear the full financial responsibility for their practices and products, we will contribute to making this a safer industry. As former AEC Commissioner Kreigsman said with reference to the limitation of liability:

> Do away with it, and you'd probably see nuclear valves coming off the assembly line in a lot better shape.

Only last week, Mr. Gerald D. Fain, a nuclear power industry spokesman, testified before our subcommittee in defense of the limit of liability, and in effect affirmed Mr. Kreigsman's statement. During the hearing, I asked him the following question:

> If the bottom line of the P&L statement is going to end up in the red unless they make a safe piece of equipment then they are going to do one of two things: Either they are not going to make the equipment or they will make it safe. Would that not be your judgment as a businessman?

Mr. Fain answered:

> I think logic demands that judgment. Yes, sir.

I submit that if the Bingham amendment did nothing else but provide such an additional incentive for safety, it would be a major achievement.

Finally, let me say that the Bingham amendment does not affect any other provision of the act or of the bill. The no-fault and accelerated payments provisions will continue. The Federal Government will continue to provide liability insurance coverage for the difference between the amount covered by the insurance industry and $560 million. But the amendment would recover for our constituents the right to sue for damages in the event the total claims exceed $560 million.

The nuclear power industry says it is a safe industry. The insurance companies say it is a safe industry. Gentlemen, it is time we told them to put their money where their mouth is.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words. I rise in favor of the amendment.

Mr. Chairman, I should like to ask this question of anyone who would answer it. If I or my family am severely injured as the result of a nuclear incident which resulted from negligence and I cannot recover total recompense for my injuries—now, mind you, I had that common law right but for the provision the Bingham amendment removes—what compensation was I paid to give up that common law right? What did I get in trade for it?

Mr. ANDERSON of Illinois. Mr. Chairman, if the gentleman will yield, I tried to answer that question earlier. I do not know whether the gentleman from Texas was on the floor or not, but in colloquy with another Member, I suggest that what we are trying to do in this legislation in providing limits of liability as we do with the liability of the Federal Deposit Insurance Company, as we do in connection with the Illinois Malpractice Act which I mentioned earlier.

Mr. ECKHARDT. I am not really concerned about those. I may be against those acts.

I want to know what do I get from losing my right to recover for my injuries?

Mr. ANDERSON of Illinois. Perhaps the gentleman will be patient with me if I suggest the gentleman is not losing anything very substantial in view of the fact that the author of the amendment does not quarrel with what I said earlier, that the chances of losing one's life are 1 in 5 billion.

There is that suggestion, that this limitation on liability would result in one chance in five billion. I would suggest that the balancing consideration is the feeling of all but two members, at least, of our committee, that we want to provide a continuing and viable nuclear option in his country, and unless we pass this legislation we have been told by the people in the industry that they simply cannot get the plants built.

Mr. ECKHARDT. I think I get the idea of the gentleman from Illinois. It is not acceptable to me that I trade away my commonlaw right, that I would otherwise have, so that the public will obtain certain advantages, the building of nuclear facilities. It seems to me that this is not in accord with our concepts of constitutional right. One is not ordinarily told that society will take away his right and pay the public for it. He trades it away if we pay him for it.

I fail to see how a limitation of liability arbitrarily placed, as this one is with respect to an individual, is adequately paid for by what is considered some type of social advantage. I think that is a very deep and difficult constitutional question.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, I think the gentleman asked a very pertinent question, and I do not believe it has been answered. My understanding is—and I would like to be corrected if I am wrong—my understanding is that the plaintiff need not overcome the fellow servant rule; he need not prove negligence. It is assumed. In other words, negligence is assumed if there is a nuclear holocaust or nuclear accident, and that would be similar to what we have in the case of gas with utility companies in the various States.

Mr. ECKHARDT. Do we have a Federal law of that nature?

Mr. SMITH of Iowa. Yes. In the event of natural gas explosion, one need not prove negligence or overcome the fellow servant rule. There is absolute liability. That is my understanding.

Mr. ECKHARDT. But is there a limitation on the recovery efforts if there is actual negligence in that?

Mr. SMITH of Iowa. Yes, there is.

Mr. ECKHARDT. Is the gentleman sure of that?

Mr. SMITH of Iowa. Yes, I am sure of that.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Except in admiralty law, there is no other industry that has any such limit imposed on it.

Mr. SMITH of Iowa. I have had several accident cases as a plaintiffs' attorney in Iowa, and there is.

Mr. SEIBERLING. I am talking about the monetary limit. As to the waivers that are contained in the law today, this only applies to claims coming within the $560 million limitation. Beyond $560 million, there is no claim allowed, so there is no waiver or anything else, so that the public is not protected.

Actually, two-thirds of the States already have absolute liability laws that cover inherently dangerous operations, so the public is not actually getting anything in return for what it gives up.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for 2 additional minutes.)

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, the gentleman has posed an interesting question which is this, as I understand it: He, as an individual, wants to know what he has been paid or what he is getting individually, he and his family, for giving up this right to recover all the damages that may accrue to him.

Now, I submit that it would be difficult for the gentleman from Texas to begin to advise this body what amount of money this would represent at this time or what it would represent to any other people under these circumstances we are talking about. I think the gentleman raises pretty well an interesting question, one which does not, in my opinion, mitigate the benefits that are in the bill and which would be stricken by the Bingham amendment.

Mr. ECKHARDT. That is precisely why, since we cannot determine now what our right is worth, because we do not know the amount of our injury, why we should not give it up in advance by placing an arbitrary limitation on it. I have a common law right presently to recover against those who trespass against me by their negligence. If I give up that right, I think I am entitled to have something for it.

In many instances, as has been pointed out by the gentleman from Ohio, in many instances States, with respect to tort law, have recognized inherently dangerous situations or situations in which damage cannot be anticipated except by the person who causes it, and the State either established absolute liability or it created a presumption of negligence where damage results in that particular situation.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. SEIBERLING, and by unanimous consent, Mr. ECKHARDT was allowed to proceed for 1 additional minute.)

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

There is another reason for imposing tort liability, full tort liability, on manufacturers of parts and operators of nuclear plants, and that is to give them the maximum incentive to produce the safest possible operation.

In the committee report, the separate views of the gentleman from Wyoming (Mr. RONCALIO) point out that a former AEC Commissioner said that if we do away with the limitation on liability, we would probably see nuclear valves coming off the assembly line in a lot better shape.

We had testimony last week in the Interior Subcommittee by one of the industry spokesman, who in effect said the same thing.

So there is another reason for eliminating this limitation of liability.

Mr. DENT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have been trying to make up my mind as to what my position ought to be on this. There is one thing that we have to recognize, and that is in this bill of nuclear energy there are going to be many, many risks. However, from all of the information that is given to us and that we can learn about, it is a risk we are going to have to take and have the energy required to run this Nation.

We talk about lifting a limited risk. It is not limited, according to the legislation. We still have a right, because the Congress has put it into the bill, to see to it that if that limitation of liability is exhausted, then we would have to take steps to see to it that justice is given to all of those who are damaged.

Mr. Chairman, I read that if one airplane hauling plutonium waste were to explode, there would be as many as 100 million people who could be injured or exterminated. Who in this Chamber is going to tell me how much a kilowatt of electricity is going to cost from a nuclear plant if an unlimited liability of 210 million people is assessed against the producers?

Why do I say that? Because from the complex we are talking about in Pennsylvania, there would not be one person living within the State of Pennsylvania who would not be within a nuclear risk of a nuclear incident.

Let us quit being so impractical. There are risks in everything, and we know that. And just living is a risk, and we have to take it.

If we have some limited risk, it can be tied in, at least to the amount that it will not make the cost prohibitive.

I received a letter from my young sister, just over the weekend, and she deplored the fact that everything we started to do some 35 or 40 years ago was done in high hopes of making things easier and better and how we had somehow gotten ourselves into the position where we just keep adding on and adding on and adding on.

We cannot make the whole world's life a bed of roses. This is a risk we have to take as human beings living in a common fraternity.

We cannot possibly have an unlimited risk and have that risk insured. If it is not insured, where are we going to get the money to build their required power sources?

Even Iran has announced that it will sell all its oil to the United States, Europe, and other industrial areas within 30 years.

The profit, the Shah announced, would be used to build a nuclear power complex to insure Iran with all its energy needs until the end of time.

We are going to buy their oil, burn our energy sources and end up without the only developed energy power equal to our needs, now and in the future.

The situation is that we cannot possibly insure the risk, and if we cannot insure the risk, there is no risk. If there is no risk, no one will get anything.

I have heard this silly idea that we are just hitting at this one area. I hear these ideas coming out as if everybody in the nuclear business were an ogre of some kind and that they are just out to take something from somebody.

Mr. Chairman, I am willing to take my chances if we are going to have a plant built—and we are going to have one very close to my home—because this is for the very future of our Nation. Somebody has to do something.

If this were the case years ago, there would never have been a coal miner willing to go down into the bowels of the earth to get the coal to provide heat for us for all these years. In coal mining there is a limited risk. A miner only receives so much for a broken arm and so much for a death in coal mining. They do not have unlimited liability, and there is not unlimited liability for the damages the gentleman from Texas thinks were done to him. He thinks for the harm that was done here there should be unlimited liability but not for the coal miner.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. DENT. Not at this time.

Mr. ECKHARDT. If the gentleman will yield, I will get him additional time.

Mr. DENT. Mr. Chairman, I would like to finish my presentation.

I cannot understand what we are talking about. Limited risk is always limited risk.

I live in a flood plain. We have had now for many years flood insurance from the Government, but that is limited to how much insurance I can buy. It is not unlimited.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. DENT. Not at this time.

Mr. ECKHARDT. Mr. Chairman, the gentleman used my name.

Mr. DENT. Mr. Chairman, I did not use the gentleman's name. I said, "the gentleman from Texas." If that describes the Member, then he is the gentleman.

Mr. ECKHARDT. That is correct, and not some other Member.

Mr. DENT. Mr. Chairman, I am trying to get this House to start realizing that the people out there are not all fools. They understand what triggers many of us. They understand that most of us would rather be elected than right. "Right" has nothing to do with it, but we have got to be elected. We think everybody has to be a ward of the State or a ward of the Nation and we must protect every little possible thing that can happen to anybody.

This is a nuclear problem, and it demands men and women with courage to take the risks that are necessary any time we start fooling around with the problem of nuclear science.

Mr. OTTINGER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by my distinguished colleague from New York, Mr. BINGHAM, which I am pleased to cosponsor.

What we are talking about with this amendment is nothing less than the fundamental right of Americans to sue and be sued. As you all know, one of the most basic tenets of common law is that one is responsible for the consequences of one's acts. This doctrine has evolved over the last thousand years and it has well served many cultures. But the Price-Anderson Act seriously interferes with this structure by limiting the liability of the nuclear industry to $560 million in damages to third parties caused by an accident at a nuclear powerplant. What this means is, simply, that if an accident does exceed $560 million, the public is left with no recourse.

Who benefits from this? The nuclear industry is absolved from responsibility for its acts. I am sure you have all heard about how remote and unlikely the possibility of accident really is and how in 96 percent of the cases the accident's damages would not exceed the limit. These opinions simply justify support of the main argument in favor of this amendment—if nuclear power is as safe as its supporters claim and these accidents are as remote as the industry alleges, then those who support the Price-Anderson Act should have no qualms about seeing the industry act in a mature, credible and honest fashion by accepting full liability for its actions in building and operating nuclear powerplants.

I would like to point out that, while I assume and hope that the industry acts with vigilance and diligence in assuring safety, I am concerned because the Price-Anderson Act does not differentiate between utilities that are blameless and those that are grossly negligent. It makes no distinction between utilities that are victims of bad luck and those that are guilty of criminal neglect; all are equally absolved from responsibility. Thus, the flexibility of the common law is not permitted to operate.

The unique aspect about this situation is that if the common law were allowed to operate, in most States nuclear power would be determined to be an ultrahazardous activity and hence the utilities would be strictly liable. Thus, while the common law of the States would hold the industry liable for its actions, the Price-Anderson Act enables the industry to escape full liability. Can you go home during the forthcoming recess and tell your constituents that in order to "protect" them, you voted to deny them the right to sue for full damages if they are injured by a nuclear powerplant accident? Can you tell them that you voted to protect the nuclear industry from responsibility for reactors which it insists are safer than taking a bath?

Some have argued that the Price-Anderson Act should be allowed to expire because it deprives the critics of nuclear power of their most formidable argument. I could not agree more. The existence of the Price-Anderson Act is fundamentally inconsistent with every single claim of safety and reliability made on behalf of nuclear power. I would be glad to see it repealed. It is most important that we vote to strike its most outrageous provision—the limited liability—because it would force the industry to come clean with the American people and say: "See, we believe what we say. We stand behind our product. We are willing to back up our claims with our capital resources."

How can the Congress expect our constituents to have confidence in us, not to mention confidence in the nuclear industry or in the Government regulatory commissions, if we persist in retaining this subsidy? If we do not approve the Bingham amendment, we are saying to the American people—yes, nuclear power is safe enough to be propped up by the Federal Government. It is safe enough for you to live near it, but it is not safe enough for the industry that is deriving profits from it to accept responsibility for its dangers. How can we justify such a contradiction in policy?

We are told that if we subject the nuclear industry to the economic pressures of the market system then we are being unfair to it. Americans have always claimed that our market structure provided consumers with the goods and services they have desired. In many cases, undesirable or unsafe technologies die, and better, safer technologies replace them, because of competition within the marketplace. I see no reason why the nuclear power industry should not be reincorporated into our market structure. Through that structure, activities that are too dangerous for society are discouraged because they become too expensive. Dangerous activities are made safer because the practitioners of those enterprises act to make them safer so that they do not suffer the economic consequences of a major accident. This is true in such areas as the airline and chemical industries. Why is nuclear power, which even its proponents agree has the potential for serious harm to the public, so privileged that it is excused from operating under this important market regulator?

The Price-Anderson Act asks the American people to pay for accidents through their tax dollars. It asks them to risk their lives, property and finances without the assurance that, if an accident does occur they will be able to recoup their financial losses. For 18 years the Congress has forced the American people to forgo their constitutional right not to be deprived of property without the due process of law. This was done because America wanted to develop an energy source for the future. Undoubtedly that was an admirable goal. However, we must now realize that the development of this energy source has been artificially hastened. The Price-Anderson Act has led to the construction of nuclear power facilities that, according to the final Nuclear Regulatory Commission-sponsored Rasmussen safety study, could have an accident which would result in 3,300 deaths, 45,000 injuries and $14 billion in damages to the public.

Supporters of the Price-Anderson Act are always quick to remind me that the same report states:

> The results from this study suggest that the risks to the public from potential accidents in nuclear power plants are comparatively small. This is based on the following considerations: (a) the possible consequences of potential reactor accidents are predicted to be no larger, and in many cases much smaller, than those of non-nuclear accidents. The consequences are predicted to be smaller than people have been led to believe by previous studies which deliberately maximized estimates of these consequences.
>
> The likelihood of reactor accidents is much smaller than that of many non-nuclear accidents having similar consequences. All non-nuclear accidents examined in this study, including fires, explosions, toxic chemical releases, dam failures, airplane crashes,

earthquakes, hurricanes and tornadoes, are much more likely to occur and can have consequences comparable to, or larger than, those of nuclear accidents.

Moreover, according to the Atomic Industrial Forum, Inc., a year-long study by the American Physical Society concluded that there are no "reasons for sustantial short-term concern regarding risk of accidents in light water reactors".

These men made their statements sincerely and in good faith. If, indeed, nuclear fission power is as safe as its supporters claim, then the industry should be willing to risk its assets and assume full responsibility. If Price-Anderson's supporters are correct in their belief that fission is safe, clean, and worthwhile, then passage of the Bingham amendment should not deter the nuclear power industry in its drive to increase electrical production from fission. The nuclear power industry is now at least 18 years old—old enough to stand on its own two feet.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Chairman, I will state to the gentleman from New York that if I am not mistaken, the utility that serves probably the largest number, if not all of the consumers in the gentleman's district, reported, as was said earlier, a saving of $60 a year to the utility consumers in that area.

Mr. OTTINGER. That probably is a false figure because it is a subsidized figure, it is not a free enterprise figure.

Mr. ANDERSON of Illinois. Does the gentleman want it to go up?

Mr. OTTINGER. I want the best economic fuel to be used.

Mr. ANDERSON of Illinois. Let me point out to the gentleman from New York that in my earlier answers to that inquiry, and I think I know something about the facts, we had testimony that the cost of nuclear fuel in a reactor used by Commonwealth Edison was 2 mills per kilowatt-hour as compared to 10 mills for those using coal.

In other words, they were paying one-fifth per kilowatt-hour for nuclear fuel what they would be paying for the kind of fuel that the gentleman and the environmentalists want that will not pollute the atmosphere. I would suggest that is the kind of savings that is passed on to the consumers of this country that we ought to be applauding rather than attacking here on the floor of the House today.

Mr. OTTINGER. Of course, one of the bothersome things that the figures that are given out by nuclear proponents are misleading. We cannot compare nuclear fuel costs with coal fuel costs. We have to take into account the huge initial capital costs which the gentleman previously described for construction of nuclear energy versus the relatively minuscule initial cost for building fossil fuel plants, even putting in the precipitators necessary to protect people from coal-fueled pollution, and that is a major difference.

Mr. ANDERSON of Illinois. If the gentleman will yield further, I simply do not understand the gentleman's statement at all, because it is perfectly possible to quantify the differences in cost as far as nuclear fuel and fossil fuels are concerned.

Mr. OTTINGER. That is right—you can quantify the fuel cost differences—but we have also to take into account the costs of raising the capital which are very substantial. In the case of Con Ed, they were forced to admit they did not include the costs of financing construction in their own promotional materials, and I think it is a crying shame to make arguments based on this kind of misleading statistics.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Washington.

Mr. McCORMACK. I thank the gentleman for yielding.

I do not know what Con Ed was, as the gentleman says, "forced to admit," but I will tell the gentleman that every study of every utility in this country shows that where they have fossil and nuclear production, nuclear production is substantially less costly, including all capital and all other costs, and that the ratepayers in this country are saving this year more than $1 billion because of nuclear energy production. This is the saving compared to what that same electricity would have cost if it had been produced by fossil fuel. A large number of these ratepayers are in the gentleman's district.

Mr. OTTINGER. Mr. Chairman, I decline to yield further.

The answer is that those figures are misleading. They do not account for the huge Government subsidy that was made for the development of reactors, and it does not take into account the very thing we are talking about today, and that is that private enterprise is not allowed to operate in this field, and we are subsidizing the cost of insurance.

Mr. McCORMACK. If the gentleman will yield further, that is categorically untrue.

Mr. OTTINGER. If, indeed, the resources are as safe as the gentleman has continually said, then as with all private enterprise, the enterprise should bear the rides.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. SEIBERLING, and by unanimous consent, Mr. OTTINGER was allowed to proceed for 2 additional minutes.)

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

The House Interior Subcommittee on Energy and Environment held hearings on this question last week. We had testimony that if the Bingham amendment passed, it would add, as I recall, an average of one one-hundredth of a mill per kilowatt hour to the cost of electricity generated by nuclear plants, so we are not talking about any insuperable additional costs. We also had testimony by the representative of the insurance industry that if the Bingham amendment, or some similar action amounting to an expression by the Congress that they wanted the insurance industry to increase its participation, they probably would do so.

It really comes down to this—that the nuclear power industry says it is safe, and the insurance industry says it is safe. All the Bingham amendment does is take the industry's assurance at its face value and tell them, "put your money where your mouth is."

Mr. OTTINGER. I think that is what we ought to do. The most convincing evidence that you give nuclear opponents that nuclear energy is not yet safe is your own vote of lack of confidence by proposing the continuation of this legislation.

Mr. McCLOSKEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to start out by expressing my respects to the Joint Committee on Atomic Energy. I think, as much as any other Member of the House, I have reviewed the records and the work of that committee over the years.

However, there is a problem with the extension of the Price-Anderson Act at the present time if the limitation on liability is continued as part of the act. I am not sure that the members of the committee are aware that throughout the United States, and particularly in the State of California, there is a growing movement of public-minded, public-spirited citizens who question whether nuclear power is safe, and I would like to say for the benefit of the gentlemen on the committee that I am one of those who feels that the burden of proof has not yet been met to stop the development of the light water reactor program.

I think the majority of us in the House want to continue the light water reactor program. We may have reservations about the breeders and we may have reservations about the recycling of plutonium, the so-called plutonium economy, but we are running into a very strong argument from our constituents, and that is a very simple one. If the proponents of nuclear power feel it is so safe, why do they insist on limiting the liability for damages to $560 million, with additional increments for new plants that may be constructed?

Frankly, Mr. Chairman, I cannot answer that argument. I have great respect for the craftsmanship of the Price-Anderson extension bill and of the act itself. I think that the idea of giving absolute liability regardless of negligence, the procedure for guaranteeing quick payment, and the ability to consolidate these matters and bring them into one court are all very beneficial. But I think we face the situation under the Rasmussen report that if we have $14 billion in damages arising from an accident, this Congress is going to have to act. We are going to have to take action on any incident between $560 million and $14 billion in potential damage, and we will have to take action similar to that which was provided for the Pennsylvania floods and which has been provided for other natural disasters.

So it is not a very real issue to ask for a limitation on liability and confuse the public by at the same time saying, as proponents of nuclear power, that no citizen has a right to recovery beyond that amount.

Mr. Chairman, I would like to ask the gentleman from New York (Mr. BINGHAM) one question about his amendment. I have prepared a substitute amendment to the Bingham amendment because I was not sure that the Bingham amendment would not impose absolute liability beyond the $560 million.

It seems to me that if we adopt the Bingham amendment, we do not want to impose a new liability or an ultimate, absolute liability, without regard to negligence.

Can the gentleman from New York (Mr. BINGHAM) enlighten me on that point?

Mr. BINGHAM. Mr. Chairman, if the gentleman will yield, I am glad the gentleman raised the question. It is a very good question.

The answer to it is that there would be absolutely no imposition of absolute liability above the limit. The only effect of removing the limit would be to restore the normal tort liability, as governed by the laws of the States.

Mr. McCLOSKEY. The purpose of my substitute amendment was to do precisely that, to leave the law in place at the $560 million, but to allow the citizen his ordinary tort liability above and beyond that amount, fully realizing that that tort liability will probably never come into being because this Congress will act to insure against it in the event of an accident involving damages in excess of $560 million.

At this point I would like to yield, if I may, to the gentleman from New Mexico (Mr. LUJAN) concerning this question because I am speaking to the Members as a proponent of this bill. Yet, I can tell the Members that there is an initiative on the ballot in California that if we maintain a ceiling on liability, the voters of California next June may very well vote not to permit any nuclear plant because they buy the argument that it cannot be safe when the Congress itself is putting a ceiling on liability.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from New Mexico.

Mr. LUJAN. The limitation on liability is absolutely necessary in order to guarantee anyone who has a claim immediate recovery. If we do not change the limit of liability and there is a suit filed for an astronomical amount, then the company simply goes broke. All they have is the $125 million insurance that they can buy, and we are trying to build an orderly process by which people can go to the courts and recover.

Mr. McCLOSKEY. I think that is praiseworthy, but if we just remove the limitation of liability of $560 million, why should that change the citizens' right to immediate recovery, without fault, in a consolidated court action of amounts of up to $560 million?

Mr. McCLOSKEY. Mr. Chairman, I would like to continue and ask the gentleman from New Mexico (Mr. LUJAN) whether he can answer my question on that point.

Mr. LUJAN. If the gentleman will yield, yes; the recovery limitation of $560 million is what guarantees that that person will get the money. If there was not that limitation, then the only limitation on a person's recovering will be that the money will not be there when that person arrives with his claim in hand and with court approval. However, all the money will not be there to pay it.

Mr. McCLOSKEY. The Bingham amendment, as I understand it, does not remove or seek to remove the $560 million of immediate recovery. It seeks only to remove the ceiling.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. Yes, I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Chairman, I want to answer the gentleman's question as to why we need a limitation on liability.

The facts of the matter are relatively simple. The committee favors the capital outlay involved. One of these 1,000-megawatt plants is extremely large, costing between three-quarters and $1 billion. Even if it is short of $5 billion, the financing is not going to be there, and we cannot get the insurance. The financing institutions are simply not going to be willing, in view of the unlimited liability, to provide the funds needed to finance additional units.

Mr. McCLOSKEY. What is the difference between that and the airline industry with respect to their paying beyond the amount for which they are insured?

Mr. ANDERSON of Illinois. Unfortunately, the gentleman was not here earlier—I am sure through no fault of his—when I tried to address myself to that question during general debate.

I pointed out a statement made by a member of the Commission, Mr. Marcus Rowden, that there is a very unique consideration involved in the insurance concepts, which become less valid as the frequency of the events decreases and the potential consequences of these low-probability events increases. It is the consequences that are important.

Someday we may have the case of two airliners colliding over Shea Stadium. In that event the airline industry must and has considered the potential consequences.

Mr. McCLOSKEY. Before we vote on this Bingham amendment, however, we should consider the impact on the public today, where all over the country citizen opposition has arisen to new nuclear construction. Has the committee considered the impact on public opinion regarding the vote in California of saying that yes, we think nuclear power is safe, but we will not let liability go above $560 million? If the committee has not considered that, then I think the bill ought to be sent back for reconsideration.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. McCORMACK, and by unanimous consent, Mr. McCLOSKEY was allowed to proceed for 1 additional minute.)

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I will be glad to yield to the gentleman, but I really would like to know if the committee considered that question of the impact on these pending State initiatives.

Mr. McCORMACK. We have considered this subject in the committee. We have considered the big picture, but we have recognized that there is always a limit on how much liability coverage the insurance companies can or will provide. Therefore, the bill provides for two steps above the $560 million provided by the insurance pool and the Federal guarantee. The first is that, under the provisions of the Nuclear Regulatory Commission, as new plants come on the line, the $560 million total may be exceeded, and grow, perhaps to a billion dollars.

Mr. McCLOSKEY. I might get to $1 billion, but there is a possibility of $14 billion in damages.

Mr. McCORMACK. The odds of a $14 billion accident, the maximum conceivable accident, would be 1 in 1 billion plant-years.

I think we ought to be responsible about this. What we are talking about here with the $560 million accident is with 100 plants on the line, the probability is 1 in 5,000 years. But, with all of these plants on the line, I will point out further to the gentleman——

Mr. McCLOSKEY. If it is 1 billion or half a billion, there isn't that much difference, is there?

Mr. McCORMACK. The point is one has to be realistic about what one can do. There is no point in trying to legislate in the land of make-believe.

The CHAIRMAN. The time of the gentleman has again expired.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to comment on some of the statements and inferences that have been left here to see if I can clear the record. There was some talk in general debate on the effect of oil imports and how the crash program of nuclear plants would replace the current level of oil imports. I would like to point out that Project Independence concluded that building nuclear powerplants would have no significant effect on oil imports.

Second, it has been stated that without the Price-Anderson limitation on liability there would be a tremendously disruptive effect in industry, that Westinghouse and GE and the major manufacturers would not continue to build powerplants. This is directly contrary to testimony before the Warren committee, which is holding initiative hearings in California, where Westinghouse and GE testified that they would continue to build powerplants if the limits are removed.

Third, I would like to say that the nuclear issue is really not before us. The issue before us is if we do have in fact a worthwhile industry with all the economic benefits and low risks which we are told are involved, then why cannot that industry also accept the economic consequences of its technology by accepting full liability?

Now I would like to address some questions to the gentleman from New York (Mr. BINGHAM), the author of this amendment. We have been told that Price-Anderson as amended continues the no-fault protection and the strict liability, that under the act the licensees must accept strict liability and waive any defenses. Is it not correct that this is also true in the amendment offered by the gentleman from New York?

Mr. BINGHAM. If the gentleman will yield, yes, that is correct, my amendment would not affect in any way the provisions for recovery up to $500 million.

Mr. FISH. The Alaska pipeline legislation was cited as an example of where Congress has placed a limitation on strict liability. I ask the gentleman from New York, is it not so that the Alaska pipeline legislation with its limitation on strict liability conceptually is similar to Price-Anderson with the Bingham amendment, that is the plaintiff can sue above the limits?

Mr. BINGHAM. That is correct. The limit stated in the Alaska pipeline legislation has to do with absolute liability only, not tort liability.

Mr. FISH. The claim has been made that Price-Anderson ends Government involvement. It would seem to me all it does is to phase out Government indemnity. It does not end the limit on liability. It just lets the limit float. It sets new limits on liability depending on the magnitude of the development of atomic plants.

Mr. BINGHAM. I would say that such an increase in the $560 million limit is a long way down the road, perhaps 5 or 6 or maybe 8 years away. The insurance industry can push its liability and using the retroactive premium method worked out by the committee can take on a greater share of the load, that will be a gradual process. In the meanwhile, Government participation in the program continues.

Mr. FISH. Finally we have had brought to our attention the removal of the limit of liability would have a disastrous effect on small suppliers in the nuclear field, that they would be assuming large exposure. It would seem to me other industries, such as airlines and chemicals and explosives industries have small suppliers as well which in fact do continue to stay in business and are in business despite the fact that they have extremely high exposure to liability. According to the Rasmussen report the exposure would be 500 times more likely in those industries I enumerated than in nuclear power that there would be an accident killing 500 or more people.

Mr. BINGHAM. That is correct with respect to that size accident, but the Rasmussen report also pointed out in those other industries there is a possibility, however remote, of a catastrophic accident of the order of magnitude we have talked about in the nuclear industry. The gentleman is quite correct that in spite of that possibility of catastrophic accidents in those industries the suppliers continue to supply the parts.

Mr. FISH. I thank the gentleman.

I urge an "aye" vote on the gentleman's amendment.

Mr. LUJAN. Mr. Chairman, I rise in opposition to the amendment.

I want to point out to the membership that in addition to removing the $560 million limitation, the Bingham amendment also does something else.

We carefully, in the committee, chose wording that would show concern in the event of a nuclear disaster. The Bingham amendment would take out this wording. In the event of a nuclear incident involving damages in excess of that aggregate amount of liability the Congress will thoroughly review the particular incident and will take whatever action is deemed necessary and appropriate to protect the public from the consequences of a disaster of such a magnitude.

Now, the Bingham amendment would also take out that wording and do away with the concern that the Congress should show in the event of any nuclear disaster.

Now, let me comment that I do not know what hearing the gentleman from Ohio (Mr. SEIBERLING) was in when the gentleman said that in the hearing that the representatives of the insurance industry said that they would take this action as an indication by Congress to increase the amount of insurance that they could grant to the nuclear industry. I was at that same hearing and I certainly did not gather at all that impression.

Mr. Chairman, I will yield to the gentleman in a minute, but let me read the testimony of the people in the committee. They say:

> In the nuclear industry, there is virtually no spread of risk, and the premium volume is small. For example, there are only 56 power reactors presently insured by the pools for nuclear liability and our premium volume for all of our nuclear liability risks in 1975 is estimated to be $13.9 million.

What they are saying is that unlike the airline industry, where there are so many airplanes to insure, there are only so many reactors to insure; so, therefore, they cannot grant larger insurance even if they had to.

I will say that the gentleman said that they would take it into consideration and perhaps be able to inch it up a little bit but it would certainly be by no means the substantial amount that the gentleman was talking about.

Mr. Chairman, I yield to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, the gentleman from New Mexico is correct. Mr. Senger of the Aetna Life Insurance Co., a vice president and representing the insurance industry, said they felt that 56 reactors was too small a base for what they would normally consider to be a good base for insurance. He also in response to my question said, that if they had 500, that would probably be adequate. Well, they will get 500 eventually But he also said that if the limit of liability were removed that this would be taken as an indication by Congress that they wanted the insurance industry to go farther than they had gone and they probably would under such circumstances. My recollection is that he said they would go as high as double the present insurance.

Mr. LUJAN. No, sir, the only thing would take it into consideration, but I think both the gentleman from Ohio and myself would probably get a "Thank you for your views" letter. "We will take into consideration your request," and which would conclude by saying, "It is not possible to do it."

So I think we ought to take a look at the realities. If they could provide more coverage, they would, and we would have no problem of limitation.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I have looked through the hearings for a clear, specific prediction by the insurance companies of how much the premiums actually would be if the Bingham amendment was passed by the Congress. I did not find that specifically.

At any time in the hearings did the gentleman get the best estimate they had as to what new insurance premiums would have to be paid by the existing nuclear plants?

Mr. LUJAN. No, sir; the only thing they said was that they would probably not be able to grant very much more insurance than what they can issue at the present time.

Mr. HAYS of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have been listening to this debate for a long time. It seems to me what this boils down to, are we going to grant some more protection to the second greatest ripoff outfit in the United States, namely, the electric power companies, the first being the oil companies?

Now, these people have unconscionably increased rates. I have told the Members repeatedly about the American Electric Power Co., how they sold coal to themselves from their own mines for $6.50 a ton, and when the price went up, they charged themselves $26 a ton and passed it right through to the consumer.

Members can go back to their offices and pick up this week's issue of U.S. News & World Report, and at my expense, because I happen to be one of their customers, they have got a full page ad which probably costs $10,000, and it starts out, "Merci, Canada," which is French for "Thank you, Canada."

They are thanking Canada for shutting off our oil because they say that will make us dependent on our own resources more, and we can dig more coal and we can burn more coal and we can produce more electricity.

Last week or the week before they spent God knows how much for a double page ad in the Wall Street Journal saying that they did not want to comply with the antipollution laws. So, they want it both ways. They want it all ways. They want no pollution laws. They do not want any more oil imported from Canada. They want protection in case of nuclear disaster so that nobody can sue them.

I will tell the Members how confident I am about those nuclear plants. If they built one within 50 miles of my place, there would be a big injunction suit, and if I lose it I would move. I do not want one around.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. HAYS of Ohio. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, I would like to associate myself with the gentleman's remarks, and commend him for the thrust of the statement on his position which he has made. I urge adoption of the amendment.

Mr. HAYS of Ohio. I thank the gentleman. I want to say to the Members that I read the stories in the paper in depth about the near-miss that we had not very long ago in a nuclear plant, and I get the distinct impression that the thing would have blown sky-high except for a series of fortunate accidents; that the personnel did not know what to do; they ran around like chickens with their heads cut off, and somebody accidentally happened to turn the right valve or the thing would have gone up as high as the Moon.

I do not know whether it is a safe technology or not, but if it is so safe as these power companies would have us believe, then they ought to stand behind it and be willing to pay if lives are lost, if property is destroyed and if human lives are trespassed against.

They have one at Shippingport, Pa., not very far from the district of my good friend from Pennsylvania (Mr. DENT). There were some people down here lobbying my help to get a four-lane highway built. I do not know what I have to do with that but I said, "if I lived in Shippingport, Pa., I would want a 10-lane highway so that I could get out of there in a hurry, so I will help you any way I can."

But I say to the Members that this is another example of the Congress protecting these ripoff artists where they do not need to be protected. They are making money, and if the nuclear plant will not make them money, let them go back to the coal technology. They can even burn Ohio 4 percent high sulphur coal, and there is technology to clean that up.

I told the Members what some American Electric Power Co. people said when I asked about smoke pouring out of the stacks in my district. They said, "Those precipitators are broken down."

I said, "Don't you fix them when they are broken down?"

They said, "No, we would have to shut the plant down. You would not expect us to do that, would you?"

I said, "Yes, that is what the law says. That is what you ought to do."

I have told the Members about the little town in my district where there are four powerplants discharging pollution in that town, and in that town just breathing—and one cannot live even in that town without breathing—is the equivalent of smoking two packs of cigarettes a day, but will this giant industry, which is literally making millions of dollars, comply with the technology to clean up the air? No; they will not.

Now, they are coming in here and asking us to give them freedom from liability if they build a nuclear plant which does not work. Members can bet their bottom dollars that if they get this amendment, they will be a little more careless about how they construct those plants, and a little more careless about how they operate them than if they knew that if anything goes wrong, they are going to have to pay. Mr. Chairman, I hope the amendment is agreed to.

Mr. PRICE. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. MOFFETT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

MOTION OFFERED BY PRICE

Mr. PRICE. Mr. Chairman, I move that all debate on this amendment and all amendments thereto close in 10 minutes.

The motion was agreed to.

The CHAIRMAN. Members standing at the time the motion was agreed to will be recognized for 30 seconds each.

The Chair recognizes the gentleman from Connecticut (Mr. MOFFETT).

Mr. MOFFETT. Mr. Chairman, I rise in support of the Bingham amendment and congratulate the gentleman from New York for offering it.

The gentleman from Ohio (Mr. HAYS) has just discussed his views on the nuclear industry. I concur with his opinions and would like to add that the people of my State have learned the hard way that the earlier assertions made by the industry regarding nuclear as a cheap source of energy were misleading to say the least. Contrary to what the gentleman from Washington (Mr. MCCORMACK) has stated about evidence that shows nuclear to be cheaper, there is a substantial amount of opinion that refutes such a contention. A New York Times article of November 16, 1975, by David Burnham states that—

> The nuclear dream is clouded by problems, some great, some small, such as the soaring increase in the cost of building reactors to an expected $1,135 per kilowatt in 1985, from $300 per kilowatt in 1972: A growing concern about the problem and costs of protecting reactors and their waste products from sabotage; the rising price of uranium, and a possible requirement of new and expensive safety devices for the Nation's reactors as a result of a fire last spring in a reactor at Brown's Ferry, Ala.

Many experts such as Prof. Irvin C. Bupp of Harvard Business School have questioned the industry's contentions about nuclear power as a bargain for ratepayers. Professor Bupp, in a recent study, stated that—

> We noted a distinct tendency in the nuclear energy literature to underestimate the nuclear power costs, more often than not by simply omitting some costs, or neglecting the potential effects on costs of practical or operational experience such as significantly lower capacity factors than theoretical projections would suggest.

We are discussing here not a helpless, pitiful industry. We are talking about an $80 billion giant that has a proven record of inefficiency, of sweeping the safety problem under the rug, and of looking for Government subsidy to cover up its mistakes.

The writer, Theodore Roszak, has asserted that we should not leave our fate in the hands of the "regime of experts" who tell us that everything will be all right if only we trust them and leave them alone. Even as laypersons on issues like nuclear energy, we must ask questions. That is precisely what so many thousands of conscientious citizens in this country are doing. Not long ago more than a thousand of them held a conference here in Washington. Those of us who took the time to meet with them found most of them to be extremely responsible and dedicated to getting the truth about nuclear power. We found in their midst plenty of scientists as well as generalists. I would urge those who have spoken during this debate as though those who are critical of the nuclear industry are irresponsible and plan on simply harassing the industry to meet with some of these citizens.

But as the gentleman from Washington (Mr. MCCORMACK) who is an expert himself knows, the debate is not confined to laypersons. In fact, within the scientific community itself, there is a ferocious debate about nuclear power.

All that so many thousands of citizens are asking, all that those of us who favor the Bingham amendment are asking is that the joint committee allow that debate to come inside of this House of the people. I might say in that regard that with all due respect to the distinguished chairman, the gentleman from Illinois (Mr. Price), I find it unfortunate that he has seen fit to cut off debate on this vital issue. Today's debate has been good for the House of Representatives, but it should not be artificially ended in this fashion.

On both sides of the debate within the scientific community, there are estimates of what damage might occur from a nuclear accident. Let me say at this point that I do not believe such damage can be accurately calculated in advance. Even the often-discussed Rasmussen study, promoted by the nuclear-oriented AEC, neglected to consider radiation passed on through food and water. It neglected to calculate several other important factors. But in any event, the author of that study, who concluded that the risks involved in nuclear development are worth taking, also concluded that an estimate of damages would be well above $6 billion.

But here we have an arbitrarily set limitation on liability of $560 million. I say that this is unacceptable, not only because it is obviously low, but also because any limitation is unacceptable.

Let us return this matter to the free enterprise system. Let us stop protecting an industry that has itself failed to take adequate steps to protect our constituents. Let us accept this very reasonable amendment which does nothing more than move toward greater assurance of accountability by the industry and justice for our citizens.

(By unanimous consent, Mr. SEIBERLING yielded his time to Mr. ALLEN.)

The CHAIRMAN. The Chair recognizes the gentleman from Tennessee (Mr. ALLEN).

Mr. ALLEN. Mr. Chairman, I rise in support of this proposed amendment. I will say to the Members simply this: If the multibillion-dollar insurance industry is not willing to extend coverage beyond $125 million, and if indeed the power industry, with all of its billions of dollars, is not willing to take the risk involved to cash in on the profits that may be available from nuclear power production, does that not at least suggest that there must be something the public has not heard about the dangers and hazards of these types of nuclear plants?

Mr. Chairman, for that reason, and to protect the consumers, I am going to vote for the amendment.

(By unanimous consent, Messrs. SCHEUER and HARKIN yielded their time to Mr. BINGHAM.)

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, I would like to say a word with respect to the question raised a few minutes ago by my colleague, the gentleman from Pennsylvania (Mr. DENT), concerning risk. The gentleman said that we all have to take risks. Of course, we all have to take risks. But the question in this case is, who should take the risk? Should the risk be taken by the public which has no stake other than its own safety, or should it be taken by the industry? It is as simple as that.

Mr. Chairman, let me just emphasize also that this amendment does not affect the provisions of the Price-Anderson bill with respect to providing for quick recovery up to the $560-million limit. It does not affect the Government's participation up to that amount.

All it does is preserve the right of common law tort above the limit of $560 million. That is all it does. I point out to the gentlewoman from New Jersey that it does not affect any other lawsuits one way or the other. This just involves the right to sue under common law tort for damages over the amount of $560 million.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. Mr. Chairman, I rise in support of the Bingham amendment. Several months ago, during consideration of the ERDA authorization bill, I stood here and cautioned my colleagues about what I considered to be a very ominous signal from the nuclear power industry regarding its commitment to sharing the cost of nuclear energy development. My concern at that time was over the growing unwillingness on the part of private utilities to share the financial risks inherent in the construction of the Clinch River Breeder Reactor Demonstration Plant. It was my feeling then, as it is today, that the concern about mounting cost overruns and other economic problems which have characterized this project and have caused the utilities to demand assurances from the Federal Government that they will no longer be made responsible for any future cost increases, represents a very clear opinion on the part of the private sector as to the commercial potential of this aspect of nuclear energy development.

In my judgment, if a project makes economic sense, private financial support can always be found. It seems to me that if the private sector is now unwilling to support such a project to the extent it has in the past, Congress, too, must exercise the same caution.

Today, once again, we are faced with the same difficult question as we consider extending the Price-Anderson Act: Should we, by sanctioning limited liability on the part of the nuclear industry, force our citizens to bear the human risks of a nuclear powerplant accident when the nuclear power manufacturer is unwilling to bear the financial risks involved in such an occurrence?

The amendments offered by my distinguished colleague from New York, would require the nuclear industry—both the manufacturers and utilities—to accept these risks by ending the limit on liability which is presently set at $560 million.

There have been numerous Government studies which have established that a nuclear powerplant accident could occur that would exceed the existing or proposed limits of liability in the Price-Anderson Act by several billion to tens of billions of dollars.

The results of the recent reactor safety study by the Nuclear Regulatory Commission, commonly known as the Rasmussen report—also strongly argue that the limit on liability should be ended. The Rasmussen report concluded that several other industries including airlines, chemicals, and explosives could have accidents as severe as nuclear powerplant accidents. But none of these industries is artificially protected by a limit on liability. In each of these industries the management has concluded that the chance of a large accident is so small that they simply accept the financial risk.

If the nuclear industry's claims about reactor safety are to be taken seriously, the limit on liability in the Price-Anderson Act must be ended. If nuclear power is less of a risk than these other industrial enterprises, which operate without a liability limitation, why should the liability limit for nuclear power be continued?

When the Price-Anderson Act was enacted in 1956, it was intended to be temporary legislation. As the Joint Committee on Atomic Energy's Price-Anderson committee report stated in 1974—

> The Joint Committee has from the time of the inception of the Price-Anderson Act endorsed the concept of the assumption by the nuclear industry of the risks associated with nuclear accidents.

After 20 years, it is time for the industry to start assuming the financial risks of doing their business. The Bingham amendment requires that the nuclear industry accept these risks by ending the limit on liability. There is simply no existing justification for the Price-Anderson bill's shifting of the risk of loss in a large-scale nuclear accident from the nuclear industry to the victims. I urge you to support this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Chairman, I rise in support of this amendment.

I think it is very important that as we move into alternative sources of energy and away from those of fossil fuels and as we talk about equalizing the cost, we should make sure that we know exactly what the full social cost of nuclear energy is and that the nuclear industry be put in a position to stand on its own feet without the necessity of Government subside as provided by this portion of the bill.

I also believe that if the industry is required to realize the full burden of the risk then greater precaution will be taken to try and make sure that public safety is utmost in their minds as they make the decision to build or not to build nuclear facilities.

I urge passage of the Bingham amendment.

The CHAIRMAN. The Chair recognizes the gentlewoman from California (Mrs. BURKE).

Mrs. BURKE of California, I rise in support of the amendment, and I would like to clarify one matter.

To say that we believe there should be liability for a wrong does not mean we are pro or con on the greater utilization of nuclear energy. This should be clarified, because if there is one issue that is going to be raised again and again throughout this country, as measures are placed before the people to determine what regulations shall be placed on nuclear energy and whether or not there will in fact be nuclear plants allowed in some areas, it is going to be this question of liability. People ask again and again, if there is no danger, why a limit on liability?

Mr. Chairman, if this amendment is not adopted, that question will still have to be answered and will be the greatest impediment to establishment of nuclear plants in many areas of the United States.

Mr. Chairman, new technologies have rarely offered the kind of promise and threat that nuclear energy presents. Today, we are asked to extend for 10 years an act which deals with the consequences of a large-scale nuclear accident. Yet it is a far cry from the kind of protection needed by the public in facing a technology with such destructive potential.

Radioactive emissions, if released by accident, could threaten entire cities.

In Europe, nuclear plants have already been subject to terrorist raids. Nuclear wastes, containing some of the most toxic materials known, pose the unique problem of requiring storage for several hundred thousand years while the radioactivity decays.

In California next June, the voters will be asked to consider these and other awesome issues concerning nuclear energy. Then they will have to reduce their opinions to a simple yes or no to decide whether to establish reviews of nuclear safety systems. Should any of the reviews be rejected by the California legislature, a gradual phaseout of nuclear powerplants will result.

The Price-Anderson Act is an important part of this decisionmaking process. It addresses the basic concern of public safety. Yet the way this bill has been drafted, the nuclear energy industry—potentially one of the most dangerous in history—is granted limited liability for the effects of their technology. Not only is this strange in terms of the risks involved, but it is also strange to those of us who are lawyers.

The trend in recent years in tort liability has been to extend liability to the tort-feasor—in this case, the nuclear power industry. How can we possibly justify limiting liability for such a dangerous technology when we force other high-risk industries like the chemical, explosives, and airline industries to accept full liability? In each of these industries, management has concluded that the possibility of catastrophic accident is so small that they will simply accept the financial risk. Nuclear power proponents tell us that the possibility of catastrophic accident is miniscule. If that is true, then why should they not accept the reasoning of other high-risk industries? Mr. Chairman, I submit that they should, and for that reason urge my colleagues to support the Bingham amendment to H.R. 8631.

(By unanimous consent, Messrs. Bell, Lujan, and Myers of Indiana yielded their time to Mr. Anderson of Illinois.)

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. Anderson).

Mr. ANDERSON of Illinois. Mr. Chairman, it has been suggested that to adopt this amendment removing the limitation of liability that is now existent under the Price-Anderson Act is not an act either for or against nuclear power.

I can only suggest that when the chief representative of the Atomic Industrial Forum, Mr. John Simpson, appeared before our committee a few weeks ago, he said that without the passage of Price-Anderson in its present form, it was impossible as far as he was concerned to assure the committee that rational planning within the industry could continue. So I do not think we should be under any misapprehension today that if we defeat this system that has operated successfully since 1957, we will cease to have planning in the industry.

This is a system under which to date \$10½ million in indemnity fees have been paid into the Treasury of the United States, and not one dime has gone out. We have heard all of this talk about a subsidy to the industry. Not one dime has ever been paid out for a person being injured because of a nuclear plant incident.

Mr. Chairman, there has been no hazard here. There has been no public liability exposure as far as the public is concerned.

I would suggest that we examine what in effect the gentleman from New York (Mr. Bingham) is asking us to do. The gentleman does not quarrel, mind you, with the Rasmussen report. In his opening statement on his amendment he did not quarrel with the Rasmussen report, and that says that with 100 reactors operating, which would be approximately double the number now in operation, one's chance of being injured or killed in a nuclear accident is one in 5 billion.

Despite that, he is not satisfied with the kind of coverage that we are providing, \$560 million.

The CHAIRMAN. The Chair recognizes the gentleman from Washington (Mr. Bonker).

Mr. BONKER. Mr. Chairman, the Price-Anderson Act currently limits liability at \$560 million in the event of a catastrophic nuclear powerplant accident. No one will argue that this represents an artificially low estimate of the potential damages which could result from such an accident. Setting aside the important value based on human lives, AEC-sponsored studies have estimated potential property damage that could result from this kind of accident as high as \$17 billion. The amendment offered by our colleague, Congressman Bingham would merely remove the limit on liability and restore adequate financial protection to the citizens and communities which lie in the potentially destructive path of a major nuclear power accident.

As we approach a vote on this important amendment, there are three relevant questions presented.

The first question is, "Who gets left holding the bag under current law in the event of a nuclear powerplant accident with damages in excess of \$560 million?" The answer is that the victims themselves must bear the loss. They have no other protection. Every homeowners policy contains a specific exclusion in the event of damages resulting from nuclear accidents. Likewise, as we know, the Price-Anderson Act specifically limits the total recovery for all victims at \$560 million regardless of the actual damages incurred and regardless of any negligence by the utilities and reactor manufacturers that may have contributed to such an accident.

The second question is, "Why did Congress take this unusual step in the first place, leaving private citizens without adequate financial protection and without the ordinary recourse found in our judicial system?" We must recall that when the Price-Anderson Act was first enacted in the mid-1950's that the private insurance industry made it abundantly clear that they would not insure these atomic powerplants in view of the fact that there was no experience from which they could make informed judgments about the risks associated with these plants. Moreover, the electric utilities had flatly refused to build these plants without Federal protection in the form of this artificially low limit on liability. As we know, the intent of Congress at that time was to give the nuclear industry time and incentive to generate sufficient experience from which realistic determinations could be made as to the safety and economics of electricity generation through atomic power.

The third and perhaps the most important question is, "Is this Federal protection still necessary and consistent with the original intent of the Price-Anderson Act?" Nearly 20 years have elapsed since Price-Anderson Act?" Nearly 20 years have elapsed since Price-Anderson was first enacted. The industry was given the incentive and has had time to develop experience with nuclear powerplants. In fact, they have done what we asked. At present, there are 56 nuclear powerplants in operation with sufficient experience upon which informed judgments can be made as to their safety and economic viability. The original purpose of the federally imposed limit on liability has been achieved. It is no longer necessary for our citizens to go unprotected from the consequences of a major nuclear powerplant accident.

It is not necessary for us to argue over the future of the nuclear option in debating the Bingham amendment. Passage of the amendment will not bring a halt to the further development of nuclear powerplants. A spokesman for Westinghouse, a major manufacturer of nuclear power reactors, has been quoted as saying that removal of the limitation of liability will not prevent them from continuing to manufacture nuclear power reactors. Passage of the Bingham amendment will merely restore to our citizens their right to compensate and contribute to a realistic assessment of the safety and economics of nuclear powerplants. I strongly urge my colleagues to support this important amendment.

(By unanimous consent, Mr. Maguire yielded his time to Mr. Dingell).

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. Dingell).

Mr. DINGELL. Mr. Chairman, if this nuclear energy program is so good, why must it include limitation on liability of its beneficiaries to sterilize the citizens of their right to litigate damages that they might have suffered as a result of a nuclear explosion?

We in Michigan had one of these plants. It was built without safety certification under the limitation of liability. The authors of the bill want to continue that limitation of liability.

Mr. Chairman, let me read what the Detroit Free Press says on its editorial page:

> Dr. Rasmussen did point out, however, that other high-risk industries—such as chemical firms, explosives manufacturers and airlines—simply assume the chance of a fatal accident is small, and accept the financial risks.
>
> The nuclear industry should do no less.

The New York Times, Mr. Chairman, had this to say:

> Representative Bingham of New York is proposing an amendment to the Price-Anderson Act which would remove the liability limit for nuclear power companies. If the maturing nuclear industry is genuinely confident in its safety assurances, it should willingly accede to the removal of this special protection.

If the public is to be protected, if the beneficiaries of public benificence under statutes to encourage development of nuclear power are to be held responsible, the amendment must be adopted.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. McCLOSKEY).

Mr. McCLOSKEY. Mr. Chairman, I cannot remember more than a handful of occasions in my lifetime when the State Bar of California sent in a resolution on a matter before the Congress.

I just want to read the resolution adopted by the Board of Governors on December 4, 1975.

It follows:

> Acting upon a resolution of the conference of delegates and the recommendation of the Committee on the Environment, the Board of Governors of State Bar of California adopted the following resolution on December 4, 1975:
>
> Be it resolved that the Board of Governors of the State Bar of California hereby recommends to the members of the California congressional delegation that they sponsor or support legislation to remove the present limits of liability contained in the Price-Anderson Act; and
>
> Be it further resolved that the Board of Governors recommends that the Congress carefully consider some appropriate alternative method of allocating the total risk and social costs of the use of nuclear power as an energy source.
>
> BOARD OF GOVERNORS,
> *State Bar of California.*

Mr. Chairman, I urge the adoption of the Bingham amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. YOUNG).

Mr. YOUNG of Texas. Mr. Chairman, we have heard a great deal of confusing debate here today.

Let me remind the membership here that their committee and the Congress have worked for 30 years in perfecting this program and in bringing it to where it is now.

If we vote for the Bingham amendment, we will greatly hamper the development of this program.

To answer those who tell us that we are protecting the power companies, would George Meany and Andy Biemiller be supporting Price-Anderson if this were so.

The CHAIRMAN. The Chair recognizes the gentleman from Washington (Mr. McCORMACK).

Mr. McCORMACK. Mr. Chairman, I want to point out that, contrary to several statements from the floor, there is no Federal subsidy under this program.

Insurance premiums paid by the utilities to the Federal Government exceed $8 million today. To say that there is a subsidy is just simply not true.

What we are trying to do is maintain a program which does not actually have a limit. It will continue to grow about $560 million, under section (e). We believe this to be a responsible program.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. PRICE) to close debate.

Mr. PRICE. Mr. Chairman, what the sponsors of this amendment overlook is the fact that the bill itself contains a provision, one which we think strengthens the bill, which would permit the Congress, if this limitation of $560 million or greater sum is ever reached, to then hold a hearing and make a determination as to whether or not the limitation shall be extended.

If Congress acts favorably at that time, the people who come in late then will have the advantages of the same conditions as those who applied early enough to qualify before the $560 million limitation was ready under the pending amendment. Under this amendment the people will not have that advantage. They will lose no-fault provisions, beyond the limitation of liability.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM).

The question was taken; and on a division (demanded by Mr. BINGHAM) there were—ayes 38, noes 49.

RECORDED VOTE

Mr. BINGHAM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 176, noes 217, not voting 41, as follows:

[Roll No. 747]

AYES—176

Abzug
Addabbo
Allen
Ambro
Ashbrook
Ashley
Aspin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bergland
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bonker
Brademas
Brodhead
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burton, John
Burton, Phillip
Carney
Carr
Chisholm
Clay
Cochran
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Dellums
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Esch
Fenwick
Fish
Fisher
Florio
Ford, Tenn.
Giaimo
Gibbons
Gilman
Gonzalez
Goodling
Green
Gude
Hall
Hamilton
Hannaford
Harkin
Harrington
Harris
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heinz
Holtzman
Howard
Hubbard
Hughes
Hungate
Jacobs
Jeffords
Jordan
Kastenmeier
Keys
Koch
Krebs
LaFalce
Lagomarsino
Lehman
Levitas
Litton
Lloyd, Calif.
Long, Md.
McCloskey
McDade
McHugh
McKinney
Macdonald
Madden
Maguire
Matsunaga
Mazzoli
Meeds
Melcher
Meyner
Mezvinsky
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Morgan
Mottl
Neal
Nedzi
Nolan
Nowak
Oberstar
Obey
O'Hara
Ottinger
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pike
Pressler
Railsback
Rangel
Rees
Rinaldo
Rodino
Roe
Roncalio
Roush
Roybal
Russo
Ryan
St Germain
Sarasin
Sarbanes
Scheuer
Schulze
Seiberling
Simon
Skubitz
Solarz
Spellman
Spence
Stanton, James V.
Steelman
Stokes
Studds
Traxler
Tsongas
Vander Veen
Vanik
Vigorito
Waxman
Weaver
Whalen
Wilson, Tex.
Wirth
Wydler
Wylie
Yates
Young, Fla.
Young, Ga.
Zeferetti

NOES—217

Abdnor
Adams
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Bafalis
Barrett
Bauman
Beard, Tenn.
Bell
Bennett
Bevill
Bolling
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carter
Casey
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Collins, Tex.
Conable
Conlan
Crane
Daniel, Dan
Daniel, R. W.
Danielson
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
English
Erlenborn
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Findley
Flood
Flowers
Flynt
Forsythe
Fountain
Frenzel
Frey
Ginn
Goldwater
Gradison
Grassley
Guyer
Hagedorn
Haley
Hammerschmidt
Hanley
Hansen
Harsha
Hastings
Hawkins
Hefner
Henderson
Hicks
Holt
Horton
Howe
Hutchinson
Hyde
Jarman
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Karth
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Latta
Leggett
Lent
Lloyd, Tenn.
Long, La.
Lott
Lujan
McClory
McCollister
McCormack
McDonald
McEwen
McFall
McKay
Madigan
Mahon
Mann
Martin
Mathis
Michel
Milford
Miller, Ohio
Mills
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nichols
Nix
O'Brien
O'Neill
Passman
Pepper
Perkins
Pettis
Peyser
Pickle
Poage
Preyer
Price
Pritchard
Quie
Randall
Regula
Reuss
Rhodes
Risenhoover
Roberts
Robinson
Rogers
Rooney
Rose
Rostenkowski
Rousselot
Runnels
Ruppe
Santini
Satterfield
Schneebeli
Schroeder
Sebelius
Sharp
Shipley
Shriver
Shuster
Sikes
Sisk
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Staggers
Stanton, J. William
Steed
Steiger, Wis.
Stephens
Stratton
Stuckey
Sullivan
Symms
Talcott
Taylor, N.C.
Teague
Thone
Thornton
Van Deerlin
Waggonner
Walsh
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Winn
Wright
Yatron
Young, Alaska
Young, Tex.
Zablocki

NOT VOTING—41

Andrews, N.C.
AuCoin
Boggs
Bowen
Clancy
Davis
Eshleman
Fithian
Foley
Ford, Mich.
Fraser
Fuqua
Gaydos
Hébert
Heckler, Mass.
Helstoski
Hightower
Hillis
Hinshaw
Holland
Ichord
Krueger
Landrum
Metcalfe
Mikva
Quillen
Richmond
Riegle
Rosenthal
Stark
Steiger, Ariz.
Symington
Taylor, Mo.
Thompson
Treen
Udall
Ullman
Vander Jagt
Wampler
Wilson, C. H.
Wolff

The Clerk announced the following pairs:

On this vote:

Mr. Thompson for, with Mr. Hébert against.

Mr. Stark for, with Mr. Krueger against.

Mr. Rosenthal for, with Mr. Landrum against.

Mr. Wolff for, with Mrs. Boggs against.

Mr. Riegle for, with Mr. Fuqua against.

Mr. Mikva for, with Mr. Bowen against.

Mr. Metcalfe for, with Mr. Davis against.

Mr. MACDONALD of Massachusetts and Mrs. FENWICK changed their vote from "no" to "aye."

Messrs. THORNTON, STEIGER of Wisconsin, ZABLOCKI, and YOUNG of Texas changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT: On page 11, add the following:

SEC. 12. Section 170 of the Atomic Energy Act of 1954 is amended by adding a subsection (q) to read as follows:

(q) (1) Congress finds:

(A) That a limitation of liability on the part of the nuclear power installation creates uncertainty regarding the property values and personal rights of citizens as the result of construction of such nuclear power installations; and

(B) that if such persons are not clearly authorized to resolve such uncertainties by judicial process they may sustain immediate loss in property values and may be denied an opportunity adequately to insure themselves and their property against loss.

(2) Any person may bring a declaratory judgment action in the United States District Court for the District of Columbia not later than 90 days after the effective date of this section to determine the constitutionality of this section or any provision thereof. Any such action shall be heard by a district court of three judges appointed in accordance with 28 USC 2284, and any appeal from a decision of that court shall be directly to the Supreme Court of the United States.

Mr. ECKHARDT. Mr. Chairman, I hope my colleagues will listen closely on this amendment, because I want to assure them all that this amendment does not go back to the last amendment we voted down. But, I think we had very serious discussion on that amendment as to the question of whether or not we may constitutionally take away a common law right to sue beyond an arbitrary statutory limitation. Maybe we can. Maybe the giving of certain absolute liability up to a point is sufficient compensation for taking away full tort liability.

I do not know what the answer to that is, frankly, but there is a grave difficulty in even establishing in advance of the nuclear accident whether such taking is constitutional. That difficulty involves the question of standing in a case in which the injury is possibly remote in time, and it is difficult to distinguish the interest one person from another.

In the first place, one does not know who is going to be injured.

There is presently a case in progress called Carolina Environmental Study Group against U.S. Atomic Energy Commission, Duke Power Co., and others. In that case it is contended that this limitation of liability is unconstitutional. It is contended that forfeiture of legal rights in violation of due process are involved.

Duke Power Co. argues that there is, first, no case or controversy involved. And, of course, if that is true, the Federal courts have no jurisdiction to try it. But, second, it argues that plaintiffs do not have standing to sue.

There is a recent Supreme Court case, *Warth* v. *Seldin*, 95 Supreme Court 2197, a 1975 case. There it is stated—and this is quoted in the brief of Duke Power Co.:

> When the asserted harm is a "generalized grievance" shared in substantial equal measure by all or a large class of citizens, that harm alone does not warrant exercise of jurisdiction.

Mr. Chairman, it is very, very difficult for a plaintiff to come into one of these cases and say, "Look, this statute is unconstitutional," without the court being able to reply: "What is the difference in harm to you and the harm to every other citizen?"

All this amendment does is provide that within the first 90 days after the enactment of the article, any person may bring suit for declaratory judgment contesting the constitutionality of the act. All of the findings clauses in the beginning are simply placed in there in order to establish that the injury is sufficiently immediate, because it has been argued by Duke Power Co. that that case, the Carolina case, is not ripe for review, that nobody has yet been injured. And, of course, nobody will be injured until some possible holocaust occurs in the future. But people are entitled to know what their risks are now. People are entitled to know what the damage may be to their property and what the risk of living in that area are as quickly after the passage of the act as possible. They ought to know how much they ought to insure for. All of these facts should be known quickly.

All this amendment does is recognize standing to bring suit to decide such questions. It does not say that the act is unconstitutional. It merely provides that one can go into court and, on the basis of the present language of this bill, determine whether or not such a limitation is constitutional.

In testimony before one of the committees, Mr. Gerald Vane of the industry organization, AIF, said he would have no objection to such an amendment. And, indeed, how could anybody have an objection to this kind of an amendment which merely assures that the question of constitutionality will be subject to court determination.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(On request of Mr. HALEY, and by unanimous consent, Mr. ECKHARDT was allowed to proceed for 3 additional minutes.)

Mr. ECKHARDT. Mr. Chairman, how could anybody object to an amendment that permits us to decide this tough question of constitutionality, this question of what the risk is to the people involved. If this provision is for some reason unconstitutional, maybe it could be rewritten to make it constitutional? Who could object to a court determination at the outset on that proposition?

So that is absolutely all this does.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I will yield to the gentleman from Colorado.

Mr. EVANS of Colorado. I thank the gentleman for yielding. Mr. Chairman, if the gentleman's amendment is passed, does it mean that within 90 days action can be brought to determine the constitutionality of the limitation on liability portion of the law, or does it also allow one to test the constitutionality of other provisions of the law?

Mr. ECKHARDT. The language is: Any person may bring a declaratory judgment action in the U.S. district court within 90 days after the effective date of this section to determine the constitutionality of any provision thereof.

Mr. EVANS of Colorado. Mr. Chairman, when the gentleman says, "this section" in his amendment, the section the amendment refers to is the limitation of liability section?

Mr. ECKHARDT. The gentleman is correct. That is what it is intended to cover.

Mr. EVANS of Colorado. So that is the section on which the constitutionality would be tested? It is that section and that section alone?

Mr. ECKHARDT. The gentleman is correct.

Mr. EVANS of Colorado. Mr. Chairman, if the gentleman will yield further, the reason I asked the question was that the gentleman was beginning to worry me by what he said about the determination of damages, the determination of values, and the determination of how much insurance one could get. Those questions, I think, would be foreign to the issue of constitutionality on the question of this limitation.

Mr. ECKHARDT. Mr. Chairman, I see the gentleman's concern. This amendment does not address itself to those matters.

Mr. EVANS of Colorado. Mr. Chairman, I have no objection at all to the gentleman's amendment.

Mr. ANDERSON of Illinois. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we have just succeeded in defeating, by a fairly substantial margin, an effort to lift the liability limits that are now imposed under the Price-Anderson Act. We have now an amendment offered by the gentleman from Texas (Mr. ECKHARDT) that would involve us in a sea of litigation.

The gentleman from Texas very airily asks the question: How could anyone possibly object to giving to a court the right to undertake to decide what the risk is to people involved? The gentleman seems to imply thereby that we are launching on some new, untried, totally unique system of jurisprudence in this country when we impose limitations on liability.

Mr. Chairman, we have the workmen's compensation statutes. We have limitations on liability in maritime laws for shipowners. We have the Warsaw Convention limiting liability of air carriers in international flights. We also have the example that I cited in the law that passed in my own State legislature a few weeks ago imposing a limitation of liability in malpractice suits. The law is replete with examples of this kind. There is nothing constitutionally unique about the limitation imposed by this statute.

But I think an even more important point that I would make in arguing against the gentleman's amendment is that the very fact that we have imposed a limit on liability under the Price-Anderson Act came about because we wanted to provide a means of avoiding the claims administration difficulties that have occurred with past disasters. We do that by providing a point at which the Congress would have an opoprtunity to further assess the situation and devise the means for further payment of claims.

We do that, as the vice chairman of the committee pointed out earlier, on page 8 of the bill, in lines 7 through 12, where we provide—

> that in the event of a nuclear incident involving damages in excess of that amount of aggregate liability, the Congress will thoroughly review the particular incident and will take whatever action is deemed necessary and appropriate to protect the public from the consequences of a disaster of such magnitude.

Of course, we cannot bind future Congresses, but I can tell the House that this Member—and I think I speak for the vice chairman and for every member of this committee—will be one of the first ones into the well of this House calling on this Congress to protect the public in the event that we should ever have that maximum credible accident that exceeds the aggregate limits of liability that are imposed by this statute.

What we have done, in other words, by the design of this statute is to avoid what happened, for example, in the Texas City case. I think it was more than 10 years after that terrible, terrible disaster before the claims were finally settled and before the Government stepped in to try to do something because of the multiplicity of lawsuits that were filed under the tort law of the various jurisdictions involved.

In this case we provide no-fault liability on the part of the Federal Government up to the $560 million limit. We provide for a consolidation of claims in a single Federal district court. We even provide for emergency assistance to be paid out, even in advance of the adjudication of those claims, in the event that it is necessary.

Mr. Chairman, we have done all of these things, I think, to try to reassure the people of this country that we have given them a legal regimen under which they can expect prompt, fair, just compensation for any public liability claims that they may make, and to substitute now a provision that is simply going to lead to further litigation is not right. As the gentleman points out in his amendment, 90 days after the effective date of this section, then it is heard by a district court of three judges, and then it may be appealed to the Supreme Court of the United States.

In other words, Mr. Chairman, we are going to plunge this area into further legal uncertainty for whatever length of time all of that process may take, and I can see it taking up to at least a year or 18 months.

Mr. Chairman, if the Committee on the Judiciary of the House wants to undertake a review of this whole area and of what should or should not be justifiable claims, then I say let the Committee on the Judiciary work on that matter, hold hearings, report out a bill, and we will consider it. However, to try to tack on the gentleman's amendment at this 11th hour I think is to frustrate rather than to do anything to really implement the clearly defined effort of this statute to protect the public interest.

Mr. HUNGATE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I can only say, in response to the gentleman from Illinois (Mr. ANDERSON), that some of my happiest hours have been spent on a sea of litigation.

I think that the amendment is not as harmful as claimed. Ninety days is the time in which action is to be taken or one cannot bring a suit. If everybody rushes out to bring a suit, the suits can be consolidated so that there will not be a plethora of them cluttering up the courts.

Mr. Chairman, I would suggest that the constitutionality is questionable until it is settled. The issue of "standing to sue" can be clarified here.

The gentleman cites analogous situations in other industries, but in those we are dealing with workmen's compensation, while labor unions and so forth which can test it at an early hour or with the Warsaw Convention airlines can test it. This nuclear field is an area where we cannot tell who should test the law.

I have some feeling, since one of these plants is to be given to my district, that maybe we should all test it.

I have a concern about it because I am not sure what that statement, "Congress will thoroughly review" means exactly. If we had damages that exceeded the limitation of the $560 million, I do not know whether they would divide the money if it is 10 times that great a loss or if the first group of claimants for $500 million gets paid and the rest of them do not. However, Mr. Chairman, I have a picture of the Congressmen explaining the law with respect to how this is all going to be thoroughly reviewed. It is something like W. C. Fields giving you a hearty handshake.

I have great concern about the possible limits of damage and what the risks are statistically. If they are low statistically, I do not understand why everyone is afraid to take the risk. I suspect the risks statistically are low. It is somewhat like the case of the man who was 92 years old, who could not get insurance. He said he did not understand why he could not get insurance because statistics would show that fewer people died at 92 than at any earlier age.

I think that is the same risk that we take with this atomic installation.

Mr. Chairman, I would urge the solution proposed by the gentleman from Texas (Mr. ECKHARDT) in this amendment. At least, let us test the validity of this proposal at this time by providing citizen standing to sue so the constitutionality can be settled at an early date.

Mr. BINGHAM. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I was not surprised at the fact that the gentleman from Illinois (Mr. ANDERSON) opposed my amendment. I knew that was his position. But, frankly, I am surprised and disappointed that he objects to the amendment offered by the gentleman from Texas (Mr. ECKHARDT). I believe that we should get an answer on that question as to whether or not a limitation of liability is constitutional, and that we should get it as promptly as possible because there is a serious question about it, and if we do not provide to have a standing to sue for those who want to question the legislation then there is a serious question as to whether or not that question will be solved until, God forbid, there is such an accident. Then we may be sure that there will be a test as to whether this is a constitutional limitation or not.

The question is do we want to answer to the problem on whether this is constitutional now at a time when we can prepare for whatever events will eventuate, or do we want to wait until there is an accident and the liabilities are exceeded?

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I am astounded that the proponents of nuclear power seem determined to resist every effort to strengthen their credibility on this issue.

In 18 States, including my own State of Ohio, there are now initiative actions in process to place on the ballot the question of whether to prohibit any nuclear powerplants in those States until the statutory limit of liability is removed.

There is a lawsuit already pending in North Carolina, as was brought out earlier in the debate, in which the constitutional issue has been raised. The gentleman from Illinois made the point a little earlier, during the debate on the previous amendment, that the nuclear industry could not intelligently plan until this whole question of the limit of liability is settled. It may block new atomic plants in 18 States, and possibly more. Its constitutionality is under legal challenge as long as the lawsuit in North

Carolina is pending. And if that lawsuit is dismissed, there is always the possibility of a later ruling of unconstitutionality, if not before a nuclear catastrophie, then after the fact. Does the gentleman not want that issue promptly resolved?

Mr. ANDERSON of Illinois. Mr. Chairman, if the gentleman will yield, as the gentleman himself just pointed out there is a case pending in the State of North Carolina, the case of Carolina Environmental Study Group versus the AEC, and the amendment of the gentleman from Texas would be interfering with the judicial process.

Mr. SEIBERLING. The defendants in that case are seeking to challenge the right of the plaintiffs to bring their suit because according to the defendants, the plaintiffs lack standing to sue.

Mr. ANDERSON of Illinois. Why does the gentleman assume they lack standing to sue?

Mr. ECKHARDT. If the gentleman will yield, this would not in anyway determine the merits of the case, of the Carolina case, all it would do is be assured that the court would decide its merits and not set it aside for lack of a standing to sue.

Mr. BINGHAM. I thank the gentleman.

Mr. PRICE. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment, not because I am opposed to the substance in the amendment, but because it is a matter I think, since it is pending in court, should be decided by the judiciary first.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 55, noes 55.

RECORDED VOTE

Mr. ECKHARDT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were ayes 161, noes 225, not voting 48, as follows:

[Roll No. 748]

AYES—161

Abzug
Addabbo
Allen
Ambro
Armstrong
Ashley
Aspin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Biester
Bingham
Blanchard
Blouin
Boland
Bonker
Brademas
Brodhead
Brown, Calif.
Burke, Calif.
Burton, John
Burton, Phillip
Carney
Chisholm
Clay
Collins, Ill.
Conte
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
de la Garza
Dellums
Diggs
Dingell
Dodd
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Evans, Colo.
Evans, Ind.
Fenwick
Fish
Fisher
Florio
Ford, Tenn.
Frenzel
Giaimo
Gibbons
Gilman
Gonzalez
Gradison
Green
Gude
Hall
Hamilton
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heinz
Hicks
Holtzman
Howard
Howe
Hubbard
Hughes
Hungate
Jacobs
Jeffords
Jordan
Kasten
Kastenmeier
Keys
Koch
Krebs
LaFalce
Lehman
Levitas
Litton
Long, Md.
McCloskey
McDade
McHugh
Madden
Maguire
Matsunaga
Melcher
Meyner
Mezvinsky
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mottl
Neal
Nolan
Nowak
Oberstar
Obey
O'Hara
Ottinger
Patman, Tex.
Pattison, N.Y.
Pike
Preyer
Rangel
Rees
Rinaldo
Rodino
Roe
Roncalio
Roush
Roybal
Russo
Ryan
St Germain
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Simon
Smith, Iowa
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steelman
Stokes
Studds
Traxler
Tsongas
Van Deerlin
Vander Veen
Vanik
Vigorito
Waxman
Weaver
Whalen
Wilson, Tex.
Yates
Young, Ga.

NOES—225

Abdnor
Alexander
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Archer
Ashbrook
Bafalis
Barrett
Bauman
Beard, Tenn.
Bell
Bevill
Biaggi
Bolling
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carter
Casey
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Crane
Daniel, Dan
Daniel, R. W.
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Downey, N.Y.
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Emery
English
Erlenborn
Esch
Evins, Tenn.
Fary
Fascell
Findley
Flood
Flowers
Flynt
Forsythe
Fountain
Frey
Ginn
Goldwater
Goodling
Grassley
Guyer
Hagedorn
Haley
Hammerschmidt
Hanley
Hannaford
Hansen
Harsha
Hastings
Hefner
Henderson
Hightower
Holt
Horton
Hutchinson
Hyde
Jarman
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Karth
Kazen
Kelly
Ketchum
Kindness
Lagomarsino
Latta
Leggett
Lent
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lujan
McClory
McCollister
McCormack
McDonald
McEwen
McFall
McKay
McKinney
Macdonald
Madigan
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Michel
Milford
Miller, Ohio
Mills
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nichols
Nix
O'Brien
O'Neill
Passman
Patten, N.J.
Pepper
Perkins
Pettis
Peyser
Pickle
Poage
Pressler
Price
Pritchard
Railsback
Randall
Regula
Reuss
Rhodes
Risenhoover
Roberts
Robinson
Rogers
Rooney
Rose
Rostenkowski
Rousselot
Runnels
Ruppe
Santini
Sarasin
Satterfield
Schulze
Sebelius
Shipley
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Nebr.
Snyder
Steed
Steiger, Wis.
Stephens
Stratton
Stuckey
Sullivan
Symms
Talcott
Taylor, N.C.
Teague
Thone
Thornton
Waggonner
Walsh
Wampler
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Winn
Wirth
Wright
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—48

Adams
Anderson, Ill.
Andrews, N.C.
AuCoin
Boggs
Bowen
Broyhill
Carr
Clancy
Conyers
Davis
du Pont
Eshleman
Fithian
Foley
Ford, Mich.
Fraser
Fuqua
Gaydos
Hébert
Heckler, Mass.
Helstoski
Hillis
Hinshaw
Holland
Ichord
Kemp
Krueger
Landrum
Metcalfe
Mikva
Patterson, Calif.
Quie
Quillen
Richmond
Riegle
Rosenthal
Schneebeli
Stark
Steiger, Ariz.
Symington
Taylor, Mo.
Thompson
Treen
Udall
Ullman
Vander Jagt
Wolff

The Clerk announced the following pairs:

On this vote:

Mr. Thompson for, with Mr. Hébert against.

Mr. Symington for, with Mrs. Boggs against.

Mr. Stark for, with Mr. Bowen against.

Mr. Mikva for, with Mr. Davis against.

Mr. Metcalfe for, with Mr. Fuqua against.

Mr. Riegle for, with Mr. Krueger against.

Mr. Rosenthal for, with Mr. Landrum against.

Mr. Conyers for, with Mr. Adams against.

Mr. Wolff for, with Mr. Ichord against.

Mr. DUNCAN of Oregon changed his vote from "aye" to "no."

Mr. BEARD of Rhode Island changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SCHEUER

Mr. SCHEUER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SCHEUER: On uage 1, line 4, after "amending" insert "subsection j as follows and".

On page 1, line 6, before the "q." insert the following:

Subsection j is amended in the first sentence after the phrase "of source, special nuclear, or byproduct material from its intended place of confinement" by adding a comma and inserting "or of such material that is illegally diverted from its intended place of confinement".

On page 2, line 5, substitute a comma for the colon and insert the phrase "including such material that is illegally diverted from its intended place of confinement:".

(By unanimous consent Mr. SCHEUER was allowed to proceed for an additional 2 minutes.)

Mr. SCHEUER. Mr. Chairman, this amendment will simply expand the provisions of the Price-Anderson Act by amending the terms "nuclear incident" and "extraordinary nuclear occurrence" so that it would include accidents resulting from nuclear material that is illegally diverted from its intended place of confinement.

In other words, Mr. Chairman, this amendment would extend coverage to damage done by nuclear theft as a result of terrorism, armed terrorists, domestic terrorists, and organized crime.

Mr. Chairman, the history of recent months and recent weeks is replete with great acts of terrorism abroad and, I am sorry to say, acts of violence and terrorism at home, perpetrating in many cities explosions and bombings of banks, department stores, and the like, and it does not take much imagination to conjure up the horrifying situation we can have in the event of theft by terrorists of nuclear materials.

Mr. Chairman, this amendment would in effect eliminate the loophole in the act which provides adequate coverage only of those injured in the ordinary course of business but which fails to protect those injured as a result of theft of nuclear materials.

Mr. Chairman, this subject has been discussed and studied extensively by the Atomic Energy Commission, and by what is now known as the Nuclear Regulatory Commission. This amendment was passed in the Senate last year, with the approval of the chairman of the Joint Committee on Atomic Energy, Senator PASTORE.

The amendment was guided through the Senate under the able direction of Senator ABRAHAM RIBICOFF of Connecticut. It was deleted in the conference report, and the understanding was that the committee staff would issue a report on this subject, which was released in June 1974. They commissioned a special safeguard study by the Mitre Corp. It is known as the Rosenbaum report. That report read in part as follows:

> The factors involved in preventing the illegal acquisition of special nucelar material and the subsequent manufacture of nuclear weapons have received a great deal less attention than those associated with power plant accidents. The relevant regulations are far less stringent and we feel they are entirely inadequate to met the threat.

This report went on to say:

> The potential harm to the public from the explosion of an illicitly made nuclear weapon is greater than that from any plausible power plant accident, including one which involved a core meltdown and subsequent breach of containment.

Mr. Chairman, the public deserves to be swiftly and adequately compensated in the event of a civilian nuclear disaster, whether accidental or whether criminally provoked. I believe the industry should be equally alert to and be equally held accountable for either contingency.

Mr. Chairman, nuclear theft can be accomplished by the hijacking of a vehicle. It can be accomplished by the armed robbery of a facility and by the diversion by someone on the inside of a plant of nuclear material.

The Nuclear Regulatory Commission, in its report of June 11, 1975, went on to say:

> Price-Anderson probably does not extend to damages emanating from a location remote from a facility or planned transportation route, . . . damage . . . flowing from a successful nuclear theft of nuclear material would not be covered.

The report went on to state that this failure in coverage under Price-Anderson is of great concern because of "increased terrorist activity, public availability of technical information concerning the construction of nuclear bombs; and possible increased use of weapons-grade materials in the fuel cycles associated with nuclear power generation."

The NRC in its report, offered several alternatives to counter this concern. One of them was simply to extend the coverage. My amendment would accomplish this.

In regard to this approach, the report stated:

> The principal advantage of this approach is that it would provide a relatively quick and certain remedy for injured members of the public, at least where the source of the material could be identified with a particular licensee.

Mr. Chairman, there are some disadvantages to my amendment, and the NRC identified them when it said that Price-Anderson protection would not extend to damages where the original source of the nuclear materials could not be identified or where the insurance industry would be unwilling to write policies covering damage from nuclear theft.

However, it is clear to me that if the nuclear industry produced safeguards that were clearly adequate to reduce the risk of nuclear theft and minimize the risk of a nuclear accident, there would not be any question of the willingness of the insurance industry to offer the appropriate insurance coverage. The reluctance of the insurance industry to do so is the clearest indication to date, Mr. Chairman, that the safeguards in the industry are insufficient and incomplete.

Therefore, passage of this amendment would provide a strong incentive to the NRC to update its standards and to the industry to upgrade its safeguards performance. If the safeguards are adequate, then the nuclear industry would only have to pay a very modest premium, something comparable to the modest premium the industry charges for no-fault accident insurance. The industrywide payment for annual premiums now stands at about $8 million.

Mr. Chairman, if the safeguards are inadequate, then the nuclear industry will have to upgrade them to a level acceptable to the insurors or be financially accountable for the private part of its indemnity required under Price-Anderson. If the safeguards against theft cannot be upgraded to satisfy the high standards of the insurance industry, then the nuclear industry should be held financially accountable for its safeguard systems.

Mr. Chairman, I do not think this is an unreasonable burden for the nuclear industry to bear, in view of the clearly unreasonable burden the American people would have to bear as the result of a questionable leaky nuclear security system.

The CHAIRMAN. The time of the gentleman from New York (Mr. SCHEUER) has expired.

(On request of Mr. LUJAN and by unanimous consent, Mr. SCHEUER was allowed to proceed for 1 additional minute.)

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. I am happy to yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, could that be compared roughly to someone stealing my car and killing someone and then I would be expected to be liable for it? Is that rather a good analogy?

Mr. SCHEUER. I would not think so. I think the analogy is transparently silly.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I congratulate the gentleman on his amendment. I think it adds great strength to the legislation. This is a matter that was omitted before, and I hope the amendment will be supported.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Chairman, it may be that the gentleman from New York does not agree with the precise example that was used by my friend, the gentleman from New Mexico (Mr. LUJAN), but is it not true, at least as far as I am aware, that at the Federal level we have not undertaken ever before to impose upon the innocent third parties for the damage done by a criminal who steals the property for the purpose of deliberately misusing it?

This is really a fundamental and far-reaching change in tort law in this country that the gentleman is proposing.

The CHAIRMAN. The time of the gentleman from New York (Mr. SCHEUER) has expired.

(By unanimous consent, Mr. SCHEUER was allowed to proceed for 1 additional minute.)

Mr. SCHEUER. Mr. Chairman, the gentleman may be right that this is somewhat of a departure, but the whole nuclear industry is something of a departure. It takes only 20 pounds of plutonium to make a crude bomb.

Mr. ANDERSON of Illinois. But, Mr. Chairman, if the gentleman will yield further, this is not the kind of uranium that is present in a nuclear reactor. One cannot make bombs from the enriched uranium we find in a nuclear plant. That is only enriched two to three percent, and that is not upgraded material.

One could steal all the uranium he wants to—and he could not because the safeguards, I think, would prohibit that—and still he could not do it.

I do beg of the gentleman not to confuse the RECORD at this point by suggesting that someone could break into a nuclear reactor and steal the fuel and go right out and make a bomb, because he could not do it.

Mr. SEIBERLING. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am a little puzzled by the language in the bill and the Price-Anderson Act that bears on this question.

I would like to ask the distinguished chairman of the committee, the gentleman from Illinois (Mr. PRICE), some questions about it, if I may. On the first page of the bill, the bill repeats the definition of "nuclear incident" that is already carried in the act and makes certain changes in it. However, as I read this bill in connection with that definition, it means that if there is a nuclear incident, which means any extraordinary nuclear occurrence within the United States causing bodily injury, sickness, disease, death, loss of or damage to property, et cetera, and if that incident resulted from the negligence or in some way happened as a result of the failure of the nuclear plant operator to take due care, that that would be recoverable against the operator.

For example, if a criminal gang or a bunch of terrorists seized a nuclear plant, and put in some dynamite charges and blew up the reactor, with the resultant escape of radioactive material over a large area, I can see where the operator of that plant, under existing law, would be responsible. I would like to ask the chairman whether that is correct.

Mr. PRICE. If the gentleman will yield, I anticipated the gentleman's question. If it is to or from the plant, it is covered.

Mr. SEIBERLING. If it was going to or from?

Mr. PRICE. To the plant, to the installation, to the facility.

Mr. SEIBERLING. Does the gentleman say that it would be covered if it was going to or from the plant?

Mr. PRICE. Yes. If the incident occurred on the site, if the removal was into the plant or coming out of the plant on the site of the plant, it is covered.

Mr. SEIBERLING. If the plant was blown up by terrorists, that would be covered too?

Mr. PRICE. Yes.

Mr. SEIBERLING. So that, in an effort to clarify this, am I correct that the amendment of the gentleman from New York (Mr. SCHEUER) would now extend the liability to the materials if they were stolen from the plant?

Mr. SCHEUER. If the gentleman will yield, or from a vehicle transporting it to a place not at the plant and not in the scheduled line of transportation.

Mr. SEIBERLING. Would the liability be that of the plant or of the transporter of the materials?

Mr. PRICE. The liability would be the same as any incident that happened under the coverage of Price-Anderson.

Mr. SEIBERLING. My question would be whether the Price-Anderson Act coverage extends to, for example, the carriers who are transporting materials between two plants.

Mr. PRICE. Yes.

Mr. SEIBERLING. When they are on the open highway, let us say?

Mr. PRICE. Yes; it does. The other feature of the gentleman's amendment is that it involves materials that are not our materials. The question of the source of the material is important.

Mr. SEIBERLING. I would like to ask the chairman one further question: Suppose materials are stolen from a nuclear plant and that they are then blown up in a city some miles away by some terrorists. Is that covered? Who has the liability then under the act?

Mr. PRICE. No; it would not be covered.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. Yes; I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois, Mr. Chairman, I think the gentleman has posed a very excellent example, but as I understand the amendment of the gentleman from New York (Mr. SCHEUER), a plant operator would be liable under the very situation which the gentleman from Ohio has outlined, nuclear materials being diverted to a site somewhere away from the plant and then exploded in some kind of incident that would result in damage.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. Yes, I yield to the gentleman from New York.

Mr. SCHEUER. Mr. Chairman, to answer the statement of the gentleman from Illinois (Mr. ANDERSON) it would, yes, be covered if it could be proved that the materials came from that plant. That is correct.

In the event there were that responsibility, we would soon find that the private nuclear interests would increase the level of their security safeguards far beyond the grossly inadequate level that currently prevails and which the NRC admits are inadequate and which the Rosenbaum report, prepared by the Mitre Corp. by contract with the NRC, states also needs to be substantially upgraded, so that the economic process would soon force them to upgrade and safeguard the standards.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. SEIBERLING was allowed to proceed for 1 additional minute.)

Mr. SEIBERLING. Mr. Chairman, in light of this colloquy which has illuminated the limitations of the present bill with respect to materials that are taken out of a plant, for example, it seems to me that this amendment is very important. The Mitre study which the gentleman from New York has referred to, was authorized by the Congress last year. So it is not just something that has been cooked up by some outside group.

Furthermore, the Congress in the law authorizing this report, required that it be promptly transmitted to the Congress by the Commission. And although I understand that this report was issued several months ago, we still do not have it. Could it be they are waiting until after this bill is enacted?

The report indicates the very serious danger of sabotage by foreign governments, domestic dissidents, organized crime, and terrorist groups. This is a risk that the Rasmussen study did not address itself to and we ought to do something about it.

Mr. McCORMACK. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I have several points that I wish to make. The first is with respect to the comments made by the gentleman from Ohio (Mr. SEIBERLING) to the effect that the Rosenbaum report has been available but was not made available to the Congress. Let me say that the Rosenbaum Report has been available to Congress since June 9. On June 11 the Nuclear Regulatory Commission offered it to the press and public and made it public. It has been available since that time. So there is nothing suspicious, underhanded or secret about the report, as some would like to pretend. The entire report has been available since June.

Second, the report states, quite justifiably, that the nuclear powerplants are not absolutely secure from organized sabotage by paramilitary organizations. They obviously are not, and they were not designed to protect themselves from armed attack by such organizations. We have to do all we can to make them secure, but then nothing is completely secure. For instance, there could be 500 pounds of dynamite under this room at this moment, and none of us would know it. So, we can never be completely secure in anything we do. All we can do is minimize the risk.

The amendment proposed by the gentleman from New York flies in the face of established rules of law. For instance, if someone enters your bedroom and steals your pistol and goes out and commits a crime with that pistol, you are not liable for that crime. However, under the Scheuer amendment, you would be.

In addition, under Price-Anderson the transportation of fuel to and from powerplants is already covered. So all we are talking about that is new in the Scheuer amendment is theft of material, taking it away someplace, and then making it into a weapon. However, this is an exceedingly complex and expensive operation, to make a weapon from nuclear fuel.

As the gentleman from Illinois (Mr. ANDERSON) correctly stated, one cannot use nuclear fuel to fabricate weapons directly. To do so would be extremely complex, expensive, time consuming and dangerous.

Further, there would be no way of determining where nuclear material had originated if it were used in a weapon. It may come as some surprise, but the fact is that there are 426 nuclear powerplants in operation under construction or on order, in addition to those in the United States. Further there are tens of thousands of nuclear weapons that are much more susceptible of theft than any nuclear fuel from a nuclear powerplant.

I also want to point out that in Price-Anderson we not only have coverage of sabotage to nuclear powerplants, but also in the transportation of material to and from such plants. These are already covered under the act. All that is not covered would be the diversion of some material to some other place to make into weapons. Again I say that this is an extremely complicated and terribly expensive process, and I believe that to make the victim of theft guilty for subsequent crimes would be a violation of the principles of law as we know them.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from New York.

Mr. SCHEUER. I thank the gentleman for yielding.

Let me make it clear that if the material sold cannot be traced to a particular source, then my amendment would not cover it. If the materials came from abroad, they would not be covered. If they came from an indeterminate plant, they would not be covered. If there is a theft from a vehicle, or an armed robbery at a powerplant that can be identified, my amendment would cover it. There would still be a small uncovered problem where my amendment would vastly reduce the scale of the uncovered material.

Mr. McCORMACK. I must say, then, that if one grants that there might be a case where one knew from where the material was stolen, making the victim of theft responsible for subsequent crimes would still be a violation of the principles of law, and on this alone I object.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

If one leaves his keys in the car with the motor running and someone steals the car, the owner is legally liable.

Mr. McCORMACK. That is not the situation, as the gentleman knows.

Mr. SEIBERLING. One other question: Has the Mitre report been transmitted to Congress?

Mr. McCORMACK. Yes.

Mr. SEIBERLING. When?

Mr. McCORMACK. In June.

Mr. SEIBERLING. Thank you.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ANDERSON of Illinois. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I want to assure the gentleman now in the well publicly something that I discussed with him earlier when he came to me with his amendment. I said that I would be obliged to support the committee bill and to oppose his amendment if he offered it on the floor today, but that in any event the Nuclear Regulatory Commission is not going to stop with the Rosenbaum report as far as this question of sabotage, theft, and possible diversion of special nuclear materials are concerned. They are mandated to report on or before the 19th of January of next year, to make a new report to the Congress on matters relating to the safeguarding and the protecting of these materials. I am sure that that report is going to provoke additional hearings by the Joint Committee on Atomic Energy. I think that at that time the question of public protection in the event of a nuclear incident produced as a result of a criminal act committed by a third party is the appropriate venue. That is the appropriate time for us to consider what, as I said earlier, really introduced into the law a revolutionary new concept.

I am as concerned as the gentleman now in the well that our committee has to be very, very careful to do its utmost to follow this whole question of possible sabotage and nuclear diversion, and I promise him that when that report is received, I am sure public hearings will be held, and we will be pleased to have the gentleman's testimony at that time and consider the proposition that he has presented today.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from New York.

Mr. SCHEUER. I thank the gentleman for yielding.

Let me say there is no Member in this body for whom I have more affection and high regard than the gentleman from Illinois.

Mr. ANDERSON of Illinois. I am happy to hear that.

Mr. SCHEUER. Having said that, let me say that it is true that the Nuclear Regulatory Commission is concerned with this problem. I am sure they are in the process of developing higher performance standards. I hope the industry is in the process of developing higher standards of performance themselves. Maybe the Nuclear Regulatory Commission will recommend, as many people have discussed, the possibility of a Federal police force to police all nuclear materials. It may be they will come in with some kind of a program with shared insurance.

There are a number of possibilities that they have contemplated in the reporting. I simply am saying that until that is done and until those standards are high enough to pass muster, let the remote possibility—and it is not as remote as the possibility of a nuclear accident at a plant—be covered by the law and let the natural economic forces play.

Mr. ANDERSON of Illinois. I reclaim my time, Mr. Chairman.

For the purpose of reassuring the gentleman, I have in my hand a letter which was sent to the committee, to the Executive Director of the committee, by Mr. Chapman of the Office of Nuclear Material Safety and Safeguards. Let me quote that letter under date of December 8, 1975:

UNITED STATES
NUCLEAR REGULATORY COMMISSION,
Washington, D.C. December 8, 1975.

MR. GEORGE F. MURPHY, JR.,
Executive Director, Joint Committee on Atomic Energy, Congress of the United States.

DEAR MR. MURPHY: This letter provides information you requested in a telephone conversation with Chairman Anders on December 6 concerning two articles which appeared in the November 28 edition of the *Chicago Daily News* on a study performed by the Mitre Corporation. I appreciate the opportunity to comment.

The two articles, inserted in the December 3 Congressional Record by Representative Jonathan B. Bingham, refer to a report submitted to the Nuclear Regulatory Commission by the Mitre Corporation. NRC had contracted with Mitre and a number of other organizations to provide input to a Special Safeguards Study initiated by the Commission as part of its examination of the safeguards aspects of the use of mixed oxide fuel.

One of the two articles in the *Chicago Daily News* related to the possible threat to nuclear facilities from terrorists, and the second article accuses the NRC of suppressing the Mitre study.

With respect to the potential threat, while the Mitre report does indicate the possibility of sabotage by a terrorist group, the sum of the study effort by the NRC staff—involving input from other contractors, as well as in-house study and research—indicates no evidence of increased risk of sabotage at this time, and we feel the present protection arrangements at nuclear facilities in this country are satisfactory. At the same time, the NRC is actively studying a variety of possible changes in physical protection measures that would further reduce the likelihood of sabotage, and minimize the potential risk—as well as the possible damage—from any attempt to sabotage a nuclear facility. The security measures under study would be adequate against speculative threats such as those postulated in the Mitre report.

It is interesting to note the report of another NRC contractor pointed out that "during the 20 years the commercial nuclear industry has existed in the United States and elsewhere, there have been few incidents of violence and none involving a danger to public health and safety."

With respect to the charge of suppression, I would like to emphasize that the NRC has not suppressed this report or any other document associated with our study efforts. We had planned to make public all of the contractor documents associated both with the safeguards study as well as the security agency study (mandated by the Energy Reorganization Act) upon completion of our work on these studies. However, as a result of public interest in these documents, it was decided to release them as they clear classification review. More than 20 such reports now are in our Public Document Room in Washington, and others are being added as they are reviewed. I should point out that the *Daily News* reporter did not contact the NRC before writing the two stories. I am attaching a copy of a letter dispatched today by our Office of Public Affairs to the *Chicago Daily News* editor which provides further details.

I hope this information is helpful. If we can provide anything additional, please let me know.

Sincerely,

KENNETH R. CHAPMAN,
Director, Office of Nuclear Material Safety and Safeguards.

UNITED STATES
NUCLEAR REGULATORY COMMISSION,
Washington, D.C., December 8, 1975.

Mr. DARYLE M. FELDMEIR,
Editor, Chicago Daily News,
Chicago, Ill.

DEAR MR. FELDMEIR: The November 28 edition of the *Daily News* carried two reports by Bob Warden of your staff on a study prepared by the Mitre Corporation under contract to the Nuclear Regulatory Commission.

One of the reports—headlined "U.S. agency suppresses report on atomic industry protection"—contained two errors of fact which subsequently were called to Mr. Warden's attention by our office.

First, the Mitre study was not called for by Congress. It is but one of about 25 reports which will be considered as inputs to a safeguards study initiated by the NRC as part of our analysis of factors relating to the wide-scale use of mixed oxide fuel in nuclear power reactors.

As part of this effort, and to bring to bear as broad a spectrum of thinking as possible, the NRC staff entered into contracts with a number of outside organizations, including the Mitre Corporation. The reports of these organizations, which have been coming in over the last several weeks, are working papers and—along with staff views and information from other sources—comprise inputs to that safeguards study.

Second, these reports were not "suppressed." It had been planned to make the contractor reports public when the safeguards study was completed. However, as a result of wide public interest evidenced by a number of requests, it was decided to put these reports in the NRC's Public Document Room before the final study was completed. Because of the subject matter, they first were reviewed to assure that they contained no classified information. The first 10 of these reports, including the Mitre report, were placed in the Public Document Room on November 28—the same day that Mr. Warden's reports appeared in the *Daily News*. Mr. Warden could have ascertained this by contacting us before he wrote the story. So far as I can determine the *Daily News* made no effort to contact the NRC before publishing Mr. Warden's stories.

I should point out that there is an ongoing related study that was mandated by Congress. This study concerns the need for, and feasibility of, a security agency with responsibility for protecting nuclear materials and facilities. Again, input has been sought from a number of outside organizations and these contractor reports, after classification review, also are being placed in the Public Document Room on the same basis as those prepared in connection with the safeguards study.

We recognize the wide public interest in our efforts to provide adequate protection for nuclear materials and facilities. We are striving to make as much information available to the public as possible, consistent with the requirement to protect classified data. This approach, we feel, is a responsible carrying out of our regulatory task. Because much is at stake in the complex issues which attach to regulating nuclear power, and this agency's credibility is an extremely critical factor, we would hope the press would make every effort to assure accurate reporting on these matters.

Sincerely,

JOHN A. HARRIS,
Director, Office of Public Affairs.

So I assure the gentleman again this is a matter under active concern by the Regulatory Commission and a matter in which this committee takes great interest, and following the January report we will be pleased to have any ideas the gentleman has so we can take care of this problem.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. SCHEUER).

The question was taken; and on a division (demanded by Mr. SCHEUER) there were—ayes 19, noes 69.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. JEFFORDS

Mr. JEFFORDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JEFFORDS: Page 7, line 12, strike out "1987" and insert "1982" in lieu thereof.

Page 7, line 15, strike out "1987" and insert "1982" in lieu thereof.

Page 7, line 20, strike out "1987" and insert "1982" in lieu thereof.

Page 10, line 7, strike out "1987" and insert "1982" in lieu thereof.

Page 11, line 2, strike out "1983" and insert "1981" in lieu thereof.

Mr. JEFFORDS. Mr. Chairman, this amendment obviously only reduces the length of time this bill will be in existence from 10 years to 5 years. I am not offering this just because it is a good idea to try to limit it or as any kind of compromise. I think it makes good sense. This is what the last Congress did. They said: "Let us extend the Price-Anderson Act for only 5 years." That act was vetoed because of a technicality which has nothing to do with the provisions of the bill before us today.

Why should we go to 5 years rather than 10? First, as we know the energy situation is in a state of flux. We are charging off into different directions, chasing energy policy. I think it is extremely important to force a close review of the nuclear energy industry within 5 years instead of 10 years from now.

What we have built into the law for many years are subsidies for the nuclear industry. It has been argued this insurance is not a subsidization, but I must disagree with that. If you tell somebody he will not have to provide insurance and he will not have to buy it, that is surely as much a subsidy as saying here is money—go buy insurance.

Second, where are we going in terms of the priorities as indicated by our spending? Certainly it is clear from the ERDA budget that we are putting almost all our eggs into one basket, and that is the nuclear basket.

Mr. Chairman, it is surprising to see how heavily skewed the proposed fiscal year 1976 ERDA budget is in the direction of nuclear energy. In terms of operating expenditures in direct energy related programs, 56 percent—$791 million—goes to nuclear, while 27 percent—$383 million—goes to fossil fuels and 6 percent—$84 million—goes to solar. In terms of total operating expenditures 45 percent—$2.2 billion—goes to nuclear, 24 percent—$1.2 billion—to national security, 7.7 percent $383 million—to fossil, and 11 percent for other—most of which is for the high energy physics program directly related to nuclear. Only 1.3 percent—$63 million—goes to conservation. High energy physics comprises six times the expenditures as for solar energy. Thus, of total operating expenses, 77 percent goes to nuclear and national security, while 3 percent goes to solar and geothermal.

In terms of obligations requested for plant and capital, $826 million out of a total of $956 million goes to nuclear and national security items, $61 million for high energy physics, none for solar and nearly none for geothermal. Only $3 million is dedicated to conservation technologies. Thus of total plant and capital obligations requested, 93 percent goes to nuclear and national security, and none to solar.

I think it is important that we review these decisions and demand to review them 5 years from now.

Let us take a look at the industry itself and where it is going. I know much has already been stated about the maturity of the industry and the Rasmussen report during debate on the Bingham amendment. I happen to agree with Dr. Rasmussen. He served as a consultant of mine when I was serving as attorney general of the State of Vermont. I know him and respect his report. But what does the industry say? We have striking evidence that the cost of construction in the nuclear industry is skyrocketing faster than in other construction areas, such that in the near future the costs of building an atomic energy plant will exceed, on a per kilowatt basis, the cost of fossil fuels and other types of energy. I think it is important to review in 5 years to see if that trend is still going on. Even representatives of the industry say that this industry is sick now because of this and other reasons; I would refer my colleagues to the November 17, 1975, issue of Business Week, which did an extensive cover story on the industry that echoes many of Commoner's findings. Business Week quotes Richard A. McCormack, president of the Power System Group of General Atomic, who addressed an atomic industry forum meeting this summer with the following bleak analysis:

> The nuclear business was born in the government and consciously weaned by statutory and administrative policies to grow through an adolescence of government support. But the business was never firmly founded and the magnitude of the problems of getting it established in the private sector were never fully appreciated. . . . Frankly, we are a sick industry.

Let us look at coverage in real, 1957 dollars. Our coverage started at $560 million in 1957. In real dollars the present coverage has dropped to about $302 million. In 1982 that coverage in real dollars will be down to $207 million and in 1987 that will be down to $162 million in real dollars. Compare these figures to when we started this act.

With this diminishing coverage we are giving industry a break. With more plants they are providing more risks, while reducing coverage.

Also, the Rasmussen report does not get into the question of breeder reactors. Within 5 years we may well have under construction breeder reactors which will be covered under this act. Should we not at that time take a look at this act and see if the Rasmussen arguments for the safety of conventional nuclear plants are also valid for breeder reactors?

There will be a couple of arguments against this amendment of mine, one that it will prevent a phaseout. I do not think it will. All it is doing is saying let us take a look half way through at the phaseout and see if we want to go forward with what we have been doing for the reasons stated above.

Second, under the terms of the act, it could be phased out within 5 years with the number of plants expected to be online, if the $4 million figure is put on the retroactive insurance provisions. We may well have a retroactive phaseout under the bill as presently written if only the 5-year extension is granted.

The CHAIRMAN. The time of the gentleman from Vermont has expired.

(At the request of Mr. SEIBERLING, and by unanimous consent, Mr. JEFFORDS was allowed to proceed for 1 additional minute.)

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I will be happy to yield.

Mr. SEIBERLING. Mr. Chairman, I would like to say that the gentleman has made a very fine statement. I think the gentleman has made a real contribution to intelligent legislation. I support the gentleman's amendment.

I am here to suggest that maybe symbolically 1984, rather than 1982, would have been the date to have the question come up in this amendment.

Mr. JEFFORDS. I tend to agree with the gentleman; it could be that serious. I thank the gentleman.

Mr. LUJAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, just a very short statement. It is not just a question of 5 or 10 years, whatever number of years happens to hit our fancy. There are good reasons for a 10-year extension. There is, of course, the long leadtime that is needed in this business, if it is only to purchase some parts for all of the components or building a nuclear plant. That takes a much longer leadtime than 5 years.

There is the enormous debt that a company must get into in order to finance the construction of these plants. Sometimes that takes even between 5 and 10 years.

As a matter of fact, if one were to begin today to apply for all the permits and to build a plant, 5 years certainly would come and go before they even started construction of the plant.

The gentleman from Vermont (Mr. JEFFORDS) mentioned the phaseout of insurance. Certainly, with the number of plants that will be in existence in 5 years, it certainly will not be enough time to phase it out. For that reason, Mr. Chairman, not only does the Joint Committee on Atomic Energy but the administration, lend their strong support to a 10-year period rather than a 5-year extension.

Mr. YOUNG of Texas. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in opposition to the amendment.

Mr. Chairman, with reference to the breeder reactor, the committee will certainly certify that there is no possibility of the breeder reactor being in commercial use in 10 years. Any worries about that in this coverage by this program are not well founded.

Now, Mr. Chairman, the fact remains that the 5 years and the 10 years do not seem in themselves of great importance, but it is a leadtime required, and many of these items require a great deal of leadtime. That is why it is important, and the committee has considered this at great length concerning the 5- and 10-year periods and longer periods. The committee has, after considered judgment, arrived at the 5 years.

Mr. Chairman, I hope this amendment will be defeated.

Mr. PRICE. Mr. Chairman, the purpose of the Jeffords amendment is to extend the Price-Anderson Act only for 5 years rather than 10 years as provided for in H.R. 8631. The Joint Committee as well as the executive branch strongly favors the 10-year extension and believes that the record developed by the Joint Committee on Atomic Energy last year and this year amply support such an extension.

While the present act does not expire until 1977, the Commission and others began studies of possible alternatives to the present act in 1972. The Joint Committee commenced its hearings on this subject in 1973. If Mr. JEFFORDS' amendment is accepted, the Nuclear Regulatory Commission would have to submit a report to the Congress by August 1, 1979, concerning the need for continuation or modification of the Price-Anderson Act as modified by this legislation. This would require that the Commission make assessments and recommendations on the basis of rather limited operational experience, an insufficient data base.

Indeed, the phase-out of governmental indemnity which would be accomplished under H.R. 8631 would probably not be accomplished until some time in the mid-1980's, a date which would occur subsequent to the 5-year extension which my colleague urges us to accept.

A central argument for considering the need for the extension and amendment of the Price-Anderson Act is the need for certainty and stability in the nuclear industry because of the long lead time involved in purchasing certain major components and the enormous amount of debt financing which is required for the construction of a nuclear facility. The record made by the Joint Committee demonstrates that utilities are now and have been concerned with the fate of the Price-Anderson Act. We know that for a variety of reasons there have been considerable deferrals as well as outright cancellations of a number of nuclear facilities. Extension of the Price-Anderson Act until 1987, combined with the requirement for a Commission report to the Congress in 1979, could only have a disruptive effect on energy planning.

In other words, although there are no apparent benefits of just a 5-year extension, there are several obvious disadvantages. For this reason, I urge that the Jeffords amendment be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont (Mr. JEFFORDS).

The question was taken; and on a division (demanded by Mr. JEFFORDS) there were—ayes 25; noes 46.

Mr. JEFFORDS. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. NEAL

Mr. NEAL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. NEAL: Page 9, line 22, strike out "as forbidden by the provisions of chapter 12 of this Act or any other law or Executive order," and insert the following: "for information which would cause serious damage to the national defense or foreign relations of the United States,".

Mr. NEAL. Mr. Chairman, my amendment is really quite simple and straight forward. It will provide that in the event of a serious nuclear accident, the report which will be made available to the public and the courts will be complete in every respect except for any information which might be detrimental to the national security.

H.R. 8631 as reported provides that an accident report or portions of such a report may be withheld from the public and the courts subject to the provisions of chapter 12 of the Atomic Energy Act of 1954. Although commercial nuclear reactors do not use classified technology, other nuclear plants which are also covered by the Price-Anderson Act do employ classified processes.

In particular, uranium enrichment plants, which are owned by the U.S. Government and leased to private producers, employ classified processes which in the event of an accident could provide grounds for withholding part of an accident report. If an accident were to cause more than $560 million damage, the victims could be fully compensated only if the Congress were to appropriate sufficient funds to cover the amount of damages in excess of $560 million. In order to insure congressional action it is necessary for both the Congress and the public to have access to all the relevant information.

Moreover, the sweeping authority granted to the President to control access to an accident report by means of Executive order would not only provide for potential restrictions on the access to reports of accidents occuring at plants utilizing classified technology, but would also allow a report on an accident at a commercial reactor to be suppressed. That such a report would be classified by Executive order is extremely unlikely, but in recent years Presidents have exercised their powers in ways which no one would have thought likely; yet, have done so nevertheless.

By providing that information which might affect our national security can be withheld from the public versions of a nuclear accident report, my amendment would balance the legitimate interests of the Government against the equally legitimate interests of those who have been injured by a nuclear accident. Surely there can be no grounds other than those of national security for withholding from the public and the courts the complete story of such an accident.

Mr. PRICE. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I will be glad to yield to the gentleman from Illinois.

Mr. PRICE. Mr. Chairman, we have had an opportunity to check out the gentleman's amendment. I see nothing to object to in the amendment. For myself and for this side of the aisle, we are willing to accept it.

Mr. NEAL. I thank the gentleman.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Chairman, the gentleman has been kind enough to furnish us with a copy of the amendment. I would share the comments just offered by the distinguished Vice Chairman of the Committee. I would not object to the amendment.

Mr. NEAL. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. NEAL).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MAZZOLI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3631) to amend the Atomic Energy Act of 1954, as amended, to revise the method of providing for public remuneration in the event of a nuclear incident, and for other purposes, pursuant to House Resolution 871, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 329, nays 61, not voting 44, as follows:

[Roll No. 749]

YEAS—329

Abdnor
Adams
Addabbo
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Archer
Ashbrook
Ashley
Badillo
Bafalis
Baldus
Barrett
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Blanchard
Blouin
Boggs
Boland
Bolling
Brademas
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carney
Carter
Casey
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Corman
Cornell
Cotter
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Downey, N.Y.
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Eilberg
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fisher
Flood
Florio
Flowers
Flynt
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frey
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Gradison
Grassley
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harris
Harsha
Hastings
Hawkins
Hayes, Ind.
Hefner
Heinz
Henderson
Hicks
Hightower
Holt
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kazen
Kelly
Ketchum
Kindness
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lujan
McClory
McCollister
McCormack
McDonald
McEwen
McFall
McKay
McKinney
Macdonald
Madden
Madigan
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Meyner
Michel
Milford
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nowak
O'Brien
O'Neill
Passman
Patman, Tex.
Patten, N.J.
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Randall
Rangel
Regula
Reuss
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rose
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schulze
Sebelius
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spellman
Spence
Staggers
Stanton, J. William
Steed
Steelman
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Sullivan
Symms
Talcott
Taylor, N.C.
Teague
Thone
Thornton
Traxler
Tsongas
Van Deerlin
Vigorito
Waggonner
Walsh
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—61

Abzug
Allen
Armstrong
Aspin
Bedell
Bingham
Bonker
Brodhead
Burke, Calif.
Burton, John
Burton, Phillip
Carr
Chisholm
Dellums
Dodd
Drinan
Eckhardt
Edwards, Calif.
Esch
Fish
Goodling
Green
Gude
Harkin
Harrington
Hays, Ohio
Hechler, W. Va.
Holtzman
Jacobs
Kastenmeier
Keys
Koch
Krebs
Long, Md.
McCloskey
McDade
McHugh
Maguire
Melcher
Mezvinsky
Miller, Calif.
Mink
Moffett
Mottl
Nolan
Oberstar
Obey
O'Hara
Ottinger
Pattison, N.Y.
Rees
Roncalio
Schroeder
Seiberling
Solarz
Stanton, James V.
Vander Veen
Vanik
Waxman
Weaver
Wirth

NOT VOTING—44

Andrews, N.C.
AuCoin
Bowen
Broyhill
Conyers
Coughlin
Davis
Diggs
du Pont
Eshleman
Fithian
Foley
Ford, Mich.
Fraser
Fuqua
Gaydos
Hébert
Heckler, Mass.
Helstoski
Hillis
Hinshaw
Holland
Ichord
Kemp
Krueger
Landrum
Metcalfe
Mikva
Patterson, Calif.
Quillen
Richmond
Riegle
Rosenthal
Stark
Steiger, Ariz.
Symington
Taylor, Mo.
Thompson
Treen
Udall
Ullman
Vander Jagt
Wampler
Wolff

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Stark against.

Mr. Symington for, with Mr. Conyers against.

Mr. Bowen for, with Mr Rosenthal against.

Mr. Thompson for, with Mr. Metcalfe against.

Mr. Fithian for, with Mr. Richmond against.

Mr. Krueger for, with Mr. du Pont against.

Until further notice:

Mr. Fuqua with Mr. Mikva.

Mr. Landrum with Mr. AuCoin.

Mr. Udall with Mr. Eshleman.

Mr. Wolff with Mr. Fraser.

Mr. Reigle with Mr. Broyhill.

Mr. Helstoski with Mrs. Heckler of Massachusetts.

Mr. Davis with Mr. Kemp.

Mr. Diggs with Mr. Patterson of California.

Mr. Foley with Mr. Hillis.

Mr. Ford of Michigan with Mr. Quillen.

Mr. Ichord with Mr. Steiger of Arizona.

Mr. Holland with Mr. Taylor of Missouri.

Mr. Ullman with Mr. Treen.

Mr. Vander Jagt with Mr. Wampler.

Messrs. LONG of Maryland, WIRTH, CARR and McHUGH and Mrs. SCHROEDER changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to amend the Atomic Energy Act of 1954, as amended, to provide for the phaseout of governmental indemnity as a source of funds for public remuneration in the event of a nuclear incident, and for other purposes.".

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Heiting, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On November 24, 1975:

H.R. 8365. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

On November 28, 1975:

H.R. 2343. An act to designate the new Forest Service laboratory at Auburn, Ala., as the "George W. Andrews Forestry Sciences Laboratory";

H.R. 3922. An act to amend the Older Americans Act of 1965 to establish certain social services programs for older Americans and to extend the authorization of appropriations contained in such Act, to prohibit discrimination on the basis of age, and for other purposes;

H.R. 8841. An act to extend the Federal Insecticides, Fungicide, and Rodenticide Act, as amended, and for other purposes;

H.R. 9472. An act to amend section 15d of the Tennessee Valley Authority Act of 1933 to increase the amount of bonds which may be issued by the Tennessee Valley Authority, and for other purposes; and

H.R. 10029. An act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8069) entitled "An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes," and that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 4, 6, 23, 53, 66, 67, and 76 to the foregoing bill.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

DECEMBER 5, 1975.

Hon. CARL ALBERT,
The Speaker, U.S. House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted on December 4, 1975 the clerk has received this date the following messages from the Secretary of the Senate:

"That the Senate agreed to the amendment of the House of Representatives to the bill (S. 364) entitled "An Act relating to certain Forest Service timber sale contracts involving road construction."

"That the Senate agreed to the amendments of the House of Representatives to the bill (S. 1800) entitled 'An Act to amend and extend the National Foundation on the Arts and the Humanities Act of 1965, to provide for the improvement of museum services, and to provide indemnities for exhibitions of artistic and humanistic endeavors, and for other purposes.'"

With kind regards, I am
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk,
U.S. House of Representatives.

CONFERENCE REPORT ON H.R. 3474, AUTHORIZING ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION APPROPRIATIONS

Mr. TEAGUE submitted the following conference report and statement on the bill, (H.R. 3474) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 94–696)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3474) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1976

SEC. 101. There is hereby authorized to be appropriated to the Energy Research and Development Administration in accordance with the provisions of section 261 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2017), section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5915):

(a) For "Operating expenses", for the following programs, a sum of dollars equal to the total of the following amounts:

(1) FOSSIL ENERGY DEVELOPMENT.—

(A) Coal liquefaction:
Costs, $96,897,000.
Changes in selected resources, $665,000.

(B) High Btu gasification (coal):
Costs, $37,838,000.
Changes in selected resources, $20,526,000.

(C) Low Btu gasification (coal):
Costs, $54,671,000.
Changes in selected resources (minus) $4,282,000.

Provided, That not less than 20 per centum of the funds appropriated pursuant to this subparagraph (C) shall be used for in situ processes.

(D) Advanced power systems (coal):
Costs, $8,261,000.
Changes in selected resources, $2,340,000.

(E) Direct combustion (coal):
Costs, $32,645,000.
Changes in selected resources, $5,451,000.

(F) Advanced research and supporting technology (coal), for the following:

(i) Advanced coal conversion process:
Costs, $13,000,000.
Changes in selected resources, $1,000,000.

(ii) Advanced direct coal utilization process:
Costs, $4,600,000.
Changes in selected resources, $400,000.

(iii) Advanced supporting research:
Costs, $8,374,000.
Changes in selected resources, $119,000.

(iv) System studies:
Costs, $9,087,000.
Changes in selected resources, $2,813,000.

(G) Demonstration plants (coal):
Costs, $18,100,000.
Changes in selected resources, $18,900,000.

(H) Natural gas and oil extraction:
Costs, $32,865,000.
Changes in selected resources, $8,564,000.

(I) Natural gas and oil utilization:
Costs, $1,582,000.
Changes in selected resources, $215,000.

(J) Oil shale in situ processing:
Costs, $16,000,000.
Changes in selected resources, $3,000,000.

(K) Oil shale composition and characterization:
Costs, $1,113,000.
Changes in selected resources, $152,000.

(L) Magnetohydrodynamics:
Costs, $22,340,000.
Changes in selected resources, $12,160,000.

(2) SOLAR ENERGY DEVELOPMENT:
Costs, $97,100,000.
Changes in selected resources, $62,425,000.

(3) GEOTHERMAL ENERGY DEVELOPMENT:
Costs, $34,750,000.
Changes in selected resources, $8,520,000.

(4) CONSERVATION RESEARCH AND DEVELOPMENT.—

(A) Electric Power Transmission:
Costs, $11,830,000.
Changes in selected resources, $300,000.

(B) Advanced Transportation Power Systems:
Costs, $19,000,000.
Changes in selected resources, $4,500,000.

(C) Energy Storage Systems:
Costs, $23,100,000.
Changes in selected resources, $5,700,000.

(D) End-use Conservation:
Costs, $31,000,000.
Changes in selected resources, $18,650,000.

(E) Improved Conversion Efficiency:
Costs, $12,625,000.
Changes in selected resources, $3,000,000.

(F) Urban Waste Conversion:
Costs, $10,000,000.
Changes in selected resources, $5,000,000.

(5) NUCLEAR ENERGY AND OTHER PROGRAMS.—$3,158,970,000, of which a sum of dollars for the following programs equal to the total of the following amounts is included:

(A) Scientific and technical education in support of Nonnuclear Energy Technologies:
Costs, $4,500,000.
Changes in selected resources, $1,350,000.

(B) General new programs in Environmental and Safety Research in support of nonnuclear energy technology:
Costs, $22,100,000.
Changes in selected resources, $7,700,000.

(C) For use as provided in section 316 of this Act:
Costs, $4,000,000.
Changes in selected resources, $1,000,000.

(D) Nonpulmonary health studies on miners and people living in areas subjected to a high incidence of sulphur oxides and trace elements:
Costs, $400,000.
Changes in selected resources, $100,000.

(E) New programs of physical research in molecular and materials sciences in support of nonnuclear technologies:
Costs, $15,725,000.
Changes in selected resources, $3,750,000.

(F) $2,750,000 shall be available pursuant to sections 14 and 16 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5913 and 5915) as follows:

(i) $1,250,000 for the National Bureau of Standards;

(ii) $500,000 for the Council on Environmental Quality; and

(iii) $1,000,000 for the Water Resources Council.

(b) For "Plant and capital equipment", including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, a sum of dollars equal to the total of the following amounts:

FOSSIL ENERGY DEVELOPMENT

(1) COAL.—

Project 76–1–a, clean boiler fuel demonstration plant (A–E and long-lead procurement), $20,000,000.

Project 76–1–b. High Btu synthetic pipeline gas demonstration plant (A–E and long-lead procurement), $20,000,000.

Project 76–1–c, Low Btu fuel gas demonstration plant (A–E and long-lead procurement), $15,000,000.

Project 76–1–d, Fluidized bed direct combustion demonstration plant, $13,000,000.

SOLAR, GEOTHERMAL, AND ADVANCED ENERGY SYSTEMS DEVELOPMENT

(2) SOLAR ENERGY DEVELOPMENT.—

Project 76–2–a, Five megawatt solar thermal test facility, $5,000,000.

Project 76–2–b, Ten megawatt central received solar thermal powerplant (A–E and long-lead procurement), $5,000,000.

(3) GEOTHERMAL ENERGY DEVELOPMENT.—

Project 76–3–a, Geothermal powerplant (steam) (A–E and long-lead procurement), $5,000,000.

Project 76–3–b, Geothermal powerplant (A–E and long-lead procurement), $5,000,000.

(4) PHYSICAL RESEARCH.—

Project 76–4–a, accelerator and reactor improvements and modifications, $4,000,000.

Nuclear Energy Development

(5) Fusion power research and development.—

Project 76-5-a, Tokamak fusion test reactor, Princeton Plasma Physics Laboratory, Plainsboro, New Jersey, $23,000,000.

Project 76-5-b, 14 Mev intense neutron source facility, Los Alamos Scientific Laboratory, New Mexico, $22,100,000.

Project 76-5-c, Mev high intensity neutron facility, Lawrence Livermore Laboratory, California, $5,000,000.

(6) Fission power reactor development.—

Project 76-6-a, modifications to reactors, $4,000,000.

Project 76-6-b, sodium components test installation steam and feedwater system modification, Liquid Metal Engineering Center, Santa Susana, California, $7,700,000.

(7) Fission power reactor development.—

Project 76-7-a, test reactor area fire main replacement, Idaho National Engineering Laboratory, Idaho, $2,200,000.

(8) Nuclear materials.—

Project 76-8-a, additional facilities, high level waste storage, Savannah River, South Carolina, $68,000,000.

Project 76-8-b, additional high level waste storage facilities, Richland, Washington, $35,000,000.

Project 76-8-c, supplemental N reactor irradiated fuel storage, Richland, Washington, $2,500,000.

Project 76-8-d, uprate electrical switchyards for Roane substation, Oak Ridge, Tennessee, $8,100,000.

Project 76-8-e, conversion of existing steam plants to coal capability, gaseous diffusion plants and Feed Materials Production Center, Fernald, Ohio, $12,200,000.

Project 76-8-f, radioactive liquid waste system improvements, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $5,800,000.

Project 76-8-g, additional facilities, enriched uranium production, locations undetermined, $25,000,000.

National Security

(9) Weapons.—

Project 76-9-a, MK-12A MINUTEMAN III production facilities, various locations, $3,000,000.

Project 76-9-b, plutonium metallurgy building modifications, Lawrence Livermore Laboratory, California, $1,000,000.

Project 76-9-c, limited life component exchange facility, Charleston, South Carolina, $13,900,000.

Project 76-9-d, water control and recycle project, Rocky Flats, Colorado, $3,100,000.

(10) Weapons.—

Project 76-10-a, fire wall construction, Bendix Plant, Kansas City, Missouri, $2,000,000.

Project 76-10-b, fire protection improvements, Los Alamos Scientific Laboratory, New Mexico, $4,450,000.

Project 76-10-c, PHERMEX enhancement, Los Alamos Scientific Laboratory, New Mexico, $6,150,000.

Environmental and Safety Research

(11) Biomedical and Environmental Research.—

Project 76-11-a, modifications and additions to biomedical and environmental research facilities, $3,200,000.

Project 76-11-b, inhalation toxicology research facilities, $6,800,000.

(12) General plant projects.—$64,670,000.

(13) Construction planning and design.—$6,000,000.

(14) Safeguards and facility upgrading.—

Project 76-14, safeguard and security upgrading, various locations, $32,800,000.

Capital Equipment Not Related to Construction

(15) Capital equipment.—Acquisition and fabrication of capital equipment not related to construction, for the following programs, a sum of dollars equal to the total of the following amounts:

(A) Fossil energy development, $425,000.

(B) Solar energy development, $3,000,000.

(C) Geothermal energy development, $3,120,000.

(D) Conservation research and development including improved conversion efficiency $11,500,000.

(E) Physical research in molecular and materials sciences in support of nonnuclear energy technology, $4,600,000.

(F) Environmental and safety research in support of nonnuclear energy technology, $2,000,000.

(G) Nuclear energy and other programs, $237,502,000.

Sec. 102. In Situ Oil Shale Demonstration.—(a) The Administrator shall, in consultation with the Secretary of the Interior, select an appropriate tract of public lands in accordance with section 21 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 241) and other applicable provisions of such Act for the demonstration of production of oil from shale by in situ methods. The Administrator shall, by regulation, establish procedures for review of, and comment on, the proposed demonstration by States and local political subdivisions which may be impacted by such facility and the general public. As soon as the Administrator knows the geographic location of a proposed tract, he shall inform the Governor of the State and the officials of the political subdivision where the in situ demonstration facility would be located or which would be impacted by such facility. The Administrator shall not select such tract if the Governor of the State in which the proposed tract would be located recommends against such selection, unless the Administrator finds that there is an overriding national interest in selecting such tract. If the Administrator decides to select a tract despite a Governor's recommendation not to take such action, he shall communicate, in writing, to the Governor his reasons for not concurring with such recommendation. The Administrator's decision, pursuant to this subsection, shall be final unless determined upon judicial review to be arbitrary and capricious. Such review shall take place in the United States court of appeals for the circuit in which the State is located upon application made within ninety days from the date of such decision.

(b) Upon selection of such tract pursuant to subsection (a) of this section, the Administrator, pursuant to the authority of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, et seq.), shall invite proposals from potential non-Federal participants to enter into a cooperative arrangement for the demonstration of in situ production of oil from shale wherein the Federal share of cost of such demonstration shall include the value of the right to lease the tract selected without payment of royalties or other consideration during the demonstration periods: *Provided*, That a portion of any amounts received by such participant in excess of costs from the sale of products produced during the demonstration shall be paid to the United States in proportion to the amounts contributed to the demonstration by the non-Federal participant and the United States, as determined by the Administrator, and such payments shall be covered into miscellaneous receipts of the Treasury: *Provided further*, That the United States' share shall include the value of use of the selected tract, as determined by the Administrator, during such demonstration.

(c) The demonstration shall be for, among other things, the purpose of performing necessary tests and pilot operations and ultimately for the in situ production of oil from shale upon the selected tract by the lessee with the objective of operating a facility sufficiently large to demonstrate the commercial viability of the process taking into account such considerations as water usage, profitability levels, environmental effects, waste disposal, labor conditions, and the socioeconomic impacts on local communities. The community impact financial assistance program authorized in section 17(k) of the Federal Nonnuclear Energy Research and Development Act of 1974, as added to said Act by this Act, shall be applicable to the program authorized by this section.

(d) After the cooperative agreement authorized by this section is executed, the Secretary shall issue a lease for such tract to such non-Federal entity pursuant to section 21 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 241) and other applicable provisions of such Act, except that such lease shall not require payment of bonus, rent, or royalty during the demonstration period. The lease shall (1) require diligent development and production immediately after the demonstration period, (2) provide for the termination of the lease if the Secretary of the Interior determines that the lessee is not acting diligently, and (3) contain such adequate provisions for environmental protection as the Secretary shall determine to be necessary in the public interest. The lease shall also contain such terms and conditions applicable during the demonstration period as the Administrator determines are necessary to carry out the purposes of this section and the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, et seq.). During the demonstration period, the Administrator shall have administrative jurisdiction over the lease. When the Administrator determines that the demonstration period has ended, the Administrator shall so notify the non-Federal entity and the Secretary of the Interior. Upon such notification, the Secretary shall assume administrative jurisdiction over the lease in accordance with the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 181, et seq.): *Provided*, That such lease shall include consideration for the Administrator's share of financial, managerial, and material contribution to the demonstration: *Provided further*, That such consideration as required herein shall be based on financially sound, customary commercial formulas for the development and operation of a major extractive industry joint venture/project and may include equity, profit, or cash flow participation, a share of the facility's production, or any other generally accepted method of payment which fairly compensates the United States for the Administrator's contribution to the demonstration. Such consideration shall be treated as royalties and offset against any royalties required to be paid to the United States pursuant to said 1920 Act.

(e) Before such cooperative arrangement pursuant to this section is finalized, the Administrator shall transmit a detailed report to the Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate describing the arrangement and setting forth the schedule for the demonstration and wait a period of sixty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the date on which the Administrator's report is received by such Committees, unless prior to the expiration of such period each such committee receiving the report has transmitted written notice to the effect that such committee has no objection to the proposed arrangement.

(f) Nothing in this section shall be construed as preventing the Secretary of the Interior or the Administrator from pursuing alternative means for encouraging demonstrations of in situ production of oil from shale.

SEC. 103. LOAN GUARANTEE PROGRAM FOR COMMERCIAL DEMONSTRATION FACILITIES.—(a) Section 7(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906) is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (5),

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(7) Federal loan guarantees and commitments thereof as provided in section 17.".

(b) The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, et seq.) is further amended by adding at the end thereof the following new section:

"LOAN GUARANTEES FOR COMMERCIAL DEMONSTRATION FACILITIES

"SEC. 17. (a) It is the purpose of this section—

"(1) to assure adequate Federal support to foster a commercial demonstration program to produce synthetic fuels from coal, oil shale, and other domestic resources, to employ biomass and renewable and geothermal energy sources to produce synthetic fuels and other desirable forms of energy on a commercial scale, and to assure the availability of energy-efficient industrial equipment and facilities;

"(2) to authorize loan guarantees for the construction and startup and related costs of commercial demonstration facilities (A) for the conversion of domestic coal, oil shale, biomass, and other domestic resources into synthetic fuels; (B) for the commercial demonstration of synthetic fuels and other desirable forms of energy from renewable and geothermal sources; and (C) for the commercial demonstration of energy-efficient industrial equipment and facilities; and

"(3) to gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such commercial demonstration facilities.

"(b)(1) The Administrator is authorized, in accordance with such rules and regulations as he shall prescribe after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee, in such manner and subject to such conditions (not inconsistent with the provisions of this Act) as he deems appropriate, the payment of interest on, and the principal balance of, bonds, debentures, notes, and other obligations issued by or on behalf of any borrower for the purpose of (A) financing the construction and startup costs of commercial demonstration facilities for the conversion of domestic coal, oil shale, biomass, and other domestic resources into synthetic fuels, including, but not limited to, such synthetic fuels from coal as high-Btu gaseous fuels compatible for mixture and transportation with natural gas by pipeline; gaseous, liquid, and solid fuels suitable for boiler use in compliance with applicable environmental requirements; liquid fuels for transportation uses; and petrochemicals: *Provided,* That no oil shale commercial demonstration facility receiving a loan guarantee under this section shall be larger than is necessary, in the judgment of the Administrator, to demonstrate the commercial viability of the process, taking into account such considerations as water usage, profitability levels, environmental effects, waste disposal, labor conditions, health and safety, and the socio-economic impacts on local communities; (B) financing the construction and start-up costs of commercial demonstration facilities to generate desirable forms of energy (including synthetic fuels) in commercial quantities from direct solar, wind, ocean thermal gradient, bioconversion, or other renewable energy resources; (C) financing the purchase, construction, installation, and start-up costs of energy-efficient industrial equipment and facilities for commercial demonstration; and (D) further implementing the financing of geothermal resource development under the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1101, et seq.). The outstanding indebtedness guaranteed and committed to be guaranteed under clauses (A), (B), and (C) of this paragraph shall at no time exceed $6,000,000,000: *Provided,* That up to $2,500,000,000 of guarantees shall be available for commercial demonstration facilities to produce high-Btu gaseous fuel compatible for mixture and transportation with natural gas by pipeline. Loan guarantees for geothermal resource development under clause (D) of this paragraph shall be carried out pursuant to the authority and provisions of the Geothermal Energy Research, Development, and Demonstration Act of 1974: *Provided,* That paragraphs (2) and (4) of this subsection, and subsections (g)(2), (h), (j), (n), and (v), of this section, shall also apply to such guarantees: *Provided further,* That the limitations in section 201(e) of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1141(e)) shall not apply to such guarantees.

"(2) An applicant for any guarantee under this section shall provide information to the Administrator in such form and with such content as the Administrator deems necessary.

"(3) Prior to issuing any guarantee under this section the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee.

"(4) The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

"(c) The Administrator, with due regard for the need for competition, shall guarantee or make a commitment to guarantee any obligation under subsection (b) only if—

"(1) the Administrator is satisfied that the financial assistance applied for is necessary to encourage financial participation;

"(2) the amount guaranteed does not exceed 75 per centum of the total cost of the commercial demonstration facility, as determined by the Administrator: *Provided,* That the amount guaranteed may not exceed 90 per centum of the total cost of the commercial demonstration facility during the period of construction and startup;

"(3) the Administrator has determined that there will be a continued reasonable assurance of full repayment;

"(4) the obligation is subject to the condition that it not be subordinated to any other financing;

"(5) the Administrator has determined, taking into consideration all available forms of assistance under this section and other Federal statutes, that the impacts directly resulting from the proposed commercial demonstration facility have been fully evaluated by the borrower, the Administrator, and others, and that effective steps have been taken or are planned to be taken in a timely manner to finance community planning and development costs directly resulting from such facility under this section, under other provisions of law, or by other means; and

"(6) the maximum maturity of the obligation does not exceed thirty years, or 90 per centum of the projected useful economic life of the physical assets of the commercial demonstration facility covered by the guarantee, whichever is less, as determined by the Administrator.

"(d) At least sixty days prior to submitting a report to Congress pursuant to subsection (m) of this section on each guarantee, the Administrator shall request from the Attorney General and the Chairman of the Federal Trade Commission written views, comments, and recommendations concerning the impact of such guarantee or commitment on competition and concentration in the production of energy and give due consideration to views, comments, and recommendations received: *Provided,* That if either official recommends against making such guarantee or commitment, the Administrator shall not do so unless he determines in writing that such guarantee or commitment is in the national interest.

"(e)(1) As soon as the Administrator knows the geographic location of a proposed facility for which a guarantee or a commitment to guarantee is sought under this section, he shall inform the Governor of the State, and officials of each political subdivision and Indian tribe, as appropriate, in which the facility would be located or which would be impacted by such facility. The Administrator shall not guarantee or make a commitment to guarantee under subsection (b) of this section if the Governor of the State in which the proposed facility would be located recommends that such action not be taken unless the Administrator finds that there is an overriding national interest in taking such action in order to achieve the purpose of this section. If the Administrator decides to guarantee or make a commitment to guarantee despite a Governor's recommendation not to take such action, the Administrator shall communicate, in writing, to the Governor reasons for not concurring with such recommendation. The Administrator's decision, pursuant to this subsection, shall be final unless determined upon judicial review to be arbitrary and capricious. Such review shall take place in the United States court of appeals for the circuit in which the State involved is located, upon application made within ninety days from the date of such decision. The Administrator shall, by regulation, establish procedures for review of, and comment on, the proposed facility by States, local political subdivisions, and Indian tribes which may be impacted by such facility, and the general public.

"(2) The Administrator shall review and approve the plans of the applicant for the construction and operation of any commercial demonstration and related facilities constructed or to be constructed with assistance under this section. Such plans and the actual construction shall include such monitoring and other data-gathering costs associated with such facility as are required by the comprehensive plan and program under this section. The Administrator shall determine the estimated total cost of such demonstration facility, including, but not limited to, construction costs, start-up costs, costs to political subdivisions and Indian tribes impacted by such facility, and costs of any water storage facilities needed in connection with such demonstration facility, and determine who shall pay such costs.

"(f) Except in accordance with reasonable terms and conditions contained in the written contract of guarantee, no guarantee issued or commitment to guarantee made under this section shall be terminated, canceled, or otherwise revoked. Such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligation, except as to fraud or material misrepresentation on the part of the holder.

"(g)(1) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on and unpaid principal of the guaranteed obligation as which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forbearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(2) If the Administrator makes a payment under paragraph (1) of this subsection or section 202(b) of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1142(b)) the Administrator shall be subrogated to the rights of the recipient of such payment as specified in the guarantee or related agreements including, where appropriate, the authority (notwithstanding any other provision of law) to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements, or to permit the borrower, pursuant to an agreement with the Administrator, to continue to pursue the purposes of the commercial demonstration facility if the Administrator determines that this is in the public interest.

"(3) In the event of a default on any guarantee under this section, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to recover the amounts of any payments made under paragraph (1) (including any payment of principal and interest under subsection (h)) from such assets of the defaulting borrower as are associated with the commercial demonstration facility, or from any other security included in the terms of the guarantee.

"(4) For purposes of this section, patents and technology resulting from the commercial demonstration facility shall be treated as project assets of such facility in accordance with the terms and conditions of the guarantee agreement. Furthermore, the guarantee agreement shall contain a provision specifying that patents, technology, and other proprietary rights which are necessary for the completion or operation of the commercial demonstration facility shall be available to the Government and its designees on equitable terms, including due consideration to the amount of the Government's default payments.

"(h) With respect to any obligation guaranteed under this section, the Administrator is authorized to enter into a contract to pay, and to pay, holders of the obligation, for and on behalf of the borrower, from the fund established by this section or from the Geothermal Resources Development Fund, as applicable, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds that—

"(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such demonstration facility; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of a default;

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.

"(i) Regulations required by this section shall be issued within one hundred and eighty days after enactment of this section, except as provided in subsection (t) of this section. All regulations under this section and any amendments thereto shall be issued in accordance with section 553 of title 5, of the United States Code.

"(j) The Administrator shall charge and collect fees for guarantees of obligations authorized by clauses (A) (except with respect to community planning and development), (B), (C), and (D) of subsection (b)(1), in amounts sufficient in the judgment of the Administrator to cover the applicable administrative costs and probable losses on guaranteed obligations, but in any event not to exceed 1 per centum per annum of the outstanding indebtedness covered by the guarantee.

"(k)(1) In accordance with such rules and regulations as the Administrator in consultation with the Secretary of the Treasury shall prescribe, and subject to such terms and conditions as he deems appropriate, the Administrator is authorized, for the purpose of financing essential community development and planning which directly result from, or are necessitated by, one or more commercial demonstration facilities assisted under this section to—

"(A) guarantee and make commitments to guarantee the payment of interest on, and the principal balance of, obligations for such financing issued by eligible States, political subdivisions, or Indian tribes,

"(B) guarantee and make commitments to guarantee the payment of taxes imposed on such commercial demonstration facilities by eligible non-Federal taxing authorities which taxes are earmarked by such authorities to support the payment of interest and principal on obligations for such financing, and

"(C) require that the applicant for assistance for a commercial demonstration facility under this section advance sums to eligible States, political subdivisions, and Indian tribes to pay for such financing of such development and planning: *Provided*, That the State, political subdivision, or Indian tribe agrees to provide tax abatement credits over the life of the facilities for such payments by such applicant.

"(2) Prior to issuing any guarantee under this subsection, the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee.

"(3) The total amount guaranteed under paragraph (1) of this subsection shall not exceed $350,000,000 which shall be included in the limitation on outstanding indebtedness set forth in subsection (b)(1) of this section.

"(4) In the event of any default by the borrower in the payment of taxes guaranteed by the Administrator under this subsection, the Administrator shall pay out of the fund established by this section such taxes at the time or times they may fall due, and shall be subrogated to the rights of such taxing authority.

"(5) If after consultation with the State, political subdivision, or Indian tribe, the Administrator finds that the financial assistance programs of paragraph (1) of this subsection will not result in sufficient funds to carry out the purposes of this subsection, then the Administrator may—

"(A) make direct loans to the eligible States, political subdivisions, or Indian tribes for such purposes: *Provided*, That such loans shall be made on such reasonable terms and conditions as the Administrator shall prescribe: *Provided further*, That the Administrator may waive repayment of all or part of a loan made under this paragraph, including interest, if the State or political subdivision or Indian tribe involved demonstrates to the satisfaction of the Administrator that due to a change in circumstances there will be net adverse impacts resulting from such demonstration facility that would probably cause such State, subdivision, or tribe to default on the loan; or

"(B) require that any community development and planning costs which are associated with, or result from, such commercial demonstration facility and which are determined by the Administrator to be appropriate for such inclusion shall be included in the total costs of the commercial demonstration facility.

"(6) The Administrator is authorized to make grants to States, political subdivisions, or Indian tribes for studying and planning for the potential economic, environmental, and social consequences of such commercial demonstration facilities.

"(7) At any time the Administrator may, with the concurrence of the Secretary of the Treasury, redeem, in whole or in part, out of the fund established by this section, the debt obligations guaranteed or the debt obligations for which tax payments are guaranteed under this subsection.

"(8) When one or more States, political subdivisions, or Indian tribes would be eligible for assistance under this subsection but for the fact that construction and operation of the commercial demonstration facility occurs outside its jurisdiction, the Administrator is authorized to provide, to the greatest extent possible, arrangements for equitable sharing of such assistance.

"(9) Such amounts as may be necessary for direct loans and grants pursuant to this subsection shall be available as provided in annual authorization Acts and shall be requested in fiscal year 1977, and in subsequent fiscal years.

"(10) The Administrator, if appropriate, shall provide assistance in the financing of up to 100 per centum of the costs of the required community development and planning pursuant to this subsection.

"(l)(1) The Administrator is directed to submit a report to the Congress within one hundred and eighty days after the enactment of this section setting forth his recommendations on the best opportunities to implement a program of Federal financial assistance with the objective of demonstrating production and conservation of energy.

"(2) The report submitted under paragraph (1) of this subsection shall include a comprehensive plan and program to acquire information and evaluate the environmental, economic, social, and technological impacts of the demonstration program under this section. In preparing such a comprehensive plan and program, the Administrator shall consult with the Environmental Protection Agency, the Federal Energy Administration, the Department of Housing and Urban Development, the Department of the Interior, and the Department of Agriculture.

"(3) The comprehensive plan and program described in paragraph (2) shall include, but not be limited to—

"(A) information about potential commercial demonstration facilities proposed in the program under this section;

"(B) any significant adverse impacts which may result from any activity included in the program;

"(C) proposed regulations required to carry out the purposes of this section;

"(D) a list of Federal agencies, governmental entities, and other persons that will be consulted or utilized to implement the program; and

"(E) methods and procedures by which the information gathered under the program will be analyzed and disseminated.

"(4) The report required under paragraph (1) of this subsection shall be updated and submitted to the Congress at least annually for the duration of the program under this section.

"(m) Prior to issuing any guarantee or commitment to guarantee pursuant to subsection (b) of this section, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate a full and complete report on the proposed commercial demonstration facility and such guarantee. Such guarantee or commitment to guarantee shall not be finalized under the authority granted by this section prior to the expiration of ninety calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report is received by such committees: *Provided*, That, where the cost of such commercial demonstration facility exceeds $350,000,000, such guarantee or commitment to guarantee shall not be finalized if prior to the close of such ninety-day period either House passes a resolution stating in substance that such House does not favor the making of such guarantee or commitment.

"(n)(1) There is hereby created within the Treasury a separate fund (hereafter in this section called the 'fund') which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purpose of carrying out the program authorized by clauses (A), (B), and (C) of subsection (b)(1) and subsections (g), (h), and (k) of this section. The Geothermal Resources Development Fund established by the Geothermal Energy Research, Development, and Demonstration Act of 1974 shall be available for the purpose of carrying out the geothermal loan guarantee program as established by that Act and as further implemented by this section.

"(2) There are authorized to be appropriated to the fund from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this section, including, but not limited to, the payments of interest and principal and the payment of interest differentials and redemption of debt. All amounts received by the Administrator as interest payments or repayments of principal on loans which are guaranteed under this section, fees, and any other moneys, property, or assets derived by him from operations under this section shall be deposited in the fund or in the Geothermal Resources Development Fund, as applicable.

"(3) All payments on obligations, appropriate expenses (including reimbursements to other government accounts), and repayments pursuant to operations of the Administrator under this section shall be paid from the fund subject to appropriations or from the Geothermal Resources Development Fund, as applicable. If at any time the Administrator determines that moneys in the fund exceed the present and reasonably foreseeable future requirements of the fund, such excess shall be transferred to the general fund of the Treasury.

"(4) If at any time the moneys available in the fund or in the Geothermal Resources Development Fund are insufficient to enable the Administrator to discharge his responsibilities as authorized by subsections (b)(1), (g), (h), and (k) of this section, or the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1101), as the case may be, the Administrator shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under paragraph (2) of this subsection for loan guarantees authorized by clauses (A), (B), and (C) of subsection (b)(1) and subsections (g), (h), and (k) of this section, and from appropriations or other moneys available under esction 204 of the Geothermal Energy Research, Development, and Demonstration Act of 1974 for loan guarantees described in clause (D) of subsection (b)(1) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act; and the purpose for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(5) The provisions of this subsection do not apply to direct loans or planning grants made under subsection (k) of this section.

"(o) For the purposes of this section, the term—

"(1) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, or any territory or possession of the United States.

"(2) 'United States' means the several States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa, and

"(3) 'borrower' or 'applicant' shall include any individual, firm, corporation, company, partnership, association, society, trust, joint venture, joint stock company, or other non-Federal entity.

"(p) An applicant seeking a guarantee under subsection (b) of this section must be a citizen or national of the United States. A corporation, partnership, firm, or association shall not be deemed to be a citizen or national of the United States unless the Administrator determines that it satisfactorily meets all the requirements of section 802 of title 46, United States Code, for determining such citizenship, except that the provisions in subsection (a) of such section 802 concerning (1) the citizenship of officers or directors of a corporation, and (2) the interest required to be owned in the case of a corporation, association, or partnership operating a vessel in the coastwise trade, shall not be applicable.

"(q) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of enacted of this section.

"(r) Inventions made or conceived in the course of or under a guarantee authorized by this section shall be subject to the title and waiver requirements and conditions of section 9 of this Act.

"(s) With respect to any obligation which is issued after the enactment of this section by, or in behalf of, any State, political subdivision, or Indian tribe and which is either guaranteed under, or supported by taxes levied by said issuer which are guaranteed under, this section, the interest paid on such obligation and received by the purchaser thereof (or the purchaser's successor in interest) shall be included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954, as amended: *Provided*, That the Administrator shall pay to such issuer out of the fund established by this section such portion of the interest on such obligations, as determined by the Secretary of the Treasury to be appropriate after taking into account current market yields (1) on obligations of said issuer, if any, or (2) on other obligations with similar terms and conditions, the interest on which is not so included in gross income for purposes of chapter 1 of said Code, and in accordance with such terms and conditions as the Secretary of the Treasury shall require.

"(t)(1) Each officer or employee of the Energy Research and Development Administration who—

"(A) performs any function or duty under this section; and

"(B)(i) has any known financial interest in any person who is applying for or receiving financial assistance for a commercial demonstration facility under this section; or

"(ii) has any known financial interest in property from which coal, natural gas, oil shale, crude oil, or other energy resources are commercially produced in connection with any commercial demonstration facility receiving financial assistance under this section,

shall, beginning on February 1, 1977, annually file with the Administrator a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(2) The Administrator shall—

"(A) act within ninety days after the date of enactment of this Act—

"(i) to define the term 'known financial interest' for purposes of paragraph (1) of this subsection; and

"(ii) to establish the methods by which the requirement to file written statements specified in paragraph (1) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administrator of such statements; and

"(B) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(3) In the rules prescribed in paragraph (2) of this subsection, the Administrator may identify specific positions within the Administration which are of a nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this subsection.

"(4) Any officer or employee who is subject to, and knowingly violates, this subsection shall be fined not more than $2,500 or imprisoned not more than one year, or both.

"(u) Nothing in this section shall be construed as affecting the obligations of any borrower receiving a guarantee pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.

"(v) The information maintained by the Administrator under this section shall be made available to the public, subject to the provisions of section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, and to other Government agencies in a manner that will facilitate its dissemination: *Provided*, That upon a showing satisfactory to the Administrator by any person that any information, or portion thereof obtained under this section by the Administrator directly or indirectly from such person would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Administrator shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code: *Provided further*, That the Administrator shall, upon request, provide such information to (A) any delegate of the Administrator for the purpose of carrying out this Act, and (B) the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Federal Trade Commission, the Federal Energy Administration, the Environmental Protection Agency, the

Federal Power Commission, the General Accounting Office, other Federal agencies, or heads of other Federal agencies, when necessary to carry out their duties and responsibilities under this and other statutes, but such agencies and agency heads shall not release such information to the public. This section is not authority to withhold information from Congress, or from any committee of Congress upon request of the chairman. For the purposes of this subsection, the term 'person' shall include the borrower.

"(w) Notwithstanding any other provision of this section, the authority to make guarantees or commitments to guarantee under subsection (b)(1), the authority to make guarantees or commitments to guarantee, or to make loans or grants, under subsection (k), the authority to make contracts under subsection (h), the authority to charge and collect fees under subsection (j), and the authorities under subsection (n) of this section shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this section."

Sec. 104. Limitations.—(a) The Administration is authorized to start any project set forth in subsections 101(b) (4), (5), (6), (8), (9), (11), and (14) only if the currently estimated cost of that project does not exceed by more than 25 per centum the estimated cost set forth for that project.

(b) The Administration is authorized to start any project set forth in subsections 101(b) (7) and (10) only if the currently estimated cost of that project does not exceed by more than 10 per centum the estimated cost set forth for that project.

(b) The Administration is authorized to start any project under subsection 101(b) (12) only if it is in accordance with the following:

(1) The maximum currently estimated cost of any project shall be $750,000 and the maximum currently estimated cost of any building included in such project shall be $300,000: *Provided*, That the building cost limitation may be exceeded if the Administration determines that it is necessary in the interest of efficiency and economy.

(2) The total cost of all projects undertaken under subsection 101(b) (12) shall not exceed the estimated cost set forth in that section by more than 10 per centum.

(d) The total cost of any project undertaken under subsections 101(b) (4), (5), (6), (8), (9), (11), and (14) shall not exceed the estimated cost set forth for that project by more than 25 per centum unless and until additional appropriations are authorized under section 261 of the Atomic Energy Act of 1954, as amended: *Provided*, That this subsection will not apply to any project with an estimated cost less than $5,000,000.

(e) The total cost of any project undertaken under subsection 101(b) (7) and (10) shall not exceed the estimated cost set forth for that project by more than 10 per centum, unless and until additional appropriations are authorized under section 261 of the Atomic Energy Act of 1954, as amended: *Provided*, That this subsection will not apply to any project with an estimated cost less than $5,000,000.

Sec. 105. Amendment of Prior Year Acts.—(a) Section 101 of Public Law 91–273, as amended, is further amended by (1) striking from subsection (b)(1), project 71–1–f, process equipment modifications, gaseous diffusion plants, the figure "$295,100,000" and substituting therefor the figure "$478,100,000"; and (2) striking from subsection (b)(9), project 71–9, fire, safety, and adequacy of operating conditions projects, various locations, the figure "$193,000,000" and substituting therefor the figure "$240,000,000".

(b) Section 101 of Public Law 93–60, as amended, is further amended by (1) striking from subsection (b)(1), project 74–1–g, cascade uprating program, gaseous diffusion plants, the figure "$183,100,000" and substituting therefor the figure $259,600,000"; and (2) striking from subsection (b)(2), project 74–2–c, high energy laser facility, Lawrence Livermore Laboratory, California, the figure "$20,000,000" and substituting therefor the figure "$25,000,000".

(c) Section 101 of Public Law 93–276 is amended by (1) striking from subsection (b) (1), project 75–1–a, additional facilities, high level waste handling and storage, Savannah River, South Carolina, the figure "$30,000,000" and substituting therefor the figure "$33,000,000"; (2) striking from subsection (b)(1), project 75–1–c, new waste calcining facility, Idaho Chemical Processing Plant, National Reactor Testing Station, Idaho, the figure "$20,000,000" and substituting therefor the figure "$27,500,000"; (3) striking from subsection (b)(3), project 75–3–e, addition to building 350 for safeguards analytical laboratory, Argonne National Laboratory, Illinois, the figure "$3,500,000" and substituting therefor the figure "$4,300,000"; (4) striking from subsection (b)(6), project 75–6–c, positron-electron joint project, Lawrence Berkeley Laboratory and Stanford Linear Accelerator Center, the figure "$900,000" and substituting therefor the figure "$11,900,000"; and (5) striking from subsection (b)(7), project 75–7–c, intermediate-level waste management facilities, Oak Ridge National Laboratory, Tennessee, the figure "$9,500,000" and substituting therefor the figure "$10,500,000".

(d) Section 106 of Public Law 91–273, as amended, is further amended by deleting the present text thereof and substituting therefor the following:

"Sec. 106. Liquid Metal Fast Breeder Reactor Demonstration Program—Fourth Round.—(a) The Energy Research and Development Administration (ERDA) is hereby authorized to enter into cooperative arrangements with reactor manufacturers and others for participation in the research and development, design, construction, and operation of a Liquid Metal Fast Breeder Reactor powerplant, in accordance with criteria approved by the Joint Committee on Atomic Energy, without regard to the provisions of section 169 of the Atomic Energy Act of 1954, as amended. Appropriations are hereby authorized for the period consisting of the fiscal year ending June 30, 1976, and the interim period following that fiscal year and ending September 30, 1976, for the aforementioned cooperative arrangements as shown in the basis for arrangements as submitted in accordance with subsection (b) hereof. In addition, ERDA may agree to provide assistance in the form of waiver of use charges during the term of the cooperative arrangements without regard to the provisions of section 53 of the Atomic Energy Act, as amended, by waiving use charges in an amount not to exceed $10,000,000.

"(b) Before ERDA enters into any arrangement or amendment thereto under the authority of subsection (a) of this section, the basis for the arrangement or amendment thereto which ERDA proposes to execute (including the name of the proposed participating party or parties with which the arrangement is to be made, a general description of the proposed powerplant, the estimated amount of cost to be incurred by ERDA and by the participating parties, and the general features of the proposed arrangement or amendment) shall be submitted to the Joint Committee on Atomic Energy, and a period of forty-five days shall elapse while Congress is in session (in computing such forty-five days, there shall be excluded the days on which either House is not in session because of adjournment for more than three days): *Provided, however*, That the Joint Committee, after having received the basis for a proposed arrangement or amendment thereto, may by resolution in writing waive the conditions of all, or any portion of, such forty-five-day period: *Provided, further*, That such arrangement or amendment shall be entered into in accordance with the basis for the arrangement or amendment submitted as provided herein: *And provided further*, That no basis for arrangement need be resubmitted to the Joint Committee for the sole reason that the estimated amount of the cost to be incurred by ERDA exceeds the estimated cost previously submitted to the Joint Committee by not more than 15 per centum. Notwithstanding the foregoing, ERDA, in each of its annual budget submissions, shall submit for the information and review of the Joint Committee in the exercise of its oversight responsibility, the anticipated obligations and costs for the ensuing fiscal year for the project authorized under subsection (a) of this section.

"(c) The ERDA is hereby authorized to agree, by modification to the definitive cooperative arrangement reflecting such changes therein as it deems appropriate for such purpose, to the following: (1) to execute and deliver to the other parties to the definitive contract, the special undertakings of indemnification specified in said contract, which undertakings shall be subject to availability of appropriations to ERDA and to the provisions of section 3679 of the Revised Statutes, as amended; and (2) to acquire ownership and custody of the property constituting the Liquid Metal Fast Breeder Reactor powerplant or parts thereof, and to use, decommission, and dispose of said property, as provided for in the definitive contract."

Sec. 106. Rescissions.—(a) Public Law 92–314, as amended, is further amended by rescinding therefrom authorization for a project, except for funds heretofore obligated, as follows:

Project 73–5–d, modifications to TREAT facility, National Reactor Testing Station, Idaho, $1,500,000.

(b) Public Law 93–60, as amended, is further amended by rescinding therefrom authorization for a project, except for funds heretofore obligated, as follows:

Project 74–3–e, modifications to TREAT facility, National Reactor Testing Station, Idaho, $2,500,000.

(c) Public Law 93–276, as amended, is further amended by rescinding therefrom authorization for projects, except for funds heretofore obligated, as follows:

Project 75–13–a, hydrothermal pilot plant, $1,000,000.

Project 75–5–e, high temperature gas reactor fuel reprocessing facility, National Reactor Testing Station, Idaho, $10,100,000.

Project 75–5–f, high temperature gas reactor fuel refabrication pilot plant, Oak Ridge National Laboratory, Tennessee, $3,000,000.

TITLE II—AUTHORIZATION OF APPROPRIATIONS FOR THE PERIOD JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

Sec. 201. There is hereby authorized to be appropriated to the Energy Research and Development Administration in accordance with the provisions of section 261 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2017), section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5915):

(a) For "Operating expenses", for the following programs, a sum of dollars equal to the total of the following amounts:

(1) Fossil energy development.—

(A) Coal liquefaction:

Costs, $16,000,000.

Changes in selected resources, $12,750,000.

(B) High Btu gasification (coal):

Costs, $7,450,000.

Changes in selected resources, $1,800,000.

(C) Low Btu gasification (coal):

Costs, $7,300,000.

Changes in selected resources, $5,350,000.

Provided, That not less than 20 per centum of the funds appropriated pursuant to this subparagraph (C) shall be used for in situ processes.

(D) Advanced power systems (coal):

Costs, $2,050,000.

Changes in selected resources, $1,450,000.

(E) Direct combustion (coal):

Costs, $5,100,000.

Changes in selected resources, $9,800,000.

(F) Advanced research and supporting technology (coal), for the following:

(i) Advanced coal conversion process:

Costs, $2,100,000.

Changes in selected resources, $1,900,000.

(ii) Advanced direct coal utilization process:

Costs, $500,000.

Changes in selected resources, $500,000.

(iii) Advanced supporting research:

Costs, $1,400,000.

Changes in selected resources, $450,000.

(iv) Systems studies:

Costs, $1,400,000.

Changes in selected resources, $1,600,000.

(G) Demonstration plants (coal):

Costs, $4,100,000.

Changes in selected resources, $4,900,000.

(H) Natural gas and oil extraction:

Costs, $9,930,000.

Changes in selected resources, $600,000.

(I) Natural gas and oil utilization:

Costs, $500,000.

Changes in selected resources (minus) $50,000.

(J) Oil shale in situ processing:

Costs, $4,241,000.

Changes in selected resources, $529,000.

(K) Oil shale composition and characterization:

Costs, $300,000.

Changes in selected resources, $0.

(L) Magnetohydrodynamics.

Costs, $6,700,000.

Changes in selected resources, $1,700,000.

(2) Solar energy development.—

Costs, $24,500,000.

Changes in selected resources, $19,203,000.

(3) Geothermal energy development.—

Costs, $10,100,000.

Changes in selected resources, $850,000.

(4) Conservation research and development.—

(A) Electric Power Transmission:

Costs, $2,673,000.

Changes in selected resources (minus) $100,000.

(B) Advanced Transportation Power Systems:

Costs, $4,750,000.

Changes in selected resources, $1,060,000.

(C) Energy Storage Systems:

Costs, $5,400,000.

Changes in selected resources, $900,000.

(D) End-use Conservation:

Costs, $8,000,000.

Changes in selected resources, $2,000,000.

(E) Improved Conversion Efficiency:

Costs, $3,475,000.

Changes in selected resources, $1,100,000.

(F) Urban Waste Conversion:

Costs, $2,500,000.

Changes in selected resources, $1,250,000.

(5) Nuclear energy and other programs.—$914,849,000, of which a sum of dollars for the following programs equal to the total of the following amounts is included:

(A) Scientific and technical education in support of Nonnuclear Energy Technologies:

Costs, $1,125,000.

Changes in selected resources, $337,000.

(B) General new programs in Environmental and Safety Research in support of nonnuclear energy technology:

Costs, $5,525,000.

Changes in selected resources $1,919,000.

(C) For use as provided in section 316 of this Act:

Costs, $1,000,000.

Changes in selected resources, $250,000.

(D) Nonpulmonary health studies on miners and people living in areas subjected to a high incidence of sulphur oxides and trace elements:

Costs, $100,000.

Changes in selected resources $25,000.

(E) New programs of physical research in molecular and materials sciences in support of nonnuclear technologies:

Costs, $3,931,000.

Changes in selected resources, $1,168,000.

(F) $687,000 shall be available pursuant to sections 14 and 16 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5913 and 5915) as follows:

(i) $312,000 for the National Bureau of Standards;

(ii) $125,000 for the Council on Environmental Quality; and

(iii) $250,000 for the Water Resources Council.

(b) For "Plant and capital equipment", including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, a sum of dollars equal to the total of the incremental amounts of the following:

Fossil Energy Development

(1) Coal.—

Project 76-1-a, clean boiler fuel demonstration plant (A-E and long-lead procurement), $8,000,000.

Project 76-1-b, High Btu synthetic pipeline gas demonstration plant (A-E and long-lead procurement), $5,000,000.

Project 76-1-c, Low Btu fuel gas demonstration plant (A-E and long-end procurement), $3,750,000.

Project 76-1-d, Fluidized bed direct combustion demonstration plant, $3,250,000.

Solar, Geothermal, and Advanced Energy Systems Development

(2) Solar energy development.—

Project 76-2-a, Five megawatt solar thermal test facility, $1,250,000.

Project 76-2-b, Ten megawatt central receiver solar thermal powerplant (A-E and long-lead procurement), $1,250,000.

(3) Geothermal energy development.—

Project 76-3-a, Geothermal powerplant (steam) (A-E and long-lead procurement), $1,250,000.

Project 76-3-b, Geothermal powerplant (A-E and long-lead procurement), $1,250,000.

(4) Physical research.—

Project 76-4-a, accelerator and reactor improvements and modifications, $1,000,000.

Nuclear Energy Development

(5) Fusion power research and development.—

Project 76-5-a, tokamak fusion test reactor, Princeton Plasma Physics Laboratory, Plainsboro, New Jersey, $7,000,000.

(6) General plant projects.—$15,900,000.

(7) Construction planning and design.—$1,500,000.

Capital Equipment Not Related to Construction

(8) Capital equipment.—

Acquisition and fabrication of capital equipment not related to construction, for the following programs, a sum of dollars equal to the total of the following amounts:

(A) Fossil energy development, $200,000.

(B) Geothermal energy development, $200,000.

(C) Conservation research and development including improved conversion efficiency, $2,900,000.

(D) Physical research in molecular and materials sciences in support of nonnuclear energy technology, $1,037,000.

(E) Environmental and safety research in support of nonnuclear energy technologies, $500,000.

(F) Nuclear energy and other programs, $58,086,000.

Sec. 202. Limitations.—(a) The Administration is authorized to start any project set forth in subsections 201(b) (4) and (5) only if the currently estimated cost of that project does not exceed by more than 25 per centum the estimated cost set forth for that project.

(b) The Administration is authorized to start any project under subsection 201(b) (6) only if it is in accordance with the following:

(1) The maximum currently estimated cost of any project shall be $750,000 and the maximum currently estimated cost of any building included in such project shall be $300,000: *Provided*, That the building cost limitation may be exceeded if the Administration determines that it is necessary in the interest of efficiency and economy.

(2) The total cost of all projects undertaken under subsection 201(b) (6) shall not exceed the estimated cost set forth in that subsection by more than 10 per centum.

(c) The total cost of any project undertaken under subsection 201(b) (4) and (5) shall not exceed the estimated cost set forth for that project by more than 25 per centum, unless and until additional appropriations are authorized under section 261 of the Atomic Energy Act of 1954, as amended: *Provided*, That this subsection will not apply to any project with an estimated cost less than $5,000,000.

Sec. 203. Amendment of Prior Year Acts.—(a) Section 101 of Public Law 91-273, as amended, is further amended by striking from subsection (b) (1), project 71-1-f, process equipment modifications, gaseous diffusion plants, the figure "$478,100,000" and substituting therefor the figure "$510,000,000".

(b) Section 101 of Public Law 93-60, as amended, is further amended by striking from subsection (b) (1), project 74-1-g, cascade uprating program, gaseous diffusion plants, the figure "$259,600,000" and substituting therefor the figure "$270,400,000".

TITLE III—GENERAL PROVISIONS

Part A—Provisions Relating to Programs Other Than Fossil Energy Development

Sec. 301. The Administrator is authorized to perform construction design services for any Administration construction project whenever (1) such construction project has been included in a proposed authorization bill transmitted to the Congress by the Administrator, and (2) the Administrator determines that the project is of such urgency that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction.

Sec. 302. Any moneys received by the Administration may be retained and used for operating expenses (except sums received from disposal of property under the Atomic Energy Community Act of 1955 and the Strategic and Critical Materials Stockpiling Act, as amended, and fees received for tests or investigations under the Act of May 16, 1910, as amended (42 U.S.C. 2301; 50 U.S.C. 98h; 30 U.S.C. 7)), notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and may remain available until expended.

Sec. 303. Transfers of sums from the "Operating expenses" appropriation may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred, may be merged with the appropriation to which transferred.

Sec. 304. Sections 301, 302, and 303 of this Act do not apply to fossil energy development programs of the Administration.

Part B—Provisions Relating to Nonnuclear Energy Development

Sec. 305. Reprograming Authority.—Except as provided in part C of this title—

(1) no amount appropriated pursuant to this Act may be used for any nonnuclear pro-

gram in excess of the amount actually authorized for that particular program by this Act,

(2) no amount appropriated pursuant to this Act may be used for any nonnuclear program which has not been presented to, or requested of, the Congress,

unless (A) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the receipt by the Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate of notice given by the Administrator containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action: *Provided*, That the following categories may not, as a result of reprogramming, be decreased by more than 10 per centum of the sums appropriated pursuant to this Act for such categories: Coal, petroleum and natural gas, oil shale, geothermal, and conservation.

Sec. 306. The Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate a detailed explanation of the allocation of the funds appropriated pursuant to sections 101(a) and 201(a) of this Act for nonnuclear energy programs and subprograms, reflecting the relationships, consistencies, and dissimilarities between those allocations and (a) the comprehensive program definition transmitted pursuant to section 102 of the Geothermal Energy Research, Development, and Demonstration Act, (b) the comprehensive program definition transmitted pursuant to section 15 of the Solar Energy Research, Development, and Demonstration Act of 1974 (42 U.S.C. 5564), (c) the comprehensive nonnuclear energy research development, and (d) demonstrations transmitted pursuant to section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5905).

Sec. 307. When so specified in an appropriation Act, any amount appropriated pursuant to this Act for "Operating expenses" or for "Plant and capital equipment" for nonnuclear energy may remain available until expended.

Sec. 308. The Administrator shall, by June 30, 1976, and by the end of each fiscal year thereafter, submit a report to the Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate detailing the extent to which small business and nonprofit organizations are being funded by the nonnuclear research, development, and demonstration programs of the Administrator, and the extent to which small business involvement pursuant to section 2(d) of the Energy Reorganization Act of 1974 (42 U.S.C. 5801(d)) is being encouraged by the Administrator.

Sec. 309. The Administrator shall coordinate nonnuclear programs of the Administration with the heads of relevant Federal agencies in order to minimize unnecessary duplication of programs, projects, and research facilities.

Sec. 310. The Administrator shall, as soon as practicable and consistent with design, economic, and feasibility studies, include in an annual authorization proposal a recommendation on construction of at least one demonstration offshore wind-electric generating facility.

Sec. 311. As a part of the annual report required by section 15(a)(1) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5914(a)(1)), the Administrator shall:

(a) detail the Solar Energy Division personnel level recommended for the current fiscal year by the Administrator and submitted to the Office of Management and Budget, and the personnel level authorized upon review by that Office; and

(b) detail progress toward completion by January 1, 1980, of the objectives of the Solar Energy Research Development, and Demonstration Act of 1974 (42 U.S.C. 5551, et seq.).

Sec. 312. The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901), as amended by section 103 of this Act, is amended by adding at the end thereof the following new section:

"CENTRAL SOURCE OF NONNUCLEAR ENERGY INFORMATION

"Sec. 18. The Administrator shall promptly establish, develop, acquire, and maintain a central source of information on all energy resources and technology in furtherance of the Administrator's research, development, and demonstration mission carried out directly or indirectly under this Act. When the Administrator determines that such information is needed to carry out the purposes of this Act, he may acquire proprietary and other information (a) by purchase through negotiation or by donation from any person, or (b) from another Federal agency. The information maintained by the Administrator shall be made available to the public, subject to the provisions of section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, and to other Government agencies in a manner that will facilitate its dissemination: *Provided*, That upon a showing satisfactory to the Administrator by any person that any information, or portion thereof, obtained under this section by the Administrator directly or indirectly from such person, would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Administrator shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code: *Provided further*, That the Administrator shall, upon request, provide such information to (A) any delegate of the Administrator for the purpose of carrying out this Act, and (B) the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Federal Trade Commission, the Federal Energy Administration, the Environmental Protection Agency, the Federal Power Commission, the General Accounting Office, other Federal agencies, or heads of other Federal agencies, when necessary to carry out their duties and responsibilities under this and other statutes, but such agencies and agency heads shall not release such information to the public. This section is not authority to withhold information from Congress or any committee of Congress upon request of the chairman.".

Sec. 313. The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901) is amended by adding at the end thereof (after the new section added by section 312 of this Act) the following new section:

"ENERGY INFORMATION

"Sec. 19. The Administrator is, upon request, authorized to obtain energy information under section 11(d) of the Energy Supply and Environmental Coordination Act of 1974, as amended (15 U.S.C. 796(d)).".

Part C—Provisions Relating to Fossil Energy Development

Sec. 314. Funds appropriated pursuant to this Act for "Operating expenses" for fossil energy purposes may be used for (1) any facilities which may be required at locations, other than installations of the Administration, for the performance of research and development contracts, and (2) grants to any organization for purchase or construction of research facilities. No such funds shall be used for the acquisition of land. Fee title to all such facilities shall be vested in the United States, unless the Administrator determines in writing that the programs of research and development authorized by this Act shall best be implemented by vesting fee title in an entity other than the United States: *Provided*, That, before approving the vesting of title in such entity, the Administrator shall (A) transmit such determination, together with all pertinent data, to the Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate, and (B) wait a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action. Each grant shall be made under such conditions as the Administrator deems necessary to insure that the United States will receive therefrom benefits adequate to justify the making of the grant. No such funds shall be used under clause (1) of the first sentence of this section for the construction of any major facility the estimated cost of which, including collateral equipment, exceeds $250,000 unless the Administrator shall (i) transmit a report on such major facility showing the nature, purpose, location, and estimated cost of such facility to the Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate, and (ii) wait a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

Sec. 315. Not to exceed three per centum of all funds appropriated pursuant to this Act for "Operating expenses" for fossil energy purposes may be used by the Administrator to construct, expand, or modify laboratories and other facilities, including the acquisition of land, at any location under the control of the Administrator, if the Administrator determines that (1) such action would be necessary because of changes in the national programs authorized to be funded by this Act or because of new scientific or engineering developments, and (2) deferral of such action until the enactment of the next authorization act would be inconsistent with the policies established by Congress for the Administration. No portion of such sums may be obligated for expenditure or expended for such activities, unless (A) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the Administrator has transmitted to the Committee on Science and Technology, of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate a written report containing a full and complete statement concerning (i) the nature of construction, expansion, or modification, (ii) the cost thereof, including the cost of any real estate action pertaining thereto, and (iii) the reason why such construction, expansion, or modification is necessary and in the national interest, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

Sec. 316. The Administrator shall conduct an environmental and safety research, development, and demonstration program related to fossil fuels.

TITLE IV—OAK RIDGE HOLIFIELD NATIONAL LABORATORY

SEC. 401. The Holifield National Laboratory at Oak Ridge, Tennessee, shall hereafter be known and designated as the "Oak Ridge National Laboratory". Any reference in any law, map, regulation, document, record, or other paper of the United States to the Holifield National Laboratory or to the Oak Ridge National Laboratory shall be held to be a reference to the "Oak Ridge National Laboratory".

SEC. 402. The Heavy Ion Research Facility under construction at Oak Ridge, Tennessee, is hereby designated as the "Holifield Heavy Ion Research Facility". Any reference in any law, regulation, map, record, or other document of the United States to the Heavy Ion Research Facility shall be considered a reference to the "Holifield Heavy Ion Research Facility".

TITLE V—AIR TRANSPORTATION OF PLUTONIUM

SEC. 501. The Energy Research and Development Administration shall not ship plutonium in any form by aircraft whether exports, imports, or domestic shipment: *Provided,* That any exempt shipments of plutonium, as defined by section 502, are not subject to this restriction. This restriction shall be in force until the Energy Research and Development Administration has certified to the Joint Committee on Atomic Energy of the Congress that a safe container has been developed and tested which will not rupture under crash and blast testing equivalent to the crash and explosion of a high-flying aircraft.

SEC. 502. For the purpose of this title, the term "exempt shipments of plutonium" shall include the following:

(1) Plutonium shipments in any form designed for medical application.

(2) Plutonium shipments which pursuant to rules promulgated by the Administrator of the Energy Research and Development Administration are determined to be made for purposes of national security, public health and safety, or emergency maintenance operations.

(3) Shipments of small amounts of plutonium deemed by the Administrator of the Energy Research and Development Administration to require rapid shipment by air in order to preserve the chemical, physical, or isotopic properties of the transported item or material.

TITLE VI—ASSISTANCE PAYMENTS AMENDMENTS

SEC. 601. Chapter 9 of the Atomic Energy Community Act of 1955 (42 U.S.C. 2391 et seq.) is amended—

(1) by striking out "Commission" each time it appears in sections 91 and 94, the first time it appears in section 92, and where it appears in section 93, and inserting in each instance in lieu thereof the following: "Administrator";

(2) by striking out "atomic energy" in section 91a(2) and inserting "Energy Research and Development Administration" in lieu thereof:

(3) by striking out "its" in section 91d;

(4) by striking out "itself" in section 91e;

(5) by striking out the period at the end of the first sentence of section 91a, and inserting in lieu thereof the following: ": Provided further, That the Administrator is also authorized to make payments of just and reasonable sums to Anderson County and Roane County, Tennessee.";

(6) by inserting immediately after "Richland School District" in section 91d, but before the closing of parentheses, the following: "; or not less than six months prior to June 30, 1986, in the case of Anderson County and Roane County, Tennessee";

(7) by striking out "Commission" in the catchlines of sections 92 and 94;

(8) by striking out "Commission" the second time it appears in section 92, and inserting "Energy Research and Development Administration" in lieu thereof; and

(9) by striking out the final period in section 93 and inserting in lieu thereof the following: "; and in the case of Anderson County and Roane County, Tennessee, shall not extend beyond June 30, 1986,".

And the Senate agree to the same.

OLIN TEAGUE,
MELVIN PRICE,
JOHN YOUNG,
THOMAS N. DOWNING,
KEN HECHLER,
DON FUQUA,
GEORGE E. BROWN, Jr.,
WALTER FLOWERS,
JAMES W. SYMINGTON,
MIKE MCCORMACK,
JOHN B. ANDERSON,
CHARLES A. MOSHER,
ALPHONZO BELL,
BARRY M. GOLDWATER, Jr.,
MANUEL LUJAN, Jr.,
Managers on the Part of the House.

JOHN O. PASTORE,
HENRY M. JACKSON,
STUART SYMINGTON,
FRANK CHURCH,
JOSEPH M. MONTOYA,
J. BENNETT JOHNSTON, Jr.,
FLOYD K. HASKELL,
JOHN GLENN,
CLIFFORD P. CASE,
PAUL J. FANNIN,
HOWARD H. BAKER, Jr.,
MARK O. HATFIELD,
JIM MCCLURE,
Managers on the Part of the Senate.

RESERVATION TO SECTIONS 102 AND 103 BY BARRY M. GOLDWATER, JR.

Representative Barry M. Goldwater, Jr., although he signed the Conference Report on the part of the House, emphasized that he did so with reservations about enacting at this time Sections 102 and 103, the two major new sections added by the Senate, and the additional reservation that the House should be allowed to have a separate vote on each section.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3474), Energy Research and Development Administration Authorization Act, 1976, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

NONNUCLEAR ENERGY

This authorization is the first for the new Energy Research and Development Administration which came into existence January 19, 1975. At the time the original budget request was submitted by the new agency it constituted a compilation of previous programs which had been placed in one agency for the first time. In succeeding months, much information and program direction has occurred on the part of the agency, and the Committees involved in the House and Senate have had an opportunity to evaluate and update their program desires and expectations.

The compromise worked out by the Committee of Conference and reflected in the accompanying amendment which is recommended take into account each of the above considerations.

A. SUMMARY OF NONNUCLEAR PROGRAMS

Titles I and II of the conference report on H.R. 3474 authorize nonnuclear programs, nuclear programs, and joint programs. Sections 101 and 201 authorize funds for those programs in fiscal year 1976 and the transition period.

CONFERENCE RECOMMENDATION OPERATING AND PLANT AND CAPITAL EQUIPMENT BUDGET AUTHORITY

[Dollars in thousands]

	Fiscal year 1976	Transition period
1. The nonnuclear programs are as follows:		
Fossil	$497, 821	$132, 550
Solar	175, 525	46, 203
Geothermal	56, 390	13, 650
Conservation	156, 205	35, 908
Advanced energy systems	9, 150	1, 780
2. The increases above the original ERDA request in the other programs are as follows:		
Physical research	24, 075	6, 136
Environment and safety	44, 100	9, 319
Scientific and technical education	5, 850	1, 462
CEQ, WRC, NBS	2, 750	687
Program support	9, 000	2, 250

Section 102 establishes in ERDA an in situ oil shale demonstration program and provides for the transfer to ERDA of the administrative jurisdiction of an oil shale lease, with the lease administration reverting to the Department of the Interior at the end of the demonstration phase. It also provides for consultation with the State and local officials and assistance for communities impacted by the demonstration.

Section 103 authorizes ERDA to provide up to $6 billion in loan guarantees for the construction of commercial demonstration facilities for (1) synthetic fuels from coal, oil shale, biomass, and other domestic resources; (2) energy from solar and other renewable resources; and (3) energy-efficient industrial equipment. It also provides for the further implementation of the geothermal loan guarantee program established under Public Law 93-410.

The following paragraphs discuss the non-geothermal loan guarantees.

Each guarantee must be made in consultation with the Secretary of the Treasury. The Administrator must consult with the Governor and local officials in making his decision. If the Governor objects, the Administrator may override if he decides that it is in the national interest; a judicial review of the override decision is provided. Each guarantee is subject to a Congressional layover of 90 days, and if the project costs over $350 million, either House may disapprove such project during this period.

The Administrator is given a portfolio of financial assistance programs to provide impact aid to affected communities. ERDA, as part of its program report to Cogress, must also present a report on the socio-economic effects and their estimated costs.

The title and waiver requirements of the patent policy of the Federal Nonnuclear Energy Research and Development Act of 1974 apply to this program, but not the reporting provisions. All patents and technology resulting from the commercial demonstration facility are treated as part of project assets, in the event of default.

Any employee performing duties under this section and with any financial interest in energy resources associated with an applicant, must make an annual, public disclosure of all such interests.

All applicants or borrowers must be citizens or nationals of the United States.

Title 3 of the Conference Report contains general provisions.

Part A applies to all nuclear programs and to all nonnuclear programs, other than fossil programs. Authority is provided to begin construction design work without specific authorization from Congress for the project; funds may remain available until expended; and ERDA is given the authority to transfer funds to other agencies.

Part B relates to all nonnuclear energy development. It provides for general reprogramming of funds, with Congressional notification, as long as no major category is decreased by more than 10 percent; and a central source of information on all energy resources and technology for R. & D. purposes.

Part C relates to fossil energy development. It provides for reprogramming of operating expenses for construction purposes, and a program of environmental and safety research, development, and demonstration related to fossil fuels.

B. BUDGET ACTIONS

The compromise reflects numerous program decisions to accommodate the views on needed acceleration of nonnuclear programs by the two Houses. Fossil energy programs, for example, were reduced approximately $52 million below the Senate recommendation and increased $85 million over the House figure and solar energy programs were increased $39 million above the Senate recommendation and reduce $25 million below the House recommendation.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

SUMMARY—FISCAL YEAR 1976 CONFERENCE COMMITTEE RECOMMENDATION

[In thousands of dollars]

	Costs	Changes in selected resources	Construction obligations	Capital equipment obligations	Total	Revised administration request
Fossil energy development:						
Senate authorization	398,733	77,274	73,000	425	549,432	
House authorization	337,040	54,620	20,000	425	412,085	434,485
Conference recommendation	357,373	72,023	68,000	425	497,821	
Original ERDA request	325,040	47,620	20,000	425	393,085	
Amount recommended exceeds original ERDA request	32,333	24,403	48,000	0	104,736	---------
Solar energy development:						
Senate authorization	97,100	26,248	10,000	0	133,348	
House authorization	96,223	98,577	0	3,000	197,800	89,200
Conference recommendation	97,100	62,425	10,000	3,000	172,525	
Original ERDA request	57,100	13,200	0	0	70,300	
Amount recommended exceeds original ERDA request	40,000	49,225	10,000	3,000	102,225	---------
Geothermal energy development:						
Senate authorization	33,870	−3,757	10,000	620	40,733	
House authorization	37,650	15,620	0	3,120	56,390	31,390
Conference recommendation	34,750	8,520	10,000	3,120	56,390	
Original ERDA request	28,370	−5,600	0	620	23,390	
Amount recommended exceeds original ERDA request	6,380	14,120	10,000	2,500	33,000	---------
Conservation research and development:						
Senate authorization	131,280	36,055	0	2,450	169,785	
House authorization	85,862	37,918	0	11,500	135,280	71,820
Conference recommendation	107,555	37,150	0	11,500	156,205	
Original ERDA request	35,020	4,000	0	2,450	41,470	
Amount recommended exceeds original ERDA request	72,535	33,150	0	9,050	114,735	---------
Physical research (increment only):						
Senate authorization	18,000	6,000	0	5,000	29,000	---------
House authorization	13,450	2,450	0	4,100	20,000	---------
Conference recommendation	15,725	3,750	0	4,600	24,075	---------
Environment and safety (increment only):						
Senate authorization	26,500	8,800	6,800	0	42,100	---------
House authorization	10,800	2,700	0	2,000	15,500	---------
Conference recommendation	26,500	8,800	6,800	2,000	44,100	---------
Advanced energy systems supporting activities:						
Senate authorization	6,550	2,600	0	0	9,150	
House authorization	6,550	2,600	0	0	9,150	11,350
Conference recommendation	6,550	2,600	0	0	9,150	
Scientific and technical education:						
Senate authorization	5,000	1,700	0	0	6,700	
House authorization	4,000	1,000	0	0	5,000	0
Conference recommendation	4,500	1,350	0	0	5,850	
CEQ, WRC, NBS:						
Senate authorization	3,200	0	0	0	3,200	
House authorization	1,500	0	0	0	1,500	2,750
Conference recommmendation	2,750	0	0	0	2,750	
Program support (increment only):						
Senate authorization	10,300	0	0	0	10,300	---------
House authorization	6,600	0	0	0	6,600	---------
Conference recommendation	9,000	0	0	0	9,000	---------
Total Senate authorization	730,533	154,920	99,800	8,495	993,748	---------
Total House authorization	599,675	215,485	20,000	24,145	859,305	---------
Total conference recommendation	661,803	196,618	94,800	24,645	977,866	---------
Total original ERDA request	452,080	61,820	20,000	3,495	537,395	---------
Total amount recommended exceeds ERDA request	209,723	134,798	74,800	21,150	440,471	---------

DETAILED FISCAL YEAR 1976 CONFERENCE COMMITTEE RECOMMENDATION

FOSSIL ENERGY						
Coal liquefaction:						
Senate authorization	96,897	665	20,000	0	117,562	
House authorization	96,897	665	20,000	9	117,562	117,562
Conference recommendation	96,897	665	20,000	0	117,562	
High-Btu gasification:						
Senate authorization	37,838	20,526	20,000	0	78,364	
House authorization	42,838	20,526	0		63,364	63,364
Conference recommendation	37,838	20,526	20,000	0	78,364	
Low-Btu gasification:						
Senate authorization	49,171	−3,782	20,000	0	65,389	
House authorization	54,671	−4,282	0	0	50,389	45,389
Conference recommendation	54,671	−4,282	15,000	0	65,389	
Advanced power systems:						
Senate authorization	8,261	2,340	0	0	11601	
House authorization	5,261	1,340	0	0	6,601	10,001
Conference recommendation	8,261	2,340	0	0	10,601	
Direct combustion:						
Senate authorization	32,645	5,451	13,000	0	51,096	
House authorization	32,645	5,451	0	0	38,096	45,096
Conference recommendation	32,645	5,451	13,000	0	51,096	
Advanced research and supporting technology:						
Coal conversion:						
Senate authorization	13,000	1,000	0	0	14,000	
House authorization	13,000	1,000	0	0	14,000	14,000
Conference recommendation	13,000	1,000	0	0	14,000	
Direct coal utilization:						
Senate authorization	4,600	400	0	0	5,000	
House authorization	4,600	400	0	0	5,000	5,000
Conference recommendation	4,600	400	0	0	5,000	
Supporting research:						
Senate authorization	8,374	119	0	0	8,493	
House authorization	8,374	119	0	0	8,493	8,493
Conference recommendation	8,374	119	0	0	8,493	
Systems studies:						
Senate authorization	6,087	1,813	0	0	7,900	
House authorization	9,087	2,813	0	0	11,900	7,900
Conference recommendation	9,087	2,813	0	0	11,900	
Demonstration plants:						
Senate authorization	18,100	18,900	0	0	37,000	
House authorization	18,100	18,900	0	0	37,000	37,000
Conference recommendation	18,100	18,900	0	0	37,000	
Natural gas and oil extraction:						
Senate authorization	47,065	11,624	0	100	58,429	
House authorization	28,065	6,864	0	100	35,029	35,029
Conference recommendation	32,865	8,564	0	100	41,529	

DETAILED FISCAL YEAR 1976 CONFERENCE COMMITTEE RECOMMENDATION—Continued

[In thousands of dollars]

	Costs	Changes in selected resources	Construction obligations	Capital equipment obligations	Total	Revised administration request
Natural gas and oil utilization:						
Senate authorization	1,582	215	0	0	1,797	
House authorization	1,582	215	0	0	1,797	1,797
Conference recommendation	1,582	215	0	0	1,797	
Oil shale in-situ processing:						
Senate authorization	24,000	6,318	0	325	30,643	
House authorization	7,034	686	0	325	8,045	14,045
Conference recommendation	16,000	3,000	0	325	19,325	
Oil shale composition and characterization:						
Senate authorization	1,113	152	0	0	1,265	
House authorization	1,113	152	0	0	1,265	1,265
Conference recommendation	1,113	152	0	0	1,265	
Magnetohydrodynamics:						
Senate authorization	50,000	11,893	0	0	61,893	
House authorization	13,773	−229	0	0	13,544	28,544
Conference recommendation	22,340	12,160	0	0	34,500	
Total fossil energy:						
Senate authorization	398,733	77,274	73,000	425	549,432	
House authorization	337,040	54,620	20,000	425	412,085	434,485
Conference recommendation	357,373	72,023	68,000	425	497,821	
SOLAR ENERGY DEVELOPMENT						
Solar energy buildings and facilities:						
Senate authorization	31,600	7,780	0	0	39,380	
House authorization	30,885	24,357	0	500	55,742	28,500
Conference recommendation	31,600	16,070	0	500	48,170	
Solar thermal:						
Senate authorization	11,000	2,200	10,000	0	23,200	
House authorization	19,392	19,028	0	750	39,170	17,000
Conference recommendation	11,000	10,610	10,000	750	32,360	
Photovoltaic:						
Senate authorization	21,000	6,460	0	0	27,460	
House authorization	17,239	22,219	0	1,000	40,458	19,000
Conference recommendation	21,000	14,340	0	1,000	36,340	
Wind energy conversion:						
Senate authorization	15,000	4,500	0	0	19,500	
House authorization	12,442	11,925	0	500	24,867	11,500
Conference recommendation	13,720	8,210	0	500	22,430	
Bioconversion to fuels:						
Senate authorization	6,000	1,600	0	0	7,600	
House authorization	4,825	4,174	0	0	8,999	6,000
Conference recommendation	5,780	2,890	0	0	8,670	
Ocean thermal energy conversion:						
Senate authorization	6,000	1,558	0	0	7,558	
House authorization	5,977	9,529	0	0	15,506	3,200
Conference recommendation	6,000	5,545	0	0	11,545	
Resource analysis:						
Senate authorization	1,500	500	0	0	2,000	
House authorization	1,788	2,366	0	0	4,154	3,800
Conference recommendation	1,500	1,660	0	0	3,160	
Solar storage:						
Senate authorization	0	0	0	0	0	
House authorization	1,788	2,366	0	0	4,154	0
Conference recommendation	1,500	1,600	0	0	3,100	
Solar institute:						
Senate authorization	5,000	1,650	0	0	6,650	
House authorization	1,887	2,613	0	250	4,750	200
Conference recommendation	5,000	1,500	0	250	6,750	
Capital equipment not identified to program						
Total solar energy:						
Senate authorization	97,100	26,248	10,000	0	133,348	
House authorization	96,223	98,577	0	3,000	197,800	89,200
Conference recommendation	97,100	62,425	10,000	3,000	172,525	
GEOTHERMAL ENERGY DEVELOPMENT						
Geothermal energy demonstration:						
Senate authorization	0	0	10,000	0	10,000	0
House authorization	7,200	15,800	0	0	23,000	0
Conference recommendation	0	0	10,000	0	10,000	
Resource utilization:						
Senate authorization	17,870	−3,070	0	0	14,800	
House authorization	18,750	−1,450	0	500	17,800	12,600
Conference recommendation	18,750	5,200	0	500	24,450	
Supporting research and development:						
Senate authorization	16,000	−687	0	620	15,933	
House authorization	11,700	1,270	0	2,620	15,590	18,790
Conference recommendation	16,000	3,320	0	2,620	21,940	
Total geotharmal energy:						
Senate authorization	33,870	−3,757	10,000	620	40,733	
House authorization	37,650	15,620	0	3,120	56,390	31,390
Conference recommendation	34,750	8,520	10,000	3,120	56,390	
CONSERVATION RESEARCH AND DEVELOPMENT						
Electric power transmission:						
Senate authorization	11,830	300	0	1,700	13,830	
House authorization	11,830	300	0	1,700	13,830	21,130
Conference recommendation	11,830	300	0	1,700	13,830	
Energy storage systems:						
Senate authorization	23,100	5,700	0	750	29,550	
House authorization	22,932	5,318	0	2,600	30,850	14,850
Conference recommendation	23,100	5,700	0	2,600	31,400	
Advanced transportation power systems:						
Senate authorization	18,000	4,420	0	0	22,420	
House authorization	19,000	4,500	0	1,500	25,000	12,940
Conference recommendation	19,000	4,500	0	1,500	25,000	
End-use conservation:						
Senate authorization	31,000	11,300	0	0	42,300	
House authorization	27,000	26,000	0	5,000	58,000	18,100
Conference recommendation	31,000	18,650	0	5,000	54,650	
Improved conversion efficiency:[1]						
Senate authorization	17,350	4,335	0	0	21,685	
House authorization	5,100	1,800	0	700	7,600	4,800
Conference recommendation	12,625	3,000		700	16,325	
Fuel cells:						
Senate authorization	(10,000)	(3,235)			(13,235)	
House authorization	(2)	(2)			(2)	(600)
Conference recommendation	(9,000)	(1,000)			(10,000)	
Urban Waste conversion:						
Senate authorization	30,000	10,000	0	0	40,000	
House authorization	0	0	0	0	0	0
Conference recommendation	10,000	5,000	0	0	15,000	
Total conservation:						
Senate authorization	131,280	36,055	0	2,450	169,785	
House authorization	85,862	37,918	0	11,500	135,280	71,820
Conference recommendation	107,555	37,150	0	11,500	156,205	
PHYSICAL RESEARCH (INCREMENT ONLY)						
Materials sciences:						
Senate authorization	8,500	2,850	0	2,500	13,850	
House authorization	8,500	1,900	0	2,600	13,000	
Conference recommendation	8,500	1,900	0	2,600	13,000	
Molecular sciences:						
Senate authorization	9,500	3,150	0	2,500	15,150	
House authorization	4,950	550	0	1,500	7,000	
Conference recommendation	7,225	1,850	0	2,000	11,075	
Total physical research:						
Senate authorization	18,000	6,000	0	5,000	29,000	
House authorization	13,450	2,450	0	4,100	20,000	
Conference recommendation	15,725	3,750	0	4,600	24,075	
ENVIRONMENT AND SAFETY (INCREMENT ONLY)						
Health studies:						
Senate authorization	4,660	1,540	6,800		13,000	
House authorization	1,120	280	0		1,400	
Conference recommendation	4,660	1,540	6,800		13,000	

Footnotes at end of table.

DETAILED FISCAL YEAR 1976 CONFERENCE COMMITTEE RECOMMENDATION—Continued

[In thousands of dollars]

	Costs	Changes in selected resources	Construction obligations	Capital equipment obligations	Total	Revised administration request
Environmental studies:						
Senate authorization	12,672	4,203	0	----------	16,875	----------
House authorization	5,520	1,380	0	----------	6,900	----------
Conference recommendation	12,672	4,203	0	----------	16,875	----------
Biological studies:						
Senate authorization	2,240	760	0	----------	3,000	----------
House authorization	1,140	285	0	----------	1,425	----------
Conference recommendation	2,240	760	0	----------	3,000	----------
Physical and analytical:						
Senate authorization	6,928	2,297	0	----------	9,225	----------
House authorization	3,020	755	0	----------	3,775	----------
Conference recommendation	6,928	2,297	0	----------	9,225	----------
General program capital equipment:						
Senate authorization				0	0	----------
House authorization				2,000	2,000	----------
Conference recommendation				2,000	2,000	----------
Total environment and safety:						
Senate authorization	26,500	8,800	6,800	0	42,100	----------
House authorization	10,800	2,700	0	2,000	15,500	----------
Conference recommendation	26,500	8,800	6,800	2,000	44,100	----------
Advanced energy systems research supporting activities:						
Senate authorization	6,550	2,600	0	0	9,150	
House authorization	6,550	2,600	0	0	9,150	11,350
Conference recommendation	6,550	2,600	0	0	9,150	
Scientific and technical education:						
Senate authorization	5,000	1,700	0	0	6,700	
House authorization	4,000	1,000	0	0	5,000	0
Conference recommendation	4,500	1,350	0	0	5,850	
CEQ, WRC, NBS:						
Senate authorization	3,200	0	0	0	3,200	
House authorization	1,500	0	0	0	1,500	2,750
Conference recommendation	2,750	0	0	0	2,750	
Program support (increment only):						
Senate authorization	10,300	0	0	0	10,300	----------
House authorization	6,600	0	0	0	6,600	----------
Conference recommendation	9,000	0	0	0	9,000	----------

[1] Includes fuel cells.

[2] House authorization for fuel cells included in improved conversion efficiency total.

SUMMARY—TRANSITION PERIOD CONFERENCE COMMITTEE RECOMMENDATION

[In thousands of dollars]

	Costs	Changes in selected resources	Construction obligations	Capital equipment obligations	Total	Revised administration request
Fossil energy development:						
Senate authorization	76,425	46,625	21,250	200	144,500	
House authorization	61,230	40,850	8,000	200	110,280	113,130
Conference recommendation	69,071	43,279	20,000	200	132,550	
Original ERDA request	58,830	39,300	8,000	200	105,530	
Amount recommended exceeds original ERDA request	11,041	3,979	12,000	0	27,020	----------
Solar energy development:						
Senate authorization	24,550	9,170	2,500	0	36,220	
House authorization	34,075	14,625	0	0	48,700	26,100
Conference recommendation	24,500	19,203	2,500	0	46,203	
Original ERDA request	14,500	5,900	0	0	20,400	
Amount recommended exceeds original ERDA request	10,000	13,303	2,500	0	25,803	----------
Geothermal energy development:						
Senate authorization	4,425	2,460	2,500	200	9,585	
House authorization	10,100	3,350	0	200	13,650	7,650
Conference recommendation	10,100	850	2,500	200	13,650	
Original ERDA request	3,050	2,000	0	200	5,250	
Amount recommended exceeds original ERDA request	7,050	—1,150	2,500	0	8,400	----------
Conservation research and development:						
Senate authorization	32,148	7,795	0	500	40,443	
House authorization	20,873	8,160	0	2,900	31,933	17,740
Conference recommendation	26,798	6,210	0	2,900	35,908	
Original ERDA request	8,083	—250	0	500	8,333	
Amount recommended exceeds original ERDA request	18,715	6,460	0	2,400	27,575	----------
Physical research (increment only):						
Senate authorization	4,500	1,500	0	1,250	7,250	----------
House authorization	3,500	900	0	600	5,000	----------
Conference recommendation	3,931	1,168	0	1,037	6,136	----------
Environment and safety (increment only):						
Senate authorization	6,625	2,200	0	0	8,825	----------
House authorization	2,700	675	0	500	3,875	----------
Conference recommendation	6,625	2,194	0	500	9,319	----------
Advanced energy systems supporting activities:						
Senate authorization	1,480	300	0	0	1,780	
House authorization	1,480	300	0	0	1,780	2,780
Conference recommendation	1,480	300	0	0	1,780	
Scientific and technical education:						
Senate authorization	1,250	425	0	0	1,675	
House authorization	1,000	250	0	0	1,250	0
Conference recommendation	1,125	337	0	0	1,462	
CEQ NRC, NBS:						
Senate authorization	800	0	0	0	800	
House authorization	375	0	0	0	375	450
Conference recommendation	687	0	0	0	687	
Program support (increment only):						
Senate authorization	2,600	0	0	0	2,600	----------
House authorization	1,700	0	0	0	1,700	----------
Conference recommendation	2,250	0	0	0	2,250	----------
Total Senate authorization	154,803	70,475	26,250	2,150	253,678	----------
Total House authorization	137,033	69,110	8,000	4,400	218,543	----------
Total conference recommendation	146,567	73,541	25,000	4,837	249,945	----------
Total original ERDA request	85,143	47,250	8,000	900	141,293	----------
Total amount recommended exceeds original ERDA request	61,424	26,291	17,000	3,937	108,652	----------

DETAIL TRANSITION PERIOD CONFERENCE COMMITTEE RECOMMENDATION

[In thousands of dollars]

	Costs	Changes in selected resources	Construction obligations	Capital equipment obligations	Total	Revised administration request
FOSSIL ENERGY DEVELOPMENT						
Coal liquefaction:						
Senate action	16,000	12,750	8,000	0	36,750	
House action	16,000	12,750	8,000	0	36,750	36,750
Conference recommendation	16,000	12,750	8,000	0	36,750	
High-Btu gasification:						
Senate action	7,450	1,800	5,000	0	14,250	
House action	8,700	1,800	0	0	10,500	10,500
Conference recommendation	7,450	1,800	5,000	0	14,250	
Low-Btu gasification:						
Senate action	5,900	5,500	5,000	0	16,400	
House action	7,300	5,350	0	0	12,650	11,400
Conference recommendation	7,300	5,350	3,750	0	16,400	
Advanced power systems:						
Senate action	2,050	1,450	0	0	3,500	
House action	1,300	1,200	0	0	2,500	3,500
Conference recommendation	2,050	1,450	0	0	3,500	
Direct combustion:						
Senate action	5,100	9,800	3,250	0	18,150	
House action	5,100	9,800	0	0	14,900	17,000
Conference recommendation	5,100	9,800	3,250	0	18,150	
Advanced research and supporting technology						
Coal conversion:						
Senate action	2,100	1,900	0	0	4,000	
House action	2,100	1,900	0	0	4,000	4,000
Conference recommendation	2,100	1,900	0	0	4,000	
Direct coal utilization:						
Senate action	500	500	0	0	1,000	
House action	500	500	0	0	1,000	1,000
Conference recommendation	500	500	0	0	1,000	
Supporting research:						
Senate action	1,400	450	0	0	1,850	
House action	1,400	450	0	0	1,850	1,850
Conference recommendation	1,400	450	0	0	1,850	
Systems studies:						
Senate action	600	1,400	0	0	2,000	
House action	1,400	1,600	0	0	3,000	2,000
Conference recommendation	1,400	1,600	0	0	3,000	
Demonstration plants:						
Senate action	4,100	4,900	0	0	9,000	
House action	4,100	4,900	0	0	9,000	9,000
Conference recommendation	4,100	4,900	0	0	9,000	
Natural gas and oil extraction:						
Senate action	12,930	1,800	0	100	14,830	
House action	8,330	600	0	100	9,030	6,530
Conference recommendation	9,930	600	0	100	10,630	
Natural gas and oil utilization:						
Senate action	500	−50	0	0	450	
House action	500	−50	0	0	450	450
Conference recommendation	500	−50	0	0	450	
Oil shale in-situ processing:						
Senate action	6,240	1,330	0	100	7,670	
House action	2,000	−50	0	100	2,050	2,050
Conference recommendation	4,241	529	0	100	4,870	
Oil shale composition and characterization:						
Senate action	300	0	0	0	300	
House action	300	0	0	0	300	300
Conference recommendation	300	0	0	0	300	
Magnotohydrodynamics:						
Senate action	11,255	3,095	0	0	14,350	
House action	2,200	100	0	0	2,300	6,800
Conference recommendation	6,700	1,700	0	0	8,400	
Fossil energy totals:						
Senate action	76,425	46,625	21,250	200	144,500	
House action	61,230	40,850	8,000	200	110,280	113,130
Conference recommendation	69,071	43,279	20,000	200	132,550	
SOLAR ENERGY DEVELOPMENT						
Solar energy buildings and facilities:						
Senate authorization	7,400	3,535	0	0	10,935	
House authorization	9,102	4,905	0	0	14,007	8,400
Conference recommendation	7,400	6,617	0	0	14,017	
Solar thermal:						
Senate authorization	3,200	600	2,500	0	6,300	5,300
House authorization	6,888	2,664	0	0	9,552	
Conference recommendation	3,200	2,702	2,500	0	8,402	
Photovoltaic:						
Senate authorization	5,650	1,710	0	0	7,360	5,200
House authorization	6,901	3,004	0	0	9,905	
Conference recommendation	5,650	3,685	0	0	9,335	
Wind energy:						
Senate authorization	4,000	1,400	0	0	5,400	3,400
House authorization	4,509	1,729	0	0	6,238	
Conference recommendation	3,680	2,327	0	0	6,007	
Bioconversion to fuels:						
Senate authorization	1,150	850	0	0	2,000	1,700
House authorization	1,915	244	0	0	2,159	
Conference recommendation	1,095	1,172	0	0	2,267	
Ocean thermal:						
Senate authorization	1,500	520	0	0	2,020	900
House authorization	2,797	891	0	0	3,688	
Conference recommendation	1,475	1,511	0	0	2,986	
Resource analysis:						
Senate authorization	400	135	0	0	535	1,000
House authorization	553	458	0	0	1,011	
Conference recommendation	375	432	0	0	807	
Solar storage:						
Senate authorization	0	0	0	0	0	0
House authorization	653	358	0	0	1,011	
Conference recommendation	375	425	0	0	800	
Solar institute:						
Senate authorization	1,250	420	0	0	1,670	200
House authorization	757	372	0	0	1,129	
Conference recommendation	1,250	332	0	0	1,582	
Total solar energy:						
Senate authorization	24,560	9,170	2,500	0	36,220	26,100
House authorization	34,075	14,625	0	0	48,700	
Conference recommendation	24,500	19,203	2,500	0	46,203	
GEOTHERMAL ENERGY DEVELOPMENT						
Geothermal energy demonstration:						
Senate authorization	0	0	2,500	0	2,500	
House authorization	5,500	300	0	0	5,800	0
Conference recommendation	0	0	2,500	0	2,500	
Resource utilization:						
Senate authorization	1,500	1,800	0	0	3,300	
House authorization	2,100	2,000	0	0	4,100	3,300
Conference recommendation	4,500	400	0	0	4,900	----------
Supporting research and development:						
Senate authorization	2,925	660	0	200	3,785	
House authorization	2,500	1,050	0	200	3,750	4,350
Conference recommendation	5,600	450	0	200	6,250	
Total geothermal energy:						
Senate authorization	4,425	2,460	2,500	200	9,585	7,650
House authorization	10,100	3,350	0	200	13,650	
Conference recomendation	10,100	850	2,500	200	13,650	
CONSERVATION RESEARCH AND DEVELOPMENT						
Electric power transmission:						
Senate authorization	2,673	−100	0	200	2,773	
House authorization	2,673	−100	0	200	2,773	5,180
Conference recommendation	2,673	−100	0	200	2,773	
Energy storage systems:						
Senate authorization	5,500	980	0	300	6,780	
House authorization	5,400	900	0	800	7,100	3,220
Conference recommendation	5,400	900	0	800	7,100	
Advanced transportation power systems:						
Senate authorization	4,500	1,060	0	0	5,560	
House authorization	4,800	1,010	0	400	6,210	3,240
Conference recommendation	4,750	1,060	0	400	6,210	
End-use conservation:						
Senate authorization	8,000	2,320	0	0	10,320	
House authorization	7,100	6,000	0	1,300	14,400	4,900
Conference recommendation	8,000	2,000	0	1,300	11,300	
Improved conversion efficiency:[1]						
Senate authorization	3,975	1,035	0	0	5,010	
House authorization	900	350	0	200	1,450	1,200

Footnotes at end of table.

	Costs	Changes in selected resources	Construction obligations	Capital equipment obligations	Total	Revised administration request
Improved converson efficiency—Continued						
Conference recommendation	3,475	1,100		200	4,775	
Fuel cells:						
Senate authorization	(2,575)	(615)	(0)	0	(3,190)	
House authorization	(2)	(2)	(0)	0	(2)	0
Conference recommendation	(2,575)	(615)			(3,190)	
Urban waste conversion:						
Senate authorization	7,500	2,500	0	0	10,000	
House authorization	0	0	0	0	0	0
Conference recommendation	2,500	1,250	0	0	3,750	
Total conservation:						
Senate authorization	32,148	7,795	0	500	40,443	
House authorization	20,873	8,100	0	2,900	31,933	17,740
Conference recommendation	26,798	6,210	0	2,900	35,908	
PHYSICAL RESEARCH (INCREMENT ONLY)						
Materials sciences:						
Senate authorization	2,125	705	0	625	3,455	----------
House authorization	2,200	600	0	400	3,200	----------
Conference recommendation	2,125	705	0	625	3,455	----------
Molecular sciences:						
Senate authorization	2,375	795	0	625	3,795	----------
House authorization	1,300	300	0	200	1,800	----------
Conference recommendation	1,806	463	0	412	2,681	----------
Total physical research:						
Senate authorization	4,500	1,500	0	1,250	7,250	----------
House authorization	3,500	900	0	600	5,000	----------
Conference recommendation	3,931	1,168	0	1,037	6,136	----------
ENVIRONMENT AND SAFETY (INCREMENT ONLY)						
Health studies:						
Senate authorization	1,165	385	0	----------	1,550	----------
House authorization	280	70	0	----------	350	----------
Conference recommendation	1,165	385	0	----------	1,550	----------
Environmental studies:						
Senate authorization	3,168	1,057	0	----------	4,225	----------
House authorization	1,380	345	0	----------	1,725	----------
Conference recommendation	3,168	1,051	0	----------	4,219	----------
Biological studies:						
Senate authorization	560	185	0	----------	745	----------
House authorization	285	71	0	----------	356	----------
Conference recommendation	560	185	0	----------	745	----------
Physical and analytical:						
Senate authorization	1,732	573	0	----------	2,305	----------
House authorization	755	189	0	----------	944	----------
Conference recommendation	1,732	573	0	----------	2,305	----------
General program capital equipment:						
Senate authorization				0	0	----------
House authorization				500	500	----------
Conference recommendation				500	500	----------
Total environment and safety:						
Senate authorization	6,625	2,200	0	0	8,825	----------
House authorization	2,700	675	0	500	3,875	----------
Conference recommendation	6,625	2,194	0	500	9,319	----------
Advanced energy systems research supporting activities:						
Senate authorization	1,480	300	0	0	1,780	----------
House authorization	1,480	300	0	0	1,780	2,780
Conference recommendation	1,480	300	0	0	1,780	----------
Scientific and technical education:						
Senate authorization	1,250	425	0	0	1,675	----------
House authorization	1,000	250	0	0	1,250	0
Conference recommendation	1,125	337	0	0	1,462	----------
CEQ, WRC, NBS:						
Senate authorization	800	0	0	0	800	----------
House authorization	375	0	0	0	375	450
Conference recommendation	687	0	0	0	687	----------
Program support (increment only):						
Senate authorization	2,600	0	0	0	2,600	----------
House authorization	1,700	0	0	0	1,700	----------
Conference recommendation	2,250	0	0	0	2,250	----------

[1] Includes fuel cells.

[2] House authorization for fuel cells included in improved conversion efficiency total.

C. DISCUSSION OF SELECTED PROVISIONS

Section 101(a) (1) (II)—Natural gas and oil extraction

The Conference Committee authorization for natural gas and oil extraction represents an increase in the House bill of $6.5 million and a decrease in the Senate amendment of $16.8 million for fiscal year 1976. The $6.5 million for fiscal year 1976 and $1.6 million for the transition period is added to fund additional projects in gas stimulation in Devonian shale. The increase will provide funding for additional resource appraisal work and one additional massive hydraulic fracturing test in Devonian shale, and represents an addition to the $7 million already available for natural gas stimulation in both Devonian shale and Rocky Mountain formations.

Section 101(a) (1) (L)—MHD

The original ERDA request of $15,844,000 for work in magnetohydrodynamics was subsequently revised by ERDA and a request for $35,344,000 was submitted. The House authorized $15,844,000 and the Senate amendment authorized $76,243,000. The Committee of Conference agreed to recommend a fiscal year 1976 authorization of $34,500,000 and a transition period authorization of $8,400,000, for a total of $42,900,000. This amount represents a total increase of $7,556,000 over the amended ERDA request.

These increased funds for the MHD program will be used to increase work in the program categories of Preliminary Testing and Component Development. For the Preliminary Testing category $3.8 million will be used to (1) inaugurate design and construction of two superconducting magnets to be used to study basic high-field generator phenomena and (2) conduct basic engineering rig tests on arc mode current transport to electrodes and how to optimize electrode design to prevent damage to the electrodes by electric arc action.

For the Component Development category $3.8 million will be used to accelerate the effort on the Component Development and Integration Facility. The funds will be expended on both the basic facility and on additional effort on test equipment to be utilized in that facility.

Section 101(a) (2)—Solar programs

The Conferees recognize that the large increases above the Administration request approved for the solar energy programs introduce uncertainties in the program plans. They have, at the same time, provided significant management flexibility, subject to the "fully and currently informed" requirements under which ERDA keeps Congressional committees informed. The Conferees note, for example, that concepts alternative to the central receiver plan for solar thermal electric power generation—such as fixed mirror distributed focus systems—may be more attractive for small and rural communities. Similarly, solar heating and cooling systems utilizing air as a heat transfer medium may be more attractive than alternative liquid systems in many cases.

Section 101(a) (2)—Ocean thermal energy conversion

The Senate amendment required that $6 million of the total authorized for the solar program would be available for ocean thermal energy conversion. No comparable provision was included in the House bill, but it included $15,506,000 for such research. The conference recommendation provides a total of $11,545,000 for ocean thermal energy conversion. This authorization includes $6 million in costs and $5,545,000 changes in selected resources. The continued high level of funding for ocean thermal energy conversion is intended to indicate the strong support of the conferees for this program.

Section 101(a) (4)—Fuel cells

The fuel cell program will be managed entirely within the ERDA program called "Improved Conversion Efficiency" under the Assistant Administrator for Conservation. Of the total amount authorized in this program, the conference recommendation provides that $10 million shall be available for an expanded Federal effort in fuel cell technology. The conferees are informed that $8.9 million would be utilized for the initiation of a fuel cell demonstration powerplant, utilizing as a fuel source natural gas or naphtha. In addition, $1 million would be used for general research and development in the use of clean fuels and $100,000 for work with coal-derived fuels.

Section (101(a)(4)(f), (Sec. 103), Sec. 17(a)(b), and section 201(a)(4)(f)—Urban waste conversion

The Senate amendment included a separate line item for research, development and demonstration in Urban Waste Conversion under the Assistant Administrator for Conservation. The House bill had no specific amount for this purpose, although Urban Waste Conversion has been a part of the bioconversion activity of the Solar Energy Program in the past. The Fiscal Year 1976 Senate figure of $40 million was reduced to $15 million in the Conference recommendation.

The Conferees recognize the potential for overlap with the programs of other agencies not only for the Urban Waste Conversion program subject to direct funding, but also for the loan guaranties which may be implemented through Section 103.

It is the intent of the Conferees that this ERDA Urban Waste Conversion program be carefully coordinated with other Federal agencies, the EPA in particular. At the present time EPA has the major responsibility in this area. EPA provides significant budget assistance to states and local governments for construction in current state-of-the-art urban waste conversion facilities. The ERDA program is not intended to needlessly duplicate this EPA function but rather to emphasize the need for developing urban waste conversion technology in the context of the nation's energy needs. At the present time solid waste represents not only a costly disposal problem and an environmental insult, but also is an important under-utilized source of energy. ERDA's research and development programs must be coordinated through agreements between ERDA and EPA consistent with Congressional policies contained in the Solid Waste Disposal Act and ERDA's legislative authorities.

It is not the intent of the Conferees to impinge on the current EPA program. Rather, we expect that the relative roles of ERDA and EPA will be decided within the Executive Branch through interagency agreements and coordination. The Conferees expect that unnecessary duplication and overlap in this extremely important program will be minimized through close cooperation between the two agencies during the period such an interagency agreement is pending. It is hoped that such an agreement will be reached as soon as feasible. The Conferees feel that ERDA should work closely with EPA in those areas where EPA has special expertise, including, if desirable, the assigning of program management responsibility to EPA by interagency agreement, in order to take advantage of the EPA experience.

Section 101(a)(5)(F)—Authorization for NBS, WRC and CEQ

The Senate bill authorized $1.7 million for the Energy-Related Inventions Evaluation Program conducted by the National Bureau of Standards and $500,000 for the Council of Environmental Quality (CEQ) and $1 million for transfer to the Water Resources Council (WRC). The House bill contained no comparable provision. The conference report provides $1,250,000 for the National Bureau of Standards' program, $500,000 for CEQ, and $1 million for the WRC. Funds transferred to the CEQ and WRC are authorized on a continuing basis by Section 16 of the Federal Nonnuclear Energy Research and Development Act. The conference agreement does not change that provision in any way.

Section 101(b)(1)—Demonstration plants for fossil fuels

The House bill did not contain funding in the plant and capital equipment subsection for the demonstrations included separately in the Senate bill. The conferees accepted the Senate language for the demonstration of high-Btu gasification, $20,000,000; of low-Btu gasification, $15,000,000; and for fluidized bed of $13,000,000.

Section 101(b)(1)—Low-Btu combined cycle demonstration plant

The Senate bill provided $5 million for plant and capital expenditures for a low-Btu combined cycle plant and an expenditure of $1.250 million for the transition period. The Conference Committee deleted this item from the bill based on advice from ERDA that design work has not yet been undertaken and that a plant and capital equipment authorization at this time would be premature.

It is hoped that by the time of the next budget cycle that ERDA will be in a better position to request funds for such a project.

Section 101(b)(3)—Geothermal

The Senate amendment contained provisions authorizing two geothermal powerplant demonstration projects; one to be located at Raft River, Idaho, and a second to be located at Buffalo Valley, Nevada. The House bill, while authorizing funds for demonstration projects, did not designate specific locations. Specific locations were included in the Senate amendment because the geothermal division of the Atomic Energy Commission, later incorporated into ERDA, requested capital funds for geothermal powerplants for ongoing programs in Idaho and Nevada prior to the budgetary review process. In addition, the Senate Interior Committee has conducted public hearings on the Raft River Project on two separate occasions, the most recent hearing conducted in Idaho on October 17, 1975.

While expressing strong support for a demonstration scale project such as that proposed for Raft River, the conference agreed to authorize two geothermal powerplant demonstrations without designating specific sites. The Conferees feel that ERDA should choose the best sites for these and all other demonstration projects. However, the Raft River Project is one of the leading candidates, and is particularly attractive because both private and public entities have already actively participated with ERDA in developing this geothermal resource. In addition, the local electric cooperative as well as other public power entities will require additional power needs in the future and which a successful demonstration powerplant facility could provide much needed information to help meet those demands.

The Conferees agree that at least one of the geothermal powerplants authorized should utilize a geothermal resource with characteristics including medium temperature (below 300 degrees F.) and low salinity, typical of that found in areas of recent volcanic geologic activities such as those associated with observed geothermal phenomena in the northwestern United States. Such a resource is not now proven technologically and is a primary reason why the conference emphasizes the need to demonstrate its practical utilization.

Section 101(b)(11)—Inhalation toxicology

The Senate authorized $6,800,000 for construction of research facilities for inhalation toxicology at the Lovelace Foundation. The Conferees were subsequently advised that the Administrator has proposed new work at several ERDA facilities to improve the agency's capability to conduct work on inhalation toxicology. The Conferees feel that ERDA should have the flexibility to decide the particular location for use of this increase in funding.

Section 102—In-situ oil shale demonstration on public lands

The purpose of section 102 is to expedite the demonstration of technologies for the *in-situ* production of oil from shale in commercial amounts and with sufficient Federal participation in design and monitoring of the demonstration to assure credible evaluation of the results.

The environmental impacts of extensive oil shale development using mining and above-ground retort processes appear to present formidable problems. The disposal of voluminous solid waste products and the collection and disposal of waste water used for material handling are major considerations.

The *in-situ* process offers the possibility of greatly reducing the volumes of material mined and disposed of virtually eliminating waste water disposal problems. It would also reduce to negligible amounts the water resource demands for oil shale production. But it has not been demonstrated on a large scale and it may also present some unknown serious problems.

In view of the profound public policy questions raised by the potential development of oil shale, an evaluation of the potential for *in situ* development is urgently required. Thus far, private experiments and the incentives of the Federal leasing program have not resulted in activities adequate to evaluate the viability of commercial-scale *in situ* processing.

One requirement for any such undertaking will be a suitable resource base. A second requirement would be sufficient involvement by the Administrator of ERDA in the design of experiments and the monitoring of results to insure credible evaluation of the viability of the *in situ* process as a basis for public policy decisions.

Over three-fourths of the oil shale resource is located on the Federal lands. The opportunity exists, therefore, to propose a cooperative venture in which the Federal participation would include making available for lease a tract of shale suitable for *in situ* development.

Section 102, recommended by the Conferees, authorizes the Administrator of ERDA in consultation with the Secretary of the Interior to select an appropriate tract of public land for an *in situ* oil shale demonstration. The Administrator shall then invite proposals from non-Federal participants to enter into a cooperative arrangement for the demonstration. As a part of the agreement, the Federal government shall lease the oil shale tract to the non-Federal participant without payment of any bonus and without payment of any rents or royalties during the demonstration period. However, any profits accruing from the sale of oil produced during the demonstration phase shall be divided between the Federal Government and the participant in proportion to the value of the contribution of each to the demonstration. The Federal Government's share will be deposited into miscellaneous receipts of the Treasury. During the demonstration, ERDA will administer the lease.

At the conclusion of the demonstration, as determined by ERDA, should the non-Federal participant choose to continue commercial production on the tract, a lease would be issued by the Secretary of the Interior under the Mineral Leasing Law, except that the lease shall provide for profit sharing to the extent that the value of the Federal contribution to the demonstration, including bonus payments and royalties forgone, warrants such payments in excess of usual royalties. Such payments are to be treated as royalties for the purposes of 30 U.S.C. 191.

Provisions are included in Section 102 for State and local governmental consultation, approval of the Governor, and social impact aid assistance similar to those of Section 103.

The Conferees want to emphasize the need for diligent development during and after the demonstration period. Section 102 requires that the lease contain effective provisions toward that end, including provisions for termination of the lease whenever the Secretary of the Interior determines that the lessee is not acting diligently. Frequent criticisms heard by the Conferees during consideration of this section were that Interior's present lease provisions requiring diligence through the use of credits and development plans were not adequate to avoid speculation and encourage early production. Under Interior's prototype oil shale leasing program, the lessee can delay submission of an acceptable development plan for over five years after the lease is issued and even then delay is only "ground" for termination if Interior "so elects."

The Conferees expect that the lease, in the case of Section 102, will require an effective development plan as part of the cooperative agreement with ERDA for the demonstration period and another one for commercial development at the end of the demonstration. If the plans are not acceptable, the lessee should be given a brief period to try to meet objections, but not a year or more as is the case in the prototype program. If a plan is still unacceptable to Interior and ERDA, then the lease should be terminated consistent with existing administrative review procedures.

The lease terms and the cooperative agreement will be the subject of Congressional review under subsection (e) of Section 102.

Section 103—Loan guarantee program for commercial demonstration facilities

The Senate amendment included a new section authorizing loan guarantees for up to 75% of the cost of construction and operation of commercial-sized demonstration plants to convert coal and oil shale into synthetic fuels and to generate power or heat in commercial quantities utilizing as their energy source, direct solar, wind, ocean thermal gradient, bioconversion, or geothermal resources. The amendment authorized loan guarantees aggregating $6 billion for this new program. The House bill had no similar provision.

The Conferees recommend a revision of the Senate amendment to add a new Section 17 to the Federal Nonnuclear Energy Research and Development Act of 1974. The new Section 17 limits the guarantees to construction and start-up costs.

The Conferees agrees that such a loan guarantee program is needed to initiate a meaningful commercial scale demonstration of promising energy conversion technologies and to generate essential information. A primary objective is to gather data about the technological, economic, environmental, and social costs, benefits, and impacts of these plants.

The Conferees observe that many profound public policy decisions turn upon the viability of replacing imported energy with synthetic fuels created from domestic resources. In the absence of the experience and information which would be provided by the demonstrations assisted by these programs, these decisions will have to be made with inadequate information about their economic viability, their effect on our environment, and their impact on communities and States. This proposal gives the public, through ERDA, the States, local political subdivisions, and Indian Tribes, a say in how, when, and where the first of these plants will be built. With the information gained from these first plants, industry and government at all levels can better plan how, when, and where others will be built.

Section 17(b)(1)(A)—Size of oil shale demonstration plants

The new section 17(b)(1)(A) includes a proviso that directs ERDA to review carefully applications for loan guarantees to build oil shale commercial demonstration facilities to insure that such demonstration facilities are no larger than actually necessary to demonstrate commercial viability of the technology. Recent hearings by the House Science and Technology Committee have indicated that a full-scale commercial size facility may not be necessary initially to prove the viability of the technology and other factors. It has been suggested that a modular facility may be adequate. The Conferees do not adopt or reject that suggestion, but expect ERDA to examine the matter. The language gives ERDA adequate flexibility to approve whatever facility is reasonable.

The Conferees note that the Administrator's judgment as to the size of the facility would be subject to judicial review under existing law.

Section 17(b)(1)—Geothermal energy

Loan guarantees for the commercial development of geothermal energy resources will be carried out pursuant to Title II of Public Law 93-410, the Geothermal Energy Research and Demonstration Act of 1974. Unlike Section 103, which applies only to commercial demonstration facilities, Pubic Law 93-410 provides for loan guarantees for the purposes of:

(1) The determination and evaluation of the resource base;

(2) Research and development with respect to extraction and utilization technologies;

(3) Acquiring rights in geothermal resources; or

(4) Development, construction, and operation of facilities for the demonstration or commercial production of energy from geothermal resources.

The following paragraphs and subsections of Section 103 do apply to geothermal loan guarantees. These paragraphs and subsections bring the geothermal loan guarantee program and the loan guarantee program of Section 103 into conformity in a number of important aspects:

(b)(1) Removes the limits of $25 million per project and $50 million per borrower.

(b)(2) Relates to information supplied to the Administrator by an applicant for a loan guarantee.

(b)(4) Explicitly pledges the full faith and credit of the United States to the guarantees.

(g)(2) Provides the Administrator with flexibility to provide for the completion and operation of projects in default, if such continuation is in the public interest.

(h) Authorizes the Administrator to pay the lender principal and interest payments if it is in the public interest to prevent default.

(j) Provides authority for the Administrator to collect fees for loan guarantees to cover the applicable administrative costs and probable losses, but not to exceed 1% in any one year of the outstanding indebtedness.

(n) Provides that the geothermal resources fund may have funds made available to it by notes issued by the Administrator to the Secretary of the Treasury.

(v) Provides that information obtained shall be available to public, except where ERDA determines it to be confidential.

Proposed regulations implementing the geothermal loan guarantee program under Public Law 93-410 have been published on October 28, 1975 (40 F.R. 50100). The Conferees intend and expect that the modifications required by Section 103 will not delay promulgation of regulations. This will permit the Geothermal Loan Guarantee Program to be implemented expeditiously.

Section 17(b)(1)—Utilization of loan guarantee authority

Section 103 authorizes a loan guarantee program to assist in the financing of commercial demonstrations of a variety of energy technologies. The total commitment of outstanding guarantees authorized in this measure is limited to $6 billion. The division of this amount among the various technologies has not been included in the bill or arrived at by the Conferees with two exceptions. The total amount included within the $6 billion for loan guarantees in support of social impact assistance to local communities is limited to $350 million.

Additionally, the Conferees agreed to retain a provision of the Senate version of the measure stating "that up to $2,500,000,000 of guarantees shall be available for projects to produce high-Btu gaseous fuel compatible for mixture and transportation with natural gas by pipeline."

The Conferees note that the amount of $2,500,000, is a ceiling on the amount to be devoted to high-Btu gas demonstrations, and not a minimum. It was, however, the sense of the conference, as it had been of the Senate committee, to assign a priority to demonstrations of the synthetic production of pipeline quality gas. The advanced state of technology for coal gasification coupled with the critical shortages of natural gas facing many portions of the nation makes the demonstration of viable synthetic gas production technologies an important objective of the Federal research, development and demonstration program.

The Conferees also point out that the scope of the loan guarantee program is not coincident with the scope of the synthetic fuels program which has been outlined by the President's synthetic fuels task force. While the measure provides latitude for the Administrator to apportion the loan guarantees among technologies and to respond to available proposals, the conferees expect the Administrator aggressively to seek and entertain proposals for demonstrations of a full range of technologies. The Administrator will have to make a particular effort to obtain proposals in the less conventional technologies where well established industries do not exist and where the types of potential demonstrations are not widely known.

The Administrator should make a special effort to explore the potential for demonstrations using lignite, peat, and lesser known fossil fuels as an energy source, to demonstrate commercial solar energy applications, and to demonstrate the use of waste products for energy production. This high priority should also extend to significant demonstrations of industrial energy conservation equipment and facilities, since economic energy conservation measures are perhaps the most environmentally attractive technological frontier today. Further implementation of the geothermal loan guarantee program established by Public Law 93-410 is expedited by incorporation of certain parts of this section.

Section 17(b)(1)—Limitation on indebtedness

The limitation on outstanding indebtedness guaranteed refers to the total liability or fiscal exposure which may be assumed by ERDA under this section in the event that all the outstanding obligations are defaulted.

Section 17(b)(1)(B)—Renewable resources

Subsection 17(b)(1)(B) authorizes the Administration to provide loan guarantee assistance in financing the construction and start-up costs of commercial demonstration facilities that will produce, from various renewable energy resources, commercial quantities of desirable forms of energy. Renewable energy, as well as tidal energy. These have been all direct and indirect forms of solar energy, as well as tidal energy. These have the characteristic that they are usually replaced by natural means within a time span on the order of one or two generations. Such resources include but are not limited to direct solar, wind, ocean thermal gradients, biomass grown purposefully for recovery of energy values, and wastes of all types, such as urban, industrial, agricultural, and forestry wastes. Desirable forms of energy include but are not limited to synthetic fuels, direct heat, electricity, low-grade heat, ammonia, and recycled materials originally produced by methods which consume significant amounts of energy.

Section 17(b)(3) and (k)(2)—Treasury to act promptly

This subsection was adopted to assure that the loan guarantees are administered with the concurrence of the Secretary of the Treasury to minimize the impact on the money market and coordinate these efforts with other Administration programs which affect fiscal policy. It is expected that the Secretary of the Treasury will act promptly so that the concurrence will not delay the implementation of this program and that the Secretary will exercise special care that smaller projects will not be delayed.

Section 17(c)—Competition

Subsection (c) requires that the Administration have due regard for competition in carrying out loan guarantees. The Conferees are concerned that concentration in the energy business not be further aggravated through Federal loan guarantees. The Administrator is expected to be sensitive to this concern. The Conferees note as well that by-products from a commercial demonstration may have value comparable to the primary product. It is expected that the Administrator will consider these significant by-products when giving due consideration to the maintenance of competition.

Section 17(c)(1)—Financial participation

The Senate amendment referred to financial participation by private lenders or investors and referenced approval of application for a guarantee by the Secretary of the Treasury. In order to permit the utilization of the Federal Finance Bank, where appropriate, as authorized by the Federal Finance Bank Act of 1973 (Public Law 93–224, 12 U.S.C. 1281), the reference to "private lenders or investors" has been deleted.

Section 17(c)(2)—Project costs

The Senate amendment authorized ERDA to make guarantees for up to 75% of the total project cost of each facility. It added that during the period of construction this guaranteed amount could exceed this percentage limit until construction is completed as determined by ERDA. Thus, the guarantee could be as high as 100% during construction.

The Conference recommendation is to retain the 75% limitation and to authorize a higher percentage during construction and the start up period but limit this to a maximum of 90%. The conferees emphasize that ERDA must require in the regulations or each guarantee agreement that the total guarantee of the facility when construction and start up ends and commercial operation begins as determined by ERDA does not exceed 75%. The Confereees want to make it clear that at all times the borrower will have a substantial and meaningful equity in the facility so that the risk will be shared. ERDA will have to examine the form of equity to insure compliance with this intention of the conferees.

The Conferees considered and rejected a provision to exclude from project costs for the purposes of loan guarantees the value of certain payments made to the United States such as bonuses, royalties, and rents. It is the intent of the Conferees, however, that the value of any Federal facilities, property, or other consideration which in certain situations might be made available for use in any demonstration project be excluded from project costs unless the Federal Government has, in fact, been paid the value of such facilities, property, or considerations by the parties financing the project.

Section 17(d)—Competitive impact

Noting concern about the competitive impact of each commercial demonstration facility, the Conferees included in the new section 17 of the Federal Nonnuclear Energy Research and Development Act of 1974 provisions for consideration of this problem.

In subsection (c) ERDA must consider the need for competition in making loan guarantees.

In subsection (d), ERDA is required to solicit from the Attorney General and the Chairman of the Federal Trade Commission written views, comments, and recommendations concerning the impact of each proposed loan guarantee on competition and concentration in the energy supply industry. ERDA must do this in a timely fashion, but at least 60 days before ERDA sends its report on the proposed guarantee to Congress under subsection (m).

The Conferees expect that Justice and the FTC will act in timely fashion and provide their comments, etc., to ERDA so that ERDA can act upon them and the two Congressional committees can consider them also. In this regard, the Conferees intend that the FTC act expeditiously using its Bureau of Competition in reviewing each guarantee. It is expected, however, that each agency will give serious and meaningful attention and provide a comprehensive and adequate response, including, where appropriate, recommendations. The Conferees note that such recommendations could possibly include suggestions for improving a guarantee contract to overcome any anti-competitive or other problem that may exist.

The Conference Committee in its deliberation on this section emphasized that the Administrator carefully review the effect of approving a loan guarantee on the continued concentration of ownership in existing energy companies, particularly integrated companies. The Administrator in carrying out the purpose of this section is urged to give appropriate priorities to those applicants for guarantees whose ownership is held by independent users of oil, coal or natural gas.

Section 17(c)(1)—State review

The new Section 17(e)(1) of the 1974 Act provides that once ERDA has ascertained, after reviewing applications for loan guarantees and determining which are capable of being approved, where a proposed demonstration facility is likely to be located. ERDA must promptly notify the appropriate State and local governmental officials. Before ERDA can approve any such application, however, ERDA must give the Governor of the State where the facility will be located an opportunity to make a recommendation thereon. For the Governor to act effectively and in a timely manner, ERDA and the applicant will have to provide to the State sufficient data on which the Governor can make an informed judgment.

If the Governor recommends against making the guarantee for the facility, the ERDA must refrain from doing so unless the Administrator finds that there is an overriding national interest and sets forth his reasons for this finding in writing to the Governor. Clearly, if ERDA seeks to override the Governor, the burden is on ERDA to show that this particular facility is indeed in the national interest.

The ERDA decision is subject to judicial review filed within 90 days after the decision.

Provision is also made for ERDA regulations concerning review by States and communities which may be impacted by the facility in any way and by the general public. These regulations must be published within 180 days after enactment.

Section 17(g)(2)—Disposal of property in case of default

In the event of default, the Administrator is provided with the authority to complete the project, maintain the facility, operate the facility, including purchase of necessary feedstock and other material, and the authority to sell the products or energy produced by the facility. Such operation may be by the Federal Government or by other parties or by the defaulting borrower, where the Administrator determines that permitting the borrower to continue pursuing the purposes of the facility is in the public interest.

Section 17(g)(4)—Disposition of patents on default

Section 17(g)(4) provides that "patents and technology resulting from the commercial demonstration facility shall be treated as project assets of such facility in accordance with terms and conditions of the guarantee agreement." The purpose of this provision is to make clear that in the event of default intangible assets such as patents and technology are subject to claim by the United States in the same manner as tangible, physical assets. The term technology is intended to be all-inclusive and embrace such items as know-how and trade secrets. Patents and technology may well be extremely valuable assets of a defaulted project, and should be available to the United States upon default.

The phrase "in accordance with the terms and conditions of the guarantee agreement" is not intended to eviscerate this provision. Rather, it is a direction that ERDA should include in the guarantee agreement detailed provisions protecting the rights of the United States and other interested parties. At the same time the conferees appreciate that ERDA must have some flexibility to sort out the rights of all interested parties. This is merely a recognition of the complexities and subtleties attendant to patent and technology rights.

The typical project participant may well own some patents and technology outright while being the licensee of other such rights. One of the government's objectives upon default is to have available, for itself and its designees, the patents and technology necessary to complete and operate the defaulting project. The mixture of owned and licensed patents and technology complicates the simple achievement of this goal.

Another complexity of the disposition of patents and technology upon default is the problem of severing the borrower's background patents and technology from subsequent improvements thereon because of the project. If the improvements are severable, then they can be treated as project assets in a straightforward manner. However, where this is not possible, ERDA must have the flexibility to tailor its guarantee agreement to meet its needs for the continued operation of the project.

Section 17(g)(4) also provides that "the guarantee agreement shall contain a provision specifying that patents, technology, and other proprietary rights which are necessary for the completion or operation of the commercial demonstration facility shall be available to the Government and its designees on equitable terms, including due consideration to the amount of the Government's default payments."

The purpose of this authority is to insure that the full complement of patents and technology required for the limited purpose of completing and operating the defaulting project will be available to the government and its designees. Without this provision, it is conceivable that blocking patents and technology of the project participant or patents and technology licensed to the project participant by others might frustrate the ability of the United States or its designee to expeditiously and economically complete the project.

Waivers under Section 17(r) of this Act are not intended to override the applicability of section 17(g)(4) and should be made subject to its provisions.

Section 17(k)—Community impact assistance

The Conferees were concerned, based on extensive testimony before the House Science and Technology Committee in September and October of this year, that the construction of commercial demonstration facilities would result in a sudden influx of construction workers, operating personnel, support personnel, and secondary (service) workers and their families. In unanticipated and unplanned circumstances, rapid increases in population can have adverse socioeconomic impacts on a community. In many cases, such adverse effects can be avoided with adequate planning and early construction of public service systems (schools, roads, health care facilities, etc.) and housing.

Under normal circumstances, however, many communities and local governments, even those in more populated areas, probably cannot build the public service system until after the housing has been built and people move in, creating an additional tax base to pay the cost of public services and facilities. The avoidance of these potential adverse effects requires either a slow growth rate—which is not possible, once work on the demonstration facility begins—or some means of financing the construction of needed public service systems in advance of population increase and tax-base growth.

As was made clear in the report of the Senate Committee on Interior and Insular Affairs (page 87), the Senate intended that energy facilities which are assisted by loan guarantees by this measure should provide for the early financing and construction of public service facilities as a part of the cost of demonstrating the energy technology. The Conferees agreed that existing Federal programs are not adequate in some potential instances to provide for the impacts to local communities which would arise from implementation of the loan guarantee program. The Conferees have provided in subsection (c) of the new section 17 which is added to the Federal Nonnuclear Energy Research and Development Act of 1974 by this conference report that the borrower and the Administrator of ERDA, as well as State and local governmental officials, consider and evaluate these potential impacts before approving a guarantee, and that the Administrator determine that adequate financing of the costs of needed public facilities will be provided for.

The provisions of the conference report amplify and make explicit the intent of the Senate version that the Administrator of ERDA shall assure adequate financial support for local communities to provide essential public facilities required as a direct result of the construction and operation of energy demonstration facilities assisted by loan guarantees. Subsection (b) of the new Section 17 sets forth several alternative forms of assistance to cover essential capital expenditures directly resulting from the proposed commercial demonstration facility for facilities including, but not limited to, public safety, health, education, roads, sewer and water.

First, the subsection authorizes ERDA to extend up to a maximum of 100% guarantees of a local community's obligations for financing such essential public facilities or of the tax revenue stream which is expected from the new commercial demonstration facility. In the former case, the Administrator would guarantee the obligations issued by State, local jurisdictions or Indian Tribes to finance essential public facilities. In the second situation, the Administrator would guarantee to the community the amounts of anticipated tax revenues from the energy demonstration facility. Such revenues could then become a reliable basis for municipal borrowing.

A provision has been included in subsection (s) to make clear that interest paid to a holder of a community's obligations which are guaranteed under the provisions of this measure not be exempt from income taxes. This provision is also designed to make it clear that the conferees are not changing or requiring a community to change the status or type of obligation it issues, but that the holder of the obligation must include the interest arising from the obligation as taxable income.

Because such a provision may result in a higher interest rate upon municipal securities issued by a community, the conferees have provided that ERDA shall pay an interest differential to the community. The amount of the differential will be determined by Treasury. The conferees intend that Treasury has discretion respecting the amount of the differential, the terms and timing of payments, and as to such other conditions as Treasury deems appropriate. An estimate of any such differential payments should be included in the report to Congress required under subsection (m) concerning each guarantee.

The conferees have established a ceiling of $350 million as the maximum outstanding obligation due to guarantees by the Administrator of financing for community development. This amount would be included within the total authorization of $6 billion established for outstanding obligations to guarantee financing of energy demonstration facilities under this measure. The limitation on the amount of impact assistance which, in the form of guaranteed obligations or the guarantee of the payment of taxes, refers to the principal amount of the obligations involved and not the interest charges on such obligations.

As a further alternative form of community assistance, the entity financing an energy demonstration facility with assistance under this measure could be required by the Administrator to include capital costs for essential public community facilities within the project costs. The funds would then be made available to appropriate public entities under terms and agreements prescribed by the Administrator. Payments would be treated as advances on taxes and tax credits would be provided by the public entities to the project to return the amounts over the life of the project.

Additionally, and only if circumstances make the previous approaches impractical or inadequate, the Administrator would be authorized to make direct loans to communities to cover the costs of essential public facilities and to forgive all or part of the repayment of such loans if changes in circumstances, such as failure or partial failure of the demonstration, make repayment by the community from revenues impossible.

A least favored approach is also provided to be used only where the lack of community or other public capability to administer the initial provision of community facilities would necessitate direct construction of community facilities as ancillary facilities of the demonstration itself. The costs of the community facilities would be included within the costs of the demonstration facility and the entity proposing the demonstration would arrange for construction of community facilities under the Administrator's direction and with the greatest possible local public participation.

The Administrator is authorized to provide planning grants to impacted communities to finance up to 100% of the planning of essential public facilities.

Funds for planning grants and loans will be authorized in future annual authorization Acts as required in the way funding for all other ERDA programs is provided.

The community assistance program is also extended to any commercial demonstration of in situ shale oil production which may be undertaken pursuant to the authority granted in Section 102 of this measure.

The conferees noted that the determination by the Administrator of the need for community assistance is to be predicated upon the projected net adverse impacts of the facility on the community, the actual anticipated requirement for essential public facilities made necessary directly as a result of the energy demonstration facility, and the lack of capability for financing such facilities in the absence of assistance taking into account other State and Federal programs. Population increase alone is not to be the measure of need.

The Administrator is expected to work closely in consultation with the impacted States, local governments and public groups in developing an appropriate community assistance program for each situation. The Administrator, furthermore, is expected to coordinate other applicable Federal assistance programs to avoid duplication and to assist in bringing the full benefits of the programs into effect in each situation.

Section 17(m)—Congressional oversight

The new section 17(m) provides that before ERDA finally makes a binding commitment to guarantee, or a guarantee of, obligations to any borrower to build a commercial demonstration facility, ERDA must transmit to the House Science and Technology Committee and the Senate Interior and Insular Affairs Committee a complete report on the proposed guarantee and facility.

Each report should be quite detailed. For example, it should include a description of the proposed facility, the expected total costs and benefits, the expected impact, a finding that effective actions have been taken or will be taken to deal with these impacts, the views of the appropriate non-Federal governmental officials and others, a detailed discussion of the extent of Federal financial commitment to the borrower for the facility and to local governmental entities, the terms and conditions of the agreement, a copy of the final environmental impact statement, and other pertinent data. Where the action is taken over the objection of the Governor, the ERDA findings and reasons shall be included. Similarly, the report of the Justice Department and the Federal Trade Commission concerning the impact of such guarantee or commitment on competition and concentration in the production of energy shall be included, together with ERDA's written determination, if any, that despite any objection by such agency the demonstration should proceed from the standpoint of the national interest.

Such report on each proposed guarantee or commitment will lay before the Committees for 90 calendar days, exclusive of days either House adjourns for more than 3 days.

If the estimated cost of proposed commercial demonstration facility will exceed $350 million, ERDA shall not finalize the guarantee or commitment for that facility if either House passes a resolution of disapproval within the 90 day period. These commercial demonstration facilities will often be quite large, have significant environmental and social impacts, and may be controversial. Such projects should require some degree of Congressional scrutiny, short of actual authorization. Those exceeding $350 million in costs require an opportunity for either House to express its disapproval. On these sizeable projects, the Conferees are concerned that they not be built without this opportunity for careful scrutiny by Congress.

Section 17(q)—Transfer of loan guarantee program

It is the expressed intent of the Conferees that the primary responsibility for the entire loan guarantee program remain with the ERDA until otherwise directed by the Congress. The Conferees do not intend to prevent the participation and cooperation of other Federal agencies with the ERDA through normal fund transfers provided that the ERDA maintain the final authority to control the program.

Section 17(r)—Patent policy

Section 17(r) provides that "inventions made or conceived in the course of or under a guarantee authorized by this section shall be subject to the title and waiver requirements and conditions of Section 9 of this Act." This compromise provision reflects the intention of the Conference Committee that all of the patent policy provisions, except subsection (b), of Section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 shall be applicable to the loan guarantee program contained in section 17.

In lieu of the broad reporting requirements of subsection (b), therefore, the Committee determined to provide ERDA with sufficient flexibility to promulgate such rules and regulations pertaining to the filing of reports and information as it believes necessary or appropriate to effectively carry out its mission and to protect the interests of the United States and the public. Exclusion of subsection (b) should not be read as precluding ERDA from promulgating such rules and regulations.

The conferees were concerned about the possible impact of subsection 9(b) on trade secrets and other proprietary rights because of the reports required by the subsection. The concern existed that subsection 9(b) might adversely affect a project participant's background trade secrets and other proprietary rights if such information was made public. Rather than risk discouraging potential project participants from cooperating in the synthetic fuel program because of possible uncertainty with respect to their background rights, the conferees believe that the limited application of Section 9 together with the positive protection contained in Sections 17 (v) and 18, will adequately protect the holders of trade secrets and other proprietary rights.

The Conference Committee recognizes that Federal involvement and exposure in research and development programs through loan guarantees is more remote than the immediacy of its involvement and exposure in the case of direct Federal expenditures through grants or loans. The applicable provisions of Section 9 provide sufficient flexibility and safeguards to balance the equities between federal ownership and waiver of title in particular situations. The remote nature of the federal involvement in loan guarantee situations justifies a corresponding adjustment in the balance of equities applied in judging requests for waivers of title. For this reason, the Committee determined that as to section 17 guarantees ERDA be permitted to exercise greater flexibility than previously specified in the Conference Report on the Federal Nonnuclear Energy Research and Development Act of 1974 with respect to the application of the waiver provisions of Section 9 of that Act.

Although the patent policy to be applied by a federal agency is properly the jurisdiction of those committees having legislative jurisdiction over the particular agency, the conferees appreciate the comments and suggestions of other committees having an interest in the general subject area. The conferees believe they have acted to incorporate the major suggestions offered by other committees in such a way as to effectuate the satisfactory resolution of their concerns.

Section 9 (with the exception of subsection (b)) of the Nonnuclear Act is made specifically applicable to the guarantee program under Section 17 of this Act because of the competing interpretations given to whether Section 9 applies generally to loan guarantees under that Act. Some of the House and Senate conferees believe that it does not apply. Their position is supported by the General Counsel of ERDA, whose letter and memorandum on this issue are reprinted below.

U.S. ENERGY RESEARCH AND
DEVELOPMENT ADMINISTRATION,
Washington, D.C., October 29, 1975.

Hon. MIKE MCCORMACK,
Chairman, Subcommittee on Energy Research, Development and Demonstration, Committee on Science and Technology, House of Representatives, Washington, D.C.

DEAR CHAIRMAN MCCORMACK: During testimony on the Geothermal Loan Guaranty Program on October 1 before your Subcommittee, Congressman Philip Hayes requested my legal opinion on the applicability of the patent provisions of the Federal Nonnuclear Research and Development Act of 1974 to Federal loan guarantees administered by ERDA. The attached Memorandum for the Record contains my analysis that section 9, the patent provisions of that Act, does not apply to loans, price support or loan guarantees.

Inasmuch as this request arose in the context of the Geothermal Loan Guarantee Program, I would add an additional thought to the attached memorandum. The Geothermal Energy Research, Development, and Demonstration Act of 1974 (Public Law 93–410), of which Geothermal Loan Guaranty Program is a part, contains no specific requirements as to patents. Therefore, the patent provisions utilized in carrying out the research, development and demonstration authorized by the Geothermal Act would depend on the patent policy of the particular Federal agencies conducting the program. Subsequent to ERDA's establishment, the research development and demonstration functions including the Geothermal Loan Guarantee Program as authorized by Public Law 93–410 have been transferred to ERDA.

The Conference Report (No. 93–1563) on the Federal Nonnuclear Research and Development Act specified that all of ERDA's nonnuclear contracts shall be governed by the patent policy of section 9 of that Act. Therefore, ERDA awarded research, development and demonstration contracts under the geothermal program will contain our standard patent provisions which implement the policy required by section 9. However, based on the attached legal opinion, these standard patent provisions will not be included in geothermal loan guarantee agreements but instead special patent provisions will be utilized as appropriate.

Sincerely,

LEONARD RAWICZ,
Deputy General Counsel.

WASHINGTON, D.C., *October 29, 1975.*

Memorandum for the Record.

Application of Section 9 of the Federal Nonnuclear Research and Development Act of 1974 to Section 7, Forms of Federal Assistance.

Section 7(a) of the Federal Nonnuclear Research and Development Act of 1974 (hereinafter the Act) identifies the following Forms of Federal Assistance which the Administrator may utilize in carrying out the objectives of the Act.

(1) Joint Federal-industry experimental, demonstration, or commercial corporations consistent with the provisions of subsection (b) of this section;

(2) Contractual arrangements with non-Federal participants including corporations, consortia, universities, governmental entities and nonprofit institutions;

(3) Contracts for the construction and operation of federally owned facilities;

(4) Federal purchases or guaranteed price of the products of demonstration plants or activities consistent with the provisions of subsection (c) of the section;

(5) Federal loans to non-Federal entities conducting demonstrations of new technologies; and

(6) Incentives, including financial awards, to individual inventors, such incentives to be designed to encourage the participation of a large number of such inventors.

Section 7(b) of the Act specifically notes that the joint-Federal-industry corporation of (1) above are "subject to the provision of section 9 of this Act."

Subsection 9(a), the Act's patent policy, specifies that "Whenever any invention is made or conceived in the course of or under any contract of the Administration, other than nuclear energy research, development, and demonstration pursuant to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.)" and the Administrator makes certain findings which relate the inventor's activities to the ERDA contract, title to the invention vests in the United States unless the Administrator waives all or any part of the rights of the United States to such invention. Where a waiver is granted, subsection 9(h) requires certain minimum rights to be retained by the Government. These minimum rights include a royalty-free license in the Government, which generally also includes State and municipal governments, and the right to terminate the waiver or to require the licensing of the invention involved in specified circumstances.

The question addressed herein is whether all the Forms of Federal Assistance of section 7 of the Act are subject to its patent policy. Specifically of interest is whether section 9 would apply to inventions made by a party constructing a demonstration facility which receives Government assistance in the form of a loan, price support or a loan guarantee.

The Conference Report (No. 93–1563) accompanying S. 1283, the bill which resulted in the Act, in reference to Forms of Federal

Assistance states: Also, the provision in subsection 7(b) was modified by the conference committee to make clear the intention that any joint Federal-industry corporations which may be proposed for Congressional authorization would be subject to the patent policy set forth in section 9 of the compromise version.

This statement refers to a question which arose during the drafting of the patent policy for S. 1283 of whether the Government should own, in the first instance, all inventions made by the joint Federal-industry corporations contemplated by subsections 7 (a)(1) and (b). Significantly, the reference to section 9 in section 7 is limited to only one of the Forms of Federal Assistance noted in section 7, the joint Federal-industry corporation. While this fact in itself suggests a Congressional intent that section 9 is inapplicable to the other Forms of Federal Assistance in section 7, it may nevertheless be argued that section 9 by its own terms is applicable.

As noted above, section 9 specifies that unless waived by the Administrator the Government owns any inventions "... made or conceived in the course of or under any contract of the Administration. . . ." Subsection 9(m) (2) defines contract as follows: the term "contract" means any contract, grant agreement, understanding, or other arrangement, which includes research, development or demonstration work, and includes any assignment, substitution of parties, or subcontract executed or entered into thereunder.

The Conference Report emphasizes the breadth of the term "other arrangement" with the following statement: Subsection (m) is the definition section. Subsection (m)(2), which defines contract as including "other arrangements," is intended to encompass any and all other arrangements. The reference to section 9 in section 7 is intended to make this clear.

While the Report refers to the reference of section 9 in section 7, the correct reference is subsection 7(b), and as noted above this deals only with Federal-industry corporations.

With this background, the relationship of Federal assistance under section 7 to the patent provisions of section 9 will be discussed. The most important legal consideration in determining the applicability of section 9 to section 7 is whether the Federal assistance forms concerned herein, i.e., loans, price support, or loan guarantees, are within the term "contract" as it is defined by subsection 9(m)(2). There are two elements to this definition of "contract." First, ERDA must have an agreement or other arrangement with a party and secondly, the agreement or arrangement must include "research, development, or demonstration work." Ostensibly, Federal assistance in the form of a loan, price support or a loan guarantee may be said to be an "arrangement" and most probably the assistance will be to a party for the purpose of aiding that party conduct a "demonstration" or "commercial demonstration" of an energy related process, system or facility. Therefore the issue is whether these forms of Federal assistance are within the meaning of the term "which include research development or demonstration work" of subsection (m)(2).

As noted in the Conference Report, section 305 of the National Aeronautics and Space Act of 1958 (NAS Act) and the implementing NASA regulations were used as a model for section 9. The related provision of section 305 which establishes its applicability is the first phrase of subsection (a) which provides "Whenever any invention is made in the *performance of any work* under any contract of the Administration * * *" (emphasis added) and the definition of the term "contract" in subsection 305(j)(2). This subsection states: The term "contract" means any actual or proposed contract, agreement, understanding or other arrangement, and includes any assignment, substitution of parties, or subcontract executed or entered into thereunder.

In drafting subsection 9(a) changes were made to subsection 305(a) of NAS Act to accommodate the language of section 152 of the Atomic Energy Act of 1954 which refers to "inventions * * * made or conceived in the course of or under any contract, subcontract or arrangement entered into with or for the benefit of the Commission. * * *" This change would permit a greater harmonization of ERDA's patent policy for both its nuclear and nonnuclear work, a goal specified in the Conference Report. However, it was recognized that the resulting subsection 9(a) dropped the words "performance of any work" from subsection 305(a) and these words have been relied upon by NASA in interpreting the applicability of its patent provisions. For example, NASA has defined the word "work" in the NAS Act to limit section 305 to specific types of contracts, i.e., contracts which call for the performance of research and development work, *O'Brien and Parker*, Property Rights in Inventions Under the National Aeronautics and Space Act of 1958, Fed. B.J. Vol. 19, No. 3, July 1959. The NASA procurement regulations applies section 305 to NASA contracts "where research, experimental, design, engineering, or development work is contemplated", 41 C.F.R. 18–9.101–2 and not to fixed price supply contracts; construction contracts, or employment contracts. Further, a contractor's independent research and development program, even though agreed to in an advance agreement and supported by an overhead allowance (an arrangement), has not been interpreted by NASA to be encompassed by its statutory patent policy, see 41 C.F.R. 18–9.101–7. AEC has similarly interpreted the Atomic Energy Act patent provisions, 41 C.F.R. 9–9.5019. The removal of the term "performance of any work" of subsection 305(a) of the NAS Act from subsection 9(a) and a concern that the NASA regulatory provisions as to "design" or "engineering" work were overly broad led to the incorporation into the definition of "contract" in subsection 9(m)(2) the words "which includes research, development or demonstration work." Whether this was necessary is questionable in view of a recent court decision, which equates the term "in the course of or under any contract" with the term "in the performance of work under a contract." In *Fitch & Braun* v. *AEC,* 181 USPQ 41 (CCPA 1974), the Court of Customs and Patent Appeals interpreted the phrase "in course of or under" an AEC contract, pursuant to section 152 of the Atomic Energy Act as follows:

The rule of statutory interpretation requires that the phrase "in the course of" and the word "under" mean different things. In our view, an invention made or conceived in performing, or as a result of performing, the work required by a contract is made or conceived "in the course of" that contract. That would be true even though the invention was not specifically sought in the terms of the contract. An invention is made or conceived "under" a contract when it is made or conceived during the life of the contract and the invention is, in whole or in part, specifically provided for by that contract. Neither of these fact situations applies here.

There is nothing in the legislative history which would establish that Congress in selecting the patent provisions of the NAS Act and the Atomic Energy Act as a model for section 9 intended to disregard the interpretation given to these provisions by NASA and AEC. As noted above, these interpretations include the concept that the type of work called for as well as the nature of the "arrangement" control whether these statutory patent provisions apply. Where only fiscal assistance is provided for the purpose of encouraging the conduct of independent research, development or demonstration which is not for the Government's account, i.e., independent research and development noted above, these agencies, as well as other Federal agencies, have determined that their statutory patent provisions do not apply.

Loans, price support and price guarantees are "arrangements" or "agreements" for fiscal assistance. In a loan situation the lender usually agrees to provide money to the borrower upon the condition that the money only be used for a specified purpose. Generally, a pledge of security is involved along with other terms and conditions to protect the lender. Consideration for the lenders' money is usually the payment of an interest charge by the borrower. The purpose of a loan is of great concern to the lender albeit for the purchase of land, the construction of a facility, the purchase of equipment, the payment of salaries, etc. The property acquired with the money loaned or other value obtained normally accrues only to the borrower just as any liability which flows from the use of the money loaned is on the borrower's and not the lender's behalf. While the lender may monitor the borrower's efforts to assure the adherence to the purpose of the loan and the nature of the security involved, the work in question is done solely by and on behalf of the borrower. This is not at all related to the situation where work is performed by or on the Government's behalf under contract or otherwise.

Government loan guarantees are even further removed than a loan arrangement since in a loan guarantee the loan "agreement" is between the borrower and the lender. The Government's guarantee is in the form of default insurance to protect the lender. The Government's agreement to guarantee the loan is a fiscal arrangement similar to insurance and does not encompass, in itself, the performance of research, development or demonstration work even though that is the purpose for which the loan was made.

Similarly, in my opinion an agreement to guarantee the price of a product which contains the understanding that a new plant is to be built to make the product, is not an "arrangement" which includes research, development, or demonstration work. The party receiving the guarantee does all the demonstration type work on his own behalf. If the plant doesn't work, he takes all the losses. It is only after the standard products are available on market that the Government's fiscal obligation arises. Again the arrangement is fiscal, the purpose of which is to encourage independent demonstration work.

It is a rather unique requirement that a party loaning money, guaranteeing the repayment of a loan, or establishing a price support level would end up owning a part of the assets of the party obtaining the loan or the benefit of the price support. If this would be the intent of Congress, it should be stated so explicitly since it has not been a usual consequence of any other similar government or private program.

In summary, it is my opinion that except for joint Federal-industry corporations the applicability of section 9 of the Federal Nonnuclear Research and Development Act to the Forms of Federal Assistance under section 7 of this Act is dependent upon the terminology of section 9. This section is applicable to contracts (i.e., contracts, agreements or other arrangements) which include the conduct of research, development or demonstration work. Section 9 of the Act is not applicable to Federal loans, price support or loan guarantees made for the purpose of encouraging other parties to construct demonstration facilities or the like on their own account since work is performed independently and not on the Government's behalf.

LEONARD RAWICZ,
Deputy General Counsel.

Other House and Senate conferees believe that section 9 of the 1974 Act does apply to all loan guarantees. Their position is supported in the following communication:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
SUBCOMMITTEE ON ANTITRUST
AND MONOPOLY,
November 14, 1975.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR SCOOP: We understand that the Conference Committee considering ERDA's fiscal 1976 authorization (S. 598 and H.R. 3474) has been advised by the Energy Research and Development Administration that the patent provisions of the Federal Nonnuclear Research and Development Act of 1974 (P.L. 93–577), Section 9, do not apply to loans, price supports, or loan guarantees.

We respectfully disagree with ERDA's conclusion, and, as principal sponsors of the patent policy provisions contained in that Act, invite the Committee's attention to Section 9(m) which defines the term contract as meaning "any contract, grant, agreement, understanding, *or other arrangement*, which includes research, development, or demonstration work, and includes any assignment, substitution of parties, or subcontract executed or entered into thereunder." As further evidence of our intention, and that of the Congress, that the patent provisions of Section 9 are all encompassing and apply to all forms of Federal assistance, the Conference Report elaborated that "Subsection (m) (2), which defines contract as including 'other arrangement' is intended to encompass *any and all other arrangements.*" It further stated that "Section 9 (patent policy) is intended to apply to *all non-nuclear contracts* of the Energy Research and Development Administration."

The Conference Committee on the Energy Policy and Conservation Act (S. 622) has already acted to disapprove ERDA's interpretation by amending the patent policy provisions of that Act (which are essentially identical to those in P.L. 93–577) to specificaly include "obligation guarantees."

Considering the importance of carrying out the intent of the Congress in enacting the patent provisions of P.L. 93–577, we respectfully suggest that the Conference Committee specifically refer to and reject ERDA's interpretation that Section 9 of P.L. 93–577 does not apply to loans, loan guarantees, or price supports. Alternatively, it may be useful to specifically amend Section 9(m) to include the phrase "loan, obligation guarantee, or price support."

Best personal regards.
Sincerely,

RUSSELL LONG,
PHILIP A. HART,

The Conference Committee does not believe it necessary to resolve this issue in this conference, particularly because of anticipated receipt from ERDA early next year of its report and recommendations on the patent provisions of Section 9.

Section 17(u)—Disclaimer—State laws, etc.

Subsection (u) of the amendment contained in subsection (b) of Section 17 makes clear that the granting of a loan guarantee under the authority of that Section would convey no immunity from Federal or State laws to the demonstration projects constructed with the assistance of such guarantees.

The Conferees note that the undertakings which would be assisted will be private or, in some instances, possibly non-Federal, public ventures. Depending upon circumstances of siting, proprietorship, nature of the technology, or type of industry and product involved they will be subject to various laws and regulations of Federal, State, and local government which are now in effect or which may be enacted or imposed in the future. It is the intent of this section that the granting of a guarantee would neither exempt a borrower or a project from such legal obligations which would otherwise apply or to extend any obligation which otherwise would not apply.

The Conferees particularly note that nothing in Section 17 is intended to affect the rights of various parties to water resources which are established under State and Federal law and interstate compact.

In response to the concerns expressed by Western governors, the Conferees considered those situations in which demonstration facilities which are assisted by loan guarantees were located upon Federal lands. As would be the case elsewhere, it is the intent of this measure that a loan guarantee would not in any way change or extend the applicability of any and all Federal, State, and local laws and regulations which would otherwise apply to the demonstration facility absent such loan guarantee.

The management of activities on the public lands is primarily a Federal responsibility, and State jurisdiction has been extended selectively by the Congress. The policy procedure which has ordinarily been adopted is exemplified by the Clean Air Act. This Federal law establishes administrative procedures by which regulations are promulgated by a State and are approved by the Environmental Protection Agency as consistent with Federal minimum requirements, such as Federal new source performance standards. The joint Federal-State implementation plans then become generally applicable to all facilities within the State, including facilities on the public lands. Similar approaches have been taken in the areas of water quality control and occupational and mine health and safety statutes.

Two major areas which are particularly applicable to major demonstration facilities, however, are not yet covered by a Federal-State regulatory regimen. They are surface mining reclamation and energy facilities siting. Some States have adopted rigorous laws and regulations in these areas or may do so in the near future.

The Federal government, thus far, has exercised its management of surface mine reclamation and energy facilities siting on the public lands primarily through the responsibilities of the Secretary of the Interior to use his discretion in the granting of leases, permits and rights-of-way and to incorporate into such instruments provisions for the management of the undertaking.

The Conferees recognize the valid concern of the Western governors that major energy demonstration facilities which may be encouraged to come into being on the public lands by loan guarantees under this Act will conform to the standards established by the State for similar facilities elsewhere provided the State standards are more stringent than Federal standards, as provided for in such Federal statutes as the Clean Air Act and Federal Water Pollution Control Act. The conferees have incorporated into the Act provisions for early notice to the Governor of consideration of any loan guarantee within the State, and for close coordination with the Governor during development of the proposal. Prior to approval of any guarantee, by the Administrator, the Governor is also provided a right to express disapproval of the project.

The conferees expect that during the consideration of any proposal which contemplates siting upon the public lands, the Governor will make known to the Administrator any provisions of State law regarding energy facilities siting or surface mine reclamation which he believes should be applicable to the demonstration facility.

The Administrator, in consultation with the Secretary of the Interior and the Administrator of the Environmental Protection Agency and such other Federal officials as the Administrator may deem to have relevant expertise or authority, will determine if such provisions are superior to the provisions of Federal law or regulation which would otherwise apply. If they are, the conferees expect that to the extent possible, ERDA and Interior will incorporate similar provisions into the Federal permits, leases, rights-of-way, guarantees, or other appropriate documents governing the demonstration facility.

In any case, prior to the time when the Governor is requested to make recommendations on a proposed facility, the Administrator shall advise the Governor of the measures which will be taken concerning the provisions recommended by the Governor the conferees expect that the reports submitted to the Congress concerning any proposed, assistance for a demonstration facility will include a discussion of such recommendations by the Governor, if any, and the disposition to be made.

If during the life of the demonstration facility, the terms of such documents are revised, the responsible Federal official should obtain the Governor's views concerning the continued applicability of State-sponsored provisions.

Section 17(w)—Appropriations

Subsection 17(w) makes it clear that the appropriations and budget process actions to establish the funding mechanism for the guarantee program must be complete before ERDA makes any commitment or obligation under this Section. Subsection (w) is intended to reflect due regard for the appropriation and budget processes, as well as the obvious lateness at this time of the authorization, appropriation and budget cycles for Fiscal Year 1976.

Additionally, the Conference Committee expects the implementation of the program to begin promptly, utilizing existing funds to initiate the administrative and regulatory steps necessary to carry out the loan guarantee program. In addition, it is important that the Administrator move swiftly in order to prepare a complete, carefully conceived report within 180 days as required by this section, and to request the needed appropriations.

Once the appropriate appropriation action has been taken to establish the mechanism of the fund authorized under Section 17, the Administrator will have full authority to carry out the directions of Section 17 and to make obligations subject only to the limitations of this Act and the available capabilities of the fund to support such obligations.

Section 17—No endorsement of further programs

The conferees note that the initial action of the Senate to incorporate the authority to guarantee the financing of energy demonstrations was taken prior to any recommendations for similar programs on the part of the Administration. After the Senate acted on this legislation the Administration completed and made public its draft Task Force report on a "Synthetic Fuels Commercialization Program" and the President transmitted to the Congress a legislative proposal for the Energy Independence Authority.

The conferees note that the provisions of Section 103 are not based upon any Administration proposal. The House Committee on Science and Technology has drawn upon the information in the draft Task Force Report and has received testimony from participants in the Task Force study. Some of this information has been of value to the conferees in perfecting Section 103. The section, however, is not modeled after the Task Force recommendations and it differs in many important respects from both the scope and approach of the effort postulated by the Task Force.

The Conferees especially emphasize that the approval of Section 103 in no way constitutes an expression of approval of approaches for assistance beyond loan guarantees. Nothing in Section 103 authorizes construction grants, price supports or price guarantees for the products from demonstration projects nor does the approval of Section 103 constitute any expression of Congressional commitment to other proposals which are pending or may be advanced in the future.

The conferees, furthermore, do not view Section 103 as the initial part of a more ambitious program. The program authorized by this measure is viewed as an independent and complete program as it now stands. Any further energy facility financing arrangements will be considered by the Congress on their merits.

Section 17—Applicability of NEPA

The conferees considered the question of the applicability of the requirements of the National Environmental Policy Act of 1969, including section 102(2)(C) thereof concerning the preparation of environmental impact statements, to the loan guarantee program established by Section 103 of this Act. The conference Committee determined that no statutory language concerning the NEPA was necessary. The conferees intend that the National Environmental Policy Act of 1969 applies to any loan guarantee made pursuant to this section.

Section 304—Limitations on reprograming

With the exception of the proviso of subsection 304(2)(b) which sets forth explicit categories, it is the expectation of the conferees that all restrictions upon programming or the utilization of funds in nonnuclear portions of the Act will apply to the lowest levels of funding set forth in the language of the Act. It should be noted that the Environment and Safety program includes both nuclear and nonnuclear activities. While the conferees would expect the Administrator to apply the spirit of the nonnuclear reprogramming restrictions to the nonnuclear activities within Section 101(a)(5)(A)–(F) Environment and Safety, they recognize the impracticality of applying statutory restrictions to a portion of a mixed account and do not intend to do so.

The conferees retained in modified form the Senate proviso limiting the reduction of certain budget categories by reprogramming to ten percent of the amount appropriated by the Congress. The categories set forth in the proviso are "coal, petroleum and natural gas, oil shale, solar, geothermal, and conservation."

It is the intention of this proviso to protect the priorities among programs which were assigned by the Congress. The limitation of this proviso was applied to the categories stated in the Act in order to provide greater management flexibility while applying a general restriction upon redefinitions of priorities by the Administrator. Although reprogramming of funds within the categories would not be limited by the proviso, it is the intent of the conferees that the Administrator shall make every effort to carry out each activity to the level of funding which was approved by the Congress. Reductions in the funding of any activity should be made only where circumstances preclude the effective utilization of the funds provided.

The conferees explicitly intend the amounts added to the Environment and Safety program activities to be expended to advance additional research in support of nonnuclear programs. That category was not included in the proviso solely because of the fact that environment and safety programs support both nuclear and nonnuclear programs, making specific identification of all nonnuclear programs impossible.

Section 305—Explanation of nonnuclear appropriation allocations

The House version of H.R. 3474 included Sections 101(c) and 201(c) which require ERDA to submit an explanation of the allocation of appropriated funds which details the relationship of that allocation to the various comprehensive program definitions required under earlier nonnuclear energy R&D acts. The Senate substitute had no comparable provision.

The conferees adopted the House provisions. This report should be made promptly, but not later than 45 days after the appropriation is enacted as indicated in the House report on H.R. 3474. Standard fiscal year budget documents will not satisfy this requirement, but, with necessary expansion, may be used to submit the explanation.

Section 311—Central source of information

Section 311 of the Conference Report adds a new section 18 to the Federal Nonnuclear Energy Research and Development Act of 1974. A similar provision was included in the House-passed version, but not in the Senate bill. The new provision has been modified by the Conferees.

The new provision directs ERDA to promptly establish and maintain a central source of information on energy resources and technology in furtherance of ERDA's R&D mission under the 1974 Act, other than data on proved and other energy reserves. The primary objective of the provision is to give ERDA a better and more accurate energy data base on which to make decisions concerning its R&D mission. Where necessary, ERDA is authorized to acquire proprietary and other data by negotiated purchase or by donation, but not by condemnation.

Section 309—Coordination

Provision has been made in the amendment directing the Administrator to be aware of other federal programs and to thereby minimize unnecessary duplication. The conferees recognize that different agencies look at given areas of research from diverse points-of-view, and that therefore, no single agency should have exclusive jurisdiction. At the same time, it is certainly important that the Administrator recognize the expertise built up in certain agencies, and not attempt to duplicate unnecessarily this expertise.

Section 316—Environment and safety

In establishing ERDA, it was the intent of Congress that the agency should have the authority to carry out whatever research is necessary to a comprehensive approach to energy research, development and demonstrations. Where relevant research programs of other agencies were not transferred to ERDA, it was the intent of the Congress that ERDA have the authority to undertake work which was not being accomplished under the ongoing activities of other agencies. ERDA, however, was cautioned not unnecessarily to undertake work which could be accommodated by utilizing the expertise and resources of other agencies.

There are many areas where work of this nature is not being done at all or not being done in a manner adequate to support ERDA's overall mission. ERDA has authority to do this work. This section directs that ERDA do it.

Specifically, we find it extremely important that ERDA be involved in a program of environment and safety research related to the potential impacts of all nonnuclear fuels, and while we recognize that the Nonnuclear Act provided that program authority, the importance has been further emphasized by authorization of $5 million specifically for fossil fuels for this purpose.

D. OPPOSITION TO SECTIONS 102 AND 103 BY REPRESENTATIVE KEN HECHLER

Representative Ken Hechler, although he signed the conference report on the part of the House, emphasized that he is strongly opposed to two sections of the conference recommendation which were not in the bill passed by the House on June 20, 1975—Sections 102 and 103. He opposes Section 102 which establishes a new program, using the public lands free of any bonus, or royalty, for the demonstration of production of oil from shale by in situ methods. He also opposes Section 103 which establishes a new $6 billion loan guarantee program to provide financial assistance to private industry to build synthetic fuels and other commercial demonstration plants.

E. RESERVATION TO SECTIONS 102 AND 103 BY GEORGE E. BROWN, JR.

Representative George E. Brown, Jr., although he signed the Conference Report on the part of the House, emphasized that he did so with the reservation that the House should have the opportunity to work its will by separate vote on Sections 102 and 103.

F. RESERVATION TO SECTIONS 102 AND 103 BY BARRY M. GOLDWATER, JR.

Representative Barry M. Goldwater, Jr., although he signed the Conference Report on the part of the House, emphasized that he did so with reservations about enacting at this time Sections 102 and 103, the two major new sections added by the Senate, and the additional reservation that the House should be allowed to have a separate vote on each section.

MANAGERS FOR THE NONNUCLEAR PORTION OF THE JOINT STATEMENT

OLIN E. TEAGUE,
KEN HECHLER,
THOMAS N. DOWNING,
DON FUQUA,
JAMES W. SYMINGTON,
WALTER FLOWERS,
MIKE MCCORMACK,
GEORGE E. BROWN, JR.,
CHARLES A. MOSHER,
ALPHONZO BELL,
BARRY M. GOLDWATER, JR.,
Managers on the Part of the House.

HENRY M. JACKSON,
FRANK CHURCH,
J. BENNETT JOHNSTON,
FLOYD K. HASKELL,
JOHN GLENN,
PAUL J. FANNIN,
CLIFFORD P. HANSEN,
JAMES A. MCCLURE,
Managers on the Part of the Senate.

NUCLEAR

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3474) to authorize appropriations to the Energy Research and Development Administration in accordance with Section 261 of the Atomic Energy Act of 1954, as amended. Section 305 of the Energy Reorganization Act of 1974 and Section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974 and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amended the House bill to increase the operating expenses portion of the ERDA budget for fiscal year 1976 by $114,616,000 and by $13,106,000 for the transition quarter. The increases for the most part are as set forth in a formal amendment to the ERDA budget which was submitted to the Congress on July 25, 1975. The ERDA amendment was anticipated by the House in its action accepting an amendment offered by Mr. McCormack which had the effect of reprogramming $71.2 million which in the original ERDA budget submission would have been used for the Liquid Metal Fast Breeder Reactor program. The substance of that amendment was preserved in the Senate amendment. Although the Senate amendments do not include language in the bill limiting the Liquid Metal Fast Breeder Reactor and Clinch River Breeder Reactor programs to specific authorization levels, they do reflect the reduction of $71.2 million in these programs. This reduction is identical to that included in the formal budget amendment submitted to the Congress on July 25, 1975. Hence, the funding restrictions apply to those programs and there is no need for the limiting language in the bill as passed by the House.

Most of the increases in the ERDA budget amendment relate to programs which were considered and in some instances were emphasized by the Joint Committee during the authorization hearings. The increases are primarily in the areas of (1) $99.5 million for increased electric power cost for the operation of the gaseous diffusion plants. (2) $1.9 million for upgrading the safeguards for the protection of special nuclear materials, and (3) $91.9 million for an expanded research and development program, particularly as related to the nuclear fuel cycle and light water reactor technology.

An item deleted by the Senate from the July 25, 1975, budget amendment is $4 million for fiscal year 1976 and $1.3 million in the transition quarter for conceptual design efforts related to a proposal for a private enrichment facility. This subject is being considered in a separate legislative proposal submitted by the Administration (S. 2035 and H.R. 8401) which is receiving careful and comprehensive consideration. The Senate amendment would not allow any funds to be used for conceptual design work with one of the prospective private participants. The funds remain available to be used in research and development efforts, independent of those related to private entry into the uranium enrichment business, such as in the area of reprocessing of used nuclear fuel from commercial power reactors as well as preparing for the contingency in the event the initial additional enrichment capacity would have to be provided by the Government.

The Senate amendment includes an increase of $1.4 million for the Molten Salt Breeder Reactor program and $8 million for the Light Water Breeder Reactor program which are deemed by the Joint Committee to be important backup breeder programs. ERDA sought to include these amounts in the July 25 budget amendment, but was overruled by the Office of Management and Budget.

The House recedes.

The Senate amended Section 101(b)(15) of the bill to increase the authorization for capital equipment by $650,000 for fiscal year 1976 and Section 201(b)(8) to increase that authorization by $60,000 in the transition quarter. The increased amount results from the July 25 budget amendment and would be used for the procurement of administrative equipment such as typewriters, calculators, etc., needed to meet the requirements of ERDA offices.

The House recedes.

The Senate included an amendment which would authorize $25 million for a line item construction project for a new Government-owned uranium enrichment production facility at an undetermined location. Section 101(b)(8). Project 76-8-g.

The purpose of this amendment is simply to provide for the contingency in the event the Government has to build the next increment of uranium enrichment capacity. The authorization does not in any way mean that such a contingency will in fact become a reality. The Administration's proposal for private enterprise to build the next increment of capacity is a matter which is yet to be decided by the Congress. The authorization simply means that ERDA would be prepared to proceed if ultimately it is decided that the Government should provide the next increment of uranium enrichment capacity.

The House recedes.

The Senate added $3.1 million for a water control and recycle project at Rocky Flats, Colorado. Project 76-9-d in Section 101(b)(9), and $32.8 million for construction project to upgrade the safeguards and security at several ERDA installations. Project 76-14 in Section 101(b)(14). These increases were proposed in the July 25 budget amendment.

These programs are in the interest of assuring that the Government's programs in the nuclear area are carried out in a manner which is compatible with appropriate environmental and safety considerations. Among other things, there must be assurance that nuclear material will not be stolen or otherwise diverted for any unauthorized use.

The bill reported by the Joint Committee and passed by each House includes funds for new radioactive waste storage tanks at the Government's Savannah River and Richland sites. The Joint Committee has recently received correspondence on these new tanks and on a calcined solids storage addition at the Idaho National Engineering Laboratory (AEC Construction Project 74-1-c). The Joint Committee agrees that these facilities for short-term storage of radioactive waste are not required to be licensed by the Nuclear Regulatory Commission. This does not, of course, reduce in any way the responsibility of ERDA to assure that all storage of radioactive waste must be completely acceptable from the standpoint of the public health and safety and the protection of the environment. The Joint Committee expects the Administration to make timely plans for the permanent storage of the wastes which will be contained in these tanks. The letters on the subject follow:

U.S. ENERGY RESEARCH,
AND DEVELOPMENT ADMINISTRATION,
Washington, D.C., November 28, 1975.

Hon. JOHN O. PASTORE,
Chairman, Joint Committee on Atomic Energy, Congress of the United States.

DEAR MR. CHAIRMAN: Our November 20, 1975 letter on waste storage facilities provided the Committee with ERDA's response to a November 12, 1975 letter from Senators Jackson and Ribicoff. The paragraph in our letter which discusses the calcined solids storage addition at the Idaho National Engineering Laboratory should be changed as follows:

"The above discussion also applies to the calcined solids storage addition at the Idaho National Engineering Laboratory (AEC Construction Project 74-1-c) which was not referred to in the November 12 letter."

The changed paragraph more clearly reflects the project history in that, as JCAE and Congressional Appropriations Committees were notified by letters dated May 16, 1975, additional funds for 74-1-c were required and ERDA was reviewing alternatives to provide the necessary funding. Since that time, additional funds have been provided from within ERDA availability.

Sincerely,

F. P. BARANOWSKI,
Director, Division of Nuclear Fuel Cycle and Production.

The Senate included a new Title VI to the bill which would include Roane and Anderson Counties, Tennessee, in the Atomic Energy Community Act of 1955, as amended. This amendment is the product of extensive hearings which the Joint Committee on Atomic Energy held in Oak Ridge in May of this year. Under this amendment, Anderson and Roane County, Tennessee would be eligible to receive assistance, as authorized by the Administrator of ERDA, until June 30, 1986.

The House recedes.

U.S. ENERGY RESEARCH AND
DEVELOPMENT ADMINISTRATION,
Washington, D.C., November 20, 1975.

Re: Additional High-Level Waste Storage Tanks, Richland, Washington, (ERDA Construction Project 76-6-b); Additional High-Level Waste Storage Tanks, Savannah River Plant (ERDA Construction Project 76-6-a)

Hon. JOHN O. PASTORE,
Chairman, Joint Committee on Atomic Energy, Congress of the United States, Washington, D.C.

DEAR MR. CHAIRMAN: By letter dated November 12, 1975, copy attached, Senators Jackson and Ribicoff advised me of their concern that the above referenced facilities be licensed by the Nuclear Regulatory Commission in accordance with section 202 of the Energy Reorganization Act if they were intended to be utilized for long-term storage of high-level radioactive wastes.

I am enclosing our response which attempts to make clear that ERDA does not plan to rely on these facilities for long-term storage, i.e., 20 years or more and therefore does not consider that these facilities are required to be licensed by NRC.

The above discussion also applies to the calcined solids storage addition at the Idaho Nuclear Engineering Laboratory (AEC Construction Project 74-1-c), additional funds for which were requested in ERDA's fiscal year 1976 authorization request but which was not referred to in the November 12 letter.

If you would like any further information on this matter, please let us know.

Sincerely,

Alfred D. Starbird,
(For Robert C. Seamans, Jr.,
Administrator).

Enclosure.

U.S. Energy Research and
Development Administration,
Washington, D.C., November 20, 1975.
Hon. Henry M. Jackson,
Committee on Government Operations,
U.S. Senate, Washington, D.C.

Dear Senator Jackson: We are pleased to respond to the November 12, 1975 letter from Senator Ribicoff and you regarding the proposed new waste tanks at our Savannah River and Richland sites. An identical reply is being sent to Senator Ribicoff. These tanks are required to continue our existing programs for the safest containment of existing and future high level radioactive waste from the chemical processing plants at Savannah River and Richland.

The ERDA waste management program, as discussed with Congress on many occasions, provides for the interim (i.e., short-term) storage of waste in a retrievable form until a suitable long-term disposal process or processes for the very large quantities of waste at the Savannah River and Richland sites have been developed and adopted. Several alternatives are under active consideration at this time. Upon selection of the optimum long-term storage method or methods, the waste would be processed as necessary and transferred to a long-term storage site or stored at a site analogous to a Retrievable Surface Storage Facility proposed for commercial wastes until a long-term site has been made ready.

We would expect to use the planned tanks only until ERDA can implement an approved plan for the long-term storage of the wastes. It is presently anticipated that facilities for long-term storage will be available between 15 and 20 years after construction of the tanks in question has been completed. This period of between 15 and 20 years after construction is complete will allow time to develop the disposal processes, budget for new long-term storage facilities, undergo the licensing procedures which would be required under section 202 of the Energy Reorganization Act and construct and startup such long-term storage facilities.

Thus, we plan to utilize the new waste tanks at Savannah River and Richland for less than 20 years. Accordingly, we would consider that such tanks would not be for "long-term storage" within the meaning of subsection 202(4) of the Energy Reorganization Act of 1974, and would not be subject to licensing.

The above discussion also applies to the calcined solids storage addition at the Idaho National Engineering Laboratory (AEC Construction Project 74–1–c), additional funds for which were requested in ERDA's fiscal year 1976 authorization request.

In summary, our planning on waste management reflects the need to store wastes in tanks (Savannah River or Richland) or stainless steel storage binds (Idaho National Engineering Laboratory) for an interim period to provide the necessary lead time to develop and implement a long-term disposal solution. Implementation of the long-term disposal method will follow the licensing procedures.

Sincerely,

Robert C. Seamans, Jr.,
Administrator.

U.S. Energy Research and
Development Administration,
Washington, D.C., November 20, 1975.
Hon. Abraham A. Ribicoff,
Chairman, Committee on Government Operations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: We are pleased to respond to the November 12, 1975, letter from Senator Jackson and you regarding the proposed new waste tanks at our Savannah River and Richland sites. An identical reply is being sent to Senator Jackson. These tanks are required to continue our existing programs for the safest containment of existing and future high level radioactive waste from the chemical processing plants at Savannah River and Richland.

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Sincerely,

Alfred D. Starbird,
(For Robert S. Seamans, Jr.,
Administrator).

U.S. Senate,
Committee on
Government Operations,
Washington, D.C., November 12, 1975.
Dr. Robert C. Seamans, Jr.,
Administrator, Energy Research and Development Administration, Washington, D.C.

Dear Dr. Seamans: Recently, the staff of the Government Operations Committee received inquiries with respect to the legislative intent of Section 202(4) of the Energy Reorganization Act of 1974, as it was reported by the Subcommittee on Reorganization, Research and International Organizations and sustained unchanged through final passage and enactment.

According to Mr. Stephen Greenleigh of the ERDA General Counsel's Office, these inquiries were intended to help determine whether NRC should have licensing authority over six new double-walled tanks for storage of high-level radioactive wastes to be built by ERDA at Hanford, Washington, and four such new tanks at Savannah River, Georgia.

Mr. Greenleigh was provided with a transscript of the Subcommittee's mark-up of Sec. 202, and was shown the only direct reference to paragraphs (3) and (4) pertaining to the licensing of waste storage facilities, in which Mr. Dan Dreyfus, explaining Senator Jackson's amendment to the other Senators, said:

"And in the waste storage facilities, the intent here would be that new waste storage facilities would be licensed whether their wastes come from licensed reactors or whether they come from ERDA operations, all high level waste facilities which are new facilities which require licensing. Again, that goes slightly beyond the material in the draft bill."

We wish to make clear that it was our intent that any new construction of waste-storage facilities by ERDA, including those built according to an existing design, should be licensed by the NRC.

As stated in the Committee report:

Paragraphs (3) and (4) provide . . . the authority and responsibility for licensing and related regulation of retrievable surface storage facilities and for other facilities for high-level radioactive wastes which are or may be authorized by the Congress to be built by ERDA or with ERDA financial assistance for long-term (tens to hundreds of years) storage for such radioactive wastes generated by the Administration or to which present high-level radioactive wastes may be transferred by the Administration in the future. It is not the intent of the committee to require licensing of such storage facilities which are already in existence or of storage facilities which are necessary for the short-term storage of radioactive materials incidental to ERDA's R&D activities.

The Senate-House Conference Report noted that the Senate language had been retained for Sec. 202 (3) and (4).

Inasmuch as the facilities to be built are "new" facilities, will have a projected useful life of about 30 years and will be used for the transfer from deteriorating tanks of present high-level radioactive wastes from ERDA non-R&D programs, we believe that these new facilities should be licensed as intended under Sec. 202(4).

We know that you share our deep concern that the strictest design standards be applied to ensure the safe, long-term storage of these extremely toxic nuclear waste products.

We are sending an identical letter to Chairman Anders.

Sincerely,

Abe Ribicoff.
Henry M. Jackson.

The House recedes.

Section 106 "Recession" as passed by the Senate includes two additional projects (75–5–e and 75–5–f) in the area of high temperature gas reactors. These rescissions were requested by ERDA in its July 25 ERDA budget amendment.

The Joint Committee strongly endorsed the Government's involvement in the high temperature gas reactor program when it originally authorized these two projects. The funds authorized were limited, however, only to those required for architect-engineering services and the procurement of long lead-time components and equipment. ERDA has now informed the Joint Committee that the total estimated cost for these projects has substantially increased and that a significantly different research and development program may be required which, among other things, may include the possible elimination of one or both of these projects.

The House recedes.

The Senate added a Title V to the bill which imposed restrictions on the air transportation of plutonium until ERDA has certified to the Joint Committee on Atomic Energy that a safe container has been developed and tested which will not rupture under crash and blast testing equal to the crash and explosion of high-flying aircraft. Exemptions for shipment of plutonium involving the national security, medical applications, and the need for rapid transport are included in the title.

The House recedes.

MANAGERS FOR THE NUCLEAR PORTION OF THE JOINT STATEMENT

Melvin Price,
John Young,
Mike McCormack,
John Anderson,
Manuel Lujan, Jr.,
Managers on the Part of the House.

John O. Pastore,
Stuart Symington,
Joseph Montoya,
Howard Baker, Jr.,
Clifford Case,
Managers on the Part of the Senate.

MANAGERS FOR THE JOINT STATEMENT

Olin Teague,
Melvin Price,
John Young,
Thomas N. Downing,
Ken Hechler,
Don Fuqua,
George E. Brown, Jr.,
Walter Flowers,
James W. Symington,
Mike McCormack,
John B. Anderson,
Charles A. Mosher,
Alphonzo Bell,
Barry M. Goldwater, Jr.,
Manuel Lujan, Jr.,
Managers on the Part of the House.

John O. Pastore,
Henry M. Jackson,
Stuart Symington,
Frank Church,
Joseph M. Montoya,
J. Bennett Johnston, Jr.,
Floyd K. Haskell,
John Glenn,
Clifford P. Case,
Paul J. Fannin,
Howard H. Baker, Jr.,
Mark O. Hatfield,
Jim McClure,
Managers on the Part of the Senate.

RESERVATION TO SECTIONS 102 AND 103 BY BARRY M. GOLDWATER, JR.

Representative Barry M. Goldwater, Jr., although he signed the Conference Report on the part of the House, emphasized that he did so with reservations about enacting at this time Sections 102 and 103, the two major new sections added by the Senate, and the additional reservation that the House should be allowed to have a separate vote on each section.

APPOINTMENT OF CONFEREES ON H.R. 8122, PUBLIC WORKS APPROPRIATION BILL, 1976

Mr. EVINS of Tennessee. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 8122) making appropriations for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commissions for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee? The Chair hears none, and appoints the following conferees: Messrs. Evins of Tennessee, Boland, Whitten, Slack, Passman, Bevill, Mahon, Myers of Indiana, Burgener, and Cederberg.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT DECEMBER 10, 1975, TO FILE A REPORT ON H.R. 8122, PUBLIC WORKS APPROPRIATION BILL, 1976

Mr. EVINS of Tennessee. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight, Wednesday, December 10, 1975, to file a conference report on H.R. 8122, making appropriations for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commissions for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 644, CONSUMER PRODUCT SAFETY COMMISSION IMPROVEMENT ACT OF 1975

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 644) to amend the Consumer Product Safety Act to improve the Consumer Product Safety Commission, to authorize new appropriations, and for other purposes, with the House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following conferees: Messrs. Staggers, Van Deerlin, Stuckey, Eckhardt, Metcalfe, Devine, and McCollister.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO FILE CONFERENCE REPORT ON S. 622, ENERGY CONSERVATION AND OIL POLICY ACT OF 1975

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce have until midnight tonight to file a conference report on the Senate bill (S. 622) to provide standby authority to assure that the essential energy needs of the United States are met, to reduce reliance on oil imported from insecure sources at high prices, to implement U.S. obligations under international agreements to deal with shortage conditions, and to authorize and direct the implementation of Federal and State conservation programs consistent with economic recovery.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

REPORT ON EFFORTS TO HELP RESOLVE CYPRUS PROBLEM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94-316)

The Speaker laid before the House the following message from the President of the United States; which was read and referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

I am submitting, pursuant to Public Law 94-104, the first of a series of reports on efforts this Administration is making to help resolve the Cyprus problem. Subsequent progress reports, as required by this legislation, will be forwarded to you at sixty-day intervals.

In his speech before the U.N. General Assembly on September 25, 1975, the Secretary of State outlined the Administration's policy on the complex problem as follows:

> The details of a Cyprus settlement are for the two communities themselves to decide. However, in keeping with U.N. resolutions which the United States has fully supported, the following principles are essential:
>
> A settlement must preserve the independence, sovereignty, and territorial integrity of Cyprus;
>
> It must insure that both the Greek-Cypriot and the Turkish-Cypriot communities can live in freedom and have a large voice in their own affairs;
>
> The present dividing lines cannot be permanent. There must be agreed territorial arrangements which reflect the economic re-

quirements of the Greek-Cypriot community and take account of its self-respect;

There must be provisions for the withdrawal of foreign military forces other than those present under the authority of international agreements; and

There must be security for all Cypriots; the needs and wishes of the refugees who have been the principal victims and whose tragic plight touches us all must be dealt with speedily and with compassion.

These elements, which we consider essential to a settlement, are consistent with the aspirations of the overwhelming majority of the people of Cyprus. Beyond that, only the Cypriot people can decide how to rebuild and preserve their sovereign, independent nation so it may again serve the interests of all its citizens.

With this appreciation of both the opportunities and limitation of U.S. action, I declared immediately following enactment of Public Law 94–104 on October 6 that the United States would make a major effort to encourage a resumption of the Cyprus negotiations and to facilitate progress by all the parties involved—Greece, Turkey and Cyprus—toward a peaceful and equitable solution. I also stated that the United States would undertake whatever role the parties themselves wanted us to play in achieving a settlement.

Immediately thereafter, we took a number of steps through diplomatic channels aimed at helping the parties find a basis for resuming the intercommunal talks under the aegis of U.N. Secretary General Waldheim. As a first step, I wrote directly to the Prime Ministers of Greece and Turkey to stress the importance the United States attaches to the resumption of the intercommunal Cyprus talks and to emphasize our wish that the Cyprus problem be removed as a source of instability in the Eastern Mediterranean. My letters were followed by a series of communications from Secretary Kissinger to the Foreign Ministers of Greece and Turkey and to President Makarios of Cyprus. In each of these communications, an effort was made to define the differences as we saw them between the negotiating positions of the other parties and to urge that an effort be made to narrow the gap.

The Secretary of State, during the past sixty days, also has consulted extensively with several of our major European allies who have engaged in corresponding and complementary initiatives with the Greek, Turkish and Cypriot governments. Parallel initiatives also were undertaken during this period by the European Community.

These initiatives have not produced a major breakthrough; but taken together they have advanced prospects for a negotiated settlement. A new appreciation now exists in Athens, Ankara, and Nicosia that delay in resuming the intercommunal talks will harden attitudes and make future progress more difficult. In each capital, there is a desire to begin anew an earnest search for a solution. Each party also has a realistic understanding of what it must do to make progress possible.

In Ankara, the Turkish Foreign Minister announced on October 21, shortly after the Turkish senatorial elections, that the time was opportune to search for a solution and that all aspects for a settlement could be discussed at the intercommunal talks. Turkey has also indicated that it would encourage the Turkish Cypriots to engage in meaningful negotiations within the intercommunal framework. There is also a recognition in Ankara that a discussion of their position on territory is essential once the intercommunal talks have been resumed and that troop reductions as well as steps to resolve the refugee issue are essential ingredients to any Cyprus settlement.

Similar meaningful changes have occurred in the Greek and Greek-Cypriot negotiating positions with respect to such subjects as the organization of the future central government and the division of responsibilities and delegation of authority to the future regional administrations.

In sum, we have seen, as have our principal Western allies, a narrowing of differences on most of the key issues necessary to negotiate a Cyprus solution. The range of disagreement between the parties now seems to us surmountable. Under such circumstances, it should have been possible in November to bring the parties back to the negotiating table. However, once a date had been scheduled in New York for the Cyprus debate at the U.N. General Assembly, the parties felt compelled to await the outcome before sitting down with the U.N. Secretary General to resume actual negotiations.

Now that the United Nations has completed its consideration of the Cyprus question and passed a new resolution calling for intercommunal negotiations, efforts to schedule new talks are underway. We have consulted U.N. Secretary General Waldheim and the Governments of Greece, Turkey, and Cyprus. Our common interest is to have renewed negotiations of sufficient depth and duration to allow full discussion of all key substantive issues. There is every reason to believe this kind of negotiation will begin in the very near future. To facilitate ths effort, I have asked the Secretary of State to give special emphasis to the subject of Cyprus negotiations when he meets with the Turkish and Greek Foreign Ministers during the NATO Ministerial meeting in Brussels in the second week of December.

We now find ourselves at an important juncture in the search for a Cyprus settlement. The negotiating framework which has emerged finally should allow early and orderly discussion of the most serious substantive issues, including refugees, which hold the key to a final settlement. We have succeeded in moving to this point in large part because, since early October, the United States has been free to resume an active, evenhanded role among all the parties. The outcome of the resumed Cyprus negotiations may depend upon our ability to maintain this role in the months ahead.

An important beginning has been made in the past sixty days toward the elusive goal of a peaceful, equitable, and enduring Cyprus solution. In the days ahead, I believe our efforts will bring results if we continue to have the support and understanding of the Congress. I intended to review with you in subsequent reports the progress that has been made in the common quest to restore peace and stability to the island of Cyprus.

GERALD R. FORD.

THE WHITE HOUSE, *December 8, 1975*.

PROVIDING FOR CONSIDERATION OF H.R. 9721, INCREASED U.S. PARTICIPATION IN THE INTER-AMERICAN DEVELOPMENT BANK

Mr. YOUNG of Georgia. Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 817 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 817

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9721) to provide for increased participation by the United States in the Inter-American Development Bank, to provide for the entry of nonregional members and the Bahamas and Guyana in the Inter-American Development Bank, to provide for the participation of the United States in the African Development Fund, and for other purposes, and all points of order against section 102 of said bill for failure to comply with the provisions of clause 5, rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Currency and Housing, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Georgia is recognized for 1 hour.

Mr. YOUNG of Georgia. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from California (Mr. DEL CLAWSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 817 provides for an open rule with 1 hour of general debate on H.R. 1721, a bill entitled "Increased Participation in the Inter-American Development Bank." This bill not only would provide for increased participation by the United States in the Inter-American Development Bank, but would also provide for the entry of nonregional members and the Bahamas and Guyana, as well as for the participation of the United States in the African Development Fund.

The rule further provides that points of order against section 102 of H.R. 9721 for failure to comply with the provisions of clause 5, rule XXI, of the rules of the House are waived. This rule relates to appropriation language in authorizing legislation.

In addition, the rule provides that H.R. 9721 be read for amendment under the 5-minute rule by titles instead of by sections.

Last week I returned from a brief visit to Zambia, Kenya, and Nigeria. I talked with many parliamentary and government leaders in these countries who well understand the growing power of their resources and markets in relation to the Western industrial nations.

Our joining the African Development Fund, therefore, cannot be interpreted as a generous act on our part; rather, it seems to me to be a prudent act in accord with our basic economic and political interests and a good safeguard of those interests in the future.

In Nigeria, for example, the United States competes with other European countries for trade dollars through the sale of heavy and light manufactures. Her newly announced 5-year plan alone calls for the expenditure of some $50 billion for development purposes. However, Nigeria does not have to buy from us. Our trade imbalance stemming from her oil exports to the United States over the past 2 years means that we must increase our markets and sale of capital goods and services there. Nigeria ranks sixth as a source of U.S. imports and plans more extensive transactions with us in the future.

This week an important bill, H.R. 9721, the Inter-American Development Bank Act, comes before us. It is a bill in which I have great interest, especially title II, which provides for U.S. participation in the African Development Fund.

The $25 million the bill authorizes for the fund is a small but important first step for U.S. economic policy toward Africa. It indicates we understand increasingly that our economic interests lie with Africa. According to the Commerce Department, U.S. trade with Africa—including North Africa—in the first half of 1975 increased at a much more rapid pace than trade with the rest of the world.

H.R. 9721 is a significant piece of legislation which provides for a multilateral effort in meeting development goals. I urge you to consider this measure favorably.

Mr. Speaker, I urge the adoption of House Resolution 817 in order that we may discuss, debate, and pass H.R. 9721.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 817 provides for 1 hour of equally divided general debate on H.R. 9721, increased U.S. participation in the Inter-American Development Bank. The bill shall be read, for amendment under the 5-minute rule, by titles instead of by sections. Points of order against section 102 are waived for failure to comply with rule XXI, clause 5. Clause 5 prohibits appropriations on an authorizing bill. This waiver is necessary because section 102 removes certain restrictions on appropriating provisions for the Inter-American Development Banks. Under existing law, a total of $50 million is specifically earmarked to assist local cooperatives, credit unions and savings and loans. Section 102 of the bill removes this provision under existing law. These funds could then be used for purposes other than the original appropriation. In effect previously appropriated funds are being allocated for new purposes on an authorizing bill.

H.R. 9721 authorizes the United States to provide $2.25 billion as a share of the replenishment funds for the Inter-American Development Bank. An additional authorization of $25 million is for the U.S. contribution to the African Development Fund. The bill also directs the U.S. Governor of the Bank to vote for the admission of the Bahamas, Guyana, Japan, Israel, and 10 European countries into the Bank.

The total cost of the bill is $2,275 million.

Mr. Speaker, I suggest we take the necessary action on the rule and proceed with the business of the House.

Mr. Speaker, I do have a request for time. I yield 5 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, H.R. 9721, a bill providing for increased participation in the Inter-American Development Bank and for initial participation in the African Development Fund, needs to be considered in light of: First, the amount of economic assistance, of various types, which the United States has already provided to foreign nations since World War II; and second, the diminished ability of the United States to continue to provide such assistance in the future.

The attached tables indicate that during the years 1946–74, the United States provided a net total of more than $11.5 billion in economic assistance to Latin America and another $4.75 billion to Africa. Projections provided in the President's budget for fiscal year 1976 called for new obligational authority and for additional outlays of approximately $4 billion.

This level of foreign economic assistance will have to be reduced to some extent if a significant reduction in the budget of the Federal Government is to be made during the next 3 years to achieve the President's announced goal of a balanced budget at the end of that period.

The following additional comments are addressed specifically to the proposed $25 million initial contribution to the African Development Fund:

First. The $25 million contribution to the Fund, the "soft loan" counterpart to the African Development Bank, which is to be paid in annual installments of $9 million, $8 million, and $8 million, respectively, exceeds the budgeted amount by $10 million, or 67 percent. For our committee to increase the amount of the initial contribution from the budgeted amount of $15 million to $25 million is to head in the opposite direction from that in which economic reality demands that we proceed.

Second. Not all of the member countries of the African Development Bank itself have fully paid their own subscriptions to provide paid-in capital for the Bank. This point was established as a result of an answer provided by the Honorable Charles A. Cooper, Assistant Secretary of the Treasury for International Affairs, in response to a question submitted by subcommittee Chairman HENRY B. GONZALEZ:

> Question. Are all of the subscriptions of the African countries of the Bank up to date?
>
> Answer. The AFDB has had a problem with arrearages on paid-in capital but has negotiated settlements with the delinquent members and the amount of arrears had been reduced from 40 percent of paid-in capital in 1969 to 13 percent of paid-in capital in 1974. In April 1975, total arrears were $20 million compared to $24 million the previous year.
>
> One country, Egypt, which accounted for 70 percent of all arrearages, has formally agreed to a 3-year settlement schedule. Settlements have also been negotiated with Ethiopia and Senegal. Chad and the Central African Republic have yet to sign settlement agreements.[1]

Third. The United States is being asked to contribute capital to the African Development Fund under conditions which sharply restrict this country's ability to influence decisions regarding assistance to be provided by the Fund. Unlike other multilateral international financial assistance institutions in which the United States participates, the ADF provides that one-half of the voting power is to be exercised by the African Development Bank. This arrangement leaves only the remaining half of the voting power to be exercised in proportion to the amount of capital contributed to the Fund itself. In other words, the United States has the opportunity to make a contribution of money to the ADF, but the weight of its influence will be confined to one-half of the proportional amount of its contribution.

Somewhere along the line Congress must demonstrate that it is acutely aware of the terms and conditions, as well as of the amounts, of U.S. contributions to international economic assistance institutions.

I include the following:

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[1] The African Development Fund, Hearing before the Subcommittee on International Development Institutions and Finance of the Committee on Banking, Currency, and Housing, p. 98.

FOREIGN AID

[In millions of dollars]

Assistance programs	Budget authority 1974 actual	Budget authority 1975 estimate	Budget authority 1976 estimate	Outlays 1974 actual	Outlays 1975 estimate	Outlays 1976 estimate
Economic assistance:						
Security supporting assistance	118	386	580	382	391	398
Middle East special requirements fund		25	25		12	12
Indochina postwar reconstruction	499	617	952	246	508	762
Multilateral development assistance	2,383	1,195	759	615	876	990
International financial institutions	2,237	1,006	546	446	704	818
International organizations	146	190	214	168	171	173
Bilateral development assistance	782	839	669	785	936	780
Agency for International Development	820	961	1,023	863	1,035	1,129
Overseas Private Investment Corporation	25			−21	14	−6
Inter-American Foundation				6	9	10
Proprietary receipts from the public	−63	−122	−354	−63	−122	−354
Food for peace	554	778	1,336	639	1,165	1,070
Mitigation and refugee assistance	56	34	10	43	66	10
International narcotics control	42	42	42	5	27	38
Total, economic assistance	4,434	3,917	4,373	2,715	3,909	4,060

Source: The Budget of the U.S. Government, fiscal year 1976, p. 83.

[U.S. fiscal years; millions of dollars]

	U.S. overseas loans and grants—Obligations and loan authorizations																
				Foreign Assistance Act period													
Program	Post-war relief period, 1946–48	Marshall plan period, 1949–52	Mutual security act period, 1953–61	1962–65	1966	1967	1968	1969	1970	1971	1972	1973	1974	Total FAA period, 1962–74	Total loans and grants, 1946–74	Repayments and interest, 1946–74	Total less repayments and interest
LATIN AMERICA																	
1. Economic assistance[1]—Total	98.3	97.8	1,632.4	3,984.6	1,138.3	922.1	9,063.3	739.9	907.2	463.6	581.3	841.7	628.5	11,269.2	12,592.4	1,060.6	11,531.8
Loans	24.9	.4	633.2	2,470.4	612.3	480.6	571.7	269.4	361.8	278.5	276.4	267.5	181.7	5,770.3	6,017.0	1,060.6	4,956.4
Grants	73.4	97.4	999.3	1,514.2	526.0	441.5	490.6	470.5	545.4	185.1	304.9	574.2	446.9	5,499.3	6,575.4		6,575.4
(a) AJD and predecessor agencies		19.5	825.0	2,225.1	684.9	573.7	533.22	325.9	421.7	331.2	338.0	314.4	238.7	6,016.6	6,365.8	558.7	5,807.1
Loans			270.2	1,743.7	544.8	476.1	443.7	237.6	319.5	232.5	244.5	224.7	171.5	4,638.6	4,507.4	558.7	3,948.7
Grants		19.5	554.8	511.4	140.1	97.6	89.5	88.3	102.2	98.7	93.5	89.7	67.3	1,378.1	1,858 4		1,858.4
(Security supporting assistance)	(........)	(........)	(176.6)	(342.7)	(100.2)	(50.3)	(26.1)	(2.3)	(3.9)	(2.8)	(2.0)	(.....)	(.....)	(530.3)	(675.3)		
(b) Food for Peace (Public Law 480)		.1	591.4	673.4	142.3	62.2	192.6	81.9	159.4	103.5	102.0	88.9	50.5	1,657.3	2,238.6	239.7	1,998.9
Title I—Total			403.0	302.2	49.3	4.5	127.7	28.5	42.1	46.2	31.8	42.7	10.2	685.2	1,077.8	239.7	838.1
Repayable in U.S. dollars—Loans				63.4	34.9	4.5	127.7	28.5	42.1	46.2	31.8	42.7	10.2	432.0	421.7	116.2	305.5
Payable in foreign currency—Planned for country use			403.0	238.8	14.4									243.2	656.1	123.5	532.6
(Total sales agreements, including U.S. uses)	(........)	(........)	(522.0)	(305.6)	(23.8)	(.......)	(.......)	(.....)	(.....)	(.....)	(.....)	(.....)	(.....)	(325.4)	(851.3)	(........)	(851.3)
Title II—Total		.1	188.4	371.2	93.0	57.7	64.9	53.4	117.3	57.3	70.8	46.2	40.3	972.1	1,160.8		1,160.8
Emergency relief, economical development, and world food			39.2	68.6	43.6	15.5	22.1	14.7	79.6	10.3	24.9	14.6	11.5	305.4	344.7		344.7
Voluntary relief agencies		.1	149.2	302.6	49.4	42.2	42.8	38.7	37.7	47.0	45.9	31.6	28.8	666.7	816.1		816.1
(c) Other economic assistance	98.3	78.2	216.0	1,056.1	311.1	286.2	336.5	332.1	326.1	28.9	140.7	438.4	339.3	3,595.3	3,988.0	262.2	3,725.8
Contributions to International Landing Organization			80.0	470.0	250.0	250.0	300.0	300.0	300.0		104.3	405.4	282.3	2,662.0	2,742.0		2,742.0
Peace Corps			.3	76.4	33.9	24.4	23.7	20.6	20.9	19.0	17.2	16.6	19.2	271.9	272.1		272.1
Other	98.3	78.2	135.7	509.6	27.2	11.8	12.8	11.5	5.2	9.9	19.2	16.4	37.8	661.4	973.9	262.2	711.7
AFRICA																	
1. Economic assistance[1]—total	9.6	5.7	1,106.2	1,559.9	335.0	375.0	317.9	332.9	274.8	323.9	298.9	257.4	300.4	4,375.9	5,218.9	465.6	4,753.3
Loans	9.2	.2	365.6	518.4	148.4	191.0	170.8	115.2	93.4	146.2	166.3	125.4	66.5	1,742.0	1,955.7	465.6	1,490.1
Grants	.4	5.5	740.7	1,041.3	186.6	184.0	147.0	217.7	181.3	177.7	132.6	131.9	233.9	2,633.8	3,263.4		3,263.4
(a) AID and predecessor agencies		3.8	804.0	955.0	178.7	205.1	159.7	153.9	155.2	176.1	175.2	163.3	135.0	2,457.0	2,993.6	313.6	2,680.0
Loans			339.6	407.3	91.4	117.2	89.8	67.8	65.0	106.8	107.4	98.6	58.7	1,210.4	1,396.1	313.6	1,082.5
Grants		3.8	464.4	547.5	87.3	87.9	69.9	86.1	90.2	69.3	67.8	64.6	76.3	1,246.7	1,597.5		1,597.5
(Security supporting assistance)			(64.9)	(257.4)	(24.6)	(18.7)	(16.6)	(30.0)	(28.0)	(18.4)	(3.7)			(397.4)	(467.7)		

Footnotes at end of table.

[U.S. fiscal years; millions of dollars]

	U.S. overseas loans and grants—Obligations and loan authorizations																
				Foreign Assistance Act period													
Program	Postwar relief period, 1946–48	Marshall plan period, 1949–52	Mutual security act period, 1953–61	1962–65	1966	1967	1968	1969	1970	1971	1972	1973	1974	Total FAA period, 1962–74	Total loans and grants, 1946–74	Repayments and interest, 1946–74	Total less repayments and interest
(b) Food for Peace (Public Law 480)		.5	250.4	530.6	123.6	144.2	134.5	157.0	99.4	127.2	104.3	70.9	141.2	1,632.9	1,876.4	122.2	1,754.2
Title 1—Total			10.5	156.3	57.0	73.8	81.3	47.4	30.2	39.4	58.9	26.8	7.8	578.9	581.9	122.2	459.7
Repayable in U.S. dollars—Loans				10.2	32.6	33.7	46.7	32.9	27.0	39.4	58.9	26.8	7.8	316.0	308.5	68.6	239.9
Payable in Foreign Currency—Planned for Country Use			10.5	146.1	24.4	40.1	34.6	14.5	3.2					262.9	273.4	53.6	
(Total sales agreements, including U.S. users)			(14.3)	(196.9)	(36.0)	(54.4)	(42.8)	(17.4)	(3.8)					(351.3)	(365.7)		(365.7)
Title II—Total		.5	239.9	374.3	66.6	70.4	53.2	109.6	69.2	87.8	45.4	44.1	133.4	1,054.0	1,294.5		1,294.5
Emergency relief, economic development and world food			198.7	234.8	40.4	38.3	30.6	86.3	45.0	66.4	25.5	24.6	104.8	696.7	895.4		895.4
Voluntary relief agencies		.5	41.2	139.5	26.2	32.1	22.6	23.3	24.2	21.4	19.9	19.5	28.6	357.3	399.1		399.1
(c) Other economic assistance	$ 9.6	1.4	51.8	74.3	32.7	25.7	23.7	22.0	20.2	20.6	19.4	23.2	24.2	286.0	348.9	29.8	319.1
Peace Corps				70.3	31.7	24.7	22.7	21.0	20.2	20.6	19.4	23.2	24.2	278.0	278.1		278.1
Other	9.6	1.4	51.8	4.0	1.0	1.0	1.0	1.0						8.0	70.8	29.8	41.0

[1] Equivalent to Official Development Assistance (ODA).

Source: U.S. Overseas Loans and Grants and Assistance from International Organizations, Statistics and Reports Division, USAID, pp. 31, 83.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, is it not true that this fund relates to the very poorest countries in Africa and that we have countries like Somalia that have been totally devastated by drought; we have the Sahel Region in the Sahara in Africa. We have some countries that might have some very legitimate reason, it seems to me, on the basis of natural catastrophe and others to explain the difficulty in raising the capital funds.

Mr. ROUSSELOT. As the gentleman knows, our country provides real disaster relief; in many of those cases, we already have. Also, the World Bank has established several loans on the basis of the kind of calamities to which the gentleman refers.

So, to believe that the African Development Bank is the only place where these countries that have refused to pay in their own capital subscriptions to the African Development Bank, which in many cases are very minimal, that it is the only place where they can receive help is, of course, not true. Some of the countries, such as Egypt and Libya, have defaulted on their subscriptions to the African Development Bank, which is the parent of the African Development Fund to which it is proposed that we contribute $25 million. My concern is that in many of these countries, there is a real turmoil going on, for instance in Angola. We do not really know what the final result will be in many of those unstable countries, and for us to be contributing now is premature.

The SPEAKER. The time of the gentleman from California has expired.

Mr. DEL CLAWSON. Mr. Speaker, I yield 3 additional minutes to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, equally disturbing as the general instability in Africa is that many of these same countries have spent all their time in the United Nations in recent times attacking us. I do not believe, when there are so many other areas where they are eligible for aid, that we should be coughing up this $25 million for a very uncertain type of operation where even the people involved are not willing to meet their commitments.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield further?

Mr. ROUSSELOT. I will be glad to yield, but I do want to yield to my colleague from New Jersey (Mrs. FENWICK). I do not want to be biased against women.

Mr. ANDERSON of Illinois. I am sure that no one who really knows the gentleman in the well would make that accusation.

The gentleman has repeatedly spoken of $25 million. However, is it not a fact that this bill would require United States participation in the African Development Fund in the amount of $25 million in three annual installments, and that actually only $9 million is involved in the current fiscal year and $8 million in each of the two succeeding fiscal years?

Mr. ROUSSELOT. Yes, the gentleman is correct. It is paid in installments, but as he knows, when we make a commitment, we then go ahead and usually exceed it.

Another problem is that we are not allowed to exercise voting power to the full extent of our contribution. Although they want our money, they only allow our voting voice to the extent of one-half. I think that it is unfair to ask us to participate when we are not allowed to have proportionate say in the management. As a matter of fact, we are always encouraged to take a back seat, whereas in other multinational funds of this type, we are allowed to participate fully. So, I think it is a bad precedent.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I thank the gentleman for yielding to me.

I most urgently support the African Development Fund. These are some of the poorest countries in the world. I think it would be terrible if this nation with, granted, its many commitments, but with all its resources, found itself unable to take part in this effort of those nations.

The gentleman says that they refuse to contribute. In many cases, they simply cannot.

Mr. ROUSSELOT. As the gentlewoman knows, we participate in food for peace programs and bilateral development assistance of all kinds. There is a long list of economic assistance, and the members on the Appropriations Committee can tell the gentlewoman that it is a substantial list. We are not depriving the African nations of our funding. We have been more than generous, and as the gentlewoman knows full well, this Fund is not the only place to go.

My concern is that this Fund has not been well established and accepted within the framework of Africa itself. Therefore, there is real doubt as to how much it is needed.

Mr. DEL CLAWSON. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. YOUNG of Georgia. Mr. Speaker, I have no further requests for time, but I would like to just say to the gentleman from California that we will have ample time to debate this in general debate.

I would say that this participation in the African Development Fund is not a charitable program. It is our participation in an economic structure in Africa that is quite beneficial to the United States. Right now, we are in a competitive bid with countries such as Japan and Germany, which are members of the African Development Fund, for a contract for $125 million worth of trucks.

Participation in this fund allows us to share in the economic development of Africa, and I think we can point out in general debate, as the chairman of this subcommittee will point out, that this investment is far more to our advantage than it is any great sacrifice on our part.

Mr. Speaker, I urge the adoption of H. Res. 817 so that we may debate, discuss and pass H.R. 9721.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. THONE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 353, nays 24, not voting 57, as follows:

[Roll No. 750]

YEAS—353

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashley
Aspin
Badillo
Baldus
Barrett
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Bolling
Bonker
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carr
Carter
Casey
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conte
Corman
Cornell
Cotter
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Esch
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Florio
Flowers
Flynt
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frey
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hastings
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Hefner
Heinz
Henderson
Hicks
Hightower
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hyde
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Ketchum
Keys
Kindness
Koch
Krebs
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McDade
McEwen
McFall
McHugh
McKay
McKinney
Macdonald
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Meyner
Mezvinsky
Michel
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Preyer
Price
Pritchard
Quie
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Roncalio
Rooney
Rose
Rostenkowski
Roush
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steelman
Stephens
Stokes
Stratton
Stuckey
Studds
Sullivan
Talcott
Taylor, N.C.
Thone
Thornton
Traxler
Tsongas
Van Deerlin
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Winn
Wirth
Wright
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—24

Ashbrook
Bafalis
Bauman
Bennett
Brinkley
Carney
Clawson, Del
Collins, Tex.
Conlan
Crane
Haley
Hansen
Hutchinson
McDonald
Passman
Poage
Pressler
Rogers
Rousselot
Satterfield
Shipley
Snyder
Steed
Symms

NOT VOTING—57

Andrews, N.C.
AuCoin
Boland
Bowen
Brown, Calif.
Broyhill
Burke, Fla.
Conyers
Coughlin
Davis
Diggs
du Pont
Eshleman
Fithian
Foley
Ford, Mich.
Fraser
Fuqua
Gaydos
Hawkins
Hébert
Heckler, Mass.
Helstoski
Hillis
Hinshaw
Holland
Ichord
Kemp
Krueger
Landrum
McCormack
Metcalfe
Mikva
Murphy, N.Y.
O'Neill
Patman, Tex.
Quillen
Railsback
Richmond
Riegle
Rosenthal
Stark
Steiger, Ariz.
Steiger, Wis.
Symington
Taylor, Mo.
Teague
Thompson
Treen
Udall
Ullman
Vander Jagt
Wampler
Wilson, C. H.
Wilson, Tex.
Wolff
Yates

The Clerk announced the following pairs:

Mr. Hébert with Mr. Patman.

Mr. Thompson with Mr. Eshleman.

Mr. Teague with Mr. Fraser.

Mr. Bowen with Mr. Broyhill.

Mr. Symington with Mr. Kemp.

Mr. Fithian with Mr. Hillis.

Mr. Stark with Mr. Quillen.

Mr. O'Neill with Mr. Steiger of Arizona.

Mr. Diggs with Mr. Taylor of Missouri.

Mr. Rosenthal with Mr. Treen.

Mr. Krueger with Mr. Wampler.

Mr. Helstoski with Mr. Vander Jagt.

Mr. Richmond with Mr. Andrews of North Carolina.

Mr. Metcalfe with Mr. AuCoin.

Mr. Fuqua with Mr. Steiger of Wisconsin.

Mr. Landrum with Mr. Udall.

Mr. Wolff with Mr. Railsback.

Mr. Riegle with Mr. McCormack.

Mr. Davis with Mr. Ichord.

Mr. Mikva with Mr. Hawkins.

Mr. Foley with Mrs. Heckler of Massachusetts.

Mr. Holland with Mr. Brown of California.

Mr. Conyers with Mr. Burke of Florida.

Mr. Boland with Mr. Coughlin.

Mr. Ford of Michigan with Mr. du Pont.

Mr. Murphy of New York with Mr. Hinshaw.

Mr. Ullman with Mr. Yates.

Mr. Charles H. Wilson of California with Mr. Charles Wilson of Texas.

Mr. BLOUIN changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 5900, TO PROTECT THE ECONOMIC RIGHTS OF LABOR IN THE BUILDING CONSTRUCTION INDUSTRY BY PROVIDING FOR EQUAL TREATMENT OF CRAFT AND INDUSTRIAL WORKERS

Mr. PERKINS submitted the following conference report and statement on the bill (H.R. 5900) to protect the economic rights of labor in the building construction industry by providing for equal treatment of craft and industrial workers:

CONFERENCE REPORT (H. REPT. No. 94–697)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5900) to protect the economic rights of labor in the building and construction industry by providing for equal treatment of craft and industrial workers, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I—PROTECTION OF ECONOMIC RIGHTS OF LABOR IN THE CONSTRUCTION INDUSTRY

SEC. 101. (a) Section 8(b)(4) of the National Labor Relations Act, as amended, is amended by inserting before the semicolon at the end thereof ": *Provided further*, That nothing contained in clause (B) of this paragraph (4) shall be construed to prohibit any strike or refusal to perform services or any inducement of any individual employed by any employer primarily engaged in the construction industry on the site to strike or refuse to perform services at the site of the construction, alteration, painting, or repair of a building, structure, or other work and directed at any of several employers who are in the construction industry and are jointly engaged as joint venturers or in the relationship of contractors and subcontractors in such construction, alteration, painting, or repair at such site: *Provided further*, That nothing in the above proviso shall be construed to permit a strike or refusal to perform services or any inducement of any individual employed by any person to strike or refuse to perform services in furtherance of a labor dispute, unlawful under this Act or in violation of an existing collective bargaining contract, relating to the wages, hours, or other working conditions of employees employed at such site by any of such employers, and the issues in dispute involve a labor organization which is representing the employees of an employer at the site who is not engaged primarily in the construction industry: *Provided further*, Except as provided in the above provisos nothing herein shall be construed to permit any act or conduct which was or may have been an unfair labor practice under this subsection: *Provided further*, That nothing in the above provisos, shall be construed to prohibit any act which was not an unfair labor practice under the provisions of this subsection existing prior to the enactment of such provisos: *Provided further*, That nothing in the above provisos shall be construed to authorize picketing, threatening to picket, or causing to be picketed, any employer where an object thereof is the removal or exclusion from the site of any employee on the ground of sex, race, creed, color, or national origin or because of the membership or non-membership of any employee in any labor organization: *Provided further*, That nothing in the above provisos shall be construed to authorize picketing, threatening to picket, or causing to be picketed, any employer where an object thereof is to cause or attempt to cause an employer to discriminate against any employee, or to discriminate against an employee with respect to whom membership in a labor organization has been denied or terminated on some ground other than his failure to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership, or to exclude any labor organization on the ground that such labor organization is not affiliated with a national or international labor organization which represents employees of an employer at the common site: *Provided further*, That nothing in the above provisos shall be construed to permit any attempt by a labor organization to require an employer to recognize or bargain with any labor organization presently prohibited by paragraph (7) of subsection (b): *Provided further*, That if a labor organization engages in picketing for an object described in paragraph (7) of subsection (b) and there has been filed a petition under subsection (c) of section 9, and a charge under subsection (b) of section 10, the Board shall conduct an election and certify the results thereof within fourteen calendar days from the filing of the later of the petition and the charge: *Provided further*, That nothing in the above provisos shall be construed to permit any picketing of a common situs by a labor organization to force, require, or persuade any person to cease or refrain from using, selling, purchasing, handling, transporting, specifying, installing, or otherwise dealing in the products or systems of any other producer, processor, or manufacturer. In determining whether several employers who are in the construction industry are jointly engaged as joint venturers at any site, ownership or control of such site by a single person shall not be controlling".

(b) Section 8 of such Act is amended by adding at the end thereof the following new subsections:

"(h) Notwithstanding the provisions of this or any other Act, where a State law requires separate bids and direct awards to employers for construction, the various contractors awarded contracts in accordance with such applicable State law shall not for the purposes of the third proviso at the end of paragraph (4) of subsection (b) of this section, be considered joint venturers or in the relationship of contractors and subcontractors with each other or with the State or local authority awarding such contracts at the common site of the construction.

"(i) Notwithstanding the provisions of this or any other Act, any employer at a common construction site may bring an action for injunctive relief under section 301 of the Labor Management Relations Act (29 U.S.C. 141) to enjoin any strike or picketing at a common situs in breach of a no-strike clause of a collective-bargaining agreement relating to an issue which is subject to final and binding arbitration or other method of final settlement of disputes as provided in the agreement.

"(j) The provisions of the third proviso at the end of paragraph (4) of subsection (b) of this section shall not apply at the site of the construction, alteration, painting, or repair of a building, structure, or other work involving residential structures of three residential levels or less constructed by an employer who in the last taxable year immediately preceding the year in which the determination under this subsection is made had, in his own capacity or with or through any other person, a gross volume of construction business of $9,500,000 or less, adjusted annually as determined by the Secretary of Labor, based upon the revisions of the Price Index for New One Family Houses prepared by the Bureau of the Census, if the employer within 10 days of being served with the notice required by subsection (g)(2)(A) of this section notifies each labor organization which served that notice in an affidavit that he satisfies the requirements set forth in this subsection.".

(c) Section 8(g) of such Act is amended by redesignating the present section 8(g) as section 8(g)(1), and adding at the end thereof the following:

"(2)(A) A labor organization before engaging in activity permitted by the third proviso at the end of paragraph (4) of subsection (b) of this section shall provide prior written notice of intent to strike or to refuse to perform services of not less than ten days to all unions and the employers and the general contractor at the site and to any national or international labor organization of which the labor organization involved is an affiliate and to the Construction Industry Collective Bargaining Committee: *Provided*, That at any time after the expiration of ten days from transmittal of such notice, the labor organization may engage in activities permitted by the third proviso at the end of paragraph (4) of subsection (b) of this section if the national or international labor organization of which the labor organization involved is an affiliate gives notice in writing authorizing such action: *Provided further*, That authorization of such action by the national or international labor organization shall not render it subject to criminal or civil liability arising from activities, notice of which was given pursuant to this subparagraph, unless such authorization is given with actual knowledge that the picketing is to be willfully used to achieve an unlawful purpose.

"(B) In the case of any such site which is located at any military facility or installation of the Army, Navy, or Air Force, or which is located at a facility or installation of any other department or agency of the Government if a major purpose of such facility or installation is or will be the development, production, testing, firing or launching of munitions, weapons, missiles, or space vehicles, prior written notice of intent to strike or to refuse to perform services, of not less than ten days shall be given by the labor organization involved to the Federal Mediation and Conciliation Service, to any State or territorial agency established to mediate and conciliate disputes within the State or territory where such site is located, to the several employers who are jointly engaged at such site, to the Army, Navy, or Air Force or other department or agency of the Government concerned with the particular facility or installation, and to any national or international labor organization of which the labor organization involved is an affiliate.

"(C) The notice requirements of subparagraphs (A) and (B) above are in addition to and not in lieu of the notice requirements prescribed by section 8(d) of the Act.".

SEC. 102. The amendments made by this title shall take effect 90 days after the date of enactment of this title except (1) with respect to all construction work having a gross value of $5,000,000 or less which was contracted for and on which work had actually started on November 15, 1975, the amendments made by this title shall take effect one year after such effective date, and (2) with respect to all construction work having a gross value of more than $5,000,000 which was contracted for and on which work had actually started on November 15, 1975, the amendments made by this title shall take effect two years after such effective date.

TITLE II—CONSTRUCTION INDUSTRY COLLECTIVE BARGAINING

SHORT TITLE

SEC. 201. This title may be cited as the "Construction Industry Collective Bargaining Act of 1975".

FINDINGS AND PURPOSES

SEC. 202. (a) The Congress finds and declares that the legal framework for collective bargaining in the construction industry is in need of revision; and that an enhanced role for national labor organizations and national contractor associations, working as a group is needed to minimize instability, conflict, and distortions, to assure that problems of collective bargaining structure, productivity and manpower development are constructively approached by contractors and unions themselves, and at the same time to permit the flexibility and variations that appropriately exist among localities, crafts, and branches of the industry.

(b) It is therefore the purpose of this title to establish a more viable and practical structure for collective bargaining in the construction industry by establishing procedures for negotiations with a minimum of governmental interference in the free collective-bargaining process.

CONSTRUCTION INDUSTRY COLLECTIVE BARGAINING COMMITTEE

SEC. 203. (a) There is hereby established in the Department of Labor a Construction Industry Collective Bargaining Committee. The Committee members shall be appointed as follows:

(1) Ten members shall be appointed by the President from among individuals qualified by experience and affiliation to represent the viewpoint of employers engaged in collective bargaining in the construction industry.

(2) Ten members shall be appointed by the President from among individuals qualified by experience and affiliation to represent the viewpoint of the standard national labor organizations in the construction industry.

(3) Up to three members shall be appointed by the President from among individuals qualified by training and experience to represent the public interest, one of whom shall be designated by him to serve as Chairman.

(4) The Secretary of Labor, ex officio.

(5) The Director of the Federal Mediation and Conciliation Service, ex officio.

The employer, labor, and public members shall be appointed by the President after consultation with representative labor and management organizations in the industry whose members are engaged in collective bargaining. Any alternate members who may be appointed shall be appointed in the same manner as regular members. An organizational meeting of the Committee shall be held at the call of the Chairman at which there shall be in attendance at least five members qualified to represent the viewpoint of employers, five members qualified to represent the viewpoint of labor organizations, and one member qualified to represent the public interest. All actions of the Committee shall be taken by the Chairman or the Executive Director on behalf of the Committee.

(b) The Secretary of Labor may appoint such staff as is appropriate to carry out the Committee's functions under this title and with the approval of the Committee may appoint an Executive Director.

(c) The Committee may, without regard to the provisions of section 553 of title 5, United States Code, promulgate such rules and regulations as may be necessary or appropriate to carry out the purposes of this title including the designation of "standard national construction labor organizations" and "national construction contractor associations" qualified to participate in the procedures set forth in this title.

NOTICE REQUIREMENTS

SEC. 204. (a) In addition to the requirements of any other Law, including section 8 (d) of the National Labor Relations Act, as amended, where there is in effect a collective bargaining agreement covering employees in the construction industry between a local construction labor organization or other subordinate body affiliated with a standard national construction labor organization, or between a standard national construction labor organization directly, and an employer or association of employers in the construction industry, neither party shall terminate or modify such agreement or the terms or conditions thereof without serving a written notice of the proposed termination or modification in the form and manner prescribed by the Committee effective sixty days prior to the expiration date thereof, or in the event such collective bargaining agreement contains no expiration date, sixty days prior to the time it is proposed to make such termination or modification. The notice required by this subsection shall be served as follows:

(1) A local construction labor organization or other subordinate body affiliated with a standard national construction labor organization shall serve such notice upon such national organization.

(2) An employer or local association of employers shall serve such notice upon all national construction contractor associations with which the employer or association is affiliated. An employer or local association of employers, which is not affiliated with any national construction contractor association shall serve such notice upon the Committee.

(3) Standard national construction labor organizations and national construction contractor associations shall serve such notice upon the Committee with respect to termination or modification of agreements to which they are directly parties.

The parties shall continue in full force and effect, without resorting to strike or lockout, all the terms and conditions of the existing collective bargaining agreement for a period of sixty days after the notice required by this subsection is given or until the expiration of such collective bargaining agreement, whichever occurs later.

(b) Standard national construction labor organizations and national construction contractor associations shall furnish forthwith to the Committee copies of all notices served upon them as provided by subsection (a) of this section.

(c) The Committee may prescribe the form and manner and other requirements relating to the submission of the notices required by this section.

ROLE OF THE COMMITTEE AND NATIONAL LABOR AND EMPLOYER ORGANIZATIONS IN COLLECTIVE BARGAINING

SEC. 205. (a) Whenever the committee has received notice pursuant to section 204 it may take jurisdiction of the matter, with or without the suggestion of any interested party, by transmitting written notice to the signatory labor organization or organizations and the association or associations of employers directly party to the collective bargaining agreement, during the ninety-day period which includes and immediately precedes the later of: (1) the ninetieth day following the giving of notice under section 204(a); or (2) whichever is applicable, (A) the thirtieth day following the expiration of the collective bargaining agreement, or (B) the thirtieth day following the date proposed for termination or modification of such agreement.

(b) The Committee shall decide whether to take such jurisdiction in accordance with the standards set forth in section 206. When the Committee has taken jurisdiction under this section, it may in order to facilitate a peaceful voluntary resolution of the matter and the avoidance of future disputes: (1) refer such matter to voluntary national craft or branch boards or other appropriate organizations established in accordance with section 207; (2) meet with interested parties and take other appropriate action to assist the parties; or (3) take the action provided for in both preceding clauses (1) and (2) of this subsection. At any time after the taking of jurisdiction, the Committee may continue to meet with interested parties as provided herein.

(c) When the Committee has taken jurisdiction within the ninety-day period specified in this section over a matter relating to the negotiation of the terms or conditions of any collective bargaining agreement involving construction work between: (1) any standard national construction labor organization, or any local construction labor organization or other subordinate body affiliated with any standard national construction labor organization, and (2) any employer or association of employers, notwithstanding any other law, no such party may, at any time prior to the expiration of the ninety-day period specified in this subsection, engage in any strike or lockout, or the continuing thereof, unless the Committee sooner releases its jurisdiction.

(d) When the Committee receives any notice required by section 204 it is authorized to request in writing at any time during the ninety-day period specified in subsection (a) of this section participation in the negotiations by the standard national construction labor organizations with which the local construction labor organizations or other subordinate bodies are affiliated and the national construction contractor associations with which the employers or local employer associations are affiliated.

(e) In any matters as to which the Committee takes jurisdiction under subsection (a) of this section and makes a referral authorized by subsection (d) of this section, no new collective bargaining agreement or revision of any existing collective bargaining agreement between a local construction labor organization or other subordinate body affiliated with the standard national construction labor organization, and an employee or employer association shall be of any force or effect unless such new agreement or revision is approved in writing by the standard national construction labor organization with which the local labor organization or other subordinate body is affiliated. Prior to such approval the parties shall make no change in the terms or conditions of employment. The Committee may at any time suspend or terminate the operation of this subsection as to any matter previously referred pursuant to subsection (d) of this section.

(f) No standard national construction labor organization or national construction contractor association shall incur any criminal or civil liability, directly or indirectly, for actions or omissions pursuant to a request by the Committee for its participation in collective bargaining negotiations, or the approval or refusal to approve a collective bargaining agreement under this title: *Provided,* That this immunity shall not insulate from civil or criminal liability a standard national construction labor organization or national construction contractor association when it performs an act under this statute to willfully achieve a purpose which it knows to be unlawful: *Provided further,* That a standard labor organization shall not by virtue of the performance of its duties under this Act be deemed the representative of any affected employees within the meaning of section 9 (a) of the National Labor Relations Act or become a party to or bear any liability under any agreement it approves pursuant to its responsibilities under this Act.

(g) Nothing in this title shall be deemed to authorize the Committee to modify any existing or proposed collective bargaining agreement.

STANDARDS FOR COMMITTEE ACTION

SEC. 206. The Committee shall take action under section 205 only if it determines that such action will—

(1) facilitate collective bargaining in the construction industry, improvements in the structure of such bargaining, agreements covering more appropriate geographical areas, or agreements more accurately reflecting the condition of various branches of the industry;

(2) promote stability of employment and eonomic growth in the construction industry;

(3) encourage collective bargaining agreements embodying appropriate expiration dates;

(4) promote practices consistent with appropriate apprenticeship training and skill level differentials among the various crafts or branches;

(5) promote voluntary procedures for dispute settlement; or

(6) otherwise be consistent with the purposes of this title.

OTHER FUNCTIONS OF THE COMMITTEE

Sec. 207. (a) The Committee may promote and assist in the formation of voluntary national craft or branch boards or other appropriate organizations composed of representatives of one or more standard national construction labor organizations and one or more national construction contractor associations for the purpose of attempting to seek resolution of local labor disputes and review collective-bargaining policies and developments in the particular craft or branch of the construction industry involved. Such boards, or other appropriate organizations, may engage in such other activities relating to collective bargaining as their members shall mutually determine to be appropriate.

(b) The Committee may, from time to time, make such recommendations as it deems appropriate, including those intended to assist in the negotiations of collective-bargaining agreements in the construction industry; to facilitate area bargaining structures; to improve productivity, manpower development, and training; to promote stability of employment and appropriate differentials among branches of the industry; to improve dispute settlement procedures; and to provide for the equitable determination of wages and benefits. The Committee may make other suggestions, as it deems appropriate, relating to collective bargaining in the construction industry.

MISCELLANEOUS PROVISIONS

Sec. 208. (a) This title shall apply only to activities affecting commerce as defined in sections 2(6) and 2(7) of the National Labor Relations Act, as amended.

(b) Nothing in this title shall be construed to require an individual employee to render labor or services without the employee's consent, nor shall anything in this title be construed to make the quitting of labor by an individual employee an illegal act; nor shall any court issue any process to compel the performance by an individual employee of such labor or services, without the employee's consent; nor shall the quitting of labor by an employee or employees in good faith because of abnormally dangerous conditions for work at the place of employment of such employee or employees be deemed a strike under this title.

(c) The failure or refusal to fulfill any obligation imposed by this title on any labor organization, employer, or association of employers shall be remediable only by a civil action for equitable relief brought by the Committee in a district court of the United States, according to the procedures set forth in subsection (d) of this section.

(d) The Committee may direct that the appropriate district court of the United States having jurisdiction of the parties be petitioned to enforce any provision of this title. No court shall issue any order under section 205(c) prohibiting any strike, lockout, or the continuing thereof, for any period beyond the ninety-day period specified in section 205(a).

(e) The findings, decisions and actions of the Committee pursuant to this title may be held unlawful and set aside only where they are found to be arbitrary or capricious, in excess of its delegated powers, or contrary to a specific requirement of this title.

(f) Service of members or alternate members of the Committee may be utilized without regard to section 65(b) of title 31, United States Code. Such individuals shall be deemed to be special Government employees on days in which they perform services for the Committee.

(g) In granting appropriate relief under this title the jurisdiction of United States courts sitting in equity shall not be limited by the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes", approved March 23, 1932 (29 U.S.C. 101).

(h) The Committee may make studies and gather data with respect to matters which may aid in carrying out the provisions of this title.

(i) Notwithstanding anything in subchapter II of chapter 5 of title 5, United States Code, in carrying out any of its functions under this title, the Committee shall not be required to conduct any hearings. Any hearings conducted by the Committee shall be conducted without regard to the provisions of subchapter II of chapter 5 of title 5, United States Code.

(j) Except as provided herein, nothing in this title shall be deemed to supersede or modify any other provision of law.

(k) In all civil actions under this title, attorneys appointed by the Secretary may represent the Committee (except as provided in section 518(a) of title 28, United States Code), but all such litigation shall be subject to the direction and control of the Attorney General.

COORDINATION

Sec. 209. (a) At the request of the Committee, the other agencies and departments of the Government shall provide, to the extent permitted by law, information deemed necessary by the Committee to carry out the purposes of this title.

(b) The Committee and the Federal Mediation and Conciliation Service shall regularly consult and coordinate their activities to promote the purposes of this title.

(c) Other agencies and departments of the Federal Government shall cooperate with the Committee and the Federal Mediation and Conciliation Service in order to promote the purposes of this title.

DEFINITIONS

Sec. 210. (a) The terms "labor dispute", "employer", "employee", "labor organization", "person", "construction", "lockout", and "strike" shall have the same meaning as when used in the Labor-Management Relations Act, 1947, as amended.

(b) As used in this title the term "Committee" means the Construction Industry Collective Bargaining Committee established by section 203 of this title.

SEPARABILITY

Sec. 211. If any provision of this title or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this title or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

AUTHORIZATION OF APPROPRIATIONS

Sec. 212. There are authorized to be appropriated such sums as may be necessary to carry out this title.

EXPIRATION DATE AND REPORTS

Sec. 213. (a) This title shall expire on December 31, 1980.

(b) No later than one year following the date of enactment of this title and at one-year intervals thereafter, the Committee shall transmit to the President and to the Congress a full report of its activities under this title during the preceding year.

(c) No later than June 30, 1980, the Committee shall transmit to the President and to the Congress a full report on the operation of this title together with recommendations, including a recommendation as to whether this title should be extended beyond the expiration date specified in subsection (a) of this section, and any other recommendations for legislation as the Committee deems appropriate.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

Carl D. Perkins,
Frank Thompson, Jr.,
John Brademas,
William D. Ford,
William Clay,
Mario Biaggi,
Geo. Miller,
Albert H. Quie,
Managers on the Part of the House.

Harrison A. Williams,
Jennings Randolph,
Claiborne Pell,
Gaylord Nelson,
W. D. Hathaway,
Walter F. Mondale,
John A. Durkin,
Jacob K. Javits,
Richard S. Schweiker,
Robert Taft, Jr.,
Robert T. Stafford,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference of the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5900) to protect the economic rights of labor in the building and construction industry by providing for equal treatment of craft and industrial workers, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting claryfing changes.

The House bill's title is "To protect the economic rights of labor in the building and construction industry by providing for equal treatment of craft and industrial workers." The Senate amendment modifies the title as "An Act to protect the economic rights of labor in the building and construction industry by providing for equal treatment of craft and industrial workers and to establish a national framework for collective bargaining in the construction industry, and for other related purposes."

In addition, the Senate amendment establishes a Title I containing the substance of the House bill, and a Title II adding the text of the "Construction Indusry Collective Bargaining Act of 1975" containing the substance of H.R. 9500. The House recedes.

I—PROTECTION OF ECONOMIC RIGHTS OF LABOR IN THE CONSTRUCTION INDUSTRY

Both the House bill and the Senate amendment modify section 8(b)(4) of the National Labor Relations Act to permit picketing at the common site of a construction project, overruling the case of *NLRB* v. *Denver Building Trades Council,* 342 U.S. 675 (1951).

Employers in the construction industry

The House bill confines the right to engage in common situs picketing, with respect to the inducement of employees at a construction site to strike or refuse to perform services, to "any individual employed by any employer primarily engaged in the construction industry."

The Senate amendment permits inducements of "any individual employed by any person." The Senate recedes with an amendment permitting the "inducement of any individual employed by any employer primarily engaged in the construction industry on the site."

Utility companies, manufacturers, department stores, petroleum companies, transit companies, and so on are not *primarily engaged* in the construction industry, although they do a lot of construction both within their own premises and elsewhere.

The intent of the Conference Amendment is to make it clear that if the employer is primarily engaged in the construction industry on the site of the construction, H.R. 5900 is applicable. The following examples make this clear.

1. If an employer, primarily engaged in the utility, merchandising, manufacturing, or other business elsewhere engages in the construction of a new facility, he is primarily engaged in the construction industry on the site and the construction project is within the terms of H.R. 5900.

2. If the same employer uses his own employees to paint or make alterations or repairs in his existing structures, he is not primarily engaged in the construction industry on the site of construction; rather, he is primarily engaged in his regular business, whatever it may be, and H.R. 5900 would not apply in this situation.

3. If the same employer engages an outside general contractor, or utilizes a corporate subsidiary, for the construction project, the general contractor or corporate subsidiary is primarily engaged in the construction industry and H.R. 5900 would apply at the construction gates.

4. If the same employer extends his existing facilities within his general premises acting as his own general contractor and using his own employees, he is not primarily engaged in the construction industry on the site, and H.R. 5900 would not apply.

5. The Conference amendment is not intended to preclude a union at a construction site from exercising its right to primary picket or otherwise induce the employees of employers not in the construction industry when making deliveries, etc., to the construction employer or employers with whom the union has a primary dispute.

6. The Conference amendment does not prohibit separate gates, but does prohibit common situs picketing of employees of employers not in the construction industry when making deliveries, etc., to the construction employer or employers with whom the union does not have a primary dispute.

Residential construction

The Senate amendment exempts construction of residential structures of three stories or less without an elevator. The House bill contains no such exemption. The conferees agree to an amendment that provides for a new section (8)(j) exempting the construction of residential structures of up to three residential levels by employers who, alone or with others, in the preceding year engaged in construction activity at a gross volume of up to $9.5 million, adjusted annually to reflect changes in housing construction costs.

Unlawful labor disputes

The House bill contains the following language: "and there is a labor dispute, not unlawful under this Act or in violation of an existing collective-bargaining contract, relating to the wages, hours, or other working conditions of employees employed at such site by any of such employers and the issues in the dispute do not involve a labor organization which is representing the employees of an employer at the site who is not engaged primarily in the construction industry:" The Senate amendment recasts this provision in the form of a second proviso to the bill. The House recedes.

Discrimination

The House bill contains a proviso stating "That nothing in the above provisos shall be construed to authorize picketing, threatening to picket, or causing to be picketed, any employer where an object thereof is to cause or attempt to cause an employer to discriminate against any employee, or to discriminate against an employee with respect to whom membership in a labor organization has been denied or terminated on some ground other than his failure to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership:" The Senate amendment contains a provision stating that the right to engage in common situs picketing does not apply "where an object thereof is the removal or exclusion from the site of any employee on the ground of . . . membership or non-membership of any employee in any labor organization:" The conferees agreed to include the language of both the House bill and Senate amendment with the understanding that the House provision is to be given the meaning as expressed by the House and the Senate provision is to be given the meaning as expressed by the Senate.

Organizational picketing

The House bill prohibits picketing for organizational purposes where another labor organization is already lawfully recognized. The Senate amendment prohibits picketing for organizational purposes as provided by section 8(b)(7) of the Act, and adds a proviso requiring an expedited election and certification by the National Labor Relations Board within 14 days of the filing of a petition and an unfair labor practice charge. The House recedes.

It is the understanding and intention of the conferees that within the mandatory 14-day period prescribed by this proviso the Board will follow insofar as possible its present procedure for expedited elections under the first proviso to section 8(b)(7)(C). The conferees emphasize that in every case the regional director, within the 14-day period, must investigate any charge that picketing for an object described in section 8(b)(7) is taking place and must, within 14 days, make a finding, based upon a preponderance of the evidence, as to whether or not there has been a violation as charged. In all such situations, this process of investigation, and of an election and certification (where appropriate) must take place within 14 days.

State separate bidding statutes

The House bill prohibits common situs picketing directed against multiple employers at a public construction site who are required by State laws to bid separately for certain categories of work. The Senate amendment contains a similar provision protecting the employer or employers who are required by State laws to bid separately for certain categories of work. The House recedes.

Notice requirements

The House bill establishes special notice requirements applicable to the right to engage in common situs picketing. The Senate amendment contains the same requirements in the form of a new section 8(g)(2)(A), (B) and (C) of the Act. The House recedes with the understanding that the present section 8(g) is not affected.

Liability

The House bill provides certain limitations on the liability of national labor organizations with respect to common situs picketing. The Senate amendment contains a comparable provision, amended to conform to a similar provision in H.R. 9500 (Title II of the Senate amendment). The House recedes.

Injunctions

The Senate amendment adds a new section 8(i) which provides that "Notwithstanding the provisions of this or any other Act, any employer at a common construction site may bring an action for injunctive relief under section 301 of the Labor Management Relations Act (29 U.S.C. 141) to enjoin any strike or picketing at a common situs in breach of a no-strike clause of a collective-bargaining agreement relating to an issue which is subject to final and binding arbitration or other method of final settlement of disputes as provided in the agreement." The House bill contains no comparable provision. The House recedes.

Effective date

The Senate amendment adds a proviso exempting construction work on which work had actually started on November 15, 1975. The House bill contains no comparable provision. The House recedes with an amendment delaying the effective date for one year for construction projects valued at $5 million or less on which work had actually started on November 15, 1975, and delays the effective date for two years with respect to such projects valued at more than $5 million.

II—CONTRUCTION INDUSTRY COLLECTIVE BARGAINING

The House bill and the Senate amendments establish in the Department of Labor a Construction Industry Collective Bargaining Committee (CICBC) to be comprised of 23 members appointed by the President, 10 members to represent the viewpoint of labor organizations in the construction industry, 10 members to represent construction industry employers, and up to three members qualified to represent the public interest. The Secretary of Labor and the Director of the Federal Mediation and Conciliation Service (FMCS) shall serve as ex-officio members.

Quorum

The House bill provides that the Committee must have a quorum of five members. The Senate amendment has no such quorum requirement. The Senate recedes to the House with an amendment that, at the first organizational meeting, the quorum shall be at least five members representing the viewpoint of the labor organizations, five representing employers, and one member qualified to represent the public interest.

Administrative Procedure Act

The House bill and the Senate amendments provide that the Committee may promulgate such rules and regulations as may be necessary and appropriate to carry out the provisions of this law, the "Construction Industry Collective Bargaining Act of 1975". The House bill provides that the Committee may promulgate such rules and regulations without regard to the provisions of the Administrative Procedure Act contained in Title 5, U.S. Code, Section 553. The Senate amendment was silent on this point. The Senate recedes to the House with the understanding that the other provisions of that Act would apply as appropriate (e.g. the freedom of information provisions contained in Title 5, U.S. Code, Section 552).

Rules and regulations

The Senate amendments also contain additional provisions that authorize the Committee to promulgate rules and regulations, including the authority to designate the "standard national construction labor organizations" and "national construction contractors associations" qualified to participate under this title. The House bill has no such provision. The House recedes.

Notice requirements

The House bill and the Senate amendments establish special notice requirements in collective bargaining in the construction industry. The House bill provides that such notices must be given *at least* 60 days prior to the termination or modification of the collective bargaining agreement. The Senate amendments have similar provisions, but omit the term "at least" in order to eliminate any ambiguity as to the 90-day jurisdictional period of the CICBC. The House recedes with the understanding that, although the required notice may be given more than 60 days in advance, such advance notice does not alter the timing of the 90-day jurisdictional period of the Committee.

Role of the committee

The House bill and the Senate amendments both provide that, after receiving notice of an intention to terminate or modify the terms or conditions of a collective bargaining agreement, the Committee may assume jurisdiction over the pending issue within a certain 90-day period. The Senate amendments provide an additional phrase stating that the Committee can assume jurisdiction with or without the suggestion of any interested party. The House recedes.

The House bill and the Senate amendments include provisions directing the Committee to facilitate the peaceful resolution of disputes by referring matters to appropriate voluntary national craft or branch boards, by meeting with interested parties, and by taking other actions that would be appropriate to assist the parties in their negotiations. The Senate amendments also provide that, at any time after taking jurisdiction, the Committee can continue to meet with interested parties. The House recedes.

The House bill and the Senate amendments establish a procedure whereby once the Committee has assumed jurisdiction, and has referred the matter to the national organizations with which the parties are affiliated, no new collective bargaining agreement or revision of any existing collective bargaining agreement shall become effective unless approved in writing by the national construction labor organization. The Senate amendments add an additional procedure by which the Committee may, in its discretion, suspend or terminate this approval requirement. The House recedes.

Scope of judicial review

The House bill contains language in Section 8(c) which provides that the decisions of the Committee concerning its jurisdiction, or its actions arising out of the exercise of jurisdiction may not be examined by the Federal courts, unless such decisions are in excess of its delegated powers and contrary to a specific prohibition in the Act. The House bill also contains language in Section 8(d) which provides that the factual determinations of the Committee shall be conclusive unless arbitrary or capricious. The Senate amendments add a new subsection which places all of the judicial review provisions in one subsection. The House recedes with an amendment adding that the findings, decisions and actions of the Committee are subject to the judicial review provisions of the Senate amendments.

Responsibility for litigation

The Senate amendments add a new section, 8(k), which provides that, except for Supreme Court litigation under this title, attorneys from the Department of Labor may represent the Committee in court, subject to the direction and control of the Attorney General. The House recedes.

Cooperation with other agencies

The House bill establishes a requirement that other agencies and departments of the Federal Government cooperate with the Committee and the Federal Mediation and Conciliation Service. The Senate recedes.

Effect on other laws

The House bill and the Senate amendments contain provisions as to the effect of this Title on existing law. The House bill states that nothing in this Title shall be construed to supersede or affect the provisions of the National Labor Relations Act, Labor Management Reporting and Disclosure Act of 1959, or the Labor Management Relations Act of 1947. The Senate amendments provide that, except as provided, nothing in this Title shall be deemed to supersede or modify any other law. The House recedes.

Expiration date and reports

The House bill provides that this title shall expire on February 28, 1981. The Senate amendments provide for its expiration on December 31, 1980. The House recedes.

The House bill provides that no later than September 1, 1980, the Committee shall report to the President and the Congress on its operations, together with recommendations. The Senate amendment provides that the Committee shall make such a report no later than June 30, 1980. The House recedes.

Carl D. Perkins,
Frank Thompson, Jr.,
John Brademas,
William D. Ford,
William Clay,
Mario Biaggi,
Geo. Miller,
Albert H. Quie,
Managers on the Part of the House.

Harrison A. Williams,
Jennings Randolph,
Claiborne Pell,
Gaylord Nelson,
W. D. Hathaway,
Walter F. Mondale,
John A. Durkin,
Jacob K. Javits,
Richard S. Schweiker,
Robert Taft, Jr.,
Robert T. Stafford,
Managers on the Part of the Senate.

REQUEST FOR PERMISSION FOR SUBCOMMITTEE ON ENERGY AND THE ENVIRONMENT OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO SIT DURING THE 5-MINUTE RULE TOMORROW

Mr. WEAVER. Mr. Speaker, I ask unanimous consent that the Subcommittee on Energy and the Environment of the Committee on Interior and Insular Affairs be permitted to sit during the 5-minute rule on tomorrow.

The SPEAKER. Is there objection to request of the gentleman from Oregon?

Mr. ROUSSELOT. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

INCREASED U.S. PARTICIPATION IN THE INTER-AMERICAN DEVELOPMENT BANK

Mr. GONZALEZ. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9721) to provide for increased participation by the United States in the Inter-American Development Bank, to provide for the entry of nonregional members and the Bahamas and Guyana in the Inter-American Development Bank, to provide for the participation of the United States in the African Development Fund, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. Gonzalez).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 9721, with Mr. Brademas in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Texas (Mr. Gonzalez) will be recognized for 30 minutes, and the gentleman from Pennsylvania (Mr. Johnson) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. Gonzalez).

Mr. GONZALEZ. Mr. Chairman, I yield 3 minutes to the very distinguished chairman of the Committee on Banking, Currency and Housing, the gentleman from Wisconsin, Mr. Reuss.

Mr. REUSS. Mr. Chairman, I want to commend the distinguished chairman of the subcommittee, the gentleman from Texas (Mr. Gonzalez), and the distinguished ranking minority member, the gentleman from Pennsylvania (Mr. Johnson), and all of the members of the subcommittee, for an exceedingly well-crafted bill.

Mr. Chairman, we have before us an excellent bill which was reported by the Committee on Banking, Currency and Housing by a substantial majority vote. H.R. 9721 provides for increased participation by the United States in the Inter-American Development Bank and initial participation by the United States in the African Development Fund.

H.R. 9721 reflects the view of the Banking Committee that the foreign development assistance efforts of the United States should emphasize multilateral development banks. These banks provide a cooperative international approach to the economic development of the Third world.

We believe that the United States should continue to contribute to the Inter-American Development Bank. The IDB is a well-run, widely respected institution making a major contribution to the growth and development of an area of key importance to the United States. The Inter-American Development Bank has had the strong support of this body since the Bank was established in 1959. H.R. 9721 provides a well-balanced package of regional burden sharing, new nonregional contributions, and a U.S. contribution that relies more on callable capital and less on direct outlays.

The bill before us represents a reduction in U.S. cash outlays compared with our share of previous IDB replenishments. H.R. 9721 authorizes a total of $2.25 billion for IDB, but provides for cash outlays of only $720 million compared with cash outlays of $1.15 billion in the last replenishment of IDB funds. This reduction was accomplished by reducing the U.S. share of the FSO, increasing the share of the regional members, bringing in new nonregional members, and increasing the amount of callable capital while decreasing the paid-in capital.

H.R. 9721 also authorizes the United States to join the African Development Fund, and authorizes an initial contribution of $25 million. Africa is the world's least developed continent, containing the world's poorest, hungriest peoples. The African Development Fund is promoting the economic development of Africa on a businesslike, nonpolitical basis, and therefore merits our support.

The cost of participating in the African Development Fund is comparatively small and the U.S. percentage share is modest. Yet the potential benefits to the United States are significant—a strengthened economic presence in an area of growing economic and poltical importance to the United States and demonstration of our concern for the development and prosperity of the region.

The African Development Fund is a young institution. It made its first loans in 1974. It has restricted its lending to the poorest African countries. The 13 countries to which it made loans in 1974 had an average per capita income of $123, and nine of these 13 are on the United Nations "most seriously affected" list of countries. In recent years, we all have become more concerned about whether aid—bilateral and multilateral—is getting down to the poorest peoples in the poorest countries. The African Development Fund meets this test.

Mr. GONZALEZ. Mr. Chairman, I thank the distinguished gentleman from Wisconsin.

Mr. Chairman, I yield myself such time as I may consume.

Mr. GONZALEZ. Mr. Chairman, in my opinion, we have before us an excellent piece of legislation, which was reported out of committee by a substantial vote and unanimously reported out of the Subcommittee on International Development Institutions and Finance, of which I am chairman.

H.R. 9721 is strongly supported by the administration and enjoys wide support from a large number of organizations, such as the League of Women Voters of the United States.

This bill contains two titles: One authorizing additional U.S. participation in the Inter-American Development Bank, in the amount of $2.25 billion, and the other to authorize the United States to join the African Development Fund, with a contribution of $25 million.

Looking at title I first, H.R. 9721 will provide for increased U.S. participation in the Inter-American Development Bank, and will authorize the U.S. Governor of the Bank to vote in favor of Charter amendments that would bring in new members, specifically the Bahamas and Guyana. The bill will also allow the U.S. Governor to support Charter amendments that will permit the Bank to lend money to the Caribbean Development Bank, for relending to members of that institution, which is better able to deal with the needs of its very small members than the IDB itself can. Finally, and more importantly, the bill authorizes our support of a move to bring nonregional members into the Inter-American Development Bank for the first time.

This bill is beyond question the most important legislation on the Inter-American Development Bank since its inception. This legislation marks the full maturity of the Inter-American Development Bank. With this bill, the Bank becomes a full-fledged international institution. It can now operate with much less dependence on the United States. It is a well-known, fully recognized, widely respected institution throughout Latin America. It is generally recognized throughout the financial world as a sound, well-known financial institution.

Mr. Chairman, the United States was largely responsible for the creation of the Inter-American Development Bank, which has been in business for a little more than 15 years now. In the beginning, virtually all the Bank's resources came from the United States. Over the years, however, our share of the Bank's resources has declined. The Bank has grown immensely in financial strength and stature; it has been an indispensable element in financing economic growth throughout Latin America; and in this replenishment, it will almost double its resources, even as our own expenditures decline by a very substantial amount. In this case, we have achieved the creation of an instrument that has met, and I think in many ways exceeded, all our expectations. If this bill is approved, the cash cost to our Government will be a total of $720 million, for support of the Inter-American Development Bank. That is about a 30-percent cut from the cash cost of our last contribution.

Because the Bank is a mature organization, it will be able once this legislation is approved, to nearly double its lending resources, even as the United States greatly reduces its own contributions. This is one of those rare instances in the world where Uncle Sam is going to get much more for a lot fewer bucks.

Going now to the specific provisions of title I, H.R. 9721 authorizes the U.S. Governor of the Inter-American Development Bank to vote in favor of resolutions which provide for a $5.3 billion increase in the authorized capital stock of the Bank and a $1 billion increase in the resources of the Fund for Special Operations, the soft-loan window of the Bank.

H.R. 9721 authorizes as the U.S. share of this replenishment, $2.25 billion. Our share of the IDB replenishment is 37 percent compared with 52 percent in the 1970 replenishment and 61 percent in the 1967 replenishment.

Of the $2.25 billion total authorization, $600 million is for the Fund for Special Operations. This represents a share of 57 percent of the total replenishment compared with 67 percent and 75 percent in the last two replenishments. Appropriations of $200 million each for the FSO will be sought in fiscal years 1977, 1978, and 1979.

The U.S. share of the increased IDB capital will be $1.65 billion. Of this amount, $120 million will be in paid-in capital and the remainder, $1.53 billion, will be callable capital. This callable capital is not expected to require any expenditures now or in the future, because such capital would be called only in the unlikely event that there is a massive and widespread default by Bank borrowers. And I should mention that no callable capital has ever been called.

As is the case with the FSO, our share of the capital replenishment is also declining. H.R. 9721 provides for a capital share of 32 percent compared with 41 percent and 43 percent in the last replenishments. I would like to note that at the end of the replenishment period in 1979, the U.S. vote in the IDB will be just under 35 percent, compared with our current vote of 40 percent. This voting percentage will preserve our veto power over FSO operations.

H.R. 9721 provides for an increased role by the Latin American countries in developing their own region. These countries will contribute 38 percent of the replenishment the FSO compared with a share of 33 percent in the last replenishment and they will also increase their capital subscriptions. In addition, the wealthier Latin American countries will not borrow from the FSO and will be contributing convertible currencies to the Bank for the first time.

As I mentioned earlier, H.R. 9721 provides for nonregional membership in the IDB for the first time. These 12 countries will provide $750 million in new resources to the Bank. The most important change in the Bank required by the entry of the nonregional countries is the creation of a new series of capital stock to be designated as interregional capital stock. This new stock will be created as a means of avoiding certain limitations attached to ordinary capital borrowings which would reduce the utility of the new members' subscriptions.

Mr. Chairman, the Inter-American Development Bank needs this replenishment of funds. The IDB will exhaust its ordinary capital commitment authority by the end of this year and the convertible currency resources of the FSO by the end of 1976 without this replenishment. If this bill is approved the result of the replenishment will be to increase the total resources of the IDB about $10 to $20 billion. Lending operations will increase from about $1.2 billion this year to $1.8 billion in 1978.

The Inter-American Development Bank has been a cornerstone of U.S. foreign policy in Latin America for over 15 years. The Bank is doing an outstanding job in the development of Latin America and deserves the continued support of the United States. H.R. 9721 is an excellent, low cost means of expanding the Bank.

Title II of the bill authorizes a contribution of $25 million to the African Development Fund. This will be our first participation in the Fund, though U.S. technicians advised in drafting the fund charter, and the executive branch since President Johnson has supported U.S. membership.

The African Development Fund is the soft loan window of the African Development Bank. The African Development Bank itself is restricted to African countries only, and all African countries except Rhodesia and South Africa are members.

Some of my colleagues have expressed disappointment that the African Development Bank does not accept nonregional members. However, I think that it is only fair to say that the Inter-American Bank accepted no nonregional members for over 15 years. Furthermore and much more to the point, the African Development Bank can provide only hard loans, and most African countries simply cannot afford to accept hard loans. Their greatest need is for concessional loans—therefore, it may be of far more importance to the majority of African countries that we join the Fund. It provides the kind of help that is needed in places that desperately need it.

Another problem colleagues face on this bill is the criticism the United States has received from some African nations in the United Nations. None of us is pleased with this criticism, but I do not think that this animosity has anything to do with H.R. 9721. The African Development Fund is operating in a nonpolitical, businesslike manner to aid the poorest African people. It would indeed be cruel for us to take revenge on this worthwhile institution or on the people it serves.

Since the African Development Fund's establishment in 1973, donor nations have pledged about $135 million in soft loan resources and the Bank has contributed another $7 million. The U.S. contribution will bring the total level of subscriptions to about $167 million.

The African Development Fund started operations in 1974. In that year it made 17 loans of $47 million in 13 countries. The bulk of the loans have been for agriculture and transportation projects; and the beneficiaries have been among the poorest of the world's poor. The loan recipients have an average per capita income of $123 and most of them are on the U.N. list of most seriously affected nations.

I do not think that there is any question of the need for the African Development Fund. The data on health, education, hunger, and poverty vividly illustrate the need.

Africa is of growing economic and political importance to the United States. Total U.S. exports to all of Africa rose from just over $2 billion in 1973 to about $4 billion in 1974. During the period 1964 to 1974, U.S. investment in Africa increased from approximately $800 million to about $4.5 billion, and Africa's share in U.S. direct investment abroad increased from 2 to 5 percent.

Mr. Chairman, our contribution to the African Development Fund is needed, it is appropriate, and it is timely.

Before closing I would like to emphasize again what I feel is a key point of H.R. 9721—its low cost. The bill provides for total authorizations of $2.275 billion, yet the cash cost to the U.S. taxpayer is only $745 million, spread over a 4-year period. The cash cost of the IDB replenishment, as I have already discussed, is substantially less than in prior years. No one must tell us of the importance of holding the line on the budget. The bill was designed to reduce the budgetary impact of U.S. participation in the Inter-American Development Bank, yet it permits the Bank to vastly expand its operations. In essence the Bank gets more, it costs us less.

Mr. Chairman, we have before us an excellent bill; I urge its support and final passage.

Mr. PEPPER. Mr. Chairman, will the gentleman from Texas find it will interrupt the continuity of the gentleman's speech if I ask him to yield at this point?

Mr. GONZALEZ. At no time does my distinguished friend, the gentleman from Florida, interrupt.

Mr. PEPPER. Mr. Chairman, if the gentleman will yield, my distinguished friend has just advised that two regional members may be admitted to the Inter-American Development Bank. The gentleman mentioned one of those countries that can be admitted is the Bahamas, along with Guyana, I believe.

Mr. GONZALEZ. That is correct.

Mr. PEPPER. We in south Florida particularly and in all Florida have had a very unhappy recent experience with the Bahamas in respect to our lobster fishermen. They have been fishing for a long time off the Continental Shelf, and off the shelf of the Bahamas for the spiny lobster. Over 1,000 people have been involved in this fishing enterprise and naturally they have had to have equipment and accouterments to carry on this trade. Suddenly the Bahama Government simply declared a prohibition against anybody other than their own people taking the spiny lobster from their shelf.

It was dubious as to whether or not the lobster was indigenous to the shelf. They took the position it was. There has been some consideration by our State Department about taking the matter to the World Court for adjudication, but that would, of course, take a long time. In the meantime many of our Florida fishermen have been denied the means of their livelihood and they have lost their equipment and they have been deprived of the trade to which they are accustomed.

During negotiations between our Government and the Bahama Government We suggested, in fact I suggested myself to the negotiator with the Bahama Government, the distinguished Governor General who is a friend of mine, that we work out some economic aid or some other advantage so that they would allow our fishermen to continue to take the spiny lobster from the Continental Shelf. We could not work out anything. They said they did not want any aid from the United States. They just wanted to keep their own assets and have their people enjoy that.

Here in this legislation the United States would put $2 billion in new capital in time into the Inter-American Development Bank and the Bahamas will be able to come in and get soft loans and get social trust funds and get hard loans and enjoy benefits contributed to primarily by our country.

I know the record of the distinguished gentleman from Texas in wanting to protect our own people and our own interests. I wonder if somewhere or other we cannot add a condition for the Bahamas or any other country, that they shall not get the benefit of this bill or shall not be admissible into the benefits of the bill if they deny to Americans or those fishing under the American flag the right of the accustomed fishing they have enjoyed in respect of those countries?

Mr. GONZALEZ. Let me first, in attempting to discuss this with my very esteemed colleague, the gentleman from Florida, point out that first under the provisos of this bill membership is not mandated. In other words, since the United States still has pretty much and will continue to have veto power, if there is objection our U.S. representative, even if this bill passes as it is, because it does not mandate anything but just authorizes—if the Board of Governors of the Bank so accept, they will accept these two nations to become members of the Bank, but if the U.S. director should object, then the Bahamas cannot become a member of the Bank.

Let me point out about this substantive legislation, this does not mandate membership. It merely says that as far as the United States is concerned this would authorize and there would be agreement with the resolution passed by the Bank previously that would open membership to these two nations as well as membership to nonregional countries.

Second, just from the facts given here by the distinguished gentleman from Florida, I would say that in the existing law in the amendment that we added, in fact, to the language of these institutions, it is now part of the law of the Inter-American Bank, the Asian Bank, the International Development Association, that there is recourse if it takes the manner and shape and form of a wrongful and illegal seizure. There is recourse, but between now and tomorrow we can further examine exactly what that provision of the law will do and act accordingly.

Mr. PEPPER. We can bring up the matter further and consider it later?

Mr. GONZALEZ. Yes.

Mr. TSONGAS. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. Mr. Chairman, let me add this to the remarks of the gentleman from Florida. There are two things to give the gentleman some comfort; that is, any funds coming from the FSO would be subject to veto by the United States, which has a two-thirds vote and we have 34 percent.

Also, the IDB funds are subject to the 50-percent requirement. The United States, even if they are admitted to the bank, does have a virtual veto over any loan to the Bahamas.

Mr. PEPPER. Mr. Chairman, if the gentleman will yield, I am pleased to know that that authority exists on the part of our representative to deny benefits to anybody that denies rights to our own people; but I know we would all feel much more assured and secure if it were written into the law the principle that nobody can expect benefits from us, unless they are willing to extend fair benefits and fair opportunities to our people to enjoy the things to which they have been accustomed for a long time.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I want to compliment the distinguished chairman of the subcommittee on his work on this amendment.

I would like to have the committee consider an amendment that I will offer tomorrow, unless I am persuaded by other information not to in the intervening period. The amendment I would offer would prohibit the U.S. representatives on the Bank from voting for membership for any nation which refuses to enter into good faith efforts to develop an enforcible tax treaty with the United States.

Briefly, there are a number of Caribbean and South American countries which hold themselves out as tax-haven countries or which advertise their bank secrecy laws. These countries, and the Bahamas is one of the leaders, use their tax laws and secret-numbered bank accounts to attract American money. In many cases, they are courting illegal money and the financial investments of organized crime figures throughout the world. Hundreds of millions of dollars are "expropriated" from the American economy and the Treasury each year by the tax gimmicks and numbered bank accounts of these countries.

Today, the IRS is investigating several hundred prominent Americans who placed hundreds of millions of dollars in the Bahamas to avoid taxes. It has taken the IRS over 10 years to develop these tax cases, since the Bahamian Government has provided no help to the United States in its efforts to track down these tax dodgers.

I do not believe that these nations. which are openly committing a form of international piracy and expropriation, should be rewarded with the U.S. taxpayer assisted bank loans.

If these nations, such as the Bahamas, enter into negotiations with the United States to provide some form of mutually acceptable tax treatment of the income of foreigners and to provide information necessary for the mutual enforcement of tax laws, such as information about Americans with numbered bank accounts, then the prohibition against U.S. support of bank assistance would be lifted.

Mr. Chairman, I would like permission at this point to submit for the RECORD two amendments on which I would like to have the committee's reaction when we go through the amendment process tomorrow.

This is no small escape route for American taxes. I would say that the tax loss to the Treasury because of the haven operations that are openly courted by the Bahamian Government and by others is probably upward of $200 million per year, and perhaps a half a billion dollars. We have no way of knowing the revenue loss to the Treasury of the United States by the tax haven governments which encourage people who should pay taxes to the United States to work out arrangements in their countries really to develop a tax dodge business.

So, I would hope that in the time between now and the time we vote on these amendments that the good gentleman from Texas would have some reaction to the amendments which I would have printed now and available for his further discussion tomorrow.

Mr. Chairman, the amendments are as follows:

AMENDMENT OFFERED BY REPRESENTATIVE VANIK (OHIO) TO H.R. 9721, INTER-AMERICAN DEVELOPMENT BANK AMENDMENTS

On page 4, line 22, strike "determine." and substitute "determine, *Provided that*, the United States Governor of the Bank shall oppose membership for any nation which refuses to enter into good faith negotiations for the establishment of a tax treaty with the United States providing the exchange of information necessary for the enforcement of the respective tax laws of the two nations."

Or

On page 5, after line 2, add the following new section:

"SEC. 28. The President shall instruct the United States Governor of the Bank to cast the vote of the United States against any loan or other utilization of the funds of the Bank for the benefit of any country which has—

(1) refused to enter into good faith negotiations by Jan. 1, 1978, with the United States to establish tax treaties and

(2) refused to enter into good faith negotiations by Jan 1, 1978, with the United States to provide, upon request, information necessary for the enforcement of the respective tax laws of the two nations."

Mr. GONZALEZ. Mr. Chairman, I thank the gentleman from Ohio for his comments. Let me briefly say that I know I speak for myself, and I feel fairly certain that I reflect the sentiments of the majority of the subcommittee, that we are always ready, willing and able to listen to constructive amendments, to constructive suggestions. Since we have not had an opportunity to read the amendments to be offered by the gentleman, I promise him that as soon as he gives us copies of them, we will do so. We will be delighted to cooperate with the gentleman in a constructive way if the amendments are feasible and within the scope and jurisdiction of the authority of the United States in these matters.

Mr. VANIK. I thank the distinguished gentleman.

Mr. MOFFETT. Mr. Chairman, will the distinguished subcommittee chairman yield?

Mr. GONZALEZ. I am happy to yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Chairman, I thank the distinguished subcommittee chairman. I would like to ask a couple of questions generally about U.S. participation and power within the IADB. Then, if I might, I would like to ask a couple of specific questions.

As I understand it, we have roughly a one-third vote?

Mr. GONZALEZ. Well, we have a little bit better than that.

Mr. MOFFETT. Would it be 35 percent?

Mr. GONZALEZ. We have about that.

Mr. MOFFETT. How is the United States represented? What people actually represent us here?

Mr. GONZALEZ. Well, we have, of course, our Executive Director in the Bank. We have our formal Governor from the United States, but let me point out that this 35 percent is a very heavy 35 percent. It, in effect, amounts to a veto.

Mr. MOFFETT. I thank the gentleman.

Mr. GONZALEZ. Let me conclude by saying that anytime the United States has to vote in a negative form, nothing is going to happen.

Mr. MOFFETT. Well, in that regard, and I do have great respect for the work of the subcommittee and for the gentleman's leadership there, but in that regard I would like to know if there were any witnesses heard or any testimony or evidence considered with regard, for example, to the role of the IADB in propping up the Pinochet government in Chile.

Mr. GONZALEZ. Yes, we did. We had several Members that had communicated, since at least a year or a year and a half ago, their apprehensions about the role of the United States generally through the State Department and through the U.S. governmental structure as to what roles had been played by its agents in, for example, stimulating loans to previous regimes and withholding them to this.

We looked into that. Given the overall record of the role, there was nothing to substantiate a calculated and an intended action of this bank facility for political purposes, either in Chile or out of it.

Mr. MOFFETT. If I might ask the gentleman, is it true that under the Allende regime, which came to power through constitutional means, that the IADB had little or no participation in Chile, and that almost immediately after the fall of Allende the participation went up dramatically? I am sorry that I do not have the chart I saw regarding that, but I do recall a chart that showed virtually no loans, and then suddenly, almost immediately after the demise of the Allende regime and the coming into power of the dictatorship, participation seemed to skyrocket.

I wonder if the gentleman could speak on that point.

Mr. GONZALEZ. We raised the question, and we had some replies. The overall international forum, so far as the United States is concerned, not only on this, but otherwise, shows that there was no marked decrease in approval during the Allende period.

For instance, where the United States certainly did not object and in no way interposed objection, in 1971, $42.9 million approved. There was a similar figure in 1972. It was $9.5 million in 1973.

Mr. MOFFETT. If the gentleman will yield, what would the figure be in 1974?

Mr. GONZALEZ. Let us get that period.

Mr. STEPHENS. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. If the gentleman wishes to answer or help reply to the question, I yield to the gentleman from Georgia to reply while I consolidate figures.

Mr. STEPHENS. I thank the gentleman for yielding.

Mr. Chairman, some of us made a visit to Chile, and it was after the Allende government had fallen. We visited several of the IDB projects. One of them was the project that had an IDB loan and it had virtually been taken over and confiscated by the government itself. That was one of the complicating factors during the period of time of the Allende government, the fact that where there were capitalistic ventures they were being threatened by the takeover of the government, and this is what happened.

Mr. MOFFETT. Mr. Chairman, if the gentleman will yield, I will ask the gentleman if they were unlawful take-overs or under the laws of the country.

Mr. STEPHENS. If the gentleman will yield, this was unlawful.

Mr. MOFFETT. If the gentleman will yield further, it is my understanding they were not unlawful, and they were moving in the constitutional process. Many of the people in the countries in Latin America are poking fun at those who were involved in the Allende government, and they are saying, "You were foolish to take part and go according to the book and the constitution."

Mr. Chairman, I think it was a very sad lesson, I might say to the gentleman, and I hope we do not have any more sad lessons like that, where we essentially help to create a situation, and we should show these people that democracy does work.

Mr. STEPHENS. If the gentleman will yield further, as the gentleman recalls, the head of the Bank was Chilean.

Mr. MOFFET. I do recall.

Mr. STEPHENS. And prior to the Allende government coming into power, Chile got its share of the activities of the Inter-American Devolopment Bank, and I think the activity of the Inter-American Development Bank in the development of that country aided Allende in taking the steps for him to become the head of the government.

Mr. MOFFETT. If the gentleman will yield further, I am only wondering, and I would like a response, if I might get one, to the question of what kind of increase we saw post-Allende and then an answer to the question—in order to save time—are we in fact propping up dictatorships that seize power, whether it is in Chile or whether it is a dictatorship that is denying human rights in Argentina or Brazil or Uruguay, by sitting virtually silent, as I see it—and correct me if I am wrong—when these funds go in.

I want the gentleman to understand that I support the concept of the stand.

Mr. GONZALEZ. I understand. These apprehensions were echoed by others, such as the gentleman from California (Mr. STARK), almost 2 years ago. So far as the Inter-American Development Bank, the record does not susbtantiate any anti- or pro-Chile, depending in whether the Allende regime was in or out. There were other international institutions. We have the International Monetary Fund. But this subcommittee does not have jurisdiction over the International Monetary Fund. That is under the newly created subcommittee.

Mr. MOFFETT. If the gentleman will yield, I understand that.

Mr. GONZALEZ. But as far as the IADB, I can let the gentleman be assured it has not been politicized.

Mr. MOFFETT. If the gentleman will yield further, do we have the figure on the increase from pre-Allende to post-Allende?

Mr. GONZALEZ. Mr. Chairman, we had one figure on an application of 22. That, I am pretty sure, could be recognized as being right toward the end of the Allende government and beginning with the new. That figure was 22, and this was initiated during this period of time.

The CHAIRMAN. The Chair advises the gentleman from Texas (Mr. ECKHARDT) that he has 5 minutes remaining of his 30 minutes allotted time.

Mr. MOFFETT. Mr. Chairman, if the gentleman from Texas will yield brifly, I just wish to thank the gentleman for yielding to me.

Mr. GONZALEZ. Mr. Chairman, I include herewith material on the record and background of Chile's relationship with the IADB:

BACKGROUND PAPER: CHILE AND THE INTER-AMERICAN DEVELOPMENT BANK DURING THE ADMINISTRATION OF PRESIDENT SALVADOR ALLENDE

In January 1971, at the beginning of the Administration of the late President Salvador Allende, the Bank extended two loans to Chile on concessionary terms to help expand the facilities of two of the leading universities—the Universidad Católica, in Santiago, and the Universidad Austral, in Valdivia.

The two loans—the first for $7 million, the other for $4.6 million—were issued from the Fund for Special Operations, the Bank's "soft" loan window, with repayment periods of 25 years, grace periods of 4½ years, and interest rates of 2½ per cent a year. The credits, as required by Bank policy, were extended with the full guarantee of the Corporación de Fomento de la Producción (CORFO), the country's development agency. Both universities are private institutions, but their development programs were given high priority by the Government.

About seven months later, when a severe earthquake struck Chile—on July 9, 1971—the President of the Inter-American Development Bank, Mr. Antonio Ortiz Mena, joined President Allende and members of his Government in a tour of the devastated areas to determine their most urgent needs.

Afterward, Mr. Ortiz Mena proposed a plan for assigning IDB resources for reconstruction and rehabilitation work. At that time, several Bank loans authorized before the Allende Government were in the process of disbursement. Some of these loans with undisbursed portions, however, for various reasons could no longer be used in the projects to which they originally had been devoted. In accordance with normal Bank policy, these unused portions were going to be canceled. Mr. Ortiz Mena proposed that these undisbursed funds be diverted for reconstruction work in areas hit by the earthquake.

The Board of Executive Directors approved the conversion of nine of the loan contracts for emergency work. Chile was reassigned $16,120,000 for rapid disbursement during the remainder of 1971 and the first half of 1972.

The modified contracts were signed at Bank headquarters on October 8, 1971 by the Executive Director of CORFO's New York office on behalf of his Government, and President Ortiz Mena for the Bank.

Utilization of the $16,120,000 meant that, during President Allende's Administration Chile received the largest annual disbursement of foreign exchange in the Bank's history—$33,804,000 in 1971; $21,702,000 in 1972; and the equivalent of $14,570,000 between January and September 1973.

When President Allende came to office, the Bank was studying two proposals presented by the preceding Administration. The Chilean authorities, however, withdrew the priority formerly assigned to those projects, and the Bank discontinued its consideration of them.

Between September 1970 and December 1972, Mr. Allende's Administration presented one new project to the Bank—a $31,500,000 loan proposal to Petroquímica Chilena S.A. As then proposed, the project posed serious questions concerning its economic feasibility, among them the prospects for exporting two thirds of its production to Argentina and to the countries of the Andean Group. The Government of Chile, therefore, agreed to have a British consulting firm, Matthew Hall Engineering Ltd., prepare a study on the project. The firm submitted its report in October 1973. Considering the changes in the world oil situation this project is again being studied to determine its economic feasibility.

In December 1972, Chile presented two additional loan projects to the Bank—one for exporting natural gas to various other countries and another for the Antuco hydroelectric project on a river basin some 500 miles south of Santiago. The latter project, which was intended to increase energy production by 1,800,000,000 kilowatt-hours a year, also included a study on the irrigation of 1,062,530 acres in the basin.

President Allende, who assigned top priority to the proposal, had discussed it with a high-level Bank mission led by Enrique Peñalosa and Mario Mendivil, when they met with Chilean authorities in November 1972. After that visit, the Minister of Finance, Mr. Orlando Millas Correa, reaffirmed the importance which his Government assigned to the hydroelectric project.

The Bank, which had received the loan application on December 1, 1972 and the basic project studies on January 2, 1973, sent a field mission to Chile in May 1973 for further discussions. On July 26, 1973, a Bank Project Committee reported favorably on the hydroelectric project.

During the course of ensuing negotiations the Chilean Government on August 28 requested that the original amount of the loan application be increased. The proposal was being processed in a normal fashion when the Allende Government fell.

On December 9, 1971, an ordinary capital loan, approved in 1969 as an industrial global credit to CORFO, was modified substantially under an Executive Board resolution approved by majority vote. The loan was designed to promote mainly the development of private enterprises in Chile. The original loan contract allowed CORFO the use of only up to 10 per cent of the amount to extend subloans to corporations in which it held capital stock. Thus, the enterprises in which the new Government was most interested—those in which CORFO became the principal owner before or during the Allende Administration—had virtually no access to the loan.

The loan contract was modified in 1971 under the above mentioned resolution to authorize CORFO to use up to 49 per cent, instead of 10 per cent, of the total amount of the credit—$7,200,000; 10,048,000 Deutsche marks, and 1,250,000,000 Italian lire—to extend subloans for expanding CORFO-owned industrial enterprises.

By June 30, 1973, the resources of the global loan had been committed for financing 39 industrial projects calling for a total investment equivalent to $54.2 million. Of that amount, $13.1 million are being financed through the Bank loan, with $6.4 million (49 per cent) assigned to CORFO affiliates and $6.7 million (51 per cent) to private enterprises.

The Bank has also helped to finance capital goods exports to Chile from other member countries. For instance, Argentina, whose revolving line of credit for export financing from the IDB was enlarged on November 3, 1971 from $3 million to $4 million, was able to finance the export to Chile of more than $4 million worth of breeding cattle. On January 9, 1973, the Bank authorized a special line of credit to Peru for $980,000 to finance the export to Chile of commercial fishing equipment.

At the 13th Meeting of the Board of Governors, in Quito, the Government of Chile invited the IDB to hold its next meeting—Board members are the Ministers of Finance of the respective member countries—in Santiago. But Jamaica had also invited the Bank to hold the meeting in Kingston, and the two Governments agreed that Chile would yield. The meeting, therefore, was held in Kingston in May 1973.

At the Kingston Meeting, the Board of Governors, on a proposal by Jamaica, adopted a resolution naming Santiago as the site for the 15th meeting in April 1974.

The Chilean Government approached the Bank in February 1974 for emergency assistance to agriculture. The Bank, taking into account the serious agricultural situation in Chile, processed the loan as rapidly as possible and, on March 30, the Board unanimously authorized a $22,000,000 loan for a program of guided capitalization credit for agricultural recovery. Chile itself will participate in this program with an equivalent amount. The principal beneficiaries of the loan are small and intermediate agricultural producers and cooperatives.

On April 18, the Board authorized a $75.3 million loan for the Antuco hydroelectric project mentioned above, which had been presented to the Bank in December 1972.

Mr. GONZALEZ. Mr. Chairman, under our previous understanding, I move that the Committee do now rise.

The CHAIRMAN. The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Brademas, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 9721) to provide for increased participation by the United States in the Inter-American Development Bank, to provide for the entry of nonregional members and the Bahamas and Guyana in the Inter-American Development Bank, to provide for the participation of the United States in the African Development Fund, and for other purposes, had come to no resolution thereon.

COMMUNICATIONS FROM THE CHAIRMAN OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER laid before the House the following communications from the chairman of the Committee on Public Works and Transportation; which were read and referred to the Committee on Appropriations:

December 2, 1975.

Hon. Carl Albert,
Speaker of the House,
House of Representatives,
Washington, D.C.

Dear Mr. Speaker: Pursuant to the provisions of Section 7 of the Public Buildings Act of 1959, as amended, the House Committee on Public Works and Transportation approved on November 20, 1975, the following prospectuses: One McPherson Square, 1425 K Street, N. W., Washington, D. C.; and 1717 H Street, N. W., Washington, D. C.

The original and one copy of the authorizing resolution are enclosed.

Sincerely,

Bob Jones.

December 2, 1975.

Hon. Carl Albert,
Speaker of the House,
House of Representatives,
Washington, D.C.

Dear Mr. Speaker: Pursuant to the provisions of Section 5(a) of the Public Buildings Amendments of 1972 and Section 7 of the Public Buildings Act of 1959, as amended, the House Committee on Public Works and Transportation approved on September 11, 1975, a prospectus for proposed construction of the Courthouse and Federal Office Building in Charlotte Amalie, Virgin Islands.

The original and one copy of the authorizing resolution are enclosed.

Sincerely,

Bob Jones.

December 2, 1975.

Hon. Carl Albert,
Speaker of the House,
House of Representatives,
Washington, D.C.

Dear Mr. Speaker: Pursuant to the provisions of Section 11(b) of the Public Buildings Act of 1959, as amended, the House Committee on Public Works and Transportation approved on November 20, 1975, a resolution authorizing and directing the Administrator of the General Services Administration to investigate the feasibility and need for construction of a Federal building in San Francisco, California; Jefferson City, Missouri; and Altoona, Pennsylvania.

A copy of the authorizing resolutions are enclosed.

Sincerely,

Bob Jones.

December 3, 1975.

Hon. Carl Albert,
Speaker of the House,
House of Representatives,
Washington, D.C.

Dear Mr. Speaker: Pursuant to the provisions of Section 7 of the Public Buildings Act of 1959, as amended, the House Committee on Public Works and Transportation approved on November 20, 1975, the following prospectuses for proposed alterations: Federal Building and U.S. Courthouse, San Francisco, California; State Department Building, Washington, D.C.; Archives Building, Washington, D.C.; Everett McKinley Dirksen Building, Chicago, Illinois; and the Operations Building, Social Security Administration, Woodlawn, Maryland.

The original and one copy of the authorizing resolution are enclosed.

Sincerely,

Bob Jones.

December 3, 1975.

Hon. Carl Albert,
Speaker of the House,
House of Representatives,
Washington, D.C.

Dear Mr. Speaker: Pursuant to the provisions of Section 7 of the Public Buildings Act of 1959, as amended, the House Committee on Public Works and Transportation approved on November 20, 1975, a prospectus for proposed construction of a Courthouse Annex and Motorpool Vehicle Maintenance Facility in Miami, Florida.

The original and one copy of the authorizing resolution are enclosed.

Sincerely,

Bob Jones.

December 3, 1975.

Hon. Carl Albert,
Speaker of the House,
House of Representatives,
Washington, D.C.

Dear Mr. Speaker: Pursuant to the provisions of Section 5(a) of the Public Buildings Amendments of 1972 and Section 7 of the Public Buildings Act of 1959, as amended, the House Committee on Public Works and Transportation approved on November 20, 1975, the prospectus for construction of the Richard B. Russell Building in Atlanta, Georgia.

The original and one copy of the authorizing resolution are enclosed.

Sincerely,

Bob Jones.

PERMISSION FOR COMMITTEE ON THE BUDGET TO FILE CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 466, THE SECOND CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1976

Mr. ADAMS. Mr. Speaker, I ask unanimous consent that the Committee on the Budget may have until midnight tonight, December 8, 1975, to file a conference report on House Concurrent Resolution 466, the second concurrent resolution on the budget for fiscal year 1976.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, and I will not object, could the gentleman tell us if the New York $3.24 billion is in this budget?

Mr. ADAMS. No, it is not.

Mr. ROUSSELOT. You mean we have not gotten the message yet, that there is apt to be a problem?

Mr. ADAMS. There is apt to be a problem and this will be explained next week when the appropriation bill comes up. But it is not in this bill.

Mr. ROUSSELOT. Could the gentleman tell us what the delay is in this?

Mr. ADAMS. The appropriation bill has not come to the floor and therefore we have no spending authority. The authorization is passed and, therefore, that bill has not yet come into the budget process.

Mr. ROUSSELOT. I thank the gentleman and withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

ENERGY CONSERVATION AND OIL POLICY ACT

(Mr. D'AMOURS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. D'AMOURS. Mr. Speaker, I rise to urge our colleagues to give their complete and overwhelming support to the Energy Conservation and Oil Policy Act (S. 622) conference report soon to come before us, so that we in Congress can give the people of America a clear and definitive answer to a question which is growing from a whisper to a roar across the land.

That question is: "Do the big oil companies run America, or do the people?"

On November 17, the Washington Post reported that the Exxon Corp. chairman, Clifford C. Garvin, said that President Ford will veto the energy conservation bill. Garvin went on to say that he advocates "sudden decontrol" of oil prices. He further stated that "if we went to a free marketplace the price would go up a nickel" for every gallon of gasoline.

Beyond Mr. Garvin's astounding temerity in announcing to America that President Ford will veto this energy bill and beside the absurdity of his assertion that the current grossly inflated price of gasoline is not sufficient to stimulate production; there stands his blatantly ridiculous statement that the price of gasoline would go up in a "free marketplace."

Mr. Garvin is aware, perhaps more aware than anyone else on this planet, that the oil market place is far from free. His company, Exxon, the largest corporation in the world, has done much to insure that "free market" competition does not infringe upon Exxon's gluttonous profits. Aside from the history of anticompetitive business practices which have typified Exxon and its grandfather, Standard Oil, there exists the even more troubling unholy marriage which binds Exxon and the six other major oil companies to the blackmailing Arab oil cartel.

Over the past few months it has become increasingly apparent that the OPEC cartel is not going to collapse under market pressures, or sink into petty squabbles, or prove unable to efficiently manage its tremendous oil holdings, despite the efforts of this and other Western nations. Why have the Arabs proved so successful? Because the major oil companies, working directly against the best interests of the United States and its people, have used their considerable expertise to underpin OPEC. These companies, who for years have regulated the world's oil production to prevent glut and overproduction, and therefore, assure high prices, are today performing those same functions for the Arab cartel.

Exxon and other enormous oil companies have led the good life here in America for many years. They have been given the privileges of tax avoidance and antitrust law immunity in this country along with tremendous diplomatic support abroad. All of this special treatment was granted on the assumption that this was good for national security, and on the assumption that these companies had America's best interests at heart.

And how have the big oil companies repaid America and its people for this preferential treatment? They have willingly served the OPEC countries and have helped them to maintain their exorbitant oil prices, prices which have disrupted our economy and cost many Americans their jobs.

One of the largest companies, Gulf, has been accused by its chief Washington lobbyist of making illegal campaign contributoins to elected officials at virtually every level of government, thereby undermining our democratic system of government in an attempt to assure continued preferential treatment in this country.

The people of America are aware of these actions by big oil. They are also becoming aware that the Federal Energy Administration, the Government agency commissioned to regulate oil company activities, is favoring big oil companies in its rulings, and discriminating against smaller companies.

Is it any wonder that they ask, "Do the big oil companies run America or do the people?"

I urge you, fellow Members of Congress, to show America that the people are in charge here, and the oil companies are not. The people of America can see clearly the evidence that the oil conglomerates are working against their interests, both here and abroad. It is time that the Congress, and the President, recognize that evidence as well.

Therefore, we must pass this energy conservation bill by such a resounding and unquestionable majority that there will be no doubt in anyone's mind, including the President's, about whether big oil runs our Nation. And I urge the President not to veto this bill, even at the risk of offending Clifton C. Garvin by proving he cannot tell an American President what to do.

If we do not enact this bill we will be harming the American people for the benefit of these multinational corporations, who, like the pirates of old, bear allegiance to no flag but their own.

THE STRATEGIC IMPLICATIONS OF THE RAPIDLY GROWING SOVIET PRESENCE ALONG THE VITAL SEA ROUTES TO THE SUEZ CANAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 30 minutes.

Mr. KEMP. Mr. Speaker, the Congress must make itself full aware of the strategic implications of the rapidly growing Soviet military presence along both routes of the Suez Canal—in the eastern Mediterranean along one route and in the Red Sea, Gulf of Aden, and western Indian Ocean along the other.

As far apart as those locations may sound, they constitute one strategic area. They are contiguous and proximate. They are the areas through which both all maritime vessels—including oil from the Persian and Aden Gulf states bound for Western Europe and the United States—and naval ships must move with regards to the Middle East, the Suez Canal, and the Indian Ocean. They are—as that one area—the shortcut from the Atlantic and the Mediterranean to the Indian Ocean and thence to the western Pacific—and vice versa—without which all maritime and naval vessels would have to go all the way around the African continent. Such a detour severely slows responses to crises from a military standpoint and adds substantially to costs from a commercial standpoint.

It is against this background that concern has been growing about the quick pace of the Soviet military buildup in this area—a buildup apparently leading to clear dominance in several quarters.

This has been a multifaceted buildup—a diverse but, of course, nonetheless unified—operation.

This Soviet initiative consists of a substantial buildup of forces in the Mediterranean, especially the eastern Mediterranean, including the construction of new submarine pens in Libya; of a Soviet-sustained arms buildup in the Middle East, especially in Syria; of the construction of naval facilities, an airstrip and barracks, and of the stationing of a guided missile patrol boat fully equipped with SSN-2 and Styx surface to surface missiles, in Somalia; and, of rapidly growing Soviet activities in the Western Indian Ocean.

A PERSPECTIVE ON THE GEOGRAPHY OF THIS AREA

Let me set this area into a more graphic perspective, and let me do that by simulating a ship's passage from the Atlantic Ocean, through the Mediterranean and the Suez Canal, into the Red Sea and then the Gulf of Aden, and into the western Indian Ocean. Soviet control in many areas and profound influence in others along this route should concern all of us.

As we move through the eastern Atlantic on our way to the western entrance to the Mediterranean, we first pass the Azores, the Portuguese islands lying some 740 miles west of Portugal, which serve as one of the four NATO patrol bases in the north Atlantic and as a crucially important refueling point for U.S. ships and aircraft. We then sight the European and African continents, resting north and south, respectively, of the Straits of Gibralter, our entrance into the Mediterranean. The European country we sight is Portugal, a nation involved in intense internal struggle between fully alined-with-Moscow Communist forces and more moderate Marxist forces, whose reorientation toward the Soviet Union has shown a substantial weakness within NATO and has jeopardized the security of our interests in the Azores. As we enter the Straits of Gibralter, Spain is to our left on the European side, and its future, including U.S. bases there, is now uncertain, and Morocco lies to our right on the African side with a government actively supporting the "liberation movement" within the Spanish Sahara.

As we continue our journey, France and Italy are to our left, and Algeria, with a pro-Soviet government under Col. Houari Boumediene, lies to our right. We then pass Malta and Tunisia. To our left on the European side we have both Revisionist-Communist Yugoslavia and intensely Communist Albania, and to our right we have Libya, an anti-American, pro-Soviet country under the control of the revolutionary, Col. Muammar el-Qaddafi. We have Greece to our left and then the Aegean Sea, the means by which the Soviet Navy, after passing through the Bosphorus from the Black Sea, enters the Mediterranean. As we approach the northern-western entrance into the Suez Canal, having now traveled about 1,940 miles since the Straits of Gibraltar, we have Turkey and Cyprus to the north; Syria, Lebanon, and Israel to the east, beyond which are Jordan, Iraq, Iran, Kuwait, and the Soviet Union; and, Egypt to the south. As we turn southward and pass through the Suez Canal, we enter the Red Sea, running northwest to southeast, and we have Egypt to the west and Saudi Arabia to the east.

As we continue through the Red Sea, we will first have the unstable Sudan, then Ethiopia with its new revolutionary government, and then Afars and Issas to our right, while Saudi Arabia continues on our left until we reach Yemen. We pass from the Red Sea and into the Gulf of Aden through the strait called Bab el-Mandeb. After we pass through the strait, we turn eastward toward the Indian Ocean, with the Communist-oriented People's Democratic Republic of Yemen, formerly called Southern Yemen, and then Oman to our left—to the north, and with Somalia, moving decisively into the Soviet camp, to our right—to the south. As we pass out from the Gulf of Aden and into the Indian Ocean, we have Persian Gulf and Gulf of Oman states lying to the north—Iran, Soviet-supported Iraq, Kuwait, Bahrain, Qatar, the United Arab Emirates. And, Diego Garcia lies in the Indian Ocean.

A PERSPECTIVE ON THE GEOPOLITICS OF THE AREA AND ON THE ARAB-AMERICAN RELATIONS IN THE PERSIAN GULF

In recent years this area of the world has again taken on strategic importance. This time the geopolitical significance of the region is based on its possession of some 60 to 70 percent of the world's known estimated oil reserves. It is not surprising, therefore, that the area has become one of immense interest to the industrialized countries, especially the superpowers.

Increased superpower interest in this area, particularly in the Persian Gulf area, was aroused by Great Britain's 1968 announcement of its intentions to withdraw from the Persian Gulf, then the world energy shortage, and in the case of the United States, the need to become more actively concerned over foreign petroleum sources.

At about the same time, the major Persian Gulf powers—Iran, Iraq, and Saudi Arabia—recognized the profound short-term and long-range importance of their oil resources and that the departure of British forces would provide an opportunity for those three states to improve their power positions vis-a-vis each other. Consequently, since 1968, Iran, Iraq, and Saudi Arabia have significantly increased their arms purchases and expanded their military training arrangements with the major powers. And, the United States and the Soviet Union, along with Great Britain and France, have actively attempted to gain influence with these oil-rich countries by providing them with highly sophisticated weaponry. Thus, it is evident that military considerations—whether we like it or not—exert considerable influence in this area.

Because of their immense oil reserves, these oil-producing states have truly become the world's economic center of gravity, and because of the Persian Gulf's proximity to the Soviet Union and to the Indian Ocean, the region also has a strategic significance which cannot be ignored by the United States. Limited by market demand and by the necessity of persuading the diverse oil-producing states to present a united front, this newly discovered oil power is a somewhat delicate mechanism for influencing international politics.

Before the October 1973 war—the Yom Kippur war—the gulf Arab States regarded oil primarily as an economic asset with little connection to the larger political order, either regionally or internationally. This position was frequently reiterated by no less than the giant oil-producing country of Saudi Arabia. The United States, as the world's largest consumer of oil and as a country with traditionally friendly relations with Saudi Arabia, has accepted the Saudi separation of oil and politics as a major premise of its Middle Eastern policies.

Therefore, the Saudi decision during the October war to combine oil and politics and to relate the flow of Saudi oil to American Middle Eastern policies marked a major deviation from a long-standing policy. The Saudi position was firmly endorsed by all Arab oil-producing countries, both individually and as members of the Organization of Arab Petroleum Exporting Countries, OAPEC. This unexpected turn of events has forced a major rethinking of American interests and long-range policies by American decisionmakers toward all Arab national interests, particularly the specific regional interests of the gulf.

This is, in great measure, why you see such a strong commitment on the part of the United States to preserve the peace in the Middle East—first, with the Egyptian-Israeli agreement, soon, hopefully, with a Syrian-Israeli agreement.

This is why you see such an effort to improve relations with Egypt, the country through which flows the Suez Canal.

But, assuring American interests is not solely a product of diplomatic relations and foreign assistance.

It is also a product of the relative strengths and influences in the area between the superpowers and their military postures in the region. And, it is against this background that we should examine each of the components of the rapidly growing Soviet influence in this area and along the routes to the Suez Canal.

Let me now deal with each of the components of this rapidly growing Soviet influence.

SOVIET BUILDUP IN THE MEDITERRANEAN

At the height of the Yom Kippur war in 1973—and the Yom Kippur confrontation between the United States and the Soviet Union—the Soviet Mediterranean fleet had 90 heavy ship-killing missiles of the 150-mile range class aimed at the United States' 6th Fleet. In contrast, the American fleet had only 14 such missiles with a top range of 35 miles. Every major combatant ship—or "high-value target" as the Navy refers to them—in the U.S. fleet was targeted around the clock by a trailing Soviet missile ship, each fully prepared for an instant first strike. This disparity between U.S. and Soviet capabilities was crucial in that war and confrontation, because when the Soviets pressured us into coercing Israel to halt its assault on the Egyptian 3d Army or risk an assault on our forces, we had no alternative but to back down and insist the Israeli's back down.

What, against this background, has changed since 1973 in the Mediterranean?

For many years the home port for the 6th Fleet had been Elefis, near Athens, Greece. Under the Presidency of George Papadopoulos, the United States enjoyed not only the use of that port, but also 12 other U.S. military stations, radar posts, airfields on Crete and throughout Greece, and a number of nuclear missile silos. Now, the government of his successor, has not allowed the 6th Fleet hospitality and largely taken over or made inoperative many American installations.

Cyprus, once an anchor in our operations, is off-limits to us and is under substantial Soviet influence, made more apparent when the United Nations peacekeeping unit on Cyprus compelled the island's President, Archbishop Makarios, to turn over more than $2.5 million in secretly imported, Soviet-delivered Czechoslovakian arms.

Syrian harbors are available to the Soviet Navy.

Wheelus Air Force Base, near the Libyan port of Tripoli, was the last major U.S. military base in all of Africa. When Qaddafi seized power in Libya in 1969, he forced the United States to turn over the base to him. He immediately welcomed Soviet planes. We are now frozen out of any use of that base.

Malta, standing strategically in the narrow bottleneck between Italy to the north and Tunisia and Libya to the south, has recently expelled NATO and has now barred our 6th Fleet.

Algerian President Boumedienne—although often denied—has offered the Soviets the use of the former vast French naval and air base of Mers-el-Kerib near Algiers. This establishes the Soviets within 260 miles of Gibraltar, giving them an ability to block the Straits, denying access of Western navies to the Mediterranean.

In fact—except for Israel, Tunisia and Morocco—the entire southern rim of the Mediterranean is hostile to the United States.

But, it does not stop here.

Unannounced, the Soviets have put into the Mediterranean its new Delta class submarines, the largest ever built. They displace more than 10,000 tons and have an overall length of 450 feet, 1½ times the length of a football field. Each Delta is armed with 12 nuclear missile tubes, each missile having a 4,000-mile range—the longest range submarine weapons in existence.

Now that Egypt has denied port precedence to the Soviet submarine fleet, where will facilities be used to service these Delta class subs? Libya. And, since channels into Libyan ports often become impassable when desert winds blow sand into the ports, who will supply dredges to keep the channels clear? The United States.

On August 14 the St. Louis Globe-Democrat carried an important editorial on the authorization by the U.S. Maritime Administration for the sale of a $1 million dredge to Libya to keep those ports clear—the obvious consequences of which will be allowing the movements of Soviet submarines in and out of the ports to be unimpeded. Extracts from that editorial follow:

> The Soviet navy, which is reported to have lost its port precedence in Egypt, has turned to Libya for docking facilities. Libya, led by the wild anti-American dictator Muammar Qaddafi, has been only too glad to accommodate the Red fleet. But Libya has poor port facilities, so it asked the United States for assistance. You guessed it—the U.S. is supplying Libya with a dredge so it can improve its harbor for the Soviet navy.
>
> The U.S. Maritime Administration has authorized the sale to Libya of a $1 million dredge, the St. Louis, which will help Libya to keep its ports clear of the sand which blows in from the desert. The Maritime Administration also approved the sale of an armed tug boat and four support marine barges.
>
> Just a routine commercial transaction, claim maritime and State Department officials. Anything for a buck, even supplying a nation with equipment to make its ports more suitable for the Soviet fleet.

A great deal more is going on here too.

The Secretary of the Navy, J. William Middendorf II, addressing the Commonwealth Club of California in San Francisco on October 24, indicated the Soviets were "moving rapidly to build up a fleet of Kiev-class aircraft carriers." He added:

> I can now reveal that they are building a second and third ship of the type in addition to the one we have known about for some time and which is now operational. All the evidence is that the USSR is now building carriers faster than we can.

A U.S. navy spokesman subsequently confirmed to the Defense and Foreign Affairs Daily that the ships were under construction side by side in docks at Nikolayevsk on the Black Sea. When operational, they are expected to carry about 50 aircraft, comprising a mix of Kamov antisubmarine helicopters and the first fixed-wing aircraft, probably of the YAK types, to be embarked at sea by the U.S.S.R. Navy estimates are that fitting out work on the third ship will begin in 1978 and that it will be operational by 1980.

U.S. POSTURE IN THE MEDITERRANEAN

What is our posture in the Mediterranean? Relative to the Soviet's posture?

The U.S. 6th Fleet today consists of from between 30 and 41 vessels—3 to 4 cruisers, 10 to 12 destroyers, 3 to 6 submarines, 1 to 2 aircraft carriers—and from 180 to 200 aircraft.

Look at the contrast, in this table, between the Soviet Mediterranean Fleet and the U.S. 6th Fleet:

Recent Historical Data on U.S.S.R. and U.S. Fleets Stationed in the Mediterranean

	Soviet fleet	U.S. 6th fleet
Carriers	[1] 1	[2] 1–2
Cruisers	2–4	3–4
Destroyer types	9–12	10–12
Amphibs	1–3	5–6
Auxiliaries	15–20	8–11
Mine sweepers	1–3	0
Submarines:		
Cruise missiles	2–3	0
Torpedoes only	8–10	0
Research vessels	5–6	0
Total	44–62	30–41

[1] Moskva Class Helo Carriers.

[2] With 180–200 aircraft.

Source: U.S. Navy Command Support Center.

It should be noted that the Soviets have a capability we do not—as many as 3 minesweepers in place—and have the important cruise missile launching submarines in place.

Of course, the disparity between our minimum of 30 vessels and their minimum of 44 and our maximum of 41 vessels and their maximum of 62 vessels cannot be overlooked.

And lastly, we must take note, in light of our numerical inferiority already, that the loss for an undisclosed period of time of the U.S. aircraft carrier, *John F. Kennedy*, and the U.S. guided-missile frigate, *Belknap*, as a result of their clear-visibility collision off Sicily several days ago limits our flexibility even further in this theatre of operations.

Speaking of the carrier, U.S.S. *John F. Kennedy*, I think I should mention an incident on September 14 between the carrier and a Soviet missile cruiser, during which the missile cruiser, of the modern Kresta II class, steamed up behind the *Kennedy* at high speed, tried to jam the carrier's defense warning system, and then aimed its missiles directly at the carrier. According to an unrefuted column by Bill Anderson in the Chicago Tribune of November 25, this incident, clearly provocative and premeditated, was "most likely ordered by Moscow." Anderson elaborates on the incident in more detail:

> The State Department has received a private request from Congress to explain what it is doing about a Russian missile cruiser threatening the carrier Kennedy last September.
>
> Still secret files show the cruiser, of the modern Kresta II class, sailed up behind the Kennedy at high speed, tried to jam the carrier's defense warning system, and then aimed its deadly missiles directly at the carrier.
>
> The provocative action aimed at the nearly 5,000 Americans on the Kennedy was premeditated, we have learned, and most likely ordered by Moscow. The incident clearly is a flagrant violation of the 1972 agreement between the Soviets and the United States designed to eliminate warlike situations at sea.
>
> * * * * *
>
> On Sept. 14, the Russian cruiser was moving slowly miles away from the Kennedy and her escort ships maneuvering in international waters of the Ionian Sea. A small Soviet trawler was shadowing the United States ships—reporting to a central command in the Mediterranean.
>
> Suddenly, the 6,000-ton cruiser stepped up her speed to more than 30 miles an hour while the trawler began to slow down and drop out of the shadowing position. When the cruiser came within visual range on Sept. 15, technicians turned on powerful radar jamming devices trained on the Kennedy.
>
> The Kennedy signaled by blinker light that the Soviets were in violation of article three, paragraph six of the treaty [signed by Kissinger] which states: "Ships shall not simulate attack by aiming guns, missiles . . ."
>
> The Russians ignored the signal, raised the level of the belligerency by activating missiles, and lowered them to bear directly on the Kennedy.
>
> At this point, the Kennedy launched six aircraft and sent them circling around the cruiser. As the carrier continued to cruise at 16 knots, the Russian ship began to make smoke and broke away at high speed.
>
> Later, she returned to observe the American fleet activities—but at a legal distance. The Soviets even anchored that night behind the U.S. convoy, sailing away around 2 a.m. on Sept. 16.

In general, your 6th Fleet's ships are badly aging, whereas only 1 percent of the entire Soviet Navy is 20 years old. Moreover, our 6th Fleet is short of manpower, including sufficient technicians, short of planes, short of other combat equipment, short of ammunition reserves, vital electronics parts, spare parts as a whole, and has insufficient logical backup. At least that is the conclusion of the features columnist and writer on military affairs, Henry J. Taylor, in the Baltimore News-American of October 22, and there is no reason to not believe that analysis.

What about aircraft comparabilities?

As I indicated a moment ago, we have between 180 and 200 aircraft associated with the 6th Fleet. This is, of course, supplemented, depending on the particular situation, by land-based aircraft of our own and that of our allies. We maintain a naval air base at Rota in Spain—although that is not a tactical base, at Sigonella on Sicily, a support base at La Maddalena on Sardinia, and an air facility for utility aircraft in Naples. P–3 detachments go to Rota and Sigonella on a rotating basis for 2 to 3 months at a time, and these are maintained mostly on an antisubmarine capability basis. We also have Air Force bases at both Torejon and Zaragoza in Spain, at Aviano in Italy, at Iraklion, Greece, a fighter base at Adana in Turkey, and a reconnaisance operation at Athena.

The only tactical U.S. Air Force base on the Mediterranean is the one at Torejon, which maintains 1 wing of F–4 aircraft—72 aircraft—containing three squadrons which rotate on alert at the joint U.S.-NATO Base at Incirlik, Turkey, and at Aviano, Italy. As I indicated, we can draw, depending on the situation, from Allied air forces—for example, if the United States and Israel were involved in a joint operation, aircraft from the Israeli air force would supplement and complement ours.

The Soviets, by contrast, have approximately 715 combat aircraft available in the area, mostly shore-based near the northwest and Black Sea coasts. These include 280 TU–16 Badger medium bombers with air-to-surface missiles, 55 TU–22 Blinder strike and reconnaissance aircraft, 20 IL–28 Beagle light bombers, 45 TU–95 Bear D long range MR aircraft, 10 TU–95 Bear F MR aircraft, 150 TU–16 Badger reconnaissance and tanker aircraft, 55 IL–38 May MR aircraft, 100 BE–12 Mail MR amphibians, 200 miscellaneous transports, and 250 MI–4 Horned and KA–25 Hormone ASW helos, according to the Military Balance, 1975–76.

AIR STRENGTHS OF COUNTRIES IN THE MEDITERRANEAN AND THE MIDDLE EAST

Like us, the Soviets can also draw upon the air forces of their allies, again dependent on the particular situation.

Now, with respect to the air force strengths of other countries in the Mediterranean and in the Middle East, I think it is interesting to look at those strengths, as shown in "The Military Balance, 1975–76":

AIR FORCES OF COUNTRIES PROXIMATE TO ROUTES TO THE SUEZ CANAL [1]

	Combat aircraft		
	Navy	Air Force	Total
Portugal	---	130	130
Spain	---	191	191
Morocco	---	60	60
France	108	461	569
Italy	---	372	372
Algeria	---	186	186
Tunisia	---	24	24
Yugoslavia	---	270	270
Albania	---	96	96
Libya	---	92	92
Greece	---	250	250
Turkey	14	292	306
Syria	---	425	425
Lebanon	---	24	24
Israel	---	461	461
Jordan	---	42	42
Iraq	---	247	247
Iran	---	238	238
Kuwait	---	32	32
Egypt	---	500	500
Saudi Arabia	---	95	95
Sudan	---	43	43
Ethiopia	---	37	37
Yemen Arab Republic	---	24	24
Yemen People's Democratic Republic	---	27	27
Oman	---	47	47

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[1] Excludes army aircraft noncombatant aircraft, and helicopters.

SOVIET MONITORING OF COMMUNICATIONS

The Soviets are also closely monitoring all our communications in the Mediterranean.

Rota, our $250 million naval air base at Cadiz on Spain's Bay of Cadiz on the Atlantic around the corner from the Gibraltar Strait, is our nuclear missile submarines' major European station. Rota ties in with seven immense radar and microwave stations, the major one atop Puig Mayer Mountain on the Mediterranean island of Majorca.

Soviet spy ships, crammed with their electronic gear, are presently off both Rota and Majorca—listening to the U.S. Navy commands above and below the sea.

ACCELERATED SOVIET ARMS BUILD-UP IN THE MIDEAST

In mid-November the Soviets transferred to Syria a squadron of Soviet-piloted Mig–25's. Until now, Mig–25's, which are an advanced model of the Mig–23 and are called Foxbat by Western intelligence, have been seen in the Mideast only in Egypt and not there since 1973. The Mig–25's are the highest flying and fastest plane in the Middle East.

Writing in the Christian Science Monitor of November 19, their staff correspondent, Dana Adams Schmidt, dealt with the implications of this transfer:

> Transferral to Syria of 20 Soviet-piloted MIG 25s is seen by highly placed American officials as an overt and hostile effort to blast the American-sponsored step-by-step movement towards a Middle East settlement.
>
> The Soviet Union, the officials point out, has chosen a critical moment to begin moving an entire squadron of its most advanced reconnaissance and interceptor aircraft to Syrian airfields.
>
> Syria must by the end of this month decide whether to extend the life of the United Nations force now in the Israeli-occupied Golan Heights.
>
> * * * * *
>
> The arrival in Syria of an entire squadron of 20 of these most advanced aircraft will not only restore some of the Soviet Union's reconnaissance capacity in the eastern Mediterranean but will, according to Israeli sources, give Syria for the first time a qualitative edge over Israel in the air. The MIG 25s are divided into category A, which is stripped down for reconnaissance, and category B, which carries amament and armor for combat.
>
> Israeli sources say the Israeli Air Force will not have anything to equal the MIG 25 until F–15s now on order begin to arrive from the United States in 1977.
>
> The Syrians already have a few MIG 23s which they may or may not be able to fly without Russian help, and about 200 MIG 21s, for a total of 400 combat aircraft.
>
> The air force of Syria's neighbor, Iraq, ruled by a rival faction of the Baath (socialist) party that rules in Damascus, is about half as large as Syria's but has been reinforced during the past year with 32 to 35 of the fast and deadly MIG 23, according to intelligence sources.

The acceleration of Soviet military assistance to Syria has been in items other than aircraft, too.

Syria has struck a new arms deal with the Soviet Union calling for provision of 500 Soviet T–55 tanks—almost a 25-percent increase in its present tank strength—over the next 2 years. The new arms agreement is believed to have been worked out when Syria's President, Hafez el Assad, was in Moscow in October.

This new Soviet-Syrian arms deal comes at the same time of stepped-up training of Syrians in the use of the Soviet-supplied, 140-mile-range Scud missiles.

It is apparent, from these latest moves, that the Soviet Union's diplomatic failures in the Middle East have not diminished their capacity for mischief making. Their attitude is negative with respect to obtaining any enduring peace in the Mideast, for whatever Syria's game may be, the Soviets are persistently unconstructive. They seem to be waiting until the United States fails in its Mideast commitments, or until the next increase in tensions, or until the next Mideast war. But, clearly, they are doing whatever they can to undercut any attempts at arriving at a peaceful solution to the Golan Heights and other issues separating Israel and Syria. The Soviets are apparently committed to stopping any Israeli-Syrian agreement along the lines of the Israeli-Egyptian agreement.

SOVIET AIR AND NAVAL BASE CONSTRUCTION ON SOMALIA AND PLANNED U.S. COUNTERBALANCE ON DIEGO GARCIA

This past summer the construction of facilities by, and the delivery of surface-to-surface missiles from and for, the Soviet Union in the Somalian port of Berbera, caused considerable controversy. This disclosure should not have come as a surprise. The Soviets had been developing this area, at the southern entrance to the Red Sea and thence to the Suez Canal, since 1962.

Testifying on June 10 before the Senate Committee on Armed Services, then Secretary of Defense, Dr. James Schlesinger, spoke to this point:

> As early as 1962, the Soviets agreed to assist the government of Somalia in constructing port facilities in Berbera, a small port overlooking the entrance to the Red Sea. The harbor was completed in 1969, and by 1971 sixteen Soviet ships paid visits to the port. In 1972, Marshal Grechko visited Somalia for the signing of a Soviet-Somali Agreement, and this was soon followed by an increase in Soviet use of facilities at Berbera, including the establishment of a naval communications site and the arrival of a barracks and repair ship which has remained as a permanent feature ever since. In late 1973, the USSR began initial construction of what has subsequently been identified as a missile storage and handling facility at Berbera, suggesting that the Soviets had plans for such a facility even before the events of the October 1973 war and the introduction of a more frequent U.S. presence.
>
> In July of last year, the USSR signed a Treaty of Friendship and Cooperation with Somalia, similar to those signed with Egypt, Iraq and India. Several months later, approximately coincident with a visit by the Commander of the Soviet Navy, Admiral Gorshkov, we noted the beginning of a significant expansion of Soviet facilities at Berbera, including expansion of the POL storage, construction of additional housing ashore, and the beginning of a very long airstrip. The emerging configuration of a missile storage and handling facility became apparent. It is evident that the USSR is in the process of establishing a significant new facility capable of supporting their naval and air activities in the northwest Indian Ocean.
>
> The USSR has also provided assistance to the Government in South Yemen in managing the former British port of Aden, which was the fourth largest bunkering port in the world when the Suez Canal was in operation. This port lies directly across the Gulf of Aden from Berbera and commands the northern side of the entrance to the Red Sea.

Details were provided both in the following weeks and on November 11. United Press International, on that day, carried this wire, summarizing the more recent Soviet developments in Berbera:

> The Soviet Union has stationed a guided missile patrol boat at Berbera, Somalia, along with 15 to 20 antiship missiles, accord-

> ing to intelligence reports reaching the Pentagon.
>
> The boat and missiles could cut off an entrance to the Red Sea, an approach to the Suez Canal. "This is evidence of a major new weapons system being introduced into the Indian Ocean (area)," one source said.
>
> The placement of Russian missiles at Berbera is one argument which outgoing Defense Secretary James R. Schlesinger and other Pentagon officials used to get Congress to approve additional construction funds for a U.S. base at Diego Garcia in the Indian Ocean.
>
> * * * * *
>
> Early this summer, Schlesinger said, "we have evidence of Soviet missiles at Berbera." He backed it up with photographs taken from a spy plane. Somalia denied the statements and Congressional delegations which went to see for themselves were not allowed inside the complex, one group was turned away by an armed Russian marine.
>
> At that time, the sources said, two missile crates had been detected. At the end of October, U.S. intelligence found between 15 and 20 SSN2, Styx missiles, with a range of about 25 miles and a conventional warhead. A Styx sunk an Israeli destroyer in the 1967 fighting.
>
> The ship is the 128-foot OSA–II class. Navy sources say it is "the most numerous missile boat in Soviet service with 120 units operational in the Soviet navy."
>
> Navy experts say "Indian-manned OSAS sank a Pakistani destroyer, severely damaged a second, and probably sank several merchant ships in 1971."

The implications of this Soviet presence cannot be overstated. Berbera is located in a vitally strategic position with respect to the southern entrance to the Red Sea and then the Suez Canal. Oil from the Persian Gulf states—Iran, Kuwait, Iraq, Qatar, Bahrain, Saudi Arabia, and the United Arab Emirates—and from the Gulf of Aden—Aden and the People's Democratic Republic of Yemen—must travel through these straits to both Western Europe and the United States.

The facilities which the Soviets either already have in place or are constructing will give them an almost absolute ability to interdict tanker and other traffic to western Europe and the United States.

After having seen the sight in person this past summer, our colleague from New York, SAM STRATTON, said the Soviet base will "represent the most comprehensive naval support facility available to the Soviets anywhere outside the Soviet homeland, including Cuba."

When all this information was brought to light in early summer, including photographic evidence, the Soviets countered through surrogates that these were not military installations—that they were in fact agricultural sheds, et cetera. That coverup story was featured by some of our own Nation's widest circulated newspapers—with some even editorializing that the U.S. disclosures were designed to raise false fears in hopes of strengthening the Department of Defense's position in Congress. I trust everyone realizes that American newspaper participation in this coverup—no matter how unwitting—undermines our, the U.S. position on the necessity of inspections for treaty compliance, for if the Soviet Union believes the American public will not be told by the American press of the accuracy of U.S. inspections by air as a countercheck on surface inspections, the Soviets know they will be free to proceed without risks of public reaction to Soviet violations of treaty terms.

Aside from just the matter of Berbera, we must also take note of other significant Soviet developments in the Indian Ocean, especially as to how they relate to moving forward with the U.S. facilities on Diego Garcia, the island in the western Indian Ocean.

Again, former Secretary of Defense James Schlesinger, set the strategic implications of the Soviet buildup in the Indian Ocean and Gulf of Aden and the need for the development of Diego Garcia as a counterbalance to Soviet activities in Berbera into perspective in his June 10 statement:

> I appreciate this opportunity to clarify for you our reasons for proposing all augmentation of facilities on the island of Diego Garcia in the Indian Ocean. As I have indicated in previous appearances before Committee and elsewhere, we believe this project is necessary to provide logistical support for our forces which operate periodically in the Indian Ocean.
>
> * * * * *
>
> Our principal objective in requesting this facility is to provide secure access to logistical support for our forces operating in the Indian Ocean. For example, our naval forces operating there today must rely either on local sources of fuel or else must be replenished by a chain of tankers stretching over 4,000 miles from U.S. facilities in the Phillipines. The additional fuel storage we have proposed would permit a normal carrier task group to operate for about 30 days independent of other sources of supply. That margin of time could spell the difference between the orderly resupply of our forces and a hasty improvisation which could place unwieldly demands on our support assets in other areas. The same is true of the repair and maintenance which could be performed on ships and aircraft.
>
> In short, the proposed facility would provide the assurance of U.S. capability to deploy and maintain forces in an area which has become increasingly important over the past decade.
>
> Mr. Chairman, for nearly two centuries the Indian Ocean was the military preserve of Great Britain, which exercised control over the vital sea lanes to India and the many outposts of the British Empire. From the early 19th century, Britain opposed Czarist attempts to extend Russian rule into South Asia, just as it later cooperated in countering postwar Stalinist efforts in Azerbaijan to extend Soviet influence in the direction of the Persian Gulf.
>
> In the economic environment of the 1960s the British were forced to reorient their priorities toward Europe and away from Asia and the Indian Ocean. It is an interesting coincidence that 1968—the year the British announced their intention to withdraw—was also the year when the USSR first established what has now become a permanent naval presence in the northwest Indian Ocean.
>
> While this transition from British dominance to a more diffuse power structure has been in progress, the interests of the United States in the Indian Ocean region have been growing. We have become increasingly dependent on the oil which is constantly moving in tankers along the sea lanes in the Indian Ocean, and our allies are even more dependent. We have an immediate stake in the stability and security on this very large body of water where all of the world's seaborne oil is in transit at any given time.
>
> Consequently, we have been concerned at the steady growth of Soviet military activity in the region. I would like to review briefly the sequence of events by which the increase of Soviet military presence has developed.
>
> The first Soviet deployments to the Indian Ocean in 1968 were small and tentative in nature. Lacking any shore facilities, the original contingents of Soviet ships were satisfied to remain mostly quiescent; spending most of their time at anchorages in international waters, with only occasional brief port visits to break what must have been a monotonous existence. This cautious probing of unfamiliar waters is very reminiscent of Soviet initial deployment into the Mediterranean some five years earlier.
>
> When the Soviet Navy began to deploy to the Mediterranean in 1963, following an abortive earlier attempt to introduce submarines into Albania, there were very few ports open to them and they spent most of their time sitting idly at anchor. But the Soviets grew more confident with time, and when Egypt made port and airfield facilities available to them after 1967, they were quick to increase the scope and intensity of their operations. By the time of the Arab-Israel War of October 1973, they were able to introduce and sustain an armada of more than ninety ships, including the most modern in their inventory.
>
> As early as 1962, the Soviets agreed to assist the government of Somalia in constructing port facilities in Berbera, a small port overlooking the entrance to the Red Sea. The harbor was completed in 1969, and by 1971 sixteen Soviet ships paid visits to the port. In 1972, Marshal Grechko visited Somalia for the signing of a Soviet-Somali Agreement, and this was soon followed by an increase in Soviet use of facilities at Berbera, including the establishment of a naval communications site and the arrival of a barracks and repair ship which has remained as a permanent feature ever since. In late 1973, the USSR began initial construction of what has subsequently been identified as a missile storage and handling facility at Berbera, suggesting that the Soviets had plans for such a facility even before the events of the October 1973 war and the introduction of a more frequent US presence.
>
> In July of last year, the USSR signed a Treaty of Friendship and Cooperation with Somalia, similar to those signed with Egypt, Iraq and India. Several months later, approximately coincident with a visit by the Commander of the Soviet Navy, Admiral Gorshkov, we noted the beginning of a significant expansion of Soviet facilities at Berbera, including expansion of the POL storage, construction of additional housing ashore, and the beginning of a very long airstrip. The emerging configuration of a missile storage and handling facility became apparent. It is evident that the USSR is in the process of establishing a significant new facility capable of supporting their naval and air activities in the northwest Indian Ocean.
>
> The USSR has also provided assistance to the Government in South Yemen in managing the former British port of Aden, which was the fourth largest bunkering port in the world when the Suez Canal was in operation. This port lies directly across the Gulf of Aden from Berbera and commands the northern side of the entrance to the Red Sea.
>
> In addition, the USSR is assisting Iraq in the construction of a port, Umm Qasr, at the northern tip of the Persian Gulf. However, Soviet development and use of these two facilities has been much more modest that at Berbera.
>
> The Soviet Union has become a major sea power only in the last decade. The first display of Soviet global naval power—the so-called OKEAN Exercise in 1970—was intended to demonstrate Soviet capability to

conduct coordinated naval operations in every ocean of the world. A similar worldwide exercise was held in April of this year. For this event, the number of Soviet ships in the Indian Ocean was approximately doubled. Activity was centered in the northern Arabian Sea, at the crossroads of the tanker lanes from the Persian Gulf. The exercise was supported by long range aircraft operating from the Soviet Union, and, for the first time, by maritime patrol aircraft operating from airfields in Somalia.

It is worth remembering that the entire Soviet buildup in the Indian Ocean which now averages approximately 19 ships on a regular basis, has occurred during the period since the Suez Canal closed in 1967. We anticipate that, with the canal once again open as of last week, we will see an increase in the level of Soviet merchant ship traffic and commercial activity with South Asia. We will be watching very carefully for any change in the pattern of their naval deployments. As you know, the opening of the canal reduces the distance from the Black Sea to the Arabian Sea from 11,500 miles to only 2,500 miles—a difference in sailing time of 24 days. It also reopens to the USSR a warm water transit route from European Russia to the Soviet Far East, which will undoubtedly be important for the transfer of naval units between eastern and western fleets. Whether this will mean an increase in Soviet naval presence on a regular basis is not certain, but it will certainly increase Soviet flexibility in supporting or reinforcing its units in the Indian Ocean.

The level of U.S. presence in the Indian Ocean has been prudent. We have had a small permanent presence in the Persian Gulf and Red Sea since 1949, consisting of the command ship and two destroyers of the Middle East Force centered in Bahrain. In addition, since October 1973, we have conducted more frequent and more regular deployments to the area from our Pacific Fleet. Over the past 18 months, there have been seven such deployments, including five visits by carrier task groups and two visits by major surface combatants. Over the past year, we have had an augmented presence in the area approximately one-third of the time.

Although we would strongly prefer to see no Soviet buildup of military presence in this region, it appears that the USSR intends to undertake such a buildup. Since an effective military balance is essential to the preservation of regional security and stability in this area of great importance to the economic well-being of the industrialized world, we feel we should have logistical facilities which will permit us to maintain a credible presence. In a period of historical transition toward a new set of power relationships, only the United States among the Western nations has the stature to insure that the balance is maintained.

When the Soviets suggested—as they did through their surrogates in an attempt to conceal the activities at Berbera—that the facilities were agricultural sheds—actually meat processing plants—our detailed satellite reconnaisance photographs showed the reality. Construction of fuel tanks. A lengthy runway. A communications station. A missile handling facility.

I suppose it is still possible, for the sake of argument, to quibble over whether the installation is a naval "base" or a naval "facility" and whether it will be under direct Soviet control or only under nominal control of the pro-Moscow Somali Government.

But, there is no doubt that it is intended to expand Soviet influence over the strategic approaches to the Red Sea and throughout the Indian Ocean. The point is that even if the Soviets never lifted a finger, their unchallenged dominance in the Indian Ocean and their ability to cut off western-bound oil would give them unprecedented political leverage and psychological advantage.

Therefore, the reason for the U.S. base at Diego Garcia is not to provoke a superpower confrontation but to establish a credible U.S. presence in that strategic region so that an aggressive superpower does not attain dominance by default.

That is also the reason why we must strengthen our presence in the entire area associated with the two routes to the Suez Canal. Its importance cannot be overestimated. Our diminishing influence in this area cannot continue in that direction. The implications are all too apparent.

THE COUNCIL ON WAGE AND PRICE STABILITY VERSUS THE CONSUMER PRODUCT SAFETY COMMISSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. KASTEN), is recognized for 15 minutes.

Mr. KASTEN. Mr. Speaker, on October 14 the Council on Wage and Price Stability took justifiable issue with the Consumer Product Safety Commission over the standards proposed by the CPSC for power lawn mowers.

I, and many of my colleagues from both sides of the aisle, certainly favor reasonable safety standards for power mowers. However, the proposed standards are far from reasonable.

The Council filed comments with CPSC because the implementation of the standards would impose substantial costs on consumers in the form of higher prices. According to the estimates prepared by the advocates of the standards, the average price of walk-behind mowers—now $125—will increase 32 percent or $40. The average price of riding mowers—now $850—will increase 13 percest or $112. However, in another study by the Stanford Research Institute (SRI), the price increases could range as high as 74 percent for walk-behind mowers.

If the standards would significantly eliminate injuries, the price increases might be justified. However, using the data relied upon by the CPSC, the Council has determined that the benefits received in terms of injury reduction are not sufficient to justify the costs imposed upon the consumer.

The Consumer's Union, which prepared the standards, claims that the reduction in sale of lawn mowers—caused by the increased prices—would result in an increase in net social benefits. Such logic defies imagination. Apparently, the Consumer's Union is not concerned over the fact that when sales drop, it means that consumers are losing the benefits of the product because they are being priced out of the market. To follow the logic of the Consumer's Union, we should seriously consider placing a $1,000,000 tax on every power lawn mower—if no one could afford to buy a power lawn mower, we would soon reach the point where there would not be any lawn-mower-related injuries. Furthermore, the Consumer's Union did not assess the impact of the higher costs on the ability of consumers to replace their present lawn mowers with newer models meeting higher safety standards.

Nor, apparently, has the Consumer Product Safety Commission considered the impact of the proposed standards on the power lawnmower industry. I am extremely concerned with this matter because in Wisconsin alone the power lawnmower industry provides over 25,000 jobs. A major decline in sales would jeopardize the jobs of Wisconsin citizens and the future of their employers.

The Consumer Product Safety Commission should focus its efforts upon eliminating "unreasonable risks." There is no way it can eliminate risks entirely.

Mr. Speaker, I submit for insertion into the CONGRESSIONAL RECORD excerpts from the comments of the Council filed with the CPSC.

Mr. Speaker, Congress must address the general issue presented here in the near future—how to prevent the abuse of power by the Federal regulatory agencies we have created.

The material follows:

[Before the Consumer Product Safety Commission]

PROPOSED LAWNMOWER SAFETY STANDARD

COMMENTS OF THE COUNCIL ON WAGE AND PRICE STABILITY

Introduction (pp. 2–5)

. . . The Council was created by the Congress to monitor the inflationary impact of activities in both the public and private sectors of the economy. The Council is particularly concerned with the lawn mower safety standard because the evidence shows that this standard will impose substantial costs on consumers in the form of higher lawn mower prices. The standard is very comprehensive and, consequently, very expensive. CU's figures imply that the average price of walk-behind mowers will increase 32 percent and the average price of riding mowers will increase 13 percent. SRI estimates that walk-behind mowers will increase between 30 and 74 percent in price, while riders will increase between 19 and 30 percent, depending on the final alternatives chosen in the standard. It should be noted that the largest percentage price increases will be experienced at the lower end of the lawn mower price range and will be borne by those individuals least able to afford them. Riding mowers, which are more expensive, accounted for only 16.5 percent of all lawn mowers sold in 1972. Additional costs will be borne by producers, in complying with the standard, and in the form of lost sales. Given this substantial cost impact, the Council is concerned that the proposed standard be supported by a sound, objective analysis of the purported benefits.

The objective of public policy with respect to product safety should be to minimize the sum of accident costs and accident prevention costs. As more stringent standards are imposed the accident costs will fall while the accident prevention costs rise. If the decline in costs associated with accidents is larger than the rise in costs associated with the more stringent standard, i.e., if the incremental benefits of the regulation exceed the incremental costs, then the new standard is an improvement. This is the approach the Council applies in its review of regulations.

With respect to the lawn mower, a calculation of accident costs includes all the tangible and intangible costs arising out of injuries caused by lawn mowers. The benefits of the safety standard would be the amount by which these costs are reduced as a result of having safer mowers. Accident prevention costs are reflected in the increased price of a safer mower (one complying with the standard) and should also include the costs borne by those individuals who choose not to purchase the more expensive, safer product, but would have purchased the less expensive product were it available. These prevention costs are the costs of the standard. Thus, for the lawn mower safety standard to be justifiable, the costs of the standard should be smaller than the benefits as defined above.

The Council strongly supports the objective of product safety. However based on our review of available evidence, the Council has concluded that the CU lawn mower standard should not be implemented as it now stands. The evidence even as presented and interpreted by CU, the proponent, suggests that the benefits of the standard are not sufficient to justify the considerable costs imposed on lawn mower consumers as a result of the standard.

In our view, CU's analysis provides insufficient support for a standard of the magnitude they propose. First, the softness of the underlying data and the arbitrary assumptions which are several made at key points in the analysis provide a very weak basis for making a decision on the standard. The estimate of the benefits of the standard is obtained by first estimating the costs of lawn mower injuries and then estimating the effectiveness of the standard in reducing those costs. But the information available on lawn mower injuries, the basis for these estimates, is not very solid. In addition, perhaps the most important estimate in the report, the estimate that the standard will result in a 75 percent reduction in lawn mower injuries, is not given any support by CU. Second, even if CU's data and assumptions are accepted, the standard does not pass a cost-benefit test. That is to say, even by CU's own estimate, benefits are smaller than costs.

Due to the large impact on consumers we believe that CPSC should obtain more reliable information on the nature and incidence of lawn mower injuries and on the effectiveness of the proposed standard before proceeding further. We would urge CPSC to first rank the various components of the proposed standard in terms of their possible cost effectiveness. These should then be more thoroughly reviewed and analyzed. Only those components which can be shown to have benefits larger than costs should be implemented.

In the following discussion we concentrate on CU's cost-benefit analysis, since they are the authors of the standard, and only briefly summarize the SRI study. We discuss the estimates of costs and benefits of the proposed standard and use these estimates to compute cost-benefit ratios. As will be explained more fully below, we believe that both CU and SRI have computed their cost-benefit ratios incorrectly. . . .

The effect on lawn mower prices (pages 13–15)

. . . The lawn mower standard is a performance standard and the costs of implementing it will depend on the manufacturers' engineering ingenuity. CU has estimated the cost increases imposed by the standard from responses to a questionnaire sent to manufacturers. There is some reason to suspect that the manufacturers' estimates may be high.

According to CU's own estimates, the proposed standard will add $40 or 32 percent to the price of a walk-behind mower (the present average price is $125) and would add $112 or 13% to the price of riding mowers and garden tractors (the average price is now $850). The CU estimates contrast sharply with SRI's estimates of a 30 to 74 percent increase in the price of walk-behind mowers and a 19 to 30 percent increase in the price of riding mowers, depending on the final form of the standard. It is important to note that, according to both estimates, the less expensive walk-behind mowers will increase proportionately more in price than the more expensive riding mowers.

The total annual cost, assuming no loss of sales, is estimated to be $383,490,000. If unit sales decline by 30 percent (OPEI's estimate) the total cost is stated to be $268,443,000. We should emphasize here that the lawn mower industry is a large industry with sales of $1.2 billion in 1974. Thus, the potential economic impact is not insignificant. We suggest that estimates of the impact on sales deserve closer scrutiny and that OPEI's estimate should be carefully reviewed.

The Council is also disturbed by the reasoning which appears to argue that a decline in sales will increase the net social benefits of the standard. When sales decline consumers are losing the benefits of the product. The implication of CU's report is that, if sales decline, reducing the annual cost, an improvement in the cost-benefit picture will result. The cost figure is reduced while the benefit figure stays the same, thus decreasing the cost-benefit ratios. We will make further comments on this below but clearly this implication is not correct. A very expensive safety standard which induces consumers to substantially decrease their purchases will impose costs which are not included in the cost figures.

Finally, using the information supplied by the manufacturers, the costs are distributed among the seven hazard areas in order to make comparisons with the benefits. . . .

Cost-Benefit Comparisons (pages 15–17)

. . . The purpose of a safety standard is to reduce injuries and the costs associated with them. The measure of the effectiveness of a standard is the number of injuries which are avoided due to its implementation. Clearly, much more review is needed on this critical subject. CU estimates the standard will reduce injuries and injury costs by 75 percent (though this is not distributed evenly across the hazard areas). No explanation whatever is given for this estimate and it seems highly arbitrary. SRI estimates a 50 percent reduction in injury costs. They make some attempt to support this figure, though they suggest that no accurate prediction is possible. It should be emphasized that this figure is perhaps the most important single estimate in the analysis. Given the lack of support for this figure, the entire analysis is suspect since this number multiplied by the injury cost figures discussed previously provides the benefit figure used in calculating the cost-benefit ratios.

It is important to note that much of the reduction in accident costs will not accrue directly to consumers since they are already insured against many of these costs. For example, many consumers carry health insurance and would not be paying for the bulk of their medical expenses. If an individual can take sick leave with pay from his job then, implicitly, he is insured against the loss in pay resulting from injury. It is doubtful if the lawn mower standard would result in a decline in insurance costs since we would think that lawn mower accidents are a small portion of total injuries and illnesses.

A comparison of costs and benefits is made according to each hazard area and according to lawn mower type. Since the distribution of injury costs to hazard areas has not been explained and, since the report states that information on the relationship between injuries and lawn mower type is limited, the meaning of these figures is questionable. This type of information is needed to determine which portions of the standard are most worthwhile.

Overall cost-benefit ratios are presented for medium and high injury cost estimates including and excluding pain and suffering. These are presented assuming a sales level equal to 1973–74 and also assuming a 30 percent reduction.

For the sales level equal to 1973–74 when pain and suffering costs are excluded the medium injury cost estimate C/B is 4.6 (that is, costs are 4.6 times as high as benefits) and the high injury cost estimate C/B is 1.2. When pain and suffering is included the medium injury cost estimate C/B is 2.2 and the high cost estimate is .7.

For the 30 percent reduction in sales, excluding pain and suffering, the medium and high injury cost estimate C/B's are, respectively, 3.2 and 0.9. Including pain and suffering these C/B's are, respectively, 1.5 and 0.5.

Thus, by CU's own estimate, for the medium cost estimates (which we take to represent CU's best guesses), the costs of the standard are larger than the benefits. As we show below, however, given CU's estimates of costs and benefits, their cost-benefit ratios are too low due to what we believe is an incorrect method of computing the cost-benefit ratios. . . .

The correct way to compute the cost-benefit ratio (pages 17–20)

. . . CU has taken the increment in cost for one year's lawn mower sales and compared this figure with the total benefits assuming the entire lawn mower stock conforms with the safety standard. They state that this is valid because they are considering the first year in which all the mowers conform with the standard.

However, this is not a valid procedure, essentially because it ignores the fact that the increase cost is borne at the time of purchase while the benefits are spread out over the subsequent years of the lawn mower's life. Another way to put it is that CU has assumed that all the benefits occur simultaneously with the costs. This *underestimates* the cost-benefit ratio (i.e., *overestimates* the ratio of benefits to costs).

Using CU's data we can provide some examples of this. SRI estimates that there are 40 million lawn mowers. CU estimates (a similar number is found in the SRI report) that 7.6 million were sold during 1973–74. If this is the general pattern then approximately one-fifth of the mowers are replaced each year and the average life of a mower is five years. The medium estimate of benefits including pain and suffering is $175,207,000 for the entire lawn mower stock for a year. Dividing by five we get the yearly benefits for one year's volume ($35,041,000). If this saving is constant over the lawn mower's life the discounted stream of benefits over the five years (assuming a 10 percent discount rate) is $132,840,000. Using the cost figure provided for one year's sales ($383,489,000) the cost-benefit ratio is 2.89. The figure reported by CU is 2.2.

If sales are reduced by 30 percent this means that approximately five million mowers will be sold each year. If the total lawn mower stock remains 40 million (which is probably unrealistic though we have no basis for using a different figure) this means that approximately one-eighth of the stock is replaced each year and that the average lawn mower lasts eight years. The annual benefits are then $21,901,000 ($175,207,000/8). The discounted stream of benefits over the eight years (at 10 percent) is $116,842,000. The costs for the 30 percent reduction in sales are $268,500,000. The cost-benefit ratio is now 2.3 as compared with 1.5 reported by CU.

Again we should emphasize this point. If there is any positive rate of time preference, the cost-benefit ratios computed by CU are too low.

It is rather misleading that the cost-benefit ratios are more favorable when sales are reduced. Some serious costs are being ignored. Clearly, some people are not buying mowers as frequently at the higher prices. Those consumers who would have purchased the cheaper, more hazardous mower bear a cost which is not reflected in the cost figures being used.

An extreme example illustrates this point. If the standard were so expensive that lawn mower sales dropped to zero, CU would have us believe that the standard is costless. This is clearly absurd. There is a substantial cost to all those who would have purchased lawn mowers in the absence of the standard. Furthermore, if sales decline, the most hazardous mowers in the absence of the standard. Furmowers, including those conforming to the standard, may become more hazardous with age. If, for example, the higher prices associated with the new standard induce people to replace their mowers every eight years rather than every five years there may be a higher incidence of injury associated with product failures. This may especially be the case with the more complicated machinery required by the standard. . . .

The effect on competition (page 21)

. . . A wide ranging standard such as the one proposed is likely to impose substantial costs which smaller firms are unable to absorb. SRI estimates that out of 60 to 75 lawn mower suppliers presently operating only 35 to 50 will be left in five years. This may not have a significant effect on the competitiveness of the industry. However the costs to the small businessman should be considered. . . .

Concluding comments (pages 22–24)

. . . Using the medium estimates including the costs of pain and suffering the proposed standard has costs larger than its benefits, as estimated by CU. The standards for blade contact, brakes and drive train, and fire and burns which together account for 81 percent of the cost, all have cost-benefit ratios larger than one. The noise standard has no quantifiable benefits.

It is only when the high injury cost estimates combined with high cost estimates for pain and suffering are used that the cost-benefit picture becomes more favorable. We doubt that these estimates are reasonable.

Recall also the assumptions utilized in the analysis and the softness of the data. The number of lawn mower injuries is not really known with precision. The costs of pain and suffering are estimated in a highly arbitrary manner and seem very large. The assumption that the standard will be 75 percent effective is, perhaps, the key assumption in the analysis and is not defended. SRI thinks the standard will be only 50 percent effective.

We take the medium estimate to reflect CU's best guesses. And using those estimates the standard should not be implemented as it now stands. The argument made by CU (only very tentatively to be sure) that the cost-benefit ratio does not have to be smaller than one because consumers may be risk averse is a very weak argument. We do not know of any compelling evidence that consumers are risk averse at the margin. As has been mentioned, consumers are already insured against many of the potential costs of accidents. This weakens any risk aversion argument considerably because it says that consumers are already substantially protected against the risks. If CU believes their argument to have validity they should present some evidence for it. It is not sufficient, after deriving detailed estimates of costs and benefits, to spend a paragraph saying that these estimates do not mean anything because consumers may be risk averse.

In conclusion, we feel that CU's analysis, as it now stands, does not provide a sound basis for making a decision on a standard which will impose such large costs on consumers. We suggest that further work be done in this area and more reliable estimates obtained. We would urge CPSC to proceed by ranking segments of the proposed standard in terms of their possible cost-effectiveness. These should then be more thoroughly reviewed and analyzed. Only those segments which can be shown to have benefits larger than costs should be implemented.

To obtain more reliable estimates of cost-effectiveness better information is needed on the incidence of lawn mower injuries and, especially, on the effectiveness of individual segments of the standard in preventing these injuries. Perhaps, a sample of lawn mower users would provide more reliable information on injuries. Information might be obtained by looking at the experience with existing lawn mowers, since there may already be substantial variation in their safety characteristics. An experimental approach might be useful. Lawn mowers conforming to a safety standard might be manufactured on a small scale and their safety record monitored. All these suggestions require additional expenditures by CPSC and this should be taken into account. But some additional expenditure is necessary in order to make an informed decision.

Once better information and more reliable estimates are obtained they should be taken into account in formulating the standard. It is hard to understand why CU has developed a standard which, by its own estimate, imposes costs which are larger than the benefits it provides.

Respectfully submitted,

MICHAEL H. MOSKOW,
Director, Council on Wage and Price Stability.

THOMAS D. HOPKINS,
Acting Assistant Director for Government Operations and Research, Council on Wage and Price Stability.

THOMAS M. LENARD,
Economist, Government Operations and Research, Council on Wage and Price Stability.

VAUGHN C. WILLIAMS,
General Counsel, Council on Wage and Price Stability.

OCTOBER 14, 1975.

ADDRESS BY CONGRESSMAN JOHN BRADEMAS, PACEM IN TERRIS IV CONVOCATION, DECEMBER 3, 1975, WASHINGTON, D.C.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. HAMILTON) is recognized for 5 minutes.

Mr. HAMILTON. Mr. Speaker, my colleague from Indiana, the Honorable JOHN BRADEMAS, recently delivered a significant address on the role of Congress in foreign policy.

Congressman BRADEMAS believes that there must be a crucial role for Congress in the making of American foreign policy. He also believes that, in the relations of the United States with the countries of the third world, the path of confrontation is not the wisest.

The speech discusses a number of timely issues, and I recommend it to the attention of my colleagues in the House:

ADDRESS BY CONGRESSMAN JOHN BRADEMAS

I am pleased to have been invited to take part in this convocation and to join two such distinguished authorities as Charles Yost and Kenneth Thompson in discussing the political dimension of our relationships with the developing nations.

Of the three of us, one is a diplomat; another, a scholar; and a third, which is I, a politician.

As a Member of Congress, I cannot, of course, speak from the experience at the United Nations of Ambassador Yost or with the knowledge of international development of Dr. Thompson.

Indeed, I do not even sit on the committees of the House of Representatives with principal jurisdiction over foreign affairs.

On the other hand, as a Congressman, I must often vote on legislation affecting our relations with other countries and beyond this obvious fact, I have long had a particular interest in foreign policy. It may amuse you to know that when I was a graduate student in international affairs at Harvard, two of my contemporaries there were Henry Kissinger and James Schlesinger.

Indeed, only last Saturday I returned from Nairobi, where I had been attending the Fifth Assembly of the World Council of Churches at which many of the themes being discussed at this convocation were also under lively review.

So I shall offer you some observations and propositions tonight not from the perspective of a diplomat or expert but that of a Congressman from Indiana who is not without views on the subject of this evening's session.

A ROLE FOR CONGRESS IN FOREIGN POLICY

My first assertion is, in fact, this: that in the making of American foreign policy, including policy toward the Third World, there must be a crucial role for Congress.

I commence with this point because there are people in this city, some in very high places, who despite their rhetoric about the joys of executive-legislative "partnership" in foreign affairs, do not really believe that Congress should be significantly involved in the shaping of our foreign policy.

Such persons, in my view, simply do not understand the Constitution of the United States; they do not in their bones appreciate that the American Constitution is neither a charter for authoritarian government, in which one man or a group of them makes all the crucial decisions, nor a prescription for parliamentary democracy, in which the legislative branch must, by definition, support the executive.

The American Constitution is different. It is based on *separated* institutions *sharing* powers, and checks and balances run throughout the system.

Yet over the last generation and, increasingly in recent years, Congress has been largely excluded from a significant role in the development of American foreign policy and until a short time ago was relegated—often, I fear, with its own acquiescence—to the role of rubber stamp or cheerleader for the executive branch.

But as a consequence of Watergate and Vietnam, this relationship between Congress and the White House is no more.

I list only three bits of evidence for the validity of this assertion: the 1973 vote in Congress to end money for U.S. military involvement in Vietnam; passage that year of the War Powers Act, imposing restrictions on the power of a President unilaterally to plunge the nation into war, and the rejection by Congress earlier this year of President Ford's pleas for still more military aid for Southeast Asia.

I could, of course, cite as well the series of votes in Congress cutting off arms to Turkey following the utilization by Turkey of American weapons in August of 1974 for the invasion and occupation of Cyprus, in clear violation both of American law and of bilateral agreements between that country and the United States.

Or, especially relevant to tonight's discussion, I could point to the fact that the reshaping in 1973 of our foreign aid program toward greater emphasis on social and economic development in the poorer countries was an initiative not of the executive branch but of Congress.

And because this evening we are to discuss the political dimension of our subject, I want to linger a little longer on the point I have just made, that Congress must play a much more important role in our foreign policy.

THREE RESPONSIBILITIES FOR CONGRESS IN FOREIGN POLICY

I believe that most objective observers would agree that although the Constitution assigns to the President chief responsibility for the conduct of foreign policy, there are three major roles appropriate to Congress in this field.

First, Congress can establish, through law or in other ways, or give sanction to, certain principles that govern the nation's foreign affairs. I here cite NATO, trade agreements and arms control treaties as but three examples.

Second, Congress can oversee the implementation of these principles by the executive branch. Clearly, Congress cannot—nor should it—run foreign policy on a day-to-day basis. But, equally clearly, Congress has the right, indeed, the obligation, to monitor the executive branch in its direction of foreign affairs.

Third, under the Constitution, it is Congress that has power to appropriate money, essential to the carrying out of policy abroad as well as at home.

I here recall my earlier observation about the nature of the American charter of government. Ours is a constitutional democracy where, as I once heard Carl Sandburg tell Congress, in describing Abraham Lincoln's view of our system, "where the people have the say-so."

I can put my point another way by quoting that American of long experience and much wisdom in foreign affairs, Averell Harriman:

"No foreign policy will stick unless the American people are behind it. And unless Congress understands it, the American people aren't going to understand it."

And here I would press another proposition directly related to the subject of our panel.

It is that members of the executive branch, elected and non-elected, are not always, to be as gentle about it as possible, correct in their assessments of our national interest. This, indeed, is one of the reasons for our separation of powers system and why it is imperative that a vigorous, indeed, at times, feisty, Congress is indispensable to checking and correcting the missteps of the executive in the life or death arena of foreign affairs.

It was not Congress after all but President Ford who asserted that the loss of Cambodia "could vitally affect the national security of the United States."

Nor was it Congress but the Secretary of State who contended that so inextricably linked to each other were America's global commitments that a failure in Vietnam meant that all was lost everywhere, that no one would ever again believe America's word.

It is of such overblown and extravagant rhetoric, unrooted in realistic judgments about our genuine national interests, that the seeds of future conflicts are sown.

I trust that what I have so far said, and will later say, suggests no rush of Congress, like the Gadarene swine, over the cliff into the abyss of isolationism.

Neither Senators nor Congressmen nor the American people who elected them are going isolationist.

The American people, however, and their Congress, are unwilling any longer to support a universalistic interventionism that sees our national interests equally at stake everywhere.

A thoughtful internationalism then, neither an impossible isolationism nor a mindless adventurism, ought to be our prescription for the future.

CONFRONTATION NOT WISEST APPROACH TO THIRD WORLD

Against the background of these observations, let me now turn to the subject immediately before us and to argue that in the relations of the United States with the countries of the Third World—whether those relations are conducted in the forum of the United Nations or elsewhere—the path of confrontation is not the wise or sensible one to travel.

Rather, I would insist, the best interests of the United States and, ultimately, of a stable, peaceful and just world order are more effectively advanced by the processes of bargaining, negotiation, compromise and accommodation.

So let me plunge into the debate between the confrontationists and the accommodationists, to use the jargon current in these matters.

Here I think it useful to begin by referring to Secretary Kissinger's thoughtful speech of last September 1 to the Seventh Special Session of the United Nations General Assembly, for that speech marked a significant change in the attitude of the United States toward the developing nations.

The speech was important to the developing countries in the United Nations not because it contained the specific proposals for which they had been pressing but rather because it demonstrated a willingness by the United States to recognize that the continuing demand of the 77 countries of the South for meaningful negotiations on development was a legitimate one and, moreover, that the United States was willing to begin, in a variety of forums, the process of negotiations.

I am here indebted to Roger Hansen, a senior fellow of the Overseas Development Corporation, for the observation that at the Seventh Session, "those developing countries least interested in scoring empty ideological victories and most interested in producing a resolution on international economic reforms acceptable to the industrialized countries prevailed within the Southern bloc."

That the American proposals of September 1 produced such a courteous response, given that they contained little substantial financial commitment, suggests that in no small measure responsible for the solidarity of the South and the prominence of the radicals within the Group of 77 over the past two years has been the diplomacy, or lack of it, of the United States. With the U.S. saying "no" to nearly every request of the developing countries in nearly every international meeting-place, it should surprise no one that the moderates within the Group of 77 were bereft of much bargaining power and that the radicals were able to exercise an influence far beyond their numbers within the Group.

NEGOTIATION, NOT CONFRONTATION

For most of the developing countries of the Seventh Special Session wanted negotiation with the North, not confrontation.

I here commend to your attention a recent and relevant analysis of the North-South encounter in the form of a most thoughtful essay by Tom J. Farer in the current issue of Foreign Affairs.

Farer's piece, which must have been written before the controversy arising from Ambassador Moynihan's remarks concerning Idi Amin and the Organization of African Unity, helps nonetheless explain what happened.

For, Farer notes, the glue that binds many of the developing states together is the amalgam of anti-colonialism and "the conditions and insignia of inequality and humiliation associated in the minds of the Southern elites with the spoch of European domination."

Farer, specifically citing the writings of those whom he describes as the anti-accommodationists, Moynihan and Irving Kristol, notes that much of their rhetoric is "unremarkably reminiscent of the haute bourgeosie's response to working-class demands during the ascendancy of laissez-faire economics. The poor were deservedly so, the rich as well. . . ."

Farer goes to note how "that arch-American accommodationist, Franklin Delano Roosevelt . . . (w)idly vilified as a traitor to his class . . . set about saving (it) . . . .", and, Farer asks, "Is the present struggle between the classes of nation-states not susceptible to mitigation by the employment of an analogous strategy of accommodation?", analogous to the developments which we are all aware, have characterized the history of the United States over the past four decades?

There are factors within the developing nations that make such a strategy of accommodation easier than might at first appear: (1) our conflicts are not with large anonymous masses but with, in many cases, authoritarian Third World elites; (2) the Third World leaders are identifiable and organized and can speak with authority for their countries; and (3) a relatively small number of Third World representatives need to be brought into senior decision-making roles in the structure of the international economy.

Concludes Farer:

"Although the confrontationists indict advocates of accommodation for discounting our still-great strength, in fact, as is so often the case with those who extol coercion, it is they who seem infected with a debilitating insecurity. To accommodate sensibly to real changes and legitimate demands is not the sign of a weak will. It is rather the essence of statesmanship."

And let me here add that as we listen to the more strident demands from the developing countries today, we might well recall what once appeared to be the extreme platforms of the Populist and labor movements in the United States and remember that many of the programs pressed within our own country which once seemed unreasonable have long since been incorporated into our national life.

A SEAT AT THE BARGAINING TABLE

You will not be surprised when I tell you that in reading Farer's piece, I was struck by the similarity of his analysis to that of the highly respected World Bank economist, Mahbub ul Haq, in his essay, "Negotiating a New Bargain with the Rich Countries", in the ODC volume, *Beyond Dependency*.

For ul Haq argues that even as the New Deal in the United States "elevated the working classes to partners in development and accepted them as an essential part of the consuming society . . . we may be nearing that philosophical bridge . . . when the development of the poor nations is considered an essential element in the sustained development of the rich and poor nations are regarded as complementary and compatible rather than conflicting and irreconcilable."

ul Haq then insists on our perceiving "the current demands of the developing countries for a New International Economic Order . . . in correct perspective."

I think it useful here to quote these demands, three of them, as seen by this distinguished Third World spokesman for they are far less sweeping and grandiose and, at least in contrast to the attacks made on them by the anti-accommodationists, much less radical than the rhetoric of that camp would have you believe. Says ul Haq:

"First, the basic objective of the emerging trade union of the poor nations is to negotiate a new deal with the rich nations through the instrument of collective bargaining. The essence of this new deal lies in the objective of the developing countries to obtain greater equality of opportunity and to secure the right to sit as equals around the bargaining tables of the world. No massive redistribution of past income and wealth is being demanded: in fact, even if all the demands are added up, they do not exceed about 1 percent of the GNP of the rich nations. What is really required, however, is a redistribution of future growth opportunities.

"Second, the demand for a New International Economic Order should be regarded as a movement—as part of a historical process to be achieved over time rather than in any single negotiation. . . .

"Third, whatever deals are eventually negotiated must balance the interests of both the rich and the poor nations. The rich nations have to carefully weigh the costs of disruption against the costs of accommodation and to consider the fact that any conceivable cost of a new deal would amount to a very small proportion of their future growth in an orderly, cooperative framework. The poor nations have to recognize that, in an interdependent world, they cannot hurt the growth prospects of the rich nations without hurting their own chances of negotiating a better deal."

It was, I take it, to the proponents of such a not wholly anti-North posture on the part of the Third World that Secretary Kissinger's September speech was, quite properly, addressed. Surely, in such a context and given all the problems that beset detente between the United States and the Soviet Union, we should not rule out as impossible a modicum of detente between the nations of the North and South.

So where are we with this accommodationist or, perhaps better, "negotiationist," approach as over against the posture of continuous confrontation?

ISSUES UPCOMING IN RELATIONS BETWEEN RICH AND POOR WORLDS

Given the many contingencies that characterize world affairs, it is, of course, hard to say with assurance but here are some of the questions that, I suggest, are worth reflecting on as we look at the relations between the Industrialized and Third Worlds in the months ahead.

First, will the United States and the other developed nations really negotiate seriously?

Will the Northern countries make a genuine effort to shape a strategy of negotiation based on mutual gains for both North and South?

Or was Kissinger's September speech nothing but a palliative?

One sign perhaps of the seriousness with which we undertake this commitment will be the extent to which our government will be structured to enable us effectively to carry on negotiations in a wide diversity of international forums. One thinks here, for example, of the battles within the executive branch on responsibility for shaping international food and energy policies.

A second set of questions: will the North understand that the Southern bloc is not monolithic but that there are moderates as well as radicals who can compose the majority of the 77?

Will the North appreciate that there are differences of interest among the Southern bloc countries, for example, between oil exporters and importers?

Will the North realize that it is Northern activities (or lack of them) more than common interests which sometimes drive the Southern countries into a bloc?

THE ANTI-ZIONIST RESOLUTION

Here I cannot, of course, fail to make special note of the recent events at the United Nations in connection with the anti-Zionist resolution, a resolution which obviously deserved the description, "obscene," which it won from Ambassador Moynihan.

There is, however, no little reason to believe that had the United States pursued a different, and more skillful, diplomatic course, we might have succeeded in blocking the resolution by, in the language congenial to Congressmen, recommitting it and thereby effectively killing it.

But there is a judgment on the part of many professional, knowledgeable diplomats that the path pursued by our Ambassador at the United Nations drove many of the Third World countries into a position of support for the resolution which they really would have preferred not to take.

Perhaps we can find a key to what happened there in two sentences in Ambassador Moynihan's AFL–CIO speech which have not received as much attention as some others. Said the Ambassador:

". . . In the United Nations today there are in the range of two dozen democracies left. Totalitarian Communist regimes and assorted ancient and modern despotisms make up all the rest. And nothing so unites these nations as the conviction that their success ultimately depends on our failure."

This language, in effect, an undifferentiated declaration of, if not war, to be euphemistic about it, unfriendliness, on the entire Southern bloc, helped, at least, in the eyes of a number of observers, drive the moderates among them into the extremist column.

In any event, the dispute has in turn now made its way into domestic politics where it is undercutting much of the thrust of Secretary Kissinger's laudable September 1 effort to move U.S. policy into a more constructive, positive negotiating posture vis-a-vis the nations of the Third World.

The other point I feel here compelled to make is that despite rhetorical expressions of concern about the anti-Zionist resolution, there was apparently no major effort on the part of the Department of State effectively to press some of the key nations not to vote for its passage.

By effective pressure, I have in mind, for example, direct messages to the heads of state of certain countries from the President and the Secretary of State.

So our *macho*-like speeches at the UN, while predictably garnering editorial praise across the country, proved in the end a failure: we did not succeed in killing the anti-Zionist resolution. For I take it that at the United Nations as in Congress, it is better to have few speeches and win the vote than to have lots of speeches and lose.

And may I here interpose that Pat Moynihan is an old and valued friend of mine so that what I have to say here brings me no joy.

JUSTICE WITHIN THE DEVELOPING COUNTRIES

A third issue to which we should tend in the months ahead is the apparent lack of concern within developing countries for issues of justice among their own peoples. Will this insensitivity prove an obstacle to accommodation between the nations of the North and South?

Congress, for example, has been insisting over the past three years on supporting chiefly those developing programs that raise the standard of living of the poorest.

But if Southern governments show little interest in changing their internal power structures and Northern governments give highest priority to maintaining "order", who will look out for justice for the masses of people in the Southern bloc lands? If the "forgotten 40%" are not reached by development policies, will our gains then be short term in nature?

I would remind you in this connection that polls by Louis Harris show that while 52% of the American public supports foreign economic aid, that number leaps to 79% if there is assurance that the help actually reaches people.

Dr. Kissinger's speech of September 1 was in no small part a reflection of this Congressional insistence that U.S. development aid go increasingly to the poorest people and to the poorest countries.

I was myself present when, last St. Patrick's Day, President Ford, speaking at the University of Notre Dame, I think accurately summed up popular sentiment on this point. Said the President:

". . . people throughout America realize that no structure of world peace can endure unless the poverty question is answered. There is no safety for any nation in a hungry, ill-educated and desperate world."

THE RAPID GROWTH OF U.S. ARMS SALES

Let me list yet another relevant issue, one that is causing sharply increased apprehension in Congress, the rapid growth in U.S. arms sales—over $10 billion in fiscal 1975 to more than 70 countries, including developing ones.

Beyond the drain of resources that might go toward development, the dangers of such rapid proliferation of U.S. arms all over the world must be evident.

Indeed, I can tell you from first-hand knowledge that one of the reasons so many Members of the House voted to cut off arms to Turkey was their fear that a resumption of sales, in clear violation of principles and provisions of U.S. law and of our agreements with Turkey, would be a green light to other U.S. arms purchasers also to thumb their noses at our statutory prohibitions against using the weapons for other than defensive purposes. Such a trend would carry ominous implications.

Senator Humphrey has proposed legislation for a thorough overhaul of our arms practices—and no supporter of development, or of a stable world, can fail to favor such an effort.

Finally, in this litany of observations and admonitions about U.S. policy on development in the immediate future, let me assert as strongly as I can that the United States should not be in the business of closing doors but rather of opening them to new processes, formal and informal, for dealing more cooperatively and constructively with the wide range of problems that confront North and South.

And I would here insist that a Northern policy of constant, continuing and self-conscious confrontation with the Southern nations will play directly into the hands of three groups: the Third World radicals, the major Communist powers and the extreme Right in the United States—as unholy an alliance as one can conjure up!

PACEM IN TERRIS: PRO RECONCILIATION

And if I need cite any further authority for my proposition that negotiation rather than confrontation is the better part of wisdom in these matters, I recall to your attention only this sentence:

"Not only can it happen, but it actually does happen that the advantages and conveniences which nations strive to acquire for themselves become objects of contention, nevertheless, the resulting disagreements must be settled, not by force, nor by deceit or trickery, but rather in the only manner which is worthy of the dignity of man, i.e., by a mutual assessment of the reasons on both sides of the dispute, by a mature and objective investigation of the situation, and by an equitable reconciliation of differences of opinion."

This, of course, is the language of Pope John XXIII in Part III, Relations Between States," of *Pacem in Terris*.

Mr. Chairman, I have argued two principal themes tonight; I have said that there must be a significant role for Congress in the shaping of American foreign policy, including our policy toward the developing nations, and I have pressed the case for negotiation rather than confrontation as the more fruitful and effective way, in the foreseeable future, for the United States, and the rest of the Northern nations, to do business with the countries of the Third World.

THE KEY: THE HERITAGE AND HISTORY OF AMERICA

Let me conclude my remarks by saying that the path of negotiation and accommodation which I urge is wholly in keeping with both the highest purposes and much of the history of the United States.

For no one can understand modern America without appreciating that crucial to our strength as a nation has been our remarkable capacity to open opportunities to as many of our own people as possible to share both in the decisionmaking about, and the benefits of, our society.

Indeed, the story of our national greatness is in large measure the story of the way in which America's working men and women, our ethnic and black minorities, and indeed, the overwhelming masses of our citizens have won, often after much struggle—which even now continues—a substantial share in the nation's economic, social and political life.

Surely, then, facing the meeting of rich and poor on a global scale, the United States, of all countries, should not flinch from the wider challenge this encounter presents to our capacity for leadership.

So let us not wring our hands in despair and complain that fate has doomed us to be part of the permanent minority.

Rather let us find, in the ideals of our own heritage and the course of our own history, ample cause for hope and, indeed, confidence, that the United States can be a determining force in building a world in which, in the words of *Pacem in Terris:*

". . . all peoples of the earth become as brothers . . . and . . . the most longed-for peace blossom forth and reign always among them"

Pax vobiscum.

TAXPAYERS SHOULD NOT FOOT THE BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. Aspin) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, the Northrop Corp. tried to stick the taxpayers with a $131,096 bill, the cost of transporting Members of Congress, congressional staffs and relatives on the firm's private aircraft.

I have been told by the Defense Contract Audit Agency, DCAA, that between August 1970 and the end of 1973, 12 flights costing $131,096 were billed to the Government as "overhead" on Northrop's numerous Air Force contracts.

Mr. Speaker, there is no reason that the taxpayers should foot the bill for Northrop giving free rides to politicians.

However, in this case, Northrop did get caught with its hands in the cookie jar. Pentagon auditors questioned about $112,700 of the expenses during a routine audit. Northrop conceded to the Pentagon auditors that the costs were improperly charged and voluntarily deleted the amounts of overhead expenses paid by the Air Force. Now in dispute is about $18,400 in the cost of the free plane rides which have been "questioned" by DCAA and a report issued August 6, 1975. Apparently, the $18,400 has actually been collected by Northrop.

The 12 flights involve transporting some 12 to 13 individuals from a variety of destinations in the United States. DCAA could not provide the names of individuals involved.

Mr. Speaker, I recently publicly released the August 6, 1975, audit report on Northrop which details a total of $6.1 million in questionable costs involving consultant fees, lobbying, and entertainment. As many of my colleagues know, Northrop has been accused of operating a hunting lodge on Maryland's eastern shore, where senior military and civilian officials of the Defense Department have been entertained. Twenty-two military and civilian officials have been admonished for accepting Northrop's entertainment in direct violations of Pentagon regulations which prohibit the acceptance of any gratuity or gift from contractors.

Mr. Speaker, the behavior of the Northrop Corp., has called into serious question the integrity of our entire procurement process. We need to clean house, and clean house now.

CONGRESSMAN DRINAN'S REFLECTIONS ON THE DEBATE ON ZIONISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. Drinan) is recognized for 15 minutes.

Mr. DRINAN. Mr. Speaker, it is distressing that the people of the United States saw so little of the debate that led to a U.N. General Assembly resolution on November 10 stating that Zionism is a form of racism. Public television in New York, Channel 13, televised the entire debate and has replayed the debate six times. Several networks in Europe also played the whole debate or large parts of it. As a result of the very scant treatment given by either the written or the electronic press in America, the people of this country unfortunately know all too little about the deliberations of the Third Committee of the General Assembly and how and why its resolution on Zionism was accepted on November 10 by the Plenary General Assembly.

Arab spokesmen predominated among the relatively few who spoke in the General Assembly in favor of condemning Zionism. The principal contention made by Arab spokesmen was that Zionism had, in their judgment, expelled Palestinians and that, as a result, Zionism was a form of racism. The assumption of Arab proponents was that the Zionists allegedly expelled and expatriated a population in order to replace that population with a superior kind of person. Arab rhetoric in the General Assembly debate frequently characterized Zionism as apartheid since, according to this logic, granting citizenship by the law of return to Jews was an exaltation of Jews over non-Jews.

Ambassador Baroody of Saudi Arabia sought to make it clear that he had "no quarrel with Judaism—but with Zionism." He characterized the latter as a political movement "which originated in Europe and not in the Orient." The representative of Kuwait added to this idea by stating that Zionism, born as a political movement in 1897, is not inherent in the theology of Judaism. The spokesman from Kuwait inferred somehow from those who support the resolution against link because it gives preference to Jews."

The ambiguity and vagueness of the case of the proponents for the resolution that Zionism is racism was noted in brilliant language by Ambassador Waldron-Ramsey of Barbados. This distinguished gentleman pointed out that there was absolutely no evidence or proof of the allegation and that the resolution was, as a result, "intellectually dishonest." The spokesman from Barbados noted that those who support the resolution against Zionism "direct attention away from the fight against racism."

Ambassador Chaim Herzog of Israel noted early in the debate that the world was witnessing "the first organized attack on an established religion since the Middle Ages." The Ambassador noted that support for Zionism had been written into the League of Nations mandate and that in 1947, Zionism had been endorsed by the very General Assembly of the United Nations which now sought to undermine the very centerpiece of the political architecture of Israel.

Ambassador Herzog retaliated to the charge that Zionism is racism by asking the delegates from the Arab nations about the persecution of the 800,000 Jews who had lived for 2,000 years in the Arab lands. Those Jews were slaughtered, persecuted, driven into exile or, if they still remain in Arab countries, are subjected to the most outrageous forms of racism.

Ambassador Herzog stated that he was proud to live in a nation that has Arab ministers in the government and Arabs as elected members of the Knesset. Israel, he noted, has Arab officers and men in the armed forces by their own volition and not by compulsion. In addition, hundreds of thousands of Arabs visit Israel each year and thousands of Arabs from all over the Middle East come to Israel regularly for medical treatment.

On November 10, 1975, Ambassador Herzog in a moving statement noted that it was precisely 37 years ago, on November 10, 1938, that Hitler launched the stormtroopers in a coordinated attack on all of the synagogues of Germany. It was a night, the Ambassador stated, that led to the crematoria and the gas chambers and, "to the most terrifying holocaust in the history of man." The United Nations, the Ambassador continued, began its life as "an anti-Nazi alliance" but that now the General Assembly was operating in an atmosphere in which Hitler would feel very comfortable in the midst of the debate.

Ambassador Herzog pointed out that in the Bible in the 10th century before Christ, the name Zion was given to the eastern-most of the two hills of ancient Jerusalem. The term Zion appears 152 times in the Old Testament and always refers to Jerusalem, the royal city and the city of the Temple. Zion was the place where the Lord had David installed as King.

In the 3,000 years since the term Zion was first placed in the sacred literature of the Jewish people, the concept of Zion has grown to mean the whole of Israel. Zion is central to Judaism because, as Ambassador Herzog observed, every Jew while praying wherever he is in the world, faces toward Jerusalem.

The Ambassador from Israel excoriated the proponents of the anti-Zionist resolution—a proposition which, in his judgment, denied the very central precepts of the United Nations. Ambassador Herzog concluded that "a nation's level of humanity can invariably be judged by its behavior toward its Jewish population."

Some very trenchant arguments against the anti-Zionist resolution were made by Father Joseph Nunez, the delegate from Costa Rica. Father Nunez, a Catholic priest, spoke about Christian leaders, who, at a recent meeting in Memphis, stated that "to compare Zionism with racism is a calumny against the Jews * * * and a return to the old anti-Semitism that was a scourge of mankind for centuries." Father Nunez stated that the resolution is "an unbridled invitation to genocide against the Jewish people * * * which will reopen chapters of history of pain and persecution for that people."

Father Nunez stated that the resolution blatantly violated the very U.N. Charter itself where in article I, the key purpose of the U.N. is described as "to achieve international cooperation in solving international problems * * * and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion." The anti-Zionist resolution consequently violated the very first article of the U.N. Charter where protection for religion is guaranteed.

AN ANALYSIS OF THE VOTING ON THE ZIONIST RESOLUTION

Although there is very little evidence to justify an optimistic view of the anti-Zionist votes cast by the 72 nations, an analysis of the various blocs is revealing. The African bloc is badly split. Of 45 African nations in the General Assembly, 25—or 56 percent—voted for the proposition. Two nations voted against, and 18 abstained. The African delegates were, of course, torn, since they desired to preserve the program of the decade against racism.

Asia, with 33 states, was more solidified against Zionism than Africa. Of the 33 states, 24, or 73 percent, voted for the resolution, no nation voted against, and 9 abstained.

Five of the 26 Latin American nations in the U.N. voted for the proposition, eight voted against, and 12 did not vote.

Of the 12 socialist states, only Romania abstained. Of the 23 Western European nations, 4 voted in favor of the resolution, 18 opposed it, and 1 was absent.

It is indeed depressing to note that a total of 86 percent of the 25 African, 24 Asian, and 11 socialist nations voted in favor of the resolution that Zionism was a form of racism. On the other hand, it is encouraging to note that of all of the Western European nations, 89 percent voted against the resolution.

There is no denying the fact that the vast majority of mankind voted for the condemnation of Zionism. Mainland China, with one-fourth of humanity, voted for the resolution as did India, Pakistan, and Indonesia. Add the population of these vast nations to the peoples of the African and Asian nations which rejected Zionism, and one must conclude that well over 60 percent of humanity voted for the declaration that Zionism was somehow a racist philosophy.

It is interesting to note that Chile, which had voted "yes" in the Third Committee, abstained in the Plenary Session of the General Assembly. Spain followed an identical course of action. There appears to be no public explanation or justification for the votes of Mexico and Brazil in favor of the anti-Zionist resolution.

BOTH HOUSES OF CONGRESS SWIFTLY PASSED A CONDEMNATION OF THE ANTI-ZIONIST RESOLUTION

The House of Representatives by a vote of 384 to zero enacted House Resolution 855, which stated that the U.N. resolution "encourages anti-Semitism by wrongly associating and equating Zionism with racism—thereby contradicting a fundamental purpose of the U.N. Charter."

The press in America and elsewhere has been overwhelmingly opposed to the resolution on Zionism. Christian religious bodies have, as never before, reacted with total abhorrence to the resolution condemnatory of Zionism. The World Council of Churches meeting in Africa denounced the resolution on Zionism in unusually strong terms.

Countless people in the Congress and in the country are thinking of ways by which the unfortunate resolution of the General Assembly on Zionism could be rescinded or reversed. To reopen a question in the General Assembly, a vote of two-thirds or 96 nations would be required. It may be, nonetheless, that already some of the socialist nations are wondering whether their vote against Zionism may impede their efforts for détente. Similarly, some developing nations may be having some second thoughts about the way in which they voted in solidarity with the Arab nations.

No one at this moment can predict with any degree of certainty what might transpire in the future concerning this dark moment in the history of the United Nations: 104 of the 142 nations in the U.N. are from the Third World. Those from this bloc that voted against Zionism have many motives that led them to this decision. It would seem logical to feel that the pressure of the Arab nations, their chief supplier of oil, might well be the principal motivation for the anti-Zionist vote. If this is so, both the United States and the United Nations can put pressure on the Arab nations to desist from such coercion.

In the days to come, many voices will be urging a reappraisal of the U.S. involvement in the United Nations. In 1973, the United States provided $405 million or 31 percent of all contributions to the United Nations. Since the establishment in 1945 of the U.N., the United States has contributed $5.5 billion to the United Nations.

Despite all of the disappointments which all of us have had concerning the United Nations, the fact remains that it is the one international agency capable of being developed into a unit which will guarantee the rule of law among all nations. Israel has announced that it has absolutely no intention of withdrawing and has in fact urged the United States to set aside any thought of a lessening of U.S. participation. We must remember that the Arab nations have a total of 137 million people, just 3 percent of the world's total population. There simply have to be ways by which their economic and political warfare against Israel can be controlled so that it does not bring about deterioration and paralysis within the United Nations.

The United States should work actively to secure a reversal of this vote by the General Assembly by providing objective information on Zionism to nations who supported the resolution on the basis of emotion rather than reason. At the same time, we should refuse to participate in or finance any U.N. activity aimed at implementing this abhorrent resolution. Moreover, the United States should propose changes in the U.N. Charter and bylaws to separate completely political issues from cultural, health, scientific, and economic development programs operated under U.N. auspices. No nation should be excluded from participation in these important programs of international cooperation on any political grounds. These and other measures will hopefully help stem the tide of irrationality at the United Nations and begin to restore that organization to its original principles of world peace and respect for human rights and human dignity.

PRESIDENT FORD: NEW AMERICAN COMMITMENT TO INCREASED ECONOMIC, CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST DESERVES STRONG SUPPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii (Mr. MATSUNAGA) is recognized for 5 minutes.

Mr. MATSUNAGA. Mr. Speaker, in one of his greatest speeches delivered since he became our Nation's Chief Executive, President Ford spelled out a new Pacific Doctrine in our relationships with the countries of the Pacific Basin. The President spoke at the John F. Kennedy Theater at the East-West Center in Honolulu, Hawaii, on Sunday, December 7, 1975, on the morning of his return to the United States from his most recent trip to Asia.

As Hawaii's Representative to Congress from the district in which the President spoke, I flew back to Hawaii just in time to greet him at the airport and accompany him to the *Arizona* Memorial in Pearl Harbor, where the President presented a floral wreath in memory of those Americans who gave up their lives in World War II. Every World War II veterans' organization in Hawaii, including its auxiliary, was represented at the ceremonies aboard the Memorial, built over the sunken hull of the battleship, the U.S. *Arizona*. The brief memorial address which the President delivered was most appropriate and moving. As a member of the Pacific War Memorial Commission which built the beautiful and unique Memorial, I experienced mixed emotions of pride and sadness as the President spoke, and the bugles followed with the National Anthem while our flag was being raised to the top of the mast.

The President then breakfasted with about 90 political, business, and military leaders of the Hawaiian community, at the residence of Adm. Noel Gayler in Pearl Harbor, before proceeding to the East-West Center to deliver his first major address on U.S. foreign policy upon his return from Asia.

The Kennedy Theater was filled to capacity and the President's speech was enthusiastically received.

Mr. Speaker, President Ford could not have selected a better site in which to deliver his major foreign policy address, for as he himself noted:

> Hawaii is a splendid showcase of America and exemplifies our destiny as a Pacific nation.

Mr. Speaker, I include the text of the President's speech in the RECORD for its perusal by my colleagues:

TEXT OF PRESIDENT'S SPEECH

President of the East-West Center Everett Kleinjans, Governor George Ariyoshi, Senator Hiram Fong, Congressman Spark Matsunaga, Assistant Secretary of State John Richardson, Chairman of the Board of Governors Herbert Cornuelle, President of the University of Hawaii Fujio Matsuda, Ladies and Gentlemen: It is good to be home. I have just completed a seven-day trip to the state of Alaska, to the People's Republic of China, to our good friends, Indonesia and the Philippines, and am now pleased to visit our 50th state, Hawaii.

This morning I reflected on the past at the shrine of Americans who died on a Sunday morning 34 years ago. I came away with a new spirit of dedication to the ideals that emerged from Pearl Harbor and World War II, dedication to America's bipartisan policy of pursuing peace through strength, and dedication to a new future of interdependence and cooperation with all the peoples of the Pacific.

I subscribe to a Pacific doctrine of peace with all—and hostility toward none. The way I would like to remember Pearl Harbor is by preserving the power of the past to build the future. Let us join with the new and old countries of the Pacific in creating the greatest of civilizations on the shores of the greatest of oceans.

My visit here to the East-West Center holds another kind of meaning. Your center is a catalyst of America's positive concern for Asia, its peoples and its rich diversity of cultures. You advance our hope that Asia will gain a better understanding of us. Last year we were pleased to welcome nearly 54,000 Asian students to the United States—while thousands of American students went to Asian countries.

I applaud your contribution to international partnership in education. Your efforts represent America's vision of an open world of understanding, freedom, and peace.

In Hawaii, the crossroads of the Pacific, our past and our future join.

I was moved when I visited Japan last year, and when I recently welcomed the Emperor and Empress of Japan to America. The gracious welcome I received, and the warmth of the welcome the American people bestowed upon the Emperor and the Empress testify to the growing friendship and partnership between our countries. This is a tribute to what is best in man—his capacity to grow from fear to trust and from a tragic past to a hopeful future. It is an example of what can be achieved in human progress. It inspires our new efforts in Asia to improve relationships.

America, a nation of the Pacific Basin—has a vital stake in Asia, and a responsibility to take a leading part in lessening tensions, preventing hostilities, and preserving peace. World stability and our own security depend upon our Asian commitments.

In 1941, 34 years ago today, we were militarily unprepared. Our trade in the Pacific was limited. We exercised jurisdiction over the Philippines. We were preoccupied with Western Europe. Our instincts were isolationist. We have transcended that age. We are now the world's strongest nation. Our great commercial involvement in Asia is expanding. We led the way in conferring independence upon the Philippines. Now we are working out new association arrangements with the trust territories of the Pacific.

The center of political power in the United States has shifted westward. Our Pacific interests and concerns have increased. We have exchanged the freedom of action of an isolationist state for the responsibilities of a global power. As I return from this trip to three major Asian countries, I am even more aware of our interests in this part of the world.

The security concerns of great world powers intersect in Asia. The United States, the Soviet Union, China, and Japan are Pacific powers. Western Europe has historic and economic ties with Asia. Equilibrium in the Pacific is essential to the United States and to the other countries of the Pacific.

The first premise of a new Pacific Doctrine is that American strength is basic to any stable balance of power in the Pacific. We must reach beyond our concern for security. But without security, there can be neither peace nor progress. The preservation of the sovereignty and independence of our Asian friends and allies remains a paramount objective of American policy.

We recognize that force alone is insufficient to assure security. Popular legitimacy and social justice are vital prerequisites of resistance against subversion or aggression. Nevertheless, we owe it to ourselves, and to those whose independence depends upon our continued support, to preserve a flexible and balance position of strength throughout the Pacific.

The second basic premise of a new Pacific Doctrine is that partnership with Japan is a pillar of our strategy. There is no relationship to which I have devoted more attention. Nor is there any greater success story in the history of America's efforts to relate to distant culture and peoples. The Japanese-American relationship can be a source of pride to every American and to every Japanese. Our bilateral relations have never been better. The recent exchange of visits symbolizes a basic political partnership.

We have begun to develop with the Japanese and other advanced industrial democracies better means for harmonizing economic policies. We are joining with Japan, our European friends, and representatives of the developing countries this month to begin shaping a more efficient and equitable pattern of North-South economic relations.

The third premise of a new Pacific Doctrine is the normalization of relations with the People's Republic of China, the strengthening of our new ties with this great nation representing nearly one quarter of mankind. This is another recent achievement of American foreign policy. It transcends 25 years of hostility.

I visited China to build on the dialogue started nearly four years ago. My wide-ranging exchanges with the leaders of the People's Republic of China—with Chairman Mao Tse-Tung and Vice Premier Teng Hsiao-Ping—enhanced our understanding of each other's views and policies. There were, as expected, differences of perspective. Our societies, philosophies, and varying positions in the world give us differing perceptions of our respective national interests.

But we did find common ground. We reaffirmed that we share very important areas of concern and agreement. They say and we say that the countries of Asia should be free to develop in a world where there is mutual respect for the sovereignty and territorial integrity of all states; where people are free from the threat of foreign aggression; where there is non-interference in the internal affairs of others; and where the principles of equality, mutual benefit, and coexistence shape the development of a peaceful international order. We share opposition to any form of hegemony in Asia or in any other part of the world.

I reaffirmed the determination of the United States to complete the normalization of relations with the People's Republic of China on the basis of the Shanghai Communique. Both sides regarded our discussions as significant, useful, and constructive. Our relationship is becoming a permanent feature of the international political landscape. It benefits not only our two peoples but all peoples of the region—and the entire world.

A fourth principle of our Pacific policy is our continuing stake in the stability and security of Southeast Asia.

After leaving China, I visited Indonesia and the Philippines. Indonesia, a nation of 140 million people, is one of our important new friends and a major country of the region. The Republic of the Philippines is one of our oldest allies. Our friendship demonstrates America's long-standing interest in Asia.

I spent three days in Jakarta and Manila, and would have liked to have had time to visit our friends in Thailand, Singapore, and Malaysia. We share important political and economic concerns with these five nations, who make up the Association of Southeast Asian Nations. Americans will be hearing much about the ASEAN organization. All its members are friends of the United States. Their total population equals our own. While they are developing countries, they possess many assets: vital peoples; abundant natural resources and well-managed agricultures. They have skilled leaders and the determination to develop themselves and solve their own problems.

Each of these countries protects its independence by relying upon its own national resilience and diplomacy. We must continue to assist them. I learned during my visit that our friends want us to remain actively engaged in the affairs of the region. We intend to do so.

We retain close and valuable ties with our old friends and allies in the Southwest Pacific—Australia and New Zealand.

A fifth tenet of our new Pacific policy is our belief that peace in Asia depends upon a resolution of outstanding political conflicts.

In Korea, tension persists. We have close ties with the Republic of Korea. And we remain committed to peace and security on the Korean Peninsula, as the presence of our forces there attests. Responding to heightened tension last spring, we reaffirmed our support of the Republic of Korea.

Today, the United States is ready to consider constructive ways of easing tension on the Peninsula. But we will continue to resist any moves which attempt to exclude the Republic of Korea from discussion of its own future.

In Indochina, the healing effects of time are required. Our policies toward the new regimes of the peninsula will be determined by their conduct toward us. We are prepared to reciprocate gestures of good will—particularly the return of the remains of Americans killed or missing in action, or information about them. If they exhibit restraint toward their neighbors and constructive approaches to international problems, we will look to the future rather than to the past.

The sixth point in our new Pacific policy is that peace in Asia requires a structure of economic cooperation reflecting the aspirations of all the peoples in the region.

The Asian-Pacific economy has recently achieved more rapid growth than any other region of the world. Our trade with East Asia now exceeds our transactions with the European community. America's jobs, currency, and raw materials depend upon economic ties with the Pacific Basin. Our trade with the region is now increasing by more than 30 percent annually—reaching $46 billion last year. Our economies are increasingly interdependent as cooperation grows between developing and developed countries.

Our relations with the five ASEAN countries are marked by growing maturity, and by more modest and more realistic expectations on both sides. We no longer approach them as donor to dependent. These proud peoples look to us less for outright aid than for new trading opportunities and more equitable arrangements for the transfer of science and technology.

There is one common theme which was expressed to me by the leaders of every Asian country I visited. They all advocate the continuity of steady and responsible American leadership. They seek self-reliance in their own future and in their relations with us. Our military assistance to allies and friends is a modest responsibility but its political significance far surpasses the small cost involved. We serve our highest national interests by strengthening their self-reliance, their relations with us, their solidarity with each other, and their regional security.

I emphasized to every leader I met that the United States is a Pacific nation. I pledged that, as President, I will continue America's active concern for Asia and our presence in the Asian-Pacific region.

Asia is entering a new era. We can contribute to a new structure of stability founded on a balance among the major powers, strong ties to our allies in the region, an easing of tensions between adversaries, the self-reliance and regional solidarity of smaller nations, and expanding economic ties and cultural exchanges. These components of peace are already evident. Our foreign policy, in recent years—and in recent days—encourages their growth.

If we remain steadfast, historians will look back and view the 1970's as the beginning of a period of peaceful cooperation and progress—a time of growing community for all the nations touched by this great ocean.

Here, in the Pacific crossroads of Hawaii, we envision hope for a wider community of man. We see the promise of our unique republic which includes all the world's races. No other country has ever been so truly a free, multi-racial society. Hawaii is a splendid showcase of America and exemplifies our destiny as a Pacific nation.

America's Pacific heritage emerged from this remarkable state. I am proud to visit Hawaii—the island star in the American firmament which radiates the universal magic of Aloha.

Let there flow from Hawaii—and from all of the States in our Union—to all peoples, East and West, a new spirit of interchange to build human brotherhood.

ERDA AUTHORIZATION CONFERENCE REPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Brown) is recognized for 5 minutes.

Mr. BROWN of California. Mr. Speaker, today I sent a "Dear Colleague" letter to each Member of the House explaining, in a very abridged form, the sequence of events which have led to the upcoming House vote on the 1976 ERDA authorization bill, and two Senate-added provisions of that bill, sections 102 and 103. Because some Members may not see this letter, I wish to have it printed in the Congressional Record at this time:

> December 8, 1975.
>
> Dear Colleague: As a Member of the Committee on Conference on H.R. 3474, the ERDA 1976 Authorization Bill, and as one of only two conferees to vote to delete the Senate added provisions, Section 102 and Section 103 from the bill in Conference, I feel obligated to make known my position on the Report.
>
> Section 102 and Section 103 represent two very significant legislative proposals which deal with in-situ oil shale leases and loan guarantees for commercial demonstrations of non-nuclear energy technologies respectively. As drafted and passed by the Senate, these additions were poorly structured and, in my view, bad legislation.
>
> The House Conferees decided in September to delete these two sections, but the Senate refused. The House delayed further meetings until it completed an extensive set of hearings on this legislation. Several legislative proposals were produced during this interval, numerous witnesses testified, and even field hearings were conducted. Only after the House developed its own legislative alternatives to the Senate proposal did the conferees actually meet on November 11, 1975. The Conference Report contains the majority of the recommendations made by the House Conferees.
>
> The House itself has not had an opportunity to debate or vote on this issue, which is a procedural circumstance that I deplore. For this reason I voted to delete these sections from the bill at the beginning of the Conference, and called for a separate House vote in the Report. I expect that a separate vote will occur.
>
> I have decided, on the basis of thorough consideration of the Conference Report on its merits, that I will vote in favor of accepting Section 102 and Section 103. I especially believe Section 103, the loan guarantee provision, is as good or better than any legislation passed by the Congress this year. This provision, with good administration and effective Congressional oversight, could encourage several desirable energy technologies, such as bio-mass, geothermal, solar and energy conservation. I further believe the Report adds the proper safeguards against adverse social, economic and environmental impacts.
>
> I will be making my full views known to the House in the next several days, but I did want to personally urge each Member to consider this bill on its merits.
>
> Sincerely yours,
>
> George E. Brown, Jr.,
> *Member of Congress.*

Mr. Speaker, in addition to the few comments above, I would like to direct the attention of the House to another statement which I inserted in the Record on December 2 on pages 38234 to 38236. That statement is taken from the testimony on the loan guarantee program in section 103 of H.R. 3474. Three points were made about the Senate version of section 103 which I believe are fully recognized in the rewritten section 103 that was reported by the Committee on Conference. These points are:

First. Subsidies and other direct forms of Federal assistance should be minimized;

Second. Energy efficiency improvement objectives should be maximized; and

Third. Adverse environmental and social impacts should be minimized. If I thought that this program was not structured to accomplish these goals, I would not be supporting section 103.

WAYS AND MEANS OVERSIGHT SUBCOMMITTEE ANNOUNCES EARNED INCOME CREDIT MEETING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. Vanik) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, the Tax Reduction Act of 1975 provides an earned income credit of up to $400 for millions of low-income families. A credit can be obtained only by filing a tax return in the period from January to April 15, 1976. The Subcommittee on Oversight of the House Ways and Means Committee is concerned about the public's awareness of the availability of this credit and is assisting the Internal Revenue Service in developing an effective outreach program.

On November 20, 1975, the Oversight Subcommittee staff held a meeting with representatives of the IRS and a number of community organizations who are working with low-income individuals to discuss ways in which affected families can be apprised of the filing requirement for claiming the credit. One of several helpful recommendations made at the meeting is to include an informational "stuffer" on the earned income credit in governmental benefit checks that are mailed to low-income families.

Accordingly, the Oversight Subcommittee has invited representatives from Federal agencies which administer food stamps, unemployment compensation, supplemental security income, social security, medicaid, and veterans' benefit programs to discuss the feasibility of using benefit mailings to disseminate tax information.

A meeting has been scheduled for December 11, 1975, at 2 p.m. in H208, the Capitol Building. At the meeting, we will be prepared to discuss which specific Federal benefit and federally assisted benefit mailings will include a notice of the earned income credit, the wording of the notice, the timing of the notice, and how a system of referral of questions to the IRS can be implemented.

We have also invited IRS representatives to give us an updated report on projects and publicity programs that are being planned, especially in light of the recommendations that were made at the last meeting on earned income credit. Because the publicity program is still in the planning phase, we welcome any suggestions or ideas on how the public can be made better aware of the earned income credit. Any such recommendations or ideas should be directed to the Oversight Subcommittee, 1539 Longworth Building, Washington, D.C., 202/225–2743.

THE CONSUMER GOODS PRICING ACT OF 1975

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. Rodino) is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, the Congress has approved and sent to the President the Consumer Goods Pricing Act of 1975 that should serve as a major tool in the effort to control inflation. The House passed this legislation July 21 by a vote of 380 to 11; the Senate cleared it by a voice vote last Wednesday.

As shown by extensive hearings in the Judiciary Committees of both House and Senate, this measure would repeal existing Federal statutes that in effect legalized price fixing by permitting manufacturers of trademarked merchandise to set the price at which those items would be sold. This practice clearly is harmful to competitive businesses and to consumers alike. I am delighted that the President intends this week to sign the measure into law.

Mr. Speaker, I should like to commend those of the Congress who worked with diligence to advance this bill: in the House, Representatives Robert McClory and Barbara Jordan of the Judiciary Subcommittee on Monopolies and Commercial Law, and in the Senate, Senators Philip A. Hart, Roman Hruska, and Edward Brooke of the Subcommittee on Antitrust and Monopoly. They have performed a valuable public service.

LEGISLATION TO STREAMLINE GOVERNMENT'S DATA COLLECTION SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. Nolan) is recognized for 5 minutes.

Mr. NOLAN. Mr. Speaker, I am today introducing legislation which will eliminate substantial amounts of paperwork for both the U.S. Government and the American farmer. The bill would extend the sophisticated sampling techniques now used for the population and housing census to the agricultural census. This measure will increase the timeliness and accuracy of the census while streamlining the data collection process.

Every 5 years, every farmer in America is required to complete an agricultural census for the Department of Commerce. The census form is 20 pages in length and made up of over 900 complex questions. Farmers are required to list every bushel of grain harvested, every acre of land fertilized, and every apple picked. In addition, they must inventory poultry by age, cattle by weight, and answer numerous detailed questions about their income and expenses. The form sometimes takes several days to complete. The paperwork is so burdensome that many farmers have refused to complete the forms despite threats of fines and criminal prosecution.

To burden farmers in this manner is senseless when there is a faster, more accurate, cheaper method of collecting the data available. The legislation which I am introducing would alleviate this burden by providing that the agricultural census be conducted by means of a statistical sample. The 10-year population census with which we are all familiar is presently conducted in this manner. Each household is contacted for a limited amount of information and the remaining data is collected by sample. Under this bill, each farmer would be required to provide only limited information with the major portion collected by sample.

It is generally recognized that a well-constructed sample is both faster and more accurate than a census conducted by traditional means. The mail-back method presently used for the agricultural census does not provide complete data. Further it is substantially more cumbersome and time-consuming than the sample method. Every farm household must be contacted, and the statistics from each tabulated.

This legislation would simply require the Bureau of the Census to collect the major portion of its agricultural information in the same manner that it now collects its population statistics. This would not only streamline the Government's data collection system, but would reduce substantially the burden on the American farmer.

REFUTING THE UGLY DISTORTIONS OF OPERATION WAKE-UP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Badillo) is recognized for 5 minutes.

Mr. BADILLO. Mr. Speaker, this morning a most horrifying piece of mail crossed my desk, and I feel that before it does irrevocable harm to a piece of legislation that comes before us this week, I must comment on its implications.

The letter, from Operation Wake-Up, a New York group active in the reactionary fight against the equal rights amendment, is in opposition to H.R. 9924, the bill which will establish a National Women's Conference in 1976.

First, it alleges that H.R. 9924 is "Bella Abzug's bill." The bill, in reality, has been sponsored by 15 women Members, and 7 male colleagues of Ms. Abzug on the Government Operations Committee. Its 22 sponsors comprise a totally bipartisan group, and a large and distinguished one.

However, what has outraged me is Operation Wake-Up's assertion that "anyone who is for International Women's Year Conference is, by definition, anti-Semitic." As a basis for this statement they use the flimsy notion that the International Women's Year Conference in Mexico City last June, in its final resolution, condemned Zionism, just as the United Nations did last month. First of all, Ms. Abzug, as congressional adviser to the U.S. delegation to that conference, strongly condemned the resolution and urged the delegation to vote against the resolution, which it did, unanimously. But more important, American women have condemned the IWY conference resolution as outspokenly as those who represent us at the United Nations have spoken out in the last days. Therefore, it has no bearing at all on our vote on H.R. 9924.

Operation Wake-Up is a group that resorted to ugly distortion and outright lies in their attempts to frighten the citizens of New York during the equal rights amendment campaign. It is quite obvious that they are attempting the same tactics now on a national scale.

To equate support of an exciting and progressive idea such as a National Women's Conference with a concept that is viscerally abhorrent to so many of us, is to insult the Congress of the United States and its Members. Operation Wake-Up and its members have succeeded only in demeaning themselves.

CALL FOR A WHITE HOUSE CONFERENCE ON PROBLEMS FACING CITIES

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I would like to again call attention to the House of a proposal I made to the President urging that he sponsor a national conference on the problems of our cities. Such a conference, patterned after the economic conference held last fall in Washington and the previous White House conferences on aging, children and youth, the industrial world, and food and nutrition and health, would provide a needed total examination of the problems, assets, and changing circumstances of our cities today. No such White House conference has ever been held, even though our cities have undergone dramatic changes in the past decade and are inhabited by the greater majority of our population.

It seems to me that such a conference is even more necessary today since we know that the legislation passed by the House and awaiting approval by the Senate will not solve the overwhelming financial problems of New York City. And the bill does not even address itself to the present and potential financial difficulties faced by other cities.

An article by John Herbers, assistant national news editor for the New York Times, and a letter by Harold Riegelman, a distinguished New Yorker, both of which appeared in the New York Times on December 7, discuss the need to establish a Federal policy to assist the cities. The article and letter follow:

After New York: The Need for a Federal Help-the-Cities Policy

(By John Herbers)

When the House of Representatives last week was approving a $2.3 billion loan to save New York City from default, Representative Henry S. Reuss of Wisconsin, chairman of the House Banking Committee, said that the measure was only a stop-gap, that "we can be sure the problem will come back to haunt us." It is the opinion of many urban experts that Mr. Reuss is right, and that the promised fiscal assistance is at best temporary relief.

Insofar as the cities are concerned, the Federal Government has yet to carry out a precept long honored by both Democrats and Republicans; that only the central Government can deal adequately with natural or social distress that originates over wide areas, crosses state lines and comes to rest on one or more locality. In the case of New York and a number of other large cities, it is the social distress of large concentrations of poor people gathered from many regions that has been the chief reason for the cities' inability to remain solvent or provide an environment that is considered safe and attractive.

Even with fiscal irresponsibility and an inefficient and overcostly work force—the charges most often leveled against New York—the city could have met its bills with ease had it not been for the enormous burden of public welfare, the largest item in the city budget. About a million citizens, one in every eight, are on welfare. In 1974 the cost to the city—30 percent of the total—was $38.34 for every man, woman and child living in New York. Most cities do not pay the local share of welfare, which is borne by the state. They nevertheless must carry the burden of concentrated poverty in the form of decaying neighborhoods, a declining tax base, a high crime rate and flight of the middle class, a burden New York also carries.

In many other areas, the Federal Government has been at least partly successful in alleviating interstate distress. An old example is flood control. After lowlands in the Mississippi Valley and other areas were repeatedly flooded by drainage of many states there was a national consensus that only the central Government could build and operate the system of dams, levees and control devices needed to prevent annual disaster.

More recently, the Federal Government has come to spend billions of dollars each year on treatment plants to cure pollution of interstate waters. In drugs and food sold in interstate commerce, no one argues that the responsibility for purity lies with the state or locality. The list goes on.

In the last decade or so, the Federal Government has tried in several ways to assume its responsibility for poverty concentrated in the cities. The Democrats who dominated the national Government since the 1930's consistently acknowledged responsibility to both the cities and the poor. Their efforts reached a peak in the 1960's with enactment of a series of categorical programs aimed at curing specific troubles, one by one. But they did not make much dent on the problems of the cities for at least two reasons:

Congress insisted on spreading the funds around until the aid was too thin to do much good, even if the plan were sound. For example, small towns in Tennessee and Colorado, the home towns of influential Congressmen, got Model Cities funds intended for the ghettoes of big cities. A succession of studies showed that the billions of dollars spent in Federal education funds for poor school districts were widely spread about for many purposes.

Many of the programs were structured so that they apparently did more to enrich those who contracted to carry them out than those they were intended to serve. A host of political contributors, lenders, builders and real estate agents has grown rich on housing programs that bogged down in scandals and failed to provide much in the way of better housing for the needy.

After the Republicans gained the White House in 1969, the funds were spread around even more. President Nixon's big program for the cities was revenue sharing, which returns a portion of Federal revenues to the states and localities to use as they wish. The Nixon and Ford Administrations also succeeded in enacting a limited form of revenue sharing by lumping many of the categorical grants together under large block grants.

With revenue sharing, the funds are distributed under a formula that takes into account both need and local taxing effort. But everyone, including wealthy suburbs with a healthy tax base and no poverty, gets something. While the philosophy behind revenue sharing is that local officials know best how to spend the money, it also shifted the burden of dealing with large concentrations of poverty to the city governments, which generally choose to use the money for basic, rather than social, services.

The mayors of the nation's cities lobbied hard for revenue sharing; mayors who preside over large concentrations of poverty had to team up with those who do not. While cities like New York, Chicago, Cleveland, St. Louis and many smaller ones are overwhelmed by concentrations of the poor, cities like Phoenix, Minneapolis, Houston, Nashville and Jacksonville are not. Houston, for example, not only has extended boundaries that enable it to tax the suburban ring, however sprawling, it has a low unemployment rate, low welfare payments and none of the physical decay that plagues old eastern cities.

What many consider to be the most important move toward the Federal Government's assuming responsibility for interstate poverty—Federal assumption of all welfare costs—has eluded both Democrats and Republicans. Study commissions under the Johnson and Nixon administrations recommended that some form of the negative Federal income tax be adopted in place of the welfare system that is riddled with inequities, and with incentives for the poor to concentrate in cities that offer the highest payments.

The Democrats lost the White House before they could make such a move and the Republicans who replaced them could never work out an approach that the Democratic majority in Congress could agree to. The old system festered and brought new protests. Welfare appendages grew and gained constituencies: About 19 million people receive food stamps, which are Federal subsidies, costing $6 billion a year.

The accumulation of revenue shares, block grants, food stamps, welfare grants and other widely spread Federal aid did little to relieve cities burdened with concentrated poverty. The old precept that—couched in conservative terms—the Federal Government should do only what the localities cannot do for themselves was all but forgotten. Pessimism about the Government's ability to bring change and about the mounting Federal budget grew.

As to welfare reform, it is again under study, by the domestic council of the Ford Administration. The President is to make recommendations early next year. It will be a political year and no one expects action before 1977.

Meantime, many analysts believe that the economies New York is being forced to adopt in return for state and Federal help against bankruptcy are not going to reduce the burden of poverty. Social services are being reduced and it is the middle-class, not the poor, who are moving out. The New York crisis has, however, again emphasized that the problems of concentrated and unabated poverty probably cannot be contained within the boundaries of innercity slums, and cannot be solved by the cities alone.

To Save America's Cities

To the Editor:

Now that the fiscal clouds enveloping New York City have lifted, at least temporarily, it becomes apparent that the fiscal and management problems of American cities are not local. They are nationwide. Their intensity varies in degree among cities, but not significantly in scope. The great preponderance of the cities' share of the nation's population warrants nationwide concern with those problems.

They include, among other maladjustments, the inflow of the economically deprived, outflow of the economically advantaged, pollution of air and water, over-reliance on property taxes, uneconomic miscellaneous taxes, delinquent tax collections, uneven impact of social welfare and related costs, overextension of some services and undersupply of others, obsolete civil-service merit systems, unsatisfactory labor relations and pensions, unreliable accounting and reporting methods and imprudent borrowing practices.

Specifically, the fiscal turbulence affecting the State and City of New York requires, in the national interest, a searching inquiry into the nature of this kind of fiscal disorder and management failure. Is this a temporary aberration caused by human, political misjudgment and exacerbated by general economic conditions or a basic flaw in the present-day workings of our Federal system, signifying the incapacity of local and perhaps even state government to continue their role wholly or in part as prime provider of basic public services?

The need is to assemble and staff a select, nonpartisan, expert, federally funded commission representative of the nation, knowledgeable in economic, financial and political techniques. It should be charged with an explicit clarification of the recent New York experience, a determination of the degree to which it is typical in other cities, an examination of the strengths and weaknesses of local government and proposals of ways and means for fortifying its virtues and correcting its defects. It should establish effective standards and consider means of their enforcement.

The commission should be under a mandate to make a progress, if not a final, report to the President, Congress and the public within one year after appointment. The findings of the commission should also be the subject of hearings before the appropriate committees of the Congress with a view toward correcting flaws in our Federal system of government and a reordering of state and local responsibilities.

Manifest interim adjustments, such as the Federal assumption of social welfare costs, should not await the broader recommendations of the proposed commissions. The immediate needs cannot safely await larger and essential ultimate solutions.

HAROLD RIEGELMAN.

NEW YORK, *December 2, 1975.*

COMMENTS ON HOUSE CONCURRENT RESOLUTION 449

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I am listed as a cosponsor of House Concurrent Resolution 449 which has as its goal our providing 1 percent of our GNP for development and food assistance to the poor of the world.

I have withdrawn my support for that resolution in view of our crushing financial problems here at home. I believe we should do our fair share in assisting the hungry of the world, but I cannot support expending 1 percent of our gross national product for that purpose which would be $14 billion in this fiscal year alone when we already have a deficit of $72 billion and there are those who are hungry in this country.

Those who believe we are not doing enough, and indeed we must do more, should be aware that over the past decade we have provided over four-fifths of all the world's food aid.

GOVERNOR CAREY'S REMARKS ON FEDERAL DEBT

(Mr. RHODES asked and was given permission to extend his remarks at this point in the Record.)

Mr. RHODES. Mr. Speaker, I noted with great interest the Governor of New York, Mr. Carey, Sunday on "Meet the Press." He apparently could not resist the temptation to exercise a little fiscal sleight of hand, a little legerdemain in the realm of spending. Mr. Carey saw fit to chide the President because the Federal budget is unbalanced, and because Uncle Sam is up to his whiskers in debt.

In the interest of accuracy, I would like to point out a few salient facts about our staggering burden of Federal debt. In the first place, the Democrats have controlled Congress for 38 of the past 42 years. Now back in 1930 our Federal debt was only $16 billion. Under four decades of Democrat spendorama we have racked up $577 billion. Some 97.3 percent of our total debt came under the auspices of Democrat budget busters in Congress.

It is particularly inappropriate for Mr. Carey to expound on Federal fiscal shortcomings. He was a member of the majority for 14 years, and his yeoman work on behalf of deficit spending helped roll up our national debt. I might suggest that Mr. Carey cast first the Beame out of New York, before he criticizes the Federal Government that is lifting him out of a deep, deep hole.

NUTRITION PROGRAM FOR THE ELDERLY INCREASED APPROPRIATIONS FOR FISCAL YEAR 1976

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, I was pleased to support the conference report on H.R. 8069, the Labor-HEW Appropriation bill and I commend the chairman of the conference committee for working so capably on this legislation.

I am particularly gratified by the conference committee's consideration of the funding needs for the nutrition program for the elderly, title VII, of the Older Americans Act. This program has proved to be vital to the nutritional well-being of our senior citizens by providing them with nutritious hot meals each day. Moreover, this program serves to take these aged persons out of their social and physical isolation and encourages them to participate in recreational activities and receive nutrition and counseling services with other elderly persons in congregate settings.

The conference bill increases the appropriation for the nutrition program for the elderly by slightly over $25 million for fiscal year 1976. The annual appropriation has been increased from $99.6 million in the last fiscal year to $125 million for this fiscal year. In addition, the bill requires that the Secretary of the Department of Health, Education, and Welfare use carryover funds so that the "level of operations for the nutrition program for the elderly shall be $187.5 million per annum." The benefit of this requirement that $187.5 million be spent in fiscal year 1976 will be felt by many of our elderly citizens who have not been able to take advantage of the nutrition benefits offered under title VII.

I hope that the President will waste no time in signing this bill into law since we are already well into this fiscal year. As soon as the bill is enacted, we expect HEW to increase immediately the programs' rate of expenditure to the amount that is necessary so that the entire $187.5 million will be spent in this fiscal year. The Senate bill had mandated that $200 million be spent in fiscal 1976, but the House conferees lowered this amount by $12.5 million. In so doing, however, the conferees recognize the importance of HEW's implementing immediately our mandate, and we expect that the Department will inform the States of the new spending levels which will accomplish the expenditure of the full $187.5 million by the end of this fiscal year.

My colleagues will recall that in fiscal year 1975, Congress required the HEW Secretary to spend $150 million for the nutrition program for the elderly. Unfortunately, the Secretary sought a rescission of this expenditure mandate and, even after his rescission request was denied, delayed the implementation of this spending directive. I hope that the Secretary this year fully complies with Congress' intention that the full $187.5 million be spent. This means that the Secretary must take $62.5 million from funds carried over from previous fiscal years plus the $125 million that is now being appropriated, in order to reach the $187.5 million spending mandate.

Mr. Speaker, as chairman of the Subcommittee on Health Maintenance and Long-Term Care of the House Select Committee on Aging, I am concerned about the urgency of the need to provide alternatives to the institutionalization of so many older Americans. Recently, I was pleased to learn that the Department of Medicine and Surgery of the Veterans' Administration is conducting a research and demonstration program with four title VII projects to show that there is a substantial decline in institutional rates if veterans participate in the nutrition program. Two of these projects have been launched in California, one in Arizona and one in Florida.

Recent Administration on Aging reports estimate a total of 240,000 meals a day, 5 days a week, are being served at 4,200 sites nationwide; 705,500 individuals are participating in the program, more than 472,700 of whom have incomes below the poverty level. Of the total, 169,320 are minority group members, including about 106,000 black Americans. I am confident that this provision in the conference bill will aid our effort to meet the nutritional and recreational needs of many more of our senior citizens and will help to reduce the large number of people who are currently on waiting lists in the projects.

A NEW U.S. CITIZEN

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, as you know, we have in my area a large number of new U.S. citizens who were forced into exile by Castro's seizure of power in Cuba. One of the most distinguished of these new citizens is Dr. Manolo Reyes, a prominent Cuban who has created a new and outstanding career as the Latin American affairs editor of Miami's television station WTVJ.

I believe Dr. Reyes' remarks on the occasion of his acceptance of U.S. citizenship would be of interest to our colleagues and to all of those who read this Record. I believe his subsequent presentation to the Dade County School Board, as a new citizen, also would be of interest. I, therefore, include both statements in the Record at this point:

ACCEPTANCE SPEECH OF U.S. CITIZENSHIP

(By Dr. Manolo Reyes)

My fellow Americans: This is the first time in my life that I can say this sentence that I have heard so many times and that has been in my heart for so long. And how proud I am to say: "My fellow Americans". Today we are gathered here to be born into a new life. Some of us, on this day, are being born for the third time in the same life.

We were born in our country of origin; we were born again when we came to this country seeking refuge and a new way of life. And today . . . thanks to this great nation, its people and its laws . . . we are born again.

Does this mean that we are going to negate, or renounce our past as we become new American citizens?

No!

The past is a prologue of our actual situation. Without the past we could never have come to the realization of today.

In fact, our new status will give us greater appreciation of our past and strengthen our present, so that together we can build a better future for the generations to come.

Our new status is also a true and lasting alternative for our own children . . . some of whom have been undecided while standing between two nations.

Citizenship for the adult is something else, too.

It is not just a piece of paper guaranteeing certain rights and privileges, citizenship is a belief. A firm belief! And we believe! Otherwise we would not be here today.

I listen to the National Anthem of the United States and I see a hospitable nation opening its arms to welcome us at the time of our greatest need.

I look at my children and I see them growing up in the land of the brave and the free, under the protection of the flag of stars and stripes.

That is why citizenship is also gratitude!

When we came here for the first time as exiles, or refugees or residents, the Immigration Department of this country extended to us certain rights. With each right came also a duty.

It is the same situation today, becoming American citizens. That is Democracy at work. A perfect balance between the same rights and duties for all.

That is why citizenship for the adults is a matter of a prcoess and a process always takes time, until one day we realize the action taken today by us was the right one.

Several weeks ago I had the opportunity of welcoming a group of Vietnamese refugees at a children's party. I told them that they were beginning to write a new chapter in the history of the United States, a land of asylum for those fleeing tyranny and oppression.

Suddenly I realized that many of us were still in the first chapter that we started many years ago, the same chapter the Vietnamese are starting now.

And history never stops. Never goes back. Always forward.

Why do we isolate ourselves?

Why do we segregate ourselves?

Why do we deny ourselves, the opportunity of helping to write the history of the United States of America, leader of the world?

Why do we not help to write some or all of their chapters?

When by our own will we came to live in this country, the United States and its people gave us a place in the community.

What do we give in return? Isolation? No!

That cannot be the answer.

We have to go out and participate whether it is a PTA or a City or County Commission meeting.

We have to participate in the community affairs and in the affairs of the nation.

For that, you have to be fully equipped.

And today we have been invested to do so.

A nation is healthy when its communities are healthy.

And this can be achieved only when all of its citizens are fully exercising their rights and duties.

Not doing it on a part time basis.

America is living today one of its most crucial and difficult times.

Why do we not fully participate in a true spirit of help, in a true spirit of gratitude?

It has been said that when an adult becomes a citizen of a different nation he leaves one half of himself in his country of origin and the other half in his adopted nation. And that the first half, in his native country, has his heart, his mind, and his feelings.

To answer that, I feel citizenship is not a matter by which the human being is divided in two. Without a trace of doubt in my mind, citizenship is a matter of love.

I love the woman who brought me into life and I will love her always.

But I also love the woman who raised my children. Because both are mothers.

So . . . let us help, because in helping we are developing the most beautiful form of love.

Let us work together for the betterment of future generations.

Let us stand up. Let us come out of the shadows and let us be counted.

Let us work for America. Because . . . for all of us . . . today, the American Dream has become a reality!

Presentation of Dr. Manolo Reyes Before the Dade County School Board

Mr. Chairman, Distinguished members of the Dade County School Board: I thank you for this opportunity. Today I come here for two main reasons.

First:

I want to help.

I want to be a help to my community.

And I am concerned, deeply concerned with a situation that has been developing with the plans for changing the location of the English Center.

Since the announcement was made several weeks ago, a steady stream of opinions have come to my attention, either with personal visits to my office, my home or in social gatherings.

And the majority of them insist that the English Center should be in the so-called Little Havana Area.

We have to realize that most of the students of the English Center . . . even though not all of them . . . are of Spanish origin. It is true that the vast majority are Cubans. But there are also many other Latin Americans.

And in the Little Havana area are living many Cubans but also many Latin Americans too.

Maybe due to the language and customs they are gathering together in that section of the city of Miami.

So, all of them have told me they would like to have the English Center established in the area where they work and live. They easily reach that location in Little Havana by bus or car or even by walking.

I call the attention of the board to the many contributions of the Latin to that area.

For example, Dade County Auditorium—located in the heart of Little Havana, is busier than ever since the Latins started to go there and put on shows of Latin flavor.

And other sections that were going to be slum areas—like the one of West Flagler and 13 Avenue—are now in a stage of steady recovery after a church was put there, Saint John Bosco, supported by many Latins.

In both cases, most of the supporters are adult Latins ranging from the age of 25 up.

I must point out that 75% of the students at the English Center are between the ages of 25 and 55 and approximately 65% of them live in the Little Havana area.

That is why I honestly feel, with all due respect, that the English Center should be relocated to the Little Havana area.

Furthermore, I believe that the unique educational services provided by the English Center should remain in one solid block and not be dispersed in different buildings and locations.

One of the key factors of the actual success of the English Center in which more than 70 thousand people have participated, is that it provides all the educational facilities in one single building, in one single location.

To change that and put the classes in different locations will undoubtedly diminish the number of enrollments and graduates, thus creating the immediate possibility of losing the Federal funds to support the program, and in the long run . . . diminishing or killing the whole program.

This is a sad picture for the future. Because Miami is becoming more and more a focal point in the Western Hemisphere, not only as a tourist attraction but also a center for medical check-ups, marine research, trade center; and why not . . . an *educational* center.

Coral Way Elementary, the first bilingual public school in the United States, was and still is a center of attraction for educators of other latitudes.

Placing the English Center in the Little Havana area will contribute a major step in the field of education that could bring more international attraction to the area. Incidentally, I have been told that the English Center already has a program that has gone beyond the borders of this nation and has reached the World Conference on Adult Education in Austria.

I know of several locations that can be brought into the picture to relocate the English Center to the Little Havana area.

But I want to respectfully suggest that the one chosen should be near the downtown area. Why? Because the people who study American cities are saying now that there is going to be another great migration to the downtown areas.

In the fifties it was a relocation to the suburbs.

Now they say it is going to be a reverse trend. Back to the heart of our cities—to the downtown areas.

A basic reason will be the energy crisis. As oil prices go up, it will be too expensive to drive 20 or 30 miles back and forth to go to work or to go to study.

Probably the Riverside Baptist Church or the Belen Jesuit School are the best alternatives for the relocation of the English Center due to their proximity to downtown Miami.

At the beginning of my presentation I said that I come here today mainly for two reasons.

I gave the first. Try to help.

The second one is a personal one.

My first public appearance on subjects of this matter, before the board that I have always respected and admired: Dade County School Board.

I love education, because education is freedom.

CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 466

Mr. ADAMS submitted the following conference report and statement on the concurrent resolution (H. Con. Res. 466) revising the congressional budget for the U.S. Government for the fiscal year 1976, and directing certain reconciliation action:

Conference Report (H. Rept. No. 94–698)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the concurrent resolution (H. Con. Res. 466) revising the congressional budget for the United States Government for the fiscal year 1976, and directing certain reconciliation action, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning July 1, 1975—

(1) The appropriate level of total budget outlays is $374,900,000,000;

(2) The appropriate level of total new budget authority is $408,000,000,000;

(3) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $74,100,000,000;

(4) The recommended level of Federal revenues is $300,800,000,000, and the House Committee on Ways and Means and the Senate Committee on Finance shall submit to their respective Houses legislation to decrease Federal revenues by approximately $6,400,000,000; and

(5) The appropriate level of the public debt is $622,600,000,000.

Sec. 2. The Congress hereby determines and declares, in the manner provided in section 301(a) of the Congressional Budget Act of 1974, that for the transition quarter beginning on July 1, 1976—

(1) the appropriate level of total budget outlays is $101,700,000,000;

(2) the appropriate level of total new budget authority is $91,100,000,000;

(3) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $15,700,000,000;

(4) the recommended level of Federal revenues is $86,000,000,000; and

(5) the appropriate level of the public debt is $641,000,000,000.

And the Senate agree to the same.

BROCK ADAMS,
JIM WRIGHT,
ROBERT N. GIAIMO,
J. G. O'HARA,
ROBERT L. LEGGETT,
PARREN J. MITCHELL,
PHIL M. LANDRUM,
SAM M. GIBBONS,
BUTLER DERRICK,
Managers on the Part of the House.

EDMUND S. MUSKIE,
WARREN G. MAGNUSON,
FRANK E. MOSS,
WALTER F. MONDALE,
ALAN CRANSTON,
HENRY BELLMON,
ROBERT DOLE,
J. GLENN BEALL,
PETE V. DOMENICI,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the concurrent resolution (H. Con. Res. 466) revising the congressional budget for the United States Government for the fiscal year 1976, and directing certain reconciliation action, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

SECOND CONCURRENT RESOLUTION ON THE BUDGET

Outlays

The House resolution provided for total outlays in the amount of $373.891 billion. The Senate amendment provided for total outlays in the amount of $375.6 billion.

The conference report provides for total outlays in the amount of $374.9 billion. Estimates of outlays by functional category of the budget is set forth below.

Budget authority

The House resolution provided for total new budget authority in the amount of $408.004 billion. The Senate amendment provided for total new budget authority in the amount of $406.2 billion.

The conference report provides for total new budget authority in the amount of $408.0 billion. Estimates of new budget authority by functional category of the budget is set forth below.

Deficit

The House resolution provided for a budget deficit in the amount of $72.091 billion. The Senate amendment provided for a deficit in the amount of $74.8 billion. The conference report provides for a deficit of $74.1 billion.

Revenues

The House resolution provided for Federal revenues in the amount of $301.8 billion; and to achieve that level, it directed the House Ways and Means and Senate Finance Committees to reduce revenues by $5.4 billion. The Senate amendment provided for revenues in the amount of $300.8 billion; and to achieve that level it directed the Ways and Means and Finance Committees to reduce revenues by $6.4 billion.

The conference report provides for revenues in the amount of $300.8 billion; and directs the Ways and Means and Finance Committees to reduce revenues by $6.4 billion. The $6.4 billion reduction of revenues is necessary to maintain the personal income tax withholding rates and extend the temporary corporate tax reductions in the 1975 Tax Reduction Act.

The managers accept the Senate position that it is unrealistic to expect this required reduction in revenues to be partially offset by $1.0 billion to be received through tax reform during the remainder of Fiscal Year 1976, as contemplated in the House resolution.

Public Debt

The House resolution provided for a public debt level of $620.5 billion. The Senate amendment provided for a public debt level of $623.2 billion. The conference report provides for a public debt level of $622.6 billion.

TRANSITION QUARTER

The House resolution did not set budget limits on the transition quarter, July 1–September 30, 1976. The Senate amendment provided limits as follows: revenues $84.8 billion; budget authority $92.2 billion; outlays $100.1 billion; deficit $15.3 billion; and public debt $639.5 billion.

The conference report establishes the following targets for the transition quarter:

(1) the appropriate level of total budget outlays is $101.7 billion;

(2) the appropriate level of total new budget authority is $91.1 billion;

(3) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $15.7 billion;

(4) the recommended level of Federal revenues is $86.0 billion; and

(5) the appropriate level of the public debt is $641.0 billion.

Purpose and effect of section 1 of the second concurrent resolution on the budget

The purpose of Section 1 of the Second Concurrent Resolution on the Budget for fiscal year 1976 is to revise the First Concurrent Resolution on the Budget adopted on May 14, 1975. It is required by Section 310(a) of the Congressional Budget Act of 1974 as implemented by the Budget Committees for fiscal year 1976.

Adoption of Section 1 of this conference report will limit Congressional actions on spending and revenue for the balance of this fiscal year. The amount specified for revenues represents a floor: after adoption of this conference report, it will not be in order for either House to consider legislation which would have the effect of lowering revenues for fiscal year 1976 below the floor. The amounts specified for total new budget authority and total outlays represent ceilings: after adoption of the conference report, it will not be in order for either House to consider legislation which would have the effect of increasing budget authority or outlays for fiscal year 1976 above the ceilings.

The amounts specified for the deficit and the public debt are not ceilings; these amounts represent mathematical derivations from the revenue floor and spending ceilings. The estimates below for various functional categories do not represent ceilings. They do represent the Congress' budget priorities for fiscal year 1976.

After adoption of the conference report, the House and Senate Budget Committees will inform their respective Houses, periodically, of the relationship between the revenue floor and spending ceilings set in the conference report and estimated revenues and spending under existing law. With respect to budget authority and outlays, this information will be based on estimated spending pursuant to mandatory authorities and enacted budget authority and revenue legislation.

Purpose and effect of the transition quarter provisions

These targets are intended to have the same purpose and effect as the targets established in the First Concurrent Resolution on the Budget for fiscal year 1976. The managers agree that these targets will be established as ceilings, with such revisions as necessary, for the transition quarter, as part of a Third Concurrent Resolution on the Budget for fiscal year 1976 or as part of the First Concurrent Resolution on the Budget for fiscal year 1977, to be adopted in the Spring of 1976, whichever occurs earlier. Thereafter, it will not be in order in either House to consider legislation which breaches the budget authority or outlay ceilings or which reduces revenues below the floor.

ESTIMATES OF BUDGET AUTHORITY AND OUTLAYS FOR FUNCTIONAL CATEGORIES

The following estimates of budget authority and outlays for the various functional categories of the budget are intended to explain to the House and Senate the basis on which the managers arrived at the total new budget authority and outlay ceilings contained in the conference report. As stated above, the conference report sets ceilings only for total new budget authority and total outlays; it does not set ceilings for functional categories of the budget.

050: NATIONAL DEFENSE

The House resolution provided budget authority of $100.356 billion and outlays of $91.575 billion. The Senate amendment provided budget authority of $101.5 billion and outlays of $92.1 billion.

The conference report provides budget authority of $101.0 billion and outlays of $91.9 billion.

The managers assume that:

(1) anticipated congressional action on Defense appropriations will be accommodated within the levels set for this function;

(2) outlays from prior year balances will be $0.4 billion lower than assumed in the House resolution;

(3) Administration requests for military assistance other than the Middle East will be reduced by $0.2 billion in budget authority and $0.1 billion in outlays; and

(4) at least 10 percent of the cost-of-living pay increase for active duty military and civilian personnel will be absorbed.

The managers have assumed $1.3 billion in budget authority and $0.5 billion in outlays in this function for security assistance programs, a reduction of $0.2 billion in budget authority and $0.1 billion in outlays from the President's request. The managers note, however, that due to the lateness of the submission of the worldwide security assistance legislative package, which falls within both the National Defense and International Affairs functions, neither body has fully considered the details of the program requests. The managers have set a spending ceiling high enough so that the bulk of the request can be accommodated, should this be deemed desirable by the Congress in subsequent authorization and appropriation action. However, the managers agree that should the amounts assumed for security assistance programs be reduced by legislative action, the reductions should be applied to reducing the deficit rather than providing additional funding for other programs.

The managers emphasize the uniqueness of this situation. The Administration request was not received until after the Committees had completed all preliminary work on the Second Budget Resolution. It is the managers' expectation that requests will be submitted in more timely fashion in the future. This action by the managers should not be considered a precedent for future budget resolutions.

150: INTERNATIONAL AFFAIRS

The House resolution provided budget authority of $5.986 billion and outlays of $4.978 billion. The Senate amendment provided budget authority of $6.0 billion and outlays of $4.8 billion.

The conference report provides budget authority of $6.0 billion and outlays of $4.9 billion, which assumes a reduction of $0.2 billion in budget authority and $0.1 billion in outlays in the President's request for security supporting assistance programs other than the Middle East.

With respect to the $1.7 billion in budget authority and $0.7 billion in outlays assumed in this function for security assistance programs, any reductions as a result of subsequent authorization or appropriation action should be applied to reducing the deficit rather than providing additional funding for other programs. This unique treatment of possible reductions is explained in the statement of managers on the Defense function.

250: GENERAL SCIENCE, SPACE, AND TECHNOLOGY

Both the House resolution and Senate amendment provided budget authority of $4.7 billion and outlays of $4.6 billion. The conference report provides these amounts.

300: NATURAL RESOURCES, ENVIRONMENT, AND ENERGY

The House resolution provided budget authority of $18.617 billion and outlays of $11.190 billion. The Senate amendment provided budget authority of $18.8 billion and outlays of $11.5 billion.

The conference report provides budget authority of $18.7 billion and outlays of $11.4 billion.

The managers assume that:

(1) amounts provided for the Public Works and Interior Appropriations bills will be consistent with the amounts provided in the House resolution;

(2) outlays provided for pending authorizations, primarily for energy-related programs, will be $0.1 billion above the House resolution; and

(3) budget authority and outlays for an anticipated Forest Service supplemental are provided for.

350: AGRICULTURE

The House resolution provided budget authority of $4.120 billion and outlays of $2.550 billion. The Senate amendment provided budget authority of $4.1 billion and outlays of $2.6 billion.

The conference report provides budget authority of $4.1 billion and outlays of $2.6 billion.

400: COMMERCE AND TRANSPORTATION

The House resolution provided budget authority of $17.300 billion and outlays of $18.600 billion. The Senate amendment provided budget authority of $19.1 billion and outlays of $18.3 billion.

The conference report provides budget authority of $19.0 billion and outlays of $18.3 billion.

The managers assume that:

(1) an additional $1.6 billion in budget authority over the House resolution is provided for advance apportionment of contract authority for highway programs for the transition quarter;

(2) estimated outlays for highway programs will be $0.3 billion below the House resolution, reflecting the effect of actual first quarter Fiscal Year 1976 obligations within the $7.2 billion obligation limitation for the fiscal year; and

(3) the transfer of highway funds for D.C. METRO construction results in an increase of budget authority in the House resolution of $0.1 billion.

450: COMMUNITY AND REGIONAL DEVELOPMENT

The House resolution provided budget authority of $10.600 billion and outlays of $7.000 billion. The Senate amendment provided budget authority of $8.5 billion and outlays of $7.1 billion.

The conference report provides budget authority of $9.5 billion and outlays of $7.0 billion.

The managers assume that:

(1) budget authority of $3.9 billion and outlays of $1.0 billion are provided for public works and anti-recession assistance legislation now pending before the Congress; and

(2) outlays for the Rural Water and Waste Disposal Grant program in Fiscal Year 1976 will be consistent with the House resolution.

500: EDUCATION, MANPOWER, AND SOCIAL SERVICES

The House resolution provided budget authority of $23.848 billion and outlays of $21.288 billion. The Senate amendment provided budget authority of $19.6 billion and outlays of $20.9 billion.

The conference report provides budget authority of $21.3 billion and outlays of $20.9 billion.

The managers assume that:

(1) budget authority and outlays for a Department of Labor supplemental for administering unemployment benefits will be $0.4 billion and $0.2 billion, respectively, below the House resolution;

(2) amounts provided for education and social services will be consistent with the House resolution; however, fiscal year 1976 budget authority for summer youth employment programs will be $0.1 billion lower than the House with the understanding that such amount will be provided for the transition quarter;

(3) budget authority and outlays for public service employment will be $2.0 billion and $0.3 billion, respectively, below the House resolution; and

(4) outlays for the CETA Title I program and other pending legislation will be $0.1 billion above the House resolution.

550: HEALTH

The House resolution provided budget authority of $33.550 billion and outlays of $32.870 billion. The Senate amendment provided budget authority of $33.5 billion and outlays of $33.0 billion.

The conference report provides budget authority of $33.6 billion and outlays of $32.9 billion. The managers assume that amounts for the Labor-HEW Appropriation bill will be consistent with the Senate resolution and that the amounts for an anticipated medicaid supplemental and various programs requiring reauthorization will be consistent with the House resolution.

600: INCOME OUTLAY

The House resolution provided budget authority of $137.587 billion and outlays of $128.461 billion. The Senate amendment provided budget authority of $137.3 billion and outlays of $128.1 billion.

The conference report provides budget authority of $137.5 billion and outlays of $128.2 billion.

The managers assume that:

(1) legislative and/or administrative reform in the food stamp program are essential and that such reforms will be implemented in Fiscal Year 1976 to achieve a reduction of program costs of $0.1 billion in budget authority and outlays;

(2) outlays for Social Security disability benefits will be reduced below the House resolution by $0.2 billion because of re-estimates; and

(3) amounts provided for civil service retirement and life insurance programs will be consistent with the House resolution.

700: VETERANS BENEFITS AND SERVICES

The House resolution provided budget authority of $19.852 billion and outlays of $19.064 billion. The Senate amendment provided $19.9 billion in budget authority and $19.1 billion in outlays.

The conference report provides budget authority of $19.9 billion and outlays of $19.1 billion.

750: LAW ENFORCEMENT AND JUSTICE

Both the House resolution and Senate amendment provided budget authority of $3.3 billion and outlays of $3.4 billion. The conference report provides these amounts.

800: GENERAL GOVERNMENT

The House resolution provided budget authority of $3.300 billion and outlays of $3.300 billion. The Senate amendment provided budget authority of $3.4 billion and outlays of $3.3 billion.

The conference report provides budget authority of $3.3 billion and outlays of $3.3 billion.

850: REVENUE SHARING AND GENERAL PURPOSE FISCAL ASSISTANCE

Both the House resolution and Senate amendment provided budget authority and outlays of $7.3 billion. The conference report provides these amounts.

Funds have not been included in the resolution for pending legislation providing seasonal loans to New York. The managers are aware that this legislation would result in budget authority for Fiscal Year 1976, although it would produce no net outlays. At the present time, budget authority for the New York legislation could be accommodated without giving rise to a point of order for breaching the budget aggregate ceilings. However, if funds are appropriated for this purpose and other major items assumed in this resolution are also enacted, a revision of budget authority total would be necessary during the next session of Congress.

900: INTEREST

The House resolution provided budget authority and outlays of $35.400 billion. The Senate amendment provided budget authority and outlays of $35.2 billion.

The conference report provides budget authority of $35.4 billion and outlays of $35.4 billion.

ALLOWANCES

The House resolution provided budget authority of $0.788 billion and outlays of $0.915 billion. The Senate amendment provided budget authority of $0.6 billion and outlays of $0.9 billion.

The conference report provides budget authority of $0.5 billion and outlays of $0.8 billion.

The managers assume that:

(1) at least 10 percent of the cost-of-living pay increase for civilian agencies will be absorbed; and

(2) in addition to the funds included for legislation already enacted, no contingency allowance is provided to cover unforeseen requirements during the remainder of Fiscal Year 1976.

950: UNDISTURBED OFFSETTING RECEIPTS

The House resolution provided budget authority and outlays of —$18.6 billion. The Senate amendment provided budget authority and outlays of —$16.6 billion. The function for undistributed offsetting receipts involves financial transactions that are deducted from budget authority and outlays of the Government as a whole.

The conference report provides budget authority and outlays of —$17.1 billion based on the assumption that rents and royalties from the Outer Continental Shelf will be $4.5 billion. The managers wish to emphasize the great uncertainty involved in estimating rents and royalties from the Outer Continental Shelf. Such receipts, historically, have been highly speculative due to differing valuations of the tracts involved and environmental law suits. The estimate of receipts agreed to by the managers represents a substantially reduced level from that assumed in the House resolution.

CONFERENCE AGREEMENT, H. CON RES. 466

[In millions of dollars]

	Function	House	Senate	Conference
	BUDGET AUTHORITY			
050	National Defense	100,356	101,500,	101,000
150	International affairs	5,986	6,000	6,000
250	General science, space, and technology	4,700	4,700	4,700
300	Natural resources, environment, and energy	18,617	18,800	18,700
350	Agriculture	4,120	4,100	4,100
400	Commerce and transportation	17,300	19,100	19,000
450	Community and regional development	10,600	8,500	9,500
500	Education, manpower, and social services	23,848	19,600	21,300
550	Health	33,550	33,500	33,600
600	Income security	137,587	137,300	137,500
700	Veterans benefits and services	19,852	19,900	19,900
750	Law enforcement and justice	3,300	3,300	3,300
800	General government	3,300	3,400	3,300
850	Revenue sharing and general purpose fiscal assistance	7,300	7,300,	7,300
900	Interest	35,400	35,200	35,400
	Allowances	788	600	500
950	Undistributed offsetting receipts	−18,600	−16,600	−17,100
	Total	408,004	406,200	408,000

	Function	House	Senate	Conference
	OUTLAYS			
050	National defense	91,575	92,100	91,900
150	International affairs	4,978	4,800	4,900
250	General science, space, and technology	4,600	4,600	4,600
300	Natural resources, environment, and energy	11,190	11,500	11,400
350	Agriculture	2,550	2,600	2,600
400	Commerce and transportation	18,600	18,300	18,300
450	Community and regional development	7,000	7,100	7,000
500	Education, manpower, and social services	21,288	20,900	20,900
550	Health	32,870	33,000	32,900
600	Income security	128,461	128,100	128,200
700	Veterans benefits and services	19,064	19,100	19,100
750	Law enforcement and justice	3,400	3,400	3,400
800	General government	3,300	3,300	3,300
850	Revenue sharing and general purpose fiscal assistance	7,300	7,300	7,300
900	Interest	35,400	35,200	35,400
	Allowances	915	900	800
950	Undistributed offsetting receipts	−18,600	−16,600	−17,100
	Total	373,891	375,600	374,900

ESTIMATES OF TRANSITION QUARTER BUDGET AUTHORITY AND OUTLAYS FOR FUNCTIONAL CATEGORIES

The following table sets forth the estimates for the functional categories considered by the managers in arriving at the aggregate targets contained in Section 2 of the resolution, which relates to the Transition Quarter:

[in billions of dollars]

		Budget Authority	*Outlays*
050	National Defense	24.0	24.8
150	International Affairs	1.0	1.4
250	General Science, Space and Technology	1.2	1.3
300	Natural Resources, Environment, and Energy	2.4	3.2
350	Agriculture	0.3	0.8
400	Commerce and Transportation	2.6	5.4
450	Community and Regional Development	1.0	2.1
500	Education, Manpower, and Social Sciences	7.0	5.4
550	Health	8.6	8.6
600	Income Security	28.9	34.3
700	Veterans Benefits and Sciences	4.7	4.8
750	Law Enforcement and Justice	0.8	0.9
800	General Government	0.9	0.9
850	Revenue Sharing and General Purpose Fiscal Assistance	2.0	2.1
900	Interest	10.0	10.0
	Allowances	0.1	0.1
950	Undistributed Offsetting Receipts	−4.4	−4.4
	Total	91.1	101.7

Brock Adams,
Jim Wright,
Robert N. Giaimo,
J. G. O'Hara,
Robert L. Leggett,
Parren J. Mitchell,
Phil M. Landrum,
Sam M. Gibbons,
Butler Derrick,
Managers on the Part of the House.

Edmund S. Muskie,
Warren G. Magnuson,
Frank E. Moss,
Walter F. Mondale,
Alan Cranston,
Henry Bellmon,
Robert Dole,
J. Glenn, Beall,
Pete V. Domenici,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Gaydos (at the request of Mr. O'Neill), for this week, on account of illness.

Mr. Railsback (at the request of Mr. Rhodes), for today, on account of a delay in airline travel.

Mr. Helstoski (at the request of Mr. O'Neill), for December 8 and 9, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Dingell, for 60 minutes today, to revise and extend and to include extraneous matter, after all other special orders.

(The following Members (at the request of Mr. Young of Alaska) to revise and extend their remarks and include extraneous material:)

Mr. Kemp, for 1 hour, today.

Mr. Kasten, for 15 minutes, today.

(The following Members (at the request of Mr. Allen) to revise and extend their remarks and include extraneous material:)

Mr. Hamilton, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Aspin, for 10 minutes, today.

Mr. Drinan, for 15 minutes, today.

Mr. Matsunaga, for 5 minutes, today.

Mr. Brown of California, for 5 minutes today.

Mr. Vanik, for 5 minutes, today.

Mr. Rodino, for 5 minutes, today.

Mr. Nolan, for 5 minutes, today.

Mr. Badillo, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Rhodes, immediately after the remarks of Mr. Johnson of Pennsylvania on the bill (H.R. 9721).

Mr. Gonzalez, and to include extraneous matter in Committee of the Whole House today.

(The following Members (at the request of Mr. Young of Alaska) and to include extraneous material:)

Mr. Rousselot.

Mr. Symms.

Mr. Forsythe.

Mr. Derwinski in two instances.

Mr. Hyde.

Mr. Bell.

Mr. Kemp in two instances.

Mr. Sebelius.

Mr. Lagomarsino.

Mr. Findley.

Mr. Collins of Texas in four instances.

Mr. Walsh.

Mr. Hansen.

Mr. Conte.

(The following Members (at the request of Mr. Allen) and to include extraneous matter:)

Mr. Gonzalez in three instances.

Mr. Anderson of California in three instances.

Mr. Aunnunzio in six instances.

Mr. Rangel in 13 instances.

Mr. Hamilton.

Mr. Phillip Burton.

Mr. McDonald of Georgia in five instances.

Mr. Yatron.

Mr. Dingell in two instances.

Mr. Hays of Ohio.

Mr. Rees.

Mr. Hungate in two instances.

Mr. McKay.

Mr. Eilberg.

Mr. Fithian.

Mr. Bennett.

Mr. Hayes of Indiana.

Mr. Evins of Tennessee in three instances.

Mr. Santini in two instances.

Mr. Edwards of California.

Mr. Scheuer.

Ms. Schroeder.

Mr. Harrington in three instances.

Mr. Ford of Michigan.

Mr. Bonker.

Mr. Jacobs.

Mrs. Boggs.

Mr. Rodino.

SENATE BILL AND CONCURRENT RESOLUTION REFERRED

A bill and concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1506. An act to designate a segment of the Missouri River, Mont., as a component of the National Wild and Scenic Rivers System; to the Committee on Interior and Insular Affairs.

S. Con. Res. 78. Concurrent resolution disapproving the act of the District of Columbia Council (1–57) entitled "An act to authorize issuance of $50,000,000 General Obligation Bonds of the District of Columbia to refund certain loans made to the District from the United States Treasury"; to the Committee on the District of Columbia.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 233. An act for the relief of North Central Educational Television, Inc.;

S. 364. An act relating to certain Forest Service timber sale contracts involving road construction; and

S. 1800. An act to provide indemnities for exhibitions of artistic and humanistic endeavors, and for other purposes.

ENROLLED BILLS SIGNED

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 8069. An act making appropriations for the Departments of Labor, Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes; and

H.R. 10481. An act to authorize the Secretary of the Treasury to provide seasonal financing for the city of New York.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following titles:

On December 4, 1975:

H.R. 9915. An act to make technical amendments to the Federal Rules of Evidence, the Federal Rules of Criminal Procedure, and to related provisions of title 18 and 28 of the United States Code.

On December 8, 1975:

H.R. 568. An act to grant an alien child adopted by an unmarried United States citizen the same immigrant status as an alien child adopted by a U.S. citizen and his spouse; and

H.R. 6669. An act to authorize the Secretary of the Interior to engage in feasibility investigations of certain potential water resource developments.

ADJOURNMENT

Mr. ALLEN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 38 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, December 9, 1975, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2160. A letter from the President of the United States, transmitting his recommendations for economic and military assistance to Greece for fiscal year 1976, pursuant to section 2(b)(2) of Public Law 94–104 (H. Doc. No. 94–317); to the Committee on International Relations and ordered to be printed.

2161. A letter from the President of the United States, transmitting a report on discussions with the Government of Turkey on effective means of preventing the diversion of the opium poppy crop into illict channels, pursuant to section 2(b)(2) of Public Law 94–104 (H. Doc. No. 94–318); to the Committee on International Relations and ordered to be printed.

2162. A letter from the Counsel to the Vice President of the United States, transmitting a report of a violation of the Antideficiency Act by the Office of the Vice President, pursuant to section 3679(i)(2) of the Revised Statutes (31 U.S.C. 665); to the Committee on Appropriations.

2163. A letter from the Commissioner, of Indian Affairs, Department of the Interior, transmitting a report that no reimbursable charges of the Government against individual Indians or tribes of Indians were adjusted or eliminated during fiscal year 1975, pursuant to the Act of July 1, 1932 (47 Stat. 564; 25 U.S.C. 386a); to the Committee on Interior and Insular Affairs.

2164. A letter from the Chairman, Securities and Exchange Commission, transmitting the Commission's preliminary report on the practice of recording the ownership of securities in the records of the issuers in other than the name of the beneficial owner of such securities, pursuant to section 12(m) of the Securities Exchange Act of 1934, as amended (89 Stat. 119); to the Committee on Interstate and Foreign Commerce.

2165. A letter from the Secretary, Securities and Exchange Commission, transmitting a report on the effect of the absence of fixed rates of commissions, pursuant to section 6(e)(3) of the Securities Exchange Act of 1934, as amended (89 Stat. 108); to the Committee on Interstate and Foreign Commerce.

2166. A letter from the Chairman, National Transportation Safety Board, transmitting materials submitted by the Board to the Office of Management and Budget concerning the Board's fiscal year 1976 budget, pursuant to section 304(b)(7) of Public Law 93–633; jointly, to the Committees on Appropriations, and Public Works and Transportation.

RECEIVED FROM THE COMPTROLLER GENERAL

2167. A letter from the Comptroller General of the United States, transmitting a report on the need for effective followup systems in the Federal Government to consider study commission recommendations; to the Committee on Government Operations.

2168. A letter from the Comptroller General of the United States, transmitting a report on the examination of financial statements of the Tennessee Valley Authority for fiscal year 1975, pursuant to section 106 of the Government Corporation Control Act, as amended [31 U.S.C. 851] (H. Doc. No. 94–319); jointly, to the Committees on Government Operations, and Public Works and Transportation, and ordered to be printed.

2169. A letter from the Comptroller General of the United States, transmitting a report on the Federal pesticide registration program; jointly, to the Committees on Government Operations, Agriculture, and Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PIKE: Select Committee on Intelligence. Report on proceedings against Henry A. Kissinger (Rept. No. 94–693). Referred to the House Calendar.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 10537. A bill to authorize and modify various Federal reclamation projects and programs, and for other purposes (Rept. No. 94–694). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. S. 1922. An act to amend the act of July 7, 1970 (84 Stat. 409) to authorize appropriations to the Secretary of the Interior without reference to the agencies involved. (Rept. No. 94–695). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE: Committee of conference. Conference report on H.R. 3474 (Rept. No. 94–696). Ordered to be printed.

Mr. PERKINS: Committee of conference. Conference report on H.R. 5900 (Rept. No. 94–697). Ordered to be printed.

Mr. ADAMS: Committee of conference. Conference report on House Concurrent Resolution 466. (Rept. No. 94–698). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ARCHER (for himself, Mr. ABDNOR, Mr. BAFALIS, Mr. BURGENER, Mr. DON CLAUSEN, Mr. COLLINS of Texas, Mr. DUNCAN of Tennessee, Mr. GOLDWATER, Mr. KASTEN, Mr. KEMP, Mr. KETCHUM, Mr. LOTT, Mr. ROUSSELOT, Mr. SPENCE, and Mr. YOUNG of Florida):

H.R. 11026. A bill relating to the promulgation of rules and regulations by agencies of the United States; to the Committee on the Judiciary.

By Mr. ASHLEY:

H.R. 11027. A bill to amend the effective date of the Defense Production Act Amendments of 1975; to the Committee on Banking, Currency and Housing.

By Mr. AuCOIN:

H.R. 11028. A bill to provide for the development of aquaculture in the United States, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. CONABLE:

H.R. 11029. A bill to amend the Internal Revenue Code of 1954 relating to the income tax treatment of charitable contributions of inventory and certain other ordinary income property; to the Committee on Ways and Means.

By Mr. CRANE:

H.R. 11030. A bill to provide for congressional review of all regulations relating to costs and expenditures for health care, reimbursements to individuals or providers of health care, and for other purposes; Jointly to the Committees on Ways and Means, Interstate and Foreign Commerce.

By Mr. ECKHARDT:

H.R. 11031. A bill to amend the War Claims Act of 1948, as amended; to the Committee on Interstate and Foreign Commerce.

By Mr. EVINS of Tennessee:

H.R. 11032. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for optometric and medical vision care; to the Committee on Ways and Means.

By Mr. GOLDWATER:

H.R. 11033. A bill to amend the Internal Revenue Code of 1954 to exempt certain agricultural aircraft from the aircraft use tax, to provide for the refund of the gasoline tax to the agricultural aircraft operator with the consent of the farmer, and for other purposes; to the Committee on Ways and Means.

By Mr. LaFALCE.

H.R. 11034. A bill to amend the State and Local Fiscal Assistance Act of 1972, to credit local governments for compulsory contributions enacted by such governments or by special districts for governmental operations; to the Committee on Government Operations.

H.R. 11035. A bill to amend the State and Local Fiscal Assistance Act of 1972, to credit local governments for taxes collected by special districts for governmental operations; to the Committee on Government Operations.

By Mr. LEHMAN:

H.R. 11036. A bill to amend the Land and Water Conservation Fund Act of 1965, relating to the issuance to certain disabled individuals of lifetime admission permits to certain areas within the National Park System and national recreation areas; to the Committee on Interior and Insular Affairs.

H.R. 11037. A bill to amend the Small Business Act to provide that determinations by the administration of the reasonable assurance of repayment of prospective loans be made on a case-by-case basis and to clarify the eligibility of small business homebuilding firms for assistance under the Small Business Act; to the Committee on Small Business.

H.R. 11038. A bill to amend the Internal Revenue Code of 1954 to allow a deduction to individuals who rent their principal residences for a portion of the real property taxes paid or accrued by their landlords; to the Committee on Ways and Means.

By Mr. LENT:

H.R. 11039. A bill to amend the Internal Revenue Code of 1954, to increase from $1 million to $10 million the exemption from industrial development bond treatment for certain small issues; to the Committee on Ways and Means.

By Mr. LITTON (for himself, Mr. Rodino, Mr. Krebs, Mr. Archer, Mr. Ryan, Ms. Keys, Mr. Melcher, Mr. Fascell, Mr. Rose, Mr. Moakley, Mr. Staggers, Mrs. Chisholm, Mr. Guyer, and Mr. Pepper):

H.R. 11040. A bill to amend title 39, United States Code, to require certain mail collection services with respect to permanent residential addresses receiving door delivery; to the Committee on Post Office and Civil Service.

By Mr. McEWEN:

H.R. 11041. A bill to extend and revise the State and Local Fiscal Assistance of 1972; to the Committee on Government Operations.

By Mrs. MEYNER:

H.R. 11042. A bill to amend title 23 of the United States Code in order to conserve vital fuel and energy resources; to the Committee on Public Works and Transportation.

By Mr. SOLARZ (for himself, Mr. Ambro, Mr. Badillo, Mrs. Collins of Illinois, Mr. Edgar, Mr. Eilberg, Mr. Ford of Tennessee, Mr. Harrington, Mr. Hyde, Mr. McHugh, Mr. Melcher, Mr. Metcalfe, Mr. Ottinger, Mr. Pritchard, Mr. Randall, Mr. Riegle, Mr. Rodino, Mr. Roe, Mr. Rosenthal, Mr. Roybal, Mr. Scheuer, Mr. Waxman, Mr. Weaver and Mr. Whitehurst):

H.R. 11043. A bill to require recipients of Federal aid to higher education to provide senior citizens with access, on a space available basis, to already scheduled courses and programs; to the Committee on Education and Labor.

By Mr. SOLARZ (for himself, Mr. Badillo, Mrs. Collins of Illinois, Mr. Downey of New York, Mr. Frenzel, Mr. Harrington, Mr. Hawkins, Mr. Hungate, Mr. Ottinger, Mr. Rinaldo, Mr. Stratton, and Mr. Young of Florida):

H.R. 11044. A bill to amend the Securities Act of 1933 and the Securities and Exchange Act of 1934 to require the Securities and Exchange Commission to regulate the issuance and trading of municipal bonds and similar securities; to the Committee on Interstate and Foreign Commerce.

By Mr. BRADEMAS (for himself, Mr. Perkins, Mr. Quie, Ms. Mink, Mr. Meeds, Mr. Bell, Mrs. Chisholm, Mr. Peyser, Mr. Lehman, Mr. Jeffords, Mr. Ford of Michigan, Mr. Cornell, Mr. Pressler, Mr. Beard of Rhode Island, Mr. Zeferetti, Mr. Miller of California, Mr. Hall, Mr. Thompson, Mr. Erlenborn, Mr. Dominick V. Daniels, Mr. Esch, Mr. O'Hara, Mr. Eshleman, Mr. Hawkins, and Mr. Sarasin):

H.R. 11045. A bill to amend the Rehabilitation Act of 1973 to extend the authorizations of appropriations contained in such act; to the Committee on Education and Labor.

By Mr. BRADEMAS (for himself, Mr. Perkins, Mr. Quie, Mr. Biaggi, Mrs. Smith of Nebraska, Mr. Andrews of North Carolina, Mr. Goodling, Mr. Gaydos, Mr. Buchanan, Mr. Phillip Burton, Mr. Blouin, Mr. Slack, Mr. Risenhoover, Mr. Mollohan, Mr. Simon, Mr. Mottl, Mr. Clay, Mr. Benitez, Mr. Jenrette, and Mr. Gonzalez):

H.R. 11046. A bill to amend the Rehabilitation Act of 1973 to extend the authorizations of appropriations contained in such act; to the Committee on Education and Labor.

By Mr. BROWN of Ohio:

H.R. 11047. A bill to assure the availability of adequate supplies of natural gas during a supply emergency period; to the Committee on Interstate and Foreign Commerce.

By Mr. NOLAN:

H.R. 11048. A bill to amend title 13, United States Code, to require the Secretary of Commerce to use sampling methods in taking agricultural censuses; to the Committee on Post Office and Civil Service.

By Mr. TAYLOR of North Carolina:

H.R. 11049. A bill to correct inequities in certain franchise practices, to provide franchisors and francisees with even-handed protection from unfair practices, to provide consumers with the benefits which accrue from a competitive and open-market economy, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BOB WILSON:

H.R. 11050. A bill to reduce the rate of duty on unmounted underwater lenses; to the Committee on Ways and Means.

By Mr. FRASER (for himself, Mr. Bergland, Mr. Bonker, Mr. Howard, Mr. McKinney, Mr. Moakley, Mr. Murphy of New York, Mr. Richmond, Mr. Ottinger, Mr. Sarasin, and Mr. Weaver):

H. Con. Res. 503. Concurrent resolution indicating the sense of Congress that every person throughout the world has the right to a nutritionally adequate diet; and that this country increase its assistance for self-help development among the world's poorest people until such assistance has reached the target of 1 percent of our total national production (GNP); jointly, to the Committees on Agriculture, and International Relations.

By Mr. RISENHOOVER:

H. Con. Res. 504. Concurrent resolution relating to the authority of the Federal Trade Commission to prescribe rules preempting State and local laws; to the Committee on Interstate and Foreign Commerce.

By Mr. HAYS of Ohio:

H. Res. 906. Resolution to authorize funds for the continuing activities of the standing and select committees of the House of Representatives; to the Committee on House Administration.

By Mrs. SULLIVAN (for herself, Mr. Flood, Mr. Snyder, Mr. Burke of Florida, Mr. Hubbard, Mr. Emery, Mr. Byron, Mr. Cotter, Mr. Delaney, Mr. Pressler, Mr. Young of Alaska, Mr. Patman, Mr. Gilman, Mr. Henderson, Mr. Jenrette, Mr. Guyer, Mr. Randall, Mr. Kasten, Mr. Johnson of California, Mr. Hagedorn, Mr. Roe, Mr. Hefner, Mr. Rostenkowski, and Mr. Goodling):

H. Res. 907. Resolution in support of continued undiluted U.S. sovereignty and jurisdiction over the U.S.-owned Canal Zone on the Isthmus of Panama; to the Committee on International Relations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ASPIN:

H.R. 11051. A bill for the relief of Nuala T. Lotz; to the Committee on the Judiciary.

By Mr. BOB WILSON:

H.R. 11052. A bill for the relief of Jaime Schliapnik-Anderson; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

330. By the SPEAKER: Petition of the National Council of State Garden Clubs, Inc., Lewisburg, W. Va., relative to the Forest Service's environmental education workshops; to the Committee on Agriculture.

331. Also, petition of the Common Council of Gladstone, Oreg., relative to revenue sharing; to the Committee on Government Operations.

332. Also, petition of the mayor and council of New Cordell, Okla., relative to revenue sharing; to the Committee on Government Operations.

333. Also, petition of the Dearborn County Board of Commissioners, Lawrenceburg, Ind., relative to revenue sharing; to the Committee on Government Operations.

334. Also, petition of the American Dental Association, Chicago, Ill., relative to the exclusion of Israel from UNESCO; to the Committee on International Relations.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 9464

By Mr. BROWN of Ohio:

Strike all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Natural Gas Emergency Act of 1975".

PURPOSE

Sec. 2. The purpose of this Act is to establish temporary emergency authorities for minimizing the detrimental effects on employment, food production, and public health, safety, and welfare caused by natural gas supply shortages.

DEFINITIONS

Sec. 3. As used in this Act

(1) The term "Commission" means the Federal Power Commission.

(2) The term "essential user" means a user or class of user who satisfies criteria to be established by the Commission, by rule, as indicative of a user for which no alternative fuel is reasonably available and whose supply requirements must be met in order to avoid substantial unemployment or impairment of food production or the public health, safety, or welfare.

(3) The term "interstate commerce" has the same meaning as such term has in section 2(7) of the Natural Gas Act (15 U.S.C. 717(a)(7).

(4) The term "New natural gas" means natural gas sold or delivered in interstate commerce: (A) which is sold or delivered in interstate commerce for the first time on or after January 1, 1975; (b) which is continued in interstate commerce after the expiration of a contract by its own terms (and not through the exercise of any power to terminate or renegotiate contained therein) for the sale or delivery of such natural gas existing as of such date; or (C) which is produced from wells commenced on or after such date.

(5) The term "interstate pipeline" means a person engaged in the transportation by pipeline of natural gas in interstate commerce and subject to the jurisdiction of the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.).

(6) The term "distressed interstate pipeline" means any interstate pipeline which the Commission, taking into account any existing curtailment plan of such pipeline and the natural gas supplies available to such pipeline, determines is, to a significant extent, unlikely to obtain supplies of natural gas adequate to meet the requirements of essential users under any agreement (without regard to whether such agreement is for interruptible or firm service) to supply natural gas to such user by—

(A) such pipeline; or

(B) a person to which such pipeline supplies natural gas for purposes of resale.

(7) The term "curtailed interstate pipeline" means any interstate pipeline which has a curtailment plan, or other plan for reduced deliveries on file with the Commission, and which is curtailing or reducing deliveries under said plan.

(8) The term "supply emergency period" means the period, or any part thereof, which begins on the date of enactment of this Act and ends seven years thereafter.

(9) The term ."national rate" means the maximum rate of price ceiling for natural gas sales established pursuant to the provisions of title 18, Code of Federal Regulations, section 2.56(a).

ACCESS BY DISTRESSED INTERSTATE PIPELINES TO NATURAL GAS

SEC. 4. (a) The Commission shall, not later than the end of the fifteen-day period which begins on the date of enactment of this Act, and shall as necessary throughout the supply emergency period, upon petition or upon its own motion, designate distressed interstate pipelines and curtailed interstate pipelines.

(b) During that part of the supply emergency period which extends from the date of enactment through April 15, 1976, sales of new natural gas produced from lands other than the Outer Continental Shelf may be made to any distressed interstate pipeline for resale in interstate commerce at a rate or charge in excess of the national rate and any such rate of charge shall not be subject to the provisions of the Natural Gas Act; Provided, however, that the Commission shall have no power to deny, in whole or in part, recovery by any distressed interstate pipeline of the amounts paid by it for gas purchased hereunder.

(c) During that part of the supply emergency period which extends from April 16, 1976, through April 15, 1977, sales of new natural gas may be made to any distressed or curtailed interstate pipeline for resale in interstate commerce at a rate or charge in excess of the national rate and any such rate or charge shall not be subject to the provisions of the Natural Gas Act; Provided, however, that the Commission shall have no power to deny, in whole or in part, recovery by any distressed or curtailed interstate pipeline of the amounts paid by it for gas purchased hereunder.

(d) During the remainder of the supply emergency period, sales of new natural gas for resale in interstate commerce may be made to any interstate pipeline which has a curtailment plan, or other plan for reduced deliveries, on file with the Commission at a rate or charge in excess of the national rate and any such rate or charge shall not be subject to the provisions of the Natural Gas Act; Provided, however, that the Commission shall have no power to deny, in whole or in part, recovery by any such pipeline of the amounts paid by it for gas purchased hereunder.

RELATIONSHIP TO NATURAL GAS ACT

SEC. 5. (a) The provisions of the Natural Gas Act shall not apply to any sale or contract of sale of new natural gas made pursuant to this Act, to the facilities used in such sale, or the seller making such sale.

(b) Natural gas reserves, from which new natural gas subject to any such sale is produced, shall not be deemed dedicated to interstate commerce by reason of such sale.

(c) Upon termination of the supply emergency period, no transactions made or entered into, and no activities or operations undertaken after April 16, 1976 shall, under the provisions of this act, be or become subject to the provisions of the Natural Gas Act, and the Commission shall take no action to impair or modify, or prevent full performance of, any and all contract rights and obligations which arose during the supply emergency period; further, during the period following termination of the supply emergency period, as to those sales entered into during the supply emergency period, the Commission shall have no power to deny in whole or in part recovery by any such pipeline of the amounts paid by it for gas purchased hereunder.

INVESTIGATION OF SUPPLY EMERGENCY

SEC. 6. (a) The President, through the Department of the Interior, shall undertake a study of natural gas supply and demand, and shall determine the total estimated natural gas reserves of the United States, and the estimated annual deliverability of natural gas from such reserves; the probable additions to such reserves and deliverability; the total estimated demand for natural gas by users; and the probable increase, or decrease, in demand by end-use purchasers.

(b) Such study shall be based on information developed, or completely verified for accuracy, after the date of enactment of this Act.

A copy of the completed study shall be transmitted, in writing, to the Congress as soon as practicable after completion.

RULEMAKING

SEC. 7. The Commission shall have authority to issue rules and orders, as the Commission determines are necessary or appropriate to the exercise of the jurisdiction granted under this Act.

Amend the title to read as follows: "A bill to assure the availability of adequate supplies of natural gas during a supply emergency period."

By Mr. **KRUEGER**:

(An amendment in the nature of a substitute.)

Strike all after the enacting clause and insert in lieu thereof the following:

TITLE I—EMERGENCY NATURAL GAS AUTHORITY

SHORT TITLE

SEC. 101. This title may be cited as the "Natural Gas Emergency Standby Act of 1975".

SEC. 102. (a) The Congress finds and declares that the Nation will suffer severe shortages of natural gas during the heating season from November 1975 through March 1976. The Congress further finds and declares that such imminent shortages in our Nation's natural-gas supply constitute an emergency which can be alleviated by providing for limited exemptions from regulation of natural gas and for the prohibition of the use of natural gas as boiler fuel.

(b) The purpose of this title is to grant the Federal Power Commission authority to allow natural-gas companies which transport natural gas in interstate commerce with inadequate quantities of natural gas to meet the requirements of their high priority consumers of natural gas to purchase natural gas from sources not in interstate commerce and from other such companies on an emergency basis free from the provisions of the Natural Gas Act (15 U.S.C. 717 et seq.), except for the reporting requirements of such Act; to grant the Federal Energy Administration authority to prohibit the use of natural gas as boiler fuel; and to provide the President with standby authority to allocate propane during periods of actual or threatened severe shortages of natural gas.

DEFINITIONS

SEC. 103. For purposes of this title—

(1) "Natural-gas distributing company" means a person involved in the distribution or transportation of natural gas for ultimate public consumption for domestic, commercial, industrial, or any other use, but such term does not include a natural-gas company as defined in section 2(6) of the Natural Gas Act (15 U.S.C. 717a(6)).

(2) "High priority consumer of natural gas" means a person so defined by the Commission by rules and regulations.

(3) "Independent producer" means a person, as determined by the Commission, (A) who is not affiliated with a person engaged in the transportation of natural gas in interstate commerce, and (B) who is not a producing division of such a person engaged in the transportation of natural gas in interstate commerce.

(4) "Propane" means (A) the chemical C_3H_8 in its commercial form whether recovered from natural-gas streams or crude oil refining, (B) the C_3H_8 component of raw domestic mixtures containing more than 10 percent of such component by weights, and (C) commercial propane-butane mixes containing by weight more than 10 percent of propane and not more than 5% of constituents other than propane or butane.

(5) "United States" means the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(6) "Administrator" means the Administrator of the Federal Energy Administration.

(7) "Commission" means the Federal Power Commission.

EMERGENCY EXEMPTIONS

SEC. 104. Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) is amended by designating the two unnumbered paragraphs thereof as paragraphs (1) and (2), by deleting the period at the end of paragraph (2) as designated hereby, and inserting in lieu thereof the following: ": *Provided further*, That, within 15 days after the enactment of the Natural Gas Emergency Standby Act of 1975, the Commission shall by regulation exempt from the provisions of this Act, except for reporting requirements, any activities, operations, facilities or services relating to the transportation, sale and delivery, transfer or exchange of natural gas from any source, other than any offshore federal lands, by an independent producer, a natural-gas company which transports natural gas in interstate commerce or a natural-gas producing affiliate of such company, a person who transports natural gas in other than interstate commerce or a natural-gas producing affiliate of such a person, or a natural-gas distributing company to or with a natural gas company which transports natural gas in interstate commerce which does not have or which under reasonably foreseeable circumstances may not have a sufficient supply of natural gas to meet the requirements of its high-priority customers of natural gas and which is curtailing during the heating season from November 1975 through March 1976 pursuant to a curtailment plan on file with the Commission. Exemptions granted pursuant to this proviso shall be for periods of no more than 180 consecutive days. Persons who are exempt under section 1 (b) or (c) of the Natural Gas Act shall not have their exempt status affected in any way by making the sales or deliveries contemplated by this subsection: *Provided further*, That the Commission shall have no power to deny, in whole or in part, recovery by any natural-gas company in its jurisdictional rates of the amount paid by it for natural gas delivered to it pursuant to sales and contracts as described herein, except to the extent that an interstate transporter purchases natural gas from an affiliate at a rate in excess of the price paid by the transporter to nonaffiliated sellers in comparable sales transactions: *Provided further*, That natural gas sold and delivered or transported pursuant to any exemption granted under section 104 of the Natural Gas Emergency Standby Act of 1975 shall not be or become subject to the jurisdiction of the Commission because of such sale or delivery or transportation whether or not such sale is a sale for resale in interstate commerce or such transportation is in interstate commerce.".

PROHIBITION OF THE USE OF NATURAL GAS AS BOILER FUEL

SEC. 105. (a) The purpose of this section is to continue the conservation of natural gas and petroleum products by fostering the use of coal by powerplants and major fuel burning installations, and if coal cannot be utilized, to provide authority to prohibit the use of natural gas when petroleum products can be substituted.

(b) The Administrator may, by order, prohibit any powerplant or major fuel burning installation from burning natural gas if—

(1) the Administrator determines that—

(A) such powerplant or installation had on June 30, 1975 (or at any time thereafter) the capability and necessary plant equipment to burn petroleum products, coal or derivatives thereof,

(B) the burning of petroleum products, coal or derivatives thereof by such powerplant or installation in lieu of natural gas is practicable,

(C) petroleum products, coal or derivatives thereof will be available during the period such order is in effect,

(D) with respect to powerplants, the prohibition under this subsection will not impair the reliability of service in the area served by the plant,

(E) the prohibition under this subsection will result in making natural gas available for sale to a natural-gas company which transports gas in interstate commerce and which does not have adequate quantities of natural gas to meet the requirements of its high-priority consumers and which is curtailing pursuant to a curtailment plan on file with the Commission, and

(2) the Administrator of the Environmental Protection Agency has not certified to the Administrator within 15 days of the issuance of such order that its implementation will violate the Clean Air Act (42 U.S.C. 1857 et seq.) (including applicable implementation plans).

(b) The Administrator may specify in any order issued pursuant to subsection (a) of this section the periods of time during which such order will be in effect and the quantity or rate of use of natural gas that may be burned by a powerplant or major fuel burning installation during such periods, including the burning of natural gas to meet peaking load requirements: *Provided, however*, That no order issued pursuant to this section shall extend beyond April 15, 1976.

(c) The administrator shall exempt from any order issued pursuant to subsection (a) of this section the burning of natural gas for the necessary processes of ignition, startup, testing, and flame stabilization by a powerplant or major fuel burning installation.

(d) The Administrator shall also exempt from any rule under this section the burning of natural gas by powerplants for the purpose of operating pollution abatement systems.

(e) The Administrator shall modify or suspend any order issued pursuant to subsection (a) of this section to the extent necessary to alleviate short-term air quality emergencies or any other danger to the public health, safety, or welfare.

(f) Any order issued pursuant to this section shall provide for just compensation of the facility and transporter affected by such order. Such compensation is (i) to be measured by the increased costs, if any, incurred by a powerplant or major fuel burning installation and the loss of revenue, if any incurred by a transporter as a result of such order, and (ii) to be paid ultimately through increased rates and charges by those users, in proportion to the volumes of natural gas consumed by such users, who are determined by the Commission to benefit as a result of such order: *Provided, however*, That nothing contained in this subsection shall be construed to extend the jurisdiction of the Commission under section 2 of the Natural Gas Act, as redesignated by the Natural Gas Act Amendments of 1975 (15 U.S.C. 717). For the purposes of this subsection, the term "users" means high priority consumers of natural gas who consume natural gas transported by that natural-gas company which obtains the natural-gas supplies made available for nonboiler fuel use by an order issued pursuant to this section.

(g) The Administrator and the Commission shall have authority to issue such rules and orders applicable to any person as the Administrator or the Commission determines are necessary or appropriate to carry out the provisions of this section.

PROPANE STANDBY ALLOCATION AUTHORITY

SEC. 106. (a) Upon finding that shortages of natural gas exist or are imminent and upon finding that such shortages or potential shortages constitute a threat to the public health, safety, or welfare, the President is authorized to issue such orders and regulations as he deems appropriate to provide, consistent with subsection (d) of this section, for the establishment of priorities of use and for equitable allocation and distribution of propane to classes of consumers, who are historical users of propane, and where energy and feedstock needs have historically been met through the use of propane, and equitable pricing of propane, in order to meet the essential needs of various sections of the United States, to lessen anticompetitive effects resulting from shortages of natural gas and to provide sufficient incentive to maximize the extraction and production of propane. Such orders and regulations shall be consistent with the allocation provisions of section 4 of the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. 753).

(b) (1) Whoever violates any order or regulation under this section shall be subject to civil penalty of not more than $2500 for each violation.

(2) Whoever willfully violates any order or regulation under this section shall be fined not more than $5000 for each violation.

(3) Any person or agency to whom the President has delegated his authority pursuant to subsection (j) of this section may issue such orders and notices as are deemed necessary to insure compliance with any order or regulation issued pursuant to subsection (a) of this section or to remedy the effects of any such orders or regulations.

(c) There shall be available as a defense to any action brought under the antitrust laws, or for breach of contract in any Federal or State court arising out of delay or failure to provide, sell, or offer for sale or exchange any product covered by this section that such delay or failure was caused solely by compliance with the provisions of this section or with any regulations or any orders issued pursuant to this section.

(d) (1) Subject to paragraphs (2), (3), and (4) of this subsection, which shall apply to any rule, regulation, or order having the applicability and effect of a rule as defined in section 551 (4) of title 5, United States Code, except as to the requirements of sections 552, 553, and 555 (e) of title 5, United States Code.

(2) Notice of any proposed rule, regulation, or order described in paragraph (1) of this subsection shall be given by publication of such proposed rule, regulation, or order in the Federal Register. In each case, a minimum of 10 days following such publication shall be provided for opportunity to comment; except that the requirements of this paragraph as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious harm or injury to the public health, safety, or welfare, and such finding is set out in detail in such rule, regulation, or order.

(3) In addition to the requirements of paragraph (2) of this subsection, if any rule, regulation, or order described in paragraph (1) of this subsection is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the issuance of such rule, regulation, or order, but in all cases such opportunity shall be afforded no later than 45 days after the issuance of any such rule, regulation, or order. A transcript shall be kept of any oral presentation.

(4) The President or any officer or agency authorized to issue the rules, regulations or orders described in paragraph (1) of this subsection shall provide for the making of such adjustments, consistent with the other purposes of this section, as may be necessary to prevent particular hardship, inequity, or unfair distribution of burdens and shall, by rule, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, rescission of, exception to, or exemption from such rules, regulations, and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the President or the officer or agency to whom he has delegated his authority pursuant to subsection (j) of this section and may obtain judicial review in accordance with subsection (e) of this section when such denial becomes final. The President or such officer or agency shall, by rule, establish appropriate procedures, including a hearing where deemed advisable,

for considering such requests for action under this paragraph.

(e)(1) The district courts of the United States shall have exclusive original jurisdiction of cases or controversies arising under this section or under regulations or orders issued thereunder, notwithstanding the amount in controversy; except that nothing in this paragraph or in paragraph (7) of this subsection shall affect the power of any court of competent jurisdiction to consider, hear, and determine any issue by way of defense (other than a defense based on the constitutionality of this section or the validity of action taken by any agency under this section) raised in any proceeding before such court. If in any such proceeding an issue by way of defense is based on the constitutionality of this section or the validity of actions taken under this section, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 89 of title 28, United States Code.

(2) Except as otherwise provided in this section, exclusive appellate jurisdiction is vested in the Temporary Emergency Court of Appeals, a court which is currently in existence, but which is independently authorized by this section. The court, a court of the United States, shall consist of three or more judges to be designated by the Chief Justice of the United States from judges of the United States district courts and circuit courts of appeals. The Chief Justice of the United States shall designate one of such designated judges as chief judge of the Temporary Emergency Court of Appeals, and may, from time to time, designate additional judges for such court and revoke previous designations. The chief judge may, from time to time, divide the court into divisions of three or more members, and any such division may render judgment as the judgment of the court. Except as provided in subparagraph (B) of paragraph (5) of this subsection, the court shall not have power to issue any interlocutory decree staying or restraining in whole or in part any provision of this section, or the effectiveness of any regulation or order issued thereunder. In all other respects, the court shall have the powers of a circuit court of appeals with respect to the jurisdiction conferred on it by this section. The court shall exercise its powers and prescribe rules governing its procedure in such manner as to expedite the determination of cases over which it has jurisdiction under this section. The court shall have a seal, hold sessions at such places as it may specify, and appoint a clerk and such other employees as it deems necessary and proper.

(3) Appeals from the district courts of the United States in cases or controversies arising under regulations or orders issued under this section shall be taken by the filing of a notice of appeal with the Temporary Emergency Court of Appeals within 30 days of the entry of judgment by the district court.

(4) In any action commenced under this section in any district court of the United States in which the court determines that a substantial constitutional issue exists, the court shall certify such issue to the Temporary Emergency Court of Appeals. Upon such certification, the Temporary Emergency Court of Appeals shall determine the appropriate manner of disposition which may include a determination that the entire action be sent to it for consideration or it may, on the issues certified, give binding instructions and remand the action to the certifying court for further disposition.

(5)(A) Subject to subparagraph (B) of this paragraph, no regulation of any agency exercising authority under this section shall be enjoined or set aside, in whole or in part, unless a final judgment determines that the issuance of such agency was in excess of the agency's authority, was arbitrary and capricious, or was otherwise unlawful under the criteria set forth in section 706(2) of title 5, United States Code, and no order of such agency shall be enjoined or set aside, in whole or in part, unless a final judgment determines that such order is in excess of the agency's authority, or is arbitrary or capricious, or is based upon findings which are not supported by substantial evidence.

(B) A district court of the United States or the Temporary Emergency Court of Appeals may enjoin temporarily or permanently the application of a particular regulation or order issued under this section to a person who is a party to litigation before it. Except as provided in this paragraph, no interlocutory or permanent injunction restraining the enforcement, operation, or execution of this section, or any regulation or order issued thereunder, shall be granted by any district court of the United States or judge thereof. Any such court shall have jurisdiction to declare (i) that a regulation of an agency exercising authority under this section is in excess of the agency's authority, is arbitrary or capricious, or is otherwise unlawful under the criteria set forth in section 706(2) of title 5, United States Code, or (ii) that an order of such agency is invalid upon a determination that the order is in excess of the agency's authority, or is arbitrary or capricious, or is based upon findings which are not supported by substantial evidence. Appeals from interlocutory decisions by a district court of the United States under this subparagraph may be taken in accordance with the provisions of section 1292 of title 28, United States Code; except that reference in such section to the courts of appeals shall be deemed to refer to the Temporary Emergency Court of Appeals.

(6) The effectiveness of a final judgment of the Temporary Emergency Court of Appeals enjoining or setting aside in whole or in part any provision of this section, or any regulation or order issued thereunder shall be postponed until the expiration of time for filing a writ of certiorari. If such petition is filed, the effectiveness of such judgment shall be postponed until an order of the Supreme Court denying such petition becomes final, or until other final disposition of the action by the Supreme Court.

(7) Within 30 days after entry of any judgment or order by the Temporary Emergency Court of Appeals, a petition for a writ of certiorari may be filed in the Supreme Court of the United States, and thereupon the judgment or order shall be subject to review by the Supreme Court in the same manner as a judgment of a United States court of appeals as provided in section 1254 of title 28, United States Code. The Temporary Emergency Court of Appeals, and the Supreme Court upon review of judgments and orders of the Temporary Emergency Court of Appeals, shall have exclusive jurisdiction to determine the constitutional validity of any provisions of this section or of any regulation or order issued under this section. Except as provided in this paragraph, no Federal or State court shall have jurisdiction or power to consider the constitutional validity of any provisions of this section or of any such regulation or order, or to stay, restrain, enjoin, or set aside, in whole or in part, any provision of this section authorizing the issuance of such regulations or orders or any provision of any such regulation or order, or to restrain or enjoin the enforcement of any such provision.

(f) Whenever it appears to any person or agency authorized by the President pursuant to subsection (j) of this section that any individual or organization has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of any order or regulation. under this section, such person or agency may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing, a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any such order or regulation. In addition to such injunctive relief, the court may also order restitution of moneys received in violation of any such order or regulation.

(g)(1) An agency or person exercising authority pursuant to subsection (j) of this section shall have authority, for any purpose related to this section, to sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant books, papers, and other documents, and to administer oaths.

(2) Upon presenting appropriate credentials and a written notice to the owner, operator, or agency in charge, any agency or person exercising authority pursuant to subsection (j) of this section may enter any business premise or facility and inspect, at reasonable times and in a reasonable manner any such premise or facility, inventory and sample any stock of energy resources therein, and examine and copy books, records, papers, or other documents in order to obtain information as necessary or appropriate for the proper exercise of functions under this section and to verify the accuracy of any such information.

(3) Witnesses summoned under the provisions of this section shall be paid the same fees and mileage as are paid to witnesses in the courts of the United States. In case of refusal to obey a subpena served upon any person under the provisions of this subsection, the agency or person authorizing such subpena may request the Attorney General to seek the aid of the district court of the United States for any district in which such person is found to compel such person, after notice, to appear and give testimony, or to appear and produce documents before the agency or person.

(h) Any person suffering legal wrong because of any act or practice arising out of this section, or any order or regulation issued pursuant thereto, may bring an action in a district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment, writ of injunction (subject to the limitations in subsection (e) of this section), or damages.

(i) Section 5(b) of the Federal Energy Administration Act of 1974 (15 U.S.C. 763(b)) is amended by adding the word "and" after the semicolon in paragraph 10; by deleting paragraph 11; and by redesignating paragraph 12 as paragraph 11.

(j) The President may delegate the performance of any function under this section to such offices, departments, and agencies of the United States as he deems appropriate.

(k) No law, rule, regulation, order, or ordinance of any State, or municipality in effect on the date of enactment of this title, or which may become effective thereafter, shall be superseded by any provision of this section or any rule, regulation, or order issued pursuant to this section except insofar as such law, rule, regulation, order, or ordinance is inconsistent with the provisions of this section, or any rule, regulation, or order issued thereunder.

EXPIRATION DATE

SEC. 107. (a) This title shall expire on midnight, April 15, 1976.

(b) The expiration of this title and the authority granted under this title shall not affect any action or pending proceedings not finally determined on the date of such expiration, or any action or proceeding based upon any act committed prior to such date.

TITLE II—NATURAL GAS ACT AMENDMENTS

SEC. 201. This title may be cited as the "Natural Gas Act Amendments of 1975".

SEC. 202. The Natural Gas Act (15 U.S.C. 717 *et seq.*) is amended by (1) striking out section 24 thereof (15 U.S.C. 717w); and (2) amending section 1 thereof by redesignating subsections (a) (b), and (c) as subsections (b), (c), and (d), respectively, and inserting therein the following new subsection:

"(a) This act may be cited as the 'Natural Gas Act'."

SEC. 203. Section 1(c) of the Natural Gas Act, as redesignated by this title (15 U.S.C. 717(b)), is amended (1) by deleting "The" at the beginning thereof and by inserting in lieu thereof immediately after "(c)" the following: "(1) Except as provided in paragraph (2) of this subsection, the"; and (2) by inserting at the end thereof the following new paragraph:

"(2) Subject only to the provisions of section 24 of this Act, after the effective date of the Natural Gas Act Amendments of 1975, the authority of the Commission to regulate the sale of natural gas to a natural-gas company for resale in interstate commerce pursuant to this Act shall cease to exist with respect to, and shall not apply to, new natural gas: *Provided, however,* That nothing contained in the Natural Gas Act Amendments of 1975 shall modify or affect the authority of the Commission in effect prior to the date of enactment of such amendments to (A) regulate the transportation in interstate commerce of natural gas or the sale in interstate commerce for resale of old natural gas, or (B) regulate sales for resale of natural gas by any natural gas company which transports natural gas in interstate commerce or by an affiliate thereof which transports natural gas in interstate commerce".

SEC. 204. (a) Section 2 of the Natural Gas Act (15 U.S.C. 717a) is amended by redesignating paragraphs (7) through (9) as paragraphs (12) through (14), and by inserting the following new paragraphs:

"(7) 'Boiler fuel use of natural gas' means the use of natural gas as the source of fuel in a generating unit of more than 25 megawatts rated net generating capacity or in any unit which is part of an electric utilities system with a total net generating capacity of more than 150 megawatts for the purpose of generating electricity for distribution.

"(8) 'New natural gas' means natural gas sold or delivered in interstate commerce (A) which is dedicated to interstate commerce for the first time on or after January 1, 1976, or (B) which is continued in interstate commerce after the expiration of a contract by its own terms (and not through the exercise of any power to terminate or renegotiate contained therein) for the sale or delivery of such natural gas existing as of such date, or (C) which is produced from wells commenced on or after January 1, 1976.

"(9) 'Old natural gas' means natural gas other than new natural gas.

"(10) 'Affiliate' means any person directly or indirectly controlling, controlled by, or under common control or ownership with any other person, as determined by the Commission pursuant to its rulemaking authority.

"(11) 'Offshore federal lands' means any land or subsurface area within the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 (a))."

SEC. 205. (a) Section 4(a) of the Natural Gas Act (15 U.S.C. 717c(a)) is amended by adding at the end thereof the following new sentence: "The rates and charges made, demanded, or received by any natural-gas company for, or in connection with, a contract for the sale of new natural gas produced from offshore federal lands shall be deemed to be just and reasonable, if they do not exceed the applicable national ceiling, established by regulation of the Commission or subsequently modified by the Commission pursuant to section 24 of this Act, in effect at the time when such new natural gas is either first sold or first transferred under such contract to a natural-gas company: *Provided, however,* That rates and charges in excess of such national ceiling may be authorized by the Commission to provide special relief to meet extraordinary expenses that could not be anticipated at the time the national ceiling was established or modified.".

(b) Section 4(e) of the Natural Gas Act (15 U.S.C. 717c(e)) is amended by adding at the end thereof the following new sentence: "Notwithstanding the foregoing, the Commission shall have no power (1) to deny, in whole or in part, any rate or charge made, demanded, or received by any natural-gas company for, in connection with, the purchase or sale of new natural gas, or that portion of the rates and charges of such company which relates to such purchase or sale, except (A) to the extent that such rates or charges, or such portion thereof, for new natural gas produced from offshore Federal lands exceed the national ceiling, established or modified by regulation of the Commission pursuant to section 24 of this Act, or (B) in any case where a natural-gas company purchases natural gas from an affiliate or produces natural gas from its own properties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by any person who is not affiliated with any natural-gas company; or (2) to order a decrease in the rate or charge made, demanded, or received for the sale or transfer of old natural gas by a natural-gas company if such rate or charge shall have been previously determined or deemed to be just and reasonable pursuant to this Act.".

SEC. 206. Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by striking the period at the end thereof and by adding the following: *Provided further,* That the Commission shall have no power (1) to deny, in whole or in part, any rate or charge made, demanded or received by any natural-gas company for, or in connection with, the purchase or sale of new natural gas, or that portion of the rates and charges of such company which relates to such purchase or sale, except (A) to the extent that such rates or charges, or such portion thereof, for new natural gas produced from offshore Federal lands exceed the national ceiling, established or modified by the Commission pursuant to section 4 of this Act, or (B) in any case where a natural-gas company purchases natural gas from an affiliate or produces natural gas from its own properties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by any person who is not affiliated with any natural-gas company; or (2) to order a decrease in the rate or charge made, demanded, or received for the sale or transfer of old natural gas by a natural-gas company if such rate or charge shall have been previously determined or deemed to be just and reasonable pursuant to this Act.".

SEC. 207. Section 14 of the Natural Gas Act (15 U.S.C. 717m) is amended by adding at the end thereof the following new subsection:

(h) (1) The Commission is further authorized and directed to conduct studies of the production, gathering, storage, transportation, distribution, and sale of natural, artificial, or synthetic gas, however produced, throughout the United States and its possessions whether or not otherwise subject to the jurisdiction of the Commission, including the production, gathering, storage, transportation, distribution, and sale of natural artificial or synthetic gas by any agency, authority, or instrumentality of the United States, or of any State or municipality or political subdivision of a State. It shall, insofar as practicable, secure and keep current information regarding the ownership, operation, management, and control of all facilities for production, gathering, storage, transportation, distribution, and sale; the total estimated natural gas reserves of fields or reservoirs and the current utilization of natural gas and the relationship between the two; the cost of production, gathering, storage, transportation, distribution, and sale; the rates, charges, and contracts in respect to the sale of natural gas and its service to residential, rural, and commercial and industrial consumers, and other purchasers by private and public agencies; and the relation of any and all such facts to the development of conservation, industry, commerce, and the national defense. The Commission shall report to Congress and may publish and make available the results of studies made under the authority of this subsection.

"(2) In making studies, investigations, and reports under this section, the Commission shall utilize, insofar as practicable, the services, studies, reports, information, and programs of existing departments, bureaus, offices, agencies, and other entities of the United States, of the several States, and of the natural-gas industry, but such studies, investigations, and reports shall be based on information developed, or completely reviewed for accuracy, after the date of enactment of this subsection. Nothing in this section shall be construed as modifying, reassignment, or otherwise affecting the investigative and reporting activities, duties, powers, and functions of any other department, bureau, office, or agency in the Federal Government.

"(3) In order to assist in determining necessary actions to eliminate the national emergency which exists with respect to natural gas supplies the Commission shall carry out and complete, not later than 90 days after the date of enactment of this subsection, an initial such study with respect to the total estimated natural gas reserves of fields and reservoirs and the current utilization of natural gas and the relationship between the two. Such study shall include specific estimates for individual fields and reservoirs but shall not include reserves controlled by small producers. On January 1, 1977, and at the beginning of each calendar year thereafter until December 31, 1981, the Commission shall, within the following 90-day period, complete a review of the previous study and revise the results thereof to the extent necessary. A report of such initial study and each such review shall be made, within the time provided for completion thereof, to the President and the Congress.".

SEC. 208. The Natural Gas Act, as amended by this title, is further amended by adding at the end thereof the following heading and three new sections:

"NATIONAL CEILING FOR RATES AND CHARGES

"SEC. 24. (a) The Commission shall, as soon as practicable after the date of enactment of the Natural Gas Act Amendments of 1975, and pursuant to rulemaking procedures under section of 553 of title 5, United States Code, establish by regulation, and may from time to time modify, a national ceiling for rates and charges for the sale or transfer in interstate commerce by any person of new natural gas produced from offshore Federal lands on or after January 1, 1976, through December 31, 1980. In establishing such national ceiling the Commission shall consider the following factors and only these factors:

"(1) the prospective costs attributable to the exploration, development, production, gathering, and sale of natural gas;

"(2) the rates and charges necessary to encourage the optimum levels of (A) the exploration for natural gas, (B) the development, production, and gathering of natural gas, and (C) the maintenance of proved reserves of natural gas;

"(3) the promotion of sound conservation practices in natural gas consumption necessary to contribute to the maintenance of a supply of energy resources at reasonable prices to consumers; and

"(4) the rates and charges that will protect consumers of natural gas from price increases that would, in the absence of a national ceiling during periods of actual or anticipated shortages, exceed the rates and charges necessary to achieve the objectives of paragraphs (1) through (3) of this subsection.

"(b) The Commission shall monitor the national ceiling for rates and charges for the sale or transfer in interstate commerce by any person of new natural gas, and during the period such ceiling is in effect, commencing on July 1, 1976, the Commission shall report to the Congress not less than annually on the effectiveness of such national ceiling in meeting the factors set forth in subsection (a) of this section.

"(c) The Commission may authorize a person to charge an amount in excess of such national ceiling for new natural gas produced from offshore federal lands from any high cost production area or vertical drilling depth as designated by the Commission pursuant to its rulemaking authority. In establishing such amount in excess of such national ceiling, the Commission shall consider the factors set forth in subsection (a) of this section and only those factors.

"(d) Any contract entered into after the date of enactment of the Natural Gas Act Amendments of 1975 for the sale of new natural gas for resale which involves the receipt by the seller of funds in advance of production of the natural gas covered by such contract shall be filed with the Commission at least 60 days in advance of deliveries thereunder. The Commission may thereafter require, after notice and opportunity for hearing, that the sales rate specified in such contract be reduced or modified as necessary to repay in full to the advancing party the principal of the advance and any interest thereon, upon such terms and conditions as the Commission may determine proper in the public interest.

"(e) Within 30 days after the enactment of the Natural Gas Act Amendments of 1975 and on January first of each year thereafter until the establishment of the national ceiling pursuant to subsection (a) of this section by a final Commission order which is no longer subject to judicial review, the Commission shall establish an interim national ceiling for rates and charges for the sale or transfer in interstate commerce by any person of new natural gas produced from offshore Federal lands which shall be equivalent to the average dollar valuation per barrel of crude oil used by the United States Geological Survey or its successor in computing the royalties due to the United States on account of crude oil produced from all federal lands during the calendar month ending 30 days prior to such computation. Such interim national ceiling shall be expressed in one million British thermal units and shall be determined by dividing such average dollar valuation per barrel of crude oil by 5.8. Such interim national ceiling shall cease to have effect on the date of the establishment of the national ceiling pursuant to subsection (a) of this section by final Commission order which is no longer subject to judicial review, such national ceiling shall apply to the sale or transfer in interstate commerce of all new natural gas produced from offshore Federal lands whether or not contracted for prior to the date of such establishment: *Provided, however,* That the Commission shall have no power to order a reduction in the rates and charges for the sale of new natural gas produced from offshore Federal lands and contracted for prior to the date of the establishment of such national ceiling below the interim ceiling price in effect on such date.

"NATURAL GAS FOR ESSENTIAL AGRICULTURE PURPOSES

SEC. 25. (a) Except to the extent that natural-gas supplies are required to maintain natural-gas service to residential users, small users, hospitals, and similar services vital to public health and safety, and notwithstanding any other provision of law or of any natural-gas allocation or curtailment plan in effect under existing law, the Commission shall, by rule, prohibit any interruption or curtailment of natural gas and take such other steps as are necessary to assure as soon as practicable the availability in interstate commerce of sufficient quantities of natural gas for use for any essential agricultural, food processing, or food packaging purpose for which natural gas is essential, including but not limited to irrigation pumping, crop drying, us as a raw material foodstock or process fuel in the production of fertilizer and essential agricultural chemicals in existing plants (for present or expanded capacity) and in new plants. The Secretary of Agriculture shall determine by rule the agricultural, food processing, or food packaging purposes for which nautral gas is essential. The Secretary of Agriculture shall also certify to the Commission the amount of natural gas which is necessary for such essential uses to meet requirements for full food and fiber production.

"ESSENTIAL INDUSTRIAL PURPOSES

"(b) Except to the extent that natural gas supplies are required to maintain natural-gas service to users specified under subsection (a), the Commission shall exercise its authority under this title to assure, to the maximum extent feasible, the continuance of natural gas service to users using natural gas as a raw material and for purposes other than boiler fuel for which there is no available substitute regardless of whether such users purchase natural gas under firm or interruptible contracts.

"NATURAL GAS CONSERVATION

"SEC. 26. (a) Except as provided in subsection (d) of this section, the Commission shall by rule prohibit boiler fuel use of natural gas affecting commerce not contracted for prior to January 1, 1976, unless, upon petition by the user, the Commission determines that—

"(1) alternative fuels, other than crude oil or products refined therefrom and propane, are not available to such user; or

"(2) it is not feasible or practicable to utilize such alternative fuels at the time of such Commission determination.

"(b) Except as provided in subsection (d) of this section, boiler fuel use of natural gas contracted for prior to January 1, 1975, shall be terminated by the user of such natural gas at the expiration of such contract or 12 years after the date of enactment of the Natural Gas Act Amendments of 1975, whichever is earlier, unless, upon petition of such user, the Commission determines that (1) alternative fuels, other than crude oil or products therefrom and propane, are not available to such user, or (2) it is not feasible or practicable to utilize such alternative fuels at the time of such Commission determination. The Commission shall modify or terminate certificates of public convenience and necessity relating to such contracts to the extent necessary to carry out the purpose of this subsection.

"(c) Except as expressly provided in subsection (b) of this section, the Commission or other federal agency, administration or department shall not (1) modify, amend, or abrogate contracts entered into prior to January 1, 1976, for the sale or transportation of natural gas for boiler fuel use; (2) modify, amend, or abrogate certificates of public convenience and necessity authorizing the sale or transportation of natural gas under such contracts, except upon application duly made by the holder of a certificate under section 7 of this Act; or (3) prevent, impair, or limit, either directly or indirectly, the performance of any such contract or certificate: *Provided, however,* That the provisions of this subsection shall not otherwise modify or affect the authority of the Commisison under this Act.

"(d) The Commission shall also exempt from any rule under this section the burning of natural gas by powerplants for the purpose of operating pollution abatement systems.

"(e) The Commission shall not prohibit the boiler fuel use of natural gas for the necessary processes of ignition, startup, testing, and flame stabilization by a facility, or for the purpose of alleviating short-term air quality emergencies or any other danger to the public health, safety, or welfare.

"(f) In implementing the provisions of this section, the Commission shall, to the extent necessary, apply the provisions of section 17 of this Act.

"(g) Nothing in this section shall impair any requirement in any State or Federal law pertaining to safety or environmental protection. The Commission, in determining feasibility or practicality where required by this section, shall not assume that there will be any lessening in any safety or environmental requirement established pursuant to State or Federal law.".

SEC. 209. Section 2 of the Natural Gas Act as designated by this Act (15 U.S.C. 717), is amended by inserting at the end thereof a new subsection as follows:

"(d) Nothing in this Act shall prevent the intrastate transportation of natural gas first sold in commerce after the date of enactment of this subsection in an interstate pipeline as long as such intrastate transportation does not prevent service necessary to meet the requirements of interstate consumers and the rates for such transportation reflect the fully distributive costs of the interstate facilities used therein, and the provisions of this Act shall not apply to any such intrastate transportation or the facilities utilized in such service.".

H.R. 9721

By Mr. GRASSLEY:

Page 3, strike out lines 20 through 24. Redesignate the succeeding sections accordingly.

By Mr. ROUSSELOT:

Beginning on page 5, line 19, strike all that follows through page 10, line 12.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House Rule X. Previous listing appeared in the CONGRESSIONAL RECORD of December 1, 1975, page 37908.

H.R. 10300.—October 22, 1975. Veterans' Affairs. Stipulates that the plot and interment allowance paid by the Administrator of Veterans' Affairs, for veterans not buried in a national cemetery, shall not be reduced when such sum is paid to reimburse a State or local government for plot or interment expenses paid or assumed, if the deceased veteran is buried in a cemetery which is owned by such State or local government and solely or primarily used for the interment of veterans.

H.R. 10301.—October 22, 1975. Judiciary. Amends the Administrative Procedure Act to permit interested parties an automatic extension of time for submission of comments regarding contested matters upon request to the administrative officer involved unless other considerations outweigh the desirability of such extension. Imposes additional requirements for public notice of proposed rule-making upon Executive departments and agencies.

H.R. 10302.—October 22, 1975. Interstate and Foreign Commerce. Amends the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act to require warrantors (1) to refund or replace defective new motor vehicles not withstanding encumbrances on such vehicles; (2) to extend new motor vehicle warranties in certain instances for the period of time a consumer is deprived of the use of a new motor vehicle; and (3) to provide a substitute motor vehicle during periods in which the consumer is deprived of the use of a new motor vehicle due to defect or malfunction.

H.R. 10303.—October 22, 1975. Judiciary. Authorizes the United States to pay attorney's fees and other costs to the defendant in Federal criminal cases when the court determines that such payments are in the interest of justice.

H.R. 10304.—October 22, 1975. Judiciary. Includes bodies politic in the category of persons who may be sued for depriving any citizen of rights secured under the Constitution and laws of the United States.

H.R. 10305.—October 22, 1975. Government Operations. Prohibits Federal agencies from purchasing, hiring, leasing, operating or maintaining limousines, and from employing chauffeurs to operate such limousines, except for certain designated Federal officers.

H.R. 10306.—October 22, 1975. Public Works and Transportation. Authorizes the Administrator of General Services to acquire certain property in the District of Columbia for refurbishing and use by the Federal Government.

H.R. 10307.—October 22, 1975. Interior and Insular Affairs. Establishes the Nantucket Sound Islands Trust in Massachusetts. Creates commissions to regulate construction of any improvements on lands and waters within the trust area and to provide for the preservation and conservation of the area.

Designated Noman's Land Island in Massachusetts as part of the National Wildlife Refuge System.

Directs such commissions to develop land use control plans for the trust area and to identify new employment opportunities for residents of the area.

H.R. 10308.—October 22, 1975. Ways and Means. Amends the Internal Revenue Code to repeal the authority of the Secretary of the Treasury to pay a sum for the detection and bringing to trial and punishment of persons guilty of violating the internal revenue laws.

H.R. 10309.—October 22, 1975. Veterans' Affairs. Directs the Administrator of Veterans' Affairs, when any former member of the Armed Forces dies in an Armed Forces hospital, to transport the body to the place of burial in the same or any other state.

H.R. 10310.—October 22, 1975. Veterans' Affairs. Authorizes the Administrator of Veterans' Affairs to transfer certain former members of the Armed Forces, who are entitled to retired, retainer, or equivalent pay, to any public or private institution not under the jurisdiction of the Administrator which furnishes nursing home care.

H.R. 10311.—October 22, 1975. Veterans' Affairs. Extends the entitlement of veterans to educational assistance from thirty-six months to forty-five months.

H.R. 10312.—October 22, 1975. Veterans' Affairs. Directs the Administrator of Veterans' Affairs to pay service pensions to certain World War I veterans, their widows, and their children.

H.R. 10313.—October 22, 1975. Veterans' Affairs. Requires that certain increases in monthly social security or railroad retirement benefits be disregarded by the Administrator of Veterans' Affairs when determining a person's annual income for the purpose of determining the veterans' pension payable to such person.

H.R. 10314.—October 22, 1975. Ways and Means. Amends the Social Security Act to maintain the inpatient hospital deductible under the medicare program at its 1975 level.

H.R. 10315.—October 22, 1975. Government Operations. Requires, with certain exceptions, that meetings of Government agencies be open to the public.

H.R. 10316.—October 22, 1975. Merchant Marine and Fisheries. Directs the Secretary of the Interior to regulate the trapping and capture of mammals and birds on Federal lands. Establishes an advisory commission to recommend to the Secretary acceptable methods for trapping and capture of mammals and birds.

Prohibits use of unacceptable traps in interstate or foreign commerce. Prescribes regulations to prohibit the interstate shipment of hide, skin, feathers, or resulting products of the use of unacceptable traps.

H.R. 10317.—October 22, 1975. Ways and Means. Amends the Social Security Act by requiring skilled nursing facilities participating in the Medicare program to comply with relevant provisions of the 1973 edition of the Life Safety Code of the National Fire Protection Association.

H.R. 10318.—October 22, 1975. Interstate and Foreign Commerce. Grants authority to the Administrator of the Environmental Protection Agency to (1) establish test standards for any drug that may present an unreasonable risk to health or the environment; (2) require 90 days' notice when any manufacturer is planning to manufacture or import a new drug; (3) prescribe rules for the distribution or use of a chemical substance deemed an unreasonable risk to human health or the environment; and (4) require the revision of inadequate quality control procedures. Exempts pesticides and certain other chemical substances from this Act.

H.R. 10319.—October 22, 1975. Government Operations. Amends the State and Local Fiscal Assistance Act to allow comprehensive planning and full and timely citizen participation in the allocating of funds as priority expenditures.

Extends appropriations for the State and Local Government Fiscal Assistance Trust Fund through 1978.

Revises the method for allocation of such appropriations among the States.

Authorizes additional entitlements for modernizing and revitalizing State and local government.

H.R. 10320.—October 22, 1975. Veterans' Affairs. Increases from ten to fifteen years the period during which veterans and certain wives and widows of veterans are entitled to education benefits.

H.R. 10321.—October 22, 1975. Interstate and Foreign Commerce. Amends the Regional Rail Reorganization Act of 1973 to require the special court railroad reorganization proceedings (1) to prudently invest cash compensation deposited with the special court during proceedings; and (2) to order distribution of securities, obligations, compensation, and income of such railroad to the trustee or trustees for the continuation of necessary operations.

H.R. 10322.—October 22, 1975. Interstate and Foreign Commerce. Amends the Regional Rail Reorganization Act of 1973 to terminate certain powers and duties of the Interstate Commerce Commission under the Bankruptcy Act (1) upon the conveyance of all rail properties to the Consolidated Rail Corporation by a railroad in reorganization or (2) as applied to a profitable railroad pursuant to a final system plan.

H.R. 10323.—October 22, 1975. Judiciary. Amends the Immigration and Nationality Act with respect to special immigrant status and the extension of immigrant visas.

H.R. 10324.—October 22, 1975. Ways and Means; Interstate and Foreign Commerce. Revises the conditions and limitations applicable to home health services and nursing home care under the Medicare and Medicaid programs of the Social Security Act.

Establishes a Home Health Patient Ombudsman in the Department of Health, Education, and Welfare.

Establishes procedures whereby the Secretary of the Treasury may collect debts owed by individuals to a State for certain medical assistance benefits.

Increases the amount of Federal funds which may be made available to public housing for congregate housing under the United States Housing Act.

H.R. 10325.—October 22, 1975. Agriculture. Revises the eligibility requirements for food coupons under the Food Stamp Act of 1964 to exclude individuals who receive one-half of their income from an individual who is not eligible for food coupons.

H.R. 10326.—October 22, 1975. Education and Labor. Amends the Occupational Safety and Health Act of 1970 by authorizing the Administrator of the Small Business Administration to render onsite construction and advice to certain small business employers to assist such employers in complying with the health and safety standards of the Act.

H.R. 10327.—October 22, 1975. International Relations. Prohibits assistance under the Agricultural Trade Development and Assistance Act to any country which the President determines is not making reasonable and productive self-help efforts to stabilize population growth and thereby reduce the need for assistance under the Act.

H.R. 10328.—October 22, 1975. Ways and Means. Amends the Social Security Act as it relates to Aid to Families with Dependent Children by (1) revising eligibility requirements for grants; (2) revising the procedure for adjusting the amount of grants; (3) authorizing Federal financial participation in the investigation and prosecution of fraud conducted by State agencies; (4) requiring States to provide evidentiary hearings; and (5) imposing criminal sanctions for misuse of grants by recipients.

H.R. 10329.—October 22, 1975. Interstate and Foreign Commerce. Requires franchisors to give franchisees 90 days notice with limited exceptions, of intent to cancel, or fail to renew, a franchise agreement. Allows such cancellation or failure to renew only for certain specified reasons. Requires a franchisor to compensate a franchisee for the value of the franchisee's business when the franchisor for a legitimate business reason, fails to renew the franchise. Sets forth the judicial remedies available to a franchisee for a violation of this Act by a franchisor.

H.R. 10330.—October 22, 1975. Judiciary. Prescribes the death penalty for any person who murders the President of the United States.

Stipulates penalties for kidnaping or attempting to kill the President of the United States.

H.R. 10331.—October 22, 1975. Armed Services. Stipulates that civilian personnel engaged in industrially funded activities shall be excluded from the computation of the total number of civilian personnel authorized by law for the Department of Defense in any fiscal year.

H.R. 10332.—October 22, 1975. Education and Labor. Establishes a National Employment Relocation Administration in the Department of Labor. Establishes programs of Federal assistance to employees who suffer employment loss through economic dislocations, to businesses threatened with dislocation, and to affected communities.

Requires prenotification to affected employees and communities of dislocation of businesses. Provides Federal assistance for job placement and retraining of employees.

H.R. 10333.—October 22, 1975. Agriculture. Amends the Agricultural Act of 1949 by establishing the support price for milk at not less than 100 percent of the parity price therefor.

H.R. 10334.—October 22, 1975. Ways and Means. Amends the Social Security Act to include optometrists' services and medical vision care under the Medicare supplementary medical insurance benefits program.

H.R. 10335.—October 22, 1975. Ways and

Means. Includes the services of clinical psychologists under the coverage of the Medicare supplementary medical insurance program of the Social Security Act.

H.R. 10336.—October 22, 1975. Judiciary. Imposes criminal penalties for unauthorized deprivation of benefits provided to individuals under any Act of Congress. Increases the maximum penalty for such unauthorized deprivation or undue use of employment or other benefits in consideration for political favors.

H.R. 10337.—October 22, 1975. Banking, Currency and Housing. Amends the Federal Reserve Act to permit commercial banks to pay interest on demand deposits when the depositor is a credit union.

H.R. 10338.—October 22, 1975. Interior and Insular Affairs. Authorizes a study of the feasibility of designating the Daniel Boone Trail as a national scenic trail.

H.R. 10339.—October 22, 1975. Agriculture. Authorizes and directs the Secretary of Agriculture (1) to provide a continuing survey of existing methods of direct marketing from farmers to consumers in each State; (2) to utilize the Extension Service of the Department of Agriculture to disseminate direct marketing information to the States; and (3) to provide technical assistance for the purpose of aiding interested individuals or groups in the establishment of arrangements for direct marketing from farmers to consumers.

H.R. 10340.—October 22, 1975. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain corporation in full settlement of such corporation's claims against the United States for repayment of certain customs duties.

H.R. 10341.—October 22, 1975. Judiciary. Directs the Secretary of the Treasury to reimburse specified individuals for financial loss caused by sonic booms of United States Air Force overflights.

H.R. 10342.—October 22, 1975. Judiciary. Deems a certain individual to be a veteran of World War I for purposes of any claim that his wife may make against the Veterans' Administration.

H.R. 10343.—October 23, 1975. Interstate and Foreign Commerce. Requires any entity which is a Federal agency, or an organization funded by the Federal Government engaging in biomedical or behavioral research involving a human subject to (1) determine that the rights and welfare of such subject will be adequately protected during such research; (2) determine that the risks to such subject are outweighed by the potential benefits to the subject or by the importance of the knowledge to be gained by such research; and (3) obtain the informed consent of such subject.

H.R. 10344.—October 23, 1975. Interstate and Foreign Commerce. Grants standby authority to the President to allocate propane during natural gas shortages.

H.R. 10345.—October 23, 1975. Banking, Currency and Housing. Repeals the Real Estate Settlement Procedures Act of 1974.

H.R. 10346.—October 23, 1975. Rules. Limits the time period for authorizations of future appropriations to one fiscal year. Requires detailed Congressional review by the authorizing committee prior to renewal of an appropriations authorization.

H.R. 10347.—October 23, 1975. Judiciary. Authorizes and directs the payment of attorneys' fees and other costs to any defendant who prevails in a civil action in which the United States is a plaintiff.

H.R. 10348.—October 23, 1975. Interior and Insular Affairs. Directs the Secretary of the Interior to convey all mineral interests of the United States in certain lands in Arkansas to the present owners.

H.R. 10349.—October 23, 1975. Agriculture. Authorizes any individual admitted to the practice of law in a State, and regularly engaged in the practice of law in such State, to deal with the Secretary of Agriculture as the representative of the recipient of a loan with respect to real property made under any program administered by the Secretary of Agriculture.

H.R. 10350.—October 23, 1975. Banking, Currency and Housing. Repeals the Real Estate Settlement Procedures Act of 1974.

H.R. 10351.—October 23, 1975. Small Business. Amends the Small Business Act to increase the maximum Small Business Administration share on a business loan from $350,000 to $500,000.

H.R. 10352.—October 23, 1975. House Administration. Amends the Legislative Reorganization Act of 1970 by directing officers of the House of Representatives to prepare and conduct seminars for freshmen Members of Congress.

Authorizes freshmen Members to employ an interim staff during the period beginning on the day such freshman is declared elected and the first day of the regular session of Congress.

H.R. 10353.—October 23, 1975. Ways and Means. Amends the Internal Revenue Code to deduct certain amounts paid during the taxable year as expenses for the education of the taxpayer, his spouse, or any dependents, for whom he is entitled to claim an exemption, at an institution of higher education or a trade or vocational school.

H.R. 10354.—October 23, 1975. Agriculture. Amends the Food Stamp Act of 1964 by revising (1) eligibility standards; (2) the method of determining the coupon allotment; and (3) administration of the program by State agencies.

H.R. 10355.—October 23, 1975. Veterans' Affairs. Revises and increases the rate schedules for payment, by the Administrator of Veterans' Affairs, of Veterans' disability and death compensation and dependency and indemnity compensation.

H.R. 10356.—October 23, 1975. Public Works and Transportation. Directs that no State shall receive less than 80 percent of the amount paid by that State into the Highway Trust Fund.

H.R. 10357.—October 23, 1975. Ways and Means. Amends the Internal Revenue Code to increase the estate tax deduction, and to increase the estate tax marital deduction.

Permits the executor of an estate to elect an alternate valuation of certain real property used for farming.

H.R. 10358.—October 23, 1975. Ways and Means; Interstate and Foreign Commerce. Amends the Social Security Act by establishing a program of long-term care benefits under the Medicare supplementary medical insurance program. Authorizes Federal reimbursement to States for expenses incurred in planning and developing community long-term care centers. Entitles recipients of Supplemental Security Income benefits and individuals eligible for Medicare benefits to long-term care benefits under this Act.

H.R. 10359.—October 23, 1975. Ways and Means; Agriculture. Amends the Social Security Act to allow States and localities to require individuals receiving certain welfare payments to perform public service employment in community work and training programs as a condition of their continuing eligibility. Stipulates that any such requirement to perform work will not exceed the total number of hours per month required to equal the entitlement for families with dependent children based on the applicable Federal minimum wage.

H.R. 10360.—October 23, 1975. Public Works and Trasportation. Directs heads of various Federal agencies which have jurisdiction over flood control projects to eliminate non-enviromental procedural requirements in order to accelerate construction of such projects.

H.R. 10361.—October 23, 1975. Agriculture. Amends the Food Stamp Act of 1964 by revising (1) eligibility standards; (2) the method of determining the amount of the coupon allotment; (3) administration of the program by State agencies, including the eligibility certification procedure and duties imposed on issuing agents; and (4) the method of computing the Federal share of program costs and of making payments to the States. Transfers the functions of the Secretary of Agriculture under the Food Stamp Act of 1964 to the Secretary of Health, Education and Welfare.

H.R. 10362.—October 23, 1975. Banking, Currency and Housing. Establishes a Short-Term Agency for Municipal Insurance and Normal Accounting to provide short-term guarantees for certain obligations intended to grant emergency assistance to municipalities.

H.R. 10363.—October 23, 1975. Public Works and Transportation; Merchant Marine and Fisheries. Establishes strict liability for damages caused by oil spills. Establishes a National Oil Pollution Liability and Compensation Administration in the Department of Transportation to administer a system of compensation for cleanup costs incurred as a result of oil spills. Establishes an administrative procedure for the settlement of claims resulting from oil spills.

H.R. 10364.—October 23, 1975. Agriculture. Authorizes the Secretary of Agriculture to sell timber from the national forests, on a temporary basis, provided that such sales conform with the National Environmental Policy Act of 1969 and the Multiple-Use Sustained Yield Act.

H.R. 10365.—October 23, 1975. Rules. Amends the Legislative Reorganization Act of 1970 to require Congressional committee reports on proposed legislation to contain estimates of recordkeeping and reporting requirements to be imposed on private business as a result of such legislation.

H.R. 10366.—October 23, 1975. Ways and Means. Amends the Social Security Act to maintain the inpatient hospital deductible under the medicare program at its 1975 level.

H.R. 10367.—October 23, 1975. Public Works and Transportation. Directs the Secretary of the Army to convey certain lands in the State of Texas to certain individuals.

H.R. 10368.—October 28, 1975. Government Operations. Amends the Privacy Act of 1974 to allow agencies to disclose records to any Member of either House of Congress without the prior consent of the person to whom the record pertains.

H.R. 10369.—October 28, 1975. Merchant Marine and Fisheries. Directs the Secretary of the Interior to regulate the trapping and capture of mammals and birds on Federal lands. Establishes an advisory commission to recommend to the Secretary acceptable methods for trapping and capture of mammals and birds. Prohibits use of unacceptable traps in interstate or foreign commerce. Prescribes regulations to prohibit the interstate shipment of hide, skin, feathers, or resulting products of the use of unacceptable traps.

H.R. 10370.—October 28, 1975. Interior and Insular Affairs. Revises the membership of the Canaveral National Seashore Advisory Commission to require that one member from each affected county represent the general public on such commission.

H.R. 10371.—October 28, 1975. Ways and Means. Amends the Internal Revenue Code with respect to small business investment companies (1) to allow them to be investors in subchapter S corporations; (2) to exempt them from the passive investment income provisions; (3) to allow them to deduct certain loans and investments which shall be taxed on recapture; (4) to revise the means for computing their allowable bad debt reserve; (5) to allow corporations to deduct dividends paid on preferred stock held by such small business investment companies; and (6) to allow the special application of certain regulated investment company provisions to small business investment companies.

H.R. 10372.—October 28, 1975. Banking, Currency and Housing. Establishes pilot homestead programs whereby publicly owned structures will be made available to tenant cooperatives for use in providing low- and moderate-income housing. Permits localities establishing such a program with a ten year property tax abatement to participant cooperatives to credit tax losses to the required non-Federal share of Federal grant-in-aid programs. Requires the Secretary of Housing and Urban Development to promulgate regulations for the administration of this program and submit them to certain House committees.

H.R. 10373.—October 28, 1975. Rules. Directs the President to develop a long-term balanced economic growth plan, to be prepared by the Council of Economic Advisers. Establishes procedures for Congressional review of the plan and implementation by the Executive Branch.

H.R. 10374.—October 28, 1975. Government Operations. Revises the membership of the National Archives Trust Fund Board to include the Chairman of the House Government Operations Committee in place of the Chairman of the House Post Office and Civil Service Committee.

H.R. 10375.—October 28, 1975. Armed Services. Redefines the term "active duty" for purposes of determining eligibility for medical care in facilities of the uniformed services.

H.R. 10376.—October 28, 1975. Post Office and Civil Service. Prohibits Members of Congress from receiving any pay increase during a session of Congress unless such increase is to take effect not earlier than the first day of the next Congress.

H.R. 10377.—October 28, 1975. District of Columbia. Extends the authority of the Secretary of Health, Education, and Welfare to make grants to the Commissioner of the District of Columbia, under the District of Columbia Medical and Dental Manpower Act of 1970, for 1 additional year.

H.R. 10378.—October 28, 1975. District of Columbia. Requires consultation between judges on the Superior Court of the District of Columbia with respect to the sentencing of persons convicted of a felony in such court.

H.R. 10379.—October 28, 1975. Ways and Means. Amends the Internal Revenue Code to reduce the Federal excise tax for certain qualified breweries.

H.R. 10380.—October 28, 1975. Banking, Currency and Housing. Establishes a solar Energy Loan Administration to provide financial assistance for the purchase and installation of solar hardware. Requires that such solar equipment meet minimum standards prescribed under the Solar Heating and Cooling Demonstration Act of 1974.

H.R. 10381.—October 28, 1975. Judiciary. Establishes a National Commission on Victimless Crimes.

H. Res. 10382.—October 28, 1975. Judiciary. Immunizes from prosecution or releases from punishment those persons who, within the period commencing on August 4, 1964, and ending March 28, 1973, were guilty of certain offenses against either the Military Selective Service Act or the Uniform Code of Military Justice, so long as such persons file a certificate affirming that such conduct resulted because of disapproval of the military involvement of the United States in Indochina.

H.R. 10383.—October 28, 1975. Ways and Means. Amends the Social Security Act to authorize States to provide day treatment and in-home services to any child or family experiencing problems which such services would assist in solving, and to any other child or family where parental difficulties may jeopardize the physical, emotional, or psychological condition of the child.

H.R. 10384.—October 28, 1975. Banking, Currency and Housing. Authorizes the Secretary of Housing and Urban Development to make grants to units of local government, under the Housing Community Development programs to improve community facilities and services.

Revises the definition of a community development program which may be assisted by the Housing and Community Development Act of 1974.

Authorizes the Secretary of Housing and Urban Development to make available mortgage insurance to facilitate the refinancing of housing in preservation areas or demonstration projects of the Housing and Urban Development Act of 1970.

H.R. 10385.—October 28, 1975. Post Office and Civil Service. Requires that buildings constructed for use by the United States Postal Service be designed and constructed so as to be accessible to the physically handicapped.

H.R. 10386.—October 28, 1975. Ways and Means. Amends the Social Security Act to require that State social services plans comply with Federal interagency day care requirements, subject to the existing penalties in cases of noncompliance.

H.R. 10387.—October 28, 1975. Ways and Means. Amends the Internal Revenue Code to direct the Secretary of the Treasury to set forth procedures for tax claims and the rights and obligations of a taxpayer during an audit.

Establishes an Office of Taxpayer Services within the Internal Revenue Service to assist taxpayers in the filing of returns.

Restricts access to tax returns filed by taxpayers.

H.R. 10388.—October 28, 1975. Judiciary. Amends the Bankruptcy Act to permit political subdivisions which are creditors of a railroad to seize real estate of the railroad under certain conditions.

H.R. 10389.—October 28, 1975. Judiciary. Amends the Civil Rights Act of 1964 to prohibit discrimination on the basis of affectional or sexual preference.

H.R. 10390.—October 28, 1975, Public Works and Transportation. Directs the Administrator of General Services and the Secretary of Defense to establish guidelines for the conservation of energy and the efficient use of solar energy systems in buildings financed with Federal funds. Requires submission of an energy use analysis to the Congress with specific energy requirements for such buildings.

Authorizes increases in cost limitations for Federal and Federally assisted buildings to include increased costs due to energy conservation regulations.

H.R. 10391.—October 28, 1975. Armed Services. Establishes in the executive part of the Department of the Navy the Office of the Chief of Chaplains of the Navy under whose cognizance shall be the Navy Chaplain Corps.

H.R. 10392.—October 28, 1975. Judiciary. Authorizes the officer responsible for the seizure of any explosive materials for any offense involving the forfeiture of the same, to destroy the explosives forthwith, where it is impracticable or unsafe to remove the explosive materials to a place of storage.

Directs the Secretary of the Treasury to reimburse the owner of such explosives within one year upon satisfactory establishment of a claim that such property had not been used in violation of law or that such unlawful use had been without the owner's knowledge or consent.

H.R. 10393. October 28, 1975. Judiciary. Includes officers and employees of the Bureau of Alcohol, Tobacco, and Firearms within the provisions establishing penalties for murder or manslaughter committed on certain officers and employees of the United States while engaged in the performance of official duties.

H.R. 10394.—October 28, 1975. Veterans' Affairs. Sets forth the amount of reimbursement which the Administrator of Veterans' Affairs shall pay to the States for furnishing domiciliary, hospital, or nursing home care to eligible veterans who receive such care in State facilities.

H.R. 10395.—October 18, 1975. Interstate and Foreign Commerce. Amends the Regional Rail Reorganization Act of 1973 to permit cost-benefit analysis of certain light density rail lines. Sets forth regulations for the discontinuance of rail passenger service and the abandonment of light density lines. Authorizes the Secretary of Transportation to provide service continuation subsidies to certain out-of-service and light density lines during transition to the final system plan.

Authorizes the Secretary of Transportation to make grants to States (1) to assist the establishment and implementation of State rail plans, and (2) to assist the maintenance of passenger rail service.

H.R. 10396.—October 28, 1975. Judiciary. Stipulates penalties for possession of a firearm while engaged in the commission of a crime of violence.

H.R. 10397.—October 28, 1975. Banking, Currency and Housing. Amends the Real Estate Setttlement Procedures Act of 1974 (1) to redefine "federally related mortgage loan"; (2) to repeal requirements for advance disclosure of settlement costs, and disclosure of previous selling price; and (3) to alter regulations for uniform settlement statements.

Amends such Act with respect to (1) information booklets prepared by the Secretary of Housing and Urban Development, and (2) regulation of borrower escrow accounts.

Permits the Secretary to exempt lenders for such loans from compliance with State settlement laws, under such Act.

H.R. 10398.—October 28, 1975. Interior and Insular Affairs. Enlarges the boundaries of the Golden Gate National Recreation Area in California.

H.R. 10399.—October 28, 1975. Judiciary; Rules. Establishes procedures for Congressional review of rules and regulations proposed by the Executive branch.

H.R. 10400.—October 28, 1975. Judiciary; Rules. Requires that whenever any officer or agency of the executive branch of the Federal Government proposes to prescribe certain rules and regulations or to make changes in rules or regulations, such proposals must be submitted to each House of Congress with a report containing a full explanation thereof. Stipulates that such rule, regulation, or change shall become effective unless either House of Congress disapproves the same within 60 days.

H.R. 10401.—October 28, 1975. Post Office and Civil Service. Prohibits Members of Congress from receiving any pay increase during a session of Congress unless such increase is to take effect not earlier than the first day of the next Congress.

H.R. 10402.—October 28, 1975. Science and Technology. Directs the Secretary of Commerce to establish a national climate program designed to improve monitoring, assessment, and evaluation of future climate impacts. Provides for coordination of related programs within various Federal agencies by the Secretary of Commerce.

H.R. 10403.—October 28, 1975. Judiciary. Amends the Immigration and Nationality Act to stipulate that the age of a child under certain immigration law provisions shall be determined as of the date of the filing of petitions or applications for preferred status based on age.

H.R. 10404.—October 28, 1975. Public Works and Transportation. Authorizes the Secretary of the Army to delegate certain functions to the States with respect to the location and plans for structures, modifications, or dredging in or on certain navigable waters.

H.R. 10405.—October 28, 1975. Banking, Currency and Housing. Amends the Emergency Loan Guarantee Act to permit the Emergency Loan Guarantee Board to guarantee bonds to States and municipalities. Extends the termination date of the Emergency Loan Guarantee Act.

H.R. 10406.—October 28, 1975. Interstate and Foreign Commerce. Amends the Natural Gas Act to authorize the Federal Power Commission to exempt certain sales of natural gas from regulation.

H.R. 10407.—October 28, 1975. Judiciary. Requires the Federal Trade Commission, the Department of Justice, and the Department of Agriculture to compile information and annually report to Congress with respect to antitrust enforcement, market structure, and competition in the food industry.

H.R. 10408.—October 28, 1975. Agriculture. Amends the Food Stamp Act of 1964 by revising (1) eligibility standards; (2) the method of determining the coupon allotment; and (3) administration of the program by State agencies.

H.R. 10409.—October 28, 1975. Ways and Means. Directs the Secretary of Labor to make unemployment compensation payments to States for individuals who become unemployed as a result of the inability of the employer to obtain adequate supplies of natural gas.

H.R. 10410.—October 28, 1975. Ways and Means. Amends the Internal Revenue Code to limit the deductions attributable to farming which can be used by a taxpayer to offset nonfarm income.

H.R. 10411.—October 28, 1975. Ways and Means. Amends the Social Security Act to prohibit States from reducing the amount of supplementary payments to Supplemental Security Income recipients following a general or cost-of-living increase in Federal Supplemental Security Income benefits.

H.R. 10412.—October 28, 1975. Banking, Currency and Housing. Establishes an Emergency State and Community Financial Assistance Corporation to make available loan guarantees and direct loans, through the issuance of capital stock, to States and local governments when necessary to assure the availability of adequate loan funds to finance construction of public works and facilities.

H.R. 10413.—October 28, 1975. Merchant Marine and Fisheries. Amends the Merchant Marine Act and the Maritime Academy Act of 1958 to establish additional procedures for the education and training of future officers at the United States Merchant Marine Academy.

H.R. 10414.—October 28, 1975. Judiciary. Deems a certain former Federal employee as retired for disability on an immediate annuity for the purpose of determining the eligibility of such employee for continuation of his life insurance without cost to him.

H.R. 10415.—October 28, 1975. Judiciary. Authorizes and directs the Secretary of the Treasury to pay a certain individual such amount as will settle in full his claim against the United States for disability retirement pay from the United States Army.

H.R. 10416.—October 29, 1975. Ways and Means. Amends the Internal Revenue Code to allow a taxpayer to defer or, by reinvesting in similar property, not recognize the gain realized from the sale or exchange of livestock, if such gain results from an involuntary conversion due to flooding.

H.R. 10417. October 29, 1975. Ways and Means. Requires States which have entered into agreements with the Secretary of Health, Education, and Welfare for coverage of State and local employees under the Social Security Act to make payments to the Secretary of the Treasury on a calendar-quarter basis.

H.R. 10418. October 29, 1975. Education and Labor. Amends the Education Amendments of 1972 to permit the participation in education programs or activities receiving Federal financial assistance of an individual who has received an award or other recognition of merit in any competition in which such recognition is based on the personal achievements or attributes of the individual and in which participation is limited to individuals of one sex only.

H.R. 10419. October 29, 1975. Post Office and Civil Service. Stipulates that employees of nonappropriated fund instrumentalities under the jurisdiction of Federal agencies shall be deemed to be employees of the U.S. Government for the purposes of laws administered by the Civil Service Commission.

H.R. 10420. October 29, 1975. Interstate and Foreign Commerce. Creates a New England Regional Power and Environmental Protection Agency to operate and coordinate a bulk power supply system for the New England region. Directs the Agency to develop a comprehensive plan for the siting of major generating facilities and transmission lines. Directs the Agency to undertake various research and development projects.

Subjects the Agency to Federal and State environmental standards.

H.R. 10421. October 29, 1975. Atomic Energy. Amends the Atomic Energy Act of 1954 to authorize financial assistance to public intervenors in nuclear licensing proceedings before the Federal Power Commission in order to reimburse such parties for costs incurred by participation in hearings or agency proceedings.

H.R. 10422.—October 29, 1975. Ways and Means: Interstate and Foreign Commerce. Revises the conditions and limitations applicable to home health services and nursing home care under the Medicare and Medicaid programs of the Social Security Act.

Establishes a Home Health Patient Ombudsman in the Department of Health, Education, and Welfare.

Increases the amount of Federal funds which may be made available to public agencies for congregate housing under the United States Housing Act of 1937.

H.R. 10423.—October 29, 1975. Ways and Means. Amends the Internal Revenue Code to direct the payment of interest at the rate of 5 percent upon the excess portion of each income tax prepayment made by an individual in a taxable year where such income tax prepayments exceed the individual's liability for the income tax.

H.R. 10424.—October 29, 1975. Veterans' Affairs. Authorizes cost-of-living adjustments of rates of disability compensation to veterans upon the determination by the Administrator of Veterans' Affairs that specified economic criteria have been met.

H.R. 10425.—October 29, 1975. Judiciary. Prohibits the search of business, private, or medical records, the opening of foreign or domestic mail, or the interception of wire or oral communications except as otherwise authorized by law.

Repeals the authority of the President, the Attorney General, or appropriate State officials to order such searches.

Requires persons seeking an order from a court to authorize the interception of wire, oral or other communication or the opening of mail to report to the Committee on the Judiciary of the Senate and House of Representatives.

H.R. 10426.—October 29, 1975. Post Office and Civil Service. Prohibits Members of Congress from receiving any pay increase during a session of Congress unless such increase is to take effect not earlier than the first day of next Congress.

H.R. 10427.—October 29, 1975. Interstate and Foreign Commerce. Requires the Secretary of Health, Education, and Welfare (1) to establish a program to identify tertiary eye care centers that need to upgrade facilities or increase their staff; (2) to make grants to public and nonprofit private tertiary eye centers for renovation, new equipment, and new staff; and (3) to create a commission to assess the present state of eye care facilities in the United States.

H.R. 10428.—October 29, 1975. Armed Services. Directs the Secretary of the Army to renew the license of a certain organization to use certain land in Michigan.

H.R. 10429.—October 29, 1975. Ways and Means. Amends the Social Security Act by allowing services performed by ministers to constitute employment for the purpose of Old-Age, Survivors, and Disability Insurance.

Amends the Internal Revenue Code of 1954 by allowing ministers and employing organizations to elect to treat the services performed by ministers as employment.

H.R. 10430.—October 29, 1975. Ways and Means. Amends the Social Security Act to authorize Federal payments to States for programs providing certain social services to certain groups of individuals, without requiring a determination of each participant's eligibility.

H.R. 10431.—October 29, 1975. Interior and Insular Affairs. Authorizes the Secretary of the Interior, in the performance of his statutory or delegated responsibilities (1) to participate in studies with other nations or international organizations; (2) to sponsor international natural resources and energy meetings and conferences of a nongovernmental nature; and (3) to provide financial support for visits to the United States by representatives of other nations and international organizations pertaining to natural resources and energy.

Requires consultation with the Secretary of State to insure that such authority is exercised in a manner consistent with United States foreign policy.

Requires that such determination be made by the Secretary of State.

H.R. 10432.—October 29, 1975. Agriculture. Increases the amount of forest receipts payable to States and counties from twenty-five percent to seventy-five percent of such gross receipts.

H.R. 10433.—October 29, 1975. Public Works and Transportation. Authorizes the Chief of Engineers to purchase certain property from a certain individual.

H.R. 10434.—October 29, 1975. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act.

H.R. 10435.—October 30, 1975. Interstate and Foreign Commerce. Amends the Clean Air Act to require that no toll or charge for the use of New York City bridges shall be included within any applicable clean air implementation plan.

H.R. 10436.—October 30, 1975. Post Office and Civil Service. Declares July 2, 1976, as a legal public holiday and designates July 2, 3, 4, and 5, 1976, as a period of commemoration of America's Bicentennial.

H.R. 10437.—October 30, 1975. Ways and Means. Amends the Tariff Schedules of the United States to increase the import duty on certain metal and plastic containers.

H.R. 10438.—October 30, 1975. Agriculture. Amends the Federal Meat Inspection Act to proscribe certain inhumane methods of slaughter of livestock. Prohibits the importation of any carcass, part of a carcass, meat, or meat food product, under the Federal Meat Inspection Act, which was not slaughtered in accordance with humane methods.

H.R. 10439.—October 30, 1975. Judiciary. Establishes a procedure for the review of the behavior of members of the judiciary by three-judge panels appointed by the Chief Justice or senior Associate Justice of the U.S. Supreme Court. Authorize removal of any such judge or justice by a majority vote of the members of such panel.

H.R. 10440.—October 30, 1975. District of Columbia. Establishes a Commission on the Adequacy of the Annual Federal Payment to study and analyze the costs and benefits to the District of Columbia which result from its status as the Nation's Capitol, with particular consideration given to determining what factors should be included in the computation of the annual Federal payment.

H.R. 10441.—October 30, 1975. Agriculture. Amends the Food Stamp Act of 1964 by revising (1) eligibility standards; (2) the method of determining the amount of the coupon allotment; (3) administration of the program by State agencies; and (4) the nutrition education program.

H.R. 10442.—October 30, 1975. Judiciary. Amends the Gun Control Act of 1968 to establish additional criteria for the approval of certain handguns for sale in interstate commerce by the Secretary of the Treasury. Amends the Internal Revenue Code of 1954 to impose an additional tax on the sale of pistols and revolvers.

Amends the Omnibus Crime Control and Safe Streets Act of 1968 to establish a National Handgun Tracing Center to develop information on the sale, importation, and location of handguns. Requires that certain information be furnished by purchasers of handguns at the time of purchase. Prohibits certain multiple handgun sales.

H.R. 10443.—October 30, 1975. Judiciary. Directs the Department of Justice to offer rewards for information leading to the apprehension and conviction of certain kidnappers where the victim of the offense is physically harmed. Stipulates that such reward shall be equal to the amount of ransom demanded by such kidnappers.

H.R. 10444.—October 30, 1975. Ways and Means. Amends the Internal Revenue Code to allow, in the case of an individual who has attained the age of 65, an election to take a graduated credit for the amount of real property taxes or rent constituting real property taxes paid or accrued on such individual's principal residence.

H.R. 10445.—October 30, 1975. Ways and Means. Revises the time at which eligibility for medicare benefits on account of kidney failure commences and terminates under the Social Security Act. Revises the conditions applicable to payments for services and supplies required by self-dialysis patients.

H.R. 10446.—October 30, 1975. Government Operations. Establishes an Office of Program Inspector in each agency of the Federal Government. Directs each Program Inspector to investigate each program which is administered by the agency in which such Inspector is located and which involved the application or disbursement of Federal funds in order to determine such program's compliance with applicable laws and to recommend correction of deficiencies in such program.

H.R. 10447.—October 30, 1975. Interior and Insular Affairs. Directs the Secretary of the Interior to study the feasibility of enlarging the boundaries of the Golden Gate National Recreation Area in California.

H.R. 10448.—October 30, 1975. Interior and Insular Affairs. Authorizes the Secretary of the Interior to designate a segment of the New River Gorge in West Virginia as a component of the National Wild and Scenic Rivers System. Prohibits the participation of the United States in the construction of water resources or public works development projects which would adversely affect the scenic values of the area.

H.R. 10449.—October 30, 1975. Interior and Insular Affairs. Authorizes the Secretary of the Interior to transfer franchise fees from certain concession facilities at the Glen Canyon National Recreation Area in Arizona and Utah to the Navajo Tribe of Indians in return for the continued use of certain lands for such facilities.

H.R. 10450.—October 30, 1975. Government Operations. Amends the Privacy Act of 1974 to allow agencies to disclose records to any Member of either House of Congress, or the designate thereof, without the prior consent of the person to whom the record pertains.

H.R. 10451.—October 30, 1975. Armed Services. Extends the program of special pay for re-enlisting nuclear qualified submarine officers. Creates a program of special pay for certain naval officers qualified for duty in connection with the supervision, maintenance or operation of naval nuclear propulsion plants.

H.R. 10452.—October 30, 1975. Banking, Currency and Housing. Creates an Emergency Financial Assistance Corporation (1) to make direct loans to, or guarantee the payment of obligations of, State and local governments when such borrowers are unable to obtain funds on reasonable terms for public works and facilities; (2) to make loans for business and industrial development in depressed urban and rural areas; and (3) to make loans for the construction of low- and moderate-income housing.

H.R. 10453.—October 30, 1975. Government Operations. Authorizes appropriations to the State and Local Government Fiscal Assistance Trust Fund for revenue sharing purposes through fiscal year 1981. Stipulates that payments under the State and Local Government Fiscal Assistance Act which are waived by the Indian Tribe or Alaskan Native village entitled to receive them shall become part of the entitlement of the county government in which such Tribe or Village is located.

H.R. 10454.—October 30, 1975. Judiciary. Amends the Bankruptcy Act to set forth procedures for the adjustment of debts of political subdivisions, public agencies and instrumentalities.

H.R. 10455.—October 30, 1975. Judiciary. Amends the Bankruptcy Act to establish procedures for relief of public agencies which become insolvent. Requires that such public agencies submit plans for the adjustment of such debts.

H.R. 10456.—October 30, 1975. Agriculture. Directs the Secretary of Agriculture to conduct a continuing appraisal of land, water, and related natural resources.

Provides for the establishment of a National Land and Water Conservation Program through the Soil Conservation Service of the Department of Agriculture.

H.R. 10457.—October 30, 1975. Judiciary. Amends the Bankruptcy Act to set forth procedures for the adjustment of debts of major municipalities.

H.R. 10458.—October 30, 1975. Armed Services. Eliminates the Junior Reserve Officers' Training Corps.

Prohibits the grant, sale, or loan of ordnance material by the Armed Forces for the use of high school age students.

H.R. 10459.—October 30, 1975. Education and Labor. Amends the Occupational Safety and Health Act of 1970 by making the issuance of citations for violations discretionary in certain circumstances, and by directing the Secretary of Labor to render on site consultation to small employers upon their request to assist such employers in complying with the Act.

H.R. 10460.—October 30, 1975. Agriculture. Amends the United States Grain Standards Act to revise the United States Standards for certain subclasses of hard winter wheat.

H.R. 10461.—October 30, 1975. Ways and Means. Amends the Internal Revenue Code to allow as a standard deduction the household and dependent care expenses paid by a married couple during the taxable year when one spouse is a full-time student.

H.R. 10462.—October 30, 1975. Education and Labor. Establishes the George Washington Peace Academy to instruct and train selected individuals in the peaceful resolution of conflicts and international development and cooperation. Authorizes stipends for Academy students.

H.R. 10463.—October 30, 1975. Interstate and Foreign Commerce. Prohibits the use of any means or instrumentality of transportation or communication in or affecting interstate or foreign commerce to engage in an unfair consumer practice in connection with the sale or distribution of goods, services, or other property.

H.R. 10464.—October 30, 1975. Post Office and Civil Service. Repeals certain restrictions on the private carriage of letters.

H.R. 10465.—October 30, 1975. Post Office and Civil Service. Prohibits Members of Congress from using the franking privilege for mass mailings within 90 days prior to an election.

H.R. 10466.—October 30, 1975. Veterans' Affairs. Specifies that recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced because of increases in monthly social security benefits.

H.R. 10467.—October 30, 1975. Agriculture. Amends the Food Stamp Act of 1964 by revising (1) eligibility standards; (2) the method of determining the amount of the coupon allotment; (3) administration of the program by State agencies; and (4) the nutrition education program.

H.R. 10468.—October 30, 1975. Government Operations. Amends the State and Local Fiscal Assistance Act of 1972 to eliminate payments under the Act to State governments and reallocate funds previously granted to the States to local governments.

Extends appropriations to the Trust Fund established by the Act.

Authorizes the chief executive officer of any unit of local government to apply for Special Revenue Sharing Bond debt obligation guarantees from the United States.

H.R. 10469.—October 30, 1975. Armed Services. Amends the Central Intelligence Agency Act to require disclosures of the Central Intelligence Agency budget to Congress.

Requires that the Agency be funded entirely by appropriations authorized by Congress.

H.R. 10470.—October 30, 1975. Education and Labor. Amends the Higher Education Act of 1965 to establish penalties for the furnishing of fraudulent information and for the misuse of funds connected with Federal student aid programs.

H.R. 10471.—October 30, 1975. Public Works and Transportation. Establishes procedures for States to assume certain functions assigned to the Secretary of the Army and the Chief of Engineers with respect to intrastate waters.

H.R. 10472.—October 30, 1975. Standards of Official Conduct. Requires each Member of Congress and his or her staff to maintain a register of all contacts with lobbyists.

H.R. 10473.—October 30, 1975. Interstate and Foreign Commerce; Public Works and Transportation; Ways and Means; Merchant Marine and Fisheries. Establishes within the Department of Transportation the Office of Cargo Security to (1) determine the causes and scope of cargo losses; (2) evaluate theft deterrents; (3) examine insurance liability limitations; and (4) study the feasibility of Federal licensing or identification systems.

Creates an Interagency Council on Cargo Security to coordinate governmental activities in the field of cargo security.

Authorizes the Secretaries of Transportation and the Treasury to promulgate cargo security regulations. Sets forth civil penalties for the violation of such regulation.

Sets forth criminal penalties for the unlawful removal of goods or breaking seals.

H.R. 10474.—October 30, 1975. Ways and Means. Amends the Internal Revenue Code to repeal the exclusion granted on income derived from sources within Puerto Rico.

H.R. 10475.—October 30, 1975. Veterans' Affairs. Directs the Administrator of Veterans' Affairs to establish a national cemetery at Otis Air Force Base in Massachusetts.

H.R. 10476.—October 30, 1975. Agriculture. Establishes the Federal Farm Assistance Corporation, within the Department of Agriculture, and authorizes the Corporation to negotiate for and purchase farmland or units which may come on the market.

Allows lease of such farm units to eligible applicants, and directs the Corporation's Board of Directors to approve the sale to the lessee of such farm units upon a determination that the lessee can successfully manage and operate such farm unit.

H.R. 10477.—October 30, 1975. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 10478.—October 30, 1975. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 10479.—October 31, 1975. Agriculture. Removes the appropriations limitation for funding under the Volunteers in the National Forests Act of 1972.

H.R. 10480.—October 31, 1975. Interstate and Foreign Commerce. Amends the Natural Gas Act to prohibit the Federal Power Commission from regulating certain transactions involving new natural gas. Directs the Commission to establish a ceiling price on new natural gas produced from offshore Federal lands to remain in effect through December 31, 1980.

Amends the Energy Supply and Environmental Coordination Act of 1974 to authorize the Administrator of the Environmental Protection Agency to prohibit the use of natural gas as boiler fuel by major fuel burning installations if adequate alternatives are available.

Grants standby authority to the President to allocate propane during natural gas shortages.

H.R. 10481.—October 31, 1975. Banking, Currency and Housing. Creates an Intergovernmental Emergency Assistance Board to make loans to States or guarantee the payment of the obligations of States to provide essential public services and facilities or to prevent or mitigate the default in the payment of obligations of a State or political subdivision thereof.

Amends the Internal Revenue Code to subject to taxation the interest on the obligations of a State, Territory, possession, or political subdivision which are guaranteed by the Federal Government, under this Act.

H.R. 10482.—October 31, 1975. Ways and Means. Amends the Internal Revenue Code to deny the deduction as an ordinary and necessary business expense of any amount paid or incurred during the taxable year in connection with communications or meetings with the committee or individual Members of Congress, the legislative body of any State, a possession of the United States, or a political subdivision of any of the foregoing with respect to legislation or proposed legislation.

H.R. 10483.—October 31, 1975. Armed Services. Stipulates that civilian personnel engaged in industrially funded activities shall be excluded from the computation of the total number of civilian personnel authorized by law for the Department of Defense in any fiscal year.

H.R. 10484.—October 31, 1975. Ways and Means. Amends the Internal Revenue Code to exempt certain articles sold to any nonprofit volunteer firefighting or rescue organization for its exclusive use from the taxes on special fuels, automotive and related items, petroleum products, or communication services.

H.R. 10485.—October 31, 1975. Government Operations. Prohibits executive agencies from establishing, maintaining, or supporting any local or regional office facility. except temporary offices or telecommunication systems.

Excludes the Department of Defense, the Department of Justice, the Board of Governors of the Federal Reserve Board, the Central Intelligence Agency, and any Government corporation from such restriction.

H.R. 10486.—October 31, 1975. Armed Services. Amends the Military Selective Service Act to (1) reinstate for ten years the induction authority under such Act; (2) require 36 months of service in the Armed Forces of each person inducted; and (3) require the registration, induction, and service of all otherwise eligible persons without regard to sex.

H.R. 10487.—October 31, 1975. Science and Technology. Directs the Administrator of Energy Research and Development to establish a program of research and development of industrial energy conserving technologies. Authorizes financial assistance in the form of grants and loans for the development and demonstration of such technologies, with special attention to be given to stimulation of depressed industrial areas.

H.R. 10488.—October 31, 1975. Interstate and Foreign Commerce; Science and Technology. Amends the Solid Waste Disposal Act to expand research and development programs and to authorize the Administrator of the Environmental Protection Agency to make grants and guarantee loans for energy and resource recovery pilot plant and demonstration programs.

Includes provisions for grants and assistance to State, local, and interstate solid waste management and resource recovery programs.

H.R. 10489.—October 31, 1975. Ways and Means; Interstate and Foreign Commerce. Amends the Social Security Act to revise the Federal matching rate for purposes of reimbursement to States under the programs of aid to needy families with children and medical assistance.

H.R. 10490.—October 31, 1975. Post Office and Civil Service. Repeals existing Presidential authority to submit alternative comparability pay plans for Federal employees to the Congress.

H.R. 10491.—October 31, 1975. Post Office and Civil Service. Stipulates that annual rates of pay for Members of Congress and Vice President shall return to the rates in effect on September 30, 1975.

Amends the Federal Salary Act to delete Congress and the Vice-President from comparability pay studies for executive, judicial, and legislative officials.

H.R. 10492.—October 31, 1975. Ways and Means. Amends those provisions of the Social Services Amendments of 1974 to the Social Security Act which govern grants to the States for child day care services. Permits the States to establish staffing standards for such services provided minimum federally required levels are met. Authorizes Federal payments to States to cover the cost of hiring welfare recipients or low-income persons to meet any increased staffing requirements imposed by this Act.

H.R. 10493.—October 31, 1975. Government Operations. Amends the State and Local Fiscal Assistance Act to eliminate payments under the Act to State governments and reallocate funds previously granted to the States to local governments.

Extends appropriations to the Trust Fund established by the Act.

H.R. 10494.—October 31, 1975. Veterans' Affairs. Entitles otherwise ineligible veterans with a disability rated at not less than 30 percent, if such disability impairs such veteran's ability to operate an automobile or other conveyance, to adaptive equipment deemed by the Administrator of Veterans' Affairs to be necessary to overcome the impairment.

H.R. 10495.—October 31, 1975. Agriculture. Establishes the Federal Farm Assistance Corporation, within the Department of Agriculture, and authorizes the Corporation to negotiate for and purchase farmland or units which may come on the market.

Allows lease of such farm units to eligible applicants, and directs the Corporation's Board of Directors to approve the sale to the lessee of such farm units upon a determination that the lessee can successfully manage and operate such farm unit.

H.R. 10496.—October 31, 1975. Ways and Means. Amends the old-age, survivors, and disability insurance provisions of the Social Security Act: (1) to increase the amount to be deducted from monthly earnings in determining the amount of the reduction of an individual's insurance benefits; (2) to stipulate that the remarriage of a beneficiary age 60 or over shall not terminate or reduce his or her benefit entitlement; (3) to authorize payment of a benefit to a qualified individual for the month of his or her death; and (4) to eliminate the special dependency requirements for entitlements to husband's and widower's insurance benefits.

H.R. 10497.—October 31, 1975. Interstate and Foreign Commerce. Requires any hospital, clinic, or similar establishment set up for the purpose of rendering health care and which receives Federal funds or federally guaranteed loans to allow the biological father to be in attendance during all phases of childbirth if consent is first obtained from the woman involved.

H.R. 10498.—October 31, 1975. Interstate and Foreign Commerce. Amends the Clean Air Act to direct the Administrator of the Environmental Protection Agency to consider inclusion of additional substances as air pollutants. Establishes new programs to protect the stratosphere and to prevent significant deterioration in cleaner areas.

Establishes criteria to allow compliance date extensions for stationary sources. Directs the Administrator to develop a fee schedule to insure compliance with conditions of such compliance date extensions. Authorizes variances for use of innovative technologies by new sources.

Revises motor vehicle emissions control standards. Requires establishment of railroad locomotive emission standards.

Decreases the annual appropriation authorization for programs under the Act.

H.R. 10499.—October 31, 1975. Interior and Insular Affairs. Amends the Land and Water Conservation Fund Act of 1965 to establish a special annual entrance permit for handicapped persons for use at designated park and recreation areas at reduced admission fees or without fees.

H.R. 10500.—October 31, 1975. Merchant Marine and Fisheries. Amends the Merchant Marine Act and the Maritime Academy Act of 1958 to establish additional procedures for the education and training of future officers at the United States Merchant Marine Academy.

H.R. 10501.—October 31, 1975. Ways and Means. Amends the Social Security Act to maintain the inpatient hospital deductible under the medicare program at its 1975 level.

H.R. 10502.—October 31, 1975. Ways and Means. Amends the Internal Revenue Code to allow as a deduction from gross income the cost of acquiring recycled solid waste materials for manufacture by the taxpayer into useful raw materials or salable products. Permits an optional amortization deduction of any solid waste recycling facility acquired by the taxpayer.

H.R. 10503.—October 31, 1975. Post Office and Civil Service. Extends eligibility for restoration of Federal health insurance benefits coverage to certain survivor annuitants.

H.R. 10504.—October 31, 1975. Rules. Requires a surplus in the congressional budget for the United States Government for any fiscal year in which the projected national unemployment rate is less than 4½ percent, under the Congressional Budget Act of 1974.

H.R. 10505.—October 31, 1975. Veterans' Affairs. Directs the Administrator of Veteran's Affairs to establish a national cemetery at Indiantown Gap, Pennsylvania.

H.R. 10506.—October 31, 1975. Interstate and Foreign Commerce. Requires, under the Fair Packaging and Labeling Act, that a retail distributor of packaged consumer commodities which have been distributed in commerce or which if distributed would affect commerce must plainly mark its total selling price by a stamp, tag, or label before such commodity may be offered for sale.

H.R. 10507.—October 31, 1975. Interstate and Foreign Commerce. Establishes a Federal Regulatory Agency Review Commission to conduct a comprehensive study and make recommendations to Congress with respect to the structures, policies, practices, regulations, and controlling statutes of Federal regulatory agencies.

H.R. 10508.—October 31, 1975. Banking, Currency and Housing. Requires the Secretary of Housing and Urban Development to assist in implementing fair share housing allocation formulae and other cooperative metropolitan housing plans for low-income households, under the local housing assistance plans of the Housing and Community Development Act of 1974.

H.R. 10509.—October 31, 1975. Ways and Means. Amends the Internal Revenue Code to allow a taxpayer who deducted for the preceding year disaster losses resulting from the floods occurring on February 26, 1972, and who was subsequently compensated with respect to such losses, to avoid including the amount of such compensation in gross income for the taxable year in which the flooding occurred or recomputing the amount of income tax due for such preceding taxable year.

H.R. 10510.—October 31, 1975. Armed Services. Directs the Secretary of the Air Force to promote a certain individual to active duty commissioned status, at the grade of permanent major.

H.R. 10511.—October 31, 1975. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 10512.—October 31, 1975. Judiciary. Authorizes the United States General Accounting Office to consider a certain individual's claims for compensation for services performed for the United States Army.

H.R. 10513.—November 3, 1975. Interstate and Foreign Commerce. Prohibits the introduction or delivery for introduction into commerce of the chemical compounds known as polychlorinated biphenyls by deeming such compounds to be "banned hazardous substances" under the Federal Hazardous Substances Act.

H.R. 10514.—November 3, 1975. Banking, Currency and Housing. Amends the Truth in Lending Act to require lenders to post current interest rates charged for various categories of loans to consumers.

H.R. 10515.—November 3, 1975. Interstate and Foreign Commerce. Extends the authorization for applications under the Lead-Based Paint Poisoning Prevention Act.

H.R. 10516.—November 3, 1975. Ways and Means; Interstate and Foreign Commerce. Establishes a Nursing Home Affairs Advisory Council to make recommendations to the Secretary of Health, Education, and Welfare concerning services provided by long-term care facilities which receive Federal funds under the Medicare and Medicaid provisions of the Social Security Act.

H.R. 10517.—November 3, 1975. Interior and Insular Affairs. Revises the boundaries of the Manassas National Battlefield Park in Virginia. Authorizes the Secretary of the Interior to acquire additional lands for the battlefield and to make minor revisions in the boundary. Establishes procedures to allow owners of property within the boundaries of the battlefield to retain a right of use and occupancy.

H.R. 10518.—November 3, 1975. Banking, Currency and Housing. Repeals the Real Estate Settlement Procedures Act.

H.R. 10519.—November 3, 1975. Ways and Means. Amends the Internal Revenue Code to exclude certain organizations established before 1913 from treatment as private foundations.

H.R. 10520.—November 3, 1975. Ways and Means. Amends the Social Security Act by increasing the amount of outside income which an individual may earn without a reduction in Old-Age, Survivors, and Disability Insurance benefits.

H.R. 10521.—November 3, 1975. Judiciary. Imposes criminal penalties for unauthorized deprivation of benefits provided to individuals under any Act of Congress. Increases the maximum penalty for such unauthorized deprivation or undue use of employment or other benefits in consideration for political favors.

H.R. 10522.—November 3, 1975. Interstate and Foreign Commerce. Amends the Securities Exchange Act of 1934 to repeal limitations upon the power of the Securities Exchange Commission and the Municipal Securities Rule Making Board to require an issuer of municipal securities to make certain filings or to furnish certain applications, reports, documents, or other information.

H.R. 10523.—November 3, 1975. Interstate and Foreign Commerce. Amends the Securities Act of 1933 to repeal the exemption from regulation by the Securities Exchange Commission of securities issued or guaranteed by the District of Columbia, United States territories, States, political subdivisions or instrumentalities of a State or territory.

H.R. 10524.—November 3, 1975. Ways and Means. Amends the Social Security Act to make inapplicable, in the case of individuals suffering from multiple sclerosis, the present requirement that an individual under age 65 must have been entitled to benefits based on disability for at least 24 consecutive months in order to qualify for medicare benefits.

H.R. 10525.—November 3, 1975. Judiciary. Directs the Secretary of the Army to receive, consider, and determine any claim against the United States filed by a certain individual who was struck by a motor vehicle of the United States Army.

H.R. 10526.—November 4, 1975. Armed Services. Establishes the Strategic and Critical Materials Procurement Fund under the Strategic and Critical Materials Stock Piling Act for the purpose of providing funds for the procurement, transportation, maintenance, rotation, storage, refining, or processing of materials to be acquired under such Act.

H.R. 10527.—November 4, 1975. Education and Labor. Amends the Comprehensive Employment and Training Act to raise the ceiling on annual salaries for public service jobs funded by such Act from $10,000 to $15,000.

H.R. 10528.—November 4, 1975. Banking, Currency and Housing. Requires the Secretary of Housing and Urban Development to maintain any house, parental project, or other dwelling unit owned by the Department of Housing and Urban Development as a result of foreclosure proceedings, in accordance with certain standards established by the General Services Administration.

H.R. 10529.—November 4, 1975. Public Works and Transportation. Directs the General Services Administration to maintain any house, rental project, or other dwelling unit owned by the Federal Government as a result of foreclosure proceedings, in accordance with certain standards.

H.R. 10530.—November 4, 1975. Interstate and Foreign Commerce. Amends the Securities Act of 1933 to remove the exemption from regulation by the Securities Exchange Commission of (1) securities issued or guaranteed by the District of Columbia, United States territories, States, political subdivisions or instrumentalities of a State or territory; or (2) industrial development bonds.

Permits the Securities and Exchange Commission, under the Securities Act of 1933 and the Securities Exchange Act of 1934, to regulate such securities unless enforcement is found to be unnecessary to the public interest and for the protection of investors.

H.R. 10531.—November 4, 1975. Post Office and Civil Service. Stipulates that civilian air traffic controllers employed in Executive agencies shall be treated the same as air traffic controllers of the Department of Transportation for purposes of retirement.

H.R. 10532.—November 4, 1975. Ways and Means. Amends the Internal Revenue Code to exempt from taxation a trust created or organized in the United States for the purpose of satisfying the liabilities of a person contributing to such trust with respect to claims for benefits under the Black Lung Acts and all State and Federal rules and regulations pursuant thereto.

H.R. 10533.—November 4, 1975. Armed Services. Extends from one to three years the period that a member of the uniformed services has following his retirement or other honorable separation after at least eight years of continuous active duty to select his home for purposes of travel and transportation allowances.

H.R. 10534.—November 4, 1975. Public Works and Transportation. Amends the River and Harbor Act of 1960 to increase the maximum permissible allotment for construction of small river and harbor improvement projects at a single locality.

H.R. 10535. November 4, 1975. Judiciary. Increases the maximum penalty for persons convicted of conspiring to commit any offense against the United States or to defraud the United States. Establishes a separate, larger maximum penalty in the case of a corporation convicted of such an offense.

H.R. 10536. November 4, 1975. Post Office and Civil Service. Requires notice to be given to Congress by the heads of executive agencies, of certain proposed actions affecting Federal Civilian employment.

H.R. 10537.—November 4, 1975. Interior and Insular Affairs. Reauthorizes construction of the Polecat Bench reclamation project in Wyoming and the McKay Dam and Reservoir project in Oregon, under the supervision of the Secretary of the Interior. Authorizes the Secretary to modify the Dickinson Dam project in North Dakota.

Authorizes construction of the Pollock-Herreid Unit in South Dakota by the Secretary in accordance wtih Federal reclamation laws.

H.R. 10538.—November 4, 1975. Ways and Means. Amends the Internal Revenue Code to allow a limited credit for qualified savings and investments, and excludes from gross income certain capital gains.

Removes the undue hardship requirement for granting an estate tax extension. Allows a limited deduction from a gross estate for the decedent's interest in a family farming operation.

Revises the corporate normal tax rates, increases the investment tax credit, and increases the corporate surtax exemption.

H.R. 10539.—November 4, 1975. Interstate and Foreign Commerce. Prohibits distributors and refiners of petroleum products from cancelling franchises without cause and without prior notice.

H.R. 10540.—November 4, 1975. Government Operations. Requires the Federal Government to pay to the appropriate local taxing authority, on the date on which real property taxes become due, an amount equal to the amount of the real property tax which would be payable to such State or local taxing authority, on any improved real property to which the United States, or any agency thereof, has legal title and which is leased, loaned, or otherwise used by a private individual, association, or corporation in connection with a business conducted for profit, as would be payable if legal title were held by such private individual, association, or corporation.

H.R. 10541.—November 4, 1975. Public Works and Transportation. Enables States to qualify for Federal highway safety funds without including in the State highway safety program any requirement for motorcycle drivers or passengers 18 years of age or older to wear safety helmets.

H.R. 10542.—November 4, 1975. Judiciary. Incorporates the National Association of State Approving Agencies.

H.R. 10543.—November 4, 1975. Interstate and Foreign Commerce. Amends the Natural Gas Act to authorize the Federal Power Commission to exempt certain sales of natural gas from regulation.

H.R. 10544.—November 4, 1975. Interior and Insular Affairs: Post Office and Civil Service. Authorizes the Secretary of the Interior to make grants and loans for the establishment of a Polynesian culture exhibition as part of the American Revolution Bicentennial celebration in Philadelphia.

H.R. 10545.—November 4, 1975. Armed Services. Stipulates that civilian personnel engaged in industrially funded activities shall be excluded from the computation of the total number of civilian personnel authorized by law for the Department of Defense in any fiscal year.

H.R. 10546.—November 4, 1975. Ways and Means. Authorizes appropriations from the Land and Water Conservation Fund for various national forest programs and purposes, including the payment of court judgments in condemnation proceedings.

H.R. 10547.—November 4, 1975. Ways and Means. Amends the Supplemental Security Income provisions of the Social Security Act to revise (1) certain eligibility requirements; (2) methods of determining eligibility and paying benefits, in certain cases; and (3) procedures for eligibility determination hearings. Directs the Secretary of Health, Education, and Welfare to publicize the Supplemental Security Income program. Prohibits States from reducing supplementation payments following an increase in Federal Supplemental Security Income benefits.

H.R. 10548.—November 4, 1975. Judiciary. Extends the jurisdiction of the criminal laws of the United States to include commission of crimes by United States nationals and foreign nationals in Antarctica, in accordance with provisions of the Antarctic Treaty.

H.R. 10549.—November 4, 1975. Agriculture. Directs the Secretary of Agriculture to pay lenders under the Emergency Livestock Credit Act of 1974 the amount of the interest rate which exceeds four percent.

Requires the Secretary to consent to a suspension, for a period of not more than three years, in the payment of any loan guaranteed under such Act, upon a determination that a suspension is necessary to avoid severe financial hardship by the recipient of the loan. Directs the Secretary to make payments of the principal, which shall be repaid by the recipient, during the time of suspension of payments by the recipient of the loan.

H.R. 10550.—November 4, 1975. Judiciary. Requires the Federal Trade Commission, the Department of Justice, and the Department of Agriculture to compile information and annually report to Congress with respect to antitrust enforcement, market structure, and competition in the food industry.

H.R. 10551.—November 4, 1975. Ways and Means. Amends the Internal Revenue Code to stipulate that a vessel qualifies as depreciable property and that the qualified investment or the amount of investment credit allowed shall not be reduced because of any deposit in or withdrawal from or any reduction in basis required under a capital construction fund established with the Secretary of Commerce, under the Merchant Marine Act of 1970.

H.R. 10552.—November 4, 1975. Agriculture. Increases the amount of forest receipts payable to States and counties from 25 percent to 75 percent of such gross receipts.

H.R. 10553.—November 4, 1975. Veterans' Affairs. Revises the absence accounting procedures for veterans or other persons eligible for veterans' educational assistance enrolled in a course which does not lead to a standard college degree, to prohibit counting as absences periods in which the school is closed for administrative purposes or customary vacation periods.

H.R. 10554.—November 4, 1975. Merchant Marine and Fisheries. Directs the Secretary of the Interior to make a comprehensive study of the wolf for the purpose of developing adequate conservation measures.

H.R. 10555.—November 4, 1975. Judiciary. Declares a certain individual eligible for naturalization under the Immigration and Nationality Act.

H.R. 10556.—November 4, 1975. Judiciary. Deems a certain individual to have been in the United States at the time of his enlistment in the military forces of the United States, for purposes of the Immigration and Nationality Act.

H.R. 10557.—November 4, 1975. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 10558.—November 4, 1975. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 10559.—November 4, 1975. Science and Technology; Banking, Currency and Housing. Amends the Federal Non-Nuclear Energy Research and Development Act of 1974 to authorize the Administrator of the Energy Research and Development Administration to guarantee loans for the development of synthetic fuels from domestic coal resources.

H.R. 10560.—November 5, 1975. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to require the Civil Aeronautics Board to issue certificates of public convenience and necessity to certain persons engaged in interstate air transportation.

H.R. 10561.—November 5, 1975. Banking, Currency and Housing. Defines the terms "discount" and "surcharge" under the Truth in Lending Act and the Fair Credit Billing Act.

Prohibits the imposition of a surcharge upon use of credit cards, under the Fair Credit Billing Act.

Declares under the Fair Credit Biling Act that discounts not in excess of five percent shall not be considered a finance charge or other charge for credit under the credit disclosure laws of any State.

H.R. 10562.—November 5, 1975. Ways and Means; Interstate and Foreign Commerce. Amends the Internal Revenue Code to allow (1) a tax credit for the full amount paid for basic health insurance for a taxpayer, the spouse or dependents thereof, or any needy or indigent person; (2) a deduction for all medical expenses, not compensated by insurance, in excess of $500; and (3) a two year carryback or carryforward of such credit or deduction.

Authorizes any State, under the Social Security Act, to furnish medical assistance in the form of coverage under qualified private health plans or policies, subject to the approval of the Secretary of Health, Education, and Welfare.

H.R. 10563.—November 5, 1975. Agriculture. Directs the Secretary of Agriculture to conduct a continuing appraisal of land, water, and related natural resources.

Provides for the establishment of a National Land and Water Conservation Program through the Soil Conservation Service of the Department of Agriculture.

H.R. 10564.—November 5, 1975. Government Operations. Requires, with certain exceptions, that meetings of Government agencies be open to the public.

H.R. 10565.—November 5, 1975. Interior and Insular Affairs. Authorizes the Secretary of the Interior to acquire certain lands to establish the Frederick Law Olmsted Home and Office in Massachusetts as a national historic site.

H.R. 10566.—November 5, 1975. Education and Labor. Amends the Domestic Volunteer Service Act of 1973 to stipulate that developmentally disabled children receiving services under the foster grandparents program may continue to receive such services without regard to age.

H.R. 10567.—November 5, 1975. Merchant Marine and Fisheries. Directs the Secretary of the Interior to make a comprehensive study of the wolf for the purpose of developing adequate conservation measures.

H.R. 10568.—November 5, 1975. Government Operations. Requires the Director of the Office of Management and Budget to prepare and publish in the Federal Register an economic impact statement with respect to any rule or regulation which is proposed by a Federal agency.

H.R. 10569.—November 5, 1975. Rules. Amends the Congressional Budget Act of 1974 by requiring the Congressional Budget Office to prepare inflationary impact statements in connection with legislation reported by Senate and House Committees.

H.R. 10570.—November 5, 1975. Interior and Insular Affairs. Amends the National Historic Preservation Act of 1966 to establish a historic preservation fund from revenues collected from leases on the Outer Continental Shelf.

H.R. 10571.—November 5, 1975. Armed Services. Stipulates that the regulations governing the determination of the date of entitlement of a person to armed forces retirement pay shall be retroactive to November 1, 1953.

H.R. 10572.—November 5, 1975. Post Office and Civil Service. Revises the meaning of the term "city" with respect to the laws relating to the withholding of city income or employment taxes from Federal employees in order to apply such laws to taxes imposed by nonincorporated local governments as specified in this Act.

H.R. 10573.—November 5, 1975. Banking, Currency and Housing. Amends the Real Estate Settlement Procedures Act of 1974 (1) to redefine "federally related mortgage loan"; (2) to repeal requirements for advance disclosure of settlement costs, and disclosure of previous selling price; and (3) alter regulations for uniform settlement statements.

Amends such Act with respect to (1) information booklets prepared by the Secretary of Housing and Urban Development; and (2) regulation of borrower escrow accounts.

Permits the Secretary to exempt lenders for such loans from compliance with State settlement laws, under such Act.

H.R. 10574.—November 5, 1975. Judiciary. Waives restrictions on the furnishing of accommodations to judges of the courts of appeals at places where Federal facilities are available and the judicial council of the circuit approves.

H.R. 10575.—November 5, 1975. Judiciary. Incorporates the United States Athletic Hall of Fame, Incorporated.

H.R. 10576.—November 5, 1975. Armed Services; Merchant Marine and Fisheries. Revises the method of appointing individuals to the service academies. Requires the boards of visitors of the academies to examine the admission policies and procedures of the respective academies. Restricts the appointment of members of the Navy and Marine Corps, Army, and Air Force reserves by the respective Secretaries of those services to such appointments as are necessary to fill the authorized number of vacancies in newly formed classes forming at the academies.

H.R. 10577.—November 5, 1975. Rules.

Amends the Congressional Budget Act to require that the first concurrent resolution on the budget shall set a limit on total budget outlays with respect to the surplus or deficit that is appropriate in light of economic conditions, as well as the recommended level of Federal revenues, and the appropriate level of the public debt for each of the three following fiscal years.

H.R. 10578.—November 5, 1975. Ways and Means. Amends the Internal Revenue Code to allow a deduction to individuals who rent their principal residences for a portion of the real property taxes paid or accrued by their landlords.

H.R. 10579.—November 5, 1975. Interstate and Foreign Commerce. Amends the Natural Gas Act to direct the Federal Power Commission to exempt certain transactions involving new natural gas from regulation. Directs the Commission to establish a ceiling price on new natural gas produced from offshore Federal lands to remain in effect through December 31, 1980.

Directs the Commission to prohibit the use of natural gas as boiler fuel where adequate alternatives exist. Authorizes the Commission to require production of natural gas at the maximum efficient rate during natural gas supply emergencies.

H.R. 10580.—November 5, 1975. Interior and Insular Affairs. Amends the Mineral Leasing Act of 1920 to direct the Secretary of the Interior to establish a comprehensive exploratory program for coal deposits.

Regulates surface coal mining operations through a permit program administered by the Secretary of the Interior. Requires applicants to meet minimum environmental protection standards. Allows States to establish surface mining control programs at least as stringent as minimum Federal standards.

Authorizes financial assistance to State mining and mineral research institutes. Establishes a special fund for the reclamation of abandoned mine sites.

H.R. 10581.—November 5, 1975. Merchant Marine and Fisheries. Authorizes the Governor of the Canal Zone to regulate the purchase, possession, consumption, use, transportation, manufacture, sale, and importation of alcoholic beverages in the Canal Zone.

Requires the Governor to establish alcoholism prevention, treatment, and rehabilitation programs in the Canal Zone.

H.R. 10582.—November 5, 1975. International Relations. Declares that no debt owed to the United States by any foreign country may be settled in an amount less than the full value of the debt except by concurrent resolution of the Congress.

H.R. 10583.—November 5, 1975. Ways and Means. Amends the Internal Revenue Code to allow a limited credit for qualified savings and investments, and excludes from gross income certain capital gains.

Removes the undue hardship requirement for granting an estate tax extension. Allows a limited deduction from a gross estate for the decedent's interest in a family farming operation.

Revises the corporate normal tax rates, increases the investment tax credit, and increases the corporate surtax exemption.

Requires that a taxpayer's basis in property be varied by changes in the Consumer Price Index.

Establishes certain standards for employee stock ownership plan financing.

H.R. 10584.—November 5, 1975. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 10585.—November 6, 1975. Ways and Means. Increases, temporarily, the debt limitation on the Second Liberty Bond Act, by $195,000,000,000.

H.R. 10586.—November 6, 1975. Merchant Marine and Fisheries. Directs the Secretary of the Interior to regulate the trapping and capture of mammals and birds on Federal lands. Establishes an advisory commission to recommend to the Secretary acceptable methods for trapping and capture of mammals and birds.

Prohibits use of unacceptable traps in interstate or foreign commerce. Prescribes regulations to prohibit the interstate shipment of hide, skin, feathers, or resulting products of the use of unacceptable traps.

H.R. 10587.—November 6, 1975. Judiciary. Requires executive agencies, under the Administrative Procedure Act, to calculate and publish in the Federal Register the projected total cost and the projected total benefits which would result from the adoption of a rule.

H.R. 10588.—November 6, 1975. Ways and Means. Amends the Internal Revenue Code to exclude certain refiners of crude oil, who, directly or through a related person, sell oil or natural gas through a retail outlet operated by the taxpayer or a related person, from the partial depletion allowance.

H.R. 10589.—November 6, 1975. Interstate and Foreign Commerce. Authorizes and directs the Secretary of Health, Education, and Welfare, acting pursuant to the Public Health Service Act, to make grants to designated State agencies to meet part of the costs involved in planning, establishing, maintaining, coordinating, and evaluating programs for comprehensive services for school-age girls, their infants and children.

Specifies the requirements for State plans to qualify for Federal aid under this Act.

H.R. 10590.—November 6, 1975. Education and Labor. Amends the Higher Education Act of 1965 to generally revise (1) the programs of Federal, State, and private low-interest insured loans to students in institutions of higher education; and (2) the program of direct loans to students in institutions of higher education.

Transfers the duty of administering the loan insurance program from the Commissioner of Education to the Secretary of the Treasury.

H.R. 10591.—November 6, 1975. Interstate and Foreign Commerce. Amends the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act to require warrantors of new motor vehicles to allow consumers to elect either refunds for, or replacements without charge of, new motor vehicles containing a defect or malfunction which is not remedied within 60 days after such motor vehicles are made available to the warrantor or after a reasonable number of attempts by the warrantor to remedy such defect or malfunctions.

H.R. 10592.—November 6, 1975. Banking, Currency and Housing. Amends the Real Estate Settlement Procedures Act of 1974 (1) to redefine "Federally related mortgage loan"; (2) to repeal requirements for advance disclosure of settlement costs, and disclosure of previous selling price; and (3) alter regulations for uniform settlement statements.

Amends such Act with respect to (1) information booklets prepared by the Secretary of Housing and Urban Development; and (2) regulation of borrower escrow accounts.

Permits the Secretary to exempt lenders for such loans from compliance with State settlement laws, under such Act.

H.R. 10593.—November 6, 1975. Public Works and Transportation. Sets forth regulations for estimates and charges for the transportation of household goods by a common carrier by motor vehicle, under the Interstate Commerce Act.

H.R. 10594.—November 6, 1975. International Relations. Authorizes appropriations under the Foreign Assistance Act of 1961 and the Foreign Military Sales Act. Revises the Foreign Assistance Act of 1961 with respect to (1) the stockpiling of defense articles for foreign countries; (2) international military education and training; and (3) Indochina Assistance.

H.R. 10595.—November 6, 1975. Judiciary. Establishes a program of grants to States for the payment of compensation to persons injured by certain violent criminal acts. Establishes the Violent Crimes Compensation Commission to carry out the purposes of this Act.

H.R. 10596.—November 6, 1975. Armed Services. Requires the Chief of Naval Operations, and the Chiefs of Staff of the Army and Air Force to keep the Secretaries of their respective services fully and currently informed on all matters considered and matters acted upon by the Joint Chiefs of Staff.

H.R. 10597.—November 6, 1975. Veterans' Affairs. Specifies that recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced because of increases in monthly social security benefits.

H.R. 10598.—November 6, 1975. Judiciary. Amends the Speedy Trial Act of 1974 to stipulate that certain members of planning groups and pretrial services agencies shall not be deemed to be officers or employees of the United States.

H.R. 10599.—Noverbem 6, 1975. Veterans' Affairs. Directs the Secretary of the Army to establish one or more national cemeteries in Arizona.

EXTENSIONS OF REMARKS

DOMESTIC WINES

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. BELL. Mr. Speaker, many of us have known for a long time that our domestic, U.S. wines are of a quality to rival the best imported vintages.

Some of them, such as several of the well-known California wines, are finally beginning to come into their own in the international wine market.

In part, this is due to some of the advanced techniques being used by U.S. viticulturalists. One such innovative procedure now being used on a trial basis in California is vineyard irrigation.

A recent bulletin published by the Council of California Growers describes this project.

The text of that article follows:

TO WATER OR NOT TO WATER—THAT IS THE QUESTION

Can a superior wine come from grape vines that have been irrigated?

"The answer you'll get varies by the amount of summer rainfall normal to the given production area," said viticulturist Rudy Neja of Monterey County's Extension Service.

"Generally, Europeans shudder at the idea of irrigating grape vines. They considered it a 'plus' to put 'non-irrigated' on a bottle of wine. But apparently they're unwilling to classify their natural summer rains as, at least 'celestial irrigation'," Neja told the Council of California Growers.

The aversion to irrigation carries over into major California growing areas as well. "Napa-Sonoma receives 25'' to 50'' of rain annually, versus the 10'' to 12'' we get here in Monterey. Any rain early in the Fall is not uncommon in that area. So they can afford to share the European aversion to man-made 'rainfall' in the form of sprinkler irrigation," Neja explained.

Since 1972, viticulturist Neja has been actively involved in irrigation trials involving area grape growers and wineries, as well as the University's experiment station.

"We are studying four systems: non-irrigation; an early cut-off in mid-July to stop plant growth; irrigating through the entire season and ignoring vine growth; and finally, in mid-season, cutting back canopy growth and reducing irrigation, but continuing some water application right up to harvest time in September and November," Neja told the Council. He referred to the latter technique as "E.C.B."—early cut back of irrigation to reduced levels.

Measured results have been startling, if probably insufficient to lower the raised eyebrows of European traditionalists.

"Wineries and the University, cooperating in evaluating quality, report the ECB system resulted in superior wines, based on sugar acids and taste panel ratings," Neja said.

The farm advisor reported further results of the trials. "Under ECB, production averaged more than 16 pounds per vine, versus 10 pounds when not irrigated. In pounds of sugar per vine, ECB averaged 3.2, versus 2.1 non-irrigated."

Water application under ECB is dramatically low. "It requires one-third to one-half the amount of water needed to furrow-irrigation row crops, and about one-half of what grape growers previously thought necessary," Neja reported.

Infra-red aerial photography has aided Monterey County investigators in evaluating vine conditions, whether still growing, defoliating, or in a "holding pattern." "We've found that night time irrigation gets better results: reduced water loss from evaporation and, therefore, minimized salt concentration on leaves," the viticulturist said.

Ultimately the consumer will judge the merits of irrigation versus natural rainfall. But leading California vintners already are reaching the conclusion that European prejudices in wine-making are in for some shattering disillusionment.

NEW POSTAL SERVICE POLICY WILL BENEFIT CONGRESSMEN

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. FORD of Michigan. Mr. Speaker, I would like to call attention to two policy changes just announced by Postmaster General Benjamin F. Bailar which will be of interest to all our colleagues in the House and Senate.

These changes were made by Mr. Bailar after consultation with members of the Post Office and Civil Service Committee, and I want to express my appreciation to him for a fine gesture of cooperation and an indication of a new openness in the Postal Service.

For a number of years, many of us have strenuously opposed a Postal Service rule which prohibited Postmasters from responding to a simple congressional inquiry. Instead, they were instructed to forward all congressional mail to Postal Service headquarters in Washington.

Mr. Bailar has now reversed this shortsighted policy and authorized "Postmasters and Sectional Center Managers . . . to respond to congressional inquiries received directly on matters under their jurisdiction affecting the customers and services of the postal office or sectional center."

In a second order, Mr. Bailar has halted another ridiculous policy barring elected officials from participating in open-house ceremonies for new and remodeled post offices. This rule, designed to augment the Postal Service policy of "keeping politics out of the post office," had often resulted in limited public knowledge or use of new postal facilities.

These "tunnel-vision" policies were inaugurated by Mr. Bailar's predecessors at the Postal Service, who had ignored or overlooked the problems that had been created by them, even when brought to their attention.

I am most pleased that Mr. Bailar has expressed his willingness to make needed changes in postal policies, and I commend him for his cooperative attitude.

For the benefit of my colleagues, the two new postal orders are herewith printed:

Postal Bulletin Notice on Congressional Procedures

It is of the utmost importance that inquiries from Congressional offices receive prompt and accurate attention. All levels of management are expected to assist toward successfully meeting this objective. In this regard, Postmasters and Sectional Center Managers are authorized to respond to Congressional inquiries received directly on matters under their jurisdiction affecting the customers and services of the post office or sectional center. Information copies of Postmaster and Sectional Center Manager responses and memoranda recording verbal responses, as well as questions received directly involving policy matters (which should be forwarded to Headquarters for answering), will be collected by the Sectional Center Manager for forwarding to the Assistant Postmaster General, Government Relations Department, United States Postal Service, Washington, D.C. 20260. Policy matters are interpreted to include but are not limited to such answers as mail classification, rate making, contracting, real estate, interpretation of the collective bargaining agreement, personnel policies, arbitration, appointments, and promotions. The existing procedural framework governing labor/management relations must be maintained at all times.

Postal Bulletin Notice on Open Houses

When new or substantially remodeled buildings are occupied by the Postal Service, open houses should be held for the general public, employees, their families, and friends. Ceremonies will be informal and will not include speeches. National, state, and local elected officials will be invited. As far in advance of an opening as possible, postmasters should contact their Sectional Center Managers for detailed instructions, which will be furnished.

U.S. PRESENCE VITAL IN ASIA

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. DERWINSKI. Mr. Speaker, at a time when the President has just returned from a trip to Asia and announced a new Pacific doctrine which bears the imprint of Secretary Kissinger, I believe the Members ought to ponder the message of Harry G. Wiles, the American Legion commander, who has also just returned from an Asian trip. As a Legionnaire, I recommend Commander Wiles' message to the Members:

The Commander's Message—U.S. Presence Vital in Asia

A curious Asian big power triangle balances precariously on the Korean peninsula in the wake of the Communist conquest of Southeast Asia.

Contrary to their propaganda broadsides, both the Soviet Union and Communist China appear anxious that the United States maintain a meaningful and conspicuous military presence in the western Pacific.

This is an inescapable conclusion after a 19-day trip to the Far East that took me to Guam, the Philippines, Taiwan, Hong Kong, the Republic of Korea and Japan.

In country after country, in conversations with American military men and diplomats and with Asian officials and ordinary citizens, the arguments are repeated.

As men on the perimeter of Communist China see it, Moscow and Peking are both maneuvering to avoid any incident or confrontation that might force one or the other to make overt military moves. The presence of American power in Korea, in Japan, the Philippines and the Marianas heightens Communist caution.

But these same men also agree that Kim Il-Sung, the bellicose premier of Communist North Korea, could upset the fragile balance. A sudden North Korean attack on South Korea would immediately involve the American forces guarding the demilitarized zone between the two states. Just as quickly, it would force Moscow's and Peking's hands.

The Asia-watchers with whom I spoke see few options in such a situation. Neither Moscow nor Peking could afford to see the other gain ascendancy in the Asian Communist world, nor could either allow Kim to be driven northward by American-South Korean arms.

From the American standpoint, a North Korean conquest of South Korea is equally unacceptable. Communist control of the strategic peninsula would constitute a dagger pointed at the heart of Japan, America's No. 1 trading partner and the anchor of its power and prestige in Asia and the western Pacific.

Why then is the balance so precarious? Why is there continuing concern about a new Korean conflict?

The answers center on the personality of Kim Il-Sung. He is described often as a man obsessed with the idea of reunifying Korea under his Communist banner. He is growing old. His health is reported to be failing.

Immediately after the fall of South Vietnam, Kim traveled to Peking and then to Moscow. It is reported that he sought the support of the Communist giants for an attack southward. He was rebuffed by both the Russians and the Chinese. But this does not mean he was dissuaded. His own economy and society are in a shambles. His grandiose social schemes have collapsed. He rules within increasing severity. The combination of his problems and his ego, many experts fear, could convince him that he has "nothing to lose" in a wild adventure that would threaten the peace of the world.

In this climate of nervous tension, I was proud to be national commander of an organization that has consistently called for strong, modern American military forces capable of pursuing the nation's interests anywhere in the world. I was proud, too, that the American Legion just recently reaffirmed its support of American commitments to the Republic of Korea, Japan, Taiwan and our other friends on the perimeter of Asia.

Indochina has been lost, but in the months that have followed the tragedies of Vietnam, Cambodia and Laos, there has emerged a new appreciation of the American role in the Far East. Throughout the arc that swings from Hong Kong to Seoul there is a keen awareness that without conspicuous U.S. power there can be no stability, no real hope for a future.

There were no "Yankee Go Home" signs along my itinerary. Even in the Philippines, where President Marcos has made some public statements that have been interpreted as anti-American, men close to Marcos sought to assure me that such statements are based on domestic and Asian political situations and do not represent Marcos' real feelings.

In Seoul and Taipei, the official attitude is almost a plea. For those people an American retreat would be an immediate catastrophe.

This is not to say that there should be no changes in the U.S. military posture in the Far East. It is obvious that American power is shifting toward Guam and the Marianas. New weapons, ships and planes are bringing changes in strategy. We have highly competent Navy, Army and Air Force leaders who are adjusting quickly and decisively to post-Vietnam realities.

But despite Vietnam, one reality remains constant: the United States has a major stake in the Far East and the western Pacific. It cannot be ignored.

I saw it reflected in the cold hatred of a Communist North Korean guard at Panmunjom who glared at me from only 30 feet away. I saw it reflected in our national cemeteries at Manila and Honolulu and in a native Filipino cemetery reserved for men who had died fighting alongside American troops in World War II. I saw it reflected in the bustling streets of Tokyo, the American military bases in Japan, Korea and Guam and in the eyes of worried men in Taipei and Seoul and Manila.

We are on the right track, comrades. Our resolutions and mandates strengthen the hopes for peace and freedom around the rim of Asia.

Let's stick by them!

A CENTURY OF REPORTING

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. LAGOMARSINO. Mr. Speaker, 100 years ago November 6, 1975, the ancestry of the Ventura County Star-Free Press began. It was fostered through a series of proprietorships, conflicts and amalgamations but always with dedication to journalistic principles. In 1925 as a result of these transactions, young Roy David Pinkerton emerged with the County Star. Mr. Pinkerton introduced the publication on June 15, 1925, with an editorial on the front page in which he made clear the County Star would represent more than just the city of San Buenaventura as its name would indicate. "We propose to serve faithfully the people of all Ventura County. In our covering of the news, in our editorial treatment of the issues, in our circulation program, we always will remember that we represent this big, fertile, beautiful, happy district—all of it."

The County Star's first office was in a garage leased from the Lagomarsino family—yes, my family. From this humble beginning it had, on its first anniversary, 2,531 paid circulation. The following year Col. Milton McRae, the guardian of 15-year-old John Paul Scripps, invested in the Star, using a part of the Scripps inheritance. This was the beginning of the John Paul Scripps Newspapers as an organization.

In April, 1937, the Ventura County Star-Free Press was born from an amalgamation of the Free Press and the County Star.

The buildings, the people, the times have changed, but the dedication and purpose remain the same; to print the news honestly, decently and fearlessly; and in politics to be independent, but not neutral, standing for the man or the measure "which seems to us to be for the welfare of the whole public."

Because of this singular dedication to the journalistic profession I ask the Members of the House to join with me in extending congratulations to the Ventura County Star-Free Press on the occasion of its 100th anniversary.

TRIBUTE TO MARSHALL McGRATH

HON. BROCK ADAMS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. ADAMS. Mr. Speaker, in September of this year, I spoke to the American Paper Institute in Prout's Neck, Maine. The occasion was greatly saddened by the news of the sudden and tragic death of Marshall McGrath, who had ably represented the International Paper Co., in Washington, D.C., for many years.

In his work, he had gained the affection and respect, not only of his colleagues in the paper industry, but of the many Members and their staffs with whom he worked on legislative matters. He was an able, articulate and honest spokesman for the paper industry, and we will all miss his calm advice and counsel.

At the Prout's Neck meeting, Gerald Vaughan gave a moving eulogy to his friend, Marshall McGrath, and I would like to include the text of his remarks in in RECORD. I also want to take this opportunity to extend my deepest sympathy to his wife and daughter—they have lost a husband and a father in whose memory they can take pride.

MARSHALL MCGRATH

One of the greatest strengths of the API Government Affairs Committee is a kind of camaraderie, which—in today's business world—is a rare and priceless thing. As the Committee gathers here in this lovely place, we do so with a deep sense of sorrow, for one of our comrades has fallen.

I will not recite Marshall McGrath's accomplishments and biographical details, because, among his close friends, this is unnecessary. Further, Marshall would not be pleased. "Don't bore them", he would say, "they are my friends."

Rather, I would simply like to point out the fact that these arrangements which we will follow for the next few days, are fitting tribute to Marshall. This serene, quiet, beautiful spot was hand picked by him. And it rather fits the man, for Marshall was serene, quiet. And, yes, a beautiful man. But—in all of its serenity—it is also a strong, rugged place; a rock-like spot, able to withstand the winds and water of winter storms.

Marshall possessed this kind of quality, too. He was strong, and when the chips were down, he was the kind of man who quietly, and courageously led us in the direction of doing what was right.

He leaves his wife, Carolyn, and his daughter, Cheryl. We share in their grief, for they are part of us; they, like Marshall, help us. But I have thought so much of the fact that when the next several days are past and the finality of it all sets in, what a legacy he has left them. Their thoughts of a husband and father—of the understanding and compassion of Marshall—will sustain them during the lonely time, just as his legacy will sustain us.

And, now, here's where Marsh would be saying, "Vaughan, you've said enough! Get on with it."

However, I have one more thought I know you all share—Marshall, we miss you, we thank you—and we shall always walk in your shadow.

OAK PARK RIVER FOREST HIGH SCHOOL'S POLLUTION CONTROL CENTER

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. HYDE. Mr. Speaker, the Oak Park River Forest High School's Pollution Control Center in Illinois' Sixth Congressional District which I have the honor to represent, has again earned well-deserved national recognition for its continuing program to sharpen public environmental awareness.

On December 5, the center's student director, John Fanta, and its faculty adviser, Edward Radatz, accepted for the center the Distinguished Service Citation in this year's national awards program here in Washington, D.C., conducted by Keeping America Beautiful, Inc.

The center was specifically commended for its ongoing program of community information and assistance regarding environmental matters, its support for the recycling center it founded in 1971, its scholarship fund which sponsors student attendance at university environmental workshops, and for its program of student lectures at local elementary schools.

This was not the first national recognition for the school's pollution control center. In 1972, Oak Park River Forest High School, and three other high schools nationwide, received in a White House ceremony, the first awards made in EPA's Presidential environmental merit awards program.

I do not need to tell anyone in this Chamber of the importance to this Nation's future of a broad public understanding of the interrelationships of environmental factors and broad public support for cost-effective pollution control and reclamation activities. We need, throughout the Nation, a proliferation of high school and community awareness programs similar to those provided by Oak Park River Forest High School's pollution control center. This center has set a high standard of excellence and effectiveness that I commend to high school students everywhere.

I congratulate specifically John Fanta, the center's student director, son of Mr. and Mrs. Paul E. Fanta of 947 South Clinton Avenue in Oak Park. John has been interested in environmental protection since becoming a Boy Scout in Lincoln Elementary School's Troop 35 where he is now junior assistant scoutmaster and a Life Scout. John is a National Merit Scholar semifinalist, and upon graduation looks forward to attending prelaw course at Harvard or Stanford universities and is considering a career in environmental law.

Edward Radatz has taught environmental science and biology at Oak Park River Forest High School the past 7 years and has been faculty adviser for the pollution control center since its founding 5 years ago. His counseling and leadership has been an inspiration in the development of the center.

I congratulate him and all the dedicated students who make the pollution control center the force for community improvement which it is.

AMERICAN FARMS NEED EXPORT MARKETS

HON. KEITH G. SEBELIUS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. SEBELIUS. Mr. Speaker, the record-breaking farm output in 1975 can be a real source of pride and achievement for American farmers and for the Nation as well. Meeting a challenge to increase grain production, U.S. grain producers answered the call by producing a record yield.

Unfortunately, marketing efforts by farmers have been seriously hampered by unwarranted public fear of food shortages and high food prices. This misunderstanding and distrust has thwarted farmer efforts to grain profitable returns for the 1975 grain crops.

In this regard the following article is the last of a series of 10 messages sponsored by the Far Mar Co. Inc., Hutchinson, Kans. in U.S. News & World Report to promote public awareness and understanding of farm issues. Again, I commend Mr. George Voth, executive vice-president of Far Mar Co. for his fine efforts to keep a spotlight on the importance of grain exports to our national economy. The article follows:

AS WE STRIVE FOR A BETTER WORLD, WHO DO YOU WANT TO LEAVE OUT?

700 million people in this world live with the constant gnawing pains of hunger. And their eventual death by starvation is a fact they try to live with.

If that isn't bad enough, every week the world's population increases by another 1.4 million.

In the past, our food reserves have been available to alleviate the agony of famines. The American farmer has always produced abundant food. But today, our food reserve is the lowest it's been in a quarter of a century.

And the incentive for the farmer to increase production is dwindling. Fertilizer, fuel, equipment, and supply costs are not encouraging to him. In just the last two years, fertilizer prices have increased 196% and diesel fuel is up 189%.

But if he tries to get by on less fertilizer and fuel, yields will suffer.

On the other hand, if he invests more in his crops, and the higher production saturates our nation's needs to the point prices are driven down, he will have only hastened his own demise.

With the voluminous need for our food production throughout the world, it only makes sense to keep these foreign markets available to the American farmer.

This demand will create the incentive he needs to produce the needed food. And the U.S. will have the commodities for foreign trade. Commodities which have proven to be the primary source for generating a favorable balance of trade.

People throughout the world need food. Food the American farmer can produce. But we can't expect him to do it without a profitable return on his investment.

JOBS

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. HARRINGTON. Mr. Speaker, the current attitude of apparent satisfaction among administration economists with regard to the chronically high unemployment rate strongly indicates that the view from the White House has little relationship to the realities we face each day. We are routinely reassured by the administration that the recession has officially ended, yet millions of Americans continue to be victimized by economic policies which have proved unsympathetic to their desire to obtain a job. I wish to share with my colleagues two articles which may help to shed some understanding on this subject.

The first article entitled "How Jobs Could Fight Inflation," by Tom Wicker, was published in the October 16 issue of the New York Times. In article, Wicker expounds on the optimistic characteristics that are featured in the Equal Opportunity and Full Employment Act of 1976; sponsored by Representative HAWKINS and Senator HUMPHREY.

The second article, "Giving Them Anything, It Seems, but a Job," by Alan Gartner and Marjorie Gellermann appeared in the September 6 issue of the New York Times. The authors' point out how national policy has shifted focus to the effects of unemployment rather than the need to lower the rate itself. The largest increase for the 1976 domestic budget will be for unemployment compensation. As the article indicates, these costs could be transferred to emergency jobs programs and jobs training programs. However, the continuing trend has been to stop funds for these work incentive programs.

I recommend that my colleagues take a moment to read the observations made by these authors on the neglected subject of jobs.

The text of the two articles follow:

HOW JOBS COULD FIGHT INFLATION

(By Tom Wicker)

One of the most widely accepted economic propositions of our time, endorsed by Keynesian liberals as well as conservatives, is that the achievement of full employment will inevitably bring price inflation. The so-called "Phillips curve" even calibrates the connection—the lower the rate of unemployment, the higher the rate of inflation, and vice versa.

It is upon this proposition that Gerald Ford based his veto of emergency jobs legislation, and a Gallup Poll showing that most American view inflation as a greater danger than unemployment gives his position considerable political validity. Obviously, he believes the voters will choose an "inflation fighter" over a "spender" next year, even if the spender's stated purpose is to put the unemployed to work.

The belief in an inflation-unemployment trade-off also is at the root of the relative timidity of the Democrats in pushing for measures to reduce unemployment, and the relative weakness of the measures they have supported. And the fear of inflation is no doubt the primary reason why the far reaching Hawkins-Humphrey bill—which would be aimed at producing true full employment, not just 4-to-6 percent unemployment—does not have much chance to pass, and would surely be vetoed if it did.

Given such consequences, is the belief in the inflation-unemployment trade-off valid? A number of economists, possibly a growing number, do not think so. Their general case is set down lucidly by Peter Barnes in the Fall 1975 issue of Working Papers—a special issue devoted to "politics and programs for 1976."

Mr. Barnes, now an official in the Presidential campaign of Fred Harris, is arguing for a guaranteed-job program. He recognizes that supporters of such a plan either must attack the idea that full employment would cause inflation, or argue—more dubiously—that putting the unemployed to work would be worth having higher prices for everybody.

The case he states is that full employment would not necessarily cause inflation, and that might even "promote price stability." This is based on the idea that, contrary to the Phillips-curve proposition, "prices no longer fluctuate in accordance with supply and demand" in the American economy. Instead, as evidenced recently with automobiles, falling demand leads to higher prices, as the volume of production diminishes and per-unit costs rise. In economic areas where major industries "administer" prices, they raise them to compensate for lower volume and higher costs.

In this thesis, unemployment does not fight the resulting price inflation. It feeds it, since it reduces demand, thereby encouraging a further round of administered price increases to compensate for lowered volume. It follows that putting the unemployment to work would fight administered-price inflation, because the newly employed workers would not only increase aggregate demand but add to the supply of goods and services, and thus tend to promote price stability.

Since many of the unemployed are paid something, through compensation plans or welfare, but produce nothing, paying them wages for productive work should result in a net increase of aggregate supply over aggregate demand. Putting them to work also should increase the volume of production. Both factors actually would tend to lower rather than increase prices.

As for the Federal budget deficit, since it is largely the product of the drop in tax revenues attributable to unemployment, a successful full-employment program would tend to reduce the deficit, hence pressures on the credit markets. Interest rates therefore would remain at reasonable levels. Even President Ford's budget report conceded that "if the economy were to be as fully employed in 1976 as it was in 1974, we would have $40 billion in additional tax receipts, assuming no change in tax rates, and $12.7-billion less in aid to the unemployed." That's $52.7 billion more revenue at 1974 tax and employment levels—and the latter was not true full employment.

For all these reasons, the Congressional Democrats may have a more significant instrument in their hands than many now think—the Hawkins-Humphrey bill. It would give every American an enforceable right to a job, make full employment the measure of the fiscal and monetary policies of all Federal agencies, establish federally administered "job reservoirs" meshing private and public employment, and set up a Standby Job Corps for the public employment of those waiting for permanent jobs. Mr. Ford's certain veto of such a bill, if the Democrats should pass it, would draw the issue sharply for the election next year.

Giving Them Anything, It Seems, but a Job

(By Alan Gartner and Marjorie Gellermann)

The United States is on the brink of becoming a permanently divided society—a society deeply split between the ever fewer who are employed and the ever more who, while willing and able to work, cannot find employment on a sustained basis.

In the last two years, unemployment has risen from 4.9 per cent to 8.4 per cent of the work force—or in human terms, at last count, 9.4 million people could not find work, 8.2 million were "officially" unemployed, and 1.2 million more were too discouraged to seek work.

While the increase in unemployment had been accompanied by downturns in the major indicators of economic activity, recently the two trends have begun to diverge. Despite the improvement in industrial-production levels and other leading economic indicators, most economists, including those in the Administration, predict high levels of unemployment for the next several years.

Meanwhile, national policy initiatives focus on ways not to end unemployment but to soften its effects. Unemployment compensation up to 65 weeks for some jobless workers has been authorized. President Ford proposes to extend these payments still further, expand the coverage, and raise the benefit level. Indeed, in the fiscal year 1976 domestic budget the largest single increase is for unemployment compensation.

A wide variety of other income surrogates or supplements have been put forth. The Department of Transportation funds "transportation stamps," while the Federal Energy Administration proposes "energy stamps" to help the poor pay their rising utility bills. Others propose "clothing stamps" as well as further expansion of the food-stamp program. Democrats favor the payment of health-insurance premiums for the formerly employed, as well as Government loans to defer mortgage payments. Even the limited opportunities afforded by public-service employment are shunned. Everything is proposed, it seems, except income earned through a job.

The basic wealth of the country may be great enough to allow the trend toward subsidizing unemployment to continue and even to grow. But we need to give careful attention to the consequences of a policy that departs so radically from basic American values.

Through work, people have not only earned their living but, also, derived much of their identity and feeling of self-confidence and self-worth.

That the very foundations of their personal lives are shaken is suggested by the evidence indicating that when the unemployment rate goes up so does the suicide rate, the rate of new admissions to mental hospitals, the rate of new prison incarcerations, the rate of family breakups, and the rate of infant mortality.

And what of the effect on the larger society? There are the costs to the employed, whose hold on their own jobs is made uncertain, whose real income is held down, and whose collective-bargaining rights are threatened; to the consumers, whose needs are unmet because of the diminishing stock of goods and services produced; to the general public, which suffers doubly from the loss of tax revenues that could be generated were the unemployed at work, and from the use of public funds to maintain its jobless members. Finally, there is the cost to Americans generally as their confidence in the ability of their society to provide for the well-being of its people is increasingly eroded.

Yet the policies now being approved and carried out may well have the effect of institutionalizing unemployment. Substitutes for income earned through gainful employment do enable the recipient to survive but they can only reinforce the feelings of dependency, impotence and despair that accompany unemployment.

It is possible to guarantee to every person willing and able to work a job at decent wages. While over the long run this can best be achieved by comprehensive economic-planning measures, in the short run public-service employment programs could drive the unemployment rate down to 3 per cent in 18 months at a net cost of only $10.7 billion annually—in other words, at a cost of less than half of the tax rebate that President Ford now talks about for next year.

And it is also possible to achieve the goal of full employment without intensifying our inflation problem—indeed, full employment, with increased production of goods and services, would be anti-inflationary. The endemic national problem of inflation, however, can probably only be resolved if the guarantee of a job is linked with additional measures such as price and profit controls and credit and wage guidelines.

What seems strange, indeed, is that our leaders prefer a set of policies that deeply and dangerously divide our society between those who may work and those who may not.

FOOD STAMP FIGURES CONFUSING

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. FINDLEY. Mr. Speaker, the food stamp program administered by the Department of Agriculture has been subjected to severe criticism recently, with considerable justification. Yet each criticism is rebutted with heartening statistics presented by the Department of Agriculture. For example, the Food and Nutrition Service report to the Senate Committee on Agriculture and Forestry in response to Senate Resolution 58, asserts that, for statistical purposes, zero percent of food stamp recipient households have incomes greater than $10,000 per year. This figure has been repeatedly cited in the media by defenders of the existing program. For example, the New York Times on November 20, 1975, used it in an article by Ronald F. Pollack. The Boston Globe of November 17, 1975, page 25, also cites this figure. The Food and Nutrition Service also maintains that its fraud rate is miniscule—only eight one-hundredths of 1 percent, a figure widely repeated.

Yet I turn to the current population survey conducted by the Census Bureau and read that almost 12 percent of the participants in the food stamp program have incomes above $10,000 per year, and 4.4 percent have incomes above $15,000 per year. The Wall Street Journal on December 20, 1974, carried a story regarding middle income use of food stamps, and cited the case of a $15,000 per year mechanic and his family, with a house, and such luxuries as two TV sets and a pool table, who received food stamps—with a food stamp bonus of $49 monthly. The conflicts betwen the figures provided by the Food and Nutrition Service and figures provided by other equally reputable sources cloud the issues of food stamp reform, and confuse those seeking to determine whether and to what extent abuses occur.

When the next session of Congress convenes, it will begin a hopefully meaningful reform of the food stamp program. I must seriously question the efficacy of any reform of the food stamp program which is predicated upon frequently conflicting sources of information. It is certainly in the best interest of the Nation to eliminate widespread abuses in the food stamp program rather than hide them by statistical legerdemain.

PURGING THE PROPAGANDISTS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. McDONALD of Georgia. Mr. Speaker, on September 3, 1975, I placed on page 27477 of the Congressional Record the results of a public opinion poll conducted by Gallup international both inside and outside Chile. The poll clearly showed that the image of the present Chilean Government in the eyes of the Chilean people is very favorable, while the image is very unfavorable in the eyes of the international community. Gallup international concludes that—

> It is not possible to deny that the international image of Chile, a product mainly

of informations transmitted through mass communications media and talks with friends, radically differs from the opinion held by people living in that country, in direct and permanent contact with the actual situation existing therein.

This poll clearly illustrates the existence of a propaganda campaign being waged against Chile by many elements of the American and world press, a campaign which continues unabated. A recent example is a column by Jack Anderson in the Washington Post of November 16 entitled "Purging the Christian Democrats."

While it is generally understood that if Mr. Anderson says it then the opposite is true, there may be some who are unaware of his well-earned reputation. Thus in the interest of fairness and accuracy, I would like to bring to the attention of my colleagues not only Mr. Anderson's column, but also a reply and refutation by Manual Trucco, Chile's Ambassador to the United States:

PURGING THE CHRISTIAN DEMOCRATS

(By Jack Anderson)

Chile's military dictatorship, having outlawed the communists and socialists, has now set out to destroy the moderate Christian Democratic Party.

The junta is secretly scheming to develop a political system without politicians or parties. Among the generals, this is called the "Paraguayan Solution," because it was successfully imposed on Paraguay by dictator Alfredo Stroessner.

We have discussed our evidence in detail with both Chile's Minister of Justice Miguel Schweitzer and Ambassador to Washington Manuel Trucco. Both vehemently denied that their government has any intention of eliminating the Christian Democratic Party and, thereby, extinguishing democracy forever in Chile.

Yet we have received convincing evidence to the contrary. It has come from classified intelligence reports, discussions with American authorities and confidential documents smuggled to us from some of the most respected Christian Democratic leaders in Chile.

As early as last July, we saw intelligence reports from Santiago, which claimed the junta was turning against the Christian Democrats. "The U.S. embassy predicts," we reported, "that the military government shortly will outlaw all political parties in Chile."

Chilean sources, whose reliability cannot be questioned, also told us that the junta had decided to move against the Christian Democrats. The decision had been reached, according to these sources, at a secret cabinet meeting.

Not long afterward, agents of the dreaded DINA, the Chilean Intelligence Directorate, began to move against Christian Democrats on a global scale. There is reason to believe, for example, that DINA has hired thugs to track down and assassinate prominent exiles.

Bernardo Leighton, one of the founders of Chile's Christian Democratic Party, was brutally gunned down, along with his wife, on the streets of Rome last month. He barely survived.

Italian police have called it a political crime but have failed to nail the culprits. Diplomatic sources consider it more than an idle coincidence, however, that French police reportedly corralled a trio of DINA agents at Orly Airport in Paris three days after the attempted murder of the Leightons.

The three DINA men were following a female Chilean exile. They were interrogated and then put aboard a plane for Santiago. Chile's Paris embassy originally declined comment but has now denied the entire incident.

DINA agents in Europe receive instructions, according to high-level sources, from Madrid, which is the center of DINA activity in Europe. A contingent of Chilean intelligence agents operate out of the Spanish capital under the direction of Col. Pedro Ewing, a central figure in the coup which overthrew the late President Salvador Allende.

Ostensibly, they handle security matters for Chile's European embassies. But their undercover mission, say our sources, is to keep watch on Chilean exiles.

Here in the United States, two prominent Christian Democratic exiles have been marked for murder. Gabriel Valdes, a former foreign minister, and Rodomiro Tomic, who ran against Allende for the presidency in 1970, were warned of the assassination danger by reliable sources.

Not the least of these was the U.S. embassy in Santiago. The FBI considered the threats so credible that special details were ordered to protect Valdes and Tomic.

As added evidence of the campaign to wipe out the Christian Democrats, a string of ominous events has occurred in Chile. Here are a few of the stories that have been smuggled to us:

A former Christian Democrat Congressman, Pedro Araya Ortiz, was arrested in September and tortured at the infamous Tres Alamos military prison. He was subjected to repeated electric shocks and cigarette burns. From the scars on his body, doctors later confirmed he had been hideously tortured.

DINA conducted a raid on the home of Jaime Castillo Valasco on August 22. He was a former Minister of Justice under Christian Democratic President Eduardo Frei. More recently, Castillo has been defending political prisoners of the military regime. The Chilean embassy didn't deny the raid had taken place but claimed Castillo was violently anti-junta and the uncle of a leftist revolutionary.

"Prior censorship" has been imposed on Radio Balmaceda, a station owned by the Christian Democratic Party. Spokesman for the junta claimed that the Christian Democrats still speak out against the regime.

Last August, 50 professors and students were arrested at the eastern branch of the University of Chile de Santiago. Many were members of the Christian Democratic Party. Chilean officials claim some of those arrested were revolutionaries in disguise. Those who were not, the officials say, were released immediately.

Six professors of political science were arbitrarily dismissed at Catholic University of Chile for organizing a seminar on the future of democracy in the world. One of the participants was supposed to be former President Eduardo Frei, who had been a professor at the same university for 15 years. He was denied the opportunity to speak at the seminar.

At Northern University in Copiago, three officials and 17 professors were arrested last March. They were released in July and rearrested as they left the prison.

Labor leaders at some of Chile's largest copper mines, including Potrerillos, El Salvador, Llantas and Barquitos, have been arrested. Many were members of the Christian Democratic Party. According to documents smuggled to us, many were beaten and tortured. The Chilean embassy argued that most of those apprehended were really revolutionaries who were plotting to destroy property.

Last August 18, over 1900 officials and employees of the Agricultural Service of the Chilean government were abruptly dismissed. They included lawyers, technicians and administrative personnel. Other mass purges are under way, according to our sources, in ENDESA, the national election company. Most of those dismissed were Christian Democrats. Chilean officials denied any deliberate attempt to punish the Christian Democrats. They were merely merging agencies and slashing budgets, said the officials.

Footnote: Technically, political parties still exist in Chile, albeit in a legal limbo. The junta simply has declared them "in recess" and has forbidden them from making official statements on political matters. Top Christian Democratic leaders selected our column as the outlet for telling their story to the world. They contacted us secretly as individuals, however, not as representatives of any party.

WASHINGTON, D.C.,
November 18, 1975.

MR. JACK ANDERSON,
Washington, D.C.

DEAR MR. ANDERSON: Your column, "Purging the Christian Democrats" which appeared in "The Washington Post" November 16th, contains errors in fact and comments on the Chilean Government's purported intentions and alleged scheming that border on calumny and slander.

The publication of unverified accusations is all the more serious because of your recent conversations with the Minister of Justice of Chile, Mr. Miguel Schweitzer, and with me, and later conversations by your Joseph Spear with personnel of this Embassy, in which we sought to clarify inaccurate information which unfortunately you have insisted on publishing.

Item: Secret scheme to impose what you refer to as the "Paraguayan Solution."

Fact: Absolutely false. We are completely unaware of any such "Solution" and the Chilean Government is not interested in any political system that differs from that indicated in its "Declaration of Principles." This Declaration is not a secret document. It has been distributed throughout the world in English, French, German and Spanish.

Since you charge that "the Junta is secretly scheming" to introduce the above "Solution", it is to be assumed that your information comes directly from one of the members of this "dictatorial Junta" that you so violently denounce?

Item: "Chilean sources, whose reliability cannot be questioned. . . ."

The fact that these "Chilean sources" obviously have an axe to grind makes any information emanating from them questionable. As you know, there are at this time several Catholic priests under arrest in Chile because of complicity with terrorist groups belonging to organizations cited by you in our private conversation as one of your "reliable sources." I believe no comment is necessary.

Item: Reference to the dastardly attempt to assassinate Mr. Bernardo Leighton and his wife in Rome, and the allegation that DINA was following a female exile in Paris.

Fact: Running these two items together leaves the impression that the Chilean Government was involved in both.

It is absolutely untrue that the Chilean Government had anything to do with the attempt on the Leighton's life and I most strongly reject this gratuitous imputation.

Furthermore, the tale about the DINA and the female exile is also a lie. Check with the French authorities in Paris or the Chilean Embassy in Paris.

Item: "A contingent of Chilean intelligence agents operates out of the Spanish capital, under the direction of Col. Pedro Ewing . . ."

Fact: Another calumnious affirmation. Col. Pedro Ewing is a distinguished army officer, the Military Attache at the Chilean Embassy in Madrid. His functions are strictly professional. Unfortunately, Chile cannot afford to maintain security services for its embassies. As a result, an attempt was made months ago to assassinate the Chilean Ambassador in Lebanon. His wife was critically wounded and he will be paralyzed for the rest of his life. If we had had proper "security" this crime might have been avoided, as well as other terrorist attacks which our embassies and our diplomats have suffered in several other countries. Until this moment, we have had no information of your preoccupation about this matter, directly connected to international leftist terrorism.

Item: "Here in the United States, two prominent Christian Democratic exiles have been marked for murder. Gabriel Valdes, a former foreign minister, and Radomiro Tomic, who ran against Allende for the presidency in 1970 . . ."

Fact: Neither of these men is in exile.

Mr. Valdes, a rich and prominent aristocrat, left Chile in 1970 after Salvador Allende was elected president, to become Director for Latin America of the United Nations Development Program. Up to last year, two of Mr. Valde's sons studied in fine American universities under scholarships granted through the present Chilean Government. On September 11, 1973, television viewers in the United States saw him leave his east side residence in Manhattan, accompanied by "personal guards" on his way to Kennedy Airport. Mr. Valdes made it known that he was on his way to Chile to become President of the Junta, which had overthrown Allende that very day. The inclination to mythomania encouraged by his American supporters, who are coordinating and financing the so-called "resistance" to the Chilean Government, is supporting Mr. Valdes' dreams of threats and bodyguards.

Radomiro Tomic is absent from Chile as he has been frequently during his adult life, but never against his own wishes and free will. After leaving Texas and Washington, he is now in Europe. In the 1970 presidential elections Tomic ran a poor third.

The charge that Messrs. Valdes and Tomic are "marked for murder" is absolutely ridiculous, and would be completely false and slanderous if attributed to the Government of Chile.

Item: "DINA conducted a raid on the home of Jaime Castillo Valasco . . . a former Minister of Justice under Christian Democratic President Eduardo Frei".

Fact: Mr. Castillo Velasco has not filed any protest with any court. As you recall in your article, he is the uncle of Carmen Castillo, a terrorist and intimate friend of the late Miguel Enriquez, a leftist terrorist leader who was killed in a battle with police after he had robbed a Santiago Bank. The Chilean Government gave Carmen Castillo a visa and her official residence today is London. However, she visits the United States, Canada, Mexico and Cuba regularly to collect funds for anti-government activities in Chile. She is one of the "reliable" sources of many journalists who have been attacking Chile on the basis of false information.

Item: "A former Christian Democratic Congressman, Pedro Araya Ortiz, was arrested . . . and tortured . . ."

Fact: The Minister of Interior has ordered a thorough investigation of these charges and Minister of Justice, Miguel Schweitzer, has offered Mr. Anderson a complete review of such assertion. Until these inquiries are completed, affirmations of any kind would be purely speculative.

Item: "Last August, 50 professors and students were arrested at the eastern branch of the University of Chile in Santiago."

Fact: Many of the arrested have been released, others have returned to their university functions, and only a few who, ironically, belonged to the "security personnel of the University" (guards and doormen), are under arrest for breaking the law.

Item: "Six professors of political science were arbitrarily dismissed at Catholic University of Chile for organizing a seminar on the future of democracy in the world. One of the participants was supposed to be former President Eduardo Frei. . . . He was denied the opportunity to speak at the seminar.

Fact: University authorities, not the Government, asked for the resignation of six professors of the Catholic University, because of their political activities. This measure was taken in compliance with University regulations in effect since 1971.

The seminar was suspended by the University because it had a political, not academic objective.

Thus, not only was former President Frei left unable to appear before that seminar but also the representative of the Government who was scheduled to address the same seminar.

Item: "At Northern University in Copiapo, three officials and 17 professors were arrested last March. They were released in July and rearrested as they left the prison. Labor leaders at some of Chile's largest copper mines . . . have been arrested."

Fact: The arrest of persons who have violated the law or who are accomplices of terrorists, as has occured at some mines or Universities in Copiapo, northern Chile, has no connection with their private activities. No one in the U.S. has accused Miss Patricia Hearst of being arrested because she is the heiress of a newspaper chain owner. It was her alleged terrorist activities which brought about her detention.

For your information, only two persons of the University in Copiapo are under arrest at this time, charged with terrorist activities.

Item: "Last August 13, over 1900 officials and employees of the Agricultural Services of the Chilean Government were abruptly dismissed. . . . Other mass purges are under way. . . In ENDESA, the national electric company."

Fact: The reduction in the number of employees in all administrative services of the country was announced well in advance by the Government and legalized by Decree No. 1025, May 1975, which established the mechanism for cutting the ranks of public employees and providing benefits and compensation to be received as retirement pay. This reduction was necessitated as an indispensable measure for slashing the inflation rate of more than 1.000% per year inherited from the Allende regime.

Only 762 functionaries—not 1900—were dismissed from the Agricultural Services and they belonged to all the political parties, not just the Christian Democrats. The same procedure was used in the case of ENDESA.

The Government's sound measures of economic policy as evidenced by the sharp decline in the inflationary rate (only 8.4% in October, compared to 21.3% in March), are offered by you as evidence of political persecution. Are the dismissed employees of the City of New York the victims of political persecution because the city is trying to avoid bankruptcy?

Item: "Top Christian Democratic leaders selected our column as the outlet for telling their story to the world".

Fact: Such evidence is questionable. One of the "top" leaders publicly accused the Chilean Government of killing his son when, unfortunately, the boy died on a London street, the victim of an incurable disease which he had suffered since childhood.

For your information, many of the most distinguished and prominent former Christian Democratic Party members, together with men of outstanding reputation from all walks of life and political positions are cooperating in the Chilean national effort of today. Their resolute action is the strongest repudiation to those who, claiming a position of importance and of moral leadership they no longer maintain in Chile, have abandoned their country and proclaim themselves as "exiles" behind the lucrative bureaucratic posts they hold in some international organizations.

I confess I am grateful that you indicated that your information came from "top Christian Demacratic leaders." The fact that some U.S. newsmen and politicians show so much interest in the survival of the Christian Democratic Party in Chile, seems to confirm the fact that an American political-religious sector seeks to establish an "American Party" in Chile.

The noted British essayist and journalist, Robert Moss, in a recent article published in the U.S., referred to the "American Party" attempt, stating that some American groups seem to engineer now the return to power of the Christian Democrats, "the American Party", at the earliest possible opportunity. Many of the blunders commited in Chile—according to Moss—might have been averted if the Americans—and some West Europeans—had made a more sustained attempt to offer practical guidance rather than try to resuscitate a long-lost past.

I trust that you are not of those who wish to impose an "American Party" on Chile, because the people of my country would reject it with the same firmness and decision with which they recently eliminated the "Soviet Party".

Sincerely,

MANUEL TRUCCO,
Ambassador.

CONCERN FOR BALTIC NATIONS

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. YATRON. Mr. Speaker, I would like to take this opportunity to recall to the attention of my distinguished colleagues our dedicated deep concern and sense of well-being for the Baltic Nations of Estonia, Latvia and Lithuania who are under the illegal domination and oppression of the Soviet Union.

We are all aware that Congress will always be the major part of the watchful eye of our Nation which safeguards Democratic government at home and abroad.

We know that America will always honor its foreign commitments and hope that foreign powers will do likewise.

I was proud to be a sponsor of legislation which defends Estonia, Latvia, and Lithuania in hopes of separating them from the unwarranted seizure and annexation of the Soviet Union.

I sincerely thank my colleagues who cosponsored the Baltic resolution and those who supported its passage.

A LETTER FROM PAUL AND DEDE WILSON

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. JACOBS. Mr. Speaker, by request of Paul and Dede Wilson who are conducting the Human Rights in Asia Project for the Division of Homeland Ministries of the Christian Church—Disciples of Christ—I place the following letter in the RECORD:

NOVEMBER 19, 1975.

Foreign Editor,
New York Times,
New York, N.Y.

DEAR EDITOR: President Ford is preparing to take a trip to Asia, with his plans calling for stops in Indonesia and the Republic of the Philippines. Both of these nations in the past have received very substantial economic and military aid from the U.S., and both are well-known violators of the human rights of their people. We join many U.S. citizens and their Congressional representatives who are growing increasingly ashamed about the image of the U.S.A. as a supporter of repressive governments around the world.

Recent history shows that President Ford's last trip to South Korea did nothing to change that government's repression of South Koreans. On the contrary it seemed to assure President Park that the U.S. condones, even supports, that government and its policies as exemplified in the recent executions of political prisoners and the unwarranted arrests of religious leaders. Our tacit approval of such actions enforces the belief among peoples of the Third World that the U.S. is not concerned about democracy or the rights of people who have lost their freedoms and liberty.

In light of the human rights amendment to the Economic Aid Bill recently passed by Congress, we urge your news staff to ask the administration for a public statement of the matters to be discussed while the President is in the Philippines and Indonesia. The citizens in this country have become increasingly aware of our power and influence and are trying to enter into decisions in which we, as a people, affect human rights around the world. It is only through the news media that we can obtain the basic information which helps us make responsible decisions.

It is our hope that the President's visit to Asia will be truly representative of the American people's concern to begin developing a more humane and responsible foreign policy.

If there are materials or information from our office which would be useful to you or your staff, please let us know and we will be glad to share them with you.

Sincerely,

PAUL AND DEDE WILSON,
Human Rights in Asia Project.

WHO BEARS NUCLEAR RISKS?

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. BONKER. Mr. Speaker, taxpayers and electric utility customers alike have borne for long enough the risks of responsibility for damages that a catastrophic nuclear reactor accident could cause.

Contradictions have replaced the logic of 1957 that produced the Price-Anderson Act and its provisions that shield the nuclear energy industry from ever being held fully accountable for its mistakes. Nuclear energy advocates are, in fact, today pursuing extension of Price-Anderson with a determination that taints their claims that a nuclear powerplant is one of Man's safer endeavors and America's best future energy option.

The nuclear industry was a fledgling 19 years ago, grappling with a new technology, an unknown future and unmeasured risks when the Price-Anderson concept was conceived. A desire to insure full exploration of nuclear energy's potential gave rise to Price-Anderson, replete with its subsidy implications and its $560 million limit on nuclear accident liability. Public policy proclaimed intent to promote and to protect this technological newcomer.

By any estimate, the nuclear industry has by now matured. It is an $80 billion reality, operating 56 large reactors, providing nearly 8 percent of the total U.S. electric generating capacity and planning at least 85 new reactors in the United States and foreign countries.

The $560 million liability limit has never been presented as adequate to cover the damages a reactor accident could cause; at its inception the limit was an arbitrary attempt to guarantee a measure of protection against a risk that could not be measured before there was actual reactor operating experience.

We have better information today. In the worst sort of nuclear disaster, $560 million would be precisely 4 percent adequate to cover estimated claims for property damage alone; in other words, $13.44 billion in property damages would not be covered. The estimates are provided in the final Rasmussen report on nuclear reactor safety, recently completed after $4 million worth of study and 2½ years of work.

Rasmussen's $14 billion calculation does not, of course, reflect the other losses that the study predicts a nuclear mishap could cause: 3,330 deaths, relocation of survivors from a 290-square-mile area, and monitoring of agricultural commodities such as milk for 1 or 2 months within 14,500 square miles around the accident site.

The Price-Anderson limit, totally inadequate though it is, has further failed to keep pace even with the effects of inflation. The limit on liability originally set in 1957 would be equivalent to about $3 billion today.

Rasmussen also calculates that the chances of a worst possible nuclear accident occurring are 1 in 1 billion. The Joint Committee on Atomic Energy, by recommending extension of Price-Anderson without holding any hearings on the Rasmussen report, suggests that the report's conclusions are judged to be sound. Nuclear advocates are already embracing Rasmussen's probabilities as a bulwark of their response to the growing ranks of Americans concerned about just how safe nuclear reactors really are.

Acceptance of the validity of the 1 in 1 billion probability carries with it, however, acceptance of another Rasmussen conclusion that such a risk is not unique to the nuclear industry. Other endeavors, including aviation and chemical manufacture, face comparable low probability, high-consequence accidents, and do so with unlimited liability and full responsibility to the public for their actions.

To continue Price-Anderson protection for nuclear energy risks makes no more sense than does the creation of similar protections for all domestic industries.

More than anything else, the nuclear industry appears to find the subsidy habit hard to break. It is ironic, indeed, that industry leaders can argue so forcefully for unfettered free enterprise and against Federal intervention and bureaucratic restrictions in general and yet be so defensive about the Price-Anderson restriction on free enterprise in their affairs.

Extension of the Price-Anderson liability limit is inconsistent with promoting maximum safety with nuclear energy. Elimination of the liability limit cannot help but make those who build nuclear components and who operate nuclear plants act more responsibly. It is natural to assume that a better product will be manufactured if the manufacturer is responsible for the damage that might ensue from that product.

The case for an extension of the Price-Anderson Act rests on a twisting of facts that have changed during the past 19 years. Contortion of reality is not new practice for those who cling to the promote nuclear power philosophy of the 1950's without regard for changing times and shifting public concerns. The Price-Anderson Act liability limit now runs the very real risk of becoming yet another symbol of that failure to respond to legitimate inquiries and concerns.

If the $560 million liability limit is truly vital to protect the industry from a very real threat of catastrophe, then a full and immediate review of all the implications of a national commitment to nuclear energy is in order as a prerequisite to any further nuclear energy legislation.

If the risk of such a nightmare is truly no greater than the catastrophic risks borne without Federal help by other domestic industries, then the validity of the liability limit is lost.

Or, if extension of Price-Anderson represents, in reality, nothing more than a straight subsidy to promote nuclear energy for another decade, it should be treated as such in conjunction with comprehensive analysis of how best to allocate the limited resources available for the whole mix of energy alternatives.

In every case, the best answer is the same: Terminate the $560 million liability limit.

MISSOURI DISTRICT FIRST TO IMPLEMENT SPEEDY TRIAL ACT

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. HUNGATE. Mr. Speaker, the Eastern Federal Judicial District of Missouri has become the first in the United States to implement the provisions of the Speedy Trial Act, passed by Congress in 1974. And in this regard, I would like to call your attention to the following article from the St. Louis Globe-Democrat:

MISSOURI DISTRICT FIRST TO IMPLEMENT SPEEDY TRIAL ACT

(By Michael Montgomery)

The eastern federal judicial district of Missouri, which includes the St. Louis area, appears to have become the first of the 94 districts in the United States to meet the stringent requirements of the Speedy Trial Act.

Congress passed the act in 1974 to assure persons charged with federal crimes that there would be no unnecessary delays in processing their cases.

The act, which was signed into law in January by President Ford, set up five phases over a four-year period for reducing the time periods between various stages of criminal proceedings.

It calls for defendants to be brought to trial under normal circumstances within 100 days of their arrest.

Under the provisions of the Speedy Trial Act, target date for implementation of the 100-day limit is July, 1979.

However, the local district, which encompasses the eastern half of the state, has already implemented such a time limit.

Under the local plan, a person arrested for violation of federal law must be indicted by the grand jury or charged in a complaint by a federal agent within 30 days of the arrest.

After public release of the indictment, or complaint, an accused person must be arraigned on the charges within 10 days. The person then must go to trial within 60 days after the arraignment.

There are several exceptions to the time limits set by the plan.

In cases where a person is arrested in another district on pending charges here, the time periods will not go into effect until the defendant is returned here.

Time limits set by the plan are also held up for delays occasioned by hearings on mental or physical competency to stand trial. A missing witness or defendant will also halt the clock on proceedings.

However, no continuances will be granted under the plan because of crowded court dockets or simply because attorneys agree it would be more convenient to try the case another time.

Under the timetable set by the act, (by 1979) a defendant must go to trial within 100 days or charges will be automatically dismissed.

This district has not yet implemented that provision.

The local plan does say, however, that if a defendant has not gone to trial within 100 days through no fault of his own that the judge with jurisdiction over his case must make every effort to release the defendant on bond although there is no guarantee that the defendant will be released.

Chief U.S. District Judge James H. Meredith has pointed out that the local time limits "do not represent a substantial departure from the courts' criminal procedures for the last six years."

"We've always done our best to move criminal cases as swiftly as possible," he said.

Meredith also pointed out that the plan will cause two changes in the usual court procedures.

Because of the time limits, defendants from the Hannibal and Cape Girardeau areas will be tried in St. Louis in many cases.

At present, a district judge holds court in those districts only two or three times a year.

U.S. CAPITULATION IN THE U.N.

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. EILBERG. Mr. Speaker, the cowardly and despicable action of the Ford administration—no doubt ordered by Secretary of State Henry Kissinger—allowing the Palestine Liberation Organization to take part in the United Nations' debate on the Middle East leaves one wondering if the administration has lost all sense of reason regarding this matter.

This action, which gives even more credibility to this gang of murderers masquerading as the freely chosen representatives of "a downtrodden people" will only serve to bring about more death and suffering in the Middle East.

The PLO has shown by its actions that it equates "diplomatic acceptance" with the right to continue to murder and terrorize the citizens of Israel. One must also wonder if this consideration ever enters into the thinking of the Secretary of State.

At this time, I enter into the RECORD a column on this problem by George F. Will, which appeared in the Friday, December 5, edition of the Washington Post:

U.S. CAPITULATION IN THE U.N.

(By George F. Will)

Another tiger of extremism is loose in the United Nations, this time with the consent of the U.S. government, which could have prevented it. In a last minute policy swerve, the U.S. dashed Israeli hopes for a veto—hopes the Israelis felt were firmly based on U.S. assurances—and voted for a resolution that the U.S. knew would guarantee participation by the Palestine Liberation Organization in next month's U.N. debate on the Middle East.

The invitation to the PLO was attached to a Security Council resolution extending the mandate of the U.N. observer force on the Golan Heights, between Israeli and Syrian forces. On the eve of expiration of the disengagement agreement, Israel agreed to renewal. But Syria, aware of the brittleness of U.S. support for Israel, opposed renewal unless it included the invitation to the PLO.

The PLO is an unelected body funded by Arab governments. It is committed to the use of terrorism in pursuit of the destruction of Israel, a U.N. member.

There is a kind of majestic brazenness to the Ford administration's argument in defense of itself. The argument is that the U.S.—by supporting a resolution that the U.S. knew would result in an invitation to the PLO—is not compromising its diplomatic boycott of the PLO. The administration argues that the PLO is invited to debate, not negotiate, therefore. . . .

Therefore nothing.

The distinction is a distinction without a difference. And the administration's feeble argument indicates that the administration is ashamed of itself. Why else does it argue so foolishly that it has not done what it obviously has done?

The U.S. voted the way it did for the reason that everything happens in U.S. foreign policy: Secretary of State Kissinger commanded it. As late as Saturday night, Nov. 29, the Israelis were assured that the U.S. would veto the resolution. Sunday morning Kissinger called the U.N. and ordered the U.S. to side with Syria and its chief sponsor, the Soviet Union, against Israel.

This is an example of the U.S. policy of preemptive concession. Kissinger reportedly was told by other diplomats before Sunday that U.S. firmness could get the Palestinian question deleted from the resolution.

This would have blocked the planned statement from the Soviet ambassador that "the understanding of the majority" is that the PLO is to participate in the U.N. debate. Instead of standing firm, the U.S. melted into the anti-Israel majority.

As always is the case with U.S. concessions, this one is being praised by people who contrive to see it as a deft stroke to encourage "moderates." What moderates?

The PLO, whose leader, Yasser Arafat, toted a gun to the U.N. rostrum last year?

Syria, which has been bitterly critical of Egypt's moderation, and which now appears vindicated in its contention that obduracy pays when dealing with Israel and the U.S.?

Advocates of softer U.S. negotiating positions lack originality, but not persistence. Whenever they are called up to rationalize a concession, they do so by asserting that the concession will strengthen the "moderates" against the "hawks"—the "moderates" in the Soviet Politburo, in the PLO, in Arab governments. You may remember those days, one peace settlement and one Nobel Peace Prize ago, when this was said with regard to "moderates" in Hanoi.

But the U.S. vote in the U.N. was clear capitulation to the forces of extremism in the Middle East, and for no clear purpose. Judging from past experience, it is probable that if the U.S. had credibly threatened to veto the resolution, Syria would have backed down, allowing renewal of the mandate of the U.N. observers without insisting on the invitation to the PLO.

And it is highly probable that if Syria had not backed down, and the mandate had not been renewed, nothing much would have happened. The Syrian government is not a feast of reason, but it is not crazy enough to contemplate a fair fight, alone, against Israel.

The U.S. vote was a giant step in a deplorable direction: it confers legitimacy on a dictatorial terrorist organization, the PLO, as the representative of the long-suffering Palestinian people. Perhaps the PLO's ruthlessness, and the support of its totalitarian allies has made inevitable the ascendency of the PLO. But the U.S. vote was needless complicity in that ascendency.

JOHN ZIELINSKI

HON. WAYNE L. HAYS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. HAYS of Ohio. Mr. Speaker, Christmas is a universal celebration that belongs to the world at large and is often expressed by the national conventions of ethnic backgrounds. These customs do not grow within themselves; they must be nurtured, and often by a single dedicated person.

Such a person is John Zielinski of Blaine, Ohio, who feels so strongly about the perpetuation of the Polish celebration of the feast of Christmas that each year, as a member of the Polish Council No. 50, he generates a traditional

Polish Christmas celebration. It is directed not only to children, for whom it is both historic and religious, but to the adult Polish community so that they may relive the Christmas of their youth and their ancestors.

John Zielinski, Wesolych Świat.

SOUTHERN NEVADA NEEDS MORE VA MEDICAL ATTENTION

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. SANTINI. Mr. Speaker, I did want to acquaint all of my colleagues with an issue of vital concern to veterans of southern Nevada—adequate medical care.

Mr. Gene Welsh and many other dedicated veterans and groups have united together with an impressive demonstration of unanimity on this critical issue. The veterans are now attempting to obtain an independent budgetary status for the VA clinic in Henderson, Nev.

I hope the following letter will help my colleagues understand the background and gravity of the problem:

POLITICAL ACTION COMMITTEE
FOR A V.A. HOSPITAL,
Las Vegas, Nev., December 7, 1975.

Hon. ——— ———,
Washington, D.C.

DEAR ——— ———: Thank you for the cooperation received concerning our appeal, stated in the letter of April 21, 1975 (Congressional Record—94th Congress—Volume 121—Number 82), requesting your support of (S-420) and (HR-2546).

Due to your inquiries in our behalf we were able to get an Investigation Team from the Veterans Administration in Washington D.C., to come to Las Vegas. This Team recognized many of the problems pertaining to the medical needs of Veterans in this area.

The Investigation resulted in these promises being made:

A health care delivery plan would be developed by the Staff at the Henderson Outpatient Clinic. This was accomplished, in spite of unnecessary interference, and forwarded to the Veterans Administration in Washington D.C.; however, the promise of the Veterans Administration to take the necessary action to correct the numerous problems uncovered by the Investigation, and those brought out in the health care plan still remains—just a promise.

We were promised designation as an Independent Clinic (still no such designation); please read the enclosed letters.

These other promises were made either in writing, in person, or by telephone communication:

The Independent Clinic would be relocated to a more accessible area.

The Clinic would be enlarged both in size and staffing.

The Clinic would become a twenty-four (24) hour and seven (7) day a week operation (for emergency care).

Beds for minor surgery and stabilization would be provided.

There would be increased accommodations for prosthetics and mental care, and faster more intensified care for our Veterans.

We have asked the Veterans Administration why these changes, recognized by them as being necessary, are being delayed or not kept, and the primary excuse which is given by the Veterans Administration is that the General Services Administration is unable to locate a suitable location.

The General Services Administration in turn uses for an excuse that the Veterans Administration will not authorize the necessary expenditures for leasing a suitable location.

The Veterans Administration admits to the problems existing here in Southern Nevada; but the most important factor is the complaints received by the Committee in the past few weeks from our Veterans who are having increased problems with obtaining medication, prosthetics, and the appearance of a general cutdown in the services being offered at the existing Clinic. (There is an appointment waiting time of six (6) to eight (8) weeks) due to the lack of available space and staff, and the ever increasing numbers of Veterans.

Again this Committee is requesting your assistance for our Veterans; and would appreciate hearing your recommendations on how to influence the Veterans Administration to keep their promises.

Thank you for your continued support.

Sincerely,

EUGENE R. WELSH, *Chairman.*

MARTIN LUTHER KING, JR.'S RELATIONSHIP WITH THE COMMUNISTS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. McDONALD of Georgia. Mr. Speaker, it is indeed interesting that Washington Post staff reporter Laurence Stern in a bylined story on December 8, 1975, has "revealed" that the identity of the "important secret member of the Communist Party" who was discovered by the Federal Bureau of Investigation to be a major "political influence" on Martin Luther King, Jr., was New York attorney Stanley Levison.

The article quotes an unnamed spokesman for the Senate Select Committee on Intelligence that the formal confirmation of Levison as the King associate who triggered the close FBI monitoring of King's activities was being kept secret for "national security" reasons.

In this context, "national security reasons" strongly imply the involvement of a foreign power in the Levison/King contacts. Has there been an enemy foreign power or powers involved with King and his organization, the Southern Christian Leadership Conference? The answer is "Yes." Both the Russians and their East German subsidiaries have made every effort to court King, his successor, Ralph Abernathy, and the SCLC organization as a whole. If a person were acting as a Soviet KGB or East German intelligence agent, all of their contacts and all organizations and persons they influenced would be legitimate subjects for intensive investigation.

Stern's article cites the 1971 book, "Kennedy Justice," by Victor Navasky, for a detailed account of Levison's role in making the surveillance of King's activity as a high priority necessity. Navasky noted that Levison had been King's adviser on both legal and financial matters from the days of the Birmingham bus boycott. Mrs. Coretta Scott King's memoirs recount Levison's influence over a 12-year period, noting that he was always there "to offer assistance * * * always working in the background, his contribution has been indispensable."

Whatever the precise nature of Levisons contribution which caused the Justice Department to send an official to meet with King to entreat him to have no further contact with Levison—which King would not do—the public record of Communist and pro-Communist affiliations and activities of other close associates of Martin Luther King, Jr., are not being brought to the attention of the American people by the mass media.

The activities of these people are quite a different matter than the shadowy activities of Stanley Levison; and in the December 3, 1975, issue of Review of the News, Robert H. Reeder has done a public service by compiling the public records of a number of top King aides and associates. The article reads:

THE KING FILE

(By Robert H. Reeder)

Senator Frank Church (D.-Idaho) has turned the Senate Intelligence Committee into a vehicle for smearing the late F.B.I. Director J. Edgar Hoover. Hoover's private files show that he had become convinced that Martin Luther King was a person of low moral character who had fallen under the control of the Communists. Church claims to find this absurd. Attorney General Robert Kennedy, however, did not find it absurd in the least and authorized F.B.I. surveillance of King—including wiretaps, which were maintained between 1963 and 1966.

Those wiretaps and other evidence proved that Martin Luther King was indeed a person of low moral character who had fallen under the control of the Communists. But Senator Church has, like Richard Nixon, ducked the issue by refusing to release the damning tapes. And the "Liberal" press has cooperated by laboring to create the myth that Martin Luther King was an innocent victim of Director Hoover's bad temper.

The F.B.I. has been accused of playing "dirty tricks" on Martin Luther King. It has been accused of threatening to release information in its files that would have been damaging to King's respectability. And almost nothing has been said about Martin Luther King's notorious immorality and Communist associates. The *New York Times,* on November 19, 1975, commented: "The committee staff members said they could find no justification for the bureau's attack on Dr. King." The Senate Intelligence Committee would like us to believe that Martin Luther was under surveillance because he criticized the F.B.I.

We do not know what information is in the substantial F.B.I. file on Dr. King, but we do know that even the most cursory look at Martin Luther King's *public* record should convince the merest tyro that there was very good reason for Director Hoover to consider King "dangerous."

Martin Luther King was quoted in the *New York World Telegram* of July 23, 1964, as declaring: "[*I am*] sick and tired of people saying this movement has been infiltrated by Communists and Communist sympathizers. There are as many Communists in this freedom movement as there are Eskimos in Florida." One hardly has to look at the entire "freedom movement" to find evidence of Communist infiltration—though the level of infiltration was overwhelming when the whole movement is considered. Rather, to be scrupulously fair, let us look directly under Dr. King's nose—at those persons closest to him—and see what we find.

Hunter Pitts O'Dell came to work for the Southern Christian Leadership Conference (S.C.L.C.) late in 1960 as Dr. King's staff consultant. In the fall of 1962 he was promoted to acting staff director in charge of voter registration and integration workshops. During this period, O'Dell was a member of the National Committee of the Communist Party. The "Liberal" press ignored it. Finally, on October 26, 1961, the *St. Louis Globe-Democrat* revealed that in 1956 and 1958 Hunter Pitts O'Dell had been identified under oath as a Communist organizer.

What did Martin Luther King do? He announced that he had discharged Comrade O'Dell.

A few months later it was discovered that O'Dell had not been fired but promoted, and was now running King's large New York office! When the story hit, Dr. King claimed to have discharged O'Dell a second time. A subsequent check by U.P.I. determined that Hunter Pitts O'Dell of the National Committee of the Communist Party was still employed by Dr. Martin Luther King.

Bayard Rustin is the notorious homosexual King called "a brilliant, efficient and dedicated organizer and one of the best and most persuasive interpreters of nonviolence." He was secretary and advisor to King from 1956 to 1960, and went with him to Oslo to receive the Nobel Prize in 1964.

Rustin was an organizer, recruiter, and fund-raiser for the Young Communist League, served 28 months in prison during World War II for refusing to do work required of those who were conscientious objectors, was given 60 days in jail in California for lewd vagrancy in 1953, and while working for King was one of only five "impartial observers" at the Communist Party's closed-door 16th national convention in 1957. That is only *part* of the record.

Fred Shuttlesworth, longtime field secretary of King's S.C.L.C., was president of the Southern Conference Educational Fund (S.C.E.F.). This group was thoroughly investigated by Committees of both the House and Senate and repeatedly found to have been a major Communist operation. On November 26, 1963, Shuttlesworth was one of two honored guests at the 15th anniversary dinner of the *National Guardian*, described by a Congressional Committee as "a virtual official propaganda arm of Soviet Russia." A former bootlegger, Fred Shuttlesworth's Communist, Communist Front, and radical activities fill three typewritten pages. King said of Shuttlesworth: "Reverend Shuttlesworth is my principal aide. Why, he gave me my start and he advised me from the very first. I depend on him."

James Bevel was Martin Luther King's chief aide in Chicago. He has declared: "We must move to destroy Western Capitalism." At a Black Power rally at Berkeley, California, in 1966 Bevel announced: "One of the problems of not being able to burn down the slums of Chicago is at this point not having the proper discipline required for the problems of carrying out that kind of a mission. That is why we haven't burned it down . . . . We are going to be part of an international revolution to end slavery . . . . I guess I hate Western Civilization more than most people . . . ."

The "Reverend" Bevel continued to emphasize the destruction of capitalism, and then he told the crowd that, when John Kennedy was President, Bevel had told people: "If the Vietcong jumped Jackie in my back yard, I wouldn't pull them off her."

Wyatt T. Walker, staff aide to Martin Luther King, was editorial advisor to the Marxist-Leninist Progressive Labor Movement. He was a familiar supporter of Communist Fronts.

Myles Horton was director of the Highlander Center, an outgrowth of the Highlander Folk School, in Tennessee, where King was trained. Martin Luther King was in fact listed as a sponsor of the Highlander Center on its stationery. Horton conceived the Highlander Folk School, described by a Joint Committee of the Tennessee Legislature as "a meeting place for known Communists and fellow travelers." The Georgia Commission on Education termed it a "Communist Training School."

James Dombrowski was another member of the Communist Party who was a close friend and advisor to Martin Luther King. Law enforcement authorities obtained a cancelled check made out to King from the Communist Front S.C.E.F. which was signed by Dombrowski and Benjamin Smith. Smith, according to Senate James O. Eastland (D.-Mississippi), ". . . is registered under the Foreign Agents Registration Act as an agent of Fidel Castro."

In a letter discovered by government investigators, King wrote to Comrade Dombrowski: "Dear Jim: This is just a note to acknowledge receipt of your letters of recent date. We, too, were more than happy to have you in our home, the fellowship was very very rewarding . . . . Very sincerely yours, Martin."

Carl and Anne Braden have both been longtime, notorious members of the Communist Party working in the Louisville area. The Bradens, officers of the S.C.E.F., were part of the "Louisville Seven"—a group responsible for purchasing a house in an all-white area of Louisville, selling it to a Negro family, *and then dynamiting it to stir up racial trouble.*

King wrote a letter to the Bradens in 1959 urging them to become permanently associated with his Southern Christian Leadership Conference.

A photograph taken at the 6th annual conference of the S.C.L.C. in 1962, and found in the files of James Dombrowski, shows Martin Luther King, Carl and Anne Braden, and James Dombrowski, and describes King on the back as "responding to Anne Braden's speech."

Aubrey Williams was president of S.C.E.F. until 1963. In 1945 the U.S. Senate rejected his appointment to a government post because of his affiliations with the Communist apparatus. In 1954, Williams was identified under oath as a member of the Communist Party by two witnesses.

Two years later, in 1957, King was photographed with Williams, Myles Horton, Abner Berry (a member of the Central Committee of the Communist Party), and other Comrades at a Communist training school in Tennessee. King referred to Williams as "one of the noble personalities of our times."

Ralph David Abernathy was Martin Luther King's top aide from the time of the Montgomery Bus Boycott. He succeeded King as head of the S.C.L.C. Abernathy accompanied Dr. King to that Communist training school in Tennessee in 1957. And they had more than their radical commitment in common. In the 1958 case of *Alabama* v. *Davis*, sworn testimony was introduced regarding sexual aberrations committed by Abernathy on a 15-year-old girl who sang in the choir of his church.

Not only is Abernathy an active supporter of such Communist causes as the effort to free Communist Angela Davis, but in 1972 he was an honored guest of the Soviet Union and of Communist East Germany (G.D.R.), where he declared: "As pastor and theologian, I am of the opinion that the G.D.R. embodies what we aspire to in the world." Two hours before his departure he told a Communist Party press conference: "What we are still fighting for in the U.S.A. is what has already been achieved in the G.D.R."

The East German Communists gave Abernathy a medal, and reported that agents of their leading religious Front had "for many years" been in correspondence with Martin Luther King. They presented the "Reverend" Abernathy with a German edition of Coretta King's *My Life With Martin Luther King,* and he declared: "President Kennedy once said in West Berlin that he was a Berliner. I want to change that and say: 'I am a Citizen of the [*Communist*] German Democratic Republic.' "

Little wonder that after lengthy investigation the Joint Legislative Committee on Un-American Activities for the State of Louisiana concluded in its three-part Report on the activities of S.C.E.F. that the Southern Christian Leadership Conference, headed by Martin Luther King, was "substantially under the control of the Communist Party through the influence of the Southern Conference Educational Fund [*S.C.E.F.*] and the Communists who manage it."

If Martin Luther King was "sick and tired of people saying this movement has been infiltrated by Communists and Communist sympathizers," it was because he knew it was true.

And so did J. Edgar Hoover and the F.B.I. Director Hoover spoke out many times to warn of Communist involvement in the "civil rights" movement. On one occasion, he said: "We do know that Communist influence does exist in the Negro movement and it is this influence which is vitally important." Hoover declared that the Communist Party "strives only to exploit what are often legitimate Negro complaints and grievances for the advancement of Communist objectives. . . . Racial incidents are magnified and dramatized by Communists in an effort to generate racial tensions."

Mrs. Julia Brown is a brave and gracious Negro lady who spent more than nine years as a member of the Communist Party in Cleveland, serving as an undercover operative for the Federal Bureau of Investigation. According to Mrs. Brown:

". . . Mr. King was one of the worst enemies my people ever had.

"I know that it is considered poor taste to speak ill of the dead. But when someone served the enemies of our country while alive, and his name is still used by his comrades to promote anti-American activities, shouldn't people who know the truth speak out?

"I learned many surprising things while I served in the Communist Party for the FBI. Communist leaders told us about the demonstrations that would be started, the protest marches, the demands that would be made for massive federal intervention. Every Communist was ordered to help convince American Negroes that we are no better off than slaves. Wherever we went and whatever we did, we were to promote race consciousness and resentment, because the Communists know that the technique of divide and conquer really works.

"We were also told to promote Martin Luther King, to unite Negroes and whites behind him, and to turn him into some sort of national hero. We were to look to King as the leader in this struggle, the Communists said, because he was on our side!

"I know they were right, because while I was in the Communist Party I learned that Martin Luther King attended a Communist training school. I learned that several of his aides and assistants were Communists, that he received funds from Communists, and that he was taking directions from Communists.

"Most Americans never look at the Communist press in this country. If they did, they would learn that the Communists loved Martin Luther King. He was one of their biggest heroes. And I know for a fact the Communists would never have promoted him, financed him, and supported him if they couldn't trust him. He carried out their orders just as slavishly as Party members in Cleveland, Ohio."

Little wonder that F.B.I. Director J. Edgar Hoover called Martin Luther King "the most notorious liar in the country."

We do not know what additional information Mr. Hoover had on King, but after years of electronic surveillance he certainly knew much more than we have been able to present in this brief survey from the public record. Yet the Senate Intelligence Committee has refused to release the F.B.I. file on King. They chose instead to attack the F.B.I. for using "dirty tricks," and members of the Committee staff said "they could find no justification for the bureau's attack on Dr. King." Incredibly, a U.P.I. release on November 19, 1975, declared: "A top FBI official said Wednesday that the Bureau had no legal justification for its smear campaign against Dr. Martin Luther King Jr. but suspected, without evidence, he might be under 'Communist influence.' "

"Suspected, without evidence. . . ." That is, as we have seen, simply not true. And the distortion is intended to damage the reputation of both the F.B.I. and the late Director J. Edgar Hoover.

John J. McDermott, Assistant Director of the F.B.I., spoke on November 21, 1975, before a Connecticut group which aids families of policemen, firemen, and corrections officers killed in the line of duty. He said the F.B.I.'s six-year surveillance of Martin Luther King was justified because of concern that King was influenced by subversives. He put it this way: "We did what we felt we had to do for the welfare of the nation at the time. Don't forget they [radicals and Communists] were bombing the Pentagon. They said they were going to shut down the government." Another F.B.I. official reminded us that the King projects "were started at a time when cities were being burned. . . ."

We believe most Americans would agree that our law enforcement authorities should keep under surveillance any person or group about which there is substantial evidence of involvement in such crimes as revolutionary violence, Communist subversion, and conspiracy with agents of a foreign power to overthrow the U.S. Government by force and violence. To the extent the F.B.I. maintained such surveillance under J. Edgar Hoover, we heartily applaud its efforts.

PARAGUAY HYDROELECTRIC DAM

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. COLLINS of Texas. Mr. Speaker, when our American Ambassador to Paraguay was in Washington this week, he came by so that we could review the continuing progress of the Paraguay-Brazil hydroelectric dam. Here in Congress many of us are very much concerned with the economic development of our friends in South America.

Two years ago, Brazil, Argentina, and Paraguay signed agreements covering the construction of two and possibly three major hydroelectric systems on the Upper Parana River.

The preliminary work has moved forward on the giant project at Itaipu on the border between Paraguay and Brazil, which is just a few miles above the world famous Iguazu Falls.

General Stroessner shows far sighted visions as the President of Paraguay in building this dam which will be the single largest hydroelectric dam in the world. Costing $5 billion, it will provide 12.5 million kilowatts of low cost electricity.

President Stroessner has maintained a stable and peaceful country in the midst of so much confusion in South America. His consistent and solid friendship has been the major factor in maintaining the strong friendship with the close working relationships that the United States has with Paraguay.

IS GOVERNMENT KILLING THE CONSUMER?

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. HANSEN. Mr. Speaker, a telling story of what "big government" is doing to the private citizen and to the business sector of our economy is found in the December 1975, issue of Credit Union magazine under "Capital Events."

It is good to see that many key people in Government are finally beginning to wake up. The question is, will they go to work with an ax and get some results or will they pay lipservice to the problem while they whittle around the edges with a pen knife?

The article as written by the magazine's Washington correspondent, George Myers, is as follows:

Is Government killing the consumer with protection? Has it protected the individual to the point of denying him opportunity? Has it made a fetish of privacy, thus denying some freedoms? Those are some of the questions that people are beginning to think about as the nation wallows in a flood of regulations, red tape, and "protective" laws. A credit union manager protests: "What is going on there in Washington? As a result of RESPA (Real Estate Settlement Procedures Act) my credit union has discontinued all home mortgage lending." From a defense credit union comes the plea: "Can't we do something about the Privacy Act? We can't get the basic information from the military to act upon a young enlisted man's emergency loan application." Another credit union manager in frustration declares, "It seems apparent that some consumer protection acts give added protection to 'deadbeats'—and they are the people who use the technicalities of the law or regulation to the utmost." Another credit union officer comments, "It's getting so that I hesitate to talk to a member for fear that in friendly conversation I'll inadvertently ask a question about the spouse that is prohibited by some regulation or by the Equal Credit Opportunity Act!" When you realize that these complaints come from one small segment of the financial world—and from credit unions, at that, which are conceded to be consumer and member-oriented—one begins to wonder about our whole approach to governing and to protecting the individual.

Isn't it time to regulate the regulators? When are we going to protect the individual from his "protectors" And above all, when does "protection" and bureaucratic regulation infringe upon individual liberties and the rights and freedoms that our forefathers sought 200 years ago? Perhaps the most significant observance of the nation's bicentennial year would be Congressional action to restore liberty by restraining the regulators, protecting our freedom from "protecors," and revising some of the ridiculous provisions of such well-intentioned laws as the Privacy Act, which has caused some federal government employees to refuse to give the telephone number of a colleague sitting in the same office for fear of breaking the law!

There is evidence that the backlash against excessive regulation and "protection" is making itself felt both in the Congress and the Executive Branch. Evidence of this backlash is the House passage of the Consumer Protection Agency bill in 1974 by a vote of 293–94. Last month the House vote on virtually the same bill was 208–199. Other Congressional reactions include expedited action to modify RESPA, rejection of the Truth-in-Savings provision of FIA by the Senate Banking Committee, and the initiation recently by the Senate Government Committee, jointly with the Senate Commerce Committee, of an investigation and study of Federal regulatory agencies. President Ford has declared that he wants small business released from the shackles of federal red tape: "I want to end unnecessary, unfair, and unclear regulations—and needless paper work." Rep. Wright Patman (D–Tex.) recently told his constituents that he is co-sponsoring a bill (HR 9313) with 24 other Representatives "to establish procedures for regular Congressional review of all Federal agency rules." Under the bill Congress could, by simple resolution within 60 days after a regulation is proposed 'veto' any such decree that "is contrary to or inconsistent with Congressional intent or which goes beyond the mandate of the law." President Ford places the annual cost of unnecessary and wasteful regulatory policies at $2,000 per family—a total cost to the American taxpayer of an estimated $130 billion. In an article a few months ago, the U.S. News and World Report listed 15 specified federal agencies plus "other agencies" with 63,444 employees who perform regulatory functions, and commented: "Consensus is widening among politicians, businessmen and consumer groups that such agencies—designed to protect the public from marketplace excesses such as monopoly, fraud, and inequity—are no longer working effectively in today's society. . . "

Senator Thomas J. McIntyre (D-N.H.), chairman of the Senate Subcommittee on Government Regulation, estimates that the paperwork burden generated by the federal government drains more than $18 billion a year from American business. Rep. Frank Horton (R–N.Y.), ranking Republican on the House Government Operations Committee, puts the cost to the nation's economy more than $40 billion.

ANNOUNCEMENT OF HEARINGS ON FBI OVERSIGHT

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. EDWARDS of California. Mr. Speaker, I wish to announce that the

Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary will continue its series of hearings on FBI oversight and will hold 2 days of public hearings on Thursday, December 11, and Friday, December 12.

These 2 hearing days will complete the hearings begun on October 21, 1975, inquiring into the facts and circumstances surrounding the letter written by Lee Harvey Oswald, several days before the assassination of President John F. Kennedy containing alleged threats, received by the Dallas office of the FBI and subsequently destroyed.

Testimony will be received from J. Gordon Shanklin, a retired special agent who was in charge of the Dallas field office in November 1963, and from James P. Hosty, Jr., Kenneth C. Howe, and Nan Fenner, all presently employed with the FBI and who were with the Dallas field office in November 1963.

The hearings will commence at 9:30 a.m. on both days, and the hearing on December 11 will be in room 2226, Rayburn House Office Building, and the hearing on December 12 will be in room 2237, Rayburn House Office Building.

EAGLES NEST WILDERNESS ISSUES

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mrs. SCHROEDER. Mr. Speaker, later this week the Subcommittee on Public Lands of the Committee on Interior and Insular Affairs will begin markup on the Eagles Nest Wilderness area in Colorado. I have been supporting, and will continue to support, S. 268, Senator FLOYD HASKELL's Eagles Nest Wilderness bill. However, the following December 2 Denver Post editorial presents an opposing view which, in the interest of fairness, I wish to share with my colleagues:

TRIM WILDERNESS AREA SIZE

On Dec. 12 the public lands subcommittee of the U.S. Interior Committee in Congress will begin mark-up sessions on a bill of crucial importance to the metro Denver area.

The committee, chaired by Rep. John Melcher, D-Mont., will consider wilderness bills which could cost our citizens $1 million extra each year in water bill charges.

At stake is the configuration of the Eagles Nest Wilderness area in the Gore Range west of Denver. As passed by the U.S. Senate 130,000 acre would be set aside as permanent wilderness under terms of the 1964 Wilderness Act.

But by doing so, the Denver area's future water supply would be endangered. The way the lines are drawn (there can be no construction projects in a wilderness) Denver could recover water flowing from the wilderness only by costly pumping projects. If the borders are made slightly smaller this water could move by gravity.

At a time when the nation needs to save energy is is estimated that the Senate bill sponsored by Sen. Floyd Haskell, D-Colo., would use enough extra electricity to light the homes of 75,000 people.

That is a substantial amount of power to waste. It is estimated the cost would be $1 million—just to pump the water the awkwardly drawn wilderness borders would dictate.

It seems logical, therefore, to ask Colorado legislators in Washington to reduce the size of the boundaries. Lowering the area to around 120,000 acres would permit Denver to divert its water by gravity, saving the $1 million.

Such a move not only will avert drought dangers but save metro water users from having to pay the $1 million annually.

Citizens, therefore, should make Senator Haskell and other state lawmakers aware of their desires. The wilderness need not be drawn in such a way as to penalize Denver area citizens.

The U.S. Forest Service wants only 87,000 acres in the Eagles Nest Wilderness. It believes this area is the true wilderness—the area which is a geographical unit and can be defended administratively as wilderness.

By contrast, the rival plan meanders across slopes and comes very close to condominium developments in the Frisco area. We doubt this is what the Congress had in mind when it passed the 1964 act.

In any case, a compromise to ensure the Denver region the opportunity of drawing its water supply by gravity is much to be preferred to exorbitant pumpinug fees in prospect under the Haskell measure.

We hope, therefore, that our congressional delegate will see the necessity of making a trim on the Haskell wilderness area. The alternative is an unnecessary extravagance.

RENAMING OF FBI BUILDING

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. SCHEUER. Mr. Speaker, I would like to place in the RECORD in behalf of myself and my colleague, Representative CHARLES RANGEL, two editorials which appeared in yesterday's Washington Post. The first, written by the distinguished editorialist Alan Barth, is a brilliant and thoughtful retrospective analysis of the FBI and its excessively powerful former director, J. Edgar Hoover. The second, by the editors of the Post, presents the argument which serves as the basis for the bill, which I am cosponsoring along with Representatives GUDE, RANGEL, SCHROEDER, and others, to rename the massive J. Edgar Hoover FBI Building simply "The FBI Building." The Congress and the Nation must take action to prevent such devastating abuses as are now coming to light from reoccurring. It is inappropriate, to say the least, to immortalize the man responsible for the abuses and the growing lack of public trust in a once-revered Federal agency.

The articles follow:

"CONTROLLING THE FBI"

(By Alan Barth)

In thinking about the future of the FBI it may be useful to look at its origins and at the pattern of its growth. The FBI was created in 1924 by Harlan Fiske Stone when he was Attorney General of the United States, before his elevation to the Supreme Court. One of his first acts when he took charge of the Department of Justice was to abolish the Division of Investigation which had become mired in politics and had played an ugly part in the arrest and deportation of aliens under the Attorney Generalship of A. Mitchell Palmer. In its place, Stone established a Bureau of Investigation, choosing a young man named J. Edgar Hoover as its director. In doing so, the Attorney General issued the following statement defining the bureau's role:

There is always the possibility that a secret police may become a menace to free government and free institutions because it carries with it the possibility of abuses of power which are not always quickly apprehended or understood . . .

It is important that its activities be strictly limited to the performance of those functions for which it was created and that its agents themselves be not above the law or beyond its reach . . . The Bureau of Investigation is not concerned with political or other opinions of individuals. It is concerned only with their conduct and then only with such conduct as is forbidden by the laws of the United States. When a police system passes beyond these limits, it is dangerous to the proper administration of justice and to human liberty, which it should be our first concern to cherish.

These are words worth remembering, worth rolling reflectively on the tongue. For they are not only prescient and prophetic, they are alive with political realism—the kind of realism that led the founders of the republic to limit the powers of government by a written Constitution.

As everyone knows, the new bureau flourished, achieving a great reputation for honesty about money matters and for efficiency in capturing automobile thieves, bank robbers and kidnappers. Mr. Hoover had a flair for publicity as well as a genius for effective organization. Soon the FBI, with its laboratories and advanced crime detection techniques and daring G-men, became not only the scourge of criminals but the most admired of all federal agencies.

It should be said in defense of Mr. Hoover that he did not initially reach out for power; power was thrust upon him. In 1939, with American involvement in the Second World War at hand, President Roosevelt instructed the FBI to take charge of all investigation "relating to espionage, counterespionage, sabotage, subversive activities, and violation of the neutrality laws." There were three things wrong with this:

First, it was without any statutory basis. Congress had authorized a Division of Investigation in the Department of Justice which afforded an adequate foundation for a Bureau of Investigation to do what Attorney General Stone empowered the bureau to do in the area of law enforcement. But Congress had not then, and has never since, authorized any agency of the Department of Justice to take charge of counter-intelligence although it has, to be sure, repeatedly approved appropriations to carry on such activities.

Mr. Roosevelt went still further. He authorized the FBI, with the approval of the Attorney General, to tap telephones in national security cases, although this entailed a direct violation of an act of Congress, the Federal Communications Act of 1934.

Second, this assignment took the FBI into a field where it had no real competence or experience. Counter-intelligence is not the normal work of a law enforcement agency and is far too important to be left to policemen. Mr. Hoover seriously believed that actors and actresses who gave ambulances to loyalist Spain or entertained at Soviet-American rallies when the two countries were allied in war were perils to American security. He seriously believed that a minister of religion who militantly sought equal rights for black Americans was bound to be a Communist agent. Mr. Hoover sincerely equated political heterodoxy with disloyalty and pursued it relentlessly as "subversive."

Third, the President's directive not only tremendously expanded the FBI's power but also radically changed its focus. Indeed, it brought the FBI right back into the political area from which former Attorney General Stone had removed it, the constitutionally protected area of political opinion and association. Subversive activities are essentialy political activities displeasing to those in power but not necessarily criminal in character.

A few years later, in 1947, President Truman—also without any legislative authorization—gave the FBI full responsibility under the Federal Loyalty Program for investigating the suitability and trustworthiness of government employees and of applicants for government jobs. Relying on accusations by unidentified informers, many of them former Communists, the FBI became, in effect, the definer of patriotism, the arbiter of political acceptability.

No wonder Mr. Hoover became a kind of Lord High Executioner, a law unto himself. No President governed him, no Attorney General ruled him, no Congress fixed boundaries for his roving authority. And so, step by step, we got unlimited surveillance, indiscriminate bugging and taping and reading of our mail. Cointelpro and black bag jobs and official blackmail and all the other attributes of a police state that have become the commonplace in newspaper reports in recent weeks. The FBI became, in truth, precisely what Attorney General Stone warned against—"a menace to free government and free institutions."

Stone's words are still not heeded, moreover. The incumbent director of the FBI found himself capable of saying in 1975—without a perceptible tremor of embarrassment—that "we must be willing to surrender a small measure of our liberties to preserve the great bulk of them." Is liberty really now no more than a luxury, and a liability, in a nation that has grown to greatness under it? Echoes of the tragic past! Must we destroy the Constitution in order to save it?

The FBI is not going to be brought under control by any congressional oversight committee—which will be told no more than the FBI wants it to know. It can be brought under control only by first being cut down to size—by having its role firmly defined by Congress, so that it becomes what it was meant to be in the first place, a law enforcement agency concerned, as Harlan Stone put it, "only with such conduct as is forbidden by the laws of the United States."

The elephantine growth of the FBI is superbly symbolized—perhaps it would be better to say embodied—in the mammoth, and monstrous, edifice that now stands athwart Pennsylvania Avenue like a brooding Bastille and is identified by golden letters across its portals as the J. Edgar Hoover FBI Building. If it cannot be razed, could the House of Representatives not take it as a fourth, fifth or sixth office building, instead of taking the new congressional library annex? Then the FBI could be appropriately returned to the Department of Justice as a subordinate agency of that instrument of government.

At the very least can it not be renamed—say, the Harlan Fiske Stone Building—as a memorial not to our past folly but to the true character of our country, where liberty is valued alike as a means and as an end, and where a government of laws still prevails?

What's in a Name?

If Congress were voting today on the question of what to call the new FBI Building, we'd like to believe that the name of J. Edgar Hoover would not be considered, even fleetingly. In October of 1972, when the decision was made to name the uncompleted building after Mr. Hoover, the record of his performance as FBI director was, to put it mildly, incomplete. There were indications that he had been petty and vindictive in his treatment of black protesters and antiwar dissenters. He was thought to have amassed dossiers on members of Congress and other public officials. But such rumblings were largely speculative. Mr. Hoover's reputation, in other words, was still more or less intact three years ago. His myth was still strong in the minds of millions of Americans. We were not then staring at a reputation in ruins.

It was not known and documented in 1972 that Mr. Hoover's towering hatred for the Rev. Dr. Martin Luther King Jr. led him to use the power of his agency for unlawful wiretaps, harassment, intimidation and ugly poison pen communication. It also wasn't known in 1972 that Mr. Hoover authorized his agents to join protest groups, encourage illegal activities and then entrap and arrest the protesters. Mr. Hoover, in other words, was not known until recently as the flagrant violator of the law he has since been shown to have been.

As Alan Barth demonstrates in an article on the opposite page, Mr. Hoover grossly perverted the mission of his agency, admittedly with the help of underlings and of timorous and permissive Presidents and congressional overseers. The FBI was created to replace an agency, the Division of Investigation, that had become notorious for political intimidation. The very purpose of the FBI's creation was to break with the past abuses of Attorney General A. Mitchell Palmer. As Mr. Barth points out, "The FBI became, in truth, what Attorney General Harlan F. Stone warned against—'a menace to free government and free institutions.'"

We name public property for public servants to honor them and to invite their emulation by the generations that follow. We expect our young people to see the names of such servants and to inquire about their good works and to go and do likewise. By permitting Mr. Hoover's name to grace a large and conspicuous public edifice, we implicitly condone the abuse of power, the vindictive abridgement of fundamental freedoms and the flagrant unfairness that Mr. Hoover's FBI regularly practiced.

There will be those who will argue that the deed is done. The name of Mr. G-Man is mounted in bronze, the dedication has come and gone. What's in a name, after all? If we take down this name, will there not be an orgy of revisionism in which many names come down? Mr. Hoover poses a unique problem. He himself was the most powerful lobby for the building and for having it bear his name. He knew how to manipulate the system as well as anyone, and he prevailed. But he prevailed because his true record was hidden in the dim recesses of the FBI's files, available in that day to no one not trusted by Mr. Hoover. Now that his record has come out, Congress must at long last stand up to J. Edgar Hoover. Rep. Gilbert Gude (R-Md.) and several colleagues have proposed just calling the structure at 9th and Pennsylvania "the FBI Building." The idea ought to have particular appeal to the FBI, which has a lot to live down if it is to regain public trust.

RICE SURPLUS HURTS

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. PICKLE. Mr. Speaker, soon we are going to have a rice bill before us. This bill has been hailed as a boon to the consumers by those who do not have the facts.

We do not need to increase rice production to get lower prices for the consumer because the facts show right now we have a substantial rice surplus and high prices. More rice will not mean lower prices for the rice eater. It may just mean fewer rice producers and higher and higher prices.

To prove my point, I want to put into the Congressional Record a small AP wire story that ran in the December 4, 1975, Washington Star:

Quotas Weighed on Rice Output

Agriculture Secretary Earl L. Butz said yesterday that he may have to "impose severe quotas" by the end of the month on 1976 rice production in the United States.

Going a step further than he had earlier in the week, Butz told the Senate Agriculture Committee that he foresees a cutback to the legal minimum quota of 1.56 million acres. The law requires quotas to be imposed if rice surpluses develop, he said.

The House has pending a new two-year rice production measure. Rice prices are high, he said, despite food supplies and so the crop is backing up.

AMBASSADOR BUNKER ON THE PANAMA CANAL NEGOTIATIONS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues an important speech Ambassador Ellsworth Bunker gave December 2 in Los Angeles on the status of the Panama Canal negotiations for a new treaty arrangement between the United States and the Republic of Panama.

It is clear that the Congress will have to focus on this important foreign policy issue in the coming months. Ambassador Bunker's remarks provide a useful background on the subject.

He notes, in particular, that—

> The real choice before us is not between the existing treaty and a new one but rather between a new treaty and what will happen if we should fail to achieve a new treaty.

His speech follows:

The Panama Canal Negotiations: Popular Myths and Political Realities

(Remarks by Ambassador Ellsworth Bunker)

I am here today to discuss with you the Panama Canal negotiations.

It is a controversial subject that has evoked emotion and opposition.

But my travels in the United States, the letters I get from concerned citizens, the articles I read in the press, and my many consultations with Congressmen have convinced me that much of this opposition stems from a number of false impressions about the basis for our presence in the Canal Zone.

Because of this, I would like today to talk about the background of the problem we face and comment on some of the myths surrounding the canal treaty and negotiations.

And I want to talk about the political realities which make it desirable, in my judgment, to bring the negotiations to an early and satisfactory conclusion.

By speaking to you today I am departing from a practice I have long followed.

Previously, while serving as a negotiator, I have avoided making public statements.

I am here today because this negotiation is unique.

No effort to improve our policy concerning the canal can succeed without the full understanding and support of the Congress and the American people.

Our presence in the canal has a constituency among the American people—but our negotiations to solve our problem there do not.

So, if we are to gain support, we must find it through candid and reasonable public discussion.

THE EVOLUTION OF THE PROBLEM

Our story begins 72 years ago.

In 1903 the newly-independent Republic of Panama granted to the United States—in the Hay-Bunau-Varilla Treaty—a strip of land 10 miles wide and 50 miles long for the construction, maintenance, operation and protection of a canal between the Atlantic and Pacific.

The treaty also gave the United States—in perpetuity—the right to act within that strip of land as "if it were the sovereign."

It was quickly and widely acknowledged that the treaty favored the United States.

When Secretary of State John Hay submitted the treaty to the Senate for ratification he said:

"We shall have a treaty very satisfactory, vastly advantageous to the U.S., and, we must confess, not so advantageous to Panama."

For many years Panama has considered the treaty to be heavily weighted in our favor.

As a result, the level of Panama's consent to our presence has steadily declined.

And by Panama, I mean not simply the government, but the Panamanian people.

The Panamanians point out:

First, that the existence of the Canal Zone impedes Panama's development.

The Canal Zone cuts across the heartland of Panama's territory, dividing the nation in two.

The existence of the Zone curbs the natural growth of Panama's urban areas.

It holds, unused, large areas of land vital to Panama's development.

It controls all the major deep-water port facilities serving Panama.

And it prevents Panamanians from competing with American commercial enterprises in the Zone.

And for the rights we enjoy on Panamanian territory, we pay Panama only $2.3 million a year.

Second, that the Canal Zone infringes on Panama's nationhood.

Panama says the privileges exercised by the United States deprive their country of dignity and, indeed, of full independence.

Within the Canal Zone the United States operates a full-fledged government without reference to the Government of Panama, which is its host.

It maintains a police force, courts, and jails to enforce United States laws, not only upon Americans, but upon Panamanian citizens as well.

And, the Panamanians point out, the treaty says the United States can do all these things forever.

Panamanian frustration over this situation has increased steadily over the years.

In January 1964, demonstrations and riots took place which cost the lives of 21 Panamanians and 3 Americans.

Diplomatic relations were broken.

As part of the settlement we reached with Panama then, President Johnson, after consultation with Presidents Truman and Eisenhower, committed the United States to negotiate a new treaty.

In our negotiations we are attempting to lay the foundations for a new—a more modern—relationship which will enlist Panamanian cooperation and better protect our interests.

Unless we succeed, I believe that Panama's consent to our presence will continue to decline—and at an ever more rapid rate.

Some form of conflict in Panama would seem virtually certain—and it would be the kind of conflict which would be costly for all concerned.

Now some have held that the mere mention by United States officials of the possibility of violence over the canal will help to assure that such violence occurs.

I am aware of that concern, but I believe the situation demands candor.

It would be irresponsible to fail to point out to the American people the possible, indeed the likely, consequences of inaction.

It is my firm belief that failure to conclude a reasonable treaty can only work to damage the interests we seek to protect.

As we contemplate this situation we should understand that the canal's physical characteristics make it vulnerable.

The canal is a narrow channel fifty miles long.

It operates by the gravity flow of water and depends for its efficient operation on an integrated system of locks, dams and other vital facilities.

At best, it is susceptible to interruption.

And interruptions would mean not only reduced service to world shipping but lower revenues.

But the most enduring costs of confrontation over the canal would not be commercial.

Our Latin American neighbors see in our handling of the Panama negotiations a test of our political intentions in the hemisphere.

Moreover, the importance of the canal, and our contribution to it, are recognized throughout the world.

It is a measure of our standing and the respect in which we are held that people everywhere—including, I am sure, yourselves—expect the United States to be able to work out an arrangement with Panama that will guarantee the continued operation of the canal in the service of the world community.

Were we to fail—particularly in light of the opportunity created by the negotiations—we would in a sense be betraying America's wider, long-term interests.

The plain fact of the matter is that geography, history and the economic and political imperatives of our time compel the United States and Panama to a joint venture in the Panama Canal.

We must learn to comport ourselves as partners and friends,

Preserving what is essential to each;

Protecting and making more efficient an important international line of communication;

And, I suggest, creating an example for the world of a small nation and a large one working peacefully and profitably together.

In sum, we are negotiating because we see a new treaty arrangement as the most practical means of protecting our interests.

If we try to maintain the status quo we will face mounting hostility in both Panama and Latin America—and possible loss of the very interest we want to preserve.

But a new arrangement based on partnership promises a greater assurance of safeguarding that interest—a canal that is open, safe, efficient, and neutral.

The real choice before us is not between the existing treaty and a new one but rather between a new treaty and what will happen if we should fail to achieve a new treaty.

These, then, are some of the political realities we face in Panama.

MYTH AND REALITY: THE VIEW FROM THE UNITED STATES

We must face political realities here at home as well.

We know that a treaty must receive the advice and consent of two-thirds of the Senate of the United States.

And we expect that both Houses of Congress will be asked to approve implementing legislation.

There is opposition in Congress to a new treaty; it reflects to a considerable degree the sentiments of many citizens.

Our job is to make sure that the public and Congress have the facts they need if they are going to make wise decisions about the canal.

Unfortunately, the basis for our presence in the Zone is widely misunderstood.

Indeed, a number of myths have been built up over the years—about Panama's intentions and capabilities, about the need for perpetuity, and—most important—about ownership and sovereignty.

We need to replace these myths with an accurate understanding of the facts.

First, there is the matter of Panama's intentions and capabilities—and the suggestion that a new treaty will somehow lead to the canal's closure and loss.

The fact is that Panama's interest in keeping the canal open is far greater than ours.

Panama derives more income from the canal than from any other single revenue-producing source.

Even so, some argue, canal operations would suffer because Panamanians lack the technical aptitude and the inclination to manage the operation of the canal.

The fact is that Panamanians already comprise over three-fourths of the employees of the canal enterprise.

No one who has been to Panama and seen its increasingly diversified economy can persuasively argue that the Panamanians would not be able to keep the canal operating effectively and efficiently.

These considerations indicate that Panama's participation in the canal can provide it with a greater incentive to help keep the canal open and operating efficiently.

In fact, the most likely avenue to the canal's closure and loss would be to maintain the status quo.

Second, there is the notion that the canal cannot be adequately secured unless the United States rights there are guaranteed in perpetuity—as stipulated in the 1903 Treaty.

I can say this: to adhere to the concept of perpetuity in today's world is not only unrealistic but dangerous.

Our reliance on the exercise of rights in perpetuity has become a source of persistent tension in Panama.

And clearly, an international relationship of this nature negotiated more than seventy years ago cannot be expected to last forever without adjustment.

Indeed, a relationship of this kind which does not provide for the possibility of periodic mutual revisions and adjustment is bound to jeopardize the very interest that perpetuity was designed to protect.

Third and finally, there are two misconceptions that are often discussed together: ownership and sovereignty.

Some Americans assert that we own the canal; that we bought and paid for it, just like Alaska or Louisiana.

If we give it away, they say, won't Alaska or Louisiana be next?

Others assert that we have sovereignty over the Canal Zone.

They say that sovereignty is essential to our needs—that loss of United States sovereignty would impair our control of the canal and our ability to defend it.

I recognize that these thoughts have a basic appeal to a people justly proud of one of our country's great accomplishments.

The construction of the canal was an American achievement where others had failed.

It was every bit as great an achievement for its era as sending Americans to the moon is for ours.

It is an historic success that will always be held to America's credit.

But let us look at the truth about ownership and sovereignty.

The United States does not own the Panama Canal Zone.

Contrary to the belief of many Americans, the United States did not purchase the Canal Zone for $10 million in 1903.

Rather, the money we gave Panama then was in return for the rights which Panama granted us by the treaty.

We bought Louisiana; we bought Alaska. In Panama we bought not territory, but rights.

Sovereignty is perhaps the major issue raised by opponents of a new treaty.

It is clear that under law we do not have sovereignty in Panama.

The Treaty of 1903 did not confer sovereignty, but speaks of rights the United States would exercise as "if it were the sovereign."

From as early as 1905, United States officials have acknowledged repeatedly that Panama retains at least titular sovereignty over the Zone.

The 1936 Treaty with Panama actually refers to the Zone as "territory of the Republic of Panama under the jurisdiction of the United States."

Thus, our presence in the Zone is based on treaty rights, not on sovereignty.

It is time to stop debating these historical and legal questions.

It is time to look to the future, and to find the best means for assuring that our country's real interests in the canal will be protected.

What are our real interests?

We want a canal that is open to all the world's shipping—a canal that remains neutral and unaffected by international disputes.

We want a canal that operates efficiently, profitably, and at rates fair to the world's shippers.

We want a canal that is as secure as possible from sabotage or military threat.

And we want full and fair treatment for our citizens who have so ably served in the Canal Zone.

The negotiations we are now conducting with Panama for a new treaty will ensure that all these interests of our country are protected.

Let me now talk a bit about where we are in the negotiations.

During the past two years, the negotiations have proceeded step by step through three stages.

Stage 1 ended in early 1974 when Secretary of State Kissinger went to Panama to initial with the Panamian Foreign Minister a set of eight "Principles."

Since then, we have used these principles as guidelines in working out the details of a new treaty.

The best characterization of these principles came from the Chief of Government of Panama.

He said they constitute a "Philosophy of Understanding."

Their essence is that:

Panama will grant the United States the rights, facilities and lands necessary to continue operating and defending the canal; while

The United States will return to Panama jurisdiction over its territory; and arrange for the participation by Panama, over time, in the canal's operation and defense.

It has also been agreed in the "Principles"

That the next treaty shall not be in perpetuity but rather for a fixed period;

That the parties will provide for any expansion of canal capacity in Panama that may eventually be needed; and

That Panama will get a more equitable share of the benefits resulting from the use of its geographic location.

Stage 2 involved the identification of the major issues under each of the eight principles.

Agreement on the major issues, concurred in by the Department of Defense, provided the basis for substantive discussions.

Stage 3 began with our meetings in Panama in June of 1974 and continues.

For over 16 months now we have been discussing the substantive issues involved—again, with the helpful support of the Department of Defense.

Indeed, our most senior military officials regard the partnership we are attempting to form as the most practical means of preserving what is militarily important to our country respecting the Panama Canal.

We have reached agreement in principle with the Panamians on three major issues:

Jurisdiction: Jurisdiction over the Zone area will pass to Panama in a transitional fashion.

The United States will retain the right to use those areas necessary for the operation, maintenance and defense of the canal.

Canal Operation: During the treaty's lifetime the United States will have the primary responsibility for the operation of the canal.

There will be a growing participation of Panamanian nationals at all levels in day-to-day operations in preparation for Panama's assumption of responsibility for canal operation at the treaty's termination.

The Panamanian negotiators understand that there are a great many positions for which training will be required over a long period of time, and that the only sensible course is for Panamanian participation to begin in a modest way and grow gradually.

Canal Defense: Panama recognizes the importance of the canal for our security.

As a result, the United States will have primary responsibility for the defense of the canal during the life of the treaty.

Panama will grant the United States "use rights" for defending the waterway; and Panama will participate in canal defense in accordance with its capabilities.

Several other issues remain to be resolved.

They concern:

The amount of economic benefits to Panama;

The right of the United States to expand the canal should we wish to do so;

The size and location of the land and water areas we will need for canal operation and defense;

A mutually acceptable formula for the canal's neutrality and nondiscriminatory operation of the canal after the treaty's termination; and

Finally, the duration of the new treaty.

Quite obviously, we still have much to do to resolve these issues.

Although we have no fixed timetables, we are proceeding with all deliberate speed.

We are doing so with the full support of the Department of Defense.

While I cannot predict when completion of a draft treaty will be possible, I am persuaded that a new treaty which satisfies our basic interests is attainable.

Though a great deal of hard negotiating will be required to complete a satisfactory agreement, we are confident that our efforts will produce a treaty which will be judged on its merits and will be approved by the people of both countries.

The stakes are large.

They involve not only the legitimate interests of both the United States and Panama and the future contribution of this important waterway to the world community.

They involve as well our nation's relations with Latin America as a whole and the credibility and reputation of our country as a force for creative leadership.

America has always looked to the future.

In the Panama Canal negotiations we have the opportunity to do so again:

To revitalize an outmoded relationship;

To solve an international problem before it becomes a crisis; and

To demonstrate the qualities of justice, reason and vision that have made and kept our country great.

I stand ready for your questions.

SOCIALISM RUINS BUSINESS

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. COLLINS of Texas. Mr. Speaker, as I read the UPI story with the headline "British Movie Industry in Ruins," I was distressed to see the impact of socialism in England on this splendid industry.

When we think back just a few years ago, to the courage and determination that England showed in the Battle of Britain, we are astounded at the damage socialism has done. In trying to buy security, all England has bought is financial disaster. As Vernon Scott says in the article, the English have lost the will to work. Like hospitalized patients, they have lost the will to recover.

As Scott sums up the situation, the English need to again acquire the American spirit in creative talent to inspire them. As I see socialistic plans that are brought before our Congress everyday, I wonder whether the United States is moving faster down the road to socialism which will lead our country into the same financial despair that socialism always brings.

Here are the key points in Vernon Scott's story for UPI from Hollywood:

BRITISH MOVIE INDUSTRY IN RUINS

Today England's movie industry lies in ruins.

Where once 10 studios flourished, only two are operating—Pinewood and Elstree, the latter barely hanging on.

Even British stars of the era have faded—David Hemmings, Peter O'Toole, David Warner, Alan Bates, Tom Courtenay, the Redgrave sisters.

Standing almost alone in the wreckage is producer Euan Lloyd.

"I still live in London and I pay English taxes," said Lloyd whose new picture, "Paper Tiger," (starring David Niven) has just been released.

"The English movie business has collapsed. But then all of England industry seems to have lost the will to work.

"In the past we put up with lousy weather, rationing, money controls and took it on the chin. We shrugged our shoulders and managed to pull out of messes by working hard.

"But the average Englishman doesn't seem to give a damn anymore. He's like the hospitalized patient who has lost the will to recover.

"I see the situation clearly because I travel all over the world and compare my country with the people and attitudes of other nations.

"I hasten to say we'll pull out of it. But at the moment we're like a dog with fleas, scratching away and not getting very far."

Lloyd blames the failure of British movies on the government.

"In our socialist society everyone is waiting for a handout," he said.

"Picture makers want to know what someone will give them in advance if they make a movie. If you believe in your work you must have the courage to go out and get the money and put the film together."

Lloyd has ignored British financial structure, distribution and loans. He visits almost every country in the world to borrow money and hustle his own pictures.

"I spent the past 15 years establishing business relations with foreign distributors," he explained. "It cost $4 million to make

'Shalako' with Sean Connery and Brigitte Bardot.

"But I toured the word for three years in advance raising the money, contacting buyers. When I began shooting I had the cash or guarantees to cover the entire picture.

"Labor isn't more expensive there. It's still cheaper to make a film in England than elsewhere. But producers have given up, lost their nerve due to the socialist indoctrination. They can't beat the unions . . .

"I love my country and wouldn't think of leaving it. But the only thing that can help our film industry is a new infusion of American creative talent to inspire us again."

SPANISH "LEFTISTS": ACCURACY PLEASE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. McDONALD of Georgia. Mr. Speaker, recent press articles have reported the release from prison of radical opponents of the Spanish Government by King Juan Carlos as part of an amnesty releasing 15,000 prisoners, criminal and political.

The press reports have focused on the release of Marcelino Camacho Abad, 57, characterized as "a noted leftist labor leader" by the New York Times in a "special" under Henry Ginger's byline and in an Associated Press story as "Spain's most powerful leftist."

The editors, being educated men, must be aware that "leftist" is about the weakest possible adjective to use to describe Senor Camacho, a veteran leader of the Communist Party of Spain. Camacho's comrades in the United States make no bones about reporting his position in the Central Committee of the Communist Party of Spain, why the hesitation in the mass media?

In addition, Camacho is more than a mere "labor leader." Camacho is the chief organizer of the illegal and clandestine Workers' Commissions in Spain. The Communists have not been shy about proclaiming their sponsorship and organizing of the Workers' Commissions in their own publications, yet Giniger's article only notes that at the trial of Camacho and other organizers—known generally as the "Carabanchel Ten"—the Workers Commissions "were termed branches of the illegal Communist Party," giving the impression that there is some doubt to the facts.

The American public is rightly concerned about developments in Spain. That country's government is undergoing a major transition. America's military bases are up for renegotiation. And the example of the leftist revolt in neighboring Portugal with attempted Communist takeovers stands as a warning to Spain.

Perhaps the mass media are afraid to report on the public activities of Communists lest they be charged with "Red-baiting" by their limousine liberal and chic radical cocktail party friends, and therefore deny the American public significant information.

COLORADO GOVERNOR AND HOUSE CONFEREES TO BE COMMENDED FOR IMPROVEMENT OF SYNTHETIC FUEL LOAN GUARANTEE PROVISIONS IN ERDA AUTHORIZATION BILL

HON. GUNN McKAY

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. McKAY. Mr. Speaker, on Monday, I spoke in favor of the loan guarantee authority for synthetic fuels commercialization contained in section 103 of the ERDA authorization bill—H.R. 3474—and I explained the urgent need for approval of this measure in order that a few prototype synthetic fuel projects can proceed now to establish the economic and environmental viability of existing technologies for coal gasification and shale oil production—see Congressional Record, December 1, 1975, page 37902.

Since my remarks on Monday, the Governor of our neighboring State of Colorado, the Honorable Richard D. Lamm, has publicly announced his support of the loan guarantee program for synthetic fuels. Governor Lamm appeared twice at the extensive hearings on this measure held by the Science and Technology Committee, testifying both on behalf of the State of Colorado and in his capacity as chairman of the Synthetic Fuels Subcommittee of the National Governors' Conference. In his testimony, Governor Lamm recommended several modifications in the Senate version of the bill to provide for State and local participation, and to assure adequate financing for impacted community development.

The recommendations which the Governor considered essential for a sound program have been adopted by the conference committee, and Governor Lamm has now publicly expressed his satisfaction with the bill. I commend Governor Lamm for his effective leadership in presenting the views and concerns of his State.

I also commend the distinguished chairman of the Science and Technology Committee, Mr. Olin E. Teague, for the comprehensive hearings held by his committee on the proposed loan guarantee program for synthetic fuels. As a result of these hearings, Chairman Teague and other House conferees were able to obtain constructive changes in the Senate version of section 103, including controls and safeguards designed to protect the States and communities which will be affected by the synthetic fuels loan guarantee program. I congratulate my colleagues on the conference committee for these important improvements.

At this point, I insert in the Record, an article from the Denver Post of December 3, 1975, containing the public statements of Governor Lamm and others in support of section 103:

Lamm-Backed Fuels Bill Okayed

(By Leonard Larsen)

Chief, Denver Post Washington Bureau

Washington.—A Senate-House conference committee Tuesday approved the final version of a $6 billion synthetic fuels development program incorporating "bottom line" demands made by Colorado Gov. Dick Lamm and other resource-state governors.

The final roadblock to Lamm's approval of the bill—a guarantee of the applicability of state law over synthetic fuel projects—was cleared by Sen. Floyd Haskell, D-Colo.

The "applicability" provision, while not in the final version of the bill, would, under the agreement pushed through by Haskell, appear in the conference committee report of the measure to demonstrate legislative intent.

As outlined by Haskell and accepted by the committee, the report will provide that in the event of any federal-state legal conflict on a proposed synthetic fuels project—such as shale oil—state governments will be allowed to assert stronger state law in land reclamation and plant and utility sitings.

That right to the states would occur when state governments, as also provided in the bill, were exerting their authority of concurrence with a proposed development project, whether on private or federal lands within a state.

Earlier in the day, Lamm said that with the adoption of an "acceptability" provision, he would be satisfied with the disputed section. It opens a $6 billion program in loan guarantees for synthetic fuels development, mainly oil shale, coal gasification and coal liquefication.

In addition to applicability of state laws and concurrence by state governments in proposed projects, Lamm's other "bottom line" demands on the bill included guarantees of "impact" aid to local communities, planning and review participation by state and local governments, and limitation on project plant size to demonstrate commercial viability.

Haskell, a member of the Senate-House conference committee, several weeks ago had agreed with Lamm on the "bottom line" demands and successfully pushed their acceptance in the committee.

With the work of the conference committee concluded by acceptance of the final version of the bill late Tuesday, Haskell predicted passage of the measure in the Senate.

"GOOD BILL"

"The bill's in good shape. It's a good bill," Haskell told reporters. "The states have what they want . . . I don't think it will run into opposition."

Earlier Tuesday, Rep. Tim Wirth, D-Colo., who had participated in House opposition to the $6 billion synthetic fuels development program, conceded that, with the inclusion of "safeguards" now present in the bill, he would support its final passage in the House.

Wirth and other House members had been angered at the maneuvers which placed the massive synthetic fuels program in conference, although it had not been considered either in House committees or by the full chamber.

The fuels development program had been attached by Sen. Henry Jackson, D-Wash., as a last-minute amendment to the routine appropriations authorization for the Energy Research and Development Administration.

With passage of the Jackson-inspired amendment in the Senate last July, Wirth and other House members complained that House conference on the over-all ERDA bill were confronted with a $6 billion program—with potential heavy impact on Colorado and other resource states—that had never been considered by the House.

Wirth and Rep. Ken Hechler, D-W. Va., were instrumental in stalling final passage of the measure in the conference committee until after a series of hearings both in Washington and Colorado.

Explaining his shift to support of the bill, Wirth said Tuesday that "with these safeguards in it, this is the best piece of legislation we're going to get out of this Congress, or probably any other Congress."

CRASH PROGRAM

He was concerned, Wirth said, that a future energy emergency, such as Middle East oil embargo, could result in a crash program of shale oil development without the "safeguards" contained in the bill approved by the conference committee Tuesday.

Despite the support of Haskell and Wirth, the final version of the bill still was opposed by the majority of the members of the Colorado delegation.

The two Republicans, Reps. Jim Johnson and Bill Armstrong, along with Rep. Pat Schroeder, D-Colo., have opposed the $6 billion loan guarantee program as an improper function of the federal government.

Sen. Gary Hart, D-Colo., has called for separate legislation in which oil shale wouldn't be tied to research and development in coal. Rep. Frank Evans, D-Colo., was described by an aide Tuesday as still undecided in his stand on the final version.

In the conference committee's final meeting on the ERDA bill incorporating the synthetic fuel program, members accepted—in addition to the state law "applicability" provision—another provision which would place a 90-day limit under which decisions by the ERDA administrator could be appealed to a federal court.

The court review applies mainly to the concurrence or "limited veto" powers extended to state governments.

As the measure now stands, the ERDA administrator would have the power to override in the national interest a project "veto" asserted by state government but that override would be subject to court review if action were filed within 90 days.

The panel members, however, turned down several White House requests for change in the final version of the bill, including one to abandon the court review provision and another to drop language in the bill which bars foreign governments from majority ownership of firms involved in projects with federal loan guarantees.

The latter request was made by the State Department which suggested the prohibition of loan guarantees to foreign-owned firms might harm relationships of nations involved with the United States in the International Energy Agreement.

Hechler spiked the State Department plea, noting that it would allow participation by partners to that agreement but would bar participation by "Latin American and Third World" countries.

Also rejected by the committee was a proposal by Rep. Barry Goldwater Jr., R-Calif., that federal officials hired to administer the loan guarantee program not be required to make a full public financial disclosure.

Such a provision, Goldwater maintained, was an "invasion of privacy."

Hechler successfully countered that "if people coming into government have a direct financial interest in the companies they are guaranteeing loans to, that fact ought to be made public."

INACTIVITY OF THE UNITED NATIONS

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. CONTE. Mr. Speaker, I would like to address myself today to an issue which I feel exemplifies the frustration and anxiety felt by a large number of Americans toward the United Nations. There is as I stand here at this moment, a new emerging nation being literally ripped apart by internal and external forces. The clouds of this disaster were beginning to form long before Monday, November 9, when the United Nations approved a resolution equating Zionism with racism. Nothing, however, was even attempted in an effort to avert bloodshed in Angola.

I am especially aware and sensitive to the situation in Angola. From my position on the Foreign Operations Appropriations Subcommittee, I have watched these former colonies move toward independence. I did all I could to insure that our development aid would be available to them in their struggle to survive the trauma of independence. What we now see is all our work and hope and the work and hope of Angolans being shredded in another civil war for control of an African nation.

In the absence of so much as a passing interest by the United Nations, other powers are moving in swiftly to carve out a sphere of influence. Meanwhile the United Nations has plenty of time to pass resolutions condemning the beliefs of minorities and to attempt to pigeonhole a resolution calling for the release of political prisoners.

One of the founding principles of the United Nations, as I remember, was that it would practice tolerance and its nations would work together as good neighbors. The vote on Zionism and the current events in Angola seem to show a glaring deficiency in its ability to be a constructive influence in the world.

Three rival political factions, all supposedly trying to liberate Angola from each other, are carving out enclaves, enlisting mercenaries, asking for superpower support and shedding fellow Angolan blood. It is estimated that already 12,000 lives have been lost. Reports of Russian planes, Cuban pilots, Mozambique guerrillas and South African tanks increase every day. Capitals are set up and overtaken regularly, yet the United Nations cannot tear itself away from sowing mistrust and disharmony among its own members. It is bad enough that a group of nations can commit such odious blunders as equating Zionism with racism and hesitating to call for the release of political prisoners, but where the United Nations could fulfill the role for which it was created, it does nothing. Why have an organization that can sit in New York and call names, yet will not stop the improper alien intervention in the future of an emerging nation? I think it is a crime that the United Nations will not lift its voice much less its hand in defense of a nation being carved, claimed, and bloodied.

The inactivity of the United Nations in this matter and its unfortunate activity in the area of name calling have seriously undermined the support among the American public. How long it will be before Americans are fed up with an organization that will not fulfill its mission, I can only guess. I would suggest that the United Nations pay attention to the matters of crucial importance for which we entered in the first place. If it will not or cannot do its job effectively, I do not believe the United Nations can maintain any support among the American people.

Mr. Speaker, I insert in the RECORD an editorial and a news item on this subject.

The articles follow:

[From the Providence Journal, Nov. 28, 1975]

LIMIT AID TO ANGOLA

"Secretary of State Henry A. Kissinger's warning to the Soviet Union on aid to the Marxist faction in Angola suggested that the Ford administration has set a limit on detente. Go beyond that limit, Mr. Kissinger seemed to be saying to the Russians, and you may find that the road to detente has been closed.

"But what is the limit on aid to the Angolans? The Russians already have invested heavily in such aid to the Popular Movement for the Liberation of Angola. If their clients appear to be getting the worst of it, the Russians may very well increase the scale of assistance.

"The Americans, for their part, appear to have been supplying the anti-Communist faction, the National Front for the Liberation of Angola. Perhaps the Americans have been a bit more sophisticated about how they did it—funneling arms and other supplies through neighboring Zaire. Should the tide flow against the Front, the CIA or other American agencies would then be under pressure to step up the tempo of their assistance.

"In an escalating confrontation of this kind, Angola might very well become another Congo, but this time without the intervention of a United Nations force. In the Angolan internal struggle for power, or at least for influence, any chance of compromise between the factions is doubtful; they are more likely to wage a fight to the finish, because there is little room for compromise between Communists and anti-Communists.

"Detente originated through a realization in both Washington and Moscow that confrontations between the superpowers were far too dangerous in an age of nuclear missiles. The basic thrust of detente is to reach agreements for cooling off superpower antagonisms and scaling down the level of armaments, so that the world may back away from the brink of nuclear catastrophe.

"The small wars, waged on ideological grounds, constantly threaten the balance that has kept the peace of the world for 30 years. They must not be allowed to upset that balance. Detente offers a road of mutual trade and aid between the superpowers, especially in view of the deficiencies of both Russian agriculture and consumer industry. The product of detente is too valuable to be spoiled by civil war in Angola."

UNITED STATES-SOVIET RELATIONS

The Soviet Union's intervention in Angola will certainly have an effect on relations between Washington and Moscow, a senior American official on Secretary of State Henry Kissinger's plane said yesterday. The official revealed that the Soviets have set up an arms airlift to the newly-independent African state—one of Moscow's most ambitious military projects in history. He added that Cuba has sent 4,000 to 5,000 troops to Angola. The official also disclosed that an American action in July prevented a complete takeover of Angola by Soviet-backed forces aided by Cuban troops. The senior diplomat told reporters that no joint Sino-American strategy for Angola was worked out during President Ford's trip to Peking and that American efforts in the African country were not being conducted with South Africa.

EQUAL JUSTICE FOR NON-ENGLISH-SPEAKING LITIGANTS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. RANGEL. Mr. Speaker, today's Hispanic-Americans are often mistreated within the judicial system. New York City serves as a prime example of these injustices.

Too often we find the sixth amendment rights of the Hispanic community infringed upon. Due to the barriers that Spanish-speaking citizens face as a result of court proceedings being conducted in English, they are oftentimes at a severe disadvantage during the course of their trial. There are not enough interpreters on hand at all times to aid communication within the court. Alienation occurs when Spanish-speaking citizens cannot properly communicate with non-Spanish-speaking citizens.

A report was recently prepared for the New York County Lawyers' Association on the issue of equal treatment under the law. I think its findings underscore the need for corrective legislation. I would like to share with my colleagues this report, which follows:

New York's Criminal Justice System Jeopardizes Rights of Hispanic Defendants

New York City.—The operations of New York's criminal justice system serious discriminate against the city's Hispanic community of two million people and may be unconstitutional in many instances, according to a report issued today (Aug. 18) by the New York City Lawyers' Association.

Prepared by the thirteen-member Special Committee on Penal and Correctional Reform under the chairmanship of Harold Baer, Jr., former chief of the criminal division in the U.S. Attorney's office, the report is a detailed indictment of inequities jeopardizing the constitutional rights of thousands of Spanish-speaking defendans in New York City.

Commenting on the report, Baer said that from arrest through imprisonment, "the Spanish-speaking man and woman in this community and probably in others across the country are severely handicapped. The Committee suggests that much of this treatment may be unconstitutional. Perhaps even more importantly, such treatment cannot help but result in a loss of self-respect, which seems only to spur more criminal activity and recidivism."

Threat of deportation, unnecessary detention, isolation and despair—even suicides—have resulted from the average Hispanic defendant's inability to understand English, the Committee found.

"Since the study was completed," Baer added, "the situation has reached crisis proportions. Due to the city's current financial emergency, the Department of Correction has informed us that all 139 correction aides—many of whom were bilingual—have been discharged. Then earlier this month, the Legal Aid Society, which handles 70% of all criminal defendants in the city, had a drastic personnel reduction," Baer said, "Twenty-four lawyers, and 44 staff members were dropped."

"Immediate financial aid must be forthcoming to restore billingual personnel and make necessary reforms," Baer emphasized. "Otherwise, the intolerable situation described in the Committee's report may alienate irreversibly a majority of the 1,200,000 Puerto Ricans and 800,000 other Hispanic people living in New York City."

The NYCLA study recommends broadscale reforms within and outside the system including:

Investigating the feasibility of Spanish-speaking parts in the courts;

Increased employment of bilingual paraprofessionals, correctional aides, and interpreters throughout the criminal justice system;

Recruitment of more Spanish-speaking students by metropolitan area law schools;

Watchdog committees established by bar associations to monitor and report treatment of Hispanic defendants; and

Priority support by the city administration for the Hispanic Criminal Justice Task Force established in 1973.

In the report partially funded by the BASICS program of the American Bar Association, the NYCLA's Special Committee describes how many constitutionally guaranteed rights are denied to Spanish-speaking citizens. For example, illiterate prisoners who speak only Spanish may not be properly advised of their rights prior to interrogation by non-Spanish speaking police officers. Hispanic defendants must often be jailed rather than released pending arraignment or trial because necessary procedures cannot be completed.

The rights of Spanish-speaking defendants are again in jeopardy during courtroom proceedings. Non-Puerto Rican Hispanics, unaware of how to protect their alien status, often face almost certain deportation.

Bilingual courtroom aides are hopelessly overtaxed. In Manhattan Supreme Court, for example, only nine interpreters are available to handle at least 1,000 new cases each year involving Hispanic defendants—a condition the Committee brands as "manifestly ridiculous." Those defendants who speak only some English are the "real victims," for marginal knowledge is insufficient to provide "anything but a murky understanding of unfamiliar courtroom proceedings.

"If the system is to work equitably," the Committee report concludes, "interpreters must be provided to defendants even when they are not requested specifically . . . defendants should be made to feel that having an interpreter is their right. Further, the City must provide more and better interpreters . . . at every stage of the system."

The unconstitutional nature of pretrial detention practices involving Spanish-speaking prisoners is also detailed. The Board of Correction told the Committee that it estimates 26% of its inmates are Hispanics, but only 5%, or 200 employees, in City prisons speak Spanish. This communication barrier breeds a "sense of isolation and despair," the Committee found, leading to "a disproportionate number of suicides by Puerto Rican defendants."

The problem is "exacerbated enormously in upstate prisons." The Committee found that many Hispanic prisoners were denied access to favorable vocational training programs which might result in well paying jobs on release. Hispanic inmates must use their vocational training time to learn English. That seldom leaves time for the average prisoner, serving a relatively short sentence, to learn both English and a job skill, according to the study.

A special mailing of the report is being made to legislators, members of the judiciary, and law enforcement officers at the Federal, State and local level, as well as to other bar associations and law schools.

"The failure of the criminal justice system to meet the needs of Spanish-speaking men and women is not unique to New York City," Baer believes. "By bringing our findings to the attention of leaders elsewhere, we hope to generate national support for reforms in the criminal justice system which will benefit Hispanics wherever they live in the U.S."

THE CROSS-WABASH CANAL

HON. FLOYD J. FITHIAN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. FITHIAN. Mr. Speaker, many of my constituents are deeply disturbed about the possible construction of a Cross-Wabash Canal to connect the Ohio River with either Lake Michigan or Lake Erie.

Many of these concerned constituents have asked questions about the nature and scope of the Army Corps of Engineers' various projects on the Wabash River and their potential impact on the Cross-Wabash Canal.

Due to this controversy, I wrote the Army Corps of Engineers a letter on October 28, 1975, and recently received their reply. The letter I received from Gen. Kenneth McIntyre was reassuring to those of us who oppose construction of the proposed Cross-Wabash Canal. It is my sincere hope that this letter lays to rest, once and for all, the incorrect notion that the reservoirs in the Wabash River Basin, especially the Lafayette Lake project in Tippecanoe County, are in any way connected with the Cross-Wabash Canal proposal.

Several years ago, the Army Corps of Engineers conducted a study of three alternative sites for a canal to connect the Ohio River with either Lake Michigan or Lake Erie. Although the Corps has stated that it has dropped any plans to construct such a waterway, some citizens are concerned that this project will be completed and that it might need an external water source, namely Lafayette Lake.

General McIntyre correctly reiterated in his letter that the canal project is simply not economically feasible. Furthermore, it is clear the the Corps has no intention of even studying the extension of the canal beyond Terre Haute.

Those who have heard my public statements in the past know that I have consistently opposed this boondoggle, which is what the Cross-Wabash Canal would amount to. As long as I am representing Indiana's Second District, no canal will be built across this district. It is economically infeasible and environmentally unthinkable.

I have consistently opposed anything that would detract from Lafayette Lake's purposes: Flood control and recreation for the people of Tippecanoe County and the surrounding area. Toward those goals, which I believe to be in the best interests of the citizens I represent, I will continue to work.

I would like to share these letters with my colleagues in the House and commend them to your attention:

October 28, 1975.

Mr. Kenneth McIntyre,
Acting Director of Civil Works, U.S. Army Corps of Engineers, Washington, D.C.

Dear Mr. McIntyre: I am writing to you because many of my constituents **and I** share a grave concern about the proposed "Wabash navigation system" and its possible implications for north and central Indiana. Too many questions concerning the proposal remain unanswered.

Several years ago, the Army Corps of Engineers conducted a study of three alternative sites for a "Cross Wabash Canal" connecting the Ohio River with either Lake Michigan or Lake Erie. Although the Corps has publicly stated that it has dropped any plans to construct such a waterway, many of my constituents in the Wabash Basin are understandably concerned that this project eventually will be completed. I share their concern. Therefore, I must ask what factors led to your apparent decision not to build this canal, whether or not the proposal was economically feasible and if you now or at any time plan to recommend the development of this project.

Recently, the Army Corps of Engineers began a study of the Wabash navigation system from the Ohio River to Mt. Carmel, Illinois. The Corps is now expanding this study to include the Wabash River section from Mt. Carmel to Terre Haute, Indiana. Some individuals have hypothesized that this is a piece-meal attempt to reconstruct the original plan for a "Cross Wabash Canal" and I share their legitimate concern about the project. Are there any plans, either currently or in the foreseeable future, to study any part of the Wabash River section between Terre Haute and Lafayette? Are any plans projected to study the river beyond Lafayette, i.e., to Fort Wayne?

If such a canal were constructed, it is my understanding that an "external water source" would be needed to supplement the water level in the canal at the point where the northern and southern drainage slopes meet (the point where water flows north to Lake Michigan and south to the Ohio River). This additional water supply would be needed, I am told, to facilitate the movement of ships across this juncture. One route to Lake Michigan, via the Tippecanoe and Kankakee Rivers, the drainage divide is near the Pulaski and Starke county boundaries. On the route to Lake Erie, via Fort Wayne, the drainage point is near the Ohio and Indiana boundary. Is there any possibility that flood control and recreational rservoir projects, such as Lafayette Lake or Mississinewa Lake, could be utilized to supply the needed "external water supply?" If these reservoirs are not used, what water source would be utilized?

Many local residents in Tippecanoe County and the surrounding area have argued that there is a connection between construction of Lafayette Lake and the ultimate construction of the "Cross Wabash Canal." These citizens believe that during the peak summer days of high temperatures and low rainfall, the proposed canal would need an "external water supply" to maintain its minimum depth of nine feet. To achieve this depth, they say, a series of reservoirs in the Wabash Valley would be utilized to supply the water at the very time that the public would like to use these excellent recreational facilities. Their arguments have raised doubts about the purpose and scope of construction of Lafayette Lake.

I must demand, then, that the Army Corps of Engineers respond to some of the important questions that have been raised about any perceived connection between the Lafayette Lake project and the "Cross Wabash Canal" scheme. Are there any set of circumstances under which the water in Lafayette Lake would be utilized to supplement the water level in any proposed canal system? Would not an act of Congress be required to alter the purpose of the Lafayette Lake project to include water flow to the canal, or to change the physical design of the dam? Indeed, would any canal, if ever constructed, need any "external water supply" from any source?

I am sure you will understand that the public confusion now being spread through Tippecanoe County concerning the relationship or non-relationship of the Lafayette Lake project to any "Cross Wabash Canal" makes necessary the clearest possible statement of the facts. I have sought these facts in the above questions, but because I am not a civil engineer with expertise in canal-building, if other information relevant to a thorough layman's understanding of the situation comes to your attention, I would appreciate your including it in your reply.

Thank you very much for your cooperation in attempting to clarify for a large number of citizens the facts about these projects.

Sincerely yours,

FLOYD FITHIAN,
Member of Congress.

OFFICE OF THE CHIEF OF ENGINEERS,
Washington, D.C., December 3, 1975.

Hon. FLOYD J. FITHIAN,
House of Representatives,
Washington, D.C.

DEAR MR. FITHIAN: This is in response to your recent letter concerning the relationship of "Wabash Basin Lakes" and the "Wabash Navigation System." The questions you pose have been addressed to Corps representatives many times. Therefore, I am pleased to provide answers with the hope that they will then be convincing, to those who have previously raised such questions, as to the relationship of the Wabash lakes and possible Wabash navigation systems.

For some time the Louisville District Engineer, in response to a number of resolutions (6) by the U.S. Senate and U.S. House of Representatives, has been studying a potential navigation system for the Wabash River. Three routes were considered which would have provided a through waterway from the Ohio River to the Great Lakes. One route would have connected to Lake Erie while the other two would have terminated at Lake Michigan. All studies to date have indicated that none of these routes is economically feasible. Consequently, at a Public Hearing at Vincennes, Indiana, on April 23, 1973, the Louisville District Engineer announced that further work would not be done on the through routes. At the same hearing, the District Engineer advised that studies would be continued from the Ohio River upstream to Mount Carmel, Illinois, since a navigation project on that reach appeared to be economically feasible. That work is continuing.

The recent extension of the study from Mount Carmel to Terre Haute is in response to a new, specific resolution of the U.S. Senate Public Works Committee dated May 6, 1975. Terre Haute is the farthest logical upstream terminus on the Wabash River and the Corps of Engineers has no plans for studies of a waterway upstream from that geographical location.

The depth of water required for navigation in the lower Wabash River would be obtained by dams on the canalized portion. The basic water requirements for this potential navigation project, from either Mount Carmel or Terre Haute downstream to the Ohio River, would be that required for lockages. Flows in the Wabash are sufficient to maintain full lockage capability, except in the most extreme drought.

I know there is a persistent rumor that Lafayette Lake and other authorized reservoir projects in the Wabash Basin are planned to support navigation on the river, but it is only that—a rumor. The Corps has no plans and, indeed, there is no demonstrable need for releases from any existing or authorized lakes for navigation purposes. I cannot contemplate any set of circumstances in which water from Lafayette Lake would be used to directly support navigation in the lower Wabash River. Specific legislation to prohibit use of water releases from Lafayette Lake for support of a navigation project on the lower river would have no impact on the feasibility of the potential navigation project being studied.

I expect the Lafayette Lake project to prove to be a most beneficial project for flood control and recreation in the Wabash River Basin. The plan for operation of the reservoir is predicated on those functions. I emphasize, there is no essential linkage between the current navigation studies and Lafayette Lake. I emphasize also that the navigation studies are simply that—studies. They will have full public exposure as they progress.

Sincerely yours,

KENNETH E. MCINTYRE,
Brigadier General, USA,
Deputy Director of Civil Works.

AN AGRICULTURAL VIEW OF THE RUSSIAN GRAIN DEAL

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. HANSEN. Mr. Speaker, Oscar Field, president of the Idaho Farm Bureau, has responded to President Ford's announcement about the Russian trade agreement in a very meaningful way.

Mr. Field, the leader of 19,000 farm families in Idaho, named particulars he felt were wrong with the agreement:

First, government to government trading is wrong in principle because it means sharing world markets on the basis of political determination. This agreement is a precedent for more serious restrictions on farm exports.

Second, the initialing of this agreement only formalized the breach of faith which occurred when President Ford broke his promise made at planting time that farmers would have unfettered access to world markets.

It is obvious that this is a sellout by the Ford administration to the AFL-CIO maritime unions as represented in the higher rates to be paid on grain export shipments which are restrictive in promoting foreign trade.

No one should be misled that the United States-Soviet oil agreement provides any real solution to the energy crisis. It is largely cosmetic. The negotiated Russian oil imports represent only about 1 percent of our total imports.

Mr. Speaker, the text of Mr. Field's statement follows as reported in the Idaho Farm Bureau News of November 1975:

PRESIDENT'S REPORT

(By Oscar Field)

America was founded by and for those seeking liberty and freedom from oppression.

Emerson said, "For of what avail is plow or soil, or land or life, if freedom fail".

What has happened to that great desire for freedom?

It may be that too many Americans have become apathetic. It is much easier to let the government take care of us. More aspects of our lives than ever before are subject to the whims of those who profess to be doing all things for our good.

We are told to buckle our seat belts, hire given percentages of women and minority groups, answer intimate questions on census forms and turn over larger and larger portions of our incomes in the form of taxes to be doled back as supposed gifts.

Environmental and OSHA standards are proposed that border on the ridiculous.

We are being saved from ourselves by the ERA, OSHA, FCC, ICC, NLRB, etc., and now even Mr. Meany has taken the role of protector for all.

What a sell-out! When President Ford announced the initialing of a Soviet Grain Agreement between Russia and the United States, it was a flagrant act of infringement upon the rights of the American farmers. I am angry when I think that George Meany, President of the AFL-CIO, can, through the political power that he holds, force the government to take over more of the trading functions which rightfully belong to private enterprise.

Government-to-government trading is wrong in principle because it means sharing world markets on the basis of political determination.

It is outrageous that Mr. Meany can blackmail the government into curbing the farmers' market in a way that he would never accept for labor. Mr. Meany got his raise for the longshoremen by playing on the emotions of the American consumer under the pretense of being interested in keeping the price of food low. Can't the consumer see that it might be possible that Mr. Meany speaks with "forked tongue"?

Government figures show that labor costs alone for marketing farm foods in 1974 were $46.7 billion as compared with net farm income of $27.7 billion. In 1975, the difference will be even greater as net farm income is expected to drop to the mid 20 billion dollar mark, while food marketing costs keep rising. With such an increase in every area of food production, how can we farmers produce "cheap food"?

It is ironical that the very agricultural products which were the major contributor in paying for the soaring costs of oil imports, which allowed the balance of trade to remain in the black, should become the "whipping boy."

The exchange of oil for grain may be palatable to the consumer, but it provides no real solution to the energy problem. The negotiated Russian oil imports represent only about one percent of our total imports.

It is naive to believe that government interference with the market system in the world markets will stop here. It could very well be the first step to controlled international trade in agricultural commodities and like cancer, it could spread so that no industry would be exempt.

This agreement will not only cause hardships for those farmers and ranchers who trusted the word of the President of the United States with all-out production; but the American consumer will suffer as well.

The Russians, with their controlled agriculture, cannot feed themselves. If our government continues to exploit its farmers, where will America go, in the future, to find its food and what will we trade for it?

NIC CONSOLIDATES AND EVIDENCES FURTHER CUBAN INFLUENCE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. McDONALD of Georgia. Mr. Speaker, the National Interim Committee for a Mass Party of the People—NIC—operating from room 326, 156 Fifth Avenue, New York, N.Y. 10010 (212/243-0591) is a Marxist revolutionary organization supporting the use of "armed struggle"—revolutionary violence and terror—to attain a socialist revolution. On May 13 and 14 and on June 2, 1975, I presented detailed documented reports on this organization to my colleagues, pointing out the NIC's close work with the Cuban-controlled and violence-prone Puerto Rican Socialist Party.

In September leading members of the NIC, including its founder, Arthur Kinoy, traveled to Havana, Cuba, to participate in a meeting called by the World Peace Council, the Soviet Union's chief international propaganda organization. The meeting signalled an intensive international Communist effort to drive the strategically vital American military bases out of Puerto Rico and install eventually a Cuban-style Marxist-Leninist regime in that island.

The National Interim Committee for a Mass Party of the People is working diligently in support of these aims through direct organizing and through the Puerto Rican Solidarity Committee—PRSC—which the NIC operates jointly with the Puerto Rican Socialist Party—PSP.

More recently the National Interim Committee has taken up yet another Cuban-supported cause—that of turning over the U.S. built and owned Panama Canal to the leftist dictatorship of Gen. Omar Torrijos. However, more on that later in this report.

The NIC has been holding meetings of its "political leadership" during the fall to strengthen and centralize control over the chapters, many of which have enjoyed considerable independence during the initial stages of NIC organizing. One such meeting was held in Lancaster, Pa., over the Columbus Day weekend and was attended by about 30 members of the NIC leadership.

The meeting sharpened programmatic and organizational objectives for the coming year, concentrating their attention on the NIC's strategy for the Bicentennial, on development of a national program, and on details of the NIC's internal structure.

The NIC Political Council—PC—renamed from National Interim Committee of the National Interim Committee, a cumbersome and confusing title—reviewed progress made in development of a "'76 strategy" with the National Black Assembly and the Congress of Afrikan People, two organizations controlled by the Maoist Communist, LeRoi Jones who calls himself Amiri Baraka.

The Political Council decided to support the National Black Assembly initiative to present an "anti-Democrat, anti-Republican, anticapitalist electoral campaign spearheaded by a black Presidential candidate." In this connection the NIC's "traveler," Ted Glick, had disappointing news for the NIC from the People's Party convention in St. Louis.

The People's Party, a Socialist "New left" party considered a good recruiting ground by the NIC, decided to replace their formal voting delegate on the NIC's Political Council with "a friendly, non-voting, informal relationship" because of a shortage of funds to attend NIC meetings and because the People's Pary views the '76 Strategy as a "retreat from socialism." Nevertheless, reported Glick, "there were indications that if the '76 Strategy ever got off the ground, many within the People's Party might then be open to involvement."

The Political Council underwent some "criticism/self-criticism" for its failure to accomplish NIC goals in establishing a national program. The PC decided to continue work "in the four areas which had already progressed significantly—domestic repression, food, foreign relations, rights and needs of women." The PC decided to initiate organizing drives around the following issues, "housing, jobs and unemployment, rights and needs of blacks and third world people."

The coordinators for these organizing efforts are:

Arthur Kinoy—domestic repression;
David Holmstrom—food;
Ro Reilly—foreign relations;
Joyce Jed—women;
Ted Overman—housing;
Bob Lewis—jobs;
Martha Schwartz—blacks and third world.

The NIC will also publish a theoretical journal "in which preliminary drafts could be circulated for comment as they were developed." Under Arthur Kinoy's direction, the domestic repression group will draft a pamphlet attacking Senate bill 1, the Criminal Justice Reform Act. S. 1 is opposed by the Communist Party, U.S.A. and most other revolutionary groups as legalizing what they term "major steps toward fascism."

Endeavoring to transform the loose NIC structure into something more nearly resembling Lenin's centralized revolutionary vanguard, the PC adopted new resolutions increasing its power over the NIC.

The political council specifically recognized itself as the official political leadership and chief policymaking body of the organization. The PC is to be composed, in its own words, of:

> . . . individuals representing local groups, individuals whose primary organizations commitment is to building a mass party but who are not part of a local group, and individuals with other organizations commitments who are making a significant contribution to the NIC process. Local group delegates will have two votes on the PC. All other PC members, elected at large *by the PC*, would have one vote apiece. (Emphasis added).

Plainly, the political council will be able to maintain control of the voting majority through its selection of new PC members.

The PC has also decided that its decisions are now binding on the local NIC chapters—classical "democratic centralism" as established by Lenin. The PC strategists cautioned, however, against too sudden and sharp a use of this newly claimed authority, but stated "it was felt that this organizational principle was essential if we are to move forward effectively in confronting real and urgent struggles as a national organization."

Having granted itself these new powers, the political council of the national interim committee decided that the role of the administrative committee composed of political council members based in New York City was responsible for day-to-day leadership in carrying out PC decision and "for making interim political decisions between PC meetings."

The administrative committee is to supervise the national NIC office and recruit four full-time staff people who will in turn be responsible for fundraising, publications, traveling and general office management.

If discipline can be maintained, the NIC may be a very well-funded revolutionary organization. The PC states that—

> Dues are to be a minimum of 1 percent of net income with 25 percent of that going to the national office.

Three types of NIC subgroups were defined:

Local groups—"loose bodies of people talking about but not yet committed to party building."

Organizing committees—"have made the decision to begin building as self-conscious NIC groups."

Chapters—"local groups which have achieved an organizing capability and a composition in compliance with the principles of the Open Letter."

Another meeting of significance was held September 20–21 attended by some 45 NIC supporters and observers from Hartford, Conn.; Boston; Northampton, Mass.; Maine; Vermont; New York; from the NIC national office; the NIC Political Council; and an observer from the Prairie Fire Organizing Committee—PFOC—the above-ground support group for the terrorist Weather Underground Organization—WUO.

The Prairie Fire Organizing Committee includes among its members many former members of the Weatherman faction of SDS who have been staunch supporters of the Cuban Communist regime. It will be recalled that the PFOC group is working with the Cuban-controlled Puerto Rican Socialist Party to plan for massive demonstrations in Philadelphia on July 4, 1976. Both the Prairie Fire Organizing Committee and the Weather Underground Organization itself have said ominously:

> The rulers have set the time for the party. Let us bring the fireworks!

An NIC report on the New England regional meeting noted:

> Shepard Bliss (Boston) presented a view of the NIC position on imperialism. He stressed (1) the importance of anti-imperialist work and its crucial role in building a mass party; (2) the NIC theory and practice around anti-imperialist work—a high level of activity in support of the struggle for Puerto Rican independence and a policy of non-alignment in relation to the Sino-Soviet split; (3) the current crisis of U.S. imperialism as the struggles move closer to home, in particular Puerto Rico and Panama, emphasizing the importance for the North American left to respond to this struggle.
>
> David Holmstrom (Boston) presented an overview of NIC politics, practice and programs. He emphasized that the NIC is an explicitly socialist of revolutionary formation; the importance and autonomous, self-directed struggles (dualism); the anti-imperialist focus; the importance of mass struggle taking the form of a party; and the pivotal nature of the struggles of Black and Third World people and women.

Tensions between the Hartford NIC group and the national office over questions of party building versus local organizing were explored and resolved to some extent in favor of the national office.

The closeness of the National Interim Committee for a Mass Party of the People to the Cuban-backed causes can also be seen in the NIC support for Panama's leftist dictatorship which now claims total jurisdiction over the Panama Canal Zone and the U.S.-built canal.

Castro has given the Panamanian dictator, General Torrijos, his full support. Cuban newspapers and broadcasts report a constant flow of Panamanian officers visiting Cuba for military training.

Puffed up by his Cuban—and Soviet—backers, the Panamanian flyweight dictator has been hinting at starting a Vietnam-style "war of national liberation" to gain control of the strategic waterway. And now the "New Left" fifth column has opened up the initial propaganda barrage.

A few weeks ago a coalition group of "North American anti-imperialists from numerous progressive and radical organizations around the United States," including NIC leader Shepard Bliss, a former U.S. Army officer who now directs the Latin American project at the Cambridge-Goddard Graduate School, spent 8 days in Panama "to support Panama's attempt to regain control of the canal from the United States." No doubt this will require rewriting some history books since Panama has never had control of the U.S. canal and therefore can not "regain" control.

The leftist campaign to hand over the canal to the Panamanian dictator has opened with propaganda articles by Bliss and Steve Karaian, a staffer on Atlanta's radical Great Speckled Bird. The Bliss-Karaian article, September 20, 1975, stated that—

> The participants of the trip are making an organized effort to raise the issue of the Canal Zone around the country.

A Bliss article in the September/October issue of Liberation magazine makes the main points that a guerrilla action will be started if the United States does not immediately surrender the canal to the leftist dictator, and that the main reasons that the United States must turn over the canal are that Torrijos wants to extort huge tolls from the ships using the Panama Canal and that the U.S. military facilities are used to train troops for jungle warfare and that these trained troops "have gone to Indochina, the Philippines, and other third world countries where national liberation has been on the agenda."

Bliss also points out that the U.S. bases pose a threat to Communist subversion and terrorist guerrilla movements such as those the Cubans have been trying to export and support for the past 15 years.

It is also noted in passing that a Washington, D.C., radical long involved in supporting Latin American Marxists recently had a letter published in the Washington Post.

Philip E. Wheaton runs a well-financed National Council of Churches operation called EPICA—the Ecumenical Program for Inter-American Communication and Action—from 1500 Farragut Street NW., Washington, D.C. (202/723-8273). EPICA's offices are also the local headquarters for the Puerto Rican Solidarity Committee—headed by NIC traveler Ted Glick—and for several groups who agitate in support of the deposed Marxist Chilean regime of Salvador Allende, including the Common Front for Latin America—COFFLA—and Non-Intervention in Chile—NICH.

Wheaton's letter, published on October 18, 1975, rephrases the Puerto Rican Solidarity Committee call for a "Bicentennial without colonies," cites the World Peace Council's Havana conference in support of U.S. abandonment of Puerto Rico without, of course, mentioning its Communist sponsorship, and ends with the threat:

> The issues of D.C. statehood, return of the Canal Zone to Panama and Puerto Rican independence will not go away in 1977 when the bunting has come down. These are more than "welcome causes," they are fighting issues and these fights have only just begun.

The challenge to America is unmistakeable. But an informed American public will be able to meet and defeat those forces.

IT IS TIME TO REASSESS THE U.S. RELATIONSHIP TO THE U.N.

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. SYMMS. Mr. Speaker, the United Nations recent declaration that Zionism is a form of "racism" has spawned a number of proposals in this body, aimed at reforming the U.N. into a more responsible institution. Some of these measures amount to mere slaps on the wrist, while others would have the United States temporarily withdraw from the General Assembly or sharply reduce its financial contributions. All of these "cleansing solutions" ignore the U.N.'s true cancer, that is, that the U.N.'s structure and charter are inherently and intentionally flawed. These flaws were designed to insure that the United Nations would never act in the best interests of the free world.

Since its 1946 inception, the United Nations inherent faults include the Orwellian concept that "all nations are equal, but some nations are more equal than others." Hence, the Union of Soviet Socialist Republics has three General Assembly votes while the United States and all other nations have only one.

Mr. Speaker, we must begin to address the disease of the U.N., instead of merely treating its side effects, else the world will continue to slide into a coma of terminal enslavement. Columnist Allan C. Brownfeld drove this point home re-

cently in an excellent article on the U.N. and its structure. The text of Brownfeld's column follows:

It Is Time To Reassess the U.S. Relationship to the U.N.

(By Allan C. Brownfeld)

When the U.N. General Assembly voted to condemn Zionism as a form of "racism" it did much more than express the anti-Israel sentiments of the Arab states and their third world allies. In the long run, it held open to serious question the future existence of the United Nations itself and more particularly the relationship of the U.S. to it.

Many long time supporters of the U.N. in the Congress have been outspoken in their views. Senator Henry M. Jackson (D-Wash.) suggested withholding American aid from nations that voted for the resolution. Another candidate for the Democratic Presidential nomination, Rep. Morris Udall of Arizona, said the vote may result in a "full reappraisal of the United States participation and its role in funding the U.N." Senator Clifford Case (R-N.J.) said the action was "an irresponsible action and a victory for no one." Senator Edward Kennedy (D-Mass.) said the vote compromised the principles on which the U.N. was founded.

It is encouraging to long time critics of the U.N. to see so many of their liberal colleagues finally come to the understanding of that organization's futility. For many years, the U.N. has repeatedly criticized such anti-Communist countries as the Republic of China, South Africa, Rhodesia, Portugal, and Israel. It has expelled Taiwan, imposed a boycott on Rhodesia, and virtually suspended South Africa from last year's session.

This is not to say that there are not valid bases for criticizing any or all of these countries. The real perpetrators of mass murder in the world, however, are never even mildly criticized. No resolutions of censure are aimed at the Soviet Union, Communist China, the satellite nations of Eastern Europe, or the dictatorships of black Africa, for subjugating their own people, eliminating freedom of religion and even the right to leave the country. The Declaration of Human Rights, by which all members of the U.N. agree to live, is regularly violated by most of them. Only the easy targets—such as Israel—ever have their shortcomings publicly discussed.

The United Nations is a memorial to the utopian thinking of Americans who refused to learn anything from the example of the League of Nations. After World War II, Franklin Roosevelt was so determined to create a U.N. that he gave in almost immediately to the demands of the Soviet Union which made it clear—from the beginning—that such an organization would inevitably fail.

Governor James H. Byrnes, who later served as Secretary of State under President Truman, accompanied President Roosevelt to the Yalta Conference where the matter of the creation of the U.N. was discussed.

Mr. Byrnes found that Roosevelt "was more interested in the establishment of the U.N. than in any other item on the agenda." Soviet leader Josef Stalin wanted full membership status for the Ukraine and Byelorussia. Both are Republics of the Soviet Union, meaning that Stalin was clearly asking for three votes for the Soviet Union in the General Assembly. Governor Byrnes believed strongly that it was a mistake to give in to the Soviet Union on this demand. However, according to Byrnes, Mr. Roosevelt told him that his objection to the Soviet demand "might endanger the adoption of the resolution—concerning the organization of the U.N.—by the Soviets."

Thus, the Soviet Union received three votes to one for every other member state, including the U.S. From the very beginning, the U.N. was flawed by the unreasonable demands of totalitarians and the acquiescence in those demands by the U.S. Government and by the Free World.

The U.N. has not been a force for peace but, instead, has supported terrorists and has refused to take any action against violence. The attitude of the U.N. toward international terrorism was made clear when, in January, 1975, Secretary General Kurt Waldheim permitted the Viet Cong to open an office in Geneva. The U.N. has welcomed PLO leader Yassir Arafat and has encouraged terrorism in Southern Africa. Dr. John Roche, former national president of the Americans for Democratic Action and a long-time supporter of the U.N., now concludes that, "To put it bluntly, the U.N. has been taken over by a coalition of anti-democratic nations . . . The last time I looked the U.S. was putting in about a quarter of the money, to say nothing of the choice of location and other perks. Now I don't like anti-democratic organizations, but I am prepared to accept their existence—so long as I don't pay for their fun and games."

As early as 1946, William Henry Chamberlin, writing in *The Freeman*, noted that, "The very expression, United Nations, is a misnomer, because of the deep divisions of ideology and national interest by which the world is divided. To expect the U.N., given these differences and given its archaic and unrealistic Charter, to point a clear united lead in time of crisis is to expect swift action from a Tower of Babel."

Since its creation, the U.N. has spent more than $4.7 billion of the U.S. taxpayers' dollars. In 1972, Congress limited annual U.S. payments to 25 per cent of the U.N. budget, down from 30 per cent. The 25 per cent figure is still the highest of any nation. The Soviet Union's payment is 12.9 per cent—when it pays. Of the 134 U.N. members, 92 are in arrears more than $200 million. More than one half of this indebtedness is owed by the U.S.S.R. and its client states.

It is high time for the U.S. to reconsider its relationship with the U.N.—both political and economic. Perhaps the vote on Zionism will make clear to liberals what conservatives have known for some time—that an organization containing within its ranks the world's totalitarian and aggressive states can hardly protect the democratic and peaceful from them. Those who thought that the U.N. was the world's "best hope" for peace have been proven wrong. We must now act upon that understanding.

BUT WHO WILL REGULATE US?

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. DERWINSKI. Mr. Speaker, I am supporting President Ford's proposals for deregulating American business. The argument for reduced regulation is well made in the Chicago Tribune editorial "But Who Will Regulate Us?" on December 7, and I would like to bring it to the attention of the Members:

But Who Will Regulate Us?

The strongest opposition to the Ford administration's cautious moves toward deregulating business is coming from a curious source—businessmen who fear they might lose the comforts of regulation.

Businessmen have been generous in their praise of free enterprise and their denunciation of regulation, particularly of pricing and delays of decisions. Yet now, as the prospect of greater freedom comes closer to reality, many who were talking a good deregulation game seem to be changing their tune.

As one administration economist has noted, regulatory reform often seems to mean "get rid of the regulations I don't like, but keep the regulations I do like." In other words, free enterprise is good for "everybody else but myself."

The President has proposed reduced regulation in a number of areas, but primarily in transportation and broadcasting. Objections by air lines, trucking companies, and broadcasters may delay action on the legislation. Action should proceed.

When all the catch phrases are swept away, the objections really mean that regulated companies are afraid of each other. They do not particularly want more competition from within their existing industries, and they certainly don't want any new competitive elements added.

Regulation is almost as old as time. It certainly was a target of Adam Smith's theories of laissez-faire economics in the 18th century. There are few who suggest that total laissez-faire can work in today's complicated world.

But neither should businessmen, of all people, be afraid of the free market. On the contrary, they should be urging Uncle Sam to give back some of the power he has taken away. The public interest may require some government oversight of important industries, but less is better than more.

Regulation certainly should not be maintained simply because industries feel more comfortable or protected with it than without it.

Overzealous regulation reduces competition and the price benefits that would thereby accrue to the public. It can reduce innovation. It reduces individual initiative by prescribing transactions that can or cannot take place. It increases taxpayer expense through subsidies and through the cost of the regulating mechanical process. On top of all this is the tremendous business cost of complying with regulations—a cost that falls on the public in the end.

But the greatest disadvantage of regulation is that it transfers the power to make business decisions from business to the government. Imperfect as the market system is, it does force business at least indirectly to heed the preferences of consumers and to alter its decisions accordingly. The auto industry's move away from big cars and toward compacts is an illustration of this. And this after years of being told that it is the public that responds to the auto companies, not the other way around.

Too often, government regulators answer to no one but themselves—not to the President, not to Congress. And the public interest is often so bogged down in an agency's paperwork that a decision, when it finally emerges, is useless.

A perfect example was the proposed merger of the Chicago, Rock Island, and Pacific Railroad with the Union Pacific. In the 12 years the case was ensnarled in Interstate Commerce Commission bureaucracy, economic conditions were so changed that the Rock Island went bankrupt. Who was served by the process? Certainly not the Rock Island. The public? Hardly. It was denied the benefits of the improved service the original business decision would have provided.

Businessmen who cringe at the thought of reduced regulation aren't very good historians and their economics may be in question as well. If they'd use a shoulder to take on a greater share of the responsibilities of the market system, they wouldn't need one to cry on.

PORT OF LONG BEACH A SCENIC SUCCESS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. ANDERSON of California. Mr. Speaker, the city of Long Beach, in southern California, owns and operates one of the world's busiest and most modern commercial harbors in the world. However, Long Beach is equally proud of the fact that its harbor is also one of the most attractive and environmentally sound ports in operation.

Recently, a visiting group from Russia's Merchant Marine Ministry expressed amazement at the harbor's physical beauty, saying that they had never seen a port like it anywhere in the world. Flowers, trees, waterfalls, and scenic walks coexist in perfect harmony with all the commercial activities of a harbor that have in many cases led to esthetic blight.

Long Beach has simply decided that there is no good reason for a harbor to be ugly—and they have done an excellent job of proving that point. Beautification projects are an important part of port development. Long Beach Harbor, like nearby Los Angeles Harbor, is totally self-sufficient, and is a major moneymaker.

At this point, I would like to enter the following newspaper article in the Record from the Long Beach Independent Press-Telegram—December 1, 1975—which describes the efforts of the Port of Long Beach to maintain environmental and scenic quality:

"Park" Environment Wins Praise for L. B. Harbor

(By Mary Ellis Carlton)

"Long Beach harbor is so clean and beautiful it is more like a park," said Ivan V. Poberezhniy, deputy chief of shipping and port operations for Russia's Merchant Marine Ministry.

He was one of six Russians touring all major U.S. ports, including Los Angeles. Long Beach was the last stop.

"None of us has even seen such a port—anywhere in the world," Poberezhniy said.

It's not the first praise the port has received for its environmental quality.

As well as emerging as a leader in world commerce, the port has been cited for protecting its waters and its 11.25 square miles of land, most of which once was ocean.

It has received the President's "E" award for excellence in export activities, and in 1973 won the American Association of Port Authorities' first special award for environmental enhancement and protection, beating out 80 ports in North, South and Central America.

Almost every day, visitors—be they from Helsinki or Hawaii, Bombay or Bermuda—lavishly praise the beauty of the almost entirely man-made complex.

Most never have seen a waterfront where flowers bloom next to cargo terminals. Or where lavishly landscaped scenic drives unfurl like green ribbons through the maze of coke storage sheds, grain silos, oil wells, banana conveyor machines, petroleum terminals and storage yards.

And where else can one find a harbor with a shoreline promenade, complete with waterfall and reflector pool?

"That's our most recent beautification project," said George M. Seufert, the tall and reserved director of part maintenance.

A harbor department employee for 21 years, he believes petunias, eucalyptus and fresh paint can—and should—coexist with cranes, tanks and railroad tracks.

Now being added are long stretches of landscaped walkways where ocean lovers can watch the romance of the sea unfold before them.

Seufert estimates the first phase of the promenade—extending along the water from just north of the Quiet Cannon to Panorama Drive—will be completed by Christmas.

The decoratively lit walkway will enable pedestrians to cross the Queensway Bridge and walk among landscaped surroundings to the Quiet Cannon, the Queensway Hilton or the Reef Restaurant.

"All the construction work, except for 65 feet of walkway and the bridge over the reflector pond and waterfall (by Adolph's at the Queensway Hilton), is now complete," he said.

Later, the promenade will be extended in both directions, along the shoreline past the Queen Mary and to the far end of Pier J, with a fishing area or two along the way.

Still to come is the landscaping of Harbor Scenic Drive northwesterly from Panorama Drive to El Embarcadero Drive, along the Pier J bank of the Los Angeles River, and later, from there to Anaheim Street.

The harbor maintenance department keeps six full-time gardeners busy planting and maintaining oleander, fan palms, eucalyptus, clivia, gazanias—and any other type of trees, shrubs or ground covers which thrive on salt air and landfill.

Almost all the port is landfill. Dredging began at the turn of the century, when Long Beach was principally a lumber port.

It since has grown into the largest and most prosperous market place in the western United States, last year serving more than 100 steamship lines and 2,500 ships and processing 23 million tons of cargo.

Through its period of rapid growth, the port has attempted to fit comfortably and positively into the city's environment.

"But we were so busy growing and solving the subsidence problem that we didn't have a chance—until recent years—to go full scale into landscaping and beautification of the area," Seufert said.

"Maintenance for so large and diverse an area is a continuous program . . . an endless task."

The department has two $60,000 vacuum sweepers which wash, scrub and vacuum petroleum coke and coal dust—or whatever—from bulk loading terminals and other areas.

A unique oblong harbor cleanup boat, the "Big Dipper," designed and built for the port, combs the harbor for logs or other debris which it scoops up and destroys ashore. The ship is so unique that its plans have been given to other ports.

Tests conducted regularly over the past 20 years, have shown that harbor water quality has remained consistently above the standards prescribed by the Regional Water Quality Control Board. Kelp and starfish flourish.

The harbor department's concern for the environment has proved infectious. There are none of the decaying docks, rat-infested warehouses, oil slicks or unsavory flotsam and jetsam usually associated with waterfronts.

Sea-land has extensively landscaped its headquarters. Sunkist Growers keeps its three warehouses spruced up with orange, lemon and lime-colored paint. Southern California Edison's decorative walls and shrubs screen its facilities.

And the Harbor Department recently earmarked $82,000 for sprinklers, landscaping, screening and other beautification projects at its new maintenance yard under Desmond Bridge.

All this costs local residents nothing, according to Seufert.

"The Harbor Department is completely self-supporting. It hasn't had any tax monies or tidelands revenues for 10 years," he said, adding:

"Which, I'm sure, makes the oleanders, petunias, pedestrian walkways and parklands look even more beautiful."

ELEVEN BILLION DOLLAR SUBSIDY OF SYNTHETIC FUELS IS UNWISE

HON. PHILIP H. HAYES

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. HAYES of Indiana. Mr. Speaker, I wish to draw to the attention of the full House of Representatives a letter which I signed with 31 of my colleagues announcing our opposition to a $6 billion synthetic fuels loan guarantee program added to the Energy Research and Development Administration Authorization by the ERDA Conference Committee. The administration has requested as vital for the success of the program over and above the $6 billion loan guarantees, $4.5 billion in price supports, $600 million in construction grants and $450 million in aid to impacted communities. We are therefore faced with a total price tag which is almost double the amount authorized in section 103 of the ERDA authorization!

Below is the letter which expresses our arguments against this program:

Attention: $11 Billion Subsidy of Synthetic Fuels

Congress of the United States,
House of Representatives,
Washington, D.C., December 4, 1975.

Dear Colleague: We are writing to urge you to vote against the Conference Report on the Energy Research and Development Administration Authorization because it includes sections 102 and 103—providing an in situ oil shale demonstration project, leasing provisions and a $6,000,000,000.00 loan guarantee program for synthetic fuels development. These sections were added by the Senate, with no hearings and little floor debate. The Conferees accepted the sections.

The principal reasons for opposing the add-on are:

1. *The House is being deprived of the opportunity to work its will on this program*—which is comparable in magnitude to the TVA project—by its adoption in the Conference. No floor amendments are possible. It may not be possible to have a separate vote on Sections 102 and 103. If no separate vote is possible we must defeat the whole report, sending it back to the Conference with the understanding that we want the synthetic fuels program separated from the ERDA authorization. This could be completed before Christmas.

2. The *$6,000,000,000.00 program distorts our energy priorities by promoting expensive new fuels rather than emphasizing conservation of energy*. The loan guarantees are for the development of synthetic fuels—especially gasification of coal and development of oil shale—even though these technologies are not proven and uneconomical. Authorization to use the guarantees for solar and geothermal development was added at the last minute by the Conferees. Based on past

ERDA experience it is clear that no more than a pittance of the authorization would be used for the development of these clean, renewable energy resources.

3. *The full environmental consequences are not known.* Strip mining, disposal of spent shale, urbanization, air and water deterioration, legal battles over scarce water resources, construction of roads and support facilities, increase incidents of cancer due to the effusion, are all anticipated consequences.

4. *The Program's costs are ballooning.* Loan guarantees *will cover* the cost of *constructing* the plant, but price supports will be required to market the expensive fuels. The Administration has requested as vital for the success of the program over and above the $6 billion loan guarantees, $4.5 billion in price supports, $600 million in construction grants and $450 million in aid to impacted communities. We are therefore faced with a total price tag which is almost double the amount authorized in Section 103.

We are advocating that the program receive a thorough study under separate legislation by both Houses of Congress according to established legislative procedure. Thus we encourage you to vote to separate sections 102 and 103 (if we are given the chance to do so on the floor) or vote against the conference report on the ERDA authorization.

William L. Armstrong, John M. Ashbrook, Les Aspin, Max Baucus, Michael T. Blouin, Phillip Burton, Lawrence Coughlin, John D. Dingell, Bob Eckhardt, Floyd J. Fithian.

Donald M. Fraser, Bill Frenzel, Philip H. Hayes, Robert W. Kastenmeier, Robert J. Lagomarsino, John Melcher, Norman Y. Mineta, Patsy T. Mink, Anthony Toby Moffett, John E. Moss.

Richard L. Ottinger, Henry S. Reuss, John H. Rousselot, James H. Scheuer, Patricia Schroeder, John F. Seiberling, Harley O. Staggers, Gerry E. Studds, Charles A. Vanik.

RADICAL CHIC REVIVE THE FORTIES

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. McDONALD of Georgia. Mr. Speaker, on November 9 the Committee for Public Justice, CPJ, held a $100-a-ticket benefit dinner and "entertainment" at New York's Circle in the Square Theater to honor writer Lillian Hellman, 70, who founded the CPJ 5 years ago.

Some 250 guests at Gallagher's Steak House heard MIT President Jerome Wiesner lead the tributes to Hellman, whose CPJ, working closely with the American Civil Liberties Union, ACLU, is a principal contributor to the current sustained attack on the Federal Bureau of Investigation's internal security operations.

The expensive evening of food and entertainment—the entertainment consisted of readings from Hellman's 12 plays and two books—was able to raise $35,000 to enable the Committee for Public Justice to continue its work of dismantling the country's internal security defenses and discrediting the FBI.

The press, which made the CPJ fund-raiser national news, characterized Lillian Hellman for the public as one who "suffered through the McCarthy era and prevailed," and as "America's most famous woman playwright."

Not mentioned was the fact that Lillian Hellman had joined the Communist Party, U.S.A., CPUSA, in 1937. In testimony before the House Committee on Un-American Activities in 1952 she said that she had left the CPUSA around 1950. She refused, however, citing her fifth amendment privilege against self-incrimination, to specify a date and would not answer questions about her separation from the Stalinists. Nor would she discuss her CPUSA activities nor those of any of her comrades.

It is difficult to see what Miss Hellman "suffered" other than apprehension at what the HCUA investigators had discovered about her activities on behalf of the Soviet, German, and American Communists, and an embarrassed red face at public disclosure of her red politics.

Four years after her appearance before the House Committee on Un-American Activities, Lillian Hellman's name was included in the Senate Internal Security Subcommittee's list of the 82 most active and typical sponsors of Communist front organizations.

However, now in 1975 the CPJ is characterized in the press as "a civil liberties organization," and no mention is made of its founder's service to the Communist Party which is hardly a "civil liberties" organization. The press, People, of November 24, 1975, and the New York Times, November 7, 1975, for example, quote from Hellman's statement of loyalty to her Communist Party comrades made before the HCUA that she would not "cut her conscience to fit this year's fashion."

Not surprisingly, Hellman has her third book ready for publication next year by Little Brown & Co. entitled "Scoundrel Time." Said the New York Times:

> Her new book is written from her point of view, as a victim and as an observer of McCarthyism.

In plain English, it is an attack on public exposure of Communist subversion.

So impressive was the guest list that it seems that the "radical chic" have decided Black Panthers are passé and are including the Communist Party in its nostalgia fad.

Among the celebrities rushing to pay Hellman homage were Jacqueline Kennedy Onassis, Stephen and Joan Kennedy Smith, Leonard Bernstein, Warren Beatty, Candace Bergen, Jane Fonda Hayden, Mike Nichols, Sidney Lumet, and the Washington Post's award winning Watergate reporter Carl Bernstein who last December was presented with the Tom Paine Award of the National Emergency Civil Liberties Committee, a cited Communist front long involved in efforts to discredit America's internal security defenses.

A SIMPLE GLOSSARY OF LEGAL TERMS

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. HUNGATE. Mr. Speaker, Punch of November 12, 1975, provided a sample glossary of legal terms which may prove of enormous benefit to consumers as they are about to reap the harvest of all that the advertising industry can do for them when they go to law.

The material follows:

A SIMPLE GLOSSARY OF LEGAL TERMS

(By Miles Kington)

Appeal: Legal version of double or quits.

As your Lordship well remembers: Hint by a barrister that he is about to refer to a completely forgotten and, possibly, imaginary case.

Bail: A surety so large that it may even exceed a lawyer's fees. Many lawyers are said to fall down and worship bail.

Barrister: One who agrees to commit perjury in return for money. One who speaks the language of the law (see Law). At this very moment, 50% of all working barristers are engaged in commiting perjury in legal language; to do them credit, they lead otherwise quite normal lives and do not let it weigh on their conscience for a minute.

Bresler: One who seeks to turn legal language into English in return for money.

Capital Punishment: The system of killing a criminal to ensure that he does not repeat his crime. The pros and and cons have been so often argued that there is nothing left to say about it, except the little-known, conversation-stopping fact that the first European country to ban it was Liechtenstein (1798).

Conspiracy: When the authorities feel sure that someone has done something wrong but are not sure what, they arrest him on a charge of conspiracy. It is the legal embodiment of the English dislike of people who are too clever for their own good.

Costs: The amount of money needed to bankrupt an acquitted person.

Criminal Law: One that no government in its right mind should ever have passed.

Damages: What is left over after the lawyers and the courts have taken their share.

Edgar Lustgarten: One who dramatises legal language in return for money; one who has noticed that lawyers' statements are not copyright.

Fine: If a defendant is adjudged to have made money by illegal methods, he is often punished by being fined, that is, by being forced to watch the state enjoy his ill-gotten gains.

GBH: George Bernard haw. A misprint.

Hung Jury: In the bad old Victorian days, the jury was occasionally taken forth and hanged if it could not agree.

In Camera: Private showing of pornographic films.

Jury: Cornerstone of British justice; the right of any shifty, half-witted, scheming villain to be judged by his peers.

Law: The language spoken by lawyers. Also, the attempt by Parliament to define the difference between right and wrong, a question which has stumped the greatest philosophers of all time.

Letter of the Law: A document written on thick vellum, with illustrated initial letters, wrapped in best pink ribbon and costing sums of money beyond the Post Office's wildest dreams.

Legal Aid: If a barrister is too poor to get his own cases, the state will provide them for him free of charge.

Libel: An uncomfortable home truth, which it is fortunately illegal to publish.

Mackenzie's friend: An unpaid legal adviser, and therefore an abhorrence to the law. Also, a Scottish homosexual.

Non volenti fit injuria: No legal glossary would be complete without at least one Latin phrase. This one means: "No-one in the aircraft was hurt."

Oath: Method of allying perjury to blasphemy.

Precedent: A trick which has been tried before, successfully.

Queen's Proctor: An officer of the law whose job is to prevent young gentlemen climbing over the walls of Buckingham Palace after midnight.

Res ipsa loquitur: Another Latin phrase, for good measure. It means: "The thing speaks for itself." Anything that speaks for itself is an abomination in the sight of the law. It should pay a lawyer to speak for it.

Respect, With: Hint that a barrister is about to be disrespectful.

Signed, Sealed and Delivered: An example of lawyers being paid threefold for what is only one job. We may be sure that it was a lawyer who devised hanging, drawing and quartering.

Slander: A kind of character assassination which is forbidden among the general public but much enjoyed by judges when giving judgment.

Solicitor: One who panders for business, e.g. one who writes to a celebrity and points out that he may have been libelled in a recent articles in *Punch* and with luck they may get a few quid out of court.

Sub judice: A method of restricting comment on a matter of public interest until it is too late.

Subject to Contract: A legal admission that an Englishman's word is anything but his bond.

Taking silk: Much like taking lead or copper but not half so cumbersome.

Tort: See "Puddy tat."

Under Appeal: Second helpings of sub judice.

Vic causa, vix necessitas: Latin phrase meaning that having a good reason to do something is not necessarily good enough in law. It has never been used in English law, for the simple reason that we have just made it up. How many lawyers among our readers spotted that?

Wherefore: Meaningless word used by solicitors to introduce other meaningless words.

Xanadu: Place where Kubla Khan decreed a stately pleasure dome. That was before he applied for planning permission, of course.

Yes, My Lord: Witty rejoinder by barrister to judge.

Zub Judice: Restricted comment during West Country trial.

ERDA REQUESTS $4.5 BILLION IN PRICE SUPPORTS FOR SYNTHETIC FUELS PLANTS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. DINGELL. Mr. Speaker, in order that the Members will know what the Energy Research and Development Administration will seek next if the $6 billion loan guarantee, section 103 of H.R. 3474, is approved by Congress, I bring to your attention the full text of ERDA's October 22, 1975 proposal.

It calls for an authorization of $4.5 billion in price supports and $600 million in construction grants as added incentives. Thus, $6 billion is only the beginning. When we vote this week on section 103, we will in reality be voting for more than $11 billion to the oil and gas industry. The ERDA letter follows:

U.S. Energy Research and Development Administration
Washington, D.C., October 22, 1975.

Hon. Carl Albert,
Speaker of the House of Representatives, Washington, D.C.

Dear Mr. Speaker: Transmitted herewith is an Energy Research and Development Administration (ERDA) proposal in the form of a draft bill "[t]o authorize the Energy Research and Development Administration to provide price guarantees and construction grants for a synthetic fuels commercial demonstration program, to authorize appropriations for these guarantees and grants in accordance with the Energy Reorganization Act of 1974 and the Federal Nonnuclear Act of 1974 to establish an Assistant Administrator for Synthetic Fuels in the Energy Research and Development Administration, and for other purposes." The authority to provide price guarantees is pursuant to the requirements of Section 7(c) of the Federal Nonnuclear Research and Development Act.

The proposed legislation would authorize ERDA to provide Federal assistance in the form of price guarantees (i.e., the producer would be paid the difference between a base price and any lower market price for the synthetic fuel) and construction grants for a commercial demonstration program to produce synthetic fuel from coal, oil shale, and other domestic energy resources. The creation of a synthetic fuels industry, which would be facilitated by the commercial demonstration program, is essential to help meet the Nation's energy needs in the next several decades and reduce the Nation's dependency on imports of oil. The incentives provided by this legislation, in conjunction with the loan guarantee incentives of Section 103 of S. 598 currently under consideration by a Committee of Conference, could lead to the commercial demonstration of synthetic fuels before 1985. Enclosure 1 sets forth the draft bill and Enclosure 2 sets forth a section-by-section analysis of the draft bill.

The Administrator of ERDA would be authorized, under the Federal Nonnuclear Energy Research and Development Act of 1974 except to the extent otherwise provided in the proposed legislation, to provide price guarantees for synthetic fuel products of a limited number of commercial demonstration plans which have been constructed as a result of this Federal assistance program. The upper limit on all price guarantees authorized under the proposed legislation would be $4,500,000,000, which we feel would be adequate to cover any payments for price guarantees that might occur over the 25–30 year probable life of the program. A revolving fund would be created within the Treasury for the purpose of supporting the price guarantee program. If at any time the monies in the fund are insufficient to enable the Administrator to discharge his responsibility under price guarantee agreements, authority is provided to the Administrator to issue notes or obligations to the Secretary of the Treasury, subject to such terms and conditions as the Secretary may prescribe, to obtain the funds necessary to make immediate payment to guarantee holders. The authority to borrow from the Treasury would be limited to a specified amount to be authorized in an Appropriation Act. A proposed Appropriation Act which will specify the borrowing authority amount as not to exceed $1,000,000,000, outstanding at any given time, will be transmitted to the Congress consistent with the Budget Reform Act upon the passage of this authorization bill. Should any obligations be issued, subsequent repayment to the Treasury would be made by the Administrator by seeking specific appropriations from the Congress.

The borrowing authority of the Administrator is a convenient mechanism to provide funds promptly as needed to pay any future price guarantee obligations while still recognizing that such payments are difficult to estimate and will probably not occur until the 1980 and later timeframe.

Actual price guarantee payments are anticipated to be significantly lower than the requested authorization (i.e., $4,500,000,000), because of probable increases in the world price of oil. However, the Administrator must be in a position to make payments that may be needed if the price falls below the agreed price levels. The proceeds of the debt issuance would be to make any required price guarantee payments. The authority would not be used for any other purpose. Until such appropriation provision is enacted, the price guarantee authority requested herein would not be utilized.

Additionally, the proposed legislation would authorize the sum of $600,000,000 for the purpose of providing grants for financing construction project costs of commercial demonstration facilities constructed for the purpose of converting coal, oil shale, and other domestic energy resources into synthetic fuels. We anticipate that an appropriation will be requested to cover the full $600,000,000 authorized for construction grants. The Synfuels Interagency Task Force Report to the President's Energy Resources Council has identified as an essential incentive to a successful commercial demonstration program for production of synthetic fuels the ability to provide construction grants for a portion of the initial construction capital requirements for certain categories of potential projects. Specifically, this incentive would be particularly useful in aiding electric utilities, whose debt financing to provide capital for the construction of a new synthetic fuel facility is subject to regulatory limitation.

The legislation would require that Congress receive a complete report on each proposed project involving price guarantees or construction grants, prior to the ERDA Administrator approval of a project. No action could be taken thereon by the Administrator for 30 days thereafter.

The creation of a synthetic fuels program assisted by these incentives would require the establishment of a new organizational component to conduct the program. For this purpose, the bill would also amend the Energy Reorganization Act of 1974 to add another Assistant Administrator in ERDA at Executive Level IV who would be responsible for the synthetic fuels commercial demonstration program, and authorize the Administrator to appoint an additional officer at Executive Level V as a deputy.

The comprehensive report referred to above by the Synfuels Interagency Task Force to the President's Energy Resources Council has evaluated the environmental impact and economic aspects of the proposed program. The draft environmental impact analysis which was prepared during the development and consideration of this program within the Executive Branch will be released for the information of Congress and public comment in accordance with guidelines of the Council on Environmental Quality. Site-specific environment statements covering individual projects carried out pursuant to the program will be issued before the projects are accepted.

The inflationary impact of the commercial demonstration synthetic fuels program has been evaluated by the Executive Branch. This evaluation has determined that the inflationary impact of this program is not substantial.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's programs to the submission of the draft bill for consideration by the Congress and it is consistent with the Administration's objectives.

Sincerely,

ROBERT C. SEAMANS, Jr.,
Administrator.

H.R. —

A bill to authorize the Energy Research and Development Administration to provide price guarantees and construction grants for a synthetic fuels commercial demonstration program, to authorize appropriations for these guarantees and grants in accordance with the Energy Reorganization Act of 1974 and the Federal Nonnuclear Energy Research and Development Act of 1974, to amend the Energy Reorganization Act of 1974 to establish an Assistant Administrator for Synthetic Fuels in the Energy Research and Development Administration, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SECTION 101. (a) It is the purpose of this section to authorize Federal assistance in the form of price guarantees and construction grants for a commercial demonstration program to produce synthetic fuels from coal, oil shale, and other domestic resources which, in conjunction with other Federal assistance incentive programs, will lead to the production of an equivalent of one million barrels of oil per day.

(b) (1) The Administrator of Energy Research and Development (hereinafter, the Administrator) is hereby authorized, in accordance with the provisions of the Federal Nonnuclear Energy Research and Development Act of 1974 (88 Stat. 1878, 42 U.S.C. 5901 et seq.) except to the extent provided in this Act, to provide price guarantees for the synthetic fuel products of commercial demonstration facilities which convert coal, oil shale and other domestic energy resources into such synthetic fuel products: Provided, that the total amount of such price guarantees shall not exceed $4,500,000,000, and that the authority to provide guarantees shall expire September 30, 1982. Prior to issuing any such guarantee, the Administrator shall obtain the concurrence of the Secretary of the Treasury as to the timing and substantial terms and conditions of the guarantee.

(2) The Administrator shall submit a complete report to the appropriate committees of the Congress on any proposed project involving price guarantees for synthetic fuel products authorized by this section, which report shall include the estimated amount of the total price guarantee for such project, and no price guarantee shall be finalized prior to the expiration of thirty calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the date on which the Administrator's report is received by the Congress. Specific authorization shall not be required for price guarantees for individual projects if such guarantees are from funds authorized by subsection (b) (1) of this Section.

(3) Individual projects receiving price guarantees authorized by subsection (b) (1) of this Section shall be subject to the applicable provisions of the Federal Nonnuclear Energy Research and Development Act of 1974, except that subsections 7(c) (3), 7(c) (5) and 7(c) (6) of such Act shall not apply to price guarantees authorized by subsection (b) (1) of this Section.

(c) (1) There is hereby created within the Treasury a separate fund (hereafter called "the fund") which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purpose of subsection (b).

(2) There are authorized to be appropriated to the fund from time to time such amounts as may be necessary to carry out the purposes of subsection (b). All amounts received by the Administrator or assets derived by him from his operations in connection with subsection (b) shall be deposited in the fund.

(3) All expenses as appropriate, including reimbursements to other government accounts, pursuant to operations of the Administrator under subsection (b) shall be paid from the fund. If at any time the Administrator determines that monies in the fund exceed the present and any reasonably prospective future requirements of the fund, such excess may be transferred to the general fund of the Treasury.

(4) If at any time the monies available in the fund are insufficient to enable the Administrator to discharge his responsibilities under price guarantee agreements authorized under this Section, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. This borrowing authority shall be effective only to such extent or in such amounts as are specified in appropriation acts and shall be available without fiscal year limitation. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other monies available under subsection (c) (2). Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act and the purpose for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(d) (1) There is hereby authorized to be appropriated to the Energy Research and Development Administration $600,000,000 for the purpose of providing grants for financing construction project costs of commercial demonstration facilities for the conversion of coal, oil shale, and other domestic energy resources into synthetic fuels, and the Administrator is hereby authorized to make such grants; provided that authority to make such grants shall expire September 30, 1982.

(2) The Administrator shall submit a complete report to the appropriate committees of the Congress on any construction grant to be awarded pursuant to subsection (d) (1) and no grant may be made prior to the expiration of thirty calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the date on which the Administrator's report is received by the Congress. Specific authorization shall not be required for construction grants for individual projects if such grants are made from fuels authorized by subsection (d) (1) of this Section.

TITLE II

SEC. 201. (a) The first sentence of subsection 102(d) of the Energy Reorganization Act of 1974 is amended by deleting the words "six Assistant Administrators" and inserting in lieu thereof "seven Assistant Administrators," and adding after "fossil energy," the words "another for synthetic fuels."

(b) The first sentence of subsection 102(f) of the Energy Reorganization Act of 1974 is amended by deleting the word "eight" and inserting in lieu thereof "nine."

(c) Subchapter 11 (relating to Executive Schedule pay rates) of Chapter 53 of Title 5, United States Code, is amended as follows: paragraph (100) of Section 5315 is amended by deleting "(6)" and inserting in lieu thereof "(7)"; paragraph (135) of Section 5316 is amended by deleting "(8)" and inserting in lieu thereof "(9)."

SECTION-BY-SECTION ANALYSIS

Subsection 101(a) of the bill states the purpose of this section, which is to authorize Federal assistance in the form of price guarantees (i.e., the producer would be paid the difference between a base price and any lower market price for synthetic fuels) and construction grants for commercial size demonstration facilities which produce synthetic fuels from coal, oil shale, and other domestic resources which, in conjunction with other Federal assistance incentive programs, would lead to the production of an equivalent of one million barrels of oil per day.

Subsection 101(b) (1) authorizes the Administrator of Energy Research and Development (hereinafter the Administrator) in accordance with the Federal Nonnuclear Research and Development Act of 1974 except to the extent specifically provided in this bill, to provide price guarantees for the synthetic fuel products of the commercial demonstration facilities which convert coal, oil shale and other domestic energy resources into such synthetic fuel products. The total amount of such price guarantees shall not exceed $4,500,000,000. The authority to enter into new price guarantees would expire on September 30, 1982. Concurrence of the Secretary of the Treasury is required as to the timing and substantial terms prior to issuing a guarantee. Specific authorization would not be required for price guarantees for individual projects if such guarantees are from funds authorized by this subsection.

Subsection 101(b) (2) requires the Administrator to submit a complete report to the appropriate committees of Congress on any proposed project involving price guarantees authorized by this section for synthetic fuel products. No price guarantee agreement shall be finalized prior to the expiration of 30 calendar days (not including any days on which either House of Congress is not in session because of adjournment of not more than three calendar days to a day certain) from the date from which the Administrator's report is received by the Congress.

Subsection 101(b) (3) provides that individual projects receiving price guarantees, authorized by subsection (b) (1) shall be subject to the provisions of the Federal Nonnuclear Research and Development Act of 1974 except that subsections 7(c) (3), 7(c) (5), and 7(c) (6) of that Act would not apply to price guarantees authorized by this section. Subsection 7(c) (3) basically provides for bids from interested parties to determine the minimum amount of Federal price support needed to construct a demonstration facility. Subsection 7(c) (5) in effect provides for a single Congressional authorization of the full estimated amount of price support for a project selected. Subsection 7(c) (6) requires specific Congressional authorization before any price support program is implemented.

Price guarantees for synthetic fuels authorized by this section have been exempted from the above noted support provisions of the Federal Nonnuclear Research and Development Act. A 12–15 plant synthetic fuel commercial demonstration program has been developed in order to achieve, during its first phase, 350,000 oil equivalent barrels/day of production capacity before 1985. This objective could not be met unless this limited commercial demonstration program is authorized intact. This program necessitates a different procedure for implementing price guarantees than contained in the noted subsection 7(c) of the Federal Nonnuclear Research and Development Act.

The proposed procedure of subsections 101 (b) and (c) is consistent with the procedure for loan guarantees for commercial demonstration synthetic fuel facilities contained in the ERDA Fiscal Year 1976 Authorization Bill (Section 103 of S. 598), as passed by the Senate. Since the synthetic fuel commercial demonstration program involves the use of multiple incentives, i.e., price guarantees, loan guarantees and construction grants either individually or in combination, a consistent procedure to consider competitive requests for either one or more of these incentives for specific projects has been selected and incorporated into subsection 101 (b) and (c). This is generally consistent with the wide array of financial incentives provided under Section 7 of the Federal Nonnuclear R&D Act.

Subsection 101(c) creates, within the Treasury, a revolving fund which is to be available without fiscal year limitation. Subsection 101(c)(2) authorizes appropriations to the fund in such amounts as may be necessary to carry out the program. The purpose of the fund pursuant to subsection 101(c)(2) is to serve as a conduit to receive monies which may be appropriate to the fund or which may accrue to the Administrator in conducting this program. Expenses as appropriate, such as the payments to the holder of price guarantees, pursuant to subsection 101 (c)(3) are to be paid from the fund. It is contemplated that these expenses would not include normal agency operating costs, such as salaries of personnel who are administering the program. Should the Administrator ever be required to fulfill obligations payable under price guarantee agreements, and the fund is insufficient to cover such obligations, authority is provided by subsection 101(b) (4) for the Administrator to issue notes and other obligations to the Treasury. This authority will be requested in the form of an appropriation act subsequent to favorable Congressional action on this proposal. This approach is consistent with the Budget Reform Act. Should any obligations be issued, the Administrator would seek specific appropriations to reimburse the Treasury. The Administrator would be authorized to borrow up to the total outstanding amount which amount would be specified in an appropriation act. The Secretary of the Treasury would be authorized by subsection 101(c)(4) to purchase the notes or other obligations issued by the Administration as a public debt transaction under procedures which are standard in other Government guarantee programs.

Subsection 101(d)(1) authorizes $600,000,000 for the purpose of providing grants for financing construction project costs of commercial demonstration facilities for the conversion of coal, oil shale and other domestic energy resources into synthetic fuel; provided that authority to make such grants shall expire September 30, 1982. Generally, construction project costs for synthetic fuels facilities would include costs such as the costs incurred for land, construction, interest or other debts during construction, initial start-up expenses, etc.

Subsection 101(d)(2) would require the Administrator to submit a complete report to the appropriate committees of the Congress on new construction grants to be awarded pursuant to subsection (d)(1), and no agreement shall be finalized prior to the expiration of 30 calendar days from the date from which the Administrator's report is received by the Congress. Specific authorization shall not be required for construction grants for individual projects if such grants are made from funds authorized by this section.

Subsection 201(a) would amend the Energy Reorganization Act of 1974 to add one new Assistant Administrator in ERDA for synthetic fuels. This Assistant Administrator would be appointed by the President, by and with the consent of the Senate.

Subsection 201(b) would amend the Reorganization to add one more officer in addition to the Assistant Administrator who could be appointed by the Administrator as the Deputy Assistant Administrator for Synthetic Fuels.

Subsection 201(c) would amend the Executive Schedule pay rates so that the new Assistant Administrator for Synthetic Fuels would be an Executive Level IV and the other additional officer would be an Executive Level V.

ACADEMY OF MOTION PICTURE ARTS AND SCIENCES OPENS NEW HEADQUARTERS

HON. THOMAS M. REES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. REES. Mr. Speaker, today, on Monday, December 8, 1975, the Academy of Motion Picture Arts and Sciences officially dedicates its new headquarters in Beverly Hills. The new seven-story facility, which is located in my district, represents the culmination of nearly a decade of efforts on the part of the academy's president, Walter Mirisch, the board of governors, and the membership. It is the first time in the 48-year history of the academy, a nonprofit organization, that all of its facilities have been located in one building under its own ownership.

The new building will serve as the planning headquarters for the many activities of the academy and its 3,800 members representative of the most talented men and women in the various divisions of the film industry. It contains an 1,111-seat theater, an 80-seat screening room, a major film industry research library, the players directory used for casting purposes, and administrative offices.

The Samuel Goldwyn Theater will be used by the academy's members to screen works in an ideal film-viewing situation. All aspects of the theater's design, including the screen, seat placement, sound system, acoustics and projection room have been custom-designed to make this theater the finest possible facility for screening films. The theater will be able to accommodate every presently anticipated technological advance in the art of filmmaking for at least a quarter of a century. For example, the sound system of the theater anticipates the use of multichannel true-fidelity movie sound in the future, and has made provisions for it. The theater is also equipped to handle stereophonic sound, as well as quadraphonic—four channel—quintaphonic—five channel—Sensurround, Todd-AO and other six-track systems, and other sound innovations yet to come.

The projection equipment is equally advanced, and will show 16-, 35-, and 70-millimeter films and includes the flexibility to add such exotic advancements as projecting holograms—three-dimensional images. Equipment is in place that will permit showing of all film formats ranging from television proportions to wide-screen dimensions.

The Margaret Herrick Library occupies two floors of the building and contains more than 9,000 books, 500,000 still photographs, 2,000 posters, and files on approximately 40,000 motion pictures, representing almost every American theatrical release since 1915. Generally acknowledged to be the most complete film-related library in the world, its facilities are available without charge to the membership of the academy, students, press, studio research departments, and the public.

The academy brings together some of the most creative and talented people in the motion picture industry who are continuously working to bring the public the best possible entertainment on film. The academy sponsors the annual Academy Awards Presentation, publishes a Players Directory for motion picture and television casting officers, also publishes the Screen Achievement Records Bulletin, sponsors student film awards and scholarships to aid and encourage students of the motion picture in universities and colleges, and presents seminars and film retrospectives.

Through the annual Academy Awards Presentation, only one of the many projects carried out on a year-round basis, the academy has attained worldwide prestige and has provided a powerful incentive for producers, directors, writers, actors, cinematographers and other artists and craftsmen to strive for increasingly higher achievements. The chief aims of the awards for artistic achievement are to raise the standards of motion picture production culturally and technically, and to dignify the film medium.

Mr. Speaker, I include the text of the Christian Science Monitor article of November 7, 1975, in the Record at this point in my remarks:

Hollywood's New Treasure Chest

(By Curtis J. Sitomer)

Beverly Hills, Calif.—Do you know how Archie Leach launched his professional career? Or what Ruby Steven's favorite food is?

You don't care? Perhaps you would if you realized that Archie Leach is really Cary Grant and Ruby Stevens is Barbara Stanwyck.

People fascinated by Hollywood's "real" names, details of celluloid careers, cast and credit sheets, production files, theatrical profiles, and publicity clips now can glean almost everything there is to know about the silver screen in the Academy of Motion Picture Arts and Sciences new depository here.

Due for formal dedication in early December, "Oscar's" reading room numbers more than 9,000 books, pamphlets, and periodicals about the movie industry—spanning almost a century of filmmaking. Academy president Walter Mirisch tabs the collection the "most complete film-related library in the world."

And Librarian Mildred Simpson stresses that movieland data isn't kept here merely for those who are tingled by tinsel. The new library, like a smaller facility elsewhere which housed Hollywood memorabilia before it, will cater to serious students of the arts, university scholars, researchers, and movie brass. It is part of a $4.2 million just-built academy complex which also houses an acoustically designed, futuristic "preview" theater, screening rooms, and administrative offices.

Mr. Mirisch points out that the public generally thinks of the academy only in terms of its annual Hollywood spectacular, the nationally televised and much-promoted awards presentation in the spring.

But he stresses it also sponsors student prizes and university scholarships, presents seminars and film retrospectives, publishes a host of periodicals (including a players directory and credits bulletin for motion picture and television casting offices), and maintains an outstanding research collection.

Even before its official opening, Mrs. Simpson's team of librarians is fielding an avalanche of queries about films ranging from "Birth of a Nation" to "Jaws."

The academy's chief book collector says there is a current concentration of movie research on women and minorities in films and on so-called "B" pictures of the 1940s and 1950s, mainly westerns.

She adds that there is also a renaissance of interest in the careers of the late stars Humphrey Bogart, Rudolph Valentino, Clark Gable, and Carol Lombard.

"But Judy Garland is probably the alltime favorite," Mrs. Simpson says.

Types of films most in demand now, reference staffers say, are whodunits and disaster spectaculars such as "Earthquake" and "Towering Inferno." They add that interest in sports-related scripts has greatly abated.

Among specialty items in the academy library here are a collection of Mack Sennett comedy scripts, and scrapbooks of famed movie columnist Louella Parsons. Highly valued color-splashed posters of Mary Pickford as "Mistress Nell" and of Douglas Fairbanks are among academy collectors' favorites.

And movie trivia buffs, librarians point out, impress each other with data on former First Lady Pat Nixon's abbreviated career as a studio "extra" in the 1930s, lists of ex-California Gov. Ronald Reagan's "western" credits, and Allied Artists' early production days under the name of Monogram Pictures.

Then there's Academy Award winner Reginald Truscott-Jones who starred in "Lost Weekend" under the assumed name of Ray Milland. And Big, blustering Marion Morrison who few would dare call anything other than "Duke" or John Wayne.

The new facilities of the Academy of Motion Picture Arts and Sciences will benefit filmgoers throughout the country. Therefore, I urge my colleagues to share my enthusiasm and join with me in acknowledging the academy's valuable contributions to the motion picture industry, and recognizing that this new building represents a continuation of its many services to its members, the motion picture community and the public at large.

SAVE THE (POST) MARK

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. PICKLE. Mr. Speaker, times change and with them certain attitudes. I realize that as we become more and more urbanized, fewer and fewer people can identify with the folklore and romance of the small rural post office.

But that romance and folklore still live and many of us still have a soft spot in our hearts for the community post office.

Many of us fear the demise of these institutions because of the tight-fisted money management policy that sometimes seems to permeate the Postal Service Corporation.

Winston Bode is a respected print and media journalist in central Texas and indeed the United States. Recently, his newspaper column caught the essence of what many of us feel about our post offices. His column features an interview with Mr. Max Noe, an individual who has served the public faithfully for 39 years. Max Noe is the kind of postal employee that brings human kindness to an incredibly massive job.

This column appeared in the Hill Country News on December 4, 1975, in Mr. Bode's "Capital Talk" column.

The article follows:

SAVE THE (POST) MARK

One of the nightmares of Big Government has been its messing with the U.S. post office. It was one of the ironies of the Nixon Administration that it pitched appeals to America's heartlands, and at the same time set up machinery to kill the shade tree community post office.

The aim of the postal reorganization act of 1970, for which we can thank both Democrats and Republicans, was to make postal revenues and expenses match by 1984. The old Post Office Department was abolished and replaced by a quasi-governmental agency that could float its own bonds. No longer did Congress appropriate all postal money for operating expenses, with the revenue flowing back into the U.S. Treasury.

The new U.S. Postal Service was designed along corporate lines to be a paying proposition. U.S. citizens became customers to the post office.

Consolidation and regionalization became the order of the day. For the sake of efficiency, whole bunches of towns were lumped together in "sectional centers." The post mark of an individual city became a thing of the past. It was the beginning of the period in which if you mailed a letter to your lawyer downtown, it went into bureaucratic orbit and circled the county for about three days by truck.

We do not want you to think depersonalized mass-production techniques are coming to an end at the post office. But postal veteran Max Nce, who was ending an interim postmastership in Austin the day we talked to him, and who has 39 years of service in the U.S. mails business, says there is a ray of hope.

"I think they've about decided they made a mistake," said Noe. "I believe they've decided we are a service, not a business."

Specifically, he was referring to an alarm spreading through the land that the community post office had to go.

No more pulling up to the store, at Hye, Texas—if you lived in the Hill Country—and parking your pick-up truck full of feed while you went in and got your mail, then chatted with the front porch crowd about how much damage the hail had done to the peaches and oats.

"There ain't no way we're in one fell swoop gonna close 12,000 post offices—that is, all the fourth class offices and a few third class ones," said Noe, talking about news reports of some phase outs of little community post offices.

"Now, it's easy for me to say, 'Spicewood, Texas, don't you worry,' but I am not personally alarmed that we are going to have mass shut-downs. The post office won't shut down an installation just because it isn't paying its own way. A community post office doesn't pay for itself. But before we'll shut one down we have to be sure certain guidelines are adhered to. For one thing, we've got to think of the postmaster. What do we do with a postmaster if he's had 25 years of service? We can't just let him go. There's got to be a vacancy in that job.

"Also, we have a policy of not closing down a post office unless there are fewer than 25 customers. We can consider it if the government can't find a suitable place in the community—if the owner where there's a post office wants to turn a grocery store into an antique shop.

"And if we shut down a post office, we must be able to provide equal or better service to the customers, say, through a rural route. After all, there's a floating post office that goes right by their door."

Noe said another condition for closing a community service is that a postal facility must be available to the customers within six to 10 miles from the community.

"If all these conditions are met, then we'll think about shutting down a third or fourth class post office," said Noe. "But you can see we've got some pretty tight guidelines to follow—almost too tight."

What did he mean?

"We have one post office that serves 11 customers. And they all drive into a town every day that's six miles away. It costs us four or five thousand dollars a year to keep that post office open."

But Noe agreed there are political and emotional angles to consider against fiscal management standards in the post office business.

"People who are born and raised in a small community—when they lose their post mark, they lose their identity," he said.

It is true most "Bug Tussle" type post marks are disappearing.

"But we are backing off from having no geographic post mark," Noe said. "We are returning to the regional mail processing center post mark."

Which, in the days of agri-business, corporate farming and televised bank tellers, is something. 1984 isn't here yet.

THE INFORMATION CHALLENGE: WILL CONGRESS BECOME OBSOLETE?

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. PHILLIP BURTON. Mr. Speaker, certainly one of the most critical issues facing the Congress today is our need for information about the wide range of matters that affect our ability to legislate effectively and promptly to meet our Nation's needs.

The importance of having information available to us expeditiously and accurately is highlighted in this most important address by the Honorable CHARLES ROSE of North Carolina, chairman of the Ad Hoc Computer Subcommittee of the Committee on House Administration.

I hope my colleagues will read with care his recent address before the Government/Industry Conference of the American Institute of Industrial Engineers, held at the International Inn in Washington, D.C., on December 3, 1975.

The article follows:

The Information Challenge: Will Congress Become Obsolete?

(By Charles G. Rose III)

Good afternoon and thank you for inviting me to be your luncheon speaker today. I see some familiar faces from my visit with you last June, and it is good to be back with you today.

We who are connected with computer operations frequently get credit for the wonderful efficiency computers have brought to our departments and agencies and other units of government. Of course, we also get blamed when a keypunch operator makes an error and a program goes askew. But hopefully none of you have a problem like the one I read about recently in a classified advertisement in the Saturday Review. Here it is:

"Computer error has resulted in 600,000 Declaration of Independence medallions with likeness of King George instead of Thomas Jefferson. Would like to dispose of entire lot quietly. Write Box T.J."

Well, that's a mistake in keeping with the Revolutionary spirit of the Bicentennial, but I'm sure that neither King George nor Thomas Jefferson would have envisioned the electronic revolution that is taking place in our Governmental affairs today.

Even in the Congress—supposedly the last bastion of resistance to change—that spirit prevails, because we are finally realizing that we have to mobilize information sources to our advantage.

For if we fail, the question of Congress becoming obsolete will not be merely an academic one.

Harlan Cleveland of the Aspen Institute at Princeton says that in America we have taken our eye off the ball. The sense of destiny and the sense of mission which have been common American feelings for 200 years, have become weakened. Political assassinations, Vietnam, Watergate, the inability to feel safe on familiar streets, the sudden shrinkage of the American dollar, disclosures of international intrigue, the impairment of our environment because of our industrial growth, unemployment and inflation, the shortage of fuel, the incertainty of global politics—each might have led to self doubt. Coming together as they have in recent years, these events have produced a feeling that the strength of American power cannot even protect us at home.

If we accept the premise that we have taken our eye off the ball, the next question is: Who shall refocus our sense of direction?

I have on doubt that someone or something will come along to point the way. But if we are to continue to have a democratic form of government, the Congress must play a leading role in the process. I don't think I am being over dramatic in saying that the future of our democracy rides with the response we can produce. So let us ask, how can we refocus our sense of direction?

The Declaration of Independence states the justification for governments: "to secure these rights" of Life, Liberty, and the Pursuit of Happiness.

While our Founding Fathers did not spell out precise rules, we can try to set certain priorities. Mr. Cleveland suggests four priorities which I find illuminating.

First, we need a sense of welfare, a belief that we have at least the minimum standard in material living. We need to have what our society thinks of as enough.

Second, we need a sense of equity, a feeling that we are being treated fairly, with justice, as compared to others in similar situations.

Third, we need a sense of achievement and a belief that the group to which we belong is making progress and moving toward mutually decided on goals.

And, finally, we need a sense of participation and the belief that we can help decide what our goals are. We need to feel that we can influence the basic decisions that affect our lives and on which our welfare, equity and achievement depend.

Now, Congress is like a human being. It has limbs and organs, attitudes and prejudices, feelings and needs. As a body it, too, requires a sense of welfare, equity, achievement and participation. And our inability to function smoothly may be indicative of the fact that Congress has taken its eye off the ball. But, in terms of the information challenge, we are only just beginning to define what that ball looks like.

A SENSE OF WELFARE

Let's look at that first basic need of a human being—a sense of welfare, a belief that one has enough.

In the Congress, as many of you know, we are lagging far behind the Executive Branch in the use of computer technology. Currently, we have only 7 operational computer systems on Capitol Hill, while the Executive Branch has over 7,000.

Seven thousand to seven is a sizeable gap, not to be filled immediately—and maybe not at all. How many systems are "enough" for the Congress to feel a sense of welfare?

We already have an Electronic Voting System for use in Congressional votes. This has saved valuable time, insured accuracy, and won unanimous approval from the users. Our Bill Status Office tracks every legislative action in the House and Senate and provides short cuts for staff investigators unheard of before the 93rd Congress.

The Library of Congress has 5 databases on-line with a 6th to be added soon, and the House Administration Committee has recently authorized Members to allocate $1,000 a month for computer services. Commercial databases can be rented and a tie-up with the Library of Congress system is free.

How much is enough? Adding 6,993 computer systems to the Congress will make us equal to the Executive Branch, but will it make us more efficient? I doubt it. Besides, random additions of new technologies doesn't insure anything but wholesale rejection. What we need to consider is not *how many* systems, but *which* systems.

A SENSE OF EQUITY

The second basic need of Congress is a sense of equity—a belief that we are being treated fairly and with justice.

Of course, the question of justice can be a relative one, but we can assume that Congress wants *not* to be measured by some universal standard, but to be compared with other government branches.

We would like a sense of equity when dealing with the Federal Budget. In the past, the Executive has written the budget, altered functional categories, sent the package to the Congress, lobbied for sections it thought important and waited for a reaction, all the while further confusing us and those we represent with impoundments, recissions, and deferrals.

The Congress, when it receives the Budget document, divides it up among various subcommittees. When these groups report to the full Congress, we usually accept their recommendations. In most of our actions, we are looking at the trees and not the forest. And all too often the whole does not equal the sum of the parts. It is not a very efficient way to evaluate how our tax money will be spent or how we determine priorities.

In a search for a sense of equity, we are looking toward several new alternative operating methods. One is our new Budget Committee, which is blowing the whistle when we tend to increase some favored program by ignoring the consequences of the effect on the entire budget. Its members are making us look at the forest. And we are asking the Executive Branch to be fairer with us in terms of information turnover and relevant background information.

We are feeling stronger in our investigative abilities thanks to improved information, and we are accepting our strength as it relates to committee reports and the power of approval. We are asking the Executive Branch and the CIA and big labor and agribusiness to listen to what we say. We demand a listening ear and a tolerant reception of our ideas. Veto after veto seems unjust to most of us. We represent the people of this country, and we want to be heard.

A SENSE OF ACHIEVEMENT

Our third basic need is a sense of achievement, a belief that the direction in which we are going has purpose and that meaningful progress is being made. Cries about a do-nothing Congress and the impotence of the legislative branch have hurt our ego. Remember, I said that the Congress is like a human being, and we have feelings, too.

In an attempt to curb the sense of budgetary inequity, the Congressional Budget and Impoundment Act of 1974 was passed to establish the Congressional Budget Office. Dr. Alice Rivlin is director of the CBO and she and her staff are utilizing several econometric models as well as other fiscal, budgetary, and program-related data systems. In addition, a 5 year projection must accompany each proposed expenditure. For the first time, the Congress will have the ability to consider the Federal Budget independently of the Executive Branch, and we can set our own budget priorities within a coherent whole.

In an attempt to add foresight to the Congressional mind, we have also outlined several goals. Our sense of achievement is approaching as we proceed in a general direction toward them.

We envision a "situation room" for the Congress accessible to House Members and Senators in which graphs and charts and computer terminals would be available for instant examinations of federal revenues—where they were going and where they were coming from—every single day.

We want the Executive Branch to send us the budget in better machine-readable format so that we do not have to spend months reprogramming it for the various committees.

We want to have the same banks of information available to us that the Executive Branch has. They use consultants from all over the world; they talk with business leaders about future trends and future projections. They confer with scientists and economists so that they can predict changes in the international scene. Our sense of failure has been due to our lack of knowledge. We lurch from crisis to crisis, frequently reacting instead of acting. We want to change that. We want to feel that we in the Congress have an understanding of, an anticipation for, impending crises. And we want the knowledge inherent in the information related to those problems.

In early September, Senator John Culver and I sponsored the first Congressional Seminar on the Future. Alvin Toffler and members of a citizen committee called the Ad Hoc Committee for Anticipatory Democracy spoke to us in a day of exploratory sessions about futurist technology and long-range planning.

We were reminded that we need to spend some time looking at what our goals for the country are, that there are experts in every field all over the country who would like to help us.

Dr. Jay Forrester of M.I.T. was on the Hill in late September talking about his model of the American socio-economic system. The possibilities of his research are astounding, and would be most useful to the Congress.

If we could make a trial run of some of our proposed legislation in the model and learn its potential effect without spending huge sums of money and perhaps wasting valuable time, we would be far along in our ability to govern with integrity these United States.

We do not want to be thought of as a do-nothing Congress. We need a sense of achievement. The record will show that we have been one of the most active in many years. And in several informational areas, we believe that we are moving forward, making progress and directing our energies toward a meaningful goal.

A SENSE OF PARTICIPATION

Finally, our fourth priority is a sense of participation. We want to believe that we are influential in the decisions that are made. We want to feel that we have some control over our destiny. We want to restore our sense of mission.

And this we cannot do alone. We are dependent on the President, on the Supreme Court, on big and small business, on our constituents at home. The major issues need to be expressed with some clarity; the national goals should be stated with our help; the country's direction should have our input. We are the voice of the people. Their voices should be heard through ours.

Seven thousand new computer systems will not satisfy this basic need. Information will not solve the problem of apathy. If we are to keep our eyes on the ball, we must be allowed to play the game. And part of that game will involve making the rules.

I will admit that the electronic game is a new one, that times are hard, that change is rapid and we are threatened with obsolescence. But I believe the Congress will survive, can survive, must survive because it is our only truly representative branch of government. And the fulfillment of its basic needs will be directly related to the fulfillment of our national needs.

A NEW DRUG CRISIS

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. RODINO. Mr. Speaker, for several months I have been deeply concerned by the inadequacy of the Federal response to the rapid increase in the availability of hard drugs on the streets of our cities.

My original concern stemmed from the decision of the Turkish Government to reinstate the cultivation of opium poppies, and my serious reservations that the Turkish Government had the capacity or desire to prevent the diversion of these opium poppies into illicit channels.

That situation, coupled with the increasing flow of brown heroin from Mexico to this country, has produced a drug crisis which far exceeds that which was experienced by this country in the early 1970's.

This morning's New York Times described the illegal narcotics traffic as the "worst here in 5 years" and the article cites the belief of many drug experts that the "Turkish-French connection is back in business in Europe, and that the crop will show up here this winter."

In October of this year the President's Domestic Council issued its White Paper on Drug Abuse, which included a number of thoughtful recommendations to alleviate the drug problem. I am hopeful that the administration's review of this document will soon be completed and that the President will personally assume the responsibility of developing a coordinated, coherent, and effective Federal drug policy.

I wish to insert into the RECORD at this point a copy of the New York Times article, and I am hopeful that my colleagues take the time to review the grave situation described in this article:

ILLEGAL NARCOTICS TRAFFIC IS WORST HERE IN 5 YEARS; MORE HEROIN AND COCAINE ARE REACHING CITY THAN AT ANY TIME SINCE 1960'S—OPEN STREET SALES COMMON

(By Selywyn Raab)

New York is experiencing its worst illegal narcotics trafficking in five years, according to high law enforcement officials.

Narcotics investigators believe that not since the late 1960's have such large supplies of heroin and cocaine been smuggled into the city by drug dealers. Moreover, these investigators say that open street sales are a common sight in Harlem and the East Village.

In addition, heroin overdose deaths apparently are rising this year—a grim sign that the addict population may be increasing.

Among the factors in the increase in narcotics trafficking here, law-enforcement officials say, are the recent emergence of major black and Hispanic narcotics rings and cutbacks in the Police Narcotics Division here.

"It's wide open again," said Sterling Johnson, the city's special narcotics prosecutor. "We've got more heroin than ever before. The quality has increased and the price has stabilized. From the reports I get, it looks like we're right back where we were in the late 1960's."

A Federal drug enforcement official, Michael J. Costello, agrees that heroin and cocaine problems in the metropolitan area are "escalating."

"We had a leveling off around 1973 and it appeared that the action was down compared with the peak years of 1969 and 1970, but it is starting to climb again," said Mr. Costello, deputy chief of intelligence for the New York office of the Drug Enforcement Administration.

In Harlem, Gregory Hutchins, a narcotics rehabilitation worker, said: "I've never seen it the way it is now. Walk up Eighth Avenue and you can hear the pushers calling out brand names."

An investigation of the current drug situation here by The New York Times has found that during the last year the following major changes have occurred:

Control of the illicit narcotics trade has shifted significantly from the hands of the Mafia, to new black and Hispanic importers and dealers. The Mafia still retains a sizeable, if reduced, role in drug trafficking. City police and Federal agents believe that the old bosses could make a comeback with the resumption this year of opium cultivation in Turkey.

One example of the expanding black underworld influence in narcotics trafficking is the reported establishment of a group of Harlem-based drug dealers, known as the Council of 12. Few details are known about this group, which was reportedly organized to oversee the heroin business in Upper Manhattan.

Black and Hispanic importers and distributors nudged the Mafia out of its dominant position partly because of their success in establishing ties with Mexican and Asian heroin suppliers following the Turkish Government's ban on opium growing in 1973. The Hispanic dealers also are deeply involved in cocaine trafficking from Latin America.

Dismissals and realignment of personnel in the Police Department's Narcotics Division have led to a 20 percent decline in narcotics arrests this year by that unit. Consequently there has been reduced pressure on narcotics operators at all levels.

Police officials project more than 1,000 ovedose deaths this year from various drugs—the highest total since 1969. This steep rise may be attributed partly to an increase in addicts and partly to the availability of stronger heroin.

OPTIMISM MISPLACED

Only two years ago many drug-enforcement officials believed that New York's narcotics problems, especially heroin addiction, were waning. The optimism was based on Turkey's decision to ban the growing of opium poppies, which are the source of heroin; the convictions of several important Mafia narcotics figures, and the growth of narcotics rehabilitation programs.

In 1973, although there was a large but undetermined number of drug abusers, wide-open street sales had become rare and heroin supplies appeared to be drying up.

Officials said that the situation began to change last year when black and Hispanic dealers, who had previously relied on the Mafia for their supplies, organized their own heroin networks from Mexico and the Golden Triangle in Asia, Thailand, Burma and Laos.

From laboratory analysis of narcotics seizures here, the police have determined that about 65 percent of the heroin now sold in the city is from Mexico and 35 percent from Asia.

According to Federal sources, some black dealers are purchasing large quantities of heroin in individual deals involving hundreds of thousands of dollars in Asia and Mexico. Some black drug organizations supervise the entire distribution process, from smuggling to "milling" or the packaging of heroin, and the final street sales, Federal investigators say.

The police and Federal intelligence reports indicate that the black and Hispanic operators pushed aside the Mafia without any bloody gang wars.

OLD DONS JAILED

"The old dons like Vincent Papa were going off to jail in the early 1970's and at the same time the Turkish-French connection was cut off," one Federal agent explained.

"The younger Mafia guys have a lot of other good things going for them and, right now, they don't seem interested in narcotics or narcotics wars. They can sit back and wait for the Turkish crop. They know the ropes in Europe and they can always get back in if they want to."

During the last two years, Federal agents discovered that Hispanic drug dealers, especially Cubans, had succeeded in establishing ties with Mexican heroin suppliers. The illegal cultivation of opium increased in Mexico following the Turkish Government's restrictions on the legal farming of that crop.

"It was easier for the Hispanics than the Mafia to open up the Mexican market," one Drug Enforcement Administration official said. "They had the language and cultural ability to gain the confidence of the Mexicans. The Hispanic dealers in this area are not as experienced or as well organized in heroin as the blacks or the Mafia. But it certainly looks like they want a piece of the pie."

On the streets today, addicts have made the "brown" Mexican heroin a sought-after product. It has gained a reputation among users for being stronger than white Asian or Turkish heroin.

Recent confiscations in the East Village of "Mexican brown" packages prepared for street sales found heroin contents of 30 percent, an unusually potent level. Most of the Asian white heroin sold elsewhere in the city normally has a drug content of about 5 percent or lower, according to police laboratory tests, with the remainder consisting of milk powder, quinine or other dilutants.

HIGH HEROIN CONTENT

The heroin level has been known to fall below 2 percent of the total two-grain (0.0046 of an ounce) "bag" or package used by the typical addict.

Police officials are uncertain why the Mexican heroin is being marketed with such a high heroin content, since a higher level of the drug in a typical $8 "bag" means a lower profit for wholesale distributors.

"It might be inexperience among new dealers," said Arthur C. Grubert, intelligence chief in New York for the Drug-Enforcement Administration. "Nobody gives it away for free."

In Harlem, the recent growth of black narcotics rings reportedly was a major factor behind the formation of the so-called Council of 12. Law-enforcement officials believe that it was organized to regulate drug trafficking and to prevent violence among competing groups.

Intelligence experts also have been told by informers that the council was set up to punish "cowboys," or outsiders, who attempt to rob or kidnap members of existing narcotics groups.

According to these intelligence reports, the council's organizational meeting was held last year in the Gold Lounge, a since-renamed restaurant on Seventh Avenue near 123d Street.

ITALIANS ARE EMULATED

"The council seems to be trying to emulate the Italians in the way of settling matters," one high-ranking Federal official said. "But there is no finely structured organizational plan with chiefs, lieutenants and soldiers, like the Mafia.

"We don't believe that they were set up to fight whites for territory," the official continued. "We think they wanted a game plan to avoid violence among themselves. They don't want any cheating on narcotics deals and they don't want payoffs in counterfeit money, something that has happened. It's a group that sets the rules and that can punish anyone who disobeys."

The police and Federal intelligence agents said they were uncertain of the full membership of the council. But, law-enforcement authorities said they believed that the council's ranks consisted of six major drug dealers. They are Leroy Barnes; Robert Stepeney; Steven Monsanto; Frank Lucas; James Lofton and Stanley Morgan.

Four other dealers who may have gained membership are: James Hughley; Jasper Crossland; Joseph Osborne and William Mathis.

All 10 have been arrested on various charges but none has been convicted of a major narcotics charge. Police officials say that it is difficult to obtain indictments against major dealers because they make illegal business arrangements only with their most trusted lieutenants, and almost never personally handle major narcotics transactions.

In the face of this narcotics upsurge, felony arrests by the Police Department's narcotics division have dropped this year by 20 percent.

Last summer when four low-level dealers were shot to death in Harlem, there were reports of an impending struggle for power among rival heroin networks. Many in police intelligence believe, however, that the victims were killed because they were suspected of being police informers or because they had spoiled heroin supplies through improper handling.

Murders among "pushers" and customers also is common, detectives said.

1,324 ARRESTS MADE

In the first nine months of this year the division made 1,324 arrests compared with 1,663 for the same period last year. The decrease was mainly a result of personnel cuts brought about by the city's fiscal crisis, according to Deputy Chief Joseph A. Preiss, commander of the Narcotics Division.

The division, which is mainly responsible for the Police Department's major narcotics investigations, has been trimmed to 312 officers from 450 last June. Many of those dismissed were blacks and Puerto Ricans who were considered among the most effective at infiltrating the newly organized illegal drug rings.

"Losing these undercover people has hurt us bad," said Lieut. Stephen Herrer, a narcotics commander in Harlem. "The dealers know what's going on. They read about what's going on. They read about police work the way other people read the stock market."

The personnel cuts also have compelled the police to curtail operations against small-level street sellers, called "pushers," or "scramblers."

"With fewer men we can't apply as much pressure as we did in the past on the streets," said Chief Preiss. "Containment is all you can hope for."

Police Commissioner Michael J. Codd held out little hope that the narcotics division would be reinforced. Commissioner Codd said that the first priority in personnel would be the uniformed patrol force.

In evaluating the extent of the current drug abuse problems, analysts in the Police Department's narcotics division said that about five tons, or 4,500 kilos, of heroin probably will be smuggled into the city this year. These analysts said the wholesale value or price paid by the large dealers would be about $225 million. Eventually, when this heroin is cut and sold on the streets it will bring in $2.5 billion to $3 billion.

VOLUME IS ELUSIVE

While trafficking in cocaine also is extensive, the narcotics analysts said they were unable to estimate the gross volume of that illegal business.

There are no accurate figures available for the number of heroin addicts or other drug abusers in the city. The police and other experts believe that the drug abuser population here ranges from 100,000 to 250,000.

These abusers include those who illegally use methadone, a synthetic narcotic, or other drugs that can cause overdose deaths. But, because of the large-scale involvement of organized crime in heroin and cocaine, the police have given priority to those investigations.

The Drug Enforcement Administration and the Narcotics Division consider Harlem the focal point for the distribution of heroin to middle and small level dealers from other sections of the city and the suburbs.

The East Village is another neighborhood where undercover surveillance has pinpointed "buys" by dealers from the suburbs and other states.

Almost all narcotics law enforcement officials are concerned about the potential impact of heroin from Turkey where the first opium crop in three years was harvested this summer.

So far, there is no evidence that any new Turkish heroin has reached the United States. Most drug experts, however, believe that the Turkish-French connection is back in business in Europe, and that the crop will show up here this winter.

Mr. Grubert said a heroin watch was under way in Western European cities for early signs that the Turkish product was once more on the illegal market.

"Places like Amsterdam and Brussels are the bellwethers on the availability of Turkish heroin," the Drug Enforcement Administration official said. "It hasn't reached those cities yet, which means we might still have a couple months of grace."

Mr. Johnson, the city's special narcotics prosecutor, warned that the Turkish heroin probably would be more potent than the present supplies because of the better processing at illegal laboratories in France and Western Europe. The European laboratories, according to the police, can provide as much as 90 percent heroin purity in processing opium poppies. Mexican and Asian laboratories normally obtain no more than 50 percent purity.

The higher purity permits dealers to increase their sales and profits through the packaging of more "bags."

"Believe me that Turkish heroin will soon show up here. It has nowhere else to go," Mr. Johnson said. "And we are in for even worse times with the possibility of greater supplies and more overdose deaths."

"Unfortunately, the Turkish package has always been much better. In the heroin business, the Mexicans are the short-order cooks. The French are the chefs," he added.

HEROIN PROFITS MULTIPLY

How much money is there in New York's illegal heroin business?

From purchases of illegal drugs and intelligence gleaned through undercover investigations, analysts in the Police Department's narcotics division have devised a formula for estimating the profit in narcotics.

The wholesale price of one kilo (2.2 pounds) of heroin, depending upon its purity, can range from $40,000 to $70,000. If the kilo is 50 percent pure, it can be diluted or "cut" into 76,000 packages or "bags." These two-grain (0.0046 of an ounce) "nickel" or "dime bags," the kind most typically sold to addicts, cost about $8 each.

Thus, the street sales from one kilo probably will generate more than $600,000—or a profit for the various dealers, from wholesalers to street pushers, of more than $500,000.

The profit in cocaine is more difficult to estimate. The price of a kilo, again depending upon its purity, can range from $30,000 to $40,000 at the wholesale level. On the street, prices are known to vary more widely than heroin. The latest undercover "buys" indicate that the price of a "spoon," or one ounce of cocaine, can vary from $1,000 to $2,000.

Smaller sales are made in packages called "tins" because they are wrapped in aluminum foil. These "tins" of three or four grains cost $20 to $30.

The police analysts believe that the packaging and selling of heroin and cocaine requires a work force of at least 20,000 people.

HOUSING MUDDLE

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. HARRINGTON. Mr. Speaker, I wish to bring a recent New York Times editorial to the attention of my colleagues. In the editorial, which appeared in the November 23 edition of the Times, considerable attention is devoted to the inadequacies of the administration and HUD in responding to the crisis now enveloping the housing industry.

Although provisions are included in the Community and Development and Housing Act of 1974 for Federal subsidies which would enable as 27 million families to reside in safe, decent housing, to date, only 200 families have benefited. The section 8 program, which was allegedly designed to provide incentives for private developers to assume a greater share of responsibility in the task of housing low and moderate income families, has simply not been succesful.

The problem is that investors and financial institutions are uninterested because, in the present economy at least, they consider the program too risky.

Authority to insure State housing finance agency bonds; insurance which is esential if State governments are to assure the development role intended under the section 8 program has been authorized by Congress. The administration, however, has demonstrated a strong unwillingness to implement these needed programs.

As the editorial points out, HUD's failure to provide the vehicles necessary to produce adequate housing for low and moderate families, be it in the form of impoundment or lack of program implementation, is serving to take any residual sense of hope out of the equation for millions now living in substandard housing.

It is apparent that any further delay on HUD's part in implementing one or more of the various bond or mortgage guarantees programs at its disposal will ultimately halt the fragile efforts, now underway in States like Massachusetts, to stabilize the housing market. Seemingly it appears that while HUD undergoes repeated attempts to "get things going," the housing industry will be forced to wait.

The text of the article follows:

Housing Muddle

As if an inordinate share of the suffering from inflation and recession were not enough, America's ill-housed poor also have to put up with a housing policy that is being administered as if sleepwalkers were at the controls.

After recoiling in horror from the inadequacy of the efforts it found in place, this Administration developed a housing program which was designed to give incentive to private developers to take on a greater share of the task of providing housing for poor and moderate income families. The device—Federal supplements up to market value of the amounts poor and moderate-income families were able to pay for rental housing—was intended to spur private developers either to rehabilitate existing housing or to develop new low-income housing.

So far, the Administration's approach under the Community Development Act of 1974 has put fewer than 200 families into housing. The reasons are numerous. First, the supplement device has been insufficient incentive to private developers to seek expensive financing in the current money market. Second, state housing authorities—particularly those in the more populous states where housing needs are most acute—have found it difficult if not impossible to raise money to finance rehabilitation efforts and new developments in the current public bond market.

Looming behind the local problems and exacerbating most of them are the policies of the Department of Housing and Urban Development, which has been moving with glacier-like alacrity toward a scheme of Federal guarantees to help state housing agencies raise money for the program. As reluctant as H.U.D. seems to be about proffering assistance, its enthusiasm is boundless when compared to the attitude of Secretary of the Treasury Simon, who gives the impression that he believes that the quest for housing funds just should not be cluttering up the money markets at this critical juncture in the nation's economic history.

There is also the H.U.D. bureaucracy. H.U.D. Secretary Carla Hills admits that her department has failed to develop adequate data for policy formulation. Though the program was approved by Congress 15 months ago, "it will take a while to get going," one high official of H.U.D. recently said. "We bureaucrats tend to do things better the second time around."

While Mrs. Hills and her agency try to get the facts and themselves together, the country's housing stock continues to deteriorate.

WHITE HOUSE PROPOSES $8 BILLION BONANZA FOR PRIVATE INTERESTS IN GUARANTEES FOR CONSTRUCTION AND OPERATION OF URANIUM ENRICHMENT PLANT

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. EVINS of Tennessee. Mr. Speaker, the administration is moving forward with its plans for up to $8 billion in guarantees to a big business consortium—plus a guaranteed profit of 15 percent—for construction and operation of a uranium enrichment plant to produce fuel for nuclear power plants.

In my view the Government in the public interest should approve expansion of Government-owned uranium enrichment facilities now under the direction of the Energy Research and Development Administration rather than handing this process and enormous profits to a big business consortium.

Two recent articles, in the Washington Star and the Wall Street Journal, shed considerable light on this entire matter.

The article in the Star reported that Mr. Robert C. Seamans, Jr., Administrator of ERDA, initially opposed construction of the new plant by private interests and advocated expansion of existing plants.

The article reported that according to congressional testimony, Seamans was overruled by the White House and instructed to begin negotiations with a group called Uranium Enrichment Associates, a consortium headed by Bechtel Corp. and backed primarily by foreign money.

The Wall Street Journal reported that Bechtel Corp. has hired a number of former high administration officials—including Caspar Weinberger, the former Secretary of Health, Education, and Welfare; George Shultz, the former Secretary of the Treasury, and Robert Hollingsworth, formerly General Manager of the AEC.

The Wall Street Journal adds that these officials deny they have any connection with this particular deal, but certainly their close connections with the administration are quite obvious. This newspaper quotes an ERDA official as saying that the Federal Government would be constructing the new enrichment plant now except for the Bechtel involvement.

The Star reported that Seamans has explained that guarantees could run as high as $8 billion and further that the plant's backers would be guaranteed a 15-percent return on their investment after taxes.

It is almost inconceivable that this administration, following the ripoff of the American people by the oil-coal monopoly, would even contemplate bringing in a big business consortium backed by foreign capital to control a large part of the production of fuel for nuclear powerplants, the power source of the future.

The Federal Government and the people of the United States have a tremendous investment in the existing uranium enrichment plants and in the process of converting raw uranium ore into fuel for powerplants.

I repeat, any further additions to uranium enrichment facilities should be built by the Federal Government in the public interest to protect the American people from a gouge in a profit-guarantee deal for big business and foreign money.

Because of the interest of my colleagues and the American people in this most important matter, I place the articles from the Star and Wall Street Journal in the Record herewith.

The articles follow:

[From the Washington Star]

Ford's Uranium Policy Questioned

(By John Fialka)

Robert C. Seamans Jr., head of the Federal Energy Research and Development Administration, admitted under questioning today that he initially opposed the policy being pressed by the Ford administration to allow a private company to build the nation's next uranium enrichment plant.

Seamans' objections, however, were overruled after heavy pressure was applied from the White House, and ERDA was ordered to negotiate with a group called Uranium Enrichment Associates, a consortium headed by the Bechtel Corp. and backed primarily by foreign money, according to testimony before the Joint Committee on Atomic Energy.

George F. Murphy, Jr., executive director of the committee, asked Seamans if it was true that the basic decision to negotiate the multi-billion dollar agreement with UEA came after a three-day meeting between Seamans, three Cabinet members and James T. Lynn, the head of the Office of Management and Budget. The meeting ended on May 30.

Murphy said Seamans repeatedly had expressed his objection to the proposal to President Ford and other officials before and after the meeting, insisting that the United States should continue to control uranium enrichment by building an addition to one of the three plants the government now operates to enrich or process uranium into the radioactive fuel for nuclear power plants.

Seamans said Murphy's description was "essentially correct." He added that he has changed his mind and now favors the principle of allowing private uranium enrichment. Referring to his prior opposition, Seamans said "That was eight months ago and a lot has happened since then."

Among the things that have happened, he explained, was the realization that ERDA may be forced to subsidize other elements of the nuclear fuel cycle, specifically the process of recycling plutonium from used fuel components into new ones. To do this and also pay $2.8 billion for the addition to an enrichment facility would cause a heavy drain on nuclear and other energy development programs, including the search for solar, wind and fusion energy.

Seamans explained that the White House felt it would be better to encourage a private company to provide the capital for the new plan and then back the enterprise with government guarantees and technological assistance.

Seamans said the guarantees now being considered by the government for UEA, and three smaller private proposals under study, could reach a maximum of an $8 billion federal commitment if all the enterprises failed and the government was forced to then build its own facility after all.

He said that a six-page memorandum worked out between UEA, the White House and ERDA on May 30 has now been expanded to a 90-page draft contract. Among the guarantees that would be required of the federal government under the contract would be a warranty that the UEA plant would operate correctly, that the plant's backers would be guaranteed a 15 percent return on their investment after taxes, and that the UEA would be allowed to buy enriched uranium from government stockpiles to fulfill its fuel contracts if it experienced any delays in building the plant.

Seamans said that he was not satisfied with the draft agreement as it now stands and that he feels further negotiations should be aimed at getting UEA to assume more risks. He added that if an agreement is not reached by March the government will have to build a new facility or face the likelihood of a uranium fuel shortage by the mid 1980s.

The guarantees described by Seamans aroused strong objections from both Republican and Democratic members of the joint committee, which must approve the proposal.

The committee's chairman, John O. Pastore, D-R.I., said that the guarantees would amount to billions of dollars of government aid and that the committee would have to see the final version of the UEA contract before it could reach a decision. "If we're going to be partners in this thing we want to be there at the takeoff and not to be left there standing alone at the landing," he said.

Sen. Stuart Symington, D-Mo., said that the overlapping guarantees amount to giving UEA "a fee to run it." He said the guarantee of a 15 percent return on capital "is an attack, in effect, on risk capitalism."

[From the Wall Street Journal, Nov. 20, 1975]

Enriching Venture: How Firm Got Ahead in Billion-Dollar Race To Make Nuclear Fuel

(By Jonathan Kwitny)

Oak Ridge, Tenn.—From a mountain-top near here you can see, sprawled across the Clinch River Valley, what may be the largest industrial plant in the world. From this massive factory flows much of the nuclear fuel that runs atomic power stations throughout the non-Communist world.

The U.S. is going to need perhaps 12 more plants like this by the end of the century as the world comes to depend more and more on nuclear power for its electricity. The little-known story of how the government plans to promote what may be the largest commercial undertaking in history is one that could affect the cost of electricity for generations to come. It involves the determined efforts of one company, Uranium Enrichment Associates, to get into the business ahead of its competitors.

President Ford is proposing federal guarantees of up to $8 billion to assure private industry that it won't take a loss on the building of new nuclear fuel plants. These guarantees would also enable industry to obtain financing for the plants.

At present, nuclear fuel production is a profitable government monopoly. The government carries out the complex process, known as uranium enrichment, at its large Oak Ridge plant and at two smaller plants in Ohio and Kentucky, all of which were built in the years when Washington was building up its arsenal of nuclear weapons.

ONE-HUNDRED ACRES OF FACTORY

It's not hard to see why the expansion of nuclear fuel production is going to involve an investment of over $60 billion. The Oak Ridge plant alone requires more than 1,500 machines, each the size of a boxcar, ranged across more than 100 acres of factory floor. It takes more than half-a-million dollars of electricity a day to power the machines. In cooling them, up to 90 million gallons of water are evaporated daily in huge clouds over the valley. To duplicate this plant today would cost $6 billion.

Congress is being urged to act quickly to decide whether the government or industry should build the next U.S. enrichment plant in order to avoid the threat of a nuclear fuel shortage in the early 1980s. A new plant will take about eight years to build. If Congress approves the President's plan, then Uranium Enrichment Associates, or UEA, stands to gain immediately. It would be guaranteed against loss, and its profit potential would be immense because the Ford proposal wouldn't regulate the price that private industry could charge for nuclear fuel.

UEA is mainly the creation of Bechtel Corp., an engineering and construction firm that is one of the world's largest privately owned companies. Some of Bechtel's competitors suspect that the company's $5.7 billion plan to build an enrichment plant and two generating stations is the result of unusually close relations with both the Ford and Nixon administrations. These competitors say Bechtel may have been aided in Washington by the former top government officials it has recently hired. Since last year it has hired two former cabinet members and the former general manager of the Atomic Energy Commission.

AN UNTESTED TECHNOLOGY

Bechtel (which in recent months has been joined in its UEA venture by Goodyear Tire & Rubber Co. and Williams Cos., a diversified pipeline concern) is the only company proposing to build a full-scale commercial enrichment plant using the same tried-and-true technology as is used at Oak Ridge, which, of course, dates back to the World War II atom bomb program.

Several other companies also are seeking to benefit from the proposed federal guarantees. These companies (among them Exxon Corp., Atlantic Richfield Co. and Signal Cos.) want to build smaller, billion-dollar plants using a potentially cheaper but still commercially untested technology.

But these companies are fearful that UEA is getting such a head start that it could dominate the government's resources and delay their new technology by years.

Even so, all of these companies stand on the brink of taking the lead in the creation of a new industry perhaps as large as the oil industry is today. Bertram Schwartz, senior vice president of Consolidated Edison, the New York utility, voices the feeling of some utilities that are fearful of private uranium enrichers pushing up the price of nuclear fuel and thus causing electricity prices to skyrocket: The industry, he says, will ultimately be monopolized by perhaps two giant fuel combines—"these monsters," he calls them.

A few congressional Democrats also are uneasy about helping to establish new industry fortunes. They may clash with a Republican administration that is wedded to the idea of putting future nuclear fuel production in the hands of private industry. In fact the government has been so anxious to attract industry that since 1971 it has been sharing its secret enrichment data with several U.S. companies.

It has also quietly shelved plans to do the job itself, according to Percy Brewington Jr., an official at the Energy Research and Development Administration (the new agency carved out of the AEC). Mr. Brewington says the shelved plans were drawn up by his staff and showed how the government could build an addition to its enrichment plant in Portsmouth, Ohio, costing $2.1 billion, considerably less than the amount UEA is proposing to spend on a plant of roughly the same capacity.

The Joint Committee on Atomic Energy will begin public hearings on the Ford proposal on December 2. Its view could be influenced by a critical report just issued by the General Accounting Office, the investigative and accounting arm of Congress. The report not only cites the supposed benefits of the government's own building plans but says there is a "greater potential" for delay if private industry takes over.

The UEA proposal, the GAO says, "is not acceptable." Its "fundamental shortcoming," the report states, "is that it shifts most of the risks during construction and proving the plant can operate to the government." In reply, the administration says the GAO report "is not sufficiently complete, accurate or objective to sustain its conclusions."

UEA wants to build its multi-billion-dollar plant on 2,400 acres near Dothan, Ala. It would consist of a $3.5 billion plant and two power stations, costing a total of $2.2 billion, to provide electricity. Under the proposal, if UEA decides "in its opinion . . . for any reason" that "the project cannot reasonably be brought into commercial operation," the government will buy out UEA's domestic owners and pay off its domestic debt. In most cases, domestic owners would get not only their original investment back, but "additional compensation . . . to reflect the results achieved" to that point. The company says it will supply 15% of the capital for the enrichment plant and earn an after-tax profit on this equity, which the company agrees would amount to $75 million to $80 million a year.

President Ford's support of this proposal follows Bechtel's close relations with the government. In fact, claims one high ERDA official, "without Bechtel there wouldn't be any question of who was going to build these plants." It would clearly be a government undertaking, he says, and "we would be on our way to building them."

Quietly, on its own, Bechtel began surveying the nuclear industry for opportunities in 1967 (it has long been an engineer building utilities' nuclear power plants). But the foundation for UEA wasn't laid until 1972 when Ashton O'Donnell, a Bechtel nuclear specialist who formerly worked at the AEC, met in Tokyo with two officials from Union Carbide Corp. (which helps the government run its enrichment plants at Oak Ridge and Paducah, Ky.). Together with representatives of several Japanese utilities, they agreed to commit their companies to a $6 million study of a new enrichment plant. Shortly afterwards, President Nixon and Prime Minister Tanaka of Japan signed an agreement for a similar study.

Bechtel denies it was working with the Nixon people and says the two agreements were a complete coincidence. But a high ERDA official and a spokesman for the Japanese utilities insist that Mr. Nixon and Mr. Tanaka were referring specifically to the Bechtel-Union Carbide study. And the fact remains that this study was the only one carried out.

The study made it clear that a private enrichment plant was going to require massive capital investment. Because there seemed little hope of obtaining financing in the billions of dollars, Union Carbide decided to drop out. (Westinghouse Electric Corp., which also had joined UEA, decided to leave the partnership for the same reason.)

Bechtel was without partners, but not without some talented employes. In March 1974 it hired Robert Hollingsworth, general manager of the AEC, as its manager of manpower services. That May it hired George Shultz, the former Secretary of the Treasury, as executive vice president and a director (recently Mr. Schultz moved up to president). This year it hired Caspar Weinberger, the former Secretary of Health, Education and Welfare, as vice president, director and special counsel.

Bechtel says these new employes, even Mr. Shultz the president, have been forbidden any contact with the UEA project. But executives at other companies say they believe the ex-Washington officials may have been helpful in Bechtel's contacts with the Ford administration. (None of the competing executives would be quoted by name on the ground that their companies still are seeking to start enrichment projects with government aid.) Comments Edward J. Bauser, who until recently was executive director of Congress' Joint Committee on Atomic Energy: "When you want to go into the enrichment business, you know what has to be done. You have to buy pipes, you have to buy pumps and you have to buy people—key people."

This year government and company again demonstrated a similarity of thinking. On May 30, without any specific request from the government, UEA submitted a formal proposal for its enrichment plant. A few weeks later, on June 26, President Ford sent to Congress the Nuclear Fuel Assurance Act, whose provisions are similar to those sought in the UEA proposal.

The act would allow the government to spend up to $3 billion in bailing out companies that run into problems on their enrichment ventures. In return, it would require companies to pay the government royalties (3% of sales for 17 years) for its enrichment technology.

In defense of the proposed guarantees, Mr. O'Donnell of UEA notes that at congressional hearings two years ago, numerous witnesses from the banking and financial communities said they wouldn't invest in a private enrichment plant without government guarantees.

Certainly UEA would appear to have adequate resources for its own 15% investment with the addition of the two new partners, Williams and Goodyear (which has much experience in enrichment as the operator of the government's Portsmouth nuclear fuel plant).

UEA also appears to have plenty of potential customers for the nuclear fuel from its proposed plant. The company says it has a "firm commitment" from foreign utilities to take 60% of the plant's output in return for supplying 60% of the capital (although some government officials are already questioning the wisdom of sending so much of the plant's output overseas).

A major problem for utilities trying to calculate future costs is that a new technology is in the offing that could conceivably hold down the expected rise in nuclear fuel prices. This technology is called the gas centrifuge and its promise lies in the fact that it uses one-tenth of the electricity required by the older technology, which is known as gaseous diffusion. The new technique also doesn't need the mammoth plant required by gaseous diffusion but can produce nuclear fuel in fairly small plants which can be expanded as demand increases. Thus the initial capital investment is much lower.

Both the centrifuge and gaseous diffusion turn uranium into nuclear fuel by "concentrating" scarce atoms in the ore. In its natural state uranium contains about 0.7% of atoms called uranium-235 (most of the rest is uranium-238 atoms). To sustain a nuclear chain reaction in the so-called light-water reactor (the most common type in use in the non-Communist world) uranium fuel containing about 3% of uranium-235 atoms is needed.

Gaseous diffusion "collects" these rare atoms by pumping and repumping the uranium in gaseous form through miles of porous tubing through which the unwanted uranium-238 atoms are gradually "filtered" off. On the other hand, the centrifuge is a cylinder, about the size of a washing machine, in which the gaseous uranium is whirled around at immensely high speeds. The lighter 235 atoms remain on the inside of the cylinder and the heavier 238 atoms drift to the outside.

But the centrifuge, while at an advanced stage of development, has never been put to work on a commercial scale. A demonstration plant has been built in Europe. The U.S. government's first experimental plant hasn't started up yet, although ERDA says it has been testing the apparatus successfully for several years.

Last month three companies proposed building commercial centrifuge plants. If Congress approves, they also would get government guarantees.

They are Centar (a partnership of Electro-Nucleanics Inc. and Atlantic Richfield) which wants to build a $1.1 billion centrifuge plant; Garrett Corp. (a subsidiary of Signal) which proposes a $900 million plant; and Exxon's Exxon Nuclear subsidiary, which wants to build one for $700 million. However, Centar claims that with the addition of various contingencies, all of the plants will cost about the same and all would produce about one-third of the output of the proposed UEA plant.

A major fear that dominates the thinking of executives at Centar and Exxon is that if UEA is allowed too much of a head start, their own plans may be delayed. Their suspicions that the government already has decided to emphasize diffusion development to the disadvantage of the new centrifuge technique have been aroused by two incidents.

The Nixon-Tanaka enrichment agreement authorized the study only of diffusion technology. And in proposing the Nuclear Fuel Assurance Act, President Ford specifically asked for authority for ERDA to contract immediately with "private groups interested in building, owning and operating" a diffusion plant. The centrifuge people were asked separately by ERDA to submit their proposals for plants this fall. In fact ERDA began negotiating with UEA almost at once, and an agreement is nearly ready for signing as soon as Congress acts. The centrifuge proposals have been referred to a committee at ERDA which is scheduled to report at the end of the year.

(As with the diffusion process, Oak Ridge engineers say the government has shelved plans drawn up by ERDA to build a centrifuge plant. It would cost $2.6 billion and have roughly the same output as UEA's much costlier diffusion plant. And, of course, it would have roughly three times the output of each of the private centrifuge plants.)

In reply to all of these suspicions, ERDA official Richard Roberts maintains that "centrifuge technology isn't really there yet." And he says, "the thought was, you really couldn't go completely centrifuge and be sure of having fuel ready when it's needed."

Because the Ford proposal doesn't limit the prices that companies could charge for their nuclear fuel, there is evidence that private-enterprise fuel would be more expensive than government-made fuel. "It would seem almost certain that the cost for the private option would be higher than (for) the government option," says Abraham Gerber, who has studied enrichment for National Economic Research Associates, a consulting firm. He claims that "the government can do anything at a lower cost than private industry. You start off with an element of faith (because) you don't want everything concentrated in government hands."

How much Americans would be willing to pay for that element of faith could be important. Of the prospective builders of new enrichment plants, including ERDA, only Centar has offered a specific price comparison. Centar says that its proposed centrifuge plant would charge $70.12 for a so-called unit of enrichment work (in 1975 dollars), but concedes that a government-owned centrifuge plant would be in the black by charging only $56.22 a unit (75,000 units will fuel a typical one million-kilowatt nuclear station for a year). ERDA is in the process of raising its present fuel prices to between $53 and $61 a unit, depending on the type of contracts. (This contrasts with the $85-a-unit price, in 1975 dollars, that UEA estimates it will charge.)

Some analysts, such as Mr. Bauser, the former joint committee director, see the cost of nuclear fuel from privately owned plants soaring to several hundreds of dollars a unit until it reaches the much higher price of coal and oil. The higher price would, of course, mean a sharp jump in electricity rates (at present, the enrichment of nuclear fuel accounts for only 10% to 15% of the price the consumer pays for electricity). According to figures from a respected industry group, nuclear generating plants pay 0.2 mills for fuel for every kilowatt hour of electricity produced, while non-nuclear generating plants (coal, gas and oil) must pay 7.5 mills for fuel for every kilowatt hour.

Nor will those utilities that already have signed up to buy government-produced fuel be likely to escape the predicted higher prices. President Ford's proposal would require ERDA to raise its fuel prices for nearly all of these existing customers simply to encourage private companies to get into the business. And congressional and administration authorities agree that when the first private plant goes into operation, ERDA would be required to raise its fuel prices so as not to undersell the private enrichers.

WALTER KNOTT—A PERFECT CITIZEN

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. ROUSSELOT. Mr. Speaker, Patrick Henry said,

> Perfect freedom is as necessary to the health and vigor of commerce as it is to the health and vigor of citizenship.

Today I want to pay tribute to one of America's perfect citizens—Mr. Walter Knott. Many of my colleagues know of Walter's contributions in deeds and educational efforts to enlighten the people of our country about our form of freedom. Walter Knott has been generous in his desire to improve the understanding of our American free market and constitutional system.

When Governor Reagan introduced Walter Knott as the recipient of the 1968 Free Enterprise Man of the Year Award in 1968, he called him California's and America's Great Pioneer/Patriot. I could not agree more.

I commend to my colleagues the following excerpts from a book entitled, "Walter Knott : Twentieth Century Pioneer," by Norman Nygaard, which exemplifies the character and guiding principles of this outstanding American.

The article follows:

Let Freedom Ring

The vast majority of good American citizens who feel strongly about conditions in national, state, and local government which they regard as inimical to the welfare of the country, have an unfailing answer for all problems. They either "write a letter to the editor" or remark sagely, "Somebody should do something about this."

Walter offers another solution—do something yourself. He believes that the average citizen, if he is sufficiently dedicated and deeply in earnest, can effect tremendous changes in the way in which government affairs are managed, the laws which Congress passes, and even in the intercourse between nations.

He believes in a government which gives to every citizen the opportunity to live under freedom. Although he did not have the opportunity to finish his high school course, he took time to educate himself, mostly by independent study. He has had little time for books which are merely entertaining. Instead, he has been interested in the great volumes of literature which seemed to be written with a purpose.

More than anything else he has sought to preserve the ideals which were embodied in the Declaration of Independence and the Constitution of the United States. He is concerned to interpret those great documents to the youth of today in order that America may continue to be the great bastion of freedom.

To keep his people informed Walter began to send out a monthly letter to all of the employees.

Along with Walter's news sheet, all of his employees receive, may go copies of articles which he has found particularly worthy of consideration. He often adds frank comments on how business and workers are affected by taxation, inflation, and government spending.

On one occasion he wrote, "Every morning when we come to work we have to earn three thousand dollars for the government in taxes. We do this three hundred and sixty-five days a year. The government takes sixty-eight per cent of our earnings in taxes. If it took only half that much we could grow faster."

Apart from his vital interest in the church and in the community where he lives, Walter's most vital interest today is in the development of the concept of freedom and its preservation in America.

"We have gradually been chipping away at the American idea of freedom," he asserts. "We have forgotten that this was the basic principle for which our forefathers fought in 1776. Laws are needed in a republic, but too many laws which have been written upon the statute books within recent years have been those which have taken away liberty from American citizens. The founding fathers insisted that taxation without representation was tyranny. And now the burden of taxation which has been placed upon us is so severe that most Americans find, after paying their taxes, they have nothing left for the development of their industries."

He continued: "Corporations must be able to use their profits not only for reasonable taxes but for the development of their plants—for machinery which is the tool of production, for expansions, for the opportunity to make a better product."

A recent volume of the *Reader's Digest* has quoted him as saying, "We started out under a system where we the people were the government and delegated the authority; now we have turned it around and the government imposes its will on the people. We've seen the government grow until it is all out of proportion. Every time it grows it takes bits of freedom out of our lives, and we become more dependent on it and less on ourselves.

"There are certain things you have to have to make a productive society—incentives, competition, individual freedom to decide to do what you think is best. Those are the very things we are now losing to big government. Today we hear much about human rights versus property rights. Actually property rights are among human rights. Without them our whole system will collapse.

"These are the basic things we want to get our people concerned about."

And these, of course, are the principles which Walter has shared with his children, which he is now seeking to share with his grandchildren. He believes that the American Revolution was the only social upheaval in history which launched a new conception of government. It was the only revolution which sought to place government in the hands of the people themselves.

As a result of Walter's struggle, his battles against poverty, desert heat, and trouble, a character has been built which echoes the words of the Liberty Bell—"Proclaim Liberty Throughout the Land."

THE SOVIET NAVAL CHALLENGE

HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. WALSH. Mr. Speaker, over the past several years I have become increasingly concerned and alarmed about the growing Soviet challenge to U.S. supremacy on the high seas.

The Russian Navy is expanding very quickly and has shifted from a basically defensive posture toward inclusion of an offensive capability.

This open challenge became evident when the United States was forced to back down in the face of a Soviet threat during the Mideast war in 1973.

There are no doubts in the minds of many of this Nation's long-range planners that, if present naval trends continue, the Soviet Union would be shortly capable of blocking essential raw materials on which Western industry is dependent.

In the March 1974 issue of the Daughters of American Revolution Magazine, retired Rear Adm. Ernest McNeill Eller discussed the problem in depth and I would like to share that discussion with my colleagues.

Sea Power: The Anchor of Freedom

(By Ernest M. Eller)

(Rear Admiral Ernest McNeill Eller, former Director of the Naval History Division, retired from the Navy in 1970, ending a distinguished 48-year career. Currently, he is serving his second year as National Historian of the Navy League. Author of the book "The Soviet Sea Challenge," Admiral Eller has been an anxious observer of the Soviet Union's expanding military might, especially on the oceans of the world. These are his views:)

Some three years ago, shortly before his death, Mendel Rivers gravely warned Congress: "All Americans have been given a blessed and priceless heritage of freedom—a freedom which . . . is in terrible jeopardy. The Soviet Union is now one of the world's two leading sea powers . . . possibly the leading power. . . . I can only warn the members of this House that we are on the brink of disaster and I have never before been as concerned in all the years I have served in the Congress."

Conditions have worsened dreadfully since then. In the fact of phenomenal Soviet gains at sea that some observers, such as Captain John Moore, Editor of "Jane's Fighting Ships," believe make the U.S.S.R. the number one sea power in the world, and despite the fact the gap between Soviet and U.S. strength widens daily, the United States continues to cut back its defense spending. In late August the Navy Department announced it would slash deep into muscle once again, dropping the fleet to 518 active ships by the end of the fiscal year.

The United States is already weaker, in a relative sense, than in 1939 when unpreparedness in the West helped bring on the catastrophe of World War II. Friend and foe recognized this. Consequently, the latest shift of the balance of power at sea to the U.S.S.R. has already brought her far-reaching political gains which highlight with frightening import the deterioration of U.S. influence abroad following her decline afloat.

Today the shadow of the Bear looms over even the Caribbean, no longer a safe sea frontier. Cuba, long considered critical to U.S. security, becomes, despite occasional signs of independence, more and more a Soviet political and military outpost. According to underground reports Cienfuegos is not the only Cuban port under development as a potential Soviet naval base, and the Kremlin continues to add guided missile vessels to the Cuban fleet.

Communist agents fan out from Cuba throughout Latin America, where in recent years leftist parties have increased in numbers and aggressiveness. When they gain power—as they had in Chile (once, like Cuba, a close friend of the United States)—they scream "Yankee go home," confiscate American property, and embrace the Soviets.

FROM ICELAND TO EGYPT

Iceland, a keystone of North Atlantic defense, tells a similar sad story. Her present government is seeking withdrawal of American forces—primarily U.S. Navy aviation units conducting surveillance flights over the adjacent waters through which the Soviet submarine fleet debouches into the Atlantic. Nor are her relations with her NATO neighbor to the south more harmonious. For several months Iceland and Britain have been engaged in a "Cod War" over fishing rights. If the dispute is not resolved to Iceland's liking, it will not be surprising if she moves further from the Western alliance.

The Sixth Fleet once defended freedom uncontested in the Mediterranean. Now the Soviet "Sixth Fleet" often outnumbers it. Most of North Africa leans toward Moscow and is closed to visiting American warships. Where once the Stars and Stripes waved, the hammer and sickle dominates. As one example of what this change means, Libya last summer expropriated all foreign oil corporations, taking majority ownership. Most of the oil and natural gas for an energy-hungry world that would flounder without it lies in Muslim North Africa and the Middle East. The leaders there well know this, as does the USSR, now the leading "outside" power in that part of the world.

The eastern Mediterranean south of Turkey is almost a Soviet lake. Seeing which way the wind blows, Turkey also has made accommodations with Moscow. Long under British protection, Egypt now welcomes Soviet assistance. Because of internal intrigue, President Sadat in July 1972 ordered Soviet "advisers" and troops to leave the country. But this was only a temporary squall, no doubt in part for political effect. Egypt is still in the Bear's claws, as October's events made clear, and depends on the USSR for arms, economic strength, and her own military viability. The Kremlin has gained what Peter the Great vigorously sought long ago, a foothold in the Middle East.

Just as the Russian Bear has the Suez Canal within reach, so does he grasp for control of the southern approaches to the Red Sea. Britain's departure from Aden left a vacuum the Soviets eagerly filled. Through military and economic aid they have gained predominance in countries on both flanks of the Gulf of Aden. They seek the same influence in the Persian Gulf area, from which an ever-increasing stream of tankers flow to feed the insatiable economies of the West and Japan. For centuries the Tsars sought control of the Middle East. Now, almost overnight, it seems, Soviet influence flows by air and sea through this area of overwhelming economic and strategic value.

THE LOST VACUUM

Perceptive men long ago urged the United States to increase her own small Middle East Force to fill the Indian Ocean vacuum—a vacuum which, of course, no longer exists. When England began to withdraw her forces from east of Suez, the United States dallied, and Soviet warships sailed in. Besides their own Indian Ocean fleet, USSR combatants serve in India's Navy, and the Kremlin has helped "neutral" India build a submarine base. In summer 1971 Moscow and Delhi signed a mutual assistance security pact. It seems to some observers no coincidence that not long afterwards Indian troops invaded East Pakistan to "liberate" the natives. Russian backing of the venture may well have prompted India's attack; gifts of Russian arms undoubtedly insured its success. With fleets in the Mediterranean and Indian Ocean, and with the mounting dependence of many nations upon Iron Curtain aid, the USSR has become the leading force in the whole seething area.

Admiral Sergei Gorshkov, Commander-in-Chief of the Soviet Navy, and members of the Politburo have heeded facts that America has ignored. Perceiving the immense gains resulting from deployment of their fleets around the world, Soviet leaders continue to expand their worldwide capabilities. The recent addition of aircraft carriers to the Soviet fleet is only a small part of the buildup, but indicates how the Soviets have learned their lessons.

Yet, even as the USSR builds carriers in her furious expansion of sea power, the U.S. fleet dwindles. In fiscal year 1974 scheduled slashes will drop the U.S. Navy to 518 ships, some 45 per cent less than in January 1969. Even the infamous attack on Pearl Harbor did not reduce the U.S. fleet to the low levels now projected.

Had a powerful foe decimated America's naval strength in battle, the nation would have risen in a frenzy of anger and fear. Instead, Americans heedless that the national survival is at stake, complacently accept their Navy's new status as number two sea power. There are those who rationalize, saying the addition of new ships gives the smaller fleet a lower average age with more modern equipment. That is true. The fleet will be younger—but still much older than the Soviet fleet.

But these sophists are playing ostrich. The Navy has stretched to the elastic limit in 1968 trying to carry out her world duties. Except for the Vietnam war (in which many smaller vessels were deployed), obligations have not lessened. Furthermore, if, as has actually happened, an opponent openly bent on outdistancing the United States adds two or three new ships for every new ship built for the dwindling U.S. Navy, whose annual losses (through retirement of older ships) have consistently outnumbered gains in recent years, there is no way the U.S. fleet could be growing stronger in comparison with the Soviet Navy.

Nearly two years ago, Admiral Elmo R. Zumwalt, Jr., Chief of Naval Operations, responding to a question from Congress, spelled it out quite clearly: "The U.S. Navy has lost strength in the last year both absolutely and relatively to the Soviet Union." His warning was unheeded. At the close of 1973, Admiral Zumwalt's assessment of the military situation would have to be: "We have disastrously lost more ground at a faster pace. The Soviets have passed the U.S. Navy in strength—and continue to build furiously to widen the lead."

THE LIFE PRESERVER

U.S. naval strength has declined, moreover, despite constant proof that maritime strategy is a sure preserver of democracy. America grew to greatness under the umbrella of *Pax Britannica*, which allowed other nations to prosper under the various forms of government they preferred. Then, with uncontested superiority afloat after VJ Day, the United States carried on this live-and-let-live policy, helping less fortunate peoples to resist aggression in Korea, in Vietnam, and in the Middle East. Today, in 1973, however, the short-lived *Pax Americana* swiftly wanes, and is being succeeded by the graveyard peace of *Pax Sovietica*.

There never, at any time in world history, has been peace without strength. Nor is there any reason to believe the present generation can reverse this iron rule of history. America's present relative weakness at sea may very well encourage the Soviets to act more boldly. It certainly weakens the resolution of America's friends and, if unchecked, will inevitably undermine U.S. will and wisdom in foreign policy decisions—if it has not done so already. It could, in short, lead to another Munich with loud proclamations of "Peace in our time."

U.S. weakness at sea also could lead to another Korea, because lack of power might once again result in America's drawing a perimeter of defense, as in 1950, that clearly left defenseless a people threatened by communist aggression. The United States still, of course, has a vast reservoir of goodwill in South Korea, whose people understand the sacrifices this country made in order that they might have control of their own destiny and attain the peace denied for generations by aggressive neighbors. On that beleaguered Asian peninsula, as elsewhere, the United States alone of the great powers has given much of herself and asked for nothing in return.

GENERATION GAP

But the record of the past generation notwithstanding, there are today some Korean leaders in the South who fear the United States will not, for lack of capability if not for lack of will, be as strong an ally in the future, and for this reason have reluctantly assented to the recent unification talks with North Korea. Their fears may be well-founded. For the next confrontation between East and West could very well be set in a climate of nuclear blackmail, making it impossible for America's inferior naval strength to be stretched to a foreign shore.

History's bitter lesson, repeated time after time throughout the ages, is that it costs far less to prevent war by keeping strong than to fight it. And the reason the lesson is so often repeated is that it is apparently a most difficult lesson for good men to learn—they either never learn it at all, or they quickly forget it.

Tens of thousands of American servicemen gave their lives in the grim hills of Korea. The money "saved" by the budget cuts of the late 1940s was exacted a thousandfold. The United States managed to ultimately save South Korea but only because no Russian navy of consequence then existed. Would the outcome be the same today? Could the other dozens of brilliant U.S. peacekeeping operations—Lebanon and the Cuban missile crisis, to cite two examples—be repeated in the 1970s?

Future generations will wonder how the American public could shut its eyes to history's warnings on unilateral disarmament. No weapons race in itself causes war; a one-country "race" by an aggressor, with the peaceseeker idly watching, does. Such a race is taking place today, and the consequences are frightening to contemplate. The fearful shift in relative maritime strength to the Soviet Union, if unchecked, could mean an early eclipse of the United States as world leader.

The richest nation, the most generous, idealistic, and philanthropic, the leader of freedom—but a freedom which depends irrevocably upon superior sea power—seems prepared, in short, to abandon her leadership. America's friends throughout the world, and they are still quite numerous, are puzzled. They ask if a nation much less capable than the United States, under tyranny and with half the U.S. economic capability, can make such great gains, what is wrong with the American system? Why cannot Americans understand that when an expanding empire gains control of the oceans it also gains control of nations which border those oceans? Surely, it would seem, if a weaker government can concentrate resources to dominate the great waters that join all shores, the United States should be able to mount wisdom and resolution enough to match the effort. And surely some luxuries and domestic social experiments, however desirable in themselves, could be postponed for essentials to save the future.

Every American may well heed the words of former Representative Durward Hall of the House Armed Services Committee: "I'm scared to death . . . The Soviets will have a military force, and particularly strategic forces, strong enough . . . to checkmate the United States. . . . The crucial question is what the American people will do when the communists say: 'We've got you checkmated. Now dance to our tune.' "

There may still be time for the United States to reverse the downward trend, but the opportunity is fading more swiftly than the setting sun. In the English-French wars of the 18th century the sea-girt isles did reverse their decline in naval strength in time to meet Napoleon's threat. Thus, possibly, history might be saying, the United States has a chance. Even the term "possibly" may be too hopeful, however, because the point of no return may already have passed. Today's margin for action, and for error, is but a slim fraction of what it was two centuries ago when men did not have to deal with aircraft, ICBM's, and submarine missiles streaking over the horizon bearing nuclear warheads. There will be no time this time to rebuild neglected strength. Today's warships take years to construct, but only minutes to destroy—by enemy action or, more often, by legislative fiat.

LATE MEANS NEVER

If the Unitd States is not ready at sea when the crisis comes, there will not be time to get ready. U.S. military forces are far weaker, compared to the forces of the Soviet Union, than at any time since the Bolsheviks came to power. Already the U.S. Navy faces an almost impossible job of coping with the huge Russian submarine force. As the Soviets achieve superiority in the number of nuclear ballistic missiles deployed in submarines (and that superiority is inevitable, given the present shipbuilding programs of the two countries) nuclear blackmail of the most vicious type would be easy to contemplate.

To illustrate: in one not altogether fanciful scenario suggested by think-tank strategists, whose job it is to think the unthinkable, Moscow would once again—as she apparently started to do in late October—dispatch air, ground, and naval forces to intervene in the Middle East. Simultaneously, a "hands off" ultimatum would flash from the Kremlin. With it would come notice that Soviet submarine missiles and ICBMs were zeroed in on U.S. cities, and any move to intervene would trigger them. The United States would not, it is generally believed, initiate a nuclear exchange. Indeed, the real question is whether she would even risk the possibility of such an exchange, even though much of the future of the Free World depends upon the Middle East.

American idealists, and there are many of them, scoff at such a possibility. Their reasoning seems to be that, because the United States would not resort to such blackmail, neither would the enemies of the United States. This is much like saying that because good citizens would not break the law, neither would criminals. It is extremely important to recognize the fallacy of such idealistic and well intentioned theories. Because, unless the United States acts promptly and with vigor to reverse course, the possibility for such blackmail, which already exists, will become almost irresistible.

The Soviets drive with unmistakable purpose to achieve ascendancy at sea; peaceful reversal will require "blood, sweat, and tears" from the American people, and a high order of leadership on the part of the President as well as Congress. Each day a solution to the problem becomes more difficult. Unless the United States quickly goes beyond the steps now underway—which are in the right direction, but halting and slow—she soon will have passed the last turning point!

Survival of the American way of life depends upon the will of the American people to preserve it. It depends upon the wisdom and integrity of national political leaders. Preservation demands superior strength, especially at sea. There is no alternative, and "détente" is no substitute.

Man has moved far since few were masters and most were slaves. He has farther yet to go if the United States and allies have but the sagacity to choose the right course and the fortitude to steer it. Charts marking the course, clearly read: "Be strong at sea or die."

REVENUE SHARING

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. BENNETT. Mr. Speaker, the Jacksonville Journal in its November 29 edition had a searching editorial on the question of the merits and demerits of the Federal Revenue Sharing Act, which I will include at the conclusion of my remarks.

Several years ago there was a philosophy being expressed to the effect that it would be better for the Federal Government to get out of broad areas of Government which are under our Constitution not primarily for Federal, but rather for State or local responsibility—such as education, welfare, et cetera—while at the same time providing the same amount of funds from the Federal Government but allowing the local governments to decide the details of the spending. Personally, I saw a lot of merit in that concept and only one strong negative thought against it, and that is that, generally speaking, it is sound government to require the spenders of tax dollars to be the ones who levy the taxes. When one group taxes and another spends there is a tendency to overspend.

It is also argued that local taxes are more regressive than Federal because the latter are almost entirely from income taxes. The weakness of that argument is that there is nothing in our Federal Constitution that prevents State, city, or other income taxes, even though many States do not have income tax laws now. Also, many States and also cities do have income taxes.

Anyway, when the Revenue Sharing Act was enacted the idea of the Federal Government getting out of an area of government was not tied very securely to acquiring the Federal funds and I and others therefore voted against it. The Federal Government is in much worse financial shape than any State of the Union. The Federal Government is in very bad financial condition in fact.

Now there was an argument made, and still being made, that these funds would be used for innovative new programs and projects. That concept also seems not to be the practice in many instances. For instance, I urged the city of Jacksonville to use a very small portion of the millions of dollars they receive under this program to take by purchase, or by condemnation, the oldest significant building in the core city and restore it for a modern cost-effective use sought for the Florida Junior College. Not only did the city refuse to use these funds for that purpose but they failed to apply in a timely fashion for other Federal funds that could have brought the project to reality. They were not turned down on the merits of the project. They just did not apply in the time scheme for applications.

On November 14 the Jacksonville Journal published the following editorial about revenue sharing:

HOOKED ON GREEN STUFF

Having hooked American cities on the revenue sharing habit, the federal government is now threatening to withdraw the drug. The writhing of the cities, including Jacksonville, is painful to see.

Mayor Hans Tanzler's chief administrative officer, Lex Hester, soon to be leaving the city for the greener pastures of Broward County, has said losing the funds would be "an absolute disaster" for Jacksonville and could force an increase in local property taxes of about $2.50 per $1,000 of taxable value.

The problem is that Jacksonville, like many other cities, at first prudently earmarked the federal funds it was receiving under the program for such capital-expenditure uses as its water and sewer improvement projects.

But this year, the city is spending the $9.7 million it will receive on current operating expenses—running the police and fire departments. It would be a hard blow to lose income the city depends upon to help pay for its day-to-day operations.

There is a feeling, however, that Congress may not favor extending the revenue-sharing program beyond its currently scheduled expiration date of December 1976.

The program was voted when there was relatively little concern for the state of the federal government's budget. It's fairly obvious on all sides now that Washington itself is nearly as strapped as the cities and counties on whom it has in recent years heaped its dollars.

Judging from his remarks before the Northside Businessmen's Club Tuesday night, City Councilman David Harrell is one city official who would not mourn the passing of revenue sharing.

Harrell said he believes that "we're out of our minds" to have become dependent upon those funds, and that cities should face up to their own responsibilities and pay their own way.

"Don't extract more (federal) income taxes for revenue sharing," Harrell told the club. "Leave it (the money) here in the community so we can levy taxes if we have the guts to." That's a stern prescription, but it may be one the cities will have to swallow.

On November 29 the Jacksonville Journal published the following editorial:

REVENUE SHARING

The concept behind revenue sharing was that a relatively flush but remote federal government should funnel funds back to the cities and states, where they would be used to pay for bold, innovative new programs without further increases in "regressive" state and local taxes.

Most of the federal officials concerned still stick to that viewpoint, at least in their public statements. The October edition of "Treasury Papers," published by the U.S. Treasury Department, urging extension of the program, proclaims it "a success," while conceding in the same sentence that "the needs which the Congress originally intended that it address continue to exist."

Among other things, the publication says, the program has freed local resources for social expenditures, shifted the financing of activities "away from relatively more regressive state and local taxes to the relatively more progressive federal income tax," and gradually is being relied upon more by local government for "recurring program costs than on capital expenditures."

How constructive this last may be is debatable. Jacksonville, which has only in the current fiscal year begun using revenue sharing funds for recurring programs, now faces the prospect of having to raise property taxes to continue the same level of service if the program is discontinued next year.

The measure of the plan, according to Treasury, however, is to examine "the manner in which recipient governments utilize the funds they receive under the program."

That is what a former deputy chief of the Law Enforcement Assistance Administration, considered a sort of revenue sharing prototype, has done. His report is not favorable.

"The original notion was that we would be flooded with all these great ideas," Charles R. Work has said. "And lo and behold, they didn't come at all."

Instead, Work says, there has been "a paucity of innovative ideas," and a growing tendency to use the federal anticrime funds to buy gadgets, a one-time expenditure which requires no continued local effort when the federal money stops.

"Local law enforcement officials just won't look around for the good idea, in part because they are as backward as they are, and in part because they are as poorly educated as they are," Work claims.

Federal officials consequently, are making more and more of the policy decisions, which negates the program's purpose.

Add to this the federal government's own current budget problems and we begin to see why a number of congressmen now are beginning to question whether the revenue-sharing program should continue at all.

ILLEGAL ALIEN PROBLEMS SUBJECT OF MAJOR FEATURE BY NEWSPAPER

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. BIAGGI. Mr. Speaker, in the November 23 edition of the New York Sunday News a feature story appeared on one of the most important economic and social problems of the United States, the illegal alien problem.

The story describes the effects which the 8 to 12 million illegal aliens are having on the U.S. economy. It also tells in graphic fashion how the illegal aliens are subjected to exploitation and vile treatment by virtue of their illegal status. The article also describes the very serious problems which the Immigration Service is facing trying to deal with the problem.

The article also goes into some detail about approaches offered as solutions to the illegal alien problem. Legislation has been pending in this Congress since January, and it was thought that when H.R. 8713 reached the House Rules Committee in October, consideration by the full House would soon follow. Now a scant week away from the end of the 1st session of the 94th Congress, this bill remains in the Rules Committee.

If the illegal alien legislation is considered by the House I will offer amendments similar to my bill H.R. 5987. The most important of these amendments will be to make it an immediate Federal crime to knowingly hire illegal aliens. Nothing short of immediate penalties will deter employers from hiring illegal aliens, a practice which has allowed illegal aliens to hold down more than 1 million jobs, many of them well paying, all of them desperately sought by American workers.

I hope Members will take the time to read this article and to push for consideration of legislation which can correct the illegal alien problems in the Nation. It is as important a concern as any other issue we have considered.

Mr. Speaker, I insert "The Un-Americans," by Neal Travis:

THE UN-AMERICANS

(By Neal Travis)

It was a good story at the time — two illegal aliens arrested as they toiled away at painting the Statue of Liberty. Very symbolic. But it's the unpublished sequel to that incident last January that is really symbolic of America's illegal alien problem: Both men arrested that day are still here.

They were brothers from Greece. One had jumped ship in Newark in 1969. Last year he married an American woman and, even though she had not applied for resident status for him at the time of the arrests, he has been allowed to stay in this country.

His brother illegally entered America from Canada about two years ago and, when arrested, elected to go back there voluntarily rather than be deported. The brother has since slipped back over the border and is living underground, waiting for his married brother's resident status to be approved so he can be legally sponsored.

What this all means is that our immigration laws are a sham. Anyone who is at least persistent will defeat them. This means that hundreds of thousands of jobs, or perhaps even more, that should belong to Americans are held by illegals.

The Immigration and Naturalization Service is hamstrung by lack of funds and manpower and by a Congress that, for its own various reasons, refuses to pass real laws to stem the alien flood. This does not mean the illegals are having a great time of it. In fact, most of them are pitiful figures living in fear and poverty. They are today's American slaves.

INS Inspector Jack E. Coffey is the man who made the Statue of Liberty bust. A former New York City cop and a veteran of immigration law enforcement, he could be expected to be bitter about the ones who get away. Yet he has seen the other side of the "wets"—as he and other INS men refer to the illegal aliens.

"These poor people have been ripped off, cheated and extorted in just getting here," he says. "Then their employers pay them slave wages, their landlords sleep them 10 to a room, phony lawyers grab anything that's left and finally, some of the time, we catch them and send them home.

"I feel very, very sorry for a lot of these people. America would be doing them a big favor by making it harder for them to get in in the first place.

"On the other hand, some very dangerous people are entering too. Fugitives from their own country, criminals, even murderers. In this job there's no way of knowing what your target has fled from when you apprehend him, which makes it a dangerous job. You can never tell to what lengths your man will go to avoid deportation."

Coffey and his fellow officers think they arrest about one in 20 of the illegals. "The figures aren't good," admits one, "but we can do the job—we've proved it over and over—if anyone really wants it done. If America wants the alien crisis solved it only needs to vote the INS the money and resources and we will get it done."

The illegals usually evade most taxes and they often get welfare to which they're not entitled. But Rep. Mario Biaggi (D-N.Y.), the loudest voice in Congress on the alien crisis, says: "I place almost all the blame with crooked employers who see these unforunates as a source of cheap labor. I want the illegals kept out of this country for the nation's good and for their own." Biaggi has, for almost two years, been pushing a bill that would provide fines and imprisonment for employers who knowingly hire illegal aliens.

Jim Bishop, Secretary-Treasurer of the Painters Union, District 9, reacts with the same mixture of anger and compassion. "The contractors are at fault," says Bishop. "They hire illegals at $1.50 an hour, then easily outbid a union contractor who must pay his men $8 an hour. But often they will work six days for one of these crooks and, come payday, the boss will tell them the INS inspector has been around and they had better flee—with, of course, no pay."

Rosa S. bears them out. "I have to do what I am told and accept what I am given," she says. "Always it is hanging over me that I am unlawfully here. I fear the knock on the door." Rosa is a maid on Fifth Avenue, the third housemaid's post; she came here from Haiti via Dominican Republic via Puerto Rico via Kennedy Airport.

"The boat was between Dominica and Puerto Rico," she says. "It cost me $75 for the crossing. The first time the boat turned back halfway over, because it was rough. The man said we would go again two days later but that I would have to pay another $75. My brothers spoke to the man and he changed his mind. But I was then very afraid during the next trip. We hear stories about people who pay to cross the passage and never make it to the other side."

From Puerto Rico it was a jet to Kennedy, loaded with citizens of the Commonwealth who have legal entry here—and an unknown number of "pretend PRs" like Rosa. She got through without any difficulty. The jumbo jet with its increased loads, has proved a boon to people like Rosa. It makes immigration checks at both ends of the flight just that much more difficult for the authorities.

Rosa was quickly absorbed in a Corona block where the population is about 90% Haitian. And on her second day she was taken to an employment agency in midtown Manhattan. If this was 20 years ago, Rosa would then have been subjected to "the line-up" in which ladies come in from the suburbs and pick out their new maids.

"It is better now," says Rosa. "They take your picture with an instant camera, write down your name and age and write in that you are from Puerto Rico." The agencies—about a dozen of them in Manhattan alone—then send a selection of these "biographies" to prospective employers. All parties know they are dealing with illegals.

"My first lady was very hard," says Rosa. "She shouted at me and called me stupid because then my English was not so good. And she worked me sometimes 13 hours in one day. When she paid me at the end of the week it was like she was giving me a gift. She would always say that I was illegal and must do what she ordered."

Rosa stood it for two months then simply ran away from the job. Still living with her country people in Corona, she selected a new name and went to another agency. The new "lady" was kinder and the work a little easier—from 8 in the morning until 7 at night and only till 3 on Saturday afternoon," says Rosa. "She paid me $85. Then my lady went away and gave me to her friend. Here I work the same hours, but now I get $95." Rosa has heard of the minimum wage law but doesn't think it has anything to do with her. She does not have a Social Security card, did not submit a tax return this year and, in fact, will never show up on any government file.

Nobody knows how many Rosas there are in America. The accepted figure at the start of the year was seven to eight million illegals. In New York, says Biaggi, the illegals hold at least 150,000 jobs—jobs that are now more than ever needed by Americans. His current bill in Congress would almost double the number of INS inspectors, adding 2,500 officers a year at a cost of $50 million a year. That's cheap, he says, pointing out that the Federal Government is spending $4.5 billion to make room for 350,000 unemployed.

The Justice Department admits the INS hasn't the funds to slow down, much less stop, the illegal inflow. Department sources note that this year there seem to be more illegals coming in than ever, despite the poor job market here. America's 9 or 10% unemployment rate still beats many of the Latin American countries, where 25% unemployed is common.

Jobs are not the only problem that come with the illegals. Almost none of them have the funds necessary to set themselves up here, so they are destined to further tax the nation's welfare rolls. And they end up in ghettos, trapped there by high rents and low wages. None of the illegals has passed the health screening every visitor to the U.S. must have. No one knows what sort of communicable diseases may accompany them. The illegals are a drain on the economy, sending whatever money they can save out of the country to their relatives. And, in a grim tendency INS inspectors have noticed lately, more and more of the illegals are bringing drugs into the country. "You pick up an alien with a few ounces of heroin," one INS man says. "He pleads that he's never done anything like that before and he only wants to get a nest egg to set him up here. It's probably the truth, but it's one more way that narcotics are coming here."

The illegal alien who does keep out of trouble has very little to worry about from Uncle Sam. If he's caught, or turns himself in, the alien is given the chance to leave of his own accord, or be deported. If he refuses to go, a deportation hearing is set and in the meantime a usually modest bond granted. Perhaps a third of those who post bonds just vanish back into the alien underworld. And of all the aliens apprehended in the U.S. each year, one third are repeaters.

Not all the illegal aliens are lying low and minding their own business. Many of those being apprehended these days are found with an impressive array of documentation—including voter registration and Social Security cards.

A Social Security card is instant citizenship as far as most employers are concerned. They do not bother checking whether an applicant also has a work visa. Why should they? There's no penalty for employing an illegal.

Getting a Social Security card is not quite as easy as it was, say, five years ago. But it is still a whole lot simpler than it should be. Maurice Kiley, regional director for the Immigration and Naturalization Service, tells of one illegal picked up by his inspectors. He had 12 Social Security cards in 12 different names.

The illegal aliens are not all restricted to employment in the fields no one else wants to enter. There are accountants, advertising executives, travel agents—every field has its quota of illegals and the more prosperous the employment the less likelihood of their being hassled.

The most dashing of the illegal aliens are to be found tending bar in the better East Side saloons. At a time when more and more bars are finding it trendy to have an English or Irish "pub" atmosphere, there is a great demand for English and Irish bartenders. Many of them are illegals. The rest, because they have a close relative who is an American citizen, are semi-legal—that is, they are going through the motions of getting working visas while stashing away money.

But even these seemingly carefree illegals share the fears of the lowliest wetback: Exposure. A lover's quarrel, an argument with a workmate, a set-to with the boss. "It's just like being a tax evader," says Tommy, a young Englishman who has worked the East afraid someone is going to put you in."

Still, they keep coming because it is their only hope of ever climbing out of the economic gutter. "You think I am badly paid here?" asks Rosa, the Fifth Avenue maid. "In Haiti I would not even have a job." To people like Rosa, the streets of America still seem paved with, at least, copper. It is a land of cars and washing machines, of good health services and higher education. "Maybe not for me," says Rosa, "but for my children."

TAX REFORM?

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 1975

Mr. HARRINGTON. Mr. Speaker, there has been much debate and controversy surrounding H.R. 10612, the Tax Reform Act of 1975, which passed the House on December 4, 1975. My views on the measure as reported by the House Committee on Ways and Means were perhaps best expressed by Congressman Mikva when he dubbed the measure the "Tax Relaxation Act." I am therefore disturbed, though hardly surprised, that a series of amendments offered in the hope of reforming at least to some degree the current tax structure have met with severely limited success. Even those progressive amendments which were adopted tend to be the ones about which corporate and moneyed interests were least concerned. Given the total results of last week's exercises, one can only conclude that private interests have won a sizeable victory.

The two amendments which, had they passed, would have signaled a significant desire on the part of this Congress to undertake meaningful tax reform were the real estate limitation on artificial losses—LAL—introduced by Congressman Mikva, and the tightening of the Domestic International Sales Corporation amendment—DISC—offered by Congressman Karth. The defeat of these two amendments makes it painfully obvious that the 94th Congress has little interest in eliminating even the most blatant of tax shelters.

The Mikva amendment called for a property by property assessment of investment ventures, not aggregation of investment gains and losses. It would have eliminated the transfer of a loss from one venture to a gain from another venture, the result being a net reduction of tax liability. The application of LAL on a property-by-property basis sensibly follows the precept that expenses incurred in an income producing venture should be subtracted from that venture's income for tax purposes, and not from income earned on a separate venture.

The validity of the DISC provisions has been the subject of highly speculative debate. We are all familiar with businesses' pamphlets which credit DISC with increases in export trade. These pamphlets rarely mention the intervening two devaluations of the dollar, which seem to me wholly or in large part to account for the increase in export trade. Our failure to pass the Karth amendment merely serves to perpetuate the Treasury's $1.3 billion export subsidy giveaway.

Those three amendments which did pass merely demonstrate, by virtue of the very necessity of this House's having to close such egregious loopholes, that this body has much work to do by way of renovating the tax structure of this country before it can claim even the meagerest of praise. The amendment offered by Congressman Corman, and approved by the House, was necessitated by a failure of the previous minimum tax concept to prevent wealthy individuals from maintaining large amounts of tax preferential income. The net result of the old law has been that taxes were avoided, or paid in a disproportionately small share, by those who can best afford to pay them. With this amendment we are at least spared the spectacle of 622 people with gross adjusted incomes of more than $100,000 paying not one penny in Federal income taxes.

The two other laudable amendments which received favorable consideration were the portfolio withholding tax, introduced by Congressman Fisher, and the elimination of the capital loss carryback, introduced by Congressman Stark. The former of these amendments opposed the elimination of withholding tax of foreigners who earn income in the United States, a provision which would have allowed many foreigners to escape taxation by both our country and by their own country. The latter of these amendments prevented the special interests of a few wealthy individuals such as Mr. H. Ross Perot from being served.

Two particularly unadvised amendments, the minimum taxable income amendment—MTI—introduced by Congressman Jones, and the exemptions from LAL provisions and farm operations, introduced by Congressman Smith, could by no stretch of the imagination be termed tax reform measures. The former would have provided a vehicle by which wealthy individuals already sheltered by the depletion allowance and capital gains provisions would actually enjoy a reduction of tax liability. The Jones amendment would have cost the Treasury $300 to $500 million; fortunately, the measure was defeated. The passage of the Smith amendment in a purported tax reform act defies the understanding, inasmuch as the only people who will benefit by a raise in the limit on nonfarm income will be people who invest in farms solely for the purpose of creating artificial losses to offset personal income. One more tax shelter for the rich would have been the only harvest these "farmers" would have ever produced.

Last week's debates and votes paint a grim picture indeed as to the possibility of meaningful tax reform in this Congress. As usual, business has received a token reprimand, while the tax paying public has to continue to bear far more than their fair share of the tax burden. The old cliche that the rich get richer and the poor get poorer has received added verification as a result of last week's inaction on the part of the House of Representatives.

SENATE—*Tuesday December 9, 1975*

The Senate met at 10 a.m. and was called to order by Hon. CLAIBORNE PELL, a Senator from the State of Rhode Island.

PRAYER

The Reverend Charles J. Minifie, rector, Trinity Church, Newport, R.I., offered the following prayer:

Almighty God, who has guided and preserved these United States through the past and has given us a position of responsibility among the nations of the world, grant that we may always be worthy of Your high calling; strive for justice, mercy, and peace among all peoples; always be mindful of Your purpose and call to serve You in faithfulness and in righteousness; and finally be good and responsible stewards of Your most generous bounty. This we pray through One who came among us not to be served but to serve, even Jesus Christ, our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 9, 1975.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. CLAIBORNE PELL, a Senator from the State of Rhode Island, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. PELL thereupon took the Chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, December 8, 1975, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE GRAND FORKS PYRAMID

Mr. MANSFIELD. Mr. President, in the December 13 issue of The Nation, there is an article entitled "The Grand Forks Pyramid," relative to the $5.7 billion which the Government invested in the Safeguard program, and then declared it inoperational.

As the Senate is aware, a similar proposal was made to build another installation in north-central Montana, centering around Great Falls, Conrad, and Shelby, which was underway at the time agreement was reached with the Soviet Union, and, after a sizable investment, discontinued.

I ask unanimous consent that this article, which indicates waste in some of the defense installations, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE GRAND FORKS PYRAMID

Calling its multibillion-dollar anti-ballistic missile system "Safeguard" was one of the more brilliant public relations coups of the Nixon administration. When first proposed by President Johnson in 1967, the system was called "Sentinel," not a bad PR name but nothing to match the security overtones of Nixon's label. Johnson suggested Sentinel as a system to protect America's major cities from a Chinese missile threat that never existed. Sentinel was opposed by critics as unworkable, as a spur to escalation of offensive missile making in other countries, and as a dangerous indication that America might be considering a first-strike nuclear strategy.

Two years later Nixon changed its name and its stated purpose. Safeguard, at a cost of at least $20 billion for twelve sites, was to protect American missiles in a case of foreign nuclear attack. Again, reasonable technical and political objections were raised. The Nixon administration switched its line: Safeguard became a bargaining chip in American nuclear negotiations with the Soviet Union. The Senate approved the ABM system by one vote in 1969.

The Russians halted deployment of their Moscow ABM ring before it was complete, and the 1972 SALT agreements limited both nations first to two ABM sites apiece and then, following a 1974 pact, to one. On October 1, six years and $5.7 billion after the Senate vote, the Safeguard installation in Grand Forks, N.D., became fully operational. Forty-eight days later, the Senate voted to go along with a House decision to shut it down.

Rep. George Mahon of Texas, chairman of the House Appropriations Committee, said during debate on Safeguard this year that it "has not been effective." It can be argued that it was never intended to be effective except, as Mahon observed, "perhaps from a cosmetic standpoint." But, he added, "If we had done nothing, it would have been the same."

Not quite. Aside from the waste of nearly $6 billion that could well have been spent elsewhere, and the expenditure of energy and resources of those who for years opposed it, the installation and closing of Safeguard played havoc with the lives and fortunes of the people of Langdon, N.D. The town boomed while the site was being built. At the time of the vote last month, 1,500 persons, about a third of Langdon's population, were employed in connection with the ABM. Many others had found work and business opportunities in the influx of capital surrounding the Safeguard's construction. Workers migrated from all over the country for jobs on the missile site. When Safeguard closes, as it is expected to do in July, Langdon will be hit by a depression made in Washington. Full compensatory federal aid is not anticipated.

"We didn't ask them to come," Langdon Mayor John MacFarlane told William K. Stevens of *The New York Times*. Now that the Safeguard money and jobs are going, the people are justifiably bitter. Their Representative in Congress, Mark Andrews, a Republican, had voted for the shutdown. And one town resident, who had borrowed $100,000 to open a restaurant in Langdon when the town started growing, told Stevens if he saw Andrews on the street, he would punch him in the mouth. The plight of Langdon should, but won't, indicate the advisability of matching cuts in defense-generated employment with additional civilian employment of comparable magnitude.

Langdon won't easily forget Safeguard, even if it eventually recovers from the shock of its withdrawal. For the installation's major structure, what Stevens calls "a majestic concrete pyramid with the point sliced off, visible for miles," will remain, an enduring monument to what at least one facet of the American way of life was like in the early 1970s. But it won't be the only relic of Langdon's Safeguard experience. The town's one permanent change, the Mayor told Stevens, was its loss of confidence in the government in Washington. "There ain't nothin' gonna happen that'll straighten that out," he said. "That's gone."

DIEGO GARCIA

Mr. MANSFIELD. Mr. President, the conference report on the military construction bill contains the following amendment:

Amendment No. 9, General provisions: The conferees discussed the Senate's Diego Garcia amendment at length. House conferees expressed agreement with their Senate counterparts that negotiations regarding mutual arms restraint in the Indian Ocean are highly desirable and should proceed at the earliest practical time; however, the Senate amendment would have the undesirable effect of prolonging completion of the Diego Garcia project and increasing costs significantly as a result of split procurements and escalated prices. After much discussion, the conferees agreed to modify the Senate amendment with the full expectation that the Administration will report to the Committees on Appropriations and Armed Services of the Senate and the House of Representatives, the Committee on Foreign Affairs of the Senate, and the Committee on International Relations of the House of Representatives regarding negotiation initiatives before April 15, 1976; however, the Navy would be permitted and is expected to arrange its procurement contracts to minimize cost and delay in procurement of materials for the fiscal year 1976 increment of facilities by the use of fiscal year 1975 appropriations for construction at Diego Garcia which have been already made available. Such projects may proceed provided that neither cumulative obligations nor cumulative expenditures by April 15, 1976, on projects authorized for fiscal year 1975 and fiscal year 1976 will exceed $18.1 million, or that amount authorized and appropriated for fiscal year 1975, except that funds in the amount of $250,000 from the fiscal year 1976 appropriations may be used to procure, construct and install aircraft arresting gear prior to April 15, 1976, as authorized by law. The conferees' intent is to prohibit construction of projects on Diego Garcia using fiscal year 1976 funds before April 15, 1976 but not to delay planning or the procurement of long leadtime items.

Mr. President, in accord with the action of the joint conference and as chairman of the Military Construction Subcommittee, I sent a letter under date of December 3, 1975, to the President of the United States with a copy to the Honorable Henry A. Kissinger, Secretary of State, asking them to initiate negotiations with the Soviet Union to see if it would be possible for construction in any area in that part of the Indian Ocean to be negotiated out rather than up. We are hopeful that by April 15 it may be possible to once again make certain that the Indian Ocean is an "ocean of peace," a zone of peace. This letter dated December 3 was delivered to the President yesterday. Now that he has it on his return from the Far East and the Pacific, I ask unanimous consent that a copy of that letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DECEMBER 3, 1975.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The decision to build a military facility on the island of Diego Garcia in the Indian Ocean has been before the Congress since 1969. Much of the discussion has focused on the effect of such a facility on the possibility of obtaining suitable guarantees to insure that the Indian Ocean area remains an "ocean of peace." Mutual restraint in building naval installations and in otherwise limiting the naval presence of the Soviet Union and the United States in the Indian Ocean has been considered as a most desirable objective by many members. It is an objective, moreover, which we believe has not received an appropriate priority within the Executive Branch.

The building of a naval installation on Diego Garcia could irretrievably raise the threshold of military activity in the area. For this nation, moreover, this step could be the precursor of a three-ocean navy, with consequent heavy costs to the people of the United States.

It would seem that an agreement now with the U.S.S.R. to retain the status quo in installations and naval operations should be much easier to obtain than a rollback after each side has once escalated its presence. The Congress has expressed its deep concern in this matter by placing in the military construction bill a prohibition against construction of the Diego Garcia naval facility until April 15, 1976, and by asking immediate diplomatic initiatives with a report thereon to both Houses of Congress prior to that date.

I would express the hope, most respectfully, that you will undertake to have the Secretary of State give his personal attention to this most important undertaking. He should feel free to call upon those members of Congress with a deep interest in the matter for such consultation and advice as he might feel would be helpful.

Respectfully yours,
MIKE MANSFIELD,
Chairman, Military Construction Subcommittee.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

DEATH OF SENATOR DOLE'S FATHER

Mr. HUGH SCOTT. Mr. President, the old maxim that in the midst of life we are in death was never more appropriate than to the events of the weekend. All of us rejoiced in the happiness which had come to our distinguished colleague and friend, the Senator from Kansas (Mr. DOLE), in his marriage on Saturday to Commissioner Hanford. That marriage was attended by Senator DOLE's father. We have just received word of the sad and tragic passing of his father.

On behalf of all of us, I want to extend deep and sincere condolences to Senator DOLE and to his family, and to note at the same time how much joy he must feel amidst this sadness that the last act of his father was to enjoy the opportunity to see his son happily married.

Mr. MANSFIELD. Will the Senator yield?

Mr. HUGH SCOTT. Yes.

Mr. MANSFIELD. All I want to say, Mr. President, is that the Senator speaks for the full Senate in that respect.

Mr. HUGH SCOTT. I thank the Senator. I yield back the remainder of my time.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will now proceed to the consideration of the conference report on H.R. 3474.

ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a brief period for the conduct of routine morning business, not to exceed 15 minutes, with a time limitation of 3 minutes attached thereto.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered, with the conference report to follow.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PASTORE. Is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business?

PRIVILEGE OF THE FLOOR

Mr. JACKSON. Mr. President, I ask unanimous consent that the following members of the committee staffs be given the privilege of the floor during the debate on the conference report on H.R. 3474, Dan Dreyfus, Ben Yamagata, Owen Malone, Mike Harvey, Burke Nelson, Avis O'Leary, George Murphy, William Palker, and Mike Adams.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PRESIDENT FORD SHOULD VETO THE ENERGY BILL

Mr. BARTLETT. Mr. President, the President will soon be making his decision on whether or not to veto the conference report on the Energy Policy and Conservation Act of 1975, which the Congress will presumably pass.

The bill is nothing more than bombastic claptrap. It is exactly what would be expected from a Congress which has repeatedly failed to come to grips with a workable energy policy.

It is absolutely essential to the economic well-being, energy sufficiency, and national security of the United States that this bill not become law. President Ford should veto it.

The bill goes in exactly the opposite direction from where we have been going and from what the administration has consistently advocated in the past. It is not a plan to phase out price controls on crude oil. From the present situation with 40 percent of our crude oil selling at free market prices, the bill places all this crude under controls, rolls the prices back, and then institutes a pricing scheme which would indefinitely or permanently perpetuate the controls.

The bill provides no mechanism by which price controls can be eliminated. The disparity between average U.S. prices and the world prices will likely widen during the 40-month tenure of mandatory controls contained in the bill. Congress would be no more inclined to eliminate price controls at that time than it is now. The bill is, therefore, the first installment in a program to permanently regulate the petroleum industry.

We have seen what 21 years of price controls have done to natural gas supplies. I anticipate even more drastic results for crude oil supplies because we already import 40 percent of our needs. The Energy Policy and Conservation Act of 1975 would increase our reliance on insecure foreign imports to more than half our total needs by 1980, and to even greater proportions by 1985. Even its proponents do not deny this.

The bill establishes a new scheme for pricing domestic crude oil which rolls back new oil prices in the short run and reduces these prices in real terms over the long run. New oil prices would initially be reduced by over $2 per barrel thus lowering the incentives for drilling new exploratory and development wells. Stripper oil would receive a similar rollback with the probable result that some marginal production would be shut-in or prematurely abandoned.

The bill would cause tremendous investor uncertainty because of the nature of the new composite pricing scheme. Congress can disapprove administration proposals to increase the production incentive, to increase the composite price adjustment limitation, or to exclude Alaskan production from the composite price calculation. Producers would have little certainty that the administration would be inclined to make a proposal to increase prices and even less certainty that such a proposal would not be disapproved by either House of Congress.

Because the continuation of oil price controls would perpetuate a complex crude cost equalization program, the bill continues to subsidize the OPEC nations. These controls increase the demand for OPEC oil and make it easier for OPEC to further raise prices. While in the short run prices may be reduced slightly, the controls will cause higher prices for consumers in the future.

The Energy Policy and Conservation Act of 1975 is a bad bill. It will not work. It does just the opposite of what is needed.

Instead of reducing regulation and controls and instituting a free market, it adds to the controls and regulation and perpetuates them. A free market or a phaseout of controls would decrease consumption, increase supplies, and reduce imports; this bill would increase consumption, decrease supplies, and increase our reliance on insecure high cost imports.

This legislation could eliminate forever the free market for crude in the United States and replace it with government bureaucracy and regulation.

The President has, in the past, courageously advocated an energy policy based on a free market. By doing this he has earned the respect of millions of Americans who have faith in the private enterprise system and who now understand the problem and want positive action. He should not now abdicate his previous position and sign this bill into law. His decision will set the course of U.S. energy policy for years to come. Now is the time for Presidential leadership. President Ford should veto S. 622.

The Congress has been a "yes but" Congress. Yes, we favor the free enterprise system—yes we favor the free market and are opposed to price controls—but not now.

Soon we will see whether we have a "yes but" administration.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. PELL) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILLS SIGNED

Under authority of the order of December 8, 1975, a message from the House of Representatives was received on December 8, 1975, during the adjournment of the Senate, stating that the Speaker had signed the following enrolled bills:

S. 233. An act for the relief of North Central Educational Television, Incorporated;

S. 364. An act relating to certain Forest Service timber sale contracts involving road construction;

S. 1800. An act to provide indemnities for exhibitions of artistic and humanistic endeavors, and for other purposes; and

H.R. 8069. An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

The enrolled bills were signed on December 8, 1975, by the President pro tempore.

The President pro tempore, on December 8, 1975, also signed the enrolled bill (H.R. 10481) to authorize the Secretary of the Treasury to provide seasonal financing for the city of New York.

MESSAGES FROM THE HOUSE

At 10:07 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 8122) making appropriations for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commissions for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. EVINS of Tennessee, Mr. BOLAND, Mr. WHITTEN, Mr. SLACK, Mr. PASSMAN, Mr. BEVILL, Mr. MAHON, Mr. MYERS of Indiana, Mr. BURGENER, and Mr. CEDERBERG were appointed managers of the conference on the part of the House.

The message also announced that the House insists upon its amendment to the bill (S. 644) to amend the Consumer Product Safety Commission Act, to authorize new appropriations, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. VAN DEERLIN, Mr. STUCKEY, Mr. ECKHARDT, Mr. METCALFE, Mr. DEVINE, and Mr. MCCOLLISTER were appointed managers of the conference on the part of the House.

ENROLLED BILL SIGNED

At 2:24 p.m., a message from the House of Representatives, delivered by Mr. Hackney, announced that the Speaker had signed the bill (S. 240) to amend the act entitled "An act granting a charter to the General Federation of Women's Clubs."

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. METCALF).

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. PELL) laid before the Senate the following letters, which were referred as indicated:

SOIL SURVEY AND LAND CLASSIFICATION

A letter from the Secretary of the Interior transmitting, pursuant to law, a report on the certification as to adequacy of soil survey and land classification relating to Fruitland Mesa Project, California (with accompanying papers); to the Committee on Appropriations.

REPORT OF THE SELECTIVE SERVICE

A letter from the Director of Selective Service transmitting, pursuant to law, the semiannual report of the Director of Selective Service for the period January 1—June 30, 1975 (with an accompanying report); to the Committee on Armed Services.

REPORT OF THE FEDERAL DEPOSIT INSURANCE CORPORATION

A letter from the Chairman of the Federal Deposit Insurance Corporation transmitting, pursuant to law, the annual report of the Corporation for the calendar year 1974 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

REPORT OF THE SECURITIES AND EXCHANGE COMMISSION

A letter from the Secretary of the Securities and Exchange Commission transmitting, pursuant to law, a report relating to the various changes on the securities markets (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

REPORT OF THE EXPORT-IMPORT BANK

A letter from the Chairman of the Export-Import Bank transmitting, pursuant to law, a report on the actions taken by the Bank for the quarter ended September 30, 1975 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

REPORT OF THE SECURITIES AND EXCHANGE COMMISSION

A letter from the Chairman of the Securities and Exchange Commission transmitting, pursuant to law, a report entitled "The Practice of Recording the Ownership of Securities in the Records of the Issuer in other than the name of the Beneficial Owner of such Securities" (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

REPORTS OF THE COMPTROLLER GENERAL

Three letters from the Comptroller General of the United States each transmitting, pursuant to law, a report entitled as follows: "Federal Pesticide Registration Program: Is It Protecting the Public and the Environment Adequately from Pesticide Hazards?"; "Examination of Financial Statements of the Tennessee Valley Authority for Fiscal Year 1975"; and "Better Followup System Needed To Deal with Recommendations by Study Commissions in the Federal Government" (with accompanying reports); to the Committee on Government Operations.

REPORT OF THE DEPARTMENT OF THE INTERIOR

A letter from the Assistant Secretary of the Interior reporting on the receipts and expenditures of the Department in connection with the administration of the Outer

Continental Shelf Lands Act for the fiscal year 1975; to the Committee on Interior and Insular Affairs.

Report of the Court of Claims

A letter from the Chief Commission of the U.S. Court of Claims transmitting, pursuant to law, a report concerning the allowance of native claims (with an accompanying report); to the Committee on Interior and Insular Affairs.

Orders of the Immigration and Naturalization Service

Two letters from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, copies of orders entered in the cases of certain aliens (with accompanying papers); to the Committee on the Judiciary.

Report of the Labor-Management Services Administration

A letter from the Acting Director of the Labor-Management Services Administration transmitting, pursuant to law, a report entitled "Compliance, Enforcement, and Reporting in 1974 Under the Labor-Management Reporting and Disclosure Act" (with an accompanying report); to the Committee on Labor and Public Welfare.

Report of the Department of Health, Education, and Welfare

A letter from the Acting Executive Secretary of the Department of Health, Education, and Welfare transmitting, pursuant to law, a report on certain published regulations regarding various aid to education programs (with an accompanying report); to the Committee on Labor and Public Welfare.

Proposed Legislation by the General Services Administration

A letter from the Administrator of General Services transmitting a draft of proposed legislation to require mandatory application of the General Records Schedules to all Federal agencies and to resolve conflicts between authorizations for disposal (with accompanying papers); to the Committee on Post Office and Civil Service.

Proposed Regulations by the Federal Election Commission

Two letters from the Chairman of the Federal Election Commission each transmitting a proposed regulation, first, pertaining to the filing of requirement statements and reports by Federal candidates and political committees; and second, pertaining to contributions to and expenditures from office accounts of all Federal and State incumbent officeholders (with accompanying papers); to the Committee on Rules and Administration.

Proposed Supplemental Appropriations for the Department of the Treasury—S. Doc No. 94–138)

A communication from the President of the United States transmitting a proposed supplemental appropriations request for the fiscal year 1976 and the transition quarter in the amount of $2,301,315,000 for the Department of the Treasury (with accompanying papers); to the Committee on Appropriations, and ordered to be printed.

PETITIONS

The Acting President pro tempore (Mr. Pell) laid before the Senate the following petitions, which were referred as indicated:

A resolution adopted by the General Assembly of the State of Ohio; to the Committee on Banking, Housing and Urban Affairs:

"Memorializing the Congress of the United States and the U.S. Department of Housing and Urban Development to carry out the intent of Title VII of the Housing and Urban Development Act of 1970

"Be it resolved by the General Assembly of the State of Ohio:

"Whereas, The members of the 111th General Assembly of Ohio join in memorializing Congress and the United States Department of Housing and Urban Development to carry out the intent of Title VII of the Housing and Urban Development Act of 1970 in order that the goals and objectives of the New Community concept of community development may be realized in the State of Ohio; and

"Whereas, The General Assembly of the State of Ohio, being vitally concerned with the development and redevelopment of Ohio's metropolitan areas, towns, rural communities, and counties, passed Amended Substitute House Bill No. 1063 in 1972 which enacted Sections 349.01 to 349.16 of the Ohio Revised Code. This vital piece of legislation, known as the 'New Community Authority Act', provided for the organization, operation, and financing of New Community Authorities to encourage the orderly development of well-planned and diversified communities; the participation of private enterprise in such undertakings; and cooperation between a Developer and an established New Community Authority to carry out a program of new community development; and

"Whereas, the 'New Community Authority Act' was passed in a manner which required, as a prerequisite, federal financial assistance pursuant to the 'Urban Growth and New Community Development Act of 1970' Title VII of the 'Housing and Urban Development Act of 1970' 84 Stat. 1791, 42 USCA 4501, thereby recognizing the dependence of the state upon the federal government for assistance in controlling urban growth. Subsequent to the passage of House Bill No. 1063, a New Community Authority was created in Montgomery County in April, 1973 and pursuant to the Urban Growth and Development Act of 1970, the developer received federal financial assistance in the form of a guarantee in November, 1973 for the purpose of establishing Newfields near Dayton; and

"Whereas, Newfields is the only New Community in Ohio and its New Community Authority appears to be the only public entity in the United States cooperating with a private enterprise developer to develop a new community, and the continued success of Newfields and its Community Authority is, therefore, of vital concern not only to the State of Ohio and the Montgomery County area but to the future of urban development throughout the nation; therefore be it

"Resolved, That we, the member of the 111th General Assembly of Ohio, in adopting this Resolution, memorialize Congress and the Department of Housing and Urban Development to take the necessary action to carry out the intent of Title VII of the Housing and Urban Development Act of 1970 in order that the goals and objectives of the Newfields New Community may be realized and the State of Ohio may continue to set an example for the nation through the implementation of the New Community Act by providing job opportunities, adequate tax bases, community services, well-balanced neighborhoods and socially, economically and physically attractive living environments; and be it further

"Resolved, That the members of the General Assembly do hereby call for a restructuring of Title VII in light of the economic downturn which has plagued the housing industry; for a reaffirmation by the Congress that new towns are experimental in nature and are youthful laboratories for determining how best to control the future growth of our country in a rational, orderly, and efficient manner; and for recognition by the federal government of the unique opportunity that Chapter 349 of the Ohio Revised Code creates for enabling 'New Community Authorities' to work as public agencies to represent the public interests concurrently with the development of a new community. We further request that the federal government, during our Bicentennial Observance, reaffirm its commitment to the Newfields New Community, recognize that it is the only embodiment in this great country of the public-private partnership or dual-developer approach to new community development, and continue Newfields in a viable manner in order that a truly significant forward step may be recorded on the road to providing individuals everywhere with attractive community environments; and be it further

"Resolved, That the Clerk of the Senate transmit duly authenticated copies of this Resolution to the Speaker of the United States House of Representatives; to the President of the United States Senate; to the members of Ohio's Congressional Delegation; to the Secretary of Housing and Urban Development; to the Dayton Daily News; and to the Journal-Herald, Dayton."

A resolution adopted by the Pennsylvania Republican Congressional Delegation relating to the natural gas shortage; to the Committee on Commerce.

A resolution adopted by the Board of Supervisors of the County of Los Angeles, Calif., relating to general revenue sharing; to the Committee on Finance.

A resolution adopted by the Board of Global Ministries of the United Methodist Church relating to independence for the Trust Territory of Micronesia; to the Committee on Interior and Insular Affairs.

REPORT OF A COMMITTEE SUBMITTED DURING ADJOURNMENT

Under authority of the order of December 8, 1975, the following report of a committee was submitted during the adjournment of the Senate:

By Mr. McINTYRE, from the Committee on Armed Services, with amendments:

S. 961. A bill to extend, pending international agreement, the fisheries management responsibility and authority of the United States over the fish in certain ocean areas in order to conserve and protect such fish from depletion, and for other purposes (together with supplemental and minority views) (Rept. No. 94–515).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCLELLAN, from the Committee on Appropriations, without amendment:

H.J. Res. 733. A joint resolution making further continuing appropriations for fiscal year 1976, and for other purposes (Rept. No. 94–517).

By Mr. SPARKMAN, from the Committee on Banking, Housing and Urban Affairs, with amendments:

H.R. 9852. An act to amend section 2 of the National Housing Act to increase the maximum loan amounts for the purchase of mobile homes, and for other purposes (Rept. No. 94–520) (together with additional views).

By Mr. ROBERT C. BYRD, from the Committee on Rules and Administration, with an amendment:

S. Res. 268. A resolution to amend rule XXII of the Standing Rules of the U.S. Senate to provide for the consideration of amendments submitted to the Presiding Officer prior to a cloture vote (Rept. No. 94–521).

By Mr. HARTKE, from the Committee on Veterans' Affairs:

S. Res. 322. An original resolution to waive the requirements of section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2635 (Rept. No. 94–522) (Referred to the Committee on the Budget.)

ECONOMIC RIGHTS OF LABOR IN THE CONSTRUCTION INDUSTRY (COMMON SITUS PICKETING)—CONFERENCE REPORT—(REPT. NO. 94–518)

Mr. WILLIAMS submitted a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5900) to protect the economic rights of labor in the building and construction industry by providing for equal treatment of craft and industrial workers, which was ordered to be printed.

SECOND CONCURRENT RESOLUTION ON THE BUDGET, 1976—CONFERENCE REPORT—(REPT. NO. 94–519)

Mr. MUSKIE submitted a report from the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the concurrent resolution (H. Con. Res. 466) revising the congressional budget for the U.S. Government for the fiscal year 1976, and directing certain reconciliation action, which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare:

The following-named persons to be members of the Board of Trustees of the Harry S. Truman Scholarship Foundation for the terms indicated (new positions):

For a term of 2 years:

Jonathan Moore, of Massachusetts.

John W. Snyder, of the District of Columbia.

For a term of 4 years:

Walter E. Craig, of Arizona.

Elliott D. Marshall, of Virginia.

For a term of 6 years:

Christopher S. Bond, of Missouri.

Margaret Truman Daniel, of the District of Columbia.

John Portner Humes, of New York.

Richard A. King, of Missouri.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. SPARKMAN, from the Committee on Foreign Relations:

T. Vincent Learson, of New York, to be an Ambassador at Large and the Special Representative of the President of the United States for the Law of the Sea Conference and Chief of Delegation.

STATEMENT OF POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: T. Vincent Learson.

Post: Ambassador At Large. Nominated: November 11, 1975.

Contributions: amount, date, and donee: (if none, write none):

1. Self: $500, Committee to Reelect President, October 16, 1972, TVL–Nixon; $500, Committee To Elect Odgen Reid, October 16, 1972, TVL–Reid.

2. Spouse: $500, same as above, October 16, 1972; $500, same as above, October 16, 1972.

3. Children and Spouses Names: Mrs. R. G. Allen, $25, 1973, Buck Ramsey; Mrs. R. N. Foster, $25, 1973, Texas State Legislature.

4. Parents Names: Deceased, $100, 1975, Mrs. Whittle, Westchester County Legislature.

5. Grandparents Names: Deceased.

6. Brothers and Spouses Names: Richard J. Learson, $50, Republican Party, N.Y., 1971, 1972, 1973, 1974, 1975.

7. Sisters and spouses names: Katherine G. Learson, $25; Democratic Party, Florida, 1973.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

T. VINCENT LEARSON.

Subscribed and sworn (or affirmed) before me this 11th day of November A.D. 1975, at Washington, D.C.

[SEAL] MARY E. MINAKIAU,
Notary Public.

My Commission Expires April 30, 1976.

William E. Schaufele, Jr., of Ohio, a Foreign Service officer of the class of career minister, to be an Assistant Secretary of State.

STATEMENT OF POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: William E. Schaufele, Jr.

Post: Career Minister.

Contributions, amount, date, and donee: (If none, write none):

1. Self: William E. Schaufele, Jr., none.

2. Spouse: Heather Moon Schaufele, none.

3. Children and Spouses Names: Steven W. Schaufele, none. Peter H. Schaufele, none.

4. Parents Names: Mrs. Lillian Schaufele, none. (Father deceased.)

5. Grandparents names: Deceased.

6. Brothers and spouses names.

7. Sisters and spouses names; Mr. and Mrs. Fred O. Sloane.

$5.00, July 9, 1972, Democratic National Committee Telethon.

$15.00, May 20, 1971, Friends of John Glenn Committee.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

W. E. SCHAUFELE.

Subscribed and sworn (or affirmed) before me this 18th day of July A.D. 1975, at Washington, D.C.

[SEAL] STELLA MAKARA,
Notary Public.

Commission expires July 31, 1977.

Andrew L. Steigman, of Maryland, a Foreign Service officer of class 2, now Ambassador Extraordinary and Plenipotentiary of the United States of America to the Gabonese Republic, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Sao Tome and Principe.

STATEMENT OF POLITICAL CONTRIBUTIONS

The following declaration regarding campaign contributions is submitted in accordance with the Department of State Appropriations Act of 1973 (P.L. 93–126, October 18, 1973).

During the five calendar years preceding the date of this declaration, neither I, Andrew L. Steigman, nor my wife, Meryl F. Steigman, nor my minor children, Daria Hope Steigman and Jonathan Seth Steigman, has made any Federal campaign (political) contribution as defined in Section 301(e) of the Federal Election Campaign Act of 1971 (P.L. 92–225, February 7, 1972, 86 Stat. 11). During this period, I had no living parents, grandparents, brothers, or sisters.

To the best of my knowledge, the information contained in this declaration is complete and accurate.

ANDREW L. STEIGMAN.

Federal Republic of Nigeria, State of Lagos, Embassy of the United States of America.

Subscribed and sworn to before me, Thomas Gustafson, Consul of the United States of America at Lagos, Nigeria.

April 23, 1975.

THOMAS GUSTAFSON,
American Consul.

The following-named persons to be members of the Board of Directors of the Inter-American Foundation for the terms indicated:

For the remainder of the term expiring September 20, 1976:

William D. Rogers, of Virginia, vice Jack B. Kubisch, resigned.

For the remainder of the term expiring September 20, 1978:

William S. Mailliard, of California, vice John Michael Hennessy.

For a term expiring September 20, 1980:

John Richardson, Jr., of Virginia. (Reappointment.)

(The foregong nominations from the Committee on Foreign Relations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, December 9, 1975, he presented to the President of the United States the following enrolled bills:

S. 233. An act for the relief of North Central Educational Television, Inc.

S. 364. An act relating to certain Forest Service timber sale contracts involving road construction; and

S. 1800. An act to provide indemnities for exhibitions of artistic and humanistic endeavors, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolution were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. McCLELLAN (for himself, Mr. HRUSKA, and Mr. TAFT):

S. 2757. A bill to extend until April 30, 1976, the authority of the National Commission for the review of Federal and State laws relating to wiretapping and electronic surveillance. Considered and passed.

By Mr. ABOUREZK (for himself and Mr. McGOVERN):

S. 2758. A bill to amend the Rivers and Harbors Act approved June 28, 1938, as amended and supplemented, to provide bank stabilization works on the Missouri River between Fort Randall Dam and Sioux City, Iowa. Referred to the Committee on Public Works.

By Mr. FANNIN (for himself and Mr. CURTIS):

S. 2759. A bill to amend the Internal Revenue Code of 1954 to make clear the tax treatment intended for guaranteed renewable life, health, and accident insurance contracts in the case of life insurance companies. Referred to the Committee on Finance.

By Mr. KENNEDY:

S. 2760. A bill to amend the Indochina Migration and Refugee Assistance Act of 1975 to provide for the inclusion of refugees from Laos. Referred to the Committee on Foreign Relations.

By Mr. TUNNEY:

S. 2761. A bill entitled "Competition in Energy Act." Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ABOUREZK (for himself and Mr. McGOVERN):

S. 2758. A bill to amend the Rivers and Harbors Act approved June 28, 1938, as amended and supplemented, to provide bank stabilization works on the Missouri River between Fort Randall Dam and Sioux City, Iowa. Referred to the Committee on Public Works.

MISSOURI RIVER BANK PROTECTION

Mr. ABOUREZK. Mr. President, erosion along the banks of the Missouri River in the reach from above Sioux City to Fort Randall Dam has been recognized as a problem for more than a decade. This year it has reached record proportions and the time is past due for acting to correct the situation. The legislation which Senator McGOVERN and I are introducing today aims at just that. In my view, it represents a delayed completion of an integral part of the Pick-Sloan Missouri River Basin program.

In 1965, several years after the completion of the main stem dams under that program, the Omaha district of the Corps of Engineers prepared a report based on the experience of the first years under the Pick-Sloan plan. That report recognized the seriousness of the erosion problem along the 78-mile stretch between Gavins Point Dam in my State of South Dakota and Sioux City. The Omaha district recommended at that time that corrective action be taken, but because their proposal also included extending the navigation channel into that reach—a proposition which was and still is a controversial one—no actions were taken to protect the banks against excessive erosion except for some specific one-shot projects which met some immediate needs but left the larger problem unsolved. In fact, it is the feeling of some that the effect of some bank stabilization projects is merely to shift the problem to some other part of the river.

Five years after that first Omaha district report, supplemental information was evaluated and the 1965 report updated. Among other things, the additional data indicated that the average erosion rates in that 78-mile stretch of river exceeds 300 acres a year—a figure more than twice as large as had been estimated in the initial report. This showed that the costs of not acting were even greater than first supposed. At the same time, design improvements suggested that the costs involved could be even lower than expected. Meanwhile there was developing even greater interest in doing something about the erosion—with the Govenors of both South Dakota and Nebraska expressing a desire for congressional action—and increased opposition by environmentalists to any extension of the navigation channel.

In order to give full consideration to all points of view, a joint task force was appointed by the two Governors made up of State officials, farmers, and landowners along the river, and environmentalists. This group held meetings in late 1971 and early 1972 and concluded that the erosion in the stretch of the river under study was "of near emergency proportions." Their report went on to state that:

> Continuation of erosion without measures to halt land losses reduces the real income of the present landowners, reduces the general economy of the agricultural area, degrades the natural aesthetic beauty of the area, leaves present recreational resources susceptible to degradation, reduces security in operation of small farm units, increases risk of relocation of persons engaged in farming, represents a safety hazard from loss of public roads and from an unexpected loss of riverbanks next to cultivated lands, and limits general educational, cultural, and recreational opportunities to residents of the area.

The task force report identified seven specific stretches, totaling 26 miles, "presently in need of immediate protection." It also concluded that the carrying out of a general program of bank stabilization in the full 78-mile stretch would have a benefit-to-cost ratio of nearly 2-to-1.

All of this, Mr. President, was prior to this year. If bank protection along this stretch of the river was necessary and justified before, our experience this year has shown it to be doubly or triply necessary and justified.

This year's flood season run-off in the entire reservoir system of the Missouri River was the greatest since 1898. In the extreme upper part of the system it was greater even than in the 1881 flood—the maximum scale of flood which the Pick-Sloan plan was designed to handle. As a result of these inflows into the upstream reservoirs, the dams in the system began operating last summer at record rates of discharge—with some 60,000 cubic feet of water per second going through the Gavins Point and Fort Randall Dams. Such flows constitute a sort of controlled flood and one obvious result is a sharp increase in the erosion rate. While I have yet to see any figures released by the Corps of Engineers on this year's erosion experience, farmers in nine counties along both sides of the river—just in the stretch from Fort Randall Dam to Ponca, Nebr.—reported a total of 605 acres lost to erosion in the month of July alone. July was just the first month of record discharge rates for the dam system, I might add. In two counties on the Nebraska side and one on the South Dakota side those July loses exceeded 100 acres.

Presumably these loss figures are not comparable to those previous erosion estimates prepared by the corps. But even if the latter official figures are only a fraction of the losses reported by landowners, it is clear that the erosion rate in this year of record discharge rates from the mainstem dams is several times the average in earlier years. It is equally clear that we must increase our estimates of the need for bank protection work and of the benefits to be expected from it.

In response to my inquiries earlier this fall, the corps has confirmed that the areas identified as active erosion areas most in need of bank protection constitute 23 miles of bankline on the South Dakota side and 14 miles of bankline on the Nebraska side. They estimate the cost of adequately protecting these high priority erosion areas at $12 million. While the corps did not make any benefit-to-cost estimates on this, I have no doubt that the allowance for a greater rate of loss in the absence of bank protection work will mean an increase in the benefit-to-cost ratio over the earlier computations.

In my view, this work is a necessary part of the Missouri River basin program. Without it, the controlled flooding that occurs in years like this will continue to take land away from those who own and farm land along the river. That means that those people will go on paying a disproportionate share of the total costs of regulating the river in the interests of all of us. I think they have already been forced to pay more than they should and that we must move ahead with the work needed to save the banks of the Missouri River. The need to do so has been recognized repeatedly over the past 10 years. The case for doing so has gotten stronger each year. The plan for doing so has been worked out and received the approval of Government officials, landowners, and environmentalists alike. I hope that Congress will do its part and approve this authorizing legislation.

By Mr. FANNIN (for himself and Mr. CURTIS):

S. 2759. A bill to amend the Internal Revenue Code of 1954 to make clear the tax treatment intended for guaranteed renewable life, health, and accident insurance contracts in the case of life insurance companies. Referred to the Committee on Finance.

Mr. FANNIN. Mr. President, on behalf of myself and the distinguished Senator from Nebraska (Mr. CURTIS), I am today introducing legislation to clarify the tax treatment of guaranteed renewable life, health, and accident insurance contracts in the case of life insurance companies. I introduced substantially identical legislation in 1972 which was approved by the Committee on Finance and passed by the Senate as an amendment to a then pending bill. Unfortunately, the House conferees did not accept the amendment at that time because they did not have sufficient time to fully explore the technicalities involved. The House conferees expressly indicated that their failure to accept the bill was not because of any fundamental disagreement with its provisions. Senator CURTIS and I believe the time has come to reintroduce this legislation, and to clarify once and for all the tax treatment intended for these guaranteed renewable insurance contracts.

In order to place the proposed legislation in its proper perspective, let me briefly provide some necessary background information. Life insurance companies issue three basic types of health and accident insurance contracts. First, there are noncancellable health and accident contracts, under which the insurance company is obligated to continue or renew the insurance coverage at a guaranteed premium. Second, there are guaranteed renewable health and accident contracts, under which the insurance company cannot cancel the contract or change the nature of the risks covered, but may, after complying with relevant State law, adjust premium rates by classes in accordance with its experience under the type of contract involved; the company may not adjust the premium rates of individual class members. Thus, the only difference between the non-cancellable and guaranteed renewable contracts is the fact that under the latter the insurance company reserves a limited right to adjust premiums by class in accordance with its experience. The third type of health and accident contract, the cancellable health and accident contract, is quite different from the other two since it can be cancelled by the insurance company for any reason at the renewal date. Thus, the risks insured under the cancellable contracts are short-term because of the company's right to cancel the contract, while the risks insured under the noncancellable and guaranteed renewals are long-term because of the absence of that right.

When Congress was considering the Life Insurance Company Tax Act of 1959, it considered the proper tax treatment of health and accident contracts issued by life insurance companies and concluded that similar contracts should receive similar treatment under the tax law. That decision was reflected by the specific provision in that law as enacted—now contained in section 801(e) of the Internal Revenue Code—that guaranteed renewable health and accident insurance contracts "shall be treated in the same manner" as noncancellable health and accident insurance contracts under all provisions of the law relating to the income taxation of life insurance companies. After thus expressly equating the two types of insurance contracts for all purposes under the law, Congress did not repeat extended references to both types of contracts in subsequent provisions of the tax law which were intended to apply to both, on the assumption that the preceding definitional equation would make it clear, without more, that the provision was intended to apply to both guaranteed renewable and to noncancellable contracts. This assumption, which seemed perfectly reasonable at the time, has proved to be inaccurate.

One of the provisions which Congress intended to apply to both guaranteed renewable and noncancellable health and accident insurance contracts is now contained in section 809(d)(5) of the Internal Revenue Code. Section 809(d)(5) provides a deduction in an amount equal to 10 percent of the annual increase in the reserves for nonparticipating contracts, or, if greater, an amount equal to 3 percent of the premiums received on nonparticipating contracts which are issued or renewed for periods of 5 years or more. Which of these deductions is applicable is determined upon the basis of all of the company's business; it is not possible to have the 10 percent of reserve increase deduction on some contracts and the 3 percent of premiums deduction on other contracts. Where a particular insurance company's business includes a substantial amount of noncancellable and/or a guaranteed renewable health and accident insurance, as compared to life insurance, ordinarily the 3 percent of premiums deduction is significantly greater than the 10 percent of reserve increase deduction.

The basic purpose of the deductions provided in section 809(d)(5) was to permit stock life insurance companies (particularly the smaller companies) to compete on an equal basis with mutual companies which issue participating policies.

The mutual companies typically charge a redundant premium on their policies—that is, a premium which exceeds the actual cost of providing insurance coverage—and they may retain a portion of that redundant premium as a cushion against the long-term risks insured by the contracts. Section 809(d)(5) was intended to provide the stock companies with a similar cushion against long-term risks insured under noncancellable and guaranteed renewable contracts. Mr. President, it should be noted that for a stock life insurance company, the section 809(d)(5) deduction does not provide a permanent reduction in taxes. The amount of that deduction is placed in the company's policyholders surplus account and can ultimately be taxes as provided in section 815 of the code.

There never has been any question that noncancellable health and accident insurance contracts which are issued for periods of 5 years or more qualify for this 3 percent of premiums deduction. Nevertheless, and in spite of what I have always considered to be the clear congressional intention that noncancellable contracts and guaranteed renewable contracts were to be treated the same way for all purposes under the tax law, the Internal Revenue Service has taken the position that guaranteed renewable health and accident insurance contracts can qualify only for the 10 percent reserve increase deduction under section 809(d)(5), and not for the 3 percent of premiums deduction, even though it agrees that noncancellable contracts can qualify for either deduction. Taxpayers, on the other hand, have correctly taken the position that Congress specifically intended that guaranteed renewable health and accident contracts should be treated in the same manner as noncancellable health and accident contracts under all provisions of the life insurance company income tax law, and that the guaranteed renewable contracts are fully entitled to the 3 percent of premiums deduction.

These inconsistent positions have led to litigation. One court has accepted the IRS position, but the Tax Court and the Court of Claims have rejected it. This litigation will likely continue unless Congress acts to eliminate the apparent "ambiguity" which currently exists in connection with the proper interpretation of section 809(d)(5). The purpose of this legislation is to eliminate any such "ambiguity," and to make clear Congress' intention that guaranteed renewable and accident insurance contracts are entitled to the 3 percent of premiums deduction under section 809(d)(5).

Mr. President, Congress should act now to clarify its original intention in passing section 809(d)(5) in 1959, thereby avoiding the unnecessary expense that will be incurred by taxpayers and the Govenment alike in continuing to litigate an issue that was never expected to arise. In this connection I should note that in 1972 the Treasury informed the Finance Committee that it did not object to this amendment. This legislation would accomplish that result, and would do so for taxable years beginning after December 31, 1957, the effective date of the Life Insurance Company Income Tax Act of 1959. It would not, however, extend the period during which a claim for refund could be filed with respect to any of such taxable years. It is also my intention that, since this is legislation clarifying what Congress has always intended under the law, taxpayers should be entitled to receive interest on amounts of tax erroneously collected as a result of the Internal Revenue Service's erroneous interpretation of section 809(d)(5). The Committee on Finance took a somewhat different approach on this latter point, but I am hopeful that the committee will recognize the injustice of denying interest to taxpayers from whom excessive taxes were collected, particularly since interest has been awarded to those taxpayers who have litigated the issue.

By Mr. KENNEDY:

S. 2760. A bill to amend the Indochina Migration and Refugee Assistance Act of 1975 to provide for the inclusion of refugees from Laos. Referred to the Committee on Foreign Relations.

Mr. KENNEDY. Mr. President, I am introducing a bill to amend the Indochina Migration and Refugee Assistance Act of 1975 to provide for the inclusion of refugees from Laos.

This is a simple effort to rectify what is now an inequitable error in the act, which excludes Laotian refugees from the benefits now available to other Indochina refugees in the United States. No additional funds are needed to carry out the purpose of this bill, which simply amends the authorizing language of the act.

Mr. President, under the Indochina Migration and Refugee Assistance Act, some $450 million was made available to assist in the movement, resettlement and care of refugees from Cambodia and South Vietnam.

Since then, however, several thousands of Lao nationals have left their country for Thailand—and following consultations with the Judiciary Committees of both Houses—the Attorney General is now paroling into the United States some 3,400 Lao refugees.

Funds are currently available for the transportation, processing and initial resettlement of these Lao refugees. But none of the special education, health care and public assistance benefits granted by law to refugees from Cambodia and South Vietnam are available to the refugees from Laos. Nor will State and local governments receive reimbursements for any expenses incurred in the resettlement of the refugees from Laos.

Obviously, this separate treatment for the refugees from Laos is discriminatory and inequitable. It needlessly complicates and makes more difficult the search for refugee sponsors, and the speedy and humane resettlement of Lao refugees.

The Indochina refugee program should be viewed as a whole, and the omission of Lao refugees from the benefits available under this program must be corrected. This bill will correct this omission, and I urge its speedy consideration by the Foreign Relations Committee.

Mr. President, the Senate has already adopted the provisions of this bill in the form of an amendment to the foreign aid bill, but it was dropped in conference due to a point of order problem in the House. Given this favorable action by the Senate, I hope the committee will find it possible to act expeditiously in considering this bill and reporting it to the floor.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2760

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Indochina Migration and Refugee Assistance Act of 1975, Public Law 94–23; 22 U.S.C. 2601, is amended as follows:

(1) In section 2, strike out "Cambodia or Vietnam" and insert in lieu thereof "Cambodia, Vietnam, or Laos".

(2) In section 3, strike out "Cambodia or Vietnam" and insert in lieu thereof "Cambodia, Vietnam, or Laos".

(3) In section 4(b), strike out "Cambodia and South Vietnam" and insert in lieu thereof "Cambodia, South Vietnam, and Laos".

(4) In section 4(b)(3), strike out "South Vietnam and Cambodia" and insert in lieu thereof "South Vietnam, Cambodia, and Laos".

By Mr. TUNNEY:

S. 2761. A bill entitled "Competition in Energy Act." Referred to the Committee on the Judiciary.

Mr. TUNNEY. Mr. President, I find it appalling that the companies which monopolize our petroleum industry may be in a position to slow development of alternative energy resources—nuclear power, shale oil, coal, solar energy, and geothermal power.

We cannot permit the same companies which control our oil to reach a point where they can also halt or slow development of alternative sources of energy.

I am introducing legislation today that will break both the stranglehold on oil resources and also will prohibit companies which own one major energy source—like oil—from controlling another primary energy source—like geothermal steam or coal—if they fail to develop it.

The Government should not run the energy industry. That function should be entrusted to a competitive private enterprise. But the free marketplace is not properly regulating the industry.

The reason is that the oil companies in particular have grown so powerful that the combination of their economic and political influence enables them to control the market.

It is very much in the interest of the people of the United States to develop cheaper, more abundant energy from domestic sources. Resources like coal should be held by companies that will develop them now, immediately, to reduce our dependence on foreign oil. The alternative to antitrust enforcement and the restoration of competition in the energy industry is governmental control of that energy industry.

Regulation from Washington is a poor alternative for a competitive free enterprise economy. What we must do is employ new legislation and the antitrust laws swiftly and forcefully to break up this unhealthy concentration of power in our vital energy industries.

We must also go a step farther. We must break up the monopolies within the oil industry itself. The eight largest oil companies now control our oil from the time it comes out of the ground until the gasoline coming from that well is pumped into your tank at the corner service station.

What I want to do is to break the monopolistic hold the major energy oil producing companies presently have on the market. The eight largest oil companies, as I said, now engage in production, transportation, refining and marketing, giving them a death grip on the prices we pay for gasoline for cur cars and oil for heating our homes.

One reason the OPEC cartel has been so effective is the cooperation it receives from the giant international oil companies in raising prices—because those companies themselves benefit from the price increases.

The money to meet OPEC demands does not come out of profits of the oil companies—which have hit record levels in the past year or two—but right out of our pockets.

This bill will create competition in the petroleum industry where it does not now exist and will prevent the major oil companies from inhibiting production of alternate energy resources.

It will do the first by breaking up the vertical integration of the industry, by forcing the big oil companies to withdraw from their existing domination of all segments of the industry. It will prohibit the major oil producers from engaging in refining, transportation, and marketing.

Recent statistics show that 90 percent of domestic crude oil shipments originated in pipelines belonging to the 16 majors. Testimony was heard by our subcommittee as to the effect of this on independent refiners.

Independent refiners have testified on the problems they have getting crude oil from the majors and independent marketing firms have testified on the difficulties of getting gasoline to sell at their pumps. Independent refiners have argued they do not have a free market in which to purchase crude from independent producers because of control of the pipeline by the majors.

All of this creates an artificial price situation that is costing the American consumer billions of dollars.

You may ask how the vertical integration of the oil industry restrains competition since, overall, there are more than 20 such petroleum companies operating in the United States. Under conventional economic theory, vertical integration in itself is not necessarily a restraint on competition.

We are not, however, looking at theories; we are looking at the specific acts of a specific industry.

The owners of the common carrier pipelines are most often major oil companies—and in the case of trunk lines, groups of major companies.

At the next level, there are, of course, independent refiners in the industry just as above and below there are independent producers and independent gas stations. But to assess the situation, one need look only at the processing agreements at that level of the industry.

Under those agreements, an independent refiner receives crude from a major and returns the finished product to that major, receiving a fee from the processing. The independent refiners depend on the majors for almost half of their crude oil.

That is why the major can dominate even what appears to be an independent sector of the industry.

At the marketing level, the primary emphasis of the major oil companies has been on the avoidance of price competition.

The independent marketers have consistently undersold the major companies. To do so, they have had to rely almost exclusively on independent refiners and we have just examined the situation there.

The burden of the shortage of crude oil the past year fell on the independent marketer. The independent refiners were the first to be cut off from their crude supplies. A direct result for consumers in many areas of the country is a market in which independent gas stations either have been eliminated or made less agressive. Prices, of course, have become more "stable."

The entire atmosphere surrounding the giant oil companies is one of cooperation, not competition. The evidence that vertical integration in the industry is responsible for this lack of competition is overwhelming. The situation as it applies to natural gas is similar to that pertaining in petroleum production.

As a cure, I do not propose more Government regulation of the petroleum industry but creation of a freer marketplace. My bill, to describe it simply, would get the major oil producers out of the business of refining, transporting, and marketing petroleum products to the public, creating competition in the marketplace.

Vertical divorcement is not a drastic measure. It would not dislocate people or throw them out of work. It simply creates an arms-length relationship between various units of the industry which does not now exist.

Under this bill the major oil companies would stay in business and make a fair profit. However, the bill would break their anticompetitive grip on the petroleum industry. I want to keep them from employing monopolistic controls and their enormous political and financial resources to repress development of our other energy sources.

The alternative to these things will be to control the oil industry from Washington. A recent poll indicates 35 percent of the people believe the oil industry should be nationalized. I do not want that. I want to maintain our free enterprise economy.

That is why I am proposing this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2761

Be it enacted by the Senate and House of Representatives in Congress assembled, That this Act may be cited as the "Competition in Energy Act of 1975."

PREAMBLE

SECTION 1. The Congress finds and declares that—

(a) The availability of energy at reasonable prices is fundamental to the economic and political stability of the Nation and to the material well-being of its people.

(b) The concentration of power, whether economic or political, is inimical to the democratic traditions of the United States; and the concentration of economic power over the Nation's most basic resource, energy, is particularly contrary to those traditions.

(c) All phases of the Nation's petroleum industry are dominated by a few vertically-integrated companies, which use their economic power to eliminate competition in the production, transportation, refining, and distribution of crude petroleum and its products. Their exercise of concentrated power over oil and natural gas has been acute throughout the United States in developed areas, and is now manifesting itself in the North Slope of Alaska, the Nation's most promising domestic source of these precious fuels.

(d) The vertically-integrated petroleum companies are now moving toward control of alternative energy sources, such as coal, geothermal power, nuclear power, and solar energy, which will give them increased leverage over the supply and price of all domestic energy if left unchecked.

(e) New laws are needed to create competition in crude oil and natural gas and to preserve an economic environment in which competition will flourish and contribute to the development of alternative sources. A lack of competition in energy will foster continued unemployment, inflation and misallocation of vital resources.

SEC. 2. It is the policy of Congress that—

(a) This Act will create competition in the petroleum industry, thereby breaking the economic stranglehold of monopoly power and eliminating the necessity for uneconomic regulation by Government.

(b) That this Act shall supplement the antitrust laws by enabling the Federal Trade Commission to prevent in advance the aggrandizement of monopoly power over alternative domestic sources of energy.

DEFINITIONS

SEC. 3. As used in this Act—

(a) "commerce" means any trade or commerce affecting commerce among the States or with foreign nations;

(b) "control" means direct or indirect legal or beneficial interest in or legal power or influence over a person or thing, whether arising by direct, indirect or interlocking ownership of capital stock, debt, or assets, by interlocking directorates or officers, by contractual relations, or by any other means;

(c) "pipeline facilities" means any and all pipelines used to carry crude oil, natural gas liquids, or refined product including gathering lines, and all property, whether real or personal, attached or appurtenant to such pipelines, including tanks, used in the transportation of petroleum: *Provided*, that neither a pipeline running from a well to a base tank nor a lease tank shall be considered pipeline facilities;

(d) "energy company" means any person engaged in the exploration for, development, production, transportation, distribution, or marketing of a primary energy source of secondary energy source;

(e) "major producer" means any person which, during the calendar year 1974, or in any subsequent calendar year, along or with affiliates produced within the United States either a total of 100,000,000 barrels of crude oil, condensate and natural gas liquids or whose interest in crude oil, condensate and natural gas liquid production totalled 100,000,000 barrels; or which alone or with affiliates, produced or sold of what it produced 200 million cubic feet or more of natural gas; or whose interest in natural gas production amounted to 200 million cubic feet;

(f) "major refiner" means any person which, during the calendar year 1974 or in any subsequent calendar year, alone or with affiliates, refined within the United States 100,000,000 barrels of product, including that refined by another refiner under a processing agreement;

(g) "person" means an individual person or a corporation, partnership, joint venture or other association or entity in the United States: *Provided*, that neither the Government of the United States nor any entity thereof shall be deemed a person under this Subsection;

(h) "primary energy source" means any natural source from which energy may be derived, including but not limited to, crude oil, natural gas liquids, coal, uranium, oil shale, tar sands, geothermal power, hydropower, and solar power.

(i) "petroleum" means crude oil, natural gas liquids, and refined petroleum product.

(j) "retail distribution facilities" means any property, whether real or personal, used for the distribution of refined petroleum products from the refinery gate to the end consumer;

(k) "secondary energy source" means any source from which energy may be derived and which is itself derived from a primary energy source or another secondary energy source, including but not limited to, refined petroleum products, liquified or gasified coal, nuclear power, and electricity;

(l) "refinery asset" means any asset used in the refining of an energy resource product including, but not limited to, a refiner, tanks, and any interest in land.

(m) "marketing asset" means any asset used in the distribution or marketing of a refined product or natural gas;

(n) "United States" or "States" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, any Territory of the United States and any other places, whether onshore or offshore, under the jurisdiction of the United States.

PROHIBITED CONTROL

SEC. 4. It shall be unlawful for any major producer or major refiner to control petroleum pipeline facilities in commerce.

SEC. 5. It shall be unlawful for any major petroleum producer to control any interest, direct, indirect, or through an affiliate, in any refinery, or marketing asset.

PROHIBITED ACQUISITIONS

SEC. 6. It shall be unlawful for any energy company in commerce to acquire, own or control any primary energy source in the United States where the effect may be substantially to inhibit the production of energy in any line of commerce in any section of the country.

EFFECTIVE DATE

SEC. 7. Sections 4 and 5 of this Act shall be effective two years from the enactment hereof. Section 6 of this Act shall be effective immediately upon the enactment hereof.

ENFORCEMENT

SEC. 6. (a) The Federal Trade Commission, in accordance with such rules, regulations, or orders it finds appropriate to carry out the provisions of this Act, shall require each person affected by section 4 of this Act, to submit not later than one year following the date of enactment of this Act a plan or plans for divestment of the prohibited assets. If, after notice and opportunity for hearings, the Commission finds any such plan, as submitted or as modified by Commission order, appropriate to effectuate the provisions of this Act and to provide fair and equitable treatment to affected persons, the Commission shall approve the plan by order and shall take all necessary actions to enforce the plan. A plan submitted under this section shall not be approved unless its provision substantially accomplish divestment within three years from the date of enactment of this Act.

(b) The Federal Trade Commission shall institute suits in the district courts of the United States requesting the issuance of such relief as may be appropriate to assure compliance with the provisions of this Act, including orders of divestiture, declaratory judgments, mandatory or prohibitive injunctive relief, interim equitable relief, the appointment of temporary or permanent receivers or trustees, civil penalties, and punitive damages for willful failure to comply with lawful Commission orders.

(c) In carrying out the provisions of this Act, the Federal Trade Commission is authorized to utilize all powers conferred upon it, and all sanctions associated with those powers, by any other provision of law.

PENALTIES

SEC. 7. (a) Any person who knowingly or willfully violates any provision of this Act shall, in the case of an individual, be fined not to exceed $500,000 or be imprisoned for a period not to exceed ten years, or both, or in the case of a corporation, be fined not to exceed $5,000,000 or suspended from doing business in interstate commerce for a period not to exceed ten years, or both. A violation by a corporation shall be deemed to be also a violation by any individual director, officer, receiver, trustee, or agent of such corporation who authorized, ordered, or did any of the acts constituting the violation in whole or in part, or who omitted to authorize, order, or do any acts which would terminate, prevent, or correct conduct violative of this Act. Failure to obey any order of a court pursuant to this Act shall be punishable by such court as a contempt of court.

(b) Any person who violates a lawful order of the Federal Trade Commission issued pursuant to this Act shall forfeit and pay to the United States for each such violation a civil penalty of not more than $100,000 which shall accrue to the United States and may be recovered in a civil action brought by the Commission. Each separate violation of such an order shall be a separate offense, except that in the case of a violation through continuing failure or neglect shall be deemed a separate offense.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 985

At the request of Mr. Pell, the Senator from Oregon (Mr. Packwood) and the Senator from New Hampshire (Mr. Durkin) were added as cosponsors of S. 985, the Social Security Recipients Fairness Act of 1975.

S. 1837

At the request of Mr. Curtis, the Senator from Arizona (Mr. Fannin) was added as a copsonsor of S. 1837, to amend the Fair Labor Standards Act of 1938 to exempt employees engaged in livestock brand inspections from the overtime compensation provisions of that act.

S. 2662

At the request of Mr. Humphrey, the Senator from New Jersey (Mr. Case) was added as a cosponsor of S. 2662, the International Security Assistance and Arms Export Control Act of 1975.

S. 2712

At the request of Mr. Fannin, the Senator from North Carolina (Mr. Helms) and the Senator from Nebraska (Mr. Curtis) were added as cosponsors of S. 2712, the Journalists' Freedom of Choice Act.

SENATE RESOLUTION 197

At the request of Mr. Leahy, the Senator from Arkansas (Mr. Bumpers), the Senator from Indiana (Mr. Bayh), the Senator from Arizona (Mr. Fannin), the Senator from Minnesota (Mr. Humphrey), the Senator from Nevada (Mr. Laxalt), the Senator from South Dakota (Mr. McGovern), the Senator from Kansas (Mr. Pearson), the Senator from Vermont (Mr. Stafford), and the Senator from Tennessee (Mr. Brock) were added as cosponsors of Senate Resolution 197, to establish a Select Committee on Federal Responsiveness and Accountability.

SENATE RESOLUTION 307

At the request of Mr. Leahy, the Senator from Kansas (Mr. Pearson), the Senator from Minnesota (Mr. Humphrey), the Senator from Arkansas (Mr. Bumpers), the Senator from Colorado (Mr. Haskell), the Senator from Nevada (Mr. Laxalt), and the Senator from Tennessee (Mr. Brock) were added as cosponsors of Senate Resolution 307, to amend the Standing Rules of the Senate.

SENATE JOINT RESOLUTION 149

At the request of Mr. Stone, the Senator from Florida (Mr. Chiles), the Senator from Ohio (Mr. Taft), the Senator from South Carolina (Mr. Thurmond), and the Senator from Vermont (Mr. Leahy) were added as cosponsors of Senate Joint Resolution 149, to amend the Constitution to prohibit salary increases of Members of Congress from taking effect until after an intervening election of Representatives.

SENATE RESOLUTION 319—SUBMISSION OF A RESOLUTION RELATING TO THE OCCUPATION OF CERTAIN BALTIC NATIONS BY THE SOVIET UNION

(Referred to the Committee on Foreign Relations.)

Mr. CURTIS submitted the following resolution:

S. Res. 319

Whereas the three Baltic nations of Estonia, Latvia, and Lithuania have been illegally occupied by the Soviet Union since World War II; and

Whereas the Soviet Union appears to interpret the Final Act of the Conference on Security and Cooperation in Europe, signed at Helsinki, as giving permanent status to the Soviet Union's illegal annexation of Estonia, Latvia, and Lithuania, and

Whereas although neither the President nor the Department of State issued a specific disclaimer in conjunction with the signing of the Final Act at Helsinki to make clear that the United States still does not recognize the forcible conquest of those nations by the Soviet Union, both the President in his public statement of July 25, 1975, and the Assistant Secretary of State for European Affairs in his testimony before the Subcommittee on International Political and Military Affairs of the House Committee on International Relations stated quite explicitly that the longstanding official policy of the United States on nonrecognition of the Soviet Union's forcible incorporation and annexation of the Baltic nations is not affected by the results of the European Security Conference: Now, therefor, be it

Resolved, That, notwithstanding any interpretation which the Soviet Union or any other country may attempt to give to the Final Act of the Conference on Security and Cooperation in Europe, signed in Helsinki, it is the sense of the Senate (1) that there has been no change in the longstanding policy of the United States on nonrecognition of the illegal seizure and annexation by the Soviet Union of the three Baltic nations of Estonia, Latvia, and Lithuania, and (2) that it will continue to be the policy of the United States not to recognize in any way the annexation of the Baltic nations by the Soviet Union.

Mr. CURTIS. Mr. President, I would like to take this opportunity to reaffirm my support for the independence of the Baltic nations from Soviet domination, and to announce that I am submitting a resolution to this effect.

It is imperative that the United States continue to adhere to the principle of nonrecognition of the forcible Soviet annexation of Estonia, Latvia, and Lithuania. Apparently, the Soviet Union is attempting to interpret the final act of the Helsinki declaration as granting permanent status to this annexation. This is not the proper interpretation of the agreement.

I believe this is to be a clear case of international lawlessness. It violates the spirit of self-determination and noninterference into the internal affairs of sovereign states. I call upon the international community to condemn this deplorable act of oppression.

Détente is an admirable goal. However, our desire for peace and reduced international tension cannot be realized at the expense of other indigenous populations. Compromise must insure progress for mankind, not negate it. Our cause in the case of the Baltic States is a just one.

This resolution is intended not only for the people of Latvian, Lithuanian, and Estonian descent. It is addressed to all men who value their freedom. This Nation should never waiver in its commitment to the right of all people to determine their own destiny.

The resolution I am submitting today differs slightly from Senate Concurrent Resolution 80 which I submitted on April 9, 1974 in the 93d Congress. However, it is identical to a resolution (H. Res. 864) which passed the House of Representatives by a unanimous vote on December 2 of this year.

Mr. President, America's Bicentennial year is an especially apt time to reaffirm our support of the same fundamental rights of national self-determination that we declared for the American people 200 years ago. I urge my colleagues to join me in support of this resolution.

SENATE RESOLUTION 321—SUBMISSION OF A RESOLUTION DISAPPROVING DEFERRAL OF BUDGET AUTHORITY FOR THE AGRICULTURAL CONSERVATION PROGRAM

(Referred to the Committee on Appropriations, and the Committee on the Budget, jointly, pursuant to the order of January 1, 1975.)

Mr. LEAHY submitted the following resolution:

S. Res. 321

Resolved, That the Senate disapproves the proposed deferral of budget authority (Deferral D76–70) for the Agricultural Conservation Program, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture set forth in the special message transmitted by the President to the Congress on December 1, 1975, under section 1013 of the Impoundment Control Act of 1974.

ONCE AGAIN CONGRESS MUST SAVE THE AGRICULTURAL CONSERVATION PROGRAM

Mr. LEAHY. Mr. President, I rise today to submit a resolution which would disapprove the administration's proposed deferral of more than half of the agricultural conservation program for the current fiscal year.

On December 1, the White House requested the deferral of $90 million, and subsequently announced a program this year for $85 million. Given the fact that farmers' needs for this valuable cost-sharing program has always been greater than the amount which we were able to appropriate, the request for a deferral is a cruel joke.

The administration, in making the deferral request, contends that the $85 million will provide all the funding that can be effectively used to provide cost sharing for additional conservation above that which farmers are willing and able to perform with their own resources.

The inference here is the same old dodge which the Office of Management and Budget has been using for years in their attempt to kill the ACP program. Essentially that is that the farmers are rich, so let them pay the cost of preserving and conserving America's farmland.

The OMB makes the whole thing sound as if the Government is paying these landowners a subsidy so that their farms in turn can make even greater profits.

The national policy issues, however, are much greater, and after years of receiving congressional imperatives in this regard, one would think that OMB would finally get the message.

American farmers produce more food at less cost than any other producers in the world. Everyone knows that.

Sometimes they even make a profit at it, although parity right now is about 73 percent.

Though this Government has not developed a food policy as such, it has told farmers to produce, produce, produce—plant from fence row to fence row—to keep food plentiful at reasonable prices to the consumer, and still leave enough to sell overseas to improve our balance of payments and serve humanitarian interests.

But as we found out in a most brutal fashion in the cottonfields of the Southeast at the end of the last century and again during the Dust Bowl days of the Depression, all-out production is not possible without reducing soil erosion, preventing flooding, improving forests, and providing for rural economic growth.

ACP has helped farmers establish conservation programs on about 1 million farms a year. In a typical recent year, the program helped build 45,000 water storage reservoirs. These reservoirs in turn helped control erosion, conserve water, and provide habitat for wildlife and pollution abatement.

During the year, 300,000 acres of trees and shrubs were planted for pollution abatement and erosion control; 600,000 acres were served by terraces to stabilize land and reduce stream pollution; another 300,000 acres of contour and field strip cropping reduced air and water pollution.

The program speeds up the carrying out of needed conservation and environmental protection and enhancement measures in rural America. This program makes a voluntary conservationist out of every farmer who participates—conservationists who have invested their own money in the protection of America's farm land.

To maintain this great voluntary program we must have support from the Department of Agriculture for technical assistance through the Soil Conservation Service, cost sharing, research, and education. We need them to insure the establishment of critical soil, water, and wildlife conservation measures that benefit the entire public, the hungry people of the world, and the owners of the land to whom we have entrusted this important stewardship.

As we place more and more responsibility on the family farmer for sediment control and runoffs from animal waste, it would be incredible if we were to mandate an environment clean-up on the one hand while taking away with the other the principal device which we have used successfully for 35 years to deal with such problems.

There is no logic to this kind of policymaking, and I urge the Senate to give speedy approval to my resolution.

Mr. President, I ask unanimous consent that the remarks of Congressman JAMIE L. WHITTEN made in 1973 when this program was previously threatened be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

NEWS RELEASE

WASHINGTON, D.C., January 17, 1973.—Congressman Jamie L. Whitten, speaking today to the annual meeting of the National Limestone Institute at the Statler Hilton Hotel, Washington, D.C., called on President Nixon to reverse the recent order by Secretary of Agriculture Earl Butz and the Office of Management and Budget, cancelling the Agricultural Conservation Program (REAP).

Mr. Whitten, ranking member of the Committee on Appropriations, U.S. House of Representatives, pointed out that on eighteen occasions he and his subcommittee on Agricultural Appropriations had been forced to get the Congress to reinstate this program which is so vital to the welfare of the nation, present and future.

"This is the first time this program, so strongly supported by the people's branch, the Congress, has been cancelled after the Congress acted," Mr. Whitten said. "We in the Congress provided for a $225 million program; and September 29th, 1972, the Secretary of Agriculture, acting with the knowledge of the Office of Management and Budget, committed the Department of Agriculture to an initial $140 million program, sending notice to the press and to the people. Notwithstanding the fact that the Federal Government's word was given and the people in many areas accepted the offer, we now find the Secretary—reportedly at the insistence of the Office of Management and Budget, has reneged on his own commitment. In taking this action the Secretary of Agriculture has turned his back on the more than one million Americans from all over the United States who each year have put up their money and their labor to save the lands and natural resources for future generations.

The Congressman pointed out that the Federal Government now provides only 30% payment of the cost, and asked:

"Where else will you find one million Americans putting up 70% of the cost necessary to care for milions of acres of land?

"Where else will you find a program which has provided over two million water storage reservoirs, without which our beef shortage would be twice as bad?

"Where else will you find a program that has provided terraces to control soil erosion on over 32 million acres of land?

"Where else can we find any group that has established wind or water erosion control, thus conserving water on 114 million acres?

"Where else will you find a program that hope for any program that would control erosion on ranch and pasturage lands to increase our beef supply on more than sixty-two million acres?

"The ACP participants have provided millions of other worthwhile conservation measures, too numerous to mention here.

"And on all this, the landowner, the person who holds the land in stewardship for urban generations, has provided about two-thirds of the cost.

"In cancelling this program we will lose hundreds of soil technicians and the Secretary loses, too, for not only has he gone back on his word, publicly given just before the election, but by his cancellation he will set in motion the destruction of the soil of our country and would lead us on the way to conditions now suffered by much of India, China and other worn-out areas of the world.

"We are dependent upon the President to give relief, for he has the power to direct the Office of Management and Budget and Secretary Butz to cancel this order and restore this program. We must also call on the President to direct the Secretary of Agriculture to reinstate grants for rural water and sewage systems. This program, such an outstanding success for the last four years, offers by far the most effective tool for enabling our people to be happy in rural areas, thereby relieving much of the undue pressure on our overcrowded and deeply troubled cities at a minimum of cost."

Congressman Whitten, Co-Chairman of the Joint Committee on Budget Control, acknowledged that there is no way for the Congress to force the President to take action since the Executive Branch is equal in power to the Legislative Branch—the Congress. He said, "With our three equal and coordinate branches of government, Legislative, Executive and Judicial, each branch and the people of the Nation are dependent upon a comity of understanding between the branches, each acknowledging the rights and responsibility of the other. Some may point out that the Congress could retaliate by withholding appropriations desired by the President, including even those for the operation of his own Department. Any such course should not even be thought of, for if each Branch sets out to block the other we would have a complete breakdown of government.

"For these and other reasons, I firmly believe that where and when the President differs with the actions of the Legislative Branch, either on appropriations or the formulating of programs such as the Agricultural Conservation Program, he should either veto the entire bill, as provided by the

Constitution, or at least send the objected-to part back to the Congress for reaffirmation or rejection and abide by the result. To do otherwise is to go contrary to the intent of the Constitution.

"Until such an understanding is reached, the whole country will suffer as we do here, unless we can get the President to direct a cancellation of Secretary Butz' order setting aside the action of Congress and cancelling his own announcement."

Mr. Whitten then took time out to say he was glad to know the Secretary of Agriculture had at least announced some program of loans for crop production in disaster areas, so vital if we are to keep the cost of living down and keep our farmers from bankruptcy. He also said that the Secretary had acknowledged that under existing law he could make 2% money available for REA loans in hardship cases. "It is to be hoped," Mr. Whitten said, "that in proper cases the Secretary will act under this law."

In closing, the Congressman made the point that this is probably the most serious action this administration will take.

"The more serious our problems, the greater our fiscal situation, the more imperative it is that we take care of the land for it is on this that all else depends. We could leave to our children all the money in the world and a worn-out land, and we would in effect leave them nothing. On the other hand, if we leave them a rich land with soil erosion stopped, with rivers and harbors free of pollution and our hillsides once again in trees, they will make it fine whatever our financial plight, for if necessary they could establish their own financial system.

"If we fail to get this message across to the President, truly we will be on the road to ruin."

SENATE RESOLUTION 322—ORIGINAL RESOLUTION REPORTED TO WAIVE CERTAIN REQUIREMENTS OF THE CONGRESSIONAL BUDGET ACT

(Referred to the Committee on the Budget.)

Mr. HARTKE, from the Committee on Veterans' Affairs, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 322

Resolved, That pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of S. 2635. Such waiver is necessary because on January 1, 1976, solely as a result of this year's social security increases, one million, three hundred twenty-seven thousand one hundred and thirty-six veterans and survivors will sustain pension reductions and another forty-one thousand eight hundred and forty will lose entitlement to pension altogether unless amendments increasing rates and the maximum annual income limitations contained in titles II and IV of S. 2635, become law effective January 1, 1976. As an integral part of the approach to this problem, titles I and III of S. 2635 are designed to restructure totally the current need-based pension program for wartime veterans and survivors effective October 1, 1976, to achieve equitable program objectives more fully and to avoid further problems occasioned by subsequent periodic automatic social security increases. Congress should consider the provisions effective January 1, and October 1, 1976, together to assure uniformity, continuity, and a coordinated effort with respect to the Veterans' Administration pension program. The deferred October 1, 1976, effective date for the new pension program is intended to permit the Veterans' Administration adequate time to implement the provisions of S. 2635.

Such waiver is also necessary to provide veterans, survivors and their families an opportunity for prudent fiscal planning in consideration of the amount of pension they will be entitled to receive during the entire calendar year 1976.

Further, such waiver is necessary to allow the Congress to complete in a timely and logical manner the work regarding veterans and survivors pension reform which the Committee on Veterans' Affairs has carried on thoughout the preceding past two years in good faith and without any intent to circumvent the congressional budget process.

AMENDMENTS SUBMITTED FOR PRINTING

AMENDMENT OF NATIONAL HOUSING ACT—H.R. 9852

AMENDMENT NO. 1213

(Ordered to be printed and to lie on the table.)

Mr. EAGLETON submitted an amendment intended to be proposed by him to the bill (H.R. 9852) to amend section 2 of the National Housing Act, to increase the maximum loan amounts for the purchase of mobile homes, and for other purposes.

ADJUSTMENT OF INDEBTEDNESS OF MAJOR MUNICIPALITIES—S. 2597

AMENDMENT NO. 1214

(Ordered to be printed and to lie on the table.)

Mr. BEALL submitted an amendment intended to be proposed by him to the bill (S. 2597) to amend the Bankruptcy Act to add a new chapter thereto providing for the adjustment of the debts of major municipalities.

AMENDMENT NO. 1215

(Ordered to be printed and to lie on the table.)

Mr. HRUSKA submitted an amendment intended to be proposed by him to the bill (S. 2597), supra.

AMENDMENT NO. 1229

(Ordered to be printed and to lie on the table.)

Mr. BUCKLEY submitted an amendment intended to be proposed by him to the bill (S. 2597), supra.

SUPPLEMENTAL APPROPRIATIONS, 1976—H.R. 10647

AMENDMENTS NOS. 1216 THROUGH 1218

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY submitted three amendments intended to be proposed by him to the bill (H.R. 10647) making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

AMENDMENT NO. 1219

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY (for himself and Mr. CRANSTON) submitted an amendment intended to be proposed by them, jointly, to the bill (H.R. 10647), supra.

FEDERAL-AID HIGHWAY ACT OF 1975—S. 2711

AMENDMENT NO. 1220

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill (S. 2711) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

AMENDMENTS NOS. 1221 AND 1222

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY (for himself and Mr. WEICKER) submitted two amendments intended to be proposed by them jointly to the bill (S. 2711), supra.

FOREIGN ASSISTANCE ACT OF 1975—S. 2662

AMENDMENTS NOS. 1223 THROUGH 1227

(Ordered to be printed and referred to the Committee on Foreign Relations.)

Mr. NELSON (for himself and Mr. CASE) submitted five amendments intended to be proposed by them, jointly, to the bill (S. 2662) to amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, and for other purposes.

AMENDMENT NO. 1228

(Ordered to be printed and referred to the Committee on Foreign Relations.)

Mr. NELSON (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by them, jointly, to the bill (S. 2662), supra.

Mr. NELSON. Mr. President, I am joining with the distinguished ranking minority member of the Committee on Foreign Relations, Mr. CASE, in submitting a package of procedural amendments designed to strengthen the present congressional veto procedure of proposed arms sales. Each of these amendments goes a long way toward eliminating serious inadequacies in existing procedure. I ask unanimous consent that the text of these amendments be printed in the RECORD at the conclusion of my remarks, together with a factsheet detailing the need for each, editorials from the Washington Post and the Progressive magazine, and testimony delivered before the Subcommittee on Foreign Assistance by Ms. Anne Hessing Cahn, Research Fellow of the Program for Science and Technology of Harvard University.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. NELSON. I also ask unanimous consent that a separate amendment I am submitting for myself and Mr. KENNEDY be printed in the RECORD together with a factsheet explaining the amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 2.)

Mr. NELSON. Mr. President, for some time now, but during the past 5 years in particular, we have witnessed an exponential growth in the volume of military equipment and arms sold abroad by the United States. In fiscal year 1975, U.S.

foreign military sales orders totaled $9.5 billion. Only 5 years before in 1970, the foreign military sales program accounted for less than $1 billion worth of equipment and weapons transferred to foreign countries.

There is no evidence that this alarming trend will be reversed. On the contrary, the administration's Congressional Presentation Document for Fiscal Year 1976 and the Transition Quarter indicates that sales will increase once again. The worldwide total for cash and credit foreign military sales orders is projected at about $9.8 billion. Deliveries through commercial channels, which last year amounted to about $600 million, are projected to soar to over $2 billion for fiscal year 1976.

Paralleling this rapid growth in the sheer volume of arms sales has been a steady tendency for the United States to sell increasingly destructive and sophisticated military equipment. We now sell some of our most advanced weapons, and in at least one case did so before our own Armed Forces had been fully supplied.

Additionally, the major recipients of U.S. arms have dramatically changed. A program originally designed to assist major NATO allies has become the chief means by which many nations of the so-called Third World acquire weapons. More than half of our foreign military cash sales in recent years have been made to nations of the newly oil rich Persian Gulf and Mideast. Such sales have major foreign policy implications, but there is little if any evidence that the administration has given adequate thought to the long-range diplomatic or military consequences of such weapons transfers.

Congress, for the most part, has simply watched all this happen. The Washington Post has charged that "in very few areas of international policy has Congress been so negligent as in arms sales, which now may constitute the principal way by which the United States relates to most nations of the world."

In 1973, I first introduced legislation giving Congress a voice in arms sales policy, and last year Congress adopted the amendment, allowing Congress to veto proposed foreign military sales of $25 million or more within 20 calendar days of notification. That was a good beginning, but our experience during the past year demonstrates both the strengths and weaknesses of such a procedure.

We have begun in earnest the hard task of evaluating arms sales policy or the current lack thereof. More and more members of Congress and the general public have become increasingly alarmed by the political and military implications of mushrooming sales programs, ill-conceived by the administration, and inadequately monitored or influenced by the Congress.

The sale of Hawk missiles to Jordan earlier this year constitutes the major test to date of the present Nelson amendment procedure. In that instance, Congress forced debate on the important foreign policy ramifications of the sale, exposed serious disagreement within the administration on the wisdom of the sale as proposed, and in the end extracted significant concessions in the form of assurances from the President that the weapons would not be transferred in such a way as to allow their use in an offensive capacity against Israel. Those were not insignificant accomplishments. In the words of Judith Miller of the Progressive magazine, Congress effectively "served notice that it is able and willing to exercise supervisory authority in some cases over administration arms sale policy."

But one will recall that the case of the Jordan Hawk missile sale also pointed out very serious shortcomings in present procedure. At the very least it became apparent that 20 calendar days is altogether too short a time for both houses of Congress to consider adequately a significant and controversial arms sale proposal.

If Congress is to act responsibly, hearings must be held, and adequate time allowed for genuine debate of the merits of a specific sale. Twenty calendar days, which of course includes days on which Congress is not in session, is clearly not enough.

Moreover, notification of the sale, coming as it did shortly before the August recess, further dramatized the inadequacy of the present 20 calendar day time frame. Nothing presently stops any administration from submitting a sale when Congress is not in session, thus precluding any action. More recently a proposed sale to Kuwait was submitted on the day on which Congress adjourned for the Columbus Day recess, thus leaving only 10 calendar days for Congress to consider the sale when it reconvened. Clearly such administration action violates the spirit of the amendment adopted last year.

But more importantly, the Hawk controversy demonstrated the cumbersome nature of present procedure. Congress presently has little choice but to accept or reject in toto any proposed sale. Moreover, present procedure brings Congress into the picture at the end rather than the beginning of the policy process. Thus congressional objections to a sale become a source of serious embarrassment to both the administration and to the foreign government involved. The Jordan controversy thus appeared a blow to the prestige of King Hussein, and was a source of some ill-feeling in United States–Jordan relations.

As long as Congress exercises only a negative policy option—vetoing proposed sales—and comes into the picture only at the last stage of the policy process, the potential remains for debilitating legislative-executive branch clashes which may damage America's genuine interests. Our goal must be a coherent policy commanding support of both Congress and the executive branch. Congress should, therefore, come into the picture at the outset—at the takeoff, rather than the crash landing—of the policy process. Congress should have all the information necessary to consider arms sales in the context of overall American foreign policy. To consider individual sales in piecemeal fashion is simply inadequate, precluding any meaningful assessment of the degree to which any sale either promotes genuine American interests or advances the prospects of world or regional peace.

Upon receipt of such information, Congress should have the opportunity to formulate policy guidelines under which subsequent sales would then be negotiated. Only then can we reasonably expect Congress to examine arms sales policy consistently and coherently, thus formulating an overall policy which genuinely advances the interests of the United States and a more peaceful world. At least one astute observer has cautioned that under present procedure, it remains to be seen whether Congress will scrutinize all major arms sales or will merely respond sporadically to pressure from influential interest groups.

Viewing the initial arms sales amendment of 1974 as a useful but inadequate first step, I accordingly introduced legislation early in 1975 designed to remedy some of the shortcomings outlined above. That legislation essentially requires Congress to evaluate and approve in advance the overall foreign military sales program on a country-by-country basis affording an opportunity to set policy guidelines at the outset of the policy process.

This bill, S. 854, has been cosponsored by 14 Senators—Senators BURDICK, CRANSTON, GRAVEL, HART of Colorado, HASKELL, HATFIELD, HATHAWAY, KENNEDY, LEAHY, MCGOVERN, MONDALE, STEVENSON, TUNNEY, and WILLIAMS—and has served as an important vehicle for debate throughout the course of the year, while also helping to focus attention of the press and public on this extremely important issue. Identical legislation was introduced in the House on a bipartisan basis by Representatives BENJAMIN ROSENTHAL of New York and CHARLES WHALEN of Ohio, both members of the Committee on International Relations.

Most recently, the distinguished chairman of the Senate Foreign Relations Committee Subcommittee on Foreign Assistance and Economic Policy, Mr. HUMPHREY, has introduced a comprehensive and highly commendable piece of legislation, the International Security Assistance and Arms Export Control Act.

With regard to arms sales, Senator HUMPHREY'S legislation, S. 2662, strengthen's the existing Nelson amendment veto procedure, extends that procedure into commercial sales, and requires additional reports on sales, as well as an annual country-by-country justification for the sales program along lines I have suggested. Moreover, the Humphrey bill requires that all reports to the Congress, including annual and quarterly reports, reports of proposed contracts and export licenses, reports on agents' fees, and Government sales contract be unclassified. This is a significant point since many of the proposed sales submitted during this past year under the Nelson amendment have been either wholly or partially classified, thus precluding any real discussion of the sale, and wholly negating the spirit of the current law.

But as admirable and worthy of broad support as is the Humphrey bill, it does stop short of what I believe constitutes the crux of this complex issue. The Humphrey bill does not require the Congress to set country-by-country ceilings for the foreign military sales program, and does not require prior congressional approval of the overall foreign military sales program. Thus the basic difficulty of bringing Congress into the picture only well after the policy process is underway remains.

It is my understanding that negotiations with the administration are underway to work out a procedure by which individual proposed sales would be submitted to the Committees on Foreign Relations and International Relations in advance—30 days, perhaps—of formal statutory notification. Lt. Gen. Howard Fish of the Defense Security Assistance Agency has suggested such a procedure in testimony before the two committees.

Such a procedure is desirable and should certainly be encouraged. It would afford the relevant committees an opportunity to suggest modifications while there is a chance to do so wihout serious embarrassment to the purchasing Government and could be a means of avoiding formal submission of those proposed sales to which substantial opposition was registered in committee. But again, helpful though it may be, such a procedure does not eliminate the piecemeal approach to arms sales nor does it guarantee that arms transfers will be examined consistently and in the perspective of the overall program.

In my judgment we should move along the road toward comprehensive consideration of arms sales as a whole, allowing Congress an adequate opportunity to set needed policy guidelines.

Thus I will offer an amendment substituting the substance of S. 854 for the "Annual Justification of Sales" provision of S. 2662.

The distinguished Senator from Massachusetts, Mr. KENNEDY, a cosponsor of S. 854, has stated his belief that an approach similar to that advocated in S. 854 would greatly strengthen the present Humphrey legislation. In testimony before the Subcommittee on Foreign Assistance, Senator KENNEDY said:

> I believe that Sec. 210 of this bill could be greatly strengthened by adopting an approach similar to that suggested by our colleague from Wisconsin, Mr. Nelson, in S. 854. In addition, to requiring estimates and explanations for arms sales, Congress should take the responsibility to authorize—at the start of each fiscal year—a specific level of arms sales, credit sales, or guarantees to individual countries. No sales for the next year could then exceed these approved figures. (Of course, there should be a Presidential waiver, for emergency situations genuinely relating to our national interest).
>
> This approach would accomplish the same basic purpose of the bill I proposed earlier this year—S. 795—on arms sales to the Persian Gulf. Under my earlier bill, all sales would be suspended, until such time as the Administration justified its arms sales policies to the Congress, and the Congress by concurrent resolution gave its approval. By having to approve, in advance, overall levels of sales to all countries, Congress would gain the same ends: real information; real debate; real control. Regrettably, in its formal response to my bill, the State Department again fell short in its explanation of US arms sales policies.
>
> Mr. Chairman, I appreciate the difficulties of the Congress' legislating in advance on arms sales. But I believe it is a reasponsibility we should be willing to bear, as we seek to play a positive and constructive role in this area. It would ensure that the Administration has thought through its own intentions even more clearly, than under a provision requiring only non-binding estimates. And it would ensure that we fully understand all the implications of arms sales.
>
> These stronger provisions would also help to solve a practical problem. Even though we now have authority to reject arms sales over $25 million, it is difficult to know which straw will break the camel's back—which arms sale is the one where we should say "enough is enough". It is also difficult for us to see the emerging pattern of arms sales to particular countries, or to a region as a whole, when we can only see and act on them in bits and pieces. Your Section 212, on reporting authority, will help. But I believe it is still essential to tie that in with annual positive authorizations, rather than a piecemeal veto on individual sales.
>
> So, Mr. Chairman, I strongly urge you to adopt the more comprehensive role for the Congress. The Administration should be required to come to the Congress for positive authorization—not just subjecting sales to Congressional veto—when the level of arms sales reach a particular level for any country. Second, if my more comprehensive approach is not accepted, I urge you to consider a requirement for positive congressional action after the first $250 million of sales to any country, in any one year, and at every $250 million increment thereafter.

These proposals are before the Foreign Relations Committee, and I know have been given serious consideration as S. 2662 was drafted. I am confident that as the committee proceeds with markup of security assistance legislation, further careful consideration will be given to features of S. 854, and other proposals which have been offered.

As the Post editorial points out, a good beginning has been made in the congressional examination of arms sales policy. In both the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House a determined effort is underway to put the Congress into the arms sales picture in an effective and constructive way. The effort will continue, and will, I hope, be successful. But, as the Post reminds us, procedure is only a beginning. We must summon the political resolve to face the tough substantive questions which remain unanswered. Better procedures must ultimately yield better policies.

EXHIBIT 1

AMENDMENT No. 1223

On page 25, line 10, immediately after "if" insert "either House of".

On page 25, line 12, strike out "concurrent".

On page 25, lines 20–21, strike out "only a concurrent resolution" and insert in lieu thereof "a resolution of either House of the Congress".

On page 25, line 22, strike out "Congress object" and insert in lieu thereof "(Senate/House of Representatives) objects".

On page 25, line 25, immediately after the comma insert "the appropriate term being selected from the parentheses and".

On page 26, line 23, immediately after "if" insert "either House of".

On page 26, line 25, strike out "concurrent".

On page 27, lines 8 through 9, strike out "only a concurrent resolution" and insert in lieu thereof "a resolution of either House of the Congress".

On page 27, line 10, strike out "Congress objects" and insert in lieu thereof "(Senate/House of Representatives) objects".

On page 27, line 12, immediately after the comma insert "the appropriate term being selected from the parentheses and".

AMENDMENT No. 1224

On page 24 immediately after the comma, insert the following: "and in the case of any letter of offer to make a sale, credit sale, or guaranty which would cause the total amount of sales, credit sales, and guarantees made to that country in that year to exceed $50,000,000 for the first time,".

On page 26, line 11, immediately after the comma, insert the following: "or which would cause the total amount of sales, credit sales, and guarantees made to that country in that year to exceed $50,000,000 for the first time,".

AMENDMENT No. 1225

On page 14, strike out line 7 and insert in lieu thereof the following:

SEC. 205. (a) Section 3(a)(2) of the Foreign Military Sales Act is amended by striking out the word "and" and inserting in lieu thereof a comma and the following: "not to provide training to an officer, employee, or agent of another country through the use of such defense article, and".

(b) Section 3(c) of the Foreign Military

AMENDMENT No. 1226

On page 16, between lines 8 and 9, insert the following new subsection:

(c) Section 3 of such Act is further amended by adding at the end thereof the following new subsection:

"(e)(1)(A) The President shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate on the same day a written certification giving a complete explanation with respect to the proposed transfer under subsection (a) of this section. Each such certification shall include an explanation relating to each category of defense article proposed to be transferred and shall set forth—

"(i) the country or international organization proposing to make such transfer;

"(ii) the acquisition value of the defense article proposed to be transferred;

"(iii) a description of the defense article proposed to be transferred:

"(vi) the person, country, or international organization to which such proposed transfer is to be made;

"(v) the reason for such proposed transfer; and

"(vi) the date on which such transfer is proposed to be made.

"(2)(A) The President may not give his consent under subsection (a) to any transfer of any defense article until the end of the first period of thirty calendar days of continuous session of Congress after the date on which the statement is transmitted.

"(B) The President may grant his consent under such subsection 30 days after the statement has been so transmitted unless, before the end of the first period of 20 legislative days of continuous session of Congress after the date on which the certification is transmitted, Congress adopts a concurrent resolution disapproving the proposed transfer with respect to which the statement is made.

"(C) Such resolution shall be considered in accordance with the provisions of section 301(b) of the International Security Assistance and Arms Export Control Act of 1975.

"(D) The term 'resolution', as used in section 301(b) of such Act, means, for the purposes of this subsection, only a concurrent resolution, the matter after the resolving clause of which is as follows: 'That the Congress does not approve the certification of intent to transfer certain defense articles under section 301(a) of the Arms Export Control Act with respect to , transmitted to the Congress by the President on , 19 .', the first blank space therein being filled with the name of the foreign country to which such certification pertains; and the second blank therein being filled with the date of the transmittal of such certification; but does not include a resolution specifying a certification with respect to more than one country.".

AMENDMENT No. 1227

On page 25, line 11, strike out "calendar" and insert in lieu thereof "legislative".

On page 26, line 23 through line 24, strike out "30 calendar" and insert in lieu thereof "20 legislative."

[From the Progressive, Oct. 7, 1975]

CONGRESS AND ARMS SALES

It has been a fine year for American arms salesmen. More than $9 billion worth of weapons were sold abroad in fiscal 1975—more than half to the tinderbox nations of the Middle East. With the arms appetites of Middle Eastern leaders whetted by the purchases of sophisticated weaponry and another oil price increase in the offing to help pay for it all, America's merchants of death seem to have a bright future threatened by only one or two small clouds.

Shortly before its summer recess. Congress stunned the arms industry by successfully challenging what appears to be the Ford Administration's unofficial arms sales policy—"the more the merrier"—by curbing arms shipments and sales to two nations. Ignoring the Administration's pleas and threats, the House of Representatives refused to lift its embargo on arms shipments to Turkey. Less than a week later, the Executive was forced by overwhelming Congressional opposition to postpone its proposed sale of new, improved Hawk missiles to Jordan.

The case of the Hawk missile is particularly significant: For the first time, Congress has threatened to invoke its recently acquired power to block arms sales. The vehicle for the challenge was an amendment to the Foreign Military Sales Act sponsored by Senator Gaylord Nelson, Wisconsin Democrat, a persistent critic of the skyrocketing weapons trade. Under the Nelson amendment, Congress can veto a weapons sale of more than $25 million if both houses pass resolutions of disapproval within twenty calendar days.

Opposition to the sale was sparked by its timing and magnitude. Both Congress and the Israeli government had been led to believe that the sale would be much smaller—only three Hawk missile batteries. Whether the misunderstanding resulted from a failure of communications or from a deliberate underestimate of the sale's volume by the State Department, many members of Congress balked at the proposed package when they learned that it would include not three but fourteen batteries—some 500 missiles. The Administration had argued that the sale of fourteen batteries was necessary to provide Jordan with a defensive missile capability long sought by King Hussein. This claim, however, was seriously undermined by the Defense Department. In closed-door testimony before the Senate Foreign Relations Committee, General George S. Brown, chairman of the Joint Chiefs of Staff, said that six Hawk batteries would give Jordan a perfectly respectable air defense system.

The sale's prospects were also damaged by its timing. The case against the sale was made succinctly by Admiral Elmo Zumwalt, former chief of naval operations, who claimed in Senate testimony that a sale of this magnitude at a time when sales to Israel were frozen was little more than an effort to pressure the Israelis into accepting an interim agreement with the Egyptians which might not be in Israel's best long-term interests. The argument was apparently convincing; several Senators who favored the sale developed qualms about approving it before the Administration's "reassessment" of Middle East policy was concluded.

A series of attempts at compromise failed. After a hectic week of argument for the sale by the State Department and against it by the effective Israel lobby, the House Foreign Relations Committee passed a resolution of disapproval by voice vote. Hours before the vote scheduled in the Senate Foreign Relations Committee, the Administration, fresh from its defeat on the Turkish arms aid issue, prudently agreed to avoid another confrontation by withdrawing its proposed letter of offer on the sale, and to resubmit, perhaps, a scaled-down request when Congress reconvened.

After the withdrawal of the proposed sale, Senator Nelson called the confrontation "a significant step in the assertion of Congress's proper role in foreign policy." In our view, however, it is only an initial step, however admirable. So far, Congress has not used its power to question the impact on U.S. foreign policy of equally sophisticated weapons transfers to other nations in the area. Congress did not object, for example, to the sale of Lance missiles to Israel. Dale Tahtinen and Robert Pranger point out in their terrifying study. "Nuclear Threat in the Middle East," that the Lance was built for the "specific purpose of use with nuclear warheads."

The temporary withdrawal of the Hawk missile sale was a small step forward in the assertion of Congressional supervision of Administration arms policy, but it raises a more profound question: Will Congress use its new power to scrutinize all sophisticated weapons transfers, or will it merely act in a sporadic fashion, reflecting the strength of interest groups whose objectives may ultimately conflict with America's national objectives?

[From the Washington Post, Nov. 28, 1975]

A HANDLE ON ARMS SALES

In very few areas of international policy has Congress been so negligent as in arms sales, which now may constitute the principal way by which the United States relates to most nations of the world. In fiscal 1975, for instance, Washington sold $9.5 billion in military supplies to 71 countries; $600 million worth more was sold through commercial channels and another $600 million worth was given away. The figures will be even larger this year.

Yet the Congress has never been able to summon up the energy—or the will—for more than an occasional inspection of administration arms-transfer policies, and an even more occasional challenge. Government-to-government arms sales, the largest category, are guided (to the extent that they are guided legislatively at all) by a law framed on the premise that NATO allies were the chief buyers. The possibility, now a reality, that the chief purchasers would be newly oil-rich countries of a generally uncertain political persuasion was not contemplated at all. Commercial arms sales are guided by even more antiquated and irrelevant legislation. Arms grants have received a fair amount of congressional attention but the bulk of the grant program is fading away.

It now seems likely, however, that for the first time Congress will put itself in the position of learning comprehensively what the administration is doing about arms sales, and of starting to share systematically in shaping the policies guiding these exports. Sen. Hubert Humphrey (D-Minn.), chairman of a new Senate Foreign Relations foreign-aid subcommittee, has introduced such legislation. His bill would ensure that Congress has timely public information about proposed arms transfers, as well as the opportunity to veto particular deals. It would also root out some of the dubious procedures and practices of the past, such as the President's authority to draw on Pentagon stocks for military aid purposes, and the Defense Department's practice of using military missions to promote arms request by hungry defense ministries abroad.

Fortunately, the State Department, whose multi-billion-dollar military assistance request happens to be lying before the Foreign Relations Committee, has promised its cooperation to the Humphrey subcommittee in working out the new legislation. The State Department may well feel that Foreign Relations could be a useful ally in the bureaucratic contest which is almost certain to be joined between State and Defense as new arms-export policies are put into play.

As useful as the Humphrey proposal is, however, it leaves the hard questions of substance unanswered, indeed unasked. It is all very well for Congress to assert a claim to conduct oversight. But by what standards should arms transfers be made and judged? In the decades when almost any transfer could be justified as a brick in the wall containing Communism, the issue did not much arise. But now that the grip of anti-Communist doctrine has loosened, there is a notable absence of doctrine, or consensus, to help the United States make the difficult policy decisions involved in arms exports. Should arms go only to proven allies? To would-be friends and clients? To threatened countries? To unthreatened countries? To any country with cash? To countries whose social systems, human-rights practices and United Nations votes to approve? And what kinds and amounts of arms should be sold? Defensive or offensive? A lot or a little? Anything the buyer will pay for?

It is a fair comment on the status quo that there are no generally accepted answers to these questions. The administration contends that each sale it makes serves a carefully measured foreign-policy purpose. But the impression remains unshaken that the U.S. government has been shipping arms all over the world without due deliberation and sometimes without good cause. If the Humphrey bill enables the Congress to help hammer out a rational American approach to arms sales, it will belong right up there with the War Powers Act as one of the most valuable pieces of foreign-policy legislation of the post-Vietnam era.

TESTIMONY BEFORE THE SUBCOMMITTEE ON FOREIGN ASSISTANCE AND ECONOMIC POLICY, COMMITTEE ON FOREIGN RELATIONS, U.S. SENATE

(By Anne Hessing Cahn)

I am pleased to have this opportunity to offer my views regarding the arms sales policies of the United States before this distinguished subcommittee. International security assistance and arms exports have long been an integral instrument of United States defense and foreign policy. Therefore the Congress and the American people have a major legitimate role to play in the shaping and expressing of arms export policies. The International Security Assistance and Arms Export Control Act of 1975 makes a major contribution towards ensuring that the Congress and the public will be able to exercise their participatory prerogatives.

Senator Humphrey introduced this Bill as a "response to growing public concern over United States arms sales and grant programs." I should like to begin by documenting this public concern. Early this year Harris polls showed that by an overwhelming 65 percent to 22 percent majority Americans oppose the United States providing military aid to foreign countries. A 53 percent to 35 percent majority oppose military sales (as contrasted with military aid). According to Harris, "Americans have a deep two-fold concern: the emphasis US foreign policy places on military solutions to international problems and the escalating arms race among many medium and smaller nations." Harris also found that Americans believe that arms shipments from the United States and other nations increase the likelihood of war and that attempts to resolve world problems by armed conflict are doomed to failure.

Much of the public's lack of support for military sales and assistance is, I believe, a reaction to the excessive secrecy which has shrouded arms deals in the past. Two examples of such concealment are illustrative:

The initial public announcement in February 1975 of the $77 million contract to the Vinnell Corporation to train the Saudi Arabian national guard did not identify the country in which the civilians would be working nor the nature of their job. When the information was given to Congress it was given on a classified basis.

The agreement signed between Iran and Rockwell International in February-March of this year to establish a communications intelligence facility capable of intercepting civilian and military communications in the Persian Gulf was not announced publicly until June, this despite the fact that it called for direct recruitment of past and present staff of the U.S. National Security Agency and the U.S. Air Force Security Service, many of whom have, or have had, access to this country's most closely guarded intelligence techniques.

Partly in response to disclosure of such deals by the media and partly in order to reassert congressional participation in foreign affairs, last year the Congress amended section 36b of the Foreign Military Sales Act. This amendment required that Congress receive advance notification of proposed arms sales in excess of $25 million. Since the beginning of this calendar year when the statute became effective, 45 such notifications have appeared in the CONGRESSIONAL RECORD.

Examining these reports one finds that twenty-two, or just under half, are in part classified or leave some of the required information unspecified. One such notification, reported on March 3, 1975,[1] transmitted no information whatsoever, as the name of the recipient country, the system sold, the quantity and the cost were all classified.

As of mid-November, the dollar value of sales reported in the RECORD under the Nelson Amendment was $5.69 billion, only about half the value of orders placed in fiscal 1975. The total space in the CONGRESSIONAL RECORD devoted to reporting these arms sales amounted to about 44 inches, or just under one inch per transaction.

My analysis of the first ten months of reporting under the Nelson Amendment convinces me of the urgency with which we need the "sunshine" aspect—the public disclosure of contracts section—of the Bill you are presently considering.

Assistant Secretary of Defense Robert Ellsworth, in his recent appearance before this committee, questioned whether it was more important for Congress to receive "general, periodic or aggregate data" on an unclassified basis or "whether it is more important, on the other hand, that the Congress be given precise data in considerable detail on a classified basis." I would argue that there is absolutely no justifiable reason for asking Congress to choose between these two equally unsatisfactory alternatives. Instead, the Congress should insist on receiving precise data in considerable detail on an unclassified basis.

The original intent, and the only legal basis, of the nation's security classification program is to prevent the unauthorized release of information which could be harmful or damaging to the national defense or national security of the United States. It is difficult to see how disclosure of United States sales of arms or training to foreign countries can be construed as injurious to the security interests of the United States. Classification or confidential designation of arms sales is in no way justified on this basis.

It is the recipient countries which do not want their neighbors, rivals or potential adversaries to know how many of what kinds of weapons they are acquiring from whom. But for the United States government to acquiesce in this practice, is, in my view, a warped use of our nation's security classification program and should be immediately disavowed along with all other forms of clandestine dealings.

Sections 207 and 209 of the Bill would require that all government-to-government contracts "shall be available for public inspection." I enthusiastically endorse this provision. Secretary Ellsworth questions whether the enactment of this rule might "indirectly contribute to an arms race, or increase the possibility of outbreak or escalation of conflict, or directly prejudice the development of bilateral or multilateral arms control arrangements."

To the extent that nations arm themselves to deter war, we should notice that disclosure of inventories can lead to stability, can prevent worse case guesses by potential adversaries, and can become useful mechanisms for establishing mutual trust and confidence. These appear to be the rationales of the major powers who, except for the Soviet Union and China, announce their own strategic inventories and record specific numbers in treaties and negotiations.

To the extent that nations arm themselves to *fight* wars rather than to deter them, there are, of course, possible disadvantages to public disclosure of arms acquisitions. Surprise attacks, innovative employment of new weapons systems, lightning sweeps across large expanses of territory may be rendered more difficult or impossible to execute. But these possible disadvantages to arms recipients must be weighed against the advantages to the United States of rebuilding confidence in our government by conducting public business publicly.

The Bill states that "it shall be the policy of the United States to exert leadership in the world community to bring about arrangements for reducing the international trade in implements of war and to lessen the danger of outbreak or regional conflict and burdens of armaments." I would suggest that a unilateral initiative by the United States to disclose all of its arms transactions would constitute precisely such creative leadership.

The Bill also proclaims that "it is the sense of the Congress that the President should seek to initiate multilateral discussions among the principal arms suppliers and other countries with respect to the control of the worldwide trade in armaments." Since it is clearly preferable that all sales contracts between governments be made public, the topic of public disclosure should be given a high place on the agenda of multilateral discussions.

A final aspect of the "sunshine" policy concerns the procedures for reaching the Bill's objective of public disclosure. How can the information about arms sales be made more readily available to the American people? Simple insertion into the CONGRESSIONAL RECORD is not adequate. Only a minority of Americans know of its existence, fewer still ever peruse it.

The Defense Department often states in its letter of transmittal to the Congress, "shortly after this letter is delivered to your office we plan to notify the news media." This simply means that a copy of the transmittal letter is posted on the bulletin board in the Pentagon's press room. The wire services then usually put out a brief announcement of the sale resulting in perfunctory treatment by the news media.

This procedure ignores completely the cumulative sweep and tide of the totality of United States arms transactions. I would argue that the executive branch has a special responsibility to make arms sales data available to the public at large—to shift, somehow, the burden of proof from citizens having to ferret out the information for themselves to the government making it easily and readily accessible.

Multilateral discussions among the principal arms suppliers and other countries to control the worldwide trade in armaments, as the Bill calls for, would help to focus world attention on the issue, and thus serve the dual functions of raising the public's consciousness and its conscience.

I will conclude by indicating briefly some general areas where I would like to see the Bill strengthened.

RECOMMENDATIONS

1) *Anti-Discrimination Policy—*

Sections 103 and 204 prohibit grant military assistance, government-to-government sales, and the extension of credits or guarantees, to any government whose laws or practices prevent U.S. citizens from participating in the furnishing of defense articles or services procured under the Act on the basis of race, religion, national origin, or sex. I would like to see this provision *extended also to commercial sales.*

2) *Reports on Commercial and Governmental Military Exports—*

The current requirements of the Nelson amendment can be broken into three separate components:

Triggering mechanisms of Congressional veto over certain offers to sell defense articles or services;

Length of time in which Congress may object to the certification of the sale;

Procedures by which Congress may object to the certification of the sale.

a) The present bill extends the Congressional review procedure to commercial military exports in addition to those sold by a government agency in the case where the cost is $25 million or more. Since less than half the arms exports were covered by this provision last year, I suggest that the review procedures also become active when the *cumulative* total of military sales, whether governmental or commercial, cash or credit, to one particular country exceeds $50 million in any fiscal year.

b) The bill under consideration extends the period for Congressional review from twenty calendar days to thirty, after receiving the certification. Because of present recess and vacation schedules of Congress, I would rather see the bill refer to twenty legislative rather than thirty calendar days.

3) *Retransfer policies—*

As the enormous quantities of arms and spare parts that many nations have ordered in the past are delivered and incorporated into active inventories, a comparable deluge of less modern weapons will be released for retransfer. Therefore I would like to have Congressional oversight and veto authority extended to the *retransfer* of United States weapons.

4) *Positive Congressional Approval—*

Lastly, if Congress really wants, as Senator Humphrey has stated, to shift "the policy emphasis of expanding arms exports to strengthening controls, especially Congressional controls," then, it seems to me, you should move further toward positive Congressional approval of each sale over $25 million or of all sales to one country of a cumulative total of $50 million or more during each fiscal year. This, I would argue, is what is ultimately required if the burden of justification is to be shifted from those who oppose an arms sale to those who favor it. If it could once again become the rule to say "no" to arms sales and the exception to say "yes," then perhaps as the United States approaches its bicentennial, it will once more be known as "the arsenal of democracy"—instead of just "the arsenal."

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[1] CONGRESSIONAL RECORD, March 3, 1975, 4934.

Fact Sheet—Amendments To Be Offered by Senator Gaylord Nelson and Senator Clifford Case to S. 2662, the International Security Assistance and Arms Export Control Act

Amendment No. (1): Changes the time for Congressional veto of proposed arms sales of $25 million or more from the present 20 calendar days to 20 legislative days.

Rationale: Experience with present procedure during 1975 demonstrates the inadequacy of the present 20 calendar day time frame. S. 2662 proposed expanding the time frame to 30 calendar days. The draft bill submitted to the Committee on International Relations of the House by Chairman Thomas Morgan uses the 20 legislative days we are suggesting.

The continued use of calendar days does not remove the possibility that any Administration might submit an important sale on the eve of or during a Congressional recess. The Hawk missile sale to Jordan was submitted shortly before the August recess. More recently a sale of Sidewinder missiles to Kuwait was submitted on the day Congress adjourned for the Columbus Day recess, thus allowing only ten calendar days—half the time prescribed by existing law—for evaluation of the sale when Congress reconvened.

In a letter to then Secretary of Defense James Schlesinger, Senators Nelson, Case, Kennedy, and Church protested that procedure as effectively thwarting the declared purpose of existing legislation by depriving Congress of the full statutory time to consider the sale.

In offering this amendment it is simply our intent to insure that Congress have adequate time to scrutinize fully and carefully all proposed arms sales.

Amendment No. ( ): Allows either house of Congress to block a proposed arms sale under the Nelson amendment procedure.

Rationale: Elimination of the need for both houses of Congress to act to block a proposed arms sale obviously makes it easier for Congress to stop an unwise weapons deal. A single house veto would be a significant step toward putting the burden of proof of the wisdom of a particular sale on the proponents of that transaction. Given the important foreign policy and military ramifications of major sales, any such sale should be able to command acquiescence of both houses. Under present procedure, one house might vote to block a proposed sale. The other body might fail to act, perhaps because of unavoidable time constraints. The sale in question would then be allowed to proceed despite the expressed opposition of one house of Congress. This amendment would remedy that situation.

A Library of Congress study indicates that numerous single house veto provisions exist in law presently, including a wide variety in the field of foreign affairs and defense.

Amendment No. ( ): Provides for possible Congressional veto of any sale, credit sale, or guarantee which would cause the total amount of sales, credit sales, and guarantees made to that country in that year to exceed $50 million for the first time.

A similar cumulative total amendment has passed the Senate previously but was dropped in conference with the House last year. This year a similar amendment is being offered by Rep. Ryan of the Committee on International Relations, and has the support of other Committee members. House concurrence thus seems likely. This amendment would guarantee that large sales could not be broken up into smaller non-reportable sales. More importantly, it also provides Congress with a mechanism which insures that at some point the Congress will be forced to consider the wisdom of going beyond a particular threshold in volume of sales to any given country.

Amendment No. ( ): Stipulates that a government purchasing defense articles from the United States must agree not to provide training to an officer, employee, or agent of another country through the use of such defense articles.

Amendment No. ( ): Extends the Congressional veto procedure to the granting of United States permission to 3rd party transfers of U.S.-supplied military equipment or training.

Both of the above amendments are designed to prevent undesired transfers of American-supplied equipment and to prevent use of such equipment in training of third country personnel without U.S. permission.

The legislative history of the Foreign Military Sales Act indicates that it has always been Congressional intent that U.S. equipment not be used to provide training to 3rd country personnel without the express approval of the United States. The above amendment spells out such intent more clearly.

Recent experience indicates that potential transfer of training utilizing American-supplied equipment may become a source of increasing concern. The State Department—in response to inquiries from Senator Case—recently confirmed that the Iranian Air Force has given flights in American-made Phantom F-4 jet fighters to Egyptian air force pilots. It was also confirmed that Saudi Arabia used its American-made jet fighters in military exercises in Syria last month.

Present law allows the President to permit transfers of American-made equipment to 3rd parties. The above amendment brings Congress into this important decision by permitting the Congress to scrutinize such a Presidential grant of permission for a weapons transfer.

Nothing in the amendment is intended to hamper weapons transfers which are a normal part of existing NATO security arrangements.

The Record of December 1, 1975, contains remarks of Senator Case along with documents submitted establishing further the need for such amendments. (Senator Case, "Military Weapons Flow Causes Growing Concern," pp. 37967–37973.)

Exhibit 2

Fact Sheet—Major Provisions of the Amendment Offered by Senator Nelson for Himself and Mr. Kennedy Requiring Prior Congressional Approval of the Foreign Military Sales Program

(Identical to S. 854, first introduced February 26, 1975. Refer to Nelson statement in the Record of that date, pp. 4392–4398).

1. *Reporting requirement*—

To provide the Congress by February 1 of each year a report containing a forecast of the total dollar amount of foreign military sales proposed to be made in the coming fiscal year on a country by country basis, including the type of major weapons or major defense services to be provided: Also requires a five-year projection.

Rationale—Congress should have a chance to see the whole program in its entirety in order to view how it will affect power balances, etc. Also Congress should be able to look at the program well in advance in order to be able to alter it before it is too late or too difficult. Five-year projection provides a useful measure of long-range planning. If the Administration doesn't know what sales will be in a given case, they can say so and Congress can either give them blanket authority or require them to come back with a request later on.

2. *Justification requirement*—

To provide Congress with an explanation of how the arms sales program can be justified in terms of supporting U.S. foreign policy, strengthening U.S. security, and promoting world peace. The total program, the program for each country and the proposals, for each major weapons system or major defense service would have to be justified in the ways cited above.

Rationale—The three factors required to be explained in the justification statement are basic to any informed decision on arms sales. Also, it forces the Administration to carefully examine its policy in the area of arms sales.

3. *Foreign policy impact statement*—

To provide Congress with a description of how the proposed sales program will affect arms control and military balance both regionally and worldwide and how it will affect U.S. military preparedness, U.S. defense production capacity, and War Reserve Stocks.

Rationale—Only when Congress has access to information such as that required in the impact statement can it make intelligent choices as to whether or not a sale should be made. Only then can Congress have access to the kinds of evaluations which the Administration makes or in any case should make.

4. *A response requirement*—

Within 30 days of its receipt, the executive branch shall respond to a request for additional information concerning items 1, 2, or 3 above or any other related matter from the chairman of the Senate Foreign Relations Committee or the House International Relations Committee.

Rationale—Congress clearly should have access to any other information it deems necessary.

5. *An approval requirement*—

Congress must approve an overall foreign military sales program which specifies a maximum dollar amount by country and which specifies which major weapons systems and major defense services are authorized. "Supplemental" requests for approval could be submitted by the Administration.

Rationale—Congress should have this responsibility. Arms sales have great foreign policy impact. It forces Congress to face up to issues involved since no sales could proceed without action by Congress. Congress is given maximum flexibility in either setting hard and fast ceilings or restrictions on types of weapons (either regionally or by country) or in giving the Administration great flexibility. Congress can decide which approch is best for a particular circumstance.

6. *A waiver provision*—

The President may waive the approval requirement cited above for a particular sale if he notifies Congress that such a waiver is vital to the security of the U.S.

Rationale—This gives the President the flexibility he may require in unusual circumstances. He would be reluctant to use it unless really necessary.

Amendment No. 1228

Beginning on page 20, line 21, strike out through line 14 on page 21 and insert in lieu thereof the following:

"'Sec. 25. Congressional Approval.—(a) Not later than February 1 of each year, beginning in the calendar year 1976, the President shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate on the same day a report which shall include the following:

"'(1)(A) A statement which shall set forth—

"'(i) the total amount of cash sales from stock under section 21, contracts for the procurement of defense articles or defense services under section 22, credit sales under section 23, and guaranties under section 24 of this Act proposed to be made during the next fiscal year to each country or international organization the name of which is set forth in such statement pursuant to clause (ii) of this subparagraph;

"'(ii) the country or international organization to which such sale, credit sale, or guaranty is proposed to be made; and

"'(iii) in the event any such sale, credit sale, or guaranty involves a major weapons system or a major defense service, a full and complete description of such major weapons system or such major defense service.

"'(B) The President may, from time to time, submit additional statements with respect to any of the matter specified in paragraph (1)(A) of his section.

"'(2) A projection which shall set forth the total amount of such sales, credit sales, or guaranties expected to be made to each country or international organization during the next five fiscal years. In the event such sales, credit sales, or guaranties are expected to involve a major weapons system or a major defense service, such report shall to the maximum extent possible describe fully and completely such major weapons system or major defense services, and shall set forth the name of the country or international organization to which the sale, credit sale, or guaranty thereof is expected to be made.

"'(3) An explanation and justification for—

"'(A) the total foreign military sales program;

"'(B) the foreign military sales program with respect to each country and international organization to which sales, credit sales, or guaranties are made thereunder; and

"'(C) any sale, credit sale, or guaranty involving a major weapons system or major defense service;

as described in the projection transmitted under paragraph (2) of this subsection, including an explanation of the extent to which the matter set forth in clauses (A), (B), and (C) of this paragraph will—

"'(i) support the foreign policy objectives of the United States;

"'(ii) strengthen the security of the United States; and

"'(iii) promote world peace.

"'(4)(A) An impact statement describing fully and completely the effect of the matter set forth in clauses (A), (B), and (C) of paragraph (3) of this subsection with respect to—

"'(i) balances of power and arms races in each region of the world in which such sale, credit sale, or guaranty is expected to be made;

"'(ii) international negotiations and efforts directed at the achievement of arms control;

"'(iii) the defense production capability of the United States;

"'(iv) the military preparedness of the armed forces of the United States; and

"'(v) the War Reserve Stocks.

"'(B) In the preparation of that portion of the impact statement relating to clauses (A)(i) and (A)(ii) of this paragraph, the President shall consult with the Director of the Arms Control and Disarmament Agency.

"'(C) Not later than thirty days following the receipt of a request made by the chairman of the Committee on Foreign Relations of the Senate or the chairman of the Committee on Foreign Affairs of the House of Representatives for additional information with respect to a statement transmitted under paragraph (1)(A) of this subsection, such information shall be transmitted to such chairman.

"'(b)(1) After consideration by the Congress of a statement transmitted pursuant to subsection (a)(1)(A) of this section and the passage of a concurrent resolution approving—

"'(A) a maximum amount of sales, credit sales, and guaranties with respect to a specified country or international organization during the next fiscal year, the President may make sales, credit sales, and guaranties to such country in an amount not exceeding such maximum amount; and

"'(B) a sale, credit sale, or guaranty involving a major weapons system or major defense service;

the President may make such sale, credit sale, or guaranty, subject to any limitations, prohibitions, and authorities contained in such concurrent resolution.

"'(2) Any or all of the matter set forth in paragraph (1) of this subsection may be included in a single concurrent resolution of approval.

"'(3)(A) No sale, credit sale, or guaranty involving a major weapons system or major defense service may be made unless the Congress by concurrent resolution approves such sale, credit sale, or guaranty.

"'(B) No other sale, credit sale, or guaranty may be made unless—

"'(i) the Congress has approved by concurrent resolution the country or international organization to which such sale, credit sale, or guaranty is to be made;

"'(ii) the total amount of sales, credit sales, and guaranties previously made to such country during such fiscal year does not, when added to the amount of such sale, credit sale, or guaranty, exceed the maximum amount approved under paragraph (1)(A) of this subsection; and

"'(iii) such sale, credit sale, or guaranty is made in accordance with all limitations, prohibitions, and authorities referred to in paragraph (1) of this subsection.

"'(c) The provisions of subsection (b) of this section shall not apply with respect to any particular sale, credit sale, or guaranty if the President transmits to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate a statement of the waiver in which he certifies that such waiver is vital to the security of the United States.'.

"(b) Section 47 of such Act is amended by—

"(1) striking out the word 'and' at the end of clause (1);

"(2) striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon; and

"(3) adding at the end thereof the following new clauses:

"'(3) "major weapons system" means a weapons system which costs, over the life of its development or production in—

"'(A) research, development, testing, and engineering, in excess of $50,000,000; or

"'(B) procurement, in excess of $200,000,000; and

"'(4) "major defense service" means any defense service (as defined in section 644(f) of the Foreign Assistance Act of 1961) which materially increases the military capability of the country to which it is rendered.'".

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Frederick M. Coleman, of Ohio, to be U.S. attorney for the northern district of Ohio for the term of 4 years—reappointment.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Tuesday, December 16, 1975, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ADDITIONAL STATEMENTS

PRESIDENT FORD'S PACIFIC DOCTRINE

Mr. FONG. Mr. President, on Sunday, December 7, 1975—exactly 34 years after the United States was catapulted into the Second World War—President Ford announced his "Pacific doctrine of peace with all—and hostility toward none."

As you know, President Ford just concluded a successful 7-day trip that took him to Alaska, the People's Republic of China, Indonesia, the Philippines, and Hawaii.

In Hawaii, the President and Mrs. Ford were warmly and enthusiastically greeted by the people both at the airport and at the East-West Center where he delivered a major foreign policy address.

Besides the significance of the date, the place where the President chose to proclaim his Pacific doctrine is also noteworthy. Since its founding 15 years ago, the Center for Cultural and Technical Interchange Between East and West has brought together more than 26,000 men and women from the United States, Asia, and the Pacific region. The center has played an indispensable role in fostering better relations and understanding between the peoples of the Orient and the Occident.

I cannot think of a more appropriate place for the President to conclude his successful trip to Asia and the Pacific than in Hawaii; likewise, I cannot think of a better forum than the East-West Center for the President to enunciate his belief that the United States "has a very vital stake in Asia and a responsibility to take a leading part in lessening tensions, preventing hostilities and preserving peace." He went on to say that "world stability and our own security depend upon our Asian commitments."

President Ford listed the following six premises of his Pacific doctrine:

That American strength is basic to any stable balance of power in the Pacific;

That our partnership with Japan is the pillar and cornerstone of our strategy in Asia;

That we should normalize our relations with the People's Republic of China;

That we have a continuing stake in the stability and security in Southeast Asia;

That peace in Asia depends upon a resolution of outstanding political conflicts; and

That peace in Asia requires a structure of economic cooperation reflecting the aspirations of all the peoples in the region.

Mr. President, I ask unanimous consent that the text of President Ford's speech be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

REMARKS OF THE PRESIDENT AT THE EAST-WEST CENTER, THE UNIVERSITY OF HAWAII

Dr. Kleinjans, Governor Ariyoshi, Senator Fong, Congressman Matsunaga, Dr. Matsuda, students, faculty and members of the community here in Hawaii:

It was nice to see you, Doctor. I had the honor for a good many years of representing an area, a wonderful community, from which the Doctor came. I know more of his relatives perhaps than he does (Laughter) and they were all very kind to me, for which I was deeply grateful.

But, it is good to be home again in the United States. I have just completed, as many of you know, a seven-day trip to the State of Alaska, to the People's Republic of China, to our good friends, Indonesia and the Philippines, and now I am obviously happy to be home in our 50th State, Hawaii.

This morning I reflected on the past at the shrine of Americans who died on Sunday morning 34 years ago. I came away with a new spirit of dedication to the ideals that emerged from Pearl Harbor in World War II, dedication to America's bipartisan policy of pursuing peace through strength, and dedication to a new future of interdependence and cooperation with all the peoples of the Pacific.

I subscribe to a Pacific doctrine of peace with all—and hostility toward none. The way I would like to remember or recollect Pearl Harbor is by preserving the power of the past to build the future.

Let us join with new and old countries of that great Pacific area in creating the greatest civilization on the shores of the greatest of our oceans.

My visit here to the East-West Center holds another kind of meaning. Your center is a catalyst of America's positive concern for Asia, its people and its rich diversity of cultures.

You advance our hope that Asia will gain a better understanding of the United States.

Last year we were pleased to receive and to welcome nearly 54,000 Asian students to the United States while thousands upon thousands of American students went to Asian countries. I applaud your contribution to partnership in education. Your efforts represent America's vision of an open world of understanding, freedom and peace.

In Hawaii, the crossroads of the Pacific, our past and future join.

I was deeply moved when I visited Japan last year, and when I recently had the honor of welcoming the Emperor and the Empress of Japan to America. The gracious welcome that I received and the warmth of the welcome the American people bestowed upon the Emperor and the Empress testify to a growing friendship between our two great countries. This is a tribute to what is best in man—his capacity to grow from fear to trust and from a tragedy of the past to a hopeful future.

It is a superb example of what can be achieved in human progress. It inspires our new efforts in Asia to improve relations. America, a nation of the Pacific Basin, has a very vital stake in Asia and a responsibility to take a leading part in lessening tensions, preventing hostilities and preserving peace. World stability and our own security depend upon our Asian commitments.

In 1941, 34 years ago today, we were militarily unprepared. Our trade in the Pacific was very limited. We exercized jurisdiction over the Philippines. We were preoccupied with Western Europe.

Our instincts were isolationist. We have transcended that age. We are now the world's strongest nation. Our great commercial involvement in Asia is expanded. We led the way in conferring independence upon the Philippines. Now we are working out new associations and arrangements with the trust territories of the Pacific.

The center of political power in the United States has shifted westward. Our Pacific interests and concerns have increased. We have exchanged the freedom of action of an isolationist state for the responsibilities of a great global power.

As I return from this trip to three major Asian countries, I am even more aware of our interests in this part of the world. The security concerns of great world powers intersect in Asia, the United States, the Soviet Union, China and Japan are all Pacific powers.

Western Europe has historic and economic ties with Asia. Equilibrium in the Pacific is absolutely essential to the United States and to the other countries in the Pacific.

The first premise of a new Pacific Doctrine is that American strength is basic to any stable balance of power in the Pacific. We must reach beyond our concern for security, but without security, there can be neither peace nor progress.

The preservation of the sovereignty and the independence of our Asian friends and allies remain a paramount objective of American policy. We recognize that force alone is insufficient to assure security. Popular legitimacy and social justice are vital prerequisites of resistance against subversion or aggression. Nevertheless, we owe it to ourselves and to those whose independence depends upon our continued support to preserve a flexible and balanced position of strength throughout the Pacific.

The second basic premise of a new Pacific Doctrine is that the partnership with Japan is a pillar of our strategy. There is no relationship to which I have devoted more attention, nor is there any greater success story in the history of American efforts to relate to distant cultures and to people.

The Japanese-American relationship can be a source of great, great pride to every American and to every Japanese.

Our bilateral relations have never been better. The recent exchange of visits symbolizes a basic political partnership. We have begun to develop with the Japanese and other advanced industrial democracies better means of harmonizing our economic policy.

We are joining with Japan, our European friends and representatives of the developing nations this month to begin shaping a more efficient and more equitable pattern of North-South economic relations.

The third premise of a new Pacific Doctrine is the normalization of relations with the People's Republic of China. The strengthening of our new ties with this great nation representing nearly one-quarter of mankind. This is another recent achievement of American foreign policy. It transcends 25 years of hostility.

I visited China to build on the dialogue started nearly four years ago. My wide-ranging exchanges with the leaders of the People's Republic of China—with Chairman Mao Tse-Tung and Vice Premier Teng Hsiao-Ping—enhanced our understanding of each other's views and each other's policy.

There were, as expected, differences of perspective. Our societies, our philosophies, our varying positions in the world, give us differing perceptions of our respective national interests.

But, we did find the common ground. We reaffirmed that we share very important areas of concern and agreement. They say, and we say, that the countries of Asia should be free to develop a world where there is mutual respect for the sovereignty and territorial integrity of all States; where people are free from the threat of foreign aggression; where there is noninterference in the internal affairs of others; and where the principles of equality, mutual benefit and coexistence shape the development of peaceful international order.

We share opposition to any form of hegemony in Asia or in any other part of the world.

I reaffirmed the determination of the United States to complete the normalization of relations with the People's Republic of China on the basis of the Shanghai Communique. Both sides regarded our discussions as significant, useful and constructive.

Our relationship is becoming a permanent feature of the international political landscape. It benefits not only our two peoples, but all peoples of the region, and the entire world.

A fourth principle of our Pacific policy is our continuing stake and stability and security in Southeast Asia.

After leaving China, I visited Indonesia and the Philippines. Indonesia is a nation of 140 million peeople, the fifth largest population in the world today. It is one of our important new friends and a major country in that area of the world.

The Republic of the Philippines is one of our oldest and dearest allies. Our friendship demonstrates America's longstanding interest in Asia.

I spent three days in Jakarta and Manila. I would have liked to have had time to visit our friends in Thailand, Singapore and Malaysia. We share important political and economic concerns with these five nations who make up the Association of Southeast Asian Nations.

I can assure you that Americans will be hearing much more about the ASEAN organization. All of its members are friends of the United States. Their total population equals our own. While they are developing countries, they possess many, many assets—vital peoples, abundant natural resources, and well-managed agricultures.

They have skilled leaders and the determination to develop themselves and to solve their own problems. Each of these countries protects its independence by relying on its own natural resilience and diplomacy. We must continue to assist them.

I learned during my visit that our friends want us to remain actively engaged in the affairs of the region. We intend to do so.

We retain close and valuable ties with our old friends and allies in the Southwest Pacific—Australia on the one hand and New Zealand on the other.

A fifth tenet of our new Pacific policy is our belief that peace in Asia depends upon a resolution of outstanding political conflicts. In Korea, tension persists. We have close ties with the Republic of Korea, and we remain committed to peace and security on the Korean Peninsula, as the presence of our forces there attests.

Responding to the heightened tension last spring, we reaffirmed our support of the Republic of Korea. Today, the United States is ready to consider constructive ways of easing tensions on the Peninsula, but we will continue to resist any moves which attempt to exclude the Republic of Korea from discussion of its own future.

In Indochina, the healing effects of time are required. Our policies toward the new regimes of the Peninsula will be determined by their conduct toward us. We are prepared to reciprocate gestures of good will—particularly the return of remains of Americans killed or missing in action or information about them.

If they exhibit restraint toward their neighbors and constructive approaches to international problems, we will look to the future rather than to the past.

The sixth point of our new policy in the Pacific is that peace in Asia requires a structure of economic cooperation reflecting the aspiration of all the peoples in the region.

The Asian-Pacific economy has recently achieved more rapid growth than any other region in the world. Our trade with East Asia now exceeds our transactions with the European community. America's jobs, currency and raw materials depend upon economic ties with the Pacific Basin.

Our trade with the region is now increasing by more than 30 percent annually—reaching some $46 billion last year. Our economies are increasingly interdependent as cooperation grows between developed and developing nations.

Our relations with the five ASEAN countries are marked by growing maturity and by more modest and more realistic expectations on both sides. We no longer approach them as donor to dependent. These proud people look to us less for outright aid than for new trading opportunities and more equitable arrangements for the transfer of science and technology.

There is one common theme which was expressed to me by the leaders of every Asian country that I visited. They all advocate the continuity of steady and responsible American leadership. They seek self-reliance in their own future and in their own relations with us.

Our military assistance to allies and friends is a modest responsibility, but its political significance far surpasses the small cost involved. We serve our highest national interest by strengthening their self-reliance, their relations with us, their solidarity with each other and their regional security.

I emphasized to every leader I met that the United States is a Pacific nation. I pledged, as President, I will continue America's active concern for Asia and our presence in the Asian-Pacific region.

Asia is entering a new era. We can contribute to a new structure of stability founded on a balance among the major powers, strong ties to our allies in the region, an easing of tension between adversaries, the self-reliance and regional solidarity of smaller nations, and expanding economic ties and cultural exchanges.

These components of peace are already evident. Our foreign policy in recent years and in recent days encourages their growth.

If we can remain steadfast, historians will look back and review the 1970s as the beginning of a period of peaceful cooperation and progress—a time of growing community for all the nations touched by this great ocean.

Here in the Pacific crossroads of Hawaii, we envision hope for a wider community of man. We see the promise of a unique republic which includes all the world's races. No other country has been so truly a free, multiracial society.

Hawaii is a splendid example, a splendid showcase of America and exemplifies our destiny as a Pacific nation.

America's Pacific heritage emerged from this remarkable state. I am proud to visit Hawaii—the island star in the American firmament which radiates the universal magic of Aloha.

Let there flow from Hawaii—and from all of the States in our Union—to all peoples, east and west, a new spirit of interchange to build human brotherhood.

Thank you very much.

S. 2662, THE INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORT CONTROL ACT OF 1975

Mr. HUMPHREY. Mr. President, on November 13 I introduced S. 2662, a bill to establish more effective control over military grants and sales to foreign countries. Since then, Senators CASE, CHURCH, CULVER, and LEAHY have joined as cosponsors of the bill. S. 2662 will serve as the vehicle for consideration by the Foreign Relations Committee of the President's security assistance request. Hopefully, the Senate can complete action on the bill before the Christmas recess. In view of the fact that markup of the bill by the Subcommittee on Foreign Assistance will begin within the next few days, I urge all of my colleagues who have amendments concerning security assistance, or other foreign aid matters, to introduce them as soon as possible.

On Friday the subcommittee heard testimony from a panel of three noted experts in the field of conventional arms control, Mrs. Ann H. Cahn, Miss Amelia C. Leiss, and Mr. Philip J. Farley.

Mrs. Cahn has written and spoken extensively on conventional arms control issues. She is now a fellow at the program for science and international affairs at Harvard University.

Miss Leiss is the assistant director of the Center for International Studies of the Massachusetts Institute of Technology. She is a consultant to the Arms Control and Disarmament Agency and was the principal author of a major study for that Agency on international transfers of conventional arms. Her field of special interest is in the relationship of arms to conflict in developing countries. Mr. Farley served as Deputy Director of the Arms Control and Disarmament Agency and many other prominent positions in a long and illustrious career in the Foreign Service. He is now a fellow at the Brookings Institution where he has done extensive work on conventional arms issues.

In view of the importance of their testimony to coming Senate consideration of S. 2662, I ask unanimous consent that the texts of their statements before the subcommittee be printed in the RECORD, along with a summary of the major provisions of the bill and a chart comparing its provisions with existing law.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TESTIMONY BEFORE THE SUBCOMMITTEE ON FOREIGN ASSISTANCE AND ECONOMIC POLICY COMMITTEE ON FOREIGN RELATIONS, U.S. SENATE

DECEMBER 5, 1975.

ANNE HESSING CAHN, RESEARCH FELLOW, PROGRAM FOR SCIENCE AND TECHNOLOGY, HARVARD UNIVERSITY

I am pleased to have this opportunity to offer my views regarding the arms sales policies of the United States before this distinguished subcommittee. International security assistance and arms exports have long been an integral instrument of United States defense and foreign policy. Therefore the Congress and the American people have a major legitimate role to play in the shaping and expressing of arms export policies. The International Security Assistance and Arms Export Control Act of 1975 makes a major contribution towards ensuring that the Congress and the public will be able to exercise their participatory prerogatives.

Senator Humphrey introduced this Bill as a "response to growing public concern over United States arms sales and grant programs." I should like to begin by documenting this public concern. Early this year Harris polls showed that by an overwhelming 65 percent to 22 percent majority, Americans oppose the United States providing military aid to foreign countries. A 53 percent to 35 percent majority oppose military sales (as contrasted with military aid). According to Harris, "Americans have a deep two-fold concern: the emphasis U.S. foreign policy places on military solutions to international problems and the escalating arms race among many medium and smaller nations." Harris also found that Americans believe that arms shipments from the United States and other nations increase the likelihood of war and that attempts to resolve world problems by armed conflict are doomed to failure.

Much of the public's lack of support for military sales and assistance is, I believe, a reaction to the excessive secrecy which has shrouded arms deals in the past. Two examples of such concealment are illustrative:

The initial public announcement in February 1975 of the $77 million contract to the Vinnell Corporation to train the Saudi Arabian national guard did not identify the country in which the civilians would be working nor the nature of their job. When the information was given to Congress it was given on a classified basis.

The agreement signed between Iran and Rockwell International in February-March of this year to establish a communications intelligence facility capable of intercepting civilian and military communications in the Persian Gulf was not announced publicly until June, this despite the fact that it called for direct recruitment of past and present staff of the U.S. National Security Agency and the U.S. Air Force Security Service, many of whom have, or have had, access to this country's most closely guarded intelligence techniques.

Partly in response to disclosure of such deals by the media and partly in order to reassert congressional participation in foreign affairs, last year the Congress amended section 36b of the Foreign Military Sales Act. This amendment required that Congress receive advance notification of proposed arms sales in excess of $25 million. Since the beginning of this calendar year when the statute became effective, 45 such notifications have appeared in the CONGRESSIONAL RECORD.

Examining these reports one finds that twenty-two, or just under half, are in part classified or leave some of the required information unspecified. One such notification reported on March 3, 1975,[1] transmitted no information whatsoever, as the name of the recipient country, the system sold, the quantity and the cost were all classified.

As of mid-November, the dollar value of sales reported in the RECORD under the Nelson Amendment was $5.69 billion, only about half the value of orders placed in fiscal 1975. The total space in the CONGRESSIONAL RECORD devoted to reporting these arms sales amounted to about 44 inches, or just under one inch per transaction.

My analysis of the first ten months of reporting under the Nelson Amendment convinces me of the urgency with which we need the "sunshine" aspect—the public disclosure of contracts section—of the Bill you are presently considering.

Assistant Secretary of Defense Robert Ellsworth, in his recent appearance before this committee, questioned whether it was more important for Congress to receive "general, periodic or aggregate data" on an unclassified basis or "whether it is more important, on the other hand, that the Congress be given precise data in considerable detail on a classified basis." I would argue that there is absolutely no justifiable reason for asking Congress to choose between these two equally unsatisfactory alternatives. Instead, The Congress should insist on receiving precise data in considerable detail on an unclassified basis.

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[1] CONGRESSIONAL RECORD, March 3, 1975, 4934.

The original intent, and the only legal basis, of the nation's security classification program is to prevent the unauthorized release of information which could be harmful or damaging to the national defense or national security of the United States. It is difficult to see how disclosure of United States sales of arms or training to foreign countries can be construed as injurious to the security interests of the United States. Classification or confidential designation of arms sales is in no way justified on this basis.

It is the recipient countries which do not want their neighbors, rivals or potential adversaries to know how many of what kinds of weapons they are acquiring from whom. But for the United States government to acquiesce in this practice, is, in my view, a warped use of our nation's security classification program and should be immediately disavowed along with all other forms of clandestine dealings.

Sections 207 and 209 of the Bill would require that all government-to-government contracts "shall be available for public inspection." I enthusiastically endorse this provision. Secretary Ellsworth questions whether the enactment of this rule might "indirectly contribute to an arms race, or increase the possibility of outbreak or escalation of conflict, or directly prejudice the development of bilateral or multilateral arms control arrangements."

To the extent that nations arm themselves to deter war, we should notice that disclosure of inventories can lead to stability, can prevent worst case guesses by potential adversaries, and can become useful mechanisms for establishing mutual trust and confidence. These appear to be the rationales of the major powers who, except for the Soviet Union and China, announce their own strategic inventories and record specific numbers in treaties and negotiations.

To the extent that nations arm themselves to fight wars rather than to deter them, there are, of course, possible disadvantages to public disclosure of arms acquisitions. Surprise attacks, innovative employment of new weapons systems, lightning sweeps across large expanses of territory may be rendered more difficult or impossible to execute. But these possible disadvantages to arms recipients must be weighed against the advantages to the United States of rebuilding confidence in our government by conducting public business publicly.

The Bill states that "it shall be the policy of the United States to exert leadership in the world community to bring about arrangements for reducing the international trade in implements of war and to lessen the danger of outbreak of regional conflict and burdens of armaments." I would suggest that a unilateral initiative by the United States to disclose all of its arms transactions would constitute precisely such creative leadership.

The Bill also proclaims that "it is the sense of the Congress that the President should seek to initiate multi-lateral discussions among the principal arms suppliers and other countries with respect to the control of the worldwide trade in armaments." Since it is clearly preferable that all sales contracts between governments be made public, the topic of public disclosure should be given a high place on the agenda of multilateral discussions.

A final aspect of the "sunshine" policy concerns the procedures for reaching the Bill's objective of public disclosure. How can the information about arms sales be made more readily available to the American people? Simple insertion into the Congressional Record is not adequate. Only a minority of Americans know of its existence, fewer still ever peruse it.

The Defense Department often states in its letter of transmittal to the Congress, "shortly after this letter is delivered to your office we plan to notify the news media." This simply means that a copy of the transmittal letter is posted on the bulletin board in the Pentagon's press room. The wire services then usually put out a brief announcement of the sale resulting in perfunctory treatment by the news media.

This procedure ignores completely the cumulative sweep and tide of the totality of United States arms transactions. I would argue that the executive branch has a special responsibility to make arms sales data available to the public at large—to shift somehow, the burden of proof from citizens having to ferret out the information for themselves to the government making it easily and readily accessible.

Multilateral discussion among the principal arms suppliers and other countries to control the worldwide trade in armaments, as the Bill calls for, would help to focus world attention on the issue, and thus serve the dual functions of raising the public's consciousness and its conscience.

I will conclude by indicating briefly some general areas where I would like to see the Bill strengthened.

Recommendations

1) Anti-Discrimination Policy

Sections 103 and 204 prohibit grant military assistance, government-to-government sales, and the extension of credits or guarantees, to any government whose laws or practices prevent U.S. citizens from participating in the furnishing of defense articles or services procured under the Act on the basis of race, religion, national origin, or sex. I would like to see this provision extended also to commercial sales.

2) Reports on Commercial and Governmental Military Exports

The current requirements of the Nelson amendment can be broken into three separate components:

Triggering mechanisms of Congressional veto over certain offers to sell defense articles or services;

Length of time in which Congress may object to the certification of the sale;

Procedures by which Congress may object to the certification of the sale.

a) The present bill extends the Congressional review procedure to commercial military exports in addition to those sold by a government agency in the case where the cost is $25 million or more. Since less than half the arms exports were covered by this provision last year, I suggest that the review procedures also become active when the cumulative total of military sales, whether governmental or commercial, cash or credit, to one particular country exceeds $50 million in any fiscal year.

b) The bill under consideration extends the period for Congressional review from twenty calendar days to thirty, after receiving the certification. Because of present recess and vacation schedules of Congress, I would rather see the bill refer to twenty legislative rather than thirty calendar days.

3) Retransfer Policies

As the enormous quantities of arms and spare parts that many nations have ordered in the past are delivered and incorporated into active inventories, a comparable deluge of less modern weapons will be released for retransfer. Therefore I would like to have Congressional oversight and veto authority extended to the retransfer of United States weapons.

4) Positive Congressional Approval

Lastly, if Congress really wants, as Senator Humphrey has stated, to shift "the policy emphasis of expanding arms exports to strengthening controls, especially Congressional controls," then, it seems to me, you should move further toward positive Congressional approval of each sale over $25 million or of all sales to one country of a cumulative total of $50 million or more during each fiscal year. This, I would argue, is what is ultimately required if the burden of justification is to be shifted from those who oppose an arms sale to those who favor it. If it could once again become the rule to say "no" to arms sales and the exception to say "yes," then perhaps as the United States approaches its bicentennial, it will once more be known as "the arsenal of democracy"—instead of just "the arsenal."

AMELIA C. LEISS, ASSISTANT DIRECTOR, CENTER FOR INTERNATIONAL STUDIES, MASSACHUSETTS INSTITUTE OF TECHNOLOGY

The questions under consideration before this Subcommittee are among the most important foreign policy issues to come before the Congress and the American people. Granted, the Congress has debated military assistance and military sales on many previous occasions. But the initiative taken by your Chairman, Senator Humphrey, in introducing S. 2662 provides an opportunity to reexamine the premises and rationales of our military assistance and sales policies at a time when the changing volume and character of arms transfers has created widespread apprehension.

In this brief statement, I propose to concentrate on what seem to me to be the gravest problems with our present military assistance and sales policies and the ways in which S. 2662 is responsive to their solution.

First, over the past ten years or so the "burden of argument" on arms transfers has shifted. It used to be that, in decision-making within the U.S. government on transfers, the case *for* making a transfer had to be made in a context of a general presumption *against* transfers. This was certainly true of transfers of state-of-the-art military technology. However, the weight of debate has shifted. Under pressure of many well-known factors—competition from European suppliers, foreign exchange problems, growing costliness of equipping our own defense forces—the balance of the debate has been altered. At present, those who urge caution and restraint are on the defensive. And, as always, the case of tangible gains in foreign exchange and lower equipment costs appears hard and "realistic" against the less tangible but no less valid case of increased risks of violence in the world. Furthermore the bureaucratic forces that can be rallied on the side of a permissive attitude toward transfers far outweigh the forces arguing caution. The institutionalized interests within our government in arms control and economic and political development—that is, the Arms Control and Disarmament Agency and the Agency for International Development—are bureaucratically powerless in the face of the array of interests pressing other priorities—State, Defense, Treasury, Commerce.

S. 2662 can have a profound effect on the balance of this internal decision-making by adding the powerful weight of clear Congressional concern on the side of prudence and caution.

A second closely related problem of major concern to me is the extent to which virtual commitments to future arms deliveries can be made to foreign governments by high U.S. officials in advance of careful and wide consideration within the U.S. government of the desirability of the transfer. The case of the Pershing missiles is an obvious example of this phenomenon but it is by no means the only one. The decision to transfer sophisticated arms into highly unstable areas surely warrants a different kind of treatment. Highly destabilizing arms must not be treated as sweets to be offered as palliatives or rewards for swallowing bitter compromises.

S. 2662, by requiring wider and more deliberate consideration of arms transfers, will help to curb whatever tendencies there may be among U.S. officials to look upon weapons exclusively as bargaining counters.

Third, it is clear that, by whatever measure one might take—numbers of weapons sold, the value of the international arms trade, the newness of the military technology being transferred—the growth of U.S. arms trade in recent years has been phenomenal. I do not share the view of some that that fact in itself is necessarily alarming. But I would argue that both we as a supplier of arms and our major trading partners in the Middle East and Persian Gulf are moving more rapidly in the shipment of hardware than in understanding what the implications of all this are for regional and world security. This is a complex argument that is difficult to make persuasively in a few words. Let me just suggest two strong conclusions that emerge from my study over the past twelve years of conflict and arms in the Third World. The first general conclusion I have reached is that sudden changes in weapons levels and military technology are the most destabilizing factors in local conflicts; the potential for miscalculation is increased more by the rate of change than by its content. The second conclusion I have reached is that the character of potential warfare in the Third World is being altered by arms presently being transferred faster and more profoundly than is our understanding of their implication. To put it most simply, the Third World has, since 1945, been relatively "safe" for interstate wars for two reasons: first, the international system has intervened more often than not to keep wars in the Third World limited in time and space; second, the military technology available to Third World countries has kept down the amount of damage either side could do the other in a short war. This "conflict control" system has not averted wars but it has kept local wars isolated and has preserved a political base on which eventual accommodation could be built. The military technology now flowing into the Third World threatens both those premises and hence the relative international stability we have had for thirty years. Yet I see no evidence that our political understanding of these changes has kept pace with the changes themselves. And the same must be said for our major trading partners. We are permitting a combination of mid-20th Century military technology with 19th Century concepts of the political utility of military force. The consequences can only be disastrous.

S. 2662 in many ways contributes to moderating the rate of this change. Both directly by requiring Congressional participation in major transfer decisions and indirectly by clearly signalling the Administration of the weight of Congressional concern, the proposed new bill helps to provide us and our trading partners time to reflect on the consequences of these grave decisions.

Fourth, and last, I am concerned at the extent to which we continue to define essentially political relationships in military terms. The documentation provided to this Subcommittee by the Administration in support of the Military Assistance Program offers illustration upon illustration of this. In only 10 of the 44 countries that were included in the FY 76 MAP were there significant hardware transfers of over $1 million; in the remaining 34, MAP consisted of service costs or training or very limited quantities of hardware. This suggests to me that in only a limited number of cases is MAP seen as meeting a major security requirement. Yet in the rationales offered for the individual country programs, even the smallest MAP programs are justified in terms of some U.S. security interest. The necessity imposed by the MAP rationale to strain for a security justification for essentially political relationships seems to me to disserve both our own image of these relationships and our MAP partners' image of the nature of our common interests with them.

For these reasons I heartily concur in the provisions of S. 2662 that call for the phasing out of MAP in two years. It is a program that has had some major accomplishments over its lifetime but has now outlived its usefulness. If after two years there remain countries in which the Administration strongly feels some form of continued grant aid is essential to our security, nothing in S. 2662 would preclude special legislation to effect it. But the distorted lens that MAP provides for viewing our common interests with the Third World should be removed.

In summary, I strongly endorse S. 2662 because it will help shift the balance of argument toward caution and restraint, help ensure wider consideration of specific transfers before virtual commitments are made, help slow down the rate of transfers, and help demilitarize essentially political relationships.

At the same time it is important to recognize that the procedural changes S. 2662 will introduce, and the symbolic changes in the title and preamble, will not in themselves ensure sound and wise policy decisions. If the provisions of S. 2662 are enacted into law, as I hope they will be, that will be an important step. But only a first step. Final judgment will have to await the evidence of how the Administration implements the legislation and how the Congress exercises the new responsibilities the legislation will lay upon it.

BY PHILIP J. FARLEY, SENIOR FELLOW, THE BROOKINGS INSTITUTION

NOTE.—The statement sets forth personal views of the author, and does not purport to represent the views of the Institution or its officers or trustees.

Mr. Chairman, I support the objectives and general outlines of S. 2662. This legislation is timely and well-conceived.

A. It is timely

With regard to the grant military assistance program, the proposed two-year phase-out will bring to a formal close a Protean activity which has its roots in the immediate post-war period of sharp confrontation between Free and Communist worlds, each dependent on one superpower for military supplies as well as backing. In the still uneasy but vastly more complex world of today and tomorrow, the United States is not called on to assume far-flung or pervasive responsibilities for the military capabilities of other countries. Most nations can now best shape their own defense establishments to match what they can afford .

The timeliness of phase-out of the current security assistance program is not primarily a matter of change in U.S. policy or in how the U.S. views its role in the world. It reflects realities: the collapse of U.S. clients in Indochina (for whom over $2½ billion in security-related grants were programmed in the Federal budget submitted in January 1975); the economic growth of allies or associates (Greece, Iran, Taiwan, increasingly the Republic of Korea and Turkey) on the periphery of the Communist states, which in the 1960's received massive amounts af aid but can now fund all or the greater part of their defense; a more diffuse or even divided Communist world pressing less activity on its neighbors and engendering less acute demands for U.S. help in meeting internal or external danger; some political readjustments (Pakistan, Thailand).

Many of this year's proposed military aid grants are justified in terms of beneficial ties between military men, of internal security in countries divided on tribal, racial, religious or social lines, of the civic action role of armed forces, and of good political relations—questionable grounds for U.S. appropriations in these times of budgetary stringency.

With regard to arms sales, the consolidation of arms sales legislation, combining government and commercial sales regulation in one coherent procedure for review, licensing, and reporting, fits the predominance which arms sales are coming to have over security assistance in U.S. transfers of defense articles and services to other countries.

B. The legislation is well-conceived

The draft bill permits a reasonable period for closing out current grant country programs, as is proper to avoid an abrupt cutoff which could be a political as well as budgetary shock to some recipient countries. (Indeed, the concept in Sec. 106 of S. 2662, of temporary favorable credit terms to ease the transition from grant aid to sales, might in some cases be extended to a brief transition period of a year or two *after* the grant aid cutoff.) Fixing a firm termination date for grant aid will serve the salutary purpose of turning recipients' planning away from indefinite dependence on U.S. aid, toward self-reliance.

While most grant military assistance programs can now be quickly phased out, perticular cases can be anticipated where grant aid will be justified for a somewhat longer period, or in emergency situations, or in payment for specific services (such as U.S. base rights). These cases should be few, and can be specifically justified and authorized in specific amounts (as is currently done for the Middle East program). Such ad hoc action can continue within the framework of the revised Foreign Assistance Act—but on a highly selective and case-by-case basis. What will wisely be terminated will be the comprehensive ongoing program with its general authorization of funds, and the flexibility of the executive branch to shift funds and initiate or increase assistance programs. Sec. 104 and Sec. 107 of S. 2662 would accomplish the latter; they might be strengthened by making Sec. 107 except Chapter 4 (security supporting assistance) as well as Chapter 2 (grant military aid) of Part II of the Foreign Assistance Act from that Act's Section 614 authority to shift funds.

The new Arms Export Control Act would usefully underline that the purpose of the United States is not to promote arms sales but to regulate them, permitting them when they are found after careful examination to serve international security and the foreign policy intrests of the nation and the world. Executive branch management of arms sales and the export licensing system would properly be retained, but with strengthened provisions for reporting, openness of information, and Congressional scrutiny. These features not only enable proper Congressional oversight: they facilitate public knowledge and at times debate of activities which are an important strand of our relations with other countries and thus should not be immune from basic democratic process of public accountability.

Other provisions of special value provide for reporting of payments to foreign agents, special scrutiny of sales that affect combat readiness of U.S. forces, special reporting and review requirements for sales contributing to establishment of arms production capacities abroad.

The proposed bill emphasizes control rather than promotion of arms sales, and contains a succinct and forceful restatement of U.S. policy in seeking reduction of the world arms trade and the burdens of armaments. This tremendously important task requires unending patience, understanding, and determination, and carries with it complexities and frustrations.

I feel impelled to add that among the complexities of the pursuit both of moderation in our arms sales and of agreed limitations among suppliers and purchasers is the need for moral and political sensitivity and discrimination. As you have observed, Mr. Chairman, arms sales are not evil per se. Where countries have valid basis for seeking arms from us, I confess to a belief that where possible, sales are preferable to security assistance. This is not primarily a U.S. budgetary or economic argument. The sales relationship is preferable politically, since it highlights self-determination on the part of the purchasing country, and subjects its defense plans and arms procurement to the discipline of its own budget and what it can afford. Further, so long as governments find an imperative need to acquire arms for their security, their availability by import (if free from accompanying political dominance by major power suppliers as a price) is preferable to a spread—a proliferation—of local conventional arms industries, as well as less of a burden on developing countries than setting up small inefficient costly production facilities.

Shifting from grant military aid to sales is movement in the right direction. Military sales credits can help this transition. Military credits, however, are also not good in themselves—for the sake of sales—or in unlimited amount. This year's FMS credit program approaches $2.4 billion; the future trend of the program requires careful Executive and Congressional watching. If our purpose is control and moderation in arms sales, then government credits should be used to promote arms sales and outbid competitors: credits should be reserved for countries needing such loans to satisfy essential security needs. Similarly, availability of credits for military purchases should not make it easier for a purchasing country to buy arms than consumer industrial equipment, and thus relax the budgetary counterpressures on defense expenditures.

Some question can be raised about one or two provisions.

1) Section 206 asks that civilian contract personnel be used instead of government military or civilian employees to carry out government sales activities abroad. Diminishing the U.S. official presence in other countries as much as possible is desirable, but nothing is gained by substituting contractor personnel who will be—and will be seen to be—government agents;

2) Section 207 would limit to sales-related training, packing, handling, and transportation services the Presidential authority to sell Department of Defense services. Avoiding unintended U.S. involvement in or commitment to other countries, as well as diminishing the U.S. military presence abroad, is no doubt the intent. Massive U.S. involvement in construction, planning, and conducting other countries' defense activities, particularly in countries which are not allied to us by treaty or may be unstable, is indeed a proper matter for concern, scrutiny, and limitation. But there may be cases, as in alliance defense cooperation, where the U.S. defense establishment engages in proper activities in other countries for which it should be reimbursed; a flat prohibition may thus be extreme. Perhaps the desired end could be achieved by subjecting all such transactions, by the government or contractors, to the Congressional reporting, review, and veto procedures of Sec. 36 of the amended Arms Export Control Act (as would be done for sales relating to arms production abroad).

C. Mr. Chairman, the uneasiness which many of us feel about the scale and momentum of current United States security assistance and arms sales activities has more than one root. There is concern whether such transfers of arms and equipment and defense services have been in every case carefully weighed and their consequences considered as well as their short-term advantage. There is also a concern about U.S. commitments, which can arise not only from formal resolutions and agreements, but from actions which can create ties and a U.S. presence and a "commitment" of U.S. prestige to countries whose future character and fate are unavoidably uncertain. Your proposed legislation would mark important progress in dealing with these concerns.

In a recent speech in Detroit, the Secretary of State said:

"We must achieve a rational division of labor between Congress' defining of broad national commitments and the Executive's constitutional responsibility for tactics, the execution of policy, and the conduct of negotiations."

In the light of the broad meaning of "commitments" which I have just identified, I believe S. 2662 would contribute to just such a rational division of labor as the Secretary has called for. It is a good omen that, according to press reports, the State Department will work with this Committee and its staff to develop legislation mutually acceptable to Congress and the Executive Branch. Strengthened and clarified within the general outlines laid down by S. 2662, the resulting bill should well serve the public interest.

SUMMARY OF THE MAJOR PROVISIONS

I. Grant Millitary Assistance Program

1. It phases out the foreign military grant assistance program over the next two years (by Oct. 1, 1977). Only grants for limited types of training would be permitted after that date (sec. 106).

2. All U.S. military missions and similar groups abroad would be terminated by Oct. 1, 1977, unless continuation of a specific mission is subsequently authorized by law (sec. 106).

3. It prohibits the training of foreign military personnel outside the United States after Oct. 1, 1977, unless specifically authorized by law (sec. 106).

4. It sets forth a procedure for finding a country ineligible for further grant assistance and for restoration of eligibility, with a Congressional role in the process (sec. 102).

5. It repeals the authority for the President to draw on Defense Department stocks for military air purposes, as was done in the case of Cambodia (sec. 104).

6. It establishes an anti-discrimination policy which prohibits military aid and government sales to countries whose laws and practices result in preventing U.S. business concerns from being eligible to provide goods procured for grant or sale to foreign countries because of race, religion, national origin, or sex (secs. 103, 204).

7. The President's general waiver authority for foreign assistance programs could no longer be used in connection with matters relating to grant military assistance (sec. 107).

8. The views of the Director of the Arms Control and Disarmament Agency must be considered in deciding whether to provide military grant assistance (sec. 105).

II. Government military sales and commercial exports of arms

1. Under the new Arms Export Control Act, which replaces the Foreign Military Sales Act, emphasis will be placed on public disclosure of arms sales matters and on bringing about restraint in the international trade in arms.

2. Statutory requirements for controls over commercial and government-to-government military exports would be revised and combined in a new Arms Export Control Act so that all military export matters would be governed under one statute (secs. 201, 214).

3. All restrictions applicable to government-to-government sales (i.e., prohibition on third country transfer without U.S. approval, etc.) would be made applicable to commercial sales (sec. 214).

4. The Department of State would be assigned the responsibility for licensing all arms exports, including those arising from sales through the Department of Defense, thus insuring stronger foreign policy control over arms exports (sec. 214).

5. The views of the Director of the Arms Control and Disarmament Agency would be taken into account on important military sales and export matters (sec. 203).

6. The use of military or civilian U.S. government personnel abroad in connection with sales activities would be minimized and emphasis put on the use of civilian contract personnel (sec. 206).

7. Restrictions would be imposed on sales to foreign governments from U.S. military stocks, with reports to Congress required on all sales which would impair U.S. combat readiness (sec. 208).

8. The sale of Department of Defense services to foreign countries would be limited to training, packing, and transportation services incidental to the sale of military hardware (sec. 207).

9. The President would be required to submit an anual country-by-country justification to Congress for the government-to-government military sales program (sec. 210).

10. All government-to-government sales contracts would be made public (secs. 207, 209).

11. Reporting procedures for military sales and exports would be expanded and improved (sec. 212).

12. Congress would be allowed to reject certain proposed export licenses for commercial sales, as it may now do on government-to-government sales (sec. 212).

13. Reports would be required on all agreements to pay agents fees, and data concerning fees actually paid, in connection with military sales abroad (government and commercial), with criminal penalties provided for willful violation of the requirements (sec. 213).

14. All administrative expenses for government sales would, in the case of government sales, be paid by the purchasing countries and, in the case of commercial sales, the costs of the licensing process would be paid out of license fees (sec. 216).

15. All sales contracts or export licenses could be revoked by Congress if, in its judgment, the national interests required such action (sec. 215).

COMPARISON OF THE MAJOR PROVISIONS OF S. 2662

Subject	*Existing Law*	*Provisions of S. 2662*
1. Violations of foreign military assistance or sales agreements and suspension of military assistance, sales, and exports licenses.	(a) No provision for Congress to suspend military grant assistance, sales, or export licenses to an individual country due to its violation of the foreign assistance or sales agreements; and (b) No option for the President to continue grant assistance or sales after a violation (Sec. 505FAA; sec. 3FMSA).	(a) Congress may by concurrent resolution suspend grant military assistance and sales, or export licenses if a country violates foreign assistance or sales agreement (Sec. 102 and 205). (b) The President may continue grant military assistance, sales, or export licenses after a country's violation of an agreement if "vital to the security interests of the United States" and Congress does not, within 30 calendar days, reject that finding (Secs. 102 and 205).
2. Prohibition against discrimination in procurements.	No provision.	Prohibit military grant assistance and sales to countries which discriminate against U.S. suppliers on the basis of race, religion, sex, or national origin (Secs. 103 and 204).
3. Drawdown authority.	Authorizes the President to draw on Department of Defense stocks, up to amount set by Congress each year, to supplement regular military grant aid (Sec. 506, FAA).	Repeals the drawdown authority.
4. Role of the Arms Control and Disarmament Agency in military grant assistance, military sales, and arms exports.	No specific statutory role for the ACDA in military grants, sales, or other arms exports.	Requires that the views of the ACDA be taken into account on military assistance, military sales, and commercial arms exports matters (Secs. 105 and 203).
5. Termination of military grant assistance.	Sense of Congress statement that military grants (other than training) should be terminated "consistent with the security and foreign policy requirements of the United States." (Sec. 17, FAA of 1974).	Requires a phase-out of military grant assistance, other than limited types of training, by October 1, 1977 (Sec. 106).
6. Termination of U.S. military assistance groups and missions.	No provision.	Requires the termination of all U.S. military missions and groups by October 1, 1977, unless specifically authorized by law on a country-by-country basis.
7. Scope of training which can be provided foreign forces on a grant basis.	Broad definition of allowable training (Sec. 644(f)FAA).	Training which can be provided on a grant basis after September 30, 1977, will be limited to attendance at services schools in the U.S. and observation and orientation visits (Sec. 106(b)(5)).
8. Training of foreign forces outside the U.S.	Permitted (Sec. 503(a) and sec. 644(f) FAA).	Must be specifically authorized by law after September 30, 1977 (Sec. 106(b)(5)).
9. Grants of excess defense articles.	Up to $300,000,000 in overseas excess defense articles, valued at acquisition cost, may be provided in grant form each year without charge against MAP appropriations (Sec. 8(a), FMSA of 1971; sec. 503(a)FAA).	No grants of excess defense articles authorized after September 30, 1977 (Sec. 106(a)).
10. Presidential waiver authority for grant military assistance.	President allowed to waive various restrictions on military grant assistance (Sec. 614(a)).	Repeals Presidential waiver authority (Sec. 107).
11. Use of government personnel in carrying out government sales activities.	No provision.	Sets policy of minimizing use of military and civilian governmental personnel and stresses use of contract personnel in carrying out government sales activities (Sec. 206).
12. Limitations on sales of Department of Defense articles and services.	Broad authority to sell any Department of Defense article or service with payment up to 120 days after delivery. No requirement for full reimbursement of all U.S. costs (Sec. 21 FMSA).	Authority restricted; limiting sales of services to training, packing, handling and transportation; full replacement costs to be charged; payment required no later than on delivery; and all direct and indirect costs to be charged to purchaser. (Sec. 207).
13. Public information concerning arms sales matters.	Reports and sales contracts may be classified.	Requires that all reports to the Congress, including annual and quarterly reports, reports of proposed contracts and exports licenses, reports on agents' fees, and government sales contracts be unclassified. (Secs. 207, 209).
14. Sales from government stocks which affect U.S. combat readiness.	Report to Congress required on all proposed sales over $25,000,000 from the inventories of U. S. forces (Sec. 813, DOD Authorization Act of FY 1976). Congress may veto proposed sales of this size (Sec. 36(b) FMSA).	Requires report to Congress of *all* sales which would affect U.S. combat readiness, regardless of value. Congress, by concurrent resolution, may block transfers which adversely affect U.S. forces (Sec. 208).
15. Annual justification to Congress of the sales program.	No provision.	Requires annual justification on a country-by-country basis (Sec. 210).
16. Congressional veto over proposed sales and export licenses.	(a) Congress may within 20 calendar days, by concurrent resolution, veto all proposed government sales of $25,000,000 or more (Sec. 36(b) FMSA). (b) No provision for veto of commercial sales.	Congress allowed 30 calendar days within which it can veto proposed government sales or commercial export licenses of $25,000,000 or more, as well as the sale or export of technical data regardless of value. Additional data required on all proposals (Sec. 212).
17. Agents' fees.	No provision.	Prohibits inclusion of agents' fees in government contracts. Requires public reports on all agreements to pay agents' fees, and of fees paid, with criminal penalties for violations (Sec. 213).

COMPARISON OF THE MAJOR PROVISIONS OF S. 2662—Continued

Subject	*Existing Law*	*Provisions of S. 2662*
18. Licensing of government and commercial military exports.	(a) No requirement for licensing of government sales. (b) No requirement that commercial exports be subject to Foreign Military Sales Act restrictions.	(a) State Department license required for all military exports and imports. (Sec. 214). (b) Commercial sales to be covered by the same restrictions applicable to government sales (Sec. 214).
19. Cancellation and suspension of licenses and contracts.	No provision.	Permits either the President or the Congress to cancel or suspend government sales contracts and commercial export licenses, when in the national interest. (Sec. 215).
20. Administrative expenses.	MAP funds may be used to pay administrative costs for the sales program (Sec. 636 (g)(1)FAA).	All administrative expenses to be paid by the foreign buyer in the case of government sales and by the exporter for commercial sales (Sec. 216).

FOOD STAMPS—SUPPORT FOR DOLE-McGOVERN BILL, S. 2451

Mr. CASE. Mr. President, the increased cost of government is naturally a concern to all of us who pay taxes. And it is easy to focus on visible programs with known abuses, and demand that they be cut back or even eliminated. I am speaking particularly of our food stamp program.

There have been a number of press reports in recent months concerning alleged abuses of the food stamp program, some of which were later shown to be false. One news article claimed that a family with a net income of $16,000 could be eligible for food stamps, that even executives could qualify for the program. If that were true, I would be incensed, too. Nonetheless, it cannot be denied that there have been abuses.

The Senate Agriculture Committee now has before it a number of proposals to make substantial changes in the food stamp program. I am a cosponsor of the bill introduced by Senators DOLE and McGOVERN, S. 2451, because I believe it best meets the objectives of providing food assistance to those who need it most, while reducing the cost of the food stamp program by decreasing its administrative cost and the possibilities for error.

The bill would establish a mandatory standard deduction of $125 to replace the existing complicated maze of deductions in arriving at net income. The present system has resulted in some households participating in the program when, in fact, they should not have been certified.

This legislation would eliminate the so-called purchase requirement, resulting in tremendous savings in administrative cost, possibly as much as $100 million annually. An eligible family would receive food stamps only in the amount of the present bonus and would not be required to purchase stamps in order to receive this bonus. At current prices, I think it is realistic to assume that a family of four is going to spend $138 on groceries each month and does not need coupons to make sure that the money is going for groceries, in order to qualify for $24 in bonus coupons.

Elimination of the purchase requirement should also help to decrease the black market in food stamps. A substantial reduction in the number of food stamps in circulation will decrease the opportunities for chicanery.

In addition, this bill would prohibit participation in the food stamp program by students who are listed as dependents on tax returns by parents who are not themselves eligible for food stamps.

Under existing law, welfare recipients are automatically eligible to purchase food stamps. This has resulted in discriminatory treatment of welfare and nonwelfare food stamp recipients in some States where people receive food stamps at income levels which would disqualify them for food stamps were they not receiving public assistance funds. Income and resources should be treated the same in all the States. This legislation would drop the automatic eligibility of welfare recipients, with an estimated savings of some $120 million annually.

There is little disagreement on the need for the food stamp program, but there is disagreement on how the program should operate and on the income levels to be eligible for it. And everyone would agree that the abuses which have been shown to exist in the food stamp program should be eliminated.

Unfortunately, other proposals before the Senate Agriculture Committee, while also substantially reducing costs, would drastically and inhumanely remove people, particularly elderly people, from the program. I hope that the Senate Agriculture Committeee will look with favor on the approach taken in S. 2541. In my view we should not deny those living in or on the verge of poverty the opportunity to purchase a nutritionally adequate diet for themselves and their families.

THE MUCH MALIGNED ENERGY ACT

Mr. STEVENSON. Mr. President, the Energy Policy and Conservation Act establishes a one-billion barrel national strategic oil reserve and standby rationing and emergency conservation authorities. It sets automobile fuel economy standards and mandates energy efficiency labeling for major home appliances. It gives the President the authority to bargain with nations on a government-to-government basis for the purchase of foreign oil. It provides FEA with authority to order conversion of major fuel installations to coal, authorizes assistance for new coal mines and provides for GAO audits of oil company energy and financial data and establishes federally funded State energy conservation programs.

These nonpricing provisions in the bill could save millions of barrels of oil per day and prepare for future supply interruptions. And yet they have received little public attention. Instead, the oil price "rollback" has been the subject of considerable criticism and is for some cause enough to dismiss the act.

The House and Senate conferees adopted a national weighted average price of $7.66 per barrel. That price gives the administration authority to establish sufficient incentives for domestic oil production.

There is no reason for the price of all domestic oil to rise to the price necessary to produce small volumes of high-cost oil. Industry claims that the production incentives are inadequate are self-serving and contradicted by studies the industry itself has furnished Congress and the administration.

The conferees had to strike a balance between requirements for increased production and decreased consumption on the one hand and the requirements of the economy on the other. The initial $7.66 per barrel average price for domestic oil would mean a "new" oil price of $11.28 per barrel. If the administration rescinds the $2 per barrel tariff on oil imports, as it proposes, the "new" oil price would fall to about $11.70 without any controls. So the conference report does not roll back the price of "new" oil significantly. Two years ago the price of domestic oil was about $3.40. This "new" oil price of $11.28 is adequate, to say the least.

Balancing the need to restore economic growth and employment against the need for energy investment and price certainty, the conferees developed a pricing formula which may result in a modest near-term rollback in the average price of oil. It also establishes a 40-month period of price stability. The average price of $7.66 would be increased by 10 percent per year, more than enough to cover inflation and higher prices for special categories of high cost oil production. The argument that any rollback will encourage wasteful consumption is not convincing. The rollback, if any, will be modest and temporary. And what is more, the increase of 20 cents in the price of gasoline over the last 2 years has had a negligible impact on gasoline consumption.

The conservation provisions of the conference report offer a more effective means of conserving energy than another wave of OPEC controlled oil prices. Higher prices would only decrease consumption by causing recession.

The President's energy advisers have recommended that he approve the act. But Mr. Ford is giving the oil industry a sympathetic hearing. It would be best if the President told the industry that enough is enough. This is a simple pricing formula, and by the administration's own admission an administerable formula. It will serve the Nation far better than immediate decontrol and the energy taxes and tariffs endorsed by the President last January. Considering the complexity of the issue and the pressures of the special pleaders, this product of many months of effort in the Congress is no mean achievement. If approved, we can get on with the business of rounding out an energy policy for the Nation. If disapproved, the result will be more inflation, recession and unemployment with no significantly increased supply and consumption decreased only as a result of declining economic activity. I urge the President to accept the recommendations of his advisers.

JOHN E. MURPHY INTERVIEWED ON "OVERSEAS MISSION"

Mr. McGEE. Mr. President, last month, the Deputy Administrator for the Agency for International Development, the Honorable John E. Murphy, was interviewed on Overseas Mission, a public service radio-television program.

John Murphy is an exceptional public servant, deeply dedicated to the concept of development assistance and the obligation of this Nation to assist the less developed countries of the world. As the transcript of Overseas Mission demonstrates, he has a detailed grasp of the program and the direction in which it should be going.

I believe John Murphy has some important things to say about development assistance in his interview, and I would urge my colleagues to give serious consideration to what he had to say on this program.

I ask unanimous consent the transcript of Overseas Mission be printed in the Record.

There being no objection, the transcript was ordered to be printed in the Record, as follows:

Overseas Mission—Radio-Television Program Transcript

Program guest: The Honorable John E. Murphy, the Deputy Administrator of the Agency for International Development.

Reporters: James Foster of the Scripps-Howard Newspapers: Alan McConagha of the Minneapolis Tribune; and Gerry Norton of the Washington Bureau of the Commodity News Services of Ridder Publications. Program host for AID is Michael J. Marlow.

Announcer. From Washington, this is "Overseas Mission"; "Overseas Mission," a spontaneous, unrehearsed, unedited interview with a senior official whose work is concerned with the developing nations of the world.

Michael J. Marlow. Today's guest, recently back from Development Assistance Committee meetings in Paris, is the Honorable John E. Murphy of Maryland, the Deputy Administrator of the Agency for International Development.

James Foster. Mr. Murphy, how do you answer people who suggest foreign aid for New York City?

Alan McConagha. Mr. Murphy, can you point to any instances of successfully carrying out the mandate of Congress in 1973 to improve the lives of the poorest people in the poorest nations?

Gerry Norton. Mr. Murphy, what's being done to make foreign aid less of a give-away and more of self-help program?

Announcer. In a moment, the answers to these and other questions from today's guest on "Overseas Mission," which is presented by WAMU-FM of the American University and WNVT, community television for northern Virginia, in cooperation with the Agency for International Development.

Here now is the program host for AID.

Marlow. This is Mike Marlow inviting you to the two hundred forty-fifth weekly edition of "Overseas Mission." Here with me to interview our guest are three Washington reporters: Gerry Norton of the Washington Bureau of the Commodity News Services of Ridder Publications; Alan McConagha, who has reported from many developing nations for the Minneapolis Tribune; and James Foster, who specializes in Latin American affairs for the Scripps-Howard Newspapers.

Our guest today, John E. Murphy, was born in Albany, New York; earned his undergraduate degree from the State University of New York in 1937. Previous to his presidential nomination early in 1974 to be the Deputy Administrator of the Agency for International Development, Mr. Murphy had a long career in foreign economic development management; some ten years with AID predecessor foreign aid agencies; some fifteen years with the management firm of Booz, Allen and Hamilton in Washington.

In private business, he was responsible for major managerial projects in many developing nations, mainly in Asia and South America. He has served in Pakistan, Korea and Brazil, among the many nations that he has visited in the developing world. He is a former Inspector-General and Controller of Foreign Assistance in the State Department. For the last one and one-half years, Mr. Murphy has worldwide management responsibilities as the Deputy Administrator of AID.

Mr. Murphy, to match your many foreign aid responsibilities we've got all sorts of questions for you today, and here now with the first one for you is James Foster of the Scripps-Howard Newspapers.

Foster. Mr. Murphy, how do you explain an administration that is quite willing to help people in need overseas, but can't find it in its heart to help the people of New York City?

The Honorable John E. Murphy. Well, Jim, as you well know, the AID which I help to administer has a refined area of responsibility, and New York City is not included in that area. So I can only answer that question more or less as a layman, not as an official in the administration.

I personally am very sympathetic to the problems of New York City. I understand how they feel about it, and I understand the anguish that's involved in the solutions to the problem. And I feel confident that within a reasonably short period of time that some new agreement is going to be reached that will take New York City in effect off the hook. I believe that this will be a combination of very austere fiscal measures that will be required both on the part of the state of New York and the city of New York. And as I say, it will be anguished. But when they have really demonstrated intent to do this, to seriously take to do this and when they have raised the taxes as they should, I believe that the federal government probably will come into the picture.

Foster. Do we sometimes apply the same guidelines to a foreign country to make sure that their financial house is in order before we help them?

Murphy. Oh, very much so. Very much so. It's not all infrequently that we insist in extending assistance to a developing country or even in the security area where we're supporting the political-military solutions that are envisaged that we make it clear that our willingness to extend assistance to that country must be countered by their willingness to deal with the International Monetary Fund and the experts in the Fund who are studying the financial situations in all of these countries and that they're willing to take seriously and to implement the recommendations of the International Monetary Fund for refinements and tidying up in the financial matters and economic procedures.

Foster. Just one quick follow-up. Can you cite an example of where we've chopped an aid program because the local government didn't shape up?

Murphy. None comes to mind. We have come close to that at times, but somehow or other we always manage to reach agreement on the measures that they should take when they see how serious we are. I can't think of one where we actually terminated aid for that reason, no.

Marlow. Mr. Murphy, earlier I referred to the fact that you've been in the management of foreign aid programs both in the government and in private business for some time. I'd like to ask you, how have you used that particular management background and the fact that you were the Inspector-General of Foreign Assistance for the State Department—how have you used that background to make sure that you no longer have the perennial arguments that foreign aid is mismanaged worldwide?

Murphy. Well, of course, my background and experience stood me in good stead in the past eighteen months in taking on this role as Deputy Administrator of the aid program. When I arrived on the scene and examined the situation that the program found itself in vis-a-vis the Congress and the incredible credibility problem that existed as between the agency and the oversight committees in the Congress, I realized right away that major measures had to be taken to reestablish the credibility that was held in the days of the Marshall Plan.

McConagha. Speaking in this vein, Mr. Murphy, can you point to any instances of success in carrying out the re-direction of 1973 imposed on you by Congress?

Murphy. Oh, yes. Yes. Even though the mandate was not enacted until December of 1973, and even though the process of dealing with less developed countries is a slow and tortuous process, we are already able to point to a number of examples along the lines you mentioned. Some that come to mind immediately are the small credit program for the rural workers in the Dominican Republic. Here was a situation where if you had lots of land and you needed two hundred and fifty thousand dollars, you could get it very easily. But if you had a small piece of land and you needed a hundred and fifty dollars, you were out of luck. And working in conjunction with the Dominican Republic, we managed to revise the whole banking system for rural areas and to have them take care of the large farmer and the rich farmer through different institutions and turn the efforts of their agricultural development bank exclusively towards helping the small farmer, either individually or in groups. And this had the result of making credit available to people to buy their agricultural implements, to buy their fertilizers and pesticides, to buy their seeds and which has given many, many farmers a new start in life.

seeds and which has given many, many years, large areas of the Dominican Republic which heretofore have been almost totally unproductive in the agricultural field will turn out to be very, very productive areas and are going to severely reduce the dependence of the Dominican Republic on outside assistance in the matter of feeding itself.

McConagha. Is the trickle-down theory in AID now a dead issue?

Murphy. Yes. And certainly insofar as I am concerned and as far as all our senior officials are concerned, it is discredited. We are under a mandate to see that our aid goes directly to the poor, with emphasis on the rural poor. We are no longer engaging in large infrastructure projects of any type. We're just not being satisfied with increasing the gross national product. We're insisting that the equity of the poor man in the rural areas be improved in the process. And the trickle-down theory is discredited. And in fact, Alan, I want to tell you, it was only when I saw this mandate passed by the Congress and the intent to move in this new direction that I became interested in returning to this program at all.

McConagha. Do you think the credibility of the program is reestablished on the strength of this two years' experience?

Murphy. No, I don't. I think that would be too much to say. I think we have gone a long way toward reestablishing it. And I think if we can keep on the same track for another two or three years that we will do that.

Now as evidence of that, I would like to point to the vote on our international development and food assistance bill in the two houses of Congress in the recent past. Of the persons voting in the House, sixty-one percent voted for the act. And persons voting in the Senate, fifty-seven percent voted for the act. That is the highest affirmative vote that this program has had since 1966, which is nine years ago. And I take it as a very definite indication that our credibility is on the rise in the Congress and, of course, that the American people as a whole are very, very much in favor of this humanitarian aid which reaches out to the poor man and will back it substantially.

Marlow. Yes, but how about the crunch, Mr. Murphy, that is sure to come on your appropriation, at least in the House of Representatives? For some time, you people have been saying that, look, we're going to have economic assistance as one bill, military assistance as another. But all indications point to the fact that there's going to be one bill in the House and it's going to have supporting assistance; it's going to have military assistance; it's going to have economic development. Aren't you going to suffer by that?

Murphy. Well, possibly. Certainly if the results of the past year are any indication of it, we will suffer. The story last year, if you recall, was, in our food and nutrition account, on the day before the Christmas recess the Congress authorized—reached conference agreement on the amount of five hundred million dollars. And then ninety days later, just before the Congress went on Easter recess, they appropriated three hundred million dollars. And that's just in one account.

So in a ninety day period between the authorization and the appropriation process, the account was reduced forty percent. This is, of course, very, very frustrating, very disappointing to the people who are—not only the people who are trying to administer an effective program, but, of course, the recipient countries who count very heavily on U.S. assistance.

Now whether or not this impressive vote that I have just mentioned in the two houses will have its impact on the House Appropriations Committee, it's hard to say at this time. I sincerely hope it will.

Norton. In that authorization bill that just passed or is in conference committee, what are the amounts, and how does that compare with what you requested? And also specifically, how much of that is for food and nutrition?

Murphy. Well, the total amount that the conferees agreed upon for Fiscal Year 1976, which is our current fiscal year, was one billion five hundred and sixty-seven million dollars, which is just about the amount the President requested for the program. It's the first time in a long time that there hasn't been some reduction in the authorization process. Well, the differences are in nickels and dimes, in reality. Substantially, I can say that the bill contains what the President requested for the program. And for Fiscal Year 1977, the amount agreed upon was one billion four hundred and ninety-seven million dollars, which, again, is very much along the lines of the administration's request and a very satisfactory figure.

Norton. How much of that is for the food and nutrition program?

Murphy. The food and nutrition item for Fiscal Year 1976 is 618.8 million dollars. And that compares to an administration request of 628.8 million dollars. So we sustained a ten million dollar reduction in that item, which is really minimal.

On the other hand, in the family planning and health account, the administration request was two hundred and nineteen million dollars, and they agreed on two hundred and forty-three million dollars. So we not only made up the loss of ten million in the food account, but we gained a little more in the family planning and health account.

Norton. And there's a rider in that bill that would force the government in the food program—I'm talking here about PL–480—to follow a seventy-five percent/twenty-five percent formula, with seventy-five percent of the aid having to go to countries with, I think, a per capita GNP of three hundred dollars or less.

How will that affect the Food for Peace Program?

Murphy. Well, while we would have preferred the seventy/thirty formula that was contained in the House version of the bill, we believe the seventy-five/twenty-five formula is a reasonable compromise with the eighty/twenty that was in the Senate bill. And the per capita GNP limitation of three hundred dollars per annum for the less developed countries we think is reasonable enough so that we can plan the program and execute it without any major difficulty.

Marlow. Mr. Murphy, Congressman Fraser has said that all the people in the world have a right to a nutritionally adequate diet. He says that the United States should increase food assistance to one percent of GNP, up from what we're doing today. What's your reaction to that philosophy?

Murphy. Well, philosophically, of course, I don't have any major problem with Congressman Fraser's thoughts. I would say a man has a right to earn the food that he eats, or that he needs to eat. I don't think he has a right to food, per se, without an effort on his part to earn it by the sweat of his brow. But I think probably Congressman Fraser wouldn't have any trouble with that way of phrasing it either.

On the one percent of GNP for food and nutrition, again I think that's a highly desirable goal, but I think its totally unrealistic in today's economic structure in the United States. We are, I think, now ranked fourteenth among the seventeen donor nations that make up the development assistance group in terms of the percentage of our GNP which is devoted to what we call official development assistance. I believe our level of last year ran .24 percent; in other words, about one-quarter of one percent. And Sweden, on the other hand, has actually reached the 7/10ths of one percent which was recommended by the Pearson Committee some years ago for official development assistance.

But in real terms, of course, the amount put up by Sweden is substantially lower than the amount put up by the United States for the program. I just do not—I would like to see us move towards the .7 percent for the total development assistance program. I don't really see us ever getting there for just the food and nutrition item.

McConagha. With all of the emphasis on food production and food relief, isn't it merely wishful thinking, just the same, that we can stave off malnutrition or starvation against rising populations in the developing countries?

Murphy. Well, there's no question that we have to tackle both problems, that to tackle the food problem alone—there'd be no hope. There are four billion people on the earth today, and in thirty-five years there're going to be eight billion people. At the moment, the less developed countries are importing about twenty-five million tons of food to meet their needs over and above what they can produce. And the experts predict that, by 1985, they'd have to move between fifty-five and seventy-five million tons. And this is an alternative that is horrible to contemplate, because there aren't enough ships in the world to move that kind of food and there aren't ports to accommodate the ships if the ships existed.

So to tackle the food problem without also tackling the population problem would be totally unrealistic. And we are making major efforts in the family planning area. And we have some indications of success in several places. I think our program in Indonesia is remarkable in how it's moving along and the way the people are taking hold of it. I think we're making substantial successes in the Philippines. The Indian experience has been scattered. In some locations they've had good results; in other locations not so good. But I attribute that, as a management man, to a failure on their part to follow up as they should on a program like that.

But I think we have to do both. We have to urge the less developed countries to understand the importance of a per capita increase in GNP for their people. And if you have population grow faster than you have production grow, you not only don't have an increase, you have a decrease. And I think more and more of the officials in the developing countries are coming to realize this and are taking the population problem much more seriously. Bucharest last year did wonders for that. I mean the eyes of the world were opened up to the importance of a population program at that conference.

Norton. In the area of direct food aid, if I could just follow up on that, is there a possibility that with the kind of bumper crops we're having in the U.S. this year that there'd be a substantial increase in the Food for Peace Program?

Murphy. Well, it depends on how you define your word "substantial." The World Food Conference in Rome last year called upon the industrialized nations or the food producing nations to put up about ten million—I think their figure was ten million tons a year for food relief. Now they were talking about the whole donor community, including Australia, Canada, Western Europe, and so forth. Now, the United States in this fiscal year is putting up six million tons. Now that's sixty percent of that formula, of that requirement. And if that's what you mean [by] "substantial," certainly. That's at least three-quarters of a million tons more than last year, and it's substantially above 1973 when our crops were not so good, if you'll recall.

McConagha. What about the balance? Do you anticipate getting the other four million tons from the other donor nations?

Murphy. Oh, no problem at all. I believe the pledges this year are already at the twelve million mark, twelve million tons. So we not only have reached the ten million tons called for by the World Food Conference, but actually exceeded it at this point by about twenty percent.

Marlow. Mr. Foster.

Foster. Mr. Murphy, with all of this generosity, how can you account for the fact that the lesser developed nations seem to be having a field day in the United Nations and other places criticizing the big industrial nations? They're biting the hand that feeds them. How do you account for it?

Murphy. Well, it's very difficult for me to account for that, Jim, and it's a real serious problem that worries me very much. On the other hand, we can't administer a program like this in the passions of the moment. We have to look at this for what it is. It's a long-term program. And it's not unusual for a nation that has only recently received nationhood to flex its muscles and show its independence and to try to indicate its ability to get along. On the other hand, in fact, they very much need the aid.

Marlow. How about this idea, Mr. Murphy? Some have speculated that we've lost stature with the African nations because we haven't given them as much assistance as the United States should. I think, in the current bill, it's two hundred forty-five million, or something of that sort. And the theory is that they didn't support us on that anti-racism-Zionism resolution in the U.N. because we've lost favor with them and stature.

What's your reaction?

Murphy. Well, I can't either credit or discredit the theory, Mike. I really don't know what the connection is. It's very difficult to. . . .

Marlow. Have we lost stature in Africa?

Murphy. It depends on where you're talking about in Africa. It's possible that we've lost stature in some places. I think we're gaining stature in others.

I think the basic point that we haven't been giving appropriate attention to Africa is sound. I personally believe that. And I've welcomed the congressional indications in Section 639 of our act that we should get involved in long-term planning and implementation of long-term programs in Africa. I don't think there's any question that over the recent past that Africa, percentage-wise, has been neglected in the aid program. And I certainly hope to see that imbalance corrected in the future.

Norton. Speaking of that U.N. resolution, there've been some suggestions that perhaps some of the aid should be cut to some of the countries that voted for it, especially to some of the Mideast countries that were going to get especial amounts of aid.

Murphy. Well, I reject that, Gerry, out of hand, because, as I said, I don't think you can administer a program like this in the passions of the moment. We have our unhappiness and annoyance, and we wish things would go differently. But this is—take this Middle East area. We're talking about peace in that area. And even though Egypt votes in a way in the U.N. which we don't like, the simple fact of life is that Egypt seems to be serious about trying to reach peace in the area. President Sadat has taken what I consider to be very courageous steps in the Arab world to reach an agreement with Israel on the new Sinai line. And the alternative to that situation, in my book, is again horrible to contemplate. It could mean another war. And we never know when one of these regional wars will escalate and become a worldwide thing.

So we would very much like to have a lot of these countries vote differently. We do our best to persuade them. But the U.N. is a political body, and we must recognize that, and things will happen there that we don't like. Sometimes things happen that we do like. And over the long haul, I think we just have to learn to live with it and work within the framework.

Marlow. Mr. Murphy, we've got about twenty seconds. You're originally from New York. You've worked with state and federal governments. If you were putting together an aid package for New York, can you give us a couple of salient points that you would include?

Murphy. Well, I think Governor Carey and Mayor Beame are way ahead of me on that. They've had advice of a great many experts, and I think they're on the right track. And now it's just a matter of whether Governor Carey can get the legislature to go along with him. And I think if he can that it'll be a major step toward resolution of the New York City problem.

Marlow. On that note, Mr. Murphy, thank you very much for appearing on this edition of "Overseas Mission."

Our guest has been the Honorable John E. Murphy of Maryland, the Deputy Administrator of the Agency for International Development. For a written transcript of today's interview, listen to our announcer for details. Mr. Murphy, recently back from Development Assistance Committee meetings in Paris, was interviewed in Washington by Gerry Norton of the Washington Bureau of the Commodity News Services; Alan McConagha of the Minneapolis Tribune; and James Foster of the Scripps-Howard Newspapers.

And now this is Mike Marlow thanking you for joining us today, inviting you to be with us one week from now for another edition of "Overseas Mission."

Announcer. Written transcripts of these interviews may be obtained, without cost, by sending a stamped, self-addressed envelope to "Overseas Mission," Post Office Box 19-325—19-325—Washington, D.C. 20036. "Overseas Mission," now in its fifth year, is broadcast worldwide and features senior officials whose work is concerned with the developing nations of the world in spontaneous, unrehearsed, unedited interviews conducted by reporters from press, radio and television.

"Overseas Mission" is a public affairs presentation of WAMU-FM of the American University in Washington and WNVT, community television for northern Virginia, in cooperation with the Agency for International Development. Worldwide, "Overseas Mission" is broadcast on the eleven hundred radio and television stations of the American Forces Radio and Television Service.

This is Mac McGarry speaking.

THE BANK OF NORTH DAKOTA

Mr. STEVENSON. Mr. President, the common solutions to a capital shortage include tax concessions to industry, unworkable allocation schemes and a continuation of the ad hoc measures, including, for example, the recently passed Senate bill for the reorganization of the Northeast railroads and the President's $100 billion energy corporation. Already, the Federal Government has adopted innumerable primary and secondary financing institutions for a multitude of public needs, including housing, export promotion, agriculture and most recently, for the relief of New York City.

The failure to face this large question of national priorities more imaginatively is unfortunate. It is a problem deserving a better solution than the whims of the marketplace or continued ad hoc programs can afford. And so it is of some interest to learn about an experience in North Dakota which goes back to the 1920's. That State has a bank which acts as a depository for State funds and lends them for the benefit of public needs. It is a profitable enterprise for the State of North Dakota, one I could have used to good advantage when I was State treasurer of Illinois. Without it, I developed a system which funnelled deposits of public funds through some 800 banks, plus savings and loan associations, into public needs. The North Dakota practice is more efficient. It is described in an article by Derek Norcross in the Akron Beacon Journal and is worth consideration at the Federal level as an alternative to proliferating agencies and programs. The Federal Government maintains many billions of dollars in noninterest-bearing tax and loan accounts. Its "idle" funds might be used to earn interest for the taxpayers and also produce capital for public needs. And so, Mr. President, I ask unanimous consent that the article by Mr. Norcross be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Bank of North Dakota: Only One of Its Kind

(By Derek Norcross)

Bismarck, N. Dak.—At a time when many cities and states face financial hardship, legislators around the country are looking to this quiet prairie town for a way to combat economic ills.

Bismarck is the home of the Bank of North Dakota—the only state-owned bank in the United States.

With $393 million in resources, the bank has made $83 million profit since its founding in 1919. In the last two years, the bank has returned $16 million in earnings to the state treasury.

"That's not bad on a $2 million investment made 56 years ago," boasts H. L. Thorndal, the bank's president.

"The legislative intent was for our bank to function as a service organization," says Thorndal, "and we feel we are giving that service. It just so happens that we are making a lot of money at the same time."

The Bank of North Dakota owes its existence to historical circumstances. In 1918, a group of populist-minded farmers, called the Non-Partisan League won control of the state government. They were fed up with being at the mercy of out-of-state bankers who were charging up to 12½ per cent interest for short term rural credit. Having elected a complete slate of candidates, the populists proceeded to establish a state-owned bank and capitalized it through the sale of $2 million in state bonds to the people, who have since been paid off.

Private bond merchants and bankers attempted to boycott the bonds—but purchases by the Trade Union Council of Minneapolis broke the financial blockade.

During the '20's and '30's, the bank saved thousands of North Dakota farmers from financial ruin.

Today the bank—the largest between Minneapolis and Spokane—has about $32 million in loans to farmers and farm-related industries, $35 million in housing loans and $27 million in student loans. It also manages the state's public employee pension funds. The nation's first federally insured student loan was issued by the bank in 1967. North Dakota currently leads the nation in providing financial assistance to college students.

PUBLIC DEPOSITS

The bank relies heavily on public deposits as a source of funds. State government contributes 75 per cent of the deposits. The bank also has about 4,000 individual and business accounts, though these represent only a small portion of the bank's funds.

The bank is governed by an Industrial Commission made up of the Governor, the Attorney General and the Commissioner of

Agriculture. With only 83 employees, the bank is efficiently run and one of the most profitable banks, percentagewise, in the country.

North Dakota also avoids potential misleading and corruption that can result from divvying up state deposits among private banks. "Without us," says bank president Thorndal, "the State Treasurer would probably have accounts in Minneapolis, Chicago, and New York. We keep the money in the state and provide real financial leadership for the economy."

The success of the Bank of North Dakota is being pointed to by legislators in other states. In addition, consumer advocate Ralph Nader is spreading the news. In his syndicated column and in numerous speeches, Nader cites the Bank of North Dakota as a way for states to use their tax dollars for public benefit.

IN WASHINGTON STATE

In the state of Washington, Democratic legislator Michael Parker has sponsored a bill to establish a state-owned bank that would become the third largest in Washington. The Washington Bankers Association strongly opposes the measure, saying it is unneeded.

In neighboring Oregon, state bank legislation is pending in the House of Representatives. The Massachusetts Assembly has passed a scaled-down version of a state bank called the Massachusetts Community Development Finance Authority, which will sell bonds and offer loans to enterprises in areas of high unemployment. Officials in Colorado and New Jersey are studying various state bank proposals. In California, former Gov. Edmund G. Brown supports the idea.

Progress for a full-fledged state bank is greatest in New York. This past spring, the New York State Assembly passed a bill creating the State Bank of New York. The measure is now before the more conservative Senate, where it faces a tough battle. If passed, the state bank with over $5 billion in public deposits would become one of the largest banks in the United States.

"This is not anti-banking legislation," explains Democrat Stanley Steingut, Speaker of the Assembly. "It is our intention to work closely with the traditional banking system.

"The state public bank concept originated in a discussion of how to link state deposits to social needs—how to make public money work for the public good.

NOT AGAINST FREE ENTERPRISE

"This concept is not an attack on free enterprise. We are not interfering with the private banking business.

"A state bank would make loans in areas red-lined by private banks. If we help to stabilize a community, it can become more attractive to the traditional investors.

"A state bank would assist the municipalities in underwriting their bonds, and in short term financing.

"A state bank would provide venture capital for new ideas.

"A state bank would generate funds for long term community development.

"A state bank would reverse the 'strip-mining' pattern of removing money from one area for maximum investment elsewhere.

"New York money would be invested in New York—and ideally in the community of its origin.

"And finally, of special significance in these days of ever-rising unemployment, the state bank would invest in job-producing industry—and ideally, as a partner of the traditional banks.

"The Reconstruction Finance Corporation, the Farm Credit Administration, and the Export-Import Bank are all examples of government involvement in banking. Each generally has pioneered new markets for banking. This New York bank will be the latest in a long tradition of public banks to serve the public need."

WHY IT IS OPPOSED

Bank of North Dakota president Thorndal, economist Eliot Janeway, and other experts testified before the New York Legislature in favor of the state bank. The proposal was opposed by James J. Needham, chairman of the New York Stock Exchange, and a representative of the New York Chamber of Commerce. Opponents of the state bank concept argue that the private banking system efficiently allocates capital, but some areas and businesses have to lose out in the competition for limited funds.

However, if the recession lingers, the movement for state banks will not soon disappear. The modest Bank of North Dakota, which has been good to the rock-ribbed Republican farmers of Middle America, may become a model for its big city cousins.

CIVILIAN CONTROL OVER THE MILITARY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from New Hampshire and certain attachments referred to therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR MCINTYRE

On October 20, 1975, I introduced S. 2524, a bill to require that members of the Joint Chiefs of Staff keep their civilian Service Secretaries fully and currently informed on all matters considered by the Joint Chiefs of Staff.

This is a relatively simple bill but an important one. It would help insure that the time-honored principle of civilian control over the military is a reality, not just an illusion.

Since I introduced S. 2524, sixteen Senators have joined as co-sponsors. This is a bipartisan group, representing the full political spectrum. This support demonstrates how widespread is the belief that ultimate control over military and strategic policy decisions should reside in civilian leaders.

The list of co-sponsors is as follows: Mark Hatfield, Mike Mansfield, Robert Taft, George McGovern, John Culver, Patrick Leahy, Edward Brooke, Robert Morgan, Glenn Beall, Abraham Ribicoff, Alan Cranston, Walter Mondale, Gary Hart, Floyd Haskell, Richard Schweicker and Clifford Case.

S. 2524 has also received favorable comment in the media in my state of New Hampshire, and it has been endorsed by former Secretary of the Air Force John McLucas. As I stated when introducing the bill, the concept has also been advocated by former Secretary of the Army Howard Callaway.

I ask unanimous consent that a fact sheet on S. 2524, an article from the November 22 Washington *Post*, headlined, "McLucas Endorses Data Bill," and two editorials from the Concord (N.H.) *Monitor* and the Nashua (N.H.) *Telegraph*, be printed in the RECORD at this point.

FACT SHEET—S. 2524

S. 2524—introduced by Senator McIntyre on October 20, 1975, would require that members of the Joint Chiefs of Staff (other than the Chairman) keep their respective Service Secretaries "fully and currently" informed on all matters considered or acted upon by the Joint Chiefs.

Need: The Civilian Service Secretaries are responsible for such key areas of military planning as preparedness, training, operations, effectiveness, research and development. They cannot perform these duties effectively and completely if they do not have full knowledge of strategic planning decisions and military policy matters considered by JCS, which operates independently as the principal military adviser to the President, the National Security Council and the Secretary of Defense. While DOD directives require the Chiefs of Staff to keep their Service Secretaries fully informed, there is ample evidence that this communication does not take place.

S. 2524 would: codify the existing DOD regulations, and add the requirement that the information be current, thus closing a possible loophole.

S. 2524 would not:

Put the Service Secretaries in the Chair of Command.

Require Service Secretaries attendance at JCS meetings.

"I do feel that the role of the Service Secretaries would be properly strengthened, however, if it were made clear in the law that Service Secretaries are entitled to complete information on all matters affecting their Service."—Former Secretary of the Army, Howard Callaway.

"To the degree that the Secretary of the military department is deprived of essential information, then the degree of (civilian) control which he exercised must be diluted."—Leonard Niederlehner, Acting General Counsel, DOD.

[From the Washington Post, Nov. 22, 1975]

MCLUCAS ENDORSES DATA BILL

(By George C. Wilson)

Air Force Secretary John L. McLucas yesterday endorsed a Senate bill that would require the military Joint Chiefs of Staff to keep the civilian service secretaries "fully informed" about such secret operations as the bombing of Cambodia.

The legislation, McLucas said in a farewell press conference in his office, would make certain that secretaries of the Army, Navy and Air Force "know what the hell is going on."

Without being fully informed, he said, a service secretary cannot give his best judgment to the Secretary of Defense on military proposals.

Sen. Thomas J. McIntyre (D-N.H.), sponsor of the bill McLucas endorsed, has deplored the fact that former Air Force Secretary Robert C. Seamans Jr. was not told about the secret bombing of Cambodia in 1969 and 1970.

McIntyre's bill—which is awaiting hearings by the Senate Armed Services Committee—would put into federal law the 1958 Pentagon directive stating that "each member of the Joint Chiefs of Staff, other than the chairman, is responsible for keeping the secretary of his military department fully informed on matters considered or acted upon by the Joint Chiefs of Staff."

In contrast to Seamans who told the Senate Armed Services Committee in 1973 that he would not have "expected" to be informed of the secret bombing of Cambodia because he was not in the operational chain of command, McLucas said yesterday that McIntyre "has sold me" on the need to make fully informing the service secretaries a matter of law.

McLucas, who became Air Force secretary in July, 1973, is scheduled to be sworn in Monday as administrator of the Federal Aviation Administration. His successor has not been named.

On other subjects addressed during the press conference, McLucas said the job of investigating favors military contractors have bestowed on some defense personnel has been taken away from the individual services and centralized under William P. Clements Jr., deputy secretary of defense.

Former Defense Secretary James R. Schlesinger said on Oct. 20 that "we suspect the Northrop case is only the tip of the iceberg that appears above the surface." He added that he had "assigned the responsibility to each service secretary" to review "the entire area" of gratuities contractors had offered to defense personnel.

Northrop has entertained military and civilian executives at a hunting lodge on the Eastern Shore—the type of activity Schlesinger promised would get a full investigation.

[From the Concord Monitor, Nov. 14, 1975]

Civilian Control of Military Diluted

New Hampshire's senior U.S. senator, Thomas J. McIntyre, has introduced a bill which, under ordinary circumstances, we would think ridiculous.

It would require that members of the U. S. Joint Chiefs of Staff keep their respective civilian secretaries of the various branches of the armed services "fully and currently" informed of military strategy.

The Joint Chiefs of Staff is composed of the military heads of the Army, Navy, Air Force, Marine Corps and Coast Guard. It is the nation's top military strategy-setting body.

But since civilian control of the armed services is rooted in the Constitution and the military heads of the various services are responsible directly to the presidentially-appointed secretaries, it would seem ludicrous to require by *law that* the military chiefs keep their civilian bosses informed.

The lamentable fact is that, despite the constitutional mandate, such legislation is necessary. And the fact that it is necessary reflects adversely on the nation's military leadership in its adherence to constitutional principles it has sworn to uphold.

The stimulus for the bill came from the fact that, in 1969 and 1970, the U.S. Air Force conducted secret bombing raids over Cambodia, a neutral nation. Air Force Secretary Robert Seamans was not told of the bombings.

Then-President Nixon knew about them. The Secretary of Defense knew about them. The Cambodians obviously knew, and so did the North Vietnamese, the Chinese and the Russians.

Congress was kept in the dark. If it wanted to find out what the Air Force was doing, Secretary Seamans would be the one it would ask. Perhaps that was the reason he wasn't told.

Former Army Secretary Howard (Bo) Callaway, now President Ford's re-election campaign chief, told Congress recently members of the Joint Chiefs didn't think service secretaries should be informed of strategy matters.

And in 1973, Gen. Earle G. Wheeler then chairman of the Joint Chiefs, told a congressional committee that if a service secretary had asked him at the time whether Cambodia was being bombed, he would have lied and said, "I don't know anything about it."

The danger in this lies in the fact that a group of like-minded officials—civilian and military—will make a major commitment of national policy on the basis of inadequate consideration.

That is what happened during the Nixon administration. Persons with primary military orientation—Gen. Walters, the deputy director of the CIA was one, Gen. Haig, later to become Nixon's White House chief of staff was another—were elevated to civilian roles where they participated in military decisions.

Sen. McIntyre, fifth-ranking member of the Senate Armed Services Committee and chairman of its Research and Development subcommittee, did not come by his new bill quickly.

Time after time, he listened to members of the Joint Chiefs give Congress either totally erroneous information or only half-information. And it was on the basis of this data that Congress enacted law.

The North Vietnamese Tet offensive of 1968 was a case in point. Just a few weeks before it was launched, a member of the Joint Chiefs told the Senate Armed Services Committee that the war in South Vietnam was going well. It was not the truth.

Though it is not in the McIntyre bill, it is our view that major strategy decisions also should be shared with Congress. Thus if the military leaders are on the brink of making a commitment of U.S. forces that could have either international implications or outrageous consequences, the system of checks and balances could be brought into play.

We hope the Congress will appreciate the importance of the McIntyre bill in preserving the principle of civilian control over the nation's military forces.

[From the Nashua Telegraph, Nov. 17, 1975]

Civilians and Generals

U.S. Sen. Thomas J. McIntyre, reasoning from the Constitution's rightful insistence on civilian control of the military and the experience of military deception during the Vietnam War, has introduced in the U.S. Senate a bill that would require the members of the Joint Chiefs of Staff (JCS) to keep their respective service secretaries "fully and currently" informed on all matters considered by the JCS.

The JCS, composed of command representatives of the Air Force, Navy, Army, and Marine Corps, is the prime military advisory body to the President, the National Security Council, and the Secretary of Defense.

The service secretaries—the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force—are primarily responsible for personnel, training, logistics, preparedness, and research and development.

Under the Reorganization Act of 1958, the service secretaries were removed from the military chain of command. Sen. McIntyre argues that the separation has been misinterpreted to exclude the service secretaries not only from military councils but also from strategic military information which may be essential to their supportive and institutional functions.

Sen. McIntyre's bill makes it plain that the service secretaries would not be reinserted in the chain of command and that their attendance at JCS meetings would not be required by statute. It does clarify existing directives by establishing not only a "need to know" but a "right to know."

The shocking example Sen. McIntyre and others cite as argument that the service secretaries should know what's going on is the secret bombing of Cambodia. The President knew about it; the Secretary of Defense knew about it, and the Joint Chiefs of Staff knew about it. But the Secretary of the Air Force did not know what the Air Force was doing.

The important point here, as we see it, is not so much that strategic information and decisions must be relayed to more and more officials as a matter of course but that the civilian Secretaries of the Air Force, Army and Navy should be called upon to make a larger advisory contribution through the Secretary of Defense.

Without such contributions, the Joint Chiefs, with their military expertise and strategic secrets, may dominate the decision-making process totally. Granted, the President and the Secretary of Defense are civilians, but their decisions can be no more valid or comprehensive than the information on which they are based, and if the service secretaries are excluded from vital information they cannot properly advise the Secretary of Defense and thus the Secretary of Defense cannot properly advise the President.

As Sen. McIntyre told the U.S. Senate on Oct. 20: "Civilian control over the military is a time-honored and vital part of our constitutional framework. This control can only be effective when the flow of information on decisions and planning is complete and unobstructed."

The legislation before the Senate is intended to promote that flow of information and so keep civilian supremacy from being enfeebled by insufficient knowledge and restricted opinion.

JIM WALL: CHRISTIAN CENTURY EDITOR

Mr. McGOVERN. Mr. President, some of the most thoughtful editorials being written today are by Mr. James Wall, editor of the Christian Century. In the November 19 issue of Christian Century, he writes of an issue in which I have recently been involved.

I ask unanimous consent that this editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Winning and Losing the Big Game

Washington, D.C.—In giving us his famous sermon text on the quality of game-playing—that it matters not whether "you won or lost—but how you played the game"—Grantland Rice revealed himself as a spokesman for a vanishing breed, the journalist who thought his readers could still respond to something more than the final score. I thought of Rice and sports as a metaphor for politics while rummaging here through the corridors of power, where politicians and writers occupy themselves far too much for the national good with a concern to satisfy the public's interest in who wins and who loses.

The 1976 presidential election is less than a year away (with the nominating process nearing its first definitive stages), and all the talk is about winning and losing. Where, in this time of despair and anxiety, is a word about the quality of leadership and the specifics of how to bring people a better life than they've known in the past?

We are not getting a discussion of quality because our media—print, radio and TV—have long ignored Grantland Rice's admonition to focus on the playing itself, rather than on the final outcome alone. The symbiotic relationship between press and politician leads the public figure to play the press game: the satisfaction of the public's desire for simple win-lose answers to complex questions. Over the past few weeks, I have been in Minneapolis and Atlanta to attend forums where Democratic presidential candidates responded to questions from liberals of those areas. Press coverage of the meetings touched only briefly on the substance of answers and focused instead on which candidate "won" approval from the majority of those attending.

Fred Harris "won" in Minneapolis with his rhetorical attacks on big corporations and the "Rockefellers and Tennecos" of the country, while Sargent Shriver "lost" in Atlanta when he fumbled a big one and told a questioner he didn't know what 14–B was. (For those prone to the same fumble, opposition to 14–B, "right to work" legislation, is the litmus test for labor support.) Shriver recovered quickly and said he was, of course, for labor, but the damage was done. And Harris, in Atlanta, gave ground to the hometown favorite, former Governor Jimmy Carter. But little media attention was given to the specifics and substances of programs the candidates proposed in these sessions.

One call for concrete solutions to problems was made in Iowa recently by noncandidate

Senator George McGovern. The 1972 Democratic standard-bearer addressed 4,000 party leaders there and exhorted presidential aspirants to "offer specific programs of fundamental reform" in the campaign. Having read *about* the speech, I was not surprised at conclusions reached by columnist Carl Rowan, who excoriated McGovern for trying once again to take the Democratic party down the road to defeat. Rowan, a black with liberal leanings, reported in his column that McGovern wants Democrats to run a campaign that stresses "getting out of Korea" and upholding the principle of busing. That terse—and misleading—summary is probably the only word most Americans will hear about McGovern's Iowa speech. Thinking that such a simplification seemed unlike McGovern, I secured a copy of the complete text and went by to see the South Dakota senator in his Washington office.

"If you will study the text," he told me over a cup of coffee, "you will see that I refer to Korea and busing as only two specifics out of a much longer call to commitment from the party." Later, I read the speech again and found these words about busing:

"It is not a mistake to seek the end of racism and sexism and to speak for the equality of differing groups. In 1976 this means what it did in 1972: The opening of economic opportunity, the integration of social institutions, the reparation of past injustice. It also means work which most of us know must be done, and a word which few of us want to say: It means busing, or a *specific alternative* which has not yet been stated" [emphasis added].

McGovern was troubled by Rowan's superficial rendering of his call for an alternative to busing. (Apparently Rowan derived his conclusions from news reports, not from the full text of the speech.) McGovern was urging all candidates to answer the question: "If busing is not the answer, then what is?" He emphasized that "no one likes busing" but insisted that any substitute for busing "must provide specific measures to undo the burdens and patterns of historic discrimination." His speech, then, asked candidates to be specific about *alternatives* to busing; Rowan's column implied that the speech was a *defense* of busing. This superficial analysis had the effect of further discouraging the public from grappling with a complex problem and encouraging candidates to continue playing to surface emotions, rather than proposing concrete solutions.

There are some specifics being proposed, but one has to look hard to find them. I found some concrete suggestions in a recent issue of the newsletter published by the ethnic public-action group EMPAC, in which Democratic candidates Terry Sanford of North Carolina and Morris Udall of Arizona responded to questions about busing. Sanford, now president of Duke University, accurately described busing as a method adopted by courts for overcoming educational discrimination "in the absence of positive action by state and local governments." Then he added, "Political leadership can provide better alternatives to busing." Congressman Udall was more specific:

In 1973 I proposed an alternative. Each state should be required to submit to the Department of Health, Education and Welfare its own plan for achieving equal educational opportunity within ten years. The state would then have two years to work with citizen advisory groups at the school district and state levels to come up with a suitable proposal.

Here are the beginnings of some leadership to overcome what Michael Novak has described as the Vietnam of the 1970s: court-enforced busing as a solution to racial discrimination. Busing must be used only as a last resort to remove black children from the handicap of inadequate education. Political leaders should courageously come forward, run the risk of pillory in the media, and offer specific alternatives. The fact that most candidates of both parties are cautious on busing alternatives indicates their fear of the effects of media coverage on the headline-reading public that still threatens to send George Wallace as a message to the White House.

Grantland Rice's little verse points to an ultimate dimension: "When the one Great Scorer comes to write against your name—He marks—not that you won or lost—but how you played the game." Because the media seem incapable of reporting on that ultimate dimension, candidates are trapped in their own need to win now and worry later about concrete proposals. The irony in this dilemma is that the public may be ready for leadership that speaks authentically about problem-solving, while the press still believes its campaign coverage must be cast in the mode of a sudden-death overtime battle between the Dallas Cowboys and the Washington Redskins. Perhaps the presidential winner who finally emerges next November wil be that individual who chooses now to be specific, even at the risk of losing.

THE MULTIPLE ADVERSE EFFECTS OF NOISE POLLUTION

Mr. HUMPHREY. Mr. President, I have long been concerned about the growing danger that inadequately controlled noise presents to the health and welfare of the Nation's population, particularly in urban areas.

An article by David Dempsey in the New York Times Magazine of November 23, 1975, cites estimates by the Environmental Protection Agency that—

> Mort than 16 million people in the United States already suffer from hearing loss caused by noise, and another 40 million, not including workmen, are exposed to its potential hazards without knowing it.

Several research reports have documented the delerious effects of the worldwide noise pollution of our environment. First, Psychologists Sheldon Cohen, David Glass, and Jerome Singer discovered that young children who were exposed to higher background noise levels—such as busy highways, railroads, airports, and myriad other deterrants to the learning process—suffered decreased learning abilities, frustration, and loss of concentration. In learning to read, these children were less likely "to distinguish between speech relevant and speech irrelevant sounds" due to their noisy environment. Further, because of jet noise in school classrooms near hundreds of major airports, teachers, and pupils have to cope with "jet pause" teaching. Because of this noise emission factor, teachers and pupils suffer a loss of up to 20 percent of their instructional day, as well as a destruction of the spontaneity in the teaching-learning process.

Second, several studies by Dr. Samuel Rosen, Helen Rosen, and P. Olin have documented a high positive correlation between dietary factors and deafness.

Third, the socioeconomic consequences of excessive noise emission have been noted by the World Heatlh Organization in estimating that "noise costs the United States $4 billion annually in accidents, absenteeism, and compensation claims."

In his article, Mr. Dempsey notes these and other authoritative findings and points to recent effects to educate our population to the dangers of noise pollution and to encourge the American public to become conscious of decibel levels in their environment.

Mr. President, I ask unanimous consent that the text of the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Noise

(By David Dempsey)

(Assaults on the ear—by sonic polluters from snowmobiles to rock bands—have caused hearing loss in 16 million Americans. Noise may also be a factor in weight loss, fatigue, even impaired sexuality.)

Mary Robinson often spends her lunch hour strolling down Second Avenue in New York, a busy thoroughfare characterized by thundering trucks, automobile horns, pneumatic drills, an occasional screaming siren and other sonic by-products of the urban scene. Recently, after returning to the East Side office where she works, she began to notice a ringing in her ears that lasted 10 or 15 minutes. Her heart beat faster than usual; her stomach tightened; her mouth felt dry, and colleagues in the office had to shout at her to make themselves heard.

What is happening to Mary Robinson is not unusual. And what is happening is the effect of noise. Partial deafness—sometimes known as "boilermaker's disease"—has long been considered an occupational hazard in drop forges, knitting mills and similar industries where sound levels are extremely high, but noise has spilled into the general environment to such a degree that it is now recognized as a direct threat to the public health.

The Environmental Protection Agency estimates that more than 16 million people in the United States already suffer from hearing loss caused by noise, and that another 40 million, not including workmen, are exposed to its potential hazards without knowing it. Noise, in fact, has become so pervasive in our lives that we no longer "hear" it. Moreover, as industrial noise has decreased (by law), community noise has grown louder—much of it now exceeding the legal maximum set for industry, most of it unaffected by the ineffective community regulations that do exist. A heavy truck rumbles by at 100 decibels of sound; a riveting machine hammers away at 110 decibels; a sonic boom shakes our very fillings at 130. By some extreme estimates, this sound level is rising at the rate of 10 percent a year, a high enough rate to make us all deaf by the year 2000.

A decibel is a measure of sound energy; within a limited range, 1 decibel is the smallest change in sound that the human ear can detect. The leaves rustle at 12 decibels. Ordinary conversation is carried on at 45 to 50 decibels; some offices clack away at 65 or so. As the decibel level goes up, the danger increases. And the numbers are misleading since the perception of sound energy increases on an accelerating, logarithmic scale. A jump from 80 to 90 decibels is not perceived as 12 percent more noise but rather as twice as much. At 140 decibels our ears cry for help.

Until recent years, experts believed that lasting damage occurred only when exposure to loud noise continued for 30 to 40 years. But the National Institute for Occupational Health and Safety now says that just two or three years of daily exposure to 90-decibel sounds are enough to induce some deafness. Moreover, 70 decibels are potentially damaging, according to the E.P.A., if one is subjected to them year in and year out. This frightening observation coincides with the agency's survey of background noise levels in major United States cities. Almost all of them, including New York, equaled or exceeded 70 decibels daily.

At levels higher than 90, damage can be done to the ear in a much shorter time. Rifles and even cap guns are notorious. When 25 men were tested for hearing acuity in one study, the six who showed signs of becoming permanently deaf had all engaged in hunting or trap shooting or had served in the artillery. Snowmobiles are the newest hazard—a single, day-long ride can have a significant impact on hearing.

In Miss Robinson's case, a ringing in the ears—tinnitus—is one symptom of acoustic overload. (It can also, of course, mean other things that have nothing to do with hearing.) Yet, as hazardous as high intensity sound may be to the ear, its effect on other bodily functions may be even worse. Although the evidence is controversial, some theorists think that noise impairs sexual ability and that it causes fatigue, weight loss, ulcers, and high blood pressure and has, indeed, been a factor in nervous breakdowns. (Asylums, it is pointed out, are traditionally quiet places.)

But probably the most insidious result of exposure to community noise may be found in its hidden aftereffects, the drag that it seemingly has, for instance, on the learning ability of young children. If Johnny can't read, say psychologists Sheldon Cohen, David Glass and Jerome Singer, it may be because he lives too close to a busy highway where continual background din makes it difficult for him to discriminate home conversation that underlies one's understanding of words. Finally, in its social consequences, noise is rapidly approaching plague proportions. According to Edgar A. G. Shaw of the National Research Council of Canada, 35 million Americans live in areas where 24-hour noise averages 65 decibels—annoying, if not necessarily harmful—and 90 percent of our population is subject to sporadic and "intrusive" sounds taht exceed 75 decibels. But the problem is more than one of annoyance. The World Health Organization estimates that noise costs the United States $4 billion annually in accidents, absenteeism and compensation claims.

One research audiologist compares the urban dweller's home environment to a four-track sound system with the dishwasher grinding away in the kitchen, the hi-fi going full blast in the living room, band saws shaking the basement workshop and Junior revving up his motorcycle in the driveway. The situation is not getting better. According to an E.P.A. study, the number of snowmobiles—at 115 constant decibels, one of the most dangerous machines on earth—has increased sixfold in the last quarter-century; home power tools and motorboats have multiplied 20 times; motorcycles will triple in numbers by 1985 and cars on the highways will double, to 175 million, by the year 2000.

Although machines are evidently music to some, music itself, with its ubiquitous trend toward louder and louder amplification, is hitting new crescendos. The British Medical Journal reports that the volume of hi-fi sets tested in one study often reached 140 to 145 decibels—high enough to deafen all but the toughest ears. Even live music can be potentially harmful, says Dr. Alvin Meyer, Jr., the E.P.A.'s noise expert, who recently urged ASCAP and the American Federation of Musicians to work for "lower musical performance sound levels." A cymbal clash in a symphony orchestra, if you are sitting down front in a concert hall, comes across at 95 decibels, and the "1812 Overture," with its thunder of timpani and booming cannonades is the sound equivalent of an afternoon on the battlefield. The most disturbing evidence comes from Dr. David Lipscomb, director of the Noise Study Laboratory at the University of Tennessee. What bothers Lipscomb is the high incidence of partial hearing loss among the young. Although it is normal for people in their 40's and 50's to suffer some loss of hearing, even in the absence of noise exposure, children and young adults usually do not, even if they don't always listen to what is being said.

This acuity is measured in one's ability to detect the full range of sound waves, from such low-cycle vibrations as thunder to the high-pitched tones of a piccolo or a bird call. When the high-frequency sounds are lost on us, the beginnings of deafness set in. And it was in this area that the young people Dr. Lipscomb tested were most vulnerable. In an extensive series of audiological measurements, he found that while only 4 percent of sixth graders failed his test, the proportion of 9th and 10th graders who did so climbed to 10 percent. By the time students entered college, a whopping 61 percent showed some loss of hearing acuity. At 108 decibels, acid rock may be one reason, Dr. Lipscomb thinks, why college students test poorly.

To explore this possibility further, Dr. Lipscomb subjected guinea pigs to rock music for 88 hours over a period of two months, leaving one ear of the animal protected. The uncovered ear sustained a 25 percent hearing loss, and upon dissection Lipscomb found that the sensory cells of the inner ear "had collapsed and shriveled up like peas." Even though there is no firm evidence that these findings apply to any but the most masochistic of rock fans, Dr. Lipscomb advises young people to limit their disco visits, or wear ear muffs. (One disco owner reacted to the experiment this way: "Should a major increase in guinea-pig attendance occur at my place, we'll certainly bear their comfort in mind.")

Although the ear is a marvel of environmental adaption (giving us, for example, 360-degree contact with the world), its evolutionary development came to a halt long before the advent of loud, modern sounds. Hearing is the process by which one perceives sound waves. These sound waves are captured by the outer portion of the ear and directed to the drum, or membrane, of the middle ear, which vibrates against a tiny bone "hammer" that taps out signals on an "anvil" bone. The message is carried through a third, or "stirrup," bone to the inner ear for conversion into neural energy. Here, physiologists say, is where noise damage occurs. What seems to happen is that many of the 17,000 sensory cells of the inner ear literally "break up" when they are bombarded with loud sounds.

One theory holds that these cells simply work too hard in transmitting the noisy messages from the outside world to the nerve centers of the brain. Another hypothesis is that loud noise temporarily constricts the tiny blood vessels in the ear so that the cells, in effect, become undernourished. In any event, we know that cells are destroyed. Post-mortem examination of retired steel workers has revealed that in some cases hair cells in the cochlea, or inner ear, are almost totally collapsed.

There are, of course, many reasons, in addition to damaging noise levels, why a person may become deaf. The affliction can be inherited; German measles during pregnancy often results in a deaf baby; mastoid infections cause fluid pressure that sometimes breaks the ear drum; certain combinations of medicinal drugs can be ototoxic and result in deafness. Though it is still speculative, the food theory is perhaps one of the most intriguing: Dr. Samuel Rosen, an otologist at Mt. Sinai Hospital in New York, thinks that faulty nutrition combined with noise helps explain why partial deafness is so common in industrial countries.

Ten years ago, Dr. Rosen and his wife, Helen, traveled to the Sudan, where they observed a native tribe living in idyllically peaceful surroundings. Except for an occasional ceremonial war whoop, sound seldom exceeded 40 decibels. "Tribesmen at age 75 had hearing levels as high as those 25 years old," Dr. Rosen reported, and their acuity was equal to that of Americans 30 to 40 years younger. Then, examining their general health, he noted that these natives ate a low-fat diet that consisted largely of millet seed, wild dates, nuts, corn and fish. Meat was scarce. Quietness alone, Rosen surmised, might not be the primary cause of their good hearing. If loud noise constricts the blood supply to the ear, so do clogged arteries.

There the matter rested until some years later when the Rosens teamed up with Prof. P. Olin of the University of Helsinki to explore dietary factors and deafness. They selected two mental hospitals, because they had stable and long-term populations. In one institution, patients were allowed to eat foods with high-saturated fat typical of the average Finnish diet. In the other, polyunsaturated fats were substituted. After five years, the latter group of patients showed not only a marked decrease in coronary trouble, but also significantly improved hearing in all frequencies. The diets were then reversed and in four years the hearing in the now low-fat hospital was noticeably improved, whereas in the high-fat hospital it deteriorated. Indeed, low-fat patients in their 50's could hear better than their high-fat counterparts 10 years younger. The effects of aging on hearing, Dr. Rosen reported, "had not only been arrested . . . but even reversed." By this hypothesis, it would not be enough to reduce the decibel level unless the cholesterol level were lowered, too. A fatty diet, Dr. Rosen thinks, increases our vulnerability to deafness.

Whatever the outcome of this investigation, many people find loud noise harder on the nervous system than on the ears. Sounds greater than 75 decibels increase the pulse and respiration, and very loud noises leave us shaking. People who work around high-intensity sound, according to one study, are more aggressive, distrustful and irritable than those who work in quieter surroundings. Even more far-reaching reactions can occur when we are asleep. "The most harmful noises are those that invade your dreams, because dreaming is necessary for mental health," psychologist Howard M. Brogard once said while he was serving on New York City's Task Force on Noise Control. "Most people have four to six dreams a night. If the dream is interrupted by a jet plane, a fire engine or a noisy neighbor, the person will dream twice as much the next night. But if he is interrupted again and again, he will become emotionally upset. . . . A few nights are enough."

People living near airports do seem to have higher rates of admission to mental hospitals than would be expected. A survey of one residential area around Heathrow terminal, outside London, found that psychiatric admissions were significantly higher there than in quieter sections of the city. This study indicated that noise was especially hard on people who were already vulnerable to stress for personal reasons—women over 45 who were single, widowed or divorced, for instance. Other residents were less affected. (In Japan, airport noise seems to have quite a different effect: Women give birth to babies smaller than normal though healthy otherwise. Generally, the nearer these women lived to the Osaka airport, the smaller the newborn.)

Paradoxically, as psychologists point out, noise also has positive benefits. For one thing, it can warn us of danger. For another, says Dr. James Miller of the Central Institute for the Deaf in St. Louis, regular or rhythmic noise can improve the "pace performance" of workers. Possibly one reason for this is that steady noise up to 90 decibels seems to make time go faster. And in too-quiet environments efficiency may drop. Acoustically treated offices, intent upon shutting out street noises, are now introducing sounds mixed from the entire frequency band to keep workers alert and busy.

Loudness in itself is often tolerated so long as the sound is steady. In one survey a factory going full blast was judged quieter than a bank whose machines operated in fits and starts. (The bank finally had to hire deaf people to reduce employee turnover.) Similarly, it was noted that people actually slept better when subjected to heavy but regular traffic outside their windows than they did when the traffic was lighter, but unpredictable.

In any case, says Jerome Singer, our apparent adaptation to noise is often paid for in such psychological aftereffects as frustration and loss of concentration. Working with psychologist David Glass, Singer observed the performances of 500 volunteers exposed to a garbled mixture of foreign languages, street sounds and banging machines beamed through a loud speaker at a deafening 105 decibels. While this went on, the subjects were asked to work certain puzzles, some of which were unsolvable. After a few minutes, the volunteers quickly adapted to the noise; errors were no greater than those committed by others working in a quiet room.

The tests might have proved misleading if they had not been carried one step further. Again using puzzles, half an hour after they had been liberated from the noise chamber, the volunteers did much worse than before. Glass and Singer suggest that frustrations suppressed in the presence of noise boiled up later. These delayed reactions are part of the price of adaptation. Moreover, this price seems largely dependent on how regular the noise may be (short bursts or steady din) and to what extent it can be controlled or predicted. The kinds of noises that annoyed people most were not necessarily those that resulted in poor performance. "Good" sounds might show up in the form of bad results, whereas regular, patterned noises were the least frustrating of all.

Still, no matter how we might temporarily outwit noise, its most pervasive effect remains undiminished. This is the interference that takes place when background, or "masking," sounds, such as those from a nearby factory or highway, prevent us from understanding what we hear. At 60 decibels, typical of many homes and offices, a person with normal hearing can comprehend just about everything that is said to him. Raise this to 70—often the intensity of cocktail-party gabble—and we become lip readers: Up to 90 percent of the conversation is lost.

Although we may not be missing much at cocktail parties, the indirect effects can be expensive. A young man I know who had extensive laboratory tests for a possible blood condition was treated for two weeks for the wrong ailment; the telephoned report from the lab was garbled by so much background noise that the doctor misunderstood the test results, and only when the written analysis came in by mail did he realize the error. In Riverside, Calif., churchgoers complain that services are virtually impossible because of jet flyovers. Near New York's Kennedy Airport, teachers in some 220 schools have resorted to "jet pause" teaching, which not only takes away about an hour's classroom instruction each day, but can also destroy the spontaneity of the educational process.

Other effects on learning may be more subtle. Under the age of 14, youngsters are less able to discriminate human speech than teen-agers or adults. Verbal nuances that come across to most of us easily are grasped with difficulty by children. And it is these nuances that are most readily lost if conversation is carried on against a noisy background. "Recent studies of young children thought to be 'slow learners,'" according to one survey, "revealed that at least some of them simply could not hear everything said in the classroom." When conditions improved, so did learning.

Noise in the home environment can cause an ever greater learning block. The most convincing evidence comes again from Glass and Singer, who, working with Prof. Sheldon Cohen, studied elementary-school children living in four 32-story apartment buildings spanning the Cross Bronx Expressway. When the reading scores of those who had lived in the buildings less than two years were compared with those who had been there more than six, it was found that newcomers of the same age could read measurably better than those long exposed to the expressway din. To double-check their findings, the investigators then compared children living on the lower, noisier floors with those on the upper quieter floors. Result: When the noise went down, reading scores went up, even allowing for the fact that upper-floor families might be of a higher socioeconomic, hence more literate group. "In tuning out his noisy environment," these researchers concluded, "a child is not likely to distinguish between speech relevant sounds and speech irrelevant sounds. . . . The longer he must endure noise, the more likely he is to ignore all sounds."

If noise is not only annoying but also damaging our ears, making us jittery, interfering with social communication and learning and possibly even giving us ulcers or higher blood pressure,* why, then, don't we do something about it? The answer, in part at least, is that many of the offending decibels are perceived as the sounds we enjoy. To many people, noise, far from seeming to be a hazard, has become a switched-on psychic booster. "It's not a simple problem," says Dr. Lois L. Elliott, a psychoacoustician with the National Institute of Neurogolical and Communicative Disorders and Stroke. "One important feature of noise, as it relates to annoyance, is the extent to which the noise may be controlled by the listener. Sounds which we ourselves control, such as the vacuum cleaner or the lawn mower we are using ourselves, do not seem nearly as annoying as the sounds produced by a neighbor." Unlike other pollutants, an increasing amount of sound today echoes a full-throttle civilization in which noisy machines are indeed music to the ear, and give assurance that, technologically speaking, all's right with the world. (When the factory down the road is stamping out automobile fenders, people are employed.)

The notion that noise is synonymous with power dies hard, yet engineers already have the capability of quieting a broad range of machines, on the highway and off, without substantially reducing their performance. In a 1972 report to Congress, E.P.A. officials pointed out that truck noise could be reduced by 10 decibels, which would make trucks about half as noisy. The sound of smaller, clattery automobiles can also be cut in half; motorcycles, reduced four times. Our growing fleet of commercial jet aircraft could be "retrofitted"—at a price—to make them considerably easier to listen to.

One power-mower manufacturer has demonstrated that a small generator and a completely enclosed 3-horsepower motor make engines inaudible under the pleasant whir of the rotating blades. In England, a jackhammer is used that makes half the noise of those sold in the United States, and at no loss in power. Such improvements are possible in appliances, engineers say, at a cost that is not excessive. To encourage consumer pressure, the E.P.A. plans to require "noise labels" on all new products. Some manufacturers already advertise their wares in this fashion.

Yet, when one company test-marketed a quiet vacuum cleaner, not only did sales drop off but also machines already sold were returned because they didn't seem to be "doing their job." To meet the stringent regulations in many European countries, some equipment makers in the United States sell a "quiet" model abroad and a noisy one at home. The solution, suggests Dr. James Miller, might be to develop vacuum cleaners, garbage disposers and food blenders that sound efficient without actually being excessively loud.

A more tempting approach to the problem is to take legal action. Residents of Greenwich, Conn., filed a $20 million lawsuit against the Westchester County Airport. Although results are slow in coming, night flights are to be restricted and take-off and landing patterns will be rearranged, and the people of Greenwich may soon be dreaming again. Most states and communities already have antinoise laws, but except in a few cities they have had little effect.

New York's antinoise ordinances are among the strictest in the nations; even the ice-cream vendor is permitted only one 10-second jingle per block. Yet, not a single summons for unnecessary horn-blowing has been issued this year, and New York is still one of the noisiest cities. (If it's any consolation to New Yorkers, Los Angeles is noiser.) When the city Air Resources Department spot-tested hundreds of residents last year on a random basis, hearing loss turned out to be 180 percent more prevalent than the national average.

On the Federal level, the E.P.A. has virtually no enforcement powers at present except to regulate the noise levels for diesel trucks and portable air compressors. It does, however, set acceptable standards for a wide variety of devices and encourages states and municipalities to follow these. And a little-publicized provision of the Noise Control Act of 1972 permits anyone to bring suit against a noise offender, or even the local E.P.A. administrator, for failing to carry out an existing law.

Until things do get quieter, the best defense against noise pollution is to become as conscious of decibel levels as we are about water impurities and contaminated air. One sign of trouble is having people start shouting at you in normally quiet surroundings—and keep on shouting. Or, if it takes longer and longer to get over subway deafness after you leave the subway, you may be in danger of losing some of your hearing permanently. In one Baffin Island village, 83 percent of adult male Eskimos—all of whom now drive snowmobiles for long hours in their daily search for caribou, seal, fish and small game—have already been found to have serious hearing difficulties.

Unlike the eye, the ear has no lid. (Tiny muscles do snap shut in defense against sudden, loud sounds, but this is temporary.) You can help. Wear ear plugs, though to most people this is analogous to controlling air pollution by wearing gas masks. Do not use earphones when listening to hi-fii unless the volume is kept reasonably low; earphones intensify sound. Limit your discotheque going to a few hours a week. Wear earmuffs when snowmobiling. People who work in noisy surroundings should "rest" their ears occasionally by retreating to a quieter place. These breaks give the ear a chance to recover from the temporary deafness that might in time become permanent. One reason rock musicians don't suffer more lasting effects than they do, according to a three-year study by Dr. William F. Reintelmann and Judith Borus of Michigan State University, is their time off between "sets." Once real damage is done, however, quietness won't heal.

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*The National Institute of Neurological and Communicative Disorders and Stroke is currently investigating the possibility that continuous noise exposure makes people more susceptible to certain diseases. Some experts are already convinced that it does. But at least one authority, Dr. Karl Kryter, whose book, "The Effects of Noise on Men" is the bible of audiology, states flatly: "The notion . . . that exposure of the organism to any practically available amount of environmental noise can have adverse physiological effects (other than damage to the ear receptor mechanism) . . . appears to have no basis in fact."

In the meantime, we can agitate for improvements in the design of noisy equipment. The E.R.A. contends that with present technology, at least 5 decibels can be shaved off the sonic environment by the end of the century, making things impressively quieter all around. The agency hasn't put a price tag on this reduction, but acknowledges that it would not be cheap. Estimates on what it would take to lower just the industrial noise level by 5 decibels range from $8 billion to $31 billion. But the cost of not doing anything—both in money and in individual and public health—is also enormous. The effort would have a lot of ears. There are those who think that technological feasibility and Government intervention won't, by themselves, do the job. The real challenge, they say, is up to the consumers of noise. Citizens have, for example, organized to keep the supersonic Concorde jet out of the United States and, on a nationwide basis, Citizens Against Noise (CAN) is attempting to educate the public to the dangers. But the final decision will probably require even more than the intensified work of the antinoise forces. It will also rest, no doubt, with the individual who *likes* noise. He must get over the notion that loud is good.

THE PASSING OF AN AUTHOR

Mr. RIBICOFF. Mr. President, very often in life, we experience those things which we are least able to understand. Seldom is an author able to make sense for us of these experiences. Thornton Wilder was one. I can pay no greater tribute to him than to say, I learned from him. And I believe I am not alone in this.

We will all miss Thornton Wilder, his perceptive but compassionate insights and his extraordinary ability to speak to a great many of us with a single phrase. At a time when events increasingly seem to lack order and form in a world that grows more and more complex, we most need men like Thornton Wilder to help us shape our perspective on the world and on ourselves.

This was an author who only wrote on one subject, but it was one he came to know a great deal about. His only subject was, very simply, human experience. Thornton Wilder was hungry for human experience, whether through his travel, his writing, or through his relationships with a great variety of individuals: some famous, some infamous, some rich, and some poor. Thornton Wilder thrived on the vitality of human experience perceived through the eyes of the individual. He managed to condense much of that vitality and experience into his seven novels and two major plays. Again and again, his work has been reread and revived by people who believe that Thornton Wilder knew something about themselves that they had not yet realized.

Once, he said:

> I am interested in the drives that operate in society and in every man.

Like his writing, this comment on himself was simple, direct, honest, and true. Connecticut will miss this author, teacher, and individualist. So will humanity.

Mr. President, yesterday, the New York Times remembered Mr. Wilder in an essay that exudes the vitality and compassion of a full blown human being who will not soon be forgotten. I ask unanimous consent that the piece to which I refer be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 8, 1975]

THORNTON WILDER IS DEAD AT 78; WON 3 PULITZERS FOR HIS WORK

(By Alden Whitman)

Thorton Wilder, who won three Pulitzer Prizes for his writing, died yesterday in New Haven, Conn. He was 78 years old.

Mr. Wilder was dead on arrival at the Hospital of St. Raphael about 7:25 p.m., a hospital spokesman said. He had been taken there in an ambulance from his home in Hamden, Conn. The cause of death was not immediately known.

Aloof from the 20th century's preoccupation with politics, psychology and sex, Thornton Niven Wilder concentrated in his novels and plays on what he construed as the universal verities in human nature. He seemed to be examining mankind from an Olympian platform, more concerned with the over-all topographical features than with geographical details.

"I am interested in the drives that operate in society and in every man," the stocky, owlish-appearing writer said a few years ago in a moment of self-disclosure. "Pride, avarice and envy are in every home. I am not interested in the ephemeral—such subjects as adulteries of dentists. I am interested in those things that repeat and repeat and repeat in the lives of the millions."

These quintessences were probed for, summarized and recounted in seven novels and two major serious plays published over 40 years, an output hardly prolific by the standards of most writers. Nonetheless, these works, written in an elegant yet simple style, lifted Mr. Wilder to the front ranks of American men of letters. He won three Pulitzer Prizes, the first in 1928 for the novel "The Bridge of San Luis Rey"; the second in 1938 for the play "Our Town" and the third in 1943 for the drama "The Skin of Our Teeth." For "The Eighth Day," his seventh and last novel, he received the National Book Award in 1968.

Moreover, for the whole body of work, he received the National Medal for Literature of the National Book Committee. This honor, along with $5,000, was conferred on Mr. Wilder at a White House ceremony in 1965. Articulating the attitude of thousands of readers, Mrs. Lyndon B. Johnson told the shy, quiet writer then that he had succeeded in making "the commonplaces of living yield the vault of the human adventure."

RESPECT FOR LANGUAGE

"Unlike some modern writers," the First Lady said, "you respect your fellow man and you respect the American language. You have never confused being modern in language with a dreary reliance on four-letter words.

"You have never assumed that realism in writing means a cloying self-pity or a snappish disdain for others. You have written with an understanding affectionate rapport with your subjects which to me is the hallmark of genuine literature."

Although his view was by no means unanimously endorsed by literary and theater critics (Mr. Wilder was acclaimed by Edmund Wilson and drubbed by Dwight Macdonald), he held the sustained attention of middlebrows. Not only did his fiction continue to sell years after publication, but also his serious plays were revived hundreds of times. Even the insubstantial "The Matchmaker," transmuted into the musical "Hello, Dolly!," was a perennial favorite.

The qualities that accounted for Mr. Wilder's enormous popular appeal were his evident talent as a storyteller and his singular knack of dressing up his parables as realistic fiction.

At the same time, he posed cosmic questions, "those old teasers Heredity and Environment, about gifts and talents, and destiny and chance." Mr Wilder phrased his question in "The Eighth Day" this way:

"This John Ashley—what was there in *him* (as in some hero in those old plays of the Greeks) that brought down upon him so mixed a portion of fate: unmerited punishment, a 'miraculous' rescue, exile, and an illustrious progeny?"

AMBIGUOUS ANSWERS

As with questions in his other books, Mr. Wilder explored them but did not give unequivocal answers. In "The Bridge of San Luis Rey," for example, the question was, why did the collapsing bridge plunge five particular persons to death? The conclusion left uncertain whether the disaster was the work of God, or the result of chance.

Equally ambiguous was Mr. Wilder's answer, in "The Ides of March," to the question, what is greatness? If Wilder novels offered the reader no certitudes, they did affirm a sense of human possibilities, an optimism that life can be satisfying.

Although Mr. Wilder was essentially a metaphysician, his novels (and his plays) were infused with humor and wit. "Because we live in the 20th century, overhung by very real anxiety, we have to use the comic spirit," he once explained. "No statement of gravity can be adequate to the gravity of the age in which we live."

In contrast to his fiction, which was notable for its adherence to form, his major plays broke with the usual rules of the theater. When Mr. Wilder showed "Our Town" to Edward Sheldon, a knowledgeable friend and playwright, he said:

"Of course, you have broken every law of playwriting. You've aroused no anticipation. You've prepared no suspense. You've resolved no tensions."

The play also lacked scenery and its plot was sketchy; yet it did succeed, as did the more rambunctious "The Skin of Our Teeth." This play, in which the action was out of orthodox sequence, was the story of Everyman spread over 5,000 years, from the Flood to Armageddon.

THROUGH A TELESCOPE

"'Our Town' is the life of the family seen from a telescope five miles away," Mr. Wilder explained. "'The Skin of Our Teeth' is the destiny of the whole human group seen from a telescope 11,000 miles away."

The themes of these plays, as well as those of the books, were not intended to be profound. Indeed, Mr. Wilder believed that "literature is the orchestration of platitudes," and that its function was not to reveal new truths so much as to trigger those that lie within everyone.

Until he was 65 and began what he called his retirement, Mr. Wilder indulged an uninhibited appetite for life. Full of bounce and bubble, entirely without airs and immensely interested in people, he fueled himself on travel and conversation. His friendships ranged from truck drivers to waitresses ("I don't pinch. I just relish human beings"), from Sigmund Freud to a Chicago hoodlum named Golfbag, from Robert Hutchins to Gene Tunney and from Gertrude Stein to Texas Guinan, the nightclub entertainer.

Indeed, when Mr. Wilder was teaching in Chicago, he took to visiting Miss Guinan's club and she would sometimes call on him to take a bow. "Come on up here, Thornton," she would cry out: "Folks, give Thornton a nice hand. He's the best little writer in these United States."

A NATURAL EXPRESSION

Mr. Wilder's genius for finding rapport with virtually every person he met was especially striking in his relationships with students. "Teaching is a natural expression of mine," he once remarked, and he was very good at it indeed with teen-agers (at Lawrenceville) and college youth (at the University of Chicago and at Harvard). Lecturing on creative writing or the classics, he was a showman. Describing his platform performance, Time magazine said in 1953:

"He would fling his arms about, jump from the platform and leap back again. Talking at trip-hammer speed, he was sometimes in front of the class, sometimes at the back, sometimes at the window waving to friends. Wilder could play the blind Homer, a Greek chorus or the entire seige of Troy. Even his pauses were planned, with an actor's timing, to keep his audience in suspense."

Wherever he went he was trailed by students ("my Kinder") as if he were the Pied Piper, and he was never too busy ("On my grave they will write: 'Here lies a man who tried to be obliging' ") to engage them in talk, spinning off ideas in English, French, German, Italian or Spanish. He also liked to lecture his friends, filling gaps he discerned in their knowledge.

Indeed, Garson Kanin, the director, once observed:

"Whenever I'm asked what college I attended, I'm tempted to reply 'Thornton Wilder.' "

SON OF A PUBLISHER

Mr. Wilder's propensity for instructing others was a trait he acquired from his father, Amos Parker Wilder, a Maine-born newspaper publisher and editor in Madison, Wis., who counted the day lost when he did not somehow add to his children's fund of information. Thornton, the second of five children, was born to Amos and the former Miss Isabella Thornton Niven in Madison on April 17, 1897.

When the boy was 9, the family moved to Hong Kong, where the elder Wilder was stationed as United States consul general. Thornton attended a German school there and, later, a school for missionaries' sons at Chefoo. Afterward, he was returned to California to prepare for Oberlin College in Ohio, which he entered in 1915. Already he was writing one-act plays for his sisters to act in. Two years later he transferred to Yale, served for a year in the Coast Artillery during World War I and took his degree in 1920.

At Yale, the youth continued his omnivorous reading in world literature, wrote for The Lit, turned out plays and came under the influence of Prof. William Lyon Phelps, the distinguished teacher. Said the professor of his student, "I believe he is a genius." "Oh, tut-tut-tut, Billy," Thornton's father replied, "you're puffing my boy up way beyond his parts."

Preparing to become a teacher, Mr. Wilder spent a postgraduate year at the American Academy in Rome and returned to the United States in the fall of 1921 to teach French at Lawrenceville, an exclusive boy's preparatory school near Trenton.

FIRST NOVEL SUCCESSFUL

He passed eight years there ("I am the only American of my generation who did not 'go to Paris' ") drilling teen-agers in French irregular verbs, getting a postgraduate degree at Princeton and working on "The Cabala," his first novel. A mannered story of a group of Roman aristocrats, ancient gods in modern dress, the novel was a critical success. He also scored a small triumph with "The Trumpet Shall Sound," which was produced by the American Laboratory Theater.

Meantime, from a Prosper Mérimé play he conceived the idea for "The Bridge of San Luis Rey," which was published in 1927 and brought Mr. Wilder instant national and international fame. The novel's opening sentence sets its tone:

"On Friday noon, July the twentieth, 1714, the finest bridge in all Peru broke and precipitated five travelers into the gulf below."

The book was, according to the critics, "a little masterpiece," a work of "genius," an expression of "pure grace." These were estimates with which the public agreed, for the book sold 300,000 copies in a year—an astronomical figure for that time—and was translated abroad. And Peru even found a bridge to fit Mr. Wilder's fictive one.

The writer employed his royalties to buy a house in Hamden, Conn., on the outskirts of New Haven and to travel to Europe with his sister Isabel. There he was the lion of the day, dining with Arnold Bennett and George Bernard Shaw and touring Germany. He showed up on the Riviera with F. Scott Fitzgerald and Glenway Wescott. He also found time to write "The Woman of Andros," which was inspired by a Terence play.

This novel earned Mr. Wilder more critical applause, and its "harmonious limpidity of style" was especially remarked. About this time, Edmund Wilson, one of the country's most influential critics, began to rank Mr. Wilder with Ernest Hemingway, Mr. Fitzgerald and William Faulkner. On the other hand, in the Depression of the early thirties, when novels of social significance seemed important, Mr. Wilder came under attack.

The most fervent assault was written by Mike Gold, a Marxist critic, for The New Republic under the title "Wilder: Prophet of the Genteel Christ."

Mr. Gold said that Mr. Wilder ignored the social injustices of America while writing for a "small sophisticated class." "Is Mr. Wilder a Swede or a Greek, or is he an American? No stranger would know from the books he has written," Mr. Gold said. He went on to argue:

"[Mr. Wilder] has all the virtues Veblen said this leisure class would demand: glossy high finish, caste feeling, love of the archaic . . . This Emily Post of culture will never reproach them; or remind them of Pittsburgh or the breadlines."

Mr. Wilder was stung by this and similar criticism, for in 1931 he published his first works about contemporary America, "The Long Christmas Dinner and Other Plays in One Act." And in 1935 he wrote "Heaven's My Destination," a novelistic attempt at social realism. It was witty and satiric; but it failed to please either the realists or the esthetes.

START OF A FRIENDSHIP

Amid these controversies Mr. Wilder was teaching at the University of Chicago at the invitation of his friend, Mr. Hutchins. The job permitted the author to teach for a half year and to travel the rest of the time. It also gave him an introduction to Miss Stein that was the start of a close friendship, and when he left Chicago in 1936 he paid a long visit to the expatriate American writer's villa in France. Writing of the experience afterward, Mr. Wilder said:

"Gertrude Stein made a distinction between human nature and the human mind. Human nature, she said clings to identity, to location in time and place. The human mind has no identity; it gazes at pure existing and pure creating, and 'it knows what it knows when it knows it.'

"It can be found in masterpieces, for masterpieces alone report the ever-unfolding and the boundless Now.

"But it can also be found in America, which was brought up to believe in boundlessness."

"Our Town," which was staged in 1938, contained some of these musings as it portrayed life in Grover's Corners, N.H., as representative of all smalltown life. Frank Craven was the Stage Manager when the play opened at Henry Miller's Theater in New York, after a shaky tryout in Boston. It was a hit on Broadway from the start. It moved Alexander Woollcott, the critic, to tears and the mot, "I'd rather comment of the 23d Psalm than 'Our Town.' "

REPUTATION FLUCTUATED

Mr. Wilder himself took the role of the Stage Manager for two weeks during the play's Broadway run and later played it in several summer stock productions. He also appeared in revivals of "The Skin of Our Teeth."

The reputation of "Our Town" fluctuated with the years, and by 1968 the Pulitzer Prize drama's relevance was being questioned. Reviewing a revival then, Clive Barnes, The Times, drama critic, said:

"Mr. Wilder has described his play as 'an attempt to find a value above all price for the smallest events in our daily life.' To do this, however, he has produced a pretty Andrew Wyeth-like landscape, almost doomed by its superficial attractiveness. There is no malice in Grover's Corners and no death; the citizens' rites of passage proceed tidily from the cradle to the grave, and everyone lives, massaged by good thoughts and complaint to God's will.

"It would be a great life if anyone lived it. No, I fear that Grover's Corners is merely ye olde American township, Anglo-Saxon to the core, lovable, supremely marketable and supremely phony."

Shortly after "Our Town" made its bow, Mr. Wilder staged "The Merchant of Yonkers," which did not do well at the box office. He rewrote it as "The Matchmaker" in 1955, and it did better, but not nearly so well as "Hello, Dolly!," the saucy musical adapted from it.

After "Our Town" Mr. Wilder scored again on Broadway with "The Skin of Our Teeth." The story of man's constant struggle for survival and his astonishment over why he struggles was praised in The Times as being presented "with pathos and broad comedy, with gentle irony, and sometimes a sly self-rallying."

A CHANCE TO BUILD

"All I ask," said Mr. Antrobus, the play's Everyman, as the curtain fell, "is a chance to build new worlds and God has always given us that. And has given us (opening a book) voices to guide us and the memory of our mistakes to warn us."

The play itself reminded many of "Hellzapoppin" because the scenery bounced up and down, the players carried on rehearsals and the audience at one point was asked to give up its seats to keep the fire going against the advancing ice age. It also reminded some keen-eyed viewers of James Joyce's novel "Finnegans Wake," and there were nasty charges of plagiarism.

Mr. Wilder, an admirer of Joyce, declined an invitation by The Saturday Review of Literature to answer the charge, but friends said it was no secret that "Finnegans Wake" had inspired the play. Later, Mr. Wilder backhandedly acknowledged his debt by saying:

"My writing life is a series of infatuations for admired writers."

The episode was said to have persuaded the Critics' Circle to withhold its 1943 award from "The Skin of Our Teeth," but it did not bother the Pulitzer jury, which gave the play its prize.

Coming at a low point in World War II,

"The Skin of Our Teeth" touched audiences with its message of courage and hope. Tallulah Bankhead played Sabina, the eternal temptress; Fredric March was Mr. Antrobus; and Florence Eldridge was his ever-faithful wife. In a 1955 revival the cast included Mary Martin, Helen Hayes, George Abbott and Florence Reed.

HELD NORTON CHAIR

During the war years Mr. Wilder served in the Army as a lieutenant colonel in air intelligence, posted in North Africa and Italy. On his return to Connecticut he worked on "The Ides of March" a novel of Rome in Julius Caesar's time, a rich and a human novel. He was also invited by Harvard to occupy the Charles Eliot Norton chair for the academic year 1950–51. In lectures then he expressed his attitude toward Americans, saying:

"From the point of view of the European, an American is a nomad in relation to place, disattached in relation to time, lonely in relation to society and insubmissive to circumstance, destiny or God.

"It is difficult to be an American, because there is as yet no code, grammar, Decalogue by which to orient oneself. Americans are still engaged in inventing what it is to be an American.

"Americans could count and enjoy counting. They lived under a sense of boundlessness. And every year a greater throng of new faces poured into their harbors, paused and streamed westward. And each one was one. To this day, in American thinking, a crowd is not a homogeneous mass, but is one and one and one.

"Every human being who has existed can be felt by us to be existing now. All time is present for a single time. Every American has this sense, for the American is the first planetary mind. Americans have the realization of the multiplicity of human beings and their geographical extension. Many problems which seem insoluble will be solved when the world realizes that we are all bound together as the population of the only inhabited star."

In the fifties Mr. Wilder traveled a good deal, maintained a prodigious correspondence and worked on "Alcestiad," a drama inspired by Euripides that was produced abroad but not here, toiled at his hobby of dating the plays of the Spanish dramatist Lope de Vega, played at the piano and took walks.

His neighbors in Hamden saw him as a large man with beetling eyebrows and a light brown mustache, jolly for the most part, and a blue-streak talker. He dressed indifferently and ate even more carelessly. A lunch recorded by Mr. Woollcott consisted of lobster Newburg, cocoa and brandy. His sister Isabel kept house for him and fended off the curious.

In 1957 Mr. Wilder dropped his correspondence, cut off most interviews and virtually dropped out of the active world. The step was not really retirement, for Mr. Wilder began patiently to write "The Eighth Day." Always a careful writer ("The incinerator is the writer's best friend"), he worked patiently over the 400-page novel that was designed to demonstrate that man is not an end but a beginning.

The title had Biblical overtones. As one of the characters explains:

"The Bible says that God created man on the sixth day and rested, but each of those days was many millions of years long. That day of rest must have been a short one. Man is not an end but a beginning. We are the beginning of the second week. We are children of the eighth day."

RECEIVED MIXED NOTICES

The book, issued in 1967, received mixed notices. Praising it, Eliot Fremont-Smith wrote in The Times:

" 'The Eighth Day,' a novel in what might be called the old tradition, is a very fine performance—honest, intelligent, suspenseful, profoundly moving and all done quietly, with dignity, without trick or need for entreaty.

"If a touch of patronizing is finally felt (not during the reading but afterwards in reflection), this, like the sense of affirmation, may be endemic in all grand designs, God's or Mr. Wilder's. But few will feel it, and fewer still will mind. What matters is that one of the country's recognized master artists has produced his best and most absorbing novel."

From this view there was strong dissent, typified by Stanley Kauffmann's review in The New Republic, which said:

"There is no question here of whether Wilder has sustained claims to serious consideration; seriousness does not even enter into it. Although the Wilder views are recognizable, this new book almost seems to have been written by another man, an imitator inferior to the feeblest Wilder we have previously seen.

"The writing—by a man distinguished in his youth for style—is without grace, though he strains for it constantly; the characters are stagey, hollow, unrealized; the plot, full of arthritic twists, is attenuated and undramatic although the author himself seems generally breathless with excitement; the theme, as apprehended here, is sophomoric."

BRITISH CRITICS RESERVED

The British critics were also reserved. The (London) Times Literary Supplement, for example, said:

"All Thornton Wilder's earlier concerns and techniques—the allegory of 'The Skin of Our Teeth,' the Grover's Corners everytown morality of 'Our Town,' the stylistic point counterpoint of 'The Bridge of San Lius Rey'—re-emerge in this book. He has always been a story-teller, but now the urge sounds didactic, no longer dramatic; and the ultimate concern too easily re-echoes George Antrobus's 'most important thing of all; the desire to begin again, to start building.' "

"This truism, although awakening its felt response in 1942, today evokes merely the facile optimism of an earlier generation of Americans."

Nonetheless, there was a popular appetite for Mr. Wilder's works. "The Eighth Day" sold well, and his plays, including some of his short ones from the cycle "The Seven Ages of Man," were mounted from time to time.

After publication of the "The Eighth Day" Mr. Wilder declined to participate in award ceremonies that it prompted, remaining for the most part in Hamden, with visits to Martha's Vineyard in the summer. He never married, explaining once that he was so busy that he had "just skipped" acquiring a wife.

THE PANAMA CANAL TREATY

Mr. McGEE. Mr. President, last month, the Chamber of Commerce of the United States issued an important news release announcing its support of the Ford administration's efforts to renegotiate the Panama Canal Treaty.

The action came during the meeting of the national chamber's board of directors meeting and is an important development in public support for the treaty negotiations.

The chamber's support for the negotiations is most welcome, indeed. It is a recognition that U.S. investment throughout Latin America has a direct stake in the successful negotiation of the new treaty. It is a recognition that U.S. interests are best protected in an atmosphere of diplomacy and negotiation rather than one of confrontation. The chamber is to be commended for this prudent action.

I ask unanimous consent the news release of the chamber's resolution be printed in the Record.

There being no objection, the news release was ordered to be printed in the Record, as follows:

[Chamber of Commerce of the United States]

Chamber Backs Administration Efforts To Renegotiate Panama Canal Treaty

Washington, November 12.—The Chamber of Commerce of the United States today announced its support of the Ford Administration's efforts to renegotiate the Panama Canal Treaty, reserving, however, final judgment until details of the renegotiated treaty are made public.

The action came during the meeting of the National Chamber's Board of Directors Nov. 6–7.

The Chamber board called on the Administration to adhere to the Statement of Principles signed Feb. 7, 1974 by Secretary of State Henry Kissinger and Juan Antonio Tack, Panama's minister of foreign affairs. The principles state, in part, that Panama is required to grant the United States the rights necessary to regulate the transit of ships through the canal and to operate, maintain, protect and defend the canal.

The Chamber board listed the following reasons in support of a renegotiated treaty:

1. Terms of the 1903 Treaty do not reflect changes in Panamanian-U.S. relations which have occurred in the last 72 years, and no longer serve U.S. national interests as well as a modernized treaty which would be based on the concept of partnership;
2. President Ford is the third consecutive President to support negotiations to achieve a modern relationship between the two countries;
3. General George Brown, chairman of the Joint Chiefs of Staff, in his September, 1975, statement clearly expressed support for the current negotiations; and
4. The Association of American Chambers of Commerce in Latin America took a similar position earlier this year.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, one of the most common complaints leveled against lawmakers and other politicians is that they do not pay enough attention to the human side of political issues and that, instead, they get caught up in a seemingly all-inclusive net of technicalities, facts, and figures which shroud the actual issues at stake. Such a complaint seems justified in the case of the Genocide Convention.

There is no doubt that Senate ratification of the Genocide Convention would be a step toward peace. It would outlaw genocide and establish procedures for the trial and punishment of genocidal acts. Ratification of the treaty will deter the crime and therefore promote peace, yet the Senate has failed to act.

This failure, Mr. President, stems in large part from the Senate's failure to perceive the convention as a moral statement, a statement of basic human concerns. I think it would be worthwhile to recall the preamble to the convention:

The Contracting Parties;

Having considered the declaration made by the General Assembly of the United Nations in its resolution 96(I) dated 11 December 1946 that genocide is a crime under international law, contrary to the spirit, and aims of the United Nations and condemned by the civilized world;

Recognizing that at all periods of history genocide has inflicted great losses on humanity; and

Being convinced that, in order to liberate mankind from such an odious scourge, international co-operation is required. Hereby agree as hereinafter provided.

Mr. President, we should examine the convention in light of this preamble and the U.N. resolution. Consideration of the treaty in this way would concentrate our attention on the human side of the political issue and would lead to prompt ratification by the Senate.

NEW YORK AND THE RIPPLE EFFECT

Mr. STEVENSON. Mr. President, the possibility that a default by New York City on its outstanding bonds and notes would have a large ripple effect upon the municipal bond market has been widely debated. Many experts say that the effects upon other cities and States would be severe; that many well managed government units would have difficulty marketing bonds. Others say that the market would adjust smoothly to a New York City default; that only those cities which are in poor financial shape would be penalized in the marketplace.

One reason why the municipal bond market is not likely to adjust smoothly and efficiently to a major municipal default is that there has not been a major municipal default since the 1930's. The bond marketing agencies and the public, until the last few months, have considered municipal bonds to be thoroughly secure investments. Municipal securities will be viewed very differently in the future; more financial information will be sought and it will need to be analyzed more carefully. The market is not prepared today to perform its proper role. Neither the financial information nor the municipal analysts are presently available to perform the demanding task of distinguishing the quality of municipal bonds in a way that rewards soundly managed municipalities and penalizes poorly managed municipalities.

Prof. Edward F. Renshaw of the State University of New York, an expert on the municipal bond market, has studied the question of the ripple effect and concluded that there would be a large, damaging ripple effect on municipalities which are well managed as well as those which are not. That ripple effect, he believes, would arise for the same reason that the market failed to detect New York City's fiscal weakness sooner: there is a current shortage of both municipal analysts and hard information on the financial condition of cities. Professor Renshaw has prepared a paper on this problem, and I ask unanimous consent that his paper entitled "The Ripple Effect To Be Expected in Connection With a New York City Default" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE RIPPLE EFFECT TO BE EXPECTED IN CONNECTION WITH A NEW YORK CITY DEFAULT

(By Edward F. Renshaw)

If there is a default by New York City, the chances are that it will be massive in character and immediately followed by defaults on the part of several New York State agencies such as UDC, HFA, and the Dormitory Authority. Assuming that the federal government does not intervene to correct these defaults, they are likely to be followed in a few weeks by a sizable wave of defaults on the part of other state agencies, cities and towns both in New York and many other states across the nation. Support for the "domino theory" of default can be found not only in the politics of the situation but in such over-looked factors as the current shortage of municipal analysts and a probable absence of any demand for most new municipal bonds with a credit rating of less than AAA or AA.

If the federal government does not provide the investment guarantees and/or financial assistance that will be necessary to prevent an actual default by New York City, we can be fairly confident that the default which does occur will be massive in character and not confined to the interest and principal on maturing notes and bonds. The reasoning behind this assessment is partly political. By refusing to pay interest on nearly all of the City's outstanding indebtedness the newly organized Financial Control Board, which is headed by Governor Carey, will be in a better position to maintain vital services and at the same time dramatize to Congress and the nation as a whole the importance of the default.

One of the first problems that will have to be faced by the Governor and the state legislature after the city does default will be the task of preventing an outright default on the part of the state itself. This will not be easy. It has been estimated that the state of New York will have to borrow about $5.5 billion to finance the state's general fund operations from October through June of 1976. About $1.5 billion of that amount is needed to pay for state operations through March, the close of this fiscal year. Much of the remainder will be needed to provide financial aid to school districts and municipalities early in the next fiscal year.

These massive borrowing needs for continuing operations will probably mean that the Governor and state legislature won't even try to prevent a series of defaults on the part of those state agencies such as UDC, HFA and the Dormitory Authority which issue revenue bonds that are not backed by the full faith and credit of the state. Since these agencies were created by former Governor Rockefeller, their financial difficulties can probably be blamed on the Republicans. One might also note that state Comptroller Arthur Levitt, who is a Democrat, has never really approved the creation of such agencies and their issuance of moral obligation bonds. His primary concern is almost certain to be the problem of preserving the financial integrity of the state in connection with its general obligation bonds and not the financial difficulties of those agencies which issue revenue bonds.

These agencies now have under construction projects which will cost from $2.5 to $3.0 billion to complete. The Housing Finance Agency, alone, has more than one billion of short term notes outstanding and a continuing borrowing need of approximately $100 million per month to refund short term debt and complete work in progress. In August, 1975, HFA had to pay 10.8 percent to roll over some of its short term indebtedness and in recent weeks has been unable to borrow on its own at any price.

With payrolls due and no source of outside financing, there is a possibility that the public officials that run HFA and the other state building authorities will decide to use almost all of the available revenues to pay for work in progress and attempt an orderly wind down of construction activity rather than pay interest and principal on outstanding indebtedness. If this turns out to be the standard operating procedure, the state agency defaults could also be massive in character. It is not unreasonable to suppose that similar procedures would be followed by the city's newly organized Financial Control Board and by the administrators of most of the city's independent building authorities.

Representative Joseph P. Addabbo has recently indicated that there is between $5 billion and $6 billion of city and state construction projects where payment is in doubt and has suggested that if the projects were curtailed the jobs of about 900,000 people—about 150,000 of them in the building trades and the others in industries that supply them—could be lost.

Assuming that the Financial Control Board and the various state and city building agencies do try to conserve revenues to preserve vital services and achieve an orderly wind down of public construction activity, the amount of city and state agency debt in default could quickly escalate to a figure in the vicinity of $15 billion or more. It practically goes without saying that the existence of so much debt in default could easily have a paralyzing effect both on the market for new municipal securities and on the state's ability to borrow $5.5 billion to finance current operations.

On September 11, 1975, the state offered $755 million of new notes to meet its own cash flow needs and provide financing to help prevent a default on the part of New York City. About $100 million of that offering remained unsold as of September 29, 1975.

In the first quarter of this year the state had to borrow $3.7 billion to help finance local assistance payments of $4.2 billion. If the state is unable to borrow a comparable sum in the first quarter of 1976 many cities and school districts throughout the state of New York will experience a very serious cash flow deficit and as a consequence may be forced to default on their own indebtedness. Some of these cities and school districts, especially those with credit rating of A or less, may be forced into default even sooner as a result of not being able to borrow in anticipation of state aid and local property tax collections. Yonkers, the state's 4th largest city, is already on the verge of default. See the New York Times, October 28, 1975, pp. 1 and 40.

It has been reported, for example, that the East Islip, Long Island, School District received only one bid in an effort to sell $4 million in tax anticipation notes. That bid involved an interest rate of 14 percent, which is outrageous if one assumes that the state will be able to borrow enough money to satisfy its school aid obligations. For, if state aid payments are made on time, there is simply no way that a New York school district can remain in default for very long. This follows from the fact that the state in 1959 modified its finance law to require the Comptroller to deduct and withhold from state aid to local school districts such amount as may be required to pay the principal and interest on any bonds and notes in default.

If one starts with the presumption that the state might not be able to borrow enough to maintain its aid commitments, however, than just the realization that the state's own credit worthiness is in doubt might be sufficient to greatly restrict access to the bond and note market and to trigger a wave of local government defaults all across the state of New York.

Assuming that there is such a ripple effect, will its impact be confined to one state? To better appreciate why this is not likely to be the case it may be helpful to examine such overlooked factors as the current shortage of municipal analysts and what this shortage might mean in terms of the demand for new bond issues with low credit ratings, once there is a New York City default.

THE SHORTAGE OF MUNICIPAL ANALYSTS

One reason for supporting that a New York City default might lead to a very sizeable ripple effect which will be felt beyond the boundaries of New York State is the rather acute shortage of municipal analysts.

There are about 3,950 private corporations in the United States with bonds outstanding. Their income statements and corporate balance sheets are scrutinized by an estimated 28,000 financial analysts of which about 14,000 are members of the Financial Analysts Federation.

The number of states and municipalities with bonds outstanding is much larger. At the present time there are about 14,000 state and local governments that issue bonds. Their operations are examined by a very small number of analysts. The national Society of Municipal Analysts has a total membership of about 35 individuals. The membership in this Society has been carefully selected on the basis of extensive on-the-job training and presumed objectivity. Their analyses are supplemented by a few trainess and perhaps 200 other persons, the majority of whom are primarily in the business of compiling prospectuses which will aid underwriters in their efforts to sell tax-exempt bonds.

The main reason there are so many analysts concerned with evaluating corporate stocks and bonds and so few municipal analysts is that these securities are perceived to be risky while the general obligation bonds of most state and local governments are generally considered to be almost without risk. A few large corporations and a much larger number of smaller private corporations have defaulted in recent years. The post World War II default record of most state and local governments, on the other hand, has been superb.

The Daily Bond Buyer has compiled estimates which suggest that most of the municipal defaults which occurred during the great depression of the 1930s had been entirely cured by 1939 and that defaults still outstanding at that time did not exceed 0.25% of outstanding debt. Brenton W. Harries, President of Standard & Poor's Corporation, was able to report in 1971 that since 1949, "only one bond rated 'BBB' or higher by S & P has defaulted and even that issue is expected to be remedied in the next five years." Wade Smith, a former Vice President of Moody's Investors Service, has noted that, "My associates at Moody's tell me that in the post war period no municipal bond rated of investment quality (Baa or higher) has defaulted."

If we assume that New York City will not default then it may be possible for our financial institutions and credit rating agencies to continue to function with a relatively small number of municipal analysts. If there is a city default, on the other hand, or a fear on the part of many investors that there might be a wave of defaults, then the number of municipal analysts will have to be quickly expanded by perhaps a hundred fold or more.

The need for so many new analysts is related in part to the lawsuits that are likely to be brought against both the underwriters of New York City bonds and the trust departments of those banks that have purchased these bonds for the accounts of individual investors. The demand for municipal analysts is also likely to be bolstered by the rather deplorable lack of both timely and pertinent information about the finances of local governments in some states and by the difficulty of identifying cases of financial emergency before they actually occur.

During the spring of 1975 some of the notes of the New York State Urban Development Corporation were in a brief state of technical default. This combined with continuing uncertainty about the longer run financial health of UDC has resulted in a number of lawsuits against participating underwriters alleging that they did not fully disclose all of the pertinent facts about the financial condition of UDC at the time many of its bonds were sold to the public.

If there is a city default it seems clear that the number of lawsuits pertaining to inadequate disclosure will multiply. To better protect themselves, underwriters will have to devote more resources to analyzing the credit worthiness of bond issuers and to the preparation of bond prospectuses which fully disclose financial weaknesses and conditions which might result in a fiscal emergency. This will increase the cost of underwriting the bonds of almost all issuers and result in higher spreads between the bid and reoffering prices of new bonds.

If there are not enough municipal analysts to perform these tasks, many bond issues will tend to be delayed. A lack of qualified analysts, moreover, could easily lead to a situation in which many underwriting firms will simply refuse to bid on any bond offerings where there is risk of financial difficulties or any reason to believe that the financial disclosure requirements have not been fully satisfied. Studies by Reuben Kessel and others have shown that a reduction in the number of bids received by bond issuers will tend to result in a much higher interest rate being paid on the bonds that are offered for sale.

Disclosure efforts in many instances will be handicapped by questionable accounting practices on the part of some local governments and a lack of financial supervision on the part of some states. Private corporations that sell stock and bonds to the public are required to file regular reports on their financial condition with the United States Securities and Exchange Commission. There is no comparable disclosure requirement in the case of state and local governments. Several states do a good job of supervising the finances of local government and in a few instances also provide localities with advice and assistance in the preparation of prospectuses for the sale of bonds. In some states, however, there is almost no supervision of local government finances. The U.S. Advisory Commission on Intergovernmental Relations has noted in the case of both Alabama and Georgia: that

"There is no state agency responsible for supervision over municipal financial management. There are no requirements for filing budgets for financial reports with the state, nor are there requirements for controls over short term municipal operating debt."

Even when pertinent financial information is disclosed in a rather complete and timely fashion it can still be difficult to accurately pinpoint financial emergencies before they occur. In July 1973, the ACIR published a major report on City Financial Emergencies. That report contained a review of current financial conditions in 30 major cities including New York. While NYC did rank rather high in terms of some indicators of financial weakness it was not at the top of the list with respect to most of the indicators. In its summary of major cities the ACIR report concluded that:

"The review of 30 selected large cities revealed that most are presently free of conditions that present a threat of financial emergency. Although a few of the large cities have disturbing indications of potential financial trouble, they appear to have adequate time to implement corrective action.

"In the light of historical precedents and actual recent experience, current financial conditions in individual cities need not lead further to a financial emergency."

New York City's most acute financial problem at the present time is rolling over short term debt that was accumulated in prior years. If we examine this problem from the perspective of the most recent figures that are now available from the U.S. Bureau of the Census on local government revenues and indebtedness, however, the conclusion would seem to be that New York City does not have a serious problem. The most recent census figures are for the year 1972-73. While New York City's short term debt was very large in absolute terms, at that time, it was not a particularly high percentage of total revenues. For at the end of fiscal year 1973, there were nine other major cities in metropolitan areas with a higher ratio of short term debt to general revenue than New York City.

One of the problems in adopting a hard nosed attitude with respect to specific indicators of financial weakness is that the credit rater or municipal analyst may end up either being accused of unfair discrimination or of having sounded too many false alarms.

On July 20, 1965, Moody's Investors Service did lower New York City's credit rating from A to Baa, the lowest of the four classes of investment grade securities. Not long thereafter the other major rating agency, Standard & Poor's followed suit. In February, 1972, Comptroller Abraham Beame published a report titled "The Case for . . . Upgrading New York City's Credit Rating." This report was able to establish on the basis of several criteria believed to be related to credit worthiness that New York City was in a better state of financial health than a number of other large cities with superior credit ratings.

The study may have been instrumental in helping New York City to eventually obtain a better credit rating and further illustrates the very great difficulty that is encountered by credit raters, bond underwriters and the managers of investment trusts in trying to pinpoint financial emergencies before they occur and in devising techniques of analysis and financial disclosure that will protect themselves from potential lawsuits without penalizing innocent parties.

THE FUTURE OF THE MUNICIPAL BOND MARKET

There is considerable evidence to suggest that a shortage of experienced municipal analysts, the rather deplorable accounting practices of some governmental units, the difficulties that have been experienced over time in predicting financial emergencies, and the threat of impending lawsuits for inadequate disclosure and analysis of New York City's financial condition, are already penalizing many innocent parties.

Most governmental units in the United States as of the end of September were paying from one-half to more than one full percentage point more in interest to market their bonds than probably would have been the case if it were not for the UDC and New York City financial crises. It should also be noted that many offerings have been withdrawn from the market in recent weeks because of anticipated difficulty in selling the bonds and large portions of other issues are sitting on underwriter and bond dealer's shelves.

What we seem to be observing is the re-emergence of a two-tier market for municipal bonds. Those relatively few issuers with credit ratings of AAA or AA are paying a somewhat higher interest rate but are usually not experiencing much difficulty in finding a market for their bonds. Communities with lower credit ratings, on the other hands, are now required to pay a higher rate of interest relative to the yields on high grade bonds and in some instances are unable to find any market for their bonds.

At the end of September, 1975, the yield on the Bond Buyer's index of eleven high grade bonds was equal to about 94 percent of the yield on the Bond Buyer's more representative index of 20 bonds.

By October 16 this ratio had slipped to 92.5 percent indicating that improved credit conditions and a renewed hope on the part of many investors that there might be federal intervention to prevent a New York City default had lowered the yields on high grade municipal bonds relatively more than the yields on lower grade bonds.

A two tier market for municipal bonds is not without precedent. In the Postwar Market for State and Local Government Securities which was published for the National Bureau of Economic Research in 1960, Roland Robinson noted (on p. 176) that:

"The quality yield differentials found in municipal bonds are so large as to raise questions as to the rationality of investment behavior. For example, the margin between Aaa yields and Baa yields has averaged close to one percentage point during the postwar decade. Without some quantitative measure of risk this figure cannot mean much in itself. We can be confident, however, that the worst investment experience of a reasonably diversified portfolio of tax exempts in the Great Depression would have been far more than covered by a 1 percent risk premium. The highest default estimate anyone made was 15 percent (most were much smaller) and no one believes that ultimate losses to investors were more than one percent of debt outstanding."

The two tier market for municipal securities which existed after the great depression was in large measure brought to an end in the 1960s primarily as a result of massive purchases of municipal bonds by commercial banks. Between 1950 and 1961 commercial banks absorbed only 27 percent of the total increase in state-local debt. From 1962 to 1970, however, bank absorption burgeoned to 72 percent.

The importance of bank demand as a factor influencing the yields on municipal bonds can be further illustrated by examining some information which is presented in Table 1. In col. (2) of this table we present the annual change in the total net debt of all state and local governments. The annual change in other securities held by commercial banks is presented in col. (3). "Other securities" are mainly state and local bonds. In col. (6) of Table 1 the annual change in bank holdings of other securities are expressed as a percent of the corresponding annual change in the net debt of state and local governments. When these percentages are rather high the ratio of long term municipal bond yields to corporate bond yields (see col. (5)), have either been relatively low or in a state of decline. When bank participation in the market for municipal bonds is rather low, as was the case in both 1960 and 1969, however, the average yield on Moody's municipal bond index has been rather high in comparison to the yield on corporate bonds.

Bank holdings of other securities only increased by $1.2 billion in the first half of 1975. The weak demand on the part of banks for new municipals combined with a rise of more than ten percent in the amount of state and municipal securities being offered for cash helped to push up the relative yield on Moody's composite municipal bond index almost five percentage points from an average level of 68.9 percent in 1974 to a level of 73.7 percent in June, 1975.

The volume of new state and local government securities rose even more sharply in the third quarter of 1975. This combined with a fear that New York City might be forced to default on some of its indebtedness helped to boost the yield on Moody's municipal bond index to 78.4 percent of the yield on corporate bonds by September 25, 1975. If this ratio is sustained for a year or more it will constitute the highest average relative yield to be observed in the municipal bond market in more than 15 years.

The data presented in Table 1 clearly illustrate the importance of bank demand as a factor influencing the interest rates that are paid by state and local borrowers. These data also indicate some potential weaknesses in the market for municipal securities. In the eleven year period from 1960–71 the ratio of other securities (which are mainly municipals) to total bank loans and investments increased from 10.5 percent of 21.5 percent. See col. (4). This ratio has since declined to 20.3 percent. One reason for the decline is that commercial banks now own so many tax exempt bonds as to not be in as great a need for tax exempt income as was the case a few years ago. The effective average tax rate for all commercial banks insured by the Federal Deposit Insurance Corporation has declined from 33.6 percent in 1960 to only 14.3 percent in 1974.

It should also be noted that banks now have other ways to shield some of their income from federal income taxes. By engaging in direct leasing banks can use accelerated depreciation charges to defer taxes to future periods and can also take advantage of investment tax credits that are permitted with the purchase of the equipment to be leased. The amount of direct lease financing by national banks has increased from virtually nothing in 1963 to $2.4 billion in December, 1974.

Another innovation which has reduced the average tax rate for large banks is the rapid expansion of foreign operations. In the last decade domestic banks have increased their foreign assets more than sixteenfold. The foreign branches of the ten largest banks in the United States contributed over 40 percent of their total earnings, on the average, in 1974. These earnings can be shielded from taxes via two provisions of the U.S. income tax laws. One provision allows banks to deduct taxes paid to foreign governments, on a dollar-for-dollar basis, from income that would otherwise be subject to domestic taxes. The second provision applies only to banks that establish foreign subsidiaries. Income earned from these subsidiaries is not subject to domestic taxation until it is repatriated.

Since the average effective income tax rate for insured commercial banks is now only about 14 percent and since banks now have other ways of avoiding income taxes it does not seem likely that they will be willing to absorb as large a proportion of net new security issues in the future as has been the case in the last decade and one-half. This could turn out to be very costly to state and local governments.

If the volume of tax-exempt securities was sufficiently small to be entirely absorbed by individuals and institutions in the highest income bracket, tax exemption would be about as efficient and possibly even more efficient than other kinds of subsidies. If the market is overloaded, however, tax-exempt rates must be raised to attract savings from persons and institutions in lower tax brackets. A number of studies have suggested that the overloading of the tax-exempt bond market has been so great in the post World War II period that the interest savings to state and local governments has been less than two-thirds of the revenue loss to the federal government.

When the relative yield on tax-exempt bonds is equal to 78.4 percent of the yield on corporate bonds, as was the case on September 25, 1975, only slightly more than half of the benefits from tax exemption will accrue to state and local governments. The other 48 percent or more will be a windfall gain to wealthy individuals and financial institutions that would otherwise have to pay more taxes to the federal government.

One solution to the problem of an overloaded tax-exempt bond market would be to have the federal government provide state and local governments with a direct interest subsidy if they issue taxable bonds to finance public facilities rather than tax exempt securities. In the areas of hospital construction, rural housing and new town development, Congress has recognized that the market for long term tax-exempt municipal bonds is inefficient and has required that new buildings be financed with subsidized taxable bonds.

Another way to improve the market for state and local bonds would be to create a federally sponsored financing authority for state and local governments or amend the Federal Financing Bank Act of 1973 to allow the FFB to purchase some bond issues of state and local governments. The bond bank of FFB would, in turn, issue its own taxable bonds which would be subsidized and guaranteed by the federal government.

A third way to improve the market for state and local bonds would be to either prohibit the use of tax-exempt industrial revenue bonds for the purpose of financing pollution control facilities in private industry or provide firms that do not issue IRB's with an alternative subsidy such as special tax credits or the privilege of quickly amortizing certified pollution control facilities over a five year period.

Businessmen spent $5.6 billion on pollution abatement equipment in 1974 and plan to spend $6.3 billion during 1975. Over half of these expenditures will probably be financed either with tax-exempt bank loans or tax-exempt industrial revenue bonds which tend to be an even more inefficient federal subsidy than tax-exempt state and local government bonds.

A second point to note in connection with Table 1 is that bank demand for municipal bonds has tended to be very volatile. During periods of restricted credit such as 1960, 1966, 1969 and 1974 there has been a tendency for bank demand for additional municipal securities to decline rather precipitously. We have previously noted that bank demand for new municipals fell to the very low level of only $1.2 billion in the first half of 1975. This was not a period of restricted credit. The United States was, in fact, experiencing a very serious recession at that time. It was also a period of uncertainty, however, with regard to the financial solvency of the New York State Urban Development Corporation and a period when many of our larger banks were experiencing sizeable financial losses or at least the threat of sizeable losses in connection with loans that had been made to real estate investment trusts.

The importance of actual and potential losses as a factor influencing the short run demand for new municipals by institutional investors is even more vividly illustrated by the behavior of fire and casualty insurance companies. These institutions ordinarily acquire about one-sixth of all new municipal issues. They, however, have been confronted with adverse cash flow problems during the recent recession and have not been a significant factor in the municipal market this year. If there is a default on the part of New York City and perhaps some other governmental units, many commercial banks will be confronted with a similar income problem as well as a potential loss of capital.

Chairman Arthur Burns of the Federal Reserve System has indicated that the Fed and other bank regulatory agencies will provide a breathing spell of several months after a New York City default during which banks will be able to carry defaulted securities without loss and the issuer will have an opportunity to develop a fiscal program that might eliminate the default. He has also reiterated a pledge to open the discount window on whatever scale is deemed necessary to assure an orderly financial environment in the event of a default, even to non members, who would have to pay a slightly higher discount rate.

This sort of limited involvement, however, would do nothing to solve the problem of little or no income on defaulting securities. Banks with large holdings of defaulted securities, moreover, would probably be able to shield most of their other income from taxes by simply setting up special loss reserves against write downs that are required under existing law if bond holdings are in default for more than six months. This, of course, would leave banks with little incentive to own lower yielding tax-exempt municipals that are not in default.

While most commercial banks probably would not go so far as to actually sell municipal bonds that are presently owned if there is a New York City default, it is not unreasonable to suppose that bank demand for new municipal issues might evaporate to almost nothing unless the yields on tax-exempt bonds rise to almost equal the yield on taxable bonds. Most of the benefits from tax exemption, in that event, would accrue not to state and local governments but to wealthy individuals.

Even more distressing, in some respects, are the probable reactions of persons in charge of investment trusts if there is a New York City default. Both of the major credit rating agencies were rather slow to downgrade the credit ratings for New York City bonds. Standard and Poor's suspended its ratings on April 3, 1975. Moody's Investor's Service did not cut its rating from single "A" to "Ba" until October of this year. With the credit worthiness of all communities with a rating of "A" or less either somewhat suspect or in danger of being inadvertently thrust into a state of insolvency by a New York City default, there is a possibility that many managers of investment trusts will limit their purchases of new municipals to only those bonds with credit ratings of AAA or AA. This sort of behavior could easily lead to a crisis situation that would be untenable both from an economic and a political point of view.

Less than 20 percent of all issuers of municipal bonds which were rated by Moody's Investor's Service in 1969 had credit ratings of Aaa or Aa. If bank demand for municipal bonds is weak and if these are the only issuers that can count on a continuing demand for new municipals, almost the entire market for new municipal bond issues could be thrown into a state of disarray.

The overall implications with respect to the economic health of our economy are almost too horrendous to imagine. State and locally owned construction activity averaged 25.6 percent of total U.S. construction activity from 1961 through 1970. That proportion slumped a bit after the credit crunch of the late 1960s but had recovered to 25.3 percent by May, 1974, and has since been one of the stronger elements in an industry plagued by a persistent decline in work activity and employment.

Total employment in contract construction reached a seasonally adjusted, all time high of 4,127 thousand wage and salary workers in February, 1974, and by July, 1975, had fallen almost 19 percent to 3,360 thousand workers. While total non-agricultural employment bottomed out during the first few months of 1975 and was apparently higher in July than in December, 1974, there was no sign of a recovery in the contract construction industry where employment was still down 11.5 percent on a seasonally adjusted basis.

To finance their on-going construction activities, state and local goverments found it necessary to issue new long term bond issues at an annual rate of $30 billion per year during the first nine months of this year. Any sizeable slump in the demand for new issues of municipal bonds could quickly force many state and local governments to sharply curtail their construction activities. The ease and speed with which this could occur has been aptly expressed by Lennox Moak, Finance Director of Philadelphia. He notes that:

"State and local governments engage in very large capital programs. In the aggregate these amount to upwards of $35 billion annually at present. Portions of these programs are financed from current revenue, including grants from other governments. But for the bulk of the financing, the local and state governments are dependent upon the proceeds of bond issues or bond anticipation notes.

"Customarily these capital notes and bonds are issued only a short time before the proceeds are needed to meet payments for work being currently performed. Therefore, the typical state government and larger local governments are likely to have large amounts of contracts outstanding in relation to capital cash on hand. Philadelphia, for example, had about $30 million in cash on hand in the capital accounts.

"Under these circumstances, the state and local governments are obliged to rely upon a dependable and continuing source of funds in order to keep the programs going. Any significant interruption in these funds has the likelihood of interrupting the work, with consequent unemployment and penalty charges payable to contractors and others."

Especially vulnerable to a cash flow problem that might lead to a series of defaults are the numerous state and city agencies across the nation which finance housing and other building programs with revenue bonds. A survey by the Bond Buyer has uncovered 40 agencies in 18 states and the Commonwealth of Puerto Rico that are authorized to issue or have functioning programs financed in whole or in part by bonds which only carry the moral make-up, moral pledge or moral obligation provision. These agencies currently have outstanding approximately $8.2 billion in revenue bonds. Most of them are engaged in the construction of subsidized housing that is only marginally profitable because tax-exempt borrowing rates are lower than the taxable interest rate on mortgages from savings banks.

If a NYC default either encourages or forces the State Legislature to ignore its moral obligation to keep the New York State Housing Finance Agency from defaulting that will almost certainly drive up the borrowing costs for similar agencies in other states to the point of making most of their projects unprofitable and in need of legislative subsidies. With no economic advantage to be perceived in keeping these agencies alive and with many states suffering from a rather severe cash flow problem of their own, as a result of the current recession, it is not unreasonable to suppose that an HFA default could be followed by a series of similar defaults in other states.

The markedly higher interest rates that are now being paid by housing finance agencies across the nation already appear to have scuttled an administrative plan to stimulate the construction of 240,000 new housing units for low and moderate income families through the release of federal rent subsidies under Section 236 of the National Housing Act of 1968.

The possible insolvency of many housing finance agencies combined with the rather devastating impact of a massive New York City default on bank earnings could easily lead to a situation where many banks will simply refuse to buy notes and make additional loans to other governmental units to finance on-going construction projects and ordinary gaps between revenues and expenditures. This, in turn, could force many innocent borrowers into an inadvertent default on their own outstanding indebtedness. While no one really knows how extensive the adverse economic and financial ripple effect might be, it is clearly something that could easily get out of hand and requires massive federal intervention to correct.

For, in the final analysis, there is simply no way that New York City could reasonably be expected to work its way out of a default situation without federal assistance except over a period of several decades. Proceedings under Chapter IX of the Federal Bankruptcy Laws are strictly voluntary as far as municipalities are concerned and cannot even be utilized until a financial reorganization plan has been developed which is acceptable to creditors holding at least 51 percent of the indebtedness in default. Working out such a plan and obtaining the necessary approvals could take several years in the case of a large city such as New York even if the majority of the parties involved were highly motivated to reach an early settlement.

Neither the city nor its creditors, in this instance however, are likely to be motivated to quickly reach a fair and amicable settlement. Knowing that a massive default will have an adverse impact on the rest of the nation, both parties are likely to perceive it to be in their own best interest to stand pat and hope for a federal bailout.

If Congress does decide to intervene before there is an actual default, its involvement can probably be limited to providing a federal guarantee for perhaps five or six billion dollars worth of New York City's maturing debt with no increase in the value of the dollar aid going to the city. Congress, moreover, will be in an ideal position to impose some penalties and dictate the terms surrounding its involvement.

If there is no response until after there has been a massive default, however, Congress could easily find itself in a more desperate situation in which it will either have to provide investment guarantees for almost all state and local bonds that are issued in the remainder of this century or find it necessary to appropriate upwards of, perhaps, $100 billion in the next decade to provide additional grants and loans to those innocent governmental units that can't find a market for their bonds or are forced to pay exorbitant rates of interest on their bonds as a result of the New York City default.

TABLE.—STATE AND MUNICIPAL SECURITIES OFFERED FOR CASH AND RELATED DATA, 1960–74

Year	In millions of dollars			In percentage points		
	State and municipal securities offered for cash [1] (1)	Annual change in the net debt of States and local governments [2] (2)	Annual change in other securities held by commercial banks [3] (3)	End of year ratio of other securities to total bank loans and investments [3] (4)	Average annual ratio of long-term municipal bond yields to corporate bond yields [4] (5)	Ratio of col. 3 to col. 2 (6)
1960	7,230	5,300	300	10.5	78.0	5.7
1961	8,360	5,600	3,100	11.2	77.3	55.4
1962	8,558	6,500	5,300	12.6	71.4	81.5
1963	10,107	6,900	5,800	14.0	72.9	84.1
1964	10,544	6,500	3,700	14.2	71.8	56.9
1965	11,148	7,900	6,100	14.9	72.0	77.2
1966	11,089	6,400	3,900	15.4	73.0	60.9
1967	14,288	8,100	12,600	17.4	68.6	155.6
1968	16,374	9,900	10,000	18.3	68.8	101.0
1969	11,460	10,600	200	17.7	77.9	−1.9
1970	17,762	11,500	14,800	19.7	75.4	128.7
1971	24,370	18,000	18,500	21,5	70.8	102.8
1972	22,944	14,100	12,300	21.0	69.5	87.2
1973	22,953	12,600	13,500	20.7	66.9	107.1
1974p	22,726	16,100	8,100	20.3	68.9	50.3

[1] "Economic Report of the President," February 1975, p. 341.

[2] "Survey of Current Business," July 1975, p 10

[3] "Economic Report of the President" op. cit., p. 311.

[4] "Federal Reserve Bulletin" and Moody's Investors Service.

THE CANCER PROBLEM

Mr. NELSON. Mr. President, we are all concerned over what is the best approach for Federal support of cancer research and of all other biomedical research.

Scientists who urge adequate support for many areas of research contend that basic biomedical research may benefit the understanding and cure of many diseases.

An article by John Cairns in Scientific American, November 1975, describes the many facets of cancer as a disease and points out the importance of "seeking out and eradicating its causes." Research leading to an understanding of cancer includes genetic, metabolic, viral, immunological, epidemiological—virtually all biomedical areas.

An article in the Washington Star, November 20, 1975, describing a speech by Russell Train, Administrator, Environmental Protection Agency, before a conference on PCB's—polychlorinated biphenyls—pollution, notes that Mr. Train urges greater support in the study of environmental causes of cancer. As Cairns states—

> Most of the common kinds of cancer seem to be caused in large part by environmental factors; because we can act to alter the environment, those cancers are potentially avoidable.

Mr. President, I ask unanimous consent that the Washington Star article, and the Scientific American article, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Nov. 20, 1975]

TRAIN URGES SHIFT IN FIGHT ON DISEASE

(By Thomas Love)

Much of the effort to rid the world of disease is misdirected and largely a waste of money, Russell E. Train, Environmental Protection Agency administrator, charges.

Rather than spending billions of dollars seeking cures for diseases, resources should be redirected toward preventing pollution and cleaning up the environment, which would eliminate the causes of much disease in the first place, he said yesterday.

He called for a "radical revision" in the fight against disease, which, he said, "must increasingly be fought not simply in the hospitals and doctors' offices, but in our streets and our homes and our offices, in our air and our water, in our food and our products, in our personal habits and lifestyles."

For instance, he pointed out, although 60 to 90 percent of all human cancer can be traced to environmental causes, virtually all of the money being spent to fight cancer is going into research for finding a cure.

"There is an increasing body of evidence and an impressive array of expert opinion, that we may be approaching the whole question of human health from the wrong side," he told a meeting of scientists in Chicago.

"As a matter of national policy as well as of personal practice, an ounce of prevention may well be worth a pound of cure," he continued. "Environmental protection must become the most important ingredient in any national health program."

Train's forum was the first session of a three-day conference on environmental contamination by polychlorinated biphenyls, or PCBs, a group of industrial chemicals shown to be a major health hazard but whose use is still permitted in the United States.

In fact, he told the gathering, even though some minor steps have been taken to control the chemicals, they are "present in our environment to a far greater degree and at higher levels than we have previously thought."

Although some limits have been placed on uses of the chemical, some industries are still allowed to dump it into waterways, according to the EPA. Fish with more than five parts per million of PCB are considered unfit for human consumption, but concentrations of up to 350 ppm have been found, Train said.

The Nation's sole producer of PCBs, the Monsanto Co., has voluntarily restricted sales of the chemical for use in closed electrical systems—considered relatively safe and necessary.

However, PCB reprocessors sell the chemical for other industrial uses and most imported PCBs goes for other purposes.

In order to control pollution by such chemicals as PCBs—which have been used by industry since 1930, long before it was even suspected they might be dangerous—Train called for a Toxic Substances Control Act to give the government authority to ban chemicals until their safety is known.

It has long been a major complaint of environmentalists that substances are now permitted to be used even in food until proven unsafe rather than being banned until proven safe.

During the past five years, since such a law was proposed by President Richard M. Nixon, "we have introduced into the commercial market an estimated 600 compounds annually," Train said. "We have done so without any systematic, advance assessment of their potential impact upon public health."

"Yet as we have learned with such materials as vinyl chloride, we may not discover how harmful a compound is until years after it has become a rather commonplace item in our everyday life, even a significant factor in our economy," he continued.

In calling for a national policy of preventive medicine based on a cleaner environment, Train quoted Dr. Ernst L. Wynder, president of the American Health Association, who estimated that 70 percent of deaths among Americans are caused by environmental factors.

Wynder said "this death toll is largely due to unhealthy lifestyles, unhealthy working environments and disease-producing products."

Train also quoted Dr. David Baltimore, who won a Nobel Prize for research linking cancer to viruses. In his first public statement after receiving the award he said, "The role of viruses in cancer is small. The best hope today for cures is research into environmental causes of cancer. This is a good place to put funds now."

Although a pollution control program such as he is suggesting will be expensive, Train said, "when we control and cut pollution at the source, we are shifting its costs from the shoulders of society as a whole onto those of the polluter, where they belong in the first place."

[From the Scientific American, November 1975]

THE CANCER PROBLEM

(By John Cairns)

(NOTE.—Illustrations mentioned in text are not printed in RECORD.)

During the past 150 years the Western world has virtually eliminated infectious diseases as a significant cause of death. A child born in the U.S. today can look forward to a life untroubled by fear of diseases such as scarlet fever, diphtheria, tuberculosis, typhoid fever and dysentery, which were major causes of death three or four generations ago. Life expectancy has been increasing steadily since the middle of the 19th century. The longer average life span is a result mainly of improvements in public health; the more spectacular fruits of scientific research, such as the introduction of vaccines and antibiotics, merely completed the process.

Death has now been confined mostly to old age and can therefore be attributed to diseases that are either peculiar to old age or lethal only in old people. Although innumerable changes in the body that accompany advancing age could be classified as diseases, two particular conditions commonly arising in old age are often a direct cause of death: arterial disease (a heroma and arteriosclerosis) and cancer. Arterial disease is lethal when it affects the arteries supplying the heart or the brain; it now accounts for about 50 percent of all deaths in the U.S. Cancers are lethal when they spread from their site of origin; they now account for almost 20 percent of all U.S. deaths.

People have very different attitudes toward these two diseases. It is not just that death from arterial disease is often rapid, whereas death from cancer can be painfully drawn out. For some reason heart attacks and strokes tend to be thought of as natural hazards of age, and either a normal end to a satisfactorily long life or, when they occur in middle-aged men, the wages of overeating and lack of exercise. In contrast, cancer is thought of as an unpredictable disease that strikes indiscriminately at rich and poor, fat and thin, old and middle-aged, as if it usually owed nothing to external causes. If that were true, our only hope of overcoming cancer would be to improve the treatment of the disease. One object of this article is to show that most of the common kinds of cancer seem to be caused in large part by environmental factors; because we can act to alter the environment, those cancers are potentially avoidable.

INCIDENCE

Groups of abnormally proliferating cells can arise in any part of the body. Those that cannot invade the surrounding tissues and so remain strictly local growths are called benign tumors. Those that spread from their site of origin and can therefore reach the bloodstream and the lymphatic system are called malignant tumors, or cancers.

The cancers are divided into three broad groups. The carcinomas arise in the epithelia, the sheet of cells covering the surface of the body and lining the various glands. The much rarer sarcomas arise in supporting structures such as fibrous tissue and blood vessels. The leukemias and lymphomas arise in the blood-forming cells of the bone marrow and lymph nodes. These three words—carcinoma, sarcoma and leukemia—are so entrenched in everyday usage that they must be mentioned, but I do not mean to imply by their use that there are three basically different forms of carcinogenesis or that the three kinds of cancer have different prospects for prevention and cure. That kind of information can be obtained only through a finer system of classification.

Cancers are classified mainly by the organ in which they originate and by the kind of cell involved. When they are considered in this way, there are 100 or so distinct varieties of the disease. Such an elaborate classification would be of no general interest were it not that the different varieties plainly have different causes, since the incidence of each one changes independently when the environment is altered. Most of the 100 varieties are rare, and so we can account for most cancer mortality by considering a fairly short list of diseases.

Roughly half of all cancer deaths are caused by cancers of three organs: the lung, the large intestine and the breast (see illustration on page 66). There can therefore be no major inroad on overall cancer mortality until some means are found for curing or preventing these three kinds of cancer. Each of them can be considered a discrete entity because the frequency of each varies independently when factors in the environment are changed.

It could reasonably be argued that we are not interested in total numbers of deaths as much as in loss of life span. The death of a 90-year-old man from cancer of the prostate is less of a tragedy than the death of a young man from leukemia. In determining our priorities we should therefore take into consideration the age distribution of the victims of each cause of death. There are various ways of doing this. For example, it is possible to calculate how much each major cause of death or each kind of cancer diminishes the average life expectancy or, in particular, how much each reduces our working life up to the age of 65. The main effect of such a weighing procedure is to increase the relative importance of accidents among the general causes of death, and of the leukemias and lymphomas among the cancers. Cancer of the lung, however, still remains at the top of the list.

All these statistics refer to mortality, and that is the most accessible and reliable measure of the impact of cancer. Estimating the incidence of the different cancers is not as easy. To begin with, one might consider the patients who present themselves to a physician and are found to have cancer. Most of them will sooner or later die of their cancer; this single depressing statistic reinforces the point that science has had little impact on diseases that mainly affect the middle-aged and the old. An alternative definition of incidence would include not only those cancers that have begun to cause symptoms but also those that can be detected by a deliberate search. Many kinds of cancers have been sought in this way by routine surveys, and it has become plain that far more small, symptomless cancers can be detected than might have been expected. It follows that most of those minute collections of invasive cells must either regress before they become very large or, more likely, grow so slowly that they do not give rise to symptoms during the patient's lifetime. For example, the conventional estimate of the incidence of cancer of the prostate in 70-year-old men is about 200 cases per 100,000 men per year, or .2 percent per year; routine autopsies of 70-year-old men who had died of other causes, however, have shown microscopic invasive cancers of the prostate in from 15 to 20 per cent of them. The incidence measured by this method is thus 100 times as great.

When the site of the cancer is accessible to direct examination, surveys are much easier to carry out; they give the same result. For example, a recent survey in a rural district of Tennessee showed that about 4 percent of the adult population have skin cancer. Indeed, it seems likely that if we could extend such a detailed examination to the entire body we would find that by middle age each of us has acquired several nests of proliferating, invasive cells that might reasonably be classified as cancers. Without knowing much more about the natural history of the disease we cannot predict which of these cancers will spread and which will not. Before discussing the natural history of cancer, however, I should like to consider what can be deduced about the causes of the disease by studying its epidemiology.

The first step in finding out what causes any particular variety of cancer is to determine which groups of people show the highest incidence and what distinguishes them from other people. Those most conspicuously at risk are of course the old. Almost all kinds of cancer is much commoner in old people, and the incidence rises steeply with age. To take a typical example, the death rate from cancer of the large intestine increases about a thousandfold between the ages of 20 and 80, and most of the increase comes after age 60 (see illustration at right).

MODEL OF CARCINOGENESIS

Various models have been proposed to account for the clustering of cancer in old age. One of the most reasonable models postulates that each cell has several genes that independently restrain it from forming a cancer, so that it will not form one until each of those genes has been inactivated by mutation. Because mutations can be introduced at any time in the life of a cell or of its ancestors, the probability that any one of our cells has a mutation in a particular gene increases in direct proportion to our age. The probability that the cell has mutations in all n of its n restraining genes (and is thus cancerous) therefore rises as the nth power of our age. The risk of having cancer should therefore increase as the nth power of our age; expressed another way, the logarithm of cancer incidence, should be linearly related to the logarithm of our age. The theory is often in excellent agreement with the observed age distribution of cancer. Assuming that the model is correct, one can calculate from the slope of the linear logarithmic relation the number of mutations needed to create a cancer. In a typical cancer, that of the large intestine, the number appears to be about five.

The interpretation of the relation between age and incidence has one important implication. Each cancer is considered to be the end result of several mutational steps that may have taken place at any time in the patient's life. The total incubation period of any cancer therefore dates back to the moment when the first step took place and so must often extend over much of the patient's lifetime. In some instances this is demonstrably true. For example, the incidence of lung cancer in each of several countries is directly proportional not to the number of cigarettes its inhabitants are smoking today but to the number they smoked about 20 years ago. Similarly, occupational cancers induced by exposure to certain industrial chemicals may not appear until from 10 to 20 years after a person has retired from work. One particularly good but rare example of a long incubation period is provided by cancer of the penis. The cancer is seen only in old men, but it is certainly caused by factors operating in youth because it is prevented by circumcision in the first few days of life but not if circumcision is postponed for a few years. Finally, as we shall see, various studies of migrant populations show that the incidence of many common cancers is partly determined by our environment in youth. It follows that when we ask what has caused a particular cancer, we must not confine our attention to the patient's recent past. Conversely (and this is most important), if we inadvertently start to expose a population to some carcinogenic agent, it may be many years before the first cancers awaken us to the danger, and by then it may be too late to prevent the wave of cancer cases that is about to come.

ENVIRONMENTAL FACTORS

Knowledge of the relation between age and death rate does not tell us what causes a cancer, only that the steps leading up to it are probably accumulated over many years. What we want to know is whether or not the main causative factors are environmental (and therefore potentially avoidable). For example, if the steps in forming a cancer are mutations, we want to know whether they are induced by environmental mutagens or arise as spontaneous errors during the replication of DNA. The distinction can be made by observing what happens to cancer incidence when people migrate from one country to another. Many populations have been studied; they all show that environment plays a decisive part. For example, cancer of the stomach is much commoner in Japan than it is in the U.S., but cancer of the large intestine, the breast and the prostate are much less common. When Japanese emigrate to the U.S., these differences are lost within a generation or two. Because the Japanese immigrants and their children tend to marry within the group, the change in incidence must be caused by the changed environment rather than by genetic factors; moreover, since the incidence of the various cancers takes more than one generation to reach levels typical of the U.S., some of the causative agents must be factors such as diet, which tend to persist as part of a cultural heritage, rather than factors such as air pollution, which tend to be the same for everyone in a given place. Similarly, Jews who migrate to Israel from Europe or the U.S. have an incidence of cancer that is typical of their country of origin, but their children born in Israel have a much lower incidence of almost all kinds of cancer. In this respect they have become more like the indigenous Jewish and Arab populations and the Jewish immigrants from Asia and Africa.

[*see bottom illustration on page* 77].

Even within a single country it is possible to detect the influence of local variation in environment and circumstances. In the U.S. the death rate from most of the common cancers is much lower in college graduates than in nongraduates; the exceptions are cancer of the breast and the prostate, which are commoner in graduates. If you are fair-skinned, your chance of dying of skin cancer is greater if you live in one of the Southern states; if you live in a Rocky Mountain state, your chance of dying of any form of cancer is much less than the national average. These differences in death rates within the U.S. are generally less than twofold, but even that limited range implies that a substantial proportion of cancer deaths could be prevented by controlling appropriate constituents of the environment.

INCIDENCE AND CAUSATION

By demonstrating the influence of environment we have not, of course, excluded the possibility of a genetic contribution to carcinogenesis. We should like to know if genetic factors are important in the formation of any of the common cancers, not least because screening programs to achieve early diagnosis would be much less expensive if a particularly susceptible subsection of the population could be identified in advance. Certain rare inherited diseases are known to be associated with a greatly increased risk of some kinds of cancer; for example, an inherited defect in the enzymes that repair DNA damaged by ultraviolet light, called xeroderma pigmentosum, leads to multiple skin cancers. Some rare cancers in children seem to be caused by inherited mutations. Even collectively, however, these and other obviously familial types of cancer are too rare to contribute much to the overall cancer problem.

It is not easy to determine whether or not the frequency of the common cancer is significantly influenced by genetic factors. Close relatives are likely to share the same environment and therefore should show some tendency toward the same kinds of cancer even in the absence of a genetic contribution. Of the common cancers the one with the strongest propensity to run in families is cancer of the breast, which is found at about twice the normal frequency in the close relatives of patients with breast cancer. Such effects are less obvious for the other common cancers. The best evidence for the inheritance of traits that influence cancer would be the demonstration that identical twins were more likely to have the same kind of cancer than nonidentical twins of the same sex. But, to take a single example, a registry of the twins born in Denmark since 1870 has not sufficed to establish even that simple fact. Genetic constitution is therefore probably not an important variable, at least when considering the cancer problem on a national scale.

The ultimate object of epidemiological studies is the prevention of cancer by identifying its causes and removing them. It is an exercise that runs into a great variety of problems, as is evident when we consider what has been deduced about the causes of four types of cancer: carcinoma of the lung, the stomach and the large intestine and the various forms of leukemia and lymphoma.

Cancer of the lung is a disease of the 20th century. At first it involved only men, but recently it is being seen in women as well. In the U.S. it accounts for about a third of all cancer deaths in men and in England for roughly a half. From the start the most likely cause was thought to be cigarette smoking; after all, that was the new form of atmospheric pollution to which men were exposed and women initially were not. This explanation, however, encountered difficulties: In particular the incidence of lung cancer in different countries was not simply related to their per capita consumption of cigarettes. Most of the difficulties were resolved once it was realized that the incubation period was very long. There are still many unresolved questions, but the basic fact is no longer in doubt. If you smoke cigarettes, you increase your risk of dying of lung cancer tenfold to fiftyfold, the exact value depending on how much you smoke, the country you live in and various other factors. If many members of a group give up smoking, the mortality from lung cancer for the group as a whole will decline. There is every reason to believe that the abolition of cigarette smoking would largely eliminate lung cancer, the commonest of all forms of death from cancer. So far, however, there is no sign that smoking will be abolished. The professional classes smoke less than they once did, but the poor smoke more. It could even be argued that few Western societies could afford to abolish a habit that creates a large secondary industry, generates considerable revenue and kills mostly the older members of the population, who otherwise would draw on government welfare and social security benefits.

The incidence of cancer of the stomach has changed almost as markedly as that of cancer of the lung, but in the opposite direction. In the U.S. deaths from cancer of the stomach have decreased almost eightfold in the past 50 years. From this we can conclude that a single factor, or a group of closely related factors, must have been responsible for most of the cases observed in the past, simply because if there had been many unrelated causes, they would hardly all have declined at the same time. Stomach cancer has thus actually been prevented, albeit, by chance.

Cancer of the large intestine has shown no great change in incidence with time, but it does vary greatly from one country to another, and that variation should give us some clue to its cause. Generally the richer the country the higher the incidence. In seeking the cause it has seemed natural to examine the diet, just as in explaining lung cancer it seemed reasonable to look for an inhaled carcinogen. The most likely causative agent is a high level of meat in the diet or alternatively a low intake of cereals (see illustration on page 78). One proposed mechanism for the development of cancer of the large intestine suggests that normal intestinal bacteria convert various components of bile into carcinogens. The conversion might be much more extensive with low-residue diets, which are known to retard the transit of the intestinal contents.

Cancers of the lung, stomach and large intestine show how it is possible to deduce something about the cause of a cancer from the way it varies in incidence from one year to the next or from one country to another. A fourth and last example consists of a heterogeneous group of cancers involving the various cells of the immune system; they include the several varieties of leukemia and certain cancers of the lymph nodes, of which Hodgkin's disease is one of the commonest. Individually they are fairly rare, but they gain in importance because they often affect children and young adults. Recently they have received much attention because it is thought that they may be caused by viruses.

VIRAL THEORY

The idea that viruses may be involved in carcinogenesis springs from the fact that certain leukemia-like diseases of chickens, cats and inbred strains of mice can be induced in young animals by inoculating them with viruses isolated from leukemic animals. The thought that human leukemia, and perhaps some other human cancers, may similarly be caused by viruses is attractive for two reasons. First, the induction of cancer by a virus is an event more amenable to investigation by the techniques of molecular biology than carcinogenesis by chemical mutagens. Second, there is the hope that once a virus is established as the cause of some human cancer it might be a short step to developing a vaccine and so preventing the cancer.

Unfortunately the relation of most of the animal leukemia viruses to their hosts is exceedingly complex. Many of the viruses are transmitted "vertically" by inheritance rather than "horizontally" from one animal to another, as the familiar pathogenic viruses are. Furthermore, even in the presence of the virus the development of leukemia in the adult animal requires some separate precipitating event. For example, the virus associated with leukemia in mice is inherited by many wild mice and is present in many inbred strains of mice, but leukemia is probably very rare in the wild, and it can be prevented in the inbred strains by a slight restriction in the diet; thus it seems to be precipitated as much by dietary factors as by the presence of the virus. In those cases where the virus is acquired by horizontal transmission it is only the rare animal that develops leukemia; for example, the leukemia virus of cats spreads horizontally, but apparently it causes leukemia only if the cat is infected with an unusually large dose of virus and then fails to have the normal immune response. The precipitating cause may therefore be some other event that depresses the immune system.

The quest for human cancer viruses has been conducted at several levels. Investigators have searched for viruses regularly associated with particular cancers; they have looked for familial clustering in diseases such as childhood leukemia, which might indicate the inheritance of a leukemia virus, and they have looked for spatial and temporal clustering of cases of leukemia or other similar diseases that might indicate the horizontal transmission of an infective agent. As yet there is no unambiguous evidence that any class of human cancers is regularly caused by a virus. Some cancers are often associated with elevated levels of antibody to certain viruses, some cancer cells have been shown to contain viral nucleic acid and certain cancers of lymph nodes (Hodgkin's disease and a rare cancer of children in tropical Africa called Burkitt's lymphoma) occasionally arise as clusters of cases. In each instance, however, some complicating factor makes interpretation difficult. We must assume that a genuine human cancer virus will eventually be found, simply because cancer viruses are known to exist in animals. It is important to remember, however, that with few exceptions viruses produce cancers in animals only if they are administered to very young animals and in particular combinations, whereas any animal of any age will produce a cancer if given the right chemical carcinogen by almost any route.

This brief review of the epidemiology of human cancer is intended to show what we know and what we hope to find out about the causes of cancer. To emphasize that the object is the practical one of preventing the loss of life from cancer, the examples were chosen from among the commonest cancers in Western society, and that choice has tended to emphasize the importance of diet and of habits such as smoking. The populations of the world each suffer their own group of cancers. If by the appropriate public-health measures the incidence of each kind of cancer could be reduced to the lowest level observed anywhere in the world, the overall incidence of cancer would be reduced at least tenfold. That is roughly equivalent to the reduction in mortality from infectious diseases that has been achieved in the past 50 years.

MECHANISM OF CARCINOGENESIS

Epidemiology bears on the question of causes and therefore on the prospects for prevention. One can also approach the cancer problem through the question of mechanism and the prospects for a cure. At the moment there is no effective general cure and no sign that one is about to be discovered. A few cancers (*including* Hodgkin's disease and Burkitt's lymphoma) can often be cured by a combination of cytotoxic drugs, and the growth of certain cancers of organs sensitive to sex hormones can be slowed by administration of hormones. For the vast majority of cancers, however, there is no specific drug and so they are treated by whatever combination of surgery, radiation and cytotoxic drugs has been found empirically to give the best results. The results are not very good. Fewer than half of all cancer patients survive five years from the time cancer is first diagnosed. Death is almost always caused by metastasis: the spread of the cancer to distant sites. If it were not for such spreading, few cancers would be beyond the reach of modern surgery; indeed, many benign tumors grow rapidly to great size and yet are rarely fatal. When considered as a cause of mortality, therefore, cancer is not so much an abnormality of growth control per se as it is a defect in the mechanism that normally sets the territorial limits of the cell. Because cancer is predominantly a disease of the epithelia, the biology of cancer can best be discussed in terms of the controlling systems that determine the form and establish the territorial limits of epithelial cells. For this purpose the skin serves as a convenient organ in which to compare the behavior of normal cells and cancer cells.

The epithelium of the skin is called the epidermis; it forms a sheet, usually from five to 10 cells deep, overlying a loosely knit layer of supporting cells, the dermis. The entire epidermis continuously replaces itself through the division of the cells in its deepest, or basal, layer, next to the dermis. As a result of this constant cell division cells are continuously squeezed out of the basal layer into more superficial layers. There they begin to differentiate according to an established program: they become flattened, begin to synthesize the insoluble protein keratin and lose their nucleus. Finally they fuse into the flakes called squames, which are eventually shed from the surface. The result of this program of development is that we are separated from our immediate environment by a relatively impenetrable layer of insoluble keratin that is continuously shed and replaced.

From the behavior of the epidermal cells we can deduce that they must be subject to several kinds of control. First, the fact that the only cells that divide are those in contact with the underlying dermis suggests that some short-range signals pass between the dermis and the basal cells; in the absence of these signals an epidermal cell stops multiplying and starts differentiating. Second, in order to prevent the multiplying basal cells from invading the dermis some mechanism must establish and enforce the boundary between the two layers. Third, some system of lateral signals must regulate the spacing of epidermal structures such as hair follicles and sweat glands.

In addition to local regulation of epidermal growth various overriding systems of control can be perceived in the behavior of the cells. Although surface characteristics such as fingerprints are expressed by the epidermis, they are determined by the dermis; if epidermal tissue is removed from the thigh, for example, and grafted onto the palm, it will thicken and take on the pattern of lines characteristic of the palm. If an area of skin is subjected to increased wear, the program of differentiation is somehow modified to increase the depth of the cells and thicken the keratin layer, forming a callus. If an area is denuded of epidermis, the area is recolonized through an increase in the rate of cell division in the surrounding epidermis. If a piece of skin is implanted into subcutaneous tissue, the epidermis degenerates.

The means by which all these controls are effected are not known. They necessarily involve communication between the cells; that might be accomplished through a concentration gradient of a freely diffusible substance secreted by some cells and detected by others, or it might require direct contact between the cells. Whatever the mechanism is, communication could be interrupted by a defect in the signaling cell or in the recipient cell. As there seem to be many signaling systems in the skin, each operating more or less independently, there should be many distinct disorders of growth control. That is in fact exactly what we find.

Two well-known skin diseases that represent noncancerous abnormalities of growth control are psoriasis and the common wart. In psoriasis the number of multiplying basal cells increases, so that the basal-cell layer becomes about 10 cells thick. Psoriasis seems to be caused by a failure of communication between the dermis and the basal cells. The common wart, which is caused by a virus infection, is a local thickening of all layers of the epidermis. In warts the differentiation of epidermal cells appears to be drastically slowed, so that more cells are present at each level of differentiation. The overall arrangement of the cells remains precisely ordered, however, and the boundary with the dermis is unchanged.

There are two common cancers of the epidermis. The basal-cell carcinoma is made up of cells derived from the basal layer that seem to have escaped the control of the system that normally preserves the boundary between the dermis and the epidermis. The cancerous cells invade the dermis and the underlying tissues, forming an irregular, erosive ulcer; this form of skin cancer is sometimes called rodent ulcer. In spite of its great powers of local invasion a basal-cell carcinoma virtually never metastasizes, suggesting that the cancerous cells still require signals from the dermis in order to multiply.

The second skin cancer, squamous-cell carcinoma, also consists of disordered groups of cells, but unlike those of the basal-cell cancer they undergo almost normal differentiation into squames of keratin. Squamous-cell carcinoma is less invasive locally, but it occasionally gives rise to distant tumors. The cells thus seem to retain some of the cohesive properties of normal epidermal tissue, but they are less dependent on signals from the dermis.

There are many other disorders of growth in the epidermis, reflecting the variety of ways in which the regulatory systems can malfunction. Significantly, it is only when the cells are freed from the constraints of territoriality that they can form a potentially lethal cancer. Furthermore, as the two common skin cancers illustrate, territoriality can be lost in more than one way, and each kind of loss will have a distinctive effect on the behavior of the cells. Cancer therefore cannot be considered a single disease, brought on in every case by the same cellular malfunction. Even though basal-cell and squamous-cell carcinomas both arise in the epidermis, and even though both are caused by sunlight, the cells involved behave differently.

THE IMMUNE RESPONSE

We cannot expect to understand the behavior of a cancer until we can comprehend the signals passing between cells and the forces that separate groups of dissimilar cells in multicellular organisms. Although little is known about these systems of intercellular communication, it is apparent that the molecules on the cell surface must determine what signals the cell can receive and how the cell interacts with its neighbors. Some abnormalities of cancerous cells should therefore be expressed on their surface.

On the surface of every human cell are molecules called histocompatibility antigens that distinguish it from the cells of other individuals. It is part of the duty of our immune system to destroy cells that bear the wrong histocompatibility antigens. It is natural to wonder whether some means might be found for mobilizing the immune system against any abnormal components that may be present on the surface of the cancer cell. Indeed, since the discovery of cellular immunity at the beginning of the century the suggestion has often been made that one of the main functions of the immune system is to destroy cancers and that the appearance of cancer in old age shows simply that the immune system is failing.

Like the theory that cancers are caused by viruses, that idea is attractive because it offers the hope of a cure, in this case by some form of immunotherapy, without having to wait for further advances in basic biology. Unfortunately the facts are against it. Patients treated with immunodepressants so that they can tolerate an organ transplant and people with inherited defects of the immune system show a greatly increased incidence of certain rare cancers of cells of the immune system, but they do not show an increase in the death rate from any of the common cancers. When very old people are examined for their reactivity to appropriate test antigens, the annual death rate is found to be higher in those who showed depressed reactivity, but the deaths are not caused by cancers. Similarly, mice with various induced or inherited defects of their immune system may show increased susceptibility to certain tumor viruses, but they are not more susceptible to chemical carcinogens, nor do they show any increase in spontaneous cancers. On the other hand, there is no doubt that the cells of many experimental cancers of animals and certain cancers in man do display abnormal surface components that evoke a limited response from the immune system. The alternative suggestion has therefore been made that a mild immune reaction by the host stimulates the multiplication of cancer cells; in other words, there may be some selection, during the growth of a cancer, for variant cells with novel surface components that provoke an immune response. That, of course, is exactly the opposite of the original idea that the immune system inhibits the development of cancers. Nevertheless, it is not entirely ruled out that some method of immunotherapy could eventually be directed against whatever surface abnormalities of the cancer cell are responsible for its disorganized, invasive behavior.

EARLY DETECTION

A last aspect of the cancer problem that must be discussed concerns once again the time course of the disease. The most important question from the point of view of the cancer patient is whether his cancer has been detected and excised before it has begun to metastasize. Great efforts are being made to develop screening programs that will detect the common cancers, in particular cancer of the breast and the cervix, very early in their development. Unfortunately these programs are likely to have only limited success.

In order for a cancer to form secondary growths in a distant organ its cells not only must enter the bloodstream or the lymphatic system by direct invasion from the primary site but also must survive and multiply in an alien environment. There is reason to believe the latter capability is often the factor limiting the spread of a tumor. Cancers that are undergoing metastasis do not spread randomly. Cancers of the lung tend to colonize the brain and the adrenal glands; cancer of the prostate commonly spreads to bone; one variety of cancer of the stomach spreads almost exclusively to the ovaries. In other words, the ability to grow in foreign sites is not a universal property of cancers. Some, like the basal-cell carcinoma of skin and most cancers arising in the brain, almost never metastasize; others can produce multiple metastases at a stage where the primary cancer is still too small to be detected. It is therefore a misconception to think that the natural history of every cancer consists in growth to a certain size followed by inevitable metastasis. When we consider screening programs for a class of cancers, we should expect to find that some will not spread if they are left untreated for a long time and others will be lethal even when they are detected very early. Hence it will be only for a limited, intermediate group that screening will bring any benefit. To take the most clear-cut example, a carefully controlled screening program in New York has apparently reduced mortality from cancer of the breast by about 30 percent in the group being examined. The death rate seems to have been reduced only for women over the age of 50, however, suggesting that all the breast cancers of younger women that are capable of metastasis spread too early to be intercepted. As a result of screening 31,000 women annually for five years, the number of lives saved is thought to have been about 23, which is probably no more than the number of women in the screened group who died of lung cancer during the same period and who might have been saved by ensuring that none of the women continued smoking cigarettes. Two other programs that have had some success involve screening for cancer of the cervix and, in Japan, for cancer of the stomach. In contrast, an attempt to reduce the high mortality from lung cancer by frequent chest X rays has been a total failure.

Apart from their limited effectiveness, screening programs have an additional shortcoming: for every cancer they detect they reveal perhaps 10 other abnormalities, many of which seem to be precancerous. As long as it is impossible to tell which of these will progress to cancer they must all be treated, which presents an economic problem. It would be beyond the resources of the U.S., let alone any other country, to treat all the precancerous lesions that could be detected with even the limited screening procedures available today if these procedures were applied to the entire population. The survey that found skin cancers in 4 percent of the adult population of rural Tennessee found precancerous skin lesions in a sixth of the population; if all those lesions were to be treated by surgical excision, the cost to the state would be several million dollars, even though cancer of the skin is perhaps the least expensive form of cancer to detect and treat.

CONCLUSIONS

The cancer problem is of immediate, urgent concern. We all want to know when we can expect to hear of the discovery of a cure for cancer and to be told what steps we can take in the meantime to reduce our chance of dying of cancer. I have tried to give a simple review of what is known about the nature of cancer in man and in particular what can be deduced about the prospects for its prevention or cure. Because the cancer problem arouses so much interest and attracts so much financial support, people engaged in cancer research are under pressure to announce some breakthrough in treatment or, failing that, at least some major advance in our understanding of the disease. As a result it has become unfashionable to suggest that the hoped-for cure may have to wait until we have learned much more about the interactions of cells in simple systems. If this view is correct, however, we should in the meantime be trying to do more in the realm of preventive medicine. Since screening programs seem to be of limited use and too expensive, we are left with the prevention of cancer by seeking out and eradicating its causes. That should not be taken as a counsel of despair. After all, it was largely preventive medicine that eradicated the infectious diseases.

TEACHER CORPS

Mr. KENNEDY. Mr. President, I introduced legislation last week to extend and expand the Teacher Corps. I believe this program is an essential ingredient in any national plan to improve the quality of education in America.

In Massachusetts, we have seen the success of this program and continue to receive its benefits.

The Teacher Corps prepared a summary of the history of the program in Massachusetts. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

MASSACHUSETTS TEACHER CORPS PROJECTS, FISCAL YEAR 1966–76

The purposes of the Teacher Corps are (1) to strengthen the educational opportunities available to children in areas having high concentrations of low-income families, (2) to encourage colleges and universities to broaden their programs of teacher preparation and (3) to encourage institutions of higher education and local educational agencies to improve programs of training and retraining for teachers and teacher aides. To achieve this, the Teacher Corps attracted and trained college graduates and upperclassmen to serve in teams under experienced teachers, and attracted volunteers to serve as part-time tutors or full-time instructional assistants. Typical participant activities involved academic work in a college or university, on-the-job training in schools, and participation in school-related community projects. Typical program elements included flexible models of teacher education based on performance criteria, involvement with other college and university departments outside the school of education, granting of credit for the internship period, and utilization of regular school staff and members of the community in the teaching staff. Projects are of a two-year duration.

The following projects in the State of Massachusetts have received a total of $4,225,671 from FY '66–76:

University of Massachusetts along with the Worcester Public Schools operated in Cycles 4, 5, 6, and 9 and was funded each year from FY '69–76 for a total of $1,709,266. In Cycle 6 the project was expanded to include the Providence Public Schools. The focus of Cycles 4, 5, & 6 was the development of Black studies curriculum materials. In Cycle 9 the focus was on developing a model high school program and inservice component.

Funding history

Cycle 4:	
Fiscal year 1969	$104,760
Fiscal year 1970	272,498
Fiscal year 1971	276,692
Total	660,430

Boston University along with the Boston Public Schools operated in Cycle 8 and was funded each year from FY '73–75 for a total of $873,472. The program was designed to impact on bilingual children in grades K–12.

Funding history

Cycle 8:	
Fiscal year 1973	$390,985
Fiscal year 1974	104,000
Fiscal year 1975	378,487

Springfield College along with the Springfield and Worcester Public Schools operated in Cycles 1 and 2. The college worked solely with Springfield Public Schools in Cycle 4. The project was funded each year from FY '66–71 for a total of $1,013,765.

Funding history

Cycle 1:	
Fiscal year 1966	$93,710
Fiscal year 1967	250,183
Fiscal year 1968	133,676
Total	477,569
Cycle 2:	
Fiscal year 1968	129,754
Fiscal year 1969	20,419
Total	150,173
Cycle 4:	
Fiscal year 1969	$82,054
Fiscal year 1970	157,889
Fiscal year 1971	146,080
Total	386,023

Boston College along with Boston and Lowell Public Schools operated in Cycles 1 & 3 and was funded each year from FY '66–69 for a total of $629,168.

Funding history

Cycle 1:	
Fiscal year 1966	$162,689
Fiscal year 1967	226,132
Fiscal year 1968	194,032
Total	582,853
Cycle 3:	
Fiscal year 1968	$3,237
Fiscal year 1969	43,078
Total	46,315

LAWRENCE BROWN: EDITOR NATION'S CENTER NEWS

Mr. McGOVERN. Mr. President, Mr. Lawrence Brown of Buffalo, S. Dak., has launched a new journal called Nation's Center News. It is a journal of agriculture published by a man long acquainted with the issues of agriculture.

I have just received the first issue of this new publishing venture, dated November 21, 1975. The paper carries a front page editorial explaining the purpose of the newspaper. I ask unanimous consent that this thoughtful opening editorial entitled "Readers Service for Agriculture's Changing Times" be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Readers Service for Agriculture's Changing Times

Located close to the geographic center of the 50 states, Nation's Center News will deal with the opportunities and problems of land management, conservation and politics that affect its production. This is a remote rural area, sparsely settled, but a producer of more food and fiber with less expenditure of energy than most of the rest of the nation.

Among the few things remaining that the United States is still competitive on world markets with is food. The economic health of the industry of agriculture as well as the rest of the country and national balance of payments depends on how well we produce and market agriculture's products.

We at Nation's Center News believe American agriculture will be facing changes more dramatic and rapid than any in its history. World grain reserves disappeared at the same time the energy crunch hit.

A substantial portion of modern grain production is a result of nitrogen fertilizer, a direct product of energy. Price and availability are limiting its use in many parts of the world.

The web of bureaucracy seems to be restricting man's productivity faster than science or industry can develop it. It's a heyday for theorists and they will continue to be a menace as long as they are well fed.

The primary concern of this newspaper will be forage and grain production and the ultimate marketing of that production. Livestock will continue to be the only practical harvester of a substantial portion of this production.

With modern transportation the world is shrinking in size. The industries that are supposed to make our lot in life easier and better create problems of pollution and supply that must be dealt with.

This newspaper will make no brash claims to provide multitudes of correct answers to complex problems. We will, however, do our level best to present ideas from many sources offering food for thought and news affecting agriculture or this area.

Nation's Center News will be published twice each month at Buffalo, South Dakota. We are affiliated with no organization, but welcome input from any source. We reserve the right to use a liberal amount of our own opinions and let our readers sort it out.

The good old U.S.A. was founded in controversy and has served a greater percentage of its people with a better way of life, for a longer period of time than any nation in recorded history. In spite of Congress, inflation and women's lib, this country still has a bright future and a lot of it. We hope this publication may be of some service to it.

CONCLUSION OF MORNING BUSINESS

Mr. PASTORE. Mr. President, I ask that morning business be closed.

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION APPROPRIATIONS—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore (Mr. Pell). Under the previous order, the Senate will now proceed to the consideration of the conference report on H.R. 3474, which the clerk will state.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3474) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The ACTING PRESIDENT pro tempore. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the Record of December 8, 1975, at page 39089.)

The ACTING PRESIDENT pro tempore. The time for debate on the conference report is limited to 1 hour, to be equally divided between and controlled by the Senator from Washington (Mr. Jackson), the Senator from Arizona (Mr. Fannin), the Senator from Tennessee (Mr. Baker), and the Senator from Rhode Island (Mr. Pastore).

Mr. PASTORE. Mr. President, the elements of this conference report that have to do with nuclear energy and come under the jurisdiction of the Joint Committee on Atomic Energy are woven throughout the entire bill and conference report. In order to crystallize it and pinpoint it, I have had a summary and report made which has to do with the nuclear portion. I ask unanimous consent that this summary be printed in the Record following the presentation made by the distinguished Senator from Washington (Mr. Jackson).

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PASTORE. I now yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Washington is recognized.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. JACKSON. Yes; very briefly.

Mr. BARTLETT. It has been my understanding that the Senate would have a chance to see the report and the bill 24 hours in advance of its being taken up. I have not yet seen the conference report.

Mr. JACKSON. It is in the Record.

Mr. BARTLETT. It is in the Record this morning?

Mr. JACKSON. Printed in the Record, yes.

Mr. BARTLETT. It was my understanding we would be able to see this for 24 hours, and it is also my understanding that there is no report available right now.

Mr. MANSFIELD. It will be very shortly.

Mr. JACKSON. The report itself was printed in the Record. In anticipation of a possible problem of Senators wanting to read it, I obtained unanimous consent yesterday, and we cleared this action with the leadership on both sides and the ranking majority and minority members of both committees. We set the time for today, with the stipulation, of course, that the report be available; and it is available. It is in the Record.

Mr. BARTLETT. If the Senator will yield further, did the Senate agree to take up the bill at this time?

Mr. JACKSON. The Senator is correct. All four Senators who have control of the time on the majority and minority sides agreed, as did the leadership.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. GRIFFIN. I must say at this point that when the unanimous-consent agreement was entered into on yesterday, it was understood that the 1 hour would begin at 11, when Senator Fannin could be here; and at the very last moment, the time was changed to 10 o'clock, without Senator Fannin's agreement. We are trying to get him here, but I hope the Senator will take his interest in this matter into consideration.

Mr. JACKSON. There will be no problem.

Mr. GRIFFIN. The time arrangement was not in accordance with his understanding.

Mr. JACKSON. We will work it out.

Mr. GRIFFIN. All right.

Mr. JACKSON. Mr. President, on July 31, 1975, the Senate approved H.R. 3474 by a vote of 92 to 2. The conferees have agreed to the major policy initiatives of the Senate version.

With regard to the non-nuclear budgetary aspects of the bill, the administration originally requested $4,519,801,000 for the Energy Research and Development Administration. Of this amount, less than one-fifteenth would have been available for programs in non-nuclear energy research, development, and demonstration. The conferees have recommended an additional $440,471,000 for non-nuclear programs.

Included within the recommended figures are authorizations of $497,821,000 for the fossil energy development program; $172,525,000 for solar energy development, $56,390,000 for geothermal energy development and $156,205,000 for conservation research and development.

In addition, the conferees accepted the Senate recommendation that eight demonstration scale projects in coal, solar, and geothermal energy be authorized.

This total authorization amounts to $94,800,000. It should be noted that the administration requested authorizations for only one demonstration scale project.

The Senate version included authorization for the Administrator of ERDA to guarantee loans given by non-Federal financial institutions to parties proposing to construct prototype commercial-sized demonstrations of new energy technologies. Such technologies as coal gasification, coal liquefaction, oil from shale, energy from solid wastes, and various solar and geothermal energy approaches would be eligible for such guarantees. A non-Federal entity would construct the undertaking using conventional sources of financing and ERDA would guarantee up to 75 percent of the borrowing required.

The purpose of this provision was to extend ERDA's existing authority to support first-of-a-kind demonstrations by direct Federal assistance. When willing participants are available, loan guarantees would represent the minimum Federal involvement or investment necessary to bring about the demonstration.

Since the Senate approval of H.R. 3474, the House Committee on Science and Technology has held extensive hearings on the loan guarantee provision including field hearings in energy-rich States. The conferees agreed to retain the provision; however, they have elaborated upon the provisions for Federal assistance to State and local governments where major energy demonstration facilities are encouraged by such loan guarantees.

The conferees, furthermore, have provided particular requirements for consultation with State and local government in the selection and review of proposals for loan guarantees. They have provided the Governor of an impacted State with a right of disapproval of such proposals unless overriding national interests are involved. They have also agreed to the Senate requirement that each loan guarantee rest before the Congress for 90 days, and for projects which cost more than $350 million, a provision for disapproval by either House of Congress is provided.

Mr. President, the loan guarantee program included in the conference report is improved from that originally approved by the Senate. It has the benefit of additional specificity of many of the provisions developed during discussions in the conference.

The intent of the loan guarantee program of section 103 is to gain operating experience with near-term energy technologies which, if successful, could improve domestic energy self-sufficiency.

It is not the intent of this program to commit the United States to synthetic fuels development on a grand scale.

Many profound policy decisions concerning domestic economy and international relations rest upon an analysis of our ability to utilize our vast coal and oil shale resources. We do not presently know what the environmental, social, and economic consequences of such development would be. We will never really know until we have experience with the management and operational problems of commercial-size projects.

I believe we have delayed long enough in obtaining the experience we must have for informed planning.

I urge my colleagues to reassert their previous commitment to a strong energy research, development, and demonstration program in all available technologies.

Mr. President, I ask unanimous consent that the summary of H.R. 3474 be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF H.R. 3474

Title I authorizes, in section 101(a) operating expenses totaling $859 million ($662 million in costs (c) and $197 million in changes in selected resources (CSR) for nonnuclear programs. Subsection (b) authorizes $119 million for plant and capital equipment, for nonnuclear programs.

Section 102 provides for the transfer to ERDA of the administrative jurisdiction of an oil shale lease, with the lease administration reverting back to the Department of the Interior at the end of the demonstration phase. It also provides for consultation with the State and local officials and impact assistance.

Section 103 provides for up to $6 billion in loan guarantees for the construction of commercial demonstration facilities for (1) the production of synthetic fuels from coal, oil shale, biomass, and other domestic resources; (2) energy from solar, wind, geothermal, and other renewable sources; and (3) for energy efficient industrial equipment. With respect to oil shale, such projects are to be limited to the smallest size necessary to demonstrate commercial viability.

Each guarantee must be made in consultation with the Secretary of the Treasury. The Administration must consult with the Governor and the local officials in making his decision. If the Governor objects, the Administrator may override only if it is in the national interest. Each guarantee is subject to a Congressional layover of 90 days, and if the project costs over $350 million, either House may veto such project.

The Administrator is given a portfolio of financial assistance programs to design impact aid for host communities. ERDA, as part of its program report to Congress, must also present a report on the socioeconomic effects and their estimated costs.

The title and waiver requirements and the conditions of the patent policy of the Federal Nonnuclear Act apply to this program. In the case of default, all patents and such technology as is necessary to operate the facility, become part of the defaulted assets.

Any employee performing duties under this section and with any financial interest in associated energy resources or in any applicant, must make an annual, public disclosure of all such interest.

All applicants or borrowers must be citizens or nationals of the United States.

Title II provides authorization for the transition period. Section 201(a) provides authorization for operating expenses of $220 million ($147 million (c) and $73 million (CRS)). Section 201(a) provides authorization for plant and capital equipment of $29.8 million.

Sections 202 and 203 are nuclear provisions, similar to those in Title I.

Title III provides general provisions. In Part A, authority is provided to begin construction design work without specific authorization from Congress for the project (Sec. 301); funds may remain available until expended (Sec. 302); and ERDA is given the authority to transfer funds to other agencies (Sec. 303).

Part B has provisions relating to nonnuclear energy development. It provides for general reprogramming of funds, with a Congressional lay-over, as long as no category is decreased by more than 10% (Sec. 304); and a central source of information on all energy resources and technology (Sec. 311).

Part C has provisions relating to fossil energy development. It establishes the methods for reprogramming of operating expenses for construction purposes (Sections 313 and 314); and a program of environmental and safety research, development, and demonstration related to fossil fuels (Sec. 315).

Title IV changes the name of the Oak Ridge Holifield Laboratory.

Title V provides procedure for the transportation of plutonium by air.

Title VI provides technical amendments for assistance payments under the Atomic Energy Community Act of 1955.

EXHIBIT 1

CONFERENCE REPORT ON THE ERDA AUTHORIZATION BILL H.R. 3474: NUCLEAR PORTION ONLY

CONFERENCE REPORT SUMMARY ON NUCLEAR PORTION

The legislation would authorize appropriations for the Energy Research and Development Administration for Fiscal Year 1976 and the transition quarter. The conferees decided to accept all of the Senate amendments to the House bill. The Senate amendments increase the operation expenses portion of the ERDA budget for Fiscal Year 1976 by $114,616,000 and by $13,106,000 for the transition quarter. The increases essentially resulted from a formal amendment to the ERDA budget which was submitted to the Congress on July 25, 1975. That amendment was, in part, anticipated by the House in its acceptance of the McCormack amendment which had the effect of reprogramming $71.2 million from the originally proposed ERDA budget for the Liquid Metal Fast Breeder Reactor program. The substance of that amendment was preserved in the Senate amendment and accepted by the conferees. The increases are primarily in the areas of (1) $99.5 million for increased electric power cost for the operation of the gaseous diffusion plants, (2) $1.9 million for upgrading the safeguards for the protection of special nuclear materials, and (3) $91.9 million for an expanded research and development program, particularly as related to the nuclear fuel cycle and light water reactor technology.

The Administration's July 25 budget amendment also included a new construction project for safeguarding for the protection of special nuclear materials in the amount of $32.8 million.

The Senate version also included an amendment which would authorize the design and construction planning for adding on to Government-owned enrichment facilities ($25 million). This authorization is needed to provide for the contingency in the event the Government itself must provide the next segment of additional uranium enrichment capacity. This entire subject is now being considered in the Administration's proposed Nuclear Fuel Assurance Act (H.R. 8401), which itself recognizes the need for such a contingency plan.

The Senate added a new title to the bill which would impose restrictions on the air transportation of plutonium by ERDA until ERDA has certified to the Joint Committee on Atomic Energy that a safe container has been developed and tested. Exemptions are provided for shipments of plutonium involving the national security as well as situations in which there is a need for rapid transport. The Senate included a new title which would authorize the Administrator of ERDA to provide assistance to Roane and Anderson Counties, Tennessee, under the Atomic Energy Community Act of 1955.

Mr. JACKSON. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. LEAHY). Who yields time?

Mr. MONTOYA. Mr. President, I managed the nuclear portion of the ERDA authorization bill on the floor on July 31, 1975. The gentleman from Rhode Island is absolutely correct in his statement that the nuclear portion of the bill as reported out of conference is identical in substance to the bill which was passed by the Senate on July 31, 1975.

This, I believe, is the first time that an authorization bill has been handled by three committees. I would like to commend my colleagues on the Joint Committee on Atomic Energy and the members of the other committees for the cooperative spirit which they displayed throughout the legislative consideration of the nuclear portion of this authorization bill.

Mr. BAKER. Mr. President, I agree with the statement by the distinguished gentleman from Rhode Island and also agree with the remarks of the gentleman from New Mexico who are also my colleagues on the Joint Committee on Atomic Energy. As far as the nuclear portion of the authorization bill is concerned, and it is that portion with which the Joint Committee on Atomic Energy is concerned, there is no reason why this conference report should not be approved without delay.

Mr. METCALF. Mr. President, will the Senator from Washington yield?

Mr. JACKSON. I yield to the distinguished Senator from Montana.

Mr. METCALF. Mr. President, questions have been raised relating to section 102 of the conference report on H.R. 3474. It has been alleged that the provisions of the conference bill on this section change our mineral leasing laws and permit a raid on our public lands. Quite the contrary.

I have been working on this phase of energy development for a number of years, and I am in accord with the conference report, which was in the Interior Committee, and I am in accord with the provisions for production of oil from oil shale.

Mr. President, I know that questions relating to section 102 of the conference report on the ERDA authorization bill (H.R. 3474) have been propounded. It has been alleged that the provisions of the conference bill change our mineral leasing laws and permit a raid on our public lands. Quite the contrary.

I am in accord with the conference report on section 102 of H.R. 3474. The conference retained the Senate provision for an in situ production of oil from our vast deposits of oil shale.

For several years as a member of the Senate Committee on Interior and Insular Affairs and as chairman of the Subcommittee on Minerals, Materials and Fuels, I have been concerned with the Interior Department's oil shale program.

Several years ago, I asked the Department of the Interior to give me a report on the possibilities of in situ oil shale conversion. There was a negative response.

Two years ago, during my subcommittee's hearings on the Department of the Interior's prototype oil shale program, I urged the Department to require in situ production from at least one of the six leases which it planned to issue. The Department did not accept my recommendation and, as a result, none of the outstanding leases will be developed by in situ methods. While the Department now proposes to offer two leases for in situ development late next year, there is still no assurance that we will have an attempt to prove the commercial feasibility of in situ recovery.

In situ recovery is potentially more economical, requires less water, and should result in greatly reduced environmental effects. For example, it is estimated that in situ production of shale oil would require two-thirds fewer people to operate the process, one-half the amount of water and one-third less disposal of waste oil shale.

The in situ recovery process would seem to be preferred over other alternative processes, especially strip mining.

Section 102 of the ERDA authorization bill, as approved by the Senate-House conferees, does assure that we will have such a demonstration. As chairman of the subcommittee which exercises the Senate's oversight function of the Mineral Leasing Act of 1920, I can assure the Senate that section 102 is entirely consistent with the provisions of this act. It guarantees the public that there will be, under carefully controlled conditions and with full disclosure of the results, a serious effort to demonstrate the commercial feasibility of the most environmentally sound way of developing the vast publicly-owned oil shale resources.

It provides that during the demonstration period, the federally-owned resource, which will be leased to the non-Federal participant in the demonstration under the Mineral Leasing Act, will constitute a portion of the Government's contribution to the demonstration. If the demonstration is successful and the non-Federal participant chooses to continue with commercial development of this tract, the Government will receive payments which may well be higher than any royalty required under the Mineral Leasing Act. It should be noted that the Mineral Leasing Act does not require competitive bidding for oil shale leases and does not specify any particular level of royalties.

This is a one-time, one-shot process. A special research endeavor whereby the Federal Government puts up its oil shale properties—not more than 5,120 acres—as its share of a research program. The lease issued to the non-Federal participant in the project is subject to all the other provisions of the Mineral Leasing Act.

Mr. President, the provisions of section 102 fully protect the public interests in the public lands and in our oil shale resources. Some have questioned that there have been no hearings in the House of Representatives on this question. I can only say that the Senate has had comprehensive hearings and they are available. I see no reason why hearings bound in green should be disregarded while hearings in buff are sacrosanct. Those who want information can read either. In my opinion, the agreement of the conferees to insist on at least one in situ demonstration process should be adopted. The conference decision in support of section 102 is in the public interest, is consistent with our energy needs and necessary as we extend our inquiry into energy sources beyond the conventional oil, natural gas and coal upon which we now depend.

Mr. President, I ask unanimous consent to have printed in the RECORD my most recent correspondence with the Secretary of the Interior and his response.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEPTEMBER 17, 1975.

Mr. JACK O. HORTON,
Assistant Secretary for Land and Water Resources, Department of the Interior, Washington, D.C.

DEAR MR. SECRETARY: You will recall that the Subcommittee on Minerals, Materials and Fuels held hearings on the Department's prototype oil shale leasing program in December, 1973, and March, 1974. The Subcommittee would like a report on the current status of the prototype program.

Among other things, your report should address the following questions:

1. Have preliminary development plans been submitted for the Colorado and Utah prototype leases and, if so, what are the general outlines of those plans?

2. What impact have the current increases in oil prices had on development of these plans?

3. What is the status of decisions on water augmentation and pollution abatement?

4. What credits, if any, have been earned by lessees against the cash bonus installment payments?

5. What is the status of the proposed leases which will require that in situ development be used?

6. What plans are there for future leases?

I would appreciate receiving your report by November 1.

Very truly yours,

LEE METCALF,
Chairman, Subcommittee on Minerals, Materials, and Fuels.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., December 8, 1975.

Hon. LEE METCALF,
Chairman, Subcommittee on Minerals, Materials and Fuels, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR SENATOR METCALF: The following statements are answers to the questions you requested in your letter of September 17, 1975. We believe they succinctly state the present status of the oil shale program.

1. Preliminary Development Plans, required by the November 30, 1973, notice of sale to be submitted within 48 hours of notification of acceptable bid, were submitted by all four lessees. These plans were for the purpose of the lessor's guidance in establishing initial supervision of the lessee's activities and included a general discussion of the method of development, location of offsite facilities, schedule of development, and environmental monitoring programs. Other required plans include Exploratory and Environmental Baseline Data Collection Plans which have been submitted by all lessees and approved by the Area Oil Shale Supervisor, and Detailed De-

> velopment Plans which will state proposed development, impacts, mitigating measures and environmental monitoring in detail. The first of these plans is due the end of November 1975.
>
> 2. Although oil shale development will be sensitive to oil prices, no definitive information is available at this time with regard to individual lessee's plans. Required Detailed Development Plans will contain future development schedules. Lessee submission of required plans continues to follow an accelerated schedule close to the minimum time frame set out in the lease. Initial information indicates that a modular approach to commercial development will be used by lessees.
>
> 3. The Bureau of Reclamation has completed two studies on water availability titled "Water for Energy in the Upper Colorado River Basin," July 1974, and "Alternate Sources of Water for Prototype Oil Shale Development," Colorado and Utah, September 1974.
>
> The Department of the Interior through the Bureau of Reclamation, based on the above studies, is currently making a detailed study of alternative water supplies for oil shale.
>
> 4. No credits against the cash bonus installments have been approved to date. Applications for bonus installment credits cannot be approved until after submission of Detailed Development Plans.
>
> 5. Following the failure to receive bids on the two Wyoming tracts which were thought to be amenable for in situ development, the Department conducted a revaluation of the Prototype Program and published a call for in situ tract nominations in the *Federal Register* on April 23, 1975. Nominations closed on July 31, 1975. A tract selection committee recommended two primary tracts and two backup tracts in September 1975, and these recommendations have been forwarded to the Oil Shale Environmental Advisory Panel for their consideration and advice prior to a Department decision. Lease sales are tentatively scheduled for late summer 1976 should the decision to proceed be made.
>
> 6. The Department of the Interior has no plans for further leasing beyond the proposed two in situ tracts which will complete the six-lease Prototype Oil Shale Program.
>
> Sincerely yours,
>
> JACK HORTON,
> *Assistant Secretary of the Interior.*

Mr. JACKSON. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that it be charged to the time allotted to Senator PASTORE.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I yield myself such time as I may desire, on Senator PASTORE's time.

Mr. President, I am pleased with the information contained in this conference report relative to MHD—magnetic hydrodynamics—because it means so much to the States of Tennessee and Montana. I read from the report of the Senate Interior Committee on the bill which passed the Senate on September 9, this year:

> The incorporation of MHD generators into the topping stage of binary power cycles offers the potential of high overall thermal efficiency and low pollution levels with the direct utilization of coal. Work over the past four years has led to preliminary engineering of developmental generators and other key components.
>
> The Interior Committee has specifically authorized $50,000,000 for continuation of a program for magnetohydrodynamics.
>
> Public Law 93–404 directed $5,000,000 of FY 1975 funds to be used to design and plan an engineering test facility large enough so as to provide a legitimate engineering basis which when achieved will enable the immediate construction of a commercial scale MHD plant for possible operations in the mid-1980's. In the past, the Office of Coal Research, under Interior and now under ERDA, has shown little inclination to move ahead rapidly with a program of MHD development in compliance with the law.

As a matter of fact, it has been quite to the contrary, because the progress in the old Office of Coal Research had been lamentably slow, to put it conservatively.

I continue reading from the report:

> The committee strongly believes that, in its search for alternative sources of energy, the Nation cannot afford to allow a system such as MHD to go by the wayside simply for lack of funding or direction.

Up to some months ago they have lacked both, but Dr. Seamans, Dr. White, and their associates have been moving more progressively and understandingly to correct and advance the prospects for MHD.

> With this act, Congress is giving ERDA authorization for funds to move the MHD program at a pace consistent with the demands of existing law and it is incumbent upon ERDA to provide the direction necessary to carry out the intent of Congress that the MHD program progress rapidly.
>
> In addition, the Committee expects ERDA to elevate the already existing MHD Project Office to a position of prominence and high visibility within the ERDA organizational structure. The Committee also believes that consolidation of all aspects of the MHD program within the MHD Project Office is of extreme importance to the success of the program.
>
> The Committee expects to be advised periodically of the progress made in the development of the MHD technology and to any impediments that may slow the pace of such development.

Mr. President, I ask unanimous consent that this portion of the report be printed in the RECORD in full at this point.

There being no objection, the portion of the report was ordered to be printed in the RECORD, as follows:

SENATE REPORT 94–332 JULY 24, 1975

(*1*) *Magnetohydrodynamics* (*MHD*)

[In thousands of dollars]

Fiscal year 1976:	*Operating costs*
Original request	$13,773
Committee action	36,227
Total	50,000
Transition period:	
Original request	2,200
Committee action	9,055
Total	11,255

The incorporation of MHD generators into the topping stage of binary power cycles offers the potential of high overall thermal efficiency and low pollution levels with the direct utilization of coal. Work over the past four years has led to preliminary engineering of developmental generators and other key components.

At the level of funding requested by ERDA, during fiscal year 1976, the major program actions to be taken will involve focusing work on specifically defined engineering goals. This process has already been initiated in FY 1975 and includes the organization of interdisciplinary design review teams to regularly evaluate progress on the major hardware projects. Recognizing that the engineering experience and data base for the design and construction of pilot scale facilities (50–100 megawatt, electrical) is not now available for coal fired systems, the program is being organized to insure that the design of test components and the supporting test schedules and conditions address the objectives of the defined engineering goals of a logical program.

An outgrowth of U.S. rocket technology, MHD generates electricity by interacting a high temperature gas with a magnetic field. The technology offers high promise of great increases in conversion efficiency (up to 60%) over present power generation systems (which achieve above 40%). Other major claims for the MHD technology are that it involves greatly reduced thermal and atmospheric pollution, reduced water requirements, and hold great promise for power generation from Western coals where water is scarce. The MHD technology is being actively pursued by the Soviet Union and Japan. U.S. Government support has been slow and at a low ebb.

The Interior Committee has specifically authorized $50,000,000 for continuation of a program for magnetohydrodynamics.

Public Law 93–404 directed $5,000,000 of FY 1975 funds to be used to design and plan an engineering test facility large enough so as to provide a legitimate engineering basis which when achieved will enable the immediate construction of a commercial scale MHD plant for possible operations in the mid-1980's. In the past, the Office of Coal Research, under Interior and now under ERDA, has shown little inclination to move ahead rapidly with a program of MHD development in compliance with the law.

The Committee strongly believes that, in its search for alternative sources of energy, the nation cannot afford to allow a system such as MHD to go by the wayside simply for lack of funding or direction. With this act, Congress is giving ERDA authorization for funds to move the MHD program at a pace consistent with the demands of existing law and it is incumbent upon ERDA to provide the direction necessary to carry out the intent of Congress that the MHD program progress rapidly.

In addition, the Committee expects ERDA to elevate the already existing MHD Project Office to a position of prominence and high visibility within the ERDA organizational structure. The Committee also believes that consolidation of all aspects of the MHD program within the MHD Project Office is of extreme importance to the success of the program.

The Committee expects to be advised periodically of the progress made in the development of the MHD technology and of any impediments that may slow the pace of such development.

Mr. MANSFIELD. Furthermore, in the pending conference report under section 101(a)(1)(L)—MHD, the following is stated:

Section 101(a)(1)(L)—MHD

The original ERDA request of $15,844,000 for work in magnetohydrodynamics was subsequently revised by ERDA and a request for $35,344,000 was submitted.

Mr. President, may I say that the President of the United States called me when this increase was allowed, and it was my assumption and understanding—and I am sure his and that of the Director of the Office of Management and Budget, Mr. James Lynn—that a very sizable portion of this increase would go to the Montana project, supervised by the Montana Energy Research and Development Institute, and Montana College of Mineral Science and Technology, and Montana State University. I want that in the RECORD, because it can be corroborated.

The House authorized $15,844,000 and the Senate amendment authorized $76,243,000. The Committee of Conference agreed to recommend a fiscal year 1976 authorization of $34,500,000 and a transition period authorization of $8,400,000, for a total of $42,900,000. This amount represents a total increase of $7,556,000 over the amended ERDA request.

These increased funds for the MHD program will be used to increase work in the program categories of Preliminary Testing and Component Development. For the Preliminary Testing category $3.8 million will be used to (1) inaugurate design and construction of two superconducting magnets to be used to study basic high-field generator phenomena and (2) conduct basic engineering rig tests on arc mode current transport to electrodes and how to optimize electrode design to prevent damage to the electrodes by electric arc action.

For the Component Development category $3.8 million will be used to accelerate the effort on the Component Development and Integration Facility. The funds will be expended on both the basic facility and on additional effort on test equipment to be utilized in that facility.

I ask the chairman of the conferees, with regard to CDIF—that is the Component Development Integration Facility—where is that to be established?

Mr. JACKSON. In Montana specifically in Butte I believe. The majority of the testing work, as I understand it, on MHD, will be done in Montana.

Mr. MANSFIELD. Does the chairman agree with the two Senators from Montana that a very sizable portion of these funds will be used by the Montana Energy Research Institute, the Montana College of Mineral Sciences and Technology, and the Montana State University for the purpose of developing an MHD program primarily centered around Montana Tech in Butte and Montana State University?

Mr. JACKSON. The Senator is correct, and I should like, as chairman of the Interior Subcommittee handling this aspect of the bill, to say that that is our legislative intent, based on our understanding. I want to make it clear that it is part of the legislative history of this conference report.

Mr. MANSFIELD. Is it the intent of the committee and the Congress as a whole that construction on the component development integration facility should start no later than next spring in Montana?

Mr. JACKSON. That is correct; consistent, naturally, with ERDA's plans. But our clear understanding is that next spring should be initiation of construction.

Mr. MANSFIELD. I thank the distinguished chairman of the committee.

Mr. METCALF. Will the Senator from Montana and the distinguished Senator from Washington yield to me for a moment on this?

Mr. JACKSON. Certainly.

Mr. METCALF. I applaud the conference committee for bringing back this report on MHD. This is a program that was pioneered in the United States. We have let it slide for many, many years, so that now, such countries as both East and West Germany, the Soviets, and Japan are ahead of us in the development of this new idea of combustion of coal for the generation of power. This is a program that will allow us to catch up with these countries that have passed us, even though we did pioneer and develop the program. It has been my privilege, as chairman of the Subcommittee on Mines and Minerals, to hold hearings from time to time on these new and different sources of energy. No longer than a couple of weeks ago, the president of Montana Tech was here, telling us of his plans and his programs and he and the Office of Coal Research were discussing this very subject matter. So I am delighted that my colleague from Montana, the majority leader, has emphasized, in this report, that the technology that has been pioneered and developed will be carried forward in the State of Montana, where coal is so abundant and, at the same time, we have an opportunity to have a new system of burning it.

Mr. JACKSON. Mr. President, I want to commend the distinguished majority leader, Senator MANSFIELD, and the distinguished Senator from Montana, Senator METCALF, for their tireless effort to continue work on the development of MHD.

The conferees support Senator MANSFIELD and Senator METCALF's enthusiasm by recommending an authorization of $42.9 million for MHD. This represents an increase of over $27 million over the House bill.

Our recommendation is less than the Senate level primarily because of the lateness in the fiscal year, and the decrease is not intended to indicate any lack of priority for the important objectives of improving this form of efficient electrical generation.

The PRESIDING OFFICER. All the time of the Senator from Washington has expired.

Mr. GARY HART addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. GARY HART. Will the Senator from Arizona yield me 2 minutes?

Mr. FANNIN. I am happy to yield.

Mr. GARY HART. I ask for the yeas and nays of the conference report.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GARY HART. I acknowledge the work done by the conference committee. I know it was long and arduous and there are some very consequential matters in this report.

The Senator from Colorado received this report exactly 5 minutes ago. We saw a draft of it in our office at about 8 o'clock last night. I had a staff member receiving the legislation until 1 or 2 in the morning. There are some monumental decisions which this conference report represents that are significant, not only for the State of Colorado but for the entire country. The Senator from Colorado is becoming increasingly reluctant to vote for these very important pieces of legislation that come out of conference or come out of the committees with no opportunity to read the report or even receive the report any more than a few minutes before we are asked to vote. Sometimes, these matters are passed without deliberation on a voice vote.

I am reluctant to state unequivocally I will vote against measures advanced in this manner but, I would like to state to the leadership that the Senator from Colorado is prepared not to vote for any measure of this magnitude without more time to study and review legislation in the fashion its importance requires.

Mr. President, before us this morning is a vitally important piece of legislation which addresses some of the most critical questions we will confront in setting priorities for energy policy. I refer to the ERDA authorization conference report which was printed last night and which I doubt has been reviewed by more than a handful of my colleagues here today.

I am particularly distressed at the manner in which this legislation has been thrust upon this body. There were substantive changes made in conference which will have a direct bearing not only on the Nation as a whole but on the citizens and resources of my State. I am referring specifically to section 103 of the bill which authorizes $6 billion in loan guarantees to finance primarily commercial-size synthetic fuel plants.

When the ERDA conference committee convened, I wrote a letter to Representative OLIN TEAGUE recommending that this section be excised from the authorization measure and dealt with in separate legislation. A myriad number of issues have been raised regarding section 103 since the vote by the Senate, last July, careful study has been undertaken to determine the consequence of this massive loan guarantee program. Section 103 remained, however, and now, in a vastly altered form, it is before this body for a vote.

Apart from the inadequate time to review the new language in the report, I am not satisfied that the program detailed in this legislation is the best way to approach demonstrating the commercial potential for synthetic fuels. Yet no alternative proposals were debated in the limited discussion that occurred on the program at issue.

In short, this section was rushed through the Senate without hearings, sent to the House without ever reaching its floor, and amended in conference. Now it has been returned to the Senate for a vote with barely enough time to have the report printed and laid on the desks of my colleagues.

Mr. President, we are talking about rushing through authority for $6 billion in loan guarantees for the development of a commercial process which is highly controversial in terms of costs to the environment and the communities impacted as well as the intrinsic net energy values of synthetic fuels. This action is particularly perplexing in light of what transpired not 4 days ago. We were in this Chamber until 1:30 a.m. Saturday morning engaged in lengthy debate over the question of whether to authorize only one-third this amount in short-term loans for beleaguered New York City. Short-term loans, I might add, which came with considerable strings attached. The reason we were not debating loan guarantees was because the President had refused to endorse a fiscal mechanism which he felt gave the Government too little control. Yet the administration has endorsed the $6 billion loan guarantee program for synthetic fuel development because, presumably, they care less if the Government has little control over the use of vast sums of taxpayers' money by oil and gas companies.

Which are the companies that will benefit from the provisions of section 103? For oil shale they are the Colony Group composed of ARCO, Ashland Oil, Inc., Shell Oil Co., and TOSCO. Other beneficiaries might be participants in the Parahoe Oil Shale Project which include ARCO; Carter Oil—EXXON; Chevron Research—Standard of California; Gulf Oil; Mobil Research; Phillips Petroleum; Shell Development; Sohio Petroleum; So. California Edison; Standard Oil—Indiana; Sun Oil; and Texaco. These joint ventures are structured in such a way that if the project should fail, the parent companies will not be liable for the debt. These parent companies do not want to assume such a large risk themselves, but they seem quite satisfied to let that risk fall on the shoulders of the American taxpayer.

These are many of the same people who are clamoring for the Government to get out of the oil industry. They claim that continued Government interference threatens their search for energy supplies and unrealistically depresses the price of petroleum products. But when a bill such as this comes along, which promises that the Government will absorb losses while granting them profits, the Government is urged to remain in that sector of the energy economy.

There is serious question as to what kind of economy we are creating when we continue to slide into the grip of a new economic structure where private industry clamors for "free enterprise profits with socialized losses." This is well reflected in the statement that appeared recently in Business Week of a nuclear industry spokesman who warns against those industries which need a heavy injection of Government subsidies to get started—

> The fundamental cause of our malaise is the nature of the nuclear business itself. . . . It was born in the government and consciously weaned by statutory and administrative policies to grow through an adolescence of government support. But the business was never firmly founded, and the magnitude of the problems of getting it established in the private sector were never fully appreciated.

The Congressional Budget Office, in a draft analysis of the commercialization of synfuels not prepared in time for this vote, stated:

> Postponement of the beginning of commercialization—for example, for 3 months to allow full Congressional hearings and debate—could actually improve its economics. . . . Regardless of when it reaches a decision, the Congress should consider synfuels in the context of a larger policy with respect to the continuum of energy research, development, demonstration and commercialization. ERDA is developing several advanced synfuels processes which offer the potential of improvements in economics, reliability, and environmental impact when compared with those currently available processes which would be supported by the synfuels program.

There are still doubts as to exactly what kind of costs we are getting the Government into. The committee report states that the program is to provide only $6 billion in loan guarantees and should not be construed to include construction grants, price supports or price guarantees. But on October 22, ERDA sent a draft bill to the House of Representatives asking for authority to provide up to $4.5 billion in price supports and $600 million in construction grants "for a commercial demonstration program—in conjunction with the loan incentives in section 103." If adopted that would commit the Government to a program in excess of $11 billion. If that is to be the total cost of the program, we should evaluate it on its own terms instead of being faced with the participants of this program coming to Congress a year from now for more money or with threats that the program will not work under the prescribed funding formula.

Apart from the questions which remain unanswered regarding fiscal responsibility there are other issues which have arisen since the original Senate vote on ERDA which bring into question the wisdom of our action and supports a review of this section in separate legislation.

In late September, the administration released a draft of its 7-month synthetic fuels commercialization study. The report showed that the $6 billion program was insufficient to meet the goal set by the President and the Senate to provide the equivalent of 1 million barrels of oil per day in synthetic fuels production.

The results of that study and some of the issues it raises have not been fully assessed in light of the pending legislation. It does tell us enough, however, to suggest that the pursuit of synthetic fuels development by means of this type of loan program is premature and not necessarily in the best public interest.

The report scales down the administration's proposed 1 million barrel per day program, stating that with provisions similar to those in section 103 a more realistic goal would be a production level of 350,000 bpd by 1985. This would be the product of three high Btu coal gasification plants and two oil shale conversion plants. The costs of these plants would leave little funding for the development of biomass, solar and geothermal energy development also called for in the section. Projected costs for construction of synthetic fuels plants have risen at higher rates of inflation over the past 2 years than other industries. Even with $6 billion in loan guarantees, it is questionable whether the five projected plants could be completed with the funds provided.

When the potential number of solar units are costed against the $6 billion figure of this bill, it is estimated that 1.2 million homes could be retrofitted with solar energy heating systems. More than 1.75 million new homes could be supplied with solar equipment which provides a renewable nonpolluting energy source. I have yet to see what the tradeoffs are in our national energy policy by forging ahead with synthetic fuels development instead of committing the Nation to the development of a solar energy industry. The question of whether we wish to continue our reliance on fossil fuels, both synthetic or natural, was not weighed in the balance of the decisions affecting this loan program.

Because of the competition for capital in our hard pressed economy, other energy projects will be shunted aside because of this $6 billion commitment. The Assistant Secretary of Treasury, Gerald Parksy, in an August 8 memo to ERDA, said:

> More economical projects, including more economical domestic energy projects, will be "crowded out" by the forced diversion of funds to the less economical synfuels project. Once one energy project is subsidized, others will seek similar treatment.

Yet, despite constant warnings like this, we have elected to move ahead with a program developed without comprehensive evaluation or review.

Even if this program meets its goal, of 350,000 bbl/d by 1985, it would provide less than 1 percent of our energy needs, at a capital investment equal to over 25 percent of what it cost us to import oil last year. Whether this is the direction energy policy should take has been the focus of much of the controversy and I believe is still unresolved.

Apart from the costs of this program, there are monumental environmental problems which the President's "synfuels" study spelled out. The report notes:

> The attainment of goals for synthetic fuel production by 1985 will require roads, mining, plant sites, waste disposal areas, utility and pipeline corridors, and other associated services, all of which would permanently alter land use.
>
> Development unavoidably destroys vegetation, removing land from its current use.
>
> In the Appalachian and eastern interior regions, agricultural and forest lands would be removed from their productive uses.
>
> Even many years after reclamation, the highest level of use will probably be only for pasture.

In the West and particularly in my own State of Colorado, the study outlined problems particular to that arid region:

> The destruction of soil profiles and depletion of water sources would make it difficult to restore land to its previous uses.
>
> The further loss of water rights will mean a permanent loss of irrigated cropland.
>
> Increased population would intensify recreational demand, causing deterioration of recreational land in the region. The loss of vegetation on development sites in combination with the introduction of many humans and heavy equipment will disrupt natural habitats, decreasing land available for wildlife communities.

The report goes on to state additional factors which are inherent in the development of synthetic fuels;

Degradation of local air quality in all regions;

Adverse human health effects, including cancer resulting from long-term exposure to aromatic hydrocarbons and effluent emitted from synthetic fuel plants;

Increases in sulfur dioxide, nitrogen oxides, trace elements, hydrocarbons and respirable particulates, even though emission controls are employed and air quality standards are enforced;

Reduction in water quality resulting from increased erosion, sedimentation, overtaxed sewage facilities, release of toxic waste to streams, and return of production water to stream channels.

The socioeconomic impact of this kind of development is also stressed. The West has borne the weight of more than one stampede to develop its hidden resources. Anyone who has been to my State or other areas which have suffered under these conditions realize that the scars are still deep and have not yet totally healed. We cannot afford to let this happen again. As the synfuel study further explains:

> The economic conditions of regions affected by development would change. During the construction phase, "boom town" conditions could create inflation and a shortage of necessary social services.
>
> Those not involved in the development-related expansion could be severely affected by inflation. The lack of social services would affect all.
>
> Health facilities and personnel probably would be over taxed. . . . If the police departments were not expanded, increased crime could result. Fire departments may not be able to respond quickly enough to have proper equipment to adequately deal with fires. Schools may be overcrowded, with high student-to-teacher ratios and inadequate classrooms.
>
> The major unavoidable impacts would be the transformation of rural areas into urbanized areas and the development of previously undisturbed areas. Buildings, roads, utility corridors, waste disposal areas, etc., would displace or intrude upon the natural landscape.

However, despite all of these concerns voiced in the report, the most disconcerting statement made in the study is its conclusion that:

> The environmental impact currently estimated to result from the 350,000 barrel per day or from the first phase of a two-phase 1,000,000 barrel per day option, appear acceptable when considered in light of the environmental and economic information likely to be gained from the program.

My response to that is that what may "appear acceptable" to someone sitting in Washington may not "appear acceptable" to the residents in the State to be plundered in a rush to prove the commercial viability of an energy project.

To its credit, the conference committee has improved upon the language of the section as it passed the Senate. However, many questions remain unanswered, some of which are beyond the scope of the legislation itself. I would particularly like to commend the efforts of my distinguished colleague, Senator HASKELL, who insured that language was included which addressed the need for State participation in the application for these loans.

Due to his efforts and the work of the conference, we now have a good base from which to work to produce a program which will ultimately serve to answer the questions which surround the development of synthetic fuels.

But this is too important an issue, as has been shown in the level of controversy that has arisen since the Senate passed this legislation, to be passed without more comprehensive and extensive hearings, review and evaluation of alternatives. The rushed manner in which the final language has come to the floor and the lack of proper hearings in either House necessitate that section 103 be deleted from an otherwise sound and constructive authorization measure.

I cannot vote in favor of the authorization bill with section 103 included, despite my support for most other sections of the bill. To support the measure would be to endorse a loan guarantee program whose ramifications have not been adequately debated and discussed.

Mr. HASKELL. Will the Senator from Arizona yield to me?

Mr. JACKSON. Will the Senator yield to me 2 minutes?

Mr. FANNIN. I yield 3 additional minutes to the Senator from Colorado.

Mr. JACKSON. I ask unanimous consent that 2 additional minutes be yielded out of Senator PASTORE's time.

How much time does he have remaining?

The PRESIDING OFFICER. Twelve minutes.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. I was recognized on Senator PASTORE's time, so I would say the Senator from Washington still has some time left.

Mr. JACKSON. Anyway, it will be 3 minutes from the time of the Senator from Arizona and 2 minutes from Mr. PASTORE's time.

Mr. HASKELL. Mr. President, I am going to vote the opposite way from my colleague from Colorado. I was on the conference; therefore, I am privy to what is in the bill. I, however, would like to join with my colleague from Colorado. It is not just on this bill; it is on many bills, which are extremely important and we, as Senators, are not privy to the conference report in adequate time to make a study. I would hope, and I say this on the floor and I say this to the leadership on both sides, that in the future, it will be possible to afford at least a 3-day opportunity for study.

Having said that, however, I would like to state why I think this is a very fine piece of legislation. I would like to congratulate the Senator from Washington, the chairman of the full committee. I would like to congratulate the Senator from Idaho (Mr. CHURCH) the chairman of the subcommittee. I am speaking only of the nonnuclear portion of the bill because that is what I worked on, that is what we worked on, in Interior.

I would point out that both Senators from Montana have pointed out one excellent addition to the original request by the administration for research and development. The other very substantial addition is in the area of solar energy which many of us feel has a long-range potential for making this country independent on energy sources.

A controversial portion of the bill comes up in a section known as 103 which provides for loan guarantees by the Federal Government for biomass plants, for shale plants, for coal gasification plants using, I assume, processes not already proven.

Mr. President, there are twin attacks that have to be made on the energy problem. One happens to be conservation, and S. 622 goes a long way in that direction.

The other attack is the development of new energy sources and utilizing existing energy sources more efficiently in a manner consistent with protection of the environment. That happens to be contained in the bill before us.

It is important in my mind to find out whether things work from both an economic and an environmetal standpoint. It is just as important to find out they do not work as they do work, and this would be true, for example, in the technology in shale which is important in my State.

I should say that the Governor of my State and also the Governor of Vermont who, I gather, is chairman of the applicable committee of the Governors' Conference, has been very complimentary, at least he was to me, on what the conferees have done to be sure there would be no adverse impacts on the States resulting from the loan program.

The loan program is very simple. The private company must first put in 25 percent at risk equity. The balance has to be borrowed from private sources and will be guaranteed by the Federal Government.

The bill contains the safeguards of assuring that States have the necessary front money to develop the infrastructure necessary to support the project.

I should say to my friends from coastal States that the Governors who are affected, whose States are affected, by this program are given the same rights and authorities that the governors in coastal States are given for the development of the Outer Continental Shelf; that is, the Governor must concur, the Governor's concurrence must be overridden only if the administrator finds the particular project is in the national interest, and then there can be court proceedings to determine the legitimacy of the administrator's finding.

Development of plans with local officials and State officials must start from

the very beginning. I would like to point out that hearings I had in Grand Junction, Colo., about 2 years ago pointed out the necessity for planning with the local people as well as giving the advance money.

So, in my view, this is a balanced bill. It is a good bill, and I certainly hope it will pass.

I would point out to Senators who may be reluctant that in the wings there is a proposal by the administration which, I think, is appalling, which would be to give price supports to some of these programs. That to me is a sort of a one-way street. It is heads the company wins, tails the Government loses. I would point out that this loan guarantee is by all manner and means the cheapest way of finding out whether this is going to work or not.

So, on balance, I think it is a very fine piece of legislation. I renew my congratulations to the Senator from Washington and the Senator from Idaho.

I would, however, repeat what I said in the beginning. I hope that in the Senate of the United States we could find a way—and maybe the commission set up at the instigation of the distinguished Senator from Iowa (Mr. CULVER), who addressed himself to this problem—I hope this would be a way in which all Members of the Senate, as my colleague said, could have plenty of advance notice of what is in a bill and, therefore, have the ability to make a considered judgment prior to voting.

I thank the Senator for yielding time to me, and I yield the floor.

Mr. BUMPERS. Mr. President, will the Senator yield 1 minute to me?

Mr. FANNIN. I would be very pleased to do so.

Mr. BUMPERS. I thank the Senator from Arizona.

I would simply like to lend my thought to the comments of both Senators from Colorado about our inability to get committee reports in sufficient advance time to really vote intelligently on them.

I sat here the other evening while we were debating the ConRail bill, an $8.4 billion appropriation. That committee report was available to my staff less than 24 hours before we voted on it. I voted against it for the same reasons that were articulated by the Senator from North Carolina that evening; I simply had not had adequate time to study that committee report.

I am not suggesting that I read every committee report, because I do not, nor does any other Member of this body. But I do want sufficient time for my staff to have an opportunity to at least go through in a cursory manner and point up some of the highlights of the bills to me.

This applied not only to the ConRail bill but to the public works appropriation bill which we passed Saturday morning; the second supplemental appropriation bill, where the committee report has been available for less than 48 hours, and this bill which has had a committee report available for less than—the ERDA bil which we are now debating, which has been available for less than—30 minutes to me.

The Senator from Colorado said he got a rough draft of it last evening. Coming over here before we adjourn is a fairly mammoth tax bill and the extension of the tax cuts earlier this year. Those are all substantive, far-reaching proposals, and I simply have to say that we must design, in my opinion, a better method of getting these committee reports to us in ample time so that we can feel comfortable with our votes.

Mr. JACKSON. Mr. President, will the Senator yield for just 10 seconds?

Mr. BUMPERS. Yes.

Mr. JACKSON. The staff did send around to each of the members of the Committee on the Interior side a summary of the action of the conference of which I have a copy here, and I think that was sent out last week. The job of drafting is obviously a difficult one, and we are right down near the end of the session. I agree with the Senator it is obviously more helpful to have the total text, but we tried to keep the Senate Interior Committee members on all sides currently informed by giving a summary which was sent to each of the members. This particular one was sent last week.

Mr. FANNIN. Mr. President, first of all, I wish to commend the chairman of our committee, the distinguished Senator from Washington, for his determination to have a good bill, a workable bill, and I feel he has accomplished that objective.

I also commend the chairman of the subcommittee, the Senator from Idaho (Mr. CHURCH), who worked diligently to accomplish that same objective.

The Senator from Washington was involved in both the nuclear and nonnuclear parts of the bill, so he had a double task to perform, and he did it admirably.

I also want to commend the staff, both the minority and the majority staff. They did work long hours and they were up against a very difficult situation with the tremendous amount of energy legislation before our committee. With some legislation before our committee, and other bills in conference they had a difficult task of working night and day over quite some period of time. The service they have performed, as I say, has certainly been commendable. I very much appreciate the work they have done and their desire to keep all the committee members.

I realize it is regrettable that we did not have the report at an earlier date, but it would have been almost an impossibility to have accomplished that objective without neglecting some of the other legislation. So I just feel it is one of those unfortunate positions we find ourselves in at this time.

I, too, commend the distinguished Senator from Montana, the majority leader, for his determination. I say that specifically because we have in the bill a very valuable addition that, perhaps, would not have been given the same consideration if he had not been involved. Also his colleague from Montana insisted that the committee follow through with the magnetohydrodynamics provision, which is essential to this legislation. We need overall coverage of the energy program.

This is another important facet of that program.

During the entire process of authorizations for the new energy umbrella agency, ERDA, it has been my intention, shaped by many of my colleagues, to emphasize certain principles:

(1) THE NEED TO ACCELERATE ENERGY R.D. & D.

This, I think, has been responsible for some of the delays, but it was a determination which was thought out by the majority and others to be sure we did incorporate all facets possible into this legislation.

The distinguished Senator from Colorado (Mr. HASKELL) was also very much involved in reaching out for some of the alternative sources and I commend him for his work.

The slowness in providing reports in the geothermal area, along with delays in promulgating loan regulations, have been discussed with ERDA. The delays in implementing the prototype lease program for oil shale by the Department of the Interior are equally of concern. In the case of ERDA, the delays may certainly be partially ascribed to the difficulties of starting up a new agency, especially when the early delays by the Office of Management and Budget in providing adequate manning levels are also considered. However, a certain conservatism is also noted. A need for lengthy phase 0, phase 1, phase 2 reports by outside experts may indicate a lack of confidence in what I consider a very capable internal staff. The Congress looks for risk taking on a large scale, and considers the finding that a candidate energy source has failed fully as valuable to our search as a finding of success.

Because we must make a determination as to whether these different sources will produce as well as has been predicted by those involved. We could talk about the program on oil shale, geothermal, solar or many other, and it is very valuable to go through the process of determining whether or not these programs can be brought to successful fruition.

(2) THE NEED TO EMPHASIZE NONCONVENTIONAL ENERGY SOURCES

This is very important and not to slight in any way the nuclear part of the program. In amending the loan guarantee program to include renewable resources, it was my intention that these mechanisms be available to the newly emergent firms working on geothermal, solar, and biomass applications. Many of these firms have indicated that a lack of capital, or lack of action in the Federal Government was delaying their own projects.

So we are not talking about just the major companies, but those who need assistance and who need help in order to carry out these very important projects.

In private conversations with ERDA, assurances were provided that renewable resources projects will be given proper consideration. In the prepared testimony before the House, however, coal and oil shale have been given great emphasis. This stems in part from the detailed background available to the administration as a result of the synfuels studies, and to the relatively advanced state of some synfuels projects. The 180-day report will be carefully reviewed to insure that all energy forms are encouraged.

(3) ERDA'S NEED FOR BROAD PERSPECTIVE

This is certainly essential. It would be unfortunate if ERDA became a reclusive scientist, sitting in the corner doing research without ever knowing of the broad economic, social, and political ramifications of its actions. ERDA needs feedback to progress at the highest rate, and in the right direction.

I do feel it is highly essential that we in the Congress insist that ERDA carry through some of the projects that perhaps they would slight otherwise because we feel an urgency in carrying forward these programs in which they are involved and do not want to have delay.

Sometimes they lose sight of some of the needed programs, such as the one that the distinguished Senator from Montana has insisted upon them following.

The whole spectrum, from basic research clear through commercial acceptance must be understood. This includes policy and legal questions, environmental considerations, and the whole key field of technology transfer. The citizens, and designers, and builders, of today and tomorrow, must understand what ERDA is about if it is to succeed.

DETAILED COMMENTS

The budget levels agreed to by the conferees reflect a great deal of work by the committees and their staffs, and are highly commended to my colleagues. It is important that our actions, as well as our words, reflect a sense of urgency toward development of new domestic energy supplies.

In the case of loan guarantees, there is need to reiterate a note of caution I sounded during conference. These are new programs, and ultimately their success will depend upon community and State acceptance, as well as economic and technical factors. There are several provisions in the loan guarantee program, calling for a very detailed report from ERDA, review by the Attorney General and the FTC, and a 90-day layover in Congress, before the guarantee can proceed. In addition, there is a no-time-limit provision calling for the Governor's review. This further provides that, upon his objection, such project shall only be undertaken if it is deemed by ERDA to be in the national interest. This provision is specifically subjected to judicial review on "arbitrary and capricious" grounds. These are all worthwhile provisions.

Taken in total, however, these steps may introduce very extensive delays in undertaking projects supported by loan guarantees. The loan guarantee is, after all, a minimal Federal presence compared with joint projects or grants.

I do feel that the loan guarantee program can be beneficial and I think highly acceptable from the standpoint of timing.

Its only purpose is to help new processes compete in the equity market for capital. If the use of these loan guarantees subjects a project to extended costs and delays, Congress may find that only large firms with the legal staffs necessary to fight the paper wars will come forward.

As for the Governor's veto, I would certainly agree that he and his State have every right to review these projects, and they have been given that right under NEPA. The provision for veto places the Governor under a great deal of pressure, in my opinion as a former Governor. He may well decide that the way to avoid that pressure is to reject the project, transferring responsibility back to the Federal Government. This, of course, provides further delay as well as the potential for misunderstanding, confusion, and hostility.

We have worked very diligently on loan guarantees.

Perhaps throughout these debates, we have tended to emphasize the unfavorable aspects of these project developments. It is important to recognize that the Congress provided these loan guarantees for the positive purposes of increasing employment, increasing the Nation's energy supply, and ultimately increasing its security.

Mr. President, the distinguished Senator from West Virginia desires to comment.

How much time does the distinguished Senator desire?

Mr. President, how much time is there remaining?

The PRESIDING OFFICER. Fifteen minutes for the Senator from Tennessee (Mr. BAKER). Ten minutes for the distinguished Senator from Rhode Island (Mr. PASTORE). And all the time has expired.

Mr. FANNIN. Five minutes?

Mr. RANDOLPH. Yes.

Mr. FANNIN. I yield 5 minutes to the distinguished Senator from West Virginia from the time of Senator BAKER.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, when the Senate considered S. 598 on July 31, 1975, I stated—

> Now is the time to focus on our country's overall energy needs for the future.
>
> If this Nation is to become energy self-sufficient the United States must initiate a comprehensive and sustained energy program for the development of unconventional as well as traditional energy supplies.

Mr. President, as proposed in January 1975, the administration's energy research program did not assume the aggressive posture regarding nonnuclear technologies that is required. However, the Subcommittee on Energy Research and Water Resources, through the leadership of its chairman, the Senator from Idaho (Mr. CHURCH), and the Interior Committee, provided in S. 598 a more reasonable balance to Federal energy research and development programs. The members of the subcommittee and the full Interior Committee provided the status to such ERDA programs as energy conservation, coal and other fossil energy developments, and solar energy, that are rightly deserved.

And, Mr. President, this balanced program has been preserved by the conference committee.

As approved by the conferees the ERDA authorization for fiscal year 1976 continues to be dominated by nuclear power programs and by defense-related activities such as nuclear weapons development and the naval reactor program. However, significant strides have been made toward a balance between defense-related activities and civilian programs.

The 1976 authorization figures for coal and other fossil fuel energy technologies was increased to $497.8 million; compared to solar—$172.5 million; geothermal $56.4 million; advanced power systems—$9.1 million; and energy conservation—$156.2 million.

The administration requested funds for one commercial synthetic fuels project, but the conference agreement authorizes seven more commercial demonstration projects: Three synthetic fuel from coal plants; two solar power projects; and two geothermal plants. This will provide a major incentive to coal gasification and liquefaction.

The location of the one synthetic fuels project presently planned by the administration—the COALCON project—to be managed by Union Carbide and Aerojet and financed by the Federal Government and a 13-member industry consortium—was recently awarded to Illinois. The conference agreement, Mr. President, authorizes three additional coal gasification or liquefaction projects besides a major Federal loan guarantee program for synthetic fuels development.

LOAN GUARANTEES FOR SYNTHETIC FUELS

If synthetic fuels are to contribute to the United States' energy supplies during the next decade, the Congress must make the basic decision to direct the course of national energy policies. In the case of synthetic fuels one of the reasons private industry has held back is uncertainty over energy prices.

Where the Congress and the administration have formulated an energy pricing policy for oil and gas the remaining issues surrounding the commercialization of synthetic fuels can be resolved. Free enterprise advocates, in and out of government, tend to favor private financing of synthetic fuels projects. However, this philosophy has failed to stimulate creation of a synthetic fuels industry in the United States after over 30 years. Yet with Federal support during World War II the United States created a synthetic rubber industry.

After extensive hearings over a 4-year period the Senate on July 31, 1975, approved Federal loan guarantees for synthetic fuels development. Under a provision I authored, $6 billion in Federal loan guarantees were made available for coal gasification and liquefaction, oil shale, solar energy, geothermal, and other nonconventional energy technologies.

Mr. President, the lengthly consideration given by the Senate to this measure was set forth in my letter of October 24, 1975, to Representative OLIN E. TEAGUE, chairman of the House Committee on Science and Technology. This letter was cosigned by Senators HENRY M. JACKSON, FRANK CHURCH, J. BENNETT JOHNSTON, CLIFFORD HANSEN, and MARK HATFIELD, and a copy was sent to each of the conferees.

For the benefit of my colleagues I ask unanimous consent that the letter be printed in the RECORD at this point in my remarks.

There being no obection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
October 24, 1975.

Hon. OLIN E. TEAGUE,
Chairman, Committee on Science and Technology, House of Representatives, Washington, D.C.

DEAR CHAIRMAN TEAGUE: One of our country's greatest immediate challenges will be to lay the groundwork for the sustained energy programs necessary to assure sufficient domestic energy supplies to maintain a strong economy. With this objective in mind, the Energy Research and Development Administration (P.L. 93–438) was established in 1974: its mission was set forth by the Congress in the Federal Nonnuclear Energy Research and Development Act of 1974 (P.L. 93–577). Subsequently, as an expansion of these authorities, on July 31, 1975, the Senate approved a loan guarantee program as section 103 of S. 598. This letter summarizes the legislative history of this provision and our reasons for supporting its retention by the House and Senate conferees.

Congressional concern for the commercial demonstration of synthetic fuels dates from the 78th Congress, with passage of the Synthetic Liquid Fuels Act of 1944 (P.L. 79–290). Under the Randolph-O'Mahoney Act about $82 million was expended over an eleven year period from 1944 to 1955 for research in synthetic fuels from coal and oil shale.

Following termination of that program, the Senate's National Fuels and Energy Study Group (S. Res. 105, 87th Congress) on September 21, 1962, identified "the role of government-sponsored research in the fuels and energy industries" as one of twelve major policy issues requiring resolution by the Congress (see Senate Document No. 87–159). The programs of the Office of Coal Research were viewed by the Study Group as a proper diversion from the traditional roles of government research, for the synthetic fuels program was specifically directed toward commercial application of new energy technologies. It also was the judgment of the Study Group that a general energy research and development policy was not realistic; rather it was viewed preferable to consider the benefits and costs resulting from each research program on its own merits. It was the Study Group's opinion that this position was consistent with the basis on which the synthetic fuels program and the Office of Coal Research were established; namely, flexibility.

Thus it was appropriate when the National Fuels and Energy Policy Study was approved by the Senate five years ago, on May 3, 1971, that its mandate include a requirement for the Study's consideration and recommendations on technological developments in progress, and in prospect, affecting energy and fuel production, distribution, transportation, and transmission (S. Res. 45, 92nd Congress). The Senate's Study was specifically directed to examine desirable areas for further energy research, development, and demonstration and to evaluate the present and potential effect of governmental programs and policies on different segments of the fuel and energy industries and their interaction with other governmental goals, objectives, and programs.

The Study began its oversight investigation in June, 1971, with hearings on the Presidents' Message on Clean Energy, which proposed an expansion toward commercialization of Federal programs on coal gasification. Federal research programs on coal liquefaction and solar energy also were advocated. Subsequently, the Study convened hearings on oil shale and on coal gasification and advanced power cycles in February, 1972; on Federal energy research programs and priorities in June, 1972; and on geothermal energy in June, 1972.

Against this background the Study contracted in 1973 with Resources for the Future for an examination of the United States' energy research and development needs into the next century. Alternative strategies were set forth in the final report of Resources for the Future for the demonstration of coal gasification, coal liquefaction, oil shale, and advanced power cycles as well as fusion, geothermal, and solar energy (S. Res. 45, Publication Serial No. 93–21).

When the Senate Interior Committee, in conjunction with the National Fuels and Energy Policy Study, began consideration in June, 1973, of S. 1283, the Federal Nonnuclear Energy Research and Development Act of 1974, it had two years of oversight hearings serving as background. This measure when introduced emphasized establishment of a comprehensive Federally-sponsored national research, development, and commercial demonstration program. Specifically addressed were coal liquefaction, coal gasification, oil shale, geothermal steam and solar power. When enacted the Federal Nonnuclear Energy Research and Development Act (P.L. 93–577) provided a broad range of financial incentives for use at the discretion of the Administrator of the Energy Research and Development Administration to foster new energy technologies. The Committee on Interior and Insular Affairs also considered general loan guarantee authority. The decision, however, was made to restrict the program to geothermal energy programs in the final measure.

Similar legislation, however, was under consideration by the Committee on Public Works. Proposed amendments to the Resource Recovery Act of 1970 contained authority for Federal loan guarantees for the demonstration of new technologies for the recovery of energy and materials from solid wastes. Such a program was provided for in S. 3560 as well as S. 3277 and S. 3549. Also before the Committee on Public Works was a similar loan guarantee provision in S. 2652 as approved by the Senate Committee on Commerce. Seven days of hearings were convened by the Subcommittee on Environmental Pollution on these measures. Markup of a bill was begun but it was not completed prior to adjournment of the 93rd Congress. The action of the Committees on Public Works and on Commerce on loan guarantees for energy recovery from solid wastes are reflected in Section 217 of S. 2150 of the 94th Congress.

Following hearings on S. 598 (the ERDA authorization bill for Fiscal Year 1976) before the Senate Subcommittee on Energy Research and Water Resources of the Committee on Interior and Insular Affairs, Senator Randolph introduced S. 2066. The Synthetic Fuel Act of 1975 was drafted with the aforementioned loan guarantee provisions as the model. Inclusion of the provisions of S. 2066 in S. 598 as section 103 by the Committee on Interior and Insular Affairs, was agreed to by the Senate Committee on Banking, Housing and Urban Affairs. The provision provides ERDA with loan guarantee authority for the commercial demonstration of new energy technologies. As approved by the Senate this authority would supplement the other Federal financial assistance options already available to the Energy Research and Development Administration for support of new energy technologies. Also before the Senate is a similar loan guarantee program in S. 973, the Energy Conservation and Development Act, which was introduced by Senator Lloyd Bentsen on March 6, 1975. Such a program was offered by Senator Bentsen and tentatively approved by the Senate Committee on Finance in July 1975, as an amendment to H.R. 6860, the Energy Conservation and Conversion Act of 1975. In summary, over several years Federal loan guarantees for the support of new energy technologies have been and are being considered by the Senate. The program provided for in Section 103 of S. 598 is consistent with programs considered by the Committees on Finance, on Banking, Housing and Urban Affairs, on Interior and Insular Affairs, on Public Works, and on Commerce.

In our judgment, enactment of this loan guarantee program at this time would be consistent with national efforts to promote greater energy self-sufficiency at the earliest date. Moreover, the provision would retain this program in ERDA and would preserve the Congressional review procedures incorporated in ERDA's enabling legislation. The provision must be administered consistent with the Federal Nonnuclear Energy Research and Development Act of 1974. Therefore, the governing principles (Section 5) of that Act would apply, which require the "environmental and social consequences of a proposed program shall be analyzed and considered in evaluating its potential. Moreover, the program under Section 103 of S. 598 would have to be reflected in ERDA's comprehensive plan for energy research, development and demonstration which will be submitted to the Congress annually pursuant to section 6 of that Act. In addition, a report on each proposed loan guarantee for a demonstration project would have to be submitted to the Congress and reside before the Congress for 90 days before it could be finalized by the Administrator; this also is consistent with the policies set forth in ERDA's enabling legislation, including the Federal Nonnuclear Energy Research and Development Act of 1974.

Assuring you of our desire to cooperate, but with hope that this detailed letter will explain supportive documentation for loan guarantees for new energy technologies, we are,

Truly,

JENNINGS RANDOLPH.

Mr. RANDOLPH. Mr. President, when the Senate approved S. 598 as a substitute for H.R. 3474 by a vote of 92 to 2, it was with the recognition that there was no comparable loan guarantee provision in the House passed measure.

In recognition of the reality that now is the time for commitment to our country's energy future, the House Committee on Science and Technology convened extensive hearings on Federal loan guarantees in preparation for the House-Senate conference. Chairman TEAGUE, the other House conferees, and the members of his committee are to be commended for their initiative in support of this program.

As this Senator noted on July 31, at the present time, our country does not possess an adequate infrastructure to support the expeditious creation of a domestic synthetic fuels industry. Yet basic technologies for the gasification and liquefaction of coal are in wide-scale use in other parts of the world. In the United States, first generation technologies for the production of low-Btu gas, high-Btu gas, and methanol are now ready for commercialization.

The principal constraint to deployment of presently known technologies is the availability of sufficient capital at reasonable interest rates. Thus if synthetic fuels are to be developed in this decade, the Federal Government must provide incentives to encourage the commercialization of first generation technologies.

In recognition of the vital role that synthetic fuels must serve in our country's energy future, the Energy Research and Development Administration recently established a new program office. The Office of Synthetic Fuels would have equal status with ERDA's other six offices.

Mr. President, this loan guarantee program does not commit the Federal Government to any synthetic fuels program. Rather, it is designed to encourage the early construction of a few prototype facilities to demonstrate the potential of new technologies. The experience of building these plants will facilitate responsible decisions for synthetic fuel development in the future.

Before awarding a loan guarantee the ERDA Administrator must consult with the Governor and local officials affected by the proposed synthetic fuels facility. Consistent with the policies set forth in the Outer Continental Shelf Act and in the Deep Water Port Act, authority is provided for the Administrator to find that national interest dictates that a loan guarantee be made despite a Governor's objections.

For projects that are authorized the Administrator is provided a broad range of forms of financial assistance to aid communities hosting synthetic fuels projects. In addition, each proposed loan guarantee must be submitted to the Congress for review.

URBAN WASTE CONVERSION

Mr. President, among the programs authorized are $15 million for urban waste conversion programs. While these programs are within the general authority of ERDA, the record should indicate that they overlap directly on program areas of the Environmental Protection Agency.

The goal of Federal programs in this area should be to accelerate the implementation of energy and materials recovery systems. This should be undertaken, first, to conserve energy and other important materials, and second, to reduce the negative environmental impacts and cost of solid waste disposal.

Nevertheless, decisions concerning the implementation of energy and materials recovery systems are generally made by State and local environmental agencies, solid waste mangement authorities and the private sector. Thus such decisions are made within the context of the overall environmental protection and solid waste management programs of local government agencies.

The EPA and its predecessor agencies have had over 10 years of experience in dealing with State and local solid waste management agencies. Such activities have—

Fostered the development of solid waste mangement plans in all States:

Included technical assistance to communities of all size across the Nation;

Included a widescale program of information, development, and public education; and

Resulted in the development of guidelines for collection, separation, recovery, and disposal of solid waste.

More specifically in the energy and materials recovery area, EPA is involved in the demonstration of advanced technologies on—

The firing of refuse-derived fuel as a coal supplement in a utility boiler;

Pyrolysis of solid waste to produce a combustible gas;

The firing of refuse-derived fuel in an oil-fired utility boiler;

Pyrolysis of solid waste to produce an oil like fuel; and

The use of solid waste as a fuel in a cement kiln.

Furthermore, EPA has developed a technical assistance program directed specifically toward accelerating energy and materials recovery system implementation.

It is appropriate that the conferees have required coordination of ERDA's programs in this area with other Government agencies, in particular the Environmental Protection Agency. I quote from the conference report:

> It is the intent of the Conferees that this ERDA Urban Waste Conversion program be carefully coordinated with other Federal agencies, the EPA in particular. At the present time EPA has the major responsibility in this area. EPA provides significant budget assistance to states and local governments for construction in current state-of-the-art urban waste conversion facilities. The ERDA program is not intended to needlessly duplicate this EPA function but rather to emphasize the need for developing urban waste conversion technology in the context of the nation's energy needs. At the present time solid waste represents not only a costly disposal problem and an environmental insult, but also is an important under-utilized source of energy. ERDA's research and development programs must be coordinated with agreements between ERDA and EPA considered with Congressional policies contained in the Solid Waste Disposal Act and ERDA's legislative authorities.
>
> It is not the intent of the Conferees to impinge on the current EPA program. Rather, they expect that the relative roles of ERDA and EPA will be decided within the Executive Branch through interagency agreements and coordination. The Conferees expect that unnecessary duplication and overlap in this extremely important program will be minimized through close cooperation between the two agencies during the period such an interagency agreement is pending. It is hoped that such an agreement will be reached as soon as feasible. The Conferees feel that EPA has special expertise in order to take advantage of the EPA experience.

Mr. President, these funds are to be restricted for the design, construction, and operation of demonstration facilities. Their use for other than demonstration purposes would be inconsistent with congressionally established policies contained in the Solid Waste Disposal Act and proposed amendments presently under active consideration by the Congress.

We are the representatives of the American people. We must focus on our country's energy problems. However, our country is faced with the dual problems of severe capital limitations and a shortage of environmentally acceptable fuels. Thus a sound case can be made for Federal loan guarantees.

Our challenge is to also lay the groundwork for solutions to our energy problems at the same time. This is accomplished in this conference and measure. I urge its approval.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. What is the time situation with reference to the four participants?

The PRESIDING OFFICER. The Senator from Rhode Island has 9 minutes remaining. The Senator from Tennessee has 7 minutes remaining.

Mr. JACKSON. That is all that is remaining?

The PRESIDING OFFICER. That is all that is remaining.

Mr. JACKSON. Is there a request for time?

If there is no further request for time——

Mr. FANNIN. Will the Senator yield?

Mr. JACKSON. I ask unanimous consent Mr. President, to yield 2 minutes to the Senator from Arizona, to be charged to the time of the Senator from Rhode Island.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FANNIN. I thank the distinguished chairman.

Mr. President, I want to comment on what has been said by our very capable and knowledgeable Senator from West Virginia on the subject which he addressed.

We have a tremendous opportunity to make a great contribution toward energy development by following through with what the distinguished Senator has advocated. He has been a leader in this field for many years and has been responsible for legislation in the Congress that has been extremely beneficial to our energy program.

We have these opportunities, Mr. President, and we must take advantage of them at the earliest possible time. There are projects now that will have a great effect on our future policies of importing oil and petroleum products from overseas. Each project that is successful causes diminution of the amount of product we must import.

We have the geothermal program which has been discussed here. It has a tremendous potential, but needs considerable work. We do have some successful projects. In fact, the most successful one in the United States has been Geyserville, Calif. But we need to carry it through to additional projects in various parts of the country. We do have tremendous opportunities in southern California.

Mr. RANDOLPH. Will the Senator yield 1 additional minute?

Mr. JACKSON. I yield 1 minute under the same previous request.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 1 minute.

Mr. RANDOLPH. As the able Senator from Arizona (Mr. FANNIN) has indicated, we do know that there is a necessity for this measure now, not later. I will not go back to the 1940's when we enacted the Synthetic Liquid Fuels Act of 1944, or what it did and how we dropped the program in the late 1950's. That was tragic for this country.

I do say for the RECORD, that this loan guarantee program does not commit the Federal Government to any synthetic fuels program. It is designed to encourage the early construction of a few prototype facilities to demonstrate the effectiveness and potential of new technologies. The experience in building these plants will facilitate responsible decisions for synthetic fuel development in the future.

I hope it is not a future that is too far away.

I thank the Senator from Arizona, as I thank again the Senator from Washington (Mr. JACKSON) for bringing to the Senate a conference bill that represents sound policies. The loan guarantee provision is absolutely necessary to the strengthening of energy self-efficiency for this country.

Mr. JACKSON. Mr. President, how much time does Senator PASTORE have remaining?

The PRESIDING OFFICER. Seven minutes remain.

Mr. JACKSON. I yield 1 minute to the Senator from Arkansas to be charged to the time of Senator PASTORE.

EXTENSION UNTIL APRIL 30, 1976, OF THE AUTHORITY OF THE NATIONAL COMMISSION FOR THE REVIEW OF FEDERAL AND STATE LAWS RELATING TO WIRETAPPING AND ELECTRONIC SURVEILLANCE

Mr. McCLELLAN. Mr. President, I introduce a bill and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Arkansas?

There being no objection, the Senate proceeded to consider the bill (S. 2757), to extend until April 30, 1976, the authority of the National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance, which was read the first time by title.

Mr. GRIFFIN. Mr. President, I do not intend to object, but it is the case that this is just a simple extension for 3 months?

Mr. McCLELLAN. A simple extension to give them an opportunity to file a report. There is no money involved.

The PRESIDING OFFICER. If there is no objection, the bill will be considered as having been read the second time at length.

Mr. McCLELLAN. Mr. President, S. 2757, which I introduce today on behalf of myself, Senator HRUSKA, and Senator TAFT, will extend for 90 days the life of the National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance.

Under the provisions of the Omnibus Crime Control and Safe Streets Act of 1968, the Congress charged the Commission, on which I and my cosponsors are pleased to serve, with the duty of conducting a comprehensive study and review of the operation of the wiretap and electronic surveillance provisions of that act. The Commission's final report of its findings and recommendations is presently required to be submitted to the Congress and the President by January 31, 1976. The Commission itself will cease to exist 60 days after the submission of that final report.

Despite diligent efforts on the part of both the members and staff of the Commission, it now appears that it will not be possible for the Commission to meet the January deadline. Although the necessary raw material has been gathered for a thorough and incisive report, the drafting of that report cannot be completed by January 31. This bill will provide the Commission with 90 additional days in which to complete it. The Commission feels that this additional time will be sufficient to permit the preparation of a report for the Congress and the President that will be a useful evaluation of the wiretap and surveillance provisions of the Safe Streets Act.

I would like to point out, Mr. President, that this bill neither authorizes nor appropriates additional funds for the Commission. It merely extends its life for the needed 90 days.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The bill (S. 2757) was passed, as follows:

S. 2757

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 804(h) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 197; 18 U.S.C. 2510 note), is further amended by striking out "January 31, 1976" and inserting in lieu thereof "April 30, 1976".

Mr. ABOUREZK. A parliamentary inquiry, Mr. President. What was the legislation?

Mr. McCLELLAN. To extend the time for the report of the Commission.

Mr. ABOUREZK. Until when? Is it too late for me to object?

The PRESIDING OFFICER. I have announced that the bill was passed.

Mr. ABOUREZK. I would like to object. Will the Senator ask to withdraw the bill? I did not receive any notice.

Mr. McCLELLAN. Mr. President, I understand there is objection. Has the bill passed?

The PRESIDING OFFICER. The bill has passed.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the vote be vitiated on this bill.

Mr. GRIFFIN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ABOUREZK. Mr. President, I move reconsideration, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. ABOUREZK. On my time.

The PRESIDING OFFICER. The Senator has no time.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION APPROPRIATIONS—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3474) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes.

Mr. FANNIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FANNIN. What is the pending business?

The PRESIDING OFFICER. The pending business is the conference report on the Energy Research and Development Agency. When it is disposed of, the Senate will then return to the motion to reconsider.

Mr. JACKSON. Mr. President, I just wish to reiterate what has been said here, that the staff has done an outstanding job, and both the majority and minority members of the committee, and the conference has cooperated 100 percent. The result of the conference, I believe, is to give us a much stronger and a much more effective and more equitable bill than we had at the outset, and I cannot speak too highly, especially of the staff on both sides of the aisle, especially Dr. Dan Dreyfus, Mr. Ben Yamagata, Mr. Owen Malone, Mr. Mike Harvey, and Dr. Burke Nelson.

This is a highly technical matter, and I wish to express my deep appreciation to all the members of the committee for their help and consideration in making this legislation possible, in the sense that the conference report was unanimous.

Mr. President, if there is no further request for time, I ask unanimous consent that the remaining time be yielded back.

The PRESIDING OFFICER. Is there objection?

Mr. FANNIN. I have no objection.

ADDITIONAL STATEMENTS SUBMITTED ON CONFERENCE REPORT ON H.R. 3474

SYNTHETIC FUELS

Mr. MONTOYA. Mr. President, the Senate has before it the conference report on H.R. 3474, the ERDA authorization bill for fiscal year 1976.

Contained in this legislation is section 103 which was added by the Senate and retained by the conference committee. This section would help start this Nation a long way toward our announced goal of energy independence by providing loan guarantees for the development of synthetic fuels.

My State of New Mexico, which has large reserves of coal, supports synthetic fuel development providing that environmental and community protection are assured. Section 103 provides this assurance, and I believe the Nation should take this important step toward meeting our energy requirements with our own resources and thus reduce our dependence on foreign sources of supply.

I urge my colleagues to support this conference report to demonstrate the determination of Congress to fully meet our responsibility and the Nation's needs.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter I have received from the Hon. Jerry Apodaca, Governor of New Mexico, in support of this legislation, and particularly section 103 as it has been reported by the conference committee.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF NEW MEXICO,
Santa Fe, December 1, 1975.

Hon. JOSEPH M. MONTOYA,
U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR MONTOYA: I am happy to learn that the House and Senate Conference Committee has completed action on the ERDA authorization bill for fiscal 1976.

After reviewing the conference report, I am convinced that those sections of the ERDA legislation which deal with the commercial synthetic fuel program are consistent with the best interests of New Mexico. I urge your support of the conference report on the floor of the Senate.

As you may know, there are several coal gasification plants proposed for the northwest corner of New Mexico. This state is committed to help the nation meet its energy needs. At the same time, we are determined that this national commitment will not result in the destruction of the quality of our environment or the deterioration of our way of life. I believe the language adopted by the conferees adequately meets these goals.

The synfuel plants currently planned for New Mexico could augment a rapidly depleting natural gas supply free from foreign control. At the same time, with sound resource management and planning, these projects will bring many social and economic benefits to all of New Mexico's people.

New Mexico is interested in seeing such energy projects become economically viable. We realize that financial incentives will be necessary for industries to undertake these high capital and risk ventures, and therefore, we support the federal loan guarantee program for commercial synfuel development contained in the legislation before you. I am very pleased that funds for communities affected by synfuel development are included in this program, as well as assurances that the states' authority in various administrative and environmental matters are not to be preempted. This provision meets the objectives and eases the concerns of the western states previously expressed on the synfuels program. A synfuel program which takes these concerns into account will surely prove the most equitable for the energy-producing states and the most beneficial for the country as a whole.

I appreciate your serious consideration of these views, and again I urge you and your colleagues in the Congress to meet the challenge before you and start this nation on the road toward energy independence.

Sincerely,

JERRY APODACA,
Governor.

Mr. CHURCH. Mr. President, passage of this conference report will provide authorizations to ERDA for the fiscal year 1976 and the transition period.

As Senators may recall, the original authorization bill, S. 598, was approved by the Senate on July 31 by a vote of 92 to 2. This strong expression of support for the Energy Research and Development Administration reaffirmed the congressional mandate set forth in the Federal Nonnuclear Energy Research and Development Act of 1974. The mission of ERDA is to embark the Nation upon an aggressive energy research, development, and demonstration program similiar to the Apollo program which first put an American on the Moon. This commitment of funds and manpower is reflected in the conference recommendation now before the Senate.

As floor manager of the Senate authorization bill, and as chairman of the Senate Interior Subcommittee on Energy Research and Water Resources, I am pleased to report that conferees accepted and now recommend the adoption of major provisions contained in the original Senate-passed bill. Included among these major provisions are authorizations for the following programs:

First. An increase in authorizations over the amount originally requested by the administration of $344,521,000 for "operating expenses" in the nonnuclear programs administered by the Energy Research and Development Administration for fiscal year 1976.

Second. Authorizations under "plant and capital equipment" for an additional eight demonstration-scale projects in nonnuclear technologies. For fiscal year 1976, such authorization would total $94,800,000.

Third. With respect to the recovery of oil from shale, the Administrator of ERDA is authorized, in cooperation with the Secretary of the Interior, to administer a tract of public land suitable for the demonstration of in situ oil shale recovery, and to enter into an agreement with private industry for the utilization of such tract for the demonstration of in situ oil shale recovery.

Fourth. The Administrator of ERDA is authorized to establish a loan guarantee program for the commercial demonstration of synethetic fuels from coal and oil shale and of nonconventional energy sources.

Fifth. An increase in authorizations above the original administration request of $87,715,000 for "operating expenses" in the nonnuclear programs administered by the ERDA for the transition period to the new fiscal year.

Sixth. Authorizations under "plant and capital equipment" for the transition period to the new fiscal year to continue funding for eight demonstration scale projects in nonnuclear technologies. For the transition period such authorizations would total $25 million.

Seventh. The Administrator of ERDA is given authority to transfer funds between programs subject to congressional review.

Eighth. The Administrator is required to submit to the Congress a report detailing the extent of small business and non-profit organizations participation in the ERDA programs.

Ninth. In addition, special provisions have been provided to govern the important fossil fuel programs within ERDA. And, authority for establishing a central source of information to collect energy-related data is given.

I believe that this legislation is one of two of the most important energy-related matters which Congress will act upon this year. It is no overstatement that energy research, development, and demonstration holds the key to our country's energy independence.

Equally as important, if we are to successfully provide for our energy future, the important work must begin now. That is why I am pleased to report that the conferees not only agreed upon levels of funding for fossil, solar, geothermal, and conservation, which demonstrate a high yet fiscally responsible commitment, but the House conferees also accepted the Senate proposal to authorize eight demonstration scale projects which utilize as their energy source coal, solar, or geothermal energy. I might add that the Ford administration requested authorizations for only one demonstration scale project. This business-as-usual approach, demonstrated by the administration is simply unacceptable. In light of the original authorization request, it is my judgment that this authorization bill is also an attempt to move ERDA off the dime and to demonstrate congressional wariness of any approach which does not go full throttle ahead.

Delay in bringing this bill back to the Senate has been largely attributable to the loan guarantee provision adopted by the Senate. That provision, which would provide $6 billion in loan guarantee authority for the commercialization of synthetic fuels derived from coal, oil shale, solar, geothermal, urban waste and others, has been the subject of intense House review. This section of the bill has precipitated considerable debate but, I believe, many of the objections to the loan guarantee program have been resolved by the conferees. The program now includes clearly defined provisions for community impact assistance, full State and local community participation, congressional review of project proposals and, for those projects whose cost would exceed $350 million, one House disapproval of the project.

As chairman of the subcommittee responsible for oversight of ERDA, I can assure my colleagues that I fully intend to push the agency along, if necessary, and to monitor ERDA's program to assure rapid development of energy technologies at minimum cost to the Federal Treasury and the environment.

I ask unanimous consent that a summary of the provisions of the conference report and the relevant table appear at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Summary of H.R. 3474 nonnuclear programs

Titles I and II authorize nonnuclear programs, nuclear programs and joint programs.

1. The nonnuclear programs are as follows:

	Fiscal year 1976	*Transition period*
Fossil	$497, 821	$132, 550
Solar	172, 525	46, 203
Geothermal	56, 390	13, 650
Conservation	156, 205	35, 908
Advanced energy systems	9, 150	1, 780

2. The incremental increases in the other programs are as follows:

Physical research	$24, 075	$6, 136
Environment and safety	44, 100	9, 319
Scientific and technical education	5, 850	1, 462
CEQ, WRC, NBS	2, 750	687
Program support	9, 000	2, 250

Section 102 establishes an in situ oil shale demonstration program and provides for the transfer to ERDA of the administrative jurisdiction of an oil shale lease, with the lease administration reverting to the Department of the Interior at the end of the demonstration phase. It also provides for consultation with the State and local officials and impact assistance.

Section 103 provides for up to $6 billion in loan guarantees for the construction of commercial demonstration facilities for (1) synthetic fuels from coal, oil shale, biomass, and other domestic resources; (2) energy from solar, wind, geothermal, and other renewable resources; and (3) for energy efficient industrial equipment.

Each guarantee must be made in consultation with the Secretary of the Treasury. The Administrator must consult with the Governor and local officials in making his decision. If the Governor objects, the Administrator may override if he decides that it is in the national interest; a judicial review of the override decision is provided. Each guarantee is subject to a Congressional layover of 90 days, and if the project costs over $350 million, either House may veto such project during this period.

The Administrator is given a portfolio of financial assistance programs to provide impact aid to affected communities. ERDA, as part of its program report to Congress, must also present a report on the socio-economic effects and their estimated costs.

The title and waiver requirements of the patent policy of the Federal Nonnuclear Act apply to this program. All patents and such technology as is necessary to operate the facility are a part of the project's assets.

Any employee performing duties under this section and with a financial interest in energy resources associated with an applicant, must make an annual, public disclosure of all such interests.

All applicants or borrowers must be citizens or nationals of the United States.

Section 104 provides limitations on nonfossil plant and capital equipment. Sections 105, 106 and 107 provide for nuclear authorizations.

Title III contains general provisions.

Part A applies to non-fossil programs. Authority is provided to begin construction design work without specific authorization from Congress for the project (Sec. 301); funds may remain available until expended (Sec. 302); and ERDA is given the authority to transfer funds to other agencies (Sec. 303).

Part B relates to all nonnuclear energy development. It provides for general reprogramming of funds, with Congressional notification, as long as no major category is decreased by more than 10% (Sec. 304); and a central source of information on all energy resources and technology (Sec. 311) for R&D purposes.

Part C relates to fossil energy development. It provides for reprogramming of operating expenses for construction purposes (Sections 311 and 314); and a program of environmental and safety research, development, and demonstration related to fossil fuels (Sec. 315).

Title IV changes the name of the Oak Ridge Holifield Laboratory.

Title V provides procedures for the transportation of plutonium by air.

Title VI provides technical amendments for assistance payments under the Atomic Energy Community Act of 1955.

SUMMARY, FISCAL YEAR 1976 CONGRESSIONAL ACTION TABLE, OBLIGATIONS

[In thousands]

	Fiscal year 1976						Transition period					
				Conference recommendation						Conference recommendation		
	Senate authorization	House authorization	Range	Amount	Compared to Senate	Compared to House	Senate authorization	House authorization	Range	Amount	Compared to Senate	Compared to House
Fossil energy development:												
Operating	476, 007	391, 660	84, 347	429, 396	−46, 611	+37, 736	123, 050	102, 080	20, 970	112, 350	−10, 700	+10, 270
Capital equipment	425	425	0	425	0	0	200	200	0	200	0	0
Construction	73, 000	20, 000	53, 000	68, 000	−5, 000	+48, 000	21, 250	8, 000	13, 250	20, 000	−1, 250	+12, 000
Polar energy development:												
Operating	123, 348	194, 800	71, 452	159, 525	+36, 177	−35, 275	33, 720	48, 700	14, 980	43, 703	+9, 983	−4, 997
Capital equipment	0	3, 000	3, 000	3, 000	+3, 000	0	0	0	0	0	0	0
Plant	10, 000	0	10, 000	10, 000	0	+10, 000	2, 500	0	2, 500	2, 500	0	+2, 500
Geothermal energy development:												
Operating	30, 113	53, 270	23, 157	43, 270	+13, 157	−10, 000	6, 885	13, 450	6, 565	10, 950	+4, 065	−2, 500
Capital equipment	620	3, 120	2, 500	3, 120	+2, 500	0	200	200	0	200	0	0
Plant	10, 000	0	10, 000	10, 000	0	+10, 000	2, 500	0	2, 500	2, 500	0	+2, 500
Conservation energy development:												
Operating	167, 335	123, 780	43, 555	144, 705	−22, 630	+20, 925	39, 943	29, 033	10, 910	33, 008	−6, 935	+3, 975
Capital equipment	2, 450	11, 500	9, 050	11, 500	+9, 050	0	500	2, 900	2, 400	2, 900	+2, 400	0
Plant	0	0	0	0	0	0	0	0	0	0	0	0
Physical research (increment only):												
Operating	24, 000	15, 900	8, 100	19, 745	−4, 525	+3, 575	6, 000	4, 400	1, 600	5, 099	−901	+699
Capital equipment	5, 000	4, 100	900	4, 600	−400	+500	1, 250	600	650	1, 037	−213	+437
Plant	0	0	0	0	0	0	0	0	0	0	0	0
Environment and safety (increment only):												
Operating	35, 300	13, 500	21, 800	35, 300	0	+21, 800	8, 825	3, 375	5, 450	8, 819	−6	+5, 444
Capital equipment	0	2, 000	2, 000	2, 000	+2, 000	0	0	500	500	500	+500	0
Plant	6, 800	0	6, 800	6, 800	0	+6, 800	0	0	0	0	0	0
Advanced energy systems:												
Operating	9, 150	9, 150	0	9, 150	0	0	1, 780	1, 780	0	1, 780	0	0
Capital equipment	0	0	0	0	0	0	0	0	0	0	0	0
Plant	0	0	0	0	0	0	0	0	0	0	0	0
Scientific and technical education (increment only):												
Operating	6, 700	5, 000	1, 700	5, 850	−850	+850	1, 675	1, 250	425	1, 462	−213	+212
Capital equipment	0	0	0	0	0	0	0	0	0	0	0	0
Plant	0	0	0	0	0	0	0	0	0	0	0	0
CEQ, WRC, NBS (increment only):												
Operating	3, 200	1, 500	1, 700	2, 750	−450	+1, 250	800	375	425	687	−113	+312
Capital equipment	0	0	0	0	0	0	0	0	0	0	0	0
Plant	0	0	0	0	0	0	0	0	0	0	0	0
Program support (increment only):												
Operating	10, 300	6, 600	3, 700	9, 000	−1, 300	+2, 400	2, 600	1, 700	900	2, 250	−350	+550
Capital equipment	0	0	0	0	0	0	0	0	0	0	0	0
Plant	0	0	0	0	0	0	0	0	0	0	0	0
Program total:												
Operating	885, 453	815, 160	70, 293	858, 421	−27, 032	+43, 261	225, 278	206, 143	19, 135	220, 108	−5, 170	+13, 965
Capital equipment	8, 495	24, 145	15, 650	24, 645	+16, 150	+500	2, 150	4, 400	2, 250	4, 837	+2, 687	+437
Plant	99, 800	20, 000	79, 800	94, 800	−5, 000	+74, 800	26, 250	8, 000	18, 250	25, 000	−1, 250	+17, 000
Total	993, 748	859, 305	134, 443	977, 866	−15, 882	+118, 561	253, 678	218, 543	35, 135	249, 945	−3, 733	31, 402

Note: Final year 1976 original ERDA request 537,395; total amount recommended exceeds original ERDA request, 440,471. Transition period original ERDA request, 141,293; total amount recommended exceeds original ERDA request, 108,652.

Mr. KENNEDY. Mr. President, I call to the particular attention of my colleagues the provision in the Energy Research and Development Administration Authorization which directs the Administrator of ERDA to give high priority to the demonstration of offshore wind electric generating facilities.

This provision in the conference report is based on the amendment I offered during the Senate's consideration of the authorization. It was adopted unanimously. It was based on my conviction that the need for new energy sources is so urgent that no reasonable effort should be spared in providing the Nation with cost-effective alternative energy sources as quickly as possible.

The feasibility of windpower was demonstrated in New England over 30 years ago. Yet, until last year when the National Science Foundation funded research on the 100-kilowatt wind electric generating machine now underway at the NASA-Lewis Research Center, nothing had been done to build on that early experience or to demonstrate further the commercial feasibility of wind energy.

Even without energy storage facilities, on which further research is required, wind energy can provide a substantial supplement to present source of electric power. Some industrial uses do not require continuity of supply. Simply added to present electric grids, wind power can permit fuel savings without being depended upon for base load power. Wind energy can be used in conjunction with hydroelectric power, by permitting the reservoir to fill while the wind is blowing so that there will be more hydropower while the wind is not able to carry the load.

Mountain tops and ridges, insofar as they are accessible and present no esthetic objections, are among the favorable sites for wind turbines, but they are limited in number. For the large wind machines that could supply a substantial fraction of our electric energy needs in the future, the windy offshore seas on the continental shelf are very promising locations. Conceptual designs of floating offshore units have been proposed, but there has been no experience with building them, as there has been with land-based machines.

For this reason, and because offshore sites may turn out to be the most favorable location for wind power, it is particularly important that full scale demonstration models are designed and built as soon as possible.

At the provision included in the ERDA authorization, calling on the Administrator to include in an annual authorization proposal a recommendation on construction of at least one demonstration offshore wind-electric generating facility, is a clear indication of the interest of the Congress in insuring that we do not wait another 30 years before pursuing the feasibility of wind energy.

I urge the Administrator of ERDA to include in the budget he will send to Congress early next year a specific program for the construction and demonstration of offshore wind electric generating facilities on a scale which will permit the early demonstration of their technical and commercial feasibility.

Mr. ABOUREZK. Mr. President, yesterday afternoon, the conference committee filed its report on the ERDA authorization bill. I voted against the original version of the bill because it did not fulfill the Senate's commitment to finding ways to promote abundant, renewable, and non-polluting fuels. Instead, it provided for continued expansion of nuclear energy. It funded fossil fuel demonstration programs at nearly three times the level of solar energy, and it set aside a mere pittance for energy conservation programs. It also did something else, which very few Senators are aware of. It established a $6 billion synthetic fuels industry.

Section 102 of the ERDA authorization provides for an oil shale demonstration program and changes certain leasing procedures to exempt oil shale companies from bonus and royalty payments on Federal property. Section 103 provides for federally guaranteed loans up to $6 billion.

Now, this is a major step in energy policy and hardly anyone knows what it consists of. It certainly didn't get anything like the discussion we spent on New York City's loans, and it has more far-reaching effects. The difference between this and the case of New York is that this is a loan program for private industry—and the other was a government loan to another public entity. The obvious conclusion, once again, is that the business of government is business, not public policy.

Even without benefit of full debate and discussion, it is clear that there are several problems with such a program.

Why is it necessary in the first place? It is necessary because the private money market considers the synthetic fuels plants too risky for them to finance. The technology is unproven and inefficient. That is the reason that money for synthetic fuels demonstration plants went into ERDA's fossil fuels budget, to see if we could make some improvements on the technologies for making liquid fuels from various solids.

And because the technology for these synthetic fuel plants is unproven and inefficient, the fuel that will come from them is going to be very expensive. The private money managers simply are not sure that they will get their investment back if the companies they backed are trying to sell synthetic oil for $17 or $20 a barrel in a market where other fuels are selling for half that price. Of course, the oil companies are not about to take risks on these plants from their own inflated revenues, even though they argue that they must have high prices in order to support their investments in just this sort of venture.

So the Government guarantee creates a whole industry which the market itself will not support at this time.

Second, once the private market begins to make loans for these plants you can be sure that it will siphon off money from other needs—in housing and in municipal bonds, to name two crucial areas—and thus it threatens an additional liability to the taxpayers. We are already funneling enormous sums of money into the energy industry—and this means about 20 or 30 oil companies and utilities—through high prices, R. & D. grants, demonstration programs, and the like. This is truely skewing the economy, because the capital we put into energy comes directly out of other vital areas.

What are some of the other problems entailed in a synthetic fuel program established with no real consideration? There are tremendous environmental problems and questions of sufficient water supply. Oil shale, coal gasification, and coal liquefaction all take huge amounts of water and depend on massive leases for shale or coal lands. These leases will be in the western States, where water scarcity has already caused problems and its future use is very controversial.

At the same time, the new plants will require an industrial structure that will obviously disrupt the small communities in those States, and change the lives of many people.

There is also a real question of whether this new industry will demand price supports from the Government. On October 22, ERDA submitted a draft bill to Congress asking for authority to provide up to $4.5 billion in price supports and $600 million in additional construction grants "for a commercial demonstration program—in conjunction with the loan guarantee incentives of section 103" of the bill we are considering today.

Thus, we must consider this $6 billion as a first step. There is an immediate possibility that the Congress will be asked for another $5 billion, and I do not need to remind my colleagues how hard it is to deny additional money to an industry—which the Federal Government has commitments. We need only look at the nuclear power industry to see how Federal support for development of capacity turned into a full-fledged industry with an extremely powerful interest group. Now, when serious questions are raised about the cost and efficiency of nuclear power, we are not able to decide to end the commitment, simply because so much money has already been put into the industry.

We should have a full debate on the question of encouraging a synthetic fuel industry based largely on fossil fuels, which is likely to need significant price supports to compete with other fuels, and which will be run by the existing energy conglomerates. If this legislation is good and beneficial, then it will be able to stand up under careful scrutiny and public comment.

Mr. FANNIN. Mr. President, one of the many positive steps taken in the conference on H.R. 3474 was the adoption by the conferees of two provisions which give ERDA authority to provide positive and predictable protection for trade secrets and other proprietary information. Mr. Chairman, because of the importance of the two sections, 103(V) and 312, to our ERDA programs, I want to insure that our actions are understood. Would you agree with the following summary of our actions and their effect on those two sections?

The conferees adopted two provisions which provide positive and predictable protection for trade secrets and other proprietary information. Sections 103(V) and 312 provide such positive and predictable protection for the information acquired by ERDA in the loan guarantee program and in its central source of information or data bank, respectively.

The two sections include a simple and straightforward statutory scheme. Where any individual has information which ERDA is going to acquire under either program, the individual can make a showing to ERDA that the information is either a trade secret or is other proprietary information. In both cases, there is an existing body of case law to help ERDA in defining these two categories of information. Once the individual makes a satisfactory showing that his information falls into one or the other of the two categories, ERDA shall not disclose the information. Procedures are included for ERDA to make the information available to its own employees and to other agencies to carry out their responsibilities. Neither the employees nor other agencies are authorized to disclose the information, however, and so the protection is not avoided. ERDA cannot under these provisions withhold the information from Congress.

The conferees took this action because of a very serious problem which is developing in ERDA and which could have been exacerbated by the loan guarantee program and the data bank. Or conversely, the problem could seriously have inhibited the progress and success of the programs. Basically, the problem is that under existing law, primarily the Freedom of Information Act, court holdings have made Government protection of trade secrets and other proprietary information completely unpredictable. One recent case even held that a prior Government pledge of confidentiality or nondisclosure could not be honored, but rather the nondisclosure had to be "tested" under another court holding.

As a result, industry is increasingly reluctant to share the results of its research and development cooperatively with the Government.

Our action here is intended to remedy that situation for ERDA so that this problem will not serve as an impediment to getting the full cooperation of industry in formulating programs and in getting the full participation of industry in conducting these programs. Our national energy research and development efforts are far too important to allow such an impediment to exist. That there could be a problem was well demonstrated in a letter of September 18, 1975, from the ERDA Administrator, Bob Seamans, to Chairman TEAGUE of the House Science and Technology Committee. Bob stated:

> Recent cases indicate that a court might under the Freedom of Information Act require disclosure of information considered to be proprietary by a company donating or otherwise providing such information to the Government. . . . This has led to a growing reluctance on the part of industry to provide proprietary informaton to the Government even under a pledge of confidentiality, because it is not clear that the Government will be permitted to honor the pledge.

He added, in discussing a data bank provision in the House bill which did not have the current protection added by the conferees:

> We are seriously concerned that the obscure and contradictory language of (the provision) may be construed to apply to, and thus impact, all of ERDA's activities relating to the receipt, evaluation and utilization of privately generated information. Under these circumstances, we foresee a grave loss of confidence on the part of the entire energy industry in ERDA's ability to deal with private companies fairly and honorably.

We believe we have acted responsibly to give ERDA full authority to provide positive and predictable protection for industry's trade secrets and other proprietary information in order that, as Bob Seamans stated so well, ERDA will have the "ability to deal with private companies fairly and honorably." We have done so by using a procedure which is an integral part of the Freedom of Information Act. That act includes a series of exemptions from the otherwise mandatory disclosure requirements of the law. One of these exemptions, exemption No. 3 (5 U.S.C. 552(b)(3)), simply covers "matters that are specifically exempted from disclosure by statute," meaning another statute. This exemption is intended to incorporate all other exemptions from disclosure in laws nondisclosure of particular information is specifically necessary for a particular program, notwithstanding the more generalized exemptions in the Freedom of Information Act—or in laws enacted prior to the act. There are over 100 such exemptions for specific programs in statutes today.

A June 1975 Supreme Court case, F.A.A. against Robertson, upheld a broad interpretation of this exemption. The court clearly stated that Congress must balance the public interests in disclosure under the Freedom of Information Act with the public interest in nondisclosure for a particular program. Once Congress has done so, the Supreme Court said, the courts cannot scrutinize the wisdom of that balance and in effect, there is predictable protection for that information. The program in the Robertson case was a special aircraft accident reporting system, including candid comments from pilots, airlines, and aircraft manufacturers. Protection of the information was necessary to insure full accident-related information, outside of accident litigation, for safety purposes. We have now provided just that type of exemption for ERDA and we have done it in the way which the Supreme Court sanctioned—by striking a balance between disclosure under freedom of information and nondisclosure in the national interest of insuring the cooperation and participation of American industry in ERDA's energy R. & D. program.

Mr. JACKSON. That is in accord with my understanding of the agreement.

STATEMENT ON ERDA AUTHORIZATION CONFERENCE

Mr. MUSKIE. Mr. President, the conference report we are now considering authorizes the funds that the Energy Research and Development Administration needs to accelerate our national energy program. Funds are authorized for a wide range of energy research initiatives including solar energy development, geothermal research, nuclear power, and conservation.

The conference report authorizes a subsequent appropriation in fiscal year 1976 of $5.0 billion in budget authority. This would result in fiscal 1976 outlays of $4.4 billion.

Funds for the Energy Research and Development Administration fall into three of the functional categories of the budget: First, general science, space and technology; second, national defense; and third, natural resources, environment, and energy. In each case the amounts provided by the conference report are consistent with the second budget resolution.

Most of the funds in this bill, however, are classified in the natural resources, environment, and energy category and it is this functional category which I would like to address.

If appropriated fully, the conference report provides $2.5 billion in budget authority and $2.1 billion in outlays for this category in fiscal year 1976. This is, respectively, $0.6 billion and $0.4 billion above the President's initial budget submission of last February. These totals are slightly more than the Senate anticipated when it adopted the second budget resolution. But this conference report will not breach the functional mark. It will, however, reduce the amount of funds provided for other programs in this category that must be funded from these same funds. By allocating more of the funds for ERDA, we are decreasing the amount available for other uses. In this instance, these other uses are primarily to cover authorizing legislation at various stages of enactment which the Committee on the Budget believes will require funding in this fiscal year. Such legislation includes the strategic petroleum reserves bill, the Coastal Zone Management Act, the proposal for a National Energy Production Board, fuel economy performance legislation, and the uranium enrichment bill.

I believe the Senate should accept this report but it should realize that if ERDA receives full funding the result will be that fewer funds are available for other programs within this functional category.

Mr. President, I would also like to comment on one other aspect of the pending bill. The conference report contains a provision that authorizes a $6.0 billion loan guarantee program to develop a synthetic fuels industry. In passing this provision the Senate indicated its approval of a support program to begin the development of new gaseous and liquid fuels from oil shale and coal.

No fiscal year 1976 budgetary impact was anticipated for this activity and the second budget resolution therefore contained no budgetary allowance for synthetic fuels. The Budget Committee, I should add, received no communication from any Senate committee or from the administration that any 1976 budget authority would be sought nor did the printed record on synthetic fuels make mention of any direct funding. Yet I now learn that the Office of Management and Budget wil be requestinlg $1.5 bilion in borrowing authority, which would be carried in the budget as budget authority, for fiscal 1976 to implement the loan guarantee program.

I want to to state clearly that in voting for this conference report I in no way commit myself to this request for $1.5 billion. I have heard no reason why this authority is needed. I have heard no reason why it must be made available in fiscal year 1976. The Appropriations Committee should have the opportunity to explore in depth this $1.5 billion request. We must not short-circuit the traditional appropriations process that will subject this request to the searching examination it requires. Once the Appropriations Committee has reviewed this request for borrowing authority and has informed the Budget Committee of its conclusions, then and only then can the Budget Committee consider the request in terms of the budget resolution.

Mr. President, let me conclude my remarks by commenting on the practice of authorizing Federal loan guarantees. While these guarantees do not appear in the budget unless and until a default occurs, they do affect the Nation's bond market and they do constitute a significant Federal fiscal action that shapes national priorities. They are thus within the jurisdiction of the Budget Committee and are of great concern to us. While in this first year we have not yet examined this practice, we hope to review it in the future, and present our views to the Senate.

Mr. President, I ask unanimous consent to have printed in the RECORD a summary of fiscal year 1976 budget authority and budget outlays per conferees action on authorization bill.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, SUMMARY OF FISCAL YEAR 1976 BUDGET AUTHORITY AND BUDGET OUTLAYS BY DEFENSE, ENERGY, AND RESEARCH AND SPACE FUNCTIONS PER CONFEREES ACTION ON AUTHORIZATION BILL

[In thousands, prepared for the Senate Committee on the Budget]

	Fiscal year 1976 budget authority				Fiscal year 1976 budget outlays			
	Defense	Energy	Research and space	Total	Defense	Energy	Research and space	Total
Operating expenses: Amounts in President's budget	$1,627,106	$1,375,211	$401,670	$3,403,987	$1,460,961	$1,253,976	$358,957	$3,073,894
Amendments:								
To Congress July 21, 1975 (S. Doc. 94-84):	16,591	203,549	110	220,250	13,291	157,749	110	171,150
Energy R. & D	13,300	103,350		116,650	10,000	57,550		67,550
Repricing		99,500		99,500		99,500		99,500
Safeguards	3,291	699	110	4,100	3,291	699	110	4,100
To Congress Oct. 22, 1975: Weapons amendment[1]	[30,000]			[30,000]	[22,500]			[22,500]
Total President's request	1,643,697	1,578,760	401,780	3,624,237	1,474,252	1,411,725	359,067	3,245,044
Changes:								
Fossil energy development		+15,336		+15,336		+15,833		+15,833
Solar energy development		+70,325		+70,325		+30,400		+30,400
Geothermal energy development		+12,500		+12,500		+3,580		+3,580
Conservation research and development		+76,235		+76,235		+56,885		+56,885
Physical research			+23,475	+23,475			+18,725	+18,725
Fusion power R. & D		+26,573		+26,573		+20,000		+20,000
Fission power reactor development		+7,800		+7,800		+6,750		+6,750
Weapons	+2,933			+2,933	+1,766			+1,766
Nuclear materials security	+3,000			+3,000	+2,000			+2,000
Biomedical and environmental research		+43,960		+43,960		+33,000		+33,000
Advanced energy systems supporting activities		−2,200		−2,200		−5,400		−5,400
Program direction		+14,850		+14,850		+13,500		+13,500
Community operations		−2,167		+2,167		+2,167		+2,167
Information services		+75		+75		+75		+75
Total operating expenses changes	+5,933	+267,621	+23,475	+297,029	+3,766	+176,790	+18,725	+199,281
Revised total operating expenses under conferees bill	1,649,630	1,846,381	425,255	3,921,266	1,478,018	1,588,515	377,792	3,444,325
Plant and capital equipment:								
Amounts in President's budget	268,410	569,228	57,079	894,717	302,231	464,997	54,646	821,874
Less withdrawal of waste management project, retrievable surface storage facility, site undetermined		−5,000		−5,000		−800		−800
Revised plant and capital equipment request	268,410	564,228	57,079	889,717	302,231	464,197	54,646	821,074
Plant	176,300	459,225	21,845	657,370	201,468	390,618	19,597	611,683
Capital equipment	92,110	105,003	35,234	232,347	100,763	73,579	35,049	209,391
Amendments:								
To Congress July 21, 1975 (S. Doc. 94-84)	22,700	28,650	7,500	58,850	5,300	7,650	1,700	14,650
Plant amendments	18,700	27,100	7,500	53,300	3,300	6,400	1,700	11,400
Energy R. & D		20,500		20,500		3,700		3,700
Repricing	3,100	−4,100	1,000		600	−1,300	700	
Safeguards	15,600	10,700	6,500	32,800	2,700	4,000	1,000	7,700
Capital equipment amendments energy R. & D	4,000	1,550		5,550	2,000	1,250		3,250
To Congress Oct. 22, 1975: Capital equipment—Weapons amendment[1]	[4,000]			[4,000]	[4,000]			[4,000]
Total President's request	291,110	592,878	64,579	948,567	307,531	471,847	56,346	835,724
Changes:								
Plant:								
Fossil energy development:								
76-1-b high Btu synthetic pipeline gas demo plant (A-E and long-lead procurement)		+20,000		+20,000		+20,000		+20,000
76-1-c low-Btu fuel gas demonstration plant (A-E and long-lead procurement)		+15,000		+15,000		+15,000		+15,000
76-1-d fluidized bed direct combustion demonstration plant		+13,000		+13,000		+13,000		+13,000
Solar energy development:								
76-2-a 5 megawatt solar thermal test facility		+5,000		+5,000		+5,000		+5,000
76-2-b 10 megawatt central receiver solar thermal power plant (A-E and long-lead procurement)		+5,000		+5,000		+5,000		+5,000
Geothermal energy development:								
76-3-a geothermal power plant (steam) (A-E and long-lead procurement)		+5,000		+5,000		+5,000		+5,000
76-3-b geothermal power plant (A-E and long-lead procurement)		+5,000		+5,000		+5,000		+5,000
Fusion power R & D: 76-5-b 14 Mev intense neutron source fac., LASL, NM (Auth. +$22,100)		+3,100		+3,100		+600		+600
Nuclear materials: 76-8-g additional facilities, enriched uranium production, locations undetermined		+25,000		+25,000		+4,400		+4,400
Weapons: 76-10-c PHERMEX enhancement, LASL, NM	+6,150			+6,150	+1,150			+1,150

	Fiscal year 1976 budget authority				Fiscal year 1976 budget outlays			
	Defense	Energy	Research and space	Total	Defense	Energy	Research and space	Total
Biomedical and environmental research: 76-11-b mods. and additions to inhalation toxicology research facilities		+$6,800		+$6,080		+$1,200		+$1,200
Physical research: 76-6-c positron-electron joint project, LBL and SLAC			+$11,000	+11,000			+$2,000	+2,000
Capital equipment:								
Solar energy development		+3,000		+3,000		+1,500		+1,500
Geothermal energy development		+2,500		+2,500		+1,250		+1,250
Physical research			+4,600	+4,600			+2,300	+2,300
Conservation R. & D		+8,150		+8,150		+4,075		+4,075
Fusion power R. & D		+4,000		+4,000		+2,000		+2,000
Biomedical and environmental research		+2,000		+2,000		+1,000		+1,000
Total plant and capital equipment changes	+$6,150	+122,550	+15,600	+144,300	+$1,150	+84,025	+4,300	+89,475
Revised total plant and capital equipment under conferees bill	297,260	715,428	80,179	1,092,867	308,671	555,872	60,646	925,199
Recap:								
Grand total President's request for operating expenses and plant and capital equipment[1]	1,934,807	2,171,638	466,359	4,572,804	1,781,783	1,883,572	415,413	4,080,768
Grand total changes made by conferees in operating expenses and plant and capital equipment	+12,083	+390,171	+39,075	+441,329	+4,916	+260,815	+23,025	+288,756
Revised total operating expenses and plant and capital equipment under conferees bill	1,946,890	2,561,809	505,434	5,014,133	1,786,699	2,144,387	438,438	4,369,524
Excludes weapons amendment sent to Congress on October 22, 1975—Not acted upon by Conferees[1]	[34,000]			[34,000]	[26,500]			[26,500]

[1] Nonadd item; not acted upon by conferees.

The PRESIDING OFFICER (Mr. MORGAN). The question is on agreeing to the conference report. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. GOLDWATER. Regular order, Mr. President.

The PRESIDING OFFICER. The regular order has been called for.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Indiana (Mr. BAYH), the Senator from Kentucky (Mr. FORD), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Rhode Island (Mr. PASTORE), are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) and the Senator from Rhode Island (Mr. PELL) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Kansas (Mr. DOLE) and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

I further announce that, if present and voting, the Senator from Kansas (Mr. DOLE) would vote "aye."

The result was announced—yeas 80, nays 10, as follows:

[Rollcall Vote No. 568 Leg.]

YEAS—80

Baker
Bartlett
Beall
Bellmon
Bentsen
Biden
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Curtis
Domenici
Eagleton
Eastland
Fannin
Fong
Glenn
Goldwater
Gravel
Griffin
Hansen
Hartke
Haskell
Hatfield
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nunn
Packwood
Pearson
Percy
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—10

Abourezk
Brock
Durkin
Garn
Hart, Gary
Hart, Philip A.
Hathaway
Nelson
Proxmire
Scott, William L.

NOT VOTING—10

Allen
Bayh
Dole
Ford
Helms
Hollings
Huddleston
McIntyre
Pastore
Pell

So the conference report was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. HASKELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PASTORE. Mr. President, I am very much distressed at what happened here. We are over at the Rotunda. Today is Rhode Island Day. It is being celebrated under the auspices of the city of Washington. We were made available. The call came. We rushed right back. We interrupted our speeches in order to do it. This idea that we could not wait 2 or 3 minutes to have Mr. PELL and me record our votes, I think, is a disgrace. I want the RECORD to show that I would have voted in the affirmative.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF AUTHORITY OF NATIONAL COMMISSION FOR THE REVIEW OF FEDERAL AND STATE LAWS RELATING TO WIRETAPPING AND ELECTRONIC SURVEILLANCE

The Senate continued with the consideration of the bill (S. 2757) to extend until April 30, 1976, the authority of the National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The question recurs on the motion of the Senator from South Dakota to reconsider the vote by which S. 2757 passed.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. ABOUREZK. Mr. President, Senator MCCLELLAN happens to be down in a committee meeting. I should like him to be up here for just a couple of minutes of debate.

If I may have the attention of the Senate, Mr. President, I wish to explain what happened just a few minutes ago.

Mr. President, during consideration of the energy conference report, Senator MCCLELLAN interrupted and asked for immediate consideration, under a unanimous-consent request, a 3-month extension of the National Wiretap Commission. I only caught the tail end of what his request was and by the time I got down there, apparently, the Chair had announced the vote.

The reason I am asking for reconsideration is that I was not notified, nor was any other member of the Wiretap Commission notified, that this extension was going to be taken up today. I oppose the extension of the Wiretap Commission on a number of grounds.

First of all, they have already had one extension of roughly 8 months. The Wiretap Commission was due to expire on June 19 of this year. Late last year this deadline was extended to January 31, 1976. Now another 3-month extension is requested.

The PRESIDING OFFICER. Will the

Senator suspend until we have order in the Senate?

May we have order in the Senate so that the Senator may be heard? Will the Senators in the aisles please take their seats and those conversing retire to the cloakroom?

The Senator may continue.

Mr. ABOUREZK. Mr. President, the continued extension of this Commission is not only getting costly to the U.S. taxpayer, but this is the second extension of its deadline that the Commission has sought. If this one is approved, I wonder how many more times the Commission will be back asking for more time and perhaps more money. For these reasons, I am asking that the Senate oppose this extension.

They have until January 31, 1976, to get the report out and it seems to me that they ought to be able to do it within that time, rather than continuing to ask for extensions that really should not be necessary.

I reserve the remainder of my time.

Mr. HRUSKA. Mr. President, I rise to oppose the motion for reconsideration, which I think is a position in favor of the resolution itself. This bill for an extension for 90 days, Mr. President, is a reasonable extension. No extra funds are involved. It will mean that the Commission, which has suffered some reverses by way of being able to get together to develop a final report, will be overcome.

We need that extra time, and I say we, because I am one of the four Senate Members of that 15-member Commission. We are going to encounter an additional handicap in that Congress will shortly go into recess for 30 days. That will mean it will be more difficult to get a meeting of the entire Commission so that we can take proper action. It is not unprecedented and it is in the interest of getting an intelligent, a well-considered, well-organized report that this extension is requested.

The bill was introduced by the Senator from Arkansas (Mr. McCLELLAN). It is supported and cosponsored by the Senator from Ohio (Mr. TAFT) and myself. In timely fashion, Mr. President—I do not want to foreclose anybody else from entering into the discussion, but I propose to move to lay on the table, in due time, the motion for reconsideration.

The PRESIDING OFFICER. Who seeks recognition?

Mr. ABOUREZK. Mr. President, while waiting for Senator McCLELLAN, we can call for a quorum right now. He wanted to be up here. He had to run down for a meeting. Unless somebody has something else he wants to do, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. The Senator from Arkansas is here now.

Mr. McCLELLAN. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. McCLELLAN. What is the status of S. 2757?

The PRESIDING OFFICER. There is pending a motion to reconsider the vote by which the bill was passed, and the yeas and nays have been ordered.

Mr. McCLELLAN. Mr. President, is a motion to reconsider debatable?

The PRESIDING OFFICER. A motion to reconsider is debatable.

Mr. McCLELLAN. Mr. President, I only wanted to make this observation: This bill was introduced by myself, Senator HRUSKA and Senator TAFT, three of the four Senate Members on this Commission. We are acting on behalf of the Commission in introducing the bill.

At its last meeting, the Commission voted to request the Congress for a 90-day extension of time in which to file its final report. The vote to make this request of the Congress was unanimous by the eight members then present.

This is a Commission that was set up to review the wiretapping and electronic surveillance authorized by the Omnibus Crime Control and Safe Streets Act of 1968. In that act we provided for the establishment of a Commission to review and study the effect and operation of the wiretapping and electronic surveillance sections of the act. The Commission has now finished its work except for the submission of its final report. This bill will allow it to complete that report.

There is no money involved in this bill. It simply undertakes to grant what the Commission has requested, an extension of time for it to file its report.

I have no personal interest in it whatsoever, except from the standpoint of the Senate and the Government, which have spent money on this Commission and its work. If the Senate does not want any report, of course, that is its prerogative. But if it does, in order to get an adequate or proper report, a report that will adequately describe and reflect the work of the Commission, it is the judgment of the Commission that it should have this extension of time.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. HRUSKA. Is it not true the Commission requested the Senators on the delegation to favor such an extension and to sponsor it?

Mr. McCLELLAN. Although I was not present at that particular time, I have received a memorandum from the Director of the Commission advising me of that request.

Mr. HRUSKA. I was present.

Mr. McCLELLAND. There were eight Commissioners present when the request was voted on. Chairman Erickson, Shientag, HRUSKA, Blakey, Westin, KASTENMEIER, ANDERSON, and Remmington. They all voted for it, according to the information that has been furnished to me.

Mr. HRUSKA. May I change my question then to an observation, Mr. President. I was present at that meeting. I was one of those who were there when the resolution was passed, and the request made, and I was requested by Judge Erickson of Colorado, the Chairman of the Commission, to interest myself in seeing that the Members would undertake to advocate and sponsor and secure the approval of such an extension.

Mr. ABOUREZK. Mr. President, the Senator from Arkansas has said there is no money involved. I wonder if the Senator from Arkansas would explain to me how the Commission staff and the expenses of the Commission members will be paid during that time of extension if there is no money involved.

Mr. HRUSKA. No new money.

Mr. McCLELLAN. Whatever money the Commission has that it might use to finish this report is money that was authorized some other resolution. This bill does not authorize any further expenditures. The money used will be money already made available to the Commission.

Mr. ABOUREZK. If they do not use the money, if they are required under the first extension to furnish their report by January 31, as the law now requires them to do, they would turn the money back into the Treasury; is that correct?

Mr. McCLELLAN. I would assume any unexpended money the Commission has when it is terminated will revert to the Treasury.

Mr. ABOUREZK. Then there is some money involved.

Mr. McCLELLAN. Not in this bill.

Mr. ABOUREZK. But in the implementation of this bill there is money involved, that would cost the taxpayers money.

Mr. McCLELLAN. Well, Mr. President, that is just like any other service provided for by the Government for which an appropriation is made. If you stop the service, whatever money you save is saved. But the Senate has already determined it wanted this work done and wanted a report. The money is there to make the report. It is just a question of time. If the Senate wants to stop the Commission, not give it this opportunity, it has the opportunity to do so.

Mr. ABOUREZK. Mr. President, I want to repeat, Senator McCLELLAN was not here when I stated this the first time. The reason I am asking for reconsideration now is because I was not notified that the passage of the bill would be requested today. It was done so during the consideration of the conference report we just disposed of. I, by mere chance, happened to be here and caught the very end of the request and the vote on it.

I am asking for reconsideration so that I will have a chance to oppose this bill and to try to explain it to my colleagues in the Senate.

I want to state now that the Commission itself is very deeply divided, and I am going to predict that at the end of this 3-month extension, if it passes, there is going to be another request for extension because the Commission already has had submitted to it a final draft report. The Commission was dissatisfied with it, has thrown the whole report out, and is now asking the staff to rewrite and redo the entire report.

How long is that going to go on? How many more extensions are we going to require? I am a member of the Wiretap Commission myself, and I know whereof I speak that there is going to be more trouble unless we mandate that the Commission follow the law and furnish its report on the date the law now requires, January 31, 1976.

Mr. HRUSKA addressed the Chair.

Mr. HATHAWAY. Mr. President, will the Senator yield?

Mr. ABOUREZK. I would be happy to yield to the Senator from Maine.

Mr. HATHAWAY. Do I understand the Senator correctly that the Commission has still until January 31 even if we do not pass the extension?

Mr. ABOUREZK. That is right.

Mr. HATHAWAY. I thank the Senator.

Mr. HRUSKA. I had announced I would make a motion to lay on the table if there was no further discussion.

May I make this statement, Mr. President. The Commission is not deeply divided on the final report, the draft of which was placed before us. There was no unfriendly voice expressed at the time the report was placed before us.

Mr. ABOUREZK. The Senator was not present while I was there.

Mr. HRUSKA. That is the reason for a 90-day extension so we can get a draft that will be acceptable and meaningful and will justify the money already spent in this matter by the Commission.

Mr. President, I move to lay on the table the motion of the Senator from South Dakota to reconsider the vote by which the bill, S. 2757, was passed.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to lay on the table the motion to reconsider the vote by which the bill was passed.

The yeas and nays have been called for, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Indiana (Mr. BAYH), the Senator from Kentucky (Mr. FORD), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Illinois (Mr. STEVENSON), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Indiana (Mr. HARTKE) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Kansas (Mr. DOLE) and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

I further announce that, if present and voting, the Senator from Kansas (Mr. DOLE) would vote "yea."

The result was announced—yeas 66, nays 24, as follows:

[Rollcall Vote No. 569 Leg.]

YEAS—66

Baker
Bartlett
Beall
Bellmon
Bentsen
Brock
Buckley
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Curtis
Domenici
Eastland
Fannin
Fong
Garn
Goldwater
Griffin
Hansen
Hart, Philip A.
Haskell
Hatfield
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Laxalt
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
Mondale
Montoya
Morgan
Muskie
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Young

NAYS—24

Abourezk
Biden
Brooke
Burdick
Clark
Cranston
Culver
Durkin
Eagleton
Glenn
Gravel
Hart, Gary
Hathaway
Kennedy
Leahy
McClure
McGovern
Metcalf
Moss
Nelson
Proxmire
Ribicoff
Tunney
Williams

NOT VOTING—10

Allen
Bayh
Dole
Ford
Hartke
Helms
Hollings
Huddleston
McIntyre
Stevenson

So the motion to lay on the table the motion to reconsider was agreed to.

THE COMMERCIALIZATION OF SYNTHETIC FUELS

Mr. JACKSON. Mr. President, it has just come to my attention that the Congressional Budget Office has circulated for review, a draft of a staff paper on the commercialization of synthetic fuels. The paper apparently is available to some Members of the Congress, but not to all.

Because of possible misunderstandings about the nature and intent of the paper, I believe it should be available to all Members so that they can appraise its relevance to issues before the Senate.

I ask unanimous consent that the exchange of correspondence between myself and Dr. Alice Rivlin and the text of the staff paper be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 1–3.)

Mr. JACKSON. Mr. President, the comments in the CBO staff paper for the most part do not address the need for the experience and information which a demonstration program in advanced energy technologies would provide. However, the report in very important respects is in disagreement with a detailed and extensively researched report by an Executive Branch Task Force on Synthetic Fuels Development. Furthermore, it is in disagreement with many findings of the Congressional Office of Technology Assessment's review of that task force report.

In my view, the rather fundamental contradictions among all of these commentaries on the synthetics fuel outlook prove only one thing conclusively. That is that we are sadly lacking in the basic knowledge of the economic, environmental, and social consequences of utilizing our extensive oil shale and coal resources in the near-term future. Yet we are daily making decisions both domestic and international which depend upon our evaluation of those consequences.

We must not delay in undertaking controlled demonstrations of synthetic fuels and other new energy technologies. Only from actual experience can the real management and operating problems be evaluated.

(EXHIBIT 1)

U.S. SENATE,
COMMITTEE ON INTERIOR AND
INSULAR AFFAIRS,
Washington, D.C., December 8, 1975.

DR. ALICE M. RIVLIN,
Director,
Congressional Budget Office,
Washington, D.C.

DEAR DR. RIVLIN: It has come to my attention that the Congressional Budget Office has recently circulated for review a draft staff working paper entitled: Commercialization of Synthetic Fuels: An Analysis of the Senate's Loan Guarantee Program and the Administration's Proposal.

The staff of the Senate Interior Committee has obtained a copy of the draft and advises me that while the working paper deals primarily with the development of synthetic fuels on a production scale, it makes reference to the prototype demonstration program included in the Senate version of H.R. 3474, the FY 1976 ERDA authorization bill.

As you know, the prototype demonstration program was adopted by the conferees on H.R. 3474 and the conference report will be voted on in both Houses within the next few days. I do not know the schedule for completion of your synthetic fuels report, but I am informed that several copies of the draft have been provided to Members of Congress, staff, and others. I expect that the report may be cited in debate on the conference report on H.R. 3474.

I am concerned about two aspects of this situation. First, the report is not generally available, therefore, most members will have no opportunity to evaluate any references made to the report in debate by those who have copies. Secondly, the text of the report primarily comments on various stages of synthetic fuels development and various proposals made by the Administration. While it mentions the ERDA demonstration program, it does not draw a clear distinction between comments relating to commitment to commercial development and an information-demonstration program such as that approved by the Conferees. In fact, the need for information from prototype demonstrations is at best only cursorily mentioned in the report.

I believe it is essential to clarify the status of the report so that it does not add to the misunderstandings of the H.R. 3474 provisions which are already evident in press coverage and communications received by members of Congress. I would urge you to make the draft generally available by insertion in the Congressional Record or otherwise, prior to the measure being voted on in the next few days.

I will appreciate whatever you can do to insure that the report informs rather than confuses the debate on the conference report.

Sincerely yours,

HENRY M. JACKSON,
Chairman.

EXHIBIT 2

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C. December 8, 1975.

Hon. HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: I wish to thank you for your letter of December 8, concerning synthetic fuels. The Congressional Budget Office paper you refer to, "Commercialization of Synthetic Fuels," is, of course, still a draft working paper being prepared at the request of the staffs of the House and Senate Budget Committees. As a draft, it is currently undergoing review both within and outside of the CBO in accordance with our customary procedures and does not represent an official CBO document in any final sense of that word. Nonetheless, I would certainly have no objection to it being placed in the Congressional Record if you feel that doing so would be helpful to the Congress.

I believe, however, that the paper should be placed in context if it is to be inserted into the Record. It is not being prepared for the purpose of providing comment on any specific piece of legislation now pending before the Congress. Rather, it represents a more general background analysis of a range of related energy commercialization proposals having potentially significant long-term budgetary impacts. The paper does not contain any specific recommendations, as you are aware, but merely represents an effort to begin sorting out in a thoughtful manner some of the issues in this complex field. In that context, I am pleased if you feel that publishing it would be of some value to you and your colleagues.

If I can be of any additional assistance, please do not hesitate to call upon me.

Sincerely yours,

ALICE M. RIVLIN,
Director.

EXHIBIT 3

COMMERCIALIZATION OF SYNTHETIC FUELS: AN ANALYSIS OF THE SENATE'S LOAN GUARANTEE PROGRAM AND THE ADMINISTRATION'S PROPOSAL

PREFACE

Commercialization of Synthetic Fuels provides background information and analysis on the issue of incentives for the development of commercial-scale synthetic fuels from coal, oil shale, and other sources. The analysis was performed in response to requests from the staff of the House and Senate Budget Committee and to informal requests by staff of the House Committee on Science and Technology. In keeping with the Congressional Budget Office's mandate to provide non-partisan analysis of policy options, the report contains no recommendations. This paper was prepared by David Montgomery of CBO's Natural Resources Division under the direction of Douglas M. Costle and Nicolai Timenes, Jr.

Although this report has received careful scrutiny within CBO, the external review and final editing processes have not been completed. Accordingly, the report should be considered a draft.

I. SUMMARY

Synfuels Commercialization Programs

The President has proposed a program to bring synthetic fuels—oil and gas produced from coal, oil shale, and urban waste—into commercial production in the near future. The program would consist of price supports, loan guarantees, and construction grants designed to achieve an interim synthetic fuel production target of the equivalent of 350,000 barrels of oil per day, with an option of expanding the program to 1,000,000 barrels per day by 1985 if the initial phase were successful—350,000 barrels per day of oil is about 1.3% of 1974 total U.S. consumption of oil and gas. Projects eligible for assistance would include:

Conversion of coal to oil or gas
Extraction of oil from shale
Production of oil or gas from urban wastes

The Senate version (S. 598) of the FY 1976 ERDA Authorization bill (H.R. 3474), currently in conference, provides for guarantees of up to $6 billion in loans, but does not contain the other incentive provisions. Loan guarantees in this amount would be sufficient for approximately 350,000 barrels per day.

Decisions facing Congress

Congress may decide to:

Accept or reject a synthetic fuels commercialization proposal as a whole, independent of other actions related to energy production or conservation.

Accept the goal of speedy commercialization but choose other target production levels, alternative process mixes, or different levels or types of production incentives (e.g., limit incentives to the loan guarantees of S. 598).

Delay decision so as to consider the program in the context of the proposed Energy Independence Authority or other broad energy policies.

Postpone commercialization and pursue instead further research, development, and demonstration projects relevant to synfuels.

Criteria for decision

A decision to proceed with a program of incentives to stimulate synthetic fuel (synfuel) production by private industry requires answers to four questions:

(1) will synthetic fuels production be justified before 1985?

(2) does private industry require government incentives to produce them in that time frame?

(3) what is the best package of incentives, considering program objectives and cost?

(4) are the costs of that package acceptable in light of the factors which justify synfuel production?

Answers to each of the four fundamental questions depend on a number of considerations.

1. The justification of synthetic fuel production between 1975 and 1985 depends on economic and non-economic factors. Quantifiable economic benefits include the value of the fuels themselves, a degree of embargo protection, and reduced cost of future synfuel production. Unless world oil prices rise substantially above their current levels, the economic costs of synfuel production will probably exceed these economic benefits. However, non-quantifiable and non-economic considerations could tip the balance either way. Synfuel production capability could provide insurance against large increases in world oil prices and might influence OPEC nations to restrain price increases. On the other hand, large-scale synfuel production would create significant environmental risks and social costs.

2. It is highly unlikely that private industry will produce significant quantities of synthetic fuels before 1985 without government support. Factors cited include lack of profitability, technological and economic risk, difficulty in raising capital, and constraints imposed by the government. It is clear that some synfuel production would be unprofitable at current oil and gas prices. If profitability were achieved through use of government incentives, the remaining factors might still discourage investment.

3. An incentive program should address all significant constraints. The incentives proposed by the President are targeted at making synfuel production profitable, shifting risks from investors and producers to the government, and alleviating shortages of capital. If these are not the real constraints to synfuels development, a different level and mix of incentives may be appropriate. (For example, if risk alone is the problem, loan guarantees might be relied on exclusively). An alternative program could include regulatory reform, tax incentives, government ownership, or measures to increase the cost of imported fuels. Although comprehensive evaluation of the costs and effectiveness of alternative incentive packages is beyond the scope of this report, examination of these candidates suggests that a program substantially better than that proposed by the Administration may be difficult to design.

4. A final decision on synfuels commercialization can only be made after an incentive program has been designed and evaluated. Then the costs attributable to the incentives themselves must be added to the previously estimated costs of synfuel production to determine if acquiring synfuel production capacity through government action is justified. Although potentially effective in achieving production targets, the Administration's proposed incentives may reduce competition, increase costs of producing synthetic fuels, and adversely affect private capital markets. No alternative is entirely free of comparable disadvantages.

Other issues

If a decision to proceed with a commercialization program at some level is made, three other issues—the targeted production level, the mix of processes to be encouraged, and protection of the environment—must be considered.

1. A program with a target of 350,000 barrels per day production by 1985 has substantially lower costs than one aiming at 1,000,000 barrels per day, yet the smaller program would provide much information on technology, process economics, and environmental consequences.

The benefits of synfuel commercialization come in two broad classes—production of energy and acquisition of information. If information is the primary goal, a program with a target as low as 125,000 barrels per day might be chosen.

2. Alterations in the emphasis given different processes can also alter program costs and benefits. S. 598 provides that not less than $2.5 billion of the $6 billion in loan guarantees would be used for high-BTU gasification processes, and that funds may be used for solar, geothermal, and other unconventional processes. The Administration proposal contains no such provisions.

3. Major uncertainties concerning environmental impact cloud the synfuels decision process; their resolution could be an important objective of a small synfuels program. The principal known and potential impacts include large-scale land disruption from oil shale and coal mining, disposal of wastes from oil shale processing, consumptive use of water in water-short regions, air pollution from processing, potential carcinogen formation in the processes dealing with liquids, and the socioeconomic impacts of the influx of workers, their families, and associated developments on sparsely populated regions. Some such impacts may be mitigated, at the lower levels, by a strict Environmental Protection Strategy (the Administration's proposal contains the outlines of such a strategy) and by grants or loan guarantees to impacted communities. Nevertheless, aggregate impacts of a larger, 1,000,000 barrel per day, level could be severe.

Potential budget impact

For FY 1976, the Administration requests borrowing authority of $1.5 billion for loan guarantees, plus $1.0 billion for price guarantees, and appropriation of $0.6 billion for construction grants.

Even if passed immediately, however, a synthetic fuels commercialization program would be unlikely to lead to Federal outlays in Fiscal Year 1976. Rather, there would be a time stream of outlays whose extent and timing would depend on the program level, the mix of incentives, and the riskiness of synfuels technologies pursued. Tax revenues could also be decreased from levels predicted in the absence of the synfuel program.

The cost to the government of price supports, construction grants and foregone taxes implicit in the Administration's 350,000 barrel per day program is expected to total from $1.6 billion to $13.3 billion by the year 2005, when obligations to support prices will have expired. During the 1980's annual costs might reach $600 million per year. Additionally, a maximum of just over $2 billion in guaranteed loans would be outstanding in 1985. Costs would become higher—$3 to $29 billion over the life of the program—if a decision were made to proceed to 1,000,000-barrel-per-day capacity of 1985.

Timing of decision

If there were a decision to proceed on January 1, 1976, it would be at least the end of 1980 before there could be a year of operating experience with a synfuel plant. But ERDA has several second-generation synfuel processes ready for demonstration which, if successful, could make obsolete a synfuel plant based on current technology. Delay in synfuel commercialization could actually improve the economics of the program.

Congress will determine whether an immediate decision is required. It has the option simply to defer decision—possibly postponing production targets beyond 1985—or to rely upon research, development, and demonstration to lay the groundwork for an expanded synthetic fuel production capability after 1985. Whatever the decision, it should be made in the context of a larger perspective on the proper role of the Federal government with respect to the continuum of energy activities from research through development and demonstration to commercialization.

II. INTRODUCTION

A. Background

Synthetic fuels (synfuels) are so called because their production involves a basic transformation of the fuel from the way it is found in nature. The term is imprecise and general, but is usually considered to include gas and oil made from such sources as coal, oil shale, or urban or other waste. Production of synthetic fuels from these comparatively abundant domestic sources would permit the Nation to reduce its reliance on imported oil and gas.

In order to stimulate future production of synthetic fuels, the President has proposed a Synthetic Fuels Commercialization Program. The Administration's program would use price supports, loan guarantees, and construction grants to attain, if successful, the capacity to produce the equivalent of 1,000,000 barrels of oil per day by 1985.

An alternative proposal, limited to loan guarantees, is contained in Section 103 of the Senate ERDA authorization bill (S. 598). By itself this program could only reach a lower target capacity, perhaps 350,000 barrels per day.

The purpose of this report is to describe the key decisions which Congress must make in regard to these proposals and to provide an analysis of the issues underlying those decisions.

B. Proposals and Issues

Technologies for producing synthetic fuels have long been known, and there is some synthetic fuel production in foreign countries. However, much of that production is subsidized, and the scale of production is considerably smaller than that envisioned for the proposed programs.

The Energy Research and Development Administration (ERDA) conducts an extensive research program aimed at developing "second-generation" processes for producing synfuels which offer promise of being more economically attractive, efficient in use of resources, and environmentally acceptable. Nevertheless, such technologies are not yet available, and economics of existing processes have not, in the past, been sufficient to induce industry to produce synthetic fuels commercially in the United States.

To alter this situation, the Administration proposes three goals for 1985: (1) development of technical, environmental, and economic information on synfuel production processes; (2) accumulation of experience with synfuel production in American industry; and (3) production of significant quantities (the equivalent of at least 350,000 barrels per day, and possibly as much as 1 million barrels per day) of synthetic oil and gas. The goals would be achieved by measures which would shift risks of synfuels development from private industry to the government and would involve net government subsidies to synthetic fuels production at least through 1985.

The proposal itself is reported in detail in a four-volume interagency study recently made available to the Congress. (Draft report by the Synfuels Interagency Task Force to the President's Energy Resources Council, "Recommendations for A Synthetic Fuels Commercialization Program", June, 1975.)

The Administration's report examined five production levels:

No program, with zero synthetic fuels production in 1985. (The Administration's report does not consider those alternative ways of achieving domestic energy balance objectives which do not involve synfuels.)

An "information" program, achieving production of the equivalent of 350,000 barrels per day of crude oil by 1985.

A"two-stage nominal" program, initially targeted to reach 350,000 barrels per day before 1985, with a decision in the late 1970's whether to proceed to 1,000,000 barrels per day by 1985. (This is the Administration's proposal).

A "one-stage nominal" program, achieving 1,000,000 barrels per day by 1985.

A "maximum" program, achieving 1,700,000 barrels per day by 1985 and several types of synthetic fuels:

Fuels produced from coal:

Gas with low to medium heat content compared to natural gas ("low to medium-BTU gas"). (The BTU, or British Thermal Unit, is a common measure of heat.)

Gas with approximately the same heat content as natural gas (high-BTU gas").

Synthetic crude oil. ("syncrude")

Crude oil extracted from oil shale.

Gas and oil produced from urban waste or other biological materials.

The incentives recommended by the Administration are:

For oil shale and syncrude: Non-recourse loan guarantee and price support. (A "non-recourse" loan would have as security only the assets of the proposed venture itself; in event of default, the government would have no recourse to the assets of larger corporations sponsoring the venture. Those corporations would retain any patents granted in the course of the project.)

For high-BTU gas: Non-recourse loan guarantee.

For low and medium-BTU gas:

a. For regulated industries, construction grants.

b. For unregulated industries, a non-recourse loan guarantee and price support.

For fuel from urban waste: Non-recourse loan guarantee.

All incentive levels would be determined by competitive bidding. Choice of the mix of technologies to be supported is left to the discretion of the program manager.

C. Decisions facing Congress

The Administration's synthetic fuels commercialization program may not come before Congress as a single bill. Authorization for $6 billion in loan guarantees appears in Section 103 of the Senate ERDA authorization bill (S. 598), which is now in conference. The original version of S. 598 would authorize loan guarantees with recourse to the assets suggested modifications to Section 103 which would turn it into authorization of the first (350,000-barrel-per-day) phase of the loan guarantee portion of the Administration proposal.

House hearings on Section 103 began during the week of September 29, before S. 598 ventures developing solar or geothermal energy as well as synfuel ventures. ERDA has of the parent company, earmark $2.5 of the $6 billion for high-BTU gas, and include and H.R. 3474, the House ERDA authorization bill, went to conference, and were concluded on October 27. Separate authorizing legislation for construction grants and price supports, also to be administered by ERDA, was surfaced on October 22 and may be introduced in November. Thus consideration of the program as a whole may prove difficult.

Several related programs will also come before this session of Congress. The Administration's proposed Energy Independence Authority (EIA) would have assets of $100 billion to assist private industry in financing energy investment, which could include synfuel investment. The Nuclear Fuel Assurance Act of 1975 (S. 2035 and H.R. 8401) would develop a privately owned uranium enrichment industry using some of the same devices proposed for synfuel commercialization. ERDA appropriations will provide further opportunity for review of its program of energy research, development, and demonstration. Other energy policy issues, including oil price decontrol, changes in Federal leasing policies, stockpiling, and mandatory energy conservation, are also before the Congress. The proposed National Energy Production Board (S. 740) would have comprehensive authority to stimulate domestic energy production, and could consider synfuel investment in a context of total energy policy.

In deciding on synthetic fuels commercialization, Congress has several options:

Accept or reject a synthetic fuels commercialization proposal as a whole, independent of other actions related to energy production or conservation.

Accept the goal of speedy commercialization but choose other target production levels, alternative process mixes, or different levels or types of production incentives (e.g. limit incentives to the loan guarantees of S. 598).

Delay decision so as to consider the program in the context of the proposed Energy Independence Authority which is designed to carry out similar programs, or other broad energy policies.

Postpone commercialization and pursue instead further research, development, and demonstration projects aimed at solving specific problems of current technology or at developing new technology.

Decisions made by Congress will determine whether the government will actively encourage production of synthetic fuels, when production will take place, and what form the encouragement will take.

III. CRITERIA FOR DECISION

At issue before Congress is the appropriate Federal role in the commercialization of synthetic fuels. In deciding this issue four considerations are of primary importance: the desirability of production of synthetic fuels, now and in the future; the likelihood that production will take place at the proper time and rate without government intervention; the proper mix of incentives to private producers; and the costs of the program through which development is encouraged. If a decision to proceed with some commercialization program is made, other issues regarding program level, technology mix and environmental protection arise.

A. Is synthetic fuel production needed?

A synthetic fuels commercialization program can be justified only if the production of some amount of synthetic fuel in an appropriate time frame is itself counted worthwhile. The two relevant time frames are 1975 to 1985 and beyond 1985. Production of synthetic fuels would be worthwhile if their costs (at some point, presumably beyond 1985) were lower than the costs of equivalent quantities of energy provided through alternatives such as energy conservation, increased nuclear capacity, or increased imports—where the costs of impots, for example, reflect the possibility of embargo or further price increases.

Important considerations are economic costs and benefits, non-economic considerations, and potential environmental impacts.

1. Economic Costs and Benefits: Most projections of energy futures beyond 1985 continue to show substantial imports, which could be displaced by synthetic fuels. The burden of the Administration's analysis, then, is on a comparison of costs and benefits of a commercialization program which would stimulate such production. The benefits of the program would include the value of the information which would be developed and which would be necessary for realization of the benefits of timely introduction of a synfuels industry.

If a mixture of all five production processes is pursued, it will probably cost more to produce any of the targeted amounts of synthetic fuels between 1975 and 1985 than it will cost to purchase the same quantity of imported fuel. However, the experience which industry gains during that time will result in lower costs and greater production of synthetic fuels after 1985 than would be the case if no commercial quantities of synthetic fuels were produced prior to that year. Even if these benefits and the value of a degree of embargo protection are added in, economic costs of synthetic fuels production during the 1975–1985 decade will probably exceed economic benefits.

The expected economic costs and benefits depend on a number of uncertain events. Different beliefs about the cohesiveness of the international oil cartel, the cost of producing synthetic fuels, and the effectiveness of the commercialization program in reducing cost in the future can result in markedly different conclusions about the economic future of synthetic fuels. (These conclusions are based on the analysis made by the Synfuels Interagency Task Force. They are very sensitive to the probability that the producing cartel will be able to maintain its cohesion, and hence keep world oil prices high, through 1985. If the oil cartel weakens, so that energy prices fall, and costs of producing synfuels turn out to be high, program costs will substantially exceed benefits. On the other hand, if the cartel continues to raise prices, and synfuels production costs fall, benefits of the program could exceed costs by several billions. For the program to break even, there must be about an 80% chance that the cartel will remain cohesive through 1985 and continue to reflect that cohesion in higher oil prices.)

2. Non-economic Considerations: Other considerations could be weighed against the probable net economic cost of producing synthetic fuels. Among the desirable consequences of the commercialization program would be:

Demonstration of U.S. capability to use domestic energy sources, which may create pressure on the cartel to limit price increases.

Leadership of and benefits to other oil consuming nations.

Provision of insurance against the effects of oil embargoes or price increases.

Confidence that the substantial benefits which might come from synfuel production have not been foregone.

These same considerations apply to other programs to increase domestic energy supply or reduce demand or vulnerability. Such alternatives could include additional emphasis on conservation, stockpiling, nuclear energy, and so forth. Although evaluation of alternative energy policies is beyond the scope of this paper—and of the Administration's report—a decision about the synfuels commercialization program should be based on comparisons with the economic and non-economic benefits of such alternatives.

3. Environmental Impact: Production of synthetic fuels will have a substantial impact on the environment. Problems of air pollution arise from the large scale of synfuel plants and from specific pollutants they release. With current emission control technology, it may be impossible to satisfy ambient air quality standards for particulates, sulfur oxides, nitrogen oxide, and hydrocarbons if synfuel plants are located near to each other or to existing major pollution sources. In addition, suspected carcinogens will be released by synfuels plants.

Water quality and supply may also be problems. Although surface water quality can be maintained through environmental controls, underground water may be degraded in some regions. Water supply may be inadequate to support extensive coal and oil shale development in the Upper Colorado River basin. Wildlife will probably be disturbed by large mining operations, especially in remote areas. Reclaiming the land disturbed by mining activities will be difficult in water-short regions in the West.

Finally, construction of synthetic fuel processing plants near small communities may cause social disruption and heavy demands on their ability to provide social services.

4. Sensitivity of Conclusions: Changes in the mix of processes used might alter these conclusions. If fuels currently less expensive or environmentally damaging were emphasized, economic and environmental costs could be reduced. Whether economic benefits would exceed costs for some mix cannot be determined.

Overall, then, it appears that, while an objective analysis would conclude that the quantifiable costs of a synfuels program exceed the quantifiable benefits in the most likely cases, judgments concerning the extent and importance of unquantifiable factors—or the advent of situations now considered less likely—could lead to the conclusion that production of synthetic fuels before 1985 is nonetheless justified.

After 1985, some synthetic fuels will probably become economically viable and be produced by private enterprise. Hence a decision against immediate commercialization will delay, but not necessarily preclude, domestic production of synfuels.

B. *Will Private Industry Proceed Without Federal Intervention?*

If private industry will produce synthetic fuels at the proper time and rate without specific incentives, no commercialization program is needed. If synthetic fuel production is wanted but not expected to be forthcoming, a first step in designing a good incentive program can be taken by finding out what hinders private industry from producing synthetic fuels.

Private industry is not expected to produce before 1985 more than minimal amounts of any synthetic fuels except those produced from urban solid waste. Four factors may be significant:

Expected revenues are not large enough relative to expected costs to provide acceptable profits.

Constraints are imposed on synfuel production by environmental, land management, and regulatory policies.

Investment in producing synthetic fuels involves financial and technological risks.

The large capital investments required by some fuels may be difficult for some potential producers to amass.

The analysis supporting the conclusion that economic costs will exceed economic benefits also leads to the conclusion that private industry could not produce synthetic fuels profitably. However, even if such production would appear profitable at expected levels of prices and costs, risk and associated difficulties of raising capital might still prevent development without government action.

A single commercial scale plant for producing synthetic crude oil or a substitute for natural gas from coal may cost upwards of $1 billion: whether or not it will turn a profit depends on highly uncertain world energy prices and somewhat uncertain technological factors, including the possibility that a superior process will appear before the plant is amortized. Although corporate managements regularly take significant risks in running their businesses the magnitude of the investment involved in synthetic fuels may lead them to avoid a project even if it is expected to make a profit which would be considered adequate for smaller or less risky ventures.

The synfuel investment is large compared to the assets of most firms. Only 198 manufacturing corporations have assets greater than $750 million, and only 30 have assets over $4 billion. Should the project fail significantly, it could have a major impact on corporate earnings, or even threaten survival. Joint ventures could, however, reduce these risks.

For similar reasons, loans in the amounts needed for synfuel plants might be hard to come by.

Although many banks and other financial intermediaries have assets considerably above $1 billion, individual institutions rarely make loans of such size to risky ventures. A major consortium would have to be assembled to spread risk adequately.

Moreover, some potential participants in synfuel development face particular financial constraints. Electric utilities, for example, are currently having difficulty raising capital for construction of new generating plants.

In summary, unprofitability appears to be the major factor preventing private investment in synthetic fuel development. If this obstacle were removed, the problems of risk and large capital requirements associated with some processes might limit the extent of private participation.

C. *What is the best mix of incentives?*

If production of synthetic fuels is justified in the 1975 to 1985 time frame and if private industry will not engage in that production, then a decision as to appropriate steps for the government to take is needed. It is useful to see that decision as having two stages. The first stage involves the design of a program which will remove obstacles to production by private industry. The second stage involves assessing whether undesirable consequences of the incentive program outweigh the beneficial effects of synthetic fuel production.

1. Rationale for Administration Program: The proposed commercialization program addresses directly three obstacles to synfuel production: unprofitability, risk, and difficulties of capital formation. It does not explicitly consider the removal of governmental constraints, such as the length of time and uncertainty involved in obtaining approvals from regulatory agencies.

The proposed incentives include price supports, loan guarantees, and construction grants, all competitively bid.

Price supports serve two purposes: to subsidize the production of fuels for which market prices are expected to be too low to cover costs and an adequate profit, and to shift the risks of changes in the fuels market from private industry to the government.

Price supports usually provide for payment by the government of a differential when prices fall below a predetermined support level. Unless provisions are also made for payments from profits when market prices exceed the support level, the expected cost of price supports will be larger than needed to achieve production targets. Without such payments, the government can at best hope to incur zero cost; but there always remains a chance that price supports will be required. The private firm, on the other hand, will never be worse off than it is when prices are at the support level; higher prices translate into higher profits. Sharing in these profits reduces expected cost to government while still guaranteeing the synfuel producer adequate profits at the support price.

Non-recourse loan guarantees serve to reduce risks stemming from unforeseen technical difficulties or economic conditions for both investors and lenders. Construction grants serve to provide capital to regulated utilities which they might not be able to obtain at any price from private lenders. Early in the debate on commercialization programs, the Treasury Department indicated that it did not believe the last two incentives to be necessary or desirable.

The recommended incentives may contain some hidden costs or unintended consequences, arising from competitive bidding, erosion of performance incentives, behavior of regulated industries, and distortion of private capital markets.

2. Competitive Bidding: The Administration suggests using competitive bidding to minimize expected cost to the government and to reduce reliance on incentives when they are not needed. Competitive bidding will tend to achieve these objectives, but may also create a synfuels industry dominated by a few large firms. Unless special arrangements for joint ventures among small firms are provided, large firms which have easier access to financial markets and greater capacity to bear risks will systematically tend to submit lower bids than smaller firms, and hence will make it difficult for such firms to participate in the commercialization program. Further concentration of the total energy industry might result.

3. Performance Incentives: The Task Force recommendations include the possibility that price supports will be based in part on cost of production and that additional non-recourse guaranteed loans will be made available to partially cover construction cost overruns. Without extreme vigilance by program administrators, these provisions—which insulate producers from the usual pressures to hold costs down—may increase the program costs.

4. Utilities: Many analysts have claimed that regulating the rate of return of electric and gas utilities leads them to choose technologies which do not minimize cost. When the cost of capital is less than the allowed rate of return, a regulated firm can increase its profits by choosing a production process with a greater than optimal ratio of capital to operating costs. Recently, however, the cost of capital has exceeded allowed rates of return for some utilities. In this case utilities have an incentive to choose processes with low capital cost and excessive operating costs in order to minimize their losses. In either event a utility would fail to employ a technology with least total cost. If this occurs, involvement of regulated utilities in synfuel production might result in unnecessarily high costs.

5. Capital Markets: Loan guarantees will not increase the total amount in the economy of funds available for investment. Rather, they will direct investment into synfuels and away from other ventures.

The effect of introducing $1 billion per year of government-guaranteed loans into private capital markets on those markets and on the other investment choices of private industry will be small. It is likely that the effect will be the same as an increase in the Federal deficit equal to the amount of guaranteed loans. However, the Treasury Department has expressed concern that expectations of further subsidy and limited capital availability in the energy sector may lead to "crowding out" of other energy investments.

Others, while discounting this specific possibility, have argued that guaranteed synfuel investments will supplant investments of high social value but marginal economic viability. Currently investments in housing and small business appear the most likely to be "crowded out". General revenue funds raised by increased taxation could be a more equitable source of financing than this reallocation of private investment.

Although further analysis may reveal that none of these concerns are sufficiently important to affect the commercialization program, they now stand as unresolved questions which need answers before final decisions are made.

6. Alternative Incentives: Even by the Task Force's criteria, the proposed incentives did not fare better than all others on all counts. In choosing among incentives, the Task Force considered costs and risks to the Federal government, likelihood of achieving production targets, administrative complexity and flexibility, and promotion of broad participation and competition. A different assessment of the relative importance of these or other considerations—or a different assessment of impediments to commercialization—could lead to a different choice of incentives.

Design of a complete alternative package of incentives—and critical assessment of potential disadvantages—is beyond the scope of this report. Some issues involved in designing and evaluating an alternative can, however, be highlighted.

Other incentives might achieve targeted production levels with lower government and economic costs. Alternatives include various forms of tax incentives (investment tax credit and accelerated depreciation), direct loans, measures such as tariffs and import quotas which increase the market price of competing fuels, and direct loans. Each of these alternatives has drawbacks of its own.

General tax incentives, such as increased investment tax credit or accelerated depreciation, could in principle provide adequate incentives if specifically targeted to synfuel projects. However, they would not help firms with low taxable income.

It would be difficult to control program size with such incentives. Tax incentives and programs which rely on increasing all energy prices—deregulation of natural gas or oil prices, tariffs, or import quotas—to increase synfuel production share a common drawback. They are indiscriminate, subsidizing investments which would take place anyway as well as those for which the program was conceived.

If a decision were made to restrict the scale of synfuel production to some minimal level while pursuing the information goal vigorously, direct government ownership of a small number of plants constructed and operated by private contractors might be desirable. Such an approach appears well suited to dealing with environmental and socio-economic consequences and to pursuit of the goal of acquiring public knowledge of synfuel technology and economics. On the other hand, it would not foster creation of a private synfuels industry, but would put the government in the oil and gas business in direct competition with private industry if high production targets were chosen. In addition, the entire capital cost of the synfuel plants would have to come from the Federal budget, as it would if direct loans were employed.

Shifting of emphasis among the incentives proposed by the Administration could also be an approach to design of a superior package. Loan guarantees alone, as proposed in S. 598, could aid in overcoming obstacles arising from the scale and riskiness of synfuel ventures. However, if industry believes that synfuel production is likely to run at a net loss, little production could be expected in response to those guarantees. Price supports alone, or guaranteed government purchase of synfuels at specified prices, could overcome unprofitability but might not reduce risks sufficiently to attract broad participation.

Actions directed at reforming regulation could also play a role in stimulating synfuel production. Streamlining of the process in which approvals must be obtained from numerous government agencies before construction can begin is urged by many industry spokesmen. Relaxation of environmental protection standards could also make synfuel production easier and cheaper.

D. *Are the costs of the proposed incentives acceptable?*

A final decision on synfuels commercialization can only be made after an incentive program has been designed and evaluated. Then the costs attributable to the incentives themselves must be added to the previously estimated costs of synfuel production to determine if acquiring synfuel production capacity through government action is justified. Although potentially effective in achieving production targets, the Administration's proposed incentives may reduce competition, increase costs of producing synthetic fuels, and adversely affect private capital markets. No alternative is entirely free of comparable disadvantages.

E. Other Issues

Once a decision is made to proceed with a commercialization program, and an incentive package is chosen, three issues of program management arise. They relate to technology mix, program level, and environmental impact.

1. Technology Mix: The Task Force's report analyzes, but does not recommend, a specific technology mix, preferring instead to leave such decisions to the program manager. The Congress may wish to constrain his choice. For example, some argue that the environmental impacts of oil shale are relatively too great, and would restrict the program to coal-based synthetics and urban wastes; others consider relative economics and state of the art and conclude that oil shale should play an important role. For similar reasons, some question attempts to produce oil from coal. Some question or urge the appropriateness of including fuels from urban waste (recommended by the task force), and such sources as solar and geothermal. The latter two sources would be covered by Section 103, but the Administration argues that ERDA already has adequate authority for demonstrating solar and geothermal technologies. Section 103 would also provide that $2.5 of the total $6 billion in loan guarantees be available for construction of facilities to convert coal to a pipeline-quality gas.

2. Program Level: The President's original proposal called for production of 1 million barrels per day by 1985. The current Administration proposal envisions an initial phase of 350,000 barrels per day, with a decision later in the decade on whether to proceed to the million barrel level. Implicit in the Senate ERDA Authorization Bill is a decision against current commitment to the higher level, since the $6 billion loan guarantee authorization would cover only roughly the 350,000 bbl./day level.

A further issue is whether the full 350,000 bbl./day would be required to realize the information benefits of the proposed program. That level could provide (in the Task Force's example) two shale plants, one plant each for producing oil and pipeline quality gas from coal, five plants for producing industrial and utility fuels, and four smaller plants for treating urban waste. A somewhat smaller, lower cost program could presumably yield much of the information provided by the 350,000 bbl./day option—but at some cost in diversity or redundancy.

Any scaling down of the commercialization program will decrease production of synthetic fuels betwen 1975 and 1985, avoiding economic losses on producing fuels which cost more than their selling price on the one hand, but obtaining a smaller increment to domestic energy supply on the other.

However, a smaller program could still provide substantial information and commercial experience with synfuel production.

Parts of the commercial production process are common to many approaches. Large scale coal mining and transportation, materials handling at the plant, waste disposal, and social and environmental impacts are found in all processes which gasify or liquefy coal. There are technical similarities in much of the equipment used in all those processes. Stronger commonalities exist among the approaches to oil shale processing. In both cases differences between approaches are largely in basic chemical engineering technology.

In all the processes to be commercialized immediately, this technology is relatively well-understood. The largest uncertainties to be resolved in commercialization relate to the large scale activities common to many approaches. For these reasons a minimum information program could include as little as one high BTU gas plant, one to provide fuel to an electric utility, and one oil shale plant.

Since they are relatively small and nearly economic presently, perhaps two plants for converting urban waste to gas could be included. Alternatively, since such plants serve a function of waste disposal as important as the function of producing energy, they might be excluded entirely from this program. Separate funding through EPA of large scale support for such plants—along the lines of the grants for sewage treatment plants—as environmental measures could be an alternative.

Appendix A provides detailed comparisons of alternative program levels and mixes.

3. Environmental Considerations: The environmental impact statement on the proposed program makes clear that there are a number of uncertainties with respect to potential impact on the environment of synthetic fuels processes. While the proposal includes provisions for the Environmental Protection Strategy, the details of that strategy are not provided, nor is there yet a design for research to resolve environmental uncertainties. There is also no request for funds for such research. Vigorous monitoring of environmental imports and strict enforcement of air and water quality standards may be necessary to keep environmental damage to acceptable levels.

IV. POTENTIAL IMPACT ON THE FEDERAL BUDGET

Since the Federal budget is limited and there are alternative claims on the budget dollar, Congress must decide whether the desirable aspects of synthetic fuel production are worth the budgetary cost.

Congress must also decide how to appropriate funds for the program. Outlays will not come all at once: they will be spread out over the years from 1975 to 2005. The time stream of outlays will depend on the program level, the mix of incentives, and the riskiness of synfuels technologies pursued. The two basic choices are:

1. to appropriate now sufficient funds to cover all conceivable outlays through the life of the program.

2. to appropriate funds on a yearly or occasional basis to cover outlays as they occur.

Once a commitment is made to commercialization, and loan guarantee and price support contracts have been signed, outlays may become uncontrollable even if the option of annual appropriation is chosen.

A. Total budget impact

Total cost to government includes direct payments (price supports, construction grants, and payments to redeem defaulted loans) administrative costs, and foregone taxes. These costs may be offset by receipts from loan guarantee fees and profit sharing (when market prices exceed the support level).

Costs and offsetting receipts are necessarily uncertain, since they depend on the market prices of oil and gas which compete with synfuels, the cost of producing synfuels, and the types of plants constructed.

Selections from the Task Force's estimates of annual and total cost to government are shown in Table I. These estimates include outlays for price supports and construction grants, foregone taxes, and offsetting receipts from profit-sharing.

TABLE I.—EXPECTED ANNUAL COST TO GOVERNMENT

[Millions of constant (1975) dollars]

Year	Information program (350,000 bbl/day		2-phase nominal case (350,000; then 1 mmbbl./day)	
1975				
1976				
1977			11	
1978	4		78	87
1979	19	23	143	257
1980	34	41	274	551
1981	117	130	288	777
1982	289	461	361	894
1983	292	669	404	972
1984	152	595	506	1, 416
1985	154	666	278	1, 472
1986	121	678	203	1, 455
1987	105	675	174	1, 448
1988	92	671	150	1, 440
1989	82	668	131	1, 432
1990	74	664	113	1, 423
1991	65	660	94	1, 414
1992	56	656	76	1, 403
1993	48	651	57	1, 392
1994	39	646	38	1, 380
1995	30	640	18	1, 367
1996	20	634	−2	1, 353
1997	10	627	−24	1, 337
1998	1	620	−30	1, 308
1999	−2	606	−22	1, 201
2000	−12	599	−91	846
2001	−14	554	−52	703
2002	−75	235	−63	694
2003	−34	105	−51	643
2004	−13	63	−61	116
Total	1, 653	13, 268	3, 000	28, 790

Note: Range based on purchase price of coal and selling price of synfuels. Includes both outlays and foregone taxes. Assumes no project failures (i.e., no default of guaranteed loans). Minus sign indicates government receipts exceed expenditures.

Source: Interagency Synfuels Task Force Report, vol. III; appendixD.

Budget implications are clear from the table. (1) Annual costs in 1975 dollars for even the 350,000 bbl./day program would amount to about $300 to $400 million by 1982, and could exceed $600 million from about 1985 through 1995, when they would begin to decline. The total cost to the government would be $1.7 to $13.3 billion over the life of the program. (Note that the Task Force's "information case" involves a slower buildup than the first phase of a two-phase program; hence these figures would understate the costs of the first phase, should a decision to terminate be reached.) (2) Annual costs of the larger "two-phase nominal option" could reach $1.4 billion per year by 1984, and remain near that level until the end of the century. Total cost of that program would be $3.0 to $28.8 billion, depending again on cost of coal and price of competing fuels. (The wide range in potential program costs is due to much smaller changes in the critical variables, since expenditures reflect the extent to which synfuels costs differ from product prices, rather than being proportional to the costs or prices themselves.)

Administrative costs not included in the Task Force estimates are expected to run $10–$15 million annually. They could add $300 million to total cost of the 350,000 barrel/day program. Receipts from loan guarantee fees could reduce the total cost of the 350,000 barrel per day program by about $800 million—costs of the larger program would be reduced by a proportionately larger amount, perhaps over $2 billion.

Other costs to government associated with the proposed program include expenditures on environmental research and monitoring activities which are expected to proceed in pace with synfuel commercialization to mitigate its environmental impact.

The figures in Table I do not reflect the cost of any loan guarantee provisions. While total technical failure of a significant number of plants is unlikely, the possibility of default must be considered.

The Task Force's estimates of the *maximum* total Federal loan liability outstanding at any one time are about $2 billion for the informaiton program and $6.3 billion for the larger two-phase case. The maximum liability would be reached in 1985 and decline thereafter.

B. Budgetary authority

The Administraton has requested funding authorizations at a level which would be adequate to cover loan guarantees, price supports, and construction grants even if events resulting in extremely high program costs occur. Budgetary authority required over the life of the commercialization program depends on the same factors which affect the total cost to government. It is particularly sensitive to the mix of plants chosen.

Estimates of budgetary authority required for alternative plant mixes and program levels are presented in Appendix A. The incentive program and plant mix proposed by the Administration is expected to require a maximum of $6.0 billion in loan guarantees, $4.5 billion for price supports, $0.6 billion for construction grants, and an additional $10–$15 million annually for administrative expenses.

The 350,000 barrel per day program analyzed in the Task Force report assumed that one syncrude plant would be included. Outlays for price supports for that single plant could total $4.8 billion by 1997. Overall, with the plant mix assumed by the Task Force, outlays for price supports could total 9.3 billion by 2005. The Task Force program and that currently proposed agree in the levels of budgetary authority for loan guarantees and construction grants.

A minimum information program, targeted at 127,000 barrels per day, would require at most authority for $1.6 billion in loan guarantees, $.25 billion for construction grants, and $4.5 billion for price supports.

A full 1,000,000 barrel per day program could require as much as $15.2 billion in loan guarantees, $1.25 billion for construction grants, and $21.3 billion for price supports.

C. Appropriations and borrowing authority

To begin its commercialization program the Administration is requesting borrowing authority of $2.5 billion, which would cover $1.5 billion in loan guarantees and $1.0 billion in price supports, and an appropriation of $0.6 billion for construction grants.

1. Loan Guarantees: The Administration now estimates that a maximum of $1.5 billion in loan guarantees would be outstanding at any one time in the 350,000 barrel per day program. The Task Force report contains a larger estimate, $2.0 billion outstanding, since it did not consider using accumulated loan guarantee fees to offset outstanding debt.

Borrowing authority equal to the maximum amount of outstanding guarantees is requested.

If there are no defaults, no actual outlays will be required. It is alleged, however, that lenders are wary of waiting for Congressional action to appropriate funds so that defaulted loans can be repaid, since during the time between default and repayment lenders would find their liquidity reduced. For this reason the Administration requests borrowing authority in advance.

As long as borrowing authority exceeds the total of outstanding obligations, lenders can expect prompt repayment. However, it is conceivable, although very unlikely, that defaults would occur at such inconvenient times that the entire borrowing authority would be exhausted while loan guarantees were still outstanding. At that point additional borrowing authority or appropriations would be needed to cover future defaults. A disastrous chain of events—though unlikely—could result in defaults requiring the government to redeem the entire $6 billion in guaranteed loans for which the Administration requests authorization.

2. Construction Grants and Price Supports: The entire $.6 billion in construction grants would be awarded if the Administration's program is approved. Appropriations in that amount would be required.

Borrowing authority, rather than appropriation, is requested for price supports. The $1.0 billion requested would not be sufficient to cover all price support payments through the life of the program if world energy prices fall. Hence further borrowing authority as well as appropriations to repay the funds raised through exercise of borrowing authority could be required.

D. Five-year outlay projections

Actual outlays during the first five years of a commercialization program depend on a number of factors:

The order in which plants of various types are constructed.

The date on which construction of the first plant begins.

Estimates of administrative costs and receipts from loan guarantee fees and profit sharing.

The course of world energy prices.

Because of different assumptions regarding these factors current Administration estimates differ from estimates based on the Task Force report (Table II).

The Task Force information program assumes:

No outlays on construction grants until 1980.

Beginning of construction in 1977.

Slow build-up to target capacity.

The Task Force two-stage nominal program assumes:

Outlays on construction grants beginning in 1978

Construction beginning in 1976

Rapid build-up to 350,000 barrels per day capacity,

The Administration proposal detailed in the November Fact Sheet assumes:

Outlays on construction grants in 1977

Construction beginning in 1977

Outlays for administrative costs

Receipts from loan guarantee fees.

Receipts from profit sharing are excluded from all programs.

The loan guarantee program of S. 598 contains no provisions which would be likely to result in outlays before 1980. The outlays projected by OMB ($202 million) although not precisely comparable, are within the range of estimates for the two-phase program made by the Task Force.

E. Off-budget expenditures

In addition to the expenditures which will appear in the Federal budget, there may be additional expenditures by the Federal government which will not appear on the budget. Whether or not there are "off-budget" expenditures depends almost exclusively on whether the guaranteed loans are taken up by the Federal Financing Bank (FFB) or by private lenders directly.

The FFB, an "off-budget" agency, is authorized to purchase bonds guaranteed by an agency of the Federal government.

The funds which FFB uses to purchase those bonds are raised through the sale of FFB bonds, either to private lenders or to the U.S. Treasury. FFB outlays and borrowing do not appear on the Federal budget, the FFB borrowing does count as part of the public debt. If the FFB borrows from the Treasury, the Treasury will in turn sell Treasury bonds on the private money market. The outlays and borrowing of the Treasury also do not appear on the budget, although again the public debt is increased by the amount of borrowing

Such a series of transactions could reduce the cost of synfuels, and hence the level of price supports, since industry would pay lower interest rates to the FFB than to private lenders. However, off-budget expenditures equal to the amount of loan guarantees could also result, thus converting loan guarantees into direct loans in all but name. Congress can write provisions into the law which would exclude the FFB from making loans to synfuels producers if such off-budget expenditures appear undesirable.

TABLE II.—PROJECTIONS OF OUTLAYS FOR PRICE SUPPORTS AND CONSTRUCTION GRANTS

[Million 1975 dollars]

Fiscal year	Task force information program	Task force 2-stage nominal program	Fact sheet: Gross outlays	Fact sheet: Loan guarantee fees	Fact sheet: Net outlays
1976			2.5	(1)	1.5
Transition quarter			1.5		1.5
1977			17.0	(5)	12.0
1978		17	38.0	(12)	26.0
1979		52–101	57.0	(20)	37.0
1980	17	120–342	86.0	(31)	55.0
1981	69	69–498	130.0	(39)	91.0

V. THE TIMING OF DECISION

The timing of Congressional decision on synfuels issues is of interest. The principal questions are immediacy of need and relationship to other proposals.

The lead times in any such program would be long. Although a draft environmental impact statement on the Administration's program has been prepared and is almost ready to be issued, a final programmatic statement and smaller statements on individual projects would be needed. Staffing, contracting procedures, and other matters are also time-consuming. Thus it is likely that, given authorization now, the first guarantees could not be issued before FY 1977. Construction of a synfuel plant would require three to four years. Hence the first production cannot be expected much before the end of the decade. Major information on operating characteristics could require a year of operation. If such information is to be useful in building a second, larger wave of synfuels plants by 1985, the program should begin soon. If, on the other hand, Congress determines that full information and a lower level of production (e.g., 350,000 bbl./day) will suffice by 1985, then considerable delay in initiating the program can be countenanced.

Congress may wish to delay decision so as to consider the synfuels program not in isolation, but in the context of other, closely related proposals. Debate on the proposed Energy Independence Authority (EIA) has yet to begin. EIA would be authorized to execute loan guarantees and price supports like those of the proposed synfuels program.

Postponement of the beginning of commercialization—for example, for 3 months to allow full Congressional hearings and debate—could actually improve its economics. The further oil prices rise, the smaller will losses in the initial stages of the program be. Although eventual benefits would also be postponed, they are both uncertain and distant in time compared to current costs.

Finally, regardless of when it reaches a decision, the Congress should consider synfuels in the context of a larger policy with respect to the continuum of energy research, development, demonstration, and commercialization. ERDA is developing several advanced synfuels processes which offer the potential of improvements in economics, reliability, and environmental impact when compared with those currently available processes which would be supported by the synfuels program. Pilot plants for several processes are under construction or operating, and a preliminary design contract has been let for a demonstration-scale plant to produce synthetic boiler fuels from coal. One issue is whether synfuels plants might become obsolescent before operation, yet need subsidies for their entire life. Another issue is the appropriate Federal role with respect to stimulation of synthetic fuels research as well as commercialization, and with respect to risk-sharing at each stage of development.

APPENDIX A—ALTERNATIVE PROGRAMS: TECHNOLOGY MIX AND BUDGET ESTIMATES

This Appendix provides a tabular comparison of five alternative programs which differ in technology mix, program level, and, in one case, incentives. The information is used at various points in the text in discussion of these alternatives.

The five alternatives are:

The loan guarantee program of S. 598,

The 350,000 barrel per day (bbl./day) information program, as interpreted by the Synfuels Interagency Task Force,

The program implied by the most recent OMB estimates, which is equivalent to a first-phase 350,000 bbl./day program,

A minimum program, which is obtained by applying the Task Force's recommended incentives to a one-of-a-kind philosophy, and

The Task Force's estimate of the ultimate (1,000,000 bbl./day) composition of a two-phase program which begins at 350,000 bbl./day.

The quantities entered in the table include:

Under "loan guarantees", the total amount of loans which would be guaranteed over the life of the program (using the task force's estimates of total capital cost and assuming that loan guarantees cover 75% of the cost of constructing urban waste and high-BTU gas plants, and 50% of the cost of oil shale and unregulated utility and industrial fuel plants). Loan guarantees would result in outlays only in the event of default.

Under "Construction Grants" and "Price Supports", the total outlays to be made over the life of the program. (Estimates for price supports shown are derived under the assumptions about the price of competitive fuels and costs of inputs which give rise to the maximum credible outlays).

ALTERNATIVE PROGRAMS AND BUDGET ESTIMATES

	Unit plant capacity (barrels per day)	S. 598 (million current dollars)				Task force information program (350,000 bbl/day) (million 1975 dollars)				OMB Submission: 1st phase (350,000 bbl/day) (million current dollars)				Minimum program using task force recommended incentives (127,000 bbl/day) (million current dollars)				Task Force 2-Phase Nominal Program (1,000,000 bbl/day) (million 1975 dollars)			
		No. of plants	Loan guarantees	Construction grants	Price supports	No. of plants	Loan guarantees	Construction grants	Price supports	No. of plants	Loan guarantees	Construction grants	Price supports	No. of plants	Loan guarantees	Construction grants	Price supports	No. of plants	Loan guarantees	Construction grants	Price supports
Rich BTU gas	40,000	3 or 4	2,500			1	700			3	2,000			1	700			7	4,700		
Low-to-medium BTU gas	25,000		3,500																		
Regulated						[1]3		750		2		500		1		250		5		1,250	
Unregulated						[1]2	650		3,600	2	650		3,600	0				5	1,600		9,000
Syncrude	50,000					1	625		4,800	0				0				2	1,200		9,600
Shale oil	50,000					2	1,050		900	2	1,050		900	1	525		450	6	6,300		2,700
Urban waste	6,000					4	720			5	900			2	360			8	1,400		
Other energy sources																					
Socioeconomic aid											350										
Contingency											1,050										
Total			6,000			10	3,745	750	9,300	14	6,000	500	4,500	5	1,585	250	450	33	15,200	1,250	21,300

[1] CBO assumption, task force did not specify division between regulated and unregulated.

SUPPLEMENTAL APPROPRIATIONS, 1976

The PRESIDING OFFICER (Mr. STONE). Under the previous order, the Senate will now resume consideration of H.R. 10647, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 10647) making supplemental appropriations for the fiscal year ending June 30, 1976, and for the period ending September 30, 1976, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. McCLELLAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. McCLELLAN. Mr. President, the bill now before us provides funding for four different fiscal periods. Most of the funds in the bill, of course, are for fiscal 1976. In addition to these, however, there are funds for the transition period, as well as some small sums for fiscal years 1974 and 1975. For fiscal year 1974, the legislative chapter provides $300,000 and, for fiscal 1975, that same chapter provides $350,000. A total of $169,720,610 is provided for the transition period. All of this is more fully set forth on pages 3 and 4 of the report accompanying the bill.

The balance of my remarks today will be directed to the bill as it pertains to fiscal year 1976. A summary table is shown on pages 5 to 7 of the report and this table also shows a chapter-by-chapter breakdown of the bill on a comparative basis. The total for fiscal 1976 is $10,314,397,777. This is $1,311,837,400 more than the budget estimate and $2,494,091,576 more than provided in the House bill.

The major changes resulting in this bill being over the budget estimate are a reduction of about $1.3 billion in the food stamp program which is more than offset by a $2.3 billion addition of the New York financing money. I shall discuss each of these matters briefly in my remarks and I presume they might be discussed in more detail when the individual chapters are under consideration.

For chapter 1, the Department of Agriculture, the committee recommends an appropriation of $1.75 billion for food stamps. This is the same as provided in the House bill and is about $1.3 billion less than the budget estimate. Departmental witnesses testified that their budget estimate was high and that the House figure would provide them ample money to carry out this program for the balance of the fiscal year. As the report indicates, in all probability, the Department will need additional funding to carry through the transition quarter but those funds can be considered in a later supplemental. By that time it is anticipated that we will have new legislation and perhaps new regulations and procedures which could have some effect on the program level.

Chapter I also included funds added by the Senate committee for continuation of the special milk program. There was no budget estimate for this item and the House did not provide funding.

The third item of appropriation in chapter I is for emergency work by the Soil Conservation Service to remedy damage caused by recent natural disasters. The committee added $80,000 to the amount previously approved by the House.

The committee has also recommended an additional $500 million for the rural housing insured loan program of the Farmers Home Administration. There was no budget estimate on this item, and the House did not provide any additional lending authority.

Chapter II, the Department of Defense, provides no new budget authority but does contain language allowing the Department of the Army to satisfy some 1973 obligations for which deficiencies have been uncovered. This matter is explained more fully on page 15 of the report.

Likewise, chapter III, on the District of Columbia, provides no new budget authority but provides for payments of settlements of claims and suits out of District funds. Since the regular appropriations bill for the District probably will not be acted upon this session, this item was taken from the regular bill and advanced to the supplemental, so that timely payments of these claims could be made.

Chapter IV, Department of Housing and Urban Development and Related Agencies, will undoubtedly prove to be the most controversial chapter in this bill. As I indicated previously, the committee has included $2.3 billion for the New York seasonal financing fund, and an additional $1 million for administrative expenses for implementing this program. I shall not go into this matter at this time. The chairman of the subcommittee, the senior Senator from Wisconsin (Mr. PROXMIRE) is prepared to discuss this.

More than half of the new budget authority in this bill is contained in chapter V, the Departments of Labor and Health, Education, and Welfare. This chapter total is about $5.7 billion. Of that amount, $5 billion is for advances to the unemployment trust fund and $600 million is for the new Health Revenue-Nurse Training and Health Services Act of 1975, in a budget estimate identified as House Document 94-276. Here again, I shall not discuss this chapter in any detail but the subcommittee chairman, the senior Senator from Washington (Mr. MAGNUSON) is available to and will be on the floor explain or discuss any matters of interest pertaining to that chapter.

Chapter VI, the legislative chapter, provides new budget authority of about $45.6 million, about $5 million under the budget and $5 million more than the House.

Chapter VII, for State, Justice, Commerce, the Judiciary and Related Agencies, provides new budget authority of about $71 million, which is about $16.5 million more than the budget and about $65.5 million more than the House. Most of the increase over the House bill is the result of budget estimates that were submitted to the Senate following House action on the bill.

For chapter VIII, Department of Transportation, the Senate committee has recommended the same new budget authority as the House, about $245 million. The Senate committee has added $300,000,000 in liquidation of contract authorization. This was provided in a budget estimate that was forwarded to the Senate following House action.

For chapter IX, the committee recommends about $24 million, a reduction of almost $10 million from the budget estimates and about $9.5 million over the House bill. Here also, however, the Senate committee considered several estimates that were not available to the House.

Finally, Mr. President, chapter X provides about $43.5 for the satisfaction of claims and judgments. This is about $18.5 million more than the House bill. All of this amount is reflected in a budget estimate received in the Senate following House action on the bill.

Mr. President, that gives a brief summary of the bill. As is our usual procedure in supplemental bills, I shall ask the respective subcommittee chairmen to respond to any questions on their particular chapters. Before doing so, however, I would like to yield to my colleague, the distinguished senior Senator from North Dakota and the ranking minority member of the committee (Mr. Young).

Mr. McCLELLAN subsequently said: Mr. President, when I discussed the bill on the floor earlier today I stated that the bill, as reported, was $1,311,837,400 over the budget estimates.

I have now been advised that the Senate has received a formal budget estimate for the New York financing program in the amount of $2,301,000,000 for fiscal year 1976.

Mr. President, taking the latest budget estimate into consideration, the bill, as it now stands, is $989,162,600 below the budget estimates.

The budget estimate also includes $315,000 for administration funds for the transition period. So this amount, which was included in the bill, is now within the budget estimate.

Mr. YOUNG. Mr. President, over the last 11 months I have worked closely with the distinguished chairman of the Committee on Appropriations, the Senator from Arkansas (Mr. McClellan), we have jointly worked together, not only on this bill, but on the defense appropriations bill and many other as well. These have been gruelling weeks for both of us. The chairman has maintained his high dedication to the defense of our country and the integrity of the budget throughout this process. I am sure I speak for all the members of the Committee on Appropriations when I commend our chairman for his outstanding leadership.

Mr. President, as the chairman has indicated, the committee is recommending appropriations of $10,314,397,777 in this supplemental appropriations bill, which is $1,311,837,400 more than the budget estimate, and $2,494,091,576 over the amount passed by the House. The chairman has provided the details of this bill, which I will not repeat, however, I would like to make a few brief points.

First of all, as we are all aware, this bill contains $2.3 billion for New York City. We have spent considerable time debating this issue and I am sure there is no need for any further elaboration by me on this point. However, it should be pointed out that this $2.3 billion for New York City was not in the House bill and, therefore, contributes to the increases over the budget estimate in the House bill that I mentioned earlier.

There is no budget request for the New York City item.

Second, this bill contains $1.75 billion for food stamps and the special milk program which is about $1.3 billion below the budget estimate.

Third, there is $5 billion for unemployment. These funds are mandatory under existing law to support the high unemployment rate we are continuing to experience.

Mr. President, there are those of us who do not support the funds for New York City or necessarily some of the other items contained in this bill. However, there are very vital funds in this bill that support increased pay costs, increases due to inflation, and other urgent matters that need to be taken care of as soon as possible.

Mr. President, I yield the floor.

Mr. McCLELLAN. Mr. President, I thank the distinguished Senator from North Dakota. As usual, he is most generous and gracious in his complimentary references to the humble efforts of the chairman of the committee, and I am grateful to him for those remarks.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, and that the bill as thus amended, be considered as original text for the purpose of further amendment, but that no point of order shall be considered as having been waived by reason of this agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments agreed to en bloc are as follows:

On page 2, beginning with line 4, insert:

Farmers Home Administration

RURAL HOUSING INSURANCE FUND

For an additional amount for insured loans as authorized by title V of the Housing Act of 1949, as amended, $500,000,000.

On page 2, in line 14, strike out "$21,702,000" and insert "$21,782,000".

On page 2, beginning with line 17, insert:

SPECIAL MILK PROGRAM

For an additional amount to carry out the provisions of the Special Milk Program, as authorized by section 3 of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1772), $60,000,000.

GENERAL PROVISIONS

Section 610 under this head in the Agriculture and Related Agencies Appropriations Act, 1976, Public Law 94–122, is amended by striking "$37,452,000" and substituting in lieu thereof "$47,328,000" and by striking "$9,363,000" and substituting in lieu thereof "$11,936,000".

RELATED AGENCIES

Commodities Futures Trading Commission

The limitation of $200,000 for employment under 5 U.S.C. 3109 under this head in the Agriculture and Related Agencies Appropriation Act, 1976 (Public Law 94–122) is increased to $400,000.

CHAPTER II

DEPARTMENT OF DEFENSE

Liquidation of Obligations—Army

For payment of unliquidated obligations heretofore incurred and chargeable to the appropriations accounts "Procurement of Equipment and Missiles, Army, 1971/1973", "Other Procurement, Army, 1972/1974", "Procurement of Weapons and Tracked Combat Vehicles, Army, 1972/1974", and "Procurement of Weapons and Tracked Combat Vehicles, Army, 1973/1975", $165,000,000, to be derived in such amounts as may be necessary for the payment of such obligations by (1) the transfer of not to exceed $90,000,000 from funds available for the "Procurement of Ammunition, Army, 1975/1977", and (2) in such amount as the Secretary of the Army may designate, not to exceed $75,000,000, from fiscal year 1976 appropriations provided to the Department of the Army for procurement; to remain available until September 30, 1977: *Provided*, That the deficient appropriations accounts set out above with respect to which payments are authorized herein shall not be adjusted as a result of such payments: *Provided further*, That nothing herein shall be deemed to waive the submission of reports required by Revised Statute 3679 (31 U.S.C. 665).

CHAPTER III

DISTRICT OF COLUMBIA

District of Columbia Funds

SETTLEMENT OF CLAIMS AND SUITS

For payment of property damage claims in excess of $500 and of personal injury claims in excess of $1,000, approved by the Mayor in accordance with the provisions of the Act of February 11, 1929, as amended (45 Stat. 1160; 46 Stat. 500; 65 Stat. 131), $59,000.

Division of Expenses

The sums appropriated herein for the District of Columbia shall be paid out of the general fund of the District of Columbia, except as otherwise specifically provided.

CHAPTER IV

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Programs

FEDERAL HOUSING ADMINISTRATION FUND

For payment to cover actual losses sustained by the Special Risk Insurance Fund, $100,000,000; and for payment to cover actual losses under the General Insurance Fund from mortgages insured under section 221 (d)(3) with below-market interest rates, $42,500,000; to remain available until expended, as authorized by the National Housing Act, as amended (12 U.S.C. 1715z–3; 12 U.S.C. 1715l).

INDEPENDENT AGENCY

Department of the Treasury

NEW YORK CITY SEASONAL FINANCING FUND

For the revolving fund established pursuant to section 8(a) of H.R. 10481, $2,300,000,000.

On page 6, in line 8, strike out "II" and insert "V".

On page 8, in line 19, strike out "$432,013,000" and insert "$440,763,000".

On page 8, in line 24, strike out "$87,517,000" and insert "$112,000,000".

On page 9, in line 6, strike out "$10,410,000" and insert "$13,710,000".

On page 9, in line 14, strike out "$50,500,000" and insert "$60,500,000".

On page 9, in line 19, strike out "$77,000,000" and insert "$89,000,000".

On page 10, beginning with line 1, insert:

NATIONAL INSTITUTE OF EDUCATION

For an additional amount for the "National Institute of Education", $5,250,000.

On page 10, in line 8, strike out "$2,955,000" and insert "$1,370,000".

On page 10, in line 11, strike out "$55,625,000" and insert "$54,040,000".

On page 10, in line 15, strike out "$13,793,000" and insert "$14,135,000".

On page 11, in line 7, strike out "$2,500,000" and insert:

On page 11, in line 13, strike out "III" and insert "VI".

On page 11, beginning with line 15, insert:

SENATE

Compensation and Mileage of the Vice President and Senators and Expense Allowances of the Vice President and Leaders of the Senate

COMPENSATION AND MILEAGE OF THE VICE PRESIDENT AND SENATORS

For an additional amount for "Compensation and mileage of the Vice President and Senators", $181,500.

For an additional amount for "Compensation and mileage of the Vice President and Senators" for the period July 1, 1976, through September 30, 1976, $62,000.

Salaries, Officers and Employees

OFFICE OF THE SECRETARY

For an additional amount for "Office of the Secretary", $9,400: *Provided,* That effective January 1, 1976, the allowance for clerical assistance and readjustment of salaries in the Disbursing Office is increased by $18,762.

For an additional amount for "Office of the Secretary" for the period July 1, 1976, through September 30, 1976, $4,700.

ADMINISTRATIVE AND CLERICAL ASSISTANTS TO SENATORS

For an additional amount for "Administrative and Clerical Assistants to Senators", $26,400: *Provided,* That effective January 1, 1976, the clerk hire allowance of each Senator from the State of California shall be increased to that allowed Senators from States having a population of more than twenty-one million, the population of said State having exceeded twenty-one million inhabitants.

For an additional amount for "Administrative and Clerical Assistants to Senators" for the period July 1, 1976, through September 30, 1976, $13,200.

Contingent Expenses of the Senate

INQUIRIES AND INVESTIGATIONS

For an additional amount for "Inquiries and investigations", $1,080,000.

For an additional amount for "Inquiries and investigations" for the period July 1, 1976, through September 30, 1976, $275,000.

MISCELLANEOUS ITEMS

For an additional amount for "Miscellaneous items", fiscal year 1975, $350,000.

For an additional amount for "Miscellaneous items", $2,550,000.

For an additional amount for "Miscellaneous items", for the period July 1, 1976, through September 30, 1976, $1,275,000.

ADMINISTRATIVE POSITIONS

Sec. 109. Subsection (b) of Public Law 94–57 is amended by adding at the end thereof the following: "In carrying out the provisions of section 3620 of the Revised Statutes, as amended by subsection (a), the Secretary of the Senate shall promulgate such rules and regulations as may be appropriate with respect to the Senate. The provisions of section 3620(b)(1) of the Revised Statutes, requiring reimbursement for any additional check sent on behalf of an employee, shall not apply in the case of an additional check sent upon the request of an employee of the Senate.".

Sec. 110. Effective January 1, 1976, the Sergeant at Arms and Doorkeeper may appoint and fix the compensation of the following positions in the Senate Recording Studio: an assistant director at not to exceed $32,436 per annum in lieu of a chief video engineer at not to exceed $32,436 per annum; a chief video engineer at not to exceed $26,394 per anum in lieu of an administrative officer at not to exceed $26,394 per annum; a chief film and video cameraman at not to exceed $25,440 per annum in lieu of a director of photography at not to exceed $25,440 per annum; a film and video cameraman at not to exceed $20,352 per annum in lieu of a chief sound engineer at not to exceed $20,352 per annum; a video engineer at not to exceed $24,168 per annum in lieu of an assistant video engineer at not to exceed $24,168 per annum; a chief audio engineer at not to exceed $23,214 per annum in lieu of an assistant video engineer at not to exceed $23,214 per annum; a video technician at not to exceed $18,126 per annum in lieu of a cameraman at not to exceed $18,126 per annum; an audio engineer at not to exceed $15,000 per annum in lieu of a film and radio recording engineer at not to exceed $15,900 per annum; a film and laboratory technician at not to exceed $16,536 per annum in lieu of a color film technician at not to exceed $16,536 per annum; a secretary at not to exceed $11,448 per annum in lieu of a shipping and stock clerk at not to exceed $11,448 per annum; an appointment secretary at not to exceed $13,038 per annum, in lieu of a traffic manager at not to exceed $13,038 per annum; an audio engineer at not to exceed $17,172 per annum in lieu of a production assistant at not to exceed $17,172 per annum; a film and laboratory technician at not to exceed $20,352 per annum in lieu of an editor and printer at not to exceed $20,352 per annum; and an audio engineer at not to exceed $13,356 per annum in lieu of a labratory technician at not to exceed $13,356 per annum.

Sec. 111. (a) The tenth sentence of section 105 of the Legislative Branch Appropriations Act, 1976, is amended by inserting immediately after "fiscal year," the following: "and the two employees referred to in such clause (A) who are employees of any joint committee having legislative authority.".

(b) The ninth sentence of section 4 under the heading "Administrative Provisions" in the appropriation for the Senate in the Legislative Branch Appropriations Act, 1975, is amended by inserting immediately after "joint committee employees" the following: ", who are not employees of a joint committee having legislative authority,".

(c) The amendments made by this section shall become effective January 1, 1976, and no increase in salary shall be payable for any period prior to such date by reason of enactment of this section.

Sec. 112. (a) Notwithstanding any other provision of law, the Sergeant at Arms of the Senate, subject to the approval of the Committee on Rules and Administration and the Committee on Appropriations, is authorized to lease, for use by the United States Senate, and for such other purposes as such committees may approve, all or any part of the property located at 400 North Capitol Street, Washington, District of Columbia, known as the "North Capitol Plaza Building": *Provided,* That rental payments under such lease for the entire property shall not exceed $3,375,000 per annum, exclusive of amounts for reimbursement for taxes paid and utilities furnished by the lessor. Such payments shall be paid from the Contingent Fund of the Senate upon vouchers approved by the Sergeant at Arms: *Provided further,* That such lease may be for a term not in excess of five years, and shall contain an option to purchase such property, and shall include such other terms and conditions as such committees may determine to be in the best interests of the Government: *Provided further,* That nothing in this section shall be construed so as to obligate the Senate or any of its Members, officers, or employees to enter into any such lease or to imply any obligation to enter into such lease.

(b) Notwithstanding any other provision of law, property leased under authority of subsection (a) shall be maintained by the Architect of the Capitol as part of the "Senate Office Buildings," subject to the laws, rules, and regulations governing such buildings, and the Architect is authorized to incur such expenses as may be necessary to provide for such occupancy.

(c) Notwithstanding any other provision of law, the Sergeant at Arms of the Senate, subject to the approval of the Committee on Rules and Administration and the Committee on Appropriations, is authorized to sublease any part of the property leased under authority of subsection (a) which is in excess of the requirements of the Senate. All rental payments under any such sublease shall be paid to the Sergeant at Arms of the Senate and such amounts shall thereupon be added to and merged with the appropriation "Miscellaneous items" under the Contingent Fund of the Senate.

(d) Notwithstanding any other provision of law, upon the approval of the Committee on Rules and Administration and the Committee on Appropriations, the Secretary of the Senate shall transfer by voucher or vouchers to the Architect of the Capitol from the "Contingent Fund of the Senate" such amounts as may be necessary for the Architect of the Capitol to carry out the provisions of subsection (b) and such amounts shall thereupon be added to and merged with the appropriation "Senate Office Buildings".

(e) The authority under this section shall continue until otherwise provided by law.

On page 20, in line 18, strike out "$4,736,340" and insert "$4,900,000".

On page 20, in line 20, after the colon, strike out:

Provided further, That none of the funds in this bill shall be available for salaries or expenses of any employee of the Congressional Budget Office in excess of 193 staff employees.

and insert:

Provided further, That the Congressional Budget Office shall have the authority to contract without regard to section 5 of Title 41 of the United States Code (Section 3709 of the Revised Statutes, as amended).

On page 21, beginning with line 7, insert:

CAPITOL BUILDINGS

For an additional amount for "Capitol buildings", for relocation within the United States Capitol of statues contributed by States to the National Statuary Hall Collection under authority of section 1814 of the Revised Statutes, as amended (40 U.S.C. 187), $65,000, to be expended without regard to section 3709 of the Revised Statutes, as amended.

On page 21, beginning with line 21, insert:

SENATE OFFICE BUILDINGS

For an additional amount for "Senate office buildings", $696,000, of which $200,000 shall remain available until expended.

For an additional amount for "Senate office buildings" for the period July 1, 1976, through September 30, 1976, $29,000.

On page 22, beginning with line 7, insert:

Administrative Provision

The third paragraph under the heading "Office of the Architect of the Capitol" and the sub-heading "Salaries" in the Legislative Branch Appropriation Act, 1960 (73 Stat. 407), as amended by section 214(p) of Public Law 90–206 (81 Stat. 638), is amended by striking out "one position" under the appropriation "Capitol Buildings" and inserting in lieu thereof "two positions" under the appropriation Capitol Buildings".

On page 23, beginning with line 9, insert:

Administrative Provision

The Disbursing Office of the Library of Congress is authorized to disburse funds appropriated for the Congressional Budget Office, and the Library of Congress shall provide financial management support to the Congressional Budget Office as may be required and mutually agreed to by the Librarian of Congress and the Director of the Congressional Budget Office.

All vouchers certified for payment by duly authorized certifying officers of the Library of Congress shall be supported with a certification by an officer or employee of the Congressional Budget Office duly authorized in writing by the Director of the Congressional Budget Office to certify payments from appropriations of the Congressional Budget Office. The Congressional Budget Office certifying officers shall (1) be held responsible for the existence and correctness of the facts recited in the certificate or otherwise stated on the voucher or its supporting paper and the legality of the proposed payment under the appropriation or fund involved (2) be held responsible and accountable for the correctness of the computations of certifications made, and (3) be held accountable for and required to make good to the United States the amount of any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificate made by him, as well as for any payment prohibited by law which did not represent a legal obligation under the appropriation or fund involved: Provided, That the Comptroller General of the United States may, at his discretion, relieve such certifying officer or employee of liability for any payment otherwise proper whenever he finds (1) that the certification was based on official records and that such certifying officer or employee did not know, and by reasonable diligence and inquiry could not have ascertained the actual facts, or (2) that the obligation was incurred in good faith, that the payment was not contrary to any statutory provision specifically prohibiting payments of the character involved, and the United States has received value for such payment: Provided further, That the Comptroller General shall relieve such certifying officer or employee of liability for an overpayment for

On page 26, beginning with line 1, strike out:

Office of Superintendent of Documents

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $900,000.

For an additional amount for "Salaries and expenses" for the period July 1, 1976, through September 30, 1976, $225,000.

On page 26, beginning with line 13, insert:

GENERAL ACCOUNTING OFFICE

Salaries and Expenses

For an additional amount for "Salaries and expenses", $1,292,000.

GENERAL PROVISIONS

Section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754(b)), relating to the use of foreign currency, is amended by striking out "and the Joint Economic Committee" and inserting in lieu thereof ", the Joint Economic Committee, and the Joint Committee on Congressional Operations".

On page 27, in line 3, strike out "IV" and insert "VII".

On page 27, beginning with line 6, insert:

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For payments, not otherwise provided for, by the United States for expenses of United Nations peacekeeping forces in the Middle East, $35,000,000, notwithstanding the limitation on contributions to international organizations contained in Public Law 92–544 (86 Stat. 1109, 1110).

On page 28, beginning with line 14, insert:

DEPARTMENT OF JUSTICE

Legal Activities

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for "Salaries and expenses, General Legal Activities", $230,000.

DEPARTMENT OF COMMERCE

Bureau of the Census

PERIODIC CENSUSES AND PROGRAMS

For an additional amount for "Periodic censuses and programs", $4,940,000.

On page 29, beginning with line 15, insert:

SALARIES AND EXPENSES OF UNITED STATES MAGISTRATES

For an additional amount for "Salaries and expenses of United States magistrates", $404,000.

For an additional amount for "Salaries and expenses of United States magistrates", $151,000 for the period July 1, 1976, through September 30, 1976.

On page 30, beginning with line 12, insert:

Japan-United States Friendship Commission

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For the purpose of implementing the Japan-United States Friendship Act (Public Law 94–118), there is appropriated to the Japan-United States Friendship Trust Fund, to remain available until expended, an amount equal to 7.5 per centum of the total funds payable to the United States pursuant to the Agreement Between Japan and the United States of America concerning the Ryukyu Islands and the Daito Islands, signed at Washington and Tokyo, June 17, 1971. Funds appropriated under tite I of Public Law 94–121 for United States-Japan Friendship Activities are transferred to the Japan-United States Friendship Trust Fund for the purpose of implementing the Japan-United States Friendship Act (Public Law 94–118) and are to remain available until expended.

On page 31, in line 11, strike out "V" and insert "VIII".

On page 33, beginning with line 6, insert:

Urban Mass Transportation Administration

URBAN MASS TRANSPORTATION FUND

(LIQUIDATION OF CONTRACT AUTHORIZATION)

For an additional payment to the urban mass transportation fund, for liquidation of contractual obligations incurred under authority of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1601 et seq., as amended by Public Laws 91–453 and 93–503) and sections 103(e)(4) and 142(c) of title 23, United States Code; $300,000,000, to remain available until expended.

For an additional amount for "Liquidation of contract authorization" for the period July 1, 1976, to September 30, 1976, $50,000,000, to remain available until expended.

On page 33, in line 19, strike out "VI" and insert "IX".

On page 33, in line 25, strike out "$3,100,000" and insert "$7,211,000".

On page 34, in line 3, strike out "$980,000" and insert "$1,825,000".

On page 34, beginning with line 4, insert:

Bureau of the Public Debt

ADMINISTERING THE PUBLIC DEBT

Of the amount provided under this head in the "Treasury, Postal Service, and General Government Appropriation Act, 1976", $677,000 shall be available for expenses of travel, notwithstanding the provisions of section 501 of the Act.

On page 34, beginning with line 11, strike out:

Internal Revenue Service

COMPLIANCE

For an additional amount for "Compliance", $4,000,000.

For an additional amount for "Compliance" for the period July 1, 1976 through September 30, 1976, $1,000,000.

On page 34, in line 19, strike out "one" and insert "three"

On page 34, in line 19, after "hundred" insert "and twenty-nine".

On page 34, in line 20, strike out "$3,000,000" and insert "$10,500,000".

On page 35, in line 2, strike out "$500,000" and insert "$2,500,000".

On page 35, beginning with line 3, insert:

EXECUTIVE OFFICE OF THE PRESIDENT

Domestic Council

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $300,000.

For an additional amount for "Salaries and expenses" for the period July 1, 1976, through September 30, 1976, $75,000.

Office of Management and Budget

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $554,000 to be derived by transfer from the appropriation for "Federal Supply Service, operating expenses, General Services Administration", fiscal year 1976.

For an additional amount for "Salaries and expenses" for the period July 1, 1976, through September 30, 1976, $131,000 to be derived by transfer from the appropriation for "Federal Supply Service, operating expenses, General Services Administration", fiscal year 1976.

On page 36, in line 19, after "$4,000,000" strike out the comma and the following: "to remain available until expended".

On page 36, in line 21, strike out "$2,000,000, to remain available until expended" and insert "$1,000,000".

On page 37, beginning with line 1, insert:

General Services Administration

REFUNDS UNDER RENEGOTIATION ACT

For necessary expenses to carry out section 201(f) of the Renegotiation Act of 1951 (50 U.S.C. App. 1231(f)), $1,000,000, to remain available until expended.

Temporary Study Commissions

National Commission on Supplies and Shortages

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the National Commission on Supplies and Shortages Act (Public Law 93–426), including personal services without regard to the provisions of law regulating the employment and compensation of persons in the Government service, $622,500: *Provided*, That this appropriation shall be available only upon enactment into law of authorizing legislation.

For necessary expenses for the period July 1, 1976, through September 30, 1976, to carry out the provisions of the National Commission on Supplies and Shortages Act (Public Law 93–426), including personal services without regard to the provisions of law regulating the employment and compensation of persons in the Government service, $295,000: *Provided*, That this appropriation shall be available only upon enactment into law of authorizing legislation.

Funds appropriated under this heading in the Supplemental Appropriations Act, 1975, shall remain available until October 1, 1976.

On page 38, in line 6, strike out "VII" and insert "X".

On page 38, in line 13, strike out "$24,946,893" and insert "$43,472,009".

The PRESIDING OFFICER. What is the will of the Senate?

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

Mr. McCLURE. Mr. President, will the Senator withhold that?

Mr. McCLELLAN. I withhold it.

Mr. McCLURE. Mr. President, it will be my intention to raise a point of order against one of the divisions of this bill. I shall not make it at this time, because there may be one or two other Senators who are interested, who are not present.

I call the attention of the Senate to the provision with respect to the leasing of additional office space for the Senate. I refer particularly to page 16 of the bill, in which section 112(a) of the bill appears to be rather clearly legislation on an appropriation bill.

The reason that I raise this question is that this matter was brought to the Appropriations Committee through the subcommittee of the Appropriations Committee, without ever having been considered either by the Committee on Public Works or by the Committee on Rules and Administration. It seeks to authorize the renting of a building which has been completed and stands vacant.

It is my understanding of the facts of the situation—and I would like to be corrected if my understanding is not correct—that this building, having been completed, was offered for rent, or at least a portion of it was offered for rent, to the GSA for the use of the SEC, of which the headquarters building is next door.

The GSA asked for proposals for additional office space for the SEC. The proposals that came into the GSA were at least $1 a square foot less than the offer that was made by the owners of this building for some 70 or 80 percent of this building.

This building now is being sought to be leased for the use of the U.S. Senate at rental rates that are approximately $2 a square foot higher than the going rate for similar buildings, without it having been considered in the usual course of the rental of office space either through the Committee on Public Works or the Committee on Rules and Administration. It seems to me that we should ask questions about why this rental appears, as it does, to be above the going rate for similar space.

It is also worth pointing out that the reason given for renting this space is that this then would allow the demolition of the buildings in the block known as "the Monocle block," to make way for the building of an underground parking garage for the Senate. That parking garage has not yet been authorized, and it is several years away, in all likelihood, before it will be authorized.

So here we are, renting space at a going rental rate of approximately $2 a square foot higher than the prevailing rate for similar space, in order to make way for the demolition of existing buildings now being used by the Senate, so that we can construct an underground parking garage which is not yet authorized. It does not seem to me that, either procedurally or factually, the Senate should accept the action being taken in this appropriation bill in this manner.

I wonder whether anyone can explain why this kind of transaction is being contemplated. As I understand, the cost of this provision is based on a rental rate of $5.20 per square foot, plus a cost of about $3 a square foot for taxes, utilities, and maintenance. This, I understand, as I said before, is about $2 a square foot above the going rate for office space in Washington.

I believe that before we act, there should be some explanation of why, instead of about $6 to $6.50 a square foot, we are contemplating renting in the range of $8 to $8.20 per square foot.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. McCLURE. I am happy to yield.

Mr. McCLELLAN. I say to the Senator that this provision in the bill was reported by the Subcommittee on the Legislative Branch. Senator HOLLINGS is chairman of that subcommittee. He is not present at the moment. My understanding is that he expects to arrive in the Chamber about 4 o'clock. If the Senator would be willing, I would suggest that we wait until Senator HOLLINGS arrives in the Chamber and let him have the opportunity to answer the Senator's inquiries about this matter. I am not sufficiently informed about this matter to answer all the questions. This matter was heard by the Subcommittee on the Legislative Branch, and I am sure that Senator HOLLINGS will be prepared to discuss it with the distinguished Senator.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. YOUNG. As the ranking member, I am not in a position to defend the subcommittee position either. I opposed it in the committee.

Mr. McCLURE. I thank the Senator. I am perfectly willing to withhold the point of order until then, if I have the assurance of the managers of the bill that between now and 2 o'clock the matter will not be disposed of with prejudice to my right to make a point of order.

Mr. McCLELLAN. I give the Senator that assurance, so far as I am concerned, and we will undertake to be certain that the Senator has an opportunity to raise his point of order.

Mr. McCLURE. I thank the Senator. I appreciate that assurance, because I think it is a serious question. If there are answers, I would like to have them in the RECORD. If not, I would like to preserve my right to make the point of order.

With that understanding, Mr. President, and with the assurance of the Senator from Arkansas and the Senator from North Dakota that this matter will not be disposed of prior to my opportunity to present the issue again, I will not raise the point of order at this time.

Mr. McCLELLAN. I think the Senator will have the opportunity when Senator HOLLINGS returns. I have no objection to proceeding at any time Senator HOLLINGS can be in the Chamber.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GARY HART). Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, the Senate well knows that we are contemplating adjourning the first session on the 18th or 19th of this month. We have a lot of business to attend to. We will be in this Saturday. I must express my personal disappointment that there is no one on the floor at this time who is prepared to offer an amendment. It is my understanding that there will be five or six amendments offered to the pending bill. I hope that with this note of caution, those who have amendments will not delay offering them.

I ask unanimous consent at this time that the Senate stand in recess until the hour of 1:30 p.m.

The PRESIDING OFFICER. Will the Senator withhold that for just a moment?

Mr. MANSFIELD. Mr. President, before I renew my request, I would hope that the appropriate attachés of the Senate would contact those Members on both sides who have amendments and ask them please to be in attendance this afternoon for the purpose of offering those amendments.

ENERGY POLICY AND CONSERVATION ACT—CONFERENCE REPORT NO. 94-516

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be in order to file the conference report on S. 622 until midnight.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that the text of the conference report on S. 622, the Energy Policy and Conservation Act, and joint statement of the managers be printed in the RECORD, and that it also be printed as a Senate conference report.

The PRESIDING OFFICER. Without object, it is so ordered.

There being no objection, the conference report was ordered to be printed in the RECORD, as follows:

Conference Report (S. Rept. No. 94–516)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the text of the bill (S. 622) to increase domestic energy supplies and availability; to restrain energy demand; to prepare for energy emergencies; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Energy Policy and Conservation Act".

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Sec. 551. Procedure for congressional review of Presidential requests to implement certain authorities.
Sec. 552. Expedited procedure for congressional consideration of certain authorities.

STATEMENT OF PURPOSES

Sec. 2. The purposes of this Act are—

(1) to grant specific standby authority to the President, subject to congressional review, to impose rationing, to reduce demand for energy through the implementation of energy conservation plans, and to fulfill obligations of the United States under the international energy program;

(2) to provide for the creation of a Strategic Petroleum Reserve capable of reducing the impact of severe energy supply interruptions;

(3) to increase the supply of fossile fuels in the United States, through price incentives and production requirements;

(4) to conserve energy supplies through energy conservation programs, and, where necessary, the regulation of certain energy uses;

(5) to provide for improved energy efficiency of motor vehicles, major appliances, and certain other consumer products;

(6) to reduce the demand for petroleum

products and natural gas through programs designed to provide greater availability and use of this Nation's abundant coal resources; and

(7) to provide a means for verification of energy data to assure the reliability of energy data.

DEFINITIONS

SEC. 3. As used in this Act:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration.

(2) The term "person" includes (A) any individual, (B) any corporation, company, association, firm, partnership, society, trust, joint venture, or joint stock company, and (C) the government and any agency of the United States or any State or political subdivision thereof.

(3) The term "petroleum product" means crude oil, residual fuel oil, or any refined petroleum product (including any natural liquid and any natural gas liquid product).

(4) The term "State" means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

(5) The term "United States" when used in the geographical sense means all of the States and the Outer Continental Shelf.

(6) The term "Outer Continental Shelf" has the same meaning as such term has under section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(7) The term "international energy program" means the Agreement on an International Energy Program, signed by the United States on November 18, 1974, including (A) the annex entitled "Emergency Reserves", (B) any amendment to such Agreement which includes another nation as a party to such Agreement, and (C) any technical or clerical amendment to such Agreement.

(8) The term "severe energy supply interruption" means a national energy supply shortage which the President determines—

(A) is, or is likely to be, of significant scope and duration, and of any emergency nature;

(B) may cause major adverse impact on national safety or the national economy; and

(C) results, or is likely to result, from an interruption in the supply of imported petroleum products, or from sabotage or an act of God.

(9) The term "antitrust laws" includes—

(A) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1, et seg.);

(B) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12, et seq.);

(C) the Federal Trade Commission Act (15 U.S.C. 41, et seq.):

(D) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9); and

(E) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21A).

(10) The term "Federal land" means all lands owned or controlled by the United States, including the Outer Continental Shelf, and any land in which the United States has reserved minerals interests except lands—

(A) held in trust for Indians or Alaska Natives.

(B) owned by Indians or Alaska Natives with Federal restrictions on the title.

(C) within any area of the National Park System, the National Wildlife Refuge System, the National Wilderness Preservation System, the National System of Trails, or the Wild and Scenic Rivers System, or

(D) within military reservations.

TITLE I—MATTERS RELATED TO DOMESTIC SUPPLY AVAILABILITY

PART A—DOMESTIC SUPPLY

COAL CONVERSION

SEC. 101. (a) Section 2(f) of the Energy Supply and Environmental Coordination Act of 1974 is amended—

(1) in paragraph (1) thereof, by striking out "June 30, 1975" and inserting in lieu thereof "June 30, 1977", and by striking out "January 1, 1979" and inserting in lieu thereof "January 1, 1985"; and

(2) in paragraph (2) thereof, by striking out "December 31, 1978" and inserting in lieu thereof "December 31, 1984", and by striking out "January 1, 1979" and inserting in lieu thereof "January 1, 1985".

(b) Section 2(a) of such Act is amended to read as follows:

"(a) The Federal Energy Administrator—

"(1) shall, by order, prohibit any powerplant, and

"(2) may, by order, prohibit any major fuel burning installation, other than a powerplant,

from burning natural gas or petroleum products as its primary energy source, if the requirements of subsection (b) are met and if (A) the Federal Energy Administrator determines such powerplant or installation on June 22, 1974, had, or thereafter acquires or is designed with, the capability and necessary plant equipment to burn coal, or (B) such powerplant or installation is required to meet a design or construction requirement under subsection (c)."

(c) Section 2(c) of such Act is amended by inserting "or other major fuel burning installation" after "powerplant" wherever it appears and by inserting "in the case of a powerplant" after "(1)" in the second sentence.

INCENTIVES TO DEVELOP UNDERGROUND COAL MINES

SEC. 102. (a) The Administrator may, in accordance with subsection (b) and rules prescribed under subsection (d), guarantee loans made to eligible persons described in subsection (c)(1) for the purpose of developing new underground coal mines.

(b)(1) A person may receive for a loan guarantee under subsection (a) only if the Administrator determines that—

(A) such person is capable of successfully developing and operating the mine with respect to which the loan guarantee is sought;

(B) such person has provided adequate assurance that the mine will be constructed and operated in compliance with the provisions of the Federal Coal Mine Health and Safety Act and that no final judgment holding such person liable for any fine or penalty under such Act is unsatisfied;

(C) there is a reasonable prospect of repayment of the guaranteed loan;

(D) such person has obtained a contract, of at least the duration of the period during which the loan is required to be repaid, for the sale or resale of coal to be produced from such mine to a person who the Administrator of the Environmental Protection Agency certifies will be able to burn such coal in compliance with all applicable requirements of the Clean Air Act, and of any applicable implementation plan (as defined in section 110 of such Act);

(E) the loan will be adequately secured;

(F) such person would be unable to obtain adequate financing without such guarantee;

(G) the guaranteeing of a loan to such person will enhance competition or encourage new market entry; and

(H) such person has adequate coal reserves to cover contractual commitments described in subparagraph (D).

(2) The total amount of guarantees issued to any person (including all persons affiliated with such person) may not exceed $30,000,000. The amount of a guarantee issued with respect to any loan may not exceed 80 percent of the lesser of (A) the principal balance of the loan or, (B) the cost of developing such new underground coal mine.

(3) The aggregate outstanding principal amount of loans which are guaranteed under this section may not at any time exceed $750,000,000. Not more than 20 percent of the amount of guarantees issued under this section in any fiscal year may be issued with respect to loans for the purpose of opening new underground coal mines which produce coal which is not low sulfur coal.

(c) For purposes of this section—

(1) A person shall be considered eligible for a guarantee under this section if such person (together with all persons affiliated with such person)—

(A) did not produce more than 1,000,000 tons of coal in the calendar year preceding the year in which he makes application for a loan guarantee under this section;

(B) did not produce more than 300,000 barrels of crude oil or own an oil refinery in such preceding calendar year; and

(C) did not have gross revenues in excess of $50,000,000 in such calendar year.

(2) A person is affiliated with another person if he controls, is controlled by, or is under common control with such other person, as such term may be further defined by rule by the Administrator.

(3) The term "low sulfur coal" means coal which, in a quantity necessary to produce one million British thermal units, does not contain sulfur or sulfur compounds the elemental sulfur content of which exceeds 0.6 pound. Sulfur content shall be determined after the application of any coal preparation process which takes place before sale of the coal by the producer.

(4) The term "developing new underground coal mines" includes expansion of existing underground coal mines and the reopening of underground coal mines which had previously been closed.

(d) The Administrator shall prescribe such regulations as may be necessary or appropriate to carry out this section. Such rules shall require that each application for a guarantee under this section shall be made in writing to the Administrator in such form and with such content and other submissions as the Administrator shall require, in order reasonably to protect the interests of the United States. Each guarantee shall be issued in accordance with subsection (a) through (c), and—

(1) under such terms and conditions as the Administrator, in consultation with the Secretary of the Treasury, considers appropriate;

(2) with such provisions with respect to the date of issue of such guarantee as the Administrator, with the concurrence of the Secretary of the Treasury, considers appropriate, except that the required concurrence of the Secretary of the Treasury may not, without the consent of the Administrator, result in a delay in the issuance of such guarantee for more than 60 days; and

(3) in such form as the Administrator considers appropriate.

(e) Each person who receives a loan guarantee under this section shall keep such records as the Administrator or the Secretary of the Treasury shall require, including records which fully disclose the total cost of the project for which a loan is guaranteed under this section and such other records as the Administrator or the Secretary of the Treasury determines necessary to facilitate an effective audit and performance evaluation. The Administrator, the Secretary of the Treasury, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any pertinent books, documents, papers, and records of any person who receives a loan guarantee under this section.

DOMESTIC USE OF ENERGY SUPPLIES AND RELATED MATERIALS AND EQUIPMENT

SEC. 103. (a) The President may, by rule, under such terms and conditions as he determines to be appropriate and necessary to carry out the purposes of this Act, restrict exports of—

(1) coal, petroleum products, natural gas, or petrochemical feedstocks, and

(2) supplies of materials or equipment which he determines to be necessary (A) to maintain or further exploration, production, refining, or transportation of energy supplies, or (B) for the construction or maintenance of energy facilities within the United States.

(b) (1) The President shall exercise the authority provided for in subsection (a) to promulgate a rule prohibiting the export of crude oil and natural gas produced in the United States, except that the President may, pursuant to paragraph (2), exempt from such prohibition such crude oil or natural gas exports which he determines to be consistent with the national interest and the purposes of this Act.

(2) Exemptions from any rule prohibiting crude oil or natural gas exports shall be included in such rule or provided for in an amendment thereto and may be based on the purpose for export, class of seller or purchaser, country of destination, or any other reasonable classification or basis as the President determines to be appropriate and consistent with the national interest and the purposes of this Act.

(c) In order to implement any rule promulgated under subsection (a) of this section, the President may request and, if so, the Secretary of Commerce shall, pursuant to the procedures established by the Export Administration Act of 1969 (but without regard to the phrase "and to reduce the serious inflationary impact of foreign demand" in section 3(2)(A) of such Act), impose such restrictions as specified in any rule under subsection (a) on exports of coal, petroleum products, natural gas, or petrochemical feedstocks, and such supplies of materials and equipment.

(d) Any finding by the President pursuant to subsection (a) or (b) and any action taken by the Secretary of Commerce pursuant thereto shall take into account the national interest as related to the need to leave uninterrupted or unimpaired—

(1) exchanges in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign state,

(2) temporary exports for convenience or increased efficiency of transportation across parts of an adjacent foreign state which exports reenter the United States, and

(3) the historical trading relations of the United States with Canada and Mexico.

(e) (1) The provisions of subchapter II of chapter 5 of title 5, United States Code shall apply with respect to the promulgation of any rule pursuant to this section, except that the President may waive the requirement pertaining to the notice of proposed rulemaking or period for comment only if he finds that compliance with such requirements may seriously impair his ability to impose effective and timely prohibitions on exports.

(2) In the event such notice and comment period are wavied with respect to a rule promulgated under this section, the President shall afford interested persons an opportunity to comment on any such rule at the earliest practicable date thereafter.

(3) If the President determines to request the Secretary of Commerce to impose specified restrictions as provided for in subsection (c), the enforcement and penalty provisions of the Export Administration Act of 1969 shall apply, in lieu of this Act, to any violation of such restrictions.

(f) The President shall submit quarterly reports to the Congress concerning the administration for this section and any findings made pursuant to subsection (a) or (b).

MATERIALS ALLOCATION

SEC. 104. (a) Section 101 of the Defense Production Act of 1950 is amended by adding at the end thereof the following new subsection:

"(c) (1) Notwithstanding any other provision of this Act, the President may, by rule or order, require the allocation of, or the priority performance under contracts or orders (other than contracts of employment) relating to, supplies of materials and equipment in order to maximize domestic energy supplies if he makes the findings required by paragraph (3) of this subsection.

"(2) The President shall report to the Congress within sixty days after the date of enactment of this subsection on the manner in which the authority contained in paragraph (1) will be administered. This report shall include the manner in which allocations will be made, the procedure for requests and appeals, the criteria for determining priorities as between competing requests, and the office or agency which will administer such authorities.

"(3) The authority granted in this subsection may not be used to require priority performance of contracts or orders, or to control the distribution of any supplies of materials and equipment in the marketplace, unless the President finds that—

"(A) such supplies are scarce, critical, and essential to maintain or further (i) exploration, production, refining, transportation, or (ii) the conservation of energy supplies, or (iii) for the construction and maintenance of energy facilities; and

"(B) maintenance or furtherance of exploration, production, refining, transportation, or conservation of energy supplies or the construction and maintenance of energy facilities cannot reasonably be accomplished without exercising the authority specified in paragraph (1) of this subsection.

"(4) During any period when the authority conferred by this subsection is being exercised, the President shall take such action as may be appropriate to assure that such authority is being exercised in a manner which assures the coordinated administration of such authority with any priorities or allocations established under subsection (a) of this section and in effect during the same period.".

(b) (1) The authority to issue any rules or orders under section 101(c) of the Defense Production Act of 1950, as amended by this Act, shall expire at midnight December 31, 1984, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to such date.

(2) The expiration of the Defense Production Act of 1950 or any amendment of such Act after the date of enactment of this Act shall not affect the authority of the President under section 101(c) of such Act, as amended by subsection (a) of this section and in effect on the date of enactment of this Act, unless Congress by law expressly provides to the contrary.

PROHIBITION OF CERTAIN LEASE BIDDING ARRANGEMENTS

SEC. 105. (a) The Secretary of the Interior shall, not later than 30 days after the date enactment of this Act, prescribe and make effective a rule which prohibits the bidding for any right to develop crude oil, natural gas, and natural gas liquids on any lands located on the Outer Continental Shelf by any person if more than one major oil company, more than one affiliate of a major oil company, or a major oil company and any affiliate of a major oil company, has or have a significant ownership interest in such person. Such rule shall define affiliate relationships and significant ownership interests.

(b) As used in this section:

(1) The term "major oil company" means any person who, individually or together with any other person with respect to which such person has an affiliate relationship or significant ownership interest, produced during a prior 6-month period specified by the Secretary, an average daily volume of 1,600,000 barrels of crude oil, natural gas liquids equivalents, and natural gas equivalents.

(2) One barrel of natural gas equivalent equals 5,626 cubic feet of natural gas measured at 14.73 pounds per square inch (MSL) and 60 degrees Fahrenheit.

(3) One barrel of natural gas liquids equivalent equals 1,454 barrels of natural gas liquids at 60 degrees Fahrenheit.

(c) The Secretary may, by amendment to the rule, exempt bidding for leases for lands located in frontier or other areas determined by the Secretary to be extremely high risk lands or to present unusually high cost exploration, or development, problems.

(d) This section shall not be construed to prohibit the unitization of producing fields to increase production or maximize ultimate recovery of oil or natural gas, or both.

(e) The Secretary shall study and report to the Congress, not later than 6 months after the date of enactment of this Act, with respect to the feasibility and desirability of extending the prohibition on joint bidding to—

(1) bidding for any right to develop crude oil, natural gas, and natural gas liquids on Federal lands other than those located on the Outer Continental Shelf; and

(2) bidding for any right to develop coal and oil shale on such lands.

PRODUCTION OF OIL OR GAS AT THE MAXIMUM EFFICIENT RATE AND TEMPORARY EMERGENCY PRODUCTION RATE

SEC. 106. (a) (1) The Secretary of the Interior, by rule on the record after an opportunity for a hearing, shall, to the greatest extent practicable, determine the maximum efficient rate of production and, if any, the temporary emergency production rate for each field on Federal lands which produces, or is determined to be capable of producing, significant volumes of crude oil or natural gas, or both.

(2) Except as provided in subsection (f), the President may, by rule or order, require crude oil or natural gas, or both, to be produced from fields on Federal lands designated by him—

(A) at the maximum efficient rate of production, and

(B) during a severe energy supply interruption, at the temporary emergency production rate

as determined pursuant to paragraph (1) for such field.

(b) (1) Each State or the appropriate agency thereof may, for the purposes of this section, pursuant to procedures and standards established by the State, determine the maximum efficient rate of production and, if any, the temporary emergency production rate, for each field (other than a field on Federal lands) within such State which produces, or is determined to be capable of producing, significant volumes of crude oil or natural gas, or both.

(2) I a State or the appropriate agency thereof has determined the maximum efficient rate of production and, if any, the temporary emergency production rate, or both, or their equivalents (however characterized), for any field (other than a field on Federal lands) within such State, the President may, by rule or order, during a severe energy supply interruption, require the pro-

duction of such fields at the rates of production established by the State.

(c) With respect to any field, which produces, or is determined to be capable of producing, significant volumes of crude oil, or natural gas, or both, which field is unitized and is composed of both Federal lands and lands other than Federal lands and there has been no determination of the maximium efficient rate of production or the temporary emergency production rate or both, the Secretary ofthe Interior may, pursuant to subsection (a)(1), determine a maximum efficient rate of production and a temporary emergency production rate, if any, for such field. The President may, during a severe energy supply interruption by rule or order, require production at the maximum efficient rate of production and the temporary emergency production rate, if any, determined for such field.

(d) If loss of ultimate recovery of crude oil or natural gas, or both, occurs or will occur as the result of a rule or order under the authority of this section to produce at the temporary emergency production rate, the owner of any property right who considers himself damaged by such order may bring an action in a United States district court to recover just compensation, which shall be awarded if the court finds that such loss constitutes a taking of property compensable under the Constitution.

(e) As used in this section:

(1) The term "maximum rate of production" means the maximum rate of production of crude oil or natural gas, or both, which may be sustained without loss of ultimate recovery of crude oil or natural gas, or both, under sound engineering and economic principles.

(2) The term "temporary emergency production rate" means the maximum rate of production for a field—

(A) which rate is above the maximum efficient rate of production established for such field; and

(B) which may be maintained for a temporary period of less than 90 days without reservoir damage and without significant loss of ultimate recovery of crude oil or natural gas, or both, from such field.

(f) Nothing in this section shall be construed to authorize the production of crude oil, or natural gas, or both, from any Naval Petroleum Reserve subject to the provisions of chapter 641 of title 10, United States Code.

PART B—STRATEGIC PETROLEUM RESERVE

DECLARATION OF POLICY

SEC. 151. (a) The Congress finds that the storage of substantial quantities of petroleum products will diminish the vulnerability of the United States to the effects of a severe energy supply interruption, and provide limited protection from the short-term consequences of interruptions in supplies of petroleum products.

(b) It is hereby declared to be the policy of the United States to provide for the creation of a Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products, but not less than 150 million barrels of petroleum products by the end of the 3-year period which begins on the date of enactment of this Act, for the purpose of reducing the impact of disruptions in supplies of petroleum products or to carry out obligations of the United States under the international energy program. It is further declared to be the policy of the United States to provide for the creation of an Early Storage Reserve, as part of the Reserve, for the purpose of providing limited protection from the impact of near-term disruptions in supplies of petroleum products or to carry out obligations of the United States under the international energy program.

DEFINITIONS

SEC. 152. As used in this part:

(1) The term "Early Storage Reserve" means that portion of the Strategic Petroleum Reserve which consists of petroleum products stored pursuant to section 155.

(2) The term "importer" means any person who owns, at the first place of storage, any petroleum product imported into the United States.

(3) The term "Industrial Petroleum Reserve" means that portion of the Strategic Petroleum Reserve which consists of petroleum products owned by importers or refiners and acquired, stored, or maintained pursuant to section 156.

(4) The term "interest in land" means any ownership or possessory right with respect to real property, including ownership in fee, an easement, a leasehold, and any subsurface or mineral rights.

(5) The term "readily available inventories" means stocks and supplies of petroleum products which can be distributed or used without affecting the ability of the importer or refiner to operate at normal capacity; such term does not include minimum working inventories or other unavailable stocks.

(6) The term "refiner" means any person who owns, operates, or controls the operation of any refinery.

(7) The term "Regional Petroleum Reserve" means that portion of the Strategic Petroleum Reserve which consists of petroleum products stored pursuant to section 157.

(8) The term "related facility" means any necessary appurtenance to a storage facility, including pipelines, roadways, reservoirs, and salt brine lines.

(9) The term "Reserve" means the Strategic Petroleum Reserve.

(10) The term "storage facility" means any facility or geological formation which is capable of storing significant quantities of petroleum products.

(11) The term "Strategic Petroleum Reserve" means petroleum products stored in storage facilities pursuant to this part; such term includes the Industrial Petroleum Reserve, the Early Storage Reserve, and the Regional Petroleum Reserve.

STRATEGIC PETROLEUM RESERVE OFFICE

SEC. 153. There is established, in the Federal Energy Administration, a Strategic Petroleum Reserve Office. The Administrator, acting through such Office and in accordance with this part, shall exercise authority over the establishment, management, and maintenance of the Reserve.

STRATEGIC PETROLEUM RESERVE

SEC. 154. (a) A Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products shall be credited pursuant to this part. By the end of the 3-year period which begins on the date of enactment of this Act, the Strategic Petroleum Reserve (or the Early Storage Reserve authorized by section 155 if no Strategic Petroleum Reserve Plan has become effective pursuant to the provisions of section 159(a)) shall contain not less than 150 million barrels of petroleum products.

(b) The Administrator, no later than December 15, 1976, shall prepare and transmit to the Congress, in accordance with section 551, a Strategic Petroleum Reserve Plan. Such Plan shall comply with the provisions of this section and shall detail the Administrator's proposals for designing, constructing, and filling the storage and related facilities of the Reserve.

(c)(1) To the maximum extent practicable and except to the extent that any change in the storage schedule is justified pursuant to subsection (e)(6), the Strategic Petroleum Reserve Plan shall provide that:

(A) within 7 years after the date of enactment of this Act, the volume of crude oil stored in the Reserve shall equal the total volume of crude oil which was imported into the United States during the base period specified in paragraph (2);

(B) within 18 months after the date of enactment of this Act, the volume of crude oil stored in the Reserve shall equal not less than 10 percent of the goal specified in subpargraph (A);

within 3 years after the date of enactment of this Act, the volume of crude oil stored in the Reserve shall equal not less than 25 percent of the goal specified in subparagraph (A); and

(D) Within 5 years after the date of enactment of this Act, the volume of crude oil stored in the Reserve shall equal not less than 65 percent of the goal specified in subparagraph (A);

Volumes of crude oil initially stored in the Early Storage Reserve and volumes of crude oil stored in the Industrial Petroleum Reserve, and the Regional Petroleum Reserve shall be credited toward attainment of the storage goals specified in this subsection.

(2) The base period shall be the period of the 3 consecutive months, during the 24-month period preceding the date of enactment of this Act, in which average monthly import levels were the highest.

(d) The Strategic Petroleum Reserve Plan shall be designed to assure, to the maximum extent practicable, that the Reserve will minimize the impact of any interruption or reduction in imports of refined petroleum products and residual fuel oil in any region which the Administrator determines is, or is likely to become, dependent upon such imports for a substantial portion of the total energy requirements of such region. The Strategic Petroleum Reserve Plan shall be designed to assure, to the maximum extent practicable, that each noncontiguous area of the United States which does not have overland access to domestic crude oil production has its component of the Strategic Petroleum Reserve within its respective territory.

(e) The Strategic Petroleum Reserve Plan shall include:

(1) a comprehensive environmental assessment;

(2) a description of the type and proposed location of each storage facility (other than storage facilities of the Industrial Petroleum Reserve) proposed to be included in the Reserve;

(3) a statement as to the proximity of each such storage facility to related facilities;

(4) an estimate of the volumes and types of petroleum products proposed to be stored in each such storage facility;

(5) a projection as to the aggregate size of the Reserve, including a statement as to the most economically-efficient storage levels for each such storage facility;

(6) a justification for any changes, with respect to volumes or dates, proposed in the storage schedule specified in subsection (c), and a program schedule for overall development and completion of the Reserve (taking into account all relevant factors, including cost effectiveness, the need to construct related facilities, and the ability to obtain sufficient quantities of petroleum products to fill the storage facilities to the proposed storage levels);

(7) an estimate of the direct cost of the Reserve, including—

(A) the cost of storage facilities;

(B) the cost of the petroleum products to be stored;

(C) the cost of related facilities; and

(D) management and operation costs;

(8) an evaluation of the impact of developing the Reserve, taking into account—

(A) the availability and the price of supplies and equipment and the effect, if any, upon domestic production of acquiring such supplies and equipment for the Reserve;

(B) any fluctuations in world, and domestic market prices for petroleum products which may result from the acquisition of substantial quantities of petroleum products for the Reserve;

(C) the extent to which such acquisition may support otherwise declining market prices for such products; and

(D) the extent to which such acquisition will affect competition in the petroleum industry;

(9) an identification of the ownership of each storage and related facility proposed to be included in the Reserve (other than storage and related facilities of the Industrial Petroleum Reserve);

(10) an identification of the ownership of the petroleum products to be stored in the Reserve in any case where such products are not owned by the United States;

(11) a statement of the manner in which the provisions of this part relating to the establihsment of the Industrial Petroleum Reserve and the Regional Petroleum Reserve will be implemented; and

(12) a Distribution Plan setting forth the method of drawdown and distribution of the Reserve.

EARLY STORAGE RESERVE

SEC. 155. (a)(1) The Administrator shall establish an Early Storage Reserve as part of the Strategic Petroleum Reserve. The Early Storage Reserve shall be designed to store petroleum products, to the maximum extent practicable, in existing storage capacity. Petroleum products stored in the Early Storage Reserve may be owned by the United States or may be owned by others and stored pursuant to section 156(b).

(2) If the Strategic Petroleum Reserve Plan has not become effective under section 159(a), the Early Storage Reserve shall contain not less than 150 million barrels of petroleum products by the end of the 3-year period which begins on the date of enactment of this Act.

(b) The Early Storage Reserve shall provide for meeting regional needs for residual fuel oil and refined petroleum products in any region which the Administrator determines is, or is likely to become, dependent upon imports of such oil or products for a substantial portion of the total energy requirements of such region.

(c) Within 90 days after the date of enactment of this Act, the Administrator shall prepare and transmit to the Congress an Early Storage Reserve Plan which shall provide for the storage of not less than 150 million barrels of petroleum products by the end of 3 years from the date of enactment of this Act. Such plan shall detail the Administrator's proposals for implementing the Early Storage Reserve requirements of this section. The Early Storage Reserve Plan shall, to the maximum extent practicable, provide for, and set forth the manner in which, Early Storage Reserve facilities will be incorporated into the Strategic Petroleum Reserve after the Strategic Petroleum Reserve Plan has become effective under section 159 (a). The Early Storage Reserve Plan shall include, with respect to the Early Storage Reserve, the same or similar assessments, statements, estimates, evaluations, projections, and other information which section 154(e) requires to be included in the Strategic Petroleum Reserve Plan, including a Distribution Plan for the Early Storage Reserve.

INDUSTRIAL PETROLEUM RESERVE

SEC. 156. (a) The Administrator may establish an Industrial Petroleum Reserve as part of the Strategic Petroleum Reserve.

(b) To implement the Early Storage Reserve Plan or the Strategic Petroleum Reserve Plan which has taken effect pursuant to section 159(a), the Administrator may require each importer of petroleum products and each refiner to (1) acquire, and (2) store and maintain in readily available inventories, petroleum products in amounts determined by the Administrator, except that the Administrator may not require any such importer or refiner to store such petroleum products in an amount greater than 3 percent of the amount imported or refined by such person, as the case may be, during the previous calendar year. Petroleum products imported and stored in the Industrial Petroleum Reserve shall be exempt from any tariff or import license fee.

(c) The Administrator shall implement this section in a manner which is appropriate to the maintenance of an economically sound and competitive petroleum industry. The Administrator shall take such steps as are necessary to avoid inequitable economic impacts on refiners and importers, and he may grant relief to any refiner or importer who would otherwise incur special hardship, inequity, or unfair distribution of burdens as the result of any rule, regulation, or order promulgated under this section. Such relief may include full or partial exemption from any such rule, regulation, or order and the issuance of an order permitting such an importer or refiner to store petroleum products owned by such importer or refiner in surplus storage capacity owned by the United States.

REGIONAL PETROLEUM RESERVE

SEC. 157. (a) The Strategic Petroleum Reserve Plan shall provide for the establishment and maintenance of a Regional Petroleum Reserve in, or readily accessible to, each Federal Energy Administration Region, as defined in title 10, Code of Federal Regulations in effect on November 1, 1975, in which imports of residual fuel oil or any refined petroleum product, during the 24-month period preceding the date of computation, equal more than 20 percent of demand for such oil or product in such regions during such period, as determined by the Administrator. Such volume shall be computed annually.

(b) To implement the Strategic Petroleum Reserve Plan, the Administrator shall accumulate and maintain in or near any such Federal Energy Administration Region described in subsection (a), a Regional Petroleum Reserve containing volumes of such oil or product, described in subsection (a), at a level adequate to provide substantial protection against an interruption or reduction in imports of such oil or product to such region, except that the level of any such Regional Petroleum Reserve shall not exceed the aggregate volume of imports of such oil or product into such region during the period of the 3 consecutive months, during the 24-month period specified in subsection (a), in which average monthly import levels were the highest, as determined by the Administrator. Such volume shall be computed annually.

(c) The Administrator may place in storage crude oil, residual fuel oil, or any refined petroleum product in substitution for all or part of the volume of residual fuel oil or any refined petroleum product stored in any Regional Petroleum Reserve pursuant to the provisions of this section if he finds that such substitution (1) is necessary or desirable for purposes of economy, efficiency, or for other reasons, and (2) may be made without delaying or otherwise adversely affecting the fulfillment of the purpose of the Regional Petroleum Reserve.

OTHER STORAGE RESERVES

SEC. 158. Within 6 months after the Strategic Petroleum Reserve Plan is transmitted to the Congress, pursuant to the requirements of section 154(b), the Administrator shall prepare and transmit to the Congress a report setting forth his recommendations concerning the necessity for, and feasibility of, establishing—

(1) Utility Reserves containing coal, residual fuel oil, and refined petroleum products, to be established and maintained by major fossile-fuel-fired baseload electric power generating stations;

(2) Coal Reserves to consist of (A) federally-owned coal which is mined by or for the United States from Federal lands, and (B) Federal lands from which coal could be produced with minimum delay; and

(3) Remote Crude Oil and Natural Gas Reserves consisting of crude oil and natural gas to be acquired and stored by the United States, in place, pursuant to a contract or other agreement or arrangement entered into between the United States and persons who discovered such oil or gas in remote areas.

REVIEW BY CONGRESS AND IMPLEMENTATION

SEC. 159. (a) The Strategic Petroleum Reserve Plan shall not become effective and may not be implemented, unless—

(1) the Administrator has transmitted such Plan to the Congress pursuant to section 154(b); and

(2) neither House of Congress has disapproved (or both Houses have approved) such Plan, in accordance with the procedures specified in section 551.

(b) For purposes of congressional review of the Strategic Petroleum Reserve Plan under subsection (a), the 5 calendar days described in section 551(f)(4)(A) shall be lengthened to 15 calendar days, and the 15 calendar days described in section 551 (c) and (d) shall be lengthened to 45 calendar days.

(c) The Administrator may, prior to transmittal of the Strategic Petroleum Reserve Plan, prepare and transmit to the Congress proposals for designating, constructing, and filling storage or related facilities. Any such proposal shall be accompanied by a statement explaining (1) the need for action on such proposals prior to completion of such Plan, (2) the anticipated role of the proposed storage or related facilities in such Plan, and (3) to the maximum extent practicable, the same or similar assessments, statements estimates, evaluations, projections, and other information which section 154(e) requires to be included in the Strategic Petroleum Reserve Plan.

(d) The Administrator may prepare amendments to the Strategic Petroleum Reserve Plan or to the Early Storage Reserve Plan. He shall transmit any such amendment to the Congress together with a statement explaining the need for such amendment and, to the maximum extent practicable, the same or similar assessments, statements, estimates, evaluations, projections, and other information which section 154(e) requires to be included in the Strategic Petroleum Reserve Plan.

(e) Any proposal transmitted under subsection (c) and any amendment transmitted under subsection (d), other than a technical or clerical amendment or an amendment to the Early Storage Reserve Plan, shall not become effective and may not be implemented unless—

(1) The Administrator has transmitted such proposal or amendment to the Congress in accordance with subsection (c) or (d) (as the case may be), and

(2) neither House of Congress has disapproved (or both Houses of Congress have approved) such proposal or amendment, in accordance with the procedures specified in section 551.

(f) To the extent necessary or appropriate to implement—

(1) the Strategic Petroleum Reserve Plan which has taken effect pursuant to subsection (a);

(2) the Early Storage Reserve Plan;

(3) any proposal described in subsection

(c), or any amendment described in subsection (d), which such proposal or amendment has taken effect pursuant to subsection (e); and

(4) any technical or clerical amendment or any amendment to the Early Storage Reserve Plan, the Administrator may:

(A) promulgate rules, regulations, or orders;

(B) acquire by purchase, condemnation, or otherwise, land or interests in land for the location of storage and related facilities;

(C) construct, purchase, lease, or otherwise acquire storage and related facilities;

(D) use, lease, maintain, sell, or otherwise dispose of storage and related facilities acquired pursuant to this part;

(E) acquire, subject to the provisions of section 160, by purchase, exchange, or otherwise, petroleum products for storage in the Strategic Petroleum Reserve, including the Early Storage Reserve and the Regional Petroleum Reserve;

(F) store petroleum products in storage facilities owned and controlled by the United States or in storage facilities owned by others if such facilities are subject to audit by the United States;

(G) execute any contracts necessary to carry out the provisions of such Strategic Petroleum Reserve Plan, Early Storage Reserve Plan, proposal or amendment;

(H) require any importer of petroleum products or any refiner to (A) acquire, and (B) store and maintain in readily available inventories, petroleum products in the Industrial Petroleum Reserve, pursuant to section 156;

(I) require the storage of petroleum products in the Industrial Petroleum Reserve, pursuant to section 156, on such reasonable terms as the Administrator may specify in storage facilities owned and controlled by the United States or in storage facilities other than those owned by the United States if such facilities are subject to audit by the United States;

(J) require the maintenance of the Industrial Petroleum Reserve;

(K) maintain the Reserve; and

(L) bring an action, whenever he deems it necessary to implement the Strategic Petroleum Reserve Plan, in any court having jurisdiction of such proceedings to acquire by condemnation any real or personal property, including facilities, temporary use of facilities, or other interests in land, together with any personal property located thereon or used therewith.

(g) Before any condemnation proceedings are instituted, an effort shall be made to acquire the property involved by negotiation, unless the effort to acquire such property by negotiation would, in the judgment of the Administrator be futile or so time-consuming as to unreasonably delay the implementation of the Strategic Petroleum Reserve Plan, because of (1) reasonable doubt as to the identity of the owners, (2) the large number of persons with whom it would be necessary to negotiate, or (3) other reasons.

PETROLEUM PRODUCTS FOR STORAGE IN THE RESERVE

Sec. 160. (a) The Administrator is authorized, for purposes of implementing the Strategic Petroleum Reserve Plan or the Early Storage Reserve Plan, to place in storage, transport, or exchange—

(1) crude oil produced from Federal lands, including crude oil produced from the Naval Petroleum Reserves to the extent that such production is authorized by law;

(2) crude oil which the United States is entitled to receive in kind as royalties from production on Federal lands; and

(3) petroleum products acquired by purchase, exchange, or otherwise.

(b) The Administrator shall, to the greatest extent practicable, acquire petroleum products for the Reserve, including the Early Storage Reserve and the Regional Petroleum Reserve in a manner consonant with the following objectives:

(1) minimization of the cost of the Reserve;

(2) orderly development of the Naval Petroleum Reserves to the extent authorized by law;

(3) minimization of the Nation's vulnerability to a severe energy supply interruption;

(4) minimization of the impact of such acquisition upon supply levels and market forces; and

(5) encouragement of competition in the petroleum industry.

DRAWDOWN AND DISTRIBUTION OF THE RESERVE

Sec. 161. (a) The Administrator may drawdown and distribute the Reserve only in accordance with the provisions of this section.

(b) Except as provided in subsections (c) and (f), no drawdown and distribution of the Reserve may be made except in accordance with the provisions of the Distribution Plan contained in the Strategic Petroleum Reserve Plan which has taken effect pursuant to section 159(a).

(c) Drawdown and distribution of the Early Storage Reserve may be made in accordance with the provisions of the Distribution of the Reserve or the Early Storage Reserve Plan until the Strategic Petroleum Reserve Plan has taken effect pursuant to section 159(a).

(d) Neither the Distribution Plan contained in the Strategic Petroleum Reserve Plan nor the Distribution Plan contained in the Early Storage Reserve Plan may be implemented, and no drawdown and distribution of the Reserve or the Early Storage Reserve may be made, unless the President has found that implementation of either such Distribution Plan is required by a obligations of the United States under the international energy program.

(e) The Administrator may, by rule, provide for the allocation of any petroleum product withdrawn from the Strategic Petroleum Reserve in amounts specified in (or determined in a manner prescribed by) and at prices specified in (or determined in a manner prescribed by) such rules. Such price levels and allocation procedures shall be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973.

(f) The Administrator may permit any importer or refiner who owns any petroleum products stored in the Industrial Petroleum Reserve pursuant to section 156 to remove or otherwise dispose of such products upon such terms and conditions as the Administrator may prescribe.

COORDINATION WITH IMPORT QUOTA SYSTEM

Sec. 162. No quantititative restriction on the importation of any petroleum product into the United States imposed by law shall apply to volumes of any such petroleum product imported into the United States for storage in the Reserve.

DISCLOSURE, INSPECTION, INVESTIGATION

Sec. 163. (a) The Administrator may require any person to prepare and maintain such records or accounts as the Administrator, by rule, determines necessary to carry out the purposes of this part.

(b) The Administrator may audit the operations of any storage facility in which any petroleum product is stored or required to be stored pursuant to the provisions of this part.

(c) The Administrator may require access to, and the right to inspect and examine, at reasonable times, (1) any records or accounts required to be prepared or maintained pursuant to subsection (a) and (2) any storage facilities subject to audit by the United States under the authority of this part.

NAVAL PETROLEUM RESERVES STUDY

Sec. 164. The Administrator shall, in cooperation and consultation with the Secretary of the Navy and the Secretary of the Interior, develop and submit to the Congress within 180 days after the date of enactment of this Act, a written report recommending procedures for the exploration, development, and production of Naval Petroleum Reserve Number 4. Such report shall include recommendations for protecting the economic, social, and environmental interests of Alaska Natives residing within the Naval Petroleum Reserve Number 4 and analyses of arrangements which provide for (1) participation by private industry and private capital, and (2) leasing to private industry. The Secretary of the Navy and the Secretary of the Interior shall cooperate fully with one another and with the Administrator; the Secretary of the Navy shall provide to the Administrator and Secretary of the Interior all relevant data on Naval Petroleum Reserve Number 4 in order to assist the Administrator in the preparation of such report.

ANNUAL REPORTS

Sec. 165. The Administrator shall report to the President and the Congress, not later than one year after the transmittal of the Strategic Petroleum Reserve Plan to the Congress and each year thereafter, on all actions taken to implement this part. Such report shall include—

(1) a detailed statement of the status of the Strategic Petroleum Reserve;

(2) a summary of the action taken to develop and implement the Strategic Petroleum Reserve Plan and the Early Storage Reserve Plan;

(3) an analysis of the impact and effectiveness of such actions on the vulnerability of the United States to interruption in supplies of petroleum products;

(4) a summary of existing problems with respect to further implementation of the Early Storage Reserve Plan and the Strategic Petroleum Reserve Plan; and

(5) any recommendations for supplemental legislation deemed necessary or appropriate by the Administrator to implement the provisions of this part.

AUTHORIZATION OF APPROPRIATIONS

Sec. 166. There are authorized to be appropriated—

(1) such funds as are necessary to develop and implement the Early Storage Reserve Plan (including planning, administration, acquisition, and construction of storage and related facilities) and as are necessary to permit the acquisition of petroleum products for storage in the Early Storage Reserve or, if the Strategic Petroleum Reserve Plan has become effective under section 159(a), for storage in the Strategic Petroleum Reserve in the minimum volume specified in section 154(a) or 155(a)(2), whichever is applicable; and

(2) $1,100,000,000 to remain available until expended to carry out the provisions of this part to develop the Strategic Petroleum Reserve Plan, and to implement such plan which has taken effect pursuant to section 159(a), including planning, administration, and acquisition and construction of storage and related facilities, but no funds are authorized to be appropriated under this paragraph for the purchase of petroleum products for storage in the Strategic Petroleum Reserve.

TITLE II—STANDBY ENERGY AUTHORITIES

Part A—General Emergency Authorities

CONDITIONS OF EXERCISE OF ENERGY CONSERVATION AND RATIONING AUTHORITIES

Sec. 201. (a)(1) Within 180 days after the date of enactment of this Act, the President shall transmit to the Congress pursuant to subsection (b)(1) one or more energy conservation contingency plans and a rationing contingency plan. The President may at any time submit additional contingency plans. A contingency plan may become effective only as provided in this section. Such plan may remain in effect for a period specified in the plan but not more than 9 months, unless earlier rescinded by the President.

(2) For purposes of this section, the term "contingency plan" means—

(A) an energy conservation contingency plan prescribed under section 202; or

(B) a rationing contingency plan prescribed under section 203.

(b) Except as otherwise provided in subsection (d) or (e) and subject to the requirements of subsection (c), no contingency plan may become effective, unless—

(1) the President has transmitted such contingency plan to the Congress in accordance with section 552(a);

(2) such contingency plan has been approved by a resolution by each House of Congress in accordance with the procedures specified in section 552; and

(3) after approval of such contingency plan the President—

(A) has found that putting such contingency plan into effect is required by a severe energy supply interruption or in order to fulfill obligations of the United States under the international energy program, and

(B) has transmitted such finding to the Congress, together with a statement of the effective date and manner for exercise of such plan.

(c) In addition to the requirements of subsection (b), a rationing contingency plan approved under subsection (b)(2) may not become effective unless—

(1) the President has transmitted to the Congress in accordance with section 551(b) a request to put such rationing contingency plan into effect, and

(2) neither House of Congress has disapproved (or both Houses have approved) such request in accordance with the procedures specified in section 551.

(d) (1) Except as provided in paragraph (2) or (3), a contingency plan may not be amended unless the President has transmitted such amendment to the Congress in accordance with section 552 and each House of Congress has approved such amendment in accordance with the procedures specified in section 552.

(2) An amendment to a contingency plan which is transmitted to the Congress during any period in which such plan is in effect may take effect if the President has transmitted such amendment to the Congress in accordance with section 551(b) and neither House of Congress has disapproved (or both Houses have approved) such amendment in accordance with the procedures specified in section 551.

(3) The President may prescribe technical or clerical amendments to a contingency plan in accordance with section 523.

(e) Beginning at any time during the 90-day period which begins on the date of enactment of this Act, the President may put a contingency plan into effect for a period of not more than 60 days if—

(1) the President—

(A) has found that putting such contingency plan into effect is required by a severe energy supply interruption or is necessary to comply with obligations of the United States under the international energy program; and

(B) has transmitted such contingency plan to the Congress in accordance with section 551(b), together with a request to put such plan into effect; and (2) neither House of Congress has disapproved (or both Houses have approved) such request in accordance with the procedures specified in section 551.

(f) Any contingency plan which the President transmits to the Congress pursuant to subsection (b)(1) or (e)(1)(B) shall contain a specific statement explaining the need for and the rationale and operation of such plan and shall be based upon a consideration of, and to the extent practicable, be accompanied by an evaluation of, the potential economic impacts of such plan, including an analysis of—

(1) any effects of such plan on—

(A) vital industrial sectors of the economy;

(B) employment (on a national and regional basis);

(C) the economic vitality of States and regional areas;

(D) the availability and price of consumer goods and services; and

(E) the gross national product; and

(2) any potential anticompetitive effects.

ENERGY CONSERVATION CONTINGENCY PLANS

SEC. 202. (a)(1) The President shall prescribe, in accordance with section 523(a), one or more energy conservation contingency plans. As used in this section, the term "energy conservation contingency plan" means a plan which imposes reasonable restrictions on the public or private use of energy which are necessary to reduce energy consumption. In prescribing energy conservation contingency plans, the President shall take into consideration the mobility needs of the handicapped, as defined in section 203(a)(2)(B).

(2) An energy conservation)contingency plan prescribed under this section may not—

(A) impose rationing or any tax, tariff, or user fee;

(B) contain any provision respecting the price of petroleum products; or

(C) provide for a credit or deduction in computing any tax.

(b) An energy conservation contingency plan shall apply in each State or political subdivision thereof, except such plan may provide for procedures for exempting any State or political subdivision thereof from such plan, in whole or part, during a period for which (1) the President determines a comparable program of such State or political subdivision is in effect, or (2) the President finds special circumstances exist in such State or political subdivision.

(c) Any energy conservation contingency plan shall not deal with more than one logically consistent subject matter.

RATIONING CONTINGENCY PLAN

SEC. 203. (a)(1) The President shall prescribe, by rule in accordance with section 523(a) of this Act, a rationing contingency plan which shall, for purposes of enforcement under section 5 of the Emergency Petroleum Allocation Act of 1973, be deemed a part of the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973 and which shall provide, consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of such Act—

(A) for the establishment of a program for the rationing and ordering of priorities among classes of end-users of gasoline and diesel fuel used in motor vehicles, and

(B) for the assignment of rights, and evidence of such rights, to end-users of gasoline and such diesel fuel, entitling such end-users to obtain gasoline or such diesel fuel in precedence to other classes of end-users not similarly entitled.

(2)(A) For purposes of paragraph (1), the objectives specified in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 shall be deemed to include consideration of the mobility needs of handicapped persons and their convenience in obtaining the end-user's rights specified in paragraph (1).

(B) For purposes of this part, the term "handicapped person" means any individual who, by reason of disease, injury, age, congenital malfunction, or other permanent incapacity or disability, is unable without special facilities, planning or design to utilize mass tranportation vehicles, facilities, and services and who has a substantial, permanent impediment to mobility.

(b) Any finding required to be made by the President pursuant to section 201(b)(3) and any request to put a rationing contingency plan into effect pursuant to section 201(e) shall be accompanied by a finding of the President that such plan is necessary to attain, to the maximum extent practicable, the objectives specified in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 and the purposes of this Act.

(c) The President shall, by order under section 4 of the Emergency Petroleum Allocation Act of 1973, for the purpose of carrying out a rationing contingency plan which is in effect, cause such adjustments to be made in the allocations made pursuant to the regulation under section 4(a) of such Act as the President determines to be necessary to carry out the purposes of this section and to be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of such Act and the purposes of this Act.

(d)(1) The President shall, to the extent practicable, provide for the use of local boards described in paragraph (2) with authority to—

(A) receive petitions from any end-user of gasoline and diesel fuel used in motor vehicles with respect to the priority and entitlement of such user under a rationing contingency plan, and

(B) order a reclassification or modification of any determination made under a rationing contingency plan with respect to such end-user's rationing priority or rights specified in paragraph (1).

Such boards shall operate under the procedures prescribed by the President by rule.

(2) Not later than 30 days after the date of the approval of a rationing contingency plan pursuant to section 201(b)(2), the President shall, by rule,

(A) criteria for delegation of his functions, in whole or part, under this Act with respect to such rationing contingency plan to officers or local boards (of balanced composition reflecting the community as a whole) of States or political subdivisions thereof; and

(B) procedures for petitioning for the receipt of such delegation.

(3)(A) Officers or local boards of States or political subdivisions thereof, following the establishment of criteria and procedures under paragraph (2), may petition the President to receive delegation under such paragraph.

(B) The President shall, within 30 days after the date of the receipt of any such petition which is properly submitted, grant or deny such petition.

(e) No rationing contingency plan under this section may—

(1) impose any tax,

(2) provide for a credit or deduction in computing any tax, or

(3) impose any user fee, except to the extent necessary to defray the cost of administering the rationing contingency plan or to provide for initial distribution of end-user rights specified in paragraph (1).

(f) Notwithstanding section 531, all authority to carry out any rationing contingency plan shall expire on the same date as authority to issue and enforce rules and orders under the Emergency Petroleum Allocation Act of 1973.

PART B—AUTHORITIES WITH RESPECT TO INTERNATIONAL ENERGY PROGRAM

INTERNATIONAL OIL ALLOCATION

SEC. 251. (a) The President may, by rule, require that persons engaged in producing, transporting, refining, distributing, or storing petroleum products, take such action as he determines to be necessary for implementation of the obligations of the United States under chapters III and IV of the international energy program insofar as such obligations relate to the international allocation of petroleum products. Allocation under such rule shall be in such amounts and at such prices as are specified in (or determined in a manner prescribed by) such rule. Such rule may apply to any petroleum product owned or controlled by any person described in the first sentence of this subsection who is subject to the jurisdiction of the United States, including any petroleum product destined, directly or indirectly, for import into the United States or any foreign country, or produced in the United States. Subject to subsection (b)(2), such a rule shall remain in effect until amended or rescinded by the President.

(b)(1) No rule under subsection (a) may take effect unless the President—

(A) has transmitted such rule to the Congress;

(B) has found that putting such rule into effect is required in order to fulfill obligations of the United States under the international energy program; and

(C) has transmitted such finding to the Congress, together with a statement of the effective date and manner for exercise of such rule.

(2) No rule under subsection (b) may be put into effect or remain in effect after the expiration of 12 months after the date such rule was transmitted to Congress under paragraph (1)(A).

(c)(1) Any rule under this section shall be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973.

(2) No officer or agency of the United States shall have any authority, other than authority under this section, to require that petroleum products be allocated to other countries for the purpose of implementation of the obligations of the United States under the international energy program.

(d) Neither section 103 of this Act nor section 28(u) of the Mineral Leasing Act of 1920 shall preclude the allocation and export, to other countries in accordance with this section, of petroleum products produced in the United States.

INTERNATIONAL VOLUNTARY AGREEMENTS

SEC. 252. (a) Effective 90 days after the date of enactment of this Act, the requirements of this section shall be the sole procedures applicable to—

(1) the development or carrying out of voluntary agreements and plans of action to implement the allocation and information provisions of the international energy program, and

(2) the availability of immunity from the antitrust laws with respect to the development or carrying out of such voluntary agreements and plans of action.

(b) The Administrator, with the approval of the Attorney General, after each of them has consulted with the Federal Trade Commission and the Secretary of State, shall prescribe, by rule, standards and procedures by which persons engaged in the business of producing, transporting, refining, distributing, or storing petroleum products may develop and cary out voluntary agreements, and plans of action, which are required to implement the allocation and information provisions of the international energy program.

(c) The standards and procedures prescribed under subsection (b) shall include the following requirements:

(1)(A)(i) Except as provided in clause (ii) or (iii) of this subparagraph, meetings held to develop or carry out a voluntary agreement or plan of action under this subsection shall permit attendance by representatives of committees of Congress and interested persons, including all interested segments of the petroleum industry, consumers, and the public; shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission, committees of Congress, and (except during an international energy supply emergency with respect to meetings to carry out a voluntary agreement or to develop or carry out a plan of action) the public; and shall be initiated and chaired by a regular full-time Federal employee.

(ii) Meetings of bodies created by the International Energy Agency established by the international energy program need not be open to interested persons and need not be initiated and chaired by a regular full-time Federal employee.

(iii) The President, in consultation with the Adminstrator, the Secretary of State, and the Attorney General, may determine that a meeting held to carry out a voluntary agreement or to develop or carry out a plan of action shall not be open to interested persons or that attendance by interested persons may be limited, if the President finds that a wider disclosure would be detrimental to the foreign policy interests of the United States.

(B) No meetings may be held to develop or carry out a voluntary agreement or plan of action under this section unless a regular full-time Federal employee is present.

(2) Interested persons permitted to attend such a meeting shall be afforded an opportunity to present, in writing and orally, data, views, and arguments at such meetings, subject to any reasonable limitations with respect to the manner of presentation of data, views, and arguments as the Administrator may impose.

(3) A full and complete record, and where practicable a verbatim transcript, shall be kept of any meeting held, and a full and complete record shall be kept of any communication (other than in a meeting) made, between or among participants or potential participants, to develop, or carry out a voluntary agreement or a plan of action under this section. Such record or transcript shall be deposited, together with any agreement resulting therefrom, with the Administrator, and shall be available to the Attorney General and the Federal Trade Commission. Such records or transcripts shall be available for public inspection and copying in accordance with section 552 of title 5, United States Code; ercept that (A) matter may not be withheld from disclosure under section 552 (b) of such title on grounds other than the grounds specified in section 552(b)(1), (b)(3), or so much of (b)(4) as relates to trade secrets; and (B) in the exercise of authority under section 552(b)(1), the President shall consult with the Secretary of State, the Administrator, and the Attorney General with respect to questions relating to the foreign policy interests of the United States.

(4) No provision of this section may be exercised so as to prevent representatives of committees of Congress from attending meetings to which this section applies, or from having access to any transcripts, records, and agreements kept or made under this section.

(d)(1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, and when practicable, in the carrying out of voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this part. A voluntary agreement or plan of action under this section may not be carried out unless approved by the Attorney General, after consultation with the Federal Trade Commission. Prior to the expiration of the period determined under paragraph (2), the Federal Trade Commission shall transmit to the Attorney General its views as to whether such an agreement or plan of action should be approved, and shall publish such views in the Federal Register. The Attorney General, in consultation with the Federal Trade Commission, the Secretary of State and the Administrator, shall have the right to review, amend, modify, disapprove, or revoke, on his own motion or upon the request of the Federal Trade Commission or any interested person, any voluntary agreement or plan of action at any time, and, if revoked, thereby withdraw prospectively any immunity which may be conferred by subsection (f) or (k).

(2) Any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented; except that during an international energy supply emergency, the Administrator, subject to approval of the Attorney General, may reduce such 20-day period. Any such agreement or plan of action shall be available for public inspection and copying, except that a plan of action shall be so available only to the extent to which records or transcripts are so available as provided in the last sentence of subsection (c)(3). Any action taken pursuant to such voluntary agreement or plan of action shall be reported to the Attorney General and the Federal Trade Commission pursuant to such regulations as shall be prescribed under paragraphs (3) and (4) of subsection (e).

(3) A plan of action may not be approved by the Attorney General under this subsection unless such plan (A) describes the types of substantive actions which may be taken under the plan, and (B) is as specific in its description of proposed substantive actions as is reasonable in light of known circumstances.

(e)(1) The Attorney General and the Federal Trade Commission shall monitor the development and carrying out of voluntary agreements and plans of action authorized under this section in order to promote competition and to prevent anticompetitive practices and effects, while achieving substantially the purposes of this part.

(2) In addition to any requirement specified under subsections (b) and (c) of this section and in order to carry out the purposes of this section, the Attorney General, in consultation with the Federal Trade Commission and the Administrator, shall promulgate rules concerning the maintenance of necessary and appropriate records related to the development and carrying out of voluntary agreements and plans of action authorized pursuant to this section.

(3) Persons developing or carrying out voluntary agreements and plans of action authorized pursuant to this section shall maintain such records as are required by rules promulgated under paragraph (2). The Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and upon reasonable notice.

(4) The Attorney General and the Federal Trade Commission may each prescribe such rules as may be necessary or appropriate to carry out their respective responsibilities under this section. They may both utilize for such purposes and for purposes of enforcement any powers conferred upon the Federal Trade Commission or the Department of Justice, or both, by the antitrust laws or the Antitrust Civil Process Act; and wherever any such law refers to "the pur-

poses of this Act" or like terms, the reference shall be understood to include this section.

(f) (1) There shall be available as a defense to any civil or criminal action brought under the antitrust laws (or any similar State law) in respect of actions taken to develop or carry out a voluntary agreement or plan of action by persons engaged in the business of producing, transporting, refining, distributing, or storing petroleum products (provided that such actions were not taken for the purpose of injuring competition) that—

(A) such actions were taken—

(i) in the course of developing a voluntary agreement or plan of action pursuant to this section, or

(ii) to carry out a voluntary agreement or plan of action authorized and approved in accordance with this section, and

(B) such persons complied with the requirements of this section and the rules promulgated hereunder.

(2) Except in the case of actions taken to develop a voluntary agreement or plan of action, the defense provided in this subsection shall be available only if the person asserting the defense demonstrates that the actions were specified in, or within the reasonable contemplation of, an approved plan of action.

(3) Persons interposing the defense provided by this subsection shall have the burden of proof, except that the burden shall be on the person against whom the defense is asserted with respect to whether the actions were taken for the purpose of injuring competition.

(g) No provision of this section shall be construed as granting immunity for, or as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any act or practice which occurred prior to the date of enactment of this Act or subsequent to its expiration or repeal.

(h) Upon the expiration of the 90-day period which begins on the date of enactment of this Act, the provisions of sections 708 and 708A (other than 708A(o)) of the Defense Production Act of 1950 shall not apply to any agreement or action undertaken for the purpose of developing or carrying out (1) the international energy program, or (2) any allocation, price control, or similar program with respect to petroleum products under this Act or under the Emergency ePtroleum Allocation Act of 1973. For purposes of section 708A(o) of the Defense Production Act of 1950, the effective date of the provisions of this Act which relate to international voluntary agreements to carry out the international energy program shall be deemed to be 90 days after the date of enactment of this Act.

(i) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every 6 months, a report on the impact on competition and on small business of actions authorized by this section.

(j) The authority granted by this section shall terminate June 30, 1979.

(k) In any action in any Federal or State court for breach of contract, there shall be available as a defense that the alleged breach of contract was caused predominantly by action taken during an international energy supply emergency to carry out a voluntary agreement or plan of action authorized and approved in accordance with this section.

(l) As used in this section and section 254:

(1) The term "international energy supply emergency" means any period (A) beginning on any date which the President determines allocation of petroleum products to nations participating in the international energy program is required by chapters III and IV of such program, and (B) ending on a date on which he determines that such allocation is no longer required. Such a period may not exceed 90 days, but the President may establish one or more additional 90-day periods by making anew the determination under subparagraph (A) of the preceding sentence. Any determination respecting the beginning or end of any such period shall be published in the Federal Register.

(2) The term "allocation and information provisions of the international energy program" means the provisions of the international energy program which relate to international allocation of petroleum products and to the information system provided in such program.

ADVISORY COMMITTEES

SEC. 253 (a) To achieve the purposes of the international energy program with respect to international allocation of petroleum products and the information system provided in such program, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. In addition to the requirements specified in this section, such advisory committees shall be subject to the provisions of section 17 of the Federal Energy Administration Act of 1974 (whether or not such Act or any of its provisions expire or terminate before June 30, 1985); shall be chaired by a regular full-time Federal employee; and shall include representatives of the public. The meetings of such committees shall be open to the public. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(b) A verbatim transcript shall be kept of such advisory committee meetings, and shall be deposited with the Attorney General and the Federal Trade Commission. Such transcript shall be made available for public inspection and copying in accordance with section 552 of title 5, United States Code, except that matter may not be withheld from disclosure under section 552(b) of such title on grounds other than the grounds specified in section 552(b) (1), (b) (3), and so much of (b) (4) as relates to trade secrets, or pursuant to a determination under subsection (c).

(c) The President, after consultation with the Secretary of State, the Federal Trade Commission, the Attorney General, and the Administrator, may suspend the application of—

(1) sections 10 and 11 of the Federal Advisory Committee Act,

(2) subsections (b) and (c) of section 17 of the Federal Energy Administration Act of 1974,

(3) the requirement under subsection (a) of this section that meetings be open to the public, and

(4) the second sentence of subsection (b); if the President determines with respect to a particular meeting, (A) that such suspension is essential to the developing or carrying out of the international energy program, (B) that such suspension relates solely to the purpose of international allocation of petroleum products and the information system provided in such program, and (C) that the meeting deals with matters described in section 552(b) (1) of title 5, United States Code. Such determination by the President shall be in writing, shall set forth a detailed explanation of reasons justifying the granting of such suspension, and shall be published in the Federal Register at a reasonable time prior to the effective date of any such suspension.

EXCHANGE OF INFORMATION

SEC. 254. (a) (1) Except as provided in subsections (b) and (c), the Administrator, after consultation with the Attorney General, may provide to the Secretary of State, and the Secretary of State may transmit to the International Energy Agency established by the international energy program, the information and data related to the energy industry certified by the Secretary of State as required to be submitted under the international energy program.

(2) (A) Except as provided in subparagraph (B) of this paragraph, any such information or data which is geological or geophysical information or a trade secret or commercial or financial information to which section 552(b) (9) or (b) (4) of title 5, United States Code, applies shall, prior to such transmittal, be aggregated, accumulated, or otherwise reported in such manner as to avoid, to the fullest extent feasible, identification of any person from whom the United States obtained such information or data, and in the case of geological or geophysical information, a competitive disadvantage to such person.

(B) (i) Notwithstanding subparagragh (A) of this paragraph, during an international energy supply emergency, any such information or data with respect to the international allocation of petroleum products may be made available to the International Energy Agency if otherwise authorized to be made available to such Agency by paragraph (1) of this subsection.

(ii) Subparagraph (A) shall not apply to information described in subparagraph (A) (other than geological or geophysical information) if the President certifies, after opportunity for presentation of views by interested persons, that the International Energy Agency has adopted and is implementing security measures which assure that such information will not be disclosed by such Agency or its employees to any person or foreign country without having been aggregated, accumulated, or otherwise reported in such manner as to avoid identification of any person from whom the United States obtained such information or data.

(3) (A) within 90 days after the date of enactment of this Act, and periodically thereafter, the President shall review the operation of this section and shall determine whether other signatory nations to the international energy program are transmitting information and data to the International Energy Agency in substantial compliance with such program. If the President determines that other nations are not so complying, paragraph (2) (B) (ii) shall not apply until he determines other nations are so complying.

(B) Any person who believes he has been or will be damaged by the transmittal of information or data pursuant to this section shall have the right to petition the President and to request changes in procedures which will protect such person from any competitive damage.

(b) If the President determines that the transmittal of data or information pursuant to the authority of this section would prejudice competition, violate the antitrust laws, or be inconsistent with United States national security interests, he may require that such data or information not be transmitted.

(c) Information and data the confidentiality of which is protected by statute shall not be provided by the Administrator to the Secretary of State under subsection (a) of this section for transmittal to the International Energy Agency, unless the Administrator has obtained the specific concurrence of the head of any department or agency which has the primary statutory authority for the collection, gathering, or obtaining of such information and data. In making a determination to concur in providing such information and data, the head of any department or agency which has the primary statutory authority for the collection, gathering, or obtaining of such information and data shall consider the purposes for which such information and data were collected, gathered, and obtained, the confidentiality provisions of such statutory authority, and the international obligations of the United States under the international energy program with respect to the transmittal of such information and data to an international organization or foreign country.

(d) For the purposes of carrying out the obligations of the United States under the international energy program, the authority to collect data granted by sections 11 and 13 of the Energy Supply and Environmental Coordination Act and the Federal Energy Administration Act of 1974, respectively, shall continue in full force and effect without regard to the provisions of such Acts relating to their expiration.

(e) The authority under this section to transmit information shall be subject to any limitations on disclosure contained in other laws, except that such authority may be exercised without regard to—

(1) section 11(d) of the Energy Supply and Environmental Coordination Act of 1974;

(2) section 14(b) of the Federal Energy Administration Act of 1974;

(3) section 7 of the Export Administration Act of 1969;

(4) section 9 of title 13, United States Code;

(5) section 1 of the Act of January 27, 1938 (15 U.S.C. 176(a)); and

(6) section 1905 of title 18, United States Code.

RELATIONSHIP OF THIS TITLE TO THE INTERNATIONAL ENERGY AGREEMENT

SEC. 255. The purpose of the Congress in enacting this title is to provide standby energy emergency authority to deal with energy shortage conditions and to minimize economic dislocations and adverse impacts on employment. While the authorities contained in this ttile may, to the extent authorized by this title, be used to carry out obligations incurred by the United States in connection with the International Energy Program, this title shall not be construed in any way as advice and consent, ratification, endorsement, or other form of congressional approval of the specific terms of such program.

TITLE III—IMPROVING ENERGY EFFICIENCY

PART A—AUTOMOTIVE FUEL ECONOMY

AMENDMENT TO MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT

SEC. 301. The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) is amended by inserting "(except part A of title V)" after "SEC. 2. For the purpose of this Act" in section 2 thereof and by adding at the end of such Act the following new title:

"TITLE V—IMPROVING AUTOMOTIVE EFFICIENCY

"PART A—AUTOMOTIVE FUEL ECONOMY

"DEFINITIONS

"SEC. 501. For purposes of this part:

"(1) The term 'automobile' means any 4-wheeled vehicle propelled by fuel which is manufactured primarily for use on public streets, roads, and highways (except any vehicle operated exclusively on a rail or rails), and

"(A) which is rated at 6,000 lbs. gross vehicle weight or less, or

"(B) which—

"(i) is rated at more than 6,000 lbs. gross vehicle weight but less than 10,000 lbs. gross vehicle weight,

"(ii) is a type of vehicle for which the Secretary determines, by rule, average fuel economy standards under this part are feasible, and

"(iii) is a type of vehicle for which the Secretary determines, by rule, average fuel economy standards will result in significant energy conservation, or is a type of vehicle which the Secretary determines is substantially used for the same purposes as vehicles described in subparagraph (A) of this paragraph.

The Secretary may prescribe such rules as may be necessary to implement this paragraph.

"(2) The term 'passenger automobile' means any automobile (other than an automobile capable of off-highway operation) which the Secretary determines by rule is manufactured primarily for use in the transportation of not more than 10 individuals.

"(3) The term 'automobile capable of off-highway operation' means any automobile which the Secretary—

"(A) has a significant feature (other than 4-wheel drive) which is designed to equip such automobile for off-highway operation, and

"(B) either—

"(i) is a 4-wheel drive automible, or

"(ii) is rated at more than 6,000 pounds gross vehicle weight.

"(4) The term 'average fuel economy' means average fuel economy, as determined under section 508.

"(5) The term 'fuel' means gasoline and diesel oil. The Secretary may, by rule, include any other liquid fuel or any gaseous fuel within the meaning of the term 'fuel' if he determines that such inclusion is consistent with the need of the Nation to conserve energy.

"(6) The term 'fuel economy' means the average number of miles traveled by an automobile per gallon of gasoline (or equivalent amount of other fuel) consumed, as determined by the EPA Administrator in accordance with procedures established under section 503(d).

"(7) The term 'average fuel economy standard' means a performance standard which specifies a minimum level of average fuel economy which is applicable to a manufacturer in a model year.

"(8) The term 'manufacturer' means any person engaged in the business of manufacturing automobiles. The Secretary shall prescribe rules for determining, in cases where more than one person is the maufacturer of an automobile, which person is to be treated as the manufacturer of such automobile for purposes of this part.

"(9) The term 'manufacture' (except for purposes of section 502(c)) means to produce or assemble in the customs territory of the United States, or to import.

"(10) The term 'import' means to import into the customs territory of the United States.

"(11) The term 'model type' means a particular class of automobile as determined, by rule, by the EPA Administrator, after consultation an coordination with the Secretary.

"(12) The term 'model year', with reference to any specific calendar year, means a manufacturer's annual production period (as determined by the EPA Administrator) which includes January 1 of such calendar year. If a manufacturer has no annual production period, the term 'model year' means the calendar year.

"(13) The term 'Secretary' means the Secretary of Transportation.

"(14) The term 'EPA Administrator' means the Administrator of the Environmental Protection Agency.

"AVERAGE FUEL ECONOMY STANDARDS APPLICABLE TO EACH MANUFACTURER

"SEC. 502. (a) (1) Except as otherwise provided in paragraph (4) or in subsection (c) or (d), the average fuel economy for passenger automobiles manufactured by any manufacturer in any model year after model year 1977 shall not be less than the number of miles per gallon established for such model year under the following table:

"Model year:	Average fuel economy standard (in miles per gallon)
1978	18.0
1979	19.0.
1980	20.0.
1981	Determined by Secretary under paragraph (3) of this subsection.
1982	Determined by Secretary under paragraph (3) of this subsection.
1983	Determined by Secretary under paragraph (3) of this subsection.
1984	Determined by Secretary under paragraph (3) of this subsection.
1985 and thereafter	27.5.

"(2) Not later than January 15 of each year, beginning in 1977, the Secretary shall transmit to each House of Congress, and publish in the Federal Register, a review of average fuel economy standards under this part. The review required to be transmitted not later than January 15, 1979, shall include a comprehensive analysis of the program required by this part. Such analysis shall include an assessment of the ability of manufacturers to meet the average fuel economy standard for model year 1985 as specified in paragraph (1) of this subsection, and any legislative recommendations the Secretary or the EPA Administrator may have for improving the program required by this part.

"(3) Not later than July 1, 1977, the Secretary shall prescribe, by rule, average fuel economy standards for passenger automobiles manufactured in each of the model years 1981 through 1984. Any such standard shall apply to each manufacturer (except as provided in subsection (c), and shall be set for each such model year at a level which the Secretary determines (A) is the maximum feasible average fuel economy level, and (B) will result in steady progress toward meeting the average fuel economy standard established by or pursuant to this subsection for model year 1985.

"(4) The Secretary may, by rule, amend the average fuel economy standard specified in paragraph (1) for model year 1985, or for any subsequent model year, to a level which he determines is the maximum feasible average fuel economy level for such model year, except that any amendment which has the effect of increasing an average fuel economy standard to a level in excess of 27.5 miles per gallon, or of decreasing any such standard to a level below 26.0 miles per gallon, shall be submitted to the Congress in accordance with section 551 of the Energy Policy and Conservation Act and shall not take effect if either House of the Congress disapproves such amendment in accordance with the procedures specified in such section.

"(5) For purposes of considering any modification which is submitted to the Congress under paragraph (4), the 5 calendar days specified in section 551(f) (4) (A) of the Energy Policy and Conservation Act shall be lengthened to 20 calendar days, and the 15 calendar days specified in section 551 (c) and (d) of such Act shall be lengthened to 60 calendar days.

"(b) The Secretary shall, by rule, prescribe average fuel economy standards for automobiles which are not passenger automobiles and which are manufactured by any manufacturer in each model year which begins more than 30 months after the date of enactment of this title. Such rules may provide for separate standards for different classes of such automobiles (as determined by the Secretary), and shall be set at a level which the Secretary determines is the maximum feasible average fuel economy level which such manufacturers are able to achieve in each model year to which this subsection applies. Any standard applicable to a model year under this subsection shall be prescribed at lease 18 months prior to the beginning of such model year.

"(c) On application of a manufacturer who manufactured (whether or not in the United States) fewer than 10,000 passenger automobiles in the second model year preceding the model year for which the application is made, the Secretary may, by rule, exempt such manufacturer from subsection (a). An application for such an exemption shall be submitted to the Secretary, and shall contain such information as the Secretary may require by rule. Such exemption may only be granted if the Secretary determines that the average fuel economy standard otherwise applicable under subsection (a) is more stringent than the maximum feasible average fuel economy level which such manufacturer can attain. The Secretary may not issue exemptions with respect to a model year unless he establishes, by rule, alternative average fuel economy standards for passenger automobiles manufactured by manufacturers which receive exemptions under this subsection. Such standards may be established for an individual manufacturer, for all automobiles to which this subsection applies, or for such classes of such automobiles as the Secretary may define by rule. Each such standard shall be set at a level which the Secretary determines is the maximum feasible average fuel economy level for the manufacturers to which the standard applies. An exemption under this subsection shall apply to a model year only if the manufacturer manufactures (whether or not in the United States) fewer than 10,000 passenger automobiles in such model year.

"(d)(1) Any manufacturer may apply to the Secretary for modification of an average fuel economy standard applicable under subsection (a) to such manufacturer for model year 1978, 1979, or 1980. Such application shall contain such information as the Secretary may require by rule, and shall be submitted to the Secretary within 24 months before the beginning of the model year for which such modification is requested.

"(2)(A) If a manufacturer demonstrates and the Secretary finds that—

"(i) a Federal standards fuel economy reduction is likely to exist for such manufacturer for the model year to which the application relates, and

"(ii) such manufacturer applied a reasonably selected technology,

the Secretary shall, by rule, reduce the average fuel economy standard applicable under subsection (a) to such manufacturer by the amount of such manufacturer's Federal standards fuel economy reduction, rounded off to the nearest one-tenth mile per gallon (in accordance with rules of the Secretary). To the maximum extent practicable, prior to making a finding under this paragraph with respect to an application, the Secretary shall request, and the EPA Administrator shall supply, test results collected pursuant to section 503(d) of this Act for all automobiles covered by such application.

"(B)(i) If the Secretary does not find that a Federal standards fuel economy reduction is likely to exist for a manufacturer who filed an application under paragraph (1), he shall deny the application of such manufacturer.

"(ii) If the Secretary—

"(I) finds that a Federal standards fuel economy reduction is likely to exist for a manufacturer who filed an application under paragraph (1), and

"(II) does not find that such manufacturer applied a reasonably selected technology,

the average fuel economy standard applicable under subsection (a) to such manufacturer shall, by rule, be reduced by an amount equal to the Federal standards fuel **economy reduction which the Secretary finds** would have resulted from the application of a reasonably selected technology.

"(3) For purposes of this subsection:

"(A) The term 'reasonably selected technology' means a technology which the Secretary determines it was reasonable for a manufacturer to select, considering (i) the Nation's need to improve the fuel economy of its automobiles, and (ii) the energy savings, economic costs, and lead-time requirements associated with alternative technologies practicably available to such manufacturers.

"(B) The term 'Federal standards fuel economy reduction' means the sum of the applicable fuel economy reductions determined under subparagraph (C).

"(C) The term 'applicable fuel economy reduction' means a number of miles per gallon equal to—

"(i) the reduction in a manufacturer's average fuel economy in a model year which results from the application of a category of Federal standards applicable to such model year, and which would not have occurred had Federal standards of such category applicable to model year 1975 remained the only standards of such category in effect, minus

"(ii) 0.5 mile per gallon.

"(D) Each of the following is a category of Federal standards:

"(i) Emissions standards under section 202 of the Clean Air Act, and emissions standards applicable by reason of section 209(b) of such Act.

"(ii) Motor vehicle safety standards under the National Traffic and Motor Vehicle Safety Act of 1966.

"(iii) Noise emission standards under section 6 of the Noise Control Act of 1972.

"(iv) Property loss reduction standards under title I of this Act.

"(E) In making the determination under this subparagraph, the Secretary (in accordance with such methods as he shall prescribe by rule) shall assume a production mix for such manufacturer which would have achieved the average fuel economy standard for such model year had standards described in subparagraph (D) applicable to model year 1975 remained the only standards in effect.

"(4) The Secretary may, for the purposes of conducting a proceeding under this subsection, consolidate one or more applications filed under this subsection.

"(e) For purposes of this section, in determining maximum feasible average fuel economy, the Secretary shall consider—

"(1) technological feasibility;

"(2) economic practicability;

"(3) the effect of other Federal motor vehicle standards on fuel economy; and

"(4) the need of the Nation to conserve energy.

"(f)(1) The Secretary may, by rule, from time to time, amend any average fuel economy standard prescribed under subsection (a)(3), (b), or (c), so long as such standard, as amended, meets the requirements of subsection (a)(3), (b), or (c), as the case may be.

"(2) Any amendment prescribed under this section which has the effect of making any average fuel economy standard more stringent shall be—

"(A) promulgated, and

"(B) if required by paragraph (4) of subsection (a), submitted to the Congress,

at least 18 months prior to the beginning of the model year to which such amendment will apply.

"(g) Proceedings under subsection (a)(4) or (d) shall be conducted in accordance with section 553 of title 5, United States Code, except that interested persons shall be entitled to make oral as well as written presentations. A transcript shall be taken of any oral presentations.

"DETERMINATION OF AVERAGE FUEL ECONOMY

"SEC. 503. (a)(1) Average fuel economy for purposes of section 502 (a) and (c) shall be calculated by the EPA Administrator by dividing—

"(A) the total number of passenger automobiles manufactured in a given model year by a manufacturer, by

"(B) a sum of terms, each term of which is a fraction created by dividing—

"(i) the number of passenger automobiles of a given model type manufactured by such manufacturer in such model year, by

"(ii) the fuel economy measured for such model type.

"(2) Average fuel economy for purposes of section 502(b) shall be calculated in accordance with rules of the EPA Administrator.

"(b)(1) In calculating average fuel economy under subsection (a)(1), the EPA Administrator shall separate the total number of passenger automobiles manufactured by a manufacturer into the following two categories:

"(A) Passenger automobiles which are domestically manufactured by such manufacturer (plus, in the case of model year 1978 and model year 1979, passenger automobiles which are within the includable base import volume of such manufacturer).

"(B) Passenger automobiles which are not domestically manufactured by such manufacturer (and which, in the case of model year 1978 and model yaer 1979, are not within the includable base import volume of such manufacturer).

The EPA Administrator shall calculate the average fuel economy of each such separate category, and each such category shall be treated as if manufactured by a separate manufacturer for purposes of this part.

"(2) For purposes of this subsection:

"(A) The term "includable base import volume," with respect to any manufacturer in model year 1978 or 1979, as the case may be, is a number of passenger automobiles which is the lesser of—

(i) the manufacturer's base import volume, or

(ii) the number of passenger automobiles calculated by multiplying—

"(I) the quotient obtained by dividing such manufacturer's base import volume by such manufacturer's base production volume, times

"(II) the total number of passenger automobiles manufactured by such manufacturer during such model year.

"(B) The term "base import volume" means one-half the sum of—

"(i) the total number of passenger automobiles which were not domestically manufactured by such manufacturer during model year 1974 and which were imported by such manufacturer during such model year, plus

"(ii) 133 percent of the total number of passenger automobiles which were not domestically manufactured by such manufacturer during the first 9 monhts of model year 1975 and which were imported by such manufacturer during such 9-month period.

"(C) The term 'base production volume' means one-half the sum of—

"(i) the total number of passenger automobiles manufactured by such manufacturer during model year 1974, plus

"(ii) 133 percent of the total number of passenger automobiles manufactured by such manufacturer during the first 9 months of model year 1975.

"(D) For purposes of subparagraphs (B) and (C) of this paragraph any passenger automobile imported during model year 1976, but prior to July 1, 1975, shall be deemed to have been manufactured (and imported) during the first 9 months of model year 1975.

"(E) An automobile shall be considered domestically manufactured in any model year if at least 75 percent of the cost to the manufacturer of such automobile is attributable to value added in the United States or Canada, unless the assembly of such automobile is completed in Canada and such automobile is not imported into the United States prior to the expiration of 30 days following the end of such model year. The EPA Administrator may prescribe rules for purposes of carrying out this subparagraph.

"(F) The fuel economy of each passenger automobile which is imported by a manufacturer in model year 1978 or 1979, as the case may be, and which is not domestically manufactured by such manufacturer, shall be deemed to be equal to the average fuel economy of all such passenger automobiles.

"(c) Any reference in this part to automobiles manufactured by a manufacturer shall be deemed—

"(1) to include all automobiles manufactured by persons who control, are controlled by, or are under common control with, such manufacturer; and

"(2) to exclude all automobiles manufactured (within the meaning of paragraph (1)) during a model year by such manufacturer which are exported prior to the expiration of 30 days following the end of such model year.

"(d)(1) Fuel economy for any model type shall be measured, and average fuel economy of a manufacturer shall be calculated, in accordance with testing and calculation procedures established by the EPA Administrator, by rule. Procedures so established with respect to passenger automobiles (other than for purposes of section 506) shall be the procedures utilized by the EPA Administrator for model year 1975 (weighed 55 percent urban cycle, and 45 percent highway cycle), or procedures which yield comparable results. Procedures under this subsection, to the extent practicable, shall require that fuel economy tests be conducted in conjunction with emissions tests conducted under section 206 of the Clean Air Act. The EPA Administrator shall report any measurements of fuel economy and any calculations of average fuel economy to the Secretary.

"(2) The EPA Administrator shall, by rule, determine that quantity of any other fuel which is the equivalent of one gallon of gasoline.

"(3) Testing and calculation procedures applicable to a model year, and any amendment to such procedures (other than a technical or clerical amendment), shall be promulgated not less than 12 months prior to the model year to which such procedures apply.

"(e) For purposes of this part (other than section 506), any measurement of fuel economy of a model type, and any calculation of average fuel economy of a manufacturer, shall be rounded off to the nearest one-tenth mile per gallon (in accordance with rules of the EPA Administrator).

"(f) The EPA Administrator shall consult and coordinate with the Secretary in carrying out his duties under this section.

"JUDICIAL REVIEW

"SEC. 504. (a) Any person who may be adversely affected by any rule prescribed under section 501, 502, 503, or 506 may, at any time prior to 60 days after such rule is prescribed (or in the case of an amendment submitted to each House of the Congress under section 502(a)(4), at any time prior to 60 days after the expiration of the 60-day period specified in section 502(a)(5)), file a petition in the United States Court of Appeals for the District of Columbia, or for any circuit wherein such person resides or has his principal place of business, for judicial review of such rule. A copy of the petition shall be forthwith transmitted by the clerk of such court to the officer who prescribed the rule. Such officer shall thereupon cause to be filed in such court the written submissions and other materials in the proceeding upon which such rule was based. Upon the filing of such petition, the court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter. Findings of the Secretary under section 502(d) shall be set aside by the court on review unless such findings are supported by substantial evidence.

"(b) If the petitioner applies to the court in a proceeding under subsection (a) for leave to make additional submissions, and shows to the satisfaction of the court that such additional submissions are material and that there were reasonable grounds for the failure to make such submissions in the administrative proceeding, the court may order the Secretary or the EPA Administrator, as the case may be, to provide additional opportunity to make such submissions. The Secretary or the EPA Administrator, as the case may be, may modify or set aside the rule involved or prescribe a new rule by reason of the additional submissions, and shall file any such modified or new rule in the court, together with such additional submissions. The court shall thereafter review such new or modified rule.

"(c) The judgment of the court affirming or setting aside, in whole or in part, any such rule shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(d) The remedies provided for in this section shall be in addition to, and not in lieu of, any other remedies provided by law.

"INFORMATION AND REPORTS

"SEC. 505. (a)(1) Each manufacturer shall submit a report to the Secretary during the 30-day period preceding the beginning of each model year after model year 1977, and during the 30-day period beginning on the 180th day of each such model year. Each such report shall contain (A) a statement as to whether such manufacturer will comply with average fuel economy standards under section 502 applicable to the model year for which such report is made; (B) a plan which describes the steps the manufacturer has taken or intends to take in order to comply with such standards; and (C) such other information as the Secretary may require.

"(2) Whenever a manufacturer determines that a plan submitted under paragraph (1) which he stated was sufficient to insure compliance with applicable average fuel economy standards is not sufficient to insure such compliance, he shall submit a report to the Secretary containing a revised plan which specifies any additional measures which such manufacturer intends to take in order to comply with such standards, and a statement as to whether such revised plan is sufficient to insure such compliance.

"(3) The Secretary shall prescribe rules setting forth the form and content of the reports required under paragraphs (1) and (2).

"(b)(1) For the purpose of carrying out the provisions of this part, the Secretary or the EPA Administrator, or their duly designated agents, may hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpena, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records as the Secretary, the EPA Administrator, or such agents deem advisable. The Secretary or the EPA Administrator may require, by general or special orders that any person—

"(A) file, in such form as the Secretary or EPA Administrator may prescribe, reports or answers in writing to specific questions relating to any function of the Secretary or the EPA Administrator under this part, and

"(B) provide the Secretary, the EPA Administrator, or their duly designated agents, access to (and for the purpose of examination, the right to copy) any documentary evidence of such person which is relevant to any function of the Secretary or the EPA Administrator under this part.

Such reports and answers shall be made under oath or otherwise, and shall be filed with the Secretary or the EPA Administrator within such reasonable period as either may prescribe.

"(2) The district courts of the United States for a judicial district in the jurisdiction of which an inquiry is carried on may, in the case of contumacy or refusal to obey a duly authorized subpena or order of the Secretary, the EPA Administrator, or a duly designated agent of either, issued under paragraph (1), issue an order requiring compliance with such subpena or order. Any failure to obey such an order of the court may be treated by such court as a contempt thereof.

"(3) Witnesses summoned pursuant to this subsection shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(c)(1) Every manufacturer shall establish and maintain such records, make such reports, conduct such tests, and provide such items and information as the Secretary or the EPA Administrator may, by rule, reasonably require to enable the Secretary or the EPA Administrator to carry out their duties under this part and under any rules prescribed pursuant to this part. Such manufacturer shall, upon request of a duly designated agent of the Secretary or the EPA Administrator who presents appropriate credentials, permit such agent, at reasonable times and in a reasonable manner, to enter the premises of such manufacturer to inspect automobiles and appropriate books, papers, records, and documents. Such manufacturer shall make available all of such items and information in accordance with such reasonable rules as the Secretary or the EPA Administrator may prescribe.

"(2) The district courts of the United States may, if a manufacturer refuses to accede to any rule or reasonable request made under paragraph (1), issue an order requiring compliance with such requirement or request. Any failure to obey such an order of the court may be treated by such court as a contempt thereof.

"(d)(1) The Secretary and the EPA Administrator shall each disclose any information obtained under this part (other than section 503(d) to the public in accordance with section 552 of title 5, United States Code, except that information may be withheld from disclosure under subsection (b)(4) of such section only if the Secretary or the EPA Administrator, as the case may be, determines that such information, if disclosed, would result in significant competitive damage. Any matter described in section 552(b)(4) relevant to any administrative or judicial proceeding under this part may be disclosed in such proceeding.

"(2) Measurements and calculations under section 503(d) shall be made available to the public in accordance with section 552 of title 5, United States Code, without regard to subsection (b) of such section.

"LABELING

"SEC. 506. (a)(1) Except as otherwise provided in paragraph (2), each manufacturer shall cause to be affixed, and each dealer shall cause to be maintained, on each automobile manufactured in any model year after model year 1976, in a prominent place, a label—

"(A) indicating—

"(i) the fuel economy of such automobile,

"(ii) the estimated annual fuel cost associated with the operation of such automobile, and

"(iii) the range of fuel economy of comparable automobiles (whether or not manufactured by such manufacturer),

as determined in accordance with rules of the EPA Administrator,

"(B) containing a statement that written information (as described in subsection (b) (1)) with respect to the fuel economy of other automobiles manufactured in such model year (whether or not manufactured by such manufacturer) is available from the dealer in order to facilitate comparison among the various model types, and

"(C) containing any other information authorized or required by the EPA Administrator which relates to information described in subparagraph (A) or (B).

"(2) With respect to automobiles—

"(A) for which procedures established in the EPA and FEA Voluntary Fuel Labeling Program for Automobiles exist on the date of the enactment of this title, and

"(B) which are manufactured in model year 1976 and at least 90 days after such date of enactment,

each manufacturer shall cause to be affixed and each dealer shall cause to be maintained, in a prominent place, a label indicating the fuel economy of such automobile, in accordance with such procedures.

"(3) The form and content of the labels required under paragraphs (1) and (2), and the manner in which such labels shall be affixed, shall be prescribed by the EPA Administrator by rule. EPA Administrator may permit a manufacturer to comply with this paragraph by permitting such manufacturer to disclose the information required under this subsection on the label required by section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232).

"(b) (1) The EPA Administrator shall compile and prepare a simple and readily understandable booklet containing data on fuel economy of automobiles manufactured in each model year. Such booklet shall also contain information with respect to estimated annual fuel costs, and may contain information with respect to geographical or other differences in estimated annual fuel costs. The Administrator of the Federal Energy Administration shall publish and distribute such booklets.

"(2) The EPA Administrator, not later than July 31, 1976, shall prescribe rules requiring dealers to make available to prospective purchasers information compiled by the EPA Administrator under paragraph (1).

"(c) (1) A violation of subsection (a) shall be treated as a violation of section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232). For purposes of the Federal Trade Commission Act (other than sections 5(m) and (18), a violation of subsection (a) shall be treated as an unfair or deceptive act or practice in or affecting commerce.

"(2) As used in this section, the term 'dealer' has the same meaning as such term has in section 2(e) of the Automobile Information Disclosure Act (15 U.S.C. 1231 (e)) except that in applying such terms to this section, the term 'automobile' has the same meaning as such term has in section 501(1) of this part.

"(d) Any disclosure with respect to fuel economy or estimated annual fuel cost which is required to be made under the provisions of this section shall not create an express or implied warranty under State or Federal law that such fuel economy will be achieved or that such cost will not be exceeded, under conditions of actual use.

"(e) In carrying out his duties under this section, the EPA Administrator shall consult with the Federal Trade Commission, the Secretary, and the Federal Energy Administrator.

"UNLAWFUL CONDUCT

"SEC. 507. The followinig conduct is unlawful:

"(1) the failure of any manufacturer to comply with any average fuel economy standard applicable to such manufacturer under section 502 (other than section 502(b)),

"(2) the failure of any manufacturer to comply with any average fuel economy standard applicable to such manufacturer under section 502(b), or

"(3) the failure of any person (A) to comply with any provision of this part applicable to such person (other than section 502, 506 (a), 510, or 511), or (B) to comply with any standard, rule, or order applicable to such person which is issued pursuant to such a provision.

"CIVIL PENALTY

"SEC. 508. (a) (1) If average fuel economy calculations reported under section 503(d) indicate that any manufacturer has violated section 507 (1) or (2), then (unless further measurements of fuel economy, further calculations of average fuel economy, or other information indicates there is no violation of section 507 (1) or (2)) the Secretary shall commerce a proceeding under paragraph (2) of this subsection. The results of such further measurements, further calculations, and any such other information, shall be published in the Federal Register.

"(2) If, on the record after opportunity for agency hearing, the Secretary determines that such manufacturer has violated section 507 (1) or (2), or that any person has violated section 507(3), the Secretary shall assess the penalties provided for under subsection (b). Any interested person may participate in any proceeding under this paragraph.

"(3) (A) (i) Whenever the average fuel economy of the passenger automobiles manufactured by a manufacturer in a particular model year exceeds an applicable average fuel economy standard established under section 502 (a) or (c) (determined without regard to any adjustment under section 502(d)), such manufacturer shall be entitled to a credit, calculated under clause (ii), which shall be—

"(I) deducted from the amount of any civil penalty which has been or may be assessed against such manufacturer for a violation of section 507(1) occurring in the model year immediately prior to the model year in which such manufacturer exceeds such applicable average fuel economy standard, and

"(II) to the extent that such credit is not deducted from the amount of any civil deducted pursuant to subclause (I), penalty assessed against such manufacturer for a violation of section 507(1) occurring in the model year immediately following the model year in which such manufacturer exceeds such applicable average fuel economy standard.

"(ii) The amount of credit to which a manufacturer is entitled under clause (i) shall be equal to—

"(I) $5 for each tenth of a mile per gallon by which the average fuel economy of the passenger automobiles manufactured by such manufacturer in the model year in which the credit is earned pursuant to clause (i) exceeds the applicable average fuel economy standard established under section 502 (a) or (c), multiplied by

"(II) the total number of passenger automobiles manufactured by such manufacturer during such model year.

"(B) (i) Whenever the average fuel economy of a class of automobiles which are not passenger automobiles and which are manufactured by a manufacturer in a particular model year exceeds an average fuel economy standard applicable to automobiles of such class under section 502(b), such manufacturer shall be entitled to a credit, calculated under clause (ii), which shall be—

"(I) deducted from the amount of any civil penalty which has been or may be assessed against such manufacturer for a violation of section 507(2) occurring in the model year immediately prior to the model year in which such manufacturer exceeds such applicable average fuel economy standard, and

"(II) to the extent that such credit is not deducted pursuant to subclause (I), deducted from the amount of any such civil penalty assessed against such manufacturer for a violation of section 507(2) occurring in the model year immediately following the model year in which such manufacturer exceeds such applicable average fuel economy standard.

"(ii) The amount of credit to which a manufacturer is entitled under clause (i) shall be equal to—

"(I) $5 for each tenth of a mile per gallon by which the average fuel economy of the automobiles of such class manufactured by such manufacturer in the model year in which the credit is earned pursuant to clause (i) exceeds the applicable average fuel economy standard established under section 502(b), multiplied by

"(II) the total number of automobiles of such class manufactured by such manufacturer during such model year.

"(C) Whenever a civil penalty has been assessed and collected under this section from a manufacturer who is entitled to a credit under this paragraph with respect to such civil penalty, the Secretary of the Treasury shall refund to such manufacturer the amount of credit to which such manufacturer is so entitled, except that the amount of such refund shall not exceed the amount of the civil penalty so collected.

"(D) The Secretary may prescribe rules for purposes of carrying out the provisions of this paragraph.

"(b) (1) (A) Any manufacturer whom the Secretary determines under subsection (a) to have violated a provision of section 507(1), shall be liable to the United States for a civil penalty equal to (i) $5 for each tenth of a mile per gallon by which the average fuel economy of the passenger automobiles manufactured by such manufacturer during such model year is exceeded by the applicable average fuel economy standard established under section 502 (a) or (c), multiplied by (ii) the total number of passenger automobiles manufactured by such manufacturer during such model year.

"(B) Any manufacturer whom the Secretary determines under subsection (a) to have violated section 507(2) shall be liable to the United States for a civil penalty equal to (i) $5 for each tenth of a mile per gallon by which the applicable average fuel economy standard exceeds the average fuel economy of automobiles to which such standard applies, and which are manufactured by such manufacturer during the model year in which the violation occurs, multiplied by (ii) the total number of automobiles to which such standard applies and which are manufactured by such manufacturer during such model year.

"(2) Any person whom the Secretary determines under subsection (a) to have violated a provision of section 507(3) shall be liable to the United States for a civil penalty of not more than $10,000 for each violation. Each day of a continuing violation shall constitute a separate violation for purposes of this paragraph.

"(3) The amount of such civil penalty shall be assessed by the Secretary by written notice. The Secretary shall have the discretion to compromise, modify, or remit, with or without conditions, any civil penalty assessed under this subsection against any person, except that any civil penalty assessed for a violation of section 507(1) or (2) may be so compromised, modified, or remitted only to the extent—

"(A) necessary to prevent the insolvency or bankruptcy of such manufacturer.

"(B) such manufacturer shows that the violation of section 507 (1) or (2) resulted from an act of God, a strike, or a fire, or

"(C) the Federal Trade Commission has certified that modification of such penalty is necessary to prevent a substantial lessening of competition, as determined under paragraph (4).

The Attorney General shall collect any civil penalty for which a manufacturer is liable under this subsection in a civil action under subsection (c)(2) (unless the manufacturer pays such penalty to the Secretary).

"(4) Not later than 30 days after a determination by the Secretary under subsection (a)(2) that a manufacturer has violated section 507 (1) and (2), such manufacturer may apply to the Federal Trade Commission for a certification under this paragraph. If the manufacturer shows and the Federal Trade Commission determines that modification of the civil penalty for which such manufacturer is otherwise liable is necessary to prevent a substantial lessening of competition in that segment of the automobile industry subject to the standard with respect to which such penalty was assessed, the Commission shall so certify. The certification shall specify the maximum amount that such penalty may be reduced. To the maximum extent practicable, the Commission shall render a decision with respect to an application under this paragraph not later than 90 days after the application is filed with the Commission. A proceeding under this paragraph shall not have the effect of delaying the manufacturer's liability under this section for a civil penalty for more than 90 days after such application is filed, but any payment made before a decision of the Commission under this paragraph becomes final shall be paid to the court in which the penalty is collected, and shall (except as otherwise provided in paragraph (5)), be held bu such court, until 90 days after such decision becomes final (at which time it shall be paid into the general fund of the Treasury).

"(5) Whenever a civil penalty has been assessed and collected from a manufacturer under this section, and is being held by a court in accordance with paragraph (4), and the Secretary subsequently determines to modify such civil penalty pursuant to paragraph (3)(C) the Secretary shall direct the court to remit the appropriate amount of such penalty to such manufacturer.

"(6) A claim of the United States for a civil penalty assessed against a manufacturer under subsection (b)(1) shall, in the case of the bankruptcy or insolvency of such manufacturer, be subordinate to any claim of a creditor of such manufacturer which arises from an extension of credit before the date on which the judgment in any collection action under this section becomes final (without regard to paragraph (4)).

"(c)(1) Any interested person may obtain review of a determination (A) of the Secretary pursuant to which a civil penalty has been assessed under subsection (b), or (B) of the Federal Trade Commission under subsection (b)(4), in the United States Court of Appeals for the District of Columbia, or for any circuit wherein such person resides or has his principal place of business. Such review may be obtained by filing a notice of appeal in such court within 30 days after the date of such determination, and by simultaneously sending a copy of such notice by certified mail to the Secretary or the Federal Trade Commission, as the case may be. The Secretary or the Commission, as the case may be, shall promptly file in such court a certified copy of the record upon which such determination was made. Any such determination shall be reviewed in accordance with chapter 7 of title 5, United States Code.

"(2) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Attorney General shall recover the amount for which the manufacturer is liable in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

"EFFECT ON STATE LAW

"Sec. 509. (a) Whenever an average fuel economy standard established under this part is in effect, no State or political subdivision of a State shall have authority to adopt or enforce any law or regulation relating to fuel economy standards or average fuel economy standards applicable to automobiles covered by such Federal standard.

"(b) Whenever any requirement under section 506 is in effect with respect to any automobile, no State or political subdivision of a State shall have authority to adopt or enforce any law or regulation with respect to the disclosure of fuel economy of such automobile, or of fuel cost association with the operation of such automobile, if such law or regulation is not identical with such requirement.

"(c) Nothing in this section shall be construed to prevent any State or political subdivision thereof from establishing requirements with respect to fuel economy of automobiles procured for its own use.

"USE OF FUEL EFFICIENT PASSENGER AUTOMOBILES BY THE FEDERAL GOVERNMENT

"Sec. 510. (a) The President shall, within 120 days after the date of enactment of this title, promulgate rules which shall require that all passenger automobiles acquired by all executive agencies in each fiscal year which begins after such date of enactment achieve a fleet average fuel economy for such year not less than—

"(1) 18 miles per gallon, or

"(2) the average fuel economy standards applicable under section 502(a) for the model year which includes January 1 of such fiscal year,

whichever is greater.

"(b) As used in this section:

"(1) The term 'fleet average fuel economy' means (A) the total number of passenger automobiles acquired in a fiscal year to which this section applies by all executive agencies (excluding passenger automobiles designed to perform combat related missions for the Armed Forces or designed to be used in law enforcement work or emergency rescue work), divided by (B) a sum of terms, each term of which is a fraction created by dividing—

"(i) the number of passenger automobiles so acquired of a given model type, by

"(ii) the fuel economy of such model type.

"(2) The term 'executive agency' has the same meaning as such term has for purposes of section 105 of title 5, United States Code.

"(3) The term 'acquired' means leased for a period of 60 continuous days or more, or purchased.

"RETROFIT DEVICES

"Sec. 511. (a) The Federal Trade Commission shall establish a program for systematically examining fuel economy representations made with respect to retrofit devices. Whenever the Commission has reason to believe that any such representation may be inaccurate, it shall request the EPA Administrator to evaluate, in accordance with subsection (b), the retrofit device with respect to which such representation was made.

"(b)(1) Upon application of any manufacturer of a retrofit device (or prototype thereof), upon the request of the Federal Trade Commission pursuant to subsection (a), or upon his own motion, the EPA Administrator shall evaluate, in accordance with rules prescribed under subsection (d), any retrofit device to determine whether the retrofit device increases fuel economy and to determine whether the representations (if any) made with respect to such retrofit device are accurate.

"(2) If under paragraph (1) the EPA Administrator tests, or causes to be tested, any retrofit device upon the application of a manufacturer of such device, such manufacturer shall supply, at his own expense, one or more samples of such device to the Administrator and shall be liable for the costs of testing which are incurred by the Administrator. The procedures for testing retrofit devices so supplied may include a requirement for preliminary testing by a qualified independent testing laboratory, at the expense of the manufacturer of such device.

"(c) The EPA Administrator shall publish in the Federal Register a summary of the results of all tests conducted under this section, together with the EPA Administrator's conclusions as to—

"(1) the effect of any retrofit device on fuel economy;

"(2) the effect of any such device on emissions of air pollutants; and

"(3) any other information which the Administrator determines to be relevant in evaluating such device.

Such summary and conclusions shall also be submitted to the Secretary and the Federal Trade Commission.

"(d) Within 180 days after the date of enactment of this title, the EPA Administrator shall, by rule, establish—

"(1) testing and other procedures for evaluating the extent to which retrofit devices affect fuel economy and emissions of air pollutants, and

"(2) criteria for evaluating the accuracy of fuel economy representations made with respect to retrofit devices.

"(e) For purposes of this section the term 'retrofit device' means any component, equipment, or other device—

"(1) which is designed to be installed in or on an automobile (as an addition to, as a replacement for, or through alteration or modification of, any original component, equipment, or other device); and

"(2) which any manufacturer, dealer, or distributor of such device represents will provide higher fuel economy than would have resulted with the automobile as originally equipped,

as determined under rules of the Administrator. Such term also includes a fuel additive for use in an automobile.

"REPORTS TO CONGRESS

"Sec. 512. (a) Within 180 days after the date of enactment of this title, the Secretary shall prepare and submit to the Congress and the President a comprehensive report setting forth findings and containing conclusions and recommendations with respect to (1) a requirement that each new automobile be equipped with a fuel flow instrument reading directly in miles per gallon, and (2) the most feasible means of equipping used automobiles with such instruments. Such report shall include an examination of the effectiveness of such instruments in promoting voluntary reductions in fuel consumption, the cost of such instruments, means of encouraging automobile purchasers to voluntarily purchase automobiles equipped with such instruments, and any other factor bearing on the cost and effectiveness of such instruments and their use.

"(b)(1) Within 180 days after the date of enactment of this title, the Secretary shall prepare and submit to the Congress and the

President a comprehensive report setting forth findings and containing conclusions and recommendations with respect to whether or not electric vehicles and other vehicles not consuming fuel (as defined in the first sentence of section 501(5)) should be covered by this part. Such report shall include an examination of the extent to which any such vehicle should be included under the provisions of this part, the manner in which energy requirements of such vehicles may be compared with energy requirements of fuel-consuming vehicles, the extent to which inclusion of such vehicles would stimulate their production and introduction into commerce, and any recommendations for legislative action.

"(2) As used in this subsection, the term 'electric vehicle' means a vehicle powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current.

"PART B—APPLICATION OF ADVANCED AUTOMOTIVE TECHNOLOGY

"PURPOSE

"SEC. 541. It is the purpose of this part to—

"(1) develop and evaluate advanced automotive technologies, and promote the expeditious commercial application of such technologies, and

"(2) establish an advanced automotive technology program designed to (A) optimize automobile performance with respect to fuel economy, environmental impact, safety, damage susceptibility, reliability, and other positive characteristics of automobiles, and (B) insure that information respecting advanced automotive technology will be available to manufacturers and other persons, and to the Federal Government in furtherance of its regulatory functions with respect to automobiles.

"DEFINITIONS

"SEC. 542. For purposes of this part:

"(1) The term 'ERDA Administrator' means the Administrator of the Energy Research and Development Administration.

"(2) The term 'advanced automobile' means an automobile which—

"(A) minimizes the total amount of energy to be consumed with respect to its fabrication, operation, and disposal, and which represents a substantial improvement over existing automobiles with respect to such total amount of energy consumed;

"(B) is capable of being mass produced, and operated, at a cost which is sufficiently competitive to enable such automobile to be produced and sold in numbers representing a significant portion of the automobile market;

"(C) at a minimum, can be produced, distributed, operated, and disposed of in compliance with applicable requirements of Federal law, including requirements with respect to fuel economy, emissions, noise control, safety, and damage susceptibility;

"(D) to the extent consistent with subparagraphs (A), (B), and (C), maximizes safety and reliability, minimizes air pollution and noise emissions, and damage susceptibility, and operates with sufficient performance with respect to acceleration, cold weather starting, cruising speed, and other performance factors; and

"(E) to the extent practicable, is capable of intermodal adaptability.

"(3) The term 'automobile' means an automobile as defined in section 501(1), except that for purposes of this part such term shall be applied—

"(A) without regard to whether or not the vehicle is a 4-wheeled vehicle; and

"(B) without regard to the energy source used to propel such vehicle.

"(4) The term 'intermodal adaptability' refers to any characteristic of an automobile which enables it to be operated or carried, or which facilitates such operation or carriage, by or on an alternate mode or other system of transportation.

"(5) The term 'person' includes any individual, corporation, company, association, firm, partnership, society, trust, joint venture, joint stock company, and the government and any agency of the United States or any State or political subdivision thereof.

"(6) The term 'production prototype' means an automobile which is capable of being placed into production, for sale at retail, in significant quantities.

"ESTABLISHMENT OF PROGRAM

"SEC. 543. (a) The Secretary shall establish within the Department of Transportation a program designed—

"(1) to develop and evaluate advanced automotive technologies, and to promote the expeditious commercial application of such technologies;

"(2) to insure—

"(A) through developmental programs conducted within the Department of Transportation and through assistance authorized under sections 545 and 546, and

"(B) subject to the limitations of subsection (c), that governmental and nongovernmental efforts will lead to the development of one or more production prototypes of an advanced automobile or automobiles within the shortest practicable time; and

"(3) to insure that adequate information respecting advanced automotive technology is available (A) to manufacturers and other persons, (B) to the Congress, and (C) to Federal agencies carrying out regulatory responsibilities respecting automobiles under this and other Acts (including the Clean Air Act, the National Traffic and Motor Vehicle Safety Act of 1966, and the Noise Control Act of 1972).

"(b) In carrying out this part, the Secretary shall—

"(1) have authority, in addition to any other authority under this part, to collect, analyze, and disseminate information, data, and materials which are relevant to the program established under subsection (a), and

"(2) in coordination with the Administrator of the Environmental Protection Agency and the ERDA Administrator, and utilizing their facilities or personnel where appropriate and in accordance with section 544, evaluate any reasonable new or improved automotive technology, description of which is submitted to the Secretary in writing, which could lead or contribute to the development of an advanced automobile or automobiles under the authority of this part.

"(c) Not later than 2 years after the date of enactment of this title, the Secretary shall submit a report to the Congress with respect to the need for Federal support for construction of production prototypes of an advanced automobile or automobiles under the authority of this part, together with such legislative recommendations as the Secretary considers appropriate. Until such time as the Congress otherwise provides by law, sums authorized by section 550 to be appropriated to carry out this part shall not be available for construction of such production prototypes. This subsection shall not be considered a limitation on authority to construct any vehicle which is not a production prototype.

"COORDINATION BETWEEN THE SECRETARY AND OTHER AGENCIES

"SEC. 544. (a) The Secretary shall have overall management responsibility for carrying out the program under this part. In carrying out such program, the Secretary, consistent with such overall management responsibility—

"(1) shall utilize the Energy Research and Development Administration, to the maximum extent practicable and in accordance with subsection (c), in carrying out any activities under this part with respect to advanced propulsion systems; and

"(2) may utilize the Energy Research and Development Administration or any other Federal agency (except as provided in paragraph (1)), in accordance with subsection (c), in carrying out any duties under this part, to the extent that the Secretary determines that any such agency has capabilities which would allow such agency to contribute to the attainment of the purposes of this part.

"(b) The ERDA Administrator, whenever the Energy Research and Development Administration is utilized under subsection (a), may exercise the powers granted to the Secretary under subsection (c) and under sections 545 and 546, subject to the overall management responsibility of the Secretary.

"(c) In addition to the powers specifically enumerated in any other provision of this part, the Secretary may, in order to carry out this part, obtain the assistance of any department, agency, or instrumentality of the executive branch of the Federal Government upon written request, on a reimbursable basis or otherwise, and with the consent of such department, agency, or instrumentality, identifying the assistance the Secretary deems necessary to carry out any duty under this part.

"CONTRACTS AND GRANTS

"SEC. 545. (a) The Secretary may enter into contracts with, and make grants to, any person for purposes of carrying out the provisions of section 543.

"(b) In addition to the requirements of section 544, the Secretary, in the exercise of his duties and responsibilities under this section, shall consult with the Administrator of the Environmental Protection Agency, the ERDA Administrator, the Administrator of the Federal Energy Administration, and representatives of other appropriate Federal agencies, and shall establish procedures for periodic consultation with representatives of science, industry, and such other groups as may have special expertise in the areas of advanced automotive technology.

"(c)(1) Each grant under this section shall be made in accordance with such rules as the Secretary shall prescribe in accordance with the provisions of this section. Each application for such a grant shall be made in writing in such form and with such content and other submissions as the Secretary shall require.

"(2) The Secretary may enter into contracts under this section without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

"OBLIGATION GUARANTEES

"SEC. 546. (a)(1) The Secretary may, in accordance with the provisions of this section and such rules as the Secretary shall prescribe guarantee the payment of not more than 90 per centum of the outstanding principal balance of any obligation incurred by any person, if the Secretary determines that such obligation is, or will be, entered into in order to assist in carrying out the program established under section 543.

"(2) Each application for an obligation guarantee under this section shall be made in writing to the Secretary in such form and with such content and other submissions as the Secretary shall require, in order reasonably to protect the interests of the United States. Each guarantee shall be extended in accordance with subsection (b) and—

"(A) under such terms and conditions as the Secretary, in consultation with the Secretary of the Treasury, considers appropriate;

"(B) with such provisions with respect to the timing of such guarantee as the Secretary, with the concurrence of the Secretary of the Treasury, considers appropriate, except that the required concurrence of the

Secretary of the Treasury may not, without the consent of the Secretary, result in a delay in the issuance of such guarantee for more than 60 days; and

"(C) in such form and pursuant to such rules as the Secretary considers appropriate.

"(3) Each guarantee shall inure to the benefit of the holder of the obligation to which such guarantee applies. The Secretary may approve any modifications of any provision of a guarantee of an obligation, upon a finding by the Secretary that such modification is equitable, not prejudicial to the interests of the United States, and has been consented to by the holder of such obligation.

"(4) All guarantees issued by the Secretary under this section shall constitute general obligations of the United States backed by the full faith and credit of the Government of the United States.

"(b) No obligation shall be guaranteed by the Secretary under subsection (a) unless the Secretary finds that—

"(1) there is a reasonable prospect for the repayment of such obligation;

"(2) such obligation is adequately secured;

"(3) such obligation constitutes a general obligation of the applicant for such guarantee; and

"(4) no other reasonable means of financing or refinancing is reasonably available to such applicant.

"(c)(1) The Secretary shall charge and collect such amounts as the Secretary may deem reasonable for the investigation of applications for the guarantee of an obligation, or for the appraisal of properties offered as security for such a guarantee.

"(2) The Secretary shall set an annual premium charge of not more than 1 per centum of the outstanding principal balance of each obligation guaranteed under this section.

"(d) No obligation guarantee issued by the Secretary under this section shall be terminated, canceled, or otherwise revoked, except in accordance with reasonable terms and conditions prescribed by the Secretary which were in effect on the date on which such guarantee was issued by the Secretary.

"(e)(1) If there is a default in any payment by the obligor of principal due under an obligation guaranteed by the Secretary under this section, and such default has continued for 60 days, the holder of such obligation shall have the right to demand payment by the Secretary. The Secretary shall promptly pay to the holder of such obligation, from amounts appropriated for such purpose, that portion of such unpaid amount which was guaranteed under this section, unless the Secretary finds that there was no default by the obligor in the payment of principal or that such default has been remedied.

"(2) If a payment is made by the Secretary under paragraph (1), the Secretary, in addition to the rights otherwise provided by law, shall be subrogated to all rights of the holder against the obligor and shall have all rights specified in the guarantee or related agreements with respect to any security which the Secretary held with respect to the guarantee of such obligation, including the authority to complete, maintain, operate, lease, sell, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements.

"(3) If there is a default under any obligation guarantee, the Secretary shall notify the Attorney General who shall take such action against the obligor or any other parties liable thereunder as is necessary to protect the interests of the United States. The holder of such obligation shall make available to the United States all records and evidence necessary or appropriate to bring or prosecute any such action.

"(f) The Secretary may issue commitments to guarantee an obligation under this section. An obligation may be guaranteed pursuant to such a commitment only if the requirements of this section are met at the time such obligation is issued.

"(g) The aggregate amount of guarantees issued by the Secretary under this section before July 30, 1976, shall not exceed $20,000,000, and the aggregate amount of guarantees issued by the Secretary under this section before September 30, 1977, shall not exceed $55,000,000. No such obligation guarantees may be used after September 30, 1977.

"PATENTS

"SEC. 547. (a) Section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 shall apply to any contract (including any assignment, substitution of parties, or subcontract thereunder), grant, or obligation guarantee entered into, made, or issued by the Secretary under this part to the same extent that such section applies to contracts of the Energy Research and Development Administration under the Federal Nonnuclear Energy Research and Development Act of 1974. For purposes of applying such section with respect to this part, any reference to the 'Administrator' or to the 'Administration' shall be deemed to be a reference to the 'Secretary' or to the 'Department of Transportation', respectively.

"(b)(1) Whenever the Secretary determines, on his own motion or upon application of any person and after opportunity for interested persons to present views, that—

"(A) a right under any United States letters patent, which is not otherwise reasonably available, is reasonably necessary to—

"(1) contribute to the development of advanced automotive technology pursuant to any contract entered into, grant made, or obligation guarantee issued under this part, or to the commercial application of technology developed pursuant to such a contract, grant, or guarantee, or

"(ii) provide for the expeditious commercial application of advanced automotive technology in order to comply with average fuel economy standards under part A of this title, or other Federal automobile standards, and

"(B) there are no other reasonable methods to achieve such development or commercial application, the Secretary shall (subject to paragraph (2)) certify such determination to a district court of the United States, for proceedings pursuant to paragraph (3).

"(2) No determinations may be made by the Secretary under subparagraphs (A)(ii) and (B) of paragraph (1), unless the Secretary determines, after opportunity for interested persons to present views, that—

"(A) the unavailability of the right under such patent may result in a substantial lessening of competition or a tendency to create a monopoly in any line of commerce in any section of the country, or

"(B) the availability of such right may result in a substantial increase in competition or a tendency to reduce a monopoly in any line of commerce in any section of the country, and such right is not being significantly utilized in the production of automobiles for commercial purposes.

"(3) Whenever a district court of the United States receives a certification of the Secretary pursuant to paragraph (1), such district court may, after a de novo hearing, issue an order requiring the person owning or controlling the patent which is the subject of such certification to license such patent at such reasonable royalty and on such terms and conditions as the court may determine. If a right under such patent is made available by such district court pursuant to certification by the Secretary under subparagraphs (A)(i) and (B) of paragraph (1), the order may also provide that such right shall also be available, at such reasonable royalty and on such terms and conditions as the court may prescribe, to any other person, if the court determines that such person is engaged in fostering the development or expeditious commercial application of advanced automotive technology, and that such right will contribute to such development or application.

"RECORDS, AUDIT, AND EXAMINATION

"SEC. 548. (a) Each recipient of financial assistance under this part (including an obligor who has recieved an obligation guarantee under section 546), whether in the form of grants, subgrants, contracts, subcontracts, obligation guarantees, or other arrangements, shall keep such records as the Secretary or the ERDA Administrator, as the case may be, shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, the amount of that portion of such total cost which was supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Secretary or the ERDA Administrator, as the case may be, and the Comptroller General of the United States, or any of their duly authorized representatives shall, until the expiration of 3 years after completion of the project or undertaking referred to in subsection (a), have access for the purpose of audit and examination to any books, documents, papers, and records of such receipts which in the opinion of the Secretary or the ERDA Administrator (as appropriate), or the Comptroller General may be related or pertinent to the grants, subgrants, contracts, subcontracts, obligation guarantees, or other arrangements referred to in such subsection.

"REPORTS

"SEC. 549. On or before July 1 of each year, the Secretary shall submit to Congress an annual report of activities under this part. Such report shall include—

"(1) the number and amount of contracts and grants made and of obligations guaranteed:

"(2) the progress made in developing advanced automobiles within the shortest practicable time after the date of enactment of this title;

"(3) the extend to which commercial application of the technology developed under this part may take place; and

"(4) suggestions for improvements in the program established under this part, including recommendations for legislation.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 550. There are authorized to be appropriated to the Secretary to carry out the purposes of this part, other than section 546 of this part not to exceed $50,000,000 for the fiscal year ending June 30, 1976, and not to exceed $80,000,000 for the fiscal year ending September 30, 1977."

PART B—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS OTHER THAN AUTOMOBILES

DEFINITIONS

SEC. 321. (a) For purposes of this part:

(1) The term "consumer product" means any article (other than an automoblie, as defined in section 501(1) of the Motor Vehicle Information and Cost Savings Act) of a type—

(A) which in operation consumes, or is designed to consume energy; and

(B) which, to any significant extent is distributed in commerce for personal use or consumption by individuals;

without regard to whether such article of such type is in fact distributed in commerce for personal use or consumption by an individual.

(2) The term "covered product" means a consumer product of a type specified in section 322.

(3) The term "energy" means electricity, or fossil fuels. The Administrator may, by rule, include other fuels within the meaning of the term "energy" if he determines that such inclusion is necessary or appropriate to carry out the purposes of this Act.

(4) The term "energy use" means the quantity of energy directly consumed by a consumer product at point of use, determined in accordance with test procedures under section 323.

(5) The term "energy efficiency" means the ratio of the useful output of services from a consumer product to the energy use of such product, determined in accordance with test procedures under section 323.

(6) The term "energy efficiency standard" means a performance standard—

(A) which prescribes a minimum level of energy efficiency for a covered product, determined in accordance with test procedures prescribed under section 323, and

(B) which includes any other requirements which the Administrator may prescribe under section 325(c).

(7) The term "estimated annual operating cost" means the aggregate retail cost of the energy which is likely to be consumed annually in representative use of a consumer product, determined in accordance with section 323.

(8) The term "measure of energy consumption" means energy use, energy efficiency, estimated annual operating cost, or other measure of energy consumption.

(9) The term "class of covered products" means a group of covered products, the functions or intended uses of which are similar (as determined by the Administrator).

(10) The term "manufacture" means to manufacture, produce, assemble or import.

(11) The terms "import" and "importation" mean to import into the customs territory of the United States.

(12) The term "manufacturer" means any person who manufactures a consumer product.

(13) The term "retailer" means a person to whom a consumer product is delivered or sold, if such delivery or sale is for purposes of sale or distribution in commerce to purchasers who buy such product for purposes other than resale.

(14) The term "distributor" means a person (other than a manufacturer or retailer) to whom a consumer product is delivered or sold for purposes of distribution in commerce.

(15) (A) The term "private labeler" means an owner of a brand or trademark on the label of a consumer product which bears a private label.

(B) A consumer product bears a private label with (i) such product (or its container) is labeled with the brand or trademark of a person other than a manufacturer of such product, (ii) the person with whose brand or trademark such product (or container) is labeled has authorized or caused such product to be so labeled, and (iii) the brand or trademark of a manufacturer of such product does not appear on such label.

(16) The terms "to distribute in commerce" and "distribution in commerce" mean to sell in commerce, to import, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.

(17) The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

(18) The term "Commission" means the Federal Trade Commission.

COVERAGE

SEC. 322. (a) A consumer product is a covered product if it is one of the following types (or is designed to perform a function which is the principal function of any of the following types):

(1) Refrigerators and refrigerator-freezers.
(2) Freezers.
(3) Dishwashers.
(4) Clothes dryers.
(5) Water heaters.
(6) Room air conditioners.
(7) Home heating equipment, not including furnaces.
(8) Television sets.
(9) Kitchen ranges and ovens,
(10) Clothes washers.
(11) Humidifiers and dehumidifiers.
(12) Central air conditioners.
(13) Furnaces.
(14) Any other type of consumer product which the Administrator classifies as a covered product under subsection (b).

(b) (1) The Administrator may classify a type of consumer product as a covered product if he determines that—

(A) classifying products of such type as covered products is necessary or appropriate to carry out the purposes of this Act, and

(B) average annual per-household energy use by products of such type is likely to exceed 100 kilowatt-hours (or its Btu equivalent) per year.

(2) For purposes of this subsection:

(A) The term "average annual per-household energy use" with respect to a type of product means the estimated aggregate annual energy use (in kilowatt-hours or the Btu equivalent) of consumer products of such type which are used by households in the United States, divided by the number of such households which use products of such type.

(B) The Btu equivalent of one kilowatt-hour is 3,412 British thermal units.

(C) The term "household" shall be defined under rules of the Administrator.

TEST PROCEDURES

SEC. 323. (a) (1) The Administrator shall, during the 30-day period which begins on the date of enactment of this Act, afford interested persons an opportunity to present written data, views, and arguments with respect to test procedures to be developed for covered products of each of the types specified in paragraphs (1) through (13) of section 322(a).

(2) The Administrator shall direct the National Bureau of Standards to develop test procedures for the determination of (A) estimated annual operating costs of covered products of the types specified in paragraphs (1) through (13) of section 322(a), and (B) at least one other useful measure of energy consumption of such products which the Administrator determines is likely to assist consumers in making purchasing decisions.

(3) Except as provided in paragraph (6), the Administrator shall publish proposed test procedures with respect to all covered products of each of the types specified in paragraphs (1) through (13) of section 322(a), and shall afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such proposed test procedures. Such comment period shall not be less than 45 days. Such proposed test procedures shall be published not later than June 30, 1976, except that (A) in the case of covered products of the types specified in paragraphs (7) and (9) of section 322(a), such proposed test procedures shall be published not later than September 30, 1976, and (B) in the case of covered products of the types specified in paragraphs (10) and (13) of section 322(a), such proposed test procedures shall be published not later than June 30, 1977.

(4) (A) Except as provided in paragraph (6), the Administrator shall prescribe test procedures for the determination of (i) estimated annual operating costs of all covered products of each of the types specified in paragraphs (1) through (13) of section 322(a), and (ii) at least one other measure of energy consumption of such products which the Administrator determines is likely to assist consumers in making purchasing decisions.

(B) Such test procedures shall be prescribed not later than September 30, 1976, except that (i) in the case of covered products of the types specified in paragraphs (7) and (9) of section 322(a), such procedures shall be prescribed not later than December 31, 1976, and (ii) in the case of covered products of the types specified in paragraphs (10) through (13) of section 322(a), such test procedures shall be published not later than September 30, 1977.

(5) If the Administrator has classified a type of product as a covered product under section 322(b), the Administrator may, after affording interested persons an opportunity to comment, direct the National Bureau of Standards to develop, and may publish proposed test procedures for such type of covered product (or class thereof). The Administrator shall afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such proposed test procedures. Such comment period shall not be less than 45 days. The Administrator may thereafter prescribe test procedures in accordance with subsection (b) of this section with respect to such type or class of product, if the Administrator or the Commission determines that—

(A) the application of subsection (c) to such type of covered product (or class thereof) will assist consumers in making purchasing decisions, or

(B) labeling in accordance with section 324 will assist purchasers in making purchasing decisions.

(6) The Administrator may delay the publication of proposed test procedures or the prescription of test procedures for a type of covered product (or class thereof) beyond the dates specified in paragraph (3), or (4), if he determines that he cannot, within the applicable time period, publish proposed test procedures or prescribe test procedures applicable to such type (or class thereof) which meet the requirements of subsection (b), and publishes such determination in the Federal Register. In any such case, he shall publish proposed test procedures or prescribe test procedures for covered products of such type (or class thereof) as soon as practicable, unless he determines that test procedures cannot be developed which meet the requirements of subsection (b) and publishes such determination in the Federal Register, together with the reasons therefor.

(b) (1) Any test procedures prescribed under this section shall be reasonably designed to produce test results which reflect energy efficiency, energy use, or estimated annual operating cost of a covered product during a representative average use cycle (as determined by the Administrator), and shall not be unduly burdensome to conduct.

(2) If the test procedure is a procedure for determining estimated annual operating costs, such procedure shall provide that such costs shall be calculated from measurements of energy use in a representative average-use cycle (as determined by the Administrator), and from representative average unit costs of the energy needed to operate such product during such cycle. The Administrator shall

provide information to manufacturers respecting representative average unit costs of energy.

(c) Effective 90 days after a test procedure rule applicable to a covered product is prescribed under this section, no manufacturer, distributor, retailer, or private labeler may make any representation—

(1) in writing including a representation on a label), or

(2) in any broadcast advertisement,

respecting the energy consumption of such product or cost of energy consumed by such product, unless such product has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

LABELING

SEC. 324. (a)(1) The Commission shall prescribe labeling rules under this section applicable to all covered products of each of the types specified in paragraphs (1) through (9) of section 322(a), except to the extent that, with respect to any such type (or class thereof)—

(A) the Administrator determines under the second sentence of section 323(a)(6) that test procedures cannot be developed which meet the requirements of section 323(b); or

(B) the Commission determines under the second sentence of subsection (b)(5) that labeling in accordance with this section is not technologically or economically feasible.

(2) The Commission shall prescribe labeling rules under this section applicable to all covered products of each of the types specified in paragraphs (10) through (13) of section 322(a), except to the extent that with respect to any such type (or class thereof)—

(A) the Administrator determines under the second sentence of section 323(a)(6) that test procedures cannot be developed which meet the requirements of section 323(b); or

(B) the Commission determines under the second sentence of subsection (b)(5) that labeling in accordance with this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions.

(3) The Commission may prescribe a labeling rule under this section applicable to covered products of a type specified in paragraph (14) of section 322(a) (or a class thereof) if—

(A) the Commission or the Administrator has made a determination with respect to such type (or a class thereof) under section 323(a)(5)(B),

(B) the Administrator has prescribed test procedures under section 323(a)(5) for such type (or class thereof), and

(C) the Commission determines with respect to such type (or class thereof) that application of labeling rules under this section to such type (or class thereof) is economically and technologically feasible.

(4) Any determination under this subsection shall be published in the Federal Register.

(b)(1) Not later than 30 days after the date on which a proposed test procedure applicable to a covered product of any of the types specified in paragraphs (1) through (14) of section 322(a) (or class thereof) is published under section 323(a), the Commission shall publish a proposed labeling rule applicable to such type (or class thereof).

(2) The Commission shall afford interested persons an opportunity to present written or oral data, views, and comments with respect to the proposed labeling rules published under paragraph (1). The period for such presentations shall not be less than 45 days.

(3) Not earlier than 45 days nor later than 60 days after the date on which test procedures are prescribed under section 323 with respect to covered products of any type (or class thereof) specified in paragraphs (1) through (13) of section 322(a), the Commission shall prescribe labeling rules with respect to covered products of such type (or class thereof). Not earlier than 45 days after the date on which test procedures are prescribed under section 323 with respect to covered products of a type specified in paragraph (14) of section 322(a), the Commission may prescribe labeling rules with respect to covered products of such type (or class thereof).

(4) A labeling rule prescribed under paragraph (3) shall take effect not later than 3 months after the date of prescription of such rule, except that such rules may take effect not later than 6 months after such date of prescription if the Commission determines that such extension is necessary to allow persons subject to such rules adequate time to come into compliance with such rules.

(5) The Commission may delay the publication of a proposed labeling rule, or the prescription of a labeling rule, beyond the dates specified in paragraph (1) or (3), if it determines that it cannot publish proposed labeling rules or prescribe labeling rules which meet the requirements of this section on or prior to the date specified in the applicable paragraph and publishes such determination in the Federal Register, together with the reasons therefor. In any such case, it shall publish proposed labeling rules or prescribe labeling rules for covered products of such type (or class thereof) as soon as practicable unless it determines (A) that labeling in accordance with this section is not economically or technically feasible, or (B) in the case of a type specified in paragraphs (10) through (13) of section 322(a), that labeling in accordance with this section is not likely to assist consumers in purchasing decisions. Any such determination shall be published in the Federal Register, together with the reasons therefor. This paragraph shall not apply to the prescription of a labeling rule with respect to covered products of a type specified in paragraph (14) of section 322(a).

(c)(1) Subject to paragraph (6), a rule prescribed under this section shall require that each covered product in the type or class of covered products to which the rule applies bear a label which discloses—

(A) the estimated annual operating cost of such product (determined in accordance with test procedures prescribed under section 323), except that if—

(i) the Administrator determines that disclosure of estimated annual operating cost is not technologically feasible, or

(ii) the Commission determines that such disclosure is not likely to assist consumers in making purchasing decisions or is not economically feasible,

the Commission shall require disclosure of a different useful measure of energy consumption (determined in accordance with test procedures prescribed under section 323); and

(B) information respecting the range of estimated annual operating costs for covered products to which the rule applies; except that if the Commission requires disclosure under subparagraph (A) of a measure of energy consumption different from estimated annual operating cost, then the label shall disclose the range of such measure of energy consumption of covered products to which such rule applies.

(2) A rule under this section shall include the following:

(A) A description of the type or class of covered products to which such rule applies.

(B) Subject to paragraph (6), information respecting the range of estimated annual operating costs or other useful measure of energy consumption (determined in such manner as the rule may prescribe) for such type or class of covered products.

(C) A description of the test procedures under section 323 used in determining the estimated annual operating costs or other measure of energy consumption of the type or class of covered products.

(D) A prototype label and directions for displaying such label.

(3) A rule under this section shall require that the label be displayed in a manner that the Commission determines is likely to assist consumers in making purchasing decisions and is appropriate to carry out this part. The Commission may permit a tag to be used in lieu of a label in any case in which the Commission finds that a tag will carry out the purposes for which the label was intended.

(4) A rule under this section applicable to a covered product may require disclosure, in any printed matter displayed or distributed at the point of sale of such product, of any information which may be required under this section to be disclosed on the label of such product. Requirements under this paragraph shall not apply to any broadcast advertisement or any advertisement in any newspaper, magazine, or other periodical.

(5) The Commission may require that a manufacturer of a covered product to which a rule under this section applies—

(A) include on the label,

(B) separately attach to the product, or

(C) ship with the product.

additional information relating to energy consumption, if the Commission determines that such additional information would assist consumers in making purchasing decisions or in using such product, and that such requirement would not be unduly burdensome to manufacturers.

(6) The Commission may delay the effective date of the requirement specified in paragraph (1)(B) of this subsection applicable to a type or class of covered product, insofar as it requires the disclosure on the label of information respecting range of a measure of energy consumption, for not more than 12 months after the date on which the rule under this section is first applicable to such type or class, if the Commission determines that such information will not be available within an adequate period of time before such date.

(d) A rule under this section (or an amendment thereto) shall not apply to any covered product the manufacture of which was completed prior to the effective date of such rule or amendment, as the case may be.

(e) The Administrator, in consultation with the Commission, shall study consumer products for which labeling rules under this section have not been proposed, in order to determine (1) the aggregate energy consumption of such products, and (2) whether the imposition of labeling requirements under this section would be feasible and useful to consumers in making purchasing decisions. The Administrator shall include the results of such study in the annual report under section 338.

(f) The Administrator and the Commission shall consult with each other on a continuing basis as may be necessary or appropriate to carry out their respective responsibilities under this part. Before the Commission makes any determination under subsection (a) (1) or (2), it shall obtain the views of the Administrator and shall take such views into account in making such determination.

(g) Until such time as labeling rules under this section take effect with respect to a type or class of covered product, this section shall not affect any authority of the Commission under the Federal Trade Commission Act to require labeling with respect to energy consumption of such type or class of covered product.

ENERGY EFFICIENCY STANDARDS

SEC. 325. (a)(1)(A) Not later than 180 days after the date of enactment of this Act, the Administrator shall, by rule, prescribe an energy efficiency improvement target for each type of covered product specified in paragraphs (1) through (10) of section 322(a).

(B) The targets prescribed under subparagraph (A) shall be designed so that, if met, the aggregate energy efficiency of covered products of all types specified in paragraphs (1) through (10) of section 322(a) which are manufactured in calendar year 1980 will exceed the aggregate energy efficiency achieved by products of all such types manufactured in calendar year 1972 by a percentage which is the maximum percentage improvement which the Administrator determines is economically and technologically feasible, but which in any case is not less than 20 percent.

(2) Not later than one year after the date of enactment of this Act, the Administrator shall, by rule, prescribe an energy efficiency improvement target for each type of covered products specified in paragraphs (11), (12), and (13) of section 322(a). Each such target shall be designed to achieve the maximum improvement in energy efficiency which the Administrator determines is economically and technologically feasible to attain for each such type manufactured in calendar year 1980.

(3) The Administrator may, from time to time, by rule, modify any energy efficiency improvement target prescribed under paragraph (1) or (2) so long as such target, as modified, meets the applicable requirements of paragraph (1) or (2).

(4)(A) The Administrator shall require each manufacturer of covered products of the types specified in paragraphs (1) through (13) of section 332(a) to submit such reports, with respect to improvement of energy efficiency of such products, as the Administrator determines may be necessary to establish targets under this subsection or to ascertain whether covered products of any such type will achieve the percentage improvement prescribed by the energy efficiency improvement target for such type.

(B) If, on the basis of the reports received under subparagraph (A) or other information available to the Administrator, he determines that an energy efficiency improvement target applicable to any type of covered product specified in paragraphs (1) through (13) of section 322(a) is not likely to be achieved, the Administrator shall commence a proceeding under subsection (b) to prescribe an energy efficiency standard for such type.

(C) If, in a proceeding required to be commenced under subparagraph (B), the Administrator determines with respect to the type of product to which the proceeding relates (or class thereof)—

(i) improvement of energy efficiency of covered products of such type (or class thereof) is technologically feasible and economically justified, and

(ii) the application of a labeling rule under section 324 applicable to such type (or class thereof) is not likely to be sufficient to induce manufacturers to produce, and consumers and other persons to purchase, covered products of such type (or class thereof) which achieve the maximum energy efficiency which it is technologically feasible to attain, and which is economically justified,

the Administrator shall prescribe an energy efficiency standard for such type (or, if the determinations are made with respect to one or more classes of such type, for such class or classes).

(D) For purposes of subparagraph (B), improvement of energy efficiency is economically justified if it is economically feasible the benefits of reduced energy consumption, and the savings in operating costs throughout the estimated average life of the covered product, outweigh—

(i) any increase to purchasers in initial charges for, or maintenance expenses of, the covered product which is likely to result from the imposition of the standard,

(ii) any lessening of the utility or the performance of the covered product, and

(iii) any negative effects on competition

(E) For purposes of subparagraph (D)(iii), the Administrator shall not determine that there are any negative effects on competition, unless the Attorney General (on request of the Administrator, the Commission, or any person, or his own motion) makes such determination and submits it in writing to the Administrator, together with his analysis of the nature and extent of such negative effects. The determination of the Attorney General shall be available for public inspection.

(5) The Administrator may (without regard to paragraphs (1) through (4)(B)) commence a proceeding to prescribe an energy efficiency standard applicable to any type or class of covered product (other than a consumer product classified as a covered product under section 322(b)). In such proceeding he may prescribe such a standard if he makes the determinations specified in clauses (i) and (ii) of paragraph (4)(C)) of this subsection.

(b) Any energy efficiency standard shall be prescribed in accordance with the following procedure:

(1) The Administrator shall (A) publish an advance notice of proposed rulemaking which specifies (i) the type or class of covered products to which the rule will apply, and (ii) the energy efficiency level which the Administrator proposes to require by such energy efficiency standard, and (B) invite interested persons to submit, within 90 days after the date of publication of such advance notice—

(i) written or oral presentations of data, views, and argument as to the proposed level of energy efficiency, and

(ii) a proposed energy efficiency standard applicable to such type or class of covered product.

(2} A proposed rule which prescribes an energy efficiency standard for a type or class of covered products may not be prescribed earlier than 120 days after the date of publication of advance notice of proposed rulemaking for such type or class.

(3) A rule prescribing an energy efficiency standard for a class or type of covered product may not be published earlier than 60 days after the date of publication of the proposed rule under this section for such type or class. Such rule shall take effect not earlier than 180 days after the date of its publication in the Federal Register. Such rule (or any amendment thereto) shall not apply to any covered product the manufacture of which was completed prior to the effective date of the rule or amendment as the case may be.

(c) An energy efficiency standard prescribed under this section shall include test procedures prescribed in accordance with section 323, and may include any requirement which the Administrator determines is necessary to assure that each covered product to which such standard applies meets the required minimum level of energy efficiency specified in such standard.

(d) A rule with respect to any type or class of covered product prescribed under this section may not take effect unless a rule under section 324 with respect to such type or class of covered product has been in effect at least 18 months prior to the effective date of the rule under this section.

REQUIREMENTS OF MANUFACTURERS

SEC. 326. (a) Each manufacturer of a covered product to which a rule under section 324 applies shall provide a label which meets, and is displayed in accordance with, the requirements of such rule. If such manufacturer or any distributor, retailer, or private labeler of such product advertises such product in a catalog from which it may be purchased, such catalog shall contain all information required to be displayed on the label, except as otherwise provided by rule of the Commission. The preceding sentence shall not require that a catalog contain information respecting a covered product if the distribution of such catalog commenced before the effective date of the labeling rule under section 324 applicable to such product.

(b)(1) Each manufacturer of a covered product to which a rule under section 324 applies shall notify the Commission, not later than 60 days after the date such rule takes effect, of the models in current production (and starting serial numbers of those models) to which such rule applies.

(2) If requested by the Administrator or Commission, the manufacturer of a covered product to which a rule under section 324 applies shall provide, within 30 days of the date of the request, the data from which the information included on the label and required by the rule was derived. Data shall be kept on file by the manufacturer for a period specified in the rule.

(3) When requested by the Commission, the manufacturer of covered products to which a rule under section 324 applies shall supply at his expenses a reasonable number of such covered products to any laboratory designated by the Commission for the purpose of ascertaining whether the information set out on the label, as required under section 324, is acurate. Any reasonable charge levied by the laboratory for such testing shall be borne by the United States.

(4) Each manufacturer of a covered product to which a rule under section 324 applies shall annually, at a time specified by the Commission, supply to the Commission relevant data respecting energy consumption developed in accordance with the test procedures applicable to such product under section 323.

(5) A rule under section 323, 324, or 325 may require the manufacturer or his agent to permit a representative designated by the Commission or the Administrator to observe any testing required by this part and inspect the results of such testing.

(c) Each manufacturer shall use labels reflecting the range data required to be disclosed under section 324(c)(1)(B) after the expiration of 60 days following the date of publication of any revised table of ranges unless the rule under section 324 provides for a later date. The Commission may not require labels be changed to reflect revised tables of ranges more often than annually.

EFFECT ON OTHER LAW

SEC. 327. (a) This part supersedes any State regulation insofar as such State regulation may now or hereafter provide for—

(1) the disclosure of information with respect to any measure of energy consumption of any covered product—

(A) if there is any rule under section 323 applicable to such covered product, and such State regulation requires testing in any manner other than that prescribed in such rule under section 323, or

(B) if there is a rule under section 324 applicable to such covered product and such State regulation requires disclosure of informaiton other than information disclosed in accordance with such rule under section 324; or

(2) any energy efficiency standard or similar requirement with respect to energy efficiency or energy use of a covered product—

(A) if there is a standard under section 325 applicable to such product, and such State regulation is not identical to such standard, or

(B) if there is a rule under section 323 or 324 applicable to such product and such State regulation requires testing in accordance with test procedrues which are not identical to the test procedures specified in such rule.

(b)(1) If a State regulation provides for an energy efficiency standard or similar requirement respecting energy use or energy efficiency of a covered product and if such State regulation is not superseded by subsection (a)(2), then any person subject to such State regulation may petition the Administrator for the prescription of a rule under this subsection which supersedes such State regulation in whole or in part. The Administrator shall, within 6 months after the date such a petition is filed, either deny such petition or prescribe a rule under this subsection superseding such State regulation. The Administrator shall issue such a rule with respect to a State regulation if and only if the petitioner demonstrates to the satisfaction of the Administrator that—

(A) there is no significant State or local interest sufficient to justify such State regulation; and

(B) such State regulation unduly burdens interstate commerce.

(2) Notwithstanding the provisions of subsection (a), any State regulation which provides for an energy efficiency standard or similar requirement respecting energy use or energy efficiency of a covered product shall not be superseded by subsection (a) if the State prescribing such standard demonstrates and the Administrator finds, by rule that—

(A) there is a substantial State or local need which is sufficient to justify such State regulation;

(B) such State regulation does not unduly burden interstate commerce; and

(C) if there is a Federal energy efficiency standard applicable to such product, such State regulation contains a more stringent energy efficiency standard than the corresponding Federal standard.

(c) Notwithstanding the provisions of subsection (a), any State regulation which sets forth procurement standards for a State (or political subdivision thereof) shall not be superseded by the provisions of this part if such State standards are more stringent than the corresponding Federal standards.

(d) For purposes of this section, the term "State regulation" means a law or regulation of a State or political subdivision thereof.

(e) Any disclosure with respect to energy use, energy efficiency, or estimated annual operating cost, which is required to be made under the provisions of this part, shall not create an express or implied warranty under State or Federal law that such energy efficiency will be achieved, or that such energy use or estimated annual operating cost will not be exceeded, under conditions of actual use.

RULES

SEC. 328. The Commission and the Administrator may each issued such rules as each deems necessary to carry out the provisions of this part.

AUTHORITY TO OBTAIN INFORMATION

SEC. 329. (a) For purposes of carrying out this part, the Commission and the Administrator may each sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant books, records, papers, and other documents, and may each administer oaths. Witnesses summoned under the provisions of this section shall be paid the same fees and mileage as are paid to witnesses in the courts of the United States. In case of contumacy by, or refusal to obey a subpena served, upon any persons subject to this part, the Commission and the Administrator may each seek an order from the district court of the United States for any district in which such person is found or resides or transacts business requiring such person to appear and give testimony, or to appear and produce documents. Failure to obey any such order is punishable by such court as a contempt thereof.

(b) Any information submitted by any person to the Administrator or the Commission under this part shall not be considered energy information as defined by section 11(e)(1) of the Energy Supply and Environmental Coordination Act of 1974 for purposes of any verification examination authorized to be conducted by the Comptroller General under section 501 of this Act.

EXPORTS

SEC. 330. This part shall not apply to any covered product if (1) such covered product is manufactured, sold, or held for sale for export from the United States (or such product was imported for export), unless such product is in fact distributed in commerce for use in the United States, and (2) such covered product when distributed in commerce, or any container in which it is enclosed when so distribluted, bears a stamp or label stating that such covered product is intended for export.

IMPORTS

SEC. 331. Any covered product offered for importation in violation of section 332 shall be refused admission into the customs territory of the United States under rules issued by the Secretary of the Treasury, except that the Secretary of the Treasury may, by such rules, authorize the importation of such covered product upon such terms and conditions (including the furnishing of a bond) as may appear to him appropriate to ensure that such covered product will not violate section 332, or will be exported or abandoned to the United States. The Secretary of the Treasury shall prescribe rules under this section not later than 180 days after the date of enactment of this Act.

PROHIBITED ACTS

SEC. 332. (a) It shall be unlawful—

(1) for any manufacturer or private labeler to distribute in commerce any new covered product to which a rule under section 324 applies, unless such covered product is labeled in accordance with such rule;

(2) for any manufacturer, distributor, retailer, or private labeler to remove from any new covered product or render illegible any label required to be provided with such product under a rule under section 324;

(3) for any manufacturer to fail to permit access to, or copying of, records required to be supplied under this part, or fail to make reports or provide other information required to be supplied under this part;

(4) for any person to fail to comply with an applicable requirement of section 326 (a), (b)(2), (b)(3), or (b)(5); or

(5) for any manufacturer or private labeler to distribute in commerce any new covered product which is not in conformity with an applicable energy efficiency standard prescribed under this part.

(b) For purposes of this section, the term "new covered product" means a covered product the title of which has not passed to a purchaser who buys such product for purposes other than (1) reselling such product, or (2) leasing such product for a period in excess of one year.

ENFORCEMENT

SEC. 333. (a) Except as provided in subsection (b), any person who knowingly violates any provision of section 332 shall be subject to a civil penalty of not more than $100 for each violation. Such penalties shall be assessed by the Commission, except that penalties for violations of section 332(a)(3) which relate to requirements prescribed by the Administrator, violations of section 332 (a)(4) which relate to requests of the Administrator under section 326(b)(2), or violations of section 332(a)(5) shall be assessed by the Administrator. Civil penalties assessed under this part may be compromised by the agency or officer authorized to assess the penalty, taking into account the nature and degree of the violation and the impact of the penalty upon a particular respondent. Each violation of paragraph (1), (2), or (5) of section 332(a) shall constitute a separate violation with respect to each covered product, and each day of violation of section 332 (a)(3) or (4) shall constitute a separate violation.

(b) As used in subsection (a), the term "knowingly" means (1) the having of actual knowledge, or (2) the presumed having of knowledge deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable upon the exercise of due care.

(c) It shall be an unfair or deceptive act or practice in or affecting commerce (within the meaning of section 5(a)(1) of the Federal Trade Commission Act) for any person to violate section 323(d)(2).

INJUNCTIVE ENFORCEMENT

SEC. 334. The United States district courts shall have jurisdiction to restrain (1) any violation of section 332 and (2) any person from distributing in commerce any covered product which does not comply with an applicable rule under section 324 or 325. Any such action shall be brought by the Commission, except that any such action to restrain any violation of section 332(a)(3) which relates to requirements prescribed by the Administrator, any violation of section 332(a)(4) which relates to requests of the Administrator under section 326(b)(2), or any violation of section 332(a)(5) shall be brought by the Administrator. Any such action may be brought in any United States district court for a district wherein any act, omission, or transaction constituting the violation occurred, or in such court for the district wherein the defendant is found or transacts business. In any action under this section, process may be served on a defendant in any other district in which the defendant resides or may be found.

CITIZEN SUITS

SEC. 335. (a) Except as otherwise provided in subsection (b), any person may commence a civil action against—

(1) any manufacturer or private labeler who is alleged to be in violation of any provision of this part or any rule under this part (excluding sections 325 and 332(a)(5), and rules thereunder); or

(2) any Federal agency which has a responsibility under this part where there is an alleged failure of such agency to perform any act or duty under this part which is not discretionary (excluding any act or duty under section 325 or 332(a)(5).

The United States district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such provision or rule, as the case may be.

(b) No action may be commenced—

(1) under subsection (a)(1)—

(A) prior to 60 days after the date on which the plaintiff has given notice of the violation (i) to the Administrator, (ii) to the Commission, and (iii) to any alleged violator of such provision or rule, or

(B) if the Commission has commenced and is diligently prosecuting a civil action to require compliance with such provision or rule, but, in any such action, any person may intervene as a matter of right.

(2) under subsection (a)(2) prior to 60 days after the date on which the plaintiff has given notice of such action to the Adminitrator and Commission.

Notice under this subsection shall be given in such manner as the Commission shall prescribe by rule.

(c) In such action under this section, the Administrator or the Commission (or both), if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order if any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law seek enforcement of this part or any rule thereunder, or to seek any other relief (including relief against the Administrator or the Commission).

(f) For the purposes of this section, if a manufacturer or private labeler complied in good faith with a rule under this part, then he shall not be deemed to have violated any provision of this part by reason of the alleged invalidity of such rule.

ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

SEC. 336. (a)(1) Rules under sections 323, 324, 325(a) (1), (2), or (3), 327(b), or 328 shall be prescribed in accordance with section 553 of title 5, United States Code, except that—

(A) interested persons shall be afforded an opportunity to present written and oral data, view, and arguments with respect to any proposed rule, and

(B) in the case of a rule under paragraph (1), (2), or (3) of section 325(a), the Administrator shall, by means of conferences or other informal procedures, afford any interested person an oportunity to question—

(i) other interested persons who have made oral presentations under subparagraph (A), and

(ii) employees of the United States who have made written or oral presentations,

with respect to disputed issues of material fact. Such opportunity shall be afforded to the extent the Administrator determines that questioning pursuant to such procedures is likely to result in a more timely and effective resolution of such issues.

A transcript shall be kept of any oral presentations made under this paragraph.

(2) Subsections (c) and (d) of section 18 of the Federal Trade Commission Act shall apply to rules under section 325 (other than subsections (a)(1), (2), and (3)) to the same extent that such subsections apply to rules under section 18(a)(1)(B) of such Act.

(b)(1) Any person who will be adversely affected by a rule prescribed under section 323 or 324 when it is effective may, at any time prior to the sixtieth day after the date such rule is prescribed, file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review thereof. A copy of the petition shall be forthwith transmitted by the clerk of the court to the agency which prescribed the rule. Such agency thereupon shall file in the court the written submissions to, and transcript of, the proceedings on which the rule was based as provided in section 2112 of title 28, United States Code.

(2) Upon the filing of the petition referred to in paragraph (1), the court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriae relief as provided in such chapter. No rule under section 323 or 324 may be affirmed unless supported by substantial evidence.

(3) The judgment of the court affirming or setting aside, in whole or in part, any such rule shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(4) The remedies provided for in the subsection shall be in addition to, and not in substitution for, any other remedies provided by law.

(5) Section 18(e) of the Federal Trade Commission Act shall apply to rules under section 325 (other than subsections (a) (1), (2), and (3)) to the same extent that it applies to rules under section 18(a)(1)(B) of such Act.

CONSUMER EDUCATION

SEC. 337. The Administrator shall, in close cooperation and coordination with the Commission and appropriate industry trade associations and industry members, including retailers, and interested consumer and environmental organizations, carry out a program to educate consumers and other persons with respect to—

(1) the significance of estimated annual operating costs;

(2) the way in which comparative shopping, including comparisons of estimated annual operating costs, can save energy for the Nation and money for consumers; and

(3) such other matters as the Administrator determines may encourage the conservation of energy in the use of consumer products.

Such steps to educate consumers may include publications, audiovisual presentations, demonstrations, and the sponsorship of national and regional conferences involving manufacturers, distributors, retailers, and consumers, and State, local, and Federal Government representatives. Nothing in this section may be construed to require the compilation of lists which compare the estimated annual operating costs of consumer products by model or manufacturer's name.

ANNUAL REPORT

SEC. 338. The Administrator shall report to the Congress and the President either (1) as part of his annual report, or (2) in a separate report submitted annually, on the progress of the program undertaken pursuant to this part and on the energy savings impact of this part.

AUTHORIZATION OF APPROPRIATIONS

SEC. 339. (a) There are authorized to be appropriated to the Administrator not more than the following amounts to carry out his responsibilities under this part—

(1) $1,700,000 for fiscal year 1976;

(2) $1,500,000 for fiscal year 1977; and

(3) $1,500,000 for fiscal year 1978.

(b) There are authorized to be appropriated to the Commission not more than the following amounts to carry out its responsibilities under this part—

(1) $650,000 for fiscal year 1976;

(2) $700,000 for fiscal year 1977; and

(3) $700,000 for fiscal year 1978.

(c) There are authorized to be appropriated to the Administrator to be allocated not more than the following amounts—

(1) $1,100,000 for fiscal year 1976;

(2) $700,000 for fiscal year 1977; and

(3) $700,000 for fiscal year 1978.

Such amounts shall, and any amounts authorized to be appropriate under subsection (a) may, be allocated by the Administrator to the National Bureau of Standards.

PART C—STATE ENERGY CONSERVATION PLANS

FINDINGS AND PURPOSE

SEC. 361. (a) The Congress finds that—

(1) the development and implementation by States of laws, policies, programs, and procedures to conserve and to improve efficiency in the use of energy will have an immediate and substantial effect in reducing the rate of growth of energy demand and in minimizing the adverse social, economic, political, and environmental impacts of increasing energy consumption;

(2) the development and implementation of energy conservation programs by States will most efficiently and effectively minimize any adverse economic or employment impacts of changing patterns of energy use and meet local economic, climatic, geographic, and other unique conditions and requirements of each State; and

(3) the Federal Government has a responsibility to foster and promote comprehensive energy conservation programs and practices by establishing guidelines for such programs and providing overall coordination, technical assistance, and financial support for specific State initiatives in energy conservation.

(b) It is the purpose of this part to promote the conservation of energy and reduce the rate of growth of energy demand by authorizing the Administrator to establish procedures and guidelines for the development and implementation of specific State energy conservation programs and to provide Federal financial and technical assistance to States in support of such programs.

STATE ENERGY CONSERVATION PLANS

SEC. 362. (a) The Administrator shall, by rule, within 60 days after the date of enactment of this Act, prescribe guidelines for the preparation of a State energy conservation feasibility report. The Administrator shall invite the Governor of each State to submit, wihin 3 months after the effective date of such guidelines, such a report. Such report shall include—

(1) an assessment of the feasibility of establishing a State energy conservation goal, which goal shall consist of a reduction, as a result of the implementation the State energy conservation plan described in this section, of 5 percent or more in the total amount of energy consumed in such State in the year 1980 from the projected energy consumption for such State in the year 1980, and

(2) a proposal by such State for the development of a State energy conservation plan to achieve such goal.

(b) The Administrator shall, by rule, within 6 months after the date of enactment of this Act, prescribe guidelines with respect to measures required to be included in, and guidelines for the development, modification, and funding of, State energy conservation plans. The Administrator shall invite the Governor of each State to submit, within 5 months after the effective date of such guidelines, a report. Such report shall include—

(1) a proposed State energy conservation plan designed to result in scheduled progress toward, and achievement of, the State energy conservation goal and such State; and

(2) a detailed description of the requirements, including the estimated cost of implementation and the estimated energy savings, associated with each functional category of energy conservation included in the State energy conservation plan.

(c) Each proposed State energy conservation plan to be eligible for Federal assistance under this part shall include—

(1) mandatory lighting efficiency standards for public buildings (except public buildings owned or leased by the United States);

(2) programs to promote the availability and use of carpools, vanpools, and public transportation (except that no Federal funds provided under this part shall be used for subsidizing fares for public transportation);

(3) mandatory standards and policies relating to energy efficiency to govern the procurement practices of such State and its political subdivisions;

(4) mandatory thermal efficiency standards and insulation requirements for new and renovated buildings (except buildings owned or leased by the United States); and

(5) a traffic law or regulation which, to the maximum extent practicable consistent with safety, permits the operator of a motor vehicle to turn such vehicle right at a red stop light afer stopping.

(d) Each proposed State energy conservation plan may include—

(1) restrictions governing the hours and conditions of operation of public buildings

(except buildings owned or leased by the United States);

(2) restrictions on the use of decorative or nonessential lighting;

(3) transportation controls;

(4) programs of public education to promote energy conservation; and

(5) any other appropriate method or programs to conserve and to improve efficiency in the use of energy.

(e) The Governor of any State may submit to the Administrator a State energy conservation plan which is a standby energy conservation plan to significantly reduce energy demand by regulating the public and private consumption of energy during a severe energy supply interruption, which plan may be separately eligible for Federal assistance under this part without regard to subsections (c) and (d) of this section.

FEDERAL ASSISTANCE TO STATES

SEC. 363. (a) Upon request of the Governor of any State, the Administrator shall provide, subject to the availability of personnel and funds, information and technical assistance, including model State laws and proposed regulations relating to energy conservation, and other assistance in—

(1) the preparation of the reports described in section 362, and

(2) the development, implementation, or modification of an energy conservation plan of such State submitted under section 362 (b) or (e).

(b) (1) The Administrator may grant Federal financial assistance pursuant to this section for the purpose of assisting such State in the development of any such energy conservation plan or in the implementation or modification of a State energy conservation plan or part thereof which has been submitted to and approved by the Administrator pursuant to this part.

(2) In determining whether to approve a State energy conservation plan submitted under section 362(b) or (e), the Administrator—

(A) shall take into account the impact of local economic, climatic, geographic, and other unique conditions and requirements of such State on the opportunity to conserve and to improve efficiency in the use of energy in such State; and

(B) may extend the period of time during which a State energy conservation feasibility report or State energy conservation plan may be submitted if the Administrator determines that preparation by the State submitting such report or plan is likely to result in significant progress toward achieving the purposes of this Act.

(3) In determining the amount of Federal financial assistance to be provided to any State under this subsection, the Administrator shall consider—

(A) the contribution to energy conservation which can reasonably be expected,

(B) the number of people affected by such plan, and

(C) the consistency of such plan with the purposes of this Act, and such other factors as the Administrator deems appropriate.

(c) Each recipient of Federal financial assistance under subsection (b) shall keep such records as the Administrator shall require, including records which fully disclose the amount and disposition by each recipient of the proceeds of such assistance, the total cost of the project or program for which such assistance was given or used, the source and amount of funds for such projects or programs not supplied by the Administrator, and such other records as the Administrator determines necessary to facilitate an effective audit and performance evaluation. The Administrator and Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any pertinent books, documents, papers, and records of any recipient of Federal assistance under this part.

ENERGY CONSERVATION GOALS

SEC. 364. Upon the basis of the reports submitted pursuant to this part and such other information as is available, the Administrator shall, at the earliest practicable date, set an energy conservation goal for each State for 1980 and may set interim goals. Such goal or goals shall consist of the maximum reduction in the consumption of energy during any year as a result of the implementation of the State energy conservation plan described in section 362(b) which is consistent with technological feasibility, financial resources, and economic objectives, by comparison with the projected energy consumption for such State in such year. The Administrator shall specify the assumptions used in the determination of the projected energy consumption in each State, taking into account population trends, economic growth, and the effects of national energy conservation programs.

GENERAL PROVISIONS

SEC. 365. (a) The Administrator may prescribe such rules as may be necessary or appropriate to carry out his authority under this part.

(b) In carrying out the provisions of sections 362 and 364 and subsection (a) of section 363, the Administrator shall consult with appropriate departments and Federal agencies.

(c) The Administrator shall report annually to the President and the Congress, and shall furnish copies of such report to the Governor of each State, on the operation of the program under this part. Such report shall include an estimate of the energy conservation achieved, the degree of State participation and achievement, a description of innovative conservation programs undertaken by individual States, and the recommendations of the Administrator, if any, for additional legislation.

(d) There are authorized to be appropriated for carrying out the provisions of this part $50,000,000 for fiscal year 1976, $50,000,000 for fiscal year 1977, and $50,000,000 for fiscal year 1978.

DEFINITIONS

SEC. 366. As used in this part—

(1) The term "public building" means any building which is open to the public during normal business hours.

(2) The term "transportation controls" means any plan, procedure, method, or arrangement, or any system of incentives, disincentives, restrictions, and requirements, which is designed to reduce the amount of energy consumed in transportation, except that the term does not include rationing of gasoline or diesel fuel.

PART D—INDUSTRIAL ENERGY CONSERVATION

DEFINITIONS

SEC. 371. As used in this part—

(1) The term "chief executive officer" means, within a corporation, the individual whom the Administrator determines, for purposes of this part, is in charge of operations.

(2) The term "corporation" means a person as defined in section 3(2)(B) and includes any person so defined which controls, is controlled by, or is under common control with such person. If a corporation is engaged in more than one major energy-consuming industry, such corporation shall be treated as a separate corporation with respect to each such industry.

(3) The term "energy efficiency" means the amount of industrial output or activity per unit of energy consumed therein, as determined by the Administrator.

(4) The term "major energy-consuming industry" means a two-digit classification, within the manufacturing division of economic activity set forth in the Standard Industrial Classification (SIC) Manual by a code number, which the Administrator determines is suited to the purposes of this part.

PROGRAM

SEC. 372. The Administrator shall establish and maintain, in consultation with the Secretary of Commerce and the Administrator of the Energy Research and Development Administration, a program—

(1) to promote increased energy efficiency by American industry, and

(2) to establish voluntary energy efficiency improvement targets for at least the 10 most energy-consumptive major energy-consuming industries.

IDENTIFICATION OF MAJOR ENERGY CONSUMERS

SEC. 373. Within 90 days after the date of enactment of this Act, the Administrator shall identify each major energy-consuming industry in the United States, and shall establish a priority ranking of such industries on the basis of their respective total annual energy consumption. Within each industry so identified, the Administrator shall identify each corporation which—

(1) consumes at least one trillion British thermal units of energy per year, and

(2) is among the corporations identified by the Administrator as the 50 most energy-consumptive corporations in such industry.

INDUSTRIAL ENERGY EFFICIENCY IMPROVEMENT TARGETS

SEC. 374. (a) Within one year after the date of enactment of this Act, the Administrator shall set an industrial energy efficiency improvement target for each of the 10 most energy-consumptive industries identified under section 373. Each such target—

(1) shall be based upon the best available information,

(2) shall be established at the level which represents the maximum feasible improvement in energy efficiency which such industry can achieve by January 1, 1980, and

(3) shall be published in the Federal Register, together with a statement of the basis and justification for each such target.

(b) In determining maximum feasible improvement under subsection (a) and under subsection (c), the Administrator shall consider—

(1) the objectives of the program established under section 372,

(2) the technological feasibility and economic practicability of utilizing alternative operating procedures and more energy efficient technologies,

(3) any special circumstances or characteristics of the industry for which the target is being set, and

(4) any actions planned or implemented by each such industry to reduce consumption by such industry of petroleum products and natural gas.

(c) The Administrator may, in order to carry out section 372(1), set an industrial energy efficiency improvement target for any major energy-consuming industry to which subsection (a) does not apply. Each such target—

(1) shall be based upon the best available information,

(2) shall be established at the level which represents the maximum feasible improvement in energy efficiency which such industry can achieve by January 1, 1980, and

(3) shall be published in the Federal Register, together with a statement of the basis and justification for each such target.

(d) Any target established under subsection (a) or (c) may be modified at any time if the Administrator—

(1) determines that such target cannot reasonably be attained, or could reasonably be made more stringent, and

(2) publishes such determination in the Federal Register, together with a statement of the basis and justification for such modification.

REPORTS

SEC. 375. (a) The chief executive officer (or individual designated by such officer) of each corporation which is identified by the Administrator pursuant to section 373, and which is in an industry for which an industrial energy efficiency improvement target has been set under section 374(a), shall report to the Administrator not later than January 1, 1977, and annually thereafter, on the progress which such corporation has made in improving its energy efficiency. Such report shall contain such information as the Administrator determines is necessary to measure progress toward meeting the energy efficiency improvement target set for the industry of which such corporation is a part, except that the Administrator shall not require such report if such corporation is in an industry which has an adequate voluntary reporting program (as defined by section 376(g)).

(b) The Administrator shall prepare, publish, and make available, for use in complying with the reporting requirements under subsection (a), a simple forum which shall be designed in such a way as to avoid imposing an undue burden on any corporation which is required to submit reports under subsection (a).

(c) The Administrator shall prepare and submit to the Congress and to the President, and shall cause to be published, an annual report on the industrial energy efficiency program established under section 372. Each such report shall include—

(1) a summary of the progress made toward the achievement of the industrial energy efficiency improvement targets set by the Administrator; and

(2) a summary of the progress made toward meeting such industrial energy efficiency improvement targets since the date of publication of the previous such report, if any.

GENERAL PROVISIONS

SEC. 376. (a) The district courts of the United States shall have jurisdiction, upon petition, to issue an order to the chief executive officer of any corporation subject to the reporting requirements of section 375(a), requiring such person to comply forthwith. Failure to obey such an order shall be treated by any such court as a contempt thereof.

(b) In addition to the exercise of authority under this part, the Administrator may exercise any authority he has under any provision of law (other than this part) to obtain such information with respect to industrial energy efficiency and industrial energy conservation as is necessary or appropriate to the attainment of the objectives of the program established under section 372.

(c) The Administrator shall afford interested persons an opportunity to submit written and oral data, views, and arguments prior to the establishment of any industrial energy efficiency improvement target under section 374 and prior to publication of any reporting requirements under section 375.

(d) Any information submitted by a corporation to the Administrator under this part shall not be considered energy information, as defined by section 11(e)(1) of the Energy Supply and Environmental Coordination Act of 1974, for purposes of any verification examination authorized to be conducted by the Comptroller General under section 501 of this Act.

(e) The Administrator may not disclose any information obtained under this part which is a trade secret or other matter described in section 552(b)(4) of title 5, United States Code, disclosure of which may cause significant competitive damage; except to committees of Congress upon request of such committees. Prior to disclosing any information described in such section 552(b)(4), the Administrator shall afford the person who provides such information an opportunity to comment on the proposed disclosure.

(f) No liability shall attach, and no civil or criminal penalties may be imposed, for any failure to meet any industrial energy efficiency improvement target established under section 374 of this Act.

(g)(1) The Administrator shall exempt a corporation from the requirements of section 375(a) if such corporation is in an industry which has an adequate voluntary reporting program, as determined by the Administrator annually after notice and opportunity for interested persons to comment. An industry's voluntary reporting program shall be determined to be adequate only if—

(A) each corporation within such industry which is identified under section 373 fully participates in such program;

(B) all information deemed necessary by the Administrator for purposes of evaluating the progress made by such industry in achieving the industry energy efficiency improvement target set forth under section 374 is provided to the Administrator; and

(C) reports made to a trade association or other person, in connection with such program, are retained for a reasonable period of time and are available to the Administrator.

(2) If the Administrator determines that an industry's voluntary reporting program is not adequate solely on the basis that any corporation within such industry is not fully participating in such program, he shall exempt from the requirements of section 275(a) only those corporations which fully participate in such program.

(h) Nothing in this part shall limit the authority of the Administrator to require reports of energy information under any other law.

PART E—OTHER FEDERAL ENERGY CONSERVATION MEASURES

FEDERAL ENERGY CONSERVATION PROGRAMS

SEC. 381. (a)(1) The President shall, to the extent of his authority under other law, establish or coordinate Federal agency actions to develop mandatory standards with respect to energy conservation and energy efficiency to govern the procurement policies and decisions of the Federal Government and all Federal agencies, and shall take such steps as are necessary to cause such standards to be implemented.

(2) The President shall develop and, to the extent of his authority under other law, implement a 10-year plan for energy conservation with respect to buildings owned or leased by an agency of the United States. Such plan shall include mandatory lighting efficiency standards, mandatory thermal efficiency standards and insulation requirements, restrictions on hours of operation, thermostat controls, and other conditions of operation, and plans for replacing or retrofitting to meet such standards.

(b)(1) The Administrator shall establish and carry out a responsible public education program—

(A) to encourage energy conservation and energy efficiency; or

(E) to promote van pooling and carpooling arrangements.

(2) For purposes of this subsection:

(A) The term "van" means any automobile which the Administrator determines is manufactured primarily for use in the transportation of not less than 8 individuals and not more than 15 individuals.

(B) The term "van pooling arrangement" means an arrangement for the transportation of employees between their residences or other designated locations and their place of employment on a nonprofit basis in which the operating costs of such arrangement are paid for by the employees utilizing such arrangement.

(c) The President shall submit to the Congress an annual report concerning all steps taken under subsections (a) and (b).

ENERGY CONSERVATION IN POLICIES AND PRACTICES OF CERTAIN FEDERAL AGENCIES

SEC. 382. (a)(1) The Civil Aeronautics Board, the Interstate Commerce Commission, the Federal Maritime Commission, the Federal Power Commission, and the Federal Aviation Administration shall each conduct a study and shall each report to the Congress within 60 days after the date of enactment of this Act with respect to energy conservation policies and practices which such agencies have instituted subsequent to October 1973.

(2) Each of the agencies specified in paragraph (1) shall, within 120 days after the date of enactment of this Act, report to the Congress with respect to the content and feasibility of proposed programs for additional savings in energy consumption by the persons regulated by each such agency which have as a minimum goal a 10-percent reduction, within 12 months of the institution of such programs, in energy consumption from the amount of energy consumed during calendar 1972, including any legislative recommendations each such agency finds are necessary to achieve such goal.

(3) Each of the agencies specified in paragraph (1) shall conduct a study and prepare a report with respect to any requirement of any law administered by such agency or any major regulatory action which the agency determines has the effect of requiring, permitting, or inducing the inefficient use of petroleum products, coal, natural gas, electricity, and other forms of energy, together with a statement of the need, purpose, or justification of any such requirement or such action. Each such report shall be submitted to the Congress within one year after the date of enactment of this Act.

(b) Except as provided in subsection (c), each of the agencies specified in subsection (a)(1) shall, where practicable and consistent with the exercise of their authority under other law, include in any major regulatory action (as defined by rule by each such agency) taken by each such agency, a statement of the probable impact of such major regulatory action on energy efficiency and energy conservation.

(c) Subsection (b) shall not apply to any authority exercised under any provision of law designed to protect the public health or safety.

FEDERAL ACTIONS WITH RESPECT TO RECYCLED OIL

SEC. 383. (a) The purposes of this section are—

(1) to encourage the recycling of used oil;

(2) to promote the use of recycled oil;

(3) to reduce consumption of new oil by promoting increased utilization of recycled oil; and

(4) to reduce environmental hazards and wasteful practices associated with the disposal of used oil.

(b) As used in this section:

(1) the term "used oil" means any oil which has been refined from crude oil, has been used, and as a result of such use has been contaminated by physical or chemical impurities.

(2) The term "recycled oil" means—

(A) used oil from which physical and chemical contaminants acquired through use have been removed by re-refining or other processing, or

(B) any blend of oil, consisting of such re-refined or otherwise processed used oil and new oil or additives, with respect to which the manufacturer has determined, pursuant to the rule prescribed under subsection (d)(1)(A)(i), is substantially equivalent to new oil for a particular end use.

(3) The term "new oil" means any oil which has been refined from crude oil and has not been used, and which may or may not contain additives. Such term does not include used oil or recycled oil.

(4) The term "manufacturer" means any person who re-refines or otherwise processes used oil to remove physical or chemical impurities acquired through use or who blends such re-refined or otherwise processed used oil with new oil or additives.

(5) The term "Commission" means the Federal Trade Commission.

(c) As soon as practicable after the date of enactment of this Act, the National Bureau of Standards shall develop test procedures for the determination of substantial equivalency of re-refined or otherwise processed used oil or blend of oil, consisting of such re-refined or otherwise processed used oil and new oil or additives, with new oil for a particular end use. As soon as practicable after development of such test procedures, the National Bureau of Standards shall report such procedures to the Commission.

(d)(1)(A) Within 90 days after the date on which the Commission receives the report under subsection (c), the Commission shall, by rule, prescribe—

(i) test procedures for the determination of substantial equivalency of re-refined or otherwise processed used oil or blend of oil, consisting of such re-refined or otherwise processed used oil and new oil or additives, with new oil distributed for a particular end use; and

(ii) labeling standards applicable to containers of recycled oil in order to carry out the purposes of this section.

(B) Such labeling standards shall permit any container of recycled oil to bear a label indicating any particular end use for which a determiantion of substantial equivalency has been made pursuant to subparagraph (A)(i).

(2) Not later than the expiration of such 90-day period, the Administrator of the Environmental Protection Agency shall, by rule, prescribe labeling standards applicable to containers of new oil, used oil, and recycled oil relating to the proper disposal of such oils after use. Such standards shall be designed to reduce, to the maximum extent practicable, environmental hazards and wasteful practices associated with the disposal of such oils after use.

(e) Beginning on the effective date of the standards prescribed pursuant to subsection (d)(1)(A)—

(1) no rule or order of the Commision, other than the rules required to be prescribed pursuant to subsection (d)(1)(A), and no law, regulation, or order of any State or political subdivision thereof may apply, or remain applicable, to any container of recycled oil, if such law, regulation, rule, or order requires any container of recycled oil, which container bears a label in accordance with the terms of the rules prescribed under subsection (d)(1)(A), to bear any label with respect to the comparative characteristics of such recycled oil with new oil which is not identical to that permitted by the rule respecting labeling standards prescribed under subsection (d)(1)(A)(ii); and

(2) no rule or order of the Commission may require any container of recycled oil to also bear a label containing any term, phrase, or description which connotes less than substantial equivalency of such recycled oil with new oil.

(f) After the effective date of the rules required to be prescribed under subsection (d)(1)(A), all Federal officials shall act within their authority to carry out the purposes of this section, including—

(1) revising procurement policies to encourage procurement of recycled oil for military and nonmilitary Federal uses whenever such recycled oil is available at prices competitive with new oil procured for the same end use; and

(2) educating persons employed by Federal and State governments and private sectors of the economy of the merits of recycled oil, the need for its use in order to reduce the drain on the Nation's oil reserves, and proper disposal of used oil to avoid waste of such oil and to minimize environmental hazards associated with improper disposal.

TITLE IV—PETROLEUM PRICING POLICY AND OTHER AMENDMENTS TO THE ALLOCATION ACT

PART A—PRICING POLICY

OIL PRICING POLICY

SEC. 401. (a) The Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new sections:

"OIL PRICING POLICY

"SEC. 8. (a) Not later than the first day of the second full calendar month following the date of enactment of this section, the President shall promulgate and make effective an amendment to the regulation under section 4(a) of this Act which regulation, as amended, shall establish ceiling prices (or the manner of determining ceiling prices) applicable to any first sale of crude oil produced in the United States, such that the resulting actual weighted average first sale price for all such crude oil during such calendar month and each of the 39 months thereafter shall not exceed a maximum of $7.66 per barrel (hereinafter in this section referred to as the "maximum weighted average first sale price"), except as may be adjusted pursuant to this section.

"(b)(1) The regulation under section 4(a), as amended pursuant to subsection (a) of this section or by any subsequent amendment thereto, may, subject to the limitations related to the maximum weighted average first sale price and other requirements of this section, provide for different ceiling prices (or manner of determining ceiling prices) for different classifications of crude oil produced in the United States. In providing for different ceiling prices (or the manner for determining such ceiling prices) and classifications for such crude oil, the President shall determine that such ceiling prices (or the manner for determining such ceiling prices) and such classifications—

"(A) are administratively feasible; and

"(B) are justified on the basis that such prices and such classifications are consistent with obtaining optimum production of crude oil in the United States.

"(2) No amendment to the regulation under section 4(a) made after the date of enactment of this section may permit, in any month which begins after such date, an increase in the price for any volume of old crude oil production from any properties, unless the President finds that such amendment—

"(A) will give positive incentives for (i) enhanced recovery techniques, or (ii) deep horizon development, from such properties; or

"(B) is necessary to take into account declining production from such properties; and

"(C) is likely to result in a level of production from such properties beyond that which would otherwise occur if no such amendment were made.

"(3) As used in paragraph (2), the term 'old crude oil production' means that volume of crude oil produced and sold from a property in a month which is equal to or less than the volume of old crude oil, as defined in section 212.72 of title 10, Code of Federal Regulations (as in effect on November 1, 1975), produced and sold from such property in the months of September, October, and November of 1975, divided by 3.

"(c)(1) Not later than 6 months after the effective date of the amendment promulgated under subsection (a), and not later than every 6 months thereafter, the President shall, on the basis of valid and reliable information (which may include information obtained by a valid and reliable sampling technique) of actual first sale prices of domestic crude oil, determine whether and the extent to which the actual weighted average first sale price for crude oil produced in the United States during any 6-month period or portion thereof for which data are available following the effective date of the amendment promulgated under subsection (a) of this section, exceeded or was less than the maximum weighted average first sale price of such crude oil specified in subsection (a) as may be adjusted pursuant to this section.

"(2) If the President finds, pursuant to paragraph (1) of this subsection, that the regulation under section 4(a), as amended, resulted in an actual weighted average first sale price in excess of the maximum weighted average first sale price specified in subsection (a) as adjusted pursuant to this section, he shall amend the regulation to make such compensating adjustments as are necessary to result, in a corresponding period, in an actual weighted average first sale price for domestic crude oil sufficient to offset such excess.

"(3) If the President finds, pursuant to paragraph (1) of this subsection, that the regulation under section 4(a), as amended, resulted in an actual weighted average first sale price less than the maximum weighted average first sale price specified in subsection (a) as adjusted pursuant to this section, he may, notwithstanding the requirements of this section pertaining to such maximum weighted average first sale price, amend the regulation to make such compensating adjustments in the regulation as are necessary to offset the deficiency in a corresponding period.

"(d)(1) The amendment promulgated pursuant to subsection (a) of this section (or any subsequent amendment to the regulation under section 4(a) may provide for an adjustment to the maximum weighted average first sale price specified in subsection (a) such adjustment to begin no earlier than in the calendar month following the first month the amendment is in effect—

"(A) to take into account the impact of inflation as measured by the adjusted GNP deflator; and

"(B) as a production incentive;

except that any adjustment as a production incentive shall not permit an increase in the maximum weighted average first sale price in excess of 3 per centum per annum (compounded annually), unless modified pursuant to this section, and the combined effect of any such adjustments referred to in subparagraphs (A) and (B) shall not result in an increase in the maximum weighted average first sale price in excess of 10 per centum per annum (compounded annually), unless modified pursuant to this section.

"(2) As used in this subsection, the term 'adjusted GNP deflator' means the first revision of the quarterly percent change, seasonally adjusted at annual rates, of the most recent implicit price deflator for the gross national product which shall be computed and published for each calendar quarter by the Department of Commerce, subject to such additional modification as the President shall make to exclude therefrom any amount which he determines is attributable solely and directly to increases which occur after the date of enactment of this section in prices of imported crude oil, residual fuel oil, or any refined petroleum product resulting from concerted action of two or more petroleum exporting countries.

"(3) The adjustment as a production incentive referred to in paragraph (1) (B) may be made only on a finding by the President that such an adjustment is likely to provide positive incentive for—

"(A) the discovery or development of high cost and high risk properties (including new wildcat properties, and properties located on the Outer Continental Shelf, properties located north of the Arctic Circle, deep wells and deep horizons in onshore or offshore properties, and properties operated by independent producers);

"(B) the application of enhanced recovery techniques to producing properties to obtain a level of production higher than would otherwise occur from those properties but for such adjustment; or

"(C) sustaining production from marginal wells, including production from stripper wells.

"(e) (1) Not earlier than 90 days after the effective date of the amendment promulgated under subsection (a) and not earlier than 90 days after the date of any previous submission under this subsection, the President may submit to the Congress, in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act, an amendment to the regulation promulgated under section 4(a) which provides for (A) a production incentive adjustment to the maximum weighted average first sale price in excess of the 3 per centum limitation specified in subsection (d) (1), (B) a combined adjustment limitation in excess of the 10 per centum limitation specified in such subsection, or (C) both.

"(2) Any such amendment shall be accompanied by a finding that an additional adjustment as a production incentive, or a combined adjustment limitation greater than permitted by subsection (d) (1), or both, is necessary to provide a more adequate incentive with respect to the matters referred to in subparagraphs (A), (B), or (C) of subsection (d) (3).

"(3) Any such amendment shall not take effect if either House of Congress disapproves such amendment in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act.

"(f) (1) On February 15, 1977, the President shall submit to the Congress a report containing an analysis of the impact of any amendment adopted pursuant to this section on the economy and on the supply of crude oil, residual fuel oil, and refined petroleum products.

"(2) The President may submit with such report to the Congress, in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act, an amendment to the regulation promulgated under section 4(a) which—

"(A) provides for the continuation or modification of the adjustment as a production incentive (referred to in subsection (d) as may have been amended pursuant to subsection (e));

"(B) provides for a modification of the combined adjustment limitation (referred to in subsection (d), as may have been amended pursuant to subsection (e)); or

"(C) provides for adjustments with respect to both subparagraphs (A) and (B).

"(3) Such amendment shall not take effect if either House of Congress disapproves such amendment in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act.

"(4) If any such amendment is disapproved by either House of Congress, the President may, not later than 30 days after the date of such disapproval, submit one additional amendment in accordance with paragraph (2), which amendment shall not take effect if either House of Congress disapproves such amendment in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act.

"(5) If no amendment to continue or modify the adjustment as a production incentive takes effect, no such adjustment to the maximum weighted average first sale price thereafter may be taken into account in computing such price for any month which begins after (A) the date on which a submission could have been made under paragraph (2) but was not, or (B) the last date on which a submission was disapproved and no further submission pursuant to paragraph (4) could be made, except that the President may, pursuant to the procedures under subsection (e), submit an amendment to the regulation to provide for a prospective reinstatement of such adjustment or of a modification of such adjustment.

"(g) (1) On April 15, 1977, the President shall submit to the Congress a report as to whether the regulation promulgated under section 4(a) and in effect on such date will provide positive price incentives for the development of the domestic crude oil production referred to in paragraph (2) (A) without lessening needed incentives for sustaining or enhancing crude oil production in the remainder of the United States.

"(2) If the President determines that a price required to provide positive price incentives for the development of the domestic crude oil production referred to in paragraph (2) (A) would, because of the maximum weighted average first sale price specified in subsection (a) of this section, as adjusted, have the effect of reducing or limiting ceiling prices permitted for crude oil produced in the remainder of the United States to levels which would result in less production of such crude oil than would otherwise occur, the President may, together with such report, or at any time thereafter not earlier than 90 days after any previous submission under this subsection, except as provided in paragraph (4), submit to the Congress in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act an amendment to the regulation promulgated under section 4(a) which—

"(A) excludes up to 2 million barrels a day of crude oil production transported through the trans-Alaska pipeline from the computation of the maximum weighted average first sale price specified in subsection (a); and

"(B) establishes ceiling prices for a manner of determining prices) for the first sale of crude oil production referred to in subparagraph (A) such that the actual weighted average first sale price for such production will not exceed the highest actual weighted average first sale price permitted under the regulation for significant volumes of any other classification of domestic crude oil.

"(3) Any such amendment shall be accompanied by such findings and supporting rationale as the President determines justify such ceiling prices (or manner for determining such prices). Any amendment submitted to the Congress pursuant to this subsection shall not take effect if either House of Congress disapproves such amendment in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act.

"(4) If any such amendment is disapproved by either House of Congress, the President may not later than 30 days after the date of such disapproval submit one additional amendment in accordance with paragraphs (2) and (3), which amendment shall not take effect if either House of Congress disapproves such amendment in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act.

"(5) If any amendment submitted by the President to the Congress pursuant to this subsection becomes effective, such amendment may thereafter be further amended by the President, subject to the procedures and requirements of paragraphs (2) and (3) of this subsection, except that no such further amendment shall be submitted earlier than January 1, 1978, and thereafter no earlier than 90 days after the date of any previous submission made under this paragraph.

"(h) In any judicial review of an amendment required by this section to be submitted to the Congress in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act, the reviewing court may not hold unlawful or set aside any such amendment on the ground that any findings made by the President were not adequate to meet the requirements of this section or of subparagraph (A), (E), or (F) of section 706(2) of title 5, United States Code.

"PASSTHROUGHS OF PRICE DECREASES

"SEC. 9. Not later than the first day of the second full calendar month following the date of enactment of this section, the regulation under section 4(a) shall provide for a dollar-for-dollar passthrough in prices at all levels of distribution from the producer through the retail level of decreases in the costs of crude oil, residual fuel oil, and refined petroleum products (including decreases in costs which result from a reduction in the price of crude oil produced in the United States because of the amendment to such regulation required under section 8(a)).".

(b) (1) Subsections (d), (e) and (g) of section 4 of the Emergency Petroleum Allocation Act of 1973 are repealed, and subsection (f) of such section 4 is redesignated as subsection "(d)" of such section 4.

(2) Section 4(a) of such Act is amended by (A) striking out "Subject to subsection (f)" and inserting in lieu thereof "Subject to subsection (d)"; and (B) striking out "Except as provided in subsection (e) such" and inserting in lieu thereof "Such".

(3) Section 4(c) of such Act is amended in paragraphs (1), (4), and (5) thereof by striking out "subsections (b) and (d)" wherever is appears and by inserting in lieu thereof in each case "subsection (b)".

(4) Section 406 of Public Law 83–153 is repealed.

(5) The amendments made by paragraphs (1), (2), (3), and (4) of this subsection, to the Emergency Petroleum Allocation Act of 1973, shall take the effect on the effective date of the amendment to the regulation under section 4(a), required by section 8(a) of such Act.

LIMITATIONS ON PRICING POLICY

SEC. 402. (a) Paragraph (2) of section 4(b) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(2) In specifying prices (or prescribing the manner for determining them), the regulation made under subsection (a)—

"(A) shall provide for a dollar-for-dollar passthrough of net increases in the cost of crude oil, residual fuel oil, and refined petroleum products at all levels of distribution from the producer through the retail level;

"(B) (i) it shall not permit any net crude oil increases—

"(I) which are incurred by a refiner during the calendar month immediately preceding the effective date of this paragraph, or in any month thereafter, and

"(II) which are not passed through in prices charged pursuant to such regulation in the 2 calendar months following the calendar month in which such crude oil cost increases were incurred, to be passed through by such refiner in any month subsequent to the 2 calendar months following the calendar month in which such crude oil cost increases were incurred, unless the President makes the findings specified in clause (ii) (II) (aa), and such passthrough is consistent with the requirements specified in clause (ii) (II) (bb).

"(ii) shall not permit the passthrough in any month of—

"(I) any net crude oil cost increases incurred by a refiner not later than the last day of the calendar month which begins two months prior to the effective date of this paragraph and not passed through by the end of the last calendar month prior to the effective date of this paragraph unless such passthrough is not in excess of 10 percent of the total amount of such increased crude oil costs not passed through as of the last day of the last calendar month prior to the effective date of the amendment promulgated under section 8(a); and

"(II) any net crude oil cost increases incurred by a refiner after the effective date of this paragraph, which net crude oil cost increases were not passed through within the 2 calendar months following the calendar month in which such crude oil cost increases were incurred, unless—

"(aa) the President finds, and reports to the Congress with respect to such finding, that a passthrough of such crude oil cost increases is necessary to alleviate the impact on refiners, marketers, or consumers of significant increases in costs, to provide for equitable cost recovery consistent with the attainment, to the maximum extent practicable, of the objective specified in paragraph (1), or to avoid competitive disadvantage; and

"(bb) such passthrough in any month of such crude oil cost increases is not in excess of 10 percent of the total amount of such crude oil cost increases as of the end of the calendar month in which the effective date of this paragraph occurs or any month thereafter;

"(C) shall provide for the use of the same date in the computation of markup, margin, and posted price for all marketers or distributors of crude oil, residual fuel, and refined petroleum products at all levels of marketing and distribution; and

"(D) shall not permit more than a direct proportionate distribution (by volume) to Number 2 oils (Number 2 heating oil and Number 2-D diesel fuel), aviation fuel of a kerosene or naphtha type, and propane produced crude oil, of any increased costs of crude oil incurred by a refiner; except that the President may, by amendment to the regulation under subsection (a) or by order, permit deviation from such proportionate distribution of costs, if the President finds that refinery operations justify such deviation and further finds that to permit such deviation is consistent with the attainment of the objectives in paragraph (1) and would not result in inequitable prices for any class of users of such product.

As used in this paragraph, the term 'effective date of this paragraph' means the effective date specified in section 402(b) of the Energy Policy and Conservation Act.".

(b) The amendment made by this section, to the Emergency Petroleum Allocation Act of 1973, shall take effect on the effective date of the amendment to the regulation under section 4(a), required by section 8(a) of such Act.

(c) The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"LIMITATIONS ON PRICING AUTHORITY

"SEC. 10. The President shall have no authority, under this Act, or under the Energy Policy and Conservation Act, to prescribe minimum prices for crude oil (or any classification thereof), residual fuel oil, or any refined petroleum product.".

ENTITLEMENTS

SEC. 403. (a) Section 4 of the Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following:

"(e) Any provision of the regulation under subsection (a) of this section—

"(1) which requires the purchase of entitlements, or the payment of money through any other similar cash transfer arrangement, the purpose of which is to reduce disparities in the crude oil acquisition costs of domestic refiners, and

"(2) which is based upon the number of barrels of crude oil input, or receipts, or both, of any refiner, shall not apply to the first 50,000 barrels per day of input, or receipts, or both, of any refiner whose total refining capacity (including the refining capacity of any person who controls, is controlled by, or is under common control with such refiner) did not exceed on January 1, 1975, and does not thereafter exceed 100,000 barrels per day. The preceding sentence shall not affect any provisions of the regulation under subsection (a) of this section with respect to the receipt by any small refiner as defined in section 3(4) of payments for entitlements or any other similar cash transfer arrangement.".

(b) Subsection (a) of this section shall apply with respect to payments due on or after the last day of the month during which the date of enactment of this Act occurs.

PART B—OTHER AMENDMENTS TO THE ALLOCATION ACT

AMENDMENTS TO THE OBJECTIVES OF THE ALLOCATION ACT

SEC. 451. (a) Section 4(b)(1)(A) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(A) protection of public health (including the production of pharmaceuticals), safety and welfare (including maintenance of residential heating, such as individual homes, apartments and similar occupied dwelling units), and the national defense;".

(b) Section 4(b)(1)(G) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of, exploration for, and production or extraction of—

"(i) fuels, and

"(ii) minerals essential to the requirements of the United States.

and for required transportation related thereto;".

PENALTIES UNDER THE ALLOCATION ACT

SEC. 452. Section 5 of the Emergency Petroleum Allocation Act of 1973 is amended:

(1) by striking out "sections 205 through 211" in subsection (a)(1) of such section and inserting in lieu thereof "sections 205 through 207 and sections 209 through 211"; and

(2) by adding at the end of subsection (a) of such section the following:

"(3)(A) Whoever violates any provision of the regulation under section 4(a) of this Act, or any order under this Act shall be subject to a civil penalty—

"(i) with respect to activities relating to the production, distribution, or refining of crude oil, of not more than $20,000 for each violation;

"(ii) with respect to activities relating to the distribution of residual fuel oil or any refined petroleum product (other than activities entirely at the retail level), of not more than $10,000 for each violation; and

"(iii) with respect to activities—

(I) entirely relating to the distribution of residual fuel oil or any refined petroleum product at the retail level, or

(II) activities not referred to in clause (i) or (ii) subclause of this clause.

of not more than $2,500 for each violation.

"(B) Whoever willfully violates any provision of such regulation, or any such order shall be imprisoned not more than 1 year, or—

"(i) with respect to activities relating to the production or refining of crude oil, shall be fined not more than $40,000 for each violation;

"(ii) with respect to activities relating to the distribution of residual fuel oil or any refined petroleum product (other than at the retail level), shall be fined not more than $20,000 for each violation;

"(iii) with respect to activities relating to the distribution of residual fuel oil or any refined petroleum product at the retail level or any other person shall be fined not more than $10,000 for each violation;

or both.

"(4) Any individual director, officer, or agent of a corporation who knowingly and willfully authorizes, orders, or performs any of the acts or practices constituting in whole or in part a violation of paragraph (3), shall be subject to penalties under this subsection without regard to any penalties to which that corporation may be subject under paragraph (3) except that no such individual director, officer, or agent shall be subject to imprisonment under paragraph (3), unless he also has knowledge, or reasonably should have known, of notice of noncompliance received by the corporation from the President.".

ANTITRUST PROVISION IN ALLOCATION ACT

SEC. 453. Section 6(c) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(c) There shall be available as a defense to any action brought for breach of contract in any Federal or State court arising out of delay or failure to provide, sell, or offer for sale or exchange crude oil, residual fuel oil, or any refined petroleum product, that such delay or failure was caused solely by compliance with the provisions of this Act or with the regulation or any order with this Act.".

EVALUATION OF REGULATION UNDER THE ALLOCATION ACT

SEC. 454. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"REEVALUATION OF SECTION 4(a) REGULATION

"SEC. 11. (a) Not later than 60 days after the date of enactment of this section, the President shall give appropriate notice and afford interested persons an opportunity to present written and oral data, views, and arguments respecting the appropriateness of, or the continuing need for, the application of any provision of the regulation promulgated under section 4(a) as such provision relates to the attainment of the objectives specified in section 4(b)(1) of section 4. A transcript shall be kept of any such oral presentation of data, views, and argument.

"(b) The President shall, after consideration of such written and oral presentations and such other information as may be available to him—

"(1) analyze such presentations and report thereon to the Congress within 120 days after the date of enactment of this section; and

"(2) shall promulgate, pursuant to the limitations and authority under section 12, such amendment, or amendments, to the regulation promulgated under section 4(a) as he determines are necessary or appropriate—

"(A) to modify any provisions of such regulation in a manner which is consistent with the attainment, to the maximum extent practicable, of objectives specified in section 4(b)(1); or

"(B) to eliminate any provisions of such regulation no longer necessary to provide for the attainment of such objectives.".

CONVERSION TO STANDBY AUTHORITIES

SEC. 455. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"CONVERSION MECHANISM TO STANDBY AUTHORITIES

"SEC. 12. (a) The President may not amend the regulation under section 4(a) in any manner which—

"(1) exempts crude oil produced in the United States from any provision of such regulation required to be made a part of such regulation by section 8; or

"(2) results in makiing such regulation, as so amended, inconsistent with any limitation or other requirement specified in section 8.

"(b) Except as provided in subsection (a), the President may amend the regulation under section 4(a) if he determines that such amendment is consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) and that the regulation, as amended, provides for the attainment, to the maximum extent practicable, of any such objectives.

"(c)(1) Any such amendment which, with respect to a class of persons or class of transactions (including transactions with respect to any market level), exempts crude oil, residual fuel oil, or any refined petroleum product or refined product category from the provisions of the regulation under section 4(a) as such provisions pertain to either (A) the allocation of amounts of any such oil or product, or (B) the specification of price or the manner for determining the price of any such oil or product, or both of the matters described in subparagraphs (A) and (B), may take effect only pursuant to the provisions of this subsection.

"(2) The President shall submit any amendment referred to in paragraph (1) to the Congress in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act. Any such amendment shall be accompanied by a specific statement of the President's rationale for such amendment and the matter described in subsection (d) of this section. Such an amendment—

"(A) may apply only to one oil or one refined product category;

"(B) may apply to the matters specified in either subparagraph (A) or (B) of paragraph (1) of this subsection, or both; and

"(C) may provide for scheduled or phased implementation.

"(3) As used in this section the term 'refined product category's means—

"(A) motor gasoline;

"(B) Number 2 oils (Number 2 heating oil and Number 2-D diesel fuel);

"(C) propane; or

"(D) all or any portion of other refined petroleum products as a class (including natural gas liquids and natural gas liquid products, other than propane).

"(4) Such an amendment shall not take effect if either House of Congress disapproves such amendment in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act.

"(d)(1) The President shall support any amendment described in subsection (b) which is transmitted to the Congress under subsection (c) of this section with a finding that such amendment is consistent with the attainment of the objectives specified in subsection 4(b)(1) and in the case of—

"(A) any exemption described in subsection (c)(1)(A), with a finding that such oil or refined product category is no longer in short supply and that exempting such oil or refined product category will not have an adverse impact on the supply of any other oil or refined petroleum product subject to this Act; and

"(B) any exemption described in subsection (c)(1)(B), with a finding that competition and market forces are adequate to protect consumers and that exempting such oil or refined product category will not result in inequitable prices for any class of users of such oil or product.

"(2) Any amendment which the President submits to the Congress under subsection (c) of this section shall be accompanied—

"(A) by a statement of the President's views as to the potential economic impacts (if any) of such amendment which, where practicable, shall include his views as to—

"(i) the State and regional impacts of such amendment (including effects on governmental units);

"(ii) the effects of such amendment on the availability of conumer goods and services; the gross national product; competition; small business; and the supply and availability of energy resources for use as fuel or as feedstock for industry; and

"(iii) the effects on employment and consumer prices; and

"(B) in the case of an exemption described in subsection (c)(1)(B) of this section, by an analysis of the effects of such amendment on the rate of unemployment for the United States, the Consumer Price Index for the United States, and the implicit price deflator for the gross national product.

"(e) In any judicial review of an amendment required by this section to be submitted to Congress in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act, the reviewing court may not hold unlawful or set aside any such amendment on the ground that any findings made by the President were not adequate to meet the requirements of subsection (c), (d), or (g) of this section or subparagraph (A), (E), or (F), of section 706(2) of title 5, United States Code.

"(f) With respect to any oil or refined product category which is exempted pursuant to the provisions of this section, the President shall have authority at any time thereafter to prescribe a regulation or issue an order respecting either the allocation of amounts, or the specification of price or the manner for determining the price, of any such oil or refined product category upon a determination by him that such regulation or order is necessary to attain, and is consistent with, the objectives specified in section 4(b)(1). Any such oil or refined product category for which allocation or price requirements are reimposed under authority of this subsection may subsequently be exempted without regard to the provisions of subsection (c) of this section.

"(g) Notwithstanding the provisions of subsection (e) of section 4, the President may, if he determines that the exemption from payments for certain small refiners required by such subsection—

"(1) results in unfair economic or competitive advantage with respect to other small refiners; or

"(2) otherwise has the effect of seriously impairing the President's ability to provide in the regulation under section 4(a) for the attainment of the objective specified in section 4(b)(1)(D) and for the attainment of those other objectives specified in section 4(b)(1);

submit, in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act, an amendment to modify the regulation under section 4(a) with respect to the provisions of such regulation as they relate to such exemption. Such amendment shall not take effect if disapproved by either House of Congress under the procedures specified in such section 551".

"TECHNICAL PURCHASE AUTHORITY

SEC. 456. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"TECHNICAL PURCHASE AUTHORITY"

"SEC. 13. (a) The President may, by amendment to the regulation under section 4(a) of this Act, provide for and implement a procedure pursuant to which the United States may exercise the exclusive right to import and purchase all or any part of the crude oil, residual fuel oil, and refined petroleum products of foreign origin for resale in the United States.

"(b) The authorities granted under this section shall not be used for the purpose, or with the effect, of providing a subsidy or preference to any importer, purchaser, or user.

"(c) In exercising any authorities granted under this section, the President shall endeavor to buy and sell without profit or loss, except that the President may, in individual cases, sell, on a competitive bid basis crude oil, residual fuel oil, or any refined petroleum product at a price above or below the cost of such oil or product if, in the judgment of the President, such sales may result in progress toward a lower price for oil sold in international commerce.

"(d) Any amendment to the regulation proposed to be implemented under this section shall be submitted to Congress for review under section 551 of the Energy Policy and Conservation Act, together with a detailed explanation of the procedure to be employed and the need therefor and shall be supported by findings by the President that the exercise of such authority is likely to reduce prices for imported oils and products. Such amendment shall not take effect if disapproved by either House of the Congress in accordance with the procedures in section 551 of such Act and any authority to purchase shall be subject to appropriations Acts.

"(e) The President shall submit, within 90 days after the date of enactment of this section, a report which evaluates the feasibility of reducing the price of crude oil, residual fuel oil, or refined petroleum products or foreign origin for resale in the United States by providing incentives for domestic producers who also import such oils or products into the United States, to work for the reduction of the price of such oils or products. The report shall specifically discuss whether increasing aggregate old crude oil prices by an amount related to any decrease in aggregate prices for such imported oils and products would serve as an incentive for domestic producers to reduce the price of such imported oils and products.".

DIRECT CONTROLS ON REFINERY OPERATIONS

SEC. 457. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"DIRECT CONTROLS ON REFINERY OPERATIONS"

"SEC. 14. The President may, by amendment to the regulation under section 4(a) of this Act or by order, as may be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of this Act, require adjustments in the operations of any refinery in the United States with respect to the proportions of residual fuel oil or any refined petroleum product produced through such operations if he determines such adjustments are necessary to assure the production of residual fuel oil or any refined petroleum product in such proportions as are necessary or appropriate to provide for the attainment, to the maximum extent practicable, the objectives specified in section 4(b)(1).".

INVENTORY CONTROLS

SEC. 458. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"INVENTORY CONTROLS

"SEC. 15. (a) In addition to other authority provided for in this Act to alleviate shortages of crude oil, residual fuel oil, and refined petroleum products, the President may, if he finds an existing or impending regional or national supply shortage of any fuel, by amendment to the regulation under section 4(a) of this Act or by order, consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1), require adjustments in the amounts of crude oil, residual fuel oil or any refined petroleum product which are held in inventory by persons who are engaged in the business of importing, producing, refining, marketing, or distributing such oils or products.

"(b) The authority specified in subsection (a) may be exercised to require either—

"(1) a distribution from such inventories to specified persons or classes of persons at specified rates of distribution or to specified level of inventory accumulation; or

"(2) the accumulation of inventories at specified rates of accumulation or to specified levels.

as the President determines may be necessary or appropriate to provide for the attainment, to the maximum extent practicable, of the objectives of section 4(b)(1) or as the President determines may be necessary or appropriate to carry out the obligations of the United States under the international energy program, as defined in section 3 of the Energy Policy and Conservation Act.

"(c) The authority specified in subsection (a) may require the maintenance of inventories at levels greater or lesser than such person's normal business or operating requirements; except that such amounts shall not exceed the amount of oil or product, as the case may be, such person would use or distribute during any 90-day period of peak usage and in no case may the requirement to accumulate inventories be applied to any person in a manner which would necessitate such person making physical additions to storage facilities in order to comply with any such rule or order.".

HOARDING PROHIBITIONS

SEC. 459. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end theerof the following new section:

"HOARDING PROHIBITIONS

"SEC. 16. Except as may be otherwise provided with respect to persons engaged in the business of producing, refining, distributing, or marketing crude oil, residual fuel oil, or any refined petroleum product pursuant to section 15 or pursuant to requirements under section 156 of the Energy Policy and Conservation Act (relating to the Industrial Strategic Petroleum Reserve), the regulation under section 4(a) shall prohibit any person, during a severe energy supply interruption (as defined in section 3 of the Energy Policy and Conservation Act) from willfully accumulating crude oil, residual fuel oil, or any refined petroleum product in inventories, or otherwise, in amounts which are in excess of such person's reasonable needs (as such term shall be defined in such regulation).".

ASPHALT ALLOCATION AUTHORITY

SEC. 460. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"ASPHALT ALLOCATION AUTHORITY

"SEC. 17. (a) The President may amend the regulation under section 4(a) of this Act to require, in a manner which he finds is consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of this Act, the allocation of asphalt in amounts specified in (or determined in the manner prescribed by), or at prices specified in (or determined in a manner prescribed by) such amendment to the regulation, or both.

"(b) If the President exercises the authority under this section, he may thereafter amend the regulation under section 4(a) to exempt asphalt from such regulation without regard to the provisions of section 12 of this Act.".

EXPIRATION OF AUTHORITIES

SEC. 461. The Emergency Petroleum Allocation Act of 1973 is amended by adding to the end of such Act, as amended by this Act, the following new section:

"EXPIRATION OF AUTHORITIES

"SEC. 18. Notwithstanding any other provision of this Act, at midnight on the conclusion of the 40th month in which the amendment under section 8(a) is in effect, the President's authority to promulgate, make effective, and amend a regulation pursuant to section 4(a) of this Act shall become discretionary rather than mandatory, and the limitations on the President's authority contained in sections 4(b)(2), 8, and 9 of this Act shall terminate. The authority to promulgate and amend any regulation or to issue any order under this Act shall expire at midnight September 30, 1981, but such expiration shall not affect any action or pending proceedings, administrative, civil, or criminal, not finally determined on such date, nor any administrative, civil, or criminal action or proceeding, whether or not pending, based upon any act committed or liability incurred prior to such expiration date.".

REIMBURSEMENT TO STATES

SEC. 462. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"REIMBURSEMENT TO STATES

"SEC. 19. (a) The President is authorized to reimburse any State for expenses incurred by such State in carrying out any responsibilities delegated to such State by the President under the provisions of this Act,

"(b) Such reimbursements may be paid from any funds appropriated for the purpose of carrying out responsibilities under this Act, unless any appropriation Act specifically provides to the contrary.

"(c) Not later than June 1, 1976, the President shall submit a report to the Congress analyzing and detailing the amount and nature of any reimbursements made to any State for expenses described in subsectio (a) incurred prior to such date and specifically recommmending whether authorizations of additional funds for direct grants to States are necessary or appropriate for the continued operation of the reimbursement provisions authorized by this section.".

EFFECTIVE DATE OF ALLOCATION ACT AMENDMENTS

SEC. 463. Execpt as otherwise provided, the amendments made by this Act to the Emergency Petroleum Allocation Act of 1973 shall take effect as of midnight, December 15, 1975.

TITLE V—GENERAL PROVISIONS

PART A—ENERGY DATA BASE AND ENERGY INFORMATION

VERIFICATION EXAMINATION

SEC. 501. (a) The Comptroller General may conduct verification examinations with respect to the books, records, papers, or other documents of—

(1) any person who is required to submit energy information to the Federal Energy Administration, the Department of the Interior, or the Federal Power Commision pursuant to any rule, regulation, order, or other legal process of such Administration, Department, or Commission;

(2) any person who is engaged in the production, processing, refining, transportation by pipeline, or distribution (at other than the retail level) of energy resources—

(A) if such person has furnished, directly or indirectly, energy information (without regard to whether such information was furnished pursuant to legal requirements) to any Federal agency (other than the Internal Revenue Service), and

(B) if the Comptroller General of the United States determines that such information has been or is being used or taken into consideration, in whole or in part, by a Federal agency in carrying out responsibilities committed to such agency; or

(3) any vertically integrated petroleum company with respect to financial information of such company related to energy resource exploration, development, and production and the transportation, refining and marketing of energy resources and energy products.

(b) The Comptroller General shall conduct verification examinations of any person or company described in subsection (a), if requested to do so by any duly established committee of the Congress having legislative or oversight responsibilities under the rules of the House of Representatives or of the Senate, with respect to energy matters or any of the laws administered by the Department of the Interior (or the Secretary thereof), the Federal Power Commission, or the Federal Energy Administration (or the Administrator).

(c) For the purposes of this title—

(1) The term "verification examination" means an examination of such books, records, papers, or other documents of a person or company as the Comptroller General determines necessary and appropriate to assess the accuracy, reliability, and adequacy of the energy information, or financial information, referred to in subsection (a).

(2) The term "energy information" has the same meaning as such term has in section 11(e)(1) of the Energy Supply and Environmental Coordination Act of 1974.

(3) The term "person" has the same meaning as such term has in section 11(e)(2) of the Energy Supply and Environmental Coordination Act of 1974.

(4) The term "vertically integrated petroleum company" means any person which itself, or through a person which is controlled by, controls, or is under common control with such person, is engaged in the production, refining, and marketing of petroleum products.

POWERS OF THE COMPTROLLER GENERAL AND REPORTS

SEC. 502. (a) For the purpose of carrying out his authority under section 501—

(1) the Comptroller General may—

(A) sign and issue subpenas for the attendance and testimony of witnesses and the production of books, records, papers, and other documents;

(B) require any person, by general or special order, to submit answers in writing to interrogatories, to submit books, records, papers, or other documents, or to submit any other information or reports, and such answers or other submissions shall be made within such reasonable period, and under oath or otherwise, as the Comptroller General may determine; and

(C) administer oaths.

(2) the Comptroller General, or any officer or employee duly designated by the Comptroller General, upon presenting appropriate credentials and a written notice from the

Comptroller General to the owner, operator, or agent in charge, may—

(A) enter, at reasonable times, any business premise or facility; and

(B) inspect, at reasonable times and in a reasonable manner, any such premise or facility, inventory and sample any stock of energy resources therein, and examine and copy books, records, papers, or other documents, relating to any energy information, or any financial information in the case of a vertically integrated petroleum company.

(b) The Comptroller General shall have access to any energy information within the possession of any Federal agency (other than the Internal Revenue Service) as is necessary to carry out his authority under this section.

(c) (1) Except as provided in subsections (d) and (e), the Comptroller General shall transmit a copy of the results of any verification examination conducted under section 501 to the Federal agency to which energy information which was subject to such examination was furnished.

(2) Any report made pursuant to paragraph (1) shall include the Comptroller General's findings with respect to the accuracy, reliability, and adequacy of the energy information which was the subject of such examination.

(d) If the verification examination was conducted at the request of any committee of the Congress, the Comptroller General shall report his findings as to the accuracy, reliability, or adequacy of the energy information which was the subject of such examination, or financial information in the case of a vertically integrated petroleum company, directly to such committee of the Congress and any such information obtained and such report shall be deemed the property of such committee any may not be disclosed except in accordance with the rules of the committee and the rules of the House of Representatives or the Senate and as permitted by law.

(e) (1) Any information obtained by the Comptroller General or any officer or employee of the General Accounting Office pursuant to the exercise of responsibilities or authorities under this section which relates to geological or geophysical information, or any estimate or interpretation thereof, the disclosure of which would result in significant competitive disadvantage or significant loss to the owner thereof shall not be disclosed except to a committee of Congress. Any such informaion so furnished to a committee of the Congress shall be deemed the property of such committee and may not be disclosed except in accordance with the rules of the committee and the rules of the House of Representatives or the Senate and as permitted by law.

(2) Any person who knowingly discloses information in violation of paragraph (1) shall be subject to the penalties specified in section 5(a), 3(B) and (4) of the Emergency Petroleum Allocation Act of 1973, as amended by section 452 of this Act.

(f) The Comptroller General shall prepare and submit to the Congress an annual report with respect to the exercise of its authorities under this part, which report shall specifically identify any deficiencies in energy information or financial information reviewed by the Comptroller General and include a discussion of action taken by the person or company so examined, if any, to correct any such deficiencies.

ACCOUNTING PRACTICES

SEC. 503. (a) For purposes of developing a reliable energy data base related to the production of crude oil and natural gas, the Securities and Exchange Commission shall take such steps as may be necessary to assure the development and observance of accounting practices to be followed in the preparation of accounts by persons engaged, in whole or in part, in the production of crude oil or natural gas in the United States. Such practices shall be developed not later than 24 months after the date of enactment of this Act and shall take effect with respect to the fiscal year of each such person which begins 3 months after the date on which such practices are prescribed or made effective under authority of subsection (b) (2).

(b) In carrying out its responsibilities under subsection (a), the Securities and Exchange Commission shall—

(1) consult with the Federal Energy Administration, the General Accounting Office, and the Federal Power Commission with respect to accounting practices to be developed under subsection (a), and

(2) have authority to prescribe rules applicable to persons engaged in the production of crude oil or natural gas, or make effective by recognition, or by other appropriate means indicating a determination to rely on, accounting practices developed by the Financial Accounting Standards Board, if the Securities and Exchange Commission is assured that such practice will be observed by persons engaged in the production of crude oil or natural gas to the same extent as would result if the Securities and Exchange Commission had prescribed such practices by rule. The Securities and Exchange Commission shall afford interested persons an opportunity to submit written comment with respect to whether it should exercise its discretion to recognize or otherwise rely on such accounting practice in lieu of prescribing such practices by rule and may extend the 24-month period referred to in subsection (a) as it determines may be necessary to allow for a meaningful comment period with respect to such determination.

(c) The Securities and Exchange Commission shall assure that accounting practices developed pursuant to this section, to the greatest extent practicable, permit the compilation, treating domestic and foreign operations as separate categories, of an energy data base consisting of:

(1) The separate calculation of capital, revenue, and operating cost information pertaining to—

(A) prospecting,
(B) acquisition,
(C) exploration,
(D) development, and
(E) production,

including geological and geophysical costs, carrying costs, unsuccessful exploratory drilling costs, intangible drilling and development costs on productive wells, the cost of unsuccessful development wells, and the cost of acquiring oil and gas reserves by means other than development. Any such calculation shall take into account disposition of capitalized costs, contractual arrangements involving special conveyance of rights and joint operations, differences between book and tax income, and prices used in the transfer of products or other assets from one person to any other person, including a person controlled by controlling or under common control with such person.

(2) The full presentation of the financial information of persons engaged in the production of crude oil or natural gas, including—

(A) disclosure of reserves and operating activities, both domestic and foreign, to facilitate evaluation of financial effort and result; and

(B) classification of financial information by function to facilitate correlation with reserve and operating statistics, both domestic and foreign.

(3) Such other information, projections, and relationships of collected data or shall be necessary to facilitate the compilation of such data base.

ENFORCEMENT

SEC. 504. (a) Any person who violates any general or special order of the Comptroller General issued under section 502(a) (1) (B) of this Act may be assessed a civil penalty not to exceed $10,000 for each violation. Each day of failure to comply with such an order shall be deemed a separate violation. Such penalty shall be assessed by the Comptroller General and collected in a civil action brought by the Comptroller General through any attorney employed by the General Accounting Office or any other attorney designated by the Comptroller General, or, upon request of the Comptroller General, the Attorney General. A person shall not be liable with respect to any period during which the effectiveness of the order with respect to such person was stayed.

(b) Any action to enjoin or set aside an order issued under section 502(a) (1) (B) may be brought only before the United States Court of Appeals for the District of Columbia. Any action to collect a civil penalty for violation of any general or special order may be brought only the in United States District Court for the District of Columbia. In any action brought under subsection (a) to collect a civil penalty, process may be served in any judicial district of the United States.

(c) Upon petition by the Comptroller General through any attorney employed by the General Accounting Office or designated by the Comptroller General, or, upon request of the Comptroller General, the Attorney General, any United States district court within the jurisdiction of which any inquiry under this part is carried on may, in the case of refusal to obey a subpena of the Comptroller General issued under this part, issue an order requiring compliance therewith; and any failure to obey the order of the court may be treated by the court as a contempt thereof.

AMENDMENT TO ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT OF 1974

SEC. 505. (a) Section 11(c) of The Energy Supply and Environmental Coordination Act of 1974 is amended by adding at the end thereof the following:

"(3) In order to carry out his responsibilities under subsection (a) of this section, the Federal Energy Administrator shall require, pursuant to subsection (b) (1) (A) of this section, that persons engaged, in whole or in part, in the production of crude oil or natural gas—

"(A) keep energy information in accordance with the accounting practices developed pursuant to section 503 of the Energy Policy and Conservation Act, and

"(B) submit reports with respect to energy information kept in accordance with such practices.

The Administrator shall file quarterly reports with the President and the Congress compiled from accounts kept in accordance with such section 503 and submitted to the Administrator in accordance with this paragraph. Such reports shall present energy information in the categories specified in subsection (c) of such section 503 to the extent that such information may be compiled from such accounts. Such energy information shall be collected and such quarterly reports made for each calendar quarter which begins 6 months after the date on which the accounting practices developed pursuant to such section 503 are made effective.".

(b) The amendment made by subsection (a) to section 11(c) of the Energy Supply and Environmental Coordination Act of 1974 shall take effect on the first day of the first accounting quarter to which such practices apply.

EXTENSION OF ENERGY INFORMATION GATHERING AUTHORITY

SEC. 506. Section 11(g) (2) of the Energy Supply and Environmental Coordination Act of 1974 is amended by striking out "June 30, 1975" wherever it appears and inserting in lieu thereof "December 31, 1979".

Part B—General Provisions

PROHIBITION ON CERTAIN ACTIONS

Sec. 521. (a) Action taken under the authorities to which this section applies, resulting in the allocation of petroleum products or electrical energy afong classes of users or resulting in restrictions on use of petroleum products and electrical energy shall not be based upon unreasonable classifications of, or unreasonable differentiations between, classes of users. In making any such allocation the President, or any agency of the United States to which such authority is delegated, shall give consideration to the need to foster reciprocal and nondiscriminatory treatment by foreign countries of United States citizens engaged in commerce in those countries.

(b) To the maximum extent practicable, any restriction under authorities to which this section applies on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden of such restriction on all sectors of the economy, without imposing an unreasonably disproportionate share of such burden on any specific class of industry, business, or commercial enterprise, or on any individual segment thereof. In prescribing any such restriction, due consideration shall be given to the needs of commercial, retail, and service establishments whose normal function is to supply goods or services of an essential convenience nature during times of day other than conventional daytime working hours.

(c) This section applies to actions under any of the following authorities:

(1) titles I and II of this Act (other than any provision of such titles which amend another law).

(2) this title.

(3) the Emergency Petroleum Allocation Act of 1973.

CONFLICTS OF INTEREST

Sec. 522. (a) Each officer or employee of the Federal Energy Administration or of the Department of the Interior who—

(1) performs any function or duty under this Act; and

(2) has any known financial interest—

(A) in any person engaged in the business of exploring, developing, producing, refining, transporting by pipeline, or distributing (other than at the retail level) coal, natural gas, or petroleum products, or

(B) in property from which coal, natrual gas, or crude oil is commercially produced; shall, beginning on February 1, 1977, annually file with the Administrator or the Secretary of the Interior, as the case may be, a written statement disclosing all such interests held by such officer or employee during the preceding calendar year. Such statement shall be subject to examination, and available for copying, by the public upon request.

(b) The Administrator and the Secretary of the Interior shall each—

(1) act, within 90 days after the date of enactment of this Act, in accordance with section 553 o ftitle 5, United States Code—

(A) to define the term "known financial interest" for purposes of subsection (a); and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administrator or the Secretary of the Interior, as the case may be, of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b), the Administrator and the Secretary of the Interior each may identify specific positions, or classes thereof within the Federal Energy Administration or Department of the Interior, as the case may be, which are of a nonregulatory and nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, subsection (a) shall be fined not more than $2,500 or imprisoned not more than one year, or both.

ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

Sec. 523. (a)(1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule, regulation, or order having the applicability and effect of a rule as defined in section 551(4) of title 5, United States Code, issued under title I (other than section 103 thereof) and title II of this Act, or this title (other than any provision of such titles which amends another law).

(2) (A) Notice of any proposed rule, regulation, or order described in paragraph (1) which is substantive and of general applicability shall be given by publication of such proposed rule, regulation, or order in the Federal Register. In each case, a minimum of 30 days following the date of such publication and prior to the effective date of the rule shall be provided for opportunity to comment; except that the 30-day period for opportunity to comment prior to the effective date of the rule may be—

(i) reduced to no less than 10 days if the President finds that strict compliance would seriously impair the operation of the program to which such rule, regulation, or order relates and such findings are set out in such rule, regulation, or order, or

(ii) waived entirely, if the President finds that such waiver is necessary to act expeditiously during an emergency affecting the national security of the United States.

(B) Public notice of any rule, regulation, or order which is substantive and of general applicability which is promulgated by officers of a State or political subdivision thereof or to State or local boards which have been delegated authority pursuant to title I or II of this Act or this title (other than any provision of such title) which amend another law shall, to the maximum extent practicable, be achieved by publication of such rules, regulations, or orders in a sufficient number of newspapers of general circulation calculated to receive widest practicable notice.

(3) In addition to the requirements of paragraph (2) and to the maximum extent practicable, an opportunity for oral presentation of data, views, and arguments shall be afforded and such opportunity shall be afforded prior to the effective date of such rule, regulation, or order, but in all cases such opportunity shall be afforded no later than 45 days, and no later than 10 days (in the case of a waiver of the entire comment period under paragraph (2)(ii), after such date. A transcript shall be made of any oral presentation.

(4) Any officer or agency authorized to issue rules, regulations, or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act, as may be necessary to prevent special hardship, inequity, or an unfair distribution of burdens and shall in rules prescribed by it establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules, regulations, and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) or other applicable law when such denial becomes final. The officer or agency shall, by rule, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this paragraph.

(b) The procedures for judicial review established by section 211 of the Economic Stabilization Act of 1970 shall apply to proceedings to which subsection (a) applies, as if such proceedings took place under such Act. Such procedures for judicial review shall apply notwithstanding the expiration of the Economic Stabilization Act of 1970.

(c) Any agency authorized to issue any rule, regulation, or order described in subsection (a)(1) shall, upon written request of any person, which request is filed after any grant or denial of a request for exception or exemption from any such rule, regulation, or order, furnish such person, within 30 days after the date on which such request is filed, with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial.

PROHIBITED ACTS

Sec. 524. It shall be unlawful for any person—

(1) to violate any provision of title I or title II of this Act or this title (other than any provision of such titles which amend another law),

(2) to violate any rule, regulation, or order issued pursuant to any such provision or any provision of section 383 of this Act; or

(3) to fail to comply with any provision prescribed in, or pursuant to, an energy conservation contingency plan which is in effect.

ENFORCEMENT

Sec. 525. (a) Whoever violates section 524 shall be subject to a civil penalty of not more than $5,000 for each violation.

(b) Whoever willfully violates section 524 shall be fined not more than $10,000 for each violation.

(c) Any person who knowingly and willfully violates section 524 with respect to the sale, offer of sale, or distribution in commerce of a product or commodity after having been subjected to a civil penalty for a prior violation of section 524 with respect to the sale, offer of sale, or distribution in commerce of such product or commodity shall be fined not more than $50,000 or imprisoned not more than 6 months, or both.

(d) Whenever it appears to any officer or agency of the United States in whom is vested, or to whom is delegated, authority under this Act that any person has engaged, is engaged, or is about to engage in acts or practices constituting a violation of section 524, such officer or agency may request the Attorney General to bring an action in an appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any rule, regulation, or order described in section 524.

(e)(1) Any person suffering legal wrong because of any act or practice arising out of any violation of any provision of this Act described in paragraph (2), may bring an action in an appropriate district court of the United States without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment or writ of injunction. Nothing in this subsection shall authorize any person to recover damages.

(2) The provisions of this Act referred to in paragraph (1) are as follows:

(A) Section 202 (relating to energy conservation plans).

(B) Section 251 (relating to international oil allocation).

(C) Section 252 (relating to international voluntary agreements).

(D) Section 253 (relating to advisory committees).

(E) Section 254 (relating to international exchange of information).

(F) Section 521 (relating to prohibition on certain actions).

EFFECT ON OTHER LAWS

SEC. 526. No State law or State program in effect on the date of enactment of this Act, or which may become effective thereafter, shall be superseded by any provision of title I or II of this Act (other than any provision of such title which amends another law) or any rule, regulation, or order thereunder, except insofar as such State law or State program is in conflict with such provision, rule, regulation, or order.

TRANSFER OF AUTHORITY

SEC. 527. In accordance with section 15(a) of the Federal Energy Administration Act of 1974, the President shall designate, where applicable and not otherwise provided by law, an appropriate Federal agency to carry out functions vested in the Administrator under this Act and amendments made thereby after the termination of the Federal Energy Administration.

AUTHORIZATION OF APPROPRIATIONS FOR INTERIM PERIOD

SEC. 528. Any authorization of appropriations in this Act, or in any amendment to any other law made by this Act, for the fiscal year 1976 shall be deemed to include an additional authorization of appropriations for the period beginning July 1, 1976, and ending September 30, 1976, in amounts which equal one-fourth of any amount authorized for fiscal year 1976, unless appropriations for the same purpose are specifically authorized in a law hereinafter enacted.

INTRASTATE NATURAL GAS

SEC. 529. No provision of this Act shall permit the imposition of any price controls on, or require any allocation of, natural gas not subject to the jurisdiction of the Federal Power Commission.

LIMITATION ON LOAN GUARANTEES

SEC. 530. Loan guarantees and obligation guarantees under this Act or any amendment to another law made by this Act may not be issued in violation of any limitation in appropriations or other Acts, with respect to the amounts of outstanding obligational authority.

EXPIRATION

SEC. 531. Except as otherwise provided in title I or title II, all authority under any provision of title I or title II (other than a provision of either such title amending another law) and any rule, regulation, or order issued pursuant to such authority, shall expire at midnight, June 30, 1985, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, June 30, 1985.

PART C—CONGRESSIONAL REVIEW

PROCEDURE FOR CONGRESSIONAL REVIEW OF PRESIDENTIAL REQUESTS TO IMPLEMENT CERTAIN AUTHORITIES

SEC. 551. (a) For purposes of this section, the term "energy action" means any matter required to be transmitted or submitted to the Congress in accordance with the procedures of this section.

(b) The President shall transmit any energy action (bearing an identification number) to both Houses of Congress on the same day. If both Houses are not in session on the day any energy action is received by the appropriate officers of each House, for purposes of this section such enregy action shall be deemed to have been transmitted on the first succeeding day on which both Houses are in session.

(c)(1) Except as provided in paragraph (2) of this subsection, if energy action is transmitted to the Houses of Congress, such action shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which such action is transmitted to such Houses, unless between the date of transmittal and the end of such 15-day period, either House passes a resolution stating in substance that such House does not favor such action.

(2) An energy action described in paragraph (1) may take effect prior to the expiration of the 15-calendar-day period after the date on which such action is transmitted, if each House of Congress approves a resolution affirmatively stating in substance that such House does not object to such action.

(d) For the purpose of subsection (c) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 15-calendar-day period.

(e) Under provisions contained in an energy action, a provision of such an action may take effect on a date later than the date on which such action otherwise takes effect pursuant to the provisions of this section.

(f)(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2) For purposes of this subsection, the term "resolution" means only a resolution of either House of Congress described in subparagraph (A) or (B) of this paragraph.

(A) A resolution the matter after the resolving clause of which is as follows: "That the ------------ does not object to the energy action numbered -------- submitted to the Congress on ------------, 19--.", the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one energy action.

(B) A resolution the matter after the resolving clause of which is as follows: "That the ------------ does not favor the energy action numbered ---------- transmitted to Congress on ------------------, 19--.", the first blank space therein being filled with the name of the resolving House and the other spaces therein being appropriately filed; but does not include a resolution which specifies more than one energy action.

(3) A resolution once introduced with respect to an energy action shall immediately be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4)(A) If the committee to which a resolution with respect to an energy action has been referred has not reported it at the end of 5 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such energy action which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same energy action), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee to be made with respect to any other resolution with respect to the same energy action.

(5)(A) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to; except that it shall be in order—

(i) to offer an amendment in the nature of a substitute, consisting of the text of a resolution described in paragraph (2)(A) of this subsection with respect to an energy action, for a resolution described in paragraph (2)(B) of this subsection with respect to the same such action, or

(ii) to offer an amendment in the nature of a substitute, consisting of the text of a resolution described in paragraph (2)(B) of this subsection with respect to an energy action, for a resolution described in paragraph (2)(A) of this subsection with respect to the same such action.

The amendments described in clauses (i) and (ii) of this subparagraph shall not be amendable.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(7) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to an energy action, then it shall not be in order to consider in that House any other resolution with respect to the same such action.

EXPEDITED PROCEDURE FOR CONGRESSIONAL CONSIDERATION OF CERTAIN AUTHORITIES

SEC. 552. (a) Any contingency plan transmitted to the Congress pursuant to section 201(a)(1) shall bear an identification number and shall be transmitted to both Houses of Congress on the same day and to each House while it is in session.

(b) No such contingency plan may be considered approved for purposes of section 201 (a)(2) of this Act unless between the date of transmittal and the end of the first period of 60 calendar days of continuous session of Congress after the date on which such action is transmitted to such House, each House of Congress passes a resolution described in subsection (d)(2).

(c) For the purpose of subsection (b) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-calendar-day period.

(d)(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2) For purposes of this subsection, the term "resolution" means only a resolution of either House of Congress the matter after the resolving clauses of which is as follows: "That the __________ approves the contingency plan numbered __________ submitted to the Congress on ____________, 19__.", the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one contingency plan.

(3) A resolution once introduced with respect to a contingency plan shall immediately be referred to a committee (and all resolutions with respect to the same contingency plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4)(A) If the committee to which a resolution with respect to a contingency plan has been referred has not reported it at the end of 20 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such contingency plan which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same contingency plan), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the ocmmittee be made with respect to any other resolution with respect to the same contingency plan.

(5)(A) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An Amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided withut debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedures relating to a resolution shall be decided without debate.

And the Senate agree to the same.

Henry M. Jackson,
Floyd K. Haskell,
John Glenn,
Richard (Dick) Stone,
Dale Bumpers,
Warren G. Magnuson,
Adlai E. Stevenson,
John O. Pastore,
Vance Hartke,
Philip A. Hart,
Howard W. Cannon,
Jennings Randolph,
Edmund S. Muskie,

Managers on the Part of the Senate.

Harley O. Staggers,
John D. Dingell,
Torbert H. Macdonald,
John E. Moss,
Paul G. Rogers,

Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the text of the bill (S. 622) to increase domestic energy supplies and availability; to restrain energy demand: to prepare for energy emergencies; and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report;

The House amendment to the text of the bill struck out all after the enacting clause and inserted a substitute text. The Senate receded from its disagreement to the amendment of the House to the text of the bill with an amendment which was a substitute for both the House amendment to the text of the bill and the Senate bill. The House recedes from its disagreement to the amendment which is a substitute for both the House amendment and the Senate amendment thereto. The differences between the House amendment, the Senate amendment to the House amendment, and the substitute agreed to in conference are noted below except for minor technical and clarifying changes made necessary by reason of the conference agreement.

THE ENERGY POLICY AND CONSERVATION ACT

Summary

The Energy Policy and Conservation Act of 1975 is the result of the deliberations of the Conference Committee convened to reconcile provisions of H.R. 7014, the Energy Conservation and Oil Policy Act, and S. 622, the Standby Energy Authorities Act. Before requesting Conference the Senate added to S. 622 as amendments the texts of three previously passed Senate bills: S. 677 The Strategic Energy Reserves Act; S. 349, The Energy Labeling and Disclosure Act; and S. 1883, the Automobile Fuel Economy Act.

The Act reported by the Conference Committee establishes a comprehensive national energy policy to:

(1) maximize domestic production of energy and provide for strategic storage reserves of crude oil, residual fuel oil and refined petroleum products;

(2) to minimize the impact of disruptions in energy supplies by providing for emergency standing measures;

(3) provide for domestic crude oil prices that will encourage domestic production in a manner consistent with economic recovery; and

(4) reduce domestic energy consumption through the operation of specific voluntary and mandatory energy conservation programs.

In the short term, the Act is designed to reduce the vulnerability of the domestic economy to increases in import prices, and to insure that available supplies will be distributed equitably in the event of a disruption in petroleum imports.

For the long run, the Act will decrease dependence upon foreign imports, enhance national security, achieve the efficient utilization of scarce resources, and guarantee the availability of domestic energy supplies at prices consumers can afford.

I. Measures to increase domestic supply

The Energy Policy and Conservation Act provides for direct actions to increase domestic oil production and the development and use of alternatives to petroleum and natural gas. Provisions of the Act will:

Extend the authority of the Administrator of the Federal Energy Administration (FEA) to direct powerplants, and other major fuel burning installations, to convert to the use of domestic coal;

Authorize the FEA to guarantee loans to increase coal production by encouraging the opening of new underground coal mines;

Increase competition in the oil industry by limiting joint venture bidding by major oil companies in the development of crude oil or natural gas on the Outer Continental Shelf;

Authorize the President to restrict exports of energy supplies and energy-related materials under certain circumstances; and

Authorize the President to require the production of crude oil and natural gas from designated fields at the maximum efficient rate of production or the temporary emergency production rate.

In addition to providing for expanded domestic energy supply, the Energy Policy and Conservation Act will substantially reduce the ability of foreign energy producers to influence the foreign or domestic policies of the United States by threatening to reduce U.S. imports of petroleum. The Act creates a Strategic Petroleum Reserve of up to one billion barrels of crude oil, residual fuel oil and refined petroleum products to insulate the domestic economy from future supply interruptions.

The plan for the Reserve, which is subject to review and disapproval by either House, must be submitted to Congress not later than December 15, 1976.

The plan must include provision for the creation of regional petroleum product reserves in regions where more than 20 percent of demand for such products is met by imports.

The FEA Administrator is authorized to require importers and refiners to store in readily available inventories, as reserves, up to three percent of their imports as throughputs for the previous calendar year.

The legislation also creates an Early Storage Reserve consisting of not less than 150 million barrels of crude oil, residual fuel oil and refined petroleum products, to be stored within three years of the date of enactment.

II. Standby energy authorities

The Energy Policy and Conservation Act grants specific standby authority to the President, subject to Congressional approval, to develop and implement regulations mandating the conservation of energy and the rationing of gasoline and diesel fuel in the event of a severe energy supply interruption.

The provisions authorize the President during periods of acute energy shortages to take specific actions to conserve scarce fuels, to alleviate fuel shortages and to increase domestic energy supplies.

The Act provides for energy conservation and rationing contingency plans to be developed to reduce non-essential energy consumption and assure the continuation of vital services in the face of severe energy supply interruption.

The conference substitute contains the following standby powers:

To prescribe energy conservation plans (including rationing plans);

To authorize actions necessary to carry out U.S. obligations under the International Energy Program;

To authorize persons in the oil industry to develop and carry out voluntary agreements for international oil allocation under a grant of limited antitrust immunity;

To authorize the President to transmit information to the International Energy Agency.

The energy conservation authorities may be exercised if:

(1) a contingency plan for the exercise of the authorities has been approved by concurrent resolution of the House and Senate;

(2) the President has determined that implementation of the contingency plan is required by a severe energy supply interruption or the International Energy Program.

In addition, a plan which provides for rationing cannot take effect if either House of Congress disapproves the President's request to implement such a plan.

The authority for international voluntary agreements and the exchange of information may be exercised at any time in order to carry out the International Energy Program.

III. Energy conservation programs

The Energy Policy and Conservation Act establishes aggressive and effective programs for energy conservation designed to encourage the maximum efficient utilization of domestic energy resources.

The Act contains provisions that:

Establish mandatory average fuel economy performance standards for new passenger automobiles and other light duty highway vehicles;

Require energy labeling of major home appliances and certain other consumer products, and authorize energy efficiency standards for major appliances;

Authorize block grants-in-aid for States to assist in the development and implementation of state-administered energy conservation programs, and

Establish a program to encourage increased efficiency of energy use by American industry;

Establish a program for energy conservation within the Federal Government; and

Promote the use of recycled oil.

These provisions are designed to increase energy efficiency through the operation of orderly conservation programs rather than through steep price increases that would hamper the Nation's economic recovery, increase unemployment, contribute to the inflationary spiral and impact regressively on consumers.

Mandatory fuel economy performance standards are established for passenger automobiles and other light duty highway vehicles. Standards for passenger automobiles would be applicable in model year 1978 and thereafter.

Each manufacturer or importer of passenger automobiles would be required to achieve the following fleet average fuel economies: 18 miles per gallon (mpg) in model year 1978, 19 mpg in model year 1979, 20 mpg in model year 1980 and 27.5 mpg in model year 1985 and thereafter. Standards for model year 1985 and thereafter may be modified administratively to the maximum feasible level, but either House may disapprove a modification below 26 mpg.

Standards for model years 1981–84 would be set by the Secretary of Transportation at the maximum feasible level. The Secretary would also set standards for vehicles other than passenger automobiles at the maximum feasible level for each model year.

If a manufacturer or importer failed to meet the required average fuel economy standard, he would be liable for a civil penalty, which could be waived or modified under certain specific conditions.

The Energy Policy and Conservation Act would require test procedures for, and energy efficiency labeling of, major home appliances to provide consumers with information essential to making an informed judgment in the purchase of these appliances.

Products explictly covered include refrigerators, freezers, dishwashers, clothes washers and dryers, water heaters, air conditioners, television sets, kitchen ranges and furnaces.

The required label must include representative annual operating costs associated with the use of these products unless the FEA determines that labeling would not be feasible or the FTC determines it would not be likely to assist consumers in making purchasing decisions.

The Administrator is required, within specified periods after enactment, to prescribe energy efficiency targets for covered products. These targets would be set at the maximum level that would be economically and technologically feasible, and would require at least a 20 percent overall improvement in aggregate energy efficiency for all types of new major home appliances in 1980, in comparison to 1972 levels.

If the FEA prescribes a labeling rule for a class of major household appliances and then finds (1) that labeling will not suffice to induce manufacturers to produce (or consumers to purchase) products of that class which achieve the maximum energy efficiency that is technologically feasible and economically justified and (2) that the benefits of increased energy efficiency outweigh any increased consumer costs and any decrease in utility of the product, then the FEA would be authorized to prescribe an enforceable energy efficiency performance standard for that class of product. The FEA would be required to exercise this authority in certain cases where industry is unable to achieve energy efficiency improvement targets.

The Act authorizes a 3-year $150 million Federal grant-in-aid program to assist States in developing and administering State energy conservation programs. These programs will have as a target a 5 percent reduction in energy consumption by 1980 below levels projected for that time.

The act identifies conservation measures to be implemented by the States, but calls for administration of the programs on the State and local levels.

To be eligible to receive Federal funds a State program would be required to include the following energy conservation measures:

Lighting efficiency standards for non-Federal public buildings;

Programs to promote carpooling, vanpooling, and public transportation systems;

Energy efficiency standards and policies in procurement by State and local government;

Thermal efficiency and insulation requirements for new and renovated buildings; and a traffic regulation permitting right turn on red.

State programs could contain other conservation measures, including a standby energy conservation plan to be put into effect during a severe energy supply emergency.

Within Federal guidelines for the composition of acceptable energy conservation plans, States would establish programs in a manner tailored to local economic, geographic and climatic conditions. The Act thus provides impetus, direction and financial assistance for energy conservation while protecting the States' interest in self-determination and local control.

Industrial Energy Efficiency

The goal of the industrial efficiency program is to promote increased energy efficiency by establishing voluntary energy efficiency improvement targets.

Voluntary industrial energy efficiency targets would be set for the ten most energy-intensive industries. Each target would represent the maximum feasible improvement in industrial efficiency which a particular industry could achieve by January 1, 1980. The ten most energy-intensive industries would be required to report annually on their programs in attaining energy-efficiency targets.

Federal Energy Conservation Programs

In addition the President would be required to develop and implement a ten-year plan for energy conservation. This plan would deal with procurement, lighting standards, construction guidelines, restrictions on hours of operation, thermostat settings and other conditions related to the operation of Federal buildings.

IV. Oil pricing

The Energy Policy and Conservation Act establishes a pricing formula for domestically-produced crude oil which provides for an initial crude oil price rollback and authorizes gradual increases in the prices received by domestic producers over a 40-month period. The new oil price policy:

Establishes a domestic composite price of $7.66 per barrel. This represents a rollback of $1.09 from the current domestic average estimated by FEA at $8.75 per barrel. In combination with the removal of the $2 per barrel import tariff, this program will result in a significant reduction in the price of the crude oil run in domestic oil refineries. A provision of the Act specifically requires that these reductions in crude oil costs be reflected in the prices of refined petroleum products paid by consumers.

Grants the President broad flexibility to set prices for various categories of oil production so long as the average domestic price does not exceed the composite price of $7.66 established by the Act;

Permits upward adjustment in the domestic composite price to take account of inflation, and, if the President finds it necessary, to provide an additional increase in the composite price of no more than three percent per year as an incentive for the development of high-cost production, to maintain production from marginally profitable properties, or to encourage the application of enhanced recovery techniques. The sum of these two adjustments may not exceed 10 percent per year unless further authority to modify the upward adjustment rate is obtained from the Congress;

Allows the President to submit to the Congress at three month intervals following enactment, proposals to modify the 3 percent incentive adjustment and the 10 percent ceiling on adjustments if the President finds that such a modification is likely to result in an increase in domestic production. These proposals would take effect unless disapproved by either House of Congress under expedited review procedures;

Directs the President to submit to Congress on February 15, 1977, an analysis of energy supply, demand and import relationships which have evolved under the Act;

Directs the President to submit to the Congress on April 15, 1977, a report on the impact of anticipated Alaskan oil production levels and prices on domestic oil prices and on incentives to increase and maintain production in the lower 48 states. The President may then propose, subject to Congressional review, the exclusion of up to two million barrels per day of Alaskan production from the composite price ceiling and the establishment of a separate ceiling for this production not to exceed the highest price granted to significant volumes within the composite:

Extends the basic petroleum allocation authority contained in the Emergency Petroleum Allocation Act and the oil pricing provisions described in the Energy Policy and Conservation Act for 40 months;

Converts this oil price control and allocation authority to standby status at the end of the 40-month period; and

Provides that the standby authority terminates five years after enactment.

V. General provisions

The Act sets forth provisions of general applicability relating to procedural requirements for agency actions, judicial review, and enforcement.

Disclosure of Financial Interests

Among the more important provisions, employees and officers of the FEA and the Department of the Interior who perform regulatory or policy-making functions under this Act are required to disclose their financial interests in oil, natural gas, or coal.

Verification Audits of Energy Information

The legislation also authorizes the Comptroller General to conduct verification examinations to verify the accuracy of energy and financial information filed with Federal agencies to permit independent and objective evaluation of energy data from which realistic projections can be made and on which future energy policy decisions will be based.

I—MATTERS RELATED TO DOMESTIC SUPPLY AVAILABILITY

Coal conversion

House Amendment

The House amendment provided for the extension of the Energy Supply and Environmental Coordination Act (ESECA), the statute under which the Administrator of the Federal Energy Administration (FEA) has been (1) required to issue orders prohibiting a powerplant from using natural gas or petroleum products as fuel if it had the capability, on June 22, 1974, to burn coal for such purpose; (2) authorized to issue orders prohibiting such use by other major fuel burning installations having such capability; and (3) authorized to order that powerplants in the early planning process be constructed with coal-burning capability.

The House amendment extended the period within which such FEA orders may be issued from June 30, 1975 to June 30, 1977, and it extended the period during which such rules and orders may be enforced from December 31, 1978 to December 31, 1984. The scope of the FEA's authority under ESECA was extended to include powerplants and other major fuel burning installations which acquire the capability of using coal after June 22, 1974. The FEA was also authorized to order that major fuel burning installations (other than powerplants), in the early planning process be constructed with coal-burning capability.

Senate Amendment

The Senate amendment provided for the extension of ESECA. The period during which the FEA could issue orders prohibiting the use of natural gas or petroleum products or requiring new installations to be constructed with coal-burning capability, was extended from June 30, 1975 to December 31, 1975.

Conference Substitute

The conference substitute follows the provisions of the House amendment. It should be noted that the extension until 1985 of the period during which the FEA may enforce orders issued pursuant to section 2 of ESECA applies both to orders already issued by FEA pursuant to that section and to orders issued after date of enactment of the bill.

Prohibiting the use of natural gas as a boiler fuel

House Amendment

The House amendment amended ESECA to auhtorize the FEA to issue orders prohibiting a powerplant from burning natural gas, in whole or in part, if the FEA determined that (1) such plant had or had acquired the capability and equipment necessary to burn petroleum products; (2) a coal conversion order could not be issued as to such plant; (3) petroleum use by such plant was practicable and the necessary petroleum products were available; (4) conversion would make additional natural gas available to other users; (5) service reliability would not be impaired thereby; and (6) such plant would be able to comply with the Clean Air Act. The authority to issue such orders was subject to certain exemptions, exceptions, and limitations. The House amendment further authorized the FEA to order that any powerplan or major fuel-burning installation in the early planning process be constructed so as to be capable of using petroleum products as its primary source of energy for the production of steam, subject to specified exception relating to service reliability and expected availability of an adequate and reliable supply of petroleum products. All such orders were required to be issued in accordance with the procedures specified in sections 18 (b) and (c) of the Federal Trade Commission Act.

Senate Amendment

No provision.

Conference Substitute

This provision of the House amendment is omitted from the conference substitute.

Incentives to develop underground coal mines

House Amendment

The House amendment authorized the FEA to guarantee loans for the purpose of financing the opening of new underground coal mines. To be eligible for a loan, a person must be a producer who, together with all affiliates, did not in the year preceding the application for such a guarantee produce more than one million tons of coal or more than 300,000 barrels of crude oil, or own an oil refinery, and who did not have gross annual revenues in excess of $50 million. A guarantee could not be issued unless the FEA found that the applicant was capable of developing and operating the mine and could meet specified requirements with respect to mine safety, repayment, environmental standards, adequacy of security, and inability to obtain adequate financing without such a guarantee.

The amount of such a loan guarantee could not exceed 80% of the principal balance of the loan, if the loan was for the purpose of opening a new underground coal mine which produces low sulphur coal; or 40% of the principal balance of the loan in the case of a mine which produces coal other than low sulphur coal. No more than 20 percent of the amount of guarantees issued under this section in any fiscal year could be issued for loans for mines which do not produce low sulphur coal. The FEA was to prescribe such regulations as are necessary or appropriate to carry out the program.

The aggregate outstanding principal amount of loans which could be guaranteed by the House amendment could not at any time exceed $750,000,000. The total amount authorized to be issued to any one person (including affiliates) could not exceed $30,000,000.

Senate Amendment

No provision.

Conference Substitute

The conference substitute follows the provision of the House amendment, except as follows:

(1) The term "developing new underground coal mines" is defined so as to clarify the application of the program to opening new mines which are connected to existing mines, opening new shafts or tunnels in existing mines, and reopening shafts or tunnels of mines which are no longer being worked.

(2) A guarantee shall not be issued unless the applicant has enough coal reserves and a sufficiently long-term supply contract to be able to repay the guaranteed loan.

(3) The mine involved must produce low sulphur coal or coal which is certified by the Environmental Protection Agency as useable in compliance with Clean Air Act standards.

(4) The amount of any loan guarantee may not exceed 80 percent of the principal amount of the loan or the cost of the project, whichever is less.

(5) The Secretary of the Treasury must be consulted on terms and conditions of loan guarantees issued under this provision. His concurrence must be obtained with respect to the timing of the issuance of a loan guarantee (but the Secretary's failure to concur will not delay issuance for more than 60 days).

(6) The FEA must determine that a requested loan guarantee will enhance competition or encourage new market entry in the coal industry.

Domestic use of energy supplies and related materials and equipment

House Amendment

The House amendment made oil and gas produced from the Outer Continental Shelf subject to the limitations and licensing requirements of the Export Administration Act. No such oil or gas was permitted to be exported under such authority unless and until the President found that such exports would not increase reliance on imported oil, would be in the national interest, and were in accord with the Export Administration Act. The President's finding concerning the national interest was made subject to congressional review: if a concurrent resolution of disapproval was passed by the Congress within 60 days, oil and gas exports pursuant to such finding had to terminate.

The House amendment also granted the President discretionary authority to restrict exports of materials or equipment which he determined would be needed for energy exploration, production, refining, transportation, or facility construction or maintenance in the United States. The President could direct this authority to be implemented by the Secretary of Commerce pursuant to the Export Administration Act.

The House amendment also directed the

President to prevent the export of coal, natural gas, crude oil, residual fuel oil, or any refined petroleum product, and any petrochemical feedstock to the extent necessary to achieve the objectives of section 4(b) of the Emergency Petroleum Allocation Act of 1973. At the request of the President, this authority could be implemented by the Secretary of Commerce. The House amendment provided that any order of the President, and any action of the Secretary of Commerce, under this authority "shall take into account the historical trading relations of the United States with Canada and Mexico."

Senate Amendment

The Senate amendment authorized the President to restrict exports of (1) coal, natural gas, petroleum products, and petrochemical feedstocks, and (2) drill pipe, upland and offshore drilling rigs and platforms, and other materials and equipment which he determined necessary for energy exploration, production, refining, transportation, conservation of domestic supply, or construction or maintenance of energy facilities in the United States, upon such terms and conditions as the President determined appropriate and necessary. Such authority could, at the direction of the President, be implemented by the Secretary of Commerce pursuant to the Export Administration Act. The Senate amendment provided that any rule or order of the President, and any action of the Secretary of Commerce, under this provision "shall take into account the historical trading relations of the United States with Canada and Mexico."

Conference Substitute

The conference substitute consolidates the provisions of the Senate and House amendments and provides as follows:

(1) The President is granted authority to restrict, by rule, exports of coal, crude oil, natural gas, residual fuel oil, and refined petroleum product or petrochemical feedstock and supplies of equipment or materials which he determines to be necessary for maintaining or furthering domestic exploration, production, processing, and transportation of energy supplies or for the construction or maintenance of energy facilities within the United States.

(2) The President is required to promulgate a rule which prohibits the export of crude oil or natural gas produced in the United States. The President may, if he finds that it is consistent with the national interest and the purposes of this Act, provide for exemptions in the rule.

(3) The President may, to minimize administrative burdens, permit exemptions to the oil or gas export prohibition, by rule, on the basis of the purpose of the export, the type or class of seller or purchaser, the country of destination, and any other reasonable basis which the President determines to be consistent with the national interest and the purposes of this Act.

(4) To facilitate the implementation of the rule restricting exports, the President may require the Secretary of Commerce to implement the export restrictions pursuant to the procedures established by the Export Administration Act of 1969.

(5) Any finding by the President concerning exemptions from the rule prohibiting crude oil or natural gas exports and any action taken by the Secretary of Commerce at the President's request shall take into account the national interest as related to the need to leave uninterrupted or unimpaired the following classes of transactions:

(a) exchanges of crude oil or natural gas in similar quantity for convenience or for increased efficiency of transportation with persons or the government of an adjacent foreign State; or

(b) temporary exports for convenience or increased efficiency of transportation across parts of an adjacent foreign State such as Canada or Mexico which exports later reenter the United States; or

(c) the historical and normal trading relations of the United States with Canada and Mexico.

(6) The President is granted authority to make appropriate waivers of administrative procedures concerning notice and comment on a finding that compliance with these requirements would seriously impair his ability to impose effective and timely prohibitions to carry out the purposes of this Act.

(7) Presidential findings made pursuant to this section are to be submitted to the Congress on a quarterly basis in connection with a report on the administration of this section.

(8) The conferees intend that in the administration of the authority granted by this section the President is to take the following factors into consideration in making "national interest" findings for exemptions:

(a) the need to avoid impairing international air travel or commerce by exempting bunker fuel for tankers in foreign commerce, jet fuel for international air carriers, and fuel for other similar uses, and

(b) U.S. obligations under treaty, international agreement (such as the International Energy Agreement), or other agreements (such as the recent agreement with Israel).

The conferees wish to caution the President, in the exercise of his authority to provide for exemptions from the export prohibitions, to assiduously guard against circumvention of domestic price controls on crude oil, residual fuel oil, refined petroleum products and natural gas. The President must also be vigilant to assure that exemptions do not result in greater reliance on imports.

Materials allocation

House Amendment

The House amendment authorized the President, upon such terms and conditions as he determined appropriate and necessary, to require the allocation of supplies of materials and equipment and the selective performance of contracts or orders during any "severe energy supply interruption" if the President found that such supplies were scarce, critical, and essential for energy exploration, production, refining, transportation, or facility construction or maintenance. This authority could be exercised only to the extent that these objectives could not "practically be accomplished" during such an interruption without exercise of this authority. (The House amendment defined a "severe energy supply interruption," in the general definitions section, to mean a national energy supply shortage which the President determined (1) was of significant scope and duration and of an emergency nature; (2) could cause major adverse impact on national safety or the national economy; and (3) resulted from an interruption in the supply of imported petroleum products, sabotage, or an act of God.) The House amendment also required the President to report to Congress, within 30 days after the date of enactment of this legislation, on the manner in which this authority would be administered, including procedures, criterion for determining priorities, and specification of the administering office or agency.

Senate Amendment

The Senate amendment amended the Defense Production Act of 1950 to grant the President authority similar to that granted by the House amendment. Under the Senate amendment, this authority could not be exercised unless the President found (1) that supplies of materials and equipment were scarce, critical, and essential to maintaining or furthering energy exploration, production, refining, transportation, conservation, or facility construction and maintenance, and (2) that the maintenance or furtherance of these objectives could not "reasonably be accomplished" without the exercise of this authority. The President was directed to coordinate the exercise of this authority with any priorities or allocations which were established and concurrently in effect under other provisions of the Defense Production Act. The Senate amendment also required the President to report to Congress, within 60 days after the date of enactment of this legislation, on the manner in which this authority would be administered.

Conference Substitute

The conference substitute follows the provision in the Senate amendment, except that it provides that these provisions shall continue in effect until 1985 regardless of any earlier termination of the Defense Production Act.

Leasing policy with respect to mineral rights on federal lands

House Amendment

The House amendment provided that each agreement pertaining to crude oil, natural gas, or coal development on Federal lands entered into on or after the date of enactment of this legislation had to include (1) a requirement that the person granted the development right promptly submit to the FEA and the Secretary of the Interior for his approval a plan, including a timetable, for diligent exploration and full development as soon as is practicable of the crude oil, natural gas, or coal associated with that property; (2) a requirement that such person promptly inform the FEA and the Secretary of the Interior of the discovery of any such resource on such lands, including an estimate of the size of the deposit or reservoir discovered; (3) a requirement that such person submit to the FEA and the Secretary of the Interior for his approval, within 90 days after the date of the discovery or of the grant of the development right (whichever is later), a plan for production (including a timetable for obtaining maximum production as soon as practicable) which shall provide for the commencement of production and sale not later than 2 years after the date of the discovery or of the grant, unless the FEA, upon "reasonable justification", permits a delay; and (4) terms which provide for termination of the agreement by the Secretary of the Interior and the forfeiture of all rights thereunder for violation of any of these conditions. The House amendment required the Secretary, after notice and opportunity for hearing, to terminate any such agreement if he found that the person granted a development right failed to comply with the terms of the agreement and that this failure was not solely the result of an FEA-permitted departure from the timetable included in his approved production plan. A person whose rights to develop crude oil, natural gas, or coal were so terminated would be ineligible to reacquire such rights on such lands.

Existing mineral-rights agreements as to Federal lands were directed to "be renegotiated at the earliest date" to include the requirements set by the House amendment with respect to new leases, unless the Secretary of the Interior found that these requirements were not necessary under the circumstances or that such renegotiation would jeopardize existing Federal interests under such an agreement.

Senate Amendment

No provision.

Conference Substitute

This provision of the House amendment is omitted from the conference substitute.

Prohibition of certain lease bidding arrangements

House Amendment

The House amendment directed the Secretary of the Interior to prescribe a rule prospectively applicable to the grant of any right to develop crude oil, natural gas, coal, or oil shale on Federal lands. The rule was required to prohibit the granting of any such developmental right to a joint venture in which two or more major oil companies (including affiliates) were participants.

Senate Amendment

No provision.

Conference Substitute

The conference substitute is applicable only to the development of crude oil or natural gas on the Outer Continental Shelf. The conference substitute requires the Secretary to prohibit joint bidding for developmental rights by any joint venture in which two or more major oil companies (including affiliates) participate. The conference substitute authorizes the Secretary to prescribe regulations to implement this subsection; authorizes him to grant exemptions with respect to high risk ventures if necessary to secure efficient development; and requires the Secretary of the Interior to report to the Congress on recommendations with respect to joint ventures and maximizing competition in the development of mineral rights on Federal lands. This prohibition on joint bidding does not restrict other activities of joint ventures, including gathering and trunk pipeline-construction and operation. Likewise this prohibition on joint bidding does not prohibit unitization of producing properties on the Outer Continental Shelf or the operation of a unitized field on a joint venture basis.

Production of oil or gas at the maximum efficient rate and temporary emergency production rate

House Amendment

The House amendment authorized the President to require that crude oil and/or natural gas be produced (from fields designated by him) at the maximum efficient rate of production (MER) or, during a severe energy supply interruption, at the temporary emergency production rate (TEPR). For each field on Federal lands, the Secretary of the Interior was to determine the MER and the TEPR. For each field (other than on Federal land) within a State, the State or the appropriate agency thereof was to determine the MER and the TEPR; if the MER were not determined for any such field within 180 days after the date of enactment of this legislation, the Federal Energy Administrator (FEA) was authorized to do so. Production from any field at such field's TEPR could only be required upon a determination by the President that there was a severe energy supply interruption. Any loss of ultimate recovery of crude oil or natural gas caused by an order to produce at the TEPR was deemed a "taking by condemnation," and the owner of any property right whose value was so diminished was authorized to recover just compensation therefor in the U.S. Court of Claims.

Senate Amendment

The Senate amendment authorized the President to require the production of designated domestic oil and gas fields at "maximum practicable rates of production", under certain circumstances. Such rates could not exceed the applicable MER unless production at rates in excess of the MER for periods of no more than 90 days was possible "without excessive risk of losses in ultimate recovery". The Senate amendment also authorized the President to require (in order to supplement domestic energy supplies) the unitization of production on any oil and gas producing properties on Federal lands, and the adjustment of processing operations of domestic refineries.

Conference Substitute

The conference substitute follows the provision in the House amendment, except as follows:

(1) The owner of any property right who considers himself damaged as a result of a rule or order to produce at the temporary emergency production rate (TEPR) may sue for compensation for any loss of ultimate recovery in the appropriate United States District Court. The court shall award just compensation if it finds that the loss constitutes a taking of property compensable under the Constitution.

(2) If a producing field which is unitized is composed of both Federal and non-Federal lands, the Secretary of the Interior may (if no maximum efficient rate or no temporary emergency production rate for the unitized field has been determined), determine either the maximum efficient rate of production (MER) and the TEPR, or both, as the case may be. The President may, during a severe energy supply interruption, order production at MER or TEPR for such field.

(3) The President may order production at MER or TEPR of producing fields on non-Federal lands only where the State has previously established the MER and/or TEPR (or their equivalents) and only when there is a severe energy supply interruption.

The conferees wish to make clear that in the case where the President orders production for a period at the TEPR for a field, during a severe energy supply interruption, he may thereafter order production at the determined MER for the field.

Federal actions with respect to recycled oil

House Amendment

The House amendment required the Administrator of the Environmental Protection Agency, within 180 days after the enactment of this legislation, to promulgate performance standards, specifications, and testing procedures to facilitate determining whether re-refined or otherwise processed used oil is substantially equivalent to new oil intended for the same purpose. Such standards were required to permit the container of re-refined or otherwise processed used oil to bear a label indicating such substantial equivalency. The House amendment prohibited the Federal Trade Commission from requiring that a container bearing such a label also be labelled as "used oil". All Federal officials were directed to encourage the use of recycled oil through procurement, education, and assistance in the development of performance standards. The General Services Administration, the Department of Defense, and other Federal agencies were required, within 18 months after enactment, to revise their procurement regulations and specifications to increase the use of recycled oil and to reduce the consumption of new oil, for purposes for which recycled oil is substantially equivalent.

Senate Amendment

No provision.

Conference Substitute

The conference substitute follows the provision in the House amendment, except that:

(1) The National Bureau of Standards shall perform the comparison testing;

(2) The Federal Trade Commission, rather than EPA, shall promulgate the new rules with respect to labeling.

Strategic petroleum reserve

House Amendment

The House amendment provided for the creation of a Strategic Petroleum Reserve for the storage of up to one billion barrels of petroleum products. As part of this Reserve, the House amendment also provided for the creation of an Early Storage Reserve for the immediate storage of up to 150 million barrels of petroleum products.

The House amendment required the President to prepare and transmit to the Congress, within 60 days after the date of enactment of this legislation, a plan which detailed the President's proposals for designing, constructing and filling the Early Storage Reserve. The President was also required to prepare and transmit to the Congress, within one year after the date of enactment of this legislation, a plan which detailed the President's proposals for designing, constructing and filling the Strategic Reserve. Each plan was required to contain a Disposal Plan which set forth the method of drawdown and distribution of any petroleum products stored in the respective Reserve. Each plan was to take effect and could be implemented, subject to the limitations on authorized levels of appropriations, unless either House of Congress passed a resolution disapproving the Plan within the first period of 15 calendar days of continuous session of Congress following transmittal of the Plan to the Congress.

The House amendment granted the President specific authorities to implement the Early Storage and Strategic Reserve Plans which had taken effect pursuant to the Congressional review procedures of the legislation. These authorities included authority: to promulgate rules; to purchase or lease real property, and storage and related facilities; to acquire petroleum for storage; and to create an Industrial Petroleum Reserve. The President was also granted authority to exercise certain extraordinary powers under specified circumstances. These powers included: acquisition or real property, and storage and related facilities by condemnation; requiring acceptance or preferential performance of contracts; and materials allocation. The exercise of these powers was conditioned upon the President's transmitting to the Congress a proposal to exercise one or more of the extraordinary authorities in a specific case accompanied by supporting findings regarding the specific need for the exercise of the authorities. Thereafter the President could exercise these powers as proposed unless, within the first period of 15 calendar days a continuous session of Congress following transmittal of the proposal to Congress, both Houses of Congress passed resolutions disapproving the proposed exercise of the extraordinary powers.

Prior to any drawdown and distribution of the Reserve, the President was required to submit to the Congress a proposal to draw down the Reserve. This proposal was required to be supported by a Presidential finding that such drawdown and distribution was necessitated by the existence of a severe energy supply interruption or by the obligations of the United States under the International Energy Program. Thereafter drawdown and distribution of the Reserve could be made in accordance with the terms of the Disposal Plan unless, within the first period of 15 calendar days or continuous session of Congress following transmittal of the proposal to Congress, either House of Congress passed a resolution disapproving the drawdown.

The House amendment authorized appropriations of: $10 million for planning: $250 million in FY 1976, $10 million in FY 1977 and $10 million in FY 1978 to implement the Early Storage Reserve Plan, not including the purchase of petroleum products for storage in the Early Storage Reserve; $260 million in FY 1976, $650 million in FY 1977 and $1.04 billion in FY 1978 for the purchase of petroleum products for storage in the Early Storage Reserve; and $200 million in FY 1976, $400 million in FY 1977 and $500 million in FY 1978 to implement the Strategic Reserve Plan. No appropriations were authorized for the purchase of petroleum products for storage, other than in the Early Storage Reserve.

The House amendment exempted petroleum products imported into the United States for storage in the Strategic Reserve from any volumetric restriction on imports of petroleum products.

The House amendment directed the President to prepare annual reports summarizing all actions taken under the authority of the legislation.

The provisions of the legislation and any rules or orders promulgated pursuant to the legislation were enforced through the provisions of Title VII of the House amendment. These enforcement provisions included civil and criminal sanctions and injunctive relief to prevent future violations.

Senate Amendment

The Senate amendment provided for the creation of a Strategic Reserve System. The System included strategic crude oil reserves, refined petroleum product and residual fuel oil reserves to satisfy certain regional needs, and interim reserves to be stored by industry. The Senate amendment established a Strategic Reserve Office within the Federal Energy Administration to establish and manage the reserve system.

The Senate amendment required the Administrator to store, within seven years after the date of enactment, volumes of crude oil equal to the volume of 3 months imports of crude oil. The Senate amendment further required that 10 percent, 25 percent and 65 percent of this storage requirement be achieved within 18 months, 3 years and 5 years, respectively, after the date of enactment. Departures from this timetable were permitted only if the Administrator transmitted a proposal to depart from this schedule to the Congress, together with any justifications for the departure. A maximum of 6 months delay could then be made by the Administrator. No delay for more than 6 months could be made unless a proposal for such a longer delay was submitted to the Congress for review and neither House passed a resolution disapproving the proposed delay within 60 days after receipt of the proposal.

Regional reserves were required to be established in a P.A.D. District whenever: the volume of residual fuel oil imported into the District exceeded 25 percent of demand for residual fuel oil in the District; or the volume of No. 2 heating oil imported into the District exceeded 10 percent of demand for such heating oil in the District. In addition regional reserves were required to be established in an FEA Region whenever the volume of No. 2 heating oil imported into the Region exceeded 20 percent of the demand for such heating oil in the Region. The regional reserves were required to contain volumes of any such oil or product equal to at least 3 months of imports of No. 2 heating oil or residual fuel oil, whichever was applicable. If the Administrator notified the Congress, he was authorized to store petroleum products in substitution for the products otherwise required to be stored.

The Senate amendment authorized industry reserves to be established and maintained by importers of petroleum products and refiners. The Administrator was authorized to require the storage, as reserves, of volumes of petroleum products equal to 3 percent of such importer's or refiner's throughput during the preceding calendar year.

Specific grants of authorities, including condemnation authority, were made to the Administrator by the Senate amendment for the purpose of carrying out the requirements of the legislation. Drawdown and distribution of the reserves was authorized in case of a 10 percent shortage in imports or if necessary to fulfill international obligations of the United States. The Administrator was authorized to establish price controls and allocation procedures with respect to petroleum products distributed from the reserves.

The Senate amendment authorized appropriations of funds necessary to implement the provisions of the legisltation. Violations of any provision of the legislation or of any rule or order promulgated under the authority of the legislation was made subject to civil and criminal sanctions and to injunctive relief to prevent future violations.

The Senate amendment authorized the Administrator to collect certain information and perform audits necessary to proper administration of the reserves.

Finally, several reports to the Congress were required to be prepared by the Administrator. The Senate amendment required annual reports regarding actions taken under the authority of the legislation. A report on the need for, and desirability of, adding certain additional reserves, including coal reserves, utility reserves and remote oil and gas reserves, to the reserve system was required by the Senate amendment. Finally a report regarding recommended procedures for development of NPR 4 was required.

Conference Substitute

The conference substitute provides for the establishment of a Strategic Petroleum Reserve containing up to one billion barrels of petroleum products. As part of this Reserve there would be created an Early Storage Reserve for the purpose of initiating the immediate storage of petroleum products to the maximum extent practicable in existing excess storage capacity. A Strategic Petroleum Reserve Office is established in the Federal Energy Administration, through which the FEA Administrator is authorized to establish and manage the Reserve.

The Administrator is required to prepare and transmit to the Congress, within 90 days after the date of enactment of the legislation, a detailed Plan for development of the Early Storage Reserve.

The conference substitute directs the Administrator to prepare a Strategic Petroleum Reserve Plan and transmit it to the Congress not later than December 15, 1976. This Plan must set forth in detail the Administrator's proposals for designing, constructing and filling the Reserve. The Plan must include: a schedule for the development of the Reserve; detailed cost figures; a comprehensive environmental assessment; and an evaluation of the economic impact of developing the Reserve. The comprehensive environmental assessment, required to be included as part of the Strategic Reserve Plan, may, but need not, be an Environmental Impact Statement which may be required by the National Environmental Policy Act. This requirement imposed by the conference substitute is separate from any other statutory requirement relating to analysis of environmental impacts.

The conference substitute establishes storage targets for both the Early Storage Reserve and the Strategic Reserve. The Strategic Reserve or, if no Strategic Reserve Plan has taken effect (i.e., Congress has disapproved each plan submitted by the Administrator), the Early Storage Reserve must contain not less than 150 million barrels of petroleum products by the end of the 3-year period which follows the date of enactment of the legislation. In addition, the Strategic Reserve Plan must be targeted to achieve, within 7 years after enactment of the legislation, storage of crude oil equal to 3 months of crude oil imports. Interim targets are established equal to 10 percent, 25 percent and 65 percent of this volume within 18 months, 3 years and 5 years, respectively, after date of enactment of the legislation. These latter storage targets may be modified pursuant to the storage schedule specified in the Reserve Plan. However, the 150 million barrel statutory requirement is not mutable through the provisions of the Plan.

The conference substitute does not subject the Early Storage Reserve Plan to Congressional review. The substitute authorizes the immediate implementation of the Early Storage Reserve Plan which enables the Administrator to begin to stop petroleum products, on a largely in existing storage capacity, while the details of the Strategic Reserve Plan are being developed. The Strategic Reserve Plan, on the other hand, is subject to Congressional review. This Plan may not be implemented if, within the first period of 45 calendar days of continuous session of Congress following transmittal of the Plan to Congress, either House of Congress passes a resolution disapproving the Plan. If no such resolution of disapproval is passed, the conference substitute authorizes the Administrator to utilize a broad range of authorities to implement this Plan. Once this Plan takes effect, the storage of petroleum products which had been initiated under the Early Storage Reserve Plan continues as part of the Strategic Reserve to assure that the 3-year, 150-million-barrel storage requirement is satisfied.

The conference substitute also provides for the establishment, as part of the Strategic Reserve, of an Industrial Reserve and a Regional Petroleum Reserve. To implement either the Early Storage Reserve Plan or the Strategic Reserve Plan the Administrator is authorized to require, subject to certain limitations, importers and refiners of petroleum products to acquire and maintain readily available reserves of petroleum products.

The conference substitute requires that the Strategic Petroleum Reserve Plan provide for Regional Petroleum Reserves whenever imports of any refined petroleum product or residual fuel oil exceed 20 percent of demand for such product or oil in any FEA region. To implement this provision of the Plan, the Administrator is authorized to establish, as part of the Strategic Reserve, a Regional Petroleum Reserve of such product or oil readily accessible to such FEA Region. The conference substitute permits the Administrator to satisfy the requirements of the Regional Reserve provisions regarding storage of any refined petroleum product or residual fuel oil by substitute storage of petroleum products, including crude oil, without express restriction on the location of substitute storage facilities. The conferees anticipate that the Administrator will rely upon substitution to satisfy Regional Reserve storage requirements only to the extent that the types and volumes of substitute petroleum products stored and the location of the storage facilities will be "adequate to provide substantial protection" against an interruption or reduction in imports of any refined petroleum product or residual fuel oil for which any FEA Region is dependent upon imports of such oil or product for more than 20 percent of such Region's demands for such oil or product.

The conference substitute grants the Administrator a broad range of authorities to implement the Early Storage Reserve and Strategic Reserve Plans. These authorities are similar to the specific authorities granted in both the House and Senate amendments, including condemnation authority. No Congressional review of the exercise of this condemnation authority is required.

The conference substitute authorizes the Administrator to store crude oil produced from the Naval Petroleum Reserves to the extent that such production may be authorized by law, royalty crude oil produced from Federal lands, and crude oil and other petroleum products acquired by purchase or exchange. Guidelines for the acquisition of petroleum products for storage in the Reserve are set forth. Petroleum products imported into the United States for storage in the Strategic Reserve are exempted from any volumetric restriction on imports of petroleum products.

Drawdown and distribution of the Reserve is authorized in accordance with the applicable Distribution Plan if the President finds drawdown and distribution is required by a severe energy supply interruption or by international obligations of the United States. Certain petroleum products have a limited "shelf life" during which they may be stored without deteriorating. The conferees anticipate that portions of the Reserve may, therefore, have to be periodically replaced by fresh petroleum products. Such routine "roll over" of the Reserve does not constitute drawdown and distribution of the Reserve even if minor delays occur between the disposal of the older petroleum products and their replacement with fresh petroleum products.

The Senate amendment authorized appropriation of funds necessary to carry out the provisions of the legislation. House amendment authorized appropriations by purpose, in year and dollar amounts. The House amendment provided annual authorizations of specific dollar amounts adequate to fund the development of the Early Storage Reserve. The conference substitute authorizes appropriation of funds necessary to carry out the Early Storage Reserve requirements of the legislation without specific annual dollar limitations. The substitute includes authorization of appropriations for the purchase of 150 million barrels of petroleum products for storage. To the extent that the development schedule of the Early Storage Reserve and the Strategic Reserve during the first 3 years parallels the schedule imposed under the House amendment, it is anticipated that annual appropriations will parallel the dollar amounts specified in the House amendment for this period. The House amendment also authorized appropriations totalling $1.1 billion over a three-year period for development of the Strategic Reserve. The conference substitute authorizes the same level of appropriations without the annual limitations imposed by the House amendment. The athorization in the conference substitute does not include any authorization of appropriations for purchase of petroleum products for storage in the Reserve in excess of the 150 million barrels of petroleum products which are mandated to be stored during the first 3 years.

The conference substitute requires the preparation of a report, including legislative recommendations regarding expansion of the reserve concept. The conference substitute authorizes the Administrator to require preparation and maintenance of certain recout the purposes of the legislation. In addiou the purposes of the legislation. In addition the substitute requires the Administrator to study and report to the Congress regarding recommended procedures for development of Naval Petroleum Reserve Number 4. Finally the substitute requires the Administrator to report annually regarding all actions taken pursuant to the legislation.

The conferees anticipate that the Early Storage and Strategic Reserve Plans will provide for utilization, to the fullest extent possible, of the expertise and capabilities of private industry. Therefore, the conference substitute makes clear that government-owned oil may be stored in privately owned storage facilities provided that such facilities are subject to audit by the United States.

The House amendment was characterized by flexibility attained through delegation of broad discretion to the President to develop the Storage Reserve Plan. This flexibility was counterbalanced by the Congressional review mechanisms which conditioned utilization of substantive authorities to implement the Strategic Reserve Plan. In some respects the conferees believe these mechanisms were too restrictive and were likely to hinder expeditious development of the Reserve.

The Senate amendment was characterized by the direct grant of broad authority. However, provisions requiring the storage of volumes of certain petroleum products according to a specified schedule may have limited the flexibility with which the Reserve could be developed and could have lessened the utility of the broad authorities granted in the Senate amendment. The conferees believe the chief attribute to the Senate amendment was the fact that it required the prompt development of a Strategic Reserve and granted the necessary authorities without need for further Congressional action.

The conference substitute adopts those aspects of the House amendment which provided administrative flexibility. Thus the framework of requiring an Early Storage Reserve Plan and a Strategic Reserve Plan is retained. To this framework many requirements in the Senate amendment are added as targets or objectives which each Plan must be designed to the maximum extent practicable to achieve. Consequently the advantages of the Senate amendment are retained and Congressional direction is provided to guide development of the Reserve without unduly restricting administrative flexibility. In addition, the single most important Congressional review procedure contained in the House amendment, review of the Strategic Reserve Plan, is retained in the conference substitute. However, the other Congressional review mechanisms included in the House amendment are not retained in the conference substitute. In particular, the direct authorization approach of the Senate amendment is applied to implementation of the Early Storage Reserve Plan. Similarly Congressional review does not condition use of condemnation authorities.

The existence of a potential storage facility, located within the territorial limits of Canada, has been called to the attention of the conferees. This potential facility may be uniquely situated to serve a substantial portion of the reserve requirements of the Northeastern United States. The conference substitute does not prohibit utilization of such a facility, illustrating flexibility granted the Administrator under the conference substitute. The Strategic Reserve Plan must include details regarding siting of storage facilities. The conference substitute does not require that each storage facility be located within the geographic borders of the United States. The conferees anticipate, however, that any proposal to locate storage facilities outside the borders of the United States would be supported by justifications regarding the need for, and desirability of, locating the storage facility at the proposed site, as well as assurances that petroleum products stored in such a storage facility would be available for drawdown and distribution by the United States without foreign interference.

An excellent example of the manner in which the House and Senate amendments have been harmonized may be found in the several provisions relating to satisfying regional requirements for petroleum products. The House amendment required only that the Early Storage and Strategic Reserve Plans be designed to satisfy regional needs. The Senate amendment contained rigid standards specifying when certain products were required to be stored, the locale of the storage and the volume of products required to be stored. Like the House amendment, the conference substitute also requires that the Plans be designed to satisfy regional needs. However, the requirements for establishment of Regional Reserves which parallel the requirements in the Senate amendment are greatly simplified in comparison to those of the Senate amendment. The volumetric and storage locale requirements are made more flexible and substitution of crude oil storage, as permitted in the Senate amendment, is retained. The result is a regional reserve requirement which gives greater Congressional direction to the Administrator than was provided by the House amendment while granting greater flexibility in the method of carrying out the Congressionally established policy than was provided by the Senate amendment.

Similarly, the conference substitute requires that the Reserve Plan focus on the particular regional petroleum needs of certain non-contiguous areas of the United States, for example, Hawaii. To the maximum extent practicable the Strategic Reserve Plan should provide that such non-contiguous areas have a component of the Reserve located within such area. This requirement is not absolute. If local siting of a component of the Reserve within such non-contiguous area is not practicable, the Strategic Reserve Plan should provide that such area will be assured ready and nondiscriminatory access to petroleum products stored elsewhere in the Reserve. In addition, the conferees anticipate that the storage capacity of such component would bear a relationship to the overall capacity of the Reserve in some proportion to the relationship of demand for petroleum products in such non-contiguous area to national demand for petroleum products. This relationship is not included in the conference substitute as a statutory requirement in order to preserve the concept of delegating broad administrative flexibility to carry out Congressionally established policy guidelines.

The conferees believe the conference substitute maximizes administrative flexibility, provides adequate Congressional guidelines, and requires expeditious development of the Reserve while retaining Congressional oversight of development of the Reserve through Congressional review of the Strategic Reserve Plan and limitations on authorized levels of appropriations.

II—STANDBY ENERGY AUTHORITIES

General Emergency Authorities

House amendment

The House amendment required the President to transmit to Congress, within 180 days after the date of enactment of this legislation, one or more energy conservation contingency plans and a gasoline rationing contingency plan. Additional such plans could be submitted at any time. No such contingency plan could become effective unless it was approved by a resolution passed by each House of Congress within the first period of 60 calendar days of continuous session of Congress after such transmittal, in accordance with procedures for expedited congressional review. No such approved plan could be put into effect unless (1) the President found that a severe energy supply interruption required such implementation, and he transmitted to Congress a request to put such plan into effect, and (2) neither House of Congress period of 15 calendar days of continuous session of Congress after such transmittal. Such an approved plan could be put into effect without such additional review by Congress if and to the extent that the President determined, during a "7 percent shortfall period" that such implementation was necessary to meet the obligations of the United States under the international energy program. (A "7 percent shortfall period" was defined as a period commencing on a date when the President determined that countries who are parties to the international energy program have sustained a reduction of average daily consumption during the base period and ending 60 days after the date on which he finds that this condition no longer exists.) Any such contingency plan could be amended by the President at any time upon transmittal of such amendment to the Congress and the approval thereof by both Houses of Congress, within 60 days of transmittal.

1. Energy conservation contingency plans

The House amendment defined an energy conservation contingency plan as a plan which imposed restrictions on the public or private use of energy which were necessary to reduce energy consumption. No such plan could provide for the imposition of gasoline rationing or any tax, tariff, user fee, or minimum price for any petroleum product or for any credit or deduction in computing any tax. Energy conservation contingency plans could remain in effect for the period specified in the plan up to 18 months, unless earlier rescinded by the President, except that the President may request, not later than 90 days after the enactment of this legislation, authority to put a plan into effect for a period of no more than 60 days. States or political subdivisions could be exempted from an energy conservation contingency plan if the President determined that a comparable program or special circumstances exist in that jurisdiction.

2. Gasoline rationing contingency plan

The House amendment required the President to prescribe a gasoline rationing contingency plan, as part of the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973. Such plan must provide for the establishment of a program for the rationing and ordering of priorities among classes of end-users of gasoline and for the assignment of rights entitling certain classes of end-users to obtain gasoline in precedence of other classes. No gasoline rationing contingency plan could be put into effect unless (1) the prerequisites for implementation of an energy conservation contingency plan were satisfied, and (2) the President determined that, without such rationing plan, all other practicable and authorized methods to limit energy demand were inadequate to achieve the objectives of section 4(b) of the Emergency Petroleum Allocation Act. The President was directed to make appropriate adjustments in the petroleum allocation program in furtherance of a gasoline rationing contingency plan which is in effect. The President was directed to provide for the use of local boards whose composition reflected the community as a whole of States or their political subdivisions to receive petitions from end-users of gasoline and to order reclassification or modification of any determination made with respect to the end-users' rationing priority or entitlement. No gasoline rationing contingency plan could impose a tax, provide for a tax credit or deduction, or impose any user fee except to cover administrative costs. A gasoline rationing plan could remain in effect for up to 18 months.

Senate amendment

The Senate amendment required the President, within 180 days after enactment, to develop contingency plans for end-use rationing and energy conservation, and to submit the plans to Congress together with a specific statement explaining their necessity, rationale, and operation and evaluating their potential economic impacts. No such plan could take effect if either House of Congress passed a resolution of disapproval within the first period of 10 calendar days of continuous session of Congress after the date of transmittal by the President. Prior to exercising any of these authorities, the President was required to make a finding (1) that "acute energy shortage conditions exist or are impending that threaten the domestic economy and the ability of the United States to meet essential civilian or military energy requirements and that such shortage conditions are of such severity or scope as to require" such exercise, or (2) that such exercise was required to fulfill obligations of the United States under an international agreement. Amendments to an energy conservation plan were not made subject to the same requirements as an initial plan if they were consistent as to subject matter, but the President had to notify the Congress of all amendments. A finding of acute energy shortage could remain in effect up to 9 months; the President could make a new such finding if he found that any such authorities should remain in effect for a longer period.

1. Energy conservation plan

The Senate amendment defined an energy conservation plan to mean a plan for transportation controls and such other reasonable restrictions on the public or private use of energy necessary to reduce energy consumption. An energy conservation plan could not include rationing or any tax, user fee, or tax credit or deduction. Each plan was required to deal with only one functionally discrete subject matter or type of action, and priority consideration must be given to the needs of handicapped and other persons. A State could be exempted from an energy conservation plan to the extent that a comparable State or local program was in effect, or upon a Presidential finding of special circumstances.

2. End-use rationing

The Senate amendment required the President, within 90 days after the date of enactment of this legislation, to develop and submit to Congress a contingency plan for rationing. The President was authorized to promulgate a regulation establishing a program for the rationing and ordering of priorities among classes of end-users of crude oil, residual fuel oil, or any refined petroleum product. Such regulation could only take effect (1) if the President found it necessary to achieve the objectives of this legislation and of the petroleum allocation program, and (2) if, upon transmittal to Congress, neither House of Congress passed a resolution, within the first period of 10 calendar days of continuous session of Congress after such date, stating in substance that Congress did not favor such action. The President was directed to provide for review and reclassification procedures for end-users of rationed oil; these procedures could include the use of local boards. No rule or order under this provision could provide for the imposition of any tax or user fee or provide for any tax credit or deduction. A rationing rule was required to give priority consideration to the needs of handicapped persons.

Conference Substitute

The conference substitute follows the House amendment, except as follows:

(1) The President, may order any approved contingency plan to be put into effect without any additional Congressional review upon a finding that such implementation is required by a severe energy supply interruption or in order to fulfill obligations of the United States under the international energy program, and upon transmittal of such finding to the Congress; except that in the case of a rationing contingency plan, no such plan shall take effect if either House of Congress passes a resolution of disapproval within 15 days of continuous session after its submission to Congress.

(2) No contingency plan may remain in effect for a period of romer than 9 months;

(3) An energy conservation contingency plan may not deal with more than one logically consistent subject matter.

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(4) In prescribing energy conservation contingency plans the President is directed to take into consideration the mobility needs of the handicapped. In addition, with respect to rationing contingency plans (which are required to be consistent to the maximum extent practicable with the objective specified in section 4(b) of the Emergency Petroleum Allocation Act of 1973) the objectives in that section 4(b)(1) are deemed to include consideration of the mobility needs of handicapped persons and of their convenience in obtaining rationing coupons. In this regard the conferees intend that when consideration is given to the needs of handicapped individuals this consideration should extend to the needs of the parent or guardian of a handicapped person who must transport that person to or from special services or his place of employment.

(5) The conferees recognize that rationing contingency plans implemented pursuant to this title should give consideration, consistent with the objectives of the Emergency Petroleum Allocation Act of 1973, to the personal transportation needs of American military personnel reassigned to other duty stations and to those persons who are required to relocate for health or employment purposes.

(6) The conferees intend strict adherence to the limitations on user fees specified in section 203(e)(3). A rationing contingency plan implemented under this title may not employ such fees for the purpose of generating public revenues or reducing petroleum consumption, and shall provide for the distribution of rights to gasoline or diesel fuel at the lowest possible cost to consumers of such fuel.

1. International oil allocation

House Amendment

The House amendment authorized the President to promulgate a rule requiring such action as may be necessary to implement the obligations of the United States under the international energy program insofar as such obligations relate to the international allocation of petroleum products. The rule could not take effect unless (1) the President transmitted it to Congress; (2) neither House of Congress disapproved it within the first period of 15 calendar days of continuous session of Congress after transmittal; and (3) the President found that "putting such rule into effect is necessary to carry out the international energy program". The rule could remain in effect for up to 18 months after the date of such transmittal. Petroleum products were required to be allocated in the amounts and at the prices specified in the rule. The rule could be made applicable to any petroleum product (including products destined for import into the United States or any foreign country, or produced in the United States) owned or controlled by any person subject to the jurisdiction of the United States. The rule was required to be consistent with attainment of the objectives of section 4(b) of the Emergency Petroleum Allocation Act. The House amendment was declared the exclusive authority for allocation of petroleum products to implement U.S. obligations under the international energy program.

Senate Amendment

The Senate amendment authorized the President to require (by rule, regulation, or order) such action as may be necessary to implement the obligations of the United States under the international agreement concerning the international allocation of petroleum. The amounts and prices of such allocation must conform with the rule, regulation, or order, which could apply to all petroleum (including petroleum destined for import) owned or controlled by persons subject to the jurisdiction of the United States. The rule, regulation, or order would take effect whenever (1) the President found that the exercise of this authority was required to fulfill obligations of the United States under an international agreement to which it is a party, and (2) the President transmitted this finding to the Congress together with a report on the manner in which the authority would be used. Such a rule, regulation, or order was required to conform to the objectives and limitations in the Emergency Petroleum Allocation Act and the Federal Energy Administration Act. It could remain in effect for up to 6 months, unless extended upon a new finding. The allocation of petroleum and any export thereof under the authority of this provision could not be barred by other specified Federal laws.

Conference Substitute

The conference substitute generally follows the provision in the Senate amendment, except that a rule for international oil allocation may remain in effect for up to 12 months, and the House provision, respecting exclusive allocation authority is included.

2. *International Voluntary Agreements*

House Amendment

The House amendment granted immunity from the prohibitions of the antitrust laws to persons engaged in the business of producing, refining, marketing, or distributing petroleum products for voluntary agreements "which are required to implement the allocation and information provisions of the international energy program". The House amendment directed the Administrator of the Federal Energy Administration (FEA), with the approval of the Attorney General (AG), after each consulted with the Federal Trade Commission (FTC) and the Secretary of State, to prescribe by rule standards and procedures for the development and carrying out of the voluntary agreements. The standards and procedures had to include (1) an "open" meeting requirement for meetings held to develop or carry out such an agreement; (2) a requirement that such meetings be preceded by timely and adequate notice and be chaired by a regular full-time Federal employee; (3) an exception from the foregoing requirements for meetings of bodies created by the International Energy Agency (established by the international energy program); (4) discretionary authority in the President (in consultation with the FEA, the Secretary of State, and the AG) to permit closed meetings with limited attendance under certain conditions; (5) a requirement that a verbatim transcript (or full and complete minutes) be kept of each meeting held or communication made between or among persons who are or may become parties to such voluntary agreement for the purpose of developing or carrying out such an agreement; (6) a requirement that (in most cases) interested persons be permitted to attend meetings to develop or carry out a voluntary agreement and to present data, views, and arguments in writing and orally; (7) a requirement that transcripts or minutes of such meetings and a copy of any resulting agreement be deposited with the FEA, be available to the AG and the FTC, and be available for public inspection and copying (unless prohibited by specified sections of the Freedom of Information Act or unless the President determines that such disclosure would be detrimental to the foreign policy interests of the United States); (8) a requirement that committees of Congress have access to all such meetings, transcripts, minutes, and agreements; (9) a requirement that the AG and the FTC be afforded an opportunity to participate in any such meeting; that they be permitted to propose alternatives to avoid or overcome any anticompetitive effects; that no voluntary agreement under this provision could be carried out unless it was approved by the AG, after consultation with the FTC, upon its submission to the AG 20 days prior to implementation (this period could be shortened during an international energy supply emergency); and that the AG have the right to review, amend, modify, disapprove, or revoke any such agreement at any time (and that, in case of such revocation, the AG withdraw antitrust immunity); and (10) a requirement that the AG and the FTC monitor the development and carrying out of such agreements in order to "promote competition and to prevent anticompetitive practices and effects."

In any civil or criminal antitrust proceeding brought with respect to any action taken in good faith to develop or carry out a voluntary agreement the House amendment made it a defense that (1) the action was taken in the course of developing a voluntary agreement or carrying out such an approved agreement; and (2) such person complied with all applicable requirements under this provision. (The antitrust immunity provisions under the Defense Production Act would not apply to any agreement or action undertaken for the purpose of developing or carrying out the international energy program, or any oil allocation or pricing program under this legislation or under the Emergency Petroleum Allocation Act.) This authority to enter voluntary agreements with antitrust immunity would terminate June 30, 1979, except that if (prior to July 1, 1979) the AG prescribed membership, voting-rights, agreement-development-participation, and competition-protection rules, such authority would terminate June 30, 1985. The AG was directed to apply such rules as he may prescribe pursuant to this subsection, and, after July 1, 1979, to disapprove any voluntary agreement which did not comply with them. The House amendment also made it a defense to any action for breach of contract that the alleged breach was caused by an action taken to carry out a voluntary agreement during any period when the President determined that the United States was required to allocate petroleum products to other nations pursuant to the international energy program. The FTC was directed to report to Congress and the President, at least once every 6 months, on the impact of these provisions upon competition and small business.

Senate Amendment

The Senate amendment directed the FEA to promulgate standards and procedures for voluntary agreements, as under the House amendment, and for plans of action to carry out such agreements. These standards, which were required to be promulgated under section 553 of title 5, United States Code, were similar to those set forth in the House amendment, except that (1) the notice and open meeting requirements applied to meetings of bodies created by the International Energy Agency; (2) the FEA could (in consultation with the Secretary of State and subject to approval by the AG) limit attendance at meetings to develop "a plan of action", if the FEA found that a wider disclosure would be detrimental to the public or foreign policy interests of the United States; (3) the FEA could impose limitations on the presentation of data, views, and arguments at meetings to develop a voluntary agreement or a plan of action; (4) verbatim transcripts of meetings or conferences were only required if "practicable" (a full and complete record is sufficient otherwise); (5) transcripts, records, and agreements could be withheld from the public under certain provisions of the Freedom of Information Act or if the FEA (in consultation with the Secretary of State and subject to approval by the AG) determined that disclosure would be detrimental to the public or foreign policy interests of the United States; (6) such an agreement was not required to be approved by the Attorney General, and the FTC was not required to submit to the AG its views on each such agreement.

The Senate amendment established a defense to an antitrust action, as under the House amendment, except that the defense was not conditioned upon proof that the action was taken in "good faith" and was not available if the plaintiff proved that the actions were "taken unnecessarily and for the purpose of injuring competition." This antitrust immunity applied only to actions taken before November 18, 1978. Both the AG and the FTC were required to report to Congress and the President, at least once every 6 months, on the impact on competition and small business of actions authorized and taken under these provisions. The Senate amendment also provided a defense to a suit for breach of contract, but the defense was available only if the alleged breach was caused "solely" by complaince with these provisions or any rule, regulation, or order thereunder.

Conference Substitute

The conference substitute generally follows the House amendment, except as follows:

(1) The provisions also apply to the formulation and implementation of plans of action to carry out approved voluntary agreements.

(2) Persons who are permitted to attend a meeting to develop or carry out a voluntary agreement or plan of action are permitted to present data, views, and arguments, in writing and orally, subject to such reasonable limitations on the presentation of views and arguments as the FEA may impose. In imposing the requirement from the Senate amendment that "where practicable a verbatim transcript" be made of meetings to develop or carry out a voluntary agreement or plan of action, the conference recognized that in certain instances, it may not be "practicable" to keep verbatim transcripts in international meetings when the principal participants in a meeting are foreign governments.

(3) The conference substitute follows the Senate provisions for keeping meeting records and transcripts and the House amendment for the deposit and public availability of records, transcripts, and agreements, except that such material shall be made available to the public pursuant to the Freedom of Information Act and cannot be withheld except under certain grounds specified in the Freedom of Information Act. (See below.)

(4) The Attorney General may not approve any such plan of action unless the plan describes the types of substantive actions which may be taken under it and is as specific in such descriptions as is reasonable in light of known circumstances.

(5) The antitrust immunity provision is the same as that in the Senate amendment except that the defendant must demonstrate that the action taken was specifically described in, or reasonably within the contemplation of, an approved plan of action. The immunity is lost if the plaintiff shows the action was taken for the purpose, that is, with the specific intent, or injuring competition. Unlike the Senate amendment, the conference substitute does not require the plaintiff to prove that the action was taken "unnecessarily." It is the view of the conferees that the question of necessity, which can be relevant in showing the absence of specific intent to injure competition, is best addressed by the defendant.

(6) The antitrust immunity does not apply to actions taken after June 30, 1979.

(7) A defense is available to a breach of contract action if the alleged breach was caused by actions taken "predominantly" to carry out approved voluntary agreements or plans of action.

(8) In order to allow for an orderly transition and continuous coverage, the conference substitute allows for a 90-day period before the provisions of this section become the *sole* procedure applicable to the developments or carrying out of voluntary agreements and plans of action to implement the International Energy Program. During the 90-day period the existing procedures and immunity under section 708 of the Defense Production Act of 1950, as well as the procedures of this section, will continue to be available.

(9) This section further provides that, for the purposes of section 708A(o) of the Defense Production Act of 1950, the effective date of the provisions of this Act which relate to voluntary agreements to carry out the International Energy Program shall be deemed to be 90 days after the date of enactment of the conference substitute. This provision is intended to remove any doubt that section 708, prior to its amendment by section

3 of the Defense Production Act Amendments of 1975, continues to be applicable until the earlier of 90 days after the enactment of the conference substitute, or 120 days after the enactment of the Defense Production Act Amendments of 1975.

3. Public access to information

House

The House bill required that transcripts and minutes of meetings to develop or carry out a voluntary agreement be available for public inspection and copying, but provided that these transcripts and minutes could be withheld from public disclosure on the basis of any one of three specified exemptions from disclosure under the Freedom of Information Act (namely, in the interest of national defense or foreign policy, exemption from disclosure by statute, and trade secret protection) or alternatively on the basis of a presidential determination that disclosure would be "detrimental to the foreign policy interests of the United States".

Senate

The Senate bill differs from the House only in that the final ground for withholding from disclosure is modified to permit withholding if disclosure would be "detrimental to the public interest, including the foreign policy interests of the United States", thus requiring consideration of a much broader spectrum of public policy considerations before withholding from disclosure on this basis. Among the public policy considerations which the Senate version would require to be considered in this respect is the policy, articulated in the Freedom of Information Act, of requiring to the maximum extent practicable public disclosure of information in the hands of executive agencies.

Conference Substitute

The conferees agreed to a substitute provision which retains the three exemptions from disclosure which appeared in both bills (i.e., the specified Freedom of Information Act grounds). With respect to the fourth ground (which was substantively different in the two bills) the conferees decided to accept the House position on the scope of the exemption and to limit it to disclosure which was detrimental to the foreign policy interests of the United States. However, the conferees also wished to incorporate the Senate position requiring consideration of the public policy favoring disclosure of information held by executive agencies. On the basis of examination of the text of the Freedom of Information Act, the conferees determined that the authority under that Act was broad enough to permit withholding from disclosure of any matter which could have been withheld under the "detrimental to the foreign policy interests of the United States" test in the House bill. The conferees also decided that the best means for requiring consideration of the public policy in favor of public disclosure of information was to make applicable the safeguards of the Freedom of Information Act. Accordingly, the conferees decided to rely on the Freedom of Information Act both to afford protection from disclosure in cases where disclosure is detrimental to the foreign policy interests of the United States, and to assure consideration of the public interest in access to information. The conference substitute, therefore, retains the three Freedom of Information Act grounds for withholding from disclosure, and eliminates, as unnecessary, the fourth, non-Freedom-of-Information-Act ground.

It is not the intention of the Conferees to limit the scope of the exception under 5 U.S.C. 552(b)(1) to the terms of the existing executive order on national security classification; for example, the President could issue a new executive order dealing specifically with disclosure of IEP-related materials.

4. Advisory Committees

House Amendment

The House amendment authorized the FEA to establish advisory committees which he determined were necessary "to achieve the purposes of the international energy program with respect to international allocation of petroleum products and the information system provided in such program". Meetings of these committees were required to (1) be chaired by a regular full-time Federal employee, (2) be open to, and include representatives of, the public, and (3) permit the AG and the FTC the opportunity to participate, upon adequate advance notice. A verbatim transcript was to be kept of each meeting, deposited with the AG and the FTC, and made available to the public. The committees were made subject to the provisions of section 17 of the Federal Energy Administration Act of 1974. The President, after consultation with the Secretary of State, the FTC, the AG, and the FEA, could suspend the application of requirements for open meetings, public availability of transcripts, subsections (b) and (c) of such section 17, and sections 10 and 11 of the Federal Advisory Committee Act if he determined that such suspension was "essential" to the international energy program and that the application of these requirements would be detrimental to the foreign policy interests of the United States, and if notice of such determinations and the reasons therefor was published in the Federal Register a reasonable time prior to such suspension.

Senate Amendment

The Senate amendment authorized the FEA to establish advisory committees, as under the House amendment, except that the authority to suspend requirements of the Federal Advisory Committee Act, the FEA Act, and the open meeting provision was vested in the FEA. The authority to suspend such requirements was required to be based on the Administrator's determination that suspension was essential to an international agreement and that the application of such provisions would be detrimental to the public interest, including, but not limited to the foreign policy interests of the United States.

Conference Substitute

The conference substitute follows the provision in the House amendment, except that transcripts of advisory committee meetings shall be made available (and may be withheld from public availability) on the same basis provided in the conference substitute on the public availability of information respecting voluntary agreements.

5. Exchange of information

House Amendment

The House amendment authorized the Secretary of State to transmit to the International Energy Agency (IEA), established by the international energy program, information and data related to the energy industry which was furnished by the FEA and which the Secretary of State certified was required to be submitted under the international energy program. Except during an international energy supply emergency, trade secrets or commercial or financial information (exempt from disclosure under a U.S.C. 552(b)(4) had to be aggregated before being reported, in order to avoid, to the extent feasible, identification of its source. The President could withhold transmittal of any data or information if he determined that transmittal would prejudice competition, violate the antitrust laws, or be inconsistent with national security. If the confidentiality of data or information was protected by statute, the FEA could not provide it to the Secretary of State for international exchange unless the head of the department or agency authorized to obtain or collect the information concurred in providing such information, after consideration based on specified factors. The authority to transmit information and data was made subject to any disclosure limitations in other laws, except as set forth.

Senate Amendment

The Secretary of State was authorized by the Senate amendment to transmit to an appropriate international organization or foreign country, information and data related to the energy industry which the Secretary of State certified was required to be submitted under an international agreement to which the United States is a party and which the FEA, after consultation with the AG, provided to him. The Senate amendment did not require that trade secret, commercial, or financial information be reported in such a manner to avoid disclosure of its source; it authorized the transmittal of "energy information" (defined to include 14 specific items) and data. The Senate amendment, like the House amendment, required specific concurrence by the head of the department or agency authorized to obtain and collect the information prior to information transmittal, and authorized the President to withhold information for antitrust and national security reasons, but it did not make this international information exchange authority subject to disclosure limitations in other laws.

Conference Substitute

The conference substitute follows the House amendment, except that trade secrets or commercial or financial information exempt under 5 U.S.C. 552(b) (4), or (9) (other than geological or geophysical information) can be transmitted to the IEA without first being aggregated, if the President certifies that (1) the International Energy Agency has adopted and is implementing security measures which assure against disclosure of such disaggregated information to any person or foreign nation, and (2) other countries which are parties to the international energy agreement are providing information in such form to the IEA. Such certification shall be reviewed by the President upon the petition of any person showing that such information originally furnished by such person and transmitted in disaggregated form to the IEA has in fact been disclosed and resulted in injury to such person.

The Conferees understand that the President may certify that the IEA has adopted and is implementing the security measures described in the statute if on the basis of the information available to him he can reasonably conclude that those measures will prevent the unauthorized disclosure.

6. Relationship of This Title to the International Energy Agreement

House amendment

No provision.

Senate amendment

The Senate amendment specifically declared that, while this legislation authorized certain standby energy emergency authorities to be used to cary out obligations of the United States under the November 18, 1974, executive agreement on an International Energy Program, this legislation "shall not be construed in any way as advice and consent, ratification, endorsement, or other form of congressional approval of the specific terms of the executive agreement or any related annex, protocol, amendment, modification, or other agreement which has been or may in the future be entered into". The Senate amendment also directed the Secretary of State to send a report to Congress every ninety days on significant proposals, meetings and activities undertaken by the United States and other signatory nations to the agreement on an International Energy Program.

Conference Substitute

The conference substitute is substantively identical to the provision in the Senate amendment.

III—Improving Energy Efficiency

Automotive fuel economy

House Amendment

The House amendment (1) established mandatory average fuel economy performance standards for new passenger automobiles and for other new motor vehicles rated at 10,000 pounds gross vehicle weight or less; (2) provided for civil penalties to be imposed on motor vehicle manufacturers and importers if the average fuel economy of their vehicles in a given model year was less than the applicable fuel economy standard; and (3) required that the fuel economy of vehicles to which a standard applied be disclosed to consumers. Fuel economy performance standards for passenger motor vehicles would go into effect with the 1978 model year and would apply in each subsequent model year; standards for light duty trucks and other affected vehicles would be in effect for each model year which begins more than 30 months after the date of enactment of this legislation. For purposes of this provision, "fuel" was defined to mean "any liquid or gaseous fuel". With respect to passenger automobiles, the House amendment set the minimum average fuel economy performance standard for the first 3 model years (1978: 18.5 miles per gallon (mpg), 1979: 19.5 mpg, and 1980: 20.5 mpg); directed the Secretary of Transportation (ST) to set standards for the 1981, 1982, 1983, and 1984 model years, based on his determination of the "maximum feasible level", taking into account technological feasibility, economic practicality, other Federal motor vehicle standards, and the purposes of this legislation, provided that each such standard shall be no less than 20.5 mpg; and set the standard for model year 1985 and each year thereafter at 28.0 mpg, but authorized the ST to modify that standard by rule if he determines that 28.0 mpg is not the maximum feasible average fuel economy level (with any modified standard taking effect unless either House of Congress disapproves such modified standard within the first period of 15 calendar days of continuous session of Congress after the ST transmits it to Congress).

With respect to vehicles covered that are not passenger automobiles, the ST was authorized to administratively prescribe average fuel economy performance standards for different classes of such vehicles provided that any such standard is set at the maximum feasible level for each such class. A manufacturer of less than 10,000 vehicles per year could be exempted from the fuel economy requirements on passenger automobiles under certain circumstances, and would be required to meet alternate standards set by the ST. If a manufacturer both (1) produces/assembles vehicles domestically (i.e., United States and Canada) and (2) imports vehicles produced elsewhere, the average fuel economy for each such category must meet the applicable standard. The ST was authorized to amend fuel economy performance standards in certain circumstances; was required to compare what the industry-wide fuel economy would have been in each model year if the model year 1975 automobile emissions standards were still in effect; and could waive or modify an otherwise due civil penalty to the extent necessary to prevent the insolvency or bankruptcy of a manufacturer or when acts of God, fires, or strikes prevent the attainment of an applicable fuel economy standard. Compliance with the applicable fuel economy standard was to be determined by the ST utilizing test results generated by the Environmental Protection Agency (EPA). Civil penalties, which were to be collected in an original proceeding in an appropriate U.S. District Court, were set at $5.00 per vehicle of a given class produced or imported for each one-tenth of a mile per gallon by which the applicable average fuel economy performance standard for that vehicle class exceeded the average fuel economy achieved by a particular manufacturer's output. (If a manufacturer's average fuel economy was within 0.5 mpg of the standard, he was deemed to be in compliance.) If a manufacturer exceeded the requirements of an applicable standard by more than 0.5 mpg, a carryback of the excess would be permitted to the preceding model year, making such manufacturer eligible for a refund in case a civil penalty had been paid by such manufacturer due to a failure to meet an applicable fuel economy standard in that preceding model year, and a carry-forward of such excess would be permitted to the next model year to the extent that there was no carryback. The House amendment provided for judicial review of standards upon petition of persons adversely affected; granted necessary recordkeeping and inspection authority; required the ST to prescribe rules requiring vehicle manufacturers to submit semiannnual reports to the ST on their ability to comply with the fuel economy standards; and required the ST to review the fuel economy standards program annually. EPA was required to set forth and content requirements for stickers on new motor vehicles; the sticker was required to disclose the vehicle's fuel economy, the estimated annual cost of the fuel needed to operate such vehicle, and, if applicable, the fact that the vehicle's fuel economy is below the average fuel economy standard for that model year. EPA was also required to prepare, and automotive dealers were required to distribute, comparative fuel economy information for different model types. The House amendment preempted State and local laws and regulations in this area and required the President to promulgate rules to maximize the average fuel economy of the vehicles purchased or leased by the United States.

Senate Amendment

The Senate amendment amended the Motor Vehicle Information and Cost Savings Act to (1) establish mandatory average fuel economy performance standards for new passenger automobiles and new light duty trucks (rated at 6,000 pounds gross vehicle weight or less); (2) provide for civil penalties to be imposed on non-complying manufacturers and importers; (3) require that the fuel economy of new vehicles to which fuel economy standards apply to disclosed to consumers; and (4) establish a research and development program for advanced automobiles to provide benchmarks for assessing progress in meeting fuel economy and other Federal standards, and to assure the technological attainability of fuel economy and other goals for motor vehicles. Under the Senate amendment, fuel economy standards would go into effect with the 1977 model year and would cease after the 1985 model year; "fuel" was defined to mean only "gasoline and diesel oil"; and no distinction was made between the domestic production and the imported production of a particular manufacturer. The Senate amendment directed the ST to prescribe minimum average fuel economy standards for new passenger automobiles at the maximum feasible levels for each model year consistent with the following goals: (1) the industrywide average fuel economy for new passenger automobiles in model year 1980 had to be at least 50 percent greater than the average achieved in model year 1974 (14 mpg), and (2) the industrywide average in model year 1985 had to be at least 100 percent greater than the 1974 figure (i.e. at least 21 mpg in 1980 and at least 28 mpg in 1985). The ST was directed to take into account, in setting fuel economy standards, the impact of other Federal standards applicable to automobiles. He could amend or modify any such standard upon 18 months advance notice; could change the 1980 and/or 1985 goals if neither House of Congress disapproved the change by resolution within 60 days of continuous session of Congress after submission thereof; could exempt small (less than 10,000 vehicles per year) manufacturers from the passenger automobile standards under certain circumstances, as long as alternate standards are established; and was required to administratively set minimum average fuel economy performance standards (at the maximum feasible such level) for light duty trucks manufactured or imported in each of the model years from 1977 through 1985. Compliance with the fuel economy standards was to be determined by the ST on the basis of testing by EPA, and the ST was directed to assess civil penalties for violations. The Senate amendment also directed the EPA Administrator to perform certain duties in connection with the testing of retrofit devices, defined as components, equipment, or other devices designed to be installed in an existing motor vehicle for the purpose of increasing its fuel economy and other performance characteristics.

The civil penalties, which would be assessed by the ST in an adjudicatory proceeding and collected in an appropriate U.S. District Court in actions brought by the ST's attorneys, were set at $50 to $100 per vehicle produced or imported for each mile per gallon by which the applicable average fuel economy standard exceeded the average fuel economy achieved by a particular manufacturer's output. The ST was authorized to waive or modify a civil penalty (1) to the extent necessary to prevent the insolvency or bankruptcy of a manufacturer; (2) when acts of God, fires, or strikes prevent the attainment of an applicable fuel economy standard; (3) to prevent the substantial lessening of competition within the motor vehicle industry; (4) when a manufacturer demonstrates that if such a penalty were paid the manufacturer would lack sufficient capital, and the ability to attract sufficient capital, to manufacture vehicles that would meet future fuel economy standards at competitive prices; and (5) when a manufacturer demonstrates that, despite a good faith effort, the manufacturer failed to meet the applicable fuel economy standard by reason of an unanticipated sales mix. A manufacturer could recoup all or part of a civil penalty paid in a given model year by exceeding the applicable average fuel economy standard in one or more of the succeeding 5 years (carryback). The Federal Trade Commission (FTC) was directed to set form and content requirements for motor vehicle energy guides which were required to be attached to new cars and new light duty trucks. No such vehicle could be sold in commerce unless its estimated annual fuel cost was disclosed by the dealer wherever the purchase price of the vehicle was stated. The FTC was also authorized to require fuel economy and estimated annual fuel cost to be disclosed in any new automobile or new light duty truck advertisement. Judicial review was authorized (a) upon petition of any person adversely affected by any rule promulgated under the Secretary's authority to establish average fuel economy standards and (b) whenever any interested person filed a notice of appeal with respect to assessment of a civil penalty for failure to comply with an applicable fuel economy standards the ST was directed to review the fuel economy standards program annually; necessary record-keeping and inspection authority was granted; and state and local laws in this area were preempted to the extent that they were inconsistent with the requirements of this legislation. The ST was required to report to Congress and the President, within 180 days after enactment of this legislation, on the feasibility and energy savings potential of a requirement that manufacturers install on all new vehicles (1) devices that would make it impossible to operate such vehicles for any sustained period of time at speeds in excess of the national maximum speed limit, and (2) fuel flow instruments reading directly in miles per gallon, in addition to a report on electric vehicles. The Senate amendment made specific authorizations of appropriations for the fuel economy standards program.

The Senate amendment also directed the ST to establish and maintain, in close cooperation with the Administrator of the Energy Research and Development Administration (ERDA), a program to develop production prototypes of advanced automobiles. The ST was authorized to conduct research and development activities, directly and through contracts, grants, and obligation guarantees, leading to the certification of advanced vehicles by the Low Emission Vehicle Certification Board. An advanced automobile was defined as a personal use transportation vehicle which requires, inter alia, "the least total amount of energy to be consumed with respect to its fabrication, operation, and disposal". Title to inventions developed as a result of this research and development program would vest in the United States, subject to waiver and the grant of licenses in specified circumstances. The ST was required to report to Congress annually on activities under this R & D program; the Administrator of General Services was directed to prescribe regulations requiring the procurement and use of such advanced automobiles to the maximum extent feasible; funds were authorized to be appropriated for contracts and grants ($175 million total through the end of fiscal year 1977); and obligation guarantees were authorized for such purposes up to a maximum outstanding guaranteed indebtedness of $175 million. The ST and ERDA were required to work together to avoid duplication and to secure desired results in the shortest time and in the most efficient and cost-effective manner possible. The Senate amendment also required the ST to establish at least one, and not more than 3, diagnostic inspection demonstration projects, designed to assess the fuel efficiency, safety, noise, and emissions of motor vehicles, and it authorized the appropriation of $21.5 million for such projects.

Conference Substitute

The conference substitute amends the Motor Vehicle Information and Cost Savings Act by adding a new title V, part A as follows:

(1) Average fuel economy standards shall apply to all new 4-wheeled motor vehicles (referred to as "automobiles") manufactured or imported into the United States which are rated at 6,000 pounds gross vehicle weight (GVW) or less. The Secretary of Transportation (ST) is given authority to extend coverage of the fuel economy standards to vehicles rated at more than 6,000 pounds GVW but less than 10,000 pounds GVW if certain findings are made. Automobiles are divided into two broad categories for purposes of prescribing fuel economy standards: passenger automobiles, and automobiles which are not passenger automobiles (e.g., certain light duty trucks, recreational vehicles, and other multipurpose vehicles). Automobiles capable of off-highway operation (defined as automobiles with a significant feature (other than 4-wheel drive) designed to equip such vehicles for off-highway operation, and which either (a) are 4-wheel drive vehicles, or (b) are rated at more than 6,000 pounds GVW) are specifically designated for inclusion in the latter category.

(2) Fuel is defined to mean gasoline or diesel oil, but the ST is given authority to extend the definition to include any other liquid fuel or any gaseous fuel. Specifically, the conferees indicated a desire for the ST to explore, on a timely basis, the inclusion of propane, butane, and natural gas in the definition of fuel. Fuel economy is defined as the average number of miles traveled by an automobile per gallon of gasoline (or equivalent amount of other fuel) consumed, as determined by the EPA Administrator. It is anticipated that the EPA Administrator, in determining "equivalent amount of other fuel," will make such determination on the basis of Btu equivalency of different quantites of various fuels, taking into account energy required to process such fuels.

(3) The definition of "model type" gives authority to the EPA Administrator to determine model types (i.e., those classes of automobiles for which fuel economy measurements are to be made in order to determine compliance with an applicable average fuel economy standard). Since the EPA Administrator is required to consult and coordinate with the ST, he must work closely with the ST in making these determinations, and give careful consideration to the statutory responsibilities assigned to the Secretary under the fuel economy standards program established under this part. The requirement for close consultation and coordination is not intended to be judicially reviewable.

(4) Average fuel economy standards for passenger automobiles are to be in effect in each model year after model year 1977, as follows:

TABLE I.—*Minimum average fuel economy standard applicable to each manufacturer*

Model year	*Miles per gallon*
1978	18.0
1979	19.0
1980	20.0
1981–84	(1)
1985 and thereafter	27.5

[1] Administratively set by Secretary of Transportation at the "maximum feasible average fuel economy level."

The ST is given to adjust the "1985 and thereafter" authority standard within the range 26.0—27.5 mpg to a level which he determines is the maximum feasible average fuel economy level for any such model year. However, any proposed decrease to below 26.0 mpg, or increase to above 27.5 mpg, is subject to disapproval by either House of Congress within a 60-day period following submission of such proposed change to Congress.

The conference substitute lists a number of factors the Secretary shall consider in determining maximum feasible average fuel economy. They include: (1) technological feasibility; (2) economic practicability; (3) the effect of other Federal motor vehicle standards on fuel economy; and (4) the need of the Nation to conserve energy. With the possible exception of passenger automobiles manufactured by manufacturers of fewer than 10,000 automobiles per year, any such determinations will lead to an average fuel economy standard applicable to all manufacturers in a given segment of the motor vehicle industry. Such determination should therefore take industrywide considerations into account. For example, a determination of maximum feasible average fuel economy should not be keyed to the single manufacturer which might have the most difficulty achieving a given level of average fuel economy. Rather, the Secertary must weigh the benefits to the nation of a higher average fuel economy standard against the difficulties of individual automobile manufacturers. Such difficulties, however, should be given appropriate weight in setting the standard in light of the small number of domestic automobile manufacturers that currently exist, and the possible implications for the national economy and for reduced competition associated with a severe strain on any manufacturer. However, it should also be noted that provision has been made for granting relief from penalties under Section 508(b) in situations where competition will suffer significantly if penalties are imposed.

(5) Minimum average fuel economy standards for automobiles other than passenger automobiles are to be in effect in each model year which begins more than 30 months after enactment. Separate standards for different classes of such vehicles may be established by the ST, who is directed to set such standards for each model year at maximum feasible levels. "Class" would be defined by the ST, and could be based on functional classifications or other factors. Any standard applicable to nonpassener automobiles in any model year must be promulgated at least 18 months prior to the beginning of such model year.

(6) A manufacturer of fewer than 10,000 passenger automobiles per year may be exempted from the requirements of Table I, but only if the ST establishes an alternative average fuel economy standard for such manufacturer which the ST determines is the maximum feasible average fuel economy level for such manufacturer in a model year for which an exemption is granted. The ST is also given authority to establish class standards for automobiles manufactured by manufacturers of fewer than 10,000 passenger automobiles per year.

(7) Any passenger automobile manufacturer may apply to the ST for modification of an average fuel economy standard applicable in model year 1978, 1979, or 1980 on the grounds of more stringent Federal automobile standards. If a manufacturer demonstrates and the SST finds that (a) a Federal standards fuel economy reduction is likely to exist for such manufacturer for the model year to which the application relates, and (b) that such manufacturer applied a reasonably selected technology, the ST shall prescribe a rule reducing the average fuel economy standard applicable to such manufacturer by the amount of such manufacturer's Federal standards fuel economy reduction.

A reasonably selected technology is defined as a technology which it was reasonable for a manufacturer to select, considering the nation's need to improve the fuel economy of its automobiles, and the economic costs and lead-time requirements associated with alternative technologies practicably available to such manufacturer. In determining whether a technology is practicably available to a manufacturer the ST shall give consideration to the types of vehicles which the manufacturer produces and to which the technology must be applied, including the commercial practicability of such technology.

The term "technology" is to be construed broadly when used in the definition of reasonably selected technology, and may include such items as vehicle weight, engine displacement, transmissions, streamlining, radial tires, as well as technology specifically related to meeting Federal automobile standards. The term "reasonably selected technology" is also to be interpreted to mean a technology which, consistent with the considerations mentioned above, minimizes a Federal standards fuel economy reduction. A Federal standards fuel economy reduction is defined as the sum of the applicable fuel economy reductions. An applicable fuel economy standards reduction is defined as the number of miles per gallon equal to

(a) the reduction in a manufacturer's average fuel economy in a model year which results from the application of a category of Federal standards applicable to such model year, and which would not have occurred had Federal standards of such category applicable to model year 1975 remained the only standards of such category in effect, minus (b) 0.5 mpg.

An applicable fuel economy standards reduction less than zero is to be treated as if equal to zero.

Each of the following is defined to be a category of Federal standards:

(a) emissions standards under section 202 of the Clean Air Act and emissions standards applicable by reason of section 209(b) of such Act.

(b) motor vehicle safety standards under the National Traffic and Motor Vehicle Safety Act of 1966.

(c) noise emission standards under section 6 of the Noise Control Act of 1972.

(d) property loss reduction standards under title I of this Act.

(Example: a manufacturer applies to the ST for a reduction of the model year 1980 standard, claiming the following applicable fuel economy reductions: 0.7 mpg due to noise emission standards; 0.6 mpg due to emissions standards under Section 202 of the Clean Air Act; and 0.8 mpg due to property loss reduction standards. If the ST finds that the manufacturer's claims are valid, he is directed to reduce the average fuel economy standard applicable to such manufacturer in model year 1980 by $[(0.7-0.5)+(0.6-0.5)+(0.8-0.5)]=0.6$ mpg. If the ST finds that the manufacturer's claims are valid except with respect to an applicable fuel economy reduction due to noise emission standards, and that the reduction due to noise emission standards is only 0.2 mpg, the ST is directed to reduce the fuel economy standard applicable to such manufacturer in the model year by $[(0.6-0.5)+(0.8-0.5)]=0.4$ mpg).

The ST, prior to granting any reduction, must also request, and the EPA Administrator must supply, to the maximum extent practicable, fuel economy test results collected pursuant to the requirements of this part for all vehicles covered by the application for a reduction. In the context of this provision, the term "to the maximum extent practicable" is to mean that any final decision by the ST to grant or deny a reduction in an average fuel ecenomy standard may not be made until fuel economy measurements conducted by the EPA Administrator under section 503(d) are available, except that the ST's decision need not be delayed if such fuel economy results are not yet available for some of the model types to be marketed by a manufacturer in the model year for which an average fuel economy standards adjustment is requested, and the ST has made a reasonable attempt to obtain such results. The ST, in any case, may issue an interim decision based on the results of preliminary testing or engineering calculations, which decision would become final unless there were significant disparities between the results of preliminary testing or engineering calculations and the test results under section 503(d).

(8) Average fuel economy standards prescribed by the ST for passenger automobiles in model years after 1980, for non-passenger automobiles, and for passenger automobiles manufactured by manufacturers of fewer than 10,000 passenger automobiles may be amended from time to time as long as each such amendment satisfies the 18 month rule—i.e., any amendment which has the effect of making an average fuel economy standard more stringent must be promulgated at least 18 months prior to the beginning of the model year to which such amendment will apply. An amendment which has the effect of making an average fuel economy standard less stringent can be promulgated at any time prior to the beginning of the model year in question.

(9) Compliance with average fuel economy standards is to be determined by the ST on the basis of fuel economy measurements and average fuel economy calculations made by the EPA Administrator. In calculating a passenger automobile manufacturer's average fuel economy, the EPA Administrator must separate such manufacturer's total production into two categories:

(a) passenger automobiles which are domestically manufactured by such manufacturer plus (in the case of model year 1978 and model year 1979) a certain volume of such manufacturer's captive imports; and

(b) such manufacturer's captive imports (i.e., passenger automobiles marketed by such manufacturer in the United States but which are not domestically manufactured, minus that volume of captive imports included in category (a).

In all model years to which a minimum average fuel economy standard for passenger automobiles applies, each category must separately meet the applicable standard. The fuel economy to be ascribed to captive imports in either category is to be the average fuel economy achieved by such manufacturer's entire captive import fleet in such model year. A vehicle is to be considered domestically produced if at least 75% of the costs to the manufacturer of such vehicle is attributable to value added in the United States or Canada. A determination that a vehicle is or is not domestically manufactured shall be made by the EPA Administrator, on the basis of information submitted to the EPA Administrator by a manufacturer.

(10) In measuring fuel economy of any passenger automobile model type, and in calculating a manufacturer's average fuel economy for passenger automobiles, the EPA Administrator is directed to utilize procedures applicable in model year 1975, or procedures which yield comparable results.

Any measurement of fuel economy, and any calculation of average fuel economy, by the EPA Administrator is to be rounded off to the nearest one-tenth mpg for purposes of compliance determinations. However, fuel economy figures which are to be disclosed on labels attached to new automobiles and in booklets prepared by the EPA Administrator may be rounded off to the nearest mpg.

(11) Judicial review is authorized upon petition of any person adversely affected by any rule prescribed under (a) the authority of the ST to define terms and to establish, modify, or amend average fuel economy standards; and (b) the authority of the EPA Administrator to determine average fuel economy and to require labeling of new automobiles. In the case of an amendment to a standard which must be submitted to each House of the Congress under section 502 (a)(4), it is anticipated that a court in reviewing the rule following the expiration of the 60-day Congressional review period would give appropriate weight to Congress' decision to permit the rule to go into effect.

(12) Labeling of automobiles manufactured more than 90 days after enactment is required. The EPA Administrator shall prescribe the form and content of labels to be affixed to new automobiles and the manner in which such labels shall be affixed to an automobile. Such a label shall indicate (a) the fuel economy of such automobile (including an indication of both the urban and highway cycle fuel economies achieved by such automobile), (b) the estimated annual fuel costs associated with the operation of such automobile, and (c) the range of fuel economy of comparable automobiles. Comparability of automobiles will be determined under rules of the EPA Administrator and could be based on factors such as interior space and performance characteristics. It shall be unlawful for any dealer to remove, alter, or make illegible any such label. Labeling rules applicable to model year 1976 automobiles shall require that a label be affixed which discloses only the fuel economy of such automobile, in accordance with procedures established in the EPA and FEA Voluntary Fuel Economy Labeling Program for Automobiles. These procedures were published in the Federal Register (40 F.R. 26058) on June 20, 1975.

The EPA Administrator is also required to compile and prepare, on an annual basis, a booklet containing information on fuel economy of automobiles manufactured in a given model year. Such booklet shall also contain information with respect to estimated annual fuel costs associated with automobile operation, which information could be in the form of a table indicating the range of estimated annual fuel cost associated with different unit fuel costs and average values of vehicle miles traveled as estimated by the Federal Highway Administration, and may contain information with respect to geographical or other differences in estimated annual fuel costs. The FEA is directed to publish and distribute such booklets. Automobile dealers are required to make such booklets available to prospective automobile purchasers without charge in order to facilitate comparison shopping. Any disclosure of fuel economy or estimated annual fuel cost information which is required to be made under these provisions shall not create an express or implied warranty under State or Federal law that such fuel economy will be achieved, or that such cost will not be exceeded, under conditions of actual use. (*Note:* any disclosure of information under this part should be coordinated with the Department of Transportation's automobile information program under other titles of the Motor Vehicles Information and Cost Savings Act.) The provision does not preclude any other type of warranty claim.

(13) If the average fuel economy determinations reported to the ST by the EPA Administrator indicate that any manufacturer has failed to comply with an applicable average fuel economy standard, the ST is required to commence a civil penalty assessment proceeding unless further measurements of fuel economy, or revised calculations of average fuel economy, or other information, indicates that no violation has occurred. Civil penalties shall be assessed in accordance with the provisions of the House amendment. Civil penalties may be compromised, modified, or remitted, with or without conditions, by the ST only to the extent (a) necessary to prevent the insolvency or bankruptcy of a manufacturer, (b) when acts of God, fires, or strikes prevent a manufacturer from meeting a standard, and (c) to prevent the substantial lessening of competition within the automobile industry (but only upon Federal Trade Commission certification that such a substantial lessening of competition would in fact result from assessment of such civil penalty).

The rights of the United States to collect such civil penalties are subordinated to claims of other creditors of such manufacturers which arose before the date on which a judgment in a collection action became final. A claim of a creditor arises on the date on which the creditor extends credit to the manufacturer. In the case of an extension of credit pursuant to a line of credit, a claim of a creditor arises on the date on which a manufacturer actually incurs an obligation under the line of credit established for him by the creditor. Civil penalties assessed by the ST for failure to comply with an applicable average fuel economy standard are to be assessed in an adjudicatory proceeding and collected in an appropriate Federal district court. Any interested person may obtain review of any civil penalty so assessed by filing an appropriate notice of appeal. Judicial review of any FTC determination would also be available.

(14) Whenever a manufacturer exceeds an applicable average fuel economy standard, the manufacturer is entitled to a financial credit which shall be applied against any civil penalty imposed in the preceding model

year (carryback), or, to the extent that such credit is not deducted from a civil penalty imposed in such preceding model year, such credit shall be applied against a civil penalty which may be imposed as a result of failure to comply in the following model year (carryforward). The amount of such credit shall be $5 for each one-tenth mpg of such excess, multiplied by the number of automobiles produced by such manufacturer in the year of the excess, and to which the average fuel economy standard which was exceeded applied. Any credit earned under this provision by exceeding an average fuel economy standard applicable to passenger automobiles may only be applied against a civil penalty assessed for failure to comply with an average fuel economy standard applicable to passenger automobiles. With respect to non-passenger automobiles, any credit earned under this provision may only be applied to automobiles of the same class for which the credit was earned. In the event that a civil penalty assessed against a manufacturer has already been paid by the manufacturer, and such manufacturer is entitled to a reduction of such civil penalty as a result of such financial credit, the ST shall direct the Secretary of the Treasury to provide a refund in the appropriate amount to such manufacturer.

(15) The States and their political subdivisions are prohibited from adopting or enforcing any law or regulation relating to fuel economy or average fuel economy standards applicable to automobiles covered by this title. Any State or local law or regulation with respect to disclosure of fuel economy or fuel cost information must be identical to the requirements under this legislation. States and their political subdivisions are not constrained from establishing requirements with respect to fuel economy of automobiles procured for their own use.

(16) The President shall promulgate special rules governing the minimum average fuel economy of passenger automobiles purchased or leased (for more than 60 days) by agencies of the Executive Branch. The rules issued by the President shall apply in each fiscal year which begins after enactment, and shall require that the fleet average fuel economy, achieved by such Executive Agency vehicles be not less than (a) 18 mpg or (b) the average fuel economy standard applicable to passenger automobiles in the model year which includes January 1 of such fiscal year.

(17) The ST is required to review and report annually on the average fuel economy standards program: manufacturers are required to report semi-annually on their ability to comply with applicable fuel economy standards; and the ST is required to prepare, within 180 days after enactment, (a) reports on fuel flow instruments and (b) electric and other vehicles which do not directly consume gasoline or diesel oil, or any other gaseous or liquid fuel included in the definition of fuel by the ST.

(18) The Federal Trade Commission shall establish a program for systematically examining fuel economy representations made with respect to retrofit devices. Retrofit devices are defined to be any component, equipment, or other device (a) which is designed to be installed in or on a motor vehicle (as an addition to, as a replacement for, or through alteration or modification of, any original component, equipment, or other device), and (b) for which fuel economy representations are made by a manufacturer, dealer, or distributor of such device. The term retrofit device is also to include a fuel additive designated for use in an automobile. Whenever the Federal Trade Commission has reason to believe that any fuel economy representation for a retrofit device may be inaccurate, it shall request the EPA Administrator to evaluate such device in accordance with rules prescribed by the EPA Administrator. It is the conferee's intention that the EPA Administrator not require of the manufacturer of the retrofit device preliminary testing by a qualified independent testing laboratory when such device is evaluated upon request of the FTC. The EPA Administrator shall provide such test information, and any other information which the Administrator determines to be relevant in evaluating such device, to the ST, and to the Federal Trade Commission which shall be expected to take appropriate action in the event that fuel economy representations are not supported by such test results.

Application of advanced automotive technology

House Amendment

No provision.

Senate Amendment

The Senate amendment established a research and development effort by the Secretary of Transportation for advanced automobiles to complement and stimulate similar efforts by the private sector. The Senate amendment directed the Secretary to establish a program to insure the development of one or more production prototypes (i.e., automobiles capable of mass production) of an advanced automobile within 4 years after the date of enactment or within the shortest time practicable consistent with appropriate research and development techniques.

An advanced automobile was defined as an automobile which required the least total amount of energy to be consumed with respect to its fabrication, operation, and disposal and which represented a substantial improvement over existing automobiles with respect to energy factors. The advanced automobile was to operate safely and with sufficient performance and must have been, to the extent practicable, capable of intermodal adaptability. At a minimum, the advanced automobile was required to be produced, distributed, operated, and disposed of in compliance with any requirement of Federal law.

To implement the directive, the Secretary was required to establish, within the Department of Transportation, a program to insure the development of one or more production prototypes of an advanced automobile or automobiles. The Secretary was required to provide funds for contracts and grants and was authorized to make loan guarantees. The Secretary was required to test or direct the testing of production prototypes of advanced automobiles and to secure certification of such prototypes as advanced automobiles and to evaluate any reapurposes). In order to assure that the fruits of the program were available to the private sector and to other agencies which have regulatory responsibilities respecting autos, the Secretary was required to collect, analyze, and disseminate to developers information, data, and materials that may have been relevant to the development of advanced automobiles and to evaluate and reasonable new or improved technology, a description of which was submitted to the Secretary in writing.

In order to preserve the current responsibilities of the Energy Research and Development Administration to perform research and development with respect to advanced propulsion systems, the Senate amendment prohibited the Secretary from duplicating research and development sponsored by ERDA or research and development likely to be so sponsored within the reasonably foreseeable future. The Secretary retained the authority to conduct research and development of non-duplicative projects.

The Administrator of the Environmental Protection Agency was directed to test (or cause to be tested) each production prototype of an advanced automobile developed, in whole or in part, with Federal financial assistance under this title, or referred to the EPA for such purpose by the Secretary, to determine the fuel economy of the automobile, compliance with any exhaust emission standards or other requirements of the Clean Air Act, the Noise Control Act, or any other provision of Federal law administered by the Administrator of the EPA. All test data and test results were to be submitted to the Vehicle Certification Board (the Low-Emission Vehicle Certification Board, created under section 212 the Clean Air Act).

The Secretary was directed to test (or cause to be tested) production prototypes which the Secretary or a developer submitted to the Vehicle Certification Board. Such tests were to be conducted to determine whether each automobile complied with standards of the National Traffic and Motor Vehicle Safety Act of 1966, the Motor Vehicle Information and Cost Saving Act, the Automobile Information Disclosure Act, and any other statute enacted by Congress and applicable to automobiles. Any such automobile was required to be submitted to the EPA for testing.

The Vehicle Certification Board was required to certify, or deny certification, as an advanced automobile to those automobiles for which test data and results were submitted. If such vehicles were certified, Federal agencies were then required to procure such automobiles under regulations established by the Board in conjunction with GSA.

The Senate amendment incorporated a patent procedure nearly identical to the patent provisions of the Federal Non-Nuclear Research and Development Act of 1974. It further required licensing of any patent, not otherwise reasonably available, if it was necessary in furtherance of the policy of fostering the expeditious commercial application of advanced automotive technology or to the development, demonstration, or commercial application of an advanced automotive invention, process, or system. The Secretary was also required to find that there were no other reasonable methods to achieve such development, demonstration, or commercial application.

Recipients of financial assistance or guarantees were required to keep records in accordance with requirements established by the Secretary. In addition, the Secretary and the Comptroller General were to have access to information (for 3 years) possessed by recipients of assistance which may be related to such assistance. The Secretary was directed to submit to Congress an annual report of all activities undertaken pursuant to this title.

The Senate amendment authorized appropriations for purposes other than for payment of defaulted obligation guarantees not to exceed $55,000,000 for the fiscal year ending June 30, 1976, not to exceed $20,000,000 for the transitional quarter ending September 30, 1976; and not to exceed $100,000,000 for the fiscal year ending September 30, 1977. $175,000,000 was authorized for appropriation to pay defaulted obligation guarantees. In addition, the outstanding indebtedness guaranteed was not to exceed this latter amount.

Conference Substitute

The conference substitute substantially alters the Senate amendment by amending the Motor Vehicle Information and Cost Savings Act by adding a new part B of title V as follows:

(1) The emphasis of the provision has been clarified and limited.—Instead of emphasizing a research and development program, the conference substitute directs the Secretary to establish an advanced automotive technology program which will result in the expeditious development of vehicles capable of being produced and sold in significant numbers.

The program is designed to develop and evaluate advanced automotive technologies and promote their expeditious commercial certification which, in conjunction with the requirement under this part that the Secretary insure the development of production prototypes will help insure that Federal regulatory program goals are achieved. The information gathered under this part will provide a technical base against which to evaluate the progress of automobile manufacturers in meeting requirements of the Clean Air Act, the National Traffic and Motor Vehicle Safety Act, and other Federal requirements.

The program envisions emphasis on new and improved concepts by constructing automobiles from the ground up. The work should integrate the various characteristics of automobiles, including fuel economy, emissions and noise control, safety, performance (including handling), and damage susceptibility, into an optimum system of automotive transportation.

While it is required that the programs authorized by this part be designed to insure the development of at least one advanced automobile which is capable of production and sale in significant numbers (production prototypes), no funding would be provided under this part for the Secretary to construct, or make grants or contracts available to construct production prototypes. Of course, the Secretary would have full authority to design, develop and assemble complete vehicles for test purposes short of the production prototype stage.

(2) *The roles of the agencies involved are clarified.*—While the Department of Transportation retains its overall management responsibilities for the program, the role of the Energy Research and Development Administration is clarified and strengthened. ERDA will have primary responsibility for advanced propulsion systems (engines and transmissions) and the Secretary must utilize that agency to the maximum extent practicable with respect to this component of the auomobile system consistent with the Secretary's overall management responsibilities. The Secretary is also authorized to contract with other agencies of the Federal Government (e.g. NASA) if such agencies could contribute to the attainment of the program's purposes.

(3) *The Secretary's authority to issue obligation guarantees is limited.*—The Senate amendment authorized the Secretary to guarantee the full amount of principal and interest of obligations obtained through commercial sources. The Senate amendment also required the Secretary to "reasonably protect the interests of the United States."

The conference subsitute further protects the financial interest of the United States by placing the following restrictions on the Secretary's authority:

(*a*) Not more than 90% of the outstanding principal balance of obligations may be guaranteed. Interest may not be guaranteed.

(*b*) An obligation may not be guaranteed unless the Secretary finds—

(i) there is a reasonable prospect for repayment;

(ii) the obligation is adequately secured;

(iii) the obligation is a general obligation of the applicant; and

(iv) no other reasonable means of financing or refinancing is reasonably available to the applicant.

(4) *The provisions respecting certification and procurement of advanced automobiles by the Federal Government have been deleted.*—A thorough examination of government procurement policies of advanced automobiles is necessary in light of the failure to utilize a similar authority under section 212 of the Clean Air Act with respect to low emission vehicles. While modification and expansion of section 212 Clean Air Act programs is warranted, further study is necessary to improve the program. Because of these considerations, the provisions of Senate amendment concerning these programs was deleted from the conference substitute.

(5) *The authority to require mandatory licensing of patents is limited.*—The conference substitute incorporates by reference section 9 of the Federal Non-Nuclear Research and Development Act of 1974 (which is substantially identical to the corresponding provisions of the Senate amendment) and limits the mandatory licensing authority to two instances:

(*a*) where reasonably necessary to contribute to the development of advanced automotive technology pursuant to grants, contracts, or obligation guarantees provided under this part or to the commercial application thereof; or

(*b*) where reasonably necessary to provide for the expeditious commercial application of advanced automotive technology for purposes of complying with automobile standards under part A of this title or other automobile standards under other Federal laws.

An additional requirement in either case states that before mandatory licensing may occur, there may be no other reasonable methods to achieve such development or commercial application.

In the case of (b) above, the Secretary must additionally make either of the following determinations:

(*a*) that the unavailability of the patent right may result in a substantial lessening of competition or tendency to create monopoly in any line of commerce in any section of the country, or

(*b*) that the availability of the right may result in substantially increased competition or tendency to reduce a monopoly in any line of commerce in any section of the country and the right is not being significantly utilized in the production of automobiles for commercial purposes.

Whenever the Secretary has made the necesary determinations, he shall so certify to a district court. The district courts would be authorized to require the license of any such patent at such reasonable royalty and on such terms and conditions as the court determines following a *de novo* hearing. Refusals of the Secretary or Attorney General to make determinations under this section following application by any person, or inaction with respect to such applications, shall be judicially reviewable in accordance with chapter 7 of title 5, United States Code.

In order to provide the same rights to competitors of persons who obtain licenses under these provisions for patents reasonably necessary to contribute to advanced automotive technology under the assistance of this part of commercial application thereof, such right shall also be available on the same basis to any other person for the purpose of engaging in the expeditious development or commercial application of advanced automotive technology. Any right to which a government contractor may be entitled under provisions of law, including 28 U.S.C. 1498, would be unaffected by this provision.

(5) *The amount of funding authorized has been reduced to reflect the deletion of the authority to construct production prototypes.*—For the fiscal year ending on June 30, 1976 the conference substitute authorizes appropriations of $50 million for programs other than obligation guarantees. For fiscal year ending on September 30, 1977, the conference substitute authorizes appropriations of $80 million for programs other than loan guarantees.

The aggregate amount of obligation guarantees issued may not exceed $20,000,000 before June 30, 1976, and $55,000,000 before September 30. 1977.

Energy conservation program for consumer products other than automobiles

House Amendment

The House amendment mandated the disclosure, through labeling, of certain energy-related characteristics of specified consumer products; required energy efficiency targets to be developed for these products; and, in defined circumstances, required minimum performance standards to be developed and enforced with respect to one or more such products. Energy-related labeling was required for furnaces, central air conditoners, room air-conditioners, refrigerators, freezers, dishwashers, clothes dryers, kitchen ranges and ovens, water heaters, home heating equipment, and television sets, as well as authorized for clothes washers, humidifiers and dehumidifiers, and any other type of consumer product which utilizes more than 100 kilowatt hours per year of electricity if the Federal Trade Commission (FTC) determined that labeling was economically and technologically feasible and likely "to assist purchasers in determining which consumer products have low energy use or high energy efficiency". The House amendment required the FTC, by rule, to prescribe test procedures for energy use and/or energy efficiency for each class of consumer products included in the types of consumer products covered by these requirements. The FTC was authorized to prescribe test procedures for any other class of consumer products, unless it determined that energy information respecting the class was unlikely to influence consumers and that uniform testing procedures for such a class were not in the public interest. These test procedures were required to reflect energy efficiency (the relationship of the energy use of a consumer product to its service output) or energy use (the units of energy resources consumed by a consumer product under actual operating conditions as approximated to the greatest extent practicable) and were directed to be technologically feasible and not unduly burdensome to conduct. The Commission could utilize an acceptable test procedure already in existence. No manufacturer, distributor, retailer, or private labeler was permitted to make any written or media representation regarding the energy use or energy efficiency of any consumer product covered by such a test procedure rule unless that product had been tested pursuant to such procedure and unless the representation fairly disclosed the test results. Such a test procedure rule could only be proposed after affected manufacturers and private labelers had been afforded an opportunity to consult with the FTC and would only become effective 180 days after publication in the Federal Register; it would not apply to any consumer product whose manufacture was completed prior to the effective date of the applicable rule or amendment.

The FTC was also required, by rule, to promulgate labeling requirements for consumer products covered, unless it was determined that labeling requirements were not technologically or economically feasible for any class of such products. Whenever a labeling rule was so prescribed the FTC was directed to prescribe the applicable test procedure. Such a label was required to state the energy efficiency and/or energy use of the product, as measured under the applicable test procedure, and the rule requiring such labeling had to include a description of the class, the range of energy efficiency and energy use for such class, a description of the applicable test procedure, a prototype label and directions for label display (*i.e.*, prominent, readable, and visible to any prospective purchaser at time of purchase), and any additional information required to be included on the labels, such as operating cost information to assist prospective purchasers in comparison shopping.

The House amendment also required the FTC to prescribe, by rule, within 90 days after the enactment of this legislation, energy efficiency improvement targets for each type of consumer products covered, and these efficiency targets were to be designed to achieve an aggregate energy efficiency improvement by 1980 of 25% over the aggregate energy efficiency achieved by products of all such types (excluding furnaces and central air conditioners) sold in 1972. Similar targets were to be set for furnaces and central air conditioners at a level equal to the maximum feasible (economically and technologically) energy efficiency for 1980. Whenever the FTC determined that any type of product would not achieve the target for that type, the House amendment authorized the FTC to commence a proceeding to prescribe an energy efficiency standard for this type of consumer product. An energy efficiency standard could be prescribed upon (1) a finding of technological and economic feasibility; (2) a determination that the applicable labeling rule was not sufficient to induce manufacturers to produce and consumers to buy products which achieve the maximum feasible energy efficiency or the minimum feasible energy use; and (3) a finding that the benefits in term of energy savings outweighed any acquisition cost increase, any diminution in product utility or performance, and any negative effects on competition (as determined by the Attorney General). No rule setting an energy efficiency standard for a product could be prescribed except in accordance with specified procedures (including the application of portions of section 18 of the Federal Trade Commission Act) and following a minimum of 18 months of applicability of a labeling rule.

The House amendment granted the FTC all the authority necessary (*e.g.*, authority to obtain information) for implementation of this provision; provided for the preemption of State or local disclosure and product standard law and regulations; made these applicable to imports; and made it a prohibited act (constituting an unfair or deceptive act or practice in or affecting commerce within the meaning of the FTC Act and also punishable by civil penalties and enjoinable in the United States district court) for a manufacturer or private labeler to sell any new consumer product in commerce unless it met any applicable labeling requirements and conformed with any applicable energy efficiency standard; similar sanctions were authorized for inaccurate labeling, label removal, or noncompliance with record-keeping and other implementation authorities and requirements. The FTC was authorized, on a reimbursable basis, to utilize the services of the National Bureau of Standards with respect to research and test procedure, labeling, and energy efficiency standards development. Rules under this section (except with respect to energy efficiency standards) were required to be promulgated in accordance with section 553 of title 5, United States Code except that, in addition, transcripts were to be made and questioning of parties making presentations was to be permitted through informal procedures with respect to disputed issues of material fact. Judicial review of a rule was authorized upon the petition of any adversely affected person.

Senate Amendment

The Senate amendment mandated disclosure of the energy utilization characteristics of major energy-consuming household products in terms of their estimated annual operating cost "so that consumers can readily compare them and thereby avoid purchasing those which unnecessarily waste energy". Disclosure was required as to all major energy-consuming household products used in a residence which utilized (based on average usage patterns) more than 200 kilowatt-hours of electricity per year or more than 2,000,000 Btu's of fuel per year (but not including central air conditioners or furnaces). Under the Senate amendment, (1) the Administrator of the Federal Energy Administration (FEA) would establish guidelines for energy labeling and disclosure; (2) the National Bureau of Standards would, pursuant to these guidelines, determine average use cycles and develop test procedures to measure the energy used during such cycles; (3) affected manufacturers would carry out tests of their products pursuant to these procedures; (4) the FEA would receive verified records of the results of these tests; (5) the FEA would develop information with respect to the number of average use cycles performed annually by each category of such products and the average unit cost of the electricity or fuel needed for the circumstances under which each such product would normally be operated; (6) the FEA would disseminate this information to affected manufacturers with instructions on how to determine the estimated annual operating cost for each such major energy-consuming household product; and the manufacturers would utilize this information to develop operating cost information to be shipped to all suppliers selling their products. The estimated annual operating cost data was to be supplemented by the publication and distribution (in a format to be prescribed by the FTC) of an "Appliance Energy Guide" for each category of such major energy-consuming household products. The energy guides were to set forth, "in clear and understandable language and form" information with respect to the energy consumption characteristics of the product involved, the estimated annual operating cost, a description of the manner in which that cost was calculated, suggestions as to how to refine that average cost to fit an individual consumer's personal circumstances, comparative shopping information, and such other information as the FTC deemed appropriate. These energy guides were to be attached to products by their manufacturers and importers, in the manner specified by the FTC. Whenever the purchase price or energy characteristics of a major energy-consuming household product was mentioned in advertising, the Senate amendment required that the advertisement also include a statement as to that product's estimated annual operating cost if the FTC determined such a statement to be reasonable and necessary in accordance with rules prescribed by it.

Administrative procedures were required to follow section 553 of title 5, United States Code, State laws pertaining to the energy characteristics and energy costs of major energy-consuming household products covered by this provision were preempted subject to exemption in certain circumstances; citizens' suits were authorized against relevant agencies to require the performances of nondiscretionary acts and against any manufacturer, importer, or supplier alleged to be in violation of any applicable requirements under this amendment; the FTC was authorized to prohibit the stockpiling of any product that could be affected by a disclosure requirement pursuant to this provision pending the date of applicability of that requirement; the FTC and the FEA were directed to carry out a program to educate consumers and suppliers with respect to the significance of annual operating costs and energy guides, the importance of energy conservation for the Nation, the way in which comparative shopping could save energy for the Nation and money for consumers, and other energy-conserving matters; enforcement was provided for through incorporation of the FTC Act and the Federal false statements statute; The FEA was required to submit a detailed report to Congress and the President each year on energy labeling and disclosure activities. The Senate amendment included specific appropriations authorizations for the agencies assigned duties under this provision, totaling $7.6 million through fiscal year 1978.

Conference Substitute

The conference substitute provides as follows:

(A) *Coverage.*—Test procedures, labeling rules, and energy efficiency standards are authorized for certain types of consumer products identified as covered products. A consumer product is a covered product if it is one of the following types, or is designed to perform a function which is the principal function of any of the following types of consumer products;

(1) refrigerators and refrigerator-freezers.
(2) freezers.
(3) dishwashers.
(4) clothes-dryers.
(5) water heaters.
(6) room air-conditioners.
(7) home heating equipment, not including furnaces.
(8) television sets.
(9) kitchen ranges and ovens.
(10) clothes washers.
(11) humidifiers and dehumidifiers.
(12) central air conditioners.
(13) furnaces.
(14) any other type of consumer product for which the Administrator of the Federal Energy Administration (FEA) determines that classifying such product as a covered product is necessary or appropriate to carry out the purposes of the Act, and for which the average annual per household energy use by products of such type is likely to exceed 100 kilowatt-hours (or its Btu equivalent) per year.

The term "class of covered products" is defined in section 321 as a group of covered products, the functions or intended uses of which are similar. This term should be distinguished from the term "type" which is used in section 322 and elsewhere in part B to refer to a generic classification of product, such as a classification listed in section 322 (a) (e.g. "refrigerator", "room air conditioner", etc.) A class of covered products is a classification based on function or use, and could be a subcategory of a type (such as color television set, or a microwave oven), or a classification which includes "hybrid" products which perform functions characteristic of more than one type (such as combination clothes washer-clothes dryer).

(B) *Testing.*—Test procedures for covered products of types (1)–(13) shall be prescribed as follows:

(i) the FEA shall afford, within 30 days after date of enactment, opportunity for comment by interested persons respecting test procedures to be developed.

(ii) FEA will, by means of guidelines and timetables, direct the National Bureau of Standards to develop test procedures for determining estimated annual operating costs of such covered products, and at least one other useful measure of energy consumption which the FEA Administrator determines is likely to assist consumers in making purchasing decisions. The conferees have required that FEA initially utilize NBS for purposes of developing test procedures, recognizing NBS's special expertise. The Administrator of FEA, however, retains final authority to prescribe test procedures, and in furtherance of such authority may request NBS to modify test procedures, or may prescribe test procedures different from those developed by NBS.

(C) *Schedule for Test Procedures.*—The FEA shall publish proposed test procedures and prescribe test procedures on the following schedule:

TABLE 1

Type of covered Product (paragraph of § 322(a))	Latest date by which publication of proposed test procedures must occur	Latest date by which publication of prescribed test procedures must occur [1]
(1) to (6), (8)	June 30, 1976	Sept. 30, 1976.
(7)) (9)	Sept. 30, 1976	Dec. 31, 1976.
(10) to (13)	June 30, 1977	Sept. 30, 1977.
(14)	(2)	(2).

[1] The FEA administrator may delay the prescription of test procedures beyond the dates specified, if he determines that he cannot, within the applicable time period, prescribe test procedures, in which case he shall prescribe test procedures for such covered type or class as soon as practicable, unless he determines that reasonable test procedures cannot be developed.

[2] Timing to bo determined by agencies.

Note.—Such determinations shall be published in the Federal Register.

The FEA Administrator shall afford at least a 45-day comment period for interested persons to present oral and written views after proposed test procedures are published.

(D) If the Administrator has under section 322(b) classified a consumer product of type (14) as a covered product the Administrator may after affording interested persons an opportunity to comment, direct the National Bureau of Standards to develop, and may publish proposed test procedures for such type of covered product (or class thereof). The Administrator shall afford interested persons an opportunity to comment with respect to such proposed test procedures. Such comment period shall not be less than 45 days. The Administrator may, thereafter, prescribe test procedures for such type of covered product specified in (14) (or class thereof), if the Administrator or the Commission determines that—

(i) the application of section 323(c) (described in paragraph (E) below) to such type of covered product (or class thereof) will assist consumers in making purchasing decisions, or

(ii) labeling in accordance with section 324 will assist purchasers in making purchasing decisions.

(E) Effective 90 days after any test procedure is prescribed with respect to any covered product no manufacturer, distributor, retailer, or private labeler may make any representation in writing or in any broadcast advertisement respecting the energy consumption of such product or the energy costs associated with use of such product, unless such product has been tested in accordance with the prescribed test procedures, and such representation fairly discloses the results of such testing.

(F) Estimated annual operating costs shall be calculated from measurements of energy use in representative average use cycles utilizing information provided to manufacturers by the FEA Administrator respecting average unit costs of energy.

(G) *Labeling.*—Labeling rules shall be prescribed for covered products of types (1)–(9) (or classes thereof) except to the extent that with respect to such types (or classes thereof):

(i) the FEA determines the test procedures required for such labeling cannot be reasonably developed; or

(ii) the FTC determines that such labeling is not technologically or economically feasible.

(H) Labeling rules shall also be prescribed for covered products of types (10)–(13) (or classes thereof), except to the extent that with respect to such types (or classes thereof) determinations (i) or (ii) in (G) above are made, or the FTC determines such labeling is not likely to assist consumers in making purchasing decisions.

(I) Labeling rules may be prescribed for covered products of type (14), if:

(i) the FTC or the FEA determines, with respect to such type (or class thereof), that application of labeling rules under this part to such type (or class thereof) is likely to assist consumers in making purchasing decisions.

(ii) the FEA Administrator has prescribed test procedures for such type (or class thereof), and

(iii) the FTC determines, with respect to such type (or class thereof), that application of labeling rules under this section to such type (or class thereof) is economically and technologically feasible.

(J) *Content of the Label.*—A labeling rule shall require that estimated annual operating cost be disclosed on any required label unless the Administrator of the Federal Energy Administration determines that disclosure of estimated annual operating cost is not technologically feasible, or the FTC determines that such disclosure is not economically feasible or is not likely to assist consumers in making purchasing decisions. If estimated annual operating cost is not disclosed, then the FTC shall require disclosure of a different useful measure of energy consumption. The label must disclose range data of a different useful measure of energy consumption which is required to be disclosed on that label. The FTC may also require that a manufacturer provide additional information to consumers relating to energy consumption. A labeling rule may require disclosure, in any printed matter displayed or distributed at the point of sale of a covered product, or any information which the rule may require to be disclosed on the label. Any such requirement will not apply to any broadcast advertisement or any advertisement in a newspaper, magazine or other periodical; nor will such requirement apply to billboards.

(K) *Schedule for Labeling.*—Labeling of products shall conform to the following schedule: not later than 30 days after the date on which a proposed test procedure applicable to a type of covered product (or class thereof) is published, the FTC shall publish a proposed labeling rule applicable to such type (or class thereof). The FTC shall afford at least a 45-day comment period to interested persons with the proposed labeling rules. Labeling rules for covered products of types (1)–(13) (or classes thereof) shall be prescribed not earlier than 45 days nor later than 60 days after the date on which test procedures are prescribed for such type (or class thereof).

Not earlier than 45 days after the date on which test procedures are prescribed with respect to covered products of type (14) (or class thereof), the FTC may prescribe labeling rules with respect to covered products of such type (or class thereof). A prescribed labeling rule for covered products of types (1)–(14) shall take effect not later than 3 months after the date of prescription of such rule, except that such rules may take effect no later than 6 months after such date of prescription if the FTC determines that such extension is necessary to allow persons subject to such rules adequate time to come into compliance with such rules. The FTC may delay the publication of a proposed labeling rule, or the prescription of a labeling rule, beyond the date specified above, if the FTC determines that it cannot publish proposed labeling rules or prescribe labeling rules which meet the requirements of this part on or prior to the date specified for such product and publishes such determination in the *Federal Register*, together with the reasons therefor. In any such case the FTC shall publish proposed labeling rules or prescribe labeling rules for covered products of such type (or class thereof) as soon as practicable unles it determines (A) that labeling in accordance with this section is not economically or technologically feasible, or (B) in the case of covered products of types (10) through (13), that labeling in accordance with this section is not likely to assist consumers in purchasing decisions. Any such determination shall be published in the *Federal Register*, together with the reasons therefor.

(L) *Energy Efficiency Improvement Targets.*—Not later than 180 days after the date of enactment of this Act, the FEA Administrator shall, by rule, prescribe energy efficiency improvement targets for covered products of types (1)–(10). Such targets shall be designed to improve the aggregate energy efficiency of all products of such types which are manufactured in 1980 to the maximum extent technologically and economically feasible (as determined by the FEA Administrator), and which in any case represents not less than a 20% improvement over the aggregate energy efficiency of all products of all such types manufactured in 1972.

(M) Not later than 1 year after the date of enactment of this Act, the Administrator, by rule, shall prescribe energy efficiency improvement targets for covered products of types (11)–(13). Each such target shall be designed to achieve the maximum improvement in energy efficiency which the Administrator determines it is economically and technologically feasible to attain for each such type manufactured in 1980.

(N) *Energy Efficiency Standards.*—If the FEA Administrator determines that an energy efficiency improvement target applicable to any type of covered product (or class thereof) is not likely to be attained, the Administrator shall commence proceedings to prescribe an energy efficiency standard for such type (or class thereof). The Administrator shall prescribe such a standard if he determines, with respect to such type (or any class thereof), that—

(a) improvement of energy efficiency of covered products of such type (or class thereof) is technologically feasible and economically justified, and

(b) the application of a labeling rule under this part to such type (or class thereof) is not likely to be sufficient to induce manufacturers to produce, and consumers and other persons to purchase, covered products of such type (or class thereof) which achieve the maximum energy efficiency which it is technologically feasible to attain, and which is economically justified.

Improvement of energy efficiency shall be considered economically justified if it is economically justified and if the benefits of reduced energy consumption, and savings on operating costs throughout the estimated average life of the covered product, outweigh;

(i) additional purchase or maintenance costs to purchasers resulting from the standard,

(ii) any lessening of the utility or the performance of the covered product, and

(iii) any negative effects on competition.

The term "feasibility" is used in the strict sense, namely "capable of being carried out". Economic feasibility refers to whether or not a manufacturer has the economic capability to carry out the requirements of an energy efficiency standard.

(O) The Administrator also has discretion to prescribe energy efficiency standards for covered products of types (1)–(13) if he makes determinations (i), (ii), and (iii) in (N) above. A rule prescribing an energy efficiency standard for any type of product may not go into effect, unless an applicable labeling rule has been in effect for at least 18 months prior to the effective date of the rule prescribing the standards.

(P) *Administrative Procedures and Judicial Review.*—Rules imposing energy efficiency standards must be prescribed in accordance with section 18 of the Federal Trade Commission Act. Section 553 of title 5, U.S.C. shall be applicable to other rules under this part, except that interested persons shall be afforded an opportunity to make oral presentations for which transcripts are required. In a proceeding to prescribe an energy efficiency improvement target an informal questioning procedure will also be allowed. The provisions relating to judicial review follow the provisions in the House amendment.

(Q) *Effect on Other Law.*—Section 327(a) supersedes any State regulation insofar as such State regulation provides for the disclosure of information with respect to any measure of energy consumption of any covered product—

(A) if there is any test rule under section 323 applicable to such covered product, and such State regulation requires testing in any manner other than that prescribed in such rule under section 323, or

(B) if there is a labeling rule under section 324 applicable to such covered product and such State regulation requires disclosure of information other than information disclosed in accordance with such rule under section 324.

In addition, a State regulation, insofar as it provides for an energy efficiency standard or similar requirement with respect to energy efficiency or energy use of a covered product is superseded—

(A) if there is a standard under section 325 applicable to such product, and such State regulation is not identical to such standard, or

(B) if there is a rule under section 323 or 324 applicable to such product and such State regulation requires testing in accordance with test procedures which are not identical to the test procedures specified in such rule.

Section 327(b)(1) provides that, if a State regulation provides for an energy efficiency standard or similar requirement respecting energy use or energy efficiency of a covered product and if such State regulation is not superseded by subsection (a)(2), then any person subject to such State regulation may petition the Administrator for the prescription of a rule under this subsection which supersedes such State regulation in whole or in part. The Administrator must, within 6 months after the date such a petition is field, either deny such petition or prescribe a rule under this subsection superseding such State regulation. The Administrator must issue such a rule with respect to a State regulation if and only if the petitioner demonstrates to the satisfaction of the Administrator that—

(A) there is a substantial State or local interest sufficient to justify such State regulation; and

(B) such State regulation unduly burdens interestate commerce.

Finally, section 327(b)(2) provides that any State regulation which provides for an energy efficiency standard or similar requirement respecting energy use or energy efficiency of a covered product will not be superseded by section 327(a) if the State prescribing such standard demonstrates and the Administrator finds, by rule, that—

(A) there is a substantial State or local need which is sufficient to justify such State regulation;

(B) such State regulation does not unduly burden interstate commerce; and

(C) if there is a Federal energy efficiency standard with respect to the covered product, the State regulation contains a more stringent energy efficiency standard than the corresponding Federal standard.

(R) *Citizen suits.*—Citizens' suits are permitted against Federal agencies to require the performance of non-discretionary duties and against manufacturers, importers, or suppliers (but not retailers), with respect to the labeling and testing requirements of this part, except that the citizens' suit provisions shall not apply to the energy efficiency improvement target and energy efficiency standards provisions of this part.

The Conferees anticipate that the court, in exercising its discretion to award costs of litigation, would award such costs only to a party who prevailed or would have prevailed, but for the mooting of the claim through voluntary compliance of the defendant or Federal enforcement.

(S) *Consumer education.*—FEA in close coordination and cooperation with FTC shall establish a consumer education program to focus public attention on the advantages of using operating cost information and on ways in which comparative shopping can save energy for the Nation and money for consumers.

(T) *Requirements of Manufacturers.*—Provisions relating to requirements applicable to manufacturers and private labelers, and enforcement provisions, generally follow those in the House amendment. The conferees anticipate that the court, in exercising its discretion to award costs of litigation, would award such costs only to a party who prevailed, or would have prevailed but for the mooting of the claim through voluntary compliance of the defendant or through Federal enforcement.

(U) *Annual Report.*—The FEA Administrator either as a part of his annual report, or in a separate report submitted annually, shall detail the energy savings impact of this part and the progress of the program under the provisions of this part.

(V) *Authorization.*—There are authorized to be appropriated to the Administrator not more than the following amounts to carry out his responsibilities under this part—

(1) $1,700,000 for fiscal year 1976;

(2) $1,500,000 for fiscal year 1977; and

(3 $1,500,000 for fiscal year 1978.

(b) There are authorized to be appropriated to the Commission not more than the following amounts to carry out its responsibilities under this part—

(1) $650,000 for fiscal year 1976;

(2) $700,000 for fiscal year 1977; and

(3) $700,000 for fiscal year 1978.

(c) There are authorized to be appropriated to the Administrator of the FEA not more than the following amounts—

(1) $1,100,000 for fiscal year 1976;

(2) $700,000 for fiscal year 1977; and

(3) $700,000 for fiscal year 1978.

Such amount shall, and any amounts authorized under paragraph (a) may, be allocated by the Administrator of the FEA to the National Bureau of Standards to carry out its responsibilities under this part.

(W) Funds authorized to be appropriated to the National Bureau of Standards under this part shall be in addition to, and not in lieu of, appropriations under other provisions of law.

Mandatory gasoline allocation savings program

House Amendment

The House amendment amended the Emergency Petroleum Allocation Act of 1973 to require the President to amend the regulation under section 4(a) of that Act and to prescribe necessary and appropriate orders (1) to prevent any increase in the consumption of motor gasoline for the next 3 years above the amount consumed in 1973–1974, and (2) to reduce by 2 percent the amount of gasoline consumed during the entire 3-year period (which would commence on the first day of the fourth month after the date of enactment of this legislation) by comparison base year. The President was authorized to impose an additional reduction (of 1 percent) in the second year and again in the third year of this period if such additional reductions in consumption were achievable consistent with the objectives of the Allocation Act. The President was authorized to take such steps as are appropriate, with respect to the allocation of crude oil and refined petroleum products and the volumetric limitation on gasoline imports, to assist in the realization of these goals.

The House amendment also amended the Emergency Petroleum Allocation Act of 1973 to require the President to promulgate, by rule, standards and procedures respecting voluntary agreements between gasoline retailers as to hours of retail sale of gasoline and related matters in order to minimize the inconvenience to motorists during the period when the mandatory gasoline allocation savings program was in effect. These standards and procedures were required to include the submission of such agreements to the Attorney General (AG) and the Federal Trade Commission (FTC); the public availability of such agreements; open meetings after timely notice with respect to any meetings held to develop or carry out such a voluntary agreement; opportunity for interested persons to present data, views, and arguments at such meetings, orally and in writing: the submission to the AG and the FTC and the public availability of written summaries of such meetings and of the presentations of interested persons; authority in the FTC to exempt types or classes of meetings, conferences, or communications from any of the foregoing requirements in the case of exchanges determined to be ministerial to the carrying out of such an agreement. The House amendment provided antitrust immunity and a defense to legal action for an alleged breach of contract, under certain conditions, with respect to a voluntary agreement developed pursuant to these standards and procedures, under the mandatory gasoline allocation savings program.

The House amendment also amended the Allocation Act to authorize the President to require adjustments in the yield aptterns of any refinery in the United States to the extent necessary to assure the production of residual fuel oil or any refined petroleum product in the proportions necessary to achieve the objectives of the mandatory gasoline allocation savings program.

Senate Amendment

No provision.

Conference Substitute

This provision in the House amendment is omitted from the conference substitute.

State energy conservation programs

House Amendment

No provision.

Senate Amendment

The Senate amendment authorized the establishment of an interim Federal energy conservation program, directed the promulgation within three months of regulations establishing a series of Federal energy conservation standards and required the Administrator of the Federal Energy Administration (FEA) to establish guidelines within 60 days for the preparation of State energy conservation programs. The Administrator was directed to request the submission of a report from the Governor of each State within six months after enactment, describing a proposed State energy conservation program to be effective in and administered by such State.

The Federal and State energy conservation programs authorized by the Senate amendment would include plans to establish any or all of the following:

(1) lighting efficiency standards for public buildings;

(2) thermal performance standards for all new Federal construction and all new homes and buildings financed under any Federal loan guarantee or mortgage program;

(3) reasonable restrictions on hours for public buildings;

(4) standards to govern decorative or nonessential lighting;

(5) standards and programs to increase industrial efficiency in the use of energy;

(6) programs to insure better enforcement of the 55 mph speed limit;

(7) programs to maximize use of carpools and public transportation systems;

(8) standards for reasonable controls and restrictions on discretionary transportation activities upon which the basic economic vitality of the country does not depend;

(9) energy efficiency standards to govern Federal procurement policy;

(10) low interest loans and loan guarantee programs to improve the thermal efficiency of individual residences by insulation, storm windows, solar energy heating and cooling equipment or other improvements; and

(11) public education programs to encourage voluntary energy conservation.

No such plan could impose rationing, any tax or user fee or provide for a tax credit or deduction.

Interim Federal energy conservation programs would be made to be effective pending the establishment, by regulation, of Federal energy conservation standards. Interim conservation programs would only take effect if submitted to Congress with specified documentation and neither House passed a resolution of disapproval within the first period of 30 calendar days of continuous session of Congress after such submission. Interim programs could remain in effect no longer than one year unless renewed pursuant to the Act.

The Senate amendment required the Administrator of the FEA to promulgate regulations (in cooperation with the heads of specified and other appropriate Federal agencies) which establish standards for energy efficiency and conservation in the 11 areas noted above. No set of regulations could become effective unless transmitted to Congress for individual review and right of disapproval in accordance with the procedures prescribed in the Senate amendment for expedited Congressional review. The regulations establishing national energy conservation standards in these 11 areas were to be designed to reduce the Nation's total annual energy consumption by the energy equivalent of at least 4 percent of the projected domestic annual consumption of refined petroleum products.

The Senate amendment also directed the FEA to establish within 60 days after enactment, Federal guidelines for the funding and development of State energy conservation programs as follows: The Administrator was required to request the submission of a report from the Governor of each State within six months. This report would describe a State energy conservation plan to be made effective in the State. The plan would be based on standards and programs in any or all of the 11 areas, and its implementation would be supported by Federal funds. The FEA would supply appropriate technical assistance in the development of these State programs and establish criteria for the delegation to State officers and agencies of responsibility for the implementation and administration of these programs. FEA would be required to review, and would be authorized to approve, any such State program within 30 days of its receipt. The Senate amendment authorized the FEA to provide funds for all of the financial assistance necessary for the implementation of an approved State energy conservation program, except that one-half of the total sum appropriated for fiscal assistance to the States would be apportioned on the basis of population and the remainder distributed by the Administrator to individual States on the basis of need and the achievement of conservation targets set by the Administrator.

The FEA would be required to establish realistic and attainable energy conservation targets and objectives for such State programs. A State which met its targets and objectives would be eligible for an incentive grant. The Adminstrator would be directed to develop, implement, and enforce a Federal energy conservation program for any State which failed to propose an acceptable conservation program. The FEA was required to report to Congress, six months after the enactment of the Senate amendment on the operation of programs, the energy conservation savings achieved, and the degree of State participation and compliance. The Senate amendment included an open-ended authorization of appropriation.

Conference Substitute

The conference substitute requires the Administrator to prescribe, within 60 days after enactment, guidelines for a State energy conservation feasibility report and to invite the submission of such report by the Governor of each State within three months after prescribing such guidelines. This report shall contain an assessment of the feasibility of establishing, and a proposal to the Administrator for the development of a plan to achieve, an energy conservation goal of a reduction of 5 percent or more projected energy consumption in such State in 1980. The feasibility report would provide the basis for a grant of planning funds by the Administrator to participating States to support the development of their energy conservation plans. The Administrator is required to prescribe, within six months after enactment, guidelines with respect to measures to be included in State energy conservation plans, and is directed to invite the submission of a report containing such a plan for the Governor of each State, within five months after prescribing such guidelines.

Each proposed State plan shall be designed to achieve a reduction, as a result of the implementation of the energy conservation measures contained therein, of 5 percent or more in energy consumption in 1980 from the energy consumption projected for such State in that year.

To be eligible for Federal assistance under this part, each State plan shall include:

(1) mandatory lighting efficiency standards for non-Federal public buildings;

(2) programs to promote the use of carpools, vanpools and public transportation;

(3) mandatory energy efficiency standards and policies to govern State procurement;

(4) mandatory thermal efficiency standards and insulation requirements for new and renovated non-Federal buildings; and

(5) a traffic regulation permitting, to the maximum extent feasible, right turn on red.

Each proposed State plan may include:

(1) restrictions on the hours of operation of public buildings;

(2) restrictions on the use of decorative or nonessential lighting;

(3) transportation controls (other than rationing);

(4) public education programs; and

(5) any other appropriate programs to conserve energy.

As used in this part, the term "public buildings" means any building, including a commercial building, which is open to the public during normal business hours.

The Governor of any State may also submit to the Administrator a State standby energy conservation plan to significantly reduce energy demand during a severe supply interruption, such as a future embargo on petroleum imports.

The conferees expect that the guidelines prescribed by the Administrator will provide State officials with a clear indication of the nature and composition of the energy conservation programs which must be included in an acceptable State energy conservation plan. The Administrator is also directed to provide information and technical assistance to participating States, including model State laws and regulations relating to energy conservation, and other assistance in the preparation of reports or in the development, implementation, or modification of the energy conservation plans described in this part. In providing this assistance to States and in establishing guidelines for State energy conservation plans, the Administrator shall consult with the appropriate Federal departments and agencies, including but not limited to the Departments of Transportation, Commerce, Housing and Urban Development, Interior and the Energy Research and Development Administration. The Administrator shall insure, to the greatest extent possible, that policies and programs implemented under this Act are consistent with other relevant national policies.

In deciding whether to approve a State energy conservation plan the Administrator shall, with respect to conservation measures required to be included in a plan, take into account the impact of local economic, climatic, geographic, and other unique conditions and requirements of such State. The conferees understand that the opportunity for, and the desire to place emphasis on, achievement of substantial energy conservation through the operation of any one of these measures may vary from State to State. The conferees therefore intend that each State have the flexibility to place the strongest emphasis on those areas of energy conservation which best fit unique conditions and requirements of that State. However, the conferees also intend that each State energy conservation plan address, at a minimum, all required energy conservation measures described in section 362(c) and be designed to achieve the energy conservation goal or goals of such State.

The conferees realize that certain circumstances—such as the length and timing of sessions of the legislature in a given State—may result in a conflict between the time tables for submission of reports to the Administrator and the ability of that State to respond to the Administrator's invitation to submit such reports. In these instances, it is the conferees intent that the Administrator have an opportunity to extend the deadlines for such reports if he determines that participation by such State will result in significant progress toward achieving the purposes of this Act.

In determining the amount of funds to be provided to a State, the Administrator shall consider such factors as the contribution to energy conservation which can be expected and the number of people affected should the plan or part thereof submitted by that State be put into effect. The conferees expect that all approved plans will receive Federal assistance. However, it is intended that the Administrator attempt, to the maximum extent possible, to target the allocation of funds among States to achieve the greatest aggregate savings in energy affecting the greatest number of people.

The Administrator is directed to determine for each State, at the earliest practicable date, an energy conservation goal for 1980, and is authorized to set interim goals. Such goals are to be consistent with technological feasibility, financial resources and economic objectives. The conferees believe that establishing such goals will assist the Administrator in assessing progress made by States as a result of their participation in the program and in determining which State programs should receive augmented funding as an incentive to encourage greater energy conservation. In setting energy conservation goals for each State, the Administrator shall specify the assumptions used, and shall take into account population trends, economic growth and the effects of national energy conservation programs.

The Administrator is required to report annually to the President, the Congress and the Governors of the States on the participation by, and the achievement of, States under programs authorized by this part. Appropriations of $50,000,000 are authorized for the fiscal year of enactment and for two subsequent fiscal years.

Industrial energy conservation

House Amendment

No provision.

Senate Amendment

One of the purposes of the Senate amendment establishing an Energy Convervation Policy was to "promote energy conversation efforts through specific directives to agencies of the Federal Government, State government, and sectors of private industry." To implement the Energy Conservation Policy, the Senate amendment provided three separate provisions for industrial energy conservation.

First, until the promulgation of regulations to establish national energy conservation standards under the Federal initiatives program and/or the adoption by the Congress of specific legislative measures for energy conservation programs, the President was authorized to promulgate by regulation interim energy conservation plans which included plans to establish standards and programs to increase industrial energy efficiency.

Second, as part of the program for Federal initiatives in energy conservation, the Federal Energy Administration, in cooperation with the heads of other Federal agencies, was directed to promulgate regulations to establish standards and programs to increase industrial energy efficiency. Regulations promulgated pursuant to the Federal initiatives program were required to be designed to achieve a national energy conservation goal. This goal was to reduce total domestic energy consumption on a 12-month basis, by the amount which is the energy equivalent of at least 4 percent of the projected domestic consumption of refined petroleum products for the 12-month period following the effective date of this legislation. Such regulations had to be transmitted to Congress for review with rights of disapproval.

Third, State's submitting energy conservation plans, were eligible to receive Federal assistance for implementation of, among other elements, they established standards and programs which could have included increasing industrial energy efficiency.

Conference Substitute

The conference substitute directs the Federal Energy Administrator, in consultation with the Secretary of Commerce and the Administrator of the Energy Research and Development Administration, to establish and maintain a program to promote increased energy efficiency in American industry and to establish energy efficiency improvement targets for the 10 most energy-consumptive manufacturing industries. The targets would be set, within 1 year of the date of enactment, at levels representing the maximum feasible improvements which each of these industries can attain by January 1, 1980. In determining maximum feasible improvement, the Administrator shall consider (a) the objectives of the program established under this part, (b) the technological feasibility and economic practicability of utilizing alternative operating procedures and more energy efficient technologies, (c) any special circumstances or characteristics of the industry for which the target is being set, and (d) any actions planned or implemented by each such industry to reduce consumption by such industry of petroleum and natural gas.

The chief executive officer (or his designee) of each corporation identified by the Administrator as being among the 50 most energy-consumptive corporations in each of the 10 industries, and which consumes at least 1 trillion Btu's of energy per year, must file with the Administrator an annual report describing the corporation's progress in energy conservation. Each report shall be made on a simple form provided by the Administrator. The Administrator shall exempt a corporation from the reporting requirement if the corporation is in an industry which has an "adequate" voluntary reporting program. Such a program is adequate if the Administrator determines that (a) each corporation in such industry, which otherwise would be required to report, participates fully; (b) all necessary information is provided to the Administrator; and (c) reports made to trade associations or other persons in connection with such program are retained for a reasonable period of time and are available to the Administrator.

The program, including the reporting requirements, is not intended to preclude continuation of current FHA industrial energy conservation programs, nor does it preclude any other voluntary energy conservation programs involving industries which are not required to participate in this program.

Trade secrets or other matters described in 5 U.S.C. 552(b)(4), disclosure of which may cause significant competitive damage may not be disclosed, except to committees of Congress upon request of such committees. The exception is necessary to give Congressional committees access to information which might otherwise be available only by subpoena if there were no provision explicitly entitling committees of Congress to such information. This provision differs from section 505(d) of Title V of the Motor Vehicle Information and Cost Savings Act, which only places limitations on the types of information which may be withheld from the public under 5 U.S.C. 552(b)(4). As 5 U.S.C. 552 does not authorize withholding information from Congress, an exception under Section 505(d) of that Act requiring disclosure to Congress is unnecessary.

The reporting requirement is enforceable through injunctions, and there is no civil or criminal penalty under this part for failure to report. In addition, there is no civil or criminal penalty for failure to meet any energy efficiency improvement target.

The Administrator is directed to submit to Congress and the President, and to publish, an annual report on industrial energy efficiency developments and projections.

Any information submitted by a corporation under this part shall not be considered energy information subject to verification examination by the Comptroller General under Section 501 of this Act.

Nothing contained herein shall limit the Administrator's authority to obtain or require information under other provisions of law, or to enforce any such requirement.

Other Federal energy conservation measures

House Amendment

The House amendment required the Civil Aeronautics Board, the Interstate Commerce Commission, the Federal Maritime Commission, the Federal Power Commission, the Environmental Protection Agency, and the Federal Aviation Administration to study and report to Congress, within 60 days after the enactment of this legislation, on the energy conservation policies and practices instituted by them subsequent to October 1973. These agencies were further required, within 6 months after enactment, to propose to Congress programs for additional energy consumption savings. The minimum goal for each such program was a required 10% reduction, within 12 months from initiation (by comparison with 1972 as a base year), in the amount of energy consumed by the persons regulated by each such agency. The proposals to Congress were to include recommendations for any legislation believed to be necessary for the achievement of this goal. These agencies were also required, in consultation with the Federal Energy Administration, to study and prepare individual reports on each of their past and present practices which promote or perpetuate the inefficient use of petroleum products, coal, natural gas, electricity, and other energy sources; each such report was required to be submitted to Congress within 1 year after enactment. These agencies were directed to include, in each of their major regulatory actions, a statement of the probable impact of such action on energy consumption and supply and of its energy costs and benefits.

Senate Amendment

The Senate amendment made it the continuing policy of the Federal Government to foster and promote comprehensive conservation programs and practices in order "to better assure adequate supplies of energy to consumers, reduce energy waste, conserve natural resources, and protect the environment" and directed each Federal agency to be responsible for implementing this policy through continuing review of its statutory authority, policies, and programs to determine what changes would be required to assure conformity with this policy and through annual reports and the recommending of changes to the President and to the Congress. The Senate amendment also required the Civil Aeronautics Board, the Federal Maritime Commission, and the Interstate Commerce Commission to report separately and with specificity to the appropriate congressional committees on the need for additional regulatory authority in order to conserve fuel while continuing to provide for the public convenience and necessity; these reports were required to be submitted within 90 days after enactment. Within 30 days after such submission, the Attorney General and the Federal Trade Commission were required to submit reports to the Congress and to the President analyzing the competitive consequences of the recommendations in these reports together with the alternatives to avoid or minimize such effects while achieving the purposes of fuel conservation.

Conference Substitute

The conference substitute requires the Civil Aeronautics Board, the Interstate Commerce Commission, the Federal Maritime Commission, the Federal Aviation Administration, and the Federal Power Commission each to prepare and submit to the Congress, within 120 days after the enactment of this legislation, a report on the content and feasibility of proposed programs for additional savings in energy by persons regulated by such agencies. Within one year each agency shall study and prepare a report to the Congress assessing its policies and reviewing its authority with respect to energy conservation. Each such agency shall, where practicable and consistent with their authority under other law, include in major regualtory actions a statement of the probable impact of such action on energy efficiency and consumption.

The conference substitute also directs the President (1) to develop mandatory standards for procurement by the Federal government and Federal agencies; (2) to carry out a public education program on the need to conserve energy, including carpooling and van pooling; and (3) to develop and implement a 10 year plan for energy conservation with respect to buildings owned or leased by agencies of the United States.

Promoting the use of recycled oil

House Amendment

The House amendment required the Administrator of the Environmental Protection Agency, within 180 days after the enactment of this legislation, to promulgate performance standards, specifications, and testing procedures to facilitate determining whether re-refined or otherwise processed used oil is substantially equivalent to new oil intended for the same purpose. The House amendment required the Administrator to establish labeling standards, applicable to containers of re-refined or otherwise processed used oil which had been determined, pursuant to such performance standards and testing procedures, to be equivalent to new oil intended to be used for the same purpose. These labeling standards were required to permit such containers to bear a label stating the fact of such determination of equivalency with new oil. After promulgation of the labeling standard, the House amendment prohibited the Federal Trade Commission from requiring that a container bearing a label pursuant to the EPA labeling standard also be labeled as "used oil". All Federal officials were directed to encourage the use of recycled oil through procurement, education, and assistance in the development of performance standards. The General Services Administration, the Department of Defense, and other Federal agencies were required, within 18 months after enactment, to revise their procurement regulations and specifications to encourage the use of recycled oil and to reduce the consumption of new oil for purposes for which recycled oil is substantially equivalent.

Senate Amendment

No provisions.

Conference Substitute

The conference substitute requires the National Bureau of Standards to develop and report to the FTC respecting test procedures for comparison of re-refined or otherwise processed used oil with new oil for a particular end use. Recycled oil is defined as re-refined or otherwise processed used oil determined to be substantially equivalent to new oil for a particular end use. Within 90 days after development of the recommended test procedures by NBS, the FTC is required to prescribe test procedures and labeling standards applicable to containers of recycled oil. Containers of recycled oil, which bear a label in conformity with this labeling standard, may not be required by other Commission rules or State law or regulation to bear a label, regarding the comparative characteristics of the contents with new oil, which differs from the FTC label. Existing FTC labeling requirements which require that certain oil he labeled as "used oil" are made inapplicable to containers of recycled oil which are labeled in accordance with the labeling standards required to be prescribed under this section. The regulatory authority of the FTC regarding labeling of recycled oil is circumscribed to bar the Commission from requiring recycled oil, tested and labeled in accordance with the rules prescribed under this section, to be labeled with any term, phrase or description which connotes less than substantial equivalency with new oil for a particular purpose.

The Administrator of the Environmental Protection Agency is required to prescribe labeling standards applicable to disposal of used oil in order to reduce waste and environmental damage associated with improper disposal of used oil. Finally the section instructs other Federal officials to act within their authority to promote use of recycled oil.

Right turn on red

House Amendment

The House amendment directed the Federal Energy Administrator to evaluate the potential energy savings realizable from the adoption of a uniform traffic regulation which permits a motorist to turn right on a red signal after stopping. The Secretary of Transportation was directed to study the safety impact of such a regulation. The Administrator and the Secretary were directed to report to Congress, within 6 months after the date of enactment of this leigslation, on their respective studies and to include any legislative recommendations for changes in Federal law to encourage the adoption of such a regulation.

Senate Amendment

No provision.

Conference substitute

The conference substitute includes right turn on red as part of the State energy conservation programs. (See supra.)

Public information programs

House Amendment

The House amendment authorized the appropriation of $6 million (through fiscal year 1978) for grants to State and local agencies which prepare approved public information programs relating to energy conservation, and the appropriation of $600,000 (through fiscal year 1978) to the FEA to carry out a national public information program to encourage energy conservation and improvements in energy efficiency. An application from a State for 90 percent Federal funding of such a public information program could be approved by the FEA if the program provided for (1) the dissemination of information regarding energy conservation and energy-efficiency improvement, to consumers and businesses; (2) the inspection of individual homes and businesses to assess ways in which energy could be saved on such premises; and (3) the dissemination of information regarding available tax benefits and grant programs for individuals and small businesses seeking to achieve energy conservation and to improve energy efficiency.

Senate Amendment

The Senate amendment made "public education programs to encourage voluntary energy conservation" one of 11 specified areas for purposes of interim energy conservation plans, national energy conservation standards, and State energy conservation programs. (See discussion above.)

Conference Substitute

The conference substitute includes public information programs as part of the State and Federal energy conservation programs. (See supra.)

Restrictions on the use of government limousines

House Amendment

The House amendment prohibited Government agencies from purchasing, hiring, leasing, operating or maintaining a limousine (a type 6 vehicle, under the GSA specifications) for any purpose, or a passenger vehicle for the purpose of transporting any officer or employee of a Government agency between his home and his place of employment (except for certain medical officers, officers or employees in remote areas for whom such transportation is necessary, and for vehicles regularly used for investigative, law enforcement, or intelligence duties). These prohibitions did not apply to specified high ranking officials, to those officials whose personal safety was endangered by reason of their duties, and to military use for training, combat, or tactical purposes.

Senate Amendment

No provision.

Conference Substitute

This provision of the House amendment is omitted from the conference substitute. The conferees indicated that this action does not indicate disapproval of the provisions of the House amendment, but rather an intent to continue existing Federal law in force because it is more stringent.

Van pooling arrangements and carpools

House Amendment

The House amendment directed the FEA to establish a program encouraging employers to provide van pooling arrangements for their employees. As used in this provision, a van pooling arrangement was defined to mean a nonprofit arrangement for the transportation of employees between their homes and jobs through the use of motor vehicles manufactured for use in the transportation of not less than 8 and not more than 15 individuals. The FEA was also directed to develop van pooling arrangements for use by Federal Government employees and executive agencies.

The House amendment directed the Secretary of Transportation (ST) to encourage the use of carpools and to establish an Office of Carpool Promotion within the Department of Transportation to promote this objective. The ST was directed to encourage and promote carpooling incentives such as special parking privileges, special road way lanes, and toll adjustments. "As an example to the rest of the Nation's automobile users", the President was directed to require all Federal agencies, where practical, to use economy motor vehicles.

Senate Amendment

The Senate amendment made "programs to maximize use of carpools and public transportation systems" one of 11 specified areas for purposes of interim energy conservation plans, national energy conservation standards, and State energy conservation programs. (See discussion above.)

Conference Substitute

The conference substitute includes vanpooling and carpooling as part of the State energy conservation programs and the Federal public education program. (see Supra.)

Energy conservation through a prohibition of unreasonable transportation

House Amendment

The House amendment prohibited the use of gasoline or diesel fuel to transport students to a school other than the one closest to a student's home within the boundary of that student's school attendance district. This prohibition would not apply to a parent transporting his own child to school or to transportation for extracurricular school activities. The House amendment also prohibited the sale of gasoline or diesel fuel if the seller had reason to believe that it would be used for transportation in violation of this provision.

Senate Amendment

No provision.

Conference Substitute

This provision in the House amendment is omitted from the conference substitute.

IV—MATTERS RELATED TO PETROLEUM PRICING POLICY AND THE ALLOCATION ACT

Oil pricing policy

The Emergency Petroleum Allocation Act of 1973 was enacted to deal with the nation's petroleum needs in the face of a severe shortage of crude oil and its products. Regulations formulated under this Act established a "two-tier pricing system". "Old oil" (oil produced from a property at a level equal to or less than the amount of oil produced from that property during the same calendar month of 1972) is controlled at the price which prevailed in the field on May 15, 1973, plus an additional $1.35 per barrel. This results in a national average price for such oil estimated by FEA to be $5.25 per barrel.

The second tier in the present regulatory system consists of three categories of domestic product that are not subject to ceiling prices. First, the Allocation Act provides that oil from properties producing less than 10 barrels per day per well in the previous year ("stripper well" oil) is not subject to the old oil price ceiling. Second, the Federal Energy Administration regulation under the Allocation Act provides that oil from producing properties which exceeds the level of production from the same property in the same calendar month of 1972 is not controlled to the extent of that excess. If a property was not producing in 1972, all of the current production is considered "new oil". And, third, a volume of old oil equal to the amount of "new" oil produced from a property that was producing in 1972 is simultaneously released from the price ceiling on old oil ("released oil"). Thus, oil from a property which was producing 1,000 barrels per day in a calendar month of 1972 would be subject to the old oil price ceiling for the first 1,000 barrels per day produced in the same calendar month of 1975. If, however, this property increased its production to 1,200 barrels per day, the extra 200 barrels are not subject to the old oil price ceiling, and an additional 200 barrels are released from the old oil price ceiling. Thus, the first 800 barrels per day of current production would be subject to the price ceiling, and the other 400 barrels per day would not be controlled. Exceptions made by the FEA, on an individual property basis, for wells which require high-cost production.

Old oil

House Amendment

The House amendment prescribed a ceiling price of $5.25 on each barrel of old oil, except that old oil produced from fields certified to have applied tertiary recovery techniques could be sold at such higher price as the President established by rule, but the average of such higher prices could not exceed $10.00 per barrel, plus an inflation adjustment factor of two-thirds of 1 percent for each month after the 88th month following enactment.

The concept of "released" oil was not included in the House amendment.

Senate Amendment

The Senate amendment directed the President to maintain the price of old oil at the current level of $5.25 per barrel; "released" oil was excluded from the definition of, and the ceiling price for, old oil.

Production above 1972 levels

House Amendment

The House amendment set a ceiling price of $7.50 per barrel, plus an inflation adjustment factor of two-thirds of one percent for each month after the 45th month following the enactment of this legislation on the volume of oil produced in a month from a property in excess of the average monthly production from the property during an eight-month period of 1972. Provision was made for oil subject to tertiary recovery to be sold at such higher price as the President established by rule, but the average of such higher prices could not exceed $10.00 per barrel, plus an inflation adjustment factor of two-thirds of 1 percent for each month after the 88th month following enactment.

Senate Amendment

The Senate directed the President to determine the percentage rate of decline which would normally be expected in production from individual oil reservoirs, absent the application of enhanced recovery techniques. The amount of crude oil in excess of this decline curve could be sold at a price not in excess of $7.50 per barrel. Oil produced therefrom in excess of unadjusted 1972 level could be sold at the highest price applicable to new oil of such quality in such producing area.

New oil

House Amendment

The House amendment imposed a statutory price ceiling of $7.50 per barrel, plus an inflation adjustment factor of two-thirds of 1 percent for each month after the 45th month following the enactment of this legislation, on oil produced from properties which were not producing in 1972 ("new oil") and on stripper well lease production which did not qualify for an "independent producer exemption."

This price ceiling did not apply to new oil which was produced from (1) the Arctic Circle and the Outer Continental Shelf; (2) property certified as utilizing tertiary recovery techniques; and (3) "high cost" properties, including marginal well properties. The President was authorized to establish, by rule, higher prices for new oil from such areas and properties provided that the average of such prices did not exceed $10.00 per barrel plus an inflation adjustment factor of two-thirds of 1 percent for each month after the 88th month following enactment.

The House amendment imposed a statutory ceiling price of $11.50 per barrel of oil (plus $.05 per barrel for each month after the date of enactment) applicable to (1) the first 3,000 barrels per day produced by an independent producer from "qualifying properties," and (2) stripper well production by an independent producer. An "independent producer" was defined as a producer who did not engage in both refining and retailing operations and whose daily average production of crude oil in the preceding year did not exceed 15,000 barrels per day.

Senate Amendment

The Senate amendment directed the President to set a ceiling price on production classified as new, released, or stripper oil which was not to exceed the prevailing field price on January 31, 1975, of approximately $11.28 per barrel.

Adjustment in price ceiling

House Amendment

The House amendment authorized the President to propose an increase in the ceiling price of old oil which could take effect if not disapproved by either House of Congress. The President was not, however, authorized to raise administratively any of the other price ceilings.

Senate Amendment

The Senate amendment authorized the President to propose increases in any price ceilings which could take effect if not disapproved by either House of Congress.

Duration of price controls

House Amendment

The House amendment did not provide for any termination of price ceilings on domestic oil production. The price ceilings were set forth in the form of an amendment to the Emergency Petroleum Allocation Act of 1973, and the House amendment extended that Act without including any provision for its expiration or termination. A mechanism was provided, however, for converting the authority to specify price (or the manner for determining price) from a mandatory requirement to a standby authority, subject to disapproval by either House of Congress. If the Congress did not disapprove the exemption, any oil or product could have been exempted from existing allocation and price controls. The President would thereafter retain authority to reimpose controls upon a determination by him that reimposition was necessary.

Senate Amendment

The Senate amendment authorized the President to decontrol classes of oil production, subject to disapproval by either House of Congress within 10 days of submission of a section 4(g)(2) decontrol plan under the expedited congressional review procedures. The price ceilings were set forth in the form of an amendment to the Emergency Petroleum Allocation Act of 1973, and the Senate amendment extended that Act only until March 1, 1976.

Conference Substitute On Oil Pricing Policy

The conference substitute establishes a pricing policy which calls for a continuation of controls on the price of crude oil over the next 40 months. Under the terms of the substitute, the President is to have a substantial measure of administrative flexibility to craft the price regulatory mechanism in a manner designed to optimize production from domestic properties subject to a statutory parameter requiring the regulatory pattern to prevent prices from exceeding a maximum weighted average.

Initial pricing formula

The conference substitute directs the President to amend the regulation under section 4(a) of the Emergency Petroleum Allocation Act within two months of the bill's enactment to establish ceiling prices applicable to any first sale of domestic crude oil so as to result in an initial weighted average first sale price not to exceed $7.66 per barrel.

The conference substitute specifies a "first sale" price (with discretion in the President to impute, in a manner to be specified by regulation, an equivalent price for inter-affiliate transfers). The first sale price, which is currently the price to which FEA's current ceiling price rules apply, is the price charged in the first transfer for value by the producer or royalty owner, which transfer usually but not always occurs at or near the wellhead. The first sale price for crude oil may, in some instances, include costs for transportation and other services.

It is the intention of the conferees that the term "first sale" be defined in the regulations to make clear that it applies to the first transfer of a barrel of crude oil for value in an arms-length transaction. With respect to transactions between affiliated or associated companies, FEA has the authority to impute a transfer value which bears a reasonable relationship to transfers between unaffiliated persons in arms-length transactions. It is the conferees' understanding that the regulation defining "first sale" could extend principles and procedures now applicable under current regulations to determine transfer prices for imports as well as the point of sale and sales price of old crude oil and stripper well oil, to all ceiling prices promulgated under the new pricing program.

While the President is to have considerable discretion in structuring the price regulatory mechanism (as noted above), the Committee contemplates that, at least initially, current differentiations between new and old oil production will be maintained, subject to such modification as is necessary to conform the present regulation to the requirements of this Act. It is the conferees' understanding that should the President structure the price regulatory system in this manner, an initial ceiling price of approximately $11.28 per barrel could be applied to new oil and production from stripper well leases so as to preserve significant price incentives for optimizing production from these sources.[1] Necessarily, working within the parameters of a maximum average weighted first sale price restraint, any system devised by the President which would permit higher prices for old oil production will reduce his ability to provide significant upper-tier price incentives for other classifications of domestic production. Consequently, the conferees imposed procedural limitations which require the President to make specific findings should he take any action which results in higher prices for current old oil production volumes. Thus, the President may not depart from the current regulatory control of old oil, unless he finds that the departure will provide a positive incentive for the application of enhanced recovery techniques, or for deep horizon development of, old oil producing properties, or as necessary to take account of declining production with respect to such properties. In any such circumstance, the President must also find that the departure from current controls is likely to result in greater production from such properties than would otherwise occur had the departure not been made. Thus, the prices for old oil volumes would be permitted to increase only upon a reasonable assurance that there would be a positive productive response.

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[1] This calculation assumes a weighted average price of old oil of $5.25. Should the $5.25 average price prove to be an inaccurate measure of actual prices the President shall take this into consideration before making any upward adjustments in upper-tier prices.

The President is granted broad authority to establish ceiling prices for classifications of domestic crude oil production if he finds that such classifications are administratively feasible and will optimize domestic production. Subject to the statutory requirement that any such ceiling prices and such classification be supported by appropriate findings, the President would have authority, in certain instances, to establish a ceiling price which could be at levels above the then current market clearing price as long as the actual weighted average first sale price for the totality of domestic crude oil production does not exceed the maximum weighted average price allowable under this Act.

As a matter of emphasis, the conferees wish to point out that the President is not required to establish a price mechanism of particular dimension or with specified characteristics provided the maximum weighted average first sale price limitation is not exceeded. The numbers of tiers employed and the types of classifications used will depend upon the President's determination as to what is administratively feasible and can be supportable pursuant to the findings set out in the statute. In this regard, the conferees intend that the term "administratively feasible" be understood to mean a workable pricing program which is both fully enforceable under section 5 and compatible with achieving the policy objectives set forth in section 4(b)(1) of the Emergency Petroleum Allocation Act.

Adjustments to the maximum weighted average price

The initial maximum weighted average price of $7.66 per barrel is subject to periodic adjustments to take account of inflation. An additional increase of no more than 3% per year may be made to the maximum weighted average price as production incentive to encourage the development of high cost, high risk properties, including production by independent producers; properties located on the Outer Continental Shelf and North of the Arctic Circle and deep wells or deeper horizons in existing wells located both onshore and offshore. The 3% production incentive adjustment may also be applied if the President finds such application will encourage utilization of enhanced recovery processes or the maintenance of production from marginal wells, including production from stripper wells and that such application is likely to provide a positive incentive for increased domestic crude oil production. The sum of the inflation factor adjustment and any production incentive adjustment factor applied in any given year may not increase the maximum weighted average price in excess of 10 percent per year.

Computation of the inflation adjustment factor is to be based on the GNP deflator published by the Department of Commerce, and adjusted by the President to exclude any portion of the published deflator which is directly attributable to OPEC price increases. If the Department of Commerce undertakes any major changes in their method of computing the GNP deflator which would have significant effect on the adjustment for inflation provided in the oil pricing formula proposed in the conference substitute the President would be authorized and expected to modify the adjustment for inflation in a manner determined to be appropriate to avoid any unintended aberration.

Subject to the statutory requirement that certain actions be supported by specified findings which are subject to review by the Courts or the Congress (as the case may be), whether to employ any upward adjustments to the maximum weighted average price and questions related to the timing of any such amendments are matters within the discretion of the President.

Ninety days after the date of enactment of this legislation, at not less than ninety day intervals thereafter, the President may submit to the Congress a proposal in the form of an amendment to the pricing regulations to increase the 3% limitation on the incentive adjustment factor, a proposal to increase the overall 10% annual limitation on adjustments to the maximum weighted average price, or a proposal to increase both.

Disapproval of such a proposal by either House within 15 days would prevent the amendment to the regulation from taking affect.

On February 15, 1977, the President is required to submit to the Congress a report containing an analysis of the impact on the economy and the supply of domestic petroleum products of all amendments adopted pursuant to this section including the supply of domestic petroleum products of ceiling prices promulgated to implement the maximum weighted average price requirement of the conference substitute, and may at that time submit a proposal to continue or modify the incentive adjustment factor, to increase the overall annual limitation factor on upward adjustments or both. Disapproval of this proposal by either House within 15 days would prevent the amendment to the regulations from taking effect. If an initial proposal is disapproved, the President may submit an additional amendment concerning the same subject matter within 30 days of the initial disapproval. Failure of the President to submit any such proposal on February 15, 1977, or disapproval of his first and second submissions, if any, would prevent the continued application of the production incentive adjustment factor until such time as a proposal to reinstate this adjustment factor is proposed by the President under his authority to do so at ninety days after the last submission and is not disapproved by either House.

Carryforward provision

The President is required to periodically test the price regulatory mechanism to determine whether actual prices are within the statutory parameter of the maximum allowable weighted average first sale price. Adjustments in the pricing formula are required in any subsequent period to adjust for any excess above the maximum allowable price and may be made to offset any determined deficiency.

If, during any period, the actual weighted average price is less than the allowable maximum weighted average price solely because overall market conditions and competition produced actual sales prices below established ceiling prices (such as may result from a break in OPEC prices), such prices would be deemed to have "resulted" from the price regulatory system. On the other hand, in the circumstances where the President, having made the appropriate findings, has specifically established a ceiling price for a particular classification of domestic production above the market clearing price, it is contemplated that the market clearing price will be used as the price which results from the regulation for the purpose of testing compliance with the maximum weighted average first sale price established by the statute.

The conferees understand and expect that the administration of the crude oil pricing policy described in the Act will require an expansion in scope, quality and timeliness of the collection and analysis of data by the Federal Government describing the production and sale of domestic crude oil. Under current FEA regulations, each domestic refiner is required to report, on form FEO–96, the average prices of domestic and imported crude oil and the composite average price of all crude oil acquired during a given month. Form FEA–P–102, which contains the basic information for the operation of the current crude oil entitlements program, requires reporting of the volumes of domestic old oil, domestic uncontrolled oil and imported oil processed by each refiner in a given month. The prices obtained from refiners include transportation costs, inventory fees and other charges and/or margins associated with transactions taking place between the time oil is produced and the time it is acquired by the refiner, while the data describing volumes of oil processed in each category do not necessarily reflect the production of such oil in a given month.

Certain producers of new and released (but not stripper) crude oil currently report, on form FEA–90, both production volumes and first sale prices of such oil. FEA estimates that companies accounting for 87 percent of domestic production are reached in this survey. At present, no data series compiled by FEA or by any other Federal agency covers production and prices of all categories of domestic crude oil.

The conferees expect that a data collection system which substantially increases current FEA coverage of the volumes and first-sale prices of domestic crude oil production will be required to carry out the pricing provision of the Act. The conferees do not intend to preclude the use by the President of valid, reliable, and statistically representative sampling techniques to accomplish the monitoring of domestic oil prices. However, to the extent that the reporting system upon which crude oil price regulation is based covers less than the relevant universe of sources of primary data, the conferees fully intend that the measure of actual weighted average first-sale prices of domestic crude oil which is adopted for purposes of this Act shall be valid, reliable and completely defensible, whether based on or a continuation and expansion of the existing FEA data system or its replacement by a new and more comprehensive one. Finally, the conferees intend that the current FEA audit of crude oil price and production data be continued or replaced by a new system which results in a more complete and comprehensive auditing of actual domestic oil pricing practices.

Alaska production

On April 15, 1977, the President is required to submit to the Congress a report on the adequacy of the then current weighted average price to provide positive incentives for the development of Alaska oil production without reducing ceiling prices and production incentives in the lower forty-eight states.

If the President finds that the then current maximum weighted average price is not adequate to provide such positive incentive, he may submit to the Congress a proposal, in the form of an amendment to the pricing regulation, to exclude up to 2 million barrels per day of Alaska production flowing through the Trans-Alaskan pipeline referred to in paragraph 2(a) in subsection (g) from the calculation of the actual weighted average price. Such a proposal must include a proposed ceiling price or prices for such excluded Alaska production, the average of which cannot exceed the highest actual weighted average first sale price permitted under the regulation for significant volumes of any other classification of domestic oil. Such proposal must be supported by findings justifying the level of such ceiling price or prices. Disapproval of the proposal by either House within 15 days under expedited procedures would prevent such an amendment to the regulations from taking effect.

If such an amendment is disapproved, the President can send an additional proposal for exempting Alaska production within 30 days of the initial disapproval. If either proposal becomes effective, beginning on January 1, 1978, and at no sooner than 90-day intervals thereafter, the President may submit to the Congress, proposals to modify the ceiling price or prices established in his initial Alaska exemption proposal. If either House disapproves the proposal within 15 days, the proposed modification may not become effective.

Judicial review

Because the conference substitute provides Congressional review of certain amendments to the regulation under section 4 of the Emergency Petroleum Allocation Act, judicial review of such amendments and any supporting findings has been circumscribed in part.

Passthroughs in prices of cost decreases

The Conference Substitute states that the President is required to promulgate a pricing regulation which requires a dollar-for-dollar passthrough in prices of all decreases in the costs of crude oil, residual fuel oil, and refined petroleum products which have occurred or will occur. Under current regulations, the opportunity is provided for a refiner or marketer to pass through its increased crude oil or product costs. This is done by allowing the maximum lawful selling price of each seller to be increased upward to reflect increases incurred in the cost of crude oil or products purchased. The Conference Substitute requires that *decreases* in a firm's cost of crude oil, residual fuel oil, or refined petroleum products be fully taken into account in computing that firm's maximum lawful selling prices.

Until now such a provision has been unnecessary because few, if any, firms have enjoyed a reduction in their input costs. The pricing provisions contained in the Conference Substitute and the removal of import fees should, however, result initially in a significant reduction in the actual weighted average first sale price of domestic crude oil. This provision of the Conference Substitute will help to assure that as much of the crude oil price reduction as is possible will be passed through the various levels of refining and distribution to the consumer level. Of course, it cannot realistically result in a full and immediate dollar-for-dollar reduction of any seller's current selling price if that seller is already below its maximum lawful prices and if the Federal Energy Administration does not alter the rules regarding so-called "banked costs".

This provision of the Conference Substitute requiring a dollar-for-dollar passthrough in prices of cost decreases in crude oil, residual fuel oil, and refined petroleum products is very much related to the provisions in the Conference Substitute pertaining to cost passthroughs and proportionate pricing. In a letter of December 6, 1975 from Federal Energy Administrator Frank Zarb to the Honorable Henry M. Jackson, Mr. Zarb estimated that the maximum effect on domestic product prices as a result of the pricing provisions in this Conference Substitute would be about 2.5 cents per gallon. In that letter Mr. Zarb went on to explain the relationship between this price decrease, and the way that it could be expected to flow through to the consumer. A portion of that explanation is included in this statement to clarify the relationship between the passthrough in prices of cost decreases provisions of the Conference Substitute and the provisions on banked costs:

The question of how fast this decrease will flow through to ultimate consumers depends more on market conditions than on law or FEA regulations. Under Section 4(b)(2)(A) of the Emergency Petroleum Allocation Act companies are authorized to pass through to consumers increased costs of crude oil, but FEA regulations interacting with market conditions have prevented them from doing so on a current basis. As of November 1, 1975, refiners collectively had unrecovered crude oil cost increases of about $1.4 billion that they were authorized to recoup in higher places but had as yet been unable to recoup because of the competitive pressures of the marketplace.

These "banks" of unrecovered costs are not equally distributed among all refiners. Most are held by refiners who had higher than average feedstock costs before FEA's old crude oil entitlements program began operating. Accordingly, some refiners who currently have little or no banked costs because they have been passing through increased crude oil costs on a current basis will be required to pass on immediately in product prices any reduction in their average crude feedstock costs caused by this bill. In a market characterized by plentiful supplies of product, this mandatory reduction in prices by some refiners will place substantial competitive pressures on other refiners to meet these lower prices so as to preserve their market shares and their volumes of sales.

The exact timing and extent of price reductions therefore simply cannot be predicted with any degree of confidence. They depend on the individual business decisions of literally thousands of refiners, distributors, and retailers of petroleum products. Each is caught between two conflicting motivations: trying to collect as much as possible of any increased costs not yet recovered, versus the need to meet competition so as to keep volume and market share up. Profit-maximizing behavior for each company will be different depending on its own circumstances.

The general direction of the forces at work is clear. Currently, product markets are characterized by plentiful supplies and prices below those allowable under existing law and regulations. For those refiners without "banks" of unrecovered product costs, regulations will force lower prices early, thereby imparting downward pressure on all market prices. How fast that flow-through will be, on which products it will occur and in what amounts will be determined entirely by the interaction of supply and demand in the marketplace so long as prices are below legal limits.

Regardless of the rate at which the cost reductions flow through in lower prices to consumers, the Conferees may rest assured that their actions, if enacted by the Congress and signed by the President, should result in a saving to consumers of about 2.5 cents per gallon on petroleum products. These savings, however, will not necessarily be evidenced by actual and immediate decreases from current product price levels at the point of final purchase. They will also be evidenced by a reduction in prices in future months as a result of the immediate reduction in the amount of costs that refiners and resellers will have available for passthrough to consumers in those future months. Thus, prices will be less in future months than they otherwise would have been under a continuation of the present program. The combined effect of the operation of FEA regulations and competition in the marketplace should assure that consumers will reap the full benefit of the rollback one way or the other. What cannot be specified with any precision is exactly how that benefit will be distributed over time and among the products covered by price regulations.

Certain domestic allocation authorities and stripper well repeal

The conference substitute repeals existing section 4(d) of the Emergency Petroleum Allocation Act, requiring that all domestic production be allocated for domestic use, and existing section 4(e), granting stripper wells an exemption from price controls. In view of the explicit language in Section 103 of the conference substitute prohibiting the export of crude oil and petroleum products, the less specific language of Section 4 with regard to the domestic allocation of petroleum products is no longer needed.

Under the conference substitute, stripper well ceiling prices come within the President's broad discretion to set ceiling prices to implement the maximum weighted average price requirement of the legislation. It is the conferees' understanding, that, within the limitations of the conference substitute, the President will most likely establish a separate stripper well ceiling price of approximately $11.28—the equivalent of the upper tier under a continuation of the current two-tier pricing program subject to limits of the conference substitute in order to assure sustained notes of production from such properties.

Limitations on pricing policy

House Amendment

The House amendment amended section 4(b)(2)(A) of the Emergency Petroleum Allocation Act of 1973 to provide that no passthrough of any net increases in the acquisition cost of crude oil (which were incurred after the enactment of this legislation) would be permitted more than 60 days after the date on which these increases were incurred.

In addition, the House amendment required that the specification of, or the manner for determining, the prices of residual fuel oil and of each refined petroleum product by a refiner whose facilities are located in the United States, shall reflect a proportionate distribution of costs.

Senate Amendment

No provision.

Conference Substitute

The conference substitute provides that any crude oil cost increase incurred by refiners in the month preceding the effective date of the amendment to the Allocation Act regulation mandated by section 8(a), or any time thereafter, which are not passed through within the 60 day period which follows the month in which such increases are incurred as product prices charged by a refiner may not be subsequently passed through by such refiner at a later date, except as provided in this section. To permit such later passthrough, the President must report to the Congress respecting his findings that such authority is necessary to alleviate the impact of significant increases in crude oil costs, to provide for equitable cost recovery by refiners and to avoid competitive disadvantages to individual refiners. Any such later passthrough is further limited by an overall 10% per month limitation.

With respect to such net increases in the cost of crude oil incurred one month prior to the effective date of the pricing program by the Conference and not passed through as of that date, not more than ten percent of the amount of such banked costs in effect on that day can be passed through in any subsequent month.

With respect to net increases in the cost of crude oil incurred after one month prior to the effective date of the Conference substitute pricing program, and subject to passthrough beyond the allowable 60 days pursuant to the appropriate Presidential findings, passthrough in any given subsequent month cannot exceed ten percent of the total of such net cost increases incurred after such date and not passed through within the allowable 60 days.

The net effect of both these limitations on banked cost passthroughs is to limit such passthroughs beginning with the effective date of the conference substitute's pricing program to ten percent of any banks in existence on the last day of the last calendar month prior to the effective date plus ten percent of any amount incurred one month prior to effective date and not passed through within 60 days of the month in which incurred.

Any allowable increase in the cost of crude oil, residual fuel or other refined petroleum products must be permitted to be passed through on a dollar for dollar basis to all levels of the petroleum distribution chain.

This provision also prohibits the distribution by volume of any increase in the cost of crude oil to Number 2 oils, aviation fuel, and propane produced from crude oil in greater than a directly proportionate amount. Under current regulations, refiners are not permitted to passthrough crude oil cost increases on a greater than directly proportionate by volume basis to Number 2 oil, heating oil and diesel fuel and propane. This provision adds aviation fuel to this proportionate pricing formula and elevates the regulatory scheme to statutory status. The conference committee fully intends however, to preserve the existing flexibility to tilt away from propane and home heating oil as provided in existing regulation.

Such proportionality in cost passthroughs pertaining to these three categories of refined petroleum products applies to all net increases in the cost of crude oil, including those incurred in the month preceding the effective date of the conference substitute's pricing formula and passed through within the allowable 60 days, those incurred in the month preceding the effective date and passed through after the 60-day limitation, pursuant to the appropriate Presidential findings, and the 10 percent limitation, and all such costs incurred before the effective date of the Act's pricing program and subject to the appropriate 10 percent passthrough limitations.

With respect to the conference substitute's proportionate distribution of costs requirement, the President may, by order, permit a deviation from proportionate passthrough upon a finding that such deviation would be consistent with the objectives specified in section 4(b)(1) of the Allocation Act and will not result in inequitable prices to any class of users of such product.

Prohibition of minimum prices

House Amendment

The House amendment prohibited the President from prescribing minimum prices for crude oil, residual fuel oil, or any refined petroleum product.

Senate Amendment

No provision.

Conference Substitute

The conference substitute follows the provision in the House amendment, but confines its reach to negating the use of any authority under this Act or the Emergency Petroleum Allocation Act.

Exemption for small refiners

House Amendment

The House amendment added a new subsection to section 4 of the Emergency Petroleum Allocation Act of 1973 to exempt from any provision of the regulation promulgated under section 4(a) which requires refiners to purchase entitlements for crude oil based on the number of barrels of such refiner's crude oil input, the first 50,000 barrels per day of the input of a refiner whose total refining capacity (including that of affiliates) was not in excess of 100,000 barrels per day on January 1, 1975 and whose capacity did not thereafter exceed that daily amount. The exemption was made effective with respect to any payments due on or after the last day of the month in which this legislation was enacted.

Senate Amendment

The Senate amendment amended section 4 of the Allocation Act to provide that any requirement of the section 4(a) regulation as to the purchase of crude oil entitlements would not apply to the first 50,000 barrels per day of those refiners whose total refining capacity (including that of affiliates) did not exceed 100,000 barrels per day on January 1, 1975. The exemption would be effective as to payments due with respect to crude oil receipts and runs to stills which occurred on or after February 1, 1975.

Conference Substitute

The conference substitute follows the provision in the House amendment.

Pharmaceuticals

House Amendment

The House amendment amended section 4(b)(1)(A) of the Emergency Allocation Act of 1973 to make clear that protection of public health includes needs related to the production of pharmaceuticals.

Senate Amendment

No provision.

Conference Substitute

The conference substitute follows the provision in the House amendment.

Priorities for mineral extraction

House Amendment

No provision.

Senate Amendment

The Senate amendment amended section 4 (b)(1) of the Allocation Act to include a priority for exploration, production and extraction of minerals essential to the requirements of the United States and for any required transportation which is related thereto.

Conference substitute

The conference substitute follows the Senate amendment.

Penalties for allocation act violations

House Amendment

The House amendment increased the amount of the civil penalty which could be imposed under the Emergency Petroleum Allocation Act of 1973 to (1) a maximum of $20,000 for violations related to the production and refining of crude oil; and (2) a maximum of $10,000 for violations related to the wholesale distribution of residual fuel oil or refined petroleum products. The maximum of such penalties for retail-level violations remained $2,500. The criminal penalties for Allocation Act violations were changed to authorize (1) imprisonment for not more than one year; (2) a fine of up to $40,000 for willful violations related to crude-oil production or refining; (3) a fine of up to $20,000 for willful violations related to the wholesale distribution of residual fuel oil or any refined petroleum product; and (4) a fine of up to $10,000 for willful violations, at the retail level, related to the distribution of residual fuel oil or of any refined petroleum product.

Any individual director, officer, or agent of a corporation who knowingly and willfully authorized, ordered, or performed any act in violation of the Allocation Act and who had notice, or reasonably should have had notice, of such corporation's noncompliance, would be subject to these criminal penalties, regardless of whether or not civil penalties were imposed on the Corporation.

Senate Amendment

No provision.

Conference Substitute

The conference substitute follows the House amendment with respect to those provisions of the House Amendment which permitted corporate directors, officers and agents to be held individually responsible for those violations of the corporation which they knowingly and willfully authorized, ordered, or performed, the conference substitute limits the authority to seek a term of imprisonment to circumstances when the director, officer or agent had knowledge or reasonably should have known of prior notice of noncompliance received by the corporation. With the exception of this latter proviso, nothing in the section is intended to change existing case law relating to the individual responsibility of corporate directors, officers or agents for violations of those corporations.

It should be pointed out that under FEA regulations, each day of a continuing violation is considered a separate violation for purposes of the penalty provisions under the current Act. Such a construction is necessary if the penalty provisions are to provide a meaningful deterrent to violations which are continuing in nature, such as the failure to supply oil or products pursuant to an allocation regulation or order. Although the maximum penalties have been substantially increased by the conference substitute, there are still likely to be numerous instances in which the maximum penalty would not deter unlawful conduct unless such a construction were applied. The Committee therefore expects the FEA to continue to view each day of a continuous violation to be a separate violation.

Antitrust provision in allocation act

House Amendment

No provision.

Senate Amendment

The Senate amendment added a new subsection to section 6 of the Emergency Petroleum Allocation Act of 1973 and removes the provisions of that section which relate to assertions of a defense in antitrust litigation. The new provision makes it an affirmative defense, in an action for breach of contract, that the alleged breach was caused solely by compliance with the Allocation Act or regulations or orders thereunder.

Conference Substitute

The conference substitute follows the provision in the Senate amendment.

Reevaluation of section 4(a) regulation

House Amendment

The House amendment amended the Allocation Act to direct the President, within 30 days after enactment of this legislation, to conduct a review (including notice thereof and an opportunity for interested persons to comment in writing and orally) of the appropriateness and continuing efficacy of, or need for, any of the provisions of the regulation promulgated under section 4(a) of that Act, with respect to the attainment of the objectives stated in section 4(b)(1) of that Act. Within 90 days after enactment, the President was required to propose such amendments to the section 4(a) regulation as he determined were necessary or appropriate to modify or eliminate any provisions thereof which were found to be inconsistent with, or no longer necessary to the attainment of, the section 4(b)(1) objectives. Any such amendment would take effect as provided under its terms.

Senate Amendment

No provision.

Conference Substitute

The conference substitute modifies the House Amendment by requiring the President to hold hearings within 60 days of enactment to determine the need for amending any regulations under the Emergency Petroleum Allocation Act in an effort to better achieve the objectives specified in 4(b)(1) of the Act.

The President is required to submit to the Congress, within 120 days of the enactment of this legislation, an analysis of all such recommendations, and thereafter promulgate such amendments as are necessary to modify the regulations for the purpose of better attaining the objectives specified in section 4(b)(1).

The conferees believe that, in connection with the review and oversight of the FEA regulations under the Allocation Act, the following matters should be considered: (1) an equitable and proportionate distribution of costs among all refined products; (2) the contention by some that major petroleum companies are selling to their captive stations or employee-operated stations on more favorable terms than to branded and nonbranded independent marketers; (3) an evaluation of the feasibility of removing controls from the retail and/or wholesale level; (4) an assessment of whether crude oil purchasers and resellers who initiated business after the 1972 base period should be able to have an opportunity to establish a business and to compete with others for the purchase of crude oil from producers.

(5) a review of the mandate to allocate on an equitable basis between regions, giving due regard to historical patterns rather than to create preferences between regions without reference to historical patterns; and (6) the extent to which environmental impacts are being adequately considered prior to making allocation decisions.

Conversion to standby authorities

House Amendment

The House amendment authorized the President to convert mandatory provisions of the Emergency Petroleum Allocation Act of 1973 to standby authority, subject to disapproval by either House in an expedited 15-day Congressional review procedure. The President was authorized to exempt from controls crude oil, residual fuel oil, or any refined petroleum product. Such amendment may apply to different market levels (i.e., production, refinery, wholesale distribution, or retailing) and may provide for scheduled or phased implementation. It would not, however, give the President the authority to exempt first sales of domestic crude oil production from the statutory price ceiling.

Once exempted, the President would have standby authority to reimpose allocation and price controls and subsequently modify them without Congressional review.

Senate Amendment

No provision.

Conference Substitute

In early October 1973 the "Yom Kippur" war broke out in the Middle East. An embargo was imposed on the United States and other countries by the oil producing Arab countries. Suddenly, the United States was faced with the possibility of drastic shortages in crude oil supplies and spiraling of petroleum costs. In this crisis atmosphere, Congress passed the Emergency Petroleum Allocation Act in 1973 (EPAA). The Act gave the President the necessary authority to meet the shortage conditions that existed in the first half of 1974 with minimum impact upon the Nation while preserving the market position of the independent segments of the petroleum industry.

The regulations promulgated by the Federal Energy Administration pursuant to the mandatory authority of the EPAA establish a comprehensive regulatory structure which cuts across and applies to all sectors of the petroleum industry. Conceptually, the regulations may be segmented into two parts—those provisions dealing with the pricing of covered petroleum products and those provisions dealing with allocation of those products.

The price regulations are further divided into three sets of rules, each dealing with one segment of the petroleum industry. The pricing provisions treat crude oil producers, refiners, and resellers and retailers.

The allocation regulations are divided into two allocation programs, one dealing with crude oil and one dealing with products refined from crude oil.

The United States still faces a critical energy problem. However, the dimensions of that problem are far different from those which existed in 1978 and were addressed by the EPAA. There is no longer a general shortage of either crude oil or refined petroleum products, with the possible exception of propanes. In many ways, the supply side of the market has returned to near the pre-embargo conditions which prevailed in 1972.

In view of these changed conditions, a comprehensive regulatory structure of the scope outlined above may no longer be necessary. On the other hand, to allow such a comprehensive structure to expire, overnight, may itself create severe dislocations. To the extent that mandatory controls are no longer needed or desirable, a gradual return to an unregulated market is preferable to sudden decontrol.

In addition, while some products or some markets may no longer need mandatory price and allocation controls, conditions are not identical throughout the entire industry. Moreover, certain policies adopted in Title IV of this legislation would require continuation of certain controls. Section 401 establishes a pricing policy applicable to domestic crude oil which promises to maintain domestic crude oil prices below the OPEC cartel-established world market prices. This policy requires a continuation of certain programs established pursuant to the authorities of the EPAA. Specifically, it is contemplated that crude oil cost equalization (entitlements) program would have to be continued or some equivalent devised to preserve competition so long as a substantial difference continues to exist between OPEC established pursuant to Section 401.

Finally, so long as the United States continues to be dependent upon insecure or unstable foreign sources of crude oil for a substantial portion of the Nation's energy requirements, reimposition of an embargo could produce severe shortages such as those experienced during the Arab oil embargo of 1973–74. Therefore, the President must have authority on a standby basis to deal with such shortages. Such authority has been specifically requested by the President. A proposal regarding standby price control and allocation authority was included in Title XIII of the bill. The Energy Independence Act of 1975, proposed to the Congress by the President.

The conferees believe that the flexibility of the existing law and its demonstrated adequacy during the 1973–74 Arab embargo make it a prime candidate for conversion to a standby authority. The conferees believe that such conversion would be preferable to enactment of a separate standby authority.

Extension of the EPAA and its conversion to a standby authority offers, in addition, the potential for a smooth transition of petroleum markets from a closely regulated state to a largely unregulated status subject to standby pricing and allocation authority.

The conference substitute, thus, grants the President limited authority to amend the regulation prescribed under section 4(a) of the Emergency Petroleum Allocation Act if he determines that such amendment is consistent with the attainment of the public policy objectives specified in section 4(b)(1) of the Act, except as required by section 3(a), and that the regulation, as amended, provides for the attainment of those objectives, to the maximum extent practicable. If the President proposed to exempt crude oil, residual fuel oil, or a refined petroleum product or product category with respect to a class of persons or transactions with respect to any market level, he must submit such amendment to the Congress. Any amendment of this character may take effect if not disapproved by either House within 15 days under expedited Congressional review procedures.

For the purpose of this provision, "refined product category" means motor gasoline, Number 2 oils (including heating and diesel fuel), propane, or all or any portion of other refined petroleum products as a class (including natural gas liquids and natural gas liquid products other than propane).

Any amendment which proposes to exempt crude oil, if permissible under and consistent with the requirements and limitations of section 8, residual fuel oil, or any refined petroleum product or product category, from the regulation pertaining to allocation must be submitted to Congress together with a finding that such product is no longer in short supply and the exemption would not have an adverse impact on the supply of any other oil or product.

Any proposed exemption with respect to price must be accompanied by a finding that (1) competition and market forces would provide adequate protection for the consumer, and (2) such amendment would not result in inequitable prices for any class of users.

Any amendment submitted to the Congress must be accompanied by the President's findings on the potential economic impact of such amendment.

Any oil or refined product category which is exempted from the regulation is subject to the reimposition of the regulation if the President determines that such reimposition is necessary for and consistent with the objectives specified in section 4(b)(1). Subsequent re-exemption of that oil or refined product category would not be subject to Congressional review.

The President may also submit to the Congress an amendment to modify the regulation with respect to exemption from payments or purchases of entitlements for the first 50,000 barrels per day of inputs for certain small refiners, if he determines that such an exemption has resulted in unfair economic or competitive advantage with respect to other small refiners or otherwise seriously impairs his ability to provide for the attainment of the objectives of the Act.

Here the conference substitute has added a constraint on the President's authority to amend the regulation. This constraint, not found in the House amendment, has been included to clarify and make compatible the terms of this section with those contained in new section 4(e) relating to exemptions from entitlement obligations for certain small refiners.

Technical purchase authority

House Amendment

The House amendment amended the Allocation Act to give the President discretionary authority to act as exclusive agent for and to become the technical purchaser of all imports into the United States of crude oil, residual oil, or any refined petroleum product, on a sealed bid basis. The contract authority was limited to amounts approved in appropriations acts.

Senate Amendment

No provision.

Conference Substitute

The conference substitute authorizes the President to prepare and submit to the Congress a technical purchase authority plan which would grant the United States the exclusive right to import all or any part of the crude oil, residual fuel oil or any refined petroleum products produced in foreign nations for resale in the United States.

There is a strict prohibition on application of the authority in a manner that would result in a subsidy or preference for any individual importer, purchaser or user of such products in the United States.

The authority cannot be used in a manner that will result in a profit or loss to the United States, except in the circumstance where the President finds that competitive-bid sales to purchases in the United States below the acquisition price to the United States government may result in progress toward lowering world oil prices.

Such plan and submission must be supported by findings by the President that the likely effect of the procedure would be to reduce prices for imported oils and products.

Such plan would take effect if not disapproved by either House of Congress within 15 days under the expedited Congressional review procedure.

This provision also requires the President to submit to the Congress, within 90 days of enactment, a report on the feasibility of providing an incentive for reducing the price of imported oil by granting domestic producers an increase in the price of old oil corresponding to any decreases in the price of foreign oil.

Definitions under the Allocation Act

House Amendment

The House amendment amended the definitions section of the Emergency Petroleum Allocation Act of 1973. (1) to make it clear that domestic crude oil production includes oil produced from the Outer Continental Shelf. (2) to add a definition of "motor gasoline" (the operative term in the House amendment provision establishing a mandatory gasoline allocation program), and (3) to indicate that the term "includes", when used in that Act, means "includes, but not limited to."

Senate Amendment

The Senate amendment amended the definitions section of the Allocation Act to add a definition of "handicapped person" and a definition of "eligible person" (a handicapped person or the parent or guardian of such a person who must transport the handicapped person to and from special services).

Conference Substitute

The conference substitute does not propose any amendment to the definitions to be employed in the Emergency Petroleum Allocation Act. The concept of affording special consideration to handicapped persons is picked up and provided for in those sections of the conference substitute in Title II which pertain to energy conservation plans and rationing.

It should be stressed that the conferees' failure specifically to include oil produced from the Outer Continental Shelf in the definitional category of domestic crude oil reflects the strong belief of the conferees that such inclusion was unnecessary; the conferees have consistently interpreted the term as including such production and intend for it to be so regarded in the future.

Direct controls on refinery operations

House Amendment

The House amendment amended the Emergency Petroleum Allocation Act of 1973 to authorize the President to require adjustments in the processing operations of any refinery in the United States with respect to the proportions of residual fuel oil or any refined petroleum product produced through such operations. These adjustments could be made when they were necessary to assure the production of fuels in proportions necessary to obtain the objectives of section 4(b), or section 12 of the mandatory gasoline allocation savings program.

Senate Amendment

The Senate amendment authorized the President to require the adjustment of processing operations of domestic refineries to produce refined products in proportions commensurate with national needs and consistent with the objectives of section 4(b) of the Emergency Petroleum Allocation Act of 1973.

Conference Substitute

The conference substitute follows the House amendment, except that all reference to the mandatory gasoline allocation savings program has been deleted. (See supra). The conferees intend that this authority shall be narrowly applied and that it shall not be construed to authorize government operation of refineries.

Inventory requirements

House Amendment

The House amendment amended the Allocation Act to authorize the President to require persons engaged in the business of importing, producing, refining, marketing, or distributing crude oil, residual fuel oil, or any refined petroleum product to build upon draw-down inventories as the President may deem necessary to satisfy the requirements of the mandatory gasoline allocation savings program, and to carry out obligations of the United States under the international energy program. This authority is limited to requiring the maintenance of "90-day inventories." In no case could such persons be required to make physical additions to storage facilities.

Senate Amendment

No provision.

Conference Substitute

The conference substitute authorizes the President, if he finds an existing or impending regional or national supply shortage of any fuel, by order or by amendment to the regulation, to require adjustments in the amounts of crude oil, residual fuel oil or any refined petroleum product held in inventory by any persons engaged in the business of importing, producing, refining, marketing or distributing such products. The President may require distribution of inventories to specified persons or classes of persons at specified rates of distribution, or to specified levels of inventory accumulation, or the accumulation of such inventories at a specified rate or to specified levels. This authority may be exercised if the President determines that such order or amendment may be necessary (1) to the attainment of the public policy objectives stated in section 4(b)(1) of the Emergency Petroleum Allocation Act or (2) to carry out the obligations of the United States under the International Energy Program.

Such authority may also be exercised to require the maintenance of inventories at levels above or below normal operating levels, with the limitation that such requirements may not exceed the amount which would be used or distributed during any 90-day period of peak usage. In no event may any requirement for maintenance of inventories require a physical addition to storage facilities to comply with any such amendment or order.

Hoarding

House Amendment

The House amendment amended the Allocation Act to prohibit persons in the business of producing, refining, distributing or marketing crude oil, residual fuel oil, or refined petroleum products from accumulating, during a severe energy supply interruption, "amounts of such oils or products in inventories or otherwise which are in excess of such person's reasonable needs".

Senate Amendment

No provision.

Conference Substitute

The conference substitute follows the provision in the House amendment, except that (1) the prohibited conduct is to be defined with specificity in the regulations; (2) only a "willful" hoarding is made a violation; and (3) exemption from this requirement is specifically provided with regards to activities required by the Industrial Strategic Petroleum Reserve provisions of this Act.

Asphalt allocation authority

House Amendment

The House amendment amended the Allocation Act to authorize the President to provide for the mandatory allocation of, and to establish price ceilings applicable to, asphalt.

Senate Amendment

No provision.

The conference substitute follows the provision in the House amendment, with an additional provision allowing the President to exempt asphalt from such mandatory allocations without regards to Congressional review provisions of section 12, once such an allocation program for asphalt has been established pursuant to this provision.

Expiration of certain authorities

House Amendment

The House amendment provided that all standby energy authorities and the authority with respect to the strategic petroleum reserve would expire at midnight on June 30, 1985. Aany rule, regulation, or order issued pursuant to any such authority would expire at the same time. Expiration would not affect pending civil or criminal proceedings nor would it preclude any legal action based upon any act committed prior to expiration.

Senate Amendment

The Senate amendment provided that all standby energy authorities would expire at midnight on June 30, 1977, except that such authority was authorized to be exercised until midnight on November 18, 1978 if required to implement the obligations of the United States under the international energy agreement. Expiration would not affect pending legal action or preclude any such proceeding brought after expiration based upon any act committed prior thereto.

Conference Substitute

The conference substitute provides that at the end of 40 months, the mandatory requirements of the Emergency Petroleum Allocation Act convert to discretionary authority, and the limitations imposed by section 4(b)(2), 8, and 9 terminate. As standby authority the Act expires on September 30, 1981.

Reimbursement to States

House Amendment

No provision.

Senate Amendment

The Senate amendment directed the President to provide financial assistance to States. A State would be eligible for such assistance if it established a State plan for energy conservation, provided satisfactory fiscal control and accounting procedures, and complied with applicable Presidential regulations. The purpose of such grants would be to assist States in carrying out functions delegated to them under this legislation, in carrying out appropriate energy conservation, rationing, or allocation programs which qualify for an exemption from a Federal energy conservation plan, and in reimbursing them for functions carried out under the Emergency Petroleum Allocation Act of 1973. For the purpose of this section the amendment authorized $50 million to be appropriated for each of the 2 fiscal years including and following the effective date of this legislation.

Conference Substitute

The conference substitute authorizes the Administrator of the Federal Energy Administration to reimburse States, to the extent of available funds, for functions performed under the Allocation Act and directs the President to report to the Congress no later than June 1, 1976, on the amount and nature of reimbursements made to States under this provision. The President must also report regarding recommendations as to whether authorization of additional funds are necessary for direct grants to States to continue the operation of the reimbursement program.

Effective date of amendments to the Allocation Act

House Amendment

The House amendment provided that amendments to the Emergency Petroleum Allocation Act of 1973 would take effect on September 1, 1975.

Senate Amendment

No provision.

Conference Substitute

The conference substitute is similar to the House amendment. Section 463 provides that the amendments to the Allocation Act made by this Act shall be effective as of midnight December 15, 1975, except as otherwise provided. The conferees expressly recognize the possibility that this Act may not be enacted until after December 15, 1975. For that reason, the December 15, 1975, date was expressly written into section 463 as the effective date so as to make it absolutely clear that no gap in the President's authority to promulgate regulations or to issue or enforce orders under the Allocation Act is intended, that the extension of the Allocation Act authority will apply retroactively to December 15, 1975, and that the regulation under section 4(a) in effect on December 15, 1975, shall be deemed to have been continuously in full force and effect thereafter.

V—GENERAL PROVISIONS

Part A—Energy data base and energy information

House Amendment

The House amendment extended, until December 31, 1979, the authority of the Federal Energy Administration to gather energy information under the Energy Supply and Environmental Coordination Act of 1974 (ESECA).

For the purpose of developing an accurate energy data base, the Comptroller General was authorized to conduct audits in three situations. First, the Comptroller General could conduct verification audits of the books and records (1) of persons required to submit energy information to the Federal Energy Administration, the Department of Interior, or the Federal Power Commission and (2) of any person engaged in the energy industry (other than at the retail level) if such person furnished energy information (whether or not pursuant to legal requirement) to a Federal agency (other than the Internal Revenue Service), and if the information was being used or considered by that agency. Second, oversight audits could be conducted of financial statements which any vertically integrated petroleum company filed with the Securities and Exchange Commission. If the audit revealed that the certified public accountant who certified the financial statement did not adequaely examine the books and records, a verification audit of such books and records could be made. Third, the Comptroller General was required to conduct verification audits of the books and records any person described above if requested to do so by a congressional committee or subcommittee with legislative or oversight jurisdiction.

The Securities and Exchange Commission was required to prescribe (after consultation with the Financial Accounting Standards Board) accounting practices to be followed by persons engaged in the production of crude oil or natural gas to permit compilation of an energy data base with respect to such production.

The Comptroller General was authorized to issue subpenas, require the submission of information, administer oaths, and inspect premises in carrying out his authority under this section. The Comptroller General was given access to any energy information or financial statement in the possession of any Federal agency (other than the Internal Revenue Service) necessary to cary out its authority under this section.

The Comptroller General was required to submit a copy of the results of a verification audit (unless the audit was requested by Congress) to the Fedearl agency to which the energy information or financial statement subject to the audit was furnished. Such report was to include findings as to the accuracy, reliability and adequacy of the energy information or financial statement subject to the audit.

Any person who violated a general or special inspection odrer of the Comptroller General would be liable to pay a civil penalty of up to $10,000. Each day of failure to comply with an inspection order constituted a separate violation.

ESECA was amended to extend energy data gathering authority to September 30, 1980, and to require the Federal Energy Administrator to require that persons engaged in the production of crude oil or natural gas submit reports with respect to energy information kept in accordance with this legislation.

Senate Amendment

The Senate amendment authorized the President to obtain energy information which he determined was necessary to achieve the purposes of this legislation. The authority to gather energy information data, which was granted in ESECA and in the Federal Energy Act, would continue without regard to the expiration of those Acts.

Conference Substitute

The conference substitute follows the House amendment, except as follows:

(1) The Comptroller General may conduct verification examinations of financial information relating to energy resources and products of any vertically integrated petroleum company;

(2) Verification examinations which could be requested by Congress can be requested only by a full committee with legislative or oversight jurisdiction. If the verification examination was conducted at the request of any committee of Congress, the Comptroller General shall report his findings directly to such committee. The report shall be deemed the property of the committee and may not be disclosed except in accordance with the rules of the House of Representatives or of the Senate and as permitted by law. Nothing in the substitute, however, would preclude a committee from delegating such authority to any of its subcommittees;

(3) The provisions relating to oversight audits of financial statements filed by petroleum companies with the Securities and Exchange Commission and verification and oversight audits of certified public accountants are deleted;

(4) Any geological or geophysical information obtained pursuant to this provision and whose disclosure would result in significant loss or competitive disadvantage to the owner may be revealed only to a committee of Congress. Such information furnished to a committee of Congress would become the property of that committee and could not be disclosed except in accordance with the rules of the committee and the Rules of the House of Representatives or the Senate and as permitted by law. Any person who knowingly disclosed information in violation of this paragraph shall be subject to the penalties of section 5(a)(3)(B) and (4) of the Emergency Petroleum Allocation Act of 1973, as amended by this legislation; and

(5) It is specifically provided that the Securities and Exchange Commission, in prescribing accounting practices that would permit compilation of energy information, may rely on accounting practices developed by the Financial Accounting Standards Board.

The conferees recognize that the conference substitute could potentially place a very large burden upon the resources of the General Accounting Office. It is, therefore, the expectation of the conferees that the resources assigned to verification audits by the Comptroller General will be reasonably balanced against the other statutory responsibilities of the General Accounting Office and consistent with Congressional appropriation of funds.

PART B—GENERAL PROVISIONS

Prohibition on cetrain actions

House Amendment

The House amendment prohibited allocations or restrictions on the use of petroleum products and electrical energy which unreasonably differentiate among classes of users. In making allocations, the President or any agency is directed to consider the need to foster reciprocal and nondiscriminatory treatment by foreign countries of United States citizens engaged in commerce in those countries.

Senate Amendment

The Senate amendment contained similar provisions and also required that end-use restrictions on energy consumption give specific consideration to the needs of commercial establishments which operate during non-conventional working hours for the convenience of their customers.

Conference Substitute

The conference substitute combines the provisions of the House and the Senate amendments.

Conflicts of interest

House Amendment

The House amendment required employees of the Federal Energy Adminstration or the Department of the Interior who perform any function or duty under this legislation to file annually, beginning February 1, 1977, a public statement disclosing any direct financial interest held during the preceding calendar year in any property from which coal, natural gas, or petroleum is commercially produced, or in any person engaged in the coal, natural gas, or petroleum business other than at the retail level. Knowing violations were punishable by a fine not to exceed $2,500 or imprisonment for not more than one year, or both. The Administrator and the Secretary of the Interior were directed to publish regulations to implement this provision and were authorized to exempt positions which are of a nonregulatory or a nonpolicy-making nature.

Senate Amendment

No provision.

Conference Substitute

The conference substitute follows the provisions in the House amendment, except as follows:

(1) The Federal Energy Adminstrator and the Secretary of the Interior are directed to define, by rule, the financial interests which must be disclosed;

(2) Any "known financial interest" instead of any "direct financial interest" must be disclosed;

(3) The disclosure requirements apply to

any officer or employee of the Federal Energy Administration or of the Department of the Interior.

The conferees do not intend this provision to invalidate or override in any way existing agency or department regulations relating to financial interest disclosure. With respect to officers or employees holding "blind trusts," the disclosure requirement for any "known financial interest" means that disclosure is required only of interests that are initially committed to the blind trust, not of interests hereafter acquired. While the legislation only requires disclosure, the conferees believe it would be appropriate for the Secretary of the Interior and the Federal Energy Administrator to condition the use of blind trusts upon a directive that the trustee avoid investments in industries that would create a conflict of interest. Trustees are not required to make disclosures under this provision.

Administrative procedures and judicial review

House Amendment

The House amendment directed that all rules, regulations, or orders under this legislation be governed by the procedures set forth in subchapter II of chapter 5, title 5, United States Code, except that the procedures contained in the Allocation Act apply to provisions which amend that Act. The President or the applicable agency must provide notice of a proposed rule or order, at least 30 days for public comment, and the opportunity for oral presentations, except that the time of notice and opportunity to comment may be reduced to 10 days if the President makes certain findings. Agencies must establish an appeal and review procedure for persons seeking adjustment of agency action. Any person aggrieved by a final denial of adjustment could obtain judicial review. The procedures for judicial review set forth in the Economic Stabilization Act of 1970 would govern such proceedings notwithstanding the expiration of such act.

Senate Amendment

The Senate amendment made the provisions of subchapter II of chapter 5, title 5, United States Code, applicable to any rule, regulation, or order under this legislation. Agencies were required to provide notice of a proposed substantive rule or order, a minimum 10 days for public comment, and opportunity for oral presentations. The President could waive notice and opportunity to comment in certain circumstances. Agencies were directed to establish an appeal and review procedure for making adjustments to rules or orders. Judicial review could be obtained by any person aggrieved by a final denial of such adjustment. The United States district courts were given exclusive original jurisdiction for cases arising under this legislation or under any rule, regulation, or order thereunder. A Temporary Emergency Court of Appeals with specified powers and procedures was to exercise exhaustive appellate jurisdiction. The Federal Energy Administrator was authorized to prescribe procedures for State or local boards which carry out functions under this legislation or under the Emergency Petroleum Allocation Act of 1973.

Conference Substitute

The conference substitute follows the House amendment, except that the President is given limited authority in emergency circumstances to waive the precondition that he afford an opportunity for comment prior to making any such rules or orders effective.

Prohibited acts and enforcement

House Amendment

The House amendment made it a prohibited act to violate a provison of this legislation or any rule, regulation, or order thereunder. It provided for civil penalties of up to $5,000 for violations, fines of up to $10,000 for willful violations, and fines of up to $50,000 or imprisonment up to 6 months, or both, for certain knowing and willful repeated violations. The Attorney General was authorized to bring actions to enjoin violations and to mandate compliance.

Senate Amendment

The Senate amendment is the same as the House amendment except that it also authorized private actions to obtain injunctive or declaratory, but not monetary, relief.

Conference Substitute

The conference substitute follows the Senate amendment except that the enforcement mechanism is confined to violations of Title I, II, V, and section 383 of Title III. Also, with respect to private actions, the authority to maintain such an action is limited to alleged violations of the following provisions of this legislation: (1) energy conservation contingency plans, (2) unreasonable allocation on, or restrictions on, the use of petroleum products and electrical energy, (3) oil allocation to implement the international energy program (IEP), (4) voluntary agreements to accomplish IEP objectives, (5) international exchange of information, and (6) advisory committees respecting the IEP.

Delegation of authority to State and local authorities

House Amendment

The House amendment directed the President, within 30 days after the approval of a rationing plan, to receive public comment to assist in establishing criteria and procedures for the delegation of the President's functions under this action to officers or local boards (of balanced composition reflecting the community as a whole) of states and localities. The President was required to grant or deny, within 30 days, petitions from such local entities for such delegation.

Senate Amendment

The Senate amendment directed the President to establish, within 60 days after the legislation is enacted and after an opportunity for public comment, criteria and procedures for the delegation of the President's functions under this legislation or under the Emergency Petroleum Allocation Act of 1973, to officers or local boards, as in the House amendment. The President was authorized, but not required, to grant petitions for delegation within 30 days of receipt. State law was superseded only to the extent it was inconsistent with this legislation.

Conference Substitute

The Conference substitute in section 203 (d) follows the House amendment.

Effect on other laws

House Amendment

The House amendment provided that State law was superseded by this legislation only to the extent that it was inconsistent therewith.

Senate Amendment

The Senate amendment is substantially similar to the House amendment except that the provisions of the Senate amendment are generally confined to matters encompassed in titles I and II of the conference substitute.

Conference Substitute

The conference substitute follows the House amendment, but like the Senate amendment, is limited to matters contained in titles I and II.

Transfer of authority

House Amendment

The House amendment required the President to designate, where applicable and not otherwise provided by law, an appropriate Federal agency to carry out the provisions of this legislation which were vested in, or delegated to, the Federal Energy Administrator, after the termination of the Federal Energy Administration.

Senate Amendment

The Senate amendment contained substantially the same provision as the House amendment.

Conference Substitute

The conference substitute follows the House amendment.

Authorization for interim period

House Amendment

The House Amendment provided for open-ended authorization under this act.

Senate Amendment

The Senate amendment provided for specific authorization for the interim period (the third quarter of calendar year 1976) in several sections, and allowed for open-ended authorization for the remainder.

Conference Substitute

The conference substitute provides that any authorization of appropriations for fiscal year 1976 in this Act, or amendment to any other law made by this Act, will be deemed to include an additional authorization of appropriation equal to one-fourth of such authorization of appropriation for the period beginning July 1, 1976, and ending September 30, 1976, unless specific appropriations for that period are subsequently authorized by law.

Intrastate natural gas

House Amendment

No provision.

Senate Amendment

The Senate amendment provided that nothing in this legislation authorizes the President to regulate or allocate intrastate natural gas (except for the imposition of nationally-applied energy efficiency standards).

Conference Substitute

The conference substitute follows the Senate amendment but is modified to make clear that no provision of the conference substitute permits the imposition of price controls on, or the allocation of, natural gas which is not subject to the jurisdiction of the Federal Power Commission.

Limitation on loan guarantees

Senate Amendment

The House amendment provided for loan guarantees for eligible persons for the purpose of developing new underground coal mines. The aggregate outstanding principal amount of loans which are guaranteed under this legislation may not at any time exceed $750,000,000. (See provision.) The House had no obligation guarantee program respecting advanced automobiles.

House Amendment

The Senate amendment authorized a total indebtedness not to exceed $175,000,000 to guarantee obligations related to the development of advanced automobiles and production prototype vehicles. The Senate had no program respecting new underground coal mines.

Conference Substitute

The conference substitute incorporates both programs, but provides that no loan guarantees or obligation guarantees may be issued in violation of any limitation in appropriations or other Acts, with respect to the amounts of outstanding obligational authority.

Expiration of certain authorities

House Amendment

The House amendment provided that all standby energy authorities and the authority with respect to the strategic petroleum reserve would expire at midnight on June 30, 1985. Any rule, regulation, or order issued pursuant to any such authority would expire at the same time. Expiration would not affect pending civil or criminal proceedings nor would it preclude any legal action based upon any act committed prior to expiration.

Senate Amendment

The Senate amendment provided that all standby energy authorities would expire at midnight on June 30, 1977, except that such authority was authorized to be exercised until midnight on November 18, 1978 if required to implement the obligations of the United States under the international energy agreement. Expiration would not affect pending legal action or preclude any such proceeding brought after expiration based upon any act committed prior thereto.

Conference Substitute

The conference substitute follows the House amendment, as to the standby energy authorities, except as otherwise provided in specific provisions of the conference substitute.

Congressional review

House Amendment

The House amendment required the President to transmit any energy action to both Houses of Congress. The term "energy action" was defined to include a request to implement an energy conservation or rationing contingency plan and certain other executive actions.

An energy action would take effect at the end of the first preiod of 15 calendar days of continuous session after the date on which such action is transmitted to the Congress, unless either House passed a resolution stating in substance that it did not favor such action. However, the energy action could take effect prior to the expiration of the 15-day period if each House approved a resolution stating it did not object to such action.

The House amendment stated that the provisions for congressional review were made as an exercise of its rulemaking power. The House amendment set forth the required form for a resolution, and provided that a resolution was to be referred to an appropriate committee. If the committee did not report it within 5 calendar days, a motion would be in order to discharge the committee from further consideration of such resolution or of any other resolution with respect to such energy action which had been referred to the committee. The House amendment set forth the procedures for such discharge motion and the procedures governing a motion to consider a resolution.

The House amendment provided an expedited procedure for congressional consideration of energy conservation and gasoline rationing contingency plans. A contingency plan was to be considered approved if, between the date of its transmittal and the end of the first period of 60 calendar days of continuous session, each House passed a resolution approving such contingency plan. Once introduced, the resolution was to be referred to the appropriate committee. If the committee had not reported it at the end of 20 calendar days after its referral, a motion was in order either to discharge the committee from further consideration of the resolution, or to discharge the committee from further consideration of any other resolution with respect to the contingency plan referred to the committee. The procedures governing a motion to discharge were set forth.

Senate Amendment

The Senate amendment required the President to transmit any energy conservation plan to each House of Congress. Such energy conservation plan was to take effect on the date provided in the plan, except that the action would cease to be effective if either House, within 10 calendar days of continuous session after transmittal, passed a resolution stating that Congress did not favor such action. If the energy conservation plan so provided, the plan could take effect later than such date.

The Senate amendment stated that these provisions were made as an exercise of Congress' rulemaking power. The required form and content of a congressional resolution were specified. Any resolution with respect to an energy conservation plan was to be referred to a committee. If the committee did not report it within 5 calendar days, it was in order to move to discharge the committee from further consideration of such resolution or of any other resolution with respect to such energy conservation plan which had been referred to the committee. The Senate amendment set the procedures governing such discharge motion, and procedures for congressional consideration of the resolution after a committee reported it or was discharged.

The Senate amendment provided that a rationing plan was to take effect and terminate in the same manner as an energy conservation plan.

Conference Substitute

The conference substitute follows the House amendment with respect to the procedures for the exercise of congressional review.

Henry M. Jackson,
Floyd K. Haskell,
John Glenn,
Richard (Dick) Stone,
Dale Bumpers,
Warren G. Magnuson,
Adlai E. Stevenson,
John O. Pastore,
Vance Hartke,
Philip A. Hart,
Howard W. Cannon,
Jennings Randolph,
Edmund S. Muskie,
Managers on the Part of the Senate.
Harley O. Staggers,
John D. Dingell,
Torbett H. Macdonald,
John E. Moss,
Paul G. Rogers,
Managers on the Part of the House.

APPOINTMENTS BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER (Mr. Stone). The Chair, on behalf of the President pro tempore of the Senate, in accordance with Public Law 94–118, appoints the Senator from Hawaii (Mr. Inouye) and the Senator from New York (Mr. Javits) to the Japan-United States Friendship Commission.

RECESS UNTIL 1:30 P.M.

Mr. MANSFIELD. Mr. President, I move that the Senate stand in recess until the hour of 1:30 p.m.

The motion was agreed to, and at 12:39 p.m. the Senate recessed until 1:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Glenn).

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOTICE OF HEARING—SENATE RESOLUTION 151

Mr. ROBERT C. BYRD. Mr. President, on Thursday of this week at the hour of 11 a.m., the Subcommittee on Standing Rules of the Senate of the Committee on Rules and Administration will conduct a hearing on Senate Resolution 151 to provide for the installation and use of electronic voting equipment in the Senate Chamber.

If any Senator wishes to submit a statement in writing or be present at that hearing he is welcome to do so, and Senators are now informed that such a hearing will be held.

Normally, under the Legislative Reorganization Act, a greater length of time is required for such hearing notice, but also in the act that time that is set forth in the act can be shortened if the matter is considered urgent, and I think there is urgency in this situation, because it would be hoped that the committee could act in time, and the Senate could act in the time, prior to the recess over until January 19, so if it is the will of the Senate to install an electronic voting system here the work could be going forward during the recess.

I hope that Senators will avail themselves of the opportunity to present any statements they wish to make in support of or in objection to the installation of an electronic voting system in the Senate.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistance legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER AUTHORIZING CONSIDERATION OF S. 2597

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the leadership be authorized to call up at any time S. 2597, which is the bankruptcy bill and, in any event, upon the disposition of the supplemental appropriation bill, that bill be made the pending order of business if it has not been called up prior to that time by the leadership.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware is recognized.

SUPPLEMENTAL APPROPRIATIONS, 1976

The Senate continued with the consideration of the bill (H.R. 10647) making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

Mr. ROTH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Delaware (Mr. ROTH) proposes an amendment No. 1212, as modified.

Mr. ROTH. Mr. President, I ask unanimous consent to dispense with the further reading of the amendment as modified.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

At the end of the bill add the following new section:

SEC. . *Resolved by the Senate (the House of Representatives concurring)*,

That it is the sense of Congress that the President, through the Director of the Office of Management and Budget, shall take immediate steps to restrain the inflationary impact of Federal expenditures and to conserve the use of energy by ordering a reduction of Federal travel expenditures by at least 10 percent; and

That these steps shall include such provisions as are necessary to insure that such reductions are allocated so as not to disrupt the provision of vital governmental services or the organized troop movement of military personnel; and

That the President is requested to submit to Congress, within 30 days of adoption of this resolution by the Senate and the House of Representatives a report outlining his actions.

Mr. ROTH. Mr. President, I am today proposing an amendment in the form of a concurrent resolution to reduce the amount of Federal funds spent on travel and transportation.

Specifically this amendment would make it the sense of Congress that the President shall take immediate steps to restrain the inflationary impact of Federal expenditures by ordering a reduction in Federal travel expenditures by at least 10 percent.

I have here a computer tape which lists agency by agency the travel budget for all three branches of the Federal Government. This tape, which is nearly 25 feet long, is a clear illustration of the amount of money spent each year to transport Federal employees from one place to another.

This year, Federal travel will cost the taxpayers more than $2.3 billion, which means that each foot of the travel computer tape represents nearly $100 million. A 10-percent reduction in Federal travel spending could result in a savings to the taxpayers of $230 million.

Last year, the Congress adopted my amendment to require a 10-percent-across-the-board cut in Federal travel. But after 2 months of bureaucratic complaints and administration inaction, the amendment was repealed. I was dismayed at the administration's lack of support for my amendment last year, but I am hopeful the administration will support this sense of Congress resolution.

Earlier this week I wrote the President and urged him, in light of his call for a cut in Federal spending to take the initiative and issue an Executive order to restrict Government travel costs.

I have received indications that the Office of Management and Budget is drafting guidelines to reduce and minimize Government travel costs.

While I am not entirely satisfied with the draft of the OMB guidelines that I have seen, I am pleased that the administration has apparently recognized the need to reduce Government travel costs.

I believe that this action is a direct result of the pressures that this legislation has put on the executive branch to hold down travel costs.

Nevertheless, I do believe that Congress must reenforce its determination to restrict Government travel spending, and for that reason I urge my colleagues to support this amendment.

I again wish to point out that this is a sense of Congress resolution. It is not mandatory, but merely an expression of the intent or desire of the Congress. The language is careful to make it clear that in no way should travel be eliminated insofar as it would disrupt the provisions of vital Government services or the organized troop movement of military personnel.

In these days when we are trying to establish priorities, when we are trying to ask our people back home to conserve energy, when we are trying to show fiscal integrity, it seems extremely important to me that the Government employees themselves show restraint in their travel requirements.

As I said a year ago, it dismayed me that the travel amendment was repealed. It appears in many cases that many public servants have forgotten that a letter is as adequate as a trip, that many times one can conduct the business of government by telephone rather than by trip.

It dismays me that instead of one or two Government employees going to a particular meeting we find that there is an entire entourage of many Government employees attending such conferences.

It seems to me that we have a real sense of responsibility, an obligation, to show restraint on Federal spending by cutting back on travel.

My sense of Congress amendment applies not only to the executive branch, but it would apply to the Congress and the judicial branch as well.

Mr. HANSEN. Will the Senator yield?

Mr. ROTH. I am happy to yield to the Senator.

Mr. HANSEN. Mr. President, I would like to compliment the distinguished Senator from Delaware for his perceptiveness in proposing this amendment.

Mr. President, I ask that I be included as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. I am happy to include the distinguished Senator from Wyoming.

We also have as cosponsors of this amendment Senators NUNN, PROXMIRE, TUNNEY, and BUCKLEY.

Mr. President, I yield the floor.

Mr. McCLELLAN. Mr. President, the amendment offered by the distinguished Senator from Delaware certainly has a worthwhile objective. To reduce expenditures in any agency or function of the Government where it can be done, without seriously impairing essential Government services, is most desirable in view of the fiscal condition that prevails today.

The first objection that I would point out to this amendment is that we are saying that it is the sense of the Congress that the President should do something that it is our primary responsibility to do.

It is fine to say, "Let us dump it on the President." Maybe if there is no other way, that is all right. But the better course would be, as each bill comes up, that those who are concerned about the expenditures for travel examine the bill, ascertain the amount of funds that are being made available for that purpose, and offer amendments for appropriate reductions, according to their judgment as to what would be an appropriate expenditure for that purpose.

I believe it was in the supplemental appropriation bill last year that the distinguished Senator offered an amendment for a 10-percent cut, across the board. That was accepted and enacted into law and found to be impractical in our judgment and wisdom, and thereafter we repealed that amendment.

The only trouble about this cut, Mr. President, at this time, is that half of the fiscal year will be gone by the time this bill becomes law. Approximately half of the year will be gone. So, what we are actually doing here is saying to the President, in effect, that it is the sense of the Senate that we should cut 20 percent of the travel funds that are available for the rest of this fiscal year.

It is pretty unwise to do that at this stage. However, if that is the sense of the Senate, I have no serious objection, except to point out, Mr. President—and I do not know what the House will think about it, whether they will want to take it or not—we are simply saying that it is the sense of the Senate that the President should do something that we did not do, and that we should have done when the bill was passed.

If the Senate wants to adopt the amendment, I will not seriously protest it. But I do point out what I consider to be a proper, valid objection to the amendment.

Mr. ROTH. Mr. President, first, let me say that no one has greater respect for the chairman of the Appropriations Committee than I do. I know he has been, throughout his years of service in the Congress, a strong advocate of fiscal responsibility.

I also recognize that ideally it would be better to do it appropriation by appropriation. But one of the problems in this whole area is to really dig out the facts as to which agency, which offices, are not showing the kind of restraint in travel that should be shown during these days of fiscal problems.

Mr. President, I ask unanimous consent that Bill Corbett and Bruce Thompson be granted privilege of the floor, including during the votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. In any event, I would like to point out in closing that during the current year which will, of course, end in October under our new fiscal year, the Department of Agriculture is planning to spend $90 million in fiscal 1976, which is a 25-percent increase over fiscal 1975. Veterans' Administration will spend $74 million plus, which is a 25-percent increase over fiscal 1975, and a 40-percent increase over fiscal 1974.

The Selective Service System, which is now operating on a standby basis since the draft was eliminated, will spend $1,640,000 on travel, which is an increase of more than 60 percent over last year's travel budget.

It is entirely possible that some of these figures can be justified. Based on our experience last year, where the amendment was mandatory in nature, we have this year made it merely a sense of Congress resolution.

I might say I received a letter from the then Secretary of the Army, after we had repealed the mandatory provisions, saying that he felt my efforts in this area had a very beneficial effect in the Department of the Army, requiring its management to sit down and carefully try to eliminate the travel that was not critically important.

Mr. McCLELLAN. Will the Senator yield?

Mr. ROTH. I will be happy to yield.

Mr. McCLELLAN. Does not the Senator agree the Senate amendment, as now proposed, asks the President to make it mandatory, just as we did in the amendment to the bill last year?

Mr. ROTH. That is not the intent.

Mr. McCLELLAN. In other words, Mr. President, the Senator does not mean for the President to carry out the amendment in full, unless he finds it advisable? I am trying to understand. If we do it by law, if we tell him to do it, that is mandatory.

I am trying to get the distinction. We made it mandatory by law last year. Does this sense of the Senate resolution say to the President, "We think you ought to do it"? That would be mandatory. I think there ought to be some discretion left in here. If there was, I would have no objection to supporting the amendment. As it is now, it looks to me like it tells the President, "We think you ought to make it mandatory that they do it."

Mr. ROTH. The intent of the Senator from Delaware is for it to be discretionary, expressing the intent that we would hope he could make it 10 percent. But we very clearly spell out that in no way do we want vital services disrupted, and we only intend this to be a guideline to the President of what the Congress would like to see accomplished.

Mr. McCLELLAN. Will the Senator yield further?

Mr. ROTH. I will be happy to yield.

Mr. McCLELLAN. In order to achieve what the Senator says he seeks to do, would he be willing to amend his amendment on line 7, by striking out "by at least 10 percent" and saying "not to exceed 10 percent"?

Mr. ROTH. Yes; I would agree to that modification.

Mr. McCLELLAN. I think that would afford the opportunity of not trying to make the President do something that we did not do and will not do by legislation. It gives him discretion up to that point.

Mr. ROTH. This is the intent of the Senator from Delaware. I will be happy to accept that.

Mr. McCLELLAN. Will the Senator modify his amendment to that extent?

Mr. ROTH. I so modify.

The PRESIDING OFFICER (Mr. McCLURE). Without objection, the amendment is modified.

Mr. ROTH. Mr. President, I would like to ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. ROTH. Mr. President, I make the point of order a quorum is not present.

Mr. McCLELLAN. Mr. President, I had in mind accepting the Senator's amendment and taking it to conference with that modification. If he wants the yeas and nays, I have no objection.

Mr. ROTH. I will be happy to withdraw my request.

Mr. McCLELLAN. I am agreeable with that modification.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment, as modified, was agreed to.

Mr. ROTH. I would like to thank the chairman for agreeing to this amendment.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> On page 2, line 15, strike out "$21,782,000" and insert in lieu thereof "$25,182,000."

Mr. TUNNEY. Mr. President, this amendment offered on behalf of Senator CRANSTON and myself, if passed, will save countless citizens in the Big Tujunga Canyon and Mount Baldy areas of California the anguish of watching their property and the surrounding watershed be destroyed by flooding and mudslides during southern California's rainy season. This devastation will come about if the U.S. Forest Service in the Angeles National Forest does not receive prompt financial assistance to allow the reclamation of the heavily damaged watershed in the forest. Over 68,000 acres of blackened timberland, lost during the recent fires in the Angeles National Forest, will have to be reseeded and adequately rehabilitated within 1 month in order to avoid even greater damage to the land through flood and mud.

Section 216 of the Flood Control Act of 1950 provides funds for the rehabilitation of watershed and terrain on an emergency basis. There are now $21.8 million in the supplemental appropriation for such emergency activity in 12 States. Unfortunately, California was not included in either the House or Senate versions.

To this end, Senator CRANSTON and I propose to add an additional $3.4 million to the appropriation for the Soil and Conservation Service. The sum we request is based on the estimate submitted to the Department of Agriculture by Bill Dresser, Supervisor of the Angeles National Forest. Specifically, Supervisor Dresser indicated that $124,000 is needed for reseeding, $419,000 for road stabilization, and $2,857,000 for repairing and stabilizing primary and upland channel structures.

The data on the extent of the damage and the cost of repair were not available until shortly after the final markup session by the full Appropriations Committee on Thursday of last week. As a result, I was not able to give to the committee the figures that I am now making available to the Senate as a whole.

I am hopeful, however, that the Senate will accept this amendment, just as the committee accepted the addition of $80,000 for emergency measures in Waterbury, Conn., during markup. The committee itself noted:

> The Committee notes that the basic legislation authorizes the Secretary to undertake these emergency measures at his discretion. The Committee recognizes that timing is an extremely important element in the type of emergencies contemplated under the Section 216 program and has included funds in this bill so that urgently needed corrective measures will not be unduly delayed.

It is crucial that these funds be available to the Forest Service at the Angeles National Forest. I feel confident that Secretary of Agriculture Butz will approve their request for emergency funds under the 1950 Flood Control Act and, therefore, our appropriation of these funds is clearly appropriate.

In normal times, the rains present serious flood and erosion threats, and the devastation of this fire has removed the watershed which provides at least minimal safeguards. The disaster which can ensue as a result of this fire far exceeds the cost of the repairs. I urge the Senate to support this amendment to safeguard southern California from this potential holocaust.

I ask unanimous consent that a number of supporting documents concerning my activities to seek Federal aid as a result of this fire be printed in the RECORD.

There being no objection, the documents were ordered to be printed in the RECORD, as follows:

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am deeply concerned about the hundreds of families who have either lost their homes or been forced to evacuate them in the terrible fire now raging in the Los Angeles suburbs. I urge you to extend to them all possible assistance, including declaration of the fire-zone as a Federal disaster area.

Sincerely,
JOHN V. TUNNEY,
U.S. Senator.

Mr. LOUIS F. LAUN,
Administrator, Small Business Administration, Washington, D.C.

DEAR MR. LAUN: I have been advised that the Office of Emergency Services of the State of California has requested that those portions of Southern California involved in the Big Tujunga Canyon and Mt. Baldy fires this past week be declared disaster areas by the SBA.

Losses approaching $1.5 million in private property and destruction of nearly 70,000 acres of valuable watershed have been suffered by the fire-ravaged areas.

A special designation of these areas by SBA will do much to alleviate the hardships experienced by the residents and I strongly urge you to grant the State's plea for assistance.

Sincerely,
JOHN V. TUNNEY,
U.S. Senator.

DECEMBER 5, 1975.

Hon. EARL L. BUTZ,
Secretary of Agriculture, Department of Agriculture, Washington, D.C.

DEAR SECRETARY BUTZ: As you know, the recent fires in Southern California have grave flood potential. Funds are needed immediately for the Forest Service to begin activities on seeding, road stabilization, and building primary and upland channel structures. The sum necessary for the firedamaged areas totals $3.4 million.

Because the often rainy Southern California winter is upon us, time is clearly of the essence. I would appreciate your immediate agreement that these funds be made available under Section 216 of the Flood Control Act of 1950. The watershed must be repaired in order to avoid massive mudslides and the damage they cause.

I would greatly appreciate a response to this telegram within 48 hours.

Sincerely,
JOHN V. TUNNEY,
Senator.

COMMITTEE ON THE JUDICIARY,
Washington, D.C., December 8, 1975.

Hon. ROBERT C. BYRD,
U.S. Senate,
Washington, D.C.

DEAR BOB: The fires that swept the Big Tujunga Canyon and Mount Baldy areas of Los Angeles County destroyed 35 homes and damage may run as high as $13 million. Reseeding some 68,000 blackened acres may cost an additional $8 million. The fires were but part of a series that have struck our state year after year. Of course the government can provide disaster relief, but it also should invest more in disaster prevention. Presently, funds to develop techniques which will prevent fires from rampaging from national forests into populated settlements are severely limited.

California's share of the $35.9 million included in the Senate version of the Interior Appropriations bill for forest fire protection of our national forest lands by the Forest Service is clearly inadequate. Only through the investment of sufficient funds to develop fire breaks and other means of curtailing the spread of fires will we be able to protect against future holocaust.

The House of Representatives' bill includes $1 million for fuel modification on national forest lands in Los Padres, Angeles, Sequoia and Cleveland National Forests in California. This sum is above and beyond the $35.9 million approved by the Senate. This additional sum can offer improved protection.

It appears clear to us that this investment is a good one, that the cost-benefit is significant. We urge you and your fellow conferees to accept the House amendment of this legislation. It is the "ounce of prevention" Southern California has long needed.

Sincerely,
JOHN V. TUNNEY,
U.S. Senate.
ALAN CRANSTON,
U.S. Senate.

Mr. TUNNEY. I know of the very hard work that the Senator from Arkansas, the distinguished chairman of the full committee, the chairman of the subcommittee and other committee members put into this bill. I am reluctant to have to offer a floor amendment not considered in committee. However, I do hope that the distinguished chairman of the Committee on Appropriations will look favorably upon this request, considering its unusual nature: that the fire was an act of God, and that we can anticipate as a result that with the traditional seasonal rains in December, January, and February, there will be serious damage to the homes in the area unless some action is taken. That action is going to require money—in this case, about $3.5 million.

Mr. McCLELLAN. Mr. President, I am inclined to accept this amendment or, at least, agree to take it to conference. I realize that it was subsequent to the initiation of this bill, particularly in the House, that the damage by excessive rains and storms and fires, and so forth, occurred in California and that there was not ample opportunity possible for the Senators to prepare and have an amendment before the Committee on Appropriations for consideration when it considered this bill. I am not sure about the amount in here, whether that full amount is required or whether the amount that the Senator is asking to increase this item is excessive for the needs. But, unless there is objection on the part of someone, I am willing to take this to conference. Meanwhile, I urge the Senators from California to submit to us full information, particularly whatever they can to substantiate the need for the amount. I think we would all be willing to make some provision. Since we will be going to conference with it, the responsibility will be on the Senate conferees to sustain or to demonstrate the need for the amount of money that will be involved. I trust that the Senator and his colleague will make an effort to supply us with what he thinks they need, and what he can make available to us to reinforce our position in the conference.

I yield to the distinguished Senator from North Dakota.

Mr. YOUNG. This item, I believe, is similar to ones we put in in the regular Agriculture Appropriations Committee along about last June as a result of flooding and whatnot. The situation in California just occurred a short while ago.

Mr. TUNNEY. Just a couple of weeks ago, yes.

Mr. YOUNG. So it is an emergency situation and if the amount is not correct, I think we can check with the Soil Conservation Service between now and when we go to conference with the House to get the exact amount.

Mr. TUNNEY. I thank both my distinguished friends.

I point out to the Senate that, while we were aware of the fire and the damage that was caused during the blaze a couple of weeks ago—it destroyed 68,000 acres—the cost estimate was not complete until Friday, 1 day after the markup session by the full Committee on Appropriations. The data were collected by the Forest Service at the site. We will make that data available to the distinguished chairman of the full committee when he goes to conference.

Mr. McCLELLAN. I thank the Senator. I have no objection to the amendment. I am willing to accept it.

The PRESIDING OFFICER (Mr. LAXALT). The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HUMPHREY. Mr. President, I should like to ask the distinguished chairman a question. It may preclude the necessity of my having to offer an amendment.

As I understand it, it is chapter 7 in the bill which deals with State Department funding. It starts on page 27. I want to make sure that out of the total funding made available for the Department of State, there is adequate funding for the opening of what is known as the Göteborg Consulate in Sweden. The amounts that are required for this consulate run in the sum of around $300,000.

This consulate is the oldest American consulate in the world. It was closed during that period of difficulty between Sweden and the United States at the height of the Vietnam war. It is in western Sweden, which is, may I say, the most friendly part of that great country to the United States and has been throughout all of its existence. Most of the Swedish immigrants that have come to America came through Göteborg. Most of the trade between our two countries is through Göteborg. I was able to get established in the State Department Authorization Act a directive to the Department of State to reestablish this important consulate.

I want to be sure of one thing: that the Department of State will establish this consulate and do it promptly. I am not talking about somewhere down the road, but I mean promptly, within the period of time between now and spring. There are reasons for it: Because of the Bicentennial, because of the trade relations between our two countries, because of the historical significance.

I had a note that a member of my staff presented to me which indicated that the Department of State was going to take care of this matter; I have a verbal commitment to handle the operational costs of the Göteborg American consulate out of its current funds. The only reason that I have doubts about this is that I have had some experiences before, where some commitments, or what I thought were commitments, at least, were made that certain activities would take place out of current funds, which did not follow. I have an amendment prepared which I can offer, or I can follow the suggestion which has been made by one of the members of the staff of the Committee on Appropriations; namely, that we receive a letter of assurance, a document in writing, that will guarantee that this consulate will be opened.

I would like the advice of the chairman. I have my amendment. It is not a large amount, as he knows, and if it does not take as much as the amendment I propose asks, I think this is what the State Department estimated would be required. We would not have to have action on it.

Mr. McCLELLAN. I might say to the distinguished Senator, it is my understanding that the State Department can allot, and intends to allot, the money already in the bill to carry out the Senator's suggestion. I cannot guarantee they will do it.

We have instructed the staff to ascertain and get confirmation of this in writing from the State Department.

May I say to the distinguished Senator, this bill will go over, I understand, until tomorrow before final action is taken on it. If such letter or satisfactory assurances are not received by the time we vote on the bill, I would be most happy to entertain an amendment and discuss it with the Senator.

Mr. HUMPHREY. I thank the Senator.

Mr. McCLELLAN. I will entertain such an amendment to try to make some satisfactory disposition of it.

I would be inclined to favor certainly the opening of the——

Mr. HUMPHREY. Consulate.

Mr. McCLELLAN (continuing). Consulate, yes. I am in favor of opening it, and I am willing to provide the money necessary if it is not already in the bill.

Mr. HUMPHREY. Well, that is more than satisfactory.

Mr. McCLELLAN. I would not like to take the amendment if the money is already in the bill. There is no reason why they cannot tell us yes or no.

Mr. HUMPHREY. That is correct. There is no need in having it if the money is in the bill and the money is available.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. HUMPHREY. Yes, I yield.

Mr. MAGNUSON. I strongly support this amendment because I have had some experience with the matter in Göteborg, which used to be the busiest consulate in all of Sweden.

Mr. HUMPHREY. That is correct.

Mr. MAGNUSON. In fact, they do more business, and they can do more potential business, than even Stockholm. For some reason, some economy move, way back—how many years I forget—they cut it out. Actually the State Department people in our embassy in Stockholm have to go down to Göteborg. Sometimes they used to have to go 3 or 4 days a week to work in the consulate.

Mr. HUMPHREY. That is right.

Mr. MAGNUSON. That costs just as much as to have one there. I hope we can work out some arrangement, because I know of the interest of the Senator from Minnesota in this matter. It is one place in Sweden where we would be welcomed with wide-open arms.

Mr. HUMPHREY. The Senator is so correct. I thank the Senator.

Mr. McCLELLAN. Shall we then defer the matter until tomorrow sometime and ascertain if we can get assurances?

Mr. HUMPHREY. Surely.

Mr. MAGNUSON. In fact, on a little personal note, I will say to the Senator from Arkansas that is where my father's family came from.

Mr. HUMPHREY. All the more reason we should have it. We will call it the Magnuson Consulate.

[Laughter.]

Mr. McCLELLAN. Very well.

Mr. MAGNUSON. We have an amendment of the Senator from Maryland which came in to the committee, I will say to the Senator, a little bit late. The amount in the House bill is $2 million for the National Center for the Control and Prevention of Rape at the National Institute of Mental Health; the committee allowed zero. Let me say that between now and the time this bill goes to conference, we will re-examine the justification for the Senator's request and also the rationale for the $2 million House allowance, and when this item comes up in conference, we will view it with an open mind.

Mr. MATHIAS. Mr. Chairman, if you will look at our correspondence you will see I made a reasonable appeal to you as chairman of the subcommittee and also, of course, to the distinguished Senator from Massachusetts, who is the ranking minority Member.

Mr. MAGNUSON. Does the Senator's amendment call for $4 or $5 million? Would the Senator call up his amendment?

Mr. MATHIAS. Mr. President, I have an amendment pending at the desk.

The PRESIDING OFFICER. The clerk will report the amendment. The legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) proposes an amendment:

On page 9, line 14 strike out $60,500,000 and insert $65,500,000.

Mr. MATHIAS. Mr. President, in answer to the inquiry of the Senator from Washington, this amendment does call for $5 million for the establishment within the National Institute of Mental Health of a center for the prevention and control of the crime of rape.

I might explain very briefly what the purpose of this would be.

Mr. MAGNUSON. I think the Senator could save a little time so far as the Senator from Washington is concerned, and the time of the Senate, if he had a very brief explanation.

In the absence of the Senator from Massachusetts who, I am sure, will agree with me, we would accept the amendment, and I would hope the Senator would make it $4 million so we could deal with the House in round figures, and we probably could come out of the conference with at least $3 million.

Mr. MATHIAS. Mr. President, I ask unanimous consent to modify my amendment and make it $64,500,000 instead of $65,500,000, which will be a net increase of $4 million.

The PRESIDING OFFICER. Is there objection to the modification? The Chair hears none, and the amendment is modified.

The amendment, as modified, is as follows:

On page 9, line 14, strike out $60,500,000 and insert $64,500,000.

Mr. MATHIAS. Mr. President, according to the 1972 Uniform Crime reports released by the Federal Bureau of Investigation on August 8, 1973, 46,430 females were the victims of forcible rape in America last year. The FBI submits that this volume represents an 11-percent increase over 1971 and a shocking 70-percent rise over 1967 figures. Moreover, the victim risk rate has skyrocketed 62 percent from the 1967 level to a point where, in 1972, 43 out of every 100,000 females in America were reported rape victims. But the national risk rate distorts what may be really happening in this country. In 58 core cities with populations in excess of 250,000, the FBI reports that the victim risk rate approached 92 per 100,000 females. While the rate of increased reports in large core cities in 1972 was 9 percent, in suburban areas surrounding these cities the increase was 18 percent. In my own State of Maryland, the Governor's Commission on Law Enforcement and the Administration of Justice has independently compiled statistics on the problem. According to the Maryland Commission, 1,059 forcible rapes were reported to the police in 1972. And the victim risk rate in individual jurisdictions is even more alarming.

I recognize that better reporting may account for part of the increase; however, these statistics only represent the tip of an ominous iceberg. The bulk of the account lies hidden below the surface, away from obvious view. As FBI Director Clarence M. Kelley has reported, forcible rape "is probably one of the most underreported crimes" in this country today. Helpful though they are, the annual police reports to the FBI may not even begin to measure the actual prevalence of this crime in the Nation. Yet, drawing upon the limited information that is now available, the 46,430 cases reported in 1972 means that forcible rape occurred in the United States during this period on the average of once every 11 minutes. And except for a brief interval after the end of the Second World War, the rape rate has steadily risen since the early 1930's.

Distressing though these statistics may be, recent studies indicate that the sordid rape picture is even worse yet. In March 1973, the Prince Georges County task force to study the treatment of the victims of sexual assault issued a report which stated, in part, that:

> Educated guesses estimate that between 50 and 90 percent of rape cases go unreported.

If we were to accept as true these assertions, or the suggestion by the President's Commission on Law Enforcement and Administration of Justice that the true rate may be three to four times higher than police figures show, then it is possible to conclude that the actual number of forcible rapes in the Nation last year involved in the neighborhood of

92,000 to 186,000 victims. Without question, the limited evidence accumulated thus far is frightening as well as disgraceful, considering the incongruity between myth and reality as it exists in the United States.

Too many of us may lose sight of the countless ways in which a woman's life is shaped by the persistent threat of rape. Consider, for a moment, women who are afraid to live alone, to go out at night without an escort, to work late at the office when no one else is around. Consider too, the girl hitchhiker; the woman standing alone at the bus stop; the widow left by herself in an empty apartment; the teenage babysitter in a house alone except for the sleeping children; the female head of a household, trying to look out for herself and her daughters; the woman driving her car with no passenger—all of these women can, and often do, have their lives constantly influenced by the tension and fear, as well as the atmosphere of suspicion which are created by the threat of rape. Perhaps the only segment of the male population who best understands and experiences a fear comparable to that felt by all women is the group of men in prison who live daily with the threat of homosexual rape.

But if we find the cold statistics disturbing, and the pervasive threat of rape oppressive, then consider the plight of the rape victim. As the Prince Georges County task force report states:

> Rape is a serious crime of assault on the body but more grievously on the psyche of a woman. All too often, she is treated at best as an object, a piece of evidence, and made to relive the experience, must face the incredulity of the police, the impersonality of the hospital, and then must defend herself in court. Having been socialized to be passive, she is nevertheless expected to have put up a battle against her attacker. Her previous sexual experience can be used to impute her instability though the defendant's background often cannot be brought up against him. She does not have the benefit of a retained lawyer and sometimes the prosecutor does not have the time or perhaps the insight to prepare her beforehand for the ordeal of the trial. She suffers serious psychological stress afterward, largely due to the guilt and shame imposed by society. She may not recognize a need for professional help or she simply cannot afford it.

Sadly, this scenario is replicated throughout America. And no woman is immune.

The structuring of rape laws, and the treatment of offenders and victims by police, prosecutors, courts, and judges, reflect certain commonly held attitudes about the roles of men and women in our society. These notions may well be unfounded; however, they are frequently held with such tenacity that rational assessment of the facts in a given case is often very difficult. There is, for example, the notion that black men are more likely to attack white women than black women, or that the poor attack the rich. Yet, most studies show that both the rapist and the victim tend to be of the same race and socioeconomic class. As a matter of fact, studies conducted for the National Commission on the Causes and Prevention of Violence indicated that 90 percent of the rape cases were intra- rather than interracial, and both victim and rapist came from similar economic backgrounds. Moreover, just as we know that rape is no respecter of class or race, we also know that neither one race nor one socioeconomic class has cornered the market on rapists. There are a number of Americans, however, who may believe the contrary, despite the figures which show such beliefs to be untrue.

Rape, as I have said before, is no respecter of income, class, or race. It can happen to a preadolescent girl, a pregnant woman, or a senior citizen. The evidence, moreover, tells us that rape can and does take place at any time of the day, any day of the week, or any season of the year, in any part of the Nation. It seems, however, to occur most often in the spring or summer, on weekends, and at night. But, in effect, it happens wherever and whenever the opportunity presents itself.

And yet relatively few attacks are reported by the victims. The FBI attributes the underreporting of rape to "fear and/or embarrassment on the part of the victims." But, perhaps it is more than this. In some instances the victim may fear reprisal by the rapist: but the victim's reluctance to report may well be the effect of other causes. Consider the fear she may have of being publicly accused by the rapist of provocation, or of having actively participated in the rape; that she had somehow acted irresponsibly. Consider, too, her fear of adverse reactions on the part of those close to her, be they husband, boyfriend, parents, or friends. In the case of a young victim, the parents may prefer to spare the child the legal ordeal or the sensational publicity; or possibly they may wish to prevent any possible emotional damage to the child. Likewise, consider the dilemma of the victim whose attacker is a close friend, a relative, a neighbor or an employer. But whatever the reason, when the rape is unreported, the rapist may be free to continue committing his crime.

Perhaps some women feel that the postrape ordeal simply is not worth it when there is little reason to believe that the attacker would be punished for his crime. In 1972 alone, nearly one out of every four men arrested for forcible rape was never prosecuted for this offense. And of the remaining 73 percent who were prosecuted, nearly half of them were either acquitted or had their cases dismissed due to "prosecutive problems." The fact is that only one-third of the adult men arrested for forcible rape in this Nation last year were found guilty of the actual crime; 19 percent of those arrested were convicted of lesser offenses while the remaining 23 percent were juvenile referrals.

Mr. President, the time has come for our society to consider the rape laws as they are now written. Rather than protecting a woman's interest in maintaining her physical integrity, peace of mind, or her ability to move about as freely as a man might without fear of sexual attack, the laws may possibly be having the opposite effect by hindering the prosecution of attackers. Clearly the laws as they stand today do not effectively deter rapists. Indeed, given the treatment that victims are subjected to by the police, hospitals, the prosecution, and the law itself in some jurisdictions, the rapist could not wish for any more unwitting allies to aid and abet him in his defense. We say our rape laws are constructed to protect women's interests. But is that the case? Let us examine the gauntlet that the victim is forced to run.

According to the FBI report, 15 percent of all forcible rapes reported to police were, upon investigation, determined to be unfounded or, in the words of the FBI, "the police established that no forcible rape offense or attempt occurred." It would be an unfortunate and rather naive mistake to conclude that these were merely false reports. In fact, this statistic points out one of the attitudinal deterrents of which a woman attempting to charge rape must be cognizant. For the police may decide to advise against prosecution for other reasons. The alleged rapist and the victim might be friends or dating partners. The victim may have been under the influence of intoxicants or drugs when the rape occurred. A significant period of time may have elapsed before she reported the offense. There may not exist any physical evidence to support the allegation. She may have refused to take a physical examination. Since they might serve to weaken the chances of obtaining a conviction in lower case court, all of these reasons can be cited as a basis for receiving the victim's allegation with skepticism. In some jurisdictions, these factors alone might serve as a basis for the decision that a rape report should be unfounded.

The victim may also encounter the suspicion that she is fabricating her story. A rape accusation can place a man in a precarious position, and police, prosecutors, judges, and juries should rightfully fear convicting an innocent man. Fabricated stories leading to false convictions have occurred. Yet it is because of this that the rape victim, unlike in other felonies, must carry a heavy burden of proof.

There is then the hospital route to contend with. Victims are seen at hospitals for two purposes: treatment for injuries received at the time of the assault, and a medical examination to uncover evidence that a rape did, in fact, occur. This examination is strictly for the purpose of gathering evidence for the State's prosecution; yet the victim may find that the examination is not free of charge, and that she is expected to pay for the State's evidence. In Prince Georges County, Md., however, this examination is paid for out of funds allocated by the county government for such purposes. Also in the State of Maryland, victims can be monetarily compensated by the Maryland Criminal Injuries Board.

There are reports which suggest that some doctors refuse to treat victims who do not wish to notify the police; and that there are doctors who will believe that a victim's refusal to do so indicates that she is not telling the truth. Some doctors are even reported to avoid giving examinations because they do not wish to appear in court. When, and if, the victim finally receives medical attention, it may be provided by someone untrained in sensitivity and understanding of the emotional trauma of the victim; by someone who fails to provide venereal disease and pregnancy protection and who does not refer her for followup treatment. She may later discover that her legal case was weakened at the hospital because the examiner failed to use available scientific investigative techniques in their entirety.

The victim must also contend with the societal assumption that she may have precipitated the attack. For if she had been hitchhiking when the attack occurred, or met the man at a bar, or had been walking alone in a tough neighborhood, or had invited the man to her apartment, or had visited his for a drink after a night out, then she may well be faced with the charge that her behavior could have encouraged a sexual attack which she was either expecting or even hoping for. In other words, she "asked for it," assumed the risk, and, therefore, is partly responsible for the crime. The fact that she entered the "vulnerable" situation unwittingly, or exercised her right as a "person" to change her mind, may not carry much weight. The operative perspective usually is that of the police, prosecuting attorneys, and the judges. Unfortunately, most of them are men.

A woman must also realize that once she makes a complaint, her reputation and character can become the subject of intense scrutiny. It is as if her guilt or her innocence is the most important issue to be decided upon. Pity the unchaste woman, or the victim who has a bad reputation. In some jurisdictions in the Nation, it has been noted that the moral character of the person alleging the offense actually can be used as a defense to the crime, under the notion that a female judged to be immoral by society had most likely consented to the act.

But let us assume that it is clear that the victim did not precipitate the rape; that her character and reputation hold up under scrutiny; and that she was not drinking, taking drugs, or anything of the kind at the time of the alleged attack—she still may have to convince the skeptics that she did not willingly comply with the aggression; that she did offer some resistance. The rape task force report for the Public Safety Committee of the District of Columbia City Council succinctly describes this frustrating position:

> A "good" woman is chaste—for her, rape is a "fate worse than death" and so she would fight to the death to avoid it. In such a situation extrinsic evidence of the rape is plentiful—bruises, wounds and screams. If there is no such extrinsic evidence—if she would rather be raped than die—then society assumes she consented or at least enticed the man into raping her. Only in this crime does society demand that the victim choose between the risk of serious injury or death and being able to obtain the conviction of the criminal. Thus for generations, society had the death penalty for rape and stringent burdens of proof to prevent conviction unless the woman "really" rejected the rapist.

The District of Columbia task force report goes on to state that:

> Prosecutors and judges who acknowledge the problem, see the law of rape as a confluence of myth, reality, social taboos, anachronisms, and . . . as a patina of sexual psychology as interpreted by police, lawyers and judges . . .

The Prince Georges County task force similarly observes that:

> Procedures, attitudes, and laws need to be reworded in order that the rape victim is treated as any victimized member of the community should be.

Mr. President, part of my concern is that the current method by which our system seems to respond to the victim, rather than helping her, actually works to her disadvantage and leaves her and others similarly situated very vulnerable. The net effect of what we are doing today throughout the country may well be to impede the prosecution of the rapist, discourage women from reporting the crime, and not unimportantly, lead to a further deepening of the sense of inequality between men and women.

Mr. President, as a first step, let us agree that the present system for dealing with rape is defective, and as a consequence, curtails the freedom of women. It becomes obvious that something must be done, and soon. The Mental Health Subcommittee report to the Prince Georges County task force supports the brief for reform very well:

> Social change, technological and scientific advancement and intensive urbanization have partly disrupted our society, its standards and values, and the established life patterns of a previous era. In the wake of these rapid changes, we find that some laws and procedures have become obsolete. Such is the case with society's way of dealing with rape victims. Rarely do we find procedures in institutions assuring adequate follow-up and treatment. Yet the rapist will, in many instances, be required to report to a parole officer at some interval.
>
> We simply cannot measure the effects of the assault upon the victim. Some recover, some do not. There is no question as to whether or not the entire family is affected. They are.
>
> Several studies have clearly demonstrated the need for a complete overhauling of procedures in dealing with rape victims. Police will have to bear more responsibility in their approach to victims as people, instead of just cases. Lawyers and judges will have to bear more responsibility. But this is not nearly enough. We need responsible people to intervene quickly and efficiently at the proper time. We need this now. We need an adequate follow-up system.
>
> We need a change of attitude on the part of people working with rape victims. We need advocates for victims. We need money to assure proper treatment of the victims and we need it now.

This Nation is entitled to a full understanding of the nature and scope of rape, the impact of this crime on the victim, her family, and the rest of society, and the implications of the present method of treating victims for the status of women in general. It should be brought out that the present methods of treating victims and handling alleged offenders are associated with many difficult and unsolved problems that stem from rape laws themselves. The attainment of better methods of preventing rape, and the provision of better treatment, justice, and redress for victims deserves a higher priority.

The objective of the rape prevention and control program, which I sponsored in Public Law 94–63 is to create within the NIMH a national center on the prevention and control of rape which will undertake a national effort against the crime of rape and in support of the victim.

Only very recently have a few States and local jurisdictions begun to identify and offer solutions to problems encountered in the treatment of rape victims and the administration of justice related to rape.

This center will basically conduct research, provide training materials, and disseminate information related to rape to State and local governments, voluntary organizations, and professional associations which are engaged or intend to engage in efforts to address the problems encountered in the treatment of rape victims and the administration of justice related to rape and other criminal sexual assaults.

The studies and investigations undertaken by the center will focus on the legal, social, and medical aspects of rape. Additionally, the center will expand and intensify research into the causes of the crime, the motivations of the offenders, and the effectiveness of existing laws in deterring rape and other sexual assaults. The center will also examine the relationship, if any, between traditional legal and social attitudes toward sexual roles, rape, and other sexual assaults, and the influence of these attitudes on the formulation of rape laws, and the treatment of the victims of rape by law enforcement agencies, hospitals, or other medical institutions, prosecutors, and the courts. Information following from these studies, as well as the other study areas outlined in the act, will be of material assistance to State and local governments in the development of more effective laws and treatment programs for victims and their families.

The establishment of an information clearinghouse within the center will correct what now is a glaring omission: the absence of a central repository of information on either rape research or prevention treatment and control programs in this country. It is my hope that all communities will have access to any information compiled by the center, which might assist them in dealing with rape. Clearly a clearinghouse to collect and disseminate information on rape prevention and control activities, whether of a research or program nature, will enhance the chances that the States and local communities will be successful in developing more efficient means of dealing with the problems.

The type of activities undertaken by Maryland and in the District of Columbia have provided a substantial contribution to a better understanding of the dimensions of the problem. As it stands, much of the current activity involving rape prevention, treatment and control is supported solely from State, local, and voluntary funding sources. This is as it should be; however, the Federal Government can and should encourage and support these activities by providing technical advice, and research and demonstrations to discover new and more effective means of carrying out State and local programs. I contemplate funding being used for projects which:

First. Demonstrate the need for immediate psychiatric or other supportive personnel available at the same time of the victim's hospital examination, and follow-up supportive counseling for victims and their families;

Second. Research the need for medical personnel training in the advanced scientific procedures in the examination of rape victims;

Third. Research the need for special training of police personnel dealing with rape victims;

Fourth. Determine the reason for the low rate of rape convictions;

Fifth. Develop a model rape law;

Sixth. Research and develop model rehabilitation programs for convicted offenders;

Seventh. Develop information and prevention programs to be incorporated in secondary school educational programs;

Eighth. Study the psychological impact of rape on victims and their families; and

Ninth. Research the relationship between alcohol and other drugs and rape and sexual assaults.

I would hope that promising new approaches to rape prevention, treatment, and control will be developed and put into effect as a result of the center's research and demonstration program as well as the other studies and investigations it will undertake.

This legislation will require the center to manually transmit to the Congress, through the secretary, an appraisal of the center's activities and accomplishments; a summary of its significant research and development findings; and any recommendations for further action by the Congress deemed necessary by the secretary.

As Public Law 94-63 contemplates, the center will have an advisory committee, which I hope will include persons who are recognized leaders in the area of rape prevention, treatment, and control. I further hope that this advisory committee will review the programs and priorities of the center assuring that significant research and development findings are disseminated throughout the field and to the public. I would also hope and expect that the secretary will enlist the assistance of women experts in the field to secure the benefit of their views and perspective on the legal, social, and medical aspects of rape.

Mr. President, the act and today's amendment represent congressional recognition that the system for responding to rape is not only defective, but also harmful to the victim. Today's amendment also represents support for an attempt on the national level to get the Nation to consider some of the general attitudes which are held, and assumptions that are made, about rape, its victims, and its perpetrators: attitudes and assumptions which rest, in part, on traditional notions about the respective roles of men and women in our society. I recognize that the issue of rape can bring on a "gut level" response from men and women alike. But neither emotional demands for extreme actions nor active denial or rationalization of the issue takes us very far along the path toward arresting this problem.

Only by squarely facing the rape issue, in as objective and rational a manner as possible, can we hope to eventually bring about a downturn in the rape statistics. We have, thus far, accumulated certain quantifiable measurable facts about rape. These facts, coming to us largely in the form of police statistics, suggest certain truths: that the reporting of forcible rapes is on the increase and the victim risk rate is rising. But these facts do not reveal the truth of the victim's emotions when confronted by a less than perfect criminal justice system, nor do they reveal the impact of rape on the victim's family and community or the sense of fear, rejection, and perhaps anger experienced by women because their lives are shaped by the persistent threat of rape. We must search for the truth about rape; its personal consequences and social implications.

There was a time when the emotionally disturbed were hidden behind locked doors, not to be discussed by families and friends except on rare occasions. Fortunately, that time has passed. Likewise, rape must be brought out of the closet. It is my hope that S. 2422 will have a synergistic effect on other States and communities; that it will stimulate them to study and reform, where necessary, their existing policies, procedures, and laws concerning rape and sexual assaults, and the treatment of victims.

Public Law 94-63 broadly defines rape to include forcible, statutory, and attempted rape, homosexual assaults, and other criminal sexual assaults. The clear intent of the definition is to insure that the problems encountered by children and victims of both sexes would fall within the scope of the National Center for the Prevention and Control of Rape. More specifically, I fully expect that in addition to the Center's activities, which were previously stated, the National Center for the Prevention and Control of Rape would:

First. Collect statistics pertaining to child sexual molestation.

Second. Study the reasons for not reporting children rape cases.

Third. Evaluate the emotional impact of rape on the child.

Fourth. Develop guidelines for treating physical consequences of rape on the child as well as the emotional trauma of abuse.

Fifth. Develop guidelines for counseling the parents of the victim.

Sixth. Develop material to educate the parents in the need to report the assault of their child.

Seventh. Set up information centers at children's hospitals to which the parents of the victim or the victim could address themselves for information regarding treatment, legal advice, et cetera.

Eighth. Review on the present court procedures, relating to the questioning of the child during the trial.

By adopting this amendment, the Senate will be demonstrating a recognition on the part of the Congress of our obligation to extend ourselves and government at all levels to assist the potential and actual victims of these serious crimes. The obligation to prevent and protect is urgent. The vehicle for doing so is in our hands. I am hopeful that the majority of my colleagues in this body will agree with me and enact this vitally important amendment which gives life to the National Center for the Prevention and Control of Rape.

Mr. MAGNUSON. As far as I am concerned, and I am sure the Senator from Arkansas and the Senator from North Dakota will agree with me, it is an important matter. There is no question about it. I do not want any implication that the Senator from Massachusetts and I were not tuned in to the importance of this matter. We have a few facts.

Mr. MATHIAS. I well know that, and the distinguished Senator from Washington and the distinguished Senator from Massachusetts were cosponsors of the authorizing legislation.

Mr. MAGNUSON. That is correct. We do have a few facts though which should be noted as to why the committee recommended what it did for these programs. The Justice Department has funded $24 million and 136 rape projects across the country.

These projects include treatment, education, and information programs relating to rape.

With this much money already being spent by Justice, any increases should be in the Justice bill for more studies and national coordination. HEW has not presented a good case for adding another program, and the budget request was zero.

In addition to Federal funding, nearly every State and every community in this country today has taken the initiative and is developing their own rape programs. I do not think we ought to discourage such a massive amount of local initiative. Also, we are in treatment, not just more studies of studies.

Mr. MATHIAS. You have been early supporters of this important concept.

Mr. MAGNUSON. We were trying to because we knew the House had $2 million, which we probably would accept in conference with the Senate to kind of hold the overall bill down, and I hope the Senator from Maryland will join with me, if the President vetoes the bill, in overriding it.

Mr. MATHIAS. I hear the Senator very clearly.

Mr. MAGNUSON. Loud and clear.

Mr. MATHIAS. Loud and clear. Nothing could be quite as eloquent as the words the Senator has just spoken, so I am ready to submit the question.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Maryland.

Mr. McCLELLAN. Mr. President, I have no objection, and we will take the amendment to conference.

The amendment, as modified, was agreed to.

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will please call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I wish to comment briefly on the appropriations for the food stamp program that are contained in the Supplemental Appropriations bill. I am deeply concerned at the abuses and excesses that occur in this program, at immense cost to the Treasury.

When the House passed the Supplemental Appropriations bill for fiscal year 1976, on November 13, the budget request for food stamps was reduced by $1.39 billion for the fiscal year and $788 million for the transition quarter. The committee report commented that the Secretary of Agriculture has sufficient authority under the Food Stamp Act to reduce abuses in the program, that he has 3 months to issue new regulations and enforce them, and that if he does so the money provided should be enough to last through the fiscal year.

When the Agriculture Subcommittee of the Senate Appropriations Committee considered the supplemental, I supported the reductions made by the House. I am pleased that the subcommittee and the full Appropriations Committee also agreed on the reduced amounts.

The costs of the food stamp program are running away and must be curtailed. In some places the program accomplishes good, but in others it does great harm. The abuses are flagrant, and they are widespread. This is a situation to which Congress must respond. The opportunity to do so occurs in this Supplemental Appropriations bill, and I am pleased that this action has been taken to reduce the amount of the appropriation for food stamps for the period of February through September, 1976.

The legislation authorizing the food stamp program needs to be tightened up and simplified. The Senate Agriculture Committee is engaged in this endeavor, and I have made my views known to the committee as to specific changes that should be made.

This reduction in the Supplemental Appropriations is a step in the right direction. It is a start toward getting food stamps under control. I strongly endorse it and urge the passage of the bill with the reduced amounts allowed for food stamps.

SENATE RESOLUTION 320—A RESOLUTION TO AUTHORIZE THE STAFF DIRECTOR OF THE SENATE REPUBLICAN POLICY COMMITTEE TO APPEAR AS A WITNESS

Mr. TOWER. Mr. President, I send a resolution to the desk and I ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 320) to authorize Edward L. Beach, Staff Director of the Senate Republican Policy Committee, to appear as a witness in the case of Common Cause, et al. v. Benjamin Bailar, et al.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Texas.

There being no objection, the Senate proceeded to consider the resolution.

Mr. TOWER. Mr. President, this has been cleared with the leadership on both sides. It is a very standard, routine matter when a Member of the Senate is subpenaed, particularly a subpena duces tecum, to authorize them to appear.

This protects the prerogatives of the Senate against intrusion by the judicial branch.

Therefore, I ask for its immediate passage.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 320

Whereas, in the case of Common Cause, et al. v. Benjamin Bailar, et al. (Civil Action No. 1887–73), pending in the United States District Court for the District of Columbia, a subpena has been issued by the court and addressed to Edward L. Beach, Staff Director, Senate Republican Policy Committee, directing him to appear before a representative of the Plaintiff in such case, and to give testimony and present other evidence with respect to such case: Now, therefore, be it

Resolved, That by the privileges of the Senate of the United States no evidence under the control and in the possession of the Senate can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by permission of the Senate.

SEC. 2. By the privileges of the Senate and by rule XXX of the Standing Rules of the Senate, no officer or employee of the Senate is authorized to produce documents, papers, or records of the Senate but by order of the Senate and information secured by officers and employees of the Senate pursuant to their official duties may not be revealed without the consent of the Senate.

SEC. 3. When it appears that testimony of an officer or employee of the Senate is needful for use in any court for the promotion of justice and, further, that such testimony may involve documents, papers, or records under the control of or in the possession of the Senate and communications, conversations, and matters related thereto, the Senate will take such order thereon as will promote the ends of justice consistently with the privileges and rights of the Senate.

SEC. 4. (a) Edward L. Beach, Staff Director of the Senate Republican Policy Committee, is authorized, in response to a subpena issued by the United States District Court for the District of Columbia in the case of Common Cause, et al. v. Benjamin Bailar, et al., (1) to appear as a witness, (2) to take with him authenticated copies of all Senate records commanded by such subpena and which are in his possession or under his control in his capacity as Staff Director of the Senate Republican Policy Committee (but he shall not take with him any original Senate record on file in his office or in his possession or under his control in his capacity as Staff Director of such Committee), and (3) to produce and present such authenticated copies and to testify with respect thereto.

(b) In addition, the court, through any of its officers or agents, has full permission to attend, with all proper parties to the proceeding, at any place under the order and control of the Senate and make copies of all Senate records commanded by such subpena which are in the possession or under the control of Edward L. Beach in his capacity as Staff Director of such Committee.

SEC. 5. The Secretary of the Senate shall transmit a copy of this resolution to the United States District Court for the District of Columbia and to the representative of the Plaintiff named in such subpena.

QUORUM CALL

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TAFT). Without objection, it is so ordered.

ADJUSTMENT OF INDEBTEDNESS OF MAJOR MUNICIPALITIES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be temporarily laid aside, and that the Senate turn to the consideration of Calendar No. 447, S. 2597.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2597) to amend the Bankruptcy Act to add a new chapter thereto providing for the adjustment of the debts of major municipalities.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with amendments as follows:

On page 1, beginning with line 1, insert the following:

Whereas the Congress finds and declares this Act and proceedings thereunder providing for the composition of indebtedness of, or authorized by, municipalities to be within the subject of bankruptcies under article I, section 8, clause 4 of the United States Constitution; and

Whereas the Congress finds that the impracticability of existing Federal bankruptcy remedies for use by municipalities increases the likelihood of their default and will aggravate the adverse effects thereof; and

Whereas the Congress finds that the financial disruptions and dislocations resulting from default of such municipalities without availability of a Federal procedure to restructure their indebtedness in such fashion as to avoid continuing insolvency would have a substantial adverse effect on interstate commerce within the meaning of article I, section 8, clause 3 of the United States Constitution, by reason of the commercial importance of the municipalities involved.

On page 2, beginning with line 6, strike out:

"CHAPTER XVI.—ADJUSTMENT OF INDEBTEDNESSES OF MAJOR MUNICIPALITIES

"JURISDICTION AND RESERVATION OF POWERS

"SEC. 801. (a) This Act and proceedings thereunder are found and declared to be within the subject of bankruptcies and, in addition to the jurisdiction otherwise exercised, courts of bankruptcy shall exercise original jurisdiction as provided in this chapter for the composition or extension of the debts of certain public agencies or instrumentalities or political subdivisions. The court in which the petition is filed in accordance with subsection 804(c) shall exercise exclusive jurisdiction for the adjustment of petitioner's debts and, for purposes of this chapter, shall have exclusive jurisdiction of petitioner and its property, wherever located.

"(b) Nothing contained in this chapter shall be construed to limit or impair the power of any State to control, by legislation or otherwise, any public agency or instrumentality or political subdivision of the State in the exercise of its political or governmental powers, including expenditure therefor: *Provided, however,* That no State law prescribing a method of composition of indebtedness of such agencies shall be binding upon any creditor who does not consent to such composition, and no judgment shall be entered under such State law which would bind a creditor to such composition without his consent.

"DEFINITIONS

"SEC. 802. The words and phrases used in this chapter have the following meanings unless they are inconsistent with the context:

"(1) The term 'attorney' means an attorney licensed to practice law by any State and includes a law partnership.

"(2) The term 'claim' means a demand for performance of an obligation to pay money, whether matured or unmatured.

"(3) The term 'composition' means a plan for payment of less than the full amount of debts provided for by the plan, with or without the extension of time for payment of such debts.

"(4) The term 'court' means United States district court sitting in bankruptcy, and the terms 'clerk' and 'judge' shall mean the clerk and judge of such court.

"(5) The term 'creditor' means any person who owns a claim against the petitioner. With respect to such claims owned by a trustee under a mortgage deed of trust, or indenture, pursuant to which there are securities outstanding, other than voting trust certificates, the term 'creditor' means only the trustee.

"(6) The term 'lien' means a security interest in property, a lien obtained on property by levy, sequestration or other legal or equitable process, a statutory or common law lien on property, or any other variety of charge against property to secure performance of an obligation.

"ELIGIBILITY FOR RELIEF

"SEC. 803. (a) Any municipality with a population in excess of one million inhabitants is eligible for relief under this chapter, if the municipality is first specifically authorized by the State to file a petition initiating a proceeding under this chapter.

"(b) Any public agency or instrumentality or political subdivision subordinate to such municipality or whose responsibilities are restricted to the geographical limits thereof, including incorporated authorities, commissions and districts, for whose debts such municipality is not otherwise liable, is eligible for relief as a separate petitioner in the same proceeding in which such municipality seeks relief under this chapter if such agency, instrumentality, or subdivision is not prohibited from filing a petition by applicable State law.

"PETITION; PROPOSED PLAN AND STATEMENT OF REVENUES AND EXPENDITURES; FILING

"SEC. 804. (a) Any entity eligible for relief under section 803 may file a voluntary petition under this chapter. The petition shall state that the petitioner is eligible to file a petition, that the petitioner is insolvent or unable to pay its debts as they mature and that it desires to effect a plan of composition or extension of its debts. The petitioner shall file with its petition lists of claims outstanding and of persons who may be adversely affected by the plan, as set forth in section 809.

"(b) A petition shall be insufficient to invoke the jurisdiction of the court unless it is accompanied by (1) a good faith plan of composition or extension of debts which petitioner certifies is in its view fair, equitable, feasible, and not unfairly discriminatory in favor of any creditor or class of creditors and (2) a statement of petitioner's current and projected revenues and expenditures adequate to establish that the budget of petitioner will be in balance within a reasonable time after adoption of the plan.

"(c) The petition shall be filed with the court in whose territorial jurisdiction the municipality or the major part thereof is located, and shall be accompanied by payment to the clerk of a filing fee of $100, which shall be in lieu of the fee required to be collected by the clerk under other applicable chapters of this title, as amended.

"STAY OF PROCEEDINGS

"SEC. 805. (a) A petition filed under section 804 shall operate as a stay of the commencement or the continuation of any court or other proceeding against the petitioner, its property or any officer or inhabitant of the petitioner, which seeks to enforce any claim against the petitioner; as a stay of any act or the commencement or continuation of any court proceeding to enforce any lien on taxes or assessments, or to reach any property of the petitioner; and as a stay of the application of any setoff or enforcement of any counterclaim relating to any contract, debt, or obligation of the petitioner.

"(b) Except as it may be terminated, annulled, modified, or conditioned by the court under subsection (c) of this section, the stay provided by subsection (a) of this section shall continue until the case is closed or dismissed or the property subject to the lien is, with the approval of the court, abandoned or transferred.

"(c) On the filing of a motion seeking relief from a stay provided by subsection (a) of this section, the court shall set a hearing for the earliest possible date. The court may, for cause shown, terminate, annul, modify, or condition such stay.

"(d) The commencement or continuation of any act or proceeding other than described in subsection (a) of this section may be stayed, restrained, or enjoined pursuant to rule 65 of the Federal Rules of Civil Procedure, except that a temporary restraining order or preliminary injunction may be issued without compliance with subdivision (c) of that rule.

"(e) No stay, order, or decree of the court may interfere with (1) any of the political or governmental powers of the petitioner; or (2) any of the property or revenues of the petitioner necessary for essential governmental purposes; or (3) the petitioner's use or enjoyment of any income producing property: *Provided, however,* That the court shall enforce the conditions attached to certificates of indebtedness issued under subsection 811 and the provisions of the plan of compensation.

CONTEST AND DISMISSAL OF PETITION

"SEC. 806. (a) Any creditor may file a complaint in the bankruptcy court contesting the petition for relief under this chapter or stating any objection he has to the plan. The complaint may be filed at any time up to ten days before the hearing on the confirmation of the plan or within such other times as may be directed by the court.

"(b) The court may, upon notice to the creditors and a hearing following the filing of such a complaint, dismiss the proceeding if it finds that the petition was not filed in good faith, that it does not meet the provisions of this chapter, that it has not been prosecuted with reasonable diligence, or that there is no substantial likelihood that a plan of composition will be approved by the court.

"NOTICES

"SEC. 807. (a) The clerk shall give prompt notice of the commencement of a proceeding under this chapter to the State and to the Securities and Exchange Commission. As creditors and other persons who may be materially and adversely affected by the plan are identified, the clerk shall give such persons notice of the commencement of the proceeding, a summary of the provisions of the plan and any proposed modification of the plan, and of their right to request a copy of the plan or modification.

"(b) The clerk shall also give notice to all creditors of the time permitted for accepting or rejecting a plan or any modification thereof. Such time shall be ninety days from the filing of the plan or modification unless the court for good cause shall set some other time.

"(c) The clerk shall also give notice to all creditors (1) of the time permitted for filing a complaint objecting to confirmation of a plan, (2) of the date set for hearing objections to such complaint, (3) of the date of hearing of a complaint seeking dismissal of the petition, and (4) of the date of the hearing on confirmation of the plan.

"(d) All notices given by the clerk shall be given in the manner directed by the court; however, the court may issue an order at any time subsequent to the first notice to creditors directing that those persons desiring written notice file a request with the court. If the court enters such an order persons not so requesting will receive no further written notice of proceedings under the chapter.

"(e) Cost of notice shall be borne by the petitioner, unless the court for good cause determines that the cost of notice in a particular instance should be borne by another party.

"REPRESENTATION OF CREDITORS

"SEC. 808. For all purposes of this chapter any creditor may act in person or by an attorney or a duly authorized agent or committee. Where any committee, organization, group, or individual shall assume to act for or on behalf of creditors, such committee, organization, group, or individual shall first file with the court in which the proceeding is pending a list of the creditors represented, give the name and address of each and describing the amount and character of the claim of each; copies of the instrument or instruments in writing signed by such creditors conferring the authority for representation; and a copy of the contract or contracts of agreement entered into between such committee, organization, group, or individual and the represented creditors, which contract or contracts shall disclose all compensation to be received, directly or indirectly for such representation, which agreed compensation shall be subject to modification and approval by the court.

"LIST OF CLAIMS AND PERSONS ADVERSELY AFFECTED

"SEC. 809. (a) The list of claims filed with the petition shall include, to the extent practicable, the name of each known creditor to be affected by the plan, his address so far as known to the petitioner, and a description of each claim showing its amount and character, the nature of any security therefor and whether the claim is disputed, contingent or unliquidated as to amount. With respect to creditors not identified, the petition shall set forth the reasons identification is not practicable, and shall specify the character of claim involved. The list shall be supplemented as petitioner becomes able to identify additional creditors.

"(b) If the proposed plan requires revision of assessments so that the proportion of special assessments or special taxes to be assessed against some real property will be different from the proportion in effect at the date the petition is filed, the holders of record of title, legal or equitable, to such real property shall be deemed persons adversely affected and shall be similarly listed.

"(c) The court may for cause modify the requirements of subsections (b) and (c) of this section:

"PROOFS OF CLAIM

"SEC. 810. Unless an objection is made by any party in interest, the claim of a creditor that is not disputed is established by the list of claims filed pursuant to section 809. The court may set a date by which proofs of claim of unlisted creditors and of creditors whose listed claims are disputed must be filed. If the court does not set such a date, the proofs must be filed before the entry of the order of confirmation. The clerk shall give notice to each person whose claim is listed as disputed in the manner directed by the court.

"DEBT CERTIFICATES

"SEC. 811. During the pendency of a proceeding for a plan of composition or extension under this chapter, or after the confirmation of the plan if the court has retained jurisdiction, the court may, upon good cause shown, authorize the petitioner to issue certificates of indebtedness for cash, property or other consideration, under such terms and conditions and with such security and priority in payment over existing obligations as the court may approve. Nothwithstanding any other provision of law including section 819 of this chapter, the court shall have plenary jurisdiction of any action which may be brought against petitioner to enforce compliance with the terms of any such certificates of indebtedness.

"PRIORITIES

"SEC. 812. The following shall be paid in full in advance of the payment of any distribution to creditors under a plan, in the following order:

"(1) The cost and expenses of administration which are incurred by the petitioner subsequent to the filing of the petition under this chapter; and

"(2) debts owed for services and materials actually provided within four months before the date of the filing of the petition under this chapter; and

"(3) debts owing to any person or entity, which by the laws of the United States (other than this Act) are entitled to priority.

"PLAN OF ADJUSTMENT

"SEC. 813. The plan of composition or extension sought under this chapter may include provisions modifying or altering the right of creditors generally, or of any class of them, secured or unsecured, either through issuance of new securities of any character, or otherwise, may contain such other provisions and agreements not inconsistent with this chapter as the parties may desire, including provisions for the rejection of executory contracts and unexpired leases.

"VOTING ON ACCEPTANCE OF PLAN

"SEC. 814. (a) A plan of composition or extension may be confirmed only if, of the creditors voting in writing to accept or reject the plan, those holding two-thirds in amount of each class materially and adversely affected have voted to accept: *Provided, however,* That no such acceptance shall be required from any class which, under the plan, is to be paid in cash the value of its claims or is to be afforded such method of protection as will, consistent with the circumstances of the particular case, equitably and fairly provide for the realization of the value of its claims.

"(b) Unless his claim has been disallowed, any creditor who is included on the list filed pursuant to section 809 or who files a proof of claim pursuant to section 810 is entitled to vote to accept or reject a plan or modification thereof within the time set pursuant to subsection 807(b). Claims owned, held or controlled by the petitioner are not eligible to vote.

"(c) The holders of all claims regardless of the manner in which they are evidenced, which are payable without preference out of funds derived from the same source or sources shall be of one class. The holders of claims for the payment of which specific property or revenues are pledged, or which are otherwise given preference as provided by law, shall constitute a separate class or classes of creditors.

"(d) If any controversy shall arise as to whether any creditor or class of creditors shall or shall not be materially and adversely affected, the issue shall be determined by the judge, after hearing, upon notice to the parties interested.

"MODIFICATION OF PLAN

"SEC. 815. Before a plan is confirmed, changes and modifications may be made therein with the approval of the judge after hearing and upon such notice to creditors as the judge may direct, subject to the right of any creditor who has previously accepted the plan to withdraw his acceptance in writing, within a period to be fixed by the judge, if, in the opinion of the judge, the change or modification will materially and adversely affect such creditor; and if the creditor having such right of withdrawal shall not withdraw within such period, he shall be deemed to have accepted the plan as changed or modified: *Provided, however,* That the plan as changed or modified shall comply with all the provisions of this chapter and shall have been accepted in writing by the petitioner.

"HEARING ON CONFIRMATION OF PLAN

"SEC. 816. (a) Within a reasonable time after the expiration of the time within which a plan and any modifications thereof may be accepted or rejected, the court shall set a hearing on the confirmation of the plan and modifications, and the clerk shall give notice of the hearing and time allowed for filing objections as provided in subsection 807(c).

"(b) Any creditor, or any other party in interest may file a complaint objecting to the confirmation of the plan. The complaint shall be served on the peitioner, and such other persons as may be designated by the court, at any time prior to the date of the hearing on confirmation or such earlier date as the court may set.

"(c) Before concluding the hearing on confirmation of the plan the judge shall inquire whether any person promoting the plan or doing anything of such a nature, has been or is to be compensated, directly or indirectly, by both the petitioner and any creditor, and shall take evidence under oath to ascertain whether any such practice obtains. After such examination the judge shall make an adjudication of this issue, and if he finds that any such practice obtains, he shall forthwith dismiss the proceeding and tax all of the costs against such person, or against the petitioner, unless such plan be modified within the time to be allowed by the judge so as to eliminate the possibility of any such practice.

"(d) At the conclusion of the hearing, the judge shall make written findings of fact and his conclusions of law thereon, and shall enter a decree confirming the plan if he finds and is satisfied that—

(1) it is fair, equitable, feasible, and not unfairly discriminatory in favor of any creditor or class of creditors;

"(2) it complies with the provisions of this chapter;

"(3) it has been accepted by creditors as required in section 814;

"(4) all amounts to be paid by the petitioner for services or expenses incident to the composition have been fully disclosed and are reasonable;

"(5) the offer of the plan and its acceptance are in good faith;

"(6) the petitioner is authorized by law to take all action necessary to be taken by it to carry out the plan; and

"(7) it appears from petitioner's current and projected revenues and expenditures that the budget of the petitioner will be in balance within a reasonable time after adoption of the plan.

If not so satisfied, the judge shall enter an order dismissing the proceeding. No case shall be reversed or remanded for want of specific or detailed findings unless it is found that the evidence is insufficient to support one or more of the general findings required in this section.

"EFFECT OF CONFIRMATION

"SEC. 817. (a) The provision of a confirmed plan shall be binding on the petitioner and on all creditors, whether or not they are affected by it, whether or not their claims have been listed, filed, or allowed, and whether or not they have accepted the plan.

"(b) The confirmation of a plan shall extinguish all claims against the petitioner provided for by the plan other than those excepted from discharge by the plan or order confirming the plan.

"DUTY OF PETITIONER AND DISTRIBUTION UNDER PLAN

"SEC. 818. (a) The petitioner shall comply with the provisions of the plan and the orders of the court relative thereto and shall take all actions necessary to carry out the plan.

"(b) Subject to the provisions of subsection (c), distribution shall be made in accordance with the provisions of the plan to creditors (1) whose proofs of claim have been filed and allowed or (2) whose claims have been listed and are not disputed. Distribution to creditors holding securities of record shall be made to the record holders as of the date the order confirming the plan becomes final.

"(c) When a plan requires presentment or surrender of securities or the performance of any other act as a condition to participation under the plan, such action must be taken not later than five years after the entry of the order of confirmation. Persons who have not within such time presented or surrendered their securities or taken such other action shall not participate in the distribution under the plan. Any securities, moneys, or other property remaining unclaimed at the expiration of the time allowed for presentation or surrender of securities or the performance of any other act as a condition to participation in the distribution under a confirmed plan shall become the property of the petitioner.

"(d) The court may direct the petitioner and other necessary parties to execute and deliver or to join in the execution and delivery of any instruments required to effect a transfer of property pursuant to the confirmed plan and to perform such other acts, including the satisfaction of liens, as the court may determine to be necessary for the consummation of the plan.

"RETENTION OF JURISDICTION

"SEC. 819. The court may retain jurisdiction of a proceeding under this chapter for such period as it determines is necessary to assure execution of the plan.

"REFERENCE OF ISSUES AND COMPENSATION

"SEC. 820. (a) The judge may refer any special issues of fact to a referee in bankruptcy, magistrate or another special master for consideration, the taking of testimony, and a report upon such special issues of fact, if the judge finds that the condition of his docket is such that he cannot take such testimony without unduly delaying the dispatch of other business pending in his court, and if it appears that such special issues are necessary to the determination of the case. Only under special circumstances shall reference be made to a special master who is not a referee in bankruptcy or a magistrate. A general reference of the case to a master shall not be made, but the reference, if any, shall be only in the form of requests for findings of specific facts.

"(b) The court may allow reasonable compensation for the services performed by any such special master who is not a salaried Federal employee, and the actual and necessary expenses incurred in connection with the proceeding, including compensation for services rendered and expenses incurred in obtaining the deposit of securities and the preparation of the plan, whether such work may have been done by the petitioner or by committees or other representatives of creditors, and may allow reasonable compensation for the attorneys or agents of any of the foregoing: *Provided, however*, That no fees, compensation, reimbursement, or other allowances for attorneys, agents, committees, or other representatives of creditors shall be assessed against the petitioner or paid from any revenues, property, or funds of the petitioner except in the manner and in such sums, if any, as may be provided for in the plan of adjustment. An appeal may be taken from any order making such determination or award to the United States court of appeals for the circuit in which the proceeding under this chapter is pending, independently of other appeals which may be taken in the proceeding, and such appeal shall be heard summarily.

"SEPARABILITY

"SEC. 821. If any provision of this chapter, or the application thereof to any agency, instrumentality, or subdivision is held invalid, the remainder of the chapter, or the application of such provision to any other agency or instrumentality or political subdivision shall not be affected by such holding.".

And insert in lieu thereof:

"CHAPTER XVI—ADJUSTMENT OF INDEBTEDNESSES OF MAJOR MUNICIPALITIES

"Sec.
"801. Jurisdiction, powers of the court, and reservation of powers.
"802. Definitions.
"803. Eligibility for relief.
"804. Petition and filing.
"805. Stay of proceedings.
"806. Contest and dismissal of petition.
"807. Notices.
"808. Representation of creditors.
"809. List of claims and persons adversely affected.
"810. Proofs of claim.
"811. Certificates of indebtedness.
"812. Priorities.
"813. Provisions of plan and filing.
"814. Voting on acceptance of plan,
"815. Modification of plan.
"816. Standing to object to plan.
"817. Hearing on confirmation of plan.
"818. Effect of confirmation.
"819. Duty of petitioner and distribution under plan.
"820. Dismissal.
"821. Retention of jurisdiction.
"822. Reference of issues and compensation.
"823. Conversion to chapter XVI.

"JURISDICTION, POWERS OF THE COURT, AND RESERVATION OF POWERS

"SEC. 801. (a) This Act and proceedings thereunder are found and declared to be within the subject of bankruptcies and, in addition to the jurisdiction otherwise exercised, courts of bankruptcy shall exercise original jurisdiction as provided in this chapter for the composition or extension of the debts of certain public agencies or instrumentalities or political subdivisions. The court in which the petition is filed in accordance with subsection 804(c) shall exercise exclusive jurisdiction for the adjustment of petitioner's debts and, for purposes of this chapter, shall have exclusive jurisdiction of petitioner and its property, wherever located.

"(b) Upon the filing of a petition the court may, in addition to the jurisdiction, powers, and duties hereinabove and elsewhere in this chapter conferred and imposed upon it (1) permit the rejection of executory contracts of the petitioner, upon notice to the parties to such contracts and to such other parties in interest as the court may designate; (2) exercise such other powers not inconsistent with the provisions of this chapter.

"(c) Upon the filing of a petition the chief judge of the court in the district in which the petition is filed shall immediately notify the chief judge of the circuit court of appeals of the circuit in which the district court is located, who shall designate the judge of the district court to conduct the proceedings under this chapter.

"(d) Nothing contained in this chapter shall be construed to limit or impair the power of any State to control by legislation or otherwise, any public agency or instrumentality or political subdivision of the State in the exercise of its political or governmental powers, including expenditure therefor: *Provided, however*, That no State law prescribing a method of composition of indebtedness of such agencies shall be binding upon any creditor who does not consent to such composition, and no judgment shall be entered under such State law which would bind a creditor to such composition without his consent.

"(e) Subsections 60 (a), (b), (c), section 67, and subsections 70 (c), (e) of this Act shall apply in proceedings under this chapter, except that all functions of the trustee thereunder shall be assumed by the petitioner.

"DEFINITIONS

"SEC. 802. The words and phrases used in this chapter have the following meanings unless they are inconsistent with the context:

"(1) The term 'attorney' means an attorney licensed to practice law by any State and includes a law partnership or corporation.

"(2) 'Claims' shall include bonds, notes, judgments, and demands, liquidated or unliquidated, and other evidence of indebtedness, either secured or unsecured, and certificates of beneficial interest in property.

"(3) The term 'court' means United States district court sitting in bankruptcy, and the terms 'clerk' and 'judge' shall mean the clerk and judge of such court.

"(4) The term 'creditor' means any person who owns a claim against the petitioner and any person injured by the rejection of an executory contract or an unexpired lease pursuant to this chapter or pursuant to a plan under this chapter, and may include such person's authorized agent.

"(5) The term 'lien' means a security interest in property, a lien obtained on property by levy, sequestration or other legal or equitable process, a statutory or common-law lien on property, or any other variety of charge against property to secure performance of an obligation.

"(6) The term 'plan' means a plan proposed in a case under this chapter.

"(7) The term 'person' includes a corporation or a partnership, the United States, the several States, and public agencies, instrumentalities, and political subdivisions thereof.

"ELIGIBILITY FOR RELIEF

"SEC. 803.(a) Any municipality, public agency, instrumentality, or political subdivision of the State is eligible for relief under this chapter, if the municipality is first specifically authorized to file a petition initiating a proceeding under this chapter by the chief executive, legislature, or such other governmental officer or organization empowered under State law to authorize the filing of such a petition.

"(b) Any public agency or instrumentality or political subdivision subordinate to such municipality or whose responsibilities are restricted to the geographical limits thereof, including incorporated authorities, commissions and districts, for whose debts such municipality is not otherwise liable, is eligible for relief as a separate petitioner and a petition seeking relief shall be jointly administered in the same proceeding in which such municipality seeks relief under this chapter if such agency, instrumentality, or subdivision is not prohibited from filing a petition by applicable State law.

"PETITION AND FILING

"SEC. 804. (a) Any entity eligible for relief under section 803 may file a voluntary petition under this chapter. The petition shall state that the petitioner is eligible to file a petition, that the petitioner is insolvent or unable to pay its debts as they mature, and that it desires to effect a plan for the composition or extension of its debts. The petitioner shall file with its petition, or within such time as the court may prescribe, lists of its creditors and of other persons who may be adversely affected by a proposed plan and if an identification of all the petitioner's creditors is impracticable, the petitioner shall state the reason therefor.

"(b) The petition shall be filed with any court in whose territorial jurisdiction the municipality or any part thereof is located, and shall be accompanied by payment to the clerk of a filing fee of $100, which shall be in lieu of the fee required to be collected by the clerk under other applicable chapters of this title, as amended.

"STAY OF PROCEEDINGS

"SEC. 805. (a) A petition filed under section 804 shall operate as a stay of the commencement or the continuation of any court or other proceeding against the petitioner, its property or any officer or inhabitant of the petitioner, or which seeks to enforce any claim against the petitioner; as a stay of any act or the commencement or continuation of any court proceeding to enforce any lien on taxes or assessments, or to reach any property of the petitioner; and as a stay of the application of any setoff or enforcement of any counterclaim relating to any contract, debt, or obligation of the petitioner.

"(b) (1) A petition filed by a petitioner eligible for relief under this chapter shall operate to stay recognition or enforcement of the setoff of any claim owing by the petitioner effected or attempted to be effected within three months prior to the date of the petition or thereafter against any obligation owing to the petitioner until the stay is terminated by the court or the case is dismissed. Such stay shall not affect the right of the creditor to withhold payments to or on the order of the petitioner, except when otherwise ordered pursuant to subdivision (2).

"(2) After hearing on notice to the person asserting the right of setoff, the court may order such persons to pay to the petitioner or to its order the amount of the obligation sought to be offset if the stay is not terminated pursuant to subdivision (d). However, the court may require as a condition of the order that the petitioner furnish such protection as will adequately protect the person who is asserting the right of setoff.

"(c) Except as it may be terminated, annulled, modified, or conditioned by the court under the terms of this section, the stay provided for herein shall continue until the case is closed or dismissed or the property subject to the lien is, with the approval of the court, abandoned or transferred.

"(d) On the filing of a complaint seeking relief from a stay provided in this section, the court shall set a hearing for the earliest possible date. The court may, for cause shown, terminate, annul, modify, or condition such stay.

"(e) The commencement or continuation of any act or proceeding other than described in subsection (a) of this section may be stayed, restrained, or enjoined pursuant to rule 65 of the Federal Rules of Civil Procedure, except that a temporary restraining order or preliminary injunction may be issued without compliance with subdivision (c) of that rule.

"(f) A provision in a contract or lease, or in any law applicable to such a contract or lease, which terminates or modifies, or permits a party other than the petitioner to terminate or modify the contract or lease because of the insolvency of the petitioner or the commencement of a case under this Act is not enforceable if any defaults in prior performance of the petitioner are cured and adequate assurance of future performance is provided.

"(g) No stay, order, or decree of the court may interfere with (1) any of the political or governmental powers of the petitioner; or (2) any of the property or revenues of the petitioner necessary for essential governmental purposes; or (3) the petitioner's use or enjoyment of any income-producing property: *Provided, however,* That the court shall enforce the conditions attached to certificates of indebtedness issued under section 811 and the provisions of the plan.

"CONTEST AND DISMISSAL OF PETITION

"Sec. 806. (a) Any creditor may file a complaint in the bankruptcy court contesting the petition for relief under this chapter. The complaint may be filed within thirty days following the filing of the petition.

"(b) The court may, upon notice to the creditors and a hearing following the filing of such a complaint, dismiss the proceeding if it finds that the petition was not filed in good faith or that it does not meet the provisions of this chapter.

"(c) A finding of jurisdiction shall be considered an interlocutory order for purposes of appeal. No appeal pursuant to section 1292 of title 28, United States Code, shall be allowed.

"NOTICES

"Sec. 807. (a) The petitioner or such other person as the court shall designate shall give prompt notice of the commencement of a proceeding or dismissal of the petition under this chapter to the State in which the petitioner is located and to the Securities and Exchange Commission and to creditors. As creditors and other persons who may be materially and adversely affected by the plan are identified, the petitioner or such other person as the court shall designate shall give such persons notice of the commencement of the proceeding, a summary of the provisions of the plan and any proposed modification of the plan, and of their right to request a copy of the plan, or modification. The notice required by the first sentence of this subsection shall be published at least once a week for three successive weeks in at least one newspaper of general circulation published within the jurisdiction of the court, and in such other papers having a general circulation among bond dealers and bondholders as may be designated by the court. The court may require that it be published in such other publication as the court may deem proper.

"(b) The petitioner or such other person as the court shall designate shall also give notice to all creditors of the time permitted for accepting or rejecting a plan or any modification thereof. Such time shall be ninety days from the filing of the plan or modification unless the court for good cause shall set some other time.

"(c) The petitioner or such other person as the court shall designate shall also give notice to all creditors (1) of the time permitted for filing a complaint objecting to confirmation of a plan, (2) of the date set for hearing objections to such complaint, (3) of the date of hearing of a complaint seeking dismissal of the petition, and (4) of the date of the hearing on confirmation of the plan.

"(d) All notices given by the petitioner or such other person as the court shall designate shall be given in the manner directed by the court; however, the court may issue an order at any time subsequent to the first notice to creditors directing that those persons desiring written notice file a request with the court. If the court enters such an order persons not so requesting will receive no further written notice of proceedings under the chapter.

"(e) Cost of notice shall be borne by the petitioner, unless the court for good cause determines that the cost of notice in a particular instance should be borne by another party.

"REPRESENTATION OF CREDITORS

"Sec. 808. (a) For all purposes of this chapter any party in interest may act in person or by an attorney or a duty authorized agent or committee. Where any committee, organization, group, or individual shall assume to act for or on behalf of creditors, such committee, organization, group, or individual shall first file with the court in which the proceeding is pending a list of the creditors represented, giving the name and address of each and describing the amount and character of the claim of each; copies of the instrument or instruments in writing signed by such creditors conferring the authority for representation; and a copy of the contract or contracts of agreement entered into between such committee, organization, group, or individual and the represented creditors, which contract or contracts shall disclose all compensation to be received, directly or indirectly for such representation, which agreed compensation shall be subject to modification and approval by the court.

"(b) The judge shall, for cause shown, permit a labor organization or employee association representative of employees of the debtor municipality, public agency, instrumentality, or political subdivision to be heard on the economic soundness of the plan affecting the interests of the represented employees.

"LIST OF CLAIMS AND PERSONS ADVERSELY AFFECTED

"Sec. 809. (a) The list of claims filed as required in section 804(a) shall include, to the extent practicable, the name of each known creditor to be materially and adversely affected by the plan, his address so far as known to the petitioner, and a description of each claim showing its amount and character, the nature of any security therefor and if the claim is disputed, contingent or unliquidated as to amount. With respect to creditors not identified, the petition shall set forth the reasons identification is not practicable, and shall specify the character of claim involved. The list shall be supplemented as petitioner becomes able to identify additional creditors.

"(b) If the proposed plan requires revision of assessments so that the proportion of special assessments or special taxes to be assessed against some real property will be different from the proportion in effect at the date the petition is filed, the holders of record of title, legal or equitable, to such real property shall be deemed persons adversely affected and shall be similarly listed.

"(c) The court may for cause modify the requirements of subsections (a) and (b) of this section.

"PROOF OF CLAIM

"Sec. 810. (a) In the absence of an objection made by any party in interest, the claim of a creditor that is not disputed, contingent, or unliquidated, is established by the list of claims filed pursuant to section 809. The court may set a date by which proofs of claim of unlisted creditors and of creditors whose listed claims are disputed, contingent, or unliquidated, must be filed. If the court does not set such a date, the proofs must be filed before the entry of the order of confirmation. The petitioner or such other person as the court shall designate shall give notice to each person whose claim is listed as disputed, contingent, or unliquidated, in the manner directed by the court.

"(b) If an executory contract or an unexpired lease is rejected under a plan or under section 801(b), any person injured by such rejection may assert a claim against the petitioner. The rejection of an executory contract or unexpired lease constitutes a breach of the contract or lease as of the date of the commencement of the case under this chapter. The claim of a landlord for injury resulting from the rejection of an unexpired lease of real estate or for damages or indemnity under a convenant contained in such lease shall be allowed, but shall be limited to an amount not to exceed the rent, without acceleration, reserved by such lease for the next year succeeding the date of the surrender of the premises to the landlord or the date of reentry of the landlord, whichever first occurs, whether before or after the filing of the petition, plus unpaid accrued rent, without acceleration, up to the date of such surrender or reentry. The court shall scrutinize the circumstances of an assignment of a future rent claim and the amount of the consideration paid for such assignment in determining the amount of damages allowed the assignee of that claim.

"CERTIFICATES OF INDEBTEDNESS

"Sec. 811. At any time after a petition has been filed, the court may upon cause shown, authorize the petitioner to issue certificates of indebtedness for cash, property or other consideration, under such terms and conditions and with such security and priority in payment over existing obligations, secured or unsecured and other expenses of administration as the court may approve. Notwithstanding any other provision of law including section 821 of this chapter, the court shall have exclusive jurisdiction of any action which may be brought against petitioner to enforce compliance with the terms of any such certificates of indebtedness.

"PRIORITIES

"Sec. 812. The following shall be paid in full in advance of the payment of any distribution to creditors under a plan, in the following order:

"(1) The cost and expenses of administration which are incurred by the petitioner subsequent to the filing of a petition under this chapter.

"(2) Debts owed for services and materials directly provided within two months before the date of the filing of the petition under this chapter.

"(3) Debts owing to any person or entity, which by the laws of the United States (other than this Act) are entitled to priority.

"PROVISIONS OF PLAN AND FILING

"Sec. 813. (a) A petitoner's plan under this chapter may include provisions modifying or altering the rights of creditors generally, or of any class of them, secured or unsecured, either through issuance of new securities of any character, or otherwise, and may contain such other provisions and agreements not inconsistent with this chapter as the parties may desire, including, but not limited to provisions for the rejection of any executory contract and unexpired leases.

"(b) The petitioner may file a plan with its petition or at such later time as may be prescribed by the court.

"VOTING ON ACCEPTANCE OF PLAN

"SEC. 814. (a) A plan may be confirmed only if, of the creditors voting in writing to accept or reject the plan, those holding two-thirds in amount and 51 per centum in numbers of each class materially and adversely affected have voted to accept: *Provided, however,* That no such acceptance shall be required from any class which, under the plan, is to be paid in cash the value of its claims or is to be afforded such method of protection as will, consistent with the circumstances of the particular case, equitably and fairly provide for the realization of the value of its claims.

"(b) Unless his claim has been disallowed, any creditor who is included on the list filed pursuant to Section 809 or who files a proof of claim pursuant to section 810 is entitled to vote to accept or reject a plan or modification thereof within the time set pursuant to subsection 807(b). Claims owned, held or controlled by the petitioner are not eligible to vote.

"(c) For the purposes of the plan and its acceptance, the court may fix the division of creditors into classes and, in the event of controversy, the court shall after hearing upon notice summarily determine such controversy.

"(d) If any controversy shall arise as to whether any creditor or class of creditors shall or shall not be materially and adversely affected, the issue shall be determined by the judge, after hearing, upon notice to the parties interested.

"MODIFICATION OF PLAN

"SEC. 815. Before a plan is confirmed, changes and modifications may be made therein after hearing and upon such notice to creditors as the judge may direct, subject to the right of any creditor who has previously accepted the plan to withdraw his acceptance in writing, within a period to be fixed by the judge, if, in the opinion of the judge, the change or modification will materially and adversely affect such creditor; and if any creditor having such right of withdrawal shall not withdraw within such period, he shall be deemed to have accepted the plan as changed or modified: *Provided, however,* That the plan as changed or modified shall comply with all the provisions of this chapter and shall have been accepted in writing by the petitioner.

"STANDING TO OBJECT TO PLAN

"SEC. 816. Any creditor or other person materially and adversely affected by the plan may file a complaint with the court objecting to the confirmation of the plan. Such complaint may be filed any time up to ten days before hearing on the confirmation of the plan or within such other time as prescribed by the court. The complaint shall be served on the petitioner and such other persons as may be designated by the court.

"HEARING ON CONFIRMATION OF PLAN

"SEC. 817. (a) Within a reasonable time after the expiration of the time within which a plan and any modifications thereof may be accepted or rejected, the court shall set a hearing on the confirmation of the plan and modifications, and the petitioner and such other persons as may be designated by the court shall give notice of the hearing and time allowed for filing objections as provided in section 807(c).

"(b) Before concluding the hearing on confirmation of the plan the judge shall inquire whether any person promoting the plan or doing anything of such a nature, has been or is to be compensated, directly or indirectly, by both the petitioner and any creditor, and shall take evidence under oath to ascertain whether any practice obtains. After such examination the judge shall make an adjudication of this issue, and if he finds that any such practice obtains, he shall forthwith dismiss the proceeding and tax all of the costs against such person, or against the petitioner, unless such plan be modified within the time to be allowed by the judge so as to eliminate the possibility of any such practice.

"(c) The court shall confirm the plan if satisfied that (1) it is fair, equitable, feasible, and not unfairly discriminatory in favor of any creditor or class of creditors; (2) it complies with the provisions of this chapter; (3) it has been accepted by creditors and provision has been made for nonaccepting creditors as required in section 814; (4) all amounts to be paid by the petitioner for services or expenses incident to the composition have been fully disclosed and are reasonable; (5) the offer of the plan and its acceptance are in good faith; (6) the petitioner is authorized by law to take all action necessary to be taken by it to carry out the plan; and (7) it appears from petitioner's current and projected revenues and expenditures that the budget of the petitioner will be in balance within a reasonable time after adoption of the plan. If not so satisfied, the judge shall enter an order dismissing the proceeding.

"EFFECT OF CONFIRMATION

"SEC. 818. (a) The provisions of a confirmed plan shall be binding on the petitioner and on all creditors, whether or not they are affected by it, whether or not their claims have been listed, filed, or allowed, and whether or not they have accepted the plan.

"(b) The confirmation of a plan shall extinguish all claims against the petitioner provided for by the plan other than those excepted from discharge by the plan or order confirming the plan.

"DUTY OF PETITIONER AND DISTRIBUTION UNDER PLAN

"SEC. 819. (a) The petitioner shall comply with the provisions of the plan and the orders of the court relative thereto and shall take all actions necessary to carry out the plan.

"(b) Subject to the provisions of subsection (c), distribution shall be made in accordance with the provisions of the plan to creditors (1) whose proofs of claim have been filed and allowed or (2) whose claims have been listed and are not disputed. Distribution to creditors holding securities of record shall be made to the recordholders as of the date the order confirming the plan becomes final.

"(c) When a plan requires presentment or surrender of securities or the performance of any other act as a condition to participation under the plan, such action must be taken not later than five years after the entry of the order of confirmation. Persons who have not within such time presented or surrendered their securities or taken such other action shall not participate in the distribution under the plan. Any securities, moneys, or other property remaining unclaimed at the expiration of the time allowed for presentment or surrender of securities or the performance of any other act as a condition to participation in the distribution under a confirmed plan shall become the property of the petitioner.

"(d) A certified copy of any order or decree entered by the court in a case under this chapter shall be evidence of the jurisdiction of the court, the regularity of the proceedings, and the fact that the order was made. A certified copy of an order providing for the transfer of any property dealt with by the plan shall be evidence of the transfer of title accordingly, and, if recorded as conveyances are recorded, shall impart the same notice that a deed, if recorded, would impart.

"(e) The court may direct the petitioner and other necessary parties to execute and deliver or to join in the execution and delivery of any instruments required to affect a transfer of property pursuant to the confirmed plan and to perform such other acts, including the satisfaction of liens, as the court may determine to be necessary for the consummation of the plan.

"DISMISSAL

"SEC. 820. The court shall enter an order dismissing the case after hearing on notice: (1) for want of prosecution; (2) if no plan is proposed within the time fixed or extended by the court; (3) if no proposed plan is accepted within the time fixed or extended by the court; or (4) if a confirmed plan is not consummated.

"RETENTION OF JURISDICTION

"SEC. 821. The court may retain jurisdiction of a proceeding under this chapter for such period as it determines is necessary to assure execution of the plan and discharge of the securities issued under the plan.

"REFERENCE OF ISSUES AND COMPENSATION

"SEC. 822. (a) The judge may refer any special issues of fact to a referee in bankruptcy, or special master for consideration, the taking of testimony, and a report upon such special issues of fact, if the judge finds that the condition of his docket is such that he cannot take such testimony without unduly delaying the dispatch of other business pending in his court, and if it appears that such special issues are necessary to the determination of the case. Only under special circumstances shall reference be made to a special master who is not a referee in bankruptcy. A general reference of the case to a master shall not be made, but the reference, if any, shall be only in the form of requests for findings of specific facts.

"(b) The court may allow reasonable compensation for the services performed by any such special master who is not a salaried Federal employee, and the actual and necessary expenses incurred in connection with the proceeding, including compensation for services rendered and expenses incurred in obtaining the deposit of securities and the preparation of the plan, whether such work may have been done by the petitioner or by committees or other representatives of creditors, and may allow reasonable compensation for the attorneys or agents of any of the foregoing: *Provided, however,* That no fees, compensation, reimbursement, or other allowances for attorneys, agents, committees, or other representatives of creditors shall be assessed against the petitioner or paid from any revenues, property, or funds of the petitioner except in the manner and in such sums, if any, as may be provided for in the plan of adjustment. An appeal may be taken from any order making such determination or award to the United States court of appeals for the circuit in which the proceeding under this chapter is pending, independently of other appeals which may be taken in the proceeding, and such appeal shall be heard summarily.

"CONVERSION TO CHAPTER XVI

"SEC. 823. (a) A petitioner eligible for relief under chapter XVI who has filed a petition under chapter IX of this Act may at any time file an application to have the case proceed under chapter XVI; *Provided, however,* That any petition filed by a municipality, public agency, instrumentality or political subdivision of the State after the effective date of this Act must be filed under chapter XVI of the Bankruptcy Act as added by this Act.

"(b) After hearing on notice to the petitioner, the Securities and Exchange Commission, creditors and such other persons as the court may direct, the court shall, if it finds that the case may properly proceed under chapter XVI of the Act, approve the application and order the case to proceed under that chapter.".

SEC. 2. The table of organization of title 11, United States Code, is amended by inserting after the reference to chapter 15, the following:

"CHAPTER 16. ADJUSTMENT OF INDEBTEDNESSES OF MUNICIPALITIES."

SEPARABILITY

SEC. 3. If any provision of chapter XVI of the Bankruptcy Act as added by this Act, or the application thereof to any agency, instrumentality, or subdivision is held invalid, the remainder of the chapter, or the application of such provision to any other agency or instrumentality or political subdivision shall not be affected by such holding.

EFFECTIVE DATE

SEC. 4. This Act shall become effective as of the date of its enactment.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the time to be charged equally against the two sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURDICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TAFT). Without objection, it is so ordered.

This bill is under a time limitation of 3 hours on the amendment of the Senator from New York (Mr. BUCKLEY), 1½ hours on each amendment of the Senator from New York (Mr. JAVITS), and 1 hour on all other amendments.

Who yields time?

Mr. BURDICK. I yield myself such time as I may need at present.

Mr. President, the bill now under consideration, S. 2597 as amended, the Voluntary Municipal Reorganization Act, changes the procedure by which the debts of municipalities and other governmental units are adjusted. The bill would add a new chapter XVI to title 11 which in substance, provides a new and feasible means of enabling a city to continue to function in an orderly manner while an adjustment or extension of its debts is negotiated with its creditors.

Mr. President, some explanation of the background of S. 2597 is in order. On October 29, 1975, a communication from the President of the United States set forth a legislative proposal to amend the Bankruptcy Act to add a new chapter XVI dealing with the adjustment of debts of major municipalities. The legislative proposal was submitted because of the inadequacies of chapter IX of the current Bankruptcy Act in its application to the problems of major municipalities.

While the communication from the President focused national attention on this issue, municipal reorganization has been the subject of ongoing study for the past several years.

The Commission on the Bankruptcy Laws of the United States spent 3 years of intensive study on the need for improvement in the bankruptcy laws, including the provisions relating to municipal reorganization in present title 11 of the United States Code. The recommendations of the Commission—which were published in 1973—are reflected in S. 236. In October 1974, 1 year later, the National Conference of Bankruptcy Judges set forth this recommendations, which are reflected in S. 235. The subcommittee has held 24 days of hearings on these bills, beginning on February 19, 1975. In addition to the foregoing, in July of 1974, the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States has submitted much-needed rules revisions for chapter IX.

In addition to the aforementioned consideration, hearings directed toward consideration of S. 2597 were held on October 31 and November 4, 1975. The committee heard testimony from Antonin Scalia, Assistant Attorney General, Office of Legal Counsel, Department of Justice; Robert Gerard, Deputy Assistant Secretary, Department of the Treasury; Russell Chapin, Chief, General Claims Section, Civil Division, Department of Justice; Joseph Patchan, a former bankruptcy judge, now a practicing attorney; Vern Countryman, professor of law, Harvard University; Senator JAMES L. BUCKLEY; Evelyn Y. Davis, editor of Highlights and Lowlights of Annual Meetings; and Dean Lawrence P. King, associate dean and professor of law, New York University.

The result of these hearings was twofold: First, it was established that the present chapter IX of the Bankruptcy Act is inadequate to assist the debt reorganization for municipalities or other governmental units; second, while the draft language suggested by the Presidential Communication provided an improvement over existing law, further amendment was necessary if municipal debt reorganization was to become a truly valuable tool for troubled cities.

The hearings also demonstrated that an adequate municipal reorganization statute should insure several things. The provisions of the chapter should provide ready access to the bankruptcy courts. It is during the first steps of reorganization that delay could cause the most permanent harm. Provisions must be made to insure that the city has the use of existing deposits and can raise money to meet the ongoing expense for essential city services pending acceptance and functioning of the plan. Uniformity of performance under the plan must be assured, although city administration may change.

I think it would be valuable to highlight the inadequacies in the present chapter IX in light of the above criteria.

None of the above capabilities are contained in the present act. The provisions of chapter IX of the present Bankruptcy Act prevent a municipal bankruptcy proceeding from being commenced until the city has obtained approval of 51 percent of its creditors for the proposed plan of adjustment. Any municipality would ordinarily have a volume and dispersal of debt obligations which would make merely locating a majority of creditors within a short period of time very difficult. It is incomparably harder to then try to obtain the requisite approval of a majority of creditors.

The notice provisions of chapter IX are cumbersome when large numbers of creditors, many of whom have substantial interest, are involved. Chapter IX also requires that the terms of the plan itself be mailed to each creditor and other persons obviously affected. The burden caused by the printing, handling, and mailing would be staggering. Present law requires written proof of each claim by each creditor. The paper burden, in the case of a major city, would be enormous.

The approval of the plan of adjustment is difficult to obtain as the present requirement is for approval of two-thirds of all creditors. In a large city it is quite likely that many creditors would either be unreachable or not interested in voting. The two-thirds requirement might, under these circumstances, amount to 80 to 85 percent of those voting.

The present chapter IX makes no provision for the issuance of debtors certificates. This is a most serious omission, as the municipal debtors must maintain essential city services directed to public safety and public health during the reorganization proceeding.

The municipal debtor is constantly faced with problems in maintaining the necessary cash flow for salaries for essential personnel. The city could not expect to issue fresh bonds, as there would be no takers. Neither can the collection of quarterly or semi-annual collection of tax moneys always be sufficiently timely to be of assistance.

The issuance of debt certificates can be the key factor in maintaining a city's vital cash flow. The use of these certificates in commercial rehabilitation has successfully enabled businesses to operate during the pendency of arrangement proceedings. No reason has surfaced during the hearings held by the subcommittee on October 31 and November 4 which would indicate that certificates of indebtedness would be or should be any less available to municipalities in need.

Witnesses who appeared at the hearings on October 31 and November 4 seemed in general agreement that the President's proposal did offer improvement over the provisions of present chapter IX. But the testimony taken at these hearings, in addition to the staff study conducted on S. 235 and S. 236 during the past year, indicated that further amendment was needed to achieve the President's stated goal of providing a desirable alternative to the present chapter IX.

The original legislative proposal would have limited the relief available under the proposed chapter XVI to municipalities with a population of over 1 million. That provision has now been deleted and all municipalities and governmental units, regardless of size, may avail themselves of the chapter, if necessary, if that amendment is retained in the bill.

The procedure for getting into court has been simplified. The provision requiring State approval before a municipality may file has been clarified and made more flexible. While specific authority is now required, it has been made clear that prior statutory authority is sufficient. The requirement that a plan be filed with the petition has been deleted. The bill, as amended, provides that the plan may be filed after the filing of the petition. Added as a provision that the chief judge of the circuit court of appeals shall appoint the district judge to conduct the provisions. In addition the venue provisions of the bill have been amended to deal with the problem of a municipality which is located in more than one judicial district.

Certain provisions have been added to S. 2597 in order to give the court the powers necessary to effect reorganization.

The court is granted the usual powers in bankruptcy to set aside fraudulent conveyances and preferences. The automatic stay of setoffs is extended to prepetition setoffs. The court is given the power to permit the rejection of executory contracts, to prevent the automatic termination of a lease by virtue of the municipality's insolvency proceeding, and the authority to prescribe damages if an executory contract or lease is rejected.

Judicial proceedings required in a municipal reorganization have been simplified. A provision is provided for publication in newspapers and trade journals of notice of the filing of the petition and any dismissal, so that smaller creditors will have sufficient notice. In addition, under S. 2597 as amended all notices will be given by the petitioner unless otherwise directed by the court. The period allowed for filing a complaint contesting the validity of the petition has been shortened to 30 days and a finding of jurisdiction shall be considered an interlocutory order for the purposes of appeal.

Amendments made should better assure equal representation of all creditors. The voting requirement for confirmation of a plan is modified to insure that the smaller creditors may participate. Added is the requirement of approval of 51 percent by numbers of all classes of creditors actually voting, and two-thirds of all creditors voting in amount. The division of classes of creditors is amended to provide more flexibility to the court. Now the court may fix the division of creditors into classes as fairness requires. The court is now given additional authority to permit a labor organization or an employee association which represents employees of the debtor municipality to be heard on the economic soundness of the plan. The provision allowing the issuance of certificates of indebtedness has changed only to make clear that the court has the authority to give them priority over secured and unsecured claims and other expenses of administration. There are other amendments of a technical nature, but those I have just touched on represent the major changes in the bill. Report No. 94–450, which accompanies S. 2597, details the need for these amendments.

In summary, debt reorganization of a municipality, always a difficult task, is not impossible. The first effective municipal bankruptcy statute was enacted in 1937. Since that time some 350 or more cases have been filed. While a large municipality will present a complicated debt structure, it should not be more complex than a major corporation.

I believe that many recommendations of the President conformed to good bankruptcy practice. I also believe that the various amendments made by the Judiciary Committee have made S. 2597, as amended, an even better vehicle to assist a municipality in the reorganization of its debts.

I yield the floor at this time.

Mr. HRUSKA. Mr. President, I yield myself 10 minutes and I ask that I be notified when that allotment has expired.

Mr. President, I rise as a member of the Judiciary Committee that reported the bill now being considered and as one of its cosponsors.

VOLUNTARY NATURE OF THE LEGISLATION

The bill would amend the Bankruptcy Act to add a new chapter XVI. There is no effort or intent in Congress to mandate or compel New York City or any other city to take advantage of the provisions of the law if the bill is enacted. It will provide merely another option for the financially troubled municipality in the event that other plans that have been made should come to an unfortunate end. The bill provides that the State shall affirmatively permit this voluntary procedure on the part of any of its municipalities.

There are critics of the bill who claim that there are uncertainties and deficiencies in the bill and the law which would follow if it is enacted. Whatever these uncertainties might be, as there always are in a new law, they in no degree compare to the seriousness of the uncertainties in the measures that municipalities are forced to take because of the present inadequate municipal insolvency procedures.

For example, New York State's new moratorium law, which is an integral part of Governor Carey's plan which this body has just sanctioned, is under legal attack. Section 83(i) of the present chapter IX of the Bankruptcy Act prohibits any State prescribed method of composition. The Flushing National Bank by suit contends that the moratorium is within the meaning of the term "composition" as used in section 83(i). If the Flushing National Bank is successful in striking down the moratorium, the only backup remedy which New York City will have under the present state of the law is chapter IX.

NEED FOR A NEW MUNICIPAL BANKRUPTCY LAW

Many experts have testified that chapter IX is woefully inadequate and that there is a need for a new municipal insolvency law.

Judge Joseph Patchan, a practicing attorney in Cleveland and a former bankruptcy judge, in testimony on this bill before the Judicial Improvements Subcommittee, stated:

> The present bankruptcy act does not adequately provide for large cities in financial distress.

The Honorable Simon Rifkind, Municipal Assistance Corporation counsel of New York, in testimony before the Banking Committee stated:

> There is no bankruptcy statute relating to municipalities. The statute you have is not designed to serve a city of the size of New York or any municipality of comparable size or lesser size. It would come to a question of how the courts would deal with the problem. There would be an intervening period of chaos. Without the proposed program, firemen, teachers, hospital employees would go without compensation. There is no question about that.

Assistant Attorney General Antonin Scalia, who testified on the bill before the Judicial Improvements Subcommittee, pointed out the major deficiency in chapter IX as follows:

> "The provisions of Chapter IX of the Bankruptcy Act prevent a municipal bankruptcy proceeding from being commenced, and a stay from being entered until the city has submitted to the court a plan of adjustment which already has the approval of 51 percent of its creditors." . . . (For large cities) merely locating a majority of creditors within a short period of time, much less obtaining the requisite approval or "reasonable prospect" of approval, would be a formidable and probably an impossible task. For this reason alone, some alteration of the present provision for large cities is essential.

The present bill would eliminate this prefiling requirement.

The notice provisions of chapter IX are extraordinarily cumbersome, especially as in the case of the large municipality where there may be many small creditors, who may not be able to be identified. The proposed legislation streamlines these notice procedures and allows for notice by publication. This procedure was suggested by Dean Lawrence P. King of the New York University Law School in testimony before the Judicial Improvements Subcommittee.

PROVISIONS OF THE BILL

The present chapter IX requires that two-thirds of all creditors by amount approve the plan of composition filed by the petitioner. Those creditors who do not vote are counted as no votes for the purposes of this requirement. For this reason, under the present chapter IX Assistant Attorney General Scalia estimated that this requirement might realistically amount to 80 percent by amount of those voting. The bill before us would change this requirement to two-thirds by amount of those creditors actually voting. Senator Buckley testified before the Judicial Improvement Subcommittee on the need to insure that small creditors also have a voice in approving the plan. For this reason a requirement of approval of the plan by 51 percent by numbers was added.

The bill provides that dissenting creditors may be paid in cash the value of their claims or may be protected in other equitable manner. According to Prof. Vern Countryman of Harvard Law School, in his testimony before the Judicial Improvements Subcommittee, this so-called cram-down provision is a good method of protecting dissenting creditors. It is derived from section 77, of the present Bankruptcy Act which deals with railroad reorganizations. According to Professor Countryman it is constitutional.

The bill as drafted would place a Federal district court in charge of the proceedings with the judge to be appointed by the chief judge of the circuit. This provision allows the chief judge to manage better the flow of judicial business. By having a district judge in charge, a great degree of flexibility is provided and all the resources of the court system will be available to combat and solve any questions that arise or any objections that may be made.

The bill is responsive to the limitations of the Congress power under the bankruptcy clauses as expressed by the Supreme Court in *Ashton* v. *Cameron Water Imp. Dist. No. 1,* 298 U.S. 513 (1936), and *United States* v. *Bekins,* 304 U.S. 27, rehearing denied, 304 U.S. 589 (1938) and contains prohibitions regarding any invasion of the political process of the municipality and State.

The testimony before the Judicial Improvements Subcommittee demonstrated the adverse impact upon interstate commerce of the insolvency of an American municipality, especially under the present state of the law. At the suggestion of Assistant Attorney General Scalia, findings of such impact are included in the bill. It is believed that these findings will strengthen the constitutionality of the new law.

The bill provides for an automatic stay of all proceedings against the petitioner upon the filing of the petition. This most important feature is the cornerstone to the orderly progress of the insolvency proceedings. It relieves the petitioner from the immense efforts required to defend a multitude of law suits in many different courts which is the usual prepetition circumstance. There is a provision for allowing the party against whom the stay operates to request the Court to lift the stay. This should not slow the progress of the proceedings. The Court can quickly dispose of a number of similar requests at the same time as soon as possible after their filing.

The stay extends to setoffs asserted by creditors. This provision allows the petitioner to avoid and recover any setoff by a creditor within 3 months of the filing of the petition. The purpose of this provision is to protect the petitioner and unsophisticated creditors from the creditor's race that often occurs before the filing of a petition. It will also enable the petitioner to have access to its cash accounts after the petition to meet its daily expenses. Without this provision those accounts would be immediately frozen and set off by the depositaries. The courts may require security for such creditors before allowing the petitioner to void the setoff.

The bill closes a gap in the present chapter IX in that it provides the petitioner with the power to void fraudulent transfers and preferences as in other chapters of the Bankruptcy Act.

A major innovation of the bill is the authority to issue certificates of indebtedness. In testimony before the Judicial Improvements Subcommittee Dean King termed this a sound proposal. His suggestion that it be made clear that these certificates can have priority over existing obligations, secured and unsecured, is incorporated into the present bill. The issuance of certificates of indebtedness will allow the municipality to raise funds for expenses during the insolvency proceedings by reentry into the private market. By facilitating borrowings to meet current expenses the petitioner is actually preserving the value of the collateral to the secured creditors and increasing the chances of recovery for all creditors.

BALANCED BUDGET REQUIREMENT

Finally, the bill provides an incentive for the stricken municipality to avoid the same plight in the future by requiring as a condition to confirmation of the plan which will be submitted to the Federal district court that "it appears from petitioner's current and projected revenues and expenditures that the budget of the petitioner will be in balance within a reasonable time after adoption of the plan." This is a most important provision. It does not invade the political process of the State or city because the judge has no power to compel a balanced budget but may merely decide whether the plan voluntarily submitted by petitioner meets this requirement.

Mr. President, without this bill the insolvency of any city will create confusion and total disorder. No other procedure allows for the orderly and fair administration of an insolvency proceeding. It is urgently needed as a backup remedy if all other plans fail. It should be approved by Congress.

Mr. President, very shortly it is my intention to propose an amendment so that this bill will only be applicable to municipalities having in excess of 1 million inhabitants.

There are a number of reasons for that amendment but the chief of them is this: Unless the bill is limited to municipalities of that size or more—1 million population or more—there will be a chilling effect upon the marketability of bonded indebtedness of smaller municipalities.

The reasoning seems to be, Mr. President, that with the ready availability of bankruptcy proceedings, there might be an incentive for smaller municipalities to unduly engage in such proceedings.

If insolvency proceedings are that readily available to small municipalities, there might be a reluctance on the part of the investor to purchase evidences of indebtedness from those smaller municipalities.

Mr. STENNIS. Will the Senator yield to me?

Mr. HRUSKA. I am happy to yield to the Senator.

The PRESIDING OFFICER. The 10 minutes of the Senator has expired.

Mr. HRUSKA. I yield to the Senator from Mississippi for 2 minutes.

Mr. STENNIS. I thank the Senator.

Mr. President, I commend the Senator from Nebraska, the floor manager of the bill here, the Senator from North Dakota, and other members of the committee for their work on this bill.

It certainly is timely. It fills what the Senator from Mississippi believes is the necessary void, so to speak, in the present situation.

Unfortunately, these questions are going to be arising again, to no great degree, of course, but conditions are just such as generate problems of this kind and we will have to pass legislation of this type soon if we do not pass it now.

I have confidence in the judgment of the Members that have worked on this matter. I am going to add that to the need that I feel we have for such legislation and support the legislation. It is not something easy to put together and work out and pass on. I commend the Senators.

Mr. HRUSKA. I thank the Senator from Mississippi and welcome his assistance in any clarifying amendments or in any other fashion that might arise during the course of the consideration.

Mr. JAVITS. Mr. President, will the Senator allow me to propose a unanimous-consent request?

Mr. HRUSKA. Indeed.

Mr. JAVITS. Mr. President, I ask unanimous consent that Charles Warren be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, I ask unanimous consent that Harry Dixon be granted privilege of the floor during the debate and voting on this.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURDICK. Mr. President, I ask unanimous consent that Tom Burgum be granted privilege of the floor during this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, I yield.

The PRESIDING OFFICER. The Senator's additional 2 minutes have expired. Who yields time?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum with the time taken out of both sides in the quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT—S. 1267

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when Calendar No. 473 (S. 1267), the Financial Institutions Act of 1975, is called up, there be a time limitation of 2 hours on the bill, 1 hour on amendments, one-half hour on amendments, motions, and appeals, under the regular order.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION REQUEST—S. 988

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when Calendar No. 493 (S. 988), the National Biomedical Heart, Lung, Blood, Blood Vessel, and Research Training Act of 1975, is called up, that there be one-half hour on the bill, one-half hour on amendments, and 20 minutes on amendments to amendments, motions, and appeals.

Mr. JAVITS. Mr. President, will the Senator allow me to check my office on that? I do have some amendments. I will be about 2 minutes.

Mr. MANSFIELD. Fine.

Mr. President, I suggest the absence of a quorum with the time taken out of both sides.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR COMMITTEE ON RULES AND ADMINISTRATION TO FILE REPORTS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration may have until midnight tonight to file any reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT S. 988

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when Calendar 493, S. 988, the National Biomedical Heart, Lung, Blood, Blood Vessel, and Research Training Act of 1975 is called up, there be a a one-half hour time limitation on the bill, one-half hour on amendments, and 20 minutes on amendments to amendments, options and appeals, and be in the regular form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Bartlett). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 2568

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate turns to the consideration of Calendar No. 444, S. 2568, a bill to amend the Atomic Energy Act of 1954, as amended, to revise the method of providing for public remuneration in the event of a nuclear incident, and for other purposes, that there be a time limitation of 1 hour on the bill, 2 hours on an amendment to be offered by the distinguished Senator from Alaska (Mr. Gravel) to be equally divided, and one-half hour on all other amendments, plus 15 minutes on amendments to amendments, motions or appeals, all in the regular order.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. The 15 minutes is divisible, is it not?

Mr. MANSFIELD. Yes.

Mr. JAVITS. Does the Senator want it that way?

Mr. MANSFIELD. Yes, to the fraction.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

ORDER FOR ADJOURNMENT TO 10 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJUSTMENT OF INDEBTEDNESS OF MAJOR MUNICIPALITIES

The Senate continued with the consideration of the bill (S. 2597) to amend the Bankruptcy Act to add a new chapter thereto providing for the adjustment of the debts of major municipalities.

Mr. HRUSKA. Mr. President, I yield myself such time as I need on the bill, S. 2597.

Mr. President, I send an amendment to the desk and ask for immediate consideration.

The legislative clerk read as follows:

The Senator from Nebraska (Mr. Hruska) proposes an amendment.

The amendment is as follows:

On page 24, line 1, after the word "municipality" insert the following: "has in excess of one million inhabitants and"

Mr. HRUSKA. Mr. President, in support of the amendment which would result in limiting applicability of this bill to municipalities having in excess of 1 million inhabitants, I offer these reasons:

The bankruptcy legislation originally proposed by the administration was very limited in its effect, in that it would have provided an alternative bankruptcy procedure for only cities of 1 million or more in population—currently the six largest cities in the country. Several features of the legislation are specifically designed to meet the special difficulties which large cities would have in complying with the requirements of the existing municipal bankruptcy law. For example, the present bill eliminates the requirement of 51-percent creditor approval before the proceeding can be commenced, and requires the final bankruptcy plan to be approved by two-thirds in amount of the creditors actually voting, rather than—as the present law requires—two-thirds of the totality of creditors. Without these changes it would be virtually impossible for very large cities, whose securities are widely held by a large number of small investors, to file in bankruptcy.

These changes are not, however, essential to enable smaller municipalities, water districts, and so forth, to use the existing bankruptcy laws. A large number of small municipal bankruptcies have in fact been completed under the present chapter IX. In addition to being unnecessary, these changes may well be undesirable for such smaller governmental units, since, by rendering the commencement of a bankruptcy proceeding considerably more simple, they may impair the "blue chip" character of such securities and place them at a disadvantage in the marketplace.

The Public Finance Division of the Securities Industry Association has strongly opposed passage of this legislation on the grounds that it would "make it more difficult and costly for cities to accomplish necessary financing no matter how well managed they may be." It has urged that such legislation should be considered only after thorough and extensive hearings "to fully examine the potential damage to municipal securities markets." Without such hearings it is unwise to extend liberalization provisions which are genuinely necessary in the case of very large cities to situations in which they are nonessential and perhaps detrimental to public financing. I ask unanimous consent to have printed in the Record several telegrams from municipal securities experts, opposing elimination of the 1 million population limitation.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 1.]

Mr. HRUSKA. The present legislation has been debated and considered essentially within the context of the needs of a very large city. The basic municipal bankruptcy provision now contained in the law should not be amended on the basis of such a narrow congressional focus. That task, if it needs doing, can be undertaken at a later date when there is adequate time to consider the impact of the proposal upon all types of governmental entities it may affect. For the time being, however, the Congress should limit its action to what has been the prime focus of its deliberations: large city bankruptcy.

EXHIBIT 1

Mr. Gary Klesch,
U.S. Treasury Department,
Washington, D.C.

Removal of the restriction of the bankruptcy statute to cities over one million would be damaging to the credit and costly for all municipalities selling general obligation bonds.

Alan Weeden, President Weeden Holding Company, Chairman Public Finance Council Securities Industry Association; Wallace O. Sellers, Vice President Merrill Lynch, Pierce, Fenner & Smith, Vice Chairman Public Finance Council Securities Industry Association.

December 4, 1975.

Mr. Gary Klesch,
Main Treasury, Washington, D.C.

In considering the new bankruptcy legislation now under discussion we believe the legislation should not afford easier access to bankruptcy for all size municipalities, because it may have the effect of weakening the credit standing of these municipal obligations. Therefore, we recommend the new procedures be limited to municipalities of substantial size.

Frederick B. Whittemore,
Morgan Stanley & Co. Inc.

Mr. HRUSKA. This is the amendment to which I referred during my remarks explaining the general provisions of the bill. Its purpose will be to limit the availability of this bill to municipalities which are in excess of 1 million in population.

Mr. JAVITS. Will the Senator yield at that point?

Mr. HRUSKA. Yes.

Mr. JAVITS. Having called up his amendment the Senator's time will begin to run. As I understood from the Senator and the leadership, we would not act on this amendment until after we finished the supplemental tomorrow afternoon. Could we have a unanimous-consent agreement that action on this——

Mr. HRUSKA. I shall refrain from laying it down and calling it up.

Mr. JAVITS. I believe the Senator already has.

Mr. HRUSKA. I ask unanimous consent that I be allowed to recall the offering of the amendment.

Mr. JAVITS. I thank my colleague.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. HRUSKA. There is another fact, if the Senator from New York will indulge me. The Senator from Maryland, I believe, is interested in this amendment and he should be given due notice. We would not want to proceed without his being notified.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the two leaders are recognized tomorrow, there be a morning hour for the conduct of routine morning business not to exceed 15 minutes, with a time limitation of 3 minutes attached thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MANSFIELD. Mr. President, for the information of the Senate, at the completion of routine morning business tomorrow, the pending business will be H.R. 10647, the supplemental bill. It is my understanding that there will be several amendments offered during the morning, and, of course, the time will be split evenly from 12 o'clock until 4 o'clock between the distinguished Senator from Alabama or the distinguished Senator from Virginia on the one side and the distinguished Senator from Arkansas, the manager of the bill (Mr. McCLELLAN) on the other, or whomever they may designate. At the hour of 4 o'clock a vote on final passage will occur on H.R. 10647, after which the Senate will then return to the consideration of what is now the pending business, S. 2597 until it is completed.

As the Senate is aware, a number of unanimous-consent agreements have been reached this afternoon, three in number, which when added to the two already agreed to, will keep us pretty busy for the rest of the week.

If business warrants it, and it seems that it will, the Senate will be in session this Saturday, so that we can complete as much of the work on the calendar as is possible, looking forward to adjournment no later than the 19, the following Friday. I hope that Senators will keep that in mind.

ORDER FOR THE UNFINISHED BUSINESS TO BE LAID BEFORE THE SENATE AT THE CONCLUSION OF MORNING BUSINESS TOMORROW

The PRESIDING OFFICER. Without objection, the unfinished business will be laid before the Senate after the conclusion of morning business tomorrow.

Mr. MANSFIELD. I appreciate the Chair's reminding me.

Mr. HRUSKA. Mr. President, is it the intention of the leadership, then, following the disposition of the supplemental appropriation bill, to return to S. 2597?

Mr. MANSFIELD. Yes, indeed. That is the order.

ADJOURNMENT UNTIL 10 A.M.

Mr. MANSFIELD. Mr. President, if there is no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 10 o'clock tomorrow morning.

The motion was agreed to; and at 4:11 p.m. the Senate adjourned until tomorrow, Wednesday, December 10, 1975, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate December 9, 1975:

DEPARTMENT OF JUSTICE

Peter B. Bensinger, of Illinois, to be Administrator of Drug Enforcement, vice John R. Bartels, Jr., resigned.

SMALL BUSINESS ADMINISTRATION

Mitchell P. Kobelinski, of Illinois, to be Administrator of the Small Business Administration, vice Thomas S. Kleppe.

IN THE AIR FORCE

The following-named officers for promotion in the U.S. Air Force, under the appropriate provisions of chapter 839, title 10, United States Code, as amended.

MEDICAL CORPS

Lieutenant colonel to colonel

Berry, Frank W., Jr., [redacted].
Brunstetter, Frank H., [redacted].
Buckley, Clifford J., [redacted].
Burney, Robert E., II, [redacted].
Corker, Frank T., [redacted].
Cryan, David M., [redacted].
Dorang, Louis A., [redacted].
Dyer, John T., [redacted].
Fettus, George H., [redacted].
Fisher, William J., [redacted].
Harris, Robert E., [redacted].
Ivey, David M., [redacted].
Kirschner, Leonard J., [redacted].
Maloney, Thomas R., [redacted].
Manaker, Philip A., [redacted].
Martin, Benjamin G., Jr., [redacted].
Mayes, George R., [redacted].
McNaughton, Grant B., [redacted].
Narboni, Gino R., [redacted].
Odell, Stanley E., [redacted].
Orr, Edwin R. III, [redacted].
Rayman, Russell B., [redacted].
Resnick, Nolan, [redacted].
Rieffel, Clement N., Jr., [redacted].
Rodriguezlopez, Ensor, [redacted].
Root, David E., [redacted].
Self, Robert G., [redacted].
Shacklett, David E., [redacted].
Shaklan, Barry N., [redacted].
Slarve, Richard N., [redacted].
Sobiesk, Emory J., [redacted].
Stecker, Donald C., [redacted].
Stoebner, Darrold A., [redacted].
Thomas, Elias, A., Jr., [redacted].
Victor, Martin I., [redacted].
Vonhazmburg, Romulus S., [redacted].
White, John W., Jr., [redacted].
Wildemann, Mark F., [redacted].
Wood, Edward H., [redacted].
Yount, Ira M., [redacted].

DENTAL CORPS

Akerly, William B., [redacted].
Battock, Richard D., [redacted].
Beardslee, Eric E., [redacted].
Berte, Joseph J., [redacted].
Burch, Robert A., [redacted].
Ciampa, John B., Jr., [redacted].
Cowan, Robert D., [redacted].
Dooley, Benjamin E., [redacted].
Francis, Evan D., [redacted].
Gibson, Ronald M. E., [redacted].
Granger, Dale T., [redacted].
Grochowski, Daniel C., [redacted].
Helder, John C., [redacted].
Krenzel, Daniel J., [redacted].
Krusee, Paul A., [redacted].
Lee, Lawrence M. H., [redacted].
Marks, Thomas C., [redacted].
Mulligan, Patrick J., [redacted].
Orman, Albert G., [redacted].
Shiller, Edwin B., [redacted].
Steed, Donald L., [redacted].
Swanson, Ben Z., Jr., [redacted].
Swayne, Paul R., [redacted].
Titterington, Wesley P., [redacted].
Wee, Clifford G. H., [redacted].

MEDICAL CORPS

Major to lieutenant colonel

Albin, Richard E., [redacted].
Alexander, James A., [redacted].
Anderson, George K., [redacted].
Armstrong, Rafael B., [redacted].
Becker, David W., Jr., [redacted].
Bills, Gary L., [redacted].
Bost, Charles R., [redacted].
Broadwell, Russell M., [redacted].
Buchanan, James R., [redacted].
Burner, William L., III, [redacted].
Buscher, John R., [redacted].
Cadora, Donald F., [redacted].
Christman, James E., [redacted].
Chronis, Alex G., [redacted].
Cohen, Ronald L., [redacted].
Cole, Lonnie A., [redacted].
Crouch, Edward E., [redacted].
Cwazka, Walter F., [redacted].
Daniell, James F., Jr., [redacted].
Davis, Jeffrey G., [redacted].
Delmonico, Richard H., [redacted].
Diasio, Richard A., [redacted].
Donaldson, Miriam E., [redacted].
Ferguson, William D., [redacted].
Fort, Darrell L., [redacted].
Franklin, Lawrence C., [redacted].
Greene, Jerry W., [redacted].
Hafermann, David R., [redacted].
Hamlin, Charles, [redacted].
Hathaway, Ralph E., [redacted].
Howard, Cleve W., [redacted].
Jackson, Bruce G., [redacted].
Jacobs, Robert L., Jr., [redacted].
Jernigan, John F., [redacted].
Johnstone, Robert W., [redacted].
Kendle, Ellis M., [redacted].
Kercher, Eugene F., [redacted].
Kippel, Eugene J., [redacted].
Kliks, Bernard R., [redacted].
Lamb, Johnny M., [redacted].
Lasher, John C., [redacted].
Leffingwell, Donald O., [redacted].
Lehman, Craig A., [redacted].
Loecker, Thomas H., [redacted].
Martineztirado, Jose I., [redacted].
McDowell, Russell V., [redacted].
McLaughlin, Gary W., [redacted].
McPhillips, Frank L., [redacted].
Mootz, John R., [redacted].
Morellmachado, Rene, [redacted].
Mullins, James D., [redacted].
Murdoch, Donald J., [redacted].
Nelson, Wilner N. J., Jr., [redacted].
Newsom, Hamlet T., [redacted].
O'Brien, Michael W., [redacted].
Otto, Ralph E., [redacted].
Page, Carey P., [redacted].
Peacock, George H., [redacted].
Reid, Michael J., [redacted].
Richmond, David R., [redacted].
Robertshaw, Gilbert E., [redacted].

Rossof, Arthur H., [redacted].
Russell, David A., [redacted].
Schuknecht, Lowell A., Jr., [redacted].
Schwartz, Burton W., [redacted].
Shepard, Martin J., [redacted].
Spigel, Stuart C., [redacted].
Swift, Dean C., [redacted].
Sykes, James D., [redacted].
Torma, Michael J., [redacted].
Walchner, Andreas M., [redacted].
Wellman, John, [redacted].
Wells, David M., [redacted].
Wexler, Arnold H., [redacted].
Wheeler, Ralph A., [redacted].
Whetsell, Douglas W., [redacted].
Wilson, John S., [redacted].
Winer, Stephen F., [redacted].
Wright, Donald G., [redacted].

DENTAL CORPS

Anselmo, Joseph A., [redacted].
Biddle, Harold H., [redacted].
Buzenas, John A., [redacted].
Cronin, Robert J., Jr. [redacted].
Fisher, Howard E., [redacted].
Harrel, Connie J., [redacted].
Hopton, Harry S., [redacted].
Huff, Thomas L., [redacted].
Kleinstub, Paul H., [redacted].
Kuhar, James R., [redacted].
Masin, William J., [redacted].
Mead, John H., [redacted].
Milnarik, Ronald M., [redacted].
Monske, Iane A., [redacted].
Nosworthy, Donald G., [redacted].
Rossell, Jay M., [redacted].
Sandusky, William J., [redacted].
Schutt, Norman L., [redacted].
Sekavec, Jay G., [redacted].
Storby Gene L., [redacted].
Tepper, Maurice J., [redacted].
Tuchten, Alan R., [redacted].
Vanasma, Kenneth L., [redacted].
Wongwai, George W., [redacted].
Young, Stephen L., [redacted].

IN THE AIR FORCE

The following officers for appointment in the Regular Air Force, in the grade indicated, under the provisions of section 8284, Title 10, United States Code, with dates of rank to be determined by the Secretary of the Air Force:

To be captain

Auton, Mary J., [redacted].
Brown, James H., [redacted].
Bulen, Douglas W., [redacted].
Courtney, Marion W., [redacted].
Cusano, Jack D., [redacted].
Garrett, Ferris O., Jr., [redacted].
Gower, William N., [redacted].
Gramm, Robert W., [redacted].
Hawley, Charles H., [redacted].
Honodel, David R., [redacted].
Johnson, William H., Jr., [redacted].
Jones, William E., [redacted].
Klatt, Robert E., [redacted].
Maloney, Sally L., [redacted].
McNeil, Charles E., [redacted].
Murray, Clark A., [redacted].
Pfister, John J., [redacted].
Quarles, Charles E., Jr., [redacted].
Ralph, Harlan D., [redacted].
Schilling, David C., Jr., [redacted].
Simmons, Jack A., [redacted].
Smith, Louis M., Jr., [redacted].
Sushinsky, Barry M., [redacted].
Swenka, Ronald A., [redacted].
Turner, Charles P., III, [redacted].
Vergauwen, Richard L., [redacted].
Wall, David K., [redacted].
Wiegand, David P., [redacted].
Wright, Michael J., [redacted].

The following officer for appointment in the Regular Air Force, in the grade indicated, under the provisions of section 8284, Title 10, United States Code, with a view to designation under the provisions of section 8067, Title 10, United States Code, to perform the duties indicated, and with date of rank to be determined by the Secretary of the Air Force:

To be first lieutenant (Nurse Corps)

Brown, Carolyn M., [redacted].

IN THE AIR FORCE

The following-named Air Force officers for reappointment to the active list of the Regular Air Force in the grade indicated, under the provisions of sections 1210 and 1211, title 10, United States Code:

LINE OF THE AIR FORCE

To be captain

Mitchell, George G., [redacted].

The following persons for appointment in the Regular Air Force, in the grade indicated, under the provisions of section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with date of rank to be determined by the Secretary of the Air Force:

MEDICAL CORPS

To be first lieutenant

Beck, William R., [redacted].
Gillham, Robert A., Jr., [redacted].
Romberg, Gary P., [redacted].
Seaman, John M., [redacted].

The following-named persons for appointment as Reserve of the Air Force in the grade indicated, under the provisions of section 593, title 10, United States Code, with a view to designation under the provisions of section 8067, United States Code, to perform the duties indicated:

MEDICAL CORPS

To be lieutenant colonel

Badillo, Adolfo P., [redacted].
Cole, Peter M., [redacted].
Donahue, James M., [redacted].
Ermini, Eugene D., [redacted].
Finch, William O., Jr., [redacted].
Hall, Dudley W., [redacted].
Kliensmith, Robert A., [redacted].
Lieberman, Murray, [redacted].
Lipschultz, Cal E., [redacted].
Rippy, Girard C., Jr., [redacted].
Weber, George L., [redacted].
Wolverton, William R., [redacted].

The following officer for appointment as a Reserve of the Air Force (ANGUS), in the grade indicated, under the provisions of sections 593, 8351 and 8375, Title 10, United States Code:

LINE OF THE AIR FORCE

To be colonel

Campbell, John C., Jr. [redacted].

The following named person for appointment as a Reserve of the Air Force (ANGUS), in the grade indicated, under the provisions of sections 593 and 8351, Title 10, United States Code, with a view to designation under the provision of section 8067, Title 10, United States Code, to perform the duties indicated:

DENTAL CORPS

To be lieutenant colonel

Goodman, John J. [redacted].

The following officers for appointment as Reserve of the Air Force (ANGUS) in the grade indicated, under the provisions of sections 593, 8351 and 8392, Title 10, United States States Code:

LINE OF THE AIR FORCE

To be colonel

Rourk, Daniel J., [redacted].
Skowron, Ralph A., [redacted].

The following named persons for appointment as Temporary Officers in the United States Air Force, in the grade indicated, under the provisions of sections 8444 and 8447, Title 10, United States Code, with a view to designation under the provisions of section 8067, Title 10, United States Code, to perform the duties indicated:

MEDICAL CORPS

To be lieutenant colonel

Badillo, Adolfo P., [redacted].
Cole, Peter M., [redacted].
Darienzo, Charles M., [redacted].
Donahue, James M., [redacted].
Ermini, Eugene D., [redacted].
Fielding, John D., Jr., [redacted].
Finch, William O., Jr., [redacted].
Hall, Dudley W., [redacted].
Kliensmith, Robert A., [redacted].
Lipschultz, Carl E., [redacted].
McNamara, Norbert J., [redacted].
Miranda, Armando C., [redacted].
Reppart, John T., [redacted].
Rippy, Girard C., Jr., [redacted].
Snyder, Clarence E., [redacted].
Weber, George L., [redacted].
Wolverton, William R., [redacted].

The following officers for promotion in the Air Force Reserve, under the provisions of sections 8376 and 593, Title 10, United States Code.

LINE OF THE AIR FORCE

Major to lieutenant colonel

Dodd, Walter O., [redacted].
Smith, Curtiss L., [redacted].

MEDICAL CORPS

Halverson, James L., [redacted].
Urso, Philip J., [redacted].

NURSE CORPS

King, General R., [redacted].

IN THE ARMY

The following-named officers for promotion in the Army of the United States, under the provisions of Public Law 92–129:

ARMY PROMOTION LIST

To be lieutenant colonel

Barlow, Claude T., [redacted].
Brady, Edward J., [redacted].
Doyle, John B., [redacted].
Garshak, Francis D., [redacted].
Graham, Richard J., [redacted].
Hicks, Dewey D., [redacted].
Kiernan, Thomas J., [redacted].
Kirn, Paul L., [redacted].
Parlier, James E., [redacted].
Poole, James A., [redacted].
Sanders, Bobby J., [redacted].
Touhey, Henry J., [redacted].
Williamson, James M., [redacted].

CHAPLAIN CORPS

To be lieutenant colonel

Spencer, Herbert H., [redacted].

DENTAL CORPS

To be lieutenant colonel

Babigan, Alan E., [redacted].
Blahuta, George J., [redacted].
Boglarski, Stephen, [redacted].
Boynton, Robert E., [redacted].
Burg, Hans A., [redacted].
Davila, Manuel A., [redacted].
Eichel, Thomas F., [redacted].
Farne, John F., [redacted].
Gay, William D., [redacted].
Gustincic, David J., [redacted].
Hajduk, Carl J., [redacted].
Haynes, David A., [redacted].
Kozel, Eugene W., [redacted].
Larue, John R., [redacted].
Mitchell, Wayne H., [redacted].
Serwatka, Walter J., [redacted].
Shultz, Rudane E., [redacted].
Vitori, Robert A., [redacted].

IN THE ARMY

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of Title 10, Section 3370:

ARMY PROMOTION LIST

To be colonel

Baker, Robert M., [redacted].
Bellfi, Donnie D., [redacted].
Carpenter, Philip P., [redacted].

Curtis, Ross E., [redacted].
George, Charles ., [redacted].
Kavanagh, John V., [redacted].
March, Carl A., [redacted].
Nutter, Raymond T., [redacted].
Pumphrey, Norman D., [redacted].
Rumbaugh, Earl E., Jr., [redacted].
Shmuckler, Stanford, [redacted].
Wood, Vernon L., [redacted].

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of Title 10, Sections 3366, and 3367:

ARMY PROMOTION LIST

To be lieutenant colonel

Abbott, Paul H., Jr., [redacted].
Abe, Howard C., [redacted].
Abel, Claude H., [redacted].
Abell, Julian L., [redacted].
Abrahamsen, Robert, [redacted].
Abston, Oliver G., [redacted].
Acevedo, Benito M., [redacted].
Adams, David J., [redacted].
Adams, John Q., [redacted].
Adams, Robert E., [redacted].
Adams, Robert E., [redacted].
Albee, Donald D., [redacted].
Aldridge, Allan C., [redacted].
Aler, Earl A., Jr., [redacted].
Alford, Weldon E., [redacted].
Allen, Boyd W., Jr., [redacted].
Allen, Lewis C., [redacted].
Allgood, James G., [redacted].
Altman, Richard A., [redacted].
Amberg, Brantly D., [redacted].
Amoroso, Mario, [redacted].
Amundson, Gerald E., [redacted].
Anderson, Darrell, J., [redacted].
Anderson, John F., [redacted].
Anderson, Leonard B., [redacted].
Anderson, Walter D., [redacted].
Ando, George M., [redacted].
Andrews, Raymond F., [redacted].
Angelino, Charles, [redacted].
Annan, Vernon R., [redacted].
Appleman, Eugene G., [redacted].
Archibold, John E., [redacted].
Arndt, Carroll G., [redacted].
Arnold, Lipsy R., [redacted].
Arthur, Alton V., [redacted].
Ashcraft, Marvin L., [redacted].
Askew, Donald C., [redacted].
Atkinson, James D., [redacted].
Augunas, Julius E., [redacted].
Auman, Richard H., [redacted].
Ayers, James L. Jr., [redacted].
Babiak, Paul L., [redacted].
Bachura, George, Jr., [redacted].
Baker, John W., [redacted].
Baker, Vestal L., [redacted].
Barcena, Luis C., [redacted].
Barker, Richard G., [redacted].
Barnes, Richard T., [redacted].
Barnett, James P., [redacted].
Barney, Keith R., Jr., [redacted].
Barth, Norman L., [redacted].
Bartlett, William A., [redacted].
Bartley, Lee A., [redacted].
Basler, Irvin P., [redacted].
Bass, Lawrence M., [redacted].
Bass, William A., [redacted].
Battiloro, John R., [redacted].
Baudoin, Oliver T., [redacted].
Bauer, George H., [redacted].
Baumann, Theodore R., [redacted].
Bausano, John L., [redacted].
Beamer, Frederick, [redacted].
Bean, Willard L., [redacted].
Beason, Joe L., [redacted].
Beck, Raymond A., [redacted].
Bedoka, Louis, [redacted].
Beers, Richard W., [redacted].
Belden, Frederick, [redacted].
Bender, H. A., Jr., [redacted].
Benkelmann, W. J., [redacted].
Bennett, Basil O., [redacted].
Bennett, James G., [redacted].
Benson, J. D., [redacted].
Bepler, William H., [redacted].
Berg, Stephen J., [redacted].
Berman, Frederic S., [redacted].
Betteker, James M., [redacted].
Biaggi, Luis E., [redacted].
Bidgood, Charles H., [redacted].
Bilski, Ronald Jose, [redacted].
Bissonnette, John M., [redacted].
Black, John R., [redacted].
Blankenbeker, Richard, [redacted].
Bloodworth, James F., [redacted].
Boardman, Charles R., [redacted].
Bonebrake, Oren V., [redacted].
Bonilla, Filiberto, [redacted].
Boos, James V., [redacted].
Booze, Conrad C., [redacted].
Borden, Clifford C., [redacted].
Borghi, Joseph J., [redacted].
Bowen, David G., [redacted].
Bowly, Lawrence V. J., [redacted].
Bowman, Pasco M., [redacted].
Boyce, Lew R., [redacted].
Boynton, Earl W., [redacted].
Bradish, John T., [redacted].
Branscum, Edwin, [redacted].
Bratcher, A. S., Jr., [redacted].
Breeding, Joel W., [redacted].
Brewer, Charles E., [redacted].
Brewer, Gerald F., [redacted].
Britt, Joe F., [redacted].
Bronson, George A., [redacted].
Brown, Douglas D., [redacted].
Brown, Michael A., [redacted].
Brown, Milton H., [redacted].
Brown, Raymond E., [redacted].
Brown, Royce M., [redacted].
Brown, Warren C., [redacted].
Broyles, Billy F., [redacted].
Bryan, Earl W., [redacted].
Bryant, Roy G., [redacted].
Buchanan, Vernon C., [redacted].
Buckman, Clement J., [redacted].
Budik, Robert C., [redacted].
Buehler, Donald G., [redacted].
Burckes, Melvin S., [redacted].
Burgmeier, R. J., [redacted].
Burkland, Richard C., [redacted].
Burrow, Ephraim J., [redacted].
Burt, Roy A., Jr., [redacted].
Bustard, William J., [redacted].
Butcher, Arthur J., [redacted].
Butters, John T., [redacted].
Byam, Laurence T., [redacted].
Byard, Robert B., [redacted].
Cabell, David C., [redacted].
Cain, John E., [redacted].
Caldwell, Manley P., [redacted].
Callies, Fritz A., [redacted].
Camino, Richard, [redacted].
Campbell, Desse O., [redacted].
Campbell, James R., [redacted].
Canon, Anthony J., [redacted].
Capps, Richard G., [redacted].
Caputo, Sonny A., [redacted].
Caraveo, Arthur, [redacted].
Carlisle, Robert B., [redacted].
Carlson, Charles P., [redacted].
Carpenter, Jimmie J., [redacted].
Carr, Lester E., Jr., [redacted].
Carrigan, Taylor K., [redacted].
Carroll, Joseph L., [redacted].
Carter, Homer M., [redacted].
Cascella, John A., [redacted].
Caudle, James E., [redacted].
Cavalaris, James G., [redacted].
Caylor, Oscar C., [redacted].
Chait, Jere N., [redacted].
Chambers, F. B., Jr., [redacted].
Champe, Gene Edward, [redacted].
Chandler, Burton T., [redacted].
Chandler, Roy H., [redacted].
Chapman, Anthony, [redacted].
Chapman, Richard M., [redacted].
Chapman, Ted M., [redacted].
Chappell, Richard W., [redacted].
Charbonneau, George, [redacted].
Cheney, John A., [redacted].
Chesser, Conrad F., [redacted].
Christensen, Lester, [redacted].
Christian, Howard E., [redacted].
Clark, Robert E., [redacted].
Clark, Robert G., [redacted].
Cleary, Leonard J., [redacted].
Clement, Alton T., [redacted].
Clopper, Lee H., [redacted].
Coats, Kendall W., [redacted].
Cobb, James L., [redacted].
Cochrane, Carl L., Jr., [redacted].
Coffinger, Michael, [redacted].
Coffman, Dewey I., [redacted].
Conklin, Edgar R., Jr., [redacted].
Connors, Edward T., [redacted].
Considine, Dean E., [redacted].
Cook, Frederick T., [redacted].
Cook, Gordon F., [redacted].
Cooley, Richard C., [redacted].
Cooper, William H., [redacted].
Cope, John F., [redacted].
Coran, Richard R., [redacted].
Cornett, Allan D., [redacted].
Corriveau, Ernest, [redacted].
Cort, Kenneth M., [redacted].
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Cuplin, Warren D., [redacted].
Currier, Charles F., [redacted].
Cutshaw, Theodore, [redacted].
Dailey, William B., [redacted].
Daria, Maurice D., [redacted].
Davidson, Gerald, [redacted].
Davis, James E., [redacted].
Davis, Richard B., [redacted].
Day, John E., [redacted].
Dean, Irving B., [redacted].
Dean, Werner H., [redacted].
Degree, Walter B., Jr., [redacted].
DeJesus, Arnaldo J., [redacted].
DeJesus, Vincente, [redacted].
DeLaurenti, Robert, [redacted].
Demara, Richard D., [redacted].
Denison, Robert C., [redacted].
Deoss, Dister Leroy, [redacted].
Derby, Julian L., [redacted].
Diazsantiago, Ramon, [redacted].
Dinsmore, Ellis D., [redacted].
Disbrow, David C., [redacted].
Doane, Colin R., [redacted].
Doherty, James J., [redacted].
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Duaime, Richard J., [redacted].
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Isern, Delacruz J., [redacted].
Iwamasa, Charles T., [redacted].
Jackson, William F., [redacted].
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Jones, Raymond C., [redacted].
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Kent, Oliver R., [redacted].
Kern, Horst H., [redacted].
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Kill, Jeremiah F., [redacted].
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King, James M., [redacted].
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Kuehn, Charles E., [redacted].
Labarge, Norman A., [redacted].
Lade, Laurence, [redacted].
Lafargue, Jeron J., [redacted].
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Lamar, Jay D., [redacted].
Lancaster, Joseph T., [redacted].
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Lassen, Laurence E., [redacted].
Latronica, James G., [redacted].
Lawlis, Weldon R., [redacted].
Lawrence, John M., Jr., [redacted].
Lazarony, David R., [redacted].
Lebronromero, Jose, [redacted].
Lecleir, Thomas J., [redacted].
Legros, Thomas J., [redacted].
Lembcke, John D., [redacted].
Lemons, Robert N., [redacted].
Lesley, Stephen J., [redacted].
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Levins, Marvin A., [redacted].
Lewis, Robert E., [redacted].
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Likes, James T., [redacted].
Lindberg, Robert J., [redacted].
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Livingston, Hor G., [redacted].
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Lombardo, Nicholas, [redacted].
Long, Agrippa K., Jr., [redacted].
Long, Richard H., [redacted].
Lopez, Carlos A., [redacted].
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Lorenz, Karl A., [redacted].
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Lowe, Jay C., Jr., [redacted].
Lowery, Austin O., Jr., [redacted].
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Madrid, Carlos, [redacted].
Magness, Robert F., [redacted].
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Marr, Charles D., [redacted].
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Masotto, Frank C., [redacted].
Matsui, Richard Y., [redacted].
Maxwell, Junius K., [redacted].
Mayes, Ralph L., [redacted].
Mayeur, Russell A., [redacted].
McBride, James C., [redacted].
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McCleaf, William C., [redacted].
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Meigs, Return J., [redacted].
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Meyer, Conan G., [redacted].
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Milbank, David L., [redacted].
Miller, Darwin W., [redacted].
Mims, Howard S., Jr., [redacted].
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Morris, Bobby D., [redacted].
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Myers, James C., [redacted].
Nadeau, Clement P., [redacted].
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Naegel, Charles L., [redacted].
Nagle, Homer P., [redacted].
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Nickell, Jimmy E., [redacted].
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Nunley, Clarence F., [redacted].
Obey, Joseph A., [redacted].
Odrain, James H., [redacted].
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Ohman, Melvin W., Jr., [redacted].
Olds, Donald W., [redacted].
Omans, Donald J., [redacted].
Onderko, Michael N., [redacted].
O'Neill, Daniel, [redacted].
Onisko, Mitchell A., [redacted].
Ortiz, Ramon L., [redacted].
Osteen, Robert W., [redacted].
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Overby, Willis H., [redacted].
Overfield, Donald R., [redacted].
Owens, Donald P., [redacted].
Padin, Jose A., [redacted].
Page, Louis V., [redacted].
Paproski, Theodore, [redacted].
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Pearson, Richard E., [redacted].
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Poole, Harvey L., [redacted].
Porter, Felix G., [redacted].
Potz, Stephen J., [redacted].
Pownall, William M., [redacted].
Prather, Willie M., [redacted].
Prestridge, Harlan, [redacted].
Proctor, Joseph M., [redacted].
Puckett, Arthur C. J., [redacted].
Putty, William B., [redacted].
Quail, Duane C., [redacted].
Quesada, Joseph R., [redacted].
Rader, Leonard L., [redacted].
Raffucci, Jose A., [redacted].
Rainsberry, Allan W., [redacted].
Rambadt, Donald C., [redacted].
Rangel, Ynes, Jr., [redacted].
Rankin, Thomas M., [redacted].
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Ray, James G., Jr., [redacted].
Reaves, Doyle W., [redacted].
Reback, Herman R., [redacted].
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Reiss, Phillip K., [redacted].
Reiter, Robert A., [redacted].
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Retford, David T., [redacted].
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Robinson, Gordon L., [redacted].
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Ross, David G., [redacted].
Rourk, W. S., Jr., [redacted].
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Sullivan, M. F., Jr., [redacted].
Suppo, John A., [redacted].
Sydnor, Herman J., Jr., [redacted].
Tavano, Gregory A., [redacted].
Taylor, Vernon K., [redacted].
Telthorst, Don H., [redacted].
Tennler, Ronald W., [redacted].
Terhune, Harry A., [redacted].
Terry, Elmon G., [redacted].
Terry, Guyton Otis, [redacted].
Thomas, Donald W., [redacted].
Thomas, Richard J., [redacted].
Thomason, Dayton, [redacted].
Thomason, Melvie J., [redacted].
Thommen, Russel F., [redacted].
Thompson, Walter J., [redacted].
Thornton, Billy G., [redacted].
Thurmond, George E., [redacted].
Tiedemann, Alvin P., [redacted].
Tilley, Bobby L., [redacted].
Tinkle, Robert W., [redacted].

Tobin, Thomas F., [redacted].
Torrans, Billy J., [redacted].
Trent, Arvin K., [redacted].
Trent, Charles P., Jr., [redacted].
Trice, Edward J., Jr., [redacted].
Trompen, Ernest P., [redacted].
True, Frederick H., [redacted].
Tucker, Garland, [redacted].
Twitchell, Allan R., [redacted].
Tyler, Fielding L., [redacted].
Ulrich, Donald H., [redacted].
Unger, Harry, Jr., [redacted].
Updegrapff, William, [redacted].
Vanalstyne, Albert, [redacted].
Vanamerigin, P. J. J., [redacted].
Vandiver, Buddy W., [redacted].
Vaughn, Robwood J., [redacted].
Vaughn, Victor C., Jr., [redacted].
Vaught, Thomas M., II, [redacted].
Vineyard, Leroy L., [redacted].
Volking, Charles G., [redacted].
Vrabel, Frederick J., [redacted].
Wade, Stanley L., [redacted].
Wagner, Charles R., [redacted].
Walker, Perry G., Jr., [redacted].
Walker, Ray N., [redacted].
Wall, James T., [redacted].
Wallace, Glen K., [redacted].
Wallace, Lambert M., [redacted].
Waller, Bobbie E., [redacted].
Wallingsford, Riley, [redacted].
Walsh, Robert F., [redacted].
Waltman, Harold J., [redacted].
Ward, Allan D., [redacted].
Washam, Loyle V., [redacted].
Watkins, Bobby F., [redacted].
Watkins, John W., [redacted].
Watkins, Nathan G., [redacted].
Watt, Joseph T., Jr., [redacted].
Watts, John E., [redacted].
Wax, Morton I., [redacted].
Weinert, William E., [redacted].
Weil, Victor O., [redacted].
Welch, Bobby R., [redacted].
Welch, Lewis P., [redacted].
Werner, Walter A., [redacted].
West, Joe T., [redacted].
Westcott, Harry F., [redacted].
Westergard, Raymond, [redacted].
Whalen, Norman A., [redacted].
White, John W., [redacted].
Whiteman, Tex R., [redacted].
Wickham, Joseph R., [redacted].
Wieand, William G., [redacted].
Williams, Ernest D., [redacted].
Williams, James T., [redacted].
Williams, Robert H., [redacted].
Williams, Ted C., [redacted].
Williams, Thomas L., [redacted].
Williamson, James M., [redacted].
Willingham, Max L., [redacted].
Wilson, Judd F., Jr., [redacted].
Wilson, Leland A., [redacted].
Wilton, Raymond E., [redacted].
Wingate, Jack W., [redacted].
Winner, Delbert H., [redacted].
Wise, James J., [redacted].
Witham, Archie A., [redacted].
Wolfe, William L., [redacted].
Wolterstorff, J., [redacted].
Wood, Carl R., [redacted].
Wood, Ronald G., [redacted].
Wood, Peter W., [redacted].
Wood, Sylvester E., [redacted].
Woodley, John C., Jr., [redacted].
Woods, Thomas R., [redacted].
Woolery, Robert H., [redacted].
Wright, William G., [redacted].
Wruck, Erich O., [redacted].
Wylie, Thomas W., [redacted].
Wysor, Chantland, [redacted].
Yamada, William Y., [redacted].
Yamamoto, Arthur T., [redacted].
Yamamoto, George K., [redacted].
Yeaton, David H., [redacted].
Young, Richard M., [redacted].
Younger, Thomas N., [redacted].
Zubach, Stephen J., [redacted].
Zarbuch, Peter E., [redacted].

CHAPLAIN

To be lieutenant colonel

Alcorn, Wallace A., [redacted].
Anderson, Joseph K., [redacted].
Bjork, Donald O., [redacted].
Brewer, Luther G., [redacted].
Bruckner, Ronald L., [redacted].
Bykowski, Norbert H., [redacted].
Camp, David G., [redacted].
Caulder, Francis R., [redacted].
Davis, Donald R., [redacted].
Delahunty, Thomas P., [redacted].
Durham, John K., [redacted].
Feryan, Philip I., [redacted].
Foster, Robert A., [redacted].
Foster, Robert D., [redacted].
French, William R., [redacted].
Fullilove, Roy J., [redacted].
Gibson, Thomas M., [redacted].
Goeres, Richard V., [redacted].
Hajtas, Francis, [redacted].
Hall, Robert B., [redacted].
Hill, Jimmy R., [redacted].
Hoffmann, Wayne W., [redacted].
Holtan, Laverne H., [redacted].
Houck, Morris F., Jr., [redacted].
Ivey, Billy F., [redacted].
Klein, John H., [redacted].
Lacey, Thomas W., [redacted].
Lathrop, John C., [redacted].
Lundeen, W. L., [redacted].
Lunetta, Donald K., [redacted].
Madden, Frank T., [redacted].
Manning, Richard J., [redacted].
Marks, Francis M., [redacted].
McClements, James R., [redacted].
McTaggart, Edward, [redacted].
Meiss, John Philipp, [redacted].
Meux, Joe C., [redacted].
Nix, Billy R., [redacted].
Olson, Philip L., [redacted].
Perkins, James R., [redacted].
Powers, Alvin C., [redacted].
Schmit, David H., [redacted].
Shaub, Robert W., [redacted].
Simmers, Marvin L., [redacted].
Simons, John W., [redacted].
Smit, Harvey A., [redacted].
Snyder, Robert S., [redacted].
Thomas, William L., [redacted].
Thompson, Harold D., [redacted].
Vruwink, Paul H., [redacted].
Webb, James L., [redacted].
Wiggins, Edgar L., [redacted].
Williams, John V., [redacted].
Wood, Clyde J., [redacted].

WOMEN'S ARMY CORPS

To be lieutenant colonel

Delgado, Alice Jose, [redacted].
Hoot, Beverly A., [redacted].
Litehiser, Donna A., [redacted].
Sylvester, Suzanne, [redacted].
Vaughn, Janet L., [redacted].

The following-named officers for appointment in the Reserve of the Army of the United States, under the provisions of Title 10, U.S.C., Sections 591, 593, and 594:

DENTAL CORPS

To be lieutenant colonel

Gildner, Manfred F., [redacted].
Slone, Clinard C., [redacted].

MEDICAL CORPS

To be lieutenant colonel

Humphries, David S., [redacted].

The following-named officers for appointment in the Army of the United States, under the provisions of Title 10, U.S.C., Section 3494:

MEDICAL CORPS

To be lieutenant colonel

Arthur, James D., [redacted].
Ching, Wilson V., [redacted].
Griffith, Donne G., [redacted].
Hazan, Sol J., [redacted].
Holmes, Thomas G., [redacted].
Mays, Anthony W., [redacted].
Mitchell, Charles H., [redacted].
Price, Robert B., [redacted].
Van Hook, David M., [redacted].

The following-named Army National Guard officers for appointment in the Reserve of the Army of the United States, under the provisions of Title 10, U.S.C., Section 3385:

Black, Averill L., [redacted].
Carpenter, C. B., Jr., [redacted].
Hertzer, George R., [redacted].
Jennings, Curtis A., [redacted].
Krevitsky, Simon C., [redacted].
Matthews, Kenesaw M. L., [redacted].
Ramsay, Dana C., [redacted].
Speigner, Marvin K., [redacted].
Wiensch, Dale J., [redacted].

ARMY PROMOTION LIST

To be colonel

MEDICAL CORPS

To be colonel

Arrington, Myron L., [redacted].
Toole, Rex F., Jr., [redacted].

MEDICAL SERVICE CORPS

To be colonel

Warner, Paul E., [redacted].

ARMY PROMOTION LIST

To be lieutenant colonel

Abbott, Phillip G., [redacted].
Banuelos, R. A., Jr., [redacted].
Brown, Kenneth A., [redacted].
Brunk, Gordon L., [redacted].
Clift, Raymond B., [redacted].
Davies, John R., [redacted].
Dougherty, E. T., Jr., [redacted].
Foltz, Edward L., [redacted].
Greenspan, Jack M., [redacted].
Hacker, Warden P., [redacted].
Henderson, Garland L., [redacted].
Henderson, Leo M., [redacted].
Heritage, A. J., Jr., [redacted].
Little, John H., [redacted].
May, Lavern, [redacted].
Moore, Henry L., [redacted].
Murphy, Richard D., [redacted].
Murphy, Richard J., [redacted].
Nelson, William A., [redacted].
Panko, Norbert J., [redacted].
Schaefer, Charles J., [redacted].
Stewart, Leonard J., Jr., [redacted].
Trickler, Raymond E., [redacted].
Turnage, Albert J., Jr., [redacted].
Virden, George L., [redacted].
Vozzella, Anthony P., [redacted].

CHAPLAIN

To be lieutenant colonel

Bryner, Norman K., [redacted].
Laseter, Charles D., [redacted].

ARMY NURSE CORPS

To be lieutenant colonel

Bartz, James V., [redacted].

DENTAL CORPS

To be lieutenant colonel

Shepherd, Hunter L., [redacted].

MEDICAL CORPS

To be lieutenant colonel

Warren, Aaron K., [redacted].

MEDICAL SERVICE CORPS

To be lieutenant colonel

Green, Robert D., [redacted].

IN THE ARMY

The following-named officers for promotion in the Army of the United States, under the provisions of Public Law 92-129:

ARMY MEDICAL SPECIALIST CORPS

To be colonel

Barr, Virginia M., [redacted].
Street, Dorothy R., [redacted].

VETERINARY CORPS

To be colonel

Jorgensen, Robert R., [redacted].

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3299:

ARMY PROMOTION LIST

To be lieutenant colonel

Underwood, John R., [redacted].
Wright, Lewis H. III, [redacted].

ARMY PROMOTION LIST

To be captain

Brown, Lynn F., [redacted].

DENTAL CORPS

To be captain

Dennis, David A., [redacted].
Drobotij, Elias, [redacted].
Helms, William F., Jr., [redacted].
Meade, Francis J., [redacted].
Nelson, Donald F., [redacted].
Pulskamp, Frank E., [redacted].
Sherman, Frank B., Jr., [redacted].

The following-named officers for promotion in the Regular Army of the United States, under the provisions of Title 10, United States Code, sections 3284 and 3298:

ARMY PROMOTION LIST

To Be First Lieutenant

Abizaid, John P., [redacted].
Abner, Charles, Jr., [redacted].
Acree, Nathan E., [redacted].
Adams, Gary L., [redacted].
Adams, Benjamin M., [redacted].
Adams, James M., [redacted].
Adams, Jesse B., [redacted].
Adams, Joseph I., [redacted].
Adams, Richard A., [redacted].
Adamson, Larry C., [redacted].
Addison, Gary R., [redacted].
Akers, Ronald J., [redacted].
Akscyn, Robert M., [redacted].
Albertson, Edward G., [redacted].
Albright, James L., [redacted].
Alden, Michael A., [redacted].
Aldrich, Robert C., [redacted].
Allam, Robert P., [redacted].
Allen, Harry P., [redacted].
Allen, Henry H., [redacted].
Allen, James R., [redacted].
Allen, Kenneth E., [redacted].
Allen, Ronald L., [redacted].
Alm, Leslie R., [redacted].
Almero, Daniel A., [redacted].
Alonso, Ricardo L., [redacted].
Alston, Sammie A., [redacted].
Altieri, Michael S., [redacted].
Alvarez, Francisco, [redacted].
Alverson, Larry L., [redacted].
Amadeo, Dan, [redacted].
Andersen, Bruce T., [redacted].
Anderson, Clarence, [redacted].
Anderson, George L., [redacted].
Anderson, John A., [redacted].
Anderson, Michael T., [redacted].
Anderson, Monty J., [redacted].
Anderson, Robert E., [redacted].
Andrae, Richard M., [redacted].
Andre, Richard A., [redacted].
Andrew, Flynn L., [redacted].
Andrews, Paul P., [redacted].
Ankley, Steven P., [redacted].
Anothony, William M., [redacted].
Applewhite, Michael, [redacted].
Arbona, Pedro L., [redacted].
Arceri, Gregory J., [redacted].
Archer, James E., [redacted].
Archer, Michael F., [redacted].
Archual, Michael J., [redacted].
Ardoin, Terran J., [redacted].
Arison, Harold L., [redacted].
Arlund, Keith O., [redacted].
Armstrong, William, [redacted].
Arnold, Jeffery L., [redacted].
Arras, Richard K., [redacted].
Atha, Richard L., [redacted].
Atkins, Charles D., [redacted].
Atkins, Robert M., [redacted].
Aylward, Robert W., [redacted].
Babbitt, Richard R., [redacted].
Bacak, Stanley C., [redacted].
Bachmann, Timothy C., [redacted].
Bacon, Alan J., [redacted].
Bagby, Daniel, [redacted].
Bailey, Brett W., [redacted].
Bailey, Claude R., [redacted].
Bailey, Daniel D., [redacted].
Bailey, William W., [redacted].
Baker, Charles B., [redacted].
Baker, Daniel B., [redacted].
Baker, Daniel J., [redacted].
Baker, Kerry A., [redacted].
Baker, Leon B., [redacted].
Bakken, Keith W., [redacted].
Baldwin, Peter M., [redacted].
Baldy, Paul A., [redacted].
Banker, Gary W., [redacted].
Barb, John M., [redacted].
Barbee, Luther D., [redacted].
Barber, David D., [redacted].
Barber, Jimmie B., [redacted].
Bardowski, Stephen Z., [redacted].
Barker, Bradford J., [redacted].
Barker, William E., [redacted].
Barnes, Ricky C., [redacted].
Barney, Paul L., [redacted].
Barone, Lyle, [redacted].
Barrett, Mark T., [redacted].
Barrett, Raymond D., [redacted].
Barry, Scott A., [redacted].
Barry, Thomas F., [redacted].
Barry, Thomas H., [redacted].
Barth, John D., [redacted].
Barth, Paul R., [redacted].
Bartok, Louis J., [redacted].
Bash, Norman F., [redacted].
Basquill, Stephen A., [redacted].
Basten, Michael F., [redacted].
Bastone, John J., [redacted].
Batchelor, Ronald E., [redacted].
Battles, Emmett L., [redacted].
Battles, Gary D., [redacted].
Batts, Joe R., [redacted].
Bauer, Richard P., [redacted].
Bauer, Thomas A., [redacted].
Baugh, James A., [redacted].
Bavaro, Lee T., [redacted].
Baylor, Robert K., [redacted].
Beach, Harold A., [redacted].
Beal, Douglas R., [redacted].
Beamer, Robert L., [redacted].
Beasley, Brad M., [redacted].
Beaton, James B., [redacted].
Beatty, Timothy J., [redacted].
Beck, Martin R., [redacted].
Beck, Rex G., [redacted].
Becker, Charles M., [redacted].
Becker, Dale E., [redacted].
Beckett, Jack D., [redacted].
Beckett, Lewis W., [redacted].
Beckman, Thomas D., [redacted].
Becton, Joel D., [redacted].
Bedford, James Z., [redacted].
Bedinger, George M., [redacted].
Beeson, Christopher, [redacted].
Belford, Matthew J., [redacted].
Belknap, James E., [redacted].
Bell, Kenneth U., [redacted].
Bell, Richard, Jr., [redacted].
Bell, Robert D., [redacted].
Belnap, Douglas P., [redacted].
Bemis, John H., [redacted].
Bender, Douglas C., [redacted].
Bendler, Walter K., [redacted].
Bennett, Douglas M., [redacted].
Bennett, Michael C., [redacted].
Benoit, Jonathan W., [redacted].
Benoit, Paul F., [redacted].
Benson, Nolon J., [redacted].
Bentle, Mark E., [redacted].
Beresky, Charles E., [redacted].
Bergeret, Gregory F., [redacted].
Bergeron, Robert D., [redacted].
Bergeron, Scott M., [redacted].
Berk, Joseph H., [redacted].
Berlin, Charles H., [redacted].
Berry, Thomas H., [redacted].
Berryman, Steve N., [redacted].
Bertholf, Jan C., [redacted].
Bertsch, Charles J., [redacted].
Bessler, James E., [redacted].
Betty, Gerald R., [redacted].
Beutler, Melvin E., [redacted].
Bice, William S., [redacted].
Bickford, Charles D., [redacted].
Bielefeld, William, [redacted].
Bierman, Gary R., [redacted].
Biggar, William M., [redacted].
Biggs, John D., [redacted].
Bikus, David L., [redacted].
Bill, Frank L., [redacted].
Birmingham, Daniel, [redacted].
Bisek, Eugene, [redacted].
Bivens, Courtland C., [redacted].
Blackburn, Thomas, [redacted].
Blackburn, Wilson, [redacted].
Blackerby, David C., [redacted].
Blackwood, Robert E., [redacted].
Blain, Thomas D., [redacted].
Blanco, Joseph M., [redacted].
Blane, Donald J., [redacted].
Blankenbeckler, P., [redacted].
Blaschke, Joseph D., [redacted].
Blatti, Michael A., [redacted].
Blevins, Bruce W., [redacted].
Blevins, Homer L., [redacted].
Blomstrom, John J., [redacted].
Bock, Douglas B., [redacted].
Boehm, Michael W., [redacted].
Boehnlein, Bruce F., [redacted].
Boettcher, Dwayne R., [redacted].
Boevers, Bruce E., [redacted].
Bogosian, Stephen P., [redacted].
Bohlender, Hugh D., [redacted].
Boles, Larry D., [redacted].
Bollinger, Michael, [redacted].
Bond, David L., [redacted].
Bond, Kevin W., [redacted].
Bonner, Garland C., [redacted].
Borgelt, Leland B., [redacted].
Borman, Terry R., [redacted].
Borokhovich, Kennet, [redacted].
Bossieux, Terry A., [redacted].
Boswell, James D., [redacted].
Botello, Benjamin, [redacted].
Bothe, Steven E., [redacted].
Boughman, James P., [redacted].
Boulter, Douglas R., [redacted].
Bowen, Gary W., [redacted].
Bowen, Phillip E., [redacted].
Bower, Jeffrey L., [redacted].
Bowers, Gregory L., [redacted].
Bowles, Larry A., [redacted].
Box, James H., [redacted].
Box, Robert L., [redacted].
Boyatt, Michael D., [redacted].
Boyd, Gregory J., [redacted].
Boyd, Robert D., [redacted].
Boyee, William F., [redacted].
Braaf, Robert G., [redacted].
Brady, William K., [redacted].
Bragg, William G., [redacted].
Brandenburg, W., [redacted].
Brandt, Duane E., [redacted].
Brandt, Kevin L., [redacted].
Brandt, Michael J., [redacted].
Brangenberg, Gerard, [redacted].
Branham, James M., [redacted].
Brannen, Mark A., [redacted].
Brannon, Warren G., [redacted].
Bratton, Joseph K., [redacted].
Braun, Daniel G., [redacted].
Bray, John J., Jr., [redacted].
Breeden, William L., [redacted].
Brehm, Ronald R., [redacted].
Brendza, Robert P., [redacted].
Breneman, Steven H., [redacted].
Bressler, Stephen A., [redacted].
Brewer, Paul G., [redacted].
Brice, Charlton L., [redacted].
Bridges, Russell P., [redacted].
Briggs, David E., [redacted].
Briggs, Roy R., [redacted].
Brigham, Mark D., [redacted].
Brinkley, Melvin W., [redacted].
Brisson, Douglas D., [redacted].
Britton, Dallas F., [redacted].
Brocketti, John J., [redacted].
Bronstein, Lawrence, [redacted].
Brontoli, Richard F., [redacted].
Brooks, Frederick M., [redacted].
Brooks, Godfrey W., [redacted].

Brooks, Raymond M., [redacted].
Browell, Douglas K., [redacted].
Brown, Arthur J., [redacted].
Brown, Arvin H., [redacted].
Brown, Cedric C., [redacted].
Brown, Charles R., [redacted].
Brown, Donald E., [redacted].
Brown, Isaac, [redacted].
Brown, Kerry M., [redacted].
Brown, Michael L., [redacted].
Brown, Robert A., [redacted].
Brown, Robert G., [redacted].
Brown, Thomas H., [redacted].
Brown, William R., [redacted].
Brownell, Alan C., [redacted].
Browning, Joseph W., [redacted].
Brownlee, Daniel P., [redacted].
Bruley, Roger L., [redacted].
Brunjes, David H., [redacted].
Bruns, Gary D., [redacted].
Brunson, Kendrick W., [redacted].
Bryan, James L., [redacted].
Bryant, Byron D., [redacted].
Bryant, James J., [redacted].
Bubb, David L., [redacted].
Buccellato, Edward, [redacted].
Buchner, Bruce D., [redacted].
Buehler, David J., [redacted].
Bugert, William B., [redacted].
Buker, Robert H., [redacted].
Buller, Charles O., [redacted].
Burd, James M., [redacted].
Burford, David P., [redacted].
Burghart, Daniel L., [redacted].
Burgoyne, Lawrence, [redacted].
Burke, James R., [redacted].
Burke, James W., [redacted].
Burke, John N., [redacted].
Burke, Michael A., [redacted].
Burke, Thomas J., [redacted].
Burmeister, Horace, [redacted].
Burnett, David M., [redacted].
Burt, Michael C., [redacted].
Burt, Walter J., [redacted].
Burton, Michael A., [redacted].
Burton, Thomas L., [redacted].
Buser, Samuel J., [redacted].
Bussert, John R., [redacted].
Bustamante, Elias C., [redacted].
Butkus, Raymond T., [redacted].
Butler, Stephen E., [redacted].
Butler, Thomas M., [redacted].
Buttram, Kevin, [redacted].
Butts, Kent H., [redacted].
Byers, Mark E., [redacted].
Byland, Thomas G., [redacted].
Byrd, Duane E., [redacted].
Byrd, Larry G., [redacted].
Cabell, Ben R., [redacted].
Cabell, Robert B., [redacted].
Cadow, Robert E., [redacted].
Callahan, Michael, [redacted].
Callen, Eldon A., [redacted].
Calvert, David R., [redacted].
Cameron, James C., [redacted].
Camp, Kenneth A., [redacted].
Campbell, Harry F., [redacted].
Campbell, Kevin T., [redacted].
Campbell, Roscoe W., [redacted].
Campbell, Vincent W., [redacted].
Canavera, Clifford, [redacted].
Canciglia, Henry R., [redacted].
Candee, Lester G., [redacted].
Cannon, James W., [redacted].
Cantlon, Scott E., [redacted].
Cantrell, Merton T., [redacted].
Cantwell, Harry J., [redacted].
Caras, Mark E., [redacted].
Carlson, John D., [redacted].
Carlson, Joseph R., [redacted].
Carlson, Lee C., [redacted].
Carlson, Steven G., [redacted].
Carmody, Francis X., [redacted].
Carpenter, Gregory, [redacted].
Carr, James R., [redacted].
Carr, Regis J., [redacted].
Carraway, Thomas P., [redacted].
Carrick, Christophe, [redacted].
Carriere, Glenn D., [redacted].
Carroll, John L., [redacted].
Carroll, Raoul L., [redacted].
Carstens, Joseph E., [redacted].
Carter, Dennis W., [redacted].
Carter, Ray P., [redacted].
Carter, Richard M., [redacted].
Carter, Ronald A., [redacted].
Cartner, Kent A., [redacted].
Cartwright, Jeffrey, [redacted].
Carver, Douglas L., [redacted].
Carville, Charles L., [redacted].
Cary, John N., [redacted].
Casey, Timothy J., [redacted].
Caspers, Robert W., [redacted].
Cass, Steven L., [redacted].
Cassidy, Richard B., [redacted].
Casto, John E., [redacted].
Cates, John W., [redacted].
Cathcart, Creston M., [redacted].
Cavin, William R., [redacted].
Cekovich, Nicholas, [redacted].
Cerny, John A., [redacted].
Cerone, Joseph D., [redacted].
Cersosimo, James M., [redacted].
Ceurvels, Michael J., [redacted].
Chadick, William G., [redacted].
Chadwick, James W., [redacted].
Chalkley, James R., [redacted].
Challis, Daniel S., [redacted].
Chambers, Charles A., [redacted].
Chamness, Christopher L., [redacted].
Chancellor, William, [redacted].
Chandler, Bruce D., [redacted].
Chandler, Garth K., [redacted].
Chappelle, Kenneth, [redacted].
Checehia, Mark, [redacted].
Chewar, Mike J., [redacted].
Chiarelli, Peter W., [redacted].
Chiffelle, Robert L., [redacted].
Childs, Thomas M., [redacted].
Chin, Bobby, [redacted].
Chin, Tommy H., [redacted].
Ching, Richard M., [redacted].
Chobany, George C., [redacted].
Christen, Joe L., [redacted].
Christopher, Clyde, [redacted].
Chuda, Robert A., [redacted].
Church, Steven D., [redacted].
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Coffee, Carl, [redacted].
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Evans, Richard L., [redacted].
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Faroe, Jed J., [redacted].
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Fields, Tommie L., [redacted].
Figiel, Kerry D., [redacted].
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Fortner, Rex D., [redacted].
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January, Jerry J., [redacted].
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Yang, Philip S., [redacted].
Yeakey, George W., [redacted].
Yee, Victor, [redacted].
Yerger, John E., [redacted].
Young, Alan G., [redacted].
Young, Andy L., [redacted].
Young, James E., [redacted].
Young, Jimmy L., [redacted].
Young, Julius M., [redacted].
Young, Michael S., [redacted].
Young, Richard S., [redacted].
Yunker, Stephen F., [redacted].
Zachariasen, Craig, [redacted].
Zapka, Frederick A., [redacted].
Zavosky, Michael A., [redacted].
Zebrowitz, Thomas, [redacted].
Zedonek, Phillip L., [redacted].
Zegley, Raymond D., [redacted].
Zeisel, Keith S., [redacted].
Zieske, Thomas L., [redacted].
Zodun, Donald M., [redacted].
Zukaukas, Bruce E., [redacted].

DENTAL CORPS

To be first lieutenant

Townsend, Larry W., [redacted].

WOMEN'S ARMY CORPS

To be first lieutenant

Clark, Elizabeth G., [redacted].

MEDICAL SERVICE CORPS

To be first lieutenant

Aspinall, Laurin J., [redacted].
Baldwin, Brian C., [redacted].
Barnhill, Danny R., [redacted].
Beatty, Paul S., [redacted].
Boucher, Donald W., [redacted].
Bozo, William A., [redacted].
Briseno, Alexander, [redacted].
Broadwater, William, [redacted].
Broyles, Thomas E., [redacted].
Brueland, Ray G., [redacted].
Bruns, John G., [redacted].
Butt, William J., [redacted].
Carey, William C., [redacted].
Collins, John P., [redacted].
Conn, William P., [redacted].
Delamater, Benjamin, [redacted].
Driggers, Donald P., [redacted].
Egnew, Thomas R., [redacted].
Evans, Paul, [redacted].
Evenden, James J., [redacted].
Fay, Cornelius R., [redacted].
Foulks, Charles J., [redacted].
Fournier, Donald L., [redacted].
Freeman, Billie D., [redacted].
Gatrell, Cloyd B., [redacted].
Gerber, Frederick E., [redacted].
Gilbert, Gary R., [redacted].
Greer, Olen L., [redacted].
Hale, Michael L., [redacted].
Hammer, Gary W., [redacted].
Hollis, Harris W., [redacted].
Horner, Robert A., [redacted].
Howard, Richard S., [redacted].
Jones, Robert D., [redacted].
Joshua, Alfred T., [redacted].
Kim, Myung H., [redacted].
Kimball, David B., [redacted].
Kinkead, Albert E., [redacted].
Kranitzky, Charles, [redacted].
Lee, David W., [redacted].
Lefave, Richard T., [redacted].
Leggett, Melvin E., [redacted].
Leggiero, Charles M., [redacted].
Leinan, John H., [redacted].
Longobardi, Paul G., [redacted].
Loria, Bruce R., [redacted].
Maguire, Daniel M., [redacted].

Manusco, Joseph J., [redacted].
Marks, Jerry L., [redacted].
McCarth, Joseph P., [redacted].
McNab, James F., Jr., [redacted].
Moore, Jack, Jr., [redacted].
Morrison, Rodger L., [redacted].
Moscovic, David P., [redacted].
O'Brian, Michael J., [redacted].
O'Keiff, James R., [redacted].
Phillips, Gary S., [redacted].
Placek, Gary R., [redacted].
Plunkett, Larry S., [redacted].
Pool, Winston L., [redacted].
Prather, Carl B., [redacted].
Raiha, Glenn N., [redacted].
Redd, Paul C., [redacted].
Richardson, Michael, [redacted].
Ridenour, Robert V., [redacted].
Riley, Michael F., [redacted].
Robertson, Malcolm, [redacted].
Rogers, Casey, [redacted].
Santos, Alfred G., [redacted].
Sheppard, Anthony J., [redacted].
Shores, Thomas E., [redacted].
Sikora, Robert G., [redacted].
Skahan, Joseph B., [redacted].
Smith, John W., [redacted].
Sosler, Louis J., [redacted].
Stith, William H., [redacted].
Taplin, Glenn W., [redacted].
Wegner, William E., [redacted].
Weimer, Kirby V., [redacted].
Wells, James R., [redacted].
Whitehead, Myron E., [redacted].
Woodley, Leon, [redacted].
Woofter, John R., [redacted].
Wotell, Matt J., [redacted].

ARMY MEDICAL SPECIALIST CORPS

To be first lieutenant

Daigle, Wade W., [redacted].

ARMY NURSE CORPS

To be first lieutenant

Boggess, George H., [redacted].
Ewing, Donna M., [redacted].
Faust, Elizabeth W., [redacted].
Frank, Robert L., [redacted].
Jelks, David A., [redacted].
Kobliska, Dorothy A., [redacted].
Warther, Carol J., [redacted].

HOUSE OF REPRESENTATIVES—*Tuesday, December 9, 1975*

The House met at 10 o'clock a.m.

Rev. Robert Owen Johnson, Gibbons United Methodist Church, Brandywine, Md., offered the following prayer:

Almighty God of History, who in former days out of wilderness and tyranny brought forth a new Nation and provided persons of honor, enlightenment, and vision to lead and serve the people; come now to this same Nation, and help us to sincerely turn to Thee to be renewed, and fortified with a sense of magnitude and awareness of Thy grace. Flow in us. Cling to us. Surround us and accept our prayers as we humbly beseech Thee.

Restore to our chosen Representatives courage, and strength to speak truth, practice mercy, and guard our freedoms following the way of our Lord Jesus Christ, Your beloved Son, the Prince of Peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendment, in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 8674. An act to declare a national policy of coordinating the increasing use of the metric system in the United States, and to establish a U.S. Metric Board to coordinate the voluntary conversion to the metric system.

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 240. An act to amend the act entitled "An act granting a charter to the General Federation of Women's Clubs".

The message also announced that the Senate agrees to the amendments of the House with amendments to a bill of the Senate of the following title:

S. 2327. An act to suspend sections 4, 6, and 7 of the "Real Estate Settlement Procedures Act of 1974."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 67. An act to establish the Nantucket Sound Islands Trust in the Commonwealth of Massachusetts, to declare certain national policies essential to the preservation and conservation of the lands and waters in the trust area, and for other purposes;

S. 2554. An act to amend Public Law 93-107 with regard to the broadcasting of certain professional sports clubs' games; and

S. 2672. An act to extend the State Taxation of Depositories Act.

REV. ROBERT O. JOHNSON

(Mrs. HOLT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. HOLT. Mr. Speaker, we are very proud to have with us today my dear friend and a wonderful person, the Reverend Robert O. Johnson, pastor of Gibbons United Methodist Church and Asbury Methodist Church in Brandywine, Md.

For the past 13 years, Reverend Johnson has served congregations in both Maryland and Virginia with outstanding devotion and concern. He has also produced a praiseworthy record of community service.

Reverend Johnson is chairman of the Board of Social Services and a member of the Mental Health Advisory Committee of Prince Georges County, Md. He also was one of the founders and organizers of the South County Day Care Center.

Mr. Johnson is a native of Prince Georges County. He was trained as a minister of the gospel in the Methodist schools of religion at Morristown, Tenn., and Harpers Ferry, W. Va.

He is a 32d degree Mason and is a member of the Baltimore Historical Society, and he and his wife Beatrice have two sons and a daughter.

It is noteworthy, I believe, that one of their sons, Robert O. Johnson, Jr., is serving as a Peace Corps teacher of handicapped children and adults in Caracas, Venezuela.

Mr. Speaker, I am honored at the opportunity of having Reverend Johnson pray with us today.

PERMISSION FOR MANAGERS TO FILE CONFERENCE REPORT ON H.R. 9861

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on H.R. 9861, a bill making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR MANAGERS TO FILE CONFERENCE REPORT ON H.R. 8773

Mr. YATES. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 8773) making appropriations for the Department of the Interior and related agencies for fiscal year 1976 and the transition period, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. MEEDS. Mr. Speaker, I ask unanimous consent that the full Committee on Interior and Insular Affairs be allowed to sit tomorrow, December 10, 1975, during consideration under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON INDIAN AFFAIRS OF COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO SIT TODAY DURING 5-MINUTE RULE

Mr. MEEDS. Mr. Speaker, I ask unanimous consent that the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs be allowed to sit today during consideration under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

CALL OF THE HOUSE

Mr. BAUMAN. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 751]

Andrews, N.C.
Ashley
AuCoin
Bolling
Bowen
Breaux
Brown, Calif.
Burke, Fla.
Burton, John
Byron
Clay
Conyers
Crane
Danielson
Davis
Dellums
Diggs
Eshleman
Fithian
Flowers
Ford, Mich.
Fraser
Gaydos
Hagedorn
Harsha
Hébert
Helstoski
Henderson
Hillis
Hinshaw
Holland
Ichord
Jarman
Johnson, Colo.
Landrum
McClory
McDade
McEwen
McKinney
Macdonald
Matsunaga
Mazzoli
Moorhead, Calif.
Murphy, Ill.
Murphy, N.Y.
Nichols
Pike
Rees
Riegle
Risenhoover
Rodino
Roe
Rosenthal
Scheuer
Stark
Steed
Sullivan
Taylor, N.C.
Teague
Treen
Udall
Vander Jagt
Wiggins
Wolff
Young, Ga.

The SPEAKER. On this rollcall 369 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

INCREASED U.S. PARTICIPATION IN THE INTER-AMERICAN DEVELOPMENT BANK

Mr. GONZALEZ. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 9721) to provide for increased participation by the United States in the Inter-American Development Bank, to provide for the entry of nonregional members and the Bahamas and Guyana in the Inter-American Development Bank, to provide for the participation of the United States in the African Development Fund, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 9721, with Mr. BRADEMAS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the committee rose on yesterday, the gentleman from Texas (Mr. GONZALES) had 5 minutes remaining and the gentleman from Pennsylvania (Mr. JOHNSON) had 30 minutes remaining.

The Chair recognizes the gentleman from Pennsylvania (Mr. JOHNSON).

Mrs. BOGGS. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Pennsylvania. I yield to the gentlewoman from Louisiana.

Mrs. BOGGS. Mr. Chairman, I rise in support of H.R. 9721.

Representing the second largest port in the Nation which is advantageously located on the Mississippi River near the Gulf of Mexico as the Gateway to the Americas, I feel that trade, the exchange of cultures, technology, and goods is important to U.S. relationships with all nations and is vital to the security and the economic well-being of the Western Hemisphere.

Development, of course, is necessary to this exchange and the Inter-American Bank is a proven instrument for significantly contributing to the necessary development.

In my opinion, the Inter-American Development Bank is a well run institution which deserves the continued support of the United States

Among all of the international development lending institutions the Inter-American Development Bank has perhaps been the most innovative. I think that a few examples of their innovative activities will illustrate some of the reasons for my support of H.R. 9721:

The IDB has been the leader in lending for integrated rural development where organizational and logistical problems are especially difficult, such as in rural health services, education, small farmer credits, and feeder roads. Rural water supply is also a good example of a sector in which the IDB has played a pioneering role by providing potable water to the Latin American rural population through loans in nearly all of its member countries. Over the past 5 years, IDB-financed projects provided potable water for the first time to an estimated additional 10 million people. Even with this effort, only 25 percent of Latin America's rural population has access to this service. Thus, much remains to be done.

IDB has taken the lead in lending through cooperatives. Availability of loans for use by cooperatives has increased to 80 percent of the Bank's agricultural credit loans and all of the loans for rural community development and rural electrification.

The IDB is in the forefront in encouraging Latin American economic integration projects. With a view to increasing economic efficiency, the IDB has taken a leading role in promoting individual projects that benefit more than one member country. Examples include IDB loans for the Acaray hydroelectric project in Paraguay, which delivers part of its output to Argentina and Brazil; an integrated road project that serves several countries in Central America; and the Trans-Andean Highway between Argentina and Chile.

Innovative projects almost always involve more administrative and technical risks than lending for conventional purposes such as electric power, major irrigation, and telecommunications. But IDB lending in untried but important fields has paid off particularly in terms of benefiting Latin America's rural poor, many of whom have obtained the basic amenities of life for the first time through the work of the IDB.

Mr. Chairman, I also support the provisions of H.R. 9721 which allow the U.S. Governor to vote on increasing the number of nonregional donor countries, and provide for U.S. participation to the African Development Fund. I think that the bill before us is an excellent one, and I urge my colleagues to join me in voting its passage.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, as was pointed out yesterday, this bill is in two parts, one which provides for replenishment of our contribution to the Inter-American Development Bank, and the other is a wholly new contribution which we are planning to make to the African Development Fund in the amount of $25 million.

During the short period of time allotted me, I will briefly discuss both aspects of the bill.

For a long time this Nation has recognized the fact that our South American neighbors and Latin American neighbors are of vital interest to the United States of America. Recognizing this vital interest, in 1959—I believe it was under the Eisenhower administration—we joined with 21 other Latin American and South American nations in organizing the Inter-American Development Bank. Since that time this bank has done tremendously great things for South America and Latin America. One just has to travel in the countries and he can see how the activities of the bank and the loans that it made, and the projects that have been constructed, have materially and greatly raised the standard of living of the people of that area, much to the credit of not only the United States but of the member nations that belong to this Inter-American Development Bank.

We have built roads; we have built huge water systems providing water to large groups of people who previously had no water. We have furnished the funds for the building of power stations. We have built elementary schools. We have helped build agricultural universities. We have put money into agricultural products. As I say, we have greatly raised the standard of living of the people of that area, much to the credit of the United States and these nations which are contributors.

We clearly have interests in trade, investment, and access to raw materials. The United States enjoys an aggregate trade surplus with Latin America. This surplus amounted to about $1 billion in 1974. The $15 billion in U.S. exports to the region accounted for about 15 percent of total U.S. exports for that year. Almost $14 billion, 14 percent of all U.S. imports, come from Latin America.

Through its direct investments, the United States has an important economic stake in Latin America. Nearly 14 percent of total U.S. direct investment abroad, or about $15 billion, is in Latin America. This represents about 60 percent of the total U.S. direct investments in the developing countries of the world.

Mr. Chairman, to show the importance of our southern neighbors to us, we get 34 percent of our iron ore from down there; 48 percent of our copper; 24 percent of our oil; 47 percent of our bauxite; and, in addition to minerals, we obtain about 47 percent of our sugar imports from there; 82 percent of our bananas, 60 percent of our cocoa beans, and 40 percent of our coffee. This is from Latin America.

I am not going to go into the details of this replenishment. It is carefully set out in the report. I for one hope we will go along with this bill and show to these people south of the border that we are for them and we love them and we want to do right by them and we want them to do right by the United States. In short, we want to be good neighbors.

With respect to the African Development Fund, as I said, the regional nations felt we should do something in establishing the Inter-American Development Bank and now some 10 countries in Europe are being asked to join the Inter-American Development Bank. By the same reasoning there has been established the African Bank for Development. This was established in 1964 on a strictly regional basis. However, it was very evident that this bank could not get along without some assistance from other nations, so there was established the African Development Fund wherein nations have joined together in a fund on a nonregional basis including now Belgium, Canada, Brazil, Denmark, Germany, Finland, Italy, Japan, the Netherlands, Norway, Spain, Sweden, Switzerland, the United Kingdom, and Yugoslavia.

We are asked to join this very respectable group of nonregional nations who feel we should do something to help the African people just as we have in the Inter-American Bank in South America. I hope this House will go along not only on the appropriation for IDB but also for the African Bank Development Fund as well.

Mr. RHODES. Mr. Chairman, the bill we are considering today, H.R. 9721; authorizes capital replenishment of the Inter-American Development Bank—IDB.

In this smaller world of complex, interlocking trade and expanding cultural and social exchange, the United States has a great interest in the continued development of the so-called emerging nations, those who have not reached the standard of living they seek for their people.

We have always participated in programs to help our Latin American neighbors, who in turn supply us with many vital resources for our economy. The IDB is a fiscal clearinghouse for loans to these underdeveloped countries. I believe it is very definitely in our own self-interest to take part in the IDB.

This particular bill provides for a $2.25 billion contribution to the replenishment of IDB funds. The actual budgetary outlay would be $720 million, with the rest in callable capital that is unlikely to be expended.

Secretary of the Treasury William Simon has been a U.S. Governor of the Inter-American Development Bank. He worked hard to make the bank do the job we, and its other participants, want it to do, to promote efficiency and productivity, the keys to sound economic growth.

H.R. 9721 represents a reduction in the U.S. share from 48 to 30 percent, because new members will be contributing to the $6.3 billion replenishment and five Latin American countries will increase their contributions. This is the direction we all want to see this international loan agency go, toward broader participation by more countries and a lessened dependency on the United States.

The bill also provides for U.S. membership in the African Development Fund which makes loans to the poorer nations in Africa.

Mr. Chairman, this bill serves the long-term interests of the United States. It will help assure a steady supply of raw materials, and expanding markets for our goods and technology. It will help unify the Western Hemisphere nations in a spirit of cooperation. The IDB will help underdeveloped nations transform their natural wealth into better living conditions and more amenities for their people. I urge my colleagues to support this important part of our foreign policy as a good investment for our own economic future.

THE SECRETARY OF THE TREASURY,
Washington, December 5, 1975.

Hon. JOHN J. RHODES,
Minority Leader, House of Representatives,
Washington, D.C.

DEAR JOHN: It is my understanding H.R. 9721, which authorizes a capital replenishment of the Inter-American Development Bank (IDB), is now scheduled for consideration by the full House early next week.

As U.S. Governor of the Inter-American Development Bank, I took part in the negotiations on this replenishment and worked to assure that our contribution is consistent with our overall Administration objective of holding down expenditures. I believe it is imperative for the U.S. to continue our support of the Bank as a means of maintaining our interests in Latin America, a region vitally important to U.S. trade, security and investment. Additionally, the IDB is the principal financial institution of the Inter-American system and the leading source of loans for economic and social development in Latin America. It is a banking institution which operates on sound business principles designed to promote efficiency and productivity as the key to economic growth.

Despite the compelling arguments for our continued participation in the IDB, some difficulty is anticipated in securing passage and our initial contacts would seem to bear out this concern. As you know, this legislation is strongly backed by the Administration and I wanted to take this means of assuring you of my personal support and willingness to do all possible in securing passage of H.R. 9721. Previously, we have conducted a series of briefings for Members on the legislation and I shall continue to make additional contacts by letter and telephone.

It is recognized, however, that your leadership and influence among other Members will be indispensable in obtaining the majority vote needed, and I am hopeful we can count on your support in this effort. I shall be most grateful for whatever assistance you can offer in the days ahead.

In my judgment, the important point to be stressed is that the U.S. share will be reduced from 48 percent to 30 percent because new members will be making contributions and five of the wealthier Latin countries will increase their contributions substantially. However, U.S. participation in this replenishment is vital; the multi-nation arrangement cannot come into effect without us. While the total U.S. portion of the replenishment would amount to $2.25 billion, actual budgetary outlay would be only $720 million; the rest would be in the form of callable capital, a contingent liability that would entail budgetary outlays only in extremely unlikely circumstances. In further support of multilateral development assistance, H.R. 9721 also authorizes U.S. membership in the African Development Fund, which makes loans to the poorest African countries.

Please let me again assure you of my willingness to participate in this effort and if you have additional suggestions beyond those outlined, I would very much appreciate hearing from you.

Sincerely yours,

WILLIAM E. SIMON.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. WHALEN).

Mr. WHALEN. Mr. Chairman, I rise in support of H.R. 9721, a bill authorizing replenishment of the U.S. contribution to the Inter-American Development Bank and permitting the first U.S. participation in the African Development Fund.

Lately it has become fashionable to view with great skepticism any proposal involving the contribution of U.S. dollars to overseas development. Critics ask: "Are such expenditures wise? Does the money reach those who need it? What benefits accrue to the United States?"

The funding authorized for the IDB and the AFDF by H.R. 9721 is money well invested. Both organizations have a solid financial record and enjoy the support of a variety of member nations. Indeed, these two funds stand as prime examples of the benefits of the multilateral approach to financing development.

The Inter-American Development Bank is a multinational regional financing institution established in 1959 for the purpose of making loans and extending technical assistance in support of economic and social progress in the developing countries of Latin America and the Caribbean. The IDB makes loans for development projects in a variety of important economic sectors ranging from basic infrastructure to health and education. Since its inception, the IDB has loaned a total of $7.4 billion for 822 Latin American projects, representing 40 percent of the outside assistance to this area.

The Bank has been directing its attention to the basic needs of the developing nations of the hemisphere. Agriculture accounts for 22.5 percent of its total lending. The power sector receives 21.5 percent of the loans, while transportation and communication comprise 17.7 percent. Additional lending is balanced among industry and mining, education, sanitation and urban development.

Each year, the IDB makes advances in lending, technical cooperation, and economic integration. Growing international confidence in the IDB is reflected in the fact that 2 regional nations and 12 nonregional nations presently are seeking membership in the Bank.

It is clear that Latin America will continue to increase in importance in our international relations. In 1974, U.S. exports to Latin American nations accounted for about 15 percent of total U.S. exports in that year, while almost $14 billion or 14 percent of all U.S. imports came from those nations. There can be no doubt that the increased economic and social development of our hemispheric partners is in the best interests of the United States. The replenishment of our contribution to the Inter-American Development Bank will contribute to the attainment of that goal.

I am most pleased that in addition to renewing the U.S. contribution to the IDB, H.R. 9721 authorizes U.S. participation in the African Development Fund. This section of the bill is similar to H.R. 8197, which I cosponsored with LEE HAMILTON and EDWARD BIESTER, a measure calling for a U.S. contribution of $25 million to the Fund.

The African Development Fund was established in 1973 to complement the activities of the African Development Bank in assisting the growth and advancement of the independent African nations. Presently, 15 nonregional donor countries participate in the Fund.

Through this legislation, the United States will join with other developed countries in providing multilateral aid to fiscally sound development projects in some of the poorest countries of Africa. The U.S. contribution of $25 million compares with the $24.8 million provided by Canada and the $16.5 million Japan and West Germany each contribute.

Although we often talk about our hopes of seeing improved economic conditions in Africa, we do not always match those sentiments with appropriate action. Our contribution to the AFDC will indicate to the independent African nations that we are committed to helping them to help themselves.

I urge my colleagues to vote in favor of this legislation to assist the development of Latin America and Africa.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, I rise in support of this authorization bill for the replenishment of the Inter-American Development Bank and for our initial participation in the African Development Bank.

The record of the Inter-American Development Bank has been excellent. Our full-scale participation is critical to its continued success. Since the IADB is our principal hemispheric development effort, it is essential that we maintain our participation at the level requested in this bill.

The African Bank is new. The U.S. participation level is modest, and will let us see how the Bank operates. We should have joined it a long time ago. I congratulate the committee for our important entry into the African Bank, and urge the bill be promptly passed.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. J. WILLIAM STANTON).

Mr. J. WILLIAM STANTON. Mr. Chairman, I wish to express my support for this bill, H.R. 9721. Today, both Latin America and the African nations are playing an ever-increasing role in the world's economy. Thus, our continued participation in the Inter-American Development Bank—IADB—and this new commitment to the African Development Fund demonstrate this country's economic foresight and our desire for international economic cooperation.

The United States has already had a long and positive relationship with the IADB. Established in 1959, the IADB has consistently proven to be of both political and economic assistance to the United States and Latin America. Because of our commitment to the Bank and to the development of Latin America we now export over $15 billion worth of goods to Latin America and we have over $15 billion in direct investments there. Our continued participation in the Bank will serve to foster and expand these economic ties.

Our entry into the African Development Fund carries economic and political benefits similar to those associated with our involvement in the Inter-American Development Bank. The Fund, estimated in 1973, is the soft loan arm of the African Development Bank. Although it is a relatively new organization, the Fund already has 15 nonregional members including Canada, Germany, the United Kingdom, and Japan. Thus, U.S. participation in the Fund would come at a time when many other industrial countries are making a commitment to the development of the African continent. These other nations view participation in the Fund as a major first step in encouraging African economic development, and they realize that they have much to gain in doing so. As for us, we should realize that Africa is of growing significance. U.S. exports to Africa, for example, rose from $2 billion in 1973 to $4 billion in 1975. Similarly, direct investments in Africa have increased in the last 10 years from $1 to $4.5 billion.

Participation in the African Development Fund is also fully consistent with our involvement in other world economic organizations, such as the World Bank. The World Bank is involved with large-scale worldwide projects whereas the Fund's resources are used for smaller, regional projects, especially those within the poorest African countries.

Finally, it has been argued that participation in the Fund is a mistake because the Bank is now closed to nonregional members. I find this criticism rather shortsighted. While we may not be able to exercise any control in the Bank itself, we will still be able to exercise some control in the Fund. As members if we combined with Canada on any vote we can exercise a veto power. Thus, our involvement in the Fund should be viewed as an initial step in what could be long-range involvement in the Bank itself. We should remember that nonregional membership in the Inter-American Development Bank took some time.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, I yield 4 minutes to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Chairman, in March of this year in the Foreign Assistance Act this House approved a restriction or earmarking of funds for the Inter-American Development Bank which said $50 million of the funds coming from the United States must be used for credit unions, cooperatives, and savings and loans to help the most disadvantaged people in the Latin American countries.

What I want to alert this House to is the fact that on page 3, lines 20 through 24, this bill would strike the earmarking provision of the Foreign Assistance Act passed by the House in March of this year. That means right now in this bill we are being asked to reverse a decision we made 6 or 8 months previously.

I oppose striking the earmark. I want to leave the earmarking provisions in, for the simple reason that it speaks to the point of Congress making policy and not leaving so much administrative discretion to the bureaucrats or to the Bank officials.

I particularly speak to the point that through the oversight function the Congress previously had tried to get the Bank to give more money to these institutions in Latin America and it has not responded. The earmarking provision is to force the Bank to do that.

Second, the earmarking has something to do with our country's goals of economic aid overseas, which end is to help people to help themselves.

Third, because cooperatives are very much involved in the production of food in the poor underdeveloped nations of the world, that it has something to do with America's leadership role in solving world hunger.

Fourth, it has something to do very generally with America's leadership role in the world community of nations.

The Congress: The will of Congress should be followed. Congress has urged many times in the past that more of the Bank's resources be used to help "the economically disadvantaged."

Since urging through the oversight function did not work, the Congress decided to act through legislative mandate and to put into the provision of the present law $25 million for co-ops, $10 million for credit unions and $15 million for savings and loans.

The Bank had time to respond. It did not do it; so we did it through the earmark provision.

Second, is the goal of our economic aid to overseas nations to help people help themselves; that is the best way to help people in need. The best way to do this is to increase the productive capacity of the most economically disadvantaged. To do this, we have to extend credit to the people who have the need and who will benefit the most from increased production of food.

Recently an Agency for International Development report said that there is no better way to reach the small farmer than through the cooperative movement. If we are to accomplish our goal, the earmark is justified.

Third. World hunger is a problem, too, and America is committed to help solve it. A General Accounting Office report just last week said most of our aid has been hurting, more than benefiting, the production of food.

Again, helping people to help themselves is the solution to this problem.

Recently, John Hennessy, Assistant Secretary of the Treasury for International Affairs, speaking about Latin America, said,

> You just can't get at the small farmer unless you work through co-ops.

Consequently, Congress must decide to earmark funds because it gets the money where it does the most good.

We will be bombarded by those who favor striking the earmark with so-called evidence that the Bank is already working with credit unions.

One such example given me was a news release of October 9, announcing $9 million of financing to strengthen programs carried out by the National Federation of Credit Unions.

This is a bamboozle. This announcement is an attempt to trick Congress into believing that its appropriations are being used in a way which is in accord with the Senate earmark—my proposed amendment. This is not the case. The money to be loaned would come from old U.S. contributions to the Alliance of Progress.

The Social Progress Trust Fund, though administered by the IDB, was established years ago to refunnel loan money lent to foreign nations by the Alliance for Progress. That money, lent in the form of U.S. dollars, was to be repaid to the Fund in the currency of the country which got the loan. Thereupon, it could be re-lent to the country which repaid the loan, and continue to go in circles. But keep in mind, one thing: First, the fund is a trust fund administered by the IDB for the United States, it is not part of the Bank, and does not receive funds from annual U.S. appropriations. The money in the Fund is recycled loan money that originally went through other programs.

What the IDB is saying is that they do not want any of the 67 percent of the money that we give to the Fund for Special Operations, part of the Bank itself, to be earmarked. What they have done to show their good intentions is to go to AID at the State Department and say, we know you have a program in the works to lend money to COLAC—Confederation of Latin American Credit Unions, which consists of grassroots, nongovernmental organizations—and we will take it over for you and spend money from the Social Progress Trust Fund, old money that is not now subject to the appropriations process. AID, in testimony last June in the Senate Appropriations Committee, mentioned that it had been approached by the IDB regarding this project. AID indicated that if the IDB took over the project, it would not go through with it on its own. And as I understand it, the IDB even amended its rules to run money from the Social Progress Trust Fund through COLAC. So why do they now raise the false claim that a charter change is needed to run money from the Fund for Special Operations through COLAC? Their recent rule change seems designed to convince us that they are giving money to grassroots cooperatives, and not just running it through Government-controlled organizations. But the Fund for Special Operations has always run through the Governments and, has not historically been a source of funds to local co-ops, credit unions, and the like.

The earmark is meant to see that at least $50 million gets to the local level. I am not convinced that one $8 million loan is indicative in a change of philosophy of the IDB, especially as that is the result of a special deal with the State Department, and does not come from newly appropriated funds. In other words, it is a smokescreen meant to hoodwink the Congress. Why are they trying to convince us that the earmark is not needed?

Further, I have various press releases used as evidence. Here is one which shows that the money is going through the Bank of Brazil, the next the National Bank of Mexico, the next a national reconstruction office in Nicaragua, another to lend money to Nicaragua to improve government-owned land. The earmark is intended to get to grassroots individuals and co-ops, not Government-controlled projects. The language talks about the most heavily disadvantaged people, not Government employees, or middle-class people.

I urge retention of the remark.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, my concern about this bill from the beginning, as I stated in the committee and yesterday here on the floor, has been considering together in a package both the Inter-American Bank and the donation of $25 million to the African Development Fund.

I do not believe that the bills should be put together, for several reasons. I think most important is that there is such a substantial number of African countries that, as the committee hearings show, that are in arrears as to their contribution to the African Development Bank, the parent organization of the African Development Fund. Of course, once again, our country is being asked really to pick up the funding that normally would be handled by countries that are supposedly participants.

Now, Egypt is a clear example of a country that is not breaking its neck to participate in this parent African Development Bank, which I think ought to be of significance to us, that the so-called soft-loan window is too soft.

There is no convincing attempt to encourage repayment.

Interest charges are many times excused. I think that in this time when we cannot even get a balanced budget here, to ask us to cough up $25 million, although it seems like a paltry sum when when we are talking about the billions we are giving in other places, I still believe that it is a sign of weakness on our part as a Congress not to provide better oversight, especially when we are contributing so many other dollars in other ways.

The foreign assistance program, which of course I do not support—and I am not claiming that is the only way to go—has been a channel through which we have authorized and appropriated in many cases substantial dollars that go to Africa and to many of these countries which supposedly now are going to benefit under this program. We have the food-for-peace program. There are all kinds of programs that provide more than adequate funding. So, it is my belief that we should consider the African funding separately, and at the appropriate time I intend to offer an amendment to do so.

Mr. TSONGAS. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I am happy to yield to my colleague, a member of the committee.

Mr. TSONGAS. Mr. Chairman, if the African Development Fund should be deleted and the Fund should be phased out, which countries would then be adversely affected? It would not be the countries that are having difficulties in meeting obligations but rather the poorest countries where starvation is the norm these days.

Mr. ROUSSELOT. Well, I am not convinced of that, especially as it relates to their participation. The funding we now give to, say, the Food for Peace or other types of programs, certainly if someone brought up the issue of disaster assistance, whenever disasters have occurred in Africa we have responded very quickly and very positively not only through this Congress, but also through the Red Cross and other means.

So, to answer the gentleman's question very directly, I do not believe that it would be the so-called underdeveloped or lesser developed countries that would suffer, because I think that we are already contributing. It is my judgment that under the substantial number of other programs under which we are already granting funds, much of it is without any repayment requirements.

Even more importantly, since so many of the countries that are already in the African Development Fund are not doing their part, the ones that could afford to do so, such as Egypt, I do not think we should force the American taxpayer—even though this seems like a paltry sum of $25 million—to do any more.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, I yield 1 additional minute to the gentleman from California.

Mr. ROUSSELOT. I thank my ranking minority member for yielding to me. He has done a good job on shepherding this bill, and I just wish he had seen the light in eliminating the African Development Fund provision.

But, to follow through, I do not feel that we should ask our taxpayers to contribute to something where a substantial number of the participating nations in Africa itself who can afford it have failed to meet their commitments to the African Development Bank.

Mr. TSONGAS. Will the gentleman point out which countries relative to the fund—not the bank, relative to the fund—are in arrears?

Mr. ROUSSELOT. Yes, I put them in the RECORD yesterday on page 39116. I listed them all, and also they are in the committee hearings, which I know the gentleman is familiar with, so that rather than take the time, which is limited, I will say that they are in the committee report. My recollection is that there are nine nations.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, I now yield 4 minutes to the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding me this time.

I voted against this bill in committee and I intend to vote against it again today. It is not so much that I am unsympathetic to the Inter-American Development Bank. My reaction to the Inter-American Development Bank is favorable, and I do feel it has done a good job as a regional, multilateral lending institution for the purpose intended. As a matter of fact, I have supported the program in the past. But I am going to vote against it today because of our budget problems. I think it is a good time for us to reduce our foreign aid spending. It has been called an investment by those who support this bill. But none of the money ever comes back to the United States. Maybe we get some of the money back in the form of business, but that is an intangible.

It is a fact that $1.6 billion will go to the Inter-American Bank to be used for what we call hard loans, and most of that money will come back into the Bank, but $0.6 billion of this money which we will contribute to the Inter-American Development Bank today will go for special services, with no interest, and with no indication that there would be any return at all.

It is to my way of thinking foreign aid by whatever name.

Mr. Chairman, most of the people in my congressional district are opposed to Federal aid to New York City. Those who are for aid to New York City say, "How can we give money to foreign countries and not to New York City?" And I am hard pressed for an answer on that. Each year Americans have been asked to dip into their pockets to participate in this area development bank or that special foreign aid fund. We have a multitude of problems in the United States that are just as much in need of American dollars, but projects having an international flavor sound very cosmopolitan, and Congress has a great weakness in this respect because we want to maintain our international reputation.

We have yet to learn that we cannot buy friendship. I suspect we are secretly looked upon as fools by foreign countries for our money squandering, especially when one considers the New York City crisis and recent votes in the U.N.

All of the Members received a letter from members of the Committee on International Relations in support of this bill. They look upon this as a part of our foreign aid program. The funds for special operations is admittedly foreign aid to supply money for projects which do not, by definition, generate income for the fund. Moreover, the loans are for up to 40 years, with low interest and only a nominal service charge.

I also note the fact that a portion of the loan is paid off in the currency of the recipient country. Most of these countries have astronomical inflation rates, and repayments will be paid off in worthless currency.

The African Development Bank fund is small, but it sets a precedent which I object to. One, the United States will not have a vote on how the money should be used. Two, this is the foot in the door. The next request will be for the U.S. share of replenishment funds voted on us by someone else, in this case directors of the fund. Then we will feel a moral obligation to go along.

Mr. Chairman, last year we appropriated $4.5 billion for the International Development Agency. Most of that money is to go to the African countries. We have voted billions of dollars for the food-for-peace program, a large portion of which goes to African nations. We need to reduce spending somewhere, and I suggest this bill is a good place to start. We can reduce our Federal debt by $2.25 billion over the next 3 years by turning down this bill, and for that reason I intend to vote against it.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, I yield 4 minutes to the gentleman from Georgia (Mr. STEPHENS).

Mr. STEPHENS. Mr. Chairman, I want to thank the gentleman from Pennsylvania (Mr. JOHNSON) for yielding me this time. We have almost run out of time on our side. The gentleman from Texas (Mr. GONZALEZ) and I understood that, and the gentleman from Texas (Mr. GONZALEZ) is going to let me have whatever time is left over on our side.

Mr. Chairman, I have never been known in the House for voting for foreign aid. The Inter-American Development Bank is not what I call foreign aid. It is a bank in which we have participated in the form of enlightened self-interest. The foreign aid program is one in which we take American money, all American money, and we let it go to a foreign country.

They use the American money as they want to, and it is no wonder, when we do not follow that up, that they use it as they want to without accounting for it nor appreciating it.

The Inter-American Development Bank is an entirely different setup. It is important to note that it is entirely different. The Inter-American Development Bank has a large number central and South American countries that participate in it. They put up their money, and their credit, just as we do, too. As has been pointed out in the debate, we will have about 35 percent participation at the end of this authorization.

Now, they are going to look after the U.S. money because when they are looking after the money of the United States, they are looking after their own money. This is an entirely different program from the normal foreign aid program.

Mr. Chairman, there are four other reasons besides that why I feel the Inter-American Development Bank is a most worthwhile organization and a most worthwhile institution for us to participate in.

First, since 1959 they have had an excellent record. They have had only two defaults, and those were in 1966, as the committee report shows on page 7. The record shows there was a default in the amount of $11 million, and they have recovered everything but $1,800,000. With the volume of loans that they make, that is an excellent record.

Another thing that is important is to recognize that our participation is highly important, and almost vital, to their financing. We do not appropriate the money in any large sum, except with the initial amount that we appropriated. The Bank uses our credit in order to raise its money in international markets. They use credit, and they sell bonds; they do not use direct appropriations from the funds of the U.S. Government.

Mr. Chairman, the third reason is this: We need the trade that is stimulated by them.

In respect to that, let me point out that there has been a considerable amount of oversight that proves that. I personally, along with other members of our committee, have visited some of these countries and have seen what the projects financed by the Inter-American Development Bank have consisted of.

In El Salvador the Bank has financed an existing docking facility that doubled the opportunity for people to come in and trade with El Salvador. I was amazed when I saw who was also visiting that country when I was. I met representatives of the government of the State of Georgia and a delegation from the Georgia State Chamber of Commerce who came to San Salvador in order to stimulate exports from the United States, and specifically from Georgia. It would not be possible for us to do that if it had not been for these extended docking facilities there.

In Guatemala the Bank financed a very highly needed water system that will help the economy of that country.

In Santo Domingo there was the financing of an agricultural extension service set up for the purpose of stimulating the ability of the people of Santo Domingo to feed themselves. It was a marvelous thing for us to visit there and see what has happened along those lines.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. STEPHENS) has expired.

Mr. GONZALEZ. Mr. Chairman, I will be delighted to yield 1 minute of the time I have remaining to the gentleman from Georgia (Mr. STEPHENS).

The CHAIRMAN. The gentleman from Texas (Mr. GONZALEZ) has 5 minutes remaining, and the gentleman from Georgia (Mr. STEPHENS) is recognized for 1 additional minute.

Mr. STEPHENS. Mr. Chairman, one thing I was very impressed with there is the fact that the head of this agricultural extension service in Santo Domingo was educated at an agricultural college in Texas.

Let me also go a litle further and say as a fourth point that we need the friendship of the people in Latin America, these people in the southern part of the Western Hempisphere. We need that very badly. We are looked upon as the dominant factor in the Western Hemisphere. We have told the European countries and other countries around the world that the southern part of this hemisphere is still a major sphere of influence for the United States.

Mr. Chairman, we have a responsibility to come in and help these people develop so that we can pick up the trade that they may lose as a result of the fact that we have always said, "Hands off" in every instance where we think others have interfered with that influence we have imposed. So we owe a responsibility to those people there.

For these reasons I advocate passing this bill.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. STEPHENS. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I do not necessarily disagree with the gentleman from Georgia in what he has to say, but I would ask where this money is coming from.

Mr. STEPHENS. It is borrowed from the international financial circles in the world based upon the credit that they get since the United States is back of the funds which the Bank borrows.

Mr. WYLIE. I mean the money provided for in this bill which the U.S. Government will contribute.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, I yield 4 minutes to the gentleman from Michigan (Mr. BROWN).

Mr. BROWN of Michigan. Mr. Chairman, this morning seems to be the morning for foreign economic assistance but the legislation before us I think more than other foreign assistance legislation permits this Nation to vicariously participate economically through its export program.

In looking around the chamber I doubt that there are many Members, if any, who are listening to this debate who have not already made up their minds. However, let me just summarize, if I may, what we are talking about in this legislation.

It seems to me in talking about the International Development Bank and the African Development Fund we are talking about the issue of multilateral aid versus bilateral aid. Second, we are talking about concessionary loans versus in many cases outright grants. Finally, it seems to me that one of the primary issues is whether or not we wish to participate in a consortium to help the less developed countries, as a consortium, rather than developing debtor-creditor relationships which we do if we engage in the making of bilateral loans.

Since this bill initiates our involvement in the African Development Bank by authorizing contributions to the African Development Fund, it should be noted that we cannot participate economically nor can our contractors become furnishers of goods and services under the African Development Bank unless we participate as a contributing member of the African Development Fund.

I would suggest that if one wishes to demonstrate his opposition to our foreign assistance programs he might better, for programmatic, geographic, and recipient reasons, oppose the foreign assistance conference report which will be considered by the House immediately following its action upon this bill. Because, as I have indicated, I think multilateral aid is better than bilateral aid and I think concessionary loans are better than grants. And, finally, I think participation is a consortium for the providing of foreign assistance is better than providing foreign assistance in a way in which we develop a debtor-creditor relationship with all of the visceral reactions that attach to that kind of relationship.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, I reserve the balance of my time.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to a very able member and helpful member of the subcommittee, the gentleman from Massachusetts (Mr. TSONGAS).

Mr. TSONGAS. Mr. Chairman, I would like to set the record straight on the question of arrearage. The fact of the matter is that the African Development Fund does not have an arrearage. The arrearage that does exist in the African Development Bank amounts to some 9 percent of the paid in capital in 1975, down from 40 percent in 1969; 70 percent of that arrearage is involved with the country of Egypt and they have formally agreed to a 3-year settlement schedule. The countries of the Central African Republic, Chad, Ethiopia, Egypt, Gambia, Guinea, Libya, Sierra Leone, and Togo are in the process of their own negotiations. Therefore there is no arrearage in the African Development Fund, and that which exists in the African Development Bank is minimal.

Let me further read the list of countries that have received loans in 1974 from the African Development Fund: Chad, Burundi, Rwanda, Lesotho, Somalia, Swaziland, Gambia, Mali, Dahomey, Senegal, and Upper Volta, countries that desperately need these concessionary loans. I would submit these are the kinds of countries whose internal economic structure we should be very interested in.

Mr. Chairman, I yield back the remainder of my time.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. BADILLO).

Mr. BADILLO. Mr. Chairman, I rise in support of this legislation.

I commend the chairman and the members of the subcommittee for their work.

Right now, our relations with Latin America are adrift. We have no firm direction, no solid commitment to any specific set of goals. We have aimlessly endorsed a hodgepodge of policies under what appears to be a whimsical set of criteria, leaving us sharing our resources and personnel in an indiscriminate way in support of governments that may propound anything from a form of democracy to the most blatant fascism.

We have done little better in our trade policies, mouthing the rhetoric of cooperation while selectively opening and shutting doors to the region in seeming oblivion to any real development, and certainly to the detriment of our image abroad. The recent negative response to our denial of preferential tariffs to Venezuela and Ecuador are good indications of how we are perceived.

The Organization of the American States has, in the last months, come under increasing fire. Our participation has been publicly scored on numerous occasions, the administration of the organization is in disarray, and it is increasingly apparent that there is a desire on the part of the Latin participants for independence from American influence in the management of OAS affairs.

In this litany of failure, the Inter-American Development Bank stands as unique. It has worked, its results have been positive. It has served American interests, as none of our other policies have, in establishing a road that may lead to Latin American self-sufficiency. The IDB has made loans for development projects in a wide variety of places and for a broad range of projects—from health to highways, from agriculture and small business to electric power and major industrial projects. It has concentrated its soft loans—those at low interest rates repayable over long periods of time—on the region's poorest countries. Those loans go for social projects—in the places where they can really do the most good.

It is a tribute to the increasing strength of its success that the wealthier countries are being phased out of borrowing from the soft loan window. In fact, two of these countries, Venezuela and Trinidad and Tobago, will, this year, for the first time, contribute convertible currency to the soft loan window, thereby becoming full contributing members in their own right.

The United States has been the major donor to the IDB. We now possess 40 percent of the voting power in the Bank. As its membership expands, it is imperative that we maintain our strong commitment. We are about to gain an objective that we have sought for 5 years—the admission of nonregional members to the Bank. What this means is that the burden will now be shared by an increasing number of nations, while at the same time, America's strength will not be diminished. The regional role we play, as a hemispheric partner in the Bank, can only increase in significance. Our continued participation will help to shape a more stable Latin economy, and possibly lead to governments more closely in tune with true American ideals.

I would like to add that I take particular pleasure in noting that Israel will be admitted as a nonregional member of the Bank. It is a tribute to that country's growth, to its capacity to reach beyond its immediate problems, that it is taking an increasing role in world development. Israel is becoming an independent country, a nation with a part to play beyond the bitter struggle for Mideastern survival. Its membership in the IDB is an important step toward Israel's greater place in international affairs.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Chairman, I welcome the debate here on the House floor concerning H.R. 9721, a bill to provide for increased participation by the United States in the Inter-American Development Bank; to provide for the entry of nonregional members and the Bahamas and Guyana in the Inter-American Development Bank; to provide for the participation of the United States in the African Development Fund; and for other purposes.

Of particular interest to me regarding this legislation, is the provision for the initial participation of the United States in the African Development Fund, for we have long delayed our participation in the Fund. It has been 8 years since the State Department made a commitment to the African countries that we would join the African Development Fund. Finally, today we are addressing this very important issue.

As many of you are probably aware, this past spring, I introduced legislation H.R. 6241, to provide for participation of the United States in the African Development Fund, to contribute a total amount of $150 million, allowing for three annual installments of $50 million each. When I proposed the $150 million figure, many people thought it was absurd, while others thought I had simply misplaced the decimal point. I originally supported this figure because I believed, and continue to believe, that it better approaches the needs of the developing African countries. My recent trip to West Africa confirmed my belief as I witnessed the rampant hunger, poverty, and disease, which is so characteristic of developing countries that economic development in the African Nation must be greatly accelerated. However, I understand the difficulties associated with this original figure therefore concede in full support of the administration's proposal of a contribution of $25 million.

I think the question most basic and relevant to our discussion today is why should we join the African Development Fund, especially considering the fact that we already participate in the World Bank and the Inter-American Development Bank, both of which are active in Africa. In addressing this particular question, let me reiterate the point made by the Honorable Charles A. Cooper, Assistant Secretary of the Treasury for International Affairs, in his testimony during the hearings on this legislation. Experience has taught us that the smaller institutions, based on a majority of local participation, do a better job of meeting certain requirements than the large worldwide organizations. And furthermore, to quote Secretary Cooper:

> African countries concur in this belief since the regional institution gives them more control over the course of their own development.

Also, one must realize that the World Bank and the African Development Fund each serve different functions. The World Bank usually concentrates on large scale, complex projects, recruiting technical assistance from across the world, whereas the African Development Fund concentrates on small scale, basic infrastructure projects, requiring technicians with first hand knowledge of the problems which are unique to Africa.

Relations with Africa have assumed greater significance, both economically, strategically, and politically. I believe that the significance of these interests will only grow as time passes. A brief cost-benefit analysis will show that the benefits received by the United States far exceeds the cost of participating in the African Development Fund, mainly because African countries serve the commercial interests of the United States.

For example, trade with African countries in the first half of 1975 increased at a much more rapid pace than trade with the rest of the world. During this time period, the African continent supplied 24.5 percent of U.S. coffee imports, 56.7 percent of U.S. cocoa imports, 29.2 percent of U.S. manganese and ferromanganese imports, 35.8 percent of U.S. platinum imports, and 37.1 percent of U.S. gem diamond imports.

When we consider the natural gas shortage problem we are presently trying to solve, and the not too far gone energy crisis caused by the Arab oil embargo, it becomes significant when we realize that Africa's energy resources are among the most plentiful of the world. The full extent of Africa's petroleum and natural gas resources have yet to be assessed. Currently, petroleum accounts for 72 percent of U.S. imports from Africa which is 33.5 percent of total U.S. crude petroleum imports. Nigeria is the seventh largest producer of crude oil in the world and the second largest supplier of crude oil to the United States.

Another benefit we will receive by participating in the African Development Fund is that eventually it will serve to improve our balance of payments situation by improving our export market. Under the articles of the Fund, the purchase of goods and services for Fund projects may only be made from member Nations. Until we join the Fund, we will not be able to compete for these potential export earnings. So you see, if we join the Fund, much of our investment will be returned by an increased demand for U.S. goods and technical assistance.

Another advantage to participating in the African Development Fund is that by helping to build a good basic infrastructure we will enhance our investment possibilities. We cannot search for mineral deposits, which we need as a highly industrialized Nation, or produce and deliver goods without roads and a communications system.

Clearly, it is in the best interests of the United States to join the African Development Fund. Participation in this development financial institution will show the African countries that we are concerned about their development as they are attempting to join the mainstream of global economic activity and better their standards of living. I urge all of my fellow colleagues to lend their full support for this legislation which will provide for increased U.S. participation in the Inter-American Development Bank and for initial U.S. participation in the African Development Fund.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, I yield 1 minute to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. I thank the gentleman for yielding.

Mr. Chairman, I rise also in hearty support of this measure. I think it would be most unfortunate if this African Development Fund were not supported by the United States. Surely, among all of the nations of the world, our Nation has been among the most blessed. We know that these nations are struggling to meet their problems, which are heavy, and that the Fund will foster their development. As I understand it, the sums are $9 million the first year and $8 million for each of 2 successive years; these will give not only symbolic and heartening support, but practical ways of developing the technology that will enable these nations to work for themselves and to meet their problems in a cooperative way.

But the most important thing, Mr. Chairman, is that we cannot fail to be a member nation of the Fund. It is impossible to have other nations contribute to this cooperative effort, and not have the United States of America among those nations.

The CHAIRMAN. The time of the gentlewoman has expired.

The Chair recognizes the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Chairman, it remains only to be said I am very hopeful that the Members realize the vital nature of this legislation to our national interests.

Mrs. CHISHOLM. Chairman, I rise in support of H.R. 9721. I think that all of us recognize the importance of our economic relations with Latin America. And over the years our strong support of the Inter-American Development Bank has reflected this recognition.

However, we have always considered Africa the lost continent—a fascinating but unimportant land. This may have been the case before the turn of the century, but Africa certainly is no longer unimportant to us from an economic standpoint.

Africa has a growing economic significance for the United States. Total U.S. exports to all of Africa rose from just over $2 billion in 1973 to a little under $4 billion in 1974. As a result, Africa's share of U.S. world exports grew from 3 percent in 1973 to 4 percent in 1974. And I should point out that under the articles of the African Development Fund, procurement of goods and services for projects financed by the Fund is limited to members only. Until the United States joins the Fund, we will be unable to compete for this potentially substantial source of export earnings.

During the 10-year period from 1964 to 1974, U.S. investment in Africa increased from approximately $0.8 billion to $4.5 billion and Africa's share in U.S. direct investment abroad increased from 2 to 5 percent, excluding South Africa.

The long-term trade and investment

figures show a celartrend toward greatly increased interest by American business in African countries, both as suppliers and as purchasers of goods and services.

Any consideration of Africa must take into account the substantial resources found there. Africa possesses approximately: 96 percent of the world's diamonds; 60 percent of its gold; 45 percent of its chrome; 42 percent of its cobalt; 34 percent of its bauxite; 23 percent of the known reserves of uranium ore; and 17 percent of the copper.

Investment and trade in minerals and petroleum account for the largest share of U.S. economic activity in Africa. Three-quarters of U.S. direct investment in Africa are in these areas. In 1974, African petroleum alone accounted for 26 percent of total of U.S. crude oil. Last year we obtained the following percentages of our mineral imports from Africa: Cobalt, 52 percent; maganese, 41 percent; antimony, 36 percent; platinum, 35 percent; and industrial diamonds, almost 100 percent by origin. In addition to minerals, we obtain 30 percent of our coffee and 37 percent of our cocoa from Africa exporters.

This growth in our trade and investment relations with Africa has also involved a significant shift in geographic emphasis. Until the 1960's, when the majority of black African nations achieved independence, the American economic stake in the Republic of South Africa was almost as important as our economic involvement in the rest of Africa combined. However, when Angola becomes independent this year, 73 percent of direct American investment in Africa south of the Sahara and over three-fourths of our trade with that area will be with independent black African countries. Thus, our interest in those countries belonging to the African Development Bank has grown substantially.

Mr. ASHBROOK. Mr. Chairman, I oppose passage of H.R. 9721, which would provide for increased participation by the United States in the Inter-American Development Bank and initial participation in the African Development Fund. I cannot justify this additional expenditure of taxpayers' dollars for foreign aid programs.

For years the United States has poured out its wealth to countries all over the globe. Between 1946 and 1974 we handed out more than $164 billion to foreign nations. During this period Latin America received $11.5 billion in economic assistance. Africa has been the beneficiary of another $4.75 billion.

And what have we gotten for these incredible sums of money? Frankly, we have very little to show for it.

Instead of gratitude and friendship, we have all too often been treated to a barrage of anti-American propaganda. The leaders of these nations take our money and then denounce us day after day in the United Nations. They seize and confiscate American property without compensation and then wait for another handout. For us to continue to pour out billions of dollars to these nations is sheer stupidity.

Nevertheless, this bill would authorize $2,275 million for two organizations. The Inter-American Development Bank would get $2,250 million of this amount, while the African Development Fund would receive $25 million.

It is hard for me to understand why the Congress is even considering such a large giveaway when our own Nation's budget deficit for this year alone is in the $70 to $80 million range. When will we learn that the United States simply cannot afford to play Santa Claus to the entire world?

Although our proposed contribution to the African Development Fund is a small part of the total authorized, I think that it deserves some special comment. As the rules are now set up, our influence will be greatly diluted. Unlike similar multilateral institutions, one-half of the voting power will be exercised by the African Development Bank.

This means that our influence over decisions of the fund would be only one-half as great as the proportional amount of our contribution. Such terms are hard to justify. Furthermore, although the Bank controls half the voting power, not all of the member countries exercising that power have even paid up their subscriptions.

Mr. Chairman, I urge the defeat of this bill. It is time that Congress became more charitable to American taxpayers rather than countries all over the globe.

Mr. FASCELL. Mr. Chairman, I would like to express my strong support for this bill which is designed to strengthen the Inter-American Development Bank. Latin America is important to the United States economically in many ways and the IDB is important to Latin America. Therefore, any effort to increase the effectiveness of the IDB will have direct benefits for the United States. Let me place United States-Latin America economic relations into a broad perspective and show how the IDB plays an important role in strengthening and expanding the economic ties between the two continents.

First, of all the developing regions in the world, Latin America is the most economically important to the United States. Our foreign trade ties are well established and substantial. In 1974 alone the United States exported about $15 billion worth of goods to Latin America, consisting largely of products of our factories but also including significant amounts of agricultural products, as well as engineering and other services. In 1974 we imported about $14 billion of goods from Latin America, over 60 percent of which—or almost $8.5 billion—were basic commodities that we do not produce in the United States, such as coffee and bananas. And of crucial importance is the fact that Latin America is the principal supplier of 53 percent of all minerals that are essential to U.S. industries, including bauxite and iron ore.

American firms have invested approximately $15 billion in Latin America, making it the largest recipient of U.S. private investment outside of Western Europe. The presence of U.S. firms in Latin America has provided a strong stimulus for the development of private enterprise and market-oriented economies in those countries. The economic benefits have been mutual; direct U.S. private investment has contributed to the substantial flow of exports to Latin America and in turn, has accounted for significant reflows of income and profits to the United States over the past several years.

The IDB will continue to play an important role in promoting international trade by encouraging the development of the Latin American economies along lines that will lead to the most efficient allocation of resources. I point out that the IDB emphasizes the development of outward-looking trading economies in which the free private enterprise sector plays a critical role. A strong and developed Latin America means not only expanded markets for the United States but also additional supplies of raw materials for our country.

Thus, as an economic catalyst in Latin America, the IDB has had a measurable and important impact on the U.S. economy. Through calendar year 1974, the Bank had made some $7 billion in loans. In addition to its indirect contribution to U.S. trade and investment, the IDB has directly supported U.S. jobs through financing U.S. exports to Latin America and through its direct expenditures in the United States. Since its inception, the IDB has financed a substantial amount of purchases of U.S. goods and services for projects in Latin America. These U.S. exports and the administrative expenditures for IDB headquarters in Washington, have provided almost 80,000 jobs for U.S. workers.

In a world of increasing interdependence it is a certainty that Latin America and the IDB will become increasingly more important to the United States. We find ourselves in the situation of supporting the IDB not only for its current benefits to the standard of living in Latin America and of economic benefits to the United States but for future benefits that will help lead to increased prosperity for both North and South America.

The legislation we have before us, recommending the replenishment of the resources of the Inter-American Development Bank and expansion of its membership is, in many respects, the linchpin to U.S. foreign economic policy in Latin America. The IDB is a living symbol of the continuing hemispheric efforts to better the lives of the people of the Americas. The proposed replenishment, in which the Latin Americans are increasing their level of participation, is a test of the seriousness of U.S. foreign economic policy. Prompt approval of this legislation will clearly demonstrate that the United States is ready and willing to help Latin America help itself.

The impact of this replenishment, however, goes beyond Latin America. There has been a spirited debate on the economic issues between the rich and poor nations of this world. The United States, in its commitment to search for meaningful solutions, has proposed several initiatives; the IDB replenishment is part of that commitment.

Latin America is the logical region to demonstrate U.S. efforts on behalf of the third world. A long period of historical, cultural, geographic, and economic ties have led to a strong interdependence within the hemisphere. Latin America is more integrated into the world economy, more industrialized and more influenced by global economic relationship, than other developing areas and thus in many ways has the most to gain from U.S. initiatives.

If our commitment to help shape a better, more stable, world economy is to be credible, we must demonstrate that we are prepared to act in a concrete way. This legislation is a clear and positive demonstration of our credibility. Continuing and accelerating development in Latin America is vital evidence of the potential for cooperative and nonconfrontational policies between developed and developing countries.

This bill is the cornerstone of our Latin American policy. Its passage will carry U.S. foreign policy forward; its failure would be a foreign policy mistake.

The Inter-American Development Bank is a leading multilateral lending institution that has an outstanding record in achieving economic and social development for its borrowing countries. It is an institution worthy of continued U.S. support. I therefore urge you to join me in supporting this bill for replenishment of IDB's resources and expansion of membership.

Mr. RANGEL. Mr. Chairman, today the House will consider H.R. 9721. I rise in support of this bill and in doing so I also ask that you support this piece of legislation.

H.R. 9721 would allow the United States to participate as a member of the African Development Fund, provide entry for nonregional members and the Bahamas and Guyana to the Inter-American Development Bank and provide for increased participation by the United States in this Bank. In supporting H.R. 9721, we must concentrate heavily on U.S. participation in the AFDF.

As a black Member of Congress, and representing a constituency that has a large black population, many of whom are from the Caribbean and Africa, it is only fitting and proper that I should support H.R. 9721. Not only am I speaking for my New York constituency, but for black Americans in general.

The Afro American has made considerable contributions to this country in terms of its growth and development. Today Africans and Afro Americans are involved in trade dealings with major U.S. corporations which process her raw materials. To jeopardize this position with Africa could prove unwise at this time.

The major issues concerning this bill are, first, why support Africa when she votes with the Arab countries, and second, what input will the United States have in the AFDF as a donor country? To answer the first question let me say that the African oil producing countries have increased their funds to the AFDB, through contributions from the OPEC nations. The funds are being used to offset the burden on the undeveloped African countries in the exporting of oil. In answering the second question, it is clear that our power will be only as great as that delegated to us through the African Development Bank countries. The United States will be asked to contribute $25 million to the Fund which will be used by the AFDB. It is to be paid in three annual installments of $9, $8, and $8 million. The United States would share in voting power with the other donor countries. The rationale behind the limited involvement of the donor countries is to prohibit any country from becoming too dominant in the AFDB.

The African Development Bank and Fund was created by African countries for aiding undeveloped countries in Africa. It is a general rule that loans be given to those countries for construction of such things as roads, irrigation projects for farming, and other practical uses. With the recent drought in the Sahel, many of the agricultural nations in this area have been severely hampered in their production efforts. Thus these already poor nations have been even more severely dropped into economic uncertainty and therefore aid becomes their only hope.

The United States today is dependent on Africa for her raw materials. Africa possesses 96 percent of the world's diamonds, 60 percent of its gold, 45 percent of its chrome, 42 percent of its cobalt, 34 percent of its bauxite, 23 percent of the known reserves of uranium ore, and 17 percent of the copper. As a result of Africa's vast raw material reserves, trade with Africa has greatly increased. It is evident that we must strengthen our commercial ties with Africa if we are to further aid our own economy as well as the economies of the African nations. This bill serves as that vehicle.

In conclusion, Africa and the Caribbean are swiftly emerging as developing world powers. It would be unfortunate and indeed a tragedy if Congress did not pass H.R. 9721. I urge you to support this bill as a means of opening further the channels of communication between our Nation and these emerging countries.

Mr. Chairman, I am pleased that the United States is joining the African Development Fund. The United States has been a member of the other regional development banks for a number of years, and I think that the development situation in Africa justifies our joining their regional development institution. I am well aware of the political situation in Africa and the criticism the United States receives at the hands of some of the African leaders.

However, I think that the rationale for joining the African Development Fund lies in the severe problems of poverty, hunger, and health in Africa—not the political situation.

Africa is the world's least developed continent. Over half of the 25 poorest, least developed countries in the world are in Africa; 13 of the world's 18 landlocked developing countries are African; 22 of 33 of the United Nation's "most seriously affected"—MSA—countries are African. The MSA countries are those judged to be so poor and so short of food that crop failures and the high prices of grain, fertilizer, and petroleum threaten them with bankruptcy and their people with starvation.

In the past few years, severe drought in the Sahelian zone as well as in the East African countries of Ethiopia, Somalia, Kenya, and Tanzania has had a particularly devastating impact. Since the late 1960's, prolonged drought conditions have affected approximately 23 million people in Chad, Mali, Mauritania, Niger, Senegal, and Upper Volta in the Sahel region of Africa. An estimated 8.4 million people have undergone extreme hardship of hunger, malnutrition, and disease, and loss of livestock, crops, dwellings, and means of livelihood. As many as 100,000 persons are estimated to have died of starvation or related causes in these countries. Some 7 million cattle have perished at an estimated loss of over $288 million. Crop losses have been in excess of $183 million. Losses in foreign exchange earnings are not known. While the spotlight has been on the magnitude of human suffering, the effect on the economies of the Sahelian countries has been so devastating it is likely to hold back development in many areas of the region for some time to come.

According to the African Development Bank, in 22 of 41 African nations, food production is failing to keep pace with the population growth. Africa has sufficient land to feed its people but needs additional irrigation, fertilizer, technical assistance, and other inputs.

Millions of acres of arable land have either remained unused, because they are physically inaccessible due to the lack of roads, irrigation, and other infrastructure, or else are underexploited due to the prevalence of disease.

There is also a need for increasing agricultural credit services to farmers if they are to expand output and adopt new technologies. The Bank estimates that only about 5 percent of African farmers currently receive institutional credit, compared to 15 percent each in Asia and Latin America.

About 75 percent of the African population is engaged in subsistence agriculture, and in half of the countries per capita income is less than $100 per year.

Africa has some of the highest population growth rates in the world. The average annual rate of population growth in Africa during the period 1970–75 was 2.66 percent, compared with 2.64 percent in Latin America and 0.99 percent in North America.

Health care facilities in Africa are among the worst in the world. According to the World Bank, the life expectancy at birth for 1965–70 in Africa was 43.3 years, compared with 52.2 years in East Asia, 48.8 years in South Asia, 60.2 years in Latin America, and 70.4 years in the developed countries. In some African countries, the life expectancy is astonishingly low; for example, 34 years in Cameroon, 33 years in the Central African Republic, and 29 years in Chad. Vast regions of Africa are afflicted with debilitating diseases such as river blindness. In sub-Saharan Africa, about 270 million people remain exposed to malarial infection without any organized protection. In some areas, the malarial infection rate is 90 to 95 percent.

Mr. Chairman, clearly Africa is in need of further development assistance and I support H.R. 9721 as a means for the United States to offer such assistance.

Mr. MILLER of Ohio. Mr. Chairman, we are considering today another one of those bills that asks the United States to contribute a disproportionate share to a multilateral organization. H.R. 9721 would authorize about $2.3 billion for the U.S. share of the Inter-American Development Bank—IDB.

It is appropriate to look at the percentage share constituted by American contributions. The ordinary capital, or "hard" loan window, provides terms of 8 percent at maturities ranging from 15 to 30 years. The U.S. share of the total of $5.965 million is 40 percent. Additionally, the Fund for Special Operations—FSO—loans at interest rates ranging from 1 to 4 percent for periods up to 40 years, including up to 10 years of grace. By the end of 1974, funds provided to the FSO has totaled $3.9 billion, of which the United States had provided $2.7 billion—or 69 percent. As usual, Uncle Sam is being overly generous with American taxpayer's money while not receiving a proportionate share of the voting power.

Last year I sponsored an amendment to the Foreign Assistance Act which allows the United States to barter its foreign assistance for raw materials in the developing countries. This concept makes the aid program a two-way street. The amendment received strong support in the House and is now public law. Now, in considering this latest contribution to the Inter-American Development Bank, we are encountering another instance where the barter concept could be used. The committee report itself notes that Latin America is "a source of supply for several commodities essential to the U.S. economy." The report goes on to state that of our mineral imports, 34 percent of the iron ore, 48 percent of our copper, 24 percent of our petroleum, and 47 percent of our bauxite comes from the Latin American or Caribbean region. Why not use this excellent opportunity to initiate the barter system rather than continuing to pour American money into these multilateral organizations?

Finally, Mr. Chairman, there were a series of worthwhile amendments offered to H.R. 9721 today. In order to insure that the money benefited the poor of these countries, one amendment would have provided that the funds go through the co-ops, credit unions, savings and loans, and the like, of these nations rather than to the receiving governments themselves. This amendment was defeated, apparently because an opponent of it stated that the IDB is a multilateral organization and the United States cannot go telling other nations how IDB will be run. To me this only points out another of the problems of dealing with multilaterals: the United States kicks in the money but gets to make no unilateral decisions. Anytime American money is contributed in sums such as we are talking about here today, we must have a major say in how it will be used. Other amendments, such as those dealing with tax treaties and the 200 mile fishing limit, also were defeated on the claim that this was not the appropriate legislation to deal with them. If it deals with our relations with nations that collectively will receive $2.3 billion in U.S. funds, why is not this the proper bill to deal with them?

Mr. Chairman, I cannot support this bill in its present form. Instead of channeling new directions, it is another case of proceeding down the same give-away path that has helped the United States run up record deficits and public debts. It is time we stopped this foolish generosity and adopted a more cautious attitude with our money. There is nothing wrong with helping other nations, but with a few strings attached so that both sides receive benefits.

Mr. FAUNTROY. Mr. Chairman, I rise in support of the bill H.R. 9721, which would provide for the increased participation by the United States in the Inter-American Development Bank and for initial participation in the African Development Fund.

Both of these institutions are important to the long-range interest of the United States. One of them, the Inter-American Development Bank, has been a principal component of U.S. policy in Latin America. It is the linchpin and our only consistent expression of real concern of hemispheric cooperation and support for the betterment of our friends south of our own borders.

The degree to which we continue to commit ourselves, in this basic and extremely symbolic institution of international cooperation, will determine how our other policies will be received in these nations.

The Inter-American Bank has existed since 1959. In this time, the IDB has become one of these best run international finance institutions. Through 1974 the IDB has authorized $256 million for technical cooperation, trained more than 13,000 technicians at its headquarters and in the field. The bank has been in the forefront of creating economic cooperation amongst the participating countries, which has brought new prosperity and increasing peace and political stability in these lands.

There is no doubt in my mind that the IDB is an institution which has functioned well and which should continue to receive the support of this Nation. This is a program which has worked, and I urge this House to encourage it in its continued undertakings which have done so much for so many people.

The bill will authorize $2.25 billion as the U.S. share of a replenishment of the funds of the bank. Without this replenishment, the IDB will exhaust its resources within the year. Indeed, some of its ordinary capital resources may have already been exhausted. The work of this institution cannot continue without these funds.

This amount represents 37 percent of the total replenishment sought for the bank. This is considerably less than the 52 percent U.S. share in the last replenishment of 1970 and represents a continuing improvement of the donor status of regional members which has long been the aim of this Nation. This shift means that more and more of the funds for development will come from within the southern hemisphere, which will make the bank more truly an inter-American partnership for development. It also means the United States is carrying less of the burden, thereby enabling us to spread our resources to other needy nations.

It is these other needy nations that title II of the bill is addressed to serve. Africa has 16 of the 25 least developed nations in the world. It is a continent which is now beset with a spreading drought that has affected the food reserves more so than in almost any other place in the world. In 22 of the 41 African nations, food production failed to keep pace with the domestic demand for food. In 16 of these nations, food production was unable to keep up with population growth.

In one sense, Africa is in the same state that Latin America was in when we began assistance through the IDB. Unfortunately, the ravages of time have made it more difficult for us to make a better comparison for Latin America has had more than 15 years of concentrated American aid while Africa has had none.

Africa is a continent which has been left out of the mainstream of international development aid. While the United States and other nations became involved in the reconstruction of Europe and Asia after World War II, and the East and Southeast Asian wars, Africa was left to devise its own means to survive and participate in world affairs. The result of this neglect has been to spawn leaders like Idi Amin, whose singular characteristic is that of a racist who understands little and behaves more like the village bully than the leader of one of the most beautiful nations in all Africa.

In a sense, we are to blame for his behavior because we have not aided in providing the kinds of climate and patterns of economic growth which would unquestionably demonstrate that the Western World is the unqualified leader in offering each human being the necessities of life.

While the African Development Bank initially did not want to have nonregional members, the fact is that they have welcomed our aid and our support whenever we have made it available. I believe that the Bank made the correct decision in seeking only regional nations for membership in the bank while seeking nonregional members for the fund which is what we are being asked to support today.

Only when the nations themselves make the decision in development and nation-building can they and their leaders truly appreciate the difficult choices that must be made. In the Bank, Africans have done this with much more success than should have been theirs when the resources are measured against the accomplishments and the needs.

In December 1973, I visited the Sahel section of Africa to see for myself the devastation wrought by the drought. At that time, I saw, in a way which I find hard to describe with detachment, the depths of despair of a people who did not know how they would feed themselves, where the nearest source of water would be located, how they would raise and educate their children, or how to explain that some lived and others died.

I also saw the great anticipation and the only real ray of hope that the end of this tragedy could come only from the United States. They know what we can do for they have seen what we have done. They know we can do more, and they wait anxiously for us to commit ourselves to that end.

In every country that I visited, I found the people full of hope for this Nation and full of respect and appreciation. I did not visit in Uganda; but, I would suspect that if I had done so, I would have found this same respect held by the people.

The lack of U.S. involvement in African development is glaringly evident when the amount of aid going into Africa is compared with foreign aid to other areas in the world. For example, economic assistance to Asia, which excludes military aid, was eight times as much as the amount given to Africa. Yet the fact is that the underdeveloped population of Asia is at most only four times that of Africa. It appears that similar data can be developed for Latin America, although that continent is faced with the more difficult-to-measure urban poor for these kinds of statistical purposes. I think that it is fair to state that the kinds of aid distribution which we have heretofore accepted are wrong. It is as wrong to discriminate in the giving of our foreign aid as it is wrong for us to discriminate in the granting of credit within our own Nation. Where the need is equal, the aid should be equal. Not only do we give a small proportion of our aid to Africa, the aid is not distributed according to the needs of the African nations. Morocco with its population of 15.5 million received $19.9 million worth of aid for 1974. Nigeria which has 55.5 million people, and which is beginning to be affected by drought conditions, received only $6.5 million in economic assistance. The Sahelian countries received a one-time grant of $59.7 million for emergency relief. This is food, not development, aid. Indeed, more than one-third of all aid to Africa is given through the emergency fund of Food for Peace.

Aside from direct aid, the United States does give some multilateral assistance through the World Bank group. The International Development Association has been particularly helpful to the least developed countries in Africa. The World Bank, however, is only a beginning. It does not have enough resources to make up for the lack of U.S. participation in the African Development Fund. Just as we have given to the regional development programs in other parts of the world, we should now commit ourselves to the regional development programs of Africa. The needs are the same; and our commitment should be the same.

We should also examine the possible immediate economic benefits the United States would receive if we were to join the African Development Fund. Much of our investment will be returned by increased demand for U.S. capital goods, technical assistance and other necessary components of development. This, in turn, will increase jobs and exports here in the United States. In 1973, the Inter-American Development Bank added $143.7 million to the U.S. economy, while our payments amounted to $15.3 million. In 1973, we gave the bank $18 million while they placed $122 million in the United States. In our other multilateral development ventures, we have certainly come out ahead, and there is no reason why Africa should vary from this pattern.

Africa has a wealth of natural resources, which we have been, or in the future could, utilize for our industries here. Presently, 34 percent of all cobalt used in the United States comes from Zaire, which is also part of the African Development Fund.

Africa has ten potential areas of petroleum spread throughout the continent. As the energy crunch squeezes tighter, we need to look to other areas of potential supply as do the Africans themselves. Development of these reserves would give them foreign exchange reserves and a potential for modern, high energy use industry.

Potential mineral resources exist in 25 out of the 26 minerals necessary for an industrialized nation, such as the United States, to continue production. We will never be able to use these resources if they are not developed and if there are no roads and communication systems to deliver them.

Africa is a great land. It is a continent from which more than 10 percent of all Americans have come. It is a land which has such great potential that we dare not neglect it, for to do so will be at our own peril.

The bill, which you have before you, is intended to insure that the U.S. interests in Africa are assured on a continued and sound basis, and I urge your support for it.

Ms. HOLTZMAN. Mr. Chairman, I regret having to vote against H.R. 9721 providing for an increase in authorization for the Inter-American Bank and contribution to the African Development Fund. I am taking this action, however, because a majority of these organizations supported or acquiesced in the United Nations' resolution condemning Zionism as racism. In fact, only 10 of the 22 Latin American members of the Inter-American Development Bank and 5 of the 39 members of the African Development Bank voted against this resolution.

The United States has long supported the growth, development, and independence of Latin American and African nations. I support these goals, and I have voted for other legislation to help attain them. Now, however, these countries have been obviously blackmailed by Arab money. We should withhold our support from countries who sell anti-Semitic votes for petrodollars.

I find the United Nations' resolution an insult not only to Jews but to all Americans, and I cannot support this bill to aid nations which have chosen to take such action.

The CHAIRMAN. All time has expired. Pursuant to the rule, the Clerk will now read the bill by titles.

The Clerk read as follows:

H.R. 9721

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—INTER-AMERICAN DEVELOPMENT BANK

Sec. 101. The Inter-American Development Bank Act (22 U.S.C. 283 et seq.) is further amended by adding at the end thereof the following new sections:

"Sec. 26. (a) The United States Governor of the Bank is hereby authorized to vote in favor of two resolutions proposed by the Governors at a special meeting in July 1975, and now pending before the Board of Governors of the Bank, which provide for (1) an increase in the authorized capital stock of the Bank and additional subscriptions of members thereto and (2) an increase in the resources of the Fund for Special Operations and contributions thereto. Upon adoption of such resolutions, the United States Governor is authorized to agree on behalf of the United States (1) to subscribe to ninety-nine thousand four hundred and seventy-four shares of $10,000 par value of the increase in the authorized capital stock of the Bank of which eighty-nine thousand five hundred and twenty-six shall be callable shares and nine thousand nine hundred and forty-eight shall be paid in and (2) to contribute to the Fund for Special Operations $600,000,000, in accordance with and subject to the terms and conditions of such resolutions.

"(b) There are hereby authorized to be appropriated, without fiscal year limitation, the amounts necessary for payment by the Secretary of the Treasury of (1) $1,199,997,873 for the United States subscription to the capital stock of the Bank and (2) $600,000,000 for the United States share of the increase in the resources of the Fund for Special Operations.

"Sec. 27. (a) The United States Governor of the Bank is hereby authorized to vote for an additional increase of one hundred and eight thousand shares of $10,000 par value in the authorized callable capital stock of the Bank as recommended in the resolution of the Board of Governors entitled 'Increase of US$4 Billion in the Authorized Capital Stock and Subscriptions Thereto'. Upon adoption of a Board of Governors resolution increasing the authorized capital stock of the Bank by such amount, the United States Governor is authorized to agree on behalf of the United States to subscribe to thirty-seven thousand three hundred and three shares of $10,000 par value of such additional increase in callable capital in accordance with and subject to the terms and conditions of such resolution.

"(b) In order to pay for the increase in the United States subscription to the Bank provided for in this section, there is hereby authorized to be appropriated, without fiscal year limitation, $450,002,218 for payment by the Secretary of the Treasury.".

Sec. 102. Under the center heading "INVESTMENT IN INTER-AMERICAN DEVELOPMENT BANK" in title III of the Foreign Assistance and Related Programs Appropriations Act, 1975, strike out all that follows after "to remain available until expended" and insert in lieu thereof a period.

Sec. 103. (a) The Inter-American Development Bank Act (22 U.S.C. 283 et seq.) is further amended as follows:

(1) By adding after section 22 the following new sections:

"Sec. 23. The United States Governor of the Bank is authorized to vote for three proposed resolutions of the Board of Governors entitled (a) 'Amendments to the Agreement Establishing the Bank with respect to the Creation of the Inter-Regional Capital Stock of the Bank and to Related Matters', (b) 'General Rules Governing Admission of Nonregional Countries to Membership in the Bank', and (c) 'Increase in the Authorized

Callable Ordinary Capital Stock and Subscriptions Thereto in Connection with the Admission of Nonregional Member Countries', which were submitted to the Board of Governors pursuant to a resolution of the Board of Executive Directors approved March 4, 1975.

"SEC. 24. The United States Governor of the Bank is authorized to agree to the amendments to article II, section 1(b) and article IV, section 3(b) of the Agreement Establishing the Bank, as proposed by the Board of Executive Directors, to provide for membership for the Bahamas and Guyana in the Bank at such times and in accordance with such terms as the Bank may determine.

"SEC. 25. The United States Governor of the Bank is authorized to agree to the amendments to article III, sections 1, 4, and 6(b) of the Agreement Establishing the Bank, as proposed by the Board of Executive Directors, to provide for lending to the Caribbean Development Bank.".

(2) By inserting in the first sentence of section 5 after "article II, section 3" a comma and the words "or article IIA, section 2,"; and by inserting in the last sentence of section 5 after "article II, section 2," the words "or article IIA, section 1,".

(3) By deleting in the first sentence of section 11(a) the word "ordinary"; by inserting in section 11(a) after the words "article II, section 5," the words "and article IIA, section 4,"; and by inserting in section 11(a) after the words "article II, section 4(a)(ii)," the words "or article IIA, section 3(c),".

(b) The amendments made by paragraphs (2) and (3) of this section shall become effective upon approval by the Board of Governors of the Bank of the resolutions referred to in section 23 of the Inter-American Development Bank Act (22 U.S.C. 283 et seq.).

Mr. GONZALEZ (during the reading). Mr. Chairman, I ask unanimous consent that further reading of title I be dispensed with, and that it be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LONG of Maryland: Page 5, after line 18, insert the following new section:

SEC. 104. The Inter-American Development Bank Act (22 U.S.C. 283 et seq.) is further amended by adding at the end thereof the following new section:

"SEC. 28. (a) The United States Executive Director of the Bank shall propose to the Board of Executive Directors of the Bank the adoption of a resolution providing (1) that the development and utilization of light-capital or intermediate technologies should be accepted as major facets of the Bank's development strategy, and (2) that such light-capital or intermediate technologies should be developed and utilized as soon as possible in all Bank activities. Such resolution shall further provide that, by the close of the calendar year 1977, some projects that employ primarily such light-capital or intermediate technologies shall be designed and approved.

"(b) The United States Governor of the Bank shall report to the Congress no later than six months after the date of the enactment of this section on the proposal made under subsection (a), and no later than 12 months after such date on the progress that has been made with respect to such proposal."

Mr. LONG of Maryland. Mr. Chairman, my amendment is strictly a policy amendment. It does not involve the authorization or appropriation of any money. The purpose of my amendment is to try to get our foreign aid, particularly that of the multilateral banks, launched in a new direction, in the direction of using light capital for intermediate technology and away from the kind of very heavy capital we have been pouring into all these underdeveloped countries for so many years.

The chief contribution of much of our heavy capital development has been not so much to eliminate poverty as to help the well-to-do, the urban societies. Where our heavy capital aid has had any effect at all, that effect frequently has been to disemploy, to make unnecessary, large numbers of poor people, to take them off the farms, and to dump them into the slums or onto the sidewalks of the big cities.

It is my hope that we can get a recognition by the underdeveloped world that instead of using the most highly sophisticated methods of the United States the underdeveloped countries ought to start by using very simple technology.

That does not mean building roads by hand or cutting lawns with scissors or bailing out pools with a spoon. It simply means using technology which is appropriate to the situation. Usually this means using intermediate technology or technology somewhere in between. I have seen near Dakar, Senegal, a small farm implement company which is making simple implements which are animal drawn, not power drawn, and which cost around $80 apiece. Even that is a very large sum of money for many people in the developing world. But the manufacture and use of such simple tools is the direction in which to move.

Let me point out that the sums of money we have available for foreign aid to help the poor people in the world are absolutely insignificant in comparison to the size of that problem. Consequently we have to try to make use of the main assets of the poor people of these underdeveloped countries, and one of the main assets is the idle time of their people who are underemployed. We should try to help these people become more productive with very simple implements instead of displacing them with machines and throwing them into unemployment.

Mr. GONZALEZ. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I merely rise to say that the gentleman from Maryland has had a series of communications with me over the past few weeks. The gentleman has acceded to some changes in the language of the suggested amendment. Even though it is true that the Bank is doing considerable work in this range of intermediate technology, we feel that the gentleman's amendment is constructive.

The gentleman has, indeed, traveled wide and far and has reviewed personally many of these projects. The gentleman knows whereof he speaks.

We checked it out with the Department of the Treasury. The language that the gentleman offers is wholly acceptable. It is constructive and adds to the value of the bill. We certainly have no objection to it.

Mr. LONG of Maryland. Mr. Chairman, I thank the gentleman from Texas.

Mr. Chairman, I would like to point out that if the language of my amendment is acceptable, it is partly due to the efforts and very wise counsel of the gentleman from Texas, who helped me in the drafting on this legislation.

Mr. Chairman, I hope very much my amendment will be approved.

Mr. BROWN of Michigan. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I likewise have been familiar with the policy that the gentleman from Maryland proposes in his amendment; however, I have also been aware and I am familiar with the policy we have had in the past of not using developmental assistance for the payment of local costs. In fact, many of our foreign aid programs have specifically limited the utilization of funds in these programs for local costs, many times for make-work projects where, basically, we are using our foreign development assistance to pay the wages, and so forth, of individuals that should be borne by the local government involved.

Now, the gentleman in the explanation of his amendment has clarified his interest somewhat. However, I got the impression from some of the things the gentleman has said in the past that the gentleman was recommending that our developmental assistance be used in a social welfare way by providing shovels for a thousand people to dig a ditch, rather than more effectively utilize a tractor. That is not the intent of our developmental assistance programs. In the past we have opposed that idea. To the extent that the gentleman says that we should have a program that looks into the intermediate technologies, probably it has merit; but I would like the gentleman to clearly state that the gentleman does not really mean that the Bank should come up with programs of developmental assistance which call for a use of developmental funds for local costs.

I will be glad to yield to the gentleman for that purpose.

Mr. LONG of Maryland. Mr. Chairman, I will be happy to clarify that. In no way does my legislation propose what alarms the gentleman. It merely says that we have to get a new approach to the problem; that is, endeavor to make productive use of the idle time of the 400 million people in the underdeveloped countries, not by wasting that time, not by having them work all day long and accomplish little or nothing, but by developing simple tools and ways of doing things that will make their work effective, without at the same time making them redundant and unemployed.

I believe this intermediate or appropriate technology calls for a change of policy looking toward new ideas. I hope very much the gentleman will accept my amendment.

Mr. BROWN of Michigan. Mr. Chairman, I thank the gentleman for his contribution. At times I think that the gentleman contributes to my understanding of what he proposes to do and sometimes I think what the gentleman says is somewhat counter to that which I thought the gentleman's amendment proposed to do.

In any case, I think it should be made abundantly clear that we are not talking about using this kind of assistance to defray local costs.

Does the gentleman agree with that statement?

Mr. LONG of Maryland. I agree with that, yes.

Mr. BROWN of Michigan. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. LONG).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GRASSLEY

Mr. GRASSLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GRASSLEY: Page 3, strike out lines 20 through 24. Redesignate the succeeding sections accordingly.

Mr. GRASSLEY. Mr. Chairman, my amendment strikes lines 20 through 24 on page 3, which if left in the bill, would strike the earmarking provisions of the Foreign Assistance Act that require that the Inter-American Development Bank loan money through cooperatives, credit unions, and savings and loan associations.

Why earmark? The reason for earmarking is because the Congress has been trying to get the Inter-American Development Bank through the Fund for Special Operations to give a certain amount of money through co-ops, credit unions, and savings and loans. The bank has not responded, so we must set congressional policy in this direction because it is our overall policy of the United States of America to help those people in need rather than the power structures of the countries that we are dealing with. Also, our Nation's policy is to get the money to the people that need it the most, with the end being to help people to help themselves. That is why we should go through the co-ops, the credit unions, and the savings and loans of the Latin American countries.

I have a chart here that will show the Members a little bit of the rhetoric they are going to be hearing about the Bank already helping co-ops, credit unions, and savings and loans. This will give the Members one example of what we have been told is an effort by the Inter-American Development Bank to work through the Confederation of Latin American Credit Unions, COLAC.

There was a plan by the State Department—the Agency for International Development—which has nothing to do with the Inter-American Development Bank, to give some money to the Confederation of Latin American Credit Unions to help them with their programs. The Inter-American Development Bank, as a result of Congress' interest in having the Bank work through credit unions, came to the Agency for International Development—and this was admitted in testimony before the Senate hearings in June—and the Bank said that they would like to take over this program. AID said, "We will let you take it over."

The Inter-American Development Bank then did not put new American money into it, but it went to the Social Progress Trust Fund, which is the recycled money of the old Alliance for Progress, and took $8 million out of this fund for the Confederation of Latin American Credit Unions to carry out their programs. The Inter-American Development Bank is telling us that this ought to satisfy the Congress that the Inter-American Development Bank is willing to work through credit unions, cooperatives, and savings and loans.

I say it is a bunch of hogwash. There is no new money, and what we are talking about with this amendment, if we leave the earmark requirements, is for the U.S. Congress appropriating to the Fund for Special Operations, which is administered by the Inter-American Development Bank, and that new money would go directly to the agencies such as the Confederation of Latin American Credit Unions. There are hundreds of other agencies as well that could be involved in administering these funds.

Mr. Chairman, the whole purpose of the earmark that this House approved last March was to get the money to the economically disadvantaged. That is what the language of the statute says, to help the people in greatest need. There are no agencies in South America that are better capable of doing this than the credit unions, for the simple reason that they are democratically controlled. Their policymaking comes from the grassroots up, and heretofore the aid that has been given to Inter-American Development Bank has worked through the power structure, through the commercial banking circles, through the nationalized banks, to serve the ends of the power structure in Latin America, as opposed to starting from the bottom and working up through the grassroots organizations, such as co-ops, credit unions, and savings and loans.

Mr. Chairman, the testimony of the experts in this area was that this is the only way to help the small farmer to produce, and that is very essential to America's program to help feed the hungry and to help the poor.

Mr. GONZALEZ. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, the gentleman from Iowa offered this amendment in the subcommittee. I think I demonstrated some sympathy to the cause at the time. The subcommittee did not accept this. I promised the gentleman from Iowa at the time that I would follow through and evaluate it and see what justification or logic there would be for the insistence on a provision that was tacked on into the law by a nongermane Senate amendment.

Mr. Chairman, after I went into the history of that, there are two basic reasons why I would not be able to join the able gentleman from Iowa (Mr. GRASSLEY). One is that it is a violation of the charter and the rules that all of the nations belonging to this Bank live by. By adopting the amendment offered by the gentleman from Iowa (Mr. GRASSLEY), we would in effect be unilaterally dictating an earmarking provision in our participation in this Bank, earmarking unilaterally dictated funds which must be used in a way that would be clearly in contradiction to the rules; and, therefore, what happened the last time was that we had $50 million which were just set aside from what we committed in the form of the last replenishment and just not in any way able to be used. It was sort of deceiving ourselves because it was contrary to the charter. There was no way that we could unilaterally do this, any more than any of the other participating nations can unilaterally designate some type of similar mandate.

To have this earmarking provision, such as this amendment would provide for, would create an intolerable and a very dangerous precedent.

Mr. Chairman, again I say it is just a sort of charade, it is illusory. It just merely means we will reduce our commitment by that amount of money.

Second, the record of the Bank is exceptionally good in this special thing that the gentleman from Iowa (Mr. GRASSLEY) rightfully feels ought to be the direction of much of the activity of the Bank. For example, if we look at the committee report, on page 17, we will find that in 1972 the Bank made $1.9 million in loans to agricultural, fishing, industrial, and other types of cooperatives; in 1973, $46.6 million in loans to that type of institution; and in 1974, $78.1 million in loans to that type of institution.

In 1975, from January to date, $28.7 million has been approved for this type of institution, and there was around $100 million initially for contracts for the remainder of the year from cooperatives, from credit unions, and similar type organizations.

Now, in going into the history of that nongermane amendment in the Senate which was offered and was placed in the bill as a rider by the Senator from Hawaii, I discovered that the interests that prevailed on the Senator to attach that on the bill were indeed taking advantage of the good will and the willingness of this Nation to participate not only in multilateral institutional efforts but bilateral efforts. They were in effect selfishly trying to kill two birds with one stone and take advantage of the special funds that would go to them in the form of dollars bilaterally and then get the other type of funds that can be used only in that country.

The CHAIRMAN. The time of the gentleman from Texas (Mr. GONZALEZ) has expired.

(On request of Mr. BROWN of Michigan and by unanimous consent, Mr. GONZALEZ was allowed to proceed for 1 additional minute.)

Mr. GONZALEZ. In fact, Mr. Chairman, they were trying to get the best of two worlds, and they are continuing to try to get the best of two worlds.

I know that the record of the gentleman from Iowa (Mr. GRASSLEY) is so good in trying to avoid the wrongful use of dollars that he would not want this to happen. Yet this amendment will allow some selfish interests, in the guise of trying to create savings and loan institutions and develop other activities, to remain exempt from taxation in the use of those funds, because we also have to have some respect for the institutional value of the offices of these banks.

In some of the savings and loans, if not all, in some of these countries, such as Paraguay and others, the going rate of interest for the S. & L. down there is 30 percent. That could hardly be the type of help that a peasant or a $200-a-year citizen of those nations would be able to take advantage of in this type of a loan.

Mr. TSONGAS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I am not going to take much time. I simply want to point out to the gentleman from Iowa (Mr. GRASSLEY) that if the United States should engage in this particular policy, the other 12 industrialized countries that contribute to the bank would also have a precedent by which they could earmark funds themselves for their own purposes. If that would be carried on ad infinitum, we would be in a position where we would see the bank hamstrung in its efforts, and we would have various governments using the money for their purposes instead of using the money in areas where we feel it should go.

Mr. GRASSLEY. Mr. Chairman, will the gentleman yield?

Mr. TSONGAS. I yield to the gentleman from Iowa.

Mr. GRASSLEY. Mr. Chairman, there has been some talk about the necessity for amending the IOB charter to be able to make use of earmarked money. From the history of the charter as well as from a reading of it, we can see that the charter is flexible to the point that it envisions a great amount of elasticity in its operation.

I am sure that what the gentleman from Massachusetts is trying to impress upon the House is the fact that if the United States does this, the other nations will follow. There is already one precedent for this. There is an interest-bearing account that Venezuela has with the bank, with special instructions placed on it. So the United States would not be the first country to do this.

Second, we are talking about the Fund for Special Operation, to which the United States contributes 67 percent of the resources. It seems to me that the United States, by being a major stockholder in this operation, has an obligation to show leadership in this area of getting money to the economically deprived and disadvantaged people, and that is exactly what this is addressed to.

Mr. TSONGAS. Mr. Chairman, the issue is not the policy. I think we have a director who will pursue this policy, and they have it as a clearly developed directive in the bank to pursue the policy as well. The question is strictly the mechanism for the institution to pursue the policy.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. TSONGAS. I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. Mr. Chairman, first of all, let me say that I am very happy to see the gentleman from Iowa (Mr. GRASSLEY) recognized as an outstanding member of the committee on the minority side.

We agree in principle, the members of the committee, with the purpose of the gentleman from Iowa. But on page 17 of the report it clearly outlines and goes into great detail, in a letter from the President of the Inter-American Development Bank, the Honorable Antonio Ortiz Mena, the fact that this amendment is unacceptable to the bank—He explains this in great detail, as I say and points out that it is totally unacceptable within their charter system.

There was some $50 million that was not available to the bank last year due to this very type of amendment.

So, as much as we would like to see it done in principle, as much as we would like to encourage this organization to do this on their own, as individuals, we should not put this in the legislation as the amendment offered by the gentleman from Iowa (Mr. GRASSLEY) would do. Therefore, I regret that we have to oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. GRASSLEY).

The amendment was rejected.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of California: On page 5, after line 2, add the following new section:

"SEC. 28. The President shall instruct the United States Governor of the Bank to cast the vote of the United States against any loan or other utilization of the funds of the Bank for the benefit of any country which has—

"(1) refused to enter into good faith negotiations by January 1, 1978, with the United States to establish tax treaties; and

(2) refused to enter into good faith negotiations by January 1, 1978, with the United States to provide, upon request, information necessary for the enforcement of the respective tax laws of the two nations."

Mr. MILLER of California. Mr. Chairman, this amendment originally was discussed yesterday in the general debate by the gentleman from Ohio (Mr. VANIK) who is unable to be here because of commitments on the Committee on Ways and Means. The gentleman from Ohio has asked that I offer the amendment on his behalf.

The amendment would simply require that the President instruct our Governor on the Bank Board to cast a vote against any loan or commitment of funds to those countries which fail to enter into good faith negotiations on the establishment of tax treaties and for those countries which fail to enter into negotiations for establishment of procedures by which this country may enforce its tax laws.

As the Members know, the Internal Revenue Service has undertaken a 10-year investigation as to secret bank accounts in the Bahamas. Also we are very much aware of the fact that hundreds of millions of dollars of American money from possibly illegal sources is being sent to these countries and we are unable to trace it and we are unable to find out what the loss of tax revenues to the Treasury is.

I think at a time when this country is talking about spending limitations and tax reform and trying to fund the operations that are ongoing here, we should not allow countries which can receive loans from this agency to thwart the proper enforcement of our tax laws.

Mr. Chairman, I would ask that the committee give favorable consideration to this amendment.

Mr. REES. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think the spirit of this amendment is something that we all would approve. We would like to see the United States enter into a tax treaty with every country in the world so that we do not have unnumbered accounts and we do not have people taking cash from the United States to some other country. But I think this is the wrong way to do it.

I had an export business in Latin America when I was younger. In my opinion, in light of my experience, I think this amendment would be completely counterproductive, knowing how the Latin Americans feel about someone else trying to tell them how they should change their own laws. I think an amendment of this type would make it practically impossible to get any agreement with the countries that do have numbered bank accounts. They would never make the information available to the United States. I think this type of an amendment would be completely counterproductive, and in no way would we ever get any type of a tax agreement. In no way would we get any compromise.

There is the Calvo doctrine that is adhered to by practically all of the Latin American countries. The doctrine is that each country has complete sovereignty over all things occurring in their own country. The Calvo doctrine is so ingrained in Latin America that countries have foregone any kind of loan from the Inter-American Development Bank after seizing an American company because they will not go into international arbitration because they contend that the seizure is a matter of their country's laws and in no way will their sovereignty be violated. Looking at the way the Calvo doctrine operates in Latin America, frankly, the countries that are involved—and I can think of two or three: Maybe the Bahamas and Panama—the tendency would be for these countries to contend that, "you are not going to tell us how to write our own bank law; we do not want to even negotiate with you on any treaty; and as far as we are concerned, you can take any money from the Inter-American Development Bank and keep it. We are not going to take it."

That is what would happen, and again we would be in a situation where we would have absolutely no flexibility at all to negotiate with these countries on any kind of a reasonable tax treaty.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. REES. I yield to the gentleman from California.

Mr. MILLER of California. I thank the gentleman for yielding.

I think that a reading of the amendment allows just that. It allows for good faith negotiations and allows, I think, the type of leeway that the gentleman is expressing. What we are really talking about is trying to stop the very overt attempt by a number of countries to thwart the enforcement by the Department of Treasury of our tax laws with a very open policy of denying information, denying access to that information by the Internal Revenue Service. I think that a country to qualify simply has to engage in good faith negotiations. I personally believe the amendment does not go far enough; but, in any event, by 1978 I think we will give them an awful lot of time to review the internal policies and to make their objections.

Mr. REES. I will yield to the gentleman just to this point because I do not want to yield all of my time.

This type of an amendment to this specific legislation would be completely counterproductive as to what the gentleman wants and what I want in terms of a reasonable tax treaty between the United States and the countries concerned. In every negotiation such as I have seen in Latin America the country in question would say, "All right, if this is the way you feel about it, we are not going to make any deal. In fact, we are going to shop for any international unnumbered deposit we can find." That is what is going to happen. It will be completely counterproductive. If we start legislating all of our treaties through the U.S. Executive Director on the Inter-American Development Bank, we are going to destroy this regional bank which, I think, has done an excellent job over the years.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. REES. I yield to my friend, the gentleman from Ohio.

Mr. J. WILLIAM STANTON. I thank the gentleman for yielding.

I reluctantly join the gentleman in the well in his opposition to this amendmend, primarily, as he first pointed out, because of the fact that while we are maybe in sympathy with the idea, it certainly does not belong in this particular legislation. To get back to the point, all I can think of is some of the abortion amendments and amendments that have been added onto different bills. It is just the wrong place.

Second, we do not know how many countries we are talking about and what countries are involved in the general field of tax and tax agreements, and the rest of it. It certainly does not belong in this legislation.

Mr. REES. I agree with the gentleman. We might put this amendment in the Military Sales Act, or something like that, but to have complete control, it should not be in an international institution.

Mr. TSONGAS. Mr. Chairman, will the gentleman yield?

Mr. REES. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. I thank the gentleman for yielding.

There are, basically, two issues here. One is a statement of policy. I think the legislative record will reflect that today. The second is a mechanism. I think the intrinsic statement of policy has been accomplished.

Mr. MILLER of California. If the gentleman will yield further, I would dare say it is a statement of policy by the Internal Revenue Service when they go in to seek to enforce the law and are told they cannot have the information. There is a very clear policy when they seek a statement from the recipients of loans from this Bank, and they do not get cooperation.

Mr. REES. This amendment, as I mentioned before, would be completely counterproductive, and what leverage the IRS and the U.S. Government have to negotiate, I believe, would be destroyed in an amendment of this type in this bill dealing with an international institution.

Mr. TSONGAS. If the gentleman will yield further, it also sets a precedent on all kinds of provisos and issues that we have difficulty with in these other countries, and that could also be included, and it would be worthless.

The CHAIRMAN. The time of the gentleman has expired.

The question is on the amendment offered by the gentleman from California (Mr. MILLER).

The amendment was rejected.

Mr. CONTE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today in support of H.R. 9721. I am convinced that the American contributions to the Inter-American Development Bank—IDB—and to the African Development Fund—AFDF—are essential to insure the success of these self-help institutions. I believe that Congress and the people of America recognize that the United States has a major role to play in the development of the third world countries.

As we all know, the less developed nations of Africa and Latin America are among the most politically flexible and unstable countries of the world. A healthy growing economy can act to stabilize and calm these conditions. We must recognize that aid of this type is an investment not only in humanity, but in world peace and America's future relations with the third world.

This legislation will provide for a stronger shot of adrenalin for the ailing economies of nations who are desperately trying to stay afloat. I do not advocate a giveaway policy over which we have no control. I do support an investment in two financial institutions which have proven to be not only safe but fruitful. The bill allows for United States approval of replenishment of the IDB and for our contribution to that replenishment. H.R. 9721 would also allow for an additional 12 nonregional donor countries including several European countries, Israel, and Japan. We are in effect then, spreading the burden of these investments. Hopefully, the United States and Canada will no longer be the only developed nation contributors.

All of the contributors will provide both paid-in and callable capital for both the IDB itself and the Fund for Special Operations—FSO. The FSO is an especially worthwhile investment because it concentrates on the health and humanitarian aspects of development. Better health services creating a healthier more educated populace will eventually reduce the need for a great deal of the aid we now provide for these areas. The loans are not giveaway donations. They are loans; loans for specific technical assistance projects. The money is used and used well, not just dribbled away on wasteful unspecified programs.

Mr. Chairman, I would like today to drive one point home to every Member here today, this bill is a contribution and only a contribution to a self-help program. The Latin American and African nations have increased their own share of the burden as they have become able. I think this is commendable. They are not asking the United States to support their bank for them. Latin America, by the end of 1974, was providing 42 percent of the total resources of the IDB. By the end of 1979 it is estimated that the Latin American nations will be contributing 47 percent compared to 44 percent contributed by the United States. This I feel, is a clear indication by the nations that receive the benefits that they are willing to assume the burden as they are able.

Many of my colleagues feel that we should not assist the ailing economies of other nations when ours is ailing as well. I do not believe that this is a fair or accurate comparison. American businesses have profited greatly by winning contracts generated by these development loans. Thus part of the money we provide is returned to the United States in the form of economy stimulating trade. The total cost to the United States then is minimal and the foreign policy benefits are great. All of this plus the obvious benefits to the people and economies of developing nations are the result of the contribution we make to this Fund.

Mr. Chairman, I would like to say that I am quite aware of the domestic economic situation and if I felt that this would in any way harm our economy or that it was merely an appeasement giveaway, I would certainly be opposing the bill today. I have studied the past performances of these institutions and am convinced that this is a wise move and a sound investment.

AMENDMENT OFFERED BY MR. PEPPER

Mr. PEPPER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PEPPER: Page 4, line 22, immediately before the period insert the following: "; but the Governor may not so agree with respect to the Bahamas until after such time as the Secretary of State informs the Governor that the Bahamas has given appropriate assurances to the United States that United States fishermen will not be denied historical fishing rights (including those to Continental Shelf resources such as the spiny lobster) in waters over which the Bahamas claims jurisdiction".

Mr. PEPPER. Mr. Chairman, I offer this amendment on behalf of myself, Mr. Fascell, Mr. Lehman, and Mr. Chappell. Mr. Chairman, I mentioned on the floor yesterday during general debate that a few months ago the Bahamian Government promulgated a policy or regulation which forbade the taking of the spiny lobster within 200 miles of the Bahamian shoreline or territory, claiming that the spiny lobster was indigenous to their own continental shelf and trying to make an analogy between a similar policy we had adopted in the United States with respect to the Maine lobster.

I think there is a very serious technical question as to whether the Bahamian Government was justified in the assumption they made, but at least I think everyone can agree that in one respect the Bahamian Government has violated international law and practice. The State Department feels so strongly to that effect that it is now, I am advised by the State Deparment, going to take the matter to the International Court of Justice.

For a long time the Florida fishermen and Cuban exiles, sailing under the American flag with American fishermen, have been fishing within a reasonable distance of the Bahamian shore for the lobsters. Now the fishermen are denied that privilege since they are now forbidden to fish within 200 miles of Bahamian shores. There was an abrupt cutoff of that prerogative they had long enjoyed, as a result of which 1,000 fishermen who were going into the ocean to a point 12 miles from Bahamian shores have not had since the summer a dime of revenue and most have lost their equipment and facilities as well as their income. They have had no means of livelihood.

There has been no phasing out of such rights by the Bahamian Government. Even if the Bahamian Government had the right to terminate the fishing privileges our people had enjoyed, under international law the Government should have given a reasonable opportunity to those historically enjoying that right to have phased out their operation. That is what Brazil did when they promulgated a prohibition that we could not come within a certain distance of their shores. They gave a certain time to our American fishermen to phase out and convert their equipment and learn other techniques of fishing. But the Bahamian Government just abruptly cut off the fishermen's prerogative that had been so long enjoyed and in that respect our State Department feels so strongly the Bahamians have been wrong in their violation of international law that the Department has resolved to take the matter to the International Court of Justice.

So at least, if we are not going to tell our Governor on the Inter-American Development Bank to vote against the application of the Bahamian Government when they seek to take the benefits of our money—and under this bill we are putting in over $2 billion of additional money for soft loans as well as hard loans and for trust funds they will be able to get the benefit of—I say at least we ought to have our Governor say they have got to deal fairly with these many people who have enjoyed historically the lobster fishing rights outside 12 miles from the Bahamian shores and at least give them a fair opportunity to phase out their fishing operation over a reasonable time and not take advantage of our people so abruptly as the Government of the Bahamas has done in violation of all principles of comity and international law.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I just want to say that although I might quite well concur with the gentleman on the merits of his amendment, I think the gentleman has picked the wrong forum. The gentleman has said that this is, in effect, being internationally judicially determined.

Mr. PEPPER. Mr. Chairman, will the gentleman please allow me to interrupt. It will take 2 or 3 years before a decision can be handed down, if not a longer period, by the international court of justice; but when the Bahamians apply for the benefits of this bill in the near future, no doubt, our Government, our representative, should say, "Look here, why don't you now give a fair opportunity for over 1,000 people who have been enjoying lobster fishing privileges historically up to 12 miles of your country's shores to phase out such operations over a reasonable period of time as Brazil has done before you prohibit such fishing within 200 miles of your shores?

That is the reason I think I am in the right forum to let the legislative history of this bill indicate to our executive department that we do feel these lobster fishermen should have a fair opportunity to be phased out by the Bahamian Government before that Government is allowed the enjoyment of the large sums we contribute to the Inter-American Development Bank.

The CHAIRMAN. The time of the gentleman from Florida has expired.

(By unanimous consent, Mr. Pepper was allowed to proceed for an additional 2 minutes.)

Mr. PEPPER. Mr. Chairman, I yield to the distinguished chairman, the gentleman from Texas (Mr. Gonzalez).

Mr. GONZALEZ. Mr. Chairman, I thank my distinguished colleague, the gentleman from Florida, whom I admire and have all along.

Mr. Chairman, since the gentleman brought this issue up yesterday and we discussed it preliminarily, we had a chance to review it.

Mr. Chairman, let the record show we thoroughly sympathize, but I can assure the gentleman that the executive branch of this Government is not going to stand idly by.

I think we know that the Bahamian Government does not now belong to the Bank. By refusing them, we do not deny them anything they do not have now; so we will have a leverage if we let this bill take its course.

I can assure the gentleman that leverage will be used and used in a very proper way along the lines the gentleman from Florida has so amply and efficiently pointed out to this Congress.

Mr. PEPPER. Mr. Chairman, I thank the gentleman. I wanted to make this legislative history.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

I wish to express strongly to this body the hope that when the Government has to pass on this application, it insist that they recognize the principles of international law and the principles of comity and fairness and give these people a chance to phase out the operation.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida (Mr. Pepper) that he be permitted to withdraw his amendment?

There was no objection.

Mr. BROWN of Michigan. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, even though the gentleman has withdrawn his amendment, I initially sought recognition to speak against the amendment for the reasons I alluded to in the short colloquy I had with the gentleman. However, I have checked with the desk and in addition to the one or two amendments we already have acted upon, there are a couple more pending, that basically attempt to impose a political or foreign policy decision of a general nature on a specific piece of legislation, such as the financing of the Inter-American Development Bank or the African Development Fund.

I would urge my colleagues to be most cautious in considering these amendments, because this is not the forum for the consideration of those decisions. We are only one participant among many participants in these multilateral financial activities. If every participant in the Inter-American Development Bank or the African Development Fund started to impose its will and its condition upon participation in the activities of the Bank, we can see what chaos would result.

Mr. Chairman, let us stick to what this bill is intended to do and that is cause the United States to continue to participate in the funding of the activities of the Inter-American Development Bank and to initiate its participation in the financial activities of the African Development Fund.

Mr. STRATTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just want to take a couple minutes to say that I am grateful that the gentleman from Florida (Mr. Pepper) has withdrawn his amendment.

I think this kind of amendment, although certainly directed to a problem which is an important one in the State of Florida, could have had serious consequences because of the fact that the Bahamas has for many years been the site of one of our very important naval test areas for sound equipment, torpedoes, and things of that kind. I think a move of this kind, had the amendment been pressed, could have complicated our arrangements in the Bahamas and could have jeopardized the very delicate and important work the Navy is undertaking.

Since the amendment has been withdrawn, that danger has been removed, and I just want to express my appreciation to the gentleman from Florida (Mr. PEPPER) for the action he took.

Mr. PEPPER. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Florida.

Mr. PEPPER. Mr. Chairman, I am sure the gentleman recognizes that we should be given a fair opportunity for phasing out this operation.

Mr. STRATTON. I think there has been a good opportunity for fruitful discussion.

AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARKIN: On Page 5, immediately after line 2, insert the following:

"SEC. 26. (a) The United States Governor of the Bank is authorized and directed to vote against any loan, any extension of financial assistance, or any technical assistance to any country which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhumane, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial of the right to life, liberty, and the security of person, unless such assistance will directly benefit the needy people in such country.

"(b) In determining whether this standard is being met with regard to activities of the Inter-American Development Bank, the Committee on Foreign Relations of the Senate or the House Committee on International Relations or the House Committee on Banking Currency and Housing, may require the U.S. Governor of the Bank to submit in writing information demonstrating that such loan or assistance will directly benefit those persons in such country to which such loan or assistance is supposed to be directed, together with a detailed explanation of the assistance to be provided (including the dollar amounts of such assistance) and an explanation of how such assistance will directly benefit such persons in such country.

"(c) In determining whether or not a country falls within the provisions of subsection (a), the Senate Committee on Foreign Relations and the House Committee on International Relations and the House Committee on Banking, Currency and Housing shall give consideration to the extent of cooperation of such country in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations, including the International Committee of the Red Cross, or groups or persons acting under the authority of the United Nations or of the Organization of American States."

Mr. HARKIN. Mr. Chairman, I ask unanimous consent that section 26 be changed to section 28.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. HARKIN. Mr. Chairman, members of the committee, this is basically the same human rights amendment which was offered on the Economic Aid and Food Assistance Act which was on the floor several weeks ago. It was adopted by the House, and also adopted in similar form by the Senate. It has been, of course, adopted by the conferees and we will be voting on that shortly.

There were some minor changes made only in the technical language, but the basis is essentially the same. During debate on my amendment on the economic aid and food assistance bill earlier, some Members said that it did not go far enough in protecting human rights, and some said it went too far.

I did not want to do either. I do not think that we want to absolutely tie the hands of any of our programs or any of the administrators of our programs so that it would actually hurt the needy people more than it would help. So, I left the provision in this amendment as in the earlier one, that the Governor, for example, can give information as to how such assistance will benefit those people.

Again, I do not want to make it so rigid and so ironclad as to strangle the operation of the Inter-American Development Bank, but I do want, and I think we all want the world to know that if the United States stands for anything in the world arena, it stands for upholding basic human rights.

People may wonder where this language was taken from. The basic language in subparagraph (a) is from the Declaration of Human Rights of the United Nations Charter.

I believe we must have a reawakening of this Declaration, and I think the United States should take the lead. It is my feeling and my belief that the high esteem the people of the world have had for the United States is because of our support for basic human rights. We are the only Nation in the world founded on a philosophy: that philosophy being a commitment to the maximum amount of independence and freedom for the individual. I believe it is time that we reassert our belief in that philosophy, not only in principle but in fact.

Mr. Chairman, I urge the adoption of the amendment.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I will yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

Mr. Chairman, does the gentleman intend to offer a similar amendment to the African Development Fund?

Mr. HARKIN. I am talking to the staff about that. I am not certain, but my feeling is yes.

Mr. HYDE. If the gentleman will yield further, I would be most interested in knowing whether the gentleman can tell us who is going to make the determination of what is an internationally recognized human right. Who will make that judgment?

Mr. HARKIN. Again, I spelled some of them out, including torture or cruel, inhumane, or degrading treatment or punishment, prolonged detention without charges, that type of thing.

Mr. HYDE. If the gentleman will yield further, the amendment says "including." What are the others? Who makes that determination?

Mr. HARKIN. A lot of the others are basically spelled out in the Declaration of Human Rights of the United Nations Charter. I do not have all of those with me, but these are the basic ones.

In determining whether this standard is being met, either one of three committees, including the Committee on Banking, Currency and Housing, which has jurisdiction over this, may require the U.S. Governor of the Bank to submit in writing how this is done, and that type of thing. It really starts here.

Mr. HYDE. If the gentleman will yield further, would the gentleman agree that freedom of the press, political freedom to organize opposition parties, and freedom of assembly are internationally recognized human rights?

Mr. HARKIN. Some of those the gentleman mentioned are spelled out in the Declaration of Human Rights in the United Nations Charter. The gentleman is correct. They are spelled out, and they are human rights. I did not want to go through the whole list. I just spelled out the most fundamental ones.

Mr. HYDE. If the gentleman will yield further, in connection with the African Fund, since so many of those countries are military dictatorships and there is no freedom of press, I would be interested in knowing if the gentleman is going to offer this on that section of the bill.

Mr. HARKIN. Yes, and I would be glad to have any advice and suggestions the gentleman may have.

Mr. KREBS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The gentleman from Iowa (Mr. HARKIN) has 1 minute remaining.

Mr. HARKIN. Mr. Chairman, in the time that I have remaining let me add, in response to an earlier question, that I certainly intend to offer the same amendment to the section on the African Development Fund that will be coming up later, assuming, of course, that section is left in the whole bill.

I would like to state further that with regard to basic human rights, what I have spelled out in this amendment are just the most basic of those human rights and not a complete and total list of everything that is included in the Declaration of Human Rights of the United Nations Charter.

Again, Mr. Chairman, I urge the adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. HARKIN).

The question was taken; and on a division (demanded by Mr. HARKIN) there were—ayes 19, noes 13.

So the amendment was agreed to.

The CHAIRMAN. Are there further

amendments to title I? If not, the Clerk will read.

The Clerk read as follows:

TITLE II—AFRICAN DEVELOPMENT FUND

SEC. 201. This Title may be cited as the "African Development Fund Act".

SEC. 202. The President is hereby authorized to accept participation for the United States in the African Development Fund (hereinafter referred to as the "Fund") provided for by the agreement establishing the Fund (hereinafter referred to as the "agreement") deposited in the Archives of the United Nations.

SEC. 203. (a) The President, by and with the advice and consent of the Senate, shall appoint a Governor, and an Alternate Governor, of the Fund.

(b) The Governor, or in his absence the Alternate Governor, on the instructions of the President, shall cast the votes of the United States for the Director to represent the United States in the Fund. The Director representing the United States and his Alternate, if they are citizens of the United States, may, in the discretion of the President, receive such compensation, allowances, and other benefits not exceeding those authorized for a Chief of Mission, class 2, within the meaning of the Foreign Service Act of 1946, as amended.

SEC. 204. The provisions of section 4 of the Bretton Woods Agreements Act, as amended (22 U.S.C. 286b), shall appply with respect to the Fund to the same extent as with respect to the International Bank for Reconstruction and Development and the International Monetary Fund. Reports with respect to the Fund under paragraphs (5) and (6) of subsection 4 of said Act, as amended, shall be included in the first report made thereunder after the United States accepts participation in the Fund.

SEC. 205. Unless Congress by law authorizes such action, neither the President nor any person or agency shall on behalf of the United States:

(a) agree to an increase in the subscription of the United States to the Fund;

(b) vote for or agree to any amendment of the agreement which increases the obligation of the United States, or which would change the purpose or functions of the Fund; or

(c) make a loan or provide other financing to the Fund, except that funds for technical assistance may be provided to the Fund by a United States agency created pursuant to an Act of Congress which is authorized by law to provide funds to international organizations.

SEC. 206. (a) There is hereby authorized to be appropriated without fiscal year limitation, as the United States subscription, $25,000,000 to be paid by the Secretary of the Treasury to the Fund in three annual installments of $9,000,000, $8,000,000, and $8,000,000.

(b) Any repayment or distribution of moneys from the Fund to the United States shall be covered into the Treasury as a miscellaneous receipt.

SEC. 207. Any Federal Reserve bank which is requested to do so by the President shall act as a depository for the Fund, and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.

SEC. 208. For the purpose of any civil action which may be brought within the United States, its territories or possessions, or the Commonwealth of Puerto Rico, by or against the Fund in accordance with the agreement, the Fund shall be deemed to be an inhabitant of the Federal judicial district in which its principal office or agency appointed for the purpose of accepting service or notice of service is located, and any such action to which the Fund shall be party shall be deemed to arise under the laws of the United States, and the district courts of the United States (including the courts enumerated in title 28, section 460, United States Code) shall have original jurisdiction of any such action. When the Fund is defendant in any action in a State court, it may, at any time before the trial thereof, remove such action into the district court of the United States for the proper district by following the procedure for removal of causes otherwise provided by law.

SEC. 209. The agreement, including without limitation articles 41 through 50, shall have full force and effect in the United States, its territories and possessions, and the Commonwealth of Puerto Rico, upon the acceptance of participation by the United States in, and the entry into force of, the Fund. The President, at the time of deposit of the instrument of acceptance of participation of the United States in the Fund, shall also deposit a declaration that the United States retains for itself and its political subdivisions the right to tax salaries and emoluments paid by the Fund to its citizens or nationals and may deposit a declaration providing for reservations on other matters set forth in article 58.

SEC. 210. The President shall instruct the United States Governor of the Fund to cause the Executive Director representing the United States in the Fund to cast the votes of the United States against any loan or other utilization of the funds of the Fund for the benefit of any country which has—

(1) nationalized or expropriated or seized ownership or control of property owned by any United States citizen or by any corporation, partnership, or association not less than 50 per centum of which is beneficially owned by United States citizens;

(2) taken steps to repudiate or nullify existing contracts or agreements with any United States citizen or any corporation, partnership, or association not less than 50 per centum of which is beneficially owned by United States citizens; or

(3) imposed or enforced discriminatory taxes or other exactions, or restrictive maintenance or operational conditions, or has taken other actions, which have the effect of nationalizing, expropriating, or otherwise seizing ownership or control of property so owned;

unless the President determines that (A) an arrangement for prompt, adequate, and effective compensation has been made, (B) the parties have submitted the dispute to arbitration under the rules of the Convention for the Settlement of Investment Disputes, or (C) good faith negotiations are in progress aimed at providing prompt, adequate, and effective compensation under the applicable principles of international law.

Mr. GONZALEZ (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OFFERED BY MR. ROUSSELOT

Mr. ROUSSELOT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROUSSELOT: Beginning on page 5, line 19, strike all that follows through page 10, line 12.

Mr. ROUSSELOT. Mr. Chairman, I ask unanimous consent that I may be recognized for an additional 4 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The gentleman from California is recognized for 9 minutes.

Mr. ROUSSELOT. Mr. Chairman, while it is my view that the burden of persuasion rests with those who propose to undertake this new involvement with the African Development Fund, I shall proceed to outline the major reasons why the United States should not become a participant in this organization:

First. There has been a significant change in the climate of international relations since representatives of the United States first indicated that this country would participate in the African Development Fund. The so-called Third World countries have shown an increasing tendency not only to attack the United States before such international organizations as the United Nations, but also to villify and to seek to exclude member nations, including Israel and the Republic of South Africa which are friends of the United States. At the same time the United Nations, at the urging of the Third World, has given the "red carpet" treatment to the Palestine Liberation Organization, which is neither a member nation nor even a government but a terrorist group which has repeatedly threatened not only the security of a member state, but also the safety of international travel and commerce.

Second. We have been told that the nations which are assisted by the African Development Fund are among the neediest in Africa and that it would be unfortunate from a humanitarian standpoint if this country were to refuse to participate in the Fund. However, it should be recognized in all fairness that the American people have always been generous in providing humanitarian assistance to Africa through such programs as Food for Peace. However, our generous taxpayers have been wondering for years, as they have sat around their own dinner tables, about the fact that leaders of the Third World nations have fed their people a steady diet of anti-American propaganda. Our own taxpayers are fed up with the willingness of their Government to continue to provide assistance to nations which seem eager to use every ounce of their strength to demonstrate their hatred of the United States. Our taxpayers are well aware that most of the major Communist power to which the Third World countries have been only too willing to look for political guidance are hardly able to feed their own people, let alone to provide assistance for the hungry nations of Africa. Only last week the Soviet Union admitted that its next grain crop for next year is expected to be the poorest in a decade.

Third. The United States possesses an ability to produce food which gives us a unique ability to influence the course of international affairs in order to promote the peace and security of ourselves and our friends. Our taxpayers expect their Government to use this leverage in a responsible and effective manner, not to waste it by providing American assistance to this country's international opponents. If it should be determined to be appropriate that the United States provide additional assistance to Africa, we would be better advised to provide such assistance to friendly African countries on a bilateral basis. Until we develop the kind of relationship with the African Continent that we have enjoyed with several other regions of the world, we should recognize that multilateral assistance to Africa is premature and that the African Development Fund, an affiliate of the stridently anti-American Organization of African Unity, cannot be the proper vehicle for the provision of assistance to Africa.

Fourth. Not all of the member countries of the African Development Bank itself have fully paid their own subscriptions to provide paid-in capital for the Bank. This point was established as a result of an answer provided by the Honorable Charles A. Cooper, Assistant Secretary of the Treasury for International Affairs, in response to a question submitted by Subcommittee Chairman HENRY B. GONZALEZ:

> *Question*. Are all of the subscriptions of the African countries of the Bank up to date?
>
> Answer. The AFDB has had a problem with arrearages on paid-in capital but has negotiated settlements with the delinquent members and the amount of arrears had been reduced from 40 percent of paid-in capital in 1969 to 13 percent of paid-in capital in 1974. In April 1975, total arrears were $20 million compared to $24 million the previous year.
>
> One country, Egypt, which accounted for 70 percent of all arrearages, has formally agreed to a 3-year settlement schedule. Settlements have also been negotiated with Ethiopia and Senegal. Chad and the Central African Republic have yet to sign settlement agreements.

Fifth. The United States is being asked to contribute capital to the African Development Fund under conditions which sharply restrict this country's ability to influence decisions regarding assistance to be provided by the Fund. Unlike other multilateral international financial assistance institutions in which the United States participates, the ADF provides that one half of the voting power is to be exercised by the African Development Bank. This arrangement leaves only the remaining half of the voting power to be exercised in proportion to the amount of capital contributed to the Fund itself. In other words, the United States has the opportunity to make a contribution of money to the ADF, but the weight of its influence will be confined to one half of the proportional amount of its contribution.

Someplace along the line Congress must demonstrate that it is acutely aware of the terms and conditions, as well as of the amounts, of U.S. contributions to international economic assistance institutions.

Sixth. The $25 million contribution to the Fund, the "soft loan" counterpart to the African Development Bank, which is to be paid in annual installments of $9 million, $8 million, and $8 million, respectively, exceeds the budgeted amount by $10 million, or 67 percent. For our committee to increase the amount of the initial contribution from the budgeted amount of $15 million to $25 million is to head in the opposite direction from that in which economic reality demands that we proceed.

For all of the above reasons, I strongly urge my colleagues to to support this motion to strike from H.R. 9721 the entire title II, which provides for initial U.S. participation in the African Development Fund.

It bothers me a little bit when Mr. Moynihan stands in the United Nations and says the countries in this very group have attacked Israel and many of our allies and they use the voice of the United Nations Organization and others to attack our country and then we are asked to turn around and provide under this bill funding for nations that have shown nothing but contempt and hate and not heart for our American people whom they are asking to put up this money.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I would like the gentleman from California, if he would, to address himself to the nature of these loans that are being made. I was somewhat concerned to note in the report that there is a listing of approximately $3 million as a loan made in 1974 to Somalia for what the report refers to as rehabilitation and maintenance of roads. I notice in the December 15 issue of the U.S. News & World Report the Soviet Union is reported as building communications centers, missile storage sites, airfields, and naval facilities in Somalia, apparently to support its Indian Ocean navy. Apparently U.S. taxpayers' funds are supporting Soviet intrusion in Africa as a result of these loans.

The CHAIRMAN. The time of the gentleman from California has expired.

(On request of Mr. BAUMAN, and by unanimous consent, Mr. ROUSSELOT was allowed to proceed for 3 additional minutes.)

Mr. BAUMAN. Mr. Chairman, if the gentleman will yield further, it seems to the gentleman from Maryland incredible that our taxpayers would be asked to support these loans at these ridiculously low interest rates and long terms in effect financing Soviet intrusion into Africa.

Mr. ROUSSELOT. As my colleague knows, there are many people in this House who no longer are concerned if the Soviet Union moves in and takes over a nation. That has become a thing of the past. I just do not think we ought to be asking our taxpayers to finance the roads there. That particular loan for Somalia is now underway and they have a 10-year grace period and 40 years for repayment beginning in 1985. That is beginning in 1985. Part of the $25 million we will be voting for today goes to the same institution which has made the loan to Somalia, as the gentleman from Maryland said, for a grace period of 10 years and the loan will be paid back in 40 years, if they ever do pay it back—and for what? To help Somalia to build some roads.

Mr. BAUMAN. If the gentleman will yield further, certainly this cannot be characterized as or promoted as a humanitarian interest.

Mr. TSONGAS. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. Mr. Chairman, I realize that perhaps we all look the same to the gentleman.

Mr. ROUSSELOT. No, just all these internationals.

Mr. TSONGAS. Mr. Chairman, the gentleman from California indicated his reference was to the loan to Chad. For the record could I read into the RECORD what that loan is all about?

Mr. ROUSSELOT. It is for irrigation.

Mr. TSONGAS. It is for irrigation and drainage works and feeder roads to provide irrigation and roads for 11,000 hectares on the Sategui-Deressia Plains in Chad.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague's comment. The point is that there is no place the constituents in Massachusetts can get a loan with a 10-year grace period at three-quarters of 1 percent and not pay it back until 1984. Talk about soft loan, that is a dead giveaway. That is the point I am trying to make and the reason I am separating out of the bill the African Development Fund in the contribution we would be making. I do not think we have debated carefully enough how the money will be spent, where it will be spent, does it really provide the humanitarian things that my colleague from Pennsylvania indicates that it will?

Why should we in conflict with what is available to our own constituents be providing this type of loan, and that is what we would be contributing to, especially when many of the participants in the Bank, in the African Development Fund, who are also participants in this Bank, are very much in arrears in their responsibilities to the Bank, the African Bank, which is the overseer of the Fund.

Mr. REUSS. Mr. Chairman, I rise in opposition to the Rousselot amendment.

Mr. Chairman, the matter we are discussing is whether there should stay in the bill the very modest provision allowing the United States to take part in the African Development Fund on the same basis as Canada, our neighbor. They are going to put in the same amount and we have 10 times their wealth.

I call to the attention of the proponent of the amendment, the gentleman from California (Mr. ROUSSELOT) to his statement in the committee report on the bill at page 49, where he says:

> We tend to consider underdeveloped nations in terms of individuals and their aspirations, in terms of shared humanity and equal opportunity.

That is a noble statement. I congratulate the gentleman for feeling that way. It is exactly the way so many of us feel.

Then the gentleman goes on to say that unfortunately, in some of these countries, they are interested in other things, things that are not so noble.

Then the gentleman cites an instance. The gentleman says that our military attaché in Ethiopia narrowly missed being shot on October 4 when Ethiopian Army troops opened fire on his car. Well, that is, indeed, a distressing incident. The remedy for that, it seems to me, is to stop loading up Ethiopia, Zaire, and other countries with American weapons which they use apparently on Americans. Certainly we know that in Ethiopia they are used in a civil war. The remedy ought to be to stop that insane largess of instruments of death.

Mr. Chairman, I hope the gentleman will join me in doing something about that.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield further, I never voted for that.

Mr. REUSS. I am proud that the gentleman did not. I wish the gentleman would consider whether there is not a difference between loading them up with the instruments of death and giving them a chance at life which the African Development Fund tries to do.

I have seen Africa. I have seen the people living on the edges of the Sahel, in Senegal. Agricultural help will give them some chance of avoiding starvation.

So I hope the gentleman will stick to the target of cutting out the wasteful and wicked use of American weaponry, which costs many times the little amount that is proposed to be put into economic and humanitarian aid. In short, when we look at the countries that are now joining to take their modest part in the African Development Fund, such as Belgium, Canada, Denmark, Germany, Finland, Italy, Japan, the Netherlands, Norway, Spain, Sweden, Switzerland, the United Kingdom, Argentina, Saudi Arabia, let us not have the United States pass by on the other side.

Mr. Chairman, I hope the amendment will be voted down.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. REUSS. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman yielding to me.

Does the gentleman, though, have some problem about the point I was trying to make about this type of loan?

Mr. REUSS. Not the slightest. Africa is the poorest continent on the face of the Earth, and those are precisely the same concessional loan arrangements that we make for Latin America, for Asia and under the whole IDA family. They are precisely the same, not one bit more favorable or less favorable. I think it is perfectly proper.

Mr. REES. Mr. Chairman, will the gentleman yield?

Mr. REUSS. I yield to the gentleman from California.

Mr. REES. Mr. Chairman, I might state, in looking at the Fund for Special Operations with the soft window for the Inter-American Development Bank, their loans are 1 percent, 10 year grace, 40 years.

The gentleman is saying it is a giveaway. It certainly is not a giveway. Last year, they made $38 million in the Fund for Special Operations because now the grace period is over and the countries are going to pay off the principal. They now have reserved $134 million. That represents payment of interest, even though it is 1 percent. It represents payback on the principal, so the money certainly does indeed come back to the bank. It is not a giveaway, and this soft window would operate the same way as the Fund for Special Operations of the Inter-American Development Bank. It will work the same way as IDA works in the World Bank.

Mr. REUSS. I thank the gentleman from California. He has made very well the point which should emerge from this colloquy, namely, that of course a country like Chad, desperately poor, with a per capita income of less than $120 per year, does need a few years of concessional interest rate in order to repay that loan. The remarkable thing is that it is not a grant, it is a loan.

Mr. MITCHELL of Maryland. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the gentleman's amendment. First of all, I think it is important that we point out once again the history behind this legislation. A promise, a commitment, an agreement, was arrived at in principle in 1967 that America would enter into the African Development Fund. Eight long years have passed, and we have not lived up to that commitment. While we were not living up to that commitment, formally and informally we encouraged other nations, such as Canada, to participate. I am simply saying that the time is now for us to live up to our commitment.

There has been some discussion about a new international policy, the emergence of a Third World and some peculiar things that have happened in U.N. votes. Is it possible that our failure to live up to our commitment, our promise made in 1967, has exacerbated, to some extent, our relationships with some of the African nations?

Above and beyond that—I would question what will happen in the minds and the hearts of the African nations who have stood with us in the United Nations if the gentleman's amendment is passed. Do my colleagues know that it was the African nation of Sierra Leone which maneuvered a procedural question in the United Nations, for America. America did not do it, Sierra Leone did it. Are we going to punish that nation? Liberia stands with us and voted with us.

I want my colleagues to know about the efforts of the African nations, who are operating under great pressure from various blocs in the world, made with our State Department people and said:

> Rather than vote against you, we will abstain from voting.

The list is long: Botswana, Ghana, Kenya, Mauritania, Uganda, Upper Volta, Zaire, and Zambia, and so on.

I would raise the question about those African nations who, in conversation with the State Department said:

> Rather than be there and abstain, we will simply absent ourselves from the proceedings so that we will not be voting against you.

Are my colleagues familiar with that?

My question is: If the gentleman's amendment is agreed to, will this not be another attack against the very African nations who have laid their prestige, even their economic lives, on the line in order to support us?

Mr. Chairman, I would urge the immediate defeat of this amendment. I think it does us no good and it certainly is not helpful, in terms of improving international relations.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I will yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

Mr. Chairman, in large measure I support the gentleman's position. But I just wanted to point out that the African Development Bank was created in 1963 and the Fund was created in 1973. So we have not waited 8 years to participate in something that has existed for very long. The Fund was only created in 1973. The bank we cannot belong to because only African countries can belong to the bank, except Rhodesia and South Africa.

Mr. MITCHELL of Maryland. I thank the gentleman for his observation. I would suggest that he check the date that the African Development Fund came into being. As I recall, it was 1967 or 1968. So his remarks are not quite accurate there.

I am certain there will be further questions on the African Development Bank, and I am fully prepared to speak about the position the Africans have taken vis-a-vis the African Development Bank.

While I have the time, I will simply point out that in our recent trip to Africa it was said on at least three occasions by the Assistant Director of the African Development Bank and by other spokesmen that as the African Development Bank matures, grows and begins to show its potential, it would certainly review its policy of exclusivity.

Mr. HYDE. Mr. Chairman, will the gentleman yield further?

Mr. MITCHELL of Maryland. I will yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

Mr. Chairman, according to the statement of our learned chairman of the subcommittee, the gentleman from Texas (Mr. GONZALEZ), on page 29 of the hearings on this matter, he says that the African Development Fund, which was the subject of this legislation, is an affiliate of the African Development Bank. The Fund originated from discussions back in 1966. Its establishment came with the signing of an agreement on November 29, 1972.

So 1 month short of 1973 it was established.

Mr. MITCHELL of Maryland. I certainly do not intend to quarrel with the figures. Even if it is 1972, this is now 1975; and in 3 years America has not lived up to its commitment.

Mr. TSONGAS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I would like to share with the gentleman from California two thoughts. One is the American presence in Africa. I spent 2 years of my life in a village in Ethiopia. Let me tell the Members what the American presence in that village in Ethiopia was all about. It meant that in the morning, when the students would get together for prayer, the school would be buzzed by jets supplied by the American Government. It was also observed that occasionally American vehicles, with military personnel, equipped by the United States, would rumble through the village. Everyone in the village understood those pieces of equipment, the airplanes, the uniforms, the trucks, the guns, et cetera, was the American presence. I abhor what took place.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. TSONGAS. I will yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

Mr. Chairman, I fully agree with the gentleman. We should not be supplying the weaponry to be the Defense Department of the world. That is one reason why I have not supported foreign aid of that type. So I agree with that.

I know the gentleman was in the Peace Corps, at the grassroots level, and was attempting to offer some talent at a local level. But that is not the issue in funding this particular Fund, in my judgment.

Mr. TSONGAS. Given the agreement then, on the first principle, the question then arises: What should the American presence in that country on that continent be?

It seems to me that a continent where people are starving and are fighting for self-survival are things that we never consider here because it does not infringe on our life style.

The American presence could be felt in that way, and it encourages their own ability to survive in terms of food, in terms of irrigation, and in terms of its own economic interest. That is what the African Development Fund is all about.

Second, to get off the humanitarian plane and to talk about America's self-interest for a moment, we now live in an economically interdependent society. There are a lot of natural resources in Africa that we depend on.

How can we expect to get such an enjoyment out of tweaking their noses and withdrawing our support from the African Development Fund when down the road we can see that we need the raw materials and we need the natural resources of Africa? How can we go to them and expect any kind of cooperative attitude on their part if we withdraw our support? Africa needs the help of America as well as America needs the help of Africa.

Mr. Chairman, it seems to me that the best thing we can do, both from a humanitarian point of view and from a self-interest point of view, is to take part in and support programs exactly like the African Development Bank and the African Development Fund, and then perhaps, in agreement with the gentleman from California (Mr. ROUSSELOT), we can forego our national long-term commitment to military aid and direct grants to those countries.

Mr. BIESTER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, as one of the original sponsors of the bill to begin our participation in the Fund, I have done some exploratory work to discover the circumstances out of which this bank originated and our interest in the fund was occasioned.

Mr. Chairman, we talk a lot about development around the world, and we know that in Africa the hardest job is to get development to begin.

What is involved in the African Development Bank is this: It is regional cooperation on the part of some of the poorest countries and poorest peoples in the world to work together and create a fund out of which loans are made and out of which the more traditional kind of development bank loans can be made.

It is true that one or two of the Members who have subscribed to that loan program have not fulfilled their final call, but it is equally true—and I am surprised that the gentleman from California (Mr. ROUSSELOT) did not recall this in making his statement—that four of the countries have increased their participation in that Bank because they believe that in that regional expression, that cooperative expression, those countries can find a way in which they can constructively relate to each other's problems.

Second, with a lot of guidance by the United States, we helped to write the charter of this Fund. It was not just a question of making a commitment; we helped to write the charter of this Fund. The Africans created a system whereby more affluent countries, among which are included some that had been empires colonizing much of Africa, could participate in a soft loan window of that Bank. The list of countries is very long. It involves most of the more affluent countries of the world, and it involves them in amounts much lower than $25 million in some instances, but in most instances far higher than their per capita gross national income would provide for their participation, if we were comparing our contribution of $25 million to theirs.

So I think it is important, when we talk about the way the bank is organized, that we understand this is an expression of poor people trying to work together in creating a regional operation under the auspices of which then other more affluent countries could also participate in the program.

Mr. Chairman, I recall that reference has been made to the Soviet Union in Somalia. I think the words of the gentleman from Massachusetts (Mr. TSONGAS) are extremely important here. Why is the Soviet Union in Somalia? Why is the Soviet Union in Angola? Why are the Chinese and Russians involved in Africa? Because Africa is the place where most of the world's natural resources are located and will be located for the next 100 years.

So we have, I suppose, only a series of very difficult choices to make, but the one choice which would be to the greatest detriment of the long-term and short-term interest of the American taxpayer would be for us to turn down our various chances for influence in Africa because we do not like the nature of the terms we can get in this development fund.

With respect to the Third World attacks upon the United States, the gentleman from Maryland (Mr. MITCHELL), who spoke earlier, outlined in considerable detail the extent to which African countries in a constructive way supported the American position in the U.N.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. BIESTER) has expired.

(On request of Mr. ROUSSELOT and by unanimous consent, Mr. BIESTER was allowed to proceed for 2 additional minutes.)

Mr. BIESTER. To continue, Mr. Chairman, the only point I want to make with respect to that comment of the gentleman from Maryland (Mr. MITCHELL) is that if we look at the countries that voted with us and the countries that abstained in black Africa, those countries represent 44 percent of the people of black Africa, a very substantial segment of the persons who will receive benefits under this program.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. BIESTER. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman's yielding.

First of all, the gentleman in the well made a comment about the Third World. I did not create the concept of the Third World. No one here in this country did. It was created by the people in those countries who would be called the Third World.

Mr. BIESTER. It was created because there are people in this world whose per-capita incomes are $150 a year. They are the Third World.

Mr. ROUSSELOT. I understand, but I did not create that problem; I want to say that to the gentleman.

My main point is, would it not be better, rather than providing these soft loans, to buy the natural resources and other products that they have to sell? That is really the best way to generate a good economy in their countries and to work with them, rather than providing these loans that really do not generate productive facilities.

Mr. BIESTER. That is one of the ways in which we should engage in a healthy relationship with the people of Africa, but it ought not be exclusive. Among other ways which have been mentioned are the multinational corporations and their investments, the direct bilateral programs.

Mr. ROUSSELOT. And the voluntary programs.

Mr. BIESTER. And the voluntary programs, the Peace Corps, and participation in the one event in which the people of Africa combine to create this regional program to help themselves.

I do not think we have to be exclusive about our programs for any one of these purposes.

Mr. WYLIE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am going to vote for the amendment of the gentleman from California (Mr. ROUSSELOT), not because I am unwilling to help the African nations.

I have been to Africa, and I have seen some of the misery which has been spoken of here. I know that there are problems which need attention in that part of the world and that we cannot, as a nation, turn our back on the poor nations and people of those countries that are less fortunate than we, but we have not exactly turned our back on the nations of Africa over the last 10 years.

As a matter of fact, Mr. Chairman, we have sent $3.4 billion in aid to African nations, most of it through the food for peace program. We have sent $2.1 billion in current dollars to the International Development Agency, most of which is used in Africa.

We voted last year to authorize a commitment of $4.5 billion to the Replenishment Fund of the International Development Agency.

Mr. Chairman, I am going to vote for the amendment because I object to our participation in a fund where we will contribute money and have no vote as to how the money will be used. The directors of the African Development Fund will have 50 percent of the voting power over the Fund's money, with only 5 percent of the contributions represented thereby. I just think it is not good for us at a time like this to get involved in an undertaking which will commit us to provide moneys on a long-term basis when we will have to borrow those moneys in the U.S. private marketplace.

I guess I object, more than anything else, to the precedent that will be set by this arrangement, which I think is an untenable one. I would much rather give the money directly to the country of Sierra Leone, which was mentioned here earlier as one of our friends that would benefit by this bill, than to put it into a fund over which we have no control and from which the money can go to supply questionable nations for questionable purposes.

I would just ask the gentleman from Texas (Mr. GONZALEZ), the chairman of the subcommittee, would it not be possible for the directors of the African Development Fund to loan a nation that is a member of the Fund money to buy arms?

Mr. GONZALEZ. That is not possible.

Mr. WYLIE. It is not possible?

Mr. GONZALEZ. Under the terms of the charter that is not possible.

Mr. WYLIE. Hypothetically is it possible under the charter of the African Development Bank?

Mr. GONZALEZ. No.

Mr. WYLIE. The African Development Fund?

Mr. GONZALEZ. No. The answer is in the negative.

Mr. WYLIE. It is true that we will have very little if any control, almost no control over what the money will be used for that is loaned from the Fund. I just say that it is a precedent that we should not establish at this time. Therefore I will support the amendment offered by the gentleman from California (Mr. ROUSSELOT).

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I am happy to yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Chairman, I thank the gentleman for yielding, and I want to take this opportunity to commend the gentleman for pointing out that whether we are talking about $9 million, $15 million, or $25 million, by no stretch of the imagination is that all that we are doing for the development of Africa. As the gentleman has said, through the AID program and Public Law 480 programs there are very, very significant amounts involved. So we have not turned our backs on Africa.

I am a little concerned when I see the title of the legislation here refer to our participation in the Inter-American Development Bank. How did this African Development Fund item happen to get in a bill that has to do with the Inter-American Development Bank?

Mr. WYLIE. Title II was added in subcommittee. It was felt that by combining the bills each would gain votes for the other. That is the only reason I can give as to why title II was added.

Mr. MICHEL. Should they not be considered separately? I submit that each ought to fly on their own.

Mr. WYLIE. I think we should consider them separately.

Mr. MICHEL. I think it would be desirable to have a full scale debate on this.

I appreciate the comments made by the gentleman from Maryland (Mr. MITCHELL), and I see the gentleman from Michigan (Mr. DIGGS), Mr. NIX of Pennsylvania and Mr. YOUNG of Georgia are on the floor and there are other members of the Black Caucus, but by no means are all of them here on the floor. I think if they all were deeply interested in this all 12 or 13 of them would be here rather than three or four on a subject on which they profess to have such a great interest.

Mr. WYLIE. Mr. Chairman, I thank the gentleman from Illinois for his contribution and cogent observation. The gentleman is exactly right. We are not debating the small amount of money. All that is involved today is $25 million.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ANDERSON of Illinois. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I am sure that my friends who have offered this amendment, and in particular my friend the gentleman from California (Mr. ROUSSELOT), do so out of a deep sense of foreboding with respect to the fiscal situation that now exists in our country. In many respects I share the same concern that the gentleman from California has so often and so very ably indicated here on the floor of the House on many other measures. I do have, however, a letter that came to my desk earlier this week signed by the Secretary, Mr. Simon, in which he urges my support of this legislation, and specifically says that in further support of multiple development assistance, H.R. 9721 also authorizes U.S. membership in the African Development Fund which makes loans to the poorest African countries. In addition he supports this legislation including, as it does, the $25 million for the African Development Fund.

I take the floor to say just a word about the argument which the gentleman from California used that trade rather than aid would be the best way to assist these African countries and I think he is correct. I too would like to see a healthy commercial relationship established between the United States and these countries. But I also considered the committee report, and I find on page 22 of that report that 22 out of 33 of the United Nations' "most seriously affected," those MSA countries who were caught in the economic squeeze between lower commodity prices and higher oil prices, and they will pay out something like $5 or $10 billion in additional foreign exchange this year simply to meet the energy needs of those countries.

I further found that in 22 of 41 African countries food production is not even keeping pace with the rate of population growth and, furthermore, that no less than three-quarters of the population is engaged in subsistence agriculture with a per capita income of less than $120 a year. The economic base, in other words, is simply not there when we have 75 percent of the people on that continent engaged in subsistence agriculture. The base is not there for the kind of healthy, viable, commercial relationship that we would like to see occur; but, hopefully, if we contribute our modest share to this African Fund, along with other European countries—we are not singled out alone for the privilege of having a part in this effort—as those investments are made, the infrastructure will be built up in these countries.

I had the opportunity earlier this year, as many others in this body have had, to visit them, and I know first-hand the awful conditions of poverty that prevail.

I would urge the Members to accept the committee bill as reported.

Mr. Chairman, I rise in strong support of H.R. 9721 which provides for increased U.S. participation in the Inter-American Development Bank as well as participation in the African Development Fund. Specifically, this bill authorizes $2.25 billion as the U.S. share of a replenishment of the funds of the Inter-American Development Bank, and $25 million as the U.S. contribution to the African Development Fund.

Mr. Chairman, I think it might be useful at the outset to quote from a letter I received last Friday from Treasury Secretary Simon who also serves as our Governor on the Inter-American Development Bank. Secretary Simon took part in the negotiations on this replenishment and, in his words, "worked to assure that our contribution is consistent with our overall administration objective of holding down expenditures." He goes on to state that support for this replenishment is necessary, and I quote, "as a means of maintaining our interests in Latin America, a region vitally important to U.S. trade, security, and investment." To quote further:

> Additionally, the IDB is the principal financial institution of the Inter-American system and the leading source of loans for economic and social development in Latin America. It is a banking institution which operates on sound business principles designed to promote efficiency and productivity as the key to economic growth.

Mr. Chairman, I know there is some concern here today about the amount of the U.S. replenishment authorized by this bill. I think it is important to stress two points in this regard: First, the U.S. share of the total replenishment has been reduced from 48 to 30 percent since new members will be making contributions and the wealthier Latin countries will be increasing their contributions substantially. Second, while the total U.S. portion of the replenishment still amounts to $2.25 billion, actual budget outlays will be only $720 million since the rest would be in the form of callable capital—a contingent liability that would entail budgetary outlays only in extremely unlikely circumstances.

Looking at the $720 million in outlays, these would be made in three annual installments as follows: $40 million per year in fiscal 1976–78 for paid-in capital; and $200 million per year to the Fund for Special Operations in fiscal years 1977–79. In other words, the actual budget outlay in the present fiscal year is $40 million, and for fiscal years 1977 and 1978, $240 million. So, in considering the amount authorized by this bill, I would hope my colleagues would keep these important facts in mind: we are by no means talking about a $2.5 billion budget outlay over 4 years, but rather a $720 million outlay.

Mr. Chairman, there are some other important aspects of this bill which should be mentioned in passing. First, the bill authorizes U.S. approval of proposals to admit nonregional donor countries into the bank. The IDB proposals provide for a group of 12 countries, 10 in Europe, plus Japan and Israel, to join the Bank with total contributions of $745 million. Second, the bill authorizes the U.S. Governor to approve a proposal for the entry of Bahamas and Guyana which are not OAS member states. Third, the bill authorizes our Governor to agree to amendments to the IDB charter to permit loans to the Caribbean Development Bank for relending to CDB member countries.

Finally, Mr. Chairman, this bill authorizes U.S. participation in the African Development Fund with a contribution of $25 million in three annual installments: $9 million in fiscal 1976, and $8 million each in fiscal years 1977 and 1978. The purpose of the African Development Fund is to complement the activities of the African Development Bank which is only open to regional members. The special purpose of the fund is to provide concessional financing for high priority development projects in the poorest countries of Africa.

Mr. Chairman, I think this is an important piece of administration-supported legislation which will carry out this country's obligations to the development process in the poorer countries in Latin America and Africa. I urge the passage of this bill as reported from committee.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I am pleased to yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman's yielding.

I think the point that we have tried to make during this debate is that we are already giving the kind of assistance to those countries of which the gentleman speaks, that is, food for peace, and various programs like the AID program.

Mr. ANDERSON of Illinois. Let me reclaim my time.

Food for peace is a good program, and I support it. I think it ought to be more than the $1.5 billion, incidentally, that is authorized, I believe, for the current fiscal year in view of our bountiful harvest and our relative affluence. I think we ought to do more in that area, but it is only a kind of emergency measure that will help some of these sub-Sahelian countries that are suffering from the effects of the drought.

What we need to do is look at the longer range problem of economic development that will make these countries, hopefully, 1 day less dependent on loans and grants than they now are. So I do not think that kind of aid that the gentleman refers to is any substitute for what we can do with this measure and with the contribution that we can and should make to the effort through the African Development Fund.

Mr. ROUSSELOT. If the gentleman will yield further, of course, where the gentleman and I disagree is that the $25 million is really not going to accomplish what he says.

The CHAIRMAN. The time of the gentleman has expired.

Mr. YOUNG of Georgia. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

I have real problems with this amendment, but I also have real problems with the whole multinational banking community. As the gentleman from Illinois has suggested, perhaps all of the members of the congressional Black Caucus ought to be here. There happen to be 17 of us, and only 3 or 4 of us are here. One of the reasons, I think, is maybe—and I hesitate to speak for my colleagues—that we are not sure, or I am not sure, that all of the things done by these multinational institutions are particularly good. The record of the Inter-American Development Bank in Chile certainly is not to be commended. It is just one step away from what the CIA did.

One of the reasons that people are hesitant about involvement of multinational capitalism in Africa is that the multinational lending institutions become the vehicles for that.

I am in support of this bill as it is only because I think American multinational corporations are probably better than German and Japanese, and it is a very relative thing. I see that even in a country like Nigeria where there is no tremendous wealth, where we have a balance of trade deficit of about $4½ billion, the per capita income of the nation is still $170 per year. They have probably a 9 million population. Nevertheless, in spite of that, they have pending now an order of trucks for $125 million with the U.S. trucking firms out of the gentleman from Michigan's district. That was a competitive bid among American trucking interests, West German trucking interests, and Swedish trucking interests.

The thing that this meager $25 million does is give the U.S. Treasurer the opportunity to sit down in the financial councils of a rapidly emerging nation.

And the interesting thing we will find is that the same people we sit with on the board of the African Development Fund we will find ourselves sitting with in the International Monetary Fund and we find that the decisions that are made in the General Agreement on Tariffs and Trade—while we might have separate negotiators because of the enormousness of our country and the breadths of our talent—normally are made by the same people we are sitting with in each one of these institutions from a developing nation, and we will be sitting with them in the other institutions. They normally also are the same people who are going to make the decisions, and usually they have the title of Secretary for Development. In the case of Nigeria it is the Permanent Secretary for Development.

That means as the relations are established in the African Development Fund, it is going to be enormously advantageous for American trade. The African resources are just beginning to emerge. Three years ago Nigeria was nothing. Now Nigeria is our largest single producer of oil imports to this country from abroad. The same thing might be said for Gabon. That is a rapidly developing country as they have developed oil. We find the country now is in turmoil. Frankly we have got another CIA-run war in Angola matched with equal brutality by the influx of the Soviet Union, but once that is settled, and it is going to settle, we will find the uranium deposits and the bauxite deposits and the oil deposits of Angola are going to turn to the United States for technical assistance unless we put barriers in their way.

I would encourage the gentlemen of this body to make a distinction between the political debate which is going on in the United Nations and the economic debate which is going on in the councils of the development funds. Even we have to admit that our financial people are far more responsible than our political people in this country, not because they are any better but they operate on a 10-percent profit margin. We operate on a 51-percent profit margin. We can demagog and alienate 49 percent of the people and still get elected. The financial people cannot do that. Their profit margin is more narrow. They have to be more responsible.

This bill is an opportunity for us to participate in the development of the world.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

(By unanimous consent, Mr. YOUNG of Georgia was allowed to proceed for 2 additional minutes.)

Mr. YOUNG of Georgia. Mr. Chairman, this bill is an opportunity for us to participate in the world's economic growth and I would contend that already the deals which I have discussed have been advantageous, including the 200,000 pairs of combat boots being bought in Nashville, Tenn., for Nigeria, and $125 million worth of trucks from Detroit, and the endless numbers of details that are coming that are involving the purchase of textile machinery and farm equipment.

That $25 million entrance fee is a small price to pay. If we look at what other nations have done, I think we will find that $25 million over 3 years is not as much as Canada is paying and not as much as Japan is paying and not as much as Sweden is paying, and not as much as West Germany is paying.

I think we are coming in very cheaply. I am almost ashamed we are coming in so cheaply. Our original bill was to have a $50 million participation fee per year. That would have meant this title would have included $150 million. That would have put us only on a par with the rest of the nations, and on a per capita basis it would have been still far less.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Georgia. I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. Mr. Chairman, I do not know of anything they are buying in Painesville, Ohio, but from a humanitarian point of view, from my knowledge of the African Development Fund, I do think that this bill warrants our support.

I certainly agree with the gentleman's remarks.

Mr. YOUNG of Georgia. I agree with the gentleman from Ohio except I do not want us to think of this as an international aid bill.

The Japanese are quite frank that their dues in the international institutions are their avenue of pursuing and sharing in the world's trade. They see that as an investment in revenue to be gained back through institutions in the colonies.

I think we would be much better off if we realize this is an investment of American capital from which we intend to do good, but also from which we intend to reap a whole lot of benefits.

Mr. CHAPPELL. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in support of this amendment because I think the African Development Fund has no part in this bill. I support title I of this bill. I would like to support title II.

My problem with it is not that this will not do good. We have so many other programs of helping other nations that are good. I certainly agree this is going to do a great deal of good. What bothers me is the way we do it with reference to the Inter-American Bank and the Asian Development Bank. We have an opportunity to participate in those Banks. The situation here with reference to the Africa Bank is that they have not given this country an opportunity to participate. As a matter of fact, they have specifically excluded all others than African countries.

It seems to me if we want to do the most good and have the best opportunity to direct how our moneys go in Africa, we would strike this from the bill and revamp title II and ask the House to authorize participation in the African Development Bank and then participate in the Fund.

As we stand at this very moment, membership in the African Development Fund is such that the African Development Bank has 50 percent of the total vote exercised by the head of the Bank. As I understand it, that means 51 percent, that is a majority of the directors of the Bank, control 50 percent of the vote of the Fund. It means literally this country has no viability and no real power over how these moneys can be spent.

It would make a lot more sense to me if we would do as we have with all these other multilateral banks, that is, become a member of the Bank so we could have some realistic influence, some vote, some say over how our funds are spent.

Make no mistake about it, there is not one thing in this bill under title II that is going to give us an opportunity to require the purchase of American goods. It would be different if we were a member of the Bank and then, if we were participating as part of the Fund—but that is not true here.

So, Mr. Chairman, I support the gentleman's move to strike title II out of this bill. Let us come back and argue this bill on its own merits and not piggyback it on the Inter-American Bank.

Let us come back and see if we cannot improve the situation; $25 million is a relative pittance by our spending standards. If we are going to do the job right, if we are to participate at all, we ought to insist on bank participation.

This reminds me too much of taxation without representation. I think we can do a lot better job in some other way.

I urge the adoption of the amendment.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. CHAPPELL. I will, just quickly.

Mr. WYLIE. Mr. Chairman, I want to agree with the gentleman, and add a little perspective.

To be sure, the $25 million is a small amount, although we do not know what our commitments might be down the road, because of the very little control the United States will have over the fund; but while we have been arguing over this $25 million in a little over an hour, interest on the national debt has increased by $5 million.

Mr. BROWN of Michigan. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the previous speaker and those who joined him have expressed a great concern over the fact that if this bill is passed we will be participating in the African Development Fund without participating in the African Development Bank.

Now, of course that same thing is true of the Japanese, the West Germans, on and on. Is this Nation so insecure that it has to have a degree of participation that the Japanese do not demand, that the Canadians do not demand, that the West Germans do not demand? I do not think so. I do not think that is a valid argument because, when the Bank does as it has told us it will, that is, consider the idea of accepting nonregional members, I am sure that we will be considered as a member at that time, and no others will be considered without the consideration of the United States. So, I think my colleagues have made a specious argument and the amendment should be defeated.

Mr. GONZALEZ. Mr. Chairman, I move to strike the last word, and I rise in opposition to this amendment.

I think the basic facts have been stated. The manner in which this bill was presented to the House was most diligently studied out by the subcommittee and the full committee. It was done in a very studious and weighted manner. Each section of the bill or title has been debated and considered as if it were a separate entity of the bill itself. I urge the Members to oppose this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ROUSSELOT).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ROUSSELOT. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. HYDE

Mr. HYDE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. HYDE: On page 7, line 16, strike all after the comma, through line 18, and insert, in lieu thereof, the following: "$15,000,000, to be paid by the Secretary of the Treasury to the Fund in three annual installments of $5,000,000."

Mr. HYDE. Mr. Chairman, my amendment simply reduces the amount of our participation in the African Development Fund from $25 million, as stated in the bill, to $15 million. I would like to tell the Members the reasons why I am offering this amendment.

The Treasury Department has negotiated for many years with the officials of the African Development Bank, and since 1973 with the African Development Fund, on the level of our participation in this Fund. These people are experts. They know their business. They are fiscal and financial experts, and they have arrived at a figure of $15 million. We were rather capricious, in my judgment, when we raised it in committee to $25 million.

Why? Because Canada was putting in $25 million. I would like to read to the Members the testimony of the Assistant Secretary of the Treasury, Charles Cooper, who said:

> We believe that the $15 million request is the most appropriate figure for the initial U.S. authorization because it is the amount which was agreed on with the AFDB and the

non-regional donors during the burden-sharing negotiations in 1973. Equally important is the fact that the Fund is a relatively small institution. Even with the growth in lending operations planned by the Fund management, it will continue small for some time to come. Because of its size, it cannot effectively handle more than a certain level of resources. Given our assessment of the capacity of the Fund at this time, we consider $15 million an appropriate contribution for the U.S. We have also taken into consideration the relative size of other donors' subscriptions, including the Bank's. We do not want to dominate the Fund by making a large subscription nor do we feel that as a new member we must match the largest donor's subscription.

So what I am suggesting is that we do participate, but we do so moderately and modestly as our initial entrance into this Fund.

Mr. Chairman, I think there are other reasons for modest participation. I think the fact that we cannot be members of the Bank, that membership of the Bank is limited to only African nations, other than Rhodesia and South Africa, so that by a modest involvement in the Fund we could make the point that we would like to participate in the Bank.

For these reasons I think it is wise that we should defer to the judgment of the Treasury Department, to the experts in the field, but nevertheless give impetus to our membership in this multilateral organization that has a purpose of aiding the countries of Africa.

Mr. REES. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I will yield to the gentleman from California.

Mr. REES. I thank the gentleman for yielding.

Mr. Chairman, I would like to clarify one point. The hearings were held in July, and up to that point it was thought we should come in for $15 million. But during the summer there were further negotiations between the donor countries and the African countries, and I think, in light of this, that the administration, according to the gentleman from Illinois, reading the letter from Secretary Symington, the administration has now agreed to $25 million.

We are talking about two different agreements. One was the initial agreement, agreed to in 1973, for $15 million but the second agreement was after the negotiations in July, and now $25 million is supported by the Treasury Department.

Mr. HYDE. Mr. Chairman, if I may reclaim my time, I will simply state that the testimony in the hearings a few months ago supported a figure of $15 million. Now my understanding is that the Treasury's position is that they do not object to $25 million, but that figure has not become the preferred figure, so far as I am concerned, in my conversations with the Treasury Department.

I would like to add this: There are many things about the African Development Bank and some of the loans they make that I think require some scrutiny on our part as justification for our not putting in the largest contribution made by any other country. I think the activities of many of the African countries deserve some consideration in determining the level of our participation in this. Nevertheless, there are many countries who are our friends, and I think for that reason we should participate in a modest way initially. The $25 million figure was not the figure arrived at by our experts, and I think we should be moderate in our participation for reasons of the totality of the situation. I am unwilling to separate the political activities of these countries and their economic need. I think we should not look at these things in a vacuum, and we should consider who our friends are and which countries continually oppose us, often in vitriolic terms in the United Nations.

Mr. TSONGAS. Mr. Chairman, I rise in opposition to the amendment.

I simply want to refer the maker of the amendment to the CONGRESSIONAL RECORD of September 24, 1975, page 30152, which quotes the Secretary of State, Mr. Kissinger, who I think qualifies as an expert at least in this regard, where he speaks to the Organization of American Unity, and says: "We will raise our proposed contribution to the African Development Fund to $25 million."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. HYDE).

The amendment was rejected.

AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARKIN: On page 10, immediately after line 11, insert the following:

"SEC. 211. (a) The United States Governor of the Fund is authorized and directed to cause the Executive Director representing the United States to vote against any loan, any extension of financial assistance, or any technical assistance to any country which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhumane, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial of the right to life, liberty, and the security of person, unless such assistance will directly benefit the needy people in such country.

"(b) In determining whether this standard is being met with regard to activities of the African Development Fund, the Committee on Foreign Relations of the Senate or the House Committee on International Relations, or the House Committee on Banking, Currency and Housing may require the U.S. Governor of the Bank to submit in writing information demonstrating that such loan or assistance will directly benefit those persons in such country to which such loan or assistance is supposed to be directed, together with a detailed explanation of the assistance to be provided (including the dollar amounts of such assistance) and an explanation of how such assistance will directly benefit such persons in such country.

"(c) In determining whether or not a country falls within the provisions of subsection (a), the Senate Committee on Foreign Relations and the House Committee on International Relations and the House Committee on Banking, Currency and Housing shall give consideration to the extent of cooperation of such country in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations, including the International Committee of the Red Cross, or groups or persons acting under the authority of the United Nations or of the Organization of American States."

Mr. GONZALEZ (during the reading). Mr. Chairman, I understand this amendment is identical to the amendment the gentleman from Iowa (Mr. HARKIN) offered to the first title.

Therefore, Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. HARKIN).

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, as far as this side is concerned, since the identical amendment containing the same language has been accepted to the first title, we have no objection to the same language appearing in the second title.

Mr. HARKIN. Mr. Chairman, I thank the chairman of the subcommittee, and I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. HARKIN).

The amendment was agreed to.

Mr. KOCH. Mr. Chairman, the vote on final passage of H.R. 9721 concerning the Inter-American Development Bank and African Development Fund will be an unusual one for me. In the 7 years that I have been here, I have always voted for economic assistance to other countries, and for bills that do exactly what this bill does. But, today, I shall vote no for three reasons.

First, I, as an individual, and hopefully this Congress too, must make it clear to the member states of the U.N. that we will not sit by and allow them to use the U.N. as an instrument of anti-Americanism—indeed the world's leading platform for anti-Americanism. Certainly, the United States cannot expect to be supported on every motion it makes. On the other hand surely we should not be assailed on every occasion. We know that the attacks on the United States emanating from so many of the member states of the U.N. result from their being ideologically identified with repressive societies. Many of the countries eligible for loans under this legislation are these very member states of the U.N.

Second, I believe it essential that the member states of the U.N. who voted for the anti-Zionist resolution of the U.N. know that they will be held accountable for that action. And this is the first occasion where I can cast my vote to hold them accountable. The overwhelming number of countries that are receiving assistance from the two lending institutions which receive funding under this bill are countries which voted for or pusillanimously abstained on that vote and I have listed them in appendix A to this statement. All those countries supinely acceded to the unconscionable Arab State pressures, and cast their own unconscionable votes. For indeed, anti-Zionism is a euphemism for anti-Semitism.

Third, Mr. Chairman, I find it outrageous that while the city of New York is in its present financial stress, the terms of the Federal loan as embodied in legislation that recently passed the House are less favorable than loans to be made to member countries by these two development institutions. While the city of New York is required to pay for money borrowed from the Federal Government at a rate of 8 percent for a period not exceeding a year, member countries of the Inter-American Development Bank may pay as little as 1-percent interest for periods up to 40 years. Indeed the terms of payment may provide that even that meager interest may be waived for the first 10 years. While the terms are less generous to the borrowers of the African Development Fund, they are still more favorable than those granted to the city of New York.

Finally, Mr. Chairman, I want to point out to our colleagues that a great many of the countries listed that would benefit from this legislation are not only totalitarian, facist, junta or one-party states, but also have records of gross repression against its own people. I do not believe that we should fund repressive states with American dollars and keep those governments in power. I am delighted that the Harkin amendment carried on the floor today, and I hope it will survive in conference. Had the other factors which I mentioned above not been present to influence my vote, I would have been delighted to support the bill with the Harkin amendment which I did vote for. What I think the United States should do is to withhold aid to these two development institutions and instead provide bilateral aid to those states which would meet the criteria that I outlined and who would otherwise be eligible under the legislation.

Mr. Chairman, I am listing in appendix B evidence of acts of repression by many of the development bank and fund members, as noted in the Amnesty International Annual Report 1973–74.

Let me conclude, Mr. Chairman, by responding in advance to arguments that will be raised against my position. Those arguments are, "Yes, we agree with you, Congressman KOCH, in your feelings vis-a-vis these countries, but this is not the time nor the place."

Mr. Chairman, for those people there is never the right time nor the right place. I believe that the right time and place are here today.

The appendixes follow:

Appendix A: U.N. General Assembly Vote on Resolution Classifying Zionism as "A Form of Racism", November 11, 1975, by Members of Inter-American Development Bank and African Development Fund

INTER-AMERICAN DEVELOPMENT BANK

In Favor—Brazil, Mexico

Opposed—Barbados, Canada, Costa Rica, Dominican Republic, Salvador, Haiti, Honduras, Nicaragua, Panama, United States, Uruguay

Abstentions—Argentina, Bolivia, Chile, Colombia, Ecuador, Guatemala, Jamaica, Paraguay, Peru, Trinidad-Tobago, Venezuela

AFRICAN DEVELOPMENT FUND

In Favor—Algeria, Burundi, Cameroon, Chad, Congo Brazza, Dahomey, Egypt, Guinca, Mauritania, Morocco, Niger, Nigeria, Rwanda, Senegal, Somalia, Sudan, Tanzania, Tunisia, Uganda

Opposed—Central African Republic, Ivory Coast, Swaziland

Abstentions—Botswana, Ethiopia, Gabon, Ghana, Kenya, Lesotho, Mauritius, Sierra Leone, Togo, Upper Volta, Zaire, Zambia

* * *

Appendix B: Latin and South American Members of the Inter-American Development Bank Cited by Amnesty International Annual Report 1973–74

BOLIVIA

Arbitrary arrests and allegations of torture continued; according to the Bolivian Commission for Justice and Peace, the number of political prisoners remained at between 300 and 400; numerous longstanding political prisoners.

BRAZIL

210 persons have died in mysterious circumstances in recent years while in custody; arrest of more than 50 Catholic labour activists in Sao Paulo in January 1974 and of students, faculty and research workers at the University of Sao Paulo in April 1974.

CHILE

Estimated 10,000 to 20,000 killed in the September 1973 coup or in the months following; widespread torture of political dissidents; almost total lack of legal protection for political prisoners before and during trial; May 1973 estimate of 6000 to 7000 political prisoners, the majority detained without trial.

COLOMBIA

State of siege lifted December 1973; previously a number of political prisoners were tortured and the opening stages of trials in Socorro surrounded by extreme secrecy in April 1973.

DOMINICAN REPUBLIC

Five members of the Dominican Popular Movement (MPD) sentenced on scanty evidence for the illegal possession of arms after previously being acquitted; several political arrests before the May 1974 presidential election.

ECUADOR

Evidence that the ground for conviction of writer and journalist Jaime Galarza Zabala was a conviction extracted by torture; special tribunals severely restrict right of prisoners to adequate legal defense.

GUATEMALA

Regular reports of persons who disappear without a trace, over 100 of these cases allegedly involving police or military abduction; tortured bodies of left-wing sympathizers found.

HAITI

Total lack of legal proceedings after arrest and no subsequent contact with either lawyers, family or priest; families not informed when a prisoner dies in detention.

MEXICO

Recent allegations of the torture of political prisoners particularly in the southern provine of Guerrero; alleged extraction of confessions by torture in Mexico City's women's prison.

NICARAGUA

Four trade unionists arrested for labor organizing were detained four months.

PANAMA

Poor prison conditions.

PARAGUAY

Growing repression of peasant members of the Agrarian Leagues who are being arrested and subjected to brutal treatment; cases of long detention without trial or after expiration of sentence.

PERU

Cruel treatment of intellectuals and trade unionists during interrogation; 500 teachers detained several months without formal charges, 91 of whom were held in sub-human conditions in the SEPA detention center without access to lawyers or their families.

URUGUAY

Continuous allegations of torture; continued preventive detention; infringements of legal safeguards, at the time of arrest; detention of journalists for several months; more than 25 university administrators, staff, and students detained at least one to two months following the dealth of a student handling explosives.

VENEZUELA

Many civilians in prison for political offense detained up to five years and more without trial; prison conditions extremely poor; known cases of the torture of political prisoners.

* * *

African Members of the African Development Fund Cited by Amnesty International Annual Report 1973–74

ALGERIA

Former President Ben Bella in prison and restriction since 1965.

BOTSWANA

Attempt to repatriate 42 Rhodesians during March 1973; a South African repatriated against his will was imprisoned in South Africa.

BURUNDI

Detailed eye-witness torture allegations.

CAMEROON

Number of political prisoners estimated near 5000.

CHAD

Almost 25 persons arrested between July 1972 and March 1974 have not yet been tried.

EGYPT

Large numbers of students and intellectuals were arrested as a result of anti-Government demonstrations in January 1973 and eventually released; significant trend in unconstitutional application of the law to arrest persons accused of attempting to form, or membership of, illegal left-wing and communist organizations.

ETHIOPIA

Reports that demonstrating students had been shot dead by troops.

GHANA

Reports of over 100 persons detained without trial; allegations of army brutality and torture of civilians.

GUINEA

22 Europeans imprisoned on political grounds since January 1971.

IVORY COAST

Over 300 persons—mostly illiterate peasant farmers—detained without trial in the Gagnoa district in November 1970, one-third of whom were freed in December 1973.

KENYA

Three former members of the banned opposition party, the Kenya People's Union (KPU), have been detained without trial since 1969.

LESOTHO

Twenty members of the opposition Basutholand Congress Party (BCP) were arrested in January 1974; the following day three police substations were raided and during the week following 80 persons were killed by government action.

MALAWI

Persons held for long periods without trial; reports that 26 persons had been sentenced to death for violent political crime; allegations of torture in Dzeleka Detention Camp.

MALI

Almost 40 prisoners detained without trial at Kidal since November 1968.

MAURITANIA

Twenty students and professors detained for several months in early 1974 were released on "provisional liberty" which places considerable restrictions on their freedom.

MOROCCO

Torture of political opponents as an administrative practice; 72 persons acquitted but held incommunicado; 62 persons accused and sentenced to death in their absence.

NIGERIA

Detention without trial of 30 prisoners including former Biafran officers.

SENEGAL

Death of a student in prison who had been sentenced for subversion.

SUDAN

Four hundred detained under a June 1973 law that provides for search without warrant and detention without trial following a demonstration.

SWAZILAND

April 1973 all political parties were banned and a law providing for detention without trial for up to 60 days was introduced.

TANZANIA

Widespread arrests following assassination of Zanzibari President and 18 of the accused tried in absentia.

TUNISIA

November 1973 wave of arrests involving students, academics and workers with well-substantiated reports of the torture of these detainees.

UGANDA

"Disappearance" of opponents of the Amin government; 3 Ugandans who had fled to Kenya to avoid persecution were handed over to the Ugandan military police and reportedly murdered.

ZAMBIA

Government Gazette stated 72 people were being held without trial; 40 Rhodesian refugees detained without trial since early 1971; known for practice of torture.

Mr. Chairman, there are many more incidents of repression than those above listed, which appear in the report, I have simply taken a line or two from the report for each country.

The CHAIRMAN. If there are no further amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BRADEMAS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 9721) to provide for increased participation by the United States in the Inter-American Development Bank, to provide for the entry of nonregional members and the Bahamas and Guyana in the Inter-American Development Bank, to provide for the participation of the United States in the African Development Fund, and for other purposes, pursuant to House Resolution 817, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gross.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. SCHULZE

Mr. SCHULZE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. SCHULZE. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. SCHULZE moves to recommit the bill H.R. 9721 to the Committee on Banking, Currency, and Housing.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 140, nays 276, not voting 18, as follows:

[Roll No. 752]

YEAS—140

Abdnor
Ambro
Anderson, Calif.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bennett
Breaux
Brinkley
Burgener
Burleson, Tex.
Burlison, Mo.
Byron
Carney
Carter
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cochran
Collins, Tex.
Conlan
Crane
Daniel, Dan
Daniel, R. W.
Devine
Dickinson
Dodd
Downey, N.Y.
Downing, Va.
Duncan, Tenn.
Eilberg
Emery
English
Eshleman
Evans, Ind.
Evins, Tenn.
Fish
Fithian
Flowers
Fountain
Frey
Fuqua
Gibbons
Goldwater
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hammerschmidt
Hansen
Harsha
Hechler, W. Va.
Hefner
Henderson
Holt
Hubbard
Hungate
Hutchinson
Hyde
Ichord
Jarman
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kasten
Kelly
Kemp
Ketchum
Krebs
Lagomarsino
Latta
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Lott
Lujan
McCollister
McDonald
Martin
Mikva
Miller, Calif.
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Neal
Nichols
Passman
Poage
Pressler
Randall
Risenhoover
Roberts
Robinson
Rogers
Roush
Rousselot
Runnels
Ruppe
Russo
Santini
Satterfield
Scheuer
Schulze
Sebelius
Shipley
Shriver
Shuster
Sikes
Skubitz
Smith, Nebr.
Snyder
Spence
Steed
Steiger, Ariz.
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Vanik
Waggonner
Wampler
Whitehurst
Whitten
Wiggins
Wilson, Bob
Winn
Wylie
Young, Alaska
Young, Fla.

NAYS—276

Abzug
Adams
Addabbo
Alexander
Allen
Anderson, Ill.
Annunzio
Ashley
Aspin
Badillo
Baldus
Barrett
Baucus
Beard, R.I.
Bedell
Bell
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Calif.
Burke, Mass.
Burton, Phillip
Butler
Carr
Casey
Cederberg
Chisholm
Clay
Cleveland
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Diggs
Dingell
Drinan
Duncan, Oreg.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Erlenborn
Esch
Evans, Colo.
Fary
Fascell
Fenwick
Findley
Fisher
Flood
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fraser
Frenzel
Giaimo
Gilman
Ginn
Gonzalez
Green
Gude
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hastings
Hawkins
Hayes, Ind.
Hays, Ohio
Heckler, Mass.
Heinz
Hicks
Hightower
Hillis
Holtzman
Horton
Howard
Howe
Hughes
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Jordan
Karth
Kastenmeier
Kazen
Keys
Kindness
Koch
Krueger
LaFalce
Landrum
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
Macdonald
Madden
Madigan
Maguire
Mahon
Mann
Mathis
Matsunaga
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Milford
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Preyer
Price
Pritchard

Quie
Quillen
Railsback
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Rodino
Roe
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Ryan
St Germain
Sarasin
Sarbanes
Schneebeli
Schroeder
Seiberling
Sharp
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, James V.
Stark
Steelman
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Teague
Thompson
Thornton
Traxler
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vigorito
Walsh
Waxman
Weaver
Whalen
White
Wilson, C. H.
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—18

Andrews, N.C.
AuCoin
Bowen
Burke, Fla.
Burton, John
Davis
Gaydos
Hébert
Helstoski
Hinshaw
Holland
McKinney
Mazzoli
Riegle
Stanton, J. William
Treen
Udall
Wilson. Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Andrews of North Carolina for, with Mr. Helstoski against.

Mr. Treen for, with Mr. John Burton against.

Mr. Hébert for, with Mr. McKinney against.

Mr. Burke of Florida for, with Mr. Udall against.

Mr. Hinshaw for, with Mr. Riegle against.

Until further notice:

Mr. AuCoin with Mr. Davis.

Mr. Bowen with Mr. Mazzoli.

Mr. Charles Wilson of Texas with Mr. Holland.

Messrs. SIMON, LEGGETT, and HILLIS changed their votes from "yea" to "nay."

Messrs. WAMPLER, LLOYD of California, MILLER of California, CRANE, MARTIN, SKUBITZ, and FOUNTAIN changed their votes from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

Mr. WYDLER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken by electronic device, and there were—yeas 249, nays 166, not voting 19, as follows:

[Roll No 753]

YEAS—249

Abzug
Adams
Addabbo
Alexander
Allen
Anderson, Ill.
Annunzio
Ashley
Aspin
Badillo
Baldus
Barrett
Baucus
Beard, R.I.
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Calif.
Burke, Mass.
Burton, Phillip
Butler
Carr
Cederberg
Chisholm
Clausen, Don H.
Clay
Cleveland
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
Coughlin
Daniels, N.J.
Danielson
Delaney
Dellums
Derrick
Derwinski
Diggs
Dingell
Drinan
Duncan, Oreg.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Erlenborn
Esch
Evans, Colo.
Fary
Fascell
Fenwick
Findley
Fisher
Flood
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fraser
Frenzel
Giaimo
Ginn
Goldwater
Gonzalez
Gradison
Green
Gude
Guyer
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hastings
Hawkins
Hayes, Ind.
Hays, Ohio
Heckler, Mass.
Heinz
Hicks
Hillis
Horton
Howard
Howe
Hughes
Hyde
Jeffords
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jordan
Kastenmeier
Keys
Kindness
Krueger
LaFalce
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lujan
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
Macdonald
Madden
Madigan
Maguire
Mann
Martin
Matsunaga
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pickle
Pike
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Rodino
Roe
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Ryan
St Germain
Sarasin
Sarbanes
Schneebeli
Schroeder
Seiberling
Sharp
Shriver
Simon
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steelman
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Symington
Thompson
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vigorito
Waxman
Weaver
Whalen
Wiggins
Wilson, Bob
Wilson, C. H.
Winn
Wirth
Wright
Wydler
Yates
Young, Ga.
Young, Tex.
Zablocki

NAYS—166

Ambro
Anderson, Calif.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bedell
Bell
Bennett
Biaggi
Breaux
Brinkley
Burgener
Burleson, Tex.
Burlison, Mo.
Byron
Carney
Carter
Casey
Chappell
Clancy
Clawson, Del
Cochran
Collins, Tex.
Conlan
Cotter
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
de la Garza
Dent
Devine
Dickinson
Dodd
Downey, N.Y.
Downing, Va.
Duncan, Tenn.
Eilberg
Emery
English
Eshleman
Evans, Ind.
Evins, Tenn.
Fish
Fithian
Florio
Flowers
Flynt
Fountain
Frey
Fuqua
Gibbons
Gilman
Goodling
Grassley
Hagedorn
Haley
Hall
Hammerschmidt
Hansen
Harsha
Hechler, W. Va.
Hefner
Henderson
Hightower
Holt
Holtzman
Hubbard
Hungate
Hutchinson
Ichord
Jacobs
Jarman
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Karth
Kasten
Kazen
Kelly
Kemp
Ketchum
Koch
Krebs
Lagomarsino
Landrum
Latta
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Lott
McCollister
McDonald
Mahon
Mathis
Milford
Miller, Calif.
Miller, Ohio
Mills
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murtha
Myers, Ind.
Natcher
Neal
Nichols
Passman
Pettis
Poage
Pressler
Randall
Risenhoover
Roberts
Robinson
Rogers
Roush
Rousselot
Runnels
Ruppe
Russo
Santini
Satterfield
Scheuer
Schulze
Sebelius
Shipley
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Nebr.
Snyder
Spence
Steed
Steiger, Ariz.
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Traxler
Vanik
Waggonner
Walsh
Wampler
White
Whitehurst
Whitten
Wolff
Wylie
Yatron
Young, Alaska
Young, Fla.
Zeferetti

NOT VOTING—19

Abdnor
Andrews, N.C.
AuCoin
Bowen
Burke, Fla.
Burton, John
Davis
Gaydos
Hébert
Helstoski
Hinshaw
Holland
McKinney
Mazzoli
Riegle
Teague
Treen
Udall
Wilson, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Holland for, with Mr. Hébert against.

Mr. McKinney for, with Mr. Andrews of North Carolina against.

Mr. Riegle for, with Mr. Burke of Florida against.

Mr. Udall for, with Mr. Abdnor against.

Mr. Helstoski for, with Mr. Treen against.

Mr. John L. Burton for, with Mr. Teague against.

Until further notice:

Mr. AuCoin with Mr. Davis.

Mr. Bowen with Mr. Hinshaw.

Mr. Charles Wilson of Texas with Mr. Mazzoli.

Messrs. RYAN and DANIELSON changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 9721.

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the Clerk may be authorized to make corrections in punctuation, section numbers, and cross-references in the engrossment of the bill H.R. 9721.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may be permitted to have five legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT TODAY DURING 5-MINUTE RULE

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation may be permitted to meet on highway legislation today during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

CONFERENCE REPORT ON H.R. 9005, INTERNATIONAL DEVELOPMENT AND FOOD ASSISTANCE ACT OF 1975

Mr. MORGAN. Mr. Speaker, I call up the conference report on the bill (H.R. 9005) to authorize assistance for disaster relief and rehabilitation, to provide for overseas distribution and production of agricultural commodities, to amend the Foreign Assistance Act of 1961, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 4, 1975.)

Mr. MORGAN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with because I intend to explain it in full.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER. The gentleman from Pennsylvania (Mr. MORGAN) is recognized for 30 minutes.

Mr. MORGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this conference report is very close to the legislation which the House approved by a vote of 244 to 155 on September 10.

There were many differences between the House and the Senate versions of this legislation—but most of them were minor, technical, and clarifying.

On the major issues, the House conferees did very well in upholding the position of the House.

Let me summarize the provisions of the report:

The bill—and the conference report—contain three separate titles:

Title I deals with disaster assistance—the help which we provide to people and countries affected by natural and manmade disasters.

Title II deals with food aid—with the overseas distribution of Public Law 480 commodities which are either sold on concessional terms or distributed on a grant basis through American voluntary agencies.

Under the provisions of the House bill and the conference report the largest part of this food aid will go to the poorest countries which need it the most.

The third title of the conference report deals with development assistance—the help which we have traditionally provided to our friends in need, to assist them with food production, with rural development, with basic education and with population planning and health.

I want to underline the fact that this is basically a humanitarian bill, in the finest American tradition.

There is no military aid to anyone in this bill—and no handouts to enrich foreign rulers.

The help which is provided in this conference report is aimed at the poorest people abroad—those who need our help most.

Now, Mr. Speaker, let me add a few words about the money amounts in the conference report.

The conference report has $30 million less for fiscal 1976 than the House originally approved—and over $400 million less for fiscal 1977.

The total reduction below the amounts approved by the House in September is about $453 million.

Part of this reduction, Mr. Speaker, came about because the House bill provided authority for reuse of certain loan repayments—and, in conference, we decided to go along with the Senate and drop that provision.

In the future, those funds will go directly to the Treasury and cannot be reappropriated on the basis of standing authority in this act.

Among other important provisions in this conference report is $30 million for the refugees on Cyprus, some additional funds for the drought-stricken countries of the Sahel, and some very strong provisions for using the talents of our land-grant and other colleges and universities to help those short on food to produce more and better agricultural commodities.

I know that nearly one-third of the membership of the House was very much interested in those provisions—and I am happy to report that they form a very important part of this conference report.

I have been asked about inclusion of universities other than land-grant universities under the new Title XII: Famine Prevention and Freedom from Hunger—which this bill would establish in the Foreign Assistance Act.

On the particular question raised with me, which included the meaning of the term "extension activities," there was no issue between the House and Senate. The language of House Report 94-442, on pages 59 and 60, concerning this matter remains relevant.

I would also like to mention that the human rights amendment offered on the floor of the House by our colleague from Iowa (Mr. HARKIN) has been retained essentially unchanged.

We also accepted Senate language providing for cutoff of aid to countries which discriminate against American citizens on the basis of race, color, or religion—and I know that there was quite a bit of interest in the House in this subject also.

In conclusion, Mr. Speaker, I think that the House managers brought back here a good conference report—one which keeps the position of the House on important issues—and one which saves some money over the legislation approved by the House last September.

I would urge approval of the conference report.

Mr. BROOMFIELD. Mr. Speaker, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, today we have before us the conference report on H.R. 9005, the International Development and Food Assistance Act of 1975.

This report retains the basic character and substance of the legislation passed by the House on September 10, but includes several changes I would consider improvements. The conferees have reduced the funding level in the bill, bringing it into substantial conformity with the President's budget. In its present form, H.R. 9005 is entirely acceptable to the executive branch.

H.R. 9005 is a product of congressional initiative and executive cooperation at its best. It enunciates a clear policy framework for furnishing food, development and disaster assistance to the developing world. It authorizes the minimum levels necessary to carry out responsibly the provisions of the bill.

H.R. 9005 is a bill our constituents can support. As it moved through Congress, editorial opinion across the country consistently praised the focus and intent of this legislation. A number of surveys have shown that the American people will support foreign aid when it is aimed directly at the working poor. H.R. 9005, with its development and humanitarian objectives, presents a range of new initiatives that will reach and support the world's rural poor who are prepared to help themselves. In this regard, the bill contains a number of notable features:

It emphasizes the need to increase food production to meet rapidly expanding worldwide demand.

Several major changes in Public Law 480 policy contained in this bill are intended to insure that our food aid reaches those most in need: People living in countries with an annual per capita gross national product of $300 or less.

Other changes in the Public Law 480 policy incorporated into this bill insure that Public Law 480 aid serves as a tool to foster increased production on small family-sized farms in developing countries.

Another food related initiative retained in the conference report is the famine prevention and freedom from hunger program initiated by my distinguished colleague from Illinois (Mr. FINDLEY) and which I proudly cosponsored.

Congress has taken a major step forward in H.R. 9005 by consolidating provisions dealing with disaster relief and assistance under the Foreign Assistance Act.

The new title established for this purpose authorizes the President to appoint a permanent special coordinator for disaster assistance to promote maximum effectiveness and coordination in response to foreign disasters by U.S. agencies and between the United States and other donors.

In response to the continuing need for relief and rehabilitation assistance in Cyprus, the conferees agreed to a Senate amendment authorizing $30 milion for refugees and other needy people in Cyprus.

The bill also contains important and tightly drawn policy and program directives in the area of population control, intermediate technology, and education.

H.R. 9005 is the product of long-needed congressional initiative and executive cooperation in the area of foreign assistance. The bill reaffirms our longstanding commitment to help those in need, particularly those who are willing to help themselves. With H.R. 9005, we have finally turned our back on an era which saw lavish outpourings of dollars on schemes which we could not afford and which frequently did not work.

H.R. 9005 weaves a coherent foreign assistance program around a number of important but limited objectives. It provides a program that recognizes the realities of what our aid can accomplish overseas as well as the constraints of our domestic economy.

I urge a favorable vote on the conference report on H.R. 9005.

Mr. KETCHUM. Mr. Speaker, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Speaker, I thank the gentleman for yielding.

I will ask the distinguished chairman of the committee this question: In looking at the report, I notice that a rather substantial amount of money goes to United Nations programs, and I would ask the chairman of the committee, how much of that money goes to the third world countries that backed the Zionist resolution?

Mr. MORGAN. Mr. Speaker, I imagine, of course, that some of the third world countries that backed the Zionist resolution will get some of the money, but it will be a relatively small amount of money out of the whole bill.

Mr. KETCHUM. Would the gentleman say that $174 million is a small amount of money?

Mr. MORGAN. Most of the money which they will get will come from the U.N. development program. Last year, UNDP gave some 58 countries—mostly in Africa and Asia—which this year voted for the anti-Zionist resolution, some $129 million. The United States contributed about one-fifth of that. This year our contribution will be a bit larger.

Mr. KETCHUM. Give or take a few million then my estimate is correct?

Mr. MORGAN. Yes.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I would like to ask the distinguished chairman of the committee what the total amount of money is contained in this bill? The gentleman said it is $453 million less than the amount included in the House legislation.

Mr. MORGAN. Mr. Speaker, I believe it is $1.5 billion for 1976. It is $1.567 billion for fiscal year 1976 and $1.497 billion for fiscal year 1977.

Mr. BAUMAN. It would be over $3 billion?

Mr. MORGAN. I would say close to $3.1 billion.

Mr. BAUMAN. $3.1 billion?

Mr. MORGAN. Yes.

Mr. BAUMAN. I would like to ask the distinguished chairman one other question: Apparently the language in this conference report makes available to the President $30 million for assistance to former Portuguese colonies in Africa.

Is it contemplated, in view of the fact that Angola is apparently about to fall under Communist domination, that we are going to embark on a new foreign-aid program for nations of this type, or are any restrictions contemplated in case the Communists take over these countries?

Mr. MORGAN. Of course, the decision on specific programs or projects will be made later by the President. I am sure that if they go Communist, we are not going to give them any money. The act contains a prohibition on aid to Communist countries—and so does Public Law 480.

Mr. BAUMAN. I thank the gentleman.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Speaker, I would like to congratulate the chairman, the gentleman from Pennsylvania (Mr. MORGAN), for the excellent leadership he provided during the conference as well as during the consideration of this bill. The conference was extremely complicated as compared with most conferences, and in my opinion, the House managers defended the House position very ably.

Mr. Speaker, this conference report brings to culmination the enactment of what I consider to be a significant program under which the United States can help to meet the world food challenge.

The program to which I refer is the famine prevention program which becomes title XII of the Foreign Assistance Act. This program gives substantial new long-term responsibility to land-grant universities and similar institutions, to enable them to help establish land-grant type institutions for improved education of farmers in the hungry nations.

Because this is the final legislative step in the establishment of permanent authority, it is important to review the role the universities will occupy in this program, and the relationship of the universities to the Agency for International Development.

Over the past 20 years land-grant universities have participated broadly in foreign assistance work, serving primarily under 2-year contracts under AID. Under this new legislation the relationship of the universities and AID will change substantially.

For the first time, the universities will be established on a long-term basis as a prime resource. They will function in two different ways.

First, they will have majority membership on the Board for International Food and Agricultural Development. The Board will consist of seven members, and of these four at least must represent land-grant universities or other eligible institutions. Under this legislation, the Board's authority is substantial. I will review its authority later.

Second, the universities will be established as a long-term resource in their individual capacity.

Individual universities will, on contract, develop specific proposals for agreements with foreign countries. The subject matter of these agreement proposals will cover a wide variety of possibilities, ranging from the establishment of a complete new land-grant type university to the improvement of educational or research facilities. The agreement proposal may contemplate a responsibility of just 1 or 2 years, or one spanning 10 years or more.

Once an agreement proposal is completed, it will then be submitted for consideration jointly by the Administrator of AID and the Board of International Food and Agricultural Development. If the proposal is approved, the individual university preparing the agreement proposal will then likely be given the contract for execution.

What is the authority of the university-controlled Board? The legislation is clear. Through control of the Board, the universities will be partners with AID, not subordinates.

The Board will share with AID decisionmaking on all aspects of policy development and execution, and all aspects of development and execution of contracts and grants.

As stated in section 298, the Board will have responsibility in "participating in the planning, development, and implementation of, initiating recommendations for and monitoring of the activities described in section 297" of title XII. Section 297 provides the authority to enhance the participation of U.S. land-grant and other eligible institutions in the task of increasing food production in the less-developed nations. Authority under this section includes efforts to strengthen the institutional capacity and human resource skills of agriculturally developing countries and support for international agricultural research and extension activities in the developing nations.

Let me emphasize that under section 298, the Board will have substantial authority in the formulation of basic policy, procedures and criteria for project proposal review, selection and monitoring. It will also participate in the planning, development, implementation and monitoring of specific programs in foreign countries. It will have the right, coequal with AID, to review and evaluate agreements and activities, and it will be consulted in the preparation of each 5-year forward planning report to the Congress.

The Board will have the opportunity to help write regulations and keep all such regulations under constant review.

Eligibility will be determined by the Administrator of the Agency for International Development working jointly with the Board, applying the standards set forth in the legislation.

Individual universities will be the primary U.S. presence abroad for the execution of the agreements.

It is anticipated that eligible universities will have long-term continuing contracts. Backed by these contracts, universities will be able to plan ahead. They will be able to build their courses, their faculty, their administration to fit their long-term responsibilities, both international and domestic.

Authority and funds are only a start. Just as essential will be a deep commitment by the universities themselves. This is not a program simply to provide on-the-job training to universities in the art of overseas institution building. The central purpose is not to increase the number of U.S. institutions which have international capabilities. The central purpose is to improve the systems of agricultural education of farmers abroad.

To emphasize the role and importance of the Board, I think that it is appropriate that the colloquy that Senator HUMPHREY and I developed during hearings before the Senate Subcommittee on Foreign Assistance be repeated. The Board is not window dressing. The Board is not for just advisory purposes.

Here is the colloquy between Senator HUMPHREY and myself:

BOARD FOR INTERNATIONAL AGRICULTURAL DEVELOPMENT*

Another item, Congressman Findley, the Board for International Agricultural Development. Would you like to make any comments in particular—I am sure you have discussed this in your prepared statement which we entered in its full text in the record?

Mr. FINDLEY. Senator, the Board's role in this program is a very vital one. It should not be regarded as a purely functionary advisory role at all. In fact, the language of section 298 makes it very plain that the Board will have a responsibility to participate in the planning, development, and implementation of all the activities described in section 297.

Equally important, it will have the duty of participating in the formulation of basic policy, procedures and criteria for project proposal, review, selection, and monitoring. This means that the membership of the Board will actually be a partner with the administrator of AID in planning the program from the very beginning and establishing procedures. I think this is vitally important, because the university leadership in this field is the greatest resource that our Nation has for the development of agricultural education, both in this country and abroad.

This provides a means through which this leadership and its resources, its rich experience, can be brought into conjunction with that of the AID staff at the very highest level, in its very initial stages, as well as in carrying out the various programs. It is a vital role.

I am sure the President will take very seriously the importance of quality in the selection of seven members of the Board.

Senator HUMPHREY. In Canada there is a similar entity for their AID program, as it relates to agriculture and food production, am I not correct?

Mr. FINDLEY. I must say, Senator, I do not know.

Senator HUMPHREY. I believe that is the case. The important words here, in section 298, need to be emphasized. "Section 298, Board for International Agricultural Development." It says, "To assist in the administration of the programs." So it is to be involved. It is not an appendage. That is what you and I are getting at here. It is a fundamental part of the administration of the programs authorized. Then, it says, "the Board's general areas of responsibility"—that is the important word—"shall include"—not may, but shall; then it says "The Board's duties shall include, but not necessarily limited to—(1) participating in the formulation of basic policy, procedures." Then down in item 3, it says, recommending which developing nations could benefit from program carried out under this title, and identifying those nations which have an interest in establishing or developing agricultural institutions which engage in teaching, research, or extension activities."

I note that, all the way through here, the Board has mandates, so to speak. It is not the sort of language that we occasionally put in when we have a problem that we do not quite know what we want to do about, so we establish an advisory commission. I want the legislative history of this amendment to be clear, that both you, sir, as a sponsor in the House, myself as a sponsor in the Senate—look upon this Board as having powers and authority and responsibility?

Mr. FINDLEY. Absolutely. In fact, in subsection (c), is another important function that is assigned to the Board. "The Board shall be consulted in the preparation of the annual report required by section 300 of this title." That report is of vital interest, because that is the report which contains, in addition to a review of the activities of the past year, a 5-year forward look in detail on what this program anticipates in the way of responsibilities for individual universities.

The Board does indeed have a powerful, vital role in the administration of this program.

Senator HUMPHREY. Including, under subsection "(6) recommending to the Administrator the apportionment of funds, under section 297 of this title."

I think with your prepared testimony and what you have said orally, Congressman, and our colloquy, we are making it very clear that the Board is more than window dressing. It is a basic, fundamental part of the program. In fact, it is the heart of the program. From the Board's activities, things flow.

I just wanted to make it clear so our colleagues and friends at AID will clearly understand that this is not some little afterthought that Congressman Findley and Senator Humphrey had. We are deadly serious about it, and intend to get this into a bill. We intend to monitor. Is that not correct?

Mr. FINDLEY. Yes, sir.

Senator HUMPHREY. Thank you very much, Congressman.

Mr. FINDLEY. Thank you, Senator.

Senator HUMPHREY. I really appreciate your initiative in this.

As the principal author of the famine prevention program, I wish to state clearly that the Board is to be a working institution. The people selected to serve on it must be in a position to commit most, if not all, of their time to its work. The Board has a heavy responsibility. It must serve coequally with AID in passing on the eligibility of institutions. It must help AID establish procedures, policies and continually update these. It must be in charge of the work of committees established under this title. Such committees are to work under the direction of the Board, not under AID. In addition, the Board has heavy responsibilities in connection with the approval, review, and monitoring of all proposals and agreements established under this title.

The Board is a basic part of the famine prevention program. As I said earlier, it is to be a coequal partner, not a subordinate of AID. The effectiveness of this program in meeting the world food challenge will depend in great measure upon the quality and commitment of the people assigned to the Board.

Mr. PEYSER. Mr. Speaker, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from New York.

Mr. PEYSER. Mr. Speaker, I thank the chairman for yielding.

I think, too, that this is an excellent report.

I have a question, though, with respect to amendment No. 15, the food aid program to recognize and support American farm economy. It says:

> The Senate amendment required that the President shall give appropriate recognition and support to a strong and viable U.S. farm economy in providing for food security of consumers in the United States and worldwide.

Mr. Speaker, I very much support this, but I would like to know precisely what this language means. What is the recognition and support that the President is supposed to give in this effort?

Mr. MORGAN. The gentleman will note that this amendment did not originate in the House. It was put in in the other body. The Senate wanted it during the conference because it gives some recognition to the need for protecting the supply of food in this country before it is declared surplus for overseas shipping. Also in shipping food abroad, it was felt we should pay attention to keeping and enlarging our commercial markets for farm commodities. These were some of the considerations.

Mr. PEYSER. Of course, that is exactly what I think should be emphasized as far as the report is concerned here. This is in the area of farm economy and other things of which we should be well aware with respect to what the consumer's rights in this country are.

One last statement: It would seem to me most appropriate, in fulfilling the purpose of this whole conference report and the intent of producing food, that the legislation that is scheduled to be coming up this week on the rice bill certainly would play a very key role in being able to carry out much of what this conference report does, because the whole aim of that legislation, of course, is to increase the production of rice for the world market. It would seem to me—and I am sure the gentleman from Pennsylvania (Mr. MORGAN) would agree—that this would help in answering the very problems which this conference report tries to resolve.

Mr. MORGAN. I certainly agree with the gentleman from New York (Mr. PEYSER) that we should have a strong farm economy in the United States in our own interest and in the interest of all those abroad who look to us for food supplies.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, I thank the chairman for yielding.

I would, first of all, like to commend the chairman and the House managers for the excellent job which they have apparently accomplished in maintaining the House position and in bringing out what I think is an improved piece of legislation.

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* Excerpt from the hearings before the Subcommittee on Foreign Assistance of the Senate Foreign Relations Committee, July 21, 1975.

I have two specific questions. The first is, as I understand it, in the final bill which we have before us now, the ratio of funds made available for food and nutrition as compared to population planning and health shows there is a higher proportion of funds available for population planning as compared to food and nutrition in the final bill; is that correct?

Mr. MORGAN. No, that is not correct. Funds which the report makes available to help the poor countries grow more and better food—and improve their nutrition—are significantly larger than those for population planning. The ratio is about the same as in the original House bill.

Mr. LEVITAS. If the gentleman will yield further, I think one of the really commendable aspects about this approach is that there is a very definite emphasis on the food and humanitarian aspects of this program and a targeting on the areas in which there is the greatest need as a result of various factors.

However, the one problem that I do have, and perhaps the chairman could enlighten me, is the information as far the the breakdown of funds that is set forth as to categories and programs, and prior to voting for this conference committee report I wonder if the gentleman can furnish me and the Members of this House a list of the countries, country by country, by amount of dollars and program by program, as to what will be provided under the conference committee report and the bill as it is now in the conference report.

Mr. MORGAN. That material was in a committee report on illustrative basis and, of course, it is not in this report.

Mr. LEVITAS. I saw it in the original committee report but it is my understanding that the amounts that were in the original committee report are not the amounts in the final conference report, there have been changes both as to programs and as to amounts. I would presume this would affect the countries and programs and the amounts and I would like to know how much each country would get.

Mr. MORGAN. That all will depend upon the amount the Committee on Appropriations will appropriate. The authorization figure here just contains the ceilings for the Committee on Appropriations. What the Committee on Appropriations figure will be we do not know. It will probably be much smaller than the authorizing figures here. The country by country adjustments will have to be made after that—when the amount of money actually available is known.

Mr. LEVITAS. I thank the chairman.

Mr. WHALEN. Mr. Speaker, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from Ohio.

Mr. WHALEN. Mr. Speaker, I thank the gentleman for yielding.

My question relates to amendment No. 16 on page 20. The bill emerging from the conference refers to the 10 million tons of food assistance and also refers to a significant U.S. contribution. Was there in the final bill any figure required of the United States?

Mr. MORGAN. No.

Mr. WHALEN. There is no figure required?

Mr. MORGAN. No.

Mr. WHALEN. There is a dollar figure, as I understand it, contained in amendment No. 25, does that deal with this same area, $220 million?

Mr. MORGAN. I think that would be for the International Fund for Agricultural Development, where others would have to supply matching funds.

Mr. WHALEN. As I understand it, as the bill emerged from the conference there are some provisions that have to be met before the $200 million will be provided?

Mr. MORGAN. That is correct. The Fund has to be set up; its articles of agreement have to be approved by appropriate congressional committees; and other countries have to put up at least $800 million.

Mr. WHALEN. I thank the gentleman.

Mr. SOLARZ. Mr. Speaker, will the gentleman yield?

Mr. MORGAN. I yield to the gentleman.

Mr. SOLARZ. Mr. Speaker, I just want to indicate that I think this conference report and the legislation it calls for is a very significant step forward in terms of making us meet our obligation to the needy people around the world. I think the decision to split off military and security support assistance from economic assistance was a most commendable one. I think the margin by which this bill originally passed the House was a real tribute to the leadership provided by the chairman, the gentleman from Pennsylvania (Mr. MORGAN) and the ranking minority member and other members of the House committee. I also want to pay tribute to our conferees for having come back with this most meritorious report.

I was proud to play a small role in helping to bring about this legislation and I am proud not only as a Member of Congress, but as a American citizen to be able to vote for this conference report this afternoon.

Mr. BIAGGI. Mr. Speaker, I rise to give my strong support to an amendment accepted by the conferees and contained in this conference report which will provide $30 million for continuation of emergency relief assistance to Cyprus which was begun last year with the passage of my amendment to the Foreign Assistance Act.

My amendment appropriated $25 million in aid to provide emergency food, clothing and shelter for the victims of the war on Cyprus including some 200,000 Greek Cypriot refugees. The fact that these funds were exhausted pointed up the need for an extension of this commitment. I was pleased to see Congress meet this challenge.

Since July of 1974 the island of Cyprus has been ravaged from the effects of civil war and occupation. Many of her citizens were uprooted from their homes, separated from their families. Cyprus economy has been devastated by the war, and these combined tragedies threatened the very existence of the Cyprus nation.

I deeply regretted the decision earlier this year to partially lift the arms embargo against Turkey. I note with some concern the apparent lack of real progress toward a resumption of meaningful negotiations between Turkey and Greece. The report on Cyprus filed by the President yesterday is lacking in terms of showing real progress toward resolving the 17-month conflict in Cyprus. I know many of these who supported the lifting of the arms embargo were hopeful that it would lead to solutions to the Cyprus crisis. This has not yet occurred but should be made a priority item by the administration. Without progress toward peace, the vote by Congress will represent nothing but a betrayal of the Cypriot people and a blow to the integrity of our own foreign policy.

It is imperative that this Nation continue its commitment toward assisting the people of Cyprus. This amendment will surely demonstrate to the people of Cyprus that we are in solidarity with them in their struggle for peace and freedom. I urge the adoption of this conference report.

Mr. ZABLOCKI. Mr. Speaker, I wish to commend the chairman and members of the International Relations Committee, and the House as a whole, for the legislation which is now before us for final approval.

About a year ago, following my attendance at the World Food Conference as a congressional adviser to the U.S. delegation, I and a number of committee colleagues began work on a new bill which became the predecessor of H.R. 9005 which is before us today.

We had several purposes in mind. We wanted to separate foreign economic from security assistance, rather than handling the two in a single legislative package as before. This way humanitarian disaster, food and economic development aid could be considered in a separate bill on its own merits, but without prejudice to any subsequent security assistance measure.

Another purpose was to strengthen the "new directions" mandate for development assistance, which was set forth in our reform legislation 2 years ago, and which focuses this aid on major problems common to developing countries and seeks to benefit the poorest majorities in the countries.

Commensurate with the desire of the American people and the mandate of the World Food Conference to step up the campaign against hunger, we proposed various revisions in the Public Law 480 food for peace program designed to increase the effectiveness of this program in its foreign policy and overseas distribution aspects. We focused on channeling this assistance to those poor countries which need it most.

In my opinion H.R. 9005, The International Development and Food Assistance Act of 1975, as passed by the House and now in conference report, has successfully adhered to these worthy goals.

The legislation contains a special provision for disaster assistance designed to improve implementation of this type of humanitarian aid.

The conference report mounts the attack on hunger in various ways: It increases the authorization for our important agricultural production assistance to developing countries for boosting their own farm production. It authorizes a $200 million U.S. contribution to an International Agricultural Development Fund, provided other nations, including the oil-rich countries, also contribute. It requires in our food-for-peace program that at least 75 percent of the concessional sales go to the poor countries, and that at least 1.3 million tons a year of our title II grants be distributed through private voluntary agencies.

The legislation also establishes a new famine prevention program under which land-grant and other American agricultural colleges and universities will be able to play an increased role in helping to raise agricultural production in developing countries.

Other items include a provision—first adopted by the House and retained in substance by the conferees—which relates the provision of our development assistance to whether or not aid-receiving countries observe basic human rights.

The conference report in addition carries a number of worthwhile features that were not in H.R. 9005 originally, but which in my opinion merit House approval.

For example, it requires the President not to discriminate on the basis of race, religion, national origin, or sex in assigning persons abroad to carry out our economic aid programs authorized under this bill.

It also authorizes $30 million for relief and rehabilitation of refugees in Cyprus. As Members know, the Greek Cypriot population has suffered heavily and urgently needs this help.

In summary, Mr. Speaker, I believe this conference report to be one of the best bills on this subject ever to come before the House. I urge adoption of the conference report.

Mr. MORGAN. Mr. Speaker, I have no further requests for time.

Mr. FINDLEY. Mr. Speaker, I have no further requests for time.

Mr. MORGAN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. KETCHUM. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 265, nays 150, not voting 19, as follows:

[Roll No. 754]

YEAS—265

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Ill.
Annunzio
Armstrong
Ashley
Aspin
Badillo
Baldus
Barrett
Baucus
Beard, R.I.
Bedell
Bergland
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Buchanan
Burke, Calif.
Burke, Mass.
Burton, Phillip
Carney
Carr
Cederberg
Chisholm
Clay
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
Delaney
Dellums
Derwinski
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Erlenborn
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Foley
Ford, Mich.
Forsythe
Fraser
Frenzel
Giaimo
Gilman
Gonzalez
Gradison
Green
Gude
Guyer
Hagedorn
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hastings
Hawkins
Hayes, Ind.
Hays, Ohio
Heckler, Mass.
Heinz
Hicks
Hightower
Hillis
Holtzman
Horton
Howard
Howe
Hyde
Jeffords
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jordan
Kastenmeier
Keys
Koch
Krebs
Krueger
LaFalce
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Macdonald
Madden
Madigan
Maguire
Matsunaga
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Peyser
Pickle
Preyer
Price
Pritchard
Quie
Quillen
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Rodino
Roe
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Ruppe
Ryan
St Germain
Sarasin
Sarbanes
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steiger, Wis.
Stokes
Stratton
Studds
Sullivan
Symington
Thompson
Traxler
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki

NAYS—150

Allen
Anderson, Calif.
Andrews, N. Dak.
Archer
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bell
Bennett
Bevill
Brinkley
Brown, Ohio
Broyhill
Burgener
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carter
Casey
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conlan
Crane
Daniel, Dan
Daniel, R. W.
de la Garza
Dent
Derrick
Devine
Dickinson
Downing, Va.
Duncan, Tenn.
Edwards, Ala.
English
Fithian
Florio
Flowers
Flynt
Ford, Tenn.
Fountain
Frey
Fuqua
Gibbons
Ginn
Goldwater
Goodling
Grassley
Haley
Hammerschmidt
Hansen
Harsha
Hechler, W. Va.
Henderson
Holt
Hubbard
Hughes
Hungate
Hutchinson
Ichord
Jacobs
Jarman
Jenrette
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Karth
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Lagomarsino
Landrum
Latta
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Lott
Lujan
McCollister
McDonald
Mahon
Mann
Martin
Mathis
Milford
Miller, Ohio
Mills
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Natcher
Neal
Nichols
O'Brien
Passman
Perkins
Pettis
Pike
Poage
Pressler
Randall
Risenhoover
Roberts
Robinson
Rogers
Roush
Rousselot
Runnels
Russo
Santini
Satterfield
Shriver
Shuster
Sikes
Skubitz
Smith, Nebr.
Snyder
Spence
Steed
Steelman
Steiger, Ariz.
Stephens
Stuckey
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Waggonner
Wampler
White
Whitehurst
Whitten
Wylie
Young, Alaska
Young, Fla.
Zeferetti

NOT VOTING—19

Ambro
Andrews, N.C.
AuCoin
Bowen
Burke, Fla.
Burton, John
Davis
Gaydos
Hébert
Hefner
Helstoski
Hinshaw
Holland
Mazzoli
Patman, Tex.
Railsback
Riegle
Treen
Udall

The Clerk announced the following pairs:

On this vote:

Mr. Patman for, with Mr. Burke of Florida against.

Mr. Riegle for, with Mr. Hinshaw against.

Mr. Holland for, with Mr. Treen against.

Mr. Railsback for, with Mr. Ambro against.

Until further notice:

Mr. AuCoin with Mr. Hébert.

Mr. Helstoski with Mr. Davis.

Mr. Mazzoli with Mr. Bowen.

Mr. John L. Burton with Mr. Andrews of North Carolina.

Mr. Udall with Mr. Hefner.

Messrs. CARTER, KASTEN, and ROBERTS changed their vote from "yea" to "nay."

Mr. RUPPE changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MORGAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

CHAPTER IX BANKRUPTCY REVISION

Mr. MURPHY of Illinois. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 905 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 905

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10624) to revise chapter IX of the Bankruptcy Act. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee of the Judiciary, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Illinois is recognized for 1 hour.

Mr. MURPHY of Illinois. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from California (Mr. Del Clawson), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 905 provides for an open rule providing 2 hours of general debate on H.R. 10624.

H.R. 10624 amends chapter IX of the Bankruptcy Act to provide a workable procedure for the adjustment of debts of political subdivisions and public agencies and instrumentalities. The bill provides that a political subdivision that is eligible may file a petition of relief with a Federal district court. This bill eliminates the eligibility requirement of obtaining consent from 51 percent in amount of creditors for a plan of adjustment prior to the filing of the petition. This is necessary because in the case of certain political subdivisions the petitoner may not be able to obtain consent because the creditors are holders of bearer bonds and are unknown to the petitioner.

The filing of the petition acts as an automatic stay of all actions allowing the petitioner time to negotiate and develop a plan of adjustment with its creditors. The filing also makes unenforceable certain contractual provisions which allow a contract to be modified or terminated if the petitioner is insolvent or has filed a petition for relief under the Bankruptcy Act.

After the filing of the petition the court must give notice to the petitioner's creditors, the Securities and Exchange Commission and to the State in which the petitioner is located. Any creditor or party in interest may file a complaint within 15 days after the mailing of notice is completed.

The court determines who the petitioner's creditors are, based on the list of creditors filed by the petitioner and on proofs of claims filed by the creditors. The court can also designate classes of creditors to facilitate the negotiation process. The plan of adjustment must be filed with the court either with the petition or within such time as the court determines.

This bill gives broad discretion to the petitioner and the court in developing and approving the adjustment plan. In order for the plan to be confirmed, it must have been accepted by creditors holding at least two-thirds in amount of the claims of each class.

Specific requirements are established in the bill which the adjustment plan must satisfy before the plan is confirmed by the court. Also the bill stipulates those instances in which the case may be dismissed by the court.

Additional powers are granted to the court to assist the municipality in its reorganization attempt. The court is given the power to permit the petitioner to reject executory contracts as well as to authorize the petitioner to issue certificates of indebtedness with such priority and security as the court determines to be equitable. This will allow the municipality to enter the private credit market again. No interference with the political or governmental powers of the petitioner however is allowed the court.

The recent developments in New York City show the need for a workable procedure for municipalities which find themselves in a financially distressed situation. This revised chapter IX of the Bankruptcy Act allows the municipality to continue operating while a Federal district court supervises the adjustment of its debts.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 905 provides for 2 hours of general debate on H.R. 10624, a bill to revise chapter IX of the Bankruptcy Act. Germaine amendments may be offered under the 5-minute rule. There are no waivers of points of order.

The purpose of the legislation is to amend chapter IX of the Bankruptcy Act, to provide a workable procedure so that a large municipality in financial difficulty may work with its creditors to adjust its debts. Chapter IX specifically provides for Federal court supervision of a settlement between the petitioner municipality and a majority of its creditors.

Mr. Speaker, the Committee on the Judiciary reported the bill by a vote of 32 to 0. I know of no opposition to the rule, and recommend its adoption.

Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. MURPHY of Illinois. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. EDWARDS of California. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10624) to revise chapter IX of the Bankruptcy Act.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. Edwards).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 10624, with Mrs. Boggs in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from California (Mr. Edwards) will be recognized for 1 hour and the gentleman from Virginia (Mr. Butler) will be recognized for 1 hour.

The Chair recognizes the gentleman from California (Mr. Edwards).

Mr. EDWARDS of California. Madam Chairman, I yield such time as he may consume to the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. Rodino).

Mr. RODINO. Madam Chairman, I rise in support of H.R. 10624, as amended, a bill to revise chapter IX of the Bankruptcy Act. This bill was reported favorably by the Committee on the Judiciary on November 18, 1975, by a recorded vote of 32 to 0. This legislation has a long history. The first municipal bankruptcy act was passed by the Congress in 1934. It was declared unconstitutional by the Supreme Court in 1937. Congress quickly reenacted a revised act that was upheld a year later. That statute is what is currently on the books. It has not been revised or amended since 1946.

In 1970, Congress and the President established the Commission on the Bankruptcy Laws of the United States. The Speaker appointed our distinguished colleagues, Don Edwards, chairman of the Subcommittee on Civil and Constitutional Rights, the subcommittee that reported this bill, and Charles Wiggins, to serve on the Commission. The Commission's task was to study the bankruptcy laws in depth and report back to the Congress their recommendations for revisions. This they did in 1973. The bill they drafted was introduced in the 93d Congress, and again in this Congress by Mr. Edwards as H.R. 31. The National Conference of Bankruptcy Judges also proposed a revision of the bankruptcy laws, and Mr. Edwards has introduced that as well. Both of these bills proposed massive changes in chapter IX of the Bankruptcy Act, the chapter that establishes the procedure by which a financially embarrassed municipality may negotiate with its creditors under court protection and supervision to work out an adjustment of its debts.

Since those bills were first introduced, the subcommittee and its staff have been studying them and gathering information to assist in the final rewriting of the bankruptcy laws. It is contemplated that they will report a bill to the full committee sometime next spring. It has become apparent, though, that the need for revision of one of the chapters of the Bankruptcy Act is more pressing than for the rest. That is chapter IX. The other chapters of the Bankruptcy Act serve the purpose for which they were designed. They do not work too efficiently and in some cases not too justly, and that is why the committee is attempting a major revision. But one chapter, chapter IX, does not work at all for large municipalities. Its requirements are simply unrealistic and hopelessly outdated. A city the size of New York would find it virtually impossible to avail itself of the relief afforded smaller municipalities by chapter IX. That is why the Committee on the Judiciary has reported favorably H.R. 10624, as amended, to make chapter IX of the Bankruptcy Act a workable and useful tool for a municipality that finds itself in financial straits. It is a well-drafted bill, and I commend Mr. EDWARDS and his subcommittee for their fine work. It fills the present vacuum in the Bankruptcy Act, and I strongly support its passage.

Mr. EDWARDS of California. Madam Chairman, I yield myself 6 minutes.

Madam Chairman, I would like to speak for a moment on the provisions of the bill itself. The gentleman from New Jersey (Mr. RODINO) has amply made the case for the need for the bill, and I urge that it be passed. It might be useful, however, to discuss what the bill actually does, what sort of system it establishes, and what major changes it makes from current law.

This bill amends chapter IX of the Bankruptcy Act to provide a workable procedure so that a municipality of any size that has encountered financial difficulty may work with its creditors to adjust its debts. I might point out, before I describe the body of the bill, that though the bill amends the Bankruptcy Act and is proposed under the bankruptcy power of Congress, the term "bankruptcy" in its strictest sense of liquidation of the assets of the debtor for the benefit of creditors is really a misnomer for chapter IX proceedings. A municipality cannot be liquidated and sold for the benefit of creditors as a business can. Its property and revenues must continue to be used to provide the residents of the municipality with governmental services. So what chapter IX provides is essentially for Federal court supervision of a settlement between the petitioner municipality and a majority of its creditors. The primary purpose of the bill is to allow the municipal unit to continue to operate while it adjusts or refinances creditor claims, with little, and often no, loss to creditors. What is contemplated is a financial reorganization by which the city restructures its debts, much in the same way that a business in reorganization does.

I also wish to point out that this bill is a general revision of chapter IX of the Bankruptcy Act. Unlike the President's bill, it is not one-city, or euphemistically, "major municipality" legislation. The Subcommittee on Civil and Constitutional Rights has found that chapter IX barely works for any city in financial difficulty, whatever its size. Chapter IX is in sore need of revision, and this bill is designed to accomplish that revision.

In addition, the bill establishes a mechanism and a procedure by which the petitioner and its creditors work out a settlement of the petitioner's debts. Like every other chapter of the Bankruptcy Act, this bill does not guarantee results, either during or after the proceeding. Bankruptcy law, by its very nature, cannot guarantee success, without becoming a Federal takeover of a distressed business, or a distressed municipality. The success of a chapter IX case depends solely on the negotiations between the municipality and its creditors. This does not, however, make the chapter IX remedy illusory. It gives the petitioner the needed breathing spell, and far more often than not, chapter IX petitioners have worked out successful plans of adjustment with their creditors.

Because chapter IX is a procedural mechanism, most of the changes in the proposed revision center on procedural matters. An effort has been made throughout the drafting of this statute to follow current law as much as possible, in order that the bill not be such a departure from settled principles that the changes would have an unsettling effect on other municipalities and their bondholders.

The bill and the changes proposed from current law may be best understood by a description of what occurs when chapter IX, as it is proposed to be amended by the bill, is utilized. I wish to review in summary form the steps taken and the process which occurs after the filing of a petition for relief under chapter IX.

A political subdivision or public agency or instrumentality that is eligible for relief may file a petition for relief under this chapter with a district court in whose jurisdiction it is located. It is eligible if it is not prohibited by State law from filing, is insolvent or unable to meet its debts as they mature, and desires to effect a plan of adjustment of its debts. The requirement of obtaining consent from 51 percent in amount of its creditors to a plan of adjustment prior to filing a petition for relief that exists in current law has been eliminated. This is perhaps the most major change from current law.

The filing of the petition operates as an automatic stay of all actions, judicial or otherwise, and of the commencement of continuation of any action which seeks to enforce a lien against the petitioner, its property, its officers, or its inhabitants. This feature is new as well. It gives the petitioner the breathing spell it needs to get back on its feet financially, and the time it needs to negotiate and develop a plan of adjustment with its creditors.

After the filing of the petition, the court must give notice to the petitioner's creditors. The notice is by publication, and by mailing to those creditors whose addresses are known. Notice is also given to the Securities and Exchange Commission, and to the State in which the petitioner is located.

Any creditor or party in interest may file a complaint within 15 days after the publication of notice is completed, under one of the amendments adopted by the committee. The court is directed to hear and determine such complaints, to the extent practicable, in a single proceeding, in order to expedite the determination of the propriety of the petition. The grounds for objection to a petition are basically that the petitioner does not meet the eligibility requirements of the bill.

The bill grants the court two powers which a bankruptcy court has under chapters X and XI, and under section 77, but which had not previously been granted under chapter IX. The first is the power to permit the petitioner to reject executory contracts. The bill makes the rejection of an executory contract a breach of the contract as of the date of the petition, giving rise to a claim for damages.

The second power the court is given is the power to authorize the petitioner to issue certificates of indebtedness, with such priority and security as the court determines to be equitable.

The powers of the court are subject to a strict limitation—that no order or decree may in any way interfere with the political or governmental powers of the petitioner, the property or revenue of the petitioner, or any income-producing property. The purpose of this limitation derives from Ashton against Cameron Water Improvement District No. 1, which held the first Municipal Bankruptcy Act unconstitutional on the basis of infringement of State sovereignty. This limitation was included in the second act, and relied upon in Bekins against United States, which upheld the second municipal adjustments statute.

The Supreme Court and the courts of appeals have made it very clear that the jurisdiction of the court "is strictly limited to disapproving or to approving and carrying out a proposed composition." The bill follows these holdings and retains the limitation on the court's power.

During this entire process, the petitioner negotiates with its creditors to develop a plan of adjustment of its debts that meets the statutory requirements. Because of the flexibility of the process under the Bankruptcy Act, there is no limit to the nature of negotiation that the petitioner may undertake, save only that the negotiation be voluntary—the court may not order the petitioner to take any action without its consent. The petitioner remains in control of its own operations at all times. Of course, if the State has deprived the petitioner of certain of its powers, such as under a State law that transfers fiscal management to a State board upon the filing of a petition or upon some other event, then the petitioner is subject to such State control. Neither the Bankruptcy Act nor the court may interfere with the distribution and delegation of power established by State law.

The plan of adjustment must be developed and filed with the court, either with the petition or within such time as the court, upon its own motion or upon application of the petitioner, determines. The time fixed by the court supplies the necessary incentives to both sides in the negotiations to arrive at a mutually agreeable plan within a reasonable time. The court, of course, may extend the time, but it is unlikely that the court would tolerate purposeful delay or bad faith negotiation that resulted in delay. The power to extend would undoubtedly be exercised only when it could be shown that progress toward a plan was being made, and more time was necessary to complete the process.

After the plan is filed and transmitted, but before the date set for confirmation, creditors may file written acceptances or rejections of the plan and any modifications.

In order for the plan to be confirmed, it must have been accepted by creditors holding at least two-thirds in amount of the claims of each class.

The bill also makes provision for the satisfaction of claims of classes or creditors who do not consent to the plan. The bill states that if a creditor is not affected by the plan, or provision is made for the satisfaction of his claim, his consent to the plan is not necessary. This is copied exactly from current law.

After the filing of the plan and any modifications, the court must set a date for a hearing on confirmation of the plan. This date must be within a reasonable time after the expiration of the time within which the plan may be accepted or rejected. The court notifies all parties entitled to object to the confirmation of the plan of the date of the hearing.

After the hearing, the court must confirm the plan if it is satisfied that the plan is fair, equitable, and feasible, and does not discriminate unfairly in favor of any creditor or class of creditors; the provisions of the bill are complied with; all compensation paid incident to the plan is reasonable; the plan is offered and accepted in good faith; and the petitioner is not prohibited by law from taking any action necessary under the plan.

If the court is satisfied that the plan meets these five requirements, then it must confirm the plan. The confirmation of the plan is binding on all creditors who had timely notice or actual knowledge of the petition or plan, whether or not their claims were allowed, and whether or not they accepted the plan. The plan operates as a discharge of all the petitioner's debts, except those excepted from discharge under the plan, and those whose holders had neither timely notice nor actual knowledge of neither the petition nor the plan.

After confirmation, the petitioner is directed to comply with the terms of the plan, and to take any action necessary to execute the plan. Distribution of the consideration deposited by the petitioner with the disbursing agent is made in accordance with the terms of the plan to those creditors whose claims have been allowed or deemed allowed, and to security holders of record as of the date of the order confirming the plan whose claims have not been disallowed. If participation under the plan requires the deposit of securities or other action, creditors must take such action not later than 5 years after the date of the order confirming the plan. Creditors that do not are barred from participation under the plan, and the property that was to be distributed to them reverts to the petitioner. The court may retain jurisdiction over the case for as long as it determines it is necessary to the successful execution of the plan.

Finally, at any time during the case, the court may dismiss for five different reasons: Want of prosecution, failure to propose a plan within the time fixed by the court, failure to have a plan accepted within the time fixed by the court, failure to have the plan confirmed, and where the court has retained jurisdiction after confirmation, default on the terms of the plan, or termination of the plan by reason of the happening of a condition specified in the plan. Voluntary dismissal on the petitioner's own application is always available in a court of equity, after hearing on notice.

Mr. BUTLER. Madam Chairman, I yield myself 5 minutes.

Madam Chairman, this legislation, of course, is part of the continuing series of bills which we are considering for the relief of New York City. It is general in its application but it is specific in the problem to which it is addressed at the moment.

I appreciate the comments of the gentleman from California (Mr. EDWARDS). The gentleman has adequately laid out for us the principal reasons for this bill and the new procedures which will develop.

I think it is important to remind ourselves that there are certain defects in the existing law which make this legislation important. So regardless of the amendments which are offered to this legislation, in the view of those of us who sit on this subcommittee, it is important that this legislation be enacted in whatever form is the will of the House.

But, as I have said, there are presently existing defects in our law which make it impossible for the city of New York or cities of that size to receive the benefits of municipal bankruptcy. The existing defects are those which have been mentioned by the gentleman from California. Specifically, those municipalities which would file a petition in bankruptcy at the moment must first receive the consent of 51 percent of the creditors to the plan or adjustment of which they would seek approval. This is almost an insurmountable problem in the case of many cities. Certainly in the case of larger cities it is impossible. The identity of the creditors of the city of New York cannot be with any degree of accuracy developed within the period of time that would permit the drawing of a plan. For these reasons this legislation is important.

The principal changes in the legislation will deal with approving changes in chapter IX and those changes should be called to the attention of the House once more. The effect of the petition is to automatically stay the prosecution of all claims against the municipality which files the petition. It is not significant that the municipality default prior to filing a petition in bankruptcy; the important thing is that the municipality states that it is unable to meet its obligations as they mature and it desires to effect an adjustment of its indebtedness.

I reemphasize that it is important to recognize that default is not a prerequisite of the filing under the new proposed chapter IX.

The immediate effect of filing under chapter IX is the automatic stay of all claims and all suits prosecuted against the municipality. This is important because of the principle involved and it is important because it gives an opportunity for each creditor to have equal protection in the courts. It simply removes the creditors' race which so often creates so many problems in all bankruptcy or all insolvency situations.

The new powers mentioned by the gentleman from California are significant. They are significant because they have not been in municipal bankruptcy legislation before.

The first power, of course, is the power of the petitioning municipality to reject executory contracts. This of course has been part of other chapters of our bankruptcy law; the power of the debtor in possession or of a trustee in bankruptcy to revoke executory contracts with the permission of the court is a matter of long standing.

Of course, we have case law that tells us exactly what an executory contract is under those circumstances. In this instance the extension of the power to the petitioning municipality to reject executory contracts with the permission of the court is a new and important step. It is very important because it gives the petitioning municipality, an opportunity to get out from under onerous and burdensome contracts which have placed it in an insolvent position and which created the problem in the first place.

It is important, I think, to recognize that executory contracts include all forms of contracts, the execution of which has not been performed, including, of course, collective bargaining agreements, vendor contracts, and the like. Also it is important to recognize that upon the filing of the petition, the petitioning municipality has the power to issue certificates of indebtedness with the approval of the court.

It is important, I think, to recognize that the Bankruptcy Act is the most appropriate vehicle, in my judgment, for Federal aid or guarantee of indebtedness of a distressed municipality, if that becomes a problem with reference to a distressed municipality.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BUTLER. Madam Chairman, I yield myself 5 additional minutes.

The power to issue certificates of indebtedness is also new in municipal bankruptcy, and there are serious questions which will be raised in the course of our debate here today about the constitutional limitations on the issuance of certificates of indebtedness and whether we in this legislation have gone too far. I have no problem with it myself. I am entirely satisfied, and our counsel satisfies me, that this is appropriate, and it can be done; but we must recognize that we are sailing uncharted waters in regard to this, and that serious questions may well be raised as municipalities take advantage of this legislation as to whether the certificates of indebtedness they would issue may be issued constitutionally. It is a matter which will ultimately and inevitably be liquidated.

I also mention to the Members that another new element in this legislation are the requirements for filing the petition. Under existing law the petitioning municipality must accompany its petition with a plan for the adjustment of its indebtedness. This is no longer a requirement of the legislation. All the court must find is that the petitioning municipality desires to effect an adjustment of its indebtedness, and that it will continue in good faith in its efforts to work out a plan for an adjustment of its indebtedness. In this regard I think this is one of the far more appropriate provisions, because it enables the city of New York to proceed in this fashion with the filing of its petition and then endeavor to work out with its creditors its problem.

Of course, the classification of the creditors who must approve the plan is here again clarified to a greater extent by this legislation. The plan itself must be approved by two-thirds of those people who are affected by the plan and who under the legislation will participate in the proceedings before the court. This is a large percentage, but it is one, I think, which protects the minority creditors' interests and is appropriate under these proceedings.

We will develop that aspect further during the course of the general debate.

There are three possible amendments which we are considering, but I hope that we can avoid pursuing one or two of them as this colloquy develops during the course of our general debate. I would only address myself at the moment briefly to the fact that I will offer an amendment in the nature of a substitute which will create a separate chapter XVI applicable only to the largest municipalities of this country having a population of 1 million or more people.

There are a number of reasons why this is important, and we will develop that when the amendment is offered. The important thing is I would hope the Members would recognize that what we are undertaking to do here is legislate, the principal purpose of which is to benefit one municipality, the city of New York and all of our considerations in this will become particularly apparent as amendments are offered and tailored to that one municipality.

But there are serious questions that will undoubtedly be raised in the course of debate about litigation that will inevitably rise, and I think it is important to limit our exposure to possible rejection and litigation as much as we can so that the existing chapter IX will stay in effect and be available to the other municipalities of this country during the period that these questions might be litigated or raised.

Madam Chairman, I yield back the remainder of my time.

Mr. EDWARDS of California. Madam Chairman, I yield 7 minutes to the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Madam Chairman, it is always painful to think that any municipality would find it necessary to file for bankruptcy. Only a handful of such actions have even been attempted in the history of American law. These few proceedings have involved very minor units of government. No major city or even any large municipality in America has been required to enter into bankruptcy. The fact remains, however, that there should be some acceptable legal way by which incorporated municipalities, like private corporations, should be able to take advantage of that proceeding called bankruptcy which the Founding Fathers placed into the Constitution itself.

H.R. 10624 is a bill to amend chapter IX of the Bankruptcy Act. It is an act which would have been forthcoming from the House Judiciary Committee next spring independently of the crisis brought to the United States by the possible default of New York City. H.R. 10624 is consequently not a controversial bill. It was approved by the House Judiciary Committee by a unanimous record vote.

This bill is a modification of chapter IX of the Bankruptcy Act which became law in 1937, shortly after the U.S. Supreme Court declared unconstitutional an earlier version of the same chapter. The procedure available under chapter IX for cities, counties, and special revenue districts is simple. If a municipality—the petitioner—finds that it is unable to meet its debts, it may negotiate with its creditors for an extension of time or a composition of its indebtedness. From this negotiation a plan may emerge by which the municipality agrees to pay off its debt over a longer period of time or at a reduced rate or both. If the municipality cannot obtain the consent of all of its creditors to such an arrangement it may file a petition in the bankruptcy court.

After notice and hearing the court makes a decision on whether the plan is "fair, equitable, and feasible."

In the case of municipalities, the "fair and equitable" rule requires that the municipality adopt a firm plan by which its budget can be balanced. During the development of the bill before the House today several individuals desired to insert into chapter IX the express provision that the judge must require that the municipality in bankruptcy adopt a "balanced budget" before its plan to adjust its debts can be accepted. Very wisely, however, a majority of the members of the House Judiciary Committee rejected the appealing language of a "balanced budget" because such a concept, besides being dangerously vague and ambiguous, is already presumed to be a part of chapter IX in that the judge must require that the plan be "fair and equitable."

The preexisting chapter IX of the Bankruptcy Act allows a State to withhold its consent from a municipality that desires to file under the Bankruptcy Act. The withholding of this consent would obviously prevent or terminate all proceedings in bankruptcy sought by a municipality. This particular provision is carried over into the law before the House today. The law does not require the joinder or the consent of a state with a municipality which has elected bankruptcy; the act merely states that a municipality may not contravene state law in its quest for bankruptcy proceeding.

The bill before the House today, H.R. 10624, is a measure designed to make bankruptcy proceedings available for every unit of government in the United States. An amendment may be proposed today which would limit relief under the proposed chapter IX to "major municipalities"—that is, cities with a population of 1 million or more.

There are only six such cities in the country. The argument has been made that it is necessary to limit the availability of bankruptcy to these six cities in order to prevent smaller cities and towns throughout the Nation from entering into bankruptcy proceedings when other less drastic remedies might be available. It is the judgment of the members of the House Judiciary Committee that it would be unwise and unfair to limit relief under this act only to the largest cities in this Nation. The stigma of bankruptcy upon any unit of Government would be so drastic that in all probability the managers of a municipality would be extraordinarily reluctant to enter into bankruptcy proceedings. The impact upon the sale of bonds of this particular government would be profound and long lasting. Furthermore, the proposed revision of chapter IX does not relax the requirements of bankruptcy in any significant way. Consequently, it cannot be argued that those cities and towns in America which have never sought bankruptcy would do so now simply because a modernized but unrelaxed version of the bankruptcy law was available.

In addition, no suggestion was made in the extensive hearings conducted by the House Judiciary Committee that there is any need whatsoever for separate legislation for major cities. Indeed, if there were separate legislation for large and small units of government, a very serious question would arise because the Constitution itself requires that bankruptcy laws be uniform throughout the United States. Although the meaning of uniform is open to a good deal of debate, there is, nonetheless, an argument that providing for smaller and larger cities would be a nonuniform approach to bankruptcy.

The bill before the House today recognizes that a bankrupt municipality must raise operating cash to provide vital services. A mechanism provided in the bill is the use of certificates of indebtedness, or municipal bonds by another name. If New York City or any municipality is unfortunate enough to be required to enter the bankruptcy courts, there will, of course, be a serious question of the marketability of such certificates of indebtedness. It may be that the Federal or State Government would be required to guarantee the certificates of indebtedness so that they can be sold and thus furnish the instant financing required to continue the vital services of a city.

There is no provision, however, in H.R. 10624 for the Federal Government to guarantee certificates of indebtedness. Such a provision would be outside of the jurisdiction of the House Judiciary Committee, and, in addition, would be alien to the entire bankruptcy law, a part of which is updated and streamlined in H.R. 10624. Bankruptcy is a procedure by which an individual or a corporation or a city may arrange its debts in a way to bring about their orderly retirement. Bankruptcy does not and cannot provide for any outside guarantees that will implement the decrees of a Federal judge ruling in bankruptcy proceedings. To obtain such relief, the city in question or the Congress in separate legislation must authorize the amount and conditions of the loan or grant that is sought.

Madam Chairman, the bill before the House today does not make it easier for municipalities to go into bankruptcy. H.R. 10624 merely spells out and clarifies in a modern context all of the preexisting rights which any individual or incorporated entity has under traditional Anglo-American law. It is to be hoped that municipal bankruptcies will be even less frequent in the future than they have been in the past. H.R. 10624 does not facilitate nor does it complicate the path to the bankruptcy court for municipalities. It simply provides a vehicle by which a governmental unit may elect the least unsatisfactory resolution of its financial problem, a proceeding in bankruptcy by which it can balance its budget, continue human services uninterrupted and pay off its creditors in the least disruptive manner.

Ms. HOLTZMAN. Madam Chairman, will the gentleman yield?

Mr. DRINAN. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Madam Chairman, I heard the gentleman say that the purpose of the bankruptcy bill is merely to allow a municipality to rearrange its debts. Is the gentleman saying that the purpose of this bill is not to permit a municipality to continue its police and fire protection? Is the gentleman saying it is not essential to assure that police protection and fire protection and schooling and other necessary services in a municipality are to be continued; is that the gentleman's position?

Mr. DRINAN. I think that the mere act of going into bankruptcy makes this the only way the services can be continued. But a rearranging of the debts in bankruptcy cannot guarantee that the entity in bankruptcy will continue in every way that it did prior to taking this drastic act.

Ms. HOLTZMAN. Is the gentleman saying it is not the purpose of this bill in any way to insure that the municipality in bankruptcy can survive? If that is the gentleman's position, it is not in accord with the rest of the bankruptcy law. I find his position extremely distressing.

Mr. BUTLER. Madam Chairman, I yield 12 minutes to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Madam Chairman, I would like to ask the distinguished chairman of the subcommittee, the gentleman from California (Mr. EDWARDS) if he would engage in a colloquy to clarify some of the points that have remained through the drafting stages in the subcommittee and in the committee, so that we might clarify those points.

Mr. EDWARDS of California. Madam Chairman, I would be delighted.

Mr. KINDNESS. I would like to ask the gentleman from California (Mr. EDWARDS): I understand that there are occasions where municipalities and other political subdivisions are authorized, under certain circumstances under section 103(c) of the Internal Revenue Code, to issue tax-exempt bonds to provide financing for projects of privately owned companies. The tax exempt nature of the bonds enables the companies on behalf of which the bonds are issued to finance projects, such as the installation of pollution control equipment, at a lower interest cost than would otherwise be attainable.

The bonds are sold on the basis of the credit of the company on behalf of which they are issued. The issuing political subdivision merely acts as the vehicle which enables the bonds to be issued. The bonds are payable solely from the payments made by the company; in no event can tax revenues or other funds of the political subdivision be used for such payment.

Now, what would happen if a municipality that had issued such bonds filed under this bill? Would those bonds, and the funds due from the company be included in the bankruptcy proceeding?

Mr. EDWARDS of California. Mr. Chairman, if the gentleman will yield, the answer is "No," it is not the intent of the bill to include these industrial development bonds in a chapter IX case. The municipality is merely a vehicle for these bonds.

If the payments made by the companies on whose behalf the bonds were issued were to be included in the assets of a bankrupt municipality and used to pay the debts of the municipality, the intent of all of the parties to industrial development bond financings would be frustrated. The holders of industrial development bonds would be placed in the anomalous and untenable position of having no claim upon the funds of the municipality while solvent, but being subject to loss if the municipality becomes insolvent. Obviously, we do not intend that result. We intend claims that arise by virtue of these bonds not be among the claims allowable under section 88 of the bill, and that amounts owed by private companies to the holders of industrial development bonds are not among the assets of the municipality that are to be dealt with by the plan. These transactions should really be handled outside of the chapter IX case.

Mr. KINDNESS. If the gentleman would respond to a further inquiry: In section 86(a), the bill authorizes representation of creditors. Is this meant to supersede State laws regarding the practice of law? You do not intend to permit the unauthorized practice of law by this section, do you?

Mr. EDWARDS of California. No, we certainly do not. Section 86(a) merely makes it clear that creditors may appoint representatives to protect their interests. For example, an indenture trustee of a bond issue might be elected by the bondholders to represent them in the case. This would not per se be the practice of law. I imagine that any such representative would have to retain a lawyer should either he or the bondholders need any legal representation, in full compliance with State bar laws.

Mr. KINDNESS. Section 85 appears to stay setoffs and to allow the recovery of setoffs. But it seems that the problem is slightly different. The problem a petitioner would find itself in would be that a bank would set off an amount owed to the bank by the municipality, and then because of the setoff, would not honor checks drawn on accounts with that bank. Do these sections also mean that the banks can be required to honor checks, rather than to pay over the amount the petitioner recovers to the petitioner itself?

Mr. EDWARDS of California. The answer is "yes," the section does contemplate that result. The section would not be too meaningful if the result was that the bank that had set off amounts could only be required to pay them back to the petitioner. If that were the case, the petitioner might be unable to get any banking services. Clearly what the section contemplates by recovery includes an order requiring a bank to honor the petitioner's checks to the amount on deposit.

Mr. KINDNESS. I would like to request further clarification on another point. It seems that if I am listed as a creditor on the list filed by the petitioner and I later transfer my securities of record to you, we can both vote on the plan under section 92(a), and both receive distribution under section 96(c). I do not think this is what you intended. Could you clarify that point?

Mr. EDWARDS of California. That certainly would not comport with bankruptcy procedures to have a claim voted twice by different holders of the claim during the course of the case, or to have distribution made twice on the same claim. What is intended by the two sections you mention is that a creditor be allowed to vote a claim only once. If a security holder of record is included on the list of creditors, and he transfers his claim, he and the person he transfers his claim to will have to agree upon who may vote the claim. The court, of course, would have to determine any dispute over that matter. Similarly, if a creditor filed a proof of claim based on a claim that he received from a creditor who was listed on the list of creditors, the parties to the transfer would have to agree on who would be allowed to vote and receive distribution, and in the event of a dispute, the court would have to decide it.

Mr. KINDNESS. The next point I would like to clarify has to do with the effect of a default in performance under the plan. Section 98 allows dismissal by the court if the debtor defaults in performance. Is that mandatory dismissal?

Mr. EDWARDS of California. If the gentleman will yield, the answer again is "no." Dismissal is not mandatory in any of the instances listed in section 98. The preamble to the section says "may" and is permissive. The court will have to exercise its sound discretion in a case like this. What we intend is that the court dismiss a case after default in performance only if the petitioner does not cure the default within a reasonable time fixed by the court. For example, if a petitioner defaults, and a creditor files a complaint for dismissal under this section, then the court might order the petitioner to cure the default in a certain amount of time, or have the case dismissed. We do not expect that a court would simply dismiss outright, without any chance for the petitioner to set things right again.

Mr. KINDNESS. I thank the gentleman.

The word "inhabitants" appears in section 85. I assume that is to protect inhabitants of the petitioner from being sued by the petitioner's creditors, because as taxpayers of the petitioner, the inhabitants owe the petitioner funds that could be levied on for the benefit of the creditors. It seems that that language was copied from the current law. But what I wonder about is what would be the status of nonresident taxpayers of the petitioner. Are they covered as well?

Mr. EDWARDS of California. If the gentleman will yield, you are correct about the intent of that section and its purpose. Nonresident taxpayers are not a frequent occurence, and thus we did not make protection for them explicit, though it was certainly our intent to protect them along with all other taxpayers of the petitioner. If the section does not appear broad enough to cover these nonresident taxpayers, then the power of the court under another paragraph of the section you cite, section 85 (e)(4), allows a stay of any other action, and this could be used to protect these people.

Mr. KINDNESS. I thank the gentleman.

I do not see any provision in this bill that authorizes the continued operation of a municipality that files for relief under chapter IX, as has been discussed by a previous speaker. Could you explain what is contemplated?

Mr. EDWARDS of California. If the gentleman will yield, the bill does not mention the issue of the operation of the municipality, as chapters X and XI of the Bankruptcy Act do. The reason is simple. The bill contemplates absolutely no interference with the operation of the municipality and the provision of governmental services. Section 82(c) and section 83 make this very clear. Because the municipality is a creature of State law, and operates by virtue of the delegation of power from the State, it would probably be an unconstitutional interference with the sovereignty of the State if the bill attempted to give the judge any power to determine whether the petitioner should continue to operate, or what level of services or type of services the petitioner should provide. The power to govern remains with the municipality, not with the judge or any unelected official, unless State, not Federal, law provides for some alternative system.

Mr. KINDNESS. I thank the gentleman.

There has been much discussion over the requirement that a petitioner present information to the court that will enable the court to determine that the petitioner has balanced its budget, or will balance it within a reasonable period of time. Yet I do not find anything in the bill to that effect. Would you explain that?

Mr. EDWARDS of California. If the gentleman will yield, there is something in the bill that requires just what you suggest. It is in section 94(b)(1). It is the requirement that the plan be feasible. This requirement is in current law, though not explicitly. It was inserted into the bill to codify the current case law. The feasibility requirement incorporates the balanced budget concept which you addressed, but with increased flexibility as well as greater court supervision.

In Kelly against Everglades Drainage District, the Supreme Court in the early 1940's made it very clear that before a district court could confirm a plan under chapter IX, the fair and equitable requirement, also found in the same section as the feasibility requirement, required that a reasoned estimate be made of current and projected future revenues and expenses in order that the court be able to evaluate the likelihood of performance and the availability of funds to meet the petitioner's obligations under the plan.

The report that accompanied the bill explains all of this in more detail on pages 32–33.

Mr. KINDNESS. Madam Chairman, I thank the gentleman from California (Mr. EDWARDS) for responding to these inquiries as a further clarification of the words contained in the bill. I wonder if the distinguished chairman of the subcommittee, the gentleman from California, would agree that, considering the delicate balance of the words existing in the bill, in a rather technical area of the law, which would lead me to believe it would be unwise, we should avoid further clarification after debate. Therefore, I would ask whether the gentleman would agree that we should object to the inclusion of any extensions of remarks that may be submitted in the days following the debate on this bill that would tend to have something to do with clarifying the legislative intent.

Mr. EDWARDS of California. Yes, I certainly would agree with what the gentleman from Ohio (Mr. KINDNESS) has stated.

Mr. KINDNESS. Madam Chairman, I thank the gentleman.

Mr. EDWARDS of California. Madam Chairman, I yield 5 minutes to the gentleman from New York (Mr. BADILLO).

Mr. BADILLO. Madam Chairman, I rise in support of this legislation, which is part of our continuing work in the subcommittee toward amending the Nation's bankruptcy laws.

As the chairman of the subcommittee has indicated, we use the word "bankruptcy," in this bill because our mandate to pass these laws stems from the constitutional provision which uses the word "bankruptcy." However, we are not speaking of bankruptcy at all when it comes to this chapter. The title of the chapter is, "Adjustment of Debts of Political Subdivisions and Public Agencies and Instrumentalities." We are not speaking of bankruptcy because we do not contemplate that the cities will go out of existence. We do understand that the governmental functions as to police, fire, sanitation, health, recreation, and all services must continue.

When we speak of a municipality we also understand that a city cannot sell the Brooklyn Bridge or that Central Park cannot be sold out for use as a parking lot. Therefore, this legislation contemplates that what must take place, if there is an application to a Federal court, is basically a reorganization of the debts of the municipality or of the public body affected.

The second thing that I think is important to bear in mind in connection with this legislation is that the Congress or the courts cannot change the existing system of government in this country. The powers of the Federal Government are limited by the Constitution. The powers that are not given to the Federal Government are reserved to the States, and one of the powers that is reserved to the States is the power to create municipalities, to delegate authority to those municipalities, to provide for home rule, to provide for the election of public officials in those municipalities, and to give those public officials who are elected the absolute right to make final decisions.

Therefore, we cannot use the vehicle of this legislation to provide that any municipality shall be told what to do. We cannot, much as some Members might like to, provide for the abolition of rent control or the elimination of the city university in any municipality. We are very specifically limited, and we cannot interfere with the governmental powers of any municipality or public agency.

We have a specific limitation in section 82(c) that nothing that the courts shall do by order or by decree, unless the petitioner, of course, consents, will in any way affect any of the political or governmental powers of the petitioner.

Therefore, I would hope we would keep this in mind when we get to amendments that have to do with balanced budgets, when we get to amendments that seek to remove from elected officials powers which they were elected to discharge, and which we in the Congress cannot assume for them.

I think that this is the crucial thing to understand because if we understand the limited jurisdiction that we have in this bill, we will be able to provide meaningful assistance to localities that need it, and we will not get into policy matters which we cannot really change by virtue of any debate that may take place this afternoon.

Ms. HOLTZMAN. Madam Chairman, will the gentleman yield?

Mr. BADILLO. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Madam Chairman, I thank my colleague, the gentleman from New York (Mr. BADILLO), for yielding.

I was reassured by his statement in the initial part of his remarks that, in fact, a municipality in bankruptcy would be able to survive under this bill.

I would like the gentleman to explain to me, therefore, what mechanism will exist under this bill to permit a municipality to provide essential services, at least essential services, during the pendency of a bankruptcy proceeding, mindful of the fact that bankruptcy proceedings are generally quite lengthy.

I would like the gentleman to enlighten me on that.

Mr. BADILLO. Yes. The first mandate of the judge when the municipality comes before him is to establish whether or not the municipality is able to function, assuming, of course, that the debt service is suspended, whether the remaining funds of the municipality are adequate to permit the municipality to continue to render its services.

The CHAIRMAN. The time of the gentleman from New York (Mr. BADILLO) has expired.

Mr. EDWARDS of California. Madam Chairman, I yield 3 additional minutes to the gentleman from New York (Mr. BADILLO).

Mr. BADILLO. May I finish answering the question. If, of course, the funds available do not permit this, the judge is then authorized to issue certificates of indebtedness.

Ms. HOLTZMAN. If the gentleman will yield further, I think that is an important point.

The gentleman from Massachusetts addressed himself to this issue of how a municipality can continue to provide essential services during a period of bankruptcy.

The certificates of indebtedness are designed specifically to allow a municipality to obtain and raise operating capital during the pendency of the bankruptcy proceeding, subject, of course, to the approval of the court; is that correct?

Mr. BADILLO. Yes, that is correct.

Ms. HOLTZMAN. If the gentleman will yield further, I appreciate the gentleman's assurance in this respect.

I would just like to know whether the gentleman can tell me about the marketability of certificates of indebtedness without any kind of guarantees. Is it the gentleman's opinion that certificates of indebtedness of a city that has defaulted will be saleable, will be marketable after bankruptcy?

Mr. BADILLO. That depends upon what agency or what city is involved. I do not think, for example, they would be marketable in the case of New York City. That is the reason that in the original bill which we had before us, as the gentlewoman from New York (Ms. HOLTZMAN) knows, we had several titles, one providing for the bankruptcy bill, and another providing for the specific method of guaranteeing certificates of indebtedness. The individual situation in a smaller city in another part of the country might be quite different, but certainly in the case of New York City there would have to be additional action by either the State or the Federal Government in order to insure the marketability of those certificates.

Ms. HOLTZMAN. If the gentleman will yield further, if I understand what the gentleman is saying correctly, then this bill will not provide the insurance that New York City can provide essential services to its residents and to its inhabitants during the pendency of bankruptcy?

Mr. BADILLO. Not to New York City, but if the gentlewoman will read the debate of last week, the question was met with the President's support of a bill which would provide for loans to New York City in order to insure that its cash-flow problems will be met.

Mr. BUTLER. Madam Chairman, will the gentleman yield?

Mr. BADILLO. I yield to the gentleman from Virginia.

Mr. BUTLER. Madam Chairman, I thank the gentleman for yielding.

Of course, the need of providing essential services whether or not a municipality had filed its petition remains. The bankruptcy court does not presume or cannot constitutionally undertake to direct the tax operations or the revenue sources of the city. Whatever available remedies were available before are still available.

What the situation is is that the municipality has the benefit, from the bankruptcy, of not having its resources directed to pay those claims which are pending, but its current resources are available to meet its current expenses, and it is in a much improved position in reference to that.

Of course, in reference to that, whatever resources are available are impounded, is now a question of the legislation which passed this House last week. So that the well is a pretty deep well and I suspect that we will not get to the problem the gentlewoman from New York has referred to, and I sincerely hope we do not.

The CHAIRMAN. The time of the gentleman has expired.

Mr. EDWARDS of California. Madam Chairman, I yield 3 additional minutes to the gentleman from New York.

Mr. BUTLER. Madam Chairman, will the gentleman yield further?

Mr. BADILLO. I yield further to the gentleman from Virginia.

Mr. BUTLER. Madam Chairman, with reference to the point which has been raised about the limitation which we have placed in section 82(c) of this proposed bill, of course, the gentleman from New York will concede, I am sure, that it is modified by the earlier two clauses, unless the petitioner consents, by the petitioning municipality, or unless the plan so provides and the plan of course must come from the petitioning municipality.

Mr. BADILLO. I said that, of course, and the reason that is possible is that when the petitioner consents you are not taking any powers away from elected officials. The point is that we cannot here, through legislation this afternoon, take away any powers that lawfully elected officials have.

Mr. BUTLER. The point is significant that the municipality's power to consent or to work out a plan place a limitation on what we set forth in section 83, the gentleman does agree.

Mr. BADILLO. Whatever procedures are provided by law, meaning the board of estimate, public hearings or anything else that may be in a particular charter of a municipality, those procedures will be complied with.

Mr. BUTLER. The gentleman is saying that no mayor or Governor can perform, can act for a municipality unless the plan or petition is an appropriate statement by the petitioner.

Mr. BADILLO. That is right, unless the plan is approved pursuant to the laws of the particular municipality. In the case of New York City there would have to be public heairngs held by the board of estimate and that plan be agreed upon. Because the mayor is only the mayor, the city of New York is governed in many of its functions by a board of estimate. Certainly and powers that the board of estimate has cannot be assumed by the mayor.

Mr. BUTLER. Of course, all municipalities are subject to the higher power of the sovereign State that created them.

Mr. BADILLO. Exactly.

Mr. BUTLER. I thank the gentleman for yielding.

Mr. DODD. Madam Chairman, will the gentleman yield?

Mr. BADILLO. I am happy to yield to the gentleman from Connecticut.

Mr. DODD. Madam Chairman, I wish to associate myself with the remarks of the gentleman in the well.

Madam Chairman, I rise in support of H.R. 10624, a bill to amend chapter IX of the Bankruptcy Act.

The Subcommittee on Civil and Constitutional Rights, of which I am a member, and the full Judiciary Committee have spent a great deal of time revising chapter IX, so as to facilitate the procedure by which political subdivisions and public agencies and instrumentalities may adjust their debts in the event of default.

It is my sincere hope, and I believe also the hope of most of my colleagues, that it never becomes necessary for any municipality to utilize the provisions of this legislation.

But, the hard facts are that today New York City, the Nation's largest city, is unable to acquire through either taxation or borrowing, the funds it needs to operate.

Over the years, New York City has accumulated a debt of $12 billion in short- and long-term securities, and has accumulated deficits this year of more than $3 billion.

Other major cities, while not in the same situation as New York, are also facing the possibility of large deficits this year.

Philadelphia had a deficit of $19 million last year and expects a $50 million deficit this year. Detroit had a $17.6 million deficit last year and will only be able to avoid one this year if the city's income tax rate is doubled.

Also, the impact has not only been limited to the Nation's largest cities. Hartford, the largest city in my State of Connecticut, is anticipating having to pay higher interest rates due to the New York situation on bonds it will sell next spring.

And, the city manager of Murfreesboro, Tenn., blamed New York's crisis for the higher rates his town of 27,179 had to pay on bonds they sold in order to build a new fire station, police station, airport hangars, and school classrooms.

Until recently, it appeared that Presidential opposition to direct loans or loan guarantees for New York would force the city to default on its debts. That real possibility is what prompted our committee's actions; however, I am happy to say we have drafted a bill that deals not only with the possible default by New York but any political subdivision of any State that finds itself in the same situation.

I am also pleased to tell you that this legislation strictly limits the court from interfering with the political or governmental powers of the municipality filing a bankruptcy petition. By including provisions in the bill which strictly limit the jurisdiction of the court to approving or disapproving and carrying out a proposed composition, the committee has been careful not to allow the Bankruptcy Court any grounds on which to restrict the powers of the State on their arms of government.

This bill makes several important changes in chapter IX in order to allow municipalities to continue operating while they negotiate with their creditors in an effort to reorganize their debt.

Under the committee's bill, the filing of a petition operates as an automatic stay of all actions against a municipality—judicial or otherwise. This provision gives the petitioner the opportunity to develop a plan of debt adjustment with its creditors without the panic which one might otherwise expect to surround such a proceeding.

Also, to make it easier for a political subdivision to initiate bankruptcy proceedings, the committee has eliminated the current requirement in chapter IX that 51 percent of its creditors agree to a plan of adjustment prior to filing a petition for relief. Without the shelter of a bankruptcy court, it is entirely possible that creditors could interrupt the performance of Government functions. Therefore, above all else, the bill seeks to expedite the process whereby municipalities can begin the bankruptcy process, when it believes it must.

The bill also grants the court two powers which a bankruptcy court has under chapters X and XI and under section 77, but which is not now available under chapter IX.

First, the bill gives the court the power to permit the petitioner to reject executory contracts. Without this power, municipalities may be held to specific performance on contracts which it has made, and thereby seriously obstruct efforts to reorganize the debt.

Second, the bill allows the court to authorize the petitioner to issue certificates of indebtedness, with such priority and security as the court determines to be equitable. This permits the court to give potential lenders security and priority over existing obligations thereby assuring that loans incurred will be repaid. This provision, therefore, permits a bankrupt municipality to reenter the bond market which would otherwise be closed to them.

Finally, Madam Chairman, the bill changes existing law to require only that the court be satisfied the petitioner is not prohibited by law from taking necessary steps to carry out the plan rather than having specific legal authorization to implement the plan.

Madam Chairman, I believe this is a good bill. It deals directly and fairly with the possible problem in New York as well as problems that may arise elsewhere in the future.

I urge my colleagues to give it their full support.

Mr. BUTLER. I have no present requests for time, Madam Chairman.

Mr. EDWARDS of California. Madam Chairman, I yield 5 minutes to the gentlewoman from New York (Ms. Holtzman).

Ms. HOLTZMAN. Madam Chairman, I have a major concern about the bill that has been presented to us by the House Committee on the Judiciary. It is a technically well-drafted bill and as far as it goes, it seems to me that it performs its function. But the real question is what is going to happen to a municipality in bankruptcy and does this bill in fact allow a municipality in bankruptcy to survive?

The gentleman from Virginia (Mr. Butler) said that this bill was just another way we are going to assist New York City. He is wrong. The colloquy between the gentleman from New York (Mr. Badillo) and myself indicated very clearly that this bill as it stands right now will not permit New York City to survive in bankruptcy, to provide essential services to the public.

Over the next 5 months the city of New York—even if it paid nothing in interest or in debt service, and even if all of its existing debts were stayed by the bankruptcy court—would have an estimated operating deficit of $1.2 billion.

I do not think these figures are contested. Thus, if the city goes into bankruptcy it will have to cut $1.2 billion in expenses very rapidly. In fact, during the month of December the amount of the operating deficit is about $400 million. To meet this operating deficit, the city would obviously have to cut back substantially in providing services. It will have to cut back in the provision of police protection and fire protection, thereby jeopardizing the lives of the people of the city. It might have to cut back in schooling, thereby jeopardizing the education of the children of the city. It might have to cut back on garbage pickups, thereby jeopardizing the health of the people of the city. It might have to close additional hospitals, thereby again jeopardizing the health of the people of the city.

I think this bill recognized the need to assure the survival of cities during bankruptcy and did try to provide a remedy. The subcommittee did try to deal with the problem of providing operating capital, and it chose the mechanism of certificates of indebtedness. "Certificates of indebtedness" is just a fancy way of saying "bonds." Certificates of indebtedness are municipal bonds authorized by the court in bankruptcy.

The real question is, are these bonds marketable? If nobody wants to buy certificates of indebtedness, then there is no way that a city in bankruptcy can raise the operating cash that it may need.

Unfortunately there is no provision in this bill to make these certificates of indebtedness marketable and to insure, therefore, that a city would be able to raise the operating capital that it needs. It is essential if we recognize in this bill the importance of meeting the operating needs of the city, that it be a real remedy and not illusory as the remedy is under this bill.

Mr. ALLEN. Madam Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I am happy to yield to my colleague, the gentleman from Tennessee.

Mr. ALLEN. I thank the gentlewoman for yielding. If the certificates of necessity should be made a prior claim ahead of all other indebtedness, would that not cure the problem that the gentlewoman foresees?

Ms. HOLTZMAN. I do not think so, and the reason I say that is that the only security for these certificates of indebtedness would be the tax revenues of the city. A question that every potential purchaser of these certificates would have to face is, Are those tax revenues going to be used to pay for the police, the firemen, or sanitation pickups or are they going to be used to repay this debt? I do not think that anybody can have the assurance that when it comes down to it, the revenues will be used for the purpose of paying the certificates of indebtedness.

The CHAIRMAN. The time of the gentlewoman has expired.

Mr. EDWARDS of California. I yield 3 additional minutes to the gentlewoman from New York.

Ms. HOLTZMAN. The interesting point, I say to my friend, the gentleman from Tennessee, is that the committee heard no testimony from any municipal bond dealers, from any city officials, from any State officials, on the issue of the salability of unguaranteed certificates of indebtedness. The committee is assuming that these certificates are going to be salable without a guarantee. But let me just add that in the original bill that came out of the Committee on Banking, Currency and Housing providing for loan guarantees, there was a provision that permitted loan guarantees to be made after bankruptcy. Thus, the original banking and currency bill to provide loan guarantees to the city contemplated that after bankruptcy it would be necessary to guarantee certificates issued by or loans made by a bankrupt municipality.

Mr. BADILLO. Madam Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from New York.

Mr. BADILLO. I thank the gentlewoman for yielding.

I want to say to the gentlewoman that the committee did not assume that the certificates of indebtedness are marketable. I am a member of the committee, and what the committee recognized was that they might not be marketable and there would be circumstances under which additional legislation would be required.

For example, the committee is aware that in the case of Penn Central, which is another chapter of the bankruptcy law, Penn Central went bankrupt, and then the certificates of indebtedness were found to be unmarketable.

So that the Penn Central trustees came before the Congress and a bill was passed. We provided both the Emergency Rail Services Act which guarantees the certificates of indebtedness of Penn Centra and pursuant to that time about $567 million in bonds have been guaranteed.

As the gentlewoman indicated, we have an additional title to provide for bond guarantees. In view of the fact however that last week we passed a bill which in the case of New York City specifically authorizes the Secretary of the Treasury to give loans to New York City, that particular mechanism would be available here. Now if there is another city that is involved or another public agency that is involved, it may very well be that if such certificates were not marketable we may have to come back and pass a bill.

Ms. HOLTZMAN. Do I understand the gentleman from New York to say that the bill that passed the House providing for loans by the Secretary of the Treasury would apply to the city after bankruptcy? Is that what the gentleman is saying, that it is applicable to New York City after bankruptcy?

Mr. BADILLO. The bill applies only to New York City.

Ms. HOLTZMAN. Let me explain to the gentleman that under the terms of the bill that was passed it is my understanding and my judgment that the bill would not be available to guarantee certificates of indebtedness after bankruptcy and the city would not have that remedy after bankruptcy.

Mr. BADILLO. I think the understanding was when that bill was passed that the bill would provide the necessary funds to cover the city so that we would avoid default. There were two provisions. One was prior to default and one was subsequent to default. It was with that understanding that the bill was designed to avoid default and we passed that bill first, before we got to the bill today.

Ms. HOLTZMAN. What I would say to the gentleman is that the bill was designed to prevent default, but if it does not prevent default, or if the Secretary of the Treasury for any reason does not approve any particular loan in any particular month and the city of New York is forced to seek this remedy of bankruptcy, then the provisions of that legislation will not in my judgment be available to provide cash for the city when it is in bankruptcy.

Mr. BADILLO. In that case we would have to come back to the title II.

Ms. HOLTZMAN. I intend to offer an amendment to this bill that will allow the Federal guarantee to be issued for certificates of indebtedness so that the remedy we are providing to municipalities in this bill will be a real remedy and so we will not be saying in this bankruptcy bill that we do not want our cities to survive during the pendency of bankruptcy litigation.

Mr. DRINAN. Madam Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Madam Chairman, I can understand the force of the gentlewoman's point, but in the bill we did try to provide that certificates of indebtedness that would be issued by the judge shall have at his discretion such security and priority in payment over existing obligations, secured or unsecured, as is equitable.

Ms. HOLTZMAN. Let me just repeat to the gentleman the same thing I said to my friend from Tennessee: That there was nobody who testified before the subcommittee who was an expert in the sale of municipal bonds, there was no city official, there was no State official, there was no municipal bond dealer, there was no municipal bond insurer who said that these certificates would in fact be salable.

Madam Chairman, bankruptcy in general is not a sensible national policy to relieve the problems of America's financially distressed cities. This bill, thus, has many troubling features. It fails to deal with the root causes of New York's crisis and the decay of other American cities—the excessive welfare burden, the flight of the taxpaying middle class to the suburbs, and the crushing effects of the recession. Indeed, bankruptcy may well aggravate these underlying problems. In addition, by making bankruptcy more easily available, this bill will have a damaging effect on the municipal bond market, thereby making local credit less available and more expensive.

If on top of these serious problems, the bill fails to provide assurance that a city in bankruptcy can provide police and fire protection, education, and sanitation services it offers no help at all to New York or any other distressed municipality. Providing Federal guarantees for certificates of indebtedness might make this bill workable for New York City if it were forced to go into bankruptcy. Without such guarantees this bankruptcy bill provides no real assistance. It is fatally flawed. It is nothing more than a court-supervised road to disaster.

Thus, I could not in good conscience support this bill if my amendment to provide guarantees for certificates of indebtedness does not pass.

Mr. McCLORY. Madam Chairman, as a member of the Judiciary Committee which has prepared this important legislation and a cosponsor of legislation to amend the Bankruptcy Act with respect to municipal debt procedures, I rise in strong support of this measure.

Madam Chairman, before discussing this legislation in detail, I want to voice my high approval for the responsible job which my Judiciary Committee has performed in formulating and drafting an effective legislative approach to deal with the very complex problems involved in the event of a default by this country's largest municipality. In particular, I want to commend to this body the diligent efforts of the chairman of the subcommittee, the gentleman from California (Mr. EDWARDS), the ranking minority member of the subcommittee, the gentleman from Virginia (Mr. BUTLER), and, of course, the chairman of our committee, the gentleman from New Jersey (Mr. RODINO). On the whole, this is an excellent piece of legislation, which fulfills a vital need in light of the precarious financial situation of New York City—and I believe that this bill deserves the unanimous support of my colleagues in the House.

Madam Chairman, I understand that the gentleman from Virginia (Mr. BUTLER) will be offering an amendment to this measure which, I believe, ought to be adopted by the full House in its wisdom. The Butler amendment will simply add a new chapter XVI to the Bankruptcy Act—rather than amend the present chapter IX—which will be applicable only to municipalities with a population of over 1 million persons. This only makes good sense. Many of the provisions in this legislation are designed solely to be applied for major governmental units—and they either make no sense or are irrelevant in the case of the vast majority of cities in our country.

In this respect, it is important for us to realize that portions of this legislation rely upon several murky areas of constitutional law which have been unresolved by definitive court decisions. It is clearly most wise for us to focus our concern—and our remedy as envisioned in this legislation—as narrowly as possible so as to avoid any unnecessary uncertainties in the event that the Federal courts disagree with our determinations concerning the constitutional underpinnings of this act. In short, my argument is that because this legislation admittedly seeks to chart in unresolved areas of constitutional interpretation, we ought to be responsible enough to restrict our remedy as much as possible to avoid undesirable consequences in the event of a future adverse court decision.

With these considerations in mind, the Butler amendment—which has the full support of the administration—clearly lays out the most responsible formulation of a remedy from a constitutional point of view. By restricting the applicability of these provisions to cities of over 1 million persons, the congressional justification can rely heavily upon the commerce clause of the Constitution because the bankruptcy of such large municipalities can be shown to have a substantial effect upon interstate commerce.

Finally, the Butler amendment ought to be adopted so that the vast majority of smaller cities which are not in such dire financial straits, will not be forced to pay higher interest costs. Inclusion of these amendments into the current chapter IX could very well have this undesirable effect, because, to be honest, these provisions make it much easier for a municipality to declare bankruptcy. On the other hand, the creation of a new chapter XVI will provide the necessary means for relief of New York City in the event of a default without any adverse impact upon municipal interest rates or the marketability of securities offered by other cities who enjoy sound fiscal situations.

Madam Chairman, with respect to the amendment to be offered by the gentlewoman from New York (Ms. HOLTZMAN) to provide Federal guarantees for the certificates of indebtedness to be issued in the event of a municipal bankruptcy proceeding, I believe that it is only necessary to point out that these certificates will be issued only in the equitable discretion of the court and under its strict supervision. Bankruptcy is a proceeding in equity—and it is clearly best in this sort of situation to let a court exercise its equitable powers to assure maximum protection for all the parties which are involved in a bankruptcy proceeding. This amendment is both unnecessary and ill-advised, and I urge its rejection by the full House.

Mr. RHODES. Madam Chairman, we have before us today a bill to spread a safety net under New York City's financial high-wire act.

The legislation this body passed last week offered New York City and the

State an opportunity to work their way out of a serious economic challenge. It did not guarantee anything except assistance from the Federal Government to stretch out some obligations. The city still must curtail its land of lavish living philosophy. The State still must ride herd on the city's profligate tendencies and proffer what financial aid it can.

I believe that it is only prudent that this Congress enact an amendment to title IX of the Bankruptcy Act which would establish rules and procedures should the city and State of New York not be able to bite the fiscal bullet. Enactment of such an amendment would provide for an orderly process and avoid fiscal chaos.

Many of us who voted for the stretch-out last week did so as a final move on the part of the Federal Government in providing assistance in time of trouble. If we do not enact a bankruptcy proviso, the alternative could be confusion in the municipal bond market, and other unpleasant economic repercussions. By acting with responsibility, and a little precautionary judgment today, we can touch all of the bases.

We all are most hopeful that New York can work its way back to solvency. Meanwhile, I believe we should have enough foresight to cover the contingency so that a bankruptcy should not impair the ability of the city to perform necessary municipal services.

I urge that we enact H.R. 10624 today, to provide safeguards for all concerned with New York's financial crisis.

Mr. BUTLER. Madam Chairman, we have no further request for time.

Mr. EDWARDS of California. Madam Chairman, we have no further request for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 10624

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter IX of the Bankruptcy Act is amended to read as follows:

"Chapter IX

"ADJUSTMENT OF DEBTS OF POLITICAL SUBDIVISIONS AND PUBLIC AGENCIES AND INSTRUMENTALITIES

"Sec. 81. Chapter IX Definitions.—As used in this chapter the term—

"(1) 'claim' includes all claims of whatever character against the petitioner or the property of the petitioner, whether or not such claims are provable under section 63 of this Act and whether secured or unsecured, liquidated or unliquidated, fixed or contingent;

"(2) 'court' means court of bankruptcy in which the case is pending, or a judge of such court;

"(3) 'creditor' means holder (including the United States, a State, or subdivision of a State) of a claim against the petitioner;

"(4) 'claim affected by the plan' means claim as to which the rights of its holder are proposed to be materially and adversely adjusted or modified by the plan;

"(5) 'debt' means claim allowable under section 88(a);

"(6) 'petitioner' means agency, instrumentality, or subdivision which has filed a petition under this chapter;

"(7) 'plan' means plan filed under section 90;

"(8) 'special tax payer' means record owner or holder of title, legal or equitable, to real estate against which has been levied a special assessment or special tax the proceeds of which are the sole source of payment for obligations issued by the petitioner to defray the costs of local improvements; and

"(9) 'special tax payer affected by the plan' means a special tax payer with respect to whose real estate the plan proposes to increase the proportion of special assessments or special taxes referred to in paragraph (8) of this section assessed against that real estate.

"Sec. 82. Jurisdiction and Powers of Court.—

"(a) Jurisdiction. The court in which a petition is filed under this chapter shall exercise exclusive original jurisdiction for the adjustment of the petitioner's debts, and for the purposes of this chapter, shall have exclusive jurisdiction of the petitioner and its property, wherever located.

"(b) Powers.—After the filing of a petition under this chapter the court may—

"(1) permit the petitioner to reject executory contracts and unexpired leases of the petitioner, after hearing on notice to the parties to such contracts and to such other parties in interest as the court may designate;

"(2) during the pendency of a case under this chapter, or after the confirmation of the plan if the court has retained jurisdiction under section 96(e), after hearing on such notice as the court may prescribe and for cause shown, permit the issuance of certificates of indebtedness for such consideration as is approved by the court, upon such terms and conditions, and with such security and priority in payment over existing obligations, secured or unsecured, as in the particular case may be equitable, and

"(3) exercise such other powers as are not inconsistent with the provisions of this chapter.

"(c) Limitation.—Unless the petitioner consents or the plan so provides, the court shall not, by any order or decree, in the case or otherwise, interfere with—

"(1) any of the political or governmental powers of the petitioner;

"(2) any of the property or revenues of the petitioner; or

"(3) any income-producing property.

"Sec. 83. Reservation of State Power to Control Governmental Functions of Political Subdivisions.—Nothing contained in this chapter shall be construed to limit or impair the power of any State to control, by legislation or otherwise, any municipality or any political subdivision of or in such State in the exercise of its political or governmental powers, including expenditures therefor: *Provided, however,* That no State law prescribing a method of composition of indebtedness of such agencies shall be binding upon any creditor who does not consent to such composition, and no judgment shall be entered under such State law which would bind a creditor to such composition without his consent.

"Sec. 84. Eligibility for Relief.—Any State's political subdivision or public agency or instrumentality which is not prohibited by State law from filing a petition under this chapter is eligible for relief under this chapter if it is insolvent or unable to meet its debts as they mature, and desires to effect a plan to adjust its debts.

"Sec. 85. Petition and Proceedings Relating to Petition.—

"(a) Petition.—An entity eligible under section 84 may file a petition for relief under this chapter. In the case of an unincorporated tax or special assessment district having no officials of its own, the petition may be filed by its governing authority or the board or body having authority to levy taxes or assessments to meet the obligations of the district. Any party in interest may file a complaint with the court, not later than 15 days after the mailing of notice required by subsection (d) is completed, objecting to the filing of the petition. The court shall, to the extent practicable, hear and determine all such complaints in a single proceeding.

"(b) List.—The petitioner shall file with the court a list of the petitioner's creditors, insofar as practicable. If an identification of any of the petitioner's creditors is impracticable, the petitioner shall state in the petition the reasons such identification is impracticable. If the list is not filed with the petition, the petitioner shall file the list at such later time as the court, upon its own motion or upon application of the petitioner, prescribes.

"(c) Venue and fees.—The petition and any accompanying papers, together with a filing fee of $100, shall be filed with a court in a district in which the petitioner is located.

"(d) Notice.—The court shall give notice of the filing or dismissal of the petition to the State in which the petitioner is located, to the Securities and Exchange Commission, and to creditors. The notice shall also state that a creditor who files with the court a request, setting forth that creditor's name and address and the nature and amount of that creditor's claim, shall be given notice of any other matter in which that creditor has a direct and substantial interest. The notice required by the first sentence of this subsection shall be published at least once a week for three successive weeks in at least one newspaper of general circulation published within the jurisdiction of the court, and in such other papers having a general circulation among bond dealers and bondholders as may be designated by the court. The court may require that it be published in such other publication as the court may deem proper. The court shall require that a copy of the notice required by the first sentence of this subsection be mailed, postage prepaid, to each creditor named in the list required by subsection (b) at the address of such creditor given in the list, or, if no address is given in the list for any creditor and the address of such creditor cannot with reasonable diligence be ascertained, then a copy of the notice may, if the court so determines, be mailed, postage prepaid, to such creditor addressed as the court may prescribe. All expense of giving notice required by this subsection shall be paid by the petitioner, unless the court for good cause determines that the cost of notice in a particular instance should be borne by another party. The notice shall be first published and the mailing of copies of the notice shall be completed as soon as practicable after the filing of the list required by subsection (b).

"(e) Stay of enforcement of claims against petitioner.—

"(1) Effect of filing a petition.—A petition filed under this chapter shall operate as a stay of the commencement or the continuation of a judicial or other proceeding against the petitioner, its property, or an officer or inhabitant of the petitioner, which seeks to enforce any claim against the petitioner, or of an act or the commencement or continuation of a judicial or other proceeding which seeks to enforce a lien upon the property of the petitioner, and shall operate as a stay of the enforcement of any set-off or counterclaim relating to a contract, debt, or obligation of the petitioner.

"(2) Duration of automatic stay.—Except as it may be terminated, annulled, modified, or conditioned by the court under the terms of this section, the stay provided for in this subsection shall continue until the case is closed or dismissed, or the property subject to the lien is, with the approval of the court, abandoned or transferred.

"(3) Relief from automatic stay.—Upon the filing of a complaint seeking relief from a stay provided for by this section, the court may, for cause shown, terminate, annul, modify, or condition such stay.

"(4) Other stays.—The commencement or continuation of any other act or proceeding may be stayed, restrained, or enjoined by the court, upon notice to each person and entity against whom such order would apply, and for cause shown. The petitioner shall not be required to give security as a condition of an order under this paragraph.

"(f) Unenforceability of certain contractual provisions.—A provision in a contract or lease, or in any law applicable to such a contract or lease, which terminates or modifies, or permits a party other than the petitioner to terminate or modify, the contract or lease because of the insolvency of the petitioner or the commencement of a case under this Act is not enforceable if any defaults in prior performance of the petitioner are cured and adequate assurance of future performance is provided.

"Sec. 86. Representation of Creditors.—

"(a) Representation and disclosure.—Any creditor may act in person or by an attorney or a duly authorized agent or committee. Every person representing more than one creditor shall file with the court a list of the creditors represented by such person, giving the name and address of each such creditor, together with a statement of the amount, class, and character of the claim held by that creditor, and shall attach to the list a copy of the instrument signed by the holder of such claim showing such person's authority, and shall file with the list a copy of the contract or agreement entered into between such person and the creditors represented by that person. Such person shall disclose all compensation to be received, directly or indirectly, by that person. That compensation shall be subject to modification and approval by the court.

"(b) Multiple compensation.—The court shall examine all of the contracts, proposals, acceptances, deposit agreements, and all other papers relating to the plan, specifically for the purpose of ascertaining if any person promoting the plan, or doing anything of such a nature, has been or is to be compensated, directly or indirectly, by both the petitioner and any of its creditors, and shall take evidence under oath to determine whether any such compensation has occurred or is to occur. After such examination the court shall make an adjudication of this issue, and if it be found that any such compensation has occurred or is to occur, the court shall dismiss the petition and tax all of the costs against the person promoting the plan or doing anything of such a nature and receiving such multiple compensation, or against the petitioner, unless such plan is modified, within the time to be allowed by the court, so as to eliminate the possibility of such compensation, in which event the court may proceed to further consideration of the confirmation of the plan.

"Sec. 87. Reference and Joint Administration.—

"(a) Reference.—The court may refer any special issue of fact to a referee in bankruptcy for consideration, the taking of testimony, and a report upon such special issue of fact, if the court finds that the condition of its docket is such that it cannot take such testimony without unduly delaying the dispatch of other business pending in the court, and if it appears that such special issue is necessary to the determination of the case. A reference to a referee in bankruptcy shall be the exception and not the rule. The court shall not make a general reference of the case, but may only request findings of specific facts.

"(b) Expenses.—The court may allow reasonable compensation for the actual and necessary expenses incurred in connection with the case, including compensation for services rendered and expenses incurred in obtaining the deposit of securities and the preparation of the plan, whether such work has been done by the petitioner or by a representative of creditors, and may allow reasonable compensation for an attorney or agent of any of them. No fee, compensation, reimbursement, or other allowances for an attorney, agent, or representative of creditors shall be assessed against the petitioner or paid from any revenues, property, or funds of the petitioner except in the manner and in such sums, if any, as may be provided for in the plan.

"(c) Joint administration.—If more than one petition by related entities are pending in the same court, the court may order a joint administration of the cases.

"Sec. 88. Claims.—

"(a) Allowance of claims.—In the absence of an objection by a party in interest, or of a filing of a proof of claim, the claim of a creditor that is not disputed, contingent, or unliquidated, and appears in the list filed by the petitioner under section 85(b) shall be deemed allowed. The court may set a date by which proofs of other claims shall be filed. If the court does not set a date, such proofs of other claims shall be filed before the entry of an order confirming the plan. Within thirty days after the filing by the petitioner of the list under section 85(b), the court shall give written notice to each person and entity whose claim is listed as disputed contingent, or unliquidated, informing each such person or entity that a proof of claim must be filed with the court within the time fixed under this subsection. If there is no objection to such claim, the claim shall be deemed allowed. If there is an objection, the court shall hear and determine the objection.

"(b) Classification of creditors.—The court shall designate classes of creditors whose claims are of substantially similar character and the members of which enjoy substantially similar rights, consistent with the provisions of section 89, except that the court may create a separate class of creditors having unsecured claims of less than $100 for reasons of administrative convenience.

"(c) Damages upon rejection of executory contracts.—If an executory contract or an unexpired lease is rejected under a plan or under section 82(b), any person injured by such rejection may assert a claim against the petitioner. The rejection of an executory contract or unexpired lease constitutes a breach of the contract or lease as of the date of the commencement of the case under this chapter. The claim of a landlord for injury resulting from the rejection of an unexpired lease of real estate or for damages or indemnity under a covenant contained in such lease shall be allowed, but shall be limited to an amount not to exceed the rent, without acceleration, reserved by such lease for the year next succeeding the date of the surrender of the premises to the landlord or the date of reentry of the landlord, whichever first occurs, whether before or after the filing of the petition, plus unpaid accrued rent, without acceleration, up to the date of such surrender or reentry. The court shall scrutinize the circumstances of an assignment of a future rent claim and the amount of the consideration paid for such assignment in determining the amount of damages allowed the assignee of that claim.

"Sec. 89. Priorities.—The following shall be paid in full in advance of the payment of any distribution to creditors under a plan, in the following order:

"(1) The costs and expenses of administration which are incurred subsequent to the filing of a petition under this chapter.

"(2) Debts or consideration owed for services or materials actually provided within four months before the date of the filing of the petition under this chapter.

"(3) Debts owing to any person or entity, which by the laws of the United States (other than this Act) are entitled to priority.

"Sec. 90. Filing and Transmission of Plan and Modifications.—

"(a) Filing.—The petitioner shall file a plan for the adjustment of the petitioner's debts. If such plan is not filed with the petition, the petitioner shall file the plan at such later time as the court, upon its own motion or upon application of the petitioner, prescribes. At any time prior to the confirmation of a plan, the petitioner may file a modification of the plan.

"(b) Transmission of plan and modifications.—As soon as practicable after the plan or any modification of the plan has been filed, the court shall fix a time within which creditors may accept or reject the plan and any modification of the plan, and shall transmit by mail a copy of such plan or modification, or a summary and any analysis of such plan or modification, a notice of the time or times within which the plan or modification may be accepted or rejected, and a notice of the right to receive a copy, if it has not been sent, of such plan or modification, to each of the creditors to each of the special tax payers affected by the plan, and to each such other party in interest as the court may designate. Upon request by a recipient of such summary and notice, the court shall transmit by mail a copy of the plan or modification to that recipient.

"Sec. 91. Provisions of Plan.—A petitioners' plan may include provisions modifying or altering the rights of creditors generally, or of any class of them, secured or unsecured, either through issuance of new securities of any character, or otherwise, and may contain such other provisions and agreements not inconsistent with this chapter as the parties may desire, including provisions for the rejection of any executory contract or unexpired lease.

"Sec. 92. Acceptance.—

"(a) Who may accept or reject.—Unless a claim has been disallowed or is not materially and adversely affected, any creditor included on the list filed under section 85(b) or who files a proof of claim and whose claim is not then disputed, contingent, or unliquidated as to amount, and any security holder of record as of the date of the transmittal of information under section 90(b), may accept or reject the plan and any modification of the plan within the time fixed by the court. Notwithstanding an objection to a claim, the court may temporarily allow such claim in such amount as the court deems proper for the purpose of acceptance or rejection under this section.

"(b) General rule.—Except as otherwise provided in this section, the plan may be confirmed only if it has been accepted in writing by or on behalf of creditors holding at least two-thirds in amount of the claims of each class.

"(c) Computing acceptance.—The two-thirds majority required by subsection (b) is two-thirds in amount of the claims of creditors who file an acceptance or rejection within the time fixed by the court, but not including claims held, or controlled by the petitioner, or claims of creditors specified in subsection (d).

"(d) Exception.—It is not requisite to the confirmation of the plan that there be such acceptance by any creditor or class of creditors—

"(1) whose claims are not affected by the plan,

"(2) if the plan makes provision for the payment of their claims in cash in full; or

"(3) if provision is made in the plan for the protection of the interests, claims, or lien of such creditor or class of creditors.

"(e) Acceptance of modification.—If the court finds that a proposed modification does not materially and adversely affect the interest of a creditor, the modification shall be deemed accepted by that creditor if that creditor has previously accepted the plan. If the court determines that a modification does materially and adversely affect the interest of a creditor, that creditor, if entitled to accept or reject the plan, shall be given notice of the proposed modification and the time allowed for its acceptance or rejection. The number of acceptances of the plan as modified required by subsection (b) shall be obtained. The plan as modified shall be deemed to have been accepted by any creditor who accepted the plan and who fails to file a written rejection of the modification with the court within such reasonable time as shall be allowed in the notice to that creditor of the proposed modification.

"Sec. 93. Objection to Plan.—A creditor affected by the plan or a special taxpayer affected by the plan may file a complaint with the court objecting to the confirmation of the plan. The Securities and Exchange Commission may also file a complaint with the court objecting to the confirmation of the plan, but in the case of a complaint filed under this section, the Securities and Exchange Commission may not appeal or file any petition for appeal. A complaint objecting to the confirmation of the plan may be filed with the court any time prior to ten days before the hearing on the confirmation of the plan, or within such other time as prescribed by the court.

"Sec. 94. Confirmation.—

"(a) Hearing on confirmation.—Within a reasonable time after the expiration of the time set by the court within which a plan and any modifications of the plan may be accepted or rejected, the court shall hold a hearing on the confirmation of the plan and any modifications of the plan. The court shall give notice of the hearing and of the time allowed for filing objections to all parties entitled to object under section 93.

"(b) Conditions for confirmation.—The court shall confirm the plan if satisfied that—

"(1) the plan is fair and equitable and feasible and does not discriminate unfairly in favor of any creditor or class of creditors;

"(2) the plan complies with the provisions of this chapter;

"(3) all amounts to be paid by the petitioner or by any person for services and expenses in the case or incident to the plan have been fully disclosed and are reasonable;

"(4) the offer of the plan and its acceptance are in good faith; and

"(5) the petitioner is not prohibited by law from taking any action necessary to be taken by it to carry out the plan.

"Sec. 95. Effect of Confirmation.—

"(a) Provisions of plan binding.—The provisions of a confirmed plan shall be binding on the petitioner and on all creditors who had timely notice or actual knowledge of the petition or plan, whether or not their claims have been allowed under section 88, and whether or not they have accepted the plan.

"(b) Discharge.—

"(1) The petitioner is discharged from all claims against it provided for in the plan except as provided in paragraph (2) of this subsection as of the time when—

"(A) the plan has been confirmed;

"(B) the petitioner has deposited the consideration to be distributed under the plan with a disbursing agent appointed by the court; and

"(C) the court has determined—

"(i) that any security so deposited will constitute upon distribution a valid legal obligation of the petitioner; and

"(ii) that any provision made to pay or secure payment of such obligation is valid.

"(2) The petitioner is not discharged under paragraph (1) of this subsection from any claim—

"(A) excepted from discharge by the plan or order confirming the plan; or

"(B) whose holder, prior to confirmation, had neither timely notice nor actual knowledge of the petition or plan.

"Sec. 96. Postconfirmation Matters.—

"(a) Time allowed for deposit under the plan.—Prior to or promptly after confirmation of the plan, the court shall fix a time within which the petitioner shall deposit with the disbursing agent appointed by the court any consideration to be distributed under the plan.

"(b) Duties of petitioner.—The petitioner shall comply with the plan and the orders of the court relative to the plan, and shall take all actions necessary to carry out the plan.

"(c) Distribution.—Distribution shall be made in accordance with the provisions of the plan to creditors whose claims have been allowed under section 88. Distribution may be made at the date the order confirming the plan becomes final to holders of securities of record whose claims have not been disallowed.

"(d) Compliance date.—When a plan requires presentment or surrender of securities or the performance of any other action as a condition to participation under the plan, such action shall be taken not later than five years after the entry of the order of confirmation. A person who has not within such time presented or surrendered that person's securities or taken such other action required by the plan shall not participate in any distribution under the plan, and the consideration deposited with the disbursing agent for distribution to such person shall become the property of the petitioner.

"(e) Continuing jurisdiction.—The court may retain jurisdiction over the case for such period of time as the court determines is necessary for the successful execution of the plan.

"(f) Order or decree as evidence and notice.—A certified copy of any order or decree entered by the court in a case under this chapter shall be evidence of the jurisdiction of the court, the regularity of the proceedings, and the fact that the order was made. A certified copy of an order providing for the transfer of any property dealt with by the plan shall be evidence of the transfer of title accordingly, and, if recorded as conveyances are recorded, shall impart the same notice that a deed, if recorded, would impart.

"Sec. 97. Effect of Exchange of Debt Securities Before Date of the Petition.—The exchange of new debt securities under the plan for claims covered by the plan, whether the exchange occurred before or after the date of the petition, does not limit or impair the effectiveness of the plan or of any provision of this chapter. The written consents of the holders of any securities outstanding as the result of any such exchange under the plan shall be included as acceptances of such plan in computing the acceptance required under section 92.".

"Sec. 98. Dismissal.—The court may dismiss the case after hearing on notice—

"(1) for want of prosecution;

"(2) if no plan is proposed within the time fixed or extended by the court;

"(3) if no proposed plan is accepted within the time fixed or extended by the court;

"(4) if confirmation is refused and no further time is granted for the proposal of other plans; or

"(5) where the court has retained jurisdiction after confirmation of a plan—

"(A) if the debtor defaults in any of the terms of the plan; or

"(B) if a plan terminates by reason of the happening of a condition specified therein.

"Sec. 99. Separability.—If any provision of this chapter or the application thereof to any agency, instrumentality, or subdivision is held invalid, the remainder of the chapter, or the application of such provision to any other agency or instrumentality or political subdivision shall not be affected by such holding.".

Mr. EDWARDS of California (during the reading). Madam Chairman, I ask unanimous consent that the bill be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments: Page 4, immediately after line 12, insert the following new subsection:

"(d) Designation of judge.—Upon the filing of a petition the chief judge of the court in the district in which the petition is filed shall immediately notify the chief judge of the circuit court of appeals of the circuit in which the district court is located, who shall designate the judge of the district court to conduct the proceedings under this chapter.

Page 4, line 19, strike out the colon and all that follows down through but not including the period in line 25.

Page 5, line 16, strike out "mailing" and insert "publication" in lieu thereof.

Page 7, line 10, insert "as soon as practicable after the filing of the petition" after "published" and before the comma.

Page 8, line 17, strike out "of" and insert "to" in lieu thereof.

Page 9, immediately after line 3, insert the following new subsection:

"(g) Recovery of set-off.—Any set-off which relates to a contract, debt, or obligation of the petitioner and which set-off was effected within four months prior to the filing of the petition, is voidable and recoverable by the petitioner after hearing on notice. The court may require as a condition to recovery that the petitioner furnish adequate protection for the realization by the person or entity against whom or which recovery is sought of the claim which arises by reason of the recovery."

Page 14, line 16, strike out "or times".

Page 14, line 20, insert "affected by the plan" after "creditors" and before the comma.

Page 16, beginning in line 22, strike out ", if entitled to accept or reject the plan,".

Page 21, line 21, strike out the close quotation mark and the period which follows.

The committee amendments were agreed to.

The CHAIRMAN. Are there further amendments?

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BUTLER

Mr. BUTLER. Madam Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Butler:

Strike out all after the enacting clause and insert in lieu thereof the following:

That the Bankruptcy Act is amended to add a new Chapter XVI thereto reading as follows:

"Chapter XVI

"ADJUSTMENT OF INDEBTEDNESS OF MAJOR MUNICIPALITIES

"Sec. 801. Chapter XVI Definitions.—As used in this chapter the term—

"(1) 'claim' includes all claims of whatever character against the petitioner or the property of the petitioner, whether or not such claims are provable under section 63 of this Act and whether secured or unsecured, liquidated or unliquidated, fixed or contingent;

"(2) 'court' means court of bankruptcy in which the case is pending, or a judge of such court;

"(3) 'creditor' means holder (including the United States, a State, or subdivision of a State) of a claim against the petitioner;

"(4) 'claim affected by the plan' means claim as to which the rights of its holder are proposed to be materially and adversely adjusted or modified by the plan;

"(5) 'debt' means claim allowable under section 808(a);

"(6) 'petitioner' means agency, instrumentality, or subdivision which has filed a petition under this chapter;

"(7) 'plan' means plan filed under section 810;

"(8) 'special taxpayer' means record owner or holder of title, legal or equitable, to real estate against which has been levied a special assessment or special tax the proceeds of which are the sole source of payment for obligations issued by the petitioner to defray the costs of local improvements; and

"(9) 'special tax payer affected by the plan' means a special tax payer with respect to whose real estate the plan proposes to increase the proportion of special assessments or special taxes referred to in paragraph (8) of this section assessed against that real estate.

"SEC. 802. JURISDICTION AND POWERS OF COURT.—

"(a) JURISDICTION.—The court in which a petition is filed under this chapter shall exercise exclusive original jurisdiction for the adjustment of the petitioner's debts, and for the purposes of this chapter, shall have exclusive jurisdiction of the petitioner and its property, wherever located.

"(b) POWERS.—After the filing of a petition under this chapter the court may—

"(1) permit the petitioner to reject executory contracts and unexpired leases of the petitioner, after hearing on notice to the parties to such contracts and to such other parties in interest as the court may designate;

"(2) during the pendency of a case under this chapter, or after the confirmation of the plan if the court has retained jurisdiction under section 816(e), after hearing on such notice as the court may prescribe and for cause shown, permit the issuance of certificates of indebtedness for such consideration as is approved by the court, upon such terms and conditions, and with such security and priority in payment over existing obligations, secured or unsecured, as in the particular case may be equitable; and

"(3) exercise such other powers as are not inconsistent with the provisions of this chapter.

"(c) LIMITATION.—Unless the petitioner consents or the plan so provides, the court shall not, by any order or decree, in the case or otherwise, interfere with—

"(1) any of the political or governmental powers of the petitioner;

"(2) any of the property or revenues of the petitioner; or

"(3) any income-producing property.

"(d) DESIGNATION OF JUDGE.—Upon the filing of a petition the chief judge of the court in the district in which the petition is filed shall immediately notify the chief judge of the circut court of appeals of the circuit in which the district court is located, who shall designate the judge of the district court to conduct the proceedings under this chapter.

"SEC. 803. RESERVATION OF STATE POWER TO CONTROL GOVERNMENTAL FUNCTIONS OF POLITICAL SUBDIVISIONS.—Nothing contained in this chapter shall be construed to limit or impair the power of any State to control, by legislation or otherwise, any municipality or any political subdivision of or in such State in the exercise of its political or governmental powers, including expenditures therefor.

"SEC. 804. ELIGIBILITY FOR RELIEF.—Any municipality with a population in excess of one million inhabitants which is not prohibited by State law from filing a petition under this chapter is eligible for relief under this chapter if it is insolvent or unable to meet its debts as they mature, and desires to effect a plan to adjust its debts. Any public agency or instrumentality or political subdivision subordinate to such municipality or whose responsibilities are restricted to the geographical limits thereof, including incorporating authorities, commissions and districts, for whose debts such municipality is not otherwise liable, is eligible for relief as a separate petitioner in the same proceeding in which such municipality seeks relief under this chapter if such agency, instrumentality, or subdivision is not prohibited from filing a petition by applicable State law.

"SEC. 805. PETITION AND PROCEEDINGS RELATING TO PETITION.—

"(a) PETITION.—An entity eligible under section 804 may file a petition for relief under this chapter. In the case of an unincorporated tax or special assessment district having no officials of its own, the petition may be filed by its governing authority or the board or body having authority to levy taxes or assessments to meet the obligations of the district. Any party in interest may file a complaint with the court, not later than 15 days after the publication of notice required by subsection (d) is completed, objecting to the filing of the petition. The court shall, to the extent practicable, head and determine all such complaints in a single proceeding.

"(b) LIST.—The petitioner shall file with the court a list of the petitioner's creditors, insofar as practicable. If an identification of any of the petitioner's creditors is impracticable, the petitioner shall state in the petition the reasons such identification is impracticable. If the list is not filed with the petition, the petitioner shall file the list at such later time as the court, upon it own motion or upon application of the petitioner, prescribes.

"(c) VENUE AND FEES.—The petition and any accompanying papers, together with a filing fee of $100, shall be filed with a court in a district in which the petitioner is located.

"(d) NOTICE.—The court shall give notice of the filing or dismissal of the petition to the State in which the petitioner is located, to the Securities and Exchange Commission, and to creditors. The notice shall also state that a creditor who files with the court a request, setting forth that creditor's name and address and the nature and amount of that creditor's claim, shall be given notice of any other matter in which that creditor has a direct and substantial interest. The notice required by the first sentence of this subsection shall be published at least once a week for three successive weeks in at least one newspaper of general circulation published within the jurisdiction of the court, and in such other papers having a general circulation among bond dealers and bondholders as may be designated by the court. The court may require that it be published in such other publication as the court may deem proper. The court shall require that a copy of the notice required by the first sentence of this subsection be mailed, postage prepaid, to each creditor named in the list required by subsection (b) at the address of such creditor given in the list, or, if no address is given in the list for any creditor and the address of such creditor cannot with reasonable diligence be ascertained, then a copy of the notice may, if the court so determines, be mailed, postage prepaid, to such creditor addressed as the court may prescribe. All expense of giving notice required by this subsection shall be paid by the petitioner, unless the court for good cause determines that the cost of notice in a particular instance should be borne by another party. The notice shall be first published as soon as practicable after the filing of the petition, and the mailing of copies of the notice shall be completed as soon as practicable after the filing of the list required by subsection (b).

"(e) STAY OF ENFORCEMENT OF CLAIMS AGAINST PETITIONER.—

"(1) EFFECT OF FILING A PETITION.—A petition filed under this chapter shall operate as a stay of the commencement or the continuation of a judicial or other proceeding against the petitioner, its property, or an officer or inhabitant of the petitioner, which seeks to enforce any claim against the petitioner, or of an act or the commencement or continuation of a judicial or other proceeding which seeks to enforce a lien upon the property of the petitioner, and shall operate as a stay of the enforcement of any set-off or counterclaim relating to a contract, debt, or obligation of the petitioner.

"(2) DURATION OF AUTOMATIC STAY.—Except as it may be terminated, annulled, modified, or conditioned by the court under the terms of this section, the stay provided for in this subsection shall continue until the case is closed or dismissed, or the property subject to the lien is, with the approval of the court, abandoned or transferred.

"(3) RELIEF FROM AUTOMATIC STAY.—Upon the filing of a complaint seeking relief from a stay provided for by this section, the court may, for cause shown, terminate, annul, modify, or condition such stay.

"(4) OTHER STAYS.—The commencement or continuation of any other act or proceeding may be stayed, restrained, or enjoined by the court, upon notice to each person and entity against whom such order would apply, and for cause shown. The petitioner shall not be required to give security as a condition to an order under this paragraph.

"(f) UNENFORCEABILITY OF CERTAIN CONTRACTUAL PROVISIONS.—A provision in a contract or lease, or in any law applicable to such a contract or lease, which terminates or modifies, or permits a party other than the petitioner to terminate or modify, the contract or lease because of the insolvency of the petitioner or the commencement of a case under this Act is not enforceable if any defaults in prior performance of the petitioner are cured and adequate assurance of future performance is provided.

"(g) RECOVERY OF SET-OFF.—Any set-off which relates to a contract, debt, or obligation of the petitioner and which set-off was effected within four months prior to the filing of the petition, is voidable and recoverable by the petitioner after hearing on notice. The court may require as a condition to recovery that the petitioner furnish adequate protection for the realization by the person or entity against whom or which recovery is sought of the claim which arises by reason of the recovery.

"SEC. 806. REPRESENTATION OF CREDITORS.—

"(a) REPRESENTATION AND DISCLOSURE.—Any creditor may act in person or by an attorney or a duly authorized agent or committee. Every person representing more than one creditor shall file with the court a list of the creditors represented by such person, giving the name and address of each such creditor, together with a statement of the amount, class, and character of the claim held by that creditor, and shall attach to the list a copy of the instrument signed by the holder of such claim showing such person's authority, and shall file with the list a copy of the contract or agreement entered into between such person and the creditors represented by that person. Such a person shall disclose all compensation to be received, directly or indirectly, by that person. That compensation shall be subject to modification and approval by the court.

"(b) MULTIPLE COMPENSATION.—The court shall examine all of the contracts, proposals, acceptances, deposit agreements, and all other papers relating to the plan, specifically for the purpose of ascertaining if any person promoting the plan, or doing anything of such a nature, has been or is to be compensated, directly or indirectly, by both the petitioner and any of its creditors, and shall take evidence under oath to determine whether any such compensation has occurred or is to occur. After such examination the court shall make an adjudication of this issue, and if it be found that any such compensation has occurred or is to occur, the court shall dismiss the petition and tax all of the costs against the person promoting the plan or doing anything of such a nature and receiving such multiple compensation, or against the petitioner, unless such plan is modified, within the time to be allowed by the court, so as to eliminate the possibility of such compensation, in which event the court may proceed to further consideration of the confirmation of the plan.

"SEC. 807. REFERENCE AND JOINT ADMINISTRATION.—

"(a) REFERENCE.—The court may refer any special issue of fact to a referee in bankruptcy for consideration, the taking of testimony, and a report upon such special issue of fact, if the court finds that the condition of its docket is such that it cannot take such testimony without unduly delaying the dispatch of other business pending in the court, and if it appears that such special issue is necessary to the determination of the case. A reference to a referee in bankruptcy shall be the exception and not the rule. The court shall not make a general reference of the case, but may only request findings of specific facts.

"(b) EXPENSES.—The court may allow reasonable compensation for the actual and necessary expenses incurred in connection with the case, including compensation for services rendered and expenses incurred in obtaining the deposit of securities and the preparation of the plan, whether such work has been done by the petitioner or by a representative of creditors, and may allow reasonable compensation for an attorney or agent of any of them. No fee, compensation, reimbursement, or other allowances for an attorney, agent, or representative of creditors shall be assessed against the petitioner or paid from any revenues, property, or funds of the petitioner except in the manner and in such sums, if any, as may be provided for in the plan.

"SEC. 808. CLAIMS.—

"(a) ALLOWANCE OF CLAIMS.—In the absence of an objection by a party in interest, or of a filing of a proof of claim, the claim of a creditor that is not disputed, contingent, or unliquidated, and appears in the list filed by the petitioner under section 805(b) shall be deemed allowed. The court may set a date by which proofs of other claims shall be filed. If the court does not set a date, such proofs of other claims shall be filed before the entry of an order confirming the plan. Within thirty days after the filing by the petitioner of the list under section 805 (b), the court shall give written notice to each person and entity whose claim is listed or disputed, contingent, or unliquidated, informing each such person or entity that a proof of claim must be filed with the court within the time fixed under this subsection. If there is no objection to such claim, the claim shall be deemed allowed. If there is an objection, the court shall hear and determine the objection.

"(b) CLASSIFICATION OF CREDITORS.—The court shall designate classes of creditors whose claims are of substantially similar character and the members of which enjoy substantially similar rights, consistent with the provisions of section 809, except that the court may create a separate class of creditors having unsecured claims of less than $100 for reasons of administrative convenience.

"(c) DAMAGES UPON REJECTION OF EXECUTORY CONTRACTS.—If an executory contract or an unexpired lease is rejected under a plan or under section 802(b), any person injured by such rejection may assert a claim against the petitioner. The rejection of an executory contract or unexpired lease constitutes a breach of the contract or lease as of the date of the commencement of the case under this chapter. The claim of a landlord for injury resulting from the rejection of an unexpired lease of real estate or for damages or indemnity under a covenant contained in such lease shall be allowed, but shall be limited to an amount not to exceed the rent, without acceleration, reserved by such lease for the year next succeeding the date of the surrender of the premises to the landlord or the date of reentry of the landlord, whichever first occurs, whether before or after the filing of the petition, plus unpaid accrued rent, without acceleration, up to the date of such surrender or reentry. The court shall scrutinize the circumstances of an assignment of a future rent claim and the amount of the consideration paid for such assignment in determining the amount of damages allowed the assignee of that claim.

"SEC. 809. PRIORITIES.—The following shall be paid in full in advance of the payment of any distribution to creditors under a plan, in the following order:

"(1) The costs and expenses of administration which are incurred subsequent to the filing of a petition under this chapter.

"(2) Debts or consideration owed for services or materials actually provided within four months before the date of the filing of the petition under this chapter.

"(3) Debts owing to any person or entity, which by the laws of the United States (other than this Act) are entitled to priority.

"SEC. 810. FILING AND TRANSMISSION OF PLAN AND MODIFICATIONS.—

"(a) FILING.—The petitioner shall file a plan for the adjustment of the petitioner's debts. If such plan is not filed with the petition, the petitioner shall file the plan at such later time as the court, upon its own motion or upon application of the petitioner, prescribes. At any time prior to the confirmation of a plan, the petitioner may file a modification of the plan.

"(b) TRANSMISSION OF PLAN AND MODIFICATIONS.—As soon as practicable after the plan or any modification of the plan has been filed, the court shall fix a time within which creditors may accept or reject the plan and any modification of the plan, and shall transmit by mail a copy of such plan or modification, or a summary and any analysis of such plan or modification, a notice of the time within which the plan or modification may be accepted or rejected, and a notice of the right to receive a copy, if it has not been sent, of such plan or modification, to each of the creditors affected by the plan, to each of the special taxpayers affected by the plan, and to each such other party in interest as the court may designate. Upon request by a recipient of such summary and notice, the court shall transmit by mail a copy of the plan or modification to that recipient.

"SEC. 811. PROVISIONS OF PLAN.—A petitioner's plan may include provisions modifying or altering the rights of creditors generally, or of any class of them, secured or unsecured, either through issuance of new securities of any character, or otherwise, and may contain such other provisions and agreements not inconsistent with this chapter as the parties may desire, including provisions for the rejection of any executory contract or unexpired lease.

"SEC. 812. ACCEPTANCE.—

"(a) WHO MAY ACCEPT OR REJECT.—Unless a claim has been disallowed or is not materially and adversely affected, any creditor included on the list filed under section 805(b) or who files a proof of claim and whose claim is not then disputed, contingent, or unliquidated as to amount, and any security holder of record as of the date of the transmittal of information under section 810(b), may accept or reject the plan and any modification of the plan within the time fixed by the court. Notwithstanding an objection to a claim, the court may temporarily allow such claim in such amount as the court deems proper for the purpose of acceptance or rejection under this section.

"(b) GENERAL RULE.—Except as otherwise provided in this section, the plan may be confirmed only if it has been accepted in writing by or on behalf of creditors holding at least two-thirds in amount of the claims of each class.

"(c) COMPUTING ACCEPTANCE.—The two-thirds majority required by subsection (b) is two-thirds in amount of the claims of creditors who file an acceptance or rejection within the time fixed by the court, but not including claims held, or controlled by the petitioner, or claims of creditors specified in subsection (d).

"(d) EXCEPTION.—It is not requisite to the confirmation of the plan that there be such acceptance by any creditor or class of creditors—

"(1) whose claims are not affected by the plan;

"(2) if the plan makes provision for the payment of their claims in cash in full; or

"(3) if provision is made in the plan for the protection of the interests, claims, or lien of such creditor or class of creditors.

"(e) ACCEPTANCE OF MODIFICATION.—If the court finds that a proposed modification does not materially and adversely affect the interest of a creditor, the modification shall be deemed accepted by that creditor if that creditor has previously accepted the plan. If the court determines that a modification does materially and adversely affect the interest of a creditor, that creditor shall be given notice of the proposed modification and the time allowed for its acceptance or rejection. The number of acceptances of the plan as modified required by subsection (b) shall be obtained. The plan as modified shall be deemed to have been accepted by any creditor who accepted the plan and who fails to file a written rejection of the modification with the court within such reasonable time as shall be allowed in the notice to that creditor of the proposed modification.

"SEC. 813. OBJECTION TO PLAN.—A creditor affected by the plan or a special taxpayer affected by the plan may file a complaint with the court objecting to the confirmation of the plan. The Securities and Exchange Commission may also file a complaint with the court objecting to the confirmation of the plan, but in the case of a complaint filed under this section, the Securities and Exchange Commission may not appeal or file any petition for appeal. A complaint objecting to the confirmation of the plan may be filed with the court any time prior to ten days before the hearing on the confirmation of the plan, or within such other time as prescribed by the court.

"SEC. 814. CONFIRMATION—

"(a) HEARING ON CONFIRMATION.—Within a reasonable time after the expiration of the time set by the court within which a plan and any modifications of the plan may be accepted or rejected, the court shall hold a hearing on the confirmation of the plan and any modifications of the plan. The court shall give notice of the hearing and of the time allowed for filing objections to all parties entitled to object under section 813.

"(b) CONDITIONS FOR CONFIRMATION.—The court shall confirm the plan if satisfied that—

"(1) the plan is fair and equitable and feasible and does not discriminate unfairly in favor of any creditor or class of creditors;

"(2) the plan complies with the provisions of this chapter;

"(3) all amounts to be paid by the petitioner or by any person for services and expenses in the case or incident to the plan have been fully disclosed and are reasonable;

"(4) the offer of the plan and its acceptance are in good faith; and

"(5) the petitioner is not prohibited by law from taking any action necessary to be taken by it to carry out the plan.

"Sec. 815. Effect of Confirmation.—

"(a) Provisions of plan binding.—The provisions of a confirmed plan shall be binding on the petitioner and on all creditors who had timely notice or actual knowledge of the petition or plan, whether or not their claims have been allowed under section 808, and whether or not they have accepted the plan.

"(b) Discharge.—

"(1) The petitioner is discharged from all claims against it provided for in the plan except as provided in paragraph (2) of this subsection as of the time when—

"(A) the plan has been confirmed;

"(B) the petitioner has deposited the consideration to be distributed under the plan with a disbursing agent appointed by the court; and

"(C) the court has determined—

"(i) that any security so deposited will constitute upon distribution a valid legal obligation of the petitioner; and

"(ii) that any provision made to pay or secure payment of such obligation is valid.

"(2) The petitioner is not discharged under paragraph (1) of this subsection from any claim—

"(A) excepted from discharge by the plan or order confirming the plan; or

"(B) whose holder, prior to confirmation, had neither timely notice nor actual knowledge of the petition or plan.

"Sec. 816. Postconfirmation Matters.—

"(a) Time allowed for deposit under the plan.—Prior to or promptly after confirmation of the plan, the court shall fix a time within which the petitioner shall deposit with the disbursing agent appointed by the court any consideration to be distributed under the plan.

"(b) Duties of petitioner.—The petitioner shall comply with the plan and the orders of the court relative to the plan, and shall take all actions necessary to carry out the plan.

"(c) Distribution.—Distribution shall be made in accordance with the provisions of the plan to creditors whose claims have been allowed under section 808. Distribution may be made at the date the order confirming the plan becomes final to holders of securities of record whose claims have not been disallowed.

"(d) Compliance date.—When a plan requires presentment or surrender of securities or the performance of any other action as a condition to participation under the plan, such action shall be taken not later than five years after the entry of the order of confirmation. A person who has not within such time presented or surrendered that person's securities or taken such other action required by the plan shall not participate in any distribution under the plan, and the consideration deposited with the disbursing agent for distribution to such person shall become the property of the petitioner.

"(e) Continuing jurisdiction.—The court may retain jurisdiction over the case for such period of time as the court determines is necessary for the successful execution of the plan.

"(f) Order or decree as evidence and notice.—A certified copy of any order or decree entered by the court in a case under this chapter shall be evidence of the jurisdiction of the court, the regularity of the proceedings, and the fact that the order was made. A certified copy of an order providing for the transfer of any property dealt with by the plan shall be evidence of the transfer of title accordingly, and, if recorded as conveyances are recorded, shall impart the same notice that a deed, if recorded, would impart.

"Sec. 817. Effect of Exchange of Debt Securities Before Date of the Petition.—The exchange of new debt securities under the plan for claims covered by the plan, whether the exchange occurred before or after the date of the petition, does not limit or impair the effectiveness of the plan or of any provision of this chapter. The written consents of the holders of any securities outstanding as the result of any such exchange under the plan shall be included as acceptances of such plan in computing the acceptance required under section 812.

"Sec. 818. Dismissal.—The court may dismiss the case after hearing on notice—

"(1) for want of prosecution;

"(2) if no plan is proposed within the time fixed or extended by the court;

"(3) if no proposed plan is accepted within the time fixed or extended by the court;

"(4) if confirmation is refused and no further time is granted for the proposal of other plans; or

"(5) where the court has retained jurisdiction after confirmation of a plan—

"(A) if the debtor defaults in any of the terms of the plan; or

"(B) if a plan terminates by reason of the happening of a condition specified therein.

"Sec. 819. Separability.—If any provision of this chapter or the application thereof to any agency, instrumentality, or subdivision is held invalid, the remainder of the chapter, or the application of such provision to any other agency or instrumentality or political subdivision shall not be affected by such holding.".

Mr. BUTLER (during the reading). Madam Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. HUTCHINSON. Madam Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, she will vacate proceedings under the call when a quorum of the committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to report their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 755]

AuCoin
Beard, R.I.
Bonker
Bowen
Brown, Calif.
Buchanan
Burke, Fla.
Burton, John
Byron
Chappell
Chisholm
Conyers
Coughlin
Davis
Dellums
Derwinski
Diggs
Dingell
Esch
Eshleman
Flowers
Fraser
Gaydos
Giaimo
Gibbons
Hagedorn
Harsha
Hébert
Heckler, Mass.
Helstoski
Hinshaw
Holland
Hyde
Jarman
Johnson, Colo.
Jones, Tenn.
Landrum
McClory
McDonald
McFall
McKinney
Mathis
Mazzoli
Moorhead, Pa.
Mosher
Murphy, N.Y.
Nedzi
Patman, Tex.
Peyser
Pike
Price
Reuss
Rhodes
Riegle
Risenhoover
Ryan
Satterfield
Scheuer
Slack
Solarz
Steiger, Wis.
Stuckey
Symms
Treen
Udall
Waxman
Wilson, C. H.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mrs. Boggs, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill H.R. 10624, and finding itself without a quorum, she had directed the Members to record their presence by electronic device, whereupon 367 Members recorded their presence, a quorum, and she submitted herewith the names of the absentees to be spread upon the Journal.

The committee resumed its sitting.

The CHAIRMAN. The gentleman from Virginia (Mr. Butler) had been recognized for 5 minutes.

(By unanimous consent, Mr. Butler was allowed to proceed for 3 additional minutes.)

Mr. BUTLER. Madam Chairman, this substitute is a substitute for the entire bill which incorporates all the changes we made in the legislation to date with one exception. The effect of the substitute is to create a separate chapter of the bankruptcy law dealing with municipal bankruptcies while leaving the present chapter IX intact.

Madam Chairman, this separate chapter was the legislation originally proposed by the administration. The President when he called our attention to the need for revision in the municipal bankruptcy law asked that we pass a bill applicable only to the cities having a population in excess of 1 million. This applies to only six cities in the United States and would limit the applications of this chapter. This is still the position of the administration and I think it is a very sound one.

I have before me of course the substitute which therefore only makes changes in the section numbers and whatever changes are appropriate to make it applicable only to the major cities.

The basic reason for limiting the application of this section to the larger cities is to limit the exposure which we will have as a result of this new legislation. Bear in mind that we have tailored this legislation and we have brought this legislation to the House because of the financial circumstances and the stress of the city of New York, and for no other reason; and our legislation is tailored only for the benefit of New York and any other benefits are entirely incidental.

Madam Chairman, we have recently received a memorandum. This memorandum was prepared by the attorneys for the city of New York, we understand, for the purpose of advising the city of New York as to what can be anticipated in the event bankruptcy legislation is passed. These are people who worked closely with our committee in preparing this legislation; yet this memorandum which is being circularized points out very clearly that there are serious constitutional questions which will be raised during the course of this matter.

I am reading from the memorandum prepared by these attorneys with reference to the certificate of indebtedness:

> Will the court uphold the provisions for issuance of certificates as constitutional, or will it hold that their issuance is an interference with the State under the 10th Amendment to the United States Constitution?

The memorandum further advises:

> Are the priorities set out in the proposed statute constitutional?

The memorandum further provides:

> Are provisions permitting the court to effectuate a plan of composition with creditor approval (the so-called "cram-down" provisions) constitutional in these circumstances?
>
> Are "anti-set-off" provisions constitutional?

These are technical provisions of this legislation, but they are provisions about which there are serious constitutional questions. What we are undertaking to do in this legislation is to proceed into unchartered waters in many areas. We have for the first time in the history of municipal bankruptcy legislation, a provision to provide for the issuing of certificates of indebtedness in the bankruptcy court by a municipal bankruptcy under the approval and with the control of the Federal Bankruptcy Court.

There are serious questions about whether it is appropriate under the 10th amendment. Let me assure the Members that members of the committee and members of the staff are satisfied with the constitutionality of this legislation.

We must recognize there are serious constitutional questions that will be raised about this legislation. There will be litigation about the constitutionality of it. Therefore, I think it is very important to limit the exposure that we will have by limiting the applicability of this legislation to the largest cities in the United States, bearing in mind that we already have existing chapter IX, which works very well for the smaller communities in the country, we may very well be approaching the time when the municipalities of the country more than ever want the relief of this bankruptcy law; but if it is challenged in the courts or if it is established as unconstitutional and we do not retain the existing legislation, then we will leave the municipalities of the country without any remedy at all, without any protection at all.

So I think it is important to limit our exposure and that is the purpose of this amendment.

Bear in mind also the effect this amendment will have on the marketability of municipal securities. There is not any question about it, what we are doing with this legislation is making it very easy for cities to get out from under their obligations, their contractual obligations with their bondholders and, indeed, their contractual obligations with their municipal bondholders and all others. We are making it a lot easier to get out from under the existing obligations. When we make it easier to get out from these obligations, we make it harder to sell the bonds. When we make it harder to sell the bonds, it is going to be reflecting on the marketability of the bonds and that will be reflected in the interest rates, if they can be sold at all.

So what we are doing, instead of protecting the city of New York, we are punishing every city in the United States because their bonds will not be as easy to sell as they were when it was more difficult to get out from under their obligations.

For this reason, I think it is important to limit the exposure of chapter IX by putting in a new chapter XVI, which is only applicable to the larger cities of the United States and retain the applicability of the present chapter XVI, without disturbing what has already been established as constitutional.

Indeed, since we passed this in the committee, we have had inquiries from bond attorneys as to the applicability of this section to industrial revenue bonds, those bonds which are issued by industrial revenue corporations or associations with the blessing of the municipality, so they can get the benefits of the tax-free situation, the exempt status.

Now what has happened is that there are questions raised about that point. They ask, "What do you think the effect of this is going to be on the bond market, the effect of all those municipal obligations?"

The answer is clearly that we must limit our exposure to the larger cities if we are going to protect the smaller cities of the country.

Mr. BROWN of Michigan. Madam Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Madam Chairman, I thank the gentleman for yielding to me. In the course of the discussion of the New York problem, first before the Committee on Government Operations on which I serve, and then the Joint Economic Committee and the Committee on Banking, Currency and Housing, we had everyone from the city of New York come in and testify concerning how this problem developed.

The comptroller of the city of New York said that the most damnable thing that happened that led to New York's problem was the adoption of the so-called moral obligation bond.

I say to the gentleman, in support of the gentleman, that he is absolutely right to the extent that if we provide better remedies for a copout, we certainly make it more difficult to sell the municipal obligations. To the extent that we provide for every municipality in this Nation to be able to get out from under the obligation of its debt instruments by going into bankruptcy, we, in effect, make every full, faith and credit or general obligation bond only a moral obligation bond, a moral obligation that that municipality will not go into bankruptcy.

I suggest that if we want to have an adverse impact upon the cost of municipal issues, then apply this across the board to everybody. It is bad enough to apply it to the city of New York.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

(On request of Mr. BROWN of Michigan and by unanimous consent, Mr. BUTLER was allowed to proceed for 2 additional minutes.)

Mr. BUTLER. I thank the gentleman. He is exactly right. We are creating a problem for the municipalities when we make it easier for them to get out from under their obligations. Members should recognize that in this legislation all a municipality has to do in order to get into bankruptcy is simply say, "We are not able to meet our obligations." They do not have to be in default or in anything except that perilous position which every Member of Congress must share and in which municipalities are much in the same position. All they have to do is say, "I cannot meet my obligations, I want to have a plan," and go into bankruptcy immediately as far as all collective procedures are concerned.

We must recognize what effect that is going to have on the ability of municipalities to market their obligations.

Mr. DRINAN. Madam Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Madam Chairman, would the distinguished gentleman give any evidence he has that it should be the six largest cities of the country and only those that should have the opportunity provided under this law? Was there any evidence of that given in the subcommittee or the Committee on the Judiciary? By what norm does he select these particular six cities that happen to be over 1 million for this particular remedy?

Mr. BUTLER. I thank the gentleman very much for the question. No, I cannot tell him the norm except for my own sound judgment. We always have problems about where we are going to draw the line, so I think it is appropriate to limit it.

In answer to the gentleman's question whether or not there was evidence before our subcommittee, I say no, because we did not have any hearings after this legislation was introduced. I did not have control over that, so perhaps the gentleman can explain that to me.

Mr. DRINAN. I wonder if there is some evidence to indicate that these six largest cities are much more likely to need this particular remedy?

Mr. BUTLER. I can give the gentleman at least one-sixth of that answer. I direct him to the debate of last week.

Mr. DRINAN. I thank the gentleman.

Mr. EDWARDS of California. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, the amendment offered by the gentleman from Virginia (Mr. BUTLER) is the administration bill, which would add a new chapter to the Bankruptcy Act, chapter XVI, that would apply to municipalities of over 1 million each of which, as the gentleman from Virginia said, there are six in the country.

This amendment was debated in full in the subcommittee and lost; it was debated in full in the markup in the full committee and was unsuccessful. If the amendment of the gentleman from Virginia prevailed, we really would have a jerry-built structure here of a chapter XVI applying to six major cities, and then the old chapter IX applying to the rest of the cities and municipalities in the country. The old chapter IX is virtually unusable because it requires 51 percent of the creditors to agree in advance before the city could even file.

Think of the havoc that would wreak in cities with 950,000 people. Under the proposal of the gentleman from Virginia (Mr. BUTLER), they would have to operate under the old chapter IX. They do not know who the owners of the bonds are anyway because so many of the bonds are bearer bonds. Really, the suggestion made by the gentleman from Virginia (Mr. BUTLER) is an invitation to fiscal anarchy. The gentleman says there is a serious constitutional question. I think we have researched that with experts. We had experts testify on chapter IX before the subcommittee, and there was no question about the constitutionality of our new bill.

There are just two more points, Madam Chairman. The gentleman from Virginia (Mr. BUTLER) indicated that under the bill as written, the chapter IX that we are supporting, it is rather easy for a city to go into bankruptcy. That is not true. First, the stigma and the side effects of bankruptcy are severe enough to prevent any city from wanting to go into bankruptcy. Secondly, it does not relax the requirements that much. For the plan to be approved, two-thirds of the creditors have to agree. Let me tell the Members that two-thirds would be very hard to get.

Mr. ALLEN. Madam Chairman, will the gentleman yield?

Mr. EDWARDS of California. I will yield to the gentleman from Tennessee.

Mr. ALLEN. I thank the gentleman for yielding. Speaking of the constitutionality of this proposed legislation, would not the proposed amendment pose still another constitutional question as being in violation of the 14th amendment of the Constitution guaranteeing equal rights and protection?

Mr. EDWARDS of California. That is an excellent point, because it is certainly establishing six major American cities as second- or third- or fourth-class cities. Is that correct?

Mr. ALLEN. If the gentleman will yield further, this is the point it would seem to me that it would do. It would raise a still more serious question as to the constitutionality of this legislative and what the gentleman from Virginia (Mr. BUTLER) is seeking to obtain, and indeed on that it might be stricken down as unconstitutional, as applying only to cities with a population of more than 1 million.

Mr. EDWARDS of California. I agree with the gentleman that the amendment would discriminate severely against our six largest cities. It would also violate the general rule in the Constitution that bankruptcy laws throughout the country should be uniform.

Mr. BUTLER. Madam Chairman, will the gentleman yield?

Mr. EDWARDS of California. I will yield to the gentleman from Virginia.

Mr. BUTLER. I thank the gentleman for yielding. We considered it extensively in our committee and subcommittee deliberations, and even those people who did not fall under the spell of that curious logic had to agree when we struck a line that was uniform across the country that we meant uniformity with the Constitution. There was no question raised as to whether one could classify cities by size under the equal protection clause or the uniformity clause.

Mr. EDWARDS of California. I thank the gentleman for his comments. I suggest that one chapter for municipal bankruptcy is enough. Two chapters might create all kinds of unfavorable consequences in the United States. I ask that the amendment in the nature of a substitute offered by the gentleman from Virginia (Mr. BUTLER) be rejected.

Mr. KINDNESS. Madam Chairman, I move to strike the requisite number of words, and I rise in support of the substitute amendment proffered by the gentleman from Virginia (Mr. BUTLER). Madam Chairman, I would remind the Members that their town and mine will suffer the consequences if we do not separate out the smaller municipalities from the larger municipalities. We must separate out most of the municipalities from that category where the special provisions of this bill tend to apply. There is no question that the bill is designed particularly to provide the availability of bankruptcy for the very large municipalities.

The only reason for the quick action to revise the municipal bankruptcy chapter was to accommodate the city of New York, and we all know it. We all know that the city of New York has problems with accommodating itself to chapter 9, the existing municipal bankruptcy chapter. There are so many creditors, there are so many city employees, there are so many services provided, there are so many citizens involved, there are so many interests involved, and there are so many conflicts involved. Therefore, it takes special provisions. But indeed it makes it easier to have access to the bankruptcy court.

Your community and mine, if we do not happen to be from New York, do not have to pay the consequences of that legislative action we are contemplating here today. Your municipality and mine, if we do not live in New York, do not have to assume the extra cost that taxpayers will have to assume in order to pay the higher interest rates that will undoubtedly be required on any municipal bonds hereafter issued if this becomes law without the substitute offered by the gentleman from Virginia (Mr. BUTLER).

Chapter IX of the existing municipal bankruptcy law would still be available to any municipality of a smaller size requiring access to the bankruptcy court for its protections, but there are serious questions that may be brought before the courts of the United States.

Under the provisions of the bill before us, there is to be tested perhaps the extent to which the court may be authorized by the bill to interfere indirectly with the operations of local government. If the substitute offered by the gentleman from Virginia (Mr. BUTLER) is adopted, there is the question of whether we then would have a stronger basis for sustaining the constitutionality of this bill, because not only the bankruptcy powers of the Federal Government but also the commerce clause of the Constitution backs up the right of this Congress to make such special provisions as indeed do apply largely to larger cities.

I think it is very important for us to realize that there is a direct cost consideration involved. It applies all across this land, and it will in the future, if we pass the bill without the substitute offered by the gentleman from Virginia (Mr. BUTLER).

Madam Chairman, I urge the Members' support of the substitute.

Mr. DRINAN. Madam Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Madam Chairman, I thank the gentleman for yielding.

The essence of the gentleman's case seems to be this: That he alleges that municipal bonds will increase greater in their interest rates if we have all the communities involved rather than merely the six cities over 1 million in population. Is this mere speculation? Has any bond person said so?

Mr. KINDNESS. Yes. The gentleman from Massachusetts (Mr. DRINAN) was absent, I believe, on the day the testimony was taken by the subcommittee. The gentleman has repeatedly referred to the absence of such testimony, but it is in the record.

Mr. DRINAN. I have read the testimony. It does not say what the gentleman has indicated. There is no testimony that indicates that the bonds will be more expensive if all communities are given the same offer.

Mr. KINDNESS. Madam Chairman, will the gentleman agree that "less marketable" means virtually the same thing as "higher interest"?

Mr. DRINAN. Not necessarily. That is merely speculation anyway.

Mr. KINDNESS. I would not try to argue whether those words that are in the testimony mean the same thing to the gentleman from Massachusetts that they mean to me. However, we may take something from today's submission, if that would be preferable.

I have in front of me—and I think each Member probably has this—at least two expressions from people in the financial community which have been given to most Members as of today.

The first one is from Frederick B. Whittemore of Morgan Stanley & Co., Inc. This was directed to the Treasury Department.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. KINDNESS) has expired.

(By unanimous consent, Mr. KINDNESS was allowed to proceed for 2 additional minutes.)

Mr. KINDNESS. Madam Chairman, in this communication Mr. Whittemore said as follows:

> In considering the new bankruptcy legislation now under discussion we believe the legislation should not afford easier access to bankruptcy for all size municipalities, because it may have the effect of weakening the credit standing of these municipal obligations. Therefore, we recommend the new procedures be limited to municipalities of substantial size.

It does not have to be 1 million in population, but that would certainly fit the present need.

In another communication to the Treasury Department, Wallace O. Sellers, vice president of Merrill Lynch, Pierce, Fenner & Smith, said this:

> Removal of the restriction of the bankruptcy statute to cities over one million would be damaging to the credit and costly for all municipalities selling general obligation bonds.

Madam Chairman, I think we must be realistic in the reasoning of this. It is obviously going to cost more.

Mr. DRINAN. Madam Chairman, if the gentleman will yield again, the one person who testified in the hearings to which reference has been made today was Mr. Scalia of the administration, and I have no record of any outside municipal bond person indicating that it would be foolish or it would be contrary to the best interests of the bond market to have all of the cities covered.

As a matter of fact, everyone, by a unanimous vote of the Committee on the Judiciary of the House, sent this bill here. They felt on both sides of the aisle that it is better to have all of the people included rather than to have no bill at all.

Mr. BROWN of Michigan. Madam Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Madam Chairman, I thank the gentleman for yielding.

The point has been made that if we adopt the amendment of the gentleman from Virginia (Mr. Butler), we will have two different bankruptcy remedies for different communities and that this is bad.

I respectfully suggest that it is not bad. Our smaller communities can much more easily identify the holders of municipal obligations than is the case with a big city. Smaller communities, by and large, will know their bondholders. Therefore, for the purposes of obtaining the majority required under chapter IX, it will be easier, whereas in New York there was a real problem. When we urged them to work out an agreement with their bondholders, they said, "We can identify the holders that are financial institutions and work it out with them, but most of the bonds are held by individuals. They are bearer bonds, and we do not know who holds them. There is no way nor time to work that out."

The CHAIRMAN. The time of the gentleman from Ohio (Mr. Kindness) has expired.

(On request of Mr. Seiberling and by unanimous consent, Mr. Kindness was allowed to proceed for 2 additional minutes.)

Mr. SEIBERLING. Madam Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Madam Chairman, I would like to ask the gentleman from Michigan (Mr. Brown) whether he considers a city of 950,000 a small city?

Mr. BROWN of Michigan. If the gentleman will yield further, obviously, if it is a 950,000-person city, as compared with a million, one can make out an argument. We make this argument all the time, but the Congress time after time adopts an arbitrary income limit, adopts an arbitrary population limit, an arbitrary limit of this kind and that kind.

Therefore, to the extent that the gentleman is saying that if we adopt a limitation of 1 million, it is discriminatory and capricious, that type action has been the rule of the Congress rather than the exception.

Mr. SEIBERLING. If the gentleman will yield further, Madam Chairman, there is not a single city in the State of Ohio that has a population of 1 million, and there is only one in the gentleman's State of Michigan.

Mr. BROWN of Michigan. To that I demur, so what?

Mr. KINDNESS. Madam Chairman, I would submit to the gentleman that obviously not a single city in the State of Ohio needs these provisions.

Madam Chairman, I urge a vote for the Butler substitute amendment.

Mr. WIGGINS. Madam Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Madam Chairman and members of the committee, I do not know that I can add anything new to the issue which has been articulated heretofore, but let me at least add my voice on behalf of the rest of the cities of this country, the solvent communities which most of us represent.

Political entities all across the country, Madam Chairman, are in the business of borrowing money. The interest these communities must pay reflects the confidence which the investors have in the borrowing entity. No investor, of course, contemplates that a particular city is going to go belly-up or he would not lend the money in the first place, but a prudent investor always considers the remedies available to the debtor which may affect the security of the credit to be advanced.

The present bill makes it easy for political entities to file a petition and a prudent investor surely must note that we have made it easier for all cities, solvent or insolvent, every city in the country in moments of distress, to file a petition and obtain an automatic stay.

This new remedy is an added investor risk which most assuredly will translate itself into higher interest rates paid by political-entity borrowers across the country.

The gentleman from Massachusetts, and perhaps others, disagree with the logic of my position, but I hope that none of us can disagree with this: There is a risk, it might happen. Why do we assume the risk?

The amendment by the gentleman from Virginia (Mr. Butler) does nothing harmful to the city of New York. It does not impose any burden on New York City, but it avoids the risk to the rest of us. Why should the Congress assume that risk? What purpose is conceivably served by subjecting one of our communities to the possibility that it may have to pay higher interest rates?

No, I think that it is a risk that need not be assumed, members of the committee, and that the prudent, responsible vote is a vote for the amendment offered by the gentleman from Virginia (Mr. Butler).

Mr. BADILLO. Madam Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment in the nature of a substitute.

Madam Chairman and members of the committee, I think it is important that the members know that during the discussion of amendments to the Bankruptcy Act which our subcommittee has been weighing for many months, we had before us a bill that was recommended by the bankruptcy judges and that bill provided for an amendment to chapter IX which included all cities and all public agencies and did not make any distinction whatsoever in terms of the size of the cities. We also had before our committee a bill that was prepared by a Bankruptcy Commission on which the gentleman from California who just preceded me served, and our subcommittee chairman, the gentleman from California (Mr. Edwards) was on that Commission too. And that bill also did not draw any distinction whatsovere between smaller cities, public agencies and larger cities. If in fact the question of New York City had not come up at all, the hearing that we had would have indicated that we would have taken the recommendation of both of these bills and we would have before us a bill that did not single out any particular ctiy. That is all that we are doing here. But because of the fact that there was a crisis in New York City what we did was that we made the present bill tougher because both the Bankruptcy Commission and the judge's bill only required the approval of 5 percent of the creditors to a reorganization plan. Because of the arguments that the gentleman from Virginia (Mr. Butler) made with regard to the bond market, the present bill has a provision for two-thirds of the creditors to make it tougher for any public agency or municipality to get the necessary agreement of creditors.

Mr. BUTLER. Madam Chairman, will the gentleman yield?

Mr. BADILLO. I yield to the gentleman from Virginia.

Mr. BUTLER. Madam Chairman, the gentleman from New York endeavors to make a point that what we are here for is legislation that has been recommended by the Bankruptcy Commission and has therefore been carefully studied and it made no distinction as to the size or the municipality. But the gentleman from New York would also agree, would he not, that the certificates of indebtedness, which may bring into question the constitutionality of this legislation, were not included in the Commission's bill, that this is an innovation which had very little prior consideration except by our subcommittee, and this matter was not recommended by the Bankruptcy Commission and it was not recommended by the bankruptcy judges.

• I also believe the gentleman from New York would also recognize, would he not, that the exposure, since this serious question is going to be raised, ought to be limited to the larger cities and New York until we have the recommendation of a more careful study?

Mr. BADILLO. In response to the inquiry of the gentleman from Virginia, Madam Chairman, let me say not at all, because we now get away from the question of policy and we talk about the question of practicality. The reality is that we need a bill that covers other areas. As the gentleman from Virginia knows, in New York State the city of Yonkers has only 200,000 people, but it is in the identical situation to that which we have in New York City.

I think all of the Members know that at the present time the Governor of the State of New York has called a special session of the legislature of that State to consider the problem of the following four State agencies: health and mental health facilities corporation; environmental facilities corporation; housing finance authority; and State dormitory authority.

The fate of these agencies is now before the State legislature. We hope that it will not be necessary to apply to our bankruptcy court for these four agencies, or for the city of Yonkers or for the city of New York. But we have to recognize that the reality is that it is not just the large city, it is the small cities, and that other public agencies have the same financial difficulty. If we are going to legislate responsibly, we have to provide in our present legislation for all of those possibilities.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Virginia (Mr. BUTLER).

The question was taken.

RECORDED VOTE

Mr. BUTLER. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 145, noes 264, not voting 25, as follows:

[Roll No. 756]

AYES—145

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bell
Biester
Breaux
Breckinridge
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Carter
Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Devine
Dickinson
Downing, Va.
Duncan, Tenn.
du Pont
Early
Edwards, Ala.
Emery
Erlenborn
Eshleman
Fenwick
Findley
Flynt
Forsythe
Frenzel
Frey
Gilman
Goldwater
Gradison
Grassley
Gude
Guyer
Hagedorn
Hammerschmidt
Hansen
Harsha
Hastings
Hefner
Heinz
Hillis
Holt
Horton
Hutchinson
Johnson, Colo.
Johnson, Pa.
Kasten
Kelly
Kemp
Ketchum
Kindness
Lagomarsino
Latta
Lent
Lott
Lujan
McClory
McCloskey
McCollister
McDade
McDonald
McEwen
McKinney
Madigan
Mann
Martin
Mathis
Michel
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Mosher
Mottl
Myers, Ind.
Myers, Pa.
Nichols
O'Brien
Pettis
Pressler
Pritchard
Quie
Railsback
Randall
Regula
Rhodes
Rinaldo
Robinson
Rousselot
Ruppe
Ryan
Sarasin
Schneebeli
Schulze
Sebelius
Shriver
Shuster
Skubitz
Slack
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Symms
Talcott
Taylor, Mo.
Thone
Traxler
Vander Jagt
Wampler
Whitehurst
Wiggins
Wilson, Bob
Winn
Wylie
Young, Alaska

NOES—264

Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
Badillo
Baldus
Barrett
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Byron
Carney
Carr
Casey
Chappell
Chisholm
Clay
Cleveland
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
D'Amours
Daniels, N.J.
Danielson
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Eilberg
English
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fish
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fuqua
Giaimo
Gibbons
Ginn
Gonzalez
Green
Haley
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Henderson
Hicks
Hightower
Holtzman
Howard
Howe
Hubbard
Hughes
Hungate
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Keys
Koch
Krebs
Krueger
LaFalce
Landrum
Leggett
Lehman
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
McCormack
McFall
McHugh
McKay
Macdonald
Madden
Maguire
Mahon
Matsunaga
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murtha
Natcher
Neal
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pickle
Pike
Poage
Preyer
Price
Quillen
Rangel
Rees
Reuss
Richmond
Risenhoover
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Russo
St Germain
Santini
Sarbanes
Satterfield
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Sikes
Simon
Sisk
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, James V.
Stark
Stokes
Stratton
Studds
Sullivan
Symington
Taylor, N.C.
Thompson
Thornton
Tsongas
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Waxman
Weaver
Whalen
White
Whitten
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—25

AuCoin
Bowen
Burke, Fla.
Burton, John
Davis
Esch
Fisher
Fraser
Gaydos
Goodling
Hébert
Helstoski
Hinshaw
Holland
Hyde
Mazzoli
Murphy, N.Y.
Nedzi
Patman, Tex.
Peyser
Riegle
Stuckey
Teague
Treen
Udall

Messrs. OTTINGER and JARMAN changed their votes from "aye" to "no."

Mr. RUPPE changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MS. HOLTZMAN

Ms. HOLTZMAN. Madam Chairman, I offer an amendment.

The Clerk read as follows.

Amendment offered by Ms. HOLTZMAN: Page 2, line 24, strike out "and".

Page 3, strike out the period in line 5 and insert in lieu thereof "; and".

Page 3, immediately after line 5, insert the following new paragraph:

"(10) 'certificate of indebtedness' means certificate issued under section 82(b)(2), the payment of interest and principal of which may be guaranteed by the United States.

POINT OF ORDER

Mr. KINDNESS. Madam Chairman. I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. KINDNESS. Madam Chairman, I make the point of order against the amendment on the basis that the amendment is not germane.

The amendment is in violation of clause 7, rule XVI of the Rules of the House. This amendment violates several well settled principles of germaneness under a scheme that is no more than a subterfuge.

One traditional test of germaneness has been whether the subject being dealt with is defined in the bill. This amendment avoids that hurdle by inserting a self-serving circular substantive definition of "certificate of indebtedness." Putting the substantive power to guarantee certificates of indebtedness in the definition section of the bill cannot be relied upon as a basis for establishing germaneness.

Of greater significance, this amendment violates the principle stated in chapter 28, section 3.21, of Deschler's procedure.

Madam Chairman, in order to appropriately state the point of order, the objection to the amendment, I would like a point of clarification as to how much of the amendment has been submitted, whether an amendment to section 99 is included at this time.

Ms. HOLTZMAN. Madam Chairman, if the gentleman will yield, may I respond?

The CHAIRMAN. Has the gentleman from Ohio (Mr. Kindness) completed his statement?

Mr. KINDNESS. Madam Chairman, I have not. I shall continue.

Ms. HOLTZMAN. Madam Chairman, will the gentleman yield?

Mr. KINDNESS. I will yield to the gentlewoman from New York.

Ms. HOLTZMAN. I thank the gentleman for yielding.

Just to clarify for the gentleman from Ohio (Mr. Kindness), the amendment that has been issued simply deals with the definition of the term "certificate of indebtedness" and says, " 'certificate of indebtedness' means certificate issued under section 82(b)(2), the payment of interest and principal of which may be guaranteed by the United States."

Mr. KINDNESS. Madam Chairman, further to the point, the amendment offered at this time then is the first stage in an attempt to provide a basis for an amendment which would only be self-serving, in effect.

Madam Chairman, if I might be heard at this time on the argument relating to the total set of amendments the gentlewoman has proposed, we could dispose of this.

The CHAIRMAN. The gentleman from Ohio should confine his argument to the pending amendment.

Mr. KINDNESS. Madam Chairman, I would make a point of order then that the amendment is out of order, on the basis that it is not germane to the current content of the bill.

The CHAIRMAN. The gentlewoman from New York (Ms. Holtzman) is recognized in support of the point of order.

Ms. HOLTZMAN. Madam Chairman, my amendment, which only deals with the definition, is very germane to the bill.

What this amendment does is to say that a certificate of indebtedness, which is in essence a bond issued by a municipality in bankruptcy, can be defined as a certificate which is guaranteed by the United States.

Madam Chairman, there is no question that the bill does deal with a certificate of indebtedness. It is possible that there may be guarantees issued by the United States under other statutes. There is no question, therefore, that the definition which does allow the certificate of indebtedness to include one that is guaranteed is an amendment and a definition that is germane to the bill.

The CHAIRMAN. The Chair is prepared to rule.

The gentleman from Ohio (Mr. Kindness) makes a point of order against the amendment offered by the gentlewoman from New York (Ms. Holtzman) on the grounds that it is not germane to the bill.

The amendment would add a new definition to those contained in the bill, to define certificates of indebtedness which may be issued under section 82 of the bill as a certificate which may be guaranteed by the United States.

The Chair would first state that the committee jurisdiction over the subject of an amendment is not an exclusive test of germaneness—Deschler's procedure, chapter 28, section 4.16. But in any event, the pending amendment does not, in the form in which it is offered, present an issue exclusively within another committee's jurisdiction.

As to the subject matter and methodology of the pending bill, section 82 thereof allows the bankruptcy court to permit the issuance of certificates of indebtedness, with such security and priority of payment as may be equitable. The committee report, on page 9, specifically states that the court can supply assurance of payment on certificates of indebtedness, to make them marketable, by permitting security and priority of payment on such certificates.

Therefore, the concept of bankruptcy procdures insuring the marketability of certificates of indebtedness is included in the bill. Defining a term used in the bill in such a way as to allow the further option of Federal guarantees is germane to the fundamental purposes of the bill, since the amendment merely adds to the definition provision and grants to the bankruptcy court an additional specific option to assure security for certificates of indebtedness—a concept already contained in a more general form in the bill.

The Chair will distinguish the situation presented on December 2 and that presently before the Chair for determination. The amendment offered by the gentlewoman from New York (Ms. Holtzman) adds a further definition relating to specific power to those general powers granted to the court in the bill; the amendment in the nature of a substitute which was offered to the Intergovernmental Assistance Act the other day entirely substituted one program for another. In the present instance, the appropriate test is not whether the amendment proposes to substitute one method for a closely allied method, but whether the amendment adds a specific provision which is germane to the provisions already in the reported bill.

For the reasons stated, the Chair overrules the point of order.

PARLIAMENTARY INQUIRY

Mr. KINDNESS. Madam Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. KINDNESS. Madam Chairman, in view of the decision that has just been rendered, I understand or assume that that same decision will be applicable then when the amendments referred to in the ruling have been introduced, so that there would be no reason to extend the debate on the point of order.

However, I would raise the question as to whether the portion of the amendments to be offered by the gentlewoman from New York (Ms. Holtzman), which is already before us, is in order itself, in that it is apparently offered only for the purpose of being a bootstrap operation to make the rest of the amendments in order. I did not understand the ruling of the Chair covered specifically this first amendment.

The CHAIRMAN. The Chair cannot anticipate further amendments that will be offered. The Chair did overrule the point of order on the pending amendment.

Mr. KINDNESS. Madam Chairman, may the gentleman from Ohio assume then that the Chair has not ruled at this point on those subsequent amendments that will be offered?

The CHAIRMAN. The Chair has not ruled on anything but the pending amendment.

Mr. KINDNESS. I thank the Chair.

The CHAIRMAN. The Chair recognizes the gentlewoman from New York (Ms. Holtzman).

Ms. HOLTZMAN. Madam Chairman, although my initial amendment is a very simple definitional amendment, the purpose of this amendment is ultimately to permit certificates of indebtedness to be guaranteed by the Federal Government.

Let me explain this. Under the present bankruptcy bill, a bankrupt municipality, city, or public agency can come into court and say, "We need to raise operating capital," and the court is permitted under this bill to allow the municipality to issue bonds. These bonds, in this bill are given the name, "certificates of indebtedness."

The question then is this: Are these bonds issued by a bankrupt municipality salable or marketable? Is there anyone who would purchase these bonds?

That is a very important question. If nobody is going to purchase the bonds of the bankrupt municipality, then the bankrupt municipality cannot get operating capital with which to survive. This is not an abstract matter.

Just taking the case of the city of New York, let us look at what would happen if, for example, the city of New York were to apply immediately under this bankruptcy bill for relief. The city would find itself immediately in a situation where for the month of December it would have a $400 million operating deficit. Even if it did not pay any interest on its present debt or did not pay for any service on its debt, it would still be short $400 million in December.

By the month of April, the shortfall in operating capital reaches about $1.2 billion. If the city of New York, under this bill, could not raise that $1.2 billion, vital city services would have to be cut back.

Madam Chairman, it seems to me that one of the central purposes of this bill is to insure that vital public services are provided in bankruptcy. There should be no question that we want to insure that a municipality that seeks the protection of the bankruptcy law is able to provide the necessary police services, the necessary fire services, the necessary sanitation services, the necessary educational services, so that, in fact, the municipality can operate and survive.

I am disturbed that in this bill there is no assurance that the city can operate. A provision allowing a city to issue bonds in bankruptcy is an illusory remedy because there is no question that the city of New York would not be able to market these bonds.

If we do not permit the city of New York or other cities in bankruptcy, to sell their bonds, which are called certificates of indebtedness, we will be undermining what even the President of the United States said was essential: to provide for vital public services by a city, if it sought the protection of the bankruptcy law.

Madam Chairman, what my amendment will do is ultimately permit the bankruptcy court to guarantee certificates of indebtedness unless the certificates can be sold without a guarantee. I think these guarantees are essential to make the certificates salable and to provide the cities with the necessary operating capital so that they can survive in bankruptcy. The amendment I am offering now is the first step in a series of amendments which are, in their entirety, designed to allow the issuance of the certificates of indebtedness with the guarantee.

Mr. KAZEN. Madam Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from Texas.

Mr. KAZEN. Madam Chairman, is the gentlewoman from New York (Ms. Holtzman) telling us that the judge in bankruptcy is going to have the authority to put the full faith and credit of the United States behind a bond issue?

Ms. HOLTZMAN. Let me explain that the language of this amendment is only the first part of a series of amendments.

The CHAIRMAN. The time of the gentlewoman from New York (Ms. Holtzman) has expired.

(On request of Mr. Kazen and by unanimous consent, Ms. Holtzman was allowed to proceed for 2 additional minutes.)

Ms. HOLTZMAN. Madam Chairman, when I introduce—and I will ask unanimous consent to introduce—the remainder of my amendment, the purpose will be to say that the United States will guarantee all certificates issued in bankruptcy up to a limit of $5 billion in toto. However, if the Secretary of the Treasury can show or if in an adversary proceeding it is shown that the certificates can be sold without guarantee, then there will be no guarantee.

The only decision that a judge makes is whether a guarantee is necessary to make these marketable. That is an ordinary kind of factual determination, customarily made by judges, that will be made after an adversary hearing, with the Secretary of the Treasury present. If the judge finds the certificates salable then the guarantee will not be attached.

The judge is not making a policy decision. That decision is being made right here. He is making a factual determination in bankruptcy as to whether or not a bond would be salable.

Mr. KAZEN. If the gentlewoman will yield further, once he has done that and it is not salable, then who makes the decision to put the full faith and credit of the United States behind it?

Ms. HOLTZMAN. The amendment would provide that automatically.

Mr. KAZEN. Who would do it?

Ms. HOLTZMAN. It is automatically guaranteed.

Mr. KAZEN. I will tell the gentlewoman from New York that it is this Congress prerogative to speak for the United States, and no court should be able to have that authority.

The CHAIRMAN. The time of the gentlewoman has expired.

(By unanimous consent, Ms. Holtzman was allowed to proceed for 5 additional minutes.)

Ms. HOLTZMAN. Madam Chairman, at this time I ask unanimous consent that I may introduce the balance of my amendments en bloc.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

Mr. BUTLER. Madam Chairman, reserving the right to object, it is my understanding that what the gentlewoman from New York has done is explain at this point her amendments en bloc, but that the gentlewoman had not introduced them. Is that correct?

Ms. HOLTZMAN. That is correct.

Mr. BUTLER. And I understood that the reason the gentlewoman from New York did that was so that she could bootstrap herself into getting the Chair to rule that a certificate of indebtedness definitional amendment would be in order, then having done that, she could move further.

Ms. HOLTZMAN. No, the gentleman from Virginia is not being fair in his characterization. It may very well be either in this bill or in other legislation that we may want to provide for guarantees of such certificates in order to have the public purchase such certificates. If that occurs, then obviously this definitional amendment is relevant on that ground.

Mr. BUTLER. Madam Chairman, if the gentlewoman will yield further, if this definitional amendment is defeated, then it will not be necessary to consider the other amendments?

Ms. HOLTZMAN. That is correct.

Mr. BUTLER. Madam Chairman, under that understanding, I object.

The CHAIRMAN. Objection is heard. The gentlewoman from New York is recognized for 5 minutes.

Mr. BUTLER. Madam Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. No, I will not yield at this time to the gentleman from Virginia.

Madam Chairman, let me explain my amendment and the balance of the amendments I intend to introduce if this amendment is agreed to.

Madam Chairman, I fully agree with the gentleman that it should not be up to the Court to commit the credit of the United States. And that is why I have very carefully drafted this amendment so as not to permit that.

If the balance of my amendments should be adopted, what we would be saying is simply this: That all certificates of indebtedness issued by bankrupt cities would be guaranteed up to $2 billion in any particular case and to a maximum of $5 billion in all cases. But in the event there is a finding, after an adversary hearing in which the Secretary of the Treasury would be present, that the bonds could be marketable without a guarantee, then there will be no guarantee. The only decision by the judge is that the guarantee will not apply in that circumstance.

Let me just add, as well, that if we pass this legislation without providing for any mechanism to guarantee certificates of indebtedness, or without providing a way of allowing municipalities to raise operating capital, then we are providing an illusory remedy. We will see cities that take advantage of this bankruptcy bill come back to the Congress time after time asking for the benefits of a Federal guarantee of bankruptcy bonds, exactly what my amendment would provide here.

And these benefits are very simple. Let me state them. My amendment would simply permit municipalities, where it is necessary, to raise operating cash through the issuance of guaranteed certificates of indebtedness so that they can provide the vital police protection, fire protection, sanitation and educational services.

It seems to me that if we do not take these steps at this time, we will fail to provide a real remedy to cities that are in trouble.

I would add a note here, lest people be concerned about the issuance of a guaranteed certificate. The bankrupt municipality has to make out a case in the first instance, before the judge, as to why it needs to raise any of this operating capital. The judge could decide, for example, that the State has money available to lend to the city or that there are other ways in which the city can raise funds. In that case no certificates at all would be issued. We do not even get to the question of having a Federal guarantee until the judge has already made some determination that it is crucial for a city to raise operating cash.

Let me make one final point in this matter. When the House Committee on Banking, Currency, and Housing originally reported its loan guarantee bill for cities in financial trouble, it specifically provided that loan guarantees would be available in bankruptcy. I did not offer my amendment when this bill was in committee, because at that time the Committee on Banking, Currency, and Housing bill would have made available the guarantees that I am now seeking to provide by way of amendment. The Committee on Banking, Currency, and Housing decided that cities will need to have Federal guarantees for borrowing purposes after bankruptcy.

It seems to me that the point is unassailable. It is unquestionable that some cities are going to need a Federal guarantee in order to raise operating capital in bankruptcy. If we pass a bankruptcy bill that does not take that into account, I am afraid we will provide a remedy in name only and not in reality.

The CHAIRMAN. The time of the gentlewoman has expired.

Mr. ALLEN. Madam Chairman, I move to strike the requisite number of words.

I want to ask the distinguished gentlewoman from New York a question. Of course, I had not read the amendment and I only gained an impression from listening to its being read that the wording of it was that the court may—may—see that these certificates of indebtedness are guaranteed by the Federal Government, which would make it a discretionary matter with the Federal courts, which in effect, it seems to me, would give to the Federal courts a power that is reserved to the legislature. If it is said that such certificates were automatically to be guaranteed, that may be something else, but if I recall, listening, it said "may" at the discretion of the judge.

Ms. HOLTZMAN. Madam Chairman, will the gentleman yield?

Mr. ALLEN. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. I thank the gentleman for yielding.

That is in the definitional section. If I have the opportunity to offer the balance of my amendments, what they would provide is that all certificates would be guaranteed automatically unless a finding is specifically made on the factual issue of whether they are salable without guarantee. The judge has no discretion as to issuing a guarantee.

If the judge makes a finding that the bonds are marketable without a guarantee, then the automatic guarantee does not apply. In any case, the automatic guarantee does not apply if the limit is exceeded in a particular case, or if the total limit is exceeded at any time.

I would like to point out to the gentleman something that I should have mentioned earlier; namely, that all certificates guaranteed must be repaid within the year. Thus any guarantee certificate cannot be outstanding for more than a year. In addition, there is a limit of $2 billion in guaranteed certificates that may be issued by any particular city, and a total limit of $5 billion nationwide that may be guaranteed.

Mr. ALLEN. But the present amendment before us does contain only the language of "may" which makes it discretionary with a Federal judge as to whether or not these certificates of indebtedness are going to be guaranteed by the Federal Government.

Ms. HOLTZMAN. Will the gentleman yield?

Mr. ALLEN. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. There is nothing in this particular amendment that talks about a Federal judge. My amendment goes only to the definitional section, and it says only that a certificate of indebtedness may be a certificate that is guaranteed. It does not refer to a judge.

Mr. ALLEN. Not having the amendment before me, I got this impression of it.

Ms. HOLTZMAN. I think the gentleman's concern is correct. The credit of the United States would be automatically committed under my amendment. To do so in any other manner would be to give the judge too much discretion to commit the credit of the United States. That is why I provided for the automatic guarantee, and then allowed it to be removed, if a judge finds that the certificate could be sold without a guarantee.

Mr. WIGGINS. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, this amendment if adopted truly stands the bankruptcy law on its head and would justify a vote against the entire bill if adopted. If the bill is enacted nevertheless it would justify a veto on the part of the President.

Madam Chairman, the function of a certificate of indebtedness is to provide interim capital to a petitioner during the administration of the bankruptcy estate. Any certificate issued must be repaid during administration or be subsumed in the ultimate plan approved by the creditors. It is not the function of a certificate of indebtedness to provide a continuing subsidy in order to allow the petitioner to continue his profligate prepetition ways.

If it is true, as our colleague, the gentlewoman from New York, has said, that New York City will need nearly $2 billion even if all of its debt service is suspended and even if the claims of its creditors are stayed, then New York City cannot exist absent a continuing subsidy from somebody. No plan approved in bankruptcy could contemplate the continuing subsidy necessary to support New York City.

A guarantee, Madam Chairman, whether it be by the Federal Government or by anybody else is really meaningful only if that guarantee has to be called. What the gentlewoman recommends is to guarantee the obligations incurred during the administration of bankruptcy. That is what stands the whole proceeding on its head, because it contemplates that the bankruptcy estate itself will go bankrupt. That is preposterous.

It is one thing, Madam Chairman, for this Congress to approve loans to New York City in an effort to avoid its bankruptcy, but it is quite another thing to approve general legislation authorizing the credit of the United States to be extended to entities which are already bankrupt and which cannot survive absent a continuing guarantee.

If we get to that sorry state of affairs, then let us deal with it on an ad hoc basis and not write it into general law.

Mr. WYLIE. Madam Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Ohio.

Mr. WYLIE. I thank the gentleman for yielding.

Madam Chairman, this is a terrible amendment and it must be defeated. If this amendment is adopted, then the bill must be defeated. This would jeopardize the municipal bond market for every other creditworthy city in the United States and would drag every other city in the United States down into bankruptcy with the city of New York.

Why would an investor invest in the bonds of any other city if he or she can wait and invest in bonds which would have the full faith and credit of the United States behind them. Investors would not invest in municipal bonds. Why would an investor buy New York City bonds if he or she can just wait until the bonds are guaranteed by the U.S. Government and then buy them? If this amendment is enacted into law only a fool would buy New York City bonds short of a Federal guarantee which would encourage bankruptcy.

This is a very bad amendment and it must be defeated.

Mr. BAUMAN. Madam Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

Madam Chairman, I would just like to observe that what the gentlewoman from New York is attempting to do by her amendment and she admits it, is to substitute a bill the President has already told this House he will never sign. By indirection she seeks to resurrect a bill the Banking and Currency Committee brought before the House weeks ago and which this House inferentially rejected when it adopted the New York bailout loan program. We are just retreading the same worn path and the amendment ought to be rejected out of hand.

Ms. HOLTZMAN. Madam Chairman, I thank the gentleman for yielding.

Let me try to answer the points that have been raised one by one. The provision with respect to the banking and currency bill I mentioned is not the main provision of the bill which provides the loan guarantees to prevent default, but was a provision of the bill to insure funding for essential services after bankruptcy.

We may recall that the President said that vital services must be guaranteed to the cities, even if they are in bankruptcy, and perhaps especially if they are in bankruptcy.

With respect to the argument of the gentleman from California, obviously we are talking about short-term indebtedness here. Obviously, and I agree with the gentleman, we are not talking about long-range subsidies. But the city of New York for a 5-month period has a shortfall; thereafter its budget is expected to be balanced. The question is how will it survive with a $1.2 billion shortfall for that 5- or 6-month period.

Mr. EDWARDS of California. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I regretfully rise to oppose the amendment offered by the gentlewoman from New York (Ms. HOLTZMAN). I ask for a nay vote.

Madam Chairman, the Bankruptcy Act is a procedural mechanism that is designed solely to govern the relationships between a debtor and its creditors while it is under the protection of the bankruptcy court. The court is permitted to stay all actions by creditors against the petitioner. It receives proofs of claims, and determines the amount due to each creditor. The court may authorize the petitioner to take certain extraordinary steps to assist it in its reorganization, such as the rejection of executory contracts, and the issuance of certificates of indebtedness. All of these functions are in support of the petitioner's attempt to keep operating while it negotiates with its creditors and its employees to develop a plan by which it can repay as much of its debt as possible.

The Bankruptcy Act, especially chapter IX, is designed to determine little, if any, substantive result. That is left to the negotiations between the petitioner and its creditors and employees, and to other, nonbankruptcy law. State law governs as much as possible. The bill makes it very clear that the act may not be construed to limit or impair the power of the State, and that the court may not, in any way, interfere with any of the political or governmental functions of the petitioner, or any of its property or revenues.

The purpose of the proposed amendment would be to insure that private leaders will lend to a petitioner under this chapter. That attempts to insure a substantive result in the context of a strictly procedural statute. Certificates of indebtedness are issued by the petitioner to private lenders who are willing to loan the petitioner money on terms privately agreed upon. The court enters into the process only if the lender requires some assurance of priority or security. This is something only a court may do, and that is the reason that court approval must be sought before certificates may be issued with security and priority over existing obligations.

The court does not advance any funds, nor does the Federal Government, unless the Federal Government is playing the role of the private lender. But whether or not it plays that role is determined solely by nonbankruptcy law. It is determined by authorization in other law for the Federal Government, or one of its agencies, to lend or to guarantee loans. It is not to be connected or confused with a statute that is related solely to judicial machinery, one that only puts the court in the posture of an arbiter, or a dispute resolver.

For these reasons, the suggestion that Federal loan guarantees be enacted by amendment to the Bankruptcy Act is wholly out of place. It does not comport with the purpose or the actual workings of the Bankruptcy Act. The Bankruptcy Act is a neutral instrument, a pure piece of machinery, which does not under any of its chapters provide anything other than the rules by which a debtor and its creditors govern their relationships. The amendment would alter that fundamental assumption underlying the act.

The procedural mechanism or the system or standards under which certificates would be issued and guaranteed is not developed in the proposed amendment. Questions that are left unanswered include how the judge would determine the guarantee fee, what the phrase "can be sold without a guarantee" means, how the guarantee would be enforced, whether it could be paid without a specific appropriation by the Congress, and what form of control the United States—and what agency of the United States—would have over the beneficiary of the guarantee. It is also unclear whether the standards governing issuance of the certificates would be the same as in the ordinary unguaranteed case, or whether the Federal presence and the potential interests of the Federal Treasury would require different standards.

Without definition—and perhaps even with more clearly defined standards—the amendment in effect gives a U.S. district judge a key to the Federal Treasury, a power normally given only to the Congress and the Executive. This raises the constitutional issue of whether or not an article III judge can be cast in such a role as authorizing Federal guarantees without any adverse party before the court. It would be an administrative function, not a judicial act in a case or controversy (*Hayburn's* case, 2 U.S. 409). The legislation may assign only such duties as are properly judicial and to be performed in a judicial manner. The amendment may not meet that test.

Chapter IX is designed to be utilized not just by one particular city in distress, but by any municipality that qualifies. If a procedure exists for guaranteeing certificates of indebtedness, then no lender would ever lend, to New York City or to any other petitioner under chapter IX, without that guarantee. A lender would be foolish to buy a certificate if he could hold out and get a Federal guarantee as part of the bargain.

The addition of a guarantee amendment to chapter IX of the Bankruptcy Act might also undercut one of the goals in the drafting of any bankruptcy legislation—to structure the act so that it is not in any way desirable or advantageous for a municipality to file. Why should any municipality in distress try to borrow at potentially high interest rates to solve an immediate cash flow problem when there exists as a permanent part of chapter IX a Federal loan guarantee program? Without such a provision, there is little if any advantage in utilizing chapter IX, unless the municipality is besieged by its creditors in court actions.

A Federal guarantee simply has never before been written into the Bankruptcy Act. The history has always been that loan guarantees have been provided through other, separate devices. The Reconstruction Finance Corporation was never mentioned in the Bankruptcy Act. Rather, its enabling legislation empowered it to assist municipalities and corporations in trouble. The Emergency Rail Services Act of 1971 was not incorporated into the Bankruptcy Act. Loan guarantees were made through a different vehicle, even though the loans guaranteed were certificates of indebtedness issued under a bankruptcy court's jurisdiction. Nor were the Lockheed guarantees, which were given predefault, incorporated into the Bankruptcy Act.

The amendment by its very terms is not germane to the bankruptcy bill. Guarantees of certificates of indebtedness are required by an amendment to the definitions section. This was done in order to avoid any argument that the amendment would not be germane. In effect, it defines away the problem. It is believed that only this formula will survive parliamentary challenge. If that is the case, it suggests the nongermaneness of the amendment.

Further, the amendment is based on absolutely no data or evidence to support the contention that certificates of indebtedness will not be marketable. The bill gives the court the power to give the holders of certificates of indebtedness first priority over all other debts, and a first lien as well. That may be more than adequate to make these certificates marketable. Before we give a key to the Federal Treasury to a judge in a court of bankruptcy, we should be pretty sure that it is necessary. It was only after thorough hearings that the Congress took such a step in the Penn Central case, and only after the need became apparent. In addition, those loan guarantees are supervised by the executive branch, not the judicial branch. And they were enacted outside of the Bankruptcy Act. It must be remembered that this bill established a bankruptcy act for all municipalities, not just New York. It would not make sense to put into the bill such a provision that could be used by cities throughout the country.

Finally, just last week, the House accepted by a very close vote a loan program to assist New York City. It authorized the Secretary of the Treasury to make loans to the city. It was obvious at that time that the House did not favor the idea of loan guarantees, which is just what this amendment proposes. We should not attempt to do by the back door what was rejected by the front door, especially on a bill that provides only a procedural device for the adjustment of debts. It is obvious now that this amendment is for the sole benefit of New York City, not for all of the municipalities around the country that may need bankruptcy relief. The loan bill that passed last week was adequate to serve the purpose that this amendment seeks to serve. We do not need additional authorizations in the Bankruptcy Act.

Mr. SEIBERLING. Madam Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Madam Chairman, I have been very interested in the remarks of the gentleman on the other side of the aisle about how dreadful it is for the Federal Government to guarantee the indebtedness of one of our major cities, or any cities. I hope they will think about that later in the week when the ERDA conference report comes up to authorize $6 billion of Federal Government guarantees of indebtedness of private corporations who are not in bankruptcy and are fully able to raise their own money and on an issue which has never had any hearings in this House or any debate on the floor.

Ms. HOLTZMAN. Madam Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Madam Chairman, I think the point raised by my colleague, the gentleman from California, was a legitimate concern.

Madam Chairman, I agree, this is a matter of short-term deficits. I would hope that the judge would not be profligate with respect to the issuance of certificates of indebtedness in general; but virtually every municipality runs into the situation in which its expenditures occur on a biweekly or monthly basis and it collects revenues on a quarterly basis. It is going to have a deficit caused by a time lag. The only way to meet the operating expenses in that period may be in issuing certificates of indebtedness. If those are not marketable, those obligations cannot be met. That is precisely what I am talking about in my amendment and, why, it is crucial. The judge has absolute discretion to approve or disapprove the issuance of certificates of indebtedness in the first place.

If, for example, the State has money available which it can provide or if the money the municipality seeks to raise is not really needed for the survival of the city or the provision of essential services, that is another matter. The court can just refuse to approve any certificates.

Let me answer the concern expressed about the possibility that these guaranteed certificates will make the unguaranteed bonds of nonbankrupt municipalities unmarketable. Right now this bill tries to insure that cities will have operating funds by permitting them to issue certificates of indebtedness; that is, bonds. My amendment simply tries to make sure that these bonds will be saleable. In addition, my amendment requires municipalities that issue guaranteed certificates of indebtedness to pay a substantial fee. That should be a sufficient disincentive for any municipality not in actual distress to seek approval for the issuance of such guaranteed certificates. I hope in any case that cities do not have to take advantage of the bankruptcy laws and do not have to issue such certificates.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. HOLTZMAN).

The question was taken; and on a division (demanded by Ms. HOLTZMAN) there were—ayes 9, noes 101.

So the amendment was rejected.

Mr. BADILLO. Madam Chairman, I move to strike the necessary number of words.

Madam Chairman and members of the committee, now that the Holtzman amendment has been defeated, I would like to read what the President has sent all of us in a message. He states, among other things:

> Moreover, the amendments are not necessary for New York City. If New York City were to require the protection of bankruptcy, the New York City Seasonal Financing Assistance Act would provide the necessary funds.

I want to make that statement a part of the RECORD, because it indicates that the President and the administration take the position that the bill that was passed last week, if required, would provide the funds; that in effect, the bill passed last week would insure that the situation that the gentlewoman from New York spoke about, that if the city goes into bankruptcy, there would not be enough funds so that such a situation cannot arise.

The CHAIRMAN. Are there further amendments to the bill? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mrs. BOGGS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 10624) to revise chapter IX of the Bankruptcy Act, pursuant to House Resolution 905, she reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BUTLER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 373, nays 29, not voting 32, as follows:

[Roll No. 757]

YEAS—373

Abdnor
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Badillo
Bafalis
Baldus
Barrett
Baucus
Bauman
Beard, R.I.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Boggs
Boland
Bolling
Bonker
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Brown Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Casey
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conlan
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
de la Garza
Delaney
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Frenzel
Frey
Fuqua
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hastings
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Henderson
Hicks
Hightower
Hillis
Holt
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Macdonald
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Myers, Pa.
Natcher
Neal
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Sikes
Simon
Sisk
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Steelman
Steiger, Wis.
Stephens
Stokes
Stratton
Studds
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson
Thone
Thornton
Traxler
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—29

Abzug
Andrews, N. Dak.
Beard, Tenn.
Blouin
Brinkley
Broomfield
Brown, Mich.
Burleson, Tex.
Collins, Tex.
Dent
Duncan, Tenn.
Flynt
Forsythe
Hammerschmidt
Holtzman
McDonald
Murtha
Myers, Ind.
Poage
Quillen
Randall
Roberts
Satterfield
Shuster
Skubitz
Snyder
Steiger, Ariz.
Symms
Yatron

NOT VOTING—32

Anderson, Ill.
Aspin
AuCoin
Bowen
Burke, Fla.
Burton, John
Davis
Dellums
Esch
Fraser
Gaydos
Goodling
Hébert
Helstoski
Hinshaw
Holland
Hyde
Johnson, Colo.
McClory
Mazzoli
Murphy, N.Y.
Nedzi
Patman, Tex.
Patterson, Calif.
Peyser
Riegle
Stanton, James V.
Stuckey
Teague
Treen
Udall
Wilson, C. H.

The Clerk announced the following pairs:

Mr. Murphy with Mr. Helstoski.
Mr. Riegle with Mr. Fraser.
Mr. Dellums with Mr. Holland.
Mr. John L. Burton with Mr. Mazzoli.
Mr. Patman with Mr. Treen.
Mr. James V. Stanton with Mr. Hinshaw.
Mr. McClory with Mr. Burke of Florida.
Mr. Peyser with Mr. Esch.
Mr. Hébert with Mr. Goodling.
Mr. Aspin with Mr. Hyde.
Mr. Anderson of Illinois with Mr. Davis.
Mr. Nedzi with Mr. AuCoin.
Mr. Stuckey with Mr. Udall.
Mr. Charles H. Wilson of California with Mr. Bowen.
Mr. Teague with Mr. Patterson of California.

Messrs. LLOYD of California, MIKVA, and DELANEY changed their vote from "nay" to "yea."

Mr. McDONALD of Georgia changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the legislation just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. KINDNESS. Mr. Speaker, reserving the right to object, I would like to pose a question on that point to the gentleman from California.

The question is this: In view of the colloquies that were used to establish the legislative intent, there was an agreement on the part of the gentleman from California that we should avoid seeking any changes.

Mr. EDWARDS of California. I am sure the gentleman from Ohio knows that I honor my agreements and my request is that Members who may not have been able to be present on the floor at the time could have an opportunity to express their views on the legislation.

Mr. KINDNESS. So that with the assurances then that this is for legislative intent, there would be no objection and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 2327, TO SUSPEND SECTIONS 4, 6, AND 7 OF THE REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974

Mr. REUSS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2327) to suspend sections 4, 6, and 7 of the Real estate Settlement Procedures Act of 1974, with Senate amendments to the House amendments thereto, disagree to the Senate amendments to the House amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

Mr. BROWN of Michigan. Mr. Speaker, reserving the right to object, and I shall not object, has the gentleman from Wisconsin received any kind of assurances from the other body that we can bring this to a conference quickly?

Mr. REUSS. No, but I will make every effort to bring it to a conference and to get it back here super quickly.

Mr. BROWN of Michigan. Mr. Speaker, further reserving the right to object, as the gentleman from Wisconsin knows, the other body accepted the House bill in its entirety but added two amendments, one which I think we can live with on this side, and the other on which I think we cannot. Now it is a simple matter and I would trust the gentleman from Wisconsin would want to urge a speedy calling of a conference with the other body and sustain the position of the House.

Mr. REUSS. The gentleman from Wisconsin will assure the gentleman from Michigan that he will undertake to have a conference tomorrow afternoon so that we can bring it back as soon as possible.

Mr. BROWN of Michigan. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin? The Chair hears none, and appoints the following conferees: Messrs. REUSS, BARRETT, MOORHEAD of Pennsylvania, STEPHENS, ST GERMAIN, BROWN of Michigan, and J. WILLIAM STANTON.

CONFERENCE REPORT ON S. 622 TO INCREASE DOMESTIC ENERGY SUPPLIES AND AVAILABILITY; TO RESTRAIN ENERGY DEMAND; TO PREPARE FOR ENERGY EMERGENCIES

Mr. STAGGERS submitted the following conference report and statement on the Senate bill (S. 622) to increase domestic energy supplies and availability; to restrain energy demands; to prepare for energy emergencies; and for other purposes:

CONFERENCE REPORT (H. REPT. No. 94-700)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the text of the bill (S. 622) to increase domestic energy supplies and availability; to restrain energy demand; to prepare for energy emergencies; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Energy Policy and Conservation Act".

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STATEMENT OF PURPOSES

SEC. 2. The purposes of this Act are—

(1) to grant specific standby authority to the President, subject to congressional review, to impose rationing, to reduce demand for energy through the implementation of energy conservation plans, and to fulfill obligations of the United States under the international energy program;

(2) to provide for the creation of a Strategic Petroleum Reserve capable of reducing the impact of severe energy supply interruptions;

(3) to increase the supply of fossil fuels in the United States, through price incentives and production requirements;

(4) to conserve energy supplies through energy conservation programs, and, where necessary, the regulation of certain energy uses;

(5) to provide for improved energy efficiency of motor vehicles, major appliances, and certain other consumer products;

(6) to reduce the demand for petroleum products and natural gas through programs designed to provide greater availability and use of this Nation's abundant coal resources; and

(7) to provide a means for verification of energy data to assure the reliability of energy data.

DEFINITIONS

SEC. 3. As used in this Act:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration.

(2) The term "person" includes (A) any individual, (B) any corporation, company, association, firm, partnership, society, trust, joint venture, or joint stock company, and (C) the government and any agency of the United States or any State or political subdivision thereof.

(3) The term "petroleum product" means crude oil, residual fuel oil, or any refined petroleum product (including any natural liquid and any natural gas liquid product).

(4) The term "State" means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

(5) The term "United States" when used in the geographical sense means all of the States and the Outer Continental Shelf.

(6) The term "Outer Continental Shelf" has the same meaning as such term has under section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(7) The term "international energy program" means the Agreement on an International Energy Program, signed by the United States on November 18, 1974, including (A) the annex entitled "Emergency Reserves", (B) any amendment to such Agreement which includes another nation as a party to such Agreement, and (C) any technical or clerical amendment to such Agreement.

(8) The term "severe energy supply interruption" means a national energy supply shortage which the President determines—

(A) is, or is likely to be, of significant scope and duration, and of any emergency nature;

(B) may cause major adverse impact on national safety or the national economy; and

(C) results, or is likely to result, from an interruption in the supply of imported petroleum products, or from sabotage or an act of God.

(9) The term "antitrust laws" includes—

(A) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1, et seq.);

(B) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12, et seq.);

(C) the Federal Trade Commission Act (15 U.S.C. 41, et seq.);

(D) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9); and

(E) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21A).

(10) The term "Federal land" means all lands owned or controlled by the United States, including the Outer Continental Shelf, and any land in which the United States has reserved mineral interests, except lands—

(A) held in trust for Indians or Alaska Natives,

(B) owned by Indians or Alaska Natives with Federal restrictions on the title,

(C) within any area of the National Park System, the National Wildlife Refuge System, the National Wilderness Preservation System, the National System of Trails, or the Wild and Scenic Rivers System, or

(D) within military reservations.

TITLE I—MATTERS RELATED TO DOMESTIC SUPPLY AVAILABILITY

PART A—DOMESTIC SUPPLY

COAL CONVERSION

SEC. 101. (a) Section 2(f) of the Energy Supply and Environmental Coordination Act of 1974 is amended—

(1) in paragraph (1) thereof, by striking out "June 30, 1975" and inserting in lieu thereof "June 30, 1977", and by striking out "January 1, 1979" and inserting in lieu thereof "January 1, 1985"; and

(2) in paragraph (2) thereof, by striking out "December 31, 1978" and inserting in lieu thereof "December 31, 1984", and by striking out "January 1, 1979" and inserting in lieu thereof "January 1, 1985".

(b) Section 2(a) of such Act is amended to read as follows:

"(a) The Federal Energy Administrator—

"(1) shall, by order, prohibit any powerplant, and

"(2) may, by order, prohibit any major fuel burning installation, other than a powerplant,

from burning natural gas or petroleum products as its primary energy source, if the requirements of subsection (b) are met and if (A) the Federal Energy Administrator determines such powerplant or installation on June 22, 1974, had, or thereafter acquires or is designed with, the capability and necessary plant equipment to burn coal, or (B) such powerplant or installation is required to meet a design or construction requirement under subsection (c)."

(c) Section 2(c) of such Act is amended by inserting "or other major fuel burning installation" after "powerplant" wherever it appears and by inserting "in the case of a powerplant" after "(1)" in the second sentence.

INCENTIVES TO DEVELOP UNDERGROUND COAL MINES

SEC. 102. (a) The Administrator may, in accordance with subsection (b) and rules prescribed under subsection (d), guarantee loans made to eligible persons described in subsection (c)(1) for the purpose of developing new underground coal mines.

(b)(1) A person may receive for a loan guarantee under subsection (a) only if the Administrator determines that—

(A) such person is capable of successfully developing and operating the mine with respect to which the loan guarantee is sought;

(B) such person has provided adequate assurance that the mine will be constructed and operated in compliance with the provisions of the Federal Coal Mine Health and Safety Act and that no final judgment holding such person liable for any fine or penalty under such Act is unsatisfied;

(C) there is a reasonable prospect of repayment of the guaranteed loan;

(D) such person has obtained a contract, of at least the duration of the period during which the loan is required to be repaid, for the sale or resale of coal to be produced from such mine to a person who the Administrator of the Environmental Protection Agency certifies will be able to burn such coal in compliance with all applicable requirements of the Clean Air Act, and of any applicable implementation plan (as defined in section 110 of such Act);

(E) the loan will be adequately secured;

(F) such person would be unable to obtain adequate financing without such guarantee;

(G) the guaranteeing of a loan to such person will enhance competition or encourage new market entry; and

(H) such person has adequate coal reserves to cover contractual commitments dscribed in subparagraph (D).

(2) The total amount of guarantees issued to any person (including all persons affiliated with such person) may not exceed $30,000,000. The amount of a guarantee issued with respect to any loan may not exceed 80 percent of the lesser of (A) the principal balance of the loan or, (B) the cost of developing such new underground coal mine.

(3) The aggregate outstanding principal amount of loans which are guaranteed under this section may not at any time exceed $750,000,000. Not more than 20 percent of the amount of guarantees issued under this section in any fiscal year may be issued with respect to loans for the purpose of opening new underground coal mines which produce coal which is not low sulfur coal.

(c) For purposes of this section—

(1) A person shall be considered eligible for a guarantee under this section if such person (together with all persons affiliated with such person)—

(A) did not produce more than 1,000,000 tons of coal in the calendar year preceding the year in which he makes application for a loan guarantee under this section;

(B) did not produce more than 300,000 barrels of crude oil or own an oil refinery in such preceding calendar year; and

(C) did not have gross revenues in excess of $50,000,000 in such calendar year.

(2) A person is affiliated with another person if he controls, is controlled by, or is under common control with such other person, as such term may be further defined by rule by the Administrator.

(3) The term "low sulfur coal" means coal which, in a quantity necessary to produce one million British thermal units, does not contain sulfur or sulfur compounds the elemental sulfur content of which exceeds 0.6 pound. Sulfur content shall be determined after the application of any coal preparation process which takes place before sale of the coal by the producer.

(4) The term "developing new underground coal mines" includes expansion of existing underground coal mines and the reopening of underground coal mines which had previously been closed.

(d) The Administrator shall prescribe such regulations as may be necessary or appropriate to carry out this section. Such rules shall require that each application for a guarantee under this section shall be made in writing to the Administrator in such form and with such content and other submissions as the Administrator shall require, in order reasonably to protect the interests of the United States. Each guarantee shall be issued in accordance with subsections (a) through (c), and—

(1) under such terms and conditions as the Administrator, in consulation with the Secretary of the Treasury, considers appropriate;

(2) with such provisions with respect to the date of issue of such guarantee as the Administrator, with the concurrence of the Secretary of the Treasury, considers appropriate, except that the required concurrence of the Secretary of the Treasury may not, without the consent of the Administrator, result in a delay in the issuance of such guarantee for more than 60 days; and

(3) in such form as the Administrator considers appropriate.

(e) Each person who receives a loan guarantee under this section shall keep such records as the Administrator or the Secretary of the Treasury shall require, including records which fully disclose the total cost of the project for which a loan is guaranteed under this section and such other records as the Administrator or the Secretary of the Treasury determines necessary to facilitate an effective audit and performance evaluation. The Administrator, the Secretary of the Treasury, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any pertinent books, documents, papers, and records of any person who receives a loan guarantee under this section.

DOMESTIC USE OF ENERGY SUPPLIES AND RELATED MATERIALS AND EQUIPMENT

SEC. 103. (a) The President may, by rule, under such terms and conditions as he determines to be appropriate and necessary to carry out the purposes of this Act, restrict exports of—

(1) coal, petroleum products, natural gas, or petrochemical feedstocks, and

(2) supplies of materials or equipment which he determines to be necessary (A) to maintain or further exploration, production, refining, or transportation of energy supplies, or (B) for the construction or maintenance of energy facilities within the United States.

(b) (1) The President shall exercise the authority provided for in subsection (a) to promulgate a rule prohibiting the export of crude oil and natural gas produced in the United States, except that the President may, pursuant to paragraph (2), exempt from such prohibition such crude oil or natural gas exports which he determines to be consistent with the national interest and the purposes of this Act.

(2) Exemptions from any rule prohibiting crude oil or natural gas exports shall be included in such rule or provided for in an amendment thereto and may be based on the purpose for export, class of seller or purchaser, country of destination, or any other reasonable classification or basis as the President determines to be appropriate and consistent with the national interest and the purposes of this Act.

(c) In order to implement any rule promulgated under subsection (a) of this section, the President may request and, if so, the Secretary of Commerce shall, pursuant to the procedures established by the Export Administration Act of 1969 (but without regard to the phrase "and to reduce the serious inflationary impact of foreign demand" in section 3(2)(A) of such Act), impose such restrictions as specified in any rule under subsection (a) on exports of coal, petroleum products, natural gas, or petrochemical feedstocks, and such supplies of materials and equipment.

(d) Any finding by the President pursuant to subsection (a) or (b) and any action taken by the Secretary of Commerce pursuant thereto shall take into account the national interest as related to the need to leave uninterrupted or unimpaired—

(1) exchanges in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign state.

(2) temporary exports for convenience or increased efficiency of transportation across parts of an adjacent foreign state which exports reenter the United States, and

(3) the historical trading relations of the United States with Canada and Mexico.

(e) (1) The provisions of subchapter II of chapter 5 of title 5, United States Code shall apply with respect to the promulgation of any rule pursuant to this section, except that the President may waive the requirement pertaining to the notice of proposed rulemaking or period for comment only if he finds that compliance with such requirements may seriously impair his ability to impose effective and timely prohibitions on exports.

(2) In the event such notice and comment period are waived with respect to a rule promulgated under this section, the President shall afford interested persons an opportunity to comment on any such rule at the earliest practicable date thereafter.

(3) If the President determines to request the Secretary of Commerce to impose specified restrictions as provided for in subsection (c), the enforcement and penalty provisions of the Export Administration Act of 1969 shall apply, in lieu of this Act, to any violation of such restrictions.

(f) The President shall submit quarterly reports to the Congress concerning the administration of this section and any findings made pursuant to subsection (a) or (b).

MATERIALS ALLOCATION

SEC. 104. (a) Section 101 of the Defense Production Act of 1950 is amended by adding at the end thereof the following new subsection:

"(c) (1) Notwithstanding any other provision of this Act, the President may, by rule or order, require the allocation of, or the priority performance under contracts or orders (other than contracts of employment) relating to, supplies of materials and equipment in order to maximize domestic energy supplies if he makes the findings required by paragraph (3) of this subsection.

"(2) The President shall report to the Congress within sixty days after the date of enactment of this subsection on the manner in which the authority contained in paragraph (1) will be administered. This report shall include the manner in which allocations will be made, the procedure for requests and appeals, the criteria for determining priorities as between competing requests, and the office or agency which will administer such authorities.

"(3) The authority granted in this subsection may not be used to require priority performance of contracts or orders, or to control the distribution of any supplies of materials and equipment in the marketplace, unless the President finds that—

"(A) such supplies are scarce, critical, and essential to maintain or further (i) exploration, production, refining, transportation, or (ii) the conservation of energy supplies, or (iii) for the construction and maintenance of energy facilities; and

"(B) maintenance or furtherance of exploration, production, refining, transportation, or conservation of energy supplies or the construction and maintenance of energy facilities cannot reasonably be accomplished without exercising the authority specified in paragraph (1) of this subsection.

"(4) During any period when the authority conferred by this subsection is being exercised, the President shall take such action as may be appropriate to assure that such authority is being exercised in a manner which assures the coordinated administration of such authority with any priorities or allocations established under subsection (a) of this section and in effect during the same period.".

(b)(1) The authority to issue any rules or orders under section 101(c) of the Defense Production Act of 1950, as amended by this Act, shall expire at midnight December 31, 1984, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to such date.

(2) The expiration of the Defense Production Act of 1950 or any amendment of such Act after the date of enactment of this Act shall not affect the authority of the President under section 101(c) of such Act, as amended by subsection (a) of this section and in effect on the date of enactment of this Act, unless Congress by law expressly provides to the contrary.

PROHIBITION OF CERTAIN LEASE BIDDING ARRANGEMENTS

SEC. 105. (a) The Secretary of the Interior shall, not later than 30 days after the date of enactment of this Act, prescribe and make effective a rule which prohibits the bidding for any right to develop crude oil, natural gas, and natural gas liquids on any lands located on the Outer Continental Shelf by any person if more than one major oil company, more than one affiliate of a major oil company, or a major oil company and any affiliate of a major oil company, has or have a significant ownership interest in such person. Such rule shall define affiliate relationships and significant ownership interests.

(b) As used in this section:

(1) The term "major oil company" means any person who, individually or together with any other person with respect to which such person has an affiliate relationship or significant ownership interest, produced during a prior 6-month period specified by the Secretary, an average daily volume of 1,600,000 barrels of crude oil, natural gas liquids equivalents, and natural gas equivalents.

(2) One barrel of natural gas equivalent equals 5,626 cubic feet of natural gas measured at 14.73 pounds per square inch (MSL) and 60 degrees Fahrenheit.

(3) One barrel of natural gas liquids equivalent equals 1.454 barrels of natural gas liquids at 60 degrees Fahrenheit.

(c) The Secretary may, by amendment to the rule, exempt bidding for leases for lands located in frontier or other areas determined by the Secretary to be extremely high risk lands or to present unusually high cost exploration, or development, problems.

(d) This section shall not be construed to prohibit the unitization of producing fields to increase production or maximize ultimate recovery of oil or natural gas, or both.

(e) The Secretary shall study and report to the Congress, not later than 6 months after the date of enactment of this Act, with respect to the feasibility and desirability of extending the prohibition on joint bidding to—

(1) bidding for any right to develop crude oil, natural gas, and natural gas liquids on Federal lands other than those located on the Outer Continental Shelf; and

(2) bidding for any right to develop coal and oil shale on such lands.

PRODUCTION OF OIL OR GAS AT THE MAXIMUM EFFICIENT RATE AND TEMPORARY EMERGENCY PRODUCTION RATE

SEC. 106. (a)(1) The Secretary of the Interior, by rule on the record after an opportunity for a hearing, shall, to the greatest extent practicable, determine the maximum efficient rate of production and, if any, the temporary emergency production rate for each field on Federal lands which produces, or is determined to be capable of producing, significant volumes or crude oil or natural gas, or both.

(2) Except as provided in subsection (f), the President may, by rule or order, require crude oil or natural gas, or both, to be produced from fields on Federal lands designated by him—

(A) at the maximum efficient rate of production, and

(B) during a severe energy supply interruption, at the temporary emergency production rate

as determined pursuant to paragraph (1) for such field.

(b)(1) Each State or the appropriate agency thereof may, for the purposes of this section, pursuant to procedures and standards established by the State, determine the maximum efficient rate of production and, if any, the temporary emergency production rate, for each field (other than a field on Federal lands) within such State which produces, or is determined to be capable of producing, significant volumes of crude oil or natural gas, or both.

(2) If a State or the appropriate agency thereof has determined the maximum efficient rate of production and, if any, the temporary emergency production rate, or both, or their equivalents (however characterized), for any field (other than a field on Federal lands) within such State, the President may, by rule or order, during a severe energy supply interruption, require the production of such fields at the rates of production established by the State.

(c) With respect to any field, which produces, or is determined to be capable of producing, significant volumes of crude oil, or natural gas, or both, which field is unitized and is composed of both Federal lands and lands other than Federal lands and there has been no determination of the maximum efficient rate of production or the temporary emergency production rate or both, the Secretary of the Interior may, pursuant to subsection (a)(1), determine a maximum efficient rate of production and a temporary emergency production rate, if any, for such field. The President may, during a severe energy supply interruption by rule or order, require production at the maximum efficient rate of production and the temporary emergency production rate, if any, determined for such field.

(d) If loss of ultimate recovery of crude oil or natural gas, or both, occurs or will occur as the result of a rule or order under the authority of this section to produce at the temporary emergency production rate, the owner of any property right who considers himself damaged by such order may bring an action in a United States district court to recover just compensation, which shall be awarded if the court finds that such loss constitutes a taking of property compensable under the Constitution.

(e) As used in this section:

(1) The term "maximum rate of production" means the maximum rate of production of crude oil or natural gas, or both, which may be sustained without loss of ultimate recovery of crude oil or natural gas, or both, under sound engineering and economic principles.

(2) The term "temporary emergency production rate" means the maximum rate of production for a field—

(A) which rate is above the maximum efficient rate of production established for such field; and

(B) which may be maintained for a temporary period of less than 90 days without reservoir damage and without significant loss of ultimate recovery of crude oil or natural gas, or both, from such field.

(f) Nothing in this section shall be construed to authorize the production of crude oil, or natural gas, or both, from any Naval Petroleum Reserve subject to the provisions of chapter 641 of title 10, United States Code.

PART B—STRATEGIC PETROLEUM RESERVE

DECLARATION OF POLICY

SEC. 151. (a) The Congress finds that the storage of substantial quantities of petroleum products will diminish the vulnerability of the United States to the effects of a severe energy supply interruption, and provide limited protection from the short-term consequences of interruptions in supplies of petroleum products.

(b) It is hereby declared to be the policy of the United States to provide for the creation of a Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products, but not less than 150 million barrels of petroleum products by the end of the 3-year period which begins on the date of enactment of this Act, for the purpose of reducing the impact of disruptions in supplies of petroleum products or to carry out obligations of the United States under the international energy program. It is further declared to be the policy of the United States to provide for the creation of an Early Storage Reserve, as part of the Reserve, for the purpose of providing limited protection from the impact of near-term disruptions in supplies of petroleum products or to carry out obligations of the United States under the international energy program.

DEFINITIONS

SEC. 152. As used in this part:

(1) The term "Early Storage Reserve" means that portion of the Strategic Petroleum Reserve which consists of petroleum products stored pursuant to section 155.

(2) The term "importer" means any person who owns, at the first place of storage, any petroleum product imported into the United States.

(3) The term "Industrial Petroleum Reserve" means that portion of the Strategic Petroleum Reserve which consists of petroleum products owned by importers or refiners and acquired, stored, or maintained pursuant to section 156.

(4) The term "interest in land" means any ownership or possessory right with respect to real property, including ownership in fee, an easement, a leasehold, and any subsurface or mineral rights.

(5) The term "readily available inventories" means stocks and supplies of petroleum products which can be distributed or used without affecting the ability of the importer or refiner to operate at normal capacity; such term does not include minimum working inventories or other unavailable stocks.

(6) The term "refiner" means any person who owns, operates, or controls the operation of any refinery.

(7) The term "Regional Petroleum Reserve" means that portion of the Strategic Petroleum Reserve which consists of petroleum products stored pursuant to section 157.

(8) The term "related facility" means any necessary appurtenance to a storage facility, including pipelines, roadways, reservoirs, and salt brine lines.

(9) The term "Reserve" means the Strategic Petroleum Reserve.

(10) The term "storage facility" means any facility or geological formation which is capable of storing significant quantities of petroleum products.

(11) The term "Strategic Petroleum Reserve" means petroleum products stored in storage facilities pursuant to this part; such term includes the Industrial Petroleum Reserve, the Early Storage Reserve, and the Regional Petroleum Reserve.

STRATEGIC PETROLEUM RESERVE OFFICE

SEC. 153. There is established, in the Federal Energy Administration, a Strategic Petroleum Reserve Office. The Administrator, acting through such Office and in accordance with this part, shall exercise authority over the establishment, management, and maintenance of the Reserve.

STRATEGIC PETROLEUM RESERVE

SEC. 154. (a) A Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products shall be credited pursuant to this part. By the end of the 3-year period which begins on the date of enactment of this Act, the Strategic Petroleum Reserve (or the Early Storage Reserve authorized by section 155 if no Strategic Petroleum Reserve Plan has become effective pursuant to the provisions of section 159(a)) shall contain not less than 150 million barrels of petroleum products.

(b) The Administrator, no later than December 15, 1976, shall prepare and transmit to the Congress, in accordance with section 551, a Strategic Petroleum Reserve Plan. Such Plan shall comply with the provisions of this section and shall detail the Administrator's proposals for designing, constructing, and filling the storage and related facilities of the Reserve.

(c) (1) To the maximum extent practicable and except to the extent that any change in the storage schedule is justified pursuant to subsection (e) (6), the Strategic Petroleum Reserve Plan shall provide that:

(A) within 7 years after the date of enactment of this Act, the volume of crude oil stored in the Reserve shall equal the total volume of crude oil which was imported into the United States during the base period specified in paragraph (2);

(B) within 18 months after the date of enactment of this Act, the volume of crude oil stored in the Reserve shall equal not less than 10 percent of the goal specified in subparagraph (A);

within 3 years after the date of enactment of this Act, the volume of crude oil stored in the Reserve shall equal not less than 25 percent of the goal specified in subparagraph (A); and

(D) Within 5 years after the date of enactment of this Act, the volume of crude oil stored in the Reserve shall equal not less than 65 percent of the goal specified in subparagraph (A).

Volumes of crude oil initially stored in the Early Storage Reserve and volumes of crude oil stored in the Industrial Petroleum Reserve, and the Regional Petroleum Reserve shall be credited toward attainment of the storage goals specified in this subsection.

(2) The base period shall be the period of the 3 consecutive months, during the 24-month period preceding the date of enactment of this Act, in which average monthly import levels were the highest.

(d) The Strategic Petroleum Reserve Plan shall be designed to assure, to the maximum extent practicable, that the Reserve will minimize the impact of any interruption or reduction in imports of refined petroleum products and residual fuel oil in any region which the Administrator determines is, or is likely to become, dependent upon such imports for a substantial portion of the total energy requirements of such region. The Strategic Petroleum Reserve Plan shall be designed to assure, to the maximum extent practicable, that each noncontiguous area of the United States which does not have overland access to domestic crude oil production has its component of the Strategic Petroleum Reserve within its respective territory.

(e) The Strategic Petroleum Reserve Plan shall include:

(1) a comprehensive environmental assessment;

(2) a description of the type and proposed location of each storage facility (other than storage facilities of the Industrial Petroleum Reserve) proposed to be included in the Reserve;

(3) a statement as to the proximity of each such storage facility to related facilities;

(4) an estimate of the volumes and types of petroleum products proposed to be stored in each such storage facility;

(5) a projection as to the aggregate size of the Reserve, including a statement as to the most economically-efficient storage levels for each such storage facility;

(6) a justification for any changes, with respect to volumes or dates, proposed in the storage schedule specified in subsection (c), and a program schedule for overall development and completion of the Reserve (taking into account all relevant factors, including cost effectiveness, the need to construct related facilities, and the ability to obtain sufficient quantities of petroleum products to fill the storage facilities to the proposed storage levels);

(7) an estimate of the direct cost of the Reserve, including—

(A) the cost of storage facilities;

(B) the cost of the petroleum products to be stored;

(C) the cost of related facilities; and

(D) management and operation costs;

(8) an evaluation of the impact of developing the Reserve, taking into account—

(A) the availability and the price of supplies and equipment and the effect, if any, upon domestic production of acquiring such supplies and equipment for the Reserve;

(B) any fluctuations in world, and domestic market prices for petroleum products which may result from the acquisition of substantial quantities of petroleum products for the Reserve;

(C) the extent to which such acquisition may support otherwise declining market prices for such products; and

(D) the extent to which such acquisition will affect competition in the petroleum industry;

(9) an identification of the ownership of each storage and related facility proposed to be included in the Reserve (other than storage and related facilities of the Industrial Petroleum Reserve);

(10) an identification of the ownership of the petroleum products to be stored in the Reserve in any case where such products are not owned by the United States;

(11) a statement of the manner in which the provisions of this part relating to the establishment of the Industrial Petroleum Reserve and the Regional Petroleum Reserve will be implemented; and

(12) a Distribution Plan setting forth the method of drawdown and distribution of the Reserve.

EARLY STORAGE RESERVE

SEC. 155. (a) (1) The Administrator shall establish an Early Storage Reserve as part of the Strategic Petroleum Reserve. The Early Storage Reserve shall be designed to store petroleum products, to the maximum extent practicable, in existing storage capacity. Petroleum products stored in the Early Storage Reserve may be owned by the United States or may be owned by others and stored pursuant to section 156(b).

(2) If the Strategic Petroleum Reserve Plan has not become effective under section 159(a), the Early Storage Reserve shall contain not less than 150 million barrels of petroleum products by the end of the 3-year period which begins on the date of enactment of this Act.

(b) The Early Storage Reserve shall provide for meeting regional needs for residual fuel oil and refined petroleum products in any region which the Administrator determines is, or is likely to become, dependent upon imports of such oil or products for a substantial portion of the total energy requirements of such region.

(c) Within 90 days after the date of enactment of this Act, the Administrator shall prepare and transmit to the Congress an Early Storage Reserve Plan which shall provide for the storage of not less than 150 million barrels of petroleum products by the end of 3 years from the date of enactment of this Act. Such plan shall detail the Administrator's proposals for implementing the Early Storage Reserve requirements of this section. The Early Storage Reserve Plan shall, to the maximum extent practicable, provide for, and set forth the manner in which, Early Storage Reserve facilities will be incorporated into the Strategic Petroleum Reserve after the Strategic Petroleum Reserve Plan has become effective under section 159 (a). The Early Storage Reserve Plan shall include, with respect to the Early Storage Reserve, the same or similar assessments, statements, estimates, evaluations, projections, and other information which section 154(e) requires to be included in the Strategic Petroleum Reserve Plan, including a Distribution Plan for the Early Storage Reserve.

INDUSTRIAL PETROLEUM RESERVE

SEC. 156. (a) The Administrator may establish an Industrial Petroleum Reserve as part of the Strategic Petroleum Reserve.

(b) To implement the Early Storage Reserve Plan or the Strategic Petroleum Reserve Plan which has taken effect pursuant to section 159(a), the Administrator may require each importer of petroleum products and each refiner to (1) acquire, and (2) store and maintain in readily available inventories, petroleum products in amounts determined by the Administrator, except that the Administrator may not require any such importer or refiner to store such petroleum products in an amount greater than 3 percent of the amount imported or refined by such person, as the case may be, during the previous calendar year. Petroleum products imported and stored in the Industrial Petroleum Reserve shall be exempt from any tariff or import license fee.

(c) The Administrator shall implement this section in a manner which is appropriate to the maintenance of an economically sound and competitive petroleum industry. The Administrator shall take such steps as are necessary to avoid inequitable economic impacts on refiners and importers, and he may grant relief to any refiner or importer who would otherwise incur special hardship, inequity, or unfair distribution of burdens as the result of any rule, regulation, or order promulgated under this section. Such relief may include full or partial exemption from any such rule, regulation, or order and the issuance of an order permitting such an importer or refiner to store petroleum products owned by such importer or refiner in surplus storage capacity owned by the United States.

REGIONAL PETROLEUM RESERVE

SEC. 157. (a) The Strategic Petroleum Reserve Plan shall provide for the establishment and maintenance of a Regional Petroleum Reserve in, or readily accessible to, each Federal Energy Administration Region, as defined in title 10, Code of Federal Regulations in effect on November 1, 1975, in which imports of residual fuel oil or any refined petroleum product, during the 24-month period preceding the date of computation, equal more than 20 percent of demand for such oil or product in such regions during such period, as determined by the Administrator. Such volume shall be computed annually.

(b) To implement the Strategic Petroleum Reserve Plan, the Administrator shall accumulate and maintain in or near any such Federal Energy Administration Region described in subsection (a), a Regional Petroleum Reserve containing volumes of such oil or product, described in subsection (a), at a level adequate to provide substantial protection against an interruption or reduction in imports of such oil or product to such region, except that the level of any such Regional Petroleum Reserve shall not exceed the aggregate volume of imports of such oil or product into such region during the period of the 3 consecutive months, during the 24-month period specified in subsection (a), in which average monthly import levels were the highest, as determined by the Administrator. Such volume shall be computed annually.

(c) The Administrator may place in storage crude oil, residual fuel oil, or any refined petroleum product in substitution for all or part of the volume of residual fuel oil or any refined petroleum product stored in any Regional Petroleum Reserve pursuant to the provisions of this section if he finds that such substitution (1) is necessary or desirable for purposes of economy, efficiency, or for other reasons, and (2) may be made without delaying or otherwise adversely affecting the fulfillment of the purpose of the Regional Petroleum Reserve.

OTHER STORAGE RESERVES

SEC. 158. Within 6 months after the Strategic Petroleum Reserve Plan is transmitted to the Congress, pursuant to the requirements of section 154(b), the Administrator shall prepare and transmit to the Congress a report setting forth his recommendations concerning the necessity for, and feasibility of, establishing—

(1) Utility Reserves containing coal, residual fuel oil, and refined petroleum products, to be established and maintained by major fossile-fuel-fired baseload electric power generating stations;

(2) Coal Reserves to consist of (A) federally-owned coal which is mined by or for the United States from Federal lands, and (B) Federal lands from which coal could be produced with minimum delay; and

(3) Remote Crude Oil and Natural Gas Reserves consisting of crude oil and natural gas to be acquired and stored by the United States, in place, pursuant to a contract or other agreement or arrangement entered into between the United States and persons who discovered such oil or gas in remote areas.

REVIEW BY CONGRESS AND IMPLEMENTATION

SEC. 159. (a) The Strategic Petroleum Reserve Plan shall not become effective and may not be implemented, unless—

(1) the Administrator has transmitted such Plan to the Congress pursuant to section 154(b); and

(2) neither House of Congress has disapproved (or both Houses have approved) such Plan, in accordance with the procedures specified in section 551.

(b) For purposes of congressional review of the Strategic Petroleum Reserve Plan under subsection (a), the 5 calendar days described in section 551(f)(4)(A) shall be lengthened to 15 calendar days, and the 15 calendar days described in section 551 (c) and (d) shall be lengthened to 45 calendar days.

(c) The Administrator may, prior to transmittal of the Strategic Petroleum Reserve Plan, prepare and transmit to the Congress proposals for designating, constructing, and filling storage or related facilities. Any such proposal shall be accompanied by a statement explaining (1) the need for action on such proposals prior to completion of such Plan, (2) the anticipated role of the proposed storage or related facilities in such Plan, and (3) to the maximum extent practicable, the same or similar assessments, statements, estimates, evaluations, projections, and other information which section 154(e) requires to be included in the Strategic Petroleum Reserve Plan.

(d) The Administrator may prepare amendments to the Strategic Petroleum Reserve Plan or to the Early Storage Reserve Plan. He shall transmit any such amendment to the Congress together with a statement explaining the need for such amendment and, to the maximum extent practicable, the same or similar assessments, statements, estimates, evaluations, projections, and other information which section 154(e) requires to be included in the Strategic Petroleum Reserve Plan.

(e) Any proposal transmitted under subsection (c) and any amendment transmitted under subsection (d), other than a technical or clerical amendment or an amendment to the Early Storage Reserve Plan, shall not become effective and may not be implemented unless—

(1) The Administrator has transmitted such proposal or amendment to the Congress in accordance with subsection (c) or (d) (as the case may be), and

(2) neither House of Congress has disapproved (or both Houses of Congress have approved) such proposal or amendment, in accordance with the procedures specified in section 551.

(f) To the extent necessary or appropriate to implement—

(1) the Strategic Petroleum Reserve Plan which has taken effect pursuant to subsection (a);

(2) the Early Storage Reserve Plan;

(3) any proposal described in subsection (c), or any amendment described in subsection (d), which such proposal or amendment has taken effect pursuant to subsection (e); and

(4) any technical or clerical amendment or any amendment to the Early Storage Reserve Plan, the Administrator may:

(A) promulgate rules, regulations, or orders;

(B) acquire by purchase, condemnation, or otherwise, land or interests in land for the location of storage and related facilities;

(C) construct, purchase, lease, or otherwise acquire storage and related facilities;

(D) use, lease, maintain, sell, or otherwise dispose of storage and related facilities acquired pursuant to this part;

(E) acquire, subject to the provisions of section 160, by purchase, exchange, or otherwise, petroleum products for storage in the Strategic Petroleum Reserve, including the Early Storage Reserve and the Regional Petroleum Reserve;

(F) store petroleum products in storage facilities owned and controlled by the United States or in storage facilities owned by others if such facilities are subject to audit by the United States;

(G) execute any contracts necessary to carry out the provisions of such Strategic Petroleum Reserve Plan, Early Storage Reserve Plan, proposal or amendment;

(H) require any importer of petroleum products or any refiner to (A) acquire, and (B) store and maintain in readily available inventories, petroleum products in the Industrial Petroleum Reserve, pursuant to section 156;

(I) require the storage of petroleum products in the Industrial Petroleum Reserve, pursuant to section 156, on such reasonable terms as the Administrator may specify in storage facilities owned and controlled by the United States or in storage facilities other than those owned by the United States if such facilities are subject to audit by the United States;

(J) require the maintenance of the Industrial Petroleum Reserve;

(K) maintain the Reserve; and

(L) bring an action, whenever he deems it necessary to implement the Strategic Petroleum Reserve Plan, in any court having jurisdiction of such proceedings, to acquire by condemnation any real or personal property, including facilities, temporary use of facilities, or other interests in land, together with any personal property located thereon or used therewith.

(g) Before any condemnation proceedings are instituted, an effort shall be made to acquire the property involved by negotiation, unless, the effort to acquire such property by negotiation would, in the judgment of the Administrator be futile or so time-consuming as to unreasonably delay the implementation of the Strategic Petroleum Reserve Plan, because of (1) reasonable doubt as to the identity of the owners, (2) the large number of persons with whom it would be necessary to negotiate, or (3) other reasons.

PETROLEUM PRODUCTS FOR STORAGE IN THE RESERVE

SEC. 160. (a) The Administrator is authorized, for purposes of implementing the Strategic Petroleum Reserve Plan or the Early Storage Reserve Plan, to place in storage, transport, or exchange—

(1) crude oil produced from Federal lands, including crude oil produced from the Naval Petroleum Reserves to the extent that such production is authorized by law;

(2) crude oil which the United States is entitled to receive in kind as royalties from production on Federal lands; and

(3) petroleum products acquired by purchase, exchange, or otherwise.

(b) The Administrator shall, to the greatest extent practicable, acquire petroleum products for the Reserve, including the Early Storage Reserve and the Regional Petroleum Reserve in a manner consonant with the following objectives:

(1) minimization of the cost of the Reserve;

(2) orderly development of the Naval Petroleum Reserves to the extent authorized by law;

(3) minimization of the Nation's vulnerability to a severe energy supply interruption;

(4) minimization of the impact of such acquisition upon supply levels and market forces; and

(5) encouragement of competition in the petroleum industry.

DRAWDOWN AND DISTRIBUTION OF THE RESERVE

SEC. 161. (a) The Administrator may drawdown and distribute the Reserve only in accordance with the provisions of this section.

(b) Except as provided in subsections (c) and (f), no drawdown and distribution of the Reserve may be made except in accordance with the provisions of the Distribution Plan contained in the Strategic Petroleum Reserve Plan which has taken effect pursuant to section 159(a).

(c) Drawdown and distribution of the Early Storage Reserve may be made in accordance with the provisions of the Distribution Plan contained in the Early Storage Reserve Plan until the Strategic Petroleum Reserve Plan has taken effect pursuant to section 159(a).

(d) Neither the Distribution Plan contained in the Strategic Petroleum Reserve Plan nor the Distribution Plan contained in the Early Storage Reserve Plan may be implemented, and no drawdown and distribution of the Reserve or the Early Storage Reserve may be made, unless the President has found that implementation of either such Distribution Plan is required by a severe energy supply interruption or by obligations of the United States under the international energy program.

(e) The Administrator may, by rule, provide for the allocation of any petroleum product withdrawn from the Strategic Petroleum Reserve in amounts specified in (or determined in a manner prescribed by) and at prices specified in (or determined in a manner prescribed by) such rules. Such price levels and allocation procedures shall be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973.

(f) The Administrator may permit any importer or refiner who owns any petroleum products stored in the Industrial Petroleum Reserve pursuant to section 156 to remove or otherwise dispose of such products upon such terms and conditions as the Administrator may prescribe.

COORDINATION WITH IMPORT QUOTA SYSTEM

SEC. 162. No quantitative restriction on the importation of any petroleum product into the United States imposed by law shall apply to volumes of any such petroleum product imported into the United States for storage in the Reserve.

DISCLOSURE, INSPECTION, INVESTIGATION

SEC. 163. (a) The Administrator may require any person to prepare and maintain such records or accounts as the Administrator, by rule, determines necessary to carry out the purposes of this part.

(b) The Administrator may audit the operations of any storage facility in which any petroleum product is stored or required to be stored pursuant to the provisions of this part.

(c) The Administrator may require access to, and the right to inspect and examine, at reasonable times, (1) any records or accounts required to be prepared or maintained pursuant to subsection (a) and (2) any storage facilities subject to audit by the United States under the authority of this part.

NAVAL PETROLEUM RESERVES STUDY

SEC. 164. The Administrator shall, in cooperation and consultation with the Secretary of the Navy and the Secretary of the Interior, develop and submit to the Congress within 180 days after the date of enactment of this Act, a written report recommending procedures for the exploration, development, and production of Naval Petroleum Reserve Number 4. Such report shall include recommendations for protecting the economic, social, and environmental interests of Alaska Natives residing within the Naval Petroleum Reserve Number 4 and analyses of arrangements which provide for (1) participation by private industry and private capital, and (2) leasing to private industry. The Secretary of the Navy and the Secretary of the Interior shall cooperate fully with one another and with the Administrator; the Secretary of the Navy shall provide to the Administrator and Secretary of the Interior all relevant data on Naval Petroleum Reserve Number 4 in order to assist the Administrator in the preparation of such report.

ANNUAL REPORTS

SEC. 165. The Administrator shall report to the President and the Congress, not later than one year after the transmittal of the Strategic Petroleum Reserve Plan to the Congress and each year thereafter, on all actions taken to implement this part. Such report shall include—

(1) a detailed statement of the status of the Strategic Petroleum Reserve;

(2) a summary of the action taken to develop and implement the Strategic Petroleum Reserve Plan and the Early Storage Reserve Plan;

(3) an analysis of the impact and effectiveness of such actions on the vulnerability of the United States to interruption in supplies of petroleum products;

(4) a summary of existing problems with respect to further implementation of the Early Storage Reserve Plan and the Strategic Petroleum Reserve Plan; and

(5) any recommendations for supplemental legislation deemed necessary or appropriate by the Administrator to implement the provisions of this part.

AUTHORIZATION OF APPROPRIATIONS

SEC. 166. There are authorized to be appropriated—

(1) such funds as are necessary to develop and implement the Early Storage Reserve Plan (including planning, administration, acquisition, and construction of storage and related facilities) and as are necessary to permit the acquisition of petroleum products for storage in the Early Storage Reserve or, if the Strategic Petroleum Reserve Plan has become effective under section 159(a), for storage in the Strategic Petroleum Reserve in the minimum volume specified in section 154(a) or 155(a)(2), whichever is applicable; and

(2) $1,100,000,000 to remain available until expended to carry out the provisions of this part to develop the Strategic Petroleum Reserve Plan, and to implement such plan which has taken effect pursuant to section 159(a), including planning, administration, and acquisition and construction of storage and related facilities, but no funds are authorized to be appropriated under this paragraph for the purchase of petroleum products for storage in the Strategic Petroleum Reserve.

TITLE II—STANDBY ENERGY AUTHORITIES

PART A—GENERAL EMERGENCY AUTHORITIES

CONDITIONS OF EXERCISE OF ENERGY CONSERVATION AND RATIONING AUTHORITIES

SEC. 201. (a)(1) Within 180 days after the date of enactment of this Act, the President shall transmit to the Congress pursuant to subsection (b)(1) one or more energy conservation contingency plans and a rationing contingency plan. The President may at any time submit additional contingency plans. A contingency plan may become effective only as provided in this section. Such plan may remain in effect for a period specified in the plan but not more than 9 months, unless earlier rescinded by the President.

(2) For purposes of this section, the term "contingency plan" means—

(A) an energy conservation contingency plan prescribed under section 202; or

(B) a rationing contingency plan prescribed under section 203.

(b) Except as otherwise provided in subsection (d) or (e) and subject to the requirements of subsection (c), no contingency plan may become effective, unless—

(1) the President has transmitted such contingency plan to the Congress in accordance with section 552(a);

(2) such contingency plan has been approved by a resolution by each House of Congress in accordance with the procedures specified in section 552; and

(3) after approval of such contingency plan the President—

(A) has found that putting such contingency plan into effect is required by a severe energy supply interruption or in order to fulfill obligations of the United States under the international energy program, and

(B) has transmitted such finding to the Congress, together with a statement of the effective date and manner for exercise of such plan.

(c) In addition to the requirements of subsection (b), a rationing contingency plan approved under subsection (b)(2) may not become effective unless—

(1) the President has transmitted to the Congress in accordance with section 551(b) a request to put such rationing contingency plan into effect, and

(2) neither house of Congress has disapproved (or both Houses have approved) such request in accordance with the procedures specified in section 551.

(d)(1) Except as provided in paragraph (2) or (3), a contingency plan may not be amended unless the President has transmitted such amendment to the Congress in accordance with section 552 and each House of Congress has approved such amendment in accordance with the procedures specified in section 552.

(2) An amendment to a contingency plan which is transmitted to the Congress during any period in which such plan is in effect may take effect if the President has transmitted such amendment to the Congress in accordance with section 551(b) and neither House of Congress has disapproved (or both Houses have approved) such amendment in accordance with the procedures specified in section 551.

(3) The President may prescribe technical or clerical amendments to a contingency plan in accordance with section 523.

(e) Beginning at any time during the 90-day period which begins on the date of enactment of this Act, the President may put a contingency plan into effect for a period of not more than 60 days if—

(1) the President—

(A) has found that putting such contingency plan into effect is required by a severe energy supply interruption or is necessary to comply with obligations of the United States under the international energy program; and

(B) has transmitted such contingency plan to the Congress in accordance with section 551(b), together with a request to put such plan into effect; and (2) neither House of Congress has disapproved (or both Houses have approved) such request in accordance with the procedures specified in section 551.

(f) Any contingency plan which the President transmits to the Congress pursuant to subsection (b)(1) or (e)(1)(B) shall contain a specific statement explaining the need for and the rationale and operation of such plan and shall be based upon a consideration of, and to the extent practicable, be accompanied by an evaluation of, the potential economic impacts of such plan, including an analysis of—

(1) any effects of such plan on—

(A) vital industrial sectors of the economy;

(B) employment (on a national and regional basis);

(C) the economic vitality of States and regional areas;

(D) the availability and price of consumer goods and services; and

(E) the gross national product; and

(2) any potential anticompetitive effects.

ENERGY CONSERVATION CONTINGENCY PLANS

SEC. 202. (a)(1) The President shall prescribe, in accordance with section 523(a), one or more energy conservation contingency plans. As used in this section, the term "energy conservation contingency plan" means a plan which imposes reasonable restrictions on the public or private use of energy which are necessary to reduce energy consumption. In prescribing energy conservation contingency plans, the President shall take into consideration the mobility needs of the handicapped, as defined in section 203(a)(2)(B).

(2) An energy conservation contingency plan prescribed under this section may not—

(A) impose rationing or any tax, tariff, or user fee;

(B) contain any provision respecting the price of petroleum products; or

(C) provide for a credit or deduction in computing any tax.

(b) An energy conservation contingency plan shall apply in each State or political subdivision thereof, except such plan may provide for procedures for exempting any State or political subdivision thereof from such plan, in whole or part, during a period for which (1) the President determines a comparable program of such State or political subdivision is in effect, or (2) the President finds special circumstances exist in such State or political subdivision.

(c) Any energy conservation contingency plan shall not deal with more than one logically consistent subject matter.

RATIONING CONTINGENCY PLAN

SEC. 203. (a)(1) The President shall prescribe, by rule in accordance with section

523(a) of this Act, a rationing contingency plan which shall, for purposes of enforcement under section 5 of the Emergency Petroleum Allocation Act of 1973, be deemed a part of the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973 and which shall provide, consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of such Act—

(A) for the establishment of a program for the rationing and ordering of priorities among classes of end-users of gasoline and diesel fuel used in motor vehicles, and

(B) for the assignment of rights, and evidence of such rights, to end-users of gasoline and such diesel fuel, entitling such end-users to obtain gasoline or such diesel fuel in precedence to other classes of end-users not similarly entitled.

(2)(A) For purposes of paragraph (1), the objectives specified in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 shall be deemed to include consideration of the mobility needs of handicapped persons and their convenience in obtaining the end-user's rights specified in paragraph (1).

(B) For purposes of this part, the term "handicapped person" means any individual who, by reason of disease, injury, age, congenital malfunction, or other permanent incapacity or disability, is unable without special facilities, planning or design to utilize mass transportation vehicles, facilities, and services and who has a substantial, permanent impediment to mobility.

(b) Any finding required to be made by the President pursuant to section 201(b)(3) and any request to put a rationing contingency plan into effect pursuant to section 201(e) shall be accompanied by a finding of the President that such plan is necessary to attain, to the maximum extent practicable, the objectives specified in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 and the purposes of this Act.

(c) The President shall, by order under section 4 of the Emergency Petroleum Allocation Act of 1973, for the purpose of carrying out a rationing contingency plan which is in effect, cause such adjustments to be made in the allocations made pursuant to the regulation under section 4(a) of such Act as the President determines to be necessary to carry out the purposes of this section and to be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of such Act and the purposes of this Act.

(d)(1) The President shall, to the extent practicable, provide for the use of local boards described in paragraph (2) with authority to—

(A) receive petitions from any end-user of gasoline and diesel fuel used in motor vehicles with respect to the priority and entitlement of such user under a rationing contingency plan, and

(B) order a reclassification or modification of any determination made under a rationing contingency plan with respect to such end-user's rationing priority or rights specified in paragraph (1).

Such boards shall operate under the procedures prescribed by the President by rule.

(2) Not later than 30 days after the date of the approval of a rationing contingency plan pursuant to section 201(b)(2), the President shall, by rule,

(A) criteria for delegation of his functions, in whole or part, under this Act with respect to such rationing contingency plan to officers or local boards (of balanced composition reflecting the community as a whole) of States or political subdivisions thereof; and

(B) procedures for petitioning for the receipt of such delegation.

(3)(A) Officers or local boards of States or political subdivisions thereof, following the establishment of criteria and procedures under paragraph (2), may petition the President to receive delegation under such paragraph.

(B) The President shall, within 30 days after the date of the receipt of any such petition which is properly submitted, grant or deny such petition.

(e) No rationing contingency plan under this section may—

(1) impose any tax,

(2) provide for a credit or deduction in computing any tax, or

(3) impose any user fee, except to the extent necessary to defray the cost of administering the rationing contingency plan or to provide for initial distribution of end-user rights specified in paragraph (1).

(f) Notwithstanding section 531, all authority to carry out any rationing contingency plan shall expire on the same date as authority to issue and enforce rules and orders under the Emergency Petroleum Allocation Act of 1973.

PART B—AUTHORITIES WITH RESPECT TO INTERNATIONAL ENERGY PROGRAM

INTERNATIONAL OIL ALLOCATION

SEC. 251. (a) The President may, by rule, require that persons engaged in producing, transporting, refining, distributing, or storing petroleum products, take such action as he determines to be necessary for implementation of the obligations of the United States under chapters III and IV of the international energy program insofar as such obligations relate to the international allocation of petroleum products. Allocation under such rule shall be in such amounts and at such prices as are specified in (or determined in a manner prescribed by) such rule. Such rule may apply to any petroleum product owned or controlled by any person described in the first sentence of this subsection who is subject to the jurisdiction of the United States, including any petroleum product destined, directly or indirectly, for import into the United States or any foreign country, or produced in the United States. Subject to subsection (b)(2), such a rule shall remain in effect until amended or rescinded by the President.

(b)(1) No rule under subsection (a) may take effect unless the President—

(A) has transmitted such rule to the Congress;

(B) has found that putting such rule into effect is required in order to fulfill obligations of the United States under the international energy program; and

(C) has transmitted such finding to the Congress, together with a statement of the effective date and manner for exercise of such rule.

(2) No rule under subsection (b) may be put into effect or remain in effect after the expiration of 12 months after the date such rule was transmitted to Congress under paragraph (1)(A).

(c)(1) Any rule under this section shall be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973.

(2) No officer or agency of the United States shall have any authority, other than authority under this section, to require that petroleum products be allocated to other countries for the purpose of implementation of the obligations of the United States under the international energy program.

(d) Neither section 103 of this Act nor section 28(u) of the Mineral Leasing Act of 1920 shall preclude the allocation and export, to other countries in accordance with this section, of petroleum products produced in the United States.

INTERNATIONAL VOLUNTARY AGREEMENTS

SEC. 252. (a) Effective 90 days after the date of enactment of this Act, the requirements of this section shall be the sole procedures applicable to—

(1) the development or carrying out of voluntary agreements and plans of action to implement the allocation and information provisions of the international energy program, and

(2) the availability of immunity from the antitrust laws with respect to the development or carrying out of such voluntary agreements and plans of action.

(b) The Administrator, with the approval of the Attorney General, after each of them has consulted with the Federal Trade Commission and the Secretary of State, shall prescribe, by rule, standards and procedures by which persons engaged in the business of producing, transporting, refining, distributing, or storing petroleum products may develop and carry out voluntary agreements, and plans of action, which are required to implement the allocation and information provisions of the international energy program.

(c) The standards and procedures prescribed under subsection (b) shall include the following requirements:

(1)(A)(i) Except as provided in clause (ii) or (iii) of this subparagraph, meetings held to develop or carry out a voluntary agreement or plan of action under this subsection shall permit attendance by representatives of committees of Congress and interested persons, including all interested segments of the petroleum industry, consumers, and the public; shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission, committees of Congress, and (except during an international energy supply emergency with respect to meetings to carry out a voluntary agreement or to develop or carry out a plan of action) the public; and shall be initiated and chaired by a regular full-time Federal employee.

(ii) Meetings of bodies created by the International Energy Agency established by the international energy program need not be open to interested persons and need not be initiated and chaired by a regular full-time Federal employee.

(iii) The President, in consultation with the Administrator, the Secretary of State, and the Attorney General, may determine that a meeting held to carry out a voluntary agreement or to develop or carry out a plan of action shall not be open to interested persons or that attendance by interested persons may be limited, if the President finds that a wider disclosure would be detrimental to the foreign policy interests of the United States.

(B) No meetings may be held to develop or carry out a voluntary agreement or plan of action under this section unless a regular full-time Federal employee is present.

(2) Interested persons permitted to attend such a meeting shall be afforded an opportunity to present, in writing and orally, data, views, and arguments at such meetings, subject to any reasonable limitations with respect to the manner of presentation of data, views, and arguments as the Administrator may impose.

(3) A full and complete record, and where practicable a verbatim transcript, shall be kept of any meeting held, and a full and complete record shall be kept of any communication (other than in a meeting) made, between or among participants or potential participants, to develop, or carry out a voluntary agreement or a plan of action under this section. Such record or transcript shall be deposited, together with any agreement resulting therefrom, with the Administrator, and shall be available to the Attorney General and the Federal Trade Commission. Such records or transcripts shall be available for public inspection and copying in accordance with section 552 of title 5, United States Code; except that (A) matter may not be withheld from disclosure under section 552(b) of such title on grounds other than the grounds specified in section 552(b)(1), (b)(3), or so much of (b)(4) as relates to

trade secrets; and (B) in the exercise of authority under section 552(b)(1), the President shall consult with the Secretary of State, the Administrator, and the Attorney General with respect to questions relating to the foreign policy interests of the United States.

(4) No provision of this section may be exercised so as to prevent representatives of committees of Congress from attending meetings to which this section applies, or from having access to any transcripts, records, and agreements kept or made under this section.

(d)(1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, and when practicable, in the carrying out of voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this part. A voluntary agreement or plan of action under this section may not be carried out unless approved by the Attorney General, after consultation with the Federal Trade Commission. Prior to the expiration of the period determined under paragraph (2), the Federal Trade Commission shall transmit to the Attorney General its views as to whether such an agreement or plan of action should be approved, and shall publish such views in the Federal Register. The Attorney General, in consultation with the Federal Trade Commission, the Secretary of State and the Administrator, shall have the right to review, amend, modify, disapprove, or revoke, on his own motion or upon the request of the Federal Trade Commission or any interested person, any voluntary agreement or plan of action at any time, and, if revoked, thereby withdraw prospectively any immunity which may be conferred by subsection (f) or (k).

(2) Any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented; except that during an international energy supply emergency, the Administrator, subject to approval of the Attorney General, may reduce such 20-day period. Any such agreement or plan of action shall be available for public inspection and copying, except that a plan of action shall be so available only to the extent to which records or transcripts are so available as provided in the last sentence of subsection (c)(3). Any action taken pursuant to such voluntary agreement or plan of action shall be reported to the Attorney General and the Federal Trade Commission pursuant to such regulations as shall be prescribed under paragraphs (3) and (4) of subsection (e).

(3) A plan of action may not be approved by the Attorney General under this subsection unless such plan (A) describes the types of substantive actions which may be taken under the plan, and (B) is as specific in its description of proposed substantive actions as is reasonable in light of known circumstances.

(e)(1) The Attorney General and the Federal Trade Commission shall monitor the development and carrying out of voluntary agreements and plans of action authorized under this section in order to promote competition and to prevent anticompetitive practices and effects, while achieving substantially the purposes of this part.

(2) In addition to any requirement specified under subsections (b) and (c) of this section and in order to carry out the purposes of this section, the Attorney General, in consultation with the Federal Trade Commission and the Administrator, shall promulgate rules concerning the maintenance of necessary and appropriate records related to the development and carrying out of voluntary agreements and plans of action authorized pursuant to this section.

(3) Persons developing or carrying out voluntary agreements and plans of action authorized pursuant to this section shall maintain such records as are required by rules promulgated under paragraph (2). The Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and upon reasonable notice.

(4) The Attorney General and the Federal Trade Commission may each prescribe such rules as may be necessary or appropriate to carry out their respective responsibilities under this section. They may both utilize for such purposes and for purposes of enforcement any powers conferred upon the Federal Trade Commission or the Department of Justice, or both, by the antitrust laws or the Antitrust Civil Process Act; and wherever any such law refers to "the purposes of this Act" or like terms, the reference shall be understood to include this section.

(f)(1) There shall be available as a defense to any civil or criminal action brought under the antitrust laws (or any similar State law) in respect of actions taken to develop or carry out a voluntary agreement or plan of action by persons engaged in the business of producing, transporting, refining, distributing, or storing petroleum products (provided that such actions were not taken for the purpose of injuring competition) that—

(A) such actions were taken—

(i) in the course of developing a voluntary agreement or plan of action pursuant to this section, or

(ii) to carry out a voluntary agreement or plan of action authorized and approved in accordance with this section, and

(B) such persons complied with the requirements of this section and the rules promulgated hereunder.

(2) Except in the case of actions taken to develop a voluntary agreement or plan of action, the defense provided in this subsection shall be available only if the person asserting the defense demonstrates that the actions were specified in, or within the reasonable contemplation of, an approved plan of action.

(3) Persons interposing the defense provided by this subsection shall have the burden of proof, except that the burden shall be on the person against whom the defense is asserted with respect to whether the actions were taken for the purpose of injuring competition.

(g) No provision of this section shall be construed as granting immunity for, or as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any act or practice which occurred prior to the date of enactment of this Act or subsequent to its expiration or repeal.

(h) Upon the expiration of the 90-day period which begins on the date of enactment of this Act, the provisions of sections 708 and 708A (other than 708A(o)) of the Defense Production Act of 1950 shall not apply to any agreement or action undertaken for the purpose of developing or carrying out (1) the international energy program, or (2) any allocation, price control, or similar program with respect to petroleum products under this Act or under the Emergency Petroleum Allocation Act of 1973. For purposes of section 708A(o) of the Defense Production Act of 1950, the effective date of the provisions of this Act which relate to international voluntary agreements to carry out the international energy program shall be deemed to be 90 days after the date of enactment of this Act.

(i) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every 6 months, a report on the impact on competition and on small business of actions authorized by this section.

(j) The authority granted by this section shall terminate June 30, 1979.

(k) In any action in any Federal or State court for breach of contract, there shall be available as a defense that the alleged breach of contract was caused predominantly by action taken during an international energy supply emergency to carry out a voluntary agreement or plan of action authorized and approved in accordance with this section.

(l) As used in this section and section 254:

(1) The term "international energy supply emergency" means any period (A) beginning on any date which the President determines allocation of petroleum products to nations participating in the international energy program is required by chapters III and IV of such program, and (B) ending on a date on which he determines that such allocation is no longer required. Such a period may not exceed 90 days, but the President may establish one or more additional 90-day periods by making anew the determination under subparagraph (A) of the preceding sentence. Any determination respecting the beginning or end of any such period shall be published in the Federal Register.

(2) The term "allocation and information provisions of the international energy program" means the provisions of the international energy program which relate to international allocation of petroleum products and to the information system provided in such program.

ADVISORY COMMITTEES

SEC. 253. (a) To achieve the purposes of the international energy program with respect to international allocation of petroleum products and the information system provided in such program, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. In addition to the requirements specified in this section, such advisory committees shall be subject to the provisions of section 17 of the Federal Energy Administration Act of 1974 (whether or not such Act or any of its provisions expire or terminate before June 30, 1985); shall be chaired by a regular full-time Federal employee; and shall include representatives of the public. The meetings of such committees shall be open to the public. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(b) A verbatim transcript shall be kept of such advisory committee meetings, and shall be deposited with the Attorney General and the Federal Trade Commission. Such transcript shall be made available for public inspection and copying in accordance with section 552 of title 5, United States Code, except that matter may not be withheld from disclosure under section 552(b) of such title on grounds other than the grounds specified in section 552(b)(1), (b)(3), and so much of (b)(4) as relates to trade secrets, or pursuant to a determination under subsection (c).

(c) The President, after consultation with the Secretary of State, the Federal Trade Commission, the Attorney General, and the Administrator, may suspend the application of—

(1) sections 10 and 11 of the Federal Advisory Committee Act,

(2) subsections (b) and (c) of section 17 of the Federal Energy Administration Act of 1974,

(3) the requirement under subsection (a) of this section that meetings be open to the public, and

(4) the second sentence of subsection (b); if the President determines with respect to a particular meeting, (A) that such suspension is essential to the developing or carrying out of the international energy program, (B)

that such suspension relates solely to the purpose of international allocation of petroleum products and the information system provided in such program, and (C) that the meeting deals with matters described in section 552(b)(1) of title 5, United States Code. Such determination by the President shall be in writing, shall set forth a detailed explanation of reasons justifying the granting of such suspension, and shall be published in the Federal Register at a reasonable time prior to the effectives date of any such suspension.

EXCHANGE OF INFORMATION

SEC. 254. (a)(1) Except as provided in subsections (b) and (c), the Administrator, after consultation with the Attorney General, may provide to the Secretary of State, and the Secretary of State may transmit to the International Energy Agency established by the international energy program, the information and data related to the energy industry certified by the Secretary of State as required to be submitted under the international energy program.

(2)(A) Except as provided in subparagraph (B) of this paragraph, any such information or data which is geological or geophysical information or a trade secret or commercial or financial information to which section 552(b)(9) or (b)(4) of title 5, United States Code, applies shall, prior to such transmittal, be aggregated, accumulated, or otherwise reported in such manner as to avoid, to the fullest extent feasible, identification of any person from whom the United States obtained such information or data, and in the case of geological or geophysical information, a competitive disadvantage to such person.

(B)(i) Notwithstanding subparagraph (A) of this paragraph, during an international energy supply emergency, any such information or data with respect to the international allocation of petroleum products may be made available to the International Energy Agency if otherwise authorized to be made available to such Agency by paragraph (1) of this subsection.

(ii) Subparagraph (A) shall not apply to information described in subparagraph (A) (other than geological or geophysical information) if the President certifies, after opportunity for presentation of views by interested persons, that the International Energy Agency has adopted and is implementing security measures which assure that such information will not be disclosed by such Agency or its employees to any person or foreign country without having been aggregated, accumulated, or otherwise reported in such manner as to avoid identification of any person from whom the United States obtained such information or data.

(3)(A) Within 90 days after the date of enactment of this Act, and periodically thereafter, the President shall review the operation of this section and shall determine whether other signatory nations to the international energy program are transmitting information and data to the International Energy Agency in substantial compliance with such program. If the President determines that other nations are not so complying, paragraph (2)(B)(ii) shall not apply until he determines other nations are so complying.

(B) Any person who believes he has been or will be damaged by the transmittal of information or data pursuant to this section shall have the right to petition the President and to request changes in procedures which will protect such person from any competitive damage.

(b) If the President determines that the transmittal of data or information pursuant to the authority of this section would prejudice competition, violate the antitrust laws, or be inconsistent with United States national security interests, he may require that such data or information not be transmitted.

(c) Information and data the confidentiality of which is protected by statute shall not be provided by the Administrator to the Secretary of State under subsection (a) of this section for transmittal to the International Energy Agency, unless the Administrator has obtained the specific concurrence of the head of any department or agency which has the primary statutory authority for the collection, gathering, or obtaining of such information and data. In making a determination to concur in providing such information and data, the head of any department or agency which has the primary statutory authority for the collection, gathering, or obtaining of such information and data shall consider the purposes for which such information and data were collected, gathered, and obtained, the confidentiality provisions of such statutory authority, and the international obligations of the United States under the international energy program with respect to the transmittal of such information and data to an international organization or foreign country.

(d) For the purposes of carrying out the obligations of the United States under the international energy program, the authority to collect data granted by sections 11 and 13 of the Energy Supply and Environmental Coordination Act and the Federal Energy Administration Act of 1974, respectively, shall continue in full force and effect without regard to the provisions of such Acts relating to their expiration.

(e) The authority under this section to transmit information shall be subject to any limitations on disclosure contained in other laws, except that such authority may be exercised without regard to—

(1) section 11(d) of the Energy Supply and Environmental Coordination Act of 1974;

(2) section 14(b) of the Federal Energy Administration Act of 1974;

(3) section 7 of the Export Administration Act of 1969;

(4) section 9 of title 13, United States Code;

(5) section 1 of the Act of January 27, 1938 (15 U.S.C. 176(a)); and

(6) section 1905 of title 18, United States Code.

RELATIONSHIP OF THIS TITLE TO THE INTERNATIONAL ENERGY AGREEMENT

SEC. 255. The purpose of the Congress in enacting this title is to provide standby energy emergency authority to deal with energy shortage conditions and to minimize economic dislocations and adverse impacts on employment. While the authorities contained in this title may, to the extent authorized by this title, be used to carry out obligations incurred by the United States in connection with the International Energy Program, this title shall not be construed in any way as advice and consent, ratification, endorsement, or other form of congressional approval of the specific terms of such program.

TITLE III—IMPROVING ENERGY EFFICIENCY

PART A—AUTOMOTIVE FUEL ECONOMY

AMENDMENT TO MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT

SEC. 301. The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) is amended by inserting "(except part A of title V)" after "SEC. 2. For the purpose of this Act" in section 2 thereof and by adding at the end of such Act the following new title:

"TITLE V—IMPROVING AUTOMOTIVE EFFICIENCY

"PART A—AUTOMOTIVE FUEL ECONOMY

"DEFINITIONS

"SEC. 501. For purposes of this part:

"(1) The term 'automobile' means any 4-wheeled vehicle propelled by fuel which is manufactured primarily for use on public streets, roads, and highways (except any vehicle operated exclusively on a rail or rails), and

"(A) which is rated at 6,000 lbs. gross vehicle weight or less, or

"(B) which—

"(i) is rated at more than 6,000 lbs. gross vehicle weight but less than 10,000 lbs. gross vehicle weight,

"(ii) is a type of vehicle for which the Secretary determines, by rule, average fuel economy standards under this part are feasible, and

"(iii) is a type of vehicle for which the Secretary determines, by rule, average fuel economy standards will result in significant energy conservation, or is a type of vehicle which the Secretary determines is substantially used for the same purposes as vehicles described in subparagraph (A) of this paragraph.

The Secretary may prescribe such rules as may be necessary to implement this paragraph.

"(2) The term 'passenger automobile' means any automobile (other than an automobile capable of off-highway operation) which the Secretary determines by rule is manufactured primarily for use in the transportation of not more than 10 individuals.

"(3) The term 'automobile capable of off-highway operation' means any automobile which the Secretary—

"(A) has a significant feature (other than 4-wheel drive) which is designed to equip such automobile for off-highway operation, and

"(B) either—

"(i) is a 4-wheel drive automobile, or

"(ii) is rated at more than 6,000 pounds gross vehicle weight.

"(4) The term 'average fuel economy' means average fuel economy, as determined under section 508.

"(5) The term 'fuel' means gasoline and diesel oil. The Secretary may, by rule, include any other liquid fuel or any gaseous fuel within the meaning of the term 'fuel' if he determines that such inclusion is consistent with the need of the Nation to conserve energy.

"(6) The term 'fuel economy' means the average number of miles traveled by an automobile per gallon of gasoline (or equivalent amount of other fuel) consumed, as determined by the EPA Administrator in accordance with procedures established under section 503(d).

"(7) The term 'average fuel economy standard' means a performance standard which specifies a minimum level of average fuel economy which is applicable to a manufacturer in a model year.

"(8) The term 'manufacturer' means any person engaged in the business of manufacturing automobiles. The Secretary shall prescribe rules for determining, in cases where more than one person is the manufacturer of an automobile, which person is to be treated as the manufacturer of such automobile for purposes of this part.

"(9) The term 'manufacture' (except for purposes of section 502(c)) means to produce or assemble in the customs territory of the United States, or to import.

"(10) The term 'import' means to import into the customs territory of the United States.

"(11) The term 'model type' means a particular class of automobile as determined, by rule, by the EPA Administrator, after consultation and coordination with the Secretary.

"(12) The term 'model year', with reference to any specific calendar year, means a manufacturer's annual production period (as determined by the EPA Administrator) which includes January 1 of such calendar year. If a manufacturer has no annual production period, the term 'model year' means the calendar year.

"(13) The term 'Secretary' means the Secretary of Transportation.

"(14) The term 'EPA Administrator' means the Administrator of the Environmental Protection Agency.

"AVERAGE FUEL ECONOMY STANDARDS APPLICABLE TO EACH MANUFACTURER

"SEC. 502. (a) (1) Except as otherwise provided in paragraph (4) or in subsection (c) or (d), the average fuel economy for passenger automobiles manufactured by any manufacturer in any model year after model year 1977 shall not be less than the number of miles per gallon established for such model year under the following table:

"Model year:	*Average fuel economy standard (in miles per gallon)*
1978 ----------	18.0.
1979 ----------	19.0.
1980 ----------	20.0.
1981 ----------	Determined by Secretary under paragraph (3) of this subsection.
1982 ----------	Determined by Secretary under paragraph (3) of this subsection.
1983 ----------	Determined by Secretary under paragraph (3) of this subsection.
1984 ----------	Determined by Secretary under paragraph (3) of this subsection.
1985 and thereafter --------	27.5.

"(2) Not later than January 15 of each year, beginning in 1977, the Secretary shall transmit to each House of Congress, and publish in the Federal Register, a review of average fuel economy standards under this part. The review required to be transmitted not later than January 15, 1979, shall include a comprehensive analysis of the program required by this part. Such analysis shall include an assessment of the ability of manufacturers to meet the average fuel economy standard for model year 1985 as specified in paragraph (1) of this subsection, and any legislative recommendations the Secretary or the EPA Administrator may have for improving the program required by this part.

"(3) Not later than July 1, 1977, the Secretary shall prescribe, by rule, average fuel economy standards for passenger automobiles manufactured in each of the model years 1981 through 1984. Any such standard shall apply to each manufacturer (except as provided in subsection (c)), and shall be set for each such model year at a level which the Secretary determines (A) is the maximum feasible average fuel economy level, and (B) will result in steady progress toward meeting the average fuel economy standard established by or pursuant to this subsection for model year 1985.

"(4) The Secretary may, by rule, amend the average fuel economy standard specified in paragraph (1) for model year 1985, or for any subsequent model year, to a level which he determines is the maximum feasible average fuel economy level for such model year, except that any amendment which has the effect of increasing an average fuel economy standard to a level in excess of 27.5 miles per gallon, or of decreasing any such standard to a level below 26.0 miles per gallon, shall be submitted to the Congress in accordance with section 551 of the Energy Policy and Conservation Act, and shall not take effect if either House of the Congress disapproves such amendment in accordance with the procedures specified in such section.

"(5) For purposes of considering any modification which is submitted to the Congress under paragraph (4), the 5 calendar days specified in section 551(f)(4)(A) of the Energy Policy and Conservation Act shall be lengthened to 20 calendar days, and the 15 calendar days specified in section 551 (c) and (d) of such Act shall be lengthened to 60 calendar days.

"(b) The Secretary shall, by rule, prescribe average fuel economy standards for automobiles which are not passenger automobiles and which are manufactured by any manufacturer in each model year which begins more than 30 months after the date of enactment of this title. Such rules may provide for separate standards for different classes of such automobiles (as determined by the Secretary), and shall be set at a level which the Secretary determines is the maximum feasible average rule economy level which such manufacturers are able to achieve in each model year to which this subsection applies. Any standard applicable to a model year under this subsection shall be prescribed at least 18 months prior to the beginning of such model year.

"(c) On application of a manufacturer who manufactured (whether or not in the United States) fewer than 10,000 passenger automobiles in the second model year preceding the model year for which the application is made, the Secretary may, by rule, exempt such manufacturer from subsection (a). An application for such an exemption shall be submitted to the Secretary, and shall contain such information as the Secretary may require by rule. Such exemption may only be granted if the Secretary determines that the average fuel economy standard otherwise applicable under subsection (a) is more stringent than the maximum feasible average fuel economy level which such manufacturer can attain. The Secretary may not issue exemptions with respect to a model year unless he establishes, by rule, alternative average fuel economy standards for passenger automobiles manufactured by manufacturers which receive exemptions under this subsection. Such standards may be established for an individual manufacturer, for all automobiles to which this subsection applies, or for such classes of such automobiles as the Secretary may define by rule. Each such standard shall be set at a level which the Secretary determines is the maximum feasible average fuel economy level for the manufacturers to which the standard applies. An exemption under this subsection shall apply to a model year only if the manufacturer manufactures (whether or not in the United States) fewer than 10,000 passenger automobiles in such model year.

"(d) (1) Any manufacturer may apply to the Secretary for modification of an average fuel economy standard applicable under subsection (a) to such manufacturer for model year 1978, 1979, or 1980. Such application shall contain such information as the Secretary may require by rule, and shall be submitted to the Secretary within 24 months before the beginning of the model year for which such modification is requested.

"(2) (A) If a manufacturer demonstrates and the Secretary finds that—

"(i) a Federal standards fuel economy reduction is likely to exist for such manufacturer for the model year to which the application relates, and

"(ii) such manufacturer applied a reasonably selected technology,

the Secretary shall, by rule, reduce the average fuel economy standard applicable under subsection (a) to such manufacturer by the amount of such manufacturer's Federal standards fuel economy reduction, rounded off to the nearest one-tenth mile per gallon (in accordance with rules of the Secretary). To the maximum extent practicable, prior to making a finding under this paragraph with respect to an application, the Secretary shall request, and the EPA Administrator shall supply, test results collected pursuant to section 503(d) of this Act for all automobiles covered by such application.

"(B) (i) If the Secretary does not find that a Federal standards fuel economy reduction is likely to exist for a manufacturer who filed an application under paragraph (1), he shall deny the application of such manufacturer.

"(ii) If the Secretary—

"(I) finds that a Federal standards fuel economy reduction is likely to exist for a manufacturer who filed an application under paragraph (1), and

"(II) does not find that such manufacturer applied a reasonably selected technology,

the average fuel economy standard applicable under subsection (a) to such manufacturer shall, by rule, be reduced by an amount equal to the Federal standards fuel economy reduction which the Secretary finds would have resulted from the application of a reasonably selected technology.

"(3) For purposes of this subsection:

"(A) The term 'reasonably selected technology' means a technology which the Secretary determines it was reasonable for a manufacturer to select, considering (i) the Nation's need to improve the fuel economy of its automobiles, and (ii) the energy savings, economic costs, and lead-time requirements associated with alternative technologies practicably available to such manufacturers.

"(B) The term 'Federal standards fuel economy reduction' means the sum of the applicable fuel economy reductions determined under subparagraph (C).

"(C) The term 'applicable fuel economy reduction' means a number of miles per gallon equal to—

"(i) the reduction in a manufacturer's average fuel economy in a model year which results from the application of a category of Federal standards applicable to such model year, and which would not have occurred had Federal standards of such category applicable to model year 1975 remained the only standards of such category in effect, minus

"(ii) 0.5 mile per gallon.

"(D) Each of the following is a category of Federal standards:

"(i) Emissions standards under section 202 of the Clean Air Act, and emissions standards applicable by reason of section 209(b) of such Act.

"(ii) Motor vehicle safety standards under the National Traffic and Motor Vehicle Safety Act of 1966.

"(iii) Noise emission standards under section 6 of the Noise Control Act of 1972.

"(iv) Property loss, reduction standards under title I of this Act.

"(E) In making the determination under this subparagraph, the Secretary (in accordance with such methods as he shall prescribe by rule) shall assume a production mix for such manufacturer which would have achieved the average fuel economy standard for such model year had standards described in subparagraph (D) applicable to model year 1975 remained the only standards in effect.

"(4) The Secretary may, for the purposes of conducting a proceeding under this subsection, consolidate one or more applications filed under this subsection.

"(e) For purposes of this section, in determining maximum feasible average fuel economy, the Secretary shall consider—

"(1) technological feasibility;

"(2) economic practicability;

"(3) the effect of other Federal motor vehicle standards on fuel economy; and

"(4) the need of the Nation to conserve energy.

"(f) (1) The Secretary may, by rule, from time to time, amend any average fuel economy standard prescribed under subsection (a) (3), (b), or (c), so long as such standard, as amended, meets the requirements of subsection (a) (3), (b), or (c), as the case may be.

"(2) Any amendment prescribed under this section which has the effect of making any average fuel economy standard more stringent shall be—

"(A) promulgated, and

"(B) if required by paragraph (4) of subsection (a), submitted to the Congress,

at least 18 months prior to the beginning of the model year to which such amendment will apply.

"(g) Proceedings under subsection (a) (4) or (d) shall be conducted in accordance with section 553 of title 5, United States Code, except that interested persons shall be entitled to make oral as well as written presentations. A transcript shall be taken of any oral presentations

"DETERMINATION OF AVERAGE FUEL ECONOMY

"SEC. 503. (a) (1) Average fuel economy for purposes of section 502 (a) and (c) shall be calculated by the EPA Administrator by dividing—

"(A) the total number of passenger automobiles manufactured in a given model year by a manufacturer, by

"(B) a sum of terms, each term of which is a fraction created by dividing—

"(i) the number of passenger automobiles of a given model type manufactured by such manufacturer in such model year, by

"(ii) the fuel economy measured for such model type.

"(2) Average fuel economy for purposes of section 502(b) shall be calculated in accordance with rules of the EPA Administrator.

"(b) (1) In calculating average fuel economy under subsection (a) (1), the EPA Administrator shall separate the total number of passenger automobiles manufactured by a manufacturer into the following two categories:

"(A) Passenger automobiles which are domestically manufactured by such manufacturer (plus, in the case of model year 1978 and model year 1979, passenger automobiles which are within the includable base import volume of such manufacturer).

"(B) Passenger automobiles which are not domestically manufactured by such manufacturer (and which, in the case of model year 1978 and model year 1979, are not within the includable base import volume of such manufacturer).

The EPA Administrator shall calculate the average fuel economy of each such separate category, and each such category shall be treated as if manufactured by a separate manufacturer for purposes of this part.

"(2) For purposes of this subsection:

"(A) The term "includable base import volume," with respect to any manufacturer in model year 1978 or 1979, as the case may be, is a number of passenger automobiles which is the lesser of—

(i) the manufacturer's base import volume, or

(ii) the number of passenger automobiles calculated by multiplying—

"(I) the quotient obtained by dividing such manufacturer's base import volume by such manufacturer's base production volume, times

"(II) the total number of passenger automobiles manufactured by such manufacturer during such model year.

"(B) The term "base import volume" means one-half the sum of—

"(i) the total number of passenger automobiles which were not domestically manufactured by such manufacturer during model year 1974 and which were imported by such manufacturer during such model year, plus

"(ii) 133 percent of the total number of passenger automobiles which were not domestically manufactured by such manufacturer during the first 9 months of model year 1975 and which were imported by such manufacturer during such 9-month period.

"(C) The term 'base production volume' means one-half the sum of—

"(i) the total number of passenger automobiles manufactured by such manufacturer during model year 1974, plus

"(ii) 133 percent of the total number of passenger automobiles manufactured by such manufacturer during the first 9 months of model year 1975.

"(D) For purposes of subparagraphs (B) and (C) of this paragraph any passenger automobile imported during model year 1976, but prior to July 1, 1975, shall be deemed to have been manufactured (and imported) during the first 9 months of model year 1975.

"(E) An automobile shall be considered domestically manufactured in any model year if at least 75 percent of the cost to the manufacturer of such automobile is attributable to value added in the United States or Canada, unless the assembly of such automobile is completed in Canada and such automobile is not imported into the United States prior to the expiration of 30 days following the end of such model year. The EPA Administrator may prescribe rules for purposes of carrying out this subparagraph.

"(F) The fuel economy of each passenger automobile which is imported by a manufacturer in model year 1978 or 1979, as the case may be, and which is not domestically manufactured by such manufacturer, shall be deemed to be equal to the average fuel economy of all such passenger automobiles.

"(c) Any reference in this part to automobiles manufactured by a manufacturer shall be deemed—

"(1) to include all automobiles manufactured by persons who control, are controlled by, or are under common control with, such manufacturer; and

"(2) to exclude all automobiles manufactured (within the meaning of paragraph (1)) during a model year by such manufacturer which are exported prior to the expiration of 30 days following the end of such model year.

"(d) (1) Fuel economy for any model type shall be measured, and average fuel economy of a manufacturer shall be calculated, in accordance with testing and calculation procedures established by the EPA Administrator, by rule. Procedures so established with respect to passenger automobiles (other than for purposes of section 506) shall be the procedures utilized by the EPA Administrator for model year 1975 (weighed 55 percent urban cycle, and 45 percent highway cycle), or procedures which yield comparable results. Procedures under this subsection, to the extent practicable, shall require that fuel economy tests be conducted in conjunction with emissions tests conducted under section 206 of the Clean Air Act. The EPA Administrator shall report any measurements of fuel economy and any calculations of average fuel economy to the Secretary.

"(2) The EPA Administrator shall, by rule, determine that quantity of any other fuel which is the equivalent of one gallon of gasoline.

"(3) Testing and calculation procedures applicable to a model year, and any amendment to such procedures (other than a technical or clerical amendment), shall be promulgated not less than 12 months prior to the model year to which such procedures apply.

"(e) For purposes of this part (other than section 506), any measurement of fuel economy of a model type, and any calculation of average fuel economy of a manufacturer, shall be rounded off to the nearest one-tenth mile per gallon (in accordance with rules of the EPA Administrator).

"(f) The EPA Administrator shall consult and coordinate with the Secretary in carrying out his duties under this section.

"JUDICIAL REVIEW

"SEC. 504. (a) Any person who may be adversely affected by any rule prescribed under section 501, 502, 503, or 506 may, at any time prior to 60 days after such rule is prescribed (or in the case of an amendment submitted to each House of the Congress under section 502(a) (4), at any time prior to 60 days after the expiration of the 60-day period specified in section 502(a) (5)), file a petition in the United States Court of Appeals for the District of Columbia, or for any circuit wherein such person resides or has his principal place of business, for judicial review of such rule. A copy of the petition shall be forthwith transmitted by the clerk of such court to the officer who prescribed the rule. Such officer shall thereupon cause to be filed in such court the written submissions and other materials in the proceeding upon which such rule was based. Upon the filing of such petition, the court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter. Findings of the Secretary under section 502(d) shall be set aside by the court on review unless such findings are supported by substantial evidence.

"(b) If the petitioner applies to the court in a proceeding under subsection (a) for leave to make additional submissions, and shows to the satisfaction of the court that such additional submissions are material and that there were reasonable grounds for the failure to make such submissions in the administrative proceeding, the court may order the Secretary or the EPA Administrator, as the case may be, to provide additional opportunity to make such submissions. The Secretary or the EPA Administrator, as the case may be, may modify or set aside the rule involved or prescribe a new rule by reason of the additional submissions, and shall file any such modified or new rule in the court, together with such additional submissions. The court shall thereafter review such new or modified rule.

"(c) The judgment of the court affirming or setting aside, in whole or in part, any such rule shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(d) The remedies provided for in this section shall be in addition to, and not in lieu of, any other remedies provided by law.

"INFORMATION AND REPORTS

"SEC. 505. (a) (1) Each manufacturer shall submit a report to the Secretary during the 30-day period preceding the beginning of each model year after model year 1977, and during the 30-day period beginning on the 180th day of each such model year. Each such report shall contain (A) a statement as to whether such manufacturer will comply with average fuel economy standards under section 502 applicable to the model year for which such report is made; (B) a plan which describes the steps the manufacturer has taken or intends to take in order to comply with such standards; and (C) such other information as the Secretary may require.

"(2) Whenever a manufacturer determines that a plan submitted under paragraph (1) which he stated was sufficient to insure compliance with applicable average fuel economy standards is not sufficient to insure such compliance, he shall submit a report to the Secretary containing a revised plan which specifies any additional measures which such manufacturer intends to take in order to comply with such standards, and a statement as to whether such revised plan is sufficient to insure such compliance.

"(3) The Secretary shall prescribe rules setting forth the form and content of the reports required under paragraphs (1) and (2).

"(b) (1) For the purpose of carrying out the provisions of this part, the Secretary or the EPA Administrator, or their duly designated agents, may hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpena, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records as the Secretary, the EPA Administrator, or such agents deem advisable. The Secretary or the EPA Administrator may require, by general or special orders that any person—

"(A) file, in such form as the Secretary or EPA Administrator may prescribe, reports or answers in writing to specific questions relating to any function of the Secretary or the EPA Administrator under this part, and

"(B) provide the Secretary, the EPA Administrator, or their duly designated agents, access to (and for the purpose of examination, the right to copy) any documentary evidence of such person which is relevant to any function of the Secretary or the EPA Administrator under this part.

Such reports and answers shall be made under oath or otherwise, and shall be filed with the Secretary or the EPA Administrator within such reasonable period as either may prescribe.

"(2) The district courts of the United States for a judicial district in the jurisdiction of which an inquiry is carried on may, in the case of contumacy or refusal to obey a duly authorized subpena or order of the Secretary, the EPA Administrator, or a duly designated agent of either, issued under paragraph (1), issue an order requiring compliance with such subpena or order. Any failure to obey such an order of the court may be treated by such court as a contempt thereof.

"(3) Witnesses summoned pursuant to this subsection shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(c)(1) Every manufacturer shall establish and maintain such records, make such reports, conduct such tests, and provide such items and information as the Secretary or the EPA Administrator may, by rule, reasonably require to enable the Secretary or the EPA Administrator to carry out their duties under this part and under any rules prescribed pursuant to this part. Such manufacturer shall, upon request of a duly designated agent of the Secretary or the EPA Administrator who presents appropriate credentials, permit such agent, at reasonable times and in a reasonable manner, to enter the premises of such manufacturer to inspect automobiles and appropriate books, papers, records, and documents. Such manufacturer shall make available all of such items and information in accordance with such reasonable rules as the Secretary or the EPA Administrator may prescribe.

"(2) The district courts of the United States may, if a manufacturer refuses to accede to any rule or reasonable request made under paragraph (1), issue an order requiring compliance with such requirement or request. Any failure to obey such an order of the court may be treated by such court as a contempt thereof.

"(d)(1) The Secretary and the EPA Administrator shall each disclose any information obtained under this part (other than section 503(d)) to the public in accordance with section 552 of title 5, United States Code, except that information may be withheld from disclosure under subsection (b) (4) of such section only if the Secretary or the EPA Administrator, as the case may be, determines that such information, if disclosed, would result in significant competitive damage. Any matter described in section 552(b)(4) relevant to any administrative or judicial proceeding under this part may be disclosed in such proceeding.

"(2) Measurements and calculations under section 503(d) shall be made available to the public in accordance with section 552 of title 5, United States Code, without regard to subsection (b) of such section.

"LABELING

"SEC. 506. (a)(1) Except as otherwise provided in paragraph (2), each manufacturer shall cause to be affixed, and each dealer shall cause to be maintained, on each automobile manufactured in any model year after model year 1976, in a prominent place, a label—

"(A) indicating—

"(i) the fuel economy of such automobile,

"(ii) the estimated annual fuel cost associated with the operation of such automobile, and

"(iii) the range of fuel economy of comparable automobiles (whether or not manufactured by such manufacturer),

as determined in accordance with rules of the EPA Administrator,

"(B) containing a statement that written information (as described in subsection (b) (1) with respect to the fuel economy of other automobiles manufactured in such model year (whether or not manufactured by such manufacturer) is available from the dealer in order to facilitate comparison among the various model types, and

"(C) containing any other information authorized or required by the EPA Administrator which relates to information described in subparagraph (A) or (B).

"(2) With respect to automobiles—

"(A) for which procedures established in the EPA and FEA Voluntary Fuel Labeling Program for Automobiles exist on the date of the enactment of this title, and

"(B) which are manufactured in model year 1976 and at least 90 days after such date of enactment,

each manufacturer shall cause to be affixed, and each dealer shall cause to be maintained, in a prominent place, a label indicating the fuel economy of such automobile, in accordance with such procedures.

"(3) The form and content of the labels required under paragraphs (1) and (2), and the manner in which such labels shall be affixed, shall be prescribed by the EPA Administrator by rule. EPA Administrator may permit a manufacturer to comply with this paragraph by permitting such manufacturer to disclose the information required under this subsection on the label required by section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232).

"(b)(1) The EPA Administrator shall compile and prepare a simple and readily understandable booklet containing data on fuel economy of automobiles manufactured in each model year. Such booklet shall also contain information with respect to estimated annual fuel costs, and may contain information with respect to geographical or other differences in estimated annual fuel costs. The Administrator of the Federal Energy Administration shall public and distribute such booklets.

"(2) The EPA Administrator, not later than July 31, 1976, shall prescribe rules requiring dealers to make available to prospective purchasers information compiled by the EPA Administrator under paragraph (1).

"(c)(1) A violation of subsection (a) shall be treated as a violation of section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232). For purposes of the Federal Trade Commission Act (other than sections 5(m) and (18), a violation of subsection (a) shall be treated as an unfair or deceptive act or practice in or affecting commerce.

"(2) As used in this section, the term 'dealer' has the same meaning as such term has in section 2(e) of the Automobile Information Disclosure Act (15 U.S.C. 1231 (e)) except that in applying such term to this section, the term 'automobile' has the same meaning as such term has in section 501(1) of this part.

"(d) Any disclosure with respect to fuel economy or estimated annual fuel cost which is required to be made under the provisions of this section shall not create an express or implied warranty under State or Federal law that such fuel economy will be achieved, or that such cost will not be exceeded, under conditions of actual use.

"(e) In carrying out his duties under this section, the EPA Administrator shall consult with the Federal Trade Commission, the Secretary, and the Federal Energy Administrator.

"UNLAWFUL CONDUCT

"SEC. 507. The following conduct is unlawful:

"(1) the failure of any manufacturer to comply with any average fuel economy standard applicable to such manufacturer under section 502 (other than section 502(b)),

"(2) the failure of any manufacturer to comply with any average fuel economy standard applicable to such manufacturer under section 502(b), or

"(3) the failure of any person (A) to comply with any provision of this part applicable to such person (other than section 502, 506 (a), 510, or 511), or (B) to comply with any standard, rule, or order applicable to such person which is issued pursuant to such a provision.

"CIVIL PENALTY

"SEC. 508. (a)(1) If average fuel economy calculations reported under section 503(d) indicate that any manufacturer has violated section 507 (1) or (2), then (unless further measurements of fuel economy, further calculations of average fuel economy, or other information indicates there is no violation of section 507 (1) or (2)) the Secretary shall commence a proceeding under paragraph (2) of this subsection. The results of such further measurements, further calculations, and any such other information, shall be published in the Federal Register.

"(2) If, on the record after opportunity for agency hearing, the Secretary determines that such manufacturer has violated section 507 (1) or (2), or that any person has violated section 507(3), the Secretary shall assess the penalties provided for under subsection (b). Any interested person may participate in any proceeding under this paragraph.

"(3)(A)(i) Whenever the average fuel economy of the passenger automobiles manufactured by a manufacturer in a particular model year exceeds an applicable average fuel economy standard established under section 502 (a) or (c) (determined without regard to any adjustment under section 502(d)), such manufacturer shall be entitled to a credit, calculated under clause (ii), which shall be—

"(I) deducted from the amount of any civil penalty which has been or may be assessed against such manufacturer for a violation of section 507(1) occurring in the model year immediately prior to the model year in which such manufacturer exceeds such applicable average fuel economy standard, and

"(II) to the extent that such credit is not deducted pursuant to subclause (I), deducted from the amount of any civil penalty assessed against such manufacturer for a violation of section 507(1) occurring in the model year immediately following the model year in which such manufacturer exceeds such applicable average fuel economy standard.

"(ii) The amount of credit to which a manufacturer is entitled under clause (i) shall be equal to—

"(I) $5 for each tenth of a mile per gallon by which the average fuel economy of the passenger automobiles manufactured by such manufacturer in the model year in which the credit is earned pursuant to clause (i) exceeds the applicable average fuel economy standard established under section 502 (a) or (c), multiplied by

"(II) the total number of passenger automobiles manufactured by such manufacturer during such model year.

"(B)(i) Whenever the average fuel economy of a class of automobiles which are not passenger automobiles and which are manufactured by a manufacturer in a particular model year exceeds an average fuel economy standard applicable to automobiles of such class under section 502(b), such manufacturer shall be entitled to a credit, calculated under clause (ii), which shall be—

"(I) deducted from the amount of any civil penalty which has been or may be assessed against such manufacturer for a violation of section 507(2) occurring in the model year immediately prior to the model year in which such manufacturer exceeds such applicable average fuel economy standard, and

"(II) to the extent that such credit is not deducted pursuant to subclause (I), deducted from the amount of any such civil penalty assessed against such manufacturer for a violation of section 507(2) occurring in the model year immediately following the model year in which such manufacturer exceeds such applicable average fuel economy standard.

"(ii) The amount of credit to which a manufacturer is entitled under clause (i) shall be equal to—

"(I) $5 for each tenth of a mile per gallon by which the average fuel economy of the automobiles of such class manufactured by such manufacturer in the model year in which the credit is earned pursuant to clause (i) exceeds the applicable average fuel economy standard established under section 502(b), multiplied by

"(II) the total number of automobiles of such class manufactured by such manufacturer during such model year.

"(C) Whenever a civil penalty has been assessed and collected under this section from a manufacturer who is entitled to a credit under this paragraph with respect to such civil penalty, the Secretary of the Treasury shall refund to such manufacturer the amount of credit to which such manufacturer is so entitled, except that the amount of such refund shall not exceed the amount of the civil penalty so collected.

"(D) The Secretary may prescribe rules for purposes of carrying out the provisions of this paragraph.

"(b)(1)(A) Any manufacturer whom the Secretary determines under subsection (a) to have violated a provision of section 507(1), shall be liable to the United States for a civil penalty equal to (i) $5 for each tenth of a mile per gallon by which the average fuel economy of the passenger automobiles manufactured by such manufacturer during such model year is exceeded by the applicable average fuel economy standard established under section 502 (a) or (c), multiplied by (ii) the total number of passenger automobiles manufactured by such manufacturer during such model year.

"(B) Any manufacturer whom the Secretary determines under subsection (a) to have violated section 507(2) shall be liable to the United States for a civil penalty equal to (i) $5 for each tenth of a mile per gallon by which the applicable average fuel economy standard exceeds the average fuel economy of automobiles to which such standard applies, and which are manufactured by such manufacturer during the model year in which the violation occurs, multiplied by (ii) the total number of automobiles to which such standard applies and which are manufactured by such manufacturer during such model year.

"(2) Any person whom the Secretary determines under subsection (a) to have violated a provision of section 507(3) shall be liable to the United States for a civil penalty of not more than $10,000 for each violation. Each day of a continuing violation shall constitute a separate violation for purposes of this paragraph.

"(3) The amount of such civil penalty shall be assessed by the Secretary by written notice. The Secretary shall have the discretion to compromise, modify, or remit, with or without conditions, any civil penalty assessed under this subsection against any person, except that any civil penalty assessed for a violation of section 507(1) or (2) may be so compromised, modified, or remitted only to the extent—

"(A) necessary to prevent the insolvency or bankruptcy of such manufacturer,

"(B) such manufacturer shows that the violation of section 507 (1) or (2) resulted from an act of God, a strike, or a fire, or

"(C) the Federal Trade Commission has certified that modification of such penalty is necessary to prevent a substantial lessening of competition, as determined under paragraph (4).

The Attorney General shall collect any civil penalty for which a manufacturer is liable under this subsection in a civil action under subsection (c)(2) (unless the manufacturer pays such penalty to the Secretary).

"(4) Not later than 30 days after a determination by the Secretary under subsection (a)(2) that a manufacturer has violated section 507 (1) and (2), such manufacturer may apply to the Federal Trade Commission for a certification under this paragraph. If the manufacturer shows and the Federal Trade Commission determines that modification of the civil penalty for which such manufacturer is otherwise liable is necessary to prevent a substantial lessening of competition in that segment of the automobile industry subject to the standard with respect to which such penalty was assessed, the Commission shall so certify. The certification shall specify the maximum amount that such penalty may be reduced. To the maximum extent practicable, the Commission shall render a decision with respect to an application under this paragraph not later than 90 days after the application is filed with the Commission. A proceeding under this paragraph shall not have the effect of delaying the manufacturer's liability under this section for a civil penalty for more than 90 days after such application is filed, but any payment made before a decision of the Commission under this paragraph becomes final shall be paid to the court in which the penalty is collected, and shall (except as otherwise provided in paragraph (5)), be held by such court, until 90 days after such decision becomes final (at which time it shall be paid into the general fund of the Treasury).

"(5) Whenever a civil penalty has been assessed and collected from a manufacturer under this section, and is being held by a court in accordance with paragraph (4), and the Secretary subsequently determines to modify such civil penalty pursuant to paragraph (3)(C) the Secretary shall direct the court to remit the appropriate amount of such penalty to such manufacturer.

"(6) A claim of the United States for a civil penalty assessed against a manufacturer under subsection (b)(1) shall, in the case of the bankruptcy or insolvency of such manufacturer, be subordinate to any claim of a creditor of such manufacturer which arises from an extension of credit before the date on which the judgment in any collection action under this section becomes final (without regard to paragraph (4)).

"(c)(1) Any interested person may obtain review of a determination (A) of the Secretary pursuant to which a civil penalty has been assessed under subsection (b), or (B) of the Federal Trade Commission under subsection (b)(4), in the United States Court of Appeals for the District of Columbia, or for any circuit wherein such person resides or has his principal place of business. Such review may be obtained by filing a notice of appeal in such court within 30 days after the date of such determination, and by simultaneously sending a copy of such notice by certified mail to the Secretary or the Federal Trade Commission, as the case may be. The Secretary or the Commission, as the case may be, shall promptly file in such court a certified copy of the record upon which such determination was made. Any such determination shall be reviewed in accordance with chapter 7 of title 5, United States Code.

"(2) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Attorney General shall recover the amount for which the manufacturer is liable in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

"EFFECT ON STATE LAW

"SEC. 509. (a) Whenever an average fuel economy standard established under this part is in effect, no State or political subdivision of a State shall have authority to adopt or enforce any law or regulation relating to fuel economy standards or average fuel economy standards applicable to automobiles covered by such Federal standard.

"(b) Whenever any requirement under section 506 is in effect with respect to any automobile, no State or political subdivision of a State shall have authority to adopt or enforce any law or regulation with respect to the disclosure of fuel economy of such automobile, or of fuel cost associated with the operation of such automobile, if such law or regulation is not identical with such requirement.

"(c) Nothing in this section shall be construed to prevent any State or political subdivision thereof from establishing requirements with respect to fuel economy of automobiles procured for its own use.

"USE OF FUEL EFFICIENT PASSENGER AUTOMOBILES BY THE FEDERAL GOVERNMENT

"SEC. 510. (a) The President shall, within 120 days after the date of enactment of this title, promulgate rules which shall require that all passenger automobiles acquired by all executive agencies in each fiscal year which begins after such date of enactment achieve a fleet average fuel economy for such year not less than—

"(1) 18 miles per gallon, or

"(2) the average fuel economy standard applicable under section 502(a) for the model year which includes January 1 of such fiscal year,

whichever is greater.

"(b) As used in this section:

"(1) The term 'fleet average fuel economy' means (A) the total number of passenger automobiles acquired in a fiscal year to which this section applies by all executive agencies (excluding passenger automobiles designed to perform combat related missions for the Armed Forces or designed to be used in law enforcement work or emergency rescue work), divided by (B) a sum of terms, each term of which is a fraction created by dividing—

"(i) the number of passenger automobiles so acquired of a given model type, by

"(ii) the fuel economy of such model type.

"(2) The term 'executive agency' has the same meaning as such term has for purposes of section 105 of title 5, United States Code.

"(3) The term 'acquired' means leased for a period of 60 continuous days or more, or purchased.

"RETROFIT DEVICES

"SEC. 511. (a) The Federal Trade Commission shall establish a program for systematically examining fuel economy representations made with respect to retrofit devices. Whenever the Commission has reason to believe that any such representation may be inaccurate, it shall request the EPA Administrator to evaluate, in accordance with subsection (b), the retrofit device with respect to which such representation was made.

"(b)(1) Upon application of any manufacturer of a retrofit device (or prototype thereof), upon the request of the Federal Trade Commission pursuant to subsection (a), or upon his own motion, the EPA Administrator shall evaluate, in accordance with rules prescribed under subsection (d), any retrofit device to determine whether the retrofit device increases fuel economy and to determine whether the representations (if any) made with respect to such retrofit device are accurate.

"(2) If under paragraph (1) the EPA Administrator tests, or causes to be tested, any retrofit device upon the application of a manufacturer of such device, such manufacturer shall supply, at his own expense, one or more samples of such device to the Administrator and shall be liable for the costs of testing which are incurred by the Administrator. The procedures for testing retrofit devices so supplied may include a requirement for preliminary testing by a qualified independent testing laboratory, at the expense of the manufacturer of such device.

"(c) The EPA Administrator shall publish in the Federal Register a summary of the results of all tests conducted under this section, together with the EPA Administrator's conclusions as to—

"(1) the effect of any retrofit device on fuel economy;

"(2) the effect of any such device on emissions of air pollutants; and

"(3) any other information which the Administrator determines to be relevant in evaluating such device.

Such summary and conclusions shall also be submitted to the Secretary and the Federal Trade Commission.

"(d) Within 180 days after the date of enactment of this title, the EPA Administrator shall, by rule, establish—

"(1) testing and other procedures for evaluating the extent to which retrofit devices affect fuel economy and emissions of air pollutants, and

"(2) criteria for evaluating the accuracy of fuel economy representations made with respect to retrofit devices.

"(e) For purposes of this section the term 'retrofit device' means any component, equipment, or other device—

"(1) which is designed to be installed in or on an automobile (as an addition to, as a replacement for, or through alteration or modification of, any original component, equipment, or other device); and

"(2) which any manufacturer, dealer, or distributor of such device represents will provide higher fuel economy than would have resulted with the automobile as originally equipped,

as determined under rules of the Administrator. Such term also includes a fuel additive for use in an automobile.

"REPORTS TO CONGRESS

"SEC. 512. (a) Within 180 days after the date of enactment of this title, the Secretary shall prepare and submit to the Congress and the President a comprehensive report setting forth findings and containing conclusions and recommendations with respect to (1) a requirement that each new automobile be equipped with a fuel flow instrument reading directly in miles per gallon, and (2) the most feasible means of equipping used automobiles with such instruments. Such report shall include an examination of the effectiveness of such instruments in promoting voluntary reductions in fuel consumption, the cost of such instruments, means of encouraging automobile purchasers to voluntarily purchase automobiles equipped with such instruments, and any other factor bearing on the cost and effectiveness of such instruments and their use.

"(b)(1) Within 180 days after the date of enactment of this title, the Secretary shall prepare and submit to the Congress and the President a comprehensive report setting forth findings and containing conclusions and recommendations with respect to whether or not electric vehicles and other vehicles not consuming fuel (as defined in the first sentence of section 501(5)) should be covered by this part. Such report shall include an examination of the extent to which any such vehicle should be included under the provisions of this part, the manner in which energy requirements of such vehicles may be compared with energy requirements of fuel-consuming vehicles, the extent to which inclusion of such vehicles would stimulate their production and introduction into commerce, and any recommendations for legislative action.

"(2) As used in this subsection, the term 'electric vehicle' means a vehicle powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current.

"PART B—APPLICATION OF ADVANCED AUTOMOTIVE TECHNOLOGY

"PURPOSE

"SEC. 541. It is the purpose of this part to—

"(1) develop and evaluate advanced automotive technologies, and promote the expeditious commercial application of such technologies, and

"(2) establish an advanced automotive technology program designed to (A) optimize automobile performance with respect to fuel economy, environmental impact, safety, damage susceptibility, reliability, and other positive characteristics of automobiles, and (B) insure that information respecting advanced automotive technology will be available to manufacturers and other persons, and to the Federal Government in furtherance of its regulatory functions with respect to automobiles.

"DEFINITIONS

"SEC. 542. For purposes of this part:

"(1) The term 'ERDA Administrator' means the Administrator of the Energy Research and Development Administration.

"(2) The term 'advanced automobile' means an automobile which—

"(A) minimizes the total amount of energy to be consumed with respect to its fabrication, operation, and disposal, and which represents a substantial improvement over existing automobiles with respect to such total amount of energy consumed;

"(B) is capable of being mass produced, and operated, at a cost which is sufficiently competitive to enable such automobile to be produced and sold in numbers representing a significant portion of the automobile market;

"(C) at a minimum, can be produced, distributed, operated, and disposed of in compliance with applicable requirements of Federal law, including requirements with respect to fuel economy, emissions, noise control, safety, and damage susceptibility;

"(D) to the extent consistent with subparagraphs (A), (B), and (C), maximizes safety and reliability, minimizes air pollution and noise emissions, and damage susceptibility, and operates with sufficient performance with respect to acceleration, cold weather starting, cruising speed, and other performance factors; and

"(E) to the extent practicable, is capable of intermodal adaptability.

"(3) The term 'automobile' means an automobile as defined in section 501(1), except that for purposes of this part such term shall be applied—

"(A) without regard to whether or not the vehicle is a 4-wheeled vehicle; and

"(B) without regard to the energy source used to propel such vehicle.

"(4) The term 'intermodal adaptability' refers to any characteristic of an automobile which enables it to be operated or carried, or which facilitates such operation or carriage, by or on an alternate mode or other system of transportation.

"(5) The term 'person' includes any individual, corporation, company, association, firm, partnership, society, trust, joint venture, joint stock company, and the government and any agency of the United States or any State or political subdivision thereof.

"(6) The term 'production prototype' means an automobile which is capable of being placed into production, for sale at retail, in significant quantities.

"ESTABLISHMENT OF PROGRAM

"SEC. 543. (a) The Secretary shall establish within the Department of Transportation a program designed—

"(1) to develop and evaluate advanced automotive technologies, and to promote the expeditious commercial application of such technologies;

"(2) to insure—

"(A) through developmental programs conducted within the Department of Transportation and through assistance authorized under sections 545 and 546, and

"(B) subject to the limitations of subsection (c), that governmental and nongovernmental efforts will lead to the development of one or more production prototypes of an advanced automobile or automobiles within the shortest practicable time; and

"(3) to insure that adequate information respecting advanced automotive technology is available (A) to manufacturers and other persons, (B) to the Congress, and (C) to Federal agencies carrying out regulatory responsibilities respecting automobiles under this and other Acts (including the Clean Air Act, the National Traffic and Motor Vehicle Safety Act of 1966, and the Noise Control Act of 1972).

"(b) In carrying out this part, the Secretary shall—

"(1) have authority, in addition to any other authority under this part, to collect, analyze, and disseminate information, data, and materials which are relevant to the program established under subsection (a), and

"(2) in coordination with the Administrator of the Environmental Protection Agency and the ERDA Administrator, and utilizing their facilities or personnel where appropriate and in accordance with section 544, evaluate any reasonable new or improved automotive technology, description of which is submitted to the Secretary in writing, which could lead or contribute to the development of an advanced automobile or automobiles under the authority of this part.

"(c) Not later than 2 years after the date of enactment of this title, the Secretary shall submit a report to the Congress with respect to the need for Federal support for construction of production prototypes of an advanced automobile or automobiles under the authority of this part, together with such legislative recommendations as the Secretary considers appropriate. Until such time as the Congress otherwise provides by law, sums authorized by section 550 to be appropriated to carry out this part shall not be available for construction of such production prototypes. This subsection shall not be considered a limitation on authority to construct any vehicle which is not a production prototype.

"COORDINATION BETWEEN THE SECRETARY AND OTHER AGENCIES

"SEC. 544. (a) The Secretary shall have overall management responsibility for carrying out the program under this part. In carrying out such program, the Secretary, consistent with such overall management responsibility—

"(1) shall utilize the Energy Research and Development Administration, to the maximum extent practicable and in accordance with subsection (c), in carrying out any activities under this part with respect to advanced propulsion systems; and

"(2) may utilize the Energy Research and Development Administration or any other

Federal agency (except as provided in paragraph (1)), in accordance with subsection (c), in carrying out any duties under this part, to the extent that the Secretary determines that any such agency has capabilities which would allow such agency to contribute to the attainment of the purposes of this part.

"(b) The ERDA Administrator, whenever the Energy Research and Development Administration is utilized under subsection (a), may exercise the powers granted to the Secretary under subsection (c) and under sections 545 and 546, subject to the overall management responsibility of the Secretary.

"(c) In addition to the powers specifically enumerated in any other provision of this part, the Secretary may, in order to carry out this part, obtain the assistance of any department, agency, or instrumentality of the executive branch of the Federal Government upon written request, on a reimbursable basis or otherwise, and with the consent of such department, agency, or instrumentality, identifying the assistance the Secretary deems necessary to carry out any duty under this part.

"CONTRACTS AND GRANTS

"SEC. 545. (a) The Secretary may enter into contracts with, and make grants to, any person for purposes of carrying out the provisions of section 543.

"(b) In addition to the requirements of section 544, the Secretary, in the exercise of his duties and responsibilities under this section, shall consult with the Administrator of the Environmental Protection Agency, the ERDA Administrator, the Administrator of the Federal Energy Administration, and representatives of other appropriate Federal agencies, and shall establish procedures for periodic consultation with representatives of science, industry, and such other groups as may have special expertise in the areas of advanced automotive technology.

"(c)(1) Each grant under this section shall be made in accordance with such rules as the Secretary shall prescribe in accordance with the provisions of this section. Each application for such a grant shall be made in writing in such form and with such content and other submissions as the Secretary shall require.

"(2) The Secretary may enter into contracts under this section without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

"OBLIGATION GUARANTEES

"SEC. 546. (a)(1) The Secretary may, in accordance with the provisions of this section and such rules as the Secretary shall prescribe guarantee the payment of not more than 90 per centum of the outstanding principal balance of any obligation incurred by any person, if the Secretary determines that such obligation is, or will be, entered into in order to assist in carrying out the program established under section 543.

"(2) Each application for an obligation guarantee under this section shall be made in writing to the Secretary in such form and with such content and other submissions as the Secretary shall require, in order reasonably to protect the interests of the United States. Each guarantee shall be extended in accordance with subsection (b) and—

"(A) under such terms and conditions as the Secretary, in consultation with the Secretary of the Treasury, considers appropriate;

"(B) with such provisions with respect to the timing of such guarantee as the Secretary, with the concurrence of the Secretary of the Treasury, considers appropriate, except that the required concurrence of the Secretary of the Treasury may not, without the consent of the Secretary, result in a delay in the issuance of such guarantee for more than 60 days; and

"(C) in such form and pursuant to such rules as the Secretary considers appropriate.

"(3) Each guarantee shall inure to the benefit of the holder of the obligation to which such guarantee applies. The Secretary may approve any modification of any provision of a guarantee of an obligation, upon a finding by the Secretary that such modification is equitable, not prejudicial to the interests of the United States, and has been consented to by the holder of such obligation.

"(4) All guarantees issued by the Secretary under this section shall constitute general obligations of the United States backed by the full faith and credit of the Government of the United States.

"(b) No obligation shall be guaranteed by the Secretary under subsection (a) unless the Secretary finds that—

"(1) there is a reasonable prospect for the repayment of such obligation;

"(2) such obligation is adequately secured;

"(3) such obligation constitutes a general obligation of the applicant for such guarantee; and

"(4) no other reasonable means of financing or refinancing is reasonably available to such applicant.

"(c)(1) The Secretary shall charge and collect such amounts as the Secretary may deem reasonable for the investigation of applications for the guarantee of an obligation, or for the appraisal of properties offered as security for such a guarantee.

"(2) The Secretary shall set an annual premium charge of not more than 1 per centum of the outstanding principal balance of each obligation guaranteed under this section.

"(d) No obligation guarantee issued by the Secretary under this section shall be terminated, canceled, or otherwise revoked, except in accordance with reasonable terms and conditions prescribed by the Secretary which were in effect on the date on which such guarantee was issued by the Secretary.

"(e)(1) If there is a default in any payment by the obligor of principal due under an obligation guaranteed by the Secretary under this section, and such default has continued for 60 days, the holder of such obligation shall have the right to demand payment by the Secretary. The Secretary shall promptly pay to the holder of such obligation, from amounts appropriated for such purpose, that portion of such unpaid amount which was guaranteed under this section, unless the Secretary finds that there was no default by the obligor in the payment of principal or that such default has been remedied.

"(2) If a payment is made by the Secretary under paragraph (1), the Secretary, in addition to the rights otherwise provided by law, shall be subrogated to all rights of the holder against the obligor and shall have all rights specified in the guarantee or related agreements with respect to any security which the Secretary held with respect to the guarantee of such obligation, including the authority to complete, maintain, operate, lease, sell, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements.

"(3) If there is a default under any obligation guarantee, the Secretary shall notify the Attorney General who shall take such action against the obligor or any other parties liable thereunder as is necessary to protect the interests of the United States. The holder of such obligation shall make available to the United States all records and evidence necessary or appropriate to bring or prosecute any such action.

"(f) The Secretary may issue commitments to guarantee an obligation under this section. An obligation may be guaranteed pursuant to such a commitment only if the requirements of this section are met at the time such obligation is issued.

"(g) The aggregate amount of guarantees issued by the Secretary under this section before July 30, 1976, shall not exceed $20,000,000, and the aggregate amount of guarantees issued by the Secretary under this section before September 30, 1977, shall not exceed $55,000,000. No such obligation guarantees may be used after September 30, 1977.

"PATENTS

"SEC. 547. (a) Section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 shall apply to any contract (including any assignment, substitution of parties, or subcontract thereunder), grant, or obligation guarantee entered into, made, or issued by the Secretary under this part to the same extent that such section applies to contracts of the Energy Research and Development Administration under the Federal Nonnuclear Energy Research and Development Act of 1974. For purposes of applying such section with respect to this part, any reference to the 'Administrator' or to the 'Administration' shall be deemed to be a reference to the 'Secretary' or to the Department of Transportation', respectively.

"(b)(1) Whenever the Secretary determines, on his own motion or upon application of any person and after opportunity for interested persons to present views, that—

"(A) a right under any United States letters patent, which is not otherwise reasonably available, is reasonably necessary to—

"(i) contribute to the development of advanced automotive technology pursuant to any contract entered into, grant made, or obligation guarantee issued under this part, or to the commercial application of technology developed pursuant to such a contract, grant, or guarantee, or

"(ii) provide for the expeditious commercial application of advanced automotive technology in order to comply with average fuel economy standards under part A of this title, or other Federal automobile standards, and

"(B) there are no other reasonable methods to achieve such dvelopment or commercial application, the Secretary shall (subject to paragraph (2)) certify such determination to a district court of the United States, for proceedings pursuant to paragraph (3).

"(2) No determinations may be made by the Secretary under subparagraphs (A)(ii) and (B) of paragraph (1), unless the Secretary determine, after opportunity for interested persons to present views, that—

"(A) the unavailability of the right under such patent may result in a substantial lessening of competition or a tendency to create a monopoly in any line of commerce in any section of the country, or

"(B) the availability of such right may result in a substantial increase in competition or a tendency to reduce a monopoly in any line of commerce in any section of the country, and such right is not being significantly utilized in the production of automobiles for commercial purposes.

"(3) Whenever a district court of the United States receives a certification of the Secretary pursuant to paragraph (1), such district court may, after a de novo hearing, issue an order requiring the person owning or controlling the patent which is the subject of such certification to license such patent at such reasonable royalty and on such terms and conditions as the court may determine. If a right under such patent is made available by such district court pursuant to certification by the Secretary under subparagraphs (A)(i) and (B) of paragraph (1), the order may also provide that such right shall also be available, at such reasonable royalty and on such terms and conditions as the court may prescribe, to any other person, if the court determines that such person is engaged in fostering the development or expeditious commercial application of advanced automotive technology, and that such right will contribute to such development or application.

"RECORDS, AUDIT, AND EXAMINATION

"SEC. 548. (a) **Each recipient of financial assistance under this part (including an obligor who has received an obligation guarantee under section 546), whether in the form of grants, subgrants, contracts, subcontracts, obligation guarantees, or other arrangements, shall keep such records as the Secretary or the ERDA Administrator, as the case may be, shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, the amount of that portion of such total cost which was supplied by other sources, and such other records as will facilitate an effective audit.**

"(b) The Secretary or the ERDA Administrator, as the case may be, and the Comptroller General of the United States, or any of their duly authorized representatives shall, until the expiration of 3 years after completion of the project or undertaking referred to in subsection (a), have access for the purpose of audit and examination to any books, documents, papers, and records of such receipts which in the opinion of the Secretary or the ERDA Administrator (as appropriate), or the Comptroller General may be related or pertinent to the grants, subgrants, contracts, subcontracts, obligation guarantees, or other arrangements referred to in such subsection.

"REPORTS

"SEC. 549. On or before July 1 of each year, the Secretary shall submit to Congress an annual report of activities under this part. Such report shall include—

"(1) the number and amount of contracts and grants made and of obligations guaranteed:

"(2) the progress made in developing advanced automobiles within the shortest practicable time after the date of enactment of this title;

"(3) the extent to which commercial application of the technology developed under this part may take place; and

"(4) suggestions for improvements in the program established under this part, including recommendations for legislation.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 550. There are authorized to be appropriated to the Secretary to carry out the purposes of this part, other than section 546 of this part, not to exceed $50,000,000 for the fiscal year ending June 30, 1976, and not to exceed $80,000,000 for the fiscal year ending September 30, 1977.".

PART B—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS OTHER THAN AUTOMOBILES

DEFINITIONS

SEC. 321. (a) For purposes of this part:

(1) The term "consumer product" means any article (other than an automobile, as defined in section 501(1) of the Motor Vehicle Information and Cost Savings Act) of a type—

(A) which in operation consumes, or is designed to consume, energy; and

(B) which, to any significant extent, is distributed in commerce for personal use or consumption by individuals;

without regard to whether such article of such type is in fact distributed in commerce for personal use or consumption by an individual.

(2) The term "covered product" means a consumer product of a type specified in section 322.

(3) The term "energy" means electricity, or fossil fuels. The Administrator may, by rule, include other fuels within the meaning of the term "energy" if he determines that such inclusion is necessary or appropriate to carry out the purposes of this Act.

(4) The term "energy use" means the quantity of energy directly consumed by a consumer product at point of use, determined in accordance with test procedures under section 323.

(5) The term "energy efficiency" means the ratio of the useful output of services from a consumer product to the energy use of such product, determined in accordance with test procedures under section 323.

(6) The term "energy efficiency standard" means a performance standard—

(A) which prescribes a minimum level of energy efficiency for a covered product, determined in accordance with test procedures prescribed under section 323, and

(B) which includes any other requirements which the Administrator may prescribe under section 325(c).

(7) The term "estimated annual operating cost" means the aggregate retail cost of the energy which is likely to be consumed annually in representative use of a consumer product, determined in accordance with section 323.

(8) The term "measure of energy consumption" means energy use, energy efficiency, estimated annual operating cost, or other measure of energy consumption.

(9) The term "class of covered products" means a group of covered products, the functions or intended uses of which are similar (as determined by the Administrator).

(10) The term "manufacture" means to manufacture, produce, assemble or import.

(11) The terms "import" and "importation" mean to import into the customs territory of the United States.

(12) The term "manufacturer" means any person who manufactures a consumer product.

(13) The term "retailer" means a person to whom a consumer product is delivered or sold, if such delivery or sale is for purposes of sale or distribution in commerce to purchasers who buy such product for purposes other than resale.

(14) The term "distributor" means a person (other than a manufacturer or retailer) to whom a consumer product is delivered or sold for purposes of distribution in commerce.

(15)(A) The term "private labeler" means an owner of a brand or trademark on the label of a consumer product which bears a private label.

(B) A consumer product bears a private label if (i) such product (or its container) is labeled with the brand or trademark of a person other than a manufacturer of such product, (ii) the person with whose brand or trademark such product (or container) is labeled has authorized or caused such product to be so labeled, and (iii) the brand or trademark of a manufacturer of such product does not appear on such label.

(16) The terms "to distribute in commerce" and "distribution in commerce" mean to sell in commerce, to import, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.

(17) The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

(18) The term "Commission" means the Federal Trade Commission.

COVERAGE

SEC. 322. (a) A consumer product is a covered product if it is one of the following types (or is designed to perform a function which is the principal function of any of the following types):

(1) Refrigerators and refrigerator-freezers.

(2) Freezers.

(3) Dishwashers.

(4) Clothes dryers.

(5) Water heaters.

(6) Room air conditioners.

(7) Home heating equipment, not including furnaces.

(8) Television sets.

(9) Kitchen ranges and ovens.

(10) Clothes washers.

(11) Humidifiers and dehumidifiers.

(12) Central air conditioners.

(13) Furnaces.

(14) Any other type of consumer product which the Administrator classifies as a covered product under subsection (b).

(b)(1) The Administrator may classify a type of consumer product as a covered product if he determines that—

(A) classifying products of such type as covered products is necessary or appropriate to carry out the purposes of this Act, and

(B) average annual per-household energy use by products of such type is likely to exceed 100 kilowatt-hours (or its Btu equivalent) per year.

(2) For purposes of this subsection:

(A) The term "average annual per-household energy use" with respect to a type of product means the estimated aggregate annual energy use (in kilowatt-hours or the Btu equivalent) of consumer products of such type which are used by households in the United States, divided by the number of such households which use products of such type.

(B) The Btu equivalent of one kilowatt-hour is 3,412 British thermal units.

(C) The term "household" shall be defined under rules of the Administrator.

TEST PROCEDURES

SEC. 323. (a)(1) The Administrator shall, during the 30-day period which begins on the date of enactment of this Act, afford interested persons an opportunity to present written data, views, and arguments with respect to test procedures to be developed for covered products of each of the types specified in paragraphs (1) through (13) of section 322(a).

(2) The Administrator shall direct the National Bureau of Standards to develop test procedures for the determination of (A) estimated annual operating costs of covered products of the types specified in paragraphs (1) through (13) of section 322(a), and (B) at least one other useful measure of energy consumption of such products which the Administrator determines is likely to assist consumers in making purchasing decisions.

(3) Except as provided in paragraph (6), the Administrator shall publish proposed test procedures with respect to all covered products of each of the types specified in paragraphs (1) through (13) of section 322(a), and shall afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such proposed test procedures. Such comment period shall not be less than 45 days. Such proposed test procedures shall be published not later than June 30, 1976, except that (A) in the case of covered products of the types specified in paragraphs (7) and (9) of section 322(a), such proposed test procedures shall be published not later than September 30, 1976, and (B) in the case of covered products of the types specified in paragraphs (10) and (13) of section 322(a), such proposed test procedures shall be published not later than June 30, 1977.

(4)(A) Except as provided in paragraph (6), the Administrator shall prescribe test procedures for the determination of (i) estimated annual operating costs of all covered products of each of the types specified in paragraphs (1) through (13) of section 322(a), and (ii) at least one other measure of energy consumption of such products which the Administrator determines is likely to assist consumers in making purchasing decisions.

(B) Such test procedures shall be prescribed not later than September 30, 1976, except that (i) in the case of covered products of the types specified in paragraphs (7) and (9) of section 322(a), such procedures shall be prescribed not later than December 31, 1976, and (ii) in the case of covered products of the types specified in paragraphs (10) through (13) of section 322(a), such test procedures shall be published not later than September 30, 1977.

(5) If the Administrator has classified a type of product as a covered product under section 322(b), the Administrator may, after affording interested persons an opportunity to comment, direct the National Bureau of Standards to develop, and may publish proposed test procedures for such type of covered product (or class thereof). The Administrator shall afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such proposed test procedures. Such comment period shall not be less than 45 days. The Administrator may thereafter prescribe test procedures in accordance with subsection (b) of this section with respect to such type or class of product, if the Administrator or the Commission determines that—

(A) the application of subsection (c) to such type of covered product (or class thereof) will assist consumers in making purchasing decisions, or

(B) labeling in accordance with section 324 will assist purchasers in making purchasing decisions.

(6) The Administrator may delay the publication of proposed test procedures or the prescription of test procedures for a type of covered product (or class thereof) beyond the dates specified in paragraph (3), or (4), if he determines that he cannot, within the applicable time period, publish proposed test procedures or prescribe test procedures applicable to such type (or class thereof) which meet the requirements of subsection (b), and publishes such determination in the Federal Register. In any such case, he shall publish proposed test procedures or prescribe test procedures for covered products of such type (or class thereof) as soon as practicable, unless he determines that test procedures cannot be developed which meet the requirements of subsection (b) and publishes such determination in the Federal Register, together with the reasons therefor.

(b)(1) Any test procedures prescribed under this section shall be reasonably designed to produce test results which reflect energy efficiency, energy use, or estimated annual operating cost of a covered product during a representative average use cycle (as determined by the Administrator), and shall not be unduly burdensome to conduct.

(2) If the test procedure is a procedure for determining estimated annual operating costs, such procedure shall provide that such costs shall be calculated from measurements of energy use in a representative average-use cycle (as determined by the Administrator), and from representative average unit costs of the energy needed to operate such product during such cycle. The Administrator shall provide information to manufacturers respecting representative average unit costs of energy.

(c) Effective 90 days after a test procedure rule applicable to a covered product is prescribed under this section, no manufacturer, distributor, retailer, or private labeler may make any representation—

(1) in writing (including a representation on a label), or

(2) in any broadcast advertisement,

respecting the energy consumption of such product or cost of energy consumed by such product, unless such product has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

LABELING

SEC. 324. (a)(1) The Commission shall prescribe labeling rules under this section applicable to all covered products of each of the types specified in paragraphs (1) through (9) of section 322(a), except to the extent that, with respect to any such type (or class thereof)—

(A) the Administrator determines under the second sentence of section 323(a)(6) that test procedures cannot be developed which meet the requirements of section 323(b); or

(B) the Commission determines under the second sentence of subsection (b)(5) that labeling in accordance with this section is not technologically or economically feasible.

(2) The Commission shall prescribe labeling rules under this section applicable to all covered products of each of the types specified in paragraphs (10) through (13) of section 322(a), except to the extent that with respect to any such type (or class thereof)—

(A) the Administrator determines under the second sentence of section 323(a)(6) that test procedures cannot be developed which meet the requirements of section 323(b); or

(B) the Commission determines under the second sentence of subsection (b)(5) that labeling in accordance with this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions.

(3) The Commission may prescribe a labeling rule under this section applicable to covered products of a type specified in paragraph (14) of section 322(a) (or a class thereof) if—

(A) the Commission or the Administrator has made a determination with respect to such type (or a class thereof) under section 323(a)(5)(B),

(B) the Administrator has prescribed test procedures under section 323(a)(5) for such type (or class thereof), and

(C) the Commission determines with respect to such type (or class thereof) that application of labeling rules under this section to such type (or class thereof) is economically and technologically feasible.

(4) Any determination under this subsection shall be published in the Federal Register.

(b)(1) Not later than 30 days after the date on which a proposed test procedure applicable to a covered product of any of the types specified in paragraphs (1) through (14) of section 322(a) (or class thereof) is published under section 323(a), the Commission shall publish a proposed labeling rule applicable to such type (or class thereof).

(2) The Commission shall afford interested persons an opportunity to present written or oral data, views, and comments with respect to the proposed labeling rules published under paragraph (1). The period for such presentations shall not be less than 45 days.

(3) Not earlier than 45 days nor later than 60 days after the date on which test procedures are prescribed under section 323 with respect to covered products of any type (or class thereof) specified in paragraphs (1) through (13) of section 322(a), the Commission shall prescribe labeling rules with respect to covered products of such type (or class thereof). Not earlier than 45 days after the date on which test procedures are prescribed under section 323 with respect to covered products of a type specified in paragraph (14) of section 322(a), the Commission may prescribe labeling rules with respect to covered products of such type (or class thereof).

(4) A labeling rule prescribed under paragraph (3) shall take effect not later than 3 months after the date of prescription of such rule, except that such rules may take effect not later than 6 months after such date of prescription if the Commission determines that such extension is necessary to allow persons subject to such rules adequate time to come into compliance with such rules.

(5) The Commission may delay the publication of a proposed labeling rule, or the prescription of a labeling rule, beyond the dates specified in paragraph (1) or (3), if it determines that it cannot publish proposed labeling rules or prescribe labeling rules which meet the requirements of this section on or prior to the date specified in the applicable paragraph and publishes such determination in the Federal Register, together with the reasons therefor. In any such case, it shall publish proposed labeling rules or prescribe labeling rules for covered products of such type (or class thereof) as soon as practicable unless it determines (A) that labeling in accordance with this section is not economically or technically feasible, or (B) in the case of a type specified in paragraphs (10) through (13) of section 322(a), that labeling in accordance with this section is not likely to assist consumers in purchasing decisions. Any such determination shall be published in the Federal Register, together with the reasons therefor. This paragraph shall not apply to the prescription of a labeling rule with respect to covered products of a type specified in paragraph (14) of section 322(a).

(c)(1) Subject to paragraph (6), a rule prescribed under this section shall require that each covered product in the type or class of covered products to which the rule applies bear a label which discloses—

(A) the estimated annual operating cost of such product (determined in accordance with test procedures prescribed under section 323), except that if—

(i) the Administrator determines that disclosure of estimated annual operating cost is not technologically feasible, or

(ii) the Commission determines that such disclosure is not likely to assist consumers in making purchasing decisions or is not economically feasible,

the Commission shall require disclosure of a different useful measure of energy consumption (determined in accordance with test procedures prescribed under section 323); and

(B) information respecting the range of estimated annual operating costs for covered products to which the rule applies; except that if the Commission requires disclosure under subparagraph (A) of a measure of energy consumption different from estimated annual operating cost, then the label shall disclose the range of such measure of energy consumption of covered products to which such rule applies.

(2) A rule under this section shall include the following:

(A) A description of the type or class of covered products to which such rule applies.

(B) Subject to paragraph (6), information respecting the range of estimated annual operating costs or other useful measure of energy consumption (determined in such manner as the rule may prescribe) for such type or class of covered products.

(C) A description of the test procedures under section 323 used in determining the estimated annual operating costs or other measure of energy consumption of the type or class of covered products.

(D) A prototype label and directions for displaying such label.

(3) A rule under this section shall require that the label be displayed in a manner that the Commission determines is likely to assist consumers in making purchasing decisions and is appropriate to carry out this part. The Commission may permit a tag to be used in lieu of a label in any case in which the Commission finds that a tag will carry out the purposes for which the label was intended.

(4) A rule under this section applicable to a covered product may require disclosure, in any printed matter displayed or distributed at the point of sale of such product, of any information which may be required under this section to be disclosed on the label

of such product. Requirements under this paragraph shall not apply to any broadcast advertisement or any advertisement in any newspaper, magazine, or other periodical.

(5) The Commission may require that a manufacturer of a covered product to which a rule under this section applies—

(A) include on the label,

(B) separately attach to the product, or

(C) ship with the product,

additional information relating to energy consumption, if the Commission determines that such additional information would assist consumers in making purchasing decisions or in using such product, and that such requirement would not be unduly burdensome to manufacturers.

(6) The Commission may delay the effective date of the requirement specified in paragraph (1)(B) of this subsection applicable to a type or class of covered product, insofar as it requires the disclosure on the label of information respecting range of a measure of energy consumption, for not more than 12 months after the date on which the rule under this section is first applicable to such type or class, if the Commission determines that such information will not be available within an adequate period of time before such date.

(d) A rule under this section (or an amendment thereto) shall not apply to any covered product the manufacture of which was completed prior to the effective date of such rule or amendment, as the case may be.

(e) The Administrator, in consultation with the Commission, shall study consumer products for which labeling rules under this section have not been proposed, in order to determine (1) the aggregate energy consumption of such products, and (2) whether the imposition of labeling requirements under this section would be feasible and useful to consumers in making purchasing decisions. The Administrator shall include the results of such study in the annual report under section 338.

(f) The Administrator and the Commission shall consult with each other on a continuing basis as may be necessary or appropriate to carry out their respective responsibilities under this part. Before the Commission makes any determination under subsection (a) (1) or (2), it shall obtain the views of the Administrator and shall take such views into account in making such determination.

(g) Until such time as labeling rules under this section take effect with respect to a type or class of covered product, this section shall not affect any authority of the Commission under the Federal Trade Commission Act to require labeling with respect to energy consumption of such type or class of covered product.

ENERGY EFFICIENCY STANDARDS

SEC. 325. (a)(1)(A) Not later than 180 days after the date of enactment of this Act, the Administrator shall, by rule, prescribe an energy efficiency improvement target for each type of covered product specified in paragraphs (1) through (10) of section 322(a).

(B) The targets prescribed under subparagraph (A) shall be designed so that, if met, the aggregate energy efficiency of covered products of all types specified in paragraphs (1) through (10) of section 322(a) which are manufactured in calendar year 1980 will exceed the aggregate energy efficiency achieved by products of all such types manufactured in calendar year 1972 by a percentage which is the maximum percentage improvement which the Administrator determines is economically and technologically feasible, but which in any case is not less than 20 percent.

(2) Not later than one year after the date of enactment of this Act, the Administrator shall, by rule, prescribe an energy efficiency improvement target for each type of covered products specified in paragraphs (11), (12), and (13) of section 322(a). Each such target shall be designed to achieve the maximum improvement in energy efficiency which the Administrator determines is economically and technologically feasible to attain for each such type manufactured in calendar year 1980.

(3) The Administrator may, from time to time, by rule, modify any energy efficiency improvement target prescribed under paragraph (1) or (2) so long as such target, as modified, meets the applicable requirements of paragraph (1) or (2).

(4)(A) The Administrator shall require each manufacturer of covered products of the types specified in paragraphs (1) through (13) of section 332(a) to submit such reports, with respect to improvement of energy efficiency of such products, as the Administrator determines may be necessary to establish targets under this subsection or to ascertain whether covered products of any such type will achieve the percentage improvement prescribed by the energy efficiency improvement target for such type.

(B) If, on the basis of the reports received under subparagraph (A) or other information available to the Administrator, he determines that an energy efficiency improvement target applicable to any type of covered product specified in paragraphs (1) through (13) of section 322(a) is not likely to be achieved, the Administrator shall commence a proceeding under subsection (b) to prescribe an energy efficiency standard for such type.

(C) If, in a proceeding required to be commenced under subparagraph (B), the Administrator determines with respect to the type of product to which the proceeding relates (or class thereof)—

(i) improvement of energy efficiency of covered products of such type (or class thereof) is technologically feasible and economically justified, and

(ii) the application of a labeling rule under section 324 applicable to such type (or class thereof) is not likely to be sufficient to induce manufacturers to produce, and consumers and other persons to purchase, covered products of such type (or class thereof) which achieve the maximum energy efficiency which it is technologically feasible to attain, and which is economically justified,

the Administrator shall prescribe an energy efficiency standard for such type (or, if the determinations are made with respect to one or more classes of such type, for such class or classes).

(D) For purposes of subparagraph (B), improvement of energy efficiency is economically justified if it is economically feasible, the benefits of reduced energy consumption, and the savings in operating costs throughout the estimated average life of the covered product, outweigh—

(i) any increase to purchasers in initial charges for, or maintenance expenses of, the covered product which is likely to result from the imposition of the standard,

(ii) any lessening of the utility or the performance of the covered product, and

(iii) any negative effects on competition.

(E) For purposes of subparagraph (D) (iii), the Administrator shall not determine that there are any negative effects on competition, unless the Attorney General (on request of the Administrator, the Commission, or any person, or his own motion) makes such determination and submits it in writing to the Administrator, together with his analysis of the nature and extent of such negative effects. The determination of the Attorney General shall be available for public inspection.

(5) The Administrator may (without regard to paragraphs (1) through (4)(B)) commence a proceeding to prescribe an energy efficiency standard applicable to any type or class of covered product (other than a consumer product classified as a covered product under section 322(b)). In such proceeding he may prescribe such a standard if he makes the determinations specified in clauses (i) and (ii) of paragraph (4)(C)) of this subsection.

(b) Any energy efficiency standard shall be prescribed in accordance with the following procedure:

(1) The Administrator shall (A) publish an advance notice of proposed rulemaking which specifies (i) the type or class of covered products to which the rule will apply, and (ii) the energy efficiency level which the Administrator proposes to require by such energy efficiency standard, and (B) invite interested persons to submit, within 90 days after the date of publication of such advance notice—

(i) written or oral presentations of data, views, and argument as to the proposed level of energy efficiency, and

(ii) a proposed energy efficiency standard applicable to such type or class of covered product.

(2) A proposed rule which prescribes an energy efficiency standard for a type or class of covered products may not be prescribed earlier than 120 days after the date of publication of advance notice of proposed rulemaking for such type or class.

(3) A rule prescribing an energy efficiency standard for a class or type of covered product may not be published earlier than 60 days after the date of publication of the proposed rule under this section for such type or class. Such rule shall take effect not earlier than 180 days after the date of its publication in the Federal Register. Such rule (or any amendment thereto) shall not apply to any covered product the manufacture of which was completed prior to the effective date of the rule or amendment as the case may be.

(c) An energy efficiency standard prescribed under this section shall include test procedures prescribed in accordance with section 323, and may include any requirement which the Administrator determines is necessary to assure that each covered product to which such standard applies meets the required minimum level of energy efficiency specified in such standard.

(d) A rule with respect to any type or class of covered product prescribed under this section may not take effect unless a rule under section 324 with respect to such type or class of covered product has been in effect at least 18 months prior to the effective date of the rule under this section.

REQUIREMENTS OF MANUFACTURERS

SEC. 326. (a) Each manufacturer of a covered product to which a rule under section 324 applies shall provide a label which meets, and is displayed in accordance with, the requirements of such rule. If such manufacturer or any distributor, retailer, or private labeler of such product advertises such product in a catalog from which it may be purchased, such catalog shall contain all information required to be displayed on the label, except as otherwise provided by rule of the Commission. The preceding sentence shall not require that a catalog contain information respecting a covered product if the distribution of such catalog commenced before the effective date of the labeling rule under section 324 applicable to such product.

(b)(1) Each manufacturer of a covered product to which a rule under section 324 applies shall notify the Commission, not later than 60 days after the date such rule takes effect, of the models in current production (and starting serial numbers of those models) to which such rule applies.

(2) If requested by the Administrator or Commission, the manufacturer of a covered product to which a rule under section 324 applies shall provide, within 30 days of the date of the request, the data from which

the information included on the label and required by the rule was derived. Data shall be kept on file by the manufacturer for a period specified in the rule.

(3) When requested by the Commission, the manufacturer of covered products to which a rule under section 324 applies shall supply at his expense a reasonable number of such covered products to any laboratory designated by the Commission for the purpose of ascertaining whether the information set out on the label, as required under section 324, is accurate. Any reasonable charge levied by the laboratory for such testing shall be borne by the United States.

(4) Each manufacturer of a covered product to which a rule under section 324 applies shall annually, at a time specified by the Commission, supply to the Commission relevant data respecting energy consumption developed in accordance with the test procedures applicable to such product under section 323.

(5) A rule under section 323, 324, or 325 may require the manufacturer or his agent to permit a representative designated by the Commission or the Administrator to observe any testing required by this part and inspect the results of such testing.

(c) Each manufacturer shall use labels reflecting the range data required to be disclosed under section 324(c)(1)(B) after the expiration of 60 days following the date of publication of any revised table of ranges unless the rule under section 324 provides for a later date. The Commission may not require labels be changed to reflect revised tables of ranges more often than annually.

EFFECT ON OTHER LAW

SEC. 327. (a) This part supersedes any State regulation insofar as such State regulation may now or hereafter provide for—

(1) the disclosure of information with respect to any measure of energy consumption of any covered product—

(A) if there is any rule under section 323 applicable to such covered product, and such State regulation requires testing in any manner other than that prescribed in such rule under section 323, or

(B) if there is a rule under section 324 applicable to such covered product and such State regulation requires disclosure of information other than information disclosed in accordance with such rule under section 324; or

(2) any energy efficiency standard or similar requirement with respect to energy efficiency or energy use of a covered product—

(A) if there is a standard under section 325 applicable to such product, and such State regulation is not identical to such standard, or

(B) if there is a rule under section 323 or 324 applicable to such product and such State regulation requires testing in accordance with test procedures which are not identical to the test procedures specified in such rule.

(b)(1) If a State regulation provides for an energy efficiency standard or similar requirement respecting energy use or energy efficiency of a covered product and if such State regulation is not superseded by subsection (a)(2), then any person subject to such State regulation may petition the Administrator for the prescription of a rule under this subsection which supersedes such State regulation in whole or in part. The Administrator shall, within 6 months after the date such a petition is filed, either deny such petition or prescribe a rule under this subsection superseding such State regulation. The Administrator shall issue such a rule with respect to a State regulation if and only if the petitioner demonstrates to the satisfaction of the Administrator that—

(A) there is no significant State or local interest sufficient to justify such State regulation; and

(B) such State regulation unduly burdens interstate commerce.

(2) Notwithstanding the provisions of subsection (a), any State regulation which provides for an energy efficiency standard or similar requirement respecting energy use or energy efficiency of a covered product shall not be superseded by subsection (a) if the State prescribing such standard demonstrates and the Administrator finds, by rule that—

(A) there is a substantial State or local need which is sufficient to justify such State regulation;

(B) such State regulation does not unduly burden interstate commerce; and

(C) if there is a Federal energy efficiency standard applicable to such product, such State regulation contains a more stringent energy efficiency standard than the corresponding Federal standard.

(c) Notwithstanding the provisions of subsection (a), any State regulation which sets forth procurement standards for a State (or political subdivision thereof) shall not be superseded by the provisions of this part if such State standards are more stringent than the corresponding Federal standards.

(d) For purposes of this section, the term "State regulation" means a law or regulation of a State or political subdivision thereof.

(e) Any disclosure with respect to energy use, energy efficiency, or estimated annual operating cost, which is required to be made under the provisions of this part, shall not create an express or implied warranty under State or Federal law that such energy efficiency will be achieved, or that such energy use or estimated annual operating cost will not be exceeded, under conditions of actual use.

RULES

SEC. 328. The Commission and the Administrator may each issue such rules as each deems necessary to carry out the provisions of this part.

AUTHORITY TO OBTAIN INFORMATION

SEC. 329. (a) For purposes of carrying out this part, the Commission and the Administrator may each sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant books, records, papers, and other documents, and may each administer oaths. Witnesses summoned under the provisions of this section shall be paid the same fees and mileage as are paid to witnesses in the courts of the United States. In case of contumacy by, or refusal to obey a subpena served, upon any persons subject to this part, the Commission and the Administrator may each seek an order from the district court of the United States for any district in which such person is found or resides or transacts business requiring such person to appear and give testimony, or to appear and produce documents. Failure to obey any such order is punishable by such court as a contempt thereof.

(b) Any information submitted by any person to the Administrator or the Commission under this part shall not be considered energy information as defined by section 11(e)(1) of the Energy Supply and Environmental Coordination Act of 1974 for purposes of any verification examination authorized to be conducted by the Comptroller General under section 501 of this Act.

EXPORTS

SEC. 330. This part shall not apply to any covered product if (1) such covered product is manufactured, sold, or held for sale for export from the United States (or such product was imported for export), unless such product is in fact distributed in commerce for use in the United States, and (2) such covered product when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or label stating that such covered product is intended for export.

IMPORTS

SEC. 331. Any covered product offered for importation in violation of section 332 shall be refused admission into the customs territory of the United States under rules issued by the Secretary of the Treasury, except that the Secretary of the Treasury may, by such rules, authorize the importation of such covered product upon such terms and conditions (including the furnishing of a bond) as may appear to him appropriate to ensure that such covered product will not violate section 332, or will be exported or abandoned to the United States. The Secretary of the Treasury shall prescribe rules under this section not later than 180 days after the date of enactment of this Act.

PROHIBITED ACTS

SEC. 332. (a) It shall be unlawful—

(1) for any manufacturer or private labeler to distribute in commerce any new covered product to which a rule under section 324 applies, unless such covered product is labeled in accordance with such rule;

(2) for any manufacturer, distributor, retailer, or private labeler to remove from any new covered product or render illegible any label required to be provided with such product under a rule under section 324;

(3) for any manufacturer to fail to permit access to, or copying of, records required to be supplied under this part, or fail to make reports or provide other information required to be supplied under this part;

(4) for any person to fail to comply with an applicable requirement of section 326 (a), (b)(2), (b)(3), or (b)(5); or

(5) for any manufacturer or private labeler to distribute in commerce any new covered product which is not in conformity with an applicable energy efficiency standard prescribed under this part.

(b) For purposes of this section, the term "new covered product" means a covered product the title of which has not passed to a purchaser who buys such product for purposes other than (1) reselling such product, or (2) leasing such product for a period in excess of one year.

ENFORCEMENT

SEC. 333. (a) Except as provided in subsection (b), any person who knowingly violates any provision of section 332 shall be subject to a civil penalty of not more than $100 for each violation. Such penalties shall be assessed by the Commission, except that penalties for violations of section 332(a)(3) which relate to requirements prescribed by the Administrator, violations of section 332 (a)(4) which relate to requests of the Administrator under section 326(b)(2), or violations of section 332(a)(5) shall be assessed by the Administrator. Civil penalties assessed under this part may be compromised by the agency or officer authorized to assess the penalty, taking into account the nature and degree of the violation and the impact of the penalty upon a particular respondent. Each violation of paragraph (1), (2), or (5) of section 332(a) shall constitute a separate violation with respect to each covered product, and each day of violation of section 332 (a)(3) or (4) shall constitute a separate violation.

(b) As used in subsection (a), the term "knowingly" means (1) the having of actual knowledge, or (2) the presumed having of knowledge deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable upon the exercise of due care.

(c) It shall be an unfair or deceptive act or practice in or affecting commerce (within the meaning of section 5(a)(1) of the Federal Trade Commission Act) for any person to violate section 323(d)(2).

INJUNCTIVE ENFORCEMENT

SEC. 334. The United States district courts shall have jurisdiction to restrain (1) any violation of section 332 and (2) any person from distributing in commerce any covered product which does not comply with an applicable rule under section 324 or 325. Any such action shall be brought by the Commission, except that any such action to restrain any violation of section 332(a)(3) which relates to requirements prescribed by the Administrator, any violation of section 332(a)(4) which relates to requests of the Administrator under section 326(b)(2), or any violation of section 332(a)(5) shall be brought by the Administrator. Any such action may be brought in any United States district court for a district wherein any act, omission, or transaction constituting the violation occurred, or in such court for the district wherein the defendant is found or transacts business. In any action under this section, process may be served on a defendant in any other district in which the defendant resides or may be found.

CITIZEN SUITS

SEC. 335. (a) Except as otherwise provided in subsection (b), any person may commence a civil action against—

(1) any manufacturer or private labeler who is alleged to be in violation of any provision of this part or any rule under this part (excluding sections 325 and 332(a)(5), and rules thereunder); or

(2) any Federal agency which has a responsibility under this part where there is an alleged failure of such agency to perform any act or duty under this part which is not discretionary (excluding any act or duty under section 325 or 332(a)(5)).

The United States district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such provision or rule, as the case may be.

(b) No action may be commenced—

(1) under subsection (a)(1)—

(A) prior to 60 days after the date on which the plaintiff has given notice of the violation (i) to the Administrator, (ii) to the Commission, and (iii) to any alleged violator of such provision or rule, or

(B) if the Commission has commenced and is diligently prosecuting a civil action to require compliance with such provision or rule, but, in any such action, any person may intervene as a matter of right.

(2) under subsection (a)(2) prior to 60 days after the date on which the plaintiff has given notice of such action to the Administrator and Commission.

Notice under this subsection shall be given in such manner as the Commission shall prescribe by rule.

(c) In such action under this section, the Administrator or the Commission (or both), if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of this part or any rule thereunder, or to seek any other relief (including relief against the Administrator or the Commission).

(f) For purposes of this section, if a manufacturer or private labeler complied in good faith with a rule under this part, then he shall not be deemed to have violated any provision of this part by reason of the alleged invalidity of such rule.

ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

SEC. 336. (a)(1) Rules under sections 323, 324, 325(a) (1), (2), or (3), 327(b), or 328 shall be prescribed in accordance with section 553 of title 5, United States Code, except that—

(A) interested persons shall be afforded an opportunity to present written and oral data, views, and arguments with respect to any proposed rule, and

(B) in the case of a rule under paragraph (1), (2), or (3) of section 325(a), the Administrator shall, by means of conferences or other informal procedures, afford any interested person an opportunity to question—

(i) other interested persons who have made oral presentations under subparagraph (A), and

(ii) employees of the United States who have made written or oral presentations,

with respect to disputed issues of material fact. Such opportunity shall be afforded to the extent the Administrator determines that questioning pursuant to such procedures is likely to result in a more timely and effective resolution of such issues.

A transcript shall be kept of any oral presentations made under this paragraph.

(2) Subsections (c) and (d) of section 18 of the Federal Trade Commission Act shall apply to rules under section 325 (other than subsections (a)(1), (2), and (3)) to the same extent that such subsections apply to rules under section 18(a)(1)(B) of such Act.

(b)(1) Any person who will be adversely affected by a rule prescribed under section 323 or 324 when it is effective may, at any time prior to the sixtieth day after the date such rule is prescribed, file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review thereof. A copy of the petition shall be forthwith transmitted by the clerk of the court to the agency which prescribed the rule. Such agency thereupon shall file in the court the written submissions to, and transcript of, the proceedings on which the rule was based as provided in section 2112 of title 28, United States Code.

(2) Upon the filing of the petition referred to in paragraph (1), the court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter. No rule under section 323 or 324 may be affirmed unless supported by substantial evidence.

(3) The judgment of the court affirming or setting aside, in whole or in part, any such rule shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(4) The remedies provided for in this subsection shall be in addition to, and not in substitution for, any other remedies provided by law.

(5) Section 18(e) of the Federal Trade Commission Act shall apply to rules under section 325 (other than subsections (a) (1), (2), and (3)) to the same extent that it applies to rules under section 18(a)(1)(B) of such Act.

CONSUMER EDUCATION

SEC. 337. The Administrator shall, in close cooperation and coordination with the Commission and appropriate industry trade associations and industry members, including retailers, and interested consumer and environmental organizations, carry out a program to educate consumers and other persons with respect to—

(1) the significance of estimated annual operating costs;

(2) the way in which comparative shopping, including comparisons of estimated annual operating costs, can save energy for the Nation and money for consumers; and

(3) such other matters as the Administrator determines may encourage the conservation of energy in the use of consumer products.

Such steps to educate consumers may include publications, audiovisual presentations, demonstrations, and the sponsorship of national and regional conferences involving manufacturers, distributors, retailers, and consumers, and State, local, and Federal Government representatives. Nothing in this section may be construed to require the compilation of lists which compare the estimated annual operating costs of consumer products by model or manufacturer's name.

ANNUAL REPORT

SEC. 338. The Administrator shall report to the Congress and the President either (1) as part of his annual report, or (2) in a separate report submitted annually, on the progress of the program undertaken pursuant to this part and on the energy savings impact of this part.

AUTHORIZATION OF APPROPRIATIONS

SEC. 339. (a) There are authorized to be appropriated to the Administrator not more than the following amounts to carry out his responsibilities under this part—

(1) $1,700,000 for fiscal year 1976;

(2) $1,500,000 for fiscal year 1977; and

(3) $1,500,000 for fiscal year year 1978.

(b) There are authorized to be appropriated to the Commission not more than the following amounts to carry out its responsibilities under this part—

(1) $650,000 for fiscal year 1976;

(2) $700,000 for fiscal year 1977; and

(3) $700,000 for fiscal year 1978.

(c) There are authorized to be appropriated to the Administrator to be allocated not more than the following amounts—

(1) $1,100,000 for fiscal year 1976;

(2) $700,000 for fiscal year 1977; and

(3) $700,000 for fiscal year 1978.

Such amounts shall, and any amounts authorized to be appropriated under subsection (a) may, be allocated by the Administrator to the National Bureau of Standards.

PART C—STATE ENERGY CONSERVATION PLANS

FINDINGS AND PURPOSE

SEC. 361. (a) The Congress finds that—

(1) the development and implementation by States of laws, policies, programs, and procedures to conserve and to improve efficiency in the use of energy will have an immediate and substantial effect in reducing the rate of growth of energy demand and in minimizing the adverse social, economic, political, and environmental impacts of increasing energy consumption;

(2) the development and implementation of energy conservation programs by States will most efficiently and effectively minimize any adverse economic or employment impacts of changing patterns of energy use and meet local economic, climatic, geographic, and other unique conditions and requirements of each State; and

(3) the Federal Government has a responsibility to foster and promote comprehensive energy conservation programs and practices by establishing guidelines for such programs and providing overall coordination, technical assistance, and financial support for specific State initiatives in energy conservation.

(b) It is the purpose of this part to promote the conservation of energy and reduce the rate of growth of energy demand by authorizing the Administrator to establish procedures and guidelines for the development and implementation of specific State energy conservation programs and to provide Federal financial and technical assistance to States in support of such programs.

STATE ENERGY CONSERVATION PLANS

SEC. 362. (a) The Administrator shall, by rule, within 60 days after the date of enactment of this Act, prescribe guidelines for the preparation of a State energy conservation feasibility report. The Administrator shall invite the Governor of each State to submit, within 3 months after the effective date of such guidelines, such a report. Such report shall include—

(1) an assessment of the feasibility of establishing a State energy conservation goal, which goal shall consist of a reduction, as a result of the implementation the State energy conservation plan described in this section, of 5 percent or more in the total amount of energy consumed in such State

in the year 1980 from the projected energy consumption for such State in the year 1980, and

(2) a proposal by such State for the development of a State energy conservation plan to achieve such goal.

(b) The Administrator shall, by rule, within 6 months after the date of enactment of this Act, prescribe guidelines with respect to measures required to be included in, and guidelines for the development, modification, and funding of, State energy conservation plans. The Administrator shall invite the Governor of each State to submit, within 5 months after the effective date of such guidelines, a report. Such report shall include—

(1) a proposed State energy conservation plan designed to result in scheduled progress toward, and achievement of, the State energy conservation goal of such State; and

(2) a detailed description of the requirements, including the estimated cost of implementation and the estimated energy savings, associated with each functional category of energy conservation included in the State energy conservation plan.

(c) Each proposed State energy conservation plan to be eligible for Federal assistance under this part shall include—

(1) mandatory lighting efficiency standards for public buildings (except public buildings owned or leased by the United States);

(2) programs to promote the availability and use of carpools, vanpools, and public transportation (except that no Federal funds provided under this part shall be used for subsidizing fares for public transportation);

(3) mandatory standards and policies relating to energy efficiency to govern the procurement practices of such State and its political subdivisions;

(4) mandatory thermal efficiency standards and insulation requirements for new and renovated buildings (except buildings owned or leased by the United States); and

(5) a traffic law or regulation which, to the maximum extent practicable consistent with safety, permits the operator of a motor vehicle to turn such vehicle right at a red stop light after stopping.

(d) Each proposed State energy conservation plan may include—

(1) restrictions governing the hours and conditions of operation of public buildings (except buildings owned or leased by the United States);

(2) restrictions on the use of decorative or nonessential lighting;

(3) transportation controls;

(4) programs of public education to promote energy conservation; and

(5) any other appropriate method or programs to conserve and to improve efficiency in the use of energy.

(e) The Governor of any State may submit to the Administrator a State energy conservation plan which is a standby energy conservation plan to significantly reduce energy demand by regulating the public and private consumption of energy during a severe energy supply interruption, which plan may be separately eligible for Federal assistance under this part without regard to subsections (c) and (d) of this section.

FEDERAL ASSISTANCE TO STATES

SEC. 363. (a) Upon request of the Governor of any State, the Administrator shall provide, subject to the availability of personnel and funds, information and technical assistance, including model State laws and proposed regulations relating to energy conservtion, and other assistance in—

(1) the preparation of the reports described in section 362, and

(2) the development, implementation, or modification of an energy conservation plan of such State submitted under section 362 (b) or (e).

(b) (1) The Administrator may grant Federal financial assistance pursuant to this section for the purpose of assisting such State in the development of any such energy conservation plan or in the implementation or modification of a State energy conservation plan or part thereof which has been submitted to and approved by the Administrator pursuant to this part.

(2) In determining whether to approve a State energy conservation plan submitted under section 362(b) or (e), the Administrator—

(A) shall take into account the impact of local economic, climatic, geographic, and other unique conditions and requirements of such State on the opportunity to conserve and to improve efficiency in the use of energy in such State; and

(B) may extend the period of time during which a State energy conservation feasibility report or State energy conservation plan may be submitted if the Administrator determines that participation by the State submitting such report or plan is likely to result in significant progress toward achieving the purposes of this Act. (3) In determining the amount of Federal financial assistance to be provided to any State under this subsection, the Administrator shall consider—

(A) the contribution to energy conservation which can reasonably be expected,

(B) the number of people affected by such plan, and

(C) the consistency of such plan with the purposes of this Act, and such other factors as the Administrator deems appropriate.

(c) Each recipient of Federal financial assistance under subsection (b) shall keep such records as the Administrator shall require, including records which fully disclose the amount and disposition by each recipient of the proceeds of such assistance, the total cost of the project or program for which such assistance was given or used, the source and amount of funds for such projects or programs not supplied by the Administrator, and such other records as the Administrator determines necessary to facilitate an effective audit and performance evaluation. The Administrator and Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any pertinent books, documents, papers, and records of any recipient of Federal assistance under this part.

ENERGY CONSERVATION GOALS

SEC. 364. Upon the basis of the reports submitted pursuant to this part and such other information as is available, the Administrator shall, at the earliest practicable date, set an energy conservation goal for each State for 1980 and may set interim goals. Such goal or goals shall consist of the maximum reduction in the consumption of energy during any year as a result of the implementation of the State energy conservation plan described in section 362(b) which is consistent with technological feasibility, financial resources, and economic objectives, by comparison with the projected energy consumption for such State in such year. The Administrator shall specify the assumptions used in the determination of the projected energy consumption in each State, taking into account population trends, economic growth, and the effects of national energy conservation programs.

GENERAL PROVISIONS

SEC. 365. (a) The Administrator may prescribe such rules as may be necessary or appropriate to carry out his authority under this part.

(b) In carrying out the provisions of sections 362 and 364 and subsection (a) of section 363, the Administrator shall consult with appropriate departments and Federal agencies.

(c) The Administrator shall report annually to the President and the Congress, and shall furnish copies of such report to the Governor of each State, on the operation of the program under this part. Such report shall include an estimate of the energy conservation achieved, the degree of State participation and achievement, a description of innovative conservation programs undertaken by individual States, and the recommendations of the Administrator, if any, for additional legislation.

(d) There are authorized to be appropriated for carrying out the provisions of this part $50,000,000 for fiscal year 1976, $50,000,000 for fiscal year 1977, and $50,000,000 for fiscal year 1978.

DEFINITIONS

SEC. 366. As used in this part—

(1) The term "public building" means any building which is open to the public during normal business hours.

(2) The term "transportation controls" means any plan, procedure, method, or arrangement, or any system of incentives, disincentives, restrictions, and requirements, which is designed to reduce the amount of energy consumed in transportation, except that the term does not include rationing of gasoline or diesel fuel.

PART D—INDUSTRIAL ENERGY CONSERVATION

DEFINITIONS

SEC. 371. As used in this part—

(1) The term "chief executive officer" means, within a corporation, the individual whom the Administrator determines, for purposes of this part, is in charge of operations.

(2) The term "corporation" means a person as defined in section 3(2)(B) and includes any person so defined which controls, is controlled by, or is under common control with such person. If a corporation is engaged in more than one major energy-consuming industry, such corporation shall be treated as a separate corporation with respect to each such industry.

(3) The term "energy efficiency" means the amount of industrial output or activity per unit of energy consumed therein, as determined by the Administrator.

(4) The term "major energy-consuming industry" means a two-digit classification, within the manufacturing division of economic activity set forth in the Standard Industrial Classification (SIC) Manual by a code number, which the Administrator determines is suited to the purposes of this part.

PROGRAM

SEC. 372. The Administrator shall establish and maintain, in consultation with the Secretary of Commerce and the Administrator of the Energy Research and Development Administration, a program—

(1) to promote increased energy efficiency by American industry, and

(2) to establish voluntary energy efficiency improvement targets for at least the 10 most energy-consumptive major energy-consuming industries.

IDENTIFICATION OF MAJOR ENERGY CONSUMERS

SEC. 373. Within 90 days after the date of enactment of this Act, the Administrator shall identify each major energy-consuming industry in the United States, and shall establish a priority ranking of such industries on the basis of their respective total annual energy consumption. Within each industry so identified, the Administrator shall identify each corporation which—

(1) consumes at least one trillion British thermal units of energy per year, and

(2) is among the corporations identified by the Administrator as the 50 most energy-consumptive corporations in such industry.

INDUSTRIAL ENERGY EFFICIENCY IMPROVEMENT TARGETS

SEC. 374. (a) Within one year after the date of enactment of this Act, the Administrator shall set an industrial energy efficiency improvement target for each of the 10 most energy-consumptive industries identified under section 373. Each such target—

(1) shall be based upon the best available information,

(2) shall be established at the level which represents the maximum feasible improvement in energy efficiency which such industry can achieve by January 1, 1980, and

(3) shall be published in the Federal Register, together with a statement of the basis and justification for each such target.

(b) In determining maximum feasible improvement under subsection (a) and under subsection (c), the Administrator shall consider—

(1) the objectives of the program established under section 372,

(2) the technological feasibility and economic practicability of utilizing alternative operating procedures and more energy efficient technologies,

(3) any special circumstances or characteristics of the industry for which the target is being set, and

(4) any actions planned or implemented by each such industry to reduce consumption by such industry of petroleum products and natural gas.

(c) The Administrator may, in order to carry out section 372(1), set an industrial energy efficiency improvement target for any major energy-consuming industry to which subsection (a) does not apply. Each such target—

(1) shall be based upon the best available information,

(2) shall be established at the level which represents the maximum feasible improvement in energy efficiency which such industry can achieve by January 1, 1980, and

(3) shall be published in the Federal Register, together with a statement of the basis and justification for each such target.

(d) Any target established under subsection (a) or (c) may be modified at any time if the Administrator—

(1) determines that such target cannot reasonably be attained, or could reasonably be made more stringent, and

(2) publishes such determination in the Federal Register, together with a statement of the basis and justification for such modification.

REPORTS

SEC. 375. (a) The chief executive officer (or individual designated by such officer) of each corporation which is identified by the Administrator pursuant to section 373, and which is in an industry for which an industrial energy efficiency improvement target has been set under section 374(a), shall report to the Administrator not later than January 1, 1977, and annually thereafter, on the progress which such corporation has made in improving its energy efficiency. Such report shall contain such information as the Administrator determines is necessary to measure progress toward meeting the energy efficiency improvement target set for the industry of which such corporation is a part, except that the Administrator shall not require such report if such corporation is in an industry which has an adequate voluntary reporting program (as defined by section 376(g)).

(b) The Administrator shall prepare, publish, and make available, for use in complying with the reporting requirements under subsection (a), a simple forum which shall be designed in such a way as to avoid imposing an undue burden on any corporation which is required to submit reports under subsection (a).

(c) The Administrator shall prepare and submit to the Congress and to the President, and shall cause to be published, an annual report on the industrial energy efficiency program established under section 372. Each such report shall include—

(1) a summary of the progress made toward the achievement of the industrial energy efficiency improvement targets set by the Administrator; and

(2) a summary of the progress made toward meeting such industrial energy efficiency improvement targets since the date of publication of the previous such report, if any.

GENERAL PROVISIONS

SEC. 376. (a) The district courts of the United States shall have jurisdiction, upon petition, to issue an order to the chief executive officer of any corporation subject to the reporting requirements of section 375(a), requiring such person to comply forthwith. Failure to obey such an order shall be treated by any such court as a contempt thereof.

(b) In addition to the exercise of authority under this part, the Administrator may exercise any authority he has under any provision of law (other than this part) to obtain such information with respect to industrial energy efficiency and industrial energy conservation as is necessary or appropriate to the attainment of the objectives of the program established under section 372.

(c) The Administrator shall afford interested persons an opportunity to submit written and oral data, views, and arguments prior to the establishment of any industrial energy efficiency improvement target under section 374 and prior to publication of any reporting requirements under section 375.

(d) Any information submitted by a corporation to the Administrator under this part shall not be considered energy information, as defined by section 11(e)(1) of the Energy Supply and Environmental Coordination Act of 1974, for purposes of any verification examination authorized to be conducted by the Comptroller General under section 501 of this Act.

(e) The Administrator may not disclose any information obtained under this part which is a trade secret or other matter described in section 552(b)(4) of title 5, United States Code, disclosure of which may cause significant competitive damage; except to committees of Congress upon request of such committees. Prior to disclosing any information described in such section 552(b)(4), the Administrator shall afford the person who provides such information an opportunity to comment on the proposed disclosure.

(f) No liability shall attach, and no civil or criminal penalties may be imposed, for any failure to meet any industrial energy efficiency improvement target established under section 374 of this Act.

(g)(1) The Administrator shall exempt a corporation from the requirements of section 375(a) if such corporation is in an industry which has an adequate voluntary reporting program, as determined by the Administrator annually after notice and opportunity for interested persons to comment. An industry's voluntary reporting program shall be determined to be adequate only if—

(A) each corporation within such industry which is identified under section 373 fully participates in such program;

(B) all information deemed necessary by the Administrator for purposes of evaluating the progress made by such industry in achieving the industry energy efficiency improvement target set forth under section 374 is provided to the Administrator; and

(C) reports made to a trade association or other person, in connection with such program, are retained for a reasonable period of time and are available to the Administrator.

(2) If the Administrator determines that an industry's voluntary reporting program is not adequate solely on the basis that any corporation within such industry is not fully participating in such program, he shall exempt from the requirements of section 375(a) only those corporations which fully participate in such program.

(h) Nothing in this part shall limit the authority of the Administrator to require reports of energy information under any other law.

PART E—OTHER FEDERAL ENERGY CONSERVATION MEASURES

FEDERAL ENERGY CONSERVATION PROGRAMS

SEC. 381. (a)(1) The President shall, to the extent of his authority under other law, establish or coordinate Federal agency actions to develop mandatory standards with respect to energy conservation and energy efficiency to govern the procurement policies and decisions of the Federal Government and all Federal agencies, and shall take such steps as are necessary to cause such standards to be implemented.

(2) The President shall develop and, to the extent of his authority under other law, implement a 10-year plan for energy conservation with respect to buildings owned or leased by an agency of the United States. Such plan shall include mandatory lighting efficiency standards, mandatory thermal efficiency standards and insulation requirements, restrictions on hours of operation, thermostat controls, and other conditions of operation, and plans for replacing or retrofitting to meet such standards.

(b)(1) The Administrator shall establish and carry out a responsible public education program—

(A) to encourage energy conservation and energy efficiency; or

(B) to promote van pooling and carpooling arrangements.

(2) For purposes of this subsection:

(A) The term "van" means any automobile which the Administrator determines is manufactured primarily for use in the transportation of not less than 8 individuals and not more than 15 individuals.

(B) The term "van pooling arrangement" means an arrangement for the transportation of employees between their residences or other designed locations and their place of employment on a nonprofit basis in which the opertaing costs of such arrangement are paid for by the employees utilizing such arrangement.

(c) The President shall submit to the Congress an annual report concerning all steps taken under subsections (a) and (b).

ENERGY CONSERVATION IN POLICIES AND PRACTICES OF CERTAIN FEDERAL AGENCIES

SEC. 382. (a)(1) The Civil Aeronautics Board, the Interstate Commerce Commission, the Federal Maritime Commission, the Federal Power Commission, and the Federal Aviation Administration shall each conduct a study and shall each report to the Congress within 60 days after the date of enactment of this Act with respect to energy conservation policies and practices which such agencies have instituted subsequent to October 1973.

(2) Each of the agencies specified in paragraph (1) shall, within 120 days after the date of enactment of this Act, report to the Congress with respect to the content and feasibility of proposed programs for additional savings in energy consumption by the persons regulated by each such agency which have as a minimum goal a 10-percent reduction, within 12 months of the institution of such programs, in energy consumption from the amount of energy consumed during calendar 1972, including any legislative recommendations each such agency finds are necessary to achieve such goal.

(3) Each of the agencies specified in paragraph (1) shall conduct a study and prepare a report with respect to any requirement of any law administered by such agency or any major regulatory action which the agency determines has the effect of requiring, permitting, or inducing the inefficient use of petroleum products, coal, natural gas, electricity, and other forms of energy, to-

gether with a statement of the need, purpose, or justification of any such requirement or such action. Each such report shall be submitted to the Congress within one year after the date of enactment of this Act.

(b) Except as provided in subsection (c), each of the agencies specified in subsection (a) (1) shall, where practicable and consistent with the exercise of their authority under other law, include in any major regulatory action (as defined by rule by each such agency) taken by each such agency, a statement of the probable impact of such major regulatory action on energy efficiency and energy conservation.

(c) Subsection (b) shall not apply to any authority exercised under any provision of law designed to protect the public health or safety.

FEDERAL ACTIONS WITH RESPECT TO RECYCLED OIL

SEC. 383. (a) The purposes of this section are—

(1) to encourage the recycling of used oil;

(2) to promote the use of recycled oil;

(3) to reduce consumption of new oil by promoting increased utilization of recycled oil; and

(4) to reduce environmental hazards and wasteful practices associated with the disposal of used oil.

(b) As used in this section:

(1) the term "used oil" means any oil which has been refined from crude oil, has been used, and as a result of such use has been contaminated by physical or chemical impurities.

(2) The term "recycled oil" means—

(A) used oil from which physical and chemical contaminants acquired through use have been removed by re-refining or other processing, or

(B) any blend of oil, consisting of such re-refined or otherwise processed used oil and new oil or additives,

with respect to which the manufacturer has determined, pursuant to the rule prescribed under subsection (d) (1) (A) (i), is substantially equivalent to new oil for a particular end use.

(3) The term "new oil" means any oil which has been refined from crude oil and has not been used, and which may or may not contain additives. Such term does not include used oil or recycled oil.

(4) The term "manufacturer" means any person who re-refines or otherwise processes used oil to remove physical or chemical impurities acquired through use or who blends such re-refined or otherwise processed used oil with new oil or additives.

(5) The term "Commission" means the Federal Trade Commission.

(c) As soon as practicable after the date of enactment of this Act, the National Bureau of Standards shall develop test procedures for the determination of substantial equivalency of re-refined or otherwise processed used oil or blend of oil, consisting of such re-refined or otherwise processed used oil and new oil or additives, with new oil for a particular end use. As soon as practicable after development of such test procedures, the National Bureau of Standards shall report such procedures to the Commission.

(d) (1) (A) Within 90 days after the date on which the Commission receives the report under subsection (c), the Commission shall, by rule, prescribe—

(i) test procedures for the determination of substantial equivalency of re-refined or otherwise processed used oil or blend of oil, consisting of such re-refined or otherwise processed used oil and new oil or additives, with new oil distributed for a particular end use; and

(ii) labeling standards applicable to containers of recycled oil in order to carry out the purposes of this section.

(B) Such labeling standards shall permit any container of recycled oil to bear a label indicating any particular end use for which a determination of substantial equivalency has been made pursuant to subparagraph (A) (i).

(2) Not later than the expiration of such 90-day period, the Administrator of the Environmenal Protection Agency shall, by rule, prescribe labeling standards applicable to containers of new oil, used oil, and recycled oil relating to the proper disposal of such oils after use. Such standards shall be designed to reduce, to the maximum extent practicable, environmental hazards and wasteful practices associated with the disposal of such oils after use.

(e) Beginning on the effective date of the standards prescribed pursuant to subsection (d) (1) (A)—

(1) no rule or order of the Commission, other than the rules required to be prescribed pursuant to subsection (d) (1) (A), and no law, regulation, or order of any State or political subdivision thereof may apply, or remain applicable, to any container of recycled oil, if such law, regulation, rule, or order requires any container of recycled oil, which container bears a label in accordance with the terms of the rules prescribed under subsection (d) (1) (A), to bear any label with respect to the comparative characteristics of such recycled oil with new oil which is not identical to that permitted by the rule respecting labeling standards prescribed under subsection (d) (1) (A) (ii); and

(2) no rule or order of the Commission may require any container of recycled oil to also bear a label containing any term, phrase, or description which connotes less than substantial equivalency of such recycled oil with new oil.

(f) After the effective date of the rules required to be prescribed under subsection (d) (1) (A), all Federal officials shall act within their authority to carry out the purposes of this section, including—

(1) revising procurement policies to encourage procurement of recycled oil for military and nonmilitary Federal uses whenever such recycled oil is available at prices competitive with new oil procured for the same end use; and

(2) educating persons employed by Federal and State governments and private sectors of the economy of the merits of recycled oil, the need for its use in order to reduce the drain on the Nation's oil reserves, and proper disposal of used oil to avoid waste of such oil and to minimize environmental hazards associated with improper disposal.

TITLE IV—PETROLEUM PRICING POLICY AND OTHER AMENDMENTS TO THE ALLOCATION ACT

PART A—PRICING POLICY

OIL PRICING POLICY

SEC. 401. (a) The Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new sections:

"OIL PRICING POLICY

"SEC. 8. (a) Not later than the first day of the second full calendar month following the date of enactment of this section, the President shall promulgate and make effective an amendment to the regulation under section 4(a) of this Act which regulation, as amended, shall establish ceiling prices (or the manner of determining ceiling prices) applicable to any first sale of crude oil produced in the United States, such that the resulting actual weighted average first sale price for all such crude oil during such calendar month and each of the 39 months thereafter shall not exceed a maximum of $7.66 per barrel (hereinafter in this section referred to as the "maximum weighted average first sale price"), except as may be adjusted pursuant to this section.

"(b) (1) The regulation under section 4(a), as amended pursuant to subsection (a) of this section or by any subsequent amendment thereto, may, subject to the limitations related to the maximum weighted average first sale price and other requirements of this section, provide for different ceiling prices (or manner of determining ceiling prices) for different classifications of crude oil produced in the United States. In providing for different ceiling prices (or the manner for determining such ceiling prices) and classifications for such crude oil, the President shall determine that such ceiling prices (or the manner for determining such ceiling prices) and such classifications—

"(A) are administratively feasible; and

"(B) are justified on the basis that such prices and such classifications are consistent with obtaining optimum production of crude oil in the United States.

"(2) No amendment to the regulation under section 4(a) made after the date of enactment of this section may permit, in any month which begins after such date, an increase in the price for any volume of old crude oil production from any properties, unless the President finds that such amendment—

"(A) will give positive incentives for (i) enhanced recovery techniques, or (ii) deep horizon development, from such properties; or

"(B) is necessary to take into account declining production from such properties; and

"(C) is likely to result in a level of production from such properties beyond that which would otherwise occur if no such amendment were made.

"(3) As used in paragraph (2), the term 'old crude oil production' means that volume of crude oil produced and sold from a property in a month which is equal to or less than the volume of old crude oil, as defined in section 212.72 of title 10, Code of Federal Regulations (as in effect on November 1, 1975), produced and sold from such property in the months of September, October, and November of 1975, divided by 3.

"(c) (1) Not later than 6 months after the effective date of the amendment promulgated under subsection (a), and not later than every 6 months thereafter, the President shall, on the basis of valid and reliable information (which may include information obtained by a valid and reliable sampling technique) of actual first sale prices of domestic crude oil, determine whether and the extent to which the actual weighted average first sale price for crude oil produced in the United States during any 6-month period or portion thereof for which data are available following the effective date of the amendment promulgated under subsection (a) of this section, exceeded or was less than the maximum weighted average first sale price of such crude oil specified in subsection (a) as may be adjusted pursuant to this section.

"(2) If the President finds, pursuant to paragraph (1) of this subsection, that the regulation under section 4(a), as amended, resulted in an actual weighted average first sale price in excess of the maximum weighted average first sale price specified in subsection (a) as adjusted pursuant to this section, he shall amend the regulation to make such compensating adjustments as are necessary to result, in a corresponding period, in an actual weighted average first sale price for domestic crude oil sufficient to offset such excess.

"(3) If the President finds, pursuant to paragraph (1) of this subsection, that the regulation under section 4(a), as amended, resulted in an actual weighted average first sale price less than the maximum weighted average first sale price specified in subsection (a) as adjusted pursuant to this section, he may, notwithstanding the requirements of this section pertaining to such maximum weighted average first sale price, amend the regulation to make such compensating adjustments in the regulation as are necessary to offset the deficiency in a corresponding period.

"(d) (1) The amendment promulgated pursuant to subsection (a) of this section (or any subsequent amendment to the regulation under section 4(a) may provide for an adjustment to the maximum weighted average first sale price specified in subsection (a) such adjustment to begin no earlier than in the calendar month following the first month the amendment is in effect—

"(A) to take into account the impact of inflation as measured by the adjusted GNP deflator; and

"(B) as a production incentive;

except that any adjustment as a production incentive shall not permit an increase in the maximum weighted average first sale price in excess of 3 per centum per annum (compounded annually), unless modified pursuant to this section, and the combined effect of any such adjustments referred to in subparagraphs (A) and B) shall not result in an increase in the maximum weighted average first sale price in excess of 10 per centum per annum (compounded annually), unless modified pursuant to this section.

"(2) As used in this subsection, the term 'adjusted GNP deflator' means the first revision of the quarterly percent change, seasonally adjusted at annual rates, of the most recent implicit price deflator for the gross national product which shall be computed and published for each calendar quarter by the Department of Commerce, subject to such additional modification as the President shall make to exclude therefrom any amount which he determines is attributable solely and directly to increases which occur after the date of enactment of this section in prices of imported crude oil, residual fuel oil, or any refined petroleum product resulting from concerted action of two or more petroleum exporting countries.

"(3) The adjustment as a production incentive referred to in paragraph (1) (B) may be made only on a finding by the President that such an adjustment is likely to provide positive incentive for—

"(A) the discovery or development of high cost and high risk properties (including new wildcat properties, and properties located on the Outer Continental Shelf, properties located north of the Arctic Circle, deep wells and deep horizons in onshore or offshore properties, and properties operated by independent producers);

"(B) the application of enhanced recovery techniques to producing properties to obtain a level of production higher than would otherwise occur from those properties but for such adjustment; or

"(C) sustaining production from marginal wells, including production from stripper wells.

"(e) (1) Not earlier than 90 days after the effective date of the amendment promulgated under subsection (a) and not earlier than 90 days after the date of any previous submission under this subsection, the President may submit to the Congress, in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act, an amendment to the regulation promulgated under section 4(a) which provides for (A) a production incentive adjustment to the maximum weighted average first sale price in excess of the 3 per centum limitation specified in subsection (d) (1), (B) a combined adjustment limitation in excess of the 10 per centum limitation specified in such subsection, or (C) both.

"(2) Any such amendment shall be accompanied by a finding that an additional adjustment as a production incentive, or a combined adjustment limitation greater than permitted by subsection (d) (1), or both, is necessary to provide a more adequate incentive with respect to the matters referred to in subparagraphs (A), (B), or (C) of subsection (d) (3).

"(3) Any such amendment shall not take effect if either House of Congress disapproves such amendment in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act.

"(f) (1) On February 15, 1977, the President shall submit to the Congress a report containing an analysis of the impact of any amendment adopted pursuant to this section on the economy and on the supply of crude oil, residual fuel oil, and refined petroleum products.

"(2) The President may submit with such report to the Congress, in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act, an amendment to the regulation promulgated under section 4(a) which—

"(A) provides for the continuation or modification of the adjustment as a production incentive (referred to in subsection (d) as may have been amended pursuant to subsection (e));

"(B) provides for a modification of the combined adjustment limitation (referred to in subsection (d), as may have been amended pursuant to subsection (e)); or

"(C) provides for adjustments with respect to both subparagraphs (A) and (B).

"(3) Such amendment shall not take effect if either House of Congress disapproves such amendment in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act.

"(4) If any such amendment is disapproved by either House of Congress, the President may, not later than 30 days after the date of such disapproval, submit one additional amendment in accordance with paragraph (2), which amendment shall not take effect if either House of Congress disapproves such amendment in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act.

"(5) If no amendment to continue or modify the adjustment as a production incentive takes effect, no such adjustment to the maximum weighted average first sale price thereafter may be taken into account in computing such price for any month which begins after (A) the date on which a submission could have been made under paragraph (2) but was not, or (B) the last date on which a submission was disapproved and no further submission pursuant to paragraph (4) could be made, except that the President may, pursuant to the procedures under subsection (e), submit an amendment to the regulation to provide for a prospective reinstatement of such adjustment or of a modification of such adjustment.

"(g) (1) On April 15, 1977, the President shall submit to the Congress a report as to whether the regulation promulgated under section 4(a) and in effect on such date will provide positive price incentives for the development of the domestic crude oil production referred to in paragraph (2) (A) without lessening needed incentives for sustaining or enhancing crude oil production in the remainder of the United States.

"(2) If the President determines that a price required to provide positive price incentives for the development of the domestic crude oil production referred to in paragraph (2) (A) would, because of the maximum weighted average first sale price specified in subsection (a) of this section, as adjusted, have the effect of reducing or limiting ceiling prices permitted for crude oil produced in the remainder of the United States to levels which would result in less production of such crude oil than would otherwise occur, the President may, together with such report, or at any time thereafter not earlier than 90 days after any previous submission under this subsection, except as provided in paragraph (4), submit to the Congress in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act an amendment to the regulation promulgated under section 4(a) which—

"(A) excludes up to 2 million barrels a day of crude oil production transported through the trans-Alaska pipeline from the computation of the maximum weighted average first sale price specified in subsection (a); and

"(B) establishes ceiling prices (or a manner of determining prices) for the first sale of crude oil production referred to in subparagraph (A) such that the actual weighted average first sale price for such production will not exceed the highest actual weighted average first sale price permitted under the regulation for significant volumes of any other classification of domestic crude oil.

"(3) Any such amendment shall be accompanied by such findings and supporting rationale as the President determines justify such ceiling prices (or manner for determining such prices). Any amendment submitted to the Congress pursuant to this subsection shall not take effect if either House of Congress disapproves such amendment in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act.

"(4) If any such amendment is disapproved by either House of Congress, the President may not later than 30 days after the date of such disapproval submit one additional amendment in accordance with paragraphs (2) and (3), which amendment shall not take effect if either House of Congress disapproves such amendment in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act.

"(5) If any amendment submitted by the President to the Congress pursuant to this subsection becomes effective, such amendment may thereafter be further amended by the President, subject to the procedures and requirements of paragraphs (2) and (3) of this subsection, except that no such further amendment shall be submitted earlier than January 1, 1978, and thereafter no earlier than 90 days after the date of any previous submission made under this paragraph.

"(h) In any judicial review of an amendment required by this section to be submitted to the Congress in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act, the reviewing court may not hold unlawful or set aside any such amendment on the ground that any findings made by the President were not adequate to meet the requirements of this section or of subparagraph (A), (E), or (F) of section 706(2) of title 5, United States Code

"PASSTHROUGHS OF PRICE DECREASES

"SEC. 9. Not later than the first day of the second full calendar month following the date of enactment of this section, the regulation under section 4(a) shall provide for a dollar-for-dollar passthrough in prices at all levels of distribution from the producer through the retail level of decreases in the costs of crude oil, residual fuel oil, and refined petroleum products (including decreases in costs which result from a reduction in the price of crude oil produced in the United States because of the amendment to such regulation required under section 8(a)).".

(b) (1) Subsections (d), (e) and (g) of section 4 of the Emergency Petroleum Allocation Act of 1973 are repealed, and subsection (f) of such section 4 is redesignated as subsection "(d)" of such section 4.

(2) Section 4(a) of such Act is amended by (A) striking out "Subject to subsection (f)" and inserting in lieu thereof "Subject to subsection (d)"; and (B) striking out "Except as provided in subsection (e) such" and inserting in lieu thereof "Such".

(3) Section 4(c) of such Act is amended in paragraphs (1), (4), and (5) thereof by striking out "subsections (b) and (d)" wher-

ever it appears and by inserting in lieu thereof in each case "subsection (b)".

(4) Section 406 of Public Law 93–153 is repealed.

(5) The amendments made by paragraphs (1), (2), (3), and (4)of this subsection, to the Emergency Petroleum Allocation Act of 1973, shall take effect on the effective date of the amendment to the regulation under section 4(a), required by section 8(a) of such Act.

LIMITATIONS ON PRICING POLICY

SEC. 402. (a) Paragraph (2) of section 4(b) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(2) In specifying prices (or prescribing the manner for determining them), the regulation made under subsection (a)—

"(A) shall provide for a dollar-for-dollar passthrough of net increases in the cost of crude oil, residual fuel oil, and refined petroleum products at all levels of distribution from the producer through the retail level;

"(B) (i) shall not permit any net crude oil cost increases—

"(I) which are incurred by a refiner during the calendar month immediately preceding the effective date of this paragraph, or in any month thereafter, and

"(II) which are not passed through in prices charged pursuant to such regulation in the 2 calendar months following the calendar month in which such crude oil cost increases were incurred, to be passed through by such refiner in any month subsequent to the 2 calendar months following the calendar month in which such crude oil cost increases were incurred, unless the President makes the findings specified in clause (ii) (II) (aa), and such passthrough is consistent with the requirements specified in clause (ii) (II) (bb).

"(ii) shall not permit the passthrough in any month of—

"(I) any net crude oil cost increases incurred by a refiner not later than the last day of the calendar month which begins two months prior to the effective date of this paragraph and not passed through by the end of the last calendar month prior to the effective date of this paragraph unless such passthrough is not in excess of 10 percent of the total amount of such increased crude oil costs not passed through as of the last day of the last calendar month prior to the effective date of the amendment promulgated under section 8(a); and

"(II) any net crude oil cost increases incurred by a refiner after the effective date of this paragraph, which net crude oil cost increases were not passed through within the 2 calendar months following the calendar month in which such crude oil cost increases were incurred, unless—

"(aa) the President finds, and reports to the Congress with respect to such finding, that a passthrough of such crude oil cost increases is necessary to alleviate the impact on refiners, marketers, or consumers of significant increases in costs, to provide for equitable cost recovery consistent with the attainment, to the maximum extent practicable, of the objective specified in paragraph (1), or to avoid competitive disadvantage; and

"(bb) such passthrough in any month of such crude oil cost increases is not in excess of 10 percent of the total amount of such crude oil cost increases as of the end of the calendar month in which the effective date of this paragraph occurs or any month thereafter;

"(C) shall provide for the use of the same date in the computation of markup, margin, and posted price for all marketers or distributors of crude oil, residual fuel, and refined petroleum products at all levels of marketing and distribution; and

"(D) shall not permit more than a direct proportionate distribution (by volume) to Number 2 oils (Number 2 heating oil and Number 2–D diesel fuel), aviation fuel of a kerosene or naphtha type, and propane produced crude oil, of any increased costs of crude oil incurred by a refiner; except that the President may, by amendment to the regulation under subsection (a) or by order, permit deviation from such proportionate distribution of costs, if the President finds that refinery operations justify such deviation and further finds that to permit such deviation is consistent with the attainment of the objectives in paragraph (1) and would not result in inequitable prices for any class of users of such product.

As used in this paragraph, the term 'effective date of this paragraph' means the effective date specified in section 402(b) of the Energy Policy and Conservation Act.".

(b) The amendment made by this section, to the Emergency Petroleum Allocation Act of 1973, shall take effect on the effective date of the amendment to the regulation under section 4(a), required by section 8(a) of such Act.

(c) The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"LIMITATIONS ON PRICING AUTHORITY

"SEC. 10. The President shall have no authority, under this Act, or under the Energy Policy and Conservation Act, to prescribe minimum prices for crude oil (or any classification thereof), residual fuel oil, or any refined petroleum product.".

ENTITLEMENTS

SEC. 403. (a) Section 4 of the Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following:

"(e) Any provision of the regulation under subsection (a) of this section—

"(1) which requires the purchase of entitlements, or the payment of money through any other similar cash transfer arrangement, the purpose of which is to reduce disparities in the crude oil acquisition costs of domestic refiners, and

"(2) which is based upon the number of barrels of crude oil input, or receipts, or both, of any refiner, shall not apply to the first 50,000 barrels per day of input, or receipts, or both, of any refiner whose total refining capacity (including the refining capacity of any person who controls, is controlled by, or is under common control with such refiner) did not exceed on January 1, 1975, and does not thereafter exceed 100,000 barrels per day. The preceding sentence shall not affect any provisions of the regulation under subsection (a) of this section with respect to the receipt by any small refiner as defined in section 3(4) of payments for entitlements or any other similar cash transfer arrangement.".

(b) Subsection (a) of this section shall apply with respect to payments due on or after the last day of the month during which the date of enactment of this Act occurs.

PART B—OTHER AMENDMENTS TO THE ALLOCATION ACT

AMENDMENTS TO THE OBJECTIVES OF THE ALLOCATION ACT

SEC. 451. (a) Section 4(b) (1) (A) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(A) protection of public health (including the production of pharmaceuticals), safety and welfare (including maintenance of residential heating, such as individual homes, apartments and similar occupied dwelling units), and the national defense;".

(b) Section 4(b) (1) (G) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of, exploration for, and production or extraction of—

"(i) fuels, and

"(ii) minerals essential to the requirements of the United States,

and for required transportation related thereto;".

PENALTIES UNDER THE ALLOCATION ACT

SEC. 452. Section 5 of the Emergency Petroleum Allocation Act of 1973 is amended:

(1) by striking out "sections 205 through 211" in subsection (a) (1) of such section and inserting in lieu thereof "sections 205 through 207 and sections 209 through 211"; and

(2) by adding at the end of subsection (a) of such section the following:

"(3) (A) Whoever violates any provision of the regulation under section 4(a) of this Act, or any order under this Act shall be subject to a civil penalty—

"(i) with respect to activities relating to the production, distribution, or refining of crude oil, of not more than $20,000 for each violation;

"(ii) with respect to activities relating to the distribution of residual fuel oil or any refined petroleum product (other than activities entirely at the retail level), of not more than $10,000 for each violation; and

"(iii) with respect to activities—

(I) entirely relating to the distribution of residual fuel oil or any refined petroleum product at the retail level, or

(II) activities not referred to in clause (i) or (ii) subclause (I) of this clause,

of not more than $2,500 for each violation.

"(B) Whoever willfully violates any provision of such regulation, or any such order shall be imprisoned not more than 1 year, or—

"(i) with respect to activities relating to the production or refining of crude oil, shall be fined not more than $40,000 for each violation;

"(ii) with respect to activities relating to the distribution of residual fuel oil or any refined petroleum product (other than at the retail level), shall be filed not more than $20,000 for each violation;

"(iii) with respect to activities relating to the distribution of residual fuel oil or any refined petroleum product at the retail level or any other person shall be fined not more than $10,000 for each violation;

or both.

"(4) Any individual director, officer, or agent of a corporation who knowingly and willfully authorizes, orders, or performs any of the acts or practices constituting in whole or in part a violation of paragraph (3), shall be subject to penalties under this subsection without regard to any penalties to which that corporation may be subject under paragraph (3) except that no such individual director, officer, or agent shall be subject to imprisonment under paragraph (3), unless he also has knowledge, or reasonably should have known, of notice of noncompliance received by the corporation from the President.".

ANTITRUST PROVISION IN ALLOCATION ACT

SEC. 453. Section 6(c) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(c) There shall be available as a defense to any action brought for breach of contract in any Federal or State court arising out of delay or failure to provide, sell, or offer for sale or exchange crude oil, residual fuel oil, or any refined petroleum product, that such delay or failure was caused solely by compliance with the provisions of this Act or with the regulation or any order with this Act.".

EVALUATION OF REGULATION UNDER THE ALLOCATION ACT

SEC. 454. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"REEVALUATION OF SECTION 4(a) REGULATION

"SEC. 11. (a) Not later than 60 days after the date of enactment of this section, the

President shall give appropriate notice and afford interested persons an opportunity to present written and oral data, views, and arguments respecting the appropriateness of, or the continuing need for, the application of any provision of the regulation promulgated under section 4(a) as such provision relates to the attainment of the objectives specified in section 4(b)(1) of section 4. A transcript shall be kept of any such oral presentation of data, views, and argument.

"(b) The President shall, after consideration of such written and oral presentations and such other information as may be available to him—

"(1) analyze such presentations and report thereon to the Congress within 120 days after the date of enactment of this section; and

"(2) shall promulgate, pursuant to the limitations and authority under section 12, such amendment, or amendments, to the regulation promulgated under section 4(a) as he determines are necessary or appropriate—

"(A) to modify any provisions of such regulation in a manner which is consistent with the attainment, to the maximum extent practicable, of objectives specified in section 4(b)(1); or

"(B) to eliminate any provisions of such regulation no longer necessary to provide for the attainment of such objectives.".

CONVERSION TO STANDBY AUTHORITIES

SEC. 455. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"CONVERSION MECHANISM TO STANDBY AUTHORITIES

"SEC. 12. (a) The President may not amend the regulation under section 4(a) in any manner which—

"(1) exempts crude oil produced in the United States from any provision of such regulation required to be made a part of such regulation by section 8; or

"(2) results in making such regulation, as so amended, inconsistent with any limitation or other requirement specified in section 8.

"(b) Except as provided in subsection (a), the President may amend the regulation under section 4(a) if he determines that such amendment is consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) and that the regulation, as amended, provides for the attainment, to the maximum extent practicable, of any such objectives.

"(c)(1) Any such amendment which, with respect to a class of persons or class of transactions (including transactions with respect to any market level), exempts crude oil, residual fuel oil, or any refined petroleum product or refined product category from the provisions of the regulation under section 4(a) as such provisions pertain to either (A) the allocation of amounts of any such oil or product, or (B) the specification of price or the manner for determining the price of any such oil or product, or both of the matters described in subparagraphs (A) and (B), may take effect only pursuant to the provisions of this subsection.

"(2) The President shall submit any amendment referred to in paragraph (1) to the Congress in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act. Any such amendment shall be accompanied by a specific statement of the President's rationale for such amendment and the matter described in subsection (d) of this section. Such an amendment—

"(A) may apply only to one oil or one refined product category;

"(B) may apply to the matters specified in either subparagraph (A) or (B) of paragraph (1) of this subsection, or both; and

"(C) may provide for scheduled or phased implementation.

"(3) As used in this section the term 'refined product category' means—

"(A) motor gasoline;

"(B) Number 2 oils (Number 2 heating oil and Number 2-D diesel fuel);

"(C) propane; or

"(D) all or any portion of other refined petroleum products as a class (including natural gas liquids and natural gas liquid products, other than propane).

"(4) Such an amendment shall not take effect if either House of Congress disapproves such amendment in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act.

"(d)(1) The President shall support any amendment described in subsection (b) which is transmitted to the Congress under subsection (c) of this section with a finding that such amendment is consistent with the attainment of the objectives specified in subsection 4(b)(1) and in the case of—

"(A) any exemption described in subsection (c)(1)(A), with a finding that such oil or refined product category is no longer in short supply and that exempting such oil or refined product category will not have an adverse impact on the supply of any other oil or refined petroleum product subject to this Act; and

"(B) any exemption described in subsection (c)(1)(B), with a finding that competition and market forces are adequate to protect consumers and that exempting such oil or refined product category will not result in inequitable prices for any class of users of such oil or product.

"(2) Any amendment which the President submits to the Congress under subsection (c) of this section shall be accompanied—

"(A) by a statement of the President's views as to the potential economic impacts (if any) of such amendment which, where practicable, shall include his views as to—

"(i) the State and regional impacts of such amendment (including effects on governmental units);

"(ii) the effects of such amendment on the availability of consumer goods and services; the gross national product; competition; small business; and the supply and availability of energy resources for use as fuel or as feedstock for industry; and

"(iii) the effects on employment and consumer prices; and

"(B) in the case of an exemption described in subsection (c)(1)(B) of this section, by an analysis of the effects of such amendment on the rate of unemployment for the United States, the Consumer Price Index for the United States, and the implicit price deflator for the gross national product.

"(e) In any judicial review of an amendment required by this section to be submitted to Congress in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act, the reviewing court may not hold unlawful or set aside any such amendment on the ground that any findings made by the President were not adequate to meet the requirements of subsection (c), (d), or (g) of this section or subparagraph (A), (E), or (F), of section 706(2) of title 5, United States Code.

"(f) With respect to any oil or refined product category which is exempted pursuant to the provisions of this section, the President shall have authority at any time thereafter to prescribe a regulation or issue an order respecting either the allocation of amounts, or the specification of price or the manner for determining the price, of any such oil or refined product category upon a determination by him that such regulation or order is necessary to attain, and is consistent with, the objectives specified in section 4(b)(1). Any such oil or refined product category for which allocation or price requirements are reimposed under authority of this subsection may subsequently be exempted without regard to the provisions of subsection (c) of this section.

"(g) Notwithstanding the provisions of subsection (e) of section 4, the President may, if he determines that the exemption from payments for certain small refiners required by such subsection—

"(1) results in unfair economic or competitive advantage with respect to other small refiners; or

"(2) otherwise has the effect of seriously impairing the President's ability to provide in the regulation under section 4(a) for the attainment of the objective specified in section 4(b)(1)(D) and for the attainment of those other objectives specified in section 4(b)(1);

submit, in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act, an amendment to modify the regulation under section 4(a) with respect to the provisions of such regulation as they relate to such exemption. Such amendment shall not take effect if disapproved by either House of Congress under the procedures specified in such section 551.".

TECHNICAL PURCHASE AUTHORITY

SEC. 456. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"TECHNICAL PURCHASE AUTHORITY

"SEC. 13. (a) The President may, by amendment to the regulation under section 4(a) of this Act, provide for and implement a procedure pursuant to which the United States may exercise the exclusive right to import and purchase all or any part of the crude oil, residual fuel oil, and refined petroleum products of foreign origin for resale in the United States.

"(b) The authorities granted under this section shall not be used for the purpose, or with the effect, of providing a subsidy or preference to any importer, purchaser, or user.

"(c) In exercising any authorities granted under this section, the President shall endeavor to buy and sell without profit or loss, except that the President may, in individual cases, sell, on a competitive bid basis crude oil, residual fuel oil, or any refined petroleum product at a price above or below the cost of such oil or product if, in the judgment of the President, such sales may result in progress toward a lower price for oil sold in international commerce.

"(d) Any amendment to the regulation proposed to be implemented under this section shall be submitted to Congress for review under section 551 of the Energy Policy and Conservation Act, together with a detailed explanation of the procedure to be employed and the need therefor and shall be supported by findings by the President that the exercise of such authority is likely to reduce prices for imported oils and products. Such amendment shall not take effect if disapproved by either House of the Congress in accordance with the procedures in section 551 of such Act and any authority to purchase shall be subject to appropriations Acts.

"(e) The President shall submit, within 90 days after the date of enactment of this section, a report which evaluates the feasibility of reducing the price of crude oil, residual fuel oil, or refined petroleum products of foreign origin for resale in the United States by providing incentives for domestic producers who also import such oils or products into the United States, to work for the reduction of the price of such oils or products. The report shall specifically discuss whether increasing aggregate old crude oil prices by an amount related to any decrease in aggregate prices for such imported oils and products would serve as an incentive for domestic producers to reduce the price of such imported oils and products.".

DIRECT CONTROLS ON REFINERY OPERATIONS

SEC. 457. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"DIRECT CONTROLS ON REFINERY OPERATIONS

"SEC. 14. The President may, by amendment to the regulation under section 4(a) of this Act or by order, as may be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of this Act, require adjustments in the operations of any refinery in the United States with respect to the proportions of reisdual fuel oil or any refined petroleum product produced through such operations if he determines such adjustments are necessary to assure the production of residual fuel oil or any refined petroleum product in such proportions as are necessary or appropriate to provide for the attainment, to the maximum extent practicable, the objectives specified in section 4(b)(1).".

INVENTORY CONTROLS

SEC. 458. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"INVENTORY CONTROLS

"SEC. 15. (a) In addition to other authority provided for in this Act to alleviate shortages of crude oil, residual fuel oil, and refined petroleum products, the President may, if he finds an existing or impending regional or national supply shortage of any fuel, by amendment to the regulation under section 4(a) of this Act or by order, consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1), require adjustments in the amounts of crude oil, residual fuel oil or any refined petroleum product which are held in inventory by persons who are engaged in the business of importing, producing, refining, marketing, or distributing such oils or products.

"(b) The authority specified in subsection (a) may be exercised to require either—

"(1) a distribution from such inventories to specified persons or classes of persons at specified rates of distribution or to specified level of inventory accumulation; or

"(2) the accumulation of inventories at specified rates of accumulation or to specified levels,

as the President determines may be necessary or appropriate to provide for the attainment, to the maximum extent practicable, of the objectives of section 4(b)(1) or as the President determines may be necessary or appropriate to carry out the obligations of the United States under the international energy program, as defined in section 3 of the Energy Policy and Conservation Act.

"(c) The authority specified in subsection (a) may require the maintenance of inventories at levels greater or lesser than such person's normal business or operating requirements; except that such amounts shall not exceed the amount of oil or product, as the case may be, such person would use or distribute during any 90-day period of peak usage and in no case may the requirement to accumulate inventories be applied to any person in a manner which would necessitate such person making physical additions to storage facilities in order to comply with any such rule or order.".

HOARDING PROHIBITIONS

SEC. 459. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"HOARDING PROHIBITIONS

"SEC. 16. Except as may be otherwise provided with respect to persons engaged in the business of producing, refining, distributing, or marketing crude oil, residual fuel oil, or any refined petroleum product pursuant to section 15 or pursuant to requirements under section 156 of the Energy Policy and Conservation Act (relating to the Industrial Strategic Petroleum Reserve), the regulation under section 4(a) shall prohibit any person, during a severe energy supply interruption (as defined in section 3 of the Energy Policy and Conservation Act) from willfully accumulating crude oil, residual fuel oil, or any refined petroleum product in inventories, or otherwise, in amounts which are in excess of such person's reasonable needs (as such term shall be defined in such regulation).".

ASPHALT ALLOCATION AUTHORITY

SEC. 460. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"ASPHALT ALLOCATION AUTHORITY

"SEC. 17. (a) The President may amend the regulation under section 4(a) of this Act to require, in a manner which he finds is consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of this Act, the allocation of asphalt in amounts specified in (or determined in the manner prescribed by), or at prices specified in (or determined in a manner prescribed by) such amendment to the regulation, or both.

"(b) If the President exercises the authority under this section, he may thereafter amend the regulation under section 4(a) to exempt asphalt from such regulation without regard to the provisions of section 12 of this Act.".

EXPIRATION OF AUTHORITIES

SEC. 461. The Emergency Petroleum Allocation Act of 1973 is amended by adding to the end of such Act, as amended by this Act, the following new section:

"EXPIRATION OF AUTHORITIES

"SEC. 18. Notwithstanding any other provision of this Act, at midnight on the conclusion of the 40th month in which the amendment under section 8(a) is in effect, the President's authority to promulgate, make effective, and amend a regulation pursuant to section 4(a) of this Act shall become discretionary rather than mandatory, and the limitations on the President's authority contained in sections 4(b)(2), 8, and 9 of this Act shall terminate. The authority to promulgate and amend any regulation or to issue any order under this Act shall expire at midnight September 30, 1981, but such expiration shall not affect any action or pending proceedings, administrative, civil, or criminal, not finally determined on such date, nor any administrative, civil, or criminal action or proceeding, whether or not pending, based upon any act committed or liability incurred prior to such expiration date.".

REIMBURSEMENT TO STATES

SEC. 462. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"REIMBURSEMENT TO STATES

"SEC. 19. (a) The President is authorized to reimburse any State for expenses incurred by such State in carrying out any responsibilities delegated to such State by the President under the provisions of this Act,

"(b) Such reimbursements may be paid from any funds appropriated for the purpose of carrying out responsibilities under this Act, unless any appropriation Act specifically provides to the contrary.

"(c) Not later than June 1, 1976, the President shall submit a report to the Congress analyzing and detailing the amount and nature of any reimbursements made to any State for expenses described in subsection (a) incurred prior to such date and specifically recommending whether authorizations of additional funds for direct grants to States are necessary or appropriate for the continued operation of the reimbursement provisions authorized by this section.".

EFFECTIVE DATE OF ALLOCATION ACT AMENDMENTS

SEC. 463. Except as otherwise provided, the amendments made by this Act to the Emergency Petroleum Allocation Act of 1973 shall take effect as of midnight, December 15, 1975.

TITLE V—GENERAL PROVISIONS

PART A—ENERGY DATA BASE AND ENERGY INFORMATION

VERIFICATION EXAMINATION

SEC. 501. (a) The Comptroller General may conduct verification examinations with respect to the books, records, papers, or other documents of—

(1) any person who is required to submit energy information to the Federal Energy Administration, the Department of the Interior, or the Federal Power Commission pursuant to any rule, regulation, order, or other legal process of such Administration, Department, or Commission;

(2) any person who is engaged in the production, processing, refining, transportation by pipeline, or distribution (at other than the retail level) of energy resources—

(A) if such person has furnished, directly or indirectly, energy information (without regard to whether such information was furnished pursuant to legal requirements) to any Federal agency (other than the Internal Revenue Service), and

(B) if the Comptroller General of the United States determines that such information has been or is being used or taken into consideration, in whole or in part, by a Federal agency in carrying out responsibilities committed to such agency; or

(3) any vertically integrated petroleum company with respect to financial information of such company related to energy resource exploration, development, and production and the transportation, refining and marketing of energy resources and energy products.

(b) The Comptroller General shall conduct verification examinations of any person or company described in subsection (a), if requested to do so by any duly established committee of the Congress having legislative or oversight responsibilities under the rules of the House of Representatives or of the Senate, with respect to energy matters or any of the laws administered by the Department of the Interior (or the Secretary thereof), the Federal Power Commission, or the Federal Energy Administration (or the Administrator).

(c) For the purposes of this title—

(1) The term "verification examination" means an examination of such books, records papers, or other documents of a person or company as the Comptroller General determines necessary and appropriate to assess the accuracy, reliability, and adequacy of the energy information, or financial information, referred to in subsection (a).

(2) The term "energy information" has the same meaning as such term has in section 11(e)(1) of the Energy Supply and Environmental Coordination Act of 1974.

(3) The term "person" has the same meaning as such term has in section 11(e)(2) of the Energy Supply and Environmental Coordination Act of 1974.

(4) The term "vertically integrated petroleum company" means any person which it-

self, or through a person which is controlled by, controls, or is under common control with such person, is engaged in the production, refining, and marketing of petroleum products.

POWERS OF THE COMPTROLLER GENERAL AND REPORTS

SEC. 502. (a) For the purpose of carrying out his authority under section 501—

(1) the Comptroller General may—

(A) sign and issue subpenas for the attendance and testimony of witnesses and the production of books, records, papers, and other documents;

(B) require any person, by general or special order, to submit answers in writing to interrogatories, to submit books, records, papers, or other documents, or to submit any other information or reports, and such answers or other submissions shall be made within such reasonable period, and under oath or otherwise, as the Comptroller General may determine; and

(C) administer oaths.

(2) the Comptroller General, or any officer or employee duly designated by the Comptroller General, upon presenting appropriate credentials and a written notice from the Comptroller General to the owner, operator, or agent in charge, may—

(A) enter, at reasonable times, any business premise or facility; and

(B) inspect, at reasonable times and in a reasonable manner, any such premise or facility, inventory and sample any stock of energy resources therein, and examine and copy books, records, papers, or other documents, relating to any energy information, or any financial information in the case of a vertically integrated petroleum company.

(b) The Comptroller General shall have access to any energy information within the possession of any Federal agency (other than the Internal Revenue Service) as is necessary to carry out his authority under this section.

(c) (1) Except as provided in subsections (d) and (e), the Comptroller General shall transmit a copy of the results of any verification examination conducted under section 501 to the Federal agency to which energy information which was subject to such examination was furnished

(2) Any report made pursuant to paragraph (1) shall include the Comptroller General's findings with respect to the accuracy, reliability, and adequacy of the energy information which was the subject of such examination.

(d) If the verification examination was conducted at the request of any committee of the Congress, the Comptroller General shall report his findings as to the accuracy reliability, or adequacy of the energy information which was the subject of such examination, or financial information in the case of a vertically integrated petroleum company, directly to such committee of the Congress and any such information obtained and such report shall be deemed the property of such committee and may not be disclosed except in accordance with the rules of the committee and the rules of the House of Representatives or the Senate and as permitted by law.

(e) (1) Any information obtained by the Comptroller General or any officer of employee of the General Accounting Office pursuant to the exercise of responsibilities or authorities under this section which relates to geological or geophysical information, or any estimate or interpretation thereof, the disclosure of which would result in significant competitive disadvantage or significant loss to the owner thereof shall not be disclosed except to a committee of Congress. Any such information so furnished to a committee of the Congress shall be deemed the property of such committee and may not be disclosed except in accordance with the rules of the committee and the rules of the House of Representatives or the Senate and as permitted by law.

(2) Any person who knowingly discloses information in violation of paragraph (1) shall be subject to the penalties specified in section 5(a) 3(B) and (4) of the Emergency Petroleum Allocation Act of 1973, as amended by section 452 of this Act.

(f) The Comptroller General shall prepare and submit to the Congress an annual report with respect to the exercise of its authorities under this part, which report shall specifically identify any deficiencies in energy information or financial information reviewed by the Comptroller General and include a discussion of action taken by the person or company so examined, if any, to correct any such deficiencies.

ACCOUNTING PRACTICES

SEC. 503. (a) For purposes of developing a reliable energy data base related to the production of crude oil and natural gas, the Securities and Exchange Commission shall take such steps as may be necessary to assure the development and observance of accounting practices to be followed in the preparation of accounts by persons engaged, in whole or in part, in the production of crude oil or antural gas in the United States. Such practices shall be developed not later than 24 months after the date of enactment of this Act and shall take effect with respect to the fiscal year of each such person which begins 3 months after the date on which such practices are prescribed or made effective under authority of subsection (b) (2).

(b) In carrying out its responsibilities under subsection (a), the Securities and Exchange Commission shall—

(1) consult with the Federal Energy Administration, the General Accounting Office, and the Federal Power Commission with respect to accounting practices to be developed under subsection (a), and

(2) have authority to prescribe rules applicable to persons engaged in the production of crude oil or natural gas, or make effective by recognition, or by other appropriate means indicating a determination to rely on, accounting practices developed by the Financial Accounting Standards Board, if the Securities and Exchange Commission is assured that such practice will be observed by persons engaged in the production of crude oil or natural gas to the same extent as would result if the Securities and Exchange Commission had prescribed such practices by rule.

The Securities and Exchange Commission shall afford interested persons an opportunity to submit written comment with respect to whether it should exercise its discretion to recognize or otherwise rely on such accounting practice in lieu of prescribing such practices by rule and may extend the 24-month period referred to in subsection (a) as it determines may be necessary to allow for a meaningful comment period with respect to such determination.

(c) The Securities and Exchange Commission shall assure that accounting practices developed pursuant to this section, to the greatest extent practicable, permit the compilation, treating domestic and foreign operations as separate categories, of an energy data base consisting of:

(1) The separate calculation of capital, revenue, and operating cost information pertaining to—

(A) prospecting,

(B) acquisition,

(C) exploration,

(D) development, and

(E) production,

including geological and geophysical costs, carrying costs, unsuccessful exploratory drilling costs, intangible drilling and development costs on productive wells, the cost of unsuccessful development wells, and the cost of acquiring oil and gas reserves by means other than development. Any such calculation shall take into account disposition of capitalized costs, contractual arrangements involving special conveyance of rights and joint operations, differences between book and tax income, and prices used in the transfer of products or other assets from one person to any other person, including a person controlled by controlling or under common control with such person.

(2) The full presentation of the financial information of persons engaged in the production of crude oil or natural gas, including—

(A) disclosure of reserves and operating activities, both domestic and foreign, to facilitate evaluation of financial effort and result; and

(B) classification of financial information by function to facilitate correlation with reserve and operating statistics, both domestic and foreign.

(3) Such other information, projections, and relationships of collected data or shall be necessary to facilitate the compilation of such data base.

ENFORCEMENT

SEC. 504. (a) Any person who violates any general or special order of the Comptroller General issued under section 502(a) (1) (B) of this Act may be assessed a civil penalty not to exceed $10,000 for each violation. Each day of failure to comply with such an order shall be deemed a separate violation. Such penalty shall be assessed by the Comptroller General and collected in a civil action brought by the Comptroller General through any attorney employed by the General Accounting Office or any other attorney designated by the Comptroller General, or, upon request of the Comptroller General, the Attorney General. A person shall not be liable with respect to any period during which the effectiveness of the order with respect to such person was stayed.

(b) Any action to enjoin or set aside an order issued under section 502(a) (1) (B) may be brought only before the United States Court of Appeals for the District of Columbia. Any action to collect a civil penalty for violation of any general or special order may be brought only in the United States District Court for the District of Columbia. In any action brought under subsection (a) to collect a civil penalty, process may be served in any judicial district of the United States.

(c) Upon petition by the Comptroller General through any attorney employed by the General Accounting Office or designated by the Comptroller General, or, upon request of the Comptroller General, the Attorney General, any United States district court within the jurisdiction of which any inquiry under this part is carried on may, in the case of refusal to obey a subpena of the Comptroller General issued under this part, issue an order requiring compliance therewith; and any failure to obey the order of the court may be treated by the court as a contempt thereof.

AMENDMENT TO ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT OF 1974

SEC. 505. (a) Section 11(c) of The Energy Supply and Environmental Coordination Act of 1974 is amended by adding at the end thereof the following:

"(3) In order to carry out his responsibilities under subsection (a) of this section, the Federal Energy Administrator shall require, pursuant to subsection (b) (1) (A) of this section, that persons engaged, in whole or in part, in the production of crude oil or natural gas—

"(A) keep energy information in accordance with the accounting practices developed pursuant to section 503 of the Energy Policy and Conservation Act, and

"(B) submit reports with respect to energy information kept in accordance with such practices.

The Administrator shall file quarterly reports with the President and the Congress compiled from accounts kept in accordance with such section 503 and submitted to the Administrator in accordance with this paragraph. Such reports shall present energy information in the categories specified in subsection (c) of such section 503 to the extent that such information may be compiled from such accounts. Such energy information shall be collected and such quarterly reports made for each calendar quarter which begins 6 months after the date on which the accounting practices developed pursuant to such section 503 are made effective.".

(b) The amendment made by subsection (a) to section 11(c) of the Energy Supply and Environmental Coordination Act of 1974 shall take effect on the first day of the first accounting quarter to which such practices apply.

EXTENSION OF ENERGY INFORMATION GATHERING AUTHORITY

SEC. 506. Section 11(g)(2) of the Energy Supply and Environmental Coordination Act of 1974 is amended by striking out "June 30, 1975" wherever it appears and inserting in lieu thereof "December 31, 1979".

PART B—GENERAL PROVISIONS

PROHIBITION ON CERTAIN ACTIONS

SEC. 521. (a) Action taken under the authorities to which this section applies, resulting in the allocation of petroleum products or electrical energy among classes of users or resulting in restrictions on use of petroleum products and electrical energy shall not be based upon unreasonable classifications of, or unreasonable differentiations between, classes of users. In making any such allocation the President, or any agency of the United States to which such authority is delegated, shall give consideration to the need to foster reciprocal and nondiscriminatory treatment by foreign countries of United States citizens engaged in commerce in those countries.

(b) To the maximum extent practicable, any restriction under authorities to which this section applies on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden of such restriction on all sectors of the economy, without imposing an unreasonably disproportionate share of such burden on any specific class of industry, business, or commercial enterprise, or on any individual segment thereof. In prescribing any such restriction, due consideration shall be given to the needs of commercial, retail, and service establishments whose normal function is to supply goods or services of an essential convenience nature during times of day other than conventional daytime working hours.

(c) This section applies to actions under any of the following authorities:

(1) titles I and II of this Act (other than any provision of such titles which amend another law).

(2) this title.

(3) the Emergency Petroleum Allocation Act of 1973.

CONFLICTS OF INTEREST

SEC. 522. (a) Each officer or employee of the Federal Energy Administration or of the Department of the Interior who—

(1) performs any function or duty under this Act; and

(2) has any known financial interest—

(A) in any person engaged in the business of exploring, developing, producing, refining, transporting by pipeline, or distributing (other than at the retail level) coal, natural gas, or petroleum products, or

(B) in property from which coal, natural gas, or crude oil is commercially produced;

shall, beginning on February 1, 1977, annually file with the Administrator or the Secretary of the Interior, as the case may be, a written statement disclosing all such interests held by such officer or employee during the preceding calendar year. Such statement shall be subject to examination, and available for copying, by the public upon request.

(b) The Administrator and the Secretary of the Interior shall each—

(1) act, within 90 days after the date of enactment of this Act, in accordance with section 553 of title 5, United States Code—

(A) to define the term "known financial interest" for purposes of subsection (a); and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administrator or the Secretary of the Interior, as the case may be, of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b), the Administrator and the Secretary of the Interior each may identify specific positions, or classes thereof within the Federal Energy Administration or Department of the Interior, as the case may be, which are of a nonregulatory and nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, subsection (a) shall be fined not more than $2,500 or imprisoned not more than one year, or both.

ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

SEC. 523. (a) (1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule, regulation, or order having the applicability and effect of a rule as defined in section 551(4) of title 5, United States Code, issued under title I (other than section 103 thereof) and title II of this Act, or this title (other than any provision of such titles which amends another law).

(2)(A) Notice of any proposed rule, regulation, or order described in paragraph (1) which is substantive and of general applicability shall be given by publication of such proposed rule, regulation, or order in the Federal Register. In each case, a minimum of 30 days following the date of such publication and prior to the effective date of the rule shall be provided for opportunity to comment; except that the 30-day period for opportunity to comment prior to the effective date of the rule may be—

(i) reduced to no less than 10 days if the President finds that strict compliance would seriously impair the operation of the program to which such rule, regulation, or order relates and such findings are set out in such rule, regulation, or order, or

(ii) waived entirely, if the President finds that such waiver is necessary to act expeditiously during an emergency affecting the national security of the United States.

(B) Public notice of any rule, regulation, or order which is substantive and of general applicability which is promulgated by officers of a State or political subdivision thereof or to State or local boards which have been delegated authority pursuant to title I or II of this Act or this title (other than any provision of such title) which amend another law shall, to the maximum extent practicable, be achieved by publication of such rules, regulations, or orders in a sufficient number of newspapers of general circulation calculated to receive widest practicable notice.

(3) In addition to the requirements of paragraph (2) and to the maximum extent practicable, an opportunity for oral presentation of data, views, and arguments shall be afforded and such opportunity shall be afforded prior to the effective date of such rule, regulation, or order, but in all cases such opportunity shall be afforded no later than 45 days, and no later than 10 days (in the case of a waiver of the entire comment period under paragraph (2)(ii)), after such date. A transcript shall be made of any oral presentation.

(4) Any officer or agency authorized to issue rules, regulations, or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act as may be necessary to prevent special hardship, inequity, or an unfair distribution of burdens and shall in rules prescribed by it establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules, regulations, and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) or other applicable law when such denial becomes final. The officer or agency shall, by rule, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this paragraph.

(b) The procedures for judicial review established by section 211 of the Economic Stabilization Act of 1970 shall apply to proceedings to which subsection (a) applies, as if such proceedings took place under such Act. Such procedures for judicial review shall apply notwithstanding the expiration of the Economic Stabilization Act of 1970.

(c) Any agency authorized to issue any rule, regulation, or order described in subsection (a)(1) shall, upon written request of any person, which request is filed after any grant or denial of a request for exception or exemption from any such rule, regulation, or order, furnish such person, within 30 days after the date on which such request is filed, with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial.

PROHIBITED ACTS

SEC. 524. It shall be unlawful for any person—

(1) to violate any provision of title I or title II of this Act or this title (other than any provision of such titles which amend another law),

(2) to violate any rule, regulation, or order issued pursuant to any such provision or any provision of section 383 of this Act; or

(3) to fail to comply with any provision prescribed in, or pusuant to, an energy conservation contingency plan which is in effect.

ENFORCEMENT

SEC. 525. (a) Whoever violates section 524 shall be subject to a civil penalty of not more than $5,000 for each violation.

(b) Whoever willfully violates section 524 shall be fined not more than $10,000 for each violation.

(c) Any person who knowingly and willfully violates section 524 with respect to the sale, offer of sale, or distribution in commerce of a product or commodity after having been subjected to a civil penalty for a prior violation of section 524 with respect to the sale, offer of sale, or distribution in commerce of such product or commodity shall be fined not more than $50,000 or imprisoned not more than 6 months, or both.

(d) Whenever it appears to any officer or agency of the United States in whom is vested, or to whom is delegated, authority under this Act that any person has engaged, is engaged, or is about to engage in acts or practices constituting a violation of section

524, such officer or agency may request the Attorney General to bring an action in an appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any rule, regulation, or order described in section 524.

(e)(1) Any person suffering legal wrong because of any act or practice arising out of any violation of any provision of this Act described in paragraph (2), may bring an action in an appropriate district court of the United States without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment or writ of injunction. Nothing in this subsection shall authorize any person to recover damages.

(2) The provisions of this Act referred to in paragraph (1) are as follows:

(A) Section 202 (relating to energy conservation plans).

(B) Section 251 (relating to international oil allocation).

(C) Section 252 (relating to international voluntary agreements).

(D) Section 253 (relating to advisory committees).

(E) Section 254 (relating to international exchange of information).

(F) Section 521 (relating to prohibition on certain actions).

EFFECT ON OTHER LAWS

SEC. 526. No State law or State program in effect on the date of enactment of this Act, or which may become effective thereafter, shall be superseded by any provision of title I or II of this Act (other than any provision of such title which amends another law) or any rule, regulation, or order thereunder, except insofar as such State law or State program is in conflict with such provision, rule, regulation, or order.

TRANSFER OF AUTHORITY

SEC. 527. In accordance with section 15(a) of the Federal Energy Administration Act of 1974, the President shall designate, where applicable and not otherwise provided by law, an appropriate Federal agency to carry out functions vested in the Administrator under this Act and amendments made thereby after the termination of the Federal Energy Administration.

AUTHORIZATION OF APPROPRIATIONS FOR INTERIM PERIOD

SEC. 528. Any authorization of appropriations in this Act, or in any amendment to any other law made by this Act, for the fiscal year 1976 shall be deemed to include an additional authorization of appropriations for the period beginning July 1, 1976, and ending September 30, 1976, in amounts which equal one-fourth of any amount authorized for fiscal year 1976, unless appropriations for the same purpose are specifically authorized in a law hereinafter enacted.

INTRASTATE NATURAL GAS

SEC. 529. No provision of this Act shall permit the imposition of any price controls on, or require any allocation of, natural gas not subject to the jurisdiction of the Federal Power Commission.

LIMITATION ON LOAN GUARANTEES

SEC. 530. Loan guarantees and obligation guarantees under this Act or any amendment to another law made by this Act may not be issued in violation of any limitation in appropriations or other Acts, with respect to the amounts of outstanding obligational authority.

EXPIRATION

SEC. 531. Except as otherwise provided in title I or title II, all authority under any provision of title I or title II (other than a provision of either such title amending another law) and any rule, regulation, or order issued pursuant to such authority, shall expire at midnight, June 30, 1985, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, June 30, 1985.

PART C—CONGRESSIONAL REVIEW

PROCEDURE FOR CONGRESSIONAL REVIEW OF PRESIDENTIAL REQUESTS TO IMPLEMENT CERTAIN AUTHORITIES

SEC. 551. (a) For purposes of this section, the term "energy action" means any matter required to be transmitted or submitted to the Congress in accordance with the procedures of this section.

(b) The President shall transmit any energy action (bearing an identification number) to both Houses of Congress on the same day. If both Houses are not in session on the day any energy action is received by the appropriate officers of each House, for purposes of this section such energy action shall be deemed to have been transmitted on the first succeeding day on which both Houses are in session.

(c)(1) Except as provided in paragraph (2) of this subsection, if energy action is transmitted to the Houses of Congress, such action shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which such action is transmitted to such Houses, unless between the date of transmittal and the end of such 15-day period, either House passes a resolution stating in substance that such House does not favor such action.

(2) An energy action described in paragraph (1) may take effect prior to the expiration of the 15-calendar-day period after the date on which such action is transmitted, if each House of Congress approves a resolution affirmatively stating in substance that such House does not object to such action.

(d) For the purpose of subsection (c) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 15-calendar-day period.

(e) Under provisions contained in an energy action, a provision of such an action may take effect on a date later than the date on which such action otherwise takes effect pursuant to the provisions of this section.

(f)(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2) For purposes of this subsection, the term "resolution" means only a resolution of either House of Congress described in subparagraph (A) or (B) of this paragraph.

(A) A resolution the matter after the resolving clause of which is as follows: "That the ------------ does not object to the energy action numbered -------- submitted to the Congress on ------------, 19 .", the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one energy action.

(B) A resolution the matter after the resolving clause of which is as follows: "That the ------------ does not favor the energy action numbered ---------- transmitted to Congress on ----------------, 19 .", the first blank space therein being filled with the name of the resolving House and the other spaces therein being appropriately filled; but does not include a resolution which specifies more than one energy action.

(3) A resolution once introduced with respect to an energy action shall immediately be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4)(A) If the committee to which a resolution with respect to an energy action has been referred has not reported it at the end of 5 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such energy action which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same energy action), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same energy action.

(5)(A) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to; except that it shall be in order—

(i) to offer an amendment in the nature of a substitute, consisting of the text of a resolution described in paragraph (2)(A) of this subsection with respect to an energy action, for a resolution described in paragraph (2)(B) of this subsection with respect to the same such action, or

(ii) to offer an amendment in the nature of a substitute, consisting of the text of a resolution described in paragraph (2)(B) of this subsection with respect to an energy action, for a resolution described in paragraph (2)(A) of this subsection with respect to the same such action.

The amendments described in clauses (i) and (ii) of this subparagraph shall not be amendable.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(7) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to an energy action, then it shall not be in order to consider in that House any other resolution with respect to the same such action.

EXPEDITED PROCEDURE FOR CONGRESSIONAL CONSIDERATION OF CERTAIN AUTHORITIES

SEC. 552. (a) Any contingency plan transmitted to the Congress pursuant to section 201(a)(1) shall bear an identification number and shall be transmitted to both Houses of Congress on the same day and to each House while it is in session.

(b) No such contingency plan may be considered approved for purposes of section 201 (a)(2) of this Act unless between the date of transmittal and the end of the first period of 60 calendar days of continuous session of Congress after the date on which such action is transmitted to such House, each House of Congress passes a resolution described in subsection (d)(2).

(c) For the purpose of subsection (b) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-calendar-day period.

(d)(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2) For purposes of this subsection, the term "resolution" means only a resolution of either House of Congress the matter after the resolving clauses of which is as follows: "That the ________ approves the contingency plan numbered __________ submitted to the Congress on __________, 19 .", the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one contingency plan.

(3) A resolution once introduced with respect to a contingency plan shall immediately be referred to a committee (and all resolutions with respect to the same contingency plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4)(A) If the committee to which a resolution with respect to a contingency plan has been referred has not reported it at the end of 20 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such contingency plan which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same contingency plan), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same contingency plan.

(5)(A) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedures relating to a resolution shall be decided without debate.

HARLEY O. STAGGERS,
JOHN D. DINGELL,
TORBERT H. MACDONALD,
JOHN E. MOSS,
PAUL G. ROGERS,
Managers on the Part of the House.

And the Senate agree to the same.

HENRY M. JACKSON,
FLOYD K. HASKELL,
JOHN GLENN,
RICHARD (DICK) STONE,
DALE BUMPERS,
WARREN G. MAGNUSON,
ADLAI E. STEVENSON,
JOHN O. PASTORE,
VANCE HARTKE,
PHILIP A. HART,
HOWARD W. CANNON,
JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the text of the bill (S. 622) to increase domestic energy supplies and availability; to restrain energy demand; to prepare for energy emergencies; and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all after the enacting clause and inserted a substitute text. The Senate receded from its disagreement to the amendment of the House to the text of the bill with an amendment which was a substitute for both the House amendment to the text of the bill and the Senate bill. The House recedes from its disagreement to the amendment of the Senate to the amendment of the House to the text of the bill with an amendment which is a substitute for both the House amendment and the Senate amendment thereto. The differences between the House amendment, the Senate amendment to the House amendment, and the substitute agreed to in conference are noted below except for minor technical and clarifying changes made necessary by reason of the conference agreement.

THE ENERGY POLICY AND CONSERVATION ACT

Summary

The Energy Policy and Conservation Act of 1975 is the result of the deliberations of the Conference Committee convened to reconcile provisions of H.R. 7014, the Energy Conservation and Oil Policy Act, and S. 622, the Standby Energy Authorities Act. Before requesting Conference the Senate added to S. 622 as amendments the texts of three previously passed Senate bills: S. 677 The Strategic Energy Reserves Act; S. 349, The Energy Labeling and Disclosure Act; and S. 1883, the Automobile Fuel Economy Act.

The Act reported by the Conference Committee establishes a comprehensive national energy policy to:

(1) maximize domestic production of energy and provide for strategic storage reserves of crude oil, residual fuel oil and refined petroleum products;

(2) to minimize the impact of disruptions in energy supplies by providing for emergency standing measures;

(3) provide for domestic crude oil prices that will encourage domestic production in a manner consistent with economic recovery; and

(4) reduce domestic energy consumption through the operation of specific voluntary and mandatory energy conservation programs.

In the short term, the Act is designed to reduce the vulnerability of the domestic economy to increases in import prices, and to insure that available supplies will be distributed equitably in the event of a disruption in petroleum imports.

For the long run, the Act will decrease dependence upon foreign imports, enhance national security, achieve the efficient utilization of scarce resources, and guarantee the availability of domestic energy supplies at prices consumers can afford.

I. Measures to increase domestic supply

The Energy Policy and Conservation Act provides for direct actions to increase domestic oil production and the development and use of alternatives to petroleum and natural gas. Provisions of the Act will:

Extend the authority of the Administrator of the Federal Energy Administration (FEA) to direct powerplants, and other major fuel burning installations, to convert to the use of domestic coal;

Authorize the FEA to guarantee loans to increase coal production by encouraging the opening of new underground coal mines;

Increase competition in the oil industry by limiting joint venture bidding by major oil companies in the development of crude oil or natural gas on the Outer Continental Shelf;

Authorize the President to restrict exports of energy supplies and energy-related materials under certain circumstances; and

Authorize the President to require the production of crude oil and natural gas from designated fields at the maximum efficient rate of production or the temporary emergency production rate.

In addition to providing for expanded domestic energy supply, the Energy Policy and Conservation Act will substantially reduce the ability of foreign energy producers to influence the foreign or domestic policies of the United States by threatening to reduce U.S. imports of petroleum. The Act creates a Strategic Petroleum Reserve of up to one billion barrels of crude oil, residual fuel oil and refined petroleum products to insulate the domestic economy from future supply interruptions.

The plan for the Reserve, which is subject to review and disapproval by either House, must be submitted to Congress not later than December 15, 1976.

The plan must include provision for the creation of regional petroleum product reserves in regions where more than 20 percent of demand for such products is met by imports.

The FEA Administrator is authorized to require importers and refiners to store in readily available inventories, as reserves, up to three percent of their imports as throughputs for the previous calendar year.

The legislation also creates an Early Storage Reserve consisting of not less than 150 million barrels of crude oil, residual fuel oil and refined petroleum products, to be stored within three years of the date of enactment.

II. Standby energy authorities

The Energy Policy and Conservation Act grants specific standby authority to the President, subject to Congressional approval, to develop and implement regulations mandating the conservation of energy and the rationing of gasoline and diesel fuel in the event of a severe energy supply interruption.

The provisions authorize the President during periods of acute energy shortages to take specific actions to conserve scarce fuels, to alleviate fuel shortages and to increase domestic energy supplies.

The Act provides for energy conservation and rationing contingency plans to be developed to reduce non-essential energy consumption and assure the continuation of vital services in the face of severe energy supply interruption.

The conference substitute contains the following standby powers:

To prescribe energy conservation plans (including rationing plans);

To authorize actions necessary to carry out U.S. obligations under the International Energy Program;

To authorize persons in the oil industry to develop and carry out voluntary agreements for international oil allocation under a grant of limited antitrust immunity;

To authorize the President to transmit information to the International Energy Agency.

The energy conservation authorities may be exercised if:

(1) a contingency plan for the exercise of the authorities has been approved by concurrent resolution of the House and Senate;

(2) the President has determined that implementation of the contingency plan is required by a severe energy supply interruption or the International Energy Program.

In addition, a plan which provides for rationing cannot take effect if either House of Congress disapproves the President's request to implement such a plan.

The authority for international voluntary agreements and the exchange of information may be exercised at any time in order to carry out the International Energy Program.

III. Energy conservation programs

The Energy Policy and Conservation Act establishes aggressive and effective programs for energy conservation designed to encourage the maximum efficient utilization of domestic energy resources.

The Act contains provisions that:

Establish mandatory average fuel economy performance standards for new passenger automobiles and other light duty highway vehicles;

Require energy labeling of major home appliances and certain other consumer products, and authorize energy efficiency standards for major appliances;

Authorize block grants-in-aid for States to assist in the development and implementation of state-administered energy conservation programs, and

Establish a program to encourage increased efficiency of energy use by American industry;

Establish a program for energy conservation within the Federal Government; and

Promote the use of recycled oil.

These provisions are designed to increase energy efficiency through the operation of orderly conservation programs rather than through steep price increases that would hamper the Nation's economic recovery, increase unemployment, contribute to the inflationary spiral and impact regressively on consumers.

Mandatory fuel economy performance standards are established for passenger automobiles and other light duty highway vehicles. Standards for passenger automobiles would be applicable in model year 1978 and thereafter.

Each manufacturer or importer of passenger automobiles would be required to achieve the following fleet average fuel economies: 18 miles per gallon (mpg) in model year 1978, 19 mpg in model year 1979, 20 mpg in model year 1980 and 27.5 mpg in model year 1985 and thereafter. Standards for model year 1985 and thereafter may be modified administratively to the maximum feasible level, but either House may disapprove a modification below 26 mpg.

Standards for model years 1981–84 would be set by the Secretary of Transportation at the maximum feasible level. The Secretary would also set standards for vehicles other than passenger automobiles at the maximum feasible level for each model year.

If a manufacturer or importer failed to meet the required average fuel economy standard, he would be liable for a civil penalty, which could be waived or modified under certain specific conditions.

The Energy Policy and Conservation Act would require test procedures for, and energy efficiency labeling of, major home appliances to provide consumers with information essential to making an informed judgment in the purchase of these appliances.

Products explicitly covered include refrigerators, freezers, dishwashers, clothes washers and dryers, water heaters, air conditioners, television sets, kitchen ranges and furnaces.

The required label must include representative annual operating costs associated with the use of these products unless the FEA determines that labeling would not be feasible or the FTC determines it would not be likely to assist consumers in making purchasing decisions.

The Administrator is required, within specified periods after enactment, to prescribe energy efficiency targets for covered products. These targets would be set at the maximum level that would be economically and technologically feasible, and would require at least a 20 percent overall improvement in aggregate energy efficiency for all types of new major home appliances in 1980, in comparison to 1972 levels.

If the FEA prescribes a labeling rule for a class of major household appliances and then finds (1) that labeling will not suffice to induce manufacturers to produce (or consumers to purchase) products of that class which achieve the maximum energy efficiency that is technologically feasible and economically justified and (2) that the benefits of increased energy efficiency outweigh any increased consumer costs and any decrease in utility of the product, then the FEA would be authorized to prescribe an enforceable energy efficiency performance standard for that class of product. The FEA would be required to exercise this authority in certain cases where industry is unable to achieve energy efficiency improvement targets.

The Act authorizes a 3-year $150 million Federal grant-in-aid program to assist States in developing and administering State energy conservation programs. These programs will have as a target a 5 percent reduction in energy consumption by 1980 below levels projected for that time.

The Act identifies conservation measures to be implemented by the States, but calls for administration of the programs on the State and local levels.

To be eligible to receive Federal funds a State program would be required to include the following energy conservation measures:

Lighting efficiency standards for non-Federal public buildings;

Programs to promote carpooling, vanpooling, and public transportation systems;

Energy efficiency standards and policies in procurement by State and local government;

Thermal efficiency and insulation requirements for new and renovated buildings; and a traffic regulation permitting right turn on red.

State programs could contain other conservation measures, including a standby energy conservation plan to be put into effect during a severe energy supply emergency.

Within Federal guidelines for the composition of acceptable energy conservation plans, States would establish programs in a manner tailored to local economic, geographic and climatic conditions. The Act thus provides impetus, direction and financial assistance for energy conservation while protecting the States' interest in self-determination and local control.

Industrial Energy Efficiency

The goal of the industrial efficiency program is to promote increased energy efficiency by establishing voluntary energy efficiency improvement targets.

Voluntary industrial energy efficiency targets would be set for the ten most energy-intensive industries. Each target would represent the maximum feasible improvement in industrial efficiency which a particular industry could achieve by January 1, 1980. The ten most energy-intensive industries would be required to report annually on their programs in attaining energy-efficiency targets.

Federal Energy Conservation Programs

In addition the President would be required to develop and implement a ten-year plan for energy conservation. This plan would deal with procurement, lighting standards, construction guidelines, restrictions on hours of operation, thermostat settings and other conditions related to the operation of Federal buildings.

IV. Oil pricing

The Energy Policy and Conservation Act establishes a pricing formula for domestically-produced crude oil which provides for an initial crude oil price rollback and authorizes gradual increases in the prices received by domestic producers over a 40-month period. The new oil price policy:

Establishes a domestic composite price of $7.66 per barrel. This represents a rollback of $1.09 from the current domestic average estimated by FEA at $8.75 per barrel. In combination with the removal of the $2 per barrel import tariff, this program will result in a significant reduction in the price of the crude oil run in domestic oil refineries. A provision of the Act specifically requires that these reductions in crude oil costs be reflected in the prices of refined petroleum products paid by consumers.

Grants the President broad flexibility to set prices for various categories of oil production so long as the average domestic price does not exceed the composite price of $7.66 established by the Act;

Permits upward adjustment in the domestic composite price to take account of inflation, and, if the President finds it necessary, to provide an additional increase in the composite price of no more than three percent per year as an incentive for the development of high-cost production, to maintain production from marginally profitable properties, or to encourage the application of enhanced recovery techniques. The sum of these two adjustments may not exceed 10 percent per year unless further authority to modify the upward adjustment rate is obtained from the Congress;

Allows the President to submit to the Congress at three month intervals following enactment, proposals to modify the 3 percent incentive adjustment and the 10 percent ceiling on adjustments if the President finds that such a modification is likely to result in an increase in domestic production. These proposals would take effect unless disapproved by either House of Congress under expedited review procedures;

Directs the President to submit to Congress on February 15, 1977, an analysis of energy supply, demand and import relationships which have evolved under the Act;

Directs the President to submit to the Congress on April 15, 1977, a report on the impact of anticipated Alaskan oil production levels and prices on domestic oil prices and on incentives to increase and maintain production in the lower 48 states. The President may then propose, subject to Congressional review, the exclusion of up to two million barrels per day of Alaskan production from the composite price ceiling and the establishment of a separate ceiling for this production not to exceed the highest price granted to significant volumes within the composite;

Extends the basic petroleum allocation authority contained in the Emergency Petroleum Allocation Act and the oil pricing provisions described in the Energy Policy and Conservation Act for 40 months;

Converts this oil price control and allocation authority to standby status at the end of the 40-month period; and

Provides that the standby authority terminates five years after enactment.

V. General provisions

The Act sets forth provisions of general applicability relating to procedural requirements for agency actions, judicial review, and enforcement.

Disclosure of Financial Interests

Among the more important provisions, employees and officers of the FEA and the Department of the Interior who perform regulatory or policy-making functions under this Act are required to disclose their financial interests in oil, natural gas, or coal.

Verification Audits of Energy Information

The legislation also authorizes the Comptroller General to conduct verification examinations to verify the accuracy of energy and financial information filed with Federal agencies to permit independent and objective evaluation of energy data from which realistic projections can be made and on which future energy policy decisions will be based.

I—MATTERS RELATED TO DOMESTIC SUPPLY AVAILABILITY

Coal conversion

House Amendment

The House amendment provided for the extension of the Energy Supply and Environmental Coordination Act (ESECA), the statute under which the Administrator of the Federal Energy Administration (FEA) has been (1) required to issue orders prohibiting a powerplant from using natural gas or petroleum products as fuel if it had the capability, on June 22, 1974, to burn coal for such purpose; (2) authorized to issue orders prohibiting such use by other major fuel burning installations having such capability; and (3) authorized to order that powerplants in the early planning process be constructed with coal-burning capability.

The House amendment extended the period within which such FEA orders may be issued from June 30, 1975 to June 30, 1977, and it extended the period during which such rules and orders may be enforced from December 31, 1978 to December 31, 1984. The scope of the FEA's authority under ESECA was extended to include powerplants and other major fuel burning installations which acquire the capability of using coal after June 22, 1974. The FEA was also authorized to order that major fuel burning installations (other than powerplants), in the early planning process be constructed with coal-burning capability.

Senate Amendment

The Senate amendment provided for the extension of ESECA. The period during which the FEA could issue orders prohibiting the use of natural gas or petroleum products or requiring new installations to be constructed with coal-burning capability, was extended from June 30, 1975 to December 31, 1975.

Conference Substitute

The conference substitute follows the provisions of the House amendment. It should be noted that the extension until 1985 of the period during which the FEA may enforce orders issued pursuant to section 2 of ESECA applies both to orders already issued by FEA pursuant to that section and to orders issued after date of enactment of the bill.

Prohibiting the use of natural gas as a boiler fuel

House Amendment

The House amendment amended ESECA to authorize the FEA to issue orders prohibiting a powerplant from burning natural gas, in whole or in part, if the FEA determined that (1) such plant had or had acquired the capability and equipment necessary to burn petroleum products; (2) a coal conversion order could not be issued as to such plant; (3) petroleum use by such plant was practicable and the necessary petroleum products were available; (4) conversion would make additional natural gas available to other users; (5) service reliability would not be impaired thereby; and (6) such plant would be able to comply with the Clean Air Act. The authority to issue such orders was subject to certain exemptions, exceptions, and limitations. The House amendment further authorized the FEA to order that any powerplant or major fuel-burning installation in the early planning process be constructed so as to be capable of using petroleum products as its primary source of energy for the production of steam, subject to specified exception relating to service reliability and expected availability of an adequate and reliable supply of petroleum products. All such orders were required to be issued in accordance with the procedures specified in sections 18 (b) and (c) of the Federal Trade Commission Act.

Senate Amendment

No provision.

Conference Substitute

This provision of the House amendment is omitted from the conference substitute.

Incentives to develop underground coal mines

House Amendment

The House amendment authorized the FEA to guarantee loans for the purpose of financing the opening of new underground coal mines. To be eligible for a loan, a person must be a producer who, together with all affiliates, did not in the year preceding the application for such a guarantee produce more than one million tons of coal or more than 300,000 barrels of crude oil, or own an oil refinery, and who did not have gross annual revenues in excess of $50 million. A guarantee could not be issued unless the FEA found that the applicant was capable of developing and operating the mine and could meet specified requirements with respect to mine safety, repayment, environmental standards, adequacy of security, and inability to obtain adequate financing without such a guarantee.

The amount of such a loan guarantee could not exceed 80% of the principal balance of the loan, if the loan was for the purpose of opening a new underground coal mine which produces low sulphur coal; or 40% of the principal balance of the loan in the case of a mine which produces coal other than low sulphur coal. No more than 20 percent of the amount of guarantees issued under this section in any fiscal year could be issued for loans for mines which do not produce low sulphur coal. The FEA was to prescribe such regulations as are necessary or appropriate to carry out the program.

The aggregate outstanding principal amount of loans which could be guaranteed by the House amendment could not at any time exceed $750,000,000. The total amount authorized to be issued to any one person (including affiliates) could not exceed $30,000,000.

Senate Amendment

No provision.

Conference Substitute

The conference substitute follows the provision of the House amendment, except as follows:

(1) The term "developing new underground coal mines" is defined so as to clarify the application of the program to opening new mines which are connected to existing mines, opening new shafts or tunnels in existing mines, and reopening shafts or tunnels of mines which are no longer being worked.

(2) A guarantee shall not be issued unless the applicant has enough coal reserves and a sufficiently long-term supply contract to be able to repay the guaranteed loan.

(3) The mine involved must produce low sulphur coal or coal which is certified by the Environmental Protection Agency as useable in compliance with Clean Air Act standards.

(4) The amount of any loan guarantee may not exceed 80 percent of the principal amount of the loan or the cost of the project, whichever is less.

(5) The Secretary of the Treasury must be consulted on terms and conditions of loan guarantees issued under this provision. His concurrence must be obtained with respect to the timing of the issuance of a loan guarantee (but the Secretary's failure to concur will not delay issuance for more than 60 days).

(6) The FEA must determine that a requested loan guarantee will enhance competition or encourage new market entry in the coal industry.

Domestic use of energy supplies and related materials and equipment

House Amendment

The House amendment made oil and gas produced from the Outer Continental Shelf subject to the limitations and licensing requirements of the Export Administration Act. No such oil or gas was permitted to be exported under such authority unless and until the President found that such exports would not increase reliance on imported oil, would be in the national interest, and were in accord with the Export Administration Act. The President's finding concerning the national interest was made subject to congressional review: if a concurrent resolution of disapproval was passed by the Congress within 60 days, oil and gas exports pursuant to such finding had to terminate.

The House amendment also granted the President discretionary authority to restrict exports of materials or equipment which he determined would be needed for energy exploration, production, refining, transportation, or facility construction or maintenance in the United States. The President could direct this authority to be implemented by the Secretary of Commerce pursuant to the Export Administration Act.

The House amendment also directed the President to prevent the export of coal, natural gas, crude oil, residual fuel oil, or any refined petroleum product, and any petrochemical feedstock to the extent necessary to achieve the objectives of section 4(b) of the Emergency Petroleum Allocation Act of 1973. At the request of the President, this authority could be implemented by the Secretary of Commerce. The House amendment provided that any order of the President, and any action of the Secretary of Commerce, under this authority "shall take into account the historical trading relations of the United States with Canada and Mexico."

Senate Amendment

The Senate amendment authorized the President to restrict exports of (1) coal, natural gas, petroleum products, and petrochemical feedstocks, and (2) drill pipe, upland and offshore drilling rigs and platforms, and other materials and equipment which he determined necessary for energy exploration, production, refining, transportation, conservation of domestic supply, or construction or maintenance of energy facilities in the United States, upon such terms and conditions as the President determined appropriate and necessary. Such authority could, at the direction of the President, be implemented by the Secretary of Commerce pursuant to the Export Administration Act. The Senate amendment provided that any rule or order of the President, and any action of the Secretary of Commerce, under this provision "shall take into account the historical trading relations of the United States with Canada and Mexico."

Conference Substitute

The conference substitute consolidates the provisions of the Senate and House amendments and provides as follows:

(1) The President is granted authority to restrict, by rule, exports of coal, crude oil, natural gas, residual fuel oil, any refined petroleum product or petrochemical feed stock and supplies of equipment or materials which he determines to be necessary for maintaining or furthering domestic exploration, production, processing, and transportation of energy supplies or for the construction or maintenance of energy facilities within the United States.

(2) The President is required to promulgate a rule which prohibits the export of crude oil or natural gas produced in the United States. The President may, if he finds that it is consistent with the national interest and the purposes of this Act, provide for exemptions in the rule.

(3) The President may, to minimize administrative burdens, permit exemptions to the oil or gas export prohibition, by rule, on the basis of the purpose of the export, the type or class of seller or purchaser, the country of destination, and any other reasonable basis which the President determines to be consistent with the national interest and the purposes of this Act.

(4) To facilitate the implementation of the rule restricting exports, the President may require the Secretary of Commerce to implement the export restrictions pursuant to the procedures established by the Export Administration Act of 1969.

(5) Any finding by the President concerning exemptions from the rule prohibiting crude oil or natural gas exports and any action taken by the Secretary of Commerce at the President's request shall take into account the national interest as related to the need to leave uninterrupted or unimpaired the following classes of transactions:

(a) exchanges of crude oil or natural gas in similar quantity for convenience or for increased efficiency of transportation with persons or the government of an adjacent foreign State; or

(b) temporary exports for convenience or increased efficiency of transportation across parts of an adjacent foreign State such as Canada or Mexico which exports later reenter the United States; or

(c) the historical and normal trading relations of the United States with Canada and Mexico.

(6) The President is granted authority to make appropriate waivers of administrative procedures concerning notice and comment on a finding that compliance with these requirements would seriously impair his ability to impose effective and timely prohibitions to carry out the purposes of this Act.

(7) Presidential findings made pursuant to this section are to be submitted to the Congress on a quarterly basis in connection with a report on the administration of this section.

(8) The conferees intend that in the administration of the authority granted by this section the President is to take the following factors into consideration in making "national interest" findings for exemptions:

(a) the need to avoid impairing international air travel or commerce by exempting bunker fuel for tankers in foreign commerce, jet fuel for international air carriers, and fuel for other similar uses, and

(b) U.S. obligations under treaty, international agreement (such as the International Energy Agreement), or other agreements (such as the recent agreement with Israel).

The conferees wish to caution the President, in the exercise of his authority to provide for exemptions from the export prohibitions, to assiduously guard against circumvention of domestic price controls on crude oil, residual fuel oil, refined petroleum products and natural gas. The President must also be vigilant to assure that exemptions do not result in greater reliance on imports.

Materials allocation

House Amendment

The House amendment authorized the President, upon such terms and conditions as he determined appropriate and necessary, to require the allocation of supplies of materials and equipment and the selective performance of contracts or orders during any "severe energy supply interruption" if the President found that such supplies were scarce, critical, and essential for energy exploration, production, refining, transportation, or facility construction or maintenance. This authority could be exercised only to the extent that these objectives could not "practically be accomplished" during such an interruption without exercise of this authority. (The House amendment defined a "severe energy supply interruption," in the general definitions section, to mean a national energy supply shortage which the President determined (1) was of significant scope and duration and of an emergency nature; (2) could cause major adverse impact on national safety or the national economy; and (3) resulted from an interruption in the supply of imported petroleum products, sabotage, or an act of God.) The House amendment also required the President to report to Congress, within 30 days after the date of enactment of this legislation, on the manner in which this authority would be administered, including procedures, criterion for determining priorities, and specification of the administering office or agency.

Senate Amendment

The Senate amendment amended the Defense Production Act of 1950 to grant the President authority similar to that granted by the House amendment. Under the Senate amendment, this authority could not be exercised unless the President found (1) that supplies of materials and equipment were scarce, critical, and essential to maintaining or furthering energy exploration, production, refining, transportation, conservation, or facility construction and maintenance, and (2) that the maintenance or furtherance of these objectives could not "reasonably be accomplished" without the exercise of this authority. The President was directed to coordinate the exercise of this authority with any priorities or allocations which were established and concurrently in effect under other provisions of the Defense Production Act. The Senate amendment also required the President to report to Congress, within 60 days after the date of enactment of this legislation, on the manner in which this authority would be administered.

Conference Substitute

The conference substitute follows the provision in the Senate amendment, except that it provides that these provisions shall continue in effect until 1985 regardless of any earlier termination of the Defense Production Act.

Leasing policy with respect to mineral rights on federal lands

House Amendment

The House amendment provided that each agreement pertaining to crude oil, natural gas, or coal development on Federal lands entered into on or after the date of enactment of this legislation had to include (1) a requirement that the person granted the development right promptly submit to the FEA and the Secretary of the Interior for his approval a plan, including a timetable, for diligent exploration and full development as soon as is practicable of the crude oil, natural gas, or coal associated with that property; (2) a requirement that such person promptly inform the FEA and the Secretary of the Interior of the discovery of any such resource on such lands, including an estimate of the size of the deposit or reservoir discovered; (3) a requirement that such person submit to the FEA and the Secretary of the Interior for his approval, within 90 days after the date of the discovery or of the grant of the development right (whichever is later), a plan for production (including a timetable for obtaining maximum production as soon as practicable) which shall provide for the commencement of production and sale not later than 2 years after the date of the discovery or of the grant, unless the FEA, upon "reasonable justification", permits a delay; and (4) terms which provide for termination of the agreement by the Secretary of the Interior and the forfeiture of all rights thereunder for violation of any of these conditions. The House amendment required the Secretary, after notice and opportunity for hearing, to terminate any such agreement if he found that the person granted a development right failed to comply with the terms of the agreement and that this failure was not solely the result of an FEA-permitted departure from the timetable included in his approved production plan. A person whose rights to develop crude oil, natural gas, or coal were so terminated would be ineligible to reacquire such rights on such lands.

Existing mineral-rights agreements as to Federal lands were directed to "be renegotiated at the earliest date" to include the requirements set by the House amendment with respect to new leases, unless the Secretary of the Interior found that these requirements were not necessary under the circumstances or that such renegotiation would jeopardize existing Federal interests under such an agreement.

Senate Amendment

No provision.

Conference Substitute

This provision of the House amendment is omitted from the conference substitute.

Prohibition of certain lease bidding arrangements

House Amendment

The House amendment directed the Secretary of the Interior to prescribe a rule prospectively applicable to the grant of any right to develop crude oil, natural gas, coal, or oil shale on Federal lands. The rule was required to prohibit the granting of any such developmental right to a joint venture in which two or more major oil companies (including affiliates) were participants.

Senate Amendment

No provision.

Conference Substitute

The conference substitute is applicable only to the development of crude oil or natural gas on the Outer Continental Shelf. The conference substitute requires the Secretary to prohibit joint bidding for developmental rights by any joint venture in which two or more major oil companies (including affiliates) participate. The conference substitute authorizes the Secretary to prescribe regulations to implement this subsection; authorizes him to grant exemptions with respect to high risk ventures if necessary to secure efficient development; and requires the Secretary of the Interior to report to the Congress on recommendations with respect to joint ventures and maximizing competition in the development of mineral rights on Federal lands. This prohibition on joint bidding does not restrict other activities of joint ventures, including gathering and trunk pipeline construction and operation. Likewise this prohibition on joint bidding does not prohibit unitization of producing properties on the Outer Continental Shelf or the operation of a unitized field on a joint venture basis.

Production of oil or gas at the maximum efficient rate and temporary emergency production rate

House Amendment

The House amendment authorized the President to require that crude oil and/or natural gas be produced (from fields designated by him) at the maximum efficient rate of production (MER) or, during a severe energy supply interruption, at the temporary emergency production rate (TEPR). For each field on Federal lands, the Secretary of the Interior was to determine the MER and the TEPR. For each field (other than on Federal land) within a State, the State or the appropriate agency thereof was to determine the MER and the TEPR; if the MER were not determined for any such field within 180 days after the date of enactment of this legislation, the Federal Energy Administrator (FEA) was authorized to do so. Production from any field at such field's TEPR could only be required upon a determination by the President that there was a severe energy supply interruption. Any loss of ultimate recovery of crude oil or natural gas caused by an order to produce at the TEPR was deemed a "taking by condemnation," and the owner of any property right whose value was so diminished was authorized to recover just compensation therefor in the U.S. Court of Claims.

Senate Amendment

The Senate amendment authorized the President to require the production of designated domestic oil and gas fields at "maximum practicable rates of production", under certain circumstances. Such rates could not exceed the applicable MER unless production at rates in excess of the MER for periods of no more than 90 days was possible "without excessive risk of losses in ultimate recovery". The Senate amendment also authorized the President to require (in order to supplement domestic energy supplies) the unitization of production on any oil and gas producing properties on Federal lands, and the adjustment of processing operations of domestic refineries.

Conference Substitute

The conference substitute follows the provision in the House amendment, except as follows:

(1) The owner of any property right who considers himself damaged as a result of a rule or order to produce at the temporary emergency production rate (TEPR) may sue for compensation for any loss of ultimate recovery in the appropriate United States District Court. The court shall award just compensation if it finds that the loss constitutes a taking of property compensable under the Constitution.

(2) If a producing field which is unitized is composed of both Federal and non-Federal lands, the Secretary of the Interior may (if no maximum efficient rate or no temporary emergency production rate for the unitized field has been determined), determine either the maximum efficient rate of production (MER) and the TEPR, or both, as the case may be. The President may, during a severe energy supply interruption, order production at MER or TEPR for such field.

(3) The President may order production at MER or TEPR of producing fields on non-Federal lands only where the State has previously established the MER and/or TEPR (or their equivalents) and only when there is a severe energy supply interruption.

The conferees wish to make clear that in the case where the President orders production for a period at the TEPR for a field, during a severe energy supply interruption, he may thereafter order production at the determined MER for the field.

Federal actions with respect to recycled oil

House Amendment

The House amendment required the Administrator of the Environmental Protection Agency, within 180 days after the enactment of this legislation, to promulgate performance standards, specifications, and testing procedures to facilitate determining whether re-refined or otherwise processed used oil is substantially equivalent to new oil intended for the same purpose. Such standards were required to permit the container of re-refined or otherwise processed used oil to bear a label indicating such substantial equivalency. The House amendment prohibited the Federal Trade Commission from requiring that a container bearing such a label also be labelled as "used oil". All Federal officials were directed to encourage the use of recycled oil through procurement, education, and assistance in the development of performance standards. The General Services Administration, the Department of Defense, and other Federal agencies were required, within 18 months after enactment, to revise their procurement regulations and specifications to increase the use of recycled oil and to reduce the consumption of new oil, for purposes for which recycled oil is substantially equivalent.

Senate Amendment

No provision.

Conference Substitute

The conference substitute follows the provision in the House amendment, except that:

(1) The National Bureau of Standards shall perform the comparison testing;

(2) The Federal Trade Commission, rather than EPA, shall promulgate the new rules with respect to labeling.

Strategic petroleum reserve

House Amendment

The House amendment provided for the creation of a Strategic Petroleum Reserve for the storage of up to one billion barrels of petroleum products. As part of this Reserve, the House amendment also provided for the creation of an Early Storage Reserve for the immediate storage of up to 150 million barrels of petroleum products.

The House amendment required the President to prepare and transmit to the Congress, within 60 days after the date of enactment of this legislation, a plan which detailed the President's proposals for designing, constructing and filling the Early Storage Reserve. The President was also required to prepare and transmit to the Congress, within one year after the date of enactment of this legislation, a plan which detailed the President's proposals for designing, constructing and filling the Strategic Reserve. Each plan was required to contain a Disposal Plan which set forth the method of drawdown and distribution of any petroleum products stored in the respective Reserve. Each plan was to take effect and could be implemented, subject to the limitations on authorized levels of appropriations, unless either House of Congress passed a resolution disapproving the Plan within the first period of 15 calendar days of continuous session of Congress following transmittal of the Plan to the Congress.

The House amendment granted the President specific authorities to implement the Early Storage and Strategic Reserve Plans which had taken effect pursuant to the Congressional review procedures of the legislation. These authorities included authority: to promulgate rules; to purchase or lease real property, and storage and related facilities; to acquire petroleum for storage; and to create an Industrial Petroleum Reserve. The President was also granted authority to exercise certain extraordinary powers under specified circumstances. These powers included: acquisition of real property, and storage and related facilities by condemnation; requiring acceptance or preferential performance of contracts; and materials allocation. The exercise of these powers was conditioned upon the President's transmitting to the Congress a proposal to exercise one or more of the extraordinary authorities in a specific case accompanied by supporting findings regarding the specific need for the exercise of the authorities. Thereafter the President could exercise these powers as proposed unless, within the first period of 15 calendar days a continuous session of Congress following transmittal of the proposal to Congress, both Houses of Congress passed resolutions disapproving the proposed exercise of the extraordinary powers.

Prior to any drawdown and distribution of the Reserve, the President was required to submit to the Congress a proposal to draw down the Reserve. This proposal was required to be supported by a Presidential finding that such drawdown and distribution was necessitated by the existence of a severe energy supply interruption or by the obligations of the United States under the International Energy Program. Thereafter drawdown and distribution of the Reserve could be made in accordance with the terms of the Disposal Plan unless, within the first period of 15 calendar days of continuous session of Congress following transmittal of the proposal to Congress, either House of Congress passed a resolution disapproving the drawdown.

The House amendment authorized appropriations of: $10 million for planning; $250 million in FY 1976, $10 million in FY 1977 and $10 million in FY 1978 to implement the Early Storage Reserve Plan, not including the purchase of petroleum products for storage in the Early Storage Reserve; $260 million in FY 1976, $650 million in FY 1977 and $1.04 billion in FY 1978 for the purchase of petroleum products for storage in the Early

Storage Reserve; and $200 million in FY 1976, $400 million in FY 1977 and $500 million in FY 1978 to implement the Strategic Reserve Plan. No appropriations were authorized for the purchase of petroleum products for storage, other than in the Early Storage Reserve.

The House amendment exempted petroleum products imported into the United States for storage in the Strategic Reserve from any volumetric restriction on imports of petroleum products.

The House amendment directed the President to prepare annual reports summarizing all actions taken under the authority of the legislation.

The provisions of the legislation and any rules or orders promulgated pursuant to the legislation were enforced through the provisions of Title VII of the House amendment. These enforcement provisions included civil and criminal sanctions and injunctive relief to prevent future violations.

Senate Amendment

The Senate amendment provided for the creation of a Strategic Reserve System. The System included strategic crude oil reserves, refined petroleum product and residual fuel oil reserves to satisfy certain regional needs, and interim reserves to be stored by industry. The Senate amendment established a Strategic Reserve Office within the Federal Energy Administration to establish and manage the reserve system.

The Senate amendment required the Administrator to store, within seven years after the date of enactment, volumes of crude oil equal to the volume of 3 months imports of crude oil. The Senate amendment further required that 10 percent, 25 percent and 65 percent of this storage requirement be achieved within 18 months, 3 years and 5 years, respectively, after the date of enactment. Departures from this timetable were permitted only if the Administrator transmitted a proposal to depart from this schedule to the Congress, together with any justifications for the departure. A maximum of 6 months delay could then be made by the Administrator. No delay for more than 6 months could be made unless a proposal for such a longer delay was submitted to the Congress for review and neither House passed a resolution disapproving the proposed delay within 60 days after receipt of the proposal.

Regional reserves were required to be established in a P.A.D. District whenever: the volume of residual fuel oil imported into the District exceeded 25 percent of demand for residual fuel oil in the District; or the volume of No. 2 heating oil imported into the District exceeded 10 percent of demand for such heating oil in the District. In addition regional reserves were required to be established in an FEA Region whenever the volume of No. 2 heating oil imported into the Region exceeded 20 percent of the demand for such heating oil in the Region. The regional reserves were required to contain volumes of any such oil or product equal to at least 3 months of imports of No. 2 heating oil or residual fuel oil, whichever was applicable. If the Administrator notified the Congress, he was authorized to store petroleum products in substitution for the products otherwise required to be stored.

The Senate amendment authorized industry reserves to be established and maintained by importers of petroleum products and refiners. The Administrator was authorized to require the storage, as reserves, of volumes of petroleum products equal to 3 percent of such importer's or refiner's throughput during the preceding calendar year.

Specific grants of authorities, including condemnation authority, were made to the Administrator by the Senate amendment for the purpose of carrying out the requirements of the legislation. Drawdown and distribution of the reserves was authorized in case of a 10 percent shortage in imports or if necessary to fulfill international obligations of the United States. The Administrator was authorized to establish price controls and allocation procedures with respect to petroleum products distributed from the reserves.

The Senate amendment authorized appropriations of funds necessary to implement the provisions of the legislation. Violations of any provision of the legislation or of any rule or order promulgated under the authority of the legislation was made subject to civil and criminal sanctions and to injunctive relief to prevent future violations.

The Senate amendment authorized the Administrator to collect certain information and perform audits necessary to proper administration of the reserves.

Finally, several reports to the Congress were required to be prepared by the Administrator. The Senate amendment required annual reports regarding actions taken under the authority of the legislation. A report on the need for, and desirability of, adding certain additional reserves, including coal reserves, utility reserves and remote oil and gas reserves, to the reserve system was required by the Senate amendment. Finally a report regarding recommended procedures for development of NPR 4 was required.

Conference Substitute

The conference substitute provides for the establishment of a Strategic Petroleum Reserve containing up to one billion barrels of petroleum products. As part of this Reserve there would be created an Early Storage Reserve for the purpose of initiating the immediate storage of petroleum products to the maximum extent practicable in existing excess storage capacity. A Strategic Petroleum Reserve Office is established in the Federal Energy Administration, through which the FEA Administrator is authorized to establish and manage the Reserve.

The Administrator is required to prepare and transmit to the Congress, within 90 days after the date of enactment of the legislation, a detailed Plan for development of the Early Storage Reserve.

The conference substitute directs the Administrator to prepare a Strategic Petroleum Reserve Plan and transmit it to the Congress not later than December 15, 1976. This Plan must set forth in detail the Administrator's proposals for designing, constructing and filling the Reserve. The Plan must include: a schedule for the development of the Reserve; detailed cost figures; a comprehensive environmental assessment; and an evaluation of the economic impact of developing the Reserve. The comprehensive environmental assessment, required to be included as part of the Strategic Reserve Plan, may, but need not, be an Environmental Impact Statement which may be required by the National Environmental Policy Act. This requirement imposed by the conference substitute is separate from any other statutory requirement relating to analysis of environmental impacts.

The conference substitute establishes storage targets for both the Early Storage Reserve and the Strategic Reserve. The Strategic Reserve or, if no Strategic Reserve Plan has taken effect (i.e., Congress has disapproved each plan submitted by the Administrator), the Early Storage Reserve must contain not less than 150 million barrels of petroleum products by the end of the 3-year period which follows the date of enactment of the legislation. In addition, the Strategic Reserve Plan must be targeted to achieve, within 7 years after enactment of the legislation, storage of crude oil equal to 3 months of crude oil imports. Interim targets are established equal to 10 percent, 25 percent and 65 percent of this volume within 18 months, 3 years and 5 years, respectively, after date of enactment of the legislation. These latter storage targets may be modified pursuant to the storage schedule specified in the Reserve Plan. However, the 150 million barrel statutory requirement is not mutable through the provisions of the Plan.

The conference substitute does not subject the Early Storage Reserve Plan to Congressional review. The substitute authorizes the immediate implementation of the Early Storage Reserve Plan which enables the Administrator to begin to store petroleum products, on a largely in existing storage capacity, while the details of the Strategic Reserve Plan are being developed. The Strategic Reserve Plan, on the other hand, is subject to Congressional review. This Plan may not be implemented if, within the first period of 45 calendar days of continuous session of Congress following transmittal of the Plan to Congress, either House of Congress passes a resolution diapproving the Plan. If no such resolution dissaproving the Plan. If no such ference substitute authorizes the Administrator to utilize a broad range of authorities to implement this Plan. Once this Plan takes effect, the storage of petroleum products which had been initiated under the Early Storage Reserve Plan continues as part of the Strategic Reserve to assure that the 3-year, 150-million-barrel storage requirement is satisfied.

The conference substitute also provides for the establishment, as part of the Strategic Reserve, of an Industrial Reserve and a Regional Petroleum Reserve. To implement either the Early Storage Reserve Plan or the Strategic Reserve Plan the Administrator is authorized to require, subject to certain limitations, importers and refiners of petroleum products to acquire and maintain readily available reserves of petroleum products.

The conference substitute requires that the Strategic Petroleum Reserve Plan provide for Regional Petroleum Reserves whenever imports of any refined petroleum product or residual fuel oil exceed 20 percent of demand for such product or oil in any FEA region. To implement this provision of the Plan, the Administrator is authorized to establish, as part of the Strategic Reserve, a Regional Petroleum Reserve of such product or oil readily accessible to such FEA Region. The conference substitute permits the Administrator to satisfy the requirements of the Regional Reserve provisions regarding storage of any refined petroleum product or residual fuel oil by substitute storage of petroleum products, including crude oil, without express restriction on the location of substitute storage facilities. The conferees anticipate that the Administrator will rely upon substitution to satisfy Regional Reserve storage requirements only to the extent that the types and volumes of substitute petroleum products stored and the location of the storage facilities will be "adequate to provide substantial protection" against an interruption or reduction in imports of any refined petroleum product or residual fuel oil for which any FEA Region is dependent upon imports of such oil or product for more than 20 percent of such Region's demand for such oil or product.

The conference substitute grants the Administrator a broad range of authorities to implement the Early Storage Reserve and Strategic Reserve Plans. These authorities are similar to the specific authorities granted in both the House and Senate amendments, including condemnation authority. No Congressional review of the exercise of this condemnation authority is required.

The conference substitute authorizes the Administrator to store crude oil produced from the Naval Petroleum Reserves to the extent that such production may be authorized by law, royalty crude oil produced from Federal lands, and crude oil and other petroleum products acquired by purchase or exchange. Guidelines for the acquisition of petroleum products for storage in the Reserve are set forth. Petroleum products imported into the United States for storage in the Strategic Reserve are exempted from any volumetric restriction on imports of petroleum products.

Drawdown and distribution of the Reserve is authorized in accordance with the applicable Distribution Plan if the President finds drawdown and distribution is required by a severe energy supply interruption or by international obligations of the United States. Certain petroleum products have a limited "shelf life" during which they may be stored without deteriorating. The conferees anticipate that portions of the Reserve may, therefore, have to be periodically replaced by fresh petroleum products. Such routine "roll over" of the Reserve does not constitute drawdown and distribution of the Reserve even if minor delays occur between the disposal of the older petroleum products and their replacement with fresh petroleum products.

The Senate amendment authorized appropriation of funds necessary to carry out the provisions of the legislation. House amendment authorized appropriations by purpose, in year and dollar amounts. The House amendment provided annual authorizations of specific dollar amounts adequate to fund the development of the Early Storage Reserve. The conference substitute authorizes appropriation of funds necessary to carry out the Early Storage Reserve requirements of the legislation without specific annual dollar limitations. The substitute includes authorization of appropriations for the purchase of 150 million barrels of petroleum products for storage. To the extent that the development schedule of the Early Storage Reserve and the Strategic Reserve during the first 3 years parallels the schedule imposed under the House amendment, it is anticipated that annual appropriations will parallel the dollar amounts specified in the House amendment for this period. The House amendment also authorized appropriations totalling $1.1 billion over a three-year period for development of the Strategic Reserve. The conference substitute authorizes the same level of appropriations without the annual limitations imposed by the House amendment. The authorization in the conference substitute does not include any authorization of appropriations for purchase of petroleum products for storage in the Reserve in excess of the 150 million barrels of petroleum products which are mandated to be stored during the first 3 years.

The conference substitute requires the preparation of a report, including legislative recommendations regarding expansion of the reserve concept. The conference substitute authorizes the Administrator to require preparation and maintenance of certain records and authorizes audits necessary to carry out the purposes of the legislation. In addition the substitute requires the Administrator to study and report to the Congress regarding recommended procedures for development of Naval Petroleum Reserve Number 4. Finally the substitute requires the Administrator to report annually regarding all actions taken pursuant to the legislation.

The conferees anticipate that the Early Storage and Strategic Reserve Plans will provide for utilization, to the fullest extent possible, of the expertise and capabilities of private industry. Therefore, the conference substitute makes clear that government-owned oil may be stored in privately owned storage facilities provided that such facilities are subject to audit by the United States.

The House amendment was characterized by flexibility attained through delegation of broad discretion to the President to develop the Strategic Reserve Plan. This flexibility was counterbalanced by the Congressional review mechanisms which conditioned utilization of substantive authorities to implement the Strategic Reserve Plan. In some respects the conferees believe these mechanisms were too restrictive and were likely to hinder expeditious development of the Reserve.

The Senate amendment was characterized by the direct grant of broad authority. However, provisions requiring the storage of volumes of certain petroleum products according to a specified schedule may have limited the flexibility with which the Reserve could be developed and could have lessened the utility of the broad authorities granted in the Senate amendment. The conferees believe the chief attribute of the Senate amendment was the fact that it required the prompt development of a Strategic Reserve and granted the necessary authorities without need for further Congressional action.

The conference substitute adopts those aspects of the House amendment which provided administrative flexibility. Thus the framework of requiring an Early Storage Reserve Plan and a Strategic Reserve Plan is retained. To this framework many requirements in the Senate amendment are added as targets or objectives which each Plan must be designed to the maximum extent practicable to achieve. Consequently the advantages of the Senate amendment are retained and Congressional direction is provided to guide development of the Reserve without unduly restricting administrative flexibility. In addition, the single most important Congressional review procedure contained in the House amendment, review of the Strategic Reserve Plan, is retained in the conference substitute. However, the other Congressional review mechanisms included in the House amendment are not retained in the conference substitute. In particular, the direct authorization approach of the Senate amendment is applied to implementation of the Early Storage Reserve Plan. Similarly Congressional review does not condition use of condemnation authorities.

The existence of a potential storage facility, located within the territorial limits of Canada, has been called to the attention of the conferees. This potential facility may be uniquely situated to serve a substantial portion of the reserve requirements of the Northeastern United States. The conference substitute does not prohibit utilization of such a facility, illustrating flexibility granted the Administrator under the conference substitute. The Strategic Reserve Plan must include details regarding siting of storage facilities. The conference substitute does not require that each storage facility be located within the geographic borders of the United States. The conferees anticipate, however, that any proposal to locate storage facilities outside the borders of the United States would be supported by justifications regarding the need for, and desirability of, locating the storage facility at the proposed site, as well as assurances that petroleum products stored in such a storage facility would be available for drawdown and distribution by the United States without foreign interference.

An excellent example of the manner in which the House and Senate amendments have been harmonized may be found in the several provisions relating to satisfying regional requirements for petroleum products. The House amendment required only that the Early Storage and Strategic Reserve Plans be designed to satisfy regional needs. The Senate amendment contained rigid standards specifying when certain products were required to be stored, the locale of the storage and the volume of products required to be stored. Like the House amendment, the conference substitute also requires that the Plans be designed to satisfy regional needs. However, the requirements for establishment of Regional Reserves which parallel the requirements in the Senate amendment are greatly simplified in comparison to those of the Senate amendment. The volumetric and storage locale requirements are made more flexible and substitution of crude oil storage, as permitted in the Senate amendment, is retained. The result is a regional reserve requirement which gives greater Congressional direction to the Administrator than was provided by the House amendment while granting greater flexibility in the method of carrying out the Congressionally established policy than was provided by the Senate amendment.

Similarly, the conference substitute requires that the Reserve Plan focus on the particular regional petroleum needs of certain non-contiguous areas of the United States, for example, Hawaii. To the maximum extent practicable the Strategic Reserve Plan should provide that such non-contiguous areas have a component of the Reserve located within such area. This requirement is not absolute. If local siting of a component of the Reserve within such non-contiguous area is not practicable, the Strategic Reserve Plan should provide that such area will be assured ready and nondiscriminatory access to petroleum products stored elewhere in the Reserve. In addition, the conferees anticipate that the storage capacity of such component would bear a relationship to the overall capacity of the Reserve in some proportion to the relationship of demand for petroleum products in such non-contiguous area to national demand for petroleum products. This relationship is not included in the conference substitute as a statutory requirement in order to preserve the concept of delegating broad administrative flexibility to carry out Congressionally established policy guidelines.

The conferees believe the conference substitute maximizes administrative flexibility, provides adequate Congressional guidelines, and requires expeditious development of the Reserve while retaining Congressional oversight of development of the Reserve through Congressional review of the Strategic Reserve Plan and limitations on authorized levels of appropriations.

II—STANDBY ENERGY AUTHORITIES

General Emergency Authorities

House amendment

The House amendment required the President to transmit to Congress, within 180 days after the date of enactment of this legislation, one or more energy conservation contingency plans and a gasoline rationing contingency plan. Additional such plans could be submitted at any time. No such contingency plan could become effective unless it was approved by a resolution passed by each House of Congress within the first period of 60 calendar days of continuous session of Congress after such transmittal, in accordance with procedures for expedited congressional review. No such approved plan could be put into effect unless (1) the President found that a severe energy supply interruption required such implementation, and he transmitted to Congress a request to put such plan into effect, and (2) neither House of Congress disapproved such request within the first period of 15 calendar days of continuous session of Congress after such transmittal. Such an approved plan could be put into effect without such additional review by Congrss if and to the extent that the President determined, during a "7 percent shortfall period" that such implementation was necessary to meet the obligations of the United States under the international energy program. (A "7 percent shortfall period" was defined as a period commencing on a date when the President determined that countries who are parties to the international energy program have sustained a reduction in oil supplies equal to at least 7 percent of average daily consumption during the base period and ending 60 days after the date on which he finds that this condition no longer exists.) Any such contingency plan could be amended by the President at any time upon transmittal of such amendment to the Congress and the approval thereof by both Houses of Congress, within 60 days of transmittal.

1. Energy conservation contingency plans

The House amendment defined an energy

conservation contingency plan as a plan which imposed restrictions on the public or private use of energy which were necessary to reduce energy consumption. No such plan could provide for the imposition of gasoline rationing or any tax, tariff, user fee, or minimum price for any petroleum product or for any credit or deduction in computing any tax. Energy conservation contingency plans could remain in effect for the period specified in the plan up to 18 months, unless earlier rescinded by the President, except that the President may request, not later than 90 days after the enactment of this legislation, authority to put a plan into effect for a period of not more than 60 days. States or political subdivisions could be exempted from an energy conservation contingency plan if the President determined that a comparable program or special circumstances exist in that jurisdiction.

2. Gasoline rationing contingency plan

The House amendment required the President to prescribe a gasoline rationing contingency plan, as part of the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973. Such plan must provide for the establishment of a program for the rationing and ordering of priorities among classes of end-users of gasoline and for the assignment of rights entitling certain classes of end-users to obtain gasoline in precedence of other classes. No gasoline rationing contingency plan could be put into effect unless (1) the prerequisites for implementation of an energy conservation contingency plan were satisfied, and (2) the President determined that, without such rationing plan, all other practicable and authorized methods to limit energy demand were inadequate to achieve the objectives of section 4(b) of the Emergency Petroleum Allocation Act. The President was directed to make appropriate adjustments in the petroleum allocation program in furtherance of a gasoline rationing contingency plan which is in effect. The President was directed to provide for the use of local boards whose composition reflected the community as a whole of States or their political subdivisions to receive petitions from end-users of gasoline and to order reclassification or modification of any determination made with respect to the end-users' rationing priority or entitlement. No gasoline rationing contingency plan could impose a tax, provide for a tax credit or deduction, or impose any user fee except to cover administrative costs. A gasoline rationing plan could remain in effect for up to 18 months.

Senate amendment

The Senate amendment required the President, within 180 days after enactment, to develop contingency plans for end-use rationing and energy conservation, and to submit the plans to Congress together with a specific statement explaining their necessity, rationale, and operation and evaluating their potential economic impacts. No such plan could take effect if either House of Congress passed a resolution of disapproval within the first period of 10 calendar days of continuous session of Congress after the date of transmittal by the President. Prior to exercising any of these authorities, the President was required to make a finding (1) that "acute energy shortage conditions exist or are impending that threaten the domestic economy and the ability of the United States to meet essential civilian or military energy requirements and that such shortage conditions are of such severity or scope as to require" such exercise, or (2) that such exercise was required to fulfill obligations of the United States under an international agreement. Amendments to an energy conservation plan were not made subject to the same requirements as an initial plan if they were consistent as to subject matter, but the President had to notify the Congress of all amendments. A finding of acute energy shortage could remain in effect up to 9 months; the President could make a new such finding if he found that any such authorities should remain in effect for a longer period.

1. Energy conservation plan

The Senate amendment defined an energy conservation plan to mean a plan for transportation controls and such other reasonable restrictions on the public or private use of energy necessary to reduce energy consumption. An energy conservation plan could not include rationing or any tax, user fee, or tax credit or deduction. Each plan was required to deal with only one functionally discrete subject matter or type of action, and priority consideration must be given to the needs of handicapped and other persons. A State could be exempted from an energy conservation plan to the extent that a comparable State or local program was in effect, or upon a Presidential finding of special circumstances.

2. End-use rationing

The Senate amendment required the President, within 90 days after the date of enactment of this legislation, to develop and submit to Congress a contingency plan for rationing. The President was authorized to promulgate a regulation establishing a program for the rationing and ordering of priorities among classes of end-users of crude oil, residual fuel oil, or any refined petroleum product. Such regulation could only take effect (1) if the President found it necessary to achieve the objectives of this legislation and of the petroleum allocation program, and (2) if, upon transmittal to Congress, neither House of Congress passed a resolution, within the first period of 10 calendar days of continuous session of Congress after such date, stating in substance that Congress did not favor such action. The President was directed to provide for review and reclassification procedures for end-users of rationed oil; these procedures could include the use of local boards. No rule or order under this provision could provide for the imposition of any tax or user fee or provide for any tax credit or deduction. A rationing rule was required to give priority consideration to the needs of handicapped persons.

Conference Substitute

The conference substitute follows the House amendment, except as follows:

(1) The President may order any approved contingency plan to be put into effect without any additional Congressional review upon a finding that such implementation is required by a severe energy supply interruption or in order to fulfill obligations of the United States under the international energy program, and upon transmittal of such finding to the Congress; except that in the case of a rationing contingency plan, no such plan shall take effect if either House of Congress passes a resolution of disapproval within 15 days of continuous session after its submission to Congress.

(2) No contingency plan may remain in effect for a period of more than 9 months.

(3) An energy conservation contingency plan may not deal with more than one logically consistent subject matter.

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(4) In prescribing energy conservation contingency plans the President is directed to take into consideration the mobility needs of the handicapped. In addition, with respect to rationing contingency plans (which are required to be consistent to the maximum extent practicable with the objective specified in section 4(b) of the Emergency Petroleum Allocation Act of 1973) the objectives in that section 4(b)(1) are deemed to include consideration of the mobility needs of handicapped persons and of their convenience in obtaining rationing coupons. In this regard the conferees intend that when consideration is given to the needs of handicapped individuals this consideration should extend to the needs of the parent or guardian of a handicapped person who must transport that person to or from special services or his place of employment.

(5) The conferees recognize that rationing contingency plans implemented pursuant to this title should give consideration, consistent with the objectives of the Emergency Petroleum Allocation Act of 1973, to the personal transportation needs of American military personnel reassigned to other duty stations and to those persons who are required to relocate for health or employment purposes.

(6) The conferees intend strict adherence to the limitations on user fees specified in section 203(e)(3). A rationing contingency plan implemented under this title may not employ such fees for the purpose of generating public revenues or reducing petroleum consumption, and shall provide for the distribution of rights to gasoline or diesel fuel at the lowest possible cost to consumers of such fuel.

1. International oil allocation

House Amendment

The House amendment authorized the President to promulgate a rule requiring such action as may be necessary to implement the obligations of the United States under the international energy program insofar as such obligations relate to the international allocation of petroleum products. The rule could not take effect unless (1) the President transmitted it to Congress; (2) neither House of Congress disapproved it within the first period of 15 calendar days of continuous session of Congress after transmittal; and (3) the President found that "putting such rule into effect is necessary to carry out the international energy program". The rule could remain in effect for up to 18 months after the date of such transmittal. Petroleum products were required to be allocated in the amounts and at the prices specified in the rule. The rule could be made applicable to any petroleum product (including products destined for import into the United States or any foreign country, or produced in the United States) owned or controlled by any person subject to the jurisdiction of the United States. The rule was required to be consistent with attainment of the objectives of section 4(b) of the Emergency Petroleum Allocation Act. The House amendment was declared the exclusive authority for allocation of petroleum products to implement U.S. obligations under the international energy program.

Senate Amendment

The Senate amendment authorized the President to require (by rule, regulation, or order) such action as may be necessary to implement the obligations of the United States under the international agreement concerning the international allocation of petroleum. The amounts and prices of such allocation must conform with the rule, regulation, or order, which could apply to all petroleum (including petroleum destined for import) owned or controlled by persons subject to the jurisdiction of the United States. The rule, regulation, or order would take effect whenever (1) the President found that the exercise of this authority was required to fulfill obligations of the United States under an international agreement to which it is a party, and (2) the President transmitted this finding to the Congress together with a report on the manner in which the authority would be used. Such a rule, regulation, or order was required to conform to the objectives and limitations in the Emergency Petroleum Allocation Act and the Federal Energy Administration Act. It could remain in effect for up to 6 months, unless extended upon a new finding. The allocation of petroleum and any export thereof under the authority of this provision could not be barred by other specified Federal laws.

Conference Substitute

The conference substitute generally follows the provision in the Senate amendment, except that a rule for international oil allocation may remain in effect for up to 12 months, and the House provision respecting exclusive allocation authority is included.

2. International Voluntary Agreements

House Amendment

The House amendment granted immunity from the prohibitions of the antitrust laws to persons engaged in the business of producing, refining, marketing, or distributing petroleum products for voluntary agreements "which are required to implement the allocation and information provisions of the international energy program". The House amendment directed the Administrator of the Federal Energy Administration (FEA), with the approval of the Attorney General (AG), after each consulted with the Federal Trade Commission (FTC) and the Secretary of State, to prescribe by rule standards and procedures for the development and carrying out of the voluntary agreements. The standards and procedures had to include (1) an "open" meeting requirement for meetings held to develop or carry out such an agreement; (2) a requirement that such meetings be preceded by timely and adequate notice and be chaired by a regular full-time Federal employee; (3) an exception from the foregoing requirements for meetings of bodies created by the International Energy Agency (established by the international energy program); (4) discretionary authority in the President (in consultation with the FEA, the Secretary of State, and the AG) to permit closed meetings with limited attendance under certain conditions; (5) a requirement that a verbatim transcript (or full and complete minutes) be kept of each meeting held or communication made between or among persons who are or may become parties to such voluntary agreement for the purpose of developing or carrying out such an agreement; (6) a requirement that (in most cases) interested persons be permitted to attend meetings to develop or carry out a voluntary agreement and to present data, views, and arguments in writing and orally; (7) a requirement that transcripts or minutes of such meetings and a copy of any resulting agreement be deposited with the FEA, be available to the AG and the FTC, and be available for public inspection and copying (unless prohibited by specified sections of the Freedom of Information Act or unless the President determines that such disclosure would be detrimental to the foreign policy interests of the United States); (8) a requirement that committees of Congress have access to all such meetings, transcripts, minutes, and agreements; (9) a requirement that the AG and the FTC be afforded an opportunity to participate in any such meeting; that they be permitted to propose alternatives to avoid or overcome any anticompetitive effects; that no voluntary agreement under this provision could be carried out unless it was approved by the AG, after consultation with the FTC, upon its submission to the AG 20 days prior to implementation (this period could be shortened during an international energy supply emergency); and that the AG have the right to review, amend, modify, disapprove, or revoke any such agreement at any time (and that, in case of such revocation, the AG withdraw antitrust immunity); and (10) a requirement that the AG and the FTC monitor the development and carrying out of such agreements in order to "promote competition and to prevent anticompetitive practices and effects."

In any civil or criminal antitrust proceeding brought with respect to any action taken in good faith to develop or carry out a voluntary agreement the House amendment made it a defense that (1) the action was taken in the course of developing a voluntary agreement or carrying out such an approved agreement; and (2) such person complied with all applicable requirements under this provision. (The antitrust immunity provisions under the Defense Production Act would not apply to any agreement or action undertaken for the purpose of developing or carrying out the international energy program, or any oil allocation or pricing program under this legislation or under the Emergency Petroleum Allocation Act.) This authority to enter voluntary agreements with antitrust immunity would terminate June 30, 1979, except that if (prior to July 1, 1979) the AG prescribed membership, voting-rights, agreement-development-participation, and competition-protection rules, such authority would terminate June 30, 1985. The AG was directed to apply such rules as he may prescribe pursuant to this subsection, and, after July 1, 1979, to disapprove any voluntary agreement which did not comply with them. The House amendment also made it a defense to any action for breach of contract that the alleged breach was caused by an action taken to carry out a voluntary agreement during any period when the President determined that the United States was required to allocate petroleum products to other nations pursuant to the international energy program. The FTC was directed to report to Congress and the President, at least once every 6 months, on the impact of these provisions upon competition and small business.

Senate Amendment

The Senate amendment directed the FEA to promulgate standards and procedures for voluntary agreements, as under the House amendment, and for plans of action to carry out such agreements. These standards, which were required to be promulgated under section 553 of title 5, United States Code, were similar to those set forth in the House amendment, except that (1) the notice and open meeting requirements applied to meetings of bodies created by the International Energy Agency; (2) the FEA could (in consultation with the Secretary of State and subject to approval by the AG) limit attendance at meetings to develop "a plan of action", if the FEA found that a wider disclosure would be detrimental to the public or foreign policy interests of the United States; (3) the FEA could impose limitations on the presentation of data, views, and arguments at meetings to develop a voluntary agreement or a plan of action; (4) verbatim transcripts of meetings or conferences were only required if "practicable" (a full and complete record is sufficient otherwise); (5) transcripts, records, and agreements could be withheld from the public under certain provisions of the Freedom of Information Act or if the FEA (in consultation with the Secretary of State and subject to approval by the AG) determined that disclosure would be detrimental to the public or foreign policy interests of the United States; (6) such an agreement was not required to be approved by the Attorney General, and the FTC was not required to submit to the AG its views on each such agreement.

The Senate amendment established a defense to an antitrust action, as under the House amendment, except that the defense was not conditioned upon proof that the action was taken in "good faith" and was not available if the plaintiff proved that the actions were "taken unnecessarily and for the purpose of injuring competition." This antitrust immunity applied only to actions taken before November 18, 1978. Both the AG and the FTC were required to report to Congress and the President, at least once every 6 months, on the impact on competition and small business of actions authorized and taken under these provisions. The Senate amendment also provided a defense to a suit for breach of contract, but the defense was available only if the alleged breach was caused "solely" by compliance with these provisions or any rule, regulation, or order thereunder.

Conference Substitute

The conference substitute generally follows the House amendment, except as follows:

(1) The provisions also apply to the formulation and implementation of plans of action to carry out approved voluntary agreements.

(2) Persons who are permitted to attend a meeting to develop or carry out a voluntary agreement or plan of action are permitted to present data, views, and arguments, in writing and orally, subject to such reasonable limitations on the presentation of views and arguments as the FEA may impose. In imposing the requirement from the Senate amendment that "where practicable a verbatim transcript" be made of meetings to develop or carry out a voluntary agreement or plan of action, the conference recognized that in certain instances, it may not be "practicable" to keep verbatim transcripts in international meetings when the principal participants in a meeting are foreign governments.

(3) The conference substitute follows the Senate provisions for keeping meeting records and transcripts and the House amendment for the deposit and public availability of records, transcripts, and agreements, except that such material shall be made available to the public pursuant to the Freedom of Information Act and cannot be withheld except under certain grounds specified in the Freedom of Information Act. (See below.)

(4) The Attorney General may not approve any such plan of action unless the plan describes the types of substantive actions which may be taken under it and is as specific in such descriptions as is reasonable in light of known circumstances.

(5) The antitrust immunity provision is the same as that in the Senate amendment except that the defendant must demonstrate that the action taken was specifically described in, or reasonably within the contemplation of, an approved plan of action. The immunity is lost if the plaintiff shows the action was taken for the purpose, that is, with the specific intent, of injuring competition. Unlike the Senate amendment, the conference substitute does not require the plaintiff to prove that the action was taken "unnecessarily." It is the view of the conferees that the question of necessity, which can be relevant in showing the absence of specific intent to injure competition, is best addressed by the defendant.

(6) The antitrust immunity does not apply to actions taken after June 30, 1979.

(7) A defense is available to a breach of contract action if the alleged breach was caused by actions taken "predominantly" to carry out approved voluntary agreements or plans of action.

(8) In order to allow for an orderly transition and continuous coverage, the conference substitute allows for a 90-day period before the provisions of this section become the *sole* procedures applicable to the development or carrying out of voluntary agreements and plans of action to implement the International Energy Program. During the 90-day period the existing procedures and immunity under section 708 of the Defense Production Act of 1950, as well as the procodures of this section, will continue to be available.

(9) This section further provides that, for the purposes of section 708A(o) of the Defense Production Act of 1950, the effective

date of the provisions of this Act which relate to voluntary agreements to carry out the International Energy Program shall be deemed to be 90 days after the date of enactment of the conference substitute. This provision is intended to remove any doubt that section 708, prior to its amendment by section 3 of the Defense Production Act Amendments of 1975, continues to be applicable until the earlier of 90 days after the enactment of the conference substitute, or 120 days after the enactment of the Defense Production Act Amendments of 1975.

3. Public access to information

House

The House bill required that transcripts and minutes of meetings to develop or carry out a voluntary agreement be available for public inspection and copying, but provided that these transcripts and minutes could be withheld from public disclosure on the basis of any one of three specified exemptions from disclosure under the Freedom of Information Act (namely, in the interest of national defense or foreign policy, exemption from disclosure by statute, and trade secret protection) or alternatively on the basis of a presidential determination that disclosure would be "detrimental to the foreign policy interests of the United States".

Senate

The Senate bill differs from the House only in that the final ground for withholding from disclosure is modified to permit withholding if disclosure would be "detrimental to the public interest, including the foreign policy interests of the United States", thus requiring consideration of a much broader spectrum of public policy considerations before withholding from disclosure on this basis. Among the public policy considerations which the Senate version would require to be considered in this respect is the policy, articulated in the Freedom of Information Act, of requiring to the maximum extent practicable public disclosure of information in the hands of executive agencies.

Conference Substitute

The conferees agreed to a substitute provision which retains the three exemptions from disclosure which appeared in both bills (i.e., the specified Freedom of Information Act grounds). With respect to the fourth ground (which was substantively different in the two bills) the conferees decided to accept the House position on the scope of the exemption and to limit it to disclosure which was detrimental to the foreign policy interests of the United States. However, the conferees also wished to incorporate the Senate position requiring consideration of the public policy favoring disclosure of information held by executive agencies. On the basis of examination of the text of the Freedom of Information Act, the conferees determined that the authority under that Act was broad enough to permit withholding from disclosure of any matter which could have been withheld under the "detrimental to the foreign policy interests of the United States" test in the House bill. The conferees also decided that the best means for requiring consideration of the public policy in favor of public disclosure of information was to make applicable the safeguards of the Freedom of Information Act. Accordingly, the conferees decided to rely on the Freedom of Information Act both to afford protection from disclosure in cases where disclosure is detrimental to the foreign policy interests of the United States, and to assure consideration of the public interest in access to information. The conference substitute, therefore, retains the three Freedom of Information Act grounds for withholding from disclosure, and eliminates, as unnecessary, the fourth, non-Freedom-of-Information-Act ground.

It is not the intention of the Conferees to limit the scope of the exception under 5 U.S.C. 552 (b) (1) to the terms of the existing executive order on national security classification; for example, the President could issue a new executive order dealing specifically with disclosure of IEP-related materials.

4. Advisory Committees

House Amendment

The House amendment authorized the FEA to establish advisory committees which he determined were necessary "to achieve the purposes of the international energy program with respect to international allocation of petroleum products and the information system provided in such program". Meetings of these committees were required to (1) be chaired by a regular full-time Federal employee, (2) be open to, and include representatives of, the public, and (3) permit the AG and the FTC the opportunity to participate, upon adequate advance notice. A verbatim transcript was to be kept of each meeting, deposited with the AG and the FTC, and made available to the public. The committees were made subject to the provisions of section 17 of the Federal Energy Administration Act of 1974. The President, after consultation with the Secretary of State, the FTC, the AG, and the FEA, could suspend the application of requirements for open meetings, public availability of transcripts, subsections (b) and (c) of such section 17, and sections 10 and 11 of the Federal Advisory Committee Act if he determined that such suspension was "essential" to the international energy program and that the application of these requirements would be detrimental to the foreign policy interests of the United States, and if notice of such determinations and the reasons therefor was published in the Federal Register a reasonable time prior to such suspension.

Senate Amendment

The Senate amendment authorized the FEA to establish advisory committees, as under the House amendment, except that the authority to suspend requirements of the Federal Advisory Committee Act, the FEA Act, and the open meeting provision was vested in the FEA. The authority to suspend such requirements was required to be based on the Administrator's determination that suspension was essential to an international agreement and that the application of such provisions would be detrimental to the public interest, including, but not limited to the foreign policy interests of the United States.

Conference Substitute

The conference substitute follows the provision in the House amendment, except that transcripts of advisory committee meetings shall be made available (and may be withheld from public availability) on the same basis provided in the conference substitute on the public availability of information respecting voluntary agreements.

5. Exchange of information

House Amendment

The House amendment authorized the Secretary of State to transmit to the International Energy Agency (IEA), established by the international energy program, information and data related to the energy industry which was furnished by the FEA and which the Secretary of State certified was required to be submitted under the international energy program. Except during an international energy supply emergency, trade secrets or commercial or financial information (exempt from disclosure under a U.S.C. 552(b) (4)) had to be aggregated before being reported, in order to avoid, to the extent feasible, identification of its source. The President could withhold transmitttal of any data or information if he determined that transmittal would prejudice competition, violate the antitrust laws, or be inconsistent with national security. If the confidentiality of data or information was protected by statute, the FEA could not provide it to the Secretary of State for international exchange unless the head of the department or agency authorized to obtain or collect the information concurred in providing such information, after consideration based on specified factors. The authority to transmit information and data was made subject to any disclosure limitations in other laws, except as set forth.

Senate Amendment

The Secretary of State was authorized by the Senate amendment to transmit to an appropriate international organization or foreign country, information and data related to the energy industry which the Secretary of State certified was required to be submitted under an international agreement to which the United States is a party and which the FEA, after consultation with the AG, provided to him. The Senate amendment did not require that trade secret, commercial, or financial information be reported in such a manner to avoid disclosure of its source; it authorized the transmittal of energy information" (defined to include 14 specific items) and data. The Senate amendment, like the House amendment, required specific concurrence by the head of the department or agency authorized to obtain and collect the information prior to information transmittal, and authorized the President to withhold information for antitrust and national security reasons, but it did not make this international information exchange authority subject to disclosure limitations in other laws.

Conference Substitute

The conference substitute follows the House amendment, except that trade secrets or commercial or financial information exempt under 5 U.S.C. 552(b) (4), or (9) (other than geological or geophysical information) can be transmitted to the IEA without first being aggregated, if the President certifies that (1) the International Energy Agency has adopted and is implementing security measures which assure against disclosure of such disaggregated information to any person or foreign nation, and (2) other countries which are parties to the international energy agreement are providing information in such form to the IEA. Such certification shall be reviewed by the President upon the petition of any person showing that such information originally furnished by such person and transmitted in disaggregated form to the IEA has in fact been disclosed and resulted in injury to such person.

The Conferees understand that the President may certify that the IEA has adopted and is implementing the security measures described in the statute if on the basis of the information available to him he can reasonably conclude that those measures will prevent the unauthorized disclosure.

6. Relationship of This Title to the International Energy Agreement

House amendment

No provision.

Senate Amendment

The Senate amendment specifically declared that, while this legislation authorized certain standby energy emergency authorities to be used to carry out obligations of the United States under the November 18, 1974, executive agreement on an International Energy Program, this legislation "shall not be construed in any way as advice and consent, ratification, endorsement, or other form of congressional approval of the specific terms of the executive agreement or any related annex, protocol, amendment, modification, or other agreement which has been or may in the future be entered into". The Senate amendment also directed the Secretary of State to send a report to Congress every ninety days on significant proposals, meetings and activities undertaken by the United States and other signatory nations to the agreement on an International Energy Program.

Conference Substitute

The conference substitute is substantively identical to the provision in the Senate amendment.

III—Improving Energy Efficiency

Automotive fuel economy

House Amendment

The House amendment (1) established mandatory average fuel economy performance standards for new passenger automobiles and for other new motor vehicles rated at 10,000 pounds gross vehicle weight or less; (2) provided for civil penalties to be imposed on motor vehicle manufacturers and importers if the average fuel economy of their vehicles in a given model year was less than the applicable fuel economy standard; and (3) required that the fuel economy of vehicles to which a standard applied be disclosed to consumers. Fuel economy performance standards for passenger motor vehicles would go into effect with the 1978 model year and would apply in each subsequent model year; standards for light duty trucks and other affected vehicles would be in effect for each model year which begins more than 30 months after the date of enactment of this legislation. For purposes of this provision, "fuel" was defined to mean "any liquid or gaseous fuel". With respect to passenger automobiles, the House amendment set the minimum average fuel economy performance standard for the first 3 model years (1978: 18.5 miles per gallon (mpg), 1979: 19.5 mpg, and 1980: 20.5 mpg); directed the Secretary of Transportation (ST) to set standards for the 1981, 1982, 1983, and 1984 model years, based on his determination of the "maximum feasible level", taking into account technological feasibility, economic practicality, other Federal motor vehicle standards, and the purposes of this legislation, provided that each such standard shall be no less than 20.5 mpg; and set the standard for model year 1985 and each year thereafter at 28.0 mpg, but authorized the ST to modify that standard by rule if he determines that 28.0 mpg is not the maximum feasible average fuel economy level (with any modified standard taking effect unless either House of Congress disapproves such modified standard within the first period of 15 calendar days of continuous session of Congress after the ST transmits it to Congress).

With respect to vehicles covered that are not passenger automobiles, the ST was authorized to administratively prescribe average fuel economy performance standards for different classes of such vehicles provided that any such standard is set at the maximum feasible level for each such class. A manufacturer of less than 10,000 vehicles per year could be exempted from the fuel economy requirements on passenger automobiles under certain circumstances, and would be required to meet alternate standards set by the ST. If a manufacturer both (1) produces/assembles vehicles domestically (i.e., United States and Canada) and (2) imports vehicles produced elsewhere, the average fuel economy for each such category must meet the applicable standard. The ST was authorized to amend fuel economy performance standards in certain circumstances; was required to compare what the industry-wide fuel economy would have been in each model year if the model year 1975 automobile emissions standards were still in effect; and could waive or modify an otherwise due civil penalty to the extent necessary to prevent the insolvency or bankruptcy of a manufacturer or when acts of God, fires, or strikes prevent the attainment of an applicable fuel economy standard. Compliance with the applicable fuel economy standard was to be determined by the ST utilizing test results generated by the Environmental Protection Agency (EPA). Civil penalties, which were to be collected in an original proceeding in an appropriate U.S. District Court, were set at $5.00 per vehicle of a given class produced or imported for each one-tenth of a mile per gallon by which the applicable average fuel economy performance standard for that vehicle class exceeded the average fuel economy achieved by a particular manufacturer's output. (If a manufacturer's average fuel economy was within 0.5 mpg of the standard, he was deemed to be in compliance.) If a manufacturer exceeded the requirements of an applicable standard by more than 0.5 mpg, a carryback of the excess would be permitted to the preceding model year, making such manufacturer eligible for a refund in case a civil penalty had been paid by such manufacturer due to a failure to meet an applicable fuel economy standard in that preceding model year, and a carry-forward of such excess would be permitted to the next model year to the extent that there was no carryback. The House amendment provided for judicial review of standards upon petition of persons adversely affected; granted necessary recordkeeping and inspection authority; required the ST to prescribe rules requiring vehicle manufacturers to submit semiannual reports to the ST on their ability to comply with the fuel economy standards; and required the ST to review the fuel economy standards program annually. EPA was required to set form and content requirements for stickers on new motor vehicles; the sticker was required to disclose the vehicle's fuel economy, the estimated annual cost of the fuel needed to operate such vehicle, and, if applicable, the fact that the vehicle's fuel economy is below the average fuel economy standard for that model year. EPA was also required to prepare, and automotive dealers were required to distribute, comparative fuel economy information for different model types. The House amendment preempted State and local laws and regulations in this area and required the President to promulgate rules to maximize the average fuel economy of the vehicles purchased or leased by the United States.

Senate Amendment

The Senate amendment amended the Motor Vehicle Information and Cost Savings Act to (1) establish mandatory average fuel economy performance standards for new passenger automobiles and new light duty trucks (rated at 6,000 pounds gross vehicle weight or less); (2) provide for civil penalties to be imposed on non-complying manufacturers and importers; (3) require that the fuel economy of new vehicles to which fuel economy standards apply be disclosed to consumers; and (4) establish a research and development program for advanced automobiles to provide benchmarks for assessing progress in meeting fuel economy and other Federal standards, and to assure the technological attainability of fuel economy and other goals for motor vehicles. Under the Senate amendment, fuel economy standards would go into effect with the 1977 model year and would cease after the 1985 model year; "fuel" was defined to mean only "gasoline and diesel oil"; and no distinction was made between the domestic production and the imported production of a particular manufacturer. The Senate amendment directed the ST to prescribe minimum average fuel economy standards for new passenger automobiles at the maximum feasible levels for each model year consistent with the following goals: (1) the industry wide average fuel economy for new passenger automobiles in model year 1980 had to be at least 50 percent greater than the average achieved in model year 1974 (14 mpg), and (2) the industrywide average in model year 1985 had to be at least 100 percent greater than the 1974 figure (i.e. at least 21 mpg in 1980 and at least 28 mpg in 1985). The ST was directed to take into account, in setting fuel economy standards, the impact of other Federal standards applicable to automobiles. He could amend or modify any such standard upon 18 months advance notice; could change the 1980 and/or 1985 goals if neither House of Congress disapproved the change by resolution within 60 days of continuous session of Congress after submission thereof; could exempt small (less than 10,000 vehicles per year) manufacturers from the passenger automobile standards under certain circumstances, as long as alternate standards are established; and was required to administratively set minimum average fuel economy performance standards (at the maximum feasible such level) for light duty trucks manufactured or imported in each of the model years from 1977 through 1985. Compliance with the fuel economy standards was to be determined by the ST on the basis of testing by EPA, and the ST was directed to assess civil penalties for violations. The Senate amendment also directed the EPA Administrator to perform certain duties in connection with the testing of retrofit devices, defined as components, equipment, or other devices designed to be installed in an existing motor vehicle for the purpose of increasing its fuel economy and other performance characteristics.

The civil penalties, which would be assessed by the ST in an adjudicatory proceeding and collected in an appropriate U.S. District Court in actions brought by the ST's attorneys, were set at $50 to $100 per vehicle produced or imported for each mile per gallon by which the applicable average fuel economy standard exceeded the average fuel economy achieved by a particular manufacturer's output. The ST was authorized to waive or modify a civil penalty (1) to the extent necessary to prevent the insolvency or bankruptcy of a manufacturer; (2) when acts of God, fires, or strikes prevent the attainment of an applicable fuel economy standard; (3) to prevent the substantial lessening of competition within the motor vehicle industry; (4) when a manufacturer demonstrates that if such a penalty were paid the manufacturer would lack sufficient capital, and the ability to attract sufficient capital, to manufacture vehicles that would meet future fuel economy standards at competitive prices; and (5) when a manufacturer demonstrates that, despite a good faith effort, the manufacturer failed to meet the applicable fuel economy standard by reason of an unanticipated sales mix. A manufacturer could recoup all or part of a civil penalty paid in a given model year by exceeding the applicable average fuel economy standard in one or more of the succeeding 5 years (carryback). The Federal Trade Commission (FTC) was directed to set form and content requirements for motor vehicle energy guides which were required to be attached to new cars and new light duty trucks. No such vehicle could be sold in commerce unless its estimated annual fuel cost was disclosed by the dealer wherever the purchase price of the vehicle was stated. The FTC was also authorized to require fuel economy and estimated annual fuel cost to be disclosed in any new automobile or new light duty truck advertisement. Judicial review was authorized (a) upon petition of any person adversely affected by any rule promulgated under the Secretary's authority to establish average fuel economy standards, and (b) whenever any interested person filed a notice of appeal with respect to assessment of a civil penalty for failure to comply with an applicable fuel economy standard; the ST was directed to review the fuel economy standards program annually; necessary record-keeping and inspection authority was granted; and state and local laws in this area were preempted to the extent that they were inconsistent with the requirements of this legislation. The ST was required to report to Congress and the President, within 180 days after enactment of this legislation, on the feasibility and energy savings potential of a requirement that manufacturers install on all new vehicles (1) devices that would make it impossible to operate such vehicles for any sustained period of time at speeds in excess of the national maximum speed limit, and (2) fuel flow instruments reading directly in miles per gallon, in addition to a report on electric vehicles. The Senate amendment made specific authorizations of appropriations for the fuel economy standards program.

The Senate amendment also directed the ST to establish and maintain, in close cooperation with the Administrator of the Energy Research and Development Administration (ERDA), a program to develop production prototypes of advanced automobiles. The ST was authorized to conduct research and development activities, directly and through contracts, grants, and obligation guarantees, leading to the certification of advanced vehicles by the Low Emission Vehicle Certification Board. An advanced automobile was defined as a personal use transportation vehicle which requires, inter alia, "the least total amount of energy to be consumed with respect to its fabrication, operation, and disposal". Title to inventions developed as a result of this research and development program would vest in the United States, subject to waiver and the grant of licenses in specified circumstances. The ST was required to report to Congress annually on activities under this R & D program; the Administrator of General Services was directed to prescribe regulations requiring the procurement and use of such advanced automobiles to the maximum extent feasible; funds were authorized to be appropriated for contracts and grants ($175 million total through the end of fiscal year 1977); and obligation guarantees were authorized for such purposes up to a maximum outstanding guaranteed indebtedness of $175 million. The ST and ERDA were required to work together to avoid duplication and to secure desired results in the shortest time and in the most efficient and cost-effective manner possible. The Senate amendment also required the ST to establish at least one, and not more than 3, diagnostic inspection demonstration projects designed to assess the fuel efficiency, safety, noise, and emissions of motor vehicles, and it authorized the appropriation of $21.5 million for such projects.

Conference Substitute

The conference substitute amends the Motor Vehicle Information and Cost Savings Act by adding a new title V, part A as follows:

(1) Average fuel economy standards shall apply to all new 4-wheeled motor vehicles (referred to as "automobiles") manufactured or imported into the United States which are rated at 6,000 pounds gross vehicle weight (GVW) or less. The Secretary of Transportation (ST) is given authority to extend coverage of the fuel economy standards to vehicles rated at more than 6,000 pounds GVW but less than 10,000 pounds GVW if certain findings are made. Automobiles are divided into two broad categories for purposes of prescribing fuel economy standards: passenger automobiles, and automobiles which are not passenger automobiles (e.g., certain light duty trucks, recreational vehicles, and other multipurpose vehicles). Automobiles capable of off-highway operation (defined as automobiles with a significant feature (other than 4-wheel drive) designed to equip such vehicles for off-highway operation, and which either (a) are 4-wheel drive vehicles, or (b) are rated at more than 6,000 pounds GVW) are specifically designated for inclusion in the latter category.

(2) Fuel is defined to mean gasoline or diesel oil, but the ST is given authority to extend the definition to include any other liquid fuel or any gaseous fuel. Specifically, the conferees indicated a desire for the ST to explore, on a timely basis, the inclusion of propane, butane, and natural gas in the definition of fuel. Fuel economy is defined as the average number of miles traveled by an automobile per gallon of gasoline (or equivalent amount of other fuel) consumed, as determined by the EPA Administrator. It is anticipated that the EPA Administrator, in determining "equivalent amount of other fuel," will make such determination on the basis of Btu equivalency of different quantities of various fuels, taking into account energy required to process such fuels.

(3) The definition of "model type" gives authority to the EPA Administrator to determine model types (i.e., those classes of automobiles for which fuel economy measurements are to be made in order to determine compliance with an applicable average fuel economy standard). Since the EPA Administrator is required to consult and coordinate with the ST, he must work closely with the ST in making these determinations, and give careful consideration to the statutory responsibilities assigned to the Secretary under the fuel economy standards program established under this part. The requirement for close consultation and coordination is not intended to be judicially reviewable.

(4) Average fuel economy standards for passenger automobiles are to be in effect in each model year after model year 1977, as follows:

TABLE I.—*Minimum average fuel economy standard applicable to each manufacturer*

Model year	*Miles per gallon*
1978	18.0
1979	19.0
1980	20.0
1981–84	(1)
1985 and thereafter	27.5

[1] Administratively set by Secretary of Transportation at the "maximum feasible average fuel economy level."

The ST is given to adjust the "1985 and thereafter" authority standard within the range 26.0—27.5 mpg to a level which he determines is the maximum feasible average fuel economy level for any such model year. However, any proposed decrease to below 26.0 mpg, or increase to above 27.5 mpg, is subject to disapproval by either House of Congress within a 60-day period following submission of such proposed change to Congress.

The conference substitute lists a number of factors the Secretary shall consider in determining maximum feasible average fuel economy. They include: (1) technological feasibility; (2) economic practicability; (3) the effect of other Federal motor vehicle standards on fuel economy; and (4) the need of the Nation to conserve energy. With the possible exception of passenger automobiles manufactured by manufacturers of fewer than 10,000 automobiles per year, any such determination will lead to an average fuel economy standard applicable to all manufacturers in a given segment of the motor vehicle industry. Such determination should therefore take industrywide considerations into account. For example, a determination of maximum feasible average fuel economy should not be keyed to the single manufacturer which might have the most difficulty achieving a given level of average fuel economy. Rather, the Secretary must weigh the benefits to the nation of a higher average fuel economy standard against the difficulties of individual automobile manufacturers. Such difficulties, however, should be given appropriate weight in setting the standard in light of the small number of domestic automobile manufacturers that currently exist, and the possible implications for the national economy and for reduced competition associated with a severe strain on any manufacturer. However, it should also be noted that provision has been made for granting relief from penalties under Section 508(b) in situations where competition will suffer significantly if penalties are imposed.

(5) Minimum average fuel economy standards for automobiles other than passenger automobiles are to be in effect in each model year which begins more than 30 months after enactment. Separate standards for different classes of such vehicles may be established by the ST, who is directed to set such standards for each model year at maximum feasible levels. "Class" would be defined by the ST, and could be based on functional classifications or other factors. Any standard applicable to nonpassenger automobiles in any model year must be promulgated at least 18 months prior to the beginning of such model year.

(6) A manufacturer of fewer than 10,000 passenger automobiles per year may be exempted from the requirements of Table I, but only if the ST establishes an alternative average fuel economy standard for such manufacturer which the ST determines is the maximum feasible average fuel economy level for such manufacturer in a model year for which an exemption is granted. The ST is also given authority to establish class standards for automobiles manufactured by manufacturers of fewer than 10,000 passenger automobiles per year.

(7) Any passenger automobile manufacturer may apply to the ST for modification of an average fuel economy standard applicable in model year 1978, 1979, or 1980 on the grounds of more stringent Federal automobile standards. If a manufacturer demonstrates and the SST finds that (a) a Federal standards fuel economy reduction is likely to exist for such manufacturer for the model year to which the application relates, and (b) that such manufacturer applied a reasonably selected technology, the ST shall prescribe a rule reducing the average fuel economy standard applicable to such manufacturer by the amount of such manufacturer's Federal standards fuel economy reduction.

A reasonably selected technology is defined as a technology which it was reasonable for a manufacturer to select, considering the nation's need to improve the fuel economy of its automobiles, and the economic costs and lead-time requirements associated with alternative technologies practicably available to such manufacturer. In determining whether a technology is practicably available to a manufacturer the ST shall give consideration to the types of vehicles which the manufacturer produces and to which the technology must be applied, including the commercial practicability of such technology.

The term "technology" is to be construed broadly when used in the definition of reasonably selected technology, and may include such items as vehicle weight, engine displacement, transmissions, streamlining, radial tires, as well as technology specifically related to meeting Federal automobile standards. The term "reasonably selected technology" is also to be interpreted to mean a technology which, consistent with the considerations mentioned above, minimizes a Federal standards fuel economy reduction. A Federal standards fuel economy reduction is defined as the sum of the applicable fuel economy reductions. An applicable fuel economy standards reduction is defined as the number of miles per gallon equal to

(a) the reduction in a manufacturer's average fuel economy in a model year which results from the application of a category of Federal standards applicable to such model year, and which would not have occurred had Federal standards of such category applicable to model year 1975 remained the only standards of such category in effect, minus (b) 0.5 mpg.

An applicable fuel economy standards reduction less than zero is to be treated as if equal to zero.

Each of the following is defined to be a category of Federal standards:

(a) emissions standards under section 202 of the Clean Air Act and emissions standards applicable by reason of section 209(b) of such Act.

(b) motor vehicle safety standards under the National Traffic and Motor Vehicle Safety Act of 1966.

(c) noise emission standards under section 6 of the Noise Control Act of 1972.

(d) property loss reduction standards under title I of this Act.

(Example: a manufacturer applies to the ST for a reduction of the model year 1980 standard, claiming the following applicable fuel economy reductions: 0.7 mpg due to noise emission standards; 0.6 mpg due to emissions standards under Section 202 of the Clean Air Act; and 0.8 mpg due to property loss reduction standards. If the ST finds that the manufacturer's claims are valid, he is directed to reduce the average fuel economy standard applicable to such manufacturer in model year 1980 by [(0.7—0.5) + (0.6—0.5) + (0.8—0.5)]=0.6 mpg. If the ST finds that the manufacturer's claims are valid except with respect to an applicable fuel economy reduction due to noise emission standards, and that the reduction due to noise emission standards is only 0.2 mpg, the ST is directed to reduce the fuel economy standard applicable to such manufacturer in the model year by [(0.6—0.5) + (0.8—0.5)]= 0.4 mpg).

The ST, prior to granting any reduction, must also request, and the EPA Administrator must supply, to the maximum extent practicable, fuel economy test results collected pursuant to the requirements of this part for all vehicles covered by the application for a reduction. In the context of this provision, the term "to the maximum extent practicable" is to mean that any final decision by the ST to grant or deny a reduction in an average fuel economy standard may not be made until fuel economy measurements conducted by the EPA Administrator under section 503(d) are available, except that the ST's decision need not be delayed if such fuel economy results are not yet available for some of the model types to be marketed by a manufacturer in the model year for which an average fuel economy standards adjustment is requested, and the ST has made a reasonable attempt to obtain such results. The ST, in any case, may issue an interim decision based on the results of preliminary testing or engineering calculations, which decision would become final unless there were significant disparities between the results of preliminary testing or engineering calculations and the test results under section 503(d).

(8) Average fuel economy standards prescribed by the ST for passenger automobiles in model years after 1980, for non-passenger automobiles, and for passenger automobiles manufactured by manufacturers of fewer than 10,000 passenger automobiles may be amended from time to time as long as each such amendment satisfies the 18 month rule—i.e., any amendment which has the effect of making an average fuel economy standard more stringent must be promulgated at least 18 months prior to the beginning of the model year to which such amendment will apply. An amendment which has the effect of making an average fuel economy standard less stringent can be promulgated at any time prior to the beginning of the model year in question.

(9) Compliance with average fuel economy standards is to be determined by the ST on the basis of fuel economy measurements and average fuel economy calculations made by the EPA Administrator. In calculating a passenger automobile manufacturer's average fuel economy, the EPA Administrator must separate such manufacturer's total production into two categories:

(a) passenger automobiles which are domestically manufactured by such manufacturer plus (in the case of model year 1978 and model year 1979) a certain volume of such manufacturer's captive imports; and

(b) such manufacturer's captive imports (i.e., passenger automobiles marketed by such manufacturer in the United States but which are not domestically manufactured) minus that volume of captive imports included in category (a).

In all model years to which a minimum average fuel economy standard for passenger automobiles applies, each category must separately meet the applicable standard. The fuel economy to be ascribed to captive imports in either category is to be the average fuel economy achieved by such manufacturer's entire captive import fleet in such model year. A vehicle is to be considered domestically produced if at least 75% of the costs to the manufacturer of such vehicle is attributable to value added in the United States or Canada. A determination that a vehicle is or is not domestically manufactured shall be made by the EPA Administrator, on the basis of information submitted to the EPA Administrator by a manufacturer.

(10) In measuring fuel economy of any passenger automobile model type, and in calculating a manufacturer's average fuel economy for passenger automobiles, the EPA Administrator is directed to utilize procedures applicable in model year 1975, or procedures which yield comparable results.

Any measurement of fuel economy, and any calculation of average fuel economy, by the EPA Administrator is to be rounded off to the nearest one-tenth mpg for purposes of compliance determinations. However, fuel economy figures which are to be disclosed on labels attached to new automobiles and in booklets prepared by the EPA Administrator may be rounded off to the nearest mpg.

(11) Judicial review is authorized upon petition of any person adversely affected by any rule prescribed under (a) the authority of the ST to define terms and to establish, modify, or amend average fuel economy standards; and (b) the authority of the EPA Administrator to determine average fuel economy and to require labeling of new automobiles. In the case of an amendment to a standard which must be submitted to each House of the Congress under section 502 (a)(4), it is anticipated that a court in reviewing the rule following the expiration of the 60-day Congressional review period would give appropriate weight to Congress' decision to permit the rule to go into effect.

(12) Labeling of automobiles manufactured more than 90 days after enactment is required. The EPA Administrator shall prescribe the form and content of labels to be affixed to new automobiles and the manner in which such labels shall be affixed to an automobile. Such a label shall indicate (a) the fuel economy of such automobile (including an indication of both the urban and highway cycle fuel economies achieved by such automobile), (b) the estimated annual fuel costs associated with the operation of such automobile, and (c) the range of fuel economy of comparable automobiles. Comparability of automobiles will be determined under rules of the EPA Administrator and could be based on factors such as interior space and performance characteristics. It shall be unlawful for any dealer to remove, alter, or make illegible any such label. Labeling rules applicable to model year 1976 automobiles shall require that a label be affixed which discloses only the fuel economy of such automobile, in accordance with procedures established in the EPA and FEA Voluntary Fuel Economy Labeling Program for Automobiles. These procedures were published in the Federal Register (40 F.R. 26058) on June 20, 1975.

The EPA Administrator is also required to compile and prepare, on an annual basis, a booklet containing information on fuel economy of automobiles manufactured in a given model year. Such booklet shall also contain information with respect to estimated annual fuel costs associated with automobile operation, which information could be in the form of a table indicating the range of estimated annual fuel cost associated with different unit fuel costs and average values of vehicle miles traveled as estimated by the Federal Highway Administration, and may contain information with respect to geographical or other differences in estimated annual fuel costs. The FEA is directed to publish and distribute such booklets. Automobile dealers are required to make such booklets available to prospective automobile purchasers without charge in order to facilitate comparison shopping. Any disclosure of fuel economy or estimated annual fuel cost information which is required to be made under these provisions shall not create an express or implied warranty under State or Federal law that such fuel economy will be achieved, or that such cost will not be exceeded, under conditions of actual use. (*Note:* any disclosure of information under this part should be coordinated with the Department of Transportation's automobile information program under other titles of the Motor Vehicles Information and Cost Savings Act.) The provision does not preclude any other type of warranty claim.

(13) If the average fuel economy determinations reported to the ST by the EPA Administrator indicate that any manufacturer has failed to comply with an applicable average fuel economy standard, the ST is required to commence a civil penalty assessment proceeding unless further measurements of fuel economy, or revised calculations of average fuel economy, or other information, indicates that no violation has occurred. Civil penalties shall be assessed in accordance with the provisions of the House amendment. Civil penalties may be compromised, modified, or remitted, with or without conditions, by the ST only to the extent (a) necessary to prevent the insolvency or bankruptcy of a manufacturer, (b) when acts of God, fires, or strikes prevent a manufacturer from meeting a standard, and (c) to prevent the substantial lessening of competition within the automobile industry (but only upon Federal Trade Commission certification that such a substantial lessening of competition would in fact result from assessment of such civil penalty).

The rights of the United States to collect such civil penalties are subordinated to claims of other creditors of such manufacturers which arose before the date on which a judgment in a collection action became final. A claim of a creditor arises on the date on which the creditor extends credit to the manufacturer. In the case of an extension of credit pursuant to a line of credit, a claim of a creditor arises on the date on which a manufacturer actually incurs an obligation under the line of credit established for him by the creditor. Civil penalties assessed by the ST for failure to comply with an applicable average fuel economy standard are to be assessed in an adjudicatory proceeding and collected in an appropriate Federal district court. Any interested person may obtain review of any civil penalty so assessed by filing an appropriate notice of appeal. Judicial review of any FTC determination would also be available.

(14) Whenever a manufacturer exceeds an applicable average fuel economy standard, the manufacturer is entitled to a financial credit which shall be applied against any civil penalty imposed in the preceding model

year (carryback), or, to the extent that such credit is not deducted from a civil penalty imposed in such preceding model year, such credit shall be applied against a civil penalty which may be imposed as a result of failure to comply in the following model year (carryforward). The amount of such credit shall be $5 for each one-tenth mpg of such excess, multiplied by the number of automobiles produced by such manufacturer in the year of the excess, and to which the average fuel economy standard which was exceeded applied. Any credit earned under this provision by exceeding an average fuel economy standard applicable to passenger automobiles may only be applied against a civil penalty assessed for failure to comply with an average fuel economy standard applicable to passenger automobiles. With respect to non-passenger automobiles, any credit earned under this provision may only be applied to automobiles of the same class for which the credit was earned. In the event that a civil penalty assessed against a manufacturer has already been paid by the manufacturer, and such manufacturer is entitled to a reduction of such civil penalty as a result of such financial credit, the ST shall direct the Secretary of the Treasury to provide a refund in the appropriate amount to such manufacturer.

(15) The States and their political subdivisions are prohibited from adopting or enforcing any law or regulation relating to fuel economy or average fuel economy standards applicable to automobiles covered by this title. Any State or local law or regulation with respect to disclosure of fuel economy or fuel cost information must be identical to the requirements under this legislation. States and their political subdivisions are not constrained from establishing requirements with respect to fuel economy of automobiles procured for their own use.

(16) The President shall promulgate special rules governing the minimum average fuel economy of passenger automobiles purchased or leased (for more than 60 days) by agencies of the Executive Branch. The rules issued by the President shall apply in each fiscal year which begins after enactment, and shall require that the fleet average fuel economy, achieved by such Executive Agency vehicles be not less than (a) 18 mpg or (b) the average fuel economy standard applicable to passenger automobiles in the model year which includes January 1 of such fiscal year.

(17) The ST is required to review and report annually on the average fuel economy standards program: manufacturers are required to report semi-annually on their ability to comply with applicable fuel economy standards; and the ST is required to prepare, within 180 days after enactment, (a) reports on fuel flow instruments and (b) electric and other vehicles which do not directly consume gasoline or diesel oil, or any other gaseous or liquid fuel included in the definition of fuel by the ST.

(18) The Federal Trade Commission shall establish a program for systematically examining fuel economy representations made with respect to retrofit devices. Retrofit devices are defined to be any component, equipment, or other device (a) which is designed to be installed in or on a motor vehicle (as an addition to, as a replacement for, or through alteration or modification of, any original component, equipment, or other device), and (b) for which fuel economy representations are made by a manufacturer, dealer, or distributor of such device. The term retrofit device is also to include a fuel additive designated for use in an automobile. Whenever the Federal Trade Commission has reason to believe that any fuel economy representation for a retrofit device may be inaccurate, it shall request the EPA Administrator to evaluate such device in accordance with rules prescribed by the EPA Administrator. It is the conferees' intention that the EPA Administrator not require of the manufacturer of the retrofit device preliminary testing by a qualified independent testing laboratory when such device is evaluated upon request of the FTC. The EPA Administrator shall provide such test information, and any other information which the Administrator determines to be relevant in evaluating such device, to the ST, and to the Federal Trade Commission which shall be expected to take appropriate action in the event that fuel economy representations are not supported by such test results.

Application of advanced automotive technology

House Amendment

No provision.

Senate Amendment

The Senate amendment established a research and development effort by the Secretary of Transportation for advanced automobiles to complement and stimulate similar efforts by the private sector. The Senate amendment directed the Secretary to establish a program to insure the development of one or more production prototypes (i.e., automobiles capable of mass production) of an advanced automobile within 4 years after the date of enactment or within the shortest time practicable consistent with appropriate research and development techniques.

An advanced automobile was defined as an automobile which required the least total amount of energy to be consumed with respect to its fabrication, operation, and disposal and which represented a substantial improvement over existing automobiles with respect to energy factors. The advanced automobile was to operate safely and with sufficient performance and must have been, to the extent practicable, capable of intermodal adaptability. At a minimum, the advanced automobile was required to be produced, distributed, operated, and disposed of in compliance with any requirement of Federal law.

To implement the directive, the Secretary was required to establish, within the Department of Transportation, a program to insure the development of one or more production prototypes of an advanced automobile or automobiles. The Secretary was required to provide funds for contracts and grants and was authorized to make loan guarantees. The Secretary was required to test or direct the testing of production prototypes of advanced automobiles and to secure certification of such prototypes as advanced automobiles (for Federal procurement purposes). In order to assure that the fruits of the program were available to the private sector and to other agencies which have regulatory responsibilities respecting autos, the Secretary was required to collect, analyze, and disseminate to developers information, data, and materials that may have been relevant to the development of advanced automobiles and to evaluate any reasonable new or improved technology, a description of which was submitted to the Secretary in writing.

In order to preserve the current responsibilities of the Energy Research and Development Administration to perform research and development with respect to advanced propulsion systems, the Senate amendment prohibited the Secretary from duplicating research and development sponsored by ERDA or research and development likely to be so sponsored within the reasonably foreseeable future. The Secretary retained the authority to conduct research and development of non-duplicative projects.

The Administrator of the Environmental Protection Agency was directed to test (or cause to be tested) each production prototype of an advanced automobile developed, in whole or in part, with Federal financial assistance under this title, or referred to the EPA for such purpose by the Secretary, to determine the fuel economy of the automobile, compliance with any exhaust emission standards or other requirements of the Clean Air Act, the Noise Control Act, or any other provision of Federal law administered by the Administrator of the EPA. All test data and test results were to be submitted to the Vehicle Certification Board (the Low-Emission Vehicle Certification Board, created under section 212 of the Clean Air Act).

The Secretary was directed to test (or cause to be tested) production prototypes which the Secretary or a developer submitted to the Vehicle Certification Board. Such tests were to be conducted to determine whether each automobile complied with standards of the National Traffic and Motor Vehicle Safety Act of 1966, the Motor Vehicle Information and Cost Saving Act, the Automobile Information Disclosure Act, and any other statute enacted by Congress and applicable to automobiles. Any such automobile was required to be submitted to the EPA for testing.

The Vehicle Certification Board was required to certify, or deny certification, as an advanced automobile to those automobiles for which test data and results were submitted. If such vehicles were certified, Federal agencies were then required to procure such automobiles under regulations established by the Board in conjunction with GSA.

The Senate amendment incorporated a patent procedure nearly identical to the patent provisions of the Federal Non-Nuclear Research and Development Act of 1974. It further required licensing of any patent, not otherwise reasonably available, if it was necessary in furtherance of the policy of fostering the expeditious commercial application of advanced automotive technology or to the development, demonstration, or commercial application of an advanced automotive invention, process, or system. The Secretary was also required to find that there were no other reasonable methods to achieve such development, demonstration, or commercial application.

Recipients of financial assistance or guarantees were required to keep records in accordance with requirements established by the Secretary. In addition, the Secretary and the Comptroller General were to have access to information (for 3 years) possessed by recipients of assistance which may be related to such assistance. The Secretary was directed to submit to Congress an annual report of all activities undertaken pursuant to this title.

The Senate amendment authorized appropriations for purposes other than for payment of defaulted obligation guarantees not to exceed $55,000,000 for the fiscal year ending June 30, 1976, not to exceed $20,000,000 for the transitional quarter ending September 30, 1976; and not to exceed $100,000,000 for the fiscal year ending September 30, 1977. $175,000,000 was authorized for appropriation to pay defaulted obligation guarantees. In addition, the outstanding indebtedness guaranteed was not to exceed this latter amount.

Conference Substitute

The conference substitute substantially alters the Senate amendment by amending the Motor Vehicle Information and Cost Savings Act by adding a new part B of title V as follows:

(*1*) *The emphasis of the provision has been clarified and limited.*—Instead of emphasizing a research and development program, the conference substitute directs the Secretary to establish an advanced automotive technology program which will result in the expeditious development of vehicles capable of being produced and sold in significant numbers.

The program is designed to develop and evaluate advanced automotive technologies and promote their expeditious commercial certification which, in conjunction with the requirement under this part that the Secretary insure the development of production prototypes will help insure that Federal regulatory program goals are achieved. The information gathered under this part will provide a technical base against which to evaluate the progress of automobile manufacturers in meeting requirements of the Clean Air Act, the National Traffic and Motor Vehicle Safety Act, and other Federal requirements.

The program envisions emphasis on new and improved concepts by constructing automobiles from the ground up. The work should integrate the various characteristics of automobiles, including fuel economy, emissions and noise control, safety, performance (including handling), and damage susceptibility, into an optimum system of automotive transportation.

While it is required that the programs authorized by this part be designed to insure the development of at least one advanced automobile which is capable of production and sale in significant numbers (production prototypes), no funding would be provided under this part for the Secretary to construct, or make grants or contracts available to construct production prototypes. Of course, the Secretary would have full authority to design, develop and assemble complete vehicles for test purposes short of the production prototype stage.

(2) *The roles of the agencies involved are clarified.*—While the Department of Transportation retains its overall management responsibilities for the program, the role of the Energy Research and Development Administration is clarified and strengthened. ERDA will have primary responsibility for advanced propulsion systems (engines and transmissions) and the Secretary must utilize that agency to the maximum extent practicable with respect to this component of the automobile system consistent with the Secretary's overall management responsibilities. The Secretary is also authorized to contract with other agencies of the Federal Government (e.g. NASA) if such agencies could contribute to the attainment of the program's purposes.

(3) *The Secretary's authority to issue obligation guarantees is limited.*—The Senate amendment authorized the Secretary to guarantee the full amount of principal and interest of obligations obtained through commercial sources. The Senate amendment also required the Secretary to "reasonably protect the interests of the United States."

The conference substitute further protects the financial interest of the United States by placing the following restrictions on the Secretary's authority:

(*a*) Not more than 90% of the outstanding principal balance of obligations may be guaranteed. Interest may not be guaranteed.

(*b*) An obligation may not be guaranteed unless the Secretary finds—

(i) there is a reasonable prospect for repayment;

(ii) the obligation is adequately secured;

(iii) the obligation is a general obligation of the applicant; and

(iv) no other reasonable means of financing or refinancing is reasonably available to the applicant.

(4) *The provisions respecting certification and procurement of advanced automobiles by the Federal Government have been deleted.*—A thorough examination of government procurement policies of advanced automobiles is necessary in light of the failure to utilize a similar authority under section 212 of the Clean Air Act with respect to low emission vehicles. While modification and expansion of section 212 Clean Air Act programs is warranted, further study is necessary to improve the program. Because of these considerations, the provisions of Senate amendment concerning these programs was deleted from the conference substitute.

(5) *The authority to require mandatory licensing of patents is limited.*—The conference substitute incorporates by reference section 9 of the Federal Non-Nuclear Research and Development Act of 1974 (which is substantially identical to the corresponding provisions of the Senate amendment) and limits the mandatory licensing authority to two instances:

(*a*) where reasonably necessary to contribute to the development of advanced automotive technology pursuant to grants, contracts, or obligation guarantees provided under this part or to the commercial application thereof; or

(*b*) where reasonably necessary to provide for the expeditious commercial application of advanced automotive technology for purposes of complying with automobile standards under part A of this title or other automobile standards under other Federal laws.

An additional requirement in either case states that before mandatory licensing may occur, there may be no other reasonable methods to achieve such development or commercial application.

In the case of (b) above, the Secretary must additionally make either of the following determinations:

(*a*) that the unavailability of the patent right may result in a substantial lessening of competition or tendency to create monopoly in any line of commerce in any section of the country, or

(*b*) that the availability of the right may result in substantially increased competition or tendency to reduce a monopoly in any line of commerce in any section of the country and the right is not being significantly utilized in the production of automobiles for commercial purposes.

Whenever the Secretary has made the necessary determinations, he shall so certify to a district court. The district courts would be authorized to require the license of any such patent at such reasonable royalty and on such terms and conditions as the court determines following a *de novo* hearing. Refusals of the Secretary or Attorney General to make determinations under this section following application by any person, or inaction with respect to such applications, shall be judicially reviewable in accordance with chapter 7 of title 5, United States Code.

In order to provide the same rights to competitors of persons who obtain licenses under these provisions for patents reasonably necessary to contribute to advanced automotive technology under the assistance of this part or commercial application thereof, such right shall also be available on the same basis to any other person for the purpose of engaging in the expeditious development or commercial application of advanced automotive technology. Any right to which a government contractor may be entitled under provisions of law, including 28 U.S.C. 1498, would be unaffected by this provision.

(5) *The amount of funding authorized has been reduced to reflect the deletion of the authority to construct production prototypes.*—For the fiscal year ending on June 30, 1976 the conference substitute authorizes appropriations of $50 million for programs other than obligation guarantees. For fiscal year ending on September 30, 1977, the conference substitute authorizes appropriations of $80 million for programs other than loan guarantees.

The aggregate amount of obligation guarantees issued may not exceed $20,000,000 before June 30, 1976, and $55,000,000 before September 30, 1977.

Energy conservation program for consumer products other than automobiles

House Amendment

The House amendment mandated the disclosure, through labeling, of certain energy-related characteristics of specified consumer products; required energy efficiency targets to be developed for these products; and, in defined circumstances, required minimum performance standards to be developed and enforced with respect to one or more such products. Energy-related labeling was required for furnaces, central air conditioners, room air-conditioners, refrigerators, freezers, dishwashers, clothes dryers, kitchen ranges and ovens, water heaters, home heating equipment, and television sets, as well as authorized for clothes washers, humidifiers and dehumidifiers, and any other type of consumer product which utilizes more than 100 kilowatt hours per year of electricity if the Federal Trade Commission (FTC) determined that labeling was economically and technologically feasible and likely "to assist purchasers in determining which consumer products have low energy use or high energy efficiency". The House amendment required the FTC, by rule, to prescribe test procedures for energy use and/or energy efficiency for each class of consumer products included in the types of consumer products covered by these requirements. The FTC was authorized to prescribe test procedures for any other class of consumer products, unless it determined that energy information respecting the class was unlikely to influence consumers and that uniform testing procedures for such a class were not in the public interest. These test procedures were required to reflect energy efficiency (the relationship of the energy use of a consumer product to its service output) or energy use (the units of energy resources consumed by a consumer product under actual operating conditions as approximated to the greatest extent practicable) and were directed to be technologically feasible and not unduly burdensome to conduct. The Commission could utilize an acceptable test procedure already in existence. No manufacturer, distributor, retailer, or private labeler was permitted to make any written or media representation regarding the energy use or energy efficiency of any consumer product covered by such a test procedure rule unless that product had been tested pursuant to such procedures and unless the representation fairly disclosed the test results. Such a test procedure rule could only be proposed after affected manufacturers and private labelers had been afforded an opportunity to consult with the FTC and would only become effective 180 days after publication in the Federal Register; it would not apply to any consumer product whose manufacture was completed prior to the effective date of the applicable rule or amendment.

The FTC was also required, by rule, to promulgate labeling requirements for consumer products covered, unless it was determined that labeling requirements were not technologically or economically feasible for any class of such products. Whenever a labeling rule was so prescribed, the FTC was directed to prescribe the applicable test procedure. Such a label was required to state the energy efficiency and/or energy use of the product, as measured under the applicable test procedure, and the rule requiring such labeling had to include a description of the class, the range of energy efficiency and energy use for such class, a description of the applicable test procedure, a prototype label and directions for label display (*i.e.* prominent, readable, and visible to any prospective purchaser at time of purchase), and any additional information required to be included on the labels, such as operating cost information to assist prospective purchasers in comparison shopping.

The House amendment also required the FTC to prescribe, by rule, within 90 days after the enactment of this legislation, energy efficiency improvement targets for each type of consumer products covered, and these efficiency targets were to be designed to achieve an aggregate energy efficiency improvement by 1980 of 25% over the aggregate energy efficiency achieved by products of all such types (excluding furnaces and central air conditioners) sold in 1972. Similar targets were to be set for furnaces and central air conditioners at a level equal to the maximum feasible (economically and technologically) energy efficiency for 1980. Whenever the FTC determined that any type of product would not achieve the target for that type, the House amendment authorized the FTC to commence a proceeding to prescribe an energy efficiency standard for this type of consumer product. An energy efficiency standard could be prescribed upon (1) a finding of technological and economic feasibility; (2) a determination that the applicable labeling rule was not sufficient to induce manufacturers to produce and consumers to buy products which achieve the maximum feasible energy efficiency or the minimum feasible energy use; and (3) a finding that the benefits in term of energy savings outweighed any acquisition cost increase, any diminution in product utility or performance, and any negative effects on competition (as determined by the Attorney General). No rule setting an energy efficiency standard for a product could be prescribed except in accordance with specified procedures (including the application of portions of section 18 of the Federal Trade Commission Act) and following a minimum of 18 months of applicability of a labeling rule.

The House amendment granted the FTC all the authority necessary (*e.g.* authority to obtain information) for implementation of this provision; provided for the preemption of State or local disclosure and product standard law and regulations; made these requirements inapplicable to exports and applicable to imports; and made it a prohibited act (constituting an unfair or deceptive act or practice in or affecting commerce within the meaning of the FTC Act and also punishable by civil penalties and enjoinable in the United States district court) for a manufacturer or private labeler to sell any new consumer product in commerce unless it met any applicable labeling requirements and conformed with any applicable energy efficiency standard; similar sanctions were authorized for inaccurate labeling, label removal, or noncompliance with record-keeping and other implementation authorities and requirements. The FTC was authorized, on a reimbursable basis, to utilize the services of the National Bureau of Standards with respect to research and test procedure, labeling, and energy efficiency standards development. Rules under this section (except with respect to energy efficiency standards) were required to be promulgated in accordance with section 553 of title 5, United States Code except that, in addition, transcripts were to be made and questioning of parties making presentations was to be permitted through informal procedures with respect to disputed issues of material fact. Judicial review of a rule was authorized upon the petition of any adversely affected person.

Senate Amendment

The Senate amendment mandated disclosure of the energy utilization characteristics of major energy-consuming household products in terms of their estimated annual operating cost "so that consumers can readily compare them and thereby avoid purchasing those which unnecessarily waste energy". Disclosure was required as to all major energy-consuming household products used in a residence which utilized (based on average usage patterns) more than 200 kilowatt-hours of electricity per year or more than 2,000,000 Btu's of fuel per year (but not including central air conditioners or furnaces). Under the Senate amendment, (1) the Administrator of the Federal Energy Administration (FEA) would establish guidelines for energy labeling and disclosure; (2) the National Bureau of Standards would, pursuant to these guidelines, determine average use cycles and develop test procedures to measure the energy used during such cycles; (3) affected manufacturers would carry out tests of their products pursuant to these procedures; (4) the FEA would receive verified records of the results of these tests; (5) the FEA would develop information with respect to the number of average use cycles performed annually by each category of such products and the average unit cost of the electricity or fuel needed for the circumstances under which each such product would normally be operated; (6) the FEA would disseminate this information to affected manufacturers with instructions on how to determine the estimated annual operating cost for each such major energy-consuming household product; and the manufacturers would utilize this information to develop operating cost information to be shipped to all suppliers selling their products. The estimated annual operating cost data was to be supplemented by the publication and distribution (in a format to be prescribed by the FTC) of an "Appliance Energy Guide" for each category of such major energy-consuming household products. The energy guides were to set forth, "in clear and understandable language and form" information with respect to the energy consumption characteristics of the product involved, the estimated annual operating cost, a description of the manner in which that cost was calculated, suggestions as to how to refine that average cost to fit an individual consumer's personal circumstances, comparative shopping information, and such other information as the FTC deemed appropriate. These energy guides were to be attached to products by their manufacturers and importers, in the manner specified by the FTC. Whenever the purchase price or energy characteristics of a major energy-consuming household product was mentioned in advertising, the Senate amendment required that the advertisement also include a statement as to that product's estimated annual operating cost if the FTC determined such a statement to be reasonable and necessary in accordance with rules prescribed by it.

Administrative procedures were required to follow section 553 of title 5, United States Code, State laws pertaining to the energy characteristics and energy costs of major energy-consuming household products covered by this provision were preempted subject to exemption in certain circumstances; citizens' suits were authorized against relevant agencies to require the performance of nondiscretionary acts and against any manufacturer, importer, or supplier alleged to be in violation of any applicable requirements under this amendment; the FTC was authorized to prohibit the stockpiling of any product that could be affected by a disclosure requirement pursuant to this provision pending the date of applicability of that requirement; the FTC and the FEA were directed to carry out a program to educate consumers and suppliers with respect to the significance of annual operating costs and energy guides, the importance of energy conservation for the Nation, the way in which comparative shopping could save energy for the Nation and money for consumers, and other energy-conserving matters; enforcement was provided for through incorporation of the FTC Act and the Federal false statements statute; The FEA was required to submit a detailed report to Congress and the President each year on energy labeling and disclosure activities. The Senate amendment included specific appropriations authorizations for the agencies assigned duties under this provision, totaling $7.6 million through fiscal year 1978.

Conference Substitute

The conference substitute provides as follows:

(A) *Coverage.*—Test procedures, labeling rules, and energy efficiency standards are authorized for certain types of consumer products identified as covered products. A consumer product is a covered product if it is one of the following types, or is designed to perform a function which is the principal function of any of the following types of consumer products:

(1) refrigerators and refrigerator-freezers.
(2) freezers.
(3) dishwashers.
(4) clothes-dryers.
(5) water heaters.
(6) room air conditioners.
(7) home heating equipment, not including furnaces.
(8) television sets.
(9) kitchen ranges and ovens.
(10) clothes washers.
(11) humidifiers and dehumidifiers.
(12) central air conditioners.
(13) furnaces.
(14) any other type of consumer product for which the Administrator of the Federal Energy Administration (FEA) determines that classifying such product as a covered product is necessary or appropriate to carry out the purposes of the Act, and for which the average annual per household energy use by products of such type is likely to exceed 100 kilowatt-hours (or its Btu equivalent) per year.

The term "class of covered products" is defined in section 321 as a group of covered products, the functions or intended uses of which are similar. This term should be distinguished from the term "type" which is used in section 322 and elsewhere in part B to refer to a generic classification of product, such as a classification listed in section 322 (a) (e.g. "refrigerator", "room air conditioner", etc.) A class of covered products is a classification based on function or use, and could be a subcategory of a type (such as color television set, or a microwave oven), or a classification which includes "hybrid" products which perform functions characteristic of more than one type (such as combination clotheswasher-clothesdryer).

(B) *Testing.*—Test procedures for covered products of types (1)–(13) shall be prescribed as follows:

(i) the FEA shall afford, within 30 days after date of enactment, opportunity for comment by interested persons respecting test procedures to be developed.

(ii) FEA will, by means of guidelines and timetables, direct the National Bureau of Standards to develop test procedures for determining estimated annual operating costs of such covered products, and at least one other useful measure of energy consumption which the FEA Administrator determines is likely to assist consumers in making purchasing decisions. The conferees have required that FEA initially utilize NBS for purposes of developing test procedures, recognizing NBS's special expertise. The Administrator of FEA, however, retains final authority to prescribe test procedures, and in furtherance of such authority may request NBS to modify test procedures, or may prescribe test procedures different from those developed by NBS.

(C) *Schedule for Test Procedures.*—The

FEA shall publish proposed test procedures and prescribe test procedures on the following schedule:

TABLE I

Type of covered product (paragraph of §322(a))	Latest date by which publication of proposed test procedures must occur	Latest date by which publication of prescribed test procedures must occur [1]
(1) to (6), (8)	June 30, 1976	Sept. 30, 1976.
(7), (9)	Sept. 30, 1976	Dec. 31, 1976.
(10) to (13)	June 30, 1977	Sept. 30, 1977.
(14)	(2)	(2).

[1] The FEA administrator may delay the prescription of test procedures beyond the dates specified, if he determines that he cannot, within the applicable time period, prescribe test procedures, in which case he shall prescribe test procedures for such covered type or class as soon as practicable, unless he determines that reasonable test procedures cannot be developed.

[2] Timing to be determined by agencies.

Note.—Such determinations shall be published in the Federal Register.

The FEA Administrator shall afford at least a 45-day comment period for interested persons to present oral and written views after proposed test procedures are published.

(D) If the Administrator has under section 322(b) classified a consumer product of type (14) as a covered product the Administrator may after affording interested persons an opportunity to comment, direct the National Bureau of Standards to develop, and may publish proposed test procedures for such type of covered product (or class thereof). The Administrator shall afford interested persons an opportunity to comment with respect to such proposed test procedures. Such comment period shall not be less than 45 days. The Adminstrator may, thereafter, prescribe test procedures for such type of covered product specified in (14) (or class thereof), if the Administrator or the Commission determines that—

(i) the application of section 323(c) (described in paragraph (E) below) to such type of covered product (or class thereof) will assist consumers in making purchasing decisions, or

(ii) labeling in accordance with section 324 will assist purchasers in making purchasing decisions.

(E) Effective 90 days after any test procedure is prescribed with respect to any covered product no manufacturer, distributor, retailer, or private labeler may make any representation in writing or in any broadcast advertisement respecting the energy consumption of such product or the energy costs associated with use of such product, unless such product has been tested in accordance with the prescribed test procedures, and such representation fairly discloses the results of such testing.

(F) Estimated annual operating costs shall be calculated from measurements of energy use in representative average use cycles utilizing information provided to manufacturers by the FEA Administrator respecting average unit costs of energy.

(G) *Labeling.*—Labeling rules shall be prescribed for covered products of types (1)–(9) (or classes thereof) except to the extent that with respect to such types (or classes thereof):

(i) the FEA determines the test procedures required for such labeling cannot be reasonably developed; or

(ii) the FTC determines that such labeling is not technologically or economically feasible.

(H) Labeling rules shall also be prescribed for covered products of types (10)–(13) (or classes thereof), except to the extent that with respect to such types (or classes thereof) determinations (i) or (ii) in (G) above are made, or the FTC determines such labeling is not likely to assist consumers in making purchasing decisions.

(I) Labeling rules may be prescribed for covered products of type (14), if:

(i) the FTC or the FEA determines, with respect to such type (or class thereof), that application of labeling rules under this part to such type (or class thereof) is likely to assist consumers in making purchasing decisions,

(ii) the FEA Administrator has prescribed test procedures for such type (or class thereof), and

(iii) the FTC determines, with respect to such type (or class thereof), that application of labeling rules under this section to such type (or class thereof) is economically and technologically feasible.

(J) *Content of the Label.*—A labeling rule shall require that estimated annual operating cost be disclosed on any required label unless the Administrator of the Federal Energy Administration determines that disclosure of estimated annual operating cost is not technologically feasible, or the FTC determines that such disclosure is not economically feasible or is not likely to assist consumers in making purchasing decisions. If estimated annual operating cost is not disclosed, then the FTC shall require disclosure of a different useful measure of energy consumption. The label must disclose range data of a different useful measure of energy consumption which is required to be disclosed on that label. The FTC may also require that a manufacturer provide additional information to consumers relating to energy consumption. A labeling rule may require disclosure, in any printed matter displayed or distributed at the point of sale of a covered product, of any information which the rule may require to be disclosed on the label. Any such requirement will not apply to any broadcast advertisement or any advertisement in a newspaper, magazine or other periodical; nor will such requirement apply to billboards.

(K) *Schedule for Labeling.*—Labeling of products shall conform to the following schedule: not later than 30 days after the date on which a proposed test procedure applicable to a type of covered product (or class thereof) is published, the FTC shall publish a proposed labeling rule applicable to such type (or class thereof). The FTC shall afford at least a 45-day comment period to interested persons with the proposed labeling rules. Labeling rules for covered products of types (1)–(13) (or classes thereof) shall be prescribed not earlier than 45 days nor later than 60 days after the date on which test procedures are prescribed for such type (or class thereof).

Not earlier than 45 days after the date on which test procedures are prescribed with respect to covered products of type (14) (or class thereof), the FTC may prescribe labeling rules with respect to covered products of such type (or class thereof). A prescribed labeling rule for covered products of types (1)–(14) shall take effect not later than 3 months after the date of prescription of such rule, except that such rules may take effect no later than 6 months after such date of prescription if the FTC determines that such extension is necessary to allow persons subject to such rules adequate time to come into compliance with such rules. The FTC may delay the publication of a proposed labeling rule, or the prescription of a labeling rule, beyond the date specified above, if the FTC determines that it cannot publish proposed labeling rules or prescribe labeling rules which meet the requirements of this part on or prior to the date specified for such product and publishes such determination in the *Federal Register*, together with the reasons therefor. In any such case the FTC shall publish proposed labeling rules or prescribe labeling rules for covered products of such type (or class thereof) as soon as practicable unless it determines (A) that labeling in accordance with this section is not economically or technologically feasible, or (B) in the case of covered products of types (10) through (13), that labeling in accordance with this section is not likely to assist consumers in purchasing decisions. Any such determination shall be published in the *Federal Register*, together with the reasons therefor.

(L) *Energy Efficiency Improvement Targets.*—Not later than 180 days after the date of enactment of this Act, the FEA Administrator shall, by rule, prescribe energy efficiency improvement targets for covered products of types (1)–(10). Such targets shall be designed to improve the aggregate energy efficiency of all products of such types which are manufactured in 1980 to the maximum extent technologically and economically feasible (as determined by the FEA Administrator), and which in any case represents not less than a 20% improvement over the aggregate energy efficiency of all products of all such types manufactured in 1972.

(M) Not later than 1 year after the date of enactment of this Act, the Administrator, by rule, shall prescribe energy efficiency improvement targets for covered products of types (11)–(13). Each such target shall be designed to achieve the maximum improvement in energy efficiency which the Administrator determines it is economically and technologically feasible to attain for each such type manufactured in 1980.

(N) *Energy Efficiency Standards.*—If the FEA Administrator determines that an energy efficiency improvement target applicable to any type of covered product (or class thereof) is not likely to be attained, the Administrator shall commence proceedings to prescribe an energy efficiency standard for such type (or class thereof). The Administrator shall prescribe such a standard if he determines, with respect to such type (or any class thereof), that—

(a) improvement of energy efficiency of covered products of such type (or class thereof) is technologically feasible and economically justified, and

(b) the application of a labeling rule under this part to such type (or class thereof) is not likely to be sufficient to induce manufacturers to produce, and consumers and other persons to purchase, covered products of such type (or class thereof) which achieve the maximum energy efficiency which it is technologically feasible to attain, and which is economically justified.

Improvement of energy efficiency shall be considered economically justified if it is economically justified and if the benefits of reduced energy consumption, and savings on operating costs throughout the estimated average life of the covered product, outweigh;

(i) additional purchase or maintenance costs to purchasers resulting from the standard,

(ii) any lessening of the utility or the performance of the covered product, and

(iii) any negative effects on competition.

The term "feasibility" is used in the strict sense, namely "capable of being carried out". Economic feasibility refers to whether or not a manufacturer has the economic capability to carry out the requirements of an energy efficiency standard.

(O) The Administrator also has discretion to prescribe energy efficiency standards for covered products of types (1)–(13) if he makes determinations (i), (ii), and (iii) in (N) above. A rule prescribing an energy efficiency standard for any type of product may not go into effect, unless an applicable labeling rule has been in effect for at least 18 months prior to the effective date of the rule prescribing the standards.

(P) *Administrative Procedures and Judicial Review.*—Rules imposing energy efficiency standards must be prescribed in accordance with section 18 of the Federal Trade Commission Act. Section 553 of title 5, U.S.C. shall be applicable to other rules under this part, except that interested persons shall be afforded an opportunity to make oral presentations for which transcripts are required. In a proceeding to prescribe an energy efficiency improvement target an informal questioning procedure will also be allowed. The provisions relating to judicial review follow the provisions in the House amendment.

(Q) *Effect on Other Law.*—Section 327(a) supersedes any State regulation insofar as such State regulation provides for the disclosure of information with respect to any measure of energy consumption of any covered product—

(A) if there is any test rule under section 323 applicable to such covered product, and such State regulation requires testing in any manner other than that prescribed in such rule under section 323, or

(B) if there is a labelling rule under section 324 applicable to such covered product and such State regulation requires disclosure of information other than information disclosed in accordance with such rule under section 324.

In addition, a State regulation, insofar as it provides for an energy efficiency standard or similar requirement with respect to energy efficiency or energy use of a covered product is superseded—

(A) if there is a standard under section 325 applicable to such product, and such State regulation is not identical to such standard, or

(B) if there is a rule under section 323 or 324 applicable to such product and such State regulation requires testing in accordance with test procedures which are not identical to the test procedures specified in such rule.

Section 327(b)(1) provides that, if a State regulation provides for an energy efficiency standard or similar requirement respecting energy use or energy efficiency of a covered product and if such State regulation is not superseded by subsection (a)(2), then any person subject to such State regulation may petition the Administrator for the prescription of a rule under this subsection which supersedes such State regulation in whole or in part. The Administrator must, within 6 months after the date such a petition is filed, either deny such petition or prescribe a rule under this subsection superseding such State regulation. The Administrator must issue such a rule with respect to a State regulation if and only if the petitioner demonstrates to the satisfaction of the Administrator that—

(A) there is no significant State or local interest sufficient to justify such State regulation; and

(B) such State regulation unduly burdens interstate commerce.

Finally, section 327(b)(2) provides that any State regulation which provides for an energy efficiency standard or similar requirement respecting energy use or energy efficiency of a covered product will not be superseded by section 327(a) if the State prescribing such standard demonstrates and the Administrator finds, by rule, that—

(A) there is a substantial State or local need which is sufficient to justify such State regulation;

(B) such State regulation does not unduly burden interstate commerce; and

(C) if there is a Federal energy efficiency standard with respect to the covered product, the State regulation contains a more stringent energy efficiency standard than the corresponding Federal standard.

(R) *Citizen suits.*—Citizens' suits are permitted against Federal agencies to require the performance of non-discretionary duties and against manufacturers, importers, or suppliers (but not retailers), with respect to the labeling and testing requirements of this part, except that the citizens' suit provisions shall not apply to the energy efficiency improvement target and energy efficiency standards provisions of this part.

The Conferees anticipate that the court, in exercising its discretion to award costs of litigation, would award such costs only to a party who prevailed or would have prevailed, but for the mooting of the claim through voluntary compliance of the defendant or Federal enforcement.

(S) *Consumer education.*—FEA in close coordination and cooperation with FTC shall establish a consumer education program to focus public attention on the advantages of using operating cost information and on ways in which comparative shopping can save energy for the Nation and money for consumers.

(T) *Requirements of Manufacturers.*—Provisions relating to requirements applicable to manufacturers and private labelers, and enforcement provisions, generally follow those in the House amendment. The conferees anticipate that the court, in exercising its discretion to award costs of litigation, would award such costs only to a party who prevailed, or would have prevailed but for the mooting of the claim through voluntary compliance of the defendant or through Federal enforcement.

(U) *Annual Report.*—The FEA Administrator either as a part of his annual report, or in a separate report submitted annually, shall detail the energy savings impact of this part and the progress of the program under the provisions of this part.

(V) *Authorization.*—There are authorized to be appropriated to the Administrator not more than the following amounts to carry out his responsibilities under this part—

(1) $1,700,000 for fiscal year 1976;
(2) $1,500,000 for fiscal year 1977; and
(3) $1,500,000 for fiscal year 1978.

(b) There are authorized to be appropriated to the Commission not more than the following amounts to carry out its responsibilities under this part—

(1) $650,000 for fiscal year 1976;
(2) $700,000 for fiscal year 1977; and
(3) $700,000 for fiscal year 1978.

(c) There are authorized to be appropriated to the Administrator of the FEA not more than the following amounts—

(1) $1,100,000 for fiscal year 1976;
(2) $700,000 for fiscal year 1977; and
(3) $700,000 for fiscal year 1978.

Such amount shall, and any amounts authorized under paragraph (a) may, be allocated by the Administrator of the FEA to the National Bureau of Standards to carry out its responsibilities under this part.

(W) Funds authorized to be appropriated to the National Bureau of Standards under this part shall be in addition to, and not in lieu of, appropriations under other provisions of law.

Mandatory gasoline allocation savings program

House Amendment

The House amendment amended the Emergency Petroleum Allocation Act of 1973 to require the President to amend the regulation under section 4(a) of that Act and to prescribe necessary and appropriate orders (1) to prevent any increase in the consumption of motor gasoline for the next 3 years above the amount consumed in 1973–1974, and (2) to reduce by 2 percent the amount of gasoline consumed during the entire 3-year period (which would commence on the first day of the fourth month after the date of enactment of this legislation) by comparison with the amount consumed during such base year. The President was authorized to impose an additional reduction (of 1 percent) in the second year and again in the third year of this period if such additional reductions in consumption were achievable consistent with the objectives of the Allocation Act. The President was authorized to take such steps as are appropriate, with respect to the allocation of crude oil and refined petroleum products and the volumetric limitation on gasoline imports, to assist in the realization of these goals.

The House amendment also amended the Emergency Petroleum Allocation Act of 1973 to require the President to promulgate, by rule, standards and procedures respecting voluntary agreements between gasoline retailers as to hours of retail sale of gasoline and related matters in order to minimize the inconvenience to motorists during the period when the mandatory gasoline allocation savings program was in effect. These standards and procedures were required to include the submission of such agreements to the Attorney General (AG) and the Federal Trade Commission (FTC); the public availability of such agreements; open meetings after timely notice with respect to any meetings held to develop or carry out such a voluntary agreement; opportunity for interested persons to present data, views, and arguments at such meetings, orally and in writing: the submission to the AG and the FTC and the public availability of written summaries of such meetings and of the presentations of interested persons; authority in the FTC to exempt types or classes of meetings, conferences, or communications from any of the foregoing requirements in the case of exchanges determined to be ministerial to the carrying out of such an agreement. The House amendment provided antitrust immunity and a defense to legal action for an alleged breach of contract, under certain conditions, with respect to a voluntary agreement developed pursuant to these standards and procedures, under the mandatory gasoline allocation savings program.

The House amendment also amended the Allocation Act to authorize the President to require adjustments in the yield patterns of any refinery in the United States to the extent necessary to assure the production of residual fuel oil or any refined petroleum product in the proportions necessary to achieve the objectives of the mandatory gasoline allocation savings program.

Senate Amendment

No provision.

Conference Substitute

This provision in the House amendment is omitted from the conference substitute.

State energy conservation programs

House Amendment

No provision.

Senate Amendment

The Senate amendment authorized the establishment of an interim Federal energy conservation program, directed the promulgation within three months of regulations establishing a series of Federal energy conservation standards and required the Administrator of the Federal Energy Administration (FEA) to establish guidelines within 60 days for the preparation of State energy conservation programs. The Administrator was directed to request the submission of a report from the Governor of each State within six months after enactment, describing a proposed State energy conservation program to be effective in and administered by such State.

The Federal and State energy conservation programs authorized by the Senate amendment would include plans to establish any or all of the following:

(1) lighting efficiency standards for public buildings;

(2) thermal performance standards for all new Federal construction and all new homes

and buildings financed under any Federal loan guarantee or mortgage program;

(3) reasonable restrictions on hours for public buildings;

(4) standards to govern decorative or nonessential lighting;

(5) standards and programs to increase industrial efficiency in the use of energy;

(6) programs to insure better enforcement of the 55 mph speed limit;

(7) programs to maximize use of carpools and public transportation systems;

(8) standards for reasonable controls and restrictions on discretionary transportation activities upon which the basic economic vitality of the country does not depend;

(9) energy efficiency standards to govern Federal procurement policy;

(10) low interest loans and loan guarantee programs to improve the thermal efficiency of individual residences by insulation, storm windows, solar energy heating and cooling equipment or other improvements; and

(11) public education programs to encourage voluntary energy conservation.

No such plan could impose rationing, any tax or user fee or provide for a tax credit or deduction.

Interim Federal energy conservation programs would be made to be effective pending the establishment, by regulation, of Federal energy conservation standards. Interim conservation programs would only take effect if submitted to Congress with specified documentation and neither House passed a resolution of disapproval within the first period of 30 calendar days of continuous session of Congress after such submission. Interim programs could remain in effect no longer than one year unless renewed pursuant to the Act.

The Senate amendment required the Administrator of the FEA to promulgate regulations (in cooperation with the heads of specified and other appropriate Federal agencies) which establish standards for energy efficiency and conservation in the 11 areas noted above. No set of regulations could become effective unless transmitted to Congress for individual review and right of disapproval in accordance with the procedures prescribed in the Senate amendment for expedited Congressional review. The regulations establishing national energy conservation standards in these 11 areas were to be designed to reduce the Nation's total annual energy consumption by the energy equivalent of at least 4 percent of the projected domestic annual consumption of refined petroleum products.

The Senate amendment also directed the FEA to establish within 60 days after enactment, Federal guidelines for the funding and development of State energy conservation programs as follows: The Administrator was required to request the submission of a report from the Governor of each State within six months. This report would describe a State energy conservation plan to be made effective in the State. The plan would be based on standards and programs in any or all of the 11 areas, and its implementation would be supported by Federal funds. The FEA would supply appropriate technical assistance in the development of these State programs and establish criteria for the delegation to State officers and agencies of responsibility for the implementation and administration of these programs. FEA would be required to review, and would be authorized to approve, any such State program within 30 days of its receipt. The Senate amendment authorized the FEA to provide funds for all of the financial assistance necessary for the implementation of an approved State energy conservation program, except that one-half of the total sum appropriated for fiscal assistance to the States would be apportioned on the basis of population and the remainder distributed by the Administrator to individual States on the basis of need and the achievement of conservation targets set by the Administrator.

The FEA would be required to establish realistic and attainable energy conservation targets and objectives for such State programs. A State which met its targets and objectives would be eligible for an incentive grant. The Administrator would be directed to develop, implement, and enforce a Federal energy conservation program for any State which failed to propose an acceptable conservation program. The FEA was required to report to Congress, six months after the enactment of the Senate amendment on the operation of programs, the energy conservation savings achieved, and the degree of State participation and compliance. The Senate amendment included an open-ended authorization of appropriations.

Conference Substitute

The conference substitute requires the Administrator to prescribe, within 60 days after enactment, guidelines for a State energy conservation feasibility report and to invite the submission of such report by the Governor of each State within three months after prescribing such guidelines. This report shall contain an assessment of the feasibility of establishing, and a proposal to the Administrator for the development of a plan to achieve, an energy conservation goal of a reduction of 5 percent or more projected energy consumption in such State in 1980. The feasibility report would provide the basis for a grant of planning funds by the Administrator to participating States to support the development of their energy conservation plans. The Administrator is required to prescribe, within six months after enactment, guidelines with respect to measures to be included in State energy conservation plans, and is directed to invite the submission of a report containing such a plan for the Governor of each State, within five months after prescribing such guidelines.

Each proposed State plan shall be designed to achieve a reduction, as a result of the implementation of the energy conservation measures contained therein, of 5 percent or more in energy consumption in 1980 from the energy consumption projected for such State in that year.

To be eligible for Federal assistance under this part, each State plan shall include:

(1) mandatory lighting efficiency standards for non-Federal public buildings;

(2) programs to promote the use of carpools, vanpools and public transportation;

(3) mandatory energy efficiency standards and policies to govern State procurement;

(4) mandatory thermal efficiency standards and insulation requirements for new and renovated non-Federal buildings; and

(5) a traffic regulation permitting, to the maximum extent feasible, right turn on red.

Each proposed State plan may include:

(1) restrictions on the hours of operation of public buildings;

(2) restrictions on the use of decorative or nonessential lighting;

(3) transportation controls (other than rationing);

(4) public education programs; and

(5) any other appropriate programs to conserve energy.

As used in this part, the term "public buildings" means any building, including a commercial building, which is open to the public during normal business hours.

The Governor of any State may also submit to the Administrator a State standby energy conservation plan to significantly reduce energy demand during a severe supply interruption, such as a future embargo on petroleum imports.

The conferees expect that the guidelines prescribed by the Administrator will provide State officials with a clear indication of the nature and composition of the energy conservation programs which must be included in an acceptable State energy conservation plan. The Administrator is also directed to provide information and technical assistance to participating States, including model State laws and regulations relating to energy conservation, and other assistance in the preparation of reports or in the development, implementation, or modification of the energy conservation plans described in this part. In providing this assistance to States and in establishing guidelines for State energy conservation plans, the Administrator shall consult with the appropriate Federal departments and agencies, including but not limited to the Departments of Transportation, Commerce, Housing and Urban Development, Interior and the Energy Research and Development Administration. The Administrator shall insure, to the greatest extent possible, that policies and programs implemented under this Act are consistent with other relevant national policies.

In deciding whether to approve a State energy conservation plan the Administrator shall, with respect to conservation measures required to be included in a plan, take into account the impact of local economic, climatic, geographic, and other unique conditions and requirements of such State. The conferees understand that the opportunity for, and the desire to place emphasis on, achievement of substantial energy conservation through the operation of any one of these measures may vary from State to State. The conferees therefore intend that each State have the flexibility to place the strongest emphasis on those areas of energy conservation which best fit unique conditions and requirements of that State. However, the conferees also intend that each State energy conservation plan address, at a minimum, all required energy conservation measures described in section 362(c) and be designed to achieve the energy conservation goal or goals of such State.

The conferees realize that certain circumstances—such as the length and timing of sessions of the legislature in a given State—may result in a conflict between the time tables for submission of reports to the Administrator and the ability of that State to respond to the Administrator's invitation to submit such reports. In these instances, it is the conferees intent that the Administrator have an opportunity to extend the deadlines for such reports if he determines that participation by such State will result in significant progress toward achieving the purposes of this Act.

In determining the amount of funds to be provided to a State, the Administrator shall consider such factors as the contribution to energy conservation which can be expected and the number of people affected should the plan or part thereof submitted by that State be put into effect. The conferees expect that all approved plans will receive Federal assistance. However, it is intended that the Administrator attempt, to the maximum extent possible, to target the allocation of funds among States to achieve the greatest aggregate savings in energy affecting the greatest number of people.

The Administrator is directed to determine for each State, at the earliest practicable date, an energy conservation goal for 1980, and is authorized to set interim goals. Such goals are to be consistent with technological feasibility, financial resources and economic objectives. The conferees believe that establishing such goals will assist the Administrator in assessing progress made by States as a result of their participation in the program and in determining which State programs should receive augmented funding as an incentive to encourage greater energy conservation. In setting energy conservation goals for each State, the Administrator shall specify the assumptions used, and shall take into account population trends, economic growth and the effects of national energy conservation programs.

The Administrator is required to report annually to the President, the Congress and the Governors of the States on the participation by, and the achievements of, States under programs authorized by this part. Appropriations of $50,000,000 are authorized for the fiscal year of enactment and for two subsequent fiscal years.

Industrial energy conservation

House Amendment

No provision.

Senate Amendment

One of the purposes of the Senate amendment establishing an Energy Conservation Policy was to "promote energy conservation efforts through specific directives to agencies of the Federal Government, State government, and sectors of private industry." To implement the Energy Conservation Policy, the Senate amendment provided three separate provisions for industrial energy conservation.

First, until the promulgation of regulations to establish national energy conservation standards under the Federal initiatives program and/or the adoption by the Congress of specific legislative measures for energy conservation programs, the President was authorized to promulgate by regulation interim energy conservation plans which included plans to establish standards and programs to increase industrial energy efficiency.

Second, as part of the program for Federal initiatives in energy conservation, the Federal Energy Administration, in cooperation with the heads of other Federal agencies, was directed to promulgate regulations to establish standards and programs to increase industrial energy efficiency. Regulations promulgated pursuant to the Federal initiatives program were required to be designed to achieve a national energy conservation goal. This goal was to reduce total domestic energy consumption on a 12-month basis, by the amount which is the energy equivalent of at least 4 percent of the projected domestic consumption of refined petroleum products for the 12-month period following the effective date of this legislation. Such regulations had to be transmitted to Congress for review with rights of disapproval.

Third, State's submitting energy conservation plans, were eligible to receive Federal assistance for implementation if, among other elements, they established standards and programs which could have included increasing industrial energy efficiency.

Conference Substitute

The conference substitute directs the Federal Energy Administrator, in consultation with the Secretary of Commerce and the Administrator of the Energy Research and Development Administration, to establish and maintain a program to promote increased energy efficiency in American industry and to establish energy efficiency improvement targets for the 10 most energy-consumptive manufacturing industries. The targets would be set, within 1 year of the date of enactment, at levels representing the maximum feasible improvements which each of these industries can attain by January 1, 1980. In determining maximum feasible improvement, the Administrator shall consider (a) the objectives of the program established under this part, (b) the technological feasibility and economic practicability of utilizing alternative operating procedures and more energy efficient technologies, (c) any special circumstances or characteristics of the industry for which the target is being set, and (d) any actions planned or implemented by each such industry to reduce consumption by such industry of petroleum and natural gas.

The chief executive officer (or his designee) of each corporation identified by the Administrator as being among the 50 most energy-consumptive corporations in each of the 10 industries, and which consumes at least 1 trillion Btu's of energy per year, must file with the Administrator an annual report describing the corporation's progress in energy conservation. Each report shall be made on a simple form provided by the Administrator. The Administrator shall exempt a corporation from the reporting requirement if the corporation is in an industry which has an "adequate" voluntary reporting program. Such a program is adequate if the Administrator determines that (a) each corporation in such industry, which otherwise would be required to report, participates fully; (b) all necessary information is provided to the Administrator; and (c) reports made to trade associations or other persons in connection with such program are retained for a reasonable period of time and are available to the Administrator.

The program, including the reporting requirements, is not intended to preclude continuation of current FHA industrial energy conservation programs, nor does it preclude any other voluntary energy conservation programs involving industries which are not required to participate in this program.

Trade secrets or other matters described in 5 U.S.C. 552(b)(4), disclosure of which may cause significant competitive damage may not be disclosed, except to committees of Congress upon request of such committees. The exception is necessary to give Congressional committees access to information which might otherwise be available only by subpoena if there were no provision explicitly entitling committees of Congress to such information. This provision differs from section 505(d) of Title V of the Motor Vehicle Information and Cost Savings Act, which only places limitations on the types of information which may be withheld from the public under 5 U.S.C. 552(b)(4). As 5 U.S.C. 552 does not authorize withholding information from Congress, an exception under Section 505(d) of that Act requiring disclosure to Congress is unnecessary.

The reporting requirement is enforceable through injunctions, and there is no civil or criminal penalty under this part for failure to report. In addition, there is no civil or criminal penalty for failure to meet any energy efficiency improvement target.

The Administrator is directed to submit to Congress and the President, and to publish, an annual report on industrial energy efficiency developments and projections.

Any information submitted by a corporation under this part shall not be considered energy information subject to verification examination by the Comptroller General under Section 501 of this Act.

Nothing contained herein shall limit the Administrator's authority to obtain or require information under other provisions of law, or to enforce any such requirement.

Other Federal energy conservation measures

House Amendment

The House amendment required the Civil Aeronautics Board, the Interstate Commerce Commission, the Federal Maritime Commission, the Federal Power Commission, the Environmental Protection Agency, and the Federal Aviation Administration to study and report to Congress, within 60 days after the enactment of this legislation, on the energy conservation policies and practices instituted by them subsequent to October 1973. These agencies were further required, within 6 months after enactment, to propose to Congress programs for additional energy consumption savings. The minimum goal for each such program was a required 10% reduction, within 12 months from initiation (by comparison with 1972 as a base year), in the amount of energy consumed by the persons regulated by each such agency. The proposals to Congress were to include recommendations for any legislation believed to be necessary for the achievement of this goal. These agencies were also required, in consultation with the Federal Energy Administration, to study and prepare individual reports on each of their past and present practices which promote or perpetuate the inefficient use of petroleum products, coal, natural gas, electricity, and other energy sources; each such report was required to be submitted to Congress within 1 year after enactment. These agencies were directed to include, in each of their major regulatory actions, a statement of the probable impact of such action on energy consumption and supply and of its energy costs and benefits.

Senate Amendment

The Senate amendment made it the continuing policy of the Federal Government to foster and promote comprehensive conservation programs and practices in order "to better assure adequate supplies of energy to consumers, reduce energy waste, conserve natural resources, and protect the environment" and directed each Federal agency to be responsible for implementing this policy through continuing review of its statutory authority, policies, and programs to determine what changes would be required to assure conformity with this policy and through annual reports and the recommending of changes to the President and to the Congress. The Senate amendment also required the Civil Aeronautics Board, the Federal Maritime Commission, and the Interstate Commerce Commission to report separately and with specificity to the appropriate congressional committees on the need for additional regulatory authority in order to conserve fuel while continuing to provide for the public convenience and necessity; these reports were required to be submitted within 90 days after enactment. With 30 days after such submission, the Attorney General and the Federal Trade Commission were required to submit reports to the Congress and to the President analyzing the competitive consequences of the recommendations in these reports together with alternatives to avoid or minimize such effects while achieving the purposes of fuel conservation.

Conference Substitute

The conference substitute requires the Civil Aeronautics Board, the Interstate Commerce Commission, the Federal Maritime Commission, the Federal Aviation Administration, and the Federal Power Commission each to prepare and submit to the Congress, within 120 days after the enactment of this legislation, a report on the content and feasibility of proposed programs for additional savings in energy by persons regulated by such agencies. Within one year each agency shall study and prepare a report to the Congress assessing its policies and reviewing its authority with respect to energy conservation. Each such agency shall, where practicable and consistent with their authority under other law, include in major regulatory actions a statement of the probable impact of such action on energy efficiency and consumption.

The conference substitute also directs the President (1) to develop mandatory standards for procurement by the Federal government and Federal agencies; (2) to carry out a public education program on the need to conserve energy, including car pooling and van pooling; and (3) to develop and implement a 10 year plan for energy conservation with respect to buildings owned or leased by agencies of the United States.

Promoting the use of recycled oil

House Amendment

The House amendment required the Administrator of the Environmental Protection Agency, within 180 days after the enactment of this legislation, to promulgate performance standards, specifications, and testing procedures to facilitate determining whether re-refined or otherwise processed used oil is substantially equivalent to new oil intended for the same purpose. The House amendment required the Administrator to establish labeling standards, applicable to containers of re-refined or otherwise processed used oil which had been determined, pursuant to such performance standards and testing procedures, to be equivalent to new oil intended to be used for the same purpose. These labeling standards were required to permit such containers to bear a label stating the fact of such determination of equivalency with new oil. After promulgation of the labeling standard, the House amendment prohibited the Federal Trade Commission from requiring that a container bearing a label pursuant to the EPA labeling standard also be labeled as "used oil". All Federal officials were directed to encourage the use of recycled oil through procurement, education, and assistance in the development of performance standards. The General Services Administration, the Department of Defense, and other Federal agencies were required, within 18 months after enactment, to revise their procurement regulations and specifications to encourage the use of recycled oil and to reduce the consumption of new oil for purposes for which recycled oil is substantially equivalent.

Senate Amendment

No provisions.

Conference Substitute

The conference substitute requires the National Bureau of Standards to develop and report to the FTC respecting test procedures for comparison of re-refined or otherwise processed used oil with new oil for a particular end use. Recycled oil is defined as re-refined or otherwise processed used oil determined to be substantially equivalent to new oil for a particular end use. Within 90 days after development of the recommended test procedures by NBS, the FTC is required to prescribe test procedures and labeling standards applicable to containers of recycled oil. Containers of recycled oil, which bear a label in conformity with this labeling standard, may not be required by other Commission rules or State law or regulation to bear a label, regarding the comparative characteristics of the contents with new oil, which differs from the FTC label. Existing FTC labeling requirements which require that certain oil be labeled as "used oil" are made inapplicable to containers of recycled oil which are labeled in accordance with the labeling standards required to be prescribed under this section. The regulatory authority of the FTC regarding labeling of recycled oil is circumscribed to bar the Commission from requiring recycled oil, tested and labeled in accordance with the rules prescribed under this section, to be labeled with any term, phrase or description which connotes less than substantial equivalency with new oil for a particular purpose.

The Administrator of the Environmental Protection Agency is required to prescribe labeling standards applicable to disposal of used oil in order to reduce waste and environmental damage associated with improper disposal of used oil. Finally the section instructs other Federal officials to act within their authority to promote use of recycled oil.

Right turn on red

House Amendment

The House amendment directed the Federal Energy Administrator to evaluate the potential energy savings realizable from the adoption of a uniform traffic regulation which permits a motorist to turn right on a red signal after stopping. The Secretary of Transportation was directed to study the safety impact of such a regulation. The Administrator and the Secretary were directed to report to Congress, within 6 months after the date of enactment of this legislation, on their respective studies and to include any legislative recommendations for changes in Federal law to encourage the adoption of such a regulation.

Senate Amendment

No provision.

Conference Substitute

The conference subtitute includes right turn on red as part of the State energy conservation programs. (See supra.)

Public information programs

House Amendment

The House amendment authorized the appropriation of $6 million (through fiscal year 1978) for grants to State and local agencies which prepare approved public information programs relating to energy conservation, and the appropriation of $600,000 (through fiscal year 1978) to the FEA to carry out a national public information program to encourage energy conservation and improvements in energy efficiency. An application from a State for 90 percent Federal funding of such a public information program could be approved by the FEA if the program provided for (1) the dissemination of information regarding energy conservation and energy-efficiency improvement, to consumers and businesses; (2) the inspection of individual homes and businesses to assess ways in which energy could be saved on such premises; and (3) the dissemination of information regarding available tax benefits and grant programs for individuals and small businesses seeking to achieve energy conservation and to improve energy efficiency.

Senate Amendment

The Senate amendment made "public education programs to encourage voluntary energy conservation" one of 11 specified areas for purposes of interim energy conservation plans, national energy conservation standards, and State energy conservation programs. (Se discussion above.)

Conference Substitute

The conference substitute includes public information programs as part of the State and Federal energy conservation programs. (See supra.)

Restrictions on the use of governmental limousines

House Amendment

The House amendment prohibited Government agencies from purchasing, hiring, leasing, operating or maintaining a limousine (a type 6 vehicle, under the GSA specifications) for any purpose, or a passenger vehicle for the purpose of transporting any officer or employee of a Government agency between his home and his place of employment (except for certain medical officers, officers or employees in remote areas for whom such transportation is necessary, and for vehicles regularly used for investigative, law enforcement, or intelligence duties). These prohibitions did not apply to specified high ranking officials, to those officials whose personal safety was endangered by reason of their duties, and to military use for training, combat, or tactical purposes.

Senate Amendment

No provision.

Conference Substitute

This provision of the House amendment is omitted from the conference substitute. The conferees indicated that this action does not indicate disapproval of the provisions of the House amendment, but rather an intent to continue existing Federal law in force because it is more stringent.

Van pooling arrangements and carpools

House Amendment

The House amendment directed the FEA to establish a program encouraging employers to provide van pooling arrangements for their employees. As used in this provision, a van pooling arrangement was defined to mean a nonprofit arrangement for the transportation of employees between their homes and jobs through the use of motor vehicles manufactured for use in the transportation of not less than 8 and not more than 15 individuals. The FEA was also directed to develop van pooling arrangements for use by Federal Government employees and executive agencies.

The House amendment directed the Secretary of Transportation (ST) to encourage the use of carpools and to establish an Office of Carpool Promotion within the Department of Transportation to promote this objective. The ST was directed to encourage and promote carpooling incentives such as special parking privileges, special road way lanes, and toll adjustments. "As an example to the rest of the Nation's automobile users", the President was directed to require all Federal agencies, where practical, to use economy motor vehicles.

Senate Amendment

The Senate amendment made "programs to maximize use of carpools and public transportation systems" one of 11 specified areas for purposes of interim energy conservation plans, national energy conservation standards, and State energy conservation programs. (See discussion above.)

Conference Substitute

The conference substitute includes van pooling and carpooling as part of the State energy conservation programs and the Federal public education program. (see Supra.)

Energy conservation through a prohibition of unreasonable transportation

House Amendment

The House amendment prohibited the use of gasoline or diesel fuel to transport students to a school other than the one closest to a student's home within the boundary of that student's school attendance district. This prohibition would not apply to a parent transporting his own child to school or to transportation for extracurricular school activities. The House amendment also prohibited the sale of gasoline or diesel fuel if the seller had reason to believe that it would be used for transportation in violation of this provision.

Senate Amendment

No provision.

Conference Substitute

This provision in the House amendment is omitted from the conference substitute.

IV—MATTERS RELATED TO PETROLEUM PRICING POLICY AND THE ALLOCATION ACT

Oil pricing policy

The Emergency Petroleum Allocation Act of 1973 was enacted to deal with the nation's petroleum needs in the face of a severe shortage of crude oil and its products. Regulations formulated under this Act established a "two-tier pricing system". "Old oil" (oil produced from a property at a level equal to or less than the amount of oil produced from that property during the same calendar month of 1972) is controlled at the price which prevailed in the field on May 15, 1973, plus an additional $1.35 per barrel. This results in a national average price for such oil estimated by FEA to be $5.25 per barrel.

The second tier in the present regulatory system consists of three categories of domestic product that are not subject to ceiling prices. First, the Allocation Act provides that oil from properties producing less than 10 barrels per day per well in the previous year ("stripper well" oil) is not subject to the old oil price ceiling. Second, the Federal Energy Administration regulation under the Allocation Act provides that oil from producing properties which exceeds the level of production from the same property in the same calendar month of 1972 is not controlled to the extent of that excess. If a property was not producing in 1972, all of the current production is considered "new oil". And, third, a volume of old oil equal to the amount of "new" oil produced from a property that was producing in 1972 is simultaneously released from the price ceiling on old oil ("released oil"). Thus, oil from a property which was producing 1,000 barrels per day in a calendar month of 1972 would be subject to the old oil price ceiling for the first 1,000 barrels per day produced in the same calendar month of 1975. If, however, this property increased its production to 1,200 barrels per day, the extra 200 barrels are not subject to the old oil price ceiling, and an additional 200 barrels are released from the old oil price ceiling. Thus, the first 800 barrels per day of current production would be subject to the price ceiling, and the other 400 barrels per day would not be controlled. Exceptions made by the FEA, on an individual property basis, for wells which require high-cost production.

Old oil

House Amendment

The House amendment prescribed a ceiling price of $5.25 on each barrel of old oil, except that old oil produced from fields certified to have applied tertiary recovery techniques could be sold at such higher price as the President established by rule, but the average of such higher prices could not exceed $10.00 per barrel, plus an inflation adjustment factor of two-thirds of 1 percent for each month after the 88th month following enactment.

The concept of "released" oil was not included in the House amendment.

Senate Amendment

The Senate amendment directed the President to maintain the price of old oil at the current level of $5.25 per barrel; "released" oil was excluded from the definition of, and the ceiling price for, old oil.

Production above 1972 levels

House Amendment

The House amendment set a ceiling price of $7.50 per barrel, plus an inflation adjustment factor of two-thirds of one percent for each month after the 45th month following the enactment of this legislation on the volume of oil produced in a month from a property in excess of the average monthly production from the property during an eight-month period of 1972. Provision was made for oil subject to tertiary recovery to be sold at such higher price as the President established by rule, but the average of such higher prices could not exceed $10.00 per barrel, plus an inflation adjustment factor of two-thirds of 1 percent for each month after the 88th month following enactment.

Senate Amendment

The Senate directed the President to determine the percentage rate of decline which would normally be expected in production from individual oil reservoirs, absent the application of enhanced recovery techniques. The amount of crude oil which was produced from such a reservoir in excess of this decline curve could be sold at a price not in excess of $7.50 per barrel. Oil produced therefrom in excess of unadjusted 1972 level could be sold at the highest price applicable to new oil of such quality in such producing area.

New oil

House Amendment

The House amendment imposed a statutory price ceiling of $7.50 per barrel, plus an inflation adjustment factor of two-thirds of 1 percent for each month after the 45th month following the enactment of this legislation, on oil produced from properties which were not producing in 1972 ("new oil") and on stripper well lease production which did not qualify for an "independent producer exemption."

This price ceiling did not apply to new oil which was produced from (1) the Arctic Circle and the Outer Continental Shelf; (2) property certified as utilizing tertiary recovery techniques; and (3) "high cost" properties, including marginal well properties. The President was authorized to establish, by rule, higher prices for new oil from such areas and properties provided that the average of such prices did not exceed $10.00 per barrel plus an inflation adjustment factor of two-thirds of 1 percent for each month after the 88th month following enactment.

The House amendment imposed a statutory ceiling price of $11.50 per barrel of oil (plus $.05 per barrel for each month after the date of enactment) applicable to (1) the first 3,000 barrels per day produced by an independent producer from "qualifying properties," and (2) stripper well production by an independent producer. An "independent producer" was defined as a producer who did not engage in both refining and retailing operations and whose daily average production of crude oil in the preceding year did not exceed 15,000 barrels per day.

Senate Amendment

The Senate amendment directed the President to set a ceiling price on production classified as new, released, or stripper oil which was not to exceed the prevailing field price on January 31, 1975, of approximately $11.28 per barrel.

Adjustment in price ceiling

House Amendment

The House amendment authorized the President to propose an increase in the ceiling price of old oil which could take effect if not disapproved by either House of Congress. The President was not, however, authorized to raise administratively any of the other price ceilings.

Senate Amendment

The Senate amendment authorized the President to propose increases in any price ceilings which could take effect if not disapproved by either House of Congress.

Duration of price controls

House Amendment

The House amendment did not provide for any termination of price ceilings on domestic oil production. The price ceilings were set forth in the form of an amendment to the Emergency Petroleum Allocation Act of 1973, and the House amendment extended that Act without including any provision for its expiration or termination. A mechanism was provided, however, for converting the authority to specify price (or the manner for determining price) from a mandatory requirement to a standby authority, subject to disapproval by either House of Congress. If the Congress did not disapprove the exemption, any oil or product could have been exempted from existing allocation and price controls. The President would thereafter retain authority to reimpose controls upon a determination by him that reimposition was necessary.

Senate Amendment

The Senate amendment authorized the President to decontrol classes of oil production, subject to disapproval by either House of Congress within 10 days of submission of a section 4(g)(2) decontrol plan under the expedited congressional review procedures. The price ceilings were set forth in the form of an amendment to the Emergency Petroleum Allocation Act of 1973, and the Senate amendment extended that Act only until March 1, 1976.

Conference Substitute On Oil Pricing Policy

The conference substitute establishes a pricing policy which calls for a continuation of controls on the price of crude oil over the next 40 months. Under the terms of the substitute, the President is to have a substantial measure of administrative flexibility to craft the price regulatory mechanism in a manner designed to optimize production from domestic properties subject to a statutory parameter requiring the regulatory pattern to prevent prices from exceeding a maximum weighted average.

Initial pricing formula

The conference substitute directs the President to amend the regulation under section 4(a) of the Emergency Petroleum Allocation Act within two months of the bill's enactment to establish ceiling prices applicable to any first sale of domestic crude oil so as to result in an initial weighted average first sale price not to exceed $7.66 per barrel.

The conference substitute specifies a "first sale" price (with discretion in the President to impute, in a manner to be specified by regulation, an equivalent price for inter-affiliate transfers). The first sale price, which is currently the price to which FEA's current ceiling price rules apply, is the price charged in the first transfer for value by the producer or royalty owner, which transfer usually but not always occurs at or near the wellhead. The first sale price for crude oil may, in some instances, include costs for transportation and other services.

It is the intention of the conferees that the term "first sale" be defined in the regulations to make clear that it applies to the first transfer of a barrel of crude oil for value in an arms-length transaction. With respect to transactions between affiliated or associated companies, FEA has the authority to impute a transfer value which bears a reasonable relationship to transfers between unaffiliated persons in arms-length transactions. It is the conferees' understanding that the regulation defining "first sale" could extend principles and procedures now applicable under current regulations to determine transfer prices for imports as well as the point of sale and sales price of old crude oil and stripper well oil, to all ceiling prices promulgated under the new pricing program.

While the President is to have considerable discretion in structuring the price regulatory mechanism (as noted above), the Committee contemplates that, at least initially, current differentiations between new and old oil production will be maintained, subject to such modification as is necessary to conform the present regulation to the requirements of this Act. It is the conferees' understanding that should the President structure the price regulatory system in this manner, an initial ceiling price of approximately $11.28 per barrel could be applied to new oil and production from stripper well leases so as to preserve significant price incentives for optimizing production from these sources.[1] Necessarily, working within the parameters of a maximum average weighted first sale price restraint, any system devised by the President which would permit higher prices for old oil production will reduce his ability to provide significant upper-tier price incentives for other classifications of domestic production. Consequently, the conferees imposed procedural limitations which require the President to make specific findings should he take any action which results in higher prices for current old oil production volumes. Thus, the President may not depart from the current regulatory control of old oil, unless he finds that the departure will provide a positive incentive for the application of enhanced recovery techniques, or for deep horizon development of, old oil producing properties, or as necessary to take account of declining production with respect to such properties. In any such circumstance, the President must also find that the departure from current controls is likely to result in greater production from such properties than would otherwise occur had the departure not been made. Thus, the prices for old oil volumes would be permitted to increase only upon a reasonable assurance that there would be a positive production response.

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[1] This calculation assumes a weighted average price of old oil of $5.25. Should the $5.25 average price prove to be an inaccurate measure of actual prices the President shall take this into consideration before making any upward adjustments in upper-tier prices.

The President is granted broad authority to establish ceiling prices for classifications of domestic crude oil production if he finds that such classifications are administratively feasible and will optimize domestic production. Subject to the statutory requirement that any such ceiling price and such classification be supported by appropriate findings, the President would have authority, in certain instances, to establish a ceiling price which could be at levels above the then current market clearing price as long as the actual weighted average first sale price for the totality of domestic crude oil production does not exceed the maximum weighted average price allowable under this Act.

As a matter of emphasis, the conferees wish to point out that the President is not required to establish a price mechanism of particular dimension or with specified characteristics provided the maximum weighted average first sale price limitation is not exceeded. The numbers of tiers employed and the types of classifications used will depend upon the President's determination as to what is administratively feasible and can be supportable pursuant to the findings set out in the statute. In this regard, the conferees intend that the term "administratively feasible" be understood to mean a workable pricing program which is both fully enforceable under section 5 and compatible with achieving the policy objectives set forth in section 4(b) (1) of the Emergency Petroleum Allocation Act.

Adjustments to the maximum weighted average price

The initial maximum weighted average price of $7.66 per barrel is subject to periodic adjustments to take account of inflation. An additional increase of no more than 3% per year may be made to the maximum weighted average price as production incentive to encourage the development of high cost, high risk properties, including production by independent producers; properties located on the Outer Continental Shelf and North of the Arctic Circle; and deep wells or deeper horizons in existing wells located both onshore and offshore. The 3% production incentive adjustment may also be applied if the President finds such application will encourage utilization of enhanced recovery processes or the maintenance of production from marginal wells, including production from stripper wells and that such application is likely to provide a positive incentive for increased domestic crude oil production. The sum of the inflation factor adjustment and any production incentive adjustment factor applied in any given year may not increase the maximum weighted average price in excess of 10 percent per year.

Computation of the inflation adjustment factor is to be based on the GNP deflator published by the Department of Commerce, and adjusted by the President to exclude any portion of the published deflator which is directly attributable to OPEC price increases. If the Department of Commerce undertakes any major changes in their method of computing the GNP deflator which would have significant effect on the adjustment for inflation provided in the oil pricing formula proposed in the conference substitute the President would be authorized and expected to modify the adjustment for inflation in a manner determined to be appropriate to avoid any inintended aberration.

Subject to the statutory requirement that certain actions be supported by specified findings which are subject to review by the Courts or the Congress (as the case may be), whether to employ any upward adjustments to the maximum weighted average price and questions related to the timing of any such amendments are matters within the discretion of the President.

Ninety days after the date of enactment of this legislation, at not less than ninety day intervals thereafter, the President may submit to the Congress a proposal in the form of an amendment to the pricing regulations to increase the 3% limitation on the incentive adjustment factor, a proposal to increase the overall 10% annual limitation on adjustments to the maximum weighted average price, or a proposal to increase both.

Disapproval of such a proposal by either House within 15 days would prevent the amendment to the regulation from taking effect.

On February 15, 1977, the President is required to submit to the Congress a report containing an analysis of the impact on the economy and the supply of domestic petroleum products of all amendments adopted pursuant to this section including the supply of domestic petroleum products of ceiling prices promulgated to implement the maximum weighted average price requirement of the conference substitute, and may at that time submit a proposal to continue or modify the incentive adjustment factor, to increase the overall annual limitation factor on upward adjustments or both. Disapproval of this proposal by either House within 15 days would prevent the amendment to the regulations from taking effect. If an initial proposal is disapproved, the President may submit an additional amendment concerning the same subject matter within 30 days of the initial disapproval. Failure of the President to submit any such proposal on February 15, 1977, or disapproval of his first and second submissions, if any, would prevent the continued application of the production incentive adjustment factor until such time as a proposal to reinstate this adjustment factor is proposed by the President under his authority to do so at ninety days after the last submission and is not disapproved by either House.

Carryforward provision

The President is required to periodically test the price regulatory mechanism to determine whether actual prices are within the statutory parameter of the maximum allowable weighted average first sale price. Adjustments in the pricing formula are required in any subsequent period to adjust for any excess above the maximum allowable price and may be made to offset any determined deficiency.

If, during any period, the actual weighted average price is less than the allowable maximum weighted average price solely because overall market conditions and competition produced actual sales prices below established ceiling prices (such as may result from a break in OPEC prices), such prices would be deemed to have "resulted" from the price regulatory system. On the other hand, in the circumstances where the President, having made the appropriate findings, has specifically established a ceiling price for a particular classification of domestic production above the market clearing price, it is contemplated that the market clearing price will be used as the price which results from the regulation for the purpose of testing compliance with the maximum weighted average first sale price established by the statute.

The conferees understand and expect that the administration of the crude oil pricing policy described in the Act will require an expansion in scope, quality and timeliness of the collection and analysis of data by the Federal Government describing the production and sale of domestic crude oil. Under current FEA regulations, each domestic refiner is required to report, on form FEO-96, the average prices of domestic and imported crude oil and the composite average price of all crude oil acquired during a given month. Form FEA-P-102, which contains the basic information for the operation of the current crude oil entitlements program, requires reporting of the volumes of domestic old oil, domestic uncontrolled oil and imported oil processed by each refiner in a given month. The prices obtained from refiners include transportation costs, inventory fees and other charges and/or margins associated with transactions taking place between the time oil is produced and the time it is acquired by the refiner, while the data describing volumes of oil processed in each category do not necessarily reflect the production of such oil in a given month.

Certain producers of new and released (but not stripper) crude oil currently report, on form FEA-90, both production volumes and first sale prices of such oil. FEA estimates that companies accounting for 87 percent of domestic production are reached in this survey. At present, no data series compiled by FEA or by any other Federal agency covers production and prices of all categories of domestic crude oil.

The conferees expect that a data collection system which substantially increases current FEA coverage of the volumes and first-sale prices of domestic crude oil production will be required to carry out the pricing provision of the Act. The conferees do not intend to preclude the use by the President of valid, reliable, and statistically representative sampling techniques to accomplish the monitoring of domestic oil prices. However, to the extent that the reporting system upon which crude oil price regulation is based covers less than the relevant universe of sources of primary data, the conferees fully intend that the measure of actual weighted average first-sale prices of domestic crude oil which is adopted for purposes of this Act shall be valid, reliable and completely defensible, whether based on or a continuation and expansion of the existing FEA data system or its replacement by a new and more comprehensive one. Finally, the conferees intend that the current FEA audit of crude oil price and production data be continued or replaced by a new system which results in a more complete and comprehensive auditing of actual domestic oil pricing practices.

Alaska production

On April 15, 1977, the President is required to submit to the Congress a report on the adequacy of the then current weighted average price to provide positive incentives for the development of Alaska oil production without reducing ceiling prices and production incentives in the lower forty-eight states.

If the President finds that the then current maximum weighted average price is not adequate to provide such positive incentive, he may submit to the Congress a proposal, in the form of an amendment to the pricing regulation, to exclude up to 2 million barrels per day of Alaska production flowing through the Trans-Alaskan pipeline referred to in paragraph 2(a) in subsection (g) from the calculation of the actual weighted average price. Such a proposal must include a proposed ceiling price or prices for such excluded Alaska production, the average of which cannot exceed the highest actual weighted average first sale price permitted under the regulation for significant volumes of any other classification of domestic oil. Such proposal must be supported by findings justifying the level of such ceiling price or prices. Disapproval of the proposal by either House within 15 days under expedited procedures would prevent such an amendment to the regulations from taking effect.

If such an amendment is disapproved, the President can send an additional proposal for exempting Alaska production within 30 days of the initial disapproval. If either proposal becomes effective, beginning on January 1, 1978, and at no sooner than 90-day intervals thereafter, the President may submit to the Congress, proposals to modify the ceiling price or prices established in his initial Alaska exemption proposal. If either House disapproves the proposal within 15 days, the proposed modification may not become effective.

Judicial review

Because the conference substitute provides Congressional review of certain amendments to the regulation under section 4 of the Emergency Petroleum Allocation Act, judicial review of such amendments and any supporting findings has been circumscribed in part.

Passthroughs in prices of cost decreases

The Conference Substitute states that the President is required to promulgate a pricing regulation which requires a dollar-for-dollar passthrough in prices of all decreases in the costs of crude oil, residual fuel oil, and refined petroleum products which have occurred or will occur. Under current regulations, the opportunity is provided for a refiner or marketer to pass though its increased crude oil or product costs. This is done by allowing the maximum lawful selling price of each seller to be increased upward to reflect increases incurred in the cost of crude oil or products purchased. The Conference Substitute requires that *decreases* in a firm's cost of crude oil, residual fuel oil, or refined petroleum products be fully taken into account in computing that firm's maximum lawful selling prices.

Until now such a provision has been unnecessary because few, if any, firms have enjoyed a reduction in their input costs. The pricing provisions contained in the Conference Substitute and the removal of import fees should, however, result initially in a significant reduction in the actual weighted average first sale price of domestic crude oil. This provision of the Conference Substitute will help to assure that as much of the crude oil price reduction as is possible will be passed through the various levels of refining and distribution to the consumer level. Of course, it cannot realistically result in a full and immediate dollar-for-dollar reduction of any seller's current selling price if that seller is already below its maximum lawful prices and if the Federal Energy Administration does not alter the rules regarding so-called "banked costs".

This provision of the Conference Substitute requiring a dollar-for-dollar passthrough in prices of cost decreases in crude oil, residual fuel oil, and refined petroleum products is very much related to the provisions in the Conference Substitute pertaining to cost passthroughs and proportionate pricing. In a letter of December 6, 1975 from Federal Energy Administrator Frank Zarb to the Honorable Henry M. Jackson, Mr. Zarb estimated that the maximum effect on domestic product prices as a result of the pricing provisions in this Conference Substitute would be about 2.5 cents per gallon. In that letter Mr. Zarb went on to explain the relationship between this price decrease, and the way that it could be expected to flow through to the consumer. A portion of that explanation is included in this statement to clarify the relationship between the passthrough in prices of cost decreases provisions of the Conference Substitute and the provisions on banked costs:

The question of how fast this decrease will flow through to ultimate consumers depends more on market conditions than on law or FEA regulations. Under Section 4(b)(2)(A) of the Emergency Petroleum Allocation Act companies are authorized to pass through to consumers increased costs of crude oil, but FEA regulations interacting with market conditions have prevented them from doing so on a current basis. As of November 1, 1975, refiners collectively had unrecovered crude oil cost increases of about $1.4 billion that they were authorized to recoup in higher places but had as yet been unable to recoup because of the competitive pressures of the marketplace.

These "banks" of unrecovered costs are not equally distributed among all refiners. Most are held by refiners who had higher than average feedstock costs before FEA's old crude oil entitlements program began operating. Accordingly, some refiners who currently have little or no banked costs because they have been passing through increased crude oil costs on a current basis will be required to pass on immediately in product prices any reduction in their average crude feedstock costs caused by this bill. In a market characterized by plentiful supplies of product, this mandatory reduction in prices by some refiners will place substantial competitive pressures on other refiners to meet these lower prices so as to preserve their market shares and their volumes of sales.

The exact timing and extent of price reductions therefore simply cannot be predicted with any degree of confidence. They depend on the individual business decisions of literally thousands of refiners, distributors, and retailers of petroleum products. Each is caught between two conflicting motivations: trying to collect as much as possible of any increased costs not yet recovered, versus the need to meet competition so as to keep volume and market share up. Profit-maximizing behavior for each company will be different depending on its own circumstances.

The general direction of the forces at work is clear. Currently, product markets are characterized by plentiful supplies and prices below those allowable under existing law and regulations. For those refiners without "banks" of unrecovered product costs, regulations will force lower prices early, thereby imparting downward pressure on all market prices. How fast that flow-through will be, on which products it will occur and in what amounts will be determined entirely by the interaction of supply and demand in the marketplace so long as prices are below legal limits.

Regardless of the rate at which the cost reductions flow through in lower prices to consumers, the Conferees may rest assured that their actions, if enacted by the Congress and signed by the President, should result in a saving to consumers of about 2.5 cents per gallon on petroleum products. These savings, however, will not necessarily be evidenced by actual and immediate decreases from current product price levels at the point of final purchase. They will also be evidenced by a reduction in prices in future months as a result of the immediate reduction in the amount of costs that refiners and resellers will have available for passthrough to consumers in those future months. Thus, prices will be less in future months than they otherwise would have been under a continuation of the present program. The combined effect of the operation of FEA regulations and competition in the marketplace should assure that consumers will reap the full benefit of the rollback one way or the other. What cannot be specified with any precision is exactly how that benefit will be distributed over time and among the products covered by price regulations.

Certain domestic allocation authorities and stripper well repeal

The conference substitute repeals existing section 4(d) of the Emergency Petroleum Allocation Act, requiring that all domestic production be allocated for domestic use, and existing section 4(e), granting stripper wells an exemption from price controls. In view of the explicit language in Section 103 of the conference substitute prohibiting the export of crude oil and petroleum products, the less specific language of Section 4 with regard to the domestic allocation of petroleum products is no longer needed.

Under the conference substitute, stripper well ceiling prices come within the President's broad discretion to set ceiling prices to implement the maximum weighted average price requirement of the legislation. It is the conferees' understanding, that, within the limitations of the conference substitute, the President will most likely establish a separate stripper well ceiling price of approximately $11.28—the equivalent of the upper tier under a continuation of the current two-tier pricing program subject to limits of the conference substitute in order to assure sustained notes of production from such properties.

Limitations on pricing policy

House Amendment

The House amendment amended section 4(b)(2)(A) of the Emergency Petroleum Allocation Act of 1973 to provide that no passthrough of any net increases in the acquisition cost of crude oil (which were incurred after the enactment of this legislation) would be permitted more than 60 days after the date on which these increases were incurred.

In addition, the House amendment required that the specification of, or the manner for determining, the prices of residual fuel oil and of each refined petroleum product by a refiner whose facilities are located in the United States, shall reflect a proportionate distribution of costs.

Senate Amendment

No provision.

Conference Substitute

The conference substitute provides that any crude oil cost increase incurred by refiners in the month preceding the effective date of the amendment to the Allocation Act regulation mandated by section 8(a), or any time thereafter, which are not passed through within the 60 day period which follows the month in which such increases are incurred, as product prices charged by a refiner may not be subsequently passed through by such refiner at a later date, except as provided in this section. To permit such later pass through, the President must report to the Congress respecting his findings that such authority is necessary to alleviate the impact of significant increases in crude oil costs, to provide for equitable cost recovery by refiners and to avoid competitive disadvantages to individual refiners. Any such later passthrough is further limited by an overall 10% per month limitation.

With respect to such net increases in the cost of crude oil incurred one month prior to the effective date of the pricing program by the Conference and not passed through as of that date, not more than ten percent of the amount of such banked costs in effect on that day can be passed through in any subsequent month.

With respect to net increases in the cost of crude oil incurred after one month prior to the effective date of the Conference substitute pricing program, and subject to passthrough beyond the allowable 60 days pursuant to the appropriate Presidential findings, passthrough in any given subsequent month cannot exceed ten percent of the total of such net cost increases incurred after such date and not passed through within the allowable 60 days.

The net effect of both these limitations on banked cost passthroughs is to limit such passthroughs beginning with the effective date of the conference substitute's pricing program to ten percent of any banks in existence on the last day of the last calendar month prior to the effective date plus ten percent of any amount incurred one month prior to effective date and not passed through within 60 days of the month in which incurred.

Any allowable increase in the cost of crude oil, residual fuel or other refined petroleum products must be permitted to be passed through on a dollar for dollar basis to all levels of the petroleum distribution chain.

This provision also prohibits the distribution by volume of any increase in the cost of crude oil to Number 2 oils, aviation fuel, and propane produced from crude oil in greater than a directly proportionate amount. Under current regulations, refiners are not permitted to passthrough crude oil cost increases on a greater than directly proportionate by volume basis to Number 2 oils, heating oil and diesel fuel and propane. This provision adds aviation fuel to this proportionate pricing formula and elevates the regulatory scheme to statutory status. The conference committee fully intends however, to preserve the existing flexibility to tilt away from propane and home heating oil as provided in existing regulation.

Such proportionality in cost passthroughs pertaining to these three categories of refined petroleum products applies to all net increases in the cost of crude oil, including those incurred in the month preceding the effective date of the conference substitute's pricing formula and passed through within the allowable 60 days, those incurred in the month preceding the effective date and passed through after the 60-day limitation, pursuant to the appropriate Presidential findings, and the 10 percent limitation, and all such costs incurred before the effective date of the Act's pricing program and subject to the appropriate 10 percent passthrough limitations.

With respect to the conference substitute's proportionate distribution of costs requirement, the President may, by order, permit a deviation from proportionate passthrough upon a finding that such deviation would be consistent with the objectives specified in section 4(b)(1) of the Allocation Act and will not result in inequitable prices to any class of users of such product.

Prohibition of minimum prices

House Amendment

The House amendment prohibited the President from prescribing minimum prices for crude oil, residual fuel oil, or any refined petroleum product.

Senate Amendment

No provision.

Conference Substitute

The conference substitute follows the provision in the House amendment, but confines its reach to negating the use of any authority under this Act or the Emergency Petroleum Allocation Act.

Exemption for small refiners

House Amendment

The House amendment added a new subsection to section 4 of the Emergency Petroleum Allocation Act of 1973 to exempt from any provision of the regulation promulgated under section 4(a) which requires refiners to purchase entitlements for crude oil based on the number of barrels of such refiner's crude oil input, the first 50,000 barrels per day of the input of a refiner whose total refining capacity (including that of affiliates) was not in excess of 100,000 barrels per day on January 1, 1975 and whose capacity did not thereafter exceed that daily amount. The exemption was made effective with respect to any payments due on or after the last day of the month in which this legislation was enacted.

Senate Amendment

The Senate amendment amended section 4 of the Allocation Act to provide that any requirement of the section 4(a) regulation as to the purchase of crude oil entitlements would not apply to the first 50,000 barrels per day of those refiners whose total refining capacity (including that of affiliates) did not exceed 100,000 barrels per day on January 1, 1975. The exemption would be effective as to payments due with respect to crude oil receipts and runs to stills which occurred on or after February 1, 1975.

Conference Substitute

The conference substitute follows the provision in the House amendment.

Pharmaceuticals

House Amendment

The House amendment amended section 4(b)(1)(A) of the Emergency Allocation Act of 1973 to make clear that protection of public health includes needs related to the production of pharmaceuticals.

Senate Amendment

No provision.

Conference Substitute

The conference substitute follows the provision in the House amendment.

Priorities for mineral extraction

House Amendment

No provision.

Senate Amendment

The Senate amendment amended section 4 (b)(1) of the Allocation Act to include a priority for exploration, production and extraction of minerals essential to the requirements of the United States and for any required transportation which is related thereto.

Conference substitute

The conference substitute follows the Senate amendment.

Penalties for allocation act violations

House Amendment

The House amendment increased the amount of the civil penalty which could be imposed under the Emergency Petroleum Allocation Act of 1973 to (1) a maximum of $20,000 for violations related to the production and refining of crude oil; and (2) a maximum of $10,000 for violations related to the wholesale distribution of residual fuel oil or refined petroleum products. The maximum of such penalties for retail-level violations remained $2,500. The criminal penalties for Allocation Act violations were changed to authorize (1) imprisonment for not more than one year; (2) a fine of up to $40,000 for willful violations related to crude-oil production or refining; (3) a fine of up to $20,000 for willful violations related to the wholesale distribution of residual fuel oil or any refined petroleum product; and (4) a fine of up to $10,000 for willful violations, at the retail level, related to the distribution of residual fuel oil or of any refined petroleum product.

Any individual director, officer, or agent of a corporation who knowingly and willfully authorized, ordered, or performed any act in violation of the Allocation Act and who had notice, or reasonably should have had notice, of such corporation's noncompliance, would be subject to these criminal penalties, regardless of whether or not civil penalties were imposed on the Corporation.

Senate Amendment

No provision.

Conference Substitute

The conference substitute follows the House amendment with respect to those provisions of the House Amendment which permitted corporate directors, officers and agents to be held individually responsible for those violations of the corporation which they knowingly and willfully authorized, ordered, or performed, the conference substitute limits the authority to seek a term of imprisonment to circumstances when the director, officer or agent had knowledge or reasonably should have known of prior notice of noncompliance received by the corporation. With the exception of this latter proviso, nothing in the section is intended to change existing case law relating to the individual responsibility of corporate directors, officers or agents for violations of those corporations.

It should be pointed out that under FEA regulations, each day of a continuing violation is considered a separate violation for purposes of the penalty provisions under the current Act. Such a construction is necessary if the penalty provisions are to provide a meaningful deterrent to violations which are continuing in nature, such as the failure to supply oil or products pursuant to an allocation regulation or order. Although the maximum penalties have been substantially increased by the conference substitute, there are still likely to be numerous instances in which the maximum penalty would not deter unlawful conduct unless such a construction were applied. The Committee therefore expects the FEA to continue to view each day of a continuous violation to be a separate violation.

Antitrust provision in allocation act

House Amendment

No provision.

Senate Amendment

The Senate amendment added a new subsection to section 6 of the Emergency Petroleum Allocation Act of 1973 and removes the provisions of that section which relate to assertions of a defense in antitrust litigation. The new provision makes it an affirmative defense, in an action for breach of contract, that the alleged breach was caused solely by compliance with the Allocation Act or regulations or orders thereunder.

Conference Substitute

The conference substitute follows the provision in the Senate amendment.

Reevaluation of section 4(a) regulation

House Amendment

The House amendment amended the Allocation Act to direct the President, within 30 days after enactment of this legislation, to conduct a review (including notice thereof and an opportunity for interested persons to comment in writing and orally) of the appropriateness and continuing efficacy of, or need for, any of the provisions of the regulation promulgated under section 4(a) of that Act, with respect to the attainment of the objectives stated in section 4(b)(1) of that Act. Within 90 days after enactment, the President was required to propose such amendments to the section 4(a) regulation as he determined were necessary or appropriate to modify or eliminate any provisions thereof which were found to be inconsistent with, or no longer necessary to the attainment of, the section 4(b)(1) objectives. Any such amendment would take effect as provided under its terms.

Senate Amendment

No provision.

Conference Substitute

The conference substitute modifies the House Amendment by requiring the President to hold hearings within 60 days of enactment to determine the need for amending any regulations under the Emergency Petroleum Allocation Act in an effort to better achieve the objectives specified in 4(b) (1) of the Act.

The President is required to submit to the Congress, within 120 days of the enactment of this legislation, an analysis of all such recommendations, and thereafter promulgate such amendments as are necessary to modify the regulations for the purpose of better attaining the objectives specified in section 4(b) (1).

The conferees believe that, in connection with the review and oversight of the FEA regulations under the Allocation Act, the following matters should be considered: (1) an equitable and proportionate distribution of costs among all refined products; (2) the contention by some that major petroleum companies are selling to their captive stations or employee-operated stations on more favorable terms than to branded and nonbranded independent marketers; (3) an evaluation of the feasibility of removing controls from the retail and/or wholesale level; (4) an assessment of whether crude oil purchasers and resellers who initiated business after the 1972 base period should be able to have an opportunity to establish a business and to compete with others for the purchase of crude oil from producers.

(5) a review of the mandate to allocate on an equitable basis between regions, giving due regard to historical patterns rather than to create preferences between regions without reference to historical patterns; and (6) the extent to which environmental impacts are being adequately considered prior to making allocation decisions.

Conversion to standby authorities

House Amendment

The House amendment authorized the President to convert mandatory provisions of the Emergency Petroleum Allocation Act of 1973 to standby authority, subject to disapproval by either House in an expedited 15-day Congressional review procedure. The President was authorized to exempt from controls crude oil, residual fuel oil, or any refined petroleum product. Such amendment may apply to different market levels (i.e., production, refinery, wholesale distribution, or retailing) and may provide for scheduled or phased implementation. It would not, however, give the President the authority to exempt first sales of domestic crude oil production from the statutory price ceiling.

Once exempted, the President would have standby authority to reimpose allocation and price controls and subsequently modify them without Congressional review.

Senate Amendment

No provision.

Conference Substitute

In early October 1973 the "Yom Kippur" war broke out in the Middle East. An embargo was imposed on the United States and other countries by the oil producing Arab countries. Suddenly, the United States was faced with the possibility of drastic shortages in crude oil supplies and spiralling of petroleum costs. In this crisis atmosphere, Congress passed the Emergency Petroleum Allocation Act in 1973 (EPAA). The Act gave the President the necessary authority to meet the shortage conditions that existed in the first half of 1974 with minimum impact upon the Nation while preserving the market position of the independent segments of the petroleum industry.

The regulations promulgated by the Federal Energy Administration pursuant to the mandatory authority of the EPAA establish a comprehensive regulatory structure which cuts across and applies to all sectors of the petroleum industry. Conceptually, the regulations may be segmented into two parts—those provisions dealing with the pricing of covered petroleum products and those provisions dealing with allocation of those products.

The price regulations are further divided into three sets of rules, each dealing with one segment of the petroleum industry. The pricing provisions treat crude oil producers, refiners, and resellers and retailers.

The allocation regulations are divided into two allocation programs, one dealing with crude oil and one dealing with products refined from crude oil.

The United States still faces a critical energy problem. However, the dimensions of that problem are far different from those which existed in 1973 and were addressed by the EPAA. There is no longer a general shortage of either crude oil or refined petroleum products, with the possible exception of propanes. In many ways, the supply side of the market has returned to near the pre-embargo conditions which prevailed in 1972.

In view of these changed conditions, a comprehensive regulatory structure of the scope outlined above may no longer be necessary. On the other hand, to allow such a comprehensive structure to expire, overnight, may itself create severe dislocations. To the extent that mandatory controls are no longer needed or desirable, a gradual return to an unregulated market is preferable to sudden decontrol.

In addition, while some products or some markets may no longer need mandatory price and allocation controls, conditions are not identical throughout the entire industry. Moreover, certain policies adopted in Title IV of this legislation would require continuation of certain controls. Section 401 establishes a pricing policy applicable to domestic crude oil which promises to maintain domestic crude oil prices below the OPEC cartel-established world market prices. This policy requires a continuation of certain programs established pursuant to the authorities of the EPAA. Specifically, it is contemplated that crude oil cost equalization (entitlements) program would have to be continued or some equivalent devised to preserve competition so long as a substantial difference continues to exist between OPEC established pursuant to Section 401.

Finally, so long as the United States continues to be dependent upon insecure or unstable foreign sources of crude oil for a substantial portion of the Nation's energy requirements, reimposition of an embargo could produce severe shortages such as those experienced during the Arab oil embargo of 1973–74. Therefore, the President must have authority on a standby basis to deal with such shortages. Such authority has been specifically requested by the President. A proposal regarding standby price control and allocation authority was included in Title XIII of the bill, The Energy Independence Act of 1975, proposed to the Congress by the President.

The conferees believe that the flexibility of the existing law and its demonstrated adequacy during the 1973–74 Arab embargo make it a prime candidate for conversion to a standby authority. The conferees believe that such conversion would be preferable to enactment of a separate standby authority.

Extension of the EPAA and its conversion to a standby authority offers, in addition, the potential for a smooth transition of petroleum markets from a closely regulated state to a largely unregulated status subject to standby pricing and allocation authority.

The conference substitute, thus, grants the President limited authority to amend the regulation prescribed under section 4(a) of the Emergency Petroleum Allocation Act if he determines that such amendment is consistent with the attainment of the public policy objectives specified in section 4(b) (1) of the Act, except as required by section 8(a), and that the regulation, as amended, provides for the attainment of those objectives, to the maximum extent practicable. If the President proposed to exempt crude oil, residual fuel oil, or a refined petroleum product or product category with respect to a class of persons or transactions with respect to any market level, he must submit such amendment to the Congress. Any amendment of this character may take effect if not disapproved by either House within 15 days under expedited Congressional review procedures.

For the purpose of this provision, "refined product category" means motor gasoline, Number 2 oils (including heating and diesel fuel), propane, or all or any portion of other refined petroleum products as a class (including natural gas liquids and natural gas liquid products other than propane).

Any amendment which proposes to exempt crude oil, if permissible under and consistent with the requirements and limitations of section 8, residual fuel oil, or any refined petroleum product or product category, from the regulation pertaining to allocation must be submitted to Congress together with a finding that such product is no longer in short supply and the exemption would not have an adverse impact on the supply of any other oil or product.

Any proposed exemption with respect to price must be accompanied by a finding that (1) competition and market forces would provide adequate protection for the consumer, and (2) such amendment would not result in inequitable prices for any class of users.

Any amendment submitted to the Congress must be accompanied by the President's findings on the potential economic impact of such amendment.

Any oil or refined product category which is exempted from the regulation is subject to the reimposition of the regulation if the President determines that such reimposition is necessary for and consistent with the objectives specified in section 4(b) (1). Subsequent re-exemption of that oil or refined product category would not be subject to Congressional review.

The President may also submit to the Congress an amendment to modify the regulation with respect to exemption from payments or purchases of entitlements for the first 50,000 barrels per day of inputs for certain small refiners, if he determines that such an exemption has resulted in unfair economic or competitive advantage with respect to other small refiners or otherwise seriously impairs his ability to provide for the attainment of the objectives of the Act.

Here the conference substitute has added a constraint on the President's authority to amend the regulation. This constraint, not found in the House amendment, has been included to clarify and make compatible the terms of this section with those contained in new section 4(e) relating to exemptions from entitlement obligations for certain small refiners.

Technical purchase authority

House Amendment

The House amendment amended the Allocation Act to give the President discretionary authority to act as exclusive agent for and to become the technical purchaser of all imports into the United States of crude oil, residual oil, or any refined petroleum product, on a sealed bid basis. The contract authority was limited to amounts approved in appropriations acts.

Senate Amendment

No provision.

Conference Substitute

The conference substitute authorizes the President to prepare and submit to the Congress a technical purchase authority plan which would grant the United States the exclusive right to import all or any part of the crude oil, residual fuel oil or any refined petroleum products produced in foreign nations for resale in the United States.

There is a strict prohibition on application of the authority in a manner that would result in a subsidy or preference for any individual importer, purchaser or user of tions for resale in the United States.

The authority cannot be used in a manner that will result in a profit or loss to the United States, except in the circumstance where the President finds that competitive-bid sales to purchasers in the United States below the acquisition price to the United States government may result in progress toward lowering world oil prices.

Such plan and submission must be supported by findings by the President that the likely effect of the procedure would be to reduce prices for imported oils and products.

Such plan would take effect if not disapproved by either House of Congress within 15 days under the expedited Congressional review procedure.

This provision also requires the President to submit to the Congress, within 90 days of enactment, a report on the feasibility of providing an incentive for reducing the price of imported oil by granting domestic producers an increase in the price of old oil corresponding to any decreases in the price of foreign oil.

Definitions under the Allocation Act

House Amendment

The House amendment amended the definitions section of the Emergency Petroleum Allocation Act of 1973. (1) to make it clear that domestic crude oil production includes oil produced from the Outer Continental Shelf. (2) to add a definition of "motor gasoline" (the operative term in the House amendment provision establishing a mandatory gasoline allocation program), and (3) to indicate that the term "includes", when used in that Act, means "includes, but not limited to".

Senate Amendment

The Senate amendment amended the definitions section of the Allocation Act to add a definition of "handicapped person" and a definition of "eligible person" (a handicapped person or the parent or guardian of such a person who must transport the handicapped person to and from special services).

Conference Substitute

The conference substitute does not propose any amendment to the definitions to be employed in the Emergency Petroleum Allocation Act. The concept of affording special consideration to handicapped persons is picked up and provided for in those sections of the conference substitute in Title II which pertain to energy conservation plans and rationing.

It should be stressed that the conferees' failure specifically to include oil produced from the Outer Continental Shelf in the definitional category of domestic crude oil reflects the strong belief of the conferees that such inclusion was unnecessary; the conferees have consistently interpreted the term as including such production and intend for it to be so regarded in the future.

Direct controls on refinery operations

House Amendment

The House amendment amended the Emergency Petroleum Allocation Act of 1973 to authorize the President require adjustments in the processing operations of any refinery in the United States with respect to the proportions of residual fuel oil or any refined petroleum product produced through such operations. These adjustments could be made when they were necessary to assure the production of fuels in proportions necessary to obtain the objectives of section 4(b), or section 12 of the mandatory gasoline allocation savings program.

Senate Amendment

The Senate amendment authorized the President to require the adjustment of processing operations of domestic refineries to produce refined products in proportions commensurate with national needs and consismensurate with national needs and consistent with the objectives of section 4(b) of 1973.

Conference Substitute

The conference substitute follows the House amendment, except that all reference to the mandatory gasoline allocation savings program has been deleted. (See supra). The conferees intend that this authority shall be narrowly applied and that it shall not be construed to authorize government operation of refineries.

Inventory requirements

House Amendment

The House amendment amended the Allocation Act to authorize the President to require persons engaged in the business of importing, producing, refining, marketing, or distributing crude oil, residual fuel oil, or any refined petroleum product to build upon draw-down inventories as the President may deem necessary to satisfy the requirements of the mandatory gasoline allocation savings program, and to carry out obligations of the United States under the international energy program. This authority is limited to requiring the maintenance of "90-day inventories." In no case could such persons be required to make physical additions to storage facilities.

Senate Amendment

No provision.

Conference Substitute

The conference substitute authorizes the President, if he finds an existing or impending regional or national supply shortage of any fuel, by order or by amendment to the regulation, to require adjustments in the amounts of crude oil, residual fuel oil or any refined petroleum product held in inventory by any persons engaged in the business of importing, producing, refining, marketing or distributing such products. The President may require distribution of inventories to specified persons or classes of persons at specified rates of distribution, or to specified levels of inventory accumulation, or the accumulation of such inventories at a specified rate or to specified levels. This authority may be exercised if the President determines that such order or amendment may be necessary (1) to the attainment of the public policy objectives stated in section 4(b)(1) of the Emergency Petroleum Allocation Act or (2) to carry out the obligations of the United States under the International Energy Program.

Such authority may also be exercised to require the maintenance of inventories at levels above or below normal operating levels, with the limitation that such requirements may not exceed the amount which would be used or distributed during any 90-day period of peak usage. In no event may any requirement for maintenance of inventories require a physical addition to storage facilities to comply with any such amendment or order.

Hoarding

House Amendment

The House amendment amended the Allocation Act to prohibit persons in the business of producing, refining, distributing or marketing crude oil, residual fuel oil, or refined petroleum products from accumulating, during a severe energy supply interruption, "amounts of such oils or products in inventories or otherwise which are in excess of such person's reasonable needs".

Senate Amendment

No provision.

Conference Substitute

The conference substitute follows the provision in the House amendment, except that (1) the prohibited conduct is to be defined with specificity in the regulations; (2) only a "willful" hoarding is made a violation; and (3) exemption from this requirement is specifically provided with regards to activities required by the Industrial Strategic Petroleum Reserve provisions of this Act.

Asphalt allocation authority

House Amendment

The House amendment amended the Allocation Act to authorize the President to provide for the mandatory allocation of, and to establish price ceilings applicable to, asphalt.

Senate Amendment

No provision.

The conference substitute follows the provision in the House amendment, with an additional provision allowing the President to exempt asphalt from such mandatory allocations without regards to Congressional review provisions of section 12, once such an allocation program for asphalt has been established pursuant to this provision.

Expiration of certain authorities

House Amendment

The House amendment provided that all standby energy authorities and the authority with respect to the strategic petroleum reserve would expire at midnight on June 30, 1985. Any rule, regulation, or order issued pursuant to any such authority would expire at the same time. Expiration would not affect pending civil or criminal proceedings nor would it preclude any legal action based upon any act committed prior to expiration.

Senate Amendment

The Senate amendment provided that all standby energy authorities would expire at midnight on June 30, 1977, except that such authority was authorized to be exercised until midnight on November 18, 1978 if required to implement the obligations of the United States under the international energy agreement. Expiration would not affect pending legal action or preclude any such proceeding brought after expiration based upon any act committed prior thereto.

Conference Substitute

The conference substitute provides that at the end of 40 months, the mandatory requirements of the Emergency Petroleum Allocation Act convert to discretionary authority, and the limitations imposed by section 4(b)(2), 8, and 9 terminate. As standby authority the Act expires on September 30, 1981.

Reimbursement to States

House Amendment

No provision.

Senate Amendment

The Senate amendment directed the President to provide financial assistance to States. A State would be eligible for such assistance if it established a State plan for energy conservation, provided satisfactory fiscal control and accounting procedures, and complied with applicable Presidential regulations. The purpose of such grants would be to assist States in carrying out functions delegated to them under this legislation, in carrying out appropriate energy conservation, rationing, or allocation programs which qualify for an exemption from a Federal energy conservation plan, and in reimbursing them for functions carried out under the Emergency Petroleum Allocation Act of 1973. For the purpose of this section the amendment authorized $50 million to be appropriated for each of the 2 fiscal years including and following the effective date of this legislation.

Conference Substitute

The conference substitute authorizes the Administrator of the Federal Energy Administration to reimburse States, to the extent of available funds, for functions performed under the Allocation Act and directs the President to report to the Congress no later than June 1, 1976, on the amount and nature of reimbursements made to States under this provision. The President must also report regarding recommendations as to whether authorization of additional funds are necessary for direct grants to States to continue the operation of the reimbursement program.

Effective date of amendments to the Allocation Act

House Amendment

The House amendment provided that amendments to the Emergency Petroleum Allocation Act of 1973 would take effect on September 1, 1975.

Senate Amendment

No provision.

Conference Substitute

The conference substitute is similar to the House amendment. Section 463 provides that the amendments to the Allocation Act made by this Act shall be effective as of midnight December 15, 1975, except as otherwise provided. The conferees expressly recognize the possibility that this Act may not be enacted until after December 15, 1975. For that reason, the December 15, 1975, date was expressly written into section 463 as the effective date so as to make it absolutely clear that no gap in the President's authority to promulgate regulations or to issue or enforce orders under the Allocation Act is intended, that the extension of the Allocation Act authority will apply retroactively to December 15, 1975, and that the regulation under section 4(a) in effect on December 15, 1975, shall be deemed to have been continuously in full force and effect thereafter.

V—GENERAL PROVISIONS

Part A—Energy data base and energy information

House Amendment

The House amendment extended, until December 31, 1979, the authority of the Federal Energy Administration to gather energy information under the Energy Supply and Environmental Coordination Act of 1974 (ESECA).

For the purpose of developing an accurate energy data base, the Comptroller General was authorized to conduct audits in three situations. First, the Comptroller General could conduct verification audits of the books and records (1) of persons required to submit energy information to the Federal Energy Administration, the Department of Interior, or the Federal Power Commission and (2) of any person engaged in the energy industry (other than at the retail level) if such person furnished energy information (whether or not pursuant to legal requirement) to a Federal agency (other than the Internal Revenue Service), and if the information was being used or considered by that agency. Second, oversight audits could be conducted of financial statements which any vertically integrated petroleum company filed with the Securities and Exchange Commission. If the audit revealed that the certified public accountant who certified the financial statement did not adequately examine the books and records, a verification audit of such books and records could be made. Third, the Comptroller General was required to conduct verification audits of the books and records any person described above if requested to do so by a congressional committee or subcommittee with legislative or oversight jurisdiction.

The Securities and Exchange Commission was required to prescribe (after consultation with the Financial Accounting Standards Board) accounting practices to be followed by persons engaged in the production of crude oil or natural gas to permit compilation of an energy data base with respect to such production.

The Comptroller General was authorized to issue subpenas, require the submission of information, administer oaths, and inspect premises in carrying out his authority under this section. The Comptroller General was given access to any energy information or financial statement in the possession of any Federal agency (other than the Internal Revenue Service) necessary to carry out its authority under this section.

The Comptroller General was required to submit a copy of the results of a verification audit (unless the audit was requested by Congress) to the Federal agency to which the energy information or financial statement subject to the audit was furnished. Such report was to include findings as to the accuracy, reliability and adequacy of the energy information or financial statement subject to the audit.

Any person who violated a general or special inspection order of the Comptroller General would be liable to pay a civil penalty of up to $10,000. Each day of failure to comply with an inspection order constituted a separate violation.

ESECA was amended to extend energy data gathering authority to September 30, 1980, and to require the Federal Energy Administrator to require that persons engaged in the production of crude oil or natural gas submit reports with respect to energy information kept in accordance with this legislation.

Senate Amendment

The Senate amendment authorized the President to obtain energy information which he determined was necessary to achieve the purposes of this legislation. The authority to gather energy information data, which was granted in ESECA and in the Federal Energy Act, would continue without regard to the expiration of those Acts.

Conference Substitute

The conference substitute follows the House amendment, except as follows:

(1) The Comptroller General may conduct verification examinations of financial information relating to energy resources and products of any vertically integrated petroleum company;

(2) Verification examinations which could be requested by Congress can be requested only by a full committee with legislative or oversight jurisdiction. If the verification examination was conducted at the request of any committee of Congress, the Comptroller General shall report his findings directly to such committee. The report shall be deemed the property of the committee and may not be disclosed except in accordance with the rules of the House of Representatives or of the Senate and as permitted by law. Nothing in the substitute, however, would preclude a committee from delegating such authority to any of its subcommittees;

(3) The provisions relating to oversight audits of financial statements filed by petroleum companies with the Securities and Exchange Commission and verification and oversight audits of certified public accountants are deleted;

(4) Any geological or geophysical information obtained pursuant to this provision and whose disclosure would result in significant loss or competitive disadvantage to the owner may be revealed only to a committee of Congress. Such information furnished to a committee of Congress would become the property of that committee and could not be disclosed except in accordance with the rules of the committee and the Rules of the House of Representatives or the Senate and as permitted by law. Any person who knowingly discloses information in violation of this paragraph shall be subject to the penalties of section 5(a)(3)(B) and (4) of the Emergency Petroleum Allocation Act of 1973, as amended by this legislation; and

(5) It is specifically provided that the Securities and Exchange Commission, in prescribing accounting practices that would permit compilation of energy information, may rely on accounting practices developed by the Financial Accounting Standards Board.

The conferees recognize that the conference substitute could potentially place a very large burden upon the resources of the General Accounting Office. It is, therefore, the expectation of the conferees that the resources assigned to verification audits by the Comptroller General will be reasonably balanced against the other statutory responsibilities of the General Accounting Office and consistent with Congressional appropriation of funds.

PART B—GENERAL PROVISIONS

Prohibition on certain actions

House Amendment

The House amendment prohibited allocations or restrictions on the use of petroleum products and electrical energy which unreasonably differentiate among classes of users. In making allocations, the President or any agency is directed to consider the need to foster reciprocal and nondiscriminatory treatment by foreign countries of United States citizens engaged in commerce in those countries.

Senate Amendment

The Senate amendment contained similar provisions and also required that end-use restrictions on energy consumption give specific consideration to the needs of commercial establishments which operate during nonconventional working hours for the convenience of their customers.

Conference Substitute

The conference substitute combines the provisions of the House and the Senate amendments.

Conflicts of interest

House Amendment

The House amendment required employees of the Federal Energy Administration or the Department of the Interior who perform any function or duty under this legislation to file annually, beginning February 1, 1977, a public statement disclosing any direct financial interest held during the preceding calendar year in any property from which coal, natural gas, or petroleum is commercially produced, or in any person engaged in the coal, natural gas, or petroleum business other than at the retail level. Knowing violations were punishable by a fine not to exceed $2,500 or imprisonment for not more than one year, or both, the Administrator and the Secretary of the Interior were directed to publish regulations to implement this provision and were authorized to exempt positions which are of a nonregulatory or a nonpolicy-making nature.

Senate Amendment

No provision.

Conference Substitute

The conference substitute follows the provisions in the House amendment, except as follows:

(1) The Federal Energy Administrator and the Secretary of the Interior are directed to define, by rule, the financial interests which must be disclosed;

(2) Any "known financial interest" instead of any "direct financial interest" must be disclosed;

(3) The disclosure requirements apply to any officer or employee of the Federal En-

ergy Administration or of the Department of the Interior.

The conferees do not intend this provision to invalidate or override in any way existing agency or department regulations relating to financial interest disclosure. With respect to officers or employees holding "blind trusts," the disclosure requirement for any "known financial interest" means that disclosure is required only of interests that are initially committed to the blind trust, not of interests hereafter acquired. While the legislation only requires disclosure, the conferees believe it would be appropriate for the Secretary of the Interior and the Federal Energy Administrator to condition the use of blind trusts upon a directive that the trustee avoid investments in industries that would create a conflict of interest. Trustees are not required to make disclosures under this provision.

Administrative procedures and judicial review

House Amendment

The House amendment directed that all rules, regulations, or orders under this legislation be governed by the procedures set forth in subchapter II of chapter 5, title 5, United States Code, except that the procedures contained in the Allocation Act apply to provisions which amend that Act. The President or the applicable agency must provide notice of a proposed rule or order, at least 30 days for public comment, and the opportunity for oral presentations, except that the time of notice and opportunity to comment may be reduced to 10 days if the President makes certain findings. Agencies must establish an appeal and review procedure for persons seeking adjustment of agency action. Any person aggrieved by a final denial of adjustment could obtain judicial review. The procedures for judicial review set forth in the Economic Stabilization Act of 1970 would govern such proceedings notwithstanding the expiration of such act.

Senate Amendment

The Senate amendment made the provisions of subchapter II of chapter 5, title 5, United States Code, applicable to any rule, regulation, or order under this legislation. Agencies were required to provide notice of a proposed substantive rule or order, a minimum 10 days for public comment, and opportunity for oral presentations. The President could waive notice and opportunity to comment in certain circumstances. Agencies were directed to establish an appeal and review procedure for making adjustments to rules or orders. Judicial review could be obtained by any person aggrieved by a final denial of such adjustment. The United States district courts were given exclusive original jurisdiction for cases arising under this legislation or under any rule, regulation, or order thereunder. A Temporary Emergency Court of Appeals with specified powers and procedures was to exercise exclusive appellate jurisdiction. The Federal Energy Administrator was authorized to prescribe procedures for State or local boards which carry out functions under this legislation or under the Emergency Petroleum Allocation Act of 1973.

Conference Substitute

The conference substitute follows the House amendment, except that the President is given limited authority in emergency circumstances to waive the precondition that he afford an opportunity for comment prior to making any such rules or orders effective.

Prohibited acts and enforcement

House Amendment

The House amendment made it a prohibited act to violate a provision of this legislation or any rule, regulation, or order thereunder. It provided for civil penalties of up to $5,000 for violations, fines of up to $10,000 for willful violations, and fines of up to $50,000 or imprisonment up to 6 months, or both, for certain knowing and willful repeated violations. The Attorney General was authorized to bring actions to enjoin violations and to mandate compliance.

Senate Amendment

The Senate amendment is the same as the House amendment except that it also authorized private actions to obtain injunctive or declaratory, but not monetary, relief.

Conference Substitute

The conference substitute follows the Senate amendment except that the enforcement mechanism is confined to violations of Titles I, II, V, and section 383 of Title III. Also, with respect to private actions, the authority to maintain such an action is limited to alleged violations of the following provisions of this legislation: (1) energy conservation contingency plans, (2) unreasonable allocation on, or restrictions on, the use of petroleum products and electrical energy, (3) oil allocation to implement the international energy program (IEP), (4) voluntary agreements to accomplish IEP objectives, (5) international exchange of information, and (6) advisory committees respecting the IEP.

Delegation of authority to State and local authorities

House Amendment

The House amendment directed the President, within 30 days after the approval of a rationing plan, to receive public comment to assist in establishing criteria and procedures for the delegation of the President's functions under this act to officers or local boards (of balanced composition reflecting the community as a whole) of states and localities. The President was required to grant or deny, within 30 days, petitions from such local entities for such delegation.

Senate Amendment

The Senate amendment directed the President to establish, within 60 days after the legislation is enacted and after an opportunity for public comment, criteria and procedures for the delegation of the President's functions under this legislation or under the Emergency Petroleum Allocation Act of 1973, to officers or local boards, as in the House amendment. The President was authorized, but not required, to grant petitions for delegation within 30 days of receipt. State law was superseded only to the extent it was inconsistent with this legislation.

Conference Substitute

The conference substitute in section 203 (d) follows the House amendment.

Effect on other laws

House Amendment

The House amendment provided that State law was superseded by this legislation only to the extent that it was inconsistent therewith.

Senate Amendment

The Senate amendment is substantially similar to the House amendment except that the provisions of the Senate amendment are generally confined to matters encompassed in titles I and II of the conference substitute.

Conference Substitute

The conference substitute follows the House amendment, but like the Senate amendment, is limited to matters contained in titles I and II.

Transfer of authority

House Amendment

The House amendment required the President to designate, where applicable and not otherwise provided by law, an appropriate Federal agency to carry out the provisions of this legislation which were vested in, or delegated to, the Federal Energy Administrator, after the termination of the Federal Energy Administration.

Senate Amendment

The Senate amendment contained substantially the same provision as the House amendment.

Conference Substitute

The conference substitute follows the House amendment.

Authorization for interim period

House Amendment

The House Amendment provided for open-ended authorization under this act.

Senate Amendment

The Senate amendment provided for specific authorization for the interim period (the third quarter of calendar year 1976) in several sections, and allowed for open-ended authorization for the remainder.

Conference Substitute

The conference substitute provides that any authorization of appropriations for fiscal year 1976 in this Act, or amendment to any other law made by this Act, will be deemed to include an additional authorization of appropriation equal to one-fourth of such authorization of appropriation for the period beginning July 1, 1976, and ending September 30, 1976, unless specific appropriations for that period are subsequently authorized by law.

Intrastate natural gas

House Amendment

No provision.

Senate Amendment

The Senate amendment provided that nothing in this legislation authorizes the President to regulate or allocate intrastate natural gas (except for the imposition of nationally-applied energy efficiency standards).

Conference Substitute

The conference substitute follows the Senate amendment but is modified to make clear that no provision of the conference substitute permits the imposition of price controls on, or the allocation of, natural gas which is not subject to the jurisdiction of the Federal Power Commission.

Limitation on loan guarantees

Senate Amendment

The House amendment provided for loan guarantees for eligible persons for the purpose of developing new underground coal mines. The aggregate outstanding principal amount of loans which are guaranteed under this legislation may not at any time exceed $750,000,000. (See provision.) The House had no obligation guarantee program respecting advanced automobiles.

House Amendment

The Senate amendment authorized a total indebtedness not to exceed $175,000,000 to guarantee obligations related to the development of advanced automobiles and production prototype vehicles. The Senate had no program respecting new underground coal mines.

Conference Substitute

The conference substitute incorporates both programs, but provides that no loan guarantees or obligation guarantees may be issued in violation of any limitation in appropriations or other Acts, with respect to the amounts of outstanding obligational authority.

Expiration of certain authorities

House Amendment

The House amendment provided that all standby energy authorities and the authority with respect to the strategic petroleum reserve would expire at midnight on June 30,

1985. Any rule, regulation, or order issued pursuant to any such authority would expire at the same time. Expiration would not affect pending civil or criminal proceedings nor would it preclude any legal action based upon any act committed prior to expiration.

Senate Amendment

The Senate amendment provided that all standby energy authorities would expire at midnight on June 30, 1977, except that such authority was authorized to be exercised until midnight on November 18, 1978 if required to implement the obligations of the United States under the international energy agreement. Expiration would not affect pending legal action or preclude any such proceeding brought after expiration based upon any act committed prior thereto.

Conference Substitute

The conference substitute follows the House amendment, as to the standby energy authorities, except as otherwise provided in specific provisions of the conference substitute.

Congressional review

House Amendment

The House amendment required the President to transmit any energy action to both Houses of Congress. The term "energy action" was defined to include a request to implement an energy conservation or rationing contingency plan and certain other executive actions.

An energy action would take effect at the end of the first period of 15 calendar days of continuous session after the date on which such action is transmitted to the Congress, unless either House passed a resolution stating in substance that it did not favor such action. However, the energy action could take effect prior to the expiration of the 15-day period if each House approved a resolution stating it did not object to such action.

The House amendment stated that the provisions for congressional review were made as an exercise of its rulemaking power. The House amendment set forth the required form for a resolution, and provided that a resolution was to be referred to an appropriate committee. If the committee did not report it within 5 calendar days, a motion would be in order to discharge the committee from further consideration of such resolution or of any other resolution with respect to such energy action which had been referred to the committee. The House amendment set forth the procedures for such discharge motion and the procedures governing a motion to consider a resolution.

The House amendment provided an expedited procedure for congressional consideration of energy conservation and gasoline rationing contingency plans. A contingency plan was to be considered approved if, between the date of its transmittal and the end of the first period of 60 calendar days of continuous session, each House passed a resolution approving such contingency plan. Once introduced, the resolution was to be referred to the appropriate committee. If the committee had not reported it at the end of 20 calendar days after its referral, a motion was in order either to discharge the committee from further consideration of the resolution, or to discharge the committee from further consideration of any other resolution with respect to the contingency plan referred to the committee. The procedures governing a motion to discharge were set forth.

Senate Amendment

The Senate amendment required the President to transmit any energy conservation plan to each House of Congress. Such energy conservation plan was to take effect on the date provided in the plan, except that the action would cease to be effective if either House, within 10 calendar days of continuous session after transmittal, passed a resolution stating that Congress did not favor such action. If the energy conservation plan so provided, the plan could take effect later than such date.

The Senate amendment stated that these provisions were made as an exercise of Congress' rulemaking power. The required form and content of a congressional resolution were specified. Any resolution with respect to an energy conservation plan was to be referred to a committee. If the committee did not report it within 5 calendar days, it was in order to move to discharge the committee from further consideration of such resolution or of any other resolution with respect to such energy conservation plan which had been referred to the committee. The Senate amendment set the procedures governing such discharge motion, and procedures for congressional consideration of the resolution after a committee reported it or was discharged.

The Senate amendment provided that a rationing plan was to take effect and terminate in the same manner as an energy conservation plan.

Conference Substitute

The conference substitute follows the House amendment with respect to the procedures for the exercise of congressional review.

HARLEY O. STAGGERS,
JOHN D. DINGELL,
TORBERT H. MACDONALD,
JOHN E. MOSS,
PAUL G. ROGERS,
Managers on the Part of the House.

HENRY M. JACKSON,
FLOYD K. HASKELL,
JOHN GLENN,
RICHARD (DICK) STONE,
DALE BUMPERS,
WARREN G. MAGNUSON,
ADLAI E. STEVENSON,
JOHN O. PASTORE,
VANCE HARTKE,
PHILIP A. HART,
HOWARD W. CANNON,
JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
Managers on the Part of the Senate.

PANAMA CANAL SURRENDER PROPOSAL: A MAJOR GEOPOLITICAL PEARL HARBOR

The SPEAKER pro tempore (Mr. DANIELSON). Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 60 minutes.

Mr. FLOOD. Mr. Speaker, 34 years ago, the people of our country and other nations were profoundly shocked by the unexpected attack on Pearl Harbor that virtually destroyed the U.S. Pacific Fleet and caused the loss of 2,343 officers and men of our gallant Army and Navy. But that was not the only place where an attack was then deemed possible. Another more vital target was our gateway to the Pacific, the strategic Panama Canal, where for many months before Pearl Harbor, extensive defense construction programs were underway; and these included the early stages for constructing a third set of larger locks for larger vessels.

Today, all is quiet at Pearl Harbor. As to the canal and its indispensable protective frame of the Canal Zone, both are now the objects of monstrous propaganda assaults in the United States spearheaded by our own Department of State. The main aim is bringing about the negotiation of a new canal treaty that would provide for the pusillanimous surrender by the United States of its sovereignty over the Canal Zone to the Republic of Panama—Strategic Review, volume II, spring 1974, pages 34–43.

Among the massive propaganda activities were the recent briefing in the State Department of representatives of large U.S. multinational corporations doing business in Latin America for the purpose of gaining their support for the treaty program. This group, calling itself the "Business and Professional Committee for a New Panama Canal Treaty," has set a $500,000 budget target that it hopes to raise from the business community—Journal of Commerce, New York, November 6, 1975. How the State Department could resort to this proposed campaign to fight against the best interests of the United States is beyond comprehension.

Another was an address by the Deputy Secretary of Defense on November 17, 1975, before the National Security-Foreign Relations Commissions of the American Legion, rehashing discredited State Department propaganda in an obvious attempt to make it appear that the Defense Department is squarely behind the treaty effort.

Other activities by the State Department in this direction include providing speakers to address Panama Canal employees in the Canal Zone, students at various universities in the United States, including the Army War College, congressional staff meetings, and various public opinion forming groups as well as the encouragement of biased articles in the mass news media.

The themes stressed in all these actions were that the effort to accommodate Panamanian demands has hemispheric support, that unless such demands are met the United States will have to face guerrilla warfare and terrorism at Panama that may destroy the canal, and that North American businesses throughout Latin America would become objects of violent demonstrations. (CONGRESSIONAL RECORD, November 10, 17975, page 35767.)

Mr. Speaker, I can think of no better expressions of defeatism or greater distortions of facts. The demands of Panama are not universally supported in Latin America as so often alleged but are facing a rising tide of opposition by informed leaders, especially businessmen. As to the protection of the Canal Zone and canal, the United States defended both successfully during World Wars I and II, and the Korean and Vietnam wars, and the 1964 Red-led Panamanian mob attack.

Not only that, I know the people of Latin America well. They understand strength and respect it. Except for some of their vocal politicians, the reaction to a giveaway of the Canal Zone at first would be incredulity; later, it would be ridicule and contempt, and thus serve to invite the very depredations on North American properties in Latin America that State Department officials at last seem to fear so deeply.

What is now transpiring, as regards the canal, is a threat to national defense, hemispheric security, and interoceanic commerce. (CONGRESSIONAL RECORD, October 30, 1975, page 34522.) As such, the issues are fundamental, transcend all partisan considerations, and must be decided on the highest plane of statesmanship if our course is to be wise. For a foundation for their consideration, it is essential to know certain elemental facts in Panama Canal history:

First, in 1901, the United States, in a treaty with Great Britain, assumed the longrange obligation to construct, regulate, and manage a trans-Isthmian Canal under the rules governing the operlation of the Suez Canal. (Hay-Pauncefote Treaty of 1901.)

Second, in 1902, the Congress, following the recommendations of an Isthmian Canal Commission headed by Adm. John G. Walker, one of the ablest naval officers of his time, authorized the President to acquire by treaty the "perpetual control" of a canal zone and the purchase of all privately owned property in it for the construction of an interoceanic canal and its "perpetual" operation. (Sponsor Act of 1902.)

Third, in 1903, the United States, after the secession of Panama from Colombia, acquired by treaty "grant" full sovereign rights, power, and authority "in perpetuity" over the canal's protective frame of the Canal Zone for $10,000,000—Hay-Bunau-Varilla Treaty of 1903, articles II and III.

Fourth, after acquiring sovereign control over the zone, the United States obtained title to all privately owned land and property in it by purchase from individual owners, making the area our most expensive territorial acquisition, estimated in 1974 to have cost $166,362,173, which is more than the combined costs of all other U.S. territorial extensions put together—CONGRESSIONAL RECORD, January 17, 1975, page 619.

Fifth, in 1907 and again in 1972, the U.S. Supreme Court, in two leading cases, confirmed the validity of the title of the United States to the Canal Zone—*Wilson* v. *Shaw,* 204 U.S. 24, at 30–35 (1907); and *United States* v. *Husband R. (Roach)*, 453 F. 2d 1054 (1971) cert. den. 406 U.S. 935 (1972).

Sixth, during the decade, 1904–14, the United States constructed the Panama Canal with congressionally appropriated funds in what was the pest hole of the world and a land of endemic revolution, transforming the U.S. zone and surrounding areas in Panama into models of tropical health and sanitation.

Seventh, in a 1914 treaty between Colombia and the United States, ratified in 1922, Colombia recognized the title to the Panama Canal and Railroad as vested "entirely and absolutely" in the United States. In return, the United States paid Colombia $25,000,000 and granted it valuable transit rights in the use of both the canal and railroad—Thomson-Urrutia Treaty of April 6, 1914.

Eighth, in the 1936–39 Hull-Alfaro Treaty, and later in the Eisenhower-Remon Treaty of 1955, the basic sovereignty rights and obligations under the 1903 treaty were twice reaffirmed—Diogenes A. Arosemena G., "Documentary Diplomatic History of the Panama Canal" (1961), pages 433–49 and pages 471–94.

Ninth, in a memorandum of understanding accompanying the 1936 treaty, Panama recognized that the "maintenance" factor in existing treaty provisions includes authority for "expansion and new construction"—CONGRESSIONAL RECORD, July 24, 1936, page 9834.

Tenth, on August 11, 1939, after ratification of the 1936–39 treaty, the Congress, without adequate consideration, authorized the construction of a third set of larger locks—Public Law No. 391, 76th Congress—which work was started in 1940 and suspended in 1942 because of more urgent war needs, after expending over $76,000,000 on it, mostly on lock site excavations, a bed for railroad relocation, and a bridge across Miraflores Locks.

Eleventh, in 1950, the Congress, in the Panama Canal Reorganization Act, specified that the levy of tolls is subject to the terms of the 1901, 1903, and 1914 treaties, respectively, with Great Britain, Panama, and Colombia—Public Law 841, 81st Congress.

Twelfth, in September 1970, the widening of Gaillard Cut from 300 feet to 500 feet was completed at a cost of $95,000,000 making a total expenditure of more than $171,000,000 toward the major modernization of the existing canal.

Thirteenth, in 1974, the total U.S. investment in the canal enterprise, including its defense from 1904 through June 30, 1974, was estimated by the Secretary of the Army at $6,880,370,000—CONGRESSIONAL RECORD, December 5, 1974, page 38294.

From this historical narrative, to which much more could be added, the evidence is conclusive that the United States is not an unauthorized settler resting on the banks of the Panama Canal but its lawful owner with full sovereign rights, power, and authority over both the Canal Zone and the canal; and no amount of demagogery or diplomatic sophistry can alter the essential facts—House Document No. 474, 89th Congress, pages 127–34.

The obligations of the United States as regards an Isthmian Canal trace back to the treaty of 1846 with New Granada—now Colombia. The first step toward its realization was the construction of the Panama Railroad, 1849–55; the second, the great French effort to construct the canal, 1879–89; and finally, the completion of the task by the United States, 1904–14.

Furthermore, the eminent naval historian and strategist, Adm. Alfred Thayer Mahan, 2 years before the canal was opened to traffic, recognized its significance and stressed that with the exception of the cities of Colon and Panama, the zone is U.S. territory, that the canal bears to the Pacific a closer relation than Gibraltar does to the Mediterranean, and that in the entire length of our sea coasts from Maine to Puget Sound, no single position or reach of water is comparable—A. T. Mahan, Armaments and Arbitration (1912), pages 181–95.

Annually transmitting some 15,000 vessels from 55 countries, including those of Central and South America, and with about 70 percent of its traffic either originating or terminating in the United States, the Panama Canal, in a realistic sense, is not only a part of the coastline of the United States but also the jugular vein of the Americas. Its existence and efficient operation have shortened the distances of the world and greatly strengthened the commercial ties of Europe, the Americas, and Asia.

As the maritime artery to the Pacific, the Panama Canal played a vital role in the logistic and tactical support of our forces there after Pearl Harbor, proving that it is a major element in U.S. sea power.

Canal operations in World War II led experienced engineers and navigators, after the suspension in 1942 of construction on the Third Locks project, to study the problems of marine operations as the basis for fundamental planning. Out of those studies was developed what is known as the Terminal Lake-Third Locks plan for the future canal, which won the approval of President Franklin D. Roosevelt as a postwar project. Supported by experienced navigators, including Panama Canal pilots, this proposal enables the maximum utilization of all work so far accomplished on the canal. Most significantly it will provide the best canal for the transit of vessels practicable of achievement at least cost, can be accomplished under existing treaty provisions and by retaining the fresh water Gatun Lake as a barrier, will continue to protect the Atlantic Ocean from being infested with the poisonous yellow-bellied Pacific sea snake. Moreover, when the canal problem is evaluated from all significant angles, this plan enables the best solution.

How has Panama fared because of the location of the canal there? As was foreseen by its founding fathers, it has given that country the highest per capita income of all of Central America, with benefits from Canal Zone sources in 1974 totaling $236,912,000—a figure seldom mentioned. About one-third of Panama's 1,600,000 population live near the Canal Zone because of employment opportunities. Without question, Panama is the greatest single beneficiary of the canal enterprise and her more thoughtful people know it, especially the thousands employed in the Canal Zone.

In the meantime, the U.S. civil employees in the Canal Zone and the U.S. Armed Forces there, who carry the heavy burdens of operating and protecting the canal, have been subjected to increasing harassments by Washington bureaucrats. Though these citizens live in a U.S. territorial possession and pay taxes they have no delegate in the Congress as have Guam, the Virgin Islands, and the District of Columbia. This is a current example of taxation without representation and should be promptly corrected.

In the global situation, today, Soviet naval power operates in all oceans. Its strategy is to gain control over key water routes of which there are five. The Suez Canal-Red Sea avenue to the Indian Ocean is already under effective Soviet domination. The Strait of Malacca, by the U.S. withdrawal from Southeast Asia, has been rendered vulnerable to Red control. The Strait of Gibraltar is currently endangered by the events in Portugal.

The Strait of Magellan was saved by the overthrow of the Allende government in Chile, but the Panama Canal is now under massive assault aided and abetted by elements in the Department of State—the same type that brought about the installation of Mao in mainland China and Soviet power in Cuba.

Long recognized as the Mediterranean of the Americas, the Caribbean is the hemispheric danger zone. For its protection there are three main points in a defense triangle: Puerto Rico, Guantanamo in Cuba, and the Panama Canal. Terroristic revolutionaries in Cuba are now striving to bring about the "liberation" of Puerto Rico, in spite of the overwhelming vote of its people to remain under the United States. In Cuba, Red power is demanding surrender of the U.S. Naval Base at Guantanamo in the interest of "normalization" on the Isthmus, Soviet agents have infiltrated the Panama Government and are poised to assume control when the opportunity comes. Thus the realistic question at Panama is not U.S. sovereign control over the Canal Zone versus Panamanian but continued undiluted U.S. sovereignty versus U.S.S.R. domination.

This challenge became acute on the 7th of February, 1974, when U.S. Secretary of State Kissinger and Panamanian Foreign Minister Tack approved an eight-point "agreement on principles" to govern the negotiation of a new canal treaty. The so-called agreement, made without the authorization of the Congress and in complete disregard of massive congressional opposition, was an attempt to commit the United States to surrender its sovereign treaty rights in advance of signing the treaty over the most vital waterway of the United States to a small, weak, and technologically primitive country that after 1955 has not been able to collect its own garbage from the streets of Colon and Panama City.

As usual in such grave situations, the people of the United States are far ahead of their Government in appraising the dangers involved. Since February 7, 1974, I have received the views of citizens from all the 50 States; in opposition to any surrender at Panama, 8,157; in support of surrender, 15.

In addition, a number of State legislatures have adopted resolutions opposing surrender of the Canal Zone, among them Indiana, Maryland, South Carolina, and Virginia; also such organizations as the American Legion, the Veterans of Foreign Wars, the Sons and Daughters of the American Revolution. Many other civic, fraternal, and patriotic organizations have done likewise.

Clearly the time has come for the United States to make a major move in the canal situation. To that end, the House Committee on Merchant Marine and Fisheries, in its annual report to the House of Representatives on January 2, 1973, summarized the two crucial canal issues to be resolved as follows:

First, retention by the United States of its undiluted sovereign control over the Canal Zone; and second, the major modernization of the existing canal.

The report added that all other canal issues, however important, including the sea-level proposal, are "irrelevant" and should not be allowed to confuse—House Document No. 92–1629, page 36.

Measures are now before the Congress to implement these recommendations and for authorizing a Delegate in the Congress from the Canal Zone. Action on them will clear up the current canal situation in short order and bring about a long-lasting era of stability on the Isthmus and in the Caribbean.

Mr. Speaker, in spite of recent efforts to delay the canal question until after the 1976 elections, it has, indeed, become a major national issue with the people of the United States determined to prevent the surrender of the Canal Zone to Panama or any other agency. They understand that the projected giveaway of the Panama Canal would constitute a geopolitical Pearl Harbor that could determine the fate not only of the canal itself but also that of the entire Caribbean basin, with all these would mean for the security of the United States and the Western Hemisphere.

Mrs. SULLIVAN. Mr. Speaker, will the gentleman yield?

Mr. FLOOD. I yield to the gentlewoman from the great State of Missouri, the charming and effective chairman of the Committee on Merchant Marine and Fisheries, who has been alongside us in this fight.

Mrs. SULLIVAN. Mr. Speaker, I thank the gentleman from Pennsylvania for yielding.

Mr. Speaker, the gentleman from Pennsylvania deserves the commendation of all of us for the precise and scholarly presentation he has made today. As one Member who has been concerned with Panama Canal matters for more than a generation, I know that positive benefits have resulted from the facts which the gentleman has brought to the attention of the Congress and the people.

The chief aid we have in making important decisions about the future, Mr. Speaker, is the light of experience. It is my own experience through many years of work on the subject of the Panama Canal that leads me to agree with the gentleman's emphasis on the absolute need for U.S. rights and authority. Those who have studied the history of the Panama Canal know that its successful construction, maintenance, and usage are dependent upon the full exercise of U.S. authority. Those with a total perspective on this issue know that the continuance of U.S. authority is an important test for this Nation.

From 1957 to 1971, as chairman of the Subcommittee on the Panama Canal of the Committee on Merchant Marine and Fisheries, I attempted to become intimately familiar with the engineering, the operational, and the people problems of the Panama Canal and Canal Zone. In those years I spent countless hours in hearings, meetings, and personal interviews in order to ascertain and take action upon the problems of the canal workers. And I have supported expansion of opportunities and horizons for all the workers, U.S. and non-U.S. alike.

The efforts of many of us in the Government to upgrade the opportunities and living standards of employees of the canal organization have been fruitful. The canal employees, though they still face some special problems, have benefited and the canal has continued to run efficiently and continuously. In this area of employee benefits, the Panamanian employee of the canal has been especially fortunate. A recent General Accounting Office report stated that Panamanian employees of the canal organization receive "greater benefits than normally received by foreign national employees in other overseas locations." These benefits which the GAO references are partially the result of the application of the U.S. minimum wage to Government workers in the Canal Zone, and partially the result of implementation of the 1955 treaty with Panama. Today all employees of the canal organization, including non-U.S. citizens, are authorized to participate in the U.S. Civil Service Retirement System. Further, the Panamanian employee is allowed to retire at an age older than that of a U.S. employee, and in many cases is educated and housed by funds provided by the United States.

All of the benefits to canal workers have proceeded from the desire of the U.S. Government to provide excellent benefits for its employees and the desire to recognize the importance of the canal. But the allocation of benefits to canal workers does not indicate a desire on the part of the United States to relinquish its authority over the canal. On the contrary. We in the Congress have been reaffirming our insistence on maintaining basic U.S. control. I think it is most unfortunate that the whole structure of benefits for canal employees will likely be threatened by the kind of treaty that is apparently being negotiated; a treaty which would give us responsibility for a limited time without the needed corresponding authority.

In view of the many benefits of U.S. control of the Panama Canal, it is clear that the damage that could result from the loss of that control will affect not only the canal workers, but indeed, many millions of people. Instead of the fair and nondiscriminatory canal tolls which have been a great impetus to world commerce to this day, control of the canal by the Government of Panama may result in a mad dash to extract as much revenue as possible from canal users. We must understand that the Panama Canal is a lifeline for the world's oceanic commerce and especially for U.S. commerce and foreign trade. One-third of U.S. foreign seaborne commerce in terms of value passes through the canal each year. About one-fourth of subsidized sailings of U.S.-flag vessels pass through the canal each year. Over two-thirds of all the vessels which transit the canal each year have as their destination or origin a U.S. port. The canal is an important factor in our balance of payments. It saves time and manpower in movement of our foreign trade. Its usage conserves fuel and energy. It is available for vessel and logistical movement when our national security demands it.

The Panama lifeline would be threatened by a relinquishment of U.S. sovereign rights. In a treaty of the kind that Panama desires, the entire U.S. Isthmian presence, including the operation, maintenance, and protection of the canal, would be subjected to total regulation by Panama. Panama—a country of political instability, a country whose leaders have made it clear by their recent actions that they will use every international pressure to discredit the United States and make us yield to their demands. A country whose very existence and prosperity is based on U.S. presence. A country which existed without the U.S. Canal Zone for only 2 weeks of its 72 years of independence.

For many years, Mr. Speaker, there have been a number of us very concerned with the drift of U.S. canal policy. Until the time of the 1967 draft treaties, we worked in confidence with the Government but always expressing our opposition to weakening our authority over the Canal Zone or the canal itself. But when the 1967 draft of the treaties were on sale on the streets of Panama while at the same time our State Department held us committed to confidentiality and refused to give Congress a copy of the treaties, then we informed the State Department that we could no longer remain silent. And the struggle on this matter has been public ever since.

Let us not mistake this issue—it is important. It is important for our commerce, our security, our foreign policy. The people of this country are concerned about this issue. They never fail to raise it at every opportunity wherever I go. They want an end to a timid policy which fails to recognize our own rights and interests. The concern of the people of this country has led, as of this date, 162 Members of this body to sponsor resolutions to maintain U.S. rights and authority over the canal and Canal Zone. We in the Congress have repeatedly warned the State Department that the people of this country, whom we represent, will not accept the limits to which negotiations have gone to satisfy Panama's demands. I feel sure that a treaty which terminates U.S. control of the canal or dilute our control in the Canal Zone will be rejected. We cannot dismiss the people's feelings about a canal that was built and has always been run by the United States.

But, Mr. Speaker, I am encouraged by one fact—whatever agreement our negotiators may arrive at in their present talks with Panama, the Congress will have the opportunity to say yea or nay—and at that time we will not forget this Nation's history, interests, and future in the Panama Canal.

Mr. HANSEN. Mr. Speaker, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from Idaho.

Mr. HANSEN. Mr. Speaker, I would like to commend the gentleman in the well for his well-thought-out statement and for bringing this matter to the attention of the people of the United States and to the attention of the Congress. I wish to associate myself with the gentleman's remarks.

Mr. Speaker, the position of the Congress of the United States is very clear. It has repeatedly voted and stated its rejection to relinquishing sovereignty over the Panama Canal. The Supreme Court has affirmed the rights of the United States in that territory. And the people of the Nation consider it to be as American as the Statue of Liberty and essential to the national interests of the United States. The detailed history of and reasons for maintenance of our position in Panama are very well documented.

In direct contradiction of these known facts, the Secretary of State, Mr. Henry Kissinger, has approved plans to give the Republic of Panama effective control of the canal and zone over the next few years. By what authority does the State Department presume to take this action?

The State Department, rather than acting as an agent of acceptable policy of the U.S. Government as it should, apparently accepts Panama's complaints and starts with the initial point of negotiation that the U.S. presence in Panama is not legal and is intolerable. The negotiators state that the United States will become embroiled in a level of direct confrontation and violence if we do not negotiate on these terms. The State Department has raised the hopes of the Panamanian people with untenable promises which the Congress has stated it will not accept or grant.

Who then is creating the potential for violence in Panama when promises are broken? Apparently the Secretary of State is ignoring the message which this House has repeatedly given concerning the worrisome negotiations. We in the Congress represent the interests of the people of the United States first and we must insist that those conducting these negotiations do the same.

In addition to national security, tradition, and the right of contract, economies are involved. Our inflation-weighted economy is balancing on a narrow ledge. Even the slightest industrial disruption could create unnecessary and potentially irreparable fiscal consequences throughout the entire world. Any major change in canal procedures or control would have a dramatic impact on the total economic situation in the United States. The loss of time, energy, and general economic disruption that an 8,000-mile voyage around Cape Horn would entail, vividly portrays the strategic importance the Panama Canal holds to the U.S. military and commercial traffic.

With this in mind, the negotiators have started with the premise of concession; that, if we do not alter the treaty as Panama requests, it will lead to a situation of direct conflict with Panama, and disrupt the canal's operations. The stated objectives of the negotiations are to protect all American interests while keeping the canal open, safe, efficient, and neutral. I ask you: Are we better capable of assuring the free access of our ships to this essential waterway from a position of strength while physically present, or from afar? Is this really the way to avoid direct confrontation in the event of a disagreement on an issue essential to the national interest of the United States? I believe such a position of weakness is a sure guarantee of having an eventual confrontation.

It is a matter of record that the United States has handled the operation of the canal in a fair and equitable manner for the benefit of world trade while faithfully executing all terms of the 1903 treaty with Panama. Ships of all nations have traversed the canal unimpeded for over 70 years with little reason for complaint concerning the equitable operation of the canal. The United States has not only paid the annuity on the Panama railroad, mistakenly thought by many to be canal rent, but has increased that payment several times.

As has been stated, Panama has achieved one of the highest standards of living in all Latin America—due not to the absence of the United States but due to her presence. However, Panama lacks the financial, technological, and military expertise to adequately operate and protect the canal. And certainly, in view of the leftist leanings of the Panamanian Government, the continual political turmoil in all Latin America, and the expanding Soviet influence in the Western Hemisphere, this is no time for the United States to consider a pullout.

Panama and the canal are extremely vulnerable. It is readily apparent that even with the U.S. presence, the canal is in potential danger and without the U.S. presence, it would be in severe jeopardy. Transfer of the canal, far from solving the problems, would create a multitude of additional ones and lay the groundwork for much more serious complications. It is essential that this body insist that the Department of State not grant the de facto transfer of sovereignty which it is presently pledged to do.

The United States created the Panama Canal at great expense, risking time, money, and lives, in an effort considered by most to be doomed to failure. The United States should hang onto this canal for our own well-being as well as that of Panama and the rest of the world. Let the Secretary of State read our message loud and clear, and stop the diplomatic pandering that is the real foment of unrest in Panama.

Mr. BELL. Mr. Speaker, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from California.

Mr. BELL. Mr. Speaker, I would like to commend the gentleman from Pennsylvania (Mr. FLOOD) for his statement. I would also like to ask the gentleman one question.

I will certainly agree with what the gentleman said. There is one point that does bother me, however. Is it true that none of our carriers and our heavy ships can get through the canal now? Is it true none of our big carriers and none of our big ships that contain oil, for instance, and none of our huge-tonnage boats can get through the canal?

Mr. FLOOD. Yes, that is so.

Mr. Speaker, I would also say to the gentleman that after V–E Day, but before V–J Day, we had in transit one division at Colon that passed through the canal. Of course, in those days a division was 10,000 to 20,000, not what we have today. We had one American division that passed through, and we had three more divisions on the high seas bound from Europe. There were five divisions on the way to Japan, going through the canal.

The canal is and was used for transport. The type of defense we have is for hemispheric defense primarily. There is no doubt that we would have a problem if we were talking about nuclear war. God forbid. Nothing is safe then.

But for so-called conventional warfare, for the defense of our Western Hemisphere, this is our jugular vein. For the transport of troops and supplies for troops, as was true during World War I, World War II, Vietnam, and Korea, between the Pacific Ocean and the Atlantic Ocean, the canal is indispensable. We could not succeed; we could not live without it.

Mr. BELL. Mr. Speaker, let me ask this question: There is no serious plan pending now to try to really enlarge the canal so that the heavier equipment ships, including aircraft carriers, could get through?

Mr. FLOOD. Not at this time. As I mentioned earlier, in 1940 we began the enlargement and modernization of the canal, and when World War II broke out, we discontinued the operation. We did widen the Gaillard Cut from 300 feet to 500 feet. But insofar as the 110 feet on the lock for the thousand-foot drop at the lock and the 41 feet of depth, no, that would not be done and we do not find it necessary.

However, the modernization will continue. That is for the third locks, the terminal lake system. That will be done for the benefit of inter-oceanic commerce.

Mr. BELL. Mr. Speaker, I have one more question, and then I will cease.

Is the gentleman inclined to feel that perhaps the Panama Canal Zone area may be authorized to have delegates so that we would have the possibility of having delegates represent that area in this body?

Mr. FLOOD. Yes, I do. That would be the same as Guam and the same as the District of Columbia. Perhaps it would also include the Virgin Islands.

Mr. BELL. Mr. Speaker, if the gentleman will yield further as a step toward our closer relationship, that will tie this point down. That seems to me to make good sense.

Mr. FLOOD. Yes. That legislation is pending before the House.

Mr. BELL. Mr. Speaker, I thank the gentleman.

Mr. HANSEN. Mr. Speaker, will the gentleman yield further?

Mr. FLOOD. I yield to the gentleman from Idaho.

Mr. HANSEN. Mr. Speaker, with regard to the discussion concerning the size of ships and shipping that might go through the canal, is it not true that as far as the military is concerned, the general size of our warships is smaller now than it has been, except for the aircraft carriers?

We have done it with battleships and cruisers. We have nuclear frigates and this type of thing.

Mr. FLOOD. This is so, and in the years ahead it is unlikely that we will see the development of any more of the modern-day aircraft carriers. That is very unlikely.

The gentleman is quite right with respect to the size of the ships. The best example one can have is this new Soviet Navy. They are doing exactly that in every sense of the word.

Mr. HANSEN. If the gentleman will yield further, is it not true, then, that except for the aircraft carrier, generally the canal is adequate for military use at this time?

Mr. FLOOD. Yes; there is no question about that. Also, we always maintain the Atlantic and Pacific fleets, and for those purposes we have access to the canal for supplies, men, and materiel at any time. However, insofar as our Navy strategy is concerned, we maintain a Pacific and Atlantic fleet which operate in that way. That is for the so-called limited war.

Mr. HANSEN. In my discussion with high-ranking members of the military, it has also been brought out that as long as they can maintain some degree of mobility to get through the canal, which is a shortcut from one ocean to the other, they will be able to do with fewer ships than they would otherwise require because, of course, of the greater distance to be traveled from the Atlantic to the Pacific.

Does not the canal in itself represent a saving with respect to the size of the Navy we need to take care of ourselves?

Mr. FLOOD. That is correct. I think the Navy and the Department of Defense agree on that.

Mr. HANSEN. If the gentleman will yield further, to get into the commercial aspect for a moment, it is my understanding also, except for the super-size tankers and that type of ship which could not get through the canal and which are efficient enough so that they do not need to go through the canal, on the long haul, we still have a considerable amount of need for the smaller vessels that do go through the canal, which otherwise would be really handicapped commercially. Is that not correct?

Mr. FLOOD. Yes. This is not generally known. There are now about 15,000 ships annually that go through the canal. Seventy percent of all of the traffic that goes through the Panama Canal begins or ends at ports in the continental United States—70 percent.

Mr. HANSEN. If the gentleman will yield further, then, is it not true that the final beneficiary in retaining the Panama Canal, aside from the safety factor and the canal's accessibility, the final beneficiary is the taxpayer, the person who is, of course, committed to defense or the national security of our country, and finally, the consumer of this country; all of those would be the ones who would suffer because of the increased amount in cost and the possibility of some difficulty with the Government of Panama in the event this canal were turned over to it?

Mr. FLOOD. I do agree with that, yes.

Mr. HANSEN. I commend the gentleman again for his statement.

Mr. MURPHY of New York. Mr. Speaker, as Mr. Flood has so ably stated, there can be no compromise in the Panama Canal. It is as simple as that. Time and time again, it has been detailed before this forum, and supported by the facts of history and of reason, that the Panama Canal Zone cannot and should not be surrendered to a pro-Communist regime. Yet, just as often, the proponents of such an ill-conceived notion, led by our own State Department officials, contend there is some dire need to renegotiate the existing treaty, and relinquish the control of one of the most important waterways in the Western Hemisphere.

Mr. Flood has laid before us the documentation for the continuation of the current status of relations with Panama, and for the maintenance of our presence in the Canal Zone. Yet Ambassador Bunker continues to be a speaker of doom in his warnings of potential violence if we do not knuckle under to the demands of General Torrijos' underlings. It is for precisely this reason that the United States maintains a force of strength in the Canal Zone, and must continue to retain our position and rights as a world leader.

To quote House Republican Leader Gerald R. Ford on July 7, 1967: "The American people will be shocked by the terms"—of the proposed treaty negotiations—and "a Communist threat to the canal is a real danger." Yet the State Department plods onward under the mistaken impression that there is wide support for their actions. I find almost none, except on the part of those who would see us destroyed.

Ambassador Bunker recently spoke to the World Affairs Council in Los Angeles about the current state of the negotiations. I would like to address myself to his comments.

First, as reported in the New York Times and the Washington Star, he said the United States would "retain primary responsibility" in the operation and defense of the Panama Canal for the life of the new treaty, after which Panama would assume full operational responsibility. Mr. Speaker, we already have that "primary responsibility"—we have invested almost $7 billion to date in maintaining that status and in purchasing and creating, out of a jungle wasteland, probably our most important Atlantic-Pacific waterway. And Torrijos—the same man who, when he took over the country by military force, allowed only one political party to remain—would have the treaty last a relatively short time, probably no longer than 25 years. This does nothing more than to set a time certain for a Communist-inspired takeover of the Panama Canal, gift wrapped by the United States.

Mr. Bunker also notes that there is no formula yet for "the canal's nondiscriminatory operation after the—new—treaty's termination." Nor would I expect there to be, since General Torrijos could quite easily control a major segment of the defense and economy of the United States by simply closing down the canal at his whim—for that seems to be his style of government.

Another segment of Mr. Bunker's speech indicates that Panama would "grant the United States use rights in return for defending the waterway," and that Panama "will participate in canal defense in accordance with capabilities." The other side of that coin is, of course, that as the Panamanian defense ratio increases, the use rights of the United States diminishes. We are then forced into the position of simply trying to maintain access to the canal. We will have negotiated ourselves into the role of the aggressor.

Ambassador Bunker also claims we did not purchase the Canal Zone. I wonder, then, if he might explain the hundreds of land deeds and titles purchased from each individual landowner along the canal right-of-way, in the amount of more than $166 million—more than all other U.S. territorial extensions put together. Each of those tracts had its value determined by the Joint Claims Commission made up of Panamanian and American officials pursuant to the 1903 treaty.

The Ambassador also contends that we bought "not territory, but rights," when we paid the Panamanian Government $10 million in 1903. While I disagree with his inference, I would ask him that even if this were true, is it any less of a "sale" now that the Panamanians wish to renege? The rights are ours, bought and paid for 72 years ago. To simply sign them away is as ridiculous as asking for our 24 dollars back and returning Manhattan to the Algonquins.

Mr. Bunker also notes there are other unresolved issues in the current negotiations, such as economic benefits which might be accorded Panama, and the location of land and water areas for defense and operation of the canal. As for the first, as Mr. FLOOD pointed out, Panama already has the highest per capita income in all of central America, due to its major industry—the canal. One-third of the country's population depends either primarily or secondarily on the canal for its livelihood. As for the latter, 72 years of defense and operation of the canal have determined a very effective distribution of resources and manpower which can easily be altered to suit the need of the moment without throwing away a $7 billion investment to possible Communist control.

Mr. Bunker concluded his speech with the statement that—

> It is time to stop debating these historical and legal questions. It is time to look to the future.

I could not agree with the Ambassador more.

The administration is caught in the position of defending an indefensible outrage against the American people. It is, indeed, time to stop debating the obvious legal and historical questions. Debate for its own sake leads nowhere. Let us recognize the reality of our major responsibility in maintaining our only route between the two major oceans of the world shorter than the Straits of Magellan.

The future is now, Ambassador Bunker, and although we wish it were not so, the Communist bear is waiting for our signature on the treaty to give away the Panama Canal.

Mr. SIKES. Mr. Speaker, for more than 60 years the Panama Canal has stood as a monument to American enterprise and ingenuity. Under American control the canal has operated efficiently and fairly for all nations as a vital artery of world commerce. Tolls have been kept to a minimum. In fact, there was no increase in tolls until recent months when a modest increase went into effect. Throughout this period, payments to the Republic of Panama have been increasing. The significance of the canal to the defense of the Western Hemisphere is now greater than ever. Russian expansion has given them substantial control over most of the strategic waterways of the world. They want the Panama Canal out of U.S. hands. Obviously, any relinquishment of U.S. rights in the Canal Zone at this time would be nonproductive and a serious mistake.

The State Department, however, has engaged in recent months in a persistent effort to give away the Panama Canal, despite strong congressional opposition. In February 1974 Secretary of State Kissinger and Panamanian Foreign Minister Tack signed a statement of principles to guide negotiations for a new treaty providing for elimination of the concept of perpetuity, the return to Panama of the territory in which the canal is located, and joint administration and defense of the canal for the duration of the new treaty. If this were not enough, the texts of the three "conceptual agreements" recently provided by Congressman FLOOD—CONGRESSIONAL RECORD, October 6, 1975, pages 31874–31876—make it abundantly clear that the State Department is bent on relinquishing sovereignty over the Canal Zone to Panama. This is being done without consulting Congress and without taking the case to the American people.

A very unfortunate aspect of this situation is the fact that the Panamanians now have great expectations for an early takeover of the canal. The apparent commitment by the U.S. Government to this action places Congress in a very difficult situation. It will add to the pressure on the Senate to approve a treaty. Failure to approve a treaty would result in additional strife in the Canal Zone and criticism for the United States from the Third World. It is inconceivable that this is taking place despite the fact that Congress, and particularly the House, has repeatedly expressed dissatisfaction with the trend of negotiation. On June 26, 1975, the House passed, by a vote of 246 to 164, the Snyder amendment to the State Department appropriations bill banning any funds for negotiating the surrender of "any U.S. rights" in the Canal Zone. This provision was unwisely weakened in conference; however, the final version still stated the sense of Congress that any new treaty "must protect the vital interests of the United States" in the Panama Canal and its protective zone.

I am concerned because the canal is one of the most important traffic arteries in the world. It was made possible by U.S. enterprise and U.S. capital. It has provided the prosperity which the Republic of Panama has enjoyed and a livelihood for many Panamanians.

Through the Panama Canal passes 70 percent of U.S. trade, and much of the U.S. economy which must be moved from coast to coast and continent to continent. Through the canal passes much of our naval tonnage and that of other leading naval powers. Through the canal comes much of our raw imports from South and Central America. The canal makes it possible for fewer naval ships to operate in both the Atlantic and Pacific Ocean, giving the United States a two-ocean Navy at a tremendous savings in tax dollars.

To give the canal away would deny the United States the freedom of canal transit except under conditions specified by the new owner. Are the lessons of the Suez Canal so quickly forgotten? To give the canal away would increase the vulnerability of the United States both economically and militarily. To give the canal away would represent an immediate economic loss to the United States and signal to the rest of the world that the national will of the United States is questionable, even on matters of such obvious national interest as U.S. territory.

There are Panamanians who use the canal ownership issue for political agitation. Much of this is Communist inspired. The issue provides ammunition by which the public can be inflamed against the United States. What the Communists want is local control of the canal with lessened U.S. influence in the area and a better chance to control or close the canal in case of world conflict. The canal continues to be a key point in U.S. defenses in the Western Hemisphere, and the continued operation of the canal eases the problems of maintaining a two-ocean fleet.

We are a generous and compassionate people. We have demonstrated these traits over and over and sometimes to our detriment. To give the canal away could prove irrevocably harmful to the national security of the United States. It could do damage beyond comprehension in this age of international trickery and deceit, where the value is in having possession of the land or the body.

The point is we do not have to give up anything. The canal and the Canal Zone are ours in perpetuity under treaty. We have gradually been yielding concessions to the Panamanians, but now it looks as though we are willing to give it all. This makes no sense.

I believe elected officials in this Congress have but one choice in this issue. The canal belongs to the American taxpayers. It was bought by them and should be retained in their interest.

Mr. ROUSSELOT. Mr. Speaker, I wish to commend my colleague from Pennsylvania, Mr. FLOOD, for his efforts, for so many years, to focus the attention of this body, and the country, on the need for the United States to retain its sovereign control over the Panama Canal and the Canal Zone. Dan Flood has, without question, been the leader in this worthwhile effort and all Americans owe him thanks for his untiring activity in this area.

Mr. Speaker, it is my firm conviction that to relinquish U.S. sovereignty over the canal and Canal Zone would be a violation of the oath that the Members of the Congress have taken to uphold and defend the U.S. Constitution. Article IV, section 3, paragraph 2, of the Constitution clearly delegates to Congress the responsibility for territory and property belonging to the United States. Too often the Congress has allowed the executive branch—either by preemption or persuasion—to assume responsibilities rightfully delegated to the Congress. This has been the case with regard to the particular responsibility defined in paragraph 2 of article IV, section 3 of the Constitution:

> The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

We are now told that the executive branch, through the Secretary of State, is carrying on negotiations with the Government of Panama to "agree on principles" for the secession to that foreign country certain sovereign rights held in perpetuity over the canal and Canal Zone under the Hay-Bunau-Varilla Treaty of 1903.

Neither the President, his Secretary of State, his ambassadors, nor the U.S. Senate may act singly or in concert to give up U.S. sovereignty in the property of the Panama Canal. The 1903 treaty is part of the "supreme Law of the Land" as specified in article IV, paragraph 2, of the Constitution as follows:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

Therefore, the Members of this House have the right and duty to protest the efforts of those who would bypass this House in any attempt to gain acceptance in the other body for treaty provisions which would lessen U.S. sovereignty over the Panama Canal and Canal Zone which is so vital to the commerce of the world and our own national defense.

The United States must stand firm on its constitutional rights, responsibilities, and duties in the Canal Zone. Whatever other concessions we may make in the interests of harmonious relations with Panama, we must not sign away our sovereign control over the canal and Canal Zone. The House reaffirmed this position by adopting an amendment to the State, Justice, Commerce, and Judiciary appropriations bill for fiscal year 1976 which would prohibit the State Department from using funds appropriated in fiscal year 1976 to negotiate the surrender or relinquishment of any U.S. rights in the Panama Canal Zone. We must make the executive branch fully aware of the House's intention to protect U.S. sovereignty in the Canal Zone and we must be alert to any efforts to subvert the substance of the amendment I have mentioned. The time has come for the leadership of this country to demonstrate what the citizens have been saying for many years: Stand firm on this important issue; for the good of the country and the hemisphere. Once again, I wish to commend my colleague from Pennsylvania for his perseverance and dedication. He is to be complimented in the highest manner for his effort in keeping this question before the House and the public. I urge my colleagues to join in the fight to preserve U.S. sovereign rights in the Canal Zone and to reassert congressional responsibility and oversight.

Mr. LAGOMARSINO. Mr. Speaker, I wish to commend the gentleman from Pennsylvania. He speaks for a majority of Americans who believe, as I do, that the United States would be making a monumental blunder if we surrender our control of the Panama Canal.

I concede the State Department's plans could improve our "diplomatic image" in Central America. Yet, at the cost of losing an essential strategic location, the price is much, much too high. Congress has the duty of protecting the interests of America and her people. The continuation of our sovereign control over the Canal Zone is just such an interest.

Speaking for my colleagues, I want to thank Mr. Flood for his persistence in reminding this Congress that it must act quickly to prevent the loss of the Panama Canal. Presently, it is American-run, American-protected, and American-maintained; we should keep it that way.

GENERAL LEAVE

Mr. FLOOD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore (Mr. Danielson). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

A NATIONAL HEALTH POLICY PAPER—BUSINESS, INDUSTRY, AND HEALTH POLICY: A CASE OF BENIGN NEGLECT

The SPEAKER pro tempore. (Mr. Danielson). Under a previous order of the House, the gentleman from New York (Mr. Hastings) is recognized for 20 minutes.

Mr. HASTINGS. Mr. Speaker, you are aware of my concern that we are not making the best use of our resources to improve the health of the American people. You are aware of the rapidly rising health care costs in this country. Of equal concern is the fact that these added costs are producing little, if any, improvement in the health of the American people. To change this distressing situation, we must develop national health policies which will deal effectively with both problems. My remarks today will deal with the behavior of two societal forces that are key to our national health policies.

Today, I am going to discuss two measurements of the human condition that have enjoyed the fascination of philosophers, poets, and even politicians throughout the ages—health and wealth.

In our society, prosperity and personal well-being have become national preoccupations, focal points of government policy, private initiative, and political rhetoric. As a Member of Congress who sits on both House Budget and Health Committees, I have witnessed the intensifying dialog surrounding the frustration of rising expectations and dwindling resources. I am sure that the issues of economy and quality of life will dominate the coming Presidential campaign.

But, in this time of heady prognostications on political issues, I would like to venture an unusual prediction: I predict that the primary focus on health in 1976 by this body is not going to be national health insurance—that is, the question of providing more medical services for more people—but, instead, will be the cost of health care. This prediction is based on the following information:

Figures just released by the Social Security Administration indicate that health spending jumped 13.9 percent last year to $118.5 billion—$547 per capita. Hospital care and physicians' services continued to be the largest expenditure categories, and the most inflationary. Interestingly enough, the rate of increase for public programs, medicare and medicaid, was 2½ times the rate of increase in private spending for health care.

Rapidly increasing expenditures are always alarming, but especially alarming is the realization that this alltime high expenditure—by the nation that leads the world in the consumption of personal health care services—is producing little, if any, improvement in the health care of the American people.

I have no doubt that the medical care delivery system could absorb every dollar poured into it for additional goods and services without much change in our current situation. Over the last three decades, there has been little significant change in our reported mortality, morbidity, and disability statistics, despite our skyrocketing investment in health care services.

These facts alone should be enough for reasonable people, regardless of politics, to challenge the health policies—or lack of them—which have created the current situation.

Today, I specifically want to address the role of private business, and industry, including labor and management, which has long recognized the importance of providing health protection to employees and their families. No other societal element is more affected by the diminishing value of their health care dollars. And, more importantly, no other group is in a better position to effect constructive change. Let me point out why.

The annual investment in personal medical care services by labor and management in the private industrial sector is staggering. Although we do not have precise figures, the best available information indicates a yearly investment of nearly $35 billion. This includes mandatory contributions for medicare—estimated taxes are $14 billion in 1975—and workmen's compensation—medical payments exceeding $1.5 billion; on-site health facilities; and payments for health insurance for workers and their families—about $20 billion.

All of this, of course, does not include the share of business and worker taxes which is used to finance health programs through general revenues, nor the costs of health prevention required under the Occupational Safety and Health Act.

It is interesting that these outlays for medical services by management and labor equal those of the Federal Government, and are over twice as much as the States. Yet it is essential to note that despite this sizable investment—this tremendous purchasing power—there is an overwhelming lack of significant policy influence in the health sector by business and industry.

Many may say, "Why the concern? It is merely the cost of doing business. In fact, health benefits probably amount to only 2 to 3 percent of payroll paid."

Although this generally seems to be the prevailing attitude, I believe there is cause for a great deal of concern.

I have already mentioned the tremendous increase that took place in public programs in fiscal year 1975, 22.2 percent, compared with 12.3 percent in 1974, and 13.9 percent overall for fiscal year 1975. What is more, in 1976 even higher rates of inflation will hit the private sector health benefit programs. The Nation's health insurors will seek dramatic premium increases as most recently evidenced by the announcement that two of our largest insurance companies—Blue Cross/Blue Shield and Aetna—will be raising their premiums 62 percent and 73 percent, respectively, for Federal workers.

What does this mean for the cost of doing business? First, immediate increases in health insurance premiums for business and industry by 50 percent or more—a potential additional outlay of nearly $10 billion. Also, there will be a secondary impact on mandatory contributions such as medicare, workmen's compensation, and other programs. And finally, but certainly not any less important, there will be increased worker deductions for insurance premiums and payroll taxes.

Beyond an awareness of the increasing financial impact of health benefits on the cost of doing business, just what does this discussion of national health policies have to do with the behavior and attitudes about health in the private industrial sector?

As I indicated, business and industry, management and labor, spend approximately $20 billion a year for group health insurance for employees and their families. Group health insurance accounts for about 80 percent of all private health insurance premium payments.

The tremendous growth of private health insurance from roughly 11 percent of annual private health expenditures in 1950 to over 42 percent in 1975 has been made possible through the ability of business and industry to produce more and more goods and services and thereby raise the standard of living in this country. Our large companies and large labor unions have set the pace in the growth and character of both our public and private third party payment systems. As these large companies and unions set the pace, other segments of our society attempt to catch up to the levels of health insurance that they have achieved.

As major purchasers of health insurance, the large companies and unions have set most of the patterns relating to health insurance benefits and to the administration of health insurance. They have had an enormous impact on the cost and performance of the health industry because of the amounts of money they spend for health insurance and the kinds of health services they have chosen to purchase. Conversely, practices by the health industry and Federal and State governments effect the nature of the benefits business and labor can obtain for workers and their families and the cost of such services.

Despite the achievements of management and labor, there is no question that additional health benefits which have been negotiated through collective bargaining year after year have contributed to the inflation of both prices and services. Here, it is important to define what we mean to be inflation when speaking of increases in the utilization of health services. In many fields, increasing the units of production without an unusual increase in the cost per unit would not be considered inflationary. But, in the health field, this does not hold true. Instead, we must also be concerned with unnecessary or inflated utilization of health services such as unnecessary surgery and other such serious problems.

I would not like to leave the impression that business and labor are the main causes of the cost inflation we are experiencing in the health industry. Obviously, on the demand side, the Federal and State governments have created the greatest cost pressures through medicare and medicaid. In addition, as our general standard of living has increased, most people in this country have more money to spend for health care.

However, the increase in the money available to buy health services is not the sole reason for the inflation of health care costs. There are legitimate reasons for higher costs in some instances, where we are being provided better, more effective care. But, more critically, there are factors on the supply side of the health market supply and demand equation which are forcing health care costs out of reach. We are seeing technology development and resulting consumer expectations which are literally forcing medical care delivery out of control.

It is on the contradiction of our increasing national commitment to a massive system of curative medicine, in the face of obvious diminishing returns, that I want to focus the balance of my remarks.

The layman tends to equate medical care and health status. It is a public attitude, an expectation, that the more personal health services one has access to, the healtheier one will be. Such is the image that has resulted from the golden age of medicine when infectious disease was conquered by relatively inexpensive advances like antiseptics and antibiotics. Now medicine has moved on to degenerative disease and disease of unknown etiology, and the resulting cost-benefit ratio has become exponentially unrewarding. In fact, the annual expense for medical services is beginning to threaten other important social goals of the general population. This is compounded by serious problems in the organization and development of our current health delivery system, such as exploding technological development necessitating new health personnel and resulting in overspecialization and geographic maldistribution of medical manpower, services, and facilities.

Buttressing this critical evaluation of medical technology is also the surprising finding that medical care ranks only fourth in affecting health status—education, housing, and nutrition have more impact. The elimination of accidents, improvement of diet, and changes in lifestyle will have a much more positive result than more costly medical intervention. But attitudes and behavior are hard to change and often it is more politically expedient to deal with the symptoms rather than the root causes of the disease.

It is my conclusion that we must reevaluate our view of health. We need more elemental reforms in our outlook. We should take advantage of the essential lessons of process and function we have learned and develop a national health policy—a mechanism by which to determine and articulate the broad goals and specific priorities that together form the blueprint for the national health system. A national health policy should also rationalize the current fragmentary approach to health policy development in the organization, delivery, and financing of personal health care services by both the public and private sectors. Also, it is essential that our commitment to medical services be balanced with nonmedical intervention factors that affect health status.

In the American concept of health, there is an implicit belief that more medical care means better health. At the same time, there is a conviction that money is the only barrier to the achievement of the perfect human condition. These tenets must be challenged before a national commitment to a program of health services financing paralyzes the force for constructive change.

Although I generally support the concept of NHI, I think that we had all better realize that it is not going to magically solve the medical care problems of this country. Currently the many forces interested in our national health care delivery system seem to be focusing only on the demand side of the health care equation—National health insurance. This is a carry-over of the philosophy of the mid-1960's that access to health care is simply a matter of money. But the question is, access to what? Can we under national health insurance be assured that the benefits we will be offered can be provided effectively and without further aggravating health care inflation? Can we be assured that our health care dollars will result in health improvements?

However, as we are learning from our experiences based on the Great Society programs—such as medicare and medicaid and the categorical health care programs as we now know them—that money alone is not the solution; nor is creating a proliferation of programs to deal with the development and implementation of health care resources.

We are finding out that there are limits to our capacity to meet all the goals we have set for ourselves in both the private and the public sectors of our society, and we are going to have to make choices. We will need the cooperation, input, and participation of both the private and public sector and all health professionals, and all consumers.

I am announcing plans shortly to convene a "National Leadership Conference on America's Health Policy," for the spring of 1976. Former Member of Congress William R. Roy—Democrat from Kansas, and the National Journal have agreed to join me as conference cosponsors. The conference will involve the country's top health policymakers from Federal, State and local government, private industry and labor, health care providers and insurers, and consumers. During the 2-day forum we will reevaluate our view on health.

The conference will attempt to firmly establish the need for a broad national health policy, to stimulate national health policy activity and to challenge our current direction in health care by airing a range of views about where we should be going in the future.

I think there is a growing appreciation that decisions affecting the health system and our health cannot continue to be made in a disjointed manner, where national health policies are too frequently ineffective—and sometimes counterproductive. Unless we do a better job of national health policy formulation, implementation and review, I foresee a crisis in our health care system far more serious than we face today.

I am not necessarily proposing a federally directed solution. What I am proposing is a program which involves both the public and the private sectors of our economy in a joint effort to put the health system in proper perspective, and on the proper course. The task of achieving better coordination and direction for our health system is an enormous one—requiring the best minds available, great commitment, and a sense of common purpose.

In summary, business and industry have had an enormous effect on both the shape and size of health insurance, and on the cost and performance of the health industry. I am sure both are aware that their efforts to provide health insurance protection at a reasonable cost to workers and their families are strongly influenced by governmental policies and actions and by policies and actions of the health industry. For these reasons, if no other, it is essential that all of these parties participate in the process of formulating and implementing more effective national health policies.

I sincerely believe that both business and labor are essential participants in such a process. I am confident that their participation will have a positive impact on their ability to control their own health costs, to develop better health programs for employees and their families, and to enable them to make better overall use of employee fringe benefit dollars.

I look forward to the contribution of both management and labor in developing better ways to protect and improve the health of the American people.

TAX POLICY AND CAPITAL FORMATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 60 minutes.

Mr. KEMP. Mr. Speaker, I would like to bring to the attention of the House important considerations concerning tax policy and capital formation that I presented to the Senate Budget Committee's Task Forces on Tax Policy and Capital Needs.

The central problem which must be honestly faced in the United States is whether the rate of saving and investment will be adequate to meet the present and future capital requirements of the economy. All of the major issues confronting public policy turn on the problem of adequate capital formation. The issues of creating jobs, energy self-sufficiency, environmental protection, housing needs, construction of mass transit systems, demands for rising real wages, ability to withstand Soviet pressures in what in spite of wistful hopes and optimistic statements is an increasingly dangerous and competitive world—these and all other public and private goals and hopes are constrained by an inadequate rate of capital formation.

To avoid divisive fighting over sharing the pie, we need a policy of expanding the economy's real output. The economy's real output rises when there is an increase in the amount of capital with which labor has to work—what economists call the capital-labor ratio—and an increase in technical progress. For the capital-labor ratio to increase, the rate of net capital formation must exceed the rate of growth in the labor force. Technical progress itself is dependent on the rate of capital formation, because technical progress must be implemented by the act of investment.

CAPITAL CREATES JOBS, HIGHER WAGES

To my knowledge, economists are comfortable with their understanding that the real wage and living standards are determined by the productivity of labor. As teachers and as consultants, they rely every day on their analysis showing that the greater the capital-labor ratio, the greater the productivity of labor and, therefore, the higher the real wage and the employment of labor. By the end of the course even the dimmest student perceives that the surest way to create jobs and higher real wages, as well as a larger tax base and economic growth, is to create capital.

But in public discussion of policies designed to strengthen private savings and investment, a few economists seems to forget or implicitly deny this particular fundamental principle of their science. These economists are immediately latched on to by those who have acquired prestige by expressing "social" concerns and whose ideological baggage seems to contain the destruction of private savings and investment in order to achieve their preferences for a collectivized economy. If we add to these the group of old Keynesians who hold on to their mistaken belief that modern economies are plagued by an excess of savings, we have a vocal trio that is always opposed to any policy that strengthens private savings and private capital formation.

DEMAGOGUERY OBFUSCATES REAL ISSUE

Since the average politician, news reporter, and man in the street do not as yet understand capital-labor ratios and the productivity theory of economics, it is easy for demagoguery to obfuscate the real issue. The results of misrepresenting the issues as "the Fat Cat versus the Little Man," "Business versus Labor," "tax justice and equity versus preferential tax treatment for the rich" are tax policies that hold down the supply of capital.

As all economists know, tax policies which restrict the supply of capital lower the capital-labor ratio below what it would otherwise be, thus raising the rate of return to capital above and lowering the real wage and employment of labor below what they would otherwise be.

The knowledge that higher real wages result from higher capital-labor ratios is respected throughout the world and has been challenged by posturing only in the United States and Great Britain, the two countries in the industrialized world with the lowest gross savings as a percent of gross national product. The aggregate demand fixation, which pictures government spending as a substitute for investment spending in job creation, has been a hallmark of United States and British economic policy.

Just recently, the British Government has acknowledged the damage done to the British economy by this policy emphasis. Belatedly, the British Government has recognized the importance of capital formation and is now trying to emphasize investment.

The socialist government in Britain has seen the writing on the wall and has been forced to see labor's stake in capital formation. There is no talk in Britain now that investment benefits the "fat cat" at the expense of labor.

U.S. TAX SYSTEM USED TO REDUCE SAVINGS

Those in the United States who allege that tax policies designed to spur private saving and capital formation benefit the "fat cat" at the expense of the "little man" usually point to the redistributive Swedish welfare state as their preferred model for our own economy. They are apparently unaware that their preferred model does not follow the prescriptions that they advocate for our economy. Sweden relies heavily on personal income taxation and motivates company incomes toward investment. In Sweden the capital recovery provisions and inventory treatment of tax policy are, in comparison to the United States, highly oriented toward capital formation. In addition, the social security system is used to generate savings which supply funds for capital formation. In effect, the result is surpluses in the Swedish Government budget. Thus, in Sweden the tax system is used to create forced savings, whereas the result of the tax system in the United States is to reduce savings.

Others who strongly feel that "equity" requires a redistribution of income from capital to consumption are attracted by planning. But in economies characterized by planning, the redistribution is in the opposite direction. In the Soviet Union, for example, investment funds are supplemented by taxes on consumption. Although in the absence of private capital markets and profit indicators the Soviet Union may not succeed in rationally investing its capital, the emphasis of its economic policy is on the formation of capital.

In view of the worldwide emphasis on capital formation, statements which belittle the problem of capital formation cause me concern. I do not believe that measures designed to promote private savings and investment are unusual or that they distort the tax structure. I do not believe that it is generous, normal or equitable that investment is taxed twice.

CAPITAL FORMATION INCREASES TAX BASE

Those who are opposed to measures designed to aid the formation of private capital even go so far as to define the cost of the measures in a non-economic way. Capital formation cannot be meaningfully described as "tax expenditures." Not only does capital formation increase the tax base, but the relevant cost concept in economics is opportunity cost. And the opportunity cost of not aiding the formation of capital is the economic growth, higher real wages, and jobs that are forgone. It is impossible to aid any group by penalizing capital formation, as welfare oriented Sweden readily understands.

These statements which cause me concern are sometimes portrayed as representative of progressive economic opinion, but it would be more accurate to portray such views as isolated, and even reactionary. That such views are in a minority does not discredit them, but that they are associated with policies that have brought about the economic decline of Great Britain, and which threaten the viability of the U.S. economy, does.

Those who belittle the problem of capital formation and allege that the only constraint on investment is the recession advocate the same old policies which have produced a capital shortfall.

HELLER ATTEMPTS TO BELITTLE CAPITAL SHORTFALL

For example, Walter W. Heller in the Wall Street Journal attempts to belittle the capital shortfall and argues for a consumption-stimulative economic policy. Dr. Heller says that private savings will only fall about 1 percentage point short of meeting the projected needs. He does not point out that to overcome a 1 percentage point shortfall requires, as Secretary Simon has testified, a 7 percent increase in private saving and a 16 percent increase in the rate of net investment. Neither does he point out that the estimate of a 1 percent shortfall is very conservative in the light of many other studies.

Dr. Heller offers no assurance that private saving will increase by the required amount or even continue at the postwar trend rate. He does not say why he relies 100 percent on "public savings in the form of a Federal budget surplus" to close the gap between capital needs and private savings. Nor does he say what forces, in the face of a cumulative deficit for 1974–76 in the neighborhood of $150 billion, are to reverse the postwar trend of negative savings in the government sector. It is unrealistic to assume that Government revenues can grow sufficiently fast to generate surplus when Government spending has been growing at an average rate of 9.2 percent a year since 1947.

Dr. Heller advocates "the appropriate fiscal monetary mix" rather than "tax breaks for business." Not only is this adversary argument, it ignores that policies designed to increase private capital formation are part of the appropriate fiscal monetary mix.

Dr. Heller should explain the economics of his double standard for deficits. Until he can explain the economics of why consumption stimulative deficits produce "full employment surplus" but production-stimulative deficits produce "annual tax loss," he should not gratuitously impute disguised motives to those who base their argument for capital formation on an understanding of the fundamental economic relationship between capital formation, the capital-labor ratio, and the real wage and the employment of labor.

It may well be that some academic economists who enjoyed riding the wave-of-the-future of three decades ago are under the illusion that theirs is the only wave and that it crests forever. In this case they may be resentful of newer waves, but even so, as representatives of the old order they should receive new ideas more graciously.

PRODUCTION-STIMULATIVE VERSUS CONSUMPTION-STIMULATIVE DEFICITS

The idea that Government deficits ipso facto increase the economy's ability to produce is false. The problem with all deficits is that they must be financed. This is especially a problem with contumption-stimulative deficits. When the Government finances a defict by borrowing from the Federal Reserve, it receives newly created money with which to bid resources away from the private sector in which capital formation predominantly takes place. The Government's spending might stimulate investment indirectly, but that investment which does not take place due to the bidding away of resources is a once and for all time reduction in investment.

When the Government finances a deficit by borrowing from the private sector of the economy, no new money is created. But in order to purchase the Government's bonds the private sector must reduce either its current consumption or alternative forms of investment, or a mixture of both. Since the Government's expenditures consist heavily of payments which go for current consumption, to the extent that people buy the bonds which finance these expenditures by cutting back on their investments in the private sector, the net effect through time of Government borrowing from the private sector is to crowd out private investment. The compensation of total expenditures is altered toward more current consumption and less current investment than would otherwise be the case.

The result of transferring funds out of current investment and into current consumption is a future income level that is lower than it would otherwise have been. The longer this goes on, the more tomorrow's living standards are sacrificed for today's. Consumption-stimulative deficits, however they are financed, eat into capital formation and future incomes.

On the other hand, if a deficit is generated by reducing the existing tax bias against saving and investment, we have a production-stimulative deficit. The deficit's negative effects on total savings are more than offset by the increase in private saving which results from reducing the disincentive to save.

Since a production-stimulative deficit results from tax changes which bring about an increase in the private saving rate, the pool of private saving is larger than in the case of a consumption-stimulative deficit. Therefore, there is a larger pool of private savings to withstand the bidding away of resources from, and crowding out of, private investment, and, thus, a greater rate of capital formation. The higher real wages and new jobs which result from the increased capital-labor ratio will generate additional tax revenues that will wipe out the initial revenue loss from the deficit.

EQUITY REQUIRES NEUTRALITY

Tax incentives to encourage saving, hence investment, are opposed by some on the basis of arguments that do not relate to their economic effect, but which are grounded in what they allege to be violations of equity. But there is no equity in the absence of neutrality. The existing tax biases against saving violate neutrality and equity. A neutral tax system is one which least biases the choice between saving and consuming.

An intrinsic feature of the present Federal and State income tax systems is that they disproportionately increase the cost of saving compared to consuming. A distortion results because no general tax deduction is allowed for the amount saved, and the flow of future income resulting from the saving is also taxed. If a deduction is not allowed either for the initial saving or the return to the saving, the tax on the portion of income saved is at a higher effective rate than on the portion of income used for current consumption.

INCOME TAX BIAS AGAINST SAVING

The income tax bias against saving is illustrated in the following example. In the absence of a tax, $1,000 of current income might be used to buy a given amount of consumption goods or a 5-percent bond paying $50 a year. The cost of $1,000 of current consumption is the foregone alternative of $50 of additional income in each future year. In the same way, the cost of $50 of additional income in each future year may be expressed as $1,000 of foregone current consumption.

If an income tax is now imposed at, for the ease of example, 50 percent, and there is no deduction for the amount currently saved or the return to the saving, the effect of the tax will be to double the cost of future income relative to the cost of current consumption. Once the tax is imposed, it takes $2,000 of pretax income to be left with enough money to buy the $1,000 of consumption goods. The tax, then, doubled the cost of consumption in terms of the amount of current pretax income required for the given amount of consumption goods.

But once the tax is imposed, $50 per year of additional income from the bond purchase requires $100 of pretax interest. At the same rate of interest this requires two $1,000 bonds or savings of $2,000, but in order to save $2,000 there must be $4,000 of pretax income. Thus, the tax quadrupled the cost of saving in terms of the amount of current pretax income required to buy the same amount or future aftertax income.

Looked at from another point of view, if prior to the imposition of the tax the person was trying to decide between buying an additional $1,000 of consumption goods or a 5-percent bond, to remain confronted with the same choice after the tax is imposed requires the interest rate to increase from 5 to 10 percent. Thus, the tax doubled the rate of interest which must be earned if the person is to continue to regard the investment choice as an alternative to the choice of more current consumption.

NEUTRALITY REQUIRES REMOVAL OF TAX BIAS

A neutral tax must either allow a deduction of current saving from current income, or exclude the future income earned by that saving from the future tax base.

In the context of tax neutrality, a liberalization of existing capital recovery allowances, a tax deduction for households for savings from current income, a reduction of the income tax rate graduation, elimination of the double taxation of dividends, elimination of capital gains and losses from the tax base, and a reduction in the maximum estate and gift tax rates, would not create loopholes that distort the tax structure, but would be measures to remove existing distortions and thereby achieve neutral tax treatment of private savings and investment.

EISNER'S DOUBLE STANDARD FOR "LOOPHOLES"

On this point I believe Prof. Robert Eisner's statement before the Senate Budget Committee's Task Forces on Tax Policy and Capital Needs is in disagreement with sound economic analysis. Professor Eisner sees no "justification for governmental encouragement of private business investment." He says that "the combination of capital gains loopholes, tax depreciation in excess of economic depreciation, tax deduction of interest costs, and equipment tax credits offer a considerable distortion of more business investment than would be undertaken in a free market."

It seems to me that Professor Eisner misses the point and misrepresents the situation. What he says would be true only if there were no existing tax bias against saving. If the existing tax system were neutral and did not bias the choices made by households and businesses between saving and consuming, then, and only then, could he be correct to say that tax incentives to encourage saving and investing are tax loopholes that distort the free market allocation of resources.

But with the existing distortion in resource allocation which results from a nonneutral tax system that is biased against saving and investing, it is loose use of language to describe as tax loopholes saving and investment incentives which have the effect of offsetting—partially—the existing bias against saving and investing.

I note that Professor Eisner has a double standard for capital "loopholes." He is against them in the case of physical capital but advocates them in the case of human capital. He suggests stimulating "investment in human capital" by "the elimination of payroll tax obligations for employees under 22 and their employers." But he describes tax reductions that would stimulate investment in physical capital as loopholes, distortions, and preferential tax treatment.

Professor Eisner attempts to belittle the efficacy of investment incentives by estimating that "we are lucky if each dollar of revenue loss begets 50 cents of additional business investment." But is not 50 cents invested in capital which creates jobs and raises wages better than $1 thrown away by the Government. There would be a net gain if even 1 cent of the dollar is invested. Money spent in consumption is money spent in consumption, whether by the private or Government sector. It seems to me that what Professor Eisner is objecting to with his emphasis on "tax loss" is the use of resources by the private sector. There is nothing in economic analysis that supports a preference for Government consumption over private consumption.

Let me say that I was glad to see that Professor Eisner understands that "eliminating a number of restrictions on interest rates which can be offered by banks and savings and loan associations would bring more funds into housing and generally improve capital markets." It would give to people who desire to buy homes an opportunity to compete with the Treasury for borrowed money.

And I fully support Professor Eisner's statements that "Full integration is practical" and that the result would be to free capital markets, improve the allocation of resources, and direct resources to those firms with the most profitable investment opportunities as determined by consumers' preferences. Here Professor Eisner speaks with the authority of economic science, and I hope the Congress listens to him on this point.

MISTAKEN KEYNESIAN BELIEF

Many of the existing tax biases against saving and investment developed 30 or 40 years ago under the influence of the long depression, which provided a rationale for taxation based on the mistaken Keynesian belief that there was a tendency in modern economies to have an excess of savings. Many features of current tax policy exist as relics of this old fallacy. To save ourselves from being victimized by a tax code that embodies an ancient fallacy, the social importance of minimizing the tax discouragement to savings and investment must receive wide recognition.

WEAKNESS OF POSITION INDICATED

Also required is responsible debate. Those who misrepresent the issue as being one of the Fat Cat versus the Little Man employ an adversary rhetoric which indicates the weakness of their position. Hard analysis speaks for itself, and those who parade moral self-righteousness in the name of an alleged "equity" generally do not have it.

The fact that living standards have been raised by increased savings and investment, and not by redistribution, also speaks for itself. The real cost of tax and other public policy measures which distort and depress private saving and investment, regardless of the distribution of their initial impact, always falls heavily on labor by reducing productivity and real earnings.

The other side of the coin is that changes in the tax structure which increase neutrality and reduce distortions in household and business decisions about saving and investment are enjoyed not only by those immediately affected by the changes but by welfare recipients as a result of a greater total output and by labor in the form of higher real earnings. People who, in the interest of their personal ideological preferences, consciously mislead labor by ignoring or depreciating the benefits to labor of a rising capital-labor ratio are not friends of labor.

Some satirize tax changes which reduce the bias against savings as "trickle-down" policy. They oppose this with what they call "percolate-up" policy, which would increase the tax bias against savings. They attempt to buttress their case with an argument that the inflation has hurt the consumer so badly as a consumer, that he needs tax relief as a consumer. But the inflation has left the poor consumer an even poorer saver. If we give him tax relief as a saver, we will simultaneously give him relief as a consumer through the resulting increase in the output of goods.

REDISTRIBUTION IS HARMFUL AND CHIMERICAL

Efforts to alter by redistribution through the tax system the relative shares of total income received by labor and capital are both chimerical and harmful. They are chimerical because, as economists tell me, the production relationship for the business sector of the economy and the operation of the efficiency, maximizing rule lead to constant shares of income for labor and capital. They are harmful because although they cannot change the relative shares, they can reduce both below what they would otherwise be. If economic literacy could make headway against blind emotional feelings about "equity," the debate would be ended by a general realization that public policies which seek to redistribute income by increasing the tax burden on saving and investment cannot achieve that objective, whereas measures which increase the productivity of labor produce more income for everyone.

We have been trying for too long without success to make some better off by dividing the pie differently, and it has been at the expense of the size of the pie. It is time to try a policy of a bigger pie, so that our productive capacity can catch up with the demands that are placed on it. Redistributive policies of dividing the pie differently have failed. We must turn now to a new program that is both better grounded in economics and more democratic because it focuses on making all our citizens better off. We must get away from a divisive program of envy, which attempts to make some people better off by making others worse off, and adopt a program that will give us an expanding economy that is more generous to all.

REVENUE SHARING SPECIAL REVIEW: EFFECT-ANALYSIS OF CURRENT PROGRAM THE RESULTS OF CONGRESSMAN ALAN STEELMAN'S STATEWIDE SURVEY OF TEXAS REVENUE SHARING OFFICERS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. STEELMAN) is recognized for 5 minutes.

Mr. STEELMAN. Mr. Speaker, the Intergovernmental Relations and Human Resources Subcommittee of Government Operations has been having hearings for the last 2 months on the topic of general revenue sharing. During the course of these hearings, two positions seemed to emerge. One called for maintaining the present program as is. The other suggested several philosophical changes, such as the elimination of recipient governmental units of less than 10,000 people and the redistribution of their funds to larger governments—primarily big cities. I became increasingly concerned about the momentum this option seemed to be gathering.

The latter legislative proposal was based upon the premise which claimed that general revenue sharing was ineffective and not reaching those for whom it was meant. Proponents of that proposal armed themselves with certain so-called "abuses" of revenue sharing and implied that such abuses were occurring many places that the funds had reached, especially smaller communities. In trying to secure their position, they cited examples of isolated abuses, yet they did not present how the vast majority of recipient governmental units were using their funds. Unfortunately, at times, it appeared that only the opposition had evidence to support their opinions. Such is no longer the case.

Therefore, for the edification of all my colleagues as to the effect of revenue sharing upon an entire State, on November 7, 1975, I sent a letter to all revenue sharing officers in the State of Texas, 1,306 in all, asking for their input on the subject of revenue sharing. This survey of community opinion was open ended by design. It was constructed in this fashion to allow for any fact or feeling that those participating wanted to express in as unfettered a manner as possible. Moreover, it was my goal not to promote my own position regarding the extension of revenue sharing by this survey, but to elicit frank comments from communities of varying sizes.

Within less than 3 weeks, more than 19 percent of the communities replied either by phone or by mail. Responses came from representatives of governmental units ranging from those with 10 people to as large as 1.5 million. It would seem that low voter participation in recent elections indicates that the people of our country feel sorely left out of the decisionmaking process. One mayor, who replied, aptly summed up that feeling when he said:

> My opinions may not influence anyone in Washington but it certainly was nice to be asked.

Responses were wide-ranging and touched upon a variety of topics. Consensus on any single topic was expected to be a problem since the survey raised no specific questions. Consequently, the numerous topics upon which the responses coincided was very revealing. Over 60 percent of those who responded used similar language supporting the present revenue sharing program; calling for its renewal without any significant changes. And this 60 percent does not include responses that implied support or renewal. Perhaps far more impressive was that less than 8 percent of the responses called for cancellation of the program in any manner, but even these negative responses almost always qualified their statements by saying: "Only if all other Federal programs are discontinued also." Thirty percent of the responses similarly stated that general revenue sharing provided services and improvements that would otherwise have been impossible. Along these same lines, another 20 percent claimed that the program was an asset. About 15 percent agreed that revenue sharing was the most effective and equitable Federal program to date.

Statements like the following were abundant. "General revenue sharing is the lifeblood of the small cities." In reply to your letter regarding revenue sharing, I wish to state that it has been a 'Manna from Heaven' for our small city population, 1,640." "No formula is ever perfect, but the present method of distributing general revenue sharing is far better than any proposal which I have heard presented in considering reenactment of general revenue sharing."

Nearly 30 percent felt that if the program was canceled, taxes would have to rise and that local citizens would suffer greatly. One county judge wrote:

> The Revenue Sharing program has been of immense benefit to this County and in fact represents approximately 85 percent of our tax income. To replace the loss of Revenue Sharing funds it would be necessary to almost double our Ad Valorem taxes.

It seems that those who could least afford it, would suffer most. Statements like this one were abundant:

> This is very important to us as an increase in taxes would be regressive against those who could least afford to bear this burden, namely, significant numbers of elderly residents on fixed incomes and those persons falling into the low or poverty-level income categories.

Another city manager wrote:

> A reduction or termination of General Revenue Sharing at this point would be similar to a salary reduction for each wage earner in this community and throughout this county.

Over 40 percent protested that the elimination of communities under 10,000 people was discriminatory and unfair. "You do not practice democracy when you deny aid to improve the quality of life in all U.S. cities and counties with populations less than 10,000. These people are as much our responsibility as any big city ghetto, and in many cases they exist in want just as dire as their big city counterparts," exclaimed one mayor. Another official said:

> After all, taxes are not collected by community size, but from individuals regardless of where they live, so the method currently being used is a fair way for distribution.

They also argued that small cities have the same problems as large cities only relatively scaled down. Here is one mayor's poignant remark:

> . . . One would be led to believe that the people of a small city hurt less from hunger, and that, generally, inflation doesn't impose the same harsh realities on small cities that it does on the larger cities . . . A rather brutal reality, though, is that the lions' share has gone to the lions and so has most of the kittens.

Along those same lines, many felt that block grants were no answer. The block grant system produces an unfair competitive system. "Under the block grant system the city with the best fishermen and not the greatest need were the most successful money getters," wrote one city manager. One administrator said:

> It seems that our population and location place us in a "discretionary grant" category, which means we may compete for left-over funds.

How often are funds left over? Paperwork too, seemed to be of concern regarding block grants. "We are stymied getting applications through HUD, EPA, et cetera, and they in turn are literally drowning in a sea of paperwork." Numerous responses felt that recreation was not an abuse.

"Recreation is one of the high priority items written into the law." Finally, it was also felt that true abuses should be punished. "If it can be proven that some cities have been guilty of using general revenue sharing wrongfully, then penalize the guilty."

Those who shared information on how they used their funds with us, exemplified a high degree of fiscal responsibility. Forty percent of those who responded used some of the funds for public safety. Over 40 percent were using some of their funds for environmental protection, primarily for upgrading their sanitation and water systems to meet Federal standards. Over 30 percent allocated some funds for various types of transportation improvements. There seemed to be a reluctance to use the funds for social service programs, although 7 percent were using funds for that purpose. This statement exemplifies that feeling:

> It is our thinking that to force Social Services on a community or on a county such as are being proposed by some people, would create nothing more than a little New York in each municipality and county. It is very easy to start Social Services with the help of federal money however, when the federal funds are withdrawn, this is what creates problems such as those in New York when the services must continue, however there are no funds available to carry out the programs.

Seven percent were using funds available for recreation, while still another 7 percent were using funds for libraries. Fifteen percent were using funds for general government.

I think the revenue sharing officers of Texas who responded to this survey have provided very meaningful insight for Congress on this issue. This unique approach of studying the responses of an entire State's community leaders indicates a high degree of consensus on a complex issue.

BANISHING ABUSES OF THE INTELLIGENCE COMMUNITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, a great deal of newspaper space and public attention has been concentrated recently on the revelations of the House and Senate Select Intelligence Committees. One of our goals, of course, is to expose wrongdoing and inefficiency in the intelligence community. But little attention has yet been given to our other goal—devising legislation to correct the errors of the past.

There are essentially three problems: How to banish abuses such as illegal mail tampering; how to control covert operations; and how to improve the main product of the intelligence community, its analyses of what's going on in the world.

BANISHING ABUSES

The abuses of the intelligence system—violations of law, mortality, and sometimes just good sense—should actually be the easiest problem to handle. Many of the abuses were the product of the cold-war mentality that has long gripped the intelligence community. Before casting stones at the intelligence agencies, we should first recall that that same mentality long had a tight hold on the American public and on this body. The recent airing of abuses is medicinal in itself and goes a long way to cleansing the intelligence community of that cold-war approach.

Furthermore, our investigation shows that many people in the system were aware of the difference between right and wrong and were disturbed by the activities of their agencies. When James R. Schlesinger became head of the CIA in the spring of 1973, he sent a memorandum around to all his division chiefs asking them to list anything they thought was illegal or skirted legality. The result was a flood of responses. We have the documents, a huge stack, in the committee offices right now. Clearly, many people within the system were disturbed. But there was no encouragement for them to speak out until Schlesinger's memo. And since they worked in a supersecret agency, they really had nowhere to turn with their concerns. Congress should provide the encouragement and the haven.

Recommendation.—That the Congress establish an Inspector General for Intelligence—IGI—outside the normal structure of the executive branch to watch over the activities of all the intelligence agencies and investigate allegations of wrongdoing.

Recommendation.—That the Congress insert in the appropriate laws and charters regulating the various intelligence agencies a ban on domestic operations of any agency not given specific counterintelligence functions by the Congress.

Recommendation.—That it be made a punishable criminal offense to violate any of these laws or charters and a punishable criminal offense to fail knowingly to report any evidence of violations to the IGI.

The IGI would hold the functions of, for example, the current CIA inspector general—who is a part of that agency instead of apart from it—and be given powers similar to the Watergate special prosecutor, except that he would be limited to the intelligence agencies whether they are independent agencies, like the CIA, or part of another department, such as the Office of Naval Intelligence.

The application of criminal penalities to those who fail to come forward and report violations should provide encouragement for potential whistleblowers. It is quite true that the history of criminal punishments meted out to public officials is not very long. But for persons facing peer pressure to remain silent, such a law can provide the backbone needed to come forward. They can then tell their peers they had no choice.

COVERT OPERATIONS

There is a lot of talk about banning all covert operations outright. I find that proposal somewhat attractive myself since I am repelled by virtually all of the covert operations I have learned of during the select committee's investigations. But I recognize that: First, it just would not be possible to get an outright ban through Congress; and second, there are some instances where a covert operation might actually be desirable, for example, to act against a terrorist group or a government led by a deranged dictator that has gotten possession of nuclear weapons. So my proposals are aimed not at banning covert operations but at putting so many controls on them that future administrations are not likely to become mesmerized by covert operations. Past administrations often took a liking to clandestine operations because they could be run by one agency of Government while another agency—which might think the idea assinine—was kept in the dark. For example, the CIA's direct role in trying to organize a coup d'etat in Chile in 1970 was kept secret from the Department of State, the Department of Defense and the U.S. Ambassador to Chile, according to the recent report of the Senate select committee. The 40 Committee, which the administration itself set up to oversee covert operations, was not consulted. Thomas Karamessines, formerly deputy director of the CIA for plans, testified that the supersecret plot was kept secret from the supersecret 40 Committee because of fears the State Department might object.

Recommendation.—That the Congress establish an Operations Review Committee under the National Security Council to take over the duties of the 40 Committee. The members of the new committee would be required by law to review every proposed covert operation and thus could no longer be bypassed. Each member would be required to write an individual report on each proposed covert operation assessing for the President the likelihood of success, the benefits of success, the damage of failure, the risk against the potential benefits and alternate ways of accomplishing the goal. The committee's membership would be expanded to include the Assistant Secretary of State and the U.S. Ambassador dealing with the regions and countries involved in any proposed operation.

Recommendation.—Ban all classifications higher than top secret.

Recommendation.—All covert operations would be approved for no longer than 12 months. To extend its life, the reviewing process would have to be repeated.

One problem is that covert operations have been too covert. Not everyone who should be in on the planning has been allowed in. The first two recommendations are designed to open the consultation process to more minds and ideas. The President would still make the final decision, but the President would be less likely to approve something if members of his own administration had written that the proposal was half-baked.

The individual, written reports are required because it is human nature to pay more attention to thoughts expressed in a personal document than in one drafted for initialing by a group.

Recommendation.—All covert operations proposals will be communicated to all members of the appropriate congressional committees at the same time those proposals go before the NSC's Operations Review Committee.

As I will discuss later, I do not believe Congress should have the power to veto a covert operation. But the committees—not just their leaders—should know in advance—not just after an operation has started. Any member who then wished could add his report containing his personal opinions and concerns to those of the Operations Review Committee.

All these recommendations have basically the same purpose: to bring more minds, including critical minds, into the planning process and thereby to install a brake in a machine which for year has operated without either brake or governor.

IMPROVING INTELLIGENCE

Of the three problem areas I described earlier, the least public attention has been paid to the issue of how to improve the intelligence product. But that is probably the most difficult nut to crack.

There are many problems:

Too many people are writing day-to-day reports and not enough are doing long-range thinking.

Analysts all too often give the answers it is believed the policymakers want.

There are too many collectors and not enough analysts.

Policymakers—read the President and the Secretary of State—do not keep the analysts up to date on what they are thinking and what they have done in talks with their counterparts abroad.

Intelligence producers run the system instead of the consumers or users.

The consumers make too many demands for information without first considering the time, money, and manpower involved.

Congress cannot just pass a law and say, "Hey, stop wasting manpower." It can, however, give an executive the position and authority to come to grips with these problems.

But the system cannot produce superb analyses unless it has superb analysts. While there are many fine men and women working with considerable dedication in the CIA, there are also indications that many others have turned their backs on the Agency because of its tarred, cloak and dagger image.

Recommendation: Split the covert operations section off from the CIA and make that section a separate agency attached to another department.

Recommendation: Separate the Director of central intelligence from administrative duties at the CIA. Make him an assistant to the President and give him full responsibility and a staff to coordinate the activities of all the intelligence agencies.

Cleansing the CIA of its dirty tricks department would help it attract the type of minds it needs. Careerists in the Agency could also look forward to a chance to head an agency which to date has been run by the covert side of the shop.

In creating a Director of Central Intelligence who is outside the CIA bureaucracy, we would simply be conforming—albeit almost three decades late—to the philosophy behind the origin of the DCI's post. The theory of 1947 was to set up a separate intelligence agency—that became the CIA—independent of the existing State and Defense Department bureaucracies which had their own policy axes to grind. It was also recognized that someone would have to coordinate this hodge-podge of agencies. Perhaps somebody thought there was some money to be saved by making the head of the CIA the coordinator of all the agencies. At any rate, it has not worked well. The CIA is now one of the contending bureaucracies.

Basically the intelligence community needs coordination in intelligence collection and competition in intelligence analysis. There is wide agreement on that. But saying it does not make it so. I have no sure-fire system for guaranteeing that only the best and most accurate intelligence will emerge from the intelligence community. No one does. But I do think that if we put one man close to the President, gird him with legal authority and back him up with an adequate staff, that he will have a better chance of ironing out the community's problems.

Like many other members of the House, I am always reluctant to see another agency added to the alphabet soup that we sometimes flatter by calling it a government. But I am not talking here about a whole new bureaucracy. The DCI already exists. There is already an intelligence community staff trying to coordinate the different agencies, and they would form the bulk of the new DCI's staff. There is also an agglomeration of boards and committees, many of which would simply be absorbed by the new DCI's office. For example, the Intelligence Resources Advisory Committee has helped in preparing a program budget. That will be one of the functions of the new DCI's office.

THE ROLE OF CONGRESS

So far I have only made passing reference to a congressional committee overseeing the intelligence community. I think we need either a joint committee or separate committee in both houses. I am sure one or the other will be set up next year. I am also sure that no committee will have any overriding impact on the direction of the intelligence community.

I have been disturbed that many of the discussions of reform to date seem to concentrate on creation of a congressional committee or committees. Many assume that a committee is at the heart of reform and all other actions are purely supplemental. I disagree. I think the reforms I have outlined today are elemental and a congressional committee is supplemental.

The public and press should be aware of the facts of congressional life. Any permanent intelligence committee will find itself weighted down with concrete shoes and gloves from the day of its birth.

First, as we here know, many congressional committees have a way of becoming advocates of the programs they are supposed to oversee.

The Senate and House have each had small subcommittees which for years were supposed to keep an eye on the intelligence community. But in two decades the watchdogs never barked. It has been suggested that rotating members on and off the committee might lessen the likelihood of capture. But then the members would never gain any expertise.

The members of an intelligence committee will already be suffering from limited knowledge. That is the second weight. They will be limited largely to what the intelligence agencies tell them. The intelligence committee will be quite different from other committees—like the Education Committee, for example, which hears from teachers, parents, and superintendents and does not have to rely solely on the Office of Education or HEW to tell it if a program is working or not.

Environmental groups flock to the Interior Committee when they feel some administration policy is shafting them. Who is going to complain to a congressional intelligence committee? The Russian Ambassador?

Both the problem of the captive committee and the uninformed committee will be exacerbated for an intelligence committee because much of its work will be done behind closed doors where critics would not be able to point up foibles like they can with other committees.

Third, after all the CIA's skeletons have been exposed, the dust has settled and the CIA is no longer page 1 news, many Members are likely to lose interest in the subject—including those assigned to an intelligence committee. Closed-door meetings do not allow Congressmen to make speeches or issue press releases or titillate their constituents with inside stories.

Service on an intelligence committee may be a chore bringing no credit and less visibility.

Many reformers have suggested that an intelligence committee be required to pass on any covert operations. As I said earlier, I oppose that. It is both impractical and unwise.

Most Members are very reluctant to take a position on behalf of their colleagues. It is one thing to cast a vote on the floor of the House as one of 435 Members; it is quite something else to be told to operate behind closed doors and make a decision for the rest of your colleagues.

I am sure there are many in the executive branch who would like to see Congress have veto power for exactly the same reasons that I am sure most Members of Congress do not want that authority—because it gives future administrations an out. If an operation goes awry, the executive can point to Congress and say—as it did with the Gulf of Tonkin resolution—"but the Members authorized us to do it." Members also know they could face the reverse charge: a stern administration saying, "The United States is in trouble in Majnoonistan today because Congress would not let us launch a little covert operation."

Such reluctance is not a political forecast; it is political history. For years the CIA has been telling those subcommittees about their covert operations, although usually only after they were begun. The House Select Intelligence Committee recently asked CIA Director William Colby what happened when one of the subcommittees objected. Did that halt the operation? Colby was stunned. The question had never come up before. The subcommittees preferred not to get involved.

If a committee is to have veto power, then its political composition becomes terribly important. A committee filled with what a vice president once called radiclibs probably would not allow CIA agents to do anything more physical than play darts in the basement of CIA headquarters. Pack the committee with hawkish conservatives and you are back to square one. All of these problems make congressional veto power over covert operations a very unpromising idea.

Many reformers also suggest that Congress can control covert operations through control of the budget. The Congress, for example, wars with the Pentagon over how many millions to devote to a B-1 bomber or a new aircraft carrier. But in intelligence there is not necessarily a correlation between money and mischief. In Thailand a CIA agent tampered with politics by sending one forged letter. The cost to the U.S. Treasury: one postage stamp. The cost to U.S. foreign policy: continuing embarrassment. While I believe that any new budget committee should handle an annual authorization bill for intelligence community programs, we must still face the reality that budget control is not the panacea it is sometimes portrayed to be.

A congressional committee is not the solution. But it can act as a prod to better management and a brake on poorly thought-out covert operations.

I hope, however, that we will not let ourselves get bogged down in the minutiae of whether a committee should have 12 or 20 members. I hope that Congress will concentrate on how best to reform the intelligence community itself.

I think that the recommendations I have outlined today will tighten the reins on the intelligence agencies. And I think such reforms will help restore public respect for the intelligence community from which we demand so much as we plan for our national security.

ERDA AUTHORIZATION BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Mexico (Mr. RUNNELS) is recognized for 5 minutes.

Mr. RUNNELS. Mr. Speaker, this week the House and the Senate will be called upon to vote on the conference report of H.R. 3474, the ERDA authorization bill for fiscal year 1976.

Contained in this legislation is section 103 which was added by the Senate and retained by the conference committee. This section would help start this Nation toward our announced goal of energy independence by providing loan guarantees for the development of synthetic fuels.

My State of New Mexico, which has large reserves of coal, supports this synthetic fuel development providing that environmental and community protection are assured. Section 103 provides this assurance. I would also make note of the fact that this proposal would provide additional energy, not for New Mexico, but for other citizens in this Nation since every bit of the energy produced would be sent to other areas of the Nation. I believe this Nation should take this important step toward meeting our energy requirements with our own resources and thus reduce our dependence upon foreign sources of supply.

I urge my colleagues to support this conference report to demonstrate the determination of Congress to fully meet our responsibility and the Nation's energy needs.

Mr. Speaker, I include at this point in my remarks a letter I have received from the Honorable Jerry Apodaca, the Governor of New Mexico, in support of this legislation, and particularly section 103 as it has been reported by the conference committee:

STATE OF NEW MEXICO,
Sante Fe, N. Mex., December 1, 1975.

Hon. HAROLD RUNNELS,
U.S. House of Representatives,
Washington, D.C.

DEAR HAROLD: I am happy to learn that the House and Senate Conference Committee has completed action on the ERDA authorization bill for fiscal 1976.

After reviewing the conference report, I am convinced that those sections of the ERDA legislation which deal with the commercial synthetic fuel program are consistent with the best interests of New Mexico. I urge your support of the conference report on the floor of the House.

As you may know, there are several coal gasification plants proposed for the northwest corner of New Mexico. This state is committed to help the nation meet its energy needs. At the same time, we are determined that this national commitment will not result in the destruction of the quality of our environment or the deterioration of our way of life. I believe the language adopted by the conferees adequately meets these goals.

The synfuel plants currently planned for New Mexico could augment a rapidly depleting natural gas supply free from foreign control. At the same time, with sound resource management and planning, these projects will bring many social and economic benefits to all of New Mexico's people.

New Mexico is interested in seeing such energy projects become economically viable. We realize that financial incentives will be necessary for industries to undertake these high capital and risk ventures, and therefore, we support the federal loan guarantee program for commercial synfuel development contained in the legislation before you. I am very pleased that funds for communities affected by synfuel development are included in this program, as well as assurances that the states' authority in various administrative and environmental matters are not to be preempted. This provision meets the objectives and eases the concerns of the western states previously expressed on the synfuels program. A synfuel program which takes these concerns into account will surely prove the most equitable for the energy-producing states and the most beneficial for the country as a whole.

I appreciate your serious consideration of these views, and again I urge you and your colleagues in the Congress to meet the challenge before you and start this nation on the road toward energy independence.

Sincerely,

JERRY APODACA,
Governor.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FUQUA) is recognized for 5 minutes.

Mr. FUQUA. Mr. Speaker, due to weather conditions and mechanical difficulties my flight from Florida was delayed on Monday, December 8. This delay caused me to miss several votes. Had I been present I would have voted "nay," rollcall No. 747, the Bingham amendment to H.R. 8631; "nay," rollcall No. 748; "yea," rollcall No. 749, H.R. 8631, to amend the Atomic Energy Act of 1954; and "yea," rollcall No. 750, House Resolution 817, the rule under which H.R. 9721 was considered.

WAYS AND MEANS OVERSIGHT HEARING ON IRS INTELLIGENCE-GATHERING PROCEDURES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, on Friday, December 12, the Ways and Means Oversight Subcommittee will hold a hearing beginning at 9:30 a.m. in the Main Ways and Means Committee hearing room on IRS intelligence gathering procedures.

On December 2, the subcommittee held a hearing on Operation Leprechaun. At that hearing, one of the witnesses reported that recent IRS regulations on intelligence gathering and the use of informants had unduly restricted the ability of the IRS to investigate tax law violations and cooperate with other law enforcement agencies. The subcommittee is reviewing the IRS regulations, and Friday's hearing will concentrate on the impact of those regulations on the day-to-day activities of IRS agents in the field.

It is the subcommittee's hope that this series of hearings will help develop a set of IRS intelligence gathering regulations which will provide for effective and efficient tax collection and cooperation with other Federal agencies while at the same time protecting the rights of the individual and the confidentiality of tax information.

U.S. ARMY TRIBUTE TO THE MASSACHUSETTS MINUTEMEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. O'NEILL) is recognized for 5 minutes.

Mr. O'NEILL. Mr. Speaker, I wish to commend to the attention of my colleagues in the House of Representatives the outstanding address delivered by Army Chief of Staff, Gen. Fred Weyand, on the 34th anniversary of that day of infamy, December 7, 1941, to the Minutemen Chapter of the Association of the U.S. Army in Shirley, Mass.

The occasion was the commemoration of the 200th anniversary of the Continental Army's aid to the Minutemen of Massachusetts during the American Colonies' struggle for independence.

I include the following in the RECORD:

ADDRESS BY GEN. FRED C. WEYAND

Ralph Waldo Emerson once said that "Bad times have scientific value, and that these are occasions that a good leader would not miss." Today marks the thirty-fourth anniversary of the infamous attack on Pearl Harbor and the war that followed . . . "bad times" that many of us here shared, and when we saw firsthand the need for the Army to protect our country.

Now we are going through another period of "bad times". But, as Emerson pointed out, such a period can be valuable. It can give us the chance to rediscover our roots, and in my case, to reexamine the Army's reason for being.

And I can think of no better forum for such a reexamination than before the Minuteman Chapter of the AUSA. The United States Army came into being because of the actions of your colonial ancestors here in Massachusetts, when, thirteen months before the Declaration of Independence, the Second Continental Congress sent out the call to raise ten companies of expert riflemen to assist the New England provincial forces then laying siege to Boston.

When our liberty had been secured, and the Constitution was being debated, the United States Army was an issue in that debate.

It is interesting to note that much of that early debate is as appropriate today as it was in 1788. Consider James Madison's remarks to the question, "Why an Army?"

Madison noted that since the proposed Constitution could not stop other countries from having an army, it was foolish to prohibit the United States from having an army . . . As he said, "If one nation maintains constantly a disciplined army . . ., it obliges the most peaceful nations, who may be within (its) reach . . . to take corresponding precautions . . ."

It was also interesting that our Founding Fathers wanted to make sure that the United States Army remained a people's army . . . a servant, never a master of the people. This awareness of the dangers of an unrestrained military force was precisely why Alexander Hamilton in commenting on the Constitution said "the whole power of raising armies was lodged in the legislature, not in the executive"; . . . he went on to say: "there was an important qualification even in the legislative power which forbids the appropriation of money for support of an army for any longer period than two years; a precaution which . . . appear(s) to be a great and real security against the keeping of troops without evident necessity."

Don't think all of this is ancient history . . . this is exactly why each year the "evident necessity" of keeping troops must be justified to the Congress so that the funds necessary to raise, support, and equip the United States Army can be obtained from the people.

In September 1789, the Congress incorporated under the Constitution the army they inherited from the Confederation. Unlike many armies of the world whose allegiance is pledged to a leader, the United States Army was, and is pledged to "bear true faith and allegiance to the Constitution of the United States" and to support and defend the Constitution from all enemies, foreign and domestic. But what does "support" mean? And what does "defend" mean?

We too often forget that the Constitution of the United States was, and is, a revolutionary document. It set out a proposition that in those days was heresy to many: the proposition that the people would be masters of their own fate. Today we tend to lose sight of the fact that when our Founding Fathers challenged the divine right of Kings they set the world on a new course. We also forget that over the past several hundred years, the United States Constitution has become more, not less, responsive to the people and has tended to define "people" in ever more inclusive terms.

We should remember that the democratic forces unleashed by the American Revolution threatened the very existence of the autocratic states of those times. The framers of the Constitution were well aware of the challenge that the United States made to the existing order. They were not at all certain that the Great Powers of the day would allow such doctrines to continue. There was an absolute requirement, therefore, to defend these democratic principles both from external enemies and from those within the country who would return to more traditional concepts. Having just fought a long and difficult war, the framers of our Constitution knew that strength was necessary to defend their ideals, that one had to be prepared to fight for what he believed in. They knew that freedom was not free.

It is ironic that Washington, Jefferson, and Madison would probably be less surprised than are many idealists today at the present world situation. Just as in their day, freedom and democracy are precious commodities, everywhere under attack. Just as in their day, the majority of the world is made up of autocrats—Communist totalitarian regimes and military dictatorships rather than kingdoms and empires, but autocracies just the same. The Founding Fathers were idealists, but they were also practical men. They knew that all the high-flown ideals and pretty phrases in the world meant nothing if there were no Government to bring ideals into being, and no such Government could exist if there were no force to defend it from its enemies. Being practical men, they made the Army the defender of the Constitution, dependent on that self-same Constitution for its existence.

The primary way in which the Army defends the Constitution is by bearing true faith and allegiance to it . . . and it is a reflection on the strength of this faith and allegiance that this basic and vital relationship is taken completely for granted, a fact that would amaze the majority of the world's nations where in fact "political power grows out of the barrel of a gun."

United States Army withdrawal from Vietnam after a nine-year involvement was taken by most Americans, in and out of the Army, as a matter of course. There were no screams of betrayal, no bitter remorse, just a simple carrying out of orders. This is as is should be. As it must be. But, to those who scoff and mutter "Nuremberg" when the Army reports to the American people that it is obeying their orders, one it tempted to ask whether they would prefer an Army in revolt as in France after Algeria or Portugal after Angola. When you consider that this withdrawal took place during the most serious Governmental crisis in the history of our Republic, culminating in the resignation of the President—the Commander-in-Chief—then the implicit and deserved faith of the American people in the loyalty and steadfastness of their Army is particularly remarkable . . . so remarkable that it is unremarked.

But just because it is unremarked, it should not be ignored or eroded. And there are pressures to erode this essential foundation. During the Vietnam war there were those—many with the best of intentions—who argued that the Army should not obey its orders and should refuse to serve in Vietnam. But their argument that soldiers should "obey the dictates of their own conscience" is a slippery slope indeed. At the bottom of this slope lies military dictatorship, as a majority of the world's peoples could testify (could testify, that is, if they had freedom of speech). It is to the credit of the American soldier that his unspoken response to the question why he served in Vietnam was "I thought you knew . . . You sent me."

The Army does not exist as an entity unto itself—the "warring" side of America as divorced from the "peaceful" side. The Army and the American people are one. Discussing the situation in Hanoi on the eve of Saigon's fall, an American Army officer told his North Vietnamese counterpart that, "You should remember, North Vietnam never defeated the American Army on the field of battle." "That may be so," the North Vietnamese replied, "but it is also irrelevant." He knew that North Vietnam was not just fighting the United States Army, it was fighting the United States. His remark highlighted the too often forgotten fact that when the United States Army—a genuine people's army—is committed, the American people themselves are committed, and, conversely, when the American people drop their commitment, the Army cannot remain committed. The United States Army exists, not to serve itself, but to serve the American people.

The primary way it serves the American people is by providing the foundation of strength upon which our foreign policy is erected. And while one may question the implementation of this foreign policy, its essential thrust remains constant. This thrust was well expressed by Drew Middleton, who quoted a comment by the British author, Somerset Maugham:

"One night at the Garrick Club in London a year or so before his death, Somerset Maugham answered a member who was vehemently criticizing American foreign policy. Maugham raised that heavy, seamed face and said, 'Well, somebody has to hold the passes.' What he meant, he explained later, was that all through history nations, in their time, have held the passes of the rule of law against the barbarians. Those nations usually were themselves far from perfect. But, Maugham emphasized they were supporting 'the r-r-right ideas' no matter how imperfectly they themselves sought them."

With its dedication to the ultimate law of the land, the Constitution, the United States Army is supporting these right ideas. And this is the basic case for the Army. The Army exists to support and defend the Constitution. The Army supports and defends it by bearing true faith and allegiance, by obeying the orders of the people as expressed by their elected representatives. To quarrel with this basic case is not to quarrel with the Army; it is to quarrel with the Constitution.

Now, as the Continental Army came to your aid here in Massachusetts two hundred years ago, I would ask that you members of the Minuteman Chapter continue to come to the aid of the Army by constantly reminding the American people that the United States Army is their Army . . . by, of, and for the people of the United States of America.

HIJACKING THE LIBRARY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. HARRIS) is recognized for 5 minutes.

Mr. HARRIS. Mr. Speaker, on December 8, the Executive Committee freshman class approved unanimously by resolution opposing any House takeover of the James Madison Memorial Library of Congress Building. We did so out of the conviction that the House's "hijacking" of the new library building would be presumptuous, irresponsible, costly, and unwise.

First, the new Madison Building, authorized in 1960, was planned as a library—not an office building. The building will be equipped with special temperature and humidity controls, special motorized shelf systems and floors built for heavy loads. It incorporates many modern design features for the finest library in the world, which houses 75 million books, prints and other items.

Conversion of this building to office space would mean costly and complex redesign, increasing the cost by $30 to $40 million. It would require a minimum of 3½ years to complete. But these factors aside, such action by the Congress would represent a break of faith with our "partners" here in the legislative branch. When Congress enacted Public Law 91-214, authorizing the new building, section 2 was included which specifically forbids use of the building for general office purposes, a provision which ironically originated in the House. We would be reneging on our promise and ignoring the very real problems of congestion, cramping, and unworkable conditions library employees now have to cope with to serve us.

The need for the additional space for the Library is clear. Congress recognized it long ago and approved a solution. The Library now rents space at 10 additional locations throughout the area at a cost of $5.4 billion. Overcrowding and temporary partitions are far too common. Retrieval of documents is hampered and special study facilities for scholars have been seriously curtailed.

If the House needs more space we should look at our existing space and determine how we can use it more efficiently. Optimum working conditions can be obtained through imaginative design and reorganization of our current facilities. I am pleased that the Architect of the Capitol is now conducting a study of present and future space needs of the Congress and the Joint Committee on Congressional Operations is studying information sources and facilities available to Members. It is premature to move into the Madison. It is presumptious to move into the Madison without closely analyzing how we are using our own facilities.

The Library of Congress is a magnificent institution which is for the benefit of every citizen—not just the Congress. The Library contains 6,487 volumes from Thomas Jefferson's personal library; the largest collection of books printed before 1501 in the United States; 31 million manuscripts relating to American history and civilization, including the personal papers of 23 Presidents; over 1.2 million braille volumes; and millions of other rare and valuable items. We should view the Library with respect, not greed. I call on my colleagues to let it be.

HAS FTC ACTED IN THE PUBLIC INTEREST IN SUPERMARKET CHAIN MERGERS?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. MEZVINSKY) is recognized for 5 minutes.

Mr. MEZVINSKY. Mr. Speaker, as many Members are aware, the FTC has touted before this Congress and the public a much publicized investigation into the food sectors of our economy. It is the FTC's contribution toward the fight against inflation. This is all well and good and to be supported—that is if the FTC is acting in good faith.

A recent decision by the FTC to allow the merger of two important supermarket chains in the metropolitan area in Seattle and Takoma raises many questions about how genuinely committed the FTC is to increasing competition in the food industry.

I am at a loss to understand the decision on October 8 made by the Commissioners to allow Lucky Stores to acquire the entire chain of 16 Arden-Mayfair stores in the Seattle-Takoma metropolitan markets. This decision seems to run counter to the expressed concern of the food investigation and the FTC's 20-year policy of discouraging mergers in grocery supermarket chains.

I am sure the FTC has reasons for allowing this merger that it can defend. But no one outside the Commission knows what those reasons are. Because there has been no public statement and there is no public record regarding the rationale for allowing this merger, I have asked Chairman Engman to provide this to me. I am including the text of my letter to Mr. Engman for the RECORD.

It is not enough that agencies of the Government effect the right stance if they can not explain adequately to the public the reasons for actions that appear contrary to stated policy or the public interest. The letter follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., December 5, 1975.

Hon. LEWIS ENGMAN,
Chairman, Federal Trade Commission,
Washington, D.C.

DEAR MR. CHAIRMAN: I am at a loss to understand a recent FTC decision to allow Lucky Stores to acquire the entire chain of 15 Arden-Mayfair stores in the Seattle-Takoma area. This decision seems directly contrary to the FTC's strongly stated policy regarding mergers in grocery supermarket chains.

Coming at a time when the Commission has touted its food investigation program as a serious attempt to curb possible monopoly abuse of power in the food sector of our economy, allowing Lucky Stores to double its size and its share in a metropolitan market is inexplicable on the surface.

I have gone through material relating to supermarket mergers which you provided to the House Monopolies and Commercial Law Subcommittee in 1973. In that material I read a genuine attempt to adopt a policy, of which the FTC seems clearly and rightly proud, of discouraging anticompetitive mergers in supermarket retailing.

The main standard set down as a guideline in that policy is the size of total sales of the company seeking a merger, with particular scrutiny given to firms with sales over $500 million. Both Arden-Mayfair and Lucky have sales well over this limit. In 1964, Lucky's sales of $2.9 billion made it 4th in sales of all food retailers and ranked it number 11 in Fortune's list of largest retailing companies. Arden-Mayfair, as 20th in grocery sales and 43rd in the Fortune ranking, has sales of $649 million.

Other standards which the FTC uses to sanction mergers it considers unimportant clearly apply to neither of these two chains. In this case, we are dealing with an acquisition of 16 stores, well over the cut-off point of 4 stores, and the new companies have total sales in the Seattle-Takoma area far above 5% of total sales in that location.

I would like to call your particular attention to the assessment of the FTC that, "A threat to competition is posed whenever companies which are leaders in important metropolitan areas merge with direct competitors which are also leaders in the same market." It is my understanding that both Lucky and Arden-Mayfair had a substantial share of the Seattle-Takoma market.

I hope to receive from you clarification of the reasons this merger was allowed.

Can you supply me with figures on the share of the metropolitan market of these and other stores in the area, as well as annual sales for these two stores in Seattle and Takoma?

Along with this, it would be helpful for you to provide me materials to explain the rationale for this decision. I understand that while there was no written decision, there would be minutes of the meeting at which this merger was allowed, as well as the views that were circulated to the Commissioners by the Commissioner who handled this case. Also I would like to know what the staff recommended and why.

I await your reply at the earliest possible time.

Best regards,

EDWARD MEZVINSKY.

DODD OF CONNECTICUT OPPOSES H.R. 8631, AMENDMENTS TO THE PRICE-ANDERSON PROVISIONS OF ATOMIC ENERGY ACT

(Mr. DODD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DODD. Mr. Speaker, I have cast my vote against H.R. 8631, amendments to the Price-Anderson provisions of the Atomic Energy Act, because I can find no justification for their preservation, and in all due respect, I deplore the decision of this Congress to uphold this legislation.

There are only two real issues here: Subsidy and liability. My concern stems from the amendments' failure to deal with these questions in a realistic and equitable fashion.

The 10-year extension of the Price-Anderson Act not only provides for a continuation of the artificial subsidy granted to an industry which could well provide for itself.

It also perpetuates the nuclear industry's favored status as our only technology with limited liability. This places the burdens of a potential accident, not on the utilities, but on the American people.

It is unfair that an industrial giant should benefit from an artificial subsidy which could legitimately be afforded only to the infant industry that it was 20 years ago.

Today the nuclear industry is an $20 billion creature that claims to be financially sound and safe for widespread consumption.

If such is the case, the time has come for the nuclear power industry to take its rightful place in the private sector.

It should secure appropriate coverage from the insurance companies that have shown their willingness to cover other high-risk enterprises such as the drug, chemicals, explosives, and airline industries.

Apparently, we have failed to learn the lessons so well illustrated by the disasters of Lockheed and the SST.

Once again the U.S. Government is involved in the dubious practice of propping up an industry which once accustomed to its privileged state will find it increasingly difficult to assume a self-supporting stance.

The renewal of the Price-Anderson Act is setting the stage not for an orderly 10-year phaseout of the existing statutes, but for an unsound and unbreakable marriage between the Federal Government and the nuclear industry.

Once millions of Federal dollars have been used to further remove the industry from the forces of competition, we can be assured that 10 years from now we will be presented with another rationale for the continued protection of the nuclear industry.

Nuclear power is now widely perceived as the way of the future, the answer to our energy problem and thus deserving of special consideration.

It is indeed the only energy source which is capable of meeting our demands for the immediate future.

But does this justify a bias toward its development, at the expense of alternative sources which could easily prove as efficient if they were granted the same favors?

There are only so many Federal dollars to be devoted to all energy sources, and the vote on H.R. 8631 reinforces my fear that too large a portion of these funds will be committed to nuclear power.

Our energy problem is a direct result of our failure to develop a balanced energy economy which would allow a number of different providers to function simultaneously.

For far too long we have relied almost entirely on fossil fuels—and once we were struck by the astronomical rise in the price of foreign oil, we were left with no recourse but to pay that price.

An undue reliance on the nuclear industry could well lead us down a path of no return.

If the nuclear industry cannot survive competitively without the subsidy provided by the Price-Anderson Act, perhaps it is time to reassess the faith we have put into it and to reconsider our priorities in the field of energy.

Not only is it unfair for the Government to underwrite the development of a major industry but it is also unfair to prolong an act which forces the American people to assume the human costs of a nuclear accident, while the industry remains insulated from the legal and financial risks of such an occurrence.

Whether the latter be likely or not, it is still a possibility and must be provided for.

The $560 million limit on third-party tort liability has essentially been preserved for an additional 10 years. The new "adjustable" ceiling will in fact not be raised until we have at least 90 operating nuclear reactors.

Inflation alone should have warranted an increase in this 18-year-old figure to $2 billion.

And the number and size of nuclear powerplants has grown and estimates of potential damage costs run much higher than they did in 1957.

An undelayed end to this limit on liability would have been the surest way of insuring the enforcement of stringent safety and delivery procedures on the part of the manufacturers and operators of nuclear powerplants.

In addition, the Price Anderson Act includes a number of provisions which guarantee a greater degree of protection to the nuclear industry than to our citizens in the event of a nuclear accident.

Even the legal defense costs of the utility responsible for the accident will be paid out of the limited funds for public compensation.

Swift aid to the victims will be left to the good graces of the Nuclear Regulatory Commission and the U.S. Congress, whose aid should go to correct the damages of natural disasters, not nuclear ones.

Finally, the 10-year statute of limitations on this act, and the absence of any definition of latent radiation injury leave the average citizen in a position of clear disadvantage.

There are still many other serious objections to the far reaching implications of this complex legislation. But the thrust of the analysis always remains the same.

In voting for or against H.R. 8631, we were not deciding the fate of the nuclear power industry but deciding who should legitimately bear the risks and costs of its development. If I voted against its passage, it is because I believe that this responsibility should not have to lie with either the innocent victim or the Federal taxpayer.

MORE STORM CLOUDS GATHER, CONGRESSIONAL BUDGET OFFICE GIVES LOW MARKS TO $6 BILLION SYNTHETIC FUELS PROGRAM

(Mr. DINGELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DINGELL. Mr. Speaker, at the request of the Senate Budget Committee the Congressional Budget Office prepared an excellent analysis of the loan guarantee program added by the Senate last July to the Energy Research and Development Administration authorization bill (H.R. 3474) and the administration's proposal for a 350,000 barrel per day synthetic fuels information program. The latter program was, in essence, adopted by the House-Senate conferees on H.R. 3474 because, in reality, that is the maximum production that the $6 billion, plus the $4.5 billion in price supports, and the $600 million in construction grants for synthetic fuels, will buy.

The Congressional Budget Office report points out that—

> 350,000 barrels per day of oil is only "1.3 percent of the 1974 total U.S. consumption of oil and gas."
>
> Unless world oil prices rise "substantially above their current levels, the economic costs of synfuel production will probably exceed" any economic benefits.
>
> "Large-scale synfuel production would create significant environmental risks and social costs."
>
> A final decision on synfuels commercialization "can only be made after" an incentive program has been devised and evaluated and then the costs "attributable" to the incentives themselves "must be added" to estimates of synfuel production "to determine if acquiring synfuel production capacity through governmental action is justified." (As I have noted before, we have not yet considered the entire package of costly incentives for this program. ERDA wants us to consider and pass an additional group of incentives to bring the total package to over $11 billion.)
>
> If information is the primary goal, a lesser program with a target as low as 125,000 barrels per day might be chosen.

Mr. Speaker, this is an important document. It further clouds the $6 billion program in the ERDA bill (H.R. 3474) and raises more doubt as to the wisdom of it. I insert it in the RECORD for all Members to study.

The Congressional Budget Office report follows:

COMMERCIALIZATION OF SYNTHETIC FUELS: AN ANALYSIS OF THE SENATE'S LOAN GUARANTEE PROGRAM AND THE ADMINISTRATION'S PROPOSAL

I. SUMMMARY

Synfuels commercialization programs

The President has proposed a program to bring synthetic fuels—oil and gas produced from coal, oil shale, and urban waste—into commercial production in the near future. The program would consist of price supports, loan guarantees, and construction grants designed to achieve an interim synthetic fuel production target of the equivalent of 350,000 barrels of oil per day, with an option of expanding the program to 1,000,000 barrels per day by 1985 if the initial phase were successful.[1] Projects eligible for assistance would include:

Conversion of coal to oil or gas
Extraction of oil from shale
Production of oil or gas from urban wastes

The Senate version (S. 598) of the FY 1976 ERDA Authorization bill (H.R. 3474), currently in conference, provides for guarantees of up to $6 billion in loans, but does not contain the other incentive provisions. Loan guarantees in this amount would be sufficient for approximately 350,000 barrels per day.

Decisions facing Congress

Congress may decide to:

Accept or reject a synthetic fuels commercialization proposal as a whole, independent of other actions related to energy production or conservation.

Accept the goal of speedy commercialization but choose other target production levels, alternative process mixes, or different levels or types of production incentives (e.g., limit incentives to the loan guarantees of S. 598).

Delay decision so as to consider the program in the context of the proposed Energy Independence Authority or other broad energy policies.

Postpone commercialization and pursue instead further research, development, and demonstration projects relevant to synfuels.

Criteria for decision

A decision to proceed with a program of incentives to stimulate synthetic fuel (synfuel) production by private industry re-

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Footnotes at end of article.

quires answers to four questions: (1) will synthetic fuels production be justified before 1985? (2) does private industry require government incentives to produce them in that time frame?, (3) what is the best package of incentives, considering program objectives and cost?, and (4) are the costs of that package acceptable in light of the factors which justify synfuel production?

Answers to each of the four fundamental questions depend on a number of considerations.

1. The justification of synthetic fuel production between 1975 and 1985 depends on economic and non-economic factors. Quantifiable economic benefits include the value of the fuel themselves, a degree of embargo protection, and reduced cost of future synfuel production. Unless world oil prices rise substantially above their current levels, the economic costs of synfuel production will probably exceed these economic benefits. However, non-quantifiable and non-economic considerations could tip the balance either way. Synfuel production capability could provide insurance against large increases in world oil prices and might influence OPEC nations to restrain price increases. On the other hand, large-scale synfuel production would create significant environmental risks and social costs.

2. It is highly unlikely that private industry will produce significant quantities of synthetic fuels before 1985 without government support. Factors cited include lack of profitability, technological and economic risk, difficulty in raising capital, and constraints imposed by the government.

It is clear that some synfuel production would be unprofitable at current oil and gas prices. If profitability were achieved through use of government incentives, the remaining factors might still discourage investment.

3. An incentive program should address all significant constraints. The incentives proposed by the President are targeted at making synfuel production profitable, shifting risks from investors and producers to the government, and alleviating shortages of capital. If these are not the real constraints to synfuels development, a different level and mix of incentives may be appropriate. (For example, if risk alone is the problem, loan guarantees might be relied on exclusively.) An alternative program could include regulatory reform, tax incentives, government ownership, or measures to increase the cost of imported fuels. Although comprehensive evaluation of the costs and effectiveness of alternative incentive packages is beyond the scope of this report, examination of these candidates suggests that a program substantially better than that proposed by the Administration may be difficult to design.

4. A final decision on synfuels commercialization can only be made after an incentive program has been designed and evaluated. Then the costs attributable to the incentives themselves must be added to the previously estimated costs of synfuel production to determine if acquiring synfuel production capacity through government action is justified. Although potentially effective in achieving production targets, the Administration's proposed incentives may reduce competition, increase costs of producing synthetic fuels, and adversely affect private capital markets. No alternative is entirely free of comparable disadvantages.

Other issues

If a decision to proceed with a commercialization program at some level is made, three other issues—the targeted production level, the mix of processes to be encouraged, and protection of the environment—must be considered.

1. A program with a target of 350,000 barrels per day production by 1985 has substantially lower costs than one aiming at 1,000,000 barrels per day, yet the smaller program would provide much information on technology, process economics, and environmental consequences.

The benefits of synfuel commercialization come in two broad classes—production of energy and acquisition of information. If information is the primary goal, a program with a target as low as 125,000 barrels per day might be chosen.

2. Alterations in the emphasis given different processes can also alter program costs and benefits. S. 598 provides that not less than $2.5 billion of the $6 billion in loan guarantees would be used for high-BTU gasification processes, and that funds may be used for solar, geothermal, and other unconventional processes. The Administration proposal contains no such provisions.

3. Major uncertainties concerning environmental impact cloud the synfuels decision process; their resolution could be an important objective of a small synfuels program. The principal known and potential impacts include large-scale land distribution from oil shale and coal mining, disposal of wastes from oil shale processing, consumptive use of water in water-short regions, air pollution from processing, potential carcinogen formation in the processes dealing with liquids, and the socioeconomic impacts of the influx of workers, their families, and associated developments on sparsely populated regions. Some such impacts may be mitigated, at the lower levels, by a strict Environmental Protection Strategy (the Administration's proposal contains the outlines of such a strategy) and by grants or loan guarantees to impacted communities. Nevertheless, aggregate impacts of a larger, 1,000,000 barrel per day, level could be severe.

Potential budget impact

For FY 1976, the Administration requests borrowing authority of $1.5 billion for loan guarantees, plus $1.0 billion for price guarantees, and appropriation of $0.6 billion for construction grants.

Even if passed immediately, however, a synthetic fuels commercialization program would be unlikely to lead to Federal outlays in Fiscal Year 1976. Rather, there would be a time stream of outlays whose extent and timing would depend on the program level, the mix of incentives, and the riskiness of synfuels technologies pursued. Tax revenues could also be decreased from levels predicted in the absence of the synfuel program.

The cost to the government of price supports, construction grants and foregone taxes implicit in the Administration's 350,000 barrel per day program is expected to total from $1.6 billion to $13.3 billion by the year 2005, when obligations to support prices will have expired. During the 1980's annual costs might reach $600 million per year. Additionally, a maximum of just over $2 billion in guaranteed loans would be outstanding in 1985. Costs would become higher—$3 to $29 billion over the life of the program—if a decision were made to proceed to 1,000,000 barrel per day capacity by 1985.

Timing of decision

If there were a decision to proceed on January 1, 1976, it would be at least the end of 1980 before there could be a year of operating experience with a synfuel plant. But ERDA has several second-generation synfuel processes ready for demonstration which, if successful, could make obsolete a synfuel plant based on current technology. Delay in synfuel commercialization could actually improve the economics of the program.

Congress will determine whether an immediate decision is required. It has the option simply to defer decision—possibly postponing production targets beyond 1985—or to rely upon research, development, and demonstration to lay the groundwork for an expanded synthetic fuel production capability after 1985. Whatever the decision, it should be made in the context of a larger perspective on the proper role of the Federal government with respect to the continuum of energy activities from research through development and demonstration to commercialization.

II. INTRODUCTION

A. Background

Synthetic fuels (synfuels) are so called because their production involves a basic transformation of the fuel from the way it is found in nature. The term is imprecise and general, but is usually considered to include gas and oil made from such sources as coal, oil shale, or urban or other waste. Production of synthetic fuels from these comparatively abundant domestic sources would permit the Nation to reduce its reliance on imported oil and gas.

In order to stimulate future production of synthetic fuels, the President has proposed a Synthetic Fuels Commercialization Program. The Administration's program would use price supports, loan guarantees, and construction grants to attain, if successful, the capacity to produce the equivalent of 1,000,000 barrels of oil per day by 1985.

An alternative proposal, limited to loan guarantees, is contained in Section 103 of the Senate ERDA authorization bill (S. 598). By itself this program could only reach a lower target capacity, perhaps 350,000 barrels per day.

The purpose of this report is to describe the key decisions which Congress must make in regard to these proposals and to provide an analysis of the issues underlying those decisions.

B. Proposals and issues

Technologies for producing synthetic fuels have long been known, and there is some synthetic fuel production in foreign countries. However, much of that production is subsidized, and the scale of production is considerably smaller than that envisioned for the proposed programs.

The Energy Research and Development Administration (ERDA) conducts an extensive research program aimed at developing "second-generation" processes for producing synfuels which offer promise of being more economically attractive, efficient in use of resources, and environmentally acceptable. Nevertheless, such technologies are not yet available, and economics of existing processes have not, in the past, been sufficient to induce industry to produce synthetic fuels commercially in the United States.

To alter this situation, the Administration proposes three goals for 1985: (1) development of technical, environmental, and economic information on synfuel production processes; (2) accumulation of experience with synfuel production in American industry; and (3) production of significant quantities (the equivalent of at least 350,000 barrels per day, and possibly as much as 1 million barrels per day) of synthetic oil and gas. The goals would be achieved by measures which would shift risks of synfuels development from private industry to the government and would involve net government subsidies to synthetic fuels production at least through 1985.

The proposal itself is reported in detail in a four-volume interagency study recently made available to the Congress.[2]

The Administration's report examined five production levels:

No program, with zero synthetic fuels production in 1985.[3]

An "information" program, achieving production of the equivalent of 350,000 barrels per day of crude oil by 1985.

A "two-stage nominal" program, initially targeted to reach 350,000 barrels per day before 1985, with a decision in the late 1970's whether to proceed to 1,000,000 barrels per day by 1985. (This is the Administration's proposal).

A "one-stage nominal" program, achieving 1,000,000 barrels per day by 1985.

A "maximum" program, achieving 1,700,000 barrels per day by 1985.

and several types of synthetic fuels:

Fuels produced from coal:

Gas with low to medium heat content compared to natural gas ("low to medium-BTU [4] gas")

Gas with approximately the same heat content as natural gas ("high-BTU gas")

Synthetic crude oil ("syncrude")

Crude oil extracted from oil shale

Gas and oil produced from urban waste or other biological materials

The incentives recommended by the Administration are:

For oil shale and syncrude

Non-recourse loan guarantee [5] and price support.

For high-BTU gas

Non-recourse loan guarantee.

For low and medium-BTU gas:

a. for regulated industries, construction grants

b. for unregulated industries, a non-recourse loan guarantee and price support

For fuel from urban waste:

Non-recourse loan guarantee.

All incentive levels would be determined by competitive bidding. Choice of the mix of technologies to be supported is left to the discretion of the program manager.

C. Decisions facing Congress

The Administration's synthetic fuels commercialization program may not come before Congress as a single bill. Authorization for $6 billion in loan guarantees appears in Section 103 of the Senate ERDA authorization bill (S. 598), which is now in conference. The original version of S. 598 would authorize loan guarantees with recourse to the assets of the parent company, earmark $2.5 of the $6 billion for high-BTU gas, and include ventures developing solar or geothermal energy as well as synfuel ventures. ERDA has suggested modifications to Section 103 which would turn it into authorization of the first (350,000 barrel per day) phase of the loan guarantee portion of the Administration proposal.

House hearings on Section 103 began during the week of September 29, before S. 598 and H.R. 3474, the House ERDA authorization bill, went to conference, and were concluded on Otcober 27. Separate authorizing legislation for construction grants and price supports, also to be administered by ERDA, was surfaced on October 22 and may be introduced in November. Thus consideration of the program as a whole may prove difficult.

Several related programs will also come before this session of Congress. The Administration's proposed Energy Independence Authority (EIA) would have assets of $100 billion to assist private industry in financing energy investment, which could include synfuel investment. The Nuclear Fuel Assurance Act of 1975 (S. 2035 and H.R. 8401) would develop a privately owned uranium enrichment industry using some of the same devices proposed for synfuel commercialization. ERDA appropriations will provide further opportunity for review of its program of energy research, development, and demonstration. Other energy policy issues, including oil price decontrol, changes in Federal leasing policies, stockpiling, and mandatory energy conservation, are also before the Congress. The proposed National Energy Production Board (S. 740) would have comprehensive authority to stimulate domestic energy production, and could consider synfuel investment in a context of total energy policy.

In deciding on synthetic fuels commercialization, Congress has several options:

Accept or reject a synthetic fuels commercialization proposal as a whole, independent of other actions related to energy production or conservation.

Accept the goal of speedy commercialization but choose other target production levels, alternative process mixes, or different levels or types of production incentives (e.g. limit incentives to the loan guarantees of S. 598).

Delay decision so as to consider the program in the context of the proposed Energy Independence Authority which is designed to carry out similar programs, or other broad energy policies.

Postpone commercialization and pursue instead further research, development, and demonstration projects aimed at solving specific new technology.

Decisions made by Congress will determine whether the government will actively encourage production of synthetic fuels, when production will take place, and what form the encouragement will take.

III. CRITERIA FOR DECISION

At issue before Congress is the appropriate Federal role in the commercialization of synthetic fuels. In deciding this issue four considerations are of primary importance: the desirability of production of synthetic fuels, now and in the future; the likelihood that production will take place at the proper time and rate without government intervention; the proper mix of incentives to private producers; and the costs of the program through which development is encouraged. If a decision to proceed with some commercialization program is made, other issues regarding program level, technology mix and environmental protection arise.

A. Is synthetic fuel production needed?

A synthetic fuels commercialization program can be justified only if the production of some amount of synthetic fuel in an appropriate time frame is itself counted worthwhile. The two relevant time frames are 1975 to 1985 and beyond 1985. Production of synthetic fuels would be worthwhile if their costs (at some point, presumably beyond 1985) were lower than the costs of equivalent quantities of energy provided through alternatives such as energy conservation, increased nuclear capacity, or increased imports—where the costs of imports, for example, reflect the possibility of embargo or further price increases. Important considerations are economic costs and benefits, non-economic considerations, and potential environmental impacts.

1. Economic Costs and Benefits: Most projections of energy futures beyond 1985 continue to show substantial imports, which could be displaced by synthetic fuels. The burden of the Administration's analysis, then, is on a comparison of costs and benefits of a commercialization program which would stimulate such production. The benefits of the program would include the value of the information which would be developed and which would be necessary for realization of the benefits of timely introduction of a synfuels industry.

If a mixture of all five production processes is pursued, it will probably cost more to produce any of the targeted amounts of synthetic fuels between 1975 and 1985 than it will cost to purchase the same quantity of imported fuel. However, the experience which industry gains during that time will result in lower costs and greater production of synthetic fuels after 1985 than would be the case if no commercial quantities of synthetic fuels were produced prior to that year. Even if these benefits and the value of a degree of embargo protection are added in, economic costs of synthetic fuels production during the 1975–1985 decade will probably exceed economic benefits.

The expected economic costs and benefits depend on a number of uncertain events. Different beliefs about the cohesiveness of the international oil cartel, the cost of producing synthetic fuels, and the effectiveness of the commercialization program in reducing cost in the future can result in markedly different conclusions about the economic future of synthetic fuels.[6]

2. Non-economic Considerations: Other considerations could be weighed against the probable net economic cost of producing synthetic fuels. Among the desirable consequences of the commercialization program would be:

Demonstration of U.S. capability to use domestic energy sources, which may create pressure on the cartel to limit price increases.

Leadership of and benefits to other oil consuming nations.

Provisions of insurance against the effects of oil embargoes or price increases.

Confidence that the substantial benefits which might come from synfuel production have not been foregone.

These same considerations apply to other programs to increase domestic energy supply or reduce demand or vulnerability. Such alternatives could include additional emphasis on conservation, stockpiling, nuclear energy, and so forth. Although evaluation of alternative energy policies is beyond the scope of this paper—and of the Administration's report—a decision about the synfuels commercialization program should be based on comparisons with the economic and non-economic benefits of such alternatives.

3. Environmental Impact: Production of synthetic fuels will have a substantial impact on the environment. Problems of air pollution arise from the large scale of synfuel plants and from specific pollutants they release. With current emission control technology, it may be impossible to satisfy ambient air quality standards for particulates, sulfur oxides, nitrogen oxide, and hydrocarbons if synfuel plants are located near to each other or to existing major pollution sources. In addition, suspected carcinogens will be released by synfuels plants.

Water quality and supply may also be problems. Although surface water quality can be maintained through environmental controls, underground water may be degraded in some regions. Water supply may be inadequate to support extensive coal and oil shale development in the Upper Colorado River basin.

Wildlife will probably be disturbed by large mining operations, especially in remote areas. Reclaiming the land disturbed by mining activities will be difficult in water-short regions in the West.

Finally, construction of synthetic fuel processing plants near small communities may cause social disruption and heavy demands on their ability to provide social services.

4. Sensitivity of Conclusions: Changes in the mix of processes used might alter these conclusions. If fuels currently less expensive or environmentally damaging were emphasized, economic and environmental costs could be reduced. Whether economic benefits would exceed costs for *some* mix cannot be determined.

Overall, then, it appears that, while an objective analysis would conclude that the quantifiable benefits in the most likely cases, judgments concerning the extent and importance of unquantifiable factors—or the advent of situations now considered less likely—could lead to the conclusion that production of synthetic fuels before 1985 is nonetheless justified.

After 1985, some synthetic fuels will probably become economically viable and be pro-

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Footnotes at end of article.

duced by private enterprise. Hence a decision against immediate commercialization will delay, but not necessarily preclude domestic production of synfuels.

B. Will private industry proceed without federal intervention?

If private industry will produce synthetic fuels at the proper time and rate without specific incentives no commercialization program is needed. If synthetic fuel production is wanted but not expected to be forthcoming, a first step in designing a good incentive program can be taken by finding out what hinders private industry from producing synthetic fuels.

Private industry is not expected to produce before 1985 more than minimal amounts of any synthetic fuels except those produced from urban solid waste. Four factors may be significant:

Expected revenues are not large enough relative to expected costs to provide acceptable profits.

Constraints are imposed on synfuel production by environmental, land management, and regulatory policies.

Investment in producing synthetic fuels involves financial and technological risks.

The large capital investments required by some fuels may be difficult for some potential producers to amass.

The analysis supporting the conclusion that economic costs will exceed economic benefits also leads to the conclusion that private industry could not produce synthetic fuels profitably.

However, even if such production would appear profitable at expected levels of prices and costs, risk and associated difficulties of raising capital might still prevent development without government action.

A single commercial scale plant for producing synthetic crude oil or a substitute for natural gas from coal may cost upwards of $1 billion: whether or not it will turn a profit depends on highly uncertain world energy prices and somewhat uncertain technological factors, including the possibility that a superior process will appear before the plant is amortized. Although corporate managements regularly take significant risks in running their businesses, the magnitude of the investment involved in synthetic fuels may lead them to avoid a project even if it is expected to make a profit which would be considered adequate for smaller or less risky ventures.

The synfuel investment is large compared to the assets of most firms. Only 198 manufacturing corporations have assets greater than $750 million, and only 30 have assets over $4 billion. Should the project fail significantly, it could have a major impact on corporate earnings, or even threaten survival. Joint ventures could, however, reduce these risks.

For similar reasons, loans in the amounts needed for synfuel plants might be hard to come by. Although many banks and other financial intermediaries have assets considerably above $1 billion, individual institutions rarely make loans of such size to risky ventures. A major consortium would have to be assembled to spread risk adequately.

Moreover, some potential participants in synfuel development face particular financial constraints. Electric utilities, for example, are currently having difficulty raising capital for construction of new generating plants.

In summary, unprofitability appears to be the major factor preventing private investment in synthetic fuel development. If this obstacle were removed, the problems of risk and large capital requirements associated with some processes might limit the extent of private participation.

C. What is the best mix of incentives?

If production of synthetic fuels is justified in the 1975 to 1985 time frame and if private industry will not engage in that production, then a decision as to appropriate steps for the government to take is needed. It is useful to see that decision as having two stages. The first stage involves the design of a program which will remove obstacles to production by private industry. The second stage involves assessing whether undesirable consequences of the incentive program outweigh the beneficial effects of synthetic fuel production.

1. Rationale for Administration Program: The proposed commercialization program addresses directly three obstacles to synfuel production: unprofitability, risk, and difficulties of capital formation. It does not explicitly consider the removal of governmental constraints, such as the length of time and uncertainty involved in obtaining approvals from regulatory agencies.

The proposed incentives include price supports, loan guarantees, and construction grants, all competitively bid.

Price supports serve two purposes: to subsidize the production of fuels for which market prices are expected to be too low to cover costs and an adequate profit, and to shift the risks of changes in the fuels market from private industry to the government.

Price supports usually provide for payment by the government of a differential when prices fall below a predetermined support level. Unless provisions are also made for payments from profits when market prices exceed the support level, the expected cost of price supports will be larger than needed to achieve production targets. Without such payments, the government can at best hope to incur zero cost; but there always remains a chance that price supports will be required. The private firm, on the other hand, will never be worse off than it is when prices are at the support level; higher prices translate into higher profits. Sharing in these profits reduces expected cost to government while still guaranteeing the synfuel producer adequate profits at the support price.

Nonrecourse loan guarantees serve to reduce risks stemming from unforeseen technical difficulties or economic conditions for both investors and lenders. Construction grants serve to provide capital to regulated utilities which they might not be able to obtain at any price from private lenders. Early in the debate on commercialization programs, the Treasury Department indicated that it did not believe that last two incentives to be necessary or desirable.

The recommended incentives may contain some hidden costs or unintended consequences, arising from competitive bidding, erosion of performance incentives, behavior of regulated industries, and distortion of private capital markets.

2. Competitive Bidding: The Administration suggests using competitive bidding to minimize expected cost to the government and to reduce reliance on incentives when they are not needed. Competitive bidding will tend to achieve these objectives, but may also create a synfuels industry dominated by a few large firms. Unless special arrangements for joint ventures among small firms are provided, large firms which have easier access to financial markets and greater capacity to bear risks will systematically tend to submit lower bids than smaller firms, and hence will make it difficult for such firms to participate in the commercialization program. Further concentration of the total energy industry might result.

3. Performance Incentives: The Task Force recommendations include the possibility that price supports will be based in part on cost of production and that additional non-recourse guaranteed loans will be made available to partially cover construction cost overruns. Without extreme vigilance by program administrators, these provisions—which insulate producers from the usual pressures to hold costs down—may increase the program costs.

4. Utilities: Many analysts have claimed that regulating the rate of return of electric and gas utilities leads them to choose technologies which do not minimize cost. When the cost of capital is less than the allowed rate of return, a regulated firm can increase its profits by choosing a production process with a greater than optimal ratio of capital to operating costs. Recently, however, the cost of capital has exceeded allowed rates of return for some utilities. In this case utilities have an incentive to choose processes with low capital cost and excessive operating costs in order to minimize their losses. In either event a utility would fail to employ a technology with least total cost. If this occurs, involvement of regulated utilities in synfuel production might result in unnecessarily high costs.

5. Capital Markets: Loan guarantees will not increase the total amount in the economy of funds available for investment. Rather, they will direct investment into synfuels and away from other ventures.

The effect of introducing $1 billion per year of government-guaranteed loans into private capital markets on those markets and on the other investment choices of private industry will be small. It is likely that the effect will be the same as an increase in the Federal deficit equal to the amount of guaranteed loans. However, the Treasury Department has expressed concern that expectations of further subsidy and limited capital availability in the energy sector may lead to "crowding out" of other energy investments.

Others, while discounting this specific possibility, have argued that guaranteed synfuel investments will supplant investments of high social value but marginal economic viability. Currently investments in housing and small business appear the most likely to be "crowded out". General revenue funds raised by increased taxation could be a more equitable source of financing than this reallocation of private investment.

Although further analysis may reveal that none of these concerns are sufficiently important to affect the commercialization program, they now stand as unresolved questions which need answers before final decisions are made.

6. Alternative Incentives: Even by the Task Force's criteria, the proposed incentives did not fare better than all others on all counts. In choosing among incentives, the Task Force considered costs and risks to the Federal government, likelihood of achieving production targets, administrative complexity and flexibility, and promotion of broad participation and competition. A different assessment of the relative importance of these or other considerations—or a different assessment of impediments to commercialization—could lead to a different choice of incentives.

Design of a complete alternative package of incentives—and critical assessment of potential disadvantages—is beyond the scope of this report. Some issues involved in designing and evaluating an alternative can, however, be highlighted.

Other incentives might achieve targeted production levels with lower government and economic costs. Alternatives include various forms of tax incentives (investment tax credit and accelerated depreciation), direct loans, measures such as tariffs and import quotas which increase the market price of competing fuels, and direct loans. Each of these alternatives has drawbacks of its own.

General tax incentives, such as increased investment tax credit or accelerated depreciation, could in principle provide adequate incentives if specifically targeted to synfuel projects. However, they would not help firms with low taxable income. It would be difficult to control program size with such incentives. Tax incentives and programs which rely on increasing all energy prices—deregulation of natural gas or oil prices, tariffs, or import quotas—to increase synfuel production share a common drawback. They are indiscriminate, subsidizing investments which would take place anyway as well as those for which the program was conceived.

If a decision were made to restrict the scale of synfuel production to some minimal level while pursuing the information goal vigorously, direct government ownership of a small number of plants constructed and operated by private contractors might be desirable. Such an approach appears well suited to dealing with environmental and socio-economic consequences and to pursuit of the goal of acquiring public knowledge of synfuel technology and economics. On the other hand, it would not foster creation of a private synfuels industry, but would put the government in the oil and gas business in direct competition with private industry if high production targets were chosen. In addition, the entire capital cost of the synfuel plants would have to come from the Federal budget, as it would if direct loans were employed.

Shifting of emphasis among the incentives proposed by the Administration could also be an approach to design of a superior package. Loan guarantees alone, as proposed in S. 598, could aid in overcoming obstacles arising from the scale and riskiness of synfuel ventures. However, if industry believes that synfuel production is likely to run at a net loss, little production could be expected in response to those guarantees. Price supports alone, or guaranteed government purchase of synfuels at specified prices, could overcome unprofitability but might not reduce risks sufficiently to attract broad participation.

Actions directed at reforming regulation could also play a role in stimulating synfuel production. Streamlining of the process in which approvals must be obtained from numerous government agencies before construction can begin is urged by many industry spokesmen. Relaxation of environmental protection standards could also make synfuel production easier and cheaper.

D. Are the costs of the proposed incentives acceptable?

A final decision on synfuels commercialization can only be made after an incentive program has been designed and evaluated. Then the costs attributable to the incentives themselves must be added to the previously estimated costs of synfuel production to determine if acquiring synfuel production capacity through government action is justified. Although potentially effective in achieving production targets, the Administration's proposed incentives may reduce competition, increase costs of producing synthetic fuels, and adversely affect private capital markets. No alternative is entirely free of comparable disadvantages.

E. Other issues

Once a decision is made to proceed with a commercialization program, and an incentive package is chosen, three issues of program management arise. They relate to technology mix, program level, and environmental impact.

1. Technology Mix: The Task Force's report analyzes, but does not recommend, a specific technology mix, preferring instead to leave such decisions to the program manager. The Congress may wish to constrain his choice. For example, some argue that the environmental impacts of oil shale are relatively too great, and would restrict the program to coal-based synthetics and urban wastes; others consider relative economics and state of the art and conclude that oil shale should play an important role. For similar reasons, some question attempts to produce oil from coal. Some question or urge the appropriateness of including fuels from urban waste (recommended by the task force), and such sources as solar and geothermal. The latter two sources would be covered by Section 103, but the Administration argues that ERDA already has adequate authority for demonstrating solar and geothermal technologies.

Section 103 would also provide that $2.5 of the total $6 billion in loan guarantees be available for construction of facilities to convert coal to a pipeline-quality gas.

2. Program Level: The President's original proposal called for production of 1 million barrels per day by 1985. The current Administration proposal envisions an initial phase of 350,000 barrels per day, with a decision later in the decade on whether to proceed to the million barrel level. Implicit in the Senate ERDA Authorization Bill is a decision against current commitment to the higher level, since the $6 billion loan guarantee authorization would cover only roughly the 350,000 bbl./day level.

A further issue is whether the full 350,000 bbl./day would be required to realize the information benefits of the proposed program. That level could provide (in the Task Force's example) two shale plants, one plant each for producing oil and pipeline quality gas from coal, five plants for producing industrial and utility fuels, and four smaller plants for treating urban waste. A somewhat smaller, lower-cost program could presumably yield much of the information provided by the 350,000 bbl./day option—but at some cost in diversity or redundancy.

Any scaling down of the commercialization program will decrease production of synthetic fuels between 1975 and 1985, avoiding economic losses on producing fuels which cost more than their selling price on the one hand, but obtaining a smaller increment to domestic energy supply on the other. However, a smaller program could still provide substantial information and commercial experience with synfuel production.

Parts of the commercial production process are common to many approaches. Large scale coal mining and transportation, materials handling at the plant, waste disposal, and social and environmental impacts are found in all processes which gasify or liquefy coal. There are technical similarities in much of the equipment used in all those processes. Stronger commonalities exist among the approaches to oil shale processing. In both cases differences between approaches are largely in basic chemical engineering technology.

In all the processes to be commercialized immediately, this technology is relatively well-understood. The largest uncertainties to be resolved in commercialization relate to the large scale activities common to many approaches. For these reasons a minimum information program could include as little as one high BTU gas plant, one to provide fuel to an electric utility, and one oil shale plant.

Since they are relatively small and nearly economic presently, perhaps two plants for converting urban waste to gas could be included. Alternatively, since such plants serve a function of waste disposal as important as the function of producing energy, they might be excluded entirely from this program.

Separate funding through EPA of large scale support for such plants—along the lines of the grants for sewage treatment plants—as environmental measures could be an alternative.

Appendix A provides detailed comparisons of alternative program levels and mixes.

3. Environmental Considerations: The environmental impact statement on the proposed program makes clear that there are a number of uncertainties with respect to potential impact on the environment of synthetic fuels processes. While the proposal includes provisions for an Environmental Protection Strategy, the details of that strategy are not provided, nor is there yet a design for research to resolve environmental uncertainties. There is also no request for funds for such research. Vigorous monitoring of environmental imports and strict enforcement of air and water quality standards may be necessary to keep environmental damage to acceptable levels.

IV. POTENTIAL IMPACT ON THE FEDERAL BUDGET

Since the Federal budget is limited and there are alternative claims on the budget dollar, Congress must decide whether the desirable aspects of synthetic fuel production are worth the budgetary cost.

Congress must also decide how to appropriate funds for the program. Outlays will not come all at once: they will be spread out over the years from 1975 to 2005. The time stream of outlays will depend on the program level, the mix of incentives, and the riskiness of synfuels technologies pursued. The two basic choices are:

1. to appropriate now sufficient funds to cover all conceivable outlays through the life of the program.
2. to appropriate funds on a yearly or occasional basis to cover outlays as they occur.

Once a commitment is made to commercialization, and loan guarantee and price support contracts have been signed, outlays become uncontrollable even if the option of annual appropriation is chosen.

A. Total budget impact

Total cost to government includes direct payments (price supports, construction grants, and payments to redeem defaulted loans), administrative costs, and foregone taxes. These costs may be offset by receipts from loan guarantee fees and profit sharing (when market prices exceed the support level).

Costs and offsetting receipts are necessarily uncertain, since they depend on the market prices of oil and gas which compete with synfuels, the cost of producing synfuels and the types of plants constructed.

Selections from the Task Force's estimates of annual and total cost to government are shown in Table I. These estimates include outlays for price supports and construction grants, foregone taxes, and offsetting receipts from profit sharing.

TABLE I.—EXPECTED ANNUAL COST TO GOVERNMENT

[Millions of constant (1975) dollars]

Year	Information program (350,000 bbl/day)		2-phase nominal case (350,000; then 1 mmbbl/day)	
1975	—		—	
1976	—		—	
1977	—		11	
1978	4		78	87
1979	18	23	143	257
1980	34	41	274	551
1981	117	130	288	777
1982	289	461	361	894
1983	292	669	404	972
1984	152	595	506	1,416
1985	154	666	278	1,472
1986	121	678	203	1,455
1987	105	675	174	1,448
1988	92	671	150	1,440
1989	82	668	131	1,432
1990	74	664	113	1,423
1991	65	660	94	1,414
1992	56	656	76	1,403
1993	48	651	57	1,392
1994	39	646	38	1,380
1995	30	640	18	1,367
1996	20	634	−2	1,353
1997	10	627	−24	1,337
1998	1	620	−30	1,308
1999	−2	606	−22	1,201
2000	−12	599	−91	846
2001	−14	554	−52	703
2002	−75	235	−63	694
2003	−34	105	−51	643
2004	−13	63	−61	116
Total	1,653	13,268	3,000	28,790

Note: Range based on purchase price of coal and selling price of synfuels. Includes both outlays and forgone taxes. Assumes no project failures (i.e., no default of guaranteed loans). Minus sign indicates Government receipts exceed expenditures.

Source: Interagency Synfuels Task Force Report, vol. III; app. D.

Budget implications are clear from the table. (1) Annual costs in 1975 dollars for even the 350,000 bbl./day program would amount to about $300 to $400 million by 1982, and could exceed $600 million from about 1985 through 1995, when they would begin to decline. The total cost to the government would be $1.7 to $13.3 billion over the life of the program.[7] (2) Annual costs of the larger "two-phase nominal option" could reach $1.4 billion per year by 1984, and remain near that level until the end of the century. Total cost of that program would be $3.0 to $28.8 billion, depending again on cost of coal and price of competing fuels.[8]

Administrative costs not included in the Task Force estimates are expected to run $10–$15 million annually. They could add $300 million to total cost of the 350,000 barrel/day program. Receipts from loan guarantee fees could reduce the total cost of the 350,000 barrel per day program by about $800 million—costs of the larger program would be reduced by a proportionately larger amount, perhaps over $2 billion.

Other costs to government associated with the proposed program include expenditures on environmental research and monitoring activities which are expected to proceed in pace with synfuel commercialization to mitigate its environmental impact.

The figures in Table I do not reflect the cost of any loan guarantee provisions. While total technical failure of a significant number of plants is unlikely, the possibility of default must be considered. The Task Force's estimates of the maximum total Federal loan liability outstanding at any one time are about $2 billion for the information program and $6.3 billion for the larger two-phase case. The maximum liability would be reached in 1985 and decline thereafter.

B. Budgetary authority

The Administration has requested funding authorizations at a level which would be adequate to cover loan guarantees, price supports, and construction grants even if events resulting in extremely high program costs occur. Budgetary authority required over the life of the commercialization program depends on the same factors which affect the total cost to government. It is particularly sensitive to the mix of plants chosen.

Estimates of budgetary authority required for alternative plant mixes and program levels are presented in Appendix A. The incentive program and plant mix proposed by the Administration is expected to require a maximum of $6.0 billion in loan guarantees, $4.5 billion for price supports, $0.6 billion for construction grants, and an additional $10–$15 million annually for administrative expenses.

The 350,000 barrel per day program analyzed in the Task Force report assumed that one syncrude plant would be included. Outlays for price supports for that single plant could total $4.8 billion by 1997. Overall, with the plant mix assumed by the Task Force, outlays for price supports could total 9.3 billion by 2005. The Task Force program and that currently proposed agree in the levels of budgetary authority for loan guarantees and construction grants.

A minimum information program, targeted at 127,000 barrels per day, would require at most authority for $1.6 billion in loan guarantees, $.25 billion for construction grants, and $.45 billion for price supports.

A full 1,000,000 barrels per day program could require as much as $15.2 billion in loan guarantees, $1.25 billion for construction grants, and $21.3 billion for price supports.

C. Appropriations and borrowing authority

To begin its commercialization program the Administration is requesting borrowing authority of $2.5 billion, which would cover $1.5 billion in loan guarantees and $1.0 billion in price supports, and an appropriation of $0.6 billion for construction grants.

1. Loan Guarantees: The Administration now estimates that a maximum of $1.5 billion in loan guarantees would be outstanding at any one time in the 350,000 barrel per day program. The Task Force report contains a larger estimate, $2.0 billion outstanding, since it did not consider using accumulated loan guarantee fees to offset outstanding debt. Borrowing authority equal to the maximum amount of outstanding guarantees is requested.

If there are no defaults, no actual outlays will be required. It is alleged, however, that lenders are wary of waiting for Congressional action to appropriate funds so that defaulted loans can be repaid, since during the time between default and repayment lenders would find their liquidity reduced. For this reason the Administration requests borrowing authority in advance.

As long as borrowing authority exceeds the total of outstanding obligations, lenders can expect prompt repayment. However, it is conceivable, although very unlikely, that defaults would occur at such inconvenient times that the entire borrowing authority would be exhausted while loan guarantees were still outstanding. At that point additional borrowing authority or appropriations would be needed to cover future defaults. A disastrous chain of events—though unlikely—could result in defaults requiring the government to redeem the entire $6 billion in guaranteed loans for which the Administration requests authorization.

2. Construction Grants and Price Supports: The entire $.6 billion in construction grants would be awarded if the Administration's program is approved. Appropriations in that amount would be required.

Borrowing authority, rather than appropriation, is requested for price supports. The $1.0 billion requested would not be sufficient to cover all price support payments through the life of the program if world energy prices fall. Hence further borrowing authority as well as appropriations to repay the funds raised through exercise of borrowing authority could be required.

D. Five-year outlay projections

Actual outlays during the first five years of a commercialization program depend on a number of factors:

The order in which plants of various types are constructed.

The date on which construction of the first plant begins.

Estimates of administrative costs and receipts from loan guarantee fees and profit sharing.

The course of world energy prices.

Because of different assumptions regarding these factors current Administration estimates differ from estimates based on the Task Force report (Table II).

The Task Force information program assumes:

No outlays on construction grants until 1980.

Beginning of construction in 1977.

Slow build-up to target capacity.

The Task Force two-stage nominal program assumes:

Outlays on construction grants beginning in 1978.

Construction beginning in 1976.

Rapid build-up to 350,000 barrels per day capacity.

The Administration proposal detailed in the November Fact Sheet assumes:

Outlays on construction grants in 1977.

Construction beginning in 1977.

Outlays for administrative costs.

Receipts from loan guarantee fees.

Receipts from profit sharing are excluded from all programs.

The loan guarantee program of S. 598 contains no provisions which would be likely to result in outlays before 1980. The outlays projected by OMB ($202 million) although not precisely comparable, are within the range of estimates for the two-phase program made by the Task Force.

E. Off-Budget Expenditures

In addition to the expenditures which will appear in the Federal budget, there may be additional expenditures by the Federal government which will not appear on the budget. Whether or not there are "off-budget" expenditures depends almost exclusively on whether the guaranteed loans are taken up by the Federal Financing Bank (FFB) or by private lenders directly.

The FFB, an "off-budget" agency, is authorized to purchase bonds guaranteed by any agency of the Federal government.

The funds which FFB uses to purchase those bonds are raised through the sale of FFB bonds, either to private lenders or to the U.S. Treasury. FFB outlays and borrowing do not appear on the Federal budget, but FFB borrowing does count as part of the public debt. If the FFB borrows from the Treasury, the Treasury will in turn sell Treasury bonds on the private money market. The outlays and borrowing of the Treasury also do not appear on the budget, although again the public debt is increased by the amount of borrowing.

Such a series of transactions could reduce the cost of synfuels, and hence the level of price supports, since industry would pay lower interest rates to the FFB than to private lenders. However, off-budget expenditures equal to the amount of loan guarantees could also result, thus converting loan guarantees into direct loans in all but name. Congress can write provisions into the law which would exclude the FFB from making loans to synfuels producers if such off-budget expenditures appear undesirable.

TABLE II.—PROJECTIONS OF OUTLAYS FOR PRICE SUPPORTS AND CONSTRUCTION GRANTS

[In millions of 1975 dollars]

Fiscal year	Task force information program	Task force 2-stage nominal program	Fact sheet		
			Gross outlays	Loan guarantee fees	Net outlays
1976			2.5	(1)	1.5
Transition quarter			1.5		1.5
1977			17.0	(5)	12.0
1978		17	38.0	(12)	26.0
1979		52–101	57.0	(20)	37.0
1980	17	120–342	86.0	(31)	55.0
1981	69	69–498	130.0	(39)	91.0

V. THE TIMING OF DECISION

The timing of Congressional decision on synfuels issues is of interest. The principal questions are immediacy of need and relationship to other proposals.

The lead times in any such program would be long. Although a draft environmental impact statement on the Administration's program has been prepared and is almost ready to be issued, a final programmatic statement and smaller statements on individual projects would be needed. Staffing, contracting procedures, and other matters are also time-consuming. Thus it is likely that, given authorization now, the first guarantees could not be issued before FY 1977. Construction of a synfuel plant would require 3 to 4 years. Hence the first production cannot be expected much before the end of the decade. Major information on operating characteristics could require a year of operation. If such information is to be useful in building a second, larger wave of synfuels plants by 1985, the program should begin soon. If, on the other hand, Congress determines that full information and a lower level of production (e.g., 350,000 bbl./day)

Footnotes at end of article.

will suffice by 1985, then considerable delay in initiating the program can be countenanced.

Congress may wish to delay decision so as to consider the synfuels program not in isolation, but in the context of other, closely related proposals. Debate on the proposed Energy Independence Authority (EIA) has yet to begin. EIA would be authorized to execute loan guarantees and price supports like those of the proposed synfuels program.

Postponement of the beginning of commercialization—for example, for 3 months to allow full Congressional hearings and debate—could actually improve its economics. The further oil prices rise, the smaller will losses in the initial stages of the program be. Although eventual benefits would also be postponed, they are both uncertain and distant in time compared to current costs.

Finally, regardless of when it reaches a decision, the Congress should consider synfuels in the context of a larger policy with respect to the continuum of energy research development, demonstration, and commercialization. ERDA is developing several advanced synfuels processes which offer the potential of improvements in economics, reliability, and environmental impact when compared with those currently available processes which would be supported by the synfuels program. Pilot plants for several processes are under construction or operating, and a preliminary design contract has been let for a demonstration-scale plant to produce synthetic boiler fuels from coal. One issue is whether synfuels plants might become obsolescent before operation, yet need subsidies for their entire life. Another issue is the appropriate Federal role with respect to stimulation of synthetic fuels research as well as commercialization, and with respect to risk-sharing at each stage of development.

FOOTNOTES

[1] 350,000 barrels per day of oil is about 1.3% of 1974 total U.S. consumption of oil and gas.

[2] Draft report by the Synfuels Interagency Task Force to the President's Energy Resources Council, "Recommendations for A Synthetic Fuels Commercialization Program", June, 1975.

[3] The Administration's report does not consider those alternative ways of achieving domestic energy balance objectives which do not involve synfuels.

[4] The BTU, or British Thermal Unit, is a common measure of heat.

[5] A "non-recourse" loan would have as security only the assets of the proposed venture itself; in event of default, the government would have no recourse to the assets of larger corporations sponsoring the venture. Those corporations would retain any patents granted in the course of the project.

[6] These conclusions are based on the analysis made by the Synfuels Interagency Task Force. They are very sensitive to the probability that the producing cartel will be able to maintain its cohesion, and hence keep world oil prices high, through 1985. If the oil cartel weakens, so that energy prices fall, and costs of producing synfuels turn out to be high, program costs will substantially exceed benefits. On the other hand, if the cartel continues to raise prices, and synfuels production costs fall, benefits of the program could exceed costs by several billions. For the program to break even, there must be about an 80% chance that the cartel will remain cohesive through 1985 and continue to reflect that cohesion in higher oil prices.

[7] Note that the Task Force's "information case" involves a slower buildup than the first phase of a two-phase program; hence these figures would understate the costs of the first phase, should a decision to terminate be reached.

[8] The wide range in potential program costs is due to much smaller changes in the critical variables, since expenditures reflect the extent to which synfuels costs *differ* from product prices, rather than being proportional to the costs or prices themselves.

CONFERENCE REPORT ON H.R. 8773

Mr. YATES submitted the following conference report and statement on the bill (H.R. 8773) "making appropriations for the Department of Interior and related agencies for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes":

CONFERENCE REPORT (REPT. NO. 94-701)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8773) "making appropriations for the Department of Interior and related agencies for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 24, 27, 28, 29, 49, 74, 88, 89, 97, 108, and 109.

That the House recede from its disagreement to the amendments of the Senate numbered 4, 17, 19, 22, 26, 30, 31, 42, 45, 51, 52, 53, 63, 65, 69, 75, 80, 81, 93, 94, 101, 104, 105, and 106, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$189,582,000"; and the Senate agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$58,192,000"; and the Senate agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$18,180,000"; and the Senate agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$5,737,000"; and the Senate agree to the same.

Amendment numbered 7: That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,444,000"; and the Senate agree to the same.

Amendment numbered 8: That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$308,086,000"; and the Senate agree to the same.

Amendment numbered 9: That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$77,648,000"; and the Senate agree to the same.

Amendment numbered 10: That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$36,980,000"; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$9,425,000"; and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$75,988,000"; and the Senate agree to the same.

Amendment numbered 13: That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$3,200,000"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$75,988,000"; and the Senate agree to the same.

Amendment numbered 15: That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$117,746,000"; and the Senate agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$243,588,000"; and the Senate agree to the same.

Amendment numbered 21: That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$75,772,000"; and the Senate agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$40,115,000"; and the Senate agree to the same.

Amendment numbered 32: That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$267,247,000"; and the Senate agree to the same.

Amendment numbered 33: That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$67,400,000"; and the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$79,473,000"; and the Senate agree to the same.

Amendment numbered 36: That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$20,205,000"; and the Senate agree to the same.

Amendment numbered 37: That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$157,387,000"; and the Senate agree to the same.

Amendment numbered 38: That the House

recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$96,610,000'; and the Senate agree to the same.

Amendment numbered 39: That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$39,005,000"; and the Senate agree to the same.

Amendment numbered 40: That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$22,600,000"; and the Senate agree to the same.

Amendment numbered 41: That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$542,918,000"; and the Senate agree to the same.

Amendment numbered 44: That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$174,167,000"; and the Senate agree to the same.

Amendment numbered 46: That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$73,922,000"; and the Senate agree to the same.

Amendment numbered 54: That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$11,263,000"; and the Senate agree to the same.

Amendment numbered 55: That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,665,000"; and the Senate agree to the same.

Amendment numbered 56: That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$18,734,000"; and the Senate agree to the same.

Amendment numbered 57: That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$4,203,000"; and the Senate agree to the same.

Amendment numbered 59: That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,4280,000"; and the Senate agree to the same.

Amendment numbered 66: That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$117,000,000"; and the Senate agree to the same.

Amendment numbered 68: That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$21,737,000"; and the Senate agree to the same.

Amendment numbered 71: That the House recede from its disagreement to the amendment of the Senate numbered 71, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$25,000,000"; and the Senate agree to the same.

Amendment numbered 72: That the House recede from its disagreement to the amendment of the Senate numbered 72, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$12,500,000"; and the Senate agree to the same.

Amendment numbered 73: That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$12,500,000"; and the Senate agree to the same.

Amendment numbered 78: That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$426,994,000"; and the Senate agree to the same.

Amendment numbered 79: That the House recede from its disagreement to the amendment of the Senate numbered 79, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$108,956,000"; and the Senate agree to the same.

Amendment numbered 82: That the House recede from its disagreement to the amendment of the Senate numbered 82, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$142,992,000"; and the Senate agree to the same.

Amendment numbered 86: That the House recede from its disagreement to the amendment of the Senate numbered 86, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$73,780,000"; and the Senate agree to the same.

Amendment numbered 87: That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$55,366,000"; and the Senate agree to the same.

Amendment numbered 90: That the House recede from its disagreement to the amendment of the Senate numbered 90, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

NAVAJO AND HOPI RELOCATION COMMISSION

For necessary expenses of the Navajo and Hopi Relocation Commission as authorized by law (Public Law 93–531, section 25(a)(1), 25(a)(4), and 25(a)(5)), $12,700,000, to remain available until expended: *Provided*, That $1,800,000 shall be available for payments pursuant to section 14(b) of Public Law 93–531: *Provided further*, That $10,500,000 shall be available for payments pursuant to section 15 of Public Law 93–531: *Provided further*, That $400,000 shall be available for the operating expenses of the Commission.

For operating expenses of the Navajo and Hopi Relocation Commission for the period July 1, 1976, through September 30, 1976, $100,000, to remain available until expended.

And the Senate agree to the same.

Amendment numbered 91: That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$77,832,000"; and the Senate agree to the same.

Amendment numbered 96: That the House recede from its disagreement to the amendment of the Senate numbered 96, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$7,531,000"; and the Senate agree to the same.

Amendment numbered 98: That the House recede from its disagreement to the amendment of the Senate numbered 98, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$157,410,000"; and the Senate agree to the same.

Amendment numbered 99: That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$74,500,000"; and the Senate agree to the same.

Amendment numbered 100: That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$33,437,000"; and the Senate agree to the same.

Amendment numbered 102: That the House recede from its disagreement to the amendment of the Senate numbered 102, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$9,462,000"; and the Senate agree to the same.

Amendment numbered 103: That the House recede from its disagreement to the amendment of the Senate numbered 108, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,743,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 3, 16, 18, 23, 35, 43, 47, 48, 50, 58, 60, 61, 62, 64, 70, 76, 77, 83, 84, 85, 92, 95, and 107.

Sidney R. Yates,
Gunn McKay,
Clarence D. Long,
Frank E. Evans,
John P. Murtha,
Robert Duncan,
George Mahon,
Joseph M. McDade,
Ralph S. Regula,
Elford A. Cederberg,
Managers on the Part of the House.

Robert C. Byrd,
John L. McClellan,
Joseph M. Montoya,
Lawton Chiles,
Mike Mansfield,
Ted Stevens,
Milton R. Young,
Mark O. Hatfield,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8773), making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Amendment No. 1: Appropriates $189,582,000 for management of lands and resources instead of $193,839,000 as proposed by the House and $188,832,000 as proposed by the

Senate. The net decrease below the amount proposed by the House includes an addition of $300,000 for completion and printing of Alaska regional resource profiles; and reductions of $1,207,000 for new personnel costs; $3,200,000 for offshore energy management; and $150,000 for general administration.

The managers on the part of the House and the Senate are in agreement that $128,000 of the additional funds provided for range management shall be used for a pilot program of noxious weed control in Wyoming under the authority of P.L. 90–583.

The managers have agreed on reductions below the House bill for new personnel costs in several instances throughout the bill. These reductions account for a half-year lapse resulting from the late enactment of the bill. These reductions are for costs only and are not to be construed as personnel reductions. Costs of the new personnel for fiscal year 1976 should be annualized in the agencies' budget requests for fiscal year 1977.

Amendment No. 2: Appropriates $58,192,000 for management of lands and resources, for the transition period, instead of $59,092,000 as proposed by the House and $58,042,000 as proposed by the Senate. The decrease below the amount proposed by the House includes a reduction of $900,000 for offshore energy management.

Amendment No. 3: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $8,911,000 for construction and maintenance instead of $9,061,000 as proposed by the House and $9,361,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The decrease of $150,000 below the amount proposed by the House is for equipment.

Amendment No. 4: Appropriates $3,183,000 for public lands development roads and trails (liquidation of contract authority) as proposed by the Senate instead of $4,683,000 as proposed by the House.

Office of Water Research and Technology

Amendment No. 5: Appropriates $18,180,000 for salaries and expenses instead of $18,905,000 as proposed by the House and $17,715,000 as proposed by the Senate. The net decrease below the amount proposed by the House includes an addition of $275,000 for promotion of water use efficiency; and reductions of $300,000 for technology assessment and research transfer, and $700,000 for saline water research and development, Fountain Valley, Calif. The managers are in agreement that the fiscal year 1977 funding levels for the saline conversion facility at Roswell, N.M. will be considered in the context of the fiscal year 1977 budget.

Bureau of Outdoor Recreation

Amendment No. 6: Appropriates $5,737,000 for salaries and expenses instead of $5,912,000 as proposed by the House and $5,562,000 as proposed by the Senate. The decrease below the amount proposed by the House includes a reduction of $175,000 for technical assistance. The managers are in agreement that the funds provided for technical assistance shall provide for a continuation of this ongoing program but agree that they should not be used to assist private recreational interests in profitmaking enterprises.

Amendment No. 7: Appropriates $1,444,000 for salaries and expenses, for the transition period, instead of $1,478,000 as proposed by the House and $1,411,000 as proposed by the Senate. The decrease below the amount proposed by the House includes a reduction of $34,000 for technical assistance.

Amendment No. 8: Appropriates $308,086,000 for the Land and Water Conservation Fund instead of $309,761,000 as proposed by the House and $307,886,000 as proposed by the Senate.

Amendment No. 9: Appropriates $77,648,000 of Land and Water Conservation funds for the National Park Service instead of $79,748,000 as proposed by the House and $77,198,000 as proposed by the Senate. The net decrease below the amount proposed by the House includes an addition of $2,500,000 for Big Cypress NP, Fla.; and reductions of $2,100,000 for Delaware Water Gap NRA, Pa.; and $2,500,000 for Golden Gate NRA, Calif.

Amendment No. 10: Appropriates $36,980,000 of Land and Water Conservation funds for the Forest Service instead of $35,980,000 as proposed by the House and $37,980,000 as proposed by the Senate. The increase above the amount proposed by the House includes an addition of $1,000,000 for deficiency awards and inholdings.

Amendment No. 11: Appropriates $9,425,000 of Land and Water Conservation funds for the United States Fish and Wildlife Service instead of $10,000,000 as proposed by the House and $8,675,000 as proposed by the Senate. The net increase above the amount proposed by the House includes a reduction of $1,250,000 for the Great Dismal Swamp NWR, N.C. and additions of $500,000 for endangered species, and $175,000 for Petit Manan NWR, Maine.

Amendment No. 12: Appropriates $75,988,000 for the Land and Water Conservation Fund, for the transition period, instead of $75,488,000 as proposed by the House and $76,488,000 as proposed by the Senate.

Amendment No. 13: Appropriates $3,200,000 of Land and Water Conservation funds for the United States Fish and Wildlife Service, for the transition period, instead of $2,700,000 as proposed by the House and $3,700,000 as proposed by the Senate. The increase above the amount proposed by the House includes an addition of $500,000 for endangered species.

Amendment No. 14: Provides that $75,988,000 shall be credited to the Land and Water Conservation Fund under Section 2 of the Land and Water Conservation Fund Act of 1965, for the transition period, instead of $75,488,000 as proposed by the House and $76,488,000 as proposed by the Senate.

The managers are aware of the great savings realized by the advance acquisition of lands by private nonprofit interests in cooperation with the National Park Service, Forest Service and the Fish and Wildlife Service. However, the managers caution the agencies that they should not overcommit themselves to land acquisition projects for which funds may not be forthcoming. The managers believe decisions on funding land purchases should be made by the Congress.

The managers agree that, in addition to the $1,000,000 provided in the bill, sufficient moneys be made available for the acquisition by the Forest Service of the Mt. Haggin Ranch property. A reprogramming proposed to accomplish this purpose should be submitted to the House and Senate Appropriations Committees for approval, and the Committees will extend sympathetic consideration to a subsequent budget request to replace any reprogrammed funds.

United States Fish and Wildlife Service

Amendment No. 15: Appropriates $117,746,000 for resource management instead of $115,984,000 as proposed by the House and $117,787,000 as proposed by the Senate. The net increase above the amount proposed by the House includes additions of $400,000 for continuing Lake Champlain studies on impact of Canadian dam construction; $2,500,000 for wildlife resources, including $26,000 for Muscatatuk NWR, Ind. and $100,000 for the Kenai National Moose Range, Alaska; $50,000 for reopening aquariums at Mammoth Springs, Ark. and Natchitoches, La.; and reductions of $100,000 for the Boldt decision; $500,000 for endangered species (operating funds); and $588,000 for new personnel costs. The managers are in agreement that within available funds $41,000 be provided for hatchery operations at Miles City, Mont.

Amendment No. 16: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that $2,000,000, for endangered species shall remain available until expended.

Amendment No. 17: Appropriates $28,639,000 for resource management, for the transition period, as proposed by the Senate instead of $27,389,000 as proposed by the House.

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which provides $17,706,000 for construction and anadromous fish instead of $14,229,000 as proposed by the House and $14,981,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The net increase above the amount proposed by the House includes additions of $4,000,000 for the Fish and Wildlife Health Laboratory, Leetown, W. Va., and $246,000 for Bowden National Fish Hatchery, W. Va.; and reductions of $169,000 for canal rehabilitation, Mattamuskeet NWR, N.C.; $200,000 for hatchery construction, White River NFH, Vt.; $100,000 for hatchery construction, San Marcos NFH, Texas, and $300,000 for hatchery construction, Makah National Fish Hatchery, Wash.

Amendment No. 19: Appropriates $7,500,000 for migratory bird conservation account as proposed by the Senate instead of $10,000,000 as proposed by the House.

National Park Service

Amendment No. 20: Appropriates $243,588,000 for operation of the national park system instead of $240,413,000 as proposed by the House and $245,595,000 as proposed by the Senate. The net increase above the amount proposed by the House includes additions of $2,000,000 for bicentennial special events; $2,000,000 to fill authorized positions (395) and increase level of park management; and $75,000 for an additional three positions and related costs, Cuyahoga NRA, Ohio; and reductions of $198,000 for master planning, Golden Gate NRA, Calif.; $175,000 for executive directions; $300,000 for travel; and $227,000 for new personnel costs. The managers are in agreement that the additional funds provided for new permanent positions are based on the half-year lapse resulting from the timing of the bill. The managers expect the full costs of the new positions to be annualized in the fiscal year 1977 budget request of the Park Service.

The managers are in agreement that the funds provided for special bicentennial events shall be used for events in park areas across the country.

The managers are in agreement that the National Park Service shall submit a reprogramming request to provide $500,000 for operation of Ellis Island, N.Y.

Amendment No. 21: Appropriates $75,772,000 for operation of the national park system, for the transition period, instead of $74,022,000 as proposed by the House and $75,968,000 as proposed by the Senate. The net increase above the amount proposed by the House includes additions of $750,000 for bicentennial special events; $1,000,000 to fill authorized positions and increase level of park management; $25,000 for additional positions and related costs, Cuyahoga NRA, Ohio; and a reduction of $25,000 for master planning, Golden Gate NRA, Calif.

Amendment No. 22: Provides $396,000 for

the Roosevelt Campobello International Park Commission as proposed by the Senate instead of $196,000 as proposed by the House.

Amendment No. 23: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $27,215,000 for planning and construction instead of $26,255,000 as proposed by the House and $26,494,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The increase above the amount proposed by the House includes additions of $525,000 for restoration of historic buildings, Harpers Ferry NHP, W.Va.; $225,000 for repairs at George Rogers Clark NHP, Ind.; $290,000 for planning and historic studies at Boston NHP, Mass.; $100,000 for planning, Nedora Visitors Center, Roosevelt NHP, N.D.; $200,000 for operating funds, Roosevelt Campobello International Park Commission; $1,000,000 for Lady Bird Johnson Park development, Virginia/Washington, D.C.; $150,000 for restoration of the Abner Cloud House, C&O NHP, Maryland; $100,000 for renovation of the Sewall-Belmont House, Washington, D.C.; and reductions of $380,000 for new area and land use studies; $500,000 for initial development work, Ellis Island, N.Y.; $500.000 for advance and master planning; and $250,000 for cooperative programs. The managers are in agreement that within available funds $75,000, nd $25,000 in the transition period be used for planning and environmental studies, Canaveral NS, Fla.

Amendment No. 24: Appropriates $7,100,000 for planning and construction for the transition period, as proposed by the House instead of $7,125,000 as proposed by the Senate.

Amendment No. 25: Appropriates $40,115,000 for road construction (liquidation of contract authority) instead of $46,093,000 as proposed by the House and $38,011,000 as proposed by the Senate. The net decrease below the amount proposed by the House includes additions of $1,311,000 for reconstruction of Golden Gate Viaduct, Yellowstone NP, Wyo.; and $11,000 for Nedora Visitor Center, Roosevelt NHP, N.D.; and a general reduction of $7,300,000 due to carry over from fiscal year 1975 funds.

Amendment No. 26: Deletes language which provided that the funds for repair and resurfacing of the Baltimore Washington Parkway shall not be obligated or expended during the period April 1, 1976 to September 30, 1976, as proposed by the Senate.

Amendment No. 27: Appropriates $9,900,000 for road construction (liquidation of contract authority) for the transition period as proposed by the House instead of $11,000,000 as proposed by the Senate.

Within the total funds provided for roads and trails, the managers are in agreement that up to $369,000 is to be used for initiating planning and design of Section 1–D, Natchez Trace Parkway, Tennessee.

The managers are in agreement that the Interior Department, together with the Department of Transportation, consult with the Appalachian Regional Commission, affected states and appropriate local governments to resolve their differences with respect to the proposed construction and relocation of Route 25E through Cumberland Gap National Historical Park, Kentucky and Tennessee. Agreement on the next steps to be taken and action to implement that agreement is expected. Further, the Interior Department should complete master planning for the park, including environmental assessments and public participation. A report on findings and action should be forthcoming within six months.

Amendment No. 28: Appropriates $24,666,000 for preservation of historic properties as proposed by the House instead of $24,516,000 as proposed by the Senate.

Amendment No. 29: Appropriates $2,575,000 for John F. Kennedy Center for the Performing Arts as proposed by the House instead of $2,500,000 as proposed by the Senate.

Amendment No. 30: Appropriates $14,000,000 for planning, development and operation of recreation facilities as proposed by the Senate instead of $16,000,000 as proposed by the House.

Amendment No. 31: Appropriates $5,000,000 for planning, development and operation of recreation facilities, for the transition period, as proposed by the Senate instead of $4,000,000 as proposed by the House.

Geological Survey

Amendment No. 32: Appropriates $267,247,000 for surveys, investigations, and research instead of $265,065,000 as proposed by the House and $268,544,000 as proposed by the Senate. The net increase above the amount proposed by the House includes additions of $1,000,000 for mineral resource surveys in Alaska and other areas considered for inclusion in national parks, forests, and wilderness; $2,000,000 for the Madison limestone formation (Wyo.) hydrology study; $2,000,000 for expansion of EROS data capability and related equipment, Sioux Falls, S.D.; $750,000 for energy resource surveys; and reductions of $300,000 for topographic surveys and mapping; $1,303,000 for offshore geologic surveys; $500,000 for regulation of OCS oil and gas operations; $100,000 for administration; $100,000 for land information and analysis-geography; and $1,265,000 for new personnel costs.

Amendment No. 33: Appropriates $67,400,000 for surveys, investigations, and research, for the transition period, instead of $66,425,000 as proposed by the House and $67,695,000 as proposed by the Senate. The net increase above the amount proposed by the House includes additions of $580,000 for the Madison limestone formation (Wyo.) hydrology study; $500,000 for expansion of EROS data capability and related equipment at Sioux Falls, S.D.; and $220,000 for energy resource surveys; and a reduction of $325,000 for offshore geologic surveys.

Mining Enforcement and Safety Administration

Amendment No. 34: Appropriates $79,473,000 for salaries and expenses instead of $76,136,000 as proposed by the House and $82,698,000 as proposed by the Senate. The net increase above the amount proposed by the House includes additions of $1,100,000 for furnishings for the Health and Safety Academy, Beckley, W. Va.; $1,500,000 for completion of the Health and Safety Academy, Beckley, W. Va.; and $1,230,000 for mining equipment and safety laboratory, W. Va.; and a reduction of $493,000 for new personnel costs.

Amendment No. 35: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which provides that $1,500,000 shall remain available until expended for construction of facilities instead of $2,800,000 as proposed by the Senate. The managers on the part of the Senate will offer a motion to recede and concur in the amendment of the House to the amendment of the Senate.

Amendment No. 36: Appropriates $20,205,000 for salaries and expenses for the transition period, instead of $20,035,000 as proposed by the House and $20,736,000 as proposed by the Senate. The increase above the amount proposed by the House includes an addition of $170,000 for mining equipment and safety laboratory, W. Va.

The managers believe very strongly that the mine health and safety program of the Mining Enforcement and Safety Administration should remain in the Department of the Interior. The managers are convinced that mine health and safety enforcement programs have been and should continue to be most effectively administered in coordination with other established mining safety programs now in the Department.

Bureau of Mines

Amendment No. 37: Appropriates $157,387,000 for salaries and expenses instead of $146,608,000 as proposed by the House and $157,584,000 as proposed by the Senate. The net increase above the amount proposed by the House includes additions of $10,000,000 for advancing coal mining technology; $1,500,000 for subsidence control demonstration project, Rock Springs, Wyo.; and $500,000 for intensified mineral appraisal program for Federal lands subject to withdrawal in Alaska and other areas; and reductions of $300,000 for metallurgy research; $150,000 for data collection and analysis; $250,000 for wilderness investigations; $200,000 for other engineering programs; and $321,000 for new personnel costs.

Amendment No. 38: Provides that $96,610,000 shall remain available until expended instead of $28,544,000 as proposed by the House and $101,610,000 as proposed by the Senate.

Amendment No. 39: Appropriates $39,005,000 for salaries and expenses, for the transition period, instead of $36,505,000 as proposed by the House and $39,186,000 as proposed by the Senate. The increase above the amount proposed by the House includes $2,500,000 for advancing coal mining technology.

Amendment No. 40: Provides that $22,600,000 shall remain available until expended instead of $7,085,000 as proposed by the House and $23,850,000 as proposed by the Senate.

Bureau of Indian Affairs

Amendment No. 41: Appropriates $542,918,000 for operation of Indian programs instead of $543,031,000 as proposed by the House and $539,765,000 as proposed by the Senate. The net increase above the amount proposed by the House includes additions of $3,000,000 for public school assistance (Johnson-O'Malley); $133,000 for master in public health programs; $30,000 for Lakota Higher Education Center, S.D.; $24,000 for assistance to the Trenton Indian service area, N.D.; and $2,100,000 for the Navajo-/Hopi settlement program, including $100,000 for legal fees; and reductions of $1,000,000 for assistance to formerly private schools; $100,000 for the Boldt decision implementation (Indian fishing rights); $100,000 for aid to tribal governments; $350,000 for social services; $500,000 for law enforcement; $500,000 for business enterprise development; $200,000 for forestry and agriculture; $1,500,000 for Indian action teams; $100,000 for management and administration; $200,000 for facilities management; $500,000 for Indian contract support; and $350,000 for travel. The managers are in agreement that the funds provided for assistance to formerly private schools shall include assistance for the Ojibwa School, N.D.; St. Francis School, S.D.; St. Stephens School, Wyo.; and other schools as determined by the Department.

The managers on the part of the House and the Senate are in agreement that the additional funds provided to offset reduced public school assistance allocations under the revised Johnson-O'Malley distribution formula shall be limited to fiscal year 1976. This "hold harmless" provision is intended to facilitate the transition to the new distribution formula, and the managers stress that it should not be considered an ongoing provision.

Amendment No. 42: Provides language that $30,952,000 shall remain available until September 30, 1977, for assistance to public schools as proposed by the Senate.

The managers on the part of the House and the Senate are in agreement that $50,000 for law enforcement for the Miccosukee Tribe, Florida, and $100,000 for fish and game enforcement assistance to the Leech Lake Band of Chippewa Indians, Minnesota, shall be provided within available funds.

Amendment No. 43: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides language that the sum appropriated for fiscal year 1976 for assistance to public schools shall not be less than the amount made available for fiscal year 1975, as proposed by the Senate.

Amendment No. 44: Appropriates $174,167,000 for operation of Indian programs, for the transition period, instead of $174,474,000 as proposed by the House and $173,246,000 as proposed by the Senate. The decrease below the amount proposed by the House includes reductions of $225,000 for assistance to formerly private schools; $25,000 for the Boldt decision implementation (Indian fishing rights); and $57,000 for law enforcement.

Amendment No. 45: Provides language that $7,300,000 shall remain available until September 30, 1977, for assistance to public schools as proposed by the Senate.

Amendment No. 46: Appropriates $73,922,000 for construction instead of $63,556,000 as proposed by the House and $86,534,000 as proposed by the Senate. The increase above the amount proposed by the House includes additions of $7,881,000 for assistance to Indian public schools as follows: Parker School District No. 27, $2,023,000; Heart Butte School District, Mont., $2,307,000; Alchesay School District, Arizona, $3,551,000; and increases of $2,229,000 for phase II construction, Ramah Navajo School, N.M.; $56,000 for repair fire damage, Lakota Higher Education Center, S.D.; and $200,000 for fish hatchery facilities, Pyramid Lake, Nevada.

Amendment No. 47: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing that $200,000 shall be available to assist the Pyramid Lake Paiute Tribe in construction of fish hatchery facilities instead of $2,148,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 48: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing that $2,229,000 shall be available to the Ramah Navajo School Board, Inc., for the construction of facilities instead of $6,000,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 49: Appropriates $10,000,000 for Indian loan guaranty and insurance fund as proposed by the House instead of $15,000,000 as proposed by the Senate.

Amendment No. 50: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $3,000,000 for the revolving fund for loans to remain available until expended as proposed by the Senate instead of $7,000,000 as proposed by the House.

Territorial Affairs

Amendment No. 51: Appropriates $22,000,000 for administration of territories as proposed by the Senate instead of $16,000,000 as proposed by the House.

Amendment No. 52: Appropriates $77,196,000 for Trust Territory of the Pacific Islands as proposed by the Senate instead of $81,000,000 as proposed by the House.

Amendment No. 53: Appropriates $3,000,000 for ex gratia payment, Bikini Atoll as proposed by the Senate instead of $2,270,000 as proposed by the House.

Office of the Solicitor

Amendment No. 54: Appropriates $11,263,000 for salaries and expenses instead of $11,143,000 as proposed by the House and $11,382,000 as proposed by the Senate. The increase above the amount proposed by the House includes an addition of $120,000 for legal services.

Amendment No. 55: Appropriates $2,665,000 for salaries and expenses, for the transition period, instead of $2,626,000 as proposed by the House and $2,703,000 as proposed by the Senate. The increase above the amount proposed by the House includes an addition of $39,000 for pay cost annualization.

Office of the Secretary

Amendment No. 56: Appropriates $18,734,000 for salaries and expenses instead of $18,599,000 as proposed by the House and $19,732,000 as proposed by the Senate. The net increase above the amount proposed by the House includes an addition of $258,000 for administrative management; and reductions of $91,000 for equal opportunity and $32,000 for new personnel costs.

Amendment No. 57: Appropriates $4,203,000 for salaries and expenses, for the transition period, instead of $4,171,000 as proposed by the House and $4,408,000 as proposed by the Senate. The increase above the amount proposed by the House includes an addition of $32,000 for administrative management.

Amendment No. 58: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $12,153,000 for departmental operations instead of $12,381,000 as proposed by the House and $12,278,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The net decrease below the amount proposed by the House includes an addition of $200,000 for the Office of Minerals Policy Development; and reductions of $75,000 for the Outer Continental Shelf Office and $353,000 for new personnel costs.

Amendment No. 59: Appropriates $2,480,000 for departmental operations, for the transition period, instead of $2,445,000 as proposed by the House and $2,515,000 as proposed by the Senate. The net increase above the amount proposed by the House includes an increase of $50,000 for the Office of Minerals Policy Development and a reduction of $15,000 for the Outer Continental Shelf Office.

Amendment No. 60: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing $1,494,000 for fiscal year 1976 and $75,000 for the transition period, for salaries and expenses (special foreign currency program).

Amendment No. 61: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate for compensation of temporary personnel hired for emergency situations such as firefighting.

TITLE II—RELATED AGENCIES

Forest Service

Amendment No. 62: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $365,821,000 for forest land management instead of $358,746,000 as proposed by the House and $363,012,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The net increase above the amount proposed by the House includes reductions of $500,000 for timber sales administration and $2,000,000 for new personnel costs; and additions of $257,000 for cooperative law enforcement; $750,000 for recreation use, which includes $85,000 for Oregon Dunes, Ore., and $300,000 for avalanche control; $328,000 for wildlife and fish habitat management; $150,000 for rangeland management, providing a total program of $650,000 for range development and validation in Oregon; and $8,090,000 for forest insect and disease control contingency fund.

The managers on the part of the House and Senate are in agreement that the funds provided for avalanche control are to be used for procurement of existing ordnance and rehabilitation of obsolete weapons.

The managers on the part of the House and Senate direct the Forest Service to provide the Senate and House Appropriations Committees with a comprehensive report on the recreation use of the national forests, which outlines the funding requirements to meet current and projected uses. The managers are concerned about the need to close or eliminate campground facilities due to budgetary constraints.

Amendment No. 63: Provides $10,000,000 for insect and disease control as proposed by the Senate instead of $1,910,000 as proposed by the House.

The managers understand the responsible role the Forest Service plays in prevention, survey and control of forest insect and disease outbreaks on all forest lands, regardless of ownership. The managers believe that recent legislation has improved the ability to program funds and better plan the control of insects and diseases. The Federal cost share should, in no event, exceed 50 percent. In addition, the managers direct the Forest Service to study alternative cost sharing arrangements where private and state lands are involved, with the intent of reducing the Federal share below 50 percent on state and private lands. The managers believe the Federal funds should be viewed as a catalyst to increase the contribution of the nonfederal sector in the control of forest insects and diseases. The managers direct the Forest Service to report to the House and Senate Appropriations Committees within 30 days on this problem.

Amendment No. 64: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $80,355,000 for forest research instead of $81,955,000 as proposed by the House and $82,005,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The net decrease below the amount proposed by the House includes additions of $100,000 for Ohia Lehua forest decline, Hawaii; $300,000 for intensive management practices center, Gainesville, Fla.; $150,000 for coastal loblolly pine culture, S.C.; $150,000 for southern pine insect control, Ga. and Fla.; $300,000 to establish range validation area, Malheur NF, Ore.; $200,000 for recreation research, Durham, N.H.; $450,000 for spruce budworm control, Maine; $550,000 for Alaska research as follows: timber management ($125,000), watershed management research ($75,000), wildlife range and fish habitat management ($350,000), and reductions of $3,000,000, in the base research program; $500,000 for Surface Environment and Mining (SEAM), and $300,000 for new personnel costs.

Amendment No. 65: Appropriates $32,994,000 for state and private forestry cooperation as proposed by the Senate instead of $33,594,000 as proposed by the House.

Amendment No. 66: Appropriates $117,000,000 for forest land management, for the transition period, instead of $116,759,000 as proposed by the House and $118,388,000 as proposed by the Senate. The increase above the amount proposed by the House includes additions of $64,000 for cooperative law enforcement; $150,000 for recreation use; and $27,000 for wildlife and fish habitat management.

Amendment No. 67: Provides $1,060,000 for cooperative law enforcement as proposed by the Senate instead of $996,000 as proposed by the House.

Amendment No. 68: Appropriates $21,737,000 for forest research, for the transition period, instead of $22,277,000 as proposed by the House and $21,50,000 as proposed by the Senate. The decrease below the amount proposed by the House includes reductions of $415,000 in the base research program and $125,000 for Surface Environment and Mining (SEAM).

Amendment No. 69: Appropriates $9,802,000 for state and private forestry cooperation, for the transition period, as proposed by the Senate instead of $10,052,000 as proposed by the House.

Amendment No. 70: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $18,134,000 for construction and land acquisition instead of $16,618,000 as proposed by the House and $17,607,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The net increase above the amount proposed by the House includes reductions of $230,000 for Pinewoods Lake project, Clark NF, Mo., and $500,000 for Bear Creek Campground, Jefferson NF, Va.; and additions of $900,000 for phase I laboratory construction, Charleston, S.C.; $471,000 for facilities and transportation, Blanchard Springs, Ark.; $75,000 for warehouse facility, Laramie, Wyo.; $700,000 for laboratory office wing, Morgantown, W. Va.; and $100,000 for fire laboratory, Missoula, Mont.

Amendment No. 71: Appropriates $25,000,000 for youth conservation corps instead of $20,000,000 as proposed by the House and $30,000,000 as proposed by the Senate.

Amendment No. 72: Provides that $12,500,000 shall be available to the Secretary of the Interior for the youth conservation program instead of $10,000,000 as proposed by the House and $15,000,000 as proposed by the Senate.

Amendment No. 73: Provides that $12,500,000 shall be available to the Secretary of Agriculture for the youth conservation program instead of $10,000,000 as proposed by the House and $15,000,000 as proposed by the Senate.

Amendment No. 74: Deletes language proposed by the Senate providing $10,000,000 for the youth conservation corps for the transition period.

Amendment No. 75: Appropriates $112,857,000 for forest roads and trails (liquidation of contract authority) as proposed by the Senate instead of $117,859,000 as proposed by the House.

The managers on the part of the House and the Senate are in agreement that included in the amount provided are additions of $291,000 for Blanchards Springs Caverns, Arkansas, and $587,000 for the Smoke Hole recreation complex and Summit Lake recreation area, Monongahela National Forest, West Virginia.

Amendment No. 76: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that clarifies availability of funds for forest roads and trails (liquidation of contract authority) for the transition period.

Amendment No. 77: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that clarifies procedures for calculating payments to states during the transition period.

Energy Research and Development Administration

Amendment No. 78: Appropriates $426,994,000 for operating expenses fossil fuels, instead of $406,594,000 as proposed by the House and $454,850,000 as proposed by the Senate. The net increase over the amount provided by the House includes reductions of $34,600,000 for coal research and $6,000 for GSA space; and increases of $8,506,000 for oil and gas extraction, including work in the Devonian shale area; $6,000,000 for oil shale research; $16,000,000 for magnetohydrodynamics (MHD); $2,500,000 for fuel cell research; $1,600,000 for supporting activities; $3,100,000 for advanced automotive systems; $10,000,000 for end use conservation research; $1,800,000 for wood waste conversion, Albany, Oregon; $4,000,000 for improved conversion efficiency; and $1,500,000 for assistance for urban waste conversion projects.

The managers agree that the Energy Research and Development Administration (ERDA) may develop a national exemplar for non-profit institutions for an atmospheric fluidized coal bed combustion heating-cooling centralized system. This non-profit institutional exemplar may receive a federal grant toward the total project costs of a somewhat higher percentage than that given to commercial experimental projects, may demonstrate how the 5000 higher education institutions and the 7000 hospitals throughout the country can change as soon as possible to an acceptable coal burning energy source as an answer to the crisis of shortage of gas and oil supplies.

Within the total funds provided for urban waste conversion, the conferees are in agreement that consideration should be given to work being done on the gasification of agriculture residues at Kansas State University.

Amendment No. 79: Appropriates $108,956,000 for operating expenses, fossil fuels, for the transition period, instead of $104,568,000 as proposed by the House and $114,656,000 as proposed by the Senate. The net increase over the amount provided by the House includes reductions of $8,400,000 for coal research and $2,000 for GSA space; and increases of $5,500,000 for magnetohydrodynamics; $500,000 for fuel cell research; $650,000 for supporting activities; $890,000 for advanced automotive systems; $3,000,000 for end use energy conservation research; $300,000 for wood waste conversion research, Albany, Oregon; $1,200,000 for improved conversion efficiency; and $750,000 for assistance for urban waste conversion projects.

Amendment No. 80: Appropriates $21,025,000 for plant and capital equipment, fossil fuels, as proposed by the Senate, instead of $20,425,000 as proposed by the House.

Amendment No. 81: Appropriates $8,240,000 for plant and capital equipment, fossil fuels, for the transition period, as proposed by the Senate, instead of $8,200,000 as proposed by the House.

Federal energy administration

Amendment No. 82: Appropriates $142,992,000 for salaries and expenses instead of $98,388,000 as proposed by the House and $158,245,000 as proposed by the Senate. The increase above the amount proposed by the House includes additions of $6,000,000 for executive direction and administration; $922,000 for energy policy and analysis; $8,000,000 for regulatory programs; $26,730,000 for conservation and environment; $1,600,000 for energy resource development; $209,000 for international energy affairs; and $1,143,000 for GSA space costs.

The managers on the part of the House and the Senate are disturbed at establishment of a nuclear energy office to act as a "government advocate for public acceptance" of nuclear power. The managers believe that the current debate over the acceptance of nuclear power should not be clouded by the insertion of a government advocate. This decision should be made by the people affected with a minimum of government interference. Therefore, the managers have not approved the funds requested in the budget amendment for the Nuclear Energy Office and direct that the office be abolished. The managers believe the existing resources within FEA are sufficient to assist the Administrator in developing nuclear energy policies.

The managers direct attention to language in the House report on this bill concerning the importance of energy conservation activities and direct FEA to report to the House and Senate Committees on Appropriations as specified in that report.

Amendment No. 83: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that no funds shall be used for utility rate restructuring studies without provision for direct consumer representation in the planning and implementing of such studies.

Amendment No. 84: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $25,283,000 for salaries and expenses for the transition period, instead of $25,439,000 as proposed by the House and $27,000,000 as proposed by the Senate. The managers on the part of the Senate will offer a motion to recede and concur in the amendment of the House to the amendment of the Senate. The net decrease below the amount proposed by the House includes additions of $1,000,000 for executive direction and administration; $40,000 for regulatory programs; $2,000,000 for conservation and environment; $325,000 for GSA space costs; and decreases of $2,806,000 for energy policy and analysis; $500,000 for energy resource development; and $215,000 for international energy activities.

Indian Health Service

Amendment No. 85: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $274,835,000 for Indian health services instead of $273,017,000 as proposed by the House and $272,662,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The net increase above the amount proposed by the House includes a reduction of $360,000 for health clinic, Concho, Okla.; and additions of $750,000 for checkerboard area health system, N.M.; $430,000 for additional medical care needs, Alaska; $72,000 for expanded medical and dental services, Blackfeet Tribe, Mont.; $255,000 for additional community health aids, Alaska; $271,000 for Umatilla health clinic, Ore.; $400,000 for Wewoka health clinic, Okla.

The managers are in agreement that the $1,600,000 provided for urban Indian health shall include support for programs at Omaha, Nebraska; Seattle, Washington; and Wichita, Kansas.

The managers direct that none of the additional funds provided for urban Indian health shall be used to initiate new programs of direct health care delivery but shall be applied to the support of services designed to assist urban Indians to obtain health care to which they are entitled under existing government programs.

Amendment No. 86: Appropriates $73,780,000 for Indian health services, for the transition period, instead of $73,580,000 as proposed by the House and $74,197,000 as proposed by the Senate. The increase above the amount proposed by the House is for program increases provided for this account in fiscal year 1976.

Amendment No. 87: Appropriates $55,366,000 for Indian health facilities instead of $43,758,000 as proposed by the House and $56,466,000 as proposed by the Senate. The increase above the amount proposed by the House includes increases of $434,000 for staff housing and equipment, Rocky Boy Community Health Center, Mont.; $724,000 for staff housing, Lame Deer Clinic, Mont.; $450,000 for the Red Lake Indian Reservation health facility, Minn.; $1,000,000 for Menominee health facilities, Wis.; and phased construction of the following Indian hospitals: Acoma-Laguna-Canoncito, N.M., $2,900,000; Santa Fe, N.M., $4,600,000; Bethel, Alaska, $1,500,000.

Indian Education

Amendment No. 88: Appropriates $35,000,000 for Part A as proposed by the House instead of $31,000,000 as proposed by the Senate.

Amendment No. 89: Appropriates $4,000,000 for Part C as proposed by the House instead of $8,000,000 as proposed by the Senate.

Navajo and Hopi Relocation Commission

Amendment No. 90: Appropriates $12,700,000 for Navajo and Hopi Relocation Commission for fiscal year 1976 and $100,000 for the transition period instead of $16,500,000 for fiscal year 1976 and $125,000 for the transition period as proposed by the Senate. The amount provided consists of $1,800,000 for relocation incentive payments, $10,500,000 for purchase of property and payment of relocation expenses, and $400,000 for operating expenses.

Smithsonian Institution

Amendment No. 91: Appropriates $77,832,000 for salaries and expenses instead of $77,908,000 as proposed by the House and $77,752,000 as proposed by the Senate. The net decrease below the amount proposed by the House includes additions of $450,000 for pay costs; $75,000 for the National Museum of Natural History; $22,000 for the Tropical Research Institute; $25,000 for the Smithsonian Institution Libraries; reductions of $134,000 for the Astrophysical Observatory; $26,000 for the Chesapeake Bay Center; $35,000 for the Museum of History and Technology; $28,000 for the Office of Equal Opportunity; $25,000 for the Office of Protective Services; and $400,000 for new personnel costs.

Amendment No. 92: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, providing $21,740,000 for salaries and expenses for the transition period, instead of $21,634,000 as proposed by the House and $21,712,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The net increase above the amount proposed by the House includes an increase of $133,000 for pay costs; and reductions of $15,000 for the Astrophysical Observatory; $6,000 for the Office of Equal Opportunity; and $6,000 for the Office of Protective Services.

Amendment No. 93: Appropriates $1,875,000 for science information exchange as proposed by the Senate instead of $1,500,000 as proposed by the House.

Amendment No. 94: Appropriates $500,000 for science information exchange for the transition period, as proposed by the Senate instead of $406,000 as proposed by the House.

Amendment No. 95: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing $500,000 for museum programs and related research (special foreign currency program).

National Gallery of Art

Amendment No. 96: Appropriates $7,531,000 for salaries and expenses instead of $7,564,000 as proposed by the House and $7,431,000 as proposed by the Senate. The decrease of $33,000 below the amount proposed by the House applies to new positions.

Amendment No. 97: Appropriates $1,937,000 for salaries and expenses, transition period, as proposed by the House instead of $1,904,000 as proposed by the Senate.

National Foundation on the Arts and the Humanities

Amendment No. 98: Appropriates $157,410,000 for salaries and expenses instead of $154,910,000 as proposed by the House and $159,910,000 as proposed by the Senate.

Amendment No. 99: Provides $74,500,000 for the National Endowment for the Arts instead of $72,000,000 as proposed by the House and $77,000,000 as proposed by the Senate.

The managers on the part of the House and Senate concur in part in the language included in the Senate report with respect to the National Endowment for the Arts' support of the American Film Institute with the following modification: The managers direct the Endowment to provide no more than the grant amount awarded in fiscal year 1975 and require the institute to match the grant funds on a dollar-for-dollar basis. The managers expect the institute to lessen its reliance on the Endowment funds in the future and move toward a greater reliance on funding from the private sector.

Amendment No. 100: Appropriates $33,437,000 for salaries and expenses, transition period, instead of $33,125,000 as proposed by the House and $33,750,000 as proposed by the Senate.

National Capital Planning Commission

Amendment No. 101: Appropriates $1,871,000 for salaries and expenses as proposed by the Senate instead of $1,876,000 as proposed by the House.

American Revolution Bicentennial Commission

Amendment No. 102: Appropriates $9,462,000 for salaries and expenses instead of $9,000,000 as proposed by the House and $9,962,000 as proposed by the Senate. The net increase above the amount proposed by the House includes a reduction of $38,000 for GSA space and an increase of $500,000 for the base program.

Amendment No. 103: Appropriates $1,743,000 for salaries and expenses, for the transition period, instead of $1,626,000 as proposed by the House and $1,861,000 as proposed by the Senate.

Lowell Historic Canal District Commission

Amendment No. 104: Appropriates $120,000 for salaries and expenses as proposed by the Senate instead of $75,000 as proposed by the House.

Amendment No. 105: Appropriates $30,000 for the transition period as proposed by the Senate instead of $19,000 as proposed by the House.

Joint Federal-State Land Use Planning Commission for Alaska

Amendment No. 106: Appropriates $764,000 for salaries and expenses as proposed by the Senate instead of $708,000 as proposed by the House.

Pennsylvania Avenue Development Corporation

Amendment No. 107: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriated $824,000 for salaries and expenses for fiscal year 1976 instead of $916,000 as proposed by the Senate and appropriates $218,000 for the transition period as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

TITLE III—GENERAL PROVISIONS

Amendment No. 108. Restores language proposed by the House and stricken by the Senate which provides as follows:

No part of any appropriation under this Act shall be available to the Secretary of Interior or the Secretary of Agriculture for the leasing of oil, natural gas, or other mineral rights by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided*, That nothing herein is intended to inhibit or otherwise affect the sale, lease or right of access to minerals owned by private individuals.

Amendment No. 109: Technical amendment restoring section number proposed by the House.

Conference total—With comparisons

The total new budget (obligational) authority for the fiscal year 1976 and the transition period recommended by the committee of conference, with comparisons to the fiscal year 1975 amounts, the 1976 budget estimates, and the House and Senate bills for 1976 follows:

New budget (obligational) authority, fiscal year 1975	$3,988,893,310
Budget estimates of new (obligational) authority (as amended), fiscal year 1976	[1] 4,307,158,000
Transition period	1,187,847,900
House bill, fiscal year 1976	4,101,962,000
Transition period	1,143,572,900
Senate bill, fiscal year 1976	4,304,340,000
Transition period	1,175,870,900
Conference agreement	4,234,631,000
Transition period	1,155,538,900

Conference agreement compared with:

New budget (obligational) authority, fiscal year 1975	+245,727,690
Budget estimates of new (obligational) authority (as amended), fiscal year 1976	−72,537,000
Transition period	+11,966,000
House bill, fiscal year 1976	+132,659,000
Transition period	+11,966,000
Senate bill, fiscal year 1976	−69,719,000
Transition period	−20,332,000

[1] Includes the following amounts not considered by the House:

Pennsylvania Avenue Development Corporation	$1,256,000
National Park Service (Budget Amendment)	−4,000,000
Bureau of Mines (Budget Amendment)	15,000,000
Bureau of Indian Affairs (Budget Amendment)	6,400,000
Ex Gratia Payment, Bikini Atoll (Budget Amendment)	3,000,000
ERDA (Budget Amendment)	65,400,000
FEA (Budget Amendment)	147,660,000
Navajo/Hopi Relocation Commission (Budget Amendment)	37,500,000
Total	272,216,000

Sidney R. Yates,
Gunn McKay,

CLARENCE D. LONG,
FRANK E. EVANS,
JOHN P. MURTHA,
ROBERT DUNCAN,
GEORGE MAHON,
JOSEPH M. MCDADE,
RALPH S. REGULA,
ELFORD A. CEDERBERG,
Managers on the Part of the House.
ROBERT C. BYRD,
JOHN L. MCCLELLAN,
JOSEPH M. MONTOYA,
LAWTON CHILES,
MIKE MANSFIELD,
TED STEVENS,
MILTON R. YOUNG,
MARK O. HATFIELD,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. PETTIS) to revise and extend their remarks and include extraneous matter:)

Mr. HASTINGS, for 20 minutes, today.

Mr. KEMP, for 60 minutes, today.

Mr. STEELMAN, for 5 minutes, today.

Mr. MILLER of Ohio, for 10 minutes, today.

(The following Members (at the request of Mr. FITHIAN), to revise and extend their remarks, and to include extraneous matter:)

Mr. GONZALEZ, for 5 minutes, today

Mr. ASPIN, for 10 minutes, today.

Mr. RUNNELS, for 5 minutes, today.

Mr. FUQUA, for 5 minutes, today.

Mr. VANIK, for 5 minutes, today.

Mr. O'NEILL, for 5 minutes, today.

Mr. HARRIS, for 5 minutes, today.

Mr. MEZVINSKY, for 5 minutes, today.

Mr. SIMON, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DINGELL and to include extraneous remarks notwithstanding the fact that they exceed two pages of the CONGRESSIONAL RECORD and are estimated by the Public Printer to cost $1,644.50.

Mr. KOCH to include extraneous material during consideration of H.R. 9721 in the Committee of the Whole today.

Mr. KOCH, immediately before passage of H.R. 9721, Inter-American Development Bank bill.

(The following Members (at the request of Mrs. PETTIS) and to include extraneous matter:)

Mr. GRASSLEY.

Mr. ARMSTRONG.

Mr. BURGENER.

Mr. BELL.

Mr. SYMMS.

Mr. VANDER JAGT.

Mr. WALSH.

Mr. GUYER.

Mr. STEIGER of Arizona.

Mr. ANDREWS of North Dakota.

Mr. ROUSSELOT.

Mr. BEARD of Tennessee.

Mr. ABDNOR.

(The following Members (at the request of Mr. FITHIAN) and to revise and extend their remarks:)

Mr. MCDONALD of Georgia in five instances.

Mr. SHARP.

Mr. LONG of Maryland.

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. RUSSO in two instances.

Mr. DODD.

Mr. ASPIN.

Mr. MOORHEAD of Pennsylvania in five instances.

Mr. SYMINGTON.

Mrs. CHISHOLM.

Mr. MURTHA.

Mr. FUQUA.

Mr. MCCORMACK.

Ms. ABZUG in three instances.

Mr. MURPHY of New York.

Mr. HELSTOSKI.

Mr. WON PAT.

Mr. DOWNEY of New York.

Mr. VANIK in four instances.

Mr. RANGEL in five instances.

Mr. MILLER of California.

Mr. ROGERS in five instances.

Mr. DINGELL in two instances.

Mr. MONTGOMERY.

Mrs. SPELLMAN in two instances.

Mr. ZEFERETTI.

Mr. BINGHAM in 10 instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 67. An act to establish the Nantucket Sound Islands Trust in the Commonwealth of Massachusetts, to declare certain national policies essential to the preservation and conservation of the lands and waters in the trust area, and for other purposes; to the Committee on Interior and Insular affairs.

S. 2672. An act to extend the State Taxation of Depositories Act; to the Committee on Banking, Currency and Housing.

ENROLLED BILL SIGNED

Mr. HAYS of Ohio, from the Committee on House Administration, reported that the committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 9005. An act to authorize assistance for disaster relief and rehabilitation, to provide for overseas distribution and production of agricultural commodities, to amend the Foreign Assistance Act of 1961, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 240. An act to amend the act entitled "An act granting a charter to the General Federation of Women's Clubs."

BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS of Ohio, from the Committee on House Administration, reported that the committee did on December 8, 1975, present to the President, for his approval, bills of the House of the following titles:

H.R. 8069. An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes; and

H.R. 10481. An act to authorize the Secretary of the Treasury to provide seasonal financing for the city of New York.

ADJOURNMENT

Mr. FITHIAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 49 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, December 10, 1975, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2170. A letter from the Secretary of Defense, transmitting a report on his allocation of active military and civilian strength reductions for fiscal year 1976 and the transition period, pursuant to sections 301(b), 501(b), 703(b), and 705(b) of Public Law 94–106; to the Committee on Armed Services.

2171. A letter from the Acting Executive Secretary to the Department of Health, Education, and Welfare, transmitting, proposed regulations governing State vocational education programs, pursuant to section 431 (d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

2172. A letter from the Attorney General, transmitting a report on identical bidding in advertised public procurement during calendar year 1974, pursuant to section 7 of Executive Order 10936; to the Committee on Government Operations.

2173. A letter from the Administrator, Federal Energy Administration, transmitting a report covering the period July-September 1975, on imports of crude oil, residual fuel oil, refined petroleum products, natural gas, and coal; domestic reserves and production of crude oil, natural gas, and coal; refinery activities; and inventories, pursuant to section 11(c)(2) of Public Law 93–319; to the Committee on Interstate and Foreign Commerce.

2174. A letter from the Chairman, Board of Governors, U.S. Postal Service, transmitting the annual report of the Postmaster General for fiscal year 1975, pursuant to 39 U.S.C. 2402; to the Committee on Post Office and Civil Service.

RECEIVED FROM THE COMPTROLLER GENERAL

2175. A letter from the Comptroller General of the United States, transmitting a report on the Army's planned product improvement program for the Gama Goat (M561 cargo truck); jointly, to the Committees on Government Operations, and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. REUSS: Committee on Banking, Currency and Housing. H.R. 10680. A bill to revise and extend the Renegotiation Act of 1951; with amendment (Rept. No. 94–699). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee of conference. Conference report on S. 622 (Rept. No. 94–700). Ordered to be printed.

Mr. YATES. Committee on conference. Conference report on H.R. 8773 (Rept. No. 94–701). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ABDNOR:

H.R. 11053. A bill to amend title 38 of the United States Code to promote the care and treatment of veterans in State veterans' homes; to the Committee on Veterans' Affairs.

By Mr. CRANE (for himself, Mr. Oberstar, Mr. Nix, Mr. Breaux, Mr. Runnels, Mr. Waggonner, Mr. Lagomarsino, Mr. Kasten, and Mr. Steiger of Arizona):

H.R. 11054. A bill to provide that in civil actions where the United States is a plaintiff, a prevailing defendant may recover a reasonable attorney's fee and other reasonable litigation costs; to the Committee on the Judiciary.

By Mr. D'AMOURS:

H.R. 11055. A bill to amend section 518(a) of the National Housing Act for the purpose of extending the time period during which a homeowner may apply for assistance under such section; to the Committee on Banking, Currency and Housing.

By Mr. D'AMOURS (for himself, Mr. Pressler, Mr. Holland, Mr. Oberstar, Mr. Pepper, Mr. Cornell, Ms. Holtzman, Mr. Edgar, Mr. McHugh, Mr. Mathis, and Mr. Fraser):

H.R. 11056. A bill to amend title 38 of the United States Code in order to exempt tax-supported public educational institutions which offer vocational courses from placement record requirements as a prerequisite to approval by the Administrator of Veterans' Affairs; to the Committee on Veterans' Affairs.

By Mr. DUNCAN of Tennessee:

H.R. 11057. A bill to provide temporary authority for the Secretary of Agriculture to sell timber from U.S. Forest Service lands, consistent with various acts; to the Committee on Agriculture.

By Mr. JEFFORDS:

H.R. 11058. A bill to provide for the modification of the boundaries of the Bristol Cliffs Wilderness; to the Committee on Interior and Insular Affairs.

By Mr. MOAKLEY:

H.R. 11059. A bill to amend title 5, United States Code, with respect to the retirement of personnel in positions on the police force of Washington National Airport and the police force of Dulles International Airport; to the Committee on Post Office and Civil Service.

By Mr. RINALDO:

H.R. 11060. A bill relating to the settlement of debts owed the United States by foreign countries; to the Committee on International Relations.

By Mr. SISK:

H.R. 11061. A bill to amend the Land and Water Conservation Fund Act of 1965, as amended; to the Committee on Interior and Insular Affairs.

By Mr. TEAGUE (by request):

H.R. 11062. A bill to amend chapter 35 of title 38 of the United States Code in order to provide educational benefits, on a prorated basis, to children of veterans having permanent service-connected disabilities rated at not less than 50 percent but less than total; to the Committee on Veterans' Affairs.

By Mr. WHITEHURST:

H.R. 11063. A bill to amend the Older Americans Comprehensive Services Amendments of 1973; to the Committee on Education and Labor.

By Mr. BAFALIS:

H.R. 11064. A bill to amend the Internal Revenue Code of 1954 to reduce the rates of excise taxes in transportation by air, and for other purposes; to the Committee on Ways and Means.

By Mr. BEARD of Tennessee:

H.R. 11065. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit for the amount of employment taxes paid by an employer to certain new employees; to the Committee on Ways and Means.

By Mr. BRADEMAS (for himself, Mr. Perkins, Mr. Quie, Mr. Thornton, Mr. Cohen, Mr. Hechler of West Virginia, Mr. Holland, and Mr. Staggers):

H.R. 11066. A bill to amend the Rehabilitation Act of 1973 to extend the authorizations of appropriations contained in such act; to the Committee on Education and Labor.

By Mr. GUDE:

H.R. 11067. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for State and local taxes imposed on the rental of dwelling units; to the Committee on Ways and Means.

By Mr. HARRIS (for himself and Mr. Ottinger):

H.R. 11068. A bill to amend the Internal Revenue Code of 1954 to allow a deduction to individuals who rent their principal residences for a portion of the real property taxes paid or accrued by their landlords; to the Committee on Ways and Means.

By Mr. LEVITAS:

H.R. 11069. A bill to amend section 122 of title 23, United States Code, to authorize payment of interest on bonds the proceeds of which were used for projects on the Interstate System; to the Committee on Public Works and Transportation.

By Mr. MACDONALD of Massachusetts (for himself, Mr. Murphy of New York, Mr. Carney, Mr. Byron, Mr. Frey, and Mr. Madigan):

H.R. 11070. A bill to amend the Communications Act of 1934 with regard to the broadcasting of certain professional sports clubs' games; to the Committee on Interstate and Foreign Commerce.

By Mr. MOORHEAD of Pennsylvania:

H.R. 11071. A bill to incorporate the National Ski Patrol System, Inc.; to the Committee on the Judiciary.

By Mr. MYERS of Pennsylvania (for himself and Ms. Abzug):

H.R. 11072. A bill to provide for the Federal payment of State unemployment compensation benefits which are paid to individuals who are unemployed because of the natural gas shortage; to the Committee on Ways and Means.

By Mr. STEELMAN:

H.R. 11073. A bill to provide that meetings of Government agencies shall be open to the public, and for other purposes; to the Committee on Government Operations.

By Mr. WHITE (for himself, Mr. Steed, Mr. Miller of Ohio, Mr. Dominick V. Daniels, Mr. Harris, Mrs. Spellman, Mr. Mineta, Mr. Jenrette, Mr. Udall, Mr. Moakley, Mr. Taylor of Missouri, and Mr. Beard of Tennessee):

H.R. 11074. A bill to amend title 5, United States Code, to restore eligibility for health benefits coverage to certain individuals whose survivor annuities are restored; to the Committee on Post Office and Civil Service.

By Mr. RICHMOND:

H.R. 11075. A bill to amend the Agricultural Trade Development and Assistance Act of 1954 to allow representatives of the domestic alcoholic beverage industry to participate in overseas trade fairs and market promotion activities sponsored by the Department of Agriculture; to the Committee on International Relations.

By Mr. BROOMFIELD:

H.J. Res. 744. Joint resolution to authorize the President to proclaim the period from May 15 through May 22, 1976, as National Car Care Week; to the Committee on Post Office and Civil Service.

By Mr. SNYDER (for himself, Mrs. Sullivan, Mr. Flood, Mr. Burke of Florida, Mr. Conlan, Mr. Dominick V. Daniels, Mr. Minish, Mrs. Lloyd of Tennessee, Mr. Sisk, Mr. Grassley, and Mr. Taylor of Missouri):

H. Res. 908. Resolution in support of continued undiluted U.S. sovereignty and jurisdiction over the U.S.-owned Canal Zone on the Isthmus of Panama; to the Committee on International Relations.

By Mr. WHITTEN:

H. Res. 909. Resolution disapproving the rescission of certain budget authority (R76–15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25) relating to the Department of Agriculture, which is proposed by the President in his message of November 29, 1975, transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H. Res. 910. Resolution disapproving the deferral of certain budget authority (D76–68) relating to the Department of Agriculture, Agricultural Research Service, which is proposed by the President in his message of November 29, 1975, transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H. Res. 911. Resolution disapproving the deferral of certain budget authority (D76–69) relating to the Department of Agriculture, Animal and Plant Health Inspection Service, which is proposed by the President in his message of November 29, 1975, transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H. Res. 912. Resolution disapproving the deferral of certain budget authority (D76–70) relating to the Department of Agriculture, Agricultural Conservation Program, which is proposed by the President in his message of November 29, 1975, transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H. Res. 913. Resolution disapproving the deferral of certain budget authority (D76–71) relating to the Department of Agriculture, Commodity Credit Corporation, which is proposed by the President in his message of November 29, 1975, transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H. Res. 914. Resolution disapproving the deferral of certain budget authority (D76–72) relating to the Department of Agriculture, Rural Water and Waste Disposal Grants, which is proposed by the President in his message of November 29, 1975, transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H. Res. 915. Resolution disapproving the deferral of certain budget authority (D76–73) relating to the Department of Agriculture, Watershed and Flood Prevention Operations, which is proposed by the President in his message of November 29, 1975, transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H. Res. 916. Resolution disapproving the deferral of certain budget authority (D76–74) relating to the Department of Agriculture, Resource Conservation and Development, which is proposed by the President in his message of November 29, 1975, transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

By Mr. FOUNTAIN:

H. Res. 917. Resolution to authorize the President to issue a proclamation designating the week beginning April 4, 1976, as National Rural Health Week; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

Mr. KARTH introduced a bill (H.R. 11076) for the relief of Ok Ja Choi, which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

335. By the SPEAKER: Petition of the Navy League of the United States, Washington, D.C., relative to sea power; to the Committee on Armed Services.

336. Also petition of the Board of Trustees, Beaver, Okla., relative to revenue sharing; to the Committee on Government Operations.

337. Also, petition of Thomas R. Sherrod, Salt Lake City, Utah, relative to redress of grievances; to the Committee on the Judiciary.

338. Also, petition of the Connecticut Conference of the United Church of Christ, North Haven, Conn., relative to veterans of the war in Indochina; to the Committee on the Judiciary.

339. Also, petition of the National Small Business Association, Washington, D.C., relative to the Robinson-Patman Act; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 8529

By Mr. BREAUX:

(Amendment in the nature of a substitute.)

Strike out all that follows the enacting clause and insert in lieu thereof the following:

That effective for the 1976 and 1977 crops of rice, section 352 of the Agricultural Adjustment Act of 1938 is amended to read as follows:

"NATIONAL ACREAGE ALLOTMENT

"Sec. 352. (a) The national acreage allotment of rice for the 1976 and 1977 crops of rice shall be two million acres, unless the Secretary determines, prior to December 31 of the calendar year preceding the beginning of the crop year for which the allotment is to be made, that the difference between the total supply of rice for the marketing year beginning in the calendar year preceding such crop year and the normal supply of rice for such marketing year is greater than 20 per centum of such normal supply.

"(b) If the Secretary makes the determination described in subsection (a), the national acreage allotment of rice for the crop year beginning after the determination is made shall be established at a level which will adjust the supply of rice so that a quantity of marketable rice will be on hand in the United States at the end of the marketing year beginning August 1 of the calendar year in which the rice for which the acreage allotment is being determined is to be produced (not including rice produced in the calendar year in which such marketing year ends) which is less than 20 per centum of the estimated amount of rice which will be utilized in exports and domestic consumption during such marketing year, except that the national acreage allotment for rice for any crop of rice may not be less than one million six hundred fifty-two thousand five hundred and ninety-six acres.

"(c) For purposes of this part, the term 'normal supply' means, with respect to any marketing year—

"(1) the estimated domestic consumption of rice during the marketing year for which normal supply is being determined plus

"(2) the estimated exports of rice during such marketing year.".

Sec. 2. (a) Effective only with respect to the 1976 and 1977 crops of rice, section 353 (b) of the Agricultural Adjustment Act of 1938 is amended—

(1) by striking out the second sentence; and

(2) by striking out "an old producer" and all that follows through "second sentence of this subsection," in the third sentence and inserting in lieu thereof "a producer or farm under the first sentence of this subsection,".

(b) Effective only with respect to the 1976 and 1977 crops of rice, section 353 of such Act is amended by adding at the end thereof the following new subsection:

"(h) The Secretary shall permit the owner and operator of any farm for which a farm acreage allotment has been established to sell or lease all or any part, or the right to all or any part of such allotment, to any other owner or operator of a farm in the same State, or to transfer all or any part of such allotment to any other farm owned or controlled by him in the same State. The Secretary shall also permit the person for whom a producer allotment has been established to sell or lease all or any part of such allotment to any other person in the same State.".

Sec. 3. Effective only with respect to the 1976 and 1977 crops of rice, section 354(a) of the Agricultural Adjustment Act of 1938 is amended to read as follows:

"(a) Whenever in any calendar year the Secretary determines the national acreage allotment under section 352(b), he shall, not later than December 31 of such calendar year, proclaim such fact and marketing quotas shall be in effect, subject to subsection (b) of this section, for the crop of rice produced in the next calendar year.".

Sec. 4. Effective only with respect to the 1976 and 1977 crops of rice, section 356(a) of the Agricultural Adjustment Act of 1938 is amended to read as follows:

"(a) Whenever marketing quotas are in effect with respect to any crop of rice, the producer shall be subject to a penalty on the farm marketing excess at a rate per pound which is equal to the cost of production, as defined by section 108 of the Agricultural Act of 1949, per pound of rice for the crop with regard to which the penalty is imposed.".

Sec. 5. Effective only with respect to the 1976 and 1977 crops of rice, section 301(b) (10)(A) of the Agricultural Adjustment Act of 1938 is amended by striking out "rice," in the first sentence and by striking out "10 per centum in the case of rice;" in the second sentence.

Sec. 6. Effective only with respect to the 1976 and 1977 crops of rice, section 101 of the Agricultural Act of 1949 is amended—

(1) by striking out the undesignated paragraph in subsection (a) dealing with rice;

(2) by inserting, "except for rice," immediately after "price support" the first time it appears in subsection (d)(5); and

(3) by inserting "and rice" immediately after ", except tobacco" in subsection (d) (3).

Sec. 7. Effective only with respect to the 1976 and 1977 crops of rice, title I of the Agricultural Act of 1949 is amended by adding at the end thereof the following new section:

"PRICE SUPPORT FOR 1976 AND SUBSEQUENT CROPS OF RICE

"Sec. 108. (a) The Secretary shall make available nonrecourse loans and purchases for the 1976 and 1977 crops of rice. These nonrecourse loans and purchases shall be available only to persons producing rice on acres allocated under section 353 of the Agricultural Adjustment Act of 1938.

"(b) The amount of the loans and purchases available shall be based on the following:

"(1) the farm yield base, as determined by the Secretary, of the person receiving the loan, multiplied by

"(2) the amount of acres of rice produced by such person on acres allocated to him under section 353 of the Agricultural Act of 1938, multiplied by

"(3) the cost of production, as determined under subsection (c), of the rice produced on the acres described in paragraph (2).

"(c) For purposes of this section, the term 'cost of production' shall mean—

"(1) with regard to the 1976 crop of rice, $8 per hundredweight of rice or 60 per centum of the parity price for rice, whichever is higher; and

"(2) with regard to the 1977 crop of rice, the cost of production for the 1976 crop of rice adjusted to reflect changes in a cost-of-production index for rice;

except that such term shall mean 50 per centum of the parity price for rice with regard to any crop of rice for which marketing quotas have been disapproved by producers.".

Sec. 8. The amendments made by this Act shall become effective with the 1976 crop of rice.

H.R. 9924

By Mr. LEVITAS:

Page 8, after line 22, add the following: "No funds authorized hereunder may be used for lobbying activities."

EXTENSIONS OF REMARKS

TRIBUTE TO PVT. FRANK McMANUS—AN AMERICAN PATRIOT

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. BIAGGI. Mr. Speaker, this past Sunday I had the distinct honor of joining with several hundred residents of the Jackson Heights and Astoria communities of my congressional district as they paid tribute to a former neighbor, Pvt. Frank McManus, who was killed in service to his country in Vietnam more than 7 years ago.

The communities had gathered to dedicate a memorial to Private McManus in a neighborhood park near where this fine young man lived. The inscription on the memorial was simple, but eloquent—"A Neighborhood Remembers," and this, better than anything else, described the events of last Sunday.

Private McManus was killed just 6 weeks after he arrived in Vietnam. His death came while he was trying to assist a wounded colleague after the helicopter in which they were riding was ambushed by the enemy. He died at the tragic young age of 20, but his family took solace in the fact that their son died a hero in the eyes of this Nation.

As this Nation prepares to celebrate its Bicentennial we must not forget the sacrifices made by the hundreds of thousands of fighting men who gave up their lives so this Nation could live in freedom. Our freedoms have been challenged in the past, and will be in the future. We owe a great debt of gratitude to Private McManus and all other American patriots who have made the supreme sacrifice of their lives so we could remain the greatest free Nation in the world.

Mr. Speaker, at this point in the RECORD, I insert two accounts: the first from the New York Times discusses Sunday's events; the second article, from the Long Island Press, provides information on Private McManus:

QUEENS RESIDENTS SALUTE PRIVATE SLAIN IN VIETNAM

Residents of a Queens community yesterday honored a neighbor who was killed seven years ago in Vietnam when he went to help a wounded colleague.

In a small park at 81st Street and Ditmars Boulevard, around the corner from his family's home, they gathered with Representative Mario Biaggi and the parents of Private Frank J. McManus to dedicate a small stone monument with the inscription: "A Neighborhood Remembers."

"Frank was a good kid who believed in what he did," said Al Eliassof, who lives next door to the McManuses. "This is a good gesture to him."

About 100 people were at the park where Frank McManus played as a child. Color guards from the local chapter of the Veterans of Foreign Wars and the 77th Airborne Reserves stood by as Mr. and Mrs. Peter McManus received a Congressional Medal of Merit from Mr. Biaggi and heard a proclamation by Queens Borough President Donald R. Manes citing the "courage and spunk of this young man who was always willing to help."

Referring to Pearl Harbor Day, Dec. 7, Representative Biaggi said that "this was a significant day in the lives of man." He called the ceremony a "tribute to the community, a tribute to Frank McManus and his family, and a tribute to all who give their lives."

"This community did not forget," the Congressman said.

Two other organizations also marked yesterday's 34th anniversary of the bombing of Pearl Harbor, Boy Scouts from the Brooklyn Council of the Boy Scouts of America participated in ceremonies at the War Memorial.

At the United States Merchant Marine Academy in Kings Point, Long Island, members of Chapter 4 of the Pearl Harbor Survivors Association watched as the crew of an Army helicopter cast a wreath into the wind-swept waters of Long Island Sound.

Private McManus was 20 years old when he was killed at Dan Tieng. He had been in Vietnam just six weeks when the helicopter that was taking his unit back from a scouting patrol was struck by heavy fire as it landed. The first man out the door was wounded.

Private McManus left the helicopter under fire to try to help him. Both men, as well as the medic who followed Private McManus were killed. Peter McManus spoke last at yesterday's ceremonies. "Thank you, from the bottom of my heart," he said. "God bless you."

A COMMUNITY REMEMBERS A SON WHO FELL IN VIETNAM

(By H. L. Klein)

Frank McManus went marching off to war in the spring of 1968. Six weeks after landing in South Vietnam, Pfc. Frank Joseph McManus, 20, 22–41, 80th Street, Jackson Heights, came home, killed in action—another war statistic.

"You sort of get the feeling nobody cares," said Peter McManus, the father of the only child.

Next Sunday, with a plaque that says "A Community Remembers," a small park at Ditmars Boulevard and 81st Street will be dedicated in Frank's memory.

"It brings back the tears to your eyes," said McManus, a vice president at the brokerage firm of Paine, Webber, Jackson and Curtis. "It makes you feel good that the people come forward although it brings back all the old memories.

"At first I felt bitterness," said Mrs. McManus. "I remember saying to him when he came home from 'basic' that maybe the war would be over when he got there. He was our only child. At least he died a hero."

Mrs. McManus said the family was notified of the boy's death Sept. 19, two days after he was killed on a reconnaissance mission 65 miles north of Saigon. A helicopter tried to land a four-man scouting party but as it dropped its passengers, enemy snipers picked off the first man. Frank went to help him, she said, but was also killed. He was posthumously awarded the Bronze Star and the Purple Heart.

"Yes I believe his death meant something," McManus said. "I think it is necessary that when your country calls you answer. He felt it was right. I guess I brought him up that way.

"He worked at the A&P after he graduated from Bryant High School," Mrs. McManus said. "He said 'Let me take a year off and find my way.'

"He was just like every other boy when he went in, not really 'gung-ho,' but he loved his country," she said. "When he came back from 'basic' he said, 'Ma, I want to go over to help. After all, Uncle Joe gave his life during World War II.' I guess this is what they teach the boys during basic training."

An uncle, Joseph McManus, was killed during the landing on Iwo Jima, McManus said.

The community effort to name the park was spearheaded by next door neighbors Albert Eliassof, an Astoria restaurant owner, and Queens Dist. Atty. Nicholas Ferraro, who in turn enlisted State Sen. John Moore and Councilman Peter Vallone, the program chairman.

Vallone obtained permission to name the park from the Port Authority, which maintains it because it lies next to La Guardia Airport. He also arranged for marching bands from local veterans groups, Our Lady of Fatima School—Frank's alma mater—St. Francis of Assisi school and the use of Port Authority helicopter.

"It was a surprise. They didn't want to tell us until they had something solid to go on," McManus said.

After the ceremony, however, which the McManuses called a "fine tribute," there will still be those two constants to which neither has completely adjusted.

"I was disappointed," the way the war ended, Mrs. McManus said. "I thought we could do a lot more for the South Vietnamese. He (Frank) called it another world over there."

"I really believe it wasn't all in vain," McManus said. "It was disappointing to me, the way it turned out. Maybe the war was right and maybe it wasn't, but you do for your country what you have to do at the time."

"It does make me feel good that somebody remembers him after he's dead," he added.

WHAT IS ZIONISM?

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. LONG of Maryland. Mr. Speaker, a thoughtful article entitled "What Is Zionism?" recently was brought to my attention by the highly respected Baltimore City Councilman, Allen B. Spector. This excellent piece, written by Prof. Joseph Dan of the Hebrew University of Jerusalem, sees the United Nations' resolution equating Zionism with racism as an attempt to strike a blow at the heart of the Jewish religion. On two occasions I have spoken out in the House to condemn this demagogic resolution, and I would like to add Professor Dan's comments to my own on the question:

WHAT IS ZIONISM?

Once a word becomes linked with other words often enough, it loses its original meaning because the sense of every word in any language is decided by the context in which it appears, not by some definition in a dictionary. This plain fact is known very well to Arab and Communist propagandists, and their insistent linkage between Zionism and evil-sounding words like racism, colonialism and aggression is evidence of their design to fight the Jewish people everywhere; otherwise they would have attacked only the State of Israel, but their onslaught on Zionism is intended to malign Jews in all countries. This is a very effective technique of propaganda, because it automatically puts every Zionist on the defensive; he has to explain why Zionism is not racist, or not colonialistic, or not aggressive, which is much more complicated than the simple name-calling, and has much less impact. Some recent international forums have adopted this tactic, and we are going to experience it again and again. It is necessary, therefore, to return to fundamental facts, and to use a self-evident, clear and unambiguous definition of Zionism. This is not difficult, because Zionism does not have an intricate ideology; it is a simple answer to a simple question.

The question that Zionism asks is this: Can the Jewish people exist when all its communities are scattered around the world, and subject to different non-Jewish regimes and States, whose policies change from day to day and where anti-Semitism may flourish from time to time? The Zionist answer is: No! The Jewish people can continue to exist only if it has an independent State in its one and only Homeland, the Land of Israel. There is nothing more to add to that basic definition of Zionism: Jewish independence in the Land of Israel. Anyone who agrees that such a State should exist is a Zionist; anyone who opposes it is a non-Zionist. Anyone who thinks that this State should be destroyed is an anti-Zionist.

Zionism does not define what kind of State the Jews should have, whether a democratic or a Communist one, governed by a President or a Prime Minister, with an agricultural or an industrial economy, and so on. All that Zionism requires is a Jewish State in the Land of Israel. Zionism does not define the borders of it, whether it should include this village or that. Zionism is only the demand for the existence of the Jewish State in the Land of Israel. All other questions, the policy, economy and borders of that State, are subject to discussion and dispute—between those who agree that it should exist. Those who oppose Zionism, and therefore also the existence of the Jewish State, care very little for its policies, or even its borders.

The dividing line is, therefore, completely clear: Anyone who opposes Zionism is demanding the destruction of the Jewish State in the Land of Israel, and declaring that the Jewish people should not have a State at all, anywhere, regardless of any problem of borders or of its policies. The fight against Zionism is a very thin disguise of the demand to destroy the Jewish State and the Jewish people.

OPERATION SISTERS UNITED

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mrs. CHISHOLM. Mr. Speaker, I would like to call to the attention of my colleagues a project here in the Washington area which has had tremendous success in its work with female juvenile offenders. Operation Sisters United, developed as a pilot project of the National Council of Negro Women and financed through grants from the Law Enforcement Assistance Administration, began in 1972 as a kind of "big sister" program. Utilizing volunteers from the community to work with juvenile offenders on a one-to-one basis, Operation Sisters United is providing a meaningful alternative to institutionalization for some 40 girls in the District area.

This project and others like it address themselves to what is becoming an increasingly serious national problem. More and more women are committing and being arrested for felonies; the increase has been most serious in "crimes against property" offenses. The statistics bear out that, prior to 1969, only one in 18 felony offenses was attributable to a female. That ratio has increased to one in 4.5 by our most recent statistics.

And while the crime rate among women is going up, there is being little done to prevent conditions which force women into crime—nor in the area or rehabilitation and prison accommodation and counseling.

Throughout the Nation, a substantial number of offenders are under 18 years of age and are incarcerated. The most obvious conclusion that can be drawn from those who know the correction conditions and problems of the prison system is that institutional detention is one sure way to encourage recurrent crime.

Although the offenders cut across socio-economic lines, the overwhelming number of them are minorities from lower economic conditions. Unlike those girls from middle-class families, they are not able to purchase alternative services and pay lawyer expenses.

Operation Sisters United, under the capable directorship of Barbara Smith, has been successful in reducing the rate of recidivism among young females participating in the program. As a result of this accomplishment, it was recently announced that LEAA has funded a multicities program which will initially be established in three other locations: Dayton, Ohio; Greenville, Miss., and St. Thomas, Virgin Islands.

I read recently a New York Times article which concluded that, the crime rate, particularly among juvenile offenders, is due to rise sharply in times of economic recession. The problems created by this current economic situation in my city as well as throughout the country are multifaceted, but certainly, crime is one of the most severe. I would hope that Operation Sisters United can sustain its admirable record of service to this community in working on an individual basis with the juvenile justice system. And I trust that none of us will forget that combating crime means not only stepped-up enforcement, but an increased attack on the grassroots of the problems from which criminality stems.

AGRIPOWER

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. FINDLEY. Mr. Speaker, it is to the credit of the American system that we can have the luxury of debating how to use our food resources. In many of the less fortunate countries of the world, the debate over surplus and how to use them is unknown. The issue is how to divide shortages. Some in this country have voiced their desire to use our food resources for political purposes.

I commend to my colleagues the recent remarks of Richard E. Bell, Assistant Secretary of Agriculture, before the National Farm Broadcasters Association. He contends that it is a misguided concept to use agriculture in international politics. According to Mr. Bell, this is not true agripower. Agripower is a greater force than petropower in man's survival in the future. We have an obligation to recognize this resource and to use it responsibly. Mr. Bell's comments condensed below, remind us of the positive way in which this country should use its agripower.

AGRIPOWER AND AGRIDOLLARS

(Remarks by Richard E. Bell, Assistant Secretary of Agriculture for International Affairs and Commodity Programs, at the 1975 Fall Convention of the National Farm Broadcasters Association)

We've heard a lot in recent months about petropower and petrodollars, but we haven't heard much about agripower and agridollars—that is, true agripower which generates agridollars through agricultural exports.

Unfortunately, some politicians have been quite vocal about the desirability of using agricultural exports politically. They want to use them as a counter-balancing force to the power wielded by petroleum exporting countries. This is a misguided concept of using agriculture in international politics—it is not true agripower.

* * * * *

Agripower should not be a political tool. Feeding people—the difference between life and starvation—is too serious a matter to be left to political manipulation. Political force should not be a measure of the strength of agriculture—the real measure is productivity, combined with processing and marketing efficiency.

* * * * *

A prime reason for this upturn in productivity is the shift in government agricultural programs. With the 1970 and 1973 agricultural acts, we have made substantial progress in implementation of a market-oriented farm policy. * * *

Also important, increased world demand for agricultural products has permitted the U.S. to stop paying farmers to divert up to 60 million acres of cropland under government programs.

Consequently, land, machinery, and other farm resources have been put to fuller and more efficient use—a shot in the arm for the productivity index. This year an estimated 335 million acres will be harvested and farm productivity is expected to increase 8 percent.

Direction of government programs, however, is not the only influence on farm productivity. More general adoption of technological advances is a major determinant of productivity boosts.

* * * * *

Advances in modern agricultural technologies, along with the market-oriented farm policies of the seventies, have given American farmers the capacity and the incentive to respond fully to market growth. And that market growth, particularly the world market, has been substantial.

For example, during the past 5 years the world grain market has grown from 110 million to 155 million metric tons. The United States has expanded its grain production to meet this demand, and has provided 43 of the 45 million ton increase—96 percent of the total increase in world grain exports.

Exports of grain and other agricultural products benefit both the farm and nonfarm sectors, exemplifying the true meaning of agripower and agridollars. Exports generate employment, increase incomes, and expand purchasing power. Approximately 1.2 million jobs, both on and off the farm, are related directly to the export of farm products.

Every additional billion dollars of agricultural exports creates more than 50,000 regular jobs for American workers. If it weren't for farm exports, 120,000 people in the wholesale and retail trades, 42,000 in food processing, and 43,000 in transportation and warehousing would be pounding the pavement looking for work—or would be on the unemployment rolls and using food stamps.

* * * * *

Farm exports are vital to the well-being of the U.S. economy. They are the nation's most significant foreign exchange earner and the leading contributor toward a favorable trade balance. Net agricultural trade earnings in fiscal 1975 amounted to $12 billion, more than offsetting a $10 billion deficit in nonagricultural trade.

* * * * *

While the amounts of agridollars and petrodollars in U.S. trade are similar, there are important differences from an economic viewpoint. Agridollars are earned from renewable resources.

Another important difference is the use being made of agridollars and petrodollars. Agridollars are spent primarily on consumer goods— * * * Agridollars go through the economic system and end up as income to individual workers. * * *

Petrodollars are being used to a great extent for long-term investments. Many oil exporting countries are investing their petrodollars in foreign real estate. * * * Benefits to lower and middle income workers, therefore, are less direct.

Petropower has had a negative economic impact on developing countries. Higher petroleum prices are eroding their ability to import. This has raised the cost of living as well as the cost of production inputs, such as fertilizers, fuel, insecticides and herbicides. As a result, the adoption of new technology has been retarded and crop yields have decreased in many countries.

* * * * *

Agripower has made it possible for the United States to carry major world responsibilities for short-term or temporary food assistance. Last year the World Food Conference set a target of 10 million tons of grains for overall food aid commitments for 1975 and thereafter. This fiscal year the United States will provide about 60 percent of that amount through Public Law 480 shipments.

Less than 5 percent, however, of all grain moving between countries goes for food assistance. The remaining 95 percent or more is commercial trade, not aid. * * *

It is evident that U.S. agripower is a major force in the world's exchange of goods and services. Agripower is, unquestionably, an even greater force than petropower in man's survival in the future. Man can and has survived without petroleum, but he cannot live without food.

This country must assure the continuing strength of agripower. To do this, it must stand behind the American farmer. Agriculture must have the resources and the economic incentives made possible by a free market system. There is no room for misdirected politics in the world food market.

HOUSE POW COMMITTEE LEARNS QUICKLY THAT COMMUNISTS HAVE NOT CHANGED POSITION ON STATUS OF AMERICAN POW'S AND MIA'S

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. BIAGGI. Mr. Speaker, it is tragic to note that about the only thing which was accomplished in this weekend's meetings between the members of the House Select Committee on POW's and MIA's and representatives of the Vietnam Communist Party was that our colleagues learned rather quickly that the Communists have not changed their position relative to the status of our men missing or killed in action.

Reaction to this meeting has been strongly negative and is coming from those persons who had the highest hopes about the meeting; namely, the families and loved ones of the remaining 1,000 men listed as missing in action or prisoners of war. The Communists offered at best a cruel token gesture of promising to send the remains of three allegedly missing American airmen. On the critical points of providing for an updated status of the other American personnel still under enemy control, the Communists were conspicuously silent.

It is tragic that the hopes of the families and loved ones of these men were dashed once again. It is even more tragic that Congress has legislation before it which will relax the trade embargo against Communist Vietnam even though we are no closer to knowing the fate of our remaining POW's and MIA's. I would hope that Congress will postpone any further consideration of this legislation until more definite progress is made regarding the status of our POW's and MIA's.

As a cosponsor and supporter of the legislation which created this Committee on POW's and MIA's I maintain that despite this past weekend, they can still serve an important function. However, they have learned from this past weekend that the Communists are not beneath trying to deceive even Members of the U.S. Congress. We have an obligation to do everything in our power to demand a full accounting of our POW's and MIA's. This is one issue where idle promises just will not do.

ACADEMY IN PUBLIC SERVICE

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. SHARP. Mr. Speaker, on November 17, in Indianapolis, Donald Herzberg, dean of Georgetown University's Graduate School, announced the establishment of the first "Academy in the Public Service."

Planned and coordinated by Georgetown University, the Academy was made possible by a 3-year grant from Lilly Endowment, Inc., of Indianapolis, a philanthropic foundation with international, national and Indiana interests. The Academy's objective will be to help State and local officials of Indiana as they work to equip themselves to do a better job of public service.

In announcing the creation of the Academy, Dean Herzberg said "The Academy in the Public Service is a direct response to the growing complexity of society and the trend to shift more and more governmental responsibilities to the State and local level."

The Academy's programs will include training in skills such as budget development, management of service delivery systems, long-range planning relations among Federal, State, and local programs, working with regulatory agencies, cooperation with community organizations, collective bargaining, taxation and fiscal policy, human relations, auditing, and executive decision making.

Georgetown University, as a leading institution in the Nation's Capital, will be able to coordinate the program with a broad perspective on Federal-State-local relationships in government. Dean Herzberg expressed the hope that the Indiana program could lead to the establishment of extensions of the Academy in other States.

Georgetown's Graduate School, School of Business Administration, and School for Summer and Continuing Education will work together to administer the Academy's programs.

As a Representative from the State of Indiana and as an alumnus of Georgetown University, I am pleased and proud that this Academy has been established and hopeful that it will prove a model for similar programs in other States.

HUTCHINSON NAMED HEAD OF SUFFOLK UVO

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. DOWNEY of New York. Mr. Speaker, veterans organizations have a difficult task these days. They offer an atmosphere where men who may have only one thing in common, having served our country in the armed services, can get together as a body and express their views. However, the role they play in our society goes beyond simply providing input into our political system. They are very much involved in community affairs, and are an asset to the community.

Recently, Mr. George E. Hutchinson, a resident of the Second Congressional District, was elected president of the United Veterans Organization of Suffolk County. An article appeared in the Islip News citing his achievement. The article follows:

BRENTWOOD VET NAMED NEW UVO HEAD AT MEETING

A 48-year-old Brentwood veteran has been elected as president of the United Veterans Organization of Suffolk County by unanimous vote of delegates at the annual convention held November 19 in Hauppauge.

George E. Hutchinson of 131 Front Avenue, Brentwood, succeeds charter president Chris Mulcahy of Blue Point.

Hutchinson, a veterans service officer in the Suffolk County Veterans Service Agency in Hauppauge, is a World War II-Korean veteran who has been active in veterans affairs for over 17 years. A 17-year member of the American Legion, Hutchinson was one of the founders and charter commanders of AMVETS Post No. 18 of the Islips. He served for two years as the Americanism vice-commander of the Rusy-Bohm American Legion Post in Islip before turning his interest to the AMVETS.

In 1963 Hutchinson was elected commander of AMVETS Post No. 18 and in 1964 was appointed public relations officer for the New York State Department of AMVETS, a post he held for three years. He served on the State Convention Corporation in 1965, and was again appointed state public relations officer in 1974–75, and is currently serving as editor of the official New York State AMVET newspaper, the "Empire AMVET."

Hutchinson was awarded the New York State "Outstanding Service Award" in 1966 and an Islip Town citation in 1974.

The annual dinner-dance of the U.V.O. will be held in honor of Past President Mulcahy on January 10 at the AMVETS Post Hall in East Islip.

Mulcahy, a Senior Vice-Commander of the Suffolk County Council of the Veterans of Foreign Wars, will be the guest of honor.

SEX ROLES: A JOURNAL OF RESEARCH

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Ms. ABZUG. Mr. Speaker, I am pleased to note the publication of a new journal, "Sex Roles: A Journal of Research." Its editor is Dr. Phyllis A. Katz, of the graduate school and University Center of the City University of New York.

The purpose of this new publication is to provide an interdisciplinary forum of the social sciences for research into the impact on individuals and institutions of recent and current changes in our society's norms and attitudes associated with masculinity and femininity.

A prospectus for Sex Roles follows my remarks:

Sex Roles: A Journal of Research

Editor: Phyllis A. Katz, Ph.D. Programs in Education and Developmental Psychology, The Graduate School and University Center of the City University of New York.

Associate Editors: Cynthia Fuchs Epstein, Department of Sociology, Queens College, Flushing, New York; Peggy R. Sanday, Department of Anthropology, University Museum, University of Pennsylvania, Philadelphia, Pennsylvania.

Defining "appropriate" and "inappropriate" masculine and feminine behaviors and attitudes has become an issue of considerable controversy in recent years. Until now, however, there has been very little consolidated scientific study of sex roles. The important new publication provides a forum for critical reviews and reports of new research in this fast-growing field.

Guided by a board of eminent authorities from the disciplines of psychology, sociology, anthropology, political science, social psychology, psychiatry, and education, Sex Roles offers much needed insight into the transmission of gender role information, the cultural determinants and consequences of gender roles, and the basic processes underlying sex role socialization and differentiation in children and adults. Among the topics discussed are:

Sex role stereotypes and child rearing practices.

Gender roles and political socialization.

Effects of contemporary social changes on the perception of sex roles and on role behaviors.

Effects of parenting behaviors and types of child care on children's development and adult life styles.

The relation of gender role socialization to sexual behavior.

The relation of adult personality and behavior to differential sex role socialization.

Factors maintaining sex role attitudes in childhood and adulthood.

Sex role socialization and its interaction with social, economic, and political organizations.

Structural facilitators or blocks to nontraditional sex role behavior and their relation to social policy.

Sex role attitudes in relation to work and intimate relationships.

Sex Roles invites the scientific community to submit theoretical and research articles, brief letters, and book reviews. Manuscripts should be prepared in APA style and sent, in triplicate, to: Dr. Phyllis A. Katz, The Graduate School and University Center of the City University of New York, 32 West 42nd Street, New York, New York 10036.

Of Interest To: psychologists, anthropologists, political scientists, sociologists, psychiatrists, educators, social workers, and psychotherapists.

THE ATTACK ON PRIVATE MEDICINE

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. BURGENER. Mr. Speaker, there are many in the United States who are now urging that we substitute a form of nationalized medicine for our traditional system of private practice.

Why private practice has been held in disrepute, and why socialized medical systems have been viewed as successful is difficult to understand. The fact is that under such socialized systems as those which exist in England and Sweden, there are long waiting lists for necessary medical procedures. It can take 6 months or longer for nonemergency surgery and there is a serious shortage of hospital beds. In our country, there is a surplus of hospital beds, and no waiting lists for medical care—whether it be serious surgery, cosmetic procedures, or any other desired service. In addition, socialized medicine is far more expensive than private medical practice. The tax burdens inflicted upon people who live under such systems make this clear.

The attack on private medical practice is, in reality, only part of a more general attack upon free enterprise and all free institutions. It is unusual that in a period when Americans are more suspicious than ever of big and unresponsive bureaucratic government that some would urge the entrance of that Government into the medical field. The evidence of a public demand for nationalized medicine is all but impossible to discover.

Many charges have been made against our medical system. One of our colleagues, Representative Philip Crane of Illinois, has responded to these charges in an important article, "The Attack on Private Medicine," which appeared in the October 1975 issue of Private Practice, the journal of the Congress of County Medical Societies.

In this article, Mr. Crane deals with the charge that we have too few doctors, that our costs are too high, that our infant mortality rate is inferior to that of countries with socialized systems, that doctors are poorly distributed across the country, that our experiments in Government medicine—medicare and medicaid—have been successful. In each case, he presents hard facts to contradict those who would alter our present system.

Mr. Crane concludes his article by quoting Woodrow Wilson who said that the history of liberty is the history of limitation of governmental power, never the increase of it. "When we resist concentration of power," Wilson said, "we are resisting the powers of death, for the destruction of human liberty has ever been preceded by concentration of government power."

All those who believe that, somehow, we would be better off under a system of socialized medicine should read Mr. Crane's article which, in order to share it with my colleagues, I am inserting into the Record at this time:

The Attack on Private Medicine

(By Philip M. Crane, Member of Congress)

Sixty-two years ago some people predicted that once a Federal tax on income was enacted, rates would tend to rise, perhaps as high as 20%. "Not so," said Senator William Borah of Idaho. "No one could impose such a socialistic, confiscatory rate. How could Congress, the Representatives of the American people, be so lacking in fairness, justice and patriotism as to do such a dreadful thing?"

We must be apprehensive any time government casts its eye on the private sector; seemingly unimportant actions today all too frequently lead to massive intrusions tomorrow. Such is the case in medical care.

The drive for nationalized medicine is part of a general attack on free institutions. The assumption that private medicine has failed because of the inherent deficiencies of free institutions is widespread among politicians, intellectuals, and the media. To justify government intervention in medical care, proponents claim it would bring better, more efficient service at lower cost with greater equality in delivery.

When critics of free enterprise attack the private medical care system, they usually mention infant mortality rates, doctor-patient ratios, general mortality rates, and the number of available hospital beds. There has also been much talk about escalating medical costs.

It is charged that we have one of the worst infant mortality rates of any major nation. But infant mortality figures come from the World Health Organization and you cannot make intelligent comparisons of these rates between nations because all don't use the same criteria to define infant mortalities. In some countries infant mortality is based on a birth of a certain weight and any child under that is not classified as a live infant. In other areas, any baby dying within the first 90 days is not counted in infant mortality statistics. Other rates came from Communist countries, all of whose statistics are untrustworthy. The only way to contrast sensibly the US infant mortality rates with other countries is to compare our record with an area that is industrially advanced, and embraces a population roughly the size of our own, and that also takes in at least some of the regional and ethnic variations we have. The Common Market countries are best for this purpose.

Most of the Common Market countries have some kind of nationalized medicine. Presumably they have had enough time (a quarter of a century or longer) to make all of the significant improvements private medicine has failed to make in the United States. But if you compare the 1970 infant mortality rate in Common Market countries with the United States, you find theirs was 21.6 per thousand and ours was 19.8 per thousand. Since that time ours has dropped to 18.5. Our infant mortality rate at the turn of the century was 125 per thousand; dramatic progress indeed.

Infant mortality is a problem throughout the world, and there is no medical system that can guarantee the elimination of infant deaths. But without governmental intervention in this critical area, we have a better infant mortality rate than the advanced industrial nations of Western Europe.

Let's turn to maldistribution of doctors.

Out of the 3,084 counties in our nation, 132 are doctorless. Why? The only in-depth study was made two years ago (and published in Private Practice), so there may be some variations today. But at that time doctorless counties ranged from Hinsdale County in Colorado, which has a population of 202 people, to Stafford County in Virginia, which has a population of 25,000 people. While one can understand why Hinsdale County is doctorless, there is certainly a population big enough in Stafford County to warrant a physician. Further examination, however, reveals that 36 of 132 doctorless counties are adjacent to what is called a standard metropolitan statistical area (SMSA) with a large population. It is, for example, a fifteen minute drive from the heart of Stafford County to Fredericksburg, where there are 48 physicians, or into Prince William County, where there are 50.

Only .2 percent of the population of the United States resides in these 132 doctorless counties. Many are doctorless for the same reason they don't have supermarkets or movie theaters: not enough people.

It would indeed be a misallocation of a scarce resource to tell physicians to relocate there just so we could boast no doctorless counties. Even in Great Britain, where they have had nationalized medicine since 1948, they are not so totalitarian as to tell doctors where to practice. In fact, they too have a maldistribution of government medicine that equalizes pay to physicians, you create disincentives to relocation. Through a system of private enterprise, where financial inducements can be provided, communities will find it easier to persuade physicians to move.

Some charge that our system of private practice has produced a maldistribution in the inner city. But a 1968 study on this subject revealed contradictory evidence. Boston, for example, had the same ratio of physicians to patients in the inner city as in the suburbs. In Chicago, by contrast, there were 62 physicians per 100,000 patients in the inner city and in the suburbs double that number of physicians to patients. This is hardly a basis for indicting our medical care system. Rather, it is an indictment of the administration of our cities. You will find that Chicago has other problems in the inner city, too, including a flight of business and a breakdown of order; doctors move out of the inner city for the same reason businessmen do. It isn't safe. That's a distressing problem, but it isn't the fault of our medical care system. Free enterprise didn't create that problem; it is simply responding to it.

We have also heard the charge of astronomically increased doctors' fees and hospital charges. Those harping about escalating medical costs say doctors' fees are a major contributing factor. But doctors' fees, according to the Department of Labor Statistics, increased from 1956 to 1968 at an average annual rate of 3.7%, while incomes of workers as a whole were going up at an average annual rate of 4.2%. Admittedly, doctors have recently made some jumps over that, but this was largely to offset the freeze imposed during the wage and price controls and kept on them long after everyone else was freed. If you look at the average physician's net annual income, you'll find that it works out to $40,500 a year. To some that may seem a lot, but that's less than what you pay us in Congress to represent you. Doctors work, on average, 63 hours a week. If you put that income on a 40 hour basis, you're talking about $26,000 a year, which is just a little better than Teamsters make. When you consider the years of commitment, expense, and dedication on the part of physicians to develop their skills, such earnings are hardly excessive.

Why have hospital costs increased? Is it because of some deficiency of the medical care system? Is it some breakdown that could be remedied by government?

Most of those costs have risen since the unions aggressively organized hospital staffs. This resulted in a dramatic improvement in the hospital worker's economic condition. In the management of a hospital, about 65% of the budget goes for employees. When salaries increased dramatically, hospital costs skyrocketed.

An equal culprit is inflation, which can be traced to the body where I serve, the United States Congress. When Congress engages in the irresponsible deficit financing that's characterized the last several years, the inevitable result is a reduction in the purchasing power of the dollar. Congress has historically resorted to the indirect tax of inflation to cover spending it is unwilling to pay for with increased taxes. The Federal government is unique in this regard. It can print IOUs, turn them over to the Federal Reserve System, which in turn provides the Treasury with a checking account, seemingly creating something out of nothing. Or it can simply crank up the presses and print money. But when you expand the quantity of money, all money becomes worthless and prices reflect this immediately. This is a major cause of escalating hospital costs. But don't indict the medical care system for this. Let the Congress examine itself and its conscience for the role it plays here.

There are other reasons for increased costs, such as introduction of new, costly lifesaving equipment. I don't think anyone wants to save money by eliminating the new technology our free-enterprise medical companies have provided in the last decade or so. In addition, the cost of lifesaving drugs has increased because of restrictive FDA regulations.

In addition, Medicare patients don't pay their own way. Those hospitals that take Medicare patients have to make up the difference by charging patients who pay their own medical bills extra. On top of this is the administrative cost of paper pushing imposed by Medicare.

Until recently, we were accused of having too few hospital beds. Then the discovery was made that we have only a 65% occupancy rate; this, too, contributes to higher hospital costs.

We have built at least one new hospital in virtually every major metropolitan community in the U.S. in the post-World War II era, and in many communities there have been several built in the last 25 or 30 years. In Great Britain, they have fewer hospital beds today than in 1950. By contrast, in the years 1900–1938, before Britain's National Health Service was created, there was a 400% increase in hospital beds.

We have also been charged with an insufficiency of physicians. If you look at the Common Market countries, their ratio was 670:1 two years ago. At that time ours was 600:1, and today it is down to 590:1. And we are continuing to produce physicians at a rate 3 times that of our population increase. This is expected to continue for at least the next decade. In fact, at the rate we're going, we will soon have a physician glut.

In realistically assessing the deficiencies charged to our medical care system, you find they appear rather small; when you compare our system with that in countries with government medicine, you find that nationalized medicine has not resolved the problems. It has exacerbated them. In Great Britain, costs haven't been cut; they have escalated steadily. When people think of services as free, you get overutilization. There is overutilization of hospitals in Sweden, France, Germany, and Great Britain. The average length of a hospital stay ranges from 13 to 19 days, while in this country it was eight days ten years ago, and is down to 6.9 days today. Overutilization, in turn, results in the rationing of medical care with the consequent tragedy of patient deaths.

Medicare has demonstrated our inability to project costs involved in government medicine. The Social Security Administration made an analysis of Senator Kennedy's health bill about three years ago, and the estimated cost for a family of four was $1271 per year. At that time, the average family in the United States was paying $550 per year for its medical care including insurance premiums. Today, 90% of our population is covered with health insurance. And that figure has been increasing.

Despite all this, we are holding hearings in the health subcommittee of the House ways and means committee on nationalization of medical care. No Congressman is getting mail from constituents demanding governmental action. I have asked my constituents for their opinions on national health insurance several times. The opposition has consistently been in the 85–90% range. Ironically, just as some were talking of funding this vast new program through Social Security, SS is apparently going bankrupt. It ran a deficit of $1.4 billion last year; it's running $2.5 billion in the red this year; it will be $6 billion next year, $9 billion the next, and the fund will be totally exhausted by 1980. How anyone can suggest we add national health insurance on top of that is beyond me.

In 1962 we had our first hundred billion dollar budget, nine years later we got our first two hundred billion dollar budget, four years after that we got our first three hundred billion dollar budget, and present projections indicate we'll be spending well over four hundred billion dollars in fiscal 1976. If we could engage in deficit financing without adverse economic consequence, then maybe we could achieve the planners' millennium. But we do pay a price for it. Right now we're threatening to bankrupt the country with this level of spending. Certainly this is no time even to think of passing spendthrift legislation like this. Yet it is making headway.

One major reason is the American Medical Association. The AMA takes the position that NHI is *inevitable*. When the people whose interests are most vitally affected buy that vicious doctrine of inevitability, it becomes a self-fulfilling prophecy, because the people who are best qualified and best able to lead the opposition have already thrown in the sponge. The AMA ended up countering the absurd claim of Senator Kennedy and others that there was a medical care "crisis" by accepting his premise. They then introduced their alternative to deal with the "crisis." They said, in effect, "Yes, you're right, indeed, Senator, there is a crisis, but we have a better way of dealing with it." Well, first of all there was no "crisis." Secondly, the last thing you ever do in debate is concede your opponent's premise, because you are then saddled with his alternatives. They should have done their homework, marshalled the evidence, developed the statistical facts, and then taken the battle right back to the advocates of nationalized medicine.

Particularly disturbing in this regard is that opinion surveys show the physician as the most respected man in the community while the politician is rated below the used car salesman.

Doctors are respected and credible as we in government are not. As a result, if there is a confrontation between the politicians and the physicians, whom do you think the patients are going to believe? They're not going to subscribe to the claims of politicians and bureaucrats who want to regiment our lives and tax our resources. But if doctors cave in at the outset, I can assure you the schemes of the taxers and regulators will be inevitable. There is no reason why you should accept the notion that you cannot win this battle.

I am not a medical man. But someday I may be lying on the operating table and I want to be sure that I am getting the best quality care possible. This is my interest and it should be the interest of every one of you as well; you can't remove your own appendix. We all have a vital interest in preserving the best medical care system in the world.

But we have a homework gap on the part of doctors. Too many doctors have not informed themselves on how to defend their profession because they're busy men and did not think it necessary.

But if you don't take the time to study the facts, if you passively permit the spreading of reckless propaganda, there will soon be a general acceptance of it by the apathetic and uninformed, who are the natural prey of self-serving politicians. Resolve to inform yourselves in order to carry this battle on.

In particular, carry it on with your patients. Physicians in private practice will, in the course of a year, see and talk to the vast majority of the population. You're reaching them in the most intimate way, where you have a chance to talk to them personally. And they have confidence in you. Get them motivated; get them involved in this battle because they're the ones who are going to pay. I don't mean just in terms of dollars, but in terms of the quality of care they'll receive. Get them to lobby their elected representatives in Washington. Get them to communicate the message.

Never succumb to the fallacy that we in Congress are uneducable. Members of Congress are not, by and large, out to destroy intentionally the best medical care system the world has ever seen. They're doing it because they haven't done their homework either, and because they're not being talked to by their own physicians.

The issue goes far beyond the potential destruction of the American medical care system. It affects all our free institutions.

Woodrow Wilson was quite a student of history before getting elected to the Presidency. He noted that the history of liberty is the history of limitation of governmental power, never the increase of it. "When we resist concentration of power," Wilson said, "we are resisting the powers of death, for the destruction of human liberty has ever been preceded by concentration of governmental power."

CUBANS IN ANGOLA HIT 5,000

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. McDONALD of Georgia. Mr. Speaker, the number of Cuban soldiers in Angola appears to be on the increase, in spite of the recent statement by our Secretary of State. The Sunday Star of Decmeber 7, reports that now 5,000 Cuban combat troops are serving and dying in Angola. Strangely enough, this is the same number of Soviet combat troops sent to Cuba just prior to the missile crisis of 1962, so perhaps Fidel is repaying a debt. Whatever the case, Angola will continue its lunge toward the Soviet camp as long as Migs, Cubans and Soviet tanks continue to pour into Luanda unimpeded. The item from the Star follows:

[From the Washington Star, Dec. 7, 1975]

CUBANS IN ANGOLA HIT 5,000

(By Jeremiah O'Leary)

A Cuban army lieutenant captured by the anti-Russian UNITA forces in Angola has admitted that the Cuban force in the former Portuguese African colony has now risen to 5,000 men.

U.S. sources said the Cuban officer acknowledged that the forces sent to rebellion-torn Angola are not volunteers, as Moscow and Havana have claimed. He talked readily to his UNITA captors, U.S. officials have learned, and said the Cuban troop units felt deceived when they arrived in Angola believing they were to fight "colonialists" and found themselves killing other Angolans.

UNITA is allied with Holden Roberto's FNLA rebel forces against the pro-Soviet MPLA which controls the capital of Luanda and four of Angola's 16 provinces. South Africa, Zaire, the People's Republic of China and—with great caution—the **United States** are backing the FNLA-UNITA group against the MPLA of Marxist leader Agostino Neto. The Soviet Union is using giant Antonov transport planes, similar to the U.S. C5, to fly vast amounts of arms and ammunition to the Luanda forces.

The anti-MPLA nations are encountering severe difficulties in attempting to counter the massive Soviet and Cuban intervention. China is lending moral support, but is too far away from the scene.

U.S. involvement is limited to the $40 million in arms it can legally provide to Zaire, the former Belgian Congo.

The South Africans, who dread the rise of a pro-Russian Marxist regime in Angola, would probably step up their intervention considerably if the United States would make its position more clear. Secretary of State Henry A. Kissinger has warned that the United States cannot remain indifferent to the foreign intervention in Angola's civil war, but generally has limited himself to supporting any move to keep external powers out of the bloody conflict.

More than 48 Cubans have been reported killed. U.S. officials fear that the continuing influx of Russian arms and Cuban troops soon will turn the tide against the Roberto and Savimbi forces. They say that MPLA is bound to emerge victorious unless the Russo-Cuban intervention is either halted or countered.

Officials in Washington say they are not sure why Fidel Castro has become so heavily involved in an African situation that can have little direct interest for him unless his intervention is the result of Soviet pressure.

H.R. 10612

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. LEHMAN. Mr. Speaker, although I voted in favor of final passage of the bill, H.R. 10612, I am disturbed by one specific section of the bill dealing with the limitation on the deduction for business interest. The limitations imposed by this legislation may well prove to be the most damaging "reform" of the entire bill because it is going to discourage the investment of seed money so vital to many businesses. For instance, doctors might justifiably be reluctant to make investments in the construction of medical or other kinds of construction because the nonbusiness interest deduction would be so limited. The community suffers from the absence of the medical facility, and the rippling effect is felt throughout the building trade's related industries.

The implications of the bill could spell trouble for municipalities that need to upgrade its tax base by turning unimproved property into improved property.

Investments in land in such a State as Florida will diminish. Land purchases are never made and held by those who are able to deduct interest payments from the taxable income. Thus, this tax reform will cause diminished land sale, and further slowdown of construction activities.

It is, to say the least, counterproductive to our economy, and as editorialized in the Miami Herald of December 7 it could prove to "be a burden under spiraling inflation." We must therefore be careful to avoid any measures that will dry up the seed money that would stimulate our stumbling economy. I trust the Senate will recognize the deficiency of this particular section, and will work to eliminate it as it begins its deliberations later this session.

VETERANS HOMES

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. ABDNOR. Mr. Speaker, there is a problem that is not only affecting veterans in my home State of South Dakota, but also veterans in 30 other States. There are currently 40 State veterans homes in the United States which either provide domiciliary, nursing, or hospital care, or a combination of any or all such care. These State veterans homes provide a great service to our veteran population at a very reasonable cost to the Federal Government. Currently the Federal Government's share of reimbursement to these State veterans homes is $4.50 per diem for domiciliary care, $6 per diem for nursing home care, and $10 per diem for hospital care. These rates were last increased in 1973, and as we all know, the cost of everything has been continually rising.

Without State veterans homes, many of the veterans in these homes would have to be taken care of by expanded Veterans' Administration facilities. In fiscal year 1974, the VA average per diem costs for its own domiciliary care was $13.43, for VA nursing home care it was $35.14, and for VA hospital care it was $77.69 per diem. These figures thus graphically illustrate that State veterans homes are indeed not only providing quality care for our veteran population, but also it is a program that costs the Federal Government considerably less than similar care in a VA facility. We cannot afford to pass up this kind of a bargain.

Consequently, today, I am introducing legislation which will raise the per diem Federal Government reimbursement rate from $4.50 to $6.50 for domiciliary care, from $6 to $10.50 for nursing home care, and from $10 to $13.50 for hospital care. I hope that both the House and the Senate can act on this or similar legislation to assist our State veterans homes in the near future.

"THE MOST UNBELIEVABLE NONSENSE", A STATEMENT BY AMBASSADOR CHAIM HERZOG OF ISRAEL ON THE ZIONISM RESOLUTION

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. BRADEMAS. Mr. Speaker, I insert in the RECORD an article published in the November 1975 issue of the ADA Bulletin, published by the Anti-Defamation League of B'nai B'rith, containing the statement of Ambassador Chaim Herzog of Israel recently before the Social, Humanitarian, and Cultural Committee of the United Nations on the Anti-Zionism resolution.

I believe that Ambassador Herzog's statement merits the attention of all Members of Congress.

The article follows:

STATEMENT BY AMBASSADOR CHAIM HERZOG

"We have listened to the most unbelievable nonsense on the issue of Zionism, and from whom? From countries who are the archtypes of racism," Ambassador Chaim Herzog said before the Social, Humanitarian and Cultural Committee of the United Nations voted on a resolution defining Zionism as a "form of racism and racial discrimination."

"Here is a small country," Ambassador Herzog went on to say, "three million in population, a free democratic country, which can be visited by anybody, in which all citizens, Jewish and Arab, are free and equal, being castigated . . . by countries whose regimes incorporate racism in their laws and their daily practice. . . . Why not examine the racism practiced in so many countries who have been speaking so profusely? Why pick on a small Jewish state? I suspect because it is Jewish and because it is small. It doesn't surprise me because we are a people who have lived with this form of discrimination, anti-Semitism, for centuries.

"How dare you talk of racism to us, we who suffered more than any other nation in the world from racist theories and practices, a nation which has suffered the most terrifying holocaust in the history of mankind. For centuries we have suffered from racism, we suffer today from racism in a number of countries, including from Arab racism as practiced in so many of the sponsor countries.

"The sponsors have the effrontery to talk of racism. It lies not just in talk. You have degraded this world organization by introducing this anti-Semitic element into the world today, and in so doing you will destroy it ultimately. . . . This is a sad day for the United Nations. The Jewish people will not forget this scene nor this vote. We are a small people with a proud history. We have lived through much in our history. We have survived all our oppressors and enemies over the centuries. We shall survive this shameful exhibition. But we, the Jewish people, shall not forget. We shall not forget those who spoke up for decency and civilization and I thank the delegations who have expressed themselves against this pernicious resolution. We shall not forget those who voted to attack our religion and our faith. We shall never forget."

In direct response to the adoption of the anti-Israel resolution by the U.N. committee, the Anti-Defamation League announced a nationwide educational program "to combat the Arab-led, anti-Semitic campaign to defame Zionism and Jews as a means of destroying Israel." The program will include printed and audio-visual materials to make the American people aware of the true meaning of this vicious attempt to distort Zionism and to correct misconceptions about the philosophy and goals of the Jewish people.

What is Zionism? In a speech before the U.N. Security Council in 1973, Ambassador Yosef Tekoah had this to say:

"When the Jews, exiled from their land in the seventh century before the Christian era, sat by the rivers of Babylon and wept, but also prayed and sought to go home, that was already Zionism. When in a mass revolt against their exile they returned and rebuilt the Temple and reestablished their State, that was Zionism.

"When they were the last people in the Mediterranean basin to resist the forces of the Roman Empire and to struggle for independence, that was Zionism.

"When for centuries after the Roman conquest they refused to surrender and rebelled again and again against the invaders, that was Zionism.

"When uprooted from their land by the conquerors and dispersed by them all over the world, they continued to dream and to strive to return to Israel, that was Zionism.

"When they volunteered from Palestine and from all over the world to establish Jewish armies that fought on the side of the Allies in the First World War and helped to end Ottoman subjugation, that was Zionism.

"When they formed the Jewish Brigade in the Second World War to fight Hitler, while Arab leaders supported him, that was Zionism.

"When Jews went to gas chambers with the name of Jerusalem on their lips, that was Zionism.

"When, in the forests of Russia and the Ukraine and other parts of East Europe, Jewish partisans battled against the Germans and sang of the land where palms are growing, that was Zionism.

"When Jews fought British colonialism while the Arabs of Palestine and neighboring Arab States were being helped by it, that was Zionism.

"Zionism is one of the world's oldest anti-imperialist movements. It aims at securing for the Jewish people the rights possessed by other nations. It harbors malice towards none. It seeks cooperation and understanding with the Arab peoples and with their national movements.

"Zionism is as sacred to the Jewish people as the national liberation movements are to the nations of Africa and Asia. Even if the Arab States are locked in conflict with the Jewish national liberation movement, they must not stoop in their attitude towards it to the fanaticism and barbarism of the Nazis. If there is to be hope for peace in the Middle East, there must be between Israel and the Arab States mutual respect for each other's sacred national values—not distortion and abuse.

"Zionism was not born in the Jewish ghettoes of Europe, but on the battlefield against imperialism in ancient Israel. It is not an outmoded nationalistic revival but an unparalleled epic of centuries of resistance to force and bondage. Those who attack it, attack the fundamental principles and provisions of the United Nations Charter."

EXCESSIVE COSTS IN KIDNEY DIALYSIS EQUIPMENT

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. VANIK. Mr. Speaker, since May the Ways and Means Oversight Subcommittee has been conducting an examination of medicare's end stage renal disease program. One of the issues that has been brought to our attention is that charges to renal patients may often be higher than they ordinarily would be simply because medicare is paying for them. I would like to illustrate this problem by sharing with you a letter forwarded to me by John B. Moore, executive director of the Kolff Foundation in Cleveland, a foundation that specializes in end stage renal disease problems. The letter is from the wife of a kidney disease patient. It clearly illustrates the profitmaking that can occur at the expense of both the patient and the medicare program. Preceding her letter is the description of the services and charges that appeared on the bill she refers to in her letter:

BILL OF AUGUST 12, 1975

5.75 hours labor including travel time, $20 per hour	$115.00
Travel expenses	117.45
Medicare adjustment	(12.04)
80 percent payment received from medicare	(176.33)
Balance due (20 percent of 220.41)	44.08

The KOLFF FOUNDATION,
Cleveland, Ohio.

DEAR SIR: I'm enclosing a bill from ------ ------, I believe this is what I'm to do with it. However, I have a few things to get off my chest about such bills! We did have the repairman replace and adjust a few things on the machine. This took him 10–15 min. I realize they would tell you it took traveling time, but I *did not* ask him to make a special trip to our home. He was on his way to pick up another ladies [sic] machine, which was about 18 miles from our place—right on his way. In fact he didn't know where her place was or how to get there—directions were the main reason he stopped here. I could have replaced the parts myself as I always do. I believe in doing all I can for our operation.

This thing of companies charging such outrageous prices has got to be stopped or the monies will run out for the real needs.

Another thing, I feel after renting a kidney-machine for long enough period that the price of the machine has been paid, plus a nice interest on that money, it should belong to the patient. This would save Medicare much money. Take our machine, a rental of at least $5,220 has been paid. The company has not had one cent of expense. They will continue to collect rental plus any repairs on that machine at a fantastic price.

Someone has to stop this sort of thing and I'm willing to do anything you suggest to help. It's bad enough to have to use these services (God knows no one want to) but to be taken advantage of in this manner. I was told "You don't have to pay for it!" That's a lot of bull, I'm a taxpayer and so are other people.

I must add one last note—the one (name of the company) man, Mr. ———, has been one terrific helper and person!! Anytime I have trouble with the machine he'll stay right on that phone until I got it fixed. This has been at no cost—other than the phone calls—one was over an hour long. I am truly grateful for *all* his help. If anyone should have been paid it should have been him.

Sincerely,

Mr. Speaker, it is clear from her bill and her letter that this patient has been grossly overcharged and the medicare program has had to pick up 80 percent of the bill. From our investigation it has become evident that this woman's case is not an isolated occurrence. The subcommittee has recently released its report on the administration of the end stage renal disease program by the Social Security Administration. It is my hope that our recommendations will be enacted into law and will be able to bring the practice of overcharging to a halt.

ARMS MADE RUSSIA POOR, SAYS SAKHAROV

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. McDONALD of Georgia. Mr. Speaker, the debate over the size of the Soviet defense budget may continue to rage in the Halls of the Congress, but it is clear from this year's wheat debacle that the Soviet economy is in serious trouble. However, in my view, it is strange indeed that we again are bailing out the Kremlin with our wheat sales instead of making their budget squeeze tighter so that their defense expenditures might be subject to some of the economic pressures that bedevil ours. One person who is not confused in this debate is the Nobel Prize winner, and father of the Soviet H-bomb, Andrei Sakharov, as reported in the London Daily Telegraph of December 1, 1975. I commend this item to the attention of my colleagues:

Arms Make Russia Poor, Says Sakharov

The Russian dissident physicist Andrei Sakharov warns the West of the dangers of Soviet "super-militarism" and the illusions of the West's "Leftist-Liberal intellectuals" in his latest reflections.

They are published today in a volume entitled *My Country and the World*. (Collins and Harvill. £2.25.) Economically Russia is still lagging far behind the capitalist nations of the West, Sakharov says. It has no hope of overtaking them in the foreseeable future.

LOW WAGES

"After 58 years of gigantic efforts, including 30 years of uninterrupted peace, we have nothing even faintly resembling the world's highest standard of living," he says.

The minimum real wage in Russia is about £4 a week, and the average wage only £7 a week, he also says.

One of the main reasons for the continuing low standard of living is the high level of military expenditure by the Soviet Government. But it is a misconception, Sakharov says, to believe the Soviet leaders are therefore more interested in disarmament than the West.

For it is the super-militarism of the Soviet Union "that necessitates high military expenditures throughout the world."

NOBEL PRIZE

Sakharov was refused permission to travel to Oslo on Dec. 10 to collect his Nobel Peace Prize. The Soviet authorities said he was still in possession of too many "state secrets."

In "My Country and the World" he also draws attention to the way party and government control of intellectual activity has obstructed scientific progress in Russia.

NORTH COAST FOOTBALL CHAMPIONS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. MILLER of California. Mr. Speaker, I wish to call to the attention of my colleagues in the House of Representatives the recent accomplishment of an outstanding group of young men: The Alhambra High School football team.

This football team just recently completed the most successful season of any football team in the school's history, winning both the 1975 Foothill Athletic League and the California North Coast Section AA football championships. I am especially proud because Alhambra High School is located in my hometown of Martinez, Calif. I, too, played on the football team, but must acknowledge that we never achieved such success. I know my honorable colleagues will want to join me in extending hearty congratulations to the 1975 Alhambra High School football team and its coaches.

I am inserting into the Record two newspaper articles regarding the team and its victory:

[From the Morning News-Gazette (Martinez, Calif.) Dec. 2, 1975]

1975 Foothill Athletic League and North Coast Section 2A Champions

Alhambra High School closed out its most successful football season ever Saturday night with a 39–22 win over Mt. Eden. The win boosted the Bulldogs' season record to 12–0. Alhambra captured its second straight Foothill Athletic League championship and capped the campaign with two post season victories which earned the Bulldogs the North Coast Section 2A crown. Members of the finest football team in AHS history are, front row, left to right, Keith Talamentez, Dave Carrillo, Tom Elfring, Pic Jordan, Jeff Barsotti, John Lucido, Dave Annis, Neil Sullivan, John Delevati, and Tim Morley. Second row, manager Jim Jackson, Louis Cooper, Steve Hamilton, Max Ruiz, John Schulte, Terry Foreman, Kris Koller, Jeff Adams, Dave Bishop, Ray Bagno and manager Russ Bruno. Third row, head coach Charlie Tourville, Tim Sumner, Bob August, John Nunes, Dean Rippee, Randy Fry, Vito Osenga, Grant Pollard, Mike Strand, Gary Jackson, and assistant coach Tom Greerty. Absent from photo is Dave Baum. Lucido and Schulte served as team co-captains.

[From the Contra Costa Times (Walnut Creek, Calif.) Nov. 30, 1975]

Bulldogs Rip Mount Eden

(By Rich Freedman)

Two hours before the final gun, Alhambra High quarterback John Lucido carried the whole world on his shoulders. Now, he bears only a trophy, symbolic of the North Coast Section AA football championship.

Lucido and the rest of Charlie Tourville's Bulldogs glided past a tenacious and incredibly well-balanced Mt. Eden High, 39–22, Saturday night at Diablo Valley College to reign supreme in AA competition.

Lucido, chosen the top Football Athletic League quarterback by the loop's coaches, scored on runs of one, two and 10 yards while elusive Keith Talamantez added another on a 12-yard scamper.

But it was Lucido's 50-yard bomb to wide receiver Terry Foreman with 9:44 left in the game that gave the Bulldogs a soothing 10-point lead at 32–22.

Lucido completed six of 16 passes for 146 yards while Monarch QB Alan Regier connected on 15 of 27 for 191 yards.

Foreman had the distinct honor of catching two passes for each team, grabbing 62 yards worth of receptions from Lucido while halting two Monarch drives with interceptions.

Though his 50-yard TD catch brought delight to the berserk near sellout Alhambra crowd, Foreman smiled with satisfaction when asked about the two pilfered passes.

"I enjoyed the interceptions more," said the jubilant receiver after the game, adding, "Especially after the first half."

In the first half, Regier riddled the Bulldog defense, often finding receivers amazingly alone for receptions.

But the Alhambra "D" became taunt in the second half, strangling the Mt. Eden offense to only one useless touchdown.

At the half, it was 18–16.

Eddie Chock took the opening kickoff and dashed artistically up the middle 85 yards for a touchdown to stun the Bulldogs. Domingo Casanas kicked the extra point to make it 7–0.

Alhambra struck twice with safeties, the first coming when Lt. Eden punter-QB Regier was tackled in the end zone by Grant Pollard. The snap from center was high and Regier wisely held onto the ball to avert any possible Alhambra touchdown.

Three minutes later, Regier pitched wide to Lynn Santos, who was dropped in the end zone by Baum, making it 7–4.

With 43 seconds to go in the first period, Keith Talamantez burst over right tackle from 12 yards out for Alhambra's first touchdown.

Tom Elfring added the extra point, leaving it 11–7 at the end of the stanza.

Bulldog QB Lucido then added a two-yard TD at the beginning of the second quarter. The score was set up by a 41-yard pass from Lucido to Jeff Adams that put the ball on the Mt. Eden 17. Three plays later, Lucido got his score.

Casanas retaliated with a 20-yard field goal before Mt. Eden came up with the half's last TD.

Regier hit his favorite target, Jeff Evans, for a four-yard scoring pass with a minute left in the second quarter to narrow the Bulldogs' lead to 18–16.

Both teams relied heavily on the passing game in the first half, as the Lucido connected on four of eight throws for 89 yards while Regier completed eight of 15 for 102 yards.

Evans caught six of the Monarchs' receptions for 79 yards.

Leading rusher in the half was Talamantez with 40 yards on five carries. Regier was the Monarchs' leading ground-gainer with five packs for 27 yards.

"They have an excellent team," remarked Lucido before boarding the near riot on the winners' bus. Since Pinole Valley defeated Granada, 32–6, Friday night, the inevitable question remains: Who is the East Bay's No. 1 team?

Lucido surprisingly didn't boast of his team's ability and chances against Pinole: "I don't know how we'd do against them. I've never seen them before," offered Lucido.

At that point, nobody really cared, for as the victorious Bulldogs paraded past the DVC AstroTurf, the frustrated Mt. Eden Monarchs strolled disappointingly into oblivion, Alhambra's 12th victim of the miracle season.

	Alh	*Me*
First downs	11	11
By rush	8	4
By pass	2	7
By penalty	1	0
Yards rush	184	73
Yards pass	146	191
Total offense	330	264
Pass att-com-int	17–6–2	28–15–3
Fumbles-lost	0–0	4–2
Pen-yds	3–29	2–22
Offensive plays	66	52

Score by quarters:

Alhambra	11	7	7	14—39
Mt. Eden	7	9	6	0—22

ME—Chock 85 kickoff return; PAT—Casanas kick.

A—Pollard tackled Regier for safety.

A—Baum tackled Santos for safety.

A—Talamantez 12 run; PAT—Elfring kick.

MD—Casanas 28 field goal.

A—Lucido 2 run; PAT—Elfring kick.

ME—Evans 4 pass from Regier; PAT—pass failed.

A—Lucido 10 run; PAT—Elfring kick.

MD—Johnson 39 pass from Regier; PAT—kick failed.

A—Foreman 50 pass from Lucido; PAT—Elfring kick.

A—Lucido 1 run; PAT—Elfring kick.

TO AMEND THE INTERNAL REVENUE CODE OF 1954—THE EMPLOYMENT INCENTIVE ACT

HON. ROBIN L. BEARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. BEARD of Tennessee. Mr. Speaker, today I am introducing legislation to amend the Internal Revenue Code of 1954. This measure is designed to help alleviate our Nation's unemployment problem by providing that a tax credit be paid to small businesses that employ previously unemployed persons. I offer this bill as a positive alternative to public service employment proposals, which has been our traditional method of dealing with high rates of unemployment.

In this Nation today, close to 8 million people are unemployed, including some 3½ million under the age of 24. Our country's unemployment rate is nearly 8½ percent, a figure which does not include those individuals so discouraged by the lack of job opportunities that they have stopped looking for work. If we were to include those people in our figures, the unemployment rate would be close to 11 percent.

Our traditional approach to combating high levels of unemployment has been to federally finance "public service jobs." In fact, some have suggested that we spend as much as $8 billion to provide a program of temporary employment. There is no question that we need to put Americans back to work, but in permanent and meaningful jobs, not federal welfare disguised as employment.

Certainly, it should be clear that such a program offers no real long-term solution, and provides for only a brief postponement of the time when the problem will have to be faced again. This is a costly delay. It has been estimated that $16 billion will be required to put 1 million people to work for only 6 months. At the end of that time, without a continued government expenditure, those people will once again be looking for work, collecting unemployment compensation, or adding their names to the welfare roles. This is a simplistic and costly response to an extremely complex problem and it provides no lasting solution.

My proposal seeks to completely alter the approach we have taken to this problem in the past. It is my feeling that we need to begin to expand the utilization of the American free enterprise system, and in so doing, allow small businesses to be a driving force in solving the problem of unemployment in our sagging economy.

For years we have provided to large businesses, an investment tax credit when they purchased equipment. This policy has been very successful in encouraging investment in physical resources. Why then should not the same device be used to encourage an investment in human capital? There is no question that the private sector can employ people far more economically and with a more positive impact than the Federal Government's creation of "make work" public jobs.

Fifty-two percent of the American people are involved in small businesses, and are the heart of the American free enterprise system. These firms tend to be more "people intensive," and they fail to reap much of a benefit from the tax investment credits provided to big business. They have been hard hit by the recent economic downturn, yet I believe their stimulation can help put us back on the road to recovery. The revitalization of these small business enterprises is the objective of the legislation I introduced today.

Certain employment taxes are now required by the Federal Government when an employer hires a new employee. The most significant of these taxes are social security, medicare, and unemployment compensation. Despite the fact that this tax burden is shared by employer and employee, it is nevertheless a part of the cost of production of goods and services. My legislation proposes an employment tax credit to a small business as an incentive to hire up to seven new employees per year. An employer who chooses to hire and train someone with no working experience such as an unemployed teenager, or a woman just entering the job market, would be entitled to a credit of 14.9 percent of total annual wages. This includes 11.7 percent of social security taxes and 3.2 percent of unemployment taxes. A credit of 11.7 percent would be allowed to an employer who hires an experienced unemployed person.

Experts estimate that this proposal would result in the creation of about 1.2 million new jobs. This approach will cost the Federal Treasury about $2 billion in lost revenue as a result of the tax credit. However, creating new jobs will likewise create a new revenue base from which additional taxes will be generated. If these people were not working, the Federal Government would not receive the revenue created by them, and it also would be forced to spend billions in social welfare and unemployment costs. In addition, the production generated by creating these new jobs is estimated to increase the gross national product by $17 billion the first year.

Certainly one of the most important aspects of this entire proposal is the fact that it accomplishes the desired objective without spending any more Federal money to create jobs and without creating a single new Federal bureaucrat or agency to administer the program. This approach simply attempts to use the strength of our American economic system. It avoids the absurd condition under which business is taxed to pay for "make work" public jobs when productive, permanent employment can be provided at no cost in the private sector.

In summary, there are a number of points that should be noted. This measure accomplishes its objective without cost to the American taxpayer. Indeed, 1.2 million new jobs will increase production, generate new tax revenue, and expand the gross national product by an estimated $17 billion. Also, there will be roughly $3 saved in unemployment and social welfare costs for every dollar lost as a result of the proposed tax credit—a 3-to-1 benefit-cost ratio. Not one bureaucrat will be required to administer this measure, yet it should provide meaningful and lasting employment to the unemployed skilled worker and also to young people and to women who might otherwise not be a part of the American work force. This legislation should also provide a stimulus to small businesses which have been hard hit by our recent economic downturn. Finally, and most important of all, I am hopeful that the cumulative impact of this legislation will be a solid boost to our sagging economy and a substantial step on the road to long-term economic recovery.

Mr. Speaker, this legislation reflects my faith and confidence in this Nation and its people. The potential for even further greatness rests in our free enterprise system, and it is our obligation and responsibility as Members of Congress not to abandon that system, but rather to tap its potential and drive this country into a new period of growth and development.

THE FUTURES OF AMERICA

HON. JAMES W. SYMINGTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. SYMINGTON. Mr. Speaker, I would like to speak today in praise of an exceptional young people's choral group from Florissant, Mo., The Futures of America. This patriotic group of junior citizens, under the dedicated and tireless efforts of its director, Mr. George R.

Fernau, has brought joy and inspiration to thousands of people. It has been my pleasure, for the last few years, to assist them in arranging their "goodwill trips" throughout our country. They have made countless appearances, and brought untold pleasure, to many people confined to hospitals, nursing homes, and orphanages. Some of my colleagues, no doubt, remember their excellent performance on the steps of the Capitol last August.

On September 12, 1975, the group was able to fulfill its "impossible dream"—they were able to perform for President Ford during his trip to St. Louis, Mo.

The work and achievement of this group is a fine tribute and credit to our Nation.

REMARKABLE ACHIEVEMENT BY PRINCE GEORGES COUNTY SCHOOL SYSTEM

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mrs. SPELLMAN. Mr. Speaker, I am proud to call to the attention of my colleagues a remarkable achievement by the school system of Prince Georges County, Md. The National/State Leadership Training Institute on the Gifted and Talented has selected the Prince Georges County school system to participate in a unique program for the development of complete educational programs for gifted students.

Several years ago in Prince Georges County, a unique pilot program for gifted students was initiated by the school system. Since the initiation of the program, over 400 students on all levels have been involved. A differentiated curriculum was developed to meet the special needs of students requiring programs and services beyond those provided by the normal curriculum.

There are now many special courses which take place outside of the schools. One such course is "A Novice's Introduction to Modern Communication." The course was developed in conjunction with the educational office of the Goddard Space Flight Center. The course introduces students to the technology of present day electronic communication. It also prepares them the novice class amateur radio license and the third class commercial radiotelephone license.

Other community resources have also been tapped. Students in the program have participated in learning experiences with such organizations as the University of Maryland, the Chamber of Commerce, Wolf Trap, and the U.S. Department of Agriculture Research Center.

In addition to these many community resources, there are also many "human resources" which have made the program successful. I especially wish to commend Jane Hammill, the program coordinator, and the program's resource teachers: Elaine Hallwig, Peggy Johnson, Jay McTighe, Glo Sessums, and Linda Kinsley. These dedicated people, along with many parents, made the program work.

A comprehensive action plan for expansion of the program has now been developed. Within several years, the Prince Georges County program may become a model for the entire Nation.

MIMEOGRAPHED FLYERS MISQUOTED PROVISION OF CHILD AND FAMILY SERVICES ACT

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. GRASSLEY. Mr. Speaker, in the last few weeks there has been increasing controversy aroused by a proposal jointly sponsored by Mr. BRADEMAS and Mr. MONDALE. A single misinformed person has distributed unsigned mimeographed flyers condemning the proposed Child and Family Services Act for provisions it does not actually contain and misquoting various passages from the CONGRESSIONAL RECORD. Unfortunately the flyer has received fairly wide distribution into Minnesota, Oklahoma, and Texas and a number of radio and TV stations used the erroneous information contained in the flyer to condemn the legislation.

As regrettable as the whole incident may be, it is even more regrettable to me, Mr. Speaker, to see how Mr. BBADEMAS, Mr. MONDALE, and most recently Mr. O'NEILL have now proceeded not only to lump all critics of their proposal in the same category, but even to go so far as to accuse those who disagree with them of vicious conspiracy and tactics of deception. In using the term Watergate they have accomplished absolutely nothing, except perhaps to further cloud the issues.

Mr. Speaker, I would like to suggest that this widespread circulation of misinformation about S. 626 and H.R. 2966 is just as regrettable to those of us who oppose the legislation as it is to those who have sponsored or cosponsored it. No one who believes in the necessity for reasoned debate both here in Congress across the Nation could possibly condone distorted and biased allegations, let alone contribute to them. The truth is that, far from participating in distributing the flyer, opponents of the Child and Family Services Act would be most likely to do everything in their power to stop it. Clearly its critics are more likely to be damaged by the circulation of false accusations about the bill than those who favor it. What is mostly likely to happen is that responsible citizens who were duped by the flyer into coming out against child and family services for the wrong reasons and who now realize that the flyers were in error will be inclined to think that all critics are similarly in error and that there is no reasonable basis for opposing the bill.

Mr. Speaker, anyone who studies legislative history of this proposal has to realize that it has always been a highly controversial one. When President Nixon vetoed similar legislation in December of 1971, he stated in his veto message:

Though (the) stated purpose, "to provide every child with a full and fair opportunity to reach his full potential" is certainly laudable, the intent of (the act) is overshadowed by the fiscal irresponsibility, and family weakening implications of the system it envisions.

These criticisms have been repeated and amplified since 1971 by witnesses who have testified against the idea before both the House and Senate Subcommittees responsible for the legislation. In testimony given on June 20, 1975, Dr. Robert Mendelsohn, former National Director of the Medical Consultation Service of Project Head Start stated:

> . . . in its present form, this Act also stands an excellent chance of resulting in the exact opposite of its intent, i.e., it may well weaken rather than strengthen families. Indeed, it is my prediction that this will be the result, and that we will see further evidence of family deterioration as measured by the indicia of rates of divorce, delinquency, school failure, ill health, mental illness, nursing home placements, and suicide.

Dr. Niles Newton, Professor in the Division of Psychology at the Northwestern University School of Medicine also expressed grave reservations about the bill in testimony she submitted to Mr. BRADEMAS on July 15, 1975. She stated that four questions especially need to be tested before Congress could responsibly launch the country into such a massive program. The four are: "What is the effect of mother-arranged child care versus Government-arranged child care;" "What qualifications are really needed for caretakers of children under 3 years old in a nonfamily setting;" "What effect does the removal of the young child from the family setting have on the parent-child relationship;" "What other alternative types of meeting the problem of overburdened mothers are available and how do they work out for mother and infant alike." She concluded by saying that "social modifications, like drugs, can be potent and deserve equally carefully testing before being released for nationwide use."

Clearly, Dr. Newton's statement emphasized the need for further scientific studies to delineate the possible results of enacting a system such as that being proposed in S. 626 and H.R. 2966. Debate is by no means closed, nor should we allow it to be derailed by the misinformed arguments of one misguided flyer. Quite the contrary, it is up to proponents of the legislation to demonstrate that encouraging mothers to place their children in institutionalized day care, as the system this bill envisions would, is not detrimental to family life and would not perpetrate the unfortunate trend in American life today toward the breakup of families.

An article which recently appeared in the St. Paul Pioneer Press is one of the fairest descriptions I have seen of S. 626, the unsigned flyer, and the reactions by both proponents and opponents. The only correction I would like to make

for the Record is that the National Coalition for Children, headed by Dr. Onalee McGraw, was not created by the American Conservative Union. The National Coalition for Children is an independent association of several hundred parent groups around the country. It was originally formed in 1973. One of its first major efforts was to secure adoption of the Buckley "Family Educational Rights and Privacy Act of 1974" which was adopted as part of the 1974 extension of the Elementary and Secondary Education Act. On April 21 of this year, Dr. McGraw gave testimony before the Senate Special Subcommittee on the National Science Foundation concerning the parents' view of Government funded school curriculum. Mr. Speaker, I ask the article be printed in the Record.

CHILD-CARE LAW PROPONENTS HIT SCARE CAMPAIGN

(By Ed Zuckerman)

WASHINGTON.—A scare campaign being mounted in various parts of the country to whip up opposition to child-care legislation now pending in Congress is distressing the bill's supporters and opponents.

Rep. John Brademas, D-Ind., who co-authored the Child and Family Services Act, said the campaign being conducted by unknown persons is "a deliberate attempt to spread false information . . . a willful attempt to smear both me and my work in the House of Representatives."

Omalee McGraw, director of the National Coalition for Children which was recently created by the American Conservation Union to coordinate opposition against Brademas' legislation, blamed the campaign on "what I would call the extreme mentality" and said it was hurting her group's cause.

At the heart of the scare campaign is an unsigned letter which asserts that the legislation, if enacted, would put government bureaucrats in control over parental child-raising duties.

Basing its assertions on a five-year-old speech in the Congressional Record, which actually dealt with a series of recommendations by a British study group, the letter claims, "This all smacks of communism" and urges people to send protest letters to their lawmakers.

The campaign, which has generated several thousand letters so far, was apparently launched in the northern Indiana congressional district represented by Brademas who co-authored the legislation with Sen. Walter Mondale, D-Minn.

According to Mondale aide Sid Johnson, the letters are being distributed in schools, on military bases and in churches. While some of Mondale's mail is coming from Minnesota, most of it is coming from Texas and Oklahoma, he said.

"We were told that a regional commissioner of the Texas education agency sent copies of the letter to the 57 school superintendents in the Houston region," Johnson said.

The Mondale-Brademas bill, cosponsored by 94 House and 28 Senate members, is a watered-down version of legislation that was vetoed several years ago by former President Nixon.

Its main purpose is to establish day care centers and provide a variety of nutritional, health, educational and social services to disadvantaged children.

Contrary to the scare letter's allegations, the legislation's introductory clauses clearly state that "the family is the primary and the most fundamental influence on children" and goes on to state that "child and family service programs must build upon and strengthen the role of the family . . . on a voluntary basis only."

"I can't imagine who's behind this," Mrs. McGraw said. "Our approach has been to put our name and telephone number on everything we do because we want people to come and debate with us."

Mrs. McGraw said the scare campaign is hurting her because "I don't think Congressman Brademas is unhappy over this . . . he would be overjoyed at this type of thing because he can now debate it as a question of the good guys versus the bad guys. He couldn't have had a better thing happen . . . now he can pigeonhole and stereotype his opposition."

Brademas, though, is not happy at all. In its early stages, the campaign caused him some political damage when several northern Indiana newspapers, radio and television stations criticized him in editorials based upon the information contained in the letters. Several have since issued retractions and apologies.

Calling the campaign "a deliberate attempt to spread false information," the Indiana Democrat said he has never witnessed "a more systematic, willful attempt to smear both me and my work." He depicted the unsigned letters as "Watergate tactics of reckless smear and deception."

Among other things, the unsigned letters allege that the legislation would give children a legal right to sue their parents if they are required to attend Sunday school against their will, perform household chores or fail to provide an adequate home life.

"These allegations are, of course, not only outrageous falsehoods, they are downright silly," Brademas said.

Brademas said the proposal would provide day care services so working mothers and welfare mothers can be sure, while they are working or looking for work, that their children are receiving adequate care.

"The bill would also make available a wide range of health services so that parents can get expert help in detecting physical and mental handicaps early in a child's life. Moreover, the bill provides that participation in these programs would be totally voluntary and it contains specific prohibitions against bureaucratic meddling in a family's private affairs," Brademas said.

Mrs. McGraw said her organization opposes the legislation on grounds that "it once again will provide a large amount of funding and power to the element in our society that we refer to as the social planners."

A network of day care centers, she said, would encourage more mothers to find employment.

"We do not agree with the premise that mothers of young children should be encouraged to go out and work and leave their children in a day care center," she said.

A NEW CITIZEN IS GRATEFUL

HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. WALSH. Mr. Speaker, it is a simple fact that too many native-born Americans take citizenship in this great country for granted. Too many just do not appreciate the benefits of living in a nation that is not only the freest country in the world but has the highest standard of living.

Every so often, it is helpful that we come in contact with someone who appreciates what the United States has to offer. Last month, Mr. and Mrs. James Hamilton, now of Syracuse, became new citizens.

To express their gratitude, Mr. and Mrs. Hamilton wrote an open letter of thanks to the Syracuse Post-Standard. The message was inspiring and worth sharing:

To the Editor:

Through your newspaper we would like to express our extreme gratitude to the following persons and organizations for a supreme effort in making Nov. 25 a day which my wife and I will never forget. It was the day in which we both became citizens of this great country.

To state Supreme Court Justice Parker J. Stone, who administered the oath, and spent the entire afternoon at a luncheon for us new citizens, this was appreciated by all, a man as busy as he is, spending practically an entire day welcoming us. Only in America, would this happen.

To Mr. Hoople of the Americanization League and his staff, for all their hard work and ceaseless efforts.

To the Church Women United of Syracuse and vicinity for their reception and luncheon showing once again that no matter which domination they belong, there is no religious bigotry and man can really live in harmony despite the many different religions. I only wish church leaders in Scotland, Ireland, and other countries could have witnessed such an occasion.

To all the other distinguished ladies and gentlemen who shared the most memorable day in our lives.

Last but not least to the Rev. Fred Lowry of Plymouth Congregational Church for the use of his facilities for our luncheon and his spiritual blessing.

I would like to mention my personal feelings on winning the American flag. It is something my wife and children will never forget and something we will cherish all our lives. We will always cherish our citizenship and never take it for granted as most native-born Americans do. I only wish they could have heard their new compatriots singing "America the Beautiful" and "The Star-Spangled Banner." It was very emotional indeed, there was many a tear shed. I am sure I speak for all new citizens, we are all proud of our heritage, but only people from other countries can really appreciate how great this country is. God Bless America.

JAMES HAMILTON AND FAMILY.

409 Herkimer Street, Syracuse, N.Y.

JOSEPH ANTHONY STADELMAN

HON. SAM STEIGER

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. STEIGER of Arizona. Mr. Speaker, Joseph Anthony Stadelman of the Verde Valley area, which is in my congressional district, was the type of individual that everyone wishes he had for a neighbor and friend.

Joe passed away recently at the age of 54, and a fitting tribute was paid to him in an editorial in the Independent, one of Arizona's leading weekly newspapers. I insert the article in the Record:

AN EDITORIAL

Joseph Anthony Stadelman was the kind of man who could never say no to anyone. Friends and near-strangers alike would call him at all hours of the day or night to fix something, attend a meeting, pick up an item or to check a plan.

He always responded because he not only loved life but people as well.

Joe—that's what everyone called him—died Nov. 12, ending 54 years of service to the Verde Valley and to his country. Except for his years with the U.S. Navy, Joe called the Valley his home.

Soon after his honorable discharge, Joe went to work for his older brother, Tony, in the construction business. At the same time he joined the volunteer fire department in Jerome and in 1960 became a member of the Cottonwood Volunteer Fire Dept.

Last April Joe was elected chief. Since then he has spent countless hours donating time and material to the new fire station.

Joe was one of the original volunteers with the ambulance service and had training as an Emergency Medical Technician.

For over 25 years he was a member of the Elks Lodge in Jerome and was serving as president of the Cottonwood-Oak Creek School Board for the second time.

Soon after getting out of the Navy, Joe became active in the Verde Valley Country Club and was a past president.

Though quite civic minded, Joe was never separated from his wife, Tilla and sons, Rudy and Joe for very long. He took his wife dancing and his sons fishing and hunting.

Joe is going to be missed. He contributed and we who knew him benefited.

CAN BLACKS MAKE NEWS?

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. RANGEL. Mr. Speaker, in his address at the fifth annual Congressional Black Caucus dinner, Federal Communications Commission Commissioner Benjamin Hooks challenged the white news media to give the same news coverage to national newsworthy black events as it does for whites. He used the caucus dinner itself as an example of media exclusiveness and questions why, with the array of black power and influence who were in attendance there, that it had to be so. I bring this same issue to my colleagues at this point in the form of a question, "Can Blacks Make the News?" which is the title of an article written by Commissioner Hooks which recently appeared in the Amsterdam News. The article follows:

CAN BLACKS MAKE NEWS?

(By Commissioner Benjamin Hooks)

In his September, 1975 Newsletter On the Activities of the Media, Capital Press Club President Calvin W. Rolark asked a thoughtfully significant question: "Wonder why the National Urban Leagues' 65th annual conference in Atlanta received not one word in the national news magazines?"

More and more blacks are beginning to question Black exclusion from or treatment by the media. Continuing from a speech I delivered before the Fifth Annual Congressional Black Caucus Dinner in Washington, D.C., recently, I asked:

"If this event, representing the top echelon of Blacks in this country, with its legislative and elected officials' workshop;

"If this event, focusing on the need of this nation to mend its ways, and advocating positive evolutionary change rather than violent revolution;

"If this event which seeks to shed light and give hope amid the jarring discordant noises of those apostles of gloom and doom who say there is no hope in this country for Blacks to ever survive;

"If this event, which says to prophets of hate and destruction that while there are many problems, we do give a damn and this country is worth saving;

"If this event which seeks to say to this nation, we will work with people of goodwill of every race and condition, to give hope to the hopeless and lift up the spirit of the downtrodden;

If this event which seeks to forge a program to so use the structures of this country to the end that the have nots may share with the haves;

If this event which focuses the spotlight on men and women of color in this country who have achieved greatly in spite of great odds;

TRIBUTE TO THE BLACK PRESS

"If this event is not worth national news coverage of great magnitude, then what in the name of heaven can Black folk do that will be worth coverage?

"And while talking (about) this, may I pay a word of tribute to the Black Press for its unrelenting and unremitting efforts to keep us informed. But for this press, the story of Black people in this country would never have been told. Hail to these organs of communications and may their strength and power increase.

"We (must) . . . wrestle with two great social ills (besetting) us—white racism and Black self-hate. These are two sides of the same coin—pitiful legacies of slavery, and we must begin to deal with them on a national scale . . . Black togetherness must be real. It is not enough to exercise the long-drawn out ritual of complicated soul handshakes (or to sport an Afro that covers a processed mind) and then rip each other off after the handshake.

"We have changed structures in these United States; we are now moving into the era when we Blacks, minorities and the poor will begin to use those structures. And we are already adding a third dimension—we are creating structures."

Chief among the latter is the challenge to force the national white media to deal with Blacks in an even-handed, fair and equitable way—just as it does with whites.

Nothing less will do (NNPA).

COAL SLURRY PIPELINE

HON. MARK ANDREWS

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. ANDREWS of North Dakota. Mr. Speaker, in view of the coal slurry pipeline debate that is occurring before the House Interior and Insular Affairs Committee, I thought my colleagues should read an editorial that recently appeared in the Minot Daily News, which addresses the critical issues we all face. The editorial follows:

PIPELINE OR RAILROAD?

North Dakotans are not as fully aware as they ought to be of all that is at stake in the question of whether great slurry pipelines (requiring vast amounts of water) or modern railroads provide the most economical method of transporting western coal to power plants in the central states. Some of the debate is now taking place before congressional committees, with representatives of powerful interests involved.

The project on which current debate centers would carry coal slurry from northeastern Wyoming to White Bluff, Ark. One point of view is that this method of coal transportation holds the key to the future. It has the backing of the Bechtel Corporation of San Francisco and of Lehmann Brothers, the New York investment house. The other point of view is upheld by Louis W. Menk, board chairman of the Burlington Northern, and by railway labor. A central question before Congress is whether coal slurry companies should be granted the right of eminent domain in routing their pipelines.

Though transportation of Wyoming coal to Arkansas is the main issue at the moment, the contest involves issues which have application to the movement of North Dakota lignite to thermal plants in the Midwest. There are at least two aspects of the matter which run contrary to the thinking of people in the northern plains states.

One is that if slurry pipelines are constructed, the railroads serving this region will be weakened by being deprived of much of the business of hauling coal, which is an important source of revenue, particularly to the Burlington Northern system. There seems to be no sound reason why modern unit trains with enclosed cars can't move lignite as well as sub-bituminous coal speedily to plant sites.

The other reason which causes people in North Dakota and Montana to react unfavorably is that in this semiarid but highly productive farming region, water is looked upon as too precious a resource to be used as a coal-moving fluid, especially when another adequate means of transportation is available. One estimate is that Bechtel's proposed slurry pipeline from Wyoming to Arkansas would require the use of 6.5 billion gallons of water. This would be water originating in southeastern Montana where irrigation of farm crops is regarded as the priority use for water. And, as Gov. Thomas L. Judge has stated, Montanans can see "absolutely no reason to ship our scarce water to Arkansas."

If slurry pipelines are built, a great amount of precious northern water would be required, as North Dakotans are beginning to realize. Washing pulverized coal down a pipe could come to be accepted as a water use which has priority over agricultural development.

There is a reasonable suspicion that some of the current pressure to halt or curtail irrigation projects in the Dakotas originates not so much from environmental concerns as from powerful interests which would like to squeeze out as much northern water as possible for transporting coal. The water so diverted would then be reclaimable for other uses in states far removed from North Dakota.

SELECT COMMITTEE ON MISSING PERSONS IN SOUTHEAST ASIA MEET WITH VIETNAMESE

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. MONTGOMERY. Mr. Speaker, on Monday, December 8, 1975, the Select Committee on Missing Persons in Southeast Asia returned from a 4-day mission to Paris where we met with representatives of the North and South Vietnamese Governments and to Geneva where we met with representatives of the International Red Cross.

In order to keep the House fully informed of our committee's progress, I am inserting at this point in the CONGRES-

SIONAL RECORD, a copy of the committee's statement reporting our meetings in Paris and Geneva:

> Marking the first time that an official American delegation met with the Vietnamese since the cessation of hostilities, twelve members of Congress, including eight of the ten members of the House Select Committee on Missing Persons in Southeast Asia, met in an historic all day session on Saturday, December 6, with North Vietnamese Ambassador Vo Van Sung, PRG Charge d'Affaires Huynh Thanh and several North Vietnamese officials.
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> The Vietnamese, in emphasizing their desire to re-establish not only normal, but friendly relations with the United States, cited the positive actions they had made toward the United States as evidence of their continuing willingness to build a bridge of good relations if each side helps to build it plank by plank.
>
> The Vietnamese made three commitments:
>
> (1) They promised to release to the families the remains of three American pilots. (Lieutenant Commander Jesse Taylor, Jr., of Los Alamitos, California, shot down January 16, 1967; Lieutenant Colonel Crosley James Fitton of Hartford, Connecticut, shot down February 29, 1968; and Captain Ronald Dwight Perry of Gallatin, Tennessee, shot down December 21, 1972.)
>
> (2) The Vietnamese announced for the first time that they have an agency actively researching this problem of our missing in action. They also agreed to continue to search for other American MIAs in Vietnam and to report to their government the Committee request that they assist in obtaining information about MIAs from the Laotian and the Cambodian governments.
>
> (3) The Vietnamese also agreed to take all steps necessary to permit American civilians remaining in South Vietnam the opportunity to voluntarily leave the country.
>
> "Chairman Montgomery reflected the views of the entire congressional delegation in stating that the discussions were friendly, forthright and constructive.
>
> "The Vietnamese emphasized the importance that the U.S. take positive bridge-building actions now, such as lifting the present trade embargo and helping to heal the wounds of war. The Committee stressed America's interest in continuing the resolution of the MIA question and its concern about the return of the bodies of the two Marines killed in Saigon on April 30, 1975, and the repatriation of such remains as can be identified in the continuing search promised by the Vietnamese.
>
> "Also discussed were the questions of the emigration from Vietnam of Vietnamese wives and children of American personnel, the 82 'hard evidence files' on individual MIAs turned over to Prime Minister Le Doc Tho by Secretary Kissinger in 1973, various forms of potential aid and trade with Vietnam and the recent veto of the Vietnamese admission to the United Nations.
>
> "During the Paris meeting, Chairman Montgomery stressed that while the Select Committee is independent of the Executive Branch and could not make policy decisions, the Select Committee had the strongest interest and support of President Ford in seeking ways to resolve the MIA question.
>
> "Ambassador Van Sung and Chairman Montgomery agreed that the Paris talks were a success.
>
> "On Sunday, December 7, the Committee traveled to Geneva to meet with the International Red Cross Committee Director Jean Pierre Hocke and Delegate General Melchior Borsinger.
>
> "The International Red Cross officials confirmed that they were assisting in the departure of foreign civilians from South Vietnam and were assisting in determining the needs for humanitarian assistance to both North and South Vietnam. They further indicated that identification and repatriation of MIAs was well within their mandate and that they were prepared to assist in such activities if agreeable to the Vietnamese.
>
> "Chairman Montgomery, noting that while the Paris-Geneva trip was fast moving and intensive, its accomplishments are significant."
>
> Taking part in the MIA Paris-Geneva mission were the following Select Committee members: G. V. Montgomery (D-Miss.), John J. Moakley (D-Mass.), Patricia Schroeder (D-Colo.), Richard Ottinger (D-N.Y.), Thomas Harkin (D-Iowa), Paul McCloskey (R-Calif.), Benjamin Gilman (R-N.Y.) and Tennyson Guyer (R-Ohio). Also participating in the MIA meetings were Dante Fascell (D-Fla.), International Relations Committee; Jonathan Bingham (D-N.Y.), International Relations Committee; Robert Duncan (D-Ore.), Appropriations Committee; and Ken Holland (D-S.C.), Veterans Affairs Committee.

FEDERAL AID TO NEW YORK

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. ZEFERETTI. Mr. Speaker, the Senate has now concurred in the action of the House, passing the administration-proposed legislation offering $2.3 billion in loans to the city of New York. While I truly preferred and would have voted for the original proposal containing a loan guarantee along the lines of that developed and approved by the House Banking Committee for New York, I supported the administration's bill because of the imperative need to prevent default by New York City. The President's program is not the best program—for New York City—and for the Nation. But it allowed us to prevent the city from defaulting on debts, allowed us to avoid the severe and disastrous effects of bankruptcy which has threatened the city for too long.

I think that at this point, it is important to state that New Yorkers, including those within my own congressional district, have been subjected to harsh criticism and forced to make-do with short-term assistance with many stringent conditions and strings attached. Neither Lockheed nor Penn Central were condemned in the manner New York has been in the recent past. Nor were the terms extracted from them as harsh as those demanded of New York. Yet, we have agreed to these provisions and the bill, however modest, because it was the only measure that could help the city avoid default and guarantee the President's signing the bill into law.

Indeed, there have been some very harsh statements made about the way the finances of the city have been managed. Many of these statements were made by political figures for short-term political expedience. And, the resulting picture painted by the critics of aid to New York was one of total financial mismanagement and fiscal irresponsibility. To me, it was this aspect of all the debates that was most regrettable, for what was not stressed was the fact that added burdens and responsibilities were thrust upon the city in the most unmerciful manner causing these increased expenditures.

In addition, throughout the discussions and arguments for or against aid to the city of New York, I found it inexcusable that terms such as costs, risks, budgets, contracts and the legal repercussions of default were raised and tossed about as if the city were devoid of people. What about the human price of default—the serious effects on the 8 million New Yorkers who have been forced to live with the threat of total bankruptcy? It seemed as if the critics of aid lost all human compassion and understanding for the people of New York who were not even responsible for the city's financial plight. Yet, these same people were seriously affected—witnessing budget cuts, reductions in services, increases in taxes, and the loss of over 35,000 jobs. I, therefore, found it inconceivable that so many of the arguments could center around the definition of default and bankruptcy or whether or not to bail out New York or loan it some money when 8 million New Yorkers were calling out for our help.

It is perhaps understandable that I view the rhetoric of recent days aimed at my city with some indignation and a little resentment. The average working people in New York were not to blame. These people pay stagggering levels of taxes and their work is as hard as anywhere else in the country. They have all deserved better of their government than what they have been forced to listen to and accept.

Yet, filibusters, accusations, and double standards notwithstanding, New York City will be greatly aided by the loans approved by Congress. The city will be able to avoid default and maintain the vital services on which millions of New Yorkers rely. And, through the enactment of the legislation, New York will prevail in the future as she has in the past, offering light, leadership, and creativity to the Nation and the world.

YESHIVA UNIVERSITY HONORS DR. SAMUEL BELKIN

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Ms. ABZUG. Mr. Speaker, the people of New York are justifiably proud that Dr. Samuel Belkin, for 32 years president of Yeshiva University, has now been invested as the first chancellor in the history of this unique college.

Dr. Belkin is one of the world's leading experts on the Talmud, the authoritative body of Jewish tradition and law, and he is a student also of Hellenistic philosophy, the intellectual heritage of Ancient Greece.

This combination of learning has made Dr. Belkin an inspired advocate of what he calls the "harmonious blending" of Hebraic spirituality and Western culture.

Dr. Belkin's teaching and writing along this theme have been an inspiration to several generations of students. Yeshiva University's unprecedented honor is a richly deserved tribute to Samuel Belkin.

The New York Times wrote an article describing the ceremony honoring Dr. Belkin, and I would like to insert this in the RECORD for my colleagues:

[From the New York Times, Dec. 8, 1975]

CEREMONY HONORS EX-YESHIVA HEAD

(By Irving Spiegel)

Dr. Samuel Belkin, who retired as president of Yeshiva University recently because of illness, was invested last night as the first chancellor in the 90-year history of the institution.

As more than 1,500 guests stood in tribute to the 64-year-old Greek and Talmudic scholar at a dinner at the Waldorf-Astoria Hotel, a specially designed gold and silver chain and medallion bearing the chancellor's seal was placed over his head, signifying the formal assumption of office.

Yeshiva University has had two presidents, the late Dr. Bernard Revel, who served until 1960, and Dr. Belkin, who retired last September.

In his speech last night, Dr. Belkin recalled that he joined Yeshiva as an instructor 40 years ago. He had earned his Ph.D for his research in Hellenistic philosophy at Brown University and was ordained as a rabbi at Eadin, Poland, when he was only 17 years old.

EXPOSURE TO TWO WORLDS

"Fifteen years as a teacher at Yeshiva," he remarked, "I exposed my students to two worlds—the philosophical work of ancient Greece, still the fountainhead of all philosophical schools, and the world which has been closest to my heart, the world of Talmudic law.

"I tried my best to teach my students how to swim in the ocean of the Talmud whose depth has no limit and whose moral concept of human rights is profound beyond description."

Defining his new role as Chancellor, Dr. Belkin expressed the hope that he would serve "in the humble capacity of a watchdog in order to make sure that the ideals of Yeshiva should not be diminished and that the central part of the university, its Jewish studies program, is preserved."

Here, Dr. Belkin said that "as Jews, we can make our contributions to the American way of life by creating a synthesis, a harmonious blending between the Hebraic concepts of the moral and the spiritual values of society and the culture and civilization of the West."

CLERICS DUCK SOVIET ISSUE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. McDONALD of Georgia. Mr. Speaker, on December 9, the Washington Post informed us of the shameless role played by American "churchmen" at the meeting of the World Council of Churches in Nairobi. Fancying themselves as diplomats of détente rather than men of God, or even moral leaders, our fine "churchmen" reportedly leaped to defend the Soviet Union against any suggestion of World Council "concern" about the pitiless persecution of genuinely religious people in the U.S.S.R. The details of such persecution are such as to nauseate any decent human being, and represent official Communist policy —everywhere and at all times. Yet men who dare to pose as Christian leaders are willing to defend a regime which persecutes and murders real Christians by the millions. Further, our so-called Christian leaders have supported the selection of that noted Soviet secret police agent, Metropolitan Nikodim of Leningrad, as one of the presidents of the World Council of Churches.

The articles follow:

COUNCIL OF CHURCHES SIDESTEPS CRITICISM OF RELIGION IN U.S.S.R.

(By Marjorie Hyer)

NAIROBI, Dec. 8.—In a frantic series of parliamentary maneuvers, American and Russian delegates today stalled action on the hottest issue to come before the World Council of Churches assembly—whether to charge the Soviet Union with restricting religious freedom.

The proposed censure resolution came as a surprise amendment offered by a Swiss churchman to a predictable but non-specific document on human rights.

The amendment, offered by Jacques Rossell of the Swiss Protestant Church Federation, would have put the council on record as "concerned about the restrictions on religious freedom, especially in the U.S.S.R.," and requested that Moscow "implement the Helsinki agreement."

Although the proposal caught most delegates off guard, it crystallized the sentiment increasingly voiced by the council's friends and foes alike that the Soviet Union is immune from public criticism by the world religious body.

"I have observed that there is an unwritten rule that operates that the U.S.S.R. must never be castigated in public," said the Rev. Richard Holloway of the Church of Scotland in seconding the censure proposal.

Asserting that "the Soviet Union is in the forefront of human-rights violations," he called for an end to the "tradition" that "to mention this fact appears to be unsporting."

Moscow "should take its place in the public confessional along with the rest of us from the white, oppressive, imperialistic society where we already are and I'm sure we'll all be more than happy to shift along a bit and let them in," he concluded wryly, to general laughter and applause.

Dissatisfaction at the WCC's tendency to exempt the Soviets from criticism hurled generously at other parts of the world—dubbed by some delegates "selective indignation"—has mounted.

It was heightened in the first days of this assembly by the publication in a highly respected African church newspaper of a letter addressed to the council by two Russian churchmen, appealing to the assembly to take a stand on human-rights violations in the Soviet Union.

There were clear indications that council leaders would not have reported the generally low-key letter to delegates if it had not been made public through other sources.

It also seemed evident that the assembly's reports and resolutions would continue to omit mention of human-rights problems in the Soviet Union.

An American churchman, veteran of several assemblies and member of the policy-making central committee, explained in a not-for-attribution private conversation that the WCC moratorium on criticism of the Soviet Union had less to do with secular politics than with churchly ones.

"It's a question of whether the bond of fellowship with the Russian churchmen is strong enough to withstand criticism," he said.

Also at issue was whether the score of delegates from the Soviet Union would feel that political pressure from their government, not hospitable to religion anyway, would compel them to walk out if the censure resolution were passed.

The dilemma is rendered more sensitive by the election Saturday of Russian Orthodox Metropolitan Nikodim of Leningrad as one of the six council presidents.

In a last ditch effort to stem what appeared to be a steamroller to vote the censure amendment, Nikodim voiced what many interpreted as a veiled threat, saying: "You may vote this action if you want to, but I shall only have cause to regret any hastily taken decision."

Canadian delegates strongly supported the effort by the Americans and Russians to prevent a censure.

An American delegate, Robert Moss, president of the United Church of Christ, tried to delay the vote, calling for more extensive debate. Archbishop Edward Scott, Anglican primate of Canada, later offered a watered-down substitute registering "concern about restrictions to religious liberty in many parts of the world including the U.S.S.R."

Delegates ultimately voted, 259 to 190, to refer the question back to committee.

In other actions, South Africa, a frequent target of criticism because of its racial policies, was criticized in two separate resolutions.

One condemned South African incursions into Angola, and the other expressed "deep concern that certain governments and multinational companies are becoming involved in the financing and construction of nuclear power-generating plants in South Africa."

HOUSE CONCURRENT RESOLUTION 393

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. DODD. Mr. Chairman, I would like to register my strong endorsement of House Concurrent Resolution 393 which, I am pleased to say, has received extraordinary support from my constituency.

Let us hope that this resolution is not solely a recognition of every individual's right to a nutritionally adequate diet but also a genuine commitment on the part of the Congress to do what is in our power to eliminate hunger in this country and in the world.

This pledge to improve our domestic food assistance programs, and to increase our aid to self-help development projects overseas until our contributions equal 1 percent of our total GNP, makes it imperative that this resolution not remain a rhetorical statement.

In this situation of world food crisis, the United States carries a very special responsibility. Despite our economic difficulties, we remain the richest nation in the world, and we have an unmatched capacity to both produce food and to provide the poorest nations with the technology that they so badly need.

Our responsibility is even greater since we are also the world's most wasteful nation: We constitute 6 percent of the world's population and consume 40 percent of the world's resources. A full 60 percent of the U.S. grain production is consumed by our livestock population. The latter, according to one estimate, consumes enough food material to nourish 1.3 billion people.

And yet, we are all aware that poverty still exists in our own country and—as we learned from the 1974 World Food Conference—that there are at least 460 million underfed individuals in the developing world.

According to the world food and nutrition study that is being conducted by the National Research Council, global food production has increased over the past decade by approximately 2.8 percent a year. Food demand, on the other hand, has been increasing by an average of 3.5 percent annually in this same period.

In our foreign policy statements, we claim this to be an era of global interdependence and speak of the necessity for a framework of international cooperation. Let us now turn our words into deeds: since resources are scarce, they must be shared.

The United States and other nations have so far failed to take sufficient action to remedy the ongoing food crisis. House Concurrent Resolution 393 represents the realization of a greater need for coordinated efforts in this direction.

The resolution is thus a necessary but not sufficient step on the path of full commitment to the ideals of universal brotherhood and mutual assistance.

Reason dictates that any long-range plan to correct the world food problem must entail a two-way involvement on the part of both the developed and the developing worlds. We must restructure our own consumption patterns and eradicate hunger in America. We must also extend direct assistance to the world's neediest countries, as the resolution states. They, on the other hand, must be prepared and willing to help themselves.

Thus it is timely not only to support House Concurrent Resolution 393, but also to applaud the passage of H.R. 9005, The International Development and Food Assistance Act of 1975.

This bill—the first to give substance to the resolution—contains a very large increase in last year's assistance program for food production in developing countries.

This single piece of legislation increases U.S. grain contributions, establishes a system of food reserves, strengthens our efforts in the field of agricultural research, and improves the targeting of our aid. Our foreign assistance will now go more directly to the rural poor and will be used in large part to improve local facilities for the storage and distribution of food.

At the same time, and in the spirit of mutual aid, H.R. 9005 increases the amount of self-help efforts that recipients will be expected to contribute if they are to continue to receive assistance.

The American people have shown by their overwhelming support for House Concurrent Resolution 393 and H.R. 9005 that they favor a wholehearted attempt to ban the specter of famine from our globe.

They do not resent foreign aid programs, as has so often been said. They simply ask for better programs which distribute the burdens fairly and make our effort part of a larger one.

Indeed, it is the social conscience of our people that allows us to look to the future with the faith that will succeed in answering the needs of the hungry no matter who they may be.

BRONX COMMUNITY CONFERENCE EXAMINES NEW YORK CITY'S FISCAL CRISIS

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. BINGHAM. Mr. Speaker, as has been my practice for the last 9 years, I recently held a community conference in the Bronx on an issue of paramount importance to area residents. This year's conference topic "Federal Responsibility for Solving the Problems of Urban Decay and Fiscal Crisis" was most timely and may represent the crucial national issue facing Congress in 1976. Speakers at the conference included my colleagues Representatives MORRIS UDALL and PETER PEYSER, former U.S. Secretary of HEW Wilbur Cohen, and various State and local elected and appointed officials. Over 600 Bronx residents attended and many actively participated in the question and answer sessions. One of those in attendance, Mr. Paul Leith, was kind enough to write a brief report on the conference which was printed in one of our local papers, the Bronx Press-Review.

Mr. Leith is one of my most valued constituents. At the age of 82, he has tirelessly worked since 1962 on the problems of the aged, and on encouraging improved communications among the generations. He has founded a senior citizen club, has been a delegate to numerous conferences and forums on problems of the aging, has organized dialogs between senior citizens and high school seniors, and has written a news column entitled "Older But Never Old" for a local paper without compensation. He was a member of the task force on long-term care of the New York State Health Planning Commission and was on the executive committee of the New York City regional conference on aging, preliminary to the 1971 White House Conference on Aging. Mr. Paul Leith is an inspiration to all of us in the Bronx and I am most proud to have the privilege of representing him.

For the benefit of my colleagues who may be encouraged to hold similar community conferences in their districts as an important forum for communication with constituents, I include Mr. Leith's report and comments herewith:

BINGHAM CONFERENCE

(By Paul Leith)

Congressman Jonathan B. Bingham (D., 22nd C.D.) held his successful ninth annual Community Conference last Sunday afternoon in Bronx Community College, 120 E. 184th St.

Speakers at the plenary session were Congressman Morris Udall of Arizona, and Wilbur Cohen, former U.S. Secretary of Health, Education and Welfare. Mr. Udall declared that the United States has no urban policy, no commitment to build the cities or to rehabilitate the neighborhoods. Among other things, he proposed that the Federal government take over the welfare system. This met with great applause.

Mr. Cohen, now Dean of the School of Education, University of Michigan, urged that the Medicaid program be federalized as a step towards a system of national health insurance, and that this system not include health insurance companies. He charged the Ford Administration with refusing to propose ways to ensure the soundness of the Social Security system, and reassured his listeners that they would continue to receive their Social Security checks. The call by both speakers for a new Administration and a veto-proof Congress were welcomed by the audience.

To a question about the need to cut the military budget, Congressman Udall responded that he favored a 15 per cent cut in military expenses. To the writer's question of what the chances were for preventing the 13 per cent increase in hospital costs to those enrolled in the Medicare program which is slated to go into effect Jan. 1, Mr. Cohen recommended an amendment to freeze present costs be tacked on to some bill that President Ford had to sign.

Panel discussions were held on "Financial Survival and Social Services" and "Law Enforcement." I attended the first. The reports by State Commissioner Stephen Berger, Department of Social Services, and City Human Resources Administrator James R. Dumpson, were by no means cheerful.

Mr. Berger said that his department would check on existing social service programs to see if they really helped people. Present essential programs, he said, would be maintained, but that there would be some cuts. He did not, however, specify what cuts would be made. So watch out!

Mr. Dumpson emphasized the social services now being provided, citing figures for public assistance, food stamps, care of the aged, blind and disabled, and lunches in senior citizens centers. He did admit that three seniors' centers would be closed by Jan. 1 and that there would be a 17 per cent cut in services and a 13 per cent cut in part-time jobs for senior citizens providing services in centers.

Ms. Alice M. Brophy, director, New York City Office for the Aging, praised the Bronx Council on Aging for its leadership in having half-fare hours extended on subways and metropolitan buses. She stated that additional funds had been appropriated by Congress for Titles III (senior centers) and VII (nutrition), and for hiring staff. She hoped to be able to provide staff to the New York City Department of Social Services to offset some cuts by the latter.

Participation by the audience in asking questions or making brief statements should be a vital part of any public conference. Not only should the audience learn from qualified officials, but the latter should learn what their constituents want them to do. In the panel I attended, many people had a chance to ask questions.

The hundreds in this audience heartily applauded Congressman Bingham for arranging this conference. He set an example for other Bronx Congressmen to follow.

CONGRESSMAN DINGELL ASKS ATTORNEY GENERAL LEVI TO INVESTIGATE ANTILOBBYING VIOLATIONS BY ERDA REGARDING CONFERENCE REPORT ON ERDA AUTHORIZATION

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. DINGELL. Mr. Speaker, today I received an unsolicited memorandum "To all Members of Congress" from ERDA's Congressional Relations Office which is clearly intended and designed to gain my vote in support of the $6 billion gift to the oil and gas industry in the conference report on H.R. 3474. Because Congress has, by statute, precluded such lobbying by Federal agencies and officials with appropriated funds, I today wrote to the Attorney General and asked him to investigate this alleged violation of law.

I find this to be an appalling misuse of Federal funds. We are deluged with lobbyists from the non-Federal section. We do not need Federal agency lobbyists as well to provide mass mailings on legislation at the taxpayer's expense. A copy of my letter to the Attorney General follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., December 9, 1975.

Hon. EDWARD H. LEVI,
Attorney General, Department of Justice, Washington, D.C.

DEAR MR. ATTORNEY GENERAL: On December 2, 1975 the House-Senate conferees on H. R. 3474, the ERDA authorization bill for FY 1976, ordered favorably reported that legislation, including a provision creating in ERDA a $6 billion loan guarantee program.

On December 4, 1975, the House leadership announced that the conference report on H. R. 3474 was scheduled for consideration by the House later this week (See Congressional Record, December 4, 1975, page 38720). The conference report on H.R. 3474 was filed in the House on December 8, 1975 (See Congressional Record, page 39089).

As you know, section 1913 of Title 18 of the United States Code prohibits lobbying with appropriated moneys. It provides as follows:

"No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

"Whoever, being an officer or employee of the United States or of any department or agency thereof, violates or attempts to violate this section, shall be fined not more than $500 or imprisoned not more than one year, or both; and after notice and hearing by the superior officer vested with the power of removing him, shall be removed from office or employment."

Enclosed for your information is a December 5, 1975 memorandum to "All Members of Congress" and enclosure which I received today, December 9, 1975, and which I *did not* "request" from Mr. H. Hollister Cantus, Director of the Office of Congressional Relations at ERDA. The memorandum extolls the benefits of the $6 billion loan guarantee program in H.R. 3474. The memorandum and its enclosure is clearly "intended" and "designed to influence" Members of Congress "to favor . . . by vote" the conference report on H.R. 3474 now pending before both bodies of the Congress. Since it is written on ERDA stationery, I can only assume that funds "appropriated" by Congress to ERDA were used to prepare and distribute this memorandum. I can find no "express authorization by Congress" to use any money appropriated for this purpose in any way.

I request that your Department promptly investigate this matter to determine who ordered it sent to all Members of Congress, the person or persons who prepared and distributed it, how it was distributed, and the appropriations used for this purpose, and take appropriate actions to enforce the requirements of this section. Please advise me of the results of your investigation and of the actions you take in this matter.

I am appalled that any ERDA official would stoop to such a patent violation of this very clear requirement of 18 U.S.C. 1913 in order to influence my vote and that of other Members to support this $6 billion loan guarantee program. I hope that ERDA's Administrator, Dr. Seamans, did not sanction this mass mailing effort.

I am sending a copy of this letter to Dr. Seamans for his information.

Sincerely yours,
JOHN D. DINGELL,
Member of Congress.

CHICAGOANS SAY "YES" TO GUN CONTROL

HON. MARTIN A. RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. RUSSO. Mr. Speaker, last month the Chicago Tribune presented an excellent series on a problem uppermost in the minds of many people today. While there is disagreement on the matter of gun control, we cannot overlook the fact that concern is widespread and I think the Tribune presented a thoughtful and informative overview of the issues through its presentation of the findings of a Tribune gun control survey.

The project was directed by Michael Smith of the Tribune and the series written by Wesley Hartzell. Responses in the survey were from 509 men and women whose households were selected randomly to provide a cross section of households in the six-county Metropolitan Chicago area. Respondents were located by a computer-directed random digit dialing and interviewed by telephone.

Professional researchers and pollsters provided assistance in the development of the questionnaire and data processing. The margin of error in surveys of this type and size generally is calculated at less than 4 percent.

I want to share the Tribune articles with my colleagues and today I am inserting in the RECORD the first of the four-part series. This article presents Chicagoans' votes on five proposals to control guns:

CHICAGOANS VOTE "YES" ON CONTROL OF HANDGUNS

(By Wesley Hartzell)

Two persons have tried to shoot President Ford and failed.

Only one tried to shoot Joe Habron, a Northwest Side youth. The gunman succeeded, and then killed himself.

Joe's tragedy came to light in a Chicago Tribune survey that has uncovered sweeping support for laws to control guns, even among the vast number of persons who have guns.

Joe Habron is a false name but a real case in point.

Joe's father is one of 509 metropolitan Chicagoans called when a survey computer coughed out their telephone numbers in selecting a random sample of residents of the six-county metropolitan area. Like nearly all those interviewed, he is very much in favor of tightening gun laws.

"I have a good reason," he said. "I lost a son by a gun fired by someone who was off his rocker. And as a result of that, I lost my wife later." At that point he broke down, and could say no more.

The gun that killed Habron is one of 573,000 registered in Chicago since registration began in 1968. Enough guns, says Francis P. Kane, Mayor Daley's special assistant for gun registration, to arm 30 Army divisions. An additional 30,000 are registered each year, 52 per cent of them handguns.

Nationally, it is estimated that at least 90 million and as many as 135 million firearms are in the hands of private citizens, including no less than 40 million handguns. Each year, about 2.1 million more handguns are manufactured in the United States.

If, as has been said many times, Americans are married to their cars, then there is ample evidence that guns are their paramours.

No one knows exactly how many guns there are in the six-county area outside Chicago where guns do not have to be registered. The Tribune survey indicates that at least one of every five city households contains guns and that twice as many suburban households—two of every five—possess guns. And the majority of those who admit they own guns also admit to owning two or more.

Whether gun owners or not, the survey found, the vast majority of citizens of metropolitan Chicago favor strict controls on guns, and especially handguns.

To measure these attitudes, those in the survey were asked to approve or disapprove five measures, ranging from a broad, general proposal for "strict control and regulation" of handguns to a stringent and specific proposal that all private ownership of handguns be outlawed.

The responses ranged from an overwhelming 88 per cent in favor of Congress requiring registration of all handguns to a surprisingly narrow 50 to 45 per cent rejection of a tough law to ban private handgun ownership.

Supported as widely as national handgun registration is a proposal to license the owners of all the nation's guns: 87 per cent said they would support the Congress in passing such a law.

An 82 per cent majority said they support what essentially would be a community-level gun control measure: That a police permit be required to "buy any kind of a gun."

Even the small group of respondents who said their households include a member of the National Rifle Association [NRA] support the police-permit proposal by a 4-to-1 margin.

Respondents in those homes also support the general proposition that there should be "strict control and registration of handguns in this country" by the same 4-to-1 margin—not far behind the 86 per cent support for the proposal from all respondents. In light of the NRA's well-publicized opposition to many control schemes, this finding was somewhat surprising.

Support for gun controls in metropolitan Chicago is broad and impressive, with only minor differences in how intensely city and suburban residents view four of the survey's proposals, as the accompanying chart shows.

But the two areas separate sharply and significantly over the most far-reaching proposal: To outlaw private handgun ownership.

In the suburbs, a clear 58 to 37 per cent majority oppose the scheme, while in the city a 53 to 40 per cent majority approve the idea. The experiences and attitudes behind this split will be explored in succeeding stories.

The response of Chicago-area citizens to these key questions confirms and strengthens national trends in survey findings extending over the last 37 years. Surveys by George Gallup and more recently by Louis Harris have shown repeatedly during this period that solid majorities of the general public—including gun owners—favor controls.

One of the first scientific polls ever conducted, by Gallup in 1938, found that 79 per cent of the public agreed "all owners of pistols and revolvers should be required to register with the government." When the question was adapted for the Tribune survey, it won approval by 87 per cent.

In 1972, Public Opinion Quarterly examined the results of 34 years of surveys on gun control and reported that "never have fewer than two-thirds of the U.S. electorate wanted access to guns to come under some kind of official supervision. . . ."

Looking at data before and after the bloody period that began with the assassination of President Kennedy and ended with the murders of Martin Luther King, Jr. and Robert Kennedy, the journal also noted, "There is no evidence that the last decade of violence, assassination, and attacks with guns has done anything to swell the public demand for regulation of weapons."

The Tribune survey found similar evidence that attitudes about gun control are so well fixed that they are not much affected by singular events. When respondents were asked if "the two recent attempts to kill President Ford changed your views on gun control," less than 1 in 10 said yes.

And most of those who answered "yes" said the only aspect of their opinion that had really changed was a realization that something should be done soon, a conclusion Joe Habron's father already had reached.

Tomorrow: Who wants gun control most? Also, an exclusive interview with Mayor Daley who explains his position on gun controls.

THE NATIONAL ASSOCIATION OF PRO AMERICA

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. ROUSSELOT. Mr. Speaker, I have been asked to bring to the attention of my colleagues the existence of an active and patriotic organization that is working for the preservation and advancement of the constitutional principles upon which this Nation was founded. The National Association of Pro America is headquartered in Los Angeles, Calif. and is in its 33d year of activity. Recently this group adopted its 1975 resolutions. In the year of our Nation's Bicentennial it would be fitting for the Members of Congress to review these resolutions and feel the spirit that has inspired this highly motivated and dedicated group of Americans.

The resolutions of the National Association of Pro America will appear in the Record in three installments. The first of these installments appears today, with the last two following in subsequent issues of the Congressional Record:

Oppose Entrance of Floods of Aliens Into United States

Whereas, This country is now being flooded with refugees from southeast Asia in addition to the thousands of other immigrants, legal and illegal; now, therefore, be it

Resolved, That the National Association of Pro America urge Congress to rescind the 1965 Immigration Act and restore the provisions of the McCarran-Walter Immigration Act, including the National Origins Quota System; and further be it

Resolved, That the National Association of Pro America reaffirm all previous resolutions on this subject, especially No. XIX of 1974.

Celebration of the Bicentennial of the Declaration of Independence

Whereas, In July 1976 the United States will celebrate the 200th anniversary of its Declaration of Independence from Great Britain; and

Whereas, This Bicentennial period is a commemoration of American Independence and properly a time for review of American history with a renewed appreciation of the wisdom of the Founders and a rededication to the principles expressed in the Declaration of Independence and the Constitution of the United States of America; and

Whereas, In recent years there has been a concerted effort to disparage American history, institutions and heros, thus distorting the record of the nation's beginnings and denigrating the dream of human liberty which evolved in this Republic and brought the people of the world clamoring for admission; and

Whereas, Certain groups (such as the People's Bicentennial Commission) are using the occasion of the Bicentennial to justify revolutionary movements by favorable comparison of themselves with the patriots of the War for Independence; and

Whereas, Some supporters of world government are subverting the anniversary of American *Independence* by using it to advocate *interdependence* and to imply that those who would preserve the sovereignty and independence of the United States are hostile to the rest of the world; now, therefore, be it

Resolved, That the National Asosciation of Pro America propose that the United States of American Bicentennial commemoration recognize American *independence* with proper respect for the republican form of government and the free enterprise economic system under which has been written the greatest success story in the history of human liberty, and pray that this nation, under God, will have a new birth of freedom.

Support Creation vs. Evolution

Whereas, The theory of evolution is in direct conflict with the Christian belief that all Scripture is inspired of God, profitable for doctrine, for reproof, for instruction in righteousness and it particularly conflicts with the Genesis account of creation; and

Whereas, Generations of Americans have been conditioned to accept the unproven and unprovable theory of evolution as scientific fact; and

Whereas, Belief in the theory of evolution makes it impossible to accept the entire Bible as the inspired word of God, and encourages the individual to pick and choose which "myths" or "fables" from Holy Scripture he can believe; and

Whereas, Acceptance of the theory of evolution and accompanying atheism is a necessary prerequisite for the advance of humanism (a euphemism for paganism), socialism and communism; and

Whereas, Rejection of God and the Bible is required for the evolving of an all powerful world government and the end of American independence; now, therefore, be it

Resolved, That the members of the National Association of Pro America support legislation in their respective states which will mandate the presentation of the Biblical account of creation on an equal basis with the teaching of evolution.

Demand Common-Sense Cure for Depression-Inflation

Whereas, The nation's economic problems are rapidly becoming more acute, resulting in an unacceptable rate of inflation, and segments of the public have called upon the government to "do something;" and

Whereas, Only government itself can and does create inflation, and, as a direct consequence of "doing something" for more than forty years the government has caused the very problems which plague United States citizens today: excessive spending, huge budgetary deficits, lopsided labor policies and bad tax proposals always presented as "reform" (for example, through the policies of (1) sound money convertible to gold, (2) governmental and individual frugality and economy, and (3) a free, flexible wage scale, the Depression of 1920 was cured in eighteen months, while the Depression of 1929, in which the exact opposite methods—substitution of inflatable paper money for the gold standard, excessive government spending, and a controlled economy—were used, with the result that the 1929 Depression never actually ended but was obscured by the war boom of the 1940's); and

Whereas, The only solution of the nation's difficulties is a reversal of these disastrous policies of government; now, therefore, be it

Resolved, That the National Association of Pro America urge the people of the United States to demand that the government return to the gold standard, restore the free market economy and divest itself of all businesses now federally owned.

Support Investigation of Experimental Education

Whereas, This nation was founded on faith in God, and schools were established to teach Christian principles and the basics of learning and now these schools, with prayer and Bible removed, are teaching situation ethics, evolution and humanism and, if the innovators are permitted to continue, will be using dangerous, experimental, consciousness-expanding techniques and experiences such as mysticism, occultism, hypnosis, extra-sensory perception, Yoga, Zen Buddhism, meditation, body and sensory awareness and anything else required to train the child into the "New Universal Man" for the "New Age," i.e., for one world government; and

Whereas, For several decades textbooks have found fault with United States political and economic systems, have omitted accounts of American heroes and heritage, and have condemned nationalism and patriotism while extolling internationalism, communism, and world government; and

Whereas, Recent exposure of textbooks, anti-American and morally destructive, discloses obscenities, blasphemy, violence, poor grammar, disrespect for authority, and tolerance of sexual freedom, drug abuse and alcohol; and

Whereas, For example, a Fifth Grade Social Studies Course, *Man: A Course of Study* (MACOS), was designed by a team of experimental psychologists to mold children's social attitudes and beliefs for the "New World Society" and was funded by the United States taxpayers through Congressional appropriations to the National Science Foundation; and

Whereas, This course, used in forty three States and sixteen foreign countries, teaches, through group dynamics: cruelty, violence, immorality and death, including wife-swapping as a necessity, cannibalism, killing of baby girls, and the enactment of "play roles" by children in which assault and murder are portrayed as acceptable means for survival, all of which will almost certainly result in the brutalizing of school children, making them insensitive to cruelty, suffering and immorality; and

Whereas, The greatness of a nation depends upon the moral and intellectual quality of education given to its youth; now, therefore, be it

Resolved, That the National Association of Pro America commend Congressman John Conlan of Arizona for his thorough investigation of congressional appropriations to finance the perversion of America's public school children and his efforts to stop funds for MACOS; and be it further

Resolved, That the National Association of Pro America reaffirm its Resolution No. XVI, 1972 (opposing the "Planning, Programming, and Budgeting System," including its Goal-setting Process) and support all past resolutions in favor of traditional American education.

OPPOSE USURPATION OF POWER BY FEDERAL COURTS

Whereas, The United States Constitution and Bill of Rights comprise an instument of government by sovereign States as a binding contract in order to form a more perfect union; and

Whereas, The Constitution delegates to the federal government strictly limited powers and duties; and

Whereas, The first eight amendments of the Bill of Rights further place specific prohibitions on the federal government; and

Whereas, The Ninth and Tenth Amendments to the Constitution reserve to the States or to the people powers not delegated to the federal government, not prohibited to the States; and

Whereas, The Supreme Court committed a basic error when without authority it incorporated and merged the first eight amendments into the Fourteenth Amendment, and thus made all provisions of the Bill of Rights into restrictions upon State governments; and

Whereas, Pursuant to this misconstruction of the Fourteenth Amendment the Supreme Court has nullified decisions of juries, trial courts and the highest appellate courts of States, and thus has overruled responsible, elected officials; and

Whereas, Unelected Supreme Court justices, appointed for life, are by usurpation of power threatening destruction of the very foundations of the Constitutional Republic of the United States of America; now, therefore, be it

Resolved, That the National Association of Pro America reaffirm its position as stated in Resolutions Numbers 285 (1967), 300 (1968), 304 (1969) and Numbers II and XI (1972), in which Pro America urges Congress to exercise its authority under Article III, section 2, of the Constitution, and proceed to remove from the Supreme Court its appellate jurisdiction in those classes of cases reserved to the States in the Ninth and Tenth Amendments to the Constitution, and to prohibit all inferior courts from exercising jurisdiction in those reserved fields (Article I, Section 8, paragraph 9, and Article III, section 2).

URGE ABOLITION OF FOOD STAMP PROGRAM

Whereas, the Federal Food Stamp Program, launched by President Kennedy, has become a fiscal monstrosity and a budgetary nightmare; and

Whereas, This program mushroomed from $200 million involving 3.2 million people in 1969 to almost $4 *billion,* involving 15.8 million people in 1974; and

Whereas, This Department of Agriculture program has been in existence for over ten years, yet Mr. Royal Shipp, Director of the Department, admits that there is still not any precise accounting as to how the taxpayer's money is actually being spent; and

Whereas, Representative Martha Griffiths, whose Joint Economic Subcommittee investigated the program, reports that in two or three years *60 million* people will be eligible, at a cost of *$10 Billion,* an estimate which raises the question as to whether more than one out of five American citizens must be fed through public charity; and

Whereas, The whole concept of federal public charity is unconstitutional; now, therefore, be it

Resolved, That the National Association of Pro America reject the idea of unconstitutional federal charity financed involuntarily by United States taxpayers; and be it further

Resolved, That the National Association of Pro America urge Congress to abolish the Food Stamp Program.

MIZPAH COMMUNITY CENTER

HON. TENNYSON GUYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. GUYER. Mr. Speaker, as all of us are well aware, the legislation which would continue the general revenue-sharing program is currently pending before the Government Operations Committee. It now appears that some Members of the Congress think that the funds which are currently being returned to local communities are not being used with maximum effectiveness and that this flow of taxpayers' money should be administered by some nameless bureaucrat in Washington, D.C.

Mr. Speaker, I strongly disagree with this line of thinking. The general revenue-sharing program has been of great value to all of the states as well as my constituents in Ohio. It is my belief that this program should be continued.

The following article which appeared in the County News is just one example of how these funds have been put to productive use for the people of my district:

REVENUE SHARING STARTS CHILD CARE PROGRAM

ALLEN COUNTY, Ohio.—It has often been said that the test of a society's civilization is the manner in which it treats its youth, aged, and disadvantaged.

Mispah Child Care Center here is an example of how one county has met and surpassed the exacting eye of social progress with revenue sharing dollars. This program is located in the south quadrant of the city of Lima where unemployment, poor housing, underemployment and increasing welfare dependency is widespread.

The Child Care program, part of the Mizpah Community Center Inc., opened Sept. 4, 1975. The center defined its role as working to "facilitate employment, training, educational development and decrease public assistance dependency through providing comprehensive child care for the children of area residents wishing to become and/or remain self-supporting."

Revenue sharing funded the first four months of the program. Local churches, special projects and contributions totaled $29,375.94.

"If it hadn't been for $11,000 from revenue sharing, said Robert Townsend, president of the Board of County Commissioners, "I don't see how this program would be underway . . . local government sources could not have funded it."

Forty-six families in the program formerly received Aid to Dependent Children (ADC) payments from Welfare. The total of those Welfare services was $220,248. Under the program the same 46 families have become self-sustaining, earning a total of $230,000.

If Mizpah closed down those 46 families would return to welfare dependency, 26 employes trained would return to welfare dependency, $580,248 would be lost to society as non-taxable ADC, $220,248 would be needed to assist 46 families to return to ADC, and $450,248 would not be saved to the taxpayers of Allen County per year.

Most tragic would be the families and children. They would not be self-supporting and independent of Welfare.

Revenue sharing, now up for renewal by Congress, has been credited for helping to get this program started. More funds will be needed to keep it going.

THE INTERESTS OF AMERICAN LABOR WILL BE BEST SERVED BY A U.S. WITHDRAWAL FROM THE INTERNATIONAL LABOR ORGANIZATION

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. KEMP. Mr. Speaker, the interests of American labor will be served best by a U.S. withdrawal from the International Labor Organization—the ILO—one of the special agencies of the United Nations which time after time takes decisively anti-American stances.

This is the position taken last month by our Secretary of State, our Secretary of Labor, and the president of the AFL–CIO, Mr. George Meany. I could not agree more.

On November 6, a press conference was held here in Washington to announce the intention of the United States to withdraw from the ILO 2 years hence unless major, substantive changes in its direction and policies are apparent.

A convincing case against further participation in the ILO was made at that press conference by Mr. Meany. Here are some excerpts from those remarks:

Get the ILO back to its original purpose. The ILO was set up to improve labor standards, improve working conditions, and promote human rights.

The promotion of human rights has always been recognized as the promotion of the right of freedom of association; in other words, the right to have a free trade union.

For many years the ILO followed that principle quite rigidly until the Soviets and these blocs of other nations came in some years back and the whole character of the ILO was changed. It became a political sounding board to carry out propaganda for these nations who are really not eligible to belong to the ILO. When the Soviet Union first applied for membership in the ILO as a member unit of the United Nations in the early fifties, it asked for a waiver of the (ILO) Constitution, said that they could not meet the requirements of the Constitution. They were properly told by the ILO if they can't meet the requirements of the Constitution you cannot come in.

The following year they made an application and made no request for a waiver. They said that they would abide by the Constitution. Now it's like everything else they do. They had no intention of abiding by the Constitution and the ILO had performed great service up until about ten or fifteen years ago. The ILO is not performing the service today.

* * * * *

There shouldn't be any technical assistance unless it is for the purpose of improving working conditions and creating employment and promoting human rights, and the greatest human right that can be used to promote employment, to improve working conditions, is the right for workers to get together and associate with one another in a free trade union.

Now this right is denied. It's denied in a good many of the countries that are members in the ILO, and the ILO officially just closes its eyes just as if this didn't exist. For instance, the tripartite structure of the ILO (requires that a member country must have) representatives of workers and representatives of employers (and representatives of government). However, the Soviet bloc countries' representatives are representatives of government.

* * * * *

There is a double standard there, and this can be proven by the record. And the office of the ILO does nothing whatsoever.

* * * * *

Now, I have had to sit in plenary session with the ILO where they discuss the Director General's report. They discussed it for three weeks; three speakers in the morning; three or four speakers in the afternoon. And we kept a score sheet of it and speaker after speaker did not address themselves to the Director General's report.

Then they would launch an attack on the United States of America, speaker after speaker. This went on year after year.

The absurdity of all this, Mr. Speaker, is that the United States has been the principal source of funding for the ILO. They have been taking U.S. funds—which are the tax revenues from our working men and women and the companies for which they work—to promote often virulent anti-American, anti-free trade union propaganda. To continue giving away millions of American dollars for those purposes is downright ridiculous.

The widely respected American labor columnist and commentator, Victor Riesel, recent analyzed the goings-on at the ILO, and I think it is well worth the attention of every Member to read his column. I now include it at this point in the RECORD:

LUSH MINI-WORLDS: UNITED STATES PAYS HEAVY CASH FOR INSULTS BY POSH U.N. NETWORK OF UNCHECKED AGENCIES

(By Victor Riesel)

UNITED NATIONS.—Some of our crack federal probers—men not even impugned by congressional intelligence investigation committees—some time ago decided it was virtually impossible to trace or check the hundreds of millions of dollars spent yearly by the UN Secretariat.

Yet I can report that it costs the United States some $35 million annually, in just one specialzed UN agency—the International Labor Organization (ILO)—to be insulted, taunted and degraded. It isn't easy to track down this money but I did spend some time in the ILO headquarters city, Geneva, Switzerland. There I found the ILO to be a sort of combination Monaco-Andorra—a tiny unsupervised mini-government of its own ruled over by a self-made elitist, 59-year-old Francis Blanchard.

This is a happy litle self-contained world. No worry about budgets—until the other day when the U.S., through Secretary of Labor John Dunlop, gave formal notice of withdrawal in two years unless this little-known enclave reforms itself. After howling at the U.S. for years, the ILO civil service, some 3,100 strong, now is howling because we refuse to pay for the privilege any longer.

But for two years they will have a budget—some $143.9 million for fiscal 1976–77.

They manage to live well on this—as do scores of other mini, self-sufficient UN units of govern-yourself bureaucracies.

For example, ILO director-general Blanchard, who truly never had it so good in his native France, "earns" a net of $100,000 yearly. His taxes are cared for. His salary runs to $74,800 a year. He receives an additional $20,000 for "representation" expenses—whether or not he spends the money. Also, to make him more comfortable in beautiful Geneva, he receives as do the others "post" cost of living allowances, and extras such as family and educational allowances.

Of course, all his arduous work (much travelling) requires a number of deputies to help Blanchard, whom I observed literally frighten some of his press corps into silence. The deputies receive the same allowances—and are paid from $50,000 to $60,000 a year.

The UN architects run to glass. So when they planned the new ILO building (much needed, of course, since the bureau keeps expanding itself) they decided on 4,000 panes for the slightly-curved facade of the three-group palace.

After all, the old palace was finished in 1926. So one must move with the times. The new headquarters in Grand-Morillon is near the World Health Organization which at least does some good, like wiping out smallpox and saving the U.S. about $140 million in annual health care.

The new ILO palace already has cost over $53 million. And it's still being enlarged though Blanchard's glass-enclosed penthouse-type office is snugly complete with a beautiful view.

The ILO "palais" already has 1,250 offices for 2,100 bureaucrats (many of them reportedly intelligence agents shoved in by the Communist bloc according to our own counter-intelligence officials); a dozen conference rooms, a restaurant, a library for some 300,000 books, a telecommunications center, a post office, a bank and, mind you, an underground car park for 1,400 vehicles.

Just to make certain no one has to walk a fight or two, there are 23 elevators, an independent power plant. And so no one gets claustrophibia—there already are 2,000 phones.

Where's the money coming from? Some 25 per cent is from the U.S. directly. And other millions are siphoned in from something called the United Nations Development Program. This UNDP gave the ILO about $27.5 million in fiscal '74—or more than one third the total ILO budget. Thus the UNDP has great hold on the ILO—and we all now know who controls the UN Secretariat and General Assembly.

Now note this: in 1974 fiscal year the U.S. put $90 million into the UNDP. The U.S.S.R. decided to be magnanimous and threw in $3.5 million. Right, $3.5 million.

And then the Russians and the East Germans decided they qualified as underdeveloped nations—and drew $4.4 million.

But in 1975 fiscal year, we put in another huge sum. The Soviets decided to go Diamond Jim Brady and paid in $4 million.

And together the Russians and the East German little brother drew out $10.2 million. It's all on the record in the UNDP files.

Thus goes the United Nations. We pay 25 per cent of all costs. As the years roll along the anti-U.S. blocs grow more influential, draw more money and insult us more sneeringly. The ILO is merely one of the many independent bureaucracies which actually govern themselves.

Thus the super government is made up of a network of mini-governments—heavily financed by you know who.

Mr. Speaker, after reading that column, the only thing one is left to wonder about is why we're giving the ILO 2 years to shape up, rather than discontinuing our association and contributions much sooner.

COMMENTS ON MEDIA COVERAGE OF U.S. ADMINISTRATIVE CONFERENCE REPORT

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. VANIK. Mr. Speaker, on November 16, the Administrative Conference of the United States report on the IRS was released and was widely reported on in the news media.

The Oversight Subcommittee of Ways and Means will soon begin a series of hearings on the findings of the report and the actions the IRS is taking to improve its administrative procedures.

I would like to enter in the RECORD at this point several comments which those responsible for the Administrative Conference report made on the media's coverage of the report:

ADMINISTRATIVE CONFERENCE
OF THE UNITED STATES,
Washington, D.C., November 19, 1975.

LETTER TO THE EDITOR,,
The New York Times,
New York, N.Y.

TO THE EDITOR: The opening sentence of your front page article of November 17, on a consultant report to the Administrative Conference about Internal Revenue Service procedures, imparts an impression of one-sidedness and stridency that is unfair both to the authors of the report and to the Internal Revenue Service.

It grievously mischaracterizes the findings and overall tenor of this carefully prepared report to say it found that the Service frequently is "whimsical, inconsistent, unpredictable and highly personal" in its treatment of taxpayers. The sentence from which the quoted adjectives were drawn does not purport to characterize the findings of the report as a whole. It is an isolated observation about the consequences that might be anticipated from insufficient management control in the I.R.S.'s Collection Division: "Without any guidelines to steer employee conduct, it is likely to be whimsical, inconsistent, unpredictable, and highly personal." The quoted language can by no stretch be read as intended to apply beyond the area of collections. The misplaced emphasis on these adjectives is aggravated by quoting them again in today's editorial to describe the Service's record in dealing with taxpayers.

It is also regrettable that neither the article nor the editorial referred to the discussion in the report of recent procedural improvements made by the Service.

ROBERT A. ANTHONY,
Chairman.

WASHINGTON, D.C.,
November 19, 1975.

MR. ROGER WILKINS,
Editorial Page,
New York Times,
New York, N.Y.

DEAR MR. WILKINS: As a member of the Steering Committee which advised the Administrative Conference Study of Internal Revenue Procedures, I was disturbed by the tone of the story which appeared on Monday, and the editorial on Tuesday.

The Administrative Conference Study took over a year and involved the work of a number of consultants. They all received the cooperation of Commissioner Alexander and his staff. Indeed, the IRS, during the study, indicated in a number of areas its recognition of problems and desire to find better administrative techniques to handle them.

The study on the whole found the IRS to be an agency doing a good job. The study attempts to make recommendations for improvements.

The opening sentence of the news story, repeated in the editorial, is an erroneous impression of the study. It did not find the Service "whimsical, inconsistent," etc. It stated that if proper controls were not maintained, those things might occur.

I have had the unique experience of being a lawyer in private practice opposing the Service, serving as its Commissioner and Chief Counsel, and now as a member of a study. While I support the recommendations of the study, I find they are not inconsistent with a high regard for the IRS and its personnel.

Sincerely yours,
SHELDON S. COHEN.

MCLEAN, VA., *November 20, 1975.*

MANAGING EDITOR,
Washington Star News,
Washington, D.C.

DEAR SIR: As the person laregly responsible for the tone and content of the report to the Administrative Conference of the United States on some administrative procedures of the Internal Revenue Service, I found your reporting of that document in a banner headline misleading.

The report was a study of some procedures of the Internal Revenue Service. We found areas where criticisms were justified, and we also found areas where favorable comments were warranted. Where we thought improvements could be made, there were recommendations. The report did not state that the Internal Revenue Service was "inconsistent, unpredictable, personal." It stated that, unless constrained, employee conduct would likely have these characteristics. There followed a lengthy passage on the constraints used by Internal Revenue Service. Certainly justice to nearly 1,000 pages of serious discussion can hardly be accomplished in a three-word headline. This difficulty is compounded when the headline also misrepresents.

In fairness to all (including those of us who worked on the report), you should endeavor to correct the misleading image of our work.

Sincerely,
CHARLES DAVENPORT,
Principal Consultant,
Administrative Conference.

U.N. SERVES AS WHITE ELEPHANT, TROJAN HORSE, AND JUDAS GOAT

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. McDONALD of Georgia. Mr. Speaker, Mr. Robert W. Lee, writing in the Review of the News for December 10, 1975, has reminded us of the essential meaninglessness of United Nations pronouncements on the subject of human rights. A close reading of various "human rights" declarations reveals their similarity to declarations emanating from that citadel of liberty, the Soviet Union.

Quite brilliantly, I think, Mr. Lee draws to our attention that the United Nations can be viewed as a "troika" comprised of a white elephant—awarded to royal courtiers for the purpose of causing them to spend themselves broke in its support—a Trojan horse—by means of which enemy forces are brought into the city—and a Judas goat—used to lead victims quietly to the slaughter. I believe his revelations and insights are worth study and consideration by my colleagues. The article follows:

HUMAN RIGHTS WEEK AND THE UNITED NATIONS—BETRAY THE PEOPLES OF THE WORLD

(By Robert W. Lee)

During most of its first three decades, the United Nations was viewed by many Americans as a sacred cow. But times have changed, and today the U.N. is increasingly regarded as a *troika* composed of a white elephant, a Trojan horse, and a Judas goat.

White elephants were the rare albino pachyderms which automatically became the property of Siamese kings, who would then present them to courtiers they didn't like. Since the white elephants were not allowed to work, could not be disposed of without offending the king, and had enormous appetites, they would eventually reduce the courtier to run. The United Nations, a "gift" to our country from the *Insiders* of the international Establishment, has had roughly the same destructive impact. The decline of our national honor, influence and independence since 1945 has resulted, in large part, from the manner in which our foreign policy (and some of our domestic policies) have been molded to meet United Nations specifications.

The Trojan horse was presented as an offering of peace and good will to the people of Troy, when in fact it was loaded with Athenian warriors bent on Troy's destruction. The main difference between the Trojan horse and the U.N. is that the Trojans didn't know in advance that the horse contained their enemies, whereas the U.N. was wheeled into New York City with the full knowledge of our leaders that its key posts were controlled by Communists and other anti-Americans, and that diplomatic immunity would give our enemies a protected base for their operations within our borders.[1]

JUDAS GOATS are animals trained to lead other animals peacefully to slaughter. Their job is to keep the victims deluded about the actual situation until it is too late to do anything about it. Similarly, propagandists for the U.N. have consistently misled the American people regarding the true nature of the world body, implying that it is carrying us along the road to peace when, in fact, it is taking us down the garden path toward a Communist-style World Government. Such deception has become so central a feature of United Nations operations that it is doubtful the organization could survive without it.

At this very moment, for example, we are in the midst of "Human Rights Week," proclaimed by President Ford to celebrate the anniversary of the adoption of both the U.N.'s Declaration of Human Rights (December tenth) and our Bill of Rights (December fifteenth). By tying the two documents together in the public mind in this manner, the misleading impression is created that the U.N. views human rights in the same light as did our Founding Fathers. President Ford has claimed: "The link between it [*the Universal Declaration*] and our Bill of Rights is clear," and his predecessor, Richard Nixon, once declared: "The Universal Declaration of Human Rights by the United Nations General Assembly is in the tradition of our Constitution and its Bill of Rights." Actually, the philosophy of rights under the U.N., as we shall see, is similar to that of Communist and other totalitarian systems, not that of our Constitution and Bill of Rights.

There are two basic concepts of the origin of human rights. One assumes that such rights come from government; the other holds that they come from a source outside of government. If rights come from government, it follows that government has the responsibility both to say what they are and to provide the material means by which they may be exercised. Such a view of human rights is entirely consistent with communist, socialist, fascist, and other collectivist systems. During the debate about the Universal Declaration of Human Rights in the General Assembly on December 10, 1948, Soviet spokesman Andrei Vishinsky asserted:

The rights of human beings cannot be considered outside the prerogatives of governments, and the very understanding of human rights is a governmental concept.

This position is faithfully reflected in the Soviet Constitution. For example:

ARTICLE 125

In conformity with the interests of the working people, and in order to strengthen the socialist system, the citizens of the U.S.S.R. are guaranteed by law:

(a) freedom of speech;

(b) freedom of the press;

(c) freedom of assembly, including the holding of mass meetings;

(d) freedom of street processions and demonstrations.

These civil rights are ensured by placing at the disposal of the working people and their organizations printing presses, stocks of paper, public buildings, the streets, communications facilities and other material requisites for the exercise of these rights.[2]

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[1] Former F.B.I. Director J. Edgar Hoover, testifying before the House Subcommittee on Appropriations on April 17, 1969, observed: "The Chinese Communists do not have a legal base in the United States from which to conduct intelligence operations." This problem was solved two years later by Richard Nixon and Henry Kissinger when they maneuvered Red China into the United Nations.

Ask yourself: How much freedom of the press can exist where publishers are dependent on government for their printing presses and stocks of paper? And how much freedom of speech can there be when government takes responsibility for providing communications facilities?

In sharp contrast, the traditional American concept assumes that rights come from a Source outside of government ("all men . . . are endowed by their Creator with certain unalienable Rights"), and that government's job is to protect them—not infringe or otherwise violate them. . . . Covenants on Human Rights submitted to the General Assembly in 1955. The Covenants were formally adopted by the Assembly on December 16, 1966, and will carry the force of law should we ever ratify them. The prospect is frightening, since every so-called "right" set forth in the Covenants may be abrogated at the whim of whatever political faction happens to be in power at a given moment, without violating the Covenants! Rather than complementing our Bill of Rights, the U.N. Covenants would repeal the Bill of Rights.

Consider these examples, taken from the "International Covenant on Civil and Political Rights" printed in the U.N. Monthly Chronicle for February, 1967:

ARTICLE 18

> 1. Everyone shall have the right to freedom of thought, conscience and religion. . . .
>
> 3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedom of others. . . .

Neither a Hitler, nor a Mao Tse-tung, nor any other totalitarian dictator could find fault with that wording, for if they wished to suppress a religion, they would need merely to claim that the sect constituted an offense against the morals and order of the community. The subsequent suppression could then be instituted without the slightest violation of the Covenant. Contrast such nonsense with the U.S. Bill of Rights (Article I): "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . ." Period! But let us continue with the U.N. hoax:

ARTICLE 19

> (Rights given): "2. Everyone shall have the right to freedom of expression; . . ."
>
> (Rights taken away): "3. The exercise of the rights provided for in Paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law. . . ."

ARTICLE 21

> (Rights given): "The right of peaceful assembly shall be recognized."
>
> (Rights taken away): "No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law. . . ."

ARTICLE 22

> (Rights given): "Everyone shall have the right to freedom of association with others. . . ."
>
> (Rights taken away): "No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society. . . ."

This same give-and-take technique is also evident in the Declaration of Human Rights, in which all of the alleged "rights" set forth are hamstrung by Article 29, which asserts:

> (2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
>
> (3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Clearly, the spirit of the U.N.'s Declaration of Human Rights and Covenants on Human Rights is in serious conflict with that of our Bill of Rights. Yet many of our political leaders and others would have us honor them equally during a "Human Rights Week."

A somewhat similar example of deception has to do with the opening words of the Preamble to the U.N. Charter: "We the peoples of the United Nations . . . ." It is hardly a coincidence that this phrase so closely parallels the wording of the Preamble to our Constitution: "We, the People of the United States . . . ." It was the U.S. delegation at the San Francisco Conference which suggested this plagiarism, despite the fact that the U.N. Charter provides no role for "peoples" at all—only governments. As LeLand M. Goodrich and Edvard Hambro observe in Charter Of The United Nations: Commentary And Documents (Boston, World Peace Foundation, 1949, Page 20):

> While the Preamble to the Charter opens with the words "We the peoples of the United Nations," the concluding words of the Preamble, "Accordingly our respective Governments, through representatives assembled in the city of San Francisco," etc., makes it clear that the Charter is not a constituent act of the people of the United Nations, but rather an agreement freely entered into between governments.

And Emery Reves, a fanatical advocate of a World Government, notes in The Anatomy Of Peace (New York, Harper & Brothers, 1945, Page 285):

> "We, the people . . ."—these symbolic words of democratic government—do not belong in the San Francisco Charter. Their use in the preamble is in total contradiction to everything else in it, and only historians will be able to decide whether they were used from lack of knowledge or lack of honesty. The simple truth requires that "We, the people . . ." in the preamble of the charter be accurately read: "We, the High Contracting Powers . . . ."

There would seem little question that those who wrote "We the peoples" into the Charter were not ignorant but dishonest since, as Goodrich and Hambro pointed out, it is made clear further along in the Preamble itself that governments—not "peoples"—are the operative U.N. contractors. It was a cleverly deceptive move, as those first few words of the Charter's Preamble have been extensively quoted over the years to give the Charter a much-needed humane coloration. In 1946, for example, the National Education Association published a United Nations edition of The American Citizens Handbook, in which an N.E.A. propagandist falsely claimed:

> With its opening words, "we the peoples," the Preamble shows that it is speaking for the peoples of the world instead of merely for their governments.

In April of 1962, the U.N. Office of Public Information published a booklet entitled Guide To the Charter Of The United Nations, which noted:

> One striking feature of the Preamble may be noticed. The Covenant of the League of Nations and many other international documents begin with the phrase "The High contracting parties," but the Preamble, like the Constitution of the United States, speaks in the name of the peoples.

And on May 15, 1975, during testimony before the Senate Foreign Relations Committee, Bruno V. Bitker, Chairman of the American Bar Association's Advisory Committee on World Peace Through Law, asserted:

> It is significant that the Constitution begins, "We, the people of the United States, instead of, "We, the States." That phrase, 'We, the people" is also the opening phrase of the United Nations Charter.

Thus are false impressions created and manipulated to mislead Americans into believing that documents of the United Nations are similar in spirit to those which served as the foundation of the free American Republic.

Fortunately, however, the American people are awakening to this con game to realize that the solution to the U.N. problem lies not in cutting our share of its budget,[3] or condemning it rhetorically from the rostrum of the General Assembly, but in getting US out!

Knowing the truth may yet set us free.

IMPORTANT PROGRESS ON METRIC CONVERSION

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. VANDER JAGT. Mr. Speaker, at long last, it appears that Congress is going to authorize the Federal Government to coordinate the country's voluntary conversion of its measurements to the metric system. Both the House and Senate passed bills on conversion, giving a basis for hope that agreement can be reached in sufficient time to send this legislation to the President in 1975.

Under the pending legislation a national board would have the responsibility of developing a program of planning, coordination, and public education with respect to adoption of the metric system. The precise pace and specific details of conversion would be left to the industries and economic sectors themselves.

The United States is the only industrial nation in the world which is not already a metric country or which has not announced a metric policy. The United Kingdom, Australia, Canada, South Afica, New Zealand, India, and Japan have all recently announced intentions to convert or have done so. The Secretary of Commerce has reported to Congress that increasing use of the metric system in this country is inevitable and has urged that Congress establish a basis for coordinated, nondisruptive transition.

The Muskegon Chronicle on November

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[2] Constitution (Fundamental Law Of The Union Of Soviet Socialist Republics (Moscow, Foreign Languages Publishing House, 1960), Pages 108–109.

[3] Proposals to cut our formal U.N. budget assessment are meaningless ploys to help certain Members of Congress appear critical of the U.N. without doing anything truly effective to oppose it. It is the "respectable" approach—respectable because the mere venting of anti-U.N. steam only plays into the hands of those anxious to save the world body. You may be sure that for every dollar allegedly "cut" from our formal commitment one or two others will be slipped through the back door via "voluntary" contributions to the U.N.'s specialized agencies and in other ways.

20, 1975, pointed out the importance of the pending legislation in a major editorial. I am pleased to bring this statement to the attention of my colleagues in Congress and to urge completion of action on the bill:

UNITED STATES ONLY MAJOR HOLDOUT—STOP STALL ON METRIC: GO THE LAST KILOMETER!

Legislation has been revived in the U.S. House of Representatives that would go at least part of the way toward converting this nation to the metric system of measurement.

A small part of the way, actually—it would set up a 25-member national board to help coordinate a voluntary conversion—but if adopted into law it would at least move the nation off an indefensible dead-center stand.

In the past few years Tonga, Trinidad and Gambia have taken the plunge into metrication, leaving the United States sharing the boat with such industrial giants as Brunai, Burma, Liberia and Yemen as the only countries in the world still on the holdout list.

Objections to the bill by labor—which wants a general subsidy program to help workers pay for metric tools—would not seem insurmountable, particularly as balanced against the saving in time, money and confusion that could be effected through a coordinated change.

It's passing strange that the nation which has been in the forefront of technological change since the earliest decades of the machine age remains woefully behind the times in its system of weights and measures.

We readily adopted decimalization of our monetary system at the time of our founding, but couldn't seem to accept the convenience of easily divisible units for our weights and measures. Perversely, we chose to retain the weird English system where a yard—the distance from the tip of the nose to the end of the middle finger on the extended arm of King Edgar (944–974 A.D.)—multiplied 1,760 times equals a mile.

Now, even Britain has changed, as has Canada, and Australia is two years ahead of schedule in a conversion now expected to be complete by 1978.

This leaves us alone as the only major nation in the world that hasn't switched to the metric standard.

We should get with it—for monetary reasons alone, especially in the field of foreign trade—and we voice the hope again that the House will stop its footdragging (little opposition is expected in the Senate) and adopt metric legislation that the Commerce Department estimates would increase our export trade by $1 to $2 billion a year.

It is estimated that we have lost as much as $25 billion in foreign sales over the last 10 years because most nations want to buy metric goods. Many businessmen in metric nations prefer to shop in other metric nations which offer products with familiar and interchangeable sizes, shapes and volumes. Other things being equal, the impediment of a different set of weights and measures can mean a sale or no sale.

True, conversion would be expensive. Within the steel industry changeover costs are estimated at over $2 billion. But the proponents of change contend that in the long run savings would be much greater—an estimated $700 million a year in education alone through more efficient instruction in mathematics.

A shift to metric would cause quite a wrench in the thinking processes of Americans and would, certainly, require an extensive educational campaign. The "wrench" is one of the reasons the pound hangs so tough, and may offer a partial explanation of the lack of congressional action to date.

The last two Congresses voted down metric change bills, although the 93rd Congress did authorize $10 million for metric education, recognizing that "increased use of . . . the metric system in the United States is inevitable," and that "such a metric system will become the dominant system of weights and measures in the United States."

The problem is how to do it with the least disruption. Millions of workers will have to be taught to "think metric" and talk in a new vocabulary of kilograms and centimeters. That won't come easily, although Australia reports its "quick plunge" conversion is going well. We think most Americans—the small fry in particular—would adapt without too much difficulty.

The automobile and pharmaceutical industries already have bitten the metric bullet. The greater efficiency and accuracy of metric has long been recognized in scientific and technical fields, and every high school science and math student has had at least a brush with it. Supporters of metric change contend that if major U.S. exporters are to continue to compete successfully in world markets they must, sooner or later, follow the lead of the carmakers and drug houses.

The Commerce Department lists 40 major companies that have committed themselves to the use of the system, and says that all 50 states are committed to changing to the metric system in their education departments. A number of states plan to change textbooks to the metric system in 1976, and some 13 states have begun to include metric distance information on some road signs.

The U.S. Forest Service and National Park Service are adding metric information to their signs, and a number of other departments and agencies are carrying out metric activities. It also is reported that the U.S. wine industry is implementing a plan to begin use of metric bottle sizes in January, 1979.

So, as a practical matter, the die is cast.

An act of Congress, officially fixing the international metric system as our standard of weights and measures would greatly accelerate the trend. If the government were to require that all of its purchases and operations be conducted in metric units, the rest of the country, like it or not, would be dragged along.

Sure, those of us who have trouble "unlearning" and learning new tricks would find it painful. But this would pass as we all moved together along the road to a liter of milk, a kilogram of potatoes, and 10 kilometers to the next gas station.

Some of it would die hard—pounds, feet, yards, quarters, not to mention grains, bushels, pecks, rods, ounces—but it is more than likely many nonmetric units would remain in use. There would be no need, for example, to abandon such familiar terms as hand, furlong, cord, the printer's pica or, for that matter, "pinch."

The housewife, buying a new measuring cup, would not be inconvenienced if the units were in ounces on one side and in metric measure on the other. She'd still have a cup of sugar. Milk would come in liter containers, but we'd probably still call them quarts, and it would be useful for a time if the state highway departments, when they replace the road signs, would let us know that Detroit, say, is 50 miles *or* 80 kilometers down the pike.

And no one is seriously suggesting—or so we would hope—that a first down on the football field (such as one of the many Michigan will get Saturday against Ohio State) would mean 9.144 meters to go.

Some relics of the old system doubtless will hold on for decades. We shouldn't have to update the old sayings: A miss will still be as good as a mile, and love can still be measured by the bushel and the peck if lovers so choose. And, after all, we still rate engines by the power of the vanished horse, don't we?

The change, we are convinced, is in the best interest of the nation. The House should act affirmatively in this session. It's time a real start was made.

COMMONSENSE NEEDED IN REGULATIONS DEALING WITH INTERNATIONAL AFFAIRS

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. FUQUA. Mr. Speaker, Mr. William M. Rountree has retired after a distinguished career of public service, having held the rank of Ambassador.

Recently Mr. Rountree wrote a letter to the distinguished television commentator, Howard K. Smith, relative to the need for sensible policies insofar as the need for secrecy in certain international relations, as well as curbing excesses which may have occurred in the past. There is a balance which must be achieved.

His letter so impressed me that I ask that it be reprinted in the pages of the CONGRESSIONAL RECORD. That which Mr. Rountree has to say is both reasonable and prudent and I commend his remarks to my colleagues and the American people:

NOVEMBER 18, 1975.

Mr. HOWARD K. SMITH,
ABC–TV,
New York, N.Y.

DEAR MR. SMITH: Your editorial comment on this evening's news broadcast concerning public disclosure of matters heretofore handled with secrecy impels me to write of my warm appreciation and endorsement of your caution that a dramatic swing in the pendulum is placing our nation in a highly disadvantageous position.

It is well that recent events brought about a public awareness of unwise and illegal actions, not only by the Nixon Administration but also by other Administrations, both Republican and Democratic. Strong deterrents to excesses in the future are of course called for. But as a former Ambassador to four countries, Assistant Secretary of State, and an officer in the State Department and Foreign Service for over 30 years, engaged in important and complex international relations in several presidential administrations, I am acutely aware of the absolute necessity of holding many matters in the closest secrecy. Whatever deterrents are adopted should be wholly consistent with this fact of life.

If our interests are not greatly to suffer, we must be able to assure nations and individuals with whom we are in contact or negotiation that confidences can and will be respected. It would be sheer folly to deny to ourselves the capacity, enjoyed by all of our adversaries, competitors and friends alike, to plan and carry out diplomatic and intelligence operations deemed by the President and his Cabinet Officers to be in our national interest, without adhering to procedures designed to share knowledge so widely that disclosure would be likely or inevitable.

In the wake of public resentment of certain unfortunate and highly publicized incidents, our security, intelligence and police agencies must not be so crippled as to render them incapable of carrying out their vitally needed functions.

I therefore hope that you and your colleague, Mr. Reasoner, will pursue this subject in future programs. No one can more effectively bring to the attention of our fellow citizens, including our representatives in Congress, the need to balance the objective of proper restraints with a common-sense recognition that closely held and guarded secrets are indeed essential tools in achieving our national security objectives.

With kindest personal regards and all good wishes,

Sincerely,

WILLIAM M. ROUNTREE,
Ambassador, Retired.

ECHOES OF DECADES PAST

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. BELL. Mr. Speaker, in much of what has transpired recently in the U.N. there are echoes of past decades which should not be passed over lightly by those committed to the principles of liberty and individual freedom.

In this connection, I would like to call to the attention of my colleagues in the Congress an editorial by Mr. Harvey B. Schechter which was published recently in the Los Angeles Times.

Mr. Schechter is the director of the Anti-Defamation League of B'nai B'rith's Pacific Southwest regional office.

The text of his article follows:

[From the Los Angeles Times, Nov. 13, 1975]

ZIONISM VOTES: SHADES OF A DISMAL PAST

(By Harvey B. Schechter)

Have you ever had the eerie feeling that something you are witnessing has happened before? For the past year that is precisely the way I have felt as I watched events unfold in the United Nations.

In Octber, 1974, I had the strange impression that "I had seen this all before" when the U.N. General Assembly voted 105 to 4 to permit an address by Yasser Arafat, leader of the Palestine Liberation Organization.

That feeling returned Monday when the same General Assembly approved, by a vote of 72 to 35 (32 nations abstained and 3 were absent), the anti-Israel resolution declaring Zionism to be a "form of racism and racial discrimination."

It is almost as if I am reliving the terrible years of 1935 and 1936. What possible connection can the votes on Arafat and Zionism have with that ghastly period? After all, the United Nations has passed many resolutions critical of Israel. Why are these two different from all the others?

A year ago, when the United Nations voted to permit Arafat to speak to the assembly (which then gave him a standing ovation), my thoughts went back to 1936 when a small man named Haile Selassie appeared before the old League of Nations in Geneva.

His homeland, Ethiopia, had been invaded by the Italian Fascists, and Selassie appealed to the nations of the world to do something about it. The league, however, turned its back on him, whereupon the Lion of Judah warned those nations that they, too, might well suffer the fate which had befallen his own country.

It took only three short years for the emperor's frightening prediction to come true. In September, 1939, the Nazi armies invaded Poland—and World War II was underway. Six years later, when the guns finally fell silent, approximately 35 million men, women and children were dead.

On Monday, it seemed as if it were 1935 all over again, but this time is was Israel to which the nations of the world turned a deaf ear. Indeed, in its way, this week's episode was far more damning than what occurred in Geneva 40 years ago.

Then, the League of Nations *merely* elected to sit passively while Fascists raped a helpless Ethiopia. At the United Nations this week, an absolute majority of the world's sovereign countries actively joined in the attack on Israel.

What, after all, is Zionism? What makes it so dangerous that it must be condemned as a "form of racism and racial discrimination?" Zionism is nothing more than the dream, the hope, the commitment that there be a Jewish state, a piece of soil to which Jews can emigrate—whether out of religious or ideological conviction or for simple physical survival.

That is all Zionism has ever been. That is all it is today.

To declare this movement "a form of racism" is to resurrect Hitler's "big lie," the propaganda technique whereby an outrageous and monstrous falsehood is repeated until people start believing it must be true.

It was exactly 40 years ago that Nazi Germany passed the infamous Nuremberg Laws, which gave anti-Jewish edicts the color of legality and the cloak of legitimacy and respectability. We may very well be witnessing the first tentative steps toward an international version of those infamous laws. Jews who are citizens of those nations voting for the resolution on Zionism may be in physical danger.

If Zionism is "a form of racism and racial discrimination," are persons who believe in the basic notion of a Jewish homeland not themselves guilty of "racism and racial discrimination?" Are such persons to be subjected to whatever laws prohibiting "racism and racial discrimination" may exist on the statute books of countries that approved the resolution? Will those countries currently without such laws now put them on the books and apply them to their Jewish citizens?

Also: Will membership in a Zionist organization be the basis for criminal prosecution? What about membership in a synagogue which is pro-Israel? Will sending contributions to the United Jewish Appeal, which financially supports Israel, jeopardize an individual's legal status in his native country? Will we see charges brought against members of B'nai B'rith solely because they are members of an organization which has a strongly pro-Israel program?

Recently we heard Brazilian Foreign Minister Azeredo da Silveira accuse his nation's Jewish community of being "antipatriotic" because of its vigorous denunciation of the Zionism resolution, which the Brazilian delegation to the United Nations supported.

Clearly the resolution strikes at the very heart of the Jewish people—at our beliefs, our history, our traditions, our commitment and our very lives.

In 1933, when Hitler took power in Germany, tens of millions of Germans thought they were witnessing a private battle between Nazis and Jews. To be sure, Hitler did climb to power on the backs of the Jews, but it was not long before all Germans, Jew and Gentile alike, felt the Nazi lash.

During the 1930s the nations of the world thought they were exempt from the terrible brutality visited by the Nazis on the countries they took over one by one. They soon learned otherwise.

Today, Israel, a tiny democracy in a sea of despotic and totalitarian states, sticks like a bone in tyranny's collective throat. But just as Hitler's war against the Jews was only a prelude to his war against all nations which opposed him, the Communist-Arab-Third World war against Israel is, in my judgment, merely a herald of things to come.

The issue is not really Israel and Zionism. The issue is the survival of democracy. This is an issue that affects Jew and Gentile alike, just as Hitler's campaigns ultimately did.

Some may argue, of course, that to compare today's situation with 1935 and 1936 strains the facts because in those fateful years Germany, Italy and Japan were arming themselves for a war of conquest.

At present, however, the Middle East is a tinder box where, just two short years ago—during the Yom Kippur War—the world watched as the United States and the Soviet Union came to the brink of confrontation. While the alignment of forces may be quite different than that of 1939, the destructive potential of the current situation is infinitely greater.

The U.N. resolution condemning Zionism is an offense against reason, an offense against history and an offense against the human conscience.

Have the terrible events of the 20th century taught the world so little that today Israel must stand, like Ethiopia before it, and say, "I may be first, but all of you may very well be next"?

In 1936, the world ignored that warning, and the consequences are known to us all; indeed, we live with them still. Let us hope that Monday's U.N. vote has not set in motion forces which will prove equally destructive.

CONGRESSIONAL OPPOSITION TO EPA IS GROWING FAST

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. SYMMS. Mr. Speaker, last week I read into the RECORD a Barron's article concerning the environmentalists' war on pesticides. The November 17 issue contains a follow-up article on the same topic. I commend this article to my colleagues in Congress in the hopes that they will think about some of the facts presented:

WORM TURNING? CONGRESSIONAL OPPOSITION TO EPA IS GROWING FAST

(By Dana L. Thomas)

For the first time since 1970, when it gained its sweeping mandate from Congress, the Environmental Protection Agency has been threatened with legislative rebuff. Heretofore the EPA has been banning pesticides solely at its own discretion. However, a bill passed recently by the House requires it to notify the Secretary of Agriculture at least 60 days in advance of such a decision whereupon the USDA must prepare an analysis of the economic impact. The Senate has adopted a somewhat milder version of a bill imposing fewer restraints. Differences between the measures are being ironed out in conference.

Whatever the final version, the debate in Congress reflects a rising sentiment, to bring, as Rep. Wampler of Virginia puts it, "some accountability to the EPA's agricultural decision-making process." Since 1972, the agency, favoring the arguments of environmentalist groups, has banned DDT, a potent weapon against disease-bearing mosquitoes and agricultural pests, as well as Aldrin, widely used by farmers to protect corn crops from insects. Last summer, it announced plans to suspend the use of Heptachlor and Chlordane, employed to protect corn, grains, peanuts and citrus against a wide variety of pests. Currently, the EPA is scrutinizing two leading herbicides, crucial to forestry management, with an eye toward possibly removing them from the market.

CHALLENGE THE EVIDENCE

In each case, the EPA has used the argument that the chemicals posed "an imminent hazard" to health, although many eminent scientists challenge the evidence on which the decisions were made. They point out that the tests not only failed to produce any conclusive evidence of an imminent health hazard to humans if properly used, but also that the pesticides have provided substantial savings in the production of food. As a result, the bans hurt consumers as well as farmers. Three years ago, when hearings were being held on whether to ban DDT, Dr. Norman Borlaug, who won the Nobel Prize for introducing new high-yield grain strains, warned:

"As soon as DDT is successfully banned there will be a push for the banning of all chlorinated hydrocarbons. Then, in order, the organic phosphates and carbamate insectides. Once the task is finished on insecticides, they will attack the wood killers, and eventually the fungicides." A growing number of people believe that Dr. Borlaug's prophecy will come to pass—if environmental problems and the use of pesticides not placed in proper perspective.

Several hundred different species of insects attack forests and crops around the world. Many agricultural scientists are convinced that unless they are kept under control by the arsenal of chemical pesticides developed over the past 25 years, production of food and fibers will drop sharply. They point out that commercial farmers must use the chemical tools science has provided to protect their crops or they cannot earn a livelihood.

Caught in a cross-fire between opposing groups over a highly emotional issue, the EPA, according to some observers, is increasingly being forced to make decisions based on political considerations rather than scientific evidence. Even the latter is scarce and highly controversial. William Ruckelshaus, who as head of EPA banned DDT, admits that the "problem is of enormous complexity on which reasonable men can differ."

After environmentalists obtained the banning of DDT in 1972, they launched attacks on other key pesticides. Indeed, as early as December 1970, when the EPA became operational, the Environmental Defense Fund (the legal arm of the environmentalist groups) petitioned to have all uses of Aldrin immediately suspended. The EPA, after studying the evidence concluded that Aldrin didn't demonstrate "an imminent hazard" to the public. It refused to order an immediate suspension, pending completion of a thorough administrative review.

EDF promptly filed a petition in the U.S. Court of Appeals of the District of Columbia, pressing for a suspension. In August 1974, Russell Train, Ruckelshaus' successor at the EPA, ordered a notice to suspend Aldrin and Dieldrin. At the same time, the EPA announced the availability of the alternative pesticides: Heptachlor and Chlordane. Environmentalists also opposed them and last July, Train proposed to suspend them for all uses, except to control termites in the foundation of buildings and to dip the roots of some non-food plants.

HERBICIDES ATTACKED

Also coming under attack by environmentalist groups are the herbicides. They have succeeded in getting injunctions in several states against the use of 2, 4-D, and 2, 4, 5-T, which are widely used in forest management, as well as to protect the right-of-way railroads, powerlines and highways from vegetation. Farmers also apply them to kill weeds in grain fields, orchards and vineyards. In central California, herbicides are used to destroy flammable vegetation.

Over the past 30 years, herbicides have been the subject of over 300 technical papers from Austria, Japan, New Zealand and Oklahoma, among other places. They decompose quickly and have not under careful use proved to be as hazardous as other compounds. Moreover, improved machines and techniques have been developed in recent years to enhance their safety. A survey by agricultural experts reveals that alternative weed control measures would be much more costly. Specifically, the tab would be at least 5% of the total value of the crops affected.

Nonetheless, in recent months, temporary injunctions have been won by environmentalists in Wisconsin, Michigan and Arkansas to stop spraying with 2,4,5-T. While so far the EPA has refused to ban these herbicides, citing the lack of available scientific evidence, it is continuing to study the matter and some observers believe that they are doomed.

Before their suspension, DDT, Aldrin, Dieldrin, Heptachlor and Chlordane had been used for 20 years by millions of people without any intimation by the government that they were an "imminent hazard." The question some people are asking is: If these pesticides were so dangerous, wasn't the government irresponsible in allowing them to be used all those years?

FAILED TO MAKE A CASE

At the Aldrin-Dieldrin hearings, Shell, the sole producer, argued that the EPA had failed to make a case that they were an imminent health threat. In banning the compounds, EPA relied on laboratory tests indicating that they caused tumors in mice. Such evidence, argued the defendant, is highly suspect when extrapolated to human beings. There has been no evidence of tumors in any species higher than the mouse. "Under different circumstances," pointed out one toxicologist, "it can be demonstrated that the following agents are (also) carcinogenic in these mice: overdoses of oxygen, too much food . . . and environmental changes." Aldrin and Dieldrin also have been tested on dogs and monkeys, with inconclusive results.

Critics of the EPA argue that government scientists refused to recognize a distinction between the benign and malignant tumors caused in mice in the Aldrin tests. In rebuttal, the EPA said: "Scientists are still far from agreement on the causes, nature and even definition of cancer. The once significant distinction between tumors and cancers has lost much of its validity with the increasing evidence that many tumors can develop into cancers." This view is challenged by many doctors who are continually making a distinction between tumors and cancer in their daily diagnoses.

Paradoxically, another Washington agency, the Food & Drug Administration, after years of defending the practice of extrapolating results on mice to human beings, recently admitted that it is a highly dubious procedure. The agency, which has been criticized for banning cyclamates under this extrapolation theory, recently rejected a petition from a Ralph Nader-affiliated group to ban Flagyl (a drug widely used by women), on the grounds it causes cancer in mice. "It is not possible," wrote an FDA official, "to apply the results of such animal testing directly to humans."

TV BROADCAST

Despite such second thoughts, much of the media continues to accept it as a proven fact that DDT and other chemical pesticides cause cancer in humans. CBS recently broadcast a program, "The American Way of Cancer," with the theme that chemicals, including food additives and pesticides, are major causes of cancer.

Following the broadcast, a number of eminent scientists, including Dr. Sheldon Murphy, Associate Professor of Toxicology at Harvard, and Dr. Frederick Stare, an internationally-known nutritionist, released statements branding the broadcast as "dangerously misleading and inflammatory."

Notice to suspend Chlordane and Heptachlor last summer, after EPA's observation that they were available in place of the banned Aldrin-Dieldrin, has angered farmers. The sole producer of Chlordane and Heptachlor is Velsicol (a subsidiary of Northwest Industries). It has decided as a matter of policy, to fight the suspension, even though its total sales of pesticides account for only $14 million of its $167 million total.

CHALLENGE THE ASSERTION

While the EPA insists there are still good substitute pesticides, farmers challenge that assertion. Chlordane has been especially important in protecting corn crops from pests. This year, corn farmers in Missouri report they have suffered the worst cutworm epidemic in 30 years, which required the replanting of 10,000 acres. This, in turn, cut the yield by 30 bushels per acre. Iowa also has been hit by the cutworm attack; over one million acres have had to be treated for replantation.

Dr. John Strayer, an official for the Florida Cooperative Extension service, has been quoted as warning that the EPA suspension of Chlordane and Heptachlor could prove disastrous to the state's half-billion-dollar citrus industry, since it would leave growers vulnerable to the citrus root weevil. L. S. Pope, Associate Dean of Agriculture at Texas A&M, says that substitutes for treating seeds with Chlordane and Heptachlor would cost $5.50 to $12 an acre vs. 11 to 43 cents for those substances.

The attack by the government on leading agricultural chemicals is forcing producers to take a hard look at their investment in other items threatened with being put on the prescribed list. The banning of Aldrin, followed by the notice to outlaw Chlordane and Heptachlor, already has caused a shortage in pesticdes. Prices of some products have been soaring. Says one industry executive: "It takes five to seven years to develop a new pesticide. If after this we have to face the threat of rejection by the EPA and an attack by lobby groups, we wonder whether it's worth putting another dime into pesticide research."

When FIFRA, the pesticides control law—under which EPA operates—came up for renewal, the Administration asked for a simple one-year extension of the present act. However, as noted, sentiment to impose tighter controls over the agency flared up in Congress.

For example, Rep. Kelly of Florida deplored a policy which "is geared to gallop in one direction, and that is to give America clean air whether we starve to death or not." He concluded, "What is really needed is to have a balance between the considerations of producing food and protecting the environment."

As opposition mounts, EPA Administrator Train has begun to make concessions. He told Congress that he has formed a task force to evaluate EPA's pesticide decision-making process and to make recommendations about possible improvements. He also has directed the Deputy Assistant Administrator of Pesticides Programs to report directly to him to ensure that such issues receive his personal attention. And he has instructed EPA's regional administrators to seek closer cooperation with state agricultural officials.

To replace chemical pesticides, many environmentalists advocate the use of biological weapons, such as various sterilized insects. However, the government's research into biological warfare against pests has been slow and highly experimental, while the needs of food growers and health officials are already urgent.

POSES SERIOUS THREAT

A case in point is the outbreak of the Mediterranean fruit fly in an 80-square-mile area in Los Angeles County, which poses a serious threat to California's $2-billion fruit and vegetable industry. In other states, agricultural officials have used pesticides to destroy six previous outbreaks of the fruit fly. However, California officials are experimenting with biological weapons to fight the infestation. They have released millions of fruit flies, sterilized by laboratory radiation, in the hope that some insects will mate with wild fruit flies and break the breeding cycle. Meanwhile, the crop destruction continues and the threat of rising food prices mounts.

Summing up the case for moderation in environmental matters, Dr. John McKetta, Professor of Chemical Engineering at the University of Texas, says: "We are not on the brink of an ecological disaster. . . . A large percentage of pollution is natural pollution and would be here whether or not man was on this earth. . . . Let us use our knowledge—not our fears—to solve the real problems of the environment."

THE NEXT STEP ON CYPRUS

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. MURTHA. Mr. Speaker, President Kennedy was fond of repeating the ancient Chinese proverb that the longest journey in the world had to begin with the first step. I would like to speak to the House on the steps involved in the journey to end the Cyprus controversy.

Several months ago Congress took the first step toward solving this situation when we partially removed the arms embargo against Turkey. That was a very difficult decision for many of us who had earlier voted to impose the embargo. We did so, however, for two reasons: the overriding importance of the NATO bases in Turkey to the United States; and because of our belief that this would help to stimulate a negotiated settlement between Greece and Turkey.

On the first point—the NATO bases—I still believe we were correct. Shortly before he was removed from office, I asked Defense Secretary James Schlesinger—appearing on my weekly radio program—about the importance of these bases. He responded:

> Those bases have been invaluable in terms of intelligence collection . . . Turkey occupies a critical area of the world. It controls the Straits. It blocks Soviet access to the Middle East—direct access—and it maintains 16M-Day Divisions which is as much, incidentally, as the United States maintains, which ties up 28 Soviet Divisions. Now these all were endangered by the deteriorating relations between the United States and Turkey.

The time is now clear, though, Mr. Speaker, for our Government to move more forcefully on the second reason for Congress action—to promote negotiations and a long-term settlement to the complicated problems of Cyprus.

I believe the next steps are clear.

First, next month when President Ford is required to report to Congress on progress in these talks, I believe he should not underplay the issue, but should clearly label negotiations in this area as a top priority for the months ahead. We must elevate this crisis—a crisis of 180,000 Greek Cypriot refugees, a crisis of torn homelands, a crisis of strife and individual citizen upheaval—to the same level we have elevated crises in the Middle East, Southwest Asia, and elsewhere.

The second step must be to bring to our cause all the force of international opinion and diplomatic pressure as we have in other areas of the world. This is a problem of worldwide proportions. Our NATO allies have a great stake in it. Most of all we owe it to the refugees, as the only superpower having open communication with both countries, to stimulate a peaceful, fair settlement. Whether it takes U.N. action, shuttle diplomacy, summit conferences, or other action, it is time for this crisis to be settled.

Third, we must make clear our absolute determination to insure the vital defense protection for the United States and other NATO countries at stake in Turkey.

I believe the actions of the United States to date on Cyprus have been correct. History will only record them in that light, however, if our Government is willing to take the next steps, which are equally necessary.

I look forward to our Government taking those actions I have outlined for the benefit of everyone involved in this controversy. Also, for the information of the Members I would like to insert in the Record the following editorial from the November 29 New York Times:

Cyprus: Time To Act

Whatever they say for political purposes at home, the leaders of Turkey and the Turkish Cypriot community now know that their intransigence on Cyprus has isolated them from most of the world. They also know that, under provisions of the act easing the American arms embargo against Turkey, President Ford is obligated early next month to report to Congress on the "progress" of negotiations looking toward a Cyprus settlement.

Rarely has the United Nations General Assembly spoken as emphatically as it did last week in adopting, by 117 votes to 1 with only nine abstentions, a resolution demanding withdrawal of the Turkish troops that massively invaded Cyprus last year, and freedom for the 180,000 Greek Cypriot refugees to return to their homes. The Assembly also called for early resumption of negotiations between the two Cyprus communities under the auspices of U.N. Secretary General Kurt Waldheim.

The Ankara Government knows that many members of Congress voted with great reluctance in October to ease the ban on arms sales to Turkey—and did so in part because Mr. Ford and Secretary Kissinger warned that unless this were done the Turkish side would not negotiate constructively on Cyprus. Senate and House majorities could be turned back in favor of embargo if it became evident that the Turks were in fact simply stalling while consolidating their control of 40 percent of the island.

In these circumstances, it is discouraging to find Rauf Denktash, leader of the Turkish Cypriots, still throwing up smoke-screens, including the notion that Archbishop Makarios, despite Turkey's massive military presence, is still conniving to bring about *enosis*, the union of Cyprus with Greece. President Makarios does bear heavy responsibility for trying in 1963—unilaterally and with the use of force—to change the constitutional structure under which Cyprus had achieved independence in 1960 in ways that the Turkish minority understandably found alarming. But the Archbishop long ago accepted the reality of a bizonal federation, with a substantially autonomous Turkish Cypriot community retaining control of more than 20 percent of the island and nearly half its economic assets.

In light of these Greek Cypriot concessions, which were transmitted in substance to Secretary General Waldheim as long ago as last February, Mr. Denktash ought to submit the specific proposals he promised at the conclusion of a negotiating round in Vienna last summer. In their own interest and to end their isolation from the world community, the Turkish Government would be well-advised to see to it that he does so.

PITT BASKETBALL COACH "MR. NICE GUY"

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, too often the news has carried stories of college sports scandals involving largesse doled out to athletic young men to get them to come to—or stay at—one school or another.

The pressures of recruiting talent, and naturally of winning, has forced some collegiate coaches to break the rules and make illegal offers to talented high school athletes.

While I am sure that the majority of college coaches operate within NCAA rules, I would like to bring to the attention of my colleagues a story about Tim Grgurich, the basketball coach at the University of Pittsburgh, nicknamed by friends, "Mr. Nice Guy."

The university and the city of Pittsburgh are proud of the honesty and dedication that Coach Grgurich brings to his job. And I am sure that intensity and drive soon will bring Pitt the many victories its coach and players deserve.

I would like to include in the Record at this time, a recent story on Coach Tim Grgurich, which appeared in the December Pittsburgh magazine:

Can Mr. Nice Guy Win Big?

(By Bob Campbell)

Four weeks after Tim Grgurich was named head basketball coach at Pitt last spring, he received a phone call from an old friend, a high school coach in Harrisburg, who wanted to know whether Grgurich—now that he was a big-time, major-college coach—would still be interested in coming to the western Maryland summer basketball camp where Grgurich had worked for a number of years.

"Listen," Grgurich responded, "if I start to get a big head, I want you guys to straighten me out."

Grgurich, 34, is one of the youngest head coaches in the nation and by testimony of his friends, associates, colleagues, competitors—and especially his players—he is the personification of a capital-letter Mr. Nice Guy.

"Timmy is still the same kid from Lawrenceville," says Tom Maloney, North Hills High School basketball coach, who has known Grgurich a long time. "He hasn't changed since he graduated from Central Catholic. His greatest asset is his honesty. That's why he gets along so well with the kids."

Another asset, says Maloney, is that Grgurich works hard—for example, he added, even though Grgurich is busier than ever as head coach, he still finds time to come out to talk with the kids at North Hills High as a favor to his old friend.

Hard work runs in the Grgurich family. Tim's father worked 43 years in a steel mill. I got a sample of how his son carries on the tradition when I asked for an interview. He suggested 8 o'clock on a Friday morning. I thought to complain about the hour but recalled an earlier interview attempt in December when he said:

"Well, I don't know when we can fit it in. The next two weeks I'll be visiting high schools during the day and practicing at night. Then I'm going down to see a kid in North Carolina, another kid in South Carolina, then there's a couple kids we're talking to in Miami. Then I'm coming back for the Marquette game, then I have to scout a game in Washington. On the 21st, we play Saint Francis. Then I'm going on a recruiting trip to Detroit, Indiana and Ohio. Christmas, you know, I'd like to spend at home. Then I'm going to New Jersey, New York and. . . ."

If Tim Grgurich offers an interview at a diner in Fayette County at 2 o'clock in the morning, you take him up on it.

The Pitt basketball offices are on the second floor of the Pitt Field house. "Here, have a seat," Grgurich said and handed me a sheaf of papers held together by a paper clip.

Arranged neatly on each page were eight short messages. "Prepare and prevent rather than repair and repent," read one. "The best way to better your lot is to do a lot better," read another.

Tim Grgurich, I thought, is the George Allen of college basketball. Like Allen, of the Washington Redskins, Grgurich works 16 hours a day and surrounds himsef with inspirational slogans.

"You have to work hard to succeed," he said, "I don't read as much as I should. But this summer I read about some other coaches, about Bear Bryant, Woody Hayes, Vince Lombardi. Bear Bryant, you know, when he was 22 or 23, when he was in places like Kentucky and Texas A&M, he didn't have things easy. He had to work to get where he is today. That's what you have to do. You have to go out and bust your bucket."

There are countless stories about the hours that Grgurich spends on basketball. One cold Sunday morning, Pitt guard Tom Richards walked into the Field House to find Grgurich, on his day off, teaching basketball to a group of 20 or 30 young boys from the Hill District.

"I do clinics all summer," Grgurich said. "On Saturday and Sunday mornings during the school year, we have a program for the kids in the neighborhood. I plan on going as hard as I can right now. When I'm 50, I won't be able to do it."

When touring the lucrative summer camp circuit, many college coaches tell a few jokes, look pretty for two or three hours, pick up their $150 and run. Their presence alone, the coaches feel, is sufficient inspiration for the youngsters.

"Practice, practice, practice," Grgurich barks at the campers as he hustles onto the basketball floor. "You'll never be any good if you don't practice." He races through a 10-minute lecture, runs the players through a drill, then lectures, then drills, non-stop. The college-aged counselors, tired and hung over, may hate him because he makes them work, but the youngsters love him.

"Our philosophy in the off-season is to try to work every camp and clinic in western Pennsylvania and as many as we can in the bordering states," he said.

Two days before we talked, Grgurich had risen at 5:30 A.M., caught a plane to northern Virginia, spent the day recruiting in the Washington, D.C., area, flew back the same day, arriving home about midnight. The next morning, he was in his office at 8 o'clock.

"Sure I get tired," Grgurich said. "But when I do, I think about other people who are successful. They get tired too, but they don't stop. Heck, one of our alumni is an attorney downtown. He works seven days a week. Seven days a week!"

While he talked, he moved back and forth in his chair, churning his arms, shrugging his shoulders, nodding his head. If he runs out of energy, he doesn't show it.

Grgurich was rambling somewhat and that took me by surprise. In previous interviews, he had been rather close-mouthed. I asked if his attitude toward the press had changed since he had been head coach.

"I feel there are a lot of writers who sacrifice accuracy for a good story," Grgurich said, "I mean I've read articles about games I've seen, and I didn't believe they were about the same game. There's a tendency on the part of all writers to be sensational."

Last spring, Jeff Samuels wrote an article for the Pittsburgh Press about Pitt's prospects for the coming year that was less than optimistic: difficult schedule, loss of freshman star Melvin Bennett to the pros, a rough year ahead for the new coach. Grgurich did not agree, which is not unusual: most coaches feel about sportswriters somewhat the way Nixon felt toward the Washington press corps. But what Grgurich did was unusual—he brought Samuels in for a detailed, point-by-point, one-on-one seminar on why he disagreed.

"I feel I'm a city kid," said Grgurich. "To me, being a city kid means standing up, looking a person in the face and saying what you feel. If I don't agree with someone's article, I'm going right to him."

Grgurich is unusually close to his players. The team as a whole seemed to move up a couple of energy levels when he was named head coach. When Mel Bennett, who had already committed himself to the Virginia Squires of the American Basketball Association, heard that Grgurich had been named head coach, he reportedly broke down and cried.

"Coach Grgurich was like a brother," says Carl Morris, who played forward for Pitt during 1969–73. "He was always there. He always had time to spend with you. One time I wanted to go home to Braddock, and I didn't have a ride. The weather was bad, we just had a big snowstorm. Grgurich went out of his way to give me a ride home. That's the way he is."

To Grgurich, Pitt basketball is a family that includes players, coaches and alumni.

"The kids have to work in the summertime. They all have to work one week at a basketball camp. They have to go with us on recruiting trips. They have to come in this office every day. We become totally involved with our kids."

Total involvement with young men these days is not a simple matter. "I think it's great that I'm able to deal with 17, 18 and 19-year-old kids. They come up here and we sit and we talk and we laugh. And we cry. Yeah, we cry together. A lot of people don't know how to cry anymore. Man, we cry together. I cried this summer with a couple guys. Man, I couldn't believe what was going on."

Grgurich said he doesn't always agree with his players. For example, they are not always as dedicated to basketball as he would like.

"Dating is always a problem," Grgurich said. "You don't want to see a kid of 18 or 19 lose direction. We try to keep an eye on them. You can't always catch the kids. You don't want to catch them. But we try to walk through Oakland, walk through the dorms, and . . . 'Hey, how you guys doing?' And they duck.

"The worst thing for me is when, some day, I'm going to have to walk into somebody's home and say your son has to leave our program, he's just robbed a bank, he shot somebody, he has a drug habit we can't stop. When I have to do that, I'm going to have to leave the game, because I've failed. I've failed."

College basketball coaches like to dress well. Furman's Joe Williams wears purple suits, North Carolina State's Norm Sloan likes red-and-white sport coats. Grgurich's typical outfit is a checked shirt with a button-down collar, tan slacks and a tie. "To me, clothes aren't that important," he said. "Be yourself. I do enjoy seeing others dressed super-well. I enjoy going up on the Hill on Friday night and watching the guys strutting around."

Grgurich began coaching at Pitt in 1965. During his 10 years as an assistant, his primary responsibility was recruiting.

The typical college recruiter can, as the saying goes, sell ice to an Eskimo. He's young, good-looking, well-dressed. "You're the boy we're really after," he tells the prospect of the day. "Come with us and you'll start as a freshman and, I guarantee you, we'll make you an All-American before you graduate." The recruiter's delivery is flawless. It should be. He has made the speech many times.

In a milieu of intense competition, the nice guy usually loses. Grgurich, in fact, has done very well. Even though Pitt's basketball program was down (in 1968–69, finishing with a 4–20 record, the Panthers even lost to Carnegie-Mellon), Grgurich was able to recruit Billy Knight, Mickey Martin, Kirk Bruce and others responsible for Pitt's recent resurgence. From many indications, it appears that Grgurich recruited these players without compromising himself.

"Tim has to be perhaps the most honest recruiter I've ever seen," says Schenley High School basketball coach Spencer Watkins, who coached Maurice Lucas, Ricky Coleman and several other widely-recruited players. "He comes down here, year-in and year-out, and lays his cards on the table and tells it how it is. I've been at Schenley for eight years, and Tim has never changed his approach. He doesn't sacrifice what he believes in even if it means he's going to lose a top kid. He's lost some kids because he was so honest."

"He tells you what you're going to get," says Grgurich's senior guard Keith Starr. "Everything that I expected was here. He'll tell you the truth. He's just down-to-earth. A lot of recruiters treat you like a king. Grgurich treats you head-on."

Grgurich's experience as a young athlete apparently influenced his recruiting philosophy. He originally agreed to attend Western Maryland, a small college with a strong athletic program. After he got to the school, Grgurich discovered he wasn't going to get what was promised. Three weeks later, he left. He eventually transferred to Pitt.

"There are a lot of guys around who give out a lot of crap," Grgurich said. "When a high school player comes to our campus, we let him go with one of our players, to show him we're telling the truth. If he thinks we're lying, he can go somewhere else."

"Paralyze their resistance with your persistence," Ohio State football coach Woody Hayes advises his recruiters. Grgurich is very, very persistent. By this count, he visited Mel Bennett 100 times while he was recruiting him. This summer, Ed Scheuremann, the 6-11 center from Baldwin High School who has already been named a third-team preseason high school All-American by two national publications, played in the Ozanam Summer Basketball League in the Hill District. One evening I asked Scheuremann how he wound up playing in that league.

I should have anticipated the reply. "Well," Scheuremann said, "Coach Grgurich called me up and asked. . . ."

Former Duquesne forward Bernie O'Keefe says, "Grgurich—he's—he's everywhere."

As recruiting triumphs mounted, Grgurich came to be considered one of the top recruiters in the nation. Washington State, Oral Roberts and several other schools tried to lure him away from Pitt. Though the jobs offered more money, Grgurich turned them down.

"I guess it's just a feeling that I played here," Grgurich said. "I like Pittsburgh. It's a comfortable city, and I have so many friends here. And the people at Pitt have treated me super."

Grgurich's success at recruiting has obscured his coaching achievements. In seven years as freshman coach at Pitt, he won 90 games and lost 33. Perhaps his best record was in 1971–72. That year Grgurich faced a tough schedule with a team that included only two scholarship players. Most major colleges then had five or six freshmen on scholarship each year. Grgurich filled out his team with volunteers from the student body and coached them to a 13–5 record, including an astonishing win over a highly-touted Duquesne freshman team.

Coaching will now be Grgurich's primary responsibility.

"He'll be successful," says Peabody High School basketball coach Norm Frey. "He'll do what he has to do to win with the talent he has. He won't be outcoached."

"We'll work hard, very hard," says Keith Starr. "He's going to ask a lot of us. He'll give his 110 percent, and expect us to do the same."

Grgurich does not lose graciously. While he is a nice guy off the basketball court, on the court he may scratch your eyes out. He has been a rugged competitor since his days at Central Catholic.

Though he really didn't have the talent to be a typical major college basketball player, Grgurich played a key role on the successful Pitt teams of 1962–63 and 1963–64. What he lacked in talent he made up for with dedication. On offense, he set up Pitt's shooters. On defense, he guarded and often stopped the opposition's leading scorer.

Pitt players are familiar with Grgurich's competitiveness. They've heard him scream at them at practice and during games. And they've played with him—lost to him—in one-on-one games. Grgurich, like many other players and former players, considers one-on-one basketball to be an every-man-for-himself battle, in which all rules are thrown out. Grgurich admits he'll cheat, foul, do anything to win a game of one-on-one.

"He's rugged," says Starr. "He'll hack you just to hack you. Most of the time, he'll beat you, too."

This summer, Grgurich's aggressiveness caught up with him, during a pickup game at Balwin High School. Grgurich chased a loose ball. So did one of his teammates, an Avalon High School sophomore named Rod Scott, who stands 6-5 and just happens to be an outstanding prospect. As Scott reached for the ball, his elbow crashed into Grgurich's left cheekbone, breaking it in three places. Grgurich underwent surgery and spent the weekend in the hospital. On Monday he walked out of the hospital, drove up to Butler for a clinic and hasn't seen the doctor since.

As the writers point out, Grgurich's first Pitt team seems to lack the height to be a national power. Perhaps he will never be able to attract the talent to make Pitt a national power. But he will try.

"Basketball is my life," Grgurich said. "I've dedicated myself to it. My goal is to win a national championship. Whether at Pitt or somewhere else, I want to win a national championship before I'm through. There's one thing in my life. I want to win."

FOOD STAMPS AT COMMISSARIES

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. FINDLEY. Mr. Speaker, the use of food stamps by military servicemen is definitely out of keeping with the purposes of the food stamp program. The original legislation specified that "a food stamp program is herein authorized which will permit low-income households to purchase a nutritionally adequate diet through normal channels of trade."

When the all volunteer army was established, the pay and benefits package was increased to make the military an attractive career alternative. Several subsequent pay and benefit increases have been provided. Yet, I have learned that soldiers are frequently encouraged to use food stamps by official military personnel. An example is an article in the July 1975 issue of Soldiers magazine. I include the article to bring to the attention of my colleagues the extent to which the food stamp program has deviated from its principal objectives.

It is absurb for an agency of the Federal Government to provide welfare benefits to fulltime employees of the same Government. It is also absurd to contend that food stamps are not welfare.

MAKING IT WITH FOOD STAMPS

(By SFC Floyd L. Harrington)

Food stamps? For me? That's right, my man—it's not charity and you may qualify. Many soldiers are taking advantage of the U.S. Department of Agriculture (USDA) program. Last year soldiers and their families spent more than $3 million worth of food stamps in Army commissaries.

At the Army Community Service (ACS) office, Fort Belvoir, Va., social workers and budget counselors recommend food stamps to as many as 20 Army couples a month.

Usually the husbands are students in pay grades E1 or E2, are in their late teens or early twenties and have two or three children. Having brought their families to a high cost-of-living area, they end up spending almost their entire paycheck for rent. This leaves little for food.

Social worker Specialist 5 Jo Ann Arbia says, "Generally when we mention the Food Stamp Program the initial reaction is positive. They're willing to try food stamps because, in their position, they welcome any help they can get.

"Some couples would rather not apply for stamps, though. They say they have a certain amount of pride and look at the program as charity. They'd rather do without than accept help because, to them, it means they can't handle their own lives."

Betty Hight of USDA's Food and Nutrition Service in Washington, D.C., says this kind of thinking is erroneous: "This is not a welfare program. It's for food assistance only and you have to buy in. It's not a handout."

As more people, particularly the elderly, have become less sensitive about accepting food stamps, applications have climbed. There are now more than 18 million Americans taking advantage of the program. More are signing up—at the rate of roughly one million a month.

CUTTING COSTS

No one knows how many soldiers are enrolled in the program, but the number isn't limited to the lower ranks. Being stationed in a high-cost-of-living area is often reason enough to seek help in feeding a family.

"When I PCSed here the first thing I found out was that quarters on post weren't available," says one Specialist 5. "Since this is a long tour area I wasn't about to be separated from my wife and four kids for 3 years so I spent 2 weeks looking for a house or apartment to rent.

"I finally found three places that were adequate and would accept our four children. One rented for $300 a month, another $275 and the place I finally leased cost $240. It's about 19 miles from where I work."

This soldier says that for the first 5 or 6 months his utility bills and sewerage fees averaged $100 a month. But in the past 6 months utility rates have climbed so fast that, even though he keeps his thermostat set low, lighting to a minimum and pays close attention to water use, he now pays $140 to $150 a month.

"Because I'm a shift worker and my hours rotate every month I can't get a part-time job," he says. "Keeping my bills paid and gas in the car didn't leave very much money for food and clothing, let alone any kind of entertainment. So I looked into the food stamp program and found I qualified. I now buy $222 worth of stamps for $142. That $80 worth of free food stamps may not sound like much but it does help out."

RETIRED CASE

It can be a hassle, as Sergeant First Class Paul Bowder discovered. His $585 monthly retirement check wasn't enough to feed his wife and three minor children and keep up mortgage payments on his house. Because of a disability he isn't able to work so he decided to apply for food stamps.

"My wife didn't like the idea of getting food stamps but it didn't bother me. I felt I'd put enough time in and should get something out of it. Besides, feeding my children was more important than my pride," says SFC Bowder.

The welfare office the Bowders called was swamped with applications so it was a month before SFC Bowder was given an appointment. When he went for his interview "they asked me questions I felt they shouldn't," says SFC Bowder. "They wanted to know about all my income and savings. When I told them about my saving bonds they wanted to know why I didn't cash them in. Who wants to zero out *everything* he has just to get $20 or $30 worth of food stamps?"

SFC Bowder waited about 30 days for his application to be processed. However, while awaiting approval he started receiving Social Security disability payments. With this increased income his family was no longer eligible for food stamps.

REQUIREMENTS

Perhaps getting a helping hand from Uncle Sam to put food on the table may turn some soldiers off. But for those who feel their family needs more nutritious food than they can afford, here are the USDA basic guidelines for qualifications. They must:

Meet national standards for income and resources or have all members of the household receiving public assistance.

Have a family made up of a group of persons, excluding roomers, boarders and live-in attendants, who are living as one economic unit.

Make certain that all able-bodied family members 18 through 65 register for employment—except a member caring for minor children or incapacitated adults.

Must be able to prepare meals.

The maximum monthly net income a household can have and still buy food stamps is based on family size. The chart on page 52 shows the income standards.

To figure monthly net income deduct any expenses listed below that apply:

Ten percent of earned income or training allowance not to exceed $30 per family (Social Security or welfare payments are not earned income).

Medical expenses if more than $10 a month.

Cost of child or invalid care when care is necessary to allow a member of the family to work.

Tuition and required fees for education not to include expenses for books, school supplies, meals at school or transportation costs.

Unusual expenses such as losses due to fire, hurricane, flood or theft, and cost of funerals.

Court-ordered support or alimony payments.

Shelter costs which are more than 30 percent of all family income *after* all other deductions have been taken. Shelter costs include utilities and sewerage fees; basic service fee for telephone; rent or mortgage payments and interest on own home; real estate taxes and special state or local assessments on your own home.

Each household is allowed up to $1,500 in resources, except for those families of two or more persons with a member or members age 60 or more. Then resources may not exceed $3,000.

Resources *not* considered for eligibility are a home, one licensed vehicle or other unlicensed vehicles, life insurance policies, income, vehicle needed for employment, tools of a tradesman, farm machinery or like items.

SOME QUALIFY

For obvious reasons most of the deductions won't apply to most soldiers. However in some areas of the country the cost of housing and utilities, along with the standard deduction for earned income, can make a soldier eligible. Take that Specialist 5 for example:

The standard deduction of $30 and mandatory deductions for taxes added up to $127. This sum, subtracted from his full pay and allowances with more than 10 years of service ($818.70), left $691.70.

Thirty percent of $691.70 for shelter costs is $207.51. Subtract $207.51 from the cost of his rent and utilities ($390 minus $207.51) and his allowable shelter deduction is $182.49. Subtract that deduction from $691.70 and it leaves $509.21 as net income.

His family of six will pay $142 for food stamps worth $222. These stamps can be used in any participating food store or military commissary.

STEPS

If after reading this article you find you may qualify for food stamps your next step is to visit the food stamp office. Because the USDA doesn't have the facilities or manpower to administer the program at local levels, their office is usually in your community welfare office.

After filling out the necessary paperwork you'll be interviewed by a welfare worker who will ask for evidence to back up your application. Although USDA requires only papers showing your address, the number of your family, total income, bills for shelter, medical costs, child care, education and other expenses, some food stamp offices ask for more.

According to one report, drivers' licenses and Social Security cards are required for all family members old enough to hold drivers' permits. Birth certificates for all children, voter's registration cards, rent receipts, bank statements and cancelled checks may help too. Not having just one of these items can mean having to start the process over again.

USDA's Betty Hight says, "Nationally we have only one set of rules for obtaining food stamps. People who have problems with the welfare office can contact the officer-in-charge of the nearest USDA office. He is listed in the telephone directory and can help them with their problem."

Without a doubt food stamps are gaining national acceptance as a means of improving the diet of low income families. They aren't a handout because, if you qualify, you pay hard-earned money for them. Only those people who don't understand the program will still call it charity.

SOLZHENITSYN'S WARNING

HON. WILLIAM L. ARMSTRONG

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. ARMSTRONG. Mr. Speaker, what is happening to America's will to fight communism? Why is the Nation's defense sagging? Our foreign policy faltering? At home and abroad, these questions are being asked. And rightly so.

Our foreign policy was formerly based on explicit determination to defend ourselves and our allies and the rights of people seeking freedom throughout the world. In recent years, however, we have been unwilling to bear the burden of such a vigorous policy. Indeed, we have become far less certain of the essential justice of our cause. We have permitted a blurring of the moral distinction between communism and capitalism, between Russian totalitarianism and American concepts of self-government. In the December Reader's Digest, the distinguished Russian author, Aleksandr Solzhenitsyn, has redefined both the moral distinctions and the grave threat of expanding Communist power. I hope my colleagues will carefully study and heed Solzhenitsyn's warning.

The article follows:

Wake Up! Wake Up!

(By Aleksandr Solzhenitsyn)

Is it possible to transmit the experience of those who have suffered to those who have yet to suffer? Can one part of humanity learn from the bitter experience of another? Is it possible to warn someone of danger?

How many witnesses have been sent to the West in the last 60 years? How many millions of persons? You know who they are: if not by their spiritual disorientation, their grief, then by their accents, by their external appearance. Waves of immigrants, coming from different countries, have warned you of what is happening. But your proud skyscrapers point to the sky and say: It will never happen here. It's not possible here.

It can happen. It is possible. As a Russian proverb says: "When it happens to you, you'll know it's true."

Do we have to wait until the knife is at our throats? Isn't it possible to assess the menace that threatens to swallow the whole world? I was swallowed myself. I have been in the red burning belly of the dragon. He wasn't able to digest me. He threw me up. I come to you as a witness to what it's like there.

Communism has been writing about itself in the most open way for 125 years. It is perfectly amazing. The whole world can read but somehow no one wants to understand what communism is. Communism is as crude an attempt to explain society and the individual as if a surgeon were to perform his delicate operations with a meat-ax. All that is subtle in human psychology and the structure of society (which is even more delicate) is reduced to crude economic processes. This whole created being—man—is reduced to matter.

Communism has never concealed the fact that it rejects all absolute concepts of morality. It scoffs at "good" and "evil" as indisputable categories. Communism considers morality to be relative. Depending upon circumstances, any act, including the killing of thousands, could be good or bad. It all depends upon class ideology, defined by a handful of people. In this respect, communism has been most successful. Many people are carried away by this idea today. It is considered rather awkward to use seriously such words as "good" and "evil." But if we are to be deprived of these concepts, what will be left? We will decline to the status of animals.

FREEDOM'S TAX

But what is amazing is that, apart from all the books, communism has offered a multitude of examples for modern man to see. The tanks have rumbled through Budapest and into Czechoslovakia. Communists have erected the Berlin Wall. For 14 years people have been machine-gunned there. Has the wall convinced anyone? No. We'll never have a wall like that. And the tanks in Budapest and Prague, they won't come here either. In the communist countries they have a system of forced treatment in insane asylums. Three times a day the doctors make rounds and inject substances into people's arms that destroy their brains. Pay no attention to it. We'll continue to live in peace and quiet here.

What's worst in the communist system is its unity, its cohesion. All the seeming differences among the communist parties of the world are imaginary. All are united on one point: *your social order must be destroyed.*

All of the communist parties, upon achieving power, have become completely merciless. But at the stage before they achieve power, they adopt disguises. Sometimes we hear words such as "popular front" or "dialogue with Christianity." *Communists* have a dialogue with Christianity? In the Soviet Union this dialogue was a simple matter: they used machine guns. And last August, in Portugal, unarmed Catholics were fired upon by the communists. This is dialogue? And when the French and the Italian communists say that they are going to have a dialogue, let them only achieve power and we shall see what this dialogue will look like.

As long as in the Soviet Union, in China and in other communist countries there is no limit to the use of violence, how can you consider yourselves secure or at peace? I understand that you love freedom, but in our crowded world you have to pay a tax for freedom, but in our crowded world you have to pay a tax for freedom. You cannot love freedom just for yourselves and quietly agree to a situation where the majority of humanity is being subjected to violence and oppression.

The communist ideology is to destroy your society. This has been their aim for 125 years and has never changed; only the methods have changed. When there is détente, peaceful coexistence and trade, they will still insist: The ideological war must continue! And what is ideological war? It is a focus of hatred, a continued repetition of the oath to destroy the Western world.

I understand, it's only human that persons living in prosperity have difficulty understanding the necessity of taking steps—here and now—to defend themselves. When your statesmen sign a treaty with the Soviet Union or China, you want to believe that it will be carried out. But the Poles who signed a treaty in Riga in 1921 with the communists also wanted to believe that the treaty would be carried out; they were stabbed in the back. Estonia, Latvia and Lithuania signed treaties of friendship with the Soviet Union and wanted to believe that they would be carried out; these countries were swallowed.

And those who sign treaties with you now, at the same time give orders for sane and innocent people to be confined in mental hospitals and prisons. Why should they be different? Do they have any love for you? Why should they act honorably toward you while they crush their own people? The advocates of détente have never explained this.

You want to believe, and you cut down on your armies. You cut down on your research. You eliminated the Institute for the Study of the Soviet Union—the last genuine institute which actually could study Soviet society—because there wasn't enough money to support it. But the Soviet Union is studying you. They follow what's going on in your institutions. They visit Congressional committees; they study everything.

NUCLEAR CHECKMATE

The principal argument of the advocates of détente is that détente is necessary to avoid nuclear war. But I think I can set your minds at ease: there will not be any nuclear war. Why should there be a nuclear war if for the last 30 years the communists have been breaking off as much of the West as they wanted, piece after piece? In 1975 alone, three countries in Indochina were broken off.

You have theoreticians who say: "The United States has enough nuclear weapons to destroy the other half of the world. Why should we need more?" Let the American nuclear specialists reason this way if they want, but the leaders of the Soviet Union think differently. In the SALT talks, your opponent is continually deceiving you. Either he is testing radar in a way which is forbidden by the agreement; or he is violating the limitations on the dimensions of missiles; or he is violating the conditions on multiple warheads.

Once there was no comparison between the strength of the U.S.S.R. and yours. Now theirs is becoming superior to yours. Soon the ratio will be 2 to 1. Then 5 to 1. With such a nuclear superiority it will be possible to block the use of your weapons, and on some unlucky morning they will declare: "Attention. We're marching our troops to Europe and, if you make a move, we will annihilate you." And this ratio of 2 to 1 or 5 to 1 will have its effect. You will not make a move.

A WORLD OF CRISIS

In addition to the grave political situation in the world today, we are approaching a major turning point in history. I can compare it only with the turning point from the Middle Ages to the modern era, a shift of civilizations. It is the sort of turning point at which the hierarchy of values to which we have been dedicated all our lives is starting to waver, and may collapse.

These two crises—the political and spiritual—are occurring simultaneously. It is our generation that will have to confront them. The leadership of your country will have to bear a burden greater than ever before. Your leaders will need profound intuition, spiritual foresight, high qualities of mind and soul. May God grant that you will have at the helm personalities as great as those who created your country.

Those men never lost sight of their moral bearings. They did not laugh at the absolute nature of the concepts of "good" and "evil." Their policies were checked against a moral compass. They never said "Let slavery reign next door, and we will enter into détente with this slavery so long as it doesn't come over to us."

I have traveled enough through your country to have become convinced that the American heartland is healthy, strong, and broad in its outlook. And when one sees your free and independent life, all the dangers which I talk about indeed seem imaginary; in your wide open spaces, even I get infected. But this carefree life cannot continue in your country or in ours. A concentration of world evil, of hatred for humanity is taking place, and it is fully determined to destroy your society. Must you wait until it comes with a crowbar to break through your borders?

NO MORE SHOVELS!

We in the Soviet Union are born slaves. You were born free. Why then do you help our slaveowners? When they bury us in the ground alive, please do not send them shovels. Please do not send them the most modern earth-moving equipment.

The existence of our slaveowners from beginning to end depends upon Western economic assistance. What they need from you is absolutely indispensable. The Soviet economy has an extremely low level of efficiency. What is done here by a few people, by a few machines, in our country takes tremendous crowds of workers and enormous masses of materials. Therefore, the Soviet economy cannot deal with every problem at once: war, space, heavy industry, light industry, and at the same time feed and clothe its people. The forces of the entire Soviet economy are concentrated on war, where you won't be helping them. But everything that is necessary to feed the people, or for other types of industry, they get from you. You are helping the Soviet police state.

Our country is taking your assistance, but in the schools they teach and in the newspapers they write, "Look at the Western world, it's beginning to rot. Capitalism is breathing its last. It's already dead. And our socialist economy has demonstrated once and for all the triumph of communism." I think that we should at last permit this socialist economy to prove its superiority. Let's allow it to show that it is advanced, that it is omnipotent, that it has overtaken you. Let us not interfere with it. Let us stop selling to it and giving it loans. Let it stand on its own feet for 10 or 15 years. Then we will see what it looks like.

I can tell you what it will look like. It will have to reduce its military preparations. It will have to abandon the useless space effort, and it will have to feed and clothe its own people. And the system will be forced to relax.

The Cold War—the war of hatred—is still going on, but only on the communist side. What is the Cold War? It's a war of abuse. They trade with you, they sign agreements and treaties, but they still abuse you, they still curse you. In the depths of the Soviet Union, the Cold War has never stopped for one second. They never call you anything but "American imperialists." Do I call upon you to return to the Cold War? By no means, Lord forbid! What for? The only thing I'm asking you to do is to stop helping the Soviet economy.

In ancient times, trade began with the meeting of two persons who would show each other that they were unarmed. As a sign of this each extended an open hand. This was the beginning of the handclasp. Today's word "détente" means a relaxation of tension. But it would say that what we need is rather this image of the open hand.

Relations between the Soviet Union and the United States should be such that there would be no deceit in the question of armaments, that there would be no concentration camps, no psychiatric wards for healthy people. Relations should be such that there would be an end to the incessant ideological warfare waged against you and that an address such as mine today would in no way be an exception. People would be able to come to you from the Soviet Union and from other communist countries and tell you the truth about what is going on. This would be, I say, a period in which we would truly be able to present "open hands" to each other.

FORMATION OF CITIZENS LOBBY SUPPORTING H.R. 9652 FOR 75% FEDERAL WELFARE AND MEDICAID REIMBURSEMENT

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Ms. ABZUG. Mr. Speaker, I would like to bring to the attention of my colleagues an event that took place recently at New York's City Hall.

Public officials—including mayors, county executives and state legislators—representatives of community groups, social welfare agencies and trade unions—gathered in a massive press conference to announce the formation of a broad-based citizens lobby in support of H.R. 9652.

This bill, which has been introduced in the Senate as S. 2476, provides for a uniform national 75 per cent Federal reimbursement rate for Aid to Families With Dependent Children and medicaid programs. The rate, which presently varies between 50 to 75 per cent, is a major contributing cause of financial difficulties being felt by many States facing continually rising welfare costs. The original means of determining the rate, through a formula related to per capita income, now discriminates severely against many States that simultaneously have large welfare rolls and a substantial high income population. Those States which least need Federal assistance are reimbursed at the highest rate.

With its limited resources, my office's first efforts at gathering support for this bill have been concentrated in New York, New Jersey, and Connecticut. Among others, the principal bipartisan representatives of county government in New York State, as well as the Metropolitan Regional Council, representing 700 local governments in the tristate area, have announced their endorsement of the bill.

But many of us present at the press conference pointed out that welfare is a national problem. Already, we are receiving statements of support from such individuals as the mayor of Denver and the welfare commissioners of Nebraska and Louisiana. My office is now beginning to coordinate a national lobbying campaign in support of this bill which would immediately benefit 49 of the Nation's States.

I hope that my fellow Representatives will join in supporting this bill, which now has 55 cosponsors. I hope they will assist me in pressing for the prompt scheduling of hearings on H.R. 9652.

A transcription of the remarks made at that press conference follows:

Representative Bella Abzug: We are announcing today the formation of a Citizens Committee for Welfare Reform to lobby for legislation that I and Senator Jacob Javits have introduced in Congress to take a big chunk of the huge welfare payment burden off our backs and help us survive as people and as a city.

New York City is now paying more than $1 billion a year for welfare costs. We can't afford it. But we also cannot afford in human terms to decree that people in need should not be helped. Feeding, clothing and housing the poor and the sick is an essential service.

Contrary to President Ford's cheap shots at people on welfare in his outrageous "drop dead, New York" speech, the overwhelming majority of women, men and children on welfare and Medicaid are victims, not cheats. They need and should get assistance.

Adults on welfare who are capable of working would like to work, but there are no jobs for them. Child care centers that make it possible for welfare mothers to work are being cut back. Mr. Ford's recession policies are guaranteeing that there will be even more people thrown out of work in New York, not less.

We already have above-average unemployment of 12%, and in the ghetto areas it is as high as 40% and 50%. If the President's forced bankruptcy formula prevails—and we must do everything we can to prevent it from happening—New York will become an economic ghost town. Tens of thousands more will be forced to seek welfare, and if there is no help for them, we can expect that they will respond with civil disorders and rioting. Is that what President Ford wants?

Welfare is a national problem. It must have a national solution. Alone among major cities, New York City is mandated by the state to pay 25% of welfare costs. This is unfair and must be changed.

We have heard a great deal about how well-managed a city like Chicago is. As a matter of fact, it has almost the same percentage of people on welfare as our city, but Chicago doesn't have to pay for them. The Federal and state governments pick up Chicago's welfare tab. No wonder Mayor Daley can balance his budget.

Under the Abzug-Javits bill, the Federal government's reimbursement formula for Medicaid and Aid to Families with Dependent Children would be raised to a uniform 75%. New York and 11 other states now get only 50% reimbursement. Mississippi, which exported its jobless to the North, gets reimbursed at more than a 78% rate. The remaining states get between 51% and 75%.

This revised formula would help 49 of the 50 states. Most of them are faced with rising welfare rolls, and I therefore expect that there will be very widespread support for this bill in Congress among representatives from states throughout the country.

New York State would receive an additional $1.2 billion. Of this additional money, New York City would get about $875 million a year, or, if the state agreed to a complete pass-through, our city would get $750 million a year more, enough to balance our budget.

In fairness, President Ford cannot argue that this kind of assistance sets a dangerous precedent or disturbs Federal-state-city relationships. The Federal government pays 90% of the costs for interstate highways in localities. If the U.S. can pay 90% of the bill for paving our nation over with concrete superhighways, it can pay 75% of the costs for helping people in our city and all across the nation.

The Abzug-Javits bill is, of course, only an interim step on the much-needed path to general welfare reform. But it is a crucial step. The response to this bill has been very gratifying, and we are receiving support from Republicans as well as Democrats, from rural counties as well as urban areas, from officials in Louisiana and Denver, as well as New York and Newark.

Among those supporting the bill are Alfred DelBello, Westchester County Executive and chairman of the Urban Affairs Committee of the National Association of Counties; Edwin Crawford, Broome County Executive, who heads the State Assn. of Counties, which unanimously endorsed the bill; Nassau County Executive Ralph Caso; Robert Slocum, the President of the Metropolitan Regional Council, an organization of 700 local governments from the tri-state area; The Human Resources Commissioner of Louisiana; The State Welfare Director of Nebraska; Newark Mayor Kenneth Gibson; Denver Mayor W. H. McNichols; a host of social service commissioners from around the state; City Council President Paul O'Dwyer, and, by resolution, the entire council; Lewis Rudin of the Association for a Better New York; Elinor Birnheim, head of the Community Council of New York; Marjorie Grosset, director of the Day Care Council; and many other community leaders, union representatives, city and civic organizations.

The first goal of our lobbying effort is to get hearings on these bills. We are asking everyone we can reach to write or send telegrams to the Subcommittee chairmen to whom the measure has been referred.

Let Washington know you want hearings and quick action on the Uniform Federal Welfare and Medical Assistance Reimbursement Act. Send your message to Congressman James Corman, acting chairman of the House Ways & Means Public Assistance Committee; to Congressman Paul Rogers, chairman of the House Interstate & Foreign Commerce subcommittee on health; and to Senator Russell B. Long, head of the Senate Finance Committee.

We are calling on all citizens to flood Washington with messages and to get their neighbors and organizations to do the same.

Coordinating this lobbying effort with my office will be Mr. Crawford, Mr. DelBello and Mr. Slocum.

Senator Jacob K. Javits: I am pleased to join with Mayor Beame and Congresswoman Abzug, whose bill I am sponsoring in the Senate, in this press conference regarding one of New York City's—and indeed the nation's—most pressing problems: welfare reform.

This legislation is vital to the critical situation of the cities, New York City and many others in the country, and the absence of such a law is a major source of the grave danger now besetting New York City.

New York City's welfare-related expenses—including Medicaid—amount to $3.5 billion a year, approximately one third of its current spending. More than 12% of the city's entire population are welfare beneficiaries, but a large part of this group are not native New Yorkers. Many have come from rural areas in the South and from Puerto Rico, and the Supreme Court has held that residence requirements for welfare recipients—or even waiting periods—are constitutionally prohibited. In addition, New York is home for many foreign immigrants as evidenced by the fact that almost 20% of the persons naturalized in 1973 were residents of New York.

All these figures show that New York plays a unique role for the nation in serving the poorest of the poor. Under present economic conditions, we believe it only just to ask that the rest of the nation share this obligation simply by treating all states equally in allocating Federal matching funds.

Under present law, the Federal share for the cost of these programs is based on a formula which takes into account the per capita income in each state. This share ranges from 50 percent to approximately 80 percent, and New York is one of 12 states which receive the minimum 50 percent. This formula is based on the belief—which I view as mistaken—that states with high per capita income are best able to meet their own welfare costs. In reality, among the states which receive the minimum Federal share are some—New York, California, Massachusetts, Illinois, Michigan, New Jersey— which have the greatest poverty burden, far out of proportion to the nation as a whole. This is due in large part to the migration of unskilled persons from the rural areas of the country to the industrialized states. Our problem in this can be traced to national demographic factors caused by the U.S. Constitution not New York solicitation. At the very least, we should be treated equally with the states which do not bear as much of the burden.

While our proposal would go a long way towards eliminating inequities in the treatment of states by the Federal government, I believe the long-range solution is federalization of the welfare programs not already encompassed by the new Federal program for the aged, blind and disabled (S.S.I.). I shall introduce such comprehensive legislation in the near future.

Abraham D. Beame, Mayor of New York City: I want to acknowledge the presence here today of many notable executives of bordering counties and places: Rep. Abzug, Mayor Gibson of Newark, New Jersey, Mayor John Gregorio of Linden, New Jersey, County Executives Alfred Del Bell of Westchester, Ralph Caso of Nassau, Louis Mills of Orange, Edwin Crawford of Broome. Lewis Rudin, Chairman of the Association for a Better New York is here. And there are many union officials, civic leaders, heads of religious and private charities, members of our City Council, our State Senate and State Assembly, and if we started reading off all the names, I know it would take a long, long time, but I want to thank all of you for being here today.

In the light of President Ford's refusal to help New York City prevent a default, the welfare reform bill introduced by Congresswoman Abzug assumes paramount significance, and it's good to see so many publicly elected officials, as well as appointed ones, in favor of this bill.

It should be clear by now that the President has done a grave disservice to the eight million citizens of New York City.

The President's direct assault upon New York City also caused the dollar to plunge in price in Europe by one-half of 1% and more; it caused the price of gold to jump by 1% in London and 2% in New York City; it caused the prices of tax-exempt issues of other cities to decline sharply; and the underwriters of corporate bond issues are now considering defaults by any municipality as something requiring hedges in their purchase agreements; and, finally, Moody's lowered the City's credit rating to "Caa."

The real tragedy of a default would be increased unemployment in both the private and public sectors, the inability of the City to borrow again for years to come, the greater difficulty which the City's private sector would encounter in its attempts to raise funds in the capital market and, as a result of all these things, the City's economy would be held back for years.

Our welfare and Medicaid burden would grow larger and, because we are mandated by law to pay 25% of this burden, this would slow down our recovery even more.

Therefore, we will be pushing for all measures like Congresswoman Abzug's bill. I wholeheartedly endorse it because it would increase Federal welfare aid to 75% for each state.

As many of you know, New York State gets only 50%, along with 11 other states, while the other 39 states receive more than 50%, up to a maximum of 78%.

For New York City, Bella Abzug's bill would save between $375 million and $750 million in City tax-levy funds, depending on how the state decides to split the Federal welfare grant.

I am Chairman of the United States Conference of Mayors' Task Force on Income Security, and I was pleased when the Mayors formally endorsed something I had been advocating for many years—namely, full assumption by the Federal Government of all local welfare and Medicaid costs.

Bella Abzug's bill is an excellent first step in achieving this long-term goal.

If it passes, it will also give the state an opportunity to assume all local welfare costs within the state, pending the Federal assumption of that national responsibility.

It is a national responsibility and everyone recognizes it as such. I would like to cite a little documentation of that which comes from our Human Resources Administration.

The largest category of aid in the City's public assistance program is aid to families with dependent children. There are 248,000 cases representing almost one million persons.

Almost three-fourths of the AFDC mothers in New York City were born outside New York State. Seventy-three percent of them migrated here during the 50's and 60's. Some 27% came here from Southern states and 36% came from Puerto Rico.

There is almost no disagreement among reasonable men and women that welfare is a national problem. Bella Abzug's bill, which will effectuate the first phase of a transfer of welfare costs from the city of New York and from all 50 states to the Federal Government, deserves everyone's vigorous support.

And I want to commend you, Bella, for sponsoring this most significant legislation.

Edwin Crawford, Broome County Executive; President, New York State County Executives Association and New York State Association of Counties:

My role here today might be to emphasize the role of counties in New York State and in about half the States of the Union, particularly in the administration and funding of welfare. All counties in New York State are experiencing crushing burdens under the federally mandated welfare program. Outside the city of New York, it is the county which is responsible for welfare. County budgets in general now appropriate 50-60% of their budgets for their welfare programs; of the appropriations, about half are for Medicaid. In my own county, small compared to many, we will experience in 1976 a 40% increase in real estate taxes to support welfare and Medicaid. The 15 charter counties in the state are experiencing this year a $70 million deficit in funding welfare programs.

We urge our congressional delegation from New York State to support this measure; we pledge to Congresswoman Abzug that we will do all that we can across the state to request members of Congress of both parties to push this legislation. The New York State Association of Counties represents 56 of the 57 counties outside the city of New York, with over 10 million people. This bill has the unanimous endorsement of our association; we will work with Rep. Abzug, and we are pleased that we have been invited to join in this press conference.

Alfred Del Bello, Westchester County Executive; Chairman, Urban Affairs Committee of the National Association of Counties:

Many of us have attended numerous press conferences throughout the years. I think that the one thing we've talked about the most is welfare and what it's doing to our communities, counties and cities alike. I think it has heightened to the point where people are starting to realize the problem. In Westchester County alone, with a $174 million welfare assistance program, we are going to have to finance an additional $60 million next year in Federal, state and local funds to support the welfare load. That kind of increase is stripping our government, as it is stripping many other governments, of many other activities. The situation is so ludicrous that we are starting to cut back on jobs and on people in order to support welfare, exacerbating the situation as it develops.

Obviously, something has to be done, and the Abzug-Javits bill is the right direction. The Federal government which sets the rules and regulations and writes the laws should start treating this problem as a national one, rather than relying on localities which are unable to support it completely themselves.

The presence of so many public officials here today, and the meaning of this press conference is particularly significant in light of the President's message the other day. Not only did the President's speech ignore the needs of New York City, it ignored the needs of every urban community in the United States. Many of us here today are members of the Urban Affairs Committee of the National Association of Counties. There we have the opportunity to talk to the county leaders from every urban county in the nation. That is where the majority of the people live, and they all have the same problems to one degree or another. It just happens that in New York City these problems have all merged at the same time.

But we are all suffering from welfare problems that cannot be afforded or adequately administered. We all have the problems of adequate provision of health care, of funding for education, of code enforcement, and of housing. If the President had only taken the opportunity to deal with these problems and their causes, to recognize the needs of urban America, maybe we would have some hope today.

But the only hope we have, as Bella Abzug has said, is in somehow arousing public reaction and support for the needs of local government structures throughout this country, in counties, cities, villages and towns, to establish who is to be responsible for providing the necessary levels of service. The President has not spoken to this question; we must speak to it as local officials.

Hopefully, the public will react very strongly. Hopefully, we will obtain some relief in the area of welfare financing. This will allow us to do the job in the streets as we should, to provide all those necessary services without stripping them out to pay for one program.

Kenneth Gibson, Mayor of Newark, New Jersey:

The most important thing for me to emphasize is that this bill does not assist only New York City or New York State. As Rep. Abzug has pointed out, it assists 49 of the 50 states. In Newark, we do not pay directly for Aid to Families with Dependent Children or Medicaid costs. But at the same time, we pay for these costs in the long run. One of our county officials, Freeholder Tom Cook, is here to express Essex County's support for this measure. New Jersey would benefit by at least $217 million with the approval of this bill and the increased appropriations. It is important to emphasize that so many states would be helped with the passage of this bill. The citizens of Newark and of New Jersey would greatly benefit; that is why we are here.

Ralph Caso, Nassau County Executive; Director and Past Chairman, Metropolitan Regional Council:

I am here representing not only my own county, Nassau County, but also the Metropolitan Regional Council, which makes up the tri-state area of New York, New Jersey and Connecticut. To underscore, without being repetitious, what has been said already, this is not a bailout for New York City, as some people would want to interpret it. In the other parts of the state it is the counties that have the responsibility of providing the welfare aid that is so essential if we are to continue to help the people that reside within our constituencies. In my county alone, we have had tremendous increases over which we have no control. In 1975, we budgeted $180 million; now we need a supplemental appropriation of $18 million, the bulk of which is for Medicaid and AFDC, to which Rep. Abzug's bill is addressed. If we can get the Federal government to recognize its responsibility to do more in this area, then we will have made a giant step forward in alleviating the present financial crisis.

And as a first step in trying to solve the problem of welfare, this is a direct and dramatic move which we support. I hope that the Congress will support this measure, and that it will lead to the eventual takeover of the cost of welfare at the national level. I have appointed members to serve on your Citizens Committee, to work with you and Senator Javits, and we pledge to you our support to meet these objectives.

FORMER IRS POLICY ON WAR TAX PROTESTERS

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. VANIK. Mr. Speaker, one of the most difficult and controversial potential uses of the first amendment right of speech and expression has been the war tax resistance movement. Naturally, this movement reached its height during the latter part of the recent Vietnam war. There are still a number of individuals, however, who seek to withhold that portion of their tax assessments which they calculate would be spent by the Federal Government on military programs. Legislation has been introduced by a number of my colleagues which would provide for some taxpayers to designate that their taxes be used only for non-military-related programs of the Federal Government.

In response to a series of questions from the Ways and Means Oversight Subcommittee, Commissioner Alexander has provided information on three programs which the IRS maintained to collect taxes assessed against war tax protesters. These descriptions are of particular interest since some of these cases are still "clearing the pipeline."

In general, it appears that the IRS did make a special effort to collect taxes from these individuals. While it can certainly be argued that these people should not be exempted from taxes and that the Federal Government cannot place them in a special and preferential category, specially harsh collection standards do raise serious first amendment questions.

The IRS is to be commended for returning these categories of cases to the regular system of tax collection. The Commissioner's response follows:

TAX RESISTERS

(a) Is (was) there a special program on war tax resisters?

Response: There are, at this time, two active programs pertaining to cases involving peace movement tax protests. These programs are discussed below. Formerly, we had three such programs. Our program on Individual Income Tax Cases was discontinued as an active program after Tax Year 1973. However, we are including a description of the program since a small number of Tax Year 1973 cases may still exist in field office inventories.

(1) When was the program started?

Response: The programs involving peace movement tax protests were instituted on August 13, 1968.

(2) Please describe the program.

Response: The following is a description of the three programs:

Individual Income Tax Cases—Under this program, cases involving taxpayer who underpaid income taxes as a protest against U.S. Military action were "P" coded by the

Service Centers. These accounts were then forwarded to our District Offices for normal processing. If the taxpayer failed or refused to pay after receipt of the first notice, an investigation was made to locate assets subject to Notice of Levy. Only as a last resort, when no assets subject to Notice of Levy could be located, was collection effected by seizure and sale of property.

Prior to November 13, 1974, whenever enforcement action was necessary on one of these accounts a sensitive case report was required to be submitted to the National Office. This reporting requirement has been abolished, so normal collection procedures are now used to dispose of the account.

Our employees were instructed not to take enforced collection action on any specific case where there appeared to be a reasonable basis for criminal prosecution of the taxpayer. However, the fact that individuals for years withheld payment in protest of tax revenues being used for military purposes did not of itself indicate a potential for criminal prosecution: therefore, we required our employees to submit a report to the National Office for review on each possible prosecution case.

As stated above, we have discontinued this program and are currently in the process of "clearing the pipeline" of cases previously identified under these criteria. Manual instructions are being changed to insure that all such cases in the future will be handled under normal collection procedures.

Telephone Excise Tax Cases—Telephone companies report the names and addresses of telephone subscribers who fail to pay telephone excise tax. In the past, some individuals have refused to pay this tax as a protest against U.S. Military action. The tax is assessed against the individual telephone subscribers if the balance due is $1 or more. Annually, the service centers review all unpaid accounts and research all available service center sources to determine the taxpayers' social security numbers. If the taxpayer's number is determined, a transaction code is input to the taxpayer's account on the Individual Master File in an effort to capture subsequent refunds.

Once a year, the service center issues a Taxpayer Delinquency Notice on these accounts. If the taxpayer fails to pay his account and his social security number is unknown a Taxpayer Delinquent Account (TDA) will be issued to our district offices if the amount due exceeds the established tolerance criteria for these cases. If his social security number is known, no account is issued.

In the district office, all of these accounts are initially assigned to the Office Branch. There, they are either worked exclusively (without field contact) or assigned to the field branch for contact if the dollar amount exceeds the normal tolerance level established for field contact on these cases.

Accounts being worked in the Office Branch which do not meet the criteria for field contact on which undelivered mail is returned, are reported uncollectible by the Office Branch after all normal collection procedures have been exhausted.

Prior to April 16, 1974, there were no tolerance criteria established for cases of this nature. Up until that time our instructions required that our employees collect all tax due of a $1 or more on tax protest cases. Our current procedures require that collection of these accounts be accomplished in the same manner as all other types of unpaid accounts.

Telephone Excise Tax Protests by Religious Groups—A number of churches and synagogues have publicly expressed resistance to U.S. Military activity by refusing to pay the Federal excise tax on their telephone bills. Due to the nature of these cases we instruct our employees not to take any enforcement action against churches or synagogues without prior approval of the National Office. If enforced collection action is approved, these cases are handled the same as any other tax delinquencies.

We are currently in the process of abolishing this program. Once abolished these cases will be handled the same as any other excise tax delinquency.

THE BESSARABIAN QUESTION—PART I

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1975

Mr. McDONALD of Georgia. Mr. Speaker, the Soviet-backed Communist forces in Angola are now attempting to establish a Soviet colony out of that country. This effort brings to mind a very important issue concerning Soviet colonialism which is often neglected, but never forgotten, the Bessarabian question.

Bessarabia is an ethnographically Romanian province which was stolen from Romania by the Soviets in 1940 as a consequence of the Molotov-Ribbentrop Pact of 1939. The Soviets call Bessarabia a Moldavian nation, which is nonexistent, for the Moldavians are just as much Romanian as the Latin inhabitants of Wallachia and Transylvania. It is one of the ludicrous inconsistencies of so-called scientist Marxism that Marxists deny the existence of old, historic nations on one hand, while simultaneously attempting to create nations which do no exist. But Americans are not fooled.

Anti-Marxist sentiment is rising throughout Eastern Europe in a new generation which is nationalistic, but not chauvinistic, religious, but not dogmatic, and believers in elected representative government, not the totalitarianism of any party. The Romanian nation, the only Latin nation in Eastern Europe, has many such people fervently praying for the demise of the oppressive Marxist system in their nation and for the dissolution of the Soviet empire in which sphere of influence an unwise West placed their nation.

Despite the policies of recent U.S. administrations favoring Communist Romania vis-a-vis the U.S.S.R., the sentiments of the American people are wholly with the democratic, Christian feelings of the suppressed Romanian people.

I am pleased to bring to the attention of my colleagues part I of the "Bessarabian Question," by Prof. Nicholas Dima, which appeared in East Europe magazine, August-September 1975, as follows:

THE BESSARABIAN QUESTION

(By Nicholas Dima)

(NOTE.—Nicholas Dima is a prominent Romanian-American scholar. A larger, similar paper on Moldavia has just been published in an important new volume, The Soviet West: Interplay Between Nationality and Social Organization, Praeger Publishers, Inc., New York 10003.)

Although the government of the Moldavian Socialist Soviet Republic, by exerting pressure on humanist intellectuals, aims to convince Moldavians that they are a unique and distinct nationality by themselves, this effort has yet to succeed.

In the last 28 years, since the Soviet Union reincorporated Moldavia into its territory, a great effort has been made to cut off Moldavians from any Romanian influence. At the same time, different kinds of pressure have been put on them to create a new identity, separate from the former Romanian identity. However, evidence gathered from various recent sources shows that in spite of that pressure, Moldavians still retain their Romanian traits.

To test that hypothesis, I followed the new Moldavian generation of young humanist intellectuals, their language and their problems as they are reflected in their writings, and the way they consider themselves "Moldavians," facing the Romanian nationality.

The study involves linguistic analysis, and some social, historical, cultural and demographic exploration. The study also tries to trace the interaction between the group of political leaders of Soviet Moldavia, working for more and more integration into the Soviet Union, and the group of Moldavian intellectuals, struggling to maintain their national culture.

The evidence is gathered mostly from Moldova socialista from November 1972 to March 1973, Kultura from December 1972 to February 1973, and Komunistal Moldovei, Nistru, and Tinerimea Moldovei as selective reading.

The Socialist Soviet Republic of Moldavia, or Bessarabia, as it is also known, is located in the South-West corner of the Soviet West, between Romania and Ukraine, being historically a much disputed territory.

The country has little industry, but it has excellent agricultural conditions, being one of the best agricultural areas of the Soviet Union.

Historically, present-day Moldavia is the Eastern part of former Moldavia, one of the two Romanian Principalities formed during the thirteenth and fourteenth centuries.

In 1511 and then again in 1634, no longer able to resist Ottoman pressure, Moldavia was forced to sign a treaty with the Turks. However, Turkey bound itself to preserve Moldavian independence and its territory, "without permitting anybody to take the smallest parcel of her territory."[1] In spite of this, Turkey gave Russia the Eastern half of Moldavia in 1812. According to Russian estimates, the population of that territory was 482,000 in 1817 and 86 percent of them were Moldavians or Romanians as even Russians used to call them until the Soviet era.[2]

Regarding the annexation, Karl Marx wrote in 1854 in one of his studies: "Turkey gave Bessarabia to Russia. But Turkey could not give anything away, since she was only the protecting power of the two Romanian countries."[3] Further, the territory changed hands between Romania and Russia a few times until quite recently.

Present-day Russian historians write on that subject shortly. They say that "the Union" of Bessarabia with Russia was concluded in 1812 and this was a progressive act for it provided better opportunities for the development of the Moldavian population.[4]

A Soviet contemporary historian emphasized that the tsarist regime tried everything to advance forced russification, among other things teaching in Moldavian being forbidden.[5] As a direct consequence the Moldavians remained the least literate people in their country under the tsars, and since then the least educated population in that part of Europe.

Nevertheless, in the last 10–15 years, a young generation of Moldavian intellectuals grew up bringing along with them new problems and a struggle for a nationality. They rediscovered themselves and have become eager to strengthen their own nationality despite the pressure for integration and homogenization within the Soviet West exercised through the local party and government.

As a step toward a closer drawing together with other nationalities of the Soviet Union insistent pressure is being placed on Moldavians to foster a new, separate nationality in order to break away from the Romanian-based resistance and irredentism. However, the entire present Moldavian cultural life is so closely connected with their larger Romanian past, that they cannot be separated at all and evidence of this is found in all their contemporary publications.

Writing on their own past is one of the most troublesome problems. Authors usually begin with the Russian "liberation from Turkish rule," then blame Romania for having transformed Bessarabia into a colony, and eventually emphasize the Soviet happiness.[6] However, the problem is not solved by hiding the past and more explicit attitudes have to be taken. The first secretary of the Moldavian Communist Party wrote a long article acknowledging that many Moldavians show an immature, uncomprehending, nationalistic and retrograde attitude, that they are still subject to foreign misinformation, and have not completely broken with the "capitalist past." [7] Nevertheless, the young students do not seem to have forgotten the past in spite of the benefits of the new Moldavian Status. As recent as late 1971, the words: "Long live Romania. We want to be with Romania" were found written on the very walls of the building of the Central Press House in Kishinev.[8]

To convince Soviet Moldavians that they are a separate nationality, their writers produce different articles on the topic. A historian writes a long article directed against all those who deny that Moldavian is a separate nationality. Actually, what he writes is pure Romanian history. Nevertheless, based on some vague speculations he concludes that Moldavians have a history and some traits of their own and therefore, whoever deny them as a distinct nationality is a capitalist instigator.[9]

Little can be done about the past, but a lot more about the present. In its present context, Soviet Moldavia is completely isolated from Romania, mainly socially and politically. In the Moldavian newspapers there are news from all over the world, but hardly any from Romania, even the very words Romania and Romanians are "unmentionable."

The cultural heritage of the past is even a more delicate subject. Soviet Moldavia has produced very little in the sphere of the intellectual life and the folk art is inseparable from the Romanian variety. Trying to prove that Soviet Moldavia has a cultural character of its own, a writer gives scores of popular creations such as: Gruie, Novac, Iancu Jianu and the like, all of them pure Romanian. The same author comes to the conclusion that Moldavians have a popular culture of their own, therefore are a nationality.[10] Certainly, some of this art is Moldavian. However, what is Moldavian and what is Romanian?

FOOTNOTES

[1] Andrei Popovici, The Political Status of Bessarabia, Washington, D.C.: Ransdell Inc., 1931, p. 44.

[2] Stefan Ciobanu, La Bessarabie, Bucharest; Academie Roumaine, 1941, pp. 30–40.

[3] Karl Marx, Notes On Romanians, Bucaresti: Editura Academiei, 1964, pp. 105, 106.

[4] Outline History of the USSR, Moscow: Foreign Languages Publishing House, 1960, p. 122.

[5] A. L. Odud, R.S.S. Moldoveneasca, Kishinev: ESD a Moldovei, 1957, p. 65.

[6] Moldova Socialista, December 15, 1972.

[7] Kultura, No. 2, January, 1966, pp. 2–7.

[8] New York Times, November 6, 1971.

[9] Komunistul Moldovei, No. 10, October, 1972, pp. 29–36.

[10] Komunistul Moldovei, No. 10, October, 1972, pp. 29–36.

SENATE—*Wednesday, December 10, 1975*

The Senate met at 10 a.m. and was called to order by Hon. WENDELL H. FORD, a Senator from the State of Kentucky.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father whose love never fails, we thank Thee for all good gifts with which Thou hast endowed us—gifts of mind and heart and voice. These gifts we dedicate to Thy service. Grant unto us now the more excellent gift of love as taught by the Apostle:

Love is patient and kind; love is not jealous or conceited, or proud; love is not ill-mannered, or selfish or irritable; love does not keep a record of wrongs; love is not happy with evil, but is happy with the truth. Love never gives up: its faith, hope and patience never fail. Love is eternal.—I Corinthians 13: 4–8 (T.E.V.).

Give us that love made known in Jesus Christ, in whose name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 10, 1975.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. WENDELL H. FORD, a Senator from the State of Kentucky, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. FORD thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, December 9, 1975, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations will be stated.

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

The assistant legislative clerk proceeded to read sundry nominations in the Harry S Truman Scholarship Foundation.

Mr. MANSFIELD. I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

DEPARTMENT OF STATE

The assistant legislative clerk read the nomination of William E. Schaufele, Jr., of Ohio, to be an Assistant Secretary of State, and the nomination of Andrew L. Steigman, of Maryland, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Sao Tome and Principe.

Mr. MANSFIELD. I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

LAW OF THE SEA CONFERENCE

The assistant legislative clerk read the nomination of T. Vincent Learson, of New York, to be an Ambassador at Large and the Special Representative of the President of the United States for the Law of the Sea Conference and Chief of Delegation.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

INTER-AMERICAN FOUNDATION

The assistant legislative clerk proceeded to read sundry nominations in the Inter-American Foundation.

Mr. MANSFIELD. I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Does the Senator from Michigan wish recognition?

Mr. GRIFFIN. No.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, for not to exceed 15 minutes, with statements limited therein to 3 minutes each.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, beginning at the hour of 10:45 a.m., there be set aside a 40-minute allocation, to be divided equally between the distinguished Senator from Idaho (Mr. McClure) and the distinguished Senator from South Carolina (Mr. Hollings), to discuss and dispose of a matter having to do with the appropriations bill.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. McCLELLAN. Reserving the right to object, has this been cleared with Senator Hollings?

Mr. MANSFIELD. No, he was not here yesterday and we think it will be very satisfactory.

Mr. McCLELLAN. When is the time to start?

Mr. MANSFIELD. 10:45, when we have been informed that he will be here.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. McCLELLAN. I have no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. Ford) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:02 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9005) to authorize assistance for disaster relief and rehabilitation, to provide for overseas distribution and production of agricultural commodities, to amend the Foreign Assistance Act of 1961, and for other purposes.

The message also announced that the House has passed the bill (H.R. 8631) to amend the Atomic Energy Act of 1954, as amended, to provide for the phaseout of governmental indemnity as a source of funds for public remuneration in the event of a nuclear incident, and for other purposes, in which it requests the concurrence of the Senate.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the enrolled bill (H.R. 9005) to authorize assistance for disaster relief and rehabilitation, to provide for overseas distribution and production of agricultural commodities, to amend the Foreign Assistance Act of 1961, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. Ford).

The message also announced that the House disagrees to the amendments of the Senate to the amendments of the House to the bill (S. 2327) to suspend sections 4, 6, and 7 of the Real Estate Settlement Procedures Act of 1974; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Reuss, Mr. Barrett, Mr. Moorhead of Pennsylvania, Mr. Stephens, Mr. St Germain, Mr. Brown of Michigan, and Mr. J. William Stanton were appointed managers of the conference on the part of the House.

The message further announced that the Speaker has appointed Mr. Rousselot as a manager on the part of the House in the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2327) to suspend sections 4, 6, and 7 of the "Real Estate Settlement Procedures Act of 1974, vice Mr. J. William Stanton, excused.

The message also announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 9721. An act to provide for increased participation by the United States in the Inter-American Development Bank, to provide for the entry of nonregional members and the Bahamas and Guyana in the Inter-American Development Bank, to provide for the participation of the United States in the African Development Fund, and for other purposes.

H.R. 10624. An act to revise chapter IV of the Bankruptcy Act.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. Ford) laid before the Senate the following letters, which were referred as indicated:

Report of the Comptroller General

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Should the Gama Goat Be Improved or Replaced?" Department of Defense (with an accompanying report); to the Committee on Government Operations.

Adjustment or Elimination of Reimbursable Charges Existing as Debts Against Individual Indians or Tribes of Indians

A letter from the Commission of Indian Affairs, Bureau of Indian Affairs, U.S. Department of the Interior, reporting on adjustment or elimination of reimbursable charges of the Government of the United States existing as debts against individual Indians or tribes of Indians; to the Committee on Interior and Insular Affairs.

Federal Energy Administration Quarterly Report

A letter from the Administrator, Federal Energy Administration, transmitting, pursuant to law, the quarterly report for the period of July through September 1975, concerning imports of crude oil, residual fuel oil, refined petroleum products, natural gas, and coal; production of crude oil, natural gas, and oil; refinery activities; and inventories (with an accompanying report; to the Committee on Interior and Insular Affairs.

Proposed Lease of AMES Center Building, Arlington, Va.

A letter from the Acting Assistant Administrator of General Services, transmitting, pursuant to law, a prospectus which proposes entering into a succeeding 5-year lease with a 5-year renewal option for space presently occupied at the Ames Center Building, 1820 North Fort Myer Drive, Arlington, Va. (with accompanying papers); to the Committee on Public Works.

Report of Identical Bidding in Public Procurement

A letter from the Attorney General of the United States, transmitting, pursuant to law, a report of identical bidding in public procurement (with an accompanying report); to the Committee on the Judiciary.

Report on Presidential Advisory Committee Recommendations

A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report with respect to the recommendations contained in the report entitled "Search for Success: Toward Policy on Educational Evaluation," June 1974, from the National Advisory Council on Education Professions Development (with an accompanying report); to the Committee on Labor and Public Welfare.

REPORT OF THE NATIONAL COMMISSION ON DIABETES

A letter from the Chairman, National Commission on Diabetes, transmitting, pursuant to law, a report of the National Commission on Diabetes (with an accompanying report); to the Committee on Labor and Public Welfare.

FINAL AMENDMENTS FOR THE STATE VOCATIONAL EDUCATION PROGRAMS

A letter from the Acting Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, final amendments for the State Vocational Education Programs under the Vocational Education Act of 1963, as amended (20 U.S.C. 1241 through 1393(f)) (with accompanying papers); to the Committee on Labor and Public Welfare.

ANNUAL REPORT TO THE POSTMASTER GENERAL

A letter from the Chairman, Board of Governors, U.S. Postal Service, transmitting, pursuant to law, the annual report of the Postmaster General, 1974–1975 (with an accompanying report); to the Committee on Post Office and Civil Service.

PETITIONS

The ACTING PRESIDENT pro tempore (Mr. FORD) laid before the Senate the following petitions, which were referred as indicated:

A resolution adopted by the Board of Directors of the Savings Bank Association of New York, relating to supporting Governor Carey's efforts in behalf of immediate Federal aid for New York City. Referred to the Committee on Banking, Housing and Urban Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EAGLETON, from the Committee on the District of Columbia, with an amendment:

H.R. 4287. An act to provide for additional law clerks for the judges of the District of Columbia Court of Appeals (Rept. No. 94–523).

H.R. 10035. An act to establish the Judicial Conference of the District of Columbia (Rept. No. 94–524).

By Mr. SPARKMAN, from the Committee on Foreign Relations, without amendment:

S. Res. 221. A resolution urging the President of the United States to take the leadership in seeking international cooperation in strengthening safeguards of nuclear materials (Rept. No. 94–525).

By Mr. CANNON, from the Committee on Rules and Administration, without amendment:

S. Res. 247. A resolution authorizing payments out of the contingent fund of the Senate to reimburse John A. Durkin and Louis C. Wyman for certain expenses incurred in the recent contested election for a seat in the Senate from the State of New Hampshire (Rept. No. 94–526).

S. Res. 316. A resolution authorizing supplemental expenditures by the Committee on the District of Columbia for inquiries and investigations (Rept. No. 94–529).

S. Res. 299. A resolution authorizing supplemental expenditures by the Select Committee on Nutrition and Human Needs for inquiries and investigations (Rept. No. 94–528).

H.R. 9883. An act to amend the Joint Resolution approved December 28, 1973, providing for the establishment of the Lyndon Baines Johnson Memorial Grove on the Potomac, and for other purposes (Rept. No. 94–530).

By Mr. CANNON, from the Committee on Rules and Administration, with amendments:

H.R. 6673. An act to provide for the establishment of an American Folklife Center in the Library of Congress, and for other purposes (Rept. No. 94–527).

By Mr. CANNON, from the Select Committee on Standards and Conduct:

S. Res. 325. An original resolution to amend the Standing Rules of the Senate relating to certain foreign travel (Rept. No. 94–531).

By Mr. HARTKE, from the Committee on Veterans' Affairs, with an amendment:

S. 2635. A bill to amend title 38, United States Code, to modify the pension program for veterans of the Mexican border period, World War I, World War II, the Korean conflict, and the Vietnam era and their survivors, and for other purposes (Rept. No. 94–352).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. BELLMON, from the Committee on Agriculture and Forestry:

John A. Knebel, of Virginia, to be Under Secretary of Agriculture.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PEARSON, from the Committee on Commerce:

Roger W. Hooker, Jr., of New York, to be an Assistant Secretary of Transportation.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PEARSON. Mr. President, as in executive session, I also report favorably sundry nominations in the U.S. Coast Guard which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the CONGRESSIONAL RECORD of November 20, 1975, at the end of the Senate proceedings.)

By Mr. BELLMON, from the Committee on Agriculture and Forestry:

John A. Knebel, of Virginia, to be a member of the Board of Directors of the Commodity Credit Corporation.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE BILL REFERRED

The following bill was read twice by its title and referred to the Committee on Foreign Relations:

H.R. 9721. An act to provide for increased participation by the United States in the Inter-American Development Bank, to provide for the entry of nonregional members and the Bahamas and Guyana in the Inter-American Development Bank, to provide for the participation of the United States in the African Development Bank, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, December 10, 1975, he presented to the President of the United States the following enrolled bill:

S. 240. An act to amend the Act entitled "An Act granting a charter to the General Federation of Women's Clubs".

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolution were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HRUSKA:

S. 2762. A bill to establish a National Court of Appeals, and for other purposes. Referred to the Committee on the Judiciary.

S. 2763. A bill to improve the appellate court system, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. BROCK:

S. 2764. A bill to amend the Internal Revenue Code of 1954 to increase the estate tax exemption from $60,000 to $200,000, and extend the time for paying certain estate taxes. Referred to the Committee on Finance.

By Mr. NELSON:

S. 2765. A bill to repeal authority for provisional listings of commercially established colors. Referred to the Committee on Labor and Public Welfare.

By Mr. ROTH:

S. 2766. A bill to establish procedures for oversight of social research and development by Federal agencies, to coordinate and reduce duplication in social research and development by Federal agencies, and for other purposes. Referred to the Committee on Government Operations.

By Mr. DOMENICI (for himself and Mr. MCCLURE):

S. 2767. A bill to provide for a one year moratorium on the sale or other disposition from stockpiles of strategic and critical materials. Referred to the Committee on Government Operations.

By Mr. MCINTYRE (for himself and Mr. DURKIN):

S. 2768. A bill to amend section 518(a) of the National Housing Act for the purpose of extending the time period during which a homeowner may apply for assistance under such section. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. PERCY:

S. 2769. A bill for the relief of Jana Hlavaty. Referred to the Committee on the Judiciary.

By Mr. CHILES:

S. 2770. A bill for the relief of Anthony Augustus Daley and Beverly Evelyn Daley. Referred to the Committee on the Judiciary.

By Mr. MCGOVERN:

S. 2771. A bill to amend title 38, United States Code, to provide special psychological readjustment therapy, counseling services, and followup treatment to veterans of the Vietnam era and their dependents who are in need of such assistance because of military service performed during the Vietnam era. Referred to the Committee on Veterans' Affairs.

By Mr. HELMS:

S.J. Res. 150. A joint resolution to authorize and request the President to issue a proclamation designating July 4 of each year as "Independence Day". Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. **HRUSKA**:

S. 2762. A bill to establish a National Court of Appeals, and for other purposes. Referred to the Committee on the Judiciary.

S. 2763. A bill to improve the appellate court system, and for other purposes. Referred to the Committee on the Judiciary.

REVISION OF THE FEDERAL COURT APPELLATE SYSTEM

Mr. HRUSKA. Mr. President, I send to the desk two bills relating to a revision of the Federal court appellate system, with the request that they be appropriately referred.

Both of these measures are based upon the report and recommendations of the Commission on Revision of the Federal Court Appellate System, which was created and which functioned under Public Law 489 of the 93d Congress, as amended.

Both of these measures were drafted by the U.S. Office of the Legislative Counsel, to which the Commission referred its June 1975, report with the request and instructions that the office prepare draft legislation which would reflect and implement the report's recommendations for changes in the structure and internal procedures of the Federal courts of appeal system.

The bills which I introduce now, Mr. President, are the response to that request and those instructions.

The first of these bills, S. 2762, provides for the establishing of a new National Court of Appeals, designed to increase the capacity of the Federal judicial system for definitive adjudication of issues of national law, subject always to Supreme Court review. This bill I introduce for myself and on behalf of Mr. McClellan, Mr. Burdick, and Mr. Fong.

The second of these bills, S. 2763, relates to internal operating procedures, and structure of the present Circuit Courts of Appeals and some judiciary personnel concerns. This bill I introduce for myself and on behalf of Mr. McClellan and Mr. Fong.

Before proceeding to explanation and detail of these measures, I shall comment briefly upon the fashion in which the Commission on Revision of the Federal Court Appellate System functioned, how it arrived at the form and recommendations of its report, and the role of its activities.

The Commission was at all times fully aware of the profound, far-reaching nature of its recommendations for the changes it proposed.

Hence, its actions were taken advisedly and only after painstaking consideration, based upon extensive research and study. A substantial majority of the Commission supports each of the recommendations in the report. Its members, however, were not of one mind on all issues. They neither sought nor achieved unanimity with respect to all points, nor with respect to their underlying reasoning. Nevertheless, it was concluded by all that there existed a necessity to submit concrete, specific proposals to serve as vehicles for the more sharply focused hearings and deliberations which are inherent in the legislative forum and process.

It follows that each member of the Commission—and also the introducer and each of the cosponsors of the bills—reserves the option to propose and advocate alternatives or modifications to provisions contained in the bills. None of these Commission or Senate members is committed to the bills in their entirety or to the exclusion of accommodating amendments as their later judgment will call for. None of them is irrevocably committed to these proposals in their full text.

Moreover, the Commission, in its report, expressly recognized the exclusive role of Congress in legislating on these subjects and topics and particularly regarding points and topics which are political in essence and in nature. In spite of ultimate congressional jurisdiction, the Commission, in its report and in the bills as well, provided language to give full continuity to its proposals—but with full awareness that Congress will assert its prerogative to be the judge as to all aspects of the legislation and particularly to those of a political nature.

One example of a point clearly in the latter category is the selection of members of the proposed National Court of Appeals. The bill as drafted clearly states that such members shall "be appointed by the President, by and with the advice and consent of the Senate."

This is the conventional, simple, well-established method. Normally, one would not expect departure from this formula. But it is clear that this is not a normal situation. To empower a President to appoint at virtually one sitting, the entire membership of so important a tribunal could be considered a grant of too much power to one man.

It is unlikely that Congress would favor such a grant. The Commission as well as the sponsors of the bills are well aware of this.

Fortunately, there are a number of available and acceptable alternatives from which Congress may choose, and by which the court members may be selected for the initial composition of the court. Such alternatives will be discussed later in my remarks.

Another topic the Commission felt best to leave to Congress was that of the salaries of the judges. For purposes of discussion, the salary level in the bill which I am introducing is fixed at $52,500, approximately midway between the amount that is presently being received by Federal circuit court judges and that being received by Supreme Court Justices.

Once these specific proposals are set before Members and committees of the Senate, regular methods of processing proposed legislation will take over. There will be hearings, testimony, discussions, debate, markup, and final action. Thus it is in this instance as it is with all legislation.

S. 2762, A NATIONAL COURT OF APPEALS

S. 2762 proposes a new National Court of Appeals comprised of seven members, appointed by the President, upon advice and consent of the Senate. It would sit only en banc. Its decisions would constitute precedents binding upon all lower Federal courts, and as to questions of Federal law, upon State courts as well, unless modified or overruled by the Supreme Court. All of the new court's decisions would be subject to review by the Supreme Court upon petition for certiorari.

The National Court of Appeals would have jurisdiction to hear cases (a) referred to it by the Supreme Court (reference jurisdiction), or (b) transferred to it from the regional courts of appeals, the Court of Claims and the Court of Customs and Patent Appeals (transfer jurisdiction):

(a) Reference jurisdiction. With respect to any case before it on petition for certiorari, the Supreme Court would be authorized:

(1) to retain the case and render a decision on the merits;

(2) to deny certiorari without more, thus terminating the litigation;

(3) to deny certiorari and refer the case to the National Court of Appeals for that court to decide on the merits;

(4) to deny certiorari and refer the case to the National Court of Appeals, giving that court discretion either to decide the case on the merits or to deny review and thus terminate the litigation.

The Supreme Court would also be authorized to refer cases within its obligatory jurisdiction, excepting only those which the Constitution requires it to accept. Referral in such cases would always be for decision on the merits:

(b) Transfer jurisdiction. If a case filed in a court of appeals, the Court of Claims or the Court of Customs and Patent Appeals is one in which an immediate decision by the National Court of Appeals is in the public interest, it may be transferred to that court provided it falls within one of the following categories:

(1) the case turns on a rule of federal law and federal courts have reached inconsistent conclusions with respect to the rule; or

(2) the case turns on a rule of federal law applicable to a recurring factual situation, and showing is made that the advantages of a prompt and definitive determination of that rule by the National Court of Appeals outweigh any potential disadvantages of transfer; or

(3) the case turns on a rule of federal law which has theretofore been announced by the National Court of Appeals, and there is a substantial question about the proper interpretation or application of that rule in the pending case.

The National Court of Appeals would be empowered to decline to accept the transfer of any case. Decisions of the regional courts of appeal granting or denying transfer, and decisions by the National Court of Appeals accepting or rejecting cases, would not be reviewable under any circumstances, by extraordinary writ or otherwise.

THE NEED FOR A NATIONAL COURT OF APPEALS

The Commission on Revision of the Federal Court Appellate System recommended the new court as the means to increase the capacity of the Federal judicial system for definitive adjudication of issues of national law.

The Commission is not the first to point to the lack of adequate appellate capacity and to suggest a new court of appeals as the vehicle to achieve it. In fact, it is the fourth organization or group to come to this conclusion within the past few years. These other bodies are: First, the Study Group on the Caseload of the Supreme Court, appointed under the aegis of the Federal Judicial Center, which reported in 1972; Second, the Advisory Council for Appellate Justice in 1974; and Third, the American Bar Association, acting at the 1974 midwinter meeting. Their work was foreshadowed by the 1968 American Bar Foundation report on Accommodating the Workload of the U.S. Courts of Appeals.

Most recently, the Board of the American Judicature Society, in a Resolution adopted in August 1975, concurred "in the need for" and expressed its support of "the concept of a National Court of Appeals," and further expressed its support "in principle" of the Commission's proposals.

DRAMATIC INCREASE IN SUPREME COURT FILINGS

The Supreme Court is charged with maintaining a harmonious body of national law through its power of review of the judgments in cases brought before it by way of certiorari and appeal. As the number of cases brought to the Supreme Court for review has burgeoned, the number disposed of on the merits after argument has remained relatively constant. Obviously, the major variable has been in the number of cases not accorded plenary review.

The figures are dramatic. In 1951 approximately 1,200 cases were filed in the Court. Twenty years later the number had tripled to about 3,600.

By contrast, as Erwin N. Griswold observes, the Court was "hearing about 150 cases on the merits in 1925; it was hearing about 150 cases on the merits twenty-five years ago. It hears about 150 cases on the merits today." Elaborating on the same point, he continues:

> The number of cases argued orally in 1951 was 128. The number of cases argued orally at the 1973 Term was 170. But there were a considerable number of occasions when two or more cases were heard at a single argument. Thus, there were approximately 150 oral arguments, and this number has been more or less constant for a number of years. It is, in fact, the maximum number that the Court can be expected to hear on the merits.

The significance of these figures is summarized by Griswold as follows:

> . . . Putting it another way, about eighteen percent of paid cases (appeals and certiorari) were heard on the merits twenty years ago, while about six percent of paid cases were heard on the merits during the 1973 Term. What became of the other twelve percent of paid cases? . . . they were lost in the 1973 Term simply because of inadequate appellate capacity to hear cases on a national basis.

The figures discussed above do not include summary dispositions of cases within the Court's appeal docket. An increasing proportion of the Court's decisions have involved constitutional issues. Since the total number of decisions has remained constant, the result is that the number dealing with nonconstitutional issues has been decreasing. The Commission concluded that this decrease has reached a point which is not acceptable now, and will become even less acceptable in years ahead.

Prior to 1960, the Harvard Law Review reported in 1971, nonconstitutional holdings "almost uniformly" made up two-thirds to three-quarters of the Court's decisions. In more recent years, the proportions have almost been reversed: constitutional cases have comprised between one-half and two-thirds of the Court's plenary decisions. Congressional enactments have imposed Federal standards in such areas as occupational health and safety, protection of the environment, product safety, and economic stabilization, to name but a few. Thus, while the scope of Federal regulatory legislation—typically including provisions for judicial review—has been steadily broadening, the number of definitive decisions interpreting that legislation has been diminishing. What this means, in absolute figures, is that in each term the Supreme Court can be expected to hand down no more than 80, and perhaps as few as 55, plenary decisions in all areas of Federal nonconstitutional law. This number of decisions is not adequate to meet the country's needs for authoritative exposition of recurring issues of national law.

Erwin Griswold served as Solicitor General of the United States for six terms of the U.S. Supreme Court from 1967 to June 1973. One of his responsibilities was to review every case in which any officer or agency of the Federal Government had lost in a lower court and wanted to take the case to the Supreme Court, either by appeal or by certiorari. Recounting his experience during those six terms, Griswold elaborated on the need for the Solicitor General to refuse to recommend Supreme Court review in a substantial number of cases because of the workload of the Court. There are, he concluded:

> At least twenty government cases every year which are fully worthy of review by an appellate court with national jurisdiction and . . . the Government and the legal system suffer . . . from the lack of authoritative decisions which would come from such review and would serve as a guide to government agencies and the lower courts.

This statement, made by one in a unique position to observe the flow of cases and the trends of the law in the Federal courts, is persuasive evidence that a problem exists.

Judge Shirley Hufstedler of the Ninth Circuit has spoken in even stronger terms. The Supreme Court, she observes, "now hears fewer than 1 percent of the cases decided by the Federal courts of appeals." Courts of appeals, she continues, "can be neither right nor harmonious 99 percent of the time. One percent supervision is patently inadequate."

There are those who suggest that the solution lies in persuading the Supreme Court to decide more cases each year on the merits.

The Commission flatly rejected such an idea, or any approach which would adversely affect the quality of the Court's processes or the public's confidence in them. To do so would be a disservice to the judicial system and litigants alike; it would incur risk of permanent damage for what may well prove to be the fleeting benefit of temporary relief.

There is ample evidence that the workload is already too strenuous and demanding. In fact, given the complexity and significance of the issues which only the Supreme Court can decide, it would be more appropriate to reduce the number of cases the Court must decide.

But the desirability of the National Court of Appeals is not based on reducing the present burden on the Supreme Court. It should be based on the proposition that such a new court would fill the need for additional definitive declaration of national law in all its facets. Mr. Justice Rehnquist expressed it in this way:

> The desirability of a national court of appeals turns not on the workload of the Supreme Court but rather on the sufficiency of judicial capacity within the federal system to review issues of federal constitutional and statutory law. While the adoption of the Commission's proposal might enable the Supreme Court to make some changes in the way it exercises its discretionary jurisdiction, the principal objective of the proposal is not 'relief' for the Supreme Court but 'relief' for litigants who are left at sea by conflicting decisions on questions of federal law."

An alternate forum for resolving conflicts which are otherwise not worthy of the Supreme Court's resources, would allow that Court greater freedom to hear or refuse to hear such cases. The Supreme Court would be relieved of the pressure to adjudicate solely because two regional circuit courts have disagreed.

SUMMARY AS TO NEED

The proposed National Court of Appeals would be able to decide at least 150 cases on the merits each year, thus doubling the national appellate capacity. Its work would be important and varied, and the opportunity to serve on it could be expected to attract individuals of the highest quality. The virtues of the existing system would not be compromised. The appellate process would not be unduly prolonged. There would not be, save in the rarest instance, four tiers of courts. There would be no occasion for litigation over jurisdiction. There would be no interference with the powers of the Supreme Court, although the Justices of that Court would be given an added discretion which can be expected to lighten their burdens.

The new court would be empowered to resolve conflicts among the circuits, but its functions would not be limited to conflict resolution alone.

It can provide authoritative determinations of recurring issues before a conflict has ever arisen. The cost of litigation, measured in time or money, would be reduced overall as national issues are given expedited resolution and the incidence of purposeless relitigation was lessened. The effect of the new court should be to bring greater clarity and stability to the national law, with less delay than is often possible today.

SELECTION OF THE JUDGES OF A NEW NATIONAL COURT OF APPEALS

In essence, selection of judges for a new court such as this, is a political question, and one on which the Congress should be allowed to work its will. It is essential that the new court be comprised of judges of stature and high quality. There is no monopoly of method to assure this goal. One may be confident that, once having recognized the importance of creating a National Court of Appeals, the Congress will not be found wanting in providing for the selection of a bench commensurate in quality with the needs which the institution itself is designed to meet.

Judicial selection is, at best a difficult and complex process, involving the subtle interplay of diverse factors. Where the quest is for greatness rather than mere adequacy, there is not even agreement on what constitutes the relevant considerations. We operate on the widely held assumption that the method of selection influences both "the kind and behavior of judges," but even this assumption has recently been characterized as "yet unproven." Whatever the subtleties and the variations in theory and in practice, the Federal pattern, insofar as it is relevant to the drafting of formal statutory provisions, has been at once simple and well established which is appointment by the President with confirmation by the Senate.

Absent unusual and compelling circumstance, one would expect no serious effort to induce the Congress to depart from the familiar in favor of untried alternatives. The creation of a totally new national court, however, does present an unusual and complicating feature. It may be argued that to empower the President to appoint the entire membership of so important a tribunal is to grant too much power to one man. The Senate, of course, has the prerogative of withholding confirmation, a prerogative which may or may not prove an effective counterbalance, depending perhaps on the particular political situation obtaining at the time.

The fact that a new court is being created, and would be introduced full blown into an existing system, has suggested for some the desirability of limiting its membership to judges who have already served some specified number of years on one or another of the courts of appeals. This would not only provide a reservoir of expertise, particularly important during a startup period, but would also go far to meet "the need for avoiding undue tension or disruption of a delicate balance of relationship." Phrased less obliquely, it may be suggested that a court of judges drawn from the circuits, particularly if they served by designation rather than by Presidential appointment, would lessen the resentment felt by the present judges of the courts of appeals against a new tribunal introduced above them in the system.

There are, of course, alternatives to Presidential appointment. Service by designation, either by appointment of the Chief Justice, or by the Panel on Multi-District Litigation, or by some form of automatic selection based on seniority, is certainly possible. If service is to be by designation, it could be for an unlimited period or for a specified number of years, fixed to assure what would in effect be a pattern of rotation.

If we are indeed focusing on the startup period, there is no reason to insist that all seven members of the court be selected in precisely the same fashion. Thus, one could readily envision a statutory provision empowering the President to appoint only the chief judge of the national court of appeals or the chief judge and two associates, with the remaining members designated for service in some other manner. Such a provision would be coupled with the authority vested in a future President to make one or two additional appointments until such time as the court were at full strength, after which normal procedures would apply. Indeed, the possible combinations and permutations seem almost limitless.

Precisely because the alternatives are so numerous and so varied it is important to make clear the precise issue which the Congress will face. The question is not whether some or all of the judges should have had prior judicial experience within the Federal system since, under any system, it would be possible for the appointing authority to select from this prestigious pool of superior manpower, and it is hard to conceive of any President ignoring the availability of this resource. Most certainly the question at this juncture is not the selection of the particular individuals who shall serve. The question which confronts Congress is the precise nature of the procedures and limitations which shall be written into the legislation creating the new court, either by way of special provision for the startup period or by way of requirements which shall continue to be operative through the life of the court.

JURISDICTION OF NATIONAL COURT OF APPEALS

Simplicity is the keynote of the court's jurisdiction. Under the Commission's proposal, cases could be brought to the court either: First, by way of transfer from a regional court of appeal, the Court of Claims or the Court of Customs and Patent Appeals; or second, by way of reference from the U.S. Supreme Court. The governing provisions are so designed that an extra tier of appellate review would be avoided except in the rarest of instances.

In the view of the Commission, transfer jurisdiction would create a potential for added efficiency and economy, allowing for resolution on a national basis of intercircuit conflicts which had already developed or of important issues of Federal law appropriate for prompt and definitive adjudication, subject always to Supreme Court review. The utility of transfer jurisdiction conceived by the Commission is best illustrated by examples included in the report:

First. Suppose that a case turns on a narrow technical question of tax law on which two circuits are already in conflict. No decision by yet a third circuit court can resolve the issue on a national basis. It would save time and expense in the long run if the court of appeals were relieved of the burden of decision and the case promptly transferred to the National Court.

Second. In a case involving regulations promulgated under one of the statutes concerned with protecting the environment, the record may be long and complex; the issue may be one which in the interest of efficient allocation of national resources should be promptly resolved on a national basis; and the plaintiff may be a public-interest organization with a national constituency. Unless the case involves broad policy questions which only the Supreme Court should resolve definitively, prompt transfer would both relieve the regional court of appeals and serve the national interest without placing any additional burdens on the litigants.

For transfer jurisdiction to accomplish the purposes for which it is designed, it is essential that it function smoothly and efficiently. As the Commission itself recognized, neither underutilization nor overutilization of transfer was critical; efficiency was. In the words of the report:

> What is crucial is that the motion practice occasioned by transfer requests not consume any substantial amount of judge time; that it not delay significantly the disposition of individual cases; and that it not require elaborate administration or "overhead." Achieving efficiency and dispatch in the process is far more important than precision in the application of the criteria. Indeed, a wide range of discretion can be tolerated in the operation of the transfer process without threatening the success of the new court, but extensive new burdens upon the judges or the litigants cannot.

The Commission was confident that the mechanism for transfer which would meet the stated criteria could be readily fashioned and that the potential for gain envisioned from this sort of jurisdiction could be realized. That confidence was not shared in some quarters.

A number of judges of the courts of appeal testified against the inclusion of transfer jurisdiction. Some of the Justices of the Supreme Court also took occasion to express their reservations concerning transfer; some were more opposed than others. Only Mr. Justice Powell appeared to be in favor of the proposal. Under the circumstances, it is open for Congress to postpone implementation of this aspect of the Commission's recommendation. Certainly, transfer is not integral to the basic proposal and the National Court of Appeals can make a significant contribution to the Federal law and the national welfare even if it were to receive its entire caseload by way of reference. Moreover, once the court is established and the initial period of adjustment completed, the experience thus gained may shed useful light on how best to implement the Commission's proposal for transfer. Nor is the question likely to be ignored by default. If a continuing commission on the Federal judiciary is established, it may be expected to evaluate the functioning of the National Court not only in terms of the work it was already doing, but also in terms of the additional good it could provide.

Reference jurisdiction, on the other hand, is of the essence of the Commission's proposal. Moreover, not one Justice of the Supreme Court has expressed concern about the operation of this portion of the court's jurisdiction. To the contrary, even some of the dissenters on the issue of present need have taken occasion to make clear that, in their view, "the proposed reference jurisdiction would impose no undesirable burden on the Justices of the Supreme Court."

Under the proposal of the Commission as it finally evolved, reference jurisdiction would allow the Supreme Court a variety of options.

Once the Court had determined to deny certiorari, unless some affirmative reason appeared not to allow the National Court of Appeals to hear and decide the issue, it would be open to the Supreme Court to refer the case, leaving it for the judges of the National Court to determine for themselves whether the issue was one deserving of plenary consideration and adjudication.

In some situations, the Supreme Court may choose to refer a case to the National Court, specifying that the action should be heard and decided on the merits. This course, too, would be open to the Court and could appropriately be utilized where it was clear to the Justices that an inter-circuit conflict required resolution, but did not require resolution by the Supreme Court. Finally, wherever the Congress had specified the right of appeal as distinguished from certiorari, reference to the National Court would carry with it the obligation on the part of that court to render a decision on the merits.

Every case decided by the National Court of Appeals would be subject to Supreme Court review on petition for certiorari. That the Supreme Court itself had earlier considered the cause appropriate for decision by the National Court would not preclude subsequent review. No matter how infrequently utilized, this residual power is an essential element of the Commission's proposal. Nothing less can assure the ultimate authority of our one Supreme Court.

CONCLUSION

It is, of course, to the Congress that the framers of the Constitution have entrusted the decisions on whether to create a new court, of shaping its structure and of defining its jurisdiction. Issues of this type inevitably raise a plethora of technical questions on which reasonable men may be expected to differ. Whatever differences may emerge in the resolution of these questions, it is important to keep firmly in mind the ultimate goal of enhancing the quality of justice in our society. Only by assuring the ability of the federal courts to meet the growing demands being made upon them can we hope to achieve that goal.

Although S. 2762, to create a National Court of Appeals is a very specific proposal, it is not set in concrete. We are not wedded to it irrevocably, and certainly not to each of the details which together make the whole. But we do believe that the need for a proposal of this general type has been demonstrated and that it would serve a useful purpose to have comments and criticism focus on its specifics. If there be those who are of the view that some other proposal will meet the need, or who would deny the need, or amend the tentative recommendations, let them come forward and give us the benefit of their reasoned consideration.

Mr. President, I ask unanimous consent that the text of both bills I introduced today be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2762

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Court of Appeals Act of 1975".

ESTABLISHMENT OF COURT

SEC. 2. (a) Part I of title 28, United States Code, is amended by inserting immediately after chapter 1 of such title, the following new chapter:

"CHAPTER 2—NATIONAL COURT OF APPEALS

"Sec.
"21. Establishment and composition of court.
"22. Chief judge; precedence of associate judges.
"23. Tenure and salary.
"24. Principal seat and terms.
"25. Seal.
"26. Sessions.
"27. Hearings and quorum.
"28. Disqualification of judges.

"§ 21. Establishment and composition of court.

"There shall be a National Court of Appeals which shall be composed of a chief judge and six associate judges who shall be appointed by the President, by and with the advice and consent of the Senate.

"§ 22. Chief judge; precedence of associate judges.

"(a) If the chief judge is temporarily unable to perform his duties as such, they shall be performed by the associate judge who is next in precedence.

"(b) The associate judges shall have precedence according to the seniority of their commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age.

"§ 23. Tenure and salary

"(a) The judges of the National Court of Appeals shall hold office during good behavior.

"(b) The judges of the National Court of Appeals shall receive a salary of $52,500 a year.

"§ 24. Principal seat and terms

"The principal seat of the National Court of Appeals shall be in the District of Columbia. The court may sit at such times and places within the United States as the court may designate.

"§ 25. Seal

"The National Court of Appeals shall have a seal which shall be judicially noticed.

"§ 26. Sessions

"The time and place of the sessions of the National Court of Appeals shall be prescribed by the chief judge pursuant to rule of the court.

"§ 27. Hearings and quorum

"Cases and controversies shall be heard and determined by the court in banc. Five of the judges of the National Court of Appeals shall constitute a quorum.

"§ 28. Disqualification of judges

"No judge shall hear or determine an appeal from the decision of a case or issue therein heard or tried by such judge.".

(b) The analysis of part I of title 28, United States Code, is amended by inserting immediately below the item relating to chapter 1 of such part, the following new item:

"2. National Court of Appeals.......... 21".

OFFICERS AND EMPLOYEES

SEC. 3. (a) Part III of title 28, United States Code, is amended by inserting immediately after chapter 45 of such title, the following new chapter:

"CHAPTER 46—NATIONAL COURT OF APPEALS

"Sec.
"691. Clerk and employees.
"692. Law clerks and secretaries.
"693. Librarian, marshal, and bailiffs.

"§ 691. Clerk and employees

"(a) The National Court of Appeals may appoint a clerk who shall be subject to removal by the court. The court may appoint or authorize the appointment of such other officers and employees in such number as may be approved by the Director of the Administrative Office of the United States Courts.

"(b) The officers and employees of the court shall be subject to the removal by the court or, if the court so determines, by the clerk or other officer who appointed them, with the approval of the court.

"(c) The clerk shall pay into the Treasury all fees, costs, and other monies collected by him and make returns thereof to the Director of the Administrative Office of the United States Courts under regulations prescribed by him.

"§ 692. Law clerks and secretaries

"The judges of the National Court of Appeals may appoint such law clerks and secretaries as may be necessary.

"§ 693. Librarian, marshal, and bailiffs

"(a) The National Court of Appeals may appoint a librarian and necessary library assistants who shall be subject to removal by the court.

"(b) The National Court of Appeals may appoint a marshal, who shall attend the court at its sessions, be custodian of its courthouse, have supervision over its custodial employees, take charge of all property of the United States used by the court or its employees, and perform such other duties as the court may direct. The marshal shall be subject to removal by the court. The marshal, with the approval of the court, may employ necessary bailiffs. Such bailiffs shall attend the court, preserve order, and perform such other necessary duties as the court or marshal may direct. The bailiffs shall receive the same compensation as bailiffs employed for the district courts.".

(b) The analysis of part III of title 28, United States Code, is amended by inserting immediately below the item relating to chapter 45 of such title, the following new item:

"46. National Court of Appeals.......... 691".

JURISDICTION AND REVIEW

SEC. 4. (a) Part IV of title 28, United States Code, is amended by adding immediately after chapter 81 of such title, the following new chapter:

"CHAPTER 82—NATIONAL COURT OF APPEALS

"Sec.
"1271. Reference jurisdiction.
"1272. Transfer jurisdiction.
"1273. Finality of decisions.

"§ 1271. Reference jurisdiction

"The National Court of Appeals shall have jurisdiction of cases referred to it by the Supreme Court.

"§ 1272. Transfer jurisdiction

"(a) The National Court of Appeals shall have jurisdiction of any case filed or instituted in a court of appeals, the Court of Claims, and the Court of Customs and Patent Appeals, upon transfer of such case to it by any such court.

"(b) The courts of appeals, the Court of Claims, and the Court of Customs and Patent Appeals may transfer to the National Court of Appeals any case that is filed or instituted in such court if the case is one in which an immediate decision by the National Court of Appeals is in the public interest, and if—

"(1) the case turns on a rule of Federal law and the courts have reached inconsistent conclusions with respect to such rule;

"(2) the case turns on a rule of Federal law applicable to a recurring factual situation and a showing is made that the advantages of a prompt and definitive determination of that rule by the National Court of Appeals outweigh any potential disadvantages of such a determination; or

"(3) the case turns on a rule of Federal law previously announced by the National Court of Appeals, if there is a substantial question about the proper interpretation or application of that rule in such case.

"(c) The National Court of Appeals may decline to accept any case transferred under section 1272(b) of this title. The National Court of Appeals shall promptly remand any case not accepted by it to the court that transferred such case.

"§ 1273. Finality of decisions

"(a) The National Court of Appeals may deny review in any case referred to it by the Supreme Court unless directed by the Supreme Court to decide the case.

"(b) There shall be no appeal or review of any order of a court of appeals, the Court of Claims, or the Court of Customs and Patent Appeals granting or denying transfer under section 1272(b) of this title.

"(c) There shall be no appeal or review of any order of the National Court of Appeals under section 1272 of this title accepting or rejecting a case transferred to it for decision.

"(d) Unless modified or overruled by the Supreme Court, the decisions of the National Court of Appeals shall be binding on all courts of the United States, and, with respect to questions arising under the Constitution, laws, or treaties of the United States, on all other courts.".

(b) Chapter 81 of title 28, United States Code (relating to the jurisdiction of the Supreme Court), is amended by adding at the end thereof the following new section:

"§ 1259. National Court of Appeals

"(a) After denying certiorari or in lieu of noting probable jurisdiction of an appeal in any case before it, the Supreme Court may refer any such case to the National Court of Appeals. The Supreme Court may, and in cases subject to review by appeal shall, direct the National Court of Appeals to decide any case so referred.

"(b) Any case in the National Court of Appeals may be reviewed by the Supreme Court by writ of certiorari granted upon the petition of any party to any such case before or after rendition of judgment or decree.".

(c) (1) The analysis of part IV of title 28, United States Code, is amended by inserting immediately below the item relating to chapter 81 of such title, the following new item:

"82. National Court of Appeals . . . . 1281."

(2) The analysis of chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1259. National Court of Appeals.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 5. (a) (1) The first paragraph of section 331 of title 28, United States Code, is amended by inserting immediately after "shall summon annually" the following: "the chief judge of the National Court of Appeals,".

(2) The third paragraph of such section 331 is amended by inserting immediately before the first sentence the following new sentence: "If the chief judge of the National Court of Appeals is unable to attend, the Chief Justice may summon any other judge from such court.".

(b) (1) Section 372(a) of title 28, United States Code, is amended—

(A) by inserting in the third paragraph immediately following "Supreme Court," the following: "the chief judge of the National Court of Appeals,"; and

(B) by inserting immediately below the third paragraph of such subsection the following new paragraph:

"A judge of the National Court of Appeals desiring to retire under this section, shall furnish to the President a certificate of disability signed by the chief judge of such Court.".

(2) Section 372(b) of title 28, United States Code, is amended—

(A) by inserting immediately after "Chief Justice of the United States in the case of" the following: "the chief judge of the National Court of Appeals or"; and

(B) by inserting immediately after "chief judge of his court in the case of a judge of the" the following: "National Court of Appeals,".

(c) (1) The second paragraph of section 451 of title 28, United States Code, is amended by inserting immediately after "Supreme Court of the United States," the following: "the National Court of Appeals,".

(2) The fourth paragraph of section 451 of title 28, United States Code, is amended by inserting immediately after "includes judges of" the following: "the National Court of Appeals,".

(d) The second paragraph of section 456 of title 28, United States Code, is amended by inserting immediately after "justices of the Supreme Court" the following: ", the judges of the National Court of Appeals,".

(e) Section 610 of title 28, United States Code is amended by inserting immediately after "includes" the following: "the National Court of Appeals,".

(f) (1) Section 1912 of title 28, United States Code, is amended by inserting immediately after "Supreme Court" the following: ", the National Court of Appeals,".

(2) (A) Section 1913 of title 28, United States Code, is amended to read as follows:

§ 1913. National Court of Appeals; courts of appeals

"The fees and costs to be charged and collected in the National Court of Appeals and in each court of appeals shall be prescribed from time to time by the Judicial Conference of the United States. Such fees and costs shall be reasonable and shall be uniform in all the circuits.".

(B) The item relating to section 1913 of title 28, United States Code, in the analysis of chapter 123 of such title, is amended to read as follows:

"1913. National Court of Appeals; courts of appeals.".

(g) The first paragraph of section 2072 of title 28, United States Code, is amended—

(1) by striking out "of the district courts and courts of appeals of the United States" and inserting in lieu thereof "of the district courts, courts of appeals of the United States, and the National Court of Appeals"; and

(2) by striking out "review by the courts of appeals" and inserting in lieu thereof "review, in cases of transfer to the National Court of Appeals of, and review by the court of appeals".

(h) Section 2106 of title 28, United States Code, is amended by inserting immediately after "Supreme Court" the following: ", the National Court of Appeals,".

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

S. 2763

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Appellate Court Revision Act".

TITLE I—APPELLATE COURT REVISION

CHIEF JUDGE; PRECEDENCE OF JUDGES

SEC. 101. (a) Section 45(a) of title 28 United States Code, is amended by adding at the end thereof the following new sentence: "A circuit judge shall not be eligible to serve as the chief judge of the circuit for more than seven years, except that service as a chief judge before the date of the enactment of the Federal Appellate Court Revision Act shall not be taken into account."

(b) The second sentence of section 45 (b) of such title is amended by inserting before the period at the end thereof ", except that circuit judges in regular active service shall have precedence over circuit judges who have retired from regular active service".

(c) Section 45(c) of such title is amended by inserting "eligible and" before "willing".

(d) Section 45(d) of such title is amended by striking out "able and qualified" and inserting "eligible, able, and qualified".

IN BANC HEARINGS

SEC. 102. Section 46(c) of title 28, United States Code, is amended to read as follows:

"(c) (1) Cases and controversies shall be heard and determined by a court or division of not more than three judges, unless a hearing or rehearing before the court in banc is ordered by a majority of the circuit judges of the circuit who are in regular active service and are not disqualified from sitting in a hearing or determination of the matter.

"(2) A court in banc shall consist of the chief judge of the circut and not to exceed eight other circuit judges of the circuit in the following order:

"(A) The circuit judges in regular active service who are not eligible to retire under section 371(b) of this title, in order of seniority of their commissions.

"(B) The circuit judges in regular active service who are eligible to retire under section 371(b), in reverse order of seniority of their commissions.".

Provided, however, that this sub-section (2) shall apply only when the nine in banc members will constitute a majority of the full court.

RETIREMENT OF JUDGES

SEC. 103. The first sentence of section 371 (b) of title 28, United States Code, is amended to read as follows: "Any justice or judge of the United States appointed to hold office during good behavior may retain his office but retire from regular active service after he has attained the age of sixty years and has served at least ten years continuously or otherwise and after the number of years of his service when added to his age equals eighty.".

CENTRAL STAFF FOR COURTS

SEC. 104. (a) Chapter 47 of title 28, United States Code, is amended by adding the following new section:

"§ 714. Legal assistants

"(a) A court of appeals may appoint necessary legal assistants to positions authorized by the Judicial Conference of the United States who shall be subject to removal by the court. Such legal assistants shall perform such duties as the court shall determine involving the preliminary processing of matters filed in such court, research, preparation of memoranda, and the management and monitoring of appeals to assist in their expeditious disposition.

"(b) The compensation of legal assistants shall be fixed pursuant to section 604(a)(5) of this title, and the approval of the Judicial Conference of the United States shall be required prior to the establishment of each such position.".

(b) The analysis of chapter 47 of title 28, United States Code, is amended by adding immediately below the item relating to section 713 of such title, the following new item:

"714. Legal assistants.".

AVAILABILITY OF COURT OF APPEALS DOCUMENTS

SEC. 105. One copy of the decision, briefs, and related documents filed in connection with each case or controversy in the courts of appeals, the Court of Claims, and the Court of Customs and Patent Appeals shall be deposited in the Library of Congress. The Librarian of Congress shall make copies of such materials available to the public at cost. In carrying out his duties under this section the Librarian of Congress is authorized to consult with the chief judges of such courts to determine the documents to be deposited and to develop appropriate procedures for carrying out the requirements of this section.

TITLE II—COMMISSION ON THE FEDERAL JUDICIAL SYSTEM

ESTABLISHMENT

SEC. 201. (a) There is hereby established a Commission on the Federal Judicial System (hereafter in this title referred to as the "Commission"), which shall be composed of sixteen members as follows:

(1) four members appointed by the President of the United States;

(2) four Members of the Senate appointed by the President pro tempore of the Senate;

(3) four Members of the House of Representatives appointed by the Speaker of the House of Representatives; and

(4) four members appointed by the Chief Justice of the United States.

(b) Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(c) The Commission shall, from time to time, elect a Chairman and a Vice Chairman from among its members.

(d) Nine members of the Commission shall constitute a quorum, but three may conduct hearings.

(e) No individual may serve as a member of the Commission for more than six years.

FUNCTIONS AND DUTIES

SEC. 202. (a) It shall be the function and duty of the Commission to study, on a continuing basis, the structure and internal procedures of the Federal judicial system. In particular, the Commission shall—

(1) study the problems of the courts of the United States below the appellate level; and

(2) review the implementation of the recommendations of the Commission on Revision of the Federal Court Appellate System.

(b) The Commission shall, on or before February 1 of each year, report to the President, the Congress, and the Chief Justice of the United States the results of the study made by it during the preceding year, together with its recommendations for changes in the structure and internal procedures of the Federal judicial system. The Commission may, at any time, submit special reports and recommendations to the President, the Congress, and the Chief Justice.

COMPENSATION OF MEMBERS

SEC. 203. (a) Members of the Commission who are Members of the Congress or are officers, or full-time employees, of the United States shall receive no additional compensation for their services, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Commission, but not exceeding the maximum amounts authorized under section 456 of title 28, United States Code.

(b) Members of the Commission from private life shall receive per diem at the maximum daily rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) during which he is engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties, but not in excess of the maximum amounts authorized under section 456 of title 28, United States Code.

STAFF

SEC. 204. (a) The Commission may appoint an Executive Director who shall receive compensation at a rate not exceeding that prescribed for level V of the Executive Schedule.

(b) The Executive Director, with approval of the Commission may appoint and fix the compensation of such additional personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service or the provisions of chapter 51 and subchapter III of chapter 53 relating to classification and General Schedule pay rates, except that such compensation shall not exceed the annual rate of basic pay for GS–18 of the General Schedule under section 5332, title 5, United States Code.

(c) The Director may procure personal services of experts and consultants as authorized by section 3109 of title 5, United States Code, at rates not to exceed the highest level payable under the General Schedule pay rates, section 5332, title 5, United States Code.

(d) The Administrative Office of the United States Courts shall provide administrative services, including financial and budgeting services, for the Commission on a reimbursable basis. The Federal Judicial Center shall provide necessary research services on a reimbursable basis.

INFORMATION AND ASSISTANCE

SEC. 205. The Commission is authorized to request from any department, agency, or independent instrumentality of the Government any information and assistance it deems necessary to carry out its functions and duties under this title, and each such department, agency, and independent instrumentality is authorized to provide such information and assistance to the extent permitted by law when requested by the Chairman of the Commission.

AUTHORIZATION OF APPROPRIATIONS

SEC. 206. There are authorized to be appropriated to the Commission for each fiscal year such sums as may be necessary to enable it to carry out its functions and duties.

Mr. McCLELLAN. Mr. President, today I am pleased to join with Senator HRUSKA in introducing S. 2762 and S. 2763. These two bills, drafted by the Office of Legislative Counsel, are designed to place before the Senate, for its consideration and deliberation, the recommendations of the Commission on Revision of the Federal Court Appellate System forwarded to the President and the Congress in the Commission's final report on June 20, 1975.

Mr. President, recognizing the ever-increasing burdens placed upon the Federal courts of appeals by a constantly mounting caseload and the threat that this posed to the ability of those courts to render justice effectively and expeditiously, the Congress established the Appellate Court Commission to recommend possible changes in the structure and procedures of the courts of appeals that would help to alleviate this problem. In response to that mandate, the Commission, on which I have been pleased to serve, labored long and hard.

It held hearings throughout the country in an effort to obtain the thinking of the best legal minds about the problem. The results of those hearings and the other evidence gathered were then carefully analyzed by the Commission staff. The recommendations placed before the Senate today in the format of this legislation are the product of that effort.

As the Senator from Nebraska has pointed out, the purpose of this legislation is to now give the Congress the opportunity to further study, analyze, and pass its judgment on the Commission's recommendations. He has pointed out that neither the entire Commission nor even the Senate Members were in unanimous agreement on all of the recommendations and that we, the sponsors of the bills, are not committed to any particular provisions or ideas contained therein. I certainly will feel free, along with the other sponsors, to offer whatever amendments I think will further improve the Commission recommendations, and to vote against these bills, or either of them on final passage. The bills themselves, however, will serve as a vehicle for the Senate to focus its attention on a grave problem confronting our judicial system.

Mr. President, I think it is most appropriate at this time to commend the distinguished Senator from Nebraska for the role he has played in bringing about this legislation. As Chairman of the Appellate Court Commission, he is in large part responsible for not only this proposed legislation but the Commission's entire performance since it was established by the Congress. As a member of the Commission, I am personally aware of the countless hours of labor he has spent on the work of the Commission despite the heavy legislative duties we all bear. Without his effort and leadership, the results of the Commission's labors would not be what they are—results of which he can justly be proud.

By Mr. BROCK:

S. 2764. A bill to amend the Internal Revenue Code of 1954 to increase the estate tax exemption from $60,000 to $200,000, and extend the time for paying certain estate taxes. Referred to the Committee on Finance.

Mr. BROCK. Mr. President, small business and the small family farm have been integral segments of our economy since our Nation was founded. Unfortunately, these vital segments have been neglected in recent years and it is time that Congress considered updating many of the laws, rules, and regulations, which at times so harshly effect that segment today. There are many areas which need to be considered, and I have addressed myself to some of these in the past. Today, I am introducing legislation to raise the exemption on the estate tax for small businesses and small family farms from $60,000 to $200,000.

Mr. President, 97 percent of business today fits the classification of small business. Some 52 percent of the work force is employed in this section. The estate tax exemption was passed in 1942. It has remained at $60,000 since that time while inflation has continued to eat away at the dollar. The effect of inflation on estates has been dramatic. Inflated costs have resulted in huge tax liabilities which the business must pay when faced with the death of a principal owner. In too many cases, these laws have necessitated the heirs of many small businesses to sell part, or all, of the enterprise just to pay those taxes. In too many cases, those sales were to large corporations, thus competition has suffered. Consequently, most Americans now have to pay higher consumer costs because of the lack of competition. Free enterprise thrives on competition and competition explicitly requires many relatively small economic units competing against each other. Everyone suffers in the long term.

The congressional intent in promulgating estate and gift taxes was aimed in part to prevent excessive, if not outrageous concentration of wealth. However, practical application has advanced the contrary.

In 1942, when the estate tax exemption of $60,000 was passed, milk cost 13 cents a quart. A pair of men's leather shoes cost $6 and a man's white shirt was $3. The examples could go on and on. However, the fact that the exemption has not changed does not mean its effect has not. Indeed, very significant changes have occurred for the heirs of the deceased and the future of the small business and small family farmers. Inflated costs today have resulted in huge tax liabilities which the business must pay when faced with the death of a principal owner.

If Congress would have indexed the estate tax exemption in accordance with the GNP implicit price deflator, for example, then using as a base year 1958, this exemption will have had to be adjusted by 220 percent. If we look at the time period from 1940 to 1975, then Congress will have had to increase this exemption by almost 300 percent.

An economic study presented by the National Association of Wholesale Distributors before the Small Business Committee on September 25, 1975, set forth the following statistics:

> If estate taxes were to be adjusted by the implicit GNP price deflator, then in 1974 the estate tax exemption should have been $192,000.

Clearly Congress has neglected the interests of the small businessman and farmer. Benign neglect for small business and small family farmers resulted in the decline of this Nation's most productive element and has increased economic concentration.

Mr. President, I believe that the adoption of this proposal would be an important step toward preserving the small business sector of our economy. Any revenue loss, which I estimate at $2.1 billion, will be compensated through the benefits of competition from which the consumer and the businessman would both benefit.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2764

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2052 of the Internal Revenue Code of 1954 (relating to estate tax exemption) is amended by striking out "$60,000" and inserting in lieu thereof "$200,000".

(b) Section 6018(a)(1) of such Code (relating to estate tax returns) is amended by striking out "60,000" and inserting in lieu thereof "200,000".

(c) The amendments made by this Act apply to the transfer of the estate of any citizen or resident of the United States who dies after the date of enactment of this Act.

"(5) Special rule for extension of time for payment of estate tax under section 6166.—In the case of an election under section 6166 (a) to pay the tax in installments.

"(A) the provisions of paragraph (1) shall not apply to the first 5 such installments and the last date prescribed for payment of each of such first 5 installments of the tax shown on the return shall be determined section 6166 (e),

"(B) the last date prescribed for payment of the 5th installment shall be deemed the last date prescribed for payment of all succeeding installments, and

"(C) the last date prescribed for payment of the first installment shall be deemed the last date prescribed for payment of any portion of the tax not shown on the return."

(e) The amendments made by this Act apply with respect to the taxable estates of decedents dying after the date of enactment of this Act.

By Mr. NELSON:

S. 2765. A bill to repeal authority for provisional listings of commercially established colors. Referred to the Committee on Labor and Public Welfare.

Mr. NELSON. Mr. President, this bill would repeal the "provisional listings of commercially established color additives."

The 1960 law made possible, "on an interim basis for a reasonable period, through provisional listings, the use of commercially established color additives to the extent consistent with the public health, pending the completion of the scientific investigations needed as a basis for making determinations as to" their safety under the Federal Food, Drug, and Cosmetic Act, as amended by the color additive amendments. The amendments provided that such provisional listings be terminated no later than 2½ years from the effective date of enactment, July 12, 1960, or by January 12, 1963. The amendments also provided, however, that FDA could postpone the termination date "if such action is consistent with the objective of carrying to completion in good faith, as soon as reasonably practicable, the scientific investigations necessary for making a determination" as to the additive's safety.

Mr. President, the GAO on October 20, 1975 reported, at our request, on the regulatory status of color additive red No. 2. The report notes that, since January 12, 1963, the termination of the provisional listing of red No. 2 has been postponed 14 times to allow for completing of scientific investigations concerning red No. 2's safety. Such determination still has not been made.

The GAO also found that:

> In some cases, the requests did not identify investigations that were being conducted or indicate when they were expected to be completed.

More importantly, as of July 1975, some 90 color additives, including red No. 2, were provisionally listed for use in food, drugs, and cosmetics, according to the GAO report.

The law did not intend for such additives to be so "provisionally listed" for 15 years.

The law no longer appears to serve a useful purpose. Congress granted a period of 2½ years, with extensions, for promoters of additives to supply adequate scientific information regarding color additives' safety, and for the FDA to make a decision. The time was granted so that long-term feeding tests could be conducted by the industry producers, to satisfy safety questions.

The data should be available by now, or the FDA should take appropriate action to either regulate the additives or suspend their use.

Congress made a decision, in enacting the color additives and food additives amendments, that safety of the food supply is in the best interest of public health.

The public interest is not served by an unlimited continuation of interim status for a large number of additives for which a final determination of safety has not been made.

In addition to the question of color additives, a number of other additives have come under scrutiny for safety reasons recently.

One example is "aspartame," a sweetener approved by the FDA in July 1973. The FDA last week stayed approval of the substance, but only after having its safety questioned by consumer groups for more than 2 years. The same questions were evident in the raw data originally submitted to the FDA with the applicant's petition for aspartame's approval.

The case raises an important point: whether the public interest would be better served by more consumer input into regulatory agencies, such as the Agency for Consumer Advocacy is designed to do.

Without such input from consumers, vested interests are the primary advocates before regulatory agencies.

While the FDA delays such decisions, the public ingests vast quantities of chemicals for which safety data is lacking.

Mr. President, it is time to take a hard look at the current law and regulation with respect to food additives.

Many food additives are safe, economic to use, and make it possible to process foods with a long shelf and shipping life.

However, Americans now spend more money for processed, convenience, snack and franchised foods than for fresh foods. While consumers may be able to obtain a wider variety of packaged and convenience foods, they also are consuming more chemicals.

Some 3,000 chemicals now are approved by the Food and Drug Administration for use in the nation's food supply: 1,000 of them are used directly in food, and some 2,000 in indirect uses, such as in packaging materials.

The use of food chemicals has more than doubled in the past 20 years to more than 1 billion pounds a year, according to industry figures. The average American eats 5 pounds of additives every year, the industry says. More kinds of food additives are approved for use in the United States than in any other nation, according to the FDA. So far in 1975, the FDA has received 72 petitions for new uses of food additives, of which 38 petitions have been approved. In 1974, 226 petitions were received; 59 approved. In 1973, 277 were received; 48 approved.

Foods must be safe and wholesome before they are placed on the grocery shelf. Labeling and nutritional education cannot prevent cancer or birth defects if the food supply causes these insidious hazards.

For the past several years, I have introduced bills to amend the Food, Drug, and Cosmetic Act, providing for better testing of food additives prior to their usage. The public for too long has been a vast guinea pig for poorly tested or untested food additives. Scientists are concerned that long-term low doses of chemicals may cause not only cancer, but birth defects or genetic damage. Scientific knowledge now exists to screen these chemicals for such effects.

Such screening should be done, not only of new chemicals, but of many that have been in widespread use for years, but which were never adequately tested for such effects.

Furthermore, there needs to be a greater assessment of the chemicals' real nutritional or safety value versus their potential health hazard.

Mr. President, I ask unanimous consent that the following articles be printed in the Record following these remarks: a December 3, 1975, New York Times article by Jane Brody, describing a report published in the November 1975 Cancer Research journal, under the heading, "Nutrition in the Causation of Cancer," edited by Dr. Sydney Weinhouse (Vol. 35, No. 11, part 2, pages 3231–3550); an article on food additives from the Washington Star, November 29, 1975, by Bailey Morris; an article in the Progressive, September 1975, by Jim Hightower; and an article on aspartame from the Wall Street Journal, December 5, 1975, by Jonathan Spivak.

There being no objection, the material was ordered to be printed in the Record, as follows:

New Study Indicates Diet May Play Role in Causing of Cancer

(By Jane E. Brody)

Cancer specialists are finding increasing evidence that ingredients of the daily diet may be causing, directly or indirectly, half of all cancers among women and 30 percent of those among men.

The evidence, in a 300-page report published this week in the November issue of the journal Cancer Research, suggests that nutritional factors—including a diet high in animal fal, excessive alcohol intake, deficiencies in vitamins A and C, certain food additives and natural as well as man-made contaminants of food—are related to the development of cancer of the colon, stomach, esophagus, breast, liver and uterus.

These hints have sparked a new research program sponsored by the National Cancer Institute, which expects to spend between $4 million and $6 million this year toward further investigation of the links between diet and cancer.

Although this effort is relatively minor compared with other institute research programs (more than $50 million is spent annually to explore the links between viruses and cancer, for example), it represents an unmistakable revival of interest in a long-neglected aspect of cancer causes. Some research was focused on the relationship between diet and cancer in the 1940's and early 1950's, but it fell by the wayside in recent decades when more specific items such as viruses and cancer-causing chemicals captured research attention.

Recent studies, while emphasizing the complexities of the nutrition and cancer picture, nevertheless suggest that a large portion of the cancer problem around the world—and especially in the United States—may be preventable by making certain modifications in the diet.

These studies were outlined at a closed conference held last May at Key Biscayne, Fla., by the National Cancer Institute and the American Cancer Society. The new report contains the proceedings of that conference.

"Nutritional factors are harder to pinpoint than, say, a chemical like vinyl chloride, but they seem to affect the major types of human cancers," according to Dr. Ernst L. Wynder, epidemiologist at the American Health Foundation here, who was chairman of the May conference.

Thus far it appears that, for the most part, nutritional factors have an indirect cancer-causing effect, setting the stage for the action of other more direct carcinogens. Some nutrients may enhance the activity of carcinogens or act as carriers of carcinogens to their site of action.

Other nutritional factors, such as animal fat, may change the body's hormone pattern, increasing the output of hormones that are cancer-causing. The diet may also work by changing digestive microbes, resulting in the formation of cancer-causing metabolites.

In addition, some foods contain substances that are directly cancer-causing such as pesticide residues, certain food additives, trace elements picked up from the soil, and a poison called aflatoxin produced by a mold.

Overnutrition—the consumption of too much of certain foodstuffs as well as too many calories—and undernutrition—the deficiency of some vitamins and trace elements—have also been found to increase the risk of developing various cancers.

The findings and suggestions presented in the report that have direct implications for the prevention of human cancer include the following:

Cancer of the colon, the most common life-threatening cancer among Americans, is related to an "affluent" diet, particularly the excessive consumption of animal fats and the relatively low consumption of fibrous foods. For example, a study of Seventh-day Adventists showed that those who at one time ate meat had two to three times the risk of developing colon cancer as those who were vegetarians all their lives.

Breast cancer has been linked to a fatty diet in human studies and in animal experiments. Throughout the world there is a five-fold to ten-fold difference in the death rate from breast cancer between countries with low-fat diets and those with high-fat diets, such as the typical American diet. It is thought the rich diet in the United States overstimulates the body's hormonal system "producing the same effect that one would obtain running a diesel engine on high-octane airplane fuel," Dr. John Berg of the University of Iowa told the conference. The hormones, in turn, overstimulate the breast tissue and may set the stage for cancer.

Nitrates which are used to preserve certain foods, including some meats and fish, and contaminate food plants grown on heavily fertilized soils, may be an indirect cause of stomach cancer. Stomach cancer is exceedingly common in Japan, where preserved foods are frequently consumed, and in parts of South America where the soil is rich in nitrate. The disease has become increasingly less common in the United States. Dr. John Weisburger of the American Health Foundation has found that refrigeration inhibits the conversion of nitrates into potential cancer-causing substances.

Certain substances, including vitamin A and vitamin C, the trace element selenium and the artificial preservatives BHA and BHT, inhibit the action of cancer-causing chemicals and thus may help protect against the development of cancer.

Heavy consumption of alcohol is associated with a greatly increased risk of developing cancer of the esophagus. In this case, the alcohol is thought to work indirectly, causing certain nutritional deficiencies that enhance the action of carcinogens like tobacco smoke.

Food Additives: Cast of Supplementary Characters

(By Bailey Morris)

While sugar may loom—in terms of volume and national attention—as the most significant of food additives, the cast of supplementary characters is wide and, some feel, menacing in its own right.

Citric acid is one of those chemicals which is eaten in a dozen different ways daily and is generally regarded as safe and noncontroversial—except to the allergic people who slip through the cracks of any government food safety program.

To these people, and there could be many thousands of them, citric acid can be deadly, the FDAs scientific literature shows.

"In sensitive adults and children, citric acid can impede the circulation of the blood sufficiently to lead to toxicity and death," according to material on file at the FDA.

Even though it is considered noncontroversial, citric acid is often criticized for its ability to deceive eaters by making the flavors of "inferior ingredients" such as slightly soured milk in ice cream.

Most people, however, happily consume citric acid (another GRAS or safe substance) in dozens of products ranging from soft drinks to pharmaceuticals, including antiacid powders and tablets.

More than 180 million pounds of citric acid valued at $62 million is produced annually. More than 119 million of those pounds is used in foods and beverages as a flavor enhancer, preservative, pH regulator, antitoxidant and water conditioning agent. About 27 million pounds of the total is used for pharmaceuticals.

Citric acid turns up in the most unexpected places, in most breakfast cereals, for example, in soft drinks, chewing gum and candy. It is used at levels as high as 56.7 percent as an instant effervescent in powdered beverages.

As a flavor enhancer and preservative, it is present in beverages and syrups. As an antitoxidant it can be found in frozen fruits of all descriptions, and as a pH regulator, it is present in gelatin desserts and jellies.

Its sodium salt, sodium citrate, is used extensively in carbonated beverages such as Fresca and 7-Up and sodium citrate is also the ingredient in club soda which gives it a cool taste and retains its carbonation.

In California wines, citric acid is used to adjust the acid content upward. (Grapes grown in the East have sufficient natural acidity for the taste sought in wines.) Citric acid is also used for other purposes in wines.

It retards rancidity in foods containing oil and fats and together with ascorbic acid it is used as a dip for oily fish and shrimp to prevent tissue discoloration.

It is used to prevent crystallization in honey, to stabilize spices, to prevent discoloration of onions, and recently a new use for it as a means of keeping packaged meats fresh longer has been proposed. As a pharmaceutical, it turns up in Alka-Seltzer, Bromo Seltzer, in cough syrups, and in over-the-counter medicines such as Pertussin and Dristan Decongestant. It is also used as an anticoagulant during collection of human blood and as an energy source in hospital I.V. (intravenous feeding) solutions.

The worst general effect turned up in the medical literature on it was a tendency to wear down tooth molars.

"Food starch modified" is a generic term covering a variety of traditional starches which have been modified by chemicals for use in hundreds of food products.

Unlike the safe substances such as sugar and citric acid, it is a regulated food additive, meaning that the FDA must review and approve petitions for each one of its uses.

Modified starches show up frequently in the average family's diet, in such products as baked goods, cake mixes, soups, pie fillings, baby foods, prepared custards, sauces and gravies, potato salad, salad dressings, pork and beans, minced meat, chop suey, cole slaw, harvard beets, instant puddings and so on.

Even though the safety of these starches is rarely questioned, petitions on file at the FDA show that the agency did place limits on the amounts of allowable use after reviewing the results of animal feeding tests.

Laboratory animals fed huge doses of treated starches displayed some abnormalities, ranging from pulmonary lesions (wounds) to calcium deposits in the kidneys of some female rats.

One test turned up the presence of a brown pigment "which could not be satisfactorily explained" in the large intestines of fed animals .

Later, FDA scientists wrote that caecal enlargement (meaning a swelling of the pouch located at the beginning of the large stomach intestine) "is apparently a well-known effect of eating certain modified and unmodified starches.

"Since the enlargement is not accompanied by pathological abnormalities, it is considered an adaptive rather than a toxic phenomenon," the scientists wrote, in recommending approval of a chemically treated starch to prevent "breakdown" in frozen foods.

The FDA scientists warned, however, that the proposal should be closely followed and reviewed, should any new toxicity data become available.

There was a sharp difference of opinion between the starch industry and the FDA in the late 1950s and early 1960s as to what the modified starches ought to be called and how they ought to be regulated.

The industry insisted that the chemically altered starches, which were being used to improve storage stability and give bulk and smoothness to a host of products, should be called just plain, old starch.

Furthermore, the industry said the long use of starches showed that these varieties were safe and that since the use of starch is "self-limiting" there ought not to be limits laid down for the quantities of allowable use.

The FDA staff disagreed. After meeting several times with industry, the staff wrote a memo saying, "The trade would have preferred the word, 'starch' only, on grounds that the term modified will only confuse and alarm the public. We have pointed out that starch, unqualified, is on the GRAS list (the safe list) and means it is not chemically altered."

FDA officials listened to the staff and the term, food starch modified, began appearing on labels to alert the public to the fact that chemically altered starches such as potatoes, tapioca, corn or waxy maize, were present in the products.

The public interest sector has strong objection to the high use of the starches in baby foods and has asked that they be listed on baby foods as to percentage of the ingredients.

In addition, food activists say the starches ought not to be used to mask the lack of natural ingredients which should be in a food and the chemicals used to treat the starches ought to undergo more testing.

Sorbitan monostearate is one of the invisible substances, an emulsifier and regulated food additive, which shows up in countless products appearing on the American table daily.

According to one account on file at the FDA, it is impossible to avoid the consumption of this chemical in one of its many different forms during a 24-hour day.

It is used to keep bread from going stale and to give it a soft texture. It helps non-dairy creamers dissolve in coffee, it prevents oil from separating out of peanut butter, it serves as a whipping aid for toppings, it prevents "stickiness" in cake icings and other coatings, it prevents fat from separating out of processed meats and pet foods.

On food packages and labels, the consumer knows it only as "emulsifier added."

A chameleon-like substance, it appears in many different forms, all of which have been approved by the FDA. It can be found as a coating on raw fruits and vegetables, such as cabbage, lettuce, grapefruits and apples. In chocolate products, it is used to get rid of "poor gloss" and "fat bloom," a gray film which consumers associate with spoiled goods. It appears in many frozen products, helping to maintain their freeze-thaw stability, thereby avoiding structural breakdown of the foods.

In comments filed with the FDA to protest the use of the emulsifier in bread, H. I. Silverman, professor and chairman of the department of pharmacy at the Massachusetts College of Pharmacy, said testing of the substance has been inadequate.

None of the studies conducted to date has been adequate to "ensure the safety of the ingredient," Silverman said, while describing the emulsifier as a "totally synthetic material now permitted in at least 15 different foods at varied concentrations."

Silverman says highly toxic chemicals can get into the product during its preparation. He lists these as ethylene oxide and ethylene glycol.

Sorbitan Monostearate is also a "deceitful" chemical, in Silverman's opinion, because it is used, he says, "to hide the taste and mouth feel of certain poorer grade agricultural products . . . the consumer believes he is ingesting a higher grade product than he actually is."

From memos on file at the FDA, it appears that agency officials considered Silverman's comments and went back to industry with them but decided in the end that company scientists were right in contending that the toxic chemicals appeared in the product at levels so low as to be meaningless.

There was one additional scientific study which called for more scrutiny of the emulsifier's effects on grounds that it could, when ingested, increase the body's absorption of other "substances of questionable safety such as food colors."

Monosodium glutamate is another one of the officially unrestricted "safe" substances which is highly controversial because of animal feeding studies showing that it causes massive brain damage and eye injury in baby mice, rabbits and other animals.

At the present time MSG, often called the oriental spice, is on the FDA's GRAS list, but the agency may hold hearings as early as next month based on the findings resulting from a scientific review of the widely used flavoring.

In the meantime Americans continue to consume MSG in liberal amounts, some using it as freely as table salt to enhance the flavor of foods.

It has been sprinkled into oriental foods since the early 1900s and in this country it shows up in all manner of products, ranging from canned soups to potato chips.

In addition to oriental foods, MSG is added to frozen and canned vegetables, fresh cuts of pork, beef, veal and ground hamburger. It can also be found in fresh and prepared seafood, and canned meat products such as gravies and stews, in salad dressings, roasted nuts and in some dairy products.

Scientific literature on file at the FDA refers to the flavoring as "neuro-toxic" to infants and says the effects on the adult human body have not yet been adequately tested.

Recent figures show that Americans consume well in excess of 45 million pounds of it a year.

In the 1960s, when the work of Dr. John Olney was published, the public was forced to rethink its unrestricted use of MSG.

Olney's study showed massive brain damage and injury to the retina of the eye in infant mice fed relatively small doses of MSG.

As a result of his work, baby food manufacturers, who used MSG as a flavor enhancer in meat and vegetable products, stopped putting the flavoring into their products.

In 1971 an expert group of scientists meeting to discuss food additives recommended that MSG not be used at all in foods for infants, 12 weeks and under.

There are many recommendations in the FDA's file of scientific literature that use of the flavoring be restricted until its safety for both adults and children can be proven.

In infant animals, scientific studies show that dosing with MSG caused convulsions, gout, obesity resulting from decreased hormone outputs and sterility in some females. The same medical issues raised against MSG have also been raised against Aspertame, an artificial sweetener approved for limited use by the FDA.

At the adult level, the effect of MSG is still not clear, but most people are familiar with the now-famous Chinese Restaurant Syndrome study which reported in 1968 that it caused burning sensations, facial pressure and chest pains in some people.

Later studies showed that females appeared to be more susceptible than males and that some people are very susceptible to it.

An international association representing the views of the MSG industry has filed data with the FDA which contends that "no special adverse effects" have ever been reported by orientals who have been using the spice since 1907.

In tests on 101 hospitalized children, ranging in age from two weeks to 14 years, MSG produced nausea and vomiting in 13 children, headaches in others, but no other adverse effects, the industry report says.

FDA officials apparently were not completely satisfied with the range of material gathered on MSG because they sent it back to the firm under contract for the study and asked for more information.

The debate over the color food additive Red No. 2 is not merely controversial, it is raging and has been since 1970. This dye, also called amaranth, is used in more than $10 billion worth of food annually.

Red No. 2 has been strongly linked to cancer, birth defects and infertility in a number of countries. It has also been cited as a cause of hyperactivity in children. The Soviet Union has banned the use of the color and Sweden and Belgium, among others, have placed strong restrictions on it.

Despite the strong protest of the public interest food lobby here, Red No. 2 is provisionally listed for safe use under most conditions by the FDA.

"We know we're not on the side of the angels on this one," says the FDA's Richard Ronk.

But despite the criticism, Ronk says the FDA staff continues to conclude that the color is safe "for its intended use" which is the criterion it must go by. "We've run every test there is to run and they've all come up negative." Ronk says.

Recently, more fuel was added to the Red

No. 2 battle, when the General Accounting Office issued its own report ordering the FDA to either establish "the safety of Red No. 2" or take appropriate regulatory action against it.

The GAO report rebukes the FDA in stinging language for its failure to take action against Red No. 2 and at one point it says that FDA's "conclusion that Red No. 2 is not embryo-toxic is insupportable."

Red No. 2, it should be noted, is used to tint a wide variety of foods and drugs, including breakfast cereals, soda pop, jellies and gelatin desserts, candy canes and other sweets, ice cream, pie fillings and puddings, dog food, lipstick, syrups, some chocolate food products, powdered beverages and so on.

The FDA, which has the authority to list colors considered safe for use in foods, drugs, and cosmetics, has only provisionally listed Red No. 2 and not fully listed it, because it "still has some questions about it", according to an FDA staffer. It has no questions, however, about the color's safety as regards cancer and birth defects, he hastens to add.

Anita Johnson, of the Health Research Group, said that two years ago General Foods did stop using Red No. 2 in a wide variety of products because it thought the FDA was moving to ban the color and it didn't want the products on the banned list.

This year, however, the food giant wrote an answer to a query from the Health Research Group and said it has "resumed" using the color in more than 43 different products found on supermarket shelves.

Red No. 2, the food company wrote, is a widely used color which has been safely used for many years.

The storm caused over the continued widespread use of Red No. 2 has prompted the FDA to form yet another advisory committee to rule on its safe use. The committee, composed of many well known scientists, is expected to reach a conclusion relatively quickly, in the next several months.

The 1970 Russian study, Johnson says, really duplicated the FDA's own inhouse studies in that it showed that Red No. 2 caused tumors in animals.

She cited three FDA studies done in the 1950s which produced animal tumors as evidence that the agency has known about the hazards of the color for some time.

But the FDA says those studies were negative and the tumors produced in the animals were "benign mammary" ones and not cancerous.

Johnson responds to this argument by saying that few cancer scientists presume to distinguish between benign and cancerous tumors, viewing all of them as cause for alarm until they are proven otherwise.

And so it goes. More controversy, more testing, no definitive answers.

In the absence of action by the FDA, the public interest lobby is pressing for labeling of specific colors on packages, and this provision has been included in a massive Consumer Food Act recently reported out by the Senate Commerce Committee.

The bill would require labeling in such a way that a mother with a hyperactive child would know that a specified food was colored by Red. No. 2 rather than "colors and flavorings" added. The bill is expected to go to the Senate floor before Christmas.

Fake Food Is the Future

(By Jim Hightower)

Most people think of food as something that farmers grow for people to eat. Not quite. The final step in manufactured food is being taken, and it is both eaters and farmers who are being stepped on. Synthetic food is here.

Having both the technological and economic power to redesign food, oligopolists are not hesitating to exercise it. "We might all be able to exist and flourish on a diet of three adequately compounded pills a day," wrote the head of Central Soya Company's Chemurgy division in an article urging a shift to synthetic foods: "This is not an intriguing prospect for most people. And so it is practical to have the soy-protein foods look like foods with which we are familiar." Ah, at least he would allow us the "appearance" of the real thing, though one detects a real inclination to sell us the pills.

The new farm is the laboratory, and the American provider is a multinational, multiproduct food oligopoly. These futuristic food makers are taking you somewhere you may not want to go, but control is rapidly slipping from your hands. "Eventually, we'll have to depend on artificial foods to feed the world's population," declared an executive of ITT. "By using artificial ingredients now, we're helping in their development." Coming from a major food oligopolist, that prophecy of our food future is self-fulfilling, and self-serving.

Milo Minderbinder, the amoral conglomerate-builder of *Catch-22*, got stuck with bales of Egyptian cotton in one of his deals that went bad. To cut his losses, Minderbinder came up with the idea of coating bits of the cotton with chocolate and selling them as candy. We all laughed at this scene in Joseph Heller's novel, but it forced us to the discomforting admission that big business certainly would sell chocolate-covered cotton if it could.

They have, though with a little different twist. Instead of candy-coated cotton, such favorites as Baby Ruth and Butterfinger are cotton-coated candies. Standard Brands, the food conglomerate that now makes Baby Ruth and Butterfinger, does not use chocolate to coat its bars, but ladles on a synthetic substitute derived from cotton. At least Standard Brands is using a plant derivative. Peter Paul Mounds and Almond Joys now are coated with what is termed "an undisclosed brown substance," and even the president of the company has confessed, "I'm not sure exactly what it is."

Counterfeit chocolate is being offered by the candy makers because it is more profitable to them, not because it is better tasting or more nutritious. "It's a more lasting coating," explained a candy official to a *Newsday* reporter. "Nice gloss, nice shine, nice snap to the product." Monsanto Corp. has announced that its chemists have developed a total candy "system" that combines an artificial flavor with a bulking agent and gives the manufacturer the means to replace not only the chocolate coating but also the chocolate filling. A Monsanto executive noted that the system will offer candy makers a 17 to 20 per cent saving. Does that mean that you can expect counterfeit chocolate candies to be 17 to 20 per cent cheaper? No. Let that melt in your mouth.

International Multifoods manufactures a material they call Merlinex, advertising it to food manufacturers as "Instant Anything." Food makers use Merlinex as a substitute for real ingredients, extruding, baking, shaping, flavoring, stretching, and doing almost anything else to it. It is the silly putty of the food world that you eat as an extender in colby cheese, as phony fig paste in fig bars, as imitation strawberry filling in pastries, and as a texturizer in brownies, to mention only a few of its uses.

Merlinex is just one of the synthetics and substitutes that are the makings of the new dinner. The major users of these fake foods today are convenience food manufacturers, fast-food chains, and such institutional outlets as schools, airlines, hotels, and hospitals, Among the items in your pantry now that most likely contain synthetic ingredients are baby foods, pot pies, orange juice, TV dinners hamburgers, canned Mexican food, candy, canned stews and soups, bologna, fish sticks, sausages, cream, bacon bits, cheese, turkey rolls, and ice cream.

Already, synthetics and substitutes hold 21 per cent of the citrus-beverage market and high percentages of such markets as whipped toppings and coffee creamers. Imitation milk is now being marketed by two companies and is expected to take up to 10 per cent of the fluid milk market by 1980. Pet, Carnation, and Borden are brand names that once were synonymous with real milk and milk products, but today these firms are among the largest marketers of such artificial milk products as nondairy coffee "whiteners." Even the Department of Agriculture's main cafeteria in Washington recently has taken the symbolically significant step of switching from coffee milk to whiteners.

The raw materials for fake foods are derived not only from plants and animals, but also from such nonagricultural sources as petroleum and coal. No matter what they are made of, they require a medicine chest full of additives to hold the makings together and to make them appear to be the real stuff. Synthetic milk, for example, is based on sodium caseinate, a chemical component derived from milk, and is then bolstered with vegetable fat, emulsifiers, buffers, protein, stabilizers, body agents, sweeteners, flavorings, colorings, and preservatives.

Even the synthetic offerings made from high-quality vegetable proteins are unable to compare nutritionally to the genuine foods they replace. A synthetic soy-based hamburger, for example, does not approach the protein value of meat, as the Department of Agriculture acknowledged in a 1972 study of synthetics: "Because of essential amino acid imbalance, most plant proteins are less efficient, have lower digestibility, and a lesser biological value than animal proteins." Adding synthetic amino acids to the synthetic "meat" does not yield satisfactory results, says the USDA report, either because it is too expensive or because the additives are potentially toxic.

Nutritious or not, meat "extenders" and substitutes are taking an increasing share of the market, being used in everything from fast-food hamburgers to add-meat products you use at home. Primarily, such stuff is a material termed Textured Vegetable Protein (TVP), which generally is manufactured from soy beans by processing machinery similar to the kind that spins nylon from petrochemicals. Archer-Deniels-Midland, one of the largest grain exporting corporations in the world, is the leading manufacturer of TVP, claiming more than 50 per cent of the market. Other makers include Nabisco, General Mills, Miles Laboratories, Cargill, and Central Soya. Recently, Ralston Purina has entered the market in a joint venture with Continental Can, marketing a soy-based substitute called SPF–200. "The enterprise should expedite penetration of several markets with a unique structured protein," says Ralston Purina.

Mostly, such synthetics are coming to us without our knowledge. The fast-food hamburger chains have been the earliest major outlets because their products are not subject to the same labeling requirements as other meats and because consumer expectations of quality are not so high there. The Department of Agriculture opened up the school lunch and breakfast programs to the synthetic manufacturers by allowing textured vegetable protein to replace up to 30 per cent of the meat requirement. That will also help to get a new generation of eaters used to the peculiar taste and texture. USDA now has given the manufacturers another promotional coup by allowing them to call their synthetics "Textured Meat Alternatives," which has a more palatable sound than textured vegetable protein.

The bait thrown out to reel consumers into the hands of the meat fabricators is a cheaper price. But in terms of nutritional equivalency, it is not cheaper. And sellers of most meat products that contain synthetics do not even advertise that fact and do not sell them any cheaper than solid meats. Even where there are cost differences, consumers can hardly trust oligopolistic manufacturers to hold their prices once market positions are established.

In some cases, the meat substitute is more expensive. Williams Companies is an Oklahoma conglomerate that makes oil pipelines, chemicals, steel—and, now, food. They market TVP directly to consumers, selling it in four-ounce foil pouches that frequently are located at the meat counter of supermarkets. "Williams Fortified Textured Vegetable Protein," reads the label, "makes ground beef go twice as far." But it is cheaper to buy more ground beef, since Williams TVP costs $1.36 a pound.

In the new food economy, taste does not come naturally, but from a vial. Whether it is a tomato extender, a strip of fake bacon, or an imitation filling for doughnuts, the synthetic is tasteless. Fortunately, consumers are still picky enough to insist that at least some approximation of flavor exist. They get less than they bargained for. "Give us your flavor problems," says General Aromatic Products, a division of the Stepan Chemical Co. "Our staff of highly trained specialists continually search for flavors and flavor systems to meet the ever increasing demands of the food industries." They offer a full line of standardized flavors, from bacon to strawberry, all of which come either as a liquid or inspray-dried form. For manufacturers of tomato soups, spaghetti sauces, ketchups, and other such items, this outfit provides a Cooked Tomato Flavor with a "taste like it came off grandma's stove." For processors of tomato juice and the like, the company sells Fresh Tomato Flavor that gives "the full vine- ripened, fresh, tomato effect."

The William M. Bell Co. has come up with Beef Flavor Imitation No. 11.001, advertising that "This is a most pleasing full bodied beef flavor and aroma, characteristic of prime roast beef," adding that "It extrudes well in high protein foods, and is ideal in soups, gravies and other processed food where meat replacement is desired." Givaudan Corp. announced that it has responded to consumer demand for "naturally flavored" foods, by developing a series of "scientifically, reconstituted artificial oils." The mind reels, to say nothing of the stomach.

Fake food is a fake. No amount of advertising copy and no amount of USDA assurance or revised standards can change the fact. Who is asking for these substitutes? Not consumers. Where is the consumer demand for food that is nutritionally inferior, laden with chemicals, has an artificial flavor that tastes artifical, and costs as much as genuine food? Farmers certainly are not calling for it. The new food economy employs chemists, not farmers. Independent business? Synthetic food requires massive capital and enormous market power; only big and concentrated businesses need apply.

Fake food is the future because big business wants it. Read the annual reports of the big food makers and read their industry publications and you find them making massive capital investments and banking their future growth in the areas of synthetic food manufacturing. It is a question of convenience to them. The switch to ersatz allows them to buy raw materials cheaply on a relatively stable market. It allows them to reduce food to technology and systems, things they understand. The expensive, patented technology required by fake food puts up a solid barrier to competition, enhancing the oligopolistic positions they already hold. The flexibility of the raw material allows easy product differentiation for marketing purposes. Add it up and the bottom line shows market control, growth potential, and profits. That is a result sure to draw applause from the board of directors and the large institutional shareholders, and it makes a manager's job secure.

What are little girls and boys made of? When they drink Kool-Aid, they are made of fumaric acid, sugar, monosodium phosphate, ascorbic acid, propylene glycol, artificial flavor, artificial color, calcium carbonate, and dioctyl sodium sulfosuccinate.

Few people have any notion of what is put into the stuff of food oligopolies, or what is taken out of it. As food shoppers, we have not paid much attention to nutrition, undoubtedly assuming that the food makers were taking care of that. Such trust has not been well placed, and it is time to start looking out for ourselves. As Dr. Myron Winick, head of Columbia University's Institute of Human Nutrition, understated it, "The profit motive in selling and packaging is not always compatible with the best nutrition." General Foods beams millions of dollars of Kool-Aid advertising at children, even urging them to replace the old lemonade stand with a Kool-Aid stand. The latter is good for General Foods's profits, but lemonade would be better for the kids.

In a 1965 survey, the Department of Agriculture found that American diets were less nutritious than they had been in 1955. Only half of the households in the country were found to have "good" diets, and 20 per cent of the households were found to have poor diets. Referring to this USDA study, nutritionist Richard Ahrens pointedly noted at a 1974 Food and Drug Administration conference that "from 1955 to 1965 consumption increased for soft drinks, punches and ades, potato chips, crackers, cookies, doughnuts, ice cream, and candy. Consumption of milk, cheese, eggs, flour, cereal, fruits, and vegetables declined."

Subsequent studies by the Department of Agriculture and by the Department of Health, Education and Welfare confirm the earlier findings of declining nutritional quality in the American diet, particularly of such nutrients as iron, calcium, riboflavin, magnesium, and vitamins A, B, and C.

Perhaps the most startling realization is that most of us know so little about human nutrition. Public schools teach practically nothing useful about eating, usually relegating nutrition to a dull chapter on basic food groups in an elementary-school health text. Practical nutritional experience in school is even less beneficial—after reading about the virtues of whole grains, kids today can leave class and buy a lunch of snack foods and soft drinks from a vending machine located in the hallway. No wonder that only about half of American housewives are able even to describe a nutritionally balanced meal.

Worse yet, doctors are ignorant on the subject. In a good article on nutrition, Jane E. Brody pointed out in The New York Times that no more than twelve of approximately 120 medical schools in the country have full departments of nutrition, and the average medical student "learns little or nothing about how to feed a normal, healthy human being to maintain his healthiness." Nutritional scientists generally have not served us well—in fact, a large percentage of them have not served us at all, but have hired out to food manufacturers. There, they come up with the concoctions that their marketing departments have determined will sell. As Dr. Michael Jacobson, a microbiologist and the director of the Center for Science in the Public Interest, said of most corporate scientists: "If the boss wants a cream-filled, sugar-coated breakfast cereal, you're going to do it."

The food economy used to exist to produce an abundant supply of good foods at a reasonable price. Today it exists to produce organizational growth and profits. Product quality no longer is an attitude or an organizational objective, but is just one of many corporate divisions. The concern with quality is reduced to a technological monitoring of whether the soup has enough artificial flavor and synthetic bulk to be advertised as "Zesty," or whether enough vitamin C has been added to meet FDA's minimum standards. And price is whatever the oligopoly sets. As long as dinner meets technological specifications, it is good and good for you, no matter what you say.

In 1971, National Educational Television ran a funny skit that stripped bare the pretensions of manufactured food. Created by Marshall Efron and Penny Bernstein, the program showed what you would need to make a Morton's frozen lemon cream pie in your own kitchen. Donning the chef's hat, Efron acted the part of a cooking teacher on those how-to-do-it cook shows, taking the viewer step-by-step through the adding and mixing of such ingredients as sugar, sodium bicarbonate, ammonium bicarbonate, sodium caseinate, more sugar, emulsifiers, polysorbate 60, artificial coloring, and artificial flavoring. "You may wonder what kind of pie we've made here," Efron said at the end of the spoof, holding up the Morton's box:

"There it is. A modern lemon cream pie. I'll open it for you. Get it out of the box. Good. Factory-fresh, factory-approved. No lemons, no eggs, no cream. Just pie."

The people at Morton's, an ITT subsidiary, were not amused. The company fired out a "Sales Bulletin" to everybody in its marketing system, critiquing every detail of Efron's presentation and showing particular sensitivity to the lack of lemon in their lemon cream pie. Not so, said the memo—the pie does use artificial lemon flavor, but there also is a bit of real lemon juice mixed in with that flavoring. Consequently, Morton's decided that it was justified in changing the list of ingredients on the pie package from "artificial flavoring" to "lemon juice and other natural and artificial flavors." Morton's got the last laugh.

It is not inevitable that the world will retire to the laboratory for dinner, but it certainly is going to happen if we allow a few giant corporations to continue working their will over our food economy. Nutrition, taste, and choice of food are factors of the economic structure that delivers them. With little competitive pressure, with even less governmental pressure, and with no effective resistance from the public, oligopolists are abandoning farmers, abandoning nature—and leaving you to eat whatever is put before you.

FDA Unexpectedly Stays Searle's Right To Market Its New Artificial Sweetener

(By Jonathan Spivak)

Washington.—G. D. Searle & Co. ran into new and serious problems with the Food and Drug Administration in its efforts to market a new artificial sweetener called Aspartame.

The agency, in a sudden and surprising action, stayed for an indefinite period Searle's authority to sell Aspartame, citing concern over the reliability of the company's test data. In a brief order being published in today's Federal Register, the agency said the preliminary results of an audit of Searle's animal data for Aspartame "indicate the need for a comprehensive review of certain of the research data. . . ."

Until this action, the company had been legally authorized to market Aspartame despite other, separate issues that had arisen over safety of the substance. Aspartame is a combination of two naturally occurring amino acids (building blocks of protein). It was the first artificial sweetener to be near marketing since the FDA banned cyclamates several years ago.

The only other approved artificial sweetener is saccharin, which has the disadvantage of a bitter taste.

General Foods Corp. announced plans last March to test-market on a limited basis products containing Aspartame. However, a few months later, when other safety issues arose, General Foods said it was shelving these plans until all uncertainty about the product's safety was settled. General Foods said yesterday that the new FDA action on Aspartame thus won't affect its plans.

Searle, based in Skokie, Ill., stated that although the FDA action came as a surprise, it wouldn't affect "the current status" of Searle's sweetener project. The company said it has voluntarily withheld marketing until the safety issues are resolved.

But the marketing stay means at a minimum, even if all doubts about Aspartame are subsequently favorably resolved, that Searle faces months more delay before geting the product on the market.

The issue of the validity of test data submitted by drug and food companies is much broader than the future of a single product, however. Renewed questions are posed about the performance of Searle itself because the validity of the company's data for three other drugs has been challenged by the FDA and is currently under agency review. And the latest Searle problem also raises new questions about the FDA's ability to regulate drug and food companies adequately and to insure that their scientific reports justifying safety and effectiveness are accurate and complete.

In the past, the FDA has generally accepted the data submitted by companies for their products as factual, and the big regulatory issue have hinged on the meaning of the data in terms of safety and effectiveness. Now the FDA is being forced to look for the first time into whether the raw data submitted by a company is correct. Agency officials concede they really don't know how widespread the problem of inaccurate data may turn out to be.

Searle has already been questioned by FDA and Senate investigators over the validity of its test data for three drugs: flagyl, used to treat infections, and aldactone and aldactazide, anti-hypertension drugs. As a result, the FDA undertook a review of the data submitted by Searle for several other products, including Aspartame.

Dr. Alexander Schmidt, FDA commissioner, noted in an interview that in this review, "we have found different discrepancies of different kinds. Some favor the product (Aspartame) and some don't." In some cases, the numbers in animal-test results didn't add up correctly, Dr. Schmidt said. In some other cases, the agency had questions over the animal-testing plan itself, and in other circumstances Dr. Schmidt noted that pathologists, experts in laboratory analysis, had differing interpretations of animal data.

The FDA intends to continue its examination of the Aspartame testing data to determine the cause and significance of the discrepancies it has found. Only then will the agency move to reexamine other safety issues that have been raised by critics who oppose marketing Apartame.

After the FDA completes its survey of the Aspartame test data, Dr. Schmidt stated, the agency will decide whether to broaden its examination of test data to other companies or simply continue a more intensive look at Searle's results with other products.

Dr. Schmidt himself approved Aspartame for marketing in July 1974. Searle then voluntarily held up marketing of the product when issues were raised over its safety—specifically whether animal tests that produced uterine polyps (small growths) indicated a potential human hazard. FDA officials currently say the animal polyps aren't a safety concern, although some outside critics continue to raise the issue.

By Mr. ROTH:

S. 2766. A bill to establish procedures for oversight of social research and development by Federal agencies, to coordinate and reduce duplication in social research and development by Federal agencies, and for other purposes. Referred to the Committee on Government Operations.

THE $1.2 BILLION PARADOX: GAINING CONTROL OF FEDERAL SOCIAL RESEARCH

Mr. ROTH. Mr. President, Congress is faced with a peculiar paradox: We are appropriating, annually, enormous sums for social science research projects in a variety of Federal agencies, and, at the same time, we have been frustrated in efforts to gain from the executive departments, useful information about whether Federal social programs really are effective or not.

Information—assembled for the first time by the National Academy of Sciences—indicates that the annual Federal budget for social research and development is on the order of $1.2 billion.

ELUSIVE SOCIAL R. & D. EXPENDITURES

In an effort to gain some reliable data on program effectiveness, Congress took upon itself the task of program review and evaluation in the Budget and Impoundment Control Act of 1974. Other legislation has been introduced in this session to increase Congress capacity for program review. These legislative initiatives were the inevitable result of Congress inability to obtain from the agencies, rigorous research studies on the impact and performance of social programs.

One reason that Congress has been unable to work its will on what turns out to be massive outlays for social science research and development activities is that these expenditures are scattered throughout the Federal establishment, sometimes appearing as distinct line items in the budget but, frequently, buried in broad program categories. So elusive is this social R. & D. area, that the Science Adviser to the President, H. Guyford Stever was obliged to call upon the National Academy of Sciences in March 1974 to actually measure the scope of social research within the Federal Government. As a result of its investigation, the Academy presently estimates that in fiscal year 1975, the Government budgeted approximately $1.2 billion for research, development, experimentation, evaluation, and related activities addressed to the analysis of social problems. This estimate, of course, does not include any of the funding for the actual operation of social programs, even where they are identified as experiments or demonstrations.

EVIDENCE OF SOCIAL R. & D. INADEQUACY

There is evidence that, in the absence of any overall management or coordination of social R. & D. programs within the Government or close oversight by the Congress, the taxpayers' investment of over a billion dollars annually is yielding meager practical returns and is often characterized by duplication of effort.

Only a very small proportion of these funds—on the order of 5 to 10 percent—is actually devoted to program evaluation: the research area which Congress has made clear is of the highest priority. Another small proportion—less than 20 percent—is used for experimentation of a scientific nature.

Even during their limited opportunities to examine research budgets at appropriations hearings, committee members were able to determine that duplication of effort may be a serious problem in the administration of these research programs which are conducted by at least 15 different Federal agencies. Specific concern was expressed, for example, about duplication of activity:

In HUD and NSF in the area of housing research.

In LEAA and NSF in the area of law enforcement research.

Within DHEW and Labor in the area of policy research.

It is likely that closer investigation would reveal far more examples.

PROPOSED LEGISLATION

Now that we are beginning to appreciate the magnitude of the investment we are actually making in social research and development, it is time that we bring these expenditures under control. To this end, today, I am introducing remedial legislation, the Social Research and Development Oversight Act of 1975. This bill has three basic, related objectives. First, it would enable Congress, through the appropriations process, to more easily assess and influence the research plans of Federal agencies. Congress would be in a position to prescribe, in advance, the type of evaluation and related research it wants performed by the agencies. In addition, where research plans appear to be overblown or to involve projects of questionable utility, appropriate downward adjustments could be made in the budgetary requests. Second, the bill would provide central oversight and coordination within the Government for the conduct of social research and development to eliminate duplication and activities with no practical program or policy value. Third, it would make available to the general public, easily accessible information about ongoing social research and development projects.

Specifically, the bill provides: First, that beginning with the fiscal year 1978 budget submission, each agency will be required to submit with its budget presentation, a detailed statement of its social R. & D. plans; second, that all R. & D. contracts, grants, or fund transfers which exceed $25,000 in cost must be cleared in advance by the Office of Management and Budget; and third, that agencies must have available for public inspection at their principal offices, summaries of all social R. & D. contracts, grants and fund transfers.

I hope that this bill will be the basis for early congressional consideration of this important subject. As a result of the pioneering efforts of the National Academy of Sciences, we will have access, for the first time, to a solid informational base in this area.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2766

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this

Act may be cited as the "Social Research and Development Oversight Act of 1975".

STATEMENT OF PURPOSES

SEC. 2. It is the purpose of this Act—

(1) to provide central oversight and coordination within the Government for the conduct of social research and development activities;

(2) to reduce duplication of effort within the Government in the conduct of such activities and to insure that such activities have the maximum practical utility in improving Federal programs and policies; and

(3) to enable the Congress, through the appropriations process, to assess the plans of Federal agencies for social research and development.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "Federal agency" has the meaning assigned to it by section 3502 of title 44, United States Code; and

(2) "social research and development" means research, experimentation, demonstration, program evaluation, policy analysis, statistical data gathering and analysis, or synthesis and dissemination of any of the above, involving primarily the application of one or more of the following social sciences: economics, sociology, education, psychology, statistics, political science, and public administration.

REVIEW OF PLANS FOR SOCIAL RESEARCH AND DEVELOPMENT BY OFFICE OF MANAGEMENT AND BUDGET

SEC. 4. (a) A Federal agency may not obligate, by contract, grant, transfer to another Federal agency, or otherwise, budget authority of $25,000 or more for any study, survey, experiment, or similar social research and development activity, unless—

(1) the Federal agency has submitted to the Director of the Office of Management and Budget a statement describing such study, survey, experiment, or activity, including such information as the Director may request; and

(2) the Director has informed the Federal agency in writing that he does not disapprove such obligation of budget authority.

(b) This section shall take effect on the 30th day following the date of the enactment of this Act.

INCLUSION OF INFORMATION IN THE BUDGET

SEC. 5. Section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11), is amended by adding at the end thereof the following new section:

"(j) The Budget transmitted pursuant to subsection (a) for each fiscal year (beginning with the fiscal year beginning on October 1, 1977) shall include information, for each department or establishment, concerning all planned social research and development (as defined in section 3(b) of the Social Research and Development Act of 1975) to be initiated during the fiscal year. Such information shall include—

(1) total estimated outlays for all social research and development activities;

(2) estimated outlays for (A) research, (B) experimentation and demonstration, (C) program evaluation, and (D) other social research and development activities; and

(3) a listing (according to the categories contained in paragraph (2)) and description of each study, survey, experiment, or similar social research and development activity in which estimated outlays will be $25,000 or more."

PUBLIC INSPECTION OF SOCIAL RESEARCH AND DEVELOPMENT DOCUMENTS; SUMMARIES

SEC. 6. (a) The provisions of section 552 of title 5, United States Code, shall apply to all contracts, grants, and records of transfers of budget authority for social research and development made by any Federal agency.

(b) Each Federal agency shall maintain, at the location of its principal office, summaries of all contracts, grants, and records of transfer of budget authority for social research and development, together with information as to the place where request may be made for inspection of such contracts, grants, and records. Each such summary shall constitute a record to which section 552 of title 5, United States Code, applies.

By Mr. DOMENICI (for himself and Mr. MCCLURE):

S. 2767. A bill to provide for a 1-year moratorium on the sale or other disposition from stockpiles of strategic and critical materials. Referred to the Committee on Government Operations.

Mr. DOMENICI. Mr. President, today I send to the desk for appropriate reference, a bill to temporarily suspend any further disposals by Federal agencies from stockpiles of strategic and critical materials, and I am pleased to be joined by the Senator from Idaho (Mr. MCCLURE).

Earlier this year, at my request, the General Accounting Office reported to the Congress on stockpile objectives. The report is entitled, "Stockpile Objectives of Strategic and Critical Materials Should be Reconsidered Because of Shortages."

The GAO report indicates a need to reevaluate our stockpile depletion policy. In his letter transmitting this report to the Congress, the Comptroller General of the United States, Elmer B. Staats, wrote the following:

> Considering the world resource outlook, we have recommended that the Secretary of Defense and the National Security Council reevaluate the current stockpile assumptions to assure that adequate materials are stockpiled to meet the Nation's readiness needs. We have also recommended that the Administrator of General Services use this data, as well as data from other studies now in process, to arrive at new national stockpile objectives.

The Comptroller General went on to suggest that the Congress may wish to consider halting future disposals currently authorized under specific legislation and grant no further requests to dispose of strategic and critical materials until the Nation's critical resource requirements are clarified.

The National Commission of Supplies and Shortages which was established pursuant to Public Law 93–426, is charged with studying our stockpiling policies. The Commission is to develop a comprehensive strategic and economic stockpiling inventory policy, and to suggest legislative and administrative actions to carry out the policy. In addition, the Office of Technology Assessment is involved in a study of stockpiling which will be completed in the near future. It seems unwise to allow depletion of our stockpiles before we have received these reports and have been given an opportunity to act on the recommendations.

Mr. President, this bill if enacted, would provide for a 1 year moratorium on the sale or other disposition from stockpiles of strategic and critical materials. I feel there is an urgent need for this legislation in light of the current resource outlook; that is, domestic demand, competition for resources, and potential for cartelization. I urge the Congress to consider this measure at an early date.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2767

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, no materials contained in any stockpile or reserve owned by the United States and acquired under the authority of Strategic and Critical Materials Stock Piling Act, the Defense Production Act of 1950, the Agricultural Trade Development and Assistance Act of 1954, the Agricultural Act of 1956, or any other Act, may be sold or otherwise disposed of for a period of one year after the date of enactment of this Act, except as provided in section 2 of this Act.

SEC. 2. The prohibition contained in the first section shall not prohibit the sale or other disposition of any material from any such stockpile or reserve if made solely for the purpose of rotation to avoid deterioration or spoilage, but any quantity of any material sold or otherwise disposed of for such purpose shall be replaced in kind and quantity within 30 days from such sale or disposition.

By Mr. McINTYRE (for himself and Mr. DURKIN):

S. 2768. A bill to amend section 518(a) of the National Housing Act for the purpose of extending the time period during which a homeowner may apply for assistance under such section. Referred to the Committee on Banking, Housing, and Urban Affairs.

HOMEOWNERS' RELIEF UNDER NATIONAL HOUSING ACT

Mr. McINTYRE. Mr. President, along with my colleague from New Hampshire, (Mr. DURKIN) I introduce for appropriate reference, a bill to amend section 518(a) of the National Housing Act.

Mr. President, this legislation is aimed at addressing a serious injustice arising out of HUD's administration of section 518(a) of the National Housing Act.

This section provides that the Secretary shall have the authority to take remedial action where structural defects are found in an FHA-insured home approved for insurance prior to construction.

A structural defect is a serious flaw affecting the livability of the home. It does not include normal wear and tear, but does cover such problems as cracked foundations and faulty septic systems. To obtain relief, an owner must apply within 4 years from the date of his mortgage insurance contract, and a determination is then made by the agency as to whether the problem qualifies as a structural defect.

This program is certainly proper, Mr. President. If a home built under FHA inspection and approval is found to have a structural defect, the Department of Housing and Urban Development should have the power to rectify the situation.

My experience in New Hampshire has been, however, that this program has been a rather well-kept secret. Homeowners had no information about the program, about the proper procedures for filing, or their rights in obtaining a final determination from HUD on the merits of their particular complaint.

I am aware of several cases in New

Hampshire in which homeowners have filed complaints only to discover that the 4-year deadlines had expired. In one case, the deadline was missed by only 1 day.

Mr. President, these homeowners did not delay their complaints. Many of them tell me they have telephoned and written letters many times to HUD. Sometimes they received a response, sometimes not. But they were never advised fully of the 518(a) program.

I find this situation disturbing and sad. This program was aimed at helping innocent homeowners solve serious problems with houses built under FHA inspection and supervision, and purchased through such programs as the 235 mortgage assistance program. Yet it appears that the program may be administered in such way that the aggrieved homeowner may never find out that help is available.

For these reasons I have joined with my New Hampshire colleague, Mr. DURKIN, in introducing this legislation. The amendment is simple, and analogous to action taken to extend the application period under 518(b). It extends the deadline for application for relief under section 518(a) for an additional 7 months. In addition, it provides that the Secretary shall notify eligible homeowners within 30 days of enactment.

By Mr. McGOVERN:

S. 2771. A bill to amend title 38, United States Code, to provide special psychological readjustment therapy, counseling services, and followup treatment to veterans of the Vietnam era and their dependents who are in need of such assistance because of military service performed during the Vietnam era. Referred to the Committee on Veterans' Affairs.

PSYCHOLOGICAL READJUSTMENT FOR VETERANS

Mr. McGOVERN. Mr. President, for more than 10 years this Nation incurred ever-deepening wounds from the Vietnam war. Only when the pain became unbearable did we finally hobble away from that war, bringing home thousands of Americans, many with torn limbs, and many more with torn minds, souls, and spirits.

Then, just last year, the war itself ended, much to the relief of most of the world. And again came thousands of war-tired, war-torn individuals to the United States, this time not returning home, but seeking a new one. When the Vietnamese evacuees sought refuge in the United States, the Congress and the public responded with generosity and understanding—by appropriating millions of dollars in resettlement aid and by opening homes and hearts to these victims of the war in Vietnam.

But there were and still are victims whom we have not been so quick to help—our own young Americans who also fought that war—the Vietnam veterans. When they returned home, Congress did not jump to help them resettle and readjust to a life which had grown unfamiliar to them. Because it was a "different kind of war" the Vietnam veterans returned to apathy, indifference, unemployment, and alienation, turned away and ignored, in effect, by the very Nation that sent them to war.

Just last year the Congress did get around to improving the educational benefits for Vietnam vets, but they are still not up to what they should be. Because of unemployment and the increasing cost of higher education, there is still a crying need to expand and improve these benefits.

But there are problems which go deeper than these physical difficulties. As a result of their war experiences, not to mention the tragic and often violent domestic controversy surrounding our involvement, many veterans suffer from serious and prolonged psychological problems. Sometimes known as PVS, post-Vietnam syndrome, these emotional disorders have been responsible for hundreds of thousands of psychological and psychiatric casualties of the Vietnam war.

When the Vietnam veterans returned home, they were not met by enthusiastic crowds, but by families and friends who had become strangers because of the long and painful separation. The war left many psychological scars, not only on the veterans, but on their loved ones as well. Broken families, lost careers, and uncertain futures are among the tragic results of our Vietnam experience which continue to haunt and frustrate thousands of veterans and their friends and dependents.

Comprehensive studies of the problem have revealed some surprising statistics. For instance, according to a Department of Defense study conducted by Lee N. Robins of Washington University, one in six married Vietnam veterans was divorced or separated from his spouse within 6 months of his return. One in five veterans had been arrested and one in five was unemployed. Forty-six percent of the Vietnam veterans in VA hospitals at the time of the study were being treated for psychiatric problems.

The Veterans' Administration has concluded that approximately one out of five Vietnam-era veterans has experienced readjustment problems. Explaining that veterans of every war have suffered from some sort of change and trauma due to the complex reentry process into civilian life, the VA stated that this process is probably "more difficult for the Vietnam era veterans than their predecessors due to the type of war and controversy about it, plus the rapid changes occurring at home in their absence."

A 1973 national survey conducted by Daniel Yankelovich of noncollege Vietnam veterans, found that they were pessimistic and negative about their personal lives:

> They are more discouraged over what the future holds for them. And they reflect a relatively greater estrangement from American society than do their peers.

Psychologists have demonstrated that individuals who undergo a traumatic experience requiring a drastic readjustment will not feel the impact for months or years. So it is no wonder that so many veterans are still finding it difficult to settle into a comfortable satisfying life. The warning signals are out and they are very clear. Unless we take positive steps to provide the needed assistance for the individuals who are now experiencing severe readjustment problems, there will be more emotional breakdowns, more broken families, more arrests—more unfortunate consequences of the Vietnam war.

The VA's present authority restricts it from assisting a veteran unless he has a specific mental disability which requires hospitalization. Therefore, regardless of how severe or debilitating their problems may be, veterans not requiring hospitalization for psychological or psychiatric reasons are denied any assistance by the VA.

The onus of responsibility for justifying the need for help is therefore placed on the shoulders of the veteran. He must prove that he needs help and in order to do that, he must have an officially diagnosed problem. Veterans who know they have emotional difficulties but fear the consequences of hospitalization for psychological or psychiatric reasons have nowhere to turn. This denial of preventative care increases the probability that a veteran's first hospital admission for a psychological problem would be a result of a violent act, drug abuse or perhaps an attempted suicide. The VA should be able to provide therapy, counseling services, and any necessary followup treatment for veterans whether they have an officially diagnosed problem or not.

I am today introducing legislation designed to deal with this problem by providing the prevention necessary to preclude the need for a cure. My bill would give the Veterans' Administration the authority it needs to provide care for the so-called post-Vietnam syndrome and general readjustment difficulties of veterans. Veterans would be able to come to the VA and ask for and receive psychological help and counseling. They would be treated as clients, not patients.

My proposal also extends authority to assist dependents of veterans with emotional problems since they are the ones who share the problems the veterans may experience. According to Dr. Charles R. Figley, a Purdue University psychologist:

> Few attempts have been made to assess the impact of the war on veterans' interpersonal functioning, particularly within the context of family life.

Often the family is the only source of support and strength to help the veteran through this time of stress and frustration. Furthermore, the interpersonal relationships may just as easily founder during these times. Mental health professionals recognize that it is ineffective to treat a veteran's psychological problem if his mental well-being is substantially affected one way or the other by his relationship with others, unless the treatment involves those other individuals. Therefore it is necessary that these services be extended to veterans' dependents.

Another provision of the bill I am introducing gives the VA the authority to contract outside of the administration when the necessary personnel and facilities are not available within the VA. In many cases, VA facilities are inaccessible to veterans needing treatment. And since the VA has not provided preventative mental health care services since World War II, the necessary staff will not always be available. The contract authority will assure veterans who need these services that they and their dependents can and will receive them.

This bill also provides for studies and research to be done in the area of psychological readjustment of Vietnam veterans. There is a serious void of knowledge about the problems evolving from combat or service in Vietnam. To accomplish an effective readjustment program, the professionals administering the treatment must more fully understand the scope of the problems they will be dealing with.

The experience of war has always brought with it a certain pain and horror and loneliness which no person can put aside. So there has always been some period of difficult readjustment for most veterans after every war. But the unique and controversial nature of the Vietnam conflict added another powerful load to the emotional burden on the veteran of this last war.

I have nothing but respect for these Americans who contributed their all in Vietnam. It is out of this respect that I am proposing this bill to provide them with appropriate psychological counseling and treatment when they feel they need it. We must recognize the great need for the Veterans' Administration to provide these services officially to Vietnam veterans and to give them the legislative mandate to do so. As the VA's own Dr. Charles Stenger has pointed out, such services are not only necessary, but would be "wholly consistent with the national philosophy of assisting those who served their country to pick up the pieces of their lives and become effective and productive members of their families and of the American society."

I am therefore pleased to introduce this bill today which would provide these special psychological readjustment services to veterans. Mr. President, I ask unanimous consent that the bill be printed in the RECORD together with an article on this theme which appeared in a recent issue of the magazine New Times.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 2771

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 17 of title 38, United States Code, is amended by adding after section 620 a new section as follows:

"§ 620A. Special psychological readjustment therapy and counseling services

"(a) The Administrator shall provide special psychological readjustment therapy and counseling services, and such followup treatment as may be necessary, to any veteran of the Vietnam era and to the dependent of any such veteran who are having emotional problems in adjusting to civilian life as the result of psychological disturbances experienced during the Vietnam era. Such therapy, counseling services, and followup treatment shall be provided upon the request of the veteran or dependent. No veteran or dependent shall be required to receive or participate in any therapy, counseling services, or followup treatment authorized under this section.

"(b) The therapy, counseling services, and followup treatment required to be made available under this section shall be provided through the personnel and facilities of the Veterans' Administration to the maximum extent practicable; but whenever such personnel and facilities are inadequate to provide proper care and treatment authorized by this section, the Administrator is authorized to contract for the necessary personnel and facilities from sources outside the Veterans' Administration.

"(c) The Administrator shall carry out a program to inform veterans of the Vietnam era of the assistance available to them and their dependents under this section and encourage those veterans and dependents in need of such assistance to avail themselves of such assistance.".

"(d) The Administrator shall conduct a comprehensive study of the psychological and sociological effects of military service in the Vietnam War and the readjustment and rehabilitation problems related thereto, for the purpose of making recommendations for more effective psychological readjustment services available to the veteran and his dependents.

(e) The table of sections at the beginning of chapter 17 of title 38, United States Code, is amended by adding after "620. Transfer for nursing care." the following:

"620A. Special psychological readjustment therapy and counseling services.".

SEC. 2. There are authorized to be appropriated such sums as may be necessary to carry out the amendments made by the first section of this Act.

THE WAR IN THE BEDROOM

(By Corinne Browne)

Last summer a friend, an ex-Army medic whose hair turned white in Vietnam and whose body carries shrapnel that drives airport detector devices wild, came to visit me. We drove down to Delaware late at night, got out and walked along Bethany Beach. I was stiff and tired, so I ran up the beach, stopping now and then to wave to him. After a while I turned back, splashed in the calm tide, sniffed the salt air, stripped off my sweater getting ready to swim. I noticed that he was standing a few yards from the highwater mark, dead still. "Want to swim?" I called. He didn't answer. I walked faster, wondering what he was thinking about. The beach, which had felt friendly, suddenly seemed eerie. When I got closer. I saw that his eyes were riveted on a black object in the sand. "What is it?" I stepped forward. He grabbed my arm, pulled me back. His eyes were enormous. I got away from him, lifted the dead horseshoe crab by the tail and swung it in front of him, hoping he would laugh. "Don't you have them in California?" Instead of laughing, he looked at me with anguish, spoke in a whisper, "It looked like a mine."

Two and a half million men came back from the interminable Asian land war that finally ended last spring. They returned with wounds and guilt and expectations and were met with an inadequate GI bill, a disastrous job market and civilians who had long ago become inured to the after-effects of the instant TV war. Thousands of these vets are in hospitals, in prison, on drugs and on the streets. More than a half million Vietnam vets, or one-fifth of all the returned soldiers, have attempted suicide. More of them have died since coming home than died in Vietnam. According to the Veterans' Administration, one out of five, or 520,000, are having serious and prolonged readjustment problems. So our weaponry has been turned back on us, tearing, as it did over there, through homes and families and loves.

Traditionally, women throw flowers at returning soldiers. This time they are torn between their horror of the war and their loyalty to the men who fought it. This time they are learning that the men who came home to them are neither cowards or heroes, but only survivors. No matter how liberated she may be, a woman chooses a man, not an ideology; no matter how high her consciousness, she will suffer from his suffering. Avenues of meaningful help for Vietnam veterans have been either blocked or empty, and the same is true for their women. The need for help is spelled out by the statistics: According to a study done by the White House Special Action Office for Drug Abuse Prevention, one-third of the Vietnam vets were married before they went to Vietnam, and one-fourth got married soon after their return. Up to one-fifth of these marriages failed within ten months after homecoming.

The statistics don't speak of the girlfriends who left or got left. They don't say what it is like to hear a man scream night after night in his sleep; or how it hurts when a man tries to explain that he can't make love to you because his hands have done things that are too terrible; or what it is like to sleep next to a stump. Statistics can't explain the helpless feeling of watching a man rage because he can't get a job with a less-than-honorable service discharge. Or how it feels when he beats you up and then cries his heart out and swears he doesn't know why he did it. The ramifications of Vietnam are so deep and so pervasive that, in order to live with its veterans, women now too must go through the long process of becoming survivors.

Almost 12,000 women are married to totally disabled Viet vets. Another 25,000 are married to paraplegics or quadraplegics. Uncounted thousands live with wounded veterans. Physical wounds never end in physicality.

Denise's ex-husband collected hands in Vietnam. "He cut off a finger and kept it in a bottle or something. He was mad he couldn't bring it home."

Denise is 23, a small woman with long, brown hair and delicate features. Sometimes she used to wake her husband too quickly. "He'd break up and scream and go to hit me," she remembers quietly, a hint of Texas childhood in her accent. "I don't know what he was thinking. I never did find out. . . ." Other times he'd get angry and hit her. "It seems like Vietnam stays with people."

Denise left—went off to California. Through friends she met Michael, who was just out of an Army hospital, missing both legs. She thought he was nice, but "the idea of going to bed with him repulsed me." One morning an old man called Denise and other friends to say he had found Michael outside town. They found him filthy, semi-dehydrated, looking "like death." He had been drinking, taking pills, had driven out into the desert, stumbled off the road and, wanting to kill himself, ended up shooting holes in his prosthesis. Toward dawn he had crawled back to his truck without his artificial legs. He felt like a coward because he had failed to commit suicide. Denise had once tried to kill herself and empathized. "When I saw him I was mad, but I wanted to help him somehow. I wanted to talk to him about what he had done."

They talked and got high and she began spending the night. "I thought he was exciting and nice and a gentleman. His legs never bothered me. It doesn't make any difference when you're in bed whether or not people have feet. We used to take a lot of baths together. The stumps smell bad sometimes but they never seemed ugly. It was just part of him."

When Denise got pregnant they decided on an abortion. "Michael's afraid if he had kids they'd think they had a gimp father. When he falls down he gets really mad and yells a lot. He figures it would be the wrong way to raise a child."

Although Denise is an independent woman who goes on trips alone, likes to read and study and walk their dogs, she spends a great deal of time trying to figure out how to react to Michael's moods. His anger comes mainly when he thinks he's failing to live up to what he should be. "When he's mad, whatever I do is wrong. I know he takes it out on me because he loves me. Still, I don't think he's that dependent on me. When I go on a trip he says 'if you come back' not 'when you come back.' "

After moving to Colorado, Michael began studying gunsmithing while Denise went to school. But she remembers other times in California. Like the night of the junior college dance when Michael was drunk, thought a cop was saying things about him under his breath. "Mike went up and said, "I'm going to kill you.' I got him home, hid his guns. I tried to hide the car keys but he got the truck and went back, threatened to use his crutches on the cop. The cop really did us a favor. He just said he'd take him to jail if there was any trouble. I was holding onto the cop. I had his skin under my fingernails."

Denise's suffering may have been less flamboyant than Michael's but it built up in its own way. One New Year's Eve, after continuous fighting, Michael fell down in the mud, threw his crutch. "I didn't pick it up. I just went on home. He had never hit me or threatened me but that night he got home, pushed me down. I ran in the bathroom and locked the door and started playing with the razor. He broke the door down. I guess I just wanted him to know how upset I was."

Colorado has brought bad times, too. Once or twice Michael has pointed a loaded gun at her and at himself. "I can't believe he'd really hurt me but he might hurt himself."

Denise is haunted by the fact that she has considered leaving Michael. "A month ago I was ready to say screw it. I felt no love for him. Before, I always thought I would stay, no matter what. But now I think one more time and I'm gonna walk out. It scares me because if I think that way it really might end. It seems hard letting someone down. And, then, my first marriage failed. What do I do? Sometimes I cry. Sometimes I read. Mostly I think things will get better."

Although Denise is opposed to war and believes the real survivors are those who refused to go, she says she'd tolerate more from a man who has been in combat. "Because I have such ugly notions about war. It dehumanizes people." And, betraying an innocence about her own courage, she says, "I'm sure I would have been chicken."

I told Annie, a 25-year-old Milwaukee woman who has lived with a Viet vet for five years, what Denise had said. She differs. "I would put up with more from a man who hadn't been to war because he would not have been humbled by the experience, by the firepower in the world. War is not a mystery; it's part of the system."

Annie went to prison at 18 on a marijuana charge and, at 21, emerged "hard and blunt and loud." The years in jail made it easy for her to understand John, an ex-Marine, just back from Vietnam, recently divorced. His wounds took the form of psychic numbness, anger turned inward, or, as Annie puts it, "he had a big empty space."

Both veterans of brutal institutions, they moved together toward a leftwing, antiwar ideology, joined the Vietnam Veterans Against the War 1971 demonstration in Washington, D.C., where vets returned their medals to their makers. Annie was one of five women among a thousand vets. "Because of having fought and survived in prison, I had a strong understanding of what had happened to them. At Arlington Cemetery all the vets knelt with their fists in the air. I was kneeling between John and a guy whose legs were so full of shrapnel he could hardly get up and down. I wanted to throw my probation papers away with all those medals."

In spite of Annie's understanding and her organizational abilities, Vietnam Veterans Against the War didn't want female members. Even though, as a young ex-paratrooper said, "We had nothing to come back to but the women," the military was most intent on teaching soldiers to forget the women back home. The drill sergeant snarled, "Better take out your insurance and leave it to your mother 'cause some guy's ——— your girl right now!" WACs were called lesbians or prostitutes. Vietnam gave soldiers whores and the clap, not friends or sweethearts. Sexual equality was okay if it looked like Gloria Steinem, not if it talked like her. VVAW supported the women's movement but drew the line at its own perimeter. Annie put on John's battle jacket, went to meetings, talked about sexism, insisted on the value of vicarious experience. Other women joined her, and after a struggle they were accepted. Annie became a leader in the organization and was chosen as VVAW's representative at the 1973 World Peace Congress in Moscow.

However much she defines herself both as a liberated woman and as a political being, through her association with VVAW, Annie is still a woman who lives with a man who was wounded in Vietnam. Emotional hurts distort bodies. For a long time, instead of being able to cry, John's eyes would simply sting. And, like many vets who became rigidly controlled in order to stay alive and sane, he is often unable to respond to Annie's problems.

"We'd been living together for a couple of years. I had been dealing with John's feelings for a long time, then I got a lot of problems in my own head. I couldn't get it together on the sexual level, couldn't make love. After a couple of weeks John started freaking—finally he asked me what happened. I started to cry, tried to tell him how I was feeling. He just lay there. Didn't say a word. There were no vibes. I couldn't get anything from him. He had no feelings at all about it. I couldn't look at him or hardly talk to him for a week. I had to solve it by myself but I couldn't do it. I felt completely frustrated. I had hit a dead end. What do you do? What kind of decisions can you make when you're by yourself?"

They came close to separating, but in the long run their problems have drawn them closer together.

As for children, she says, "I was pregnant once, had an abortion. Right now John is afraid it would connect us up too much, so we just hold it in the back of our minds."

She wants to go on living with him, believes that the trust they share could never be duplicated. "Interdependence, I would say, keeps me around. We are real helpmates. Partners. And anyway, I'm basically lazy. I couldn't do it all over again with someone else. It's still the same old ———, right?"

In recent years it has become increasingly difficult to trace the source of anger and pain in any man-woman relationship. Pat Parker, a teacher in New York City, formed a rap group for women who were involved with vets. She believes that middle-class white women often don't know if their problems stem from everyday male-female conflicts or from their men being vets. "White women are more abstract and guilt-ridden than black or Puerto Rican women, who were often already married when their men went to war. When the vets returned strung out, drinking, bitter, either not wanting or not able to get jobs, many black women walked away from it. Their will to survive is very strong."

But for many women, surviving means keeping a family together. Bernadine lives in the South Bronx, writes "other" on forms that ask her race—she is black, Puerto Rican, Irish and French. Her husband is black. Bernadine, a WAC in the medical corps, was discharged when she became pregnant. John was drafted after the baby was born. She waited for him to come back from Vietnam, not afraid he would die but very afraid he would change.

In some ways he had. Two weeks after his return there was trouble on the street. "John ran out and tried to stop it. The cop put his hands on him, had his gun out, pushed him against the fence. I was watching. Scared, John pushed the gun down, said, 'If you're gonna pull it out you better use it. I just came home from Vietnam.' The cop quit."

He had insomnia. He had got used to not sleeping in Vietnam. When he did go to sleep he had nightmares. "When it first happened he was shaking so hard I thought he was having an epileptic fit."

Although John had served well in Vietnam, he couldn't adjust to life at Fort Dix and went AWOL with regularity. Consequently he got a Bad Conduct Discharge and became one of the 450,000 men with other-than-honorable discharges which often make them ineligible for VA benefits and which always make employers suspicious. Both John and Bernadine were out of work. He would get furious, lash out, walk out. They had to ask for help from John's family. Bernadine was pregnant again. "I don't know what would have happened if it had gone on like that."

Fortunately, through the Bronx Mayor's Office on Veterans Action program, both John and Bernadine have been placed in a public service careers program and are training to be ambulatory care technicians. Bernadine is the only female vet in the class. "We were lucky because they don't like to hire husbands and wives."

Being a vet brought John trouble; being vets now brings them both careers. Bernadine would like to live where there is open space, but for now they will stay put. "I want to help my people; they're your family, too."

Some women leave their husbands in order that their families might survive. When the tyrannies of joblessness, of emotional and of physical wounds occur together, when daily life depends mainly on a woman's stamina, problems can finally become insurmountable.

"When I think about Johnny and me, I think about when he took me out he never danced, but I was just happy standing next to him. We used to go fishing together and go on picnics, or we'd have company in and watch TV. We had fun."

Lynn got pregnant, had a baby girl. Johnny decided that he wanted to marry her. "Even though he lived on what he made gambling, and what he had left from the service, I loved him. I wanted to get married. We were both raised Catholics and that probably had something to do with it."

Johnny had come back to Waukesha, Wisconsin, with his body full of shrapnel and covered with scars, with chronic pains in his neck and back and head, with a lot of bitterness and a heavy dependence on alcohol. When he'd had enough to drink he'd bring out his uniform and his Purple Hearts and tell Lynn about the war. "It was just tearing him up inside. He'd tell me these gory things. Like once his platoon leader shot a kid in the back. Johnny tried to help the kid, he threw up in his mouth."

He couldn't handle the sound of the baby crying. "I'd just stay awake all night and rock her. He was oversexed. Sometimes he'd want to have relations six times a day. He used to dream he was shot in the neck. One time we were laying in bed watching TV. Out of the blue he threw a beer bottle at the wall and screamed, 'Look out!' and jumped on top of me. He said he thought he was throwing a grenade. It was a flashback to Vietnam. I know now that other people have them but then I didn't know anything."

Lynn was so run-down she had to take iron shots to get through the days. Johnny's tantrums and drinking grew steadily worse. Lynn called a mental health clinic; they had a long waiting list. The priest said he didn't believe in divorce or separation; they should try counseling. Johnny wouldn't go. Lynn's mother said she should divorce him. They separated for a while and then Johnny came back to see her. "I felt sorry for him and I took him back."

They separated and got back together four times. Lynn had a son, returned to nurse's aid work, left the kids with Johnny because they couldn't afford a babysitter. When she found out he'd left them in their room all day, she stopped working and stayed home. There was no money. Johnny took his drinking money out of the children's piggy bank. "He'd always be around with only a blanket on, all the time in bed or lying down. The VA hospital said his pains were in his head, but he went to a neurologist who gave him a neck brace and a 14-pound water bag he'd have to throw over a door and use for traction three or four times a day. He complained from morning till night about the pain. The VA gave him some pain pills but they gave him the runs.

"Sometimes when he was drunk he'd tear my clothes off. Once he got so violent I felt like I was being raped. It made me feel like a piece of shit, like I was just there to be abused. Sometimes I'd lock him out of the bedroom, but he'd scream and holler all night and call me a whore or a slut. We had a social worker but I never told him anything. I would have felt like a squealer.

Sometimes I'd feel like I would crack up. I'd decide to go to the county home, then the next day I'd think maybe things would get better. I felt like I was being punished, but I guess he did, too. I used to just cry and cry. But deep down somewhere I loved him and I knew he'd had a really hard time. We had two children. I wanted to keep trying. I would agree with him when he was wrong. Once I didn't even say anything when he spanked the children for no reason. I kept thinking someday he'd change. Like planting a seed and waiting for it to grow, but it never happens. When I stop and think about it now, my chest hurts and my heart feels like it weighs a thousand pounds."

During the last reconciliation, Johnny hit Lynn in the face, then threw a glass that landed near their little girl. Lynn called the police and they took him away. It was the last time she saw him.

Lynn wants to go back to work when the children are in kindergarten. Now she's on welfare and the court has ordered Johnny to give her $25 per month. "I'm not liberated at all. I want to be a wife and a mother and make somebody else happy and be happy. That's all I want out of life."

Whomever she marries next, she is positive it will not be another veteran. "If I'm in a tavern and a guy says he was in Vietnam. I never give him the time of day. I don't think they can ever forget what happened to them. They're branded. If they're rejected in any way, they go crazy. As far as I'm concerned, they're walking time bombs."

Other women see special strengths in men who have survived the war. Although we live in a time of choice, when men can refuse to go to war and not be shot, and when women can decide not to reproduce and not be ostracized, a residue of the notion that a mother is more womanly and a warrior more manly remains in many of us. Ellie is a black woman who recently married Gonzalo, an ex-paratrooper who came back from Vietnam with a Bad Paper, anger, nightmares and a habit that he finally kicked in prison. She feels especially drawn to veterans. "I think that a man who has been to war is more keen, more protective. When you're with him you get a feeling of safety. It can even get down to the way a man walks, the way he looks around. It's knowing how to be with a woman, too, a sense of presence but not possessiveness. I always know that Gonzalo did what he had to do and that's why he's alive."

Sometimes problems can become overwhelming because the vet and the woman cannot talk to each other. Laura, 28, a southerner who has moved to Boston, remembers her first visit to her fiancé in the hospital. He had just returned from Vietnam. "It was the worst experience of my life. I got lost. There were all these guys who were missing arms, legs, eyes, were burned, crazy, walking around the halls. It was very hot.

"I almost vomited before I got to his room. When I saw Patrick I couldn't look at his legs, only his face. I had no idea what our life would be like."

After he was discharged from the hospital, he used crutches and they had to get accustomed to people staring. They never mentioned his missing leg. She wanted to delay the marriage, but people, particularly the priest, cautioned that she was playing a major role in Patrick's recovery. No one asked how she felt, just pretended it was natural when she cried her heart out on her wedding day.

Laura taught school, studied, kept house and had a son. "We had sexual problems. I cried every day. I kept busy. I was always running. You can escape thinking, you know." Three years after their wedding they had still never spoken to each other about his leg. "I remember one day Patrick left for work and his prosthesis broke. He had to crawl back to the house. I just thought, how am I going to help this man? He's so helpless. But I begrudged him because I had so much animosity toward his injury. He had to sit in the chair half the day while I took his leg to the shop."

Finally they went to a psychiatrist. They fought for six months, but Laura talked about her feelings and her problems and for the first time understood that she had the option to leave. After a year and a half they decided to stay together. Laura's attitude toward Patrick has changed. "I used to feel that I liked him because he was a strong person. Now I feel that he's just a regular person who has something to deal with." They are both more at ease with his injury, but they never talk about Vietnam. "You know, sometimes I have a fear that if anything happened to *my* legs our family would crumble. It's as though my good legs compensate for his."

John Updike once wrote that "women are the heroes of dead lands." On one continent women struggle patiently to piece together what is left beside a rice paddy. Here women live with the tall men who ravaged those paddies. Lynn said it: "Vietnam is a tattoo on their brains. You can't get rid of a tattoo. You can only cover it up." The war rammed its way into our lives. It is lodged in the stumps, the rages, the empty spaces in men's hearts. It smolders along the escape routes of pills and junk and prison. It stalks us through broken dreams, broken bones, broken hearts and broken homes. It haunts us in our land that is dead from deafness and from its own internal corruption, where women go on with the eternal responsibility of bending to pick up the pieces.

By Mr. HELMS:

S.J. Res. 150. A joint resolution to authorize and request the President to issue a proclamation designating July 4 of each year as "Independence Day." Referred to the Committee on the Judiciary.

(The remarks of Mr. Helms when he introduced the above joint resolution appear later in the Record.)

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 61

At the request of Mr. Pearson, the Senator from Vermont (Mr. Leahy) was added as a cosponsor of the bill (S. 61) establishing a commission to study and appraise the organization and operation of the executive branch of the Federal Government.

S. 872

At the request of Mr. Hatfield, the Senator from Montana (Mr. Mansfield) was added as a cosponsor of the bill (S. 872) to amend title 39, United States Code, to provide that certain State conservation publications shall qualify for second-class mail rates.

S. 1009

At the request of Mr. Stone, the Senator from Mississippi (Mr. Eastland), the Senator from Montana (Mr. Metcalf), the Senator from Arkansas (Mr. McClellan), the Senator from Georgia (Mr. Nunn), the Senator from Texas (Mr. Bentsen), the Senator from Oklahoma (Mr. Bartlett), and the Senator from North Carolina (Mr. Helms) were added as cosponsors of the bill (S. 1009) to amend title 13 of the United States Code to require the compilation of current data on total population between censuses and to require the use of such current data in the administration of Federal laws in which population is a factor.

S. 2316

At the request of Mr. Hartke, the Senator from New York (Mr. Buckley) was added as a cosponsor of the bill (S. 2316) to amend title 38, United States Code, to provide hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I or World War II.

S. 2405

At the request of Mr. Kennedy, the Senator from Rhode Island (Mr. Pell) was added as a cosponsor of the bill (S. 2405) to revise the Immigration and Nationality Act.

S. 2635

At the request of Mr. Hartke, the Senator from New Hampshire (Mr. Durkin), the Senator from Vermont (Mr. Stafford), and the Senator from Maryland (Mr. Beall) were added as cosponsors of the bill (S. 2635) to amend title 38, United States Code, to modify the pension program for veterans of the Mexican border period, World War I, World War II, the Korean conflict, and the Vietnam era and their survivors, and for other purposes.

S. 2662

At the request of Mr. Humphrey, the Senator from Massachusetts (Mr. Kennedy) was added as a cosponsor of the bill (S. 2662) to amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, and for other purposes.

S. 2742

At the request of Mr. Eagleton, the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Humphrey), the Senator from Illinois (Mr. Stevenson), the Senator from Indiana (Mr. Bayh), the Senator from Wisconsin (Mr. Nelson), the Senator from Oregon (Mr. Hatfield), the Senator from Colorado (Mr. Gary Hart), the Senator from Minnesota (Mr. Mondale), the Senator from Illinois (Mr. Percy), the Senator from Arkansas (Mr. Bumpers), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Utah (Mr. Moss), the Senator from New Jersey

(Mr. WILLIAMS), the Senator from Indiana (Mr. HARTKE), the Senator from South Dakota (Mr. McGOVERN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from North Dakota (Mr. BURDICK), the Senator from Massachusetts (Mr. KENNEDY), the Senator from California (Mr. TUNNEY), the Senator from New York (Mr. JAVITS), the Senator from Alaska (Mr. GRAVEL), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Missouri (Mr. SYMINGTON), and the Senator from Colorado (Mr. HASKELL) were added as cosponsors of the bill (S. 2742) to dedicate the Chesapeake and Ohio Canal National Historical Park to Justice William O. Douglas in grateful recognition of his contributions to the people of the United States.

S. 2744

At the request of Mr. BROCK, the Senator from Arizona (Mr. FANNIN) was added as a cosponsor of the bill (S. 2744) to establish a procedure under which proposed regulations of the Secretary of Health, Education, and Welfare, to implement the Social Security Act, will be submitted to appropriate congressional committees for study and review, and under which either House of Congress, by adopting a resolution of disapproval, can prevent any such regulation from taking effect.

SENATE JOINT RESOLUTION 139

At the request of Mr. JAVITS, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of the joint resolution (S.J. Res. 139) to authorize the Secretary of the Interior to accept St. Paul's Church, Eastchester, Mount Vernon, N.Y.

SENATE JOINT RESOLUTION 148

At the request of Mr. BROCK, the Senator from Utah (Mr. GARN) was added as a cosponsor of the joint resolution (S.J. Res. 148) to clarify and reaffirm Government purchasing policies.

SENATE RESOLUTION 325—AMENDING THE STANDING RULES OF THE SENATE RELATING TO CERTAIN FOREIGN TRAVEL (REPT. NO. 94–531)

Mr. CANNON, from the Select Committee on Standards and Conduct, reported the following original resolution (S. Res. 325); and submitted a report thereon, which resolution was placed on the calendar and the report was ordered to be printed:

S. RES. 325

Resolved, that the Standing Rules of the Senate are amended by adding at the end thereof the following new rule:

"RULE XLV

"Foreign Travel at the Expense of a Foreign Government—

"1. No Senator or employee whose salary or compensation is disbursed by the Senate may accept a gift of travel from any foreign government without the express consent of Congress."

AMENDMENTS SUBMITTED FOR PRINTING

AMENDMENT OF THE NATIONAL HOUSING ACT—H.R. 9852

AMENDMENT NO. 1230

(Ordered to be printed and to lie on the table.)

Mr. EAGLETON. Mr. President, on Tuesday, December 9, I submitted amendment No. 1213 intended to be proposed to H.R. 9852, the mobile home bill. In the printing of the amendment, the word "not" was dropped from the sentence appearing on page 2, line 21 of the amendment. The line should read as follows:

> pose of this sentence, except that such requirements may not

I ask that the amendment be reprinted as a new amendment to correct this unfortunate error.

FOREIGN ASSISTANCE ACT OF 1975—S. 2662

AMENDMENT NO. 1231

(Ordered to be printed and referred to the Committee on Foreign Relations.)

Mr. McGOVERN submitted an amendment intended to be proposed by him to the bill (S. 2662) to amend the Foreign Assistance Act of 1961 and for other purposes.

AMENDMENT NO. 1232

(Ordered to be printed and referred to the Committee on Foreign Relations.)

Mr. McGOVERN submitted an amendment intended to be proposed by him to the bill (S. 2662), supra.

Mr. McGOVERN. Mr. President, I am today introducing an amendment to S. 2662, the International Security Assistance and Arms Export Control Act of 1975, which would invite the General Advisory Committee on Arms Control and Disarmament to make its views known to Congress from time to time as appropriate.

The General Advisory Committee is made up of public citizens who meet from time to time to examine matters affecting arms control, disarmament, and world peace. Existing law calls on the committee to advise the President, the Secretary of State, and the Disarmament Director. This they do from time to time. The advice emanating from this group of distinguished citizens is secret; the public has no knowledge, therefore, of what advice is given to officers of the Executive Branch.

It is not the purpose of this amendment to upset this arrangement or to breach the confidentiality of the committee's advice to the executive department. The purpose is rather to invite the committee from time to time, as it finds it appropriate, to make its views known to the Congress.

For example, there has been a growing dispute within the executive branch, and a growing public dispute, as to whether the Soviet Union has been engaged in deliberate violations of the SALT I agreement. Former Secretaries of Defense Laird and Schlesinger have publicly implied such violations; President Ford and Secretary Kissinger, on the other hand, have publicly denied deliberate Russian violations of SALT I.

This is a subject upon which the General Advisory Committee might wish to make its views known. Certainly the public would have a better basis for its judgment if the committee were to speak out on the subject. Presumably the committee is fully advised as to what the facts may be. If the committee is not so advised, it should be.

Furthermore, the General Advisory Committee should be in a position to give the Congress and the public information as to whether there have been allegations by the Soviet Union as to possible violations, deliberate or inadvertent, on the part of the United States.

Similar issues may be expected to arise in the future.

The effect of this amendment is to serve notice on the General Advisory Committee that it has a duty from time to time to acquaint the Congress of its views with respect to matters affecting the lives of us all, and not to confine its advice solely to the executive branch of the Government.

The current members of the Advisory Committee are:

Chairman, Dr. Harold M. Agnew, director, University of California Los Alamos Scientific Laboratory, Los Alamos, New Mexico.

I. W. Abel, president, United Steel Workers of America, Pittsburgh, Pennsylvania.

Gordon Allott, attorney and former Senator, Denver, Colorado.

Dr. Harold Brown, president, California Institute of Technology, Pasadena, California.

Edward Clark, banker, attorney, and former Ambassador, Austin, Texas.

William C. Foster, businessman and former director of ACDA, Washington, D.C.

Lane Kirkland, secretary-treasurer of the AFL–CIO, Washington, D.C.

John A. McCone, businessman and former Director of CIA, Los Angeles, California.

Carl Marcy, former staff director of the Senate Foreign Relations Committee, Annapolis, Maryland.

Joseph Martin, Jr., attorney, U.S. representative to the Geneva Disarmament Committee, San Francisco, California.

Dean Rusk, former Secretary of State, professor of international law, University of Georgia, Athens, Georgia.

William W. Scranton, attorney and banker, former Governor of Pennsylvania, Scranton, Pennsylvania.

Gerard C. Smith, attorney, former director of ACDA, Washington, D.C.

Dr. John Archibald Wheeler, Joseph Henry, professor of physics, Princeton University, Princeton, New Jersey.

AMENDMENTS NOS. 1233 THROUGH 1236

(Ordered to be printed and referred to the Committee on Foreign Relations.)

Mr. KENNEDY. Mr. President, I sent to the desk four amendments to S. 2662, the Arms Export Control Act. In addition, I am joining with my colleague from Wisconsin (Mr. NELSON) in cosponsoring his amendment No. 1228 to this legislation.

I want to compliment the chairman of the Foreign Assistance Subcommittee (Mr. HUMPHREY) for his leadership and concern in this area and for the committee's efforts to bring some sense, reason, and control to our escalating and potentially dangerous arms sales abroad. The Arms Export Control Act, S. 2662, is a major contribution in the effort to impose congressional oversight and control over weapons sales. I strongly support its prompt adoption, and ask to be included as a cosponsor.

What we do about the worldwide trade in arms will also set major precedents for the U.S. role abroad for many years.

In many cases, arms sales have already become the most important relationship between us and other countries. And they risk even greater U.S. involvement in regional conflict—than any of us are prepared to accept today. We will gain little from withdrawing from areas that are not in our vital interest if we then turn around and raise the spectre of "Vietnams by proxy" in many parts of the world.

Mr. President, from a figure of only $300 million in 1952, the worldwide trade in arms has grown to more than $18 billion annually—an increase of over 6,000 percent—with four nations controlling 95 percent of the traffic. Clearly this is a global problem, but by any measure, the United States is far and away the world's chief arms merchant.

In fiscal year 1970, U.S. sales under the foreign military sales program totaled just over $900,000,000. The next year, it rose to $1.6 billion. It doubled within 2 years, and more than tripled again in the next 2-year period—rising to nearly $11 billion by fiscal year 1974. And more than half of those arms sales were to the Persian Gulf—one of the most vital and volatile areas of the globe.

At the same time, U.S. commercial arms deliveries have quadrupled in the past 2 years, and are expected to reach over $2 billion this fiscal year. This year, therefore, we will be accepting FMS orders, and delivering commercially sold weapons, to the tune of $11.9 billion—including a staggering $8.3 billion to the gulf alone. Few aspects of our foreign or military policies have witnessed a more dazzling rise. Yet few have received less reasoned scrutiny and review from the Congress.

Mr. President, this is not simply another category of export earnings, which show up in the plus column of our balance of payments. Any sales of arms—particularly the sale of modern, sophisticated weapons—raise the most profound questions. They should be based on a sound evaluation of all implications for U.S. national security and foreign policy objectives, implications for peace and stability. These decisions should not be made on the spur of the moment, out of the hip-pocket of traveling leaders, or outside a set of procedures that will insure that all factors are taken into account.

Mr. President, over the past two and a half decades, the United States provided more than $38 billion in security assistance under the military assistance program. Many of us have questioned this program, which S. 2662 will phase out. Yet because MAP money was provided by the Congress, at least congressional review procedures were in full operation. With arms sales, by contrast, the Congress has never had a real capacity for review and control. And it should thus be no surprise for us that, as military assistance has gone down under congressional pressure, arms sales have gone up. Today we are seeking to gain that review and control, as part of our constitutional responsibility in foreign policy.

Let me briefly describe the amendments I am offering. The first would require an arms control impact statement from the Director of the Arms Control and Disarmament Agency, as part of the annual justification report required by section 212 of S. 2662. This would help us to understand efforts by the administration actually to prevent or control local arms races.

A second amendment would permit the Congress to request arms control impact statements in the case of individual weapons. This would help us look at weapons, not specifically contemplated at the time of the annual reports, and give us a more precise understanding of the way particular arms sales impact on the prospects for war and peace. In also extending the 30 days' period in which Congress could act to reject arms sales of $25 million or more, this amendment would increase administration incentives to send impact statements along with letters of offer that are likely to raise arms control questions in the Congress.

A third amendment would change the "sense of Congress" provision relating to arms control efforts to include efforts with buyer states, to promote regional security, to gain reports for Congress, and to initiate the process within 6 months.

The last amendment would revise current reporting procedures to give the Congress information on all arms sales, but limit the scope of possible Congressional veto to those of $25 million or more.

Mr. President, I ask unanimous consent that the text of my amendments to S. 2662 be printed in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1233

SEC. 25, add a new paragraph (4):

"(4) an arms control impact statement for each purchasing country by the Director of the Arms Control and Disarmanent Agency, including (A) analysis of the relationship between expected sales to each country and arms control efforts relating to that country; and (B) the impact of such expected sales on the security of the region that includes the purchasing country."

AMENDMENT No. 1234

On page 25, line 15, replace the period with a comma, and add the following words: "except that either the House International Relations Committee or the Senate Foreign Relations Subcommittee on Foreign Assistance may request an arms control impact statement regarding such defense article by the Director of the Arms Control and Disarmament Agency, containing analysis of factors specified in Section — of this Act. In such case, the thirty calendar day period specified in this section shall be increased by the number of days which elapse between the date of such request and the date such impact statement is transmitted."

AMENDMENT No. 1235

On page 13, beginning with line 1, strike out through line 7 and insert in lieu thereof the following: "It is the sense of the Congress that the President should seek to initiate, within six months of the enactment of this legislation, multilateral discussions among the principal arms-supplying countries, among arms-purchasing countries on a regional basis, and between both suppliers and purchasers, with respect to the control of the worldwide trade in armaments. It is further the sense of Congress that the President should work actively with all nations, and encourage regional arms control arrangements among arms-purchasing nations, to check and control the international sales and distribution of conventional weapons of death and destruction. And it is further the sense of Congress that the President should make periodic reports to Congress on steps taken to carry out the provisions of this paragraph."

AMENDMENT No. 1236

On page 24, lines 24 and 25, strike out "for $25,000,000 or more". On page 25, line 10, after the word "offer", insert "for any sale of $25,000,000 or more."

SUSPENSION OF DUTIES ON CERTAIN YARNS OF SILK—H.R. 7727

AMENDMENT NO. 1237

(Ordered to be printed and to lie on the table.)

Mr. McINTYRE (for himself, Mr. DOMENICI and Mr. BROOKE) submitted an amendment intended to be proposed by them, jointly, to the bill (H.R. 7727) to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk.

THE SOLAR ENERGY EQUIPMENT TAX CREDIT AMENDMENT OF 1975

Mr. McINTYRE. Mr. President, throughout the country there is a rapidly developing market for solar home heating, cooling and water heating equipment that can be used by homeowners to help cut their reliance on fossil fuels and electricity. However, at present the cost of installing solar home heating equipment is very high. In New England, witnesses before hearings I chaired through the Select Committee on Small Business have told me that the cost can run from $5,000 and up for solar home heating equipment and as much as $1,800 for solar hot water heating equipment. This is a very high initial cost even though the energy and cost savings will be considerable over the life of the equipment.

To help bring the initial costs to consumers down, the House of Representatives in its Energy Conservation and Conversion Act of 1975, H.R. 6860, included a section which provides tax credits of up to 25 percent of $8,000 for the installation of solar home heating equipment in residences. This includes cooling and hot water heating equipment.

Clearly there is a need for such incentives. In testimony before my hearings, Mr. Robert Fawcett of the New England Fuel Institute said:

> Solar energy equipment at the present time, to provide domestic hot water in conjunction with oil-fired, gas-fired or electrically-powered water heaters costs from $600 to $2,000 per unit, while 100 pct. oil, gas or electric water heaters sell for just a fraction of that cost. It will be several years before competitive forces in the marketplace, plus advanced technology will be providing solar energized domestic hot water heaters at a cost remotely competitive with oil, gas or electric equipment. Therefore the home owner who will expend money for this higher cost generating equipment must of necessity have a tax incentive or tax credit that will rationally enable him to go ahead with the installation.

Fawcett continued:

> Otherwise solar energy will continue to be a novelty that will be the province of the

rich or affluent, like high-cost automobiles and/or luxurious swimming pools. Any incentive on the part of the homeowner to use solar energy must be repaid by adequate income tax credits and/or some other reciprocal economic benefit that will make it economically justifiable for the average home owner to buy and install solar heat devices.

Recognizing the need for this legislation now, I am submitting an amendment to H.R. 7727 to add a solar energy tax credit to the Internal Revenue Code. Since it appears that H.R. 7727 may be our only opportunity this year to amend the tax code, we should insure that this solar energy incentive receives prompt attention. I am joined in submitting this amendment by the distinguished Senator from New Mexico (Mr. DOMENICI) and the distinguished Senator from Massachusetts (Mr. BROOKE).

Mr. President, I ask unanimous consent that the text of our amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1237

Add the following new Title.

SECTION 1. Short Title.

This amendment may be cited as the "Solar Energy Equipment Tax Credit Act of 1975."

SEC. 2. Amendment of 1954 Code.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 101. RESIDENTIAL SOLAR ENERGY EQUIPMENT.

(a) GENERAL RULE.—Subpart A of chapter IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting immediately before section 45 the following new section:

"SEC. 44B. RESIDENTIAL SOLAR ENERGY EQUIPMENT.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 25 percent of the qualified solar heating and cooling equipment expenditures paid by the taxpayer during the taxable year with respect to any residence to the extent that such expenditures do not exceed $8,000.

"(b) LIMITATIONS.—

"(1) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under—

"(A) section 33 (relating to foreign tax credit),

"(B) section 37 (relating to retirement income),

"(C) section 38 (relating to investment in certin depreciable property),

"(D) section 40 (relating to expenses of work incentive programs),

"(E) section 41 (relating to contributions to candidates for public office),

"(F) section 42 (relating to credits for personal exemptions),

"(G) section 44 (relating to purchase of new principal residence), and

"(H) section 44A (relating to insulation of principal residence).

"(2) PRIOR EXPENDITURES TAKEN INTO ACCOUNT.—If—

"(A) the taxpayer made qualified solar energy equipment expenditures with respect to any residence in any prior taxable year, or

"(B) any prior owner of such residence made qualified solar energy equipment expenditures with respect to such residence, then subsection (a) shall be applied with respect to such residence for the taxable year by reducing (but not below zero) the dollar amount contained in such subsection by the aggregate of the expenditures described in subparagraphs (A) and (B).

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED SOLAR ENERGY EQUIPMENT EXPENDITURES.—The term 'qualified solar energy expenditures' means any amount paid by an individual for any installation which occurs after March 17, 1975, and before January 1, 1981, of solar energy equipment, in any dwelling unit which at the time of such installation is owned by the individual and used by him as his principal residence (within the meaning of section 1034).

"(2) SOLAR ENERGY EQUIPMENT.—The term 'solar energy equipment' means equipment—

"(A) which, when installed in or on, or when connected to, a building—

"(i) uses solar energy to heat or cool such building or provide hot water for use within such building; and

"(ii) meets the interim or definitive performance criteria prescribed by the Secretary of Housing and Urban Development under the Solar Heating and Cooling Demonstration Act of 1974;

"(B) the original use of which commences with the taxpayer; and

"(C) which has a useful life of at least 3 years.

"(3) JOINT OWNERSHIP.—In the case of any building which is jointly owned, and is used during any calendar year as a principal residence, by two or more individuals—

"(A) the amount of the credit allowable under subsection (a) (after applying subsection (b)(2)) with respect to any qualified solar energy equipment expenditures paid during such calendar year by any of such individuals with respect to such building shall be determined by treating all of such individuals as one taxpayer whose taxable year is such calendar year; and

"(B) each of such individuals shall be allowed a credit under subsection (a) for the taxable year in which such calendar year ends (subject to the limitation of subsection (b)(1)) in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount paid by such individual during such calendar year for such expenditures bears to the aggregate of the amounts paid by all of such individuals during such calendar year for such expenditures.

"(4) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual—

"(A) shall be treated as owning the dwelling unit which he is entitled to occupy as such stockholder; and

"(B) shall be treated as having paid his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any qualified solar energy equipment expenditures paid by such corporation.

"(d) REDUCTION OF BASIS.—The basis of any property shall not be increased by the amount of any qualified solar energy equipment expenditures made with respect to such property to the extent of the amount of any credit allowed under this section with respect to such expenditures.

"(e) TERMINATION.—This section shall not apply to any amount paid after December 31, 1980."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for such subpart A is amended by inserting before the item relating to section 45 the following:

"Sec. 44B. Residential solar energy equipment."

(2) Section 56(a)(2) (relating to imposition of minimum tax) is amended by striking out "and" at the end of clause (vii), by striking out "; and" at the end of clause (viii) and inserting in lieu thereof ", and", and by inserting after clause (viii) the following new clause:

"(ix) section 44B (relating to residential solar energy equipment); and".

(3) Section 56(c)(1) (relating to tax carryovers) is amended by striking out "and" at the end of subparagraph (G), by striking out "exceed" at the end of subparagraph (H) and inserting in lieu thereof "and", and by inserting after subparagraph (H) the following new subparagraph:

"(I) section 44B (relating to residential solar energy equipment), exceed".

(4) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking out the period at the end of paragraph (23) and inserting in lieu thereof a semicolon and by inserting after paragraph (23) the following new paragraph:

"(24) to the extent provided in section 44B(d), in the case of property with respect to which a credit has been allowed under section 44B."

(5) Section 6096(b) (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44A" and inserting in lieu thereof "44A, and 44B".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid after March 17, 1975, in taxable years ending after such date.

AMENDMENT NO. 1238

(Ordered to be printed and to lie on the table.)

Mr. PACKWOOD (for himself, Mr. MATHIAS, Mr. CURTIS, Mr. MCGOVERN, Mr. CRANSTON, Mr. TUNNEY, Mr. CLARK, and Mr. MCGEE) submitted an amendment intended to be proposed by them, jointly, to the bill (H.R. 7727), supra.

PUBLIC FAIRS BILL

Mr. PACKWOOD. Mr. President, today I am submitting for myself and Senators MATHIAS, CURTIS, MCGOVERN, CRANSTON, TUNNEY, CLARK, and MCGEE, the language of S. 2404, prepared as a floor amendment to H.R. 7727, the silk yarn tariff bill, which is pending on the Senate floor.

S. 2404, which I introduced with Senators CURTIS and MATHIAS on September 24, 1975, is necessary to help assure the continued financial vitality of public fairs and expositions, one of America's most popular traditional events.

For years, county, state and regional fairs have depended on income from entertainment activities for financial support. Now, the Internal Revenue Service is threatening this source of support.

The position of the IRS is that income from public entertainment activities of fairs and expositions conducted by exempt organizations may be subject to the tax on unrelated business income. The IRS is auditing or in litigation with several exempt organizations conducting fairs. In some cases, the claim of back taxes ranges back to the early 1960's. Uncertainty over tax liability, and the possibility that the IRS may claim several years of back taxes, has caused unnecessary financial instability of these organizations.

S. 2404 provides that most "public entertainment activities" of fairs and expositions operated by exempt organizations would not be subject to the tax on unrelated business income.

Our county, State, and regional fairs need this legislation. We ask your support when we raise S. 2404 as a floor amendment to H.R. 7727.

Mr. President, I ask for unanimous consent that the text of this amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1238

At the end thereof insert the following:

SEC. . Section 513 of the Internal Revenue Code of 1954 (relating to the definition of an unrelated trade or business) is amended by adding the following subsection 513(d):

"(d) CERTAIN PUBLIC ENTERTAINMENT ACTIVITIES.—

"(The term 'unrelated trade or business' does not include, in the case of an organization described in section 501(c) (3), (4), or (5), a public entertainment activity which is operated—

"(A) in conjunction with an international, national, State, regional, or local fair or exposition,

"(B) in accordance with the provisions of State law which permit such an activity to be operated solely by such an organization or by an agency, instrumentality, or political subdivision of such State, or

"(C) in accordance with the provisions of State law which permit such an organization to be granted a license to conduct not more than 30 days of such activity on payment to the State of a lesser percentage of the revenue from the licensed activity than the State requires from organizations not described in section 501(c) (3), (4), or (5).

"(2) The operation of a public entertainment activity described in subparagraph (1) shall not prevent an organization otherwise described in section 501(c) (3), (4), or (5) from qualifying, or continuing to qualify, as an organization exempt under section 501.".

SEC. 2. The amendment made by the first section of this Act shall apply with respect to taxable years beginning after December 31, 1959.

AMENDMENTS NOS. 1239 THROUGH 1247

(Ordered to be printed and to lie on the table.)

Mr. HARTKE submitted nine amendments intended to be proposed by him to the bill (H.R. 7727), supra.

AMENDMENT OF THE ATOMIC ENERGY ACT—S. 2568

AMENDMENTS NOS. 1248 AND 1249

(Ordered to be printed and to lie on the table.)

Mr. HATHAWAY submitted two amendments intended to be proposed by him to the bill (S. 2568) to amend the Atomic Energy Act of 1954, as amended, to revise the method of providing for public remuneration in the event of a nuclear incident, and for other purposes.

NATIONAL BIOMEDICAL HEART, LUNG, BLOOD, BLOOD VESSEL, AND RESEARCH TRAINING ACT OF 1975—S. 988

AMENDMENT NO. 1250

(Ordered to be printed and to lie on the table.)

Mr. FANNIN submitted an amendment intended to be proposed by him to the bill (S. 988) to amend the Public Health Service Act to revise and extend programs of the National Heart and Lung Institute and National Research Service Awards.

AMENDMENT NO. 1251

(Ordered to be printed and to lie on the table.)

Mr. SCHWEIKER submitted an amendment intended to be proposed by him to the bill (S. 988), supra.

NATIONAL COMMISSION ON SMALL BUSINESS IN AMERICA—S. 2498

AMENDMENT NO. 1252

(Ordered to be printed and to lie on the table.)

Mr. MONDALE (for himself, Mr. MORGAN, Mr. NELSON, Mr. JAVITS, Mr. HUMPHREY, Mr. STAFFORD, Mr. STEVENS, and Mr. SPARKMAN) submitted an amendment intended to be proposed by them, jointly, to the bill (S. 2498) to amend the Small Business Act to provide assistance for small business export activities, to transfer certain disaster relief functions of the Small Business Administration to other Federal agencies, to establish a National Commission on Small Business in America, and for other purposes.

AMENDMENT TO EXPAND THE SURETY BOND GUARANTEE PROGRAM

Mr. MONDALE. Mr. President, I am pleased to submit today, for myself and Senators MORGAN, NELSON, JAVITS, HUMPHREY, STAFFORD, STEVENS, and SPARKMAN an amendment to S. 2498, "The Small Business Amendments Act of 1975." My amendment would amend section 412 of the Small Business Act by increasing the authorized capital of the surety bond guarantees fund from $35 million to $56.5 million. The intent of this amendment is to authorize funds for the continuation of the surety bond guarantee program and to expand the program's contract awarded value ceiling from its presently budgeted $833 million to at least $983 million for this fiscal year.

Mr. President, the surety bond guarantee program has been one of the most successful programs operated by the Small Business Administration. It is critical to thousands of small contractors who would otherwise lose contracts because they would be unable to obtain bid, payment, or performance bonds. Since its inception in 1971, over 31,000 such contracts valued at over $2 billion have been obtained by small businesses as a result of these surety bond guarantees. Testimony received by the Senate Select Small Business Committee has documented that the difference between these awarded bids and the second lowest bids was over $61 million for all Government contracts. On this basis, the program, besides providing a critically necessary stimulus to the construction industry, has saved the Nation's taxpayers millions of dollars.

In October of this year, several regional offices of the Small Business Administration reported that they expected soon to run out of funds for the second quarter. Only an emergency transfer of funds allocated for future quarters allowed the program to continue uninterrupted. Well over half of the presently budgeted $833 million will be obligated for the first half of the year. Without increased authorizations to expand this guarantee ceiling, the program will be forced to discontinue its operations in the spring.

Representatives from the surety and construction industries have testified that on an accrual basis, the program's present authorization of $35 million is fully obligated to cover the expected defaults on already issued guarantees. They reported that an additional authorization of $18.5 million is required to cover the expected defaults on the presently budgeted $833 million in guarantees. These funds are essential if the program's guarantee is to retain its credibility in the surety and construction industries. Another $3 million in authorization is needed to expand the program's bonding ceiling to approximately $983 million and meet the additional need. Without such an increase, small contractors would lose this $150 million in contracts.

These small business firms are at the heart of our economic system, and they are critical to this Nation's economic recovery. Without the surety bond guarantee program, many would be forced into bankruptcy, and several thousand people would lose their jobs. This would be a terrible and senseless loss of these most valuable economic resources. The costs of such failures and their economic dislocations would far exceed this amendment's authorization. I urge my colleagues to support this vitally important program.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1252

At the end of title I of the bill add the following new section:

Sec. . Section 412 of the Small Business Investment Act of 1958 is amended by striking out "$35,000,000" and inserting in lieu thereof "$56,500,000".

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1018

At the request of Mr. JAVITS, the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mr. ALLEN), the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from Iowa (Mr. CULVER), the Senator from Mississippi (Mr. EASTLAND), the Senator from Oregon (Mr. HATFIELD), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Nevada (Mr. LAXALT), the Senator from Vermont (Mr. LEAHY), the Senator from South Dakota (Mr. McGOVERN), the Senator from Minnesota (Mr. MONDALE), the Senator from Utah (Mr. MOSS), the Senator from New HAMPSHIRE (Mr. SCHWEIKER), the Senator from Alabama (Mr. SPARKMAN), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), the Senator from Missouri (Mr. SYMINGTON), the Senator from

Ohio (Mr. TAFT), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of amendment No. 1018 intended to be proposed to the bill (S. 2498) to amend the Small Business Act to provide assistance for small business export activities, to transfer certain disaster relief functions of the Small Business Administration to other Federal agencies, to establish a National Commission on Small Business in America, and for other purposes.

AMENDMENT NO. 1155

At the request of Mr. CRANSTON, the Senator from Washington (Mr. JACKSON) was added as a cosponsor of amendment No. 1155 intended to be proposed to S. 2662, the International Security Assistance Act and Arms Export Control Act of 1975.

AMENDMENT NO. 1198

At the request of Mr. CRANSTON, the Senator from South Dakota (Mr. ABOUREZK), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS) the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. FANNIN), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from California (Mr. TUNNEY) were added as cosponsors of the bill (S. 2711) amendment No. 1198, intended to be offered to S. 2711, the Federal-Aid Highway Act of 1975.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Thomas A. Olson, of Montana, to be U.S. attorney for the district of Montana for the term of 4 years, vice Otis L. Packwood, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Wednesday, December 17, 1975, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

REGULATORY REFORM HEARINGS

Mr. METCALF. Mr. President, on behalf of the distinguished chairman of the Committee on Government Operations (Mr. RIBICOFF), I wish to announce that the committee will resume hearings on regulatory reform on Wednesday, December 17.

The hearings will commence at 10 a.m. in 3302 Dirksen Senate Office Building. The witness will be:

Dr. David Schwartz, adjunct professor of economics, Michigan State University and former assistant chief of the Office of Economics at the Federal Power Commission.

Persons who seek additional information regarding the hearings should call Vic Reinemer at 224-1474 or Matt Schneider at 224-7469.

NOTICE OF HEARINGS ON FUTURISM AND THE ENVIRONMENT

Mr. CULVER. Mr. President, on Monday, December 15, 1975, the Panel on Environmental Science and Technology of the Environmental Pollution Subcommittee of the Senate Public Works Committee will commence a series of hearings on the importance of long-range forecasting and futures analysis in American society and government, the identification of emerging issues of interest to the Subcommittee on Environmental Pollution, and the exploration of the potential of forecasting as a tool in the decisionmaking process. The series of hearings, which will be held periodically over the next 10 months, is entitled "Choosing Our Environment: Can We Anticipate the Future?"

The first hearing, futures analysis and the environment, will begin at 11:30 a.m., December 15, 1975, in the Public Works Committee hearing room, 4200 Dirksen Senate Office Building. It will provide an orientation to the general subject of futurism and long-range forecasting and will include a discussion of the capability of and need for futurism, the difficulties facing our society, reasons for any resistance to futures analysis, the effectiveness of the tools of forecasting, and how futures analysis can assist us in choosing our environment.

The following witnesses have been scheduled to testify before the panel on December 15 on these topics:

Mr. Alvin Toffler, of the Committee on Anticipatory Democracy and author of "Future Shock": "The Superindustrial Society and Its Implications for Government."

Mr. Theodore Gordon, president of the Futures Group: "Thinking About the Future and the Environment."

Dr. Carl Madden, chief economist of the U.S. Chamber of Commerce, and member of the board of directors of the World Futurist Society: "Futures Analysis and Long-Range Forecasting: A Business Perspective."

Dr. Amitai Etzioni, director of the Center for Policy Research and professor of sociology at Columbia University: "Futures Analysis and Public Policy: Some Notes of Caution and Some Notes of Hope."

Subsequent hearings in this series will continue the study of futurism by considering the impact on the environment of the future development of certain major factors in modern society such as growth; energy and natural resources; and the quality of life. We will also explore the relation between forecasting and the decisionmaking process including citizen participation and the planning process; the Environmental Protection Agency's forecasting capacity; and the implications of forecasting for the Congress.

In a period of accelerated change and finite resources, I am hopeful that these hearings will help us improve our capacity to deal with problems by anticipating them before they become crises.

NOTICE OF HEARING ON THE FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED STATES

Mr. McGOVERN. Mr. President, on behalf of the Senate Select Committee on Nutrition and Human Needs, I wish to give notice that a public hearing has been scheduled for Monday, December 15, 1975, at 10 a.m., in room 1318 of the Dirksen Senate Office Building.

The committee will receive testimony concerning the 18th session of the Conference of the Food and Agriculture Organization of the United Nations held in Rome from November 8 to November 27 from U.S. Delegates to the Conference.

ADDITIONAL STATEMENTS

THE NUTRITION PROGRAM FOR THE ELDERLY

Mr. CLARK. Mr. President, I was delighted that the Senate approved the Labor-HEW Appropriations bill on Monday. This bill contains a provision that will be of vital significance to the elderly people of this Nation. The provision to which I refer sets forth the appropriations level for the nutrition program for the elderly under title VII of the Older Americans Act.

Under the conference bill, $125 million is appropriated for the program for fiscal year 1976 and legislative language specifies "that the level of operations for the Nutrition Program for the Elderly shall be $187,500,000 per annum." Thus, the conference bill requires that $187.5 million be spent by local projects for program services during fiscal year 1976, and this is to be accomplished by using the $62.5 million in funds carried over from the previous fiscal years.

This legislative mandate will permit an expansion of the program to cover many of the people who desire nutritional aid but who unfortunately are unable to obtain it. It is important, therefore, that this statutory requirement be implemented in a speedy manner. We expect the Secretary of Health, Education, and Welfare to increase the program's annualized expenditure rate immediately to the amount that is needed in order that the $187.5 million is spent during the course of fiscal year 1976. In addition, the Secretary subsequently should make adjustments in the expenditure rate so that the local projects truly have the opportunity to spend $187.5 million for nutrition and related services in this fiscal year.

Moreover, the Secretary should carefully follow the program's expenditure level in each of the States. Consequently, if one State does not use the funds, in total, that are apportioned to it, that money should be quickly reallotted to the other States that need additional funding.

Mr. President, the appropriations provisions for title VII of the Older Americans Act should make a much needed improvement in the program's ability to serve the needy elderly. Since this program provides critical nutritional, recreational, and counseling services for the aged, I am pleased that these advances have been made.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, I urge the Senate to take up the Genocide Convention for consideration at the earliest possible time. This convention is one of several treaties which attempts to give the force of international law to the noble ideals expressed in the United Nations Declaration of Human Rights. That declaration and the treaties which followed it are in the finest of American traditions.

The sentiments expressed in that document bear a striking resemblance to our own Declaration of Independence. Likewise, the human rights treaties can be compared to the Bill of Rights.

Therefore, it has often puzzled me that the United States has not yet ratified the Genocide Convention. The Genocide Convention attempts to outlaw, as a principle of international law, the crime of genocide. What is genocide? The term was coined by Prof. Raphael Lemkin in 1946 and refers to the attempt to systematically eliminate a group of people. The most striking example in recent years, of course, was the attempted Nazi extermination of the Jewish population in Germany.

Certainly, no sensible person could endorse a heinous crime. However, our lengthy delay in ratifying this convention has raised doubts in the world as to our true position. Mr. President, it is time to erase all doubts. The United States must now regain the leadership position in the field of human rights—a position we have lost by default. I can think of no better way to accomplish this than through prompt consideration and ratification of the Genocide Convention.

TRIBUTE TO JOHNNY WOODEN

Mr. HARTKE. Mr. President, I am honored to be able to bring to the attention of my colleagues a special Hoosier, Mr. Johnny Wooden.

Johnny Wooden is well known as the basketball coach of the University of California at Los Angeles, where he has the remarkable record of having coached basketball teams that won 10 national championships in the past 12 years, and of coaching teams that won 88 games in a row, which is an alltime record, and they have won 7 college basketball championships, which is also unprecedented in college basketball.

Johnny Wooden was born in Martinsville, Ind., in 1910. He played basketball for the Martinsville High School in 1926, 1927, and 1928. He led them to the State championship in 1927; they went to the State finals all 3 years that he played. Johnny Wooden went to Purdue University and played basketball there in 1930, 1931, and 1932, when Purdue was declared national champions. Wooden was All-American College Player all 3 years that he played for Purdue. Johnny Wooden then went to South Bend Central as coach. From South Bend he continued his coaching experience at Indiana State at Terre Haute, Ind. In 1948, the University of California at Los Angeles got a new coach—his name was Johnny Wooden, from Indiana.

Johnny Wooden retired last spring, and is being honored in his native Indiana on December 13, 1975, in recognition for the prestige and dignity he has brought to basketball and to Indiana throughout his many years of playing and coaching basketball; for his service to the youth of our Nation in his efforts to promote brotherhood and the competitive spirit; for representing Indiana in the many "hardwood" forums of the world; and for being called the winningest coach in the country.

IMPLICATIONS OF THE SOVIET FARM FAILURES

Mr. HUMPHREY. Mr. President, I wish to call attention to two articles in the December 10 edition of the New York Times entitled "Soviet Farm Failures," by Christopher Wren, and "Big Grain Sales Over, United States Feels."

The conclusion is developing that the Soviet Union has not only been hurt by volatile weather conditions but also "inefficiencies of a rigid and cumbersome centrally planned agricultural system."

It is interesting, according to Wren, that in practical terms this year's Soviet harvest of 137 million metric tons is 79 million tons below original projections which works out to a per capita harvest yield as small as that of 1913—a mediocre czarist yield year.

The reverberations of this harvest undoubtedly will be felt for some time to come in both the Soviet Union and in the United States. It will be interesting to see what decisions are made by the Soviet leadership in terms of its livestock policy and the related decisions regarding imports of grains.

There are physical limitations of just over 2 million tons per month in terms of imports which the Soviets can manage to move at their port facilities.

We need to be alert to the implications of these events and their impact on our agricultural economy.

Mr. President, I ask unanimous consent that these two informative articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 10, 1975]

SOVIET FARM FAILURES

(By Christopher S. Wren)

MOSCOW, December 9.—This year's harvest disaster, based on a grain yield seemingly as low as 137 million tons, has once again raised questions about the Soviet Union's ability to feed its people adequately. The 1975 grain deficiency appears to run nearly 79 million tons below the original target. In practical terms, this works out to a per capita harvest yield as small as that of 1913, a mediocre czarist year that Soviet statisticians cite as a prerevolutionary base to demonstrate the nation's progress under Communism.

Though grain offers the most dramatic evidence of harvest failure, the Soviet Union has conceded some other setbacks, notably a deficiency of 16 million tons in sugar beet production, also resulting from the prolonged drought that took hold last spring and held on through autumn.

The Kremlin has blamed the country's severe climatic problems for reverses. Western agricultural analysts believe they are intensified by the inefficiencies of a rigid and cumbersome centrally planned agricultural system.

"The weak structure of our agriculture makes it more vulnerable to the weather," said a Russian observer, who went on to offer an analogy. "When a strong person catches the flu, it is not as bad as when the flu strikes someone in weak health," he said.

The full impact of the harvest, which has forced Moscow to scale down its economic goals next year and spend precious foreign currency for Western grain, has yet to be felt. So far, no Kremlin posts seem in immediate jeopardy, though the Minister of Agriculture, Dmitri S. Polyansky, is obviously vulnerable. It is thought more likely that lower-echelon officials will be made scapegoats and replaced.

Indeed, Western diplomats have encountered little outward concern among Soviet officials. This may be because Moscow can fall back on its grain imports or because it is prepared to settle for the over-all 8 percent agricultural growth during the 1971–1975 period.

Even so, local slaughterhouses are said to be operating at full capacity as livestock is killed for lack of fodder. This means a short-term glut of meat in shops this winter but a longer-term shortage. Travelers returning from Central Russia say they found bread being rationed in some stores. And, in a tacit expression of concern, the Government newspaper has exhorted consumers not to waste or buy too much bread and approvingly cited examples or thrift by readers around the country.

Possible signs of harvest problems for next year have been indicated by early reports of freezing among winter plantings without sufficient snow cover.

The Soviet Union, which has more land under cultivation than does the United States, has a generally shorter growing season and suffers from periodic attacks of drought. The Ukraine, a traditional breadbasket, has climatic conditions not unlike those of North Dakota. Such livestock staples as corn and soybeans also fare poorly in the Soviet Union's northern regions, posing further agricultural limitations.

Beginning in March 1965, the Soviet party chief Leonid I. Brezhnev, embarked on a vast program to upgrade agriculture, with greater capital outlays for machinery, fertilizer and storage facilities. More than 131 billion rubles (nearly $175 billion) has been spent in the current five-year plan alone.

The investment, which may constitute the highest agricultural subsidy level in the world, is intended in good measure to expand meat production and thus improve the starchy Soviet bread-and-potatoes diet.

WHERE CROP GOES

One Western agricultural analyst has estimated that 44 million tons of the Soviet grain crop go for bread and flour, 25 million tons for new seed and most of the rest for fodder. About five million tons have traditionally been exported each year to allies like North Korea and North Vietnam. A significant portion, thought to run as high as 15 to 20 percent or more, is written off in postharvest losses caused mostly by inadequate transport, storage and theft.

Though it has improved in the last decade, Soviet agriculture is still plagued by bureaucratic bungling and inflexibility, poorly utilized mechanization, lack of roads and storage sheds and low productivity among workers on the 37,300 state and collective farms.

The Soviet Union employs a quarter of its labor force on the farm, as contrasted with only 4 percent in the United States. The disparity arises in part because American agriculture is more capital-intensive and highly mechanized; it is also attributable to underemployment as well as apathy on the part of Soviet farm workers.

PRIVATE PLOTS EFFICIENT

Efficiency has been demonstrated on the private plots set aside for each farm family. Though these are often less than a half-acre, they account for 64 percent of the potatoes and 33 percent of the vegetables grown in the Soviet Union. But when the state is the employer, initiative appears to sag.

The agricultural system is less rigid than it was during the Stalin years, but collective and state farms are still told what crops to plant and when to plant and harvest them. Despite an effort to increase supplies of fertilizer to 120 million tons a year by 1980, farmers have complained of not always receiving the proper sort of fertilizer when they need it.

There have also been periodic complaints of inadequate distribution of farm machinery and, this year, a widespread shortage of spare parts. As late as last August, it was reported that 2,500 combines were standing idle in two regions of Kazakhstan because of improper maintenance and lack of parts. At one state farm in Western Siberia, the harvesting equipment worked so poorly that 1,000 workers were sent into the fields to collect the crop by hand.

Consequently, the Soviet Union tends to treat each harvest as a new emergency, commandeering hundreds of thousands of trucks and calling out even more urban residents to help with the harvest. Last summer, troops were used to transport crops in Siberia and Kazakhstan. Russians say that calling on the military at harvest time is not uncommon.

EXHORTATIONS CONTINUE

The Soviet leadership has increasingly urged greater agricultural productivity. Mr. Polyansky told a rally this fall that "we must implement a series of measures insuring the reliability of grain harvests, the guaranteed raising of yields and gross output of grains."

One dramatic program is the investment of 35 billion rubles during the coming five-year plan to reclaim and enrich land in northern Russia where the soil is poorer. Mr. Brezhnev has also sought to put agriculture on a more industrial footing with inter-farm factories, as has been done successfully in Moldavia. Meanwhile, a discussion is under way among Soviet agronomists about growing sorghum, a fodder crop that is more resistant to drought.

Arkaday S. Navolodsky, an agricultural official, estimated in a recent article that "for full satisfaction of all the needs of the country, it is necessary to produce about one ton of grain for each person"—in other words, an annual crop of 254 million tons, which is almost double this year's yield.

To achieve such a goal, the Kremlin seems ready to increase its agricultural investment. But it does not appear willing to tinker with the basic system, as Nikita S. Khruschchev tried to do, or even leave the decisions to the farms themselves. And until Soviet agriculture becomes more flexible, one Western diplomatic analyst reckons that "with the same weather phenomenon next year, I wouldn't expect anything different, no matter what their input."

(In Washington, the Agriculture Department foresaw no further significant Soviet purchases of American grain this year.)

[From the New York Times, Dec. 10, 1975]

Big Grain Sales Over, United States Feels

Washington, December 9.—The Agriculture Department predicted today that the Soviet Union would not make any more significant purchases of American grain despite sharply reduced estimates of this year's harvest in the Soviet Union.

The department, in lowering its estimate of the size of 1975 Soviet grain production to 137 million metric tons from 160 million metric tons, said it was unlikely that the new estimate would force the Soviet Union to import much more grain than it has already contracted for.

American experts believe that the Russians will instead cut back sharply on breeding livestock—perhaps by as much as 20 to 25 percent—to match the poor harvest results.

The Agriculture Department said it would stand by its October estimate that the Soviet Union would import about 27 million metric tons this season and a total of 30 million metric tons through next September. One metric ton equals 36,743 bushels of wheat.

The lowered estimates are based on a thinly veiled hint in Moscow last week from the chairman of the Soviet Planning and Budget Commission that was interpreted by Western observers as signaling a sharp cut in grain output.

The latest estimate is a drop of 58 million metric tons from last year's Soviet crop and nearly 79 million metric tons below what the Russians had been trying to achieve this season.

Observers have estimated that next year's Soviet crop target will be only 206 million metric tons, down from this year's goal of 215.7 million metric tons.

The Agriculture Department said the Soviet Union's port facilities, already under stress with ships waiting weeks to unload, limit the amount of grain that can be added to its purchases. The shipping tieups "tend to confirm that imports probably will not go significantly beyond 27 to 30 million" metric tons, the department said.

Department analysts said the Soviet Union had already stepped up its slaughtering of hogs and poultry and might have to turn to livestock imports from abroad to help meet demand. They predicted that the meat shortage would hit the Soviet Union hardest next spring.

Reports on the progress of Soviet crops planted this fall for harvest next summer already has dimmed chances for a bumper harvest.

Soviet press accounts have described crop-killing low temperatures in some important winter grain regions and a lack of snow to protect against frost damage.

PRAVDA, The Communist Party daily, said in an editorial this week that this year's poor harvest posed great difficulties for Soviet farmers and a serious test for livestock producers trying to keep their herds alive this winter.

The paper declared that grain must be accorded maximum attention and that steps must be taken to improve grain production next year.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Foreign Military Sales Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million. Upon such notification, the Congress has 20 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the Record the four notifications I have just received. A portion of one notification, which is classified information, has been deleted for this public publication.

There being no objection, the notifications were ordered to be printed in the Record, as follows:

Office of the Director Defense Security Assistance Agency and Deputy Assistant Secretary (Security Assistance) OASD/ISA,
Washington, D.C., December 9, 1975.

In reply refer to: I–10513/75.

Hon. John J. Sparkman,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Foreign Military Sales Act, as amended, we are forwarding under separate cover Transmittal No. 76–22, concerning the Department of the Air Force's proposed Letter of Offer to Israel for an estimated cost in excess of $25 million.

Sincerely,

H. M. Fish.

[Transmittal No. 76–22]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Foreign Military Sales Act, as Amended

a. Prospective Purchaser: Israel.

b. Total Estimated Value: [deleted].

c. Description of Articles or Service Offered: [deleted] F–15 aircraft, spare parts, spare engines, support equipment and training.

d. Military Department: Air Force.

e. Date Report Delivered to Congress: December 9, 1975.

Office of the Director Defense Security Assistance Agency and Deputy Assistance Secretary (Security Assistance), OASD/ISA,
Washington, D.C., December 9, 1975.

In reply refer to: I–12584/75

Hon. John J. Sparkman,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washhington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Foreign Military Sales Act, as amended, we are forwarding herewith Transmittal No. 76–26, concerning the Department of the Air Force's proposed Letter of Offer to Saudi Arabia for uniforms with accessories estimated to cost $52.6 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. M. Fish.

[Transmittal No. 76–26]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Foreign Military Sales Act, as Amended

a. Prospective Purchaser: Saudi Arabia.

b. Total Estimated Value: $52.6 million.

c. Description of Articles of Services Offered: Uniforms with accessories for the Saudi Arabian Air Force.

d. Military Department: U.S. Air Force.

e. Date Report Delivered to Congress: December 9, 1975.

Office of the Director Defense Security Assistance Agency and Deputy Assistant Secretary (Security Assistance), OASD/ISA,
Washington, D.C., December 9, 1975.

In reply refer to:
I–10512/75

Hon. John J. Sparkman,
Chairman Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Foreign Military Sales Act, as amended, we are forwarding herewith Transmittal No. 76–14, concerning the Department of the Air Force's proposed Letter of Offer to Greece for eight (8) RF–4E aircraft, spare parts, and support equipment estimated to cost $91.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. M. FISH.

[Transmittal No. 76–14]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE FOREIGN MILITARY SALES ACT, AS AMENDED

a. Prospective Purchaser: Greece.

b. Total Estimated Value: $91.0 million.

c. Description of Articles or Services Offered: Eight (8) RF-4E aircraft, spare parts, and support equipment.

d. Military Department: Air Force.

e. Date Report Delivered to Congress: December 9, 1975.

OFFICE OF THE DIRECTOR DEFENSE SECURITY ASSISTANCE AGENCY AND DEPUTY ASSISTANT SECRETARY (SECURITY ASSISTANCE), OASD/ISA,
Washington, D.C., December 9, 1975.

In reply refer to: I-8445/75.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Foreign Military Sales Act, as amended, we are forwarding herewith Transmittal No. 76–13, concerning the Department of the Air Force proposed Letter of Offer to Saudi Arabia for maintenance and logistics support, including support facility construction and training for the Saudi Arabian Air Force estimated to cost $1,800 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. M. FISH.

[Transmittal No. 76–13]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE FOREIGN MILITARY SALES ACT, AS AMENDED

a. Prospective Purchaser: Saudi Arabia.

b. Total Estimated Value: $1,800 million.

c. Description of Articles or Services Offered: This project name is Peace Hawk V. The program provides for maintenance and logistics support, including support facility construction and training for the Saudi Arabian Air Force. The program is in support of F-5E/F aircraft previously purchased by the SAG and will cover the period from February 1976–June 1979.

d. Military Department: Air Force.

e. Date Report Delivered to Congress: December 9, 1975

SENATOR EAGLETON COMMENTS ON CYPRUS REPORT

Mr. EAGLETON. Mr. President, on December 8 President Ford submitted his report on the Cyprus problem to Congress as is required by Public Law 94–104. I feel that a few brief comments about that report are appropriate.

The President's report is cautiously optimistic about the prospects for a renewal of the intercommunal talks and an ultimate resolution of the Cyprus problem. The caution, at least, seems warranted.

The report glosses over or ignores the disturbing indications that the party with all the cards—Turkey—is still not anxious to demonstrate that it can negotiate in good faith.

There are, for example, indications that the U.N. peace force will not be allowed in the Turkish-controlled sector after its mandate expires on December 15.

In addition, while 8,000 Turkish-Cypriots have gone north as a result of an important agreement in Vienna, the Turkish-Cypriots have not allowed Greek-Cypriots to travel freely.

Congress should not lose sight of its original motivation for terminating arms sales and grants to Turkey. That nation violated its agreement with the United States not to use our arms for aggressive purposes.

Turkey continues to violate that agreement and has shown no willingness, at least publicly, to be anything but intransigent. I am hopeful that Turkey will soon move openly and reasonably to demonstrate that what they are apparently telling our Government privately represents their true intentions.

Mr. President, I ask unanimous consent that the President's report of December 8 on the Cyprus problem be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

To the Congress of the United States:

I am submitting, pursuant to Public Law 94–104, the first of a series of reports on efforts this Administration is making to help resolve the Cyprus problem. Subsequent progress reports, as required by this legislation, will be forwarded to you at sixty-day intervals.

In his speech before the U.N. General Assembly on September 25, 1975, the Secretary of State outlined the Administration's policy on the complex Cyprus problem as follows:

"The details of a Cyprus settlement are for the two communities themselves to decide. However, in keeping with U.N. resolutions which the United States has fully supported, the following principles are essential:

"A settlement must preserve the independence, sovereignty, and territorial integrity of Cyprus;

"It must insure that both the Greek-Cypriot and the Turkish-Cypriot communities can live in freedom and have a large voice in their own affairs:

"The present dividing lines cannot be permanent. There must be agreed territorial arrangements which reflect the economic requirements of the Greek-Cypriot community and take account of its self-respect;

"There must be provisions for the withdrawal of foreign military forces other than those present under the authority of international agreements; and,

"There must be security for all Cypriots; the needs and wishes of the refugees who have been the principal victims and whose tragic plight touches us all must be dealt with speedily and with compassion."

These elements, which we consider essential to a settlement, are consistent with the aspirations of the overwhelming majority of the people of Cyprus. Beyond that, only the Cypriot people can decide how to rebuild and preserve their sovereign, independent nation so it may again serve the interests of all its citizens.

With this appreciation of both the opportunities and limitations of U.S. action, I declared immediately following enactment of P.L. 94–104 on October 6 that the United States would make a major effort to encourage a resumption of the Cyprus negotiations and to facilitate progress by all the parties involved—Greece, Turkey and Cyprus—toward a peaceful and equitable solution. I also stated that the United States would undertake whatever role the parties themselves wanted us to play in achieving a settlement.

Immediately thereafter, we took a number of steps through diplomatic channels aimed at helping the parties find a basis for resuming the intercommunal talks under the aegis of U.N. Secretary General Waldheim. As a first step, I wrote directly to the Prime Ministers of Greece and Turkey to stress the importance the United States attaches to the resumption of the intercommunal Cyprus talks and to emphasize our wish that the Cyprus problem be removed as a source of instability in the Eastern Mediterranean. My letters were followed by a series of communications from Secretary Kissinger to the Foreign Ministers of Greece and Turkey and to President Makarios of Cyprus. In each of these communications, an effort was made to define the differences as we saw them between the negotiating positions of the other parties and to urge that an effort be made to narrow the gap.

The Secretary of State, during the past sixty days, also has consulted extensively with several of our major European allies who have engaged in corresponding and complementary initiatives with the Greek, Turkish and Cypriot governments. Parallel initiatives also were undertaken during this period by the European Community.

These initiatives have not produced a major breakthrough; but taken together they have advanced prospects for a negotiated settlement. A new appreciation now exists in Athens, Ankara, and Nicosia that delay in resuming the intercommunal talks will harden attitudes and make future progress more difficult. In each capital, there is a desire to begin anew an earnest search for a solution. Each party also has a realistic understanding of what it must do to make progress possible.

In Ankara, the Turkish Foreign Minister announced on October 21, shortly after the Turkish senatorial elections, that the time was opportune to search for a solution and that all aspects for a settlement could be discussed at the intercommunal talks. Turkey has also indicated that it would encourage the Turkish Cypriots to engage in meaningful negotiations within the intercommunal framework. There is also a recognition in Ankara that a discussion of their position on territory is essential once the intercommunal talks have been resumed and that troop reductions as well as steps to resolve the refugee issue are essential ingredients to any Cyprus settlement.

Similar meaningful changes have occurred in the Greek and Greek-Cypriot negotiating positions with respect to such subjects as the organization of the future central government and the division of responsibilities and delegation of authority to the future regional administrations.

In sum, we have seen, as have our principal Western allies, a narrowing of differences on most of the key issues necessary to negotiate a Cyprus solution. The range of disagreement between the parties now seems to us surmountable. Under such circumstances, it should have been possible in November to bring the parties back to the negotiating table. However, once a date had been scheduled in New York for the Cyprus debate at the U.N. General Assembly, the parties felt compelled to await the outcome before sitting down with the U.N. Secretary General to resume actual negotiations.

Now that the United Nations has completed its consideration of the Cyprus question and passed a new resolution calling for intercommunal negotiations, efforts to schedule new talks are underway. We have consulted U.N. Secretary General Waldheim and the Governments of Greece, Turkey, and Cyprus. Our common interest is to have renewed negotiations of sufficient depth and duration to allow full discussion of all key substantive issues. There is every reason to believe this kind of negotiation will begin in the very near future. To facilitate this effort, I have asked the Secretary of State to give special emphasis to the subject of Cyprus negotiations when he meets with the Turkish and Greek Foreign Ministers during the NATO Ministerial meeting in Brussels in the second week of December.

We now find ourselves at an important juncture in the search for a Cyprus settlement. The negotiating framework which has emerged finally should allow early and orderly discussion of the most serious substantive issues, including refugees which hold the key to a final settlement. We have succeeded in moving to this point in large part because, since early October, the United States has been free to resume an active, evenhanded role among all the parties. The outcome of the resumed Cyprus negotiations may depend upon our ability to maintain this role in the months ahead.

An important beginning has been made in the past sixty days toward the elusive goal of a peaceful, equitable, and enduring Cyprus solution. In the days ahead, I believe our efforts will bring results if we continue to have the support and understanding of the Congress. I intend to review with you in subsequent reports the progress that has been made in the common quest to restore peace and stability to the island of Cyprus.

MR. PELL SPEAKS ABOUT A NEW APPROACH TO HIGHER EDUCATION

Mr. HARTKE. Mr. President, my esteemed colleague, Mr. PELL, speaks eloquently to the needs of higher education in our American society recently in the Saturday Evening Post. I would like to bring this article to the attention of our colleagues as the proximity of our Bicentennial Revolution arouses our interest in the rights and privileges of all Americans.

Mr. President, I ask unanimous consent to have this article by Mr. PELL printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A NEW APPROACH TO HIGHER EDUCATION

(By Senator CLAIBORNE PELL)

In 1976, Americans will acknowledge the Bicentennial of the American Revolution. If we believe in the principles fostered by that revolution, isn't it appropriate that we dedicate ourselves on this anniversary to the task of broadening and strengthening the base upon which those principles depend? That base is education.

The political leaders of the world in 1776 feared America's revolution as the ultimate threat to established order. Tradition tells us that only the preoccupation of Europeans with their own affairs and the great distances separating the continents gave the Americans the time they needed to develop their experiment. Such circumstances may have contributed to the defense of the young Republic, but they do not explain its endurance.

The spreading commitment of America's leaders, and then of her people, to the development of an educated electorate turned an abstract dream into a practical reality. The returns from America's investment in education are direct as well as intangible. For those who measure value largely in material terms, there is a direct relationship between dollars invested in education and the rapid growth of the American economy. It is a fact that education transformed a primitive technology into one of unlimited promise. For those who place greater value on nonmaterial returns, education humanizes society and gives it the power and sense of values to make technology serve the spiritual as well as the material needs of humanity. If the truth shall make us free, education is certainly the essential foundation of freedom. Education endows the American experiment in democracy with the legitimacy it must have to deserve the support of its citizens. This assertion is more than a mere cliche. For the democratic ideal is realized only through the freely given consent of the governed. And there can be no true consent by those who are illiterate and ignorant. Thus, democracy has a vested interest in education. Each generation committed to democratic values must understand this relationship and renew its support of education. And the system of education, to be worthy of this bond, must meet the needs of those it serves; in a democracy, this means the needs of all of its citizens.

Because human needs change constantly, the educational system must be flexible and responsive. A description of its proper condition is that it is in a perpetual state of flux. It is always evolving—not for the mere sake of change, but as a natural function of its permanent search for truth and more effective ways and means to satisfy the variable needs and goals of Americans.

Our initial educational objective as a nation was the attainment of literacy for large numbers of our people. The realization of this goal is theoretically possible, but very elusive, and never secure. It is easy to forget that the literacy of a nation gained through the militant efforts of generations can be destroyed by the indolent indifference of a single generation.

During the nineteenth century, the extension of the right to vote to large numbers of people was a logical consequence of the growth of literacy. Another consequence of great significance was the acquisition by the new voters of the power to promote and defend their constitutional liberties on the basis of equality with other citizens. Thus, education not only justified the broad extension of the franchise, it strengthened democracy by giving the great majority of its citizens a real stake in its survival.

Our society and its technologies are becoming incredibly complex. Literacy alone is not a sufficient guarantee that each individual will have the opportunity to improve his position in society in terms of his own legitimate values. Societies where the privilege of education is restricted at any level are elitist and non-democratic by definition. Therefore, in a democracy, the educational system must be able and willing to serve all those who desire and are able to make use of its programs, and it is obligated to create new programs to meet the changing needs of individuals and society. Then, the only substantial impediments to a person's accomplishments—other than his genetic inheritance—are those he imposes on himself.

By reviewing the record briefly, we will obtain some sense of the progress we are making in meeting our objectives, and some sense of the magnitude of our continuing responsibilities.

Education at all levels was the sole responsibility of local units of government and of private agencies until 1862. At that time, the Congress accepted major responsibility for promoting education beyond high school when it enacted the Morrill Land Grant Bill. This Act declared it to be the policy of the Federal Government to promote education in the agricultural and mechanical arts; it also became the foundation and catalyst for the development of massive systems of colleges and universities supported by state and federal governments. Some of the state colleges became state universities with broad missions and diverse graduate programs.

In response to changing needs, state-supported colleges with more limited programs were established—some of them evolving from the publicly supported normal schools which trained generations of primary and secondary teachers. In 1972, Congress responded to changing needs by enacting legislation, designed to support the establishment of state systems of community and junior colleges.

It must not be assumed that the creation of public systems of postsecondary institutions indicates any lack of faith in private institutions by Congress. In recognition of the signal contributions made by educational institutions supported principally by private funds, the Federal Government has taken steps to insure the existence of a strong system of dual education. It has done so by creating tax advantages and exemptions to encourage contributions to such great institutions as Harvard, Yale, Stanford, Southern Methodist, Baylor and such numerous small centers of excellence as Antioch, Kenyon, and St. Johns.

A most significant date in the history of higher education is 1944. In that year, Congress made one of the wisest investments it has ever made of public funds. By enacting the G.I. Bill, it invested in the nation's greatest resource—its people. This Act changed the Federal approach to the support of higher education and made colleges and universities accessible to hundreds and thousands of individuals who would have been denied such access in the absence of the substantial financial assistance provided by the terms of this Act.

In response to the massive infusion of veterans, institutions effected changes in programs and practices to meet their specialized needs. Less than two decades after the institutions absorbed this impact, they faced the consequences of the increase in the birth rate following World War II. There was a gargantuan leap in enrollment which either caused or accompanied radical changes in our colleges and universities.

The children of those who questioned the quality and content of education programs in a civilized manner in the Forties resumed the questioning in the Sixties in what some considered to be an uncivilized manner. The excesses of a few students warned us of the growing dissatisfaction of a much broader clientele with the whole concept of the educational experience they were receiving. A student who did not demonstrate was often as disillusioned as the demonstrators by his personal experiences with an impersonal educational bureaucracy, with requirements that seemed excessively authoritarian, and with programs that seemed to be of questionable value. If there is any lesson to be learned from the student unrest in the Sixties, it is this: The better our educational system becomes, the greater the demand will be for it to become better. The unrest may have been triggered by events associated with the American involvement in Vietnam, but quite apart from that fact, students began to see themselves as customers and began to examine critically and often constructively the quality of the product they were buying.

In addition to these influences, several other factors promoting changes have a profound and continuing effect on higher education. We realize now, for instance, that large numbers of people are denied access to higher education, either because they have not been adequately prepared to receive it by secondary institutions, or because they lack adequate financial resources. The Congress, which is very often a follower in resolving national problems, has assumed leadership in solving this one. Accordingly, legislation was passed in 1972 establishing the Basic Educational Opportunity Grant Program. If this program is funded fully, each student will be eligible for a yearly grant of $1,400, less whatever sum his family can afford to contribute. This legislation employs the term "postsecondary education" in place of "higher education" in recognition of the fact that there is a vast body of training and educational programs complementary to the more traditional programs of higher education. Such education is readily obtainable in many localities through proprietary, profit-making institutions as well as in the newly established state and locally sponsored technical institutes and junior colleges.

Huge urban postsecondary institutions with primary interests in preparing individuals for employment are important generators of postsecondary educational services. Such institutions are particularly attractive to inner city residents and members of minority groups because they provide practical ways for them to improve their economic and social status rapidly. It is a very significant fact that little or no rioting occurred in these institutions during the contretemps of the Sixties. The reason, of course, is obvious. The people attending these schools had specific goals in mind. These goals were attainable. It was clear to them that they were acquiring a stake in our society and they had no desire to jeopardize it.

Thus, postsecondary institutions, stimulated by the demands of the people, and by the actions of their representatives in Congress, adapted to changing needs by creating diverse educational opportunities for more people.

This recital of positive observations, however, cannot mask some unusual problems that the educational system faces in the near future. By 1980, enrollments will increase by 14 percent, but by 1990 they will decline by 10 percent. Thus, some institutions will be overcrowded for a period of time, or there will be a growing number of empty classrooms between 1980 and 1990. It is difficult to plan rationally for such circumstances. These facts illustrate the need for long-term planning—a function that must be given more careful attention by institutions in the future.

Declining enrollments after 1980 may cause those whose jobs are jeopardized to turn to collective bargaining as a means of protecting their tenure. Such issues must be handled with great care. I urge the institutions to anticipate these problems and to plan to deal with them intelligently and effectively.

Now for some predictions and some very personal views about the future of higher education.

The programs of our colleges, universities, and institutes will continue to change in response to changes in the characteristics of our work force.

Women will secure complete access to every aspect of postsecondary education on the basis of equality with men. The sexes will have equal opportunities for admission, employment, the use of physical education facilities.

Vocational education will become a fully recognized and rightfully respected component of our general educational system—not something somehow set apart from it. In fact, I predict that there will be a greater emphasis in the 1980's on career and occupational education at the postsecondary level so that graduating students will have marketable skills, and at the elementary and secondary levels so that those desiring such skills will not be forced to attend postsecondary schools just for the purpose of acquiring them.

As chairman of the Senate Subcommittee on Education, I believe that the Federal Government should use its power to make educational opportunities at all levels of instruction easily available to everyone who needs and can use them. And in the process, we have a duty to write Federal programs designed to accomplish this end in such a manner that they do not dictate the development patterns for students and institutions.

I think it is now appropriate to inquire whether Americans still affirm the commitment of their revolutionary ancestors to education.

In the nineteenth century, we constructed a solid foundation for progress in the twentieth. But there is more to be done. In the recent past, it was American policy to support the public education of all citizens for twelve years. This policy is now inadequate for many reasons. Our technologies are too sophisticated to master in this period of time, and our social problems are too complex. To justify continued popular control of government, we must have the active participation in the political process of a well-informed, well-educated electorate to guide our representatives in the search for solutions to the very real and difficult problems facing the United States today. The Basic Educational Opportunity Grant Program alluded to earlier will make access to education beyond the twelfth year a practical possibility for large numbers of people. It is now my strong personal belief that the needs of our society require that tuition-free education be extended to everyone for sixteen rather than twelve years! This is my personal objective. I hope it will become our national goal. The realization of this goal should endow every citizen with the opportunity to spend his life doing things that support his innermost values. Can you imagine a society in which every person not only has the means to discover his latent talents and interests, but the full opportunity to develop and to use them? Isn't the attainment of these objectives worthy of a truly great democracy? The affirmation of these goals is a most appropriate way to celebrate the Bicentennial of the American Revolution.

LOCAL SUPPORT FOR ENDING WORLD HUNGER

Mr. CLARK. Mr. President, bringing equity to the world food situation is an enormous challenge for the United States, and we are likely to continue to face the challenge for a number of years in the future. We certainly can be encouraged by legislation like the Foreign Economic Assistance Act which contains a provision mandating that 75 percent of U.S. food aid abroad must go to countries on the low end of the economic scale.

For too long, this country has been channeling large amounts of food aid to countries selected on the basis of their political importance rather than on the basis of need. Such a practice may have gained us friendship from political leaders in a few countries, but it did little to relieve the terrible problem of food shortages that exist in so many needy countries.

As we all know, legislating is important, but there needs to be more. We cannot expect to solve world hunger problems without the help of the concerned people of this Nation—people who at the local level demonstrate active interest and mobilize support.

Such a group exists at the Central Presbyterian Church in Des Moines, Iowa, where the problems of world hunger are receiving special emphasis through the church's stewardship and mission committee.

I was pleased to have been able to participate in one of their projects, a potluck dinner in May. The group has also been involved in raising funds for world food programs, in educating their members and others about the food problem, and in encouraging people to reexamine their personal life styles and patterns of consumption.

Additionally, they recently collected the names of over 175 persons on a petition expressing deep concern about world hunger and urging the President and the Congress to pursue policies that would increase levels of funding for food programs, insure that food aid be sent to countries of true need, and encourage and support long-term growth and development aimed at eventual food self-sufficiency in the Third World countries.

The work of the Central Presbyterian members is a good example of what can be done at the local level to help alleviate world hunger problems. I am heartened by their efforts, and I hope they serve as encouragement for others to join this very worthwhile campaign.

A PROPOSAL FOR NUCLEAR FREE ZONES

Mr. HUMPHREY. Mr. President, at a time when the issue of nuclear nonproliferation seems to be receiving increasing attention in the executive branch and the Congress, policymakers in both branches should give serious consideration to the concept of nuclear free zones. In a recent article prepared for the Scientific American, Mr. William Epstein assesses the desirability of the creation of nuclear free zones patterned after the successful Treaty for the Prohibition of Nuclear Weapons in Latin America—the Treaty of Tlatelolco. As an international export on disarmament matters, Mr. Epstein believes that creation of nuclear free zones in Africa, the Indian Ocean area and elsewhere could be an effective mechanism to halt the spread of nuclear weapons. As he states:

> It (the idea of nuclear free zones) provides a means whereby non-nuclear countries can, by their own initiative and effort, ensure their greater security. It can be an effective instrument not only to prevent non-nuclear countries in a given region from going nuclear but also to prevent the stationing or deployment of nuclear weapons in the countries of that zone by the nuclear powers. In addition, it can be a means of obtaining pledges from the nuclear powers not to use or threaten to use nuclear weapons against any of the countries in the area of the zone.

Mr. Epstein recognizes one of the inherent problems in the creation of nuclear free zones: Nations must enter into any multilateral agreement on a genuine cooperative basis where the control of nuclear weapons is perceived to be in their national interest. This factor is one reason why the creation of a nuclear free zone in the Middle East presents serious difficulties.

Mr. Epstein also views the establishment of nuclear free zones as an effective device in the creation of regional nuclear fuel cycle centers for enriching uranium, reprocessing plutonium and handling nuclear wastes. It is vital that we stop the trend whereby the development of nuclear power for peaceful purposes enhances the ability of a nation to produce a nuclear weapon.

I want to recommend Mr. Epstein's article to my colleagues. The regional approach to nuclear nonproliferation is one that must be considered if we are to make progress in an area that poses such a potential danger to world peace and stability. At a time when there is great attention being paid to the issue of achieving another strategic arms limitation with the Soviet Union, we should not forget that the menacing issue of nuclear proliferation will not disappear and, indeed, grows more dangerous with the passage of time and an absence of a solution to the problem.

Mr. President, I ask unanimous consent that Mr. William Epstein's thoughtful article, entitled "Nuclear Free Zones," in the November issue of Scientific American be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NUCLEAR-FREE ZONES

(By William Epstein)

The effort to prevent the proliferation of nuclear weapons continues to face numerous obstacles. "Vertical" proliferation—the ongoing development and deployment of more advanced weapons systems by the existing nuclear powers—has not been halted or even slowed by the series of strategic-arms-limitation agreements between the U.S. and the U.S.S.R. Meanwhile "horizontal" proliferation—the spread of nuclear-weapons capability to additional countries—has proceeded in spite of such supposed barriers as the Partial Test-Ban Treaty and the Treaty on the Nonproliferation of Nuclear Weapons. Indeed, the very survival of the Nonproliferation Treaty was jeopardized last year by India's test explosion of a "peaceful" nuclear device, which must be viewed in the context of an energy-hungry world where nuclear power reactors are being installed at an accelerating rate and where access to sophisticated nuclear technology and weapons-grade fissionable material is being acquired by dozens of countries and tens of thousands of people currently outside the "nuclear club" [see "The Proliferation of Nuclear Weapons," by William Epstein; Scientific American, April].

The review conference of the parties to the Nonproliferation Treaty, held in Geneva in May, turned out to be a particular disappointment. Anticipated by many participants and observers as a rare opportunity to strengthen and extend the basic provisions of the treaty, the conference quickly degenerated into an unresolved confrontation between the nuclear parties and the non-nuclear parties. The net result of the conference appears to have been a widening rather than a narrowing of the gap between the two groups.

Is the effort to prevent the further proliferation of nuclear weapons therefore hopeless, and must we all learn to live in a world of many nuclear powers? I believe the answer is no, or at least "Not yet." There is still a chance to slow down and limit nuclear proliferation. Even if the likelihood is that the Non-proliferation Treaty will slowly erode and that several new nuclear powers will emerge in the next decade or so, the treaty can still remain an important restraining influence on the spread of nuclear weapons. In addition to the Non-proliferation Treaty, however, there are several other ways to restrict the number of new nuclear powers. Among them is the creation of nuclear-free zones. Provided that such zones are correctly conceived, adequately prepared and properly implemented, they could be even more effective than the Nonproliferation Treaty in curbing the spread of nuclear weapons.

Every international conference on nuclear energy since the end of World War II has been concerned with two basic goals: first, controlling the eliminating "atoms for war," and second, promoting and exploiting "atoms for peace." The basic dilemma has been that the development of nuclear energy for either purpose also helped to enhance its potential for the other. From the beginning all efforts and negotiations toward the first goal, nuclear-arms control and disarmament, had as their aim not only the control of nuclear weapons but also the prevention of their spread to other countries. The immediate objective was to prevent the further proliferation of nuclear weapons both vertically and horizontally, and the ultimate objective was to eliminate them entirely.

With the failure of the Baruch Plan in the late 1940's, little hope remained for achieving the elimination of nuclear weapons, but efforts continued to limit their development, to reduce their numbers and above all to prevent their horizontal proliferation. Subsequently two different approaches were developed to the problem of preventing the spread of nuclear weapons: first, the creation of nuclear-free zones in which all nuclear weapons would be prohibited, and second, the enactment of a treaty that would specifically ban the dissemination of nuclear weapons by the nuclear powers and the acquisition of such weapons by states not possessing them. These two approaches were supplementary to the ban on nuclear-weapons tests, which was considered as being an important aim in itself but which it was recognized would also help to prevent the proliferation of nuclear weapons.

Since 1958, when Poland first proposed the denuclearization of Central Europe (Poland, Czechoslovakia, East Germany and West Germany), various proposals have been put forward for the denuclearization of other geographic areas, including the Balkans (by Romania), the Mediterranean (by the U.S.S.R.), the Middle East (by Iran), the Nordic countries (by Finland) and Asia and the Pacific region (by China). These proposals consisted mainly of general concepts rather than concrete steps. Formal and specific plans were put forward only for Central Europe, Africa and Latin America. All these proposals, except the one concerning Latin America, failed to make significant progress because of the complex political and strategic questions involved. More recently, after the Indian nuclear test, the proposal for a nuclear-free zone to the Middle East was revived by Iran and Egypt, and a new proposal for a nuclear-free zone in South Asia was put forward by Pakistan.

All proposals for nuclear-free zones were supported in principle by the U.S.S.R. and its allies, but they placed particular emphasis on Central Europe, the Mediterranean and Asia, where the two great-power blocs confronted each other and where the danger of nuclear conflict seemed greatest. Proposals for nuclear-free zones in those three regions were aimed mainly at reducing the American nuclear presence there. The U.S. and its allies considered that such reduction of American military power would give some military or political advantage to the U.S.S.R. They conceived of such zones chiefly in the context of preventing the spread of nuclear weapons, and they laid down certain principles regarding their creation: (1) that they should not upset the existing military balance, (2) that they should be initiated by the states in the region, (3) that they should include all the countries of the area if possible, or at least those with significant military power, and (4) that they should be subject to verification to ensure that the zone would remain nuclear-free.

So far the only nuclear-free zone created specifically for the purpose of preventing the spread of nuclear weapons is the one established by the Treaty for the Prohibition of Nuclear Weapons in Latin America (commonly referred to as the Treaty of Tlatelolco, after the borough of Mexico City where it was signed). Other nuclear-free zones—those established by the Antarctic Treaty of 1959, the Outer Space Treaty of 1967 and the Seabed Treaty of 1971—were created in part for the purpose of arms limitation, but they were mainly concerned with the efforts of the world community to regulate the use of these still unexplored, unexploited and uninhabited environments. Unlike the Treaty of Tlatelolco, their arms-limitation aspects were secondary and therefore comparatively easy to achieve.

The Cuban missile crisis of 1962 had suddenly and dramatically confronted the states of Latin America with the fact that their area had become directly involved in the strategic plans and rivalries of the nuclear powers. There were immediate consultations aimed at preventing the recurrence of a similar crisis in some other country of Latin America and also precluding the possibility that a nuclear-arms race might develop among the countries of the area. On April 29, 1963, the heads of state of five Latin-American nations (Bolivia, Brazil, Chile, Ecuador and Mexico) issued a joint declaration favoring a multilateral agreement whereby the countries of the region would undertake not "to manufacture, store or test nuclear weapons or devices for launching nuclear weapons." Later that year the United Nations General Assembly adopted a resolution giving its support and encouragement to the idea. On the initiative of Mexico a Preparatory Commission for the Denuclearization of Latin America was established in November, 1964, in Mexico City.

There ensued intensive negotiations over the next two years on the elaboration of a treaty to create a nuclear-free zone in Latin America. Although the four nuclear powers that were then members of the UN gave their blessing to these efforts, their representatives expressed much skepticism in private. I had been appointed technical adviser to the Preparatory Commission by the UN Secretary-General and took part in the work of preparing the treaty. On several occasions various officials of the four nuclear powers indicated to me that the concept of a Latin-American nuclear-free zone was premature and unlikely to succeed; that it was too difficult to get agreement among all the Latin-American states, some of which were not really serious about the project; that the states of the area had too many problems and differences of their own, and that it was unlikely that all the nuclear powers would give their support to it.

There were indeed a number of hard problems to be solved. Would it be necessary for all the states of Latin America to become parties to the treaty before its entry into force or could a treaty limited to only part of the zone be effective, even if all the areas were not contiguous? Would it be necessary for all foreign countries having responsibility for territories in the zone (France, the Netherlands, Great Britain and the U.S.) to agree that their territories should be included? Would it be necessary for all five nuclear powers to undertake to respect the zone?

These problems were solved in the following way. It was first decided that the treaty would enter into force when it was ratified by all the Latin-American countries; when all the countries mentioned above having responsibility for territories in the zone ratified a protocol to the treaty undertaking to apply the treaty in those territories (Protocol I); when all five nuclear powers ratified a protocol undertaking to respect the nuclear-free status of the zone and not to use or threaten to use nuclear weapons against the parties to the treaty (Protocol II), and when each of the parties to the treaty had concluded agreements with the International Atomic Energy Agency for the application of the IAEA's safeguards system to its nuclear activities. These requirements were far-reaching and it was obvious that a long time would elapse before all of them were met. Accordingly Alfonso García Robles, who was then Under-Secretary for Foreign Affairs of Mexico and chairman of the Preparatory

Commission, came up with the ingenious idea that signatory states could waive those requirements in whole or in part so that the treaty would enter into force for such states immediately on the deposit of their instrument of ratification with their declaration of waiver. This proposal was subsequently adopted by the commission.

Concerning the control provisions of the treaty, a comprehensive system of verification was provided. It included the application of the IAEA safeguards system, periodic reports of the parties to the agency established to implement the treaty (OPANAL), special reports when requested by the General Secretary of OPANAL and special inspections in addition to the IAEA's safeguards system in the case of suspicion of a violation.

It was also agreed that nuclear materials and facilities would be used exclusively for peaceful purposes and that nuclear explosions for peaceful purposes could be carried out, including explosions involving devices similar to those used in nuclear weapons as long as such devices did not constitute nuclear weapons. The Treaty of Tlateloco, unlike the Partial Test-Ban Treaty and the Nonproliferation Treaty, provided a definition of nuclear weapons. Article 5 of the Treaty of Tlatelolco stated that "a nuclear weapon is any device which is capable of releasing nuclear energy in an uncontrolled manner and which has a group of characteristics that are appropriate for use for warlike purposes." The main obligations of the parties are defined in Article 1 of the treaty. Article 18 sets out the provision regarding explosions for peaceful purposes.

Finally, on February 14, 1967, the treaty was signed at Tlatelolco. Twenty-three states of Latin America and the Caribbean have now signed the treaty and 22 of them have ratified it. Of these 22 states the treaty is in force for 20, each of which has deposited a declaration of waiver of the requirements for entry into force. Although Brazil and Chile have ratified the treaty, they have not deposited the declaration of waiver. The treaty is therefore not in force for them. It is also not in force for Argentina, which has signed the treaty but has not ratified it. The Netherlands and Great Britain have signed and ratified Protocol I to the treaty, so that it applies to their territories in the zone. Neither France nor the U.S. has yet signed or ratified Protocol I, even though the General Assembly specifically called on them in 1974 to do so. Protocol II has been signed and ratified by China, France, Great Britain and the U.S., so that they are bound to respect the zone and not to use or threaten to use nuclear weapons against it.

The U.S.S.R. has not yet signed Protocol II, in spite of a number of resolutions by the General Assembly calling on it to do so. Among the reasons it gives is that the treaty allows peaceful nuclear explosions, that it does not apply to the Panama Canal Zone or to the transit of nuclear weapons and that the area of the zone takes in a large part of the Atlantic and the Pacific. The U.S.S.R. has said, however, that it will respect the nuclear-free status of each state in the area that remains nuclear-free. Many observers feel that the U.S.S.R. may adhere to Protocol II when the boycott against Cuba is lifted by the Organization of American States and Cuba itself becomes a party to the treaty.

Concerning peaceful nuclear explosions, Ambassador Garcia Robles, who was mainly responsible for the final drafting of the texts of Article 5 and Article 18, has explained that by virtue of the wording of Article 1 and the definition of a nuclear weapon in Article 5 no peaceful nuclear explosion may be carried out if the device has "a group of characteristics that are appropriate for use for warlike purposes," since that would make it a nuclear weapon. This interpretation was expressly supported by the U.S. when it signed Protocol II. On the other hand, when Brazil ratified the treaty, it stated its understanding that the treaty allowed the explosion of nuclear devices for peaceful purposes. A similar declaration was later made by Argentina when it signed the treaty.

After the signing of the treaty in 1967 it was welcomed by the UN General Assembly "with special satisfaction" as "an event of historic significance in the efforts to prevent the proliferation of nuclear weapons." The treaty was also hailed at the Conference of Non-Nuclear-Weapons States in September, 1968, which recommended that other non-nuclear-weapons states study the possibility and desirability of establishing such zones in their areas. The treaty has been frequently described as a model for proposals for the establishment of nuclear-free zones in other areas of the world.

The fact that Argentina, Brazil and Chile, none of which is a party to the Nonproliferation Treaty and all of which are near-nuclear or potential nuclear powers, are not bound by the provisions of the Treaty of Tlatelolco certainly reduces the effectiveness of the regional treaty from the point of view of nonproliferation. It is, however, a matter of importance that not only Mexico, which is a potential nuclear power, but also such countries as Colombia and Venezuela, which have not ratified the Non-proliferation Treaty but which will soon become potential nuclear powers, should be parties to the Treaty of Tlatelolco and be bound by its provisions. Moreover, Chile is a special case, and there are possibilities that it might become a full party by depositing its declaration of waiver without waiting for Argentina and Brazil to do so.

The Treaty of Tlatelolco establishes a nuclear-free zone that encompasses more than 7.5 million square miles inhabited by some 200 million people. What is more important, the number of its parties and supporters, including the nuclear signatories of the protocols, keeps growing year by year. Although there seems little hope for the foreseeable future that either Argentina or Brazil will become full parties, there would appear to be greater pressures and better prospects for their joining such a regional pact, which ensures equal treatment for all parties on a nondiscriminatory basis, than there are for their becoming parties to the Nonproliferation Treaty. They might find some incentive in the negative security assurance that the nuclear powers would be bound not to use or threaten to use nuclear weapons against them, which assurance is not provided to parties to the Nonproliferation Treaty. Moreover, the possibility is not excluded that some compromise formula might be found, or that the advance of technology might facilitate an acceptable solution to the problem of peaceful nuclear explosions. If the nuclear powers would live up to their obligation under the Nonproliferation Treaty to establish a special international regime for the conduct of peaceful nuclear explosions at minimum cost for non-nuclear powers, with special concessionary rates for developing countries, there would be less incentive and less need for either Argentina or Brazil to develop their own capability in this respect.

Since Argentina and Brazil must each be wary of the other's "going nuclear," it is conceivable that they might both be willing to remain non-nuclear or to establish a balance of mutual rivalry and deterrence on the basis of their being peaceful-nuclear-explosive powers with a ready potential of going nuclear rather than nuclear-weapons powers engaged in a mutually ruinous nuclear-arms race.

If there is any chance at all of Argentina and Brazil refraining from going nuclear, it is more likely to be found within the regional context of the Latin-American nuclear-free zone, where they would have a higher consciousness of and receptivity to the feelings, desires and influences of their neighbors, all of whom are developing countries with similar problems, than to the pressures of the rich industrial powers. At any rate the Treaty of Tlatelolco holds out more hope in this regard than the Nonproliferation Treaty, which both countries regard as a discriminatory treaty that the nuclear powers are trying to impose on them.

In spite of the growing interest in nuclear-free zones for several other areas of the world, none of the various proposals has yet got very far. No preparatory committees have been established, no draft treaties are being negotiated and no detailed or formal plans are being discussed by any regional groups. Nevertheless, there are fashions in political affairs, and political, military and strategic developments are moving at such a pace that opportunities may exist tomorrow that appear to be impossible today. A review of the current status of the various proposals for nuclear-free zones that are still on the international agenda may be useful.

The idea of a nuclear-free zone in Central Europe was first suggested in 1957 by Adam Rapacki, who was then foreign minister of Poland. His proposal, which later came to be known as the Rapacki Plan, provided for prohibiting the production and stockpiling of nuclear weapons on the territory of Poland, Czechoslovakia, East Germany and West Germany. Czechoslovakia and East Germany endorsed the plan, and it was formally put forward by Poland in 1958. According to the plan, no nuclear weapons would be manufactured, stockpiled or installed in the territory of the four countries; the use of nuclear weapons against the countries in the zone would be banned; the U.S.S.R., the U.S., Great Britain and France would undertake to respect the nuclear-free status of the zone; a system of ground and air control with inspection bases would be set up to verify the observance of the commitments, and the zone could be established by binding unilateral declarations in order to avoid the political complications of negotiating a formal treaty.

The Rapacki Plan was unacceptable to the Western powers, which regarded it as an attempt to weaken their military position in Central Europe, since it contained no limitations on conventional forces. In addition it would have called for some form of recognition of East Germany, which the Western powers were not willing to accept at that time because they were pressing for a reunified Germany.

In order to meet some of the objections, Rapacki submitted a revised plan that would be implemented in two stages: first, a freeze of nuclear armaments in the proposed zone, and second, a reduction of conventional forces to be carried out together with the complete denuclearization of the zone. A third version of the plan was submitted by Poland in 1962; it envisioned that the proposed zone would be open to any other European state wishing to accede to it. This version was also to be implemented in two stages: the first stage would freeze nuclear weapons and missiles and prohibit the establishment of new military bases in the area of the zone; the second would provide for the elimination of these nuclear arms and for the reduction of armed forces and conventional armaments.

The Western powers were still opposed to any of these versions of the Rapacki Plan on the ground that they were intended to reduce Western nuclear strength in Europe and would thus give the U.S.S.R. a military advantage because of its superiority in conventional forces. Then in 1964 Poland put forward another proposal, which came to be known as the Gomulka Plan, that called for a freeze at the existing levels in the zone of all nuclear weapons "irrespective of the means of their employment and delivery" under a system of control posts at nuclear plants and at rail, road, sea and air points of access. Although the Gomulka Plan did not provide for the reduction or elimination of nuclear weapons already in the area and merely banned any increase in their number, the Western powers found it unacceptable for the same reasons they had rejected the Rapacki plans.

None of these plans for freezing or reducing nuclear and conventional arms and forces in Central Europe came to anything. They were eventually succeeded by the Vienna Conference on mutual force reductions and associated measures in Central Europe. At present it is not clear whether these talks will be broadened to include tactical nuclear weapons. In any case it seems hardly likely that they would go beyond negotiations for the reduction of such weapons. Any prospect of the elimination of the weapons is therefore remote.

The first proposal for a nuclear-free zone in Africa was made in 1960, after the first nuclear-test explosion in the Sahara by France. At that time eight African countries raised the matter but did not press it. The following year 14 African states formally proposed in the UN General Assembly a resolution for preventing the extension of the nuclear-arms race to Africa and for making Africa a denuclearized zone. The resolution was approved by the General Assembly. It called on all member states to refrain from conducting nuclear tests in Africa and from using the area for testing, storing or transporting nuclear weapons; it also asked them to consider and respect the continent of Africa as a denuclearized zone. The U.S.S.R. supported the proposal, but the U.S. and its allies found it unacceptable on the ground that the prohibition of testing meant an uninspected and uncontrolled moratorium.

In July, 1964, at the first Summit Conference of the Organization of African Unity, the heads of state and of government of the African countries issued a solemn declaration on the denuclearization of Africa and announced their readiness to undertake by treaty not to manufacture or acquire control of nuclear weapons. This declaration was endorsed at a summit conference of nonaligned countries held in October of the same year.

In 1965, 28 African states submitted a proposal in the General Assembly to endorse the declaration on the denuclearization of Africa issued at the summit conference the year before. The resolution was overwhelmingly approved by the General Assembly in an almost unanimous vote, including all the nuclear powers except France. In addition to endorsing the declaration on the denuclearization of Africa, the General Assembly reaffirmed the appeal to all states to respect the continent of Africa as a nuclear-free zone and to abide by the declaration; it called on all states not to use or threaten to use nuclear weapons in Africa, not to test, manufacture, use or deploy nuclear weapons in Africa and not to acquire such weapons or take "any action which would compel African states to take similar action." It urged the nuclear powers not to transfer nuclear weapons, information or technological assistance to the national control of any state in any form that could assist in the manufacture or use of nuclear weapons in Africa. Finally, it expressed the hope that the African states would initiate steps through the Organization of African Unity with a view to implementing the denuclearization of Africa.

Nothing further was done to implement the declaration or the Assembly resolution. Nine years later, however, in December, 1974, 26 African countries again proposed a resolution in the General Assembly that was unanimously adopted by all countries including France, which had some years earlier shifted its nuclear testing from Algeria to the Pacific island of Mururoa. The resolution reaffirmed the previous resolutions and again called on all states to refrain from testing, manufacturing, deploying, transporting, storing, using or threatening to use nuclear weapons on the African continent.

One of the main problems that have hindered the implementation of these declarations and resolutions is that the two African countries most technologically advanced in the field of nuclear energy are in an anomalous position. Although South Africa is a near-nuclear power that can readily go nuclear, most of the other African states have instituted a boycott of South Africa and refuse to have any traffic with it because of its policy of apartheid and its refusal to grant independence to Namibia (South West Africa). At the other end of the continent Egypt, which is also a potential nuclear power, although it is well behind South Africa, does not wish to tie its hands in nuclear enterprises unless Israel also does so. The other African states are much less advanced in nuclear technology; none of them can be considered as being a near-nuclear power and very few even as being potential nuclear powers.

Although it would be quite feasible to establish a nuclear-free zone in Africa without the participation of South Africa or Egypt, there seems little urgency and hence not much impetus in that direction. The matter is therefore likely to proceed slowly and perhaps will have to await the achievement of political accommodations that would alter the situation with respect to South Africa and Egypt. Nevertheless, as was demonstrated at the Organization of African Unity conference in 1964, and by the unanimous support of the black African and Arab states of the three General Assembly resolutions, there is a community of interest in Africa for the creation of a nuclear-free zone. It would not require a great deal of effort to achieve agreement even if the zone did not at first include all the countries of the continent. Moreover, it is likely that the 14 African countries that are not parties to the Nonproliferation Treaty would become parties to a treaty creating a nuclear-free zone in Africa. It would seem to be wise to encourage them to pursue their regional efforts. Such efforts would have the maximum chance for success precisely because there is no prospect of any of these countries going nuclear in the immediate future or even acquiring a nuclear option. Once a country acquires that option, it becomes much harder to persuade it to give it up.

In 1974 Iran, later joined by Egypt, proposed the establishment of a nuclear-free zone in the Middle East. In December of that year the General Assembly commended the idea and called on all parties in the area to proclaim their intention to refrain on a reciprocal basis from producing, testing, acquiring or in any other way possessing nuclear weapons. It also called on the parties in the area to accede to the Nonproliferation Treaty and asked the Secretary-General to ascertain their views and to report to the Security Council and to the General Assembly.

Contrary to what had happened with the Treaty of Tlatelolco and the declaration of the African heads of state and of government, there was no prior consultation with important states in the Middle East and in particular with Israel, the state with the most advanced nuclear technology in the area. Moreover, the General Assembly's approval of the proposal did not call on the parties concerned to enter into consultations with one another but merely asked that the Secretary-General ascertain their views. Because of the state of belligerency existing between Egypt and Israel, the fact that Egypt joined Iran in sponsoring the proposal led to the suspicion that it was maneuvering to gain, if not some military advantage by putting pressure on Israel not to go nuclear, then at least some political or propaganda advantage. Any such suspicion would of course have the effect of aborting the project and practically ensuring that no nuclear-free zone in the area would be accepted by all parties.

As was to be expected, Israel withheld its support from the General Assembly's resolution. It is interesting to note that all the nuclear powers, including India, voted for it. Without Israel's support, however, it is most unlikely that the resolution will lead to a productive result. Since Egypt has announced that it will not ratify the Nonproliferation Treaty unless Israel does so, it is hardly likely that Egypt would become a party to a nuclear-free zone that did not include Israel.

Some political observers have speculated that the fact that Iran accepted Egypt as a cosponsor of its proposal was probably done with the understanding that this would almost certainly ensure the failure of the project, and that this cast some doubts on the sincerity of Iran's motives. In any case, if the idea of a nuclear-free zone in the Middle East is to make progress, it will be necessary either to start anew with prior consultations with Israel or to envision as a beginning a zone of more modest scope that does not include Egypt or Israel. It is not clear whether Iran or other Arab states such as Libya, which has embarked on a program to acquire nuclear reactors, would be attracted by a limited zone. The entire project may have to be postponed until there is some settlement between Israel and the Arab states. On the other hand, Israel's willingness to agree to be a party to such a zone might become a useful bargaining point that could help to facilitate an Arab-Israeli political settlement. The Arab states, and in particular Egypt, would certainly be glad to see Israel give up its nuclear option, and they might conceivably consider paying a price for that.

Soon after India exploded a nuclear device Pakistan proposed the creatin of a nuclear-free zone in South Asia. The General Assembly also endorsed this concept but, contrary to what it had done with the resolution for a Middle East zone, invited the states of the region and other neighboring non-nuclear states to initiate necessary consultations with a view to establishing a nuclear-free zone. It urged them to refrain in the interim from any contrary action and asked the Secretary-General to convene a meeting for the purpose of the consultations.

Here too, contrary to what has happened with the Treaty of Tiatelolco and the African declaration, there was no prior consultation among the parties concerned—in particular with India, which had already conducted a nuclear explosion. These circumstances again gave rise to the suspicion that the Pakistani initiative was aimed not so much at the actual creation of a nuclear-free zone as at gaining some political or propaganda advantage.

India made its position clear by proposing a resolution by which the General Assembly would state that the "initiative" for the creation of a nuclear-free zone in the appropriate region of Asia "should come from the states of the region concerned," taking into account the special features and geographical extent of the region. The Indian resolution was adopted by an overwhelming majority, including the U.S.S.R., but with the U.S., Great Britain, China, France, Israel and Pakistan abstaining. On the other hand, the Pakistani resolution was supported by the U.S. and China, with India voting against it and the U.S.S.R., Great Britain, France and Israel abstaining from the vote.

It is understandable that India might have had some resentment or reservations about not having been consulted in advance of Pakistan's initiative. Nonetheless, if India is serious in its protestations that its explosion of a nuclear device was solely for peaceful purposes and that it has no intention of developing nuclear weapons, there are sound reasons for India to react positively to Pakistan's proposal and to work for the creation of a nuclear-free zone in South Asia. It would certainly be to India's advantage if Pakistan did not go nuclear and to its disadvantage if Pakistan did. India might also find it useful to have a pledge from China not to use or threaten to use nuclear weapons against it as a member of a South Asian zone that China undertook to respect as such.

In short, India may have reacted too hastily in rejecting the Pakistani proposal. If Pakistain should go nuclear, it is unlikely that Iran and Indonesia would refrain from doing likewise, to the detriment of all four of the countries as well as to others in the area. In fact, one can make out a good case, not least in India's interest, for expanding the Pakistani proposal to include in the area of the zone both the Middle East and the Far East. Since only Iran, of the four countries mentioned, is a party to the Nonproliferation Treaty, the idea of an expanded denuclearized zone certainly merits further exploration.

The concept of a "peace zone" is considerably broader than that of a nuclear-free zone, but it includes the latter concept. In 1971 the UN General Assembly, on the initiative of Ceylon, declared that the Indian Ocean was designated for all time as a zone of peace. The declaration called on the U.S. and the U.S.S.R. "to enter into consultation with the littoral states of the Indian Ocean with a view to (a) halting the further escalation and expansion of their military presence in the Indian Ocean; (b) eliminating all bases, military installations and logistical supply facilities, the disposition of nuclear weapons and weapons of mass destruction, and any manifestation of Great Power military presence in the Indian Ocean conceived in the context of Great Power rivalry." This declaration, if implemented, would amount to the denuclearization of the Indian Ocean, at least by the major nuclear powers, and indeed would almost amount to its demilitarization so far as they are concerned. China and India both voted in favor of the creation of the Indian Ocean peace zone but the U.S., the U.S.S.R., Great Britain and France abstained.

The following year a committee was established, composed of littoral states and other supporters of the peace zone, such as China and Japan, to study the implications of the declaration. In 1973 the General Assembly urged all states to accept the principles and objectives of the declaration, but again the four nuclear powers mentioned above withheld their support.

It should be noted that the peace zone does not seek to establish a nuclear-free zone in the territories of the littoral states of the Indian Ocean but rather is aimed at the denuclearization and further demilitarization of the Indian Ocean itself and of naval bases in the ocean. Therefore it differs fundamentally from other nuclear-free-zone proposals in that it is intended to apply to the high seas rather than to the bordering states. Although the actual establishment of such a peace zone is obviously not likely to take place in the near future, it is noteworthy that the concept is supported by practically all the littoral states of the Indian Ocean, including Australia, and that consultations among these states are proceeding and are acquiring increasing support.

The failure of the Rapacki Plan for a nuclear-free zone in Central Europe, and of other initiatives that were no less persistently pursued, was due to the fact that they were aimed at altering existing security arrangements or the existing military balance in the area. On the other hand, the Latin-American initiative succeeded because it was a genuine cooperative effort undertaken by the countries of the region in order to keep nuclear weapons out of their area. The initiative was not aimed at any particular country or security arrangement but was perceived by the parties concerned as being in their common interest.

Moreover, the Latin-American countries went ahead with their project without requiring the participation of every country in the area. They were content to go forward with establishing the zone in the maximum area possible. If Cuba was not ready to join or the U.S.S.R. to give its support, the Latin-American countries were prepared to begin on a smaller scale and to work toward achieving their full goal in due course.

Since the African nuclear-free zone was also conceived as a genuine cooperative effort in the common interest of the African countries, it too has a chance of success. Here too, however, if the zone is to be created in the foreseeable future, it may be necessary for the countries of Africa to proceed without the participation of South Africa and Egypt. Even though the absence of these two countries, which are the most advanced in nuclear technology, would be a shortcoming that would reduce the effectiveness of the nuclear-free zone, there would always be the possibility of their joining later.

With respect to the other proposals for nuclear-free zones that are now being actively considered, namely for the Middle East and South Asia, the situation is entirely different. Since here the proposals seem to be more of a strategic and political move than a cooperative effort conceived and worked out in joint consultations by the main countries of the respective areas, the prognosis for them must be considered poor. The situation might, of course, change if genuine peace and minimum conditions of confidence are established between Israel and the Arab states or between India and Pakistan. In the absence of such developments it is hardly likely that a country can be politically maneuvered into accepting a nuclear-free status. No country would freely agree to become a party to any treaty, let alone one that could vitally affect its security, unless it considered that doing so was clearly in its interest, or at least not prejudicial to its interests. In fact, it is axiomatic that even if a country becomes a party to a treaty, it will not remain a party if it considers that events have changed the basic situation or have caused the treaty to be against its interests.

Nevertheless, the idea of nuclear-free zones is undoubtedly a good one. It provides a means whereby non-nuclear countries can, by their own initiative and effort, ensure their greater security. It can be an effective instrument not only to prevent non-nuclear countries in a given region from going nuclear but also to prevent the stationing or deployment of nuclear weapons in the countries of that zone by the nuclear powers. In addition it can be a means of obtaining pledges from the nuclear powers not to use or threaten to use nuclear weapons against any of the countries in the area of the zone. The U.S. and Great Britain, which refused to include such a peldge in either the Nonproliferation Treaty or the Security Council resolution for security assurances to non-nuclear states, have both agreed to a commitment of this kind by signing and ratifying Protocol II of the Treaty of Tlatelolco. China and France, which are not parties to the Nonproliferation Treaty or to the Security assurances, have likewise become parties to Protocol II. As I have indicated, it is also possible that the U.S.S.R. will become a party once relations between Cuba and the other Latin-American countries are normalized. Furthermore, nuclear-free zones would provide a sound reason and a logical basis for promoting the peaceful uses of nuclear energy by facilitating the establishment of regional nuclear-fuel-cycle centers for enriching uranium, reprocessing plutonium and handling nuclear wastes. In fact, it is not easy to visualize how regional or multinational fuel-cycle centers could be established except within some nuclear-free zone. The economic and security benefits, and the greater effectiveness of safeguards against diversion or theft of nuclear material, that would follow from having a large-scale regional center rather than a number of smaller national facilities are themselves powerful arguments in favor of the creation of such zones.

Moreover, such zones could avoid the discriminatory features of the Nonproliferation Treaty and provide the mutual security desired by countries that for one reason or another do not want to become parties to the agreement. Thus nuclear-free zones can be a very effective way of promoting and strengthening the nonproliferation regime. The creation of such zones would in no way conflict with the Nonproliferation Treaty but would provide a means for extending and reinforcing the objectives of the treaty.

Provided that the idea of a nucelar-free zone is conceived and promoted by the non-nuclear countries of a given area as a genuine effort to increase the security of all the countries affected and not just some of them, there is no reason additional nuclear-free zones should not be established in different areas of the world. Their establishment would be facilitated if the nuclear powers would demonstrate their wholehearted support for the creation of such zones not only as a means of preventing the further spread of nuclear weapons but also as a way of furthering the peaceful uses of nuclear energy and of providing security assurances to the countries in the denuclearized zone.

The Nonproliferation Treaty itself, although it does not explicitly encourage or facilitate the creation of nuclear-free zones, does nothing to discourage or detract from them. In fact, it gives them its blessing. The initiative, however, remains with the parties in any region. The nuclear-free zone is one of the easiest and best ways by which the non-nuclear countries can do something by and for themselves. In a number of important respects it provides a more effective means than the Nonproliferation Treaty does of maintaining and strengthening international peace and security.

KEY PROVISIONS OF TREATY OF TLATELOLCO

Key provisions of the Treaty of Tlatelolco are contained in three articles. Article 1 defines the main obligations of the treaty; Article 5 provides a definition of nuclear weapons; Article 18 deals with peaceful nuclear explosions.

ARTICLE 1

1. The Contracting Parties hereby undertake to use exclusively for peaceful purposes the nuclear material and facilities which are under their jurisdiction, and to prohibit and prevent in their respective territories:

(a) The testing, use, manufacture, production or acquisition by any means whatsoever of any nuclear weapons, by the Parties themselves, directly or indirectly, on behalf of anyone else or in any other way, and

(b) The receipt, storage, installation, deployment and any form of possession of any nuclear weapon, directly or indirectly, by the Parties themselves, by anyone on their behalf or in any other way.

2. The Contracting Parties also undertake to refrain from engaging in, encouraging or authorizing, directly or indirectly, or in any way participating in the testing, use, manufacture, production, possession or control of any nuclear weapon.

Article 5

For the purposes of this Treaty, a nuclear weapon is any device which is capable of releasing nuclear energy in an uncontrolled manner and which has a group of characterisitcs that are appropriate for use for warlike purposes. An instrument that may be used for the transport or propulsion of the device is not included in this definition if it is separable from the device and not an indivisible part thereof.

Article 18

1. The Contracting Parties may carry out explosions of nuclear devices for peaceful purposes—including explosions which involve devices similar to those used in nuclear weapons—or collaborate with third parties for the same purpose, provided that they do so in accordance with the provisions of this article and the other articles of the Treaty, particularly articles 1 and 5.

2. Contracting Parties intending to carry out, or to cooperative in carrying out, such an explosion shall notify the Agency and the International Atomic Energy Agency, as far in advance as the circumstances require, of the date of the explosion and shall at the same time provide the following information:

(a) The nature of the nuclear device and the source from which it was obtained.

(b) The place and purpose of the planned explosion,

(c) The procedures which will be followed in order to comply with paragraph 3 of this article,

(d) The expected force of the device, and

(e) The fullest possible information on any possible radioactive fall-out that many result from the explosion or explosions, and measures which will be taken to avoid danger to the population, flora, fauna and territories of any other Party or Parties.

3. The General Secretary and the technical personnel designated by the Council and the International Atomic Energy Agency may observe all the preparations, including the explosion of the device, and shall have unrestricted access to any area in the vicinity of the site of the explosion in order to ascertain whether the device and the procedures followed during the explosion are in conformity with the information supplied under paragraph 2 of this article and the other provisions of this treaty.

4. The Contracting Parties may accept the collaboration of third parties for the purpose set forth in paragraph 1 of the present article, in accordance with paragraphs 2 and 3 thereof.

U.S. TRADE POLICY—APPEARANCE AND REALITY

Mr. RIBICOFF. Mr. President, last year the Congress enacted the Trade Act of 1974. That legislation set as its goal the reduction and elimination of obstructions to and distortions of trade between this country and our trading partners around the world. The Trade Act also established procedures for dealing with the problems of individual industries that, of necessity, arise from time to time. During the last year we have had a chance to see how this far-sighted, innovative legislation has worked.

Mr. William Eberle, one of the principal architects of the Trade Act, has written an article which appeared in the New York Times this past Sunday. Mr. Eberle's article, entitled "U.S. Trade Policy—Appearance and Reality," is a clear and straightforward assessment of the Trade Act, its goals, its problems and its future. Mr. Eberle has articulated the important distinction between the long-term goals of the Trade Act and its provisions for dealing with the day-to-day problems that have been encountered along the road to the establishment of free, unrestricted trade.

Mr. President, I commend this article for its insights, particularly the intelligent separation of specific, short-term problems from long-term goals.

Mr. President, I ask unanimous consent that the article to which I have referred be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

U.S. Trade Policy—Appearance and Reality

(By W. D. Eberle)

A number of people have argued this year that United States trade policy is turning increasingly protectionist and that the Trade Act of 1974, the new legislative foundation for our trade policy, carries the potential for implementing that protectionism.

Commentators have based this conclusion on the rash of complaints—which they suggest have been encouraged by the Trade Act—filed in recent months against import competition by American industries and labor. This alleged protectionism has led some of our trading partners, most notably in Europe, to call into question the utility of the multilateral trade negotiations, which will resume Tuesday in Geneva. As a firm believer in a more open and equitable trading system, and as one of the architects of the Trade Act, I hope that these fears can be dispelled placing recent developments in perspective.

The Trade Act of 1974 pursued two fundamental goals among its several objectives. First, the act gave the President a mandate to enter into negotiations with other countries to lower trade barriers and to reform the rules of the international trading system. Second, the act reformed domestic trade-related law so our Government could better respond to the dislocations in domestic industry and labor that expanding trade can sometimes cause, and to unfair, illegal or unjustifiable trade practices in which other countries may engage.

A major objective in the minds of all participants in the current trade negotiations is the necessity for establishing new parameters for acceptable government and business behavior in international commerce by revising the rules governing trade. Enactment of the Trade Act assured United States participation in this effort.

The Government recognized that a policy of expanding international commerce depended upon broad domestic support for that policy. That support had eroded to some extent in the 1960's. Important segments of organized labor and the business community had reached the conclusion that temporary relief from injurious import competition was virtually inaccessible and that grievances over allegedly unfair import competition would not be given full or timely consideration in Washington.

The Trade Act amended United States law to create effective grievance procedures, including time limits within which Government decisions must be made. The functioning of this mechanism will not only help restore domestic support for our liberal trade policy but also will encourage our trading partners to be more responsive to proposals for establishing new guidelines for international trade during the negotiations.

The Trade Act, in fact, embodies two traditions basic to the American system of government: separation of governmental powers and an arm's length (and often adversary) relationship between business and government.

The Congressional mandate allowing the President to enter into trade negotiations and the grievance procedure Congress wrote into the new law are fully consistent with the responsibilities of Congress under the Constitution. It is, after all, Congress, not the executive branch, to whom authority to "regulate commerce with foreign Nations" is delegated. Thus, one of the basic tenets of our Republic prevents the President from exercising the administrative flexibility in implementing trade policy which other governments enjoy.

Likewise, our tradition of business-government relations inhibits the quiet development of a consensus among business and Government leaders on how to treat allegedly unfair imports that is the normal practice in other countries. Our system forces the resolution of such questions into open, quasi-judicial administrative proceedings in which the Government hears and weighs the arguments of contending interests and reaches decisions based upon the application of specific criteria laid down in the law. It is not infrequent that the judicial branch of government is ultimately required to settle such disputes.

These traditions, laws and administrative procedures to which they have given rise pertain only to the United States among the world's major trading nations. They have been one cause of many of the misunderstandings between America and its trading partners over United States trade objectives.

Another cause of these misunderstandings and the allegations of a protectionist shift in United States trade policy has, of course, been the recession. When national economies prosper and international economic transactions grow, industries and governments can be pleased with the improvement in their net position and show less concern for the relative distribution of the benefits of this prosperity among nations. Even in good times, however, conflicts can, and do, occur.

The number and intensity of these conflicts increases, however, in periods of economic decline when countries' net positions are improving at a slower rate or actually declining. As the rate of world trade precipitously declined in the past 18 months, the issue of the relative distribution of the gains from trade became more salient to governments, producers and workers in many countries. Governments came under pressure to curb imports and expand exports. Incipient conflicts that had been smoothed over by growth erupted.

It is alleged that the response to the recession in the United States has been excessively dramatic. Since the enactment of the Trade Act with its revised procedures and criteria for coping with imports, more than 50 complaints involving over $13 billion worth of United States imports—that's more than 12 percent of our total imports and 20 percent of our imports from the European Economic Community last year—have been under investigation by Federal Government agencies.

Foreign officials have worn a path to the State Department in recent weeks carrying protests, both official and unofficial. Two cases in particular have generated vigorous complaints from our trading partners.

These were an antidumping proceeding brought by the United Auto Workers and Representative John H. Dent, Democrat of Pennsylvania, against foreign automobiles and a countervailing duty case brought by the United States Steel Corporation over the rebate of value-added taxes on European steel exports to the United States.

Such investigations draw little attention when they are triggered in small countries, but when the world's largest and most open market appears to be preparing to close its doors to imports, a crisis of major proportions results.

So far, despite the large volume of complaints, few restrictive actions have been taken by Washington. As of last month, 15 of the more than 50 cases being investigated had been concluded. Of these, only one finding, covering some $5 million worth of Polish golf carts, has been decided against foreign interests.

This experience compares favorably with our Government's traditional record in considering such complaints and hardly makes a case for protectionism. From the end of World War II to the passage of the Trade Act of 1974, there were 169 petitions for relief from import competition under the so-called escape clause and only 21 decisions to grant relief. In that same period there were 595 complaints of dumping and only 67 findings of dumping.

This result is not due to any policy on the part of the Administration to be either more or less protectionist; the Trade Act does not permit that kind of discretion. Rather, it is the routine exercise of administrative responsibility to determine whether there is evidence of unfair foreign practices. The lessons to be learned from this are that grievances from business now bring prompt Government decisions and that such complaints do not indicate changes in the Government's trade policy.

We must recognize both the difficulties our trading partners encounter in trying to understand our system and the protectionist pressures to which the recession has given rise in all countries. Despite these obstacles, we must work together to manage the international economy. We can succeed, but success requires the creation of mutual confidence and a will to cooperate that is ill-served by excessive complaints and escalating rhetoric.

The rhetoric in which governments engage serves a useful function as a reminder of the pressures that everyone faces in a recession. Beyond a certain point, however—and we have most assuredly passed it—such rhetoric becomes counterproductive. The place to focus our attention is not on an exchange of accusations, thus artificially inflating the importance of strains in trading relations and complicating their resolution, but on solutions to the basic causes of the strains.

The day-to-day problems must be understood and managed but it is important that we do not let the business of coping with these immediate problems dominate our thinking and distract us from dealing with the larger, systemic issues that negotiators confront in the multilateral trade negotiations, in the International Energy Agency, in the International Monetary Fund, and in the United Nations.

If we examine the daily complaints about trade, we can see they are rooted not only in the worldwide recession but also in a number of basic issues being addressed in the main negotiations:

The United States import-relief law may be too permissive, yet negotiation on reform of the international escape clause remains stalled.

Subsidies and countervailing actions are a constant source of accusations and recriminations, yet an international code on subsidies is still wishful thinking.

Access to supply is a needed adjunct to access to markets, yet no dialogue to start remedying this problem has begun.

Many nations complain of Third World attempts to raise prices unilaterally while the result of these complaints is to forestall discussion on the availability of Third World commodities and on improved access by less-developed countries to the markets of the industrialized world.

The rules of the monetary system are inadequate to service the trade system, yet progress is held up here as well.

The point must be clear: The solutions to these broader issues carry with them many of the remedies for the immediate problems we confront. Many short-term issues could be managed better if there were a real political will among all nations to progress in the trade negotiations. The people of the world need to see their leaders at work on issues that are leading to over-all improvement in the system, and in particular, to the solution of long-standing problems. Further delays in solving the basic international economic issues—trade, monetary and others—will not only stir up more short-term problems but will create more world tension.

Managing the day-to-day strains while negotiating simultaneously to improve the trade system will enable us to build a mutually reinforcing confidence that we need to manage the international economy and that this will mean a better world. Concrete results in providing more open access to supplies and markets will help keep economies operating efficiently and with less inflation. Moreover expanded trade will create more jobs and a more open and balanced trading system will spread the benefits of world trade more fairly.

A better world is within our reach. The Administration understands these issues, but it takes more than one nation to implement them. I believe simultaneous negotiations is the direction in which world leaders shall be moving with all possible speed.

MARIANA SLOWDOWN

Mr. GARY HART. Mr. President, as the Senator from Virginia (Mr. Harry F. Byrd, Jr.) and I have been pointing out since last March, the administration's plan to absorb the Northern Mariana Islands into the United States has been proceeding without much notice by Congress or the American people. Lately, however, the Foreign Relations and Armed Services Committees have held the first extensive hearings into this subject, bringing to light many dubious features of the plan. As matters now stand, the Senate will not vote on the Marianas acquisition measure until sometime next year, giving all of us time to look before we leap on this important measure.

Before long, the hearing records of the two committees mentioned will be published so that this body will be able to inform itself on the financial, diplomatic and foreign policy implications of acquiring new national soil thousands of miles from our continent. I urge all of you to examine carefully this issue because uncritical passage will be an irrevocable act. This is so for the measure, if passed as written by the administration, cannot be changed by the United States without the concurrence of the yet to be established government of the Northern Marianas.

In an editorial published Monday in the New York Times, the sound point is made that the United States should not act on this measure until we learn how the Nation benefits from it. So far this has not been explained.

I ask unanimous consent that the editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Mariana Slowdown

Two Senate committees have fortunately applied the brakes to the Administration's drive to extend United States sovereignty and citizenship to the Northern Mariana island chain, far across the Pacific Ocean. Skeptical members of the Foreign Relations and Armed Services committees were successful last week in delaying further consideration of this little-understood measure until late in January.

There is good reason for going slow on this issue. Committee hearings last month raised doubts about the ultimate financial cost of this territorial annexation—the first by the United States in half a century. More significantly, it is becoming increasingly apparent that this country would be heading into a morass of international legal and political complications by unilaterally altering the conditions of a strategic trusteeship mandate conveyed by the United Nations in 1947.

And to what end? Weightier than the reservations is the lack of convincing affirmative arguments that it is in American interest to expand the territorial domain of the United States so close to the Asian continent. Much has been made of the plebiscite last June in which 78 percent of the registered votes approved union with the United States, in actual numbers, of the 15,000 residents, 3,945 persons voted for the covenant, 1,060 voted against.

As one prominent international lawyer, José A. Cabranes of Yale, testified: "If a part of the Philippines or a part of Honduras or a province of Sierra Leone or a province of Greece voted overwhelmingly to become a territory of the United States, we should certainly be flattered—but we should not necessarily conclude that the proposal to expand the territory of the United States makes sense."

We reiterate the argument we made back in July, when the House of Representatives approved the Mariana Islands accord after only the most perfunctory consideration. The burden of proof falls upon the advocates of annexation to explain why the United States should take on these new responsibilities.

FINLAND

Mr. HARTKE. Mr. President, the one nation that paid its war debts to the United States after World War I was the Republic of Finland.

Finland has had a long and lasting friendship with the United States and have regarded each other with mutual respect.

The Government of Finland is a constitutional republic with a parliamentary form of government, with three separate branches. The Finnish foreign policy emphasizes neutrality and friendship with all countries. This fact of neutrality allows Finland to live in peace.

Finland has one of the largest European cultural exchange programs with the United States and is presently showing an extensive Ikon Exhibition at the Smithsonian Institution.

In the near future Finnish icebreakers may appear on the Great Lakes which will enable the lakes to be passable year round.

Finland celebrated its National Day on December 6, and I wish Finland on behalf of the American people wholehearted congratulations.

THE SILVER CREEK WATERSHED

Mr. McGOVERN. Mr. President, farmers in South Dakota have been among the leaders in self-initiating soil conservation practices as well as utilizing the services of USDA's Soil Conservation Services. This combination had resulted in a long and happy marriage that has produced amazing results in a State like mine where every drop of water and every pound of runoff topsoil is important.

The November issue of the SCS publication Soil Conservation contains an excellent article on the historical development of the 20,000 acre Silver Creek watershed project located near our major city, Sioux Falls, S. Dak. The author of the article, Georgie E. Hofma, of the SCS in Huron, S. Dak., and the participants in the project should be recognized for their efforts. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SILVER CREEK WATERSHED

(By Georgie E. Hofma)

Twenty years ago, a farmer in southeastern South Dakota summed up a problem he and neighboring landowners had: "We get a lot of water here without any rain."

Pinpointing the problem, an agreement among the farmers that "something must be done" to protect cropland from reoccurring heavy runoff resulted in the Silver Creek Watershed Project—a project which covers 20,660 acres and includes six floodwater retarding dams.

Today, the Silver Creek Watershed Board of Managers reports that the project provides protection for 52 landowners to utilize fully the 4,200-acre flood plain. Conservation land treatment measures reduce soil erosion about 27,000 tons per year and reduce sediment entering the structures of streams by 2,700 tons annually.

The watershed project came about with the help of a determined and enthusiastic Watershed Steering Committee and Board of Supervisors of the Minnehaha Conservation District.

Faced with heavy runoff from the uplands and three crop failures in 10 years because of too much water, the committee and the board found strong support in the area for a watershed program administered by the Soil Conservation Service under Public Law 566.

A report from one of the early planning meetings of these two groups notes: "Sheet erosion can be checked by our land treatment program, but we definitely need detention dams and supporting conservation practices to keep excess water off valuable bottomland. Pastureland could be cropped if floodwaters could be kept off. Average yields on the bottomland, if protected, would be much higher than on upland. Annual fence and road damage is high, particularly where the sharp draws empty onto the flat land."

Planning authorization for the Silver Creek watershed was received in 1955 and the project was approved in 1957 for construction. The watershed district was organized the next year.

A "Who's Who in Cooperation" resulted, with interest and cooperation from the Extension Service, Agricultural Stabilization and Conservation Service, South Dakota Department of Game, Fish, and Parks, U.S. Fish and Wildlife Service, South Dakota Water Resources Commission, South Dakota Conservation Commission, Big Sioux Watershed Association, county commissioners, township boards, city commissioners, Sioux Falls businesses, commercial clubs, and the backbone of the entire endeavor, the landowners.

By 1959, 81 percent of the landowners in the project area were either installing or had completed needed conservation practices. Four of the six floodwater retarding dams were completed by 1962. During the next 10 years, problems involving location of dams and obtaining easements halted construction work, but, in 1972, these were resolved and the dams were completed.

"We are a goal-oriented people," said Odilo Hensen, chairman of the Minnehaha Conservation District Board of Supervisors. "For our type of diversified farming with most of the crops and hay produced being used in our livestock industry, we are looking forward to realizing 30 to 35 percent increased production now that we can plant on time and can use fertilizers without the fear of them being washed away.'"

Fence damage, removal of trash, and weed infestation previously cost a landowner $7 to $8 an acre. The project is estimated to reduce damage to fences, roads, and other nonagricultural property 65 percent.

Channel work was planned to preserve oxbows and trees, explains Charles D. Culhane, SCS district conservationist for Minnehaha Conservation District. Sediment traps provide pool areas for wildlife, and native grasses supply food and cover for birds and animals.

Work will continue in the watershed area to insure continuing benefits. The channel must be kept free of willows that would clog the channel floor. The artificial inlets in the channel banks that return minor overflows to the channel must be maintained and the grazing of native grasses along the channel must be controlled. Terraces need to be maintained, contour farming continued, and feedlots need to be planned to prevent pollution.

As one farmer in the flood plains commented, the sponsors and landowners have an increasingly important role in encouraging application of conservation measures to further preserve and enhance land and water resources in the Silver Creek watershed.

PROPOSED STRIP MINING REGULATIONS TOTALLY INADEQUATE

Mr. METCALF. Mr. President, these days we hear it said on all sides that America's store of coal will tide us over the difficult transition from reliance upon dwindling oil and natural gas to the development of new energy sources—fusion, solar, or whatever. I think this is true. I believe we should count ourselves fortunate to have readily available such a bountiful supply of fuel. However, expanded coal production will mean expanded strip mining with all its potential for environmental damage. The largest and most easily stripped deposits are Federal coal underlying the great farming and ranching lands of the West. Strip mining that coal in order to drive the generators and supply the conversion plants being planned to serve our metropolitan centers will be achieved at a cost—the using up of scarce water and the degrading of food- and fiber-producing areas.

Congress has struggled with this tradeoff for almost 4 years. As you know, on two occasions we have passed legislation allowing the strip mining of Federal and private coal under stringent environmental controls. Protecting the most sensitive and socially valuable lands while insuring restoration of mined areas to a condition at least as productive as before mining occurred, was the aim of that legislation.

We all know that the President twice vetoed that legislation. We remember how the administration joined forces with the coal and utility industries to raise smokescreens of misinformation, so confusing the issue that the President's veto was sustained by only three votes in the House of Representatives.

Now, several months later, the Department of Interior has come forth with a set of regulations to expand environmental protection in the mining of Federal coal, as published in the September 5 Federal Register. The Department is anxious to lift its de facto moratorium on Federal coal leasing—in effect since 1973, and rightly so. The Department says these new regulations will permit coal production with minimum environmental impact. The Department says the regulations will ensure that the Nation gains access to its coal resources without, in the process, ruining an important segment of its bread basket. The Department implies that it intends to do, by regulation alone, what the President has prevented the Congress from accomplishing through legislation.

With so much at stake, these new regulations deserve the most careful scrutiny. Let us ignore for the moment the question of whether control of strip mining by the States is at all adequate. Let us set aside the matter of surface owner rights and the long-neglected problem of abandoned mined lands. Let us even assume for the moment that the Bureau of Mines is carrying out a satisfactory program of coal research and manpower training. These are all aspects of H.R. 25 which the new regulations do not address in any way. Let us consider just one issue—whether these regulations are stringent enough, are specific enough, and allow enough public review so as to afford the needed protection of vulnerable lands in the West underlain by Federal coal.

Mr. President, after close examination of the proposed regulations, I have concluded that the proposed regulations fail these tests. By no stretch of the imagination can these regulations be termed adequate. As a matter of fact, these regulations are significantly weaker than proposals made by former Secretary Morton last January in a number of significant respects. This has been documented by the Environmental Protection Agency.

Under the guise of toughening up its requirements, the Department of Interior has, in actuality, weakened key performance standards.

On October 9 Senators Jackson and Haskell joined me in submitting a letter to the Department pointing out the glaring weaknesses in the new regulations. Subsequently, detailed criticisms and suggested revisions prepared by staff were also submitted.

We found the extremely general nature of these regulations most ironic. You may recall that one of the chief complaints directed against H.R. 25 by administration spokesmen at the hearings on President Ford's veto held on June 3 was that the bill was not specific enough. It was alleged that the bill's standards would be subject to conflicting interpretation, leading to all manner of court cases and other delaying tactics on the part of persons determined to prevent the surface mining of coal. Yet these regulations contain far less specific standards that did H.R. 25.

If the Department hoped to head off statutory standards for surface coal mining by proposing these regulations, their plan has backfired. The regulations—whether modified or not—are not in any way an acceptable alternative to eventual enactment of Federal legislation. Indeed, they are so weak and watered down that they demonstrate the need for statutory standards. The regulations make it clear that there is no alternative to the enactment of strong and equitable Federal legislation if we are to successfully combine coal production with effective reclamation of our lands and our water.

I ask unanimous consent that the October 9 letter and the detailed staff recommendation be printed in the Record, for the information of other Senators and interested parties.

There being on objection, the material was ordered to be printed in the Record, as follows:

October 9, 1975.

Mr. Kent Frizzell,
Acting Secretary of Interior, Department of Interior, Washington, D.C.

Dear Mr. Frizzell: We have reviewed the proposed regulations relating to environmental protection in mining of Federal coal, which were published in the *Federal Register* on September 5, 1975. We have several comments and suggestions.

Management of Federal coal lands must be based on comprehensive land use planning which considers all the the resource values of the lands. The leasing process must include procedures assuring fair return to the public treasury, thorough assessment of the potential for adequate reclamation, diligent development, and timely public review of governmental proposals to lease or not to lease.

Much Federal coal is going to be dug. There is no doubt about that. The critical question is: Who will benefit and who will pay the social and environmental costs associated with digging it?

We completely concur with the statement contained in the Department's notice of proposed rule making that in developing Federal coal resources it is imperative that "appropriate consideration is given to the serious environmental concerns associated with mining". Development, when balanced against these concerns, should be allowed to take place only when and under such circumstances as will assure the necessary protection. Thus, while the proposed regulations represent some advance, we are deeply troubled by certain features which will impede essential environmental consideration. They do not bode at all well for accomplishment of the Department's stated goal.

Briefly, the most troublesome aspects of your latest set of regulations are as follows:

1. Elimination of certain environmentally-significant features in the proposed regulations published by the Department on January 30, 1975.

2. Failure to place the burden of proof of reclamation capability upon the operator and failure to require written findings of such capability by the approving agency.

3. Failure to assign authority for final sign-off of the mining plan to the land management agency.

4. Inadequacy of provisions for public participation in and review of key decisions.

5. Absence of environmental protection performance standards.

6. Far too much discretion allowed to the Mining Supervisor.

7. Ambiguities relating to reclamation of jointly-affected private lands.

First, a comparison of the current proposed regulations with those published in the *Federal Register* on January 30 (30 CFR Parts 211 and 216) reveals the omission of various important requirements, together with the insertion of weakening language. For example, the new regulations in their definition of "logical mining unit" (Section 2112) would neither require that the area of land involved be compact, nor that the approved mining plan would necessarily govern, in contrast to the stricter provisions of the previous regulations.

Regarding compliance requirements in Section 211.3, the new regulations would no longer oblige the operator to carry out reclamation in an "environmentally sound manner and as contemporaneously as practicable with the mining operation"; nor would the operator be required to accomplish reclamation in accordance with established performance standards. Moreover, the operator's general obligation for environmental protection (Section 211.4) has been impaired by insertion of the term "to the maximum extent practicable". And in Section 211.42, the following sentence has been completely deleted: "The operator shall dispose of all solid waste resulting from the mining and preparation of coal in a manner that will not cause air and water pollution and will not spontaneously ignite."

The effect of such modification is to relax environmental protection standards under the new regulations much faster than under the earlier ones.

Second, the proposed regulations are devoid of the requirement that the operator bear the burden of proof as to his ability to successfully carry out reclamation operations and other provisions of the regulations. It is simply not enough to require the operator to indicate in his preliminary plan or in his mining plan the various measures he intends to use and the methods to be utilized, unless he is also required to show just how such measures and methods, given the manpower, equipment and technical know-how at his disposal, will achieve the ends called for by the standards. Strict regulation of surface mining has been all too frequently undercut by interpretations permitting operators to go through the motions of reclaiming without actually achieving the essential results.

Furthermore, the Mining Supervisor and land management agency officer should be required to make a written finding prior to issuing approval of the mining plan or granting licenses or permits under these regulations. The written finding should become part of the public record. Not only would this requirement ensure thorough examination of the assertions and stipulations set forth in the preliminary plan and in the mining plan, it would also provide a basis for the operator to appeal from an adverse decision.

We recommend that the burden of proof be placed upon the operator and that written findings be mandated.

Third, because the overall responsibility for long-term land uses and management of surface resources rests with the relevant Federal land management agency rather than with the Survey, the Mining Supervisor is not the appropriate officer to give final approval of the mining plan, as provided in Section 211.3. The ultimate decision regarding whether or not the mining plan is adequate in terms of reclamation measures necessary to restore the mined site to the planned types of usage properly belongs to the surface management agency, based on consultation with the Mining Supervisor and the written concurrence of the Environmental Protection Agency respecting applicable Federal and State environmental requirements.

We recommend that the land management agency receive signoff authority.

Fourth, we note an apparent reluctance to open the process of decision-making to public participation. We can readily understand how technicians often resent intrusion of the public into matters which are deemed to be within their particular sphere of expertise. However, if we have learned anything from the history of state strip mine regulation, it is that the best written law is no better than the vigilance of its enforcer. Too often that vigilance is woefully lacking. Congress, when it enacted the National Environmental Policy Act and various other environmentally-oriented statutes, recognized that the most effective way to keep an administrative agency diligent and lawful is to expose its decisions to public review. The same principle applies with equal validity in this instance.

We strongly recommend that you include provision for public hearings regarding lease tract selection and mining plan approval, public notice of the mining plan, public notice of abandonment of mining operations and bond release, and public notice in local newspapers of receipt of lease applications.

Fifth, contrary to the notice of proposed rule making, the regulations do *not* contain reclamation and performance standards. The effect of the broad latitude given the mining supervisor and the all-pervasive use of the qualifying phrase "to the maximum extent practicable" is to make a different and undefined standard applicable to every mine and every operator. We appreciate the need for some latitude to deal with the differences among various mine sites, but the language of the proposal is so broad as to be essentially meaningless and dangerously subject to abuse.

For example, the definition of "maximum extent practicable" is an open invitation to coal operators to avoid full compliance with the standards by pleading hardship—a dodge which is as old as the hills. Congress grappled with this issue time and again during consideration of the Surface Mining Control and Reclamation Act which was twice passed by Congress and twice vetoed by the President. Congress held that technical limitations and not an individual's economic limitations should be the allowable constraint on compliance. As used in these regulations, "maximum extent practicable" is almost certain to result in polluting discharges from mines, substandard waste treatment during actual mining, inadequate solid waste disposal, and the leaving of highwalls and open pits. We fear this will occur because responsible Federal officers are apt to take the easy way out in balancing the operator's costs against the tangible and intangible environmental benefits. The history of State regulation of surface mining tends to support this assumption.

Apparently, the operator would also have the option of choosing a level of environmental protection far below the level contemplated so long as that level is one "which can be achieved with commercially available technology". This phraseology offers another invitation to disregard the intent of the performance standards and to settle for whatever degree of control is convenient. The matter of economic feasibility is an issue which must be faced by the operator in the course of preparing the preliminary plan and when drawing up the mining plan. Questions of cost are properly his concern rather than the concern of the Federal agency. If the lessee cannot afford large dragline equipment which might be needed in order to extract the coal profitably, he has no business taking the lease in the first place. By the same token, if he cannot afford water quality monitoring equipment or other special apparatus needed to achieve required levels of environmental protection, he should relinquish the field to those who have that capability. The job of the Federal officer is to see that the public interest, as defined by law, is fully and promptly served throughout the entire process.

We strongly recommend deletion of the term "to the maximum extent practicable".

Sixth, a problem related to lack of clear-cut and specific standards is the excessive discretionary authority given to the Mining Supervisor in these regulations. For instance, the regulations contain no steep-slope standards. Although it is quite apparent that, although steep slopes may not be as prevalent in the western coal fields as in Appalachia, there will undoubtedly be occasions when topographic conditions require extraordinary stringency. In such cases the regulations would allow the Mining Supervisor maximum latitude to apply whatever additional requirements he may consider advisable. Once again, your people will be placed in a most difficult position. Sooner or later they will be faced with great pressure from the industry to allow corner-cutting—perhaps "in the national interest", which is to say, to permit mining at the least possible expense to the operator but at great cost to environmental values. It is naive to assume that such pressures will not prevail in most instances.

We strongly recommend more stringency and specificity in the environmental performance standards. These could include provisions for variances in certain circumstances. This would provide flexibility while retaining meaningful performance standards.

Incidentally, we find the extremely general nature of these regulations most ironic. You may recall that one of the chief complaints directed against H.R. 25 by Administration spokesmen at the joint committee hearings held on June 3 was that the bill was not specific enough. It was alleged that the bill's standards would be subject to conflicting interpretation, leading to all manner of court cases and other delaying tactics on the part of persons determined to prevent the surface mining of coal. Yet these regulations contain far less specific standards than did H.R. 25. In the same vein, we also wish to note our strenuous exception to a statement contained in the notice of proposed rule making to the effect that H.R. 25 failed to meet the objections which prompted the President's veto of S. 425, and "would have resulted in greater adverse impacts than that bill". This is utter nonsense and contrary to Secretary Morton's testimony on June 3.

Seventh, with regard to State reclamation laws, it is our firm conviction that all State air and water quality standards should be enforced on Federal lands, and that Federal reclamation standards should be at least as stringent as State laws, with the exception of cases where States prohibit surface mining. While we are gratified to note that the Secretary is to be empowered to apply State laws, regulations, practices and procedures as Federal law wherever he determines them to be at least as stringent as Federal requirements, we can foresee problems where the State laws and procedures are less strict and where a logical mining unit would encompass both Federal lands and private lands overlying Federally-owned coal. In such cases, the regulations are not clear as to the responsible Federal officer's obligation, if for some reason agreement cannot be reached with the private surface owner, to bring reclamation requirements into line with Federal standards.

We recommend clarification of the Federal agency's obligation to deny approval wherever reclamation on jointly-affected lands would not measure up to Federal requirements.

We appreciate the opportunity of reviewing the proposed regulations, and we must urge you most earnestly to consider the indicated deficiencies, which will be set forth in greater detail in an analysis which is now in preparation. These weaknesses are inherent. If not corrected, they could very well contribute to the devastation of large areas of the West, in particular the Northern Great Plains region which is about to enter a momentous period of industrialization associated with the mining of coal.

Sincerely yours,

Henry M. Jackson,
Chairman.
Lee Metcalf,
Chairman, Subcommittee on Minerals, Materials and Fuels.
Floyd K. Haskell,
Chairman, Subcommittee on Environment and Land Resources.

November 25, 1975.

Mr. Ronald Coleman,
Executive Assistant to the Secretary, Department of Interior, Washington, D.C.

Dear Ron: Enclosed are the more detailed comments on the Department's proposed coal surface mining regulations which we discussed last week. They supplement the basic objections raised by Senators Jackson, Metcalf, and Haskell in their October 9 letter to the Secretary.

I will be glad to discuss this with you or anyone else from Interior at anytime.

Sincerely yours,

D. Michael Harvey,
Deputy Chief Counsel.

Significant Changes in Proposed GS Regs—30 CFR Part 211

Following is an itemization of modifications which have been made in the proposed GS regulations as published in the *Federal Register* on January 30, 1975 (30 CFR Parts 211, 216). These are gleaned from a review of comments submitted by the Environmental Protection Agency in its critique of the draft environmental impact statement for proposed Federal coal leasing program issued by the Bureau of Land Management of Interior Department.

Sec. 211.2 Definitions. (o) The current definitions of "logical mining unit" omits some important constraints—(1) the term "compact" as applied to "area of coal land"; (2) the phrase "and in accordance with the approved mining plan" regarding developing and mining; and (3) concluding sentences allowing the Secretary to approve an LMU consisting of lands committed to contract under 30 U.S.C. 201-1 (which the Department is now anxious to remove from the statute) and authorizing approval of the LMU by the Mining Supervisor.

We have objected to item (1) in our comments. Item (2) and the Mining Supervisor's approval authority also deserve mention since the mining plan, as reviewed by the public and approved by the mining supervisor, is a key element in adequate enforcement and surveillance of the regulations.

Sec. 211.3 Responsibilities. Inspection requirements under (c) (1) have been made somewhat more specific by addition of the phrase "but at least quarterly". We have recommended that more frequent inspection is advisable.

Sec. 211.3 (c) (2) Compliance. The following significant provisions have been eliminated:

". . . and require that reclamation work be performed in an environmentally sound manner and as contemporaneously as practicable with the mining operation, within time limits prescribed by the Mining Supervisor; and that, in the case of mining operations for which performance standards have been established, require that reclamation be accomplished in accordance with such standards."

The proper timing of reclamation operations is often critically important to reducing avoidable environmental impacts to a minimum.

Sec. 211.4 General Obligations. In paragraph (c) the slippery term "to the maximum extent practicable" has been inserted regarding the operator's obligations regarding environmental control.

The term "as contemporaneously as practicable" has been inserted into a subsequent sentence dealing with reclamation of leased or permit lands. Why this term was transferred from Sec. 211.3(c)(2) is not entirely clear, except that that provision in the previous regs was broader in its application and made specific mention of time limits prescribed by the Mining Supervisor.

EPA recommends that this paragraph should require conformity with all applicable State and Federal requirements.

Sec. 211.5 Public Inspection of Records. EPA recommends that paragraph (a) include some sort of mechanism whereby appeals from decisions to withhold privileged or confidential information may be had.

Sec. 211.10 Exploration and Mining Plans. Omitted from paragraph (b)(3)(ii) is the following phrase:

"Such measures shall include the actions necessary to meet the requirements of the applicable Federal and State environmental regulatory agencies."

EPA recommends this phrase be restored.

Sec. 211.10(d) Changes in Plans. EPA suggests provision for public review of changes in plans. This suggestion was adopted by applying Section 211.5(b) for major modifications of plans. Also, consultation with the authorized officer of the Federal land management.

COMMENTS ON PROPOSED GS REGULATIONS 30 CFR PART 211

Sec. 211.2 Definitions. (See comments on subpart 3041.05.)

(o) Logical mining unit should be defined as a "compact area of coal land". This limitation would preclude portions of logical mining unit from being scattered between counties or even between States, while also avoiding the too-narrow requirement that all portions be adjacent or contiguous. Without some such limitation there is no assurance that the concept of logical mining unit may not be used to evade diligent development and continuous production requirements of the Mineral Leasing Act.

Sec. 211.3 Responsibilities. (c) (1) Inspection of operations. Inspection by the mining supervisor should occur on an irregular basis, averaging not less than one inspection per month for operations covered by each lease; should occur without prior notice to the lessee, permit fee or licensee; and should require an inspection report in writing for every inspection. This would ensure regular, objective surveillance of all operations, minimizing opportunity for collusion between supervisor and operator.

(c) (2) Compliance. There should be absolute assurance that reclamation requirements will give cause for orders of non-compliance, bond forfeiture and denial of further leases, permits or licensees pending proper remedial action.

(c) (3) Reports and recommendations. All reports should be in written form. Copies of any records, reports, inspection materials or information obtained by the mining supervisor should be made immediately available to the public at the nearest BLM office and at central and sufficient locations in the county, multicounty and state area of mining so that they are conveniently available to residents in the area. This will ensure timely opportunity for public review of compliance by the operator.

(c) (8) Cessation and abandonment of Operations. Prior to approval of cessation of or abandonment of operations, the mining supervisor should (in addition to consulting the authorized officer of the land management agency) also consult with and get concurrence from the appropriate officer of the Environmental Protection Agency.

(c) (11) Water and Air Quality. The mining supervisor should be required to both determine and enforce compliance with air and water quality control measures and standards.

(c) (13) Reclamation Bonds. Determination of the amount of the performance bond should be based on the cost of a third party completing all reclamation requirements under the approved mining plan.

(c) (14) Consultation. Consultation with EPA should be required of the mining supervisor to ensure the adequacy of compliance with air and water quality standards, before any approval, disapproval or modification of exploration and mining plans.

Sec. 211.4 General obligations of lessees, etc. (c) "To the maximum extent practicable" should be deleted.

(d) Monitoring. In addition to any other monitoring equipment and methods which may be necessary, the lessee, permittee, or licensee should be required, for operations which remove or disturb strata which serve as aquifers affecting the hydrologic balance, to establish specified monitoring sites both upstream and downstream of the mine site and in potential zone or influence. The operator should be required to record levels, amounts and samples of ground water, including water in strata directly below the coal seam to be mined, to record well logs and bore hole data, and to monitor precipitation. Regulations should set forth in detail standards and procedures to assure the reliability and validity of the monitoring data. The mining supervisor should have access at any time to records and monitoring equipment in order to verify the results.

Sec. 211.5 Public Inspection of Records. (a) The designation of "commercial or financial information" as being privileged or confidential is overly broad. This provision could exclude important information in the operator's reports. Narrower criteria should be set forth, applying only to information which is clearly proprietary because directly affecting the operator's competitive position.

(b) Public comment on the mining plan should not be restricted to written form. In cases where substantial disagreement with issuance of the mining supervisor's approval of the mining plan has been expressed and adequately documented, opportunity for public hearing should be provided, with adequate advance notice. At this hearing the burden of proof should be upon the operator to show in detail how the mining plan will comply with all applicable statutes and with the regulations.

Sec. 211.10 (b) Exploration Plans. This paragraph should specify submission of a USGS topographical map or its equivalent, showing the location of all surface bodies of water within or near the area to be explored.

Sec. 211.10 (c) Mining Plans. This paragraph should include all applicable provisions of section 507 (application requirements) and section 508 (reclamation plan requirements) as contained in H.R. 25. The information required in this paragraph is not adequate to provide either the mining supervisor or the interested public with a complete view of the operator's relevant background, intentions and capability. For instance, no statement is required as to the operator's previous record of suspensions, violations or revocations of bond under Federal surface mining permits. Nor are requirements included for a copy of the newspaper advertisement from the operator indicating the exact location and boundaries of the mining site or logical mining unit, and where the mining plan may be inspected by the public. Map requirements are insufficient as to scale and as to location of buildings within 1000 feet of the permit area.

Also there should be required a statement of the result of test borings or core samplings from the mined area, including logs of drill holes, thickness of the coal seam, analysis of chemical properties of the coal, sulfur content of the coal, chemical analysis of potentially acid or toxic forming sections of the overburden, chemical analysis of stratum lying immediately below the coal to be mined, etc.

Also lacking is any requirement for public liability insurance or evidence that the operator has satisfied Federal or State self-insurance requirements.

(d) Change in plans. Any major modification affecting the geographic extent, hydrology, method of mining or recovery of coal, whether proposed by the operator or by the mining supervisor should be subject to public hearing procedures as recommended for section 211.5 (b). Also, the mining supervisor should be authorized to approve, modify or disapprove outright any proposed revision of the plans.

(e) Partial plan. The above recommendations should apply with equal force to any partial plan.

Sec. 211.13 Failure of Lessee to Furnish Maps. Failure of the operator to reimburse the cost of any map required by the mining supervisor which the operator has failed to provide or which is inaccurate should be grounds for non-compliance order and action to withdraw the lease.

Sec. 211.32 Multiple Seam Mining; Underground Mining. The mining supervisor should be required to make an assessment of the impact of the proposed mining plan on any known coal seams lying above or below the seams of coal to be mined. This assessment should indicate the sequence and methods of mining which would result in maximum long-term recovery of the coal within the site to be mined. He should prepare his assessment in consultation with the appropriate land management agency and the Bureau of Mines. This assessment should become a part of the public record.

Sec. 211.40 Operating and Reclamation Standards. (a) Performance standards. (1) In order to prevent future disturbance to an area which has already been mined and reclaimed, the operator should be required to achieve maximum recovery of the coal as well as of other commercially valuable minerals associated with the coal.

(a) (2) The operator should be required to reclaim the land concurrently with the mining operation.

(a) (6) The operator should be required to ensure that sources of water supplying the proposed impoundment are adequate to maintain the water level within reasonable limits of fluctuation.

(a) (7) The operator should be required to fill all auger holes with an impervious and noncombustible material in order to prevent drainage. Seepage through the sealing material, if permitted, is likely to undo the plug in time.

(a) (8) (ii) The regulations should specify the manner in which backfilling and grading is to be kept current with mining operations, both as to lands where a bench results from the operation and lands where area mining occurs, including a schedule for augering following surface mining.

Sec. 211.72 Enforcement Orders. (a) In a situation where, in the mining supervisor's judgment, hazards threaten "immediate, serious or irreparable damage to the environment, the mine or the deposit being mined or other valuable ore-bearing mineral deposits or other resources", the mining supervisor is to be mandated to order immediate cessation of such activities. A similar provision in Part 3041 (proposed BLM regulations) includes among the threatened items "health and safety of the employees and the public". In view of the fact that safety hazards are not infrequent in mining operations, the mining supervisor should have the additional responsibility and opportunity of preventing serious or fatal injury to people as well as resources. The broader BLM regulation should be adopted.

COMMENTS ON PROPOSED BLM REGULATIONS, PART 3040

It would appear advisable, since the statement of purpose establishes the general conceptual framework for the regulations, that there be some recognition of the necessity of restoring the mined site to a condition that will support land uses which were possible prior to mining. In the long term, potential uses of the land after the coal has been removed will often prove to be more significant, particularly where ranching and farming are concerned, than the short-term value of the coal, no matter how large that value may loom at present.

The policy statement regarding privately owned surface over Federally owned minerals which is set forth in the third sentence, is laudable in principle but lacks elaboration within the regulations to indicate just how equivalent reclamation would be accomplished on the private lands. During the briefing session, counsel for the Department stated that these clarifying provisions would be spelled out in the manual of operations due to be written following promulgation of the regulations. Presumably the manual would provide latitude for the mining supervisor to refuse approval of a mining plan covering non-Federal lands unless the lessee had previously arrived at a satisfactory agreement with the owner of the private lands for reclamation provisions at least as stringent as the Federal requirements.

However, because these regulations are to serve as substantive guidelines to the mining supervisor, it is both appropriate and necessary to include stipulations which would authorize the withholding of approval for a mining plan which failed to include a plan with those contained in these regulations. This would remove any confusion as to whether the mining supervisor was exceeding his authority in so doing.

Failure to spell out the equivalency provisions in greater detail seems to indicate the Bureau is prepared to welcome court action to deal with the uncertainty. There is a question whether, if State reclamation requirements should be less stringent than the

Federal requirements, the mining supervisor would still be empowered to deny approval of a mining plan which did not raise the State requirements up to or beyond the Federal level, or conversely, if citizens adversely affected by deficient reclamation on privately-owned lands would have standing to sue the Federal Government.

3041.0-4 Responsibilities. (d) In cases of disagreement between the Geological Survey and BLM (or other land management agency) over approval of exploration or mining plans, this paragraph implies that the Survey would have the last word. BLM, according to paragraph (c) "formulates the requirements to be incorporated into leases, permits and licenses for the protection of surface and non-mineral resources and for reclamation." It would therefore seem that the mining plan should conform to BLM's requirements, rather than vice versa. Post-mining uses of the land will be determined by BLM (and in the case of private land, by the private owner). However, by the terms of paragraph (d), BLM would not be granted overriding authority where "further discussion" with Survey proved fruitless.

As the agency having long-term responsibilities for the land, BLM would seem to merit final authority or concurrence in such determinations. Paragraph (d) should so state.

3041.0-5 Definitions. (c) "Approximate original contour" as defined is similar to the definition contained in H.R. 25, the Surface Mining Control and Reclamation Act of 1975 (vetoed by the President), a parenthetical clause—"(although not necessarily the original elevation)"—which is generally in keeping with the intent of the bill, has been added.

A more significant change is the deletion of reference to the elimination of "all highwalls, spoil piles and depressions" and to the exception of water impoundments when permitted by the regulatory authority. Since BLM coal lands generally cover thick coal seams overlaid with thin overburden, mining the coal will in most instances leave a sizable depression which is clearly impracticable to fill completely.

Nevertheless, the use of available spoil to reduce highwalls, while perhaps not adequate for entirely eliminating such highwalls, is nevertheless an important step toward the preparation of the mined area to prevent hazards to livestock and local population and to blend it into the surrounding topography and drainage pattern. Regarding spoil piles, there is no excuse for allowing them to remain ungraded. Spoil piles should be completely eliminated.

Therefore, the definition of "approximate original contour" should include elimination of spoil piles and reduction of highwalls.

(k) "Maximum extent practicable" is entirely unacceptable. In essence, this extenuating phrase would allow an operator to plead excessive costs in his efforts to dodge environmentally stringent requirements. In so doing, the Bureau would effectively invite the weakening of its own standards, placing its personnel in the extremely difficult position of determining whether the operator's cash flow situation would not carry the expense of complying with a given standard. How are the dollars and cents cost claimed by the operator to be measured against "all tangible and intangible environmental and other benefits which would be derived"? Such a benefit-cost analysis will be complex in the extreme, if not impossible.

"Significant valley floor vegetation". This definition restricts the word "meadows" so as to exclude pasture lands from its meaning. Admittedly there is good reason to remove undeveloped rangelands from the protective effect of the definition. The intent is to insure that areas of intensive food production are restored to their pre-mining productive levels, and undeveloped range does not generally require as careful preservation of the hydrologic regime as do agricultural lands which are irrigated or subirrigated.

However, pasture located on western alluvial valley floors is frequently a significant part of farming operations. As such it is susceptible to permanent damage through inadequate hydrologic treatment during reclamation and should therefore be included within the scope of this definition. The definition should read, ". . . or meadows with significant recreational, watershed, agricultural or wildlife habitat value."

3041.0-6 Coal leasing, permitting and licensing planning procedures.

(b) During consideration of tract selection, the matter of notifying and consulting with other agencies, applicants and interested groups should not be left entirely to the discretion of the BLM official responsible. Parties who may or may not be directly involved could well provide crucial inputs of information to assist the BLM officer in his determination as to whether or not a given area should be mined. The regulations should require mandatory notification of all areas and local groups, agencies and industries which might be affected by the proposed mining operation, in order to afford timely opportunity for response.

Also needed is better provision for the holding of public hearings in cases where a reasonable proportion of the responding parties indicate that hearings are desirable.

(e) The "special terms and conditions" which the BLM official is to be authorized to impose on the operator would presumably be incorporated into the lease terms. This should be so stated.

3041.0-7 Performance Standards. (b)(3) The term "to the maximum extent practicable" is unnecessary here, if the definition of "approximate original contour" is revised as has been suggested above. In that event it becomes clear that backfilling rather than complete elimination of highwalls is required and that AOC is not intended to restore the original elevation in all cases. The second sentence of this paragraph serves to explain in greater detail how thick-seam-thin-overburden sites are to be treated.

Waiver of this standard should be allowable only as part of the approval of the mining plan and only after public comment and opportunity for public hearing. The language of this paragraph seems to imply that the appropriate BLM or Federal land management officer could make a decision to allow such exceptions on an ad hoc basis. A decision of this importance should only result from thorough study and consideration by all those directly or indirectly involved, i.e. following notification and public hearing.

The operator should also be required, as in H.R. 25, Section 515(b)(7), to protect off-site areas from damage during the operation and to refrain from depositing spoil or locating any part of the operations outside the permit area, thus ensuring that unavoidable damage will be restricted to the actual area under permit and covered by the bond.

(b)(8) The hydrology standards set forth here are deficient in a number of respects. First, the aim should be to minimize disturbance to the prevailing hydrologic balance at the mine site and associated off-site areas, rather than to the "prevailing quality and quantity of water in surface and ground water systems". The reason for making reference to hydrologic balance is that the flow of water through the site, from and into adjacent areas, can be as critical a factor in maintaining the argricultural and vegetative productivity of affected areas as the quantity or quality of that water. Restoration of the mined site so that the flow is neither significantly impeded on the one hand nor hastened on the other, can be of major importance.

Second, some areas which are not immediately adjacent to the mined site may either draw or provide a supply of water to the site. The impact on these areas should be kept in mind when considering the necessity of taking precautions to protect hydrologic factors.

Third, "controlling" acid or other toxic mine drainage, as required by this paragraph is less preferable than use of the term "avoiding" which connotes a stronger mandate to reduce such drainage to the absolute minimum.

Fourth, "restricting the flow of water through acid or other toxic-producing materials" is similarly less forceful than the requirement in H.R. 25—"preventing or removing water from contact with toxic producing deposits".

Fifth, as in the case of the definition discussed previously, the term "to the maximum extent possible" as defined, will open the door for the operator to dodge necessary water treatment facilities on the grounds of economic hardship. Far better, since the degree of technology does determine the effectiveness of the protective measures to a large extent, would be substitution of the term "to the extent possible using the best technology currently available". This would ensure that as long as certain equipment on the market would achieve the best possible protection, the operator should be required to install that equipment.

Sixth, removal of siltation structures should be mandatory insofar as they are capable of impounding water. Any impoundment retained after completion of reclamation should properly come under the provisions of sub-paragraph (8). In other words, a siltation structure serves as a strictly temporary function different from an impoundment.

Seventh, a waiver of the requirement to remove siltation structures should require the "concurrence" and not simply consultation with the surface management agency.

Eighth, restoration of the recharge capacity of the mined area to its approximate premining condition should be explicitly required, particularly if there is no mention made in this paragraph of the need to minimize disturbance to the prevailing hydrologic balance at the mine site (discussed above).

Ninth, it is not enough to protect only the quality and quantity of upstream and downstream surface ground water resources of valley floors, since movement of water into, through and out of the mined area, as well as the holding capacity of the mined area itself are aspects of a system which is best described as "the essential hydrologic functions". Preservation of those functions would not preclude any disturbance, but it would require that in some way quality, quantity, storage and flowage are all maintained in order to preserve the future productive capability of the land.

It is noteworthy that the reach of subparagraph (iv) would extend to valley floors which are not necessarily alluvial, but through which water passes on its way to other valley floors, whether alluvial or not, where "significant valley floor vegetation" exists. This standard extends beyond the valley having agricultural or other important vegetation, in keeping with the concept of the hydrologic functions.

(b)(10) The rationale for reducing the barrier between surface mine operations and active and abandoned underground operations from the 500 feet prescribed in H.R. 25 to 200 feet is presumably an outgrowth of the assumption that BLM or the concerned land management agency has access to accurate and complete maps of the underground operations. This may well be, but if the underground mines are located on private lands, then the accuracy of plats and maps may be open to serious question. A 200 foot margin of error may not prove to be enough to void accidental breakthroughs.

The 500 foot limit should be retained, with a proviso that an exception could be made in the approved mining plan by the mining supervisor but only with the concurrence of the surface management agency and only after opportunity for public hearings. This would afford miners whose safety might be threatened by accidental breakthroughs a chance to assure themselves that the margin of error would be adequate.

(b)(11) Concerning impoundments used for the disposal of coal mine wastes and other liquid and solid wastes, a similar provision should be inserted as a guarantee that any waiver of the prohibition against the use of mine or processing wastes in the construction of such impoundments would not imperil downstream communities or settlements. Authorization of such a waiver in the mining plan should be subject to concurrence by the surface management agency and should follow adequate public notice and opportunity for public hearing. It is conceivable that the "sound engineering standards and practices" set forth in the first sentence could be nullified by a mining supervisor's arbitrary allowance of the incorporation or coal fines in the construction of the impoundment, thus wiping out the protective feature of this paragraph.

Sound engineering standards and practices should be established with concurrence of the Chief of Engineers. Provision for removal of existing disposal impoundments in whose construction mine wastes have been incorporated should be included prior to approval of the mining plan, or if a plan is in effect, it should be so modified.

(b)(12) In provisions for the treatment of waste there is an implicit assumption that the operator will be able to comply with an absolute prohibition against air and water pollution and fire hazards resulting from the disposal of "rubbish and noxious substances", but he will be unable to comply with a similar prohibition covering disposal of solid wastes resulting from mining and preparation of coal. Again, by injecting the phrase "to the maximum extent practicable", the regulations would effectively invite a lowering of these environmental requirements as they apply to such solid waste. This is quite unnecessary.

Since parameters for air and water pollution are already established by Federal law and since the operator must comply in any event, it is difficult to comprehend why the regulations should inject this element of uncertainty and evasion into what should be a straightforward requirement.

Certainly disposal of mine wastes and processing wastes constitute one of the primary ongoing sources of pollution associated with coal mining. To weaken this crucial performance standard in such a manner raises serious question as to the intent of the regulations.

(b) (13) Limitations on the use of explosives fail to include important side effects from blasting. These should be impressed upon the operator as hazards to be avoided in planning for size, timing and frequency of blasts. They are: change in the course, channel or availability of ground or surface water outside the permit area; and adverse impacts on any underground mine. These two limitations should be added to subparagraph (ii).

(b) (14) Access facilities, (such as roads and utility lines) as part of the operator's responsibility applying to environmental and property protection have also received latitude similar to that unfortunately and needlessly accorded other standards. The operator is to comply only to the "maximum extent practicable", thus effectively presenting to both operator and mining supervisor the option of lowering the requirements to conveniently attainable levels.

Introduction of economic considerations which the definition of this term would thrust into the forefront of all such decisions, is almost sure to make the Federal role in bringing about strict enforcement more difficult. It would be far wiser instead to utilize the terms found in H.R. 25—"control or prevent". This offers some latitude without intruding the cost factor in such a dominant manner as to undercut compliance.

(b) (15) This subparagraph proposes a ban against building roads in or near streams. It is ambiguous—what is meant by a "drainage channel that would seriously alter the normal flow of water therein"? Adoption of language from H.R. 25 is recommended.

(b) (16) This subparagraph requires the revegetation of the affected areas. Any exception to the requirement for use of native species should be limited by its being essential for achieving the planned post-mining land use, as shown in the mining plan.

(b) (17) The operator's period of liability for revegetation would be any period up to but not beyond ten years, at the discretion of the surface management agencies' official. This provision has serious implications for surface mining on western lands, where according to the study completed by the National Academy of Science (Rehabilitation Potential of Western Coal Lands) there is grave doubt about whether or not revegetation can be successfully accomplished in certain large areas even over very long periods of time.

A calculated risk would be taken at the time the lease is issued, that the revegetation would be successful. After ten years, if vegetation failed to established itself, the operator would have no further responsibility. In order to minimize this risk, the liability period should begin running from the date of final treatment of the planting, and in areas having less than 26 inches of annual rainfall, the full ten-year period should be mandatory.

(c) and (d) The authority granted in these paragraphs for revision of lease, permit or license to add more stringent requirements once more places considerable discretionary power in the hands of the agency officials concerned. Department counsel has explained that this option was chosen instead of that of setting specific stringent standards, (such as a ban on mining on steep slopes) because it would allow maximum flexibility to meet local conditions. Of course, every mining plan must be site-specific and therefore considerable latitude must be allowed the mining supervisors and by extension the authorized officer of the surface management agency.

However, the troublesome aspect of this approach is that it allows no recourse for citizens who may have very good reason to believe that more stringent requirements should apply in a given instance, or over a given region. There is no way in which a soil conservation district, for example, could ensure that a particular mountain area where flash floods and siltation would have a very adverse effect on downstream farm lands would be precluded from mining. The discretion rests *entirely* with the mining supervisor and with the BLM official.

This lack of specificity is a fatal flaw throughout these regulations comparable in its effect with the lack of provisions for public review and hearings where waivers and exceptions to the standards are allowed. Together these deficiencies are more than likely to undercut the effect of the regulations, and in the interests of maximum flexibility severely reduce the overall value as a means of protecting environment and property.

Nor is it an adequate substitute for stringency to add the generalized propositions contained in paragraphs (f), (g), and (h), dealing with the operator's responsibilities for visual, fish and wildlife, and cultural and scientific resources. Strangely, these three provisions are not incorporated into the proposed GS regulations. If they are truly significant, it would seem they should appear in both regulations.

(e) This paragraph, dealing with surface effects of underground mining, is lacking in several important respects.

First, there are no provisions covering construction, operation, maintenance or abandonment of impoundments for mine wastes, as found in paragraph (b)(11) above. Recommended changes in that paragraph should apply equally to this paragraph.

Second, there are no provisions covering treatment of surface waste piles, as found in paragraph (b)(9). These are major oversights because underground mines are just as apt to need adequate treatment of mine wastes as surface mines.

Third, there are no provisions covering the sealing of portals, entryways, drifts, shafts or other openings when no longer needed for the operation.

Fourth, there are no provisions requiring the filling and sealing of exploratory holes and maximizing return of mine waste as far as possible.

Fifth, there are no provisions for revegetation on regraded and affected surface areas.

Sixth, there are no requirements for protecting offsite areas from damage resulting from the operation.

Seventh, there are no provisions for eliminating fire hazards and other hazards to public health and safety.

Eighth, there are no provisions requiring minimization of disturbance to the hydrologic balance at the mine site, in terms of toxic drainage and suspended solids in particular.

Ninth, there are no provisions for the surface impacts of haulage roads, storage areas and the like.

3041.1-1 Preliminary Plan. The Department counsel mentioned that a supplementary set of regulations were in preparation which would allow exploratory activity by the prospective lessee as part of his preparation of a preliminary plan. It is not clear what relationship there would be between the preliminary plan and the exploration plan required under proposed 30 CFR Part 211.10. If the technical examination environmental analysis is to be based on the preliminary plan rather than upon the exploration plan, then it appears that the BLM authorized officer and the mining supervisor would not have available to them adequately detailed and specific information and data on which to base their analysis report prior to leasing, as the preliminary plan requirements are extremely sketchy.

It is also unclear in section 3041.5 whether or not the preliminary plan would be available to the public for inspection. It should be made available.

3041.3 Basis for denial of lease. (a) Denial of an application for a lease, permit or license to conduct coal exploratory or extractive operations is presumably to be at the discretion of the BLM officer—although this is vague—based on the applicant's previous failure to comply with an approved exploration or mining plan. The question arises as to what circumstances would impel the appropriate officer to issue a lease, permit or license in such a case, aside from the circumstances outlined in the succeeding sentence, where the affected lands have subsequently been reclaimed without cost to the Federal Government.

Because the good faith of the applicant may be determined largely on grounds of his previous record, it follows that in cases where the operator has reneged and failed to redeem himself, denial of the application should be mandatory, not discretionary.

3041.4 Compliance or performance bond. (a) The cost of complying with reclamation requirements should be computed according to what a third party would charge to do the job. This is the only realistic basis, since in the event the operator should forfeit his bond, the Government will be obliged to contract to have the necessary reclamation completed.

(b) Release of bond procedures are inadequate.

Regulations should state that final bond release is not to be undertaken until reclamation is completed and until suspended solids in water draining from the mined area do not exceed natural levels under season flow conditions as measured prior to any mining and as set forth in the mining plan.

3041.5 Public notice and inspection of records. It is assumed, although not specifically so stated, that the operator's preliminary plan would be available for public inspection together with his application. It is also assumed that the results of the technical examination/environmental analysis would also be available for public scrutiny. This should be clarified. The publication of the notice in local newspapers should not cover less than a period of four consecutive weeks. The proposed language implies that the period could be shortened and should therefore be corrected.

3041.6 Reports. Prior to final release of his bond, the operator should be required to submit copies of letters which he has sent to adjoining property owners, local governmental bodies, planning agencies and sewage and water treatment authorities, (where appropriate) notifying them of his intention to seek release from his bond. Any such person or agency should have the right to file written objections within 30 days and opportunity for hearing should be provided as well. The report of the mining supervisor and the land management officer should be also available for public inspection. Similar public inspection and hearing provisions should apply to abandonment of the operation, so that portions of the surrounding community most likely to be adversely affected over the long term by any inadequate reclamation will receive timely opportunity to assess the degree of protection which has been achieved on their behalf.

3041.7 Notice of noncompliance; Revocation. (b) In situations where noncompliance threatens immediate, serious or irreparable damage to environment, resources, or health and safety of employees and the public, action to halt such activities should be mandatory, not discretionary, on the part of the authorized officer. Notices of non-compliance should be made available to the public by posting in the proper BLM office, by posting by the county clerk of the affected county, and by letter to the surface owner of any privately owned lands involved.

DECEMBER 2, 1975.

Mr. RONALD COLEMAN,
Executive Assistant to the Secretary, Department of the Interior, Washington, D.C.

DEAR RON: This supplements my November 25 letter forwarding detailed comments on the Department's proposed regulations covering environmental protection for surface mining of Federal coal lands.

I am concerned that the comments may have inadvertently given you the impression that it was the Committee staff's view that retention of highwalls should be permissible under certain circumstances, as long as they were reduced. Such is not the case.

The general environmental protection performance standards contained in H.R. 25, as passed by both House and Senate earlier this year and as subsequently vetoed by the President, contain provisions in section 415(b)(3) which would require the operator to "grade in order to restore the approximate original contour of the land with all highwalls, spoil piles and depressions eliminated." This provision recognizes the special reclamation problems associated with areas where the coal seams are thicker than the overburden, resulting in not enough spoil for returning the mined site to its original contour and elevation.

In such cases, H.R. 25 would require that the operator "at a minimum, shall backfill, grade and compact (where advisable) using all available overburden and other spoil and waste waterials to attain the lowest practicable grade but not more than the angle of repose, to provide adequate drainage and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region."

This language was specifically written to cope with a situation commonly found on Federal coal lands. It well expresses the intent of the Congress that all highwalls should be eliminated even though it may not be feasible to restore the mined site to its original elevation due to lack of sufficient spoil and waste material.

Sincerely yours,
D. MICHAEL HARVEY,
Deputy Chief Counsel.

THE NOT-SO-GREAT ENTERTAINER

Mr. HARTKE. Mr. President, I would like to bring to the attention of my colleagues this article which appeared recently in the Indianapolis News and written by Mr. Harvey Jacobs. I share Mr. Jacob's concern of the quality of programs available for television viewing.

I would like to share this article with my colleagues so that they too might be made more aware of this situation.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE NOT-SO-GREAT ENTERTAINER

(By Harvey Jacobs)

A man I know who spent his most productive years as a writer and legal consultant for motion pictures and television says he gets sick almost every time he looks at television or goes to a movie.

His theory as to why these media have become so shabby is that movies and TV programs (the crime-police stories especially) are being made by shabby people. Generalizations must be discounted, but he says the producers and program directors are mostly a low-class, crude, ignorant and cynical lot—worse than at any time in his 30-year experience in Hollywood.

He resigned as legal consultant to one of the "big names" because when he tried to correct legal errors in the script, he was first ignored then told to keep quiet. Authenticity was not needed.

VIOLENCE IS NEEDED

What is needed? Raw violence, he says.

Watching one of the new fall shows, we saw three murders in the first three minutes. Not a devotee of detective-police stories in books or TV, I forced myself in recent weeks to watch some of these shows and try to imagine how an impressionable child would be affected.

It was faulty role-playing because no adult—and especially a print-oriented adult—can completely empathize with a 10–14-year-old. But here are a few conclusions.

First, American life is cheap—an obvious deduction. Bodies are mowed down in bulk; gang hits are made for less than the cost of a new bicycle.

Second, murder is commonplace. Thus, murder is "not so bad." Police take lives. Criminals take lives. What's the difference? One national study says an average American youth can be expected to watch 11,000 TV murders before he is 14.

Third, there is so much anti-social behavior on TV and in the movies it, like murder, appears close to the norm. Deduction: all families fight, scream, steal and rip off the "other" world.

Fourth, almost any crime can be rationalized. You're black, you're poor, you're on welfare, your uncle was a wino, your aunt a shoplifter, you were in prison once before. Therefore, you're doomed to be a product of your environment and you can't be blamed for that.

MURDER AT AGE 14

Fifth, I believe if I were a 12–14-year-old watching 46 hours of TV a week (average time now), I would conclude that almost any problem can be, and in most cases must be, met with or solved with violence. School, business, professions, politics—all of them have common denominators in crime and violence.

What is the connection between higher crime rates (13 percent the last six months) and television-movies? Some studies say very little, but one authority, psychiatrist Dr. Frederic Werthman, says:

"If the mass media seduce only one child each year to unfeeling, violent attitudes, and this child influences yearly one other, there would be in 20 years 1,048,575 violence-prone people."

After two years of research an assembly of intellectual potentates, called the Surgeon General's Scientific Advisory Committee, reported: "The causal relationship between televised violence and anti-social behavior is sufficient to warrant appropriate and immediate remedial action . . ."

Another group of psychologists found that 8 to 11-year-old children who were hardened TV viewers were more reluctant to try to stop a staged fist-fight between younger children than a comparable group who had not been subjected to violence on TV. The habitual viewers tended to be entertained by the fight while the others wanted to stop it.

A CASUAL RELATIONSHIP

The French writer, Jacques Ellul in his book, "The Technological Society," wrote: "Television, because of its power of fascination and its capacity of visual and auditory penetration, is probably the technical instrument which is most destructive of personality and human relations. What man seeks is evidently an absolute distraction, a total obliviousness of himself and his problems . . ."

It would be the height of injustice to condemn all of television for its partial preoccupation with crime and violence. Much of what we see is excellent.

But there are unmistakable signs that the rotten apples are about to spoil the whole barrel. The evidence is in; TV violence is exerting a frightful power upon us all, and especially the young. It must be turned around, not by government regulation, but by us who control the on-off switch.

THE POLITICIZATION OF THE UNITED NATIONS

Mr. HUMPHREY. Mr. President, Mrs. Geri Joseph recently wrote a very thoughtful column for the Minneapolis Tribune in which she discussed recent attempts in the United Nations to make Israel a focus of attack and criticism. As I have stated in the past, I believe that such efforts not only weaken the United Nations but jeopardize the chances for successful peace negotiations in the Middle East.

It is questionable as to how long the

United States can sit back and watch the General Assembly of that world body used for the political purposes of a few states anxious to exploit the tension and instability in the Middle East and other regions of the world. It is my sincere hope that the Foreign Relations Committee would meet soon after the recess in early 1976 to hold extensive hearings on the United States and the United Nations.

I agree with Mrs. Joseph that we should not withdraw from the United Nations. This would only let others set the terms for our membership in that organization. But exactly what steps we should take should be considered carefully by the executive and legislative branches working in concert.

I do not see how the United Nations can be an effective international institution if efforts are made to oust one of its member states from the varied international activities under U.N. supervision. The harassment of Israel within the United Nations must cease if the American people and their elected representatives in Congress are to regain confidence in the United Nations.

Mr. President, I ask unanimous consent that this column be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

(By Geri Joseph)

Last-ditch defenders of the United Nations always fall back on one persuasive argument: It is better to talk than fight. But, alas, words are not neutral. Used with malice and deceit, they are a threat to peace no less than a loaded gun.

In recent days, the world has had an ominous example of an aggressive and inflammatory use of words that could have devastating results not only for the existence of the United Nations, but for the fragile efforts to prevent war in the Middle East. An Arab-inspired resolution labeling Zionism a form of racism was passed in the U.N. General Assembly by a margin of 72 to 35 with 32 abstentions.

It was not the first effort to use the United Nations for dangerous political purposes, nor was it the first attempt to make Israel a pariah. But this action, coming so soon after the Egyptian-Israeli agreement on the Sinai, is bound to reinforce a considerable body of opinion both in and outside Israel that the Arabs seek not real peace with that tiny nation, but a means to secure its death.

To that end, they are using skillfully the economic power of Arab oil, the binding tie of religion with 10 non-Arab Moslem countries and support from the Soviet bloc and Third World countries influenced by Russia and the People's Republic of China.

Zionism, which the U.N. General Assembly damned with the much-violated word "racist" is—by more rational definition—a movement with two major goals: freedom to emigrate for Jews who live in countries hostile to them and the establishment and development of the state of Israel. Zionism has been called the oldest national liberation movement in history.

It is tempting to cry bigotry and hypocrisy and cite the cruel treatment by governments of people within the borders of many nations that supported the anti-Israel resolution. However, it is more useful to examine the deliberate pattern of politically inspired acts that is destroying the credibility of the United Nations.

U.N. supporters emphasize that much of the valuable work is done in the assorted agencies and conferences of the organization. But the Arabs have brought their holy war against Israel to both forums. Consider these examples:

In the U.N. Economic, Social and Cultural Organization (UNESCO), the Arabs—using the same combination of votes that passed the Zionist-racist resolution—led the fight to cut off all financial assistance to Israel for scientific and cultural projects. The spurious reason: Israel's archaeological excavations were endangering monuments in Jerusalem.

Through Arab influence, Israel also was denied membership in a regional group, which is the working arm of the UNESCO agency. Israel was the only country thus excluded. And last May, UNESCO's executive board refused to permit Israeli participation in two conferences which were to propose treaties to assure mutual recognition of university degrees among Mediterranean countries.

In the U.N. International Labor Organization (ILO) and World Health Organization (WHO), Arab efforts won recognition for the virulently anti-Israel Palestine Liberation Organization (PLO), although the PLO met none of the requirements for recognition.

Earlier, the WHO assembly refused to accept a report from one of its medical experts on the physical and mental health of Arabs in Israel's occupied territories. The reason: The doctor had found that medical-care standards had not declined. Indeed, "in some areas, there were manifest improvements."

The anti-Israel crusade even found its way into what was supposed to be a meeting on equality of the sexes, the International Women's Year Conference in Mexico City last July. Not only did the Arabs lead a delegate walkout when Leah Rabin, wife of Israel's premier, spoke, but they succeeded in writing a condemnation of Zionism into a final conference declaration.

One more example. Next year, the United Nations will sponsor an international conference in Vancouver, B.C., on urban problems. Out of this conference will come a permanent U.N. agency to promote worldwide programs and activities. Specialists in city planning, architecture, sociology and housing will participate. The Israelis could make a contribution; their urban areas have been called "veritable laboratories of applied sociology."

But at two preparatory meetings, the Arabs have begun a campaign to exclude Israeli representation. Final decision rests with a 56-member international committee in which the Arabs reportedly can count on a minimum of 30 votes. Is there any doubt that the Israelis will be barred?

No responsible nation—or individual—can take much pleasure in what is happening to the United Nations. And what is happening is that countries with 10 percent of the world's population and 5 percent of its production can put together a majority vote to promote their own political interests.

Prof. Hans J. Morgenthau put it this way: "Today, the core of a typical voting majority of the General Assembly is composed of ministates . . . lacking in all or most attributes of nationhood, who enjoy the semblance of sovereignty only by courtesy of the world community and who could not exist . . . without foreign subsidies."

For the United States to drop out, however, is not the answer—although somewhere down the road that may be the only alternative. Instead, this country must put its money where its interests are and speak out forcefully for its beliefs.

U.S. TAXATION OF FOREIGN CORPORATE EARNINGS

Mr. HARTKE. Mr. President, for some years I was the Senate sponsor of what came to be known as the Burke-Hartke foreign trade bill. This bill, which the business community regarded and still regards as one of the most controversial pieces of legislation in history, among other things would have changed U.S. tax treatment of foreign corporate earnings. The bill would have changed the foreign tax credit to a deductible business expense and eliminated deferral of U.S. taxation of foreign income.

These policy changes have been attacked vigorously and vociferously by the business community since the early 1970's. It is thus interesting to observe yesterday's Wall Street Journal editorializing in favor of the foreign tax position I have advocated. The article by Lindley H. Clark, Jr., labels the foreign tax credit and tax deferral as subsidies, which they are, and questions their viability as policies.

I commend the article to the attention of my colleagues, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SPEAKING OF BUSINESS

(By Lindley H. Clark, Jr.)

BACKDOOR MERCANTILISM

As a matter of national policy the U.S. subsidizes foreign investments of American corporations.

One subsidy is the foreign tax credit, which allows U.S. companies to use foreign tax payments as a direct offset against U.S. taxes instead of merely deducting them from taxable income.

Another important subsidy is the deferral privilege, which delays U.S. taxes on earnings of foreign-based subsidiaries until the earnings are actually brought back to the United States. In the meantime the company has the benefit of what amounts to an interest-free loan.

These statements sound simple enough, especially for the incredibly complex field of international economics. Yet they can and do stir up fierce controversy.

Defenders of the present system of taxing foreign income are especially incensed by the word "subsidy." But there is nothing inherently either bad or good in a subsidy. The question is whether the public's benefits equal or exceed the public's costs.

Wilson E. Schmidt of Virginia Polytechnic Institute and State University considers this question in "U.S. Taxation of American Business Abroad," a study published by the American Enterprise Institute for Public Policy Research and Stanford's Hoover Institution. Simply stated, his answer to the question is, "No."

For a decade or so after World War II, subsidizing U.S. corporate investment in plants and facilities abroad unquestionably served a U.S. public purpose: helping to rebuild a war-ravaged European economy U.S. private capital and technology played important roles in the European revival, and most of the taxes on earnings of U.S. subsidiaries abroad went to foreign governments.

Tax incentives alone would not have drawn U.S. business into the task of rebuilding Europe. American companies obviously saw opportunities to expand markets and profits. But in the early postwar years some sort of a case could be made—Prof. Schmidt doesn't make it—for capital-export subsidies as a form of foreign aid.

By the 1960s, of course, the situation had greatly changed. European recovery was a fact, not a hope. European—and Japanese—companies were providing stiff competition for U.S. corporations, not only in markets abroad but in the U.S. itself. The U.S. chronically was spending, lending and investing more abroad than foreigners were spending, lending and investing in the U.S., which is a more complicated way of saying we had a serious hemorrhage in our balance of payments.

Exchange rates were fixed, so payments couldn't be adjusted by varying currency values. Instead, foreigners started accumulating large piles of U.S. dollars, some of which they occasionally exchanged for U.S. gold. When the gold began running out, the U.S. twisted a few foreign arms to discourage the dollar-gold exchanges. Finally, in 1971, we stopped the exchanges altogether and devalued the dollar, and the world finally wandered into floating exchange rates.

That brought us to a new situation, which is Prof. Schmidt's main concern: "Before the float, if the United States exported too much capital, foreign monetary authorities had to buy the surplus dollars and leave them in the United States, in effect lending back the money we loaned the rest of the world. Our exports and imports were unaffected.

"With the float, the balance of payments has to balance. The dollars we pay out to foreigners through imports of goods and services, through aid, and through capital exports must equal the dollars we earn through exports of goods and services and voluntary foreign investment here. . . .

"The mechanism for ensuring this is the floating exchange rate. If we increase our investment abroad, the extra supply of dollars on the foreign exchange market forces a decline in the value of the dollar in terms of foreign currencies. This restricts our imports as foreign goods become more expensive, and encourages our exports as our goods become cheaper. . . .

"By floating, we stimulate our exports and restrict our imports until they match our aid and investment. Now to subsidize capital exports will lead to more exports and fewer imports, and we must give up the excess of goods and services. This is the way in which the subsidized capital exports represent a cost to the United States: The extra exports of goods and services and the forgone imports could have been used at home, for domestic investment or domestic consumption."

This is why Prof. Schmidt says the capital export subsidies amount to backdoor mercantilism. It is mercantilism because it promotes exports and it is backdoor because it is indirect.

What should be done about it? Prof. Schmidt would not object to an approach that involved cutting the U.S. corporate income tax to zero. "Investment committees would choose between domestic and foreign investments on the basis of the no-tax return of the domestic investment and the after-foreign-tax return of the investment abroad," he writes. "Both would accurately measure the contribution to the U.S. economy of the investments."

His alternative suggestion is more politically realistic: remove the foreign tax credit and treat foreign taxes as a deduction, and remove the deferral privilege. Congress quite possibly may move in that direction, even if it does not go that far, in the next year or two.

Prof. Schmidt does not argue that we should not subsidize the exports of either goods or capital; he merely contends that the present method is an inefficient way to do it:

"If we wish to promote exports we should either provide a straight subsidy . . . or we should cover a larger part of the transaction with credit, thus enlarging the loan but at higher rates than prevail at home. If we wish to raise real incomes abroad we should do it by means of annual grants or high-interest loans."

If that were done, we at least would have a clearer idea of what we were doing.

SOLAR EQUIPMENT IS AVAILABLE

Mr. McINTYRE. Mr. President, Senator HATHAWAY and I completed a series of five hearings which we held through the Select Committee on Small Business to look at the problems inherent in the development of solar energy. We found that the absence of a national solar energy policy, problems with government regulation, and the need for tax incentives, were all slowing down development of this environmentally sound, inexhaustible, and nonpolluting energy source. However, we did find that there is substantial capacity in the United States to produce solar collectors, a number of design firms equipped to build homes using solar systems, and a market for the systems that is rapidly developing.

In New England, for instance, there is an ever-increasing interest in the development of solar energy. Solar research through many research establishments is well established. A regionwide program to bring the soon-to-be-established Solar Energy Research Institute to New England has wide support—including mine. And, perhaps, most important, groups of private companies are coming together to install and develop solar home heating equipment to cut consumers' long-run fuel bills. One program, which I urged be established, is run by the New England Fuel Institute, a group of 1,300 small business fuel oil dealers.

So much interest in New England has been shown that the New Englander, a regional business magazine, recently published a major article by Richard N. Livingstone on the development of solar energy, including a section which lists designers, developers, and manufacturers of solar equipment in the six-State region.

My recent vote to increase the appropriations for the Energy Research and Development Administration solar program shows my concern that the American public should be encouraged by their Government to move quickly to adopt this energy source for home heating and cooling. Remarks that solar systems do not work are discounted daily in press reports. One, from the Washington Star, reiterates my position that solar heating and cooling equipment is usable now.

Much needs to be done, though, to encourage solar development. Recently, a story in Business Week showed that solar equipment still has a long way to go before it has complete consumer acceptance. Much work needs to be done by the Energy Research and Development Administration to popularize solar equipment. Research should continue on the possibilities of using better technologies while we encourage commercialization of existing systems.

I ask unanimous consent to have printed in the RECORD the New Englander, the Business Week, and the Washington Star articles.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New Englander,
December 1975]

THE SEARCH FOR ALTERNATIVE ENERGY

(By Richard N. Livingstone)

The winds of change are blowing these days at the summit of New England's highest peak. On the top of 6,288-ft. Mt. Washington, where the highest wind speed in the world (231 mph) was recorded in 1934, plans are moving ahead to install one of man's oldest power sources: a windmill.

Funded by the New England Regional Commission through a grant to New Hampshire's Office of Comprehensive Planning, the windmill will be operated by the nonprofit Mt. Washington Observatory. "We will record energy output and assess what is needed to maintain the installation so that we can determine the feasibility of using wind power from mountain top locations to generate electricity," explains Observatory President Alan A Smith.

If the test is successful, the program may be extended to provide power at other state-owned facilities, such as the top of nearby Cannon Mt. The base for the new power plant is expected to go in this fall, with the windmill completed by this spring.

IN THE WIND

The Mt. Washington project is a small, low-cost ($7,200) first step. But it is symbolic of a much wider effort underway across New England to tap alternative energy sources—wind, solar, and water—as a replacement for the conventional coal, gas, and oil.

The experiment is also symbolic of the arrival of a new industry in the region—one that could dramatically lift the entire New England economy. Supplying the Mt. Washington windmill is a one-year-old Brunswick, Me., company, Zephyr Wind Dynamo Co., a small producer of wind generators, control systems, and components. In recent months, representatives of several large utilities have knocked on Zephyr's doors. And business is otherwise bustling. Says company President Bill Gillette, "We have more orders than we can fill."

Other New England windmill companies report exploding interest in their products. Solar Wind Co., E. Holden, Me., says it has received more than 40,000 letters and requests for their 40-page, $2 booklet, *Electric Power from the Wind*, in the last year and a half.

But such interest is only part of the recent alternative energy ground swell gathering up scores of new and established NE companies. "Electronics row" along Boston's Rte. 128 is taking on the appearance of a solar highway as companies such as Tyco Laboratories, Itek Corp., Mitre Corp., and Raytheon plan for solar profits.

Joining them are firms such as Sanders Associates, Nashua, N.H., one of NE's largest employers. According to Don Ross at Sanders' Merrimack facilities, "We expect to have a solid business base in solar energy before the end of the year, and foresee considerable growth in this field."

SUN HAS COME

Solar energy, insist those closest to it, is not 10, five, or even two years away. For some applications, it is here now.

Thanks to aggressive home builders, solar heated homes are going up so fast that those in the field admit they have lost count. The 10th edition (since June 1974) of "Solar Heated Buildings: A Brief Survey," by Harvard reseacher and physicist William Shurcliff, shows 168 solar buildings built or under construction.

Discounting numerous projects in the works, it is estimated that there are over 30 solar-heated private and commercial buildings already completed in New England, the majority of which are homes. Some have been built by industrious owners; others constructed by firms in the solar systems and components business; a few by forward-thinking residential contractors.

One Vermont manufacturer of solar climate control systems, Sol-R-Tech, Inc., held an educational seminar in September for Boston area architects, contractors, and mechanical engineers, and landed seven orders. Another company, Sunsav, Inc., a one-year-old Lawrence, Mass., firm licensed by Itek to manufacture its solar collector, claims to have installed 75 solar hot water systems.

Gary Nelson, president of Daystar, Inc., Burlington, Mass., manufacturer of solar collectors and solar hot water systems, reports that "the market is expanding so rapidly that our backlog and anticipated demand will exceed our capabilities." Keith Harrison, vice pres., Kalwell Corp., Manchester, N.H., manufacturer of solar components and complete systems, cites a "tenfold increase" since the first of the year in inquiries for its "Sunwall" solar panel.

PHASING INTO FOSSILS

The need for alternative energy sources is as clear now to most Americans as last winter's heating bills. Our demand for energy (with 6% of the world's population, we use 33% of its energy) has been growing at a rate of about 4.5% each year. Yet fossil fuel (coal, oil, and gas), the source of that energy, are running out. The world's entire supply of oil, says the National Academy of Sciences, will be gone in just 50 years; the Middle East, at current consumption rates, will be drained dry in 30 years. And the prognosis for natural gas is even worse.

More immediate reasons for the search for new energy sources include the need to decrease our heavy dependence on foreign energy supplies, growing concern over polluton from oil and coal-fired power plants, and the astronomical rise in the price of oil, with no end in sight. (NE depends on oil for over 80% of its energy.)

Even nuclear power makes no sense to many Americans. We don't yet know, they say, how to properly dispose of nuclear fuel wastes. Respected scientists question whether atomic power plants are safe, and suddenly, too, as Westinghouse Electric has pointed out, atomic plant construction costs have shot up, along with the price of uranium.

WHAT COMES NATURALLY

In contrast, wind, sun, and water, are not subject to foreign control. They do not pollute the atmosphere. There are vast quantities of them available (enough solar energy falls in the U.S. every 20 mins., it has been estimated, to fill the country's power needs for a year.) And they are a cheaper source of energy to tap, when compared with the cost of mining coal, drilling for oil, or transmitting power.

Solar heating in particular offers special advantages for NE. Although the region has fewer average hours of sunshine per year than Arizona (2,200 to their 3,400), this is offset by our heavy energy consumption and highest-in-the-nation fuel costs.

Testifying last April before the New Hampshire House Ways & Means Committee, Bruce Anderson, president of Total Environmental Action, a three-year-old Harrisville, N.H., firm which is nationally known for its work with alternative energy sources, stated that, "The long heating season, coupled with high fuel rates, makes New England among the best places in the country for using solar energy to heat buildings . . . In our work for the American Institute of Architects, in which we designed solar houses for the four major climatic zones of the country, Boston came out on top in the actual heating energy saved."

If NE can benefit from solar heating, it is also in a good position to benefit from another application—the solar cell, a semiconductor device that converts sunlight into electricity. Developed by Bell Laboratories in the early 1950s, the cells are widespread in spacecraft (over 1,000 U.S. and Soviet satellites are powered exclusively by solar cells). They have also been installed in several experimental solar homes.

MAKING CELLS ECONOMICAL

The problem, however, is the high cost of solar cells. Silicon cells used in space satellites cost from $100,000 to $200,000 per kilowatt compared with the $250 per kw cost of electricity from a coal-fired plant. One approach has been to develop solar cells using materials slightly less efficient, but much less expensive, than silicon.

Several NE companies are making substantial progress in developing solar cells for economical earth power. One is Solar Power Corp., Wakefield, Mass., a subsidiary of Exxon Corp. The three-year-old company markets its solar cell packages to consumers in remote locations throughout the world at prices of from $20,000 to $50,000 per kw, far below the $150,000 per kw for spacecraft cells. According to Solar Power's Bob Willis, "Our market is growing because our prices are now competitive with diesel generators, and have a reasonable payback period."

If $20,000 per kw is progress, Tyco Laboratories, Waltham, Mass., has a projected price that represents nothing short of a breakthrough. Tyco has come up with a new process to produce silicon in ribbon form, bypassing the costly grinding method.

Tyco claims the new process will eventually cut the cost of solar cells to $200 per kw ($50 per kw below coal-fired power) and that solar cells will be used to provide electricity for homes by 1985. Mobil Oil has invested $30-million in Tyco's process, with Harvard University, and the two companies have formed Mobil Tyco Solar Energy Corp. to bring it to market.

POWER FROM SPACE

The region has also taken the lead in what may be the most significant long-term application of solar cells. A Satellite Solar Power System (SSPS), first proposed in 1968 by Dr. Peter E. Glaser, a vice president of Arthur D. Little, Inc., and one of the world's foremost authorities on solar energy, would use solar cells in a satellite or orbiting power station to pick up undiluted solar energy in space and beam it back through microwaves to earth stations for conversion into electricity.

Since getting a NASA go-ahead for the project, which is expected to be in operation by 1997, Dr. Glaser reports steady progress in developing the system. Recent experiments indicate that it might be possible to convert 80% of the power from microwave transmission to electricity. Teaming up with him in the 1973 study which convinced NASA that the project showed promise were Raytheon, ADL, Grumman Aerospace, in Bethpage, N.Y., and the Spectrolab division of Textron, which was recently sold to Hughes Aircraft.

Another large research effort under way in the region is wind energy conversion systems. NE's first pioneering effort in this field was a landmark experiment which took place in 1940 when a 125 kw wind generator was installed at Grandpa's Knob, near Rutland, Vt. The device fed power directly into the lines of Central Vermont Public Service Co.

SOLAR/WIND HOUSE

More recently, at the University of Massachusetts, in Amherst, the School of Engineering is participating in a $130,000 NSF grant project called New England Wind Furnace, in which an experimental house heated by both solar and wind power will be built on campus. The 32½ ft. diameter windmill, driving a 25 kw generator, will be built at the University's School of Engineering. William E. Heronemus, a professor at the school and one of the world's foremost wind power authorities, has proposed a plan to supply all the region's electricity from a network of giant windmills along the NE coast.

Also researching wind power is Kaman Aerospace Co., a subsidiary of Kaman Corp., Bloomfield, Conn. Kaman is developing designs under a $500,000 NSF-funded project for wind energy conversion systems in the 100 kw to 200 kw and 1,000 kw to 3,000 kw ranges.

The region's utilities, once open critics of windmill power, have made an about-face. Northeast Utilities, for one, is helping Kaman find the best way to introduce a wind generation system into existing power lines. Boston Edison Co. is currently negotiating with the Federal government's Energy Research and Development Administration on a test project to construct windmills on Long Island, in Boston Harbor.

Utilities are also exploring solutions to wind power storage problems. It has been proposed that individuals with wind power systems feed surplus power into ultility networks, and then draw power from the utility during no-wind periods. Under a program funded by the New England Regional Commission, MIT is developing a special wind generator unit that would be able to convert power to feed into a utility's alternating current.

Central Vermont Public Service is currently monitoring one such system, called a gemini synchronous converter, which has been installed on a farm in Tunbridge. The 300-watt wind generator was manufactured by Northwind Power Co., Warren, Vt.

Work is also proceeding on this same concept at Zephyr Wind Dynamo Co. "We have had several utilities come to us who are interested in generating alternating wind current to feed into their lines," says Bill Gillette, adding that "it is still an experimental project at this point."

COMPETITIVE IN FIVE YEARS

TEA's Bruce Anderson points out that wind is "still expensive, and costs several times more than having electric power installed." (The cost of electricity by wind power is estimated at over 20¢ per kw hour). At the same time, Anderson believes that there are definite advantages where electric costs are high and wind velocity is good, and that prices for wind energy conversion components will drop "dramatically" with mass production. "Within five years or less, there will be wind energy devices competitive with electricity in every part of the country," he predicts.

Other companies working on wind power components include Natural Power, Inc., a New Boston, N.H. firm, and newly-formed Enertech Corp., Norwich, Vt., headed by a former space program scientist. Enertech recently acquired marketing rights for two foreign made windmills from Solar Wind Co., whose president, wind pioneer and former aeronautical engineer Henry Clews, has become honorary chairman of the new firm.

MARKET IN REMOTE AREAS

Solar Wind Co., which was formed in 1972, has found growing interest in its products from contractors, especially those building new homes in relatively remote areas, or vacation homes. Most of the firm's systems have been sold for sites 2,000 ft. from the nearest utility pole, or "wherever there is good access to wind and poor access to power lines," says a company spokesman. Last summer, SW sold 24 wind plants, including windmill kits and wind speed measuring equipment.

If wind power must for now bow to economics, the same is not true for applications in the solar thermal field. Perhaps nowhere else, in fact, is alternative energy advancing as rapidly, or the promise of cheap and abundant resources as bright, as in solar heating.

Arthur D. Little, now in the second phase of a multimillion dollar three-stage study to assess solar climate control prospects for more than 90 companies, has projected a possible market of $1.3-billion by 1985. If government and industry take prompt action, off-the-shelf marketing of packaged solar systems through mass retailers could be a reality in three years.

ADL's D. Elliott Wilbur, manager of the firm's housing, construction, and building materials group, sees the market developing this way: the first use of solar energy on a large scale will be to produce hot water for both old and new homes. The next market will be solar space heating for newly constructed homes, followed by heating systems installed (or retrofitted) into existing homes. So far, according to Wilbur, the institutional and commercial market for solar energy systems is solid, but still quite small.

HOT WATER TAKES OFF

The use of solar energy for producing resident hot water has several advantages. "The price is low, the payback is good, since you use hot water the year round, and the technology is easy and well understood," says ADL's John P. Thompson.

"Solar energy is here now, as far as hot water is concerned," says John M. McNamara, president of Automatic Energy Corp., a Rehoboth, Mass., firm, which is affiliated with a 30-year-old Florida company with over 1,000 solar hot water installations on its books.

"We point out," says McNamara, "that with a solar hot water system you hold utility bill constant. But we also take the investment approach. The amount a family can save depends on factors such as family size and amount of hot water used. We charge $1,600 for an installed system, and the average family of four can save $160 a year. That is like a 10% return on investment each year out of the $1,600 spent."

Return on investment is also what should sell such systems to bottling plants, laundromats, cement plants, and other big users of water, according to John Bassett of Sol-R-Tech. "The volume is the key, since savings are measured in the cost of water used," he notes. "If a businessman spends $2,000 a year to heat water we can show him how to save $1,500 a year if he spends $6,000 for a solar hot water system. That's a 25% return on investment with a payback period of four years."

What worries many in the field, however, is that consumers have no way of evaluating different hot water systems on the market.

MASS. ELECTRIC TESTS HEATERS

Working to help solve that problem, Massachusetts Electric Co. and its associates in Rhode Island and New Hampshire have launched an experimental program to install solar hot water heaters in 100 homes to test as many as 11 different types of equipment. Customers will pay $200 for each unit, and Mass. Electric will pay the remaining $800 to $1,400 for installation. Participants in the $250,000 test program will own the units after the one to two-year program. Company officials anticipate participants will save 50% on water heating costs; and the utility hopes to determine if such installations can help reduce peak power loads.

The program is significant for several reasons. It is the first such large-scale program in the nation and, as ADL notes, it is a case of "private industry doing it on its own." It is also helping to gauge the market for such systems. The $200 price is what the utility thinks the systems will cost once they are mass produced. (The rule is one sq. ft. of collector for each gal. of hot water required per day; the average family uses 40 gal. per day, and the company is betting that collectors will cost $5 per sq. ft.) At the $200 price, to judge from what the utility describes as the "tremendous response"—5,000 inquiries a large market does exist.

UTILITIES' SELF INTEREST

Perhaps even more significant is the further evidence that utilities are interested in solar energy. Utilities must have facilities which they can fire up to meet peak demand loads. Solar energy, as TEA's Anderson puts it, "is a way for utilities to bail themselves out. If they can use it to supplement existing facilities, they won't have to build more."

Daystar's Gary Nelson believes utilities now see themselves as "energy companies." Daystar is working with both New England Electric System and Bay State Gas Co., which is building a solar-heated home in Sharon, Mass. Preliminary tests suggest that the home's $7,000 solar system could reduce fuel consumption 40%.

If solar energy for hot water is here now, solar space heating is close behind. The question is how rapidly the field will grow, and this will be decided not by technology but by economics. The technology is available. Solar heating is competitive now wherever electricity costs over 3¢ per kw hour, which, according to a California Public Utilities Commission study, is the case in 22 of the nation's 25 largest cities. But solar heating is not yet competitive with oil or the lower priced natural gas (oil, at 40¢ a gal. costs almost 1½¢ per kw hour).

COLLECTORS COSTLY, TOO

If fuel prices will help decide future solar economics, so also will the price of solar collectors. "Right now," says TEA's Anderson, "people getting into solar energy don't realize equipment systems will cost at least $20 per sq. ft. for installed systems." Solar economics are based on relating BTUs generated to installed collector cost. Thus, it is the price and efficiency of the collector that is a critical factor. The average price of today's uninstalled collector ranges from $4 to $7 per sq. ft. In two to three years, companies such as Owens-Illinois expect to have collectors available for much less and perhaps two to five times more efficient.

Rising fuel prices, Automatic Energy's McNamara believes, will make solar heated homes more attractive in the near future. And he, like others, thinks incentives could trigger massive public buying. Such inducements would include federal aid, such as a 25% tax credit for solar installations, as well as state tax abatement bills, which have been passed in several states, including New Hampshire.

SOLAR EXPLOSION

A federal government program calls for 2,000 solar residences and 400 commercial buildings heated and cooled by the sun by 1979. TEA's Anderson estimates that by the end of this year 1,000 solar homes will be built or under construction.

Kalwall Corp.'s Keith Harrison is equally optimistic. "The whole field is going to explode very quickly," he predicts. Kalwall has even set up a solar components mail-order business.

Kalwall is now supplying home builders like Spencer Dickinson, president of Solar Homes, Inc., Jamestown, R.I. SH's heating systems range from $5,994 for a 1,000-sq. ft. house to $10,367 for a 2,400-sq. ft. house. Conventional heating systems, Dickinson points out, cost one-eighth as much to buy, but eight times more to operate.

COMING OF AGE

Home builders like Dickinson are helping to bring about the age of solar energy. So are companies like TEA and Sol-R-Tech, with their educational programs and seminars.

Meanwhile, the day comes closer when utilities like New England Telephone & Telegraph Co., which has installed an experimental solar unit in North Chelmsfold, Mass., as well as public schools (such as the General Electric/NSF project at Grover Cleveland Middle School in Dorchester, Mass.) and other institutions will begin a wholesale conversion to solar heat.

One concern among segments of the solar industry and some members of Congress is that smaller companies will be left in the cold when the big rush comes.

The Senate Committee on Small Business, chaired by Sen. Gaylord Nelson (D-Wisc.) and Thomas McIntyre (D-N.H.) recommended in a report released in October that Congress earmark 70% of the funds for the Energy Research and Development Administration's solar demonstration program for small businesses, to give them a fair share of the $140-million in federal money for solar development.

Perhaps the most promising catalyst for the region's solar industry would be the location of ERDA's proposed Solar Energy Research Institute in New England. Leading the fight for SERI, with its $50-million budget, is the New England Council, backed by business and political leaders, who stress the region's technical competence in engineering, electronics, and optics, as well as unparalleled university and research resources. And there are the economic benefits.

Notes Daystar's Nelson, "Solar energy is one of the few opportunities we have for a new industry in New England and a way to solve our economic problems."

Directory of Wind and Solar Sources

SOLAR ENERGY: DESIGN-RESEARCH-DEVELOPMENT

American Science & Engineering, Inc., 955 Mass Ave., Cambridge, Mass. 02139. Computer techniques for collector evaluation.

Architects Collaborative, 44 Brattle St., Cambridge, Mass. 02138. High-temperature collectors.

Arthur D. Little, Inc., 25 Acorn Park, Cambridge, Mass. 02140. Marketing study for 88 firms; photovotaic cell, home heating and power systems research.

Avco Everett Research Lab. Inc., 2385 Revere Beach Parkway, Everett, Mass. 02149. Solar heating/cooling and wind conversion.

Bross Utilities Corp., 42 E. Dudley Town Rd., Bloomfield, Conn. 06002. Collector with plans to market package system.

Business Communications Co., 471 Glenbrook Rd., Stamford, Conn. 06906. Marketing, manufacturing studies for industries.

Cambridge Seven Associates, 1000 Mass. Ave., Cambridge, Mass. 02118. Architects; proposed Mass. Audubon building.

Carlton Granberry Associates, Old Quarry, Guilford, Conn. 06437. Architects; solar home in Guilford, retrofitted industrial plant in Canaan.

Center for Environment and Man, Inc., 275 Windsor St., Hartford, Conn. 06120. Regional aspects of solar power; NSF grant.

Charles W. Moore Associates, Essex, Conn. 06425. NASA contract to design demonstration home.

Charles River Associates, Inc., 16 Garden St., Cambridge, Mass. 02138. ERDA contract for photovoltaic cells.

Comstock & Westock, 765 Concord Ave., Cambridge, Mass. 02138. Thermal storage research and design (wind and solar).

Dynatech R & D, Inc., 99 Erie St., Cambridge, Mass. Heat transfer and thermal engineering; EPA, NSF grants.

Fiber Materials, Inc., Biddeford Industrial Park, Biddeford, Me. 04005. Collector fibers and materials, photovoltaic cell.

Francis Associates, 1033 Mass Ave., Cambridge, Mass. 02138. Engineering prefabricated solar homes.

Interface Architects, One Gateway Center, Newton, Mass. 02158. Designed Research & Design Institute's retrofitted mill in Providence.

Ion Physics Corp., So. Bedford St., Burlington, Mass. 01803. Photovoltaic cell research.

Isaak & Isaak Associates, 616 Beech St., Manchester, N.H. 03104. Architects; planned federal office, Manchester, N.H.

Itek, Optical Systems Div., 10 Maguire Rd., Lexington Mass. 02117. Collector, marketed by Sunsay, Inc.; NSF grant for solar power plant.

Ledgemont Lab. Div., Kennecott Copper Co., 128 Spring St., Lexington, Mass. 02173. Technical aid for planned Mass. Audobon office.

Massdesign Architects & Planners, Inc., 18 Brattle St., Cambridge, Mass. 02138. NSF demonstration project; AIA study on retrofitting.

Mitre Corp., Rt. 62, Bedford, Mass. 01730. Research on space heating, 1,000-watt photovoltaic cell.

New Alchemy Institute, P.O. Box 432, Woods Hole Mass. 02543. Solar-wind, food production system.

New England Fuel Institute, 390 Commonwealth Ave., Boston, Mass. 02215. Domestic hot water test program.

People Space Co., 259 Marlborough St., Boston, Mass. 02116. Architects; home Windham, Vt., and planned 10-unit condominium, Brookline, Vt.

Polyset, Inc., 7 Summer St., Manchester, Mass. 01944. Research on collector tubing to withstand repeated heating and freezing.

Raytheon Co., 141 Spring St., Lexington, Mass. 02173. Heat pump and pre-packaged solar system for Stanmar Inc., satellite power system study.

Regional & Urban Planning Implementation, Inc., Cambridge, Mass. NSF grant to evaluate market constraints on space heating.

Sanders Associates, Inc., 95 Canal St., Nashua, N.H. 03060. High efficiency collectors.

Solar Associates, Windham Rd., Hudson, N.H. 03051. Consultation to contractors on installing systems.

Solar Heating Systems Corp., 151 Johndowney Dr., New Britain, Conn. Cooperating with Talcott Mtn. Science Center on energy self-sufficient laboratory.

Solar Industries, Inc., Box 3206, Waterbury, Conn. 06705. Engineering aspects of residential systems.

Sun Systems, Inc., Box 347, Milton, Mass. 02186. Design, construction concepts for space heating.

Thermo Electron Corp., 85 First Ave., Waltham, Mass. 02154. Study on solar heat for steam generation; manufactures waste heaters.

Total Environmental Action (TEA), Box 47, Harrisville, N.H. 03450. Architects, engineers (solar and wind); three homes completed; seminars.

Tyco Laboratories, Inc., 16 Hickory Drive, Waltham, Mass. 02154. Developed, with Mobil Oil, new process to produce silicon for solar cells.

Unted Technologies, Inc., United Aircraft Research Lab., E. Hartford, Conn. 06118. Space heating/cooling research. NSF grant.

R. G. Vanderweil Engineers, Inc., 99 Bedford St., Boston, Mass. 02111. With Cambridge Seven Associates, designed proposed Mass. Audubon building.

Wormser Scientific Corp., 88 Fox Rd., Stamford, Conn. 06803. Designed system with reflective panels to concentrate energy; Dept. of Defense contract to retrofit 50 army base homes.

Manufacturer

Contemporary Systems for Housing, Inc., Rt. 1, Box 66, Ashland, N.H. 03217. Air-type system for domestic hot water and space heating.

Daystar Corp., 41 Second Ave., NW Park, Burlington, Mass. 01803. Collectors, systems for domestic hot water heating.

Dixon Energy Systems, Inc., Box 304, Conway, Mass. 01341. Solar panels for UMass. solar-wind house.

Enthrone, Inc. (ASARCO subsidiary), Box 1900, West Haven, Conn. 06058. High efficiency collectors with patented metal coating, solar heaters.

Eppley Laboratory, Inc., 12 Sheffield Rd., Newport, R.I. 02840. Instruments for measuring solar radiation.

Fisher Scientific Co., 461 Riverside Ave., Medford, Mass. 02155. Solar laboratory research products.

Industrial Plastic Fabricators, Inc., P.O. Box 488, Norwood, Mass. 01062. Custom fiberglass collector frames, tanks, tubing.

Kalwall Corp., 111 Candia Rd., Manchester, N.H. 03105. Five components and air-type system; "Sunlight," "Sunwall" brands.

Megatherm Corp., 803 Taunton Ave., E. Providence, R.I. 02914. Storage systems and anti-freeze solution.

Olin Corp. (Olin Brass subsidiary), 120 Long Ridge Rd., Stamford, Conn. 06904. Preformed metal absorber sheets for collectors.

RdF Corp., 23 Elm Ave., Hudson, N.H. 03051. Industrial temperature instruments for space heating.

Sol-R-Tech, Trade Center, Hartford, Vt. 05047. Collectors and systems.

Solar Control Products Corp., 217 California St., Newton, Mass. 02160. Glass window insulating film.

[From Business Week]

WHY SOLAR HEATING HAS A CLOUDED FUTURE

When Congress passed the Solar Heating & Cooling Demonstration Act last year, proponents felt sure that it would lead to the rapid development of inexpensive solar energy systems for homes, offices, and public buildings. The law authorized spending of up to $60 million a year on research and development and on subsidies for solar installations with the goal of creating a commercially viable industry by 1980.

But that five-year plan now looks wildly optimistic. The program is mired in squabbles between industry and government over the adequacy of solar equipment now on the market and over the way funds should be split between research and demonstration projects. And prospective buyers are leery of purchasing solar equipment because no industrywide standards or efficiency ratings to assess equipment performance yet exist.

"The market is not going to develop overnight," says Peter E. Glaser, chief of engineering sciences at Arthur D. Little Inc. "It may be 1985 before it reaches $1 billion a year." Sales of conventional heating and cooling equipment, by contrast, amount to $6 billion a year.

HUD PUSH

The infant industry has installed probably no more than 200 solar heating systems throughout the U.S. This year about 100 competing companies are likely to push sales of solar heating components to about $10 million. No manufacturer as yet builds a complete system and construction contractors put together most installations from components.

To beef up the business, the Housing & Urban Development Dept. this year will spend $35.5 million to subsidize solar installations in homes, through grants to builders, and the remaining $26.5 million will go to the Energy Research & Development Administration. ERDA will spend one-third of that on R&D and two-thirds on buying systems that will be installed in commercial and public buildings. Also, proposals are working their way through Congress that call for a $300 million, four-year program to build and install some 2,400 more solar demonstration units.

Naturally, the most ardent proponents of solar heating complain that not even the $300 million program will be enough to get the industry going. Sheldon Butt, president of the Solar Energy Industries Assn. and director of marketing research and planning for the Brass Group at Olin Corp., says that the $300 million scheme "would reach only 1% of the potential market . . . and that doesn't approach a scale sufficient for mass production." He wants the government to give still more impetus to the market by means of tax breaks for buyers of solar equipment—fast write-offs on its cost and exclusion of its value in the tax assessment of houses.

Only through such a twin program could manufacturers move to volume production and cut the cost of a solar heating system—now typically about $8,000 for a 1,500 sq. ft. house—by as much as 50%. The current price stacks up very unfavorably against the $1,400 for an oil burner in a house of similar size and $1,000 for an electric heating system. Donald A. Beattie, ERDA's deputy assistant administrator for solar energy, asserts that if solar systems are to win any sizable market "their cost must come down by at least 40%."

The only way to do it, says Butt, is to boost volume. And Neil Baker, sales manager for solar heating systems at PPG Industries, Inc. gives an example. PPG, he says, spends up to $2.50 per sq. ft. to apply a coating that reduces radiant heat loss from its solar heat collectors, but "volume production could drop the cost to 60¢."

MORE RESEARCH

Beattie and other ERDA officials contend that it is still too soon for manufacturers to try this route. More research is needed to perfect the systems, they maintain. "Any building equipped with solar heating still requires a conventional backup system," says Beattie. So, despite objections from some industry people, ERDA and the National Aeronautics and Space Administration, which gives ERDA technical support, will sponsor research on solar components, especially in two critical areas:

COLLECTORS

Since these account for about 50% of a solar heating system's cost, ERDA is giving top priority to their improvement. A typical panel consists of a heat absorber made of aluminum, steel, or copper plates with tubes sandwiched between them to circulate air, water, or another fluid. The heat from the collector is transferred to the fluid, which flows through a conventional distribution duct system. To date, only a few systems can produce the 170F heat necessary for home heating, and to operate effectively these must be equipped with bulky arrays of collectors.

No solar heating system on the market today can handle the job of air conditioning. For this use, the working fluid must be heated to 240F or more to vaporize a refrigerant that then cools a room by removing heat as it condenses.

ENERGY STORAGE

Because the collectors work inefficiently—if at all—on overcast or rainy days, a solar heating system must be able to store heat. But even the best of today's systems can do the job for only about three days. And to achieve even this requires a cumbersome installation, consisting of an insulated 5,000-gal. tank filled with water.

ERDA is thinking about improving storage systems by using salt hydrates as a storage medium. These salts melt and flow to a storage tank as they absorb heat from the sun passing through the collector panels. At night or on cloudy days, the salts solidify as they cool and release their heat into the distribution system. ERDA seeks to solve the one big problem with salts: After frequent changes from solid state to liquid state they lose their effectiveness and must be replaced.

While ERDA gears up for this research, industry is working on its own to advance the state of the art. Several companies have put together experimental collectors made entirely of heat-absorbing tubes. These promise as much as a five-fold gain in efficiency over today's flat plate designs. Owens-Illinois Inc. even claims that one of its experimental models can capture enough heat to run an air conditioner.

General Electric Co. is also working on an all-tubular collector, and Robert J. Thorpe, manager of advanced energy programs in GE's Space Div., believes that such projects are "beginning to move the economics of solar heating systems downward." He predicts: "The consumer can expect to break even on a solar unit over 10 years." But he concedes that the industry still has a long way to go. "We have to get that break-even point down to seven, or even five years," he says.

For this reason, Thorpe applauds ERDA's research plans and would like to see the agency put even more money into R&D. Butt and others in the business still insist, however, that the government's main role should be to open up a mass market with large demonstration programs and tax incentives. Any company that takes research grants from ERDA, he says, could be living dangerously because "it will have to give up its proprietary designs, and that is the last thing we want to do. Industry can do all the necessary R&D work on its own so long as there's a market."

CAVEAT EMPTOR

Aside from the need for lower costs and improved hardware, one additional big hurdle remains before the solar heating industry can grow substantially: winning the confidence of consumers. Virginia H. Knauer, the White House special assistant for consumer affairs, says that the number of fraudulent claims against companies selling solar equipment are mounting—"especially for unwarranted assertions that a solar system will take over almost all of a home's heating and cooling."

One reason is that no industrywide standards exist to give buyers a yardstick. One key standard would relate the energy input to a solar installation to the Btu output of its collector. Buyers could compare such ratings to assess competing systems. The National Bureau of Standards, among others, is working on such standards and ERDA is pushing the American Society of Heating, Refrigeration & Air-Conditioning Engineers to write a set independently. But society officials estimate that it could take three years to produce a voluntary code.

So consumers are likely to remain wary of putting up money for solar heating products. Even ERDA's Administrator Robert C. Seamans Jr. says: "I would like solar capability on my own house—but right now I wouldn't know what I'd be getting."

[From the Washington Star Nov. 28, 1975]

Solar Skeptics Convinced: "I'll Be Darned. It Really Does Work"

Las Cruces, N. Mex.—Workmen on the largest building in the world to use solar energy for heating and cooling doubted the system would work but quickly discovered otherwise by turning on a water hose.

"They couldn't see how the sun could heat the water enough," said Dr. Robert San Martin of the new $1.5 million energy institute of New Mexico State University's Agriculture Department.

"When the time came to put the collectors on the roof, the foreman told the crew to flush them out by running water through them with a garden hose.

"The workmen forgot that the collectors had been in the sun and were quite hot. When they ran the water through, violent steam came shooting out the other end. At that moment they were convinced."

The one-story, 25,535-square foot building also will serve as a solar energy research model for the Energy Research and Development Institute at the University.

New Mexico, hoping to take the lead in the national effort to make solar energy a practical realty, believes the building will be an example of how the Southwest's abundant sunshine can be used.

"This structure will effectively demonstrate to the nation New Mexico's commitment to solar energy research and emphasize the rightful leadership role the state should be given in any future solar energy projects," said Seaborn Collins, president of the university regents.

The building does not rely entirely on solar energy for its heating and cooling.

"There is no building that uses solar energy as its sole source," said San Martin. "To do so would be very foolish indeed, because the sun doesn't shine 24 hours a day, 365 days a year.

"If 100 percent of the heating and cooling needs were solar, the storage device would have to be so huge that it would cost what the building itself does."

The system's heart is the solar collector, which consists of 330 units mounted on the roof. Fluid, stored in two 15,000 gallon tanks, is circulated through the collectors where they are heated by the sun.

San Martin said 80 percent of the heating and cooling would be supplied by the sun on a year-round basis, with a natural gas auxilitary system for a backup.

The biggest test for the building will be the use of solar energy for cooling. Using the sun for heating has been successful for years, but solar cooling is relatively untried.

Cooling will be supplied by using a conventional absorption-refrigeration device adapted to the solar energy collectors on the buildings' roof.

"No manufacturer in the United States makes a cooling device that interfaces with a solar system," San Martin said. "So you have to take what is available and try to make it work."

He said absorption-refrigeration devices for cooling had been used for years and now were seen in refrigerators for pickup campers.

"In olden times we used refrigerators that were powered by natural gas," San Martin said. "You use the heat from the gas flame to give you a cooling effect. The absorption device is the same in principle."

U.S. FOOD POLICY: DEALING WITH THE SOVIET GRAIN HARVEST

Mr. HUMPHREY. Mr. President, I wish to bring to the attention of this body a pair of recent articles on the disastrous Soviet grain harvest. The first is by Marilyn Berger in the December 6 issue of the Washington Post entitled "Soviet Grain Deal Put in Doubt," and the second by Ann Crittenden, in the December 7 New York Times is entitled "Grain Prices—Penalizing the Already Poor."

The recent revelation, again indirectly, that the Soviet Union had suffered a disastrous harvest of perhaps 137 million metric tons rather than the earlier low forecast of 160 million metric tons again pointed up the extreme volatility of the Soviet harvests and the great uncertainty which our farmers and consumers face with respect to Soviet demands for our grain.

An immediate reaction on the part of the Soviet Union was to attempt to renege on the shipping agreement whereby a third of all grain carried would have been on American flagships and at the rate of $16 per ton rather than the market rate of $10 per ton.

This decision by the Soviet Union may well reflect a determination to try to stretch their funds further in order to make additional purchases. At this point, the Soviet shipping facilities are already strained so that they may hold off for a while on further purchases.

In addition, we will need to examine carefully what the Soviet Union is likely to do in terms of its earlier announced plans to expand its livestock production. Already, there are some indications that these plans will have to be cut back. And, of course, such intentions will be reflected in the demands for U.S. grains. We will certainly need to give this problem our careful attention in terms of our anticipated future grain sales.

Mr. President, I ask unanimous consent that these two articles be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Soviet Grain Deal Put in Doubt

(By Marilyn Berger)

The Kremlin has backed down on an agreement to pay premium rates for shipping of some American grain, throwing into doubt future deliveries to the Soviet Union, which is suffering from a disastrously poor harvest.

American officials were perplexed by a Soviet demand that the grain be carried at market rates—less than $10 a metric ton—instead of the agreed $16. Under the grain agreement concluded in September, American flag ships were to carry a third of all the shipments at the premium rate.

The grain deal was contingent on the conclusion of a new six-year maritime agreement. The current three-year maritime accord ends this month.

Talks on a new pact were deadlocked as the senior U.S. negotiator, Robert Blackwell, assistant secretary of commerce for maritime affairs, left Moscow yesterday. Soviet negotiators are expected in Washington before the end of the year.

Reuter reported that Thomas Gleason, President of the International Longshoreman's Association, threatened to block U.S. grain shipments if Moscow reneged on the freight rates agreed to last September. The union lifted a boycott against loading grain bound for the Soviet Union when the new five-year grain agreement was signed.

"If they break that agreement, Gleason said, "I will do everything in my power to fight it and see they do not get any more U.S. grain.

Analysts of Soviet affairs suggested that Moscow was taking a hard line, despite the reports released this week about low yields in this year's harvest, because the Soviets do not like to negotiate from a position in which they appear to have a grossly inferior hand.

The analysts said Moscow does have alternatives to huge American grain purchases. They could slaughter their livestock, "degrade" bread by putting less protein in it, and, in the word of one analyst, "suffer—they have a great capacity for that."

It was also noted that ships have been waiting for a month to unload grain at the ports of Leningrad and Riga, so the Soviets can afford to wait.

Soviet officials are also well aware that American farmers are eager to sell their grain. It could come down to a choice for the Ford administration between the farmers and the maritime unions. Soviet officials, it was suggested, might think they can rely on Agriculture Secretary Earl Butz to "deliver" for his constituency, the farmers.

[From the New York Times, Dec. 7, 1975]

Grain Prices—Penalizing the Already Poor

(By Ann Crittenden)

With the news last week of the most disastrous Soviet grain harvest in a decade, in dramatic contrast with the record crops in the United States, came the realization that this country, more than ever, holds the key to the world's food supply.

And as some see it, the nation is not hesitating to use its emerging "agripower" to further its own political interests.

"We have politicized food in the same manner that the Organization of Petroleum Exporting Countries has politicized petroleum," Robert O. Anderson, chairman of the Atlantic Richfield Company, one of the country's largest oil concerns, told an audience last week.

Mr. Anderson may have been exaggerating, but there is evidence that an intense debate is going on within the government between those who would like to use food in the advancement of American interests, and others who stress the serious moral questions that could arise if the nation played politics with a basic human need.

By virtue of the simple fact that it provides more than half of the world's grain exports and holds almost half of global grain stocks, the United States enjoys a degree of dominance over food resources at least comparable to that of OPEC in oil.

Agripower, however, is potentially far more formidable than petropower, as Agriculture Secretary Earl L. Butz has pointed out, for there is no substitute for food.

The world's poorest countries are already spending almost as much on imported grain as on oil. It has been estimated that while oil imports were responsible for an $11 billion increase in the balance of payments deficits of the non-producing developing countries, another $8 billion increase in deficits was attributable to grain purchases.

This year, in spite of better harvests in Asia and Africa and a softening in food prices—which had tripled between 1972 and 1974—the "grain drain" is expected to continue. Estimates based on projections by the Food and Agriculture Organization indicate that the developing countries will spend more than $6 billion on imported food in 1975, with the 41 poorest countries accounting for more than one-third of that total.

If American grain exports have been costly for the developing world, they have been a mixed economic blessing for the United States in recent years.

Agricultural exports more than tripled between 1970 and 1974, which certainly represented a boon to the nation's balance of payments. The Department of Agriculture estimates that the United States earned $11.2 billion in fiscal 1975 from grain shipments alone, up from $2.6 billion only three years ago. In the current fiscal year, overseas grain sales are expected to total $13 billion—enough to pay for about one-half of the nation's anticipated $26.5 billion oil-import bill.

The grain income alone will be more than the record $10 to $11 billion surplus that is being forecast for this year.

But for American consumers the picture is less rosy. Many believe that the dramatic increase in grain exports, reflecting massive sales to the Soviet Union in 1972 and 1973, was primarily responsible for the 14 percent inflation in domestic food prices that occurred in 1973 and 1974.

And in the eyes of consumer abroad, particularly in the have-not nations, the growing dependence on American food production appears dangerous as well as costly.

"Global food insecurity is greater now than at any time since the years immediately following World War II," Lester R. Brown wrote recently in "The Politics and Responsibility of the North American Breadbasket," a pamphlet published by the Worldwatch Institute, a nonprofit research organization based in Washington.

Mr. Brown argues that, in contrast to the prewar period, when all geographical regions except for Western Europe were net exporters of food, today all but a relatively few countries must import grain to feed their expanding populations.

Moreover, two main sources of food reserves have now disappeared—the surplus grain that the United States and Canada used to have in storage and the cropland that lay idle under United States farm programs.

Beginning in 1972, when disastrous harvests around the globe, particularly in the Soviet Union, and an upsurge in world demand sent food prices soaring, the United States put all of its farmland back into production and both it and Canada sold their surpluses on the world market.

As a result, while in 1972 global reserve stocks were equivalent to 69 days of consumption, by 1974 they had fallen to 33 days the lowest levels in 20 years.

This year global stocks have remained depressed, and with a poor Soviet harvest, all hopes for rebuilding them have vanished.

Under the terms of the grain deal negotiated last month the Soviet Union is committed to buy at least 6 million to 8 million tons of American grain annually for five years beginning next October.

In the short run, the arrangement—assuming it is not upset—is generally viewed as a constructive commodity stabilization agreement between the leading exporter and a major consumer whose unpredictable purchases had often disrupted the market in the past.

But many fear that in the longer run, the agreement—by tying up a sizeable portion of the trade—reduces the chances of rebuilding international grain reserves.

Moreover, the guaranteed sales to the Soviet Union could mean that the poor nations would have to take the brunt of any world crop shortfall.

On the other hand, Don Paarlberg, director of agricultural economics at the Department of Agriculture, argues that the Russian sales could benefit the developing countries, by stabilizing both the amount of grain going to that market and thus the amounts available to other nations, and the prices of grain.

Whatever the ultimate result of the Russian agreement, it is true that as American surpluses have been turned into commercial sales, American food aid levels have plummeted. From the peak levels of 18 million tons or so in the mid-1960's, such aid dropped to 4.7 million tons in fiscal 1975.

In response to appeals made at the World Food Conference in Rome last year, the United States has agreed to increase its food aid to 6 million tons—60 percent of the worldwide target.

But the massive strains on the budgets of the have-not nations remain.

In all, the F.A.O. estimates that developing countries will have to purchase 53 million tons of food this year. One one-third of that is likely to be supplied by food aid.

ADDRESS BY SENATOR KENNEDY AT PACEM IN TERRIS IV CONVOCATION

Mr. JAVITS. Mr. President, on December 2, I participated in Pacem in Terris Convocation IV at the Sheraton Park Hotel here in Washington as a member of the panel on détente. On that occasion, our colleague Senator KENNEDY delivered a most thoughtful address on this critical issue which is so much in our minds these days.

I believe that vigorous public debate on the nexus of issues which has come to be called generically "détente" is essential to our national interest and, most importantly, to wise decisionmaking by the United States. In this connecton, I hope that the views and suggestions presented by Senator KENNEDY in his Pacem in Terris address will be read and considered both here and in the executive branch.

I ask unanimous consent that the address of Senator KENNEDY be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY SENATOR EDWARD M. KENNEDY

Mr. Chairman, I am pleased and honored to join you this morning at Pacem in Terris IV. This convocation truly carries on the work of Pope John XXIII, in his great Easter encyclical which we honor today.

This convocation comes at a critical time in the history of America. We have only recently weathered the storms of Vietnam and Watergate.

We are entering our Bicentennial year, a time for reexamining our heritage, purpose, and values as a people. We are feeling the force of new winds of change in the world, as the cold war comes to an end . . . as basic changes are made in the global economic system.

Two hundred years after we gained our independence, we are now becoming interdependent with more nations and peoples than ever before: in food, energy, other raw materials, trade, the environment, the law of the seas.

And a fundamental challenge is being posed by a majority of the world's four billion people, who have so far been largely left out of the great harvest of abundance that is reaped by the industrial States.

At the birth of our history on this continent, men and women came to Jamestown, to Massachusetts Bay, seeking new lives for themselves and their children. The ideals and values that grew out of that experience have sustained us through three and a half centuries . . . the self-same ideals that now demand that we accept new responsibilities in the outside world.

These are responsibilities to work to resolve the conflicts of the past; to seek new ways of structuring the global economy that will benefit both us and other peoples far more than before; to hear and heed the cries of the world's poor people.

So as we begin this convocation, by discussing U.S.-Soviet relations, we must also understand the broader currents that are shaping the world's future. We must understand that détente, itself, is only part of a wider movement, a wider summons to American commitment, leadership, and ideals.

In a world of interdependence, the changing of U.S.-Soviet relations is only one part of a new and historic era for mankind. These changes will have lasting value only if we also meet our other responsibilities to ourselves and to mankind.

Mr. Chairman, as we discuss U.S.-Soviet relations, we must begin by seeing that the word détente itself has different meanings for different people. It has become the center of heated debate, without clear understanding of what the debate is really about. It is an abstraction, when we most need a detailed and precise look at individual problems in U.S.-Soviet relations.

Let us then examine America's relations with the Soviet Union in concrete terms, and not engage in divisive debate about a concept that tends to obscure, rather than clarify, our understanding of basic issues.

As we begin this examination, it is easy to forget how far we have come in a few short years—from the days of recurring crises over Berlin . . . the Cuban missile crisis . . . and fears that nuclear weapons would lead inevitably to mankind's final war.

We were in a cold war of a depth and intensity we had never before seen. Everything seemed to be in contention: nothing was negotiable; and "peace on Earth"—the vision of Pope John—was not even a distant dream.

Yet following the shock of the Cuban missile crisis, men of wisdom and courage recognized that unparalleled threats to the future of mankind required unparallelel efforts to find a better way to organize relations between the superpowers

As President Kennedy said at the American University:

"Let us focus . . . on a more practical, more attainable peace—based not on a sudden revolution in human nature but on a gradual evolution in human institutions—a series of concrete actions and effective agreements which are in the interests of all concerned."

This novel approach to reducing the risks of conflict . . . to building a basis for understanding . . . was not conceived in blind trust of Soviet intentions, or in ignorance of U.S. national interests. Rather it reflected deep awareness that the real efforts to change relations with the Soviet Union were in the interests of both sides . . . that failure might lead to a war in which there could be no winners—and perhaps even no survivors.

We must begin by seeking to impose firm control on the nuclear arsenals of both sides . . . then start the patient work of reducing the levels of nuclear arms. Whatever else happens in U.S.-Soviet relations . . . whatever difficulties remain . . . no one can deny the continuing and critical need to end the nuclear arms race.

The past decade's efforts to control nuclear weapons has no real precedent in relations between bitter adversaries. We joined Great Britain and the Soviet Union in concluding the limited test-ban treaty.

We joined other nations in the nuclear non-proliferation treaty. And we began the SALT talks, leading to the agreements of 1972.

I wish I could say that we are effectively building on those accomplishments. But I cannot. For as we meet here, today, it is unclear that the leaders of either superpower are committed to taking the bold actions needed to break the cycle of nuclear arms. We are warned that it may not be possible to conclude a SALT agreement prior to the Soviet Communist Party Congress and our own presidential elections.

We are told that we must not rush to conclude a new agreement for the sake of an agreement. We are told we can safely take another year and a half simply to finish the basic accord struck at Vladivostok more than a year ago.

No one can disagree that each arms control agreement must have merit and value on its own. No one can disagree with the need for clear and precise understandings that will forestall later questioning about what was agreed.

If loopholes will be exploited, then these must be closed in advance; if ambiguities are discovered, then these must be resolved through the procedures set up for that purpose.

Yet, the sad reality is that the course, the pace, and the objectives of arms control policies have been more influenced by the arms developers than by arms controllers.

We cannot wait until after the U.S. presidential elections for a further agreement. For by that time, the pace of technology will have taken us to the point where it will be difficult even to salvage the limited agreement of Vladivostok. The SALT talks themselves will become hostage to those elements in both societies that will continue to build weapons, until American and Soviet leaders have the wisdom to say "stop".

Even today, the Soviet Union is deploying a new generation of large missiles with MIRVed warheads—weapons we already have. And in February, the United States will begin testing a revolutionary new weapon: the cruise missile. This missile, which adds little to our deterrent, will pose problems of counting, assessing, and verifying that will dwarf all past problems of arms control. When that testing is done, SALT itself may be overwhelmed by the new complexities.

The time to act is now—not to postpone this vital work because of the accident of our election calendar. I believe that a good arms agreement, in our national interest, will not lead to partisan discord. Rather it will command broad support from statesmen of both parties and from the American people, themselves. Nor can we permit the next arms agreement to be lost because of any divisions within the administration. There must be a concerted and cooperative approach—within the administration and between it and the Congress.

The limits sets forth at Vladivostok themselves represent only a small step. They will have value only if they are clearly tied to further agreements, to limit the quality of arms as well as their number. For this reason, last January, I joined with Senators Mondale and Mathias in a Senate resolution providing for further effort; and for this reason, 42 of our Senate colleagues—of both parties—have endorsed this approach.

Yet there has been little leadership from any part of the administration in seeking real restraints on the pace of our arms buildup; no voice raised to halt testing of cruise missiles, before the point of no return; and no leadership to forestall a dangerous new development in our nuclear doctrine: the myth of a "limited nuclear war". It is now clear that even a war in which weapons were targeted solely against strategic forces would still leave 20 million or more Americans dead. This is not a policy that any rational leader can contemplate.

And only effective and timely leadership can keep us from going down that dangerous and destabilizing path.

Let us also challenge the Soviet Union to exercise restraint in its own nuclear programs. Let us challenge Soviet leaders to remove the veil of secrecy that feeds our doubts about their intentions. During my visit to Moscow last year, General Secretary Brezhnev told me of his concerns about a run-away arms race. Then let us challenge him to show the political leadership in the Soviet Union that will help bring the race to a halt.

At the SALT talks, which reconvene tomorrow morning, our top leaders must seek to break the current deadlock. If the superpowers cannot now agree on the cruise missile and the backfire bomber, they should at least conclude the Vladivostok limits with a clear understanding that further negotiations will follow immediately. That understanding should be linked to an immediate, mutual moratorium on development and testing of cruise missiles. And this round of SALT talks should be firmly tied to the next.

At the same time, the superpowers should replace the threshold test-ban treaty with a comprehensive treaty to end all nuclear testing by the superpowers.

And they should begin developing new approaches to arms control that will finally stop the pace of technology from outstripping political efforts to place nuclear weapons under control.

Both superpowers must finally recognize that there is no profit for either country in continuing to pile up weapons—where together they have the equivalent of more than 700,000 Hiroshima bombs.

There is no profit in trying to define relative national power in terms of weapons that cannot be used without risks to the future of the world.

Even more important, in their preoccupation with third and fourth generation nuclear weapons—in their fascination with a calculus of numbers that has little real meaning—the superpowers are fast foreclosing the chance to prevent the spread of nuclear weapons around the globe. For it does not take 700,000 Hiroshima bombs to have a nuclear war; in the wrong hands, it takes just one.

It would be a tragedy for all mankind if the superpowers' failure to end their own nuclear race only helped create a world of many nuclear powers. Even the mightiest arsenal, the most effective superpower deterrence, would not prevent the use of these awesome weapons somewhere in the world.

Mr. Chairman, changes began in relations between the United States and the Soviet Union when both learned that neither could endure a world of nuclear anarchy. And this basic lesson has helped lead to other profound changes.

In Europe, we have joined with our NATO allies in East-West negotiations, to reduce the level of forces deployed on the continent. Many nations in Western Europe are also deeply engaged in efforts to reduce tensions on the continent. And an agreement on European security and cooperation was signed at Helsinki last summer.

In the Middle East, U.S.-Soviet rivalry has diminished; perhaps in part because of changes taking place elsewhere. Yet Soviet support for Syria continues, in a way that feeds doubts that the Sinai accords can be the first step towards a permanent peace.

In trade, we have reached a major agreement on grain with the Soviet Union: the two countries are negotiating about oil; and they are expanding the volume of trade.

And in the third world, we have seen a lessening of conflict and hostility between the superpowers. Both need to commit themselves to independent and pluralistic development of third-world nations, which represent two-thirds of the world's people.

Like the agreement to negotiate on strategic arms, these changes reflect a revolutionary approach to relations between adversaries. Yet each argument—each new area of accommodation—must stand on its own. We must leave no doubts that any effort to reduce tensions is in the U.S. national interest . . . no doubts that the Soviet Union is exercising restraint in its own actions; no doubts that any agreement will help lead the superpowers further away from confrontation and conflict.

This means careful analysis of our interests and those of our allies. It means working closely and directly with allies on East-West issues that vitally affect their future.

And it means bargaining with the Soviet Union on each issue, in its own terms. Each positive step forward may promote others: but that is no excuse for striking a bad bargain.

Hard bargaining is a healthy development It will help secure popular support for reducing tensions with a nation that is still our adversary in so many ways. It will help answer the question: "Who benefits from détente?" The answer is that benefits in each area must be mutual, or individual steps will be worth little or nothing.

For as we seek to reduce conflict, we must also be clear about the limits of this effort. Rivalry and hostility will continue in many areas, along with major conflicts of interest. Ideological differences will not end—including our own commitment to human values. And there will be no rapid transforming of Soviet society.

We must therefore indulge, neither in unreal hopes for change in Soviet actions; nor in vital areas. Instead, where accommodation is possible, we should be willing to meet the Soviet Union half-way; we should demand the same of the Russians; and test their behavior at each step.

In Europe, we should work with our allies, in pressing for real progress at the MBFR talks. And we should demand a total halt to Soviet involvement in Portugal. For if the Soviet Union fails to accept the free choice of the Portuguese people—if it denies the right of Western states to shape their own destinies—then it will be difficult to continue reducing tensions on the continent; and Helsinki will mean virtually nothing.

In the Middle East, we should draw the Soviet Union actively into the process of seeking a final end to war and conflict.

Yet at each step, the Russians must show they are prepared to move towards peace, and to support security for Israel as well as its Arab neighbors.

In Angola, we must impress upon the Soviet Union the self-defeating nature of its current involvement. While the Soviet and Cuban role in that civil war should not prevent us from negotiating in other areas of mutual interest, the folly of this action raises new questions about Soviet intentions in Africa and elsewhere in the third world.

Just as our interventions in Chile and Vietnam were rightly condemned, Soviet intervention in Angola is an outdated expression of empire, and it must be rejected in today's world.

In conventional arms, we should challenge the Soviet Union to join with us in forestalling new arms races—especially at sea, and beginning in the Indian Ocean. Neither side can profit from transferring arms competition to the oceans of the world, thus risking new tension and new conflicts. And we should seek Soviet support for limiting the sale of arms to troubled parts of the globe.

This also means positive U.S. action. Unfortunately, the administration has ignored the Senate mandate to seek negotiations with Moscow on arms control in the Indian Ocean. And it still opposes congressional efforts to bring sense and sanity to arms sale to the third world.

In the Far East, meanwhile, we should impress upon the Soviet Union our continued commitment to Japan, and our opposition to U.S.-Soviet rivalry in the Pacific. And while seeking better relations with China—symbolized by President Ford's visit to Peking—we must do nothing to increase the risks of Sino-Soviet conflict, for no nation can gain from war between the two principal Communist powers.

In the global economy, we should seek to draw the Soviet Union increasingly into efforts to meet the great challenges facing mankind. For no nation can isolate itself from the impact of deep currents of change. And the Soviet Union should carry its fair share of new responsibilities to meet global problems.

Finally, in human rights, we must test Soviet willingness to live up to the Helsinki agreements on security and cooperation in Europe. In implementing these binding agreements, the Russians must show that they understand and respect the basic Western commitment to individual human rights. While we respect the right of states to order their internal affairs, we bear a responsibility to ourselves and others to make plain our own values, and to seek higher standards of human decency on the part of the Soviet Union.

The Helsinki agreements must also permit East European states to broaden their contacts with the West. This is not a threat to Soviet security or East European governments. Rather it is a foundation for European security and development that goes beyond a sterile military balance.

For at heart, the effort we are making in U.S.-Soviet relations is about people: about their hopes of living without fear of war; about their opportunities for human development unconstrained by old demands dictated by a naked balance of military power; about their chance to experience a liberation of the human spirit.

These goals may not all be reached in our lifetime. But our hope of sustaining a system of relations with the Soviet Union that goes firmly and finally beyond the old hostilities, must be found in changing political attitudes and practices, to benefit the lives of individual men and women.

Mr. Chairman, as we engage the Soviet Union in each of these areas, there is little question that we must negotiate with confidence and assurance. In part, this means we must maintain those armed forces that will enable us to meet any challenge to our security or that of major allies.

For our capacity to deal with any Soviet military challenge does not lie in a comparison of raw statistics of budgets or manpower. It does not lie in a proliferation of arms races, which may actually reduce our security. And it certainly does not lie in the Pentagon's continual exaggeration of Soviet strength, and its depreciation of our own.

Our capacity to negotiate also does not rely just on maintaining adequate military forces. It rests as well on the total expression of our national strength and resilience.

Yet it does not mean we need a defense establishment capable of policing the world. It does not mean maintaining a military force greater than any rational assessment of our own needs—one capable of intervening in Indochina, in the Dominican Republic, or in the Indian Ocean.

We cannot afford to base our assessment of defense needs on outmoded concepts of security that make no distinction between a threat to our own security and a threat to countries like Vietnam. Nor must we make the mistake of gearing our defense spending to Soviet efforts, rather than to a clear analysis of our true defense needs.

This means the resurgence of a healthy American economy—for ourselves and for others; it means restoring confidence in the effective workings of our political and social institutions, and in our leaders; and it means a renewed commitment to social justice and compassion—a renewal of our democratic spirit. Without these, even the most awesome array of military power would not help us go beyond the confrontations of the past, and to meet the critical challenges facing this Nation in the future. Peace abroad must begin with peace at home.

There must also be a renewal of American leadership in the world. As other nations have gained economic strength, we can no longer lead alone; but American leadership and commitment are still vital to the reshaping of international order. I am confident that this Nation, still young and vibrant, has not entered a twilight period, either at home, or in its capacity to work with others abroad.

This is particularly true in Europe. For if the relaxing of tensions with the Soviet Union means that cohesion among allies can no longer be based on the threat of imminent conflict, we must help Western Europe develop new strengths.

This means the strength of economies, and the development of the European Community. It means support for basic, enduring Western values, which we ignored through all the years we supported dictatorships in Portugal, in Spain, and in Greece. And it means tangible support for the democratic experiment in Portugal.

Our responsibility to Portugal does not end by demanding "hands off" by the Soviet Union. We must also go far beyond the meagre economic aid provided by the United States and the European community. We must not fail the people of Portugal, as they secure democracy for themselves.

Finally, Mr. Chairman, as we reduce confrontation with the Soviet Union, we must recognize the new ferment in the far corners of the globe. We must see that decreasing Soviet-American tensions means that relations between the superpowers no longer define the global system for a host of countries and peoples.

We must see that many more countries are involved in the global system than ever before: All with insistent demands; and some with new economic power to make their demands felt.

How shall we respond? With retreat into ourselves, while adding to the cacophony of angry voices? Or should we seek rather to use our continuing economic power and potential for enlightened leadership? I believe the choice is clear. We have gone beyond a cold war with the Soviet Union. We must not create a new cold war with the world's developing countries.

We must realize that changes in U.S.-Soviet relations must lead us far beyond the preoccupations of the past, into meeting new worldwide challenges. We must regain our global view . . . our view of the interests and needs of men and women everywhere . . . our commitment to justice and compassion. This new era can and must be exploited for the benefit of all mankind.

For as Pope John said in Pacem in Terris: "Peace will be but an empty sounding word unless it is founded on the order which is founded on truth, built according to justice, vivified and integrated by charity, and put into practice in freedom."

UPPER VOLTA NATIONAL DAY

Mr. HARTKE. Mr. President, Upper Volta, a country in West Africa, celebrates its National Day on December 11, 1975. Upper Volta is recovering from the ravishes of a severe drought that has wrecked havoc with her economy. Being landlocked it has to depend on its neighbors for access to the sea from which many of its vital imports are derived.

Until the 19th century, Upper Volta was a part of the Empire of Mossi and her fame spread throughout West Africa. The Empire flourished until 1896 when the Mossi States accepted the domination of the French.

Independence came on August 5, 1960, at which time a constitution was adopted, which provided for universal suffrage for the population. It is the desire of President Sangoule Lamizana to develop the mineral resources of Upper Volta, which in turn will strengthen the country's infrastructure and move to two main sources of exports. The agricultural sector has been mainly responsible for export income.

The National Day is called the Day of the Republic day, and is celebrated on December 11. I extend the heartiest congratulations to the Government and to the people of Upper Volta on this occasion.

BIOMEDICAL RESEARCH TOWARD TREATMENT AND CURE

Mr. HUMPHREY. Mr. President, the conference report on appropriations for the Department of Health, Education, and Welfare and Related Agencies for fiscal year 1976 has just been approved by both Houses of Congress.

Although I recognize the fiscal constraints which tug at all Federal programs, I am particularly gratified that Congress has gone part way in providing an increased level of funding for cancer research. This research is important. Recent statistics indicate that during

1975, Americans are dying of cancer at a rate of about 1,000 a day.

I am also pleased that the Congress has increased the number of positions authorized to the various health programs and specified that they are to be used exclusively for research, services, grants, and contract management. This will insure the continued excellence of many programs and prevent the dismantling of high priority health programs through the impoundment of positions without the consent of Congress.

The importance of biomedical research is often underrated and its support wavering. But much progress has been made through this effort.

As many of my colleagues know, the various National Institutes of Health funded through this legislation have been primary supporters of kidney research in the United States since the late 1950's. I recently had the privilege of speaking at the 25th anniversary of the National Kidney Foundation where I reviewed the progress made and talked about the work which remains unfinished. The emphasis on research specified by this appropriations measure will help us finish this important work.

Mr. President, I ask unanimous consent that my remarks to the National Kidney Foundation be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Remarks of Senator Hubert H. Humphrey

November 22, 1975.

I want to extend my thanks and those of Mrs. Humphrey to Dr. James Hunt, President of the National Kidney Foundation, for inviting us to your 25th annual meeting. This occasion is especially meaningful to me because of my long interest in health matters.

As you noted in your program, my Senate career began in 1949, about a year before your organization was founded. We've all come a long way since then. I won't recount my path—it's familiar to most of you.

Rather, I'd like to join you tonight in paying tribute to the important role the Foundation and its members have played in providing hope for the thousands of Americans who have experienced kidney failure.

These achievements are punctuated by those honored here tonight—Dr. Belding Scribner and Mr. Harold Schwartz—and by the thousands of other physicians and lay volunteers who have devoted their time, their energies, and their talents to research on kidney and related diseases and to the work of the National Kidney Foundation.

Many of you remember the struggling agency formed by a small group of laymen and physicians in 1950 to help the thousands of children suffering from kidney disease.

Many of you were a part of the progress made in the 1960's when technological breakthroughs through painstaking efforts nearly eliminated nephrosis as a fatal disease.

Many of you will continue to be a part of the important work which remains to be done. The strides we have made in treatment cannot replace the need for developing a cure and in turn preventing the occurrence of the disease itself.

It was during the period of rapid strides in the treatment of kidney disease that we discovered the fight had just begun. New studies revealed that 60,000 Americans died each year of end-stage kidney disease and that perhaps as many as eight million people suffered from a kidney-related problem.

Kidney research in the United States has been primarily supported through the National Institutes of Health since the late 1950's. Like most biomedical research, its importance often is underrated and its support often wavering.

But the funds have grown gradually over the years and much progress has been made through the Artificial Kidney Program and research in transplantation.

Dialysis and transplantation—new and effective therapies—have been able to keep people alive. But they are frightfully expensive and people have died for lack of money and facilities.

Many thousands of unfortunate Americans who have experienced kidney failure have been helped through amendments to Medicare which provide financial assistance. The renal disease program has meant life itself to untold numbers of Americans, and has given hope to countless families who had faced only despair.

But no matter how much assistance is provided for dialysis, a crucial limiting factor in such programs is the available supply of donor organs. This limitation will become a major barrier as the number of people requiring treatment significantly increases.

To meet this need we must develop a logical network and public information system necessary for a national transplant effort.

I am aware of many outstanding programs which further the recruitment of kidney donors and carry out an effective organ recovery program. Symposia, attitudinal surveys, innovative efforts at community and consumer education, and media follow-up are all part of the many efforts of the Foundation and its volunteers to provide information and help patients make the many personal adjustments necessary to cope with this disease.

We need to keep working to heighten public awareness of this "gift of life."

Equally important to successful transplantation is a better understanding of the body's rejection process. New inroads must be made in immuno-suppressant therapy.

We also need to provide greater focus on the treatment of kidney disease by establishing centers of excellence throughout the country around which financial and human resources can be marshalled. We need to provide greater incentives for skilled surgeons who perform the transplants and monitor the patients' recovery.

But the struggle is far from over. Treatment in all too many cases is a stop-gap measure. In all too many cases it is not yet the cure.

People still are getting kidney disease and still dying from it. Until a cure is found—even when a cure is found—prevention is the only rational answer for this disease and all others.

Money and efforts devoted to prevention and cure will reap dividends many times over the investment. More and more we are understanding that a healthy man is a productive one—one who will earn and return many more dollars than a sick one. A healthy child is our investment in the future.

We are just beginning to understand the cause-effect relationship of the various major diseases. Serious kidney disease has a far-reaching impact on the body in general.

A kidney cure will have residual effects on the occurrence of heart disease, diabetes, diseases of the urinary tract and other major diseases. Progress made in preventing and controlling these diseases will have untold effects on those suffering from kidney disease and in preventing the disease itself.

Increased public awareness of the importance of early detection can avoid this and other catastrophic illnesses.

The cost of disease in one week is a great deal more than the budget of HEW will be in a year.

But more than dollars and cents, we need to look at the human toll that disease takes—the suffering of the afflicated, the anguish of loved ones.

We must explore and chart and develop the undiscovered. Research always is a process of discovery.

You never know whether you are going to find an answer. But you do know this—that without the research you are not going to make any progress.

Ralph Waldo Emerson wrote:

"The first wealth is health. Sickness is poor spirited, and cannot serve any one; it must husband its resources to live. But health or fulness answers its own ends, and has to spare, runs over, and inundates the neighborhoods and creeks of other men's necessities."

We need to remember that our efforts here often "inundate the neighborhoods and creeks of other men's necessities."

The United States is the leading exporter in biomedical knowledge. Other people from all over the world come to us to learn and take back the knowledge that you and I as taxpayers help to develop through our continued support of programs such as those at NIH and its associated organizations.

These efforts to eradicate disease have been fruitful. We have just learned that with few exceptions smallpox is non-existent worldwide. And there is a long list of other diseases on the wane.

All this is enhanced and made possible through appropriate support and funding coupled with the continuing efforts of individuals such as yourselves and organizations like the National Kidney Foundation.

But we need to work together as a partnership. The day of the cornucopia approach to solving problems is over. The system relies heavily on experts and concerned citizens such as yourselves to help set priorities, to continually examine the results, to realign these priorities as progress is made, and to look to the future.

In your work I ask all of you to keep in mind the wisdom of the old proverb which says:

> "He who has health, has hope.
> He who has hope, has everything."

In the coming of this Bicentennial year you might also remember that through your future efforts you will be making a major contribution to helping many people exercise their rights of life, liberty and the pursuit of happiness.

NEBRASKA'S EDWARD H. STOLL HONORED BY NOAA FOR 70 YEARS OF WEATHER WATCHING

Mr. CURTIS. Mr. President, a very unusual award is being presented to an outstanding Nebraskan this evening.

The U.S. Commerce Department is presenting the first Edward H. Stoll Award for service in volunteer weather recording to Mr. Edward H. Stoll of Elwood, Nebr.

The award is a length-of-service award for individuals who have completed 50 or more years of service as a volunteer. And it is the first time such an award has been named for a living person.

Edward Stoll began his weather observations in 1905. Now 89 years of age, he has completed 70 years of volunteer weather recording—and is still at it.

The National Weather Service depends on its more than 13,000 volunteers, and Mr. Stoll is a unique example of long and dedicated service to his country.

As a Nebraskan, I am so proud of him. He is a genuine product of the good life in the Cornhusker State.

Mr. President, I ask unanimous consent to have printed in the RECORD a news release outlining Mr. Stoll's unique achievement.

There being no objection, the news release was ordered to be printed in the RECORD, as follows:

NEBRASKA'S EDWARD H. STOLL HONORED BY NOAA FOR 70 YEARS OF WEATHER WATCHING

WASHINGTON, D.C.—The Commerce Department's National Oceanic and Atmospheric Administration (NOAA), parent agency of the National Weather Service, today announced the establishment of the Edward H. Stoll Award, a certificate of recognition for volunteer weather observers. It is the first NOAA award ever established in the name of a contemporary observer, and honor a Nebraska man who has written down more than 25,500 daily observations—covering 70 years—at his weather station near Elwood (pop. 601), in Gosper County, Neb.

Stoll, 89, began his official weather observations before anyone in the present-day weather service was ever born. On October 10, 1905, a neighbor who was moving away brought him the official weather instruments, saying, "It's your job now." The 19-year-old Stoll had no idea he would be doing the job so long. He's now the unchallenged dean of all the National Weather Service's volunteer observers.

NOAA's National Weather Service has more than 13,000 volunteers in its cooperative observer program who serve without pay and who collectively record almost five million observations each year. Weather records, like fine wines, improve with age, and form a valid data base from which comparisons, and, in some cases, long range forecasts may be drawn.

Many observers in the program have compiled records extending back 30 or 40 years, and length-of-service emblems are presented by the Weather Service for each five years of service. The Stoll award will be given to volunteers who have completed at least 50 years' service. No other volunteer observer, however, has completed a length of service to match Stoll's 70-year record.

The National Weather Service has other awards that are given each year to selected individual observers for special accomplishments. The Thomas Jefferson Award and the John Campanius Holm Award, established in 1959, are given each year for unusual and outstanding accomplishments. A letter from the President of the United States is given to each volunteer completing 60 years of service.

Stoll was among the first group of 25 volunteers to receive the Holm award in 1960. In 1965, he received a letter from President Johnson for 60 years' service. In 1970, he received a letter from the Secretary of Commerce, and in 1972, a letter from President Nixon.

In 1970, Stoll was named Outstanding Citizen of the State of Nebraska by the South Platte United Chamber of Commerce. In October, 1970, an E. H. Stoll Recognition Banquet was held in Arapahoe, Nebr., in tribute to his years of service as a weather observer and his pioneering efforts in soil conservation. Stoll received a Centennial Medal and certificate from the National Weather Service and the American Meteorological Society, a letter of appreciation from NOAA Administrator Dr. Robert M. White, a gold-plated rain gage—and was commissioned an Admiral of the Nebraska Navy.

In 1973, Stoll received the Thomas Jefferson Award, the highest honor the Weather Service could bestow on him. Although retired from actively farming the 320 acres he has lived on since 1888, Stoll still frequently spoke to organizations throughout the state on his lifelong interest in weather observations and in conservation practices.

Stoll sums up his philosophy that every individual owes some free service to his country by saying, "Service is the rent you pay for the space you occupy as you go through life."

Still active, still a gold mine of information about the weather events he's observed, Stoll said he felt good about the new award and predicted many more observers could equal his record, if they started young enough and had the patience to keep at it. "There's a 13-year-old girl here in Nebraska now," he said, "and she may beat my record yet."

A presentation ceremony is planned for December 10 in Elwood, a dinner meeting where Edward H. Stoll, the nation's most senior weather observer, will be the first recipient of the NOAA National Weather Service's newest accolade, the Edward H. Stoll Award.

UPPER VOLTA

Mr. INOUYE. Mr. President, the Congress, in general, and the Senate Appropriations Committee's Subcommittee on Foreign Operations of which I am chairman, in particular have urged that the U.S. foreign assistance program be principally directed to those nations most in need of assistance.

Certainly Upper Volta in Northwest Africa, with a per capita gross national product of $70 per year, qualifies as such a country. In fact, only Burundi with $60 per year is more destitute.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a table reflecting certain economic and social data relating to Upper Volta, together with a table of historical U.S. foreign assistance to this needy nation.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

UPPER VOLTA—ECONOMIC AND SOCIAL DATA

Per Capita GNP—1973—$79.
Life expectancy—35 years.
People per doctor—74,200.
Literacy rate—5–10 percent.

TRANSFERS OF U.S. RESOURCES TO UPPER VOLTA

	Fiscal year—			
	1971–73 historical	1974 actual	1975 estimated	1976 proposed
Total of all U.S. resources transferred	$11,813,000	$6,795,000	$10,989,000	$5,267,000
Economic assistance (Subtotal)	10,423,000	6,236,000	10,373,000	4,595,000
Agency for International Development:				
Food production and nutrition				850,000
Selected development problems	300,000	110,000	84,000	
Disaster relief and reconstruction	323,000		7,586,000	
Public Law 480	9,800,000	6,126,000	2,703,000	3,745,000
Other assistance (subtotal)	1,390,000	559,000	616,000	672,000
Peace Corps	1,300,000	528,000	579,000	630,000
Mutual education and cultural exchange	90,000	31,000	37,000	42,000

Note: Grand total, fiscal years 1971–76—$34,864,000.

Mr. INOUYE. It is, therefore, particularly distressing for me to read in today's Washington Post an article entitled "Cadillacs Defended," which the Finance Minister of Upper Volta defended his government's recent purchase of three new Cadillacs and 19 Mercedes as needed to enhance the country's "dignity and pride."

OUAGADOUGOO, December 9.—Upper Volta's Finance Minister Marc Garango defended the Government's recent purchase of three new Cadillacs and 19 Mercedes cars as needed to enhance the country's "dignity and national pride."

Mr. President, in its fiscal year 1975 report the Senate Appropriations Committee stated:

Now is the time for a fundamental change in our relationship with developing countries and with those who have achieved prosperity. We must assist only those among the needy who have demonstrated a willingness to help themselves.

Mr. President, such reports as the one to which I have made reference are not reassuring that the officials of Upper Volta are demonstrating a willingness to help themselves.

RIGGED FOOD FOR PEACE SHIPMENTS

Mr. McGOVERN. Mr. President, the December 9, 1975, issue of the Washington Post by its perceptive reporter Dan Morgan calls our attention to certain alleged shipping practices in the food for peace program which, if true, should be the basis for a congressional inquiry. The information contained in the article most certainly, if correct, subverts the aims and objectives of a humanitarian, meritorious program to the manipulations and self-serving interests of those who perform only the intermediate function of transporting the commodities. As a former director of the food for peace program, I ask unanimous consent that Mr. Morgan's article "Food-Aid Bid Rigging Probed," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FOOD-AID BID RIGGING PROBED

(By Dan Morgan)

The Agriculture Department is investigating whether the United States government may have been cheated through bid rigging by shipping companies that haul cargoes to needy nations under the Food for Peace program.

The inquiry, by the department's office of investigation, is aimed at shipping brokers, shipping companies and local embasies that may have been in a position to manipulate indirectly government shipping subsidies.

Various other conflicts of interests involving brokers and shipping companies also are under study.

The inquiry is at least three months old. One commercial source said yesterday that the Food for Peace shipping operations involved "rotten" business.

The Washington Post reported last March that the Food for Peace cargo business was marked by fierce rivalries betwen brokers and shipping companies, broker commissions running into the tens of thousands of dollars, and reports of kickbacks to diplomats involved in selecting ships to carry the U.S.-subsidized cargoes to their countries.

One aspect of the investigation focuses on possible manipulations that may have resulted in U.S. overpayments of shipping subsidies that benefit the American merchant marine.

The 1954 Cargo Preference Act requires that at least half of food aid cargoes travel on American-flag vessels, whose rates are substantially higher than ships sailing under foreign flags.

Foreign governments receiving Food for Peace commodities must agree to assign half the cargoes to American vessels. They are then reimbursed by the United States for the difference betwen American and foreign shipping rates.

About $1 billion in shipping subsidies has been paid out in the last 21 years. In fiscal 1973, $35 million was paid to 66 shipping firms in this way.

One shipping source said there have been reports that brokers for foreign and American ship owners trade information and rig bids to widen the difference between American and foreign rates, thus increasing the subsidy. Foreign embassy officials, who are empowered to award contracts for hauling Food for Peace goods, may be cooperating in the manipulation and receiving kickbacks, several sources said.

Sources said yesterday that flaws and conflicts of interest are pervasive in the system of awarding shipping contracts under Food for Peace.

A number of local embassies hire private American brokers to act for them in selecting vessels to haul the commodities. The brokerage commissions, which are on a percentage basis, are higher if the broker selects the highest bidder.

"I have seen a broker pick a high bid because the commission is higher," said one shipping source. "The ship brokering business is a conflict-of-interest business."

In one case, a local broker represented both the embassy and the owner of a major American shipping company. Many of the company's vessels received awards from the embassy.

A broker said that foreign brokers also have offered to transport Food for Peace commodities on vessels that aren't available "just to get the business."

In some cases, they have had to default later on hauling the goods.

One broker representing the interests of a large foreign shipping owner won 90 per cent of the non-American business to Pakistan and Bangladesh for his client earlier this year.

According to shipping sources, patterns often emerge in which an embassy regularly allocates cargoes to a single shipping company or broker, for a ship owner, even though the bidding is supposed to be competitive.

INFORMATION REQUIREMENTS FOR A U.S. FOOD POLICY

Mr. HUMPHREY. Mr. President, in 1974, I requested, with the endorsement of Chairman TALMADGE of the Senate Committee on Agriculture and Forestry, that Congress Office of Technology Assessment make an assessment of food information systems and their adequacy for policy planning. The combination of world events that occurred in 1972, 1973, and since have underscored the necessity for this assessment. These events have been well chronicled, and their consequences and effects are still being felt today; and the recently revised Soviet harvests—down from 215 million metric tons to 137 million metric tons—further support this critical need.

Increased attention has been given to the importance of agricultural information:

In 1972 Senator BELLMON and I visited the Soviet Union. Our report, "Observations on Soviet and Polish Agriculture," recommended among other things increasing the number of agricultural attachés assigned to the Soviet Union.

The 1974 World Food Conference recognized the vital role of adequate, timely, and objective information. I wrote to the U.S. Food Conference Coordinator urging that our delegation support the establishment of a World Food and Agricultural Information Center. I was pleased that the U.S. delegation did give strong support to my request. The conference adopted a resolution calling for the establishment of a worldwide "Global Information and Early Warning System."

Numerous other reports and experts have brought to the public's attention the urgency of correcting the deficiencies that exist in U.S. and worldwide information systems.

We no longer know from day to day what the next food policy pronouncement will be or who will make it. The capricious food policy decisions and statements of Government officials in the past 6 months have seriously affected farm prices, created uncertainties in the markets, and demonstrated to Congress that a new and stable food policy structure is urgently needed.

As long as apparently limitless reserves were available, there seemed little need to gather exact information on the world food situation. Emergencies could always be met. However, that is no longer the case, since administration policy has allowed food reserves to dwindle from a 90-day supply to less than a month.

Today, I chaired OTA hearings on the information requirements for a U.S. food policy. These hearings explored proposals for a more pragmatic and more consciously planned approach to developing and implementing a U.S. food policy. OTA's Board will weigh and balance these differing approaches in order to frame options for congressional consideration.

We need a U.S. food policy. We need to make significant changes in our food, agriculture, and nutrition programs and policymaking process.

As one of our experts, Mr. Ed Jaenke, stated, a comprehensive and consciously coordinated national food policy should be framed in terms of a body of broad general objectives which would:

1. Provide adequate supply and reasonable price stability to consumers;
2. Assure fair returns to farmers;
3. Provide assured supply for a continuing high level of commercial exports;
4. Provide an available supply for feeding programs or disaster relief at home or abroad;
5. Enable the U.S. to fulfill its international commitments and attain its objectives in food matters;
6. Improve nutrition at home and abroad.

These six goals are well-reflected in the two most significant elements that must be addressed within the framework of a U.S. food policy, which are: First, the need for the United States to improve its resource production and management activities and policies; and second, the need for the United States to be equally concerned with the post-production elements of the food system, especially those which affect nutritional status and health of consumers.

A U.S. food policy created to meet these objectives is not only possible and desirable but essential. The United States must utilize its food production capability to maximize its economic, political, and social benefits. Only an organized, coordinated, and well-integrated national food policy can accommodate this. To state the goals and the need is the easy part.

The difficult part is the design or fit of the elements into a systems concept and the development of programs within each component.

Only through adequate planning and careful coordination of U.S. food policies in the light of systematic and timely information on the current food situation can the world improve its present condition.

We must reduce the realm of the unpredictable and eliminate some of the guesswork in agricultural policy making. Only in this way can we provide a sound basis for developing world food security.

Today's hearings provided an opportunity to consider the informational requirements for a U.S. food policy. It was my privilege to exchange ideas with the distinguished panelists:

Willard Cochrane, professor of agricultural economics at the University of Minnesota;

Lauren Soth, chairman of the Agriculture Committee of the National Planning Association;

Luthur Tweeten, professor of agricultural economics at Oklahoma State University; and

E. A. Jaenke, of the agricultural consulting firm, E. A. Jaenke and Associates.

Each of these witnesses made several points worthy of Congress's review and attention. I know that many of the things said in these papers are controversial. But that is good. I want to see the Congress discussing a whole range of options, so that we can develop more viable responses to the problems that continue to plague us in the food area.

Mr. President, I ask unanimous consent that the Jaenke statement; the Soth/Cochrane statement; and the summary of Tweeten statement be printed in Record.

I ask unanimous consent that my statement concerning information requirements for a National Food Policy be printed in the Record.

There being no objection, the statements were ordered to be printed in the Record, as follows:

STATEMENT OF SENATOR HUBERT H. HUMPHREY

INFORMATION REQUIREMENTS FOR A NATIONAL FOOD POLICY

Today is the third day of hearings that I have chaired for Congress' Office of Technology Assessment. Before we begin today's dialogue with our distinguished panel of experts, I would like to review the purpose of these hearings and share some of our earlier findings.

In 1974 I requested, with the endorsement of Chairman Talmadge of the Senate Committee on Agriculture and Forestry, that the OTA make an assessment of food information systems and their adequacy for policy planning. The combination of world events that occurred in 1972, 1973, and since, have underscored the necessity for this assessment. These events have been well chronicled, and their consequences and effects are still being felt today; and the recently revised Soviet harvests—down from 215 million metric tons to 137 million metric tons—further support this critical need.

Increased attention has been given to the importance of agricultural information:

In 1972 Senator Bellmon and I visited the Soviet Union. Our report, "Observations on Soviet and Polish Agriculture," recommended among other things increasing the number of agricultural attaches assigned to the Soviet Union.

The 1974 World Food Conference recognized the vital role of adequate, timely, and objective information. I wrote to the U.S. Food Conference Coordinator urging that our delegation support the establishment of a World Food and Agricultural Information System. I was pleased that the U.S. delegation did give strong support to my request. The Conference adopted a resolution calling for the establishment of a worldwide "Global Information and Early Warning System."

Numerous other reports and experts have brought to the public's attention the urgency of correcting the deficiencies that exist in U.S. and worldwide information systems.

Today's hearings are especially timely. We no longer know from day to day what the next food policy pronouncement will be or who will make it. The capricious food policy decisions and statements of Government officials in the past six months have seriously affected farm prices, created uncertainties in the markets, and demonstrated to Congress that a new and stable food policy structure is urgently needed.

As long as apparently limitless reserves were available, there seemed little need to gather exact information on the world food situation. Emergencies could always be met. However, that is no longer the case, since administration policy has allowed food reserves to dwindle from a 90-day supply to less than a month.

This hearing will explore proposals for a more pragmatic, more consciously planned approach to developing and implementing a national food policy. OTA's Board will weigh and balance these differing approaches in order to frame options for Congressional consideration.

We need a national food policy. We need to make significant changes in our food, agriculture, and nutrition programs and policy-making process.

As one of our experts today will state, a comprehensive and consciously coordinated national food policy should be framed in terms of a body of broad general objectives which would:

(1) Provide adequate supply and reasonable price stability to consumers;

(2) Assure fair returns to farmers;

(3) Provide assured supply for a continuing high level of commercial exports;

(4) Provide an available supply for feeding programs or disaster relief at home or abroad;

(5) Enable the U.S. to fulfill its international commitments and attain its objectives in food matters;

(6) Improve nutrition at home and abroad.

These six goals are well reflected in the two most significant elements that must be addressed within the framework of a national food policy, which are: (1) the need for the U.S. to improve its resource production and management activities and policies; and (2) the need for the U.S. to be equally concerned with the post-production elements of the food system, especially those which affect nutritional status and health of consumers.

A national food policy created to meet these objectives is not only possible and desirable but essential. The U.S. must utilize its food production capability to maximize the economic, political, and social benefits. Only an organized, coordinated, and well-integrated national food policy can accomplish this. To state the goals and the need is the easy part.

The difficult part is the design or fit of the elements into a system concept and the development of programs within each component. I have asked OTA to accept the responsibility in this task. They will explore the total food system from the viewpoint of (1) production, (2) marketing and processing, (3) retail distribution, and (4) consumption and nutrition.

Only through adequate planning and careful coordination of national food policies, in the light of systematic and timely information on the current food situation, can the world improve its present condition.

We must reduce the realm of the unpredictable and eliminate some of the guesswork in agricultural policy making. Only in this way can we provide a sound basis for developing world food security.

Information is a precious commodity. To be useful, it must be objective, timely and reliable. Such information will not automatically insure the right decisions, but it will improve the tools available to decision makers.

The report submitted to the Office of Technology Assessment by OTA's Food Advisory Committee in June made 12 recommendations to improve food information systems. Today's hearings are designed to expand the content of these recommendations and explore ways in which these options might be implemented by the Congress.

OTA's Food Advisory Committee will hold a further session which is scheduled for January 15, 1976.

Because Congress needs to obtain outside information upon which to base its decisions, it was necessary to focus on some of the main sources of information and especially the U.S. Department of Agriculture.

We also had, at our earlier hearing, the opportunity to hear from representatives of the farm organizations and the private grain trade and review the Food and Agriculture Organization's plans for an expanded global information and early warning system. These materials will be used in the preparation of OTA's final report to Congress.

Today's hearings provide an opportunity to go one step further, to consider the informational requirements for a national food policy.

I am pleased to have with us such a distinguished panel of experts. Each individual has a prepared statement, but in the interest of time, he will present a short summary, with the full statement made a part of the record.

Present with us today are:

Willard Cochrane, Professor of agricultural economics at the University of Minnesota;

Lauren Soth, Chairman of the Agriculture Committee of the National Planning Association;

Luther Tweeten, Professor of agricultural economics at Oklahoma State University; and

E. A. Jaenke, of the agricultural consulting firm, E. A. Jaenke and Associates.

A UNITED STATES FOOD POLICY: REQUIREMENTS AND ALTERNATIVES

(By E. A. Jeanke & Associates, Inc.)

INTRODUCTION

Recent developments have increased the complexity and importance of U.S. and world food problems. The conflicting responses and approaches of the many interests involved have made clear the need for a national food policy, a government structure to effectively coordinate its implementation, and the need for improvements in the U.S. and international food and agricultural information systems.

This report, prepared for the Office of Technology Assessment of the United States Congress, assesses alternative governmental structures and their informational requirements for the United States to formulate and administer a national food policy designed to cope with uncertain supply/demand situations likely to occur in the decade ahead.

This report has been prepared by the consulting firm of E. A. Jaenke & Associates Inc. Major contributors have been Quentin Bates, Malcolm Maclay, and E. A. Jaenke.

The report is divided into four major sections. The first traces the supply/demand situation of food and identifies the economic, political, social, and informational factors that have contributed to changes in the overall food situation. It summarizes the current information and the most comprehensive projections as to world food developments in the medium-term future.

The second section assesses current agriculture policy, its legislative authorities, and administration and presents goals and guidelines for a national food policy.

The third section presents a survey and assessment of present institutions.

The fourth section offers three alternative governmental structures, the advantages and disadvantages, and the informational requirements of each.

I. World's food supply—past, present, and projections

Roots of the Recent Food Crisis

Complacency and Overconfidence—The food crisis of the past few years erupted suddenly and unexpectedly on a world that had become complacent about its chronic food problem. True, some 400 million people were chronically malnourished, but the developed countries salved their consciences and helped alleviate suffering by large food aid programs made possible by surplus grain production.

In spite of food aid programs and production restrictions during and slightly beyond the '60s, grain reserves in the major producing countries remained uncomfortably high and easily absorbed the leap in import demand created by the U.S.S.R. and Asian droughts of 1965 and 1967. Grain prices had been relatively stable for two decades and real prices had actually declined rather significantly. Considerable confidence was felt that the potential for production expansion in the developed countries, combined with the "Green Revolution" in the developing economies, would easily match the growth of effective demand for the foreseeable future. With what are now recognized as low fuel and fertilizer prices and a steady rise in productivity, grain prices were expected to remain stable at relatively low levels.

In 1972 a bewildered world suddenly found itself entering into an extremely unstable food situation, with supplies temporarily tight and prices gyrating wildly.

The ostensible reasons for this abrupt change in direction are well known; i.e., abnormally poor crops in several key areas—a shift in the Humboldt current—unexpectedly large Soviet imports—widespread inflation—U.S. dollar devaluation—to cite only the most important. However, with the benefit of hindsight, we can now clearly see that this crisis had its roots in largely unnoticed developments in grain supply and demand during the years of apparent stability.

Demand Pressures Build—Social, economic, and political factors contributed over a period of years to a strong upward pressure on effective demand for food in the early 1970s. Food consumption in the developing countries was rising faster than their food production, resulting in growing dependence on imports from the developed countries. However, grain production in the developed countries was rising faster than consumption. Consequently, a major concern during the '50s and '60s had been the management of surpluses. This concern led to large food aid programs and to tighter grain production controls which by the late '60s had substantially reduced the larger reserves that had traditionally given stability at low price levels to the world grain markets.

Meanwhile, several centrally planned economies which had been traditional net grain exporters were steadily moving toward an import deficit position.

Reinforcing the upward pressures of rising population and income on demand was a marked shift, both in official government policies and in public attitudes, toward a greater awareness of and sympathy for the problems of hunger and malnutrition in the world. This shift in approach has been developing on both international and national levels. The following are a few recent examples:

The World Food Conference in November 1974 effectively focused international attention on food problems, and a climate of unexpected cooperation surrounds the follow-up acivities.

The International Bank for Reconstruction and Development and other UN agencies are presently devoting much greater resources to food and agricultural development than previously.

Bilateral aid programs are giving top priority to agricultural development.

While food aid appears to have been cut back from earlier days, especially by the U.S., because food aid programs are now more nearly divorced from surplus disposal, multilateral food aid for purely humanitarian purposes is probably at an all-time high.

It is with individual nations, however, that this shift in policies and attitudes is probably most significant and least recognized. In most developing countries, hunger and malnutrition were endemic and were often viewed fatalistically as insoluble problems. Surplus food producing countries and developed countries often were either genuinely unaware of their own hunger problems or unwilling to admit them publicly. The general public in the U.S. reacted with a combination of shock, anger and disbelief a few years ago when a Senate investigation revealed the extent and seriousness of hunger in this country. This played no small part in the relatively unpublicized but truly astonishing growth in recent years of our domestic federal food assistance programs from about $1 billion in FY 1969 to an estimated $9 billion in FY 1976. In addition, substantially liberalized welfare programs have steadily boosted nutrition levels for the needy.

This development is less apparent among other developed countries mainly because most of them, particularly in Western Europe, have long had liberal social programs. The centrally planned economies, however, are showing greatly increased concern for improving and upgrading the diets of their peoples, whose incomes are rising and who are insistently demanding more livestock products and greater variety. The OPEC countries are devoting an important share of their "instant riches" to food imports and agricultural development.

Many developing countries as well are making greater efforts to provide more adequate food supplies. Last season when her crops were small, India imported about six million tons of grain—she reportedly plans to import about the same quantity this season even though her grain harvest this year is excellent. Indonesia, South Korea, and Bangladesh are among other LDCs that are straining to step up food imports.

By 1972, the world had become highly vulnerable to even a moderate reduction below trend in food supply. Developing countries had a large and growing dependence on imports because their own production, which had been inhibited by low prices and reliance on food aid, had not kept pace with demand. The centrally managed economies were subsidizing food consumption and were also unable to increase production sufficiently to satisfy their people's insistent demands for upgraded diets. In the developed countries, demand for livestock products had turned sharply upward, lifting feed grain requirements with it. Rising export demand and production controls had reduced reserve stocks in the surplus producing countries to levels that were only about 50 million metric tons (M.T.) over pipeline requirements. This compares to the normal annual increase in world consumption of about 25 to 30 million M.T.

Nevertheless, at the beginning of 1972, the world's grain producers, particularly those in the U.S., were still very worried about grain surpluses. In the U.S., carryover stocks had increased by 18 million tons over those of the previous year. Although the U.S. export outlook was good, partly due to the devaluation of the U.S. dollar, the size of these grain stocks kept prices at low levels, and both farmers and the Administration were eager to expand exports even more.

From Surplus to Shortage in 1972—The drought that struck the U.S.S.R., Argentina, Australia, and South Asia did not reduce world grain production by more than 2½% from that of the previous year, but consumption jumped by 35 million M.T., exports by 15 million M.T., and carryover reserve stocks fell by about 30 million M.T.

The principal swing factor in this picture was the Soviet decision to make up its entire shortfall in grain supplies with imports. In 1963, 1965, and 1967, Russian grain production had fallen substantially below the previous year (and also below trend) by an average of about 30 million M.T. Yet in each of those years, the Soviets pulled in their belts, drew down stocks, slaughtered some livestock, and made do with imports of 10 million M.T. in 1963/64, the year they were worst hit, 9 million M.T. in 1965/66 and only one million M.T. in 1967/68. The change in import policy in 1972 seemed astonishing at the time, but we now know that the Soviets felt they must make good on their commitment in the 1971–75 Five-Year Plan to increase livestock production by 25%. They therefore imported 22 million M.T. of grain in 1972/73 when their production had dropped only 13 million M.T. from the previous year (net imports were 19 million M.T., as compared to the 1971/72 net of 1.4 million M.T.). This policy is obviously still in effect as the massive Soviet purchases of this year bear witness.

The Soviets would not have been able to buy up such a substantial portion of the world's grain reserves in 1972/73 at low prices had it not been for the failure of our intelligence system to furnish adequate and timely information on Soviet crop prospects and buying intentions. In addition, the lack of coordination and exchange of information between various government agencies and departments handicapped effective action by the appropriate U.S. officials.

Without pointing the finger of blame at anyone since the Soviets went to great lengths to conceal this information, we wish to point up this excellent example of the importance of establishing more effective and better coordinated information systems.

The story of developments in the world grain situation since 1972 is well-known. Prices have fluctuated violently but from a much higher base. Stocks dropped precipitously and carryover stocks have been little better than pipeline requirements since that time. World crops were good in 1973 but below trend in 1974 and again in 1975, when record crops in the U.S. were counterbalanced by a near crop failure in the U.S.S.R. In the U.S., the Administration yielded to consumer pressure and embargoed or restricted exports on three occasions—on soybeans in 1973, on corn to the U.S.S.R. in 1974, and on all oilseeds and grains to the U.S.S.R. and to Poland in 1975. These steps were violently opposed by U.S. farmers, who had been requested to go all out for production. Hindsight has demonstrated that none of the actions had really been necessary.

Projections—The Next Ten Years

The World Outlook—The sudden shift from abundance to scarcity in world grain supplies has revived echoes of Malthus in the current rash of predictions that we have finally reached the limits of our ability to increase food production sufficiently to match population growth. One school takes the somber view that we are on the verge of widespread and growing famine conditions in which the per capita supply of food will progressively decline. Others feel that we can provide adequate food supplies only if the affluent reduce their consumption of grain-fed livestock. It is significant, however, that most of the major research studies that have analyzed the situation in depth reach much more optimistic conclusions. Their forecasts of production, consumption, and prices for at least the next decade or so vary somewhat. But they agree that most of the recent supply problems are transitory and should and can be corrected and that production can and probably will manage to keep ahead of population and income growth, although with frequent and possibly severe temporary shortages.

The major recent studies on projections of world grain production and demand have been made by Iowa State University (1973 but with a late '60s base), the United Nations' Food and Agriculture Organization (1974 with a 1969–71 base), the USDA's Economic Research Service (1975 with a 1969–71 base), and the Brookings Institution (still in progress).

Following are a few general conclusions on which most of these studies are in agreement.

In their view, the problems of the past few years, to some extent, carry within themselves the seeds of their own solutions. Food prices were too low and too often artificially restrained in the late '60s and early '70s, and low prices discouraged fertilizer production. The anticipated higher level of grain prices will stimulate production and inhibit the rate of growth of livestock feeding. Fertilizer prices should remain high enough to stimulate an increase in production of that vital input. Perhaps most importantly, the nations of the world recognize better than ever before the seriousness of the situation and the determination of their peoples to improve their diets. Thus, they are making an unprecedented effort to raise more food and distribute it more equitably.

In the short and medium term, all agree, the developing countries will probably continue to increase their dependence on food and fertilizer imports. For years their own food production remained below potential due to such deterrents as low food price ceilings, availability of food aid and cheap food imports. The recent jump in prices will stimulate food production, although high fuel and fertilizer prices and shortages of foreign exchange may, for the moment, inhibit rapid development. Temporary increases in food aid provided by affluent countries will be necessary, along with longer range development assistance programs.

These researchers reach other general conclusions about the next ten years:

(1) Real food costs will remain high temporarily, but will probably decline relative to other goods to somewhere between the excessively low pre-1972 level and the 1973–74 levels.

(2) World food resources are adequate to permit continued per capita increases in food production for at least the rest of this century, if not well beyond.

(3) Instability of food supplies and prices will continue unless adequate reserve stocks can be built up.

(4) Little evidence exists that global shifts in climate of a long-range nature will adversely affect production.

(5) The serious reconsideration of agricultural policies and their adaptation to changing conditions which is underway in most countries must continue to be carried out if these reasonably optimistic projections are to be fulfilled.

A few of the key projections made by their studies may help bring these conclusions into focus. Both FAO and ERS take as a base the 1969–71 average, although they use a slightly different mix of components. FAO forecasts the net annual import deficit of developing countries will jump from 16 million M.T. in 1969–71 to 85 million M.T. by 1985 (this would rise to 100 million M.T. if net exports are eliminated). ERS uses several alternative sets of assumptions, but under the first two alternatives the 1985 forecasts would be for deficits of 49 and 68 million M.T. (66 and 88 million M.T., eliminating the LDC exporters, Thailand and Argentina). Another ERS alternative assumes annual usage of an additional 1½ to 2 percent of fertilizer and related inputs, which would reduce the annual import deficit to 36 million M.T. ten years hence.

While food deficits of this magnitude could be met by surplus production from developed countries, the developing countries would probably have serious difficulties in financing them. The U.S. and other exporters may be faced with hard decisions as to whether to greatly expand development assistance or to increase even more their programs of food aid through grants and credits. The importance of having an integrated food policy as a basis for making such decisions is again evident.

The U.S. Outlook—As to the prospects for U.S. agriculture during the next ten years, an ERS study is currently underway on projections to 1985, for which preliminary and as yet unofficial figures have been released. Two sets of assumptions were used to make projections. The first, called "Baseline demand," assumes: (1) GNP growth at 3.98% (in 1958 dollars) annually, equal to the rate during 1960–74, (2) the Census Bureau's Series "E" population projection (see Table I), and (3) a moderate export assumption, with continued restrictions by the EC, greater participation than previously by the U.S.S.R. and China as grain buyers in the world market and steadily increasing imports by developing countries.

The report also made a "high demand" projection based on higher population levels, income, and export assumptions which would show a boost of about 9 percent in prices received and in net farm income of nearly 20 percent from the baseline projection. The second projection assumes: (1) GNP growth (1958 dollars) 4.1 percent, (2) Census Series "D" population growth, (3) export demand assumptions—(a) slightly higher imports by U.S.S.R. and China, (b) somewhat liberalized EC trade policy, (c) faster than trend growth by the developing countries' livestock economies, particularly in OPEC countries.

TABLE I.—U.S. OUTLOOK BY 1985

	Baseline demand	High demand
Per capita disposable personal income (in 1958 dollars) ($2,846 for 1974)	$3,823	$3,739
Population (in millions)	236	244
Crop production index (1967 equals 100)	133	141
Livestock production index (1967 equals 100)	118	118
Farm output index (1967 equals 100)	126	130
Volume of farm exports index (1974 equals 100)	122	140

Source: Unpublished report of ERS's economic projections program.

By comparing these two projections, we can see the dramatic effect that even a moderate shift in world demand can have on prices and incomes of U.S. farmers. For example, U.S. wheat exports under the "high demand" projection would go up by more than ⅓ and the U.S. farm price would jump from the baseline projection $3.73 to $6.24 per bushel! The increase in feed grain exports would be less dramatic, but as noted total farm exports would go up by 15 percent and farm incomes by 20 percent.

TABLE II.—U.S. CROP FORECASTS BY 1985

[Unit: Million bushel]

	Production		Exports		Price (1974 dollars)	
Commodity	A[1]	B[2]	A	B	A	B
Wheat	2,059	2,530	1,165	1,610	3.73	6.24
Corn	6,561	6,741	1,365	1,735	2.33	2.64
Grain sorghum	1,078	1,087	195	239	2.10	2.38
Barley	479	472	76	32	1.80	2.04
Soybeans	1,778	1,829	806	812	7.03	7.36

[1] A—Baseline demand.
[2] B—High demand.

Source: Unpublished report of ERS's economic projections program.

On the other hand, although no specific projection was made for an assumption of *below trend* world demand, the logical conclusion is that U.S. farm prices and incomes could fall disastrously, using the same elasticities of demand.

Our critical need for a better information system could not be better demonstrated than by these projections. The price inelasticity of U.S. farm products dictates some fine economic tuning in the coming years, but as of now our economists simply do not have the necessary data. The scope of the information problem on a worldwide basis is overwhelming indeed. Think for a moment of the sophisticated crop data gathering system we have in the U.S. It is far and away the best in the world, but monthly revisions of crop forecasts have frequently been large enough to make front page news. Now imagine trying to make sophisticated world crop forecasts from data which at best is provided by a country whose information gathering system is of a much lower caliber or at worst where countries outrightly refuse to provide any information. We have relied far too long on the educated guesses of agricultural attachés.

Summary

The major new elements in the U.S. and the world agricultural outlook that have vastly increased uncertainty and instability are:

1. The rapid dissipation of world food reserves to minimum pipeline levels and the disappointing progress in the ongoing negotiations for an agreement to rebuild them.

2. A continued upward trend in the productive capability of *developed* countries, leading to potential short-term surplus, price depressing conditions.

3. A growing, but erratic and unpredictable, increase in import demand from the *developing* countries, as well as the centrally managed economies.

4. A U.S. commitment to eliminate hunger from the U.S. and to take the lead in eliminating it from the world. However, there appears to be a reluctance to provide the funds required.

5. The sharp upturn in the rate of increase in the costs of production of farm products, which in the case of livestock feeders includes feed prices themselves, that makes U.S. farmers vulnerable to serious losses when prices move wildly in either direction.

6. The increased tendency of retail food prices to move like a ratchet, upward quickly and easily but with great resistance to downward movements when farm prices decline (due partly to inflating handling and processing costs). This will cause great concern and real economic hardship to consumers, particularly those in middle and low income cagetories.

7. The failure of the existing U.S. and world information systems to provide the inputs necessary to cope with the far more interrelated and complex food problems facing the world today and tomorrow.

8. The increasingly strident demands of the developing countries for a "new economic policy" that would seek out programs for redistributing wealth from the affluent countries to the poor ones.

9. The runaway inflation of the past few years that even worldwide recession has failed to arrest.

II. Current agricultural policy—its legal framework and administration

Legislative Background

In the light of these new elements in the United States and world food situations, we need to examine the current legislative authorities, policies, and institutional structures. They were primarily created and shaped to deal with the problems associated with surpluses. A review of the Compilation of Statutes administered by the United States Department of Agriculture emphasizes this point. Many of the basic authorities regarding various commodities relate back to the Agricultural Adjustment Act of 1938. The Agricultural Adjustment Acts of the 1950s and 1960s, in most cases, tie back to that 1938 Act. The mechanism for accomplishing needed adjustments is the Commodity Credit Corporation, a unique government corporation with comprehensive commodity and funding authority. Parts of many other programs administered by the Department of Agriculture such as conservation, credit, research, quality standards, or special export programs are basically geared back to the adjustment function.

Many of the existing legislative authorities are not ideally suited to deal with an unstable situation of closely balanced food supply. As examples, no effective measures were readily available to ease the impact on consumers and livestock producers when soybean and grain prices soared in recent years. Later, when the costs of producing grain soared as prices declined, grain producers felt the pinch. Again, the legislative authorities and government structures were not sufficient to deal with the problems.

It is helpful to review the major changes that occurred in legislative authority and agriculture policy in recent decades. The most significant changes occurred in the 1960s when loan and purchase rates were lowered to estimated world levels and supplementary payments were provided for cooperating producers who agreed to restrict production. The two recent legislative changes, the Agriculture Act of 1970 and the Agriculture and Consumers Protection Act of 1973, while modified and improved over the programs of the 1960s, were nevertheless patterned in the same theoretical mold.

Administrative Philosophy

Despite the consistent legislative authority, the divergent philosophies of its administrators resulted in sharply differing outcomes. The current Administration defines its National Food Policy as one directed toward the efficient production and distribution of the agricultural output in a completely free U.S. and world competitive market with only minimal government involvement.

The current Administration has given modern expression to the 18th Century laissez-faire, laissez-passer economic philosophy of Adam Smith and the French economists, which involved opposing all government interference in economic affairs except to maintain property rights. This classical economic approach relies on an assumed automatic coordination with competitive market prices providing the appropriate incentives or discouragements to producers of goods and services to thereby create "The Wealth of Nations."

The Secretary of Agriculture has not only voiced this laissez-faire philosophy in numerous speeches but has gone as far as the law allows to eliminate or hold down agricultural price supports to a point where they have no meaningful effect on free market price adjustments. The Department's internal directive on program goals and objectives makes very clear indeed the policy of minimizing government intervention and emphasizing a market-oriented approach.

However, the Administration apparently forgot its devotion to the laissez-faire free market concept in those cases where the result of that free market has caused political problems from the public, consumer sector. The recent embargo actions are examples.

The mind-set and active striving toward the goal of coordination and adjustment of food production and distribution through market prices, with no government interference, left the country unprepared to take timely and appropriate action to cope with the serious crises and pressures that have recently been encountered.

The hard economic facts of world shortages and skyrocketing prices caused by weather, sea current shifts, policy changes in non-free-trade countries and other unpredictable events combined with such known factors as world population increases, U.S.S.R. détente, Red China rapprochement, a rising consumer movement, and the divergent interests of feed grain and livestock producers forced sudden price and export controls in June 1973 from a reluctant Administration.

The importance in theory and usefulness in practice of the competitive market price system for making adjustments in production, exports, imports, domestic use, and stock levels is fully recognized. It works relatively well for most agricultural commodities most of the time. However, recent events have made clear that unduly wide quantity and price fluctuations will not be acceptable in our domestic society either to consumers or to farmers. The power of the consumer movement, which was reflected in the Administration's reluctant market control actions of 1973, '74, and '75 will surely grow and become more potent in any future crises. On the other hand, when agricultural prices fell precipitately from October 1974 through March 1975 while production costs rapidly rose, the need to protect farmers became expressed in the near override of the President's veto of the Farm Bill passed by the Congress in the spring of 1975. This farm bill primarily would have increased the target price support for feed grains, wheat and cotton to their approximate cost of production levels and would have reestablished a support program for soybeans.

Appraisal

A *total* market-oriented (laissez-faire) approach to food today just is not sufficient. It is acceptable in our present U.S. society and world situation only within reasonable market price changes. It fails to touch or provide answers for many of the most pressing problem aspects, responsibilities for which and decisions on which reach into nearly all our existing governmental departments and agencies. The various Presidential and Interagency committees established to effect some coordination in limited spheres are insufficient to properly meet the overall coordination required. What is needed is a flow of up-to-the-minute data, information, and analyses from all the agencies concerned with food to a centralized organization. This organization should be charged, on a continuing basis, to exercise judgment and reach decisions reflecting all input aspects and approaches and possess authority to effectuate coordination.

Goals for A National Food Policy

This paper proposes a broader, more pragmatic, more consciously planned approach to developing and effectuating a national food policy. Such an approach involves weighing and balancing the varied, often conflicting, group interests and attitudes in terms of broadly conceived general welfare. It involves the international status, obligations and policies of the United States. It involves and leans heavily on a greatly improved flow of data and information to enable human judgment to coordinate all these factors in ways which best meet our national interests and which are acceptable to the Congress and to the public as a whole.

A comprehensive and consciously coordinated National Food Policy should be framed in terms of a body of broad general objectives which would:

1. Provide adequate supply and reasonable price stability to consumers.
2. Assure fair returns to farmers.
3. Provide assured supply for a continuing high level of commercial exports.
4. Provide an available supply for feeding programs or disaster relief at home or abroad.
5. Enable the U.S. to fulfill its international commitments and attain its objectives in food matters.
6. Improve nutrition at home and abroad.
7. Develop improved information and evaluation systems to better achieve the above objectives, including effective informational flow back to the American people.

Guidelines for Developing a National Food Policy

A National Food Policy created to meet these objectives is not only possible and desirable, but essential. If the United States is to fully utilize its food supply capability in order to maximize not only the economic benefits but also the political and social benefits, we must come forward with an organized, coordinated, planned National Food Policy. This can and must be coordinated with our free enterprise market-oriented economy. This policy must help to guide that free market economy. It must set parameters so as to minimize economic disruption and hardships to all segments of our society.

A National Food Policy would involve an assessment of the total food requirement for a 10-year period. This would include domestic commercial demands, domestic food assistance programs, commercial exports, food aid exports, and contingency stockpiles.

In several of the above requirements, basic policy questions are evident, and Congressional action would be needed. It is proposed that the Congress would ratify or approve the 10-year National Food Policy prior to its implementation.

Given these national food requirements, the Executive Branch would then determine the conditions and inputs to obtain the matching supplies. This would involve:

1. Price and income incentives.
2. Basic and applied research in production, marketing, and nutrition.
3. Adequate credit.
4. Adequate transportation.
5. Availability of production inputs, such as energy, labor, and chemicals.
6. Efficient processing and marketing systems.

The development of such a 10-year National Food Policy within the framework of a basically free and market-oriented society must involve many facets of our economy. It must include the inputs and best thinking of farmers, agribusinessmen and researchers, etc. But only government can provide the catalytic action, the leadership, and the coordination to bring the best points of view into a decision-making process. Congress and the Executive Branch must accept this responsibility.

The primary purpose of this paper is not to fully develop the concept and application of a National Food Policy. Hence, we have only outlined a skeletal approach to provide the necessary background for evaluation of the alternative government structures for carrying out such a food policy.

III. Analysis of present institutions

Proliferation of Decision-Making

Preceding sections of this paper give some insight into why, until recently, there has been little or no consideration given to developing, proclaiming and explaining a well-enunciated national food policy and a coordinated approach to handling matters relating to food. Until recent years, we have struggled with a very real supply control or "farm problem." Now we face what appears to be also a very real and long term "food problem." The rapid fire events and changes of recent years, the need for more exacting data and analyses, and dire consequences of inaction now dictate a bold new approach.

With a very thin supply/demand margin, we can no longer leave the welfare of consumers and farmers to a widely fluctuating free market, especially when central governments can exert such strong market influences. The U.S., in particular, and other producing and consuming countries have a vital stake in the rationalization of the food picture.

As each crisis emerged in recent years, a new short-range patchwork decision-making procedure was quickly inaugurated, generally at the White House level. The effect has been to give to others rather than the Secretary of Agriculture greater and greater responsibility for food policy-making. In addition, it has resulted in an almost unbelievable number of councils, boards, agencies, and committees—many overlapping and duplicating, but all designed to pull together the necessary information for high-level decision-making. Not only the White House has been responsible for this proliferation of decision-making and coordinating bodies. Several have been spawned by the Congress. This whole situation is reflected in the Washington cocktail joke that agriculture and food have become too important to be left to the Secretary of Agriculture.

Twenty-Six Decision-Makers

It is extremely difficult, if not impossible, to indicate each and every organization, department, bureau, agency, council, board, and committee that has by law or executive order been given some significant responsibility for at least one aspect relating to food. Many involve the inputs to agriculture, some involve the production process itself. Others involve marketing, distribution, and quality control. A number affect the overall supply and utilization of food—particularly when consumers and voters are up in arms over food prices.

This paper will attempt to enumerate the major agencies, departments or government bodies that have some significant input in the total food equation.

1. *Department of Agriculture,* with its 23 agencies, has the prime responsibility for many aspects of food, its production, and use.

2. *Department of Labor,* through its Rural Manpower Service of the U.S. Employment Service, its Office of Manpower Development programs, its National Migrant Workers program, and its administrative responsibility for occupational safety and health, is deeply involved in a number of aspects relating to food.

3. *Department of State,* with its Under Secretary for Economic Affairs, its Under Secretary for Political Affairs, its Assistant Secretary for International Organization Affairs, and, of course, its semi-independent Agency for International Development and its coordinator of the Food for Peace program, is likewise involved.

4. *Department of the Interior* has inputs in the food area through its Bureau of Land Management which controls livestock production on federal lands; its Bureau of Commercial Fisheries; its Bureau of Reclamation; and its Office of Land Use and Water Planning.

5. *Department of Commerce* and its Domestic and International Business Administration works with businesses involved in the processing, handling, exporting of food products.

6. *Department of Army,* Corps of Engineers with its jurisdiction over the nation's water resources development actually has tremendous effect on agriculture.

7. *Department of Health, Education, and Welfare* plays an important role particularly through its Food and Drug Administration.

8. *Department of Transportation* has at least seven entities directly involved in transportation matters which have major impact on the supply of productive inputs or the transportation of raw or processed agricultural commodities.

9. *Federal Energy Administration,* with programs of allocation of energy supplies to agriculture, is deeply involved. Its decisions affect the ability of farmers to produce food and its proper handling and processing.

10. *Treasury Department* plays an important role particularly under the current government organization which brings the Secretary of Treasury into nearly all economic decisions.

11. *Farm Credit Administration,* supplying nearly ⅓ of the capital needs of agriculture, is involved.

12. *Central Intelligence Agency,* with its analyses of world production, has become a significant part of the decision-making process.

13. *Environmental Protection Agency,* with its rule-making authority in the agricultural field, can greatly increase the cost of food production as well as affect the ability of farmers to produce the quantities of food needed.

14. *Federal Trade Commission,* with its responsibilities over legislation affecting competition, is involved in food policy.

15. *Federal Maritime Commission* is concerned with the conditions of export of products including food products.

16. *Federal Reserve,* with at least six of its banks located in heavily productive agricultural areas and with its decisions so intricately interwoven with national economic policy, is a key actor in the food decision-making process.

17. *Commodity Futures Trading Commission,* recently established to regulate futures trading, has a significant role or effect.

18. *International Trade Commission,* with its enforcement of import and export policies, affects food production and distribution.

19. *Office of Management and Budget* plays a major role in determining food production and utilizing through its influence on policy and expenditures.

20. *Domestic Council,* charged with long-range planning and with making Presidential and legislative recommendations, is involved.

21. *Council of Economic Advisers* provides significant analyses and inputs into decision-making processes involving food.

22. *Council on Wage and Price Stabilization,* particularly during its most active period of the early 1970s, had tremendous influence on agricultural policy.

23. *Office of Special Representative for Trade Negotiations* is a key actor since agricultural trade is the largest single item involved in our balance of payments and, as a result, greatly affects how much farmers will be paid to produce food.

24. *National Security Council* is involved in all major international political and economic affairs.

25. *Council on International Economic Policy* was created by Presidential memorandum in January 1971 to improve the coordination of U.S. government agencies in the field of foreign economic affairs. With food playing so important a role, the CIEP becomes part of the decision-making process.

26. *President's Economic Policy Board,* established to advise the President concerning all aspects of national and international economic policy . . . and serve as a focal point for economic policy decision-making, has an important effect on food availability.

Each of the above has some responsibility for decision-making in matters that affect food policy. In many instances, a decision by some of the above can have not only short-range but very important long-range effects. As an example of this, decisions in the field of energy have major impacts in the energy-intensive modern agricultural plant.

White House Involvement

Since so many government organizations are involved in one way or another in food policy and food policy implementation, it is only natural that we must look to the White House, which is the area of reconciliation and coordination, for the many, many inputs into the decision-making process. The following chart outlines the Executive Office organization for food issues. In addition to the groups, boards, and committees outlined in this chart, the Domestic Council and the National Security Council are, as noted above, both involved in many matters related to food.

The complexity of the issue—the emerging importance of food—is well indicated in the timing of the creation of various of these overlapping groups, committees, and boards. On September 30, 1974, the President created the Economic Policy Board. On October 30, 1974, the President established an executive committee of the Board modifying his June 18, 1974, organization of the President's Committee on Food. That committee was charged with "reviewing governmental activities significantly affecting food costs and prices and provides coordination for the nation's policies relating to domestic and international food supplies and relating to food costs and prices." The October 30 memo also classified the position of the Food Deputies Group. In addition to this and not shown on the attached chart is a "Monitoring Group" which will daily review agricultural export orders. The most significant export orders are to be submitted to the Deputies Group for decision.

On November 10, 1974, the Secretary of State established, under Presidential direction, an international food review group shown in the upper lefthand corner "to coordinate the implementation of the U.S. decisions and initiatives stemming from the World Food Conference . . . and make recommendations on further actions to be taken to implement the measures announced at the Conference." This follow-up group is also required to "coordinate" with the executive committee of the Policy Board. With the six groups as indicated in the chart, plus the Monitoring Group, plus the National Security Council, plus the basic responsibilities of the Secretary of Agriculture, it is quite clear that there is no coordinated decision-making process on matters related to agriculture. Given this organization, one is tempted to suggest that a new organization be established to coordinate the coordinating groups. It is clear that government structures must be changed and that change be accomplished in the immediate future if the asset we have in the area of food is to be developed and maximized to the best interests of the United States and the world.

IV. Alternative government structures

In light of the foregoing, it is apparent that our decision-making process with regard to food is highly satisfactory. With the growing worldwide demand for food, our entire process of food production, marketing and distribution—both domestically and internationally—dictate the need for a more precise, better coordinated information-gathering structure and decision-making process. The tolerance of error is so small that the system of compartmentalized and independent decision-making on the part of the several government bodies is no longer viable.

This paper presents three alternatives to this problem. Each is designed to focus into a single decision-making forum all of the inputs, information, intelligence, provisions, and policy choices—whether relating to political, economic, or social factors. The three alternatives represent a progression from simple to complex, from minimum change to major restructuring, from mere coordination to monolithic policy-making and implementation, from minimum Presidential action to full Congressional consideration.

Alternative No. 1—A National Food Council, Headed by a Special Presidential Assistant for Food

Under this alternative, a Special Assistant (or Counselor) for Food would be designated by the President. A Food Council involving the Cabinet officers from appropriate departments would be established by the President. No new legislative authority is necessary. Presidential authority clearly exists to re-organize White House staff functions.

A Specal Assistant to the President for Food would have the responsibility to formulate recommendations for a general, long-range National Food Policy. He would have the power to convene the Food Council and to coordinate inputs from various departments and agencies pertinent to the problem at hand, to request studies, analyses, etc., from any department or agency of government. He would serve as a catalyst, coordinator, and convener. He would structure the agenda and cause the Council to focus on issues at hand, whether long-range policy or short-range urgent decisions Actions or considerations of the National Food Council would be relayed to the President, who would direct appropriate Cabinet officials accordingly. In short, the Special Assistant for Food would gather facts, analyses, viewpoints, and form these into recommendations for the President. Individual Cabinet officers would have the clear opportunity to present differing recommendations directly to the President.

The Council, under the chairmanship of the Special Assistant for Food, would be empowered to deal with any matter relating to the total food picture. This could include matters relating to basic research in production, use, or distribution of food, the availability of inputs required in basic production policy, recommendations as to domestic or international policies relating to the production incentives or deterrents, consumption patterns, etc.

Operating through and with the Council, the Special Assistant for Food would coordinate food aid programs, allocation or embargo programs in commercial sales, recommend new legislation, and coordinate varying legislative and policy positions. Operating independently or through the Council, he would have the authority to use public advisory committees. He would, when appropriate, brief Members of Congress—Committee leaders, etc.—but would not normally appear directly before Congressional Committees. The appropriate Cabinet officer would carry out this function. Neither the Council nor the Special Assistant would have final decision-making authority and all implementation would be accomplished through the independent agency or department. While the President would decide the membership of the Food Council, it is likely that he would at least designate the Secretaries of Agriculture (perhaps as Vice Chairman), State, Commerce, and Transportation. The Council of Economic Advisers, Office of Management and Budget, AID, National Security Council, and Central Intelligence Agency and Domestic Council might also be represented.

The Special Assistant for Food would have a small core staff, probably no more than ten. In addition, there might be a second echelon working level group from the member departments or agencies designated to flush out problems, pending issues, etc., for consideration by the Food Council. It is anticipated that the Council would meet at least monthly, with the second echelon group meeting more frequently.

The "coordinating concept" here envisioned has been used on previous occasions. As the energy issue developed, President Nixon designated a special assistant for energy policy, with a similar coordinating, convening, and catalytic role. The existing White House organization is not as clearly structured for obtaining inputs from all concerned government officials and departments.

Alternative No. 2.—A National Food Agency, Headed by a Cabinet Level Food Administrator

This agency would have policy-making authority in any matter relating to food. The Administrator would have overriding authority, subject only to the President or the Congress, on policy matters relating to food. Implementation of decisions would remain with the various departments as appropriate. Under existing authority, the President could create this new agency, but legislative concurrence, authority, and the necessary appropriations would be Congressional actions.

It is envisioned that this organization would involve up to 100 technical experts in each and all facets relating to food, from research to intelligence and assessment of food requirements of peoples throughout the world. The Administrator would have full authority to call on various agencies and departments of government for analyses, studies, etc. He would report directly to the President.

A Cabinet level Food Committee or Board would be established involving those agencies that have direct and significant inputs as relate to food. Clearly, the Departments of Agriculture, State, Commerce, and Transportation would be involved, but additionally AID, the Council of Economic Advisers, National Security Council, Central Intelligence Agency, and Office of Management and Budget would probably be included.

This Cabinet level Food Committee would assist the Administrator in developing national food policy. It should meet at least monthly, with second echelon Under Secretaries, Assistant Secretaries, or Administrator's representatives meeting more frequently. Staff representatives from the NFA would work closely with their technical and designated policy counterparts in each of the agencies. The NFA staff would likewise have responsibility for follow-up to assure that policy decisions of the Administrator are being carried out by the appropriate departments. Individual Cabinet officers would have the opportunity to review and appeal NFA decisions to the President.

The Administrator of NFA would have the authority to use public advisory committees, but would most likely work through the individual departments in developing national food policies. The Agency would be responsible for establishing all policies relating to food, coordinating their implementation through Presidential directives to existing agencies. The Administrator would brief and report to the appropriate Congressional committees and would present official Administration testimony in the area of national food policy.

Alternative No. 3.—A New Department of Food

The increasing importance of food suggests the advisability of considering a basic re-organization of the governmental structure. Such a new Food Department would gather together the responsibility and authority for a variety of functions now scattered in several departments, agencies, commissions, boards and committees that have a direct bearing on our total food supply, its price, its quality, and its availability for domestic consumption, including food assistance, and commercial and food aid exports.

From within the existing USDA structure, the new agency would assume the functions now performed by the Agricultural Stabilization & Conservation Service, Foreign Agricultural Service, Commodity Credit Corporation, Agricultural Research Service, Packers & Stockyard Administration, Agricultural Marketing Service, Animal and Plant Health Inspection Service, Food and Nutrition Service, Federal Crop Insurance Administration, and Farmer Cooperative Service. Portions of other agencies such as Economic Research Service, Extension Service, Statistical Reporting Service, and Farmers Home Administration would be included as would some other minor functions from other agencies. The remaining functions currently in USDA involving the Forest Service, rural development, rural electrification, conservation, etc., would be involved in a separate re-organization plan.

At least the following functions from other departments would be included in this new Department of Food: the Department of Labor—those that deal with farm labor; the Food and Drug Administration—those dealing with the health, safety, and wholesomeness of food; the Department of State—those primarily responsible for international negotiations involving food; AID—those that involve food aid; the Department of the Interior—those in the Bureau of Land Management relating to the use of government-owned lands for grazing; and the Department of Commerce—those relating to food processing and marketing.

There would be cases where a particular function could logically fall in either of two or three departments of government. In these cases, should the decision be to not include the function in the Department of Food, then appropriate and close liaison procedures would have to be worked out so that the Secretary of Food would have full input into the decision-making process affecting food production, distribution, and utilization.

Two examples where the advantages and disadvantages are approximately equal involve energy and transportation. Few other industries are so dependent upon energy in the entire chain of production and utilization than is agriculture. Natural gas is, of course, a basic ingredient in nitrogen fertilizer production. Supplies must be made available on a timely basis for efficient production. Likewise, perishable commodities must be moved promptly when ripe and ready for harvest. Sufficient supplies of appropriate fuels must be available for planting and harvesting and processing. Likewise, in the case of transportation, farm to market roads, effective rail systems, barge transportation, are all part of the process of moving commodities to the farm, to the processor, to the market, and to the consumer, at home and abroad. The Secretary of Food must have an input in these areas, whether through his own organization or through a very carefully designed liaison procedure.

In other cases where national economic policy is involved that could affect food production, a new Secretary of Food would, of course, sit on Cabinet level committees. The implications affecting food could be raised and considered through that approach.

This third alternative involves basic reorganization of the Executive Branch. It would require Congressional action. Its total budget would be somewhat larger than the Department of Agriculture budget now, but considering that costs for other Departments would be reduced and greater efficiencies would likely result, the total cost to taxpayers should be reduced. Obviously, the Secretary of Food would present legislative proposals to Congress, make reports, and testify on food policy. He would have the benefit of public advisory committees. He would report directly to the President and would be part of the President's top decision-making team. In this way, the necessary information and inputs concerning agriculture would be included in final decisions made by the President.

Relative Advantages and Disadvantages of Alternatives

While each of the three alternatives has certain advantages and disadvantages relative to the other two, it should be noted that any of the three would be preferable to the existing conglomeration of boards, commissions, councils, departments. Even the first alternative, while somewhat similar to the existing system, offers a much more clearly structured and delineated method of coordination.

From a management standpoint, the assignment of total responsibility relating to food, inherent in Alternative #3, is preferred. The public, the Congress, the President would all know who is responsible for matters relating to food either in the policy or implementation area. The straight and clear-cut lines of responsibility are a distinct advantage. Decisions are likely to come quicker, since the tools of research and analysis will be readily available. Duplication of effort in various departments, bureaus, and agencies should be minimized, if not eliminated.

On the other hand, the extensive governmental re-organization process that is embodied in Alternative #3 could offer serious obstacles. These are likely to occur first within the Administration where there probably would be great reluctance on the part of any Cabinet and agency head to give up his independent role. Also within the Executive, this re-organization would create considerable disruption. Morale could suffer while changes are being made until individual employees understand their roles in the new organization. In addition, the legislative reorganization would not just involve the Executive Branch but would require approval by Congress. Here, built-in special interest public groups could and likely would create considerable opposition. At best, a great deal of time would be lost in an area where immediate action is necessary. At worst, opposition might result in nothing being done.

Comparing the ease of implementation, Alternative #1 stands highest. A Presidential order can be issued within a matter of weeks setting up a Special Assistant for Food and a National Food Council, and a degree of coordination so desperately needed could begin almost immediately.

However, the Food Coordinator or Special Assistant for Food would not have final decision-making responsibility. He could only recommend. Hence, from an efficient management standpoint, considerable time and effort would be lost while the President, or others at the White House, considered the validity and desirability of a particular set of recommendations. Likewise, several Cabinet officers or agency heads could be appealing to the President with different viewpoints. It would be difficult to hold responsible the Special Counselor for Food without the authority to carry out the job. Since the Coordinator would be limited to consideration of top policy matters, and since the extent of coordination is limited to top officials of appropriate departments and agencies, many worthwhile ideas and effective evaluations from middle level government management could be lost.

Alternative #2, a Cabinet level Food Administrator, with clear-cut authority for decision-making at the policy level, ameliorates some of the disadvantages in either #1 or #3 but unfortunately also loses some of the efficiency and effectiveness of #3. In terms of timeliness, Alternative #2 could begin almost immediately by Presidential order, although governmental legal advice indicates that Congressional ratification would be desirable, if not essential.

The decision-making authority in Alternative #2 is clearly more desirable than what can be envisioned under #1 and perhaps has an advantage over #3. The reason for this is that in Alternative #2 the decision-making officials would be relieved of operating and implementation responsibility. While there are pluses and minuses, this alternative does permit the top policy-makers to devote full time to those decisions requiring their attention.

If Congress is to perform its full role in policy-making, Alternatives No. 2 or No. 3 are preferable to No. 1. Under Alternative No. 1, the Special Assistant for Food is a member of the President's staff. In Alternative No. 2 or No. 3, the Food Administrator or Secretary would have independent status and must look to the Congress for appropriations and oversight.

Considering governmental cost or burden on the taxpayer, we find no significant difference among the three alternatives. But any of the alternatives would be preferable to the existing structures when measured on a cost-effectiveness basis.

As the preceding sections made clear, there are advantages and disadvantages to each alternative. Beyond these, the final choice would be heavily influenced by a variety of circumstances existing at the time of decision. For example, if a President desired a major governmental re-organization and felt the Congressional and public mood was supportive, he would probably lean towards Alternative No. 3. If, on the other hand, he felt that the fight involving re-organization would be so lengthy and disruptive as to delay complete coordination, he could turn to Alternative No. 2. If the Chief Executive felt that there would be insurmountable difficulties in obtaining Congressional concurrence with his changes whether they be No. 2 or No. 3 and recognized the need to bring about more effective coordination and efficiency immediately, he would begin with Alternative No. 1.

Likewise with Congress. The circumstances and conditions would determine their action. It would be most difficult to force a President into Alternative No. 1 through legislative action. On the other hand, Congress could create an independent agency headed by a Cabinet level official as in No. 2 and could re-organize existing governmental structure as in No. 3. It would be hoped this would be a joint decision by the Executive and Legislative Branches with the best inputs from the private sector, from academia, and from within the career government and Congressional employee ranks. In this manner, the best choice could be made based not only on short-range but long-range consideration.

FOOD AND AGRICULTURE POLICY CHANGES NEEDED IN LIGHT OF THE NEW WORLD FOOD SITUATION

(By Willard W. Cochrane [1] and Lauren Soth [2])

(A paper prepared for the Office of Technology Assessment)

The United States needs changes in its food and agriculture policies and in government agencies to cope with urgent world food problems.

The recent agreement with the Soviet Union providing for a minimum annual level of grain exports to that country could become a significant stabilizing factor in world grain markets. But much more needs to be done to dampen down and moderate wide and unpredictable swings in agricultural prices—a problem that has been accentuated in the 1970's.

Tremendous pressures are placed on the American free market system by the lack of a free market system in most of the world. U.S. consumers and farmers have been absorbing most of the instability in the commercial food markets of the world.

All the other major agricultural export countries, including Canada, Australia, Argentina, and Brazil, maintain various kinds of governmental controls over exports. All export sales of grain by Canada, for example, are made through the Canadian Wheat Board, a quasi-governmental body established in 1935.

The European Economic Community has established internal price support policies for farm products and levies countervailing duties on imports equal to the difference between the world price and the internal support price. Another major importers Japan, buys wheat and barley through a government food purchasing agency and closely supervises private imports of corn, grain sorghum, and soybeans. The U.S.S.R., China, and other Communist countries of course make all their import purchases through government agencies.

Thus the major food exporting and importing countries have policies to shield their farmers and consumers against extreme variations in prices. Without such stabilizing policies in ths country, American producers and consumers are left to take much of the shock of changes in world supplies.

Projections by experts of the U.S. Department of Agriculture and of the U.N. Food and Agriculture Organization indicate that world trade in grains will grow in the future. Demand for food in the developing countries is likely to increase faster than production, requiring increased imports. USDA projections up to 1985 indicate that grain production in the developed countries will grow faster than demand, leaving a sufficient quantity available for export to less developed countries.

But there is likely to be considerable fluctuation from year to year in the total world grain supply. Since the United States is fully integrated into this world grain market (about 56 percent of the world trade in feed grains in recent years, 50 percent of the trade in soybeans and soybean products, and 45 percent of the trade in wheat), it is essential that this country consider means of dealing with world instability.

The short world grain crops of 1972–73, intervention of the giant Communist countries into world markets for grain on a large scale, the sudden quadrupling of the price of imported oil and the incidence of famines and near-famines in several countries have altered the world setting for U.S. food-agriculture policy.

Famines are not, unfortunately, uncommon to this earth; in fact, the latest ones are mild compared with many of the past. Nor is the finite character of fossil energy supplies, especially petroleum, something previously unknown; warnings have been sounded for decades by geologists.

But the magnitude of recent changes in grain prices and world trade and the coincidence of these with the energy price hike delivered a shock to world consciousness about food. The steep rise of prices of basic food-stuffs in 1973 and 1974, along with the plight of undernourished people in Bangladesh and the Sahel region of Africa, gave common currency to the term "food crisis." Governments took stock of food prospects, and a World Food Conference to consider remedial measures was held in Rome in late 1974 under sponsorship of the United Nations.

The food shortages in the early 70's have revived long-range fears of population outrunning food production capacity in the world. These fears had been quieted for several decades as food output per person gradually rose, and success stories about agricultural progress flourished in the less developed countries. New seed strains, more fertilizer, better irrigation, and new disease and insect controls, with technological help and capital from the wealthy countries, promised steadily improving rations for hungry people in the future. Then the rapid disappearance of the large grain reserves carried for many years in the United States and Canada roused the old fears of gradually worsening food scarcity.

In this new atmosphere of panic, we often hear predictions of calamity and proposals for radical "solutions." For example, some prophets of disaster have proposed what they call the "lifeboat" system of meeting the food problem. Only the most promising of the poor countries would be aided by the rich to seats in the lifeboat, abandoning the others to extinction by starvation, because there aren't enough seats in the boat for everybody. Another version of this idea is called "triage," a French army term for rescuing the wounded who have the best chance of survival, rather than using limited medical manpower in a futile effort to save all.

We reject such an apocalyptic view of the world food situation. We do not minimize the problem of the long run—of humankind increasing faster than the means of sustenance. But neither do we want to foster an attitude of hopelessness, such as the "lifeboat" concept implies. We believe wise

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Footnotes at end of article.

policy and intelligent action can bring about a resumption of steady gains in food nutrients per person in the poor countries, gains which continued until the recent short harvests in several key production areas.

In the revival of ancient fears about the food-population equation, people tend to overlook another food-agriculture problem we regard as critical to food security. This is the problem of instability of supplies and consequently of prices. Some of the errors in food-agriculture policy have come from projecting short-term swings in supplies and prices. (The current doomsday predictions contain an element of this.)

In this respect, we want first to look at this nagging problem of instability. Let us assume that the real cost of producing grains and hence of food [3] will rise over the next quarter-century. We will have something to say about possibilities for changing this trend later, but for now let us project a gradual rise in the prices of grains for these reasons:

1. The supply of new conventional productive resources—land and water—as a source of increased food output will become scarcer as more of the easily developed land is developed.

2. Energy resources will become scarcer, especially easy-to-use petroleum and natural gas.

3. Weather conditions in the temperate zones best suited to cereal production may gradually worsen, as some climatologists believe, in the next quarter century.

4. Population will continue to grow rapidly in the less developed areas of the world.

5. Demand for grain for production of livestock products will continue to grow in the more highly developed, richer areas. The consumption of livestock products has been growing as economic development progresses, and countries are willing to put more resources into agriculture to get more livestock products.

THE PRICE INSTABILITY PROBLEM

If this gradual upward trend occurs in prices of food, due to slightly declining output per person, it certainly will not be a smooth configuration. Prices of cereal grains will fluctuate widely and unpredictably. We show this is a symbolic graph in Figure 1. (Not shown in the Record.)

Instability of prices is likely to be a more serious problem in meeting the world food needs of the next quarter century than the trend of total food output.

The reasons we can predict instability with confidence are straightforward and indisputable.

1. Demand for grains is highly inelastic—a small change in supply results in a big change in price. If the supply is short, people will bid up the price trying to maintain their consumption, but if the supply is long, people will not increase consumption much, even at a low price.

2. Production of grain is unstable and unpredictable because of unpredictable weather conditions.

3. Demand for grain in international commerce is unpredictable and erratic, because of policy changes in importing countries, primarily the state-trading countries. Here, for example, are the imports of grain into the Soviet Union in the last three years and the estimated total for 1975:

(Million metric tons)

1972	20.8
1973	10.5
1974	4.9
1975	25.0

This in-and-out buying on the world market jolts commodity distribution patterns and prices.

4. Countries are closely linked in a network of grain trade today, where conditions in one importing or one exporting country are quickly reflected in prices the world around. The United States is the leading exporter, by far, and its markets are extremely sensitive to the factors mentioned above.

5. The prices of individual food products may be expected to zip and zoom in wider swings than the average price of all foods. Variations will depend on the lags in production of livestock products and the degree of substitutability for some individual foods. Food-agriculture policies in different countries also vary for particular foods. On the whole, however, food prices for any country will not stray far from the general movement of prices (dashed line in Figure 1) unless that country is willing to isolate itself from the world trading system.

To sum up, the United States is confronted with a critical problem of instability in food and agriculture in the next quarter century. The forces causing this instability arise in large measure outside this country.

Consumer groups and humanitarians who have been focusing on the perils of long-term growth of world population in relation to food output would be wise to look more closely at the consequences of year-to-year changes in supply and demand. Fluctuations such as those of the 1972–75 period harm consumers by causing extreme advances in food prices which tend to become anchored into the structure. Rigidities in costs of processing and distribution tend to keep retail prices from falling when supply increases as much as they rise in time of short supply.

Farmers and their organizations and U.S. Government policy have given relatively little attention to the stability question. In most of the last forty years, the central issue for farmers was to maintain a high, profitable price level in a time of surplus production capacity. It is difficult for a farmer to see the advantages of stability or leveling out the peaks and valleys of prices. That process implies limits on the upswings of prices, as well as limits on the downswings. A farmer can readily see the benefits of the latter but does not like to face up to the economic and political necessity of the former.

Political realism, however, requires farmers to recognize that they cannot claim protection against disastrously low prices without also yielding to the claim of consumers for policies to protect against disastrously high prices. Obversely, consumers cannot claim protection against soaring food costs without also yielding to the claim of farmers for protection against damaging declines in their prices.

Although the U.S. has not developed a deliberate policy of food-agriculture supply and price stabilization, the functioning of price-support and commodity loan programs did, prior to 1972, provide a measure of such effect, as a by-product of other policy. Large accumulations of grain under government control in the late 1930's (called "burdensome surpluses") became valued reserves for the extra demands of World War II. Unquestionably, Americans had better diets and were able to supply their allies more fully because of this grain reserve.

Similar inadvertent reserve stocks were beneficial in maintaining reasonable food prices in the 50's and 60's. Livestock producers were not faced with such sharp rises in feed costs as would have occurred without the stockpiles of grain.

In 1972–73 and 1974–75, by contrast, we have seen financial crisis and violent disruption of the livestock industries from short feed supplies and steep rises in feed costs, stemming from the combined effects of world drought, Russian-Chinese imports, and inflation. Livestock price rises added to inflationary pressure on the entire economy.

In the light of this experience, we recommend a national food-agriculture policy to deliberately stabilize the supplies and prices of grains.

PRODUCTION TARGETS

We believe the place to begin is to set production targets each year for the leading agricultural commodities. Under the Agriculture and Consumer Protection Act of 1973, the U.S. Secretary of Agriculture is required, in effect, to make such calculations in determining whether to establish crop acreage set-asides and if so, how much. So what we are calling for here is not a new planning system but the effective employment of a system now on the lawbooks.

The target for each commodity would be constructed from five components:

1. Domestic commercial requirements;
2. Domestic food assistance requirements;
3. Commercial export demand;
4. Non-commercial exports; that is, a food-aid commitment for poor countries;
5. A requirement to replenish the U.S. share of an international grain reserve.

In order to make the best possible estimates of these aggregates, the Department of Agriculture needs the best possible political and economic intelligence about world supply and demand. The U.S. Government ought to take the leadership in helping to improve crop and livestock reporting services for other countries, the United Nations Food and Agriculture Organization, and the new World Food Council.

The least predictable element in the above list of five production requirements is No. 3, the estimate of commercial exports. International cooperation in scheduling grain exports and imports, better crop estimating in major producing countries, and forward contracting for grain by importers would help stabilize this element of total demand.

The United States and the Soviet Union have an agreement to exchange agricultural data, but it has not been carried out as well as it might be. We urge the U.S. Government to press for full cooperation in the furnishing of information on production, use, and stockpiling of food commodities, especially grain. Investment by the United States in improving the fundamental data base both home and abroad for projecting commodity requirements would pay a high return in terms of reducing surprise, uncertainty, and speculative price gyrations.

We believe that establishment of national production targets or goals each year would provide improved guides for individual farmers in planning their own operations. It would formalize a public commitment on the part of the U.S. Government as to the food needs of consumers and other claimants to America's agricultural abundance.

Setting production targets—and going through the process of collecting information and analyzing it in the public arena—is in itself a valuable contribution to wiser matching of output and needs. But to be most effective, the Government must back up production targets by realistic incentives for producers. And Government must, of course, carry out objectives in food aid at home and abroad and in the acquiring and distributing of grain reserves.

Government programs already exist for purchase of commodities to supply food aid and to build reserves. (Later in this paper we propose improvements in these mechanisms.) We emphasize that these programs should be used on a planned, rational basis, with understood procedures and upper and lower limits for executive action.

Although the experience of the last few years would seem to rule out a return to crop acreage adjustment as a backstop to supply stabilization, a longer view indicates that such programs may be needed when there is a probability of price-depressing surpluses. We believe the cropland set-aside system now in the law is the most workable method. But the bases for these set-asides

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could be and should be improved. The historical base system would produce wide inequities among farmers if set-asides were reinstated. We recommend a revision of bases on a formula of resource conservation. Now is an excellent time to set about this reformulation, in a period of full production and non-use of incentives to reduce output.

The Government ought to be prepared to assure farmers needed inputs, at subsidized prices if necessary, for commodities for which an expansion of output is sought. This is being done from time to time, with regard to propane for example, and could become essential in other respects as the energy problem becomes more acute.

Incentive production payments may be needed at times to reinforce the market in inducing expansion of output in needed commodities. In the main, however, we believe a vigorous program of outlook and production information for farmers can be relied upon for serving such objectives.

It will be noted that we do not mention price-supporting action by Government as a tool for helping achieve production goals. Our overall policy seeks to stabilize prices—that is, reduce fluctuations—and we believe it would be contradictory to intervene in markets in another context. (More about this later.)

STABILIZING WORLD GRAIN PRICES IN THE SHORT RUN

We turn now to a proposal for moderating the fluctuations in world grain prices, the disrupting effects of which have been harmful to both consumers and producers in the early 70's. This is the heart of our food-agriculture policy for the United States:

World society must have a planned reserve stock program for grains to hold market prices within a price stabilization range.

1. Governments should stand ready to acquire (or assure the holding by private individuals and firms) of stocks at the lower boundary of the price range.

2. They should stand ready to release stocks at the upper boundary of the price range; and, as a result,

3. Even out supplies flowing into markets over time, holding prices within the bounded price range.

OPERATING A GRAIN RESERVE PROGRAM

The grain reserve program might be operated by the United States alone, by a United Nations agency alone, or by a group of countries under an international agreement.

As we have mentioned, the United States did, for all practical purposes, operate a world grain stock program by itself for many years. Canada was an involuntary participant part of the time.[4] The stocks were accumulated under the farm price support program and released when world demand sent prices soaring. The cost of this operation, which was of considerable benefit to the world, especially the less developed countries such as India, was borne by the American taxpayer.

There are advantages and disadvantages to each of the three organizational forms we have suggested. The U.S. handling the program alone, as the biggest single producer and exporter, could probably do the most effective job. But the cost would be on one country. The United Nations system is the most logical from the viewpoint of world politics and of sharing the cost equitably. Ultimately, we would hope this could be the way to run a grain supply stabilization plan. But there are obvious difficulties in administering such a program in the U.N. today, with its antagonisms and consequent incapacity to make decisions on rational economic grounds.

We conclude that the most practical system at this time is an organization with a small group of countries (say the U.S., Japan, Britain, Germany, Canada, and one or two others). Such a group, we feel, could work together effectively.

World grain prices can be stabilized at plus or minus 10 percent of the trend, we believe, with 90 percent probability of achieving this range, with an average grain reserve of 60 to 70 million tons. This is manageable; it is not more than the stocks held in the United States in the 1950's. Such a stock program, properly managed, would provide the mechanism for evening out supplies flowing into consumption and consequently prices for both consumers and producers.

In operating the price stabilization program, we would let the price trend unfold itself through a moving three-year average of market prices. The price stabilization objective for, say, 1976, would be plus or minus 10 percent of the average of the last three years. Other methods of establishing a base for stabilization operations are, of course, possible, and the best guide would be several years of experience. But for a start, we think the three-year base would be best.

It is operationally feasible and, we believe, economically and socially desirable to link U.S. domestic farm stabilization and support programs to the international stabilization concept. We recommend a system of target prices and deficiency payments, with payments scaled so as to favor smaller farmers, with a ceiling on total payments per farmer. This is the basic framework of the 1973 law. Commitments on target prices would be limited to one year, to permit maximum flexibility in policy.

The target prices would be used only to compute the size of the deficiency payment, set to yield a "parity" income for small farm families. We define parity income as a return to a farmer for his labor and investment equal to what he could earn in employment in a comparable non-farm job, for example as a plumber.

These payments would be made to the farm family and would not be tied to the land or other productive asset, so as to avoid capitalization of the income payment into the market price of the capital asset.

A price support level or commodity loan rate would be established at the lower boundary of the price stabilization range. This would guarantee price stability to all farmers but not peg U.S. prices above world levels. It would make U.S. grains competitive in world markets. Export markets are vital for U.S. agriculture. Any income support for farmers must be separated from commodity prices if the U.S. is to retain its position in world trade in grain.

In the event of a series of bountiful harvests, acreage set-asides might be needed to keep the reserve stock bins from overflowing. Incentive payments for holding land out of grain production would be needed.

To sum up, the unpredictability of short-run developments in crop production and world demand for grains requires this flexible machinery for world price stabilization and for U.S. adaptation to it. The international grain regime and U.S. national farm policy must be flexible, ready to adapt to famine, over-production or other unforeseen developments.

LOOKING AT THE LONG RUN

Early in this report we expressed the view that the trend of world food supply in relation to population is likely to be toward scarcity in the next few decades. What policies should the United States follow in an effort to prevent such a trend or turn the per capita food supply trend the other way?

We Americans must recognize, first of all, that we are part of a world where we cannot isolate ourselves. The U.S. will remain the principal exporter of food commodities for as long as we can see into the future. This does not lessen the self-interest of the United States in increasing food output in the less developed countries. No matter how much U.S. production might increase, it would be inadequate to supply the needs of the fast-growing poor countries.

1. We believe the United States should invest more money, public and private, in agricultural research and energy both at home and abroad. Agricultural production research needs to be geared more to technology suited to small farms in America and in other countries. The low productivity of land and people on small farms is one of the unexploited sources of added food production. In addition, the human welfare benefits from greater emphasis on small farming should impel us to such a research orientation.

2. It may well be sound economics to subsidize certain farm inputs, especially for small farmers, in order to maximize food output. Most of the technologies which have resulted in the remarkable increases in agricultural output per man and per acre in the last 30 years are adaptable to small farms as well as large—fertilizer, herbicides, pesticides, better seeds, irrigation. (There has been a lag in development of machinery suited to small farms, however.) Educational and financial help to small farmers to apply these improved technologies might be the investment with the highest payoff in greater food output at this time.

3. We recommend the continuation and expansion of domestic food-aid programs, especially the Food Stamp Plan and the School Lunch Plan, to help assure the availability of good nutrition to all Americans.

4. We endorse the continuation of foreign aid to help those poor countries willing to help themselves. The foreign aid effort of the U.S. should be directed increasingly through international agencies, as recommended by Secretary of State Henry Kissinger in his September address to the United Nations. As part of the U.S. foreign aid program, we favor continuation of food aid.

The limited resources available for foreign aid, including food, should be concentrated in areas where local self-help efforts make the aid most productive. We mean by this that effective agricultural development by the recipient country is essential, as well as effective population limitation programs, if American contributions are to be well used. We should consider limiting foreign aid to those less developed countries that undertake and sustain effective programs of agricultural development and population control.

5. In the event of continued critically short food supplies, the United States might need to institute an overt export control policy in its own and the world's interest. This would be a supplement to the international grain reserve we have recommended above. The policy might take the following form:

*The U.S. would announce to the world its domestic requirements, the requirements of its regular foreign customers, and the necessary reserve allocation. It would then state that these supply requirements would be protected.

*Periodically, perhaps every three months, the U.S. would report the drawdowns in supply and indicate the extent to which domestic requirements and those of regular foreign customers would be met without imposing export controls.

*Foreign food aid for less developed countries on concessional terms would be adjusted to the situation, with guarantees for those countries dependent on the U.S.

*Sales of grain to the state-trading countries would be negotiated by the U.S. Government, covering the total volume, range of prices, and other considerations. Actual sales and handling of the grain would be conducted by the private grain firms as before. But the U.S. Government would be in position to monitor and regulate the outflow consistent with other requirements.

*If the world shortage continued and was

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of such extent that free exports from the U.S. would endanger the fulfillment of guarantees to American consumers and those countries long dependent upon us, the U.S. would impose export controls. This would be done after informing the world grain trade. Regular foreign purchasers would be exempt from the controls.

This, however, should be a policy of last resort in a critical world food situation.

If the above policies were carried out, we believe the swings in grain prices would be substantially moderated and that the long-run trend toward food scarcity could be turned around.

It is most important that Congress and the Administration appraise the long-run food situation, make long-run policy commitments, and stick to them.

Many, perhaps most, of the policy changes recommended here could be accomplished under existing legislation, with minor alterations. However, a legal mandate and authority are needed if the U.S. is to help create and participate in an international grain reserve plan.

To carry out the proposals in this statement, a number of changes in government organization are needed, in our opinion.

The crises in food affairs in recent years have demonstrated the inadequacy of information available to U.S. policy makers. The Congress and the executive branch have been caught short on knowledge about world supplies and prospective demands. The report of the Food Advisory Committee of the Office of Technology Assessment and testimony by a number of witnesses in earlier hearings on food information systems have clearly shown the gaps in information and the lack of adequate analysis of the facts available.

The responsibility for world food information in the U.S. Department of Agriculture is now split among three agencies: the Economic Research Service, the Foreign Agricultural Service, and the Statistical Reporting Service. There is a confusion of functions in this setup and a potential conflict of interest that may contaminate the quality of the information and analysis.

The FAS has a primary responsibility to expand foreign markets for U.S. farm products. This makes suspect the assessments of world commodity situations and outlook prepared by the Foreign Commodity Analysis Unit of FAS. One way to overcome this apparent conflict of interest would be to transfer his analysis unit to the ERS. Commodity specialists in ERS already perform much of the same kind of analysis of foreign commodity situations. It is logical to combine the two staffs and to place them under ERS, which has no "action" responsibility. Its duty is to provide economic intelligence for users of its reports and for government policy makers.

FAS also has a responsibility to collect facts and collate information about world food and agriculture conditions. To achieve the maximum objectivity, it would be desirable to separate this fact-gathering function from the sales promotion agency and to assign it to SRS, which has the sole function of preparing factual reports on agricultural data. However, the responsibility for collecting foreign agricultural data necessarily must remain with the agricultural attaches under FAS until such time as specialists in crop and livestock reporting can replace them.

The Food Advisory Committee and others who have examined the world food information problem agree that better analysis of available data is needed. We believe the logical agency in which to center responsibility for this function is ERS and that it should be provided funds to increase its staff for this purpose.

In general, the important statistical and analytical services in USDA have been neglected compared with other services. It is true, we believe, as is often claimed, that these services in SRS and ERS are the best of their kind in the world and the most objective and reliable. Nevertheless, the vital importance of a world food intelligence system for this country and for the world makes it essential that these services be improved as much as possible.

It has been suggested that a separate world food intelligence agency be established, separate from the USDA Outlook and Situation Board. This is a reasonable proposal, but we believe improving the present Board's operation and strengthening ERS and SRS would accomplish the same result and should be tried first.

The Interagency Commodity Estimates Committees now are responsible for developing supply-demand estimates used by the ERS Outlook and Situation Board. The ICEC is chaired by an official of the Agricultural Stabilization and Conservation Service, an action agency. Here, as in the case of FAS, there is a potential conflict of interest, in appearance if not in fact. We find this undesirable and a handicap to achieving the most objective food situation analysis.

We agree with Howard J. Hjort, who testified before this committee on September 24, that the chairmanship of the ICEC should be removed from ASCS. Further, responsibility for foreign trade estimates should be removed from FAS and representation of that agency on the supply-demand estimates committees should be removed.

With these alterations, and additions to staff, ERS and its Outlook and Situation Board could perform more reliably as a world food intelligence unit.

FOOTNOTES

[1] Professor of agricultural economics, University of Minnesota.

[2] Writer-economist; chairman, National Planning Association Agriculture Committee, and member of the OTA Food Advisory Committee.

[3] Grains make up by all odds the most important direct food for mankind and are the raw material for much of the meat and other livestock products consumed as human food. Grains make up nearly 60 percent of the crop acreage in America and are the balance wheel of the agricultural economy.

[4] Canadian Wheat Board officials recently have expressed interest in cooperation with the U.S. and Australia in managing the export trade and reserve stocks of grain. (See article by George Anthan, "Canada Eyes Cartel With U.S. on Grain," *Des Moines Sunday Register*, October 26, 1975.)

FORMULATING A NATIONAL FOOD POLICY FOR THE NEXT DECADE

(By Luther Tweeten*)

The first priority in a national food system is to establish a commodity stock reserve policy. The emergence of capricious consumer oriented actions to hold down prices has eliminated the option of relying on the private trade to hold adequate reserves.

Analysis of long-term trends in supply and demand strongly suggest that we will have future periods of excess supply that bring unacceptably low prices to farmers as well as periods of excess demand. If the Soviet Union had experienced normal weather in 1975, market prices would now be low. If normal weather prevails in the world in 1976, the opportunity will arise to accumulate reserves to avoid very low farm prices and provide stocks to hedge against unfavorable weather in subsequent years.

The loan rate can be used as in the past as the threshold price at which to accumulate reserves. But the current loan rate is far below the value to society of accumulating reserves. The opportunity to acquire buffer stocks could be squandered in using added supplies for domestic livestock feed, exports and as cutbacks in production by farmers in response to low prices. Continuation of the current policy leaves world food markets highly unstable in response to uncontrollable weather.

One proposal is that the loan rate be raised to the level of nonland production costs. This proposal would set the stage for accumulating reserves. But it is very important that guidelines be established for stock release as well as accumulation so that all participants are clearly aware of the policy and are less likely to interfere with it out of narrow political partisanship. Suggestions for appropriate stock levels and release policies (such as a 150 percent of the loan level) are discussed in the text. Analytical capabilities exist to simulate stock policies and have been used with success to examine the implications of the proposal by Senator Humphrey (Ray, Richardson and Collins, 1975) as well as others (Tweeten, Kalbfleisch and Lu, 1971). If stocks are to be in the hands of farmers as proposed by Senator Bellmon, then incentives need to be provided farmers to acquire and release stocks in the interests of all participants in a national food policy.

The next issue is what to do when stocks accumulate to appropriate levels. A suggestion in the text is that farm prices be allowed to adjust to the market clearing level and direct payments (with limitations of $20,000 per recipient) be made equal to the shortfall of the market price below the support rate. The payment base would be acreage allotments revised to some proportion (say 80 percent) of 1973–75 acreage times normal yields. This latter procedure would mean that marginal output would receive the market price, which would strongly encourage necessary adjustments in output.

Emphasis is on buffer stocks because it is the only positive sum game for economic stability in an unstable world. With export controls to lower prices, farmers and foreign consumers lose. Price controls to reduce inflation discourage output required to meet excess demand and are self-defeating. With production controls to raise farm prices, consumers lose the output from farm land and labor resources committed to agriculture and of little benefit to society unless used in producing food. Although reserve policies emphasize crops, such policies also benefit meat producers and consumers. Recent experience has demonstrated that unstable crop prices seriously damage the livestock economy and cause sharp gyrations in livestock prices.

Some economists point to the insulation of producers and consumers in Japan, Western Europe and elsewhere from 1972–75 price gyrations because they have very high fixed commodity price supports. They go on to point out that Americans unfairly bore the brunt of the price roller coaster. This is a vast oversimplification. Given the choice between high food prices some of the time (U.S.) and high food prices all the time (e.g. Western Europe, Japan), clearly U.S. consumers would opt for the former.

A number of other ancillary proposals to a national food policy are included:

1. A wage supplement would reduce normal unemployment, easing pressures on government to overheat the economy in search of greater employment with excessive monetary expansion and deficit spending. The reduced inflation therefrom would be of great value to the economic health of commercial farmers as well as others. A wage supplement would provide a socially acceptable income while expanding employment for low-income, part-time farmers and hired workers. The target wage could be $4.00 per hour, the tax rate 50 percent. Hence workers earning $1.00 per hour would receive a subsidy of $1.50 for a total return of $2.50 per hour. If employed

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2000 hours per year, total income would be $5000.

2. A quasi-independent agency would be established to evaluate federal programs. Each major federal program for rural development, environmental protection, occupation safety and other purposes would be systematically evaluated for full costs, benefits and cost-effectiveness in using public funds to reach program objectives.

3. Foreign aid to less developed countries would be committed in cash or credit form, with limitations that spending of such credits be confined to development purposes. If the major need is food output, the credits could be used to purchase fertilizers, fertilizer plants, irrigation equipment, technical assistance and other resources to expand farming output. The commitment would be a fixed dollar value for an extended period—say 5 years. If agricultural or other U.S. commodities are in surplus, a discount would be allowed on such purchases.

4. Information systems can be improved along lines suggested by Hjort (1975) and Harkness (1975). More and increasingly reliable data are needed on world food demand and supply outlook, economic health of the farming industry, potential supply at alternative prices for inputs (fertilizers, land, irrigation, etc.). Analytical capabilities need to be improved for examining the implications of alternative world food reserve systems.

5. The appropriate federal structure to administer a national food policy is not clear. In a recent paper (Tweeten, 1975a) I cited shortcomings in the current policy formulation system including failure of consumers to enter the dialogue while farm policy is being formulated. Consequently, farm legislation is vetoed as consumer interests emerge at the last minute. Consumers of course are very legitimate participants in policy information but their spokesmen are frequently ill-informed. While I have no specific recommendations for institutional changes in the federal structure, I do feel strongly that consumers should be more closely integrated into national food policy formulation. This integration might well extend into research, extension and information systems as well as into policy formulation. In part this will be an educational process for producers as well as consumers.

FOOTNOTE

[*] Regents Professor, Department of Agricultural Economics, Oklahoma State University, Stillwater. Professional Paper, the Oklahoma Agricultural Experiment Station, prepared for the Office of Technology Assessment.

PROGRESS IN WEAPONS ACQUISITION REFORM: IMPROVED CONGRESSIONAL ROLE, MORE COMPETITION

Mr. CHILES. Mr. President, I would like to report the latest step taken in the two-year effort by the Government Operations Subcommittee on Federal Spending Practices to overhaul major systems acquisition.

After 8 days of hearings by the subcommittee this summer, the reform package proposed by the Congressional Procurement Commission is now moving into the final stages of becoming an OMB policy circular.

The Office of Federal Procurement Policy which we established by law in OMB last year—Public Law 93-400—published the proposed policy circular in the December 3d Federal Register and public hearings are now scheduled for Tuesday, December 16, 1 p.m. to 5:30 p.m. and Wednesday, December 17, from 9 a.m. to 1 p.m. in room 2008, New Executive Office Building.

I have to express my personal pleasure at the progress made so far in bringing about some fundamental reform in the $150 billion worth of weapons programs and—equally important—all major civil systems as well.

Printed copies of the major systems reform hearings are now available at the subcommittee's office, 224-0211.

Mr. President, I ask unanimous consent that there be printed in the RECORD a copy of the OMB/OFPP circular showing the latest changes; and a copy of recent articles describing the reforms.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., November 26, 1975.

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: MAJOR SYSTEM ACQUISITIONS

1. Purpose. This Circular establishes policy and key decision responsibilities to be followed in the acquisition of major systems with federally appropriated funds.

2. Authority. The "Office of Federal Procurement Policy Act," Public Law 93-400, 41 U.S.C. 401 et seq., the Budget and Accounting Act, 1921, the Budget and Accounting Procedures Act of 1950, Reorganization Plan No. 2 of 1970, and Executive Order 11541, July 1, 1970.

3. Background. The acquisition of major systems by the Federal Government constitutes one of the most important, vital, and expensive activities performed in the Nation. Its impact is critical on technology, on the Nation's economy, and on the accomplishment of Government agency missions in such areas as defense, space, energy, and transportation. For a number of years, many people expressed deep concern regarding the effectiveness of the management of major system acquisitions. The report of the Commission on Government Procurement recommended fundamental changes in the process of acquiring major systems. This Circular is based on findings and conclusions growing out of executive branch consideration of the Commission's recommendations.

4. Responsibility. Each agency head shall insure that the provisions of this Circular are followed.

5. Application. This Circular applies to the management of the acquisition of major systems including analysis of the agency mission, determination of mission needs and the setting of mission goals, determination of system requirements, system program planning, budgeting, funding, research, engineering, development, testing and evaluation, contracting, production, program control, and introduction of the system into use. The Circular is applicable to all major acquisition programs, even though some agencies may not have full or direct responsibility for each of these functions. For instance, an agency may not procure systems for its own use but instead may develop optional demonstration hardware for private sector choice, or may procure one-of-a-kind systems. Such variations do not justify the exclusion of programs from the management concepts of this Circular.

6. Definitions. As used in this Circular:

a. "Executive agency" means an executive department or an independent establishment within the meaning of sections 101 and 104 (1), respectively, of Title 5, United States Code.

b. "Agency head" means the head or deputy head of an executive agency.

c. "Agency component" means a major organizational subdivision of an executive agency; i.e., the Army, Navy, Air Force, and Defense Supply Agency are agency components of DOD; the Federal Aviation Administration, Urban Mass Transportation Administration, and the Federal Highway Administration are agency components of DOT.

d. "Mission need" means within an agency's overall purpose a desired capability, including cost and schedule considerations, expressed in mission functional terms, not equipment terms. A mission need may be the result of a deficiency in existing agency capabilities or the decision to establish new capabilities in response to technologically feasible opportunity. Mission needs are independent of any particular system or technological solution.

e. "Major system" means that combination of elements which will function together to produce the desired capabilities to achieve an agency mission need or goal. The elements may include, for example, hardware, equipment, software, construction, or other improvements of real property. Major system acquisition programs are considered all those which (1) are directed at and critical to achieving agency mission responsibilities, (2) entail the allocation of relatively large resources, and (3) warrant special management attention. Additional criteria and dollar thresholds for the determination of agency programs to be considered major systems under the purview of this Circular shall otherwise be at the discretion of the agency head.

f. "Acquisition process" means the sequence of activities starting with reconciliation of mission needs and goals with capabilities, priorities and resources and extending through the introduction of a system into operational use or the otherwise successful achievement of program objectives.

7. General policy. The guidelines of this Circular are designed to work as an integrated whole toward the improvement of the effectiveness and efficiency of the major system acquisitions process. They are based on the general policy that Federal agencies when acquiring major systems shall:

a. Establish needs and goals based on broad agency mission definition.

b. Perform planning, programming, and budgeting built on analysis of such missions and goals which implies: better resource allocation resulting both from improved agency articulation of missions and goals, and from improved communication with Congress in accord with the Congressional Budget Act of 1974, Public Law 93-344 (31 U.S.C. 1301).

c. Create and explore alternative system concepts within the broad agency "mission" context—with emphasis upon generating increased innovation, participation, and conceptual competition from industry as opposed to undue reliance upon agency internally developed concepts and/or preliminary designs to meet a particular mission need or goal.

d. Rely on private industry in accordance with the policy established by OMB Circular No. A-76.

e. Encourage agency early R&D funding for exploration of alternatives as relatively inexpensive insurance against the possibility that a premature or preordained choice may later prove to be either a less effective or a more costly means of fulfilling a mission need.

f. Focus competition on alternative system concepts as opposed to confining competition to price or performance differentiation within a single system design concept.

g. Choose a final system from among alternative systems that result from a competitive development and demonstration environment.

h. Manage systematically the entire mission need determination, development, and production process.

i. Utilize appropriate managerial level

for decisionmaking and an effective management hierarchy of authority, responsibility and accountability.

j. Provide strong checks and balances for systems destined for use by ensuring adequate unbiased system test and evaluation. Such tests and evaluation should be independent, where practicable, of developer and user.

8. Management objectives.

a. A major system acquired by the Government must fulfill a mission need, be affordable, operate effectively in its intended environment, and demonstrate a performance level and reliability that justify the allocation of resources to its acquisition and ownership. In providing a system with acceptable mission performance levels, efforts shall be made to minimize life cycle costs by including the appropriate use of technology, competition, and incentives.

b. An "acquisition strategy" must be tailored for each individual system program as soon as a determination is made to solicit design concepts which could lead to the acquisition of a new major system. Such strategy should include test and evaluation criteria and business management considerations such as: the timing of essential elements of the acquisition process, the content of proposal solicitations, whom to solicit, methods for obtaining and sustaining competition, data right, use of warranties, need for developing contractor incentives, and selection of contract types. The contracting process should be recognized as an important tool in system acquisitions.

9. Management structure.

a. Each agency that acquires major systems, or is responsible for the activities leading to the acquisition of major systems, shall have an acquisition executive, designated by the head of the agency, who shall be held responsible for integrating and unifying the agency's system acquisition management process and for monitoring policy implementation and practice under this Circular. There shall be clear channels of delegation of responsibility and authority within the agency's acquisition management process. Technical and program decisions normally should be made at the operating activity or component level with clear channels of accountability within the agency. However, the following four key decision points should be retained by the agency head over the course of the system acquisition program:

(1) Identifying and defining mission need, and the goals that an acquisition program is to achieve, including the relative priority within the agency and the general magnitude of resources required.

(2) Selecting those competitive candidate systems to be advanced to a test and/or demonstration phase, or entering noncompetitive (single concept) system development.

(3) Committing a system to full-scale development and limited production.

(4) Committing a system to full production release.

b. Major system acquisition programs shall be managed by a program manager, who should be designated when a decision is made to fulfill a mission need by pursuing design concept alternatives and who, with satisfactory performance, should be retained for a sufficient period to provide reasonable continuity and personal accountability. Program managers should have an understanding of user needs and constraints, familiarity with development principles, and program management skills and experience in the following functional areas where applicable: research and development, operations, engineering, construction, testing, contracting, prototyping and fabrication of complex systems, production, business, budget, and finance. A program manager shall have a written charter which provides responsibility and authority to accomplish approved program goals. Budget guidance should be provided to a program manager at the inception of a system acquisition.

c. Each agency shall rely, to the greatest extent possible, on competitively derived concepts and designs. The agency should limit management layering, staff reviews, reporting procedures and paperwork requirements placed on program managers and contractors to those requirements that are essential to mission accomplishment.

d. Each agency shall develop the capability to predict, review, assess, negotiate and monitor costs for system development, engineering, design, test, production, operation and support (i.e., life cycle costs). Acquisition costs, schedules and performance shall be assessed against predictions, and examined by the agency head at key decision points, and new cost/schedule/benefit analyses shall be performed where significant cost, schedule or performance variances occur. Life cycle cost techniques shall be employed during concept evaluation and selection, full-scale development, facility conversion, and production, to insure identification and achievement of the lowest lifetime costs in consonance with the capability being required. Independent cost estimates should be used, where feasible, for comparison purposes.

e. Joint interagency working groups should be established where appropriate as a means to enhance interagency technology transfer, prevent unwarranted duplication of technological efforts, reduce system costs, promote standardization and help create a competitive acquisition environment.

10. Mission needs and goals.

a. Initiation of all major system acquisition programs should be based on an analysis of an agency's mission and a determination of needs and goals reconciled with overall capabilities, priorities and resources. If analysis of an agency's mission shows that a need for a new major system exists, such a need should be defined in terms of the mission, purpose, agency components involved, capability, schedule and cost goals, and operating constraints. Benefits to be derived should be optimized by competitive exploration of alternative system concepts, and trade-offs of capability goals, time, and cost. Care should be exercised during the initial steps of the acquisition process not to distort needs and goals by forcing their conformance to any known systems or products that might foreclose consideration of alternatives.

b. Agencies having more than one component shall assign roles and responsibilities at the outset. If so desired, agencies may have components sponsoring competing system concepts in order to consider innovative aproaches and select the most technically suitable and most cost effective approach to fulfilling a mission need.

c. Those agencies requiring a technological base should conduct, support, or sponsor research, system concept studies, proof of concept work, exploratory subsystem development, and tests and evaluations in both the private sector and Government in-house technical centers relevant to the agency's assigned responsibilities. More advanced technology efforts oriented to system developments shall be performed in response to approved mission needs.

11. Alternative systems.

a. System concept design alternatives shall be solicited from a broad base of qualified firms, specifically including the smaller and newer businesses in order to achieve the most preferred system solution through encouraging innovation and competition. Conceptual designs are to be primarily solicited from private industry. Federal laboratories, federally funded research and development centers, educational institutions, and other not-for-profit organizations may also be considered as sources for competitive system concepts.

b. Ideas, concepts, or technology, developed by Government laboratories or at Government expense for which Government rights have been established, may be made available to private industry through the procurement process. Industry proposals to the agency may be made on the basis of these ideas, concepts, or technology or on the basis of alternatives which industry considers superior.

c. Requests for system concept design proposals shall contain explanations of the mission need, time, cost, and capability goals, and operating constraints. Each offerer shall be free to propose his own technical approach, main design features, subsystems, and alternatives to time, cost, and capability goals. In the conceptual and less than full-scale development stages, the contractors should not be restricted by detailed Government specifications and standards. Selections from among competing proposals shall be based on a review by a team of experts, preferably from inside and outside the responsible development organization. Such a review shall consider proposed system functional and performance capabilities to meet mission needs, and program goals, including resources required, and benefits to be derived by trade-offs of technical performance, acquisition costs, ownership costs, time to develop and procure, and the accomplishment record of competitors.

d. During the uncertain period of identifying and exploring alternative system concepts, contracts covering relatively short time periods at planned dollar levels shall be used. Timely technical reviews of alternative system concepts will be made to effect the orderly elimination of those least attractive.

e. System acquisitions programs shall be structured and resources planned to insure demonstration and evaluation of competing alternative system concepts in fulfilling mission needs.

This would include competition between similar or differing concepts and whenever economically beneficial throughout the entire acquisition process. Contractors shall be provided with operational test conditions, mission performance criteria, and lifetime ownership cost factors that will be used by the agency in the evaluation and selection of the system(s) for full-scale development and production.

f. Appropriate interaction between agency representatives with relevant operational experience and participating contractors should be encouraged as necessary in developing performance and other requirements for each system alternative as tests and trade-offs are made. Such interaction should be conducted through the program manager.

g. Development of subsystems which are intended to be included in a major system acquisition program should be restricted to less than fully designed hardware (full-scale development) until the subsystem is identified as a part of a system candidate for full-scale development. Exceptions may be authorized by the agency head if the subsystems are long lead time items fulfilling a recognized generic need or if they have a high potential for common use among several existing or future systems.

h. Approval for development of a system design concept which has not been competitively selected should be considered only if justified by factors typified by either extreme urgency of need with only one viable approach, or physical and financial impracticality of demonstrating alternatives. Design concepts which have been neither competitively selected nor demonstrated should be implemented using strong program management and technical capabilities.

12. Full-scale development and production.

a. Full-scale development, including limited production, shall not be approved until agency mission needs and goals are reaffirmed and competitive demonstration results verify that the chosen technical approach is sound.

b. Full production shall not be approved until agency mission needs and goals are reaffirmed. In addition, full production shall not be approved until system performance has been satisfactorily tested independent of the agency development and user organizations, and evaluated in an environment that assures demonstration in expected operational conditions. Exceptions to the independent testing portions of this policy may be authorized under such circumstances as physical or financial impracticability or extreme urgency.

c. Selection of a system and system contractors for full-scale development and production should be made on the basis of system performance measured against current mission needs and goals and include such factors as (1) an evaluation of estimated acquisition and ownership costs and (2) the contractor's demonstrated management, financial, and technical capabilities as related to program requirements.

d. System tests and contractor performance relative to meeting system performance, cost, and schedule commitments shall be monitored by the program manager. Significant actual or forecast variances shall be brought to the attention of the appropriate management authority for corrective action. The acquisition executive shall be informed of such variances and corrective actions.

13. Budgeting and financing. Agencies shall develop and allocate research and development budgets in accordance with mission functional needs and goals. In so doing, the agencies should identify funding between (1) the general technology base in support of the agency's overall missions and (2) the specific development efforts in support of system candidates to accomplish mission functions. Each agency should insure that research and development is not undesirably duplicated across its mission function.

14. Information to Congress.

a. Agencies shall develop procedures, in conjunction with the Office of Management and Budget and the various committees of Congress having oversight responsibility for agency functional responsibilities, to inform Congress in the normal budget process about agency missions, capabilities, deficiencies and needs and goals related to new acquisition programs in consonance with Section 601(1) of the Congressional Budget Act of 1974, Public Law No. 93–344.

b. Disclosure of the basis for proceeding with a single design concept without competitive selection and demonstration shall be made to the appropriate congressional committees as a part of the normal budget process.

15. Implementation.

a. Agency guidelines, policy directives, or regulations implementing this Circular shall be furnished the Administrator for Federal Procurement Policy (OMB) for review as soon as available. Within six months after the date of release of the Circular, each agency shall submit to the Administrator for Federal Procurement Policy (OMB) a time-phased action plan for meeting the requirements of his Circular. During this period, the agencies shall work with the Administrator to resolve implementation problems.

b. Agency approval of any exceptions permitted under the preceding paragraphs of this policy shall be forwarded to the Administrator for Federal Procurement Policy (OMB).

[From Aviation Week and Space Technology, September 15, 1975]

BROAD WEAPONS POLICY SHIFT SET

(By Katherine Johnsen)

WASHINGTON.—Control over the initiation of major weapon system acquisitions would be shifted from the military services to the Office of the Secretary of Defense and Congress under a far-reaching draft policy directive by the Office of Federal Procurement Policy and issued by the White House Office of Management and Budget.

Once the secretary of Defense determines a requirement for a new weapon system to meet a mission deficiency, and this finding is concurred in by Congress, industry would be challenged to come forth with innovative proposals to meet the mission requirement. There would be no rigid constraints on proposals.

The emphasis, the OFPP draft directive states, shall be "upon generating increased innovation, participation and conceptual competition from industry as opposed to undue reliance upon agency internally developed concepts and/or preliminary designs."

IMPLEMENTATION TIMETABLE

OFPP timetable for implementation of the directive entitled "Major Systems Acquisition," which would become governmentwide policy but is applicable primarily to the Defense Dept., is:

Formal comments from government agencies and industry are due Oct. 31.

The final directive will be published by the end of the year, including changes resulting from the outside comments.

Government agencies will be required to report to OFPP six months later on steps taken to put the directive into effect.

The directive is aimed at meeting widespread complaints in Congress, and by the General Accounting Office, that weapon systems grow for years within the military services without top-level direction by the secretary of Defense or Congress.

It might be viewed as extending to the front end of the acquisition process the Defense System Acquisition Review Council (DSARC) procedure established by former Deputy Secretary of Defense David Packard in 1969.

DSARC comprises key officials in the Office of Secretary of Defense: director of Defense research and engineering, Defense comptroller, assistant Defense secretary for logistics and assistant Defense secretary for program analysis and evaluation.

The first formal DSARC review of a military service's major weapon system proposal, called DSARC-One, occurs when the service is seeking authority to initiate contract definition. Before this event, the service necessarily has spent several years developing the proposal.

"What is needed is a DSARC-Zero," Sen. Lawton Chiles (D.-Fla.) said.

The OFPP directive would accomplish this. Under it, the services would continue to control the course of the basic research and exploratory research programs. These are not oriented toward a mission. But before a program could proceed into advanced development toward a new weapon system, the secretary of Defense, through DSARC, would be required to make a finding on the question: Is there a requirement for the system to meet a mission deficiency or achieve a mission goal?

The mission need is to be "expressed in mission terms, not equipment terms," the directive states. "A mission need may be the result of an identified deficiency or the result of a technologically feasible opportunity."

If the Secretary of Defense establishes the need for a new system, and Congress concurs, there would be a maximum solicitation of industry by the military service for innovative designs to achieve an optimal system. This procedure would mark a significant change in industry's present role of fitting system proposals into molds cast by the military services.

The OFPP directive calls for "an improved communication with Congress" in accord with the 1974 Budget Control Act. This law requires the Defense Dept. to relate its major hardware systems to military missions, starting with the Fiscal 1979 federal budget that will be submitted in January, 1978. But the Defense Dept. has been working cooperatively with the House and Senate Budget committees to achieve the objective of stating funding requests in terms of mission requirements as soon as possible.

Key points made in the OFPP draft directive to maximize competition in the early conceptual phase of a system acquisition include:

"Care should be exercised during the initial steps . . . not to distort needs and goals by forcing their conformance into any known or offered systems or products that might foreclose consideration of alternative design concepts or alternative approaches under a single design concept."

"Requests for system concept design proposals shall contain explanations of the mission need, time, cost, and capability goals, and operating constraints. Each offerer shall be free to propose his own technical approach, main design features, subsystems and alternatives to time, cost and capability goals. In the conceptual . . . stages, the contractors should not be restricted by a wide spectrum of detailed government specifications and standards."

"Ideas, concepts or technology, developed by governmental laboratories or at government expense for which government rights have been established, may be made available to private industry. . . . Industry proposals . . . may be made on the basis of these . . . or on the basis of alternatives which industry considers superior."

"Focus completion more meaningfully on alternative design concepts as opposed to confining competition to price or performance differentiation within a single design concept."

"Increase levels of . . . early research and development funding for exploration of alternatives as relatively inexpensive insurance against the possibility that a premature or preordained choice may later prove to be either a less effective or a more costly means of fulfilling a mission need."

"Approval for development of a non-competitively selected major system design concept should be considered only if justified by factors typified with only one viable approach, or physical and financial impracticality of demonstrating alternatives."

Deputy Secretary of Defense William P. Clements, Jr., concurred that the front end of the acquisition process "represents an area which has much potential for improvement," in testimony before the Senate Government Operations subcommittee headed by Sen. Chiles.

ESTABLISHED NEED

"Perhaps in the past, specific system identifications have been made to Congress too early," Clements said. "There may have been concern, after the fact, whether adequate consideration was given to other system alternatives or whether, in fact, the identified hardware system really represented a formally established need.

"Acquisition must be based on a sound understanding of the acquisition objective, and the costs with which the objective is to be achieved," Clements continued. "Further, this understanding must be shared by the Congress. Budget requests and appropriations should be tailored so that no constraint is offered to the exploration of alternative approaches for the satisfaction of a formally approved mission deficiency."

The OFPP directive is the outgrowth of a $7 million three-year study of federal procurement by the Commission on Government Procurement. In its final report in December, 1972, the commission proposed establishment of OFPP to implement its other recommendations.

The OFPP legislation was enacted last year, and Hugh E. Witt, formerly principal deputy assistant Defense secretary to the assistant secretary of Defense for logistics, was confirmed by the Senate as the first OFPP administrator on Dec. 31, 1974. OFPP reports directly to both Congress and OMB.

Sen. Chiles and Comptroller General Elmer B. Staats were members of the 1969–72 procurement commission.

In testimony to the Chiles subcommittee, firmly supporting the OFPP directive, Staats said: "Under current Defense Dept. policy, spelled out in Directive 5000.1, the military services determine their own needs for major acquisitions and they start acquisition programs several years before the secretary of Defense is asked to approve the program . . .

"For example, during a five-year period, preceding the first secretary of Defense decision, the Air Force spent about $140 million on studies to develop the operational requirements and specifications for the B–1."

Other systems preselected by the services without adequate consideration of competitive alternatives and before formal decision by the Secretary of Defense and Congress include the Navy/Grumman F–14, USAF Lockheed C–5A and USAF/McDonnell Douglas F–15, Staats said. He continued:

"The military service activity that leads to the secretary of Defense's initial approval is lengthy and informal and provides little visibility over how and why these early decisions were made. A major part of the program cost is preset by these early technical decisions on the system solution and its performance characteristics. And, there is usually no further competitive challenge to the system. While the agency head [secretary of Defense], the OMB, the Congress, and much cost, schedule and performance monitoring do enter the picture, they are all too late to do much about the program, except to question implementation details."

[From Aviation Week and Space Technology, December 8, 1975]

GOVERNMENTWIDE PROCUREMENT POLICY SET

(By Katherine Johnsen)

WASHINGTON.—Defense Dept.'s unqualified support of a new governmentwide policy on major system acquisitions that would invite industry and congressional participation in the early conceptual phases, expedited publication of the policy last week by the Office of Management and Budget.

The policy was drawn by the Office of Federal Procurement Policy established by law in 1974 to guide and monitor the procurement practices of all agencies and departments. Hugh E. Witt was confirmed as OFPP's first administrator Dec. 31, 1974.

A brief public hearing for final comments on the proposed new major systems policy, aimed primarily at Defense Dept., although applicable governmentwide, is scheduled Dec. 16. After making whatever alterations might result from this hearing, OFPP will issue a directive that will enter into force 30 days after issuance.

The fundamental thrust of the new policy is to shift emphasis to the front end of the acquisition process with extensive competitive exploratory research and development on alternative system concepts to meet a mission need.

The first action would be a decision by the Secretary of Defense that there is a functional mission requirement and a need for a major system—but not any specified type of system—to meet this requirement.

Then concepts as to how to answer the mission need wuold be sought, primarily from industry.

SYSTEM SOLUTIONS

From the outset of a planned major acquisition, the key congressional committees would be informed clearly as to why there is a mission requirement and what the alternative system solutions are.

A draft circular of the new policy was distributed by OFPP for comments several months ago (AW&ST Sept. 15, p. 14). The reply by Deputy Defense Secretary William P. Clements, Jr., said:

"The Defense Dept., having reviewed the draft circular on major system acquisitions, concurs in its present content and recommends its implementation as written.

"In the event significant changes are made to the circular, the Defense Dept. requests an additional opportunity to concur in its revised content.

"Although implementation of this circular can begin within six months, complete application to all Defense Dept. programs will take several years—approximating the weapon system development and deployment cycle length."

The proposed directive published in the Federal Register Dec. 3 by OMB makes perfecting alterations in the original draft.

Industry's main objection to the new policy is its omission of explicit policy declarations governing Defense Dept.'s contractual and other relations with private firms.

"Since it is at the contractual level that policy must be made to work, such should be more adequately addressed in the draft circular," a joint statement by Aerospace Industries Assn., Electronic Industries Assn. and National Security Industrial Assn. said.

LATER PHASE

Provisions recommended by the three associations were not included in last week's publication because, OFPP said, they should be considered during the later phase of implementation by Defense Dept. OFPP will monitor the implementation.

Three examples of provisions urged by industry were:

"Emphasize cost realism in internal agency estimates, in planning, programing, budgeting and funding, and in the evaluation of proposals and contract terms. Technical leveling, cost auctions and other techniques which result in unrealistic contracts [should be] prohibited."

"Provide through contract provisions that program continuity is not interrupted by agency funding or program decisions, or independent testing."

"Insure that contracts and requests for proposal specify only the products, services and data that are to be provided, and do not require any particular contractor procedure or otherwise specify a contractor's internal management systems."

Highlights of the OFPP policy include the following:

The Secretary of Defense should retain, and not delegate, the initial action of "identifying and defining mission need, and the goals that an acquisition program is to achieve, including the relative priority within the agency and the general magnitude of resources required."

A "mission need is to be expressed in mission functional terms, not equipment terms. A mission need may be the result of a deficiency in existing agency capabilities or the decision to establish new capabilities in response to technologically feasible opportunity. Mission needs are independent of any particular system or technological solution."

The dollar thresholds for deciding what system acquisitions are "major" and under the purview of the new policy are left to the discretion of the Secretary of Defense or other agency head.

Agencies are directed to "create and explore alternative system concepts within the broad agency mission context—with emphasis upon generating increased innovation, participation, and conceptual competition from industry as opposed to undue reliance upon agency internally developed concepts and/or preliminary designs to meet a particular mission need or goal."

Agencies are to "encourage agency early research and development funding for exploration of alternatives as relatively inexpensive insurance against the possibility that a premature or preordained choice may later prove to be either a less effective or a more costly means of fulfilling a mission need."

Agencies are to "focus competition on alternative system concepts as opposed to confining competition to price or performance differentiation within a single system design concept."

"An effective management hierarchy of authority, responsibility and accountability" is to be maintained.

A program manager is to be designated as soon as the decision is made to fulfill a mission need by pursuing design concept alternatives.

Agencies "should limit management layering, staff reviews, reporting procedures and paperwork requirements placed on program managers and contractors to those requirements that are essential to mission accomplishment."

The requirement for a new major system "should be defined in terms of the mission, purpose, capability, schedule and cost goals, and operating constraints. . . . Care should be exercised during the initial steps of the acquisition process not to distort needs and goals by forcing their conformance to any known systems or products that might foreclose consideration of alternatives."

"Conceptual designs are to be primarily solicited from private industry. Federal laboratories, federally funded research and development centers, educational institutions, and other not-for-profit organizations may also be considered as sources for competitive system concepts."

"Requests for system concept design proposals shall contain explanations of the mission need, time, cost and capability goals, and operating constraints. Each offerer shall be free to propose his own technical approach, main design features, subsystems and alternatives to time, cost and capability goals. In the conceptual and less-than-full-scale development stages, the contractors should not be restricted by detailed government specifications and standards."

"During the uncertain period of identifying and exploring alternative system concepts, contracts covering relatively short time periods at planned dollar levels shall be used.

"Timely technical reviews of alternative system concepts will be made to effect the orderly elimination of those least attractive."

"Approval for development of a system design concept which has not been competitively selected should be considered only if justified by factors typified by either extreme urgency of need with only one viable approach, or physical and financial impracticality of demonstrating alternatives."

TOWARD A GUARANTEED MINIMUM INCOME

Mr. McGOVERN. Mr. President, with an ill-conceived national economic plan accomplishing little more than higher prices and unemployment, I am glad that we have public assistance programs like food stamps to provide at least some help to families trying to make it through hard times. Nevertheless, I feel very strongly that there is a pressing need for wholesale reform of the entire welfare system. And I doubt that anyone would disagree with me on that.

In fact, I have been hearing and reading more and more that the ultimate answer to our welfare problems lies in a straight cash grant program based upon need and measured by income with the work requirement for people who are able to work. This proposal, centering on the merits of a national guaranteed minimum income is similar to the very one I raised in 1972.

One editorial advocating steps in the minimum income direction appeared recently in the Rapid City Journal. I ask unanimous consent that this editorial, "Minimum Income Plan is the Way to Go," be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Minimum Income Plan Is Way To Go

State welfare expenditures in South Dakota increased 17.6 per cent in fiscal 1975 over the previous year. Although this is slightly under the national expenditure increase of 20 per cent, it is cause for concern.

Attacking the problem of soaring welfare costs won't be easy. But it is time to consider a guaranteed minimum family income program on the national level.

Right now we are guaranteeing minimum incomes at five times the cost and many times the administrative bureaucracy that a simple minimum income program would cost. On the federal level there is Aid to Families With Dependent Children costing $4.5 billion a year; Supplemental Social Security Income costing $5.5 billion; food stamps costing some $4 billion and the National School Lunch Program at $1.8 billion.

On top of these are asserted state supplemental aid programs and city welfare operations whose extent and inquisitiveness almost defy comprehension.

Tens of thousands of people are administering, monitoring and working in a myriad of existing welfare schemes which adds greatly to the cost.

How much better it would be to substitute a simple cash grant, based on need, measured by income and payable only to those who meet a strong work requirement if they are able to work. Those with incomes above the figure set by Congress would pay taxes. The amount of cash supplement received, like the amount of taxes paid today, would vary with the income level of the family.

Such a new, straightforward operation would save billions and the families involved would at least have some measure of privacy and pride, incentive and initiative.

The rising costs and unworkableness of present welfare programs make the minimum income an idea whose time has come.

UNITED STATES-EUROPEAN COOPERATION IN SPACE

Mr. SYMINGTON. Mr. President, on November 14, the Vice President appointed the senior Senator from Utah (Mr. Moss) to represent the Senate at the second part of the 21st Ordinary Session of the Assembly of Western European Union. While attending meetings of the assembly earlier this month in Paris, the Senator from Utah spoke on United States-European cooperation in space.

The United States has entered into several hundred agreements on space with Western Europe. These are an important part of our relationship with these countries. In his speech to the assembly, the Senator from Utah reviewed the policies that govern these agreements and the major joint programs being undertaken. He pointed out that cooperation in space hinges on each participating nation paying its fair share of the costs and emphasized the importance of space to the economic growth on both sides of the Atlantic.

Mr. President, the remarks of the Senator are of interest to each Member of the Senate and to the general public as well. Therefore, I ask unanimous consent that the text of his address to the Assembly on December 2 be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Address by Senator Frank E. Moss

Mr. President, Members of the Assembly of Western European Union, and distinguished guests. It is a high privilege for me to participate in these proceedings and a singular honor to address this Assembly. I thank your President, the Honorable Edmond Nessler, for inviting a member of the United States Senate to attend this session of your Assembly. I am grateful to the Honorable Pierre de Montesquiou for urging me to attend.

My real association with this Assembly began last Spring. At that time some members of your Committee on Scientific, Technological and Aerospace Questions, led by Chairman de Montesquiou, visited the United States. They met with the U.S. Senate Committee on Aeronautical and Space Sciences, of which I am chairman. Our discussions covered a wide range of topics on which your committee has reported.

Today I have been asked to speak on United States-European cooperation in space. In so doing, I hope to convey to you the importance with which my country regards cooperation with Europe. We believe that cooperation in space means sharing in the development of important new materials, new medical discoveries, new energy sources, better use of our limited resources, better communications, and much more.

During the early exciting and spectacular years of space, the technology was being developed to put satellites into orbit for communications and meteorology, send men to the moon, and begin the exploration of the planets and the stars. At the same time, the United States began its program of international cooperation.

The 1958 law that created the National Aeronautics and Space Administration (NASA) authorized NASA to engage in a program of international cooperation. Indeed, it was the intent of the Congress that NASA vigorously pursue international cooperation in its programs.

NASA began implementing its international program immediately, and less than a year later, reached an initial understanding with the United Kingdom to launch three Ariel satellites. This agreement set a pattern of cooperation that has continued to this day.

The United States has been or is partner to 380 international space agreements with Western Europe; 277 with the countries represented in this Assembly. These cooperative programs with Europe are undertaken not only for the sake of cooperation, but are an important part of the U.S. space program. Examples are: the German Helios satellites, a cooperative program with the United States, which are examining space near the sun, a region not available to any other satellite; Spacelab which will play such an important role in the productive use and further exploration of space during the 1980's; and Aerosat which will soon be needed by the international airlines for communication and traffic control.

When space exploration first began, not so many years ago, the primary motives were adventure, scientific investigation and national prestige—the realities of that time.

But today we cannot ignore the realities of these times.

Man has come to understand that he has achieved the frightening capability during the last 20 or 30 years of changing the natural environment of his planet. No longer can he ignore the pollution of the land, water, and atmosphere. He recognizes that natural resources and particularly energy resources are becoming scarce. He sees his cities deteriorating from unwise management and battered by natural forces such as floods, storms, and earthquakes; he is concerned that food shortages threaten famine for millions. So it is inevitable that today our space programs both in the United States and Western Europe are heavily oriented to "problem solving."

Meteorological satellites are adding a new dimension to our understanding of the weather and giving better warning of storms. Continued improvement will lead to an understanding of the subtle effects that make the difference between good and bad weather. Then, perhaps relatively small inputs of energy at the precise time and place in the atmosphere could permit some control over the weather.

Communications satellites have tied the earth's countries together and are now appearing in domestic use. They will soon carry the majority of the world's radio, telephone, television, and data transmissions. Navigation and traffic control for vehicles on the land, sea, and air will increasingly rely on space systems.

Earth resources satellites print out an image of the earth's surface every few weeks throughout the year. They are giving us an ability to better manage our farm lands and natural resources, to locate new sources of water, minerals, and energy, to aid in land use and urban planning, and help to keep a watchful eye on the environment.

The technology for remote sensing of the earth by satellites, even in this experimental stage, has exceeded expectations in providing practical benefits. The earth technology satellites—Landsat 1 and Landsat 2—have demonstrated that the data they provide—properly analyzed—can assist in the solution of both national and international problems. Recently it was proposed on the floor of the United States Senate that the United States, in cooperation with the other countries of the world, develop a worldwide abiliy to monitor crops with a satellite system in order to provide timely and accurate inventories of the world's agricultural production.

The value of Landsat data has been quickly recognized by governments and scientists throughout the world. Now more than 45 nations and 5 international organizations are cooperating on earth resources projects of mutual interest. Six nations—Brazil, Canada, Chile, Iran, Italy and Zaire—have agreements with the United States to establish ground stations to acquire and process Landsat data at their expense. These stations will provide coverage of South America and almost all of Western Europe, Africa, and Western Asia.

All of these agreements are based upon observing the U.S. policy of (1) open dissemination of information and of (2) the partners assisting other nations with training in the analysis and use of Landsat data.

All of the processed Landsat data today are available at minimum cost from the U.S. Geological Survey Center at Sioux Falls, South Dakota. United States policy on open sharing of these data is based upon our national law and treaty commitments.

In particular the 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies provides for open dissemination of information. United States international commitments are consistent with this treaty.

Notwithstanding the benefits of Landsat 1 and Landsat 2, resting on a firm foundation of technology and law, some restrictive legal proposals were made in the United Nations. These would have the effect of limiting benefits that could be derived from the acquisition and dissemination of remote sensing data. The United Nations Committee on the Peaceful Uses of Outer Space strongly endorsed the May 1975 report of its Scientific and Technical Subcommittee. This report calls for "dissemination of all data and information to all countries on an equal and non-discriminatory basis." Also, the report recognizes the potential of remote sensing for benefitting the international community as a whole, the importance of coordination and exchange of data between regional centers, and the possibility of developing a global center to handle all the data. Fortunately this report will be considered by the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space when it considers draft proposals on remote sensing during its meeting in May 1976.

It is important to note that the 1967 Treaty on Outer Space, U.S. policy on the management of data from remote sensing, and the trend in the United Nations are all in harmony. Consequently, this is not the time to enter into legal or institutional agreements that will impede the progress of space technology. It is my hope that the countries of Europe will continue to support, with the United States, the policy of openness.

This policy will be further tested with the advent of the Space Shuttle and Spacelab.

Early in this decade the United States decided to develop the Space Shuttle. An important part of that system is Europe's Spacelab.

The Space Shuttle consists of 4 large elements clustered together. These are: a large expendable fuel tank, large twin recoverable solid rocket boosters and the manned orbiter vehicle. It will be a reusable space vehicle operated as a transportation system between earth and near space, carrying scientific and application payloads of all kinds that weigh up to about 29,000 kilograms (65,000 pounds). It is being designed to fly at least 100 missions without major overhaul. On returning to earth the orbiter will land on a conventional runway very much like current winged aircraft.

The crew of the Space Shuttle will travel in a shirt-sleeve environment and undergo a maximum stress of only 3 times the force of gravity (3 G's).

The program is on schedule for the first Shuttle flights in 1980. Development and operating costs are within projected limits.

The United States Congress has strongly supported the Space Shuttle program and I believe it will continue to do so.

The Space Shuttle will make access to the environment of space routine.

Of enormous importance to the use of space in the 1980's is Europe's Spacelab. It will provide the capability necessary to realize the true potential of the Shuttle.

As a versatile laboratory and observatory, Spacelab will reduce substantially the cost of space experimentation and observation. More importantly, it will reduce the time necessary to prepare space experiments and equipment. Most important of all, it will provide for a truly international space program.

Under the terms of the joint agreement, the United States will procure from the European Space Agency any additional Spacelab units of the same basic design needed for U. S. programs and the U. S. will not develop any unit of its own which would substantially duplicate the design and capabilities of Spacelab.

The schedule calls for the first operational space flight of Spacelab to be a very early mission of the Space Shuttle in 1980.

The United States is pleased with the European performance on Spacelab. Substantial issues have had to be worked out, as expected, and they have been worked out very well in our view. We can expect further difficult interfaces on so complex an undertaking, but I am confident that ESA and NASA will work them out.

Europe's Spacelab will be a unique place for carrying out experiments. To understand this, we must look at space as a new environment, free of gravity, free of earth's vibrations, an almost perfect vacuum with very low or very high temperatures. All of this will be available directly for man's use in Spacelab.

This means that the payloads must be planned with a whole new approach to their design, construction, and operation. Indeed, NASA and ESA are now doing that in their joint planning of the first Spacelab payload.

Space is a place for discoveries in science and technology.

For example, in providing an environment free from the masking effects of gravity, previously hidden characteristics of materials will be revealed. Therefore, Spacelab will give us a new understanding of the physical properties of materials.

Such research will impact whole industries.

Without the interference of gravity, it will be possible to create entirely new metal alloys. As they become economically attractive, we can expect that the relative value of metals may shift.

Flawless crystals have already been grown in the weightless, vibration-free environment of space. I do not doubt that there will be an industry devoted to growing such large crystals in space and sending them down to earth for use by the electronics and electric power industry.

It is expected that vaccines of extraordinary high purity can be produced in space by a technique known as electrophoresis. While this technique has been used on earth, the vibration and convection currents present in earth-bound fluids prevent separation of the vaccine from impurities.

For the scientific and engineering resources of this coming age to be routinely available, preparation must begin now. Such planning should be taken up in the scientific and technical communities of Europe and the United States and other nations who wish to utilize the shuttle system.

To enhance this planning process at the "grass roots" level of science and engineering, I recently wrote the Administrator of NASA, Dr. James C. Fletcher, requesting that his agency (NASA) secure the maximum involvement of the scientific and engineering communities. Their involvement is necessary to determine how the space environment can be used to best solve problems that plague us here on earth, and how this new capability should be best used to advance science and technology. So, to accomplish this task, NASA will consult with a broad spectrum of scientists and engineers. I hope that the scientists and engineers from Western Europe will play a substantial role in this effort.

Such joint planning is already taking place. Let me give you an example. In the United States there is great concern that some chemicals [principally chlorofluorocarbons and nitrous oxide] being released into the atmosphere are slowly diffusing up into the stratosphere and there, through complicated photochemical processes, are causing the ozone in the stratosphere to be depleted. The depletion of stratospheric ozone is of concern because ozone filters out most of the ultraviolet radiation that is harmful to life on earth.

Consequently, the Congress directed NASA to carry out a research program with the domestic and international scientific and engineering communities. To do this, NASA formed an advisory committee to give it advice on how to proceed with such a program. A few weeks ago, that advisory committee met, and sitting with it were three prominent European scientists: Prof. Nicolet of Belgium, Prof. Blamont of France, and Prof. Haughton of the United Kingdom.

But the engineers and scientists will do more than just determine how the environment of space will be used. They also will go into space on board the Space Shuttle as researchers. That is, they will ride the Shuttle into space and carry out their experiments in Spacelab. Just about anyone in good health with very little flight training should be able to do so.

I predict that Spacelab will be a most significant accomplishment for space science and technology. Clearly it will be the forerunner of much larger and more permanent space stations.

Tentative thinking about the terms and conditions for the use of the Space Shuttle system may be of interest. In accordance with the President's statement of October 1972, its use will be on a non-discriminatory basis, with priority for those countries contributing to its development. In determining the cost to users, the United States will seek recovery of direct and indirect operating costs only (excluding research and development expenses). Such a policy would take into account payload weight, volume, and the services required without regard to the presence or absence of other payloads carried on the same mission.

It is anticipated that the policy will allow users who are paying their way, to retain proprietary rights to inventions and discoveries, in order to encourage commercial use of space.

NASA, of course, will have to know enough about the mission to satisfy our international commitments and policies with regard to the peaceful purposes of use and to assure flight safety.

Most of what I have said has dealt with the applications of space technology.

While I believe that is where the major emphasis will be during the next 15 years, the Space Shuttle, and particularly Spacelab, will provide enormous opportunities for the scientific community to use the space environment for scientific investigations. This is important because if our joint space effort is to succeed, it must also provide for the needs of the human spirit. The challenge of science is to comprehend the universe and to find a man's place within it.

I would expect that space science, or more accurately, the practice of science in space, will continue to play a substantial role in our space program.

And I would hope that Europe and the U.S., while of necessity concentrating on applications projects to meet contemporary needs, will not abandon space science or lose the vision and imagination that have been so important to our achievements to date.

Science and technology are not worlds apart. Consequently, in many space applications science plays a strong role; for example, the development of new energy sources.

With the fossil fuels and uranium heading for depletion, our governments are giving serious attention to solar energy to meet long-range energy needs. Terrestrial solar energy will have a place in supplying these needs, but solar energy will be much more useful as an energy source if it can be collected constantly and in large amounts. This is impossible to do on the earth surface because of the atmosphere, the day-night cycle and the requirement of vast open uninhabited, pollution-free land. None of these restrictions are found in space. Large solar arrays could be positioned in orbits so that they are continually above the same points on the earth's surface. From these positions they could beam energy at microwave frequencies to collecting stations on the earth's surface. Several such space solar power systems have already been defined and analyzed.

Space solar power systems may not be the total answer to our energy needs, but they should be considered. I would like to see Europe and the United States work jointly on such a program. If we had placed the same emphasis years ago on solar energy that we have put into the development of a nuclear generating capability, we might be well along this road to solving our energy shortages.

A review of joint U.S.-European space activities would not be complete without mentioning the continued availability of the U.S. space launching capability.

Let me assure you—pending the development of your own independent launching capability—that you are welcome to utilize the U.S. launch capability.

The policy of the United States is to provide launch assistance on a fully reimbursable, non-profit basis, to other countries and organizations where the spacecraft are to be used for peaceful purposes. As far as I know, no one in the Congress has ever argued against that policy.

With respect to this availability of U.S. launch vehicles and services, let me make several points:

1. There has never been an occasion when a European nation or any of its international organizations has been denied launch services by the U.S.

2. The U.S. experience in providing the Europeans with launch vehicles has been excellent. The launch vehicle policy as implemented to date has enjoyed wide acceptance.

3. The U.S. Congress has never insisted on any restriction other than that we meet our international commitments to use space for peaceful purposes and that there be fair and equitable reimbursement.

4. The President of the United States had declared that the capability of the U.S. is available to all nations on a non-discriminatory and reimbursable basis to launch spacecraft for peaceful purposes.

In making this statement, the President included a series of conditions. These conditions relate solely to international communications satellite systems separate from INTELSAT. The conditions do not apply to domestic communications or to military communications systems. Even in the case of these conditions, there are provisions for the United States to agree to provide launch services for systems competing with INTELSAT.

I cannot foresee any situation in which so serious a problem would arise between Europe and the United States wherein the U.S. would not provide Europe with a space launching capability.

In all the previous discussion, a matter of overriding importance is the availability of funds to carry out the program.

For Fiscal Year 1976 the Congress has provided $3,543 million (3½ billion) for the NASA program. Although this is only $4 million less than was requested by the President, it is clear that space funding has decreased substantially during the last ten years. Not only has the amount of dollars decreased, but inflation has eaten greatly into its value. In terms of buying power, the U.S. space program today is only one-third (1/3) as big as it was ten years ago.

The economy and the effects of inflation, recession, and unemployment experienced in the United States during the past five years and continuing today are the prime concern of every member of Congress just as they are here in Western Europe. While U.S. and European inflation rates are somewhere near the same during 1975, U.S. unemployment rate is substantially higher. Our Federal deficit this year will exceed $70 thousand million (70 billion).

Not only is the debt structure of the United States—Federal, state, local, corporate and private—enormous, but the capital needed for America to continue to grow is even more astounding. The estimate is that the United States will need the incredible sum of $4.5 million million (4.5 trillion) in new capital funds during the next ten years. That capital for the most part will have to come from the savings of the people and the profits of business.

Two things are clear to me. One is that while economists might understand economics, they do not understand arithmetic. A few days ago one political wit noted that even the economy is doing better than are the economists.

The second thing that is clear is that we as political leaders must find the ways and means to bring about a more stable economy. Most important for the United States is to reduce unemployment to below 5%. But running a close second is the necessity to stop the inflation.

What does this have to do with the exploration and use of space? The answer that our space programs create new commercial activity, new wealth and new jobs.

Let me give a small example—using communications.

Only 17 year ago (in December 1958), we heard the first transmittal of the human voice from space. Only ten years ago the first commercial communication satellite was launched and provided 240 circuits. Yet, during this brief period—less than a generation—an entire new communications industry has come into being with a world-wide capital investment that now exceeds $1,000 million and provides jobs for thousands of people. Today 91 countries are members of INTELSAT. The system supports hundreds of communication links girdling the earth with 8 satellites in orbit and 92 earth stations in 65 countries, including the Soviet Union and China. Under the best conditions, the system now has 16,000 circuits to provide telephone, television, data and facsimile service. With the new satellites [INTELSAT 4A] now being launched, this capability will be doubled. Not only has this system made communication easier between the peoples and governments of the world, but it has permitted user costs to be reduced by more than 50%.

Another benefit, not often noticed is the reduced use of important materials. A communications satellite that provides thousands of telephone circuits over the Atlantic Ocean uses a few kilograms of copper. A cable system providing a fraction of that capability would use thousands of tons of copper.

And yet, this is only the beginning of the use of satellites for communications purposes.

Domestic satellite communication systems are being established all over the globe.

A new system, Aerosat, to provide communications for transatlantic airline flights is under development by your European Space Agency and the Comsat Corporation of the United States.

Similarly, both Europe and the United States are developing maritime communications satellite systems—an area where more cooperation is needed between us.

It has been estimated that in 15 years there will be 100 million people at any moment using some kind of satellite communications. These communications systems could generate revenues of $10,000 million a year. This activity would require thousands of millions of dollars in capital investment, create millions of jobs and be of enormous benefit to society—a single example of what can be expected from our space programs.

Clearly our space programs are essential to our growth.

Mr. President, you and the honorable members of this Assembly have been most kind and generous with your time in permitting me to address you on the important subject of our joint cooperative efforts in space. That joint space effort is broad, aggressive and growing. It is well supported in the United States and I know it is so in your countries as well. For our people and the rest of mankind to continue to receive the benefits of this magnificent undertaking, politicians like ourselves must support it. I hope we will give it the support it needs.

Thank you.

EVAN RASMUSSEN AND RURAL ELECTRIFICATION

Mr. McGOVERN. Mr. President, the success of the rural electrification program stands as a working monument to the foresight and hard work of many dedicated Americans. One of these is Evan Rasmussen of Beresford, S. Dak.

Evan was one of the first persons in my State to recognize the need for rural electrification. He worked long hours to organize the first electric cooperative in South Dakota to meet this need. The result of his efforts, and those of others like him, is a reliable electric service throughout rural South Dakota.

In recognition of this effort, the National Rural Electrification Cooperative Association selected Evan to represent these hardworking people in a movie depicting the history and organization of the REA's. This segment, filmed on location on Evan's farm, truly represents those people, "who made one of the most outstanding programs of this century an outstanding success."

Mr. President, I am very pleased to ask unanimous consent that this article, published in the December issue of Rural Electrification, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ON LOCATION IN SOUTH DAKOTA

(By Mattie Olson)

This sequence was planned to be, in a sense, the heart of the new TNT film on rural electrification. It was to take us back to our beginnings, to the people who made one of the most outstanding programs of this century an outstanding success.

After all, it really wasn't long ago—only 40 years—that round-the-clock electric power in the nation's rural areas simply was a dream. The fortunate few had battery-operated Delco plants for the simplest needs. Most relied on the kerosene lamp for light.

But, there was a dream . . . there was an idea . . . and then there was a government program set up to make loans to electric systems to see that the farms and rural businesses got electricity.

Programs don't work by themselves. It

takes people, with talent, patience, perseverance and imagination. That's what this section of the new film is all about—how people, working together with their neighbors and with their government, electrified the nation's countryside.

Evan Rasmussen of rural route Beresford, S.D., was one of these people. He worked many long hours to organize the first electric cooperative in his state. His is the typical story—dealing with skeptical neighbors, reluctant and not always helpful government officials, finding and bargaining for a power supply source. Many days he spent traveling the roads, signing up members for the electric cooperative.

"Three times is the charm," Rasmussen would say. Because that's cultural land—productive because many of those 800 meters are for sophisticated irrigation systems. It is acutely aware of the impact of adequate electric power upon an area's economic well-being. So, to Raft River—and to co-ops across the nation—the future is more important than yesteryear, proud though they are of the past.

In this energy and resources sequence, therefore, a number of knotty questions are asked and some answers suggested: What are the best possibilities for energy to meet tomorrow's demands? How can we, as a nation, solve the energy-environment dilemma? Why is a comprehensive national energy policy so important? Where do rural electric systems fit into the energy picture of the future?

Energy sources showing promise for development are analyzed in this section of the film—the advantages and disadvantages of solar, hydro, coal, oil, nuclear and geothermal are thoughtfully discussed.

To produce background for the sequence, the film crew began shooting just north of Salt Lake City, Utah, going to well beyond Malta, capturing scenes of breathtaking grandeur as well as bleak desolation—mountains, forest, prairies, grazing land, irrigated and arid fields, abandoned farmhouses and well-tended dwellings. When put together it will be a visual song without words about the Great Northwest, expressing the potential of this vast and rugged area and the role of energy in its development and in the lives of the people who live there.

Early risings and skipped meals are a way of life with members of the Screenscope crew; in their book, it's sinful to waste one second of daylight or fair weather. On these location trips, it's advisable to stuff all available pockets with durable-type snacks; real sit-down meals tend to be far between. One of the few enjoyed in Malta would rate four stars in any gourmet column. A feast of wild game and rainbow trout was provided by Ed Schlender, Raft River's manager for twenty-some years, now retired, now the co-op's executive vice president and manager emeritus and manager of the geothermal project, and was exquisitely prepared by Mrs. Linda Schlender.

TNT and Screenscope also owe a debt of gratitude to Dr. Talmadge Neil, head of Idaho University's engineering department, who works actively on the Raft River project; Golden Gardiner, new manager of Raft River REC; Wallace Spencer, NRECA board member in Idaho who made a dawn trip to the geothermal site to visit with the film crew, and to many other friendly people along the way (including those at Snowbird Ski Lodge who permitted the crew to utilize one of the ski-lift cars for photographing some awesome mountain scenery) whose courtesy and assistance helped immensely in preparing this sequence.

Oh, about that sunrise. First, the film director has a thing about sunrises; second, how better to symbolize the dawn of a new energy day? what it took—three separate organizing efforts—before Clay-Union Electric Cooperative came into being.

Today, Clay-Union serves some 2,500 homes, farms and industries in the southeastern section of South Dakota and Evan Rasmussen is still a member of the board of directors. He also serves as a member of the board of East River Power Cooperative from which Clay-Union now purchases its power.

At 70-plus, he's still going strong, as articulate about electric coperatives' future problems as he is about past triumphs. He, in most ways, is the perfect example of the co-op incorporator and co-op board member, and that's the story this section of the film tells . . . not the story of the one Evan Rasmussen of Beresford, but the story of the many, many Evan Rasmussens across the country . . . of the men, like Rasmussen, who believe deeply in the cooperative program.

In the fashion typical of most rural people, he saw something that had to be done and found the cooperative way the means to achieve that goal.

A film crew arriving on harvesting day might be as welcome as a fly in the butter, but Emma and Evan Rasmussen certainly didn't make anyone feel that way. On that Saturday morning, three loads of soybeans already had been brought from the combine in the field; there wasn't much time to stop and chat. The filming began and continued for two full days from sunrise to beautful South Dakota sunsets.

The co-op incorporator at home and at work . . . remembering the difficult days before electricity . . . the mid-western farmer . . . corn fields . . . combining . . . picturesque farmsteads . . . modern dairy operations . . . the old barns and abandoned homes—the cameras rolled to capture the expanse . . . the power lines linking neighbor to neighbor.

This was much the same as the scenes from an earlier, and beautiful, movie about the beginning of the rural electrification program. Shot in the late 1930s in parts of the Midwest, that film, "Power and the the Land," produced through the U.S. Department of Agriculture, detailed the emotion and effort of people who began the cooperatives. Clips from "Power and the Land" will be woven into this section of TNT's movie.

Today the camera equipment is more sophisticated, with lighting and sound assistants on hand, but some things never change. Just as the farmer's working hours somehow never seem to grow shorter, the film crew's hours still are daybreak to dusk—and longer.

In October of 1975 in South Dakota, a basically urban-reared film crew found much in common with rural Americans—respect for hard work, an appreciation for land and open spaces, fascination with modern equipment and the ability to keep it running smoothly and, perhaps most of all, neighborliness and genuine interest in people and how to get things done.

SPECIAL MEDICAL NEEDS OF CHILDREN AND YOUTH

Mr. MONDALE. Mr. President, in recent years the health profession has recognized the need to provide an increased focus on the special medical needs of children and youth. We have seen this kind of responsiveness reflected through the programs of Children's Hospital here in Washington, and today I would like to bring another excellent example of it to my colleagues' attention.

The Children's Health Center and Hospital in Minneapolis opened its doors to children and adolescents in 1973, and has been doing an exemplary job of meeting the health needs of thousands of youngsters. I think that the following letter and statement demonstrate some of the ways the administration and staff at the center are providing an atmosphere of warmth and caring to a situation which might ordinarily be traumatic and terrifying for a child. I ask unanimous consent that the letter and statement be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Childrens' Health Center
of Minneapolis,
November 19, 1975.

Hon. Walter F. Mondale,
U.S. Senate,
Washington, D.C.

Dear Senator Mondale: Health care institutions have an obligation to keep their congressmen informed. This letter's objective is to inform you on what has been done by Children's Health Center at 2525 Chicago Avenue, Minneapolis, Minnesota, 55404, in the following areas:

1. Philosophy of Children's Health Center.
2. Cost Containment.
3. Ambulatory Care.
4. Staff Education.

CHC is a private pediatric hospital and health center that began operations on January 31, 1973. We at CHC believe that kids are different from adult patients and need special care. Enclosed is a brochure that pictorially illustrates how the environment of CHC is indeed different from a "normal adult hospital." As great as our new building is, it does not begin to compare to the warmth and caring of our staff. Everyone believes that each patient is an individual and as such his treatment must be custom tailored to meet his or her needs.

Activist groups have overtly condemned the health care industry for blatantly ignoring spiraling health care costs. We at CHC vehemently object because of our efforts to contain costs. A cornerstone of financial planning at CHC has been the sharing of services with a neighboring hospital that results in improved utilization of personnel, reduced capital outlays, and a broadening of overhead costs. Currently CHC has the following shared services:

1. Personnel Services.
2. Central Sterile Supply.
3. Pharmacy.
4. Dietary.
5. Group Purchasing.
6. Medical Library.
7. Parking Ramp.
8. Telephone System.
9. Computer Services.

Congress has been seeking answers to the energy shortage. We at CHC are keenly aware of energy conservation and have instituted the following programs:

1. Elimination of unnecessary lighting throughout the health center.
2. Installation of electric capacitors to improve the efficiency of electricity we use.
3. Establishment of a maintenance contract to assure that our heating and cooling equipment are operating at peak efficiency.
4. Lowering of all thermostats not in working areas.
5. Are investigating and formulating proposals to modify our heating and cooling systems to bring further efficiencies.

Over utilization of beds is another area CHC is committed to eliminate. We currently have a utilization review coordinator who daily monitors each patient to assure minimum bed utilization. By January 1, 1976, we anticipate full approval by our designated PSRO authority.

One of the most rapidly expanding facets of health care is ambulatory care. At CHC we have the following major programs in ambulatory care:

1. 24-Hour Emergency Service.
2. Outpatient Department.
3. Dental Clinic.
4. Mental Health Clinic.

5. TAMS.

For the sake of brevity, I shall only comment on TAMS. TAMS stands for the Teen Age Medical Service. TAMS is located in a house one-half block from CHC. TAMS is unorthodox in that the amount of time spent with the patient is much greater than in the "normal" private practice setting. In the area of patient education, TAMS began daily sessions on a variety of health related subjects when teenagers and parents could come and hear informative and open health care discussions.

The medical profession has justly received criticism due to its inability to provide an educational environment that allows practitioners to keep abreast of medical advances. CHC has attempted to meet this need by weekly scheduled "Grand Rounds." Grand Rounds last for approximately one hour each Tuesday. Subjects covered in the month of November include the following:

1. Iron Deficiency without Anemia.
2. Hypnosis as a Therapeutic Tool in Chronic Illnesses of Childhood.
3. Intussusception in the Newborn.
4. Massive Gastrointestinal Hemorrhage in a 3-Year-Old.

Additional educational opportunities include Mental Health Grand Rounds and distinguished guest lecturers at quarterly staff meetings.

I have rapidly provided a thumbnail sketch of a few of the programs at CHC. I wish I had the opportunity to personally chat, but that does not appear possible.

I would sincerely ask that if there are any questions that I could somehow be of help, please feel free to contact me.

Sincerely,

GENE FREED,
Assistant Administrator.

A MOTHER SPEAKS

When we admitted Kathleen into the hospital for surgery, I kept thinking, "My little girl is going to be so sick" . . .

However, my spirits began to revive as we walked down a brightly colored corridor . . . and walked into her room which was quite different from any hospital room I had ever seen . . .

Pictures and posters on the wall, bed sheets with flowers on them and nightwear that featured Teddy Bears and Little Boy Blue . . .

It wasn't long before I stopped feeling sorry for myself and began to feel sorry for the other parents and children who shared the room. On the bed next to Kathleen was a little three year old girl with bladder trouble, and across the room was a ten year old with a tumor feared to be cancerous . . .

The nurses were not all nurses. Some of them were volunteers in colored smocks which gave the children the feeling that "Mother must be near" . . .

There was a special toy room, and every once in a while a volunteer would go by wheeling a child in a little red wagon instead of a wheel chair . . .

Now, it was time for Kathy's surgery and we were allowed to stay in the "holding area" before it was her turn to go into the operating room . . .

We were told to wait in the Parents' Lounge which had a TV set, coffee and, most important of all a "volunteer" Mother of six whose job it was to keep track of parents who had children in surgery or "recovery". She did a great job.

I found it hard to believe that so large an institution could give so much time to individual patients and their parents, but found it was standard practice at Children's.

I felt richly blessed as a result of the entire experience with Kathy, and grateful that other sick children and their parents are receiving the same kind of Tender Loving Care that we received at Children's—a dream come true!

HALOCARBONS IN THE STRATOSPHERE

Mr. MOSS. Mr. President, today's New York Times published a story based on a report released by the Environmental Protection Agency. The report was prepared by Arthur D. Little, Inc., and has the title, "Preliminary Economic Impact Assessment of Possible Regulatory Action to Control Atmospheric Emissions of Selected Halocarbons." I ask unanimous consent that the Times article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MOSS. The Arthur D. Little report is a complicated one about a very complex and emotional subject because ozone reduction in the stratosphere has been connected with an increase in human skin cancers.

Mr. President, this matter must be viewed by the Congress in proper perspective. I agree fully that the release of certain halocarbons into the atmosphere is a legitimate cause for concern. The Congress also agrees and earlier this year passed a law that requires the National Aeronautics and Space Administration to carry out a program of research, technology and monitoring of the upper atmosphere with the objective of providing the Government and the people with the information necessary to better understand this problem. We now have a hypothesis as to what the effects of fluorocarbons released into the troposphere will be on the stratospheric ozone. More important, we have little information about the effects of increased ultraviolet radiation on various life forms on Earth.

With respect to the cancer issue, the theoretical predictions do not predict a sharp rise in human skin cancer. The statistical evidence does show that light-skinned people who live in the lower latitudes and therefore receive more ultraviolet radiation do contract more skin cancers than the lightskinned people living in the higher latitudes. Correlation is not proof. Moreover, the kinds of human skin cancer for which these statistical correlations hold are the non-melanoma skin cancers. Non-melanoma-type cancer is not considered a serious disease. It was not included in the last cancer survey by the National Institute of Cancer and the Institute does not plan to include it in the next survey. As to the relationship between ultraviolet radiation and melanoma cancer, there is disagreement in the scientific community as to whether ultraviolet radiation can cause melanoma so that is clearly an area where research is needed.

The Arthur D. Little report provides some useful information on economic effects of possible regulatory action to control the atmospheric release of selected halocarbons, but the information in the report must be used carefuly. For example, the New York Times article notes that the report says that a ban in the United States of all uses of fluorocarbons F–11 and F–12 and carbon tetrachloride after six months would lead to an estimated 92 percent reduction in American emissions over the next 20 years. But the economic impact on the industries involved would be considerable. But the report also says that an immediate end of emissions is not possible. Moreover, these chemicals are very useful to man. It is no small step for the Government to begin their regulation, and the testimony before the Committee on Aeronautical and Space Sciences shows that waiting for a few years to get the necessary scientific information would not lead to any substantial decrease of the ozone in the stratosphere.

Mr. President, there are three things that are important in the matter of stratospheric ozone depletion and its possible consequences.

One is to have a strong research and monitoring program to get the facts. Such a program has been provided for by the Congress. Two, an agency of the U.S. Government should be designated to study the question of possible regulation of fluorocarbons and be given the authority to regulate if and when such regulation is required. I think the Environmental Protection Agency should be given these tasks.

Third, this is an international problem. There should be strong international participation in the research, technology and monitoring so that other nations will understand the problem and agree to regulation if it is needed. If regulation is needed, it must be international. Russell E. Train, Administrator of the Environmental Protection Agency, recently described the question of stratospheric ozone depletion as possibly the first truly global environmental problem and called for the creation of an international mechanism to deal with it.

Mr. President, I think that course is proper. I hope this Congress would not pass legislation that would require regulation of these very impotrant chemicals—chemicals that are so important to many different aspects of our lives—before we understand the issues more fully than we do now.

Mr. President, the Public Works Committee has just marked up a bill dealing with these matters. The chairman of the committee, the Senator from West Virginia (Mr. RANDOLPH), the senior Senator from Maine (Mr. MUSKIE), and the Senator from New Mexico (Mr. DOMENICI) have studied this question carefully. I hope that what the committee recommends to the Senate will be in harmony with what we have already accomplished on this matter.

EXHIBIT 1

[From the New York Times, Dec. 10, 1975]

OZONE PERIL SEEN BY EPA REPORT

WASHINGTON, December 9.—The use of aerosol-dispensed hairsprays, antiperspirants and deodorants in the United States accounts for nearly half the world's air pollution by fluorocarbons, which may be dangerously depleting the upper atmosphere's protective layer of ozone according to a report released today by the Environmental Protection Agency.

Depletion of the ozone layer in the stratosphere could result in a sharp rise in human skin cancer, worldwide damage to crops and possibly serious alterations of global climate, many scientists believe.

The chemicals seen as the greatest potential threats to the ozone layer are called fluorocarbons. Two, called F–11 and F–12, are of particular concern. These gases are widely used as propellants in aerosol cans.

The report said a ban on all United States of F-11 and F-12 within the next six months would lead to an estimated 92 percent reduction in American emissions of the chemicals over the next 20 years, but at considerable economic impact on the industries involved. A 75 percent reduction could be achieved by a ban after three years.

Earlier this year a Federal study group concluded that "fluorocarbon released to the environment are a legitimate cause for concern."

Russell E. Train, E.P.A. administrator, described the fluorocarbons in October as possibly the first truly global environmental problem, calling for the creation of an international mechanism to deal with the chemicals.

The report his agency released today was prepared by Arthur D. Little, Inc., of Cambridge, Mass., a widely known consulting concern.

The theory that fluorocarbon pollution is a threat was enunciated in 1974. While the chemicals have been considered inert, the theory holds that they are decomposed by sunlight high in the atmosphere and chemically active decomposition products might react with the ozone layer 15 to 30 miles above earth's surface. The resultant depletion of the ozone would allow more ultraviolet light to reach earth with potentially widespread damaging effects.

WORLDWIDE EMISSIONS

The report made public today said that most scientists agreed that there were important uncertainties in the current theory and that further research and analysis were needed before conclusions could be drawn.

Because of widespread concern over the potential hazards of fluorocarbon pollution, the E.P.A. asked Arthur D. Little, Inc., to develop estimates of world production of the chemicals world emissions and to make a preliminary assessment of the economic impact of measures to halt the pollution.

These were the issues dealt with in the report, which did not evaluate the evidence for the ozone depletion theory itself.

The report said that the United States accounts for 45 percent of the annual worldwide emissions of F-11 and F-12, the two chemicals that have aroused the most serious concern among scientists. Western European countries were said to account for an additional 40 percent.

In the United States, 70 percent of the emissions of the two fluorocarbons come from aerosol spray products, the report said, while the remainder is attributable largely to industrial use as blowing agents in the manufacture of plastic foams. The pattern of worldwide use of the products was said to approximate that in the United States.

Although F-11 and F-12 have been the subject of the greatest concern, the report analyzed the production and emission patterns of 15 compounds including carbon tetrachloride, which is used primarily in the manufacture of F-11 and F-12, and methyl chloroform, which is used as an industrial solvent.

The A. D. Little analysis said that in 1973, United States industry produced an estimated $240 million worth of F-11, F-12 and another closely related compound called F-22. The combined value of carbon tetrachloride and methyl chloroform was estimated at about $590 million.

Aerosol products had an estimated value of $2 billion to the manufacturers in 1973, the report said.

The report considered many different regulatory options for reducing the emissions of the fluorocarbons; ranging from a ban within the first six months of 1976 to a gradual phase-out of use over several years and measures to prevent emission of the compounds when used in refrigeration and air-conditioning equipment.

The report, about 300 pages long, is titled Preliminary Economic Impact Assessment of Possible Regulatory Action to Control Atmospheric Emissions of Selected Halocarbons. A release from E.P.A. said the report could be obtained by writing to the National Technical Information Service, 5285 Port Royal Road, Springfield, Va., 22161.

NUCLEAR PROLIFERATION

Mr. MONDALE. Mr. President, the Senate Foreign Relations Committee yesterday approved Senate Resolution 221, a resolution that was introduced by the Senator from Rhode Island (Mr. PASTORE) and myself last July. This measure is designed to express the very deep sense of concern in the Senate and this country about the sale of nuclear enrichment and reprocessing facilities to nonnuclear weapons nations.

Last June West Germany entered into an agreement with Brazil which could result in the construction of a plutonium reprocessing plant in Latin America. It was the first agreement to fully provide for construction of such a plant in a nonnuclear weapon country. The agreement was concluded despite the serious objections of the United States.

I believe our Government was rightly concerned about the consequences of this transaction. Studies show that there is no economic justification for Brazil, whose nuclear energy industry is in infancy to construct such a plant. Even in the United States, with scores of reactors in operation, we do not have a single plant licensed to reprocess plutonium for commercial uses.

There is a valid reason for delay in developing a commercial plutonium reprocessing industry for there is substantial doubt about the thoroughness of safeguards and physical security measures that have been proposed to govern these plants.

Why does Brazil want to assume the risks and the significant costs involved in building such a plant? No adequate economic justification has been provided and, since Brazil has never ratified the Non-Proliferation Treaty, there is cause to suspect their motives.

A second plutonium reprocessing transaction has now come to light. This is the agreement for transfer by France of a reprocessing facility to South Korea. In this case, the potential military motivation of the sale is even more obvious and more alarming. I hope that the leadership in South Korea understands that the United States would view as an extremely serious matter any attempt to use this technology for production of an explosive device.

As a result of these transactions, and others that may follow involving the sale of similar equipment to Argentina, Pakistan, or countries in the Middle East, the effectiveness of the regime to control nuclear weapons spread is now in question.

Once countries can manufacture plutonium in even modest quantities, they can without much difficulty take the added step of manufacturing an explosive device that is indistinguishable from a nuclear bomb.

What checks exist to prevent such action? Many countries have yet to ratify the Non-Proliferation Treaty. For such nations, there are no constraints other than the limitations placed by suppliers on available technology and the effectiveness of safeguards required by suppliers including those enforced by the International Atomic Energy Agency—IAEA.

The IAEA is now rushing to develop a program capable of preventing diversion of special nuclear materials from uranium enrichment and plutonium reprocessing equipment. But the effectiveness of these safeguards has not been fully tested. Many experts question whether this sensitive technology should be transferred to nonnuclear weapons countries under any circumstances. Others believe that a fully effective safeguards program can be devised only if these facilities are developed as large, regional, rather than smaller national plants, and placed under multinational control.

A study of regional fuel cycle centers was, in fact, one of the recommendations of the NPT review conference earlier this year. Since that session, the United States has been meeting with other countries that supply nuclear equipment and technology to strengthen the controls over dissemination of technology for production of special nuclear materials. While some progress has not been made, this issue has still not received the high-level attention it deserves among the nuclear suppliers, including the United States. It was argued, for example, that the failure of President Ford and Secretary Kissinger to mention the Brazilian sale when West German President Walter Scheel visited the United States last spring was interpreted by the West Germans as a signal that this was not an issue of major importance to the United States.

The purpose of the resolution approved by the Foreign Relations Committee yesterday is to put the full weight of the Senate behind the effort to strengthen and broaden the IAEA safeguards program, and to urge the utmost restraint in the transfer of sensitive equipment and technology, including enrichment and reprocessing facilities until a fully effective program can be achieved. It is meant to tell all suppliers, including the French and West Germans, that unless regionalization of plants is provided through multinational centers, they should not provide reprocessing or enrichment equipment to any non-nuclear-weapons state.

As unsatisfactory as the present international system to limit nuclear weapons proliferation may be, it has taken more than a decade to reach this point. Efforts during this period to insure safeguards over the spread of nuclear technology were made with one principal objective in mind—to prevent the chaos that would result if every nation decided to develop an independent nuclear weapons capability. The transfer of plutonium reprocessing and uranium enrichment facilities to non-nuclear-weapons states now threatens to undermine all of the progress that has been made to this date. The result would be a new and a much more dangerous era for the United States and for the world community.

We cannot allow that to happen. I therefore hope that the resolution will receive prompt and favorable consideration by the Senate.

THE NORTHERN MARIANA ISLANDS

Mr. PELL. Mr. President, for many, the Northern Mariana Islands evoke memories of hard-fought battles during the Second World War; for others, a tropical paradise. Today, however, these islands—part of the United States administered Trust Territory of the Pacific Islands, a group of 2,100 islands whose total land area is one-half that of my own State of Rhode Island—are gaining recognition for a new reason. Should the Senate approve legislation presently before it, the Northern Mariana Islands and their 15,000 inhabitants would become the first territorial acquisition of the United States since 1917.

In a statement here in the Senate more than 4 months ago, I questioned the wisdom of approving the proposed covenant to establish a Commonwealth of the Northern Mariana Islands without a thorough examination of the political, foreign policy and military ramifications of the proposal. Since that time, I have had further opportunity to explore the implications of this legislation. I have attended hearings of both the Interior and Foreign Relations Committees, and have examined the record of the hearing held by the Armed Services Committee. I have seen nothing to convince me that this proposed covenant would be in the national interest of the United States. To the contrary, I am convinced that our national interest would be best served by rejecting this proposal.

That the evidence supports this conclusion can best be seen by taking a close look at the arguments put forth in support of the Commonwealth proposal. For example, it is stated that the United States, as trustee for these islands since 1947, has an obligation to fulfill their wishes for Commonwealth status as expressed in a plebiscite held in June 1975.

Yet this is simply not the case. Under article 6 of the 1947 Trusteeship Agreement, the United States is obligated only to "foster the development of such political institutions as are suited to the trust territory and should promote the development of the inhabitants of the trust territory toward self-government or independence, as may be appropriate to the particular circumstances of the trust territory and its peoples and the freely expressed wishes of the peoples concerned." Clearly, the obligation to promote self-government does not require the creation of a Commonwealth. Equally valid alternatives, including the continuation of the existing trusteeship, free association or independence, allow for increased self-government and thus deserve careful consideration.

Much is made of the fact that the people of the Northern Mariana Islands have clearly expressed their desire to join the United States. Faced in a plebiscite with a choice of either approving or disapproving the proposed Commonwealth—although not with a full range of political alternatives—nearly 4,000 of the 5,000 individuals who went to the polls registered their approval.

But, even if it is apparent that these people desire Commonwealth status and its many privileges—as indeed many of the world's peoples might if given a similar choice—the United States must still decide whether the proposal serves its own best interests.

Support for the proposal also has a definite military dimension. Embracing the twin rationales of "strategic denial" and "fallback," advocates maintain that the Northern Mariana Islands, lying directly north of Guam, are of major importance to the security of the United States in the Asian and Pacific regions.

The "strategic denial" rationale claims the necessity of denying the military use of these islands to adversaries. But such a rationale does not require the creation of a Commonwealth. Provisions guaranteeing the nonavailability of these islands for military purposes can be written into any bilateral agreement. In addition, there exists the unexplored option of negotiating an international treaty declaring these islands—or this entire area—off limits for military purposes.

The fact that the proposed covenant clauses permitted the United States to lease and develop nearly 18,000 acres of land in the Northern Mariana Islands for military purposes makes it difficult to avoid the conclusion that the "failback" or contingency use of these islands is a major motivation behind this legislaiton.

Moreover, a few years ago specific plans envisioning several hundred million dollars of military development were completed. The point that these plans are not presently being pursued offers no assurance that they will not be resurrected. In fact, the fiscal year 1976 military construction authorization legislation contains $1 million for a survey of the maintenance requirements of the naval and air facilities on the Northern Mariana island of Tinian.

Indeed, I find myself reminded of Diego Garcia, which in a few years has grown from an austere communications site to a naval support facility. Once again it appears the Pentagon is hoping to make today's contingency tomorrow's reality.

A few additional items need also be mentioned. A proposal to establish a Commonwealth of the Northern Mariana Islands brings about the dismemberment of the Trust Territory of the Pacific Islands of which the Northern Marianas form but one part. No agreement has yet been concluded embracing a political framework for the remaining five districts, while the precedent of separation will have been established if the Commonwealth proposal is approved.

There is also the related factor that under article 83 of the United Nations Charter the approval of the United Nations Security Council is required for any alteration or amendment of trusteeship agreements. The administration has committed itself only to take up the matter in the United Nations while stating that it does not intend to terminate the trust agreement for only one district. But, as Security Council opposition to any Commonwealth proposal is likely, it is probable that the United States would be forced to contradict the will of the United Nations should it decide to proceed with this proposal.

For the reasons stated above, I am heartened by the decision of the Committees on Foreign Relations and Armed Services to delay consideration of this far-reaching legislation. The implications for the United States in Asia and the world are too great to approve this legislation without having adequately examined the alternatives. Indeed, in the wake of our tragic experience in Indochina, and at a time when the United States should be pruning back its extensive network of overseas commitments, it is difficult to see the benefits of creating a costly and permanent obligation for the United States in islands lying 4,000 miles west of Hawaii and 7,000 miles west of California.

In conclusion, I ask unanimous consent that an editorial entitled "Mariana Slowdown," along with an article entitled "Group in Senate Opposes Ford on Commonwealth in Marianas," published in the New York Times of December 8 and 9, 1975, respectively, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 9, 1975]

GROUP IN SENATE OPPOSES FORD ON COMMONWEALTH IN MARIANAS

WASHINGTON, December 8.—A group of United States Senators is seeking to block a move by the Ford Administration to give the northern Mariana Islands the status of an American commonwealth, Senate aides said today.

Leaders of the group are Claiborne Pell, Democrat of Rhode Island; Gary W. Hart, Democrat of Colorado, and Harry F. Byrd, independent of Virginia.

Last week they obtained a delay in Senate consideration of a bill, already approved in the House, that would extend United States sovereignty to the islands, which are inhabited by 15,000 people. The northern Marianas have been a trust territory of the United States since 1947, and last summer 78 percent of the eligible voters there approved a plebiscite on attaining commonwealth status.

The Senators who oppose the move have said they are concerned lest the United States assume military expenditure and welfare burdens, as well as possible legal entanglements at the United Nations.

The opponents of commonwealth association also want the Administration to clarify the United States relationship to the rest of Micronesia, consisting of the island groups of the Carolines and the Marshals, which are debating in the Micronesian Congress whether to seek some kind of free association with United States.

Commonwealth states for the northern Marianas would confer United States citizenships on its residents. It would also give the U.S. indefinite control over the strategic islands and deny them to another power.

The Senate Foreign Relations and Armed Services Committees are to submit a joint report to the full Senate on the Marianas issue by Jan. 27. Until last week's action the Administration was counting on a joint report from the two Senate committees by this week.

[From the New York Times, Dec. 8, 1975]

MARIANA SLOWDOWN

Two Senate committees have fortunately applied the brakes to the Administration's drive to extend United States sovereignty and citizenship to the Northern Mariana island chain, far across the Pacific Ocean. Skeptical members of the Foreign Relations and Armed Services committees were successful last week in delaying further consideration of this little-understood measure until late in January.

There is good reason for going slow on this issue. Committee hearings last month raised doubts about the ultimate financial cost of this territorial annexation—the first by the United States in half a century. More significantly, it is becoming increasingly apparent that this country would be heading into a morass of international legal and political complications by unilaterally altering the conditions of a strategic trusteeship mandate conveyed by the United Nations in 1947.

And to what end? Weightier than the reservations is the lack of convincing affirmative arguments that it is in American interest to expand the territorial domain of the United States so close to the Asian continent. Much has been made of the plebiscite last June in which 78 percent of the registered voters approved union with the United States; in actual numbers, of the 15,000 residents, 3,945 persons voted for the covenant, 1,060 voted against.

As one prominent international lawyer, José A. Cabranes of Yale, testified: "If a part of the Philippines or a part of Honduras or a province of Sierra Leone or a province of Greece voted overwhelmingly to become a territory of the United States, we should certainly be flattered—but we should not necessarily conclude that the proposal to expand the territory of the United States makes sense."

We reiterate the argument we made back in July, when the House of Representatives approved the Mariana Islands accord after only the most prefunctory consideration. The burden of proof falls upon the advocates of annexation to explain why the United States should take on these new responsibilities.

ERDA INVITES THE TAPPING OF OIL SHALE RESOURCES

Mr. MOSS. Mr. President, I have reviewed the conference report on H.R. 3474, authorizing appropriations for the Energy Research and Development Administration, and I am very pleased that the Senate approved it.

It recognizes the importance of oil shale on Federal lands, and in section 102 thereof, establishes a new program providing for the use of public lands, free of bonus, rent, or royalty, for the demonstration of production of oil from shale by the in situ method. Section 103 establishes a new $6 billion loan guarantee program to provide financial assistance to private industry to build synthetic fuels and other commercial demonstration plants.

The in situ method of oil recovery from oil shale is recognized as being environmentally preferable to mining and aboveground retort processes. The bill requires a suitable resource base, and requires the Administrator of ERDA to insure credible evaluation of the viability of the in situ process as a basis for public policy decisions.

One-fourth of the oil shale resource is located on Federal lands. A good share of Utah, 35 million acres, consists of federally owned lands, under much of which lies oil shale. I believe this legislation will be good for Utah and for the country as a whole. It also recognizes the vast undeveloped oil resource in shale and presents a challenge for its development. That challenge will be welcomed.

AUGUSTA JEWISH COMMUNITY TO HONOR MAURICE STEINBERG

Mr. TALMADGE. Mr. President, Maurice Steinberg, of Augusta, Ga., has been honored by the Jewish community for his outstanding service and leadership.

Mr. Steinberg has given unselfishly of his time and talents to promote the social and economic progress of his State and community and he is certainly deserving of commendation for his untiring spirit and the inspiration he has been to others.

I bring to the attention of the Senate a news release relating to the honor received by Mr. Steinberg and ask unanimous consent that it be printed in the RECORD.

There being no objection, the news release was ordered to be printed in the RECORD, as follows:

AUGUSTA JEWISH COMMUNITY TO HONOR MAURICE STEINBERG

Rabbi Maynard C. Hyman and Aaron Kaplan, Co-chairman of the 1975–76 Israel Bond Committee announced today that the Jewish community of Augusta will honor Maurice Steinberg at the Israel Bond Dinner of State which will be held on November 30, 1975 at Adas Yeshurun Synagogue.

Maurice Steinberg, a life-long resident of Augusta, Georgia, has been a dedicated leader in this community during his entire adult life. He has given unselfishly of his time and talents to civic, religious, fraternal and philanthropic organizations, while simultaneously pursuing a very active practice of law. Steinberg graduated from the University of Georgia in 1935 with an LLB Degree and immediately became associated with the law firm of Curry & Curry. He attained the degree of Juris Doctor in 1969. He served in the United States Navy during the second world war and at the time the war ended, he was a Boat Group Commander with the Amphibious Forces in the Pacific. He served on the staffs of Admirals Kelly Turner, R. A. Davis and F. M. Fort.

Steinberg has been closely associated with the leadership of B'nai B'rith. He has been President of the Augusta Lodge on three separate occasions; he was President of the Georgia Association of B'nai B'rith 1946–48; President of the Fifth District covering the seven Southeastern states 1963–64, and presently serves as Vice-President of the International Order of B'nai B'rith. During his 39 years in B'nai B'rith, he has held the position of National Commissioner of the Anti-Defamation League 1965–71, and is now on the National Commission of Hillel.

Israel has captured his heart from the very first day of its independence, and he has given many years of devoted service to the United Jewish Appeal and the Israel Bond Organization. Steinberg was President of the Augusta Federation of Jewish Charities in 1964 and has served on the National Board of the Joint Distribution Committee for many years. In 1970, he and his wife, Mary, were selected by the State of Israel to accompany Senator and Mrs. Herman Talmadge on a special study mission. Again, in 1974, he was selected to travel with Congressman and Mrs. Robert Stephens on a similar trip.

Steinberg has, in past years, served on the Board of Governors of Adas Yeshurun Synagogue and was on the Building Committee that constructed the new Synagogue in 1954 and the Education Building in 1969.

Maurice Steinberg is married to the former Mary Cohen and they have four children, Henry, Stephen, Barry and Lynn. His wife Mary, has likewise distinguished herself as a leader in the community, having served as President of the League of Women Voters, President of the Adas Yeshurun Synagogue Sisterhood, and Chairman of the Women's Division of the Augusta Federation of Jewish Charities. Reservations for this gala event can be made by contacting the chairmen of this event or by contacting Mrs. Estelle Kaplan, ticket reservations chairlady.

The Israel Bond Program provides urgently needed resources to help finance every major aspect of Israel's economic development at a time when the people of Israel are faced with an extraordinarily high rate of inflation and constantly mounting defense expenditures. Now in its twenty-fifth year, the Israel Bond campaign has channeled some $3-billion into industrial and an agricultural development, the expansion of electric power and irrigation, the exploitation of natural resources, the promotion of export trade, communications and transportation, and the construction of railroads, highways and harbors.

DR. JOHN TODD WILSON, NEW PRESIDENT OF CHICAGO UNIVERSITY

Mr. KENNEDY. Mr. President, of special interest, particularly to those of us who work closely with the National Science Foundation, is the news that its former Deputy Director, Dr. John Todd Wilson, has been made the new president of the University of Chicago to succeed Edward H. Levi, now the U.S. Attorney General.

Dr. Wilson's nomination, which was forwarded to the university's board of trustees on December 1, was approved on December 9.

Dr. Wilson was with the National Science Foundation from 1952–61—the beginning years of its operation and formative period in its history—and from 1963–68. From 1952–55 he was the first program director for psychobiology in the Division of Biological and Medical Sciences, and from 1955–61 he headed that Division with the title of Assistant Director. Prior to coming to the National Science Foundation, Dr. Wilson was head, Personnel and Training Research Branch, Office of Naval Research, from 1949–52.

His association with the University of Chicago began in 1961 when he left the Foundation to become special assistant to the university's president, George Beadle. During 1961–63 he also was professor of psychology at the University of Chicago, a post that included teaching assignments at the graduate level. In 1963 he was named Deputy Director of the National Science Foundation and remained in that position until 1968 when the University of Chicago called him back as vice president and dean of faculty. The Foundation gave special recognition to Dr. Wilson in 1967 by naming him the recipient of its first Distinguished Service Award. In 1969 he became provost of the University of Chicago, the senior officer under the president. He was appointed acting president last February.

Dr. Wilson, who was born in Punxsutawney, Pa., in 1914, received the A.B. degree in 1941 from George Washington University, with a major in psychology. He holds graduate degrees in psychology from the University of Iowa—M.A., 1942—and from Stanford University—Ph. D., 1948. He is a member of the American Psychological Association, the American Association for the Advancement of Science, Phi Beta Kappa, and Sigma Xi.

We extend our congratulations to Dr. Wilson and to the university as the new president assumes his duties.

THE 27TH ANNIVERSARY OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

Mr. JACKSON. Mr. President, today, the 10th of December, should be a day of celebration. On the 27th anniversary of the Universal Declaration of Human Rights, we should be able to rejoice in great progress in the area of human rights around the world. And the Nobel Committee should be welcoming in Oslo a great defender of human rights, Andrei Sakharov, the recipient of the Nobel Peace Prize.

But the dream of 27 years ago remains a dream. The reality in too many parts of the world is a nightmare. And Sakharov himself was refused permission to accept his prize in person, refused the elementary human right, guaranteed by the Universal Declaration, "to leave any country, including his own, and to return to his country."

This right, specifically, and the declaration itself were reaffirmed in the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination, which the Soviet Union ratified in 1968 and 1969 respectively. The Helsinki accords, which the Soviet Union joined in signing just last August, also pledge all participating states to uphold the Universal Declaration; indeed, they go considerably further in promising cooperation for the freer movement of people.

In legislative initiatives, I have associated myself particularly with the right to emigrate because I believe it is the touchstone of all human rights. It is the lifesaving right of last resort for individuals or religious or ethnic groups who either cannot tolerate or be tolerated by their own governments. Moreover, as long as this right is respected, governments must pay some honor to other rights or risk losing some of their most valuable citizens.

Despite Soviet commitments in international agreements, and Soviet assurances conveyed to the U.S. Congress by President Ford and Secretary of State Kissinger, the Soviet Union continues its wholesale violations of the fundamental right to emigrate—a right especially critical for minorities and intellectuals.

The Helsinki provisions on family reunion should have a special meaning for many people of Baltic descent in our own country. One especially poignant Lithuanian case concerns Marija Jurgutiene and her 12-year-old daughter, who are still denied permission to join their husband and father in Chicago. She has been living under constant threat of imprisonment for over a year and a half.

We are all aware that the Soviet Government, in its determination to frighten would-be emigrants away from the visa office, subjects leading activists to harassment even more obscene than that visited on lesser known applicants for emigration. I am thinking of people like Vladimir Slepak, Mark Azbel, and Vitaly Rubin, who for several years have been objects of particular harassment and persecution because they have sought to emigrate.

Another apparent target of this campaign is Mark Abramovich of Kishinev, whose application to emigrate has been refused repeatedly since February 1973, on grounds of previous army service—he was demobilized in 1971. Abramovich's persistence in demonstrating for his right to emigrate is now being met by the sort of press attacks which have frequently preceded condemnation to long labor camp terms.

Just such an attack was made on Dr. Mikhail Shtern after his sons applied for visas to Israel. Dr. Shtern, a well-loved and respected physician in Ukraine, was arrested, convicted on trumped-up charges at a show trial last December, and sentenced to 8 years at hard labor. Already suffering from spinal tuberculosis and stomach ulcers, he has been subjected to such inhuman treatment that he was unable to recognize his wife when she visited him recently.

Ever since the Soviets reneged on the agreed compromise on trade and emigration in the Jackson-Vanik amendment, the Ford administration's policy has been to join the Soviet Government in seeking to ignore international law and emasculate our own.

And on top of this shabby record, the administration has now refused to cooperate with the Congress in implementing the Cranston human rights amendment in the current Foreign Assistance Act. That amendment states that it is the sense of Congress that "except in extraordinary circumstances" security assistance should be reduced or terminated for "any government which engages in a consistent pattern of gross violations of internationally recognized human rights." The legislation also calls on the President to provide Congress with reports on the status of human rights in each affected country. The administration has cavalierly defaulted on its responsibilities under this reporting provision on the peculiar grounds that human rights violations are just too "widespread" in the nations we are aiding—which is precisely the source of congressional concern.

Therefore, to give further substance to this concern, Senator CRANSTON has now introduced a similar amendment, but with language that would be binding on the President, and I am proud to join him as a cosponsor.

If any administration wishes to contribute U.S. aid for purposes other than progress toward a more peaceful and humanitarian world, then the Congress and the American people have the right to demand an explanation. And if the Ford administration insists on continuing to send the American taxpayers' money to bolster antidemocratic regimes of either the left or the right—without any effort to advance respect for basic human rights and freedom of movement—then it is up to this Congress to undertake action stronger than nonbinding sense-of-Congress statements.

And it is up to us here, today, to rededicate ourselves to the goals of the Universal Declaration of Human Rights, which the United States so proudly saw through to unanimous adoption by the United Nations exactly 27 years ago.

Mr. President, on November 18, the Senate Permanent Subcommittee on Investigations, which I chair, held a hearing on the American role in negotiating for progress on human rights issues in the international community, with an emphasis on those rights associated with freedom of expression. We were privileged to hear testimony from a number of distinguished American literary figures, including Mr. Arthur Miller, and it is especially appropriate today to call the attention of the Senate to Mr. Miller's statement before the subcommittee.

I ask unanimous consent that this material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY ARTHUR MILLER ON FREEDOM TO WRITE AND PUBLISH

This is an imperfect world. The United States cannot go about lecturing other governments on how to treat their own citizens. Let us do business, as much as we can wherever we can and at the same time see to our military defenses. The internal affairs of other countries are not for us to judge, any more than they have a right to judge us.

So runs the argument on which the policy of detente is based. It is clear, concise and persuasive. The only trouble with it is that it leaves out the facts.

We do not merely do business with certain countries. We instituted what in effect was a financial blockade of the Allende government in Chile and our influence was crucial in toppling it, making way for the present bloody dictatorship, and we are going to the aid of that dictatorship.

We are not merely doing business with the South Korean dictatorship which has cancelled whatever democratic protections its people once had. I will spare the Committee the long list of Latin American dictatorships which we have either helped to set up or subsidized afterwards.

The problem is not how to justify injecting moral judgments into commercial transactions abroad, but how to justify our claim that we are businessmen and do not attempt to influence the way foreign governments treat their own people. We do so attempt and we always have where it is possible, and the real problem now is how to make that influence positive, how to place our weight on the side of human rights and the sanctity of the human person.

We did this once. We came out of World War II with a prestige unmatched by any other nation in history. It was not merely that we had demonstrated overwhelming military power; the fact is, the Russians demonstrated an equal if not greater military power. It was that the United States represented freedom, the freedom to read, to write, to speak, to worship without hindrance by governmental power.

Why that prestige was lost is too complicated a question to go into here. It is enough to say that we compound that loss and we confirm it with a foreign policy of a moral eunuch. When we set up the West German Government, we did not tell them to do as they pleased with liberty; our military and financial support was contingent upon their rejecting a revival of Fascism.

Nor were we a perfect democracy at home then, any more than we are now. But the democratic ideal and the struggle to realize it were not irrelevancies as we faced the world. We were called hypocrites at worst, and naive innocents at best, but for millions of ordinary people everywhere that promise, unrealized as it was, represented a goal and a human content for the otherwise terrifying power we possessed.

The solution is not to set up in the State Department a new division which will read moral lectures to dictatorships. I would suggest instead, that the Senate and Congress begin by informing the Administration, this one and those to come, that the hard-won wealth, the resources and the talents of the American people are not to be travestied in the support of anti-democratic dictatorships no matter how anti-Communist they advertise themselves to be.

I would suggest that if we will resolve to clean our own hands, we will begin to move away from the defensiveness, the inner uncertainty, the confusion which characterizes our relations with the Soviet Union and the Third World.

It is no secret that detente is less a policy than an agreement by ourselves and the Soviet Union to leave the status quo undisturbed. This would be fine if it were possible, but it is like commanding the sun not to set, or summer not to change to fall. To live is to change, and a policy worth the name either guides the future toward justice or away, toward or away from a respect for the human person.

In any case, detente is right now far more than the empty gesture it appears to be, but its impact is far more various than its detractors or supporters are willing to see. It is certain, for example, that exchanges of hockey teams, symphony orchestras, art exhibitions are weak reeds on which to build a structure of peace. That two iron barrels are bolted together in space is bound to strike us with limited amazement and hope when down on the ground in Czechoslovakia a whole generation of writers is still blacklisted, still forbidden to publish their works, their unfinished manuscripts swept off their desks by the secret police. If American and Soviet astronauts can transfer from one space ship to another applause comes hard when, as Ludvik Vaculik has recently written, he and other Czech writers cannot transfer a thought from the right to the left sides of their brains without fear of retribution.

It is foolish, however, to dismiss detente as a gag. With all its insubstantiality it does provide a rationale on which demands for intellectual freedom can be based. It is harder to justify repression as necessary for national security when the enemy has to some extent become a friend. From my own experience in Eastern Europe, I can say that no dissident writer has ever spoken longingly of the Cold War situation. A reversion by the United States to the old hostility can only make it far harder for these people. But Cold War or this moral impotence are not the only options.

My own view is that detente at present is a body without a soul, but that its promise is enormous if we will seize it. The fact is, that the Helsinki accords bind both sides to respect elementary human rights. Why are we so powerless to speak to this issue? Is it that we fear the other side will start making noises about the race situation in Boston? The tortures in our client-state, Chile? The re-arrest under fake charges of the South Korean poet, Kim Chi Ha?

The answer is, not to sweep our own sins under the same rug as the Soviets—or for that matter, the sins of South Africa, but to rise to the challenge that detente implicitly raises; to open our own actions to the same measure and standard that we and the Soviets have signed and agreed to. The truth of the matter is that with all our failings, we are still the freest country in the world, and if it should turn out that foreign criticism forces us to take a new and resolute look at our own injustices, why must we fear such a competition?

The truth is that such criticism is going on anyway, but from the other side, not from ours, at least not openly, not as part of our relationships with repressive regimes. And I repeat, this super politeness, at least in part, stems from a clouded conscience. But the Congress has the power to begin clearing that conscience by requiring certain minimal standards of respect for civil rights at least in those countries whose dependence on our support is nearly total. And if you say that we cannot be held responsible for what another government does, I can only answer that we are already responsible when that government cannot exist excepting with our support.

This is not a question of coming out with high class speeches supporting academic or intellectual freedom. We are supporting repression. We can stop doing it. And in the process we can turn to our new trading partners and say, "We meant what we signed to in the Helsinki accords; we are actively working to eradicate injustice and unfreedom within our country and in those countries dependent on us—what are you doing to carry out the obligations in regard to human rights that you signed to?" This is not interference in another country's internal affairs: it is an attempt to implement a signed agreement, and the Soviet Union has the right, even the obligation, to demand that we live up to our part of it as well.

The question inevitably arises as to whether we should refuse, for example, to sell wheat until the human rights provisions of the Helsinki accords are lived up to. I believe it would be unwise and unproductive to equate so many bushels with so much liberty. Besides, enlarging commerce not only benefits both sides materially, it is also a manifest of good will and good faith and as such can serve as a base upon which to build a new forthrightness in our relationships with the Soviet world. To again think in either/or terms at all times and in every instance can only lead back to impotence, and on the Soviet side must lend justification to those who can see only a threat to Soviet power in any deepening relationship with the United States.

Detente may indeed be a gesture empty of human content, but so is a letter of intent that precedes a binding contract. As with such a letter, everything depends on the next steps, and we apparently have no intention of taking such steps. It is the business of the Senate and Congress to decide whether such steps should be taken to implement the Helsinki agreement.

For example, a specific number of writers in Czechoslovakia (a country where large numbers of Soviet troops are stationed) is denied the right to publish their works in the Czech or Slovak languages. Certain of them have had their unpublished manuscripts seized from their homes. Many, if not most of these writers are former members of the Communist Party and have never advocated a return to Capitalism, nor do they now. Their chief sin is to have advocated an indigenous, independent Czech culture responsible to their own people rather than the demands of Soviet authorities. The blacklist against these writers is so broad that the regime has found it impossible to staff a literary magazine or newspaper.

The situation of the Czech writers and intellectuals is not unique in a world where repression, jailing, and the outright murder of writers by their governments is ordinary news. But there is one respect in which they are special; they have nowhere to appeal for relief.

As citizens of a Socialist country, it is futile to look to other Socialist states for support, and their case is ambiguous in the eyes of the European Left whose anti-capitalist stance mutes its indignation against repression in the East.

The prospect, therefore, is that they will continue to be sacrificed on the altar of peace. The Soviet Government evidently believes that any liberalization will ultimately menace its hegemony, and the United States must blind itself to what is happening or risk Soviet displeasure.

It should be added that even in other Socialist countries the Czech situation is an embarrassment. In Hungary, for example, I could walk with Hungarian writers and meet with them in restaurants without a secret policeman dogging my footsteps. Not so in Prague where a plainclothesman will take a table a few feet away, openly and brazenly warning all concerned that the regime is observing them. I had a drink one night in a Czech writer's home with five or six of his colleagues present, when his teenage son looked out the window and saw an unmarked car drive up with plainclothesmen in it; they simply sat there silently warning my host that he was driving another nail into his coffin.

International P.E.N., an organization of writers with centers in some seventy countries, exists to defend the freedom of writers. One of its oldest centers was in Prague, and it still has thriving centers in all the other Eastern European countries. The Prague center no longer answers mail, it has been driven to silence.

I have walked in Prague with a certain playwright whose works are played all over Europe and in the United States; he once had his own theater and acting company. He still writes plays and can send them out of the country for production and publication, but like his colleagues he cannot be played in his own country or in his own language. Moreover, the Czech newspapers reported that he had emigrated, flown to the West, no longer exists in Czechoslovakia. He lives and works quite openly in Prague, but is a non-person to his compatriots. He is allowed to write for export and his royalties are taxed at ninety percent, a literary milk cow, condemned but exploited.

The wives of these writers are not permitted to hold jobs above the most menial. Their children are forbidden entrance in all but the lowest grades of school. Women holding doctorate degrees are washing store windows because their husbands are on the blacklist. Czechoslovakia lives under a permanent state of McCarthyism from which there is no appeal.

Unlike Chile, South Korea, the late regime in South Vietnam and other places, the United States is not responsible for this disastrous situation. But are we not implicitly assuming a responsibility when we refuse to utilize the Helsinki agreement which we signed with the Soviet Union obligating both sides to protect certain elementary freedoms in our territories?

I am not telling you that the Czech writers look to us for help. It is far worse than that. I believe they have long since assumed that we have decided to collaborate with the Soviet Union as a trading partner and that it is unrealistic for them to expect us to rock the boat. And this is why their situation is so meaningful; it has all the earmarks of the long future in which small nations especially must settle for a modicum of prosperity in exchange for which their souls will be excised, quietly, remorselessly, all for a good cause, the cause of peace between the giants.

I do not believe we have to cut out our

tongues in order to reassure any other country of our peaceful intentions, or that we must adopt the impotence of moral eunuchs so that the volume of trade may grow. The Helsinki accords explicitly acknowledge that our relations with the Soviet Union encompass far more than trade, far more than cultural exchanges, and that fundamental protections of human freedom on both sides are of the essence.

The Senate and the Congress, it seems to me, have the obligation to decide whether Czech repression is in contravention of the Helsinki accords. If it is, then the State Department should be instructed to ask the Soviet Government what it intends to do about the matter as a signatory to the agreement. If, for example, the existence of this blacklist is denied, the Senate can discover evidence that it indeed exists. If the Soviet Government still refuses to attempt to correct the situation—indeed, if no concrete result comes of the whole effort something vital will nevertheless have been gained.

The United States will have at least begun to establish before its own citizens and the world that its power exists not only to make the world safe for American business, but to hasten the evolution of humanity toward a decent respect for the human person. And if such an approach can only lead to counter-charges against ourselves, so be it. A long evolutionary path lies before us, too, and nobody knows this better than we do. It needed no foreigner but the United States Office of Education to tell us that thirty percent of our people are effectively illiterate, that we fear to walk the streets of our cities, that a vast proportion of our Black and Puerto Rican youth cannot find work.

The failures of American society are known everywhere now; we can only gain by learning how others really see us. Perhaps our rightful pride in our freedom does need to be measured against our injustices, and so openly as to be an element in the diplomatic process. We have nothing to hide for those with eyes to see. And if we have to take it once we dish it out, perhaps this new necessity will help us, if only for our pride before the world, to revive that will, that insistence and faith in our capacity to make a society that is just to all.

DECLINE OF THE INDIVIDUAL INVESTOR

Mr. BENTSEN. Mr. President, I have been deeply concerned about the declining number of individual investors in the stock market. Comprehensive hearings of the Senate Financial Markets Subcommittee, of which I am chairman, clearly demonstrate the importance of individual investors to our economy. As a result of these hearings, I introduced the "Stockholders Investment Act" to encourage greater individual investment in the stock market and to diversify the stock holdings of large institutional investors.

Yesterday we learned that the number of individuals owning common stock or mutual funds fell from 30.8 million to 25.2 million over the last 5½ years.

The disappearance of the individual investor was confirmed by witness after witness at hearings of my Financial Markets Subcommittee. In 1963, to cite one example, the individual accounted for 65 percent of the trading on the New York Stock Exchange, but by 1973 that share had shrunk by more than half—to 30 percent. And I feel certain that the percentage is even lower today.

Our economy cannot survive without the participation of a large number of individual investors. Small companies depend upon the smaller, noninstitutional investors for equity investment. Every large corporation depends upon thousands of small enterprises, as suppliers of components, as generators of ideas and products and producers of income for their owners and shareholders who then buy the products of large corporations. All companies, small and large—as well as the institutions themselves—depend upon the individual investor to supply liquidity, depth, and continuity to the market.

The importance of maintaining broad-based stock markets—with a multitude of participants—cannot be overestimated. It is essential that our economic policy and tax laws be structured to encourage this diversity.

Without viable stock markets we will be unable to provide sufficient jobs for a growing work force and the American worker will be the loser.

Most Americans view our stock markets simply as a vehicle for investing money in the hope of making a profit. This is an oversimplified view. It overlooks the more important and basic function that our stock markets serve. They provide a source of equity capital for industrial expansion and modernization, which enables businesses: To deliver useful products to the consumer at reasonable costs; to create new jobs for our growing work force; to compete effectively in a growing world market so that we can maintain a favorable balance of trade; to pay the costs of meeting environmental standards; and to achieve reasonable energy and mineral self-sufficiency.

The health of our total economy depends on a healthy stock market; and a healthy market depends on the participation of many individual investors.

IMPORTANCE OF THE U.N. HIGH COMMISSIONER FOR REFUGEES

Mr. KENNEDY. Mr. President, in recent days we have heard a growing number of negative words directed toward the United Nations. Some of this criticism is perhaps justified, in terms of resolutions adopted by the General Assembly; but much of it is clearly unjustified and mistaken in its assessment of the role and importance of the organs of the United Nations.

Nowhere is this more evident than in the functioning of the Office of the United Nations High Commissioner for Refugees—UNHCR. There are, as the High Commissioner recently reported to the General Assembly, few areas of United Nations endeavor where the record of international understanding, unanimity, and cohesion has been as impressive, or as truly moving—despite the sensitivities of the issues involved—than in the work of the UNHCR.

The High Commissioner's record of achievement, and the crucial role he has, and continues to play, in difficult international crises, is a matter of record. And during a time when only the difficulties of the United Nations reach the headlines, it is important for us to take note of the achievements that lie behind those negative stories. It is important to acknowledge that the various organs and agencies of the United Nations are crucial elements in securing peace and stability around the globe—and that this, in turn, is important for American foreign policy.

Mr. President, I want to commend the United Nations High Commissioner for Refugees, Sadruddin Aga Khan, for the timely and thoughtful report he offered recently to the Third Committee of the General Assembly, which I would like to share today with my colleagues. I ask unanimous consent that the text of the High Commissioner's report, and the subsequent resolutions of the General Assembly relating to the work of the UNHCR, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

STATEMENT OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES TO THE THIRD COMMITTEE, 17 NOVEMBER 1975

Thank you for giving me the floor. In this thirtieth year of the United Nations, a special importance has been given to the concept of "interdependence". Whether in debates on peace or security, the law of the sea or outer space, the environment or economic relations between States, we have heard this refrain and come in some measure to act on it.

I have asked myself what this concept, interdependence, means to Human Rights and, more specifically, to refugees and the displaced. Permit me to reflect on this from the experience of my Office in these past months.

Mr. Chairman, the refugee is the product of our errors, his predicament an indictment of our conduct as peoples and nations. In too real a sense, the conflicts of our time have compiled an encyclopedia of his suffering. He exists for our education, and as a warning.

In the United Nations, and in the actions of States, conflicts are frequently dealt with as public events, as international crises. It is sometimes forgotten that there is a human, an individual dimension to them. Yet the essence of interdependence lies in recognizing the consequences of our actions on each other, as individual human beings. When we fail to take these consequences adequately into account, we precipitate refugee situations, destroying in the process precisely that interdependence to which we pay homage. There is a special poignancy in this, for we then proceed to grieve for these refugees and, once again jointly, seek remedies for their plight.

It is this dichotomy, between what we profess and our actions, that is disturbing. Lest I sound negative, let me say at the outset that we progress, perhaps even survive, by the universality of our aspirations. Jointly, much has been accomplished—but not enough. To know where we fall short, is at least to know the direction in which to proceed.

Where, in the work of my Office, have we fallen short, where has our allegiance to mankind and to our interdependence as human beings proven most fragile? Undoubtedly in the legal protection of refugees. To our great dismay, we have continued to witness acts of refoulement, kidnapping and even assassination. It has long been an axiom of my Office, stressed by Governments, that the protection function is the most central to our values. Yet between politics and expediency, the voice of the refugee is too often stifled, or manipulated. We all realize, of course, that States must be guided by interests of national security and foreign policy. But none of us should accept that these interests serve as an alibi to deny asylum when justifiably sought, or to subvert the principles contained in the 1951 Convention relating to the Status of Refugees and the 1967 Protocol. And it is precisely for this reason that this Assembly has itself declared: "The granting of asylum being a peaceful and humanitarian act, it cannot be regarded as unfriendly by any other State."

If I revert to this concern time and again, it is because there is no escape from it. Violations, if not protested, become the norm. Neither Member States, nor I in any conscience, can acquiesce in such a norm. The dilemma for my Office has been that we can use only two weapons: persuasion, and the protest. Clearly, if the principles that we jointly profess are to be served with fidelity, we need the fullest support of States themselves. Only this will lead to a deeper understanding of the issues at stake.

But we also need a wider acceptance of the Convention and Protocol. Here, we seemed trapped in a paradox. While our assistance activities have circled the globe, and been welcomed in States where we have never before worked, there has been only one new accession to the Protocol since I last spoke to this Committee. This, despite individual appeals that I have addressed to each non-signatory State and repeated pleas by this Committee. I would urge Governments to look again at these instruments. I cannot over-emphasize the need to harmonize our actions through universally acceptable humanitarian law. These instruments would then be doubly valuable: to the refugee, of course, but no less to the acceding States.

It is in the same spirit that I refer again to the draft Convention on Territorial Asylum, which was examined in accordance with resolution 3272 (XXIX) by a group of governmental experts who met in Geneva in April–May 1975. The report of the Secretary-General in this connection is contained in document A/10177. More recently, my Executive Committee has reiterated its view that a Conference of Plenipotentiaries should be convened to consider the draft Convention. It recommended that the costs involved in this Conference be borne from the regular budget of the United Nations.

Mr. Chairman, there are other areas of our activity in which the concept of interdependence needs examination. It has always been understood that a country of first asylum carries a particularly onerous responsibility when victims of strife enter en masse into its territory. Whenever practical, we have sought to ease the problem, either through voluntary repatriation or through resettlement in other countries. But the High Commissioner, as is only too evident, is no miracle-worker. There is a point beyond which sovereign States can neither be persuaded nor cajoled. Failure to recognize this, breeds a frustration that infects both Governments and refugees. And there is but one step from frustration to disorder.

I mention this because, in recent months, and more frequently than is always feasible, I have been asked to relocate thousands of refugees and displaced persons from one continent to another. Important elements in each situation vary, yet the scenario follows a pattern: the country of first asylum is deeply concerned by the size and circumstances of the influx and disturbed by its overtones, both internal and external. Even while permitting thousands to stay on its soil, it hopes that a maximum number will go elsewhere. Thousands therefore have no more than transient status—without work or residence permits.

I do recognize the profound predicament of countries of first asylum and I should like here to stress my deep gratitude to them and to countries of resettlement. But I would also urge, as evidence of our interdependence, far greater accommodation—on a regional basis—to resolve such problems, and a far greater swiftness—universally—to open doors. In a sense, and as an example to which there are unfortunately other parallels, it is cold comfort that over 9,000 refugees from Chile have, laboriously, been flown to over forty countries. Or that thousands of such persons remain, waiting desperately to be moved. Surely, both policy and prudence would suggest that human beings not be treated like contaminated cargo, to be kept packaged for shipment by UNHCR serving as a removal agency.

Mr. Chairman, if I have spoken of our difficulties at some length, it is, paradoxically, because there are few areas of United Nations endeavour where the record of international understanding, unanimity and cohesion has been as impressive, or as truly moving—despite the sensitivities of the issues involved. And I view it as a special privilege to pay tribute to this Committee, which over the years has guided and supported our actions, and provided the imagination that our work so clearly requires.

Let me therefore proceed to illustrate, from our varied assistance programmes, where and how we are discharging the responsibilities entrusted to us by this Committee, responsibilities that include our annual programme, which now stands at $13.8 million, and the appropriate use of UNHCR's "good offices", including the participation of the Office in those essential humanitarian actions of the United Nations for which UNHCR has particular expertise and competence.

In Africa, as required by resolution 3271 of the twenty-ninth session, we are deeply engaged in facilitating the repatriation of tens of thousands of refugees now returning in freedom to Mozambique and Guinea-Bissau. We are helping their rehabilitation in conjunction with that of the internally displaced. Our programmes for these two countries amount to some $7 million and $4 million respectively. Work is proceeding with the fullest cooperation of the Governments concerned, and with the clearest inter-agency understandings within the United Nations system. I value the latter, for I share the concern of Governments that scarce resources must not be wasted through duplication of efforts.

I wish I could state that our work on behalf of displaced Angolans were proceeding equally satisfactorily. For reasons that are well known, this has not been possible. My Office remains ready to assist in all parts of the national territory. I would hope that ways can be found to meet the grave humanitarian needs of the situation without a paralyzing entanglement in political issues. I remain in continuing touch with the Secretary-General in this regard. In consultation with him, and at the request of the Governments of Cape Verde and Sao Tome and Principe I have, in recent weeks, arranged an emergency airlift of a limited number of their citizens from Luanda and Nova Lisboa. Both Governments have requested further help from the international community to cope with the needs of repatriates.

Elsewhere in Africa, we continue our traditional activities on behalf of refugees who are being assisted in many parts of the continent.

In Asia, we see again a blending of the traditional functions of the Office with the newer responsibilities encouraged and endorsed by the General Assembly and my Executive Committee. Our efforts to assist Indo-Chinese, displaced as a result of events in the Peninsula, must be seen in totality—as distinct yet inter-related humanitarian actions, designed to assist those who have been most seriously uprooted by war and its consequences.

As this Committee is aware, in the summer of 1974, we launched an important programme to assist displaced persons in Laos and Vietnam. The purpose of the programme was to facilitate the return of the displaced to their villages, long abandoned by strife, and to help them gain once more a measure of self-sufficiency.

The impact of this programme is now manifest. Thus, in Laos, some 120,000 such persons were assisted to return to their villages, many thousands being airlifted by UNHCR principaly from the Vientiane region to the Plain of Jars—a name that still evokes memories of decades of suffering, now happily fading. Likewise, in Vietnam, both in the North and in the South, the results of our work will not be ephemeral—they will endure in the lives of the displaced whom we are, modestly, assisting to reconstitute their splintered existence. I have, recently, launched an appeal for $20 million to further our programme in the Indo-Chinese Peninsula. The projects to be implemented are in the rural areas, their elaboration follows close consultation with the national authorities and visits to the sites where the projects will be located. I would urge the international community to contribute to this programme. It is vital, yet touches only a segment of the cost needs that must be met. Earlier this year, under the aegis of the Secretary-General, and working in the closest cooperation with the Coordinator appointed by him, UNICEF and my Office jointly engaged in an emergency assistance programme. Contributions, in cash or kind, chanelled through UNHCR, amounted during that phase to some $17.6 million.

In addition to our work inside the Peninsula, UNHCR has been called upon to assist with the voluntary repatriation and the resettlement of thousands of displaced persons from Cambodia, Laos and Vietnam. Our activities in this connexion have extended to numerous countries in each continent, where Indo-Chinese have found themselves at the conclusion of the war. Members of this Committee will be the first to recognize the extremely sensitive connotations of this work. In handling it, my Office continues to be guided by that constant principle: UNHCR's actions must remain entirely humanitarian and non-political. I would earnestly count on the understandig of all Governments as we deal with these delicate matters. May I thank those whose generosity and understanding have already been forthcoming.

Particularly complicated is the situation in Thailand, where some 60,000 displaced persons have been granted temporary asylum. Over the coming twelve months, we shall require $12.4 million to attend to their needs. I would urge Governments to contribute. In that time, hopefully, the situation will be further clarified and durable, humane and totally non-political solutions advanced for these uprooted persons.

My deep gratitude is here reiterated to the Governments of the Democratic Republic of Vietnam, Laos and Thailand for the arrangements made during my visit to their countries in September. The most positive and thoughtful exchange of views immeasurably strengthened our hands and resolve to find constructive answers to the varied needs of the displaced persons. At the invitation of the Government, I now look forward to visiting Saigon shortly.

Mr. Chairman, when reporting to this Committee a year ago, it was noted that my Office "bought time" for the international community—time, during which, solutions must rapidly be found for deep underlying problems. The irony often continues to be that the greater the success in providing relief, the greater the elusiveness in finding fundamental solutions. For Cyprus, as you know, I was asked by the Secretary-General to coordinate the United Nations humanitarian assistance programme. This I continue to do. In the past year, appeals for $22 million and $9.3 million respectively have been fully met. Further sizeable contributions continue to be channelled through my Office. I am grateful for the confidence of the parties concerned, and of the donors. Our working relations with them, with the Secretary-General's Special Representative, the Commander of UNFICYP and other elements in the United Nations system, remain excellent. But above all we look forward to our early redundancy, for that would signal the kind of solution that Cyprus really needs.

Mr. Chairman, I have deliberately restricted myself to a few illustrations of our work. A full report is, of course, contained in document A/10012 and its addendum. Further, with your permission and that of the Committee, we should like to screen a short film entitled, perhaps somewhat laconically, the "Fourth World"—in fact, the rather complex world of the refugee and the displaced. From it you will see that the international mechanism devised over the years to assist refugees is a delicate one, combining in balance the capabilities of governments, non-governmental organizations and the United Nations.

You will also see, I trust, that the refugee is no oddity, caught in strange and impossible situations, but a universal citizen who writes a story that—but for fortuitous circumstances—could be true for any of us. As he reminds us of our interdependence, so I would hope that this Committee proceeds again in unison, and that the concern that we shall hear voiced in this forum will not grow faint and inaudible outside.

United Nations General Assembly, Thirtieth Session, Third Committee, Agenda Item 80

OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES [1]

The General Assembly,

Having considered the report of the United Nations High Commissioner for Refugees on the activities of his Office [2] and having heard his statement,[3]

Noting with appreciation the efforts of the High Commissioner in carrying out his duties for those of concern to his Office as well as the special humanitarian tasks which he is called upon to undertake,

Reaffirming the eminently humanitarian character of the activities of the High Commissioner for the benefit of refugees and displaced persons,

Sharing the grave concern expressed by the High Commissioner regarding the increasing need for protecting the basic rights of refugees,

Commending the increasing number of Governments contributing to the High Commissioner's programmes of assistance and noting in this connexion, the decision of his Executive Committee [4] that the responsibility for providing the financial and other resources required by his Office should be shared by all members of the international community.

Recognizing the need for further accessions to the Convention relating to the Status of Refugees of 1951, the Protocol of 1967 and other relevant instruments,

1. Expresses its deep satisfaction at the efficient manner in which the High Commissioner for Refugees and his staff continue to accomplish their humanitarian tasks;

2. Requests the High Commissioner to continue his efforts, in co-operation with Governments, United Nations bodies and voluntary agencies to promote permanent and speedy solutions to the problems facing his Office, through voluntary repatriation and assistance in rehabilitation, integration in countries of asylum or resettlement in other countries as needed;

3. Further requests the High Commissioner to intensify his efforts on behalf of refugees in Africa, notably those returning to their countries following independence and urges the fullest co-operation of all concerned for this purpose;

4. Urges Government to further strengthen their support to the humanitarian activities of the High Commissioner by:

(a) facilitating the accomplishment of his tasks in the field of international protection;

(b) co-operating in the promotion of permanent solutions to the problems faced by his Office;

(c) providing the necessary financial means to attain the objectives of his assistance programmes.

[United Nations General Assembly, Thirtieth Session, Third Committee, Agenda Item 80]

OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

HUMANITARIAN ASSISTANCE TO THE INDO-CHINESE DISPLACED PERSONS

The General Assembly,

Noting the information provided by the High Commissioner [1] on the assistance being given by his Office to the Indo-Chinese displaced persons,

Noting further that the members of the Executive Committee of the High Commissioner's Programme [2] unanimously recognized the need for continued humanitarian assistance resulting from events in the Indo-Chinese Peninsula,

Endorses this view of the Executive Committee and urges the international community further to strengthen its support of the efforts of the High Commissioner in this regard.

THE PACIFIC DOCTRINE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that an editorial which appeared in the Christian Science Monitor of December 9, 1975, entitled "The Pacific Doctrine," be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE PACIFIC DOCTRINE

President Ford's newly proclaimed Pacific Doctrine is not essentially new. It stems from the old Nixon Doctrine, which signaled a lowered American presence in Asia as the Vietnam war wound down. But it contains elements of significance:

This is the strongest statement to date that the United States is willing to restore relations with the states of Indo-China. The pace at which Hanoi and Washington are now edging toward each other is no less than astonishing, given the collapse of American authority in South Vietnam no more than eight months ago. The most recent evidence of this movement is the meeting held in Paris recently between North Vietnamese officials and members of Congress on the question of the MIAs (American missing in action).

It is reasonable to assume the Chinese are nudging the U.S. in the direction of normalization with Hanoi. They could not be happy about the presence of the Russians in North Vietnam and the support which high North Vietnamese leaders are giving to Soviet policies in India, on détente and the like. They are also undoubtedly worried that the Russians might acquire a naval base in Vietnam.

Hence Peking probably sees an American presence in Indo-China as a welcome counterweight to the penetration by their communist rival. This is an historic irony indeed when one considers the adversary U.S. relationship with China which initially put the Americans into Vietnam.

President Ford has again indicated Washington's desire to resolve the political conflict on the Korean peninsula. The Chinese and the North Koreans have been pressing for a peace accord, a move the U.S. rightly rejects unless South Korea is allowed to participate.

Nonetheless Korea now remains the one divided country whose status has not been normalized and which poses a danger of armed conflict and an East-West confrontation that would destabilize the whole region. The German question has been dealt with. So has Vietnam. Now it remains to find some arrangement under which the U.S. would gradually withdraw its forces from South Korea and the two parts of the peninsula could agree to respect each other's territorial integrity while leaving open the door for eventual reunification.

Mr. Ford's assertion that American relations with the People's Republic of China must be normalized reiterates the 1972 Shanghai communique. But, given the fact that bilateral relations have reached a plateau without much movement toward further progress, it is useful that this goal be restated as an objective of the Ford administration as well.

As for other aspects of the Pacific Doctrine—and presidents seem to like new catch phrases even for old policies—there is certainly nothing about which one could quibble. It is noteworthy that 34 years after the attack on Pearl Harbor the United States is heralding its "partnership" with Japan as a pillar of U.S. strategy. That is heartening evidence that adversaries need not always remain adversaries—that "peace with all" is indeed possible.

It goes without saying that America must not retreat from the Pacific. It must continue to play a helping military role in the region's stability, both for its own strategic security and for the economic benefit it derives from such stability. But, as Vietnam taught, it can no longer fight impossible battles. To echo the President, the Pacific nations must become self-reliant and must develop that "popular legitimacy and social justice" which alone can resist subversion and aggression.

The updated tenets of the Pacific Doctrine are fully reasonable. The task is to keep on with their implementation.

OUR NOMINATION PROCESS

Mr. PACKWOOD. Mr. President, I would like to direct the attention of my colleagues to several significant remarks made recently by my distinguished colleague from Illinois, Senator STEVENSON, which were printed in the St. Louis Post-Dispatch. In his explanation of why he will not seek the Democratic Party's nomination for President or Vice President in 1976, Senator STEVENSON clearly brings forth a troublesome consideration that must face all Presidential candidates today: our present nomination process.

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[1] Official records of the General Assembly, Thirtieth Session, Supplemental No. 12 (A/10012).

[2] *Ibid., Supplement No. 12 A.*

[3] *Ibid., Thirtieth Session,* Third Committee, 2161st meeting.

[4] *Ibid., Supplement No. 12 A.*

[1] *Official Records of the General Assembly, Thirtieth Session, Supplement No. 12A* (document A/10012/Add.1) and the 2161st meeting of the Third Committee (document A/C.3/SR.2161).

[2] *Ibid., Supplement No. 12A* (A/10012/Add.1).

The doubts Senator Stevenson casts upon the present process of selecting Presidential nominees are highly justified. Over the years the number of elections scheduled for contenders have continually multiplied and are now completely out of control. The present system of selection turns campaigns into a ridiculous, superficial scramble from State to State. The whole nomination process becomes a test of physical endurance rather than political worth.

A schedule that would horrify even the white rabbit of Alice in Wonderland places an unfortunate and unnecessary obstacle before the many qualified men and women who would like to serve as President of this country.

Senator Stevenson closes on the optimistic note that the inadequacy of our present nomination system is so blatant, it must and will be changed. He has expressed the concerns facing any candidate for President in 1976 simply, yet eloquently. His reasons for personally not choosing to seek the Democratic nomination are understandable and highly admirable.

Mr. President, I ask unanimous consent that Senator Stevenson's remarks be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Stevenson: Not a Candidate—Packaging Emphasized in Presidential Selection, Not Product

(By Senator Adlai Stevenson III)

I will not seek the Democratic Party's nomination for president or vice president in 1976.

If I participate in the Illinois presidential primary, it will be as an uncommitted candidate for delegate and, to the extent that my duties in the Senate allow, as a campaigner for others. I am grateful for the unsolicited expressions of support that have come to me from virtually every sector of the Democratic Party in Illinois. I am especially grateful to Mayor Daley for his unequivocal and unconditional endorsement. I could not in these circumstances reach this decision without the most serious consideration.

Only a year ago I concluded my fourth statewide election campaign in 10 years. I am reluctant to inflict upon my family so soon again the strains of another campaign; politicians are human, too—at least most of them.

That is not the only reason for my decision.

When I first sought election to the Senate, I pledged my faithful service to the people of Illinois. I would be forced to compromise that pledge by a presidential candidacy. My energies would be diverted and my influence in the Senate diminished by such a candidacy.

In addition, this decision reflects doubts about the present system for selecting presidential nominees.

The highest purpose of any candidacy is to inform the electorate—especially now when citizens yearn for examples of decency and serious good sense in our politics. But the system of selection makes it difficult for a candidate for the Democratic presidential nomination to discuss issues seriously and be heard clearly.

A candidacy today triggers a thousand skirmishes; a welter of endless, draining detail. It plunges the candidate into a morass of unintelligible regulations and dervish-like activity, all largely beyond his control and comprehension. Today's contender is pressured to compete in 30 state elections and hundreds of district elections and caucuses for convention delegates. He is automatically entered in 14 state primaries. He is forced to spend money in order to raise it, and to raise money in order to qualify for federal dollars.

With 10 Democratic candidates already seeking attention, the press is beleaguered and spread too thin. Commentators gauge the viability of candidates by the most superficial devices: the size of campaign bankrolls or the volume of applause at joint appearances.

Whether it is the fault of history or the press or the politicians, public attention is focused on the surface, on a candidate's insubstantial junket to Europe, instead of the substance of our politics. Serious comments by serious figures on complex issues are ignored. Journals which once afforded an opportunity for serious comment are disappearing. And television, the dominating medium, is by its nature incapable of covering our politics deeply and comprehensively. It offers episodes and spectacles, and the citizen is hard put to fathom their significance. The healthy skepticism which once invigorated our politics is in danger of becoming a deadly cynicism.

I think I can give more to the national debate without the distrust and distractions a candidacy would entail.

We are a resourceful country, and we are capable of learning from our mistakes. The shortcomings of the present system are so plain that it will be changed. I expect the delegates at the Democratic convention to rise above the wreckage and choose wisely. Good days are ahead, and I am deeply grateful for the chance to be a part of them as a Senator from Illinois.

I am much complimented by those who have urged me to run for president. I hope they did so because they believe I have served well as a Senator. That is the service I plan to continue.

CHILE'S TOTTERING DICTATORSHIP

Mr. ABOUREZK. Mr. President, the United States has most likely not heard the last of CIA intervention in the internal affairs of Chile and its tragic consequences. Although former President Richard Nixon and Secretary of State Kissinger ordered an economic embargo of Chile during the Allende regime, and although our Government has cooperated with the Pinochet regime since its takeover, the economic devastation of Chile is evidenced by the following article by Manfred Von Conta which appeared in the December 1975 edition of Atlas World Press Review.

I ask unanimous consent that the article be printed in full in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From Süddeutsche Zeitung]

Chile's Tottering Dictatorship

(By Manfred Von Conta)

When Marina (that is not her real name) met me at the bus stop in Santiago she begged me not to identify her nor the part of the city where she lived. Even a hint of her occupation might tip off the secret police, the *Dina*, and land her in one of the military junta's concentration camps for the crime of "spreading Marxist propaganda."

Until the coup of Sept. 11, 1973, she lived in an elegant suburb. She had attended an expensive private school and the university and was a government employee, although she belonged to no political party. Since the coup, as with most of the Chilean middle class, her standard of living has swiftly declined. She was dressed now in several old sweaters worn one atop the other, shabby trousers, and rough boots. A tooth is missing and she has the chapped red hands of a manual worker. She supports herself and her three-year-old child on $4 a month.

Her home in one of the *poblaciones* where the city's poor live is a huge bare room with a concrete floor and broken window panes. It serves as bedroom, kitchen, work space, and gathering place for a loosely organized self-help group of neighbors joined by a common bond of misery. This afternoon Marina and four other women are cooking a pumpkin preserve on a propane stove. They pour it into Nescafé jars. Sometimes they buy cheap pig's blood at the slaughterhouse to make sausages. They sell their jam and sausages in prosperous neighborhoods, which they also provide with laundry service. These are their means of livelihood. Some resort to begging. Most of their husbands are unemployed or earn far too little to support their families.

Most of the women's earnings go to the children's fund of the church-supported "Committee for Peace in Chile," which operates several child care centers and *comedores* (soup kitchens). Malnutrition among children is widespread and rickets and swollen bellies are a common sight in this *poblacion,* where a quarter of a million people live. In the *comedor* I am introduced to three children whose self-supporting mother disappeared several weeks earlier. Her neighbors saw her last when a car with no license plates picked her up after curfew.

Marina's next-door neighbor is a civil servant whose son was one of the 16,000 students dismissed from the university after Sept. 11. He now works as a garbageman and together with his father earns 300,000 escudos a month, the equivalent of $50. This weekend the eleven members of this household will have to subsist on a quart of milk, just over two pounds of flour, and some sugar.

Under Allende's program, *Unidad Popular,* a number of clinics operated in the neighborhood. But after the coup their doctors disappeared without a trace and the clinics are closed. Occasionally a seventy-year-old pediatrician looks in on one of them and in another a nurse rations out powdered milk to children under six and records their weight.

In their free time some of Marina's friends conduct evening classes in consumerism, first aid, and child care in a barracks next to the church. They teach one another how to bake at half the cost of store-bought goods, how to make shoes out of old tires and clothing out of remnants. "The people come because it's warm; we're together and feel we're doing something useful that doesn't cost anything," one woman says.

For some time now the military police have not made house-to-house searches and mass arrests. Their methods are more refined now. Informers and civilian arrest squads do most of the work during curfew hours between 1 and 5 a.m. As yet no one on Marina's group has been denounced. "We have no time for politics," said a young bearded worker. "We have enough to do just to survive." He belongs to a group trying to create parttime jobs.

"Are the people afraid?" I ask. They look at one another, hesitate, then laugh: "Bueno—we are careful. But, afraid? We don't have time."

"Fear has its own smell," said Marina on the way to the bus stop. To me this smell is most pronounced in the Barrio Alto. Here the dwindling upper middle class makes do with less and less in a desperate effort to avoid the tumble into the proletariat. After several conversations a forty-year-old engineer I will call Alberto invited me to his bungalow. Some three months after Allende's fall his colleagues labeled him "undesirable" and forced him out of his job in a large company. He had been associated with the left wing of Chile's Christian Democratic Party. For the last year and a half he worked at a small metal factory, a cooperative on the verge of bankruptcy.

When I arrive he opens the door cautiously. The weak glow of a 40-watt bulb lights the living room. A Beethoven record competes with the dull roar of a makeshift space heater—a stovepipe pushed through a hole in the window and fueled by scrap lumber; the scene reminds me of postwar Germany. Alberto takes home 100,000 escudos every Friday, the equivalent of $16. But a quart of salad oil costs a dollar, ten pounds of sugar $2.20, and two pounds of noodles fifty cents. A family of five needs 800,000 escudos a month for bare necessities, excluding coffee, cigarets, newspapers, and haircuts. Four years ago Alberto's family of five bought its last pair of shoes. They can no longer afford to make proper home repairs. The three boys stay in school only because their wealthy uncle provides tuition. I ask if they had thought of putting their house up for rent and moving to a poblacion. Their answer is a painful silence.

Alberto's wife holds a government job. But she has worked half a year without pay because the State has not yet approved her position. Since the Government is fighting inflation by holding down public spending she may never be paid. Yet to maintain the status of an office job she spends 40,000 escudos a month on transportation alone.

In the Barrio Alto no one is sure who still supports the government of Gen. Augusto Pinochet. Denunciations occur daily, even among Christian Democrats, whose party is officially sanctioned but whose activities are banned. A poll of former representatives and senators showed that only 3 per cent still supported the military regime. Some oppose it because economic policies have forced them to close their small factories; liberal intellectuals are appalled by the mass arrests and torture and by censorship of the press, which in their view prints little more than the fascist line.

The Church's "Committee for Peace" has records of more than 1,800 arrests not followed by arraignment. After more than a year more than 800 persons are still missing. Most were suspected Communists, Socialists, or members of the leftist revolutionary movement, MIR.

Why is fear so intense in the Barrio Alto? "We don't know where our neighbors stand," a Christian Democrat said. "Some are making enormous profits in speculative ventures. The shared misery of the poblaciones makes for greater solidarity so there are fewer denunciations."

In southern Chile in the barracks of unemployed construction workers I was offered another explanation. Pointing to wall plaques decorated with plastic flowers a union member said, "That is where the soldiers of Alessandri [Chile's then president] murdered striking workers fifteen years ago. Oppression and hunger are a way of life here. To the upper middle class in the Barrio Alto they are something new. They haven't yet learned to cope."

"Freedom, Democracy, and Prosperity" were the watchwords of Gen. Pinochet's coup. Yet two years after the bloodiest revolt in Latin American history— which has taken a toll of an estimated 20,000 victims—the junta has made virtually no progress toward these goals. Stores are stocked but there are no buyers; factories are shut down or operating half days; a staggering 20 per cent of the work force is unemployed; and Santiago's main streets are crowded with sidewalk vendors, beggars, and idle youth.

The Pinochet junta is committed to the economic philosophy of Prof. Milton Friedman of the University of Chicago, an advocate of the totally unregulated market economy. With a population of only 10 million, a labor force of 3.5 million, and an average annual per capita income of $1,000, Chile is the worst conceivable place for such an experiment. The marketplace is simply too small. Two or three companies satisfy demand for any given consumer item. This has led to monopolies, a fact of Chilean economic life for more than half a century. However, a succession of Christian Democratic governments were able to control prices and maintain an aura of stability. Long before Allende's "democratic socialism" the State regulated 60 per cent of all trade in an effort to relieve social pressures, equalize incomes, and curb the monopolies.

But the military deregulated trade without considering the labor factor in the equation. They accomplished this first by placing banks, factories, and commerce in private hands and then by dismantling all controls on capital investment. As a result instead of halting inflation—the cancer which led to Allende's demise—their policies triggered an uncontrollable wave of price increases.

The roots of Pinochet's inflation can be traced to a growing government deficit. The national budget was reckoned on a price base that had spiraled out of sight. Since taxes covered only a fraction of the cost of running the Government, the State made up the deficit by printing more money. The amount in circulation increased by 300 per cent from 1974 to 1975. The rate of circulation was dizzying. Some clever operators founded banks to finance short-term loans at high interest rates. Others bought previously nationalized companies from the Government. The speculation paid off. These operators had a stranglehold on the nation's productive capacity, while the money that they had paid for it depreciated by 170 per cent in six months. Some analysts predict an annual inflation rate of 600 per cent unless immediate corrective steps are taken.

Monopolies have grown at an uncontrolled pace, particularly in the petrochemical and food industries but also in insurance and construction. On the other hand small and medium-sized businesses went bankrupt, or were swallowed up by the large corporations. The abrupt fall of purchasing power was inevitable. Unemployment rose and wages, which the State controlled, did not begin to keep pace with the raging inflation. In the first half of 1975 alone the purchasing power of the average worker declined by 40 per cent. Unemployment rose from 4.5 per cent of the work force under Allende to an official rate of 16 per cent, or an estimated actual rate of 20 per cent. The result has been an enormous concentration of wealth in the upper 4 per cent of the population. In just one year the workers' share of the gross national product declined from 63 to 35 per cent. Most wage earners take home only $25 a month.

Lacking buyers for their products, most factories either shut down or cut production, continuing the vicious cycle of inflation and unemployment. For example Insa Tire Works reduced its average monthly production of 70,000 tires to 13,000 in June. Since Insa is a monopoly it could cover the resulting losses by raising its prices.

For months now the Chilean junta has been under international pressure to stem the inflation or risk losing all foreign investments—except, of course, for German and Dutch holdings in copper, tin, gold, silver, and platinum mines. At first the junta dismissed such pressure as international "communist propaganda," ("The *Wall Street Journal* is a tool of international Marxism"). But in April the new Minister of Economics, Jorge Cauas, started housecleaning according to the Friedman formula. He mandated a brutal slash in government expenditures to halt the printing of more escudos.

However, Cauas took no account of the side effects of his policies. As a result, the mass unemployment of construction workers followed the cancellation of public works projects, legions of governmental office workers were let go, and factories that could not survive without government contracts closed. The junta did announce measures to soften the blow but the results were negligible.

Efforts to provide makework projects proved ineffective. One call in Santiago brought out 17,000 applicants within forty-eight hours for jobs that paid only enough to buy four pounds of bread a day. Only 500 of the applicants finally received jobs. A $3 million gift from the U.S. earmarked for the distribution of CARE packages will not be used because the junta insists on absolute power to decide who gets them.

The widespread disenchantment of the anti-Marxist middle class, which saw its deliverance in the Pinochet coup, is best expressed by a slogan circulated in the Barrio Alto and other suburbs: "Marxism brought us to the edge of ruin and Pinochet pushed us over the brink."

The collapsing economy and mounting dissatisfaction have isolated the junta from its base of support, the middle class. Neighborhoods where military officers live are surrounded by barbed wire and armed guards. Even the school buses that carry officers' children are heavily guarded. Politically the junta is now supported only by the rightwing extremists of the National Party. There is little significant opposition. Parties of the Left were dissolved after the coup, while the National Party split over economic policy. This leaves only the Christian Democrats headed by an attorney, Patricio Alywin, and guided ideologically by Eduardo Frei. The Party's support comes from Christian union groups, professional organizations, and intellectuals.

The Party leadership is trying to organize a coalition of all anti-Marxist groups to work out an alternative to Pinochet's fascist economic policies. Such a new program might find support among elements of the military and lead to a militay-civilian coalition that would force Pinochet's ouster. However, recently the *Dina* arrested a number of Christian Democrats. Under such pressure those who remain are not optimistic about their prospects. Their chief hope is that the *Dina*'s broadening sphere of activity will spread disaffection among the military. This, coupled with unrest among prominent civilians, might lead to a change.

YOUNG FARMERS HOMESTEAD ACT

Mr. McGOVERN. Mr. President, continued support in the press appears for the Young Farmers Homestead Act of 1975 which I introduced on October 30 of this year. For the information of cosponsors and other Senators, I ask unanimous consent that a November 4, 1975, article entitled "Bill Would Help Farmers Get Started" appearing in the Levittown, Pa., Bucks County Courier, authored by Walter Pitzonka, Jr., be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Bill Would Help Farmers Get Started

(By Walter Pitzonka, Jr.)

On colder northwest winds on Tuesday morning, winter weather returned to the Lower Bucks area. In the far west, arctic air is beginning to flow down the eastern slopes of the Rockies and covering the country with winter-level temperatures. I guess we had to expect the end of the beautiful late-summer temperatures from the weekend.

I read some interesting statistics recently about farmers and their enterprises. The average age of the American farmer is 50.3 years of age. This age is high for any occupational group. This is because the "start-up" cost of a farm unit may run as much as $250,000. At this rate, only sons of well-to-do farmers can ever hope to become owners of farms. In the next 20 years, the number of farms in the U.S.A. will decline by 200,000 to 400,000 units and by the year 2000, only one million farms will exist in America.

Sen. George McGovern of South Dakota is sponsoring legislation in Washington that will help aid young farmers in purchasing land and equipment. The legislation is named "The Young Farmer's Homestead Act of 1975."

PROVIDES BRANCH

It basically provides a branch of government to purchase farm land and lease it to young farmers for five to seven years. During this time, the rental is computed on taxes and loan interest.

At the termination of the lease period, the farmer would purchase the farm on a 20-year period. During the 20 years, the farmer would repay one half the purchase price, interest and taxes. After the 20 years, the farmer would be required to refinance the balance through commercial methods. McGovern contends the government would not be using taxpayers' money to do the financing.

In reality, this legislation would enable the farmer to acquire land and equipment without overwhelmingly burdening his family.

MORE CALVES

Another agriculture report indicates an increase of 25 per cent more calves in Pennsylvania than a year ago. On the feed lots, there is a 40 per cent increase in the number of head of cattle in Pennsylvania.

This indicates farmers again have returned to cattle raising for meat production. As long as the market price on beef remains fairly constant, farmers will wish to raise cattle. As prices drop in times of oversupply, this is a discouraging note for meat producers. The time of adequate meat at cheap prices is gone forever. Farmers are required to show profit in their operations and if they don't, they are forced by economics to seek profit in some other manner.

An ancient rule of thumb is during times of oversupply and low prices, farmers quickly discourage and cease production in that area, whether it be milk, meat, grain or wool. As the supply dries up, prices quickly rise and farmers also quickly return to production. Sometimes production lags by months to market prices.

A reader from Levittown stopped in this weekend to bring me a bag of vine-ripened tomatoes. He has been covering the plants on cool nights and uncovering them to the warm sun rays each day. My congratulations for a job well-done.

Talking about prices and quantities of commodities earlier reminds me that farmers this year received less revenue from their sour cherry production than last year. Growers produced a total of 145,250 tons in 1975 as compared to last year's production of 132,500 tons. The chief producing states are Michigan, New York, Ohio, Wisconsin and Pennsylvania. These states grew 94 per cent of the nation's production which amounts to 136,500 tons; 123,000 tons were utilized in the fresh state while 75,000 tons were frozen and 41,000 tons canned. Another 12,800 tons are being held in reserve.

Listen to this: the price this year was $200 per ton compared to last year's $370 per ton average. The value of this year's crop was $22 million while 1974's value was a whopping $49 million. Here's another case where increased production could mean disaster to agriculture.

Until next week—Happy Gardening!

KINGMAN BREWSTER'S CHURCHILL LECTURE IN LONDON

Mr. KENNEDY. Mr. President, on Thanksgiving Day last month in London, President Kingman Brewster of Yale University delivered the Churchill Lecture to the English Speaking Union of the British Commonwealth.

In this perceptive and far-sighted lecture, President Brewster discussed a number of the most critical long-range economic, social and political challenges facing the democratic institutions of the United States and Great Britain and other nations in the coming decades. The basic challenge, he emphasizes, is to find answers consistent with both survival and individual freedom.

In his lecture, President Brewster gives particular attention to the serious economic challenges confronting both nations. He states, for example, that the bias of representative governments toward inflation is the greatest threat to the survival of democratic society. As he puts it:

> If we do not solve this problem, representative government will drive us up to altitudes of inflation which, like anoxia above 14,000 feet, will not be able to sustain productive economic life.

Mr. President, President Brewster's address is an excellent example of the sort of long-distance thinking and analysis that we need if we are to deal effectively with the challenges of the Nation's future. I believe his views will be of interest to all of us, and I ask unanimous consent that the text of his lecture may be printed in the Record.

There being no objection, the lecture was ordered to be printed in the Record, as follows:

Lecture by Kingman Brewster, Jr.

Mr. Chairman:

I have been pondering the mystery of this invitation. But for this aberration on your part, I have always stood in awe and admiration of your judgment and good sense. Such was my confidence in you that I was certain that, upon reflection I would discover the subtle purpose which motivated your flattery. Then it suddenly occurred to me.

Ours is a time of gloom and doom. A "woe is me" atmosphere, a very low pressure area straddles the North Atlantic.

So, Mr. Chairman, in your ever cheerful way, you have evidently sought out a speaker who, by the nature of his calling, if not his temperament, can be relied upon to have an infinite capacity for both rationalization and wishful thinking.

These two attributes, rationalization and wishful thought, are indeed, the two qualities most demanded of anyone whose lot it has been to preside over a university during these past dozen years. Most especially it must characterize anyone who presides over an institution of higher learning whose name, after all, amounts to an acronym: Youth Against Learning and Education.

But lest you think me abnormal, do let me wallow a bit in the "crisis of our times".

I join you in nostalgia. Yet our nostalgias, yours and mine, are markedly different.

You might, quite properly, long for the society which was held together by mutual deference and consideration. It was better characterized by the ethic of the Belisha beacon rather than by the do's and don't's of the regulatory state. It was not riven by fear of anarchistic violence.

We in the United States long for the "everything is possible", expansive optimism of a seemingly infinite growth. Our wishful memory is better characterized by the frontier. We knew nothing of unrationed scarcity. We like to think that we were not cabined by the claustrophobia of insolvent, indecent cities.

Your happiest days saw the gradual democratization of society, without any loss of the mutual deference which is essential to order. Tolerance, mutual respect and fierce defense of individuality made it possible for you to achieve stability without coercion. Your constitution did not have to be written. It was an unwritten tradition of both public and private behaviour. "Those wise restraints which make men free" were, in your case, very largely self-restraints.

In America, our gladness, if not our goodness, was a bumptious, competitive, rough-and-tumble, ambitious optimism. Private coercion was avoided, in large part, by the unlimited possibilities for escape, for a fresh start. Government coercion was mitigated by the dispersion of official power throughout a federal system. The more formal separation of executive, legislative and judicial power was secured by a written Constitution. Restraint on public authority required a written Bill of Rights.

Bagehot was right to characterize yours as the "deferential society". The essence of ours, as de Tocqueville perceived it, was mobility.

(May I be permitted one Bicentennial thought: In the spirit of Trebelyan's historical "ifs": I wonder whether, if we had not cast loose two hundred years ago, "the rights of Englishmen" could have been preserved in America. I am not thinking here of the Thirteen Colonies, but of the sprawling continent which developed from them. Perhaps our independence actually forced us to seek the unity in diversity of a formally constituted federal system. The constitutional guarantee of freedom of interstate commerce made possible a continental market. Constitutional limitations on the central government made a sprawling, highly diverse continent more or less governable. These arrangements might never have developed had it not been for the need to accommodate the disparate interests of the thirteen newly independent colonies.)

Back to our nostalgias. Our paths have been quite different markedly so. Yet from quite different points of departure, by quite different routes, we did emerge at a common rendezvous by the time of the last World War. We were confident that the values of our two societies—yours an empire and commonwealth; ours a federalized continent—were saved; so deeply rooted that they were taken for granted. Victory, we believed, would, in the buoyant rhetoric of the Atlantic Charter, establish the four freedoms "everywhere in the world".

Now both of us have experienced a crisis of confidence. We in America know too painfully the anguish of an undefeated team that has just suffered its first set-back. But more devastating than your peaceful liquidation of an empire, more shocking than our bloody defeat in Indo-China is the realization that the four freedoms of the Atlantic Charter are not easily transplanted. It is not easy to admit that they will not readily thrive "everywhere in the world".

I would submit, Mr. Chairman, that the belated discovery that it is not our "manifest destiny" nor your "white man's burden" to bring "the rights of Englishmen" to the yearning world, should not dissipate our pride or our determination.

The tortures which freedom has suffered in the second and third world make "the rights of Englishmen" all the more precious.

Our missionary frustration makes our own destiny all the more important.

Our traditional values are not the natural and inevitable order of mankind.

They are the hard won and fragile achievement of the English-speaking Peoples. Our recent disillusionments in the world around us should strengthen our sense of purpose.

Precisely because ordered freedom will not readily prosper in many climates, together the English-speaking Peoples have a very special trust. It is our first obligation to see to it that "the rights of Englishmen" are not lost, that they are protected and nurtured in their natural home.

If we were to fail this challenge, what has been so gallantly achieved by our forefathers might be lost for all humanity, perhaps for all time.

Our first task is to see to it that the way of life we care about is made secure from external subversion and attack. That we can do only by collective action, equal in scope to the global challenge which seeks to do us in.

Happily, the values connoted by "the rights of Englishmen" are shared most deeply in Australia, North America and in this island which gave them birth.

Logistically, taken together, ours is a global, strategic base of considerable promise. It offers the land masses of Australia and most of North America to supplement the high seas as platforms for mobile launchers which assure a convincing capacity for retaliation. It also incorporates the arsenal of the United States, and the diplomatic experience, the European connection, and the Commonwealth responsibility of Great Britain.

If we are bold and wise, we ought to be able to provide a deterrent of global span. It should be sufficient to assure the ability of the English-speaking Peoples to survive without concession of our own principles.

The credibility of this tacit alliance should be able to withstand the erosion of cynicism. It should be able to outlast strains of shifting interests.

Our common cause is made reliable by shared heritage and purpose. It does not depend upon the fine print of a legalistic adversary bargain.

Security against external threat is, of course, a first priority. It is not, in my opinion, however, our greatest problem.

The concern more demanding of attention is closer to home. Can we secure "the rights of Englishmen" within our own societies, even if we are made secure from external subversion and attack?

Let me take a clue from your own nostalgia. Yours is the proper fear that perhaps the deferential society cannot survive the clamoring of interest groups which seek fair or unfair shares through the processes of the welfare state.

Taking a clue from our nostalgia, ours, in America, is the fear that maybe the open society is closing. Perhaps the ethic of competition has become a war of all against all for shrinking resources.

This challenge to us both is, in good part, strictly economic. Thus, if government remains representative, will it not always cater to the demands of the present at the expense of the future? Can wage settlements be expected to leave a surplus for investment? Will taxation and inflation together dry up savings? Will government itself be under inexorable pressure to favor consumption at the expense of capital?

Other worries are more strictly political.

When the State decides who gets what, can we avoid a corrupting scramble for official favor?

When all seek preference from government, can we expect citizens to be generous to each other?

Will the sense of responsibility for the use of property, a sense which ownership engenders, be replaced by carelessness when all are tenants of an anonymous state?

Will the latitude for individual choice which freedom of contract permits, inevitably be replaced by status, dependent upon public award?

In short, can life remain voluntary? Or will we become dependent upon paternalism at best, coercion at worst?

These essentially constitutional questions—they are at least questions involving constitutional values—are inherent in the challenge which a modern political economy poses to the voluntary society and the democratic process.

So, you see, I, too, can wallow in despair. Where then is room for wishful thought?

Of course there is no cure-all. But some approaches, I submit, are better than others. If I were asked to reduce it all to slogans, I would say that the general attitude which should inform our attack on these problems ought to be a preference for the "incentive state" rather than the "guarantee state"—for the "opportunity society" over the "welfare society".

Now what does that mean?

To me it means three things. First, we should exhaust ways of encouraging private decisions in the public interest before resorting to government allocations or regulations.

Second, when government must act as investor in defense, health and education, it should try to use market mechanisms so that who benefits will not depend on the favoritism of bureaucrats and politicians.

Third, when government has to exercise its discretion in awarding favors or imposing penalties, we should find some way of assuring redress against its abuse.

When unemployment of human and material resources was the problem, Lord Keynes rightly focused attention on the problem of under-consumption. The great political virtue of his fiscal and monetary prescriptions was that they allowed a responsible government to act impersonally, without coercion. Democratic capitalism was probably saved from the alternatives of the Fascist corporate state or the total coercive mobilization of Communism, by the effectiveness of Keynes' prescription for full employment without interference with private economic decisions. This was most shrewdly perceived and eloquently expounded by young Arthur Schlesinger, Jr., in "The Vital Center."

Now that inflation is the spectre, how are we to marshal the discipline to offset the bias in favor of consumption at the expense of savings; the bias in favor of the spendthrift present at the expense of the future; the bias in favor of public expenditure and against public savings?

Since I am not expert, I hesitate to make technical prescriptions. But, like you, I have heard enough of platitudinarian addresses which ask alarming questions, but which fail to give so much as even a clue to possible answers. Without vouching for the particular solutions, let me at least point to an agenda worthy of attention.

Might we reconsider both the incentives and the equities of our systems of taxation?

Both a free market and a democratic political system show a strong tendency toward expenditures for consumption and current welfare at the expense of savings. I would suggest that we badly need to build into our system of public revenue a strong incentive for savings for productive investment.

Capital starvation is the economic peril of western capitalism generally, and of your country and mine in particular. Might we not, therefore, again consider the validity of a graduated tax on expenditures in preference to our present graduated tax on income?

We can at least find philosophical support in Hobbes and Mill in their espousal of this view. Political ancestry, if not political realism, can be found in Gladstone's advocacy of a similar approach. Professional ingenuity, if not wisdom, credits Yale's Professor Irving Fisher and your Nicholas Kaldor with the same enthusiasm.

In economic terms, a tax on expenditures rather than income would be an incentive to saving, hence to the formation of capital.

In political terms, if the belt must be tightened today in order to encourage investment in tomorrow, is it not far more tolerable to have the squeeze felt at the level of luxurious living, rather than to impose taxes upon savings and investment?

In terms of more fundamental, constitutional values, the achievement of a healthy equilibrium between the claims of investment and the claims of consumption seems to me better done by realigning the incentive of the tax system rather than by reliance upon government to make particular investment decisions. At least the chance of favoritism and political abuse would be minimized.

A second economic objective of the "incentive state", which has received dramatic attention, is the careful husbanding of non-renewable resources.

As others, notably Fritz Schumacher, have pointed out, traditionally we treat the drawdown of non-renewable resources as though they were current expenditures. We account for what we take out of the ground as though it were no different from what we grow on the ground in forests and on farms. As Dr. Barry Commoner has noted, unless otherwise constrained, the lust for short-run profit is bound to favor the use of plastics instead of wood, the use of artificial fibers instead of natural fibers.

Again, instead of relying on the State to allocate non-renewable resources by rationing and regulation, instead of quashing the profit motive, would it not be far better to devise a "value-subtracted tax"? Might we not provide an incentive for the use of renewable resources, by imposing a surcharge on a product to the extent that it uses up raw materials which cannot be replaced?

Using the government to "rig" the market seems to me far preferable to giving the government the power to decide who gets what in particular transactions.

In a big country like mine, however, even if incentives were shifted from the short term to the long term, from consumption to savings and conservation, representative government would still pose a frightening challenge to economic responsibility. As one wag put it, our game may be "Truth or Keynesequences".

Any politician whose life is dominated by the prospect of standing for re-election (every two years—absurd as this sounds—that is what the members of our lower House of the Congress must do!), has an inevitable bias in favor of spending and against imposts. The ensuing inflation will, of course, be just as brutal as an equivalent tax would be.

However, the inflationary impact cannot be traced to a particular political act, it cannot be tallied in terms of yeas and nays on particular bills. So, too, the beneficiary of a particular expenditure knows who his benefactor is, who voted for the subsidy, the public investment or government purchase. He also knows the particular agency or ministry which declared him eligible for the help he wanted. Thus, he can trace his bounty, quite precisely, to its political source. On the other hand, no one can prove that the higher price of groceries is attributable to any particular public expenditure, to any particular legislative act.

The clear political identification of the source of public economic benefits and the obscure source and causes of inflationary burdens is bound to favor excessive public expenditures and irresponsible tax cuts.

The inflationary bias of representative government seems to me the greatest threat to the survival of a democratic political economy.

In the eighteenth and nineteenth centuries, constitutions emerged as great self-denying ordinances to constrain the use of official power for political self-perpetuation. Perhaps we now need an equally creative act which would devise a self-correcting ordinance to offset the bias of representative government toward inflation. We need some "higher law" to restrain the natural temptation to use the spending power for political self-perpetuation. If we do not solve this problem, representative government will drive us up to altitudes of inflation which, like anoxia above 14,000 feet, will not be able to sustain productive economic life.

Again, I feel an obligation to at least suggest illustrative approaches.

Whenever public expenditures exceed a balanced full-employment budget, might the law provide that tax rates would rise automatically? This would be more rational, more dramatic in its impact if taxes were on expenditure rather than on income. Both public opinion and political judgment might then see more clearly that inflation, too, is another form of tax on expenditure.

Of course I have no patent medicine to cure the fever of inflation. Its causes are not limited to public expenditures.

There is also no gimmick which will substitute for statesmanlike self-restraint. That capacity for restraint, when the spending power is involved, unfortunately seems at odds with the political interests of a legislature which is representative of its people.

In this aspect, we Americans would seem, in the long run, to be even more vulnerable than you are. We are saved, only for the moment I fear, by our more abundant resources. Without some creative act of political leadership, such factors as the short term of Congressional office, the lack of national party discipline, and the roots of political power in highly localized constituencies, make the long view very rare. A representative democracy of any kind finds it difficult to practice the politics of self-restraint.

We in the United States should apply much more ingenuity to techniques and arrangements designed to offset the incentives which every Congressman now has, to favor expenditures even at the price of inflation, and which, whenever an election year approaches, impel even a conservative President to promise tax reduction.

Until we can devise ways by which the inflationary consequence of a Congressman's vote is traced to him with the same particularity which attaches to a yea or nay on a revenue bill, we will not cure the disease of public spending motivated by the desire to achieve re-election.

Even if the balance could be redressed, however; even if the inflationary tilt of a representative government could be corrected, there would remain other threats to "the rights of Englishmen" which flow from the government's responsibility for the general welfare. These, as I have suggested, are more strictly political or constitutional.

When individual opportunity comes to depend upon the decisions of government, it becomes very difficult to protect the citizen from fear of retaliation. It is even more difficult to prevent the corruption which follows the pursuit of official favor.

The power of government to threaten penalty, or to promise favor, is ultimately inconsistent with the citizen's freedom to throw the rascals out.

An astute, malevolent officialdom can turn the publicly dependent economy into an instrument of political entrenchment. At its crudest, "government by shakedown" can result. This ethic of political self-perpetuation characterized the Nixon years, particularly the Mitchell-Stans management of the 1972 Presidential campaign.

In matters of this sort it is more difficult to prescribe effective mechanisms, or even to suggest illustrative approaches.

I would, at the threshold, urge a strenuous effort to devise market mechanisms through which government might apply the national revenue to the support of health, education and welfare. At least if the legislator or the bureaucrat cannot identify the particular individual who will benefit, there is already some insulation from the politics of favoritism.

There are areas where the society as a whole must use its power to tax everyone in order to secure the national defense, provide minimal human decency, adequate health and assurance of the education of its children. Even in such instances it is still terribly important to allocate opportunity through impersonal mechanisms which minimize the chance that an official can personally select his beneficiaries.

In our country we need far more stringent protections against favoritism and conflict of interest in the massive sector of the economy dominated by defense procurement.

Subsidizing students and leaving them free to choose the institutions to which they apply is far more consistent with academic freedom than direct institutional support would be. Innovative scholarship and research benefit by a multiplicity of private foundations and by a "peer review" system which awards government grants by the judgment of the academic peerage rather than by the decisions of bureaucrats or politicians.

The insurance mechanism helps to retain some freedom of choice in publicly supported medicine. The mortgage guaranty achieves housing objectives without requiring a citizen to be a tenant of the State.

Sometimes the spending power must be exercised in a way which might make or break an individual, a firm or an institution. There we need to develop some opportunity for objective review of the exercise of discretionary power. In fact, we need something analogous to the judicial review of regulatory acts in our country; perhaps more techniques of parliamentary inquiry and redress in yours.

I would not purport to prescribe for your situation. I would not even be confident in prescribing for my own country. But, I do feel strongly that the citizens' dependence upon government bounty is a problem of constitutional proportions.

By constitutional proportions I mean that in the United States the federal spending power poses a threat to the values of both the federal system and of due process of law. It also poses a danger that those in power may be able to assure their re-election by favoring their supporters. These threats are no less real than the power of government to police and to regulate and to tax; powers which so much concerned the Founding Fathers of the thirteen United States.

It may be that our belief that the governors should be accountable to the governed is our disadvantage. How tempting the authoritarian, the seemingly "efficient" solution sometimes seems. Coercion, surely, does offer a solution to both full employment and the control of inflation. Happily, we are stuck with our heritage of freedom.

Do we, then, have the will and the ingenuity to solve our economic problem without forfeiting our birthright of political freedom?

Our secret, I believe, lies in the tradition of law, especially constitutional law, as an organic, evolving process.

With us, law is not confined to the ink lettered parchment of a code's prescription. Its extension or reform does not require a root and branch reformulation of a grand design. We are not given to total solutions. Muddling pragmatism may serve our values better than the logical perfection of a total scheme.

As one continental critic once put it, a common law lawyer doesn't even cross the bridge when he does come to it! That is a danger. It would now seem that we are unwilling to cross a very important bridge. Our task is to make the massive public spending power subject to a rule of law, just as we once brought the police power and the taxing power under constitutional constraint.

Even in my own vast, unmanageable country, pragmatic ingenuity was able to concoct an administrative law which, to a large extent, did make the growth of regulatory power accountable to the values of due legal process; first under Woodrow Wilson's New Freedom; later under Franklin Roosevelt's New Deal. Even the controls required for wartime mobilization were kept within constitutional bounds.

My deep reservoir of wishful thought leads me to believe that legal craftsmanship is capable of restraining the exercise of the spending power so that it cannot be used for purposes of political self-perpetuation.

After all the rhetoric of concern and alarm has been heard, however; after all avenues of legal redress have been exhausted, our destiny depends upon the faith of our peoples and their alertness to encroachments upon their freedom and the freedom of their institutions.

Ultimately the quality of a society—with its respect for individuality, its impertinent skepticism of authority—resides in the hearts and minds of its citizens.

Given the eloquence of the person whose name graces these lectures; given, therefore, the honor which is thus bestowed upon the lecturer, I am most reluctant to attempt my own articulation of the shared purposes which bring us here.

Yet, the honor of your invitation and the logic of the argument I have attempted join to compel the effort.

We do have a heritage which deserves protection against external subversion and attack. We do have a mission which requires all the imagination and dedication and ingenuity of which we are capable. It is our high calling to make sure that "the rights of Englishmen" shall survive the pressures and harassments of an over-organized, technological society.

The faith of our fathers and the high hopes which their achievements have made possible should be sufficient inspiration. We have not done badly, but we have much more to do.

We have reason to believe that incentive rather than coercion, individual choice rather than programs imposed by decree, are most likely to liberate all individuals to find their own fulfillment. We would trade a little efficiency, even a bit of welfare, in order to assure the opportunity for individual choice and immunity from coercive authority.

As we look out upon the world around us we see many peoples surrendering to coercion, drab and heavy-handed at best, bitterly brutal at worst. We also see raucus, anarchistic violence masquerading as freedom. Both are making inroads upon the Western World at the moment, particularly on the Iberian and Mediterranean shores.

We know that the intricate interdependence of a specialized society requires discipline. We know, too, that the alternative to discipline is anarchy.

Two questions confront mankind everywhere: are we capable of the discipline necessary for survival, and, is that discipline consistent with our individual freedom?

The challenge now is to bring economic forces under control without so enhancing the power of discretionary government that we lose our freedom of private and political choice.

The English-speaking Peoples have given the world some hope that it is possible to organize society so that government, institutions, and most of all, individuals are capable of that organized self-discipline upon which freedom depends.

RACIAL INTEGRATION IN OAK PARK, ILL.

Mr. PERCY. Mr. President, the Chicago Tribune of November 29, 1975, carried an editorial on Oak Park, Ill's. success in integrated housing. It is always encouraging to learn of a city's success in this particular area. I ask unanimous consent that it be printed in the RECORD for the benefit of my colleagues.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SUCCESS IN OAK PARK

In two recent issues of our Thursday Metro section, Alan Merridew told the significant success story of Oak Park. Not many years ago, the outlook for Oak Park was bleak. Long and well known as a desirable residential community, it is sandwiched between the Austin neighborhood in west Chicago, which has deteriorated catastrophically, and Maywood, a suburb never as prestigious as Oak Park and with an uncertain future. Between 1968 and 1972, the market value of single-family homes in Oak Park slowly declined, in a period of generally rising prices. Then Oak Park turned its prospects around. Richard Gloor, president of the Oak Park Board of Realtors, says, "We have had a complete change in attitude in the buying public over the past couple of years toward Oak Park."

As Mr. Merridew [and others] have told the story, the turning point was the decision by Oak Park officials to capitalize on the fact that traditional Oak Park was different from what it had been. Discarding a defensive, rear-guard psychology, village trustees adopted a statement of policy affirming Oak Park "not so much as a place to live, but as a way of life"—a progressive, youthful way of life that viewed racial integration as an asset. Voluntary and official groups alike took effective action to encourage white move-ins in the part of town closest to largely black Austin, and to encourage black move-ins throughout the rest of Oak Park. What they were striving to prevent was the block-by-block "tipping" that has swept through vast areas of Chicago, with massive white flight and sudden changes of public schools from nearly all white to nearly all black.

DEATH WITH DIGNITY

Mr. KENNEDY. Mr. President, the oustanding advances in medical science in recent years are well known to us all. The improvements in medicine's ability to alleviate pain and suffering, and to halt the progression of disease have been of real and dramatic benefit to mankind. But recent events have called into question with increasing frequency the propriety of the ways in which some of the advanced techniques in medicine are being applied. The Quinlan case in New Jersey—well known to us all—exemplified the dilemma facing doctors and the rest of society.

Too often, the means and the ends become confused. The impressive techniques of medicine sometimes seem to become an end in themselves. When that happens, the purposes of medicine—to improve the quality of life, to relieve suffering, to improve the effectiveness with which people function in society, and—most important—to enable people to live a self-sufficient, dignified life, and to die a dignified death—are sometimes forgotten in our haste to apply the techniques designed to achieve those purposes.

An article dealing with this danger which recently appeared in the Los Angeles Times, deserves the attention of the Members of the Congress, and of the general public. It was written by Mr. Max Ferber, a talented and sensitive writer living in Los Angeles. It deals with an intensely personal experience, yet one shared by us all. I believe it will speak for itself.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

I CRIED, NOT FOR IRMA, BUT FOR THE IGNOMINIOUS WAY OF HER GOING

(By Max Ferber)

Irma finally died and now, at last, I can stop crying.

It was six months ago that we first drove to the hospital. The internist was concerned about my wife's occasional spotting. The gynecologist, apprehensive about what his examination indicated, suggested a hysterectomy.

After the operation, the surgeon came up to me in the waiting room. His manner was serious. After some preliminary words he said:

"It's terminal cancer."

It's terminal cancer.

It's terminal cancer.

In something of a whisper, I asked, "How long does she have?"

"It's difficult to say. It could be six months to five years."

Now Irma is dead, after six months, at the age of 75.

It was not over her sure death that I cried. It was for the ignominious way of her going: the degradation of the spirit that was once her, the flagellation of her body, the torture inflicted by medical ethics and by a society that values the flesh over the spirit.

Irma recovered from the operation. She came home after three weeks in the hospital. During her convalescence she was up and about. She was at the table for meals. We visited friends, attended the theater, dined out. The pills were effective: There was no pain.

I hovered about almost breathlessly. Was this a remission? Were the doctors only mortals who had guessed wrong? Were we witnessing a miracle?

Two months of hope, then began the journey to the other shore. Irma was tired. Tempting her to eat was futile. Sedation was needed on a regular schedule. In vigils through the night, we reacted to a gesture, kept adjusting her pillow. Terminal cancer: Please let her not have pain.

In time, the burden of caring became too great, even with family members sharing the shifts in keeping vigil: morning, afternoon, evening to midnight, midnight to morning. Exhaustion set in—physical, mental, emotional. The only alternative was the hospital again.

Her doctor agreed, and Irma was taken there by ambulance. The care would be professional and the rest of us could get some sleep. At any hospital, the dedication is heedlessly to prolong life. No, not just to prolong life but to do so by using ingenious devices that not only measure the semblance of life but also confirm that the machinery itself is functioning right.

Our family doctor had attended us for 40 years. He had been at my side when I had my heart attack. He had hovered over my boy when peritonitis struck. He had watched my daughter grow to maturity. We had an understanding.

It was not difficult to have an understanding. "There are to be no heroic measures," I said. "I just don't want her to have any pain."

"I understand," he said.

I understood and he understood, but it was not to be.

The first 10 days in the hospital was a time for gratitude. The nurses were kind and compassionate. Medication was given as needed. Irma's bed position was changed on schedule to prevent bed sores and to provide comfort. Knee pads were supplied to protect against bruising. A tube hung from a bedside stand for intravenous feeding.

Irma was not aware of the world—but she was comfortable. There was no pain.

Each day I came, watched, wondered—dulled to what was taking place, but grateful to the nurses for their concern and for the physical rest they made possible for me.

One morning of the third week, I entered the room and was startled. The intravenous tube had been removed from her arm. Instead a tube had been inserted in Irma's nose. She was being fed through her nose.

She lay spreadeagled in the bed, her hands tied to the rails. I asked why this had to be. "Because," the nurse said, "she was pulling out the tube, and it's painful to reinsert."

Everyone was considerate. The nurses changed her position every two hours, retying her hands to the rails. They provided pillows to support her changed position. I saw her that evening, on her side, tied down for immobility. Only her fingers twitched.

That night, at home in bed, I tried the various positions I had observed Irma take. I could hold each position for only 15 minutes, having to shift to relieve the tension, to release the straining of my muscles. But it was all right. Irma's position was being changed every two hours. She had no pain.

In the fifth week, a catheter was introduced to catch her urine. Now the chemicals that dripped through the tube inserted in her nose passed through her body and emptied efficiently into a pouch hanging at the foot of her bed. In this way Irma was being kept alive. I paled at the sight.

The sixth week showed a change. Irma looked better: There was a flush in her cheeks. I wondered what this could mean.

"We pulled her through pneumonia by removing the mucus from her lungs," they said. "She is resting more easily now."

How thoughtful. The thought came to me: Irma will make a good-looking corpse, thanks to medical science.

Through it all I was led to believe—by comments, by shrugging shoulders—that it would be a matter of only two weeks. Always two weeks, by increments. At the end of three months, I was told Irma could no longer be kept in the hospital: She would have to be moved to a sanitarium.

That night I went to look over the sanitarium they had chosen. I wanted to know what it would be like, this final resting place. I was disheartened. The place was dim; it seemed gloomy and desolate.

The next morning, as usual, I stopped at the hospital. Her room was empty. I was momentarily in shock. *Had it happened?*

No, she had merely been moved to the sanitarium, earlier than I had expected. I hurried down to my car and drove there. In daylight it looked cleaner and more efficient than it had by night. There was movement everywhere—in wheelchairs, in shuffling bodies negotiating the corridors, in bustling nurses and aides, in beds being rolled about, in calls and commands coming through the loudspeakers.

I found the room where Irma was imprisoned. Yes, the word was inescapable. She was receiving the same care and attention as in the hospital. Again the tube was inserted in her nose, again the catheter hung at the foot of her bed, again her hands were tied to the bed rails.

While squirming, Irma had shuffled off the sheets and was lying nude. *Pitiful.* I covered her and kissed her forehead.

The nurses, again, were kind and compassionate. Sedation came on schedule. *Irma was suffering no pain.*

Another six weeks passed.

Then, at least, I was privileged to watch Irma being ferried across the River Styx. It had been a long journey, not because the river was wide—from where I stood, I had long since seen the opposite shrouded shore—but because the manmade current was almost irresistible. The force of public opinion, of medical and legal ethics, had ran furiously, almost vengefully, resisting Irma's passage.

As I sat, patiently watching, I saw her finally reach the other shore and disappear into the mist of infinity. Her trials were over. It was Saturday, exactly 11:17 a.m. Now society had claimed its last ounce of flesh, and after a while I could stop crying—I had run out of tears.

I left the sanitarium. As I drove away, a seething anger swept over me. It was a fetish, nothing less, for society to worship the flesh while it destroyed the spirit.

Why had Irma been subjected to the degradation that made a mockery of living? What does society want, and in heaven's name, why?

The anger has not left me. It will consume me as long as I live. Why are those who value living so insensitive to dying? In memory of Irma—for all the Irmas of this world—I make a simple but heartfelt plea: Let us rise, all of us, to defend the defenseless body against the mawing machine.

SUBCOMMITTEE REPORTS ON NASA'S TECHNOLOGY UTILIZATION PROGRAM

Mr. MOSS. Mr. President, the Subcommittee on Aerospace Technology and National Needs of the Committee on Aeronautical and Space Sciences recently completed hearings on NASA's technology utilization program. The chairman of that subcommittee, the Senator from Kentucky (Mr. FORD), sent the full committee a letter describing the findings and conclusions resulting from those first hearings.

This is the first time that the Committee on Aeronautical and Space Sciences has had subcommittees. I believe that this report from the subcommittee demonstrates that Senator FORD is exercising highly commendable leadership in his position as chairman. I have no doubts that this subcommittee will continue to provide the committee invaluable assistance in its legislative oversight of NASA.

I ask unanimous consent that the letter from Senator FORD be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C., *November 21, 1975.*

Hon. FRANK E. MOSS,
Chairman, Committee on Aeronautical and Space Sciences, Washington, D.C.

DEAR TED: The Subcommittee on Aerospace Technology and National Needs recently completed three days of hearings on NASA's Technology Utilization Program. The purpose of this letter is to relate to the Senate Committee on Aeronautical and Space Sciences the conclusions and recommendations which have resulted from these hearings.

I might note that the selection of this topic as the first to be taken up by the Subcommittee was not arbitrary. The function of the Technology Utilization program seems to be the application of aerospace technology to current problems, some of which are national in scope. It would appear to be a most suitable beginning for the Subcommittee.

CONCLUSIONS

1. NASA is attempting to make all the technology it has accumulated available to the general public. There are no untapped storerooms of technical reports lying dormant through any neglect on NASA's part. The information is there for the asking.

2. There are 43 Federal agencies or subdivisions of agencies all attempting to transfer technology to the private sector. Nevertheless, there is an intergovernmental effort underway to coordinate these services through the Federal Council for Science and Technology. We are encouraged by their compilation of a Directory outlining the technology transfer tasks of these agencies.

3. The budget of NASA's Technology Transfer program has been a constraint on program objectives.

4. The Technology Utilization Program has concentrated on stimulating awareness of the program through publications. Such concepts as the "Tech Briefs" are commendable innovations.

COMMENTS AND RECOMMENDATIONS

1. There seems to be two steps to getting the private sector involved in using NASA's technology. First, there is the problem of awareness. NASA's Technology Utilization program seems to be doing an excellent job on this through its publications. The concept of "spin-off" from the space program is now nationally recognized, we think. We expect that the National Space Institute, of which you are a member of the Board of Governors, can be of service here. In the hearings, I suggested that NASA should conduct a poll to determine the awareness of the public, and especially the business community's awareness of NASA's technology utilization program. We would appreciate NASA informing the Subcommittee of the progress made in this direction.

The second necessary element is a willingness on the part of the users to involve themselves with NASA's Technology Utilization program. The Subcommittee staff has had some discussions outside of the hearings which suggest a problem exists in this area. There appears to be among potential users some skepticism over the motives of the program and a fear that the basic purpose of it is public relations and not hardcore technology transfer. While the hearing record would seem to contradict this criticism, really all that matters is what the user community believes. For example, one manager of a very large research and development budget for a major corporation, considered participating with NASA and decided against it for just this reason.

Obviously, stimulating user awareness of the Technology Transfer Program by publicizing examples of successful spin-off from space technology is a necessary activity. But we want to alert NASA to this problem of user reluctance and urge them to find the means to counteract it.

2. The Subcommittee believes that the transfer of NASA technology could be accelerated by including wherever possible appropriate data in the engineering design manuals and in textbooks, especially medical textbooks. We believe that the technical societies could provide invaluable assistance to NASA in this effort.

Therefore, I am writing a number of technical societies and the American Medical Association to ask for their cooperation with NASA in this matter. The Subcommittee would appreciate any comments NASA may have about this recommendation and progress reports on how they plan to implement it.

3. The Subcommittee is encouraged by NASA's new coordination with the Small Business Administration. We applaud any NASA efforts to expand the assistance to small business.

4. The Subcommittee is concerned that state and local government is not getting sufficient attention from the Technology Transfer Program.

a. The hearing record delineates the difficulties of working on urban problems with local government. We would encourage NASA to press harder in this direction. Perhaps NASA could use a similar approach to that taken in their experiment with small business, i.e., reducing the user fee.

b. In future NASA programs aimed at providing state and local government with technical expertise by loaning NASA personnel to them, we would hope that these people will be engaged in unique activities demanding a very high caliber of expertise. Although these programs are important, they should not be allowed to degenerate into a situation in which the Federal government is merely bearing the cost of providing additional employees for state and local government.

5. We recommend that NASA attempt to adopt in their procurement policies the principles of the Experimental Technology Incentives Program of the National Bureau of Standards. We think NASA's current approach to technology utilization can be complemented by the ETIP principles. For instance, when NASA procures office equipment, they could purchase equipment having the lowest life-cycle cost.

6. We believe that NASA should receive a moderate increase in authorization funding for the Technology Utilization program. The realities of the constant level budget prevent us from advocating any large additions to the program's budget.

The Subcommittee is most appreciative of the full cooperation afforded us by George Low, Edward Z. Gray, Louis N. Mogavero, and the other NASA personnel. We look forward to a continuing close relationship with NASA in the ensuing hearings which the Subcommittee will hold.

The Subcommittee submits this summary of conclusions, comments, and recommendation to the full Committee in the hope that it will provide some assistance in the Committee's legislative oversight of NASA.

Sincerely,

WENDELL H. FORD,
Chairman,
Subcommittee on Aerospace Technology and National Needs.

NOMINATION OF THOMAS VINCENT LEARSON AS AMBASSADOR AT LARGE AND SPECIAL REPRESENTATIVE OF THE PRESIDENT FOR THE LAW OF THE SEA CONFERENCE AND CHIEF OF DELEGATION

Mr. PELL. Mr. President, I believe the nomination of Mr. Thomas Vincent Learson as Ambassador at Large and Special Representative of the President for the Law of the Sea Conference is an excellent one.

Mr. Learson, who recently retired as chairman of the Board of IBM, has the executive background and outstanding and experienced leadership qualities necessary to advance this country's interests in the most effective manner possible.

I look forward to working closely with Mr. Learson in his new capacity and in my capacity as chairman of the Senate Foreign Relations Committee's Subcommittee on Oceans and International Environment.

I wish Mr. Learson all the best for success at the Conference and would also like to commend the President and the Secretary of State for their wisdom in nominating a man of the stature of Mr. Learson for this very important post, particularly as the Law of the Sea Conference is entering a critical phase.

HEARTFELT TRIBUTE TO COACH RALPH JORDAN OF AUBURN UNIVERSITY, ONE OF FOOTBALL'S GREATEST LEGENDS

Mr. ALLEN. Mr. President, with the close of the regular 1975 college football season Alabamians and sports fans throughout the United States are bidding farewell to one of the most successful and most beloved coaches to ever take part in the game.

By his own decision, announced a year ago, James Ralph Jordan, known to millions as Shug, is stepping down as head football coach of Auburn University after a 25-year career during which he produced not only an enviable record, but also he set an example of sportsmanship and personal living that have had great influence in establising the highest ideals in American sports competition.

One sports editor has correctly described Shug Jordan as having that "courtly touch of class which has always been his trademark in times of prosperity or of adversity."

Another of America's alltime great college football coaches, Paul "Bear" Bryant, whose University of Alabama football teams have squared off many times against Coach Jordan's Auburn Tigers, said of his close personal friend:

> It is possible to hate a team for a day and to love a coach for a lifetime.

Mr. President, each of us is best judged on Earth by our colleagues; by our contemporaries; by those we work with and work for. Football coaches are being judged constantly by editors of newspapers, periodicals, and the broadcast media as well as by the fans. There are few more demanding judges than those who wield the pen, and many writers throughout the years have rendered their decisions about Coach "Shug" Jordan. There has been great unanimity among them in viewing him as a man of character, a man of strength, a man of integrity, a man all of us admire and hope our children will look up to and emulate.

I wish Coach "Shug" the very best as he joins me in the stands as a fan and supporter of Auburn University. There is no way of referring to his future as a time of retirement, because his ongoing projects, his largely unpublicized contributions of energy, time, and money to the cause of America's young people and to his State and his Nation will never let him be idle.

Mr. President, much has been said and written about Coach Jordan. Sports columnists throughout the Nation have written of him; editorials have appeared; and he has been described by those who have worked with him for the past 25 years. Many of these comments were printed in "Auburn: Football Illustrated" on November 8, 1975. I ask unanimous consent that these articles and comments about this outstanding American be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Football Illustrated]

James Ralph Jordan—Head Football Coach, Auburn University, 1951–75; Trustee, Auburn University, 1976

Born: September 25, 1910.

Education: Selma High School, 1927; Alabama Polytechnic Institute (Auburn), 1932.

Athletic Participation: Selma High School, football, basketball, baseball, track (set Alabama high school shot put record in 1927—39′6″). A.P.I. (Auburn) three sport start at Auburn, 1929–32, football, basketball, baseball. Voted outstanding senior athlete by teammates, 1932. Led Southern Conference in scoring, basketball, 1932. Left-handed pitcher, winner of Dixie Conference championship game over Florida, 5–3, 1932.

Primary College Affiliations: Spades, Blue Key, Scabbard and Blade, Theta Chi social fraternity.

Military Experience: U.S. Army Corps of Engineers, 1942–45; Served in all three theatres and in four major invasions, North Africa, Sicily, D-Day, and Okinawa. Purple Heart recipient.

Coaching Experience: Assistant football coach, head basketball coach, Auburn, 1932–42, 45–46. Assistant football coach, Miami Seahawks, 1946. Assistant football coach, head basketball coach, Georgia, 1946–50. Head football coach, Auburn, 1951–75.

Primary Coaching Honors and Accomplishments: First SEC Coach to win 100 games at his Alma Mater; Third winningest active coach in total victories (172). Third winningest active coach in percentage (20 or more years). Only active coach to have a stadium named for him (2) Ralph Jordan Track and Field (Selma), Jordan-Hare Stadium (Auburn).

Member, Alabama Academy of Honor; Charter Member, Alabama Sports Hall of Fame; National Coach of the Year; SEC Coach of the Year (Several Times). Member Omicron Delta Kappa and Phi Eta Sigma.

National Championship; Conference Championship; 12 bowl teams; 20 All-Americas; Heisman Trophy winner; Outland Trophy winner. Only active coach in the Southeastern Conference who was coaching when the conference was formed in 1933.

Family Information: Married Evelyn Walker of Columbia, S.C., three children, Susan, Darby, Ralph Jr., three grandchildren.

Destiny's Strange Smile

Destiny has strange ways of smiling on a man.

This was supposed to have been a great Auburn year, a year filled with victories, big bowls, maybe even championships. It hasn't been that kind of year.

By his own admission, this has been the most miserable year Ralph Jordan has ever coached. "It has been very trying, exasperating, dismal . . ."

Yet, despite it all—and this is where destiny smiled—this may have been Ralph Jordan's finest hour. The disappointment, the tragedy, the utter frustration of it all never overwhelmed him.

He has always said that you learn something from defeat, that the true character of a man comes out when things aren't going his way. It fell his lot to prove that in this, his final year of coaching. He has been tested. He has been tried. He has not been lacking.

As John Pruett, sports editor of *The Huntsville Times*, has written, through it all, Ralph Jordan has maintained that "courtly touch of class which has always been his trademark in times of prosperity or of adversity."

This year, 1975, has been a disappointment, but it is nothing more than a bump on Ralph Jordan's long road of success, a road that began in 1928 when he came to Auburn with nothing more than hope and the promise of a job hopping tables at a local boarding house. His career is analogous to the American Dream. One bump on the road, no matter how severe that bump, will not dim his magnificent accomplishments listed elsewhere in this publication.

From an Auburn stand point, a victory today would be a fitting way to conclude such a career. It may or may not come to pass, but no one has given up hope or resigned themselves to defeat. That is not the Auburn way. That is not the Jordan way.

For Alabama, today brings a different story, an entirely different perspective. Nothing could be worse than a loss to Auburn. There is still a national championship to be won and a bowl game to be played.

The Crimson Tide will be giving it all they have today to whip Auburn and Ralph Jordan. Their only tribute to a retiring foe will be the ferocity of their competition. This is as it should be.

But when today's game is over, when the winners have been duly honored and the loser duly recorded, persistent strength of character will remain.

Winners and losers salute it.

As Paul Bryant said recently, "It is possible to hate a team for a day and to love a coach for a lifetime."

Shug Jordan is such a coach.

He is such a man.

A Man for all Seasons

Sports Editors of papers that cover Auburn regularly were asked recently what they would remember most about Ralph "Shug" Jordan. Here, in part, are their answers:

Jimmy Smothers, The Gadsden Times: "Coach Jordan is a giant of a man, yet, he is able to walk without stepping on others. It is easy for the common man to reach out to him—to cry with him in sadness and to rejoice with him in happiness. Such was the case when he walked the deep valley of cancer and when he floated to Cloud Nine after 17-16. He was never too big for the smallest of us and never too small for the biggest."

Paul Cox, Opelika-Auburn News: "Never—and I would like to stress the word never—did I call Coach Jordan that I did not get a story of some kind. He went out of his way to give something nobody else would have. It didn't matter if Auburn had won, lost, or tied the week before, Coach Jordan always returned his calls and he was always eager to help."

Billy Mitchell, The Decatur Daily: "I'll always remember my first interview with him. I was the true 'cub reporter,' not yet 20 and so nervous I couldn't hit the note pad with a pencil. This Coach Jordan obviously recognized. He put me at ease by asking a few personal questions—such as where I grew up, went to school, did I enjoy sportswriting, etc. The general conversation soon led into a smooth question and answer session."

Ron Barefield, Montgomery Advertiser: "What will I remember most about Shug Jordan? Probably the 10 million goose bumps I'll get at today's game when he is introduced for the last time. Or the tear I'll have to fight back when I realize that it is his last game. The quality I appreciate most is his ability to answer a question. Most coaches give you rhetoric, but Coach Jordan always gives an answer."

Dennis Smitherman, The Mobile Press: "Never, in 28 years of sports writing, have I ever come across a finer gentleman than Coach Ralph 'Shug' Jordan. The great Auburn coach is just as cooperative, just as friendly, just as helpful today as he was when he first started coaching the Plainsmen 25 years ago. It has never been any different in all that span of time. A true gentleman of the Old South, a warm, very human person, a wonderful coach. 'Shug' exemplifies all that is best in major college football. A superior coach, a super gentleman."

Charlie Cox, The Auburn Bulletin: "I almost backed out of my first interview with Coach Jordan. What could a young sportswriter for the school paper ask that wouldn't be repetitious and unimportant? As soon as I walked through his office door, he took off his glasses and shook my hand. The whole time he looked me square in the eye. He called me by name and told me funny stories. He did not hesitate in answering my questions or telling me things that were not to be printed because there was a feeling of trust in the air. Shug Jordan is a fine man first and a great coach second. He takes time out for people, even rookie sportswriters."

Carl Stephens, WSFA-Television: "Coach Jordan has had many 'Saturdays to Remember' and in my 13 years as host and producer of 'The Auburn Football Review,' I have had many 'Sundays To Remember.' It didn't take him long to make an avid Auburn fan of this Alabama graduate. I will always remember his gentle humor, and believe me, he is the same person in private as he is 'on camera.' Many people think a Sunday with a coach who has lost a crucial game would be an unpleasant experience, I know the losses upset him greatly, but it never showed in his television performance or his dealings with me and the WSFA-TV crew."

Gary Sanders, WAPI-TV, Auburn play-by-play announcer: "When I came to Auburn in 1968, it was a rough time for Coach Jordan personally. The cancer story had just broken, Coach had a badly sprained ankle, and had come down with pneumonia . . . all in the space of a few weeks, and here I come, the new play-by-play man. Emily Foster, his secretary, directed me to Coach Jordan's home for a recording session, where I found the man in his pajamas . . . confined to his home by doctor's orders. I've always remembered the warmth and hospitality that Coach greeted me with that day. He's offered words of encouragement on many occasions. As he coaches his last Auburn game today against Alabama, I know that above the memories of blocked punts, Sullivan to Beasley bombs, or Gator Bowl wins over favored Colorado and Texas will all take second place in my mind to the man himself."

John Pruett, The Huntsville Times: "I'll remember Shug Jordon for what he is, for the old-fashioned values he has always stood for, for the courtly touch of class which has always been his trademark in times of prosperity or of adversity. I think it's fair to say that Auburn University has never had a more dedicated alumnus or devoted servant. Personally, I'll remember the things such as dedication and devotion even more than the many golden Saturdays of autumn which this man Jordan has given us these 25 memorable years."

Bill Easterling, The Huntsville Times: "What I remember most, and what I appreciate best, are his total honesty and wit. These traits to be admired in anybody, especially in a person who lives in the glare of constant publicity. James Ralph (Shug) Jordan is one of my all-time favorite people, and his passing from the scene of my work will create a gap impossible to fill."

Jesse Outlar, The Atlanta Constitution: "I've known Shug since he was at Georgia. He's always been the same man, whether he was an assistant coach at Georgia, national champion, or as he is today, bowing out in a losing season. I've always called him a man for all seasons because he never changes. He is one of the very very few people I've met in 30 years of covering sports whom I've never known to lie. He's a true testimonial to college football."

Furman Bisher, The Atlanta Journal: "His solidness has always appealed to me. No matter what, in the throes of probation problems or in the times when he was national champion, there was never any noticeable change in the man. He has worn his glory well and he has worn his sack cloth and ashes well."

Alf Van Hoose, The Birmingham News: "I'll remember the man's personality, his mannerly, cavalier demeanor, but underneath, I could always detect steel. He could not merit the admiration and respect of players and coaches unless there was iron underneath. He's been great for Auburn. He's been great for the Southeastern Conference. And he's been super for newsmen privileged to work with him for 25 years."

Clyde Bolton, The Birmingham News: "My main impression of Coach Jordan was his unfailing politeness under all circumstances. It is not an affected thing. It is natural. He is a true Southern Gentleman and there aren't many of them around anymore. He always bends over backward to help a writer. He is the most quotable coach I've ever covered, and I'm looking forward to many more years of friendship."

Bill Lumpkin, The Birmingham Post-Herald: "It was during spring training, 1968. The Auburn team was finishing up a routine practice, when the head coach casually eased over to the sidelines and inquired of my plans for the evening. 'Bill Beckwith and I are going to the Elks Club for dinner,' I replied. Jordan paused a moment, and I remember his words vividly. 'Would you object if an old coach tagged along?' There was talk of retirement even then so the conversation finally got around to that topic. 'Well,' said Jordan, 'I guess everybody has to think about it when they reach my age. But I have two freshmen coming in. Their names are Pat Sullivan and Terry Beasley. They're going to be great. . . .' Three years later, I asked him again, he said the same thing, 'We've got this freshman coming in. . . .' That night at the Elks Club, some people from Dadeville began telling Auburn jokes. Coach Jordan joined them and his laugh was the heartiest of them all. His laughter, his hope, his optimism. This is the Ralph Jordan I remember the fondest."

Phillip Marshall, The Birmingham Post-Herald: "My fondest memory of Ralph Jordan? How do you pick one out of so many? For me, it would have to be collective. One word could sum it all up. Class. No matter what the situation, he has never been too busy or too tired. He always had time for an adoring kid and he's had time for a sportswriter in victory or defeat. Particularly in the last two years of covering SEC football I have come to feel close to Ralph Jordan. No matter what level of greatness it attains, Auburn football will never be the same."

Mike McKenzie, The Tuscaloosa News: "He could talk about something beside football and X's and O's. He could talk about life and make you feel like he's a whole person. I'll remember him for hating Astro-turf, and for saying 'You're So Right Carl.' He is a remarkable man who could not only survive, but build his own esteem, his own legend, in the same state competing with a man with a more aggressive national image."

Sam Adams, Sports Editor Emeritus, The Alabama Journal: "I shall always remember Coach Jordan's ability to achieve national recognition and great success as a football coach without downgrading his players in public or alibiing in defeat. When disciplinary action against a player was necessary Shug has let the details remain locked in the walls of his office or the dressing room. Those who have asked for a second chance have gotten it and went on to become highly respected individuals. A defeat has always been bitter for Shug, but no one has experienced adversity with more grace. In triumph, he is always lavish in praise of the opposition. Shug Jordan is a man of great character and he shall be missed."

There were others too. *Leroy Paul,* the Carl Stephens of 1954–61, remembers the 1959 loss to Tennessee, the one that snapped Auburn's 24 game winning streak. "Underneath Coach's calmness and dignity," recalls Paul, "there was a fierce desire to win. He hated to see that streak come to an end, but he handled it in a very admirable style."

Mike Globetti, The Huntsville News, remembers the way Jordan cared for his boys, "from Vince Dooley to Rick Neel, he cared for them in a much needed father-like manner."

Earl Hutto, the Carl Stephens of 1961–62, remembers Coach Jordan as a very warm person, a person who made my job easy. One of Jordan's greatest compliments according to Hutto, came from an Alabama grad who said, "If I had a son, I'd want him to play for Shug Jordan at Auburn."

Harold Stout, The Florence Times, says knowing Coach Jordan has been a warm and rewarding experience, one he'll never forget.

Alan Mitchell, The Alabama Journal, remembers the day Coach Jordan retired. Despite the activity, the confusion, he still had time to treat a young sports editor as an old friend.

As the roll was called, each of Alabama's sports editors, stepped forward to tell what they would remember most about Shug Jordan. All said they would remember the coach and the man. All said he would not be forgotten.

RALPH JORDAN—AS OTHERS SEE HIM

The task is almost impossible—to describe a 25-year association with a man—but that is what seven members of the Auburn athletic staff were asked to do this weekend. Each of the seven has been with Coach Ralph Jordan all the way, from 1951 through 1975. They were asked what they would remember most about the man and the 25 years.

Gene Lorendo, Chief Recruiter: "He's the perfect gentleman in the true sense of the word—Gentle Man. I've spent over half my life with him (four years at Georgia, 25 at Auburn). Naturally he has been a great influence on my life. He's understanding and compassionate. I've never known him to hit the panic button. He always reasons logically and comes up with the right answers. He always gives the benefit of the doubt. He is a trusting man and never lets his personal feelings affect his thinking. . . ."

Milton Thurston, Equipment Custodian: "I'll remember seeing him after a game, signing autographs for people. It's a real joy seeing him as happy as he was after the Georgia Tech game this year. I hope to see a lot more smiles. He greets all the people, young and old, friends and strangers. He's never too big to meet people. It's been the same for 25 years. . . ."

Emily Foster, Personal Secretary: "His concern for others. That's what I'll remember. He's so thoughtful of other people, especially children. Just today he sent tickets to a boy who is going to die and to a boy who is going blind. Their greatest desire was to see Auburn play, and Coach Jordan made their dreams come true. That's the side of him I'll always remember. . . ."

C. L. "Shot" Senn, Academic Counsellor: "I was here before he came. It was a very disappointing situation. Coach Jordan came here and lifted things. He picked us up completely off the ground. I'll never forget that first meeting with the team in Graves Amphitheater. Everybody looked the same to him, he said. He said he was going to do the best he could and asked them to do the best they could. 'We're gonna go to work,' he said, 'and I think we'll come through.' He really lifted us up. . . ."

Joe Connally, Assistant Coach: "Coach Jordan has always had comfortable working conditions. He is a fair man. He never put the kind of pressure on us that would keep us from doing our work. I was real lucky to join his staff so soon. I've stayed because it's better here than any situation I could have moved to, Auburn, the town, the people, and working for a guy like Coach Jordan. . . ."

Bill Beckwith, Business manager: "The thing that impresses me most is the way he came in in 1951 and organized Auburn alumni. Auburn has always been famous for its spirit, but in the two previous coaching regimes—I was here for both of them—Auburn alumni were running in all different directions, and they were not fighting toward one goal. Coach Jordan brought us together. I think that is the reason Auburn has been able to compete with the state university. Every state has two schools—the state university and the other school—but Auburn is probably the only school in the country to compete with the state university and finish in the top 10 or 20 so many times. I've been through many wins and losses with Coach Jordan and he is the one that cheers me up after a game. He is the one who gives the staff the encouragement to fight harder and to do better, particularly after a loss. The ability of a school in an isolated population area like Auburn to sell 42,000 season tickets annually regardless of the opponent is a tribute to Ralph Jordan. . . ."

Kenny Howard, Trainer: "His compassion for players would be the first thing I remember. His willingness to give a guy a second and a third chance. His humaneness would have to be one of the great things about him. His understanding compassion for his fellow human beings. You think of a football coach being a rough and tough kind of man. Not Coach Jordan. He is just the opposite. I'll remember the shock of finding out he had cancer, the way he bounced out of it, the way he fought. I'll remember the exuberation of the Ole Miss game in the 1970 Gator Bowl. Coach Jordan couldn't make the trip because of an emergency appendectomy. After the game Spence McCracken (center) called him from the dressing room. He didn't say, 'Hey Coach.' He said 'Hey, Man.' That's the kind of close relationship Coach Jordan has with with his players and coaches."

Jordan-Hare Stadium

Jordan-Hare Stadium loses part of its uniqueness at the close of this football season.

It is currently the only college stadium in the country named for an active coach. When Ralph Jordan retires early in 1976, this claim will be gone, but the contributions of the two men—Jordan and Hare—will live on, perhaps forever.

Ralph Jordan is Auburn's most successful coach. Prior to his return in 1951, Auburn won three games in three years. In only three years, Jordan had his alma mater in a bowl again. His 1957 team won Auburn's first National Championship. Going into his final season, Jordan teams have won 172 games. A coach would have to win 12 games a year for 14 straight years just to approach Jordan's record. Following his retirement, Jordan will continue to serve the University as a member of the Board of Trustees.

Cliff Hare was a quarterback on Auburn's first football team, in 1892. He was later dean of chemistry, chairman of Auburn's athletic committee, and President of the Southern Conference. His philosophy on athletics is inscribed on the Cliff Hare Award, presented annually to Auburn's outstanding senior athlete: "Athletics makes men strong, Study makes men wise, and Character makes men great."

Originally known as Auburn Stadium, Jordan-Hare has grown from an original seating capacity of 7,200 in 1939 to 61,261 in 1975. Three of the stadium's five major enlargements came while Jordan was coach. More than 30,000 season tickets are sold annually and the largest crowd ever to see a game in Jordan-Hare is 64,748 for the Auburn-Georgia game Nov. 16, 1974. Auburn won 17–13.

Auburn Stadium was renamed Cliff Hare Stadium in 1949 and Jordan-Hare Stadium in 1973.

OTA APPROVES ASSESSMENT OF ALTERNATIVES IN U.S. FOOD POLICY

Mr. HUMPHREY. Mr. President, yesterday the Congressional Office of Technology Assessment approved three food assessment projects. Each of these assessments will be useful in providing the Congress with timely information and an objective range of options.

It is essential that the consequences of the application of technology in the areas of food, agriculture, and nutrition be anticipated, understood, and considered in the public policymaking process. OTA's food assessment area is being developed to provide the Congress with adequate, timely, competent, and unbiased information and support relating to the perceived physical, biological, economic, social, and political impacts of technological applications.

OTA, under the experienced and capable guidance of its Director, former Congressman Emilio Daddario, has established itself as a valuable congressional resource. They are able to engage in meaningful activities in order to "provide early indications of the probable beneficial and adverse impacts of the applications of technology and to develop other coordinate information which may assist the Congress." In this regard, OTA's food assessments will:

First, identify existing or probable impacts of technology or technological programs;

Second, where possible, ascertain cause-and-effect relationships;

Third, identify alternative technological methods of implementing specific programs;

Fourth, identify alternative programs for achieving requisite goals;

Fifth, make estimates and comparisons of the impacts of alternative methods and programs;

Sixth, present findings of completed analyses to the appropriate legislative authorities;

Seventh, identify areas where additional research or data collection is required to provide adequate support, dissemination, issues identification, and following of emerging issues.

The three food projects approved underscore the importance of OTA. In order to better appreciate the future expectations of these activities, I wish to share with you some background material on one of these planned assessments; namely, an assessment of alternatives in U.S. food policy. In addition, the OTA Board approved assessments in the food processing and food grading areas.

These requests represent broad congressional interest, with support coming from House Agriculture Committee Chairman Tom Foley; members of the Senate Committee on Agriculture and Forestry, and Senate Select Committee on Nutrition and Human Needs Chairman George McGovern.

Mr. President, permit me to outline our proposal for the development of alternatives in U.S. food policy.

"DEVELOPMENT OF ALTERNATIVES IN U.S. FOOD POLICY"

Over the next few years, Congress is expected to significantly alter our food, agriculture, and nutrition programs in order to more effectively channel the rapidly changing technology in food production, processing, and distribution toward national food policy goals.

OTA's review of the 1,831 bills and resolutions of the 93d Congress in the food, nutrition, and agriculture areas indicated that the most significant issues were:

Export restrictions;

Modifying energy price control and allocation regulations;

Restructuring food aid: Quantities and targets;

Regulating trade in commodity futures;

Providing emergency credit for livestock producers;

Modifying price support and supply adjustment programs;

Regulating the use of agricultural chemicals and food additives;

Exploring numerous rural development issues;

Food and nutrition: Planning, feeding programs, safety, labeling, and education.

Each of these was found to be an integral element of the broad emerging issue of the need for a more coordinated and integrated food policy. The OTA staff concluded that the major issue underlying Congress effort is whether and if so, how to make these program changes within the framework of a range of alternatives in national food policy. The two most significant aspects that must be addressed within this framework are:

First, resource management—both inputs and outputs; and

Second, even-handed concern to post-production elements of the food system, especially those which affect nutrition and health of consumers.

A national food policy must be thoroughly analyzed, well-planned, and implemented by a number of individual programs designed and integrated to assure that adequate amounts of good quality food are readily available at reasonable prices. Responsibility for U.S. food policy must be a joint effort with the Government, industry, the farmer, and the consumer all aware of the real world economic forces, price, markets, and trade.

Goals of a U.S. food policy are rather straightforward, often platitudes such as:

First, provide adequate supply and reasonable price stability to consumers.

Second, assure fair returns to farmers.

Third, provide assured supply for a continuing high level of commercial exports.

Fourth, provide an available supply for feeding program or disaster relief at home or abroad.

Fifth, enable the United States to fulfill its international commitments and attain its objectives in food matters.

Sixth, improve nutrition at home and abroad.

Seventh, develop improved information and evaluation systems to better achieve the above objectives, including effective informational flow back to the American people.

These goals often conflict. Thus, careful and objective analysis is needed to show which groups will share the benefits and which groups will bear the costs. This information is needed by the Congress to make key legislative decisions.

OTA can make a unique and valuable contribution to this effort and provide the Congress with adequate, timely, competent, and unbiased information and support. To meet this demand, OTA will organize its food assessment activities, both those at the general policy level and those at the specific program level, in the four functional components of the food system: First, production—including input requirements: second, marketing and processing; third, retail distribution; and fourth, consumption and nutrition.

Programs, policies, and technological applications within each of these four areas will have physical, biological, economic, social, and political impacts at all levels of U.S. society: farmers, industrialists, consumers, and policymakers. OTA will provide Congress with advance indications of the probable beneficial and/or adverse consequences of proposed policy actions as well as the consequences of the changing use patterns of technology and techniques.

The first step will be a detailed planning phase from December 1975 to May 1976.

To appreciate the specific issues of each of the four key aspects and to help guide in the identification, selection, and evaluation of assessment activities, a rigorous and detailed analysis of existing and emerging issues within each area will be made. This process will involve public inputs and participation from the relevant industry, trade, farm, and consumer groups. A well-structured set of 1- to 2-day workshops, beginning and ending with key congressional staff members, would be carried out in early 1976. The objective is to identify and select key assessment activities, establish an operational mechanism to address specific assessments and assure congressional use of each product.

The workshop will be synthesized for presentation to the Technòlogy Assessment Board for specific assessment approval in June 1976.

This process will identify activities that can be explored to develop and evaluate alternatives for U.S. food policy and expose the impact of adopting such alternatives.

TRIBUTE TO GEORGE McLEOD, EDITORIAL PAGE EDITOR OF TUCSON DAILY CITIZEN

Mr. FANNIN. Mr. President, it is with sadness that I call the attention of my colleagues to the death in Tucson on Monday of George McLeod, editor of the Tucson Daily Citizen's editorial page.

He had served as the editorial page editor for the past 4 years, and for 15 years prior to that he was sports editor of the newspaper. He was a native of Massachusetts and had worked on newspapers in Waterville, Maine, and in Bisbee, Ariz., before he joined the Citizen in 1953.

George McLeod was a very serious newsman, and a careful analyst of the issues which challenge the city of Tucson, the State of Arizona, and our Nation. His columns and editorials were penetrating and fair. He worked diligently to promote public understanding of the problems and the possible solutions.

I want to pay tribute to George McLeod for his outstanding work in journalism and for his contributions to his community and the State. I also extend my condolences to his wife, children, and parents.

Mr. President, I ask unanimous consent that the Tucson Daily Citizen article on the death of George McLeod be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CITIZEN'S EDITOR OF EDITORIAL PAGE IS DEAD AT AGE 49

George C. MacLeod, a respected member of the Tucson Daily Citizen staff since 1953 and editor of its editorial page for the past four years, died of a heart attack at his home last night. He was 49.

A former sports editor of the Citizen, Mr. McLeod earned his reputation as a clear, incisive writer through his columns and stories on the sports pages. That reputation grew and gained him communitywide recognition for his integrity, through his editorials and opinion columns.

Many years ago, a Citizen colleague aptly referred to George McLeod's "keen reportorial curiosity and interpretation of the news."

Mr. McLeod's 23rd anniversary with the Citizen was due next February 1. He came to Tucson after five years as a reporter, two with the Waterville (Maine) Sentinel and three with the Bisbee Daily Review.

Following 3½ years as a sports writer, Mr. McLeod was promoted to sports editor in 1956. He held that position until named an editorial writer more than a decade later.

On October 1, 1971, Mr. McLeod became editorial page editor, a post that also required the day-to-day supervision of the Perspective page and three departmental associates. His own opinion column—often devoted to a penetrating look at state politics—appeared on the editorial page each Friday.

Among a number of journalistic honors, Mr. McLeod was chosen Arizona's Sportswriter of the year by the National Sportcasters.

Born October 26, 1926, in Middleboro, Massachusetts, Mr. McLeod graduated from Middleboro's Memorial High School in 1944 and took his bachelor's degree in journalism at Boston University in 1948.

He was a longtime member of the Society of Professional Journalists, Sigma Delta Chi, serving as president of its Southern Arizona Chapter in 1965–1966, and he was a member of the National Conference of Editorial Writers. He also was a member of St. Michael and All Angels Episcopal Church and the Parent-Faculty Group, Palo Verde High School, of which he was President in 1969–1970.

Mr. McLeod, of 6326 Calle Cappela, is survived by his wife, Mary; a son, George Bruce; a daughter, Phyllis Ann Perceny of Tucson; his parents, Mr. and Mrs. George McLeod of Middleboro, and a sister, Elinor Beacland of New Bedford, Massachusetts.

ST. LOUIS PIONEERS IN WASTE RECYCLING PROGRAMS

Mr. SYMINGTON. Mr. President, through cooperation by industry, government, business, and civic groups, the St. Louis area is continuing to move ahead in utilization of solid waste materials. A $70 million waste recycling project financed and built by the Union Electric Co. will be capable of processing 8,000 tons of waste materials a day by 1977 for use with coal as fuel for generation of power. Not only will this save $10 million worth of coal a year, it will also answer at least a part of the waste disposal problem.

In addition, St. Louis is now setting another precedent by establishing the first industrial waste exchange program in this country. Modeled after a project which began in The Netherlands 3 years ago and subsequently adopted by several other West European countries, the new exchange program was recently announced by the St. Louis Regional Commerce and Growth Association which will serve as a clearinghouse for industrial participants.

The St. Louis Industrial Waste Exchange will be a direct service to industry as well as an environmental protection and resource conservation service of benefit to manufacturers and the general public.

I ask unanimous consent that articles about the exchange program from the St. Louis Post-Dispatch, the St. Louis Globe-Democrat, and Business Week be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the St. Louis Globe-Democrat, Oct. 31, 1975]

RCGA SETS UP AGENCY TO AID WASTE RECYCLING

(By Ted Schafers)

The nation's first industrial waste exchange, designed to help promote conservation on an areawide basis of materials often dumped into landfills or streams for lack of markets, was announced by the St. Louis Regional Commerce & Growth Assn. here Thursday.

The operation, modeled after European operations was described by Harry T. Morley, Jr., executive vice president of RCGA, as an opportunity to help industry directly in finding viable uses of waste products, and also eliminate the danger of polluting the air and waters.

In Europe they are called "Waste Bourses," with the first opening in the Netherlands about three years ago. Today, according to Business Week Magazine, they are operating successfully in Germany, Italy, Switzerland, Belgium, Great Britain and the Scandinavian countries.

A key to the success of the RCGA's new venture is the establishment of a coding system which will protect the identity of participating companies from competitors and from government regulatory agencies, said Morley.

Often in the past companies have been reluctant to advertise certain waste products for sale because a competitor could determine, from the type and volume of the waste material, the composition as well as market volume of final products.

Representatives of state and federal pollution control or environmental health agencies explained they have agreed not to challenge the secrecy system (1) because a product that finds a new market is not "waste" and thus offers no threat to public health and (2) they have no legal authority to demand such information from a service agency of this type.

Morley pointed out that by putting "waste users" in contract with "waste producers", "not only would this serve to reduce the volume of hazardous materials that companies now must spend money to dispose, but would even produce income and thus benefit the public by reducing overall production costs."

Roland C. Marquart, who has long headed up RCGA's Transportation Division, will serve as executive director of the Waste Exchange. Only such materials for which markets have not already been established will be accepted for listing. By paying a nominal fee of $5 per listing, the RCGA hopes to cover mailing and stationery costs.

Each firm will determine whether or not it wishes to reveal its identity to a respondent and it will choose those respondents, if any, with which it wishes to negotiate.

Initial contacts with industries in the metropolitan St. Louis area indicates the Exchange should be successful, said Morley.

Although no estimates were available as to how much industrial waste (other than paper or metal) can be turned into useful new products, spokesmen for state and federal EPA and natural resource agencies estimated that utilization of as little as 10% of this potential would make the project a success.

In Germany alone some 500,000 tons of industrial waste that once was dumped or treated for disposal is now being recovered and put to a useful purpose, it was said.

As noted early this year by Business Week Magazine reporting on the European waste recovery operations, one small German chemical company found itself with 11 tons of waste sodium bromide on its hands. This would have cost $1200 to be disposed legally or a fine of $40,000 risked if dumped illegally. Contact with the Waste Bourse produced a customer who paid $4000 for the once useless material.

Representatives of sponsoring organizations which helped the RCGA establish the new St. Louis Industrial Waste Exchange include Lawrence K. Roos, chairman, East-West Gateway Coordinating Council; Dr. Joseph Eigner, Division of Environmental Quality, Missouri Department of Natural Resources; Curtis Long, Director of Environmental Health, Associated Industries of Missouri; Robert L. Harness, chairman, Waste Exchange Task Force; Morris Tucker and Chet McLaughlin, EPA regional office, Kansas City; and Dale Montgomery, Regional Supervisor, Land Pollution, Illinois EPA.

Program To Encourage Industrial Waste Use

(By Frando J. Webb)

Company A finds it fairly expensive to dispose of a certain kind of industrial waste. On the other hand, Company B use that waste in its operations. Why don't they get together?

"Under our program, they could," says Joseph Eigner, waste project director of the Missouri Department of Natural Resources.

The program is a waste information "clearing house" for the St. Louis area. It is designed to match an industry with a certain type of waste to another that could use the material.

"This is the first time it is being done in this country," Eigner said in an interview last night. "It is based on several models in European countries."

The St. Louis Regional Commerce and Growth Association will administer the program by providing secretarial assistance and a person from the association's staff who will work on the program one day a week.

A number of governmental and environmental agencies have been organizing the program over the last several months, Eigner said.

They include the Illinois Environmental Protection Agency, the East-West Gateway Co-ordinating Council, Associated Industries of Missouri, the United States Environmental Protection Agency and the Missouri Department of Natural Resources.

Under the program, a company that wishes to participate would send in a list of wanted materials or a list of waste materials. The company would then be given a code number. The code would become part of a listing to be sent to purchasing agents and plant managers.

The coding system is to guarantee the company's anonymity, because "some companies, especially chemical firms, don't want competitors to know the specific composition of their waste," Eigner said.

"Each company will have to decide, in the final stages, whether it wants to do business with another company," he said.

Eigner said the system would probably aid small and medium companies. Larger firms already exchange or buy waste, he said.

[From Business Week, Nov. 10, 1975]

The First U.S. Waste Exchange

Like most other chemical companies, Mallinckrodt Inc., a supplier of specialty chemicals, seeks ways to turn its spent materials from an expensive waste disposal problem into a profitmaker. The company has had a small measure of success: For example, it found that it can send waste methanol from one of its chemical processes to a jobber who resells it for use as an antifreeze agent in windshield washer solutions. But it is still stuck with up to 10,000 gal. per month of off-grade solvents and equally prodigious quantities of other troublesome substances that are begging for markets.

If Mallinckrodt were operating in Europe, it would have already contacted one of the many "trash bourses" there that bring together potential sellers and buyers of industrial wastes (BW–May 12). Up to now, however, there has been no similar setup in the U.S. But now a joint Missouri-Illinois task force of volunteers has initiated a similar waste exchange in St. Louis to help companies such as Mallinckrodt to find not only buyers for their wastes but also cheaper sources for their own raw materials. Says Robert L. Harness, a Monsanto Co. environmental control engineer who heads the task force: "Its sole purpose is to help individuals or industries find a sales outlet for waste materials that have no readily established market."

STARTING SMALL

Like the European exchanges, the St. Louis exchange will run on a low budget. Starting at yearend, the St. Louis Regional Commerce & Growth Assn. will publish quarterly a list of types and quantities of materials that are available or being sought. A company will pay $5 for each listing of a material. The company's name, however, will not be published. The association will field inquiries and bring interested parties together to let them arrange their own sales.

The Environmental Protection Agency is watching the St. Louis experiment with great interest. The agency is sufficiently impressed with the operations of European trash bourses to finance a study to analyze the potential for such projects in the U.S. "We see the waste exchange concept as one mechanism that could decrease the possibility of improper disposal or careless handling," says Christopher H. Porter, an EPA environmental engineer.

The St. Louis organizers are being careful not to oversell their exchange. The European trash bourses generally have managed to bring buyers and sellers together for about 25% of the bids and offers that are made to them. But Joseph Eigner, hazardous waste project chief for the Missouri Natural Resources Dept. and a leading proponent of the exchange, estimates that a 10% to 20% "success rate" is about the best to hope for in the U.S., where industry is less concentrated than in Europe.

Industrial participants also have reservations. Mallinckrodt, for example, will back off if the program becomes a "bureaucratic boondoggle" or exposes the company to liabilities, notes Nobel Robinson, its director of environmental affairs. One concern: a high frustration index caused by too many offers and too few bids, he says.

RIGHT DIRECTION

For the most part, though, optimism outweighs such fears. Monsanto's Harness says that most of the exchange listings will probably be chemical wastes or metallic sludges and that in spite of the active participation of such giants as Monsanto and McDonnell Douglas, the major users will be smaller companies that are not able to find buyers on their own.

Most important to many of the participants, however, is the symbolic value of the exchange as a profitable way out of pollution control problems. Says Harness: "The exchange is an obvious step in the right direction to conserve resources."

ERDA

Mr. BAKER. Mr. President, I am happy to commend the Senate in general today for their overwhelming passage yesterday by the vote of 80 to 10, of the Senate-House Conference Report 94–514 "authorizing appropriations for the Energy Research and Development Administration." This particular piece of legislation which emanated originally from the House under the number H.R. 3474, will play a meaningful role during the next 15 months in assisting America in her march toward energy sufficiency.

I am particularly grateful for the leadership of Senators Jackson, Pastore, and Montoya, on the other side of the aisle, in regard to this matter; while I administered Republican interest in the bill.

In a time of national economic undulations and energy shortages, the action taken by the Senate is particularly noteworthy. For America to become energy independent, even in the distant future, will require exploration and development of all energy resources now available and known to us, both nuclear and nonnuclear. In that light, there are several areas of this bill that I would like to highlight because of their particular interest to me. Although time will forbid my discussing each of them as fully as I would like, I believe in later discussions of American energy policy, each of these is worthy of serious attention.

While I have been most closely associated with the nuclear section of this bill because of my role on the Joint Committee on Atomic Energy, I congratulate the Senate for their efforts and financial authorizations in the nonnuclear areas of this bill. Particularly interesting are the large increases in authorizations in the areas of solar and geothermal development. While the immediate social benefits of these energy forms are probably still a couple of decades away, it is imperative that we do all within our power to increase rapid movement toward reasonable commercialization of these energy forms.

In the nuclear section of the bill, the section with which I am most familiar and was most intensely involved, there are several areas that demand public attention. Most of the increases in the ERDA budget amendment relate to programs which were considered and, in some instances, emphasized by the Joint Committee during the authorization hearings.

The increases are primarily in the areas of: First, $99.5 million for increased electric power costs for the operation of the Government's gaseous diffusion enrichment plants; second, $1.9 million for upgrading the safeguards for the protection of nuclear materials; and third, $91.9 million for an expanded research and development program, particularly as it relates to the nuclear fuel cycle and light-water reactor technology.

There are also several sections of this particular act that have direct impact on constituents from my home State of Tennessee, for which I wish to express my thanks for the cooperation of the Senate in these matters. Title IV of this measure returns the name of Oak Ridge National Laboratory to the laboratory that exists there while designating the heavy ion research facility in Oak Ridge as the "Holifield Heavy Ion Research Facility." This change is made in agreement with constituent wishes of the State of Tennessee, and, at the same time, honors the works of Chet Holifield in the atomic energy area.

Also, title VI of this particular measure provides technical amendments for assistance payments under the Atomic Energy Community Act of 1955, to Roane and Anderson Counties of Tennessee. This move on the part of the Senate continues recognition of the preemption by Federal facilities of otherwise taxable municipal land and correctly administers aid to these counties for that cause. It is important that this assistance continue in order to provide adequate financial resources for the education and provision of other community services for the families of employees who work at the Federal installation in Oak Ridge.

Finally, there are some general comments, Mr. President, that I would like to make relative to this entire bill and the conference report which we have now passed that I hope will be an omen for continued progress toward solving America's energy problems.

Most of my colleagues are certainly aware that this is the first full authorization for the new Energy Research and Development Administration which came into existence on January 19 of this year. While there have been a number of difficulties that could normally be expected in the organization and development of a new agency such as this, I believe that the budget authorization that Congress has passed is an approval of the overall fine way in which ERDA has begun to operate. I further believe that the increases in financing authority which are included in this conference report are indicative of the trust and confidence Congress currently has in the Energy Research and Development Administration. I salute that agency and its able Administrator Bob Seamans for the progress they have made and, at the same time, encourage them to work toward greater levels of accomplishment which will preclude any abrogation of the trust that Congress has placed in them.

I am hopeful that ERDA will play an even increasingly large role in helping the country move toward continued energy availability. I am hopeful that the research and development efforts Congress has funded and ERDA has coordinated will begin to gain momentum and move full speed ahead toward tackling the difficult problems that now beset us. I am hopeful that my colleagues in the Senate will continue to pay close heed to the energy difficulties we face so that rational, substantive decisions can lead once again to progress on the energy front.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The time for morning business has expired.

SUPPLEMENTAL APPROPRIATIONS, 1976

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business, H.R. 10647, which the clerk will state.

The legislative clerk read as follows:

> A bill (H.R. 10647) making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BUMPERS). Without objection, it is so ordered.

SENATE JOINT RESOLUTION 150—DESIGNATING JULY 4 AS INDEPENDENCE DAY

(Referred to the Committee on the Judiciary.)

Mr. HELMS. Mr. President, I ask unanimous consent that it be in order for me to address myself to an unrelated subject.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I find it interesting, and just a little bit ironic, that July 4, perhaps the most significant anniversary date in our Nation's history, has never been proclaimed on a continuing basis as Independence Day.

Numerous other anniversary dates, many of which are of far less significance, have been appropriately designated by proclamation by the President at the request of Congress.

In the light of this, I am today introducing, for appropriate reference, a joint resolution authorizing and requesting the President of the United States to issue a proclamation designating July 4 of each year as Independence Day, and calling upon the people of the United States to hold appropriate ceremonies observing the day.

Mr. President, I have done a good bit of research on this matter just as a matter of personal interest, and this research has disclosed that a somewhat similar proclamation was issued in 1950 by President Harry S. Truman, again in 1952 by President Truman, and in 1953 by President Dwight D. Eisenhower. However, each of those proclamations was limited to the particular year in question. The joint resolution that I am today introducing calls upon the President to issue a proclamation of a continuing nature which refers to July Fourth of each succeeding year.

Mr. President, I feel that this action is especially appropriate at this time when we are approaching our Bicentennial year. I suggest now that the President proclaim July Fourth to be a day of national observance not for 1976 alone but for all future years. Now to be sure, July Fourth has been made a Federal holiday, and it is generally observed as a holiday by private citizens; but, in my view, it should be more, much more than simply a day of rest—it should be a day of national observance and national consciousness. The first step in achieving that can, and should, be by a Presidential proclamation pursuant to a joint resolution duly adopted by the Congress.

This resolution was suggested by the North Carolina District Exchange Club, and I am very happy to be associated with its introduction. The National Exchange Club, together with its many affiliates across the Nation, have done an outstanding job preserving and stimulating appreciation of our national heritage.

As many Senators will recall, on September 17, 1947, acting upon the direction of the Congress, President Truman dispatched the Freedom Train containing the historic documents which form much of the foundation of our American heritage to cities and towns all across the country. Reacting to the continuing interest shown by the millions of citizens who visited the train, the National Exchange Club established the Freedom Shrine, comprised of 28 American documents. Among others, it includes a copy of the Declaration of Independence. These shrines are to be found throughout the Nation, in schools, courthouses, and many other public places. In all, more than 5,000 shrines have been presented.

The Freedom Shrine is an exclusive project of the Exchange Clubs and a very important American citizenship program. It was conceived to be, and it is, a living symbol of the rich heritage of Americans. Now that we approach our Bicentennial year, the North Carolina Exchange Club believes that the Freedom Shrine concept will become even more meaningful.

To the tar heels of North Carolina, the history of our State during the Revolutionary period is very important. North

Carolina, for example, was the first colony to adopt a resolution to break its ties with Great Britain—The Halifax Resolves of April 12, 1776. Upon the adoption of that resolution to declare independence from Great Britain, messengers were dispatched to Philadelphia, and the Declaration of Independence of the Thirteen Colonies was proclaimed, of course, on July 4 of that year. Of course, the Mecklenburg Declaration of May 20, 1775, is also well known. The dedicated patriots of what is now the city of Charlotte, N.C., were pressing fervently for freedom. Both of these historic dates appear on the flag of the State of North Carolina as a perpetual reminder of the strong sentiment for freedom and independence in North Carolina.

Indeed, the events in North Carolina leading up to April 12 and July 4, 1776, are demonstrable of the spirit of freedom that our citizens hold so dear. The First Provincial Congress in America was held in New Bern, N.C., on August 25 through 27, 1774. It was called in open defiance of the British Parliament and the Royal Governor, Josiah Martin. Historians rank it as an example "of intercolonial cooperation, of enormous significance"—Lefler and Powell, "Colonial North Carolina—A History," page 262.

At the Edenton Tea Party on October 25, 1774, 51 ladies from Edenton, N.C., and surrounding counties signed an agreement to do all in their power to carry out the wishes of the First Provincial Congress and to support the American cause for independence. It represented the "earliest known instance of political activity on the part of women in the American Colonies"—Lefler and Powell, "Colonial North Carolina—A History," page 259.

The Battle of Moore's Creek Bridge, near Wilmington, N.C., on February 27, 1776, was the earliest victory won by the Americans in the South—

> Unquestionably, the victory at Moore's Creek Bridge saved North Carolina from conquest, and it probably postponed the defeat of South Carolina and Georgia for three years. (Lefler and Powell, *Colonial North Carolina—A History*, pages 278, 280).

And July 4 itself has been a very special day in North Carolina. Indeed, the first official observance of July 4 as Independence Day was in the town of Salem, now Winston-Salem, N.C. It was pursuant to a resolution of the general assembly of the State and a resulting proclamation of the Governor. The text of that resolution, which was adopted on May 16, 1783, is as follows:

> Resolved, that the fourth Day of July be and is hereby appointed a day of General Thanksgiving and praise to Almighty God for the gracious Interposition of Divine Providence in behalf of this nation; that it hath pleased Him to deliver us from the calamities of War; and crown our wishes with the blessings of Peace: and that his Excellency the Governor notify the same by Proclamation. (The State Records of North Carolina, Collected and Edited by the Honorable Walter Clark, Chief Justice of North Carolina, Vol. XIX, page 358 (1901)).

The resulting proclamation of the Governor of North Carolina reads as follows:

> [State of North Carolina]
>
> A PROCLAMATION
>
> (By his Excellency Alexander Martin, Esquire, Captain General and Commander in Chief of the State aforesaid)
>
> Whereas the honorable the General Assembly have by a Resolution of both Houses recommended to me to appoint Friday the Fourth of July next being the anniversary of the declaration of the American Independence, as a Day of Solemn Thanksgiving to Almighty God, for the many most gracious interpositions of his providence manifested in a great and signal manner in behalf of these United States, during their conflict with one of the first powers of Europe:
>
> For rescuing them in the Day of Distress from Tyranny and oppression, and supporting them with the aid of great and powerful allies:
>
> For conducting them gloriously and triumphantly through a just and necessary War, and putting an end to the calamities thereof by the restoration of Peace, after humbling the pride of our enemies and compelling them to acknowledge the Sovereignty and Independence of the American Empire, and relinquish all right and claim to the same:
>
> For raising up a distressed and Injured People to rank among independent Nations and the sovereign powers of the world. And for all other Divine favors bestowed on the Inhabitants of the United States and this in particular.
>
> In conformity to the pious intentions of the Legislature I have thought proper to issue this my Proclamation directing that the said 4th Day of July next be observed as above, hereby strictly commanding and enjoining all Good Citizens of this State to set apart the said Day from bodily labour, and employ the same in devout and religious exercises. And I do require all Ministers of the Gospel of every Denomination to convene their congregations at the same time, and deliver them Discourses suitable to the important Occasion, recommending in general the Practice of Virtue and true Religion, as the great foundation of private Blessings as well as National happiness and prosperity.
>
> Given under my Hand and the great Seal of the State at Danbury the 18th Day of June in the Year 1783 and seventh Year of the Independence of the said State.
>
> ALEX: MARTIN.
>
> By his Excellencys Commande: God save the State.
>
> P. HENDERSON, *Pro Sec.*
>
> ("Records of the Moravians in North Carolina," Edited by Adelaid L. Fries, M.A., Archivist of The Moravian Church in America, Southern Province, Vol. IV, page 1919 (1930).)

As one might expect, historical records of that July 4, 1783, are scant. Indeed, there is no record of an observance of that Independence Day anywhere in the State except at the town of Salem. Surely other observances probably did occur without a chronicler present to preserve the day for posterity, and with equal certainty we may assume that due to the inadequate communications of the period, many of the citizens of the State never learned of the resolution of the General Assembly or the Governor's proclamation.

But the Moravians at Salem did hear of it, and with characteristic devotion and piety, they observed July 4, 1783, as a Day of Thanksgiving. An account of the events of the day written in a diary kept by a member of the congregation survives. It is as follows:

> July 4. According to the order of the government of this State we celebrated a day of thanksgiving for the restoration of peace. The congregation was awakened by the trombonists. At the beginning of the preaching service the Te Deum was sung, with trombone accompaniment. The Watch-Word for January 20th, the day on which the Peace Preliminaries were signed, was: The God of Jacob is our refuge, taken from the 46th Psalm, which gave opportunity to use this Psalm as the text for the sermon, which was preached by Br. Benzien. The service closed with the singing of: Glory to God in the highest. At two o'clock there was a happy lovefeast, during which a Psalm of Joy was sung with thankful hearts. In the evening at eight o'clock the congregation again assembled in the Saal, and the choir sang: Praise be to Thee, Who sittest above the cherubim. Then the congregation formed a circle in front of the Gemein Haus, and from there passed in procession through the main street of the town, with music and the antiphonal song of two choirs. The street was illuminated. Returning to the Gemein Haus the congregation again formed a circle, and with the blessing of the Lord was dismissed to rest. Hearts were filled with the peace of God, evident during the entire day and especially during the procession, and all around there was silence, even the wind being still. (Records of the Moravians in North Carolina, Edited by Adelaid L. Fries, M.A., Archivist Of The Moravian Church In America, Southern Province, page 1841 (Vol. IV 1930).)

In the words of Patrick Henry—

> No free government, or the blessings of liberty, can be preserved to any people without a frequent recurrence to fundamental principles.

I applaud the action of the National Exchange Club and the North Carolina District Exchange Clubs in establishing numerous freedom shrines which serve as a reminder of the fundamental principles of government and liberty that inspired our forefathers to unite in the struggle that gave birth to the United States of America. I urge my colleagues in the Senate to join with me in supporting the resolution that I am today introducing to give added meaning and significance to Independence Day.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S. J. RES. 150

> Whereas on July 4, 1776, the Declaration of Independence was signed, officially proclaiming the intention of certain colonies in North America to become independent states free of British control: Now, therefore, be it
>
> *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President is authorized and requested to issue a proclamation designating July 4 of each year as Independence Day and calling upon Government officials to display the United States flag on all Government buildings and the people of the United States to hold appropriate ceremonies on that day.

Mr. HELMS. I thank the Chair, and I thank the distinguished Senator from Arkansas.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR—H.R. 10647

Mr. HOLLINGS. Mr. President, I ask unanimous consent that Miss Mary Jo Manning, my assistant, be granted the privilege of the floor while we discuss the supplemental items for the legislative branch.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESOLUTION CONCERNING SPANISH-AMERICAN RELATIONS

Mr. HUGH SCOTT. Mr. President, I send to the desk a Senate resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

S. RES. 323

Whereas the United States has had historical, mutually beneficial ties with Spain; and

Whereas the United States is grateful for the Spanish heritage and cultural influences enriching American life; and

Whereas the United States Senate is heartened by indications of a new era in Spain under the reign of King Juan Carlos I, an era filled with promise and hope; and

Whereas the eyes of the world are once again focused upon the transitions in Spain; Now, therefore, be it resolved, that it is the sense of the Senate that His Majesty Juan Carlos I and the people of Spain should be assured that the United States desires political and economic progress in Spain under conditions of stability and justice and hopes for the early achievement of those goals.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to His Majesty Juan Carlos I of Spain.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. HUGH SCOTT. Mr. President, this resolution is offered on behalf of myself and the distinguished majority leader (Mr. MANSFIELD).

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 323) was agreed to.

The preamble was agreed to.

SUPPLEMENTAL APPROPRIATIONS 1976

The Senate continued with the consideration of the bill (H.R. 10647) making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may send to the desk two amendments which have been cleared all the way around, without going into the time allocated to the distinguished Senators from Idaho and South Carolina.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I send these amendments to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. Without objection, the amendments will be stated.

The legislative clerk read as follows:

On page 18, line between lines 8 and 9, insert the following:

SEC. 113. The provisions of section 491(c) of the Legislative Reorganization Act of 1970, as amended (2 U.S.C. 88b–1), shall not apply to the pay of pages of the Senate during the period between the recess or adjournment of the first session of the 94th Congress and the convening of the second session of the 94th Congress. The pay of Senate pages shall continue during such period of recess or adjournment.

On page 18, between lines 8 and 9, insert the following:

SEC. 114. Notwithstanding the provisions of section 1110 of the Legislative Branch Appropriation Act, 1976, effective January 1, 1976, the pay of pages of the Senate shall not exceed a gross annual maximum rate in excess of $9,063.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments were agreed to en bloc.

Mr. MANSFIELD. These are very minor amendments.

The PRESIDING OFFICER. There will now be 40 minutes equally divided between the Senator from South Carolina and the Senator from Idaho.

Mr. HOLLINGS. Mr. President, is it a point of order on an amendment?

Mr. McCLURE. Mr. President, I have asked for this time so that we might discuss a provision in the appropriation bill for the possibility that the Senate may enter into a lease on certain property, which is outlined in the bill. There is the possibility, or the probability, that I might, at the conclusion of the discussion, offer a point of order against the inclusion of this provision in the legislation.

I do not know whether the Senator from South Carolina wants to speak first in support of the provision, engage in a colloquy with me on some of the questions that I have in my mind concerning that provision, or how he would desire to proceed.

Mr. HOLLINGS. If my distinguished friend will yield, I will be glad to engage in a colloquy and then I would better understand the questions he has in mind. I will try my best to answer them.

Mr. McCLURE. First of all, let me make very plain, because I think some people have not understood the reason I asked the question, this is not a jurisdictional fight that I seek to inject. So far as I am concerned, it has nothing to do with the prerogatives of any particular committee or group in the Senate. It has been suggested that because I am a member of the Public Works Committee I am seeking to preserve the jurisdiction of that committee. I will say to the Senate, that is not my motivation. Jurisdiction is the least of the questions which may be involved here.

I say that because, as the Senator well knows, the jurisdictional questions on providing space for the Members of the Senate, their staffs, and their committees is a very muddy jurisdiction at best.

The Committee on Rules and Administration is very properly involved because the requests for space go to the Rules Committee. The allocation of the space which is available is the responsibility of the Rules Committee. The Appropriations Committee, of course, is responsible, as they are in most other instances, for providing the money that may be necessary to provide the space.

The Public Works Committee has certain responsibilities with respect to the construction and design of not just the space for the Senate but for the entire Capitol grounds.

We have to add to that the Architect of the Capitol, who has certain responsibilities, and the Senate Office Building Commission, which has been in existence for three-quarters of a century, I understand. It has responsibilities in this field.

I am not raising the jurisdictional question because I think the jurisdiction is not that clearly defined.

Mr. HOLLINGS. If the distinguished gentleman will yield on that point, we have no objection whatsoever to including the Committee on Public Works where we have outlined in the language the Committee on Rules and Administration and the Committee on Appropriations.

Mr. McCLURE. I thank the Senator. As I say, that is not my primary concern.

Mr. HUGH SCOTT. Will the Senator yield?

Mr. McCLURE. I yield.

Mr. HUGH SCOTT. I want to make it clear that, as minority leader, I had no advance notice of the inclusion of this provision in the appropriations bill.

Mr. McCLURE. I thank the Senator from Pennsylvania.

The question that I would have is this: What determination has been made of the need for space? Could the Senator from South Carolina outline to me what determination his subcommittee made about the need for space, its character, location, and timing?

Mr. HOLLINGS. We can start, of course, with the Committee on Public Works back in 1972. In particular on August 14, 1972, the Committee on Public Works reported out a bill dealing with the Senate Office Building and the garage, and on pages 5 and 6 of the report they outline the need for parking space, and the need for a parking garage on what we commonly characterize as block 724.

Pursuant to that need, then look at the testimony of the Architect of the Capitol this year before the Legislative Subcommittee of Appropriations, plus letters and enclosures from the chairman of the Committee on Rules and Administration and the Buildings and Grounds Subcommittee chairman of the Committee on Public Works, the distinguished Senator from North Carolina (Mr. MORGAN).

There was no question of the need as the architect outlined in his testimony before the Legislative Subcommittee where the minority was or should have been apprised. Senator SCHWEIKER, of

Pennsylvania, the counterpart of our distinguished senior Senator from Pennsylvania, was there, discussed this at length, asked the questions and outlined the concern. He insisted on the inclusion of the Appropriations Committee in the approval because he wanted to see the issue through. We have 178,000 square feet of office space at the moment on block 724. If we could transfer those people immediately into a rental facility at 400 North Capitol, we could then facilitate and expedite the construction of the parking garage on that particular block.

Mr. McCLURE. Will the Senator respond a little further? I am a little puzzled by the suggestion that we are going to make any immediate transfer. This same appropriations bill has $696,000 for the renovation of two apartment houses on that square into office space. It seems as if we are going to spend nearly $700,000 to renovate two buildings, which will then immediately be vacated and perhaps destroyed.

Mr. HOLLINGS. That is right. It has to be coordinated. That is why we have provided that the lease is subject to the approval of the Committee on Rules and Administration and subject to the approval of the Committee on Appropriations.

I think the major point here is the building is available. It could well be that after this bill passes we would learn that the building would not be available 6 months from now but since we would not have any supplemental appropriations bill prior to that particular time we would be precluded from acting, even if action was in our best interests. Therefore, we wanted to make certain the door was kept open so that we could negotiate if it were in the best interests of the U.S. Senate.

That is why everything is left open. That is why we required that they come back for these particular approvals.

I could not tell the distinguished Senator what would be the net cost per square foot. This bothered me. In fact, I did not want any commitment to go to the particular owners of 400 North Capitol. So I put in there the particular language that in no case could any committee of the Senate or the Office of the Architect of the Capitol enter into any lease, thus maintaining an open door for this particular transaction if all of those questions can be answered.

We were asked for this by Rules, by Public Works, and by the Architect of the Capitol, and I had the same misgivings the Senator from Idaho has. That is why we worded it in the way we did.

Mr. McCLURE. The Senator said there is no question of the need for the space; and yet it seems to me we need a more detailed exposition of what the space requirements are. I will tell the Senator why I make that statment.

I have no doubt that the personal staffs of Senators have expanded. Every one of us feels that perhaps our own office space is too limited, and every one of us could use a little bit more room. We also have seen a very large increase in committee staffs as a result of actions which I and others in this body voted last year; and it has put a pressure upon committee staff rooms.

Another facet that has added to the demand for space is the advent of the open conferences, as well as the open sessions of the committees. We have provided for committee rooms with a lot of public access. But now we have public access involved with the conferences, and as anyone who has participated in recent conference knows, we lack adequate space for the meetings of conference committees. The public involvement in those meetings properly demands larger rooms and more extensive facilities.

That generalized need for space does not necessarily answer the question of whether this particular building is suitable for meeting those needs, and how it relates to the kind of space needed.

Mr. HOLLINGS. May I comment right at that point?

Mr. McCLURE. Of course.

Mr. HOLLINGS. First, on the need: we ask unanimous consent to have printed in the Record at this point a letter dated November 19, 1975, from the distinguished chairman of the Subcommittee on Buildings and Grounds (Mr. Morgan) to the chairman of the Committee on Rules and Administration.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., November 11, 1975.

Hon. Howard Cannon,
Russell Senate Office Building,
Washington, D.C.

Dear Howard: Since taking my seat in the Senate in January, nothing has surprised or concerned me more than the inadequacy of the office space provided to members of the Senate. Frankly, I have not visited any office up here that has sufficient space, and it does not take a "time and motion" study to realize that efficiency is sacrificed.

In my own office, my personal secretary of many years and my administrative assistant share a small office. Three other senior staff aides share another slightly larger office which has no place for them to carry on conversations with constituents since the desks almost touch. They must use my personal office for conferences. The rest of my staff, some eight persons, occupy one moderately sized office which also houses our mail operation, the computer terminal, the Xerox machine, and the telecopier. Even with the best efforts of everyone, chaos reigns supreme in that room.

And my situation is not atypical. Many of my colleagues have expressed complete frustration with their office arrangements and there does not seem to be much chance of things getting better when you consider the fact that each special or select committee must be assigned space out of the already exhausted pool.

I know that you can appreciate these observations because as Chairman of the Rules Committee you are the person to whom we turn so often with our complaints and frustrations. My colleagues and I know, of course, that nothing would please you more than to be in a position to meet these very real needs and thus ensure the greater effectiveness of the one hundred Senate offices now located in the Russell and Dirksen Buildings.

For this reason it might be wise for us to explore the offer made by North Capital Associates for the lease or purchase of the North Capital Plaza building located just at the foot of Capitol Hill. I think we all would agree that the building is in an excellent location and I believe it is completed and ready for occupancy. It surely will be years before the scheduled addition to the Dirksen Building is completed and we are provided any relief through that source.

If you feel that the matter merits exploration, then certainly I will be glad to schedule a meeting of the Buildings and Grounds Subcommittee to review the situation and in preparation therefore ask Public Works and GSA personnel to do appropriate studies and provide us with relevant information. I believe a public hearing of this sort would be the best way to review any proposals offered by North Capital Associates and determine whether they are meritorious.

Sincerely,

Robert Morgan.

Mr. HOLLINGS. He states:

> Since taking my seat in the Senate in January, nothing has surprised or concerned me more than the inadequacy of the office space provided to members of the Senate. Frankly, I have not visited any office up here that has sufficient space, and it does not take a "time and motion" study to realize that efficiency is sacrificed.

I also ask unanimous consent to have printed in the Record a letter from the chairman of the Rules Committee (Mr. Cannon) to me, enclosing letters from Senator Sparkman and others, outlining the needs for space.

There being no objection, the letters were ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., November 13, 1975.

Hon. Ernest F. Hollings,
Chairman, Subcommittee on Legislative Appropriations, Committee on Appropriations, U.S. Senate.

Dear Fritz: I enclose for your information and consideration copies of correspondence I have had with Senator Morgan, Chairman of the Buildings and Grounds Subcommittee, Senator Sparkman, Chairman of the Senate Office Building Commission, and the Honorable George M. White, Architect of the Capitol, concerning the proposal that the Senate lease (with option for later purchase) the new office building located at 400 North Capitol Street, N.W.

I think you will find their letters to be fully self-explanatory as well as reflective of the excessively crowded conditons now prevailing in the offices of Senators and committees generally.

As you know, it is the responsibility of the Committee on Rules and Administration to allocate whatever space is made available to us for Senators and committees. As Chairman of the Committee I can report to you that I see no way we can comply with the requests coming in almost daily (between now and the time the Dirksen extension is completed some several years hence) if we have to rely solely on the structures now in existence.

With all best wishes,

Sincerely,

Howard W. Cannon,
Chairman.

U.S. Senate,
Washington, D.C., November 13, 1975.

Hon. Robert Morgan,
Chairman, Buildings and Grounds Subcommittee on Public Works, U.S. Senate, Washington, D.C.

Dear Robert: I appreciated your letters concerning the problem of lack of adequate space for Senators' offices and committees.

I have no doubt that during the next year the Rules Committee will receive requests for much more space than we can possibly find in the structures now available, including the two apartment buildings on Square 724 (C Street, N.E.) which are now being made ready for temporary occupancy. Many Senators have spoken to me about the way their staffs are now so badly crowded that they cannot do efficient work, and the same is true of many committees and subcommittees.

In addition, the Senate and the Congress have created new congressionally-related offices which require space for their growing staffs, such as the Congressional Budget Office, the Office of Technology Assistance, the Senate Operations Commission, the Indian Advisory Commission, etc., to name some of them.

The House has already expressed the urgent need for 1,500,000 square feet of additional space for their use, and as you know, they are pressing to take the unfinished Madison Memorial Library of Congress building for their fourth House Office Building, a proposal incidentally, to which I am very much opposed.

With reference to your suggestion that we explore the possibility of leasing or purchasing the building at 400 North Capitol Street, N.W., I enclose a copy of a letter I received some weeks ago from the Architect of the Capitol which analyzes this project on a preliminary basis. I call your attention particularly to his point that if that building were made available to the Senate now it would be possible to go ahead with the plan to construct an underground garage on Square 724 several years in advance of schedule, without waiting for completion of the Dirksen Extension, which would lessen the period during which this general area is disrupted by major construction work with a possibility of some savings to the taxpayers. I am advised that the Architect has been authorized to make a study of the underground garage project.

Senator Sparkman, Chairman of the Senate Office Building Commission, after reading the Architect's letter, wrote me in part as follows: "From what he says it seems we could very well use this building and that it would be worth the cost of repairs or extensions that would have to be made . . ."

For your information, the following current requests for space are among those pending before the Rules Committee:

Senator Case (for the Office of Technology Assessment).

Senator Brock (for the minority staff of the Budgeting, Management, and Expenditure Subcommittee).

Senator Kennedy (for the Subcommittee on Administrative Practice and Procedure).

Senator Brock (for his own office).

Senator Muskie (for the Senate Budget Committee).

Senator Hathaway (for his own office).

Senator Humphrey (for the Joint Economic Committee).

Senator Talmadge (for the Committee on Agriculture and Forestry).

Senator Long (for the Committee on Finance).

Senator Randolph (for the Committee on Public Works).

The Secretary of the Senate (for the office of Senate Historian).

Senator Morgan (for his own office).

The Standing Committee of Correspondents (to replace rooms they lost because of construction of the new entrance into the upper level garage in the Dirksen building).

Senator Hartke (for his own office).

Senator Humphrey (for the Subcommittee on Foreign Assistance).

Senator Burdick (for the Subcommittee on National Penitentiaries).

Senator Church (for the Special Committee on Aging).

Senator Bartlett (for his own office).

Senator Glenn (for his own office).

Senator Leahy (for his own office).

Senator Percy (for his own office).

Senator Williams (for the Committee on Labor and Public Welfare).

Senator Beall (for his own office).

Senator Garn (for his own office).

Senator Packwood (for his own office).

Secretary of the Senate Valeo (for the Commission on Senate Operations).

With all best wishes.

Sincerely,

HOWARD W. CANNON,
Chairman.

U.S. SENATE,
Washington, D.C., October 6, 1975.

Hon. HOWARD CANNON,
Russell Building,
Washington, D.C.

DEAR SENATOR: Recently I was contacted by former Senator George Smathers who is now representing North Capital Associates, the firm which has recently constructed North Capital Plaza. As you will remember there was initially speculation that SEC would move into that building but later GSA committed them to the Buzzards' Point site. Since then the developers have been seeking another tenant and at this time are interested in the possibility of the United States Senate leasing the space.

After talking with both Mr. Smathers and Glenn Ballowe, a partner in the firm, I concluded that in my opinion any action concerning the building would have to originate with some other committee, probably Rules. However, should Rules decide that there is a need for additional space for the Senate, then we would be glad to consider any request or proposal submitted by the Rules Committee as expeditiously as possible.

If you should decide that this is a matter which merits discussion, I will be glad to get together with you at a mutually convenient time.

Sincerely,

ROBERT MORGAN,
Chairman, Buildings and Grounds,
Public Works Committee.

U.S. SENATE,
Washington, D.C., September 18, 1975.

Hon. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, Washington, D.C.

DEAR MR. CHAIRMAN: I was glad to have your letter regarding the building at 400 North Capitol Street. I have read the letter from the Architect of the Capitol. From what he says it seems that we could very well use this building and that it would be worth the cost of repairs or extensions that would have to be made according to his letter.

Sincerely,

JOHN SPARKMAN.

SEPTEMBER 5, 1975.

Hon. JOHN SPARKMAN,
Chairman, Senate Office Building Commission, U.S. Senate, Washington, D.C.

DEAR JOHN: I enclose a copy of a letter and related correspondence containing information which I requested from the Architect of the Capitol in response to several inquiries concerning the proposal by the owners of the building at 400 North Capitol Street that it should be leased for use for Senate office purposes.

I know the comments of the Architect regarding the proposal will be of interest to you and the Senate Office Building Commission, particularly if further investigation might reveal the possibility of substantial savings to the Senate and the taxpayers if we speed up the presently authorized timetable for construction of the underground garage project in Square 724.

With all best wishes,

Sincerely,

HOWARD W. CANNON,
Chairman.

Mr. HOLLINGS. The chairman of the Rules Committee and all his committee members are here, and we can more or less agree on the record that the need is there.

Now, as to the question of whether this particular office space meets that need, I have never been in this particular building, and I was questioning the Architect as to whether it was a suitable building.

I do not know what the cost is going to be, but we wanted to determine, and I asked the very same people the Senator is naming, whether or not it was good.

It has not only been determined to be good by the Architect, who testified it was an unusually good building, readily adaptable for that particular purpose, but over on the House side, Mr. RONCALIO has put in a bill directing that that space should go to the Library of Congress; so they have determined that it is a good building, the Architect has determined that it is a good building, and the Committee on Rules and Administration here has determined that it is a good building.

Mr. McCLURE. I have no question of the need for more space. But I look to the fact that we have now, in Square 724, in the Immigration Building, over 54,000 feet of space and 147 rooms. In the Capitol Hill Hotel we have 23,000 feet of space and 94 rooms. There is contemplated in this bill the reconstruction of the Senate Court and the Hill Apartments building, with 42,000 feet of space and 180 rooms in one, and 18,000 feet of space and 65 rooms in the other. That represents a virtual doubling of the space in Square 724 that is already provided in this bill.

The other action is the extension of the Dirksen Office Building, and the addition of space in that building. That extension will be finished in late 1978 or early 1979, which is only 3 years from now; that extension will provide 421,000 net square feet of usable office space.

I mention the Dirksen Office Building because that is supposed to meet the needs of the Senate for the remainder of this century, according to the information we have received. That is already there, and that money has already been appropriated.

Mr. HOLLINGS. I think the Senator can fix it in his mind this way: The Public Works Committee determined 3 years ago to put a garage on that particular square. To try to facilitate the construction of that garage, and save 3 to 4 years of inflation costs by expediting construction—I have a report here, if the Senator would like to see it—we would impose a requirement for office space transfer which could be shifted to 400 North Capitol. Suppose we do not get 400 North Capitol. Then we will go ahead with our original course; we will be where we are right now in that particular square, and the garage will be built in 4 years.

But it is determined that there is duplication. That is why we have to come back to the Architect, to the Rules Committee and, if necessary, to the Public Works Committee.

Mr. McCLURE. As far as the parking garage, contemplated for Square 724, I am sure the Senator knows that building has not been authorized. The only thing authorized is the competition for design.

There was $50,000 appropriated for that purpose, and that $50,000 has never been expended. So there has never even been a competition for design, let alone the determination to build the underground parking garage on Square 724.

Mr. HOLLINGS. That is true. We had a contract limitation; and if we added into it for 400 North Capitol, that would have had to be the first order of business. But that same subcommittee report I referred to, back in 1972, said we should build first the Senate Dirksen Office extension, then come to the parking garage, and in the meantime we must go all the way to Kennedy Memorial Stadium to park cars.

Mr. McCLURE. But here we have now in use in Square 724 a total of nearly 78,000 square feet of office space. We will soon have available on that square another 59,000, nearly 60,000 square feet of office space. We are going to add, in the Dirksen extension, 421,000 square feet of office space. And now it is proposed that we go over to 400 North Capitol and rent 570,000 additional square feet of office space.

Mr. HOLLINGS. But the Senator is putting them together in the wrong context. Let us go along on Square 724—and I ask unanimous consent that the letter from the Architect of the Capitol dated August 6, 1975 to the chairman of the Rules Committee, with enclosure, also be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE ARCHITECT OF THE CAPITOL,
Washington, D.C., August 6, 1975.

Hon. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This information is in pursuance of our telephone conversation regarding the proposal by the owners to lease the building at 400 North Capitol Street for Senate staff occupancy. I believe that a basis on which the proposal has possible merit is the possibility of proceeding now with the construction of an underground garage and surface facilities on Square 724 if the staff people now occupying the buildings on that square were to be moved to another location. Provided that the lease amount were appropriate and if the Senate were to agree to proceed with the underground garage project, I believe we would be in a position to have the garage facilities available to us at least four years and perhaps five years earlier than would otherwise be possible.

As you may recall, the logistics of staff location is such that without such an alternative location, we cannot move the people who are now occupying the buildings on Square 724 until such time as the new Senate office building is completed, presumably some time in 1978. Delays might, of course, be experienced in that regard. Thus, even if the buildings on Square 724 were to be vacated within a short period of time after the completion of the Extension to the Dirksen Building, it would probably be about three years after that before an underground garage facility would become available.

If, on the other hand, the people occupying those buildings were to be moved now to another location, such as 400 North Capitol Street, we could proceed immediately to demolish the existing buildings and to design and construct the underground garage facility. It is thus possible that the garage would be available at approximately the same time as the completion date for the Dirksen building. A five year lease for all or part of the North Capitol Street building would undoubtedly suffice for our purposes and would not obligate the government for a long term. I understand, however, that the building is available on a lease-purchase agreement whereby, if the government wished, it could lease for a longer period and own the building at the end of the lease term. The location is relatively convenient, at the corner of Louisiana Avenue and North Capitol Street, across from the reflecting pool and fountain over the Senate underground garage.

I believe that the proposal in general is probably worth consideration if the Senate feels that this is a propitious time for the appropriation of the additional funds required for an underground garage and surface facilities, which, as you may recall, were a part of the original authorization language for acquisition of the land on Square 724.

In that regard, it may be useful to compare the respective costs and areas involved, even though some of the numbers are of a preliminary nature and hence may lack some degree of credibility.

AREAS—APPROXIMATE NET OFFICE SPACE

Buildings presently occupied on Square 724—110,000 sq. ft.

Buildings to be occupied on Square 724—68,000 sq. ft.

Total—178,000 sq. ft.

Offices in 400 N. Capitol St. (entire building)—500,000 sq. ft.

(Building can be divided in half; area reflects deduction for corridor installation.)

COST

Cost of 1800 car underground garage and one story surface commercial facilities on Square 724 (if project proceeds now)—$25 to 30 million.

Escalation cost (4 years at 8%)—$8 to 10 million.

Rental cost (400 N. Capitol St.) (5 years at $3,200,000)—$16 million.

One-half total area—$8 million.

Cost of converting occupied buildings on Square 724—$270,000.

Additional cost for remaining buildings—$80,000.

Total—$350,000.

Cost of providing tenant partitions in one-half 400 N. Capitol St.—$1,500,000.

It thus appears that if one-half the building at 400 North Capitol Street is leased in order to enable the garage project to proceed, very little, if any, net savings would occur unless costs were to escalate greater than 8% per year. On the other hand, 475 car spaces (one-half the total) would be available immediately, and the 1800 spaces planned for Square 724 would be available several years sooner. Some inconveniences would undoubtedly arise because of the greater distance of pedestrian travel that would be experienced.

I have attached a recent communication from the building owners explaining some of the details of their proposal.

I will be happy to provide further detail in connection with the various possibilities if you feel that is desirable.

Cordially,

GEORGE M. WHITE,
FAIA, Architect of the Capitol.

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400 NORTH CAPITOL ASSOCIATES,
July 29, 1975.

Re: 400 North Capitol Street, N.W.

Mr. GEORGE M. WHITE,
FAIA, Architect of the Capitol,
Washington, D.C.

DEAR GEORGE: After first confirming matters with my partners and obtaining their approval, I thought it would be most helpful to you if I took this means of submitting a firm proposal to you, all in line with our meeting of yesterday.

Due to the circumstances that I explained to you we are now prepared to do the following:

Lease the Building to the Senate for a term of five (5) years, the Building to be fully completed by us except as to Tenant Work, i.e., partitions, doors, hardware, etc., which is to be done by you at the Senate's cost and expense. The rent is to be $3,218,750.00 per annum or $268,229.16 per month on a completely net basis, i.e., the Senate to pay all taxes (if required by law to do so), insurance, utilities and all operating, replacement and maintenance costs.

We will grant an option to the Senate whereby they will be able at any time during the lease term and upon giving a year's prior notice of its intentions so to do to purchase the land and building free and clear of all liens and encumbrances at a price to be fixed by an appraisal of three (3) qualified appraisers—one (1) to be chosen by us, one (1) by you and these two then to choose the third.

Let me briefly comment about the rent. Based upon the method of computation used by The Washington Board of Realtors, the Building contains:

Office space—552,513 square feet.

Retail space—17,651 square feet.

Total office and retail space—570,164 square feet.

If one "values" the three and one-half floors of underground parking containing 948 spaces at a *most reasonable* annual sum of $400,000.00 (this is only $35.16 per space per month) this will leave the annual rent for the office and retail space at $2,818,750.00 or only $4.94 per square foot.

Aside from the obvious financial benefits, there are *many* advantages in this type of deal insofar as the Senate is concerned. To list just a few:

1. By a net lease you will be able to operate the Building as properly befits the Senate and in such manner as you alone see fit and with all the advantages and savings that you are able to command.

2. The short term of the lease together with the option to purchase will leave you most flexible—I should add that if the Senate should desire to purchase the property now (rather than lease it) the partners will be agreeable thereto with the price to be fixed in the same manner as set forth above with respect to the "option to purchase."

3. This opportunity should prove extremely attractive to the Senate for a variety of reasons and would eliminate relocation of employees for future construction work such as the planned Senate parking garage. By utilizing a 5 year rental program, I would conservatively estimate a possible savings of $15 million dollars on direct construction costs for this new garage plus a savings of at least five (5) years in construction time. To put a dollar value on the time saved is impossible, but it certainly would prove to be of great benefit to employees on Capitol Hill and, most certainly, to the taxpayer.

4. In addition to the features described above, there are obvious other "pluses" such as easy transportation flow, approximately 1100 hotel rooms adjacent to our building, subway station across the street and railroad facilities within one-half block. As you so aptly described, these are "logical" approaches, but they should readily appeal to the Rules Committee and or the Building Commission when and if the presentation is made to them.

I hope you will agree with us as to the extreme attractiveness of this proposal and that you will be able to discuss this with the Rules Committee and/or the Building Commission before the Recess. I realize there may not be enough time left this week for a final decision to be arrived at, but at least if you can obtain an indication of interest, you and I can be working together during the Recess to determine the extent, type and cost of the desired Tenant Work, the changes (if any) you may desire to make in the retail space and the cost thereof, and generally work out all details so that our proposal may be presented in final form to the Rules Committee and/or Building Commission upon their return in September for an early decision.

Please call on me if there is any additional information that you may require.

With best regards,

Sincerely,

GLEN H. BALLOWE.

Mr. HOLLINGS. The figure, incidentally, is 178,000 square feet of office space on block 724.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. HOLLINGS. Yes.

Mr. McCLURE. I think that would include the Plaza Hotel, which is occupied by police officers at the present time.

Mr. HOLLINGS. That is right. There is 110,000 square feet right now, and they plan to renovate another 68,000 feet, for a total of 178,000.

If we go ahead and lease the space over at 400 North Capitol Street, move this, and as we say, commence construction of the parking garage, then by the time it is constructed—3 to 4 years—the Dirksen Office Building will also have been completed and we could come from 400 North Capitol Street and move into that 500,000 square feet of office space that the Dirksen Building will provide. Then the lease does not have to continue. But we have even left that open ended because there could be a purchase involved if there were other unmet needs. However, that does not seem so now and that is why a lease is provided, and why there is no final determination that we are going to add more office space, as the Senator from Idaho outlined it.

Mr. McCLURE. My understanding of the provisions of this appropriations bill is that this is to be a 5-year lease with an option to purchase.

Mr. HOLLINGS. That is right.

Mr. McCLURE. I think the Senator knows that we will pay something additional for an option to purchase. They will not just throw that in free.

Mr. HOLLINGS. That is possible but it provides "not to exceed 5 years." We provided all the flexibility that the Senator himself would wish.

Mr. McCLURE. The Senator provided a great deal of flexibility. But I am not sure I am certain of the need.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. McCLURE. I yield.

Mr. GRIFFIN. If I could ask a question on that point with regard to flexibility, I notice on page 16, line 17, the figure $3,375,000 a year is mentioned. I realize it says shall not exceed that. But is it a fact, as I have been led to believe, that this same building was offered for lease for us by the SEC at a lower figure and that the General Services Administration would not approve it because the lower figure was too high?

Mr. HOLLINGS. In responding to our distinguished friend from Michigan, let us get all the Mickey Mouses out of this thing.

Mr. GRIFFIN. I am trying to get the facts.

Mr. HOLLINGS. I am trying to answer it. The real charge here is that we are going for a higher lease than what they even offered it to the SEC. That is outright nonsense and inaccurate.

We have put every safeguard in here to protect the interests of the Government, and the U.S. Senate is not going to come around and lease a building that I have anything to do with 2 months or 3 months after it is rejected by the SEC for lower rent. That is absolutely false. There is no basis in fact for that.

In fact, we have the same figures that we used as what the offer was to the SEC in arriving at that $3,375,000 amount.

Mr. GRIFFIN. Can the Senator from South Carolina provide those figures on the basis of comparing oranges with oranges to get in the record?

Mr. HOLLINGS. Yes in comparing oranges with oranges, it says total 500,000 square feet. They were talking about at that time. It was $7.48 a square foot. I immediately asked my own self how much does that include? Does that include renovation? Does that include the taxes? Does that include anything else? That is on a fully serviced basis. That is right. It is on a fully serviced basis. I do not know that is good.

Mr. McCLURE. I say to the Senator my information is that the owners of the building offered it to the GSA—the SEC had requested more space and the GSA called for offers—and the owners of the building offered 75 percent of this building to the GSA at an annual rental of $2.8 million. That price included taxes, utilities, maintenance, and some underground parking. Now it is suggested here that we rent not 75 percent, but 100 percent, for $3,375,000 a year, and the Government must in addition pay the taxes, the maintenance, and the utilities. Instead of costing $2,800,000 for 75 percent of the building, it will cost $4,800,000 for the 100 percent. That is the figure that first startled me and first caused me to take another look at this question. And the Senate would have to spend as much as $1,500,000 in addition for putting in partitions.

The full cost of that rental, if it were to enter into it, would be about $8.20 a square foot. This is about $2 a square foot above the going price for similar rentals.

Mr. HOLLINGS. Mr. President, will the Senator yield?

Mr. McCLURE. Surely.

Mr. HOLLINGS. Let us give the committee some credit, and I appreciate the Senator asking these questions.

Let me tell the Senator what we are committed to. Turn to the top of page 17 and read the first three lines that nothing in this section shall be construed so as to obligate the Senate and any of its Members, officers, or employees to enter into any lease or incur any obligation.

Let us start at that particular point. Our distinguished colleague from Maryland (Mr. MATHIAS) who was seated on this committee at the markup session said, "Let us make sure it is clean."

We are not quite clear about square footage. In fact, the Senator's committee and the Committee on Appropriations did not even argue about square footage because there was no firm offer. There was no clear-cut decision about this thing as there has been no clear offer as to costs. We wished to look into what the SEC had been offered. We thought we had the right figures on it, but to make absolutely certain that we not get into anything blind or commit the Senate without all the facts, we not only say it had to come back to the Committees on Rules and Administration and Appropriations, but we put in the affirmative: We are not committed to any kind of lease.

So we are not buying or leasing anything in voting this particular measure. The whole intent of the Committee on Appropriations was that with this building available, which had originally been planned for the Securities and Exhange Commission and with the Senate's unmet needs and desire to go forward with the garage, we should take a look at the feasibility of this building in serving our needs. I have been told that the interest payments to the owners of this building are very high and a tremendous burden; maybe there is a chance for a good deal for the Government.

I have heard salesmen before, but I wished to make sure it was a good deal for the Government before we are committed.

I knew about the need. We have been toying with the need 5, 6, or 7 years. For parking space we send our employees out there to the stadium and everywhere else in the world. The building could be taken by someone else. It is right adjoining the Senate's needs, and proximity is of tremendous value to use as a body and to the Government. But making certain that we were not obligated in any way and that we could ask those same questions the Senator is asking, we put on the face of this legislation that we are not obligated to any kind of square footage, garage space, or anything else.

Mr. McCLURE. The Senator is correct in reading the language, which is written into the bill. But I think that adoption of this section carries with it a presumption that first, we need space, second, we need this space, and third, that this is the best available deal.

The only question remaining then, is the terms of the deal.

Mr. HOLLINGS. No, it is not a deal. If the Senator will yield, it is not any deal. It is yet to be determined.

Mr. McCLURE. All right.

Mr. HOLLINGS. Just those things, that it is the best available and that rental price could be so high that we decide to continue on our original course, continue to renovate 724 and await the completion of the extension before initiating the garage.

Mr. GRIFFIN. Mr. President, if the Senator will yield to me for an observation, it should be said, though, the Senator from Idaho is performing a real service in focusing upon this. I think he should press his point of order because the rules of the Senate do provide that we do not provide the money for something before we authorize it.

That is what we were doing here. Here we are providing the money in an appropriations bill for something that has not been authorized or has not been approved.

I was frankly surprised after the Senator from Idaho called my attention to this to find, first of all, that the Committee on Public Works had not approved it; second, that the Committee on Rules and Administration had not approved it. I thought surely the leadership of the Senate knows what it is all about. I find out the leadership of the Senate does not know anything about it.

That is putting the cart before the horse. It seems to me that we do not provide the money for something in this case that comes out of the contingency fund of the Senate. It is not going to be appropriated as a separate item. It is going to come out of the contingency fund of the Senate.

We do not operate in that way.

So I think that the Senator from Idaho should make a point of order. I intend to support him in it.

Mr. McCLURE. I thank the Senator from Michigan.

Let me make an additional point.

Mr. HOLLINGS. Yes.

Mr. McCLURE. I make this additional point so that it will be understood why my concern is focused on this.

I looked first at the facts as outlined by the Senator from Michigan in regard to the procedural matters. But then I started looking at the cost to the Government that was at least permitted, if not assured, under the Appropriations Committee action. The contemplated rental cost would be—when you add the rent, the utilities, the taxes, and the maintenance—$4,880,000, as compared to the rental that was offered by the owners of the building to GSA: $2,800,000 for 75 percent of the building.

GSA did accept an alternate tender at about $1 a square foot less, at another location. Even though the SEC headquarters are next door, GSA arranged to move them some distance away for $1 a square foot less.

The full cost of $8.20 a square foot, as I said before, is about $2 a square foot above the going rate for space outside the Connecticut Avenue-K Street area in Washington.

Let me cite a couple of examples on comparable square footage cost.

GSA this year rented for ERDA 260,000 square feet of space at 2d Street and Massachusetts Avenue, Northwest. The comparable square footage cost was $6 for each of 5 years.

The Bicentennial Building at 6th and E Streets was rented by GSA on December 1. That was for 60,000 square feet. The comparable cost was $6.20 for a 10-year lease. It is estimated that a 5-year lease would have been $6.50 a square foot. This compares with $8.20 a square foot, if it were at the ceilings authorized by this appropriations action. I think we have to ask questions about that.

Mr. HOLLINGS. If the Senator will yield, he should give the committee and his colleagues in the Senate the credit for having asked those questions. This is what the Appropriations Committee stated in their report. Incidentally, if we had left it to the leadership, they would have busted down the wall on the west front of the Capitol. That was a drive made 3 years ago by the leadership because they said we needed the space. They want to be informed about the need. If they want to be informed about rules, the rules are that you cannot act in the legislative bill without legislating, but they did not raise the point when their staff salaries were increased in July, and that increase was also legislation.

Does the Senator want to get to the rules and inform the leadership, or does he want to get to the merits and ask questions?

I read from page 47 of the committee report:

> The committee, in recommending this authority, notes that a considerable amount of information is required before the Senate embarks on a major property management program.

This would have been a major one.

> The committee directs that the General Accounting Office make a comprehensive and complete examination of the proposed transaction for the use of the Committees on Appropriations and Rules and Administration before any lease is signed.

That is the point. We are going to get a GAO audit to find out about the Senator's figures before any lease is signed. What more could the committee do? Someone gets up and says that this is a real service. It would be a better service if the Members would read the report. What is wrong with that?

Mr. McCLURE. I say to the Senator that I did read the report. That is what piqued my curiosity.

Mr. HOLLINGS. Did the Senator not see that our curiosity was piqued?

Mr. McCLURE. Yes.

Mr. HOLLINGS. So we are both piqued. Does the Senator have a better proviso?

Mr. McCLURE. A better proviso, I would suggest, would be that we determine whether or not we are going to build the underground parking garage, because that was looked at some time ago. If we do not build the underground parking garage, and the Senate has not acted on that affirmatively, then the buildings on square 724 will not be demolished. If the buildings on square 724 are not demolished, that will have a great effect on our space needs, which have been stated as being so obvious. I agree that the space needs are obvious.

Mr. HOLLINGS. The Committee on Public Works determined that the garage is going to be built. It has to be authorized, and we are trying to do it in the context of a timing schedule.

Mr. McCLURE. The Public Works Committee has taken only one action with respect to the underground parking garage, and that was to authorize a competition for design.

Mr. HOLLINGS. And we withheld that, because there is no use trying to do that while we are using that space, and while it was absolutely necessary that we have the space. There was no way in the world to go forward with the garage until we freed up the space.

Let me put it this way: I have not heard anyone, including the distinguished leadership, say that we do not need that parking space. Everyone has determined that. Even the distinguished Senator, in his presentation this morning, said he knows the need is there.

So we put all these matters in here for the committee checkoff, for the particular proviso. Does the Senator want to add the Committee on Public Works? We will be delighted to add that. I told them I did not want property management. That is why we put GAO in there and let property experts look at the square footage and the accessibility, with the experience of the General Accounting Office, to bring that information back by square footage of garage, square footage of office space, and everything else, before these two committees act.

We could present some amendments that we have an affirmative resolution by the Senate, if we think that is in the best interests of the Government. This does not slough over or disregard any question the Senator has posed this morning—except, of course, the leadership question.

Mr. McCLURE. I believe that two provisions in the bill need to be explored a little further.

One is this: Under what circumstances would the Senate acquire ownership of the building as contemplated by the language on page 16, line 23?

Mr. HOLLINGS. The circumstances would be as follows: GAO immediately would contact GSA and SEC about the other information available with respect to the rental of office space in the District. After that, they would prepare their report of what was available, what was being asked, and everything else, and it would come to these two committees.

If these two committees determined that they wished to go ahead with a lease or a lease purchase or a lease for 1 year or a lease not to exceed 5 years, or that they could not make arrangements or enter into a contract, then they would abandon it. If they could enter into a contract, then the Sergeant at Arms would be authorized by those two committees to move forward and enter into that lease arrangement.

Mr. McCLURE. But if the Dirksen extension is finished as contemplated—and I understand the Senator to say that when that is done, the people could be moved back from this property to the Dirksen Building—why would there be any need to purchase this property?

Mr. HOLLINGS. There have been various moves, including one by the SEC, which was reported to me. I was looking at the 500,000 square feet availability, and I wondered about the rest of the building and everything else. They talked about the Buzzards Point space going to the SEC. It is delayed now, with respect to that particular move.

I do not have the square footage; I do not have the tenants. I had enough information at hand, at the behest of the Public Works Committee, the architect, and the Committee on Rules and Administration, and then the 5-year experience of handling this bill, to say that if this is the supplemental and we will not have another one until next May, let us keep the door open. I did not know how to keep it any more open than to start someone looking into costs, let GAO start learning of these things, for us, report back to the two committees, who could then act one way or another. Any other caveat in there that would allay the concerns of the distinguished Senator from Idaho, we are really, willing, and able to agree to. We are not really shoving—the Senator from South Carolina is not shoving on this lease. I am just as skittish about it as anybody else. I would rather the Senate would suffer for a while than for me to be responsible for this lease.

The PRESIDING OFFICER. The Senator's 40 minutes have expired.

Mr. McCLURE. Mr. President, I think we were probably about 10 minutes late starting on our 40 minutes, rather than having 40 minutes expire from the time we actually started the colloquy. But without belaboring it further, I do make the point of order that this section 112 is legislation on an appropriation bill.

Mr. HOLLINGS. Mr. President, I raise the question of germaneness.

The PRESIDING OFFICER. All questions of relevancy of amendments under this rule, when raised, shall be submitted to the Senate and be decided without debate.

The question is, Is the amendment germane?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays on the question of germaneness.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, what is the question?

The PRESIDING OFFICER. The question is on the germaneness of the amendment.

Mr. ROBERT C. BYRD. Would the Chair state the question, please.

The PRESIDING OFFICER. Is it the sense of the Senate that the amendment is germane?

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. GRIFFIN. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRIFFIN. If the Senate decides that the matter is germane, does the point of order of the Senator from Idaho relating to the raising of the question of legislation on appropriation bills then fall, and there will be no opportunity for the Senate to vote on it?

The PRESIDING OFFICER. It does—it does fall.

Mr. GRIFFIN. It does fall.

Mr. HOLLINGS. That is right.

Mr. GRIFFIN. I thank the Chair.

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that the amendment is germane?

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. May we have order in the Senate, please. The clerk will suspend until the aisles are cleared and the well is cleared.

May we have quiet in the Senate, please. The Senate is not in order. The clerk will suspend until the aisles are cleared, the well is cleared, and order is restored in the Senate.

The clerk will continue.

The assistant legislative clerk resumed and completed the call of the roll.

Mr. ROBERT C. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Washington (Mr. JACKSON), the Senator from North Carolina (Mr. MORGAN), and the Senator from Rhode Island (Mr. PASTORE) are necessarily absent.

I also announce that the Senator from Alabama (Mr. ALLEN) is absent because of illness.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE), the Senator from North Carolina (Mr. MORGAN), and the Senator from Washington (Mr. JACKSON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

I further announce that the Senator from Kansas (Mr. DOLE) is absent to attend the funeral of his father.

I further announce that, if present and voting, the Senator from Kansas (Mr. DOLE) would vote "nay."

The yeas and nays resulted—yeas 57, nays 33, as follows:

[Rollcall Vote No. 570 Leg.]

YEAS—57

Abourezk
Beall
Bentsen
Biden
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Eagleton
Eastland
Ford
Glenn
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Johnston
Kennedy
Leahy
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Pell
Randolph
Ribicoff
Schweiker
Sparkman
Stennis
Stevens
Stevenson
Stone
Symington
Talmadge
Tunney
Williams

NAYS—33

Baker
Bartlett
Bellmon
Brock
Buckley
Byrd,
Harry F., Jr.
Curtis
Domenici
Fannin
Fong
Garn
Goldwater
Griffin
Hansen
Hatfield
Helms
Hruska
Javits
Laxalt
Long
McClure
Packwood
Pearson
Percy
Proxmire
Roth
Scott, Hugh
Stafford
Taft
Thurmond
Tower
Weicker
Young

NOT VOTING—10

Allen
Bayh
Brooke
Dole
Durkin
Gravel
Jackson
Morgan
Pastore
Scott,
William L.

The PRESIDING OFFICER (Mr. STONE). On this vote the yeas are 57, the nays are 33. The language of the amendment is held to be germane.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was held to be germane.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will be in order.

Under the previous order, the hour of 12 noon having arrived, time on H.R. 10647 is to be equally divided and controlled by the Senator from Arkansas (Mr. MCCLELLAN) and the Senator from Alabama (Mr. ALLEN), with the vote thereon to occur at 4 p.m.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, I ask the desire of the committee chairman.

May I ask unanimous consent to dispose of two other amendments, or shall we come back later to them this afternoon?

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. There is no reason that we cannot proceed now.

I yield the Senator 10 minutes to dispose of these amendments.

Mr. McCLURE. Mr. President, will the Senator yield for one question?

Mr. HOLLINGS. Yes, I yield.

Mr. McCLURE. In view of the vote taken by the Senate, will the Senator be willing to include in this section language that calls for an affirmative action of the full Senate before any lease is entered into?

Mr. HOLLINGS. I agree to that.

Will the Senator prepare it? I will have my staff over here on the Senate resolution.

The PRESIDING OFFICER. Will the Senator withhold and suspend for a moment?

The Senate is not in order.

Will Senators retire to the cloakroom if they wish to converse? Senators will kindly take their seats.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. Will the Senator excuse me? We are trying to get some order in the Senate.

The Chair requests that those who wish to converse, those who are in the aisles who wish to converse withdraw to the cloakroom.

Does the Senator from West Virginia seek recognition?

Mr. ROBERT C. BYRD. Yes.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for not to exceed 1 minute to consider a nomination so that the Senator from Oklahoma may be allowed to call up a nomination at the desk which was reported earlier today, and I ask unanimous consent for its immediate consideration.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

DEPARTMENT OF AGRICULTURE

Mr. BELLMON. Mr. President, I send to the desk a report and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the nomination.

The assistant legislative clerk read the nomination of John A. Knebel, of Virginia, to be Under Secretary of Agriculture, vice J. Phil Campbell, resigned.

Mr. CLARK. Mr. President, I wish to state that I do not approve the nomination of John A. Knebel as Under Secretary of Agriculture. I voted against the nomination in the Committee on Agriculture and Forestry.

I did so with some reluctance, because I was impressed with some aspects of Mr. Knebel's testimony before the committee, and feel he made a genuine attempt to be forthright and cooperative with the members of the committee during our sessions with him.

However, in the last analysis, it is my judgment that he does not meet the minimum requirements for this important No. 2 position in the Department.

Mr. Knebel has no personal or educational background in agriculture or rural life in general. His professional experience in agriculture is of a limited, strictly legal nature, and of only 4 years duration. He does not have any experience in agricultural policy positions—the kind of experience which I feel should be an essential prerequisite for appointment to such a strongly policy-related post.

In addition, I feel there are serious questions about the degree to which Mr. Knebel was effective in discharging his official duties as the Chief Legal Officer of the Small Business Administration and of the U.S. Department of Agriculture.

The committee found no evidence of any personal impropriety on his part during his service in those positions, but the record of that service does not demonstrate that he was as vigorous as he contends in pursuing either the general scandals which existed at SBA during his employment there, or the grain inspection scandals which surfaced while he was at the USDA.

In short, I think someone with a greater breadth and depth of qualifications could—and should—have been nominated for this post.

The PRESIDING OFFICER. The nomination is considered and confirmed.

Mr. BELLMON. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPLEMENTAL APPROPRIATIONS 1976

The Senate continued with the consideration of the bill (H.R. 10647) making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I yield a minute to the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I call up my amendment which is at the desk. I have discussed this amendment with the distinguished chairman of the Committee on Appropriations.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Minnesota (Mr. HUMPHREY) proposed an amendment.

The amendment is as follows:

Page 28, after line 13, add the following:

AMERICAN CONSULATE, GOTHENBURG, SWEDEN

"For an additional amount for 'Salaries and Expenses', $300,000."

Mr. HUMPHREY. Mr. President, I have discussed this amendment with the distinguished chairman of the Committee on Appropriations. It has the support of the Members of the House of Representatives Appropriations Committee. I discussed it with the distinguished gentleman from Texas (Mr. MAHON) and the distinguished gentleman from Michigan (Mr. CEDERBERG) in the House of Representatives, and with the distinguished chairman here of the Committee on Appropriations of the Senate.

Also may I say it has administration support.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HOLLINGS. Mr. President, I send to the desk an amendment by the distinguished Senator from Idaho and myself and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16 strike out all after line 7 over to and including line 8 on page 18 and insert the following:

SEC. 112 (a). Notwithstanding any other provision of law, the Sergeant at Arms of the Senate, subject to the approval of the Committee on Rules and Administration, and the Committee on Appropriations, is authorized to lease, for use by the United States Senate, and for such other purposes as such committees may approve, all or any part of the property located at 400 North Capitol Street, Washington, District of Columbia, known as the "North Capitol Plaza Building": Provided, That rental payments under a lease for the entire property shall not exceed $3,375,000 per annum, exclusive of amounts for reimbursement for taxes paid and utilities furnished by the lessor: *Provided further*, That a lease shall not become effective until approved by Senate Resolution. Prior to such approval process the General Accounting Office shall examine the terms of the proposed lease and shall report to the Senate on its reasonableness, taking into account such factors as rental rates for similar space, advantages of proximity, and possible alternative arrangements. Such payments shall be paid from the Contingent Fund of the Senate upon vouchers aproved by the Sergeant at Arms: Provided further, That such lease may be for a term not in excess of five years, shall contain an option to purchase such property, and shall include such other terms and conditions as such committees may determine to be in the best interests of the Government: Provided further, That nothing in this section shall be construed so as to obligate the Senate or any of its Members, officers, or employees to enter into any such lease or to imply any obligation to enter into any such lease.

(b) Notwithstanding any other provision of law, property leased under authority of subsection (a) shall be maintained by the Architect of the Capitol as part of the "Senate Office Buildings" subject to the laws, rules, and regulations governing such buildings, and the Architect is authorized to incur such expenses as may be necessary to provide for such occupancy.

(c) Notwithstanding any other provision of law, the Sergeant at Arms of the Senate, subject to the approval of the Committee on Rules and Administration and the Committee on Appropriations, is authorized to sublease any part of the property leased under authority of subsection (a) which is in excess of the requirements of the Senate. All rental payments under any such sublease shall be paid to the Sergeant at Arms of the Senate and such amounts shall thereupon be added to and merged with the appropriation "Miscellaneous Items" under the Contingent Fund of the Senate.

(d) Notwithstanding any other provision of law, upon the approval of the Committee on Rules and Administration and the Committee on Appropriations, the Secretary of the Senate shall transfer by voucher or vouchers to the Architect of the Capitol from the "Contingent Fund of the Senate" such amounts as may be necessary for the Architect of the Capitol to carry out the provisions of subsection (b) and such amounts shall thereupon be added to and merged with the appropriation "Senate Office Buildings".

(e) The authority under this section shall continue until otherwise provided by law.

Mr. HOLLINGS. Mr. President, may I get the attention of our colleagues?

The PRESIDING OFFICER. Will the Senator suspend a moment?

The Senate is not in order.

Will Senators conversing in the aisles kindly withdraw to the cloakroom?

The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, the Senator from Idaho and the Senator from South Carolina have the same desire that we not rush in, that we have Senate approval and that the leadership and all Senators are fully informed, thereby we propose this amendment which provides in essence that in addition to the language already in this section, a lease shall not become effective until approved by Senate resolution. Further, we write the GAO review into the statutory language, rather than having it appear only in our report.

I think with that affirmative language that will clear up any misgivings on both sides of the aisle.

I ask for its adoption.

Mr. McCLURE. Mr. President, I thank the Senator from South Carolina for offering this amendment on our behalf and I hope the Senate will approve it.

The amendment was agreed to.

Mr. HOLLINGS. Mr. President, earlier this morning the distinguished majority leader presented an amendment which was accepted relative to the pay of pages during the time of recess and commencement of the 2d session of the 94th Congress.

We have heard from the House side that they would like to provide similarly for the House pages.

So I ask unanimous consent that the amendment agreed to this morning adding section 113 at page 18 of the bill be changed by adding section 491(d) and "and the House of Representatives" after the word "Senate", and that "and House" be inserted after the word "Senate" in the last sentence.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments, as modified, is as follows:

On page 18, between lines 8 and 9, insert the following:

SEC. 113. The provisions of sections 491(c) and 491(d) of the Legislative Reorganization Act of 1970, as amended (2 U.S.C. 88b-1), shall not apply to the pay of pages of the Senate and House of Representatives during the period between the recess or adjournment of the first session of the 94th Congress and the convening of the second session of the 94th Congress. The pay of Senate and House pages shall continue during such period of recess or adjournment.

Mr. HOLLINGS. Mr. President, finally, and this has also been checked with our distinguished chairman of the Committee on Appropriations, the House asked us to include a provision similar to the one we provided to allow our Financial Clerk to issue regulations regarding deductions from employees' salaries for payment to financial institutions, credit unions, savings and loan, et cetera. Their provision would authorize the Financial Clerk of the House to act in a similar manner.

Therefore, I send this amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, strike out all after line 16 down to and including lines 1 through 4, on page 14 and insert the following:

SEC. 109. (a) Subsection (b) of Public Law 94-57 is amended by adding at the end thereof the following: "In carrying out the provisions of section 3620 of the Revised Statutes, as amended by subsection (a), the Secretary of the Senate shall promulgate such rules and regulations as may be appropriate with respect to the Senate. The provisions of section 3620(b)(1) of the Revised Statutes, requiring reimbursement for any additional check sent on behalf of an employee, shall not apply in the case of an additional check sent upon the request of an employee of the Senate.".

(b) Subsection (c) of Public Law 94-57 is amended by adding at the end thereof the following: "In carrying out the provisions of section 3620 of the Revised Statutes, as amended by subsection (a), the Clerk of the House with approval of the Committee on House Administration shall promulgate such rules and regulations as may be appropriate with respect to the House. The provisions of section 3620(b)(1) of the Revised Statutes, requiring reimbursement for any additional check sent on behalf of an employee, shall not apply in the case of an additional check sent upon the request of an employee of the House."

Mr. HOLLINGS. This is a housekeeping measure asked for by the House side, and unless there is some question, I ask for the adoption of the amendment.

The amendment was agreed to.

Mr. HOLLINGS. I thank the chairman.

Mr. President, before I yield the floor I want to take a moment to summarize chapter VI of the bill that covers the various activities of the legislative branch, including one important new activity, the Congressional Budget Office. The committee recommends a total of $44,987,268 for the present fiscal year, $7,517,610 for the transition period to the new fiscal period, and $650,000 for fiscal years 1974 and 1975. The committee's recommendation for the current fiscal year is a little more than $5.5 million over the amount allowed by the House and is slightly more than $5 million less than the budget estimates.

SENATE

A major portion of the increase over the House bill relates to the $4,197,300 added for the Senate, that, pursuant to tradition, was not considered by the other body. There is similarly $696,000 for Senate Office Buildings under the Architect of the Capitol. The additional amounts recommended for the Senate cover the 5-percent pay raise recently authorized for the Vice President and Senators; an additional employee for the Disbursing Office; an increase in the clerk-hire for the Senators from California since that State has now passed the 21 million in population; and for inquiries and investigation to cover the level approved by the Senate subsequent to the processing of the regular bill. We have also inserted some administrative provisions such as the one discussed previously dealing with the sending of employee deductions to financial institutions; updating the job titles but not salaries of 15 employees in the recording studio; and authorizing the same top level salaries for joint committees having legislative authority as that authorized for the standing committees of the Senate.

CONGRESSIONAL BUDGET OFFICE

The committee considered a request of 259 positions and $8,079,000 as the initial appropriation for the Congressional Budget Office. The CBO became operative with the appointment of Dr. Rivlin as the Director last March and has been operating out of the contingent fund of the Senate as authorized by the Budget Reform Act. The House allowed 193 positions which froze the Office at the level of their on-board employment plus bona fide commitments at the time of the House action. Dr. Rivlin appealed to us to raise that level to 228 as the action of the other body would result in some gaping holes in her organization, particularly in the new function that starts next session of costing out all the bills that are reported by the committees and in the area of national defense and security. The committee has allowed the full 228 level appealed but recommends an increase in the level of appropriation of only $163,660 as we believe that reductions were in order in some of the other expenses such as travel and computer programing and time.

The remainder of the chapter provides additional funds for the American Indian Policy Review Commission and for official mail under joint items; additional funds for the Architect of the Capitol to establish a ceremonial entrance in the central east front lobby by moving some of the statues contributed to the National Statuary Hall collection, to improve the traffic lights, provide custodial care and furnishings for the two apartment buildings in square 724 while arrangements for the other building are finalized, and for expanding the Library's computer center; additional funds are recommended for the Library itself in connection with the Bicentennial and the facility in Ohio where the old motion pictures are stored; funds to automate the publication of the Federal Register by the Government Printing Office to achieve annual savings of $8 million and to continue the project planning for a new printing plant; and to add the renovation of the fifth floor to renovation program the committee has already approved for the General Accounting Office Building.

The committee denied the $900,000 requested by the GPO to distribute consumer material. However, in denying this request, the committee by no means encourages the arbitrary, unilateral distribution of publications by originating or sponsoring agencies. Rather, the committee recognizes the wisdom of centralized distribution by the Government Printing Office. The committee feels, however, that such distribution shall be effected by appropriations specifically approved by the committee in its annual legislative branch appropriations hearings. Any other distributions shall be made by the Government Printing Office and that agency shall be reimbursed in full by the sponsoring agency or department.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. McCLELLAN. Mr. President, I ask unanimous consent, on behalf of the junior Senator from Massachusetts (Mr. BROOKE), who is unable to be here today because of transportation problems, and at his request, to have printed in the RECORD a statement that he wished to make with respect to the first supplemental appropriations bill, fiscal 1976.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR BROOKE

The Labor-HEW portion of the Supplemental now before us represents by far the largest portion of this $10 billion bill. Half of the bill, or $5 billion, is recommended for the unemployment compensation accounts of the

Department of Labor. This clearly serves to underscore the continuing severity of our economic problems.

The Committee also provided some $100 million for other activities of the Department of Labor including Labor-Management Services, Employment Standards and Departmental Management.

The newly enacted Nurse Training and Revenue Sharing Act received the Subcommittee's close attention during hearings on the Supplemental. In light of the testimony we received from departmental and public witnesses, the Committee has increased the House funding level for HEW programs by $35.7 million for a total of $646 million.

The largest of our increases is for Health Services where we would appropriate $440.7 million for the present fiscal year and an additional $112 million for the transitional quarter. While this represents an increase of almost $175 million over the budget request, I do not find the Committee position at all difficult to justify. The budget sought to eliminate Comprehensive Health Grants to States which are used for a wide variety of health services and preventive medicine directed at some of our most pressing needs in VD control, alcoholism tratment and drug protection activities. I am particularly glad that we have also provided $7½ million to implement a new hypertension program.

The budget had proposed 20% reductions in funding for Community Health Centers, Family Planning Services and Migrant Health Programs. These three activities have been restored to the FY '75 level.

The Committee was most pleased with the progress of the National Health Service Corps whose goal is the amelioration of health manpower shortages in underserved areas of the nation. In 1973, the Corps could report only a 3% retention rate of health professionals. This has increased to a 26% retention rate for 1975. We are, therefore, confident that the $20 million available for this program in FY '76 will be put to good use.

Home health services and hemophilia programs are two new programs authorized under the Health Revenue Sharing Act. Each would receive $3 million under our bill.

An $8.3 million increase over the budget for Rat Control programs has been recommended. A General Accounting Office report indicated that the budget request trend of reduced appropriations would eventually eliminate the program and that the rat populations in inner city areas would revert to the high levels existing prior to the establishment of this program.

No budget request was submitted for newly authorized mental health programs. The Committee has allowed $60.5 million. A portion of this money will permit existing Community Mental Health Centers to provide the wider range of services Congress has mandated. $30 million is earmarked for initial operations of approximately 30 new centers.

$89 million is proposed for the Health Resources Administration for the training of health professionals in the nursing field. Almost one-half of this amount is for capitation grants to eligible educational institutions. Two new programs have also been funded. One, the advanced nurse training program, will prepare individuals for teaching and administrative positions. The other, the nurse practitioner program, will develop programs which enchance the level of responsibility of registered nurses.

We have also added sufficient resources to continue the nursing scholarships, and loans at the FY '75 level.

The Committee has provided $38 million for programs contained in the Developmentally Disabled Assistance and Bill of Rights Act.

We are concerned with the level of funding for University Affiliated Facilities which train personnel to serve the developmentally disabled. Funding has remained at a constant level of $4,250,000 since 1972. As we are half-way through the fiscal year, no add-on is proposed at this time. We do, however, expect that more realistic budget requests for this activity will be submitted in the future.

The Chairman of our Subcommittee, Mr. Magnuson, has already covered these and other programs funded in this bill. At this time, I reemphasize the fact that the large amount contained for HEW in this Supplemental is a result of programs which lacked authorization when we considered the FY '76 bill. I also point out that the Committee has turned down approximately $3 billion in requests from members of the Senate for various Labor-HEW programs.

I hope the Supplemental now before us will receive prompt approval by the full Senate.

Mr. McCLELLAN. Mr. President, I shall wait for other amendments.

Mr. President, I do not know but I think there are two other amendments. I do not know whether anyone is here who wishes to propose an amendment.

The PRESIDING OFFICER. The bill is open to further amendment. If no further amendments——

Mr. McCLELLAN. Do we have any others?

Mr. YOUNG. Wait a minute.

I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum so that we can ascertain if there be further amendments.

The PRESIDING OFFICER. On whose time I say to the chairman of the Committee on Appropriations?

Mr. ROBERT C. BYRD. To be equally divided.

The PRESIDING OFFICER. It shall be on the Senator's time.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBSTITUTION OF CONFEREE ON S. 1281

Mr. TOWER. Mr. President, I ask unanimous consent that my name be stricken from the list of Senate conferees on S. 1281 and that the name of the Senator from Utah (Mr. GARN) be added.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPLEMENTAL APPROPRIATIONS, 1976

The Senate continued with the consideration of the bill (H.R. 10647) making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. YOUNG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. YOUNG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I yield to the distinguished Senator from North Dakota such time as he may need.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from North Dakota (Mr YOUNG) proposes an amendment on page 40:
>
> On page 40, add the following:
>
> SECTION 204. None of the funds appropriated in this act or any other act can be used to dismantle the Missile Site Radar (MSR) at Grand Forks, North Dakota prior to July 1, 1976.

Mr. YOUNG. Mr. President, previously, when we considered the defense appropriation bill, the Senate exempted the PAR radar at the ABM site in North Dakota from being dismantled. It would be continued in operation.

There is another radar there known as the missile site radar—MSR—which would have to be dismantled and hauled away as interpreted by the Army under the SALT agreement.

All I am asking is that the dismantling of the MSR radar be delayed until July 1, 1976, because the weather modification scientists, who are very active in 10 States in that area, think this radar would be of tremendous importance to them. I wish I had known about it sooner, so that there could have been more discussion. But it will be in conference with the House. There will be no cost to the Army. The amendment would prevent dismantling and hauling away this tremendously costly MSR radar which cost $372,000,000 until July 1, to see whether some useful purpose could be made of it.

Mr. McCLELLAN. Mr. President, I am willing to take the amendment to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. McCLELLAN. I yield time. I guess I am in charge of all of it. I do not see anybody in charge on the other side.

The PRESIDING OFFICER. Senator Allen is supposed to control the opponents' time. Since Senator ALLEN is not present, the Senator from Wyoming is recognized.

Mr. HANSEN. Mr. President, I have four amendments at the desk that are similar to the amendment which I offered earlier on the authorization bill to provide short-term seasonal loans to New York City.

AMENDMENT NO. 1206

I would like to call up and discuss my amendment No. 1206.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. HANSEN) proposes amendment No. 1206.

Mr. HANSEN. Mr. President, I ask that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Let me say this is not a long amendment, and I shall read it.

Notwithstanding the provisions of section 5 of the New York City Seasonal Financing Act of 1975, the Secretary of the Treasury may withhold any payments from the United States to the city of New York, either directly or through the State of New York, which may be or may become due pursuant to any provision of Federal law in order to satisfy any claim of the United States in connection with a loan under such Act to New York City or to any financing agent for New York City. The authority of the Secretary to withhold such payments shall become effective upon the expiration of thirty days of continuous session of the Congress after transmittal to the Congress of a plan specifying the amount and types of payments proposed to be withheld unless, prior to the expiration of such thirty-day period—

(1) either House passes a resolution stating in substance that it disapproves the plan; and

(2) the Congress otherwise provides, by law, for the satisfaction of the claim.

For the purpose of the preceding sentence, the continuity of a session is broken only by an adjournment of the Congres sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty-day period.

Mr. President, I am one of the 57 Senators, as I recall, who voted for the loan bill for New York City. I had stated when New York City's problems first received national attention that I thought the President of the United States ought not bail out New York City. I thought that before there was any federal action the city must put its financial house in order. I believed that no federal assistance should be forthcoming until New York City took constructive actions to raise revenues, and a cutback on what I consider to be a course of profligate spending.

Spending more money than the City was willing to tax its citizens was the cause of the City's financial problems. This reckless course of action by part and present New York City officials, at least until recent weeks, has been most inexcusable.

I voted to extend short-term seasonal loans to New York City because I thought that subsequent to the time the President demanded certain fiscal actions be taken by the City and the State of New York, there had been a responsiveness to heed the fiscal admonitions the President had laid down.

Payrolls have been cut, city employees have been laid off, a financial course of action has been laid out that, I think, does assure all of us, not only the residents of New York City and of New York State but the country as well, that New York City will have a balanced budget.

Furthermore, there are a number of guarantees written into this bill that I think minimize the possibility of the United States losing money that it may loan to New York City.

The four amendments I filed on this bill were offered to further perfect the New York City seasonal loan legisation. My amendments would give the Secretary of the Treasury additional authority and, thereby, give to the people of the United States the additional collateral which would make even more remote the possibility that funds of the United States would be lost by failure of the city of New York to repay the loans.

One of these amendments, the one that I just called up, authorizes the Secretary of the Treasury to withhold other project, program, and revenue sharing funds payable to New York in the event the city fails to repay a loan. My amendment provides that the Secretary may take this action unless Congress disapproves the Secretary's specific plan and enacts its own. The Congress could not, however, negate the action of the Secretary of the Treasury unless it comes up with its own plan.

I know the chairman of the Banking, Housing and Urban Affairs Committee and members of that committee have given close attention to this problem. The intent of my amendment is to further clarify the safeguards under this loan program. I would welcome the comments of Mr. PROXMIRE, the chairman of the Banking, Housing and Urban Affairs Committee on my amendment.

Mr. PROXMIRE. First, I would like to say, Mr. President, I think the Senator from Wyoming is performing a real service here in emphasizing the importance of protecting the Federal interest, making sure this money is repaid, making sure this is not in any sense a grant or a soft loan but is a hard, tough loan that has to be repaid, and I think that is the thrust of the Senator's amendment, and it is a very useful amendment for that purpose.

Mr. President, I think there are two reasons why this legislation should advance without this additional amendment. First, the administration's bill originally contained the language the Senator from Wyoming would now reinsert in it. It was revised as a result of very extensive and careful negotiations with the House.

The House provided two things in place of this. No. 1, it provided that instead of an automatic appropriation to the Federal Financing Bank without action by the Congress or appropriations committees, we would have to go through the front door. There would be no recourse on the Federal Financing Bank, we would have to have a separate appropriation in addition to authorizing the loan, and it was a safeguard not in the administration's proposal but it is in the bill.

The second change was to take the power to withhold funds to New York from other programs out of the hands of the Secretary of the Treasury and put it in the hands of Congress.

There are those who feel that because withholding funds has been a congressional function and a congressional responsibility it should remain there. We should not surrender that even under circumstances like this to the administration, even though in this case we know that would be exercised the way we want it to be exercised, but it would be a precedent which the chairman of the Appropriations Committee particularly said he wanted to resist.

The other point I would like to make to my good friend from Wyoming is that there are some very, very strong provisions in this bill to protect the Federal interest. In the first place, the Federal loans have priority over all of New York City's other debts, bonds and notes coming due, paychecks for city employees, pension fund obligations, the works. It does have that priority.

There are many safeguards in H.R. 10481 to assure that the Federal loans will be paid back. That is the bill we passed the other day that the President has now signed, and requires that the Federal loans be paid back entirely, and that the taxpayers will not lose any money on this program to provide seasonal financing for New York City.

Let me just list the safeguards in the authorizing legislation. First, section 5 of H.R. 10481 includes language giving the Federal Government an absolute priority over all of New York City's other creditors. It states that the city or its financing agent is to be considered a person for the purpose of section 191 of title 31 of the United States Code.

That section of the code which I have here specifically states that whenever any person indebted to the United States is insolvent, the debts which are owed to the United States take priority over all other debts, even in cases of bankruptcy.

Mr. President, I ask unanimous consent that the language of 31 U.S.C. 191 be printed in the RECORD at this point, particularly, the language which specifies "Whenever any person indebted to the United States is insolvent, the debts due to the United States shall be first satisfied."

There being no objection, the language was ordered to be printed in the RECORD, as follows:

§ 191. Priority established.

Whenever any person indebted to the United States is insolvent, or whenever the estate of any deceased debtor, in the hands of the executors or administrators, is insufficient to pay all the debts due from the deceased, the debts due to the United States shall be first satisfied; and the priority established shall extend as well to cases in which a debtor, not having sufficient property to pay all his debts, makes a voluntary assignment thereof, or in which the estate and effects of an absconding, concealed, or absent debtor are attached by process of law, as to cases in which an act of bankruptcy is committed. (R. S. § 3466.)

Mr. PROXMIRE. Second, section 5 also authorizes the Secretary to require "such security as he deems appropriate" to back up Federal loans to New York City, and to collect on any collateral offered as security if the city fails to repay. I assure my good friend from Wyoming that this is not an empty phrase. Officials at the Treasury have informed me that in negotiating the loan agreement with the city, that they will make sure in no incertain terms that such security is given. High on their agenda is the task of identifying assets held by the city which can be pledged as security against the Federal loans. And there is no question that the city holds pledgeable assets, in real estate and other property. Just to begin with, it has a mortgage portfolio estimated at somewhere between $400 million and $1.2 billion.

Third, there is ample authority in H.R. 10481 to let the Secretary of the Treasury keep New York City on a short leash and cut off the flow of loan money if he sees any danger that the loans will not be repaid. Treasury people have informed me that Secretary Simon takes very seriously the requirement in section 6 of the bill that loans be made "only if the Secretary determines that there is a reasonable prospect of repayment." Moreover, that section permits the Secretary to require "such terms and conditions as he may deem appropriate to insure repayment." Here are just a couple of the terms and conditions Secretary Simon is contemplating to insure repayment of the Federal loans to New York City.

The loans made will be very short-term loans. Probably they will mature at the end of each month and have to be rolled over at that time. This gives the Secretary a firm hand in his oversight of the city's financial affairs. If he sees that the city is violating the terms of the loan agreement, or doing anything that would jeopardize repayment, he can call off the agreement and refuse to renew the loan.

Although the legislation just says that the loans must be repaid by the end of the city's fiscal year, June 30, the Treasury Department will require the city to begin paying back the loans as soon as it starts generating revenue surpluses—that is to say, first in April, then more in May, then the rest in June. This will insure that the Federal Government's exposure is limited to the bare minimum needed to cover the city's seasonal revenue shortfalls.

Fourth and finally, section 5 of H.R. 10481 permits the withholding from appropriations acts of any Federal payments to New York City, in order to cover any claims against the city. This is the point to which the Senator would address his amendment. This means that if the Federal Government loses money on its loans because the city fails to repay them, then the administration can request Congress—and this is the way they would, of course, under the present law if it is not amended—to withhold that amount of money in future appropriations act authorizing Federal payments to the city.

Included in this are all types of Federal financial assistance, such as revenue sharing, aid to education, medicare and medicaid. New York City is entitled to $2.5 billion in Federal assistance in fiscal year 1976—more than the $2.3 billion in loans appropriated in this bill. These Federal payments include $263 million in general revenue sharing, $528 million in public assistance benefits, $126 million in medicare and $834 million in medicaid.

Mr. President, I think we can appropriate the loan funds needed to meet New York City's seasonal financing needs with the conviction that H.R. 10481 contains sufficient safeguards to protect the taxpayers' interest in this matter, and that the administration intends to administer the loan program rigorously and with due regard to the financial concerns of the Federal Government.

Mr. HANSEN. If the Senator will permit an observation at this point, first I want to compliment him on the very constructive work he and the members of the committee have done in taking many actions and steps that I think are helpful.

With respect to the ability of the Congress through the appropriation process to require withholding of these moneys—on that one specific particular point—I would have a little greater confidence that the Secretary of Treasury would withhold the money than the appropriation process.

Mr. PROXMIRE. I think the Senator makes a very good point. I have to concede that is true.

I have only one point, that is that the Secretary has to ask and will require the city to pledge as security the Federal payments they will receive from revenue sharing and other Federal financial assistance programs.

So the Congress would be on notice that New York has pledged this, that the Secretary has required this, and therefore, we have the basis for action. It is not as if we have to come in.

Mr. HANSEN. Yes.

Mr. PROXMIRE. That money is pledged. If they fail, we have pretty much of a commitment to go ahead and require withholding.

Mr. HANSEN. On the point of this legislative history that we are now writing, would I be presumptious to presume that the Senator's recommendation would be that the Congress, if this sort of scenario were to develop, take the action?

Mr. PROXMIRE. I would, indeed. I would recommend it. I would support it in every way I could.

Mr. HANSEN. I thank the Senator.

Mr. JAVITS. Will the Senator yield to me?

Mr. HANSEN. Yes.

Mr. JAVITS. I have heard everything Senator PROXMIRE said. I guess I have been New York City's most ardent advocate. I have been very grateful to Senator HANSEN for supporting us. It was rather surprising to me and I am very gratified.

Of course, our hero is Senator PROXMIRE.

I would like to subscribe to everything Senator PROXMIRE said. The figures he has given are very accurate. They are $2.5 billion in this fiscal year. The public assistance of $528 million, medicare $126 million, medicaid assistance of $834 million. Revenue sharing $263 million. Other miscellaneous items of $770 million.

I would like to point out what was said about the amendment, which I opposed and Senator PROXMIRE had before, it was that he knew they were going to be on such a tight schedule that the whole thing, again, could be vitiated if it just kicked around here in Congress for 30 days, which under the Senator's amendment it would.

So I would hope very much that—with this assurance, I thoroughly agree with the Senator—the Senator might see fit to let us go ahead and breathe, as the saying goes.

Mr. HANSEN. I thank my distinguished colleague from New York for his valuable contribution in this dialog, which adds importantly to the legislative history on this bill.

May I say to the distinguished chairman of the Banking, Housing and Urban Affairs Committee that based upon the assurances he has given me, ratified and agreed to additionally by the distinguished senior Senator from New York, I must say that I think every reasonable thing that can be done, in order, first, to meet the extreme situation that faces New York City, and to insure repayment of the loans to the United States, on the other hand, has been done.

I therefore ask that my amendment be withdrawn.

It will be my purpose to vote—insofar as this one issue is concerned, and there may be other things in the supplemental appropriations that would incline me to vote "No"—but on this issue I stand as I did earlier when I voted here to extend the loan to the city of New York.

The PRESIDING OFFICER. The amendment of the Senator from Wyoming is withdrawn.

Mr. HANSEN. I thank my colleagues.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, I yield the Senator from Oregon such time as he may require.

Mr. HATFIELD. I thank the chairman.

Mr. President, I ask unanimous consent that the amendment at page 2, line 15, offered by the Senator from California (Mr. TUNNEY) and agreed to by the Senate, may be further amended.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HATFIELD. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 2, line 15, strike $25,182,000 and insert in lieu thereof $26,432,000.

Mr. HATFIELD. Mr. President, this amendment is offered, under section 216 of the Flood Control Act of 1950, to provide funds for restoration and repair of storm damage to the coastal counties in northwestern Oregon. The principal damages occurred in Tillamook and Lane Counties from the rains which began last Sunday, on November 30. The rain totaled 10 to 12 inches by Wednesday night and Thursday morning, December 3 and 4. The damage was devastating.

Besides high tides and winds, we had severe damage, both to levees and other restraining construction projects for the controlling of the rivers and the water.

We have here evidence from the U.S. Department of Agriculture Soil Conservation Service indicating the extent of the damage, which I ask unanimous consent to have printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. Department of Agriculture,
Portland, Oreg., December 5, 1975.

Subject:
WS—Emergency watershed protection—request for 216 funds.
To: **R.M. Davis, Administrator, SCS, Washington, D.C.**

This constitutes our preliminary request for $1,250,000 of 216 funds for restoration and repair of storm damage to coastal counties of Northwestern Oregon. Principal damages are in Tillamook and Lane Counties which these estimates are based upon.

Heavy rains began last Sunday, November 30, 1975, and totalled 10 to 12 inches by Wednesday night and Thursday morning, December 3 and 4. High tides of 95 to 100 feet occurred during this period as did westerly winds of about 75 miles per hour. Flood levels equalled those of 1964. Twenty-five families have been evacuated.

Water still remains high. Damage surveys are in progress and will provide basis of formal request at later date.

Preliminary estimates for restoration work on non-forested land is $1¼ million dollars and consists of debris removal and bank protection on approximately 20 miles of coastal streams and dike repair in three drainage districts.

Forest Service has notified their national office of need for approximately $1,180,000 for repair and restoration work on private and publicly-owned forest lands. Principal damages are in Benton, Lincoln, Lane, Tillamook, and Clacamas Counties and involve land slides, water systems, road repairs, deep grounds, and domestic-municipal water supplies.

At the request of Senator Hatfield, this information is also being provided his office.

Guy W. Nutt,
State Conservationist.

Mr. HATFIELD. Mr. President, this amendment would add an additional $1,250,000 to the agriculture appropriations portion of the bill, in order to provide that sum under the provisions of section 216 of the Flood Control Act of 1950 for the rehabilitation of watershed and terrain in the area of Tillamook, Oreg. Recent floods in that area have caused significant damage to cropland and considerable stream bank erosion that will require repair before this area can be returned to the bountiful agricultural production for which it is well known.

News of these storm-caused floods reached my office on the UPI wire last Thursday evening, after the Appropriations Committee had finished its markup of this supplemental bill, so it was not possible for me to submit this request at our committee meeting. Furthermore, a preliminary assessment of section 216 funding requirements for repair of the damage just reached my office this morning via our telecopier from the Soil Conservation Service office in Portland.

This is truly an emergency situation, one which could not have been envisioned before now, and for which a supplemental appropriations bill is suited. My amendment would add another $1.25 million to the more than $25 million already in the bill for flood repair.

In conclusion, I repeat that the news of the storm-caused flood reached my office by UPI wire last Thursday evening after our committee had finished its markup of this supplemental appropriation bill, so it was not possible for me to submit this request at that meeting. As a member of the committee, I naturally would have preferred to have the amendment considered at that time. The Soil Conservation Service also had to make a preliminary assessment of the damage, which has taken up to this very time.

I ask that the amendment be favorably considered.

Mr. McCLELLAN. Mr. President, this is an amendment comparable to the one offered yesterday by the distinguished Senator from California (Mr. Tunney). It deals with an emergency situation. I agreed yesterday to take the amendment that applied to California to conference. I am willing to take this amendment to conference also.

But as I suggested yesterday to Senator Tunney, I believe, we wish to have the Senator submit material to us for conference so we will have in conference all data and information that is pertinent that we should have in order to make arguments to sustain the Senate's position on this item.

Mr. HATFIELD. I thank the Senator from Arkansas for his interest and understanding of this problem, and I assure the distinguished Senator that I shall submit to him the full information, data, and facts that we have submitted to us from the Soil Conservation Service in the State.

Mr. McCLELLAN. I thank the Senator, and I am ready for a vote on the amendment, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Glenn). Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, I yield to the distinguished Senator from Florida such time as he may need.

Mr. STONE. I thank the Senator.

DISAPPROVAL OF THE DEFERRAL OF CERTAIN BUDGET AUTHORITY RELATING TO THE FLEMING KEY ANIMAL IMPORT CENTER

Mr. STONE. Mr. President, in about a minute, I am going to send to the desk a resolution to disapprove a proposal deferral of budget authority for the Fleming Key Animal Import Center. The deferral is D76–69, set forth in a special message transmitted by the President to Congress on November 29, 1975, under section 1013 of the Impoundment Control Act of 1974. When I do send it, I shall ask for its immediate consideration.

Before asking for its immediate consideration, I wish to state that we have clearance for its immediate consideration on both sides of the aisle. The matter was taken up in the Committee on Agriculture this morning, and the transcript of the testimony of the Committee on Agriculture has been prepared. I ask unanimous consent that it be printed in the Record at this point.

There being no objection, the transcript was ordered to be printed in the Record, as follows:

Senator Stone. Would it be proper procedure for us to briefly discuss my resolution?

Senator Talmadge. Indeed so, Senator.

Senator Stone is recognized to discuss the resolution he wants the Committee to initiate and we will discuss it while we are waiting on a quorum.

Senator Stone. Thank you, Mr. Chairman.

Senator Talmadge. Put a copy of it on each Senator's desk, would you.

Senator Stone. Mr. Chairman, I have discussed this, I have the support of the following members of the Committee so far: Senators Huddleston, Clark, Bellmon, Young, McGovern, Leahy and myself.

What this is, this Committee initiated over a period of years a project of constructing our own animal quarantine center to import improved blood lines in both beef and dairy cattle, the purpose being to upgrade the quality of our herds in this country.

Having gone through the entire process, the President sent back an impoundment.

If we are going to compete with foreign beef, the only proper way to do it is with quality. And this impoundment I think would work to the disadvantage of all of our animal herds. In other words, this small amount of money which has already been appropriated will bring us such dividends in return, in improved quality, that I think that the resolution of disapproval ought to lie right away. We are under time pressure.

Senator Talmadge. I share your view fully, we have been quarrelling with the Department for years, just what you are talking about, because we are losing lots of export sales of the livestock industry. And when Senator Saxbe was in the Senate, he was very much interested in what you are talking about.

Any discussion of this proposed resolution of Senator Stone?

Without objection—eight—without objection, Senator Stone will report the resolution.

Senator Stone. Thank you.

Mr. STONE. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

Resolved, that the Senate disapproves the proposed deferral of budget authority for the Fleming Key Animal Import Center, which deferral (D76–69) was set forth in the special message transmitted by the President to the Congress on November 29, 1975, under Section 1013 of the Impoundment Control Act of 1974.

Without objection, the Senate proceeded to consider the resolution.

Mr. McGee. Mr. President, I certainly support the resolution of disapproval of deferral of funds for the Fleming Key construction project. As chairman of the Agricultural Appropriations Subcommittee, I have long been a supporter of this project. I have been most ably supported by the Senator from Nebraska (Mr. Hruska) over those years. Both of us have recognized the need for this facility and its importance to the livestock industry.

It has been a long, hard fight to have the necessary construction funds appropriated. We have experienced considerable opposition from the administration. It was a tough issue in our conference with the House. But, finally, we prevailed and the funds were appropriated.

It was most discouraging to learn that even with this background, the administration had proposed this deferral. I commend the Committee on Agriculture and Forestry for considering and reporting this resolution. This will allow the Department to proceed with the construction.

Mr. President, in closing, I again want to commend the Senator from Nebraska (Mr. HRUSKA). He has been the project's most consistent supporter. Without his strong and unfailing support, we most certainly would not have the construction funds we have available today.

Mr. HRUSKA. Mr. President, I rise to urge my colleagues to join me in voting to disapprove the proposed deferral of construction funds for the Fleming Key Animal Import Center.

The need for responsible governmental spending and adherence to the budget is appreciated by this Senator. I believe my record indicates my respect for these principles. In this matter, however, the funds have already been appropriated and included in the budget. Adding to those factors the importance of this project, it becomes clear that construction of the Fleming Key Animal Import Center should proceed as scheduled.

As a member of the Agriculture Appropriations Subcommittee I have long followed the progress of this project. The need for such a facility cannot be questioned. Currently, the only cattle that can be imported into this country must be quarantined in a foreign country. This process has resulted in great cost and limited the number of imported cattle to improve the quality of the herds in this country.

The Fleming Key facility will allow cattle to be imported directly without going through an intermediate quarantine in a foreign country. It will cut down on the amount of time required in importation, and provide for a quarantine program controlled by the Department of Agriculture.

Mr. President, members of the Agriculture Appropriations Subcommittee and particularly our able chairman, the distinguished Senator from Wyoming (Mr. MCGEE), have worked diligently to see the Fleming Key facility become a reality. Planning has been completed and construction is scheduled to begin early next year. A deferral at this time would further hamper our efforts to improve domestic livestock herds through the use of breeding and crossbreeding techniques. Precious time has already been lost and the need to proceed with the construction as scheduled has not diminished.

Mr. President, further delay in constructing the Fleming Key Animal Import Center will be detrimental to the livestock industry and the consumer. The Agriculture Appropriations Subcommittee has closely scrutinized the project and determined that it should have a high priority. The construction should proceed as scheduled, and this proposed deferral should be disapproved.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution—Senate Resolution 324—was agreed to.

Mr. STONE. I thank the Chair. I thank the chairman of the Committee on Appropriations, and I thank the leadership on both sides.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STONE). Without objection, it is so ordered.

SUPPLEMENTAL APPROPRIATIONS, 1976

The Senate continued with the consideration of the bill (H.R. 10647) making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

AMENDMENT NO. 1216

Mr. KENNEDY. Mr. President, I call up my amendment No. 1216 and ask for its immediate consideration.

The PRESIDING OFFICER. Who yields time to the Senator from Massachusetts?

Mr. McCLELLAN. I yield to the distinguished Senator from Massachusetts 10 minutes.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> **On page 9, after line 24 add the following:**
>
> **EDUCATION DIVISION**
>
> **OFFICE OF EDUCATION**
>
> **An additional amount for carrying out title I of the Elementary and Secondary Education Act of 1965 for the fiscal year ending June 30, 1976, $1,000,000,000.**

Mr. KENNEDY. Mr. President, I wish to take this opportunity to introduce an amendment to increase by $1 billion the appropriation for title I of the Elementary and Secondary Education Act—ESEA—for fiscal year 1976. Title I programs are authorized appropriations not to exceed $4 billion annually. Current appropriations for this program amount to $2.05 billion. My amendment will bring the fiscal year 1976 appropriation to $3.05 billion. This is a modest effort in terms of the number of students who would be added to title I programs. For there are currently 6 million title I youngsters across the Nation. My amendment would raise that figure by only 33⅓ percent to 8 million students. But the population in need of title I assistance is a whopping 140 percent larger than the number of youngsters enrolled in those programs.

Public debates about the need to help educate deprived children generally conclude with the same appeal—please provide more resources to reach these deserving students: The purpose of my amendment is designed to help address the cry for aid from local school districts that want to help deprived youngsters, but usually cannot do so because they do not have the funds.

Mr. President, I have had the opportunity to talk about this particular amendment during the course of our debate on the question of the busing issue, which this body was very much involved in not many weeks ago and, I am sure, will be involved in again.

During that debate, I heard a great deal about how many Members of this body were enormously interested in the quality of education in the inner-city schools; but they expressed very strong reservations about using vehicles to try to do very much about it. It is unquestionable, Mr. President, that there are very serious problems in terms of the quality of education that is being provided to both black and white children in the major urban areas of this country—for example, in my own city of Boston, as well as in many other communities of my State. There is a very pressing need for more resources to help deliver decent education to deprived students. And I am sure that these conditions are replicated in many other parts of the country.

Because of this problem, I offered this amendment to increase the funding for title I of the ESEA by $1 billion to try to provide some ways and means by which the schools and school districts may help improve the education of deprived children.

Title I of the ESEA is specially designed to provide aid in those areas with high concentrations of low income families because these communities are traditionally unable to provide the minimum resources to insure that a significant disparity would not exist between various school districts.

The figures showing the number of students involved under that act over the period of time since inception of this program, the last 8 or 9 years—have shown a steady decline from a high of 9 million youngsters in 1967 to about $5.5 million today.

At the same time, expenditures for this program have remained about the same, between $1 billion and $2 billion. This is at a time when the schools in those major urban areas have gotten older and where the conditions in the inner cities have, in many instances, deteriorated.

So, Mr. President, this proposition was to add $1 billion to title I of the Elementary and Secondary Education Act. This title has been reviewed on a number of different occasions by the Committee on Education. It has been found effective. It is working and assisting in many of the urban areas. Quite frankly, there are, woefully, too little funds to really reach even half of the number of children that otherwise would be eligible to receive these funds. It seems to me, Mr. President, that in our total effort to do something about improving the quality of education in the inner city schools, we ought to be able to provide the resources so that young people in these urban areas are going to be able to receive a better education.

It is interesting to note, Mr. President, that when we talk about allocating funds for the interstate highway system, 90 cents out of every dollar comes from the Federal Government. Yet when we talk about educating the children of this country, just about 7 cents of every dollar that is spent in education comes from Federal sources. I do not say that by just adding more money, we are necessarily going to resolve many of the educational problems we are facing in this country. Quite clearly, there are extremely significant problems that the kind of resources included in this amendment can be extremely helpful with.

I have talked this over with the distinguished Senator from Washington in times past. He knows my views and I believe they are views that are shared by other members of the committee. I am extremely hopeful that I shall gain some degree of support from him on this amendment.

Mr. MAGNUSON. Mr. President, I think the Senator from Massachusetts knows that I have been a strong supporter of title I since it first began. The committee has received numbers of amendments relating to education programs. The House, as the Senator may know, decided to defer all education items until the second supplemental.

We gave this matter careful consideration. We put into the education division bill earlier this year—at the $2 billion level. However, on this supplemental we chose to follow the House lead, our rationale being that it would be difficult to get reasonable levels of funding if the House has zero. We think it is in the best interest of the programs and the children affected if both the House and the Senate consider the education items at the same time.

No one contends that the amendment of the Senator from Massachusetts is without merit. I certainly hope he will resubmit the proposal and present testimony to the subcommittee when we get into the second supplemental, in which the House has agreed to take up education items.

If the Senator would give me his attention for one other item, we have a problem here with this bill—if we add too much in this first supplemental for education, will get another veto. The President only recently, sent up a rescission proposal for $150 million for the very program we are now discussing—title I. Again I am hopeful that we can take this matter up in a second supplemental. That way, we will not prejudice this item for any future consideration. I am sure that our subcommittee, the Senator's colleague (Mr. BROOKE), and I, and the rest of us will look upon this with favor. I think it is a good idea. I have always felt that. I have often suggested that title I be increased, and the committee sustained me on every occasion. We come out of conference with a little more.

So I am hopeful that the Senator from Massachusetts will resubmit the amendment at the start of the next session.

Mr. KENNEDY. I appreciate that——

Mr. MAGNUSON. Let us put it this way, the budget has always been very stingy about this and the program has not gone ahead or reached the number of people it should. We do have to put more in this item.

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. KENNEDY. May I have 5 more minutes?

Mr. MAGNUSON. I yield to the Senator.

Mr. KENNEDY. May I yield 5 minutes to the Senator from Connecticut?

Mr. McCLELLAN. Yes.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. WEICKER. Mr. President, I commend the effort of my colleague, the distinguished Senator from Massachusetts, for bringing before the Congress a positive proposal to begin to make equal educational opportunity a reality. Senator KENNEDY first made his proposal in September of this year when the Senate was caught up in a devisive debate on busing. His amendment brought the debate back into focus. It directed the attention of our colleagues to the development of positive solutions to this Nation's education problems.

Mr. President, this is not the first time that such an approach has been offered to the Senate. In May 1974, I proposed an amendment authorizing $2.5 billion per year for 5 years for States to develop and implement programs to build quality education for all children. Yet, when I mentioned the harsh fact that there would be a price to be paid for such a plan—specifically, a 1.5 percent surtax—support for the amendment dissolved.

That is the dismal record of Congress. Each year we window-shop for better education, but shy away from the cash register. In 1972, $3.6 billion were authorized, $1.6 billion were appropriated. In 1973, $4.8 billion were authorized, $1.8 billion were appropriated. In 1974, $4.1 billion authorized, $1.9 billion appropriated. And that, gentlemen, is how American education got on the cover of Newsweek.

My distinguished colleague from Massachusetts has led the fight on a related front, raising title I funds to a level more in tune with the needs of our lower income areas.

Once again I ask the question: How do we expect to build a decent school system for all Americans without paying the price? Do we mortgage our belief that every American child deserves a fighting chance? Or do we sell them down the river? Or, does the Congress of the United States, at last, put its money where its rhetoric is?

Title I funding is a recognition of a basic fact of American life—the unequal financial resources of some areas versus others. It provides money for special help for economically disadvantaged school districts. Quality education, what we are attempting today, is a matter of local, State and national policy. Equal educational opportunity is a matter of constitutional law.

The desire the parents of Roxbury and South Boston share with millions of parents, black and white in our country today, is for first-rate schools to build first-rate futures for their children.

Overcroweded classrooms, overworked teachers, broken machinery, faulty equipment. No wonder students learn more in the streets than at school.

Equality and the elimination of prejudice is going to cost—in money, lifestyle or both. I am putting my colleagues on notice that when the second supplementary comes up—I do not know what the distinguished Senator from Massachusetts intends to do vis-a-vis his particular motion here—but I intend sooner or later—and it is going to be sooner, this is the last time I am going to stand by—to make my colleagues choose as to what is important in this country.

If we are not going to have a vote on this issue today, believe me, this is the last time we will not. The next time we come around I will ask for a vote.

Once again, I commend my distinguished colleague, Senator KENNEDY, for a positive approach toward a critical problem of this nature which so far has received nothing but catcalls and pointed fingers, violence and hatred.

The problem is there and unless we are willing to settle for inequality, somebody had best come up with a solution.

I yield the floor.

Mr. KENNEDY. Mr. President, I welcome both the comments and the support of the Senator from Connecticut. I appreciate the comments of the Senator from Washington and his willingness to recognize that this is a matter of very considerable importance and consequence to many different parts of this country, and the assurances that he has given to us that on this next supplemental—which I understand is going to be just after the first of the year—we will have an opportunity to either include this kind of an addition or an opportunity to vote on this measure in the committee as well as on the floor.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. KENNEDY. May I have one more minute?

Mr. McCLELLAN. Yes.

Mr. KENNEDY. With those assurances from the Senator from Washington, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. KENNEDY. Mr. President, I send to the desk an amendment and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 6, after line 10, insert the following:

TEMPORARY EMPLOYMENT ASSISTANCE

For carrying out programs authorized by Title II of the Comprehensive Employment and Training Act of 1973, $200,000,000.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, will the floor manager yield me 10 minutes?

Mr. McCLELLAN. Yes.

Mr. KENNEDY. Mr. President, the

amendment at the desk is for myself and Senator Cranston to increase the title II CETA public service job program by some $200 million. This is an urgent matter as my colleagues on the committee know.

Senator Cranston and I wrote to the chairman of the Labor-HEW Subcommittee on this matter. In that letter, we urged that the committee consider the full $1.2 billion needed to maintain a 310,000 level of employment through the September 30, 1976, transition year.

The amendment today relates solely to the emergency needs across the Nation between now and June 30, 1976, estimated by the Department of Labor at $200 million.

However, even in this instance there are distinctions.

First, for the Nation as a whole, most prime sponsors have funds that would permit a maintenance level of jobs at the level of 310,000 until April or May.

Second, for region 1, including Massachusetts and New England, those layoffs already have begun with some 4,000 persons to be laid off by January 30.

This situation results from the Department of Labor having approved State prime sponsor proposals for 6- to 8-month job slots because of their expectation that additional funds would permit those jobs to be continued. Thus, this is the only instance where we know that the Department of Labor did not oppose such short funding but in fact specifically approved it. And we understand that they even encouraged it at the regional level.

I would hope this matter could be urgently considered because of this action taken by the Department of Labor, which I understand to be unique to the region. Senator Cranston informs me that in the case of the county of Santa Cruz in California similar equities may be involved. Obviously we would want them to be treated similarly if that is the case.

By approving this amendment, these funds could be supplemental in nature to assure the maintenance of the existing level of job slots in Massachusetts and the region and in other prime sponsors across the country through June 30, 1976.

Mr. President, Massachusetts, I would note, has a 14-percent unemployment rate at the present time and every one of its labor market areas is an area of substantial unemployment.

I would like to ask the Senator from Washington for whatever comment he would like to make on this particular proposal.

Mr. MAGNUSON. I want to express to the Senator from Massachusetts and other Senators here that we are aware of this particular need for early action to prevent the shutdown of public service jobs next spring.

I would gladly join, and the committee would, to see what we can do about it. We have been working on this. The Labor Department indicates that 110 of 430 prime sponsors may exhaust public service jobs funding prior to June 30, 1976, although significant funding shortfalls are not estimated to occur before April 1976.

It seems to me that we ought to tell the Labor Department in no uncertain terms that if and when funds will be exhausted for individual prime sponsors before we get at this matter early next year, they should utilize other funds available to resolve the problem. I am sure that we would join in such action.

I think probably the best way is for those of us, including the committee, the subcommittee officially and the rest who are concerned about this, to join in a communication to the Department of Labor, telling them that we agree they should do this, because funding is going to be a little spotty in different places.

I have here a list, which I ask unanimous consent to have printed in the Record if the Senator has not already done so, which contains the places where these things are going to happen unless we or the department take some action.

There being no objection, the list was order to be printed in the Record, as follows:

Prime Sponsors Who May Exhaust Their Funds Prior to June 30, 1976

PRIME SPONSORS WHO MAY EXHAUST THEIR FUNDS SOMETIME BETWEEN DECEMBER 1975 AND FEBRUARY 1978

Santa Cruz County, Calif.
Duluth, Minn.
Calc./Davis Consortium, La.
Arapahoe County, Colo.
Guam.
Wisconsin Rural CEP.
Balance of State, Nevada.
Alameda County, Calif.

PRIME SPONSORS WHO MAY EXHAUST THEIR FUNDS SOMETIME IN MARCH OR APRIL (54)

Richmond, Calif.
American Samoa.
Larimer County, Colo.
Pueblo County, Calif.
Balance of State, Mont.
Carolina Municipio, Puerto Rico.
Oakland, Calif.
Butte County, Calif.
Los Angeles County, Calif.
Stamford, Conn.
Balance of State, Massachusetts.
Cambridge Consortium (EMHRDA), Mass.
City of Camden, N.J.
Camden County, N.J.
Monmouth County, N.J.
Ponce Municipio, Puerto Rico.
Westmoreland County, Calif.
Heartland Manpower Csrt., Fla.
East Kentucky Rural CEP, Ken.
Onslow County, N.C.
Rock Island County, Ill.
East St. Louis, Ill.
Anchorage Borough, Alaska.
Detroit, Mich.
Bay County, Mich.
Santa Barbara, Calif.
Fresno City/County, Calif.
Muskegon Consortium, Mich.
Balance of State, Minn.
Cincinnati, Ohio.
Comanche County, Okla.
Tarrant County, Tex.
Henrico County Consortium, Va.
St. Clair County, Mich.
Hartford Consortium, Conn.
Berrien County, Mich.
Kent/Grand Rapids Consortium, Mich.
Jackson Consortium, Mich.
Macomb County, Mich.
Balance of State, Mich.
Lafayette Parish, La.
Boulder County, Colo.
Utah Statewide Consortium, Utah.
Long Beach, Calif.
L.A. City, Calif.
Contra Costa County, Calif.
Inland Manpower Consortium, Calif.
Stockton/San Joaquin Manpower Consortium, Calif., Imperial County, Calif.
Honolulu, Hawaii.
Buffalo, N.Y.
Lake County, Ill.

PRIME SPONSORS WHO MAY EXHAUST THEIR FUNDS IN MAY OR JUNE (48)

King Snohomish, Wash.
Spokane Consortium, Wash.
Yakima County, Wash.
Balance of State, Wash.
Tuscon/Pima Consortium, Ariz.
Marin County, Calif.
Merced County, Calif.
Monterey County, Calif.
San Diego RETC, Calif.
Orange County Manpower, Calif.
Ottawa County, Mich.
Winneford Consortium, Wisc.
Oklahoma City Consortium, Okla.
Tulsa Consortium, Okla.
Philadelphia, Pa.
Fayette County, Pa.
Balance of State, Pa.
NE Florida Manpower Consortium, Fla.
Balance of State, N.C.
Sullivan County, Tenn.
Burlington County, N.J.
Lansing Consortium, Mich.
Rapides Parish, La.
New Orleans, La.
St. Clair County, Ill.
Lake County, Ill.
Tippecanoe County, Ind.
Balance of State, Ind.
Wayne County, Mich.
Monroe County, Mich.
Saginaw County, Mich.
Waterbury, Conn.
New Bedford Consortium, Mass.
Hampden County Consortium, Mass.
Boston, Mass.
Balance of State, Maine.
Erie Consortium, N.J.
Niagara County, N.Y.
Cumberland County, N.J.
Elizabeth, N.J.
Jersey City, N.J.
Balance of State, Puerto Rico.
New York City, N.Y.
Lowell Consortium, Mass.
Indianapolis, Ind.
Cleveland Consortium, Ohio.
Balance of State, Ohio.
Tulare/Kings County, Calif.

Mr. MAGNUSON. The Department has funds they can use. They now have the biggest appropriation of all time in the Labor Department. And incidentally, while we are discussing this bill, I know most of the time has been taken up with the argument on the New York situation, and we have completely failed to discuss some of the other important portions of this bill.

To show how acute the need is, in this bill there is $5 billion to extend unemployment insurance. No one has discussed that on the floor at all. I have not said too much about it, because apparently the Senate is going to agree with it. But it illustrates the importance of getting this bill passed. That is why I was opposed to this filibuster over another issue.

I am hoping that this bill can get passed, so we may see what we can do about it; and I am sure the Senator's colleague from Massachusetts (Mr. Brooke) will join me. We have discussed this matter at some length.

Mr. KENNEDY. I thank the Senator. As he understands, there are several thousands of those that have been involved in the CETA program who have already been laid off in my own State.

Some 4,000 would have to be laid off through January 30, according to the CETA director and 6,000 more by June 30, 1976. I am sure that with the cooperation of the Senator from Washington, and the committee's concurrence and a communication to the Department of Labor urging them to provide from the discretionary funds that they do have available to meet this particular objective, it would meet the emergency needs of prime sponsors in Massachusetts and other areas who already are facing layoffs. Without such assurance, we need this kind of amendment to meet their particular needs; but if we are able to get the Labor Department to follow the procedure which has been outlined by the Senator from Washington in allocating those discretionary funds and reprograming other funds, then we can maintain those prime sponsors at their July 1, 1975 level.

So with that kind of assurances and support, Mr. President, I withdraw my amendment, and I thank the Senator from Washington.

The **PRESIDING OFFICER**. The amendment of the Senator from Massachusetts is withdrawn.

Mr. **MAGNUSON**. Mr. President, I must say I think we ought to get at that this week or the first of next week, so that they can start allocation, looking at the different spots and the unequalness throughout the country, and second, so that they can reprogram some funds from other areas which they do not have to spend until later next year.

I think we ought to get at it right away.

Mr. **KENNEDY**. Mr. President, I send another amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The amendment will be stated.

The legislative clerk read as follows:

On page 6, after line 10, insert the following:

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

For an additional amount for "Community Service Employment for Older Americans," $18,000,000, to remain available until September 30, 1976.

Mr. **KENNEDY**. Mr. President, this older Americans community service employment program has probably been one of the most effective programs of employment for the elderly. It is directed toward elderly people, who have traditionally been the ones who have been the first fired. They are put by the wayside by employers and they are the ones which the general manpower programs have been the last to reach.

Title IX was motivated because of those facts developed by the Committee on Aging. There has been an extremely modest program, the older workers community service program. The testimony that the Committee on Aging has received on this program has truly been outstanding. The sponsors have been a variety of different kinds of nonprofit organizations, the National Council on Senior Citizens, AARP/NRTA, National Council on Aging, and National Farmers' Union. I cannot think of a program that has as many qualified applications as this particular program, and such a modest figure in terms of the appropriation.

I have had an opportunity to talk this over again with the floor manager of the bill. He is very much aware of my interest and the interest of the National Council of Senior Citizens, the AARP, the NRTA, the National Farmers' Union, and the National Council on Aging, all of which support this amendment. We have had an opportunity to talk about it, but I would be interested to hear him on this particular measure at this point.

Mr. **MAGNUSON**. Mr. President, we funded $42 million last year for this purpose, but we could not do much with it this year because we did not have the authorization. Renewed authorization was not passed until late November, missing the regular Labor-HEW bill, as well as House action on this supplemental.

The projects, of course, are operated by national contractors such as the Farmers' Union, the Retired Teachers Association, including programs called Green Thumb, and Senior Aides. We indicated in the conference report on the regular bill that we would consider additional funding in a supplemental bill early in the next session.

These are all good programs. They are comparatively new, but they have been quite successful. I think that we should at least go to the figure in the supplemental that the Senator has suggested, or even a higher figure.

Mr. **KENNEDY**. I appreciate the willingness of the manager to review this matter in the second supplemental. As the manager has pointed out, this will give a further opportunity to make the case, which I am personally already convinced of, but with the assurance that this matter will be taken up in the next supplemental, Mr. President, I ask that the amendment be withdrawn.

The **PRESIDING OFFICER**. The amendment is withdrawn.

Mr. **KENNEDY**. Mr. President, as my final amendment, I call up amendment No. 1218, and ask for its immediate consideration.

The **PRESIDING OFFICER**. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment numbered 1218.

Mr. **KENNEDY**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. KENNEDY's amendment (No. 1218) is as follows:

On page 11, between lines 12 and 13, insert the following:

COMMUNITY ECONOMIC DEVELOPMENT PROGRAM

For an additional amount for title VII of the Economic Opportunity Act of 1964, relating to community economic development programs, $7,500,000.

Mr. **KENNEDY**. This, Mr. President, is an amendment to provide a modest expansion of what is title VII, the community economic development program of the Community Service Administration.

I think, Mr. President, that when the time finally comes for a careful evaluation of the various efforts made by Congress to try to provide some restoration in the inner cities of this country, it will point to the community economic development program, which has provided the stimulus in the development of the restoration of the inner cities. There have been programs which I am familiar with that have been initiated in different parts of the country. In Boston in Roxbury and East Boston two different programs are cooperating in two separate sections of the city. The program which was developed in New York, the Bedford-Stuyvesant program, is perhaps the foremost example of what can be done in terms of restoration and in terms of self-help.

I know that the Senator from Washington is well familiar with that. I can remember back when there was an extremely modest budget for Bed-Sty. At that time it required that any of those people who wanted to benefit from approximately $200 worth of restoration for outside of their home were going to have to put up the equivalent of $125 of their own for the restoration inside of their home, and what had to be agreed was that 80 percent of the people in the particular street were going to have to participate. And when the corporation was initially developed and went around the various neighborhoods, they asked the community leaders to come in, but they had a difficult time in finding any streets that were willing to participate in the first year, and I think that the actual spending was somewhere around $2 million.

Three years later they had some 250 streets that were making application to participate in the restoration program, yet there still was only about $3 million to $3½ million and they had to limit the program. If one goes there today and sees what has been done by the people in that community themselves, in the restoration of their homes, it demonstrates the pride that is taken in this program.

This was only one very, very small aspect of the economic development program but one which suggests the importance of involving the people in the community, gaining their commitment toward improvement.

Mr. President, I only point out, finally, that the extensive and exhaustive evaluation by independent consultants have found that the Community Development Corporations have, first of all, a comprehensive view of the development problems in their communities and policies to meet them and act as a central coordinating and operating agency linking the public and private groups. They have been effective in involving the community members in actual decisionmaking of development programs and potential, having an appreciable impact on economic standards of living in those communities and have brought in an additional dollar in new investment in the poverty community for every dollar that comes through the community economic development program.

I personally believe, as I mentioned before, that this one program has been the most effective in terms of community development and economic development. The increase in these appropriations are extremely modest.

I am wondering if the manager would make any comment about this program.

Mr. MAGNUSON. This amendment deals with projects aimed at training low-income people and upgrading poverty communities. The budget came up with a request of $39 million in the regular bill, and we upped it to $46.5 million. Beyond that, we included language in the Senate version of this supplemental to reclaim for the program $7.5 million from impounded funds in the Treasury. This would raise the program to a $54 million level which is a 50-percent increase in 1 year.

I wish to assure the Senator from Massachusetts that we are going to fight as hard as we know how in conference on this bill for that increase. Fiscal year 1976 is half over and any further increases, I think, should be considered as part of the fiscal 1977 budget. If we can sustain this $54 million program level in conference, I think we have pretty well taken care of what we intended to do in this particular field during fiscal year 1976.

Mr. KENNEDY. I make a couple brief comments.

One is that my amendment would raise it up to $61.5 million. Last year we passed this at a $68 million level, so even with the acceptance of my amendment it is below what was actually passed last year by the Senate.

As I understand from the Community Economic Development Division, $80 million is actually what is essential to carry on the maintenance of the existing programs in this fiscal year, given their current needs. So we are really talking about an extremely bare bones figures on this program even were this amendment adopted. I am aware there was an effort to rescind some of those funds. But I hope that if we are able to make the case at the time of the next supplemental, I can come back to the Senator to try to be able to make a case.

Mr. MAGNUSON. The $68 million passed by the Senate last year included $14 million earmarked for Hahneman Hospital in Pennsylvania; the amount available for the basic program voted by the Senate was only $54 million, and this is the level we are again trying to provide in this supplemental.

Mr. KENNEDY. With the assurances of consideration in the next supplemental and with the hope that the Senator will carry to the conference the very strong support that this program has here in the Chamber, I intend to withdraw this amendment. I know our distinguished colleague, the Senator from New York, has been extremely interested in this program, as has my colleague from Massachusetts, and the Senator from California, Mr. CRANSTON, so I am very hopeful that we will maintain at least a $54 million appropriations in this bill. I will look forward to working with the committee on the supplemental.

Mr. President, I withdraw my amendment.

Mr. MAGNUSON. Mr. President, I ask unanimous consent to have printed in the RECORD my statement on the Labor-HEW chapter V of this first supplemental.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

CHAIRMAN MAGNUSON'S STATEMENT ON LABOR-HEW CHAPTER V OF FIRST SUPPLEMENTAL (H.R. 10647) FISCAL YEAR 1976

The Labor-HEW portion of this supplemental is a very important one to many Americans in every State of the Union.

The Committee is recommending a total of $5.7 billion. This is about $300 million over the President's budget request and only $35 million more than the House allowed.

UNEMPLOYMENT

This sounds like a lot of money for a supplemental, and it is—but $5 billion of this is for unemployment compensation, the same as the request and House allowance. As long as unemployment continues at such a destructively high rate, we must help those who are unable to work; those who have families to take care of; and those who simply do not have the opportunities which many Americans have.

HEALTH PROGRAMS

Many health programs finally have the long-awaited authorization under the new Health Revenue-Nurse Training and Health Services Act of 1975. Now we can get onto the business of funding these vital programs and getting them implemented.

Hundreds of communities and thousands of citizens across the country will benefit from these programs—all of which involve health services or preventive health and training programs.

The National Health Service Corps is being expanded as it continues its very successful mission of taking health care to our rural and medically-underserved areas.

At the same time, we are also continuing our strong commitment to the development of a national health care system by supporting and increasing Community Health and Mental Health Centers. To help complete this chain on health care programs, the Committee has also provided for the expansion of the migrant health centers program. Our migrant workers and their families can usually get no medical help from either the States or the cities because they are not permanent residents. Because of this, migrant workers have the highest infant mortality rate in the country and the poorest health care—the growth of the health centers program will go a long way in providing the proper health care to our laborers throughout the country.

This bill also contains two good preventive health programs for which the Committee has recommended funding—the new hypertension and rat control programs.

Hypertension, or high blood pressure, is the primary cause of our No. 1 killer in this country—heart disease and strokes. Last year, for the first time, deaths from heart attacks and strokes actually declined. We now know how to prevent them, and this program will go a long way in detecting, treating, and preventing thousands of unnecessary deaths or disabilities—before it's too late.

The other prevention program, Rat Control, mostly affects residents of cities, especially our poor, the children, or our elderly populations. Without this program, certain diseases from bites and infestation can spread very rapidly. Some neighborhoods can actually be overrun.

For our high-priority nurse training programs, we have recommended what we consider to be some very selective—but vital—increases.

The additional $4 million recommended for the new advanced training and nurse practitioner programs will allow nurses to assume a greater amount of responsibility in the growing needs and demands of health care. These programs will provide for better training, as well as projects to work in rural areas and in homes for the aged.

All of these programs relate to and help people. Our commitments to these programs continues to show the high priority which this body of our Federal system has placed on human needs as we strive to improve the quality of American life.

I urge all of my colleagues to act on our recommendations in this chapter in a favorable manner.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes an amendment.

The amendment is as follows:

On page 39, after line 3, insert the following:

"CHAPTER XI—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

"OPERATING EXPENSES

"For an additional amount for "Operating expenses", $6,900,000 to remain available until expended: *Provided*, That this appropriation shall be available only upon enactment into law of authorizing legislation."

Mr. McCLELLAN. Mr. President, I yield the distinguished Senator 10 minutes.

Mr. GLENN. That should be sufficient. I thank the Senator from Arkansas.

Mr. President, the potential for fuel cell development in this country to help alleviate some of the energy shortages is indeed tremendous and in the Committee on Interior and Insular Affairs, of which I am a member, we had recommended an authorization of $10 million in this vital area.

There are only one or two major leading industrial groups at the present time involved in major projects of fuel cell development, and we need this amount of Government support in order to make our input and encourage private industrial development in this area.

The demonstration project activity that would have been permitted under $10 million was cut back considerably when the Appropriations Committee recommended a $5.6 million level, and in debate a few weeks ago here in the Senate, we attempted at that time to raise that $5.6 million back up to the $10 million figure. But I withdrew that amendment that evening with the understanding of the distinguished majority whip that we would bring it up on a later supplemental bill.

In discussing this with him, he had intended that this was going to be in February or March when the next supplemental comes out, and in discussing that arrangement with ERDA they are very concerned that, if we put off until that time consideration of upping this amount, it will mean that we will not have participation by the other industrial groups that are so important in this area and will delay the start of essential experimental projects a considerable period of time.

I have a letter from Mr. Robert Seamans, which I received today. He is the one with whom I have discussed this matter. It reads as follows:

> DEAR SENATOR GLENN: I have been informed that the House-Senate conferees have reduced the FY 1976 fuel cell appropriation to $3.1 million. At this level, the ERDA program will be limited to further evaluations and small-scale technology improvements.
>
> At the level of $10 million you have suggested, we would be able to initiate a major utility demonstration program which would significantly advance the effort to save oil in the near term. This demonstration program would include a great deal of financial participation by private industry and the public utilities. In order to encourage their participation, ERDA must show its firm intent to finance a major share.

The next paragraph is an essential part of this letter.

> The impact of a $3.1 million appropriation would be to delay this essential program by approximately one year, at a time when the initiation of such an effort is critical.
>
> Per your request, I am forwarding copies of this letter to Senator McClellan and Senator Robert Byrd.
>
> Sincerely,
>
> ROBERT C. SEAMANS, JR.,
> *Administrator.*

Mr. President, we will issue a "Dear Colleague" letter which will explain this pretty much along the lines I have just mentioned, together with a copy of Dr. Seamans' letter for everyone's perusal, before we vote on this.

I think it is critical, in this fuel cell area, that we get this amount back up to the $10 million proposed to be authorized. It certainly is not excessive for the tremendous potential of which many scientists think it is capable.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. GLENN. I yield.

Mr. RIBICOFF. Mr. President, I commend the Senator from Ohio and my colleague from Connecticut, Senator WEICKER, for bringing this amendment to the floor of the Senate.

Will the Senator from Ohio tell us why this is an important project?

Mr. GLENN. The development of fuel cells through the years, largely out of the space program, in which we can make direct generation of electricity with the fuel cell itself, has a tremendous potential and will save our using the contaminating fossil fuels, oil and coal or natural gas, that are used now for much electrical generation.

The demonstration project activity that would be provided under this proposal would provide large-scale demonstration of the technology leading to commercial electrical generation of a major supply. If we go with the reduced $3.1 million, as the letter from Mr. Seamans indicates, this would delay this essential program by approximately 1 year.

This is a near-term source of energy that we can exploit, and I would like to see us go with the $10 million figure.

Mr. RIBICOFF. In other words, if our objective is to go as rapidly as possible to alternate sources of energy, this offers one of the greatest potentials to get an alternate source of energy without going to fossil fuels.

Mr. GLENN. That is correct.

Mr. RIBICOFF. And the Senator from Ohio says that the space program indicated the practicality of this approach?

Mr. GLENN. The practicality and the reliability, in that all the lunar missions, for example, used fuel cells as their primary electrical source. So they are reliable. The program now is to scale this technology up to a commercially usable level, and that is what these demonstrations will start to do.

Mr. RIBICOFF. In other words, the Senate would be shortsighted in rejecting the great potential in this alternative source of energy.

Mr. GLENN. I agree with what the distinguished Senator says.

Mr. WEICKER. Mr. President, will the Senator yield?

Mr. GLENN. I yield.

Mr. WEICKER. Mr. President, I commend the distinguished Senator from Ohio for bringing this matter to the attention of the Senate, and I thank my colleague, Senator RIBICOFF, for speaking out strongly in behalf of this project.

As I have stated many times, whether we are talking about railroads or housing or any of the other critical needs for this Nation, they can only be resolved with technology that is pointed toward the future. There is no point in using yesterday's solution. There is no point in being satisfied with today. We have a problem facing us—the energy crisis. If we want to get out of it, there has to be motion and, hopefully, motion into the future with items such as the fuel cell.

Since I have been a Member of the Senate, I have heard a great deal of crying and seen a lot of wringing of hands relative to the energy crisis; but when it comes to putting the dollars on the line to get us out of it, everybody shrinks away.

I know that if we use our technology and our economic resources, we can be independent and we can have low-cost energy. On the other hand, if we want to keep things just as they are, which we will do if we do not accept this amendment, then, believe me, we will continue in a state of crisis, with high-priced energy, in short supply.

I commend the Senator from Ohio. I hope my colleagues will accept this amendment.

Mr. GLENN. I thank the distinguished Senator from Connecticut.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McCLELLAN. Mr. President, I yield to the Senator from West Virginia 10 minutes.

Mr. ROBERT C. BYRD. Mr. President, I regret that the Senator from Ohio has decided to raise the issue of fuel cell funding in a supplemental appropriation bill, before Congress has even had a chance to complete action on the regular bill in which this program is funded. There is no chapter in this supplemental bill for the Interior Department and related agencies and, under the circumstances, with the regular bill still to be finalized, hopefully before the week is out, there should not be a chapter in this bill on programs funded in the Interior Department and related agencies bill.

The Committee on Appropriations, only 3 weeks ago, took the regular Interior appropriations bill to the floor of the Senate, and I think they made a fine record on the need to keep spending within its established ceiling. The committee, with the support of the Senate, resisted all add-ons on the floor and established what I thought then—and think today—was a fine record on the determination of the committee and the Senate to honor both the spirit and the limits of the new budget process. This determination was strengthened in conference with the House, I might add.

The committee extended every possible consideration to the request of the Senator from Ohio. We included an additional $5 million for fuel cells, and we retained half of the additional funding in the conference with the House last evening. I might add that we were also able to retain other items of importance to the distinguished Senator from Ohio; and for other Senators we were able to retain a good many of the add-ons that had been justified during the hearings. In the conference, we were able to retain many of those items for various Senators.

As we discussed at length in the debate on the regular bill, only 3 weeks ago, there is already within various areas of the budget $3.2 million for fuel cell work, to which, on the basis of the conference action on the Interior appropriations bill yesterday, $2.5 million more will be added—making a total of $5.7 million.

The Administrator of ERDA testified before the committee that he did not think that the full amount of the authorization—at least, that was the implication he made and the inference I drew—could be obligated effectively in this fiscal year, and the fiscal year is already half gone. If another official of the Energy Research and Development Administration told the Appropriations Committee in the other body, subsequently, that additional funding could be utilized, I can only say that it is unfortunate that the leadership of ERDA cannot get in agreement and that apparently there is no unanimity of opinion down there.

We held extensive hearings on the Interior appropriation bill, and we acted on the basis of those hearings. This is not the only ERDA program that is being funded below the authorization.

I realize that the distinguished Senator from Ohio today read into the RECORD a letter from Mr. Robert C. Seamans, Jr., Administrator of ERDA, in which he states, "At the level of $10 million you have suggested"—meaning Mr. GLENN—"we would be able to initiate a major utility demonstration program which would significantly advance the effort to save oil in the near term. This demonstration program would include a great deal of financial participation by private industry and the public utilities."

He also says in that letter, with respect to the $3.1 million figure, "At this level, the ERDA program will be limited to further evaluations and small-scale technology improvements."

In the hearings before the committee, Mr. BELLMON asked the following questions of Dr. Seamans:

Senator BELLMON. Dr. Seamans, I have information that S. 598, which is the Senate version of your authorization bill, provides $10 million for fuel cell work, and your chart shows only $600,000 for that. Are these two figures relating to the same matter, and if so, why the discrepancy? What is the figure you are going to use for fuel cell?

Dr. ZAHRADNIK. $3.2 million is our total effort in fuel cells this year.

Dr. SEAMANS. Including our work for EPA of $2 million plus the $1.2 million in our budget it is going to be roughly $3.2 million. Of the $1.2 million in our budget, $600,000 is under advanced energy systems research and the remaining $600,000 is under conservation R. & D.

Senator BELLMON. So neither figure is right. The figure is $3.2 million.

Dr. SEAMANS. That is correct, including the work for EPA.

Senator BELLMON. Is this as much as you need for fuel cell work?

Dr. SEAMANS. I think you would have to say that we are still exploring the value of the fuel cell. As you know, I had quite a bit to do with development of fuel cells in connection with the space program.

Fuel cells by themselves do not create energy. As a matter of fact, the Pratt & Whitney-United Aircraft effort, now called United Technologies Inc., has been primarily on fuel cells that use natural gas, so it is more a method of conversion rather than a source of energy.

It does have the advantages of decentralizing, if you will. It does have an advantage from an environmental standpoint over other methods for conversion. However, we are still exploring conceptually the importance of the fuel cell and making a determination of the extent to which we should support the development.

Senator BELLMON. On page 73 of S. 598, there is a little chart which shows that in fiscal 1976, there is a total of $10 million for fuel cell work.

Dr. SEAMANS. I believe that figure is in the Senate authorization. They felt that we were not putting enough effort into fuel cell work and this is the Senate figure. They increased the amount.

Senator BELLMON. But you want the figure $3.2 million?

Dr. SEAMANS. That is correct.

Today, as I say, Mr. Seamans has sent a letter to Mr. GLENN, which has been read into the RECORD. I assume that that letter comes in response to a call from the Senator from Ohio. I have no way of knowing that, but I would assume that that is how the letter came to be sent to the Senator, in anticipation of the Senator's offering the amendment. I should say that ERDA ought to submit a supplemental appropriation request if it needs more money. Let ERDA come before the Appropriations Subcommittee and justify this new request if it can.

This request was not brought before the subcommittee at all by Mr. Seamans. I have received no letter directly from Mr. Seamans, just this copy. I am the chairman of the Appropriations Subcommittee on the Department of the Interior and related agencies. This was not brought before the subcommittee at all, and not brought before the full committee. A letter was not addressed to me or to the ranking member, Senator STEVENS. Our hearings on the ERDA budget request was only 2 months ago.

Therefore, I should say, Mr. President, that if Mr. Seamans wants this money and feels it is a viable project, and has reached a different position from that which he expressed in the committee hearings only 2 months ago, he ought to work through the White House and get a budget estimate up here for the next supplemental appropriation bill, which will be coming up in February or March, and he will have the opportunity to appear before the Interior Appropriations Subcommittee and state his justifications. He should not be permitted to circumvent the committee in this fashion.

He would have the opportunity, on the next supplemental in the early spring, to justify the budget estimate and the subcommittee would then, of course, look with sympathy on the request. If it can be justified, I should certainly support it.

I am not against the fuel cell. I am as much interested in developing new forms of energy as is anyone else in this body, but I do not think this is the way to appropriate money. I do not think that the Senate should support an amendment based on a letter sent by the Administrator of ERDA to a Member of the Senate who is, naturally, interested in the amendment that he is offering. This is the wrong way to appropriate. The ERDA request should come to the committee.

A supplemental appropriations bill, Mr. President, is not the place to bring up matters that were not concluded to the satisfaction of any Senator in the regular bill. This is not an appeals bill. The supplemental appropriations bill is for matters of urgency or compelling need that could not be foreseen or considered in the regular bill. This fuel cell item was considered, and it was considered at length by the Appropriations Committee. I think it would put the Senate in an awkward position to take an amendment of this nature into conference, and in effect, attempt to overturn a decision that was just made in conference between House and Senate on the regular appropriation bill yesterday. If it can be demonstrated by ERDA, as I say, to the Committee on Appropriations that there is an urgent or compelling need for additional fuel cell funding, we can certainly comply with such a request in the second supplemental appropriations bill, which will be considered early in the next session.

We will consider that bill in the spring and there will be an Interior funding chapter in that supplemental appropriation bill. There will be requests in that bill for firefighting and other unforeseen expenses. At that time, we shall have an opportunity to conduct hearings and to extend proper consideration to all proposals. Until then, the only responsible position I feel I can take is to oppose any amendments that do not meet the supplemental criteria that I mentioned a few moments ago.

With all due respect to the able Senator from Ohio, and I can understand his interest in the amendment, I have to resist the amendment.

Mr. GLENN. Will the floor manager of the bill grant me 2 minutes?

Mr. McCLELLAN. Oh, yes, I yield to the Senator 5 minutes.

Mr. GLENN. I thank the Senator.

I wish to reply to several of the items of the distinguished Senator from West Virginia. As far as the budget ceiling goes, I believe it was the subcommittee of which he is chairman—I do not know which group, but I assume it was the subcommittee that selected the administration's ceiling and not the Senate ceiling for the budget limitations that he referred to. I think most of us here have been working through the year with Senator MUSKIE and the new Congressional Budget Office to stay within the limit we all agreed to in the concurrent resolutions. I commented on this the other night, when we debated some of these matters on the floor quite late, regarding the establishment of ceilings and what we are all driving toward. The one that I have been driving toward and the one that this amendment would stay within is the one that we all have agreed to here, in the Senate, and not the administration ceiling that I believe the Senator from West Virginia referred to.

Mr. ROBERT C. BYRD. Mr. President, if the distinguished Senator will yield, I say that the distinguished Senator's amendment, adding $45 million for solar energy in the public works appropriations bill, would considerably offset any savings that would be made in this bill.

Mr. GLENN. I appreciate the comment but I do not think we are debating solar energy here at the present time.

Mr. ROBERT C. BYRD. No; we are not debating solar energy, but we do have an overall ceiling. That money may come out of somebody's hide, somewhere.

Mr. GLENN. It is my understanding that that stays within the Senate-set budget limitations we approved earlier.

As far as an emergency developing that will require this legislation to be passed now, as opposed to waiting until some time next spring to bring it up in the order suggested by the distinguished Senator from West Virginia, I would say that the emergency developed when the conference cut the amounts for fuel cells down to $3.1 million. ERDA had felt that at the $5.6 million level, they could make do and get by. It was the concern expressed when I called them to ask what they thought of this figure set yesterday; it was their expressed concern that 3.1 would not do the job that they feel should be done. That is when this situation changed and developed into the reason I would like to see this put back up.

As far as the notification being made, I think the distinguished Senator from West Virginia will note in the letter from Dr. Seamans that I specifically requested that copies be sent directly to Senator MCCLELLAN and Senator BYRD. That is in the last paragraph of that letter.

Mr. ROBERT C. BYRD. May I say that I have just noticed that last paragraph. I have not seen the copy until an hour ago. I suppose it went to my office.

May I ask the Senator when he received this letter?

Mr. GLENN. The copy was sent over, hand delivered, just a short time ago. We had copies made for distribution on the floor, so it is quite logical the Senator from West Virginia has not seen it yet. I saw it myself just a short time ago. It was hand delivered.

Mr. President, I have no further comments. I am prepared to vote on this unless there is further debate necessary, and am prepared to yield back the time I have been granted by the distinguished chairman of the Committee on Appropriations.

Mr. ROBERT C. BYRD. Will the Senator yield me 1 minute?

Mr. McCLELLAN. I yield.

Mr. ROBERT C. BYRD. Mr. President, I reiterate that Dr. Seamans, when he appeared before the committee, did not recommend more money. On the other hand, he indicated that he had some question about the feasibility of expending more money at this time for the fuel cell. The request comes in a letter today addressed to the author of the amendment. I think that the administrator should come before the committee and justify to the committee that he can utilize additional money. That opportunity will come when the supplemental appropriation bill comes to the Senate early in the next session.

There was $3.2 million in the budget request and the committee added $5 million above the budget, which was reduced to $2.5 million yesterday, leaving a total of $5.7 million scattered in separate areas of the bill. I hope that the Senate will reject the amendment.

The PRESIDING OFFICER (Mr. Bellmon). The question is on agreeing to the amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Delaware (Mr. Biden), the Senator from Alaska (Mr. Gravel), the Senator from Michigan (Mr. Hart), and the Senator from North Carolina (Mr. Morgan) are necessarily absent.

I also announce that the Senator from Alabama (Mr. Allen) is absent because of illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. Morgan) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Kansas (Mr. Dole) is absent to attend the funeral of his father.

The result was announced—yeas 50, nays 43, as follows:

[Rollcall Vote No. 571 Leg.]

YEAS—50

Abourezk
Beall
Brock
Brooke
Buckley
Bumpers
Burdick
Case
Church
Clark
Cranston
Culver
Durkin
Fannin
Ford
Garn
Glenn
Goldwater
Griffin
Hansen
Hart, Gary
Hollings
Humphrey
Inouye
Jackson
Kennedy
Laxalt
Leahy
Magnuson
Mathias
McGovern
McIntyre
Mondale
Moss
Nelson
Packwood
Pell
Percy
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevenson
Taft
Thurmond
Tunney
Weicker
Williams

NAYS—43

Baker
Bartlett
Bellmon
Bentsen
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Curtis
Domenici
Eagleton
Eastland
Fong
Hartke
Haskell
Hatfield
Hathaway
Helms
Hruska
Huddleston
Javits
Johnston
Long
Mansfield
McClellan
McClure
McGee
Metcalf
Montoya
Muskie
Nunn
Pastore
Pearson
Proxmire
Randolph
Scott, William L.
Stennis
Stevens
Stone
Symington
Talmadge
Tower
Young

NOT VOTING—7

Allen
Bayh
Biden
Dole
Gravel
Hart, Philip A.
Morgan

So Mr. Glenn's amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. President——

Mr. GLENN. Mr. President, I move to lay that motion on the table.

Mr. ROBERT C. BYRD. Mr. President, I have the floor.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. Mr. President——

The PRESIDING OFFICER. Does the Senator move to reconsider?

Mr. ROBERT C. BYRD. I moved to reconsider and then I received recognition.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, let me say to the Senate just what we have been voting on here.

Mr. GLENN. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state the point of order.

Mr. GLENN. Was the Senator who moved to reconsider on the prevailing side? Was the motion in order?

The PRESIDING OFFICER. The Senator's point is well taken.

Mr. ROBERT C. BYRD. Mr. President——

Mr. GLENN. Mr. President, I move to table the motion to reconsider.

Mr. FANNIN. I move to lay that motion on the table.

Mr. ROBERT C. BYRD. Mr. President——

The PRESIDING OFFICER. First we have to act on the point of order.

Mr. ROBERT C. BYRD. Mr. President, the Senator's point of order is well taken. I just want recognition.

The PRESIDING OFFICER. The point of order is sustained.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, the Senate has just voted to support an amendment adding moneys in this supplemental bill to the Interior and related agencies appropriations for fuel cell research and development. In the budget estimate that was submitted by the executive branch, there was a request for $3.2 million. When Dr. Seamans, the Administrator of ERDA, came before my subcommittee on appropriations, he testified that $3.2 million was the amount needed. He testified to this figure in response to a question by Mr. Bellmon, a member of the subcommittee. At the urging of various Senators, however, the subcommittee added $5 million over the $3.2 million that was requested by the administration and supported by Mr. Seamans.

It was only yesterday that the Senate and House conferees held the conference on that regular bill. That $5 million—added by my subcommittee over the budget estimate—was split in conference to $2.5 million.

I talked to the distinguished Senator from Ohio on the telephone yesterday. I urged him not to seek an amendment to this bill, the supplemental that was then pending on the floor. I told him if he would not press his amendment at this time, when the next supplemental came up in February or March, I would give every sympathetic understanding to such a request. I thought that that was the time and place for Mr. Seamans, Administrator of ERDA, to appear and make his plea for additional money if he needed it.

If I had known yesterday that the Senator from Ohio—and I say this with all due respect for the Senator; he is fighting for what he wants and believes in, and what I say has no personal animosity toward the Senator—if I had known, however, he was going to press this amendment, I would have insisted that that entire $5 million be cut out of the regular bill in conference with the House yesterday. I did not insist that it be cut out. So we came out of the conference with the House with $2.5 million, which means that ERDA will have $2.5 million in that regular bill over what the administration asked for in the hearings. So instead of a $3.2 million appropriation, which was the administration's budget estimate—supported by ERDA when that agency appeared before my subcommittee—we came out of conference with an additional $2.5 million in the regular bill.

Now the distinguished Senator from Ohio comes along and he has talked with many Senators. He has gotten commitments from several Senators that they will support his amendment to add more money. He has a letter that was sent up here today from Dr. Seamans, a copy of which I saw for the first time this afternoon, saying on the part of Mr. Seamans, or apparently implying, that ERDA can use the full $10 million for the fuel cell.

I do not think the Senate ought to appropriate more money on the basis of a letter that is sent up here by the administrator of a Government agency to a Senator who is sponsoring an amendment when the author of that very letter—the administrator—appeared before the subcommittee that has jurisdiction and stated that all he wanted was $3.2 million.

Now the Senate has added an amendment today making a total of $10 million—which is $6.8 million above the $3.2 million which Dr. Seamens told my committee he wanted. Dr. Seamens did not even pay the committee the courtesy of asking for more money. He simply wrote a letter today to the Senator from Ohio indicating that ERDA can use the full $10 million for the fuel cell—in direct contradiction to his own testimony before my committee.

We only had a conference yesterday on the regular appropriation bill for the Department of the Interior. Now in a supplemental appropriation, the Senator from Ohio has added money which the Senate decided only 3 weeks ago it did not want in the regular bill, and which Dr. Seamens had told the committee he did not need.

Mr. GLENN. Will the Senator yield?

Mr. ROBERT C. BYRD. I will yield momentarily, yes.

Let me say to all Senators, I think the distinguished Senator from Ohio was treated pretty well in the Interior appropriation bill on other items, and I have sought to retain his items in conference. I think a good many other Senators here were treated pretty well in that Interior appropriation bill, and I sought to protect Senators in conference on their amendments.

If this is the way we are going to operate around here, I want to know it now, and I will know how strong a stand to take in the future in support of Senators' amendments to the Interior appropriations bill.

Of course, I cannot move to reconsider the vote because I do not qualify, having voted on the losing side. But I am simply saying this: I am not inclined to support this amendment in the conference. Furthermore, I am not so sure I will be as sympathetic when the supplemental comes up next spring as I promised the Senator I would be otherwise if he would not offer this amendment.

Mr. GLENN. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. GLENN. I must say that I am surprised to hear the comments of the Senator from West Virginia because I was under the impression, perhaps it was mistaken, that each conferee to a conference is bound to support the prevailing view of the Senate to the best of his ability.

Mr. ROBERT C. BYRD. The Senate does not have to name me as a conferee on this bill. But it will name me as a conferee on the supplemental next spring, and on the regular bill next year.

Mr. GLENN. I believe I have the floor. Is that correct, Mr. President?

Mr. ROBERT C. BYRD. I yielded to the Senator.

Mr. GLENN. I thank the Senator.

Mr. ROBERT C. BYRD. But I am retaining the floor.

Mr. GLENN. I am surprised at the remarks of the Senator from West Virginia because I think he has somewhat maligned what I intended here and what has been the way I operated. Yesterday I talked with the Senator from West Virginia and discussed this bill. At that time the conference committee, we thought, was agreed on a $5.6 million level which ERDA indicated they could get along with this year and would be able to do the things they wanted to do, although they indicated to us that they could do much more and develop fuel cells much more rapidly with a $10 million appropriation which, incidentally, does stay within our Senate agreed to budget. The budget that has been referred to here as the administration budget, the executive budget, was lower in this area. We agreed to abide by a budget set by the Senate, by ourselves, and that is the limit I adhered to here.

I think when committees go off developing their own budget or decide quite a separate budget that they are going to stay within, which has not been approved by the Senate, they can take their own chances when they come back into the Chamber as to whether or not we were breaking that budget. We were not.

At the time yesterday, with the $5.6-million budget we thought was in, ERDA said they could live with that without undue harm.

Mr. KENNEDY. May we have order, Mr. President, please?

The PRESIDING OFFICER. The Senate is not in order. The Senator from Ohio will suspend until order is restored.

The Senator may proceed.

Mr. GLENN. But during the House-Senate conference yesterday, that $5.6 million that we had agreed to, and which would suffice, although not as much as we would like, and which I agreed with the Senator from West Virginia I would not oppose, was cut to $3.1 million. That is the reason for the letter today.

To the inference that this was not given to the Senator from West Virginia in time, it was delivered to his desk here at the same time as all the rest of us got it. It arrived shortly after we were on the floor here.

The third paragraph indicates what the crux of the whole matter is. The impact of a $3.1-million appropriation would be to delay this essential program by essentially 1 year, at a time when such an effort is critical.

Mr. President, the distinguished Senator from West Virginia has indicated that he has treated me well in this regard. I might indicate in return that there is absolutely nothing in this measure for the Senator from Ohio. The amendments I have put in on this measure and other legislation are in the interests of what is best for the country, and with the feeling that in this particular case fuel cells are well worth the slight additional effort and slight additional amount of money. There was no effort on my part whatsoever to bypass the normal procedures of the Senate, nor will I do so.

I am trying to do one thing, and that is get along with energy development for this country, that we have lacked for this year because we have sat around on our tail ends on this hill and done nothing in this regard; and now that we are trying to get something out now instead of next spring, I am to be criticized because I bypassed some of the usual prerogatives and procedures of the Senate.

Mr. President, I think perhaps it is high time we got onto the fact that some of the procedures and prerogatives are holding up the work of the Senate, and it is time we did something about them. I worked on this matter all through the year on the Interior Committee. I think one thing has gotten some of this all balled up in the final stages is the times that we get appropriations bills out here and discussed and passed before we even have the authorizations completed and before the Senate. I think that has confused the procedures tremendously.

I did not intend to try to bypass the normal procedures, and I do not intend to do so in the future. I do think this is a very wise procedure, which will move legislation ahead.

That is all my motivation was and that is all it is now; and that is all I intended it to be.

I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, I shall not belabor the point. I certainly did not mean to demean the distinguished Senator from Ohio. I thought I made it clear that anything I said was certainly without any personal animosity toward him. He is fighting for what he wants, and I cannot fault him for that.

Moreover, I am not talking about any special prerogative of mine. I do not know that I have any prerogatives, so the argument is not over prerogatives.

I stated my argument that this is a bad way to legislate, a bad way to appropriate, and I stated why.

The budget estimate that came up from Mr. Seamans and the President included $3.2 million in separate areas for the fuel cell. Out of the conference yesterday, ERDA will get $2.5 million over and above the budget estimate of $3.2 million, and over and above the $3.2 million that Mr. Seamans said he needed. It is the procedure I am talking about.

I am not talking about my prerogatives as chairman. I am simply saying this is not the way to appropriate.

Why should the chairman and the subcommittee members labor and have hearings and spend hours and hours in marking up bills and negotiating in conference, if the Senate is going to turn right around and run right smack over a committee and subcommittee that has taken months of testimony? Mr. Seamans did not request or justify any moneys over his $3.2 million. That specific question was asked of Mr. Seamans by the distinguished Senator from Oklahoma who now presides over the Senate (Mr. BELLMON).

I am just surprised that Members of the Senate would vote on the basis of personal commitments when they have not heard the arguments. I am not talking about prerogatives. If I have any, I am sorry; I do not want any prerogatives over and above those of any other Senator.

The Senator from Ohio certainly was within his rights to offer the amendment, but I think there has to be some kind of procedures around here that are adhered to, if we are to preserve the integrity of the committees and the integrity of the institution. Dr. Seamans should have to come through the front door of the committee with his funding requests.

This committee brought the regular bill to the floor 3 weeks ago, and resisted all amendments offered by Senators. If the Senator from Ohio can offer an amendment today that undoes what the conferees did only on yesterday on the regular bill, then any other Senator who restrained himself from offering an amendment on the regular bill that was up the other day certainly is entitled to offer his amendment now. Any other Senator who withstood the temptation to offer an amendment to add money for a project in which be believed the other day when the regular bill was before the Senate certainly has the right to offer such amendments now on the supplemental appropriation bill. The privilege should not be confined to the able Senator from Ohio. However, I would also have to resist those amendments.

The Senator from Ohio talks about how the Senate has sat around on its tail and not done anything about the energy problem. I have been working on the energy problem a long time before the Senator from Ohio got here. I have been seeking additional appropriations in the Interior bill for the Office of Coal Research, for the Bureau of Mines, and for research in all forms of energy—conventional and exotic—a long time before the distinguished Senator from Ohio came to the Senate. So the Senator from West Virginia has not been sitting on his tail. This Senator has been trying to get something done over the years.

Again, in closing, I say that I feel strongly about this procedure of adding money for an agency that comes in the back door with a request that contradicts its own testimony before a committee. I do not feel any personal animosity toward the able Senator from Ohio for offering his amendment. I just think the Senate ought to have voted it down, under the circumstances.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, there has not been any time yielded. I suggest that that time which has been consumed in this argument since the vote be divided equally between the two sides.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, reserving the right to object, and I have no intention to object if I can raise with the managers of the bill the possibility of an opportunity to reconsider a matter which was taken on a voice vote during the period of the caucus earlier today, and which now has come to my attention. I understand we have an agreement to vote at 4 o'clock; but during the time that we were in our caucus, there was an amendment put on the bill that none of the funds appropriated in this act or any other act should be used to dismantle the MSR at Grand Forks, N. Dak., prior to July 1976, which is legislation on an appropriation bill. I think this amendment at least raises some questions in my mind about overturning votes we have taken a good deal of time with during earlier legislation, on the regular Defense Department appropriation bill.

So I would like to be assured of at least time to explore it. I do not think it will be lengthy, but I do not wish to be excluded by a unanimous-consent request.

If I can get assurance on that point, I certainly would not object on this.

Mr. YOUNG. Mr. President, reserving the right to object——

Mr. McCLELLAN. On whose time is this being charged, Mr. President? I have not yielded to anyone.

Mr. YOUNG. Mr. President, I would like to have equal time with the Senator from Massachusetts.

I put this amendment on the committee bill when it looked like we were reaching third reading. It looked as though there would be no more amendments. This is an emergency situation. It had just come to my attention last night.

People who are interested in weather modification in about 10 States, headed up by the School of Mines in South Dakota, wanted to know if there was some way they could make use of this MSR radar.

This would be the greatest thing in the world for weather modification, and the only way it could be saved for them was by an amendment that would hold up dismantling and destroying it prior to July 1. This MSR cost $372 million. It is unbelievable to me someone would wish to destroy this immediately when a useful purpose could be found for it. I could not understand why there would be any objection at all.

Mr. KENNEDY. Mr. President, one of the objections is that—could we get some time? I yield myself 10 minutes.

The PRESIDING OFFICER. On whose time?

Mr. KENNEDY. Mr. President, one of the objections——

The PRESIDING OFFICER. On whose time?

Mr. McCLELLAN. May I inquire?

The PRESIDING OFFICER. On whose time?

Mr. McCLELLAN. I do not mind the Senator having time.

The PRESIDING OFFICER. The Senator from Arkansas and the Senator from Alabama control the time.

Who yields time?

Mr. McCLELLAN. I am perfectly willing. All I am asking here is the time being consumed be charged equally. I do not want to find out later I have no time remaining.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. I ask it be charged equally.

Mr. McCLELLAN. I yield the Senator 5 minutes.

Mr. KENNEDY. Mr. President, what we are talking about here is legislation on an appropriation bill. It was interesting to listen to the dialog about following the procedures of the Senate when the rules are not to permit legislation on an appropriation bill.

In spite of the possibly meritorious purposes of this particular amendment, nonetheless we found that it was offered at a time when the members of my party were at a caucus, and we had no opportunity to explore its implications.

I quite frankly am willing to try to work, as we were before with the Senator from North Dakota, in trying to achieve his particular objective.

Knowing the interest a number of us on this particular issue and the lengthy time the Senate spent on terminating the ABM site, I am disturbed that we were not notified. I certainly was not notified that it was going to be proposed, and both of our colleagues had a full awareness and understanding of my interest in this particular issue. I do not yield what is my central objection to the fact that this has been added as legislation on an appropriation bill to alter a portion of previous Senate action, without an opportunity to debate it.

I say that I would be glad to work out with the Senator from North Dakota at least some kind of procedure which will at least accomplish his objective. As I understand his objective, it is to halt the physical dismantling of the MSR at least prior to July 1, 1976, so that if there is a determination that this is a piece of equipment that can be utilized in some other agency in the area or weather modification, at least Congress and the Senate will be able to make a determination whether such use is warranted or justified.

If that is the objective of the Senator from North Dakota, I shall be glad to work with him, but it does seem to me that this amendment, that he has offered may be interpreted as going beyond that particular objective.

First, I want to be sure that it will not be operated and will in fact be deactivated in accordance with our previous action. Second, in the event that the Congress does not agree with the alternative urged by the Senator from North Dakota that it will be mothballed after July 1, 1976.

If that is the objective, then I hope we could at least modify the amendment so to reflect, and I have some ideas about how that could be done.

I shall be glad to work with the Senator from North Dakota if that be his objective.

Mr. McCLELLAN. Mr. President, I yield to the distinguished Senator from North Dakota 5 minutes. I suggest that the two Senators get together and try to work it out.

I may say, while I have the floor, that I have sat here yesterday and this morning waiting for people to come and offer their amendments. There have been quorum call after quorum call and we had them called off. I am perfectly willing for everyone to know what is going on. I cannot possibly get every Senator advised of what some other Senator decides to do. It is impossible. I have been here waiting, calling quorums, sending out word, begging people to come in here and get their amendments before us.

Mr. YOUNG. I offered this amendment when it looked like we were going to third reading. We had quorum call after quorum call waiting for someone to offer amendments.

Mr. McCLELLAN. Will the Senator yield?

Mr. YOUNG. Yes.

Mr. McCLELLAN. I did have an understanding with the leadership that I was trying to get amendments through and have third reading. I announced here that we were going to try to do that. I was not trying to put anything over the Senator.

Mr. KENNEDY. The only point I make is still, as I have seen on issue after issue that I have been interested in, that there has been a point of order that has been made by members of that Committee on Appropriations about legislation going on appropriations. It does surprise me, quite frankly, that they would go ahead with the amendment that does provide legislation on an appropriation bill, without full discussion; normally if the committee feels such action is desirable, it states it in the report and highlights its action.

Mr. YOUNG. Is the Senator speaking on my time?

Mr. McCLELLAN. I will yield the Senator 5 minutes when he is through.

I say to the Senator from Massachusetts that there was legislation in this appropriation bill. A point of order was raised here and a suggestion made that it was germane, and we voted to sustain it. Now frequently there is legislation in an appropriation bill.

But the Senator does have a right, if a notice has not been given, to object to it being considered. I had no reason to object to this being considered as it involved no money; it is simply a question of holding it, as I understood it, until maybe some determination could be made where it absolutely would not be lost. It might be used for a legitimate purpose aside from and altogether no way connected with the safeguard system.

Mr. YOUNG. Mr. President, legislation was inserted in the Defense appropriation bill requiring immediate dismantling and hauling it away. This was because of the SALT agreements that we have to do that. The missiles have been taken out of the silos and left empty for 6 months, to be sure the Russians know there are no missiles there, and then filled with dirt. There is no requirement that the military operate this radar. I do not care whether they operate it at all or not.

I understand that the Corps of Engineers sometime in January will enter into a contract to dismantle the whole ABM system with the exception of the PAR radar. The Weather Bureau people think the MSR could be very important to them. I am not asking that it be operated at all, only that it not be torn down until July 1, giving them or maybe someone else a chance to operate it for a peaceful purpose, not a military purpose at all. I do not know how more reasonable it could be.

Mr. KENNEDY. Mr. President, will the Senator yield 5 minutes so I can respond?

Mr. McCLELLAN. I shall point out something else, and then I will be glad to yield.

I do not know whether anyone else wants time or not.

I point out something else to the Senator. We made no motion to reconsider this. We left it wide open. We were not trying to put anything over an anybody. It occurred to Senator Young that this ought not to be torn down until we could find a proper use for it other than that for which is was originally constructed.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. McCLELLAN. Yes, I yield.

Mr. KENNEDY. Five minutes.

Mr. McCLELLAN. I yield the Senator 5 minutes.

Mr. KENNEDY. Mr. President, can we assure—as the Senator from North Dakota indicated—that it is not his purpose to permit moneys that would be in this act or any other act be used to operate the MSR facility? As I understand, the purpose of the amendment of the Senator from North Dakota is not to permit the operation of it but to prohibit the dismantling of it.

I do not think any of us doubt that a minimum amount of maintenance will be required. The purpose is to take it out of operation, to permit a reasonable period of time—under the Senator's amendment, until July 1, 1976—to see whether this particular installation has certain weather capabilities.

Do I correctly understand that that is the purpose of the Senator's amendment?

Mr. YOUNG. I am not interested in it being operated for military purposes. Presently, it is being operated, until the President signs the Defense bill, I understand. After that, they will phase it out, and they will have to dismantle it almost immediately.

The Senator may change the language, if he wishes, so that it will not be used for military operations.

Mr. KENNEDY. Mr. President, I am wondering whether I may suggest the absence of a quorum, the time to be equally divided, so that I can consult with the Senator from North Dakota, to see if we can work out the language.

Mr. McCLELLAN. Let us ascertain whether there are any other amendments, and we can be working on them, rather than have a quorum call.

Mr. KENNEDY. All right.

Mr. McCLELLAN. I inquire whether there are any other amendments to this bill.

Mr. McGOVERN. I have a brief amendment, which I believe will be accepted.

Mr. HELMS. Mr. President, will the Senator yield me 1 minute?

Mr. McCLELLAN. I yield.

Mr. HELMS. Mr. President, on yesterday, the distinguished Senator from Delaware (Mr. Roth) offered an amendment to this measure, H.R. 10647, which was agreed to. It added a new section at the end of the bill relating to Federal travel expenditures.

On behalf of the Senator from Delaware, I ask unanimous consent that the resolving clause in lines 1 and 2 and the word "that" on line 3 be stricken from the amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Who yields time?

Mr. McGOVERN. Mr. President, will the Senator yield me a couple of minutes?

Mr. McCLELLAN. I yield 5 minutes to the Senator from South Dakota.

Mr. McGOVERN. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. McGovern) proposes an amendment:

On page 3, after line 4 insert the following:

CHILD NUTRITION PROGRAMS

For necessary expenses to carry out the provisions of the National School Lunch Act, as amended, and the Child Nutrition Act of 1966, as amended, for the period February 1, 1976 through June 30, 1976, $4,100,000 for State administrative expenses.

Mr. McGOVERN. Mr. President, this amendment is merely designed to provide the minimum funds that are absolutely required to carry out the provisions of the Child Nutrition Act, which was passed earlier by the Senate. It does not in any way offer any new authority. It simply corrects what is apparently an administrative oversight on the part of the Department of Agriculture in failing to request sufficient funds to carry out the expanded program that has been enacted.

We have been advised that in the absence of the funds that I am requesting in this amendment, a number of States simply cannot administer this program, which was overwhelmingly approved by Congress.

I have discussed the matter with Senator McGee, who is the chairman of the subcommittee. It is my understanding that he has discussed it with Senator McClellan and with the ranking Members on the other side of the aisle. They have no objection to it. I hope the amendment will be adopted.

Mr. McGEE. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. McGEE. Mr. President, we asked the Department for a reassessment of their requests to see what was absolutely necessary before a second supplemental early this spring. At that time, they thought that only the milk fund would require that extra supplemental. However, in further checking, we find that there is going to be a bind before the end of the fiscal year in the administrative costs. For that reason, the amendment that would add approximately $4 million for administrative expenses will have to come by March, in any case. Therefore, it should come now, in order to preserve that continuity. I recommend that we take the $4 million now.

Mr. McGOVERN. At the Senator's recommendation, I did draft the amendment in that fashion. It is now pending in the form of a request for $4.1 million, which is in keeping with what the Senator suggests.

Mr. McGEE. We talked to the chairman of the committee about this.

Mr. McCLELLAN. I will be glad to take it to conference in the modified fashion. I do not know what the outcome will be. I will become more familiar with the necessity for it, the reason for it, in the meantime, and we will take it to conference, if that is agreeable.

Mr. McGOVERN. Mr. President, I am proposing an amendment to provide sufficient administrative funds for the school lunch program.

The Department of Agriculture has failed to provide estimates for these items under Public Law 94-105. The result will be that the States will be left to administer the child nutrition programs for the entire year, in expanded form for half of that year, with administrative assistance sufficient only for the programs before their recent expansion and for a period of only 7 months.

This amendment would provide reasonable amounts for the entire year and for the child nutrition programs in their recently amended form.

Currently $4.6 million has been appropriated for State administrative expenses. If this amendment to the supplemental appropriation is not adopted, the States will have $2.1 million less than last year to administer a larger program. A reasonable estimate, which was submitted by the Senate and House Budget Committees during the consideration of the child nutrition bill and was counted in estimates of the bill's total cost, was an annual appropriation of $8.7 million for fiscal year 1976. Therefore, this amendment provides for $4.1 million to be added to the $4.6 million already appropriated. If this money is not provided, States will be unable to properly implement the many regulations changes in the program which are now coming out of USDA.

Mr. President, this is in one sense a minor change. But it is also important in the sense that without it, States will not be able to carry out fully the provisions of Public Law 94-105. In some cases, the staff of the Select Committee on Nutrition and Human Needs has been informed, States might even be forced to turn administration of certain parts of the program over to USDA—a result which the Department does not want, and which all of us, liberal and conservative alike, should reject because it contradicts our common goal of decentralizing power and administration to the greatest possible extent.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, will the Senator yield me 5 minutes?

Mr. McCLELLAN. I yield.

Mr. KENNEDY. Mr. President, I am going to ask for a reconsideration of the amendment of the Senator from North Dakota (Mr. YOUNG). When we have reconsidered it, I am going to ask the Senator whether he would consider amending his amendment to comport with the purposes he has outlined in our colloquy, and then I am not going object to the amendment as modified.

I move to reconsider the amendment.

Mr. YOUNG. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Massachusetts.

The motion was agreed to.

Mr. KENNEDY. Mr. President, I wonder whether the Senator from North Dakota will modify his amendment in this manner: On line 2, after the word "used", add "either to operate or".

The PRESIDING OFFICER. Is the Senator offering this as an amendment?

Mr. KENNEDY. I offer this as an amendment to the Senator's amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment:
>
> On line 2 of the amendment insert after the word "used": "either to operate or".

Mr. KENNEDY. Mr. President, the amendment of the Senator from North Dakota would read:

> None of the funds appropriated in this Act or any other act can be used either to operate or to dismantle the Missile Site Radar (MSR) at Grand Forks, North Dakota prior to July 1, 1976.

This recognizes that they will be able to maintain the physical aspects of the facility, and I imagine it does include the kind of routine maintenance that is essential in order to prohibit any kind of deterioration in the facility, but it would prohibit any operation of the facility. If Congress has not approved its use for this nonmilitary, weather function, then it will be put in mothballs.

Mr. YOUNG. Mr. President, that is satisfactory. We do not want to operate it for any military purpose or operate it at all until they can take it over. As the Senator pointed out, there may be some maintenance so that it will not deteriorate.

Mr. KENNEDY. That is correct.

Mr. President, with this amendment, after July 1, 1976, if some alternative use has not been found, the language of the defense appropriations bill will prevail, and it will be dismantled.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KENNEDY. I thank the Senator from North Dakota.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Dakota as amended.

The amendment, as amended, was agreed to.

Mr. YOUNG. Mr. President, I move to reconsider the vote by which that amendment was agreed to.

Mr. McCLELLAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PASTORE. I have a few short comments regarding chapter VII of the bill, which relates to the Departments of State, Justice, Commerce, the Judiciary, and related agencies, includes $71,111,000, an increase of $64,574,000 over the House allowance and $16,449,000 over the budget request.

The principal items of change from the House allowance relate to three late budget requests that were transmitted directly to the Senate and which were not considered by the House.

The first item is a request for $42 million for the U.S. share of the costs of financing the United Nations peacekeeping activities in the Middle East. This request reflects recent U.N. agreements to continue this peacekeeping activity for another year through October 1976. The bill includes $35 million for this purpose, a reduction of $7 million below the estimate, and is based on revised State Department estimates of the amount needed to provide the U.S. share of the peacekeeping force.

The second item is a request for $4.9 million which would allow the Census Bureau—in cooperation with the Internal Revenue Service—to gather the latest per capita income and population statistics. This information is necessary to assure that Federal revenue sharing moneys are properly allocated.

The third item relates to a request of the Judiciary for five additional magistrates and associated costs. This request is required to meet unanticipated workload increases.

The committee has also included $230,000 and 23 positions to implement the expanded provisions of the Voting Rights Act covering non-English-speaking voters. There is no question that these funds are needed. The Department of Justice has transmitted this request to the Office of Management and Budget. However, the OMB has not yet transmitted the request to the Congress. In view of the upcoming primary and general elections, it is important that the funds be appropriated as soon as possible so that the staff can be hired and trained to implement the new and expanded provisions of the act in time for the upcoming elections.

The committee has included $24 million to implement the provisions of the recently enacted Japan-United States Friendship Act. Over the years, the Japanese Government will pay the United States $320 million as part of the Okinawa reversion agreement. All we are doing here is transferring 7½ percent of these payments—which amounts to $24 million—to a trust fund which will earn interest. The interest will then be used to finance cultural exchange activities between the United States and Japan.

The report includes language urging the Department of Justice to come forward with a budget request to establish the National Institute of Corrections. Such a request could be considered by the committee in the spring supplemental. The report also includes language recommending that the Economic Development Administration of the Department of Commerce proceed with a pilot economic development project within existing resources.

Report language is also included which reaffirms the committee's strong support for the Mountain Plains School in Montana.

In addition, the report includes language proposed by several Senators that would require the Immigration and Naturalization Service to clear a reorganization and reprogramming proposal with the authorization and appropriations committees of the Congress. In this case, the INS is proposing to relocate the Virginia regional office to Texas. The move has been criticized by the General Accounting Office. I think this is a very sensitive matter amounting to over $800,000 that ought to be brought before the committee and not implemented unilaterally by the Immigration and Naturalization Service.

This concludes my summary of the recommendations relating to chapter VII of the supplemental.

Mr. MANSFIELD. I wish to compliment the chairman of the full Appropriations Committee, Senator McCLELLAN, on his fine efforts in bringing the very complicated fiscal year 1976 supplemental appropriations bill to the floor. I have a question that I would like to direct to the distinguished chairman of the Subcommittee on the Departments of State, Justice, Commerce, the Judiciary, and Related Agencies—Senator PASTORE. I thank and commend Senator PASTORE for his support and cooperation regarding the Mountain Plains Education and Economic Development project. At my request, and with the support of Senator PASTORE, the committee included language in the report reaffirming the committee's strong support for the project.

Mr. PASTORE. That is correct.

Mr. MANSFIELD. The language in the report clarifies the allocation of funds to the various regional commissions, including the amount to be allocated to the Old West Regional Commission. The report language also provides that the funds should be transferred to the National Institute of Education for immediate obligation so that the Mountain Plains project can continue without interruption.

Mr. PASTORE. The distinguished majority leader's understanding is correct. The funds have already been transferred to the Old West Commission and are available to the National Institute of Education.

Mr. MANSFIELD. I believe there may have been some misunderstanding about the transfer and immediate obligation by the National Institute of Education, but I think that may have been cleared up.

Mr. PASTORE. That is my understanding.

Mr. MAGNUSON. If the Senator will yield, I think the report is clear that the funds appropriated to the Commerce Department are to be transferred to the National Institute of Education for immediate obligation. If we have a problem here, the Institute may be in more difficulty than they are aware. We have had enough problems with the Institute.

Mr. MANSFIELD. The report also directs the Secretaries of Labor, Health, Education, and Welfare, and Commerce to jointly develop a workable plan for continued funding of the project and to report back to the committee within about 2 weeks. Although the report does not specifically state who should coordinate this effort, I would think that the Secretary of HEW should take the lead in calling the meeting and insuring that the report reaches the committee by the due date specified in the report.

Mr. MAGNUSON. If the Senator will yield, I thoroughly agree that the Secretary of HEW ought to chair such a meeting, inasmuch as HEW currently has the responsibility for funding. However, this in no way should be interpreted that the Secretaries of Commerce and Labor—especially Labor—shall not fully cooperate with the Secretary of HEW in the development of a workable plan.

Mr. PASTORE. I hope someone from each of these agencies is in the gallery making notes. This report has been out since last Friday. There is no reason why the plan should not be ready. After all, this is not new to them. The committee has been talking about this for some time.

Mr. MAGNUSON. We told the three Secretaries about this last year. They have had plenty of time. But all we have been getting is excuses. This is a highly successful program in which more than 1,000 disadvantaged families have received unique and valuable training. The committee is not going to stand for more excuses.

RURAL HOUSING INCREASE

Mr. HOLLINGS. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by Senator BAYH, and I associate myself with his comments.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY MR. BAYH

RURAL HOUSING INCREASE

H.R. 10647, the first Supplemental Appropriations Act for fiscal 1976, provides for an increase of $500 million in the obligational authority of the Rural Housing Insurance Fund of the Farmers Home Administration. This provision, which I first offered as an amendment in the Agriculture Appropriations Subcommittee and which was cosponsored in the full Committee by the Senators from Maryland and South Carolina, MR. MATHIAS, and MR. HOLLINGS, will increase funds for two important and successful rural housing programs. I would like to take this opportunity to address myself to the issue of the budgetary impact of this increase, to stress the importance of these programs as a way to put people in the construction industry back to work, and to state briefly for the Record my perception of the success of the rural housing programs.

This increase in loan authority will not cause outlays in excess of Congressionally adopted budgetary ceilings. The rural housing programs are financed through the mechanism of the Rural Housing Insurance Fund. The Insurance Fund sells notes on the private market and uses the funds to make direct loans in rural areas for homeownership and rental housing. To the extent that the funds are raised in the private money markets and the notes are repaid with the loan payments of the program beneficiaries, the programs can be said to be "self-financed." There is some budgetary cost to the government for interest subsidies on some of the loans to very low-income families, but the cost of these subsidies is spread over the twenty-year life of the loans.

It has been estimated that the $500 million increase in obligational authority will generate 25,000 new units of housing. Using the housing industry rule of thumb that construction of each unit provides two person years of employment, it is calculated that the increase will result in 50,000 person years of employment. No segment of the economy needs a shot in the arm as much as the construction industry. It is now estimated that private housing starts in 1975 will number 1.2 million. This is down from 2,356,600 in the peak year of 1972. The unemployment rate in the construction trades for November 1975 was 17.3 per cent, a figure substantially in excess of that in any other sector of the economy. If we can facilitate the construction of housing in rural areas and put construction workers back to work, at a minimum of cost to the government, we should do so.

The FmHA rural housing programs are proven successes in a policy area—housing—in which the government continues to struggle to find viable programs. One indication of the success of the programs are their extremely low foreclosure rates. As of December 31, 1974, the most recent date for which FmHA has figures, the foreclosure rate for the rental housing program (section 515) was 0.4 per cent. The foreclosure rate in the rural homeownership program (Section 502), as of the same date, was 0.8 per cent. This figure compares favorably with the foreclosure rate in the HUD section 235 program of 15.3 per cent (as of June 30, 1975.) The 502 homeownership program has since its inception enabled more than 600,000 rural families to purchase their own homes.

In fact, it is the very success of the rural housing program which has led to the need for the $500 million increase. In response to the enormous demand for loans, FmHA was forced this fall to start rationing rural housing funds by setting monthly quotas on the dollar amount of loans available in each state. But the rationing of loans proved inadequate to cope with the crush of demand, and on November 19th, FmHA notified its state directors to stop submitting approved applications for homeownership loans to the central dispersing office. FmHA had been forced in effect to call a halt to the program for lack of funds.

The rural housing programs deserve our support. I commend the members of the Appropriations Committee for their support of the increase in obligational authority for FmHA, and I urge my colleagues to follow their lead.

OFFICE OF CONSUMER AFFAIRS STUDY

Mr. LEAHY. Mr. President, one of the most serious problems facing the Congress is the lack of responsiveness and accountability to concerns of the individual citizen on the part of the Federal bureaucracy. The frustration and alienation that have arisen due to inefficiency in the Federal bureaucracy have grown to serious proportions.

In June of 1974, the Office of Consumer Affairs contracted with a private research group, to perform a study of "Federal consumer complaint handling" over a period of several years. The study is almost half completed, but it may never be finished. Despite the fact that Mrs. Virginia Knauer, Director of the Office of Consumer Affairs, affirmed as recently as October 31 that "the need to improve Federal responsiveness to consumer concerns is a central part of the President's program to improve the participation of consumers in the Federal decisionmaking process," the Office of Management and Budget neglected to include funds for its continuation in the OCA budget.

If funds are not made available at this point, the contract will expire. Many Federal agencies which were studied in the first phases have stated that they will be unable to implement any of the study's recommendations unless it is completed, as approximately 90 percent of complaints are handled in field offices and the functioning of those field offices has yet to be examined.

Senators BAYH, BROOKE, EAGLETON, CASE, NELSON, and I believe that completion of this study is vital to any congressional effort to establish a more cost-effective and efficient consumer complaint mechanism by the Federal Government, and we therefore wrote a letter to the chairman of the Appropriations Committee proposing an amendment to the first supplemental appropriations bill to provide an additional $256,000 to the OCA budget "to complete research on consumer complaint handling by the Federal Government."

I understand that there was no opportunity to hold hearings on this amendment, and that therefore funds for completion of the study have not been appropriated. However, I would like to ask the distinguished senior Senator from Wisconsin (Mr. Proxmire) if he would be willing to reconsider this matter when the second supplemental appropriations bill comes before his subcommittee.

Mr. PROXMIRE. I appreciate the concern that the Senator and his colleagues have shown for this matter. I will be delighted to pursue the question of this study with the principals involved, especially Mrs. Knauer, and I will give fundings for this study my most sympathetic consideration when the Office of Consumer Affairs comes before the subcommittee early next year.

Mr. LEAHY. On behalf of my colleagues who proposed this amendment and myself, I thank the Senator.

Mr. McGEE. Mr. President, as the committee report indicates, chapter I of this bill provides an additional $500 million in loan authority for the Farmers Home Administration, for use in implementing its housing programs.

This amendment was questioned in committee on the grounds that it was an unbudgeted item and therefore, might have exceeded the figures projected by the Senate Budget Committee.

It was represented to us in committee that the Senate Budget Committee approved and supported the amendment. It was largely on that basis that the amendment was agreed to in committee.

With that background, I would like to ask the senior Senator from Maine (Mr. Muskie), the chairman of the Budget Committee, if my understanding is correct. Does the Senator from Maine support this committee amendment?

Mr. MUSKIE. In reply to the Senator from Wyoming, I would simply point out that in my remarks prepared for the floor, I discussed this matter. I stated that I did indeed support this amendment and believe that it is consistent with the budget resolution.

I know of the interest and concern of the Senator from Wyoming (Mr. McGee) for the fiscal situation and I appreciate his cooperation with the Budget Committee. But this amendment providing increased loan authority has my wholehearted support.

Mr. McGEE. With that explanation and assurance of the Senator from Maine (Mr. Muskie), I support the committee amendment and I can assure my colleagues that we will press hard for this item, in conference.

Mr. McCLELLAN. Mr. President, the Committee on Appropriations has labored diligently to report out this supplemental appropriations bill. The bill contains 10 chapters and includes appropriations for over 40 different line items. Despite the laborious effort of members of the committee and the Senate to expedite enactment of this measure, I regret to advise the Senate that I feel obligated to vote against its passage. Although I voted to report this bill out of committee, I did so, Mr. President, because I feel the Senate should have the right to work its will on the measure. At the time, however, I announced to the committee that I reserved the right to vote against it on final passage.

I will vote against it because:

First, I cannot in good conscience support $2.3 billion for aid to New York City. I do not agree that taxpayers from across the Nation should be forced to bear the burden of years of fiscal extravagance and administrative mismanagement in a single metropolitan area. The primary responsibility for restoring fiscal viability to the city of New York should be with the citizens of that city and with the State of New York, not with the rest of the taxpayers who support the Federal Government.

In addition to my disapproval of the funding provision for New York City, I further oppose the bill because I believe it contains excessive funding in other provisions when we take into account the present fiscal difficulties facing our country. I am quite aware that the largest item in the bill, $5 billion for unemployment benefits, is considered uncontrollable in that the authorizing legislation mandates benefits commensurate with these amounts. However, I believe that such a large sum, on top of what we have already appropriated for unemployment benefits over the past year, is too much.

Furthermore, I do not think we should approve the request for $364.1 million for the salaries and expenses to administer the additional $5 billion in unemployment benefits.

The bill also contains almost $600 million for newly authorized programs for the Health Services Administration, for mental health programs, for nurses training, and for developmental disabilities services. Many of these programs have worthy purposes and should be implemented eventually. But, I think $600 million is too much to add at this time to the amounts already in the Labor-HEW appropriations bill.

Mr. President, I do not at all relish what I feel to be the necessity for voting against this bill. However, with a deficit exceeding $70 billion facing us in fiscal year 1976 and the prospect of continuing large deficits for fiscal year 1977, which will be added to the fiscal year 1976 astronomical national indebtedness of more than $600 billion, I believe the Members of Congress should be restrained and not continue to feed the fires of inflation by further exacerbating this bleak fiscal picture that faces us. This Government simply must return to sound fiscal policies, and soon, or devastating inflation will wreck our national economy. Thus, I will reluctantly cast my vote against this $10.3 billion spending measure, H.R. 10647.

Mr. MUSKIE. Mr. President, the supplemental appropriation bill contains appropriations for a number of important Federal programs. I am glad to report that it is consistent with the second budget resolution which will be before the Senate shortly.

However, since this bill contains an appropriation of $2.3 billion for funding of the recently passed New York City aid bill, I feel I should set out, for the benefit of my colleagues, the Budget Committee's handling of this important issue. The Budget Committee did not include in the second concurrent resolution any funds for aid to New York City. However, in its markup sessions and in conference, the committee has discussed the possibility of a third concurrent resolution on the budget. Should this appropriation for New York City place pressure on the budget authority ceiling contained in the second budget resolution the Budget Committees will, during the next session of Congress, likely consider a third resolution to increase this ceiling as may be required.

On another matter, I am glad to note that the Appropriations Committee has accepted an amendment to increase by $500 million the amount of loan authority available to the Farmers Home Administration for rural housing programs. This increase which, as I understand it, does not involve additional budget authority or outlays for fiscal 1976 will be of great benefit to farmers and rural residents all across the country.

The importance of the Farmers Home Administration in my own State of Maine is demonstrated by the fact that 80 percent of all new homes in Maine are financed through its housing programs. Because of the general lack of mortgage money, an unusually high demand has been placed on the Agency's loan funds this year. The result is that almost three-quarters of Maine's rural housing allocation has been committed during the first 5 months of this fiscal year. The additional funds which would be made available by this amendment will assist the troubled home building industry and provide needy families with the decent housing they deserve.

I also note that this appropriation bill contains an appropriation for the Congressional Budget Office. As chairman of the Budget Committee, I believe it is important that the Congress provide the support that is necessary to this important part of the budget process. Congress can never exercise its full responsibilities with respect to the Federal Budget unless and until it has available to it a staff of competent, impartial analysts, and it is my hope that the CBO will fulfill this role.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record a statement by the Senator from North Carolina (Mr. Morgan), together with an attachment referred to therein.

The PRESIDING OFFICER. There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement by Senator Morgan

Today the Senate will consider and vote on final passage of H.R. 10647, the Supplemental Appropriations Bill. The Senate version of this bill has a total price tag of almost 10.5 billion dollars. Included in this figure is the 2.3 billion dollar appropriation for the New York Seasonal Financing Fund.

I did not vote in favor of H.R. 10481, the bill which established the Federal Board to Authorize Emergency Guarantees for New York City. I did not vote for it because I do not believe the federal government should try to save New York from its own poor past mismanagement. As Mr. Herbert Stein stated in response to a question on whether federal assistance should be given to avert a New York City default, "the federal government cannot monitor New York City as vigorously as New York City's creditors and the discipline of the market can do it. A federal agency administering the guarantee could try to be tough but there would be so much political pressure brought to bear on it that it could not do the job properly."

New York City has been badly managed and has gone deeper into debt each year to finance many of the most expensive social programs in America. While many of these programs have been for the poor, a Wall Street Journal editorial on May 20, 1975, stated that "New York's subsidies to the poor are dwarfed by its subsidies to the middle class." Subsidies involving mass transit, housing construction, and free university tuition are just a few of the examples.

Needless to say, the Congress has now let its will be known that it favors helping New York City. I must say that I believe the President was right in denying aid until the city and the state had done all they possibly could. The aid which the Congress finally agreed to last week is certainly more palatable than what was originally discussed.

I hope the officials of New York City will now start looking to the future, with the view toward massive long range improvements in the city's financial situation. There appeared in today's Wall Street Journal an excellent assessment by Irving Kristol of the real problem New York City faces, which I shall ask unanimous consent to have printed in the Record.

Aside from the 2.3 billion dollars in assistance to New York City, H.R. 10647 contains many other needed appropriations. For that reason, Mr. President, I am in favor of the bill. While I object to the appropriation for New York and some other appropriations contained in this bill, I fully realize that I cannot jeopardize many worthwhile programs contained in this first supplemental appropriations bill by voting against the entire package.

Most importantly, H.R. 10647 contains appropriations for the newly authorized health programs contained in the Health Services-Nurse Training and Health Revenue Sharing Act of 1975. This Act, which became PL-94–63, provides many outstanding programs which must be funded. The appropriation for health matters covered in H.R. 10647 is simply too important to not favor enactment, thereby jeopardizing many of these excellent health programs.

There are of course important appropriations for other agencies and departments of the government and for these reasons I feel compelled to favor HR 10647 in spite of the fact that it contains the 2.3 billion dollar appropriation for New York City aid.

NEW YORK IS A STATE OF MIND

(By Irving Kristol)

In the December 1st issue of The New York Post, there appeared a full-page ad by the New York State Nurses Association. Protesting anticipated budget cuts, the ad declared in bold type: "We reject the philosophy and policy that 'a little health care is better than no health care'." It's a marvelously absurd statement, and the fact that educated people in New York can solemnly make it and solemnly listen to it tells us much about the roots of New York's crisis.

That crisis endures, despite the last-minute infusion of federal aid. That aid may avert a cash-flow crisis over the next three years. One has to put it so tentatively because (a) it assumes that the agreed-upon budget cuts will in fact be made, and (b) it assumes that the calculations behind the new budgets are honest and accurate. Both assumptions are questionable, to put it mildly. Already, the organized interests in the city are mobilizing to see to it that their particular constituencies do not suffer from any cuts in expenditures. And the income estimates rather blithely ignore the city's deteriorating tax base—a deterioration that will, unfortunately, be accelerated by the new taxes which were a condition of federal aid.

Even if a cash-flow crisis is averted, however, the harsh fact remains that, after the three years are up, New York will still be in a critical condition unless it can then sell its paper in the financial markets. A city cannot survive merely by balancing its operating budget; it needs a capital budget and capital expenditures, and in the absence of a huge cash surplus—which no one foresees—these will have to be financed by debt. Will there be anyone to buy New York's notes and bonds? The answer to that question depends on whether the rest of the nation has any faith in the creditworthiness of New York's people and politicians. So, finally, New York's crisis will end up where it began: with the politics of the city, and with the state of mind that has bred this politics.

It is a state of mind not peculiar to New York. It is visible, in varying degrees, in other parts of this country too, as well as in Britain, Canada, Australia, Argentina, Italy, and the many political communities whose economic troubles are largely of their own making. But in the United States this state of mind, though prevalent enough, is not dominant. In New York City its dominance is absolute. That is the difference and helps explain why New York's "urban crisis" is not quite prototypical—even though many New Yorkers self-righteously and self-servingly declare that it is.

THE UNION'S ROLE

The nature of this "urban crisis" is widely misperceived, even by astute observers. It is frequently said, for instance, that it is the excessive power of the municipal unions which is at the heart of the matter. But New York's municipal unions are no more belligerent or acquisitive than unions elsewhere; nor do the union members necessarily vote for candidates their unions endorse; and several of the leaders of these unions—notably Albert Shanker and Victor Gotbaum—are among the most thoughtful and moderate of their class. The city's unions never did have the brute power to impose their will upon the body politic. The extraordinary benefits which have accrued to their members were conferred by the political leaders of the city and state, who believed they were doing the "liberal" and "progressive" (as well as electorally advantageous) thing. And the state of mind that prevails in New York ratified and legitimated their generosity.

I well recall having dinner with a municipal trade union leader who had just come from a final bargaining session. He was pale and ashen. "Have things gone badly?" I inquired. "Terrible," he replied. "They actually gave me everything I asked for! What in God's name am I going to do next year?"

Nor is it the case, as is often claimed, that New York has a huge "underclass"—on welfare, mainly—whose votes are so decisive as to make fiscal responsibility an impossible ideal for the politician. To begin with, the welfare population tends to vote not at all, or infrequently, and rarely votes as a bloc. Moreover, this "underclass" is not a distinct and coherent body of citizens; it is an impermanent, fluctuating population whose very size is determined by the city's social policies and whose "militancy" is usually manufactured at official request. New York's poor don't go around talking about "blood in the streets" if this or that isn't done upon demand. It will mainly be their blood, after all, and they know it. It is our politicians and our media who talk so provocatively.

No, there is nothing unique about New York's unions or New York's poor—or, for that matter, about New York as a city. It is an old, industrial city and it faces the many serious difficulties which all of our older, industrial cities confront: industry and jobs are gradually moving out, the tax base is eroding. No one has yet figured out what the future of such cities will be. (In contrast, such "post-industrial" cities as Los Angeles, San Diego, Houston, Dallas, Phoenix, etc., while they do have problems, seem also to have an assured future.) But there is nothing about New York's socio-economic condition that is startling different from the conditions in a dozen other large cities which are not facing bankruptcy.

One will hear presumably sophisticated New Yorkers say otherwise—in newspaper editorials, television commentaries, magazine articles, and elsewhere. One will hear, for instance, that whereas New York City bears all of its welfare costs, other cities have no such burden at all, welfare being entirely a concern of the county or the state. This, of course, is nonsense. First of all, New York pays only one-quarter of its welfare costs with the federal and state governments paying the rest. Furthermore, this complaint confuses the mechanism of collecting taxes with the incidence of taxation. Though hard figures are impossible to come by, it is most unlikely that the taxpayers of Chicago or Los Angeles are being given a "free ride" on welfare by their generous suburban neighbors. They are just bearing the tax burden of welfare in a different way.

But New Yorkers prefer to believe that they are special victims of discrimination on the part of Washington, or Albany, or History. They need to think that, because otherwise they would have to reflect seriously, not so much on their condition, as on the state of mind which produced this condition. In short, they would have to become self-critical about their regnant political ideology—and the sad truth is they have become comfortably addicted to this political ideology, and would just as soon not have to face a reality that is at odds with it.

One might call this ideology the politics of compassion, or the politics of philanthropy, or the politics of conscience, or perhaps simply the politics of social democracy. We really do not have a good and acceptable brand-name for it. But we do have a clear enough conception of it. Indeed, its basic premise has been brilliantly articulated by a distinguished Harvard philosopher, John Rawls, in his book "A Theory of Justice"—a book that has made a profound impression on liberal thinkers. This premise asserts that economic inequalities and all social policies are justifiable only to the degree that they benefit the poor and help them become more equal to everyone else. Upper-middle class New Yorkers enthusiastically endorsed this principle long before Rawls articulated it for them. And the actual workings of this egalitarian principle, in the case of New York City, constitute a fascinating intellectual and social experiment.

The results of the experiment are conclusive. I should say: the principle is a prescription for disaster. The flaw in it lies less in its egalitarian goal than in the fact that actions which may seem to be, in the short term, helpful to the poor can be in the longer term, hurtful to them. And, inevitably, vice versa: policies that, in the short term, seem negligent of the poor can, over the long term, be helpful to them. All that the Rawls principle of "fairness" means, in effect, is that we will concentrate on apparent short-term benefits for the poor—a view which in any case commends itself to liberal-minded people and politicians who want, not only to do good, but to feel good and look good while doing good. The upshot is a species of infantile liberalism, seeking immediate gratification, spiritually and politically, while laying the groundwork for permanent frustration.

THE CITY'S GREATEST NEED

Thus, it is obvious to everyone who looks objectively at New York's plight that what the city's poor need, far above all else, is jobs, jobs, and more jobs. Since 1967, New York City has lost 470,000 jobs—an incredible statistic, and one far larger than the secular decline of the city's economy would imply. It follows that the overriding purpose of social policy in New York should be job retention and job creation. Unfortunately, achieving this purpose means, in the shorter term, offering encouragement to the non-poor—i.e., to businessmen and business firms. Such a policy is utterly repugnant to those who have an inflamed sense of political compassion. It may end up doing good for the poor, but it does no good whatsoever to affluent men and women who need to feel good while they are seen to be doing good for the poor. Such people cannot postpone their moral gratifications, and this moral delinquency—created by a kind of elephantiasis of the moral sentiment itself—is what makes New York's state of mind so self-destructive.

Instead of emphasizing job creation, New York's liberal elite has encouraged job destruction in the name of social reform. The ways in which it has done so—in which it has made doing business in New York ever more expensive and difficult—are too familiar to recount. What is less familiar is the fact that, at the back of their minds, our reformers sincerely believed they had a viable alternative to job creation in the private sector. Two viable alternatives, indeed. One was job creation in the public sector—some 100,000 city jobs were created in the past decade. This, however, has had the unfortunate consequence of bankrupting the city's treasury. The second alternative was a generous welfare program for the poor. This, however, had the unfortunate consequence of attracting large numbers of poor people to New York where they became a dependent and ever-more demoralized population which has created enormous social problems.

The failure of New York's political ideology is apparent enough to most ordinary New Yorkers, who always were somewhat skeptical of it. But the political and cultural elites in New York have made a huge investment in that ideology, and are struggling desperately against the prospect of a massive write-off. They cannot believe they did harm when their consciences—magnified and rebroadcast to them by their media—assured them they were doing good. Unless and until this state of mind is itself reformed, the city will move inexorably toward that destiny which it seems to have chosen for itself: to be a moral theater for the affluent, an urban reservation for the poor. And all this in the name of equality.

FISCAL YEAR 1976 SUPPLEMENTAL APPROPRIATIONS ACT

Mr. CRANSTON. Mr. President, I fully recognize the constraints on the members of the Appropriations Committee produced by congressional concern to remain within the congressional budget ceilings. With that in mind, I can well appreciate and respect the committee's reluctance to recommend appropriations substantially over the amounts recommended by the House.

VOCATIONAL REHABILITATION SPECIAL PROJECTS

Mr. President, there is one item in H.R. 10647, the 1976 supplemental appropriations bill, on which I would like to comment at length. The bill as passed by the House and as reported here includes an appropriation of $55,625,000 for carrying out the Developmentally Disabled Assistance and Bill of Rights Act. This act, the product of long study and work by the Congress, is designed to provide for quality and comprehensive services to individuals with developmental disabilities. I am, therefore, grateful to the committee for concurring in the House action adding funds for this valuable program.

SUMMARY OF CLARIFICATION

I would like to point out, however, that the particular language relating to the funding for the D.D. Act contains a provision that requires elaboration. The appropriation item reads:

> "HUMAN DEVELOPMENT
>
> "For carrying out the White House Conference on Handicapped Individuals Act, $2,955,000, to remain available until June 30, 1977, and for carrying out the Developmentally Disabled Assistance and Bill of Rights Act, $55,625,000, of which $18,500,000 shall be provided from funds otherwise available for fiscal year 1976 for developmental disabilities service projects."

The committee report in the other body, where this provision originated, states:

> The bill includes $2,955,000 for the White House Conference on Handicapped Individuals, and provides a total of $55,625,000 for fiscal year 1976 for programs authorized by the Developmentally Disabled Assistance and Bill of Rights Act. . . . For special project grants under Part D of the new legislation, the bill authorizes the use of $18,500,000 from funds available for fiscal year 1976 for developmental disabilities service projects, and previously considered by the Congress. This amount will continue existing projects and allow some additional funding for new starts. The projects cover a variety of activities including research, demonstrations, technical assistance, training, and dissemination—all designed to more effectively serve the developmentally disabled. The basic law requires that at least 25 percent of the special project grants be used for projects of national significance.

According to the House report, Mr. President, this would appear to be authority to transfer $18.5 million appropriated elsewhere—that is, "otherwise available"—for developmental disabilities special projects to D.D. projects carried out under the new D. D. Act. However, I must conclude the words "otherwise available" have a very special meaning in this context in light of the pertinent enabling legislation and the legislative history surrounding it as well as long-standing HEW interpretation and practice thereunder. This meaning is that—as required by section 112(a) and 304(a)(2) of the Rehabilitation Act of 1973, as amended last year, and HEW's budget justification with respect to special projects appropriations requested thereunder—of the $18,500,000 referred to only $17,115,000 is actually available, under either the fiscal year 1976 continuing resolution—which is the fiscal year 1975 level—or under the fiscal year 1975 Labor-HEW conference report just adopted by the Senate.

ANALYSIS AND EXPLANATION

Here is the basis for that conclusion. In the conference report on the fiscal year 1976 Labor-HEW Appropriations Act, H.R. 8069, on which the Senate acted yesterday, there is an appropriation grand total—$1,500,049,000 in the House-passed version and $1,528,358,318 in the Senate bill—for human development, including certain unspecified amounts under "the Rehabilitation Act of 1973 and section 303(a)(2) of the Public Health Service Act."

In both the House and Senate committee reports, the following identical language is used with respect to $18,500,000 for developmental disabilities service projects, which description derives from HEW's budget request:

> For hospital improvement and rehabilitation service projects for the developmentally disabled, the bill includes $18,500,000, the same amount as available for 1975. These funds are used to improve care in institutions, initiate and expand community programs, rehabilitate the mentally retarded and provide in-service training.

For the last 4 or 5 years at least, funds have been appropriated and grants made for D.D. service projects under two authorities—the section 304 special projects authority in the Rehabilitation Act of 1973, as amended—and predecessor authority in the Vocational Rehabilitation Act, now superseded—and authority for grants for projects for the care, treatment, and rehabilitation of mentally ill persons under the Public Health Service Act.

There is no specific language in either version of that regular Appropriations Act or in the conference report or in the reports accompanying either that act or the pending fiscal year 1976 Supplemental Appropriations Act to indicate either that this is the statutory authority on which the $18.5 million appropriation is based, or that, historically, and in current HEW practice, part of this $18,500,000 also supports Rehabilitation Act section 304 special projects, specifically providing funds to carry out earmarks in that act for client assistance projects and for special projects for handicapped individuals who are migratory agricultural workers or seasonal farmworkers. Nevertheless, an examination of the HEW/Rehabilitation Services Administration budget breakdown for section 304 appropriations makes clear that of the $18,500,000 provided under these authorities in fiscal year 1975 and proposed in the President's fiscal year 1976 budget request, only $17,115,000 is actually available for expenditure for D.D. rehabilitation projects. Therefore, the language in the fiscal year 1976 Supplemental Appropriations Act which states "from funds otherwise available" can only refer to that $17,115,000.

FISCAL YEAR 1975 SECTION 304 SPECIAL PROJECTS ALLOCATIONS

Mr. President, in fiscal year 1975, out of $15,840,000 appropriated and obligated under section 304, $11,115,000—not $12,500,000—was spent for D.D. projects and a total of $2,933,000 was allocated to five other areas, as follows:

> Projects with industry, $950,000;
> Technical assistance, $113,000;
> Severely disabled projects, $1,870,000;
> Migrant projects, $792,000; and
> Client assistance, $1,000,000.

Approximately, $1.4 million of the initial amount allowed for D.D. projects in fiscal year 1975, and now in fiscal year 1976 under the continuing resolution, was reallocated to other vocational rehabilitation programs pursuant to statutory directions in sections 112 and 304 of the Rehabilitation Act of 1973.

I have prepared charts of expenditures for section 304 special projects showing the initial allowance amounts, the amounts deducted to meet the statutory earmarks, and the resulting balance available for expenditure for each category under the H.R. 8069 conference report, under the fiscal year 1976 budget request, and under the fiscal year 1976 continuing resolution—Public Law 94-41—which provides for the same level of operations as in fiscal year 1975. Note that on these charts the amount for D.D. projects is listed as $12.5 million rather than $18.5 million because $6 million is and has been provided for these D.D. service projects under the P.H.S. Act and is used totally for them. Mr. President, I ask unanimous consent that these tables be printed in the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

REHABILITATION SERVICES ADMINISTRATION BUDGET BREAKDOWN OF SEC. 304 SPECIAL PROJECTS APPROPRIATIONS

H.R. 8069, FISCAL YEAR 1976 LABOR-HEW APPROPRIATIONS ACT

Type of project	Conference report allowance	Migrant projects deduction (5 percent)	Client assistance deduction	Balance available
Projects with industry	$1,000,000	$50,000		$950,000
Technical assistance	200,000	10,000	$20,000	170,000
D.D. rehabilitation projects	[1] 12,500,000	625,000	760,000	[1] 11,115,000
Severely disabled projects	2,700,000	135,000	220,000	2,345,000
Total	16,400,000	820,000	1,000,000	14,580,000

PRESIDENT'S FISCAL YEAR 1976 BUDGET REQUEST

Type of project	Fiscal year 1976 President's budget allowance	Migrant projects deduction (5 percent)	Client assistance deduction	Balance available
Projects with industry	$500,000	$25,000		$475,000
Technical assistance	200,000	10,000	$20,000	170,000
D.D. rehabilitation projects	[1] 12,500,000	625,000	760,000	[1] 11,115,000
Severely disabled projects	2,700,000	135,000	220,000	2,345,000
Total	15,900,000	795,000	1,000,000	14,105,000

PUBLIC LAW 94-41, CONTINUING RESOLUTION FOR FISCAL YEAR 1976

Type of project	Continuing resolution (fiscal year 1975 level)	Migrant projects deduction (5 percent)	Client assistance deduction	Balance available
Projects with industry	$1,000,000	$50,000		$950,000
Technical assistance	140,000	7,000	$20,000	113,000
D.D. rehabilitation projects	[1] 12,500,000	625,000	760,000	[1] 11,115,000
Severely disabled projects	2,200,000	110,000	220,000	1,870,000
Total	15,840,000	792,000	1,000,000	14,048,000

[1] Total D.D. money is $18,500,000 but $6,000,000 is appropriated under the Public Health Services Act especially for D.D. service projects.

Mr. CRANSTON. Mr. President, at this time, I would like to review for my colleagues how this, admittedly very complicated, allocation of the appropriations for Rehabilitation Act section 304 special projects is and has been derived. I wish to stress the importance of these programs and to note that it cannot properly be inferred that the Appropriations Committees have intended to eliminate, or have in fact eliminated, funding for such valuable on-going rehabilitation projects under section 304.

CLIENT ASSISTANCE AND MIGRATORY WORKER SET-ASIDES

The Rehabilitation Act of 1973—Public Law 93-112—as amended by the Rehabilitation Act Amendments of 1974, Public Law 93-516, requires a set-aside for client assistance projects of not less than $1 million and not more than $2,500,000 out of sums appropriated—in excess of $11,860,000—for fiscal year 1976 for special projects in the field of vocational rehabilitation under section 304 of that act. The set-aside is required by section 112(a) of the act in order for HEW to carry out from 7 to 20 client assistance projects in geographically dispersed areas of the country. The specific language of section 112(a), as now amended, reads as follows:

> CLIENT ASSISTANCE
>
> SEC. 112. (a) From funds appropriated under section 304 for special projects and demonstrations in excess of $11,860,000, the Secretary shall set aside up to $1,500,000, but no less than $500,000 for the fiscal year ending June 30, 1974, up to $2,500,000 but no less than $1,000,000 for the fiscal year ending June 30, 1975, and up to $2,500,000 but no less than $1,000,000 for the fiscal year ending June 30, 1976, to establish in no less than 7 nor more than 20 geographically dispersed regions client assistance pilot projects. . . . In the event that funds so appropriated under section 304 do not exceed $11,860,000 in any fiscal year, the Secretary is authorized to utilize such funds to carry out this section.

In the 1974 Senate committee report describing the Senate-originated amendment to section 112(a), continuing and revising the client assistance earmark which had been mandated for fiscal years 1974, $500,000, and 1975, $1,000,000, the amendment is described as designed "to insure continuation of a client assistance earmark in the event of a decrease in actual special projects and demonstrations appropriations under section 304 which might arise with the projected transfer of appropriations for developmental disabilities projects to the Developmental Disabilities Services and Construction Act." The transfer—included in the pending supplemental bill—of the funds identified as for D.D. service projects from Rehabilitation Act authority to the D.D. Act authority, therefore, was anticipated, and the Congress, in Public Law 93-516, acted to avoid any discontinuation of funding of the ongoing vocational rehabilitation special projects.

The joint explanatory statement accompanying the conference report on Public Law 93-516 further elaborated on the continuation of the mandate of Congress—that not less than $1 million of fiscal year 1976 special projects appropriations above $11,860,000 be earmarked for client assistance projects. The conferees expressed their intent that the fiscal year 1975 funding level for vocational rehabilitation special projects be continued as follows:

> In no event do the conferees intend that there be any diminution in funding of special projects and demonstrations under the Rehabilitation Act of 1973.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point the full language in the joint explanatory statement accompanying the conference report regarding funding of client assistance and special projects under the Rehabilitation Act.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Client assistance funding earmark

The Senate amendment eliminates as to FYs 1975, 1976, and 1977 funding of client assistance projects, the conditional nature of the earmark of funds for client assistance projects—that such earmarking takes effect only with respect to amounts equal to the amount of obligations for carrying out special projects and demonstrations under the superseded Vocational Rehabilitation Act from FY 1973 appropriations under that Act. The House bill contains no comparable provision. The House recedes with an amendment which substitutes the specific figure of $11,860,000 for the reference to the FY 1973 level of obligations for special projects and demonstrations under the Vocational Rehabilitation Act, as the amount which must be appropriated in FY 1976 before the client assistance earmark (of $1 million minimum and $2.5 million maximum) applies, and provides authority to the Secretary to fund section 112 client assistance projects in the event that the amount appropriated under section 304 in FY 1976 is not in excess of $11,860,000.

The conferees wish to stress their very strong intention that at least the present level of funding will be maintained for the special projects and demonstrations authorized in section 304. The conferees further intend that continuation of funding for the developmental disabilities projects under any newly created statutory authority should be carried out under a separate appropriation for that purpose. In no event do the conferees intend that there be any diminution in funding of special projects and demonstrations under the Rehabilitation Act of 1973.

With respect to client assistance funding, the conferees intend that the Secretary exercise the new sub-$11,860,000 funding authority as follows: First, providing continuation of funding for special projects and demonstrations funded in FY 1975—such as new careers, industry projects, and technical assistance—and such vocational rehabilitation developmental disabilities special projects meeting the requirements of the Act which continue to be carried out under the section 304 authority; and next, providing funding to client assistance projects at least the level at which they are funded in FY 1975.

Mr. CRANSTON. In addition, Mr. President, section 304(a)(2) of the Rehabilitation Act of 1973 provides a continuing annual absolute earmark of funds for special projects for handicapped individuals who are "migratory agricultural workers or seasonal farmworkers" pursuant to subsection (c) of that section. The earmark is specified as 5 percent of "the amounts appropriated pursuant to paragraph (1) of this subsection"—for "the purpose of making grants for special projects and demonstrations . . ."

CONCLUSION

Thus, Mr. President, in fiscal year 1975, out of the total $12,500,000 appropriation identified for D.D. service projects, a total of $1,385 million was used for client assistance projects and for migrant rehabilitation projects, pursuant to the two earmarks for those respective programs. Along with the $6 million in P.H.S. Act funds, it is clear that only $17,115,000 was then, and is now in fiscal year 1976, under the continuing resolution available, for D.D. special projects and that, therefore, the $1,385 million was not "otherwise available" for use for other special projects, including D.D. projects. There is no legislative history whatsoever in either the Labor-HEW or supplemental fiscal year 1976 Appropriations Acts to indicate that the Appropriations Committees intend to alter this pattern of funding for section 304 special projects. Indeed, the legislative history evidences an intention to continue in fiscal year 1976 the level of fiscal year 1975 special projects activities under the Rehabilitation Act. I thus conclude that the D.D. projects transfer language in the fiscal year 1976 Supplemental Appropriations Act item in no way alters the existing funding allocation situation prevailing with respect to these important vocational rehabilitation special projects, under either the continuing resolution or upon enactment of the regular Labor-HEW Appropriations Act for fiscal year 1976. Indeed, were it to do so, I believe it would be subject to a point of order as legislation in an appropriations bill—a result which I understand the draftsman of the item language in the other body expressly declared the intention of avoiding.

I recognize that this matter is indeed confusing, especially in light of the past practice of labeling this total of $18,500,000 as D.D. service projects funds, both in the President's budget and in the Appropriations Committee reports, when in fact about $1.4 million of it has been used to fund these two earmarked vocational rehabilitation projects along with funds drawn from the initial allowances for the other three special projects areas.

As I said in the beginning of my statement, I applaud the action of the committee in recognizing the importance of the Developmentally Disabled Assistance and Bill of Rights Act. Their action not only allows for continuation of valuable special projects under the authority of that act but for continued funding, under section 304 of the Rehabilitation Act, of ongoing special projects so vital in the field of vocational rehabilitation.

HEALTH

Mr. President, I am very pleased that the committee has recommended additional funding for support of migrant health centers. These centers have probably the least capacity of any health program to attract funding from community sources. As Federal funding has decreased, the services to migrant workers have been reduced substantially.

Another area severely hurt by the administration's reductions in funding is that of community mental health centers. Again, the committee has acted responsively in placing additional emphasis on funding of these programs, partially in recognition of the fact that they offer a highly cost-effective alternative to institutional care.

Another area which received particular attention by the committee was that of advanced training programs to prepare more nurses as teachers and administrators in innovative health programs, as well as programs to train one of the newer members of the health care team—the nurse practitioner. I authored amendments to the Nurse Training Act which identified geriatric nurse practitioners as a much needed health resource, and I am pleased the committee has placed a special emphasis in its report on the need to train nurses in this field.

However, I must note my disappointment that additional appropriations were not made for family planning services under title X of the Public Health Service Act. These programs have been at a virtual standstill in terms of Federal financial support for the past 3 years, and the committee's recommendation, concurring with the House figure, continues this unfortunate situation.

I had written the distinguished chairman of the Subcommittee on Labor-HEW Appropriations (Mr. MAGNUSON) of my support of adequate funding for the family planning services program and the other programs for which appropriations were authorized by Public Law 94-63, the Nurse Training and Health Services Act of 1975.

I ask unanimous consent, Mr. President, that the text of my letter to the distinguished chairman of the Subcommittee on Labor-HEW Appropriations be inserted in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON LABOR AND
PUBLIC WELFARE,
Washington, D.C., November 13, 1975.

Hon. WARREN G. MAGNUSON,
Chairman, Subcommittee on Labor-HEW, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In your Subcommittee's consideration of the Supplemental Appropriations Bill, 1976 (H.R. 10647), I am sure the members do not need to be reminded of the importance, in general, of adequate funding for the health services programs authorized by Public Law 94-63, the Nurse Training and Health Revenue Sharing and Health Services Act of 1975.

These programs cover a broad range of services offered to population groups which are traditionally underserved, partially due to their inability to afford the costs of health care, and partially due to the inaccessibility of health services provided through traditional modes in their home neighborhoods. These programs are family planning services, neighborhood health centers, community mental health centers, and migrant health centers. In addition, these programs include Public Health Service Act section 314(d) formula grants to states to support health services, and authorizations for rat control programs, home health services, hemophilia programs, rape control centers, and two vital programs which address the nation's need for trained health care personnel—the National Health Service Corps (in the establishment of which you played such a leading role) and the programs authorized by the Nurse Training Act. This latter Act authorizes Federal support of nurse training programs with special incentives for the training of nurse practitioners and other nurses with advanced training in special fields enabling them to contribute substantially to the treatment of patients without the direct supervision of a physician.

The development of training programs for these nurses now is an essential step towards meeting the Nation's federal needs for trained health care personnel when national health insurance becomes a reality.

The President's budget request for each

of these programs was substantially lower, in each case, than the amount appropriated in fiscal year 1975. In some cases, the President requested no funding at all.

The House Appropriations Committee has recommended, in general, that appropriations for these programs be at the same level as in fiscal year 1975. I recognize the wisdom of budgetary restrictions in view of the budget ceiling which Congress has adopted.

However, the Second Concurrent Resolution on the Budget, as reported from both the Senate and House Budget Committees currently pending before both Houses of Congress, allows for a modest increase for these programs over the amounts appropriated in fiscal year 1975.

I urge your Subcommittee to add a moderate amount to the House-passed figure to take into account the increased costs of operating these programs in the current fiscal year due to the sharp increases in the cost of living.

As Chairman of the Committee on Labor and Public Welfare's Special Subcommittee on Human Resources, which includes family planning services and population research among the subject matters under its jurisdiction, I would like to urge you in the strongest possible terms to appropriate a total of $125,200,000 for programs authorized by the amendments to title X of the Public Health Service Act made by the Family Planning and Population Research Act of 1975 (title II of P.L. 94–63), an increase of $24,585,000 over the House recommended figure of $100,615,000.

My recommendation of $125,200,000 would be appropriated for the following purposes:

	House bill	Amount recommended	Increase over House bill
Family planning services	$94, 500, 000	$115, 000, 000	$20, 500, 000
Training grants and contracts	3, 000, 000	4, 000, 000	1, 000, 000
Research in biomedical, contraceptive development, behavioral, and program implementation fields	2, 515, 000	4, 200, 000	1, 685, 000
Development of family planning and population growth informational and educational materials	600, 000	2, 000, 000	1, 400, 000
Total	100, 615, 000	125, 200, 000	24, 585, 000

A brief justification of these recommendations follows:

FAMILY PLANNING SERVICES

It is estimated there are over three million individuals wishing family planning services but unable to obtain them due to economic reasons sometimes compounded by inaccessibility of such services. The appropriation of $115 million, an increase of almost $20 million over the fiscal year 1975 appropriation, would permit the expansion of family planning services programs to reach an additional 330,000 individuals over the 2,200,000 currently reached. This would constitute a major step towards reaching the goal of the enabling legislation—providing family planning services to all those individuals who want them but cannot afford them.

Experience has shown that the Administration's oft-stated expectation that Medicaid and title XX programs would provide substantial third-party reimbursement for these services has proven unrealistic. Thus, the family planning services provided under the authorities in title X of the Public Health Service Act take on greater significance in the Nation's efforts to reach that important goal. These programs have remained at an appropriation level of $94.5 million since fiscal year 1974. The cost-of-living increase—of 23.3 per cent in the Consumer Price Index—between the period of July 1, 1973 to September 1, 1975 has severely eroded the value of that level of funding. I believe it is time this important program receives the modest increment authorized by P.L. 94–63.

TRAINING GRANTS AND CONTRACTS

Programs receiving grants and contracts, under the authority in title X, train individuals representing all elements of the family planning clinic staff, with special attention being given to regional and local staff priorities, in the establishment of training programs. Among the key personnel trained under this authority are family planning nurse practitioners, who have proven to be an invaluable asset in the provision of family planning services, as well as outreach workers who have been instrumental in making individuals in remote areas aware of the availability of these services. These individuals are essential if established family planning programs are to succeed in their efforts to expand their services to surrounding areas with limited health care resources.

The modest increase of $1,000,000 which I recommend for training programs will help increase efforts to train these important family planning workers.

POPULATION RESEARCH

The $2,515,000 recommended in the House reported bill for population research would support research in improving methods of providing family planning services to those individuals wanting them but who are not reached by existing programs. I concur in this recommendation. The $1,685,000 increase over the House figure I am recommending is badly needed to support additional biomedical research in the development of safer contraceptives. I am advised that the approximate amount appropriated for population research in the National Institute for Child Health and Human Development in the FY 1976 Labor-HEW Appropriations Act currently in Conference is $50,800,000. The amount I am recommending will bring the amount appropriated to the level of the amount authorized by title X—$55,000,000.

Few medical research efforts promise the social and economic returns which can be obtained through investments in population research. To begin with, the less effective our contraceptive technology, the higher the costs of family planning services. Because of side effects frequently produced by the most effective methods of birth control available today—oral contraceptives and intrauterine devices—a substantial proportion of the women choosing these methods abandon them after several years and must be instructed in other methods. Those who are able to use the pill or loop require continuous medical monitoring and checking. This increases substantially the costs of providing family planning services.

As I mentioned during consideration of H.R. 8069 in the Senate, additional appropriations could be very effectively used in this area of national priority.

INFORMATION AND EDUCATION

Planned Parenthood reports that at least one million young women below age 20 become pregnant each year, and the vast majority of these pregnancies are accidental. In addition, that organization reports that less than 40 per cent of single teen age girls know the period of time during which they are likely to become pregnant, and 30 per cent of young women in their teens are unaware of where they can obtain family planning services.

These figures are compelling arguments for an expanded informational and educational program that can reach these young people without offending the sensibilities surrounding the subject of teen age sexual activity.

The $2,000,000 I recommend for this purpose would enable HEW to initiate and expand efforts to provide educational and informational materials to these young people.

CONCLUSION

I recognize that my recommendations call for the appropriation of the full amount of the fiscal year 1976 authorization of appropriations for family planning services and population research contained in title X of the Public Health Service Act, as amended by P.L. 94–63.

When P.L. 94–63 was under consideration, the Conferees agreed to cut the authorizations of appropriations levels to the very minimum for all programs included in that Act. The levels agreed to were basically the same as the levels of the fiscal year 1975 appropriations with a moderate increase to cover the increase in the cost of living. I feel these title X amounts are fully justified, and urge your Subcommittee to include these amounts, totaling $125,000,000, in H.R. 10647 for family planning services and related research, training, and educational programs.

With best wishes.

Sincerely,

ALAN CRANSTON,
Chairman, Special Subcommittee on Human Resources.

Mr. CRANSTON. Mr. President, on another health issue, the distinguished Senator from Wisconsin (Mr. NELSON) and I jointly wrote the distinguished chairman of the Subcommittee on Labor-HEW Appropriations (Mr. MAGNUSON), urging that appropriations for several of the NIH research institutes be increased. Following up our floor discussions with the distinguished Senator from Washington (Mr. MAGNUSON) and the distinguished Senator from Massachusetts (Mr. BROOKE) during consideration of the regular fiscal year 1976 Labor-HEW Appropriations Act, we had encouraged leading scientists to testify before that subcommittee on biomedical research needs.

I note that the committee report states that:

> The committee was impressed with testimony presented in behalf of increased funding for various programs at the National Institutes of Health.

I am pleased the committee has indicated it would consider such suggestions in a subsequent supplemental appropriation bill after the regular HEW appropriations bill has been enacted.

I ask unanimous consent, Mr. President, that the text of the letter Senator NELSON and I wrote be inserted in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON LABOR
AND PUBLIC WELFARE,
Washington, D.C., November 12, 1975.

Hon. WARREN G. MAGNUSON,
Chairman, Subcommittee on Labor–HEW, Committee on Appropriations. U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: During the floor debate on our Amendment No. 890 to H.R. 8069, the FY 1976 Labor–HEW Appropriations Act, in September, you and Ranking Minority

Member Brooke expressed interest in receiving testimony before your Subcommittee offering justifications for additional amounts necessary to support essential research in the various Institutes at the National Institutes of Health.

As you know, we have been in touch with many outstanding individuals in the biomedical research field asking them to provide your Subcommittee with such justifications. We understand that a sizeable number of them have done so, and hope they have made a convincing case for the needs of several Institutes for additional appropriations. As a benchmark for such increases, we suggest you consider appropriating additional modest amounts for the NIH Institutes in line with those suggested in our Amendment No. 890 and justified in our floor statements at that time.

These amounts (with two deletions reducing the total to $47 million) were:

[Dollars in millions]

National Institute of Dental Research	$3
National Institute of Arthritis, Metabolism, and Digestive Diseases	6
National Institute of Neurological and Communicative Disorders and Stroke	8
National Institute of Allergy and Infectious Diseases	9
National Institute of General Medical Sciences	9
National Institute of Child Health and Human Development	5
National Institute of Environmental Health Sciences	6
Research Resources	1

We believe the appropriation of this amount would be consistent with the Outlay and Budget Authority figures as approved for the Health Functional Category (550) by the Senate Budget Committee for purposes of the Second Concurrent Resolution on the Budget.

With best wishes.

Sincerely,

Alan Cranston.
Gaylord Nelson.

VETERANS EMPLOYMENT

Mr. CRANSTON. Mr. President, I strongly support the committee's recommendation of funds for the Employment Standards Administration (ESA) in the Department of Labor to add 28 new positions to implement the Federal contractor affirmative action mandate in the Vietnam-Era Veterans' Readjustment Assistance Act of 1974. These new employees are to focus on clarifying obligations in all covered contracts, increasing technical assistance to contractors and compliance agencies, and attempting to provide prompt service to all complaints.

Mr. President, on October 21, joined by the chairman of the Senate Veterans' Affairs Committee (Mr. Hartke) I wrote the distinguished chairman of the Labor-HEW Appropriations Subcommittee requesting an appropriation to carry out this program which we authored.

I am gratified that the committee has responded favorably to this request, although reducing the requested amount to reflect a more realistic recruitment schedule. I note that ESA had originally requested and we supported 30 positions, 5 of which were to be allocated to the Office of the Solicitor for legal support. I have been advised that, given the time lag in the early stages of the program between the submission of the initial complaint and completion of any adjudication of such complaint, the Department does not foresee the need for legal assistance beyond three positions during fiscal year 1976, and thus supports the reduction to 28 positions.

Mr. President, in our October 21 letter to the subcommittee, we also requested an appropriation of $2.3 million to the Department of Labor to be used for Outreach and public information activities to aid unemployed veterans. Such an Outreach effort was mandated by section 104(b) of Public Law 93–567, which I authored in the Emergency Jobs and Unemployment Assistance Act of 1974, enacted last December.

Although no appropriations were included in the committee's recommendations for this item, I note with interest the language at page 25 of the Senate Report (S. Rept. No. 94–511) which states:

> The Department is directed to examine the real need for additional appropriations to conduct an outreach and public information program for veterans and report to the Committee prior to the Congressional hearings on the fiscal year 1977 budget requests.

Mr. President, I hope to work closely with the Department and the Committee in connection with such a request.

Again, I thank the committee for its consideration of my requests and wish to express my appreciation to Senators Magnuson and Brooke, the chairman and ranking minority member of the subcommittee, and the other committee members for their cooperation on these matters.

Mr. President, I ask unanimous consent that a copy of our letter of October 21 to Senator Magnuson, to which I referred earlier, be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Committee on Veterans' Affairs,
Washington, D.C., October 21, 1975.

Hon. Warren G. Magnuson,
Chairman, Subcommittee on Labor-Health, Education and Welfare, Committee on Appropriations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: We are writing to urge that the Subcommittee include an appropriation of $3,070,000 to the Department of Labor in the First Supplemental Appropriations Act for Fiscal Year 1976, for the purpose of providing resources for the Department of Labor to (1) begin administration and enforcement of the affirmative action provisions for Federal contractors contained in the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (P.L. 93–508), and (2) carry out the public information and outreach program mandated by the Emergency Jobs and Unemployment Assistance Act of 1974 (P.L. 93–567).

The amendments to title 38 of the United States Code, enacted into law last December in Public Law 93–508, amend section 2012 in chapter 42 to require that any party contracting with the United States (in the amount of $10,000 or more)—and subcontractors of such parties—take affirmative action to employ and advance in employment qualified service-connected disabled veterans and veterans of the Vietnam era. The objective is to ensure equal employment opportunity for disabled veterans of all wars and recently discharged veterans. Proposed regulations have just been issued by the Department of Labor which was given Government-wide responsibility for overseeing implementation of this new program.

Previously, Federal contractors and subcontractors were required to list all suitable job openings with local public employment service offices, and to "give special emphasis to the employment of" qualified disabled veterans and veterans of the Vietnam era. The 1974 amendments strengthened this provision by substituting the principle of affirmative action instead of special emphasis. Responsibility for the development, management, and enforcement of these affirmative action provisions has been delegated by the Secretary of Labor to the Employment Standards Administration (ESA). Under the proposed regulations, complaints by veterans may be filed with ESA at any of its area offices; the Veterans' Employment Service in the Manpower Administration may also receive complaints from veterans which will be forwarded to ESA for action.

Of the more than seven million Vietnam-era veterans, about 2.8 million recently discharged veterans are covered under this provision. In addition, there are about 2.1 million active-duty personnel who will be covered after discharge—under the law for the first 48 months after discharge. Section 2012 specifies that the approximately 1,000,000 service-connected disabled veterans of all wars (defined as those with a 30 percent or more service-connected disability) are also to be accorded affirmative action protection.

Mr. Chairman, we continue to be very alarmed by the sustained and disproportionately high unemployment rates among young Vietnam-era veterans aged 20–24 years, which was 20.0 percent—or 202,000 young veterans looking for work—in September, 1975, having reached a high to date of 22.8 percent in April. For their non-veteran counterparts, the rate stood at 14.3 percent in September, 1975.

The unemployment rate for black Vietnam-era veterans in the 20–24 age group averaged 30.3 percent in the third quarter and 32.8 percent in the fourth quarter of FY 1975, more than double the rate for the non-veteran, non-black population.

Although comprehensive unemployment figures for service-connected disabled Vietnam-era veterans are not readily available, a study made last year by the Human Resources Research Organization (HumRRO), commissioned by the Manpower Administration, found an 11-percent unemployment rate among service-connected disabled veterans in the first quarter of 1974. That same study found that, whereas during fiscal year 1974, 112,000 service-connected disabled veterans registered at employment services offices throughout the country, only 25,000 were placed in jobs. Among high-school-dropout veterans under age 30, the unemployment rate was 18 percent for those with slight service-connected disabilities; and it increased to 31 percent for those with severe service-connected disabilities.

A number of factors affecting the veteran population will create Departmental workloads in the administration of section 2012. Foremost will be the high rate of unemployment, either initial or intermittent, among these two categories of veterans. Because of time spent in the military and out of the labor market, young veterans have less civilian job experience and less seniority than their non-veteran counterparts.

Many veterans have felt frustrated by the apparent lack of transferability of military skills to a civilian job. This and the feeling of a need to "catch-up" with non-veterans may produce additional allegations by veterans of discrimination when applying for employment or when seeking advancement in a job. Employer reluctance to consider applicants who did not receive an Honorable discharge can be expected to create difficulties for those veterans with administrative discharges in the General or Undesirable categories, who are eligible for benefits under section 2012.

Disabled veterans, in addition to these obstacles, are confronted with far more difficult readjustments occasioned by their disabilities, or by long-term effects of disabilities, and often substantial periods of vocational rehabilitation before they can enter into the job market.

The Department of Labor proposed regulations show that ESA will utilize a variety of techniques to assure that the intent of this legislation is fulfilled. Specific obligations will be spelled out in all covered contract documents, clarifying the types of actions the contractor will be expected to undertake. ESA field personnel will be available to provide technical assistance to contractors and to compliance agencies in helping contractors meet their obligations. Written affirmative action programs will be required for contracts over $500,000; the contractor will spell out the specific steps to be taken to meet this commitment to veteran employment and promotion. An additional program element will be for ESA to oversee or carry out investigations of all complaints.

Based upon experience with the inception of other non-discrimination programs and the likely involvement of interested private groups, it is estimated that complaints will begin to be filed shortly after inclusion of the new affirmative action provisions in contracts, and will build gradually to an annual rate of approximately 900–1,000 by the end of FY 1976, as veterans become more aware of their rights.

To perform this function, the ESA estimates that 28 new positions will be required, 24 of which will be in field locations. The estimated cost during FY 1976 of these positions is $723,000.

Mr. Chairman, an additional cost to be entailed to implement the new section 2012 program is the expense of incorporating the veterans' program requirements into the training, management, information, and evaluation functions of the Department's contract compliance program. ESA provides training in the administration of the contract compliance program to the compliance agencies as well as to its own field staff.

Currently, there are only minimum personnel assigned to the training function. With the addition of the veterans' program—shortly after addition of the affirmative action program for handicapped individuals under section 503 of the Rehabilitation Act of 1973, as amended—intensive training efforts will become essential to insure uniform activity. It will also be necessary to incorporate information elements regarding the veterans' program into the unified management information system for contract compliance programs in order to provide data for judgments as to compliance agency effectiveness and the impact of the affirmative action requirements on contractors' employment.

An additional two positions are necessary to carry out these supporting services for the affirmative action program for veterans. This includes one position for ongoing program planning, policy analysis, and review at the managerial level, and one position for continuing performance evaluation of all aspects of program operation. The estimated costs for these positions during FY 1976 is $47,000.

Thus, Mr. Chairman, we strongly support the Administration's request for a supplemental appropriation of $770,000 for FY 1976 for the provision of 30 new positions within the Employment Standards Administration to implement the affirmative action mandate of section 2012, as amended by P.L. 93–508.

In a related area, Mr. Chairman, greater outreach efforts and aid to unemployed veterans were mandated both by the Vietnam Era Veterans' Readjustment Assistance Act and by the Emergency Jobs and Unemployment Assistance Act of 1974, both of which were signed into law in December, 1974.

Specifically, section 104(b) of the Emergency Jobs and Unemployment Assistance Act provides that the Secretary of Labor, in consultation with the Administrator of Veterans' Affairs and the Secretary of Health, Education, and Welfare, shall conduct an outreach and public information program in order to exercise maximum efforts to produce jobs and job training opportunities for recently discharged veterans and to inform all eligible veterans about employment, job training, on-the-job-training, and educational opportunities under the Comprehensive Employment and Training Act of 1973, as amended, as provided for under title 38, U.S.C., and under any other provisions of law.

Pursuant to the provisions of section 104 (b), the Department of Labor submitted a "Special Report on Implementation of Outreach and Other Veteran Services" to the Congress on May 16, 1975. In addition, the Department has provided the staffs of the Labor and Public Welfare Committee and the Committee on Veterans' Affairs with updated legislative implementation progress reports.

In the Update Report submitted by the Labor Department on July 25, 1975, it was noted that "the implementation of . . . efforts would have necessitated resources in excess of those currently allocated the Department."

An appropriation in the amount of $2.3 million would provide the Department of Labor with the resources to begin to implement these efforts as follows:

$600,000 on an annual basis to add 25 employment service personnel who would be stationed at United States Veterans' Assistance Center (USVAC's) throughout the country. The average annual salary of an employment service employee stationed at USVAC's would be approximately $14,000; the remainder of the funds would be expended for rent, telephone, and non-personnel expenses. Created in 1971, USVAC's were designed as "one-stop" veterans' centers. In 1971, employment service personnel were stationed at all centers but were later removed.

Mr. Chairman, a recent GAO report indicates that a large number of G.I. Bill on-job training opportunities have been developed for veterans, but there is a substantial failure on the part of the Government to refer unemployed veterans to existing job slots established for just this purpose. The GAO found almost one out of every four approved employers contacted had an immediate need for on-job trainees and would have accepted one or more qualified veterans if they had been referred. Of the 271 approved employers contacted by the GAO, 74—or about 27%—said they never had a veteran participate in their program. Adding the additional employment service personnel at USVAC's should, among other advantages, result in higher referrals to existing on-job training openings.

In addition, based on past performance, stationing of employment service personnel at USVAC's should result in significantly improved job placement efforts.

$1,100,000 for agreements and contracts with community and veterans organizations to perform outreach activities. For example, the Blinded Veterans Association has a proposal for outreach to aid blinded disabled veterans. The Urban League has pending a proposal for peer group contact with minority group veterans who are often suspicious of Government agencies.

$600,000 for an extensive effort of outreach and public information for job referral. This effort will consist of a coordinated public education program designed to make employers aware, through the use of radio and television public service announcements, that veterans make good employees. Magazines and newspapers will also be used to alert veterans to available job opportunities. Job openings, as well as job-seeker qualifications, will be widely publicized through utilization of short media announcements.

Thus, Mr. Chairman, we ask that the Subcommittee include an appropriation of $2.3 million to the Department of Labor to be used for the outreach and public information activities to aid unemployed veterans mandated by section 104(b) of P.L. 93–567.

Mr. Chairman, we are grateful for the support which the Subcommittee has given our requests in the past and will very much appreciate your consideration of these two requests in connection with the Subcommittee's action on the First Supplemental Appropriations Act for Fiscal Year 1976.

Sincerely,

ALAN CRANSTON,
VANCE HARTKE,
Chairman.

CONCLUSION

Mr. CRANSTON. Mr. President, I would like to express my admiration for the judicious manner in which the Committee on Appropriations has weighed the very important issues before it. They have done a responsible and fiscally prudent job on a very difficult task.

Mr. RANDOLPH. Mr. President, I have listened carefully to the statement of the able Senator from California (Mr. CRANSTON) concerning the appropriation for developmental disabilities. As chairman of the Subcommittee on the Handicapped, I endorse his well-reasoned remarks. Specifically, I add my agreement that under existing law, no more than $17,115,000 can be available in the pending appropriation for developmental disabilities projects.

Mr. STAFFORD. Mr. President, there is one item in H.R. 10647, the 1976 supplemental appropriations bill, as reported, on which I would like to comment. The committee report included an appropriation of $55,625,000 for carrying out the Developmentally Disabled Assistance and Bill of Rights Act.

I am grateful, Mr. President, that the committee concurred in the House action of adding these funds for this valuable program which was the product of long study and work by the Congress.

Mr. President, part of the appropriation for the carrying-out of that act made in this bill is made available by the transfer of funding under the authorization for special projects of the Rehabilitation Act of 1973, as amended. The amount specified in the reported bill indicates that there is authority to transfer $18.5 million that is "otherwise available" for developmental disabilities projects authorized under the new Developmental Disabilities Act. I wish to point out only, Mr. President, that the funds actually available for transfer under the authority of the Rehabilitation Act of 1973 as amended last year are $17,115,000 since the special projects appropriation requires earmarking to two other areas, client assistance and migratory farmworkers.

These amounts must be deducted from the $18.5 million which would—as the committee report indicates—be, in the words of the bill, available before any transfer can take place because they are statutory earmarks and thus, the balance remaining available is the $17.115 million figure that I have previously mentioned.

Mr. President, I commend the committee members for the action in funding this most valuable program which will provide quality and comprehensive services to individuals with developmental disabilities.

The PRESIDING OFFICER. The bill is open for further amendment.

Mr. McCLELLAN. Mr. President, I know of no other amendment. We have been trying to get everyone who had amendments to get here and offer them, and I know of no other amendments. I have heard of no other amendments. I suggest third reading of the bill.

The PRESIDING OFFICER. If there be no further amendments, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 10647) was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill, as amended, pass?

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BELLMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. McCLURE). Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. BELLMON. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination, reported earlier today.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The clerk will state the nomination.

COMMODITY CREDIT CORPORATION

The assistant legislative clerk read the nomination of John A. Knebel, of Virginia, to be a member of the Board of Directors of the Commodity Credit Corporation.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BELLMON. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BELLMON. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed consideration of legislative business.

Mr. BELLMON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BELLMON). Without objection, it is so ordered.

SUPPLEMENTAL APPROPRIATIONS, 1976

The Senate continued with the consideration of the bill (H.R. 10647) making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on passage of H.R. 10647.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

FIRE ISLAND NATIONAL SEASHORE (S.H.)

Mr. JAVITS. Mr. President, as long as we have a minute, I wish to engage the assistant majority leader in a colloquy about the Fire Island National Seashore. Two years ago, there was apparently a balance of about $269,000 available for this particular project, which preserves a vast area, something in the area of 80 miles, of the most valuable seashore in the United States near, probably, the most congested area in the United States, which is off the coast of Long Island. That money was used by the Department for other, similar purposes, but they were not quite ready to use it for the national seashore; hence, they diverted it to use for other comparable projects, which I have no complaint about. That kind of money should be used for the benefit of our people.

Now we need to get it back, because they now are ready to use it. Instead of seeking to put it on this supplemental, I should like to ask the Senator from West Virginia whether he would consider sympathetically the restoration of this money at the next available opportunity for that purpose?

Mr. ROBERT C. BYRD. Yes, I certainly am sympathetic with the viewpoint of the distinguished Senator from New York (Mr. JAVITS). I understand his concern. I think it was unfortunate that we did not learn about this item in time. The money was reprogramed and, under our rules, we cannot reprogram the money. It will have to be done through an appropriation. I assure the distinguished Senator that careful attention and sympathetic consideration will be given to the appropriation request at the proper time and in the proper fashion.

Mr. JAVITS. I thank my colleague. He has been very helpful to my State in these matters, relating to this particular kind of activity. I am sure he will be here.

Mr. ROBERT C. BYRD. I simply suggest that the distinguished Senator remind me in writing early next year.

Mr. JAVITS. We shall do that. I thank the Senator.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR McGOVERN TOMORROW

Mr. ROBERT C. BYRD. I ask unanimous consent that, after the two leaders or their designees have been recognized tomorrow under the standing order, Mr. McGOVERN be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPLEMENTAL APPROPRIATIONS, 1976

The Senate continued with the consideration of the bill (H.R. 10647) making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

Mr. HARRY F. BYRD, JR. I cannot support this $10.3 billion supplemental appropriation bill.

The amounts involved in the supplemental are too high, even if it did not include the $2.3 billion loan to New York City.

This is no way to get Federal spending under control.

As for the appropriation to bail out New York City from its financial difficulty, I have expressed my views on this in the Senate dozens of times during the past several months.

I think the use of Federal tax funds is a mistake and could well become a bottomless pit for American tax dollars.

The purpose of the $2.3 billion loan to New York City is to prevent its bonds from being in default. Thus, the chief beneficiaries will be the bondholders—and the major bondholders are the New York banks.

I do not approve of using the tax resources of all the people to protect the private financial investments of a few.

I doubt that the $2.3 billion will be the end of the Federal Government's involvement.

It is significant that the Senate by a vote of 38 to 55 voted down an amendment I presented to the Senate which would have required the city to balance its budget beginning the next fiscal year.

New York City officials have stated, and White House officials recently confirmed to my office, that New York's anticipated deficit for the current fiscal year will exceed $700 million. The least the Congress could do, if it is to bail New York out of its financial difficulty is to require the city to live within its financial means.

But the bailout legislation contains no such requirement.

Also, action by the Federal Government to prevent default of New York bonds will be an invitation to politicians everywhere to give into the demands of pressure groups with the knowledge that, if a particular city or State cannot pay the bill, the Federal Government will.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Delaware (Mr. Biden), the Senator from Alaska (Mr. Gravel), and the Senator from North Carolina (Mr. Morgan) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. Morgan), and the Senator from Delaware (Mr. Biden) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Kansas (Mr. Dole) is absent to attend the funeral of his father.

I further announce that, if present and voting, the Senator from Kansas (Mr. Dole) would vote "nay."

The result was announced—yeas 71, nays 24, as follows:

[Rollcall Vote No. 572 Leg.]

YEAS—71

Abourezk
Baker
Beall
Bentsen
Brock
Brooke
Buckley
Bumpers
Burdick
Case
Chiles
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Eastland
Fong
Ford
Glenn
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Symington
Taft
Tower
Tunney
Weicker
Williams

NAYS—24

Allen
Bartlett
Bellmon
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Curtis
Fannin
Garn
Goldwater
Hansen
Helms
Hruska
Laxalt
McClellan
McClure
Nunn
Roth
Scott, William L.
Stennis
Stone
Talmadge
Thurmond
Young

NOT VOTING—5

Bayh
Biden
Dole
Gravel
Morgan

So the bill (H.R. 10647), as amended, was passed.

Mr. GOLDWATER subsequently said: Mr. President, I ask unanimous consent that, although I was recorded as voting "aye" on the supplemental bill today, I intended to vote "nay." It was my mistake.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Mr. ROBERT C. BYRD. The Senator may change his vote if he would like to, because it will not change the outcome.

Mr. GOLDWATER. I ask unanimous consent that my vote be changed.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally reflects the above order.)

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PASTORE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PASTORE. Mr. President, may we have order, please?

The PRESIDING OFFICER (Mr. Schweiker). The Senator from Arkansas is recognized.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the Secretary of the Senate in the engrossment of the Senate amendments be authorized to make any technical and clerical corrections.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed the following conferees: Messrs. McClellan, Magnuson, Pastore, Byrd of West Virginia, McGee, Proxmire, Montoya, Hollings, Bayh, Chiles, Young, Hruska, Case, Fong, Brooke, Stevens, Mathias, Schweiker, and Bellmon conferees on the part of the Senate.

ADJUSTMENT OF INDEBTEDNESS OF MAJOR MUNICIPALITIES

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 2597, which the clerk will state.

The second assistant legislative clerk read as follows:

Calendar 447 (S. 2597), a bill to amend the Bankruptcy Act to add a new chapter thereto providing for the adjustment of the debts of municipalities.

The Senate resumed the consideration of the bill.

PUBLIC BROADCASTING FINANCING ACT OF 1975—CONFERENCE REPORT

Mr. PASTORE. Mr. President, I submit a report of the committee of conference on H.R. 6461, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. Schweiker). The report will be stated by title.

The second assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6461) to amend certain provisions of the Communications Act of 1934 to provide long-term financing for the Corporation for Public Broadcasting, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings.)

Mr. PASTORE. Mr. President, the conference report which I have filed preserves intact the language of the long-range funding bill for the Corporation for Public Broadcasting as it passed the Senate.

The House bill differed from the Senate bill in three significant substantive respects: First, matching requirements for Federal funding; second, a provision relating to instructional programing; and third, a provision affecting the status of the Corporation for Public Broadcasting under the Civil Rights Act of 1964.

The House conferees receded from all three House amendments. I firmly believe the final version of the bill is the best solution at this time to the many issues which were addressed during consideration of authorization legislation for the Corporation for Public Broadcasting.

This bill provides a 5-year authorization with increasing ceiling amounts for the Corporation for Public Broadcasting. The Corporation has been functioning on a continuing resolution since the beginning of fiscal year 1976. This authorization legislation will allow the Appropriations Committees to consider increased funding levels for public broadcasting in the next supplemental appropriation bill.

I believe the legislation represents a significant advance toward the goals of localism, insulation, and adequate funding for public broadcasting. I hope we will be able to do even more in the years ahead. But for now, it is important to get authorizing legislation on the books for the Corporation to allow immediate appropriation of increased funding levels which it so badly needs.

There is one particular issue which is discussed in the statement of managers of the conference report which warrants some explanation. During the debate of the bill on the floor of the House, an amendment was attached which attempted to change the status of the Corporation for Public Broadcasting with respect to the enforcement of antidiscrimination laws against recipients of CPB money. This is a most serious and difficult issue. I wish to emphasize that my position was very simple: such an amendment, so late in consideration of the legislation would inevitably doom long-range funding for the Corporation. I want to emphsaize that I believe there are serious and substantial issues which must be addressed in public broadcasting posed in the House was ineffective in its ability to correct the problems which its authors perceived. More importantly, it proposed substantial changes in the historical role Congress envisioned for the Corporation for Public Broadcasting.

Both the House and Senate conferees committed themselves to addressing these questions and legal issues in appropriate hearings as soon as practicable. No one is sweeping the problem of discriminatory behavior in public broadcasting under the rug. To the contrary, I intend to see that discrimination in public broadcasting is eliminated. I assure all the parties concerned that I will support reasonable efforts to achieve that goal.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

Mr. PASTORE. Mr. President, I yield to the Senator from Tennessee.

Mr. BAKER. Mr. President, I would only say that I commend the distinguished chairman and the Senator from Maryland (Mr. BEALL) who was the ranking Republican member of the Communications Subcommittee at the time. I think it is a good bill, and I commend them for it.

ADJUSTMENT OF INDEBTEDNESS OF MAJOR MUNICIPALITIES

The Senate continued with the consideration of the bill (S. 2597) to amend the Bankruptcy Act to add a new chapter thereto providing for the adjustment of the debts of major municipalities.

The PRESIDING OFFICER. The Senate will resume the consideration of S. 2597. The clerk will state the first committee amendment.

Mr. BURDICK. Mr. President, I ask unanimous consent that the committee amendments be considered en bloc, and that the bill as thus amended be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

(For committee amendments agreed to as original text, see pages 39349 to 39355 of the CONGRESSIONAL RECORD of Tuesday, December 9, 1975.)

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 1215

Mr. HRUSKA. Mr. President, I call up my amendment No. 1215.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 24, line 1, after the word "municipality" insert the following: "has in excess of one million inhabitants and".

Mr. HRUSKA. Mr. President, I yield myself such time as I may require for present purposes.

The bill as introduced and reported is applicable to all municipalities without regard to their size. The amendment which I propose would make it applicable only to municipalities which have in excess of 1 million population.

There are a number of reasons for this limitation, Mr. President. In the first place, it is considered that there will be a strengthening of the constitutionality of this act if it is limited to major municipalities. It thereby, together with the recitals as to findings, will come more clearly and definitely under the commerce clause, and that will have, according to Assistant Attorney General Scalia, a very beneficial effect upon the constitutionality of the bill.

This legislation, Mr. President, is innovative in several respects. It is wise to focus the bill as narrowly as possible, in order to allow the courts to interpret chapter XVI while retaining the more certain procedures of chapter 9 for the smaller communities.

It is also apparent from the testimony and disclosures of the past several weeks that the financial affairs of the largest municipalities can be very different in nature from those of the smaller communities, and this is an additional reason for different treatment.

For these and other reasons which I have already explained, I believe it would be well to limit the bill to the major communities, to wit, those in excess of 1 million in population.

One other reason advanced by investment bankers and by those who deal in municipal securities is this: With the ready availability of provisions of this act, there could be a chilling effect on the marketability of municipal securities and municipal bonds. It is for that reason that investment bankers have indicated their desire that if this bill is to become law at all, it should be restricted in the fashion that would be achieved by the amendment which I have proposed.

I reserve the remainder of my time.

Mr. BURDICK. Mr. President, I rise in support of the amendment. As the bill was originally drawn, it had particular application to those cities with 1 million population or more. An amendment to provide otherwise was adopted in committee. I feel that there was not sufficient thought given to the amendments, and for the reasons outlined by our colleague from Nebraska, I support his amendment.

Mr. JAVITS. Mr. President, may we know who has control of the time in opposition?

The PRESIDING OFFICER. The time in opposition is under the control of the minority leader or his designee.

Mr. GRIFFIN. Mr. President, I yield the time in opposition to the control of the Senator from New York.

Mr. JAVITS. I thank the Senator. I yield myself 5 minutes.

Mr. President, we are now coming face to face with a much broader problem than that of New York City, which is raised by the bankruptcy proposition and the amendment which has been proposed.

Let us remember that the amendment deals with only six cities in the United States, the largest of our cities. And though I know that this body is composed of two Senators from every State, which obviously means that we have only 12 Senators whose communities would be affected, I believe that the providence shown for the whole Nation in respect of the New York City debate will extend, on the part of the Senate, to this matter as well. Therefore, I would like to lay before the Senate the arguments against the amendment from that point of view. We are trying to write provident legislation for all of our cities, and for the rural areas as well.

We have had a bankruptcy statute on the books. That bankruptcy statute did not discriminate between governmental units depending on their size. That was never raised as an objection with respect to that bankruptcy statute. This is the first time that an effort has arisen to discriminate against a given category in respect to the Bankruptcy Act. That should, it seems to me, give us a big signal light of caution.

The reason that this is, in my judgment, so unwise as a matter of policy is that no matter where you draw the line, you will be wrong, whether you draw it at 6 cities, or the 20-odd cities with half a million population, or perhaps more than twice that number with a quarter of a million population. You really do not know what the specification of the problem is in a given governmental unit, in order to make that kind of distinction.

In addition, is it fair to the population of these six cities, which probably runs in the area of 30 million or 35 million Americans in the particular cities delineated as they are, leaving out the metropolitan areas, which would double that figure, to pit them against all of the other local governmental units of the United States, and to say, "Yes, your securities may be prejudiced by the fact that there is a Bankruptcy Act, whereas the securities of the others may be advantaged because there is no effective Bankruptcy Act as to them"?

It seems to me that that has an inherent unfairness which is quite inimical to our system.

Finally, if the argument be correct that there is prejudice to the full faith and credit standing of municipal securities by virtue of the existence of a bankruptcy statute, that is an even greater argument against discrimination because then we should either have no bankruptcy statute or a bankruptcy statute which is universal for all.

I do not believe that we ought to legislate in this discriminatory way because there is no showing whatever that a city of a million needs this remedy more than a city of half a million or a quarter of a million, or a town of 25,000 or a county.

The whole theory of our Constitution is that there should be a bankruptcy remedy for what is absolutely impossible to attain in a payment of debt without some form of composition of creditors.

Therefore, all the arguments which are persuasive that we should have a bankruptcy statute at all are persuasive that we should have a universal bankruptcy statute.

And the discrimination which is inherent in this, which is strictly arbitrary is apparent. There is no reason why it should not be some other figure, and we go on with endless amendments here making it $500,000, $250,000, $249,000, and $238,500, and it would be absolutely fruitless but it would illustrate the fallacy of what the amendment seeks to attain.

For all of those reasons, Mr. President, I hope that in enacting a great reform, which is being done, it not be marred by a discriminatory amendment.

I like this bankruptcy bill. It is really a very good bill. It is amazing to me, I might say to Senator HRUSKA and to Senator BURDICK, the architects I guess of the bill, that it is amazing to me that they could turn out so good a product in so short a time. I really did not believe it could be done. I think it is a splendid achievement, and I would not like to see it marred by this discriminatory amendment.

I yield the Senator 10 minutes.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. MATHIAS. I thank the Senator from New York.

Mr. President, I rise in support of the position that he has so ably, eloquently, and concisely expressed to the Senate.

I think the Senate's approval of the supplemental appropriation bill, including the amendment offered in committee by Senator PROXMIRE, Senator BROOKE, and myself to provide the funds authorized by the New York City Seasonal Financing Act, represents a crucial step in the long effort in which many people have been involved to forestall a default which would have very grave consequences, not only for a great city, but for the State of New York, the entire Nation, and economic markets throughout the world.

I wish, Mr. President, that I could say the same for the bill that is now under consideration. The amendment which is offered by the distinguished Senator from Nebraska to restrict the applicability of the municipal bankruptcy reform bill to the six largest cities with a population of more than a million raises some very serious questions.

As the members of the Committees on the Judiciary know, this is an approach which was first offered in the committee, was considered, debated, and then rejected. I observed then and I stress now that it is my understanding that virtually no testimony was offered in either the committee in the other body or in the Senate committee on this bill in favor of the need to create a different procedure, a different category, a different classification for the six largest cities than for all the other cities in the country.

On the contrary, the expert witnesses who did appear before both sets of hearings argued persuasively against such a double standard.

Their primary concern was that such a double standard would place all cities over a million in population under a cloud, and thereby make their securities less marketable than those of cities that are under 1 million in population.

This is a matter of very serious concern to the National Conference of Mayors. They, I think it is fair to say, find themselves in a very difficult position. Some of their membership is above a million, some of it is below a million. It is like the old question of who is for the sheep dog law. Some of them are for the sheep and some for the dogs. But nonetheless, grave questions arise as to what is the right thing for the country.

I am authorized to express their very grave concern and, if I can read between the lines, I think what they believe is that we ought to recommit this proposition and get some expert testimony on what in fact will be the consequence of creating this kind of a dichotomy.

In appearing before the Senate committee on November 4, 1975, Dean Lawrence P. King of the New York University Law School, who is a highly regarded authority in the field of bankruptcy, testified directly on this point. He took exception to the approach which would be restricted to cities in excess of 1 million in population:

> I believe this feature of the bill is unsound . . . A new chapter (for major municipalities) involving similar subject matter is neither necessary nor desirable.
>
> One untoward effect of limiting the relief available under the Bankruptcy Act to the few largest cities in the United States is to make those cities immediately suspect. Regardless of current financial condition, the fact that they are singled out as entities which can more readily use a chapter proceeding can create an unfavorable aura with respect to the marketability of their securities. On the other hand, a single chapter applicable to all subdivisions of a State does not focus on individual entities and treats all alike.

I think that expresses the views that have been given to us by the distinguished senior Senator from New York.

There is very little dispute that the existing Federal law covering municipal bankruptcy is inadequate and badly in need of reform.

I salute the distinguished chairman of the subcommittee, who brings this bill to the floor, for the work he has done in this area and for the continuing hearings that he is holding on this matter and the Senator from Nebraska for the interest that he has shown in it.

But I respectfully submit that there is an ongoing study of the general bankruptcy law and that one of the facets, and I do not mean to be facetious in this at all, but one of the facets of reform that we need to consider is to get away from the idea that one can have bankruptcy in a municipal corporation at all. We do not have the case of a commercial factory in bankruptcy, where they sell the machinery, they sell the stock in trade that happens to be on hand, they sell the typewriters, they sell the Xerox machines, and they get rid of everything and the place disappears and is all sold for the benefit of creditors. What we are really talking about is a composition in favor of creditors. We are not going to sell the fire engines. We are not going to sell the police squad cars. We are not going to sell city hall. We are going to make a special arrangement in the case of municipal corporations.

We ought to begin to be more precise and more specific about what we are really trying to do. I do not believe that the case is so urgent that here in the closing days of this part of our session we have to rush to action on a municipal bankruptcy bill when we are in fact going forward with other studies in the bankruptcy area.

So I do not believe that at the 11th hour we ought to be told that a general law will have a destabilizing effect on the entire municipal bond market because of the uncertainty that would be created regarding investor expectation on all local units of government.

If that is the case, that uncertainty ought not to be imposed on the six greatest cities in the Nation any more than it ought to be imposed on the smaller communities in the Nation. If in fact there is a destabilizing effect, why not just wait and recommit the bill and produce the kind of production which people can have confidence?

I do not think that the costs of uncertainty, if they exist, should be singled out as to be borne by a city simply because it has a population of more than 1 million.

So I respectfully question the wisdom of the course which is implicit in the pending amendment. While I believe that reform of the municipal bankruptcy law is needed, I am not one who believes that the bankruptcy proceeding offers much of a panacea for a city of any size. Indeed, the more I have studied the implications of what is known as municipal bankruptcy for a city, either under existing law or under the bill before us today, the more I become convinced that even a model bankruptcy law is not the answer for the fiscal plight of cities, and it is especially inappropriate for the very largest of our cities.

The pending amendment, in effect, would transform what is a general reform of the municipal bankruptcy law into, frankly, a New York City bankruptcy law, with five other cities swept up within its reach, simply to create a somewhat logical classification or category.

I think we should take a look at what would surely occur if New York or any other city was forced to take what was called advantage of a streamlined bankruptcy proceeding. The economic consequences of a major default of the municipal bond markets throughout the land have been explored fully and I think can only be described as utterly uncertain but potentially very grave. Some of the best economists in the country gathered in the Capital a few weeks ago to discuss this problem, and the major point upon which they all agreed was that nobody could possibly foresee what the results of a default would be. That being so, I think we should approach this subject with care and, if necessary, with more time than we have yet devoted to it.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. JAVITS. I yield the Senator 2 additional minutes.

Mr. MATHIAS. In any event, Mr. President, I think we should not attempt to create a kind of invidious distinction between the great cities of this country which have a population of more than 1 million and all the other municipal corporations. If we are to pass a general municipal bankruptcy reform bill today, so be it. But I do not think we should delude ourselves as to what we would be doing if we passed a bill to provide a streamlined bankruptcy process for New York City and just five other cities. There has to be a better solution to the fiscal problem of the great metropolitan urban areas.

At the proper time, I will offer a motion to table the pending amendment and will request the yeas and nays on that motion to table.

Mr. TOWER. Mr. President, I send to the desk an amendment to the amendment of the Senator from Nebraska.

The PRESIDING OFFICER. An amendment to this amendment is not in order until the time on the amendment has expired.

Mr. TOWER. I thank the Chair.

Mr. HRUSKA. I yield myself 5 minutes.

Mr. President, with reference to the bill, the comments of the Senator from Maryland are very much in order. As applied to municipalities, it is really not a bankruptcy proceeding as is ordinarily understood.

The title of the bill as reported by the committee makes it clear that this is an option that New York City or any other city that qualifies under this bill could use, if it so desires and if the State in which it is located would authorize the entry into these proceedings. The title of the bill indicates that it is a bill to amend the Bankruptcy Act, to write a new chapter thereto, providing voluntary reorganization procedures for the adjustment of debts of municipalities. It is an option, and it is not the intent of Congress to force this proceeding on any city that is eligible under this bill to apply for it.

Mr. President, the record does show considerations supporting the applicability of this new chapter to larger municipalities.

I invite the attention of the Senator from Maryland, who has suggested there is no record or no testimony on that point, to the testimony of the first witness called on October 31, the Assistant Attorney General, Mr. Scalia, who testified on that point. He said:

> A threshold question which the Administration carefully considered in formulating the present bill is whether, at the present time, we should seek amendment of the existing Chapter IX, or rather add an entirely new chapter to the Bankruptcy Act, for use only by major municipalities. Some of the deficiencies in the current law which I have described above impair its use by small cities as well as large—although the degree of impairment is much less. Nonetheless, it seems to us for a number of reasons that at the present time a separate chapter, available as an alternative to Chapter IX for major municipalities, would be desirable.
>
> First, there are some features which we think are essential for large cities though not for small—for example, a requirement which I will discuss in due course that there be specific state authorization for the particular bankruptcy.
>
> Second, it is obvious that we are all considering the present legislation under some time constraints, since, as Senator Hruska already noted, the necessity for its use by one of our major cities may arise within a short period of time. Although much sound and helpful work has been done during the last few years on a proposed revision of Chapter IX, it seems to us unnecessary, in the present circumstances, to ask the Congress to devote immediate and expedited attention to that larger issue rather than focusing on the somewhat narrower but still difficult problem of major municipalities alone.
>
> Finally, a separate chapter for major municipalities seems to us desirable because it enables—or enables with greater assurance of constitutional validity—more substantial use of Federal judicial authority in overseeing reestablishment of the fiscal integrity of the petitioning city. As you know, an earlier Supreme Court decision whose continuing vitality is somewhat uncertain struck down as unconstitutional a municipal bankruptcy statute on the ground that it constituted a Federal intrusion upon state sovereignty which the bankruptcy power of the Constitution did not permit. That was the Ashton case, 1936.

What this means is that chapter 9, which is existing law, is not feasible. It simply will not work with a large city. There are a number of reasons for that, and they have been detailed in the statements made yesterday on this bill, when it was laid before the Senate as the pending business.

It is not applicable; it will not work—which means that the city of New York or any other large city, if it reaches the point where it can proceed no further, will be totally helpless and will find itself in a state of confusion and chaos.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HRUSKA. I yield myself an additional 5 minutes.

For example, the setoffs are a part of our general bankruptcy law. The first thing that would happen would be that with respect to any funds of New York City on deposit with a bank which owns the city's defaulted bonds, the bank can set off and apply those deposits to the payment of the defaulted bonds. This would deprive the city of New York, or any other large city in that position, of any cash accounts.

There is no provision for an automatic stay of pending suits. A number of them already have been filed. We can be sure that as the need for an insolvency proceeding for New York City approaches there will be more suits. The powers that this bill would vest in the Federal district court simply are not available.

So we say that we will provide a means, an option for the city, which can, with blessing from the properly-constituted authority of the State, avail itself of this option.

Mr. President, it may have some uncertain points in it. Maybe there are some points in it that are subject to challenge. But that is always true of any new legislation, and we cannot say that the procedures that we have now, which are virtually nil, are not possessed of some vulnerability by being subjected to a legal attack. I say the commonsense way of going about it is to limit it by narrowing the focus so that it will survive the threat of constitutional challenge.

There will be no recourse without this bill, Mr. President—I repeat, there will be no recourse—to a Federal court or to a bankruptcy proceeding that would be available to any large city over a million population that will be at all viable. It just will not work.

I reserve the remainder of my time.

Mr. WILLIAM L. SCOTT. Will the Senator yield?

Mr. HURSKA. I am happy to yield.

Mr. WILLIAM L. SCOTT. In response to the comment by my colleague from Maryland that we should not amend this bill in the closing days of this session, as I recall, in the committee, the amendment was adopted that changed this from cities of more than 1 million because we were in a hurry to get this bill to the floor of the Senate. We were told that there was a deadline, that New York was facing a crisis, and we had to act hurriedly. I believe the amendment eliminating the 1 million figure was in an effort to expedite the processing of this bill through the committee.

Would the distinguished Senator agree that we were accepting amendments—the chairman was accepting amendments, the ranking member, and the committee generally were accepting amendments—in an effort to get this bill clear of the Committee on the Judiciary.

Mr. HRUSKA. The Senator is correct. It was done to expedite the reporting of this bill, because we were told, at that juncture in the unhappy course of events of one of our largest cities, that default was imminent.

Mr. BEALL. Will the Senator yield for a unanimous-consent request?

Mr. HRUSKA. Yes, indeed.

Mr. BEALL. I ask unanimous consent that Maurice White, of my staff, be granted privileges of the floor during debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA. I reserve the remainder of my time.

Mr. MATHIAS. Will the Senator yield?

Mr. JAVITS. I yield 5 minutes to the Senator from Maryland.

Mr. MATHIAS. I wonder if I could ask the distinguished Senator from Nebraska as to whether he has inquired of any underwriters of municipal bonds, or any financial institutions who constantly deal in municipal bonds, whether or not the interest which might be paid by a city which fell within the category covered by his amendment would be higher or would be any different—would be lower, for that matter—whether it would be affected by the fact that bankruptcy proceedings for this category of cities is different from all others?

Mr. HRUSKA. It is different insofar as the statutory provisions contained in chapter 9 are concerned. Chapter 9 is not drawn for larger cities and it will not work. The record is replete with testimony in that regard.

Mr. MATHIAS. What I am asking the Senator is whether he has inquired, or whether the distinguished manager of the bill has inquired, of any underwriters of municipal bonds as to whether or not the interest rate will be different for these six cities than it will for other cities in the country, given the same credit ratings and the same general conditions?

Mr. HRUSKA. Mr. President, I refer to page 39358 of yesterday's CONGRESSIONAL RECORD. There are two telegrams there from securities people. One of them is from the vice chairman of the Public Finance Council Securities Industry Association, Mr. Alan Weeden. He said:

> Removal of the restriction of the bankruptcy statute to cities over one million would be damaging to the credit and costly for all municipalities selling general obligation bonds.

The other telegram, from Frederick B. Whittemore of Morgan Stanley and Co. says:

> In considering the new bankruptcy legislation now under discussion we believe the legislation should not afford easier access to bankruptcy for all size municipalities, because it may have the effect of weakening the credit standing of these municipal obligations. Therefore, we recommend the new procedures be limited to municipalities of substantial size.

I submit that that is an answer to the Senator's question.

Mr. MATHIAS. I think it is a very interesting answer. What the Senator is saying, and what Morgan Stanley, for example—a very reputable company—is saying is that New York City and every other city that falls within this category is going to have to pay more interest on its municipal bonds. That is the only way I can read that statement. We are going to make it much more difficult for New York City ever to go back into the municipal bond market if we pass the bill with the pending amendment. Chicago, Los Angeles, all othe other cities of that size will very soon find that their municipal borrowing is going to cost them a higher rate of interest. That is the serious implication of this amendment—not just what it does to New York, but to the other great cities of this country, whose citizens and taxpayers are going to find that their municipal government is going to cost them more simply because of this amendment. That is the real problem we are creating here.

Mr. HRUSKA. Increased costs will not be a result of this amendment. Whatever these costs might be, if this amendment is adopted they will be avoided for the smaller municipalities.

Now, then, I find myself in agreement with the statement of the Senator from Maryland, that it is going to cost New York City more. But, Mr. President——

Mr. MATHIAS. And Chicago more, and Los Angeles more.

Mr. HRUSKA. Well, we shall come to that in a bit. Let me suggest that the Senator used the wrong tense. It has cost, due to past conduct and past practices and malfunctioning of the municipal government activities in many ways, the city of New York more in higher interest rates. That is not a result of this legislation or the passage of it.

Mr. MATHIAS. Let me say to my good friend from Nebraska that we hear a lot of what a splendid city Mayor Daly runs, what a tight ship, what a well-run city. Yet, what the Senator is going to do is charge Mayor Daly more interest under this amendment. He is going to charge Mayor Rizzo in Philadelphia, who is supposed to be a tough, big-city mayor who runs a tight ship—he is going to have to pay more interest under the Senator's amendment.

In Detroit, a city which has had tough times in recent years, they are going to have to pay a higher interest rate, according to any clear reading of Morgan Stanley's opinion there.

In Houston, Tex., I say to the distinguished Senator from Texas—he, I believe, anticipates this and has an amendment.

Mr. TOWER. If the Senator will yield, I am so persuaded by the arguments of the distinguished Senator from Maryland that I intend to raise the figure to 7 million.

Mr. MATHIAS. The Senator means I am right. I anticipate what the Senator is going to do and I understand why he is doing it. If I represented the city of Houston, I would be doing exactly what he is doing.

Mr. TOWER. Let me ask the Senator a question: If we reduced it down to $500,000, what would the position of the Senator from Maryland be then?

Mr. MATHIAS. I have already stated my position. There is no hurry about this. If there were a default in a great city—and let me say that the action of the Senate earlier today has made that less likely in the immediate future—but if there were default in a great city, there would be a period of about 60 days under the existing law in which stays are available, and in which Congress could act in an emergency. But we do not face an emergency situation tonight.

I hope that the distinguished chairman of the subcommittee will continue with the thoughtful work that he is doing on the general bankruptcy law and that this problem could be thrashed out in committee and could be brought back to the Senate in a more deliberate way. That would be my preference; that would be what I think really ought to happen.

If we are determined to pass a law which makes it easier for some cities to go into bankruptcy than is possible under the present law, then I think it ought to be a general law. I do not think we ought to penalize Houston, I do not think we ought to penalize Chicago or Detroit or Philadelphia or Los Angeles or New York. That is why I will move to table the amendment.

Mr. President, I reserve the remainder of my time.

Mr. HRUSKA. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator from Nebraska has 16 minutes, the Senator from New York has 9.

Mr. HRUSKA. Mr. President, I yield myself 3 minutes.

The suggestion that there is no hurry about this, and that there is a 60-day period of stay bears close scrutiny. It will be found not to be applicable whatsoever, and I will tell you why.

Section 83(c) of the present chapter 9 does provide for such a preliminary stay, but it is conditioned upon a certification by the petitioner or its attorney that efforts are being made in good faith to obtain the approval of 51 percent of the creditors, and that there is a reasonable prospect of such acceptance within a reasonable time.

Now, Mr. President, it is clear from the testimony of the witnesses before the Judicial Improvements Subcommittee and the Banking Committee that no petitioner or any attorney for the petitioner can make such a certification in good faith and, therefore, the preliminary stay provision will be of no assistance to the city of New York if it gets into the position where it will have to resort to some such proceeding in the Federal district court.

Mr. BURDICK. Is there not also a legal and constitutional problem to change the law during the 60-day period after the court has taken jurisdiction?

Mr. HRUSKA. That is also an obstacle. In the first place, the 60-day provision is not available. No one can comply with it in a large city. That is why large municipalities must be treated in a separate category from the smaller municipalities.

I reserve the remainder of my time.

Mr. MATHIAS. Mr. President, will the Senator yield me 30 seconds?

Mr. JAVITS. Two minutes.

Mr. MATHIAS. I merely say in response to the Senator from Nebraska of course, we did discuss this very point in committee, and we were advised by counsel to the committee that this time was available.

Now, good lawyers differ, and that is why we hire judges. But I would just like the record to reflect that there is a different view.

I reserve the remainder of my time.

Mr. HRUSKA. I yield 3 minutes to the Senator from Texas.

Mr. TOWER. I thank my friend from Nebraska.

As has already been noted, Mr. President, when the time has expired, I intend to call up my amendment, which is at the desk, changing the figure from 1 million to 7 million.

I think it is only fair that cities that have been well managed and have good credit ratings not be punished by the psychological impact of this modification in the bankruptcy laws.

We might as well be honest and note that we are doing this really to accommodate New York and nobody else. So why do we not move the figure up to 7 million and be more specific about what we are about here? I am not insensitive to New York City and, heaven knows, I spent a little time on the floor as the minority manager of the bill providing the direct loan assistance to New York City.

But I cannot at once, in my desire to help New York City, punish the cities of my State and of other States that have managed their affairs well and have good credit ratings.

So, for that reason, I am hopeful the amendment I intend to offer to the amendment of the Senator from Nebraska is agreed to, and I think it is only fair that it be agreed to.

I agree that New York should not be punished in perpetuity and, therefore, I will be perfectly willing to support an amendment by the Senator from New York or any other Senator that will provide for an expiration date on this legislation. That to me would be quite meet and proper. But I think in the consideration of this measure we should think not just of the cities under a million but cities like Houston, Dallas, Los Angeles, Philadelphia, Detroit, Chicago, and others that could be very adversely impacted in their attempts to market their paper by this measure.

(At this point Mr. STONE assumed the Chair.)

Mr. JAVITS. Mr. President, I yield myself 3 minutes.

Mr. President, as often happens in a debate something becomes very clear, and it is made even clearer by the very well-intentioned words of the Senator from Texas which, it seems to me, give the whole point away.

The Senator says, "Let us accommodate New York; let us help New York."

Well, my dear Senator, you are hurting New York. That is what Senator HRUSKA says you are doing. You are killing New York. You are not going to give them access to the credit markets in even these 3 years. We do not want to borrow every year. We would like to stop borrowing tomorrow, but if we have a prejudiced access to the credit markets because we are the single city or with five others, the cities picked out as the object of this bankruptcy law, and the distinguished authorities cited by the Senator from Nebraska say that it is going to cost them more money to raise money, you are pushing us back in the drink on the very day, the very afternoon, on which you pulled us out. That is what all this amounts to.

It just does not make any sense, Mr. President, to assume you are accommodating New York or you are helping New York when you are discriminating against New York and five other big cities precisely because of their difficult situations. You are making their situations worse, not better.

What kind of reasoning is this which dictates this kind of a discriminatory amendment under the guise of helping us? You are killing us.

So, Mr. President, I really hope the Senate will see the fallacy of any such discriminatory approach.

What about cities, Mr. President, that are going to grow up to have a million? When you are a big, lusty city like Miami, Fla., and you suddenly have a million population, you, too, are going to have to pay money, more money, for your bonds precisely because you are a lusty, growing, exciting American city, and you have made a big success. That is what this amendment means; that is exactly what it means, Mr. President.

I just cannot conceive of its reasoning. Besides it is so anti-the-deep-feelings of Americans. You are going to carve out a certain section of the population and you are going to make it tougher for them when you are trying to make it easier for them so that they can get over their troubles, all when you are trying to give an inducement for American cities to grow and prosper, gain population and be strong.

So, Mr. President, I do not know what the Senate will do—I have not the remotest notion—but I hope very much it will see the fallacy of this amendment as clearly as I see it.

Mr. HRUSKA. I yield 2 minutes to the Senator from Texas.

Mr. TOWER. Mr. President, the fact of New York City's inaccessibility to the credit market is based on events that have already transpired, not on what we are considering here in the Senate today.

I said I would like to accommodate New York, and I am willing to, and I am willing for this act to expire on the very day that New York can regain access to the credit market.

But let us not kid ourselves. New York is not going to get access to the credit markets for some time until it has proven and established that it is capable of sound fiscal management, until it has restructured its debt, until it has done all of the things that a city and a State should do to put their fiscal houses in order.

So we are not punishing New York here. We are trying to help New York. But we should not punish other cities in the process.

Mr. HRUSKA. Mr. President, I yield myself 1 minute.

The observations of the Senator from Texas are so accurate. It is past events that have brought the unavailability of further credit to New York City, not this bill, and those past events, Mr. President, include the passage of a moratorium law in the State of New York. If there is anything that is disruptive of the normal accessibility to further credit by a city, it is that kind of a law, and Congress had nothing to do with that.

This, however, will give an option to the city, if it needs it, and if dire events should transpire; then it would be limited, of course, to the big cities to which it is applied, and not to all municipalities in the Nation.

I reserve the remainder of my time.

Mr. MATHIAS. Mr. President, I must say, most respectfully, to my dear friend from Nebraska that I cannot really let his last remark pass without raising some voice of protest.

He says what we do under this amendment is not going to be what is going to raise interest rates, that it is past events that are going to raise interest rates.

Mr. HRUSKA. That have.

Mr. MATHIAS. Of coure, of course. The interest rates that people are charged under the existing law in Detroit, in Houston, in Chicago, in Philadelphia, in New York, in Los Angeles are, of course, predicated on their credit standing, on their record of performance. We all agree on that.

But now what the Senator from Nebraska proposes to do is to pass prospective legislation which will impose a new standard on top of all the existing standards by which the interest rates are computed, and that new standard, as he himself has very accurately pointed out in the Morgan Stanley letter, which he read to the Senate a few minutes ago, undoubtedly is going to cost all the cities to which it applies more in order to borrow money for municipal purposes.

In addition to whatever indiscretions any one of these cities may have been guilty of in the past, which has affected their credit standing, he will add a further factor which is going to cost more money.

Mr. HRUSKA. Will the Senator yield?

Mr. MATHIAS. They are going to pay more taxes because of this amendment and I think that is——

Mr. HURSKA. Will the Senator yield for a question on my time?

Mr. MATHIAS. On the Senator's time.

Mr. HURSKA. Is it not a fact, however, that if this bill becomes law, nothing will happen under it in New York City, or in New York, except at the application and petition of New York City, approved by the State government?

So if they want to avoid this horrible increase in interest rates and all these other troubles, all they have to do is plug away in their own fashion to try to earn their redemption and salvation. This will not stand in the way; it will be there in case they need it.

Mr. MATHIAS. Mr. President, this is a classic case of being able to say, "Oh, I am glad you asked me that question."

The Senator says, "What will happen?" Read what Morgan Stanley says will happen. They are saying that these cities are going to have to pay more for their money as soon as the bill passes. Morgan Stanley says it.

Mr. HURSKA. But not on account of this bill.

Mr. MATHIAS. Yes, under this bill. Morgan Stanley says that.

If we make the municipal bankruptcy provision more available, it is going to affect the bond market, it is going to cost more to borrow money, they are going to have to pay more interest.

I do not say that, Morgan Stanley says it. And that is exactly what is going to happen if this amendment is adopted. That is a burden on the municipal taxpayers of every one of these six great cities and that is a burden which we do not have to impose upon them. I think that is the burden.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MATHIAS. And we ought to table this amendment.

Mr. HRUSKA. I am prepared to yield back the remainder of my time so that the Senator from Texas may propose his amendment.

Mr. JAVITS. Mr. President, I would like to make one further point. I yield myself 1 minute.

Mr. President, it is a fact that this very amendment was raised in the other body on the municipal bankruptcy bill and was roundly defeated 145 to 264.

I think that is a very important point, Mr. President, because there we have got representatives at the people's level. In my judgment, they could see the fallacy of this argument which is both discriminatory and, as it operates, will serve to penalize the very municipalities which we hope to bring abreast of a better situation in this country by giving them access to the private credit markets.

Mr. President, I yield back the remainder of my time so that Senator TOWER may proceed.

Mr. HRUSKA. Mr. President, I yield back the remainder of my time on the amendment.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 2, strike the word "one" and insert in lieu thereof the word "seven".

Mr. TOWER. Mr. President, I think that this matter has probably already been debated and I do not propose to use the full time on my amendment. But I think that one of the reasons why this amendment as proposed by Senator

HRUSKA was defeated in the House is because they did not have time to hear from their municipal financing authorities. I think, had they heard from them, it might have been a different story over there.

I think if we fail to adopt the amendment offered by the Senator from Nebraska, as hopefully it will be amended by the Senator from Texas, that we will be doing a massive injustice to those cities that have managed their financial affairs and are, indeed, producing a surplus, because if it is viewed that their paper is not necessarily backed with the full faith and credit of the city, then I think it is going to have a very deleterious effect on the ability of these cities to market their paper.

Therefore, I urge the adoption of the amendment of the Senator from Nebraska and the amendment to the amendment of the Senator from Texas.

Mr. HRUSKA. Mr. President, I designate the Senator from New York to have the authority to allot the time in opposition to the amendment.

Mr. JAVITS. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, if it is discriminatory to discriminate against six cities of the United States, it is six times as discriminatory to discriminate against one—and that the weakest member of the wedding.

That is a great payoff for the nice things the Senate did about New York a few days ago and this very day. But to make us the single object of this attention will retard our ability to go back into the credit markets.

I just do not think that is the way in which we ought to run this country, and that is the point I made before.

One, it is discriminatory and, therefore, very much contrary to our feelings of justice and equality; two, it discriminates against the weakest of the whole group; and three, it is a fallacious argument precisely for the points which have been made, because it will be counterproductive to everybody and will spoil everybody's chances, including growing American cities which are running their affairs well and will not go into bankruptcy and, therefore, should not pay a higher tag for this particular operation.

One last point, Mr. President. This measure is going to conference with the House, and I beg Members to think about this. The House voted this amendment down——

Mr. HRUSKA. Will the Senator yield on that on my time?

Mr. JAVITS. Of course.

Mr HRUSKA. The House did not vote on this amendment. The House voted on a substitute bill offered by the gentleman from Virginia (Mr. BUTLER) and it was an entirely new chapter.

So it is inaccurate to say, really, in my judgment, that they voted this amendment down.

They voted down a substitute bill which contained, among many provisions, this particular limitation.

Mr. JAVITS. I am informed, and will not challenge the Senator's statement, but I am informed that a substitute was argued for by its author only on this ground and that this was the purpose of the substitute, and this was the whole argument. That is all I say.

I cannot challenge the Senator because I just am not saying he is correct or incorrect, except that is my information from my people who have analyzed the record.

Mr. President, one last point: It is a fact that a document which was a substitute containing this provision—and this provision was argued as at least one of the commendations of the substitute—was rejected decisively.

We are going to conference. There is no such provision in this bill. We are talking about this bill. There is no such provision in the House bill.

There will be some compromise. The House does not just throw in with the Senate. Now, what will the compromise be?

If Senator TOWER is successful, then it is down to a million, that will be the compromise. If Senator TOWER is unsuccessful, it will be down to what? 900,000, 800,000, 500,000, 250,000. Then a lot of people around here are going to holler and say, "Why didn't you tell me before this happened?"

Well, I am telling it now, that this could discriminate against a lot of people in this Chamber, not just New York or the six big cities.

I have just been handed the opening statement of the argument by Mr. BUTLER in presenting his substitute in the other body and it reads as follows:

> Mr. BUTLER. Madam Chairman, this substitute is a substitute for the entire bill which incorporates all the changes we made in the legislation to date with one exception. The effect of the substitute is to create a separate chapter of the bankruptcy law dealing with municipal bankruptcies while leaving the present chapter IX intact.

Then he goes on to point out that the one exception is the fact it is to be confined to cities which have over 1 million population.

He says at page 39422:

> I have before me of course the substitute which therefore only makes changes in the section numbers and whatever changes are appropriate to make it applicable only to the major cities.

Mr. HRUSKA. Will the Senator yield?

Mr. JAVITS. Yes.

Mr. HRUSKA. I would like to stand corrected in that regard. My original information was not to that effect, and I have gone over the text on the page mentioned by the Senator, and that is correct.

The substitute bill was the same as the other bill with the two exceptions, the 1 million population and the creation of a new chapter, chapter XVI, rather than keeping it at chapter IX.

Mr. PROXMIRE. Will the Senator yield?

Mr. JAVITS. I yield.

Mr. TOWER. I yield to the Senator from Wisconsin how much time?

Mr. PROXMIRE. Three minutes.

Mr. TOWER. I yield 3 minutes.

Mr. PROXMIRE. Mr. President, the reason I am supporting the Tower amendment, the reason I think it is desirable, is that I think, as the Senator from Maryland made so clear, if we pass this legislation in almost any form at all it is going to have an adverse effect on interest rates for municipalities.

That is why the municipal officers are against it. At the same time, I believe we must recognize that in the next 2 or 3 years it is possible that New York may go into bankruptcy. In that case, she would need this kind of legislation; the legislation on the books is not adequate.

It would seem to me that the amendment proposed by the Senator from Texas would not discriminate against New York as long as New York is not trying to get into the private market. Therefore, I would like to ask the Senator from New York how he would feel about this if we should modify the Tower amendment to provide that New York would not be covered, in other words the amendment would fall, as soon as New York had paid off its obligations to the Federal Government, which it is expected to do, as the Senator knows, in June of 1978. Under those circumstances, New York also would then be in a position of being able to get a better rate of interest because she would not be in the position of going the bankruptcy route.

Mr. JAVITS. I would say to my colleague I would have to oppose it for the following reasons: One, it is discriminatory and not in accordance with the fairness doctrine of American law. It discriminates against a given city which has less of a chance, even for that limited period, to pull out of its troubles by having an equal access to the credit markets.

Mr. PROXMIRE. Will the Senator yield on that particular point?

Mr. JAVITS. Yes.

Mr. PROXMIRE. It was my understanding that during this period New York would be relying on the Federal Government for its financing.

Mr. JAVITS. It will.

Mr. PROXMIRE. It will not be seeking access to the credit market until the Federal Government had been repaid. Is that wrong?

Mr. JAVITS. We have made no such commitment in this sense: We are not anxious to continue to borrow from the Federal Government. We would like to get out of that the minute we could. It is conceivable that within this 3 years we could. Remember, we have a 12-percent unemployment. If the unemployment rate materially improves, we might have a chance. I should say that the Congress would be anxious for us to get out of borrowing. They are not anxious to keep lending us money, seasonal or otherwise. I think it would be a very unwise restriction on our part to say we are just going to go through this program and, even if we find a way to get out, to refinance or whatever we might do, we are not going to take it because we are going to stay in this condition for 3 years.

Mr. PROXMIRE. In the event New York should find, because of the improved economic conditions, they could get out, then would the Senator accept, under those circumstances, if the amendment were amended to provide once she cuts loose from the Federal borrowing the law would fall? If that kind of provision could be made, would the Senator be willing to support that?

Mr. JAVITS. No, because, as I say, in principle I do not approve of a discriminatory amendment in a general bankruptcy law. We say we have to amend chapter 9, that it is impractical. If we have to amend it in the national interest, then it is in the national interest, not in the specialized interest of New York. So I oppose it for that reason.

Second, in determining whether New York could get out—for example, suppose it could refinance, et cetera—an essential element in that determination could be the rate at which it must buy money. This specialized statute being on the books is not going to help it in that regard. That was my reason.

I might say to the Senator, and I really feel this deeply, the bankruptcy statutes of the United States are general. They are not cut out around particular cases. That goes for individuals; it goes for corporations; it goes for municipalities in the present chapter. I think we are setting a very bad design to provide a bankruptcy statute for one specific debtor, which is what the Senator is proposing. I think that is very unwise in the exercise of the general bankruptcy statutes. I think it is a pattern which could be very dangerous for us and very harmful in many other directions. I do not believe we should adopt it is a matter of principle.

If we are going to revise the bankruptcy laws of the United States and use the general bankruptcy power to reach one particular debtor, I believe we are pursuing a very bad role.

Mr. PROXMIRE. Just one more question.

Mr. JAVITS. Of course.

Mr. PROXMIRE. May I ask the Senator from New York if he would put his tremendously able legal mind to work on this problem? We all have the same objective, as the Senator from Maryland stated, that we want legislation that will not increase the borrowing rate of municipalities. If we pass this legislation, we are going to do that. If we pass this legislation unamended, if we pass it as amended by Senator Hruska, if we pass it as amended by Senator Tower, it seems to me there is a way of escaping that for everybody except New York and New York would escape, once they do get back into the private market.

The Senator from New York wants to keep the interest rates down as much as possible, I am sure. All of us do. Why is it outside of our reach? Why can we not do that?

Mr. JAVITS. The question the Senator is raising, quite properly, is whether we should have a bankruptcy revision at all. We should not, I say again, write a specialized bankruptcy statute for one debtor. If I may say to the Senator, if we are in a jam and New York has to go into bankruptcy, then it will come here for special relief, emergency relief, just as we passed the seasonal bill. But to pass a general bankruptcy statute, which is the way this was reported to us, for one debtor I think is very unwise policy for the Congress or the United States.

Mr. PROXMIRE. But the reason we have to do it is because we have an imminent, obvious, conspicuous problem here. We are on notice that New York is in difficulty. Congress cannot always act very promptly, as we all know. This would provide the kind of emergency relief she might very well need.

Mr. JAVITS. But New York is not asking for that. New York says they will survive and will make it, but do not discriminate against us. We know what is best for us and that is what we are asking for.

Mr. MATHIAS. I might recall to the mind of the Senator from Wisconsin the very eloquent testimony of Mr. Ira Millstein, who describes what we have been talking about here today—municipal bankruptcy—as relief. It is hardly relief when we begin to look at it in all its anatomical detail. It is really a course of horrors that a city could be put through. I know from many searching conversations that the Senator from Wisconsin and I have had on this subject that he does not consider that this is in any sense a desirable course of action or a form of relief for any municipal corporation, be it New York City or any other.

I think there would be a certain paradoxical quality if we were today to pass this bill, which really looks to failure, which really looks to what happens if New York City does not make it, just a couple of hours after we have passed the appropriations which the Senator from Wisconsin was such a major figure in bringing to the floor in a timely and seasonal way.

I have said earlier in this proceeding, and I would say it again this afternoon, that one of the things that we ought not to do is crowd the mourners. "Do not crowd the mourners." They are trying to get themselves out of the hole and we do not want to open up a gaping, yawning chasm that they may fall into. I think it has a depressing effect. I think it is unnecessary in such haste as a strict legal matter.

I would finally say that, as the Senator from Nebraska and other good lawyers in the Senate all know very well, it often happens in courts of law that it is the defense which produces the evidence which finally proves the prosecution's case, or vice versa.

I believe that the amendment which has been offered by the Senator from Texas is really the final confirmation of the arguments that the Senator from New York and I have been making here this afternoon. He said, "We do not want it for Houston." And I understand why he does not want it for Houston. I understand why Mayor Daly is not going to want it for Chicago; why they are not going to want it in Los Angeles; why they are not going to want it in Detroit; why they are not going to want it in Philadelphia. I can understand why they do not want it in New York.

The Senator from New York has said they do not need it. I do not think they need it.

I think if they do need it we will have timely notice of that fact, and we can act. But in any event, I think the adoption of this amendment would be very unwise.

Mr. President, I do not wish to foreclose any Senator from saying nothing he wants to, but I am ready to move to table at such time as Senators agree we have said enough.

Several Senators addressed the Chair.

Mr. TOWER. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. TOWER. A motion to lay on the table is not in order until all time has expired or been yielded back; am I not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. TOWER. I do not wish to prolong the agony. I am prepared to yield back my time. However, I would like the yeas and nays.

Mr. MATHIAS. I think we should have the yeas and nays.

Mr. TOWER. Mr. President, I ask for the yeas and nays.

Mr. MATHIAS. Mr. President, this will be the yeas and nays on the motion to lay on the table when it is offered.

Mr. TOWER. Mr. President, I ask unanimous consent that it be in order that the yeas and nays be applicable to either an up or down vote or a motion to lay on the table.

The PRESIDING OFFICER. Without objection, it is so ordered. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. I yield 3 minutes to my colleague from New York.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that William Schneider of my staff be granted the privilege of the floor throughout the deliberations and voting on S. 2597.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, will the Senator yield for a similar unanimous-consent request?

Mr. BUCKLEY. I yield.

Mr. PROXMIRE. I ask unanimous consent that Ken McLean and Elinor Bachrach, of the Banking Committee staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUCKLEY. Mr. President, I urge that the Senate reject the amendment offered by the Senator from Texas and that of the Senator from Nebraska. I believe we should recognize there is a hole in existing bankruptcy law that denies relief to a municipality that might unhappily find itself unable to reorganize its debt structure except through recourse to the Federal courts as provided for in this legislation. I believe that such a municipality ought to have this option. We like to hope that no city will take recourse to these remedies, but, on the other hand, we are in difficult times. There are those who believe that after the current recovery, we may see a still deeper recession. I think it is only prudent that this procedure be made available as a part of the Bankruptcy Act of this Nation.

Second, I suspect, and I do not offer myself as an expert on these matters, that the fears as to long-term effects on interest rates for all municipalities may be grossly exaggerated. I have great confidence in the sophistication of investors in this country, and I believe once this legislation is on the books, people will continue to extend credit and demand interest on the basis of an assessment of the current fiscal situation of the borrowing municipality and the judgment that will be made as to the quality of its fiscal management, the quality of the political management, and the determination of municipalities to avoid bankruptcy when it is possible for them to do so.

So I really do not think that the argument that this legislation would adversely affect in any material way the ability of other municipalities to borrow at reasonable rates ought to outweigh the real necessity, in my judgment, to have this legislation on the books as generic legislation.

Mr. TOWER. Mr. President, I am prepared to yield back the remainder of my time.

Mr. JAVITS. I yield back the remainder of my time.

Mr. MATHIAS. Mr. President, I move that the Hruska amendment be laid on the table.

Mr. TOWER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TOWER. If the motion to lay on the table fails, then the pending question would be on agreeing to the amendment of the Senator from Texas to the amendment of the Senator from Nebraska, Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. MATHIAS. My motion to lay on the table goes to the amendment of the Senator from Nebraska.

The PRESIDING OFFICER. If the motion to lay on the table carried, it would carry with respect to both the Hruska amendment and the Tower amendment.

Mr. HRUSKA. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the motion to lay on the table the amendment of the Senator from Nebraska. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Washington (Mr. MAGNUSON), the Senator from North Carolina (Mr. MORGAN), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

On this vote, the Senator from Washington (Mr. MAGNUSON) is paired with the Senator from North Carolina (Mr. MORGAN).

If present and voting, the Senator from Washington would vote "yea" and the Senator from North Carolina would vote "nay."

Mr. GRIFFIN. I announce that the Senator from North Dakota (Mr. YOUNG) is necessarily absent.

I further announce that the Senator from Kansas (Mr. DOLE) is absent to attend the funeral of his father.

I further announce that, if present and voting, the Senator from Kansas (Mr. DOLE) would vote "nay."

The result was announced—yeas 55, nays 35, as follows:

[Rollcall Vote No. 573 Leg.]

YEAS—55

Abourezk
Baker
Bartlett
Beall
Bellmon
Brooke
Buckley
Bumpers
Case
Chiles
Clark
Culver
Domenici
Durkin
Eagleton
Fong
Glenn
Hart, Philip A.
Hartke
Hatfield
Hathaway
Huddleston
Humphrey
Inouye
Jackson
Javits
Kennedy
Laxalt
Leahy
Long
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Ribicoff
Schweiker
Stafford
Stevens
Stevenson
Stone
Symington
Tunney
Weicker
Williams

NAYS—35

Allen
Bentsen
Brock
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Cranston
Curtis
Fannin
Ford
Garn
Goldwater
Griffin
Hansen
Hart, Gary
Haskell
Helms
Hollings
Hruska
Johnston
McClure
Metcalf
Nunn
Percy
Proxmire
Randolph
Roth
Scott, Hugh
Scott,
  William L.
Stennis
Taft
Talmadge
Thurmond
Tower

NOT VOTING—10

Bayh
Biden
Church
Dole
Eastland
Gravel
Magnuson
Morgan
Sparkman
Young

So the motion to table Mr. HRUSKA's amendment No. 1215 was agreed to.

Mr. PERCY. Mr. President, I voted against the motion to table the amendment of the Senator from Nebraska (Mr. HRUSKA) so that the Senate would have the opportunity to vote on the substitute amendment proposed by the Senator from Texas (Mr. TOWER).

This legislation was drafted and reported quickly for one reason: to meet the emergency situation facing New York City. There is no reason to make it applicable to any other city at this time. The Judiciary Committee is now considering legislation for the general revision of the bankruptcy laws. Coverage of cities other than New York should be considered in that context, if at all. Certainly there is no justification for possibly damaging the bond markets in cities across the United States to deal with an emergency situation that exists only in New York.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 1229

Mr. BUCKLEY. Mr. President, I call up my amendment No. 1229.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New York (Mr. BUCKLEY) proposes amendment No. 1229.

The amendment is as follows:

At the end of the bill add the following:

TITLE II—EMERGENCY ASSISTANCE

SEC. 201. (a) This title may be cited as the "Emergency Municipal Assistance Act of 1975".

(b) The Congress finds that it is in the mutual interest to establish a temporary program of emergency assistance to any local municipality, public agency instrumentality, or political subdivision of a State which files a voluntary petition under chapter XVI of the Bankruptcy Act.

EMERGENCY ADVANCES

SEC. 202. Upon the filing of a petition under chapter XVI of the Bankruptcy Act, the petitioner may apply to the Secretary of the Treasury for an advance of sufficient funds to meet its scheduled municipal payrolls and public assistance payments during the thirty-day period following the date on which the petition is filed. Notwithstanding any other provision of law, the Secretary of the Treasury is authorized to make such an advance against either (1) the first moneys payable from the Federal Government under any Federal assistance program to the petitioner following the termination of such thirty-day period, or (2) the first proceeds of certificates of indebtedness issued by the court having jurisdiction over the petitioner.

GUARANTEE OF CERTIFICATES

SEC. 203. (a) The Secretary of the Treasury is authorized to guarantee the timely payment of principal and interest on certificates of indebtedness authorized by a court to be issued pursuant to section 811 of chapter XVI of the Bankruptcy Act, upon terms and conditions to be negotiated between the Secretary and the court, in an amount sufficient to provide the petitioner with the funds necessary for essential governmental purposes, and to continue the payment of interest on the municipality's outstanding obligations at equitable rates as determined by the court pursuant to the authority set forth in the Bankruptcy Act. Any such guarantee shall be made only on the following terms and conditions:

(1) The court shall submit to the Secretary of the Treasury a financial plan prepared by the petitioner and approved by the Governor of the State in which the petitioner is located, in such detail and in accordance with such accounting principles as the Secretary may prescribe, which in the judgment of the Secretary will bring the petitioner's operating expenses into balance with its recurring revenues within three years following the filing of the petition.

(2) The Secretary is satisfied that such State has the authority to control the fiscal affairs of the petitioner for the entire period during which any guarantee under this section will be outstanding, including authority to determine all revenue estimates, set aggregate expenditure limits, disapprove all expenditures not in compliance with the plan required under paragraph (1), approve all borrowing, and authorize all contracts during that period.

(3) Any certificate of indebtedness guaranteed hereunder shall be secured by a first claim on the assets and revenues of the petitioner, and shall have a priority in payment over all obligations outstanding on the date the petition was filed.

(4) The maturity of any certificate of indebtedness guaranteed hereunder shall not exceed one year.

(5) The Secretary must be satisfied that the court is unable to obtain the necessary credit through the placement of certificates of indebtedness in the private market, and that the failure to place such certificates is likely to cause the petitioner to be unable to maintain essential governmental services or to make interest payments on its outstanding obligations at rates of interest approved by the court as equitable.

(b) For the purpose of this section, the court shall make available to the Secretary all of the petition's accounts, books, records, documents, transactions, and other information bearing on its financial situation which the Secretary may request prior to and during the entire period in which a guarantee under this section is outstanding, and shall require the petitioner to provide such periodic reports as the Secretary may require.

LIMIT ON GUARANTEE

SEC. 204. At no time shall obligations guaranteed under this title exceed the aggregate amount of $2,300,000,000.

PROTECTION OF GOVERNMENT'S INTEREST

SEC. 205. (a) The Attorney General shall take such action as may be appropriate to enforce any right accruing to the United States or any officer or agency thereof as a result of the issuance of guarantees under this title.

(b) The Secretary shall be entitled to recover from any issuer of an obligation guaranteed under this title or any other person liable therefor, the amount of any payments made pursuant to any guarantee made under this title, and upon making such payments the Secretary shall be subrogated to all the rights of the recipient thereof.

REPORTS

SEC. 206. The Secretary shall submit a quarterly report to the Congress as to its operations under this title.

The PRESIDING OFFICER. The Chair inquires of the Senator from New York whether this is the amendment on which the Senator is assigned 3 hours.

Mr. BUCKLEY. That is correct. I do not intend to take anywhere near that amount of time. I just wanted to protect myself. I hope we can be expeditious about it.

The PRESIDING OFFICER. The Senate will be in order. Senators will kindly take their seats. If they wish to converse, will they withdraw from the Chamber? Staff members will kindly take their seats.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. BUCKLEY. I yield.

Mr. CRANSTON. Mr. President, I ask unanimous consent that John Fleming, of my staff, have the privilege of the floor throughout all phases of consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, will the Senator yield briefly?

Mr. BUCKLEY. I yield.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that Howard Segermark of my staff, be granted the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I thank the Senator for yielding.

Mr. BUCKLEY. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MANSFIELD. Mr. President, if the Senator will yield, may I ask how many Senators, in addition to the distinguished Senator from New York (Mr. BUCKLEY) will have amendments to offer?

Mr. BELLMON. I have one that will take 2 minutes.

Mr. MANSFIELD. Mr. President, will the Senator from New York indicate just how long he might take on his amendment?

Mr. BUCKLEY. It depends on how long it takes the manager to agree to it.

Mr. MANSFIELD. Well, if he does not?

Mr. BUCKLEY. I do not think it will take more than an hour, Mr. President, but I do know from sad experience that sometimes, things roll on. I just do not want to be foreshortened by a time agreement.

Mr. MANSFIELD. We will take our chances and try to finish the bill tonight, if possible.

The PRESIDING OFFICER. The Senator from New York is recognized. The Chair asks for order so we may proceed.

Mr. RANDOLPH. Mr. President, may I have the attention of the able Senator from New York?

Mr. BUCKLEY. Gladly.

Mr. RANDOLPH. Will he request a rollcall at the conclusion of his remarks and possibly others that might occur?

Mr. BUCKLEY. If it is not accepted by acclamation, yes.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. BUCKLEY. Mr. President, the bill we have before us, I think, is important and necessary. I do believe that municipalities ought to have a realistic option to avail themselves of the protections accorded by the Federal Bankruptcy Act in the event they have no other way of reordering their debt. As was made very clear in the debate on the Hruska and Tower amendments to the bill, this whole issue was brought to focus by the plight of New York City. Although the legislation that we adopted and that the President signed yesterday is designed to make it possible for New York City to solve its problems without recourse to the chapter 16 that we propose to add to the Bankruptcy Act, we must also realistically understand that there is a very real possibility that the city might, nonetheless, be forced to file a petition under its provisions.

I refer Members of this body, Mr. President, to the fact that the arrangements that New York City and State have made in order to make it possible for the city to continue to operate during the next 2 years while the economies being put into effect take hold, to make it possible to do all this with the seasonal aid extended by the Federal Government in the amount of $2.3 billion—all of this has been dependent upon legislation enacted by the State of New York declaring a moratorium on $1.6 billion worth of notes falling due this week and on through the month of March.

This legislation has been challenged as being unconstitutional, as constituting an unconstitutional abrogation.

The PRESIDING OFFICER. Will the Senate be in order? The Senators will kindly withdraw from the aisles so that the Senate will be in order.

Will the Senators kindly withdraw to the cloakrooms and complete their conversations in the cloakrooms?

Mr. BUCKLEY. Mr. President, as I was saying, the whole structure of the arrangements that have been entered into by the State and city of New York, that we have voted to supplement through the seasonal assistance plan signed by the President yesterday, depends on legislation declaring a moratorium on $1.6 billion worth of notes falling due this month, next month, and on through March. The constitutionality of this legislation has been challenged. I know of a number of lawyers who believe that that challenge is sound, that this legislation constitutes an unconstitutional abrogation of a contractual obligation. At any moment, it is possible that a court would find that law is unconstitutional, in which event, New York City would be placed in a position where it most probably would file a petition under the new chapter 16 of the Bankruptcy Act.

Even if, under that chapter, it were to declare a moratorium on all interest and principal payments, the sad fact is that the state of the city's finances is such that it will continue to require assistance in order to meet its necessary fundamental expenses—expenses for police and firemen, for garbage collections, for primary and secondary schools—for the works.

In other words, New York City will find itself shy of substantial sums of money and will be forced to cancel paychecks unless we have standby machinery ready to provide it with assistance comparable to what we have already agreed to.

The title II that I would add to the bill before us is designed to perform precisely that function. It would, in the first instance, while the court is going through the processes of appointing a district court judge as trustee for the city, provide for the advance to the petitioner of sufficient funds to meet 30 days' running expenses, while the machinery is put into place. That advance would be secured by a first claim against moneys moving from the Federal Government to the city in the normal course of events, and would also have a first claim against any moneys raised through the placement of certificates of indebtedness that the municipality is authorized to issue in accordance with provisions of the bill before us.

The second provision—as I say, this is

a short-term emergency. The basic provision of my amendment would entitle the Secretary of the Treasury to guarantee the certificates of indebtedness in an amount sufficient to provide the city with essential services.

As I say, this is comparable to the arrangement we have already made. After consulting with the distinguished manager of the bill, the Senator from North Dakota, I have agreed to make further amendments to the bill so as to make it explicitly applicable to the New York City situation.

I have at the desk an amendment to my amendment that I would like to ask unanimous consent to be able to incorporate into my amendment.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and without objection, it is so ordered.

The modification is as follows:

> On page 2, line 3, delete the words "the petitioner" and substitute the following: "any petitioner having a population of more than seven million inhabitants.".
>
> On page 5, add the following new section:
>
> "EXPIRATION OF AUTHORITY
>
> "SEC. 207. The authority provided the Secretary to guaratee a petitioner's certificates of indebtedness shall expire on June 30, 1978.".

Mr. BUCKLEY. What this does is to limit the guarantee to a petitioner having a population of more than 7 million inhabitants. Therefore, it will of necessity be applicable only to the city of New York.

Second, it has a section at the end, a section 207 that reads as follows:

> The authority provided the Secretary to guarantee a petitioner's certificate of indebtedness shall expire on June 30, 1978.

Finally, Mr. President, the Senator from Nebraska (Mr. HRUSKA) expressed concern that the limitation on the total authority that is to be found in the amendment might be construed as allowing total guarantees or loans under these two different pieces of legislation in an amount of not $2.3 billion but $4.6 billion. I do not believe that, in fact, this would be the situation because I am sure the Secretary of the Treasury would insist on not lending more than is required to meet these essential services which the original bill is intended to make possible.

I, therefore, however, in order to eliminate any possibility of an ambiguity, send to the desk a further amendment which will modify section 204 to read as follows:

> At no time shall obligations guaranteed under this title or under the provisions of Public Law 94–143 exceed the aggregate amount of $2,300,000,000.

Mr. President, I send this amendment to the desk and ask unanimous consent that it be incorporated in my amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The modification is as follows:

> On page 4, line 19, strike line 19 and insert the following: "this title or under the provisions of Public Law 94–143 exceed the aggregate amount of $2,300,000,000.".

Mr. BUCKLEY. Mr. President, I really do not think I need say anything more. I will be glad, obviously, to answer questions. I believe it does nothing that we have not already agreed to do in this body both today, in approving the supplemental appropriation bill, and last Saturday at 0015 in the morning when we approved the Seasonal Assistance Act. But it does provide the standby machinery by which the city would be enabled to continue its operations without this body, without Congress, having to be reconvened in the event between now and the third week in January the city should find itself in the unfortunate position of having to avail itself of the protection and benefits of chapter 16.

Mr. BURDICK. Mr. President, I rise in opposition to the amendment. This amendment goes far beyond the intentions of the committee and creates a special piece of legislation for the city of New York. This was not intended and, after everyone has spoken, I intend to move to table the amendment.

Mr. BUCKLEY. Mr. President, I thought, perhaps, there was a misunderstanding. I thought the Senator had earlier told me he did not like its generality and he wanted it to apply specifically to the city of New York.

Mr. BURDICK. Congress has just appropriated $2.3 billion this afternoon. This is another $2.3 billion, and it is so tailored that it does not have general application across the country.

Mr. BUCKLEY. I beg to differ. This is the same $2.3 billion we are talking about. Under no circumstances would there be more than $2.3 billion outstanding. In point of fact, if the Senator is talking about the cash drain on the Federal Government if the city unfortunately is required to go here, whatever is outstanding would be returned out of the proceeds of the placement of the certificates of indebtedness which would be placed by virtue of the guarantee of the Federal Government and not by virtue of the cash of the Federal Government. So this results in a smaller exposure in terms of cash. It does not add $2.3 billion but it creates continuity with what we have already done.

We have thus far come up with assistance that is designed to help the city on a seasonal basis before default. We must contemplate the possibility of default, and this legislation has no other effect but to provide that continuity without changing the numbers.

Mr. BURDICK. I thank the Senator for that explanation. But I can see a lot of complications if this provision should go into effect some months from now while the other program is presently in effect. I just do not like to depart from the idea that we have a general municipal bankruptcy law before the Senate by adding this feature.

Mr. BUCKLEY. I appreciate the position taken by the Senator, but if he would prefer to have this as general legislation, I can withdraw the amendment I have added to my amendment. I gather that is not his intention. He would still object under those circumstances?

Mr. BURDICK. Unfortunately, yes.

Mr. BUCKLEY. Then I shall not withdraw them.

Mr. President, we have a large crowd here. I hope that my "Dear Colleague" letter trying to explain the subject here, has managed to penetrate our respective bureaucracies and to inform the Members of what it is I am attempting to do which, as I say, is no more than to make sure that the same accommodations are in place in the event of a default as are now in place as a result of the action we have taken in the last few days.

I am ready to let this matter come to a vote.

The PRESIDING OFFICER. Is all time yielded back?

Mr. BURDICK. I yield back my time.

Mr. BUCKLEY. I understand that the Senator from North Dakota intends to have a tabling motion?

Mr. BURDICK. That is correct.

Mr. BUCKLEY. I will merely say that if we all have to come back here on January 5 to enact the legislation we now have in front of us, the Senator will have to take all the——

Mr. BURDICK. If something like this is needed on January 5, I will cooperate.

Mr. BUCKLEY. All right, the Senator has farther to come than I have.

Mr. HRUSKA. The proposal of the amendment to provide for a 30-day advance of funds is not needed. The bill provides that setoffs by the depositories of the city should be stayed and the city may have access to its cash accounts during the period following the filing of the insolvency petition. In the particular case of New York City, the provisions will not be necessary because the city can receive the seasonal financing funds during insolvency proceedings.

Bankruptcy should be efficient; it should not be attractive.

A Federal guarantee of certificates of indebtedness for New York City will make insolvency attractive.

A certificate of indebtedness is really nothing more than a municipal bond. If New York City knows that it can file an insolvency proceeding under this bill and have its bonds backed by a Federal guarantee, with the resulting lower interest rates, it will be too attractive to do so. This will adversely affect all other municipalities in issuing their bonds because the certificate of indebtedness has become a true "blue chip" bond, federally guaranteed and tax exempt. Investors will flock to the certificates of indebtedness to the detriment of other municipal issues.

The certificates of indebtedness can be given a superpriority over all other debts of the municipality, both secured and unsecured. This should be sufficient to market them in the private sector and there is no need for a Federal guarantee. If a Federal guarantee is available there will be no placement in the private sector, because investors will hold out for the guarantee.

There may be times where there is a need to have a Federal financial response to the insolvency of a municipality. This happened with New York City last week. These are best handled on a case-by-case basis according to the facts presented to the Congress at that time.

If New York City should choose the insolvency proceedings, and cannot place its certificates of indebtedness in the private sector, it can come to the Congress as it did last week and request the guarantees.

For these reasons, I oppose the amendment offered by the Senator from New York.

The PRESIDING OFFICER. Is all time yielded back?

Mr. BURDICK. I yield back my time.

Mr. BUCKLEY. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. BURDICK. Mr. President, I move to table and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. BURDICK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BURDICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURDICK. Mr. President, I ask for the yeas and nays again.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho, (Mr. CHURCH), the Senator from Ohio (Mr. GLENN), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. GARY HART), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Washington (Mr. MAGNUSON), the Senator from Montana (Mr. MANSFIELD), the Senator from Arkansas (Mr. McCLELLAN), the Senator from North Carolina (Mr. MORGAN), the Senator from Georgia (Mr. NUNN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Missouri (Mr. SYMINGTON), the Senator from Georgia (Mr. TALMADGE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) and the Senator from Washington (Mr. MAGNUSON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

I further announce that the Senator from Kansas (Mr. DOLE) is absent to attend the funeral of his father.

I further announce that, if present and voting, the Senator from Kansas (Mr. DOLE) would vote "nay."

The result was announced—yeas 60, nays 20, as follows:

[Rollcall Vote No. 574 Leg.]

YEAS—60

Abourezk
Baker
Bentsen
Brooke
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Durkin
Eagleton
Eastland
Fong
Ford
Griffin
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Long
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Scott,
William L.
Stafford
Stevenson
Stone
Taft
Thurmond
Weicker
Williams

NAYS—20

Allen
Bartlett
Beall
Bellmon
Brock
Buckley
Curtis
Domenici
Fannin
Garn
Hansen
Helms
Hollings
Laxalt
McClure
Percy
Roth
Stevens
Tower
Young

NOT VOTING—20

Bayh
Biden
Bumpers
Church
Dole
Glenn
Goldwater
Gravel
Hart, Gary
Johnston
Magnuson
Mansfield
McClellan
Morgan
Nunn
Sparkman
Stennis
Symington
Talmadge
Tunney

So the motion to lay on the table Mr. BUCKLEY's amendment (No. 1229), as modified, was agreed to.

Mr. BEALL. As the Senator from North Dakota knows I have an amendment at the desk numbered 1214 which would amend the Bankruptcy Act. It does not pertain to the new provisions that are being included in this bill relating to the bankruptcy of large municipalities, but would amend the general Bankruptcy Act to give a priority in any amount due to an employee pension, health and welfare plan to any person for the benefit of the claimant as a result of the claimant's employment or as a result of the claimant's employment.

As the Senator from North Dakota knows very well, the current law, the current Bankruptcy Act, provides that unpaid wages for up to 3 months prior to bankruptcy will be paid prior to the settlement of any general creditor debt. However, amounts paid into pension and welfare funds do not receive this treatment and are, therefore, often lost when there are insufficient funds to pay general creditors.

The Senator also well knows generally these days in negotiations for wages, workers agree to reduce salaries in many instances in exchanges for promises by employers to pay specific amounts into employee benefits plans. In most of our larger contracts that is the case.

It was pointed out to me by one union, Baltimore, Md., the Meat Cutters Union, that in many of their larger contracts employers are obligated to pay over $200 per month per employee in fringe benefits.

Mr. President, it seems to me since these benefits are subject to the same kind of negotiations as are wages—as a matter of fact, they are included to be wages in today's society—they should receive equal treatment under the law as far as bankruptcy is concerned; in other words, these benefits ought to be protected to some extent.

So the amendment I am proposing would say that in addition to the favorable treatment given to wages for 3 months that also favorable priority treatment be given to fringe benefits such as pension benefits so that the employee can recover any amounts left before general creditors are taken care of.

Now, in my conversations with the distinguished chairman of the subcommittee, I understand this matter is currently under consideration in his subcommitte in a general effort to revise the entire bankruptcy law; is that correct?

Mr. BURDICK. That is correct. The provisions the Senator from Maryland has referred to are contained in two bills before our committee, S. 235 and S. 236. We seek the same objective that the Senator refers to.

Mr. BEALL. Am I to understand also that these matters are to be handled expeditiously by this committee and that we can expect they will be on the floor shortly after the first of the year?

Mr. BURDICK. We are in the process of marking up the final bill—the first of next week.

Mr. BEALL. And this subject matter is included?

Mr. BURDICK. That is correct.

Mr. BEALL. In the coverage of the proposed legislation?

Mr. BURDICK. That is correct.

Mr. BEALL. Receiving that assurance, Mr. President, then I see no necessity for me to call up my amendment to try to add it to this bill because it does not apply to the bankruptcy of large municipalities.

I do think it is a matter of the highest priority, and having received the assurance of the chairman that it is getting that treatment, that we can expect legislation on the floor shortly after we come back in January, I will not belabor the point and will not call up my amendment at this time.

I thank the chairman for his assurances this evening and I thank the Senator from New York for yielding.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. BUCKLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 42, between lines 18 and 19, insert the following new section:

EFFECT ON OTHER LAWS

SEC. 824. Any state law which directly or indirectly deprives the petitioner of the effect of confirmation under this chapter is invalid.

Mr. BUCKLEY. Mr. President, at the present time there are number of States——

Mr. HRUSKA. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats, or withdraw to the cloakroom if they wish to converse.

The Senator may proceed.

Mr. BUCKLEY. Mr. President, at the present time there are a number of States that have laws that would preclude a municipality that took recourse to chapter 16 from being able to sell its paper, its obligations, to institutions within those States for many years after they had finished putting their house back in order.

The effect of the amendment I have called up would be to preempt from the States the ability to enact such legislation, which would have the effect of discriminating against someone who had recourse to the Bankruptcy Act long after that party had rehabilitated itself.

I believe that the amendment is in a sense superfluous because of a Supreme Court decision, Perez against Campbell, that issued in 1971, which states that:

> Any State legislation which frustrates the full effectiveness of the Federal law is rendered invalid by the supremacy clause.

And, of course, the Constitution places in the Federal Government the right to rehabilitate a bankrupt.

I would also say that this amendment of mine is comparable to what I understand to be a provision in the revisions that are proposed for the general bankruptcy law, that would make it clear——

The PRESIDING OFFICER. Will the Senator suspend momentarily?

Senators will please take their conversations from the floor, so that Senators may hear the Senator from New York. The Senate will be in order.

The Senator may proceed.

Mr. BUCKLEY. It is my understanding that there is proposed, in connection with the modification or updating of the general bankruptcy law, an equivalent provision that would, for example, make it impossible for a State to enact legislation that would deprive an individual who had taken recourse to the bankruptcy laws from being able to obtain credit in a given State.

So I believe that there is precedent for this proposal in terms of the thinking of the appropriate committees on the subject of bankruptcy and the need for preemption, and as I said earlier I believe that this is the result in fact mandated by current case law.

I have discussed this matter with the managers of the bill on both sides, and I understand they are willing to accept it.

Mr. BURDICK. Mr. President, that is correct. We will take it to conference. I believe the statement of the Senator from New York is true. This is consistent with case law, and that being the case, we will accept the amendment.

Mr. HRUSKA. Mr. President, I join with the Senator from North Dakota in his statement. The Campbell case is good law along the lines discussed by the Senator from New York. And when this Senator says we will take it to conference, it is more than just a nominal commitment. I believe there is sufficient merit that the matter ought to prevail and survive the conference.

Mr. JAVITS. Mr. President, I believe the Senator has picked up a very important point, which will serve to make this proposal effective for its true purpose as improving the general bankruptcy law, and I congratulate the Senator.

Mr. BUCKLEY. I thank my senior colleague very much.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed——

Mr. BUCKLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUCKLEY. Mr. President, I ask the manager of the bill one or two questions relating to what is intended in chapter XVI where it provides that the court can authorize the petitioner to issue certificates of indebtedness in order to raise funds to maintain essential city services.

I raise the question because I believe that language on page 14 of the report could perhaps unintentionally serve to overly limit the understanding of what essential services cover.

As the language in the report, let me read the paragraph, the second paragraph on page 14:

> The present Chapter IX makes no provision for the issuance of debtors certificates. This is a most serious omission as the municipal debtors must maintain essential city services directed to public safety and public health during the reorganization proceeding.

Mr. President, I ask the manager whether it is the intention of the committee to limit the definition of "essential city services" to public safety and public health.

Mr. BURDICK. I say to my friend from New York that there was no intention to so circumscribe it to public safety and public health. The technicians tell me that the language of the bill is broad enough to permit the supervising judge, for example, to authorize expenditures as long as he considers them essential services.

Mr. BUCKLEY. Such as education at the primary and secondary level, presumably?

Mr. BURDICK. Yes.

Mr. JAVITS. Will that include water supply, also?

Mr. BURDICK. I suppose it shall be in the discretion of the court at that time.

Mr. BUCKLEY. Mr. President, I thank my friend from North Dakota.

Mr. ROBERT C. BYRD. Third reading.

The PRESIDING OFFICER. Is there any further amendment to the bill?

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

MUNICIPAL BANKRUPTCY PROCEDURES

Mr. HUMPHREY. Mr. President, I rise today to support the amendments to the Bankruptcy Act. These amendments will improve the procedures for the voluntary reorganization of municipal debt.

No one would argue that this bill is essential. Recent developments which brought New York City to the brink of bankruptcy have only served to point out the woeful inadequacy of our existing bankruptcy procedures.

However, I do want to express some reservations that I have about this legislation. My first caveat is a general concern about any national urban policy which accepts bankruptcy as the ultimate solution to the fiscal problems of our cities. I do not now and never will endorse bankruptcy as the answer for our Nation's urban problems. Rather, we need a strong and renewed Federal commitment to restoring our cities to the vital centers of culture that they once were. We need jobs in our cities, we need housing, we need transportation systems, and we need improved public facilities. We do not need bankruptcy.

Second, I have a more specific concern about the potential impact of this legislation on the entire municipal bond market. No one can be sure until the market has stabilized, but it is conceivable that this legislation could significantly dilute the meaning of the words "full faith and credit" which currently contribute to the marketability of municipal bonds. If the market perceives a weakening in the security of municipal bonds, the result will only be higher interest rates for all State and local governments.

For this reason, I would like to suggest that our job is not finished when we finish consideration of this legislation today. We must not forget the more long range, and ultimately more important problem of how to provide the necessary funds to our States and localities at reasonable interest rates.

Mr. President, while I am concerned that this legislation may be used by some as a cop-out—a way of avoiding the development of real programs to meet our urban needs—I nevertheless, feel compelled to vote for it, in view of the critical financial problems that face our cities now, and even more critical problems due to the recession, inflation, and unemployment that has eroded city revenues and increased costs of services and goods.

Mr. BURDICK. Mr. President, I ask unanimous consent that the Senate proceed to consider H.R. 10624.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

> A bill (H.R. 10624) revising chapter IX of the Bankruptcy Act.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BURDICK. Mr. President, I ask unanimous consent that all after the enacting clause of H.R. 10624 be stricken and that there be substituted therefore the text of S. 2597, as amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. BURDICK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Ohio (Mr. GLENN), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Washington (Mr. MAGNUSON), the Senator from Montana (Mr. MANSFIELD), the Senator from Arkansas (Mr. McCLELLAN), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), and the Senator from Missouri (Mr. SYMINGTON), are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN), and the Senator from Washington (Mr. MAGNUSON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

I further announce that the Senator from Kansas (Mr. DOLE) is absent to attend the funeral of his father.

I further announce that, if present and voting, the Senator from Kansas (Mr. DOLE) would vote "yea."

The result was announced—yeas 79, nays 2, as follows:

[Rollcall Vote No. 575 Leg.]

YEAS—79

Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Curtis
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Griffin
Hansen
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Kennedy
Laxalt
Leahy
Long
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Stafford
Stevens
Stone
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—2

Mathias
Proxmire

NOT VOTING—19

Abourezk
Bayh
Biden
Bumpers
Church
Dole
Glenn
Goldwater
Gravel
Hart, Gary
Johnston
Magnuson
Mansfield
McClellan
Morgan
Sparkman
Stennis
Stevenson
Symington

So the bill H.R. 10624, as amended, was passed, as follows:

Strike out all after the enacting clause and insert:

That the Bankruptcy Act of 1898 (30 Stat. 544), as amended, is hereby amended to add a new chapter XVI thereto reading as follows:

"CHAPTER XVI—ADJUSTMENT OF INDEBTEDNESSES OF MAJOR MUNICIPALITIES

"Sec.
"801. Jurisdiction, powers of the court, and reservation of powers.
"802. Definitions.
"803. Eligibility for relief.
"804. Petition and filing.
"805. Stay of proceedings.
"806. Contest and dismissal of petition.
"807. Notices.
"808. Representation of creditors.
"809. List of claims and persons adversely affected.
"810. Proof of claim.
"811. Certificates of indebtedness.
"812. Priorities.
"813. Provisions of plan and filing.
"814. Voting on acceptance of plan.
"815. Modification of plan.
"816. Standing to object to plan.
"817. Hearing on confirmation of plan.
"818. Effect of confirmation.
"819. Duty of petitioner and distribution under plan.
"820. Dismissal.
"821. Retention of jurisdiction.
"822. Reference of issues and compensation.
"823. Conversion to chapter XVI.

"JURISDICTION, POWERS OF THE COURT, AND RESERVATION OF POWERS

"SEC. 801. (a) This Act and proceedings thereunder are found and declared to be within the subject of bankruptcies and, in addition to the jurisdiction otherwise exercised, courts of bankruptcy shall exercise original jurisdiction as provided in this chapter for the composition or extension of the debts of certain public agencies of instrumentalities or political subdivisions. The court in which the petition is filed in accordance with subsection 804(c) shall exercise exclusive jurisdiction for the adjustment of petitioner's debts and, for purposes of this chapter, shall have exclusive jurisdiction of petitioner and its property, wherever located.

"(b) Upon the filing of a petition the court may, in addition to the jurisdiction, powers, and duties hereinabove and elsewhere in this chapter conferred and imposed upon it (1) permit the rejection of executory contracts of the petitioner, upon notice to the parties to such contracts and to such other parties in interest as the court may designate; (2) exercise such other powers not inconsistent with the provisions of this chapter.

"(c) Upon the filing of a petition the chief judge of the court in the district in which the petition is filed shall immediately notify the chief judge of the circuit court of appeals of the circuit in which the district court is located, who shall designate the judge of the district court to conduct the proceedings under this chapter.

"(d) Nothing contained in this chapter shall be construed to limit or impair the power of any State to control by legislation or otherwise, any public agency or instrumentality or political subdivision of the State in the exercise of its political or governmental powers, including expenditure therefor: *Provided, however,* That no State law prescribing a method of composition of indebtedness of such agencies shall be binding upon any creditor who does not consent to such composition, and no judgment shall be entered under such State law which would bind a creditor to such composition without his consent.

"(e) Subsections 60 (a), (b), (c), section 67, and subsections 70 (c), (e) of this Act shall apply in proceedings under this chapter, except that all functions of the trustee thereunder shall be assumed by the petitioner.

"DEFINITIONS

"SEC. 802. The words and phrases used in this chapter have the following meanings unless they are inconsistent with the context:

"(1) The term 'attorney' means an attorney licensed to practice law by any State and includes a law partnership or corporation.

"(2) 'Claims' shall include bonds, notes, judgments, and demands, liquidated or unliquidated, and other evidence of indebtedness, either secured or unsecured, and certificates of beneficial interest in property.

"(3) The term 'court' means United States district court sitting in bankruptcy, and the terms 'clerk' and 'judge' shall mean the clerk and judge of such court.

"(4) The term 'creditor' means any person who owns a claim against the petitioner and any person injured by the rejection of an executory contract or an unexpired lease pursuant to this chapter or pursuant to a plan under this chapter, and may include such person's authorized agent.

"(5) The term 'lien' means a security interest in property, a lien obtained on property by levy, sequestration or other legal or equitable process, a statutory or common-law lien on property, or any other variety of charge against property to secure performance of an obligation.

"(6) The term 'plan' means a plan proposed in a case under this chapter.

"(7) The term 'person' includes a corporation or a partnership, the United States, the several States, and public agencies, instrumentalities, and political subdivisions thereof.

"ELIGIBILITY FOR RELIEF

"SEC. 803. (a) Any municipality public agency, instrumentality, or political subdivision of the State is eligible for relief under this chapter, if the municipality is first specifically authorized to file a petition initiating a proceeding under this chapter by the chief executive, legislature, or such other governmental officer or organization empowered under State law to authorize the filing of such a petition.

"(b) Any public agency or instrumentality or political subdivision subordinate to such municipality or whose responsibilities are restricted to the geographical limits thereof, including incorporated authorities, commissions and districts, for whose debts such municipality is not otherwise liable, is eligible for relief as a separate petitioner and a petition seeking relief shall be jointly administered in the same proceeding in which such municipality seeks relief under this chapter if such agency, instrumentality, or subdivision is not prohibited from filing a petition by applicable State law.

"PETITION AND FILING

"SEC. 804. (a) Any entity eligible for relief under section 803 may file a voluntary petition under this chapter. The petition shall state that the petitioner is eligible to file a petition, that the petitioner is insolvent or unable to pay its debts as they mature, and that it desires to effect a plan for the composition or extension of its debts. The petitioner shall file with its petition, or within such time as the court may prescribe, lists of its creditors and of other persons who may be adversely affected by a proposed plan and if an identification of all the petitioner's creditors is impracticable, the petitioner shall state the reason therefor.

"(b) The petition shall be filed with any court in whose territorial jurisdiction the municipality or any part thereof is located, and shall be accompanied by payment to the clerk of a filing fee of $100, which shall be in lieu of the fee required to be collected by the clerk under other applicable chapters of this title, as amended.

"STAY OF PROCEEDINGS

"SEC. 805. (a) A petition filed under section 804 shall operate as a stay of the commencement or the continuation of any court or other proceeding against the petitioner, its property or any officer or inhabitant of the petitioner, or which seeks to enforce any claim against the petitioner; as a stay of any act or the commencement or continuation of any court proceeding to enforce any lien on taxes or assessments, or to reach any property of the petitioner; and as a stay of the application of any setoff or enforcement of any counterclaim relating to any contract, debt, or obligation of the petitioner.

"(b)(1) A petition filed by a petitioner eligible for relief under this chapter shall operate to stay recognition or enforcement of the setoff of any claim owing by the petitioner effected or attempted to be effected within three months prior to the date of the petition or thereafter against any obligation owing to the petitioner until the stay is terminated by the court or the case is dismissed. Such stay shall not affect the right of the creditor to withhold payments to or on the order of the petitioner, except when otherwise ordered pursuant to subdivision (2).

"(2) After hearing on notice to the person asserting the right of setoff, the court may order such persons to pay to the petitioner or to its order the amount of the obligation sought to be offset if the stay is not terminated pursuant to subdivision (d). However, the court may require as a condition of the order that the petitioner furnish such protection as will adequately protect the person who is asserting the right of setoff.

"(c) Except as it may be terminated, annulled, modified, or conditioned by the court under the terms of this section, the stay provided for herein shall continue until the case is closed or dismissed or the property subject to the lien is, with the approval of the court, abandoned or transferred.

"(d) On the filing of a complaint seeking relief from a stay provided in this section, the court shall set a hearing for the earliest possible date. The court may, for cause shown, terminate, annul, modify, or condition such stay.

"(e) The commencement or continuation of any act or proceeding other than described in subsection (a) of this section may be stayed, restrained, or enjoined pursuant to rule 65 of the Federal Rules of Civil Procedure, except that a temporary restraining order or preliminary injunction may be issued without compliance with subdivision (c) of that rule.

"(f) A provision in a contract or lease, or in any law applicable to such a contract or lease, which terminates or modifies, or permits a party other than the petitioner to terminate or modify the contract or lease because of the insolvency of the petitioner or the commencement of a case under this Act is not enforceable if any defaults in prior performance of the petitioner are cured and adequate assurance of future performance is provided.

"(g) No stay, order, or decree of the court may interfere with (1) any of the political or governmental powers of the petitioner; or (2) any of the property or revenues of the petitioner necessary for essential governmental purposes; or (3) the petitioner's use or enjoyment of any income-producing property: *Provided, however*, That the court shall enforce the conditions attached to certificates of indebtedness issued under section 811 and the provisions of the plan.

"CONTEST AND DISMISSAL OF PETITION

"SEC. 806. (a) Any creditor may file a complaint in the bankruptcy court contesting the petition for relief under this chapter. The complaint may be filed within thirty days following the filing of the petition.

"(b) The court may, upon notice to the creditors and a hearing following the filing of such a complaint, dismiss the proceeding if it finds that the petition was not filed in good faith or that it does not meet the provisions of this chapter.

"(c) A finding of jurisdiction shall be considered an interlocutory order for purposes of appeal. No appeal pursuant to section 1292 of title 28, United States Code, shall be allowed.

"NOTICES

"SEC. 807. (a) The petitioner or such other person as the court shall designate shall give prompt notice of the commencement of a proceeding or dismissal of the petition under this chapter to the State in which the petitioner is located and to the Securities and Exchange Commission and to creditors. As creditors and other persons who may be materially and adversely affected by the plan are identified, the petitioner or such other person as the court shall designate shall give such persons notice of the commencement of the proceeding, a summary of the provisions of the plan and any proposed modification of the plan, and of their right to request a copy of the plan, or modification. The notice required by the first sentence of this subsection shall be published at least once a week for three successive weeks in at least one newspaper of general circulation published within the jurisdiction of the court, and in such other papers having a general circulation among bond dealers and bondholders as may be designated by the court. The court may require that it be published in such other publication as the court may deem proper.

"(b) The petitioner or such other person as the court shall designate shall also give notice to all creditors of the time permitted for accepting or rejecting a plan or any modification thereof. Such time shall be ninety days from the filing of the plan or modification unless the court for good cause shall set some other time.

"(c) The petitioner or such other person as the court shall designate shall also give notice to all creditors (1) of the time permitted for filing a complaint objecting to confirmation of a plan, (2) of the date set for hearing objections to such complaint, (3) of the date of hearing of a complaint seeking dismissal of the petition, and (4) of the date of the hearing on confirmation of the plan.

"(d) All notices given by the petitioner or such other person as the court shall designate shall be given in the manner directed by the court; however, the court may issue an order at any time subsequent to the first notice to creditors directing that those persons desiring written notice file a request with the court. If the court enters such an order persons not so requesting will receive no further written notice of proceedings under the chapter.

"(e) Cost of notice shall be borne by the petitioner, unless the court for good cause determines that the cost of notice in a particular instance should be borne by another party.

"REPRESENTATION OF CREDITORS

"SEC. 808. (a) For all purposes of this chapter any party in interest may act in person or by an attorney or a duly authorized agent or committee. Where any committee, organization, group, or individual shall assume to act for or on behalf of creditors, such committee, organization, group, or individual shall first file with the court in which the proceeding is pending a list of the creditors represented, giving the name and address of each and describing the amount and character of the claim of each; copies of the instrument or instruments in writing signed by such creditors conferring the authority for representation; and a copy of the contract or contracts of agreement entered into between such committee, organization group, or individual and the represented creditors, which contract or contracts shall disclose all compensation to be received, directly or indirectly for such representation, which agreed compensation shall be subject to modification and approval by the court.

"(b) The judge shall, for cause shown, permit a labor organization or employee association representative of employees of the debtor municipality, public agency, instrumentality, or political subdivision to be heard on the economic soundness of the plan affecting the interests of the represented employees.

"LIST OF CLAIMS AND PERSONS ADVERSELY AFFECTED

"SEC. 809 (a) The list of claims filed as required in section 804(a) shall include, to the extent practicable, the name of each known creditor to be materially and adversely affected by the plan, his address so far as known to the petitioner, and a description of each claim showing its amount and character, the nature of any security therefor and if the claim is disputed, contingent or unliquidated as to amount. With respect to creditors not identified, the petition shall set forth the reasons identification is not practicable, and shall specify the character of claim involved. The list shall be supplemented as petitioner becomes able to identify additional creditors

"(b) If the proposed plan requires revision of assessments so that the proportion of special assessments or special taxes to be assessed against some real property will be different from the proportion in effect at the date the petition, is filed, the holders of record of title, legal or equitable, to such real property shall be deemed persons adversely affected and shall be similarly listed

"(c) The court may for cause modify the requirements of subsections (a) and (b) of this section

"PROOF OF CLAIM

"SEC. 810. (a) In the absence of an objection made by any party in interest, the claim of a creditor that is not disputed, contingent, or unliquidated, is established by the list of claims filed pursuant to section 809. The court may set a date by which proofs of claim of unlisted creditors and of creditors whose listed claims are disputed, contingent, or unliquidated, must be filed. If the court does not set such a date, the proofs must be filed before the entry of the order of confirmation. The petitioner or such other person as the court shall designate shall give notice to each person whose claim is listed as disputed, contingent, or unliquidated, in the manner directed by the court.

"(b) If an executory contract or an unexpired lease is rejected under a plan or under section 801(b), any person injured by such rejection may assert a claim against the petitioner. The rejection of an executory contract or unexpired lease constitutes a breach of the contract or lease as of the date of the commencement of the case under this chapter. The claim of a landlord for injury resulting from the rejection of an unexpired lease of real estate or for damages or indemnity under a covenant contained in such lease shall be allowed, but shall be limited to an amount not to exceed the rent, without acceleration, reserved by such lease for the next year succeeding the date of the surrender of the premises to the landlord or the date of reentry of the landlord, whichever first occurs, whether before or after the filing of the petition, plus unpaid accrued rent, without acceleration, up to the date of such surrender or reentry. The court shall scrutinize the circumstances of an assignment of a future rent claim and the amount of the consideration paid for such assignment in determining the amount of damages allowed the assignee of that claim.

"CERTIFICATES OF INDEBTEDNESS

"SEC. 811. At any time after a petition has been filed, the court may upon cause shown, authorize the petitioner to issue certificates if indebtedness for cash, property or other consideration, under such terms and conditions and with such security and priority in payment over existing obligations, secured or unsecured and other expenses of administration as the court may approve. Notwithstanding any other provision of law including section 821 of this chapter, the court shall have exclusive jurisdiction of any action which may be brought against petitioner to enforce compliance with the terms of any such certificates of indebtedness.

"PRIORITIES

"SEC. 812. The following shall be paid in full in advance of the payment of any distribution to creditors under a plan, in the following order:

"(1) The cost and expenses of administration which are incurred by the petitioner subsequent to the filing of a petition under this chapter.

"(2) Debts owed for services and materials directly provided within two months before the date of the filing of the petition under this chapter.

"(3) Debts owing to any person or entity, which by the laws of the United States (other than this Act) are entitled to priority.

"PROVISIONS OF PLAN AND FILING

"SEC. 813. (a) A petitioner's plan under this chapter may include provisions modifying or altering the rights of creditors generally, or of any class of them, secured or unsecured, either through issuance of new securities of any character, or otherwise, and may contain such other provisions and agreements not inconsistent with this chapter as the parties may desire, including, but not limited to provisions for the rejection of any executory contract and unexpired leases.

"(b) The petitioner may file a plan with its petition or at such later time as may be prescribed by the court.

"VOTING ON ACCEPTANCE OF PLAN

"SEC. 814. (a) A plan may be confirmed only if, of the creditors voting in writing to accept or reject the plan, those holding two-thirds in amount and 51 per centum in numbers of each class materially and adversely affected have voted to accept: *Provided, however,* That no such acceptance shall be required from any class which, under the plan, is to be paid in cash the value of its claims or is to be afforded such method of protection as will, consistent with the circumstances of the particular case, equitably and fairly provide for the realization of the value of its claims.

"(b) Unless his claim has been disallowed, any creditor who is included on the list filed pursuant to Section 809 or who files a proof of claim pursuant to section 810 is entitled to vote to accept or reject a plan or modification thereof within the time set pursuant to subsection 807(b). Claims owned, held or controlled by the petition are not eligible to vote.

"(c) For the purposes of the plan and its acceptance, the court may fix the division of creditors into classes and, in the event of controversy, the court shall after hearing upon notice summarily determine such controversy.

"(d) If any controversy shall arise as to whether any creditor or class of creditors shall or shall not be materially and adversely affected, the issue shall be determined by the judge, after hearing, upon notice to the parties interested.

"MODIFICATION OF PLAN

"SEC. 815. Before a plan is confirmed, changes and modifications may be made therein after hearing and upon such notice to creditors as the judge may direct, subject to the right of any creditor who has previously accepted the plan to withdraw his acceptance in writing, within a period to be fixed by the judge, if, in the opinion of the judge, the change or modification will materially and adversely affect such creditor; and if any creditor having such right of withdrawal shall not withdraw within such period, he shall be deemed to have accepted the plan as changed or modified: *Provided, however,* That the plan as changed or modified shall comply with all the provisions of this chapter and shall have been accepted in writing by the petitioner.

"STANDING TO OBJECT TO PLAN

"SEC. 816. Any creditor or other person materially and adversely affected by the plan may file a complaint with the court objecting to the confirmation of the plan. Such complaint may be filed any time up to ten days before hearing on the confirmation of the plan or within such other time as prescribed by the court. The complaint shall be served on the petitioner and such other persons as may be designated by the court.

"HEARING ON CONFIRMATION OF PLAN

"SEC. 817. (a) Within a reasonable time after the expiration of the time within which a plan and any modifications thereof may be accepted or rejected, the court shall set a hearing on the confirmation of the plan and modifications, and the petitioner and such other persons as may be designated by the court shall give notice of the hearing and time allowed for filing objections as provided in section 807(c).

"(b) Before concluding the hearing on confirmation of the plan the judge shall inquire whether any person promoting the plan or doing anything of such a nature, has been or is to be compensated, directly or indirectly, by both the petitioner and any creditor, and shall take evidence under oath to ascertain whether any practice obtains. After such examination the judge shall make an adjudication of this issue, and if he finds that any such practice obtains, he shall forthwith dismiss the proceeding and tax all of the costs against such person, or against the petitioner, unless such plan be modified within the time to be allowed by the judge so as to eliminate the possibility of any such practice.

"(c) The court shall confirm the plan if satisfied that (1) it is fair, equitable, feasible, and not unfairly discriminatory in favor of any creditor or class of creditors; (2) it complies with the provisions of this chapter; (3) it has been accepted by creditors and provision has been made for nonaccepting creditors as required in section 814; (4) all amounts to be paid by the petitioner for services or expenses incident to the composition have been fully disclosed and are reasonable; (5) the offer of the plan and its acceptance are in good faith; (6) the petitioner is authorized by law to take all action necessary to be taken by it to carry out the plan; and (7) it appears from petitioner's current and projected revenues and expenditures that the budget of the petitioner will be in balance within a reasonable time after adoption of the plan. If not so satisfied, the judge shall enter an order dismissing the proceeding.

"EFFECT OF CONFIRMATION

"SEC. 818. (a) The provisions of a confirmed plan shall be binding on the petitioner and on all creditors, whether or not they are affected by it, whether or not their claims have been listed, filed, or allowed, and whether or not they have accepted the plan.

"(b) The confirmation of a plan shall extinguish all claims against the petitioner provided for by the plan other than those excepted from discharge by the plan or order confirming the plan.

"DUTY OF PETITIONER AND DISTRIBUTION UNDER PLAN

"SEC. 819. (a) The petitioner shall comply with the provisions of the plan and the orders of the court relative thereto and shall take all actions necessary to carry out the plan.

"(b) Subject to the provisions of subsection (c), distribution shall be made in accordance with the provisions of the plan to creditors (1) whose proofs of claim have been filed and allowed or (2) whose claims have been listed and are not disputed. Distribution to creditors holding securities of record shall be made to the recordholders as of the date the order confirming the plan becomes final.

"(c) When a plan requires presentment or surrender of securities or the performance of any other act as a condition to participation under the plan, such action must be taken not later than five years after the entry of the order of confirmation. Persons who have not within such time presented or surrendered their securities or taken such other action shall not participate in the distribution under the plan. Any securities, moneys, or other property remaining unclaimed at the expiration of the time allowed for presentment or surrender of securities or the performance of any other act as a condition to participation in the distribution under a confirmed plan shall become the property of the petitioner.

"(d) A certified copy of any order or decree entered by the court in a case under this chapter shall be evidence of the jurisdiction of the court, the regularity of the proceedings, and the fact that the order was made. A certified copy of an order providing for the transfer of any property dealt with by the plan shall be evidence of the transfer of title accordingly, and, if recorded as conveyances are recorded, shall impart the same notice that a deed, if recorded, would impart.

"(e) The court may direct the petitioner and other necessary parties to execute and deliver or to join in the execution and delivery of any instruments required to affect a transfer of property pursuant to the confirmed plan and to perform such other acts, including the satisfaction of liens, as the court may determine to be necessary for the consummation of the plan.

"DISMISSAL

"SEC. 820. The court shall enter an order dismissing the case after hearing on notice: (1) for want of prosecution; (2) if no plan is proposed within the time fixed or extended by the court; (3) if no proposed plan is accepted within the time fixed or extended by the court; or (4) if a confirmed plan is not consummated.

"RETENTION OF JURISDICTION

"SEC. 821. The court may retain jurisdiction of a proceeding under this chapter for such period as it determines is necessary to assure execution of the plan and discharge of the securities issued under the plan.

"REFERENCE OF ISSUES AND COMPENSATION

"SEC. 822. (a) The judge may refer any special issues of fact to a referee in bankruptcy, or special master for consideration, the taking of testimony, and a report upon such special issues of fact, if the judge finds that the condition of his docket is such that he cannot take such testimony without unduly delaying the dispatch of other business pending in his court, and if it appears that such special issues are necessary to the determination of the case. Only under special circumstances shall reference be made to a special master who is not a referee in bankruptcy. A general reference of the case to a master shall not be made, but the reference, if any, shall be only in the form of requests for findings of specific facts.

"(b) The court may allow reasonable compensation for the services performed by any such special master who is not a salaried Federal employee, and the actual and necessary expenses incurred in connection with the proceeding, including compensation for services rendered and expenses incurred in obtaining the deposit of securities and the preparation of the plan, whether such work may have been done by the petitioner or by committees or other representatives of creditors, and may allow reasonable compensation for the attorneys or agents of any of the foregoing: Provided, however, That no fees, compensation, reimbursement, or other allowances for attorneys, agents, committees, or other representatives of creditors shall be assessed against the petitioner or paid from any revenues, property, or funds of the petitioner except in the manner and in such sums, if any, as may be provided for in the plan of adjustment. An appeal may be taken from any order making such determination or award to the United States court of appeals for the circuit in which the proceeding under this chapter is pending, independently of other appeals which may be taken in the proceeding, and such appeal shall be heard summarily.

"CONVERSION TO CHAPTER XVI

"SEC. 823. (a) A petitioner eligible for relief under chapter XVI who has filed a petition under chapter IX of this Act may at any time file an application to have the case proceed under chapter XVI; *Provided, however*, That any petition filed by a municipality, public agency, instrumentality or political subdivision of the State after the effective date of this Act must be filed under chapter XVI of the Bankruptcy Act as added by this Act.

"(b) After hearing on notice to the petitioner, the Securities and Exchange Commission, creditors and such other persons as the court may direct, the court shall, if it finds that the case may properly proceed under chapter XVI of the Act, approve the application and order the case to proceed under that chapter.

"EFFECT ON OTHER LAWS

"SEC. 824. Any State law which directly or indirectly deprives the petitioner of the effect of confirmation under this chapter is invalid.".

SEC. 2. The table of organization of title 11, United States Code, is amended by inserting after the reference to chapter 15, the following:

"CHAPTER 16. ADJUSTMENT OF INDEBTEDNESSES OF MUNICIPALITIES

SEPARABILITY

SEC. 3. If any provision of chapter XVI of the Bankruptcy Act as added by this Act, or the application thereof to any agency, instrumentality, or subdivision is held invalid, the remainder of the chapter, or the application of such provision to any other agency or instrumentality or political subdivision shall not be affected by such holding.

EFFECTIVE DATE

SEC. 4. This Act shall become effective as of the date of its enactment.

Insert the following preamble:

Whereas the Congress finds and declares this Act and proceedings thereunder providing for the composition of indebtedness of, or authorized by, municipalities to be within the subject of bankruptcies under article I, section 8, clause 4 of the United States Constitution; and

Whereas the Congress finds that the impracticability of existing Federal bankruptcy remedies for use by municipalities increases the likelihood of their default and will aggravate the adverse effects thereof; and

Whereas the Congress finds that the financial disruptions and dislocations resulting from default of such municipalities without availability of a Federal procedure to restructure their indebtedness in such fashion as to avoid continuing insolvency would have a substantial adverse effect on interstate commerce within the meaning of article I, section 8, clause 3 of the United States Constitution, by reason of the commercial importance of the municipalities involved.

Amend the title so as to read: "An Act to amend the Bankruptcy Act to add a new chapter thereto providing by voluntray reorganization procedures for the adjustment of the debts of municipalities.".

The preamble was ordered to be inserted in the bill.

The title was amended so as to read:

A bill to amend the Bankruptcy Act to add a new chapter thereto providing by voluntary reorganization procedures for the adjustment of the debts of municipalities.

Mr. BURDICK. Mr. President, I ask unanimous consent that further consideration of S. 2597 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, the bill will be indefinitely postponed.

Mr. BURDICK. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. BURDICK, Mr. ABOUREZK, Mr. PHILIP A. HART, Mr. FONG, and Mr. HRUSKA conferees on the part of the Senate.

Mr. BURDICK. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the engrossment of the Senate amendments to H.R. 10624.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR GARY HART TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the present order that has been entered for Mr. MCGOVERN tomorrow, Mr. GARY HART be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the recognition of the two leaders or their designees tomorrow, there be a period for the transaction of routine morning business of not to exceed 10 minutes, with statements therein limited to 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF S. 1267 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the close of routine morning business tomorrow, the Senate proceed to the consideration of S. 1267, a bill to expand competition, provide improved consumer services, strengthen the ability of financing institutions to adjust to changing economic conditions, and improve the flow of funds for mortgage credit.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF S. 988 UPON DISPOSITION OF S. 1267 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of S. 1267 tomorrow, the Senate proceed to the consideration of S. 988, a bill to amend the Public Health Service Act to revise and extend programs of the National Heart and Lung Institute and National Research Service awards.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE REPORTS

Mr. GRIFFIN. If I could have the attention of the distinguished acting majority leader, I want to point out a matter which has been raised and which, I think, is something we ought to take a careful look at.

The acting majority leader has asked unanimous consent that the bill S. 988 be brought up tomorrow, and I have not objected. But a Senator has raised the point with me as to whether or not the report on that bill has actually been available for 3 days.

Now I look on the calendar and I note the report on the bill was filed December 5. I call attention to the Legislative Reorganization Act which says that:

> A measure or matter reported by any standing committee shall not be considered in the Senate unless the report of that committee upon that measure or matter has been available to the Members of the Senate for at least three calendar days, excluding Saturday, Sunday, and legal holidays.

The point is that the date a report is filed is not necessarily or is never really the date on which a report is available to Members. It depends, of course, on when the Printing Office actually completes the job of printing and gets it up here, and that can vary, as we have seen.

I do not know whether this point has been raised before. I do not want to press the point with regard to this particular bill, but I just want to raise the point it is a valid question, and unless we maintain a log of some kind as to when the Printing Office actually delivers printed copies of the report we do not really have a benchmark by which to measure the 3 days of availability to a Senator.

I do not know if the distinguished acting majority leader has had that point raised before or not.

Mr. ROBERT C. BYRD. I do not think that particular point has been raised in my presence, Mr. President.

Of course, the two leaders can waive that provision.

Mr. GRIFFIN. Yes. But, of course, we would not do that if a Member on my side objected. In this case I prevailed upon him not to object, looking at the calendar and noting it was filed on December 5. But I did promise I would raise the point.

It just seems to me if we are going to enforce the rules, we do not have the basis on which to enforce them at the present time. Let us leave it there for the time being.

Mr. ROBERT C. BYRD. The assistant Republican leader makes a nice point, and I think it is worthy of our further consideration That is about all I can say at this time.

Mr. GRIFFIN. All right. I thank the majority whip.

Mr. ROBERT C. BYRD. Can we be assured that we may proceed in this instance?

Mr. GRIFFIN. I have not objected, and I do not intend to with respect to this particular bill. But I did want to raise the point and ask that the Rules Committee perhaps take a look at it.

Mr. ROBERT C. BYRD. I think it would be very well if the Rules Committee did that.

H.R. 2724—COMMITTEE ON INTERIOR AND INSULAR AFFAIRS DISCHARGED FROM FURTHER CONSIDERATION AND ORDERED PLACED ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of H.R. 2724 and that the bill be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENT SUBMITTED ON H.R. 2724

Mr. JOHNSTON. Mr. President, H.R 2724 would provide for the establishment of the Father Marquette National Memorial near Saint Ignace, Mich., and for other purposes.

Public Law 89–187 established the Father Marquette Tercentenary Commission to develop plans for the commemoration of the life and history of Father Jacques Marquette, a Jesuit missionary who came to the New World in the mid-17th century and explored much of the Great Lakes and Mississippi River regions of North America. As a part of its responsibilities, the Commission investigated the suitability of establishing a national memorial to honor Father Marquette. The Commission found that such a memorial would be a fitting tribute to this courageous explorer who helped open this world to settlers.

As proposed by this legislation, the memorial would be administered as a unit of the Michigan State park system. Operation and protection of the memorial would be the responsibility of the State. Acreage for the proposed memorial has already been acquired, and plans for a memorial structure, a visitor reception center, and an amphitheater have been submitted.

Under the terms of H.R. 2724, the Secretary of the Interior would be authorized to give technical advice and planning assistance to the State, as well as grants for acquisition and development of the area, but the site is to be administered and operated by the State. Total acquisition and development costs for the memorial site itself, as well as for restoration work and related costs associated with the mission site in St. Ignace, Mich., are estimated to be approximately $2,000,000. The Federal contribution, by the terms of the bill, would not exceed $1,000,000.

This legislation, which was considered by the House Interior Committee and passed overwhelmingly by the House, was initially referred to the Senate Rules Committee. Pursuant to a unanimous-consent agreement, the bill was referred to the Senate Interior Committee until December 10 in light of the Interior Committee's jurisdiction and oversight responsibilities for activities of the Department of the Interior and the National Park Service and our involvement in Public Law 89–187. Due to the major energy legislation before the Senate, the committee has been unable to convene a formal meeting to report on this legislation, but, on behalf of the Subcommittee on Parks and Recreation, I would like to state that I have reviewed this legislation and discussed it with the chairman of the full committee. I believe it is a very fine measure and I would like to express my full and unqualified endorsement of this measure. I would like to compliment my distinguished colleagues from Michigan for their interest in this measure and extend my appreciation to the distinguished chairman of the Senate Rules Committee for his consideration in assisting in the Interior Committee's review of this measure.

REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Proxmire I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2327.

The PRESIDING OFFICER (Mr. Stone) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (S. 2327) and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Proxmire I move that the Senate insist upon its amendment and agree to the request of the House for a conference, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. Stone) appointed Mr. Proxmire, Mr. Sparkman, Mr. Williams, Mr. Packwood, and Mr. Garn conferees on the part of the Senate.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, it will be the intention—provided the Committee on the Budget has acted at that time, to provide a waiver—to take up the highway bill upon the disposition of S. 988 tomorrow. There is a time limitation on S. 1267. There is also a time agreement on S. 988 and there is a time agreement on the Federal highway bill, S. 2711. The Senate should be able to make fairly good progress throughout the day on those three bills and others.

In addition to those three measures, conference reports—being privileged matters—may be called up, and other measures that have been cleared for action on the calendar may also be called up. Hence, it appears that there will be several rollcall votes during the day. It could be another fairly long day, as has been the case with today.

ADJOURNMENT UNTIL 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 10 o'clock tomorrow morning.

The motion was agreed to; and at 7:33 p.m., the Senate adjourned until tomorrow, Thursday, December 11, 1975, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate, December 10, 1975:

U.S. Court of Military Appeals

Matthew J. Perry, Jr., of South Carolina, to be a judge of the U.S. Court of Military Appeals for the remainder of the term expiring May 1, 1981, vice Robert Emmett Quinn, retired.

Department of State

Anthony C. E. Quainton, of Washington, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Central African Republic.

In the Marine Corps

In accordance with the provisions of title 10, U.S. Code, section 5232, Maj. Gen. Thomas H. Miller, Jr., U.S. Marine Corps, having been designated for commands and other duties determined by the President to be within the contemplation of said section, for appointment to the grade of lieutenant general while so serving.

Lt. Gen. Wallace H. Robinson, Jr., U.S. Marine Corps, when retired, to be placed on the retired list in the grade of lieutenant general in accordance with the provisions of title 10, U.S. Code, section 5233.

IN THE NAVY

The following-named Reserve Officers of the U.S. Navy for permanent promotion to the grade of rear admiral:

LINE

Robert N. Colwell
Earl Forgy, Jr.
Arthur M. Wilcox
Norman A. Coleman
Raymond B. Ackerman
Stephen T. Quigley
Sigmund F. Bajak
Bernard E. Nash
Richard Lyon
Anthony N. Murray, Jr.
Thomas E. Morris
Paul W. Rohrer

MEDICAL CORPS

Victor P. Bond
Winston H. Weese

SUPPLY CORPS

Robert G. James
Charles H. Mayfield

CHAPLAIN CORPS

Bertram W. Korn

CIVIL ENGINEER CORPS

Robert C. Esterbrooks

DENTAL CORPS

Albert G. Paulsen
Edward U. Austin

CONFIRMATIONS

Executive nominations confirmed by the Senate December 10, 1975:

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

The following-named persons to be members of the Board of Trustees of the Harry S Truman Scholarship Foundation for the terms indicated:

For a term of 2 years:

Jonathan Moore, of Massachusetts.

John W. Snyder, of the District of Columbia.

For a term of 4 years:

Walter E. Craig, of Arizona.

Elliott D. Marshall, of Virginia.

For a term of 6 years:

Christopher S. Bond, of Missouri.

Margaret Truman Daniel, of the District of Columbia.

John Portner Humes, of New York.

Richard A. King, of Missouri.

DEPARTMENT OF STATE

William E. Schaufele, Jr., of Ohio, a Foreign Service officer of the class of career minister, to be an Assistant Secretary of State.

Andrew L. Steigman, of Maryland, a Foreign Service officer of class 2, now Ambassador Extraordinary and Plenipotentiary of the United States of America to the Gabonese Republic, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Sao Tome and Principe.

LAW OF THE SEA CONFERENCE

T. Vincent Learson, of New York, to be an Ambassador at Large and the Special Representative of the President of the United States for the Law of the Sea Conference and Chief of Delegation.

INTER-AMERICAN FOUNDATION

The following-named persons to be members of the Board of Directors of the Inter-American Foundation for the terms indicated:

For the remainder of the term expiring September 20, 1976:

William D. Rogers, of Virginia.

For the remainder of the term expiring September 20, 1978:

William S. Mailliard, of California.

For a term expiring September 20, 1980:

John Richardson, Jr., of Virginia.

DEPARTMENT OF AGRICULTURE

John A. Knebel, of Virginia, to be Under Secretary of Agriculture.

COMMODITY CREDIT CORPORATION

John A. Knebel, of Virginia, to be a member of the Board of Directors of the Commodity Credit Corporation.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before a duly constituted committee of the Senate.)

HOUSE OF REPRESENTATIVES—*Wednesday, December 10, 1975*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Come ye and let us walk in the light of the Lord.—Isaiah 2: 5.

Almighty God, the strength of those who put their trust in Thee and the companion of our way through life, we thank Thee for the coming of Christmas and for the joy and good will of this season. Grant that no absorption with minor things may keep us from an awareness of the major experiences which can be ours when we surrender to the high hopes and radiant spirit of Advent.

Help us now and always to seek Thee with all our hearts, that seeking Thee we may find Thee, in finding Thee we may love Thee, in loving Thee we may serve Thee, and in serving Thee we may do Thy will, keep Thy Commandments, and walk with Thee the rest of our lives.

We pray in the spirit of the Prince of Peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3474) entitled "An act to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2757. An act to extend until April 30, 1976, the authority of the National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance.

The message also announced that the President pro tempore, pursuant to Public Law 94–118, appointed Mr. INOUYE and Mr. JAVITS as members, on the part of the Senate, to the Japan-United States Friendship Commission.

TO AMEND TITLE 3, UNITED STATES CODE, TO PROVIDE FOR PROTECTION OF FOREIGN DIPLOMATIC MISSIONS, TO INCREASE SIZE OF EXECUTIVE PROTECTIVE SERVICE—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER. The unfinished business is the further consideration of the veto message of the President on the bill (H.R. 12) an act to amend title 3, United States Code, to provide for the protection of foreign diplomatic missions, to increase the size of the executive protective service, and for other purposes.

Mr. RONCALIO. Mr. Speaker, I ask unanimous consent that further consideration of the veto message from the President on the bill H.R. 12 be postponed until Tuesday, December 16, 1975.

The SPEAKER. Is there objection to the request of the gentleman from Wyoming?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, the gentleman from Maryland discussed this with the gentleman from Wyoming, as to whether or not the minority leader had been consulted regarding this delay, and it is my understanding he has not. I had attempted to reach him the first time I heard about this but was unable to do so. And I would have to object.

MOTION OFFERED BY MR. RONCALIO

Mr. RONCALIO. Mr. Speaker, in that event, I move the action, that further consideration of the veto message be postponed until Tuesday December 16, 1975.

CALL OF THE HOUSE

Mr. SYMMS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 758]

Andrews, N.C.
Andrews, N. Dak.
Ashley
Aspin
Biester
Boggs
Bolling
Brademas
Brown, Calif.
Burke, Fla.
Burton, John
Byron
Casey
Chisholm
Clay
Cochran
Conyers
Crane
Davis
Dellums
Derwinski
Diggs
Dingell
Dodd
Eckhardt
Erlenborn

Esch
Eshleman
Ford, Mich.
Fraser
Gaydos
Giaimo
Goldwater
Gude
Hall
Hawkins
Hébert
Heinz
Helstoski
Hinshaw
Horton
Jarman
Jeffords
Johnson, Colo.
Jones, Okla.
Kastenmeier
Krueger
McDade
McDonald
McKinney
Macdonald
Matsunaga
Mazzoli
Moss
Murphy, N.Y.
Nix
O'Hara
Ottinger
Patman, Tex.
Pike
Quie
Railsback
Rees
Rhodes
Riegle
Santini
Sarasin
Scheuer
Shuster
Sikes
Spellman
Stuckey
Teague
Treen
Udall
Vander Jagt
Whalen
Wilson, C. H.
Wright

The SPEAKER. On this rollcall 355 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

TO AMEND TITLE 3, UNITED STATES CODE TO PROVIDE FOR PROTECTION OF FOREIGN DIPLOMATIC MISSIONS, TO INCREASE SIZE OF EXECUTIVE PROTECTIVE SERVICE—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

Mr. RONCALIO. Mr. Speaker, I ask unanimous consent that further consideration of the veto message from the President on the bill H.R. 12 be postponed until Tuesday, December 16, 1975.

The SPEAKER. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

MAKING IN ORDER CONSIDERATION OF CONFERENCE REPORT ON H.R. 8773, ON TOMORROW

Mr. YATES. Mr. Speaker, I ask unanimous consent that it may be in order on tomorrow to consider the conference report on the bill (H.R. 8773) making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1976, and for the transition period, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERMISSION FOR MANAGERS TO FILE CONFERENCE REPORT ON H.R. 9861

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on H.R. 9861, a bill making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

A NATIONAL POLICY NEEDED

(Mr. ANDERSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON of California. Mr. Speaker, on January 5, 1976, a new policy will take effect in San Diego, Calif., that may be the start of a new trend in airport management.

On that day, a curfew will be placed on San Diego's municipal airport. No takeoffs will be permitted between midnight and 6 a.m. The only planes that will be allowed to land during that time will be those that meet current FAA noise standards—such as the new 747's, DC–10's, L10–11's or older jets retrofitted to reduce noise emissions.

The obvious benefit from this new policy will be a marked reduction in aircraft noise levels during the hours most people are asleep—or would like to be. However, the difficulties with the policy are also obvious—such a regulation, strictly enforced at one airfield, could cause many problems in flight scheduling and planning.

Certainly, San Diego's concern over aircraft noise is understandable. But what is needed is a national policy, uniformly enforced, to deal with this problem. A mixture of local regulations, often conflicting, can only lead to confusion and difficulties across our Nation's aviation network that will benefit no one.

PERSONAL EXPLANATION

Mr. MIKVA. Mr. Speaker, I was unable to attend the entire session of the House of Representatives on Monday, December 8, 1975, because I was speaking to a class in government at Harvard University. Had I been present, I would have voted "aye" on the Bingham amendment to H.R. 8631, rollcall No. 747, which eliminated the limitation on liability for operators of nuclear powerplants in the event of a nuclear accident. I would have voted "aye" on the Eckhardt amendment to H.R. 8631, rollcall No. 748, which guaranteed that standing existed under the Atomic Energy Act to challenge the constitutionality of the liability limitation. Because both of these amendments failed I would have voted "no" on rollcall No. 749, the vote on H.R. 8631, the amendment of the Atomic Energy Act of 1954.

I also would have voted "aye" on House Resolution 817, rollcall No. 750, providing for consideration of the Inter-American Development Act.

PERSONAL EXPLANATION

Mr. du PONT. Mr. Speaker, Monday afternoon I was absent on business in Delaware and missed three recorded votes on rollcall Nos. 748, 749, and 750. Had I been present, I would have voted "aye" on rollcall No. 748, and "aye" on roll call No. 750. On rollcall No. 749 I was paired "against."

CONFIDENTIALITY OF INDUSTRIAL REPORTS MAINTAINED

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, as a member of the Interstate and Foreign Commerce Committee, I am gratified that the chairman and members of the Subcommittee on Oversight and Investigations have agreed to accept the responsibility for keeping confidential the reports from industry now being supplied by the Department of Commerce dealing with boycott conditions and questions.

In accordance with section 7(c) of the Export Administration Act and other applicable statutes, it has been the tradition of the Department of Commerce, carried on by Secretary Morton, to furnish proprietary and confidential information to the various committees of Congress with the understanding that this material would be kept confidential by the members and committee staffs who have reason to have access to it. This relationship between the Department and the Congress has worked well in the past, and as far I know, confidential material has not been disclosed.

The Department of Commerce, in its normal role, must gather a great deal of confidential and proprietary information from industry, commerce, and individual citizens across the land. This material is vital to the development of statistical and analytical information the Department makes available to the public. If confidential or proprietary information which has been gathered under traditional conditions is disclosed, we could expect that it would become very difficult to obtain accurate information on which good statistical analysis could be produced.

Therefore, I feel that it is in the best interests of Congress, the Department of Commerce, and the public that Chairman Moss and his subcommittee have agreed to keep in confidence the material on boycotts which they have subpenaed from Secretary Morton.

PERMISSION FOR COMMITTEE ON EDUCATION AND LABOR TO HAVE UNTIL MIDNIGHT, DECEMBER 31, 1975, TO FILE A REPORT ON H.R. 10760

Mr. DENT. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor may have until midnight, December 31, 1975, to file a report on H.R. 10760, as amended.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 9924, PROVIDING FOR A NATIONAL WOMEN'S CONFERENCE

Mr. MADDEN. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 846 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 846

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9924) to direct the National Commission on the Observance of International Women's Year, 1975, to organize and convene a National Women's Conference, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Indiana (Mr. MADDEN) is recognized for 1 hour.

Mr. MADDEN. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 846 provides for an open rule with 1 hour of general debate on H.R. 9924, providing for a national women's conference.

H.R. 9924 would continue the National Commission on the Observance of International Women's Year and direct it to organize and convene a national women's conference preceded by State and regional conferences held throughout the Nation. The purposes of the conference would be to assess the role of women in economic, social, cultural, and political development, assess the progress that the public and private sectors have made in promoting women's rights, and identify the barriers preventing women from participating in all aspects of national life. The conference would also be charged with developing recommendations to remove such barriers and would be required to establish a timetable for the achievement of the objectives set forth in the recommendations.

Mr. Speaker, I urge the adoption of House Resolution 846 in order that we may discuss and debate H.R. 9924.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Arizona (Mr. STEIGER).

Mr. STEIGER of Arizona. Mr. Speaker, I will say to my colleagues and my distinguished friend, the chairman of the Committee on Rules, and the gentleman from Illinois (Mr. ANDERSON) that what I am about to say to them, I trust, will be as disturbing to them as it is to me.

We have a letter dated December 9, 1975, addressed to all the Members of the House and signed, uniquely enough, by most of the lady Members of the House. I understand it is not all inclusive of the lady Members of the House, but apparently there were 15 of these Members who signed this document. I will tell my friends that in this letter there is a most unfortunate dishonesty.

Now, "dishonesty," I will say to my friends, is House floor talk for "lie."

Mr. Speaker, if Members do not wish me to yield, I wish they would remain seated.

Mr. Speaker, I will tell my friends that attached to this letter signed by these very noble ladies is a list of organizations supporting this legislation. The only organization on which I had an opportunity to confirm this support or lack thereof, I will tell the chairman of the Committee on Rules, was the Republican National Committee, an organization with which I have some rather mild association.

Mr. Speaker, I would like to yield at this time to my friend, the gentleman from Maryland (Mr. BAUMAN), who is a distinguished fighter for women's freedom and for freedom for everybody.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for his characterization and for his yielding to me.

Mr. Speaker, we did take the trouble to check with the Republican National Committee. The Members will be glad to know we did talk with them concerning this obviously important point.

We talked to the executive director, Mr. Eddie Mahe. The question was put to him whether the national committee was supporting H.R. 9924, the legislation before us today. Mr. Mahe authorized me to state to the House that "uncategorically the Republican National Committee does not, has not, and could not conceivably endorse such a bill, especially since it costs $10 million." That is a direct quote. I was informed, although the national chairman has not called me this morning, that Mrs. Smith would confirm this by phone call to me early today.

So I think we do raise the question with this information whether or not the Girls' Clubs of America or the Household Technicians or the several other groups that have been cited as backing this bill also endorse this legislation.

Mr. Speaker, the gentleman from Arizona (Mr. STEIGER) is quite correct in raising this question about whether we should proceed at this point under this cloud.

Mr. STEIGER of Arizona. Mr. Speaker, I thank the gentleman from Maryland very much.

It would seem to me, with that point made clear, that I should make the suggestion—and I know I can speak for my friend, the gentleman from Maryland (Mr. BAUMAN)—that in the interest of simple courtesy we would have no objection to the bill's being withdrawn at this time, and this action will at least cleanse them of this clearly erroneous statement.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. STEIGER of Arizona. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, I wonder if we should not, however, for the purposes of the record, make it clear that ordinarily I do not believe the Republican National Committee does undertake to endorse specific pieces of legislation. It may be on occasion they have in matters involving financing of conventions, and so on, but normally I think they probably await the action of the Platform Committee and take their cue from the actions of the Platform Committee in the convention.

I wonder if there is not sufficient language in the 1972 platform of the Republican Party to indicate that they would support the legislation.

Mr. STEIGER of Arizona. Mr. Speaker, I will tell my friend, the gentleman from Illinois (Mr. ANDERSON), that I agree with him. Political positions are certainly above the Republican National Committee. They would never stoop to partisanship. I will advise my friend, the gentleman from Illinois, that this in no way implies they are opposed to this legislation.

My point is that the great name and integrity of the Republican National Committee have been brought to bear dishonestly by being invoked in favor of this legislation.

Mr. Speaker, it seems to me that under that cloud the very least we could do is withdraw this legislation at this time.

I know that the Committee on Rules must wish to reconsider all of the information they heard in support of this bill in light of this obvious falsehood being foisted on the House by the sponsor of the bill.

Mr. MADDEN. Mr. Speaker, I yield 3 minutes to the gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK. Mr. Speaker, I thank the chairman.

Were it not for the fact that I serve with the gentleman who just preceded me in the well on the committee and well know the extent to which he has exaggerated his rhetoric to make a point, I would take great offense to his suggesting that the letter that I drafted and circulated was in any way dishonest.

The letter I drafted is based upon information given to us by the Republican National Committee, representatives of which worked with the women who signed this letter in at least two meetings that I personally attended and that I can recall. The two women from the Republican National Committee are Carolyn Phillips and Wilma Goldstein.

On all the occasions in which they participated in our discussions they represented to us that they were speaking for the Republican National Committee and that the committee supported this legislation.

Mr. ALBERT. Mr. Speaker, will the gentlewoman yield?

Mrs. MINK. Yes; I yield to the gentleman from Oklahoma.

Mr. ALBERT. Mr. Speaker, I do not know where the Republican National Committee stands, but I know where the Democratic leadership of the House stands on this issue.

We will be spending this money for this conference for the women of this Nation. A tax dollar is a tax dollar. If it is a tax dollar to send a high official out to make a speech to a university and then he makes a couple of political speeches for nothing, I do not see anything wrong with that.

Mrs. MINK. I thank the Speaker for this contribution.

I can understand that there might be people who might object to the legislation, but to suggest that those of us who support this bill have been in any way misrepresenting the facts or misrepresenting the support we have for this legislation among women's organizations throughout this country and other distinguished organizations, I think is contrary to the concept, in my judgment, of justice and equal opportunity for the women of this country.

Therefore, Mr. Speaker, I would hope that this House would grant this rule and allow us to have an orderly debate on this issue, following which, I am sure, there will be a very large vote in support of this legislation.

Mr. Speaker, I thank the chairman.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I would say to the gentlewoman from Hawaii (Mrs. MINK) that I do not know who the young ladies she referred to are, but I contacted the executive director of the Republican National Committee, who authorized us to make this statement on his behalf, and the national chairman, I was told, held the same position.

Mr. Speaker, it seems to me that the least we can do as legislators, in protection of our colleagues, if we are going to claim that certain groups endorse legislation, is to be exactly correct on whether or not these endorsements have actually been obtained.

There is a long list of endorsements here. If they were all obtained on the basis that the gentlewoman just described, it seems to me that none of the organizations are for it or at least have not been contacted.

Mr. Speaker, I think probably the best thing that we can do is to accede to the suggestion of the gentleman from Arizona (Mr. STEIGER) and put the bill off until we know exactly who is behind it and exactly what the substance of the legislation might be.

If this is an authorization under which we have to put up $10 million of the taxpayers' money to be used under the aegis of this commission, then we have no assurance as to what kind of groups will be associated with it or what they will be doing with the taxpayers' money. It calls into question the fundamental basis on which the legislation was presented.

Mr. Speaker, I think a vote against the rule for that reason is in order.

Mr. ALLEN. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Tennessee, our newest Member.

Mr. ALLEN. Mr. Speaker, without regard to what organizations may or may not have formally endorsed this proposed legislation, it is suggested that the Members of this House are incapable of considering the merits of this bill and voting accordingly?

Mr. BAUMAN. I suggest that each Member has to decide that issue of competency on his own. I do not wish to characterize my colleagues' ability to judge, I have my own views in some instances. The gentleman from Tennessee has not been here long enough for me to form an opinion about his judgment.

Mr. ALLEN. I beg to differ with the distinguished gentleman, but I do have my views and have studied the matter and I believe that most of the Members of this body have also studied it and also have their views on it.

Mr. BAUMAN. Mr. Speaker, I would just respond that if the gentleman from Tennessee wishes to dole out $10 million of taxes and add that to the $80 billion national deficit then he has to accept that responsibility. But for the gentleman from Maryland, I would have to say that this is one instance in which the taxpayers of this country can definitely be better served by a vote against a totally unnecessary appropriation for a conference that probably will accomplish very little. I am familiar enough with the conference that was held in Mexico City last December. Despite the fact that we had a delegation there, it was unable to put the lid on that radical cauldron, and the delegates passed on resolutions regarding abortion, prostitution, and Zionism, among other things, which proved to be more than embarrassing. I can only foresee a repeat of this in the 50 State and the national conferences if we are willing to pass this legislation today.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 846, which is a simple rule to make in order the bill that would provide for a National Women's Conference in 1976.

I think at this time, in view of some of the references that have been made in the prior debate to the position of the Republican National Committee on the subject of this conference, that I should call to the attention of the Members of the House the words of the Republican platform that were adopted by our last convention on August 22, 1972:

> The Republican Party recognizes the great contributions women have made to our society as homemakers and mothers, as contributors to the community through volunteer work, and as members of the labor force in careers outside the home. We fully endorse the principle of equal rights, equal opportunities and equal responsibiliites for women, and believe that progress in these areas is needed to achieve the full realization of the potentials of American women both in the home and outside the home.

So, Mr. Speaker, in support of that plank in our 1972 platform, I feel fully justified in supporting the rule that would bring this legislation to the floor today. This is a bill that was unanimously adopted by the Committee on Government Operations and which failed, as I recall, by only 23 votes of the necessary two-thirds when it was brought before the House on a suspension rule on October 20.

With reference to the comments that the gentleman from Maryland made and the concern that he expressed that it would become a forum for debate on highly controversial and substantive questions, I note, with grateful assurance the letter sent by the gentlewomen of this House dated December 9, 1975, wherein they state that it is not going to be used as a stage for ERA, abortion reform, busing, or whatever, and also that there will be as many for or against these matters in attendance.

So I do not think we have to consider that this is going to become a propaganda circus in behalf of any of the issues that are listed in this letter or others but will be used for the legitimate purposes it is set up for.

I know that this comes at a time of great fiscal stringency, and that we are all concerned about the price of the bill, but I have been reliably informed that there will be some amendments offered when the bill is read for amendment under the 5 minute rule, and some of these amendments will be to adjust downward the level of that authorization.

I think we can properly debate this matter when the rule is adopted and when the bill is read for amendment.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. Mr. Speaker, I yield such time as she may consume to our distinguished colleague the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Speaker, I was troubled by the suggestion that perhaps there had been a mistake in the listing, and I have just spoken to the chairman of the Republican National Committee, Mary Louise Smith. The Republican National Committee has not met on this bill. They have not met since September. However, Chairman Mary Louise Smith has sent people from the office of the Republican National Committee to the meetings of this group, and she herself, Chairman Smith, is most sympathetic to the thrust and concept of a women's conference, provided that it stay within the administration's budget limits and that it is timed in such a way as to leave women free to work in the elections.

I have just been talking to Chairman Smith on the telephone.

Mr. STEIGER of Arizona. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I will yield to the gentleman in a moment. I want first to take this opportunity to thank the gentlewoman from New Jersey for her contribution. I feel sure that the honor of both the Republican Party and the Republican women in this House remains untarnished.

Mr. Speaker, I now yield to the gentleman from Arizona (Mr. STEIGER).

Mr. STEIGER of Arizona. Mr. Speaker, I would like to ask the gentlewoman from New Jersey if this is not a fact. What the gentlewoman announced, of course, was that, one, the Republican National Committee did not endorse the bill and, two, even Chairman Mary Louise Smith, in all her sympathetic approach, opposes the bill because the last phrase in the gentlewoman's own language was, "provided that it stay within the administration's budget."

The $10 million is outside of the budget; therefore, Mrs. Smith also opposes the bill.

Mrs. FENWICK. I beg the gentleman's pardon.

Mr. STEIGER of Arizona. If the gentleman will yield further, I want the House to understand, and the record to reflect, that the ladies who signed this letter authorizing the support and endorsement of the Republican National Committee for this legislation were not authorized to do so and, indeed, did so in error, and that is the fact.

Mrs. FENWICK. If the gentleman from Illinois will yield further, I feel most strongly that we must respond to this. The Republican National Committee rarely endorses legislation. It was not legislation that was endorsed. Mrs. Smith was referring to the idea of a women's conference. Although it is true that it would have perhaps been clearer had we listed Chairman Mary Louise Smith of the Republican National Committee as being, personally, most sympathetic to the thrust and concept of a women's conference, I think that there is no claim of misrepresentation that can justly be made.

The committee is not against this legislation. It never endorses legislation, unless the legislation has specifically to do with election reform or something of that technical nature.

Mr. ANDERSON of Illinois. I thank the gentlewoman again.

Mr. Speaker, I urge the adoption of the resolution, and I reserve the remainder of my time.

Mr. MATSUNAGA. Mr. Speaker, I rise in support of House Resolution 846. House Resolution 846 provides for the consideration of H.R. 9924, a bill reported by the House Committee on Government Operations which would authorize a National Women's Conference to be held next year.

The resolution provides an open rule with 1 hour of general debate, to be equally divided between the chairman and ranking minority member of the House Committee on Government Operations. When general debate has been completed, the bill will be read for amendment under the 5-minute rule. The committee will then rise and report the bill to the House with any amendments that have been adopted, and the previous question will be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The basic purpose of H.R. 9924 is to authorize a National Women's Conference similar to the previous White House Conferences on Youth and the Elderly. The Conference would examine the role of women in American history and their present status in our society, and provide a report with recommendations on how the status of women in the United States could be improved.

The proposed conference would be coordinated by the National Commission on Women, established in January of this year by Executive order. Prior to the National Conference, meetings would be held at the State and regional level to examine a wide range of issues pertaining to women and to select representatives to the National Conference. The pending bill also provides for the establishment of a permanent committee of the Conference to follow up on the Conference recommendations and to prepare for a second National Women's Conference to be held in 1985, at the end of the "National Decade of Women."

The National Conference authorized under the provisions of H.R. 9924 would be the first National Conference on Women ever held in this country. During the last 200 years, women have played a major role in the development of the United States, yet relatively little is known about their contributions. One of the principal objectives of the conference will be to gather more information about the role played by women in the United States. In addition, delegates to the conference will examine the present status of women, which, as we all know, has changed dramatically within the last few years. They will also seek to identify remaining barriers to the full and equal participation of women in our national life. As a member and subcommittee chairman of the House Select Committee on Aging, I strongly support the objectives of the proposed conference, and hope that it will shed some light on the unique problems of elderly women in our society.

H.R. 9924 also seeks to assure that the views of a broad cross section of the American public will be represented at the National Women's Conference. It provides that the conference itself and all meetings held at the State and regional level will be open to the public. In addition, special efforts will be made to insure the participation of women of all ages without regard to their economic, racial, ethnic, or religious background.

I believe that there may be some room for improvement in the manner in which delegates are selected to attend the national conference, and I intend to offer an amendment which would assure every State of at least 10 delegates and provide for their selection at the proposed State meetings. The committee bill provides that delegates shall be apportioned on the basis of population and "designated"—not selected—at the State or regional meetings. On the whole, however, I believe that this is a good bill and one which merits the strong support of the House. Passage of H.R. 9924 would be consistent with our previous adoption of a resolution in support of the objectives of International Women's Year. Moreover, this same bill came before the House under suspension of the rules on October 20, 1975, and it was favored by a substantial majority, although it did not obtain the required two-thirds majority.

I strongly urge the adoption of House Resolution 846 so that the House can consider H.R. 9924.

Mr. MADDEN. Mr. Speaker, for the information of the Members of the House, this same legislation was before this body a few weeks ago on suspension of the rules, and the vote was 233 to 157 in favor of this legislation passing.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. STEIGER of Arizona. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 369, nays 31, answered "present" 1, not voting 33, as follows:

[Roll No. 759]

YEAS—369

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Archer
Armstrong
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Barrett
Baucus
Beard, R.I.
Bedell
Bell
Bennett
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Burgener
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Butler
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frey
Fuqua
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hastings
Hawkins
Hayes, Ind.
Hays, Ohio
Heckler, Mass.
Hefner
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hughes
Hungate
Hutchinson
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan

Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pickle
Pressler
Preyer
Price
Pritchard
Quie
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shriver
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steelman
Steiger, Wis.
Stephens
Stokes
Stratton
Studds
Sullivan
Symington
Taylor, N.C.
Thompson
Thone
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—31

Ashbrook
Bauman
Beard, Tenn.
Biaggi
Burleson, Tex.
Byron
Clawson, Del
Crane
Duncan, Tenn.
Flynt
Hammerschmidt
Hansen
Hechler, W. Va.
Hubbard
Hyde
Ichord
Jarman
McDonald
Poage
Quillen
Roberts
Satterfield
Shipley
Shuster
Snyder
Steiger, Ariz.
Symms
Taylor, Mo.
Wiggins
Wilson, Bob
Wylie

ANSWERED "PRESENT"—1

Buchanan

NOT VOTING—33

Andrews, N. Dak.
Annunzio
Brown, Calif.
Brown, Mich.
Burke, Fla.
Burton, John
Casey
Clay
Conyers
Davis
Esch
Evins, Tenn.
Fraser
Gaydos
Gradison
Hébert
Heinz
Helstoski
Hinshaw
Latta
Macdonald
O'Hara
Passman
Patman, Tex.
Pike
Railsback
Rees
Riegle
Stuckey
Talcott
Teague
Treen
Vander Jagt

The Clerk announced the following pairs:

Mr. Hébert with Mr. Latta.

Mr. Annunzio with Mr. Burke of Florida.

Mr. O'Hara with Mr. Andrews of North Dakota.

Mr. Patman with Mr. Esch.

Mr. Helstoski with Mr. Hinshaw.

Mr. Teague with Mr. Talcott.

Mr. Macdonald of Massachusetts with Mr. Treen.

Mr. John L. Burton with Mr. Vander Jagt.

Mr. Clay with Mr. Railsback.

Mr. Evins of Tennessee with Mr. Heinz.

Mr. Passman with Mr. Gradison.

Mr. Pike with Mr. Brown of Michigan.

Mr. Rees with Mr. Davis.

Mr. Riegle with Mr. Casey.

Mr. Conyers with Mr. Stuckey.

Mr. Brown of California with Mr. Fraser.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COOPERATION OF SECRETARY OF COMMERCE AIDS CONGRESSIONAL OVERSIGHT

(Mr. GUDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUDE. Mr. Speaker, I am deeply gratified that the Secretary of Commerce has agreed to make available to the Committee on Oversight and Investigations documents identifying those U.S. firms participating in the Arab boycott against Israel. Mr. Morton's cooperation will permit the subcommittee to perform its constitutional role of oversight and should greatly aid other committees of the Congress in determining if American firms have violated Federal statutes by participating in the boycott. In addition, the information provided by these documents will help the Congress frame appropriate legislation to prevent economic coercion aimed at U.S. businesses and citizens. Toward this end I am already a sponsor of two bills before this House. The first, H.R. 6431, introduced by Mr. Drinan on April 28, would prohibit actions by U.S. exporters intended to support restrictive trade practices imposed against countries friendly to the United States by other foreign countries. If enacted, this bill would punish violators by fine and imprisonment. The second bill, H.R. 8114, introduced by Mr. Rodino and Ms. Holtzman, would prohibit economic coercion of United States citizens based on religion, race, national origin, or sex.

I would also like to commend Secretary Morton's directive of November 28 ordering the Department of Commerce to cease disseminating foreign trade opportunities that include boycott provisions.

The Arab boycott represents a pernicious effort on the part of foreign nations to coerce Americans to violate the constitutional rights of other Americans. I strongly hope that the Congress, now that it has the cooperation of the executive branch, will move swiftly to pass legislation to protect Americans from the effects of such boycotts in the future.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. DELANEY. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PROVIDING FOR CONSIDERATION OF S. 95, OVERSEAS CITIZENS VOTING RIGHTS ACT OF 1975

Mr. DELANEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 902 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 902

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 95) to guarantee the constitutional right to vote and to provide uniform procedures for absentee voting in Federal elections in the case of citizens outside the United States. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on House Administration now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from New York (Mr. Delaney) is recognized for 1 hour.

Mr. DELANEY. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. Quillen), pending which I yield myself such time as I may consume.

Mr. DELANEY. Mr. Speaker, House Resolution 902 makes in order the consideration of S. 95, the Overseas Citizens Voting Rights Act of 1975. House Resolution 902 provides for an open rule with 1 hour of general debate.

House Resolution 902 also provides that it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on House Administration now printed in the bill as an original bill for the purpose of amendment under the 5-minute rule.

A citizen residing outside the United States may register absentee and vote by absentee ballot, at the location where he was last domiciled immediately prior to his departure from the United States. A citizen may register and vote under this act only if he complies with all applicable State or district qualifications, is not voting in any other State or election district, and has a valid passport or card of identity and registration issued under the authority of the Secretary of State.

Enactment of this bill will not result in any additional cost to the Federal Government. The cost to individual States will vary and depend upon each State's individual provisions for registration and absentee voting.

Mr. Speaker, I urge the adoption of House Resolution 902 in order that we may discuss and debate S. 95.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the rule which makes in order the consideration of S. 95, the Overseas

Citizens Voting Rights Act of 1975. The purpose of S. 95 is to make effective for all overseas citizens the principle that the right to vote for their President and for their Congressman is an established right and privilege of American citizenship.

The bill provides that an American citizen living outside the United States will be eligible to register and to vote by absentee ballot at the location where he or she lived immediately prior to departure from the United States. Under the provisions of S. 95 Americans living overseas may register and vote only if they comply with all the applicable State franchise qualifications, are not voting in any other State, and have valid proof of U.S. citizenship.

Mr. Speaker, I am confident that every Member of this House supports the purpose and the intent of this legislation. There are, however, certain constitutional reservations that have been raised by some Members, and by the Department of Justice. The rule is open and provides for 1 hour of debate and I urge its adoption so that Members holding differing views on this bill will have an opportunity to present those views in open debate.

Mr. Speaker, I urge the adoption of the resolution, and I reserve the balance of my time.

Mr. DELANEY. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BROWN of Michigan. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 394, nays 7, answered "present" 1, not voting 32, as follows:

[Roll No. 760]

YEAS—394

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Barrett
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Florio
Flowers
Foley
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frey
Fuqua
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hastings
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steelman
Steiger, Ariz.
Stephens
Stokes
Stratton
Studds
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson
Thone
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—7

Crane
Flynt
Hutchinson
McDonald
Poage
Symms
Wiggins

ANSWERED "PRESENT"—1

Miller, Calif.

NOT VOTING—32

Andrews, N. Dak.
Brown, Calif.
Burke, Fla.
Burton, John
Casey
Clay
Davis
Esch
Evins, Tenn.
Flood
Ford, Mich.
Fraser
Gaydos
Hébert
Heinz
Helstoski
Hinshaw
Macdonald
O'Hara
Patman, Tex.
Pettis
Pike
Pressler
Riegle
Smith, Nebr.
Steiger, Wis.
Stuckey
Teague
Treen
Vander Jagt
Wilson, C. H.
Winn

The Clerk announced the following pairs:

Mr. Helstoski with Mr. Vander Jagt.

Mr. Hébert with Mr. Pettis.

Mr. Patman with Mr. Burke of Florida.

Mr. Davis with Mr. Andrews of North Dakota.

Mr. Flood with Mr. Esch.

Mr. Fraser with Mr. Heinz.

Mr. Stuckey with Mr. Hinshaw.

Mr. Charles H. Wilson of California with Mr. Treen.

Mr. Pike with Mr. Steiger of Wisconsin.

Mr. Macdonald of Massachusetts with Mr. Smith of Nebraska.

Mr. Ford of Michigan with Mr. Pressler.

Mr. Evins of Tennessee with Mr. Winn.

Mr. Brown of California with Mr. Riegle.

Mr. Casey with Mr. John L. Burton.

Mr. Clay with Mr. Teague.

Mr. CRANE changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS TO HAVE UNTIL MIDNIGHT THURSDAY, DECEMBER 11, 1975, TO FILE A REPORT ON H.R. 8235

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation may have until midnight Thursday, December 11, 1975, to file a report on H.R. 8235.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERMISSION TO EXCUSE J. WILLIAM STANTON AS CONFEREE ON S. 2327, REAL ESTATE SETTLEMENT PROCEDURES ACT, AND APPOINTMENT OF JOHN H. ROUSSELOT AS A CONFEREE

Mr. REUSS. Mr. Speaker, I ask unanimous consent that the gentleman from Ohio (Mr. J. WILLIAM STANTON) be excused as a conferee on the part of the House on the Senate bill S. 2327, the Real Estate Settlement Procedures Act of 1974.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection. The Chair appoints the gentleman from California (Mr. ROUSSELOT) as one of the conferees on the bill S. 2327, the Real Estate Settlement Procedures Act.

PROVIDING FOR A NATIONAL WOMEN'S CONFERENCE

Ms. ABZUG. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9924) to direct the National Commission on the Observance of International Women's Year, 1975, to organize and convene a National Women's Conference, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentlewoman from New York (Ms. Abzug).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 9924, with Mr. Long of Louisiana in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentlewoman from New York (Ms. Abzug) will be recognized for 30 minutes, and the gentleman from Arizona (Mr. Steiger) will be recognized for 30 minutes.

The Chair recognizes the gentlewoman from New York (Ms. Abzug).

Ms. ABZUG. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 9924 was reported unanimously by the Committee on Government Operations and voted on in this House on the Suspension Calendar by a vote of 233 to 157. It provides for the organizing and convening of a National Women's Conference during 1976 in conjunction with our National Bicentennial Year.

Both the President of the United States and this body are on record—the President by proclamation, and this House by House Concurrent Resolution 309—as calling upon the country for "not only . . . stocktaking but also . . . the launching of new programs and the forming of new attitudes toward the role of women, with impact reaching well beyond 1975."

The purpose of the National Conference is to consider, and to consider how to overcome, the obstacles still encountered by women in exercising their full human rights and responsibilities in all fields, including education, the arts and sports, and in enjoying freedom in planning their lives. This conference is being projected in the spirit of the Executive order of the President establishing a Commission on International Women's Year, in which he called on Federal and State officials and individuals to assist in this observance by constructive measures for the advancement of the status of women.

The bill before us calls for a National Conference which will be preceded by conferences at the State level which would identify and focus upon specific issues for consideration by the National Conference and would designate representatives to the National Conference. This is the first time that women of every walk of life will have an opportunity to express themselves in a meaningful setting. This can only happen, though, if Congress passes this bill.

There have been many conferences held on the subject of women, but too often, women who are of lower income levels do not go to conferences and do not have the opportunity to participate.

The significant thing about this National Conference is that it will afford an opportunity for every kind of woman, representing every viewpoint, in every State of this Nation to make a statement of her concern.

In the plans for the Bicentennial celebration, very little provision has been made to recognize the role of women in the development of this country. Through these State meetings and this National Conference, women and men will be able to discuss what has happened to women in America, how they perceive and are perceived by America, what their contributions have been, what their problems and aspirations are, and what they think can be done to improve not only their own conditions but also the conditions of men and women in our democracy.

The funding proposed in this bill, which has resulted in considerable comment, is necessary to make certain that there can be State meetings to provide the opportunity for women of all kinds to come, women of all backgrounds, and, as I said before, particularly women of lower-income levels, women of every racial, religious and ethnic group, and representing every point of view.

This is not a bill which projects or requires the conference to project a particular point of view. There will be women coming to this conference who hold opposing viewpoints on all subjects.

There will be those who are for the ERA represented there, there will be some who are opposed to the ERA represented there, there will be those who have differences with respect to how we should change the laws and make the laws more applicable to women, and those who have differences with respect to the kinds of activities we should conduct, and so on.

The national Commission, which already exists pursuant to the President's Executive order and whose life would be extended by this bill, would have the basic responsibility for organizing and convening the State meetings and the national conference. The Commission would assist in establishing in each State a coordinating committee drawn from the broadest possible spectrum of interested women: this coordinating committee would then take over the primary responsibility for the meeting in its State.

These State meetings will be widely publicized through the media, through the press, through organizations, through community groups, so that every organization and every woman will know that in her State, as a result of action by the Congress of the United States, she will have an opportunity for the first time in the history of this country to come together with other women and say: "This is how I feel. This is how I see what has happened in this country. This is what I think should happen in order for me to be a better American, to improve the conditions of women generally and improve the workings of democracy generally."

In addition, the State meetings will select representatives to the national conference. Under an amendment to be proposed later today, each State will have no less than 10 representatives to the National Conference.

As a result of this process at the State level, the national conference should consider issues raised by women at the grassroots level—not issues selected or limited by the Congress or any other group, but issues that they themselves have raised and discussed. The result of the national conference will be a report to the Congress and the President, followed by recommendations from the President to the Congress.

PURPOSES

The purposes of the National Conference would be—

To recognize the contributions of women to the development of our country.

To assess the progress that has been made to date in both the private and public sectors in promoting equality between men and women in the United States.

To assess the role of women in economic, social, cultural, and political development.

To assess the participation of women in efforts aimed at the development of friendly relations and cooperation among nations.

To identify the barriers that prevent women from participating fully in all aspects of national life, and develop recommendations for means whereby such barriers can be removed.

To establish a timetable for the achievement of the objectives set forth in such recommendations.

To establish a committee which will take steps to provide for the convening of a second national conference.

I wish to make it entirely clear that this bill in no way authorizes a second conference. Should such a conference be thought appropriate, it would have to be provided for by separate legislation.

REPRESENTATIVES

The goals for the selection of representatives to the National Conference would be to include representatives of institutions, agencies, unions, publications and other groups working to advance the rights of women as well as members of the general public. Special emphasis would be placed upon the representation of women of all ages, low-income women, and members of diverse racial, ethnic, and religious groups.

RESPONSIBILITIES OF THE NATIONAL COMMISSION

The National Commission, which is already in existence under Executive Order 11832, promulgated by President Ford in January, and, whose life was recently extended by him to June 30, 1976, would be responsible for organizing and conducting the national conference and the State-level meetings. The Commission would designate a coordinating committee in each State to organize and conduct the State meeting. If time and resources are limited, the Commission could combine two or more State meetings into a regional meeting; this would be determined in consultation with interested parties in the affected States. At any such combined meeting, each

State would designate its representatives to the national conference separately.

The Commission would also grant technical and financial assistance to facilitate the State-level meetings, prepare background material for the use of those attending the State-level meetings and the national conference, establish procedures to provide financial assistance for representatives to the national conference who are unable to meet their own expenses, designate additional representatives to the national conference as appropriate to fulfill the goals of the act, establish advisory and technical committees to assist and advise the national conference, and publish and distribute the report required under the act.

In carrying out its responsibilities under the act, the Commission would be empowered to employ and compensate necessary staff personnel, to accept, use, and dispose of contributions, and to use the U.S. mails under the same conditions as other Federal departments and agencies. Staff appointments would be made without regard for political affiliation and staff compensation could in no case exceed the annual rate of basic pay for grade GS–18 of the General Schedule.

OPEN MEETINGS

The bill would require that all sessions of the National Conference and of State-level meetings be open to the public.

REPORT

Within 120 days after the close of the National Conference, the Commission would transmit to the Congress and the President a report of the findings and recommendations of the National Conference. Within 120 days after receiving this report, the President would submit his recommendations with respect to the matters discussed in the report.

FUNDING

The bill would authorize the appropriation of such sums, not in excess of $10 million, as are necessary to carry out its purposes. Such sums would remain available for obligation until expended.

By comparison, the Conference on the Aging, held about 5 years ago, cost $2.5 million at the national level plus another $4 million for State-level activities. That conference did not pay for its own publishing, unlike the National Women's Conference proposed in this bill. Given the very substantial inflation that has occurred since the Conference on the Aging, the figure proposed in this bill is an eminently reasonable one.

I note further in this connection that the legislation providing for the 1977 White House Conference on Education contains no ceiling whatever on the amount authorized to be appropriated.

Approximately 80 percent of the funding proposed in this bill is for the meetings to be held at the State level. Senator PERCY testified at our hearings that the State conferences are the strongest aspect of the bill. Jill Ruckelshaus, presiding officer at the National Commission, said that—

> Many women have been newly attracted to women's issues through the activities of organizations they may belong to during International Women's Year, and . . . the conference—particularly those conferences at the local levels and statewide levels—would provide outreach to them and an opportunity perhaps for their first involvement in women's issues.

I am pleased to note that the cosponsors of H.R. 9924 include 15 women Members of the House, as well as a number of our male colleagues including the Speaker, the majority leader and the chairman of our full committee Mr. BROOKS and our colleague Mr. JOHN ANDERSON of Illinois. The bill also enjoys the support of a wide spectrum of women's groups and others of a bipartisan nature.

Mr. Chairman, two centuries after this democracy was founded it is correct that we extend democracy fully to women so that they can join with men as partners in making this country and the world a better place for all people. The National Conference proposed in this bill will afford America's women the opportunity to assess how far they have come and how far they still have to go. I urge its passage.

As I said earlier there were some objections raised as to the amount of money $10 million set forth in this bill. We have had considerable discussion about this. It was based on what we calculated would be the reasonable costs to hold the State meetings and the National Conference, but we are prepared to reduce this amount to satisfy the members of this body that they are fulfilling what they regard as their congressional responsibility to make certain that we spend not the most but the least that is possible for the State meetings and the National Conference.

I would hope that we will be equally concerned when we consider other matters relating to expenditures. I note that some of the mail in opposition to this bill that has been received by Members has suggested that the measure is somehow anti-Semitic. The theory behind this claim is apparently that the National Conference proposed by H.R. 9924 is to be held in conjunction with International Women's Year and that an anti-Zionist resolution was passed at the International Women's Year meeting in Mexico City.

The suggestion that this bill is in any way anti-Semitic is almost too ridiculous for comment or response. I will only state that at the behest of the congressional advisers to the U.S. delegation to the Mexico City meeting, namely the gentlewoman from Massachusetts (Mrs. HECKLER) and myself, our United States delegation voted against the anti-Zionist resolution in question, and I have continued to fight against its adoption by the United Nations. I abhor the resolution and everything for which it stands and many women who participated in the conference in Mexico feel likewise. This bill and the meetings for which it would provide have nothing—I repeat, nothing—to do with the Mexico City anti-Zionist resolution.

In any case, this bill will give the Congress the chance to continue its history of being in the forefront of promoting the needs of people in this country. Just as there have been conferences on the aging, conferences on education, conferences on children, so should there be this conference on women.

The Congress of the United States, through this bill and subsequent appropriations for this bill will give the opportunity that women and men are looking to us to give for these meetings and this conference.

Mr. Chairman, I hope my colleagues will give this bill the consideration it deserves and vote for its passage.

COSPONSORS OF H.R. 9924

Ms. Abzug, Mrs. Burke of California, Mrs. Boggs, Mrs. Chisholm, Mrs. Collins of Illinois, Mrs. Fenwick, Mrs. Heckler of Massachusetts, Ms. Holtzman, Ms. Jordan, Ms. Keys, Mrs. Meyner, Mrs. Mink, Mrs. Pettis, Ms. Schroeder, Mrs. Spellman, Mr. Conyers, Mr. Harrington, Mr. Maguire, Mr. McCloskey, Mr. Moffett, Mr. Moss, and Mr. Ryan.

Mr. BAUMAN. Mr. Chairman, will the gentlewoman yield?

Ms. ABZUG. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, the gentlewoman has indicated she would accept less money in this bill. Does the gentlewoman have a figure that she would like to suggest?

Ms. ABZUG. I understand the gentleman intends to propose an amendment. I think we should continue discussing this and when the amendment is proposed, we will see what would be necessary as a minimum to conduct these 56 State meetings and this national conference.

Mr. BAUMAN. Does the gentlewoman have any idea what that figure would be?

Ms. ABZUG. First I want to hear the gentleman's explanation of how his amendment will cover the expenses. At that time, we will have an opportunity to discuss this further.

Mr. BAUMAN. Mr. Chairman, I am pleased that the gentlewoman has gone on record as deferring to my judgment in any matter.

Ms. ABZUG. Well, I am always willing to listen.

Mr. STEIGER of Arizona. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have several problems with this bill, not the least of which are the $10 million and the 10-year provisions, which we hope to remedy during the amending process, as the gentlewoman indicates; but above all, the record should reflect that the ladies have come to us with the clear imagery that the women in this country are being neglected in the area of advocacy today and, of course, that is just not so.

As a matter of fact, the U.S. Department of Labor alone expended $100,000 this year for the very purposes in this bill, absent the lobbying efforts. The fact is that there are at least seven or eight agencies that have contributed people to this very conference and I am sure the people that wrote the bill, because that is what people that support these structures do, they write legislation to guarantee continued life. Indeed, these people have done a good job, because these people have guaranteed their continued existence on the Federal salary for 10 years, under the provisions of this bill as we now have them before us.

I believe there are four amendments to be offered. One will reduce the $10 million to $1 million. The other will reduce the 10 years to 1 year; the logic there being, and I hope it escapes none of us, certainly it will not escape the readers of the Record. I know that if it requires $10 million to put on the conference for 10 years, it should only require $1 million to put the conference on for 1 year. I did that without a computer. I think many of us here can follow me. I think the gentlewoman can follow intimately. They are very good in this area. Their manual dexterity is good in this area, too.

I think it should be noted that that also has not been overlooked in this discussion. I noted that the gentlewoman from New York has done a lot of bringing together in her rhetoric about this. I would submit to the Members that those appropriate people who believe in the equal rights amendment ought to come together. In fact, they had better get together because they are losing, and these recent elections in New York and New Jersey prove that the gentlewoman, at least, is out of touch with the majority of her constituency on this matter. I think perhaps a conference would permit her to regain the respect of her constituency.

So, on that basis, I think that the Conference should not be funded by the American taxpayer. It ought to be funded by the people who are concerned about the issues, a conference and lobbying effort that is bound to follow, and the practice of the Women's Conference lobbying effort for the equal rights amendment is not a function for the General Accounting Office, nor is it a function of the U.S. Treasury.

The fact is that unless we amend this bill we will preserve, not for 1 year but for 10 years, and funding not for 1 year but for 10 years, a lobbying effort for the equal rights amendment in every State.

I mentioned the two amendments which will provide a reduction from $10 million to $1 million, and a reduction from 10 years to 1 year. I would also point out that we are going to offer an amendment that will eliminate the mandate to have a conference in every State. If indeed there is a need to have a conference in a State, the Women's Conference ought to feel free to do it. That should not be required to be done as a function of this statute, and therefore we wish to eliminate that mandatory requirement that the Conference be held in every State.

I believe that my friend from Georgia is going to offer language that would prohibit lobbying by this group. I think it is certainly a worthy exercise in statutory language. I know it will be supported by the ladies. It would also be impossible of enforcement, as I am sure the Members of the House are aware. Lobbying is indeed the only result of these conferences. However, I applaud my friend in wanting to deny by statute the right of this conference to lobby with tax dollars.

That, my friends, is the bottom line. The Members realize that the reason we are only attempting to reduce the bill from $10 million to $1 million and from 10 years to 1 year is because we do not have the votes to defeat the bill. Probably this bill should be defeated. This bill has no place in this or any other budget. This bill has no place in this or any other philosophical discussion of the proper use of governmental agencies. However, whether it is the pressure of years of service or just simple pragmatism, I submit to the Members that a reduced violation of the Constitution is better than a mammoth violation of the Constitution and the Treasury.

Therefore, I urge that the Members support the amendments at the appropriate time.

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Arizona. I yield to the gentleman from Ohio, whose delicate and friendly approach I am sure will bring some new light on this matter.

Mr. LATTA. Mr. Chairman, I want to thank the gentleman for yielding and for his comments.

Mr. Chairman, let me say that mail from my district reflects a real fear on the part of many women—that this money will be spent for lobbying for the ERA amendment and in favor of abortions for all. The gentleman mentioned that an antilobbying amendment will be offered, and that even if we adopt such an amendment, we cannot preclude them from lobbying for these positions. With this fact in mind, how can we answer constituents such as mine who are genuinely aroused over the prospect of using taxpayers' money for lobbying for the ERA amendment and for abortions for all? Can we truthfully tell them that such an antilobbying amendment will allay their fears? I do not think we can. For this reason, I am going to oppose this conference which is being supported by these two groups.

Mr. STEIGER of Arizona. I will tell my friend the way I am going to answer my constituents, and that is all I can offer by way of explanation. I am going to vote against the bill on final passage for at least the reasons mentioned by my friend, regardless of how the amendment process goes. But, I submit that we are going through the amendment process so as to dilute the damage we are doing to the country.

Mr. LATTA. I want to thank the gentleman for his efforts.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Arizona. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, the gentleman puts his finger on the fundamental issue of all these conferences and what they produce. Last winter, when this House authorized delegates to go to Mexico City to participate in that infamous conference, it was with the best of intentions. We passed a resolution, as the gentlewoman from New York has mentioned, endorsing women's participation and U.S. participation in this meeting.

This meeting turned into a brawl, literally. People who wanted to speak were treated very discourteously. The wife of Mr. Rabin, the Prime Minister of Israel, was almost not permitted to speak. Delegates walked out as she spoke. Others were treated similarly. What came out of that meeting was largely a propaganda effort, and this is what we have a right to fear if we pass the pending bill.

Mr. Chairman, I will cite one example. That conference in Mexico City passed a resolution which in effect equated Zionism with racism. When the United Nations General Assembly acted on November 10th and adopted a resolution also condemning Zionism as racism, the U.N. quoted verbatim the resolution passed in Mexico City. I will not burden the House in reading it to the Members. But this is exactly the way a combination of international bureaucrats and radical groups distort these conferences to their own perverted ends. Now they want the taxpayers of the United States, quite literally to pay the bill for such radicalism and therein lies the danger.

Mr. Chairman, I personally do not see, even if there is an antilobbying amendment offered, that this conference will be much different than many which have preceded it. Such radical conferences deny the legitimate expressions of people such as the gentlewoman from Massachusetts (Mrs. Hechler) and do little to solve the problems they are supposed to address. I have no confidence that the legitimate concerns of women will be met in this conference but I have every confidence that it will be a waste of taxpayers' money and a radical propaganda forum.

Mrs. HECKLER of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Arizona. I will yield to the gentlewoman from Massachusetts.

Mrs. HECKLER of Massachusetts. I thank the gentleman for yielding.

Mr. Chairman, I think the record should be corrected. The Mexico City conference certainly had some disappointing features. The reference to Zionism as one of the evils of society was more than disappointing.

Mr. Chairman, I would like to set the record clear, however. The U.S. delegation, at the behest and inspiration of the congressional observers at that conference, who consisted of Ms. Abzug and myself, voted against the human rights declaration passed by the conference because of its resolution equating racism with Zionism. As a matter of fact, that stands in the record. But the very fact that the conference was used to promote an anti-Semitic posture and to propagandize other issues totally unrelated to women's concerns makes it more imperative that we have a conference in the United States that truly examines the questions addressing American women, which the International Women's Conference sadly missed in Mexico City for the women of the world.

Mr. STEIGER of Arizona. I thank the gentlewoman from Massachusetts (Mrs. Heckler) and the gentleman from Maryland (Mr. Bauman).

Mr. Chairman, I just want the House to keep in focus what we do here, and I suspect we are going to end up with a reduced version of the bill that is before us; but we will not have solved the problem. As the House, we will still have sanctified the process of using taxpayers' money to lobby, really, what is now a demonstrably unpopular position, so far as the rest of the country is concerned, if the elective process in both New Jersey and New York is valid evidence of the view of the equal rights amendment.

Ms. ABZUG. Mr. Chairman, I reserve the balance of my time.

Mr. STEIGER of Arizona. Mr. Chairman, I yield 3 minutes to the gentlewoman from Massachusetts (Mrs. HECKLER).

Mrs. HECKLER of Massachusetts. Mr. Chairman, I think much has been said about this bill, and a recitation of all of its purposes would certainly consume more than 3 minutes.

Mr. Chairman, I do thank the gentleman from Maryland (Mr. BAUMAN) for his kind references to my own motivation, and I would hope and I do believe that he is quite accurate in the very practical concerns that I have about women.

I think, very simply, that there are two basic thrusts to this legislation. First of all, this is the U.S. Bicentennial, and if we track back through American history we can only see fragmentary references to the contributions of American women. I am very proud of the reference to Abigail Adams since she came from Massachusetts, but where is there tribute to all of the other great women who made America, who helped build this country, from all regions? To help focus on the contribution of women and the recognition of women in the Bicentennial is one of the purposes of this bill.

Second, the bill provides this Congress, this President and this society with an understanding of the problems that women face and women's attitudes on national issues.

If we in this Congress wish to examine health issues, for example, we have no way of determining how the health programs will address the health problems of American women because we have no statistical data to pursue that kind of an analysis. We have no valid statistical data on women in terms of economic problems or on women in terms of educational problems. We have never considered the problems that women face in the marketplace, at home, in social security, in tax law, or in any other aspect of our society. So we do have a very practical need for more information.

This is not a lobbying effort. The women in this House are not monolithic. We are not alike in our points of view, we are not alike in our styles, and we are not alike as individuals. We are different as American women are different.

Mr. Chairman, this conference will focus on the differences of American women and on their different points of view, and in the end it will provide the Congress with the kind of input and insight that can help us write more reflective laws. We are, after all, one-half of the population of this country, and I will say to my dear friends that if we feel a Conference on Women is the only way to provide equality, let us question the strength of our candlepower in this Congress. If it is too dim to shed light on the needs of men, then, of course, we will give just consideration to that proposal.

As a matter of fact, this Congress has not focused in large measure on a comprehensive scale on the problems of women, and this is what this Bicentennial in its most meaningful way should observe. I am tired of mirroring only a recitation of ceremonies, of parades, and Bicentennial mementos, as significant as they are. Then, too, the collection of plates is impressive. But really if we take a hard look at this society and look at the role of women in our society in this respect, then the Bicentennial will have a far deeper meaning.

The CHAIRMAN. The time of the gentlewoman from Massachusetts (Mrs. HECKLER) has expired.

Mr. STEIGER of Arizona. Mr. Chairman, I yield 3 additional minutes to the gentlewoman from Massachusetts (Mrs. HECKLER).

Mr. HYDE. Mr. Chairman, will the gentlewoman yield?

Mrs. HECKLER of Massachusetts. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I will ask the gentlewoman from Massachusetts (Mrs. HECKLER), is it not a fact that every State in the Union has a State-funded Commission on the Status of Women? Is that not a fact?

Mrs. HECKLER of Massachusetts. Mr. Chairman, I cannot say that it is. I would like the gentleman to know that I am aware that there are some that have commissions. I know some are very active, and I also know some have made recommendations which are gathering dust. I think this very fact justifies the Conference itself, and this will go beyond recommendations that are only the subject of file folders in a Governor's office.

Mr. HYDE. Of course, Mr. Chairman, we do not know what action is taken on the recommendations of these various commissions, but I think it is significant to point out that there are in every State commissions on the status of women.

In my own State, the State of Illinois, there is a very vigorous commission headed by a very fine woman legislator, Susan Catania. Referring to all the things the gentlewoman from Massachusetts has said, the dearth of information that has been alleged just does not exist, at least in my own State.

These commissions are set up and funded, and they are very active in ferreting out all the statistics. They are competent in their efforts, and they are active in developing, isolating, delineating, and confronting the problems that face women.

Mr. Chairman, it just seems to me we are just effecting a massive duplication of effort that is already going on in the 50 States, and it is just unnecessary.

Mrs. HECKLER of Massachusetts. Mr. Chairman, if I might respond, I would suggest that we should remind ourselves that we are a national legislature, we are a national body, and we have responsibility for the enforcement of laws, for the enactment of laws, and for the implementation and oversight of laws.

Most Americans, regardless of how liberated or unliberated they might consider themselves or what their attitudes might be on the subject of women, if they are fairminded, believe in the concept, for example, of equal pay for equal work, and they know that concept is in the law and that the law should be enforced.

However, in fact, in this very city of Washington the enforcement agency of the Equal Employment Commission presently has a backlog of 100,000 cases involving questions of inequality and discrimination in the concept of equal pay for equal work.

So, Mr. Chairman, I feel that that very fact justifies a hard look at how the laws are implemented and how they fail to be implemented, and if equal pay for equal work is not a fact in America today—and it is not—then that in itself justifies the conference.

Mr. BAUMAN. Mr. Chairman, will the gentlewoman yield?

Mrs. HECKLER of Massachusetts. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I would just say to the gentlewoman that if the Equal Opportunities Commission of Washington, D.C., is failing to carry out its role, it would probably be more beneficial, from the viewpoint of the gentlewoman from Massachusetts (Mrs. HECKLER), to give them the $10 million and let them enforce the laws already on the books rather than squandering the money on a new bureaucracy, another commission, another meeting, holding cocktail parties, State meetings, and national meetings.

I fail to see where any problem that the gentlewoman from Massachusetts has described so eloquently is going to be resolved or even bettered by holding another series of meetings where professional meeting attenders get together still another time to talk to themselves.

That is the trouble. We all know about these meetings. In each State there will be a Friday night cocktail party, a debate all day Saturday, another cocktail party and resolutions Sunday morning. There will be one week long bash on the national level, and the taxpayers will pay for all of this. Last, there will be a massive report printed which probably no one will ever read. That is a realistic description of the events which occur at these so-called conferences.

The CHAIRMAN. The time of the gentlewoman from Massachusetts (Mrs. HECKLER) has expired.

Mr. STEIGER of Wisconsin Mr. Chairman, I yield 2 additional minutes to the gentlewoman from Massachusetts (Mrs. HECKLER).

Mrs. HECKLER of Massachusetts. Mr. Chairman, I would like to respond by saying that if that has been the history of how men have spent the tax dollars of the American people, at conferences and meetings, let me assure the gentleman from Maryland that the women are very, very serious in their purpose and will not conduct themselves in that way.

Mr. BAUMAN. If the gentlewoman will yield further, I have only been describing numerous political meetings that I have attended as well as the several Republican National Conventions at which I have been present. I assure the gentlewoman that there were many women participating there in the festivities. I think even the gentlewoman from Massachusetts herself was there at the national convention. None of these events were financed by taxes.

Mrs. HECKLER of Massachusetts. I am not sure if that is the case, but I will say that the cocktail parties hosted by political organizations, whether Republican or Democratic, is really a red herring in the debate today.

The fact of the matter is that we are not proposing a political convention. We wish to look at the problems of women regardless of their background and politics. As a matter of fact, the very example of the background in the EOC enforcement of equal pay for equal work payments of back wages to women in the telephone company in the millions of dollars when a court found that they had not, indeed, received fair pay, indicates that this payment and this backlog are the tip of the iceberg. The same situation exists in similar State commissions which have case backlogs. Therefore, we are not talking about fringe issues. We are talking about the women of America. We are talking about housewives. We are talking about women's health problems. We are talking about the whole gamut of problems relating to American women and hoping to bring to bear the women's perspective to their resolution.

Ms. ABZUG. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Louisiana (Mrs. BOGGS).

Mrs. BOGGS. Mr. Chairman, I thank the gentlewoman from New York (Ms. ABZUG) for yielding.

All of us know that we have had various difficulties, through letters from our constituencies as well as from inquiries from various Members of this body in discussing the substance of this bill. They are concerned particularly about the safeguards that will insure the participation across the whole spectrum of the philosophies and economic and social conditions of women in this country.

There was testimony by the League of Women Voters, which felt that it was imperative that the bill acknowledge the important role American women have played in the home and how this role has had a great impact on economic and social developments of our country.

They urge insertion of language that would recognize the right to choose between a career and the home.

Mr. Chairman, I would like to ask the gentlewoman from New York (Ms. ABZUG) if such language is necessary in the bill or if, indeed, the bill's language already guarantees that there will be this recognition for all American women, not just career-oriented women.

Ms. ABZUG. The language on page 3 of the bill makes very clear that the conference shall be composed of members of the general public, with special emphasis on the representation of low-income women, members of diverse racial, ethnic, and religious groups and women of all ages. This is intended to cover the broadest possible spectrum and to insure the broadest possible participation of women from every walk of life.

Mrs. BOGGS. Mr. Chairman, we also have had a letter from the National Council of Catholic Women addressed to the gentlewoman from New York (Ms. ABZUG), and in it they say that they feel that to commemorate the International Women's Year, the conferences would serve a good purpose. They also say:

> However, we would oppose them being used as a platform for the passage of the Equal Rights Amendment or for the support of abortion legislation.
>
> As a federation representing some 10 million members, we respectfully request that these views be taken into consideration and know that we would happily assist in the substance of the conferences if and when they are planned.

Does the gentlewoman from New York know whether the safeguards are there to be sure that the Federation and its 10 million members would be recognized and their views would be taken into consideration in the substance of the Conference?

Ms. AZBUG. Very much so. As I stated in my opening remarks, and as in the expressed purpose of this legislation, which has been developed by myself in consultation with all of the other cosponsors, we expect that the meetings and the Conference will provide a forum for people of opposing views on these and many other issues. People who are concerned with women and their role will be welcome without regard to their views on any specific issues.

Mrs. BOGGS. Can we then agree with the National Board of the Young Women's Christian Association of the United States that:

> American women from richly diverse backgrounds and life experiences are eager not only to fulfill their own lives, but to improve the quality of life for all citizens in our nation. We believe the plans for the Women's Conference may provide a meaningful focus for these efforts.

Ms. ABZUG. That is correct. Their statement is entirely accurate.

Mrs. BOGGS. I thank the gentlewoman from New York for having assured me and the cosponsors of this measure that their interest and the interests of all women from all walks of life, all religious, political, and ethnic backgrounds will be taken into consideration in the conference.

Ms. ABZUG. I thank the gentlewoman from Louisiana for her comments.

Mr. STEIGER of Arizona. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Chairman, in commenting on the response that was just received by the gentlewoman from Louisiana (Mrs. BOGGS) I do not, in any way, dispute the good intentions of the gentlewoman from New York (Ms. ABZUG) as to what the conference will do, but I believe that we ought to realize that this particular conference, if this bill passes, will be conducted and under the control of the National Commission on the Observance of International Women's Year. This Commission at its very first meeting on April 23, when they were organized, as the very first action, began with a very strong endorsement of the ERA. And the Commission pledged "to do all in our capacity" to see that the constitutional amendment is passed at the earliest possible moment.

The Chairman of the Commission, Mrs. Ruckelshaus stated:

> I am prepared to be as vocal and as public as you want me to be as your chairman. I think probably we've come to the point where we must make waves.
>
> It's not going to be enough just to have a document at the end of the year—the issues that we're going to be talking about are ones that have been researched and documented, and many people agree on them.

She went on to say that the Commission ought to take an active role in promoting its positions.

I think we know how the National Council of Catholic Women will stand on some of these issues. There have been grave concerns expressed by the leaders of the March for Life about what this conference may do, based on other similar conferences which took positions on the issue of abortion.

The national chairman, a distinguished attorney, Nellie J. Gray, of the March for Life, which has been trying for several years to get a right-to-life amendment passed has written to all of us opposing this bill. The newspaper of the National Right to Life Committee has called for the defeat of this bill because of the same fear. That is what the record shows, and all of the good intentions expressed here for the record are not going to change the past history of this type of national meeting. I think this danger makes it all the more imperative that Federal taxpayers' funds not be spent for this purpose.

The CHAIRMAN. The time of the gentleman has expired.

Ms. ABZUG. Mr. Chairman, I yield myself 2 minutes.

I just want to indicate to the gentleman from Maryland that, as I understand it, one of the Members intends to offer an antilobbying amendment to this bill, and this committee intends to accept that amendment. That may prove to be very difficult for some of the groups that the gentleman mentioned, including those who have been out here lobbying very hard on the issue of the right-to-life amendment. But, neverteless, this committee will accept such an amendment, so the gentleman need not fear that this conference will be used to lobby on those issues that he is concerned about, and about which people have written him and have lobbied very heavily in this House.

Further, I can assure the gentleman that the committee hopes that this will be a conference where views can be exchanged, where people can come and have an intelligent discussion. I very much appreciate the gentleman's concern for protecting the women of this country; I am sure all women do. Nevertheless, we want to provide an opportunity for women to come together, and, despite all the concerns of the gentleman, I am sure that it will be an effective conference.

By the way, I think one thing that has not been pointed out is that this is a very responsible conference that is being suggested here. We are entirely serious, as was pointed out by the gentlewoman from Massachusetts. There will be reports made by the National Conference to the Congress and to the President, and there will be recommendations based upon this conference made by the President to the Congress, so that we will have lots of opportunity to participate in considering the effect and the results of this conference.

The CHAIRMAN. The time of the gentlewoman has expired.

Ms. ABZUG. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee (Mr. ALLEN).

Mr. ALLEN. I thank the gentlewoman from New York.

Mr. Chairman, I rise in support of this proposed measure. There is an old Indian saying:

> Never judge another man until you have walked a mile in his moccasins.

Here we have a body that is made up of over 96 percent of men and less than 4 percent of women. The women are asking to meet—and the heart of this is meeting on a statewide basis—in order to get the fullest expression and point of view of all women who, in turn, can meet together in a national conference. They have agreed, so far as I can tell, to all but one of the proposed amendments which will be offered by the proponents of this bill. They have agreed to reduce the amount to $5 million, to cut the time of it from a decade to 1 year.

I know that when I was elected, I wanted to get the point of view of women in my office to help me. I have on my staff as a legislative aide one of the most brilliant women attorneys in Tennessee, who was screened as one of the qualified persons to serve on the Supreme Court, and who lost by only one vote before the Democratic Executive Committee. She is now my legislative aide. My press representative is the president of the Federation of Democratic Women of the Nation.

I want to get the viewpoint of women. I think the men in this body and in the Senate, which is composed 100 percent of men, would benefit by getting the views of women from all walks of life: Catholics, Protestants, blacks, whites, women of every ethnic group, and let them tell us their problems and let them resolve their own thinking.

I am persuaded to believe that the women will not be irresponsible in such a conference; and that they will agree to the antilobbying proposal or amendment that will be offered. I think it will be enlightening to many of the male Members and I hope that this measure will be passed.

Mr. STEIGER of Arizona. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, it just seems to me in considering this legislation that we make a mistake in assuming that there is a monolithic women's position on so many controversial issues. There are many women who are militantly for abortion and there are many women who are militantly opposed to abortion. The same thing can be said about the equal rights amendment and other controversies.

It seems to me we will end up with a conference that will count noses and polarize large segments of attendees and really prove nothing. The problems that are common to women throughout the country of equal employment and equal pay and equal promotion opportunities and equal access to education are being dealt with on a day-to-day basis by the States Commissions on the Status of Women. They are very sensitive to these problems. They are listening to the women.

I suggest that these viewpoints of women could be brought together by the Presidential Advisory Commission or the State advisory commissions on women rather than by going through the rather ritualistic and expensive charade of a conference where polarization is unquestionably going to occur.

It can be said there will be no lobbying on something, but there will be debates and comments and resolutions adopted and this is in itself a lobbying effort.

I believe we can do more more effectively on the State levels and through the existing apparatus, namely the State commissions and the President's Advisory Commission on the Status of Women. There is no monolithic position on women's issues and I think this will be demonstrated at this conference on women.

Mr. STEIGER of Arizona. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee.

Mr. BEARD of Tennessee. Mr. Chairman, I would like to ask the gentlewoman if she has a breakdown of how these funds will be spent. Will these funds, the million dollars a year we are talking about, be used for room and board and for paying for the meals of the participants or will the funds be paying for refreshments and gatherings and social functions? Just exactly how is this million dollars going to be spent? I do not know if this has been answered yet, but I think it is a reasonable question.

Ms. ABZUG. Mr. Chairman, if the gentleman will yield, I suppose the gentleman realizes that at conferences money has to be used for renting a hall; for travel, for postage, for printing, for supplies, for materials, for staff, and for telephones. These are the usual items at any conference. These needs do not become mysterious just because women are involved. This is a national conference and it has to have the same equipment, facilities and materials that any other conference has.

We figured out that if we were to have the $10 million which we think this conference justly needs, it would amount to a penny a woman. Maybe that is too much, as the gentleman from Michigan (Mr. CONYERS) has suggested.

Mr. CONYERS. I did not say that.

Mr. BEARD of Tennessee. I have the time.

Ms. ABZUG. I thought the gentleman did say that.

Mr. CONYERS. Mr. Chairman, the gentlewoman's hearing is too acute. I did not say that at all. I want to speak later as one of the co-sponsors and one of the members of the subcommittee and strongest male advocates. I reserve the balance of my time.

Mr. BEARD of Tennessee. I have the time.

The CHAIRMAN. The gentleman from Tennessee has the floor.

Mr. BEARD of Tennessee. Mr. Chairman, I appreciate that. I feel that since we are dealing with taxpayers' dollars, since we are dealing with the women of this country, who do work for a living, who are trying to raise their families on a fixed income, who are the housewives, who are suffering from the acute ills of inflation, which I feel we have caused by continuous irresponsible spending creating a high national deficit, I think the responsibility is going to be extremely acute as to how this money is going to be used.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. STEIGER of Arizona. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. BEARD of Tennessee. Mr. Chairman, I think it would be extremely detrimental to our overall concept of the purpose of the conference if it is pointed out that several thousand dollars was paid for alcoholic beverages and this and that.

This may seem like a petty amount, but as far as the principle goes, as far as the people of this country being absolutely fed up with the way their tax dollars are being used on so many other things going, we could destroy the entire intent of a project that I know is legitimate in the minds of those who are supporting this bill.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. BEARD of Tennessee. I yield to the gentleman from New York.

Mr. ADDABBO. Mr. Chairman, the gentleman knows this is just an authorization. There still will have to be an appropriation and when the matter is presented to the Committee on Appropriations, all these matters will be delineated and all the items of money will have to be submitted for approval.

Mr. BEARD of Tennessee. Mr. Chairman, I wish I could find that a reassurance.

Ms. ABZUG. Mr. Chairman, I yield myself one-half minute.

Mr. Chairman, I just wanted to assure the gentleman, as one who drinks only ginger ale and club soda, it is very difficult for me to conceive of any expenditures of the kind the gentleman mentions. I have attended many women's conferences, and I find there is much less of that going on there than in the average conferences with men in the political and nonpolitical functions I have attended in the course of my 55 years.

Mr. Chairman, I yield 3 minutes to the gentlewoman from New York (Mrs. CHISHOLM).

Mrs. CHISHOLM. Mr. Chairman, I think it is very interesting to note all of the anxieties and fears and the discussion on potential problems that might possibly arise out of this kind of conference. I think we have to remember that even though the Greek philosopher, Aeschylus, said:

> It is thy place, woman, to hold thy peace, and keep within doors.

And the German philosopher, Nietzsche, said some 100 years ago:

> When a woman is inclined to learning, there is something wrong with her sexual apparatus.

The gentlemen in this House have to recognize that times have changed, and that a very important segment in the American society desires to come together at a national conference in order to address themselves to the opinions, the attitudes, and the outlooks pertaining to the American woman.

Mr. Chairman, this is not going to be a one-sided conference. The very fact that there are legislative bodies throughout the country having great difficulty in getting women's problems addressed, because of the preponderance of men in these bodies, means there must be some kind of central organization, regardless of race, creed or religion, which could bring together all kind of women to dramatically focus on the issues and problems that need to be focused on in male-dominated legislative bodies.

The fact of the matter is that as this Nation approaches its 200th birthday, we have not really heard from women in terms of their progress in this society; we have not moved in the direction of recognizing the contributions and the attributes of women.

The fact that there exists much fear and anxiety around this particular issue is a clear indication that if and when we do get together, we will be able to get many things back on the track in America today.

There is much concern for minority women in the National Council of Negro Women, one of the largest groups in this country. Indian women are coming forward. The reason is because, uniquely, their problems have not been really considered because of a subservient attitude toward women in general, and specifically toward minority women.

What is wrong with women coming together? Gentlemen have been coming together for many years in order to get a point of view, if you will, in order to secure some kind of perspective? The fact that we are going to introduce an amendment which will negate having any kind of lobbying activities, I think, is something that will help many of you who have been having a great many qualms about this particular Conference.

Mr. Chairman, I really do sincerely hope that the gentlemen will, for once in their lives, as this country approaches its 200th anniversary, realize that 51 percent or 52 percent of the population is a very important segment of the population.

Ms. ABZUG. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. BROOKS), the chairman of the Committee on Government Operations.

Mr. BROOKS. Mr. Chairman, I think it is entirely fitting that next year, when we celebrate the Nation's Bicentennial, we provide a means for focusing attention on the role women have played in building this great country. I know there is no one here who has the slightest doubt that women have contributed greatly to the record of achievement we have established as a nation over the past 200 years. And I am sure everyone would also agree that all too often the contributions of women have been overlooked.

The National Women's Conference that this bill will authorize will provide a forum at which these contributions can be recognized and appreciated. It will also serve as a sounding board for hearing the views of women from all parts of the Nation, all ages and backgrounds, on the issues we confront today and will be faced with in the future.

We who know firsthand, from our daily contacts with the women Members of this House, how much they contribute to our proceedings, should give overwhelming approval to a move that will encourage a wider participation by women in our national life.

Ms. ABZUG. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, I want to commend the gentlewomen in this Chamber for their work, and I suppose we might be able to pick up a few more votes by clearing the air on one problem.

If I might gain the attention of the gentlewoman from New York, I would like to ask: Can men attend this great conference?

Ms. ABZUG. Yes.

Mr. CONYERS. That is a very reassuring and definitive answer. We might now try to gain a few more votes, Madam Chairman. In what capacity might they be able to attend this great conference?

Ms. ABZUG. In whatever capacity they find themselves.

Mr. CONYERS. That could be threatening to some and reassuring to others.

On a less important point, concerning the question of the gentlewoman attempting to force her persuasion on nonalcoholic beverages upon the majority of the women, is this going to be put into legislation? Is there not some justification for allowing women who may like to socially partake in alcoholic beverages to do so at this conference?

Ms. ABZUG. Well, in the abstract I agree that women have an equal right to alcohol.

Mr. CONYERS. I thank the gentlewoman.

Ms. ABZUG. But we are not planning to promote that issue at the conference.

Mr. CONYERS. I am glad to hear that as well. Now, for these and many other reasons that have been gone into in great detail here and in the subcommittee hearings and let me say I have been proud to serve as a member of the Abzug subcommittee, which I dutifully attend, and to have cosponsored the National Women's Conference bill, although it was not without some difficulty that I added my name as a cosponsor. I am very, very proud to support it, and I would like to urge those who are considering reducing the monetary appropriation to reconsider.

I think it would be an embarrassment for this body to go on record to say that women are worth about a penny each to go to this Conference. I think this would be a serious mistake.

Ms. ABZUG. Mr. Chairman, I reserve the balance of my time.

Mr. STEIGER of Arizona. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, when H.R. 9924 first came before the House on October 20, I voted against it. I plan to do so again today.

As I stated previously on the floor of the House, I have no objections to a National Women's Conference. I do object, however, to financing such a conference with tax money.

Why should the American taxpayer foot the bill for this undertaking? Why should tax dollars be used at all for such activity? Why should tax dollars be used at all for such an activity? Any organization wanting to hold a National Women's Conference should raise its own money, not tap the Federal Treasury. To do otherwise would set an extremely bad precedent.

The cost of H.R. 9924, moreover, is clearly excessive. The legislation before us authorizes $10 million in funding. I do not see how anyone could justify such a large expenditure of taxpayers' money for a women's conference.

This would be a significant addition to our budget deficit and our inflation problems. We must hold the line on Federal spending. As I have repeatedly warned my colleagues, if we continue to spend at such a high rate we run the risk of fiscal disaster. New York City shows what can happen unless spending is brought under control.

Mr. Chairman, authorizing millions of dollars for a National Women's Conference is an inappropriate use of Federal funds. I urge that H.R. 9924 be rejected.

Mr. STEIGER of Arizona. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have heard a lot here about the coming together. I want the Members to know there is one group that not only does not want to come together with these ladies but is very concerned that they are being left out of the funding because they want to come together with their own group. This is a group that is called the National Status of Women. The president of this group happens to be a wise and generous gentlewoman from Arizona whose name is Donna Carlson. Mrs. Carlson is very concerned because she is convinced that the point of view of this very broad spectrum-based group—all elected officials, I might add—is not being presented. She is very concerned that they are not going to be invited. I am sure, after this colloquy, they will be invited, but they will be given short shrift on the program and their views will be dismissed. I am speaking as the voice of a group of people who are concerned, in the same manner that the gentlewoman from New York speaks for people who are concerned.

Mr. Chairman, I think the gentleman from Illinois (Mr. HYDE) probably put it in its best perspective when he said it is the basis of all canard to assume that women indeed are monolithic, that women have a common goal or a common point of view. That is the sheerest kind of nonsense and the most demeaning of all. Yet if one reads this bill, it assumes just that. If one reads this bill and if one listens to the result of the Women's Conference, they assume just that.

So I will tell anybody who cares to read or listen that I hope that the membership will support the amendments that mitigate the harm this bill will do by shortening the duration of the life of the Conference. But most of all, I hope the Members will join in voting against the final product, because the Members can bet that the attitude of the broad spectrum of women, who want to be recognized as individuals and not polarized, is not going to be respected if we federally institutionalize this attitude.

Ms. ABZUG. Mr. Chairman, I yield 1 minute to the distinguished Speaker.

Mr. ALBERT. Mr. Chairman, it seems to me most appropriate that this bill to organize and convene a National Women's Conference should become effective during the Bicentennial of this country. I have always viewed the constitutional history of the United States as a story of the expansion of human rights. We have eliminated tax requirements, we have eliminated race requirements in the right to vote, we have eliminated sex requirements. I think it is well that we remember now that nearly two centuries ago Abigail Adams wrote to her husband, President John Adams, to ask that he make certain that women were remembered in the code of laws of the American Nation. Mrs. Adams met with something less than full success, and it was not until 1920 that women in this country were guaranteed the right to vote.

In the 28 years since I first became a Member of this House, women have greatly increased their numbers and participation in this body. In the Bicentennial year, the celebration we are about to begin, it is fitting, it seems to me, that the women of this country gather in their States and then in the Nation, meeting to consider how far they have come and how far they still have to go to achieve full opportunity to participate in all phases of our national life.

Unless democracy expands and continues to expand in America, democracy will recede and perhaps even be stilled.

The CHAIRMAN. The time of the Speaker has expired.

Ms. ABZUG. Mr. Chairman, I yield 1 additional minute to the distinguished Speaker.

Mr. ALBERT. Mr. Chairman, I thank the gentlewoman from New York for yielding me the additional time. I do not want to encroach on the time of other Members.

I wish to add that the only way in the world that we can become a pure democracy, as pure as democracy can be, the nature of the human concept being what it is, is to extend the opportunity of people with common goals. Of course, women are not monolithic human beings, but it is necessary that we permit women with common goals to meet locally, on the State level, and on the national level to try to point out the areas where they lack the same rights that belong to their brothers in their own society.

Nobody can say that women are equal under the law of the land except in a theoretical sense. The time has come to make women equal in all senses, in every sense, insofar as the biological differences between the two sexes make it possible.

Mr. Chairman, that is the only right thing to do, that is the only human thing to do, and that is the only way in which America's commitment to equality can become a full reality for her women.

Ms. ABZUG. Mr. Chairman, I yield such time as he may consume to the gentleman from Hawaii (Mr. MATSUNAGA).

Mr. MATSUNAGA. Mr. Chairman, I rise in support of the pending legislation.

Ms. ABZUG. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Chairman, I rise in support of the legislation.

Mr. Chairman, today we have an opportunity to take a small but significant step toward granting full equality of opportunity to women by passing H.R. 9924, which authorizes the convening of a National Women's Conference during 1976 in conjunction with International Women's Year and with our Bicentennial celebration.

It is an interesting paradox that the women of this country, who actually constitute a slight majority of the overall population, find themselves in the same situation as many so-called minority groups. Statistics show, for example, that although the occupational standing of women has improved considerably in recent years, they still fall far short of being adequately represented in many professions.

According to the Department of Labor, of the 30.1 million women presently employed in nonagricultural and nonpostal full-time position in the United States, 3 percent are employed by the Federal Government. State and local governments together employ another 18 percent. In the Federal Government women constitute 48.2 percent of the clerical workers, 28.9 percent of the technical workers, 16.1 percent of administrative workers and 18.7 percent of professionals. It is an appalling fact that women hold only 3.9 percent of jobs in the mid-level grades of GS13–GS15 and only 1.5 percent of the supergrades, GS16–GS18.

In the private sector, similar discrimination against women exists in pay and position. Also, incredibly, instances that women are unable to obtain housing and credit in their own names and on the basis of their own income abound.

H.R. 9924 would continue the National Commission on the Observance of International Women's Year and direct it to organize and convene a national conference preceded by State and regional conferences throughout the Nation. The conferences would have the following objectives:

To assess the role of women in economic, social, cultural, and political development;

Assess the progress that the public and private sectors have made in promoting women's rights;

Identify the barriers preventing women from participating in all aspects of national life; and

Develop recommendations for removing such barriers and establish a timetable for achieving these objectives.

The bill is essential to implement the objectives of House Concurrent Resolution 309, which we passed earlier this year and which called for "the launching of new programs and the forming of new attitudes toward the role of women, with impact reaching well beyond 1975, so as to overcome the obstacles still encountered by women in exercising their full human rights and responsibilities in all fields, including education, the arts, and sports, and in enjoying freedom of choice in planning their lives."

Passage of this measure could constitute a real beginning toward eliminating the obstacles that have served for so long to keep women from enjoying equal opportunities with men in their professional and economic lives.

Some opponents of this legislation contend that it would be instrumental in forcing unwanted obligations upon women and would deprive them of many of the protections they now enjoy under the law. I doubt that there is a single Member of this House who would want to see any woman forced to feel that she must give up her home and family to join the work force. However, I do not see how extending full rights and opportunities to women can be construed to mean that they must all alter their life styles to comply with the new law. What I do feel is that, for those nearly 34 million women in the United States who are now working, or for the millions more who are students or who are looking for equal opportunities in such areas as housing and economic independence, we must acknowledge that they have an inherent right to full equality and we must begin to provide the means for them to achieve the goals they have set for themselves.

It is only right that men and women should share equally in the rights and responsibilities of citizenship and in the many opportunities this country has to offer. I believe this position was expressed most eloquently by former Representative Florence Dwyer during the 91st Congress hearings on the equal rights amendment, when she said:

> The important thing, I suggest, is that no American—regardless of sex, race, religion of nationality—should be arbitrarily denied rights and opportunities which are essential components of his humanity and citizenship whether or not anyone else values them or cares to use them. They belong to the person, as a person.

I am happy to have the opportunity to support H.R. 9924. It is inexcusable that we did not pass this bill earlier under suspension and that we should have to go through this exercise again to correct what is so obviously a blatant violation of the guarantee of equal rights under the Constitution. If this proposal is enacted into law, it will authorize the establishment of a committee to plan for a second women's conference 10 years from now. I can only hope that by 1985 new statistics will show that women at last have achieved full equality under the law and in their day to day lives.

Ms. ABZUG. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL. Mr. Chairman, I rise in strong support of this legislation providing for a National Women's Conference, and commend BELLA ABZUG and all the women Members of the House whose persistence and determination have brought this issue before us today.

My colleagues, the passage of this legislation will make it possible for women from all of the 50 States to meet in their own areas, and from such meetings, to select delegates to attend a national conference. I think it is especially important as part of the national festivities commemorating our 200th anniversary as a Nation, that a requisite amount of Bicentennial attention should focus on the significant contribution that women have made to the development of our national heritage. For only by understanding and commemorating the contributions of the past can we highlight the importance to the future of the status of women in America. This is one of the key objectives of the women's conference.

I strongly believe that we should all welcome this opportunity to convene a cross-section of American women from every social, economic, religious and ethnic background, and give to the women of this country a chance, for the first time in the history of this Nation, to voice their sense of pride in the achievements of the past and to discuss and focus attention on the hopes and aspirations of American women in the next centennial.

Ms. ABZUG. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Mr. Chairman, I am glad to join with the distinguished gentleman from Massachusetts (Mr. O'NEILL) in support of this legislation.

It happens that in my capacity as chairman of the Subcommittee on Labor-Health, Education, and Welfare of the Committee on Appropriations I have had occasion in the last few years to work very closely with the gentlewomen in this House who have appeared before my subcommittee and testified on behalf of these far-reaching programs that touch every man, woman, and child in the United States. To have an organization instituted such as that proposed by this legislation before us repeats what women in Congress have been doing down through the years.

Mr. BIAGGI. Mr. Chairman, I rise to discuss this legislation, H.R. 9924, to provide funds for a National Women's Conference to be held in 1976. I realize that there are efforts underway to reduce the overall authorization level of this bill, which I feel is essential. If, however, the original $10 million figure is maintained, I will oppose this legislation.

My opposition would be based not so much on any ideological grounds as it would be on economic grounds. I cannot justify voting for this legislation for I fear that providing $10 million for a National Women's Conference will open the floodgates for all special interest groups to come to Congress seeking funds to promote their causes on a national level. Our concern at this time must be fiscal responsibility.

I am also concerned about how much support the idea of a National Women's Conference enjoys among all of the women of this Nation. I base this on the large amount of mail I have received from women in opposition to this bill. I intend to listen closely to the supporters of this bill and determine where these concerns are justified.

If I do choose to oppose this bill, it should not be interpreted as a demonstration of my opposition to women's rights. I have consistently supported equal rights for women in employment, education, arts, and sports. However, I feel we must look above this parochial argument and instead look to the real issue behind H.R. 9924; namely, it is an expensive bill and it is not of priority interest to this Nation.

We are fully aware of the great strides which women have made in all walks of life in recent years. As we look even among the membership of the House we find more women being elected. Advances which women have made in this Nation came as a result of hard work and merit, not through their participating in conferences.

The professionals, the mothers, the wives, the workers, and the students among the women of this Nation by their daily actions are demonstrating their importance to our Nation. Let their actions, and not the words of a National Women's Conference speak for the women of this Nation. The $10 million proposed in the bill could be better spent working for increased employment and educational opportunities for women. I urge defeat of H.R. 9924 unless its costs are amended downward.

Mr. UDALL. Mr. Chairman, today we are again considering H.R. 9924, to authorize a nationwide series of conferences directed at exploring and expanding the role of women in America.

As our Nation's Bicentennial begins, I feel that there is no more effective way to demonstrate our national commitment to equality and to focus on the role of women in this democracy than to affirmatively endorse the active, ongoing movement represented by this legislation.

We are embarking on a national search for our heritage during the Bicentennial; the creation of a 50-State history of women as provided for in H.R. 9924 will add immeasurably to this dialog.

Plans for fifty State conferences culminating in a National Conference of Women during the Bicentennial year will help to carry forward the goals articulated by Congress for International Women's Year and will clearly demonstrate that our national interest lies in a continued striving for progress.

I applaud the effort encompassed in this bill to make it possible for women of every economic and social group to attend the Conference as delegates. For too long, the national spotlight has been reserved for those with substantial means while many poor and working people must make great sacrifices to participate or are never represented at all.

Finally, Mr. Chairman, the time has come to complete the unfinished item on our agenda and ratify the equal rights amendment to the Constitution. Without that declaration of national intent, the celebration of 200 years of freedom and democracy will ring hollow.

Mrs. HECKLER of Massachusetts. Mr. Chairman, a portion of the discussion on the National Women's Conference bill has centered on whether or not the Republican National Committee has endorsed this legislation. I understand the RNC has a policy of not endorsing specific pieces of legislation. But, I also know that the Republican National Committee chairman, Mary Louise Smith, supports the concept of this landmark bill.

The record should show that the Republican Party places a high value on the interests and concerns of women. An outstanding woman now heads the Republican National Committee and has served in that post with distinction for over a year and a half.

Republican women throughout the country are organizing to gain even greater numbers in the delegate selection process than they have previously held. Historically, the National Federation of Republican Women has had numerous of its members attend Republican conventions as delegates. Those numbers are increasing dramatically. Our system of delegate selection is responding to their efforts.

Republican women would be well represented at the State and National Women's Conferences. The International Women's Year Commission, appointed by President Ford, will designate a coordinating committee in each State to organize and conduct the State or regional meetings. And, the Presidentially appointed Commission will write the necessary regulations to insure that women of all racial, ethnic, religious, age and political backgrounds are included. The State or regional conferences will then select attendes to the National Conference.

As a Republican member of the International Women's Year Commission, I take a personal interest in fulfilling the goal of adequate representation for Republicans at these conferences. I am confident this goal will be reached.

Mrs. MINK. Mr. Chairman, I am pleased to rise in support of H.R. 9924, authorizing the organization and holding of a National Women's Conference in 1976 to celebrate the Bicentennial anniversary of the birth of this Nation and to set forth a statement by women on the goals and aspirations of the American woman.

The record will indicate, Mr. Chairman, that I introduced my own bill, House Joint Resolution 297 on March 10, 1975, calling for the convening of a White House Conference for Women so that women will have an opportunity to note the special achievements and contributions that women have made in the growth and development of our country.

A national conference would give us an opportunity to review our history and afford our country a more accurate reflection of the contributions of one-half of our citizenry.

We should not forget that major attention will be focused on the United States as we assess our accomplishments in the past 200 years. Elaborate plans are being made to note the valuable and enormous contributions that various

Americans have made in the shaping of our history. Women's contributions on the whole will be neglected, ignored, buried, and the story of our country's history will be told as though only men were here.

We have had many prominent women in our history who have been ignored by writers of our history books. The conference that we propose would look to the Bicentennial year as a particularly appropriate time for the United States to recognize and widely publicize the contributions of women to the development of our country, past, present, and future.

We have much unfinished business before us. This conference would furnish the final needed impetus to correct those deficiencies in our statutes which still promote discrimination against women, and men, in spite of our best efforts to eliminate them. I refer to the recommendations of the President's Task Force on Women's Rights and Responsibilities which grew out of that group's work as long ago as 1969. I find it almost incredible that still in the face of nearly universally stated support for equality for women that there are yet many inequities in our Federal laws. I have introduced a bill, H.R. 7444, which seeks to correct these deficiencies. This conference could serve as the focal point for comprehensive discussion of these remaining inequities.

Through the 50 State conferences which will precede the national conference we will be given the opportunity to evaluate the status of women on a local level and to recommend ways to effect the improvement of such status, as well as to compile important data on women in each of our States.

The concept of having State conferences precede the national one is drawn from the model of White House Conferences. This I believe is the most important ingredient of the bill because it brings together great numbers of women to participate in discussions affecting their own status.

At each of the State conferences efforts would be made to collect its own women's history. All of the States' histories would then be recorded in a "Bicentennial Book of Tributes" which the State would send with their delegates to the national conference assembled in Washington, D.C. This accumulated 50-State history of women would become a valuable record which all women could draw upon for the next 100 years to encourage and promote wider public understanding and support for women in contemporary American society.

By keying the themes of International Women's Year and the Bicentennial, we will draw a broad cross-section of all women to attend each of the 50 State conferences to lay the basis for a strong and effective National Women's Conference. We can effectively combine the goal of the IWY's "action" plan and the theme of American women, past and present, recognize women's contributions in our country's history and work to achieve equality for women in our country and elsewhere in the world.

In my testimony to the Subcommittee on Government Information and Individual Rights on September 30, 1975, I raised a number of issues one of which was the matter of adequate representation in the State delegations to the national conference by women from all walks of life, all economic groups, all social, religious, ethnic and racial groups. This is the most important aspect of this conference. The holding of State conferences in advance of the national conference assures that this kind of cross-sectional representation will in fact occur. In addition, at the hearing on September 30, I noted that although the bill gives wide latitude to the Commission to establish guidelines for adequate representation, that certainly in the use of population as one of the bases, in so doing the small States needed to be assured that their authorized delegations would be large enough to allow them to be adequately represented both at the National Conference and when they return home to their communities. I felt very strongly that the importance of the conference was to have as many women in the country sense the importance of common goals and of the unity that the sharing of these goals will foster. Therefore in discussing this matter subsequently with Chairperson ABZUG, we agreed that the minimum number allowed from each State had to be set at at least 10 persons to make it fair and equitable. Such a committee amendment will be offered in the debate today and I hope it will be agreed to.

This bill deserves the warm and enthusiastic support of all Members of this House interested in the benefits derived from full and open debate which this body prizes so highly. Women have not had the opportunity ever before to hold a national conference of their own. It is time for such a meeting. Those who fear this happening, can rest assured that the success of this conference will be in the diverse expressions of opinions which will emanate from it which will serve to convince all doubters that women are equal citizens of this great Nation, capable of dealing responsibly with the problems of this Nation as they see them and given the fullest and widest opportunity for participation, it will be a historic event of great note in the years to come.

Mr. FLOOD. Mr. Chairman, since 1967, I have been privileged to serve as the chairman of the House Subcommittee on Appropriations for Labor, and Health, Education, and Welfare.

I have had the opportunity, Mr. Chairman, to become very familiar with the social and economic problems which confront American women. In all aspects of legislation under those departments which affect women, we in the committee have consistently strived to make certain that womens rights were protected, ranging in every area from employment opportunity to Government services. Today, this House will take another giant step, I am confident, in establishing a National Women's Conference for 1976, our Bicentennial year.

I vigorously support this legislation, and I urge every Member of this House to do so.

The purposes of this bill are diversified and numerous. It recognizes the contributions of women to the development of this country, and what more fitting year than 1976 could this be done? It assesses, in this Nation. It evaluates their partici- has been made in both the public and private sectors, between men and women in this Nation. It evaluates their participation and their role in social, economic, cultural and political affairs. And most importantly, it will assess the barriers that prevent women from participating fully and equally in all aspects of life.

Mr. Chairman, I urge the adoption of this bill.

Mr. VANIK. Mr. Chairman, the exchange of views and ideas at the International Women's Year Conference in Mexico City this past summer marked the beginning of the decade of women—10 years which are to be dedicated to reviewing the strides that have been made by women, and assessing the many barriers and challenges that lie ahead. In spite of its shortcomings, the Conference was indeed an important event, marking the first time in history that women from all parts of the globe have come together for the express purpose of discussing problems relevant to women.

H.R. 9924, the National Women's Conference bill, provides us the opportunity to insure that the discussions and work begun at Mexico City will be continued on the national level. This legislation would provide funding to enable a cross-section of women from all walks of life and of all political, religious, and social persuasions to meet during our Bicentential year to discuss the progress of women's rights in the United States and to establish a set of goals for the decade of women. It should be stressed that the object of the Conference is not to provide a forum for feminism, but rather to offer an opportunity for feminist and non-feminist alike to voice their views on the various issues facing American women today. Delegates to the national convention will be elected at the local level and will thus represent the myriad viewpoints and opinions held by American women.

I support this legislation, Mr. Speaker, since I feel it is essential to recognize the need for heightened interest in the exchange of ideas and goals among American women. The final report to the President which is required by H.R. 9924 will be an invaluable source for future action in the area of basic women's rights. I hope that my colleagues will join me in recognizing and saluting the contributions made by women to our society, and the need for further study of the problems which they face.

Mr. MAGUIRE. Mr. Chairman, as a cosponsor of H.R. 9924, I am an enthusiastic advocate of the National Women's Conference bill because it embodies a serious congressional interest in the concerns of American women—and emphasis which is long overdue.

The National Women's Conference program will be a grass roots assessment of progress in both public and private sectors to promote equality between men and women, to identify barriers which prevent women from participating fully and equally in all aspects of national life, and to recommend ways to remove these barriers—establishing a timetable for the achievement of goals set forth in the

These conferences may uncover the need for legislation in some areas. The discussion and presentation of facts, options, and recommendations are certainly not lobbying in the sense that some of the bill's opponents would like us to believe.

It has also been suggested that $10 million—or even $5 million—is too much to authorize for this program. We should note that $6.5 million were spent 5 years ago for the Conference on Aging—with no requirement for publishing a report. The National Women's Conference bill funds the organization of 56 State-level conferences, a national conference—with funds allocated to provide financial assistance to representatives who cannot meet their own expenses—and publishes and distributes a report. It seems to me that $5 to $10 million for a program which affects the majority of our citizens—less than 1 cent per woman in this country—is not too high a price to pay.

As women of all backgrounds and philosophies, ages, ethnic, racial, and religious groups will be represented, the recommendations presented to Congress and to the President from this conference will be a valuable reflection of the needs and desires of American women.

I urge passage of this legislation as a significant step to match our rhetoric with action.

Ms. HOLTZMAN. Mr. Chairman, I rise in support of H.R. 9924, a bill to convene a National Women's Conference. I am a cosponsor of this bill, and I believe that its passage is important to women in this country.

It is appropriate that Congress pass legislation that will allow women of varying views and of all ages to use the Bicentennial year to examine their position in American life and make specific recommendations for improvement. This bill will permit women to forge a national agenda to enhance their own status—and thus the common good of all.

Although progress has certainly been made in the past few years, women still do not enjoy full equality of opportunity and status. For example, in such areas as pensions, social security, and employment, women still suffer the effects of discrimination. The plight of elderly women—60 percent of whom live below the poverty level—is a national disgrace.

The Women's Conference provides a unique opportunity to forge an agenda that reflects the needs and aspirations of all women, not a select few. Conferences will first be held at state levels to encourage women all over the country to participate in their home communities in shaping this agenda.

This bill should be passed.

Ms. ABZUG. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 9924

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS

SECTION 1. The Congress hereby finds that—

(1) International Women's Year, and its World Plan of Action, have focused attention on the problems of women throughout the world, and have pointed to the need for an evaluation of the discrimination which American women face because of their sex;

(2) the Bicentennial year of 1976 is a particularly appropriate time for the United States to recognize the contributions of women to the development of our country, to assess the progress that has been made toward insuring equality for all women, to set goals for the elimination of all barriers to the full and equal participation of women in all aspects of American life, and to recognize the importance of the contribution of women to the development of friendly relations and cooperation among nations and to the strengthening of world peace; and

(3) a national conference of American women, preceded by State conferences, is the most suitable mechanism by which such an evaluation of the status of women and issues of concern to them can be effected.

DUTIES OF COMMISSION

SEC. 2. (a) The National Commission on the Observance of International Women's Year, 1975, established by Executive Order 11832 on January 9, 1975 (hereinafter in this Act referred to as the "Commission"), is hereby continued. The Commission shall organize and convene a national conference to be known as the National Women's Conference (hereinafter in this Act referred to as the "Conference"). The Conference and State or regional meetings conducted in preparation for the Conference shall be held in such places and at such times in 1976 as the Commission deems appropriate.

(b) The Commission shall consult with such National, State, and other organizations concerned with women's rights and related matters as the Commission considers necessary to carry out the purpose of this Act.

COMPOSITION AND GOALS OF THE CONFERENCE

SEC. 3. (a) The Conference shall be composed of—

(1) representatives of local, State, regional, and national institutions, agencies, organizations, unions, associations, publications, and other groups which work to advance the rights of women; and

(2) members of the general public, with special emphasis on the representation of low-income women, members of diverse racial, ethnic, and religious groups, and women of all ages.

(b) The Conference shall—

(1) recognize the contributions of women to the development of our country;

(2) assess the progress that has been made to date by both the private and public sectors in promoting equality between men and women in all aspects of life in the United States;

(3) assess the role of women in economic, social, cultural, and political development;

(4) assess the participation of women in efforts aimed at the development of friendly relations and cooperation among nations and to the strengthening of world peace;

(5) identify the barriers that prevent women from participating fully and equally in all aspects of national life, and develop recommendations for means by which such carriers can be removed;

(6) establish a timetable for the achievement of the objectives set forth in such recommendations; and

(7) establish a committee of the Conference which will take steps to provide for the convening of a second National Women's Conference in 1985. The second Conference will assess the progress made in achieving the objectives set forth in paragraphs (5) and (6) of this subsection, and will evaluate the steps taken to improve the status of American women during the "Decade of Women", 1975–1985.

(c) All meetings of the Conference and of State or regional meetings held in preparation for the Conference shall be open to the public.

POWERS OF COMMISSION

SEC. 4. The Commission shall—

(1) designate a coordinating committee in each State which shall organize and conduct a State or regional meeting in preparation for the Conference;

(2) prepare and make available background materials relating to women's rights and related matters for the use of representatives to the State and regional meetings, and to the Conference;

(3) establish procedures to provide financial assistance for representatives to the Conference who are unable to pay their own expenses;

(4) establish such regulations as are necessary to carry out the provisions of this Act;

(5) designate such additional representatives to the Conference as may be necessary and appropriate to fulfill the goals set forth in section (b) of this Act;

(6) grant technical and financial assistance by grant, contract, or otherwise to facilitate the organization and conduct of State and regional meetings in preparation for the Conference;

(7) establish such advisory and technical committees as the Commission considers necessary to assist and advise the Conference; and

(8) publish and distribute the report required under this Act.

ADMINISTRATION OF COMMISSION

SEC. 5. (a) The Commission may appoint such staff personnel as it considers necessary to carry out its duties under this Act. Such personnel shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS–18 of the General Schedule. Appointments shall be made without regard to political affiliation.

(b) The Commission may accept, use, and dispose of contributions of money, services, or property.

(c) The Commission may use the United States mails under the same conditions as other departments and agencies of the United States.

(d) The powers granted the Commission by this section shall be in addition to those granted by Executive Order 11832. The powers granted the Commission by Executive Order 11832 may be employed to fulfill the responsibilities of the Commission under this Act.

STATE AND REGIONAL MEETINGS

SEC. 6. (a) A meeting in preparation for the Conference shall be held in each State in accordance with regulations promulgated by the Commission, except that in the event the amount of time and resources available so requires, the Commission may combine two or more such State meetings into a regional meeting.

(b) Any State or regional meeting which receives financial assistance under this Act shall be designed and structured in accordance with the goals of the Conference set forth in section 3(b) of this Act.

(c) (1) Each State or regional meeting shall designate representatives to the Conference in accordance with regulations promulgated by the Commission and consistent with the criteria set forth in section 3(a) of this Act.

(2) The total number of representatives designated under this subsection shall be appropriated among the States according to population.

REPORT

SEC. 7. The Commission shall submit a report to the President and to each House of the Congress not later than one hundred and twenty days after the conclusion of the Conference, and shall make such report available to the general public. Such report shall contain a detailed statement of the findings and recommendations of the Conference with respect to the matters described in subsection (b) of section 3. The President shall, not later than one hundred and twenty days after the receipt of the report, submit to each House of the Congress recommendations with respect to matters considered in such report.

TERMINATION OF COMMISSION

SEC. 8. The Commission shall continue in operation until thirty days after submitting its report pursuant to section 7, at which time it shall terminate.

AUTHORIZATION OF APPROPRIATION

SEC. 9. There are authorized to be appropriated without fiscal year limitation, such sums, but not to exceed $10,000,000, as may be necessary to carry out the provisions of this Act. Such sums shall remain available for obligation until expended.

DEFINITION

SEC. 10. For the purpose of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

Ms. ABZUG. Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 5, line 19: after "section" insert "3".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the second committee amendment.

The Clerk read as follows:

Committee amendment: Page 6, after line 24: add the following new subsections:

"(e) The Commission, to such extent as it deems necessary, may procure supplies, services, and personal property; make contracts; expend funds appropriated, donated, or received in pursuance of contracts hereunder in furtherance of the purposes of this Act; and exercise those powers that are necessary to enable it to carry out efficiently and in the public interest the purposes of this Act.

"(f) The powers granted the Commission under this Act may be delegated to any member or employee of the Commission by the Commission."

The committee amendment was agreed to.

Mr. PEYSER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have listened to the general debate from beginning to end now on the conference report, and it seems to me that there is a real need for some clarification on the floor of the House here.

This is not a man-against-woman vote that is taking place or will ultimately take place, both on the amendments and on the final passage of the bill. There seem to be some very clear lines that have been drawn, as though we are opposing forces on the floor and that the men are going to see to it that the women are not going to have a Conference because they are women.

Mr. Chairman, there is a justification for this Conference. We really will not know whether it is a good and meaningful conference until we see the results of a conference, any more than we would know whether the Conference on Aging was going to be a meaningful conference, or a Conference on Education, or a Conference on Children, until we could see the results. We, in the Congress, could then take actions in our own committee that were meaningful.

Mr. Chairman, I think that is the only way of appraising this, because for anyone to say today that women in the country do not have any problems that cannot be addressed through existing agencies and that there is no need to bring together a group to thoughtfully analyze the problems of women and of trying to see whether some solutions can be reached, would be absolutely ridiculous.

If that were so, then we could say, "Let us not have conferences. Let us not have hearings. We will simply act on what we think ought to be done, whether it fits the facts or not."

Mr. Chairman, I do not think that that makes sense.

I understand there will be amendments to reduce the amount of money involved. If the Conference can be conducted, obviously, with less money, I will support those amendments; but I think the fact is that we are drawing what are fictitious lines of reason for not having the Conference.

Mr. Chairman, I would like to say that the young people of this country, the young men and women, would be absolutely appalled if they thought this Congress was acting on the basis of a way we might have viewed this issue 25 or 50 years ago. This is a Congress that is supposed to be reacting to problems and leading young people, as a matter of fact, all the people in our country, men and women. They are looking for leadership, and I think the young people of the country would say, "My God, this Congress is still stuck in the mud of 50 years ago if they do not want to let women have a conference at which they can discuss their needs and their problems."

Therefore, Mr. Chairman, I think we must respond. All this talk about drinking and parties is really a bunch of baloney as far as reality is concerned.

That is not the issue here. The issue is that there are problems that need to be addressed.

Mr. Chairman, I will give the Members one example. At Colgate University, where I am a trustee, 5 years ago we entered into a coeducational program. This was after much battling and soul-searching as to whether we, as a traditional men's college, should become a coeducational institution.

We agreed to do it. Then we thought we had solved the problem because now we were admitting women. But we found out that in reality it has taken us 5 years to understand the problems that women were confronted with in education on that university campus, even with all the good intentions. But we learned from those women who were on the campus.

As I say, it has taken us 5 years, but we do have a campus where women are truly equal and involved and take a key role in that university.

But if we had not had them there and had not been willing to listen and learn and go through some agonies with that problem, we would never have solved it, we would never even have known how to handle that problem.

This is the same type thing we are talking about today. Let us listen to the results of the conference. From all over this country, women will speak out strongly on issues on whatever side they are on. Let us hear some conclusions and let us learn something. That is really what we are talking about. I hope this Congress is not going to put its hands over its ears and say, "We don't want to hear it, don't give your problems to us."

AMENDMENT OFFERED BY MR. MATSUNAGA

Mr. MATSUNAGA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MATSUNAGA: On page 7, strike out all of lines 19–25 and insert in lieu thereof the following:

"(c)(1) Each State or regional meeting shall select representatives to the Conference in accordance with regulations promulgated by the Commission and consistent with the criteria set forth in section 3(a) of this Act.

"(2) The total number of representatives selected under this subsection shall be apportioned among the States according to population, except that despite such apportionment no State shall have fewer than ten representatives.

Mr. MATSUNAGA. Mr. Chairman, I fully support the pending bill which would authorize the first National Conference on Women ever held in this country.

One of the most attractive features of the bill is the fact that its sponsors have sought to insure the participation of a broad cross section of women. The bill provides that the national conference itself and all preparatory meetings held at the State and regional level will be open to the public. In addition, special efforts must be made to insure the participation of women of varying ages without regard to their economic, racial, ethnic, or religious backgrounds.

The amendment which I offer is intended to make the conference even more representative.

First, my amendment provides that no State shall have less than 10 delegates to the national conference. The bill, as reported by the House Committee on Government Operations, provides that delegates to the conference shall be apportioned among the States by population, a provision that would penalize Hawaii and 16 other small States. In fact, if the bill were enacted as reported, a group of small States might end up sharing one regional delegate to the conference. My amendment would not prohibit the allocation of a larger number of delegates to larger States. It would merely assure small States of adequate minimum representation at the conference.

In addition, my amendment would provide that conference delegates shall be selected, not designated at the State and regional level. The committee bill would have such delegates designated by a procedure not described. I know that the bill's sponsors intended to provide maximum flexibility in the selection of delegates to the national conference, and to insure the selection of a fully representative, broad range of delegates. I believe, however, that the designation of delegates would create serious problems and subject the conference to criticism. One question which will arise is: Who will designate the delegates?

If the delegates were selected by participants in the State and regional meetings, this question would not arise. Participants in the Conference and members of the general public could be assured that Conference delegates had been selected in a democratic manner. My amendment would not relieve States and regions of the obligation of sending a fully representative, racially and ethnically balanced delegates to the National Conference. Nor would it deprive participants in the State and regional meetings of flexibility. They would be able to set up their own selection procedures and devise their own methods of achieving a fully representative delegation in line with the criteria established in the bill, whether it be by election or by designation by duly authorized individuals.

The selection of Conference delegates at the State and regional level would not deprive the National Commission on Women of the option, provided in the bill, of appointing outstanding women to serve as delegates to the Conference. Such appointees, chosen from the ranks of women prominent in many fields, would serve in addition to the selected delegates.

Because I believe that these changes would clarify our intent and increase participation in the National Women's Conference, I urge the adoption of my amendment.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. MATSUNAGA. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I would like to ask the gentleman a question: If we are going to mandate that there be no less than 10 delegates from each State, and then, of course, other States may have more delegates, there will be a maximum, a total figure of the number of delegates that will be arrived at—how many thousand there will be, I do not know—but since the bill provides for the payment of travel expenses and hotel expenses for the delegates, I would like to know how much this costs the Federal Government.

Mr. MATSUNAGA. The language in my amendment will take care of the situation which the gentleman fears will arise. It specifically provides that, and I quote:

> Despite such apportionment, no State shall have fewer than 10 delegates.

This means that the total number of delegates to the Convention need not run into the thousands, because even if a small State like Nevada has 10 delegates it does not mean that the State of New York will be entitled to 750 delegates by virtue of its having a population 75 times that of Nevada. In other words, it is similar to the apportionment used to allocate Members of U.S. House of Representatives among the 50 States. No State is entitled to less than one Representative in the House, but this does not mean that a State with 75 times the population of the smallest State is entitled to 75 Members in the House, even though apportionment of those 435 Members in the House is based on population. On the same basis, even if the smallest State is entitled to 10 delegates to the Women's Convention, the total number of delegates could be limited, to cut down expenses.

Mr. BAUMAN. The gentleman has failed entirely to respond to the question I asked the gentleman. We are setting up a maximum number of delegates by the gentleman's amendment, but the Federal Government under other sections of this bill must pay for them. How many delegates is that in total? How many thousand, I assume it will be, and how much is it going to cost.

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. MATSUNAGA. I yield to the gentlewoman from Hawaii.

Mrs. MINK. I thank the gentleman for yielding.

I would like to suggest that the gentleman's amendment fully meets the questions the gentleman from Maryland raises. This question was debated at great length at the time when we were trying to decide the apportionment question for the Democratic National Convention in 1972. At that time this issue of the small States became quite a contentious one. There are 14 States that would fall within this category of being considered small. If we applied the formula based totally upon apportionment, it could develop that some of these States, like Nevada and Idaho, would only end up with one or two delegates.

But because of the proviso that says no State shall have less than 10, those States would be increased to 10, but in no way would that smallest State be the de minimis criterion for the determination of what the largest States would get. It is only a decision that the smallest State shall be able to send at least 10, but it would in no way make the formula dependent upon what the higher or more populous States would receive.

Ms. ABZUG. Mr. Chairman, I have considered the amendment, and the majority is prepared to accept the amendment.

Mr. STEIGER of Arizona. Mr. Chairman, I have no problem with the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Hawaii (Mr. MATSUNAGA).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. LEVITAS: Page 8, after line 22, add the following:
>
> No funds authorized hereunder may be used for lobbying activities.

Mr. LEVITAS. Mr. Chairman, I think this is an important constructive amendment. It has been suggested by some opponents of this legislation—and as a result fears have been justifiably raised among many people—that taxpayers' dollars authorized by this bill could be used for lobbying on behalf of the equal rights amendment or some other specific piece of legislation. Obviously that is not the intention of this legislation. I think it would be highly improper if it were done. It should not be permitted.

During the committee consideration of this bill this point was raised by me and discussed, and it was pointed out that funds would not be used for lobbying; but in order to make certain beyond a shadow of a doubt, I have suggested that the bill be specifically amended by providing that no funds authorized hereunder may be used for lobbying activities. I think that this will not only carry through the purpose that the committee had in mind when the legislation was reported, but it will provide an absolute safeguard that the Treasury of the United States would not be used for improper purposes.

Mr. Chairman, I urge the adoption of the amendment.

Ms. ABZUG. Mr. Chairman, the committee has considered the amendment. We accept the amendment.

Mr. STEIGER of Arizona. Mr. Chairman, I have no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. LEVITAS).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. STEIGER OF ARIZONA

Mr. STEIGER of Arizona. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. STEIGER of Arizona: On page 8, lines 19 and 20, strike out "$10,000,000" and insert "$1,000,000", and on line 21, strike out the last sentence of Section 9.

Mr. STEIGER of Arizona. Mr. Chairman, what we do here is understandable on the face of it. We are reducing the sum from $10 million to $1 million. I would advise the Chair and the Members that it is my purpose also, in the event that this amendment is adopted, then to offer an amendment, which I believe is labeled No. 2, which would reduce the life of the conference from 10 years to 1 year.

The basis of the arithmetic in arriving at $1 million was based on the fact that the ladies felt that the $10 million were necessary for a 10-year life of the bill. I am interested in seeing the conference limited to 1 year or one conference and therefore I have arrived at the $1 million figure.

Hopefully the warm spirit that has floated around the last 2 minutes will continue and we can pass this amendment without objection.

AMENDMENT OFFERED BY MRS. MINK AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. STEIGER OF ARIZONA

Mrs. MINK. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mrs. MINK as a substitute for the amendment offered by Mr. STEIGER of Arizona:

Page 8, lines 19–20, strike out "$10,000,000" and insert in lieu thereof "$5,000,000".

Mrs. MINK. Mr. Chairman, I appreciate the fact that much of the criticism leveled against this bill has not been to the substance of the conference nor to its purposes nor to the need for it but because of the fiscal situation that this country faces the criticism is mainly of the need to cut expenditures to the bare bones. I have reluctantly recognized this criticism that has been made against the bill, and, in a spirit of trying to arrive at a figure which I consider to be a bare bones figure and which would still permit us to have a reasonable compromise, I offer this compromise figure of $5 million, which is to reduce the funding by half.

The $10 million figure, I would like to insist, is not a figure that was simply drawn out of the hat. It was the figure that was used by this House in approving the White House Conference on Libraries as a reasonable figure for librarians to have State conferences and then to gather in a national conference in 1977.

It seemed to me if the Congress were willing to authorize such a figure for librarians to convene and celebrate their 100th anniversary of the establishment of the American Library Association, that because this conference sought to represent over one-half of the people of this country, that would be the very barest minimum which we should be satisfied in seeking approval of.

In reviewing a Presidential communication that came to my desk a few days ago, I find the White House indicated they were announcing a White House Conference for the Handicapped to be held in December 1976. That conference announcement indicated an appropriation level in excess of $3 million. But there again we are talking about a small conference of limited scope and of select individuals coming to discuss a limited but important issue in terms of the total list of national priorities.

So in viewing the basis of the budget request for that conference, I note that it recognizes the importance of State conferences and sets up a minimum of $25,000 for each State to hold a State conference before the White House conference is held. Calculating all these factors out, believing that perhaps the 15 smallest States would likely be allowed perhaps the minimum sum of $25,000 to hold the State conference and the other 35 States would have to have a minimum of $50,000 in order to help them have their State conferences, and then adding the President's budget figure for the National Conference for the Handicapped itself, we arrive at the total figure of $5 million.

I think this is a totally justified and reasonable amount of money to seek.

The heart of all this is that we simply want for the first time in the history of this country an opportunity for women to meet. There is really no "women's point of view" that we seek advocacy of. We simply want an opportunity for women to get together from all walks of life, from all economic groups, from all social groups, cultural, religious, ethnic groups, to come together and to speak clearly, coming from State conferences, to see exactly what the condition of the American woman is today.

We have heard so many people purport to speak for the American woman. There are effective advocates on all sides of the issues. They will all be at the conference. It seems to me it is fitting for us to make the broadest and widest opportunity for participation by all interested women at the State and national levels.

So I would hope that we approve this $5 million figure and permit this conference to be held with the kind of participation that it deserves from the women in the country.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentlewoman yield?

Mrs. MINK. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. Mr. Chairman, the gentlewoman does not intend to suggest the 10-year life of the conference staff in the figure, does the gentlewoman contemplate that in the event the $5 million figure is accepted?

Mrs. MINK. I think that issue will be met at a later point. It was not the intention of the drafters of this bill to have a 10-year conference. I think the gentleman has misread the section that the gentleman refers to. Certainly I think the gentleman expresses more fear than reality. Somehow the gentleman does not believe that women can gather for the purposes of describing and delineating a national statement.

I think all of us share a great deal of the responsibility, if the gentleman will permit me to expand on this subject, of trying to focus the work and the efforts of a national conference, so that it can be a meaningful experience.

To that extent, I trust you will approve 50 percent of the people of this Nation meeting to celebrate the Bicentennial and to discuss their mutual concerns and hopes for the future.

Mr. STEIGER of Arizona. Mr. Chairman, I rise in opposition to the gentlewoman's substitute amendment.

Mr. Chairman, I must tell this House, I really feel like a man betrayed. I did not know we were going to get into an auction on this situation; but I will tell the House and the gentlewoman from Hawaii that there is no more rationale for the $5 million than there is for the $10 million.

As the gentlewoman has already conceded that the $10 million is too much, then the gentlewoman still fails to address herself to the problem and I guess the gentlewoman has not had time to read the bill in her lust to get this conference approved.

I will tell the gentlewoman, if the gentlewoman would read on page 4, paragraph 7 of the bill, on line 15, the gentlewoman will see that the staff of this conference will live for 10 years under this legislation. That concerns me very much, because in all the rhetoric we have had, this bringing together nonsense, the one thing that concerns those of us who really are troubled about lobbying tax dollars is that we are going to have a staff in place whose only purpose is going to be to lobby for the equal rights amendment and they will be in place until 1985, according to the language on page 4, starting on line 15. That is what the gentlewoman from Hawaii has misconstrued as something it is not.

Mr. Chairman, I hope we will oppose the $5-million substitute, because it brings no relief from the 10-year problem. In addition, it prevents the adoption of a very reasonable ceiling of $1 million.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield

Mr. STEIGER of Arizona. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, the gentlewoman has given us an example of various conferences which the gentlewoman sets up as a measure by which $5 million should be appropriate, mentioning librarians and the Conference on the Handicapped; but the truth of the matter is that a much more reasonable standard, it seems to me, would be what this Congress has authorized, much as it was against my wishes, for the two national parties to hold their national conventions in 1976. They granted only $2 million for each political party for thousands of delegates to come together at their own expense to nominate and possibly elect the President of the United States; if the parties can get by at the cut rate of $2 million I see no need to spend $5 million to accomplish a project that might be considered slightly less important than choosing the person who will serve as the head of this Nation for the next 4 years.

Mr. STEIGER of Arizona. Mr. Chairman, I think the gentleman makes an excellent point. Again if we were to compare the problems presented at the national political conventions with the narrower ones to be considered by a women's conference, the gentleman's equation deserves even more attention.

I will simply say, I think the bill is in trouble with $1 million, because of the philosophy of tax dollars being used to lobby.

Even at the million-dollar reduced level, it is proposed now to split the difference. To make this a betting process, I think, is very unfortunate. I would hope that the Members would reject these blandishments. They have already confessed that $10 million is excessive by coming in here for $5 million. I submit that $5 million is excessive also, and we ought to stay with the $1 million suggestion.

Ms. ABZUG. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to make two points. First, the gentleman's fears about lobbying have been met by an antilobbying amendment which we have accepted.

Second, this is not comparable to the Democratic and Republican Conventions, which are national conventions. We are dealing here—and this is where the gentlemen should join us in our concern—with State conferences as well. If we were to accept the figure he proposes here, we would be forced to hold no conference at all, or at the most a very superficial national conference. If it is our desire that all women have the opportunity to participate, then we must provide for meetings in each of the States so that women of all walks of life, from every economic background—a housewife, homemaker, a person who works, a person who does not work—have an opportunity to attend.

We cannot possibly have State meetings without the kind of funding that we have suggested. We have met the problem the gentleman has raised about $10 million, recognizing that this is a period of inflation and recession. We have cut it down to the bare minimum.

We have referred to the conferences on the elderly, the handicapped, and on children. All of these conferences, many of which were held in a period prior to much inflation, more than equaled this amount, although in many instances they did not hold State conferences. If we take away the State conferences, this reduces the likelihood that there will be substantial grassroots participation.

It is also incorrect to suggest that this is a 10-year conference. All that the bill provides in that regard is that there will be a committee established after the conference which will be responsible for making some continuing efforts so that the reports and the recommendations and all of those things that we are required under the bill to provide will have some implementation in the next period of time.

It should be very clear to the Members of this House that this is all we provide for.

The CHAIRMAN. The question is on the amendment offered by Mrs. MINK as a substitute for the amendment offered by Mr. STEIGER of Arizona.

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—ayes 28; noes 16.

So the substitute amendment for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment, as amended, offered by Mr. STEIGER of Arizona.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. STEIGER OF ARIZONA

Mr. STEIGER of Arizona. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STEIGER of Arizona: On page 4, strike out lines 15 through 12 inclusive.

Mr. STEIGER of Arizona. Mr. Chairman, I hope my colleagues who have a copy of the bill will recognize the language of this amendment strikes the language starting on line 15, page 4, through line 22, and it eliminates the 10-year life of the committee whose next mission will be, if you will, to evaluate the steps taken to improve the status of American women during the "Decade of Women," 1975–85.

Mr. Chairman, I hope the ladies follow the progress of the Decade of Women, but I am violently opposed to the tax money being used to support a point of view of that one Decade of Women.

Clearly, Mr. Chairman, there can be nobody in this House who can fail to recognize the precedent we are establishing. We are appropriating here $5 million to observe the progress of women through a 10-year period, 1975 to 1985. We will then have to appropriate an equal amount of money to observe the progress of blacks, to observe the progress of men, to observe the progress of Poles, to observe the progress of Lithuanians, if you will, and everybody else who has been left out.

Mr. Chairman, I will tell all of my friends right now when they draw the line they will have to recognize that they are discriminating on a prima facie basis against every other minority or interest group by not observing their progress in the decade 1975 to 1985 unless they strike this language. All I am asking is that if indeed these people want to get together to see how they are doing for the next 10 years, God love them, let them get together and do it, but let them do it with their own money and not with tax money. Let them observe the progress of women from 1975 to 1985 through their own eyes and not through the taxpayers' eyes.

I will tell the gentlewoman from New York (Ms. ABZUG) that she goes too far if she tells people this is not more than a 10-year life of a committee whose design is to observe women through their own wonderful, undimmed, objective vision.

Is the gentlewoman nodding that she is going to believe this? If she is, I will stop this rhetoric.

Ms. ABZUG. If the gentleman will yield, I disagree with the gentleman on the purposes of the bill.

Mr. STEIGER of Arizona. Incidentally, some of the Members will have forgotten, I know, the words of the gentleman from New York (Mr. PEYSER) but it shows the training he has had that prepares him for the other body, his total confusion on this matter, in that he believes that this is a men versus women problem. Those who have observed this debate know it is not a men versus women problem. It is a taxpayers versus a specific interest problem, and one that ought properly be fought in this arena. But the gentleman from New York is faced with many things in his campaign, and he is unable to pay specific attention to what is going on. At any rate, I hope my friends will read the language in the bill that I am trying to strike and will recognize that it is not a simple whatever; it is recognizing matters to be eliminated.

AMENDMENT OFFERED BY MR. CONYERS AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. STEIGER OF ARIZONA

Mr. CONYERS. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. CONYERS as a substitute for the amendment offered by Mr. STEIGER of Arizona:

Page 4, line 17: strike out "in 1985".

Page 4, lines 21 and 22: strike out "during the "Decade of Women", 1975–1985".

Mr. CONYERS. Mr. Chairman, this substitute amendment will address whatever fears may exist, correctly or incorrectly, in the minds of those of us in the Chamber who are called upon to deliberate upon this important piece of legislation. We merely delete at two points on page 4 the phrase "in 1985," and then again in lines 21 and 22 strike the phrase "during the 'Decade of Women,' 1975–1985."

Mr. Chairman, this will address itself to whatever logic the gentleman from Arizona (Mr. STEIGER) might have in his arguments and his concern about this matter. This will take it out of the bill. Another major concession is made to satisfy those who are deeply concerned about this.

Mr. Chairman, I hope we can move forward with this legislation, and I yield back the balance of my time.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. Mr. Chairman, I have yielded back the balance of my time.

The CHAIRMAN. The gentleman from Michigan (Mr. CONYERS) has yielded back the balance of his time.

Mr. BAUMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wish only to observe that the effect of the substitute amendment offered by the gentleman from Michigan (Mr. CONYERS) striking these particular dates, read together with the paragraph on the termination of the Commission on page 8 of the bill, means that this Commission is now self-perpetuating and can exist forever. This is so because as to the termination date, section 8 says:

> The Commission shall continue in operation until thirty days after submitting its report pursuant to section 7, at which time it shall terminate.

So by the simple expedient of not submitting its report, the Commission could continue in operation.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. Mr. Chairman, the gentleman from Maryland is right. I am glad that the gentleman made this point.

I was about to accept the language offered by the gentleman from Michigan (Mr. CONYERS) when, fortunately, I had another moment to read what the language really meant. I see what the gentleman has cleverly inserted here, I will tell my friend, the gentleman from Michigan, because the fact is that the whole purpose of this paragraph 7 is to provide for the convening of a second National Women's Conference.

That means, as the gentleman from Maryland points out, that this, absent the 120 days, means we can just preserve the committee in perpetuity and this House will have to do battle with the appropriation from here on in.

Mr. Chairman, I will tell the gentleman from Michigan (Mr CONYERS) that he has made an excellent effort, but it does not quite reach the net.

Ms. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentlewoman from New York.

Ms. ABZUG. Mr. Chairman, I would like to point out to the gentleman from Arizona that the Commission is to submit a report to the President and to each House of the Congress not later than 120 days after the conclusion of the conference, and under section 8, the Commission terminates 30 days after submitting its report.

All the substitute amendment, as offered by the gentleman from Michigan (Mr. CONYERS) provides, is that there will be a committee which will have some continuing responsibility to determine what else should be done regarding the "decade of women," to which the gentleman objects but which nevertheless is a fact. There has been recognition of it by this House and by the President and by others.

Mr. Chairman, all we provide for is a committee which can consider what to do, if anything, in that period.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. Mr. Chairman, I would like to explain to the gentlewoman from New York (Ms. ABZUG) why she is incorrect. Maybe this is the first time that she has been legislatively incorrect.

What paragraph 7, which is the paragraph to be amended by the amendment offered by the gentleman from Michigan (Mr. CONYERS), says is this:

> Establish a committee of the Conference which will take steps to provide for the convening of a second National Women's Conference.

Now, we couple that with the language in section 7, which the gentlewoman from New York invoked to show that the Commission will terminate, and we see that the only trigger for the termination is the conclusion of the Conference. Here we are providing for a second conference, and so the Commission itself will not conclude until the second conference has concluded.

Therefore, I will tell the gentlewoman from New York that it just does not get the job done. If the gentlewoman from New York would like to make sure the Commission expires, I hope she will support my amendment to strike section 7.

Mrs. HECKLER of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mrs. HECKLER of Massachusetts. Mr. Chairman, I rise in opposition to the Steiger amendment for three reasons.

First of all, I want to clarify the fact that this legislation will not per se, by and of itself, provide for the convening of another conference. It sets up a mechanism by which that suggestion could be made to the appropriate Congress.

The decision would be made by the Congress sitting in 1984 or 1985. We do not presume to make any judgment for that particular Congress.

Second, the most important domestic purpose of section 7 is to provide a means of oversight and evaluation. To repeat the comment I made and the references I made to the equal pay for equal work law, which is as fundamental a principle of democracy as one can cite, the failure of the country, the Congress, and the executive branch to implement that law shows again the need for an oversight of laws and of proposals made by a national conference.

It is useless to have a conference and to have the rhetoric of eloquent speeches if the substance of those proposals remains in the files and is not the object of constant review so that the conditions of life affecting women can truly be made equal in this society.

The third reason that I suggest that this amendment has very, very damaging overtones and would have serious repercussions abroad is the fact that the whole bedrock of this proposal is based on the fact that the United Nations has declared this to be the decade of women.

Despite unfavorable publicity over a few instances at the conference in Mexico City, there were many substantive gains for women all over the world as a result of that conference. Rural women, women in the Third World, and women in other societies were the subject of and the focus of that conference; and this decade will be the era in which the role of women throughout the world will be studied, and, hopefully, made just.

If the United States fails to make its commitment to the oversight of the role of women, then what will the other countries of the world, those which are not as enlightened as this one is, those in which the role of women is, indeed, better and more fortunate, do? They will turn their backs on commitments made in Mexico City to help the role of women everywhere and cite the U.S. precedent as an example.

Mr. Chairman, I do not think that this Congress wishes to set such an adverse precedent today.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. CONYERS) as a substitute for the amendment offered by the gentleman from Arizona (Mr. STEIGER).

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—ayes 26, noes 13.

So the substitute amendment for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment, as amended, offered by the gentleman from Arizona (Mr. STEIGER).

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. BAUMAN: On page 8, line 16, change the period to a comma and add the following new language, "but in no event shall the Commission continue in operation beyond March 31, 1977."

Mr. BAUMAN. Mr. Chairman, I offer this amendment in the hope that it will set to rest the confusion created by the last amendment as to whether this commission will exist for 10 years, a decade, a century, or whatever it may be because of the ambiguity. The amendment of the gentleman from Michigan as I read it, makes it entirely possible for a 10-year open ended authorization, during which this commission will come back and ask for the other $5 million it did not get today.

My amendment will give the Commission time to write its report, have all of the State conferences, a national conference, dismiss the bureaucracy and then make plans for another conference, but this all would have to be done before March 31, 1977.

Ms. ABZUG. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to ask the gentleman from Maryland some questions but first I would like to make a short statement.

Mr. Chairman, the problem with the amendment offered by the gentleman from Maryland (Mr. BAUMAN) is that as the bill now stands, we will not begin to have or even to organize the State meetings until after this bill goes through the whole process of being passed in the House and then in the Senate, and until the money is appropriated for it, which is an additional process. Therefore, we may be delayed somewhat in starting the State meetings and in holding the National Conference. And in order to allow for the Commission, as provided in sections 7 and 8, to submit their report to the President and each House of the Congress no later than 120 days after the conclusion, and to clean up its work in 30 days thereafter, we might find ourselves going beyond March 31, 1977.

I would have no objection to this amendment if the gentleman from Maryland would be prepared to move this termination date to March 31, 1978, just to give us the opportunity to make certain that the State meetings can be held and that we can hold the National Conference, and then the Commission can make its report to that change in the time. So, if the gentleman from Maryland will accept an amendment to his amendment, or offer an amendment on his own changing the date to March 31, 1978, I think we could agree.

Mr. BAUMAN. Mr. Chairman, I would say to the gentlewoman from New York that under sections 7 and 8 there is the requirement for the writing of a report, which evidently should be done within a period of 1 year, plus the 6 months after the holding of the conference. I would suggest that if they find they cannot meet that date, then they could come in and ask for an extension.

Ms. ABZUG. My problem is that, based on the pace thus far, the process is taking a little longer than we originally contemplated and the National Conference may not be able to be held until 1977, at the rate we are going. Therefore, to place an arbitrary date here would be wrong. I might add that I am going to offer a substitute to move the date back 1 year.

Mr. BAUMAN. If the gentlewoman will yield further, that would be a terrible thing not to hold this conference in 1976. Why, Mr. Chairman, the Bicentennial has been referred to here repeatedly, if such a patriotic conference is not held in the Bicentennial year, this might endanger the rights of all men and women if, I repeat, we did not hold it in the 1976 Bicentennial year. This is the first word I have heard that it will be held in 1977. "Say it is not so."

AMENDMENT OFFERED BY MS. ABZUG AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. BAUMAN

Ms. ABZUG. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Ms. Abzug as a substitute for the amendment offered by Mr. Bauman: Page 8, line 16, strike out the period and insert ", but the life of the Commission shall in no case extend beyond March 31, 1978."

The CHAIRMAN. The gentlewoman from New York (Ms. Abzug) is recognized for 5 minutes in support of her substitute amendment.

Ms. ABZUG. Mr. Chairman, I ask for a vote on the amendment offered as a substitute for the amendment.

Mr. MICHEL. Mr. Chairman, I rise in opposition to the amendment offered by the gentlewoman from New York (Ms. Abzug) as a substitute for the amendment offered by the gentleman from Maryland (Mr. Bauman).

Mr. Chairman, the reason I rise in opposition to the amendment is that we are now getting to the point where every other commission, just as the one which we are proposing here, wants an extension of its life. It is getting more and more difficult to hold fast to a 1-year commission or a one-and-a-quarter-year commission. I just checked with the gentleman from Minnesota (Mr. Quie) with respect to the Commission on the Handicapped and the Commission on Libraries, and, with their state meetings are going to be able to wind up totally in less time than is being asked for here. The gentleman from Maryland (Mr. Bauman) said just a moment ago he thought this National Women's Conference was going to be held in the Bicentennial year of 1976.

I would hope that it would be, and that it would not be deferred until 1977. If it is not, then it seems to me that we ought to wrap up the Commission's operations in the time prescribed by the amendment offered by the gentleman from Maryland.

A few moments ago we defeated an amendment that for all practical purposes now gives 10-year life to a committee—a committee to do what? A committee of how many people to do what?

I am reminded that a few months ago some celebrated individual downtown complained to his supporters that he was doing nothing and said, "I wish they would abolish the job because I am sitting around here wondering what I am going to do." He was spending his time listening to Bach and Beethoven as I recall.

Nobody has told us how many people are going to be on this committee for what period of time and what they are going to be doing. There is nothing wrong with our coming back after the Commission has met, hopefuly, next year, and after the report, coming back to Congress and saying, "Look, we want to evaluate this thing on a continuing basis. I do not think that we want in this Congress to obligate ourselves to a commission or committee that runs 10 years from now. I think this is just completely going overboard.

Ms. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentlewoman from New York.

Ms. ABZUG. I thank the gentleman for yielding.

I just want to make clear to the gentleman that I have no objection to the Commission's terminating as soon as it does its work and reports. I do not know whether the gentleman was here when I described that the problem was that we have been delayed, and the State conferences have to be held first, and then the National Conference; but should the National Conference, for example, be held at the end of 1976, under the original request of the gentleman, for which I substituted an amendment, it would only have 90 days, whereas under sections 7 and 8 we will need the 120 days after the conclusion of the conference to prepare a report, and another 30 days, it seems to me, to clean up. So that is about 150 days, so that would not give us enough time. The gentleman was giving us 90 days after 1976. The only reason I asked that he extend it to 1978 was just to make sure that we could clean up, get our report in to the Congress and to the President, and be done with it. That is the only reason I suggested the extension at that time, since the way this is going through the legislative process would indicate that we probably would not be holding a national conference until the end of 1976.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

I would just like to bring to the attention of the House—and perhaps the gentleman was not here earlier when I reported on the conversation I had with Chairman Mary Louise Smith of the Republican National Committee—she is most anxious that the timing of these conferences should not draw too many women away from the work of the elections. I think that the insistence on early termination may make that a little bit difficult. She was very anxious about two things. She is most sympathetic to the thrust and the purpose of the Women's Conference personally because the committee does not take action on legislation except in election technicalities, and, second, she hoped we would stay within the budget of the administration and that the timing would not draw too many women away from the work of the election.

Mr. MICHEL. Mr. Chairman, I rose in opposition to the amendment, as I began. I cannot say that I have been persuaded that my position is wrong. I still have to persist in my opposition to the substitute. If there is some legitimate justification for a reasonable period of time beyond that proposed by the amendment offered by the gentleman from Maryland, I am willing to be reasonable, but I am just afraid that we are embarking on a road here which leads to perpetuation of this Commission.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. Abzug) as a substitute for the amendment offered by the gentleman from Maryland (Mr. Bauman).

The question was taken; and on a division (demanded by Mr. Bauman) there were—ayes 37, noes 33.

So the substitute amendment for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. Bauman), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. There being no further amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Long of Louisiana, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 9924) to direct the National Commission on the Observance of International Women's Year, 1975, to organize and convene a National Women's Conference, and for other purposes, pursuant to House Resolution 846, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 252, nays 162, answered "present" 1, not voting 19, as follows:

[Roll No. 761]

YEAS—252

Abdnor
Abzug
Adams
Addabbo
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Barrett
Baucus
Bedell
Bell
Bergland
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burton, John
Burton, Phillip
Carney
Carr

Carter
Chisholm
Clausen,
Don H.
Clay
Cleveland
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
de la Garza
Dellums
Dent
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Erlenborn
Evans, Colo.
Fary
Fascell
Fenwick
Fish
Fisher
Flood
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Frenzel
Giaimo
Gibbons
Gonzalez
Green
Gude
Guyer
Hall
Hamilton
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hays, Ohio
Heckler, Mass.
Hicks
Hillis
Holland
Holtzman
Howard
Howe
Hughes
Jacobs
Jeffords
Johnson, Calif.
Johnson, Colo.

Johnson, Pa.
Jordan
Karth
Kastenmeier
Keys
Koch
LaFalce
Leggett
Lehman
Levitas
Litton
Lloyd, Calif.
Long, La.
Long, Md.
McClory
McCloskey
McCormack
McDade
McFall
McHugh
McKinney
Macdonald
Madden
Maguire
Martin
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson,
Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Pressler
Preyer

Price
Pritchard
Quie
Rangel
Rees
Regula
Reuss
Richmond
Rinaldo
Risenhoover
Rodino
Roe
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Runnels
Ruppe
Russo
Ryan
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Shriver
Simon
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Staggers
Stanton,
J. William
Stanton,
James V.
Stark
Steelman
Steiger, Wis.
Stokes
Stratton
Studds
Symington
Thompson
Thone
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Waxman
Weaver
Whalen
White
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Alaska
Young, Ga.

NAYS—162

Alexander
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, R.I.
Beard, Tenn.
Bennett
Bevill
Bowen
Breaux
Brinkley
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Cederberg
Chappell
Clancy
Clawson, Del
Cochran
Collins, Tex.
Conlan
Crane
Daniel, Dan
Daniel, R. W.

Danielson
Delaney
Derrick
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
English
Eshleman
Evans, Ind.
Findley
Fithian
Florio
Flowers
Flynt
Fountain
Frey
Fuqua
Gilman
Ginn
Goldwater
Goodling
Gradison
Grassley
Hagedorn
Haley
Hammer-
schmidt
Hansen
Harsha

Hastings
Hechler, W. Va.
Hefner
Henderson
Hightower
Holt
Hubbard
Hungate
Hutchinson
Hyde
Ichord
Jarman
Jenrette
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Krebs
Krueger
Lagomarsino
Landrum
Latta
Lent
Lloyd, Tenn.
Lott
Lujan
McCollister

McDonald
McEwen
McKay
Madigan
Mahon
Mann
Mathis
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead,
Calif.
Myers, Ind.
Natcher
Neal
Nichols
O'Brien
Passman
Poage

Quillen
Randall
Rhodes
Roberts
Robinson
Rogers
Roush
Rousselot
St Germain
Satterfield
Schneebeli
Schulze
Sebelius
Shipley
Shuster
Sikes
Sisk
Snyder
Spence
Steiger, Ariz.
Stephens
Stuckey

Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thornton
Treen
Vander Jagt
Vigorito
Waggonner
Walsh
Wampler
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wylie
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

ANSWERED "PRESENT"—1

Evins, Tenn.

NOT VOTING—19

Andrews,
N. Dak.
Burke, Fla.
Casey
Davis
Esch
Fraser

Gaydos
Hanley
Hébert
Heinz
Helstoski
Hinshaw
Horton

Patman, Tex.
Railsback
Riegle
Spellman
Steed
Teague

The Clerk announced the following pairs.

Mrs. Spellman with Mr. Horton.
Mr. Helstoski with Mr. Andrews of North Dakota.
Mr. Hébert with Mr. Burke of Florida.
Mr. Fraser with Mr. Esch.
Mr. Riegle with Mr. Railsback.
Mr. Hanley with Mr. Hinshaw.
Mr. Patman with Mr. Heinz.
Mr. Steed with Mr. Teague.
Mr. Casey with Mr. Davis.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. ABZUG. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 9924 just passed.

The SPEAKER. Is there objection to the request of the gentlewoman from New York?

There was no objection.

ADDITIONAL INFORMATION MADE AVAILABLE REGARDING CONTEMPT CITATION ADDRESSED TO HENRY KISSINGER

(Mr. PIKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PIKE. Mr. Speaker, on Monday the House Select Committee on Intelligence filed a report regarding a contempt citation addressed to Henry Kissinger. Since that time, I am pleased to be able to advise the House that additional information in compliance with the subpoena has been made available to the committee, and the committee has made a determination that substantial compliance has been achieved.

RECOMMITTAL OF HOUSE REPORT 94–693 TO SELECT COMMITTEE ON INTELLIGENCE

Mr. PIKE. Mr. Speaker, I ask unanimous consent that House Report 94–693 be recommitted to the Select Committee on Intelligence.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDING EFFECTIVE DATE OF DEFENSE PRODUCTION ACT AMENDMENTS OF 1975

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Currency and Housing be discharged from further consideration of the bill (H.R. 11027) to amend the effective date of the Defense Production Act Amendments of 1975, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman from Ohio (Mr. ASHLEY) inform us as to why this is necessary?

Mr. ASHLEY. I will, Mr. Speaker, if the gentleman will yield.

Mr. ROUSSELOT. I yield to the gentleman from Ohio.

Mr. ASHLEY. Mr. Speaker, the lapse in Defense Production Act authority which has occurred due to the expiration of that act prior to the House passage of the conference report on S. 1537 has created some uncertainty in the coverage of the voluntary agreement and program relating to the international energy program. The agreement provides, in pertinent part, that—

> It shall cease to be effective at the termination of Section 708 of the Defense Production Act, as amended, or unless other legislative authority is provided which permits continuation of the agreement.

Although it is the opinion of the Federal Energy Administration that this language permits continuation of the agreement in spite of the lapse, the serious consequences to the participants of any uncertainty in this regard may disrupt the activities under the existing agreement if S. 1537 is enacted in its current form. Any interruption of activities under the agreement could have serious adverse consequences with respect to the role of the United States in the activities of the international energy program. This result is obviously not the intent of the legislation.

Nonetheless, when taken in the context of the text of the agreement, S. 1537 would present some ambiguity as to the continued efficacy of the current agreement. Accordingly, the Defense Production Act extension should be made effective retroactively to the prior law's expiration on November 30.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, the gentleman is then prepared to tell us that this changes the legislation in no other way except as to the effective date?

Mr. ASHLEY. The gentleman is correct, in no other way whatsoever.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman.

Mr. McKINNEY. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Speaker, I would just like to concur with the chairman of the subcommittee and state that this is a technical problem that we must face up to. We cannot have a bill that the House passed with all good intents sitting in limbo. We can solve this very simply by making the legislation retroactive to expiration date.

Mr. Speaker, I appreciate the efforts of the gentleman from Ohio (Mr. Ashley) in bringing this matter before the House, and I thank the gentleman from California (Mr. Rousselot) for yielding.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the bill, as follows:

H.R. 11027

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 9 of the Defense Production Act Amendments of 1975 is amended by striking out "date of enactment of this Act" and inserting in lieu thereof "close of November 30, 1975".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORTS ON SENATE JOINT RESOLUTION 121 AND H.R. 7656

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file conference reports on Senate Joint Resolution 121, to provide for quarterly adjustments in the support price for milk, and for other purposes, and on H.R. 7656, to enable cattle producers to establish, finance, and carry out a coordinated program of research, producer and consumer information, and promotion to improve, maintain, and develop markets for cattle, beef, and beef products.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

RECOMMITTAL OF H.R. 1686 TO THE COMMITTEE ON HOUSE ADMINISTRATION

Mr. HAYS of Ohio. Mr. Speaker, I ask unanimous consent to recommit the bill (H.R. 1686) to the Committee on House Administration.

I might state that its accompanying Report No. 94–669 contains a printing error, and the committee would like to have it back to reconsider it and to reconsider the report.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PERMISSION FOR COMMITTEE ON HOUSE ADMINISTRATION TO MEET TOMORROW DURING 5-MINUTE RULE

Mr. HAYS of Ohio. Mr. Speaker, I ask unanimous consent that the Committee on House Administration may be permitted to meet tomorrow, Thursday, December 11, 1975, during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

OVERSEAS CITIZENS VOTING RIGHTS ACT OF 1975

Mr. HAYS of Ohio. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill (S. 95) to guarantee the constitutional right to vote and to provide uniform procedures for absentee voting in Federal elections in the case of citizens outside the United States.

The SPEAKER. The question is on the motion offered by the gentleman from Ohio (Mr. Hays).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill S. 95, with Mr. Yates in the chair.

The Clerk read the title of the Senate bill.

By unanimous consent, the first reading of the Senate bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Ohio (Mr. Hays) will be recognized for 30 minutes, and the gentleman from Alabama (Mr. Dickinson) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. Hays).

Mr. HAYS of Ohio. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, the primary purpose of the Overseas Citizens Voting Rights Act of 1975 is to assure the rights of otherwise qualified private U.S. citizens residing outside the United States to vote in Federal elections. The bill enables a citizen residing outside the United States to register absentee, and vote by absentee ballot, at the location where last domiciled immediately prior to his or her departure from the United States. A citizen may register and vote under this bill only if he or she complies with all applicable State or district qualifications, is not voting in any other State or election district, and has a valid passport or card of identity and registration issued under the authority of the Secretary of State.

The Committee on House Administration concluded that the potential of voting fraud in the implementation of the bill is remote and speculative. The bill imposes a $5,000 fine and 5 years' imprisonment for willfully giving false information for purposes of absentee registration and voting under the mechanism set forth in the legislation.

We deleted, as inappropriate for this legislation, the provision in the Senate bill which would have expressly provided that the exercise by an overseas citizen of the right to register and vote in Federal elections under this bill would not affect the determination of his place of residence or domicile for purposes of any tax imposed under Federal, State, or local law. The amended bill is neutral on the question of taxation and neither restricts the right of a State or locality to attempt to tax an overseas citizen voting in Federal elections under this bill, nor to limit the right of an overseas citizen to contest the imposition of such taxation under applicable law.

The Committee on House Administration is of the view, based upon opinions submitted in the hearings, that the bill would be upheld if subjected to constitutional challenge in the U.S. Supreme Court. We recognize the principles that the right to vote for national officers is an inherent right and privilege of national citizenship, and that Congress retains the power to protect this right and privilege under both the necessary and proper clause and the 14th amendment. The Committee on House Administration concluded that a U.S. citizen residing outside the United States can remain a citizen of his last State of residence and domicile for purposes of voting in Federal elections under this bill, as long as he has not become a citizen of another State and has not otherwise relinquished his citizenship in such prior State.

We do not anticipate the need for any appropriation from the Federal Treasury. The cost to individual States will vary and depend upon each State's individual provisions for registration and absentee voting.

The amendment strikes out all after the enacting clause and inserts in lieu thereof a substitute text which appears in italic type in the reported bill. This bill is to apply to any Federal election held after January 1, 1976.

Mr. Chairman, I will be very brief, if I can have the close attention of the Members of the House for just 1 minute.

A lot of people get excited about how many letters are written or how many editorials are written or how much comment there is about specific legislation.

We have compiled some rather interesting statistics in the Committee on House Administration.

So far this year we have received in the committee 128 letters either commending or, mostly, protesting against pay increases, allowances and other monetary increases for the Congress. We have received two letters about the Federal Elections Commission. We have received some 20 letters about campaign reform. This shows you what a hot issue that is. But as to overseas voting, we received 382 letters, by far the greatest number of letters that the Committee has received on any and all subjects that we have received mail about this year. I think that is an interesting statistic. I think the fact that it is more than three times as many letters as we received about the increases for Members of the Congress, which was so widely commented upon in the press, is indicative of something or other, I would not attempt to say what.

Mr. GUDE. Would the gentleman from Ohio yield?

Mr. HAYS of Ohio. I yield to the gentleman from Maryland (Mr. Gude).

Mr. GUDE. Mr. Chairman, I would like to commend the gentleman from Ohio (Mr. Hays) for his leadership as chairman of the committee in bringing this legislation to the floor. It certainly is long overdue in the society of today where we have so many more American citizens who are overseas and would like to participate in the election process.

I joined with Chairman DENT in sponsoring this measure which will extend the ability to vote to a growing segment of the electorate. An atmosphere of détente means growing numbers of American citizens are employed abroad in international cooperation in energy research and development, space exploration, conservation of natural resources and wildlife and numerous other first steps toward world harmony and interdependence. U.S. based multinational corporations are also employing increasing numbers of Americans overseas. This growth of our citizen population abroad is one reason that the board of elections in my district in nearby Montgomery County anticipates an unprecedented minimum of 20,000 absentee ballots in 1976.

Despite this growth, a 1973 Senate Subcommittee on Privileges and Elections hearings' showed that a disappointingly low number of overseas citizens actually exercise their constitutional right to vote. The Federal Voting Assistance Task Force of the Defense Department submitted to that subcommittee a survey concluding that at least one-third of over 1 million private U.S. citizens residing overseas did not consider themselves eligible to vote. Of the approximately 630,000 who considered themselves eligible, only one-fourth of that number actually voted in 1972.

In looking over these figures, I am impressed by the urgent need to redress the conditions which discourage hundreds of thousands of citizens from voting in Federal elections. Certain State laws, for instance, continue to discourage overseas citizens from voting through State and local residency and domicile requirements, local tax laws and certain absentee procedures. This situation exists despite 1968 clarifications in the Federal Voting Rights Act of 1970 which: First, abolished durational residency requirements as a precondition to voting in Presidential elections; and second, established uniform national standards for absentee registration and voting in Presidential elections.

In keeping with the intent of the 1970 amendments and Maryland State law, the board of elections in my own district encourages overseas citizens to exercise this fundamental constitutional right by requiring a simple declaration of residence without intent-to-return statements. The board received a record 16,000 absentee ballots in the 1972 Presidential election—2 years after enactment.

The legislation we propose today seeks to insure not only the right to vote in Federal elections, but also the right to international travel and settlement which must be reaffirmed in light of increased numbers of citizens traveling and living abroad.

Insured retention of voting rights in Federal elections—not issuance of passports—is the true meaning of freedom to travel and live abroad as an American citizen.

Mr. HAYS of Ohio. Mr. Chairman, I thank the gentleman from Maryland. I would just like to say one further thing and that is that there are 28 States now, including my own State of Ohio, in which citizens living overseas can, with a minimum amount of effort and trouble, vote but there are 22 States in which there is no way a citizen can vote if he lives outside of the United States.

So this is an attempt to give everybody the opportunity, if he is willing to go through the necessary redtape, which involves writing for a form and filling it out and sending it in and getting an absentee ballot, a vote.

Mr. WIGGINS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I have taken this time for the purpose of asking a question so as to establish the legislative history, and to do so I would ask the gentleman from Ohio a question.

The question is this: On page 13 of the bill, section 5 deals with enforcement and penalties for violating the act. In section 5(c) which is printed on page 14 of the bill, it is a crime for a person knowingly or willfully to pay or offer to pay or accept payment either for registration to vote or for voting. I should like to make it clear that the intent of both the majority and the minority is that the criminal act is committed by the voter in accepting payment for registration and is not committed by a registrar who may accept a nominal payment in connection with his normal registration duties.

Mr. HAYS of Ohio. The gentleman from California is saying if the registrar has a fee which is imposed by the State, or something of that kind, that it is not a criminal act?

Mr. WIGGINS. That is correct.

Mr. HAYS of Ohio. I agree with that.

Mr. WIGGINS. I thank the gentleman.

The CHAIRMAN. Does the gentleman from California desire to yield time?

Mr. WIGGINS. Yes, Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, there were, including dependents, and excluding military personnel, 1.6 million Americans abroad in 1972. It is estimated that about 750,000 of them are potentially eligible voters. It is further estimated that about three-fourths of the potential voters overseas did not vote in 1972.

Assuming that this portion of the American citizenry would vote in about the same proportion as the public at large, there are perhaps as many as 200,000 U.S. citizens, paying U.S. taxes, living abroad, who did not vote in 1972 and who might vote in 1976 if this bill is passed. According to polls, U.S. citizens resident out of the country, do not vote for one or more of the following reasons. First, residence requirements are impossible to fulfill, second, ballot and registration information and forms are not available, third, the absentee ballot incurs State tax obligations, fourth, ballot and registration forms not sent in timely fashion.

At this time, 13 States do not generally permit absentee registration by civilians, nine States permit ill or disabled persons to register at home. Only about half the States, 27 to be exact—plus North Dakota which has no registration—allow absentee registration.

In addition, five States do not permit civilians to vote in primaries, and two States have restrictions on civilians voting in general elections.

This bill attempts to remove the principal reasons why Americans overseas cannot vote. It establishes a domicile, for purposes of voting in Federal elections only, in the State of last residence, for citizens resident out of the country. It establishes a right to absentee registration and absentee vote.

The bill does not force Federal standards in States other than those two simple rights given to citizens. It provides for identity checks by passport, and it provides severe penalties, consistent with other provisions of our election laws, for willful violations of law.

Basically, we are talking about a problem of equity. U.S. citizens, paying U.S. taxes, residing out of the country, are prevented, or inhibited, from voting. The bill gives them voting rights, for Federal elections only.

The typical overseas voter is a businessman or member of his family. He was sent overseas by his employer. He intends to return to the U.S., but frequently he does not know where his next assignment will take him. Military personnel who are also now all volunteers, are assigned overseas by their employer. They have by law, full voting rights in all elections. This bill tries to give the businessman equal rights for Federal elections only.

The constitutional objections, in my judgment, are not valid in light of the Oregon versus Mitchell Supreme Court decision of 1970. That 8 to 1 decision related to Federal elections and to residency. The opinions on residence dealt only with Presidential elections, but the majority opinions suggested that the provision would have been upheld if it applied to congressional elections.

Dunn versus Blumstein, a 1972 case, is often cited as evidence of this bills unconstitutionality. But that case upheld the Federal law which gave Tennessee voters a remedy against unreasonable residence requirements. I believe that this bill which gives overseas voters a different remedy, would also be upheld.

These overseas citizens of the United States are scattered all over the globe. About one-quarter of them live in Canada; about one-quarter of them live in Western Europe; about 9 percent are in Mexico; and the rest are in more than 100 other foreign countries. They are American citizens. They pay U.S. taxes. They deserve the franchise.

I urge that S. 95 be passed.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HAYS of Ohio. Mr. Chairman, I yield myself 1 minute.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. HAYS of Ohio. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I would like, first, to compliment the chairman of the committee for bringing this bill to the floor which would assure the right of American citizens living abroad to vote in Federal elections. I would like to ask him about paragraph 3 on page 12 which refers to the requirement of a valid passport. I want to ask the chairman what happens if, for example, the passport has expired but was validly issued? Would that be considered a valid passport?

Mr. HAYS of Ohio. I can only say to the gentlewoman that the intent of the committee, as I understood, it was that this language was put in to establish that the person was an American citizen in the first place, and if he had inadvertently allowed his passport to expire, unless the election officials raised the question, I would think he could go ahead and vote. However, if they raised the question whether or not he was a citizen, then he would have to prove somehow or another that he was.

Ms. HOLTZMAN. I thank the Chairman.

Mr. HAYS of Ohio. Mr. Chairman, I have no further requests for time.

Mr. WIGGINS. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, this bill requires that we rise above our natural instincts to be supportive of the right of U.S. citizens residing abroad to vote. It requires that we place on a higher order our loyalty to the Constitution of the United States. Unfortunately these citizens are not constitutionally eligible to vote in a State in which they are not residents.

The overseas voting rights bill is a straightforward piece of legislation, easily understood. It is difficult to support, however, if the Constitution is to be observed.

There are a large number of U.S. citizens who reside temporarily or permanently abroad. Some of these citizens may not now vote in either State or Federal elections. The purpose of this legislation is to authorize all such citizens of voting age if they have a valid passport to vote in all Federal elections in the State and in the Federal district in which they last resided prior to establishing their overseas residence.

A citizen who may reside overseas will generally fall into one of the following several categories.

First. An overseas citizen may be a U.S. Government employee, civilian or military, and his family. Such persons are almost without exception on temporary assignment overseas only.

Second. Another category might include civilian personnel and their families who may be assigned overseas by their employers. Some in this category are on temporary assignment to be sure but others are permanent overseas residents who have no plans or intentions to return to the United States or to any particular State.

Third. Another category can be U.S. citizens who have assumed permanent overseas residence. In this category are a large number of retirees who have cut their official ties with their former States.

The legislation before us would authorize all such persons of voting age and possessing a valid passport to vote in Federal elections in a particular State.

It is constructive I think to review the voting rights under current law of each of the categories of the overseas citizens which I have mentioned.

First. With respect to U.S. Government employees, civilian and military, and their families, such persons are, under familiar common law principles, entitled to and do retain their domicile in their State of origin. Accordingly such persons may now register and vote in both State and Federal elections if they comply with local absentee voting procedures. To the extent that a State allows voting absentee but discriminates against this category of overseas citizens, such State laws are probably unconstitutional as violative of the 14th amendment and the Supreme Court will not be hesitant to strike them down when an appropriate case arises. If there are no absentee voting laws in a given State we have the authority under the Constitution to exercise it to prescribe procedures for such overseas citizens who are bona fide residents of a given State to vote in Federal elections.

Second. The next category of U.S. citizens overseas are those who are assigned on a temporary basis to an overseas residence by a private employer. In the case of such citizens the same rules apply as in the case of Government personnel.

Third. The final category includes those permanently residing abroad for whatever reason and who have no intention to return to the United States nor any intention permanently to reside in a particular State. With respect to those citizens the law is otherwise. Such persons are not domiciled in any State and no State permits those persons to vote who are not bona fide residents in their State in any election, State or Federal.

This legislation is the only hope of such persons to vote in Federal elections. As a matter of policy I think we all support the maximum participation in the franchise but as a matter of constitutional law we may not be able to extend that franchise to U.S. citizens who are not residents of any State.

I am not going to trouble the Members with a lengthy constitutional analysis in support of my conclusion that the right to vote in a particular State may not be accorded by legislation to a nonresident of that State, but I invite the Members to take the time to read the minority views which are appended to the committee report of this legislation.

In general, the Constitution is not at all silent with respect to who may cast a vote for Congress and who may cast a vote for U.S. Senator. In article I, section 2, the right to vote for Representatives is granted to the people of the several States.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. WIGGINS. Mr. Chairman, I yield myself an additional 5 minutes.

Mr. Chairman, the 17th amendment to the U.S. Constitution, which describes qualifications for voting for U.S. Senators, says that only people thereof, that is, of the States, may vote for U.S. Senators. The trouble with this legislation is that we purport to grant to individuals who are not residents of any State the right to vote for Congressmen and the right to vote for Senators therein, and in doing so we violate, in my opinion, the clear mandate of article I, section 2, of the 17th amendment to the Constitution of the United States.

I would like to flesh out that argument in greater detail, but I would prefer that the Members read the minority views which go into the matter of Oregon against Mitchell, which can be the only arguable basis for sustaining this legislation. I would, rather, like to take the time now to comment on the concept of "voting residency" as being a basis for sustaining this legislation. Citizenship, both national and State, is defined in the 14th amendment to the Constitution. Relevant to our present inquiry are the rights and responsibilities of State citizenship. A person is a citizen of a State, according to the 14th amendment, if he resides therein. Such status extends to a person residing in such States a whole panoply of rights and responsibilities.

It is contended by the supporters of this legislation that we may create a special category of State citizenship, namely, a voting resident, who possesses only one of the rights of citizenship, but none of its responsibilities, and that we, that is, the Congress of the United States, may do so by Federal legislation against the will of the individual States. I doubt that we have such a sweeping power.

A State, of course, may treat with its bona fide residents in different ways, consistent always with the equal protection clause of the Federal Constitution; but that is a State decision, not a Federal one. In the case of State laws affecting voting in Federal elections, we unquestionably have sweeping authority to modify or even preempt such State laws. Never, however, have we purported to add persons to a State's population solely for the purpose of voting therein in senatorial or congressional elections.

To recognize such a power is to modify, or at least to dilute, the definitions of State citizenship contained in the 14th amendment, as well as to disregard the plain meaning of article I, section 2, and the 17th amendment to the U.S. Constitution.

Mr. Chairman, for these reasons and for those which I have developed more fully in my minority views, I oppose this legislation.

Now, a concluding word. We are not without power to legislate in this field. We have authority to enfranchise hundreds of thousands of U.S. citizens who are being denied the right to vote in Federal elections because of burdensome or discriminatory State laws; but we have not enacted such a regulatory scheme here.

What we have purported to do is to grant to U.S. citizens who are not citizens of any State the right to vote therein for Congressmen and for Senators. That is a quantum jump beyond the current exercise of Federal power, and I believe unwarranted under the Federal Constitution.

Mr. HAYS of Ohio. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I respect the gentleman from California, a member of my committee, very much. I rely upon him, I might say, for legal advice, because he is an outstanding lawyer and has great knowledge of the Constitution. As the gentleman knows, in the Federal elections campaign law, which we passed last year, there was a lot of argument pro and con about the constitutionality of it. I frankly said on the floor at the time that I did not know whether it was constitutional or not and I was sure it would be tested and a court would decide it. That is being done right now.

I do not want to get into a debate with the gentleman about the constitutionality of this. He may be right. I think that it is constitutional, but surely somebody will bring an action and its constitutionality will be decided by the courts, which is right and proper under our system of Government.

I agree to some degree with what the gentleman said about the various categories of citizens, but I doubt that anyone who has gone to live abroad permanently, as have people in some of the Iron Curtain countries who have gone back to their homelands and who have their social security checks mailed, will even bother to send for a ballot. They do not care that much.

The people we care about are over there because their companies have sent them or the Government has sent them or somebody else has sent them. I would point out that last year the not insignificant sum of $150 million in income taxes was paid by overseas private citizens, which was more than enough to defray all Federal aid to the State of California for child nutrition progrms at $80.3 million and urban renewal assistance at $61.4 million. I chose the State of California, not because it is the gentleman's home State, but because it is larger than my State and the figures are larger and actually fit the $150 million almost to a T.

So, I respect the gentleman's argument. He may be right; only the court can tell about that, but I think in the meantime we ought to give these bona fide citizens who want to vote the right to vote.

In my State, which is very liberal about absentee voting, if anybody challenges a person's right to vote and the person has been out of the country for 10 years, he can still vote in his last place of residence, and if anyone challenges that, he merely has to make a sworn statement that he intends in the future to return there to live, and that is it.

I do not think we are going to find anybody voting under this law except people who are genuinely interested in the United States enough to go through the redtape to get the absentee ballot to vote. As the gentleman knows, I know there are many States in which there is no way to do that without this law.

Mr. WIGGINS. Mr. Chairman, I yield 5 minutes to the distinguished minority leader, the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Chairman, I support this legislation. I think it is a good bill, and I congratulate the committee for bringing it out. I think it fulfills a need which has been apparent in this country for quite some time.

I note in the committee report that it states that it is very difficult, if not impossible, for a person who is abroad and who desires to register to vote, to do so by mail. I know this has always been true in my State. One has to be present in the State in order to register, and of course if one forgets to register before going overseas, then there is no way he can call for an absentee ballot and get it and cast his vote.

I agree with the gentleman from Ohio that most of the people who would desire to vote would certainly be people who are still interested in the United States, who consider themselves to be citizens and who would vote if they were given the opportunity to do so in their own States. I also have the very great feeling that the constitutional situation will have to be determined. I have great respect for the gentleman from California and for his legal ability. He is one of the better lawyers, not only in this body, but also in the United States of America. I do not happen to agree with him on the constitutional argument, but there again I think it is probably beside the point as to whether I agree or whether I do not agree, because again as the gentleman from Ohio has said, the matter will undoubtedly be taken care of in the courts.

I merely would point out the analogy of the 18-year-old vote. As those who were here at the time will remember, and those who were not here at the time, I am sure, are aware, the House of Representatives and the Senate passed a statute to confer voting rights on 18-year-olds prior to the time there was any constitutional amendment at all adopted. The courts upheld the right of the Congress to do that, superseding the election laws of all 50 States. Certainly, it seems logical to me that if this could be done, if a departure as—I will not say radical, but as marked—as this one was could be adopted and could become law and be upheld by the Supreme Court, then certainly allowing a person who is now abroad to vote as a resident of the State from which he had departed would not be an unreasonable exercise of the powers of the Congress.

It does not, as far as I can see in reading the legislation, give anybody the right to particularly pick his jurisdiction. As I understand it, the person who desires to register must show that he did leave the United States when he was a bona fide resident of the State from which he desires to register. So that there should not be any doubt as to the bona fides, insofar as this person is concerned.

Mr. Chairman, I again congratulate the committee for bringing out this legislation. I hope it will be adopted.

Mr. WIGGINS. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Chairman, we have studied this matter in the Committee on House Administration. I wish to differ with the distinguished chairman of the committee and some of my own colleagues on this bill.

Mr. Chairman, I simply feel as a matter of law that we are confusing the law of domiciliaryship. We ought to keep the law clear. I have no objection whatsoever to giving people overseas the right to vote, but I think they ought to be domiciled in the State in which they plan to vote. This law could have been drafted to simply say that now, as a result of this law, which is needed, every single State shall give any overseas resident from that State the right to declare that they are domiciled in the State and have the right to vote in that State in Federal elections. That would maintain a clear picture of domiciliaryship. We do not have that under this bill. We have created a Federal domiciliaryship status for voting only, and we have the traditional domiciliaryship status for other purposes. That confuses the law. I oppose the bill on that basis and on that basis alone. If the law would have been made clear and provided that you had to declare domicile in the State in which you wished to vote, I think the law would have been clear and would not have done any injustice to the longstanding law of this country on who is and who is not domiciled in a State.

Mr. WIGGINS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, this legislation gives the right of a citizen who has left his State to vote in the State which he abandoned. If that power exists under the Constitution, the Congress can, if it wishes, exercise that power to give the right of 18-year-olds in Arizona to vote in California. That would be a startling proposition, and I suspect it would raise the constitutional hackles of more than a few people in this Chamber. But that really is the issue. If we have the power to permit a person who is not a resident of the State to vote therein, then we have the power to permit residents of any State to vote in any other State, if that be our decision.

Mr. Chairman, let me tell the Members that I do not think the Constitution permits it. If it does, however, then we have no federal system at all. Such a proposition is utterly inconsistent with the structure of our Government and with the concept of a House of Representatives elected by the people of the States and by a Senate of the United States elected by the people of the States.

That is what the Constitution says, and the Members are going to go against the Constitution if they support this legislation.

I tried to amend it in committee to make it consistent with the Constitution, but I was defeated in that effort, and I think I am wasting my time to do so now. I hope the bill will be defeated.

Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Chairman, in the first place, I can assure the gentleman from California (Mr. WIGGINS) that Arizona does not want any of those Californians voting in Arizona. That is to be understood. However, I will just ask the gentleman this question: Is there not a difference between the proposition which the gentleman made concerning the ability of this body to allow Californians to vote in Arizona and the case which we have in this particular bill which is before us at the present time?

In the bill there is no absolute right given to the individual to vote in any State he wants to vote in. As I understand it, he must vote in the State that he left to become a resident abroad. I think this is an entirely different case than allowing a person to vote in a State in which he has no residence or in which he has never had any residence or any intent to establish a residence.

Mr. WIGGINS. Mr. Chairman, I appreciate that the gentleman has a factually different case; but if Congress possesses the power claimed for it, we might for some public purpose want to let persons vote in an adjacent State or, for some other public purpose, to equalize representatives around this Nation and shuffle votes on some one-man-one-vote concept. I think that is beyond our power, I will say to my friend, the gentleman from Arizona.

Mr. RHODES. Mr. Chairman, I think that is clearly beyond our power, and if some future Congress would try to do that, I would like to join the gentleman from California and his counsel for plaintiffs in such a case in suit.

Mr. WIGGINS. Mr. Chairman, I yield myself such time as I may consume.

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Chairman, I would like to ask the gentleman from California several questions.

I have, as a matter of fact, one of the largest exporting companies in the United States in my district. In dollar return, it is either second or third. That is the Caterpillar Tractor Co. That company has several hundred people stationed overseas, at a minimum. It might be perhaps several thousand.

Addressing ourselves to this particular question of residency in a State, would it not be possible, the way this is drafted, that those employees, coming from different States but currently residing in Geneva or Grenoble or Capetown or in some of these different countries where the company has plants, might all vote in effect for this Member of Congress for reelection while making their choice in the Presidential elections recorded in our State, even though they come from different States?

Is it possible for them to do that? What protection is there against their all casting their votes, for example, for a Member of Congress, even though they had never voted for him before or had not resided in the State which he represents?

Mr. WIGGINS. Mr. Chairman, there are two answers to the gentleman's question.

First of all, the legislation restricts the right to vote to a State last resided in by the overseas resident. It does not permit that overseas resident the right to pick and choose various jurisdictions.

But that general statement is subject to caveat. Any person in the United States, foreign or domestic, can select a domicile. Anyone can become a domiciliary of the gentleman's congressional district so long as he complies with whatever the State law might be with respect to his becoming a domiciliary.

It is quite possible for the Caterpillar Tractor Co. to advise all of its overseas residents that it is in the corporate interest for them to declare their domicile in Illinois and in the gentleman's congressional district, and if they comply with State law, they could all vote for or against the gentleman. That is a risk, but I doubt that it is a risk the gentleman has to worry about.

Mr. MICHEL. Mr. Chairman, if the gentleman will yield further, the reason I raised the question is because the worldwide headquarters of the corporation happens to be in my congressional district, and I think this would have more application to my case than to that of another Member of Congress representing a subsidiary plant somewhere else in our counrty.

Mr. WIGGINS. Mr. Chairman, if the gentleman has a problem, he has it already. This bill does not add to the problem. This bill limits the right to vote only to the last State of residence and not just to any State selected by the overseas resident.

Mr. BELL. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from California.

Mr. BELL. Mr. Chairman, referring to the answer made by the gentleman to the question of the gentleman from Illinois (Mr. MICHEL) about the Caterpillar Tractor Co., would those residents not, though, have to have had residence in this particular State? Their domiciliaries would have to be in that State.

The Caterpillar Tractor Co. could not say that all of their people in this area will please vote as though they are from some State or another. Is it not true they would have to have resided in that State or have shown some intent or some evidence they had resided there?

Mr. WIGGINS. Mr. Chairman, the general rule of domiciliary status is that it must be placed in only one jurisdiction at a time, and at a place in which a person intends permanently to reside. It is a state of mind. A state of mind is frequently proved by objective facts such as physical presence and the maintenance of certain physical assets within a jurisdiction. That is a matter of State law.

If the State of Illinois is satisfied to accept clear evidence of intent without more, then the person could be a domiciliary of Illinois and perhaps register now without this law and vote for or against a candidate for office.

Mr. BELL. However, there would have to be some clear intent with respect to having resided there?

Mr. WIGGINS. Yes. That is a sine qua non, as we say.

Mr. HAYS of Ohio. If the gentleman will yield, what the gentleman, in effect, means, and, in fact, did say, and I would like to repeat this for emphasis, is that nothing in this bill gives anyone the opportunity to change his domicile from where he was when he left the country. However, a State, on its own, could confer that status upon anyone, but nothing in this bill does.

Does the gentleman agree with that?

Mr. WIGGINS. That is true.

The unique feature of this bill is that it permits a person to vote, let us say, in Illinois, who does not make that election of domicile, but who, in fact, steadfastly opposes it and disclaims any intention of ever residing in Illinois. In other words, he is not a citizen, resident or citizen, of Illinois. This bill would give him the right to reside in Illinois.

Mr. HAYS of Ohio. Mr. Chairman, I yield myself 1 additional minute.

Mr. Chairman, in spite of all of that, the person who votes must have come from Illinois, in the first place, from a specific district, precinct, and county or he cannot vote under this bill.

Mr. WIGGINS. If the gentleman will yield, that is right.

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. HAYS of Ohio. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Chairman, may I ask the chairman this question: Does he make that declaration, then, at the time that he presents himself for an absentee ballot?

Mr. HAYS of Ohio. He must make a declaration—I would assume, at least, under the laws of my State—that he was last a resident of the west precinct, let us say, in Flushing, Ohio—and in the County of Belmont—before he left for overseas, and he requests a ballot to vote there.

Mr. MICHEL. If the chairman will yield further, let us take the case of a man who did not wash himself off the registration list of one State, moved to another and registered, and then went overseas. Would there be any chance or any possibility of his being able to vote twice?

Mr. HAYS of Ohio. I suppose in that remote instance there would be a chance, but I think he would be an idiot, given the penalty in this law, in doing it. I would say it would be almost totally a thing that would not happen.

Mr. MICHEL. I thank the chairman.

Mr. DANIELSON. Mr. Chairman, I support the purposes sought to be achieved by this bill, S. 95, and I shall vote for it. However, I have a substantial question in my mind as to the constitutionality of the bill. I tend to be persuaded by the constitutional arguments set forth in the minority views in the committee report accompanying S. 95; yet, I am not satisfied in my mind on this point. Therefore, I shall vote in favor of the passage of the bill, since I am in accord with its principles and I feel that the best resolution of this problem is to leave the decision to the Supreme Court in litigation which will very probably be brought to test its constitutionality.

Mr. RAILSBACK. Mr. Chairman, I would like to take a few moments to discuss why I am adding my support to the Overseas Citizens Voting Rights Act. As one of the original sponsors of this type of legislation, I have studied all issues closely and believe it is a much needed and constitutionally sound piece of legislation.

Briefly, the bill would provide that no

citizen who is otherwise qualified to register and vote in his domiciliary State, with respect to any Federal election, shall be denied the right to vote in such State merely because such citizen is residing outside the United States and has relinquished his place of abode or other address in the State, provided that he has not qualified as a voter in any other State.

The right to vote is one of the most basic rights of American citizenship, and I strongly believe Congress has the power to protect this right under the necessary and proper clause and the 14th amendment.

The right of international travel has long been recognized as "an important aspect of the citizen's liberty" *Kent* v. *Dulles*, 357 U.S. 116, 127 (1958), and has been reaffirmed in 1964 in *Aptheker* v. *Secretary of State*, 379 U.S. 500, 505. And the right is not just limited to those who are always on the move.

In 1970, the Federal Voting Rights Act amendments were interpreted as allowing the enfranchisement of all citizens living temporarily away from their usual homes. Although the majority of States have not supported this interpretation, in Oregon against Mitchell, the Supreme Court affirmed Congress right to alter States' bona fide residence requirements protecting the rights of citizens moving from one State to another near election time. While this applies to just Presidential elections prior to 30 days, the House Administration Committee has asserted it would undoubtedly be found to be constitutional if applied to congressional elections, and, by extension, would also apply to overseas citizens.

Mr. Chairman, I should also like to point out that the legislation we are considering today will directly affect 750,000 Americans—businessmen, missionaries, teachers, lawyers, students, and engineers—who are now denied the Federal franchise. These individuals also have special problems, because they often have no Congressman to help them, and yet they pay U.S. taxes.

I think the committee report clearly points out how necessary this legislation is, and provides in more detail the constitutional rationale for enactment. I urge my colleagues to support the Overseas Voting Rights Act today.

Mr. THOMPSON. Mr. Chairman, the Overseas Citizens Voting Rights Act of 1975 will at long last provide for the enfranchisement of citizens who have been denied the opportunity to vote in Federal elections. It does so by requiring that each State make provision for absentee registration by appropriate means. States are thus allowed latitude in implementing procedures under the act.

The particular group of persons who will be enfranchised by the act constitute only a portion of all overseas citizens, many of whom already have the right to register and to vote absentee. For example, that right is generally provided to military personnel and dependents living abroad and to Government employees, such as those in the State Department. By this act, we will simply insure the same rights to private citizens residing overseas, many of whom pay State taxes and have an active interest in the conduct of their Government.

For those interested in ensuring the broadest form of representative democracy, the enfranchisement of U.S. citizens residing abroad is an appropriate step. The millions residing abroad, as well as the Members of this body, owe a debt of gratitude to the chairman of the Subcommittee on Elections, the Honorable JOHN DENT, and the chairman of the Committee on House Administration, the Honorable WAYNE HAYS, for their efforts in bringing this bill to the floor. I urge your support.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Overseas Citizens Voting Rights Act of 1975".

DEFINITIONS

Sec. 2. For the purposes of this Act, the term—

(1) "Federal election" means any general, special, or primary election held solely or in part for the purpose of selecting, nominating, or electing any candidate for the office of President, Vice President, Presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, Resident Commissioner of the Commonwealth of Puerto Rico, Delegate from Guam, or Delegate from the Virgin Islands;

(2) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands; and

(3) "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands, but does not include American Samoa, the Canal Zone, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

RIGHT OF CITIZENS RESIDING OVERSEAS TO VOTE IN FEDERAL ELECTIONS

Sec. 3. Each citizen residing outside the United States shall have the right to register absentee for, and to vote by, an absentee ballot in any Federal election in the State, or any election district of such State, in which he was last domiciled immediately prior to his departure from the United States and in which he could have met all qualifications (except any qualification relating to minimum voting age) to vote in Federal elections under any present law, even though while residing outside the United States he does not have a place of abode or other address in such State or district, and his intent to return to such State or district may be uncertain, if—

(1) he has complied with all applicable State or district qualifications and requirements, which are consistent with this Act, concerning absentee registration for, and voting by, absentee ballots;

(2) he does not maintain a domicile, is not registered to vote, and is not voting in any other State or election district of a State or territory or in any territory or possession of the United States; and

(3) he has a valid passport or card of identity and registration issued under the authority of the Secretary of State.

ABSENTEE REGISTRATION AND BALLOTS FOR FEDERAL ELECTIONS

Sec. 4. (a) Each State shall provide by law for the absentee registration or other means of absentee qualification of all citizens residing outside the United States and entitled to vote in a Federal election in such State pursuant to section 3 whose application to vote in such election is received by the appropriate election official of such State not later than thirty days immediately prior to any such election.

(b) Each State shall provide by law for the casting of absentee ballots for Federal elections by all citizens residing outside the United States who—

(1) are entitled to vote in such State pursuant to section 3;

(2) have registered or otherwise qualified to vote under subsection (a); and

(3) have returned such ballots to the appropriate election official of such State in sufficient time so that such ballot is received by such election official not later than the time of closing of the polls in such State on the day of such election.

ENFORCEMENT

Sec. 5. (a) Whenever the Attorney General has reason to believe that a State or election district undertakes to deny the right to register or vote in any election in violation of section 3 or fails to take any action required by section 4, he may institute for the United States, or in the name of the United States, an action in a district court of the United States, in accordance with sections 1391 through 1393 of title 28, United States Code, for a restraining order, a preliminary or permanent injunction, or such other order as he deems appropriate.

(b) Whoever knowingly or willfully shall deprive or attempt to deprive any person of any right secured by this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) Whoever knowingly or willfully gives false information as to his name, address, or period of residence for the purpose of establishing his eligibility to register, qualify, or vote under this Act, or conspires with another individual for the purpose of encouraging the giving of false information in order to establish the eligibility of any individual to register, qualify, or vote under this Act, or pays, or offers to pay, or accepts payment either for registration to vote or for voting shall be fined not more than $5,000, or imprisoned not more than five years, or both.

SEVERABILITY

Sec. 6. If any provision of this Act is held invalid, the validity of the remainder of the Act shall not be affected.

EFFECT ON CERTAIN OTHER LAWS

Sec. 7. Nothing in this Act shall—

(1) be deemed to require registration in any State or election district in which registration is not required as a precondition to voting in any Federal election; or

(2) prevent any State or election district from adopting or following any voting practice which is less restrictive than the practices prescribed by this Act.

EFFECTIVE DATE

Sec. 8. The provisions of the Act shall apply with respect to any Federal election held on or after January 1, 1976.

Mr. HAYS of Ohio (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and

the Speaker having resumed the Chair, Mr. YATES, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill (S. 95) to guarantee the constitutional right to vote and to provide uniform procedures for absentee voting in Federal election in the case of citizens outside the United States, pursuant to House Resolution 902, reported the Senate bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the Senate bill.

The question was taken; and the Speaker announced that the ayes appear to have it.

Mr. WIGGINS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 374, nays 43, not voting 17, as follows:

[Roll No. 762]

YEAS—374

Abdnor
Abzug
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Archer
Armstrong
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Barrett
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Casey
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conlan
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, R. W.
Daniels, N.J.
Danielson
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Frenzel
Frey
Fuqua
Giaimo
Gibbons
Gilman
Goldwater
Gonzalez
Goodling
Gradison
Green
Gude
Guyer
Hagedorn
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hastings
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Henderson
Hicks
Hightower
Hillis
Holland
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hyde
Jacobs
Jarman
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Latta
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
Macdonald
Madden
Madigan
Maguire
Mahon
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schneebeli
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shriver
Shuster
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stokes
Stratton
Studds
Sullivan
Symington
Taylor, N.C.
Thompson
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—43

Ashbrook
Bauman
Bennett
Brown, Mich.
Brown, Ohio
Broyhill
Butler
Clawson, Del
Collins, Tex.
Crane
Daniel, Dan
Devine
Eshleman
Flynt
Fountain
Ginn
Grassley
Haley
Hansen
Holt
Hutchinson
Ichord
Johnson, Colo.
Lagomarsino
Landrum
McDonald
Mann
Miller, Ohio
Moore
Poage
Quillen
Ruppe
Satterfield
Sebelius
Stephens
Stuckey
Symms
Talcott
Taylor, Mo.
Thone
Treen
Waggonner
Wiggins

NOT VOTING—17

Adams
Andrews, N. Dak.
Burke, Fla.
Davis
Esch
Fraser
Gaydos
Hébert
Heinz
Helstoski
Hinshaw
Jeffords
McKinney
Patman, Tex.
Riegle
Sikes
Teague

The Clerk announced the following pairs:

Mr. Hébert with Mr. Esch.

Mr. Adams with Mr. McKinney.

Mr. Patman with Mr. Hinshaw.

Mr. Helstoski with Mr. Heinz.

Mr. Sikes with Mr. Jeffords.

Mr. Davis with Mr. Burke of Florida.

Mr. Fraser with Mr. Andrews of North Dakota.

Mr. Teague with Mr. Riegle.

Mr. DANIELSON changed his vote from "nay" to "yea."

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that Mr. GARN was appointed as a conferee, on the part of the Senate, on the bill (S. 1281) entitled "An act to improve public understanding of the role of depository institutions in home financing."

GENERAL LEAVE

Mr. HAYS of Ohio. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the subject of the Senate bill (S. 95) just passed.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

RICE PRODUCTION ACT OF 1975

Mr. MATSUNAGA. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 853 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 853

Resolved, That upon the adoption of this resolution it shall be in order to move, section 303(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8529) to establish improved programs for the benefit of producers and consumers of rice. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture the bill shall be read for amendment under the five-minute rule by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Hawaii is recognized for 1 hour.

Mr. MATSUNAGA. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 853 provides for the consideration of H.R.

8529, the Rice Production Act of 1975, a bill reported by the House Committee on Agriculture. The resolution provides an open rule with 2 hours of general debate, to be equally divided and controlled by the chairman and ranking minority member of the Agriculture Committee. Upon completion of general debate, H.R. 8529 will be read for amendment under the 5-minute rule by titles, instead of by sections. At the conclusion of the consideration of the bill for amendment, the committee shall rise and report the measure to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The rule would also waive points of order against the Rice Production Act under section 303(a) of the Congressional Budget Act of 1974, which prohibits the adoption of any new spending authority prior to adoption of the first budget resolution. However, the Rules Committee has been advised by the House Budget Committee that this waiver is unnecessary since H.R. 8529 apparently does not violate the provisions of the Budget Act. H.R. 8529 is an entitlement program which would take effect in the current fiscal year—1976—and, as you know, the first budget resolution for this year has already been adopted. The Budget Committee has also determined that the extension of the Rice Production Act into fiscal year 1977 would not constitute new spending or budget authority under the meaning of the Budget Act.

Mr. Speaker, H.R. 8529, the Rice Production Act, is the culmination of nearly 2 years of study by the House Agriculture Committee. The bill recognizes the recent economic changes which have taken place in the U.S. agricultural industry. The existing marketing quotas and acreage allotments for rice are based on legislation passed during the Great Depression when the United States had an abundance of food and no one could afford to buy it. Lowering their prices to meet declining demand, farmers, including the Nation's rice producers, went broke.

Today, we face a totally different situation. The demand for all types of foods, including rice and other grains, is increasing. That this is true is evidenced by the severe rice shortage—and subsequent record rice prices—which occurred in 1973 and by the growth of U.S. rice exports within the last few years.

The U.S. Department of Agriculture has also recognized these changes by using its statutory authority to lift rice marketing quotas and acreage allotments in 1974 and 1975. The results of open production have been very encouraging. A large number of rice producers holding acreage allotments have increased their production and some new growers have begun to plant rice. The price paid for rice by consumers in areas of heavy rice consumption such as New York City, Hawaii, and Puerto Rico have declined somewhat from the inflated levels of 1973. Moreover, the large rice surpluses predicted by some growers and some officials in the Department of Agriculture have failed to materialize. In many cases, the so-called "carryover" of rice resulted from backups at the mills or from farmers holding their crops until seasonal price increases occurred.

If rice growers and processors could be assured of continued open production and adequate markets for their crops, I believe that these problems would disappear. Rice processors would be encouraged to modernize their mills and build new ones, and rice consumers, here at home and abroad, would be assured of a steady flow of rice from the growers. The fact is, however, that the uncertainty as to the future of open production has kept many prospective new rice growers from planting and has kept processors from expanding their capacity. It now appears virtually certain that quotas and acreage allotments will be reimposed at the end of this year, not because of a decline in demand for rice or a rice surplus, but because of the requirements of the existing law which have created an artificially high support price level for rice and made it noncompetitive on the world market. The reimposition of quotas and acreage allotments will create a shortage of rice and cause prices to rise as they did in 1973.

The Rice Production Act of 1975 would remove the artificial barriers to production created in a time of relative abundance and allow the normal forces of supply and demand to work. Rice growers would determine for themselves, without Government intervention, how much rice to plant.

While I feel sure that open production will work, I believe it is important to point out that the bill contains provisions to protect longtime rice growers who already hold acreage allotment in the event that a rice surplus does develop. First, the bill establishes a reasonable target price of $8 per hundredweight for rice. Should the price paid to the farmer drop below the target established, rice growers who hold acreage allotments at the present time would be eligible for Federal benefits in the form of deficiency payments, loans, and purchases. The bill also provides for disaster payments to growers holding allotments who are prevented by a natural disaster from planting or harvesting their full allotments, and it would establish a set-aside program in the event that an estimated 15 percent or more of the annual crop is carried over into the next year.

H.R. 8529 is a good bill, and one that merits the support of the House. Because we are nearing the time when the Secretary of Agriculture, under the law, must reimpose rice marketing quotas and acreage allotments, it is essential that the House take early action on the bill. I therefore urge that House Resolution 853 be adopted so that we can consider the Rice Production Act.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 853 is the rule making it in order for the House to resolve itself into the Committee of the Whole for consideration of H.R. 8529, the Rice Production Act of 1975. The bill is subject to 2 hours of general debate and will be read for amendment under the 5-minute rule by titles instead of by sections.

The rule also provides for a waiver of points of order against language in the bill failing to comply with section 303(a) of the Congressional Budget Act. This section relates to new spending authority prior to the adoption of the first budget resolution for the fiscal year in which such spending authority has been granted. In the case of H.R. 8529 there is an entitlement program which first becomes effective in fiscal 1976 and continues into fiscal 1977. While the first budget resolution for fiscal 1976 has been adopted, the one for fiscal 1977 has not. Hence, this waiver appears necessary for points of order that could be raised against spending provisions in the legislation for the 1977 fiscal year.

The purpose of H.R. 8529 is to establish for rice the market oriented policy which was provided other farm commodities under the Agriculture and Consumer Protection Act of 1973. More specifically, the bill provides a two year rice program covering the 1976 and 1977 crops. It suspends marketing quotas and marketing quota penalties and removes restrictions on the production of rice by new producers. The legislation establishes a target price of $8 per hundredweight and a payment limitation of $55,000 on payments to any person under the rice program for each of crop years 1976 and 1977.

It is estimated that Public Law 480—Food for Peace—costs of this legislation for fiscal 1976 and 1977 will be $238 million each year under the new program—compared to $259 million for fiscal 1976 and $270 million in fiscal 1977 under the existing rice program. In addition, the bill includes $1 million for rice research at regional and national levels.

The present acreage allotment for rice has been in effect since 1955, about 20 years. For the last 2 years, however, the Secretary of Agriculture has lifted the marketing quotas; and there has been open production. It is my understanding now that on the 31st day of December Secretary Butz will announce that he is imposing marketing quotas and that rice production will be restricted exclusively to allotment holders. What H.R. 8529 proposes to do is simply to continue the system approximately that we have had for the past 2 years.

Mr. Speaker, I am in full support of this legislation. I believe its passage will allow the United States to break into new rice markets heretofore untried. Accordingly, I would urge the adoption of this rule so that we may proceed to consider and pass the Rice Production Act of 1975.

Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Very briefly, I want to urge not only the rule be agreed to but that the bill be passed. The bill, as has been pointed out, is finally addressing one of the major issues that we face in the world food market.

Yesterday we agreed to the conference report on the International Development and Food Assistance Act. The Members may remember that during my discussion with the chairman of the committee on that, I raised the question with him as to whether this legislation coming up today would be important in carrying out the act on which we agreed to yesterday? He said very flatly, "I agree it would be important and essential."

There is no question of the fact that the impact on the American market is also to be considered, not just the impact on the international market. I think that what we must recognize is that if we do not enact this legislation, the many millions of Americans who do use rice as a major source of food will undoubtedly be faced with substantial increases in price. They will not gain major advantages if the act is enacted. In other words, the reduction in the price of rice is not going to come in and constitute a major drop in the market today, but this will at least guarantee that it will hold level and that we will not be caught in a situation where the price of rice on the local scene will immediately begin to move up. We must also have the ability to answer the needs of the international market.

So, Mr. Speaker, it is for these reasons and because of the fact that this bill has been well studied and well reviewed by the Committee on Agriculture and the fact that it was out for consideration on this floor a year ago and has had plenty of study and plenty of opportunity for all of us to get input into this legislation that this rule should be agreed to and the bill should be passed.

Mr. Speaker, it would certainly be my hope, for the good of everyone, that that is what will happen.

Mr. **MATSUNAGA**. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas (Mr. ALEXANDER).

Mr. **ALEXANDER**. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, 13 months ago representatives of 130 nations gathered in Rome for the World Food Conference. Before, during, and immediately after that conference, leaders from all across the world, including the U.S. President, Secretary of State, Secretary of Agriculture, and the U.S. House of Representatives, made commitments to dedicated action toward relieving the world food crisis.

The world is still producing people much faster than food. Today the per capita world food supply is declining. Tomorrow 213,000 more people will come to dinner. Most of them will be rice consumers.

And, while millions of people died of the effects of starvation or malnutrition during the last year, the forces of protectionism have been triumphing over the cries of human need.

It is ironic indeed today that we find ourselves considering H.R. 8529, the Rice Production Act of 1975, a bill that can put vitality into commitments we made to hungry people. This is a bill that, had we had the strength of courage behind our commitments, could have been law a year ago.

This bill has far wider implications for the interests of Americans and for people all over the world than may appear immediately apparent. Failure to pass it will mean that thousands of farmers, many of them small operators who have had the courage to try to compete in the rice market without price protection, will be forced out of production. American consumers will face new increases of one-third to one-half in the price they pay for rice. Our economy will face the loss of up to $1 billion in foreign exchange we could obtain from commercial rice exports. Two-thirds of the world's population who are rice consumers will be deprived of the benefits of expanded rice supplies which could be assured by the passage of this temporary 2-year suspension of rice production controls.

These negative effects I have just listed will flow from the fact that under current law we will inevitably experience a dramatic reduction next year in the production of rice.

WHAT WILL HAPPEN IF THE RICE PRODUCTION ACT OF 1975 (H.R. 8529) IS NOT ENACTED?

Secretary of Agriculture Butz has indicated that under the present rice program he will have no choice but to reestablish marketing quotas for the 1976 rice crop and set acreage allotments at the statutory minimum of 1.65 million acres. Under the current law the rigid parity price formula is expected to result in a 1976 loan rate for rice of about $9.35 per hundredweight.

In 1975, a total of 2.76 million acres were planted to rice. A cutback in acreage allotments to 1.65 million acres in 1976 would represent a potential reduction in U.S. rice production of about 40 percent. For Arkansas, a decline in rice production of 55 percent is threatened; from 900,000 acres in 1975 to about 399,000 acres in 1976.

It is obvious that such a drastic reduction in production could have a dramatic effect on price. The question in fact is not whether prices will rise but how much they will rise. This year weather has been better than average around the world. Record crops are needed each year to keep up with increases in world population. A reduced U.S. rice crop heightens the world's vulnerability to poor growing conditions with all the price consequences thereof. Even average weather next year coupled with the sharp decline in U.S. production could trigger a price rise as spectacular as the one that occurred during 1972 and 1973.

The price effects of a smaller U.S. crop notwithstanding, higher U.S. prices for the 1976 crop year are guaranteed by the expected increase in the loan rate from the present $8.52 per hundredweight to $9.35 per hundredweight for the 1976 crop. As a result of the parity formula, the loan rate for rice has already risen about 62 percent between 1972 and 1975, far outpacing the increase in most other price indices.

A higher 1976 loan rate threatens seriously to disadvantage U.S. rice in world markets. In the past, when U.S. rice was not competitive in world markets, the result was sharply declining commercial exports of U.S. rice and even imports of rice into the United States despite ample domestic supplies. The negative effects of such a paradoxical situation on our balance of payments can be considerable. The United States could lose up to $1 billion in foreign sales.

U.S. rice that cannot be sold abroad because of competitive difficulties ends up in Government stocks and must be carried at considerable cost to the Treasury. Only about one-half of the minimum statutory acreage of 1.65 million acres is needed to meet domestic food uses. If U.S. rice is not competitive due to an artificially high loan rate that is not corrected through use of export subsidies, the balance of the acreage over and above that needed to meet Public Law 480 requirements represents rice being grown for the Government and not for the market.

The cost of the Public Law 480 program for rice is increased to the extent the loan rate is above the world price. If world prices are $8 per hundredweight and the loan rate is $9.35 per hundredweight, a Public Law 480 program of 800,000 metric tons or about 25 million hundredweight of rough rice costs the United States an extra $34 million.

ESTIMATED ADDED COST TO CONSUMERS AND TAXPAYERS OF CONTINUING THE PRESENT RICE PROGRAM

The present loan rate for rice is $8.52 per hundredweight. It is conservatively estimated as increasing to $9.35 per hundredweight in 1976–77 and $10.25 per hundredweight in 1977–78. The difference between the loan rate and world prices represents an added cost to the United States in the form of higher prices to consumers and additional program costs such as under Public Law 480.

[In millions]

Year price Cwt.:	*1976–77* [1]	*1977–78*
$8.50	$66	$136
8.00	105	176
7.50	144	214
7.00	183	254
6.50	222	292
6.00	261	332
5.50	300	370
5.00	339	410

[1] Projected added cost.

The above figures illustrate the potential costliness of the present farm program under alternative market price estimates, although market prices are not expected to average below $8 per hundredweight. These cost estimates do not include the costs which would be incurred by the Federal Government which the Commodity Credit Corporation may have to assume under the provisions of the present rice law. Additionally, these figures do not reflect the human consequences of a smaller crop and higher prices or the negative impact they represent on the U.S. balance of payments.

The estimates assume a statutory minimum acreage allotment of 1.65 million acres and a national average yield of 4,700 pounds per acre. As the following table shows, the loan rate has been rising sharply in recent years as a result of the formula on which it is based:

Year:	*Loan rate per cwt.*
1972–73	$5.27
1973–74	6.07
1974–75	7.54
1975–76	8.52
1976–77 forecast	9.35
1977–78 forecast	10.25

MY FIRST CONGRESSIONAL EXPERIENCES WITH RICE

After I was first elected to Congress in 1968, the principal contact that I had with the rice industry was marked by the year-end rush of its rice industry leaders and the Congress to appropriate export subsidies so that the existing crop could be moved to prevent an undesirably large surplus.

The most casual political observer knows that Congress has shown an increasing resistance to farm programs that limit food production and an even stronger resistance toward export subsidies that supposedly discriminate against our American consumers.

These realities prompted my concern about the future of the rice industry as well as my examination of alternative approaches.

REALITIES IN CONGRESS TODAY

In past years, when the makeup of Congress consisted of a sizable farm bloc, it was fairly routine to join with big city Democrats to produce farm legislation which was beneficial to States like Arkansas. In contrast, in the past 4 or 5 years the composition of Congress has changed dramatically.

This change reflects the attitudes of a "post-industrial" society which is said to produce a political climate that is shaped culturally, psychologically, socially, and economically, by the impact of technology and electronics—particularly in the area of computers and communications. These "post-industrial" changes affect politics most markedly through the emergence of a college educated populus whose livelihood and culture are tied to knowledge. It has been estimated that about 35 percent of the U.S. gross national product is accounted for by the production, consumption, and dissemination of knowledge. This percentage is thought likely to reach 40 percent by 1980.

Politically, this new class of voters is completely independent and does not identify with either major party. It is also believed that this development will lead to a restructuring of the political system as we know it today.

The outlines of the new class have been emerging within the Democratic Party for most of the 1970's. It is identifiable in movements to stimulate Federal Government action on civil rights, women's rights, consumerism, and the environment. The antiwar movement and a drive to limit industrial growth can also be placed in this category.

In view of the new emphasis on consumerism as reflected in the 94th Congress and an unwillingness to accept traditional farm programs which limit production and provide export subsidies, it is my considered opinion that it is absolutely essential for the rice industry to face up to reality, evaluate all of the alternatives, and to consciously select a course of action which is in its best interest.

A 20-YEAR HISTORY OF RICE PRICES

In order to get a better understanding of the rice industry I have gone back and examined a 20-year history as a basis for analysis.

The years for which I studied data on national season average prices to farmers per hundredweight and production by farmers were 1955 through 1974.

In 1955 the annual rice production was 55.9 million hundredweights and the national season average price was $4.81. By 1974 production had risen to 114.1 million hundredweights and the national season average price paid to farmers was $10.45, or 287 percent higher than in 1955. While the season mean average production during these years was 73.6 million hundredweights, I found that a low point in production was reached in 1957, when 42.9 million hundredweights of rice was grown in the United States. That year the national season average price was $5.11 per hundredweight, or only 48.9 percent of the price farmers received in 1974 when 71.2 million hundredweights that the national season

There are a number of other points which should be made about production and prices to farmers performance during this period.

In 1968 when 104.1 million hundredweights of rice was produced, the national season average price per hundredweight was $5, or less than half that for 1974. Even though production dropped to 90.9 million hundredweights of rice in 1969 the national average price that year dropped to $4.92 per hundredweight, still less than half of the 1974 price. It was not until 1970, when production dropped down to 83.8 million hundredweights more of rice was produced. average price per hundredweight paid to farmers recovered, up to $5.17.

It is critical to this discussion to remember that in each year following 1970 production of rice in the United States rose. Prices paid to farmers rose to an historic high of $13.80 per hundredweight on a national season average basis in 1973.

Even though for the first time in two decades Government controls on acreage planted were temporarily suspended for the 1974 and 1975 plantings and the national season average price in 1974, when the full impact of "open production" was felt, dropped to $10.45, this per hundredweight price was still 35.5 percent higher than any season average price received by farmers between 1955 and 1974, except for the 1973 price. The 1974 national season average price was also more than twice as high as in 1968 when rice was grown under "closed production" conditions and production was 10 million hundredweights lower than in 1974.

It is important to consider in studying the price and production behavior of rice, to consider the total costs to the farmers for producing this food crop. I have examined cost of production data for the 1972 planting season which is immediately prior to the sharp cost of production increases farmers experienced because of energy shortages and other resource demand influences, and for the 1975 planting season, when these cost of production increases should be reflected. Because I will talk about this cost data further along in this discussion, I will limit my comments now to saying that it appears clear that farmers producing rice in the 1975 season would make money, even if their season average price was as low as $8 per hundredweight. Such a dramatic decrease is not expected by rice industry leaders nor is it predicted by a study of rice price behavior during the 31 years since 1944, the period when prices and annual production experienced the greatest and most frequent increase and decrease fluctuations.

CURRENT LAW—UNCERTAINTY AND INSTABILITY

The fact is that under the present rice law, at the statutory minimum acreage of 1.65 million acres, more than twice as much rice is grown in the United States than is needed domestically for food. The balance is available principally for export or carryover.

Under the current law different formulas are used to establish the national rice supply objectives, the national acreage allotments, and the crop loan rate. The formulas fail to take adequately into account the trends in demand for U.S. rice, the realities of resources available for rice production, or the price at which U.S. rice growers must sell their food crop to make a profit.

The result has been the fluctuations in production and prices to farmers which I discussed earlier. An added result has been that milling and other processing facilities needed to handle increasingly large rice crops have not been built because the people who have to spend the millions of dollars for these facilities have not had assurance that there would be enough rice to be milled in the future to insure that they will be able to recover their capital investments. In addition, billions of dollars in income from exports of U.S. rice have been lost because the loan rate on rice was higher than the world market price, making U.S. rice noncompetitive, and causing unwanted surpluses to develop.

Two programs have been basically used in the past to help keep the long-term buildup of U.S. rice supplies at manageable levels. These were export subsidies, which no longer exist, and the Public Law 480—Food for Peace—program, in which rice no longer enjoys the high priority it once did. I will discuss these programs in more detail shortly.

Rather than working well, it occurs to me that the present rice program can best be characterized by two words: "uncertain" and "unstable." How can there be long-range planning and investment by producers, millers, transporters, or commercial users in the face of production uncertainty not only in the middle future, but in the very next season?

Suppose we get a new Secretary of Agriculture tomorrow. Will that new Secretary decide that production is to be closed, or will he leave it open? If closed, at what level will he set the acreage allotments? Will he require cross-compliance? Will he allocate one percent or three percent of the acreage allotments to new producers? If world prices decline below the loan rate, will he reestablish export subsidies in order to hold onto U.S. export markets, or will the judgment of the Secretary be overridden by Presidential politics to relegate the United States to the role of a residual rice supplier?

If world prices remain below the escalating loan rate, demand for U.S. rice both domestically and from abroad will decline and large surpluses, even at the minimum statutory acreage, will accumulate. Clamor for change will mount and strengthen with the surplus. It is inevitable that change will come. The only question is on whose terms.

H.R. 8529, the Rice Production Act of 1975, is a viable, timely alternative that will permit rice to move into the marketplace rather than into Government storage. It will permit growth rather than retreat; development rather than stagnation. It is the right way for the industry to go.

EXPORT PAYMENTS—CORNERSTONE OF U.S. RICE EXPORT MARKET

As a part of my study of the rice industry during the past two decades, I examined data on the behavior of the U.S. rice export market. U.S. rice has been competitive in the world market and commercial export sales have been rising since 1972. But, it is obvious that the principal success of the rice program under the current law during the past 20 years has been largely due to the fact that Congress has from time to time appropriated direct export subsidies and Presidential politics have given rice a high priority in the operation of Public Law 480 programs.

From fiscal year 1955 through fiscal year 1975, a total of $3.3 billion was spent in export subsidies for commercial sales and for the Public Law 480 program to allow U.S. rice acreage allotment holders to keep their production at high levels, protect farmer rice prices, retain commercial export markets, and prevent unmanageable surplus rice buildup. At the same time, many farmers who wanted to grow rice were shut out of the industry, and the price American consumers were paying for rice was higher than the price at which it was exported.

During the marketing years 1954 to 1958, U.S. rice was not competitive as world prices declined under and remained below the U.S. loan rate. Dollar exports fell to under 10 million hundredweights on a rough rice equivalent basis and large carryover stocks accumulated, ranging between 18 and 34 million hundredweights.

In December, 1958, Congress initiated an export subsidy program which made U.S. rice fully competitive. Dollar exports rose steadily reaching about 35 million hundredweights by the 1967–68 season and stocks were reduced to minimal levels of between 5.3 and 8.5 million hundredweights.

In the middle of 1967, world prices rose over the loan rate and export subsidies were discontinued.

Then during the marketing years, 1969 through 1972, world prices again declined below the U.S. loan rate and subsidies, though eventually reestablished, were limited by budgetary considerations and never fully made up the difference between the U.S. price and the world price. The rice carryover buildup was prevented from reaching the levels of 1954–57 period because of substantial increases in Public Law 480 rice exports. Nonetheless, carryover stocks rose to between 11.4 and 18.7 million hundredweights and commercial exports fell from the record 24.2 million hundredweight shipped in fiscal year 1968 to only 10.9 million hundredweight shipped in fiscal year 1972.

In December 1972, world rice prices rose above the U.S. loan rate, export subsidies were discontinued, and commercial exports expanded sharply reaching a new record of 33.3 million hundredweight in the fiscal year 1975. At the same time, the carryover of rice was reduced to minimum levels.

A loan rate above world market prices, unless modified by export subsidies, not only reduces export demand for U.S. rice but also encourages competition abroad thereby worsening the situation for U.S. rice in the world market in the subsequent year.

As I mentioned earlier, the formula on which the loan rate is established disregards marketing considerations. The result in recent years has been a sharply rising loan rate. It has climbed from $5.27 per hundredweight in 1972 marketing year to $8.52 during the 1975 marketing year. If the current law is not changed, the loan rate for the 1976 marketing year is expected to range from $8.75 to $9.25 per hundredweight.

These loan rate gains have exceeded the increase in the Consumer Price Index which, during the same period, rose 22 percent; in the Wholesale Price Index which rose 47 percent; the index of prices paid by farmers which rose 46 percent; and the index of prices received by farmers which rose 47 percent.

Assuming the loan rate for the 1975 and 1976 marketing years is higher than the world price for rice, then we can expect to experience losses in commercial export sales.

The rice industry in the United States must recognize a new reality.

This reality that must be faced is that the export subsidy program is no longer available to rescue the rice industry from problems caused by loan rates that are set above, and without regard to, what it takes to sell U.S. rice. Export subsidy regulations have been revoked and the political reality is that reinstatement prospects are nonexistent.

Moreover, rice is not the top priority commodity it once was under Public Law 480 and the economic reality is that rice must compete with wheat and other commodities for its share of the Public Law 480 programs. These programs can no longer be called upon to compensate for a noncompetitive loan rate which has risen at an unprecedented rate in recent years.

TABLE.—*Export subsidy payments for commercial U.S. rice exports and Public Law 480 program costs, 1955–75*

[In millions of dollars]

Fiscal year	Export payments for commercial sales	Public Law 480 commodity costs (gross)[1]	Total
1955	0	3.8	3.8
1956	0	47.7	47.7
1957	0	198.7	198.7
1958	0	58.8	58.8
1959	4.51	35.5	40.01
1960	11.53	98.0	109.53
1961	18.60	109.3	127.90
1962	30.13	88.8	118.93
1963	24.06	123.4	147.46
1964	38.83	125.8	164.63
1965	38.35	103.3	141.65
1966	42.39	62.0	104.39
1967	21.98	143.9	165.88
1968	1.98	142.3	144.19
1969	3.22	187.3	190.52
1970	13.70	182.2	195.90
1971	17.82	175.7	193.52
1972	24.84	233.9	258.74
1973	0	258.7	258.7
1974	0	317.3	317.3
1975	0	285.3	285.3
Total	313.62	2,981.7	3,295.32

[1] Includes export payments.

WORLD FOOD CRISIS

In the long-range outlook, one must take into consideration the widening gap between food production and increased population.

As I mentioned in the beginning of this discussion, just last year most of the nations of the world convened in Rome in order to discuss this problem. It was the unanimous consensus of that group that there are far more people than there is food for them and that the disparity between the growth of people and the production of food is increasing annually. We are in our fourth year of shakily balanced food supplies. The slack seems to have gone out of the world food production system. With the growing food-population gap, we are witnessing a test of modern civilization.

For rice the outlook appears particularly explosive. Two-thirds of the world's population have rice as a staple in their diets. During the past 15 years, world production—excluding the People's Republic of China—has grown at an annual rate of about 3.8 million metric tons. In the early years, this was equivalent to a growth rate of almost 2.4 percent a year. By 1975 the growth rate has dropped to 1.8 percent and by 1985, if the 3.8 million-metric-ton-per-year rate can be sustianed, it will be but 1.5 percent. Compare this with rates of 2.5 percent annual population growth in rice consuming nations and there is no place for production on a per capita basis to go but down.

Superimpose on this picture the additional demand on food supplies represented by improving incomes; the exhaustion of rice stocks; the difficulties on the supply side such as changes in weather patterns including irregularity in the monsoons much of the rice growing world depends upon for water supplies and the spread of the Sahara Desert southward; the lack of irrigation; the reduction in available arable land; and the higher cost production inputs; and the inescapable conclusion is that we are heading for periods of shortage of greater frequency and greater severity than anything we have seen in the past.

All the world food supply studies that I have reviewed in recent months predict worldwide shortages of rice by 1985.

Consider also the findings of Lester R. Brown, president and senior researcher with Worldwatch Institute. He is a former senior fellow at the Overseas Development Council, has served as Administrator of the International Agricultural Development Service at USDA, and is author of "Seeds of Change," "World Without Borders," "In the Human Interest," and "By Bread Alone."

In "The Politics and Responsibility of the North American Breadbasket," Worldwatch Paper 2, published in October, Mr. Brown wrote:

> Most countries today look to North America for a portion of their food supplies. Dependence has increased steadily over the past decade and shows every indication of continuing to do so. The worldwide movement of countries outside of North America from export to import status is a one-way street. The reasons vary but the tide is strong: no country has gone against this trend over the past quarter of a century. Literally scores of countries have become important food importers but not one new country has emerged as a significant cereal exporter during this period.
>
> Not only are more countries joining the legion of importers, but the degree of reliance on outside supplies by the food-deficit countries are growing. In addition, more and more countries, both industrial and developing, are actually importing more food than they produce. (Pages 36 and 37)

The situation which Mr. Brown describes has occurred despite the food production increases that many nations have been able to achieve and despite the successes of the "Green Revolution" built around hearty, high-yielding, dwarf wheats and rices.

Obviously the people of all nations must move forward with plans to bring their population growth within the boundaries of the world's ability to feed people. In the meantime, however, the people of all nations must move toward responsible and sensitive responses to the needs of the hungry in their own nations and throughout the world.

At this point I would like to make a part of the RECORD portions of documents which I believe would be useful to consider in connection with the world food crisis. These include excerpts from: "Malthus and America, A Report About Food and People, 1974" by the House Committee on Agriculture; the "Declaration on Food and Population" signed by eminent intellectuals and scientists, including 50 Members of Congress; a speech made by Kurt Waldheim, United Nations Secretary-General on receiving the "Declaration . . ."; and speeches by Henry Kissinger, U.S. Secretary of State before the United Nations and before the World Food Conference in Rome.

The excerpts follow:

EXCERPTS FROM HOUSE AGRICULTURE COMMITTEE REPORT, MALTHUS AND AMERICA, A REPORT ABOUT FOOD AND PEOPLE, 1974

"The combined effect of population growth and rising affluence is accelerating world food demand at rates without precedent in history. At the turn of the century, the annual increase in the global demand for cereals was approximately four million tons per year. By 1950 it was about 12 million tons per year. Twenty years later, as of 1970, the world demand for cereals was expanding by 30 million tons per year—the equivalent of the annual wheat crops of Canada, Australia, and Argentina combined. Most importantly, this increase in demand is incessant, occurring in years of good weather and bad weather alike." (at p. 5)

* * * * *

"During 1974, conservative estimates are that somewhere between 200 and 400 million of our fellow human beings will stare starvation directly in the face. Over 10 million persons—most of them children five years of age and under—will perish as a direct result of too little food to eat.

Whether these "local famines will spread into a sea of hunger" depends, amongst other things, on the response of our own and other governments." (at pp. 5–6)

* * * * *

"The Subcommittee found that in all probability, the world can expect more, rather than less, disasters associated with malnutrition. The world food crisis will not disappear spontaneously or soon, and maybe never." (at p. 6)

* * * * *

"The 1974 world food supply-demand equation is precariously balanced. A poor harvest in any major producing country—the United States, the Soviet Union, India or China is sure to send economic shock waves, not only throughout the food sector of the world economy, but as it fuels the fires of inflation throughout its other sectors as well." (at p. 9)

* * * * *

"Since 1960, world grain stocks have fluctuated from a high of 155 million metric tons to a low of about 100 million metric tons. When these stocks drop to 100 million tons, severe shortages and strong upward price pressures develop." (at p. 11)

* * * * *

"Global stocks fell close to 100 million tons in 1973, and still further in 1974. Thus world grain reserves have dropped to their lowest level in more than two decades, although the world's population has increased by half in the interim."

* * * * *

"The world is now in a situation of extreme vulnerability. In 1973 and 1974, world reserve capabilities in relation to consumption needs have fallen far below any previous level . . . ." (at p. 11)

* * * * *

"The Subcommittee concludes that unless present trends in population growth and food production are significantly altered, a food crisis that will have the potential to affect everyone from every walk of life will hit with more impact than the energy crisis of 1973–74." (at p. 15)

* * * * *

"Did you ever stop to think, for example, what the effects on our national security would be if, say, the governments of three or four major countries collapsed due to a shortage of food, resulting in riots in the streets and an overthrow of the government? Can we live in peace in a whole world neighborhood of sick and hungry people?" (at p. 15)

"The demand for food, like the demand for oil, metals, minerals, and other resources, is obviously going to skyrocket, and that rocket is going to be fueled by fires of inflation and joblessness." (at p. 15)

* * * * *

"Will America allow a food shortage to surprise us such as we allowed the energy crisis to do this year, and only then react after we find people standing in line from 7 a.m. to 9 a.m. on Tuesday and Thursday mornings waiting to get into their local grocery store to buy a limited quantity of food? The Department Operations Subcommittee sincerely hopes not.

The answers aren't easy, but the price of inaction will be cruel.

Think about it, Congress.

Think about it, America." (at p. 16)

DECLARATION ON FOOD AND POPULATION

(A Call to Governments and People for Action by Concerned Citizens from Many Parts of the World)

To Governments, Organizations and Men and Women Everywhere We, the Undersigned, Address this Declaration on Food and Population:

No link unites the family of man more than his need for food. For food is an essential condition of life, common to all people; wherever they are, whatever they do they share alike in this need.

The stark truth is that man's ability to produce food is not keeping pace with his need. Despite efforts by governments and the international community to solve world food problems, more people are hungry today than ever before.

Hundreds of millions of the world's people are undernourished. Population growth is adding 75 to 80 million more people each year, 200,000 each day. Within the next 25 years or so our present numbers of nearly 4 billion will be nearly 7 billion. They must all be fed.

The world food situation took a sharp turn for the worse in 1972 and 1973:

1. Stocks of grain have hit an all-time low since the end of World War II. Surplus stocks formerly held in reserve have nearly been exhausted and no longer offer security against widespread hunger and starvation.
2. Food prices have reached new highs. Last year, despite a record world harvest, escalating demand nearly doubled grain prices. The increasing cost of food threatens to cause serious hardship for many people already spending most of what they have on food.
3. Less of the cheaper protein foods, which normally supplement grain diets, is available. The world's fish catch and per capita production of protein-rich legumes, the staple diet in many countries, have declined.
4. Food shortages have created serious social unrest in many parts of the world and are particularly severe in countries where hunger and the diseases that thrive on undernourished bodies are prevalent. This scarcity has been aggravated by the consumption of more and more grain to produce meat, eggs, and milk.
5. Mounting fertilizer and energy shortages are reducing food production in certain areas and increasing food prices.

In this new and threatening situation, a bad monsoon in Asia (which could occur in any year), or a drought in North America (like those in the 1930's and 1950's), could mean severe malnutrition for hundreds of millions and death for many millions.

This dangerously unstable world food picture, when seen aganist an unprecedented population increase, has created an immediate sense of urgency. The dangers of food shortages could remain a threat for the rest of this century—even if, hopefully, bumper crops in some years create temporary surpluses and even if the trend toward reduced birth rates becomes general throughout the world.

World food production in the years ahead must rise at least 2 percent a year to keep peace with the present rate of population growth. But it must rise a good deal more if the world's people are to be provided with an adequate diet. This required annual increase in food production is considerably greater than that which occurred during recent decades—and seems to be increasingly harder to achieve each year. But unless there is this necessary and continuous increase in food production, there will be even more hunger and malnutrition and soaring food prices.

The need to seek solutions is pressing. The nature of the problem, the precarious state of world food production made critical by predicted expectations of continued population growth, calls for concerted action by the world community. There is only one cure for hunger and that is food. No palliatives or panaceas in the form of reports or resolutions can alleviate the pain of empty stomachs that must be filled. International resolutions, however high-minded, are a mockery if they do not have a tangible impact on the human condition.

The United Nations is now providing leadership on both these problems. In August the United Nations will convene the World Population Conference in Bucharest. In November it will convene the World Food Conference in Rome. These are the first occasions when governments have agreed to meet to consider these crucial questions and to consider taking action on them.

With these two conferences only a few months away, we urge governments, acting before, at and after these two global conferences, to consider realistic and purposeful measures such as the following:

1. Give high priority to programs in each country which will increase the production of grains, legumes and other staple food crops; ensure the availability of protein-rich foods, particularly to the more vulnerable population groups; expand the production of fertilizer; and improve the opportunities for small farmers to make a reasonable living. Develop a comprehensive and constructive World Food Plan for adoption at the World Food Conference.

2. Support sound population policies relevant to national needs which respect national sovereignty and the diversity of social, economic and cultural conditions; accept and assure the human right of each couple to decide for themselves the spacing and size of their families; [1] and recognize the corresponding responsibility of governments to provide their peoples the information and the means to exercise this right effectively.[2]

Embody these policies in a World Population Plan of Action to be agreed upon by governments at the World Population Conference.

3. Recognize that the interdependence of the world community creates an obligation to assist in the necessary funding of food and population programs by both developing and developed countries. This calls for the elaboration and implementation of a global strategy by the United Nations and its family of agencies, including the Food and Agriculture Organization of the United Nations and the United Nations Fund for Population Activities.

4. Establish sufficient food reserves through national and international efforts to provide continuing vital insurance against food shortages.

5. Recognize that, in our finite world where resources are limited, the family of man must one day, and hopefully fairly soon, bring birth rates into reasonable balance with the lowered death rates that have been achieved. Many governments see the need to guide national policy toward this objective.

A solution to the present world food crisis must be found within the next few years. The social transformation which can lead to a reduction in the world rate of fertility, along with lowering the rate of mortality, will take decades to accomplish. But a start must be made now because the millions of people being born each year place a heavy burden on the resources available to many nations for education, health, employment and the maintenance of environmental quality. A reduction in population growth could help alleviate this burden. Effective measures toward resolving both the world food and population problems must come within a total strategy of development. Not only is social and economic development desirable in itself, but also it contributes to moderating population growth. All these measures are designed to improve the quality of life.

In this Declaration, we focus on food because it is the most critical of the pressures on the world today. It is the greatest manifestation of world poverty, which has many aspects. The absolute number of desperately poor are far greater today than ever before in history. The need to eradicate acute poverty is being recognized more than ever as a collective responsibility. It is a task which global partnership and the demands of social justice make imperative.

We repeat, food is crucial because literally tens of millions of lives are suspended in the delicate balance between world population and world food supplies. Growing populations, denied sufficient food needed for survival, resist all efforts to secure a peaceful world. With increased production and more equitable distribution of food, the future could provide a prospect of less misery and more hope for countless people now deprived of the basic necessities that are their right.

The World Food Conference represents a unique opportunity. This opportunity must not be missed. Comprehensive international agreements must be reached to assure at least minimal food supplies, with sufficient annual carry-over stocks. Disastrous breakdowns in the world food supply can thus be avoided. All nations may then rest secure in the knowledge that this, the most critical of their immediate problems, is being attacked with wisdom, vigor and unity of purpose.

In the name of humanity we call upon all governments and peoples everywhere, rich and poor, regardless of political and social systems, to act—to act together—and to act in time.

STATEMENT BY UNITED NATIONS SECRETARY-GENERAL KURT WALDHEIM ON RECEIVING THE DECLARATION ON FOOD AND POPULATION

(Following is the text of the statement made by Secretary-General Kurt Waldheim on receiving the Declaration on Food and Population presented by a group of eminent intellectuals and scientists at a ceremony at United Nations Headquarters, April 25, 1974.)

I am grateful to be given this Declaration. It is marked by a profound concern for the improvement of the human condition. The Declaration is important of itself by virtue of the authority of the signers whose standing in all walks of life is reflected by the stature of those who have come to the United Nations today to bear witness to it.

I have recently described the times we are living in as being characterized by mass poverty, food shortages, an energy crisis, a continuing oppressive burden of military expenditure, inflation exacerbated by world monetary instability, and the prospect before us of a doubling of human numbers by the turn of the century.

The Declaration addresses itself primarily to the dramatic depletion of available food reserves and the shortfall in world food production. There is no more immediate task than that of rescuing the world from a situation which, for many, has always been precarious and is now even more hazardous. Short-term measures, while essential, must not be allowed to become palliatives, for the coming years will increase our vulnerability.

Virtually in no other areas is it more pressing than in the one to which your Declaration addresses itself: the need to assure that the men, women, and children in Africa, Asia, Europe and the Americas, whatever their origin, their religion, their political philosophy, their age, their social condition have the basic foods which are the one essential and undebatable pre-condition of a life of dignity and decency. Without an assured supply, all our other aspirations for peace, for social justice, for growth and creativity, both as individuals and as nations, lose their meaning and take on a hollow ring.

I cannot but be sharply and painfully conscious of the dangers posed by the Declaration, having recently returned from the Sahel. There, the suffering provoked by a six-year drought, is resulting in premature death, disease and a dreadful sense of helplessness. The tragic spectacle of dying cattle and their owners fleeing the encroaching desert induce a sense of desperation into what should be the objective analysis of the world's food situation and prospects.

It is no accident that this Declaration is presented at the United Nations. This body was established in the final phase of the most devastating war in history not merely to embody the highest aspirations of mankind, but to provide an operational vehicle for global action. The present crisis and those that we can see looming ahead can be overcome. They are indeed a serious challenge to use all our forces, our determination and ingenuity to provide a better life for future generations.

This is a year in which the international community, with some brutually abrupt reminders of what the future may hold, is facing up to the situation. At its present special session, the General Assembly is devoting its attention to find the basis of a more equitable and workable economic system—a system which takes into account not only the needs of all nations, but also the imperative interrelationships of the several parts of the problem: poverty, the conservation and just apportionment of natural resources, the preservation of the environment, and the problems of trade and monetary systems. Food and population, the two urgent issues to which your Declaration addresses itself, form an integral part of this whole.

In August, in Bucharest, for the first time Governments will hold a world population conference. Shortly afterwards, in Rome, the World Food Conference will offer Governments the opportunity to tackle the world food problem. Your call therefore for international co-operation to ensure supplies of food comes at an opportune moment. The World Food Conference will present the Member States of the United Nations with the unique opportunity to take immediate practical and urgently needed steps to redress a tragic situation which we can no longer afford to ignore.

The unprecedented growth of the world's population is compounding man's difficulties in feeding himself. The time at our disposal is very short. You point out that the world's food production has barely kept pace with hope for each new generation to improve the conditions of life for the billions of men, women and children who will inhabit the earth in the coming decades.

Whether or not we can increase food pro-

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[1] United Nations Teheran Declaration of Human Rights, 1968 (para. 16).

[2] Resolution 1672 (LII) of the United Nations Economic and Social Council, 1969.

> duction depends, as the Declaration states, not on a torrent of words and resolutions, but on adopting new and tangible objectives, hammering out the global strategies needed and revitalizing the machinery to achieve them. In spite of its ideological complexity and the political and other constraints that must exist in any global body, the United Nations can and will respond.
>
> It is in this same spirit of commitment and determination that I receive this Declaration. I am confident that the international community can and will find human solutions to the serious problems of food and population which confront mankind.

ADDRESS BY THE HONORABLE HENRY A. KISSINGER BEFORE THE UNITED NATIONS GENERAL ASSEMBLY, SEPTEMBER 28, 1974

* * * * *

> At a time of universal concern for justice and in an age of advanced technology, it is intolerable that millions are starving and hundreds of millions remain undernourished.
>
> The magnitude of the long-term problem is clear. At present rates of population growth, world food production must double by the end of this century to maintain even the present inadequate dietary level. And an adequate diet for all would require that we triple world production. If we are true to our principles, we have an obligation to strive for an adequate supply of food to every man, woman and child in the world. This is a technical possibility, a political necessity and a moral imperative.
>
> The United States is prepared to join with all nations at the World Food Conference in Rome to launch the truly massive effort which is required. We will present a number of specific proposals:
>
> To help developing nations. They have the lowest yields and the largest amounts of unused land and water; their potential in food production must be made to match their growing need.
>
> To increase substantially global fertilizer production. We must end once and for all the world's chronic fertilizer shortage.
>
> To expand international, regional and national research programs. Scientific and technical resources must be mobilized now to meet the demands of the year 2000 and beyond.

In further response to the world food crisis a World Food Conference convened in Rome. On November 5, 1974, in his address to the Conference, Secretary Henry Kissinger stated the need for increased food production by exporting nations. The Secretary said:

> A handful of countries, through good fortune and technology, can produce more than they need and thus are able to export. Reliance on this production is certain to grow through the next decade and perhaps beyond. Unless we are to doom the world to chronic famine, the major exporting nations must rapidly expand their potential and seek to insure the dependable long-term growth of their supplies.
>
> They must begin by adjusting their agricultural policies to a new economic reality. For years these policies were based on the premise that production to full capacity created undesirable surpluses and depressed markets, depriving farmers of incentives to invest and produce. It is now abundantly clear that this is not the problem we face; there is no surplus so long as there is an unmet need.
>
> * * * * *
>
> Nothing more overwhelms the human spirit, or mocks our values and our dreams, than the desperate struggle for sustenance. No tragedy is more wounding than the look of despair in the eyes of a starving child.
>
> Our responsibility is clear.
>
> Let the nations gathered here resolve to confront the challenge, not each other.
>
> Let us agree that the scale and severity of the task require a collaborative effort unprecedented in history.
>
> And let us make global cooperation in food a model for our response to other challenges of an interdependent world—energy, inflation, population, protection of the environment.

ENERGY—DOLLAR—FOOD CRISIS

Since the beginning of the seventies the United States and most of the world have been hard squeezed between the pincer prongs of economic recession and inflation. It has only been late in 1975 that a significant trend toward recovery has developed.

The recession has resulted in rising unemployment and dropping productivity and income. Three major catalysts in the inflation of the past six years have been the tripling of imported petroleum costs, and two devaluations of the U.S. dollar and increasingly severe world food shortages.

In 1974, despite export expansion, the United States experienced its largest foreign trade deficit in history as a direct result of the skyrocketing of imported energy costs. Depending on which way the imports are valued the deficit was either $3 billion or $10 billion. A vital factor in preventing the trade deficit from rising even higher in 1974 was the ability of American farmers to increase their production of agricultural products for export from $12.9 billion in fiscal year 1973 to $21.3 billion in fiscal year 1974.

The value of the U.S. agricultural exports in 1974 was almost enough to pay the $24 billion imported petroleum bill.

In its summary the November, 1975, "World Monetary Conditions in Relation to Agricultural Trade" publication of the Economic Research Service of USDA, notes that in late 1975 "world economic growth and production have begun to recover" and that "nearly all observers predict a much more solid economic recovery in 1976." The report went on to say, "Demand has not appreciably slackened for U.S. agricultural exports, primarily because of production shortfalls elsewhere in the world."

As I mentioned earlier in this discussion, it is the opinion of leading world food experts that the problems of short supply created by expanding population, changing climate conditions and production resource limitations, will continue to trouble us with increasing severity for the near future and possibly longer.

The extensive study which I have given to the energy, dollar, and food crises have convinced me that they are so deeply interwoven that their solutions will not come about independent of each other.

In the immediate future, though, mankind's most pressing problem is that of increasing food production. Our American farmers have made great strides in this direction in the last few years, but there is still some room for expansion which we should use. At the same time, other nations of the world must make all-out efforts to increase their own food production as even the treasure trove of the North American breadbasket cannot be expected to supply all the growing needs of the future.

U.S. RICE EXPORTS—PERFORMANCE AND POTENTIAL

During my work with and study of the rice industry I have met no one who wants to produce this food crop exclusively for a domestic market. Even with the U.S. market now reaching 43 million hundredweight annually, it is not the most attractive market to an industry which needs to produce twice that quantity and would like to grow three times that amount to meet the world export demand.

The U.S. exports approximately 60 percent of its rice crop. My study of the trends in export shipments since 1955 convinces me that the future of the U.S. rice industry lies in the world commercial market.

In 18 of the last 21 fiscal years the operation of the loan rate under existing law has made U.S. rice noncompetitive on the world market. During 10 of those years export subsidies were used to make U.S. rice fully competitive and during those years, except 1961 when all U.S. rice exports declined, the commercial exports of U.S. rice rose at an ever-increasing pace. Commercial shipments reached 24.2 million hundredweight in fiscal year 1968, the first year since 1954 that U.S. rice was competitive without the aid of export subsidies.

During fiscal years 1969 through 1973 the loan rate again made U.S. rice noncompetitive and the commercial exports of U.S. rice declined sharply. Export subsidies were used, but as I mentioned earlier, they were not sufficient to make U.S. rice fully competitive.

In mid-fiscal year 1973 U.S. rice again became competitive in the world market, without the aid of export subsidies, and commercial export shipments have more than tripled since the 1972 low point.

It should also be mentioned that during eight of the years since 1955 commercial exports have exceeded exports under the Public Law 480 program. The indications are that a trend toward commercial exports staying above Public Law 480 shipments began in 1964 and would have continued through the present had not U.S. rice become noncompetitive in 1969.

Major Public Law 480 shipments to Southeast Asia during this period also helped to keep this program above the commercial export level.

The dominance of commercial export sales appears to have begun to develop again in fiscal 1974 and continued through fiscal 1975.

In 1973 $436.5 million worth of rice was exported with $192.2 million in commercial sales and the remainder in Public Law 480. In 1974 $752.3 million worth of rice was exported, with the commercial export share being $423.9 million. Then, in 1975 $1,042,400,000 worth of rice went into the world markets, with $706.8 million being the commercial sales share. Commercial rice exports grew more than 2.5 times faster during these years than did Public Law 480 sales.

During this period major new demands for U.S. rice developed in the Middle East. In 1974, for instance, the Middle

East countries purchased about 15.4 million hundredweight of American rice. This contrasts sharply with the 3.08 million hundredweight they purchased in the previous year.

Rice industry leaders believe the commercial world market demand for U.S. rice will continue to rise and studies by the U.S. Department of Agriculture agree with them. Just in recent weeks the U.S.S.R. has begun to make commercial purchases in the U.S. rice market. It has been estimated that her minimum need in this year will be for 2.2 million hundredweight. In addition, it is anticipated that Cuba will come back into a trade relationship with the United States and that she will be in the market for a minimum of 5.4 million hundredweight of U.S. rice.

Using data for 1960 to 1968, the longest recent period in which rice has been fully competitive in the world market, economists have projected 41.8 million hundredweight as being the commercial export market demand for U.S. rice in this current fiscal year, assuming American rice is fully competitive. This would mean an increase of more than 20 percent over rice exports during fiscal year 1975.

There are two alternative routes which the United States can use to meet this 1976 objective: Remove the artificial barrier of the rice loan rate, or reestablish export subsidies at a level high enough to make American rice fully competitive. I much prefer the first alternative.

WHO IS GOING TO BUY ALL THIS RICE WE WILL BE PRODUCING UNDER H.R. 8529?

Data kept by USDA show that more than 100 countries have been traditional commercial importers of U.S. rice. Their need for our rice is expected to continue. In addition, the domestic market for U.S. rice has been growing steadily and is expected to increase approximately 2 million hundredweight during this marketing year.

Since fiscal 1973 the value of commercial exports of U.S. rice have risen from $192.2 million to $706.8 million. This is a 368-percent increase. Though Public Law 480 value of rice exports rose during the same period the increase was only 140 percent. In 1973, commercial exports of U.S. rice represented 45 percent of total value of the exports of rice. In fiscal year 1975 the value of commercial exports of rice represented 67.8 percent of total rice exports.

During the past 3 years 14 of the nations which import U.S. rice on a commercial basis have taken at least 100,000 hundredweight through such purchases each year. These include the Bahamas, Canada, France, the Netherlands, Sweden, Switzerland, the United Kingdom, West Germany, Hong Kong, Iran, Saudi Arabia, the Republic of South Africa, and Senegal. And, six—Canada, the United Kingdom, West Germany, Iran, Saudia Arabia, and the Republic of South Africa—have taken a minimum of 500,000 hundredweight in each of these years. Iran increased its purchases dramatically, from 745,262 hundredweight in the 1972–73 marketing year to 9,939,246 hundredweight in the 1974–75 marketing year. Iraq, which was not in the list of leading commercial purchasers of U.S. rice in 1972 bought 2,240,000 hundredweight in 1974.

The U.S.S.R. has recently entered the U.S. rice market and both Poland and Cuba are prospective customers.

At this point I would like to make a part of the RECORD an article from Foreign Agriculture, November 10, 1975, titled "Mideast Oil Sales Finance Bigger Imports of U.S. Rice."

The article follows:

MIDEAST OIL SALES FINANCE BIGGER IMPORTS OF U.S. RICE

(By John B. Parker, Jr.)

Use of tremendous profits from petroleum sales to upgrade Mideastern diets and Government buying and social programs have caused rice imports by countries in the region[1] to skyrocket in 1975[2], and rice imports are expected to remain strong in the years immediately ahead. Most of the Mideast's rice-supplying countries, including the United States, have profited from the 1975 jump in demand.

Other major rice suppliers to the region—Thailand, Pakistan, India, and the People's Republic of China (PRC)—also made spectacular sales gains in Mideast rice markets in 1975.

U.S. rice exports to some Mideast countries may gain further in 1976. Iraq appears to offer the brightest opportunity for large volume gains of U.S. rice, and shipments to Iran and the Arabian Peninsula should remain near the 1975 level.

Valued at about $1 billion, exports of U.S. rice to the world in 1975 accounted for 34 percent of the worth of all U.S. rice exports. These figures contrast sharply with U.S. exports to the area in 1973, of $437 million, just 8 percent of the total value of all U.S. rice exports.

In terms of quantity, the Mideast took about 30.6 percent of total 1975 U.S. rice exports of 2.3 million tons. At 702,556 tons, these exports to the Mideast were more than triple the 155,000 tons exported to the area in the previous year. Most U.S. rice exports to the Mideast are of the more expensive grades.

Spectacular gains occurred in 1975 in U.S. rice exports to Iran and Iraq, where petroleum revenues have been used to subsidize increasing food imports by Government agencies. Petroleum income also is being distributed widely throughout the population of these—and several other—countries, and should help individual consumers to upgrade their diets, a large part of which is rice.

The demand for imported rice in Iran and Iraq will also be strengthened by a falloff in both countries' calendar 1975 rice production to a level well below previous peaks and a growing demand for rice in the cities. New government programs have put larger sums of money into the hands of many farm families, triggering an unexpected surge in demand for imported rice in rural areas of Iran, Iraq, and Arabian Peninsula countries.

Imports of rice by Mideast countries are expected to approximate 1.6 million tons in calendar 1975—a third above the previous record in 1974 and almost quadruple the 1965–69 average. High prices on the world market over the last 3 years failed to deter growth in rice imports by the oil-rich Mideast countries, while recent declines in prices have caused some countries to accelerate import plans.

Consumers near the Mediterranean prefer medium- and short-grain rice, while those in Iran, Iraq, and countries along the Persian Gulf prefer long-grain rice. These countries are major markets for this kind of U.S. grain. The gain in rice imports by Iran and Iraq has had a noticeable influence on the sales of long-grain rice, especially U.S. long-grain rice.

Arabian Peninsula long-grain rice imports were trending upward even before petroleum prices started climbing in 1973, but the growth rate sped up in 1974 and 1975. Syria is a new market for medium- and short-grain rice.

MIDEAST RICE PRODUCTION

Along with Iran and Iraq, Egypt and Turkey are the major rice producers in the Mideast, where regional output of rough rice totaled 3.7 million tons in 1974. Rice production in other Mideast countries is smaller, totaling about 5,000 tons a year each in Sudan and Saudi Arabia and 1,000 tons in Syria.

Rice production in the four major rice-producing countries increased by more than one-fourth between the early 1960's and 1970 because of expanded use of irrigation, improved rice varieties, and fertilizer. But this growth has not extended into the current decade, largely because of competition from other crops and difficulty in developing new areas for rice cultivation.

One of the "big-four" Mideast rice producers, Egypt saw its milled rice output fall from a peak of 1,745,000 tons in 1970 to only 1.5 million tons in 1974. Output in 1975 was still below the peak. Increases in Egyptian . . . tonnage will be difficult to achieve since gains in rice areas beyond the northern area of the Nile Delta are unlikely. Meanwhile, domestic demand continued to grow, reducing export availability. Egypt's rice exports declined from a record 772,000 tons in 1969 to only 136,000 tons in 1974, and declined further in 1975.

Demand for rice in Iran has grown faster than production, although local producers still provide over 60 percent of the supply. Iran's output of milled rice in 1975 is estimated at 696,000 tons, down from 717,000 tons in 1974.

Opportunities to increase the area planted to rice or use of irrigation water are limited in Lilan and Mazanderan, the two northern Provinces along the Caspian Sea, where much of the country's rice is grown. Expansion of rice production is planned in the south near Abadan to help offset these losses.

MIDEAST RICE IMPORTS

Iran's rice imports from all sources in 1975 are expected to total 510,000 tons—more than double the 1973 and 1974 levels. Government subsidies on imported rice allow Iranian consumers to purchase top grades of U.S. long-grain rice for an equivalent of about 29 U.S. cents per pound, below prices for top grades of domestic long-grain rice that reached a record retail price of 50 cents per pound in 1974. Larger supplies of imported rice caused prices for domestic long-grain rice to fall below 40 cents per pound in 1975.

Rice exports from the United States to Iran zoomed from 20,399 tons in 1974 to a record 461,261 tons, worth $226 million, in 1975. Port congestion and distribution problems may cause temporary disruptions in the flow of 1976 rice imports into Iran. As a result, total imports may drop slightly below the previous year's level and, as a supplier, the United States may suffer some temporary lag in shipments until new port facilities are opened in late 1976.

Some rice may be shipped from North Korea. North Korea recently signed a trade agreement with Iran that included 200,000 tons of grains for delivery over a period of several years, but shipment may not start until late 1976.

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[1] Includes Iran, Iraq, Saudi Arabia, Kuwait, Bahrain, United Arab Emirates, Oman, Qatar, Yemen Arab Republic, People's Democratic Republic of Yemen, Jordan, Syria, Lebanon, Turkey, Egypt, Sudan, Libya, and Israel.

[2] All tons are metric. Unless otherwise indicated, all years are U.S. fiscal years ending June 30.

Total Iranian rice consumption will continue upward at a rapid pace in future years and stock levels may be placed under considerable strain, putting them noticeably below the "comfortable" level recorded in 1972.

Iraq may increase its purchases of U.S. rice in 1976—perhaps even double them. From 9,011 tons in 1974, Iraqi imports of U.S. rice rose to a record 109,856 tons in 1975. Iraq's imports of rice from all sources, mostly from Thailand, Latin America, and Pakistan, have also risen, pushing total imports to about 300,000 tons annually.

Kuwait imported rice from Pakistan, India, the United States, and the PRC in 1975. U.S. rice exports to Kuwait increased from 4,531 tons in 1974 to a record 27,707 tons in 1975. India sent 10,600 tons of Basmati rice to Kuwait in calendar 1974, putting India ahead of Pakistan as a supplier of Basmati in this rice market.

Kuwait's total rice imports in 1975 are expected to exceed 92,000 tons, allowing for a stock buildup of about 12,000 tons. Stocks were depleted in 1973 when only 28,000 tons were imported and many consumers had to obtain rice from neighboring countries.

Saudi Arabia's rice imports have fluctuated widely in the last decade because of caution shown by private importers during periods of rising prices. In fact, imports declined from 220,000 tons in 1971 to about 154,000 tons in 1973 because private importers were hesitant to make foreign purchases when world prices were high and the ports congested.

Large Saudi Government purchases of rice in the United States and Pakistan eventually ended the shortage which had become severe late in 1973.

Saudi rice use may rise 20 percent in 1976, while wheat and flour purchases may rise even more, largely because of higher incomes. Recently initiated programs to boost the birth rate by making a payment for each baby born appear to have triggered stronger demand for rice in rural areas. New sales of U.S. rice to Saudi Arabia in August and September reached 46,000 tons, well above the average monthly level during 1975.

U.S. rice exports to Saudi Arabia declined from 90,977 tons in 1974 to 78,607 tons in 1975, while Pakistan's rice exports to that country more than doubled, exceeding 60,000 tons in 1975. India sent 2,959 tons of rice in 1974.

India became a major supplier of long-grain Basmati rice to the Persian Gulf sheikdoms in 1975, with shipments of 7,000 tons to Dubai, 5,642 tons to Bahrain, 4,000 tons to Oman, and 1,000 tons to Qatar.

Reopening of the Suez Canal may allow American rice exporters to compete more vigorously with Pakistani and Thai sellers in the Arabian Peninsula. New port facilities in Dubai and Abu Dhabi will allow rice importers in the United Arab Emirates (UAE) to store rice for transshipment to other Mideast markets. Thus, rice imports by the UAE are expected to exceed 100,000 tons in 1975, double the 1968–73 average.

Improved economic conditions in the Yemen Arab Republic (YAR) have made possible larger imports of wheat and rice. U.S. rice exports to that country increased to 4,124 tons in 1975—quadruple the 1974 level. Thailand sent 17,000 tons of rice to the YAR in 1974. Much larger exports of rice to the YAR by both countries are expected in 1976.

U.S. rice exports to Syria jumped from only 125 tons in 1974 to 14,363 tons in 1975. Most of the increase was under P.L. 480, Title I (long-term dollar credits). Sharp reductions in imports of Egyptian rice and rising demand have bolstered Syria's use of U.S. rice. Rice imports by Syria reached a record 85,000 tons in 1974, including 25,000 tons from the PRC, 20,000 tons from Italy, and 10,000 tons from North Korea.

Reopening of the Suez Canal may also contribute to the movement of more Asian rice to Turkey in 1975. Turkey's rough rice production has fallen from the record of 292,000 tons in 1971 to 238,000 tons in 1974. To a large extent imports have filled this breach. Thailand and the PRC have been major suppliers of Turkey's rice imports in recent years. Turkey purchased about 100,000 tons of rice in 1974, including 60,000 tons from the PRC and 12,900 tons of U.S. rice. Only about half was shipped in 1974; the other half moved through the Suez Canal in mid-1975.

Lebanon's rice imports have moved up gradually. Shipments from Egypt declined in early 1975, but imports from Italy increased. Exports of rice by the United States and Thailand to Lebanon are expected to rise in 1975 as total rice imports reach 31,000 tons.

Israel—another steady growth market—imports rice from Italy, Argentina, and the United States. This country is usually Israel's third largest supplier, sending around 3,000 tons of rice annually.

Libya's rice imports are expected to reach 30,000 tons in 1975, with over half of the supply coming from Egypt. The PRC, Italy, and the United States are other suppliers.

Egypt—a large rice exporter in some past years—has imported rice from Pakistan and Brazil recently to help ease late summer shortages. Imports of rice from Pakistan in exchange for petroleum products and phosphates may be feasible. New trading arrangements, opening of duty-free zones, and rising import needs to meet foreign tourist demand could cause Egypt to become a significant rice importer during months when local supplies are usually short—July to October.

Egyptian farmers earn higher profits from growing vegetables sold at open market prices than they do from growing rice for sale to Government procurement agencies at low fixed prices. Rice ties up the land from April to October—a period of 7 months—when two or three crops of vegetables could be grown in the same period.

CAN U.S. RICE FARMERS COMPETE IN THE WORLD MARKET?

The question then arises: "Can U.S. farmers profitably compete in the world market at prices lower than the loan rates established by existing law?"

To find an answer to this I studied the behavior of American farmers during the past two "open production" planting seasons and data on the "total costs" of production which rice growers face.

In the first open production planting season, spring 1974, operators of 3,677 of the Nation's 11,914 rice farms with alloted acreage, or 30.9 percent, believed so strongly that they can compete that they took themselves out from under the current price protection program to grow rice on more acreage than they were alloted by law. In the 1975 season 8,196 of the Nation's 13,025 allotment holders, or 63 percent, grew in excess of their allotments and thus became ineligible for price support under the present law.

At the same time, in 1974 operators of 1,367 farms began producing rice, though they were completely without the benefits of price protection enjoyed by allotment holders. This figure grew to 2,400 in 1975, an increase of 43 percent.

This behavior alone would appear to indicate that thousands of American rice growers believe strongly enough they can compete in the world market and make money that they are willing to make the large investments that this food crop requires, without the cushion of price protection.

The second factor I studied was the "total costs" of production data which is contained in the Texas A. & M. University study titled "Estimated Costs and Returns per Acre of Rice in Major Producing Areas, 1975 Season."

My study shows that at an average price as low as $8 per hundredweight, rice producers in the United States should make $54.60 per acre average net return over total costs on the 1975 crop. On a State-by-State basis the average net return over total costs per acre, at the $8 per hundredweight price, would be: California, $101.71; Texas, $23.77; Louisiana, $27.65; Mississippi, $39.88; and Arkansas, $79.97.

To carry my examination further, I made three assumptions concerning the 1976 crop. The first two were as follows: a 12-percent increase in total costs of production—which is twice as high as the predicted 1975 inflation rate; and, no increase in per acre productivity. Applying the $8 per hundredweight average price to the upward adjusted total costs of production data I found that the U.S. average per acre return over total costs should be $23.55. Further, I found that in only one state, Texas, should the total costs of production be greater than the return per acre. For this computation the State-by-State breakdown resulted in the following net returns above total costs of production: California, $68.88; Texas, −$14.62; Louisiana, 81 cents; Mississippi, $11.88; and Arkansas, $49.79.

The third assumption that I made was that the per hundredweight average price paid to farmers for the 1976 crop would be at least $8.74. This is the lowest loan rate that has been estimated for the 1976 crop, under the existing law. Applying the $8.74 price to the per acre production for the 1975 season estimated in the Texas A&M study, and subtracting the upward adjusted total costs data from the results, I found that the U.S. per acre average net return over total costs should be $52.45, at this price. The State-by-State breakdown was as follows: California, $103.60; Texas, $17.39; Louisiana, $23.96; Mississippi, $36.86; and Arkansas, $80.45.

Therefore, I believe that both the behavior of American rice growers during the past 2 years and the statistical study of per acre costs and returns data clearly demonstrate that our rice can compete in the world market and make money.

A NEW RICE ACT

Throughout this discussion I have tried to emphasize four basic points:

A healthy, extensive commercial world export market is essential to the continued vitality of the U.S. rice industry, even if the national acreage allotment is reduced to the statutory minimum of 1.65 million acres;

U.S. farmers can compete, at a profit, in the world rice market if American rice is fully competitive, unhampered by the artificial barrier of too high crop loan rates;

American farmers who want to grow rice ought to have an opportunity and flexibility to make their production decisions based on the market conditions and free of interference from the Federal Government; and

Full rice production is important to the U.S. economy and to the U.S. promise to help in achieving resolution of the world food shortage problem.

Any new rice legislation should take fully into account these points. It is my belief that H.R. 8529, the Rice Production Act of 1975, does a better job of that than any other proposal we have considered in this Congress.

This bill provides for a temporary program covering the 1976 and 1977 crop years. It raises the national minimum acreage allotment from 1.65 to 1.8 million acres. It reduced from 3 to 1 percent the amount of national acreage allotment which may be reserved for distribution to new rice farmers or producers and to correct inequities in existing allotted acres.

H.R. 8529 allows the selling, leasing or transfering of farm and producer allotments within administrative areas. It prohibits acreage planted in excess of allotments during 1975, 1976, and 1977 from being used in establishing farm or producer acreage allotments in any year following that period.

This bill would establish a target price program for the 1976 and 1977 rice crops similar to the programs created for wheat, feed grains, and cotton under the Agriculture and Consumer Protection Act of 1973. The target price for the 1976 crop is $8 per hundredweight adjusted to reflect changes in the index of prices paid by farmers for production items, interest, taxes, and wage rates during the period beginning on the date of the enactment of the Rice Production Act of 1975 and ending July 31, 1976. This target price may be further adjusted to reflect changes in average yields. The target price for the 1977 rice crop would be the price established for the 1976 crop adjusted to reflect changes in the index of prices paid by farmers for production items, interest, taxes, and wage rates during the 12-month period immediately preceding July 31, 1977.

Deficiency payments would be available only for rice produced on allotment acreage, would be made only if the target price exceeds the average market price received by farmers during the first 5 months of the marketing year, and would be available only to cooperators and only on rice produced on allotted acreage.

The loan rate for the 1976 crop would be at a rate equal to $6 per hundredweight adjusted to reflect any changes in the index of prices paid to farmers for production items, interest, taxes, and wage rates during the period beginning on the date of enactment of the Rice Production Act of 1975 and ending July 31, 1976. The loan rate may be further adjusted to reflect changes in average yields. The loan rate for the 1977 crop would be established at a rate that bears the same ratio to the loan rate for the 1976 crop as the target price for the 1977 crop bears to the target price for the 1976 crop.

As in the case of deficiency payments, the nonrecourse loans would be available only on rice produced on allotted acreage and only to cooperators.

H.R. 8529 provides for disaster payments under terms and conditions similar to the wheat, feed grains, and cotton programs. The payments would be available to producers who, because of a condition beyond their control, are prevented from planting any portion of their acreage allotment. They would also be available to produce when, because of a condition beyond their control, the amount of rice the producer is able to harvest on the farm is two-thirds less than the acreage allotment times the established yield. The payments would be either the deficiency payment rate or one-third of the target price, whichever is the larger.

The Secretary of Agriculture is authorized, but not required, to establish a set-aside acreage program when the projected carryout of rice for the marketing year for which decisions are being made exceeds 15 percent of the total supply. The Secretary of Agriculture will determine the amount of set-aside acreage which shall not exceed 30 percent of the allotment. The Secretary will make a preliminary determination of projected carryout by January 1, and the final determination of whether or not there is to be a set-aside program by April 1. If a set-aside acreage program is imposed, cooperators must comply with it in order to receive deficiency payments, or be eligible for loans on or purchase of their rice crop. Diversion payments may be made to cooperators who set aside for conservation uses cropland acreage on the farm in addition to that required under the regular set-aside program.

A provision limiting to $55,000 the total payments a cooperator may receive under the program is included in the proposal.

For the 2-year life of the proposed law the apportionment of national acreage allotment, marketing quotas, amount of farm marketing quota and penalties and storage provisions of the Agricultural Adjustment Act of 1938 are suspended.

The bill defines "cooperator" as a person holding a rice acreage allotment, and, in years when a set-aside program is in effect, who has set aside acreage in accordance with and as required by the program.

RESISTANCE TO CHANGE

It has been said that there are those in the rice industry, among the protected allotment holding producers, who oppose any change in the current rice act. There are also many allotment holding producers and thousands of nonallotment holding farmers, who have been able to produce rice during the past 2 "open production" years, who strongly support the changes that are proposed in the Rice Production Act of 1975.

Why does this division of feeling exist within the producer group? At least some of the reasons are found in the arguments which have been made against the proposal. I would like to briefly discuss these.

Opponents say that this proposal will be harmful to the interests of traditional, allotment-holding producers, many of whom are small farmers. In the section subtitled "Can U.S. Rice Farmers Compete in the World Market," I talked about the fact that in 1974 many allotment-holding farmers, with operations ranging across the size spectrum from large to small, took themselves out from under the price protection of the current law in order to plant more acreage than is in their legal allotment and even more did so in 1975. Also, many nonallotment holding farmers began growing rice during this period.

The "open production" years made it possible for many small allotment holders to expand their operations to a more efficient and economically viable size. Also, many of the new rice growers are small farmers. These are the people who will experience the most serious adverse effects should the Secretary of Agriculture be forced, by the provisions of the current law, to require rice to be produced under "closed production" in 1976. The small farmers who hold allotments will have their rice acreage reduced, in many cases to below the 35-acre level considered minimum for economic and efficient production. Moreover, many of the thousands of nonallotment holding farmers who have grown rice during the past 2 years will be forced out of the industry.

What the opponents who say the proposal will harm the interests of traditional growers are actually asking is that the Congress act to cut out much of their competition by failing to enact this proposal into law.

Opponents of the proposal to modernize Federal rice legislation contend that the current law is not costing people anything and that the Rice Production Act of 1975 would be an expensive change.

What are the facts?

Since 1955 the current rice program has cost $3.3 billion in export subsidies on commercial sales and in Public Law 480 rice program expenses. Remember it has been only through the use of these export stimulants that the U.S. rice industry has remained viable during most of the past 20 years. It is true that Public Law 480 programs are instruments of foreign policy, but they have also been essential to the existence of the American rice industry as we know it, so these costs are definitely program costs under the current law. Just during the past 2 years, though export subsidies have not been necessary to encourage commercial exports, rice exports under Public Law 480 have cost $659 million.

In making its estimate of the net Government outlays for the proposed program, USDA said the cost for the 2 years the program would operate would be $548 million, including the Public Law 480 program costs. This is $111 million less than the Public Law 480 program costs alone during the past 2 years, even though it includes $72 million for deficiency payments to be made to farmers in the unlikely event that the national average price to farmers during the first 5 months of the marketing year drops below the proposed target price.

Even after adding the higher 2-year deficiency payments projections—based on a 5-month national average price per hundredweight of $7.50—the opponents have been circulating to the projected Public Law 480 program costs of $416 million for the next 2 years, we find that the proposed law would be cheaper than the current law has been during the past 2 years.

These are not the only direct economic costs of failure to pass the proposed Rice Production Act of 1975. Based on an average $9 per hundredweight price and an average per acre production of 45 hundredweights of rice, a reduction of rice acreage from 2.7 million to 1.65 million acres, as is likely under current law, would result in the loss of $440.2 million in farm income in Arkansas, Mississippi, Missouri, Louisiana, Texas, and California next year. The State-by-State breakdown on this loss is: Arkansas, $202.5 million; Mississippi, $48 million; Missouri, $5.09 million; Louisiana, $64.05 million; Texas, $52.9 million; and California, $67.7 million. Using the multiplier effect accepted by economists we find the loss to the national economy ballooning to $3.1 billion.

Opponents of this bill argue that it should not be passed because the prices farmers are getting are down. This present price behavior is not unusual. During the past 5 years the prices received by farmers have regularly been higher between January and July than in the early months of the marketing year. It is true that the present prices are down from the heights of 1973 which were inspired by controlled production, pressure from world food shortages, and increased world rice purchasing power. The food shortages and the increased buying power still exist, but some of the pressure on rice prices has been released by making more rice available through opening up rice production during the past 2 years.

The fact is that, since the beginning of the marketing year, some farmers have been turning down bids for their rice that are higher than the current loan rate. Export inquiries are continuing. If I were turning down bids higher than the loan rate, it would be because I expect prices to rise.

Even with the open production seasons of the past 2 years, in which more rice has been grown and sold than at any other time in U.S. rice production history, the farmers have been getting more on a monthly and seasonal national average per hundredweight than they did at any time prior to July 1973, under closed production.

Rice farming is a very expensive operation requiring a high degree of knowledge both of production and marketing. Successful farmers do not get into the business if they do not think they will make money. They are smart enough not to go chasing rainbows composed of 1 or even 2 years of dramatically higher prices. They look at long-range trends in costs, supply and demand. It is especially important to keep these truths in mind when evaluating the next argument of the opponents of this proposal.

They say that Congress ought to fail to pass this proposal and should let rice production go back under Federal planting restrictions because USDA is projecting undesirably large carryovers for the end of this marketing year.

Since USDA's rice supply and demand projections are noted for their inaccuracy, variability, and conservatism, I believe this argument needs especially close examination. In 7 of the last 10 years the USDA carryover projections have been higher than the actual figure. The following is a table showing USDA's beginning of the year carryover estimates and the actual carryover at year's end, for the last 3 crop years:

[In million hundredweights]

Marketing year	Estimated carryover at beginning of marketing year	Actual carryover at end of marketing year	Percent of USDA error
1972/73	10.1	5.1	49.5
1973/74	10.1	7.8	22.8
1974/75	20.4	7.1	65.2

At the beginning of this 1975–76 marketing year, USDA estimated that year-end carryover would be 23.4 million hundredweights. Since that time the figure has been revised downward or upward on almost a monthly basis. The quandry, then, is which figure do we take, the beginning of the year forecast of USDA or some figure that we would be getting by reducing that sum by using one of the yearly percentages of error that existed in 1 of the 3 past years, or by reducing the USDA estimate by mean average percent of error that we see has been a part of the USDA forecasts over the past 3 marketing years?

Mr. MATSUNAGA. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Speaker, I rise in opposition to the rule. At the proper time, if the rule is agreed to—and I assume it will be agreed to—I plan to offer a substitute proposal for the bill, H.R. 8529, under the rule as it will be agreed to.

I will not take up time in this debate, but I just want to point out to my colleagues that I think what we are doing is moving in the wrong direction. I think that the substitute I will be offering at the proper time will be the proper approach.

Mr. Speaker, I will ask my colleagues to consider my substitute at that time.

Mr. MATSUNAGA. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. POAGE).

Mr. POAGE. Mr. Speaker, I am opposed to this bill, believing, as I did last year, that it means the destruction not only of our successful rice program but also the demise of several of our other agricultural programs and the forcing back into poverty of a number of our agricultural producers. I will discuss that point later on.

I want, however, at this moment only to call the attention of the Members to the great opportunity that lies before us. As far as I know, this is the first time we have been called upon to waive the congressional budget bill, and the Members will have an opportunity here now to put themselves on record as waiving the congressional budget bill in order to pass a bill which involves the United States Government in the payment of subsidies that are not now paid.

If Members want to have that record, they can get it in just a few minutes by voting for this rule. As far as I am concerned, I do not want to be on record as waiving the budget bill, because I believe that we should stand by the budget rather than break it at the very first opportunity. Let us vote down this precedent setting rule.

Mr. MATSUNAGA. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Speaker, I also rise in opposition to this rule.

I think this is an unwise piece of legislation.

The substitute that is going to be offered I intend to support as well as several other amendments that will be offered.

I intend to offer a motion to recommit the bill. It needs a great deal more work than the Committee on Agriculture has given it thus far.

As a result, Mr. Speaker, rather than waste the time of the House, we should simply vote down the rule.

Mr. MATSUNAGA. Mr. Speaker, I have no further requests for time.

I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. MATHIS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8529) to establish improved programs for the benefit of producers and consumers of rice.

The SPEAKER. The question is on the motion offered by the gentleman from Georgia (Mr. MATHIS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 8529, with Mr. FLOWERS in the Chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Georgia (Mr. MATHIS) will be recognized for 1 hour, and the gentleman from Colorado (Mr. JOHNSON) will be recognized for 1 hour.

The Chair recognizes the gentleman from Georgia (Mr. MATHIS).

Mr. MATHIS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 8529, the Rice Production Act of 1975. H.R. 8529, as amended, provides a 2-year program for producers of rice under which new growers may enter into the production of rice, while providing price protection to established producers of this commodity.

I would like to describe briefly the salient features of the bill.

First. It provides a 2-year rice program covering the 1976 and 1977 crops.

Second. It suspends marketing quotas and marketing quota penalties and removes restrictions on production of rice by new producers.

Third. A national acreage allotment of 1.8 million acres is established as a base for determing the amount of loans and payments to be made to cooperators.

Fourth. Deficiency payments, loans, and purchases would be made available only to cooperators and only on allotted acreages.

Fifth. A target price of $8 per hundredweight is established to be used for the purpose of making payments; the price to be adjusted for the 1976 crop for changes in the index of prices paid by farmers from date of enactment of the act to July 31, 1976, and for the 1977 crop for changes in the index of prices in the year ending July 31, 1977. Further adjustments are authorized for changes in yields.

Sixth. The payment rate would be equal to the difference between the target price and the higher of the loan rate or rice market price during the period August–December of the marketing year.

Seventh. Disaster payments would be made to cooperators who, as a result of a disaster or condition beyond their control, are prevented from planting the allotment of rice or other nonconserving crop or who are not able to harvest two-thirds of the allotment times the established farm yield.

Eighth. Nonrecourse loans and purchases would be available on the 1976 crop at a rate of $6 per hundredweight adjusted for changes in the index of prices paid to farmers in the period between the date of enactment of the act and July 31, 1976. Further adjustments could be made to reflect changes in yields. Similar adjustments would be made in the loan rate to determine the loan rate for the 1977 crop.

Ninth. A set-aside program similar to that on wheat, feed grain, and cotton is authorized if the Secretary estimated that the carryout for the marketing year will exceed 15 percent of the total supply for that year.

Tenth. Cooperators must comply with a set-aside program to qualify for deficiency payments or to be eligible for loans or purchases on their crop.

Eleventh. A payment limitation of $55,000 is established on payments to any person under the rice program for each year of the crop years 1976 and 1977.

Twelfth. National and regional rice research programs are authorized under the bill to be carried out by the Secretary with priority consideration for land grant universities and State experiment stations with an authorization of $1,000,000 for the period ending September 30, 1976. Further action by Congress would be needed to extend the authorization beyond that date. No funds could be used for advertising or promotion.

The purpose of the Rice Production Act of 1975 is to establish for rice the producer-freedom and market-oriented policy which was provided for other farm commodities under the Agriculture and Consumer Protection Act of 1973. This legislation offers an opportunity for the rice farmer to grow this staple commodity with a minimum of Government control and interference. This proposed program will make it possible for anyone to grow rice if he wishes. The farmer may decide on the basis of market considerations how much rice he should grow.

However, the bill recognizes the special importance of the historic rice farmer. The investment of the traditional grower who pioneered and persevered in the production of rice over the last 20 years is protected by the target price mechanism and the increase in the minimum acreage allotment from 1.65 million acres to 1.8 million acres. The extension of loan eligibility only for the historic producers provides an additional measure of price protection in that they will be afforded an opportunity to obtain funds while they are holding their crop for sale.

Under the current law rice production is limited to 15,189 allotment holders who have enjoyed this exclusive franchise for approximately 20 years. The only exceptions are in those unusual years when marketing quotas are suspended because the Secretary determines that the total supply of rice is less than a formula set forth in the law, a determination the Secretary has only been able to make twice in recent years—namely, this year and last year.

In considering this legislative proposal the committee recognized the strong probability of the reimposition of marketing quotas and acreage allotments by the Department of Agriculture at the beginning of 1976. Such a course of action would result in a cutback in production from the present level of 2.8 million acres to approximately 1.65 million acres—a 41-percent reduction. This would not only mean a substantial loss of foreign exchange as a consequence of decreased exports but it would also have the effect of driving up the price of rice to the consumer by one-third to one-half.

Approximately 60 percent of the U.S. rice crop is exported. It is expected that export demand will be maintained if not increased in the future. Several new markets have been created for American rice and other market possibilities loom on the horizon.

In 1974, Middle East, countries purchased almost 100,000 tons of American rice. This contrasts sharply with the 140,000 tons they bought from us the previous year. There is every reason to believe that the United States can count on continued strong Middle East demand.

The Soviet Union has expressed an interest in buying a minimum of 100,000 tons of rice from the United States. Cuba will most likely be purchasing large quantities of rice from the United States at such time as it resumes normal trade relations with this country. In pre-Castro days Cuba bought over 6 million hundredweight of rice.

Rice is the staple food in the diet of over two-thirds of the world population, and it is in these areas that the population explosion is taking place. Consumption of rice is increasing in these countries at a rate of over 1 percent a year. About 6 million more people are being added to the consumption each year, requiring about 7½ million tons more rice annually.

The rice export market offers enormous potential for the United States. This bill will equip the United States to meet this challenge to the advantage of producers and the overall economy of this country.

One of the features of the bill which generated considerable controversy during the committee deliberations was the $55,000 payment limitation. For many years under basic agricultural legislation there were no payment limitations for such agricultural commodities as wheat, feed grains, and cotton. The Agricultural Act of 1970 provided for the imposition of a $55,000 payment limitation to be applied to the 1971 crop and subsequent crops. The Agriculture and Consumer Protection Act of 1973 lowered that amount to $20,000 to be applied to the 1974 crop and subsequent crops. Since rice has never come under a program similar to wheat, feed grains, and cotton programs, these figures were never applicable to that commodity. It is felt by the committee that since other agricultural commodities started out at the $55,000 limit level and then ultimately worked their way down to the $20,000 figure, the same evolutionary procedure should apply to rice.

As the life of the bill expires in 2 years, the House will have the opportunity to reassess the $55,000 payment limitation with a view to bringing it into conformity with the agricultural commodities that fall under the Agriculture and Consumer Protection Act of 1973.

In agreeing to the $55,000 payment limitation, the committee also took into consideration the cost per acre of producing rice versus the cost per acre of producing other agricultural commodities. Figures were cited showing that there is a substantially larger investment involved in rice production than is the cost in other food crops.

Mr. Chairman, H.R. 8529, as amended, should result in substantial savings to the taxpayers as compared with the current program. The committee is of the view that market prices will remain in excess of target prices and loan rates under H.R. 8529, even with the adjustments required to be made thereunder. There would, of course, be costs incurred of $1 million for the period ending September 30, 1976 for the rice research program under title II of the bill.

Mr. Chairman, I urge that my colleagues in the House join me in support of H.R. 8529—a bill which is in the interest of the rice farmer, the consumer and the general public.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield 10 minutes to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Chairman, I rise in opposition to this bill. Let me make a few comments at the outset to show the Members exactly where I stand on this particular matter. First, my constituents grow no rice in my congressional district—none whatsoever. I am not representing any vested interests. Second, in all probability rice could be grown and might be grown in my district if this bill passes. Third, I received absolutely no support or contributions from rice farmers in my last election. So I want to get that straight before I even start.

But I am opposed to the bill. I am opposed to the bill because I do not believe it is in the best interests of farmers or in the best interests of consumers, and, most of all, it is not in the best interests of the taxpayers of the United States of America. Let me show the Members why.

Let us look at who wants this bill. Why is there any movement for a new rice bill? We have some farmers in this country who have not made a profit in other crops such as cotton and soybeans, and they are looking for a profitable crop. Rice has been a profitable crop under the existing program, so they want in on it. There is nothing wrong with that. If I were a farmer, I would agree with that. But the point is if we get everybody in on rice, it will suffer from overproduction like cotton and soybeans and will no longer be profitable.

Once upon a time people were encouraged to plant a lot of cotton. They lost their shirts on cotton. Then the word came down to plant soybeans because there was a great market in that. Now soybean farmers are losing their shirts too. I submit if this bill passes, the same thing is going to happen to rice producers. Therefore, we should not allow this political pressure on the part of our constituent farmers who are not making any money on their existing crops, who can and want to go into rice, to influence us. That is not the way to approach a problem. That is not what is right and best for all concerned.

We also have rice millers who want more rice to sell. They tell us they will take all of the rice we can give them. Surely, they tell us that because they want more of the raw materials they need to make their living. They do not care whether the rice farmers make profits or not. They do not care whether the Government subsidizes the production of rice or not. They just want more rice to sell.

I do not criticize them for that. I am just saying I do not think that is in the best interests of the taxpayers either.

What are some of the arguments for keeping the system as it is? The system right now is working. There have not been any Government price support payments to rice growers since 1967. They have been making it on their own. Rice is one of those commodities that we do not believe research shows that everybody can make a profit who grows it, because of the tremendously high cost of production. In addition to that, if we change the program at all, we are tampering with the delicate balance that may well turn out to increase the cost of Government support by the Federal Government. That is what worries me most.

Let us now look at some of the arguments for the bill. First, we hear that some interests say that we are going to reduce the cost of rice to the consumer, and are going to feed the world. There are a couple of things wrong with that such as we must remove international competition in growing rice. Other parts of the world already grow rice. As a matter of fact, there is going to be a world record crop of rice next year, 4 percent over what it was last year. That means increased competition on the world market. The United States is going to grow 7 percent more than it grew last year. The average U.S. citizen does not eat much rice, so we are not going to be growing all this rice for him. Foreign grown rice is cheaper than domestic, so the only way we are going to feed the world is to give it away. That means more foreign aid.

In addition, I ask has anybody received any constituent pressure from consumer groups saying that rice is too high in the grocery store? Of course not. Rice is at a good fair retail price level now, so that is not a sound position. Further, I submit that the figures show that if we lower the price of rice to the farmer down to below the break-even point, the price fall at the grocery store will not be but a penny or two a pound. When we cannot buy rice, or we become dependent on foreign rice due to the decline of the domestic industry as a result of this bill, then we will hear something from the consumers for sure.

Proponents also say we have got markets for rice. Let's grow lots of rice, because we have got lots of markets. Where are those markets?

We tried to conduct good hearings in the subcommittee on this rice situation. I commend the chairman of the committee. But from the time we finished those hearings, several things happened. Several reports came in proving that we have world record rice crops and that we have lost the Southeast Asia rice markets. We used to sell to Vietnam, Cambodia and Laos. We do not sell to them anymore.

We also used to sell an awful lot more rice to Iran and Iraq but the word from those countries is they are going to buy less rice this year.

The world production is up. So therefore our rice has more competition on the world market. So I submit there is no evidence for increased markets for U.S. rice. What we are doing is growing more rice at a time when we do not have new markets but a decline in the ones we have had. What does that mean? This is what I fear. We are increasing production and we will not be able to sell it, glutting the market and resulting in demands for increases in the Public Law 480 program, that is buying rice now and giving it away or, lending money to foreign countries so they can buy it.

The Public Law 480 program is a financial loss to the United States. Under the program a country is given 20 to 40 years to repay a loan at 2 or 3 percent interest. The U.S. Government cannot borrow money at that rate and therefore when we are lending at that rate we are losing money when we lend under the Public Law 480 program so these countries can buy our rice. That is a bad deal for the U.S. taxpayers. We are contemplating this at a time when everyone is asking us to cut our Government expenditures. We cannot borrow money fast enough to lend it out at these rates.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, does the gentleman claim that we provide an increase in Public Law 480 programs under this bill?

Mr. MOORE. No; I am not. There will be an increased pressure on the U.S. Government to increase the Public Law 480 program if this bill passes because we will have additional rice and we will not have markets for the rice and this is not good for the U.S. taxpayer.

Mr. JOHNSON of Colorado. The gentleman is free to make that argument but what evidence does he have that that is the case?

Mr. MOORE. The evidence I am trying to show is the fact that we do not have any evidence of increased substantial markets for rice. What will we do with the increased rice production? When we have the surplus rice then we will have to push for an increase in the Public Law 480 programs for purchases of the additional rice.

Mr. JOHNSON of Colorado. The gentleman is making an assumption there is going to be a drastic increase in rice production under this bill. There has been an increase under the present program but it has been held within those who have the existing acreage allotment.

Mr. MOORE. The program has worked out a system of supply and demand. Since 1969 the United States has not spent money on a rice support program. If we open up the rice program, which I agree may be a democratic thing to do, we will find it is no longer a sound program. When we have the increased rice production we will be putting pressures on the markets now existing. In Louisiana we have not sold the 1975 crop. It is being sold at barely above cost figures. That is precisely what will turn farmers to the payments provided under this bill. It will also turn their requests toward greater Public Law 480 purchases. Therefore, I do not think I am making an assumption. I think I am making a logical conclusion.

I believe we are going to come right back and we will find the new farmers under this program demanding that we open up the target program so they can get the same protection we are giving the old rice farmers under this bill.

Mr. JOHNSON of Colorado. The gentleman is making conjecture upon conjecture, and he is making predictions no one else can predict. There are 120 countries around the world who are rice importers and the United States exports about 25 percent of the rice traveling in the world market. Certainly the gentleman acknowledges the expanded need for food around the world.

Mr. MOORE. I am not questioning the increased need for food around the world. I am worried about the unwarranted increase in rice production encouraged in this bill. We did not have any evidence of an increase in rice markets.

For this reason, I am going to ask that we recommit this bill for further study.

Mr. JOHNSON of Colorado. On the contrary, when we held hearings in March or April there was testimony that there are expanded markets and an expanded need for rice. The gentleman is correct that the situation changes, and it changes from month to month, but there is a long-range estimate that there is an increased need for rice.

Mr. MOORE. Mr. Chairman, I think the only evidence I heard in that regard was that someone from the Public Law 480 Program said we could dispose of all the Public Law 480 rice we could raise; that is by Uncle Sam subsiding the sale of rice, and I do not think we need more of that.

Mr. JOHNSON of Colorado. We refer the gentleman to the hearings that took place, because there was testimony from the rice millers and others that there are continuing expanding demands for rice in international markets.

Mr. MOORE. The records show U.S. production is going up. We have lost markets, and rice is not selling now.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to my colleague from Louisiana.

Mr. BREAUX. Mr. Chairman, I would like to commend the gentleman for his statement and address myself to title I, Public Law 480 sales. At the time of the hearing, the Department told us in April they were planning to sell under Public Law 480 some 800,000 tons of rice.

Now, here we sit in late December and they have only sold, as against that 800,000-ton commitment, a mere 171,000 tons of rice under their commitment that they said they were going to make. If there are all these markets for Public Law 480 sales, where are they?

As the gentleman from Louisiana makes the point, right now there are no sales authorizations on the books in the State Department which may address Public Law 480 rice sales. Yet they told us a year ago they were going to sell 800,000 tons of this year's crop. So far they have only sold 171,000 tons and have no sales commitment for any Public Law 480 rice to be sold anywhere in the world.

Mr. Chairman, I think the gentleman has addressed that point. I think it should be considered by the members of this committee when we talk about all these future sales that are out there somewhere.

I think the Department of Agriculture ought to come in and tell us what they are going to do and live up to that agreement.

Mr. MOORE. Mr. Chairman, in addition to the remarks of the gentleman concerning not being able to sell Public Law 480 rice and the increased production of rice, we also have a significant carryover of rice from last year's crop, not counting this year's crop. This year's crop is not being sold in Louisiana. It is sitting in warehouses. The best we can get is a break-even price. Therefore, I do not think we can say there is a world market. Where is this increased demand for rice? If there was increased demand, it would be being sold right now.

I also want to point out that the fear of what is going to happen to rice can be exemplified by figures prepared for Senator Russell B. Long that if the price of rice was $5 per hundredweight, under the bill the cost to the Federal Government would be $168 million. We have not had any money paid out by Uncle Sam under the existing program since 1969, a big increase from zero to $168 million.

Three years ago when production was 30-percent less than it is now, that is what the price of rice fell to, $5 per hundredweight. We are already well above that figure of production of what we had 3 years ago when it was $5 per hundredweight.

In addition to that, I would like to point out that under this bill one of the ways that the USDA can try to control rice production is to call upon the rice farmer to set aside production of his rice because too much is going to be raised next year. According to this bill, that set-aside next year is solely for the allotment holder. I am going to offer an amendment at the appropriate time to have that apply to all rice growers and not just those holding allotments.

In addition, I do not think this bill is up to date on its hearings and evidence. I think it is weak in supportive evidence in the subcommittee and no hearings were held in full committee, so I am going to ask that this bill be recommitted and will offer a motion to recommit to send it back to have more time spent on the justification of this bill.

I will also point out that my colleague from Louisiana is going to offer a substitute bill which will open production somewhat and one which the taxpayers and rice growers can live with and for which I ask support.

The CHAIRMAN. The time of the gentleman from Louisiana has expired.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. MOORE. Mr. Chairman, in conclusion, I say that the arguments for this bill are not substantiated by enough evidence for us to change a major program like this.

We have constituents at home who are not expanding production of other crops. I submit the same sort of thing that is causing those farmers problems, we are going to turn right around and inflict upon the rice farmers such as overproduction and declining prices. We can show no increase in markets overseas or other relief other than increased Government price supports and purchases which is not in anyone's best interests. I therefore urge my colleagues to defeat this bill.

Mr. MATHIS. Mr. Chairman, I yield 10 minutes to the gentleman from Mississippi (Mr. Bowen).

Mr. BOWEN. Mr. Chairman, this bill comes to the floor with a long record of support. The Committee on Agriculture, of course, approved it by a vote of 32 to 8. The vote in the Rules Committee was 12 to 3. This morning, the Senate Agriculture and Forestry Committee reported a virtually identical bill out to the Senate without the first vote in opposition to it. I am quite confident that here in the House we will approve it by a large margin later today.

Rice, Mr. Chairman, is the world's most important food. Two-thirds of the world's population regard it as their main diet. Of the some 80 million new persons born on the face of the globe each year, about 60 million of that number are largely rice consumers. This country's exports last year of approximately 2.2 million metric tons would have to be doubled and possibly tripled in order to meet that growing population. That is the potential demand for American rice that is coming into existence each year.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. BOWEN. I yield to the gentleman from Louisiana.

Mr. MOORE. Will the gentleman from Mississippi tell me whether or not rice grown in the world market is lower in price, the same or cheaper than rice grown in America?

Mr. BOWEN. The high support program the gentleman supports is pushing the price up to such a level that it will not be competitive with world prices, so very shortly we will find that American rice will have great difficulty moving because of the high, rigid supports the gentleman endorses. However, if we pass the legislation the committee is supporting, it will make for a very free and competitive market.

Mr. MOORE. Does the gentleman know what the price of rice is?

Mr. BOWEN. I know what the price is, and rice is moving easily and readily in the world market if it is not jacked up arbitrarily and artificially to the high levels which would take place under the program the gentleman from Louisiana supports.

Mr. MOORE. I think the gentleman will have to admit that the cost of doing business of Louisiana rice farmers are not artificially set. The cost of fertilizer, equipment, seed, and labor are increasing. I believe any country overseas can grow rice cheaper, so American farmers really cannot compete.

We have competed for years and we will continue to do so if we pass this legislation.

Mr. BOWEN. If we cut production from 2.8 million acres, which we are now growing, to 1.65 million acres, which is required by law as it stands today, that 41 percent cutback is going to result in a cutback of enough rice production to feed 25 million people. That means that 25 million people on the face of the globe will have the rice being produced now taken away from them. America's exports are about a third of the world market. We export two-thirds of our production each year.

The domestic price in this country should certainly, at the least, increase 50 percent. It might increase as much as double, in the opinion of some market experts, for the American consumers. If this takes place, and we hear a lot of talk about costs here and what it might cost the taxpayer occasionally—I do not think it will cost him anything—but the cost to the American consumer in inflated rice prices will be about $1 billion a year if these prices turn out to be as many of the experts feel they will.

This is not to say that there might not be in some very limited circumstance a possibility of a few dollars being expended from the Treasury. I personally think there will not be, because the price of rice in world markets is well above the target price level we have set in this bill, which is $8. But that is the same way the 1973 Farm Act works for the other major commodities, cotton, wheat, and corn.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. BOWEN. I yield to the gentleman from Louisiana.

Mr. BREAUX. The gentleman is saying that he supports the legislation before the committee because it would allow the production of a greater amount of rice to feed people in the United States and also to meet our foreign requirements. Is it not true that under the existing program we have had in effect, with the Government in rice for the last 20-some-odd years, in the last 2 years we have had completely open production as far as rice is concerned which has allowed any farmer anywhere in the United States, whether in Louisiana or in New York City if he can grow it in a city park, the opportunity to go out and plant as much rice as he wants if that has been done without any subsidies being paid to rice farmers?

Mr. BOWEN. That is correct, and I would have to tell the gentleman the one thing we want to do with this bill is to continue the open production we have had for the last 2 years. Unfortunately, under the present law it will not be possible. We would like very much to continue what we now have. In fact, it is the ones who are supporting this bill who are supporting the status quo, in terms of continuation of open production.

Unfortunately, the present law is such that the Secretary will have no choice except to cut back sharply on production if we do not pass H.R. 8529.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. BOWEN. I will yield to the gentleman from Louisiana.

Mr. BREAUX. I thank the gentleman for yielding.

Is not the formula the gntleman is talking about here under existing legislation, the restrictions, because we just simply do not get any more rice, and if we have an oversupply of a product, then and only then are allotments cut back on production of that product?

Mr. BOWEN. As the gentleman knows, the formula in the bill was written by and for the allotment holders and designed to serve their interests, and that is why we feel this legislation is badly needed. I would like to point out that the present law on the books, not the open market we have had, has been a long history of rigid, high support and mandatory allotments, of Government surplus, export subsidies and restricted production, at the expense of taxpayers and consumers. It has been a bonanza for allotment holders, and I do not blame them for trying to hold onto it.

The loan level now is $8.52 a hundredweight. That loan level is up 63 percent in 3 year's time. Compare that to a few other inflationary increases. The consumer price index is up 22 percent, the wholesale price index is up 47 percent, the index of prices paid by farmers is up 46 percent. Again, the basic support for rice is up 62 percent. That is only one example of the sort of benefits that have been accruing to allotment holders.

If the loan goes up in the next 2 years at the same level that it has in the past, it will be up another $2 a hundredweight, which is frankly, going to price American rice out of the world market. This means the Government will have to come in with massive export subsidies.

Speaking of the cost of this program, we have heard some of the opponents of this legislation suggest that the old-style, high support program, which they advocate, does not cost the Government anything. That, of course, is not an accurate statement. In the period 1959 to 1973, preceding the opening of production by the Department of Agriculture, the Government spent $314 million in export subsidies, and the Government acquired 16.2 million hundredweights of rice in its elevators as a result of that program.

Some people have wondered what would happen to a farmer under the program that the opponents of this legislation espouse, what would happen to the farmer if he tries to plant outside of his allotment. It is not a very pleasant story. If a man attempted to plant outside of his allotment, once these acreage allotments have been issued and determined by the Department, the Government will fine him 65 percent of parity for every acre of rice he plants. If he does not pay that fine, the Government will obtain a lien, confiscate his land, and throw him off the land. That is what will happen if the man simply has the temerity to grow rice.

Those who oppose our legislation want that kind of restrictive program.

I was talking to a good friend from Louisiana, who frankly opposes this legislation, and he said. "Do you mean to tell me you want to let every Tom, Dick, and Harry who wants to, plant rice?" And I said, "That is telling it like it is. That is exactly what we want to do."

We believe that every man who wants to should be able to plant and grow rice. This legislation would, frankly, do that; but at the same time it would provide substantial protection for the old rice grower. What we have in the old program is a built-in roller coaster that is designed for times of scarcity. It is inappropriate for these days and times. It is based upon artificially imposed shortages which will be the result if we try to jack up prices.

Mr. Chairman, some have suggested that prices are a little low now. That is true. They are a little low. Harvest prices are always low. If we look over the last 5 years, we will find they are always about 20 percent lower than they are 4 or 5 months later. There are some who say that they cannot sell the rice. There are a lot of people holding it because they believe prices will go up, and they are right.

One of the reasons why there is not a lot of movement of rice is that people contracted for rice last spring at something around $9 a hundredweight. They are delivering it, and the mills are now processing those deliveries, so they do not need to buy additional rice right now.

I am told that the State Department has made several offers for Public Law 480 rice recently without finding sellers. Apparently growers are very optimistic about future prices.

The CHAIRMAN. The time of the gentleman from Mississippi (Mr. BOWEN) has expired.

Mr. MATHIS. Mr. Speaker, I yield 2 additional minutes to the gentleman from Mississippi (Mr. BOWEN).

Mr. BOWEN. Mr. Chairman, they have not been able to buy rice simply because there are a lot of rice growers who believe that rice prices are going up. They are very perceptive. They know there is going to be a demand for rice, and that is why they are not selling. There is not a lot of movement in rice because they know the world's demand for rice is increasing, and they are holding it, which seems to be a very sensible approach for the rice farmer.

I will not go into details of the legislation. I believe the Members are all familiar with it. We know that American exports to the more than a hundred countries who buy our rice are up substantially, 48 percent last year over the year before. The Department of Agriculture, of course, over the years has for some reason or another always overestimated the carryover. They said a year ago there would be a 27 million hundredweight carryover when, in fact, there turned out to be only a 7.1 million hundredweight carryover.

There are millions of dollars awaiting investment in milling facilities and handling facilities for rice in this country, based upon the security and the stability we can bring to the rice industry by this legislation.

Mr. Chairman, there are some distressed prices around these days because there are not enough milling facilities. These facilities will not be built unless we have legislation which would insure that the Secretary of Agriculture would not jump in and impose an arbitrary cutback in production of the sort we are going to see take place this year.

I do not think frankly there is any great point here today in discussing the demand situation for rice. The issue is simply this: This Nation has a number of farmers who are ready, willing and eager to grow rice. Those farmers are in the Mississippi Valley in large part, in Missouri, Arkansas, Mississippi, and northeast Louisiana.

So if there are some growers in some parts of the country who feel they cannot make a go of it under this legislation, we would have to tell them that there are a great many farmers in the country who are anxious to grow rice.

I recall this spring that some of my good friends in California, at the time when we were discussing cotton legislation in our farm bill, pointed out that they sympathized with us very greatly in the fact that we wanted to find a penny or two more to add to target and loan levels to help some of the growers on the Atlantic seaboard and in other parts of the country, but they said, "If you cannot make a go of it, we can grow it and we can sell it at a profit in California. We can grow it if you cannot."

Mr. Chairman, I feel we must take that fundamental, hard-nosed look at rice in this country. It is not in the interest of the consumer, it is not in the interest of the producer, and it is not in the interest of the taxpayer to return to the old program which we have fortunately done without for the last 2 years.

Mr. Chairman, I urge the support of the Members for their legislation and their opposition to amendments to it.

Mr. MATHIS. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Texas (Mr. Poage).

Mr. POAGE. Mr. Chairman, I recognize, as do other Members of the House, that there is little purpose in any discussion at this time. I counted the House a few moments ago, and if my count was correct, there are 23 Members on the floor, and I think 2 or 3 of them have walked away since then, anticipating, I fear, the fact that I would be on the floor.

I realize that we are not going to change any votes. The membership is already committed one way or the other. They are not voting in accordance with what logic, if any, is presented, but rather in accordance with commitments heretofore made. I am not here to ask any Member to break his promise.

However, I do want to call the attention of the Members of one or two things that I want to put on the record, because some of the Members who vote for this bill today are going to be back here next year or the year after that crying when this House destroys their tobacco program. And let us not think that you can pass this bill and at the same time long retain the tobacco program or the peanut program.

My district does not grow a grain of rice, and it does not grow a stalk of tobacco.

We are not directly concerned with either one.

We do grow some peanuts. Those three crops are the three crops which under our present programs have the possibility of limitations of production. They have it for a very good reason. They have it because those three crops can be profitable and can make a living for a good many people when the crop is not overproduced, but this bill is likely to destroy a lot of needy farmers. I fear that we are just about to destroy three good programs with no benefit to anyone.

Some of these rice people felt, of course, that they wanted to get into the business. They felt that they could get into the business a year or two ago, and very profitably. Of course, they had a right to get in because the Department recognized that we needed more rice at that time.

However, as the gentleman from Hawaii (Mr. Matsunaga) told us in asking for this rule, the production of rice has increased and the amount in storage has increased. The surpluses are increasing.

Mr. Chairman, we have an adequate supply of rice now. The proponents of this bill tell us, "Yes, probably we are going to have controls next year and we do not want any controls." We cannot have controls unless we have a surplus of rice. If we have a surplus of rice, why do we want to put a lot of new people in the business? It would not help them. It will only destroy existing producers. Why do we want to fix it so that next year—and I call upon the Members from the South who are supporting this bill, those Members whose areas have tobacco allotments to go home and explain to their people why they destroyed the value of those tobacco allotments. I am not talking about rice. I am talking about tobacco, and we are destroying the value of every tobacco allotment in the United States today.

Or let us talk about our peanut farmers, long the poorest farmers in the United States, barely making a living; but under the peanut program that we have had for the last 20 years they have developed into rather substantial farmers and rather prosperous communities. If we pass this rice bill we are going to destroy that peanut program. We need not think that this House will not be back here within 3 years—and I want this on the record because this is what I want to say—within 3 years' time we are going to be faced with the problem of saving the peanut program, of saving the tobacco program; and the very people who are going to vote today to destroy the rice program are going to find that their farmers are going to be destroyed; their peanut and their tobacco farmers are going to be destroyed in the same tidalwave that these Members of the House have set in motion with this rice bill.

I think this bill is bad; that it will hurt rice producers. That it will rather quickly make rice production unprofitable for anyone, and that it will then produce a shortage of rice which will be most hurtful to consumers, and I realize that we are all consumers. I think the bill is directly bad, but frankly I am even more concerned over the disastrous effect it must have on the most needy of all farmers—our peanut farmers. I am not going to knowingly return these farmers to the conditions of 1935.

Mr. MATHIS. Mr. Chairman, I yield 5 minutes to the gentleman from Tennessee (Mr. Jones).

Mr. JONES of Tennessee. Mr. Chairman, I would like to take this opportunity to support H.R. 8529, the Rice Production Act of 1975. My district, the Seventh District of Tennessee, is not a major rice producing area. In fact, we produce very small amounts of rice at the present time. But there are a number of areas in this district which are suitable for rice production. The farmers in this area would like to have the opportunity to produce rice as an alternative to soybeans. H.R. 8529 would give them this opportunity.

I will not attempt to go into a detailed description of the features of the bill. But, rather, I would simply point out that this bill would make the rice program compatible with the feed grain, cotton, wheat, and soybean programs which include the crops for which rice production is an alternative agricultural enterprise.

This bill represents a great deal of work on the part of the Committee on Agriculture and, in particular, the Oilseeds and Rice Subcommittee. As a subcommittee member, I feel that the bill is workable and is in the best interest of the rice industry. It is a compromise position between the old and new producers and takes into account the needs of both. We had extensive hearings in the subcommittee into the rice situation and took the rice producers position and the market conditions both under consideration when writing the bill.

This bill gives the producer freedom to choose the crop that he feels is his best production alternative. As such, it is a market approach to agricultural policy. It gives farmers the freedom of choice—something that farmers I deal with very much want. They want to be able to look at the market prices of the crops and decide what they will produce.

I mentioned earlier that we produced very little rice in my district. The main reason we have not produced more is that farmers were unable to get allotments for rice production. Under the provisions of H.R. 8529, I expect substantial expansion in this production.

Much of the rice we produce is for the export market. By allowing producers to determine whether or not to produce rice based on the market orientation, they will be able to better respond to the prices in the world. The rice export market offers tremendous potential for the United States. H.R. 8529 will help our farmers meet the challenge this expanding world market offers.

Mr. Chairman, I urge my colleagues in the House to join me in support of H.R. 8529, a bill which will give the American farmer another opportunity to meet the challenge of expanding world markets for agricultural products.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. Ketchum).

Mr. KETCHUM. Mr. Chairman, I take this time only to associate myself most strongly with the remarks of the gentleman from Texas (Mr. Poage), and the gentleman from Louisiana (Mr. Moore).

I hope that this body will take note and if this bill is passed, pull from the pages of the Record 2 years from now what they have said because what they have said is going to come true. The other thing I would like to take note of also, as the gentleman from Texas (Mr. Poage) mentioned, that those who are sitting on the floor during this very important bill appear to be about 30 Members, probably half of them are members of the Committee on Agriculture of the House and they have been discussing this bill back and forth.

I am reminded of the fact that just last week we had on this floor a 674-page tax bill and that there were never more than 30 or 40 people on the floor at any one time during its consideration. How in God's name do you make a legislative decision in this atmosphere?

Mr. MILLER of Ohio. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to report their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 763]

Andrews, N.C.
Andrews, N. Dak.
Archer
Ashbrook
Boggs
Bolling
Burke, Calif.
Burke, Fla.
Byron
Carney
Casey
Chappell
Conyers
Davis
Dellums
Diggs
Drinan
Esch
Eshleman
Evins, Tenn.
Foley
Fraser
Frey
Gaydos
Giaimo
Goldwater
Harsha
Hawkins
Hébert
Heinz
Helstoski
Hightower
Hinshaw
Ichord
Jarman
Kastenmeier
LaFalce
Lehman
Levitas
McClory
Mikva
Mitchell, Md.
Moakley
Murphy, Ill.
Murphy, N.Y.
Nolan
Patman, Tex.
Pike
Rees
Rhodes
Riegle
Rodino
Rosenthal
Runnels
Scheuer
Schneebeli
Shuster
Sikes
Stuckey
Teague
Udall
Ullman
Waxman
Whitehurst
Wilson, C. H.
Wolff
Wright
Yatron

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Flowers, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 8529, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 366 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

Mr. MATHIS. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. Leggett).

Mr. LEGGETT. Mr. Chairman, I am pleased that we have the good attendance we do have here this afternoon.

I would like to address myself to three points in the committee's statement on this bill.

First, the committee tells us, on page 3 of the report, that the bill will enable "the rice farmer to grow this staple commodity with a minimum of Government control and interference." Yet, at the same time, the committee admits that it is trading in a rice program that costs virtually nothing for one that could cost $900 million over the next 5 years.

There is a chart that I am sure a number of other Members will refer to and our distinguished colleague, the gentleman from Louisiana (Mr. Breaux), has sent to every Member of the House.

Mr. Chairman, what this chart shows is that in the committee's own print, if we look at page 15 of the report on the bill, that the projected cost of the current program for this year for rice is zero. The cost of the committee bill is $36 million.

The cost of the current program for next year is zero. The cost of the committee bill is $36 million. That is if we keep the price of rice up. But, if the price goes down, as a number of proponents of the bill have indicated will probably happen, to, say, something like $6.50, the target price of payments to farmers, the payments to farmers in my district will be $155 million in 1976–77; $157 million the next year; $170 million the next year; $180 million the next year; $189 million the next year, or a total cost of the program of $851 million.

Why are we doing this? What they say is to grow more rice.

I think we have to change the current law. We cannot go back to 1.65 million acres when we are growing something like 2.7 million acres of rice.

I do not know how we are going to sell all the rice that we have accumulated on this 2.7 million acres. We have a carryover from last year of over 7 million hundredweight of rice.

We have a bonanza production this year. We have been working on this bill for several years and Arkansas has said, "We need a guarantee bill before we can get into major rice production." But the State of Arkansas has gone from 553 thousand acres of rice in 1973, when this bill was just a glint in Bill Alexander's eyes, to 895 thousand acres in the last growing season.

In California we have increased rice production from 401,000 acres to 467,000 acres.

We have gone from 1.1 million acres of rice nationwide to 2.7 million acres of rice nationwide.

We have increased production in Arkansas by 65 percent, in California by 18 percent, in Louisiana by 11 percent, in Mississippi by 147 percent, Missouri by 240 percent and Texas by 185 percent. We have a nationwide increase of 33.8 percent.

We have got so much rice that we do not know where to put it.

If the Members will recall back some years, in the 1950's, when we changed administrations, we had a big article in Life magazine showing feed grains and wheat coming out of our ears and it was in Government storage piles. We did not know where to get rid of it.

This bill they say is a bill to grow rice, but I am going to offer an amendment to take out some of the things that are in this bill that do not relate to growing rice because, if the Members will look at the bill, starting in section 102 on page 7, they talk about making these payments to the farmers and then they are going to make loans to the farmers.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LEGGETT. Mr. Chairman, I wonder if the gentleman from Georgia (Mr. Mathis) would yield me some additional time?

Mr. MATHIS. Mr. Chairman, I yield 2 additional minutes to the gentleman from California.

Mr. LEGGETT. Mr. Chairman, I appreciate the courtesy of the gentleman from Georgia.

Then we talk about conversion from rice to other commodities, and we talk about growing all sorts of guar and plantago ovato, flaxseed, triticale, and oats and rye, castor beans, mustard seed, sunflower, and will pay farmers not to grow rice but to grow other things.

Then on page 15 there is a highwater mark, we will pay farmers not to grow rice, but if they allow the general public to hunt, to trap, to fish, and to hike, we will make them these payments for this so-called conservation diversion program. You do not even have to have a stream on your property to get these payments, to get a fishing alternative payment.

So, Mr. Chairman, I am going to offer an amendment to take out these WPA items. I do not think we ought to have any of these payments going to farmers such as these. I would insert at this point in the Record the USDA projection of deficiency payment costs of this bill.

PROJECTED DEFICIENCY PAYMENTS

[Dollars in millions]

Year	1976–77	1977–78	1978–79	1979–80	1980–81	5 yr
Farm price (per ctw):						
$7.50	$78	$79	$93	$113	$139	$502
$7.00	119	120	134	153	179	702
$6.50	155	157	170	180	189	851
$6.00	168	170	175	181	189	883
$5.50	168	170	175	181	189	883
$5.00	168	170	175	181	189	883

If that is not Government interference in the marketplace, there's never been such a thing.

The committee holds this legislation out as protection for the American consumer; yet it also tells us that 60 percent of our current production is shipped overseas. There is no way this bill will produce one more grain of rice for domestic consumption simply because we are already producing 250 percent of our domestic needs, and domestic production has been growing by leaps and bounds. Since 1973, there have been the following production increases by State:

	1,000 acres			1,000 cwt		
	1973	1975	Percent change	1973	1975	Percent change
Arkansas	553.0	895.0	+68.0	25,424	42,065	+65.5
California	401.0	467.0	+16.5	22,521	26,619	+18.2
Louisiana	620.0	650.0	+5.0	21,394	23,725	+10.9
Mississippi	62.0	165.0	+166.0	2,670	6,600	+147.2
Missouri	5.2	17.5	+237.0	226	770	+240.7
Texas	549.0	562.0	+2.4	20,530	24,332	+18.5
United States	2,170.2	2,747.5	+26.6	92,765	124,111	+33.8

As these figures show, rice production has increased substantially and large numbers of new growers in new areas have begun to produce rice. Certainly any industry that has shown 34 percent growth in 2 years does not require Federal stimulation. If the objective of this legislation is to help the American rice consumer, I fail to see how the bill provides any help that consumer needs.

I might also point out that of the 70 million hundredweight of rice exported this year, a large percentage went out under the Public Law 480 program on long-term, low-interest loans. To dispose of the increased production the committee wants to stimulate we will have to make even more 40-year 2 percent loans. I hope each of you who votes for this act has a ready explanation for your constituents when they ask why we can do this while Americans are paying 9½ to 10 percent interest on home loans.

The question of exports was raised by the committee in a manner which implies that there is a burgeoning market abroad for U.S. rice. Again, the facts belie this statement. The Department of Agriculture reports that in 1974 7.1 million hundredweight of rice was surplus to all domestic, export, and Public Law 480 needs. This year, that surplus is predicted to increase by at least 300 percent to 23 million hundredweight and perhaps as much as 600 percent to 50 million hundredweight. Bearing in mind that this increase in surplus has taken place under the controlled conditions of our allotment program. Open the program completely and the American countryside will be littered with the bankrupt carcasses of rice farms which were made to produce rice that no one would buy.

I would address a further word to those who represent this bill as a consumer measure. In 1972, the rice farmer received an average of $0.27 of each dollar that consumers spent on rice. In August of this year, the farmer's share had dropped to $0.20 out of each consumer dollar, a decrease of 26 percent. I am for the consumer as much as anyone is, but I do not think that consumers want their prices lowered by skinning farmers alive. The figures I have just quoted show convincingly, I believe, that farm prices have risen far more slowly than the retail price, and in fact have just barely kept pace with the cost of production.

If the farmer's share of the consumer dollar is to be diminished, that money is going to have to come from somewhere. I must admit that the committee has made provision for this, and I must further admit that the committee's solution will probably work. The only hitch is that it is going to cost the American taxpayer $900 million in backdoor Federal spending over the next 5 years to make up the difference. This bill required an exemption from section 303(a) of the Budget and Impoundment Control Act in order to be considered precisely because of this backdoor spending feature. Worst of all, it is money we will never see again. I quote from the Budget Committee early warning report:

> This new program will make direct payments (to individuals) with little or no payback in future years.

In short, the Rice Production Act would provide for unnecessary payments from an insufficient Federal Treasury to unwilling recipients to produce more of a commodity already in surplus. It would accomplish this by replacing a low-cost, effective, stable program which has worked well for many years. Mr. Chairman, I simply cannot see one good feature in this bill for farmers or consumers, and I strongly advocate its defeat.

Mr. ALEXANDER. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from Arkansas.

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman for yielding. I would like to correct a statement which I am sure the gentleman from California did not intend to make. Under the proposed bill the loan rate would be $6. The current loan rate is $8.25. Farmers could sell their rice to the Government now and next year for $9.35 and in future years for $10.25 and we have a taxpayer's expense that reaches out at $8.50 for next year, $66 million. In 1977 to $136 million. If the price should go down as much as Mr. Reese would believe, $5, the price next year would be $339 million and the following year $410 million.

I am sure the gentleman from California did not intend to say that the farmers do not get Government subsidies if they want to take advantage of them.

Mr. LEGGETT. If the price goes below that loan rate. I am going to support the provision in the bill to reduce the loan rate, but I will watch the gentleman on the way the gentleman votes on my amendment.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MATHIS. Mr. Chairman, I yield 2 additional minutes to the gentleman from California.

Mr. JOHNSON of California. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to my colleague, the gentleman from California.

Mr. JOHNSON of California. I thank the gentleman for yielding.

I want to join my colleague, the gentleman from California in his statement here in the House this afternoon. Representing a very large rice acreage in California, we have had a very stable program. The program is working very well at the present time. There are no direct payments being made and have not been made over the past 5 years.

Mr. Chairman, I am strongly opposed to this legislation, because it will result in the overproduction of rice and will place an additional stress on the small and medium-sized farmer.

We currently have on our statute books, a law which provides for a rice support program which has worked well for many years for both the producer and the consumer. I fear for the future if the bill before us today in enacted. Not only will the small farmer be hurt in the long run, through inadequate protection in low demand years, but also the consumer will suffer from increasingly higher prices.

The present rice program is sometimes blamed for the high cost of rice to the American consumer. Let me quickly point out, however, that last year the price earned by the rice farmer dropped 40 percent, from $13.75 per hundredweight to $10.80. Therefore, I feel it is unjust to blame the farmer for the increased cost. The blame obviously lies somewhere else.

Normally, the small farmer grows as much rice as he has acreage to accommodate. He cannot increase his production to make up for any decrease in the market price of rice. Clearly one result of the proposed legislation would be to squeeze out the small farmers. Additionally, studies have shown that even when the farmer is receiving a depressed price for his rice, the consumer may be paying a higher price. There is no correlation between what the farmer receives and what the consumer pays.

The present rice program has been so successful that for at least the last 5 years, the Federal Government has not had to pay any direct benefits to rice growers in California. Their production has been substantial—1974 production was 25 million hundredweight for a market value of $279 million—but there has been no overproduction.

As one of the leading rice producing States in our country today, California has also been instrumental in establishing world markets for U.S. rice. The rice farmers of California have a long history of participating in this program and know well the strengths and weaknesses of the present program.

Rice has been considered a special crop when it comes to support programs and other rules and regulations by the Federal Government. I believe there is good reasoning for this. Rice is a difficult crop to raise. Specific climate and land conditions are required. Furthermore, substantial investment is required to initiate rice production. All of these factors have had the effect of limiting rice production to certain well-suited areas of the country where commercial farmers have been able to raise a profitable crop.

Obviously, the present system has worked well. Last year was a record year for rice production, and this occurred under the present rice control program. Last year's production totaled 114 million hundredweight, 10 percent more than the previous high record set in the 1968–69 crop year, and this year's crop looks as good or even better.

Likewise, exports showed a record year in 1974. American exports of rice totaled 71.2 million hundredweight, a full 25 percent higher than the highest previous export record set in the 1971–72 crop year.

Mr. Chairman, when things are going so well and we are fully meeting not only domestic but also foreign market demands, there appears to be no justification for throwing it out and replacing it with a new one. I hope that my colleagues will see the wisdom of retaining a proven program and defeat the proposed legislation.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from California.

Mr. BROWN of California. I thank the gentleman for yielding.

I want to compliment the gentleman on his statement, and I want to associate myself with it.

I would like to mention that the gentleman has made a number of points that I made in my own dissenting opinion in the report on this bill. I would urge all of my colleagues to vote against this bill, or for some reasonable modifications of it, because in its present form it is a very bad bill.

Mr. Chairman, I have enumerated my objections to this bill in my dissenting views within the accompanying report, but I would like to quickly point out a few factors for my colleagues to consider before voting on H.R. 8529.

The main support for this bill, H.R. 8529, comes from the belief that open price production will bring lower prices for our consumers, produce more rice for the hungry, and allow more farmers to reap the benefits of rice production profits. I believe that one of these things will come to pass.

The rice situation existing today is much different than it was in April 1975, when hearings were held for this bill. Rice appears to be in trouble. The 1975 crop could aproach 135 million hundredweight, compared to 114 million hundredweight of a year ago, and it appears that there is little chance of avoiding a substantial carryover. This surplus is a result of 2 years of open production, which is allowed under the current rice program when demand is high and world markets look optimistic.

But our world markets seem to be tightening. Since we produce only 2 percent of total world production, we are easily affected by good crops in those countries which produce large volumes of rice. Japan recently stated that it has 750,000 excess tons, and will be looking for new markets to buy this surplus. Iraq, one of our past buyers, has decided to buy most of its rice from India and Thailand, both of which had good harvests this year. Our Public Law 480 markets in Cambodia and Vietnam are no longer existent because these countries are producing most of their needs, and, in the case of Vietnam, importing from China—which also had a good harvest. Due to these recent disclosures, our rice farmers are having trouble selling the large surplus which has accumulated.

Now, this bill wants to make open rice production permanent, without establishing any reserves or new markets to pick up the resulting carryover of rice. I object to this lack of foresight. Our farmers should not be asked to produce, and produce more, without some proper protection of their life's investments. Many of the small rice farmers—for the average rice farm is about 250 acres in size—will be forced to drop out of the rice production business.

We do not even have the assurance that the consumers will be paying less for their rice. Since August of 1973, the consumer has had to pay an increase of 18.6 cents per pound, while the farmer has received 2.1 cents per pound less for his rice. Facts show that the farm retail price spread has increased from 14.8 cents to 35.5 cents per pound. For those who wish to defend the consumer, as we all do, maybe our attention should be focused on the processing and production costs of rice so that we might gain a truer picture of the source of high rice prices on the retail level.

The food crisis is on the minds of many of us. The United States should be taking a leadership position in establishing good programs for food distribution and technical assistance to those needy countries. But we cannot simply demand more food and then allow the farmers to worry about distributing any surpluses, especially in the case of rice, which bears such a small role on the world rice production scene and is thus more easily affected by sudden changes in market conditions.

I hope my colleagues will take a responsible attitude in making their decision on whether to accept or reject this bill. It is time for us to begin making the right decisions, not just any decision; and the right decisions require great forethought, planning, and simultaneous application of many economic techniques. We have the ability to produce more food, to distribute this food to the hungry, to work with the world in overcoming starvation, while we support our farmers and consumers. To do this will require many difficult, sometimes politically unattractive, decisions—and this decision, on this bill, could be the first step. I ask you to join me now in defeating this bill, thereby signalling our desire to see a better plan—a plan that deals with the complex problems which must be given attention now.

Mr. MATHIS. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from Georgia.

Mr. MATHIS. I thank the gentleman for yielding.

I would like to ask the gentleman from California if he is aware that the set-aside provisions that he was discussing earlier involving allowing the public to go on the land to hunt and fish would apply only to those producers of rice who hold allotments?

Mr. LEGGETT. That is right. I will tell the gentleman those are my people. We do not want payments for doing nothing. We are commercial growers in the State of California. We do not like to put our stuff in converted property or cropland rotation or soil banks, or water banks. We certainly do not want to put out land into a program to allow people who hunt, fish, and hike on our land to get a Federal payment for not growing rice. I do not think that makes a lot of sense.

Mr. MATHIS. I appreciate very much the gentleman's position.

Mr. BURLISON of Missouri. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from Missouri.

Mr. BURLISON of Missouri. I thank the gentleman for yielding.

Do I understand the gentleman to say that he was going to offer an amendment also to eliminate the deficiency payments, the direct payments?

Mr. LEGGETT. Yes.

Mr. BURLISON of Missouri. The gentleman, of course, knows also that that part of the bill was devised to take care of his people.

Mr. LEGGETT. I understand that, but I want to tell the gentleman I will put my money where my mouth is, because my people do not want this money. I am going to offer an amendment to take out all of section 102 except the $6 loan rate.

Mr. BURLISON of Missouri. Does the gentleman's folks want to have this bill minus the deficiency payments which he is taking out of it? Does he think his farmers will back him on that?

Mr. LEGGETT. If we want open planning, this bill provides for open planning. But let us take out the direct payments, and let us not make this a WPA program.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MATHIS. Mr. Chairman, I yield 5 minutes to the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Chairman, I rise in very strong opposition to the committee bill, but before I get into my reasons for opposing the bill, I would like, first of all, to thank the distinguished chairman of the subcommittee, the gentleman from Georgia, who has really made the committee hearings very fair in allowing those of us who opposed the bill to go ahead and present our testimony and to present our arguments to the subcommittee.

I would also like to thank the distinguished ranking minority member of the subcommittee for also giving us the opportunity to appear, and for giving us every opportunity to make our views known. I am just, of course, very disappointed that the committee did not see the wisdom in our arguments and, reported a bill which we could not support.

Most of my colleagues here can say that they do not have any rice producers in their congressional districts. I dare say that their knowledge of rice production and the very complicated programs that we have right now seem so complicated that they do not know which way to go. Let me just say this: For people who say that we need to change the existing rice program that has been in effect for some 20 years, there must be a reason for us to change it. Some people say we need to change it because we need more rice.

Let me tell my colleagues how incorrect that argument is, because here is what has happened. Under the existing rice program this year, 1975–76, this country is going to have a record production year of 125 million hundredweight of rice being produced under this program. Mr. Chairman, that is 5.67 million metric tons of rice being produced under the existing legislation. That is 9 percent more than was produced last year under the existing program, which I might point out to my colleagues was also some 23 percent more rice than the year before, and some 10 percent more than the all time record production year of 1968.

What all this means is, very simply, that we have had for the last 2 years record production, record yields, and an all-time record production of 5.7 million tons of rice in this country. Instead of attacking the existing program that has allowed that to happen, I think we should be passing a resolution commending the American rice farmer for a job well done. When the Department of Agriculture says: "We need more," the American farmer has produced more. They have had 2 record years of production.

I might point out in the last 2 years we have had open production and anybody anywhere any time over the last 2 years could have come in and planted as much rice as he could harvest and send to the marketplace. He could have grown rice in New York City if he could have found the ground and was able to grow it, or in Washington State, or anywhere in between, because we have had open production.

In 1971 and 1972 under this program we produced 1,826,000 acres of rice. This year under this same program the American farmer will produce 2,757,000 acres of rice. That is some 931,000 more acres in production than were just 2 years ago.

Under the present program, anybody can grow rice. We have been able to accomplish this production because of the flexibility that the present program provides. There is a mechanism in the present rice legislation that allows the Secretary of Agriculture to increase the allotments by 10 percent or by 20 percent or by 50 percent if he thinks he needs that much in rice. He can remove the allotment restrictions completely, as he has done for the last 2 years, and say that there are no restrictions and that we need a lot more rice. All of that is possible under the present program.

There are those who argue we need a new rice bill because we need to bring down the price of rice. I have heard from some of my colleagues from the urban and the metropolitan areas who say: "I have people who buy rice, and we do not grow rice but we buy it, and we would like to see the price of rice brought down." To those people I say the price of rice from the American rice farmer has been declining since June of 1974 when every other product has been going up in price. The American farmer is getting 8 cents a pound for the rice he is producing today.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. BREAUX) has expired.

Mr. MATHIS. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. BREAUX. I thank the gentleman from Georgia for yielding me the additional time.

Mr. Chairman, the American rice farmer is getting approximately 8 cents a pound for the rice he is producing. The product in the stores in New York and other consumer areas of this country is selling for about 45 cents a pound. We ought to be looking into the question of why the price to the consumer who is shopping in the stores is some five times greater than what is paid to the rice farmer. I cannot think of too much that has to be done to rice from the time it leaves Louisiana until it gets onto the shelf for the consumers in America. That is what we should be looking at rather than trying to change the program that is working.

The bill is not necessary because direct subsidies to rice farmers are not necessary. The present program has no direct payment subsidies to rice farmers. This bill establishes subsidy payments and I do not think that is right or necessary. If the price of rice fell to $5 a hundredweight because of the production we are going to get, the American taxpayer would subsidize the American rice farmer by $168 million in tax subsidies for 1 year. May I point out the $5 a hundredweight was the price of rice 3 years ago when we had about 30 percent less production. So we must not say it cannot happen. The program is working well. As one of my colleagues from Louisiana said who came up here to see me: "Congressman, if it is not broken, do not fix it." The rice program is not broken. It is working. Let us not tamper with it.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Chairman, earlier in the debate the comment was made by the gentleman from Mississippi, the gentleman did not have time sufficiently allowed to discuss it, that market quotas are going to require a cutback from the preproduction of rice from farmers that do not have allotments. I have not heard the reason that is being done, because USDA knows there is not a domestic world market for that rice and the U.S. taxpayer is being asked to support these marketing quotas.

Mr. BREAUX. Mr. Chairman, if the gentleman will yield further, that is right. The only way this works is that we end up with more rice than we can possibly sell. This would open up production and we have no way of cutting it back.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I had thought that perhaps there would not be the necessity for me to take the floor, because generally when we have something from the Agriculture Subcommittee, all we do is sit around and talk to each other as members of the committee; but after the quorum call we have had some additional Members show up. I think there are some facts and figures which have been portrayed here which are not exactly accurate, so I thought for the benefit of those Members here who are not members of the Committee on Agriculture, who have not heard this argument before, I would present some of the justifications for this bill. After all, it has passed through the subcommittee and the committee by a wide margin with no substantial opposition to it by those who have a good idea of the problems.

There are now 15,181 rice allotment holders under the present program. There has been little opportunity for new growers to come into the market. The present bill protects 15,181 individuals 3,500 from California. In 1974 and 1975, for the first time in the history of the program, marketing quotas were lifted. I do not know how many of us know what a marketing quota is, but when it is in effect if a farmer violates it and plants more than he is allotted, then a penalty is imposed on him for this surplus production. That has had the effect of limiting the amount of acreage planted.

Well, in 1974 and 1975 marketing quotas were lifted and so people could plant all the rice they wanted to; but what happened was the increase did not come primarily from new growers, as would be assumed. The reason it did not come from new growers is because they knew under the present law there is a strict rigid formula, which gets rather complicated when we start talking about total supply versus normal supply; but to understand that formula, under the formula the Secretary of Agriculture has no leeway, no discretion. He cannot impose marketing quotas just at his whim. The law is ironclad and he has to reimpose these marketing quotas.

All right; this has served as a deterrent for new growers to get into the market, because once this formula is exceeded and once the marketing formulas have to be reimposed, they have to be cut off from production. There are right now 2,400 new growers in the country who expanded production in 1974 and 1975, who will have to stop planting rice under the present law, because the Secretary is going to be required to reimpose marketing quotas in 1976.

Where did the increased production come from the last 2 years? It came primarily from the existing allotment holders. In 1974, 31 percent of the allotment holding rice farmers planted more than their indicated allotments.

In 1975, 63 percent of them, and here are the figures:

In California, we have heard about that, 56 percent of the rice growers exceeded their allotment.

In Texas, 30 percent of them exceeded their allotment.

In Missouri, 92 percent of them exceeded their allotment.

In Mississippi, 95 percent of them exceeded their allotment.

In Louisiana, 58 percent of them exceeded their allotment.

In Arkansas, 80 percent of them exceeded their allotment.

They have a sweet deal. The average was 63 percent across the country.

Now that the marketing quotas are going to have to be reimposed, the 2,400 new growers that went into the market in the last few years are going to be cut out again.

Mr. ALEXANDER. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Arkansas.

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman for yielding, and shedding some truthful light on the real reason that rice is not moving now in the world market.

Mr. Chairman, I have a graph down here which I will explain a little later; but the gentleman has pointed out that the price protection under the old law is now so high and so artificially unrealistic, it is beyond the world market price. It is above the world market price and rice will not move so long as the price protection is more than the world market price.

The real reason that we need this bill, one of the real reasons, is to write a law, write a bill which has a realistic price support mechanism within it that does not itself restrict the flow of rice into world commerce. The reason that the Secretary of Agriculture says he has got to cut back production next year is because, even with a conservative increase of only 10 percent in the price protection, under the present law the price next year will be $9.35 and $10.25 the following year. The cost to this Government would be astronomical under the present law, and there is no one here who can say otherwise.

Mr. Chairman, I appreciate very much the gentleman yielding on this point because these gentlemen know that the current law is not workable, that if the present price protection mechanism stays intact, that the Government may very well own all or a good part of this year's crop, and will certainly own all of next year's crop and the following year and the following year because the price support under the present law has increased at an average of 62 percent in the last 5 years as opposed to 22 percent in the consumer price index, and less than 30 percent in any of the indices we use as business references.

The law is not workable, the price protection is too high and it needs to be changed by the bill we have before us here today.

I thank the gentleman for yielding to me.

Mr. JOHNSON of Colorado. I thank the gentleman for his contribution, and I hope the other Members listened carefully.

I want to point out that under the present program we had to provide export subsidies during normal years, and, for example, in 1966, 1967, 1968, 1969, 1970, 1971, 1972, and 1973 we spent a total of $147.6 million in export subsidies which was required when we had this artificially high loan level which artificially jacked up the price under the present program.

The CHAIRMAN. The time of the gentleman from Colorado has expired.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield myself an additional 5 minutes.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from California.

Mr. LEGGETT. Mr. Chairman, I am glad that the gentleman cleared that point up, because when the American price is higher than the world price, we do have discretion to make export payments to American growers, and we have made those payments in the past, so rice will move if there is a world market.

Mr. JOHNSON of Colorado. And if there is an export subsidy.

Mr. LEGGETT. Of course, some statement has been made here about the fact that rice will not move because the price is too high. It may well be that the loan rate is above $8, but it just so happens that in California, in an actual situation, we have sold some 60,000 tons of rice at about a $7 price, so farmers are not necessarily interested in getting a loan rate. They are interested in getting the rice sold and getting it cleaned up.

I would also say that the gentleman has indicated that the law is ironclad; that we have got to move back to 1.65 million acres next year because there is a 6.7 hundredweight carryover.

Mr. JOHNSON of Colorado. That is not correct. The minimum is 1.65 million acres. The Secretary can set it higher if he wishes. It is my understanding that they are considering the possibility of 1.8 million acres.

Mr. LEGGETT. I would think that the Secretary apparently is determined that 5 million bales of cotton is what we call a normal carryover, and he well has the discretion to determine that 10 or 15 or 20 or 2,500 hundredweight of rice is a normal carryover, especially when it is owned by the Government.

Mr. JOHNSON of Colorado. Mr. Chairman, I will take back my time at this point in order to respond to the gentleman.

In the first place, the price of rice in November was $8.45. It was not $7. In the second place, California rice, which the gentleman is discussing——

Mr. LEGGETT. I am talking about 60,000 tons which sold for $7.

Mr. JOHNSON of Colorado. The gentleman is talking about California rice, which is medium brown. One of the reasons California needs to protect its medium brown rice is because it does not have a market on the international exchange. The international market has a demand for the long grain rice which is grown in Arkansas, Mississippi, and Missouri.

Medium brown rice does not command much of a premium on the international market, which is another reason why we should open up production in the area where we could grow the type of rice that is in more world demand.

There has been talk going on about the surplus. We have a 7.1-million-hundredweight surplus this year. Do the Members know what the average was between 1965 and 1969? Between 11- and 12-million-hundredweight carryover year after year. This is a low carryover traditionally and historically. This is not a great surplus.

Furthermore, the Department has already lowered its estimate of present carryover for this year's crop 33 percent. This is the time of year when they traditionally make high estimates of carryover. They have lowered it already, and right now their present estimate is that they will have a carryover of 14 million hundredweight, not 25 million hundredweight as the gentleman said.

The CHAIRMAN. The time of the gentleman from Colorado has expired.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield myself 8 additional minutes.

That was the original estimate, and now it is down to 14 million hundredweight. Last year they estimated the carryover would be much higher than it actually was. As a matter of fact, it was lowered 63 percent finally.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I will yield to the gentleman from Louisiana.

Mr. BREAUX. I thank the gentleman for yielding.

I would like to ask the gentleman a question. The gentleman is talking about carryover and how much rice will be available next year and how much rice we can possibly use. All this is confusing.

Mr. JOHNSON of Colorado. I think there is some confusion that is being created here. It is not so much that it is confusing in that it is hard to understand but that there may be confusion that is being created here.

Mr. BREAUX. If the gentleman will yield further, is it correct that over the last 2 years, under the existing rice program, and under the existing rice program as it has been since 1955, we have had in the last 2 years no direct subsidies?

Mr. JOHNSON of Colorado. That is correct.

Mr. BREAUX. We have had no subsidies to rice growers?

Mr. JOHNSON of Colorado. That is correct.

Mr. BREAUX. These things, the gentleman will admit, are correct. I can see no justification to change the program.

Mr. JOHNSON of Colorado. Fifteen thousand one hundred eighty-one present allotment holders do not want it changed. I do not blame them. They have the sweetest deal in agriculture right now.

Mr. BREAUX. If the gentleman will yield further, is it not correct that we are talking about people who have allotments, but over the last 2 years anyone anywhere, anytime, could plant as much rice as he thought he could feasibly sell in the market?

Mr. JOHNSON of Colorado. I will not yield any further. The gentleman is going over old ground. I have already explained there were 2,400 people in 1975, who started in the growing of rice, and the reason there were not more was because of the market quotas that will be reimposed; and those 2,400 people, or any other new grower, will be cut out and they cannot go into the new production of rice under present law.

Mr. MATHIS. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I will yield to the gentleman from Georgia.

Mr. MATHIS. I thank the gentleman for yielding. I want to associate myself with his remarks.

Mr. Chairman, we found out in committee hearings that much of the new rice production that we have seen in this country in the past few years has come from the additional allotment holders. These are people who want to expand production at least within the Southeast and Texas and Louisiana area. I think the gentleman from Louisiana would have to agree they have produced new rice.

Mr. BREAUX. Mr. Chairman, will the gentleman yield, since the gentleman referred to me?

Mr. JOHNSON of Colorado. No; I will not yield.

Mr. Chairman, there has been talk about the possibility of the increased cost of this bill. That may be true. Nobody can say what the world markets are going to be on a year-to-year basis. No one can say what crop production is going to be around the world. There simply is not any way for any projections to be made in that respect, nothing but guesses. Sometimes they are not even educated guesses. It is a very risky business to get into, making these projections.

But we were trying to figure out a way to protect the existing allotment holders. It costs people between $250 and $350 an acre to buy an allotment. In addition to the cost of the land, they have had to pay for the right to grow rice by buying an allotment. People who have paid for this allotment have found that it is also added onto their estate valuation. If a person dies and he has an allotment in his farm, it is added on for State tax purposes.

So we felt that the proper way to go would be to provide some kind of protection for these existing allotment holders for the 2-year period of the bill to see whether or not this would work. We wanted to allow new growers to come in and plant all they wanted to. We thought we should not try to prevent them from growing, and that we should give them a guarantee if they want to come in and grow for 2 years. We wanted to give them an opportunity and see what would happen.

But during that period of time we also want to protect those existing allotment holders. The Department wanted to give a price of $7 for the target price and $5 for the loan level. The gentleman from California pointed this out in the report.

The Department's estimates were based on a projection of the price or of the cost under this bill. They were based on the projection that it would not go below $8.

We decided that the cost of production was the figure we wanted to try to protect for the existing allotment holders. The estimate came in based on a national average of 4,500 pounds per acre, and the average cost of producing rice among the producers in the last 6 years was $7.35. It ranged from $6.25 per hundredweight in northeast Louisiana to $7.76 per hundredweight in parts of Texas. So in trying to protect the existing allotment holders, we put the price at $8. We gave them a little cushion. We gave them a little cushion because we were trying to protect them.

This is not a bill that is trying to harm the existing allotment holders. We are trying to protect them under a target price concept. I would hope that the Members would understand that as a result of the 1973 Farm Act, we have to protect the cost of production. However, when we protect the cost of production, we must also understand we are guaranteeing to buy a man's land back in 10 years.

So the cost of production is very generously weighted in favor of the existing allotment holders. They are in fact getting a pretty good deal.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Louisiana.

Mr. MOORE. Mr. Chairman, in the State of Louisiana, according to figures from the State university, we have obtained figures which vary widely from the figures the gentleman has just cited. The figures we have received are $8.05 to $8.88 per hundredweight, not $7, which is the gentleman's figure. So at the $8 target price figure, we lose money.

Mr. JOHNSON of Colorado. Can the gentleman tell us what the cost of land is and what the percentage of land used is? Those are the key factors. We can place our land cost and our allotment cost at whatever figure we choose and multiply it by a percentage of 8½ to 9 percent for return on the land, and that is where we jack up our cost of production.

With respect to wheat—and I remember this—what we were talking about is adjusting the target price, and people said they should buy land. They said they should buy land and value the land at perhaps $300 an acre and multiply it by an interest factor of 9 percent, which meant that the Government would guarantee that the man had the wheat acreage purchased within 9 years. Those kinds of figures are adjustable.

Mr. MOORE. Mr. Chairman, referring to the figures I gave, I understand the study was done on the average cost of producing rice on a rice farm in Louisiana. They were not actually paying a man on the projected production or taking into consideration the cost of new land or anything like that, and the figures reported were $8.05 a hundredweight to $8.88 a hundredweight.

Mr. JOHNSON of Colorado. All I can say to the gentleman is that the figures we received in committee were as I quoted them.

Mr. MATHIS. Mr. Chairman, I yield 7 minutes to the gentleman from Arkansas (Mr. ALEXANDER).

Mr. ALEXANDER. Mr. Chairman, this bill has far wider implications for the interests of Americans and people all around the world than may indeed be apparent from some of the things that have been said here today.

The failure to enact this bill means that thousands of farmers, many of them small operators, who have had the courage to compete in the rice market last year and this year without price protection will be forced out of production. It means that American consumers will face new increases of from one-third to one-half in the price they pay for rice.

It means that our economy will face the loss of up to $1 billion in foreign exchange we could obtain from commercial rice exports, and two-thirds of the world's population who are rice consumers will be deprived of the benefits of an expanded rice supply under this 2-year program.

These negative effects I have just listed will flow from the fact that under current law, as it now exists, we will inevitably experience a dramatic reduction next year in the production of rice.

The Secretary of Agriculture has indicated that under the present rice program he will have no choice but to reestablish marketing quotas for the 1976 crop and set acreage allotments at the statutory minimum of 1.65 million acres.

This means that the 1976 loan rate will go up to $9.35 a hundredweight, a loan rate which is above the world market price at this time. There will be a 40-percent reduction in the U.S. rice supply. The price to consumers will increase by as much as 50 percent, and with the price support of $9.35, the United States will lose the markets that it now has in world trade.

After I was first elected to Congress in 1968, the principal contact that I had with the rice industry was marked by the year-round rush of the industry leaders and the Congress to appropriate export subsidies so that the existing crop could be moved to prevent large surpluses.

The most casual political observer of this Congress will observe that there is not only increased resistance to farm programs that limit production, but even a stronger resistance toward export subsidies that supposedly discriminate against the American consumers.

Two programs have basically been used in the past to help keep the long-term buildup of U.S. rice supplies at manageable levels. They have been the export subsidy program and the Public Law 480 program.

We have heard people say today that

the current law works well. Rather than working well it is more reasonable to say that the present rice program is uncertain and unstable.

EXPORT PAYMENTS—CORNERSTONE OF U.S. RICE EXPORT MARKET

U.S. rice has been competitive in the world market and commercial export sales have been rising since 1972. But, it is obvious that the principal success of the rice program under the current law during the past 20 years has been largely due to the fact that Congress has from time to time appropriated direct export subsidies and Presidential politics have given rice a high priority in the operation of Public Law 480 programs.

From fiscal year 1955 through fiscal year 1975, a total of $3.3 billion was spent in export subsidies for commercial sales and for the Public Law 480 program to allow U.S. rice acreage allotment holders to keep their production at high levels, protect farmer rice prices, retain commercial export markets, and prevent unmanageable surplus rice buildup.

[In millions of dollars]

Fiscal year	Export Payments for Commercial Sales	Public Law 480 Commodity costs (Gross)[1]	Total
1955	0	3.8	3.8
1956	0	47.7	47.7
1957	0	198.7	198.7
1958	0	58.8	58.8
1959	4.51	35.5	40.01
1960	11.53	98.0	109.53
1961	18.60	109.3	127.90
1962	30.13	88.8	118.93
1963	24.06	123.4	147.46
1964	38.83	125.8	164.63
1965	38.35	103.3	141.65
1966	42.39	62.0	104.39
1967	21.98	143.9	165.88
1968	1.89	142.3	144.19
1969	3.22	187.3	190.52
1970	13.70	182.2	195.90
1971	17.82	175.7	193.52
1972	24.84	233.9	258.74
1973	0	258.7	258.7
1974	0	317.3	317.3
1975	0	285.3	285.3
Total	313.62	2,981.7	3,295.32

[1] Includes export payments.

During the marketing years 1954 to 1958, U.S. rice was not competitive as world prices declined under and remained below the U.S. loan rate. Dollar exports fell to under 10 million hundredweights on a rough rice equivalent basis and large carryover stocks accumulated, ranging between 18 and 34 million hundredweights.

In December 1958, Congress initiated an export subsidy program which made U.S. rice fully competitive. Dollar exports rose steadily reaching about 35 million hundredweights by the 1967–68 season and stocks were reduced to minimal levels of between 5.3 and 8.5 million hundredweights.

In the middle of 1967, world prices rose over the loan rate and export subsidies were discontinued.

Then during the marketing years, 1969 through 1972, world prices again declined below the U.S. loan rate and subsidies, though eventually reestablished, were limited by budgetary considerations and never fully made up the difference between the U.S. price and the world price. The rice carryover buildup was prevented from reaching the levels of the 1954–57 period because of substantial increases in Public Law 480 rice exports. Nonetheless, carryover stocks rose to between 11.4 and 18.7 million hundredweights and commercial exports fell from the record 24.2 million hundredweight shipped in fiscal year 1968 to only 10.9 million hundredweight shipped in fiscal year 1972.

In December 1972, world rice prices rose above the U.S. loan rate, export subsidies were discontinued, and commercial exports expanded sharply reaching a new record of 33.3 million hundredweight in the fiscal year 1975. At the same time, the carryover of rice was reduced to minimum levels.

A loan rate above world market prices, unless modified by export subsidies, not only reduces export demand for U.S. rice but also encourages competition abroad thereby worsening the situation for U.S. rice in the world market in the subsequent year.

In 18 of the last 21 fiscal years the operation of the loan rate under existing law has made U.S. rice noncompetitive on the world market. During 10 of those years export subsidies were used to make U.S. rice fully competitive and during those years, except 1961 when all U.S. rice exports declined, the commercial exports of U.S. rice rose at an ever-increasing pace. Commercial shipments reached 24.2 million hundredweight in fiscal year 1968, the first year since 1954 that U.S. rice was competitive without the aid of export subsidies.

During fiscal years 1969 through 1973 the loan rate again made U.S. rice noncompetitive and the commercial exports of U.S. rice declined sharply. Export subsidies were used, but as I mentioned earlier, they were not sufficient to make U.S. rice fully competitive.

In mid-fiscal year 1973 U.S. rice again became competitive in the world market, without the aid of export subsidies, and commercial export shipments have more than tripled since the 1972 low point. Rice industry leaders believe that commercial world market demand for U.S. rice will continue to rise and studies by USDA agree with them.

The rice program can work well if it takes a fundamental rule into consideration. If a commodity that is produced in quantities of 60 percent or more than we need in this country, we produce 60 percent more rice than we can possibly consume, that in order to sell this commodity on the world market that the price that is paid to the farmer cannot be in excess than that price that is paid on the world market, unless export subsidies are appropriated.

Under present political circumstances we cannot continue to rely on export subsidies to rescue the rice industry as we have in the past. The votes do not now exist.

This bill is a workable bill and it takes these fundamental facts into consideration.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Chairman, I want to thank the gentleman in the well for making a clear, concise, and informative statement, one that is in the objective national interest, and I want to associate myself with his remarks.

Mr. Chairman, my colleagues are urged to give their full and active support to enactment of H.R. 8529, the Rice Production Act, which we are considering today.

The benefits that will be derived from enactment of this legislation are numerous. Among them would be reduced consumer prices, obviously something that the American consumer would like to see more of today. In addition, by approving a liberalized rice production program, we could look forward to adequate supplies to meet domestic and world market needs, more open production that would allow the law of supply and demand to prevail, and an improved balance-of-payments situation.

The supply of rice in the world has not been growing nearly as fast as the rate of demand. This imbalance has been a major contributor to rice price inflation. H.R. 8529 would establish a producer-freedom and market-oriented policy with respect to this crop. The rice industry will be encouraged to expand its overseas markets, with the new farmer able to grow rice based on existing supply-and-demand conditions in the marketplace. Clearly, this legislation offers production flexibility.

As a Representative from Arkansas, I underscore the enormous economic impact that failure to enact this bill would have on my State. Arkansas stands to incur the largest possible loss of farm income if H.R. 8529 is not enacted, of any other State—some $202.5 million.

So, the economic impact is significant for Arkansas and for the entire national economy.

And, yet another critical factor in favor of enacting the Rice Production Act can be found in the increased employment that would result. Many rice production workers are employed in rice processing plants. Under a program of increased production, to which H.R. 8529 addresses itself, we may look forward to more active employment. The benefits of creating more jobs is obvious and I need not belabor the point. Through expansion, we will create additional job opportunities and America's enormous world market potential will be significantly enhanced.

I believe that this legislation represents an equitable, evenhanded and worthwhile program for rice farmers. Under the bill, the method of protecting prices to farmers is redesigned. The rice program will no longer likely be discriminatory to domestic rice consumers. So, we can readily see that under such a program, stability in production would be assured and protection would be restored to levels equitable to consumers and worthwhile to producers.

Mr. Chairman, I feel that one point

merits repeating and reemphasizing, because it is such a vitally important aspect of H.R. 8529: the international trade benefits that could redound to the United States under this act are enormous. The House Agriculture Committee, in its report on the bill, stated:

> It should be emphasized that the dollars we receive from rice exports will contribute substantially to easing our balance of payments problem which has been precipitated by the high price of oil from the OPEC countries.

I, therefore, urge my colleagues to support the Rice Production Act.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Chairman, surely the gentleman from Arkansas, when he refers to export subsidies, realizes we have not had an export subsidy on rice in the last several years.

Mr. ALEXANDER. Yes, and I do not yield any further to the gentleman from Louisiana. I do realize this, as indicated in this chart. In 1972 export subsidies were discontinued. The price of rice sold on the world market and we increased our sales 2½ times during this period from 500,000 metric tons up to 1,500,000 metric tons. And we brought into this country a billion dollars in foreign exchange that we would not have had otherwise simply because we abandoned the export concept.

Mr. THORNTON. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to my colleague, the gentleman from Arkansas.

Mr. THORNTON. Mr. Chairman, I would like to commend my colleague, the gentleman from Arkansas (Mr. ALEXANDER) for an excellent statement.

The need in the world for increased food supplies is well known to all.

I would like to associate myself with the gentleman's remarks.

The CHAIRMAN. The Chair will advise the gentleman from Georgia that he has 9 minutes remaining and the gentleman from Colorado has 25 minutes remaining.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield 5 minutes to the gentleman from Idaho (Mr. SYMMS).

Mr. SYMMS. Mr. Chairman, I would just like to ask a couple of questions of some of the sponsors of this legislation.

I have given this legislation my half-hearted support in the Committee on Agriculture but the thing that is bothering me is that we are here today talking about a program that is evidently less controlled than the program we operate under presently. I think that is something a lot of Members would like to be aware of.

Is that correct?

Mr. JOHNSON of Colorado. Yes, it is correct.

Mr. SYMMS. But when I look into the statistics I find that there are 280 commodities grown in the United States that have no program and yet there is sufficient success because the market seems to supply those commodities. I was wondering why we did not just go cold turkey, like with soybeans, and scrap this thing and be rid of it once and for all.

Mr. JOHNSON of Colorado. I believe we never had a soybean program. We did not go just cold turkey on soybeans, we have always been cold turkey with it.

Mr. SYMMS. No, we had a loan program.

Mr. JOHNSON of Colorado. We had a loan program, but we have had a 20-year history of this particular subsidy program and to just cut it off, most of us on the committee felt, would cause an injustice to the present growers, as explained before, who have had to pay for their allotment. So that is one of the injustices we are trying to correct.

Mr. SYMMS. I appreciate the gentleman's comments. Now I would like to ask the gentleman from California (Mr. LEGGETT) a question. The gentleman comes from an area where they have quotas and as I understand some of these quotas, they buy and sell, and that these quotas could pass down through the family, be inherited, they would have to pay inheritance taxes.

Under the new program, what will happen to the quotas?

Mr. LEGGETT. I would think the value of the quota units will very, very substantially diminish. As I understand, the gentleman has in mind perhaps opening up the rice program and getting rid of all of the WPA-ism that is in there. I do not know precisely the wording of the gentleman's amendment, but I would think we would be much better off moving to a free program rather than moving to a program that is encumbered by all kinds of special payments to farmers for not growing, and their land can be converted into all kinds of things, things that they are supposed to do.

Mr. SYMMS. Would my friend, the gentleman from Georgia, care to comment on this?

Mr. MATHIS. Would the gentleman repeat the question?

Mr. SYMMS. I am concerned as to why it is that the proponents of the legislation do not want to go all the way and just open it up. Then they could grow all the rice they want to.

Mr. MATHIS. We wrote into the bill those provisions to protect the additional allotments for those in the parts of the country where they have traditionally produced the rice. This bill, as I have said a number of times, is a compromise position between those people who want to destroy the program altogether and those people who want to hold onto what they have. I would submit that the gentlemen from California probably really does not have the sentiments of his rice farmers in mind when he says he wants to destroy the program totally.

We heard no testimony that would back that up during the time that we were holding hearings on this legislation.

Mr. SYMMS. I thank the gentleman very much. I would like to assure the gentleman that it is not my intention to ever have this country become short of rice, because, as much as I like potatoes, and in Idaho we do like potatoes, I would hate to see them come to the point where they would have to throw potatoes at weddings.

Would the gentleman from Louisiana care to say anything?

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Louisiana.

Mr. BREAUX. I thank the gentleman for yielding.

We are talking about allotments. The purpose of the allotments is to give to the consumers of this country an orderly supply of a product that is needed. The present existing program allows the Secretary to make adjustments depending on the need. That is the purpose, and it has worked well for 20 years. The last 2 years the Secretary has said, "Well, we need a lot more rice," so what he has been able to do under the present program is simply to remove allotment and marketing restrictions completely. Anybody anywhere can plant rice over the last 2 years.

Mr. SYMMS. Then why would not the gentleman say, get rid of the whole works and let it rip?

Mr. BREAUX. If the gentleman will yield further, there is no reason why a program is necessary to reinstate allotments in the event of an oversupply of the product. It does not help us in this country to produce more of anything than we can sell.

Mr. SYMMS. I would just like to point out to the gentleman the part that bothers me about this whole thing is that, for example, in my own State of Idaho they are starting to plant grapes. There is a big craze to plant grapes there now. We have seen $2,500 an acre of extensive capital invested to put in the grape vineyards, the wires, the posts, the plants, the whole thing. This year most of the grapes were not even harvested.

Mr. BREAUX. Will the gentleman yield further?

The CHAIRMAN. The time of the gentleman has expired.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield 2 additional minutes to the gentleman from Idaho.

Mr. BREAUX. If the gentleman will yield further, the difference between grapes and rice is that one-third of every grain of rice that is produced and harvested in this country is sold under a Government-subsidized program—the Public Law 480 Food for Peace program. That is the difference between a program governing grapes.

Mr. SYMMS. So it is an international welfare program, then?

Mr. MATHIS. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Georgia.

Mr. MATHIS. I thank the gentleman for yielding.

I would just like to point out for the record that I have not heard any traditional producers of rice criticizing title I of the Public Law 480 program until we started debating the merits of this particular bill.

Mr. BREAUX. If the gentleman will yield further, I am a strong supporter of the program. It helps us, first, where we need help politically, and it helps us move a product in this country. I am a strong supporter of it.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Louisiana.

Mr. MOORE. I thank the gentleman for yielding.

On the Public Law 480 program, we are not attacking the program per se. It is a bad deal for the taxpayers, but I do not want to see an expansion of that program which this bill will bring on.

Mr. SYMMS. Just one moment. The gentleman says this bill will bring on an expansion of the program.

Mr. MOORE. Yes. I think it will bring on an expansion of a demand under the Public Law 480 program where we will not be able to market that rice that we are going to grow under this program.

Mr. MATHIS. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Georgia.

Mr. MATHIS. I thank the gentleman for yielding.

I would like to ask the gentleman from Louisiana on what authority he has it that this is going to expand the rice growing under title I or title II.

Mr. MOORE. If the gentleman will yield, on the simple fact that we have not shown any evidence that our markets have gone down; world markets have gone down. Production is up. What are we going to do? Farmers will say, "You led us into this further by expanding the Public Law 480 program. Buy it up and bring us under the protection of the target price on this bill."

I discussed that with the distinguished chairman.

If the gentleman from Idaho would yield further, would the gentleman from Georgia now state that as long as he is in this Congress, he will not come back and attempt to bring the new growers under a target price support in this bill?

Mr. MATHIS. If the gentleman will yield further, I certainly will make that commitment to the gentleman. I do not know how long I will be in this Congress, but I can promise the gentleman from Louisiana that I have no intention to bring them under the bill. The gentleman is concerned about Public Law 480 rice. I will make the statement that I made to the distinguished gentleman from Louisiana a month ago. He has never complained about title I or title II of that program as long as Louisiana rice growers were selling rice under that program.

The gentleman sat in the same hearings I sat in and we had members of the subcommittee there and witness after witness after witness came in and said: "The market is there. We can sell this rice." Now who is taking the chance?

The CHAIRMAN. The time of the gentleman from Idaho has expired.

Mr. MATHIS. Mr. Chairman, I yield to the gentleman from Idaho 1 additional minute.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Louisiana.

Mr. MOORE. Mr. Chairman, in reply to the question of the distinguished chairman of the subcommittee, the gentleman from Georgia, I would simply say they have agreement among the representatives of the Public Law 480 programs who were saying that we can give away or sell with loans at 2 or 3 percent all the rice we can grow. I heard no distinct suggestion of what markets we can move this rice into.

The fact is Louisiana rice is not moving right now and is sitting in the warehouses. The world production is up and the demand in Southeast Asia and in Iran and in Iraq is down. So where are the markets?

Mr. MATHIS. Mr. Chairman, if the gentleman will yield, I have seen no evidence of lack of markets. If the Louisiana rice is still in the warehouses in Louisiana, it is because the farmers there are holding it off the market and waiting for a better price or waiting to see what will happen when this bill passes.

The gentleman from Louisiana (Mr. MOORE) must have been absent on the numerous days when we had people come in and say the market is there and they are willing to come in and harvest millions of dollars in capital outlays to invest in rice production and expand this rice production and they expect to market it.

Mr. CLEVELAND. Mr. Chairman, as a cosponsor of H.R. 8529, the Rice Production Act of 1975, I rise in support of this legislation to provide for a 2-year, open production program of planting rice and urge my colleagues to join in the passage of this measure.

I have consistently opposed Federal farm programs which restrict production and add to already increasing food prices for consumers. For this reason, I welcome proposals, such as the Rice Production Act of 1975, which permit open production of commodities with a minimum of Government interference.

At a time of persistent world hunger, I find it unconscionable that the United States, blessed with our tremendous resources, continues to follow a system of outmoded restrictions and unnecessary uncertainties in our present laws governing the planting of rice.

The present rice program, if continued, would limit production, prohibit many farmers from planting rice, force up prices, contribute to worldwide inflation, deny food to hungry people and restrict U.S. exports and income.

H.R. 8529 would provide for a 2-year, open production program that will permit anyone who wants to plant rice to do so. The degree of price protection in the bill, while more generous than I would have preferred, does insure needed stability of production while providing adequate protection for the consumer also.

The present likelihood that the Department of Agriculture will reimpose marketing quotas and acreage allotments at the beginning of 1976 reinforce the need to act now on this bill so that we can avoid a potential cutback in production next year.

Mr. MATHIS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. JOHNSON of Colorado. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Under the rule, the Clerk will read the bill by titles.

The Clerk read as follows:

H.R. 8529

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Rice Production Act of 1975".

Mr. ALEXANDER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 764]

Adams
Addabbo
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Ashbrook
Ashley
Beard, Tenn.
Boland
Bolling
Brown, Calif.
Burke, Fla.
Cederberg
Conyers
Davis
Dickinson
Dingell
Drinan
Edgar
Edwards, Calif.
English
Esch
Eshleman
Foley
Fraser
Frey
Gaydos
Giaimo
Hébert
Heinz
Helstoski
Hinshaw
Jones, Ala.
Kemp
LaFalce
Lehman
McCollister
Melcher
Mitchell, Md.
Passman
Patman, Tex.
Reuss
Riegle
Rodino
Roncalio
Santini
Satterfield
Scheuer
Shuster
Sikes
Simon
Stanton, James V.
Teague
Thompson
Udall
Ullman
Wiggins
Wilson, Bob
Wydler

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. FLOWERS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 8529, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 374 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. At the time the Committee rose the Clerk was reading the bill and had read section 1.

Does the gentleman from Louisiana (Mr. BREAUX) desire recognition?

Mr. BREAUX. Yes, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from Louisiana (Mr. BREAUX).

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BREAUX

Mr. BREAUX. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. BREAUX: Strike out all that follows the enacting clause and insert in lieu thereof the following:

That effective for the 1976 and 1977 crops of rice, section 352 of the Agricultural Adjustment Act of 1938 is amended to read as follows:

"NATIONAL ACREAGE ALLOTMENT

"SEC. 352. (a) The national acreage allotment of rice for the 1976 and 1977 crops of rice shall be two million acres, unless the Secretary determines, prior to December 31 of the calendar year preceding the beginning of the crop year for which the allotment is to be made, that the difference between the total supply of rice for the marketing year beginning in the calendar year preceding such crop year and the normal supply of rice for such marketing year is greater than 20 per centum of such normal supply.

"(b) If the Secretary makes the determination described in subsection (a), the national acreage allotment of rice for the crop year beginning after the determination is made shall be established at a level which will adjust the supply of rice so that a quantity of marketable rice will be on hand in the United States at the end of the marketing year beginning August 1 of the calendar year in which the rice for which the acreage allotment is being determined is to be produced (not including rice produced in the calendar year in which such marketing year ends) which is less than 20 per centum of the estimated amount of rice which will be utilized in exports and domestic consumption during such marketing year, except that the national acreage allotment for rice for any crop of rice may not be less than one million six hundred fifty-two thousand five hundred and ninety-six acres.

"(c) For purposes of this part, the term 'normal supply' means, with respect to any marketing year—

"(1) the estimated domestic consumption of rice during the marketing year for which normal supply is being determined, plus

"(2) the estimated exports of rice during such marketing year.".

Sec. 2. (a) Effective only with respect to the 1976 and 1977 crops of rice, section 353 (b) of the Agricultural Adjustment Act of 1938 is amended—

(1) by striking out the second sentence; and

(2) by striking out "an old producer" and all that follows through "second sentence of this subsection," in the third sentence and inserting in lieu thereof "a producer or farm under the first sentence of this subsection,".

(b) Effective only with respect to the 1976 and 1977 crops of rice, section 353 of such Act is amended by adding at the end thereof the following new subsection:

"(h) The Secretary shall permit the owner and operator of any farm for which a farm acreage allotment has been established to sell or lease all or any part, or the right to other owner or operator of a farm in the same all or any part of such allotment, to any State, or to transfer all or any part of such allotment to any other farm owned or controlled by him in the same State. The Secretary shall also permit the person for whom a producer allotment has been established to sell or lease all or any part of such allotment to any other person in the same State."

Sec. 3. Effective only with respect to the 1976 and 1977 crops of rice, section 354(a) of the Agricultural Adjustment Act of 1938 is amended to read as follows:

"(a) Whenever in any calendar year the Secretary determines the national acreage allotment under section 352(b), he shall, not later than December 31 of such calendar year, proclaim such fact and marketing quotas shall be in effect, subject to subsection (b) of this section, for the crop of rice produced in the next calendar year."

Sec. 4. Effective only with respect to the 1976 and 1977 crops of rice, section 356(a) of the Agricultural Adjustment Act of 1938 is amended to read as follows:

"(a) Whenever marketing quotas are in effect with respect to any crop of rice, the producer shall be subject to a penalty on the farm marketing excess at a rate per pound which is equal to the cost of production, as defined by section 108 of the Agricultural Act of 1949, per pound of rice for the crop with regard to which the penalty is imposed.".

Sec. 5. Effective only with respect to the 1976 and 1977 crops of rice, section 301(b) (10)(A) of the Agricultural Adjustment Act of 1938 is amended by striking out "rice," in the first sentence and by striking out "10 per centum in the case of rice;" in the second sentence.

Sec. 6. Effective only with respect to the 1976 and 1977 crops of rice, section 101 of the Agricultural Act of 1949 is amended—

(1) by striking out the undesignated paragraph in subsection (a) dealing with rice;

(2) by inserting ", except for rice," immediately after "price support" the first time it appears in subsection (d)(5); and

(3) by inserting "and rice" immediately after ", except tobacco" in subsection (d)(3).

Sec. 7. Effective only with respect to the 1976 and 1977 crops of rice, title I of the Agricultural Act of 1949 is amended by adding at the end thereof the following new section:

"PRICE SUPPORT FOR 1976 AND SUBSEQUENT CROPS OF RICE

"Sec. 108. (a) The Secretary shall make available nonrecourse loans and purchases for the 1976 and 1977 crops of rice. These nonrecourse loans and purchases shall be available only to persons producing rice on acres allocated under section 353 of the Agricultural Adjustment Act of 1938.

"(b) The amount of the loans and purchases available shall be based on the following:

"(1) the farm yield base, as determined by the Secretary, of the person receiving the loan, multiplied by

"(2) the amount of acres of rice produced by such persons on acres allocated to him under section 353 of the Agricultural Act of 1938, multiplied by

"(3) the cost of production, as determined under subsection (c), of the rice produced on the acres described in paragraph (2).

"(c) For purposes of this section, the term 'cost of production' shall mean—

"(1) with regard to the 1976 crop of rice, $8 per hundredweight of rice or 60 per centum of the parity price for rice, whichever is higher; and

"(2) with regard to the 1977 crop of rice, the cost of production for the 1976 crop of rice adjusted to reflect changes in a cost-of-production index for rice;

except that such term shall mean 50 per centum of the parity price for rice with regard to any crop of rice for which marketing quotas have been disapproved by producers.".

Sec. 8. The amendments made by this Act shall become effective with the 1976 crop of rice.

Mr. BREAUX (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. MATHIS. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The question is on the motion offered by the gentleman from Georgia.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Flowers, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 8529) to establish improved programs for the benefit of producers and consumers of rice, had come to no resolution thereon.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 10647. An act making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 10647) entitled "An act making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes, requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. McClellan, Mr. Magnuson, Mr. Pastore, Mr. Robert C. Byrd, Mr. McGee, Mr. Proxmire, Mr. Montoya, Mr. Hollings, Mr. Bayh, Mr. Chiles, Mr. Young, Mr. Hruska, Mr. Case, Mr. Fong, Mr. Brooke, Mr. Stevens, Mr. Mathias, Mr. Schweiker, and Mr. Bellmon to be the conferees on the part of the Senate.

AUTHORIZING FUNDS FOR CONTINUING ACTIVITIES OF STANDING AND SELECT COMMITTEES OF THE HOUSE OF REPRESENTATIVES

Mr. MATHIS, from the Committee on House Administration, filed the following resolution (H. Res. 906, Rept. No. 94–706), which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR SUBCOMMITTEE ON NATIONAL PARKS AND RECREATION OF COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO SIT ON FRIDAY, DECEMBER 12, 1975, DURING 5-MINUTE RULE

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that the Subcommittee on National Parks and Recreation of the Committee on Interior and Insular Affairs have permission to sit on Friday, December 12, 1975, during consideration under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

REQUEST FOR PERMISSION FOR SUBCOMMITTEE ON GOVERNMENT INFORMATION AND INDIVIDUAL RIGHTS OF COMMITTEE ON GOVERNMENT OPERATIONS TO MEET TOMORROW DURING 5-MINUTE RULE

Ms. ABZUG. Mr. Chairman, I ask unanimous consent that the Subcommittee on Government Information and Individual Rights of the Committee on Government Operations be permitted to meet tomorrow during the 5-minute rule.

The SPEAKER pro tempore (Mr. Mc-

Fall). Is there objection to the request of the gentlewoman from New York?

Mr. ROUSSELOT. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

REQUEST FOR PERMISSION FOR SUBCOMMITTEE ON MINES AND MINING OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO MEET TOMORROW DURING 5-MINUTE RULE

Mrs. MINK. Mr. Speaker, I ask unanimous consent that the Subcommittee on Mines and Mining of the Committee on Interior and Insular Affairs be allowed to conduct a hearing tomorrow during the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Hawaii?

Mr. ROUSSELOT. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

REFORM OF OSHA CRUCIAL TO ECONOMY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Archer) is recognized for 60 minutes.

GENERAL LEAVE

Mr. ARCHER. Mr. Speaker, I ask that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of my special order today, and I also ask unanimous consent that I be permitted to include extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ARCHER. Mr. Speaker, I appreciate this opportunity to call attention to the need for immediate action on legislation I have introduced with cosponsors today to amend the Occupational Safety and Health Act of 1970.

The cosponsors of this measure are: Mr. Spence, of South Carolina; Mr. Sebelius, of Kansas; Mr. Treen, of Louisiana; Mr. Kemp, of New York; Mr. Dickinson, of Alabama; Mr. Abdnor, of South Dakota; Mr. Derwinski, of Illinois; Mr. Broyhill, of North Carolina; Mr. Armstrong, of Colorado, Mr. Snyder, of Kentucky; Mr. Conlan, of Arizona; Mr. Beard, of Tennessee; Mr. Collins, of Texas; Mr. Edwards, of Alabama; Mr. Robinson, of Virginia; Mr. Ketchum, of California; Mr. Martin, of North Carolina; Mr. Eshleman, of Pennsylvania; Mr. Burgener, of California; Mr. Crane, of Illinois; Mr. Clausen, of California; Mr. Rousselot, of California; Mr. Wampler, of Virginia, Mr. Grassley, of Iowa; and Mr. Hutchinson of Michigan.

Certainly none of us are opposed to safe, healthy working conditions for all people in this country. That is not the issue here. The question is whether the Occupational Safety and Health Act has been effective in achieving this desirable goal. After months of research, I am convinced that it has not.

Deficiencies in the present law have resulted in greatly increased costs to consumers as businesses have been forced to pass on to them the financial burdens imposed by often unnecessary regulations. Many of these deficiencies in OSHA could have been corrected long ago, if the majority in Congress had acted responsibly in exercising its oversight authority.

The adverse impact of OSHA on our economy has been reflected repeatedly in the thousands of letters I have received on the subject since I first came to Congress. In response to the widespread concern in my own district, I personally contacted over 20,000 individuals in Harris County, Tex., last summer in order to obtain their specific recommendations for changes in the law.

The response was overwhelming, just as it has been from the districts of my colleagues on the Republican Study Committee's Task Force on Regulatory Reform who have made similar contacts with their constituents.

Based upon this unprecedented response, we diligently researched the existing law in order to determine the specific causes of the complaints we received. The results of that research are contained in the legislation I have introduced today. The bill recommends 21 specific changes in the law that would eliminate much of the burden that is being borne by the American consumer and the working men and women of this country as a result of poorly written legislation.

The amending legislation I have introduced fully deserves the careful consideration of the House of Representatives. The problems it seeks to correct are problems shared by millions of Americans, business and labor alike. It should be viewed as an attempt to improve legislation that has proved to be unnecessarily costly to employer and employee alike.

The Congress of the United States must accept responsibility for deficiencies in the laws it passes. That responsibility extends to correcting those deficiencies that are proven to exist.

The deficiencies in OSHA are well documented. Many of the case histories I have personally examined show that far too little consideration is given to economic consequences of arbitrary interpretation of the loosely written law. The stories are legion about companies who have been forced out of business or forced to cutback on employment because of some regulation that has been imposed by OSHA without due regard for its overall impact. I know that many of these cases will be discussed in detail during the debate today.

Many of the examples that have come to my attention would be almost comical if the impact on employers and employess in this Nation were not so grimly serious.

All of America is paying dearly for the failure of the majority in Congress so far to bring about changes in the law that will correct the abominable situation that now exists. We have heard a great deal of discussion in the 94th Congress about the desire of the legislative body to regain power it has lost to the executive branch in recent years. I submit that any transfer of power that has taken place has been the result of an abdication of responsibility on the part of the Congress itself.

The Occupational Safety and Health Reform Act of 1975 represents a reassertion of congressional authority over an area that has been neglected far too long. If the Congress indeed wants to reassert itself, as we have heard so often this year, then let it show the people of this country that it is willing to take positive action in making improvements in the legislation and the agency that it created.

The following article that appeared in the November 24, 1975, issue of U.S. News & World Report certainly points up the need for early congressional action in this area:

PROTECTING PEOPLE ON THE JOB: ABC's OF A CONTROVERSIAL LAW

Important changes are taking place in the Government's costly and much-criticized program to make workplaces in America safer and more healthful.

For 4½ years the Occupational Safety and Health Act, known widely as "OSHA," has affected about 5 million firms as well as most federal and State agencies—about 3 of every 4 workers.

Almost every phase of the law's implementation has stirred controversy. It has embittered employees as well as employers. Some detractors call OSHA "a four-letter obscenity."

Now, under pressure, changes are coming. For a look at what is in the works—and for answers to some questions that are being asked—U.S. News & World Report went to top authorities.

First of all, what is OSHA?

It's a law requiring virtually all employers to make sure that their operations are free of hazards to workers.

OSHA was enacted in July, 1970, after two years of all-out lobbying for it mainly by the AFL–CIO and some other labor-union groups. Proponents wanted sweeping action by Washington to reduce on-the-job injuries, illnesses and deaths which they claimed had reached shocking dimensions.

The Act, 31 pages in length, went into effect on April 28, 1971. The Occupational Safety and Health Administration was formed in the Labor Department to issue and enforce standards, which now fill 450 pages.

Why do workers complain about OSHA?

Some claim that new rules are silly and that they cramp work styles. Others fear the Government's power to shut down their workplace if it's considered unsafe.

The complaint of labor-union chieftains is different. They say that the Administration enforces the regulations halfheartedly and has moved too slowly in setting additional standards for health and safety.

WHAT IRKS BUSINESSMEN ABOUT OSHA?

Many things. Businessmen say the law has added vastly to equipment expenses, administrative tasks and management headaches.

Further, many executives complain that the law is stacked against their firms and has been carried out in an irrational, often harassing, manner. They also complain of overwhelming red tape and paper work. An official of the National Association of Manufacturers maintains that soon "there will not be enough medical, clerical and industrial-hygiene personnel within this country to perform the duties required by the standards."

The sheer bulk and complexity of rules

torments many businessmen. Even the Federation of American Scientists found the language of these edicts "convoluted beyond recognition."

One set of OSHA rulings goes on page after page, using trigonometric equations, to define "ladder" and "exit."

Among other gripes heard from businessmen:

The OSHA agency is heavily staffed with labor-union sympathizers.

Government officials could use OSHA's broad powers as a lever for extracting political contributions. Allegations of such tactics emerged in the course of the Watergate hearings.

Is the Government doing anything to respond to these complaints?

The word has come down from the top at the Labor Department: Stop being so rough on businessmen. Try to co-operate more with companies that are really trying to improve working conditions.

In the wake of this policy, some OSHA officials have been replaced.

On November 8, the Labor Department even issued a press release praising some firms for "going beyond" OSHA standards.

OSHA officials must now accompany any new standards they devise with a statement on how it is likely to affect the nation's economy, especially inflation. The aim is to make OSHA standards more realistic.

Improvements in current regulations are also being promised.

When OSHA was getting started, the Government adopted en masse several thousand assorted rules, regulations, standards and codes with little regard as to whether they were outmoded, suitable or simply some group's version of what would be ideal.

Revised standards will be a slow process. This past summer the agency held hearings for five weeks with more than 100 witnesses and 1,200 prehearing comments on proposed noise standards. Those standards are not expected to be issued before early next year.

Is anything being done about the unions' complaint that enforcement isn't stiff enough?

Yes. There will be more inspections—from about 225,000 this year to 300,000 in 1976.

And inspectors will pay more attention to health perils. Special targets: high noise levels and dangers in handling toxic substances, particularly asbestos, cotton dust, carbon monoxide, silica and lead. Policy, until recently, emphasized accident prevention.

The Labor Department in mid-October proposed new standards to cut employe exposure to trichlorethylene, a degreasing solvent, and beryllium, a metal used in aerospace products.

What would businessmen like to see?

Some continue to fight for outright repeal of the Act. They claim that the U.S. for decades has had excellent safety records compared with the rest of the industrialized world and that these records were getting still better long before OSHA arrived.

But most businessmen would be glad just to get OSHA modified. They think:

OSHA officers should be permitted to consult with them prior to inspections so that the employers can correct problem areas.

Penalties should be eliminated for minor violations that are found on a first inspection.

Equipment that already is installed should be exempted unless it is a serious hazard.

Interested parties should be notified 90 days before new standards are imposed.

Is Congress moving to amend the law?

Not very fast. There are about 70 bills on Capitol Hill to rescind the Act or limit its scope. Only one is given much chance of getting out of labor committees. It would temporarily allow OSHA officials to consult with managers who wonder whether their work conditions are up to snuff—without immediately subjecting the firm to citations for any violations that are found during the consultation.

Considered most likely to pass: bills to switch the safety of mines and railroads out of other departments and into the Labor Department.

Congress has been watching OSHA. In fact, investigators of the Senate Labor Committee and the General Accounting Office, an arm of Congress, have accused OSHA administrators of severe ineptitude and of devoting "an inordinate amount of time to nonserious violations."

Is OSHA worth its cost?

Proponents of strong safety laws argue that any cost is small when it saves lives and limbs. But OSHA's program is expensive—and it's getting more so.

The Occupational Safety and Health Administration spent 293.3 million dollars from April, 1971, through fiscal 1975. It has requested 116 million for the fiscal year that began July 1. That's small potatoes compared with what OSHA regulation is costing business. One estimate put corporate expenses for compliance at 3.12 billion dollars for this year alone. Much bigger costs are expected once new noise standards are proclaimed.

Businessmen say little of this expense adds to efficiency and that much of it will have to be passed to customers through higher prices.

What good has OSHA done in its 4½ years of existence?

OSHA officials say it's impossible to tell whether the incidence of job-related accidents and illnesses has declined much since the law took effect.

They suspect that employers suddenly became more careful about reporting accidents once the Federal Government entered the picture. This tended to inflate accident rates and thus tossed safety statistics into turmoil.

Firms at least have become more safety-conscious. Most businessmen acknowledge that.

The definite beneficiaries: bureaucrats, lawyers, publishers of newsletters and journals about safety, holders of safety seminars and makers of safety equipment.

Some equipment firms advertise products as "OSHA-required" or "OSHA-approved." Confused corporate purchasers have spent thousands of dollars on such products, only to find some were neither needed nor required.

What are the functions of the safety agency?

It sets standards and rules, conducts inspections, issues citations for violations and imposes fines.

Safety officials can issue charges without indictments from grand juries or without even consulting a lawyer.

A businessman can receive a citation and a proposed penalty even if there is no existing standard dealing with a particular hazard spotted by an inspector.

Who does the inspecting?

The OSHA agency recruited the best people it could get when it was formed. The early corps of inspectors was composed mostly of experienced professionals from industry.

But more and more compliance officers are trainees, getting on-the-job experience. Businessmen usually feel they know more about safety in their shops than any outsider. They also complain that federal inspectors barge into offices and plants without prior notice or warrants and waste a lot of time and effort on trivial tasks, such as measuring the height of toilet partitions and checking to see if OSHA posters are properly displayed.

Inspectors are told not to cozy up to businessmen. They are not allowed to advise employers on compliance. Nor can they give dispensation to a manager who corrects a violation immediately after it is pointed out to him.

Businessmen say inspectors become overzealous and petty in an effort to please their superiors.

"They are like traffic cops who feel they have to make out a certain number of tickets or they won't be doing their jobs," comments Charles J. Pilliod, Jr., chairman of Goodyear Tire & Rubber Company.

Can the agency issue citations to workers for violations?

No. Even though a safety violation is caused entirely by a careless or disgruntled worker, OSHA still places blame on the employer.

What are the penalties?

The maximum fine is $1,000 per day per violation, but the average imposed for some 900,000 violations reported to date has been only $25. And fewer than a third of these charges have withstood appeals from employers. However, employers still must pay all their own legal expenses, even when the charges brought by the Government are later found to be groundless.

In addition, there are the costs of altering practices or equipment to satisfy OSHA. Some of the corrections seem to the businessmen to be unnecessary—or even harmful. Examples of these appear on page 70.

What provision is there for appeals from rules or citations that seem to be unreasonable?

The executive branch—which serves as prosecutor, judge and jury in its safety-and-health cases—also controls the Occupational Safety and Health Review Commission. That's the agency created to hear appeals in such cases.

Even the chairman of the appeals commission, Robert D. Moran, has asked that his agency be put under the judicial branch in order to assure its impartiality.

The Review Commission frequently has socked employers with higher penalties than were assessed against them originally.

"This has a chilling effect on an employer's exercise of his right to appeal and is thus a blatant denial of fundamental fairness," complains Richard B. Berman, director of labor law for the United States Chamber of Commerce.

The Review Commission typically takes from 7½ months to two years to decide on an employer's formal objection to an OSHA action.

These periods are expected to stretch out still further as the Commission takes on cases regarding noise levels and toxic chemicals—cases requiring testimony by expert witnesses.

Who has been hit hardest by policing so far?

Safety officials have given special attention to longshoring, meat packing, lumbering, construction, roofing, sheetmetal work and the manufacture of transportation equipment, especially snowmobiles and other types of recreational vehicles.

A higher percentage of inspections have been made of companies having more than 250 employes than of smaller firms. Still, the agency frequently is accused of picking on small companies.

The National Federation of Independent Business charges OSHA administrators with using small firms as "guinea pigs" to establish legal precedents and to build up a record of successful cases.

Overburdened small businessmen, the group contends, would rather pay fines than hire attorneys and travel to far-off hearings before review boards.

Does OSHA apply to the Government itself?

Yes. Government workplaces are required to meet OSHA standards. But the Government's own safety record is not impressive.

The General Accounting Office found that a quarter of the violations reported in four federal agencies were "of such a severe nature that, had they been found in private busi-

> ness, the employer would have been assessed substantial monetary penalties."
>
> More than 300 hazardous conditions were discovered in the OSHA agency's own building in Washington, D.C. Example: The cabinet of a fire extinguisher had no handle and was sealed shut with paint.
>
> Inspections also showed that an OSHA office in Cincinnati had several safety hazards, including blocked fire exits and a collapsing ceiling.
>
> Such revelations have added to OSHA's bad image within American industry. That image—more and more people in Washington are concluding—must be improved if the law is to be a successful avenue for assuring wholesome and safe places to work for America's growing labor force.

Mr. Speaker, I know that a number of my distinguished colleagues are prepared to discuss other aspects of OSHA today, and I am confident that their presentations will contain a great deal more information illustrating the need for enactment of the changes we are recommending.

Mr. Speaker, the need for changes in OSHA obviously exists, and we feel that the legislation we have introduced today represents the kind of responsible approach that is needed.

Mr. KETCHUM. Mr. Speaker, will the gentleman yield?

Mr. ARCHER. Mr. Speaker, I am happy to yield to the gentleman from California.

Mr. KETCHUM. Mr. Speaker, I thank the gentleman from Texas for yielding to me and I would like to associate myself with the remarks of the gentleman from Texas and indicate that I strongly support his bill which was cosponsored by myself and many others, on regulatory reform particularly as applies to OSHA.

In case some of you here are not aware of what a dirty word "OSHA" has become in the minds of our country's small businessmen, I would like to share with you the responses I have received during my recent poll of the 18th District. Although few of my constituents report truly shocking incidents, the constant threat of a visit by OSHA officials and the ensuing regulatory punishments has hampered all too many small businesses in their everyday operations. Employee health and safety is one thing—Government intimidation is something altogether different.

For example: The operations manager of a school supply service reported the following:

> We have a staff of 30 employees. In this staff is now included one part-time employee to review OSHA regulations, keep OSHA reports up to date and generally hope to cover everything so we aren't in violation of any OSHA regulation.
>
> We have moved one access ladder three times . . . redesigning it twice, and still are not sure it meets the requirements.
>
> We have tried to find out if a rotating light . . . and/or automatic horn is required on our forklift. One phone call to an associate in Los Angeles produced the reply that the light was required but not the horn, yet one of our suppliers in Wisconsin was fined for not having the automatic horn.
>
> What it boils down to is that we spent $7,613.25 in 1975 for alterations that we're not sure are required.

The manager of an oil-production service offered these thoughts on the Federal reasoning behind OSHA rules and regulations:

> One area of 'badness' is the conflict between the Fed-OSHA and Cal-OSHA regarding penalty assessments for violations. The Cal-OSHA assessments are large enough as it is, but the Feds say the amount isn't high enough (monetarily), and more serious violations with higher penalties are necessary before the accident rate will go down. This is typical Fed thinking; the accident rate has gone up continually since the inception of Cal-OSHA programs. The area of criminal investigation by the BOI is likened to the Gestapo tactics of the Hitler era.

None of us would argue with the fact that Federal revenues should be increased, but I can not condone this arbitrary means of collection.

Quite naturally, the thousands of pages of OSHA regulations do not parallel one another, with the small businessman caught in the middle. Take, for example, this problem encountered by a local construction agency:

> Scaffolding. OSHA again, quite inconsistent! The metal base plates they require quite often don't give enough bearing surface to support the scaffold. We have to "plank" under the leg to increase the bearing area and this is an OSHA violation. Scaffold for plaster crews are supposed to be rigged the same as for masonry crews. The kickboards required are a waste of time and limits access.

Finally, blatant incompetency compounds a situation where distrust engenders disrespect—and a well-intended safety program loses all effectiveness. The manager of a crane and rigging concern described such an incident:

> . . . These two men had been with us about two years with excellent safety records.
>
> While moving around on the job, Ransom and Williams contacted and knocked down a low voltage electric line with the Crane Boom. No one was hurt and damage to the line was paid for by our Company.
>
> One week later both Ransom and Williams were served in a suit by Cal-OSHA for negligence under the Penal Code and told that they were subject to a $5,000,000 fine and three years in prison.
>
> They went to trial on the case and after losing 10 days work and costing the taxpayers $20,000, they were acquitted because the man who served the papers on them did not tell them about their civil rights.

When we should be providing business incentives and opening up the marketplace to the small businessman, OSHA works in reverse. The owner of a local coin shop sums up this situation:

> I have a small business, but it takes so much time filling out returns and trying to find out how to fill out reports. Besides even the government offices can't tell us what to do. This keeps me from expanding my business and not hiring more people. Just can't afford it.

First on the list of vitally needed reforms is a call for an indepth cost-benefit analysis of adopted standards. Many standards—developed prior to the advent of OSHA and meant to be purely advisory in nature—have been hastily incorporated in order to comply with State plan deadlines. For example, the case of an electrical contractor who was required to change a particular electrical receptacle, at a cost of thousands of dollars. Less than a year later these requirements were changed—costing even more. Only one supplier could fill the order for this item—but the unavoidable delay subjected the contractor to yet another citation. Currently another modification in this receptacle requirement is under way, and no cost-benefit data has yet been compiled.

Similarly, ungrounded typewriters, calculators and coffee pots have been the object of penalties, with no introduction of data attesting to any accidents caused by grounding problems. The list of instances where the cost of installation or abatement is astronomical—while the data-supported basis for the requirement is absent—is a mile long. This practice cannot continue if OSHA is to maintain any semblance of credibility.

Those who argue in favor of accident-prevention do so rightly. But the California statistics point to alarming counterproductiveness. According to the California Department of Industrial Relations, disabling injuries in 1963 were reported at 173,158; by 1973—after OSHA—the figure had jumped 25 percent to 253,416! Moreover, the irregularities and duplications of effort are creating a bureaucratic nightmare.

The tradeoff between those who can afford taking preventive actions—the trade associations, the construction and manufacturing industries, and the medium to major size employers—versus the terror of the small businessman is unjustifiably high. The comprehensive OSHA reform bill now before us must receive prompt action, so that the benefits occasioned by this agency's intentions are not wiped out by the frighteningly high rate of incompetency.

Mr. ARCHER. Mr. Speaker, I thank the gentleman from California for his contribution.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. ARCHER. I yield to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague the gentleman from Texas yielding to me. I also appreciate the effort that he has made along with other Members of the Congress and the staff to make sure that we have delved into the problem in great detail as to what has occurred as a result of the OSHA legislation being passed.

Many of the Members felt that the other day when we amended certain aspects relating to counseling service that that really was solving some of the major problems that have occurred in creating joblessness and other things as a result of the OSHA law when in fact it had not.

So, Mr. Speaker, I wish to thank my colleague for the time and effort that he has put forth in an extremely thoughtful way in regard to the work of OSHA. On the basis of what has happened, and whether it has really produced the so-called safety results that were originally anticipated, I might say that in many cases it has not.

I know that in the some 21 points of the gentleman's legislation that the gentleman has in fact proven once again his capability, along with the assistance of other Members, in trying to alleviate and undo the substantial harm that has been done as result of many of these bureaucratic decisions that do not relate to safety, and we thank the gentleman.

Mr. Speaker, I wish to speak in favor

of the comprehensive OSHA reform bill that has been introduced to this body today. It is a sorely needed remedy to bring under control one of the most unwieldy and pretentious of all the bureaucratic agencies.

There are, of course, many difficulties connected with the Occupational Safety and Health Act and this bill does not pretend to solve all of them. It is not offered as a panacea. We, the sponsors of this bill, have, however, identified several of the most serious problem areas that have developed under OSHA, and drafted what we consider to be sound legislative remedies for these problems.

One of the most serious problems with OSHA, that this bill will help to eliminate, concerns the ambiguous nature of the rules and regulations that private business and industry are obliged to adhere to. Indeed, among all the difficulties that OSHA poses for free enterprise, the nebulous and ambivalent language of OSHA laws and requirements is the most frustrating for the employer. In many instances employers and businessmen would be more than happy to comply with OSHA requirements, if only they could understand what they mean. When they do try to comply, they are usually cited for misinterpreting the regulation, and are awarded a $5,000 fine for their good intentions. Mr. Speaker, the problem is a real one, and is widely recognized.

In a 1973 statement by the Federation of American Scientists, this was said about the laws and regulations OSHA was administering:

> Regulations are voluminous and complex: the language is convoluted beyond recognition except by a scientist or a lawyer. Worse yet, there is no provision for a penalty-free consultation with an Occupational Safety and Health Administration inspector.
>
> The Occupational Safety and Health Act, in short, has surfaced at least as many problems as it was designed to solve.

The Occupational Safety and Health Act is, at first blush, difficult to criticize because its purposes are so worthy and noble. Few can object to a law designed to improve the working environment in industries and factories where some of the 14,000 deaths in job-related accidents occur each year.

On the other hand, it is difficult to appreciate how the daily cleaning of spitoons—OSHA regulation, title 29, section 1910, 141(a)(2)ii OSHA—will help reduce the number of on-the-job casualties. One can also expect that if OSHA is designed to help employers prevent accidents, the least OSHA administrators can do is see that regulations can be easily understood and conformed to by those who are expected to abide by them.

Let us look at a couple of examples. Ladders, of course, are an important part of many on-the-job work sites. Needless to say, they should be safe and reliable in order to avoid accidents which may injur a worker. This is a reasonable requirement. But OSHA goes far beyond that. They provide tedious and detailed specifications of what needs to be embodied in OHSA-approved ladders. And not just ordinary, everyday, run-of-the-mill ladders are covered by the specifications. Precise requirements and definitions are provided for the stepladder, the sectional ladder, the trestle ladder, the special purpose ladder, the trolley ladder, only to mention a few. Beware to the employer whose ladder does not measure up to OSHA-mandated specifications.

The subject of exit design is equally confusing and convoluted. OSHA guidelines say an exit is "that portion of a means of egress which is separated from all other spaces of a building or structure by construction or equipment as required in the subpart to provide a protected way of travel to the exit discharge." If "means of egress," or "exit discharge" are perplexing, OSHA considerately clarifies:

> A means of egress is a continuous and unobstructed way of travel from any point in a building or a structure to a public way and consists of three separate and distinct parts. The way of exit access, the exit, and the way of exit discharge. A means of egress comprises the vertical and horizontal ways of travel and shall include intervening rooms, spaces, doorways, hallway corridors, passageways, balconies, ramps, stairs, enclosures, lobbies, escalators, horizontal exits, courts and yards.
>
> Exit discharge is that portion of a means of egress between the termination of an exit and a public way.

Such is the lucid, easy-to-understand language of OSHA.

Ironically, the most severe criticism of the obfuscated, arcane rules and regulations of OSHA come from within the Federal Government. Chairman Robert D. Moran of the Occupational Safety and Health Review Commission, the independent agency created to hear appeals from rulings by OSHA inspectors, says this about the nature of the regulations that employers are required to adhere to:

> Far too many standards are, to paraphrase Winston Churchill "riddles wrapped in mysteries inside enigmas". They don't give the employer even a nebulous suggestion of what he should do to protect his employees from whatever-it-is, also left unexplained, which represents a hazards to their safety and health.

After citing one of the familiar "horror stories" that OSHA is so infamous for, Moran went on to lament:

> What do you think it tells us to do? I have no idea—and I don't think OSHA could tell you either, before an inspection, citation, complaint hearing and post-hearing brief.

He then summarized by saying:

> I submit that there isn't a person on earth who can be in full compliance with the requirements of this standard at any particular point in time.

It is sad to note that Chairman Moran was removed from his position on the OSHA Review Commission for feeling the way he did about the OSHA regulations.

Mr. Speaker, changes in OSHA are desperately needed. I have voiced my views to this body before on the subject of OSHA. I believe that in the final analysis, the only real solution to the problem and the endless "horror stories" that this law has given us, is to repeal the act entirely. I introduced a bill last March that would accomplish this. It is still my contention that we should abolish the law and return the authority to State governmens to administer appropriate safety provisions for workers.

If that is not possible at this time, the very least we can do to mitigate the harmful effects of OSHA is to act favorably on the reform bill that is being introduced today.

Mr. ARCHER. I thank the gentleman from California for contributing to this special order. I might say that in contacting the thousands of people across the country who have made their input to us about the severe hardships that have been brought about by specific instances in upholding the regulations, and all of the consumer production costs, because all of these costs are passed on, and I think that is a serious point.

Mr. ROUSSELOT. If the gentleman will yield further, there is no doubt about the fact that the consumer has to ultimately pay that price. None of us wish in any way to lessen the safety atmosphere or climate that must exist in any business or industry but we certainly do not want to create a cost and pass it on to the consumer that is unnecessary and does not really contribute substantially or positively to the safety factor.

We are very grateful to the gentleman.

Mr. ARCHER. I certainly hope that we can receive substantial consideration on this legislation by the appropriate committee in the House.

Mr. DERWINSKI. Mr. Speaker, not only do I consider it an honor to be able to join my colleagues in this debate today, but I also consider it my duty, because my constituents have been expressing great alarm at the mammoth growth of the Federal agencies, like OSHA. For too long, Congress has been trying to legislate complex solutions to many problems; and too frequently the Government's solution not only fails to solve the problem, but creates numerous other ones in the process.

In our discussion today we have highlighted many of the problems surrounding OSHA, which in our opinion, could be solved and in the process actually decrease job-related injuries. The important point that too many people fail to recognize is that most of these OSHA problems have little practical relationship to industrial safety. Further, many people believe that the major corporations pay the bill for the substantial costs surrounding OSHA, while, in fact, the opposite is true. The two main victims of costly OSHA regulations are the Nation's small businessman, through increased costs, and the American consumer, through higher prices.

One issue that I would like to particularly note is the problem of OSHA consensus standards. These standards are frequently established in an arbitrary standard. As Mr. Fred Foulkes, of the Harvard Business School noted:

> The OSHA regulations call for minimum safety and health precautions. For the most part, they are consensus standards, being derived from previous legislation or from such organizations as the National Fire Protection Association and the American National Standards Institute (ANSI). The fact that they are consensus standards poses a problem, however. Standards such as those of ANSI were meant to be guidelines or bench marks with which the employer could compare his company's performance. They were not designed with the idea in mind that they

> would someday turn up as legislative minimums to which the employer must conform.
>
> As one manager I interviewed said, "These were voluntary standards developed by industry groups, with some industries more involved than others and with uneven support from companies; now they've come back to haunt us as law."

In conclusion, Mr. Speaker, as Members of the 94th Congress, we have an obligation to solve these overriding problems with OSHA. It is for this reason I am today cosponsoring the bill offered by my colleague from Texas, Mr. ARCHER. I urge as many as possible of my colleagues to join with us in this undertaking.

Mr. SYMMS. Mr. Speaker, I would like to commend my colleague, Mr. ARCHER, for his fine work in organizing this effort to call attention to the abuses of OSHA and its detrimental effects on the producers and consumers alike of this Nation. I would also like to associate myself with the previous remarks of my colleagues.

Mr. Speaker, no one is against safety. The employer has every practical incentive to promote safety. A safe plant is an efficient plant—one free of work stoppages due to accidents. But the manner in which OSHA operates is totally out of line with the goal of job safety. Rather, it has become an instrument of harassment for employees—especially small businesses. It is also important to point out that OSHA is far more detrimental to small independent businesses than to the large corporations. It is interesting to note that the strongest supporters of OSHA tend to be those same people who claim that large corporations are operating in a monopolistic fashion, yet they support all sorts of stiffling regulations such as OSHA that cripple the smaller independent competitors of the large corporations.

However, I would like to get to my main point today, and that is I believe OSHA to be unconstitutional. The practical effect of the present law is to give the inspector the power to act on the spot as a policeman, judge, and jury. The first level of appeal is handled by a new kind of "court"—the Occupational Safety and Health Review Commission which has the power of subpena and can compel testimony. OSHA law provides that no judicial body below the Federal court of appeals can take jurisdiction in a case, but then only after a decision by the Review Commission.

OSHA appears to violate the fifth amendment of the Constitution, which states that no person shall be deprived of "life, liberty, or property, without the due process of law." OSHA citations which deprive employers of property are made without due process of law, the Review Commission, to whom the employer must first appeal, can most certainly not be considered a legal court of law providing due process. OSHA is not required to prove guilt beyond a reasonable doubt, but rather, cited employers are presumed guilty. Now, in the legal enforcement of normal laws, police are not allowed to make a random selection of a man's name and then raid his place without a warrant, on a chance that they may find evidence of some violation of the law. Before police can make a legal search, even in suspected felony cases, they must get a warrant which requires showing probable cause.

However, in the enforcement of the administrative law of OSHA, no court orders, warrants, warnings, or notices are required. OSHA inspectors are given unlimited authority to enter without delay and at reasonable times any place of employment, and the compliance officers decide what is reasonable.

Therefore, it seems to me that OSHA is also in violation of the fourth amendment. OSHA inspectors are empowered to decree fines and imprisonment for 6 months for certain violations by employers; yet the defendant employer is denied the right to a trial by an impartial jury. This would appear to be a direct violation of the sixth amendment.

Now, some changes are in the process of being made in the OSHA law by the Congress. But, these changes only provide for some consultation only at the request of the employer. They will not end the practices and provisions of the act that I believe to be unconstitutional, such as the surprise searches without a warrant showing probable cause or the penalty procedures that circumvent due process.

When considering these constitutional questions it is interesting to note that the U.S. Government has either dismissed the penalties or greatly reduced them in every instance to date where the constitutionality of the act has been challenged by accused persons. The Government has done this in each instance just short of allowing the constitutional issues to go to trial. Apparently, the Government lawyers who would have to defend the act do not want a court confrontation on the constitutional issues. They know that they have a tiger by the tail if these issues ever get to court.

For example, Milwaukee Attorney John Savage filed an answer on behalf of the Wisconsin Bridge and Iron Co. to a complaint brought before the Review Commission in which fifth, sixth, and seventh amendment violations were cited by Mr. Savage. Shortly after the answer was filed the complaint was dismissed. I understand that this has been the case many times, but the problem is that most small businesses simply cannot afford the legal expense of a challenge. I have, however, been advising my constituents to wage such legal challenges if at all possible.

It is for these reasons, Mr. Speaker, that I have introduced H.R. 1086, a bill which would repeal the Occupational Safety and Health Act of 1970. If OSHA is not repealed or struck down by the Supreme Court then the precedent will be sustained for an administrative agency to declare by regulation certain conduct to be criminal, to conduct searches without warrants, issue citations and self-executing penalties, and operate under the legal presumption that the accused is guilty until he proves himself innocent. This will open a Pandora's box. We could then expect such procedures to be adopted by the Environmental Protection Agency, the Equal Employment Opportunity Commission, and so forth. In other words, Mr. Speaker, the American people would have completely lost their freedom, and I would like to emphasize once again that it will be the middle class that will suffer the most. It will be those unable to afford the costly legal battles that will be necessary if they are to keep their businesses and jobs.

So I do feel that the constitutional question is really the gut issue with OSHA.

Mr. ROBINSON. Mr. Speaker, on the first day of this session, I introduced a bill intended to make certain modifications in the Occupational Safety and Health Act—OSHA—in order to ease the oppressive burden which this law had placed on small business, and to facilitate compliance with all reasonable measures to protect workers against substantial hazards of the workplace. This bill (H.R. 930) was identical to one I had sponsored in the 94th Congress and which had failed to receive action.

I had no particular pride of authorship. Elements of the bill had been offered separately by others. I was strongly of the opinion, however, that OSHA, enacted with good intentions, required modification. I was certain its original sponsors had not foreseen the complexity of the regulatory maze into which small business would be thrust, and the unbearable cost of compliance with the law, as interpreted through the rules and guidelines of the Department of Labor.

The bill I sponsored did not cover the full range of legitimate objections to the Act as it was being administered. It provided for consultation and advice to small business prior to any official on-site inspection. It provided, also, for liberalization of the appeals procedure following violations citations, modification of first-violation penalties, and the promulgation of separate standards for the light construction industry—primarily residential—from those applied to heavy construction. At the time of introduction, I emphasized that all reasonable precautions should be required in particularly hazardous situations, but that small business, without the economic capacity to hire technical advisers or to make drastic plant modifications over a short period of time, had been placed under an intolerable burden of uncertainty and unwarranted new costs.

Subsequent to my introduction of H.R. 930, I joined in sponsorship of other proposed legislation having a similar objective—the simplification of the OSHA program without the abandonment of its basic objective of removing clear and present dangers from the workplace.

Primarily through appropriation language, some progress was made toward providing for consultive services in advance of the issuance of violations citations. To this date, however, the 95th Congress has not faced up to the monstrous transformation which the rulemaking process has made in the watchdog an earlier Congress had created. Those of us who have joined today in the introduction of the proposed Occupational Safety and Health Reform Act of 1975 offer a challenge to the leadership of the House to seize an opportunity for constructive legislation—to make the changes necessary to permit the improvement of safety conditions at places of employment without unnecessary harassment of small business, without unnecessary threats of heavy fines for inadvertent and often insignificant violations of unnecessary requirements, and without forcing thousands of small businesses to shut down and to add to the unemployment totals because of inability to make the heavy capital investments which full compliance with current and prospective regulations would require.

There are 21 OSHA reforms in this bill. I hope the bill may be scheduled for hearings at an early date, in order that all interested parties might have full opportunity to be heard. In this connection, I should add, that, by joining in sponsorship of this bill, I do not commit myself irrevocably to each and every provision.

As a sponsor of other legislation intended to provide for congressional review of regulatory actions from the standpoint of their possible noncompliance with congressional intent, I believe we should be most careful in this instance that we strive to make our intent precisely evident in this approach to clarification and modification of the Occupational Safety and Health Act.

We provide in this bill for prior congressional approval of proposed regulations or standards, so the bill should make plain the types of standards we seek.

If the present language does not appear to do this, it should be refined.

The gentleman from Texas, Mr. ARCHER, and his colleagues of the Republican study committee task force on regulatory reform have produced a major work, and I will not undertake to reiterate the detailed explanations of the bill which have been given. I will confine myself to brief comments on a few elements of the measure which I regard as particularly desirable, and entirely reasonable.

Because equipment is not infallible, and human error is not eradicable, we have to acknowledge that 100 percent safety is an ideal to be striven toward and, in time, approached, but not achieved.

Technology and changing lifestyles can produce, concurrently, new protections, new hazards, increased safety consciousness and increased risk-taking.

What has been considered reasonably safe equipment for use by a properly-trained worker becomes, in time, obsolete and branded as harboring an unacceptable degree of hazard. This bill approaches such situations with realism, I believe, in that, except in the case of a well-established major hazard, equipment in technical violation would not have to be abandoned, but could remain in use for its normal life, on the understanding that, the degree of hazard having been identified, it would be operated with increased care.

The bill also takes into account the unfairness of the present situation, in which an employer who has provided the required safety equipment in his plant may find himself in violation of OSHA because an employee has neglected or refused, to use the safety equipment or follow the prescribed operating procedures in which instruction has been given.

Agencies of Government charged with responsibilities in the field of safety should identify hazards and reasonable protective measures, but Government has tended to involve itself beyond reason in undertaking to protect the individual from a known danger against the wishes of the individual to make a personal judgment as to risk-taking.

The employer should not be penalized for employee foolhardiness.

The bill requires a reasonable compliance of at least 90 days after a violation notice has been served, and it transfers the major enforcement responsibilities to the Department of Justice, with penalty actions to be instituted in the Federal courts.

The emphasis is on voluntary compliance, and on the termination of any enforcement proceedings as soon as compliance is achieved.

There has been much talk of simplification of the regulatory processes of the Federal Government. There is rather substantial agreement in the Congress that the problem of over-regulation should be tackled. There is a widening public demand for it.

Here is an opportunity for us to act in a meaningful way in this area—not to abandon the cause of workplace safety, but to carry the effort forward in a spirit of reason, and with recognition of the commonsense approach as the most effective means of protecting both the worker's safety and the worker's job security through recognition of the economic factors which are inherent in the orderly, progressive upgrading of safety conditions in the many thousands of workplaces of this Nation, particularly the small businesses for which the good-faith effort may pose major problems of technical understanding and cost.

Mr. BEARD of Tennessee. Mr. Speaker, unfortunately, most citizens of our country are unaware of the serious problems that surround OSHA; problems relating to the fueling of inflation, forced unemployment, and the abrogation of the spirit and ideals embodied in this country's Declaration of Independence. As we approach our Bicentennial, I feel it is appropriate that we note that our forefathers envisioned a country in which a person's personal freedom was paramount, while governmental control of his life was to be reduced to an absolute minimum. In recent years, legislation and programs, like OSHA, have had the opposite purpose—we have been diminishing the freedoms of our citizens while trying to regulate every facet of their lives.

Since I have been a Member of the House of Representatives, I have been trying to bring to the attention of the American people the numerous problems surrounding OSHA. Certainly all Members of this body can agree that the prevention of job-related injuries and deaths is important. The two overriding questions, however, are "Is OSHA accomplishing the job?" and "What are the costs to the American people and can the costs be reduced without increasing the number of job-related injuries?"

Many of my colleagues have and will be discussing the various problems relating to higher consumer costs, increased inflation, and the needless redtape caused by OSHA. I, however, would like to spend the next few minutes discussing a problem few Americans are aware of—the denial of certain judicial rights to our Nation's businessmen by the U.S. Occupational Safety and Health Review Commission.

Since its creation, the Review Commission has engaged in a practice that, in my opinion, goes beyond the original intent of Congress, the practice of increasing fines during the course of an appeal. Under the current procedure, any businessman who appeals the citation and fine subjects himself to the possibility of an increased fine, because the Commission will not confine itself to the issues raised by the appeal, but considers all issues of the alleged violation. Section 10(c) of the act provides that the Commission shall afford an opportunity for hearing in accordance with section 554 of title 5, United States Code, commonly referred to as the Administrative Procedure Act. The Administrative Procedure Act very wisely confines agencies exercising adjudicatory powers to the resolution of only those issues which are in dispute between the parties. Further, the Commission's penalty assessment jurisdiction is subject to the limitation imposed in section 10(c) of the act which provides that the Commission shall thereafter issue an order based on findings of fact: affirming, modifying, or vacating the proposed penalty, or directing other appropriate relief. The issue then is to define the word "modify," since the Commission cited this word as authority for its right to increase penalties.

In volume 33 of the Federal Bar Journal, Commissioner Robert Moran notes that—

> It is a well-recognized rule of legislative construction that a word used in a statute shall be construed similarly throughout the statute, unless plainly indicated otherwise. The word modify appears six times in the judicial review section of the Act. Its use in the first sentence of that section gives a clear indication that Congress intended it to mean reduce or lower, indeed, this is its common dictionary meaning . . . this raises a question which supporters of the theory that the Commission may increase the amount of proposed penalties find extremely difficult to answer: should an employer who exercises his constitutional right to a hearing thereby subject himself to the possibility of paying increased penalties? To hold the threat of more severe sanctions over the heads of employers who seek a just disposition of the OSHA charges against them will surely operate to deter some of them from exercising their legal rights.

Mr. Moran concluded by commenting:

> The notion that a tribunal authorized to grant employers relief from enforcement actions, and established as a safeguard to promote interests of equity and fairness would impose higher penalties than those an employer specifically contests is untenable. Nevertheless, a Commission majority persists in maintaining that stance. A significant number of decisions during the past year(s) have resulted in a penalty in an amount higher than that proposed by the Secretary of Labor. Most of those decisions cite the

facts of the offense as justification for the amount assessed, but few cite any legal authority for its increase over the amount proposed.

In conclusion, I believe serious questions have been raised concerning the unnecessary problems surrounding OSHA, problems which could be easily solved without exposing the American worker to any additional safety risks. The bill that has been introduced today will make great progress toward this goal. I urge my colleagues to join with us in this undertaking.

Mr. DICKINSON. Mr. Speaker, as you know, I am cosponsoring the Occupational Safety and Health Reform Act of 1975. The need for reform is obvious to anyone familiar with the morass of conflicting rules and regulations OSHA imposes.

OSHA as it now stands is so complicated as to be nearly unworkable. One of the most blatant problems is the inability of employers to receive reliable advice on how to comply with the labyrinthine regulations. Since each employer has his own special problems, the only person who could conceivably be any real help is the inspector. However, since the inspectors are required to cite any violation they see, the employers are understandably reticent to point out any questionable situations. Furthermore, once the violation is cited, no allowance is made for the employer who corrects it quickly. This setup makes it more difficult for both the inspectors and the employers; but, worse than that, it slows down the process of providing a safe place for workers to engage in their trades.

The present sad state of affairs is excellently discussed by G. John Tysse in the September/October 1975 issue of Trial magazine. I commend his article to my colleagues and insert it in the Record in its entirety:

"Big Mother" and the Businessman

(By G. John Tysse)

It would be a gross understatement to say that American employers were not satisfied with the Occupational Safety and Health Act when it was signed into law almost five years ago. Businessmen realized that OSHA would have an immediate direct impact on company operations. Prior to the law's passage, industry had voiced its concerns that OSHA would allow too much scope for arbitrary government interference into management decision-making, with the result that occupational safety and health problems in the context of real working conditions would get buried in the federal bureaucracy.

Be that as it may, the U.S. Congress proceeded to enact OSHA, thereby taking another step in the direction of "Big Motherism." Under "Big Motherism," the federal government functions as an omnipresent benign protector in order to minimize societal risks to its citizens. However, as already observed, this protector role can tend to interfere with traditional concepts of free enterprise, since industry is often targeted as the perpetrator of the risks.

Notwithstanding the non-punitive language in Section 2 of the Act, which proposes to encourage and to stimulate employers in instituting new, and perfecting existing, safety and health programs, OSHA has operated much like a policeman. The reasons for this enforcement posture are easily discernible. OSHA is given form and substance by the package of mandatory occupational safety and health standards with which industry must comply. To determine compliance, OSHA must inspect, and in cases where alleged violations are discovered, OSHA must issue citations and proposed penalties. This is the most tangible way for OSHA to determine its job performance.

This is not to say that OSHA has not made efforts to educate employers on improving their safety and health programs. On the contrary, OSHA has conducted training courses, has issued many educational publications, and has even expressed a willingness to personally consult with employers in an effort to encourage improved safety and health awareness. Unfortunately, OSHA has difficulty in determining the effectiveness of these cooperative programs, particularly in comparison to the relative ease with which standards compliance can be determined. Thus, there is a strong tendency on the part of OSHA to downgrade voluntary compliance activities.

A few months ago, OSHA issued a new program through which small employers could request the assistance of government experts to advise them in meeting OSHA requirements. Rather than maintaining a clear separation between this "consultation" and its normal enforcement activities, OSHA devised the final program so that enforcement personnel could become too easily involved in the consultations. In other words, OSHA was telling the small businessman: "Our consultant is here to help you. However, if you don't listen to his or her advice, then we're going to bring our enforcers in and they'll make you listen."

A serious limitation exists in a philosophy built exclusively around determining standards compliance. Even if OSHA were successful in achieving absolute compliance with its standards, it is highly unlikely that totally hazard-free workplaces would result. Indeed, there are studies that indicate that only one out of five industrial injuries will be prevented through maximum control of physical factors.

By now it can be seen that all of industry's OSHA concerns are related in varying degrees to standards' compliance. During the first two years of the Act, the Secretary of Labor was given almost unlimited statutory authority to incorporate by reference any national consensus standards or already existing federal safety/health standards. Seizing upon this broad mandate, the Secretary proceeded to adopt a package of standards, limited to general industry alone, that filled more than 250 pages in the *Federal Register*.

In all fairness, many of the national consensus standards were adopted at the urging of industry, perhaps because employer representatives had been active on the drafting committees which originally drew up the standards. Yet very few persons realized that these consensus standards had been designed and drafted exclusively as advisory guidelines in order to prescribe optimal workplace safety and health conditions. They were never intended to have the force and effect of law.

Based on the above, it should not be hard to understand industry's frequent complaint that the OSHA standards are complex, difficult to interpret, and in many cases impossible to comply with. While OSHA has made a few passes at revising or eliminating some of the more obscure or antiquated standards, a substantial majority of that initial standards package still remains on the books as a legal requirement for industry.

There is one curious anomaly which exists in the area of OSHA standards interpretation. It is a general industry view that the standards should be performance-type. In other words, standards should be expressed in terms of objective criteria for the performance desired. Yet there are employers who complain that many of the OSHA standards are vague and unenforceable. A leading example cited is the standard which requires that personal protective equipment shall be used "whenever it is necessary, by reason of hazards (which are) capable of causing injury or impairment." (See *Ryder Truck Lines, Inc.* v. *Brennan*, 497 F 2d 230.) On balance, it would appear that American industry is better off with a performance-type standard, which may be subject to complaints of vagueness, than with the alternative of a rigid specification standard which can so severely limit the employer's option for innovation in creating a safe or healthful work condition.

It is becoming increasingly apparent, as evidenced by the recent action taken with respect to the chemical vinyl chloride, that the future emphasis of OSHA will be on the promulgation and enforcement of occupational health standards rather than safety standards. A major concern of business is the feasibility of compliance with these OSHA standards designed to prevent exposures to hazardous substances.

Many of OSHA's occupational health standards have originated and will continue to originate out of criteria documents sent to OSHA from the National Institute for Occupational Safety and Health (NIOSH). This procedure has tended to increase the political pressure on OSHA, however, because the NIOSH scientists are not required to consider economic impact or the state of the technology when preparing their criteria. The NIOSH recommendations often take the form of a standard which, should it be adopted and implemented, would provide absolute protection for employees. If OSHA subsequently modifies the standard to account for feasibility considerations, the agency is criticized for selling out on the health protection of American workers. Yet the Act explicitly directs the Secretary to consider feasibility when setting occupational health standards. (See *AFL–CIO* v. *Hodgson*, 499 F 2d 467.)

It is impossible to overstate the difficulty involved in trying to establish what is feasible. Economic impact, technological achievability, production interference potential, magnitude of risk—all of these are relevant factors that must be considered in determining feasibility. To say there are simple solutions to the dilemma of providing total protection to the worker versus accepting a possible risk of exposure in order to permit continuing production is to be ignorant of the problem. However, until such time as this nation decides that American industry shall provide a workplace absolutely free from harmful exposures (a concept explicitly rejected by the Occupational Safety and Health Act), then it must be willing to look at the problem in the terms of an "acceptable risk." Therefore, the Secretary's ultimate determination as to feasibility is of critical importance to both the employer and the worker.

There is another very important factor relating to feasibility, i.e., who has the burden of proving it? Up until recently, the Occupational Safety and Health Review Commission and the federal courts have held that the Secretary of Labor has the burden of proof as to feasibility in contested OSHA enforcement actions. (See *National Realty & Construction Company* v. *OSHARC*, 489 F. 2d 1257). Perhaps stung by the frequent failure to carry this burden, the Solicitor of Labor has introduced a clever manipulation of words in several of the recently proposed OSHA standards, most notably the noise standards, which would appear to switch the burden of proof to the cited employer by making him prove infeasibility. This backdoor legal maneuver, if successful, would tremendously enhance the Solicitor's odds in proving violations against a cited employer.

Another major concern to industry arising out of OSHA is the proliferation of recordkeeping requirements. Included in these are not only the standard OSHA recordkeeping forms relating to injury and illness statistics, but also the numerous specific requirements such as inspection and maintenance records on mechanized equipment. OSHA is now proposing extensive record-keeping, as well as monitoring and medical surveillance requirements, on virtually all new and existing health standards.

The Act directs the Secretary to obtain record-keeping information with a minimum burden upon employers [See § 8(d)]. However, it is becoming increasingly clear that unless something is done to alleviate the growing cumulative effect of the occupational health standards' record-keeping requirements, there will not be enough medical, clerical, and industrial hygiene personnel within this country to perform the duties required by the standards.

The problem to employers which has received the most publicity and attention, even though it is probably subordinate in impact to the issues already discussed herein, is the way in which OSHA has enforced the law. Complaints of "Gestapo tactics" were not unfamiliar to OSHA officials in the first months of the law's operation, and are still voiced occasionally.

Much of the criticism directed at OSHA enforcement results from the way the Act has been administered. Federal compliance officers, as noted previously, are instructed to cite any alleged hazard which they discover upon a workplace inspection. If the gravity of the hazard warrants it, then monetary penalties are also proposed against the employer. The federal inspectors are not permitted to advise employers on compliance, nor are they allowed to give any dispensation to an employer who corrects a violation immediately after it is pointed out by the inspector.

There are two serious drawbacks to this enforcement system. First, it doesn't permit good faith credit to the employer who wants to comply with OSHA's requirements but simply doesn't know them all. Thus, when an inspection takes place, this employer is basically treated the same as the employer who has totally rejected OSHA. Secondly, the size of the penalties proposed by OSHA has been negligible in comparison to the costs associated with abatement, thereby serving to harass rather than motivate the cited employer.

While space limitations prohibit a detailed discussion, there are other specific concerns that American industry has experienced arising out of OSHA. For example, jurisdictional conflicts exist with other federal regulatory agencies, as evidenced in the railroad industry, where the US Department of Transportation has also claimed occupational safety and health jurisdiction. Rather than exercising the authority given under section 4(b) (3) of the Act to recommend legislation to avoid unnecessary duplication between OSHA and other federal laws, the Secretary of Labor has asserted broad jurisdiction for OSHA, while leaving resolution of the avoidable conflicts of authority up to the tedious processes of litigation.

Another area of concern to industry is OSHA's complicated and extremely burdensome variance procedure. This cumbersome process not only discourages employers in requesting variances from OSHA standards requirements, it also seriously hinders the Secretary of Labor in acting expeditiously on valid variance applications.

It should be obvious by now that OSHA has not been accepted by American industry in the spirit of cooperation and dedication which is necessary in order for the law to accomplish its stated purpose, i.e., to assure so far as possible safe and healthful working conditions for every working man and woman in the nation. The attitude taken by the law's administrators has been to view industry as the bad guy. Thus OSHA has attempted to achieve industry compliance through enforcement rather than through encouragement. Similarly, the US Congress, which has the power to amend the law to make it less punitive and more amenable to industry, has been content to do nothing. As long as this climate remains unchanged, OSHA will never achieve its hoped for success.

Mr. HAGEDORN. Mr. Speaker, one of our former colleagues was defeated last year, in part because of his firm opposition to the Occupational Safety and Health Act—OSHA. His opponent circulated a flyer containing an outline of a man's hand missing its middle finger, with accompanying text referring to the incumbent's votes against OSHA. The clear implication was that missing fingers were the necessary consequence of such policies.

This illustrates well what those who advocate regulatory reform are up against—the notion that Federal programs are effective in achieving their goals. Gradually, many persons of all political persuasions are coming to realize that this is not the case. Some of the most insightful ones are recognizing further that such programs often serve as impediments to achievement of their stated goals. A recent example of this phenomenon is Federal pension reform legislation. Increasingly, companies are terminating entirely their pension programs in response to this act—they are simply unable to afford the heavy responsibilities placed upon managers of pension programs under the new framework, nor the attorneys needed to interpret the act.

While there is little evidence that OSHA has caused an upsurge in industrial accidents, there is similarly little evidence that they have effected any noticeable decline in this area. Unless, of course, it can be said that an unemployed individual runs less risk of injuring a thumb, or breaking an ankle in a factory than does an employed one.

There is unfortunately all too abundant evidence that heavy costs incurred by employers in complying with OSHA standards—or in paying OSHA penalties—have resulted in the closing down or curtailment of a number of business enterprises. Some will contend that marginal employers, those most likely to close shop due to heavy alteration and installation costs, or penalties, have no more right to expose their employees to unsafe work conditions than do any other employers. With this statement, I would agree. Where, however, I feel this logic breaks down is in assuming that there is a true relationship between OSHA-promulgated standards, and safety of occupational environment.

Rather than necessarily rendering unsafe conditions safe, or hazards nonhazards, what OSHA regulations commonly do is require that existing safe conditions be made to conform to various criteria that OSHA draftsmen have determined to be indicia of safeness. That such indicia may not be exclusive ones is commonly lost upon those responsible for enforcement of the act. This is certainly not unique to OSHA bureaucrats—flexibility and commonsense have never been traditional hallmarks of the bureaucratic style. Federal uniformity must be imposed, regardless of whether or not it is genuinely necessary. That nonconforming employers must undertake expensive and wasteful alterations with minimum safety benefit is hardly a priority concern with OSHA enforcers.

Thus, in an effort to limit discretion, both by the employer and by the enforcement inspector, OSHA regulations have so proliferated since the act's inception in 1970 that bound volumes of them could fill up a small law office nicely. Their complexity and picayunishness are such that they are uninterpretable by small businesses lacking extensive legal staffs. Several days reading of the Federal Register should confirm this point to most persons.

Ironically, the result of all this has been to increase the degree of discretion available to OSHA inspectors in determining whether or not to cite businesses for violations. Even the safest shop will undoubtedly be vulnerable to at least several citations if the inspector feels so inclined. Several years ago, one angered businessman inspected himself OSHA's own headquarters and noted at least several dozen violations. If OSHA had been a small private business, they could well have been driven out of business. Unfortunately, that remains an idea well worth considering.

Mr. CRANE. Mr. Speaker, the Occupational Safety and Health Act is one of the regulatory innovations that has clearly demonstrated the truism that Federal takeover of individual responsibilities is the worst possible way to achieve the desired result. Enforcement of the act has become counterproductive to the point that it has created as many problems as it was designed to solve.

The OSHA regulations create many problems. One is that the structure of the standards seems to leave the final responsibility of safeguarding the well-being of individual workers with the employer instead of both employer and employee. On many occasions, the employees themselves have reported violations to OSHA not due to sincere concern about the alleged violation but because of wage disputes or personality conflicts.

One example cited in a recent issue of the Federal Bar Journal is the story of a manager who had just assumed responsibility for a 100-employee operation. He did more toward improving safety than the previous management had done in 15 years. Because labor relations had not been good, the employees filed a complaint with OSHA. The first inspection revealed good management efforts. Within 3 months, the employees—still dissatisfied with labor relations—filed a second complaint. This time labor came down on OSHA who in turn had no alternative but to come down on management. Such exploitation of the OSHA regulations tip the scales of management-labor relations in a harmful way creating economic dislocations.

The employee is not necessarily at fault in this situation at all times. However, at other times, the purpose of OSHA is misunderstood and is used by the employee as a lever in contract negotiations with management.

It is impossible to disagree that reducing the number of work-related accidents is an important and, certainly, desirable goal. But the attainment of that goal is most effectively accomplished by those individuals who have vested interest in keeping the worker safe, healthy, and on the job, namely, the employer and employee themselves. Federal regulations that consists of widesweeping national consensus standards are simply unsuited to do the job which is rightly the responsibility of the individual.

Some OSHA rules even appear to be contradictory. An example given by Professor Weidenbaum, who recently completed a study on Government-mandated price increases, is an OSHA regulation that mandates backup alarms on vehicles at construction sites. Yet simultaneously it requires some employees to wear earplugs as a protection against noise, thus making it extremely difficult to hear the alarms.

Another problem created by the enforcement principle of the OSHA regulations is that as the citation and penalty system is now set up, there is no assurance that, once the citation has been issued and the fine paid, compliance will continue. The enforcement procedure in total is not only unreliable but inefficient in that it inequitably distributes the responsibility for compliance with health and safety standards and provides no iron-clad guarantee that standards will be adhered to.

The whole subject boils down to defining the purpose of the Occupational Safety and Health Act. Obviously, the original intent of the act was to produce a higher level of job safety. Despite this fact, the remedial aspects of the law have been overshadowed by its punitive aspects, and it would appear that the act does more to punish the businessman by seeking out the most costly means of meeting the statutory requirements than it does to promote job safety.

The Occupational Safety and Health Act of 1970 embodies no new concepts in the field of occupational health and safety. It did not create the concept of job safety; it merely extended the Government's say on the matter to all facets of the business and industrial community.

Ever since its enactment, pressure by the public for reform or appeal of the OSHA law has been unremitting. The law is simply too general and inflexible to cover effectively the millions of different individuals working situations which occur day to day. Government interference is unjust, costly to the taxpayer and convincing only in its ineffectiveness.

Mr. STEIGER of Arizona. Mr. Speaker, with each successive session of Congress, the regulatory agencies that are magically created pile higher and higher, and the regulations which stem from their operations threaten to bury our Nation's businessmen. In the process, some mistakes are buried, but others are so obvious that they cannot be ignored. One such mistake—one of our greatest—is OSHA.

There are few regulatory agencies that impose as severe and devastating costs as those stemming from OSHA regulations, but scarcity does not imply insignificance. In fact, I would like to take some time now to examine one of the more recent OSHA proposals, and the impact it has on businesses throughout the country. The problems it creates are clearly significant, and call for reform by Congress.

Specifically, I am speaking of regulations designed to control noise levels at work locations. Noise is undoubtedly the cause of permanent hearing loss when the worker is exposed to high levels for long periods of time. However, the effects are not as clearly documented at lower noise levels, or with regard to other types of physical or emotional damage. Since ambiguity exists, regulations tend to be arbitrary, and a number of problems result.

The most obvious and perhaps most important problem stems from interagency conflict—in this case over the level of noise to be permitted, and over the type of control to be implemented.

Initially, OSHA decided to permit noise no higher than 85 decibels, but determined that to attain such levels would require an expenditure of $31.6 billion, which they considered—amazingly enough—excessive. So, they decided to permit noise as high as 90 decibels, a standard which is met in 70 percent of U.S. factories, and which would require the expenditure of "merely" $13.5 billion so that the standard would be met nationwide.

However, the Environmental Protection Agency decided that it also was a noise expert—an assertion with which I agree when interpreted differently—and set the more difficult and costly standard of 85 decibels.

Thus, initially, the businessman has to determine whose regulation is actually binding, and how to implement the regulation. It is still not clear which of the two agencies has the final say. But the matter is complicated further by two other agencies. The Council on Wage and Price Stability is convinced that it would be preferable to implement standards on an industry-by-industry basis, an assertion to which OSHA has basically responded (implicitly), "Hearing loss is hearing loss, regardless of where it occurs"; this latter claim is true superficially, but seems to ignore OSHA's rationale for rejecting the 85-decibel limit.

Finally, the FDA has become involved because it will be impossible for some businesses to meet the noise standards without the use of materials that are prohibited in certain food industries by FDA standards. The businessman is therefore faced with three agencies all claiming that their standards are binding on his firm, though each of the three regulations is in direct conflict with the other two; furthermore, two of the three agencies are faced with advice on revision of their standards by a fourth agency.

The confusion of conflicting standards is certainly sufficient to mandate a careful review of the laws the Congress has written, and some sort of corrective action. But the problems associated with OSHA regulations do not end here.

There seems to be a general tendency for OSHA to decide that some specific safety precaution is desirable, without asking the unavoidable question: "Desirable—at what cost?" After tentatively deciding on an 85-decibel standard, OSHA discovered that it would cost nearly $32 billion, and decided that such an expense was too high. But we have no reason to believe that their preference for a 90-decibel level at $13½ billion is any less arbitrary, and that the benefits to be gained are distinctly worth the cost.

This tendency to ignore cost, despite the fact that an economic decision to buy a certain level of environmental purity at a certain cost—since absolute safety or purity is desirable only when no costs are involved, an impossibility—is being made, is evident in other decisions as well. OSHA has shown a definite preference for engineering or administrative controls rather than personal protective equipment, even when the cost of the former may far exceed the cost of the latter. The major reason for such a preference appears to be that employees may, and do, willfully choose not to use protective equipment even when it is provided by the employer. Two things are not clear. First, why is it that the employer is held responsible—in the form of either fines for employee violations or by having to pay a higher expense for engineering/administrative controls—for intentional and willful employee violations of the law? Second, if the employee does not think his safety is sufficiently endangered to justify protective equipment, even when he suffers no expense, and if his employer—facing varying degrees of liability for accident, et cetera—implicitly agrees by not taking the safety measures required by the new OSHA regulation, can we reasonably assume that the amount of protection provided by the new regulation is actually worth the cost? Neither the workers nor their employers seem to think so.

The suggestion that OSHA should set standards on an industry-by-industry basis, and their response that the hearing of employees in different industries is basically the same, exhibits further ignorance of the costs involved in implementing standards. While workers' ears are not drastically different, the costs of protecting them to certain degrees may vary widely. OSHA seems to have determined that we can afford to spend—actually to force businessmen to spend—roughly $13 billion. It would seem reasonable that we should maximize the benefit to be derived from that expenditure. If, for example, reducing noise in plant A is extremely difficult, and costs $1 million to reduce it from 93 decibels to 90 decibels, but the same $1 million could reduce the noise in 20 other firms from 93 decibels to 85 decibels, then a case could easily be made for spending the money—or requiring it to be spent—on the 20 firms. While this situation is only hypothetical, it is very real in the sense that the cost of noise control does vary widely. While such careful standard-setting may be difficult, the possibility ought to be considered. OSHA's brief response that hearing is hearing indicated a lack of awareness of balancing the costs of controls with the benefits to be attained.

The willingness to ignore the cost factor in the ways I have outlined is symptomatic of a deeper attitude which suggests we ought to carefully evaluate the agencies we have created, and reform them where desirable. The deeper attitude is essentially an antibusiness sentiment that permeates our regulatory bureaucracy; it manifests itself in the assumption that any cost can be absorbed by the businessman/employer, that he is responsible not merely for the safety, but for the voluntary actions of the employee, and that the employer should incur the entire expense for any sort of protection against hazards. The assumption is clearly antibusiness, and imposes all responsibility on the employer, along with the liability for employee actions.

It is because of both this attitude—in combination with regulatory power—and because of the maze of conflicting regulations, some of which come from OSHA, that I believe we ought to turn our attention to regulatory reform, and in particular, reform of one of our worst mistakes: the creation of OSHA, a monster in the fullest sense.

Mr. SPENCE. Mr. Speaker, I am pleased to join with other members of the Task Force on Regulatory Reform in spotlighting examples of bureaucratic excess in the Federal Government. In doing so, we hope that the attention that is focused upon cases of overreaction on the part of the regulatory agencies will give Congress the impetus necessary to begin serious consideration of appropriate reform.

For many Americans, and certainly among the business world, the Occupational Safety and Health Administration is the embodiment of irresponsible overregulation. For them, OSHA represents the epitome of unreasonable, arrogant, and capricious bureaucracy running wild.

In South Carolina, we are fortunate in that OSHA law is administered by the State, rather than by Federal inspectors. In fact, South Carolina was the first State to qualify for local administration of the OSHA law. For that reason, the enforcement of OSHA regulations has generally been marked by reason, and a greater degree of fairness than we find where Federal inspectors are involved. To me, this is just further proof that State and local governments can more effectively and efficiently handle their own problems, than can the Federal Government.

In those States which are still subject to Federal OSHA inspectors, dramatic examples of bureaucratic zealotry are legion. The following case, in which the Government wanted to fine a businessman for not doing the impossible, is one such example:

A small manufacturer—12 employees and gross sales of $120,000 per year—was told by an OSHA inspector that his machinery was unsafe. The fact that the machines were guarded with all of the safety devices known to the industry, apparently was totally irrelevant to this inspector.

Hoping that good sense would prevail at a higher level, the businessman requested a variance from OSHA on the grounds that it was impossible to conform because the safety devices that they required were not in existence. However, this appeal was unsuccessful, and not being allowed to use his machines, the manufacturer was forced out of business.

But this was not enough for the Occupational Safety and Health Administration. In addition to putting him out of business, OSHA asked that a penalty of $500 be imposed on the manufacturer so that he would "serve as an example" to other employers.

Thus, we have a case in which OSHA required a man to do the impossible, forced him out of business when he could not, then levied a heavy fine as an example—presumably to others who are unable to do the impossible.

Fortunately, this particular case has a happy ending. Denouncing OSHA as presenting "a classic demonstration of inflexibility and unreasonableness," a review judge rejected the fine sought by OSHA. But the fact that agencies of the Federal Government can take such an unwarranted and vindictive stance as this, only draws the bureaucracy further into disrepute.

It is this reaction that we are trying to prevent, Mr. Speaker, along with the additional erosion of respect for Government which also results. I hope that our colleagues will join us in this important effort.

Mr. GOLDWATER. Mr. Speaker, I am pleased to have this opportunity to participate in this special order on regulatory reform. The Republican Task Force on Regulatory Reform has an able and enthusiastic leader in Representative BILL ARCHER. He deserves special credit and praise for organizing the task force and for organizing this special order.

Regulation by an over-zealous and legalistically minded bureaucracy is strangling American free enterprise, American entrepreneural spirit, and the American marketplace. Well intentioned attempts by the Congress to interject additional considerations of the environmental and human impacts of our industrial activities have been turned into punitive encumbrances and harassments by the agencies charged with intelligently administering them. The results have been disastrous. Unnecessary and prohibitive costs have been added to every aspect of industrial activity. Small businesses, the literal backbone of our free enterprise system, have been either driven out of existence or discouraged from beginning. A paper burden that should characterize how the Soviet Union does business has instead come to plague every business in the United States. Almost every business in America now has a seat reserved at its board table for Uncle Sam or his bureaucrat agent. And, it is the financially beleaguered taxpayer that is having to foot the tab for both additional Federal jobs and paper costs, and for the added product costs. Sadly, the well meaning Federal bureaucracy has turned into a dinosaur—all body and little or no brains.

Appropriately, today's discussion is to center on the Occupational Health and Safety Administration. There could not have been a better starting selection had a year's study and several million dollars been spent on the effort. Unfortunately, the task force may well have selected OSHA because the Nation has had several years to suffer under its excesses and has had to spend untold millions because of that Agency's folly. I say unfortunately because with the addition of a little common sense and intelligence OSHA might have been able to make a contribution to our quality of life and the basic stability and health of our society and institutions.

Among the many problems we have with OSHA is the arbitrary and capricious manner in which they set standards, with no regard for facts or scientific evidence. An excellent example of this behavior is the so-called "Vinyl Chloride Controversy."

Very few Americans go through a day without in some way making use of polyvinyl chloride. PVC is the most versatile plastic known to the industry; the substance from which shower curtains, record discs, floor tiles, and even Saran Wrap are made. Vinyl has simplified the lives of millions, from housewives to carpenters, has brought goods formerly too expensive for the masses within the grasp of the poorest of families, and is integral to medicine and other vital technologies.

The livelihoods of 705,000 workers employed by some 3,000 separate companies depend directly, and according to a study done for the Society of the Plastics Industry by Arthur D. Little, Inc., as many as 2.2 million jobs and $65 to $90 billion in sales and production depend indirectly on the continued availability and production of polyvinyl chloride plastic.

It is clear that if so large an industry were suddenly brought to a screeching halt, the economic backlash would be enormous. The workers who suddenly found themselves jobless would suffer. The banks and private investors whose money was lost would be placed in tight circumstances. Literally tens of thousands of other industries and professions, from doctors, with their dependence on easily workable chemically inert plastic tubing, to recording musicians, would be left helpless. All this notwithstanding, the Occupational Safety and Health Administration, with a single, arbitrary ruling, threatens to choke off production of vinyl chloride, the monomer from which the PVC is produced.

Now, do not misunderstand, OSHA's intentions are honorable. But I am sure everyone here has heard the old saying about the relationship between good intentions and the road to hell.

The reason behind the OSHA ruling is that vinyl chloride gas, in some concentrations has been found to cause cancer. Note that I said "in some concentrations." There is no evidence in any of the countless studies both here and abroad that shows that the gas is at all dangerous, in concentrations of less than 50 parts per million as a time weighted average. That is exactly the standard implemented by industry, based on the findings of their own studies.

However, OSHA officials are not satisfied with the 50 parts per million standard. The mere fact that no evidence exists that concentrations of this level are dangerous, they reason, is no reason to negate the possibility. Therefore, the legal limit was set at "no detectable level."

C. B. Branch, the president of Dow Chemical, questioned "the ability of the industry to develop the technology to meet the level of one part per million, TWA, and 5 part per million in the time specified." Tod C. Walker, president of Firestone Plastics, assembled an engineering task force to study the problem. The group voiced strong criticism of OSHA's other recommended procedures, including the use of airtight clothing. B. F. Goodrich states that to attain even a near nondetectable level would mean doubling their total capital investment in vinyl chloride production. This would of course, in their view be foolish. They would just cease operation.

Now here is my point. No one questions the need for safety measures to prevent workers from dying of cancer. Long before OSHA even suspected the danger from vinyl chloride, industry was trying to find a solution. As new evidence was received, the plastics industry altered its standards to suit. But OSHA comes along, and, in the absence of evidence, even in disregard of evidence, sets a standard which is unattainable by industry. This incredible power to arbitrarily create regulations with effects of such magnitude, must be curbed.

OSHA—A COSTLY MISTAKE

Mr. COLLINS of Texas. Mr. Speaker, the Occupational Safety and Health Act of 1970 gives U.S. businessmen unnecessary burdens. This law has caused unending controversy since it took effect on April 28, 1971, and has proven self-defeating for American businesses of every size and category, but in particular for the small business community.

Simply stated, the act, whose authors claimed it was designed to protect the health and safety of every American working man and woman, has turned out to be a boondoggle which works against business and passes on to the consumer the excessive cost of implementation. Some indication of the dissatisfaction OSHA has created may be seen in the fact that in the more than 4 years since its inception, 283 measures have been introduced in the House, and 20 introduced in the Senate, all aimed at reform, and in some instances, outright repeal.

This leads us to the key question which this Congress must answer. Does OSHA really work? In my opinion and that expressed repeatedly by businessmen, employees and consumers, it does not. What we now face is a situation which allows the Federal Government to tackle problems which can best be handled on the local and private level. The OSHACRATS have become so engulfed in enforcing this law with all its punitive aspects, that they have lost virtually all sight of the objectives which it was designed to supposedly achieve.

Only now are we beginning to see, in statistical form, the impact of OSHA upon injuries and health hazards. The record of lost time injury claims filed with the Ohio Bureau of Workmen's Compensation for a 2-year period both before and after OSHA implementation speaks louder than words:

> Through their four area offices in Ohio, over the past four years, OSHA has conducted 23,000 inspections, cited 107,000 violations, and fined employers a total of $1,587,000 in penalties. With this level of enforcement in the state and all the associated costs, it is fair and reasonable to ask whether the purposes of the law have been achieved.
>
> What is the result? The following is a list of the total "lost time" injury claims filed with the Ohio Bureau of Workmen's Compensation for a period of two years *before* OSHA and two years *after* OSHA.

Year	Total cases	Increase/ decrease over previous year	Percentage increase/ decrease
1969	68,635		
1970	66,080	−1,826	−2.7
OSHA, 1971	64,836	−1,973	−2.9
1972	65,537	+700	+1.1
1973	85,036	+19,527	+29.8

In light of the above, only one conclusion can be drawn—OSHA is not working in Ohio. Accidents are not being prevented and lives are not being saved. What has been overlooked is that enforced compliance with or violation of the OSHA standard has nothing to do with accident prevention. OSHA stresses the punishment theory and accomplishes only two things—the collection of large sums of money from our private sector and the imposition of unending harassment to be dealt with by management. Because these regulations are too expensive to meet, many small businesses have ceased or cut back operation. I ask my colleagues to note that a survey conducted by McGraw-Hill Publications indicates that OSHA cost business $2.5 billion in 1973 and $3.1 billion in 1974.

Unquestionably, no small business can survive the stifling pricetag of the act if it is allowed to continue in its present form. Recently, I received some very thought-provoking statistics from the Department of Labor, revealing that 87 percent of U.S. businesses employ 25 or fewer employees. That fact alone reemphasizes the need to let up on the constant bureaucratic harassment allowed and encouraged pursuant to OSHA. Let us review additional figures concerning the number of small businesses and their employees based on county business patterns—1972:

Employees in establishment	Percent establishment	Number of establishments (millions)	Percent employees	Number of employees (millions)
3 or fewer	47	2.35	5	3.0
7 or fewer	69	3.45	13	7.8
15 or fewer	81	4.0	23	13.8
25 or fewer	87	4.3	27	17.0

These figures reveal the need to turn our endeavors toward the protection of small business. OSHA, however, works against that goal. Through federal regulation, requiring unnecessary fixtures and over-qualified machinery, OSHA has added to the costs of business in an unbelievable way. It is without a doubt, one of the most inflationary and business destructive forces now on the books.

I recently reviewed an excellent presentation made by Mr. O. A. Lively before the Economic Recovery Forum held in Austin, Tex., in November 1975. Mr. Lively is president of the Luminator Division of Gulton Industries, located in my district in Plano, Tex. He points out that in the last year, his company spent $175,000 just to satisfy the requirements imposed by 10 Federal regulatory agencies. This is more than the $100,000 which the business normally uses to improve productivity.

Mr. Lively's remarks on OSHA which follow, show regulation and enforcement imposed on business:

> Prior to any OSHA inspection, our company spent $102,000 on safety related equipment and programs from 1970 through October 1974. Since the OSHA inspection from November 1974, to date, we have made an additional expenditure of $156,000 to comply with OSHA requirements. Thus, we have expended $258,000 on safety related equipment and programs since the OSHA law became effective in 1970. We are regularly inspected by safety engineers from our insurance company and are always given an excellent rating.
>
> Of the $156,000 spent in the last 12 months, $140,000 was spent for the purchase of new punch presses. Contrary to what one might assume, we did not get improved productivity from these new presses since they operate at a slower rate because of the required integrated safety features. It is also interesting to note that in regard to the presses we replaced, there have been no reported accidents on these presses since our company relocated to Plano, Texas, in 1964. In addition, none of the items involved in the $156,000 expenditure are related to those injuries for which we have been and are currently paying workmen's compensation claims. In fact, while we were spending this $150,000 to make our plant safe, according to OSHA standards, our workmen's compensation cost actually increased 134%. 80% of our workmen's compensation is for alleged backstrains.

This example as well as thousands of others from across the country attest to my belief that OSHA must be altered. It is no wonder that "For the fiscal year ending last June 30, small business bankruptcy filings soared 45 percent above the 1966–70 level," as stated by the editorial which appeared in the November 24 issue of the Columbus Evening Dispatch.

It is time that we redress the injustice of the Occupational Safety and Health Act. Small business cannot cope with inflation unless alleviation in this area is immediately forthcoming.

As a member of the newly formed Task Force on Regulatory Reform, I am very optimistic about the progress we can make. We are determined to successfully challenge the excessive Federal regulation which has been imposed upon small business, and have chosen OSHA as our first area of attack.

Mr. DON H. CLAUSEN. Mr. Speaker, In November of 1970 when Congress passed the Occupational Safety and Health Act, over the misgivings of the minority, two very grave errors were made in its zeal "to do the right thing." At the time, we in the minority were seriously concerned with the impact this legislation would have on our small business community. And, while we strongly supported the occupational safety and health efforts, we were insistent that this type of legislation be realistic as well as reasonable. There were alternatives available, but Congress approved a loosely written law which gave unlimited autonomy to a new agency staffed by idealistic and unrealistic Federal employees, and it set national goals instead of national policies.

The consequence of this latter mistake has done a great disservice to the country and has contributed to our recession and the delays in our economic recovery efforts. For years when legislation has been offered, many of us have tried in vain to set national "goals" rather than national "policies."

There has been a tendency on the part of the leadership to overreact, and a case in point was the Water Pollution Act, with which I am personally familiar. In the Senate this measure passed by an easy 86 to 0, and Congress was on the verge of making the same mistake it made in the Clean Air Act, wherein a national "policy" was established by law that actually set standards to be met by a given date, before the technology was actually developed, thus creating chaos and controversy for industry and consumers.

We in the House recognized this potential problem and insisted on the House version—which subsequently prevailed. Our committee's water pollution legislative objectives were to establish a national "goal" of zero discharge by 1983 allowing the pace of implementation and the setting of standards to be consistent with the development of technology.

It is generally recognized that because the committee's position prevailed the Water Pollution Act has caused far less disruption to the economy and the consumer because it set more realistic goals and a more reasonable timetable toward meeting our environmental goals.

I am bringing this example up because it illustrates what well written reasonable legislation can accomplish. What happened with OSHA was the creation of a well-intentioned, unrealistic legislative proposal that became a veritable nightmare to our business community. OSHA has set specific policies, rules and regulations for our business to adhere to by certain dates—irrespective of economic impact factors—and it has become an agent of harassment, punishment, and overly burdensome regulations.

The OSHA amendments which we passed last month were a step forward in our efforts to assist small businesses in dealing with and better understanding the labyrinth of Federal laws and regulations with which they are faced. This step is one in the growing march against the maze of rules by bureaucracy which have literally strangled our small business community and have caused a massive erosion of the innovative contributions and the financial stability that the entire small business community has provided to and for our Nation.

The legislation we are introducing today, to further amend the Occupational Safety and Health Act, will help create a better atmosphere of cooperation where our businesses can survive and can hopefully flourish.

It is common knowledge among those of us with small business backgrounds that these enterprises are the mainstay of our competitive economic system. Small businesses provide jobs, generate taxes, and make important civic and social contributions to the communities in which they are located. OSHA has successfully addressed every possible working condition problem imaginable, in the name of "the overall best interest" and has literally put hundreds of small businesses out of business.

What regulations could possibly be so burdensome that they could actually cause a business to fold? My staff has prepared a scenario on a situation which could, and does, affect small businesses throughout the country. The background is a service station and car repair shop which employs 15 people. The owner has been overwhelmed by the Federal and State regulations to which he must conform, and I am going to share with you a few of the Federal rules he has run up against.

To begin with, the Federal Energy Administration limits the amount of gasoline he can sell, and sets a quota on the amount he receives—irrespective of the amount he needs, thus negating the need for him to go out and build his business. Regulations limit the price he can charge on each type of gas and do not permit him to pass through the costs he must incur by adhering to other governmental regulations. Other regulations such as:

The Occupational Safety and Health Administration told him where he had to put his gas pumps. That they had to be at a certain level above the ground, so many feet from the street, and only in certain restricted areas. OSHA told him how the pumps were to be constructed, what type of pumps had to be installed and how big the numbers had to be which indicated the price and the volume of gas. OSHA went on to tell him how long his hose should be and what type of nozzles to use, and how to turn them on and off.

The Environmental Protection Agency went into greater detail on the subject of nozzles—different ones for different types of gas. A larger nozzle had to be used for unleaded gas, and a smaller one for other types of gas, and criminal penalties were even prescribed for putting leaded gas in tanks marked "unleaded gas only."

EPA dictated that signs had to be displayed on top of the pumps for unleaded gas, and that the pumps themselves had to be properly and clearly labeled.

The Federal Trade Commission tried to dictate how and where to post octane ratings; that is, "clearly and conspicuously in a permanent type of sign." But believe it or not, since an environmental impact statement had not been submitted on the use of these signs a court ruled that service stations did not have to post them.

Undaunted, the Federal Energy Administration got into the act, and issued the same regulations; post octane ratings clearly, conspicuously, and permanently.

OSHA said that he had to supply a drinking fountain. They detailed how he had to construct it, where to construct it, and how to maintain it. They spelled out where to put the restrooms and how many there had to be.

OSHA told him where and how much toilet paper was to be supplied, how the bathroom was to be laid out, how it should be heated and how it should be lit. OSHA even told him how wide the sink ledge had to be and what temperature the hand dryers had to reach. There were rules for the trash cans to be used, what they were to be made of, how big they had to be, and when and how often they were to be emptied.

In the service bay, OSHA told him how to construct it, how to heat it, how to light it, wire it, and ventilate it. They told him what sprinkling systems to use and how and where to store certain liquids and materials. There were guidelines describing who could run certain equipment and who could not, and at what times they could and could not operate that equipment. OSHA even had regulations for the color, size, and use of "out of order" signs.

This imaginary station owner is just like thousands of independent small businessmen and women across the country—the decisions which they want to make, and should make, are now being made with an alarming frequency by Government bureaucrats miles away.

Not only do these regulations tread heavily on the businessman's right to free choice in the marketplace, they have placed such an unreasonable burden on our businesses that the time, money, and labor that is spent filling out innumerable Federal forms, and installing proper equipment, has meant that many businesses cannot hire additional help to expand, that they cannot make ends meet, and that they may have to join the ranks of the hundreds of businesses that closed their doors last year.

And, it is obvious that OSHA has leaned more heavily on the businessman's right to free choice than any other single Federal agency, and it is this type of inhibiting influence that is stifling economic growth and causing job losses and/or high unemployment. In short, it is inhibiting and totally frustrating their ability to carry forward their business functions and this is particularly repressive to our small business enterprises which lack the personnel to handle the redtape paperwork required by these regulations.

But, even for those who are not in business for themselves, the number of Federal regulations has had an impact. Each time OSHA has dictated another safety or health regulation the taxpayer must pay the salary of the Federal employee whose direct job it is, is to create, review, and enforce that regulation. The taxpayer must also pay the bill in the form of higher costs passed on by our businesses. And the taxpayer must also pay the bill in ways other than strictly financial.

There is no part of our lives untouched by Federal regulations, and the taxpayer knows it. In my district alone the issue which has produced more unrest and more complaints is the overwhelming impact of government in people's lives. Let me share with you the comments and feelings that my constituency is presenting me with:

> From the time we get up in the morning to the time we fall asleep that night we can't avoid the federal government—and the point is, government should govern, not dominate. And government is dominating—to the point

that the average citizen and, especially those in small business for themselves, can be brought to court at anytime by the action of a non-elected official, a government regulator, if they violate any one of the thousands of regulations that are issued.

While this unwieldy and unchecked bureaucracy was growing up and usurping the decisionmaking process from everyone of us the Congress may well have been caught napping. Perhaps they have been lulled to sleep by the many good regulations which have improved our lives, and other regulations have been viewed as minor irritants along the way.

But, these minor irritants have become far too numerous, and reflect waste, bias, unworkable regulations, concentration on trivia, conflicts among the regulators and arbitrary and uncontrolled powers. In far too many cases, it is the quality of regulations in question, not the mere existence of them.

Irresponsible and unchecked rulemaking poses an ominous threat to our free enterprise system. But it poses an even greater threat to our basic freedoms and unless constructive actions are taken in the near future each of us will see a continued and accelerated erosion of our basic rights. It was Jefferson who said that it is the nature of history that as government grows, freedoms recede. And, before our freedoms recede much more we must take positive actions to stem the tide. A comprehensive OSHA reform bill, which will bring balance back to the business community, is the right and necessary step in growing efforts to stem this tide.

For years I have seen farm advisers with the Agriculture Extension Service work with farmers, offering advice, counsel, and cooperation instead of punishment, confrontation, and harassment, which our business community has received from OSHA. Through enactment of the OSHA reform bill we will be moving in the right direction, and once this is achieved we can then anticipate the kind of economic recovery trends that the job creating private sector and small business community are capable of producing.

Mr. KINDNESS. Mr. Speaker, many legislators and private citizens are rapidly coming to the conclusion that the Occupational Safey and Health Act of 1970 as currently administered, is a burden on the economic health of small business, farmers, employers, and employees alike, and ultimately the consumer. No one disputes the need for safety and health regulations to insure satisfactory working conditions for the Nation's 85.4 million employees, but OSHA as it now exists has evolved into a bureaucratic nightmare in need of major reform.

Many of the problems surrounding compliance with OSHA regulations stem from their sheer bulk. OSHA establishes safety and health regulations that apply to almost every conceivable situation in any business that has hired help. In doing so, OSHA incorporates by reference hundreds of standards taken from various building, health, and engineering codes. When one Congressman gathered all these rules that OSHA incorporates into its own body of regulations, the stack was 17 feet high and took several weeks to compile. The average small businessman has little access to such codes, nor does he often have the legal and technical knowledge necessary to understand their highly complex language. Hence, John Q. Public may in good faith believe he is providing legal safety requirements in his small business, but yet be technically outside the law and subject to substantial fines.

Further confusion arises for some businessmen caught between conflicting regulations of OSHA and other Government agencies. For example, OSHA calls for grated floors in butcher departments to prevent slipping. However, the U.S. Department of Agriculture prohibits grated floors, since they are hard to clean, increasing contamination. To obey one agency rule, it is thus necessary to violate the other.

By putting into effect regulations to cover all businesses regardless of size, OSHA also fails to take into account the differing needs of small business and large industry. A $2,900 fine for failing to paint the weight load on a hoist assembly may be inconsequential to General Motors, but it can be a devastating financial setback to small businessmen, who, as a result, might no longer be able to afford to hire another employee. In addition, large industries routinely maintain the services of safety consultants whereas small concerns cannot afford such expertise. Finally, and perhaps most importantly, many of OSHA's regulations are geared toward large industries, and are not reasonably applicable to small businesses with a few employees.

The problems surrounding the equitable administration of OSHA are exaggerated by the fact that a small businessman cannot have an "onsite" consultation with OSHA representatives to learn exactly what is expected of him without risking a fine. Under current regulations, an OSHA inspector must fine for any violation he sees; he cannot come to a work site for the purpose of advising and informing employers what OSHA stipulates for his particular industry. This emphasis on enforcement—costing $24.4 million in 1974—rather than education and information—$3.4 million in 1974—has raised much criticism.

OSHA's objective to "assure safe and healthful working conditions for working men and women" is laudable and certainly advisable in light of the 5,500 industrially related deaths and 24.7 million lost workdays due to injury and illness that have occurred annually in private nonfarm sector industry alone. OSHA's practical application, however, has been subverted by the problems outlined above.

The OSHA Reform Act of 1975 deserves our wholehearted support.

INTRODUCTION OF H.R. 11028, AQUACULTURE BILL

The SPEAKER. Under previous order of the House, the gentleman from Oregon (Mr. AuCoin) is recognized for 15 minutes.

Mr. AuCOIN. Mr. Speaker, this week, I have introduced a bill which I believe has tremendous implications for the future protein needs of this Nation and, indeed, the world itself. The bill would establish a national program of aquaculture which, for the layman, can just as appropriately be called "farming of the sea."

Mr. Speaker, for centuries man has looked to the sea and the animal life within it as a source of human nutrition. For some countries these ocean resources have been the major source of food; for others they have provided a vital food supplement and a much-needed source of protein.

Unfortunately, we now know that our marine resources are limited. The National Marine Fisheries Service reports that "traditional" fish resources in the United States are already being harvested at levels near the maximum sustainable yield. Some species—such as perch, off the Pacific Coast—have been seriously depleted. If something is not done soon, the National Marine Fisheries Service estimates a shortage of fisheries products can be expected within the next 10 years.

There are, as we know, few answers to the world's food dilemma. One answer, however, is aquaculture.

While the harvest of traditional stocks of marine resources is now close to its peak, the output from aquaculture worldwide has almost doubled in the last 5 years and yet man is still only on the threshold of aquaculture's potential.

Aquaculture now accounts for 10 percent of world fish production; in some countries aquaculture produces nearly 40 percent of their total fisheries supply.

The record worldwide, I am sorry to say, is far better than that in the United States. While worldwide production has doubled, production in the United States over the same 5 years has remained virtually the same. Only 3 percent of U.S. fish supplies come from private farming of fish and shellfish. This undoubtedly is one reason our country has become heavily dependent upon seafood imports, with a resulting negative impact on our balance of payments.

Mr. Speaker, there is absolutely no reason why the United States should not take the lead in the production of food supplies through aquaculture. Not only is there no reason, but—in an era of growing populations and food shortages—there is no excuse.

Therefore, Mr. Speaker, the bill I have introduced would authorize up to $10 million a year for each of the next 5 fiscal years to accelerate the development of this promising source of food.

These funds would be available to the Secretary of Commerce for coordinating and carrying out a national program of aquaculture research and development. This would include a program to develop improved processing and marketing techniques, to develop new marine resources, to improve and maintain recreational fisheries, and to initiate new business and employment in the fisheries industry. In carrying out his responsibilities, the Secretary would provide assistance to States, local government agencies, private nonprofit organizations, individuals, and educational institutions, to carry out the research and development projects necessary to further these objectives.

Mr. Speaker, I am delighted to be able

to introduce this important legislation in this Congress. I urge my colleagues to consider the potential of this program for our country, and for all countries—now and for generations to come.

Mr. BREAUX. Mr. Speaker, will the gentleman yield?

Mr. AuCOIN. I would be delighted to yield to the gentleman from Louisiana.

Mr. BREAUX. I thank the gentleman for yielding.

I want to commend the gentleman for his statement and point out to the gentleman that in the area of shrimp production, we have an importation right now of over 50 percent of all shrimp that are consumed in this country by American consumers. I think that is rather ridiculous, and we ought to really start making some honest efforts toward protecting our own American fishing industry and trying to give them the advantages they need to meet the domestic demand. Right now we are not even meeting half of our domestic demand in the area of shrimp. I think that is appalling.

We pass a lot of resolutions in Congress saying we ought to do something for the American fishing industry. They are nice resolutions, and they are sent out all over the country, but they do not really do anything. I think the program that he is proposing to start to benefit some of our resources by trying to provide the assistance that we need to provide to the American fishermen is to be commended, and I wish to associate myself with his statement.

Mr. AuCOIN. I thank my friend, the gentleman from Louisiana, for his perceptive comments and also for his leadership in the House Merchant Marine and Fisheries Committee in behalf of this legislation and others which would get at these objectives.

HUMAN RIGHTS DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. Kastenmeier) is recognized for 5 minutes.

Mr. KASTENMEIER. Mr. Speaker, we should all take the occasion today, Human Rights Day, to affirm our commitment to the right of all people to be free from persecution, discrimination, and repression of their liberties.

As a nation dedicated to the proposition that all people shall be free to pursue their political, religious, and social convictions, we must take affirmative action to demonstrate that commitment. We must end our support of repressive foreign governments that would imprison or otherwise persecute their citizens for their beliefs. We must use our diplomatic energies to secure a worldwide recognition of human rights. As a world leader, there is no issue which more vitally and urgently demands our leadership.

And, we must affirm our commitment to human rights here at home. We must end discrimination because of race, sex, age, religion, or whatever, for such discrimination does still exist. We must restore liberty to those who, out of acts of conscience, could not morally support our involvement in the Vietnam war. We must resist tendencies to trample on individual liberties.

As a nation, and as a member of the worldwide community, we must continue what has been a historical struggle for human dignity and human rights. Mankind can have no greater goal.

LEGISLATION TO PROTECT NONSMOKERS GAINS WIDESPREAD SUPPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. Drinan) is recognized for 10 minutes.

Mr. DRINAN. Mr. Speaker, today I am pleased to reintroduce H.R. 10748, the Smoker and Nonsmoker Health Protection Act of 1975, with 19 of my colleagues, as listed below, joining me in sponsoring this legislation:

Sponsors of H.R. 10748

Herman Badillo of New York.
Edward P. Beard of Rhode Island.
David F. Emery of Maine.
Sam Gibbons of Florida.
William F. Goodling of Pennsylvania.
Gilbert Gude of Maryland.
Michael Harrington of Massachusetts.
Elizabeth Holtzman of New York.
Martha Keys of Kansas.
Edward I. Koch of New York.
Clarence D. Long of Maryland.
Gunn McKay of Utah.
John E. Moss of California.
Ronald M. Mottl of Ohio.
Jerry M. Patterson of California.
James H. Scheuer of New York.
Fortney H. Stark of California.
Henry A. Waxman of California.
Antonio Borja Won Pat of Guam.

Identical legislation will be introduced shortly in the Senate.

Support for this legislation has emerged within Congress despite a vigorous campaign, spearheaded by the tobacco industry, to misrepresent and discredit its provisions. Many Members of Congress recently received a factsheet on H.R. 10748 claiming that the bill "is a thinly veiled subterfuge for the mandated prohibition of smoking and the forced segregation of smokers. It could take the Nation a giant step backward to the days of Carrie Nation and Jim Crow." This factsheet, prepared by the American Tobacco Institute, totally ignores the conclusive medical evidence that smoking is hazardous to the health of smokers and nonsmokers alike. I am confident that Members of Congress will study the evidence summarized on page 37900 of the December 1 Record and decide for themselves whether smoking is nothing but a "personal issue."

Since I filed this bill on November 13, I have received many hundreds of letters in support of H.R. 10748 from citizens throughout the Nation. Many of these letters recount personal experiences which demonstrate more vividly than any scientific study that the comfort and health of a majority of Americans is adversely affected by tobacco smoke they are compelled to breathe. A surprisingly large amount of supportive correspondence has come from citizens of North Carolina, the No. 1 tobacco-producing State. I have reprinted below the text of a number of those letters along with the hometown of the writers. Since I have not sought the permission of the authors to reprint these letters, I have omitted any personal identification:

Fort Bragg, N.C.,
December 3, 1975.

Dear Sir: As one who suffers from allergies, I would like to voice my support for your bill against smoking in public federal facilities. I feel that enclosed smoking facilities should be provided in AMTRAK, bus, and airline terminals. If these enclosed facilities cannot be provided, then no smoking should be allowed.

Why is it necessary to put cigarettes in "C" rations?

It is the right of every citizen to breathe clean fresh air.

Raleigh, N.C.,
December 2, 1975.

Dear Sir: How wonderful to realize that one of our Congressmen is brave enough and noble enough to attempt to get passed such a wonderful bill as the Smoker and Nonsmoker Health Protection Act of 1975. Right On!!!

I live in tobacco country, but have always believed that the illness, work loss, etc. derived from the use of the product far outweighs the good it brings—wages, etc. connected with the industry here.

At any rate, I commend you and wish you Godspeed 'n your efforts. We have suffered long enough in silence, at the mercy of the "chronic sufferers!"

Sincerely,

Raleigh, N.C.,
November 26, 1975.

Dear Honorable Drinan: Want to let you know how much I am in favor of your bill claiming smokers are threatening the health of nonsmokers.

We know that many people will continue smoking although they know of all its dangers. I'm sure the federal government did a lot of research before the warning stamp was put on cigarettes.

If all the smokers will think about how many years they have forced smoke on the nonsmokers, it seems fair to let us have, at least, as many years free from its hazards in certain places.

Raleigh, N.C.,
December 1, 1975.

Dear Sir: Please accept my thanks, and let me offer my support to you as you provide leadership for the House Bill #10748 concerning the Smoker and Nonsmoker Health Protection Act of 1975. I am writing to the Honorable Ike Andrews, Congressman from this district, expressing to him my strong opposition to smoking in public places, however, the pressure put upon us by tobacco growers in this State is enormous.

Gratefully,

Raleigh, N.C.,
December 2, 1975.

Dear Mr. Drinan: I speak on behalf of myself and many nonsmokers—thank you for your efforts and many hours of work to help those who suffer from exposure to tobacco. Please keep supporting the Smoker and Nonsmoker Health Protection Act of 1975.

My children's pediatrician has advised my husband and me that our children should not be exposed to cigarette, etc. smoke due to bronchial trouble. This is almost impossible in today's society. Please help us.

May God bless you in all your endeavors.

Sincerely,

Kernerville, N.C.,
November 14, 1975.

Dear Sir: I am including your article which was recently in our paper. I fully agree with you 100% on cigarette smoke being a threat to health. I definitely know this is true. I recently went to a banquet in

West Salem. The ceiling was low and the smoke was so thick you could hardly breath—We left early as we could not take it, it was literally choking my husband and I. It took me two days to get my good feeling back. This is worse than a hangover if you don't smoke.

The following Saturday night we went to the Coliseum in Greensboro where there were 13,000 people and from the smokescreen going up ¾ of the crowd must have been smoking. When I returned home, my clothes literally smelled of smoke and I had a sore throat and infection on Monday from breathing this smoke for about 5 hours. This place has signs outside, No Smoking, and I cannot understand why it is permitted. Anyone who has an allergy cannot stand smoke in a closed place. I think this is a terrible and inhuman thing when you have to pay to go into any entertainment and have to leave early because you are choking on the other fellow's smoke. I think definitely you are 100% right and I am one who agrees with you all the way—I think if smoking is permitted in public there should definitely be an area only for smoking with exhaust fans to take the air outside.

Hoping to see that your idea is soon in effect. The sooner the better for all of us, including the smokers that don't know what is good for them.

Sincerely,

This is only a portion of the letters I have received from North Carolina. Similar correspondence has come from all parts of the United States. Unsolicited grassroots support such as this does more than any organized lobby campaign could ever do to demonstrate that the time for Federal legislation to safeguard the rights of nonsmokers has arrived.

I am also pleased to report that the University of North Carolina at Chapel Hill banned smoking in all classrooms on November 21, 1975. The action was taken by the university's faculty council following a student referendum on the issue which approved a smoking ban by a 4-to-1 margin. The faculty council overwhelmingly approved the smoking ban after rejecting a proposal to leave the decision on whether or not to permit smoking up to the individual professor in each class.

ROCKEFELLER SAYS—"NO REVENUE SHARING—NO CITY AID"

The SPEAKER pro tempore (Mr. Richmond). Under a previous order of the House, the gentleman from Georgia (Mr. Levitas) is recognized for 10 minutes.

Mr. LEVITAS. Mr. Speaker, by reading today's edition of the New York Times I had called to my attention a very strange statement by Nelson Rockefeller, the Vice President of the United States, concerning the recently passed bill by Congress that provides for financial assistance to the city of New York. The Vice President of the United States was quoted in this particular article, entitled "Rockefeller Asserts City Needs Revenue Sharing," as saying that unless the Congress acted within 2 weeks to approve general revenue sharing the efforts to save New York from default would collapse. Collapse is the word in the article. He is quoted in the article in the following manner:

> If Congress doesn't act, the whole thing will be thrown into a cocked hat, the whole thing will blow.

Now, if that is the case and if Mr. Rockefeller was aware of that situation yesterday, the day that the President signed the bill, he also had the knowledge that there is no way under the Sun that Congress can or will pass general revenue sharing within the next 2 weeks. Therefore, if it is true that the Congress will not and cannot pass general revenue sharing in the next 2 weeks and if the failure to do so, according to Mr. Rockefeller, one of the proponents of this New York aid bill will knock the whole thing into a cocked hat and that the whole thing will blow, then I suggest that the entire legislative exercise which the Congress was put through was a fraud and a deception not only of the people of New York, who deserve some sincere consideration, but also a deception of the Congress of the United States and of the taxpayers in this country.

I suggest that the Congress is entitled to an explanation. Either Vice President Rockefeller will have to say he was wrong and did not know what he was talking about yesterday when he made this statement about the passage of revenue sharing in 2 weeks or he owes an explanation to the President of the United States and to the Congress as to why he did not tell the President, the Congress of the United States, and the American people during the last few months—or even last week—that unless general revenue sharing is passed by the end of 1975, this whole financial aid program for New York City would not make any sense and would not work. Many of us suspected as much. Now it has been confirmed.

I suggest to the Members we need to get to the bottom of this, because if Mr. Rockefeller is right and did not let the Congress know about it and permitted the Congress to proceed in the absence of information that Mr. Rockefeller apparently had, being the expert that he is on general revenue sharing and the expert that he is on the finances of New York City, then I think the people of the United States are entitled to an explanation. I shall await with interest to find out whether Mr. Rockefeller will say the statement he made on yesterday was wrong, and he wants to correct it or, if that statement was correct and accurate, whether he will explain to the American people why he did not tell us this before the bill was passed by the Congress and signed by the President.

I have great respect for Mr. Rockefeller's knowledge and integrity. I shall now wait to hear his explanation.

MULTILINGUAL BALLOTS A DANGER SIGNAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Danielson), is recognized for 10 minutes.

Mr. DANIELSON. Mr. Speaker, a couple months ago we passed a bill to provide for multilingual ballots in all Federal elections. This was passed in the hope that it would bring into the electoral process many people who had not been participating, because of the fact that they were not familiar with the English language. The bill was passed. The President signed it and it became law about 3 months ago, just in time for some of the elections which were held throughout the land on November 4 last.

Mr. Speaker, I have read with great interest in the San Gabriel Valley section of the Los Angeles Times for Sunday, December 7, 1975, a story captioned "Multilingual Ballot Called 'Fiscal Albatross.' Costs of Municipal Elections Are Expected to at Least Triple." This is under the byline of William McPhillips, Times staff writer. The article follows:

MULTILINGUAL BALLOT CALLED "FISCAL ALBATROSS"—COSTS OF MUNICIPAL ELECTIONS ARE EXPECTED TO AT LEAST TRIPLE

(By William McPhillips)

New amendments to the federal Voting Act are expected at least to triple the costs when general-law cities in the San Gabriel Valley and elsewhere hold their municipal elections March 2.

The changes, which Secretary of State March Fong Eu terms a "fiscal albatross" for California's state and local governments, now require printed materials for any ethnic group in any political jurisdiction that constitutes 5% of the population and is illiterate in English.

As a result, multilanguage elections are now mandatory in 39 of the state's 58 counties.

Los Angeles and 36 other counties were designated as bilingual in English and Spanish, which means that all ballots, candidates' statements, election notices—anything that should be read by a voter—must be printed in both languages.

Because the law applies to all elections, voters in wealthy enclaves such as San Marino, where Spanish is virtually only something one's children study in school, will receive election matter in both languages.

Ridiculous? Perhaps, but not so ridiculous as the situation in Inyo County. There, the law now says that all election material must be printed in both English and a native Indian tongue for which, unfortunately, there is no written language.

Or consider the case of San Francisco, which was designated as a trilingual county with election matter to be printed in English, Spanish and Chinese.

Other minorities, angered at what they described as favoritism, brought court suit and as a result ballots at the Nov. 4 election were printed in no less than seven languages—English, Spanish, Chinese, Japanese, Italian, Portuguese and Tagalog.

At the moment, it is estimated that the San Francisco ballot in November of 1976 will weigh more than two pounds and will be 432 pages long.

In Los Angeles County, the ballot measure pamphlet will be printed in English and Spanish in accordance with federal requirements and will total about 140 pages, half for each language, said Charles Campbell, chief deputy, county registrar-recorder.

He estimated that approximately another 70 pages would be needed for each additional language that might be added.

As interpreted by the secretary of state, publication of such a ballot would be merely fulfilling the law. In a comment sent to county and city clerks last September, Mrs. Eu wrote:

"In jurisdictions with low voter turnout or registration rates with the requisite percentage of language minority citizens offered registration and election materials in the English language for the 1972 presidential nomination, multilingual elections are now mandated."

As a result, those connected with the electoral process, from Mrs. Eu down to the various city clerks, are operating in a sort of daze and find it impossible to accurately estimate their elections costs.

"Postage alone will be astronomical," says El Monte City Celrk Viola Nicolet. "The bulk rate is going up, and with the added weight I'd say we'll have to pay over 30% more."

In Rosemead, City Clerk Jenny Davenport is frantically advertising for bilingual election workers to fulfill yet another new requirement—that certified translators be on hand at each polling place to answer voters' questions.

Under the new law, such persons must be selected from a list approved by the Superior Court of Los Angeles County—but the list is rapidly dwindling and apparently there won't be enough to go around.

In Monterey Park, City Clerk Laurie McMillen says she is in a state of "total frustration" and, because of the city's heavy and varied Oriental population, shudders to think of how many languages might end up appearing on her ballot.

"At a guess, I'd say that Japanese, Chinese and Korean languages might appear, in event of any court suit," she said.

"Then, we've got good-sized pockets of Italian, Yiddish and Hebrew-speaking people in the city. And how about Gaelic?

"I'm not kidding," she added. "I've already had one inquiry about Gaelic."

Adding to her sense of impending disaster, said McMillen, was a letter she received a few days ago from the county registrar of voters office, asking for information on persons who are fluent in other languages who might be willing to help in the countywide primary election in June.

"From Arabic to Yugoslavian, there were 21 foreign languages mentioned," she said in an awed voice. "With English, that's 22 languages. Can you imagine a ballot prepared in 22 languages?"

In all the uproar, it is doubtful that anyone is more upset than Mrs. Eu, who estimates that the new voting requirements will cost state and local governments close to an additional $16 million a year in paper and postage alone.

In a recent speech before the California State Assn. of Local Elected Officials, Mrs. Eu said that while she sympathized with the law's aims, she had reservations about how it was drawn.

"The amendments were adopted on a rather hurried basis just prior to the congressional recess for the summer," she said. "Neither I nor the county clerks nor the city clerks were asked to participate in the drafting."

As a result, she said, one level of government has imposed duties and requirements on another "without being prepared to pay the freight."

Because there is no way to separate out the foreign-language voter, Mrs. Eu explained, city and county clerks in the affected areas must "go shooting at sparrows with a shotgun" and blanket their jurisdictions with multilanguage material.

And while the small, municipal elections will be expensive, she said the cost of the statewide elections in June and November will be horrendous.

"In order to comply with the law and its present interpretation, the budget for my office must be quadrupled," she said. "Paper alone for the statewide sample ballot in June will cost $3,077,200, and for November the cost will be $5,367,850."

Put another way, explained Mrs. Eu, California compliance with the new regulations will require 26,443,296 pounds of additional paper—or one-third of the uncommitted newsprint supply of the entire United States and Canada.

"And the state printer is not convinced that we can get it," she added. "If we can't, we'll have to go to a higher grade of paper, which means a higher cost."

VENTURA, CALIF., *November 12, 1975.*

Hon. GEORGE E. DANIELSON,
Member of the House of Representatives,
House Office Building, Washington, D.C.

DEAR SIR: Attached is a photocopy of an article that appeared in the Ventura Star-Free Press on November 11, 1975, relating to bi-lingual ballots.

It seems to me that since we are constantly fighting the battle of the budget at the county level the government should be more careful about how money is spent. I certainly agree that minority groups should be encouraged to vote but I am violently opposed to an absolute waste of taxpayers' money when we so sorely need it for essential purposes such as better health care, better legal representation, etc.

I think the Congress should take a good look at the results of the first bi-lingual election and if they are comparable in other areas to what they apparently were in California, repeal the legislation that makes such a useless waste of funds necessary.

Best wishes.

Very truly yours,
RICHARD E. ERWIN,
Public Defender,
County of Ventura.

COUNTY COSTS MORE THAN DOUBLED—BILL FOR SPANISH BALLOTS: $12,500

Printing election materials in both Spanish and English for the Nov. 4 elections in Ventura County more than doubled the cost, the county elections department reported today.

The total printing bill for sample and official ballots, voter information pamphlets and statements of qualification was 50 per cent more for the Spanish than for the English materials.

The new procedure also brought many negative—and no positive—responses from election workers.

All ballots for the 16 special elections the county conducted Nov. 4 were printed in Spanish and English. So it was impossible to detremine how many Spanish ballots were used, county officials said.

(In the city of Ventura, where 9,604 votes were cast, just three Spanish ones were used. Fulfilling the federal requirement for a bilingual ballot in that election added $4,421 to the cost. Total city cost of English language materials was $6,630.)

George Shipley of the county elections department said total English-language cost in the special elections, including school measures, district directors, etc., was $8,343. The Spanish materials cost $12,515.

It was necessary to run the Spanish-language qualification pamphlets through the press twice to add the accent marks. Shipley said. This added considerably to the cost.

Precinct worker comments sent to the elections department were uniformly negative on the Spanish election materials.

Several said voters of Spanish or Mexican descent seemed insulted that election workers apparently thought they didn't understand English.

Some voters demanded ballots in Italian, German, Dutch and other languages.

"The Spanish ballots caused a negative reaction," was one election worker's comment. Another termed it "a waste of money."

"Learn English or move," was another comment.

Printing Spanish ballots in this and 28 of the 58 counties of California was decreed by the U.S. Congress in 1975 amendments to the 1965 Voting Rights Act.

MONITORING LOBBYISTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. MEZVINSKY) is recognized for 5 minutes.

Mr. MEZVINSKY. Mr. Speaker, widespread public suspicion of rampant corruption in legislative government may be more damaging to the well-being of the Nation than the impropriety which does exist. A democracy cannot survive when the people lose confidence in their representatives. That is why it is so vitally important for this Congress to act expeditiously in instituting new oversight procedures for the monitoring of lobbying activities on Capitol Hill and in the executive departments. I hope that the hearings on the Lobbying Control Act will prompt quick action on the floor of this House.

Lobbying has changed significantly over the past 30 years. Many more lobbyists, representing the interests of many more groups now play a more active role in efforts to influence our positions as legislators. Their resources are more extensive; their techniques are more sophisticated; their constituencies are more diverse. And yet, Congress has passed no legislation regulating lobbying since 1946. The bill passed in that year was an inadequate one, even for its time. It surely does not meet the demands of 1976.

The 30-year-old law currently on the books requires an organization to register as a lobbying group only if it considers lobbying to be its principal purpose. In practice, many companies and institutions have employed a full staff of professional lobbyists while failing to register by virtue of the "principal purpose" clause.

Another shortcoming of the current law is its exclusion of contacts with the executive branch from the definition of "lobbying." We are all aware of substantial evidence indicating that Federal regulatory agencies, for example, are unduly influenced by the very private interests they are supposed to be regulating. We must know more about contacts between the regulators and the regulated.

The legislation would require registration and the reporting of expenditures by any lobbyist spending or receiving $250 in a quarter or $500 in a year for the purpose of lobbying. A Supreme Court decision of 1954 interpreted the current law as requiring those who register as lobbyists to report only those expenditures incurred in direct contact with Members of Congress. That rules out the bulk of the real expenses: salaries, office supplies, mass mailings, et cetera. Under the new bill, all expenses, such as those devoted to research, newsletters, mailings, speaking tours, and that portion of salaries paid to lobbyists, would have to be reported.

Any individual or group has a constitutional right to petition the government, or to hire professional lobbyists to do so. The public, and we as legislators, have an equally valid right to know about those efforts, to insure that they are proper ones, and to understand their full scope and purpose.

COMMENTS ON THE ERDA AUTHORIZATION BILL LOAN GUARANTEE PROVISION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of California. Mr. Speaker, now that the Rules Committee has agreed to a rule on H.R. 3474, which allows a separate vote on section 102 and section 103, I think it is appropriate to clear up some of the issues which have been raised on this bill. Many of the points I will make have been made by others, but perhaps repeating them here will be of some assistance. For additional information, I would first and foremost urge each Member to read the conference report on H.R. 3474. Second, I would urge Members to read the Senate debate on this report. The Senate debate appears on pages 39250 to 39267 of the December 9 issue of the Record.

My own position on the loan guarantee provision of this bill has been stated publicly, and appeared on page 39142 of the December 8 issue of the Record. Basically, I believe that there are a variety of excellent energy programs that could benefit from this incentive, particularly biomass or solid waste conversion, geothermal energy, solar energy, and especially industrial energy conservation demonstrations. Even the most vehement opponents of section 103 support Federal incentives for these technologies, and have centered their opposition on the potential, or possible abuses of this program in encouraging coal gasification and oil shale development. I shared those concerns, and as a result of the alarm which was raised, I believe the conference report language and the revisions in section 103 insure that abuses of this authority can be checked.

That, however, leads us to the language before us. Is this a good bill, can it be improved, and should it be passed? Any legislative product can be improved, but seldom do a majority of Members agree on what constitutes an improvement. It is a good bill if one considers the fact that we never get everything we want in life, and this bill represents a balanced legislative program for demonstrating a large variety of technologies which have not yet been proven as answers to any energy program. Whether it should be passed or not depends on how one answers the other two questions. I believe section 103 should be enacted for the following reasons:

First. We need to encourage the development of a variety of desirable forms of energy.

Second. We need to know what is desirable and what is not; what works and what does not.

Third. We need to discover if certain technologies, especially synthetic fuel production from coal and oil shale, can be made environmentally compatible.

Fourth. We need to move ahead at a carefully planned and controlled pace, and avoid large, vague, unstructured and uncontrolled programs.

Section 103 does this, and contains a variety of tough safeguards which give the Congress, local, and State governments, and other agencies of the Federal Government a means by which they can insure that the loan guarantee authority granted to ERDA is not abused. Among these safeguards is a requirement for a detailed report of each proposed project to be submitted to the Congress, and lay over for 90 legislative days, pending the possible one-House veto of that proposal.

If ERDA were to attempt to abuse their authority under this section, I can assure the House that I, and other Members, would initiate action to block that program or project.

Among the issues raised as arguments against section 103 is the statement that hearings were not held on this provision. This is simply not true.

I wish to insert for the Record at this time a chart on the number of days and hours of hearings held on the ERDA authorization bill before it passed the House, compared to the number of days and hours of hearings held on section 102, section 103, and loan guarantees by the Committee on Science and Technology, or one of its subcommittees:

DISTRIBUTION OF EFFORT ON H.R. 3474
(SCIENCE AND TECHNOLOGY COMMITTEE)

TABLE A.—H.R. 3474, hearings markup, conference[1] (excluding sections 102, 103)

	Hearings	Markup and conference	Total
Sessions	13	12	25
Witnesses	27	—	27
Hours	27.3	23	50

TABLE B.—H.R. 3474 (sections 102, 103 only)[1][2]

	Hearings	Markup and conference	Total
Sessions	23	5	28
Witnesses	105	—	105
Hours	67	8	75

[1] Includes efforts of ERDA authorization conferees, full House Science and Technology Committee, plus ERDD and ERDD(ff) subcommittees.

[2] Includes sessions on H.R. 8494 and H.R. 9723.

A simple review of this chart will show that greater care was spent on section 102 and section 103, which are actually only a part of the ERDA authorization bill, than was spent on the ERDA authorization bill without section 102 and section 103. For example, we had four times as many witnesses testify on section 102 and section 103, and loan guarantees in general, than we had testify on the entire ERDA program. This is hardly a program that has received "no hearings."

The House will have an opportunity to vote "yes" or "no" on this program. Normally when a committee does good work, the vote is yes. I believe that although this program comes before you without an opportunity for amendment, you should vote "yes" and support the hard work of the Committee on Science and Technology.

ENVIRONMENTAL POLICY CENTER HITS THE NAIL ON THE ERDA $6 BILLION BOONDOGGLE'S HEAD

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, I want to congratulate the Environmental Policy Center for the excellent work it has done in documenting the shocking ramifications of the $6,000,000,000 guaranteed loan program for synthetic fuels and the oil shale leasing program—sections 103 and 102—which were attached to the ERDA authorization by the Senate.

I urge all Members to read the following report. We will be asked to vote on the ERDA conference report this week. The information presented in the EPC factsheet gives all of us who are concerned about the financial and environmental hazards of this program convincing arguments and facts to oppose such a disasterous program, particularly without any opportunity for the House to work its will on it:

ENVIRONMENTAL POLICY CENTER FACTSHEET

Dear Member of Congress:

We are writing to urge you to vote against the $6,000,000,000.00 guaranteed loan program for synthetic fuels development and an accompanying in situ oil shale leasing provision. The programs—Sections 102 and 103 of the Energy Research and Development Administration's Authorization bill—were added by the Senate without any hearings and accepted by the Conferees. If no separate vote on Sections 102 and 103 is allowed, the Conference Report should be returned to the Conferees so that the subsidy provisions can be removed.

The massive subsidy program should be opposed because:

1. The House, never having voted on the provision, has been deprived of the opportunity to consider this extremely significant program. It commits the taxpayer to a program that may ultimately run up a price tag of nearly $12,000,000,000.00 (if the essential additional subsidies are added), and certainly should be considered on its own merits.

2. Synthetic fuels have a very poor economic outlook. According to testimony of several industry representatives, price supports will be necessary as well as guaranteed loans. The current estimate for shale oil price is $17 per barrel and for gas from coal $4 per thousand cubic feet ($23 per barrel equivalent). The Administration has already proposed $5,500,000,000.00 more in government help for synthetic fuels development. Establishing this uneconomic industry will also create pressure to drive all energy prices higher, so that synthetics are marketable.

3. Some of the more attractive alternative energy sources are included in the guaranteed loan program as "sweetners." But it is extremely unlikely that a significant portion of the money would go toward such technologies as solar and geothermal. In fact, ERDA tried unsuccessfully to drop these technologies from the provision in September. Given the cost of shale and gasification plants, four of them could use up the entire $6,000,000,000.00—and more.

4. This program of massive federal intrusion in the private market will also produce enormous environmental and socio-economic impacts. Large-scale water consumption in the arid West, strip mining, waste shale disposal, cancer threats from oil shale substances, air pollution, water pollution, and influxes of thousands of people to unpopulated areas are all expected to result from synthetic fuels development.

5. Even though we need to develop new sources of energy, synfuels are extremely inefficient and will yield very little energy. The Administration's Synfuels Task Force Report concluded that the energy supply from a synthetic fuels subsidy program would be "negligible." Because of the tremendous amounts of energy which must go into the process, there may be no "net energy" yield from synthetic fuels extraction.

COSTS OF SYNTHETIC FUELS

Consumer costs

The price at which synthetic fuels are competitive with world oil prices has risen steadily, always floating a few dollars above the price of OPEC oil. As recently as 1973, the industry claimed that shale oil would be economical at $5.10 a barrel. That estimate has shot up to $17 per barrel. Gasified coal is now projected to cost $23 per barrel—equivalent.

The energy industry, which is not known for vigorous competition, has raised all energy prices along with skyrocketing oil prices. For example, recent OPEC price hikes have sparked domestic coal price increases that far exceed the coal industry's increased costs. Federal subsidies to the expensive synthetic fuels industry hit the taxpayer-consumer twice.

Taxpayer costs

What began as a $6 billion program now bears an $11 billion federal price tag. In addition to the $6 billion loan guarantees in the ERDA Authorization Bill, the Administration has requested $4 5 billion for price supports and $600 million for construction grants. Could this be a Rockefeller-styled $100 billion program on the installment plan?

Loan guarantees will facilitate the construction of synthetic fuels plants, but price supports will be necessary in order to operate them. Union Oil emphasized this point in a September 17 letter to the Science and Technology Committee:

"The loan guarantees, by themselves, are not adequate incentive . . . Our primary concern is not so much about the technical feasibility of the process as it is about the uncertainty of the price of the syncrude and future governmental policy and regulatory activity. The proposed loan guarantees would seem to be designed to provide assurance in case of technological failure but do not speak to the greater uncertainties of price and policy."

Even the $11 billion package is probably just the beginning of a long-term drain on the federal Treasury. As demonstrated by the currently-troubled nuclear business, an industry that needs massive subsidies to get off the ground offers little promise of ever supporting itself without taxpayers' dollars. As a nuclear industry spokesman told Business Week recently:

"The fundamental cause of our malaise is the nature of the nuclear business itself . . . It was born in the government and consciously weaned by statutory and administrative policies to grow through an adolescence of government support. But the business was never firmly founded, and the magnitude of the problems of getting it established in the private sector were never fully appreciated."

Capital market costs

Federal loan guarantees for synthetic fuels will divert capital away from other energy projects and from non-energy sectors of the economy.

Attracting investment capital into synthetic fuels projects will disadvantage alternative energy projects that could otherwise obtain private financing.

HEALTH AND ENVIRONMENTAL EFFECTS OF SYNTHETIC FUELS

Synthetic fuels and cancer

Synthetic fuel production has caused abnormally high cancer rates among plan workers and nearby residents. For example, despite protective garments and other precautions, skin cancer in workers at the Union Carbide coal liquefaction plant in West Virginia was 16 to 37 times above that previously reported.

Contact with shale oil, its by-products, and plant effluents has been linked to cancer of the lung, scrotum, and skin. Coal gas workers have an incidence of 1239 cancers of the scrotum per million—295 times higher than the mortality rate in the general population.

Synthetic fuel plants discharge known cancer-causing agents, such as benzopyrenes and benzathracenes. According to the Administration's Task Force on Synthetic Fuels:

"Adverse human health effects, including cancer, might result from long-term exposure to polycyclic aromatic hydrocarbons and trace elements emitted from synthetic fuel plants in the form of or adsorbed on fine particulates."

Synfuels are much more dangerous to health than conventional hydrocarbons, according to studies of long-established synthetic fuels industries in other countries. The Scientists' Institute for Public Information (SIPI) found that "a worker exposed to shale oil is 50 times more liable to get skin cancer than a worker in contact with oil from a Pennsylvania well." The shale retorting process produces 300 million gallons of waste water containing cancer-linked compounds and 300 tons of carcinogenic materials in waste products per year, according to SIPI.

Synthetic fuels and the environment

Synthetic fuel production consumes vast amounts of water. Many of the plants will be located in an extremely water-short region—the Colorado River Basin, where water rights are already over-appropriated, according to the Department of the Interior. The Synfuels Task Force warns:

"In the western regions, the large volumes of water allocated to synthetic fuels production would not be available for other uses and could affect agricultural, industrial, commercial, and residential uses."

Air and water pollution, disposal of waste products, strip mining, and massive construction projects will severely impact wildlife habitats, parks, and other natural areas. According to the Task Force:

"Degradation of local air quality would occur in all regions. Some damage to plants, animals and humans from air pollutants may be unavoidable.

"Reduction of soil productivity, permeability and infiltration rates would be unavoidable. Increase in erosion and sedimentation rates would occur. . . . Fifty years or more of plant succession would be required for parts of the western region to return to their present state."

Synthetic fuels production will increase the salinity of the Colorado River. The results will be disastrous for agricultural activities in California and Mexico. The increased salinity is caused by leached salts from spent shale heaps, leaching from strip mine spoil banks, and higher salt concentrations due to consumptive use of water.

THE RESOURCE DEMAND OF SYNTHETIC FUELS OR, "WRINGING OUT THE ROCKIES"

What is the need for a $6,000,000,000.00 guaranteed loan program?

While the guaranteed loan program for synthetic fuels has a ceiling of $6 billion in guarantees for commercial demonstration facilities to produce synfuels, there is a much larger issue before the Congress. The House must not lose sight of the fact that the underlying purpose of the loan program is to gain early information and develop an industry model needed prior to a possible major expansion of a synthetic fuels industry in the future. If that were not the intent of the proponents, there would be no rationale for the provision. Therefore, the House must examine what a major expansion of a synfuels industry means in terms of capital dollars and resource demands to be sure we know what we're getting into.

What can we expect from oil shale?

Presently, we consume 17 million barrels of oil daily. One shale plant, costing more than $1 billion, produces 50,000 barrels of oil per day—that is only ⅛ of 1% of our daily demand. The plant would have to mine, process and dispose of 30 million tons of shale—four times the coal production of the Four Corners strip mine in the Southwest. It consumes 10,000 acre-feet of scarce water.

The Alaskan pipeline, costing $6–$9 billion, has a daily capacity of 2 million barrels. It would take 40 shale plants to match that output. That's more than $40 billion in capital; 1.2 billion tons of shale mined, processed and dumped (twice the 1975 coal production); and 400,000 acre-feet of water consumed in an area that is already concerned about water availability for future agricultural and public needs.

F.E.A.'s estimates of shale reserves indicate that Colorado has 84% of the Nation's higher grade deposits and they are confined to less than 2 million acres. To compete, shale plants would have to develop the higher grades of shale or be forced out of the market. That explains the industry's great interest in Colorado. The lower the grade of shale, the more expensive the product. Could get mighty crowded out there? F.E.A. also stated that 4 to 6 plants would exceed the 1980 Colorado SO_2 standards. Shale technology is extremely limited in its applicability throughout America when considered in that context.

Can coal gasification promise more?

The Nation consumed about 22 trillion cubic feet of natural gas in 1974. A gasification plant will produce about ½ of 1% of that amount in a year. Again, the plant cost is above $1 billion. The coal demand is 7–8 million tons per year and 10–13,000 acre-feet of water is consumed. Essentially, all the plants being proposed have been planned for the Southwest and the Northern Great Plains. In this arid region, agricultural demands for water are already having to compete with industry demands.

Texas Eastern Transmission Corp. and El Paso Natural Gas intend to build 7 plants in New Mexico. The process (Lurgi method) originated in Germany during WW II. While it has been improved to up-grade the gas to pipeline quality recently, the estimated cost of the gas has escalated to $4 per thousand cubic feet. Who could afford to buy it at that price?

When you examine synthetic fuels in these terms—tremendous capital and resource demand for an insignificant output, alternatives such as solar and geothermal, direct coal combustion, and conservation become more valuable.

ALTERNATIVES TO COAL AND OIL SHALE SYNTHETIC FUELS

Underlying the synthetic fuels program is the assumption that the government must take a more active role to lead the nation toward energy independence. Several alternative paths are more economically viable, energy productive, and environmentally sound. Increased OCS production, deep-mine coal production, low BTU coal gasification, energy conservation, solar heating and cooling for residences, geothermal development, and biomass conversion represent more promising alternatives than synthetic fuels, whose contribution to the energy supply is conceded by the Administration to be "negligible." (Synthetic Fuels Task Force Report to the President, 1975.)

Although section 103 mentions some of the alternative energy options as possible candidates for guaranteed loans, no language requires that these "sweetners" be funded. ERDA, the administrating agency, revealed its bias against solar, geothermal and biomass conversion when it tried to remove all technologies except coal and oil shale synthetics from the bill. Thus, it is unlikely that any priority would be placed on these technologies, nor is it certain that the guaranteed loan mechanism is appropriate to these alternatives. Most significant is the fact that only a handful of commercial coal and oil shale synthetic plants—at a cost of more than $1 billion each—would use up the entire $6 billion amount.

Six billion dollars could be spent in various ways to make a significant contribution to the nation's energy solutions. For example, six billion dollars could buy and install the solar equipment for 1,750,000 new homes or completely pay for retrofitting 1,200,000 older homes with solar equipment. This would provide for continuous energy savings and avoid the tremendous environmental and socioeconomic disruptions accompanying synthetic fuels development. Unlike synthetic fuels, no price supports would be needed.

Conservation is probably the most promising alternative to massive subsidies for synthetic fuels. For example, an MIT research team concluded that the heat pump installed on existing furnaces was a favorable alternative to high-BTU coal gasification for space heating, the primary purpose for synthetic gas would be developed (Technology Review, July/August 1975).

Even if synfuels such as shale oil and high-BTU coal gasification are desired, section 103 could hinder rather than promote their development. ERDA estimates that at least one default—out of a mere handful of projects—would occur. That default would verify the fears of the investment community, which believes such processes are neither technologically nor economically ready commercialization. The default of a billion-dollar-plus "white elephant" could cast doubt on the value of developing synthetic fuel resources—not only the specific technology involved—just as the Hindenberg disaster wiped out the future of the young airship industry.

Because synthetic fuels technologies are not ready for commercialization, ERDA could conduct a diverse research and development program to explore the many alternative processes in this field. Section 103, however, is narrowly focused upon one or two oil shale and coal gasification processes. The plants funded under this program may very well become obsolete before they begin operating. If Congress is sincerely interested in developing a viable synthetic fuels industry, it would be more prudent to encourage technological innovation for many processes—not premature commercialization of a few uneconomic technologies.

ERDA CONFERENCE REPORT: WHY SECTIONS 102 AND 103 SHOULD BE OPPOSED

(Mr. HECHLER of West Virginia asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, I am opposed to sections 102 and 103 of the ERDA conference report for the following reasons:

SECTION 102

This section is a raid on public lands. It substantially changes the Mineral Lands Leasing Act of 1920, which is under the jurisdiction of the Committee on Interior and Insular Affairs.

All of this is being done primarily to benefit one company, namely Occidental Oil Shale, Inc., a subsidiary of Occidental Petroleum Co. While the section suggests that a number of proposals will be solicited, in reality it is unlikely that any company but Occidental, which is now performing in situ work on private lands, will succeed.

Furthermore, the provision eliminates the requirement for bonus bidding on the tract of public lands and for the payment of rentals, and royalties during the demonstration period, plus ERDA can share as much as 99 percent of the costs of the demonstration. Occidental must share any profits with the United States, but the likelihood of any meaningful profits during the demonstration is not good.

After the demonstration, Occidental will get the lands for commercial purposes and the United States will share in the profits until the value of the demonstration is paid off, but such share shall be offset against any royalty payment established for this tract.

Section 103: $6 billion loan guarantees.

First. The $6 billion is only the beginning.

The ERDA factsheet of November 1975, makes it clear that this is the first phase of a total goal of 1 million barrels of production of oil by 1985. Quite clearly ERDA plans to increase the loan guarantee program in a very short time in order to achieve this goal.

Second. This program will not work without additional legislation, bringing the program costs to more than $11.1 million.

On October 22, 1975, ERDA sent to the Speaker additional legislation for $4.5 billion in price supports and $600 million in construction grants (see CONGRESSIONAL RECORD, Dec. 8, 1975, p. 39190. Indeed, ERDA's November 1975 factsheet gives the following example for an oil shale plant to illustrate how ERDA expects the program to work:

> The United States Government (USG) would solicit bids from interested and qualified firms. The amount of loan guaranty and the market price guaranty level that each firm proposes is expected to vary. If an oil shale plant were estimated to cost $1.0 billion, a firm might propose a loan guaranty of 50% of project cost or $500 million and a market price guaranty level of $12 per barrel. Another firm may propose no loan guaranty but a market price guaranty level of $15 per barrel. The meaning of a price guaranty level of $15 is as follows: Should the market price of oil fall below $15 per barrel, say to $12, the USG would pay the firm $3 per barrel for each barrel produced. Should the market price rise to $17, then the USG would pay nothing and receive as revenue a portion of the $2 in excess of the agreed-to guaranty price.
>
> Under this arrangement, the private sector company has a substantial investment of its own resources. The USG would select the best package proposed based on the objectives of the program. Under the proposed incentives, the USG mainly guarantees against plant failure and market price uncertainty. The USG would pay only if the plant failed or the market price of oil remained low. The USG would have recourse to the plant assets should a default occur but not to the assets of any parent company. It is important to recognize the private sector will have substantial investments in funds, personnel, technology and expertise in each plant that would be a loss should the plant fail.

Third. Although this section states that the $6 billion in guarantees will be available for facilities generating energy from solar, wind, and other renewable resources, in reality ERDA has made it clear that the guarantees are earmarked solely for high Btu coal gasification, oil shale, and biomass plants only. ERDA's latest indication of this, is its December 4 memorandum "To All Members of Congress" in which ERDA said:

> Briefly stated, the program envisions an *initial effort* aimed at building 12–14 Synthetic Fuel Plants which would produce a total of approximately 350,000 barrels per day of oil-equivalent capacity. This initial level of 350,000 would provide the essential information and data necessary to clarify the many *uncertainties* surrounding the scale-up of these plants while also reducing our dependence on imported oil.
>
> *The type of initial program envisioned is demonstrated by the anticipated start-ups from 1976 through 1978:*
>
> Two shale oil plants—50,000 bbls/day.
> Three high-Btu gas plants—40,000 bbls/day (equiv.)
> Four low-Btu boiler fuel plants—25,000 bbls/day (equiv.).
> Five biomass conversion plants—6,000 bbls/day (equiv.).
>
> (Italics supplied.)

Fourth. The $6 billion program will not achieve any significant amount of new energy.

The Congressional Budget Office estimates these 14 plants, and ERDA confirms, that it will produce only 1.5 percent of our U.S. consumption in 1974, according to the CBO, or the equivalent of one-half hour of each day's consumption of 17 million barrels.

Fifth. Section 103 would authorize oil shale demonstration plants.

Several of the conferees opposed including oil shale in the section because, as our hearings clearly showed, this type of plant at any size is not ready. Indeed, the conference report (H. Rept. 94–696) states—page 47:

> The environmental impacts of extensive oil shale development using mining and above-ground retort processes appear to present formidable problems. The disposal of voluminous solid waste products and the collection and disposal of waste water used for material handling are major considerations.

Despite this, the conference report gives ERDA a blank check to guarantee obligations to build plants at whatever size may be necessary to demonstrate at commercial scale.

Sixth. The guarantees will be for construction of first generation synfuel plants which will take 3 to 4 years to build beginning in fiscal year 1977.

ERDA is currently developing several second generation synfuels processes. Indeed, other provisions in H.R. 3474 provide millions of dollars for demonstration plants utilizing such processes. Thus, as the Congressional Budget Office points out, these first generation plants which would operate with technology developed during World War II may be obsolete "before operation." The CBO report states:

> Finally, regardless of when it reaches a decision, the Congress should consider synfuels in the context of a larger policy with respect to the continuum of energy research, development, demonstration, and commercialization. ERDA is developing several advanced synfuels processes which offer the potential of improvements in economics, reliability, and environmental impact when compared with those currently available processes which would be supported by the synfuels program. Pilot plants for several processes are under construction or operating, and a preliminary design contract has been let for a demonstration-scale plant to produce synthetic boiler fuels from coal. One issue is whether synfuels plants might become obsolescent before operation, yet need subsidies for their entire life.

Seventh. The stated purpose of section 103 is to gain information. But is this size program needed to achieve this goal? The CBO suggests "No"; the CBO draft report states:

> The President's original proposal called for production of 1 million barrels per day by 1985. The current Administration proposal envisions an initial phase of 350,000 barrels per day, with a decision later in the decade on whether to proceed to the million barrel level. Implicit in the Senate ERDA Authorization Bill [and in the Conference Report] is a *decision against current commitment to the higher level*, since the $6 billion loan guarantee authorization would cover only roughly the 350,000 bbl/day level.
>
> A further issue is whether the full 350,000 bbl/day would be required to realize the information benefits of the proposed program. That level could provide (in the Task Force's example) two shale plants, one plant each for producing oil and pipeline quality gas from coal, five plants for producing industrial and utility fuels, and four smaller plants for treating urban waste. *A somewhat smaller, lower-cost program could presumably yield much of the information provided by the 350,000 bbl/day option—but at some cost in diversity or redundancy.*
>
> *Any scaling down of the commercialization program will decrease production of synthetic fuels between 1975 and 1985, avoiding economic losses on producing fuels which cost more than their selling price on the one hand, but obtaining a smaller increment to domestic energy supply on the other.* However, a smaller program could still provide substantial information and commercial experience with synfuel production.
>
> Parts of the commercial production process are common to many approaches. Large scale coal mining and transportation, materials handling at the plant, waste disposal, and social and environmental impacts are found in all processes which gasify or liquefy coal. There are technical similarities in much of the equipment used in all those processes. Stronger commonalities exist among the approaches to oil shale processing. In both cases differences between approaches are largely in basic chemical engineering technology.
>
> In all the processes to be commercialized immediately, this technology is relatively well-understood. The largest uncertainties to be resolved in commercialization relate to the large scale activities common to many approaches. For these reasons a minimum information program could include as little as one high Btu gas plant, one to provide fuel to an electric utility, and one oil shale plant.
>
> Since they are relatively small and nearly economic presently, perhaps two plants for converting urban waste to gas could be included (Italic supplied.)

Eighth. The patent provisions of H.R. 3474 encourage ERDA to waive U.S. rights and thus lessen the dissemination of information and reduce competition in this new industry.

The conference report did not adopt the patent policy provisions of the Federal Nonnuclear Research and Development Act of 1974, but fashioned new provisions that, sad to say, favor industry and not the public sector.

Under the 1975 act, patents arising from a demonstration vest in the United States. Waivers of the U.S. rights to any such inventions are not obtained easily.

But the new patent policy provisions of section 103 encourage ERDA to give waivers of U.S. rights in a liberal manner.

Ninth. As noted by others, this provision could give some corporations tremendous competitive advantages with the aid of Federal guarantees that provide little real control to encourage and promote competition.

Tenth. Off-budget proposals such as this one are growing annually in Congress as a means of funding favored new or old programs rather than using direct appropriations. But they are still commitments of the United States and have an impact on our total fiscal picture. More than $160 billion in guarantees was outstanding as of last January, according to Chairman MAHON of the House Committee on Appropriations in floor remarks on December 1, 1975. He added that this sum has increased "considerably" this year. He cited several bills, including this $6 billion proposal, where it will be increased further. He said:

> All of these bills as originally reported would set up financial obligations in the billions of dollars that would bypass the appropriations process. This is not a matter of quarreling over committee jurisdiction but rather a matter of pointing out the need for greater fiscal control and discipline that can only result if there is one checkpoint and balancing of all the various spending possibilities that the authorizing committees are allowing.
>
> If these various authorizations continue to be passed without any requirement for a proper fiscal procedure, then these acts just simply add more and more billions of dollars to the uncontrollable spending of the Federal Government.
>
> We must get our fiscal house in order. It is not a matter of the Appropriations Committee gaining control of the spending it authorizes.
>
> Such legislation as is before the House now and that will be before the House during the next few weeks is a step in the wrong direction as far as fiscal discipline and improving our budgetary procedures are concerned.

Since then, the conference on H.R. 3474 included provisions which require Appropriation Committee action next year before any guarantee can ever be seriously negotiated or committed. Such fiscal control is helpful. But the fact remains that, once the Appropriations Committee gives the green light, ERDA will not be stopped.

The CBO adds:

> In addition to the expenditures which will appear in the Federal budget, there may be additional expenditures by the Federal government which will not appear on the budget. Whether or not there are "off-budget" expenditures depends almost exclusively on whether the guaranteed loans are taken up by the Federal Financing Bank (FFB) or by private lenders directly.
>
> The FFB, an "off-budget" agency, is authorized to purchase bonds guaranteed by any agency of the Federal government.
>
> The funds which FFB uses to purchase those bonds are raised through the sale of FFB bonds, either to private lenders or to the U.S. Treasury. FFB outlays and borrowing do not appear on the Federal budget, but FFB borrowing does count as part of the public debt. If the FFB borrows from the Treasury, the Treasury will in turn sell Treasury bonds on the private money market. The outlays and borrowing of the Treasury also do not appear on the budget, although again the public debt is increased by the amount of borrowing.
>
> Such a series of transactions could reduce the cost of synfuels, and hence the level of price supports, since industry would pay lower interest rates to the FFB than to private lenders. However, off-budget expenditures equal to the amount of loan guarantees could also result, thus converting loan guarantees into direct loans in all but name. Congress can write provisions into the law which would exclude the FFB from making loans to synfuels producers if such off-budget expenditures appear undesirable.

But the conferees did not do this. Indeed, the conferees structured section 103 to encourage use of the FFB.

Eleventh. The draft OMB task force report—volume II—concluded that the costs of this "information" program exceeded the benefits by $1.65 billion. The report evaluated consumer aspects, producer aspects, probabilities of an oil embargo and environmental and socioeconomic aspects. The conclusion was that even with a net cost of $1.65 billion the program should be undertaken.

The total expected benefit is highly uncertain. Cheaper synthetic fuels lead to higher total benefits because of the direct savings in energy costs due to the cheaper synthetic fuels and their influence on the price of competing foreign fuels. A strong international oil cartel, for example, would also tend to give greater weight to a synthetic fuel program as a benefit. Therefore, the conclusion the report made was that the commercialization program for synthetic fuels looks the best when the macroeconomic perspective is poor.

Twelfth. H.R. 3474 provides for a 90-day congressional committee review of each guarantee and an opportunity for disapproval of a project costing over $350 million by either House.

At first blush, that appears adequate. But it really is quite meaningless because it does not require a positive act by either House. It is a negative approach. Indeed, neither committee is required to do a thing during this 90-day period. History will show that there are very few instances where committees have taken to the floor disapproval resolutions unless the law or the House rules so require.

Thirteenth. The section does not provide adequate environmental controls concerning these plants. Both in oil shale and coal gasification the environmental risks are high.

In both areas, plants will be built on Federal or Indian lands where there are no meaningful reclamation laws.

The program will foster the strip-mining of 25,000 to 30,000 tons of coal per day in the case of one gasification plant which is to be located on the Navajo Reservation in New Mexico. In addition, that plant will use, or render unusable, more than 5,100 gallons of water per minute.

> The environmental impact statement on the proposed program makes clear that there are a number of uncertainties with respect to potential impact on the environment of synthetic fuels processes. While the proposal includes provisions for an Environmental Protection Strategy, the details of that strategy are not provided, nor is there yet a design for research to resolve environmental uncertainties. There is also no request for funds for such research.

Environmental issues for the development of synthetic fuels are broad and require the most serious intents at each stage of development. The preliminary draft environmental impact statement does raise serious problems which are wide ranging for synthetic fuel development: First, air quality is very likely to be degraded; second, material hazardous to human health would be reduced and the present state of technology makes it difficult to determine what the future effects would be; and third, a very high volume of water is required for coal gasification and for cleaning up the spent shale after it is retorted. Water is a scarce commodity in the regions of the country where large fossil fuel resources are located.

It is my understanding that the draft environmental impact statement which was initially prepared by the OMB task force and is now the responsibility of ERDA and Interior will go to the printers sometime before Christmas. My cursory reading of the statement in its present form discloses that there is no discussion of the alternatives of which would occur to the environment if 100 synthetic fuels plants were built. I would assume that these kinds of issues are being addressed before the draft goes to the printers.

After the draft environmental impact statement is printed, it will be circulated for comment. As Members of this body know, this means that the final report will not be ready for at least 6 months and probably for as long as 1 year.

The $6 billion loan guarantee program in H.R. 3474 is only one of a number of incentives which could be provided to increase production of synthetic fuels. Indeed, if the target is to create a potential for production by 1985—then this program is premature. I am fearful that it will create something which will only grow, as Government programs have a history of doing, and will cause us to subsidize inefficient, technically backward plants. It is interesting to note at this point that in a National Science Foundation study on an analysis of factors affecting private investment in new products, processes, and services prepared in October 1973 that the study concluded its summary by stating:

> Our research in this area disclosed once a financial assistance program has been established, it quickly gains a foothold and is extremely difficult to terminate. It is more characteristic, as is being demonstrated in the recent efforts to "consolidate" and "phase out" various education and welfare-type programs, for essentially the same programs to reappear under the jurisdiction of a different agency . . . or for the transfer of part of a program (and its personnel) to another agency.

Also according to that report, in 1974 insurance and guaranteed loans had grown to a total of $160 billion after a modest start with the agencies created in 1933—the Commodity Credit Corporation, and the Export-Import Bank in 1934.

Several related programs are floating around the legislative branch. The administration's proposed Energy Independence Authority, EIA, would have assets of $100 billion to assist private industry in financing energy investment, which could include synfuel investment. The Nuclear Fuel Assurance Act of 1975 (S. 2035 and H.R. 8401) would develop a privately owned uranium enrichment industry using some of the same devices proposed for synfuel commercialization. The proposed National Energy Production Board (S. 740) would have comprehensive authority to stimulate domestic energy production, and could consider synfuel investment in a context of total energy policy. Other energy policy issues, including oil price decontrol, changes in Federal leasing policies, stockpiling, and mandatory energy conservation, are also before the Congress.

The specific other objections that I have are that this program of loan guarantees will be using taxpayer funds to foster greater concentration in the energy industry. What we are doing is taking the risks out of big energy company operations and not enabling the public to share in the technology which is underwritten by the Public Treasury.

It was pointed out in our deliberations that the Nation's major oil companies already control over 85 percent of the refining capacity in the country and over 70 percent of proven domestic oil reserves. They also control large amounts of natural gas, coal, and uranium reserves.

Another thing about this program that disturbs me is that when the money is provided for certain private industries they become very entrenched. They have been funded to lobby for their own self-interest in the future.

The Government money is not only there for them to use, but it also becomes a cost of business in the course of their continued operations I know all of us have been lobbied very extensively, I might say fiercely, on this program.

I will be now positive and constructive and indicate three ways that we really ought to proceed, possible alternative course rather than loan guarantee approach.

The most successful synthetic program in the Nation was the synthetic rubber program during World War II when the Federal Government, at a cost of several hundred million dollars for the use of 59 plants, built the synthetic rubber plants, leased them to private industry, pulled all of the patents and came out with the most successful synthetic program the world has ever seen. In addition to that, in 1954, it disposed of these plants back to private industry.

There is a second possibility. In the Pastore-Jim Wright report on energy early this year, it was recommended that a National Energy Production Board that I mentioned earlier, which is along the lines of the War Production Board, should be set up.

There is a third way that we could proceed instead of through loan guarantees and that would be by such programs as the announcement which was made on the location of Coalcon, coal liquefaction development where the Government shares with industry 50–50 in a demonstration plant.

I think it is very, very crucial when we proceed in this area where we run the danger of concentrating economic power in the large energy corporations that we insure that the interest to the public, the consumers, and the taxpayers are protected.

There is simply no acceptable rationale for the loan guarantee program which attempts to address three obstacles to synthetic fuel production—risk, uneconomical plants, and the difficulty of capital formation. It does not address regulatory reforms, price supports, tax incentives or lease-back arrangement which was used with the successful lease plants. Indeed, I am deeply concerned that this convenience of loans which would give guarantees of the Government to the very industry which is well-known in this country as a profitmaker, may further reduce competition, increase the cost of production of fossil fuels and even adversely effect capital markets.

I also feel that a delay in commercialization until better technologies have been demonstrated than the World War II technologies referred by one industry as DC–3 technology will improve the long range success of synthetic fuels. Our goal in the Energy Research and Development Administration is to make these processes more efficient and more environmentally acceptable. That work must go forward. Loan guarantees will only demonstrate plants built at a time when environment was not an issue. Indeed, they were built by the Germans with prison labor and are all subsidized today around the world by other governments. Mr. Speaker, I am not interested in building a subsidized industry. I feel one of the biggest risks in scaling up these plants is that we are subsidizing inefficient, obsolete plants which is a fact well known even before they are built.

Let us look at at least two other aspects. Why does the administration plan include price supports and construction grants? As was pointed out by the Congressional Budget Office in its report included in the CONGRESSIONAL RECORD of December 9, 1974.

> Price supports serve two purposes: to subsidize the production of fuels for which market prices are expected to be too low to cover costs and an adequate profit, and to shift the risks of changes in the fuels market from private industry to the government.
>
> Price supports usually provide for payment by the government of a differential when prices fall below a predetermined support level. Unless provisions are also made for payments from profits when market prices exceed the support level, the expected cost of price supports will be larger than needed to achieve production targets. Without such payments, the government can at best hope to incur zero cost; but there always remains a chance that price supports will be required. The private firm, on the other hand, will never be worse off than it is when prices are at the support level; higher prices translate into higher profits. Sharing in these profits reduced expected cost to government while still guaranteeing the synfuel producer adequate profits at the support price.
>
> Non-recourse loan guarantees serve to reduce risks stemming from unforeseen technical difficulties or economic conditions for both investors and lenders. Construction grants serve to provide capital to regulated utilities which they might not be able to obtain at any price from private lenders. Early in the debate on commercialization programs, the Treasury Department indicated that it did not believe that last two incentives to be necessary or desirable.
>
> The recommended incentives may contain some hidden costs or unintended consequences, arising from competitive bidding, erosion of performance incentives, behavior of regulated industries, and distortion of private capital markets.

The CBO report also underlined my own concern about competitive bidding suggested by the administration for price supports. It concludes that the guarantees would create a fossil fuel industry dominated by a few large firms. Large firms have easier access to financial markets and would tend to submit lower bids than small firms. Further concentration in the energy industry may result, the CBO said.

CONFERENCE REPORT ON H.R. 7656

Mr. POAGE submitted the following conference report and statement on the bill (H.R. 7656) to enable cattle producers to establish, finance, and carry out a coordinated program of research, producer and consumer information, and promotion to improve, maintain, and develop markets for cattle, beef, and beef products:

Conference Report (H. Rept. No. 94–708)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7656) to enable cattle producers to establish, finance, and carry out a coordinated program of research, producer and consumer information, and promotion to improve, maintain, and develop markets for cattle, beef, and beef products, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 5, 18, and 19.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 6, 7, 8, 9, 11, 12, 13, 15, 16, and 17, and agree to the same.

Amendment numbered 10: That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows: On page 2, line 14, of the Senate engrossed amendments, strike out "never" and insert "not".

And the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: Strike out the matter proposed to be stricken by the Senate amendment, and on page 15, line 15, of the House engrossed bill, after the period insert the following: In any such referendum under this Act, a producer shall be permitted to vote in person or by mail as determined by the Secretary. Such producer shall submit his vote in a separate, sealed envelope provided by the Secretary, and shall submit separately a form, provided by the Secretary and completed by such person, containing information, which shall include the number of cattle such producer claims credit for during the representative period, to be used in determining the eligibility of the producer to vote in the referendum. Such vote and form shall be submitted to the locally designated official appointed by the Secretary to conduct the referendum. During the 10-day period (excluding Saturdays, Sundays, and holidays) beginning on the day immediately following the last day on which votes may be submitted, such local referendum agent shall afford any person (1) an opportunity to review, in the local offices of the Department, the eligibility criteria submitted by any producer who has voted in the referendum, and (2) an opportunity to submit to the local referendum agent a written statement challenging the eligibility of any producer who has voted in the referendum. Before counting the vote of any producer, the agent shall review the producer's eligibility to vote and any challenge thereto. If the local referendum agent determines that such producer is ineligible to vote, he shall notify such producer by registered or certified mail that his ballot has been marked "challenged". Ballots so cast shall be segregated and no such ballot shall be counted until the challenge has been removed. Such person whose ballot has been challenged may appeal to the Secretary within three days after he has been so notified. The Secretary shall decide within seven days after the appeal is perfected whether the producer was eligible to vote. If the appeal is denied, the Secretary shall notify the producer by registered or certified mail and the producer may within three days of the receipt of such notice appeal to the United States District Court in the district wherein he resides. The decision of such court shall be final and not appealable. If the Secretary decides that the producer was qualified to vote, the word "challenged" shall be stricken from the producer's ballot and the ballot shall be treated as if it had not been challenged. The Secretary shall insure that information with regard to voting and the challenging of ballots is generally publicized in the community. Prior to the holding of the referendum, sureties shall have posted a bond or other security, acceptable to the Secretary, in an amount which the Secretary shall determine to be sufficient to pay any expenses incurred for the conduct of the referendum. For the purpose of this section, the term "expenses incurred for the conduct of the referendum" shall include all costs incurred by the Government in connection therewith, except for salaries of Government employees.

And the Senate agree to the same.

W. R. Poage,
Bob Bergland,
Jerry Litton,
Tom Harkin,
Jack Hightower,
William C. Wampler,
Keith G. Sebelius,
Charles Thone,
Managers of the Part of the House.
Herman E. Talmadge,
George McGovern,
Dick Clark,
Patrick Leahy,
Robert Dole,
Milton R. Young,
Henry Bellmon,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7656) to enable cattle producers to establish, finance, and carry out a coordinated program of research, producer and consumer information, and promotion to improve, maintain, and develop markets for cattle, beef, and beef products, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

Except for clarifying, clerical, and necessary conforming changes, the differences between the two Houses and the adjustments made in the committee on conference are noted below. (Amendments numbered 5 and 19 are not dealt with below because they deal with clarifying, clerical, and necessary conforming changes.)

AMENDMENT NO. 1—FALSE OR MISLEADING CLAIMS OR STATEMENTS

The Senate amendment provided that no advertising, consumer education, or sales promotion programs established under the Act shall make use of (a) false or misleading claims in behalf of cattle, beef, or beef products, or (b) false or misleading statements with respect to quality, value, or use of any competing product.

The House bill did not contain a comparable provision.

The House receded.

AMENDMENTS NO. 2 AND 3—EXECUTIVE COMMITTEE OF THE BEEF BOARD

The House bill authorized the Beef Board to appoint an executive committee for the purposes of employing a staff and conducting routine business within the policies determined by the Beef Board.

The Senate amendments required the appointment of such an executive committee and provided that the members of the committee must be broadly representative of the industry.

The House receded.

AMENDMENT NO. 4 — NOMINATIONS TO THE BEEF BOARD BY GENERAL FARM ORGANIZATIONS

The Senate amendment authorized the Secretary to make appointments to the Beef Board from nominations submitted by general farm organizations.

The House bill did not contain a comparable provision. However, the House bill provided specific guidelines for the Secretary to follow in certifying organizations that may nominate members for the Beef Board. The report of the House Committee on Agriculture states that "the Committee intends that general farm organizations be considered for certification as well as cattlemen's organizations".

The House receded.

AMENDMENTS NO. 6, 7, AND 8—SUBMISSION OF ANNUAL BUDGETS OF THE BEEF BOARD TO THE HOUSE AND SENATE AGRICULTURE COMMITTEES

The Senate amendment deleted the requirement in the House bill that the annual budgets of the Beef Board be approved by the House and Senate Agriculture Committees. However, under the Senate amendments, copies of the budgets are to be submitted to such Committees as provided in the House bill.

The House receded.

AMENDMENT NO. 9—EXEMPTION OF CATTLE SLAUGHTERED FOR A PRODUCER'S HOME CONSUMPTION

The Senate amendment provided that cattle slaughtered for his own home consumption by a producer who has been the sole owner of such cattle shall not be subject to assessment.

The House bill did not contain a comparable provision.

The House receded.

AMENDMENT NO. 10—LIMITATION ON RATE OF ASSESSMENT

The Senate amendment provided that the aggregate rate of assessment shall "never" exceed one-half of 1 percent.

The House bill did not contain a comparable provision.

The committee of conference agreed to the Senate amendment but changed the word "never" to "not".

AMENDMENTS NO. 11, 12, 13, AND 14—CONDUCT OF REFERENDUM

The House bill provided for approval of the order by a referendum among "registered" cattle producers. Under the House bill, the Secretary is to register the producers not less than 10 days prior to the date of the referendum. The order to be effective must be approved by at least two-thirds of the producers voting in the referendum, and at least 50 percent of the registered producers must vote in such referendum.

The Senate amendments deleted the registration requirement of the House bill and otherwise modified the referendum provision. Under the Senate amendments, the order would not be effective unless it is approved by not less than two-thirds of the producers voting in the referendum, or by a majority of producers voting in the referendum if such majority owned not less than two-thirds of the cattle owned by producers voting in the referendum. Also, the Senate amendments deleted—

(a) the provision in the House bill requiring that eligible voter lists and ballots cast in the referendum be retained for a period of not less than 12 months after they are cast for audit and recount in the event the results of the referendum are challenged; and

(b) the provision in the House bill requiring that sureties post a bond or security prior to the holding of the referendum sufficient to pay the costs—such as printing ballots and preparation and mailing procedures of the referendum—should the order fail to gain the approval of the producers.

The committee of conference agreed to the Senate amendments with certain modifications. Under the language agreed to by the committee of conference, producers are required to submit evidence of their eligibility to vote at the time of voting and may vote either in person or by mail as determined by the Secretary. A detailed procedure is provided under which any person may challenge the eligibility of any person who has voted in the referendum. Persons whose ballots are challenged may appeal to the Secretary and, in the event of an adverse ruling, obtain judicial review in the United States district court. The Secretary is to insure that information with regard to voting and the challenging of ballots is generally publicized in the community.

In addition, under the language agreed to by the committee of conference, the Secretary is to take such precautions as he deems necessary to assure that the Government is reimbursed for its out-of-pocket expenses incident to the conduct of the referendum whether or not the order is approved. Such out-of-pocket expenses would include all costs incurred by the Government (except the salaries of Federal employees). The items of costs could include the following:

Cost of hearings

1. Travel for Federal employees.
2. Per diem for Federal employees.
3. Transcript.
4. Printing of record.
5. Facilities.

Cost of referendum

6. Preparation of ballots
7. Printing of ballots

AMENDMENTS NO. 15, 16, AND 17—PENALTY FOR VIOLATING ANY PROVISION OF THE ORDER OR FAILING TO COLLECT OR REMIT ANY ASSESSMENT

The House bill provided that any person violating any provision of an order or failing or refusing to collect or remit any assessment is liable for payment of a civil penalty of not less than $1,000 or more than $10,000 recoverable in a civil suit brought by the United States.

The Senate amendments retained the civil penalty provision but modified it to provide that—

(a) no penalty is applicable unless the violation of the order or the failure or refusal to collect or remit any assessment is "willful"; and

(b) the maximum penalty which may be collected shall not exceed $1,000.

The House receded. The penalty would, of course, be in addition to any assessment payable by the producer or slaughterer.

AMENDMENT NO. 18—CONSUMER REPRESENTATION ON RESEARCH AND PROMOTION BOARDS

The Senate bill added a new section to the House bill requiring that at least 25 percent of the members of the Beef Board, the Egg Board, the Cotton Board, the Potato Board, and the Wool Councils be persons appointed by the Secretary from nominations submitted by the membership of bona fide consumer organizations. The organizations must be knowledgeable and experienced in issues relating to food and nutrition policy, specially qualified to represent the interests of consumers, and have no interest directly or indirectly (a) in any food industry corporation or other organization or (b) in any person or entity engaged in the commercial production of the product or commodity promoted by the particular board or in sale, promotion, or distribution of such product or commodity.

The House bill did not contain a comparable provision.

The committee of conference agreed to delete the Senate amendment. However, the conferees intend that the Beef Board solicit consumer input—ideas, suggestions, and recommendations—on problems that need attention and projects that deserve priority. Accordingly, the conferees recommend that the Secretary appoint five consumer advisors to the Beef Board. Such advisors shall be persons determined by the Secretary to be knowledgeable in nutrition and food. It is expected that the Beef Board shall reimburse the consumer advisors for the reasonable expenses they incur in performing their duties as advisors.

W. R. Poage,
Bob Bergland,
Jerry Litton,
Tom Harkin,
Jack Hightower,
William C. Wampler,
Keith G. Sebelius,
Charles Thone,
Managers on the Part of the House.
Herman E. Talmadge,
George McGovern,
Dick Clark,
Patrick Leahy,
Robert Dole,
Milton R. Young,
Henry Bellmon,
Managers on the Part of the Senate.

CONFERENCE REPORT ON SENATE JOINT RESOLUTION 121

Mr. JONES of Tennessee submitted the following conference report and statement on the joint resolution (S.J. Res. 121) to provide for quarterly adjustments in the support price for milk:

CONFERENCE REPORT (H. REPT. No. 94–709)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (S.J. Res. 121) to provide for quarterly adjustments in the support price for milk, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1 and 2, and agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the joint resolution, and agree to the same.

Ed Jones,
Joseph P. Vigorito,
David R. Bowen,
Richard Nolan,
Alvin Baldus,
John Krebs,
Matthew McHugh,
Bob Bergland,
William C. Wampler,
James M. Jeffords,
Richard Kelly,
Managers on the Part of the House.
Herman E. Talmadge,
Hubert H. Humphrey,
George McGovern,
Walter D. Huddleston,
Patrick J. Leahy,
Robert Dole,
Milton R. Young,
Carl T. Curtis,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE ON CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the joint resolution (S.J. Res. 121) to provide for quarterly adjustments in the support price for milk, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

AMENDMENT NO. 1—TERMINATION DATE

The Senate resolution provided that the quarterly adjustment authority in the resolution shall terminate on March 31, 1979. The House amendment changed this termination date to March 31, 1978, in order that this legislation would again be considered when new farm legislation involving other major commodities is considered.

The Senate receded.

AMENDMENT NO. 2—MILK SUPPORT PRICE

The Senate resolution provided only for quarterly adjustments in the support price for milk. The House amendment added a requirement that the support price for milk shall be established at 85 per centum of the parity price therefor.

The Senate receded.

TITLE OF THE RESOLUTION

The House amendment also changed the title of the resolution to reflect the provision added by House amendment numbered 2.

The Senate receded.

Ed Jones,
Joseph P. Vigorito,
David R. Bowen,
Richard Nolan,
Alvin Baldus,
John Krebs,
Matthew McHugh,
Bob Bergland,
William C. Wampler,
James M. Jeffords,
Richard Kelly,
Managers on the Part of the House.
Herman E. Talmadge,
Hubert H. Humphrey,
George McGovern,
Walter D. Huddleston,
Patrick J. Leahy,
Robert Dole,
Milton R. Young,
Carl T. Curtis,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 9861

Mr. MAHON submitted the following conference report and statement on the bill (H.R. 9861) "making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes":

CONFERENCE REPORT (H. REPT. 94–710)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9861) "making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 15, 16, 24, 36, 48, 55, 70, 76, 81, 87, 88, 89, 91, 92, 93, 94, 96, 99, and 100.

That the House recede from its disagreement to the amendments of the Senate numbered 17, 18, 22, 26, 30, 32, 33, 37, 39, 44, 46, 47, 50, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 68, 90, and 95, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$8,180,347,000"; and the Senate agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,064,635,000"; and the Senate agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$5,722,300,000"; and the Senate agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,451,668,000"; and the Senate agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,806,377,000"; and the Senate agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$460,117,000"; and the Senate agree to the same.

Amendment numbered 7: That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$7,251,524,000"; and the Senate agree to the same.

Amendment numbered 8: That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,776,677,000"; and the Senate agree to the same.

Amendment numbered 9: That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$468,879,000"; and the Senate agree to the same.

Amendment numbered 10: That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$165,299,000"; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$200,035,000"; and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$59,525,000"; and the Senate agree to the same.

Amendment numbered 13: That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$70,652,000"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$28,082,000"; and the Senate agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,779,000,000"; and the Senate agree to the same.

Amendment numbered 21: That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$8,069,400,000"; and the Senate agree to the same.

Amendment numbered 23: That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$497,110,000"; and the Senate agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$7,498,679,000"; and the Senate agree to the same.

Amendment numbered 27: *That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows:* In lieu of the matter stricken and inserted by said amendment, insert the following:

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments and the Defense Civil Preparedness Agency), as authorized by law; as follows: for the Secretary of Defense activities, $787,753,000, of which $515,041,000 shall be available only for the Civilian Health and Medical Program of the Uniformed Services, and $211,391,000 shall be available only for Overseas Dependents Education; for the organization of the Joint Chiefs of Staff, $11,599,000; for the Office of Information for the Armed Forces, $16,242,000; for the Defense Contract Audit Agency, $68,123,000; for the Defense Investigative Service, $25,397,000; for the Defense Mapping Agency, $185,032,000; for the Defense Nuclear Agency, $22,509,000; for the Uniformed Services University of the Health Sciences, $3,981,000; for the Defense Supply Agency, $789,654,000; and for intelligence and communications activities, $565,141,000; in all: $2,475,431,000: *Provided*, That of the total amount of this appropriation, not to exceed $9,208,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided further*, That not less than $26,000,000 of the total amount of this appropriation shall be available only for the maintenance of real property facilities: *Provided further*, That the Secretary of Defense may transfer up to 3 per centum of the amount of any subdivision of this appropriation to any other subdivision of this appropriation, but no subdivision may thereby be increased by more than 5 per centum and the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

For "Operation and maintenance, Defense agencies" for the period July 1, 1976, through September 30, 1976, as follows: for the Secretary of Defense activities, $195,365,000, of which $130,358,000 shall be available only for the Civilian Health and Medical Program of the Uniformed Services, and $50,018,000 shall be available only for Overseas Dependents Education; for the organization of the Joints Chiefs of Staff, $3,057,000; for the Office of Information for the Armed Forces, $4,097,000; for the Defense Contract Audit Agency, $17,342,000; for the Defense Investigative Service, $6,144,000; for the Defense Mapping Agency, $46,160,000; for the Defense Nuclear Agency, $5,603,000; for the Uniformed Services University of the Health Sciences, $1,254,000; for the Defense Supply Agency, $201,555,000; for intelligence and communications activities, $147,148,000; in all: $627,725,000, of which not to exceed $1,964,500 can be used for emergencies and extraordinary expenses: *Provided*, That the Secretary of Defense may transfer up to 3 per centum of the amount of any subdivision of this appropriation to any other subdivision of this appropriation but no subdivision may thereby be increased by more than 5 per centum and the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

And the Senate agree to the same.

Amendment numbered 28: That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$310,710,000"; and the Senate agree to the same.

Amendment numbered 29: That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$20,000,000"; and the Senate agree to the same.

Amendment numbered 31: That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$284,425,000"; and the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$322,430,000"; and the Senate agree to the same.

Amendment numbered 35: That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$81,190,000"; and the Senate agree to the same.

Amendment numbered 38: That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$697,100,000"; and the Senate agree to the same.

Amendment number 40: That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

ARMY STOCK FUND

For the Army stock fund, $20,000,000.

And the Senate agree to the same.

Amendment numbered 41: That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

NAVY STOCK FUND

For the Navy stock fund, $10,000,000.

And the Senate agree to the same.

Amendment numbered 42: That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

MARINE CORPS STOCK FUND

For the Marine Corps stock fund, $2,000,000.

And the Senate agree to the same.

Amendment numbered 43: That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

AIR FORCE STOCK FUND

For the Air Force stock fund, $15,000,000.

And the Senate agree to the same.

Amendment numbered 45: That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY

For the necessary expenses, in accordance with law, for construction, equipment, and maintenance of rifle ranges; the instruction of citizens in marksmanship; the promotion of rifle practice; and the travel of rifle teams, military personnel, and individual attending regional, national, and international competitions; $233,000, of which amount not to exceed $7,500 shall be available for incidental expenses of the National Board; and from other funds provided in this Act, not to exceed $280,000 worth of ammunition may be issued under authority of title 10, United States Code, section 4311.

And the Senate agree to the same.

Amendment numbered 51: That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$912,300,000"; and the Senate agree to the same.

Amendment numbered 52: That the House recede from its disagreement to the amendment of the Senate numbered 52, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,172,600,000"; and the Senate agree to the same.

Amendment numbered 54: That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$321,700,000"; and the Senate agree to the same.

Amendment numbered 66: That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,829,700,000"; and the Senate agree to the same.

Amendment numbered 67: That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$464,500,000"; and the Senate agree to the same.

Amendment numbered 69: That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$3,933,700,000, of which $251,200,000 shall be available to fully fund only four E-3A Airborne Warning and Control System (AWACS) aircraft"; and the Senate agree to the same.

Amendment numbered 71: That the House recede from its disagreement to the amendment of the Senate numbered 71, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,723,900,000"; and the Senate agree to the same.

Amendment numbered 72: That the House recede from its disagreement to the amendment of the Senate numbered 72, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$233,000,000"; and the Senate agree to the same.

Amendment numbered 73: That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,046,400,000"; and the Senate agree to the same.

Amendment numbered 74: That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$353,000,000"; and the Senate agree to the same.

Amendment numbered 77: That the House recede from its disagreement to the amendment of the Senate numbered 77, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,948,823,000"; and the Senate agree to the same.

Amendment numbered 78: That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$504,452,000"; and the Senate agree to the same.

Amendment numbered 79: That the House recede from its disagreement to the amendment of the Senate numbered 79, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert $3,238,390,000"; and the Senate agree to the same.

Amendment numbered 80: That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert $818,722,000"; and the Senate agree to the same.

Amendment numbered 82: That the House recede from its disagreement to the amendment of the Senate numbered 82, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$901,014,000"; and the Senate agree to the same.

Amendment numbered 84: That the House recede from its disagreement to the amendment of the Senate numbered 84, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$146,550,000"; and the Senate agree to the same.

Amendment numbered 85: That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$211,391,000"; and the Senate agree to the same.

Amendment numbered 86: That the House recede from its disagreement to the amendment of the Senate numbered 86, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$50,018,000"; and the Senate agree to the same.

Amendment numbered 97: That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "40-mile"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 19, 49, 53, 75, 83, 98, and 101.

GEORGE H. MAHON,
ROBERT L. F. SIKES,
DANIEL J. FLOOD,
JOSEPH P. ADDABBO,
(except as to amendments 49, 50, 69, 79, and 81),
JOHN J. MCFALL,
JOHN J. FLYNT, Jr.,
BILL CHAPPELL,
BILL D. BURLISON,
JACK EDWARDS,
J. K. ROBINSON,
JACK KEMP,
ELFORD A. CEDERBERG,
Managers on the Part of the House.

JOHN L. MCCLELLAN,
JOHN C. STENNIS,
JOHN O. PASTORE,
WARREN G. MAGNUSON,
GALE W. MCGEE,
JOSEPH M. MONTOYA,
DANIEL K. INOUYE,
STUART SYMINGTON,
MILTON R. YOUNG,
ROMAN L. HRUSKA,
CLIFFORD P. CASE,
HIRAM L. FONG,
TED STEVENS,
RICHARD S. SCHWEIKER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9861), making appropriations for the Department of Defense for the fiscal year ending June 30, 1976 and the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

Military personnel, Army, 1976

Amendment No. 1.—Appropriates $8,180,347,000 instead of $8,162,738,000 as proposed by the House and $8,185,666,000 as proposed by the Senate

The conferees are in agreement that the specific changes to the request made by the House and agreed to by the Senate are to be accomplished by the Department of the Army. In addition, the conferees reached agreement with respect to the following areas of difference as explained below:

1. *Recruiting.*—The conferees agreed to restore $5,500,000 to the $684 million provided by the House for pay of military personnel. This agreement provides a total of $73.9 million for pay of military personnel assigned to the Army Recruiting Command exclusive of fiscal year 1976 pay raises. Personnel assigned to limit the choice recruiting, Armed Forces Entrance and Examining Stations and medical recruiting programs are not included in the estimate. This is an item of special interest to the Committees.

2. *Enlistment Bonus.*—The House receded to the Senate on this matter restoring $3,000,000. The conferees also agreed that the $53,000,000 provided should not be considered a ceiling and the Army may, if it becomes necessary, apply additional funds from within total enacted resources. However, the appropriate Committees will be notified if it is necessary to increase these bonuses beyond $53,000,000.

3. *Enlisted Separation Pay.*—The Senate receded to the House, restoring $6,140,000 to the request.

4. *Enlisted Grade Enhancement.*—The conferees agreed to a reduction of $6,233,000 instead of a reduction of $3,233,000 as proposed by the Senate and $9,233,000 as proposed by the House. The bill provides approximately $12.3 million to increase the average grade level of Army enlisted personnel.

5. *Counselors.*—The conferees agreed to the reduction of $2,917,000 as proposed by the Senate instead of a reduction of $3,500,000 as proposed by the House. The Army is directed to provide a report by February 1, 1976 detailing the positions that will be eliminated to comply with the reduction.

6. *Telecommunications Staffing.*—The conferees agreed to restore the $2,470,000 deleted by the House.

7. *Subsistence.*—The conferees agreed to the reduction of $6,122,000 as proposed by the House. A ceiling of $226.4 million has been established for procurement of subsistence in kind.

8. *Enlisted Clothing Allowance.*—The conferees agreed to a reduction of $7,055,000 instead of a reduction of $9,708,000 as proposed by the House and $4,400,000 as proposed by the Senate. A total of $119.8 million has been provided for enlisted clothing allowance.

9. *Permanent Change of Station Travel.*—The conferees agreed to a reduction of $12,500,000 instead of a reduction of $16,000,000 as proposed by the House and $9,000,000 as proposed by the Senate. A total of $520 million has been provided for permanent change of station travel, which is considered an item of special interest to the Committees.

10. *Safeguard ABM System.*—The conferees agreed to restore the $590,000 deleted by the House. The conferees are in agreement that military personnel assigned to the program, with the exception of those needed to operate the Perimeter Acquisition Radar and associated equipments, will be reassigned at the earliest possible opportunity. Other details regarding the termination of this program are addressed in Title III, Operation and Maintenance, Army.

11. *Postal Services.*—The conferees agreed to the Senate reduction of $1,067,000 for postal services. The conferees are in agreement that the Department of Defense should transfer stateside military postal operations to the United States Postal Service at the earliest practical time, with a view toward completing such transfer by July 1, 1976.

12. *Strength Reduction.*—The conferees agreed to a reduction of $2,625,000 instead of $5,250,000 as proposed by the Senate. This reduction is to be applied against total Army strength in such a manner so as not to disrupt the orderly transition to the new 16 division force structure.

Military Personnel, Army, 197T

Amendment No. 2.—Appropriates $2,064,635,000 instead of $2,062,994,000 as proposed by the House and $2,064,644,000 as proposed by the Senate.

1. *Recruiting.*—The conferees agreed to restore $1,156,000 to the $17.1 million provided by the House for pay of recruiting personnel. The $18.2 million provided in the bill is $600,000 less than the amount proposed by the Senate.

2. *Enlistment Bonus.*—The House conferees receded, providing a total of $15,700,000 for enlistment bonuses.

3. *Enlisted Separation Pay.*—The conferees agreed to a reduction of $7,000,000 instead of a reduction of $3,000,000 as proposed by the House and $10,000,000 as proposed by the Senate.

4. *Enlisted Grade Enhancement.*—The conferees agreed to a reduction of $1,036,000 as proposed by the Senate.

5. *Subsistence.*—The conferees agreed to a reduction of $1,535,000 as proposed by the House. A total of $57.3 million is included in the bill for subsistence in kind.

6. *Enlisted Clothing Allowance.*—The conferees agreed to a reduction of $1,635,000 as proposed by the House. A total of $33.2 million is included in the bill for enlisted clothing allowances.

7. *Permanent Change of Station Travel.*—The conferees agreed to a reduction of $11,000,000 instead of a reduction of $14,000,000 as proposed by the House and $8,000,000 as proposed by the Senate. The bill provides a total of $153,600,000 for PCS travel during the transition quarter.

8. *Safeguard ABM System.*—The conferees agreed to restore the $504,000 deleted by the House.

9. *Postal Services.*—The conferees agreed to a reduction of $534,000 as proposed by the Senate.

10. *Strength Reduction*—The conferees agreed to a general strength reduction of $1,985,000 instead of the $3,970,000 reduction proposed by the Senate.

Military personnel, Navy, 1976

Amendment No. 3.—Appropriates $5,722,300,000 instead of $5,721,114,000 as proposed by the House and $5,722,484,000 as proposed by the Senate.

The conferees are in agreement that the specific changes to the request made by the House and agreed to by the Senate are to be accomplished by the Navy Department. In addition, the conferees reached agreement with respect to the following areas of difference as explained below:

1. *Recruiting.*—The conferees agreed to a reduction of $5,475,000 instead of $8,200,000 as proposed by the House and $2,750,000 as proposed by the Senate. This agreement provides a total of $48 million for pay of military personnel assigned to the Navy Recruiting Command exclusive of fiscal year 1976 pay raises. This is an item of special interest to the Committees.

2. *Graduate Training.*—The conferees agreed to a reduction of $1,232,000 as proposed by the Senate instead of a reduction of $2,310,000 as proposed by the House.

3. *Enlisted Separation Pay.*—The conferees agreed to a reduction of $7,990,000 instead of a reduction of $6,000,000 as proposed by the House and a reduction of $11,990,000 as proposed by the Senate.

4. *Counselors.*—The conferees agreed to a reduction of $2,043,000 instead of a reduction of $3,500,000 as proposed by the House and $583,000 as proposed by the Senate. The Navy is directed to provide a report by February 1, 1976 detailing the positions that will be eliminated to comply with the reduction.

5. *Telecommunications Staffing.*—The conferees agreed to restore the $1,970,000 deleted by the House.

6. *Subsistence.*—The conferees agreed to a reduction of $5,270,000 as proposed by the House instead of a reduction of $3,261,000 as proposed by the Senate. A ceiling of $201.1 million has been established for procurement of subsistence in kind.

7. *Enlisted Grade Enhancement.*—The conferees agreed to a reduction of $3,500,000 as proposed by the Senate instead of a reduction of $5,500,000 as proposed by the House.

8. *Postal Services.*—The conferees agreed to the Senate reduction of $54,000. The conferees are in agreement that the Department of Defense should transfer stateside military postal operations to the United States Postal Service at the earliest practical time, with a view toward completing such transfer by July 1, 1976.

9. *Bachelor Officer Quarters and Messes.*—The conferees agreed to a reduction of $6,000,000 instead of a reduction of $8,010,000 as proposed by the Senate. The conferees have also agreed that the changeover from appropriated funding to reimbursement for enlisted services at BOQ's and Commissioned Officer Messes (closed) dining facilities need not take place by January 1, 1976 as proposed by the Senate. A schedule for the changeover has not been established, but the conferees expect the Navy to proceed as rapidly as good management practices will permit.

Military personnel, Navy, 197T

Amendment No. 4.—Appropriates $1,451,668,000 instead of $1,451,568,000 as proposed by the House and $1,451,878,000 as proposed by the Senate.

1. *Recruiting.*—The conferees agreed to restore $600,000 to the $11.6 million provided by the House for pay of recruiter personnel. The $12.2 million provided in the bill is $622,000 less than the amount proposed by the Senate.

2. *Reenlistment Bonus.*—The conferees agreed to a reduction of $2,000,000 as proposed by the Senate. This will provide a total of $18.0 million for reenlistment bonuses during the transition period.

3. *Graduate Training.*—The conferees agreed to a reduction of $416,000 as proposed by the Senate instead of a reduction of $866,000 as proposed by the House.

4. *Full-time Enlisted Training.*—The conferees agreed to a reduction of $364,000 as proposed by the Senate instead of a reduction of $714,000 as proposed by the House. The conferees also agreed that new entrance into full-time precommissioning education programs will be permitted so long as the Navy is fully utilizing all available ROTC graduates, is not forcing officers in the grades of O–3 or below to leave the service, nor asking these officers to volunteer for early release. New entrance into full-time degree completion programs will be limited to personnel training to fill positions which require a college degree. The conferees also agreed that tuition subsidies will no longer be provided as proposed by the Senate.

5. *Enlisted Separation Pay.*—The conferees agreed to a reduction of $2,500,000 instead of a reduction of $1,500,000 as proposed by the House and a reduction of $4,000,000 as proposed by the Senate.

6. *Enlisted Grade Enhancement.*—The conferees agreed to a reduction of $138,000 as proposed by the Senate instead of a reduction of $263,000 as proposed by the House.

7. *Counselors.*—The conferees agreed to a reduction of $900,000 instead of a reduction of $1,500,000 as proposed by the House and $300,000 as proposed by the Senate.

8. *Telecommunications Staffing.*—The conferees agreed to restore the $985,000 deleted by the House.

9. *Subsistence.*—The conferees agreed to a reduction of $1,325,000 proposed by the House instead of a reduction of $815,000 as proposed by the Senate. A total of $50.2 million is provided for subsistence in kind.

10. *Bachelor Officer Quarters and Messes.*—The conferees agreed to the reduction of $4,005,000 as proposed by the Senate.

11. *Postal Services.*—The conferees agreed to the reduction of $27,000 as proposed by the Senate.

Military personnel, Marine Corps, 1976

Amendment No. 5.—Appropriates $1,806,377,000 instead of $1,802,843,000 as proposed by the House and $1,810,335,000 as proposed by the Senate.

The conferees are in agreement that the specific changes to the request made by the House and agreed to by the Senate are to be accomplished by the Marine Corps. In addition, the conferees reached agreement with respect to the following differences as explained below:

1. *Recruiting.*—The conferees agreed to a reduction of $2,100,000 instead of a reduction of $3,700,000 as proposed by the House and $1,237,000 as proposed by the Senate. This agreement provides a total of $22.8 million for pay of military personnel assigned to Marine Corps recruiting activities exclusive of fiscal year 1976 pay raises.

2. *Enlistment Bonus.*—The conferees agreed to a reduction of $1,000,000 as proposed by the Senate instead of a reduction of $1,700,000 as proposed by the House. The agreement provides a total of $6.2 million for enlistment bonuses during fiscal year 1976. The Marine Corps can utilize additional funds for this purpose from within total available resources.

3. *Full-Time Enlisted Training.*—The conferees agreed to restore the $200,000 reduction proposed by the House. The conferees also agreed that new entrance into full-time precommissioning education programs will be permitted so long as the Marine Corps

is fully utilizing all available ROTC graduates, is not forcing officers in the grades of 03 or below to leave the service, nor asking these officers to volunteer for early release. New entrance into full-time degree completion programs will be limited to personnel training to fill positions which require a college degree. The conferees also agreed that tuition subsidies will no longer be provided as proposed by the Senate.

4. *Enlisted Separation Pay.*—The conferees agreed to a reduction of $3,000,000 as proposed by the House instead of a reduction of $2,650,000 as proposed by the Senate.

5. *Telecommunications Staffing.*—The conferees agreed to restore the $478,000 deleted by the House.

6. *Subsistence.*—The conferees agreed to a reduction of $1,595,000 as proposed by the House instead of a reduction of $1,025,000 as proposed by the Senate. A ceiling of $56.3 million has been established for procurement of subsistence in kind.

E. *Marginal Performer Discharges.*—The conferees agreed that a reduction of $2,500,000 instead of a reduction of $4,500,000 as proposed by the House, is appropriate.

8. *Postal Services.*—The conferees agreed to the Senate reduction of $1,119,000. The conferees are in agreement that the Department of Defense should transfer stateside military postal operations to the United States Postal Service at the earliest practical time, with a view toward completing such transfer by July 1, 1976.

9. *Bachelor Officer Quarters and Messes.*—The conferees agreed to a reduction of $325,000 instead of a reduction of $650,000 as proposed by the Senate. The conferees are also in agreement that the changeover from appropriated funding to reimbursement for enlisted services at BOQ's and Commissioned Officer Messes (closed) dining facilities need not take place by January 1, 1976 as proposed by the Senate. A schedule for the changeover has not been established, but the conferees expect the Marine Corps to proceed as rapidly as good management practices will permit.

Military personnel, Marine Corps, 197T

Amendment No. 6.—Appropriates $460,117,000 instead of $459,863,000 as proposed by the House and $460,190,000 as proposed by the Senate.

1. *Recruiting.*—The conferees agreed to a reduction of $608,000 instead of a reduction of $925,000 as proposed by the House and $315,000 as proposed by the Senate. This agreement provides a total of $5.6 million for pay of military personnel assigned to Marine Corps recruiting activities, exclusive of future pay raises. This item is of special interest to the Committees.

2. *Enlistment Bonus.*—The conferees agreed to a reduction of $200,000 as proposed by the Senate instead of a reduction of $500,000 as proposed by the House.

3. *Reenlistment Bonus.*—The conferees agreed to a reduction of $600,000 as proposed by the Senate instead of a reduction of $1,200,000 as proposed by the House.

4. *Full-Time Enlisted Training.*—The conferees agreed to restore $80,000 as proposed by the Senate.

5. *Enlisted Separation Pay.*—The conferees agreed to a reduction of $1,144,000 instead of a reduction of $750,000 as proposed by the House and $1,544,000 as proposed by the Senate.

6. *Telecommunications Staffing.*—The conferees agreed to restore the $239,000 deleted by the House.

7. *Subsistence.*—The conferees agreed to a reduction of $436,000 as proposed by the House instead of a reduction of $256,000 as proposed by the Senate. A total of $18.1 million is provided in the bill for subsistence in kind.

8. *Bachelor Officer Quarters and Messes.*—The conferees agreed to the reduction of $325,000 as proposed by the Senate.

9. *Postal Services.*—The conferees agreed to the reduction of $563,000 as proposed by the Senate.

Military personnel, Air Force, 1976

Amendment No. 7.—Appropriates $7,251,524,000 instead of $7,262,661,000 as proposed by the House, and $7,244,884,000 as proposed by the Senate.

The conferees are in agreement that the specific changes to the request made by the House and agreed to by the Senate are to be accomplished by the Department of the Air Force. In addition, the conferees reached agreement with respect to the following areas of difference as explained below:

1. *Recruiting.*—The conferees agreed to a reduction of $3,700,000 instead of a reduction of $5,500,000 as proposed by the House and a reduction of $2,000,000 as proposed by the Senate. This item is of special interest to the Committee.

2. *Reimbursable Collections (Foreign Pilot Training).*—The conferees agreed that the Air Force should collect $18,750,000 in this appropriation from foreign governments for the training of their pilots. The Senate had assumed collection of only $11,050,000.

3. *Graduate Training.*—The conferees agreed to a reduction of $1,750,000 as proposed by the Senate instead of a reduction of $2,790,000 as proposed by the House.

4. *Full-Time Enlisted Training.*—The conferees agreed to a reduction of $3,000,000 as proposed by the House instead of a reduction of $1,500,000 as proposed by the Senate. The conferees are in agreement that the Air Force should not allow additional personnel to enter into the Air Force's precommissioning education training program so long as it is forcing officers in the grade of 0-3 and below to leave the service, or asking them to volunteer for early release, or is not fully utilizing available ROTC graduates.

5. *Enlisted Separation Pay.*—The conferees agreed to a reduction of $25,000,000 as proposed by the House instead of a reduction of $27,740,000 as proposed by the Senate.

6. *Counselors.*—The conferees agreed to a reduction of $2,100,000 instead of a reduction of $3,500,000 as proposed by the House and $700,000 as proposed by the Senate. The Air Force is directed to provide a report by February 1, 1976 detailing the positions that will be eliminated to comply with the reduction.

7. *Telecommunications Staffing.*—The conferees agreed to restore the $303,000 deleted by the House.

8. *Subsistence.*—The conferees agreed to a reduction of $2,126,000 as proposed by the House instead of a reduction of $1,326,000 as proposed by the Senate. A ceiling of $78.5 million has been established for procurement of subsistence in kind.

9. *Postal Services.*—The conferees agreed to a reduction of $1,935,000 as proposed by the Senate. The conferees are in agreement that the Department of Defense should transfer stateside military postal operations to the United States Postal Service at the earliest practical time, with a view toward completing such transfer by July 1, 1976.

10. *Aerial Port Staffing.*—The conferees agreed to the reduction of $7,272,000 as proposed by the Senate.

11. *Strategic Airlift Crew Ratios.*—The conferees agreed to the reduction of $1,056,000 as proposed by the Senate.

12. *Tactical Fighter Crew Ratios.*—The conferees agreed to a reduction of $5,000,000 instead of a reduction of $22,000,000 as proposed by the Senate.

13. *Civilian Substitution.*—The conferees agreed to a reduction of $417,000 as proposed by the Senate.

Military personnel, Air Force, 197T

Amendment No. 8.—Appropriates $1,776,677,000 instead of $1,777,928,000 as proposed by the House and $1,764,481,000 as proposed by the Senate.

1. *Recruiting.*—The conferees agreed to a reduction of $875,000 instead of a reduction of $1,375,000 as proposed by the House and $475,000 as proposed by the Senate. This agreement provides a total of $7.5 million for pay of military personnel assigned to Air Force recruiting activities during the transition period.

2. *Reenlistment Bonus.*—The conferees agreed to a reduction of $1,800,000 as proposed by the Senate instead of a reduction of $4,500,000 as proposed by the House.

3. *Reimbursable Collections (Foreign Pilot Training).*—The conferees agreed to a reduction of $4,700,000 as proposed by the House instead of a reduction of $3,100,000 as proposed by the Senate.

4. *Graduate Training.*—The conferees agreed to a reduction of $492,000 as proposed by the Senate instead of a reduction of $1,046,000 as proposed by the House.

5. *Full-Time Enlisted Training.*—The conferees agreed to a reduction of $750,000 as proposed by the House instead of a reduction of $380,000 as proposed by the Senate.

6. *Enlisted Separation Pay.*—The conferees agreed to a reduction of $5,000,000 as proposed by the House instead of a reduction of $15,556,000 as proposed by the Senate.

7. *Enlisted Grade Levels.*—The conferees agreed to a reduction of $1,210,000 as proposed by the Senate instead of a reduction of $1,910,000 as proposed by the House.

8. *Counselors.*—The conferees agreed to a reduction of $600,000 as proposed by the Senate instead of a reduction of $1,500,000 as proposed by the House.

9. *Telecommunications Staffing.*—The conferees agreed to restore the $76,000 deleted by the House.

10. *Subsistence.*—The conferees agreed to a reduction of $521,000 as proposed by the House instead of a reduction of $331,000 as proposed by the Senate. A total of $19 million is provided for subsistence in kind.

11. *Postal Services.*—The conferees agreed to a reduction of $972,000 as proposed by the Senate.

12. *Aerial Port Staffing.*—The conferees agreed to a reduction of $3,636,000 as proposed by the Senate.

13. *Strategic Airlift Crew Ratios.*—The conferees agreed to a reduction of $528,000 as proposed by the Senate.

14. *Tactical Fighter Crew Ratios.*—The conferees agreed to a reduction of $1,300,000 instead of a reduction of $5,500,000 as proposed by the Senate.

15. *Civilian Substitution.*—The conferees agreed to the reduction of $245,000 as proposed by the Senate.

Reserve personnel, Army, 1976

Amendment No. 9.—Appropriates $468,879,000 instead of $468,700,000 as proposed by the House and $469,357,000 as proposed by the Senate.

1. *Commercial Air Transportation.*—The conferees agreed to a reduction of $1,550,000 instead of a reduction of $3,100,000 as proposed by the House. The amount provided is not to be considered a ceiling. Resources otherwise available may be utilized for commercial air transportation if adequate support cannot be obtained from the Military Airlift Command.

2. *Pay Group D.*—The conferees agreed to a reduction of $500,000 as proposed by the House instead of a reduction of $200,000 as proposed by the Senate. House guidance with respect to using only volunteers to fill Pay Group D positions will be adhered to by the Army Reserve.

3. *Conversion Pay Group A to B.*—The conferees agreed to a reduction of $1,371,000 instead of a reduction of $2,743,000 as proposed by the Senate. The conferees are also in agreement that instead of converting 10 percent of Pay Group A positions to Pay Group B or its equivalent, a goal of 5 percent is appropriate. It is agreed that a smaller number (less than 5 percent) could be placed in even lower pay groups or that certain low skill positions could be deleted from the Ready Reserve to provide the required savings.

Reserve personnel, Army, 197T

Amendment No. 10.—Appropriates $165,299,000 instead of $168,120,000 as proposed by the House and $164,527,000 as proposed by the Senate.

1. *Authorized Strength Increases.*—The conferees agreed not to add additional funds for authorized strength increases as proposed by the House. Accordingly, the $3,000,000 addition made by the House has been deleted.

2. *Commercial Air Transportation.*—The conferees agreed to a reduction of $600,000 instead of a reduction of $1,000,000 as proposed by the House and $200,000 as proposed by the Senate. The conferees are also in agreement that the funds provided for commercial air transportation are not to be considered a ceiling but that additional funds can be used from within the total available if the Reserve Component finds that the Military Airlift Command cannot totally fulfill its transportation requirements.

3. *School Training.*—The conferees agreed to a reduction of $900,000 as proposed by the Senate instead of a reduction of $1,700,000 as proposed by the House.

4. *Special Training.*—The conferees agreed to a reduction of $430,000 as proposed by the Senate instead of a reduction of $780,000 as proposed by the House.

5. *Pay Group D.*—The conferees agreed to the reduction of $200,000 as proposed by the House.

6. *Conversion Pay Group A to B.*—The conferees agreed to a reduction of $1,371,000 instead of a reduction of $2,743,000 as proposed by the Senate.

Reserve personnel, Navy, 1976

Amendment No. 11.—Appropriates $200,035,000 instead of $204,390,000 as proposed by the House and $189,450,000 as proposed by the Senate.

1. *Authorized Strength Increases.*—The conferees agreed to provide funding for an average strength of 102,000 personnel. The amount provided is $10,000,000 more than the level provided by the Senate, but $4,000,000 less than that proposed by the House.

2. *Coastal and River Squadrons.*—The conferees agreed to restore the $230,000 deleted by the House.

3. *Commercial Air Transportation.*—The conferees agreed to a reduction of $200,000 instead of a reduction of $300,000 as proposed by the House and $100,000 as proposed by the Senate. The amount provided for commercial air transportation is not to be considered a ceiling. However, the conferees expect the Reserve Components to obtain the maximum transportation augmentation possible from the Military Airlift Command.

4. *Conversion Pay Group A to B.*—The conferees agreed to a reduction of $685,000 instead of a reduction of $1,370,000 as proposed by the Senate. The conferees also agreed that instead of converting 10 percent of Pay Group A positions to Pay Group B or its equivalent as proposed by the Senate, a 5 percent goal is appropriate. It is agreed that a smaller number (less than 5 percent) could be placed in even lower pay groups, or that certain low-skill positions could be deleted from the Navy Ready Reserve to provide the required savings. The conferees further agreed that Senate references to Naval Reserve Construction Battalions converting from pay group A to B should not be considered a specific direction, and that these units should be subject to drill reduction only to the extent deemed appropriate by the Department.

Reserve personnel, Navy, 197T

Amendment No. 12.—Appropriates $59,525,000 instead of $61,935,000 as proposed by the House and $54,715,000 as proposed by the Senate.

1. *Authorized Strength Increases*—The conferees agreed to provide an additional $4,200,000 instead of $6,000,000 as proposed by the House.

2. *Commercial Air Transportation.*—The conferees agreed to a reduction of $225,000 instead of a reduction of $300,000 as proposed by the House and $150,000 as proposed by the Senate.

3. *Conversion Pay Group A to B.*—The conferees agreed to a reduction of $685,000 instead of a reduction of $1,370,000 as proposed by the Senate.

Reserve personnel, Marine Corps, 1976

Amendment No. 13.—Appropriates $70,652,000 instead of $69,320,000 as proposed by the House and $71,983,000 as proposed by the Senate.

1. *Commercial Air Transportation.*—The conferees agreed to a reduction of $1,500,000 instead of a reduction of $3,000,000 as proposed by the House. The amount provided for commercial air transportation is not to be considered a ceiling, and additional resources can be used for this purpose if adequate transportation support cannot be obtained from the Military Airlift Command.

2. *Conversion Pay Group A to B.*—The conferees agreed to a reduction of $168,000 instead of a reduction of $337,000 as proposed by the Senate. The conferees also agreed that instead of covering 10 percent of Pay Group A positions to Pay Group B or its equivalent, a 5 percent goal is appropriate. It is also agreed that a smaller number (less than five percent) could be placed in even lower pay groups or that certain low-skill positions could be deleted from the Ready Reserve to provide the required savings.

Reserve personnel, Marine Corps, 197T

Amendment No. 14.—Appropriates $28,082,000 instead of $27,850,000 as proposed by the House and $28,313,000 as proposed by the Senate.

1. *Commercial Air Transportation.*—The conferees agreed to a reduction of $600,000 instead of a reduction of $1,000,000 as proposed by the House, and a reduction of $200,000 as proposed by the Senate.

2. *Conversion Pay Group A to B.*—The conferees agreed to a reduction of $168,000 instead of a reduction of $337,000 as proposed by the Senate.

Reserve personnel, Air Force, 1976

Amendment No. 15.—Appropriates $157,500,000 as proposed by the House instead of $152,700,000 as proposed by the Senate.

1. *Special Training.*—The conferees agreed to a reduction of $2,000,000 instead of a reduction of $2,500,000 as proposed by the House and $1,500,000 as proposed by the Senate.

2. *Undergraduate Pilot Training.*—The conferees agreed to a reduction of $200,000 instead of a reduction of $400,000 as proposed by the House.

3. *Strategic Airlift Crew Ratios.*—The conferees agreed to a reduction of $700,000 instead of a reduction of $6,200,000 as proposed by the Senate.

Reserve personnel, Air Force, 197T

Amendment No. 16.—Appropriates $48,260,000 as proposed by the House instead of $47,160,000 as proposed by the Senate.

1. *Special Training.*—The conferees agreed to a reduction of $500,000 as proposed by the Senate instead of a reduction of $1,000,000 as proposed by the House.

2. *Undergraduate Pilot Training.*—The conferees agreed to restore $100,000 deleted by the House.

3. *Strategic Airlift Crew Ratios.*—The conferees agreed to a reduction of $600,000 instead of the reduction of $1,700,000 as proposed by the Senate.

National Guard personnel, Air Force, 1976

Amendment No. 17.—Appropriates $212,318,000 as proposed by the Senate instead of $211,318,000 as proposed by the House.

1. *New Mission Programs.*—The conferees agreed to restore the $1,000,000 deleted by the House.

Other matters related to amendments 1–17

The following matters concern report language differences which were agreed to by the conferees as explained below:

Use of All Advertising Media.—The Senate conferees agreed with the House direction that all advertising media be used in the most cost-effective manner from within the funds available for recruit advertising.

Examining.—The Senate conferees agreed with House direction that all pre-induction testing be done at the Armed Forces Entrance and Examining Stations (AFEES) rather than in recruiters' offices. The Senate conferees also agreed with a House recommendation that the Army study the feasibility of separating AFEES management from the Army Recruiting Command.

Flight Training and the Use of Flight Simulators.—The Committee on Conference discussed various differences in each report relating to matters of flight training and the use of simulators in flight training. The conferees are in agreement that the Department of Defense should pursue the following course of action: (a) attempt to procure one new multi-engine trainer to meet both Air Force and Navy requirements; (b) study and revise requirements for personnel, bases, and aircraft in view of latest pilot training needs and application of modern simulator technology; (c) integrate flight simulators into the training programs through the establishment of formal requirements and standards for the certification of flight training devices, and (d) award credit for simulator time in a manner similar to the recording of actual flight time on pilot records. In addition, the conferees are in agreement that the Department of Defense should not initiate any action to proceed with the consolidation of the services' pilot training programs without the approval of the Appropriations and Armed Services Committees of the Congress.

Civil Air Patrol.—The Senate directed that the Department of Defense issue new directives stressing the value of the Civil Air Patrol (CAP) and directed implementation of methods by which CAP needs could be met with equipment of the best condition and of recent manufacture. The House did not address this item. The conferees agreed that the Civil Air Patrol should be provided support consistent with its vital role, although it appears that present directives and the degree of such support are based upon currently applicable law. It is understood, however, that legislation has been introduced which would permit wider availability of equipments and facility use for the Civil Air Patrol. The conferees believe that whenever deemed in the best interests of the Air Force, the Civil Air Patrol should be provided serviceable materiel and support levels allowed under prevailing statutes. The Air Force should continue to emphasize to all commanders the need for support of the Civil Air Patrol at the installation and individual unit level.

Legislative Affairs Activities.—The House conferees agreed to the Senate direction to revise Department of Defense accounting for personnel and costs associated with legislative activities.

Undergraduate Full-Time Education of Officers.—The House conferees receded to the Senate on this matter, recommending continuation of undergraduate full-time study is limited to 18 months and no tuition or other educational subsidy is provided.

U.S. Forces in Korea.—The conferees agreed that the Department of Defense should develop plans for a phasedown of U.S. forces in Korea. However, it was also agreed that these plans should be developed without initial congressional specification as to numbers of personnel involved or time phasing. The House had recommended planning for a deployment of about 20,000 personnel by the end of fiscal year 1978.

Nonsponsored Dependents in the Far East.—The conferees are in argeement that each military department shall have the option of deciding whether or not to extend the tour of a person who brings into the command, or obtains while in the command, nonsponsored dependents. The House report recommended the automatic extension of tours when nonsponsored dependents were brought into Far East commands. However, in no case will nonsponsored dependents be permitted to use support services, when the sponsors' tour remains the short "all others" or without-dependents tour. Those services (benefits) which are clearly authorized by law will be continued. A review of these services indicates that only medical care is required by law. The conferees are also in agreement that marriage to a local national should not in and of itself be considered a reason for not permitting a serviceman to extend his tour.

Far East Tour Lengths.—The conferees agreed that the normal tour lengths for accompanied personnel in the Far East should be increased to 36 months, with an exception allowed in areas where full support services are not available. The House receded from its recommendation that unaccompanied personnel serve an 18-month tour. The conferees agreed that the 12-month unaccompanied tour should remain in effect. However, the conferees agree with the House direction with respect to developing a personnel management system which will enable the military services to notify a serviceman of his next duty location prior to his leaving on a short tour.

Postal Training.—The conferees are in agreement that the Department of Defense should study the feasibility of eliminating separate postal training courses.

Chaplain Schools.—The Senate receded with respect to the House direction that the three chaplain schools currently operated within the Department of Defense should be consolidated into a single school. The Senate report had recommended more study with a view toward eliminating all chaplain schools and using regular officer candidate schools and similar training courses in their place.

Overseas Unaccompanied Baggage.—The Senate recommended utilization of U.S. Postal Service (space available mail) for shipment of overseas unaccompanied baggage. The conferees agreed that additional information is needed before such a system could be placed into general operation. Accordingly, the conferees are agreed that the Department of Defense should develop plans for and proceed with a feasibility test of this method prior to implementation. The area selected should represent a typical application if this method were to be used. It is suggested that Korea be considered for such a test.

Navy Reserve Headquarters.—The conferees are in agreement that the Navy Reserve should proceed with its plans to establish a readiness command structure. The conferees also agree that House direction with respect to the shift of reserve manpower assets from the Navy District Commandants to the Readiness Commands will be undertaken. This changeover will take place as rapidly as good management procedures will permit.

Coastal River Division 21.—The House conferees receded to the Senate on this matter with regard to specifying that Coastal River Division 21 be phased out. However, the conferees are in agreement that the Naval Reserve has too high a proportion of its manpower devoted to these tasks in view of the fact that the Coast Guard and Coast Guard Reserve have similar missions. Accordingly, the Navy Reserve is directed to reduce overall manpower devoted to this and similar functions either by the phaseout of Coastal River Division 21, some other coastal and river division, or a general reduction among these units.

Pay Group L.—Personnel in Pay Group L are awaiting basic training (active duty for training) in a reserve unit but are being paid for attending drill sessions, although they have no military skills. In reviewing this program, both the House and Senate reported that the various reserve components had obligated funds far in excess of the amount requested in the fiscal year 1976 budget. Accordingly, the Senate directed that new input into this program be terminated effective January 1, 1976 until such time as requirements have been validated to the satisfaction of that Committee. The House receded to the Senate on this matter with the proviso that the Department of Defense is to submit necessary reprogramming actions at the earliest opportunity in order to enable the Congress to address in detail the need for this particular form of payment. The conferees believe that more information is needed on the future cost of this pay, the reasons for the large number of delays in calls to active duty for training, and the need for this category of pay as a recruiting incentive. The individual reprogramming actions should separately identify costs already incurred from costs to be incurred from new input after January 1, 1976, assuming the individual Reserve Components desire to continue this category of pay.

TITLE III—OPERATION AND MAINTENANCE

Operation and maintenance, Army, 1976

Amendment No. 18.—Appropriates $7,052,000,000 as proposed by the Senate, instead of $6,984,830,00 as proposed by the House.

Civilian Personnel Strength

The budget requested $2,389,213,000 for Army civilian personnel. The House reduced this amount by $87,250,000. The Senate restored $48,700,000 on the basis of an adjustment made to the Army's overall personnel strength and a repricing of average civilian personnel salary cost. The conferees agreed that a restoration of $30,000,000 is adequate based upon the Senate adjustments.

The total civilian personnel end strength requested by the Department of Defense for the fifteen month period ending September 30, 1976, was 1,087,937. The Defense Appropriation Act for fiscal year 1976 and the transition period reduced the budget request by 23,537 positions, establishing an authorized strength of 1,064,400. The House applied the total reduction of 23,537 to specific activities or operations of the Department. The Senate applied specific reductions of 19,629 and the remaining 3,908 were unallocated and were to be applied by the Secretary of Defense as he desired. The conferees have agreed to specific reductions of 20,334 to the various Service requests and the remaining 3,203 are unallocated and are to be applied by the Secretary of Defense.

Regarding the Army, the request was for an end strength of 406,447 at September 30, 1976. The House reduced this request by 12,806. The Senate agreed to specific reductions of 8,800 made by the House. The conferees agreed to a specific Army reduction of 8,904. The conferees agreed to restore 3,571 positions for Army depot operations, 227 for additional personnel at Walter Reed Hospital, and 104 in Army recruiting operations.

Military Personnel Strength

Based upon reductions in the authorized military personnel strength of the Army, the House reduced operation and maintenance funds used in support of these personnel by $6,800,000. The Senate restored $600,000 of the House reduction. The conferees agreed to the House reduction and the Senate receded.

Stock Fund Surcharge

The Army requested $141,400,000 associated with a Department of Defense stock fund surcharge increase. The House denied this increase; however, the Senate restored $61,900,000. The conferees agreed that a restoration of $30,000,000 is adequate.

For fiscal year 1976 the Department of Defense requested a total of $788,200,000 to implement a surcharge increase of 15 percent on all commodities sold by each stock fund operated by the Department. The request for the transition period amounted to $197,600,000. The House denied both the $788,200,000 requested for fiscal year 1976 and $197,600,000 requested for the transition period. The Senate, although agreeing with the House in principle that the surcharge should not be implemented, believed that a portion of the funds requested for fiscal year 1976 should be provided because the surcharge had been in effect on some stock funded commodities since the beginning of the fiscal year and on others since September 1975. The Senate agreed that no funds should be provided for the transition period.

The conferees agreed that the amount provided by the Senate for fiscal year 1976 exceeded the requirements for the period for which the surcharge has been in effect and that generally only one half of the amounts provided will be needed to cover the additional cost incurred by the Services. The conferees' position is based upon the fact that the surcharge should have been terminated by the Department upon reporting of the Defense Appropriation Bill by the Senate on November 6, 1975. The conferees also agreed that the stock fund will have adequate cash balances if the Department implements procedures to collect overdue stock fund bills expeditiously.

GSA Leasing Program

The Army's budget request for reimbursement to the General Services Administration for the rental of leased space amounted to $102,335,000. The House provided $86,985,000. The Senate further reduced the request by $2,900,000, providing $84,085,000. The conferees agreed to the Senate position.

Maintenance of Real Property

The House reduced the Army's budget request for the maintenance of real property by $18,000,000, providing $428,300,000. The Senate restored $4,500,000 of the House reduction. The conferees agreed to the House reduction and the Senate receded.

Travel Funds

For fiscal year 1976 the Army requested $201,796,000 for the temporary duty travel of civilian and military personnel. The House reduced the request by $17,000,000, allowing $184,796,000. The Senate restored $3,600,000 of the House reduction. The conferees agreed to the House position.

Recruiting Support

For the support of recruiting operations in fiscal year 1976 the Army requested $79,435,000. The House reduced the Army's request by $12,700,000. The Senate restored $11,000,000 of the House reduction. The conferees agreed that a restoration of $6,000,000 is sufficient for this operation, which provides a total amount of $72,735,000.

Recruit Advertising

For its recruit advertising program for fiscal year 1976 the Army requested $49,150,000. The House reduced the request by $17,800,000 and the Senate restored $8,100,000. The conferees agreed that the House allowance of $31,350,000 is sufficient for fiscal year 1976.

Safeguard Operations

The Army requested $85,252,000 for operation of the Safeguard anti-ballistic missile (ABM) system during fiscal year 1976. The House reduced the request by $40,000,000. The conferees agreed that the full request of $85,252,000 should be appropriated but that certain other actions should be taken as stated under Amendment No. 19 discussed subsequently.

Depot Operations

The budget request for depot operations for fiscal year 1976 amounted to $489,993,000. The House reduced the request by $30,000,000 in addition to the request for additional civilian personnel. The Senate restored $20,000,000 of the House reduction. The conferees agreed to the restoration of these funds and are convinced that the funds provided for Army depot operations, which represent an increase of 40 percent above the fiscal year 1975 funding level, will, if properly managed by the Army, result in a sizeable decrease in the backlog of items requiring overhaul. In addition, the conferees agreed that because of this substantial increase, no depot personnel reductions in force will be required if the Army manages its civilian personnel resources properly. The small reduction of personnel strength in depot employment in fiscal year 1976, is less than half of the normal annual turnover in the Army depots from retirements, resignations, and other of personnel adjustments.

Camouflage Screens

The budget request for fiscal year 1976 was $28,100,000 to purchase 40,000 camouflage screens. The House reduced this request by $11,600,000. The Senate restored this reduction. The conferees agreed that these funds should be restored.

Chemical Warfare Clothing

The House included $8,800,000 for the purchase of protective clothing for chemical warfare training. The Senate denied these funds. The conferees agreed that these funds should be provided the Army.

Reserve Equipment Overhaul

On the basis of testimony supporting the premise that equipment transferred to the Army Reserve was not being provided in ready-for-issue condition the House transferred $6,800,000 from the request for Operation and Maintenance, Army Reserve to the Army's depot operation account in order that such equipment be properly reconditioned before transfer to the Reserves. The Senate was subsequently advised that $400,000 would be sufficient to properly overhaul all equipment in ready-for-issue condition before transfer. Therefore, the Senate reduced the House transfer by $6,400,000 and the conferees agreed to the Senate position on this matter. An equivalent increase is included in the Army Reserve appropriation (see Amendment No. 28).

Inflation Factoring

The Army included in its budget request $513,000,000 for the cost of inflation which occurred during fiscal year 1974 and up to the time of the preparation of the budget request for fiscal year 1976. The Senate determined that the inflationary factors used by the Army were overstated and reduced the appropriation request by $50,000,000. The conferees agreed with the Senate position and the House receded.

Joint Chiefs of Staff Exercises

For fiscal year 1976 the Army requested $23,775,000 for Joint Chiefs of Staff exercises. The House funded the full amount. The Senate reduced the request by $4,400,000. Based upon the Senate position the conferees agreed that a reduction of $2,430,000 is appropriate.

Proficiency Flying

For proficiency flying of air crews during fiscal year 1976 the Army requested $16,501,000. The House allowed the total request. The Senate reduced the request by $12,700,000. The conferees agreed that an appropriation of $7,801,000 is sufficient funding for the Army proficiency flying program and therefore agreed upon a reduction of $8,700,000.

Commissary Store Operations

The Army requested $59,700,000 for the support of commissary store operations during fiscal year 1976. The Army request was based upon the Department of Defense proposal that all commissary operations become fifty percent self-supporting on October 1, 1975, and fully self-supporting on October 1, 1976. The House rejected this proposal and fully funded this operation for fiscal year 1976 and the transition period, thus increasing the Army's request by $38,700,000 and $12,900,000 for fiscal year 1976 and the transition period, respectively. The Senate disagreed with the House position and reduced the Army's request for fiscal year 1976 by $57,630,000. The Senate also directed that all commissary support be phased out in five years. The conferees agreed, first, that the Army could not sustain such a funding reduction without curtailing commissary operations for the remainder of the fiscal year and, second, that appropriation support for commissary operations should not be phased out at this time. The Senate, therefore, receded on both the fund reduction and the appropriation support phaseout requirement.

Amendment No. 19.—Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment that provides that the Operation and Maintenance funds included in this Act for the operation and maintenance of the Safeguard system, other than the funds provided for operation and maintenance of the Perimeter Acquisition Radar (PAR), can be used only for the expeditious termination and deactivation of all operations of the Safeguard facility. The House had no similar language.

The Senate amendment follows: "*Provided further*, That funds provided in this Act for the operation and the maintenance of the antiballistic-missile facility (other than funds provided for operation and maintenance of the Perimeter Acquisition Radar) may be used only for the purpose of the expeditious termination and deactivation of all operations of that facility."

As discussed under Amendment No. 18, the conferees agreed to restore the House reduction of $40,000,000 for operation of the Safeguard system and provide the total of $85,252,000 requested for fiscal year 1976. The conferees agreed that the funds provided for Safeguard be used to perform expeditiously (1) any and all actions required so that the site can be completely abandoned, except for the Perimeter Acquisition Radar and related facilities needed to support the radar for the attack characterization mission, and (2) operate and maintain the Perimeter Acquisition Radar. The intent is to close the site, except for the Perimeter Acquisition Radar and related equipment, in such a manner that no future funding, unless related to completion of dismantlement and disposal of Safeguard facilities, will be required.

The conferees expect that the interceptor missiles and warheads will be expeditiously evacuated. The remaining facilities and equipment will be disposed of consistent with established procedures. In those cases, if any, where procedures are non-existent the interest of the government and country must be protected. The non-tactical facilities at the site—hospital, chapel, community center, gym and similar permanent structures—should not be dismantled. These facilities should be used to fill other federal requirements, if any; sold or given to the local communities.

The conferees direct the Defense Department to provide the Committees on Appropriations of the House and Senate a report of the plans to deactivate and terminate the site at Grand Forks, North Dakota. The report should be submitted by February 1, 1976, however, initiation of closure actions should not be delayed because of this report requirement.

The conferees also understand that approximately $2,500,000 of Community Impact funds remain from prior year appropriations. Such funds can be used to provide assistance qualifying under the provisions of Section 610 of the Military Construction Authorization Act, 1971 (84 Stat. 1224) which are a direct result of the negative community impact caused by the termination and deactivation of the Safeguard ABM site (other than the Perimeter Acquisition Radar) near Grand Forks, North Dakota. For example, the conferees are aware that the Safeguard-affected community supporting service activities such as telephone and electrical utilities which have incurred obligations including indebtedness will now be left without anticipated revenues from taxes or customers. The Defense Department is expected to provide the maximum assistance possible to these problems within the $2,500,000 which remains available.

Operation and maintenance, Army, 197T

Amendment No. 20.—Appropriates $1,779,000,000 instead of $1,752,542,000 as proposed by the House, and $1,781,442,000 as proposed by the Senate.

For the transition period from July 1 through September 30, 1976, the conferees generally agreed to the same positions on the items in conference which were included in the agreements on the request for fiscal year 1976. The conferees' position is shown in the following schedule:

[Amounts in thousands]

Item	Budget request	House allowance	Senate allowance	Conference agreement
Civilian personnel strength	$581, 596	$530, 496	$565, 496	$551, 096
GSA leasing program	25, 583	21, 733	19, 033	19, 033
Maintenance of real property	107, 887	102, 887	103, 887	102, 887
Travel funds	46, 293	43, 293	42, 893	43, 293
Recruiting support	19, 090	15, 915	18, 715	17, 315
Recruit advertising	17, 150	11, 150	13, 150	11, 150
Safeguard operations	19, 500	0	19, 500	19, 500
Depot operations	$137, 914	$128, 914	$134, 714	$134, 714
Camouflage screens	7, 000	4, 500	7, 000	7, 000
Reserve equipment overhaul		2, 400	100	100
Inflation factoring	149, 000	149, 000	136, 500	136, 500
JCS exercises	4, 788	4, 788	3, 688	4, 188
Proficiency flying	4, 126	4, 126	0	984
Commissary store operations	11, 800	24, 700	10, 700	24, 700

Unit Station of Choice

For the transition period the Army requested $4,325,000 for unit station of choice support. The House allowed $2,100,000. The Senate disallowed the total request. The conferees agreed with the Senate position because the program is to be terminated during fiscal year 1976 as previously discussed.

Operation and maintenance, Navy, 1976

Amendment No. 21.—Appropriates $8,069,400,000 instead of $7,974,615,000 as proposed by the House, and $8,108,615,000 as proposed by the Senate.

Civilian Personnel Strength

The Navy requested $3,235,000,000 for civilian personnel during fiscal year 1976. The House reduced the request by $17,250,000. The Senate restored $5,000,000. The Conferees agreed that a restoration of $2,500,000 is sufficient based on various adjustments in personnel strength. The Navy requested an end strength of 334,589 for the period ending September 30, 1976. The House reduced the request by 6,168. The Senate agreed to specific House reductions of 5,473. The conferees agreed to specific reductions of 5,823. The conferees agreed to restore 35 positions for supervisors of shipyards operations, 300 shipyard employees, and 10 additional personnel for recruiting support.

Military Personnel Strength

The House reduced the Navy request by $2,000,000 because of authorization reductions in military personel strength. The Senate restored $1,000,000 of the House reduction. The conferees agreed to the House reduction and the Senate receded.

Stock Fund Surcharge

The Navy requested $221,800,000 for the increased stock fund surcharge in fiscal year 1976. The House disallowed the total request and the Senate restored $96,900,000. The conferees agreed to restore $50,000,000 for the reasons previously discussed.

GSA Leasing Program

For support of the GSA leasing program in fiscal year 1976 the Navy requested $42,847,000. The House reduced the request by $7,125,000. The Senate made a further reduction of $1,400,000 to which the conferees agreed. Total funds provided amount of $34,322,000.

Recruiting Support

For recruiting support for fiscal year 1976 the Navy requested $37,495,000. The House provided $31,995,000, reducing the request by $5,500,000. The Senate restored $2,200,000. The conferees agreed to the restoration of only $1,000,000 and total funding of $32,995,000.

Recruit Advertising

For fiscal year 1976 the Navy requested $27,589,000 for recruit advertising. The House allowed $17,889,000, reducing the request by $9,700,000. The Senate restored $2,800,000. The conferees agreed that the funds should not be restored and the Senate receded.

Aircraft Depot Operations

The Navy requested $642,144,000 for aircraft depot overhaul and repair operations for fiscal year 1976. The House reduced the request by $34,000,000, allowing $608,144,000. The Senate allowed $638,144,000, restoring $30,000,000 of the House reduction. The conferees agreed to the Senate restoration and the House receded.

The conferees are in agreement that the funds included in the bill for Navy aircraft depot operations, which represent an increase of about 11 percent above the fiscal year 1975 level, if properly managed by the Navy, will result in a decrease in the backlog of items requiring overhaul and an increase in the number of aircraft available for operations. In addition, the conferees agreed that no personnel reductions in force will be required if the Navy properly manages its civilian personnel working in aircraft depot operations.

Alteration, Overhaul, and Repair of Naval Vessels

The Navy requested $1,882,595,000 for the alteration, overhaul, and repair of Naval vessels in fiscal year 1976. The House provided $1,857,595,000 amounting to a reduction of $25,000,000. The Senate restored the House reduction. The conferees agreed to the Senate position and the House receded. Furthermore, the House had directed that all 85 overhauls programmed for fiscal year 1975 be performed within the funds provided. The Senate directed that the Navy perform as many overhauls as possible within the funds provided in the bill and the conferees agreed.

Calibration Program

For fiscal year 1976 the Navy requested $43,800,000 for it calibration program. The House provided $35,500,000, a reduction of $8,300,000. The Senate restored $4,100,000. The conferees agreed that a restoration of $2,000,000 is sufficient, providing a funding level of $37,500,000.

Proficiency Flying

The Navy requested $10,575,000 for proficiency flying in fiscal year 1976. The House allowed the full amount. The Senate reduced the request by $2,400,000. The conferees agreed to a reduction of $1,200,000 and a program level of $9,375,000.

Flying Hour Program

For its flying hour program for fiscal year 1976 the Navy requested $454,599,000. The House funded the full amount. The Senate reduced the program by $26,200,000. The conferees agreed to a reduction of $13,115,000, reducing the program to $441,484,000.

Operation of Closed Messes

To operate its closed messes during fiscal year 1976 the Navy requested $4,800,000. The House allowed the full amount. The Senate reduced the request to $1,800,000. The conferees agreed with the Senate reduction and directed that this type of support funding be phased out as soon as possible, as previously discussed in this report.

Operation and maintenace, Navy, 197T

Amendment No. 22.—Appropriates $2,133,557,000 as proposed by the Senate, instead of $2,121,157,000 as proposed by the House.

For the transition period the conferees agreed to the funding of items in disagreement as shown in the following schedule:

[Amounts in thousands]

Item	Budget request	House allowance	Senate allowance	Conference agreement
Civilian personnel strength	$809, 000	$800, 000	$802, 500	$801, 000
Reduced military strength	84, 264	83, 764	84, 064	83, 764
GSA leasing program	10, 746	8, 966	7, 666	7, 666
Recruiting support	9, 421	8, 046	8, 546	8, 246
Recruit advertising	5, 993	3, 893	4, 593	3, 893
Aircraft depot operations	163, 413	153, 413	160, 913	160, 913
Calibration program	$9, 812	$6, 312	$7, 212	$6, 712
Overhaul program	646, 281	636, 281	646, 281	646, 281
Proficiency flying	2, 659	2, 659	2, 059	2, 359
Flying hour program	113, 429	113, 429	106, 829	109, 829
Closed messes	1, 500	1, 500	0	0

Operation and maintenance, Marine Corps, 1976

Amendment No. 23.—Appropriates $497,110,000 instead of $492,910,000 as proposed by the House, and $499,210,000 as proposed by the Senate.

Military Personnel Strength

The House reduced the Marine Corps request by $900,000 because of authorization reductions in military personnel strength. The Senate restored $500,000 of the House reduction. The conferees agreed with the Senate restoration and the House receded.

Stock Fund Surcharge

For fiscal year 1976 the Marine Corps requested $8,900,000 to implement the new stock fund surcharge. The House disallowed the full amount. The Senate restored $3,900,000. The conferees agreed that $2,000,000 is sufficient for the Marine Corps costs incurred under this program.

GSA Leasing Program

The Marine Corps requested $4,125,000 to support the GSA leasing program in fiscal year 1976. The House reduced the request by $660,000. The Senate made a further reduction of $100,000. The conferees agreed to the additional reduction of the Senate which provides a total of $3,365,000.

Travel Funds

For the travel of civilian and military personnel in fiscal year 1976 the Marine Corps requested $18,267,000. The House reduced this request by $1,000,000 and the Senate restored $700,000. The conferees agreed to the Senate restoration and total funding of $17,967,000.

Recruiting Support

For fiscal year 1976 the Marine Corps requested $12,435,000 to support its recruiting activities. The House reduced this request by $1,900,000. The Senate restored $1,100,000. The conferees agreed to the restoration of funds by the Senate and total funding of $11,635,000.

Recruit Advertising

The Marine Corps requested $12,235,000 for its recruit advertising program for fiscal year 1976. The House reduced this request by $4,500,000. The Senate restored $1,200,000. The conferees agreed to the House reduction and total funding of $7,735,000.

Bachelor Officer Quarters

In support of bachelor officer quarters for fiscal year 1976 the Marine Corps requested $2,022,000. The House provided the total amount requested. The Senate reduced the request by $450,000. The conferees agreed to provide the Marine Corps request but directed that this type of support funding be phased out as soon as possible, as previously discussed.

Operation of Closed Messes

The Marine Corps requested $1,100,000 for support of its closed mess operations during fiscal year 1976. The House provided the full amount. The Senate reduced the request by $550,000. The conferees agreed to fully fund this operation during fiscal year 1976 but directed that this type of support funding be phased out as soon as possible.

Operation and maintenance, Marine Corps, 197T

Amendment No. 24.—Appropriates $125,506,000 as proposed by the House, instead of $125,856,000 as proposed by the Senate.

For the transition period the conferees agreed to the funding of items in disagreement as shown in the following schedule:

[In thousands of dollars]

Item	Budget request	House allowance	Senate allowance	Conference agreement
Reduced military strength	29, 441	29, 191	29, 341	29, 291
GSA leasing program	1, 031	866	766	766
Travel funds	4, 509	4, 009	4, 409	4, 409
Recuriting support	3, 286	2, 811	3, 111	3, 111
Recurit advertising	2, 966	1, 916	2, 216	1, 916
Bachelor officer quarters	700	700	0	0

Operation and Maintenance 1976

Amendment No. 25.—Appropriates $7,498,679,000 instead of $7,437,079,000 as proposed by the House, and $7,586,479,000 as proposed by the Senate.

Civilian Personnel Strength

Both the House and Senate agreed to reduce the Air Force request for civilian personnel funds by $8,100,000. However, there were differences in the number of civilian personnel to be reduced. The House reduced civilian personnel by 1,080 and the Senate made reductions of 2,439. The conferees agreed to a total reduction of 2,450 in the civilian personnel strength of the Air Force. Both the House and Senate agreed on specific reductions of 1,050. In addition, the House reduced civilian personnel associated with recruiting activities by 30 positions. The Senate restored 23 of these positions. The conference agreed that only 12 should be restored. The Senate made other specific reductions of 1,382. The conferees agreed to these reductions.

Military Personnel Strength

The House reduced the Air Force request by $3,300,000 because of authorization reductions in military personnel strength. The Senate restored $1,200,000 of the House reduction. The conferees agreed with the House reduction and the Senate receded.

Stock Fund Surcharge

For fiscal year 1976 the Air Force requested $344,900,000 for stock fund surcharge. The House disallowed the total request. The Senate restored $150,800,000 of the House reduction. The conferees agreed that a restoration of $75,000,000 is sufficient to fund the surcharge for the period it has been in effect.

GSA Leasing Program

The Air Force requested $16,200,000 to pay the cost of the GSA leasing program for fiscal year 1976. The House allowed $13,660,000, reducing the request by $2,540,000. The Senate made a further reduction of $500,000. The conferees agreed to the additional Senate reduction and the House receded.

Travel Funds

The Air Force requested $199,189,000 for travel during fiscal year 1976. The House reduced this request by $10,000,000. The Senate made a further reduction of $2,200,000. The conferees agreed to the further Senate reduction and the appropriation of $186,989,000.

Recruiting Support

For recruiting support for fiscal year 1976 the Air Force requested $15,500,000. The House reduced the request by $2,500,000. The Senate restored $1,900,000 of the House reduction. The conferees agreed to the House reduction and the appropriation of $13,000,000.

Recruit Advertising

To support its recruit advertising program during fiscal year 1976 the Air Force requested $15,000,000. The House reduced the request by $5,000,000. The Senate restored $1,200,000 of the House reduction. The conferees agreed to the House reduction and the appropriation of $10,000,000.

Foreign National Pilot Training

The House reduced the Air Force Operation and Maintenance budget request by $56,250,000 on the basis that the correct amount was not being charged foreign governments for the training of their pilots. The Senate agreed with the House position on this subject but believed that the reduction made by the House exceeded anticipated reimbursements. The Senate restored $36,700,000 of the House reduction. The conferees agreed that $25,000,000 should be restored and the appropriation reduced by $31,250,000.

The conferees agreed that applicable Defense regulations should be revised to require that Foreign Military Sales charges for pilot training including realistic estimates of the full and proportionate cost of training support, base operations support, and training organization overhead.

Unsubscribed Airlift

For fiscal year 1976 the Air Force requested $82,300,000 for Military Airlift Command training flights without carrying cargo. The House reduced this request by $43,000,000. The Senate restored the full amount. The conferees agreed that $25, 000,000 should be restored.

Commercial Cargo Augmentation

For fiscal year 1976 the Air Force requested $8,200,000 for commercial cargo augmentation on scheduled air carrier operations. The House disapproved the request on the basis that sufficient cargo is unavailable to operate the Air Force's own fleet of cargo aircraft efficiently and funds were being requested for unsubscribed airlift. The Senate restored $4,100,000 of the House reduction because the program should first be tested on an experimental basis. The conferees agreed that the program should not be funded and the Senate receded.

Advanced Logistic System

The Air Force requested $58,831,000 for support of its data processing Advanced Logistic System (ALS) during fical year 1976. The House reduced the request by $33,831,000 and directed that the program be terminated. The Senate restored $23,800,000 and agreed to the proposed Air Force redirection of ALS with certain modifications, such as, the deferral of the leasing of certain ancillary equipment.

The conferees agreed to an increase of $12,000,000 over the House allowance, a total appropriation of $37,000,000. The conferees further agreed that the Air Force should terminate ALS and design and develop a new automated logistic system based upon the latest computer technology to satisfy its long-term logistical information needs. The conferees also agreed that a thorough review of Air Force logistic requirements be made before any new system is developed. Funds are provided only for mission-essential ADP support of the Air Force Logistic Command until a complete assessment of all ADP support requirements has been completed and a comprehensive support plan approved by the Secretary of Defense.

To meet this objective various steps must be taken by the Air Force. Existing real-time computers should be operated until a new system can be designed, tested, and implemented. These computers can be augmented if necessary. The Air Force must restudy its logistical information requirements before initiating any new design effort. Specifically, the Air Force must determine the data elements and management information required to provide improved logistical support for its mission responsibilities. This information must be used as the basis for the new design effort. In the interim any new logistic system developed should use machine transferable data management software which can effectively operate on the equipment of two or more vendors, to insure competition.

The Secretary of the Air Force is directed to review the functional application proposed in the interim plan on the basis of mission-essentiality, and approve only those applications which cannot be deferred until completion of the comprehensive ADP support plan. The Committees should be kept advised of all systems being implemented in the interim plan.

Under the current ALS contract the Air Force has earned $55 million of lease/purchase credits towards the procurement of the new equipment installed. The conferees have been advised that about an additional $11 million is required for outright purchase of this equipment. In order to avoid the loss of the $55 million in credits already earned, the Air Force is directed to complete the purchase of this equipment from the $35 million appropriated for this purpose in fiscal year 1975. The remaining procurement funds should be returned to the Treasury as directed by the House.

The conferees direct that all automated system design, development or procurement, software maintenance, and equipment evaluation and selection required by any Air Force element will be accomplished by the Air Force Data Automation Agency using organic resources or commercial contract. Support commands will be restricted to definition and justification of functional requirements, participation in acceptance tests, operation of accepted systems and maintenance of accepted hardware.

Joint Chiefs of Staff Exercises

The Air Force requested $73,085,000 for Joint Chiefs of Staff exercises in fiscal year 1976. The House appropriated the full amount. The Senate reduced the request by $15,600,000. The conferees agreed to a reduction of $7,000,000 and an appropriation of $66,085,000.

Proficiency Flying

For fiscal year 1976 the Air Force requested $13,155,000 for proficiency flying. The House allowed the full amount. The Senate reduced the request by $13,000,000. The conferees agreed to a reduction of $5,000,000 and an appropriation of $8,155,000.

The Senate directed the termination of the Air Force low cost aircraft program unless the Air Force reduced the annual flying hours to be flown by pilots in mission aircraft by an amount equal to the hours flown in low cost aircraft. The conferees agreed to the Senate position on this matter.

Increased C–5/C–141 Crew Ratio

The Air Force requested $36,200,000 to increase its C–5/C–141 aircraft crew ratio. This increase was discussed in both the House and Senate reports on the Defense Appropriation bill. The House, while objecting to the increase, did not make any reduction in the budget request. The Senate deleted the full amount. The conferees agreed with the Senate reduction and direct that the increase in crew ratio for these aircraft not be implemented.

Tactical Fighter Crew Ratio

The Air Force requested in its budget for fiscal year 1976 $61,100,000 to increase its tactical fighter crew ratio from 1.1 to 1.25 per aircraft. The House funded the full amount requested. The Senate reduced the request by $37,900,000 and recommended that the tactical fighter aircrew augmentation proceed at a more modest rate, pending further analysis. The conferees agreed to fund the program at $41,100,000, making a reduction of $20,000,000 and agreed to the Senate position on proceeding more slowly than the Air Force had planned.

MAC Aerial Ports

The Senate reduced the Air Force request by $3,000,000 to eliminate overstaffing and excess luxuries at Military Airlift Command (MAC) aerial ports. The House did not address this subject. The conferees agreed to the Senate reduction and position on this matter.

Foreign Military Sales Personnel

The Air Force requested $600,000 to employ additional foreign military sales personnel. The House funded this request. The Senate denied the total amount. The conferees agreed to the Senate reduction.

Reimbursement to Postal Service

For fiscal year 1976 the Air Force requested $30,502,000 for reimbursement to the United States Postal Service. The House provided the full amount. The Senate increased the amount provided by $1,000,000 on the basis that the Postal Service should provide, and be reimbursed for services now being performed by Air Force military personnel. The conferees agreed that the additional services could not be provided during fiscal year 1976 and therefore did not increase the budget request. However, the conferees agreed that the Air Force should arrange for these services to be provided by the end of fiscal year 1976.

Special Projects

The Senate reduced the Air Force request for special projects by $2,000,000. The conferees agreed to this reduction.

Operation and Maintenance, Air Force, 197T

Amendment No. 26.—Appropriates $1,897,495,000 as proposed by the Senate. Instead of $1,906,245,000 as proposed by the House.

For the transition period the conferees agreed to the funding of items in disagreement as shown in the following schedule:

[In thousands of dollars]

Item	Budget request	House allowance	Senate allowance	Conference agreement
Reduced military strength	140,125	139,275	138,725	139,275
GSA leasing program	4,000	3,365	2,865	2,865
Travel funds	52,599	50,599	49,499	50,099
Recruiting support	3,200	2,575	2,975	2,575
Recruit advertising	4,000	3,370	3,670	3,370
Foreign national pilot training		−14,050	−5,350	−8,300
Unsubscribed airlift	16,700	6,700	16,700	12,500
Commercial cargo augmentation	1,900	0	900	0
Advanced logistic (ADP) system	12,129	5,000	10,100	7,600
JCS exercises	18,204	18,204	14,304	16,204
Proficiency flying	7,250	7,251	251	4,551
C-5/C-141 crew ratio	9,500	9,500	0	0
Tactical fighter crew ratio	18,800	18,800	8,700	12,600
MAC aerial ports			−1,500	−1,500
Foreign military sales personnel	300	300	0	0
Reimbursement to Postal Service	7,650	7,650	7,950	7,950

Operation and maintenance, defense agencies

Amendment No. 27.—The House provided specific appropriations for the various Defense Agencies and/or activities included in this budget request. The Senate deleted in total the House language and provided in lieu thereof a lump sum appropriation for all Defense Agencies and/or activities. The conferees agreed that specific appropriations as provided by the House should be continued and the Senate receded.

Fiscal year 1976

Appropriates, in all, $2,475,431,000 instead of $2,460,631,000 as proposed by the House, and $2,497,876,000 as proposed by the Senate.

Secretary of Defense activities

For Secretary of Defense Activities the budget requested $818,023,000. The House reduced the request by $34,370,000, recommending an appropriation of $783,653,000. The conferees agreed to provide $787,753,000.

The House provided $515,041,000 for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS). The Senate increased the House allowance by $12,700,000. The conferees agreed that the additional funds should not be provided. The reasoning for this disallowance is associated with various changes in CHAMPUS benefits proposed by the House, with amendments thereto as proposed by the Senate, and the conference agreement thereon as discussed subsequently in conjunction with Amendments 97 and 98.

For Overseas Dependents Education the House provided $206,791,000. The Senate increased the House amount by $7,975,000. The conferees agreed that the program should be increased by $4,600,000 for a total appropriation of $211,391,000.

Regarding Overseas Dependents Education the House directed that the geographical managers concept be discontinued and all management be placed under the Office of Overseas Dependents Education (OODE). The reasons therefor are explained on page 167 of the House report (94–517). The Senate disagreed with the House position and recommended that the geographical managers concept be continued and that precise management relationships between the field commanders and OODE be resolved without further delay. The conferees agreed with the House directive that the geographical managers concept be discontinued immediately and that full responsibility for the management of the Overseas Dependents Education program be vested in OODE so that there will be only one educational program for the dependents of military personnel overseas rather than the three now in existence.

Manpower and Research Data Analysis Center

The Senate reduced the request for the Manpower and Research Data Analysis Center (MARDAC) by $800,000 and directed that it be disestablished. The conferees agreed to restore the Senate reduction in funds on the basis that the organization will be consolidated into the Office of the Secretary of Defense and made more effective, less costly, and have a lower personnel end strength. The Department advised the conferees that civilian personnel end strength at September 30, 1976, will be reduced to 28 positions. The conference agreement will reduce MARDAC's authorized strength by 24 positions.

Assistant Secretary (Health and Environment)

The budget requested $812,000 for operation of the Office of the Assistant Secretary of Defense for Health and Environment. The House provided the full amount. The Senate reduced the request by $30,000 associated with the reduction of 3 civilian positions. The conferees agreed to restore these funds and positions.

Assistant Secretary (Program Analysis and Evaluation)

For the operations of the Office of the Assistant Secretary of Defense for Program Analysis and Evaluation the Department requested $2,749,000 for fiscal year 1976. The House allowed the full request. The Senate reduced the request by $200,000 and denied 20 civilian positions. The Senate was also of the opinion that the functions of this Office could be better performed if it were integrated into the Office of the Assistant Secretary of Defense (Comptroller). The conferees agreed with the Senate on all its actions.

Review of management, organization and responsibilities

The conferees direct the Department to examine its headquarters organizations, giving serious consideration to a substantial consolidation of functions with the objectives of improving management effectiveness and use of resources, fixing management responsibilities, and reducing the size of the headquarters and their supporting activities. This review should concentrate on the Office of the Secretary of Defense and the Organization of the Joint Chiefs, but should also include the Service Secretariats and Military Staffs. Day-to-day management responsibility should be delegated to the greatest extent possible to the Services, but with accountability clearly established. The Congress will be prepared to consider proposals which implement such changes when submitted.

Organization of the Joint Chiefs of Staff

For the Organization of the Joint Chiefs of Staff the Department requested $12,084,000 for fiscal year 1976. The House reduced this request by $385,000. The Senate further reduced the request by $100,000 for travel funds. The conferees agreed to the Senate reduction and the appropriation of $11,599,000.

Defense Contract Audit Agency

The Department requested $68,653,000 for the Defense Contract Audit Agency for fiscal year 1976. The House reduced this request by $230,000. The Senate made a further reduction of $300,000 for travel funds. The conferees agreed with the Senate reduction and an appropriation of $68,123,000.

Defense Investigative Service

For fiscal year 1976 the Department requested $28,437,000 for support of the Defense Investigative Service (DIS). The House reduced the request by $6,440,000. The Senate restored $4,400,000 of the House reduction in two separate actions. It restored $4,500,000 of a House reduction in personnel and reduced the request for travel funds by $100,000. The conferees agreed to restore $3,500,000 of the personnel reduction for a total appropriation of $25,397,000.

The House had reduced the DIS civilian personnel strength by 765 positions. The Senate restored 665 of these positions and directed the civilianization of an additional 100 military positions. The conferees agreed to restore 400 positions and also agreed to the civilianization program.

Defense Mapping Agency

The budget request for the Defense Mapping Agency amounted to $189,112,000 for fiscal year 1976. The House reduced the request by $15,780,000. The Senate restored $11,700,000 of the House reduction in two separate actions. It restored $12,000,000 of the House general reduction of $15,000,000 and made a further reduction of $300,000 in travel funds. The conferees agreed to both Senate actions and to an appropriation of $185,032,000.

Defense Nuclear Agency

The Department requested $24,548,000 for support of the Defense Nuclear Agency for fiscal year 1976. The House reduced the request by $1,939,000. The Senate made a further reduction of $100,000 in the travel fund request of the Agency. The conferees agreed to the additional Senate reduction and an appropriation of $22,509,000.

Defense Supply Agency

For the Defense Supply Agency (DSA) for fiscal year 1976 the Department requested $820,914,000. The House reduced the request by $29,160,000. The Senate restored $4,100,000 of the House reduction in four separate actions. The Senate restored $1,200,000 for additional logistic support and $5,000,000 of the House general reduction. It reduced DSA's request for travel funds by $1,000,000 and made a further reduction of $1,100,000 in the GSA leasing program. The conferees agreed that the Senate should recede on the restoration of the House reductions and that the Senate reductions should be made. The total appropriation agreed to by the conferees is $789,654,000.

Intelligence and communications

The Department requested $586,266,000 for intelligence and communications activities for fiscal year 1976. The House reduced the request by $19,325,000. The Senate further reduced the request by $1,800,000. The Defense Communications Agency was reduced $400,000 for computer support, $200,000 for 20 new civilian positions associated with increased automatic data processing support for the World Wide Military Command and Control System, and $300,000 for travel funds. Also, the travel fund requests of the National Security Agency and the Defense Intelligence Agency were reduced $700,000 and $200,000, respectively. The conferees agreed to the further reduction of the Senate for an appropriation of $565,141,000.

Transition period

Appropriates, in all, $627,725,000 instead of $623,925,000 as proposed by the House, and $631,855,000 as proposed by the Senate.

The agreement of the conferees to items in conference is shown in the following table:

[Amounts in thousands]

Item	House allowance	Senate allowance	Conference agreement
CHAMPUS	130, 358	131, 558	130, 358
Overseas dependents education	47, 618	51, 368	50, 118
MARDAC	400	0	400
Assistant Secretary, H. & E	205	185	205
Assistant Secretary, P.A. & E	699	599	599
Defense Investigative Service	5, 444	6, 544	6, 144
Defense Mapping Agency	43, 230	46, 230	46, 230
Defense Supply Agency:			
Additional logistic support	0	300	0
GSA leasing program		—1, 100	—1, 100
Intelligence and communications	147, 738	147, 438	147, 438
Additional Senate travel reductions:			
Office of the Secretary of Defense		—70	—70
Overseas dependents education		—100	—100
Defense Contract Audit Agency		—70	—70
Defense Communications Agency		—70	—70
Defense Supply Agency		—300	—300
Defense Intelligence Agency		—20	—20
National Security Agency		—200	—200
Defense Mapping Agency		—70	—70

The conferees agree to the following amounts for the various sub-appropriations included in the appropriation:

Agency and/or activity	*Amount*
Secretary of Defense activities	$195, 365, 000
CHAMPUS	(130, 358, 000)
Overseas Dependents Education	(50, 018, 000)
Organization of the Joint Chiefs of Staff	3, 057, 000
Office of Information for the Armed Forces	4, 097, 000
Defense Contract Audit Agency	17, 342, 000
Defense Investigative Service	6, 144, 000
Defense Mapping Agency	46, 160, 000
Defense Nuclear Agency	5, 603, 000
Uniformed Services University of Health Sciences	1, 254, 000
Defense Supply Agency	201, 555, 000
Intelligence and communications and activities	147, 148, 000

Operation and maintenance, Army Reserve, 1976

Amendment No. 28.—Appropriates $310,710,000 instead of $305,760,000, as proposed by the House and $311,460,000 as proposed by the Senate.

As discussed earlier under Amendment No. 18, the conferees agreed to provide the same amount recommended by the Senate for overhaul of reserve equipment. Therefore, the conferees agreed to restore $6,400,000 to the Army Reserve appropriation and the House recedes.

The conferees agreed to provide $19,811,000 for temporary duty travel. This is the same amount as provided in the Senate bill, and is $2,200,000 less than provided in the House bill.

The budget request included $3,400,000 for the stock fund surcharge. The House disallowed the total request, while the Senate provided $1,500,000. The conferees agreed to provide $750,000 for reasons previously discussed.

Floor on maintenance of real property

Amendment No. 29.—Provides that $20,000,000 shall be available only for the maintenance of real property, instead of $25,500,000 as proposed by the House and $15,500,000 as proposed by the Senate.

Operation and maintenance, Army Reserve, 197T

Amendment No. 30.—Appropriates $91,100000 as proposed by the Senate, instead of $91,400,000 as proposed by the House.

The Senate recommended $9,500,000 for overhaul of reserve equipment, while the House had provided $7,200,000 for this purpose. For reasons discussed earlier, the conferees agreed to provide $9,500,000.

The conferees agreed to provide $4,764,000 for temporary duty travel as proposed by the Senate in lieu of the $7,364,000 as proposed by the House.

Operation and maintenance, Navy Reserve, 1976

Amendment No. 31.—Appropriates $284,425,000 instead of $281,525,000 as proposed by the House, and $288,125,000 as proposed by the Senate.

The budget request included $16,600,000 for the stock fund surcharge. The House disallowed the total request, while the Senate provided $7,300,000 for this item. The conferees agreed to provide $3,600,000 for the reasons previously discussed.

The conferees agreed to provide $2,112,000 for temporary duty travel. This is the same amount as provided in the Senate bill, and $700,000 less than provided in the House bill.

Operation and maintenance, Navy Reserve, 197T

Amendment No. 32.—Appropriates $73,250,000 as proposed by the Senate, instead of $73,550,000 as proposed by the House.

The conferees agreed to provide $453,000 for temporary duty travel. This is the same amount as provided by the Senate bill, and $300,000 less than provided in the House bill.

Operation and maintenance, Marine Corps Reserve, 1976

Amendment No. 33.—Appropriates $12,000,000 as proposed by the Senate, instead of $11,900,000 as proposed by the House.

The budget requested $200,000 for the stock fund surcharge. The House provided no funds for this item, while the Senate recommended that $100,000 be provided. The conferees agreed with the Senate restoration.

Operation and maintenance, Air Force Reserve, 1976

Amendment No. 34.—Appropriates $322,430,000 instead of $327,330,000 as proposed by the House, and $318,530,000 as proposed by the Senate.

The budget requested $9,500,000 for the stock fund surcharge. The House disallowed the total request, while the Senate provided $4,200,000. The conferees agreed to provide $2,100,000.

The conferees agreed to provide $3,376,000 for temporary duty travel. This is the same amount provided by the Senate, and is $300,000 less than proposed by the House.

The budget request included $12,700,000 for increased C–5/C–141 crew ratios in the Air Force Reserve. The House provided the total amount requested, while the Senate provided none of these funds. The conferees agreed to provide $6,000,000 for the additional crew ratios.

Operation and maintenance, Air Force Reserve, 197T

Amendment No. 35.—Appropriates $81,190,000 instead of $83,190,000 as proposed by the House and $79,590,000 as proposed by the Senate.

The conferees agreed to provide $763,000 for temporary duty travel funds, the same amount proposed by the Senate and $300,000 less than the amount provided by the House.

The budget request included $3,300,000 for increased C–5/C–141 crew ratios. The House provided the full amount requested, while the Senate provided none of these funds. The conferees agreed to provide $1,600,000 for the additional crew ratios.

Operation and maintenance, Army National Guard, 1976

Amendment No. 36.—Appropriates $649,930,000 as proposed by the House, instead of $650,330,000 as proposed by the Senate.

The budget request included $12,700,000 for the stock fund surcharge. The House disallowed the total request, while the Senate provided $5,500,000. The conferees agreed to provide $5,100,000 for this item.

The conferees agreed to provide $10,436,000 for temporary duty travel. This is the same amount as provided in the Senate bill, and is $5,100,000 less than the amount provided in the House bill. The House recedes.

Operation and maintenance, Army National Guard, 197T

Amendment No. 37.—Appropriates $173,285,000 as proposed by the Senate instead of $174,385,000 as proposed by the House.

The conferees agreed to provide $2,621,000 for temporary duty travel as proposed by the Senate, instead of $3,721,000 as proposed by the House. The House recedes.

Operation and maintenance, Air National Guard, 1976

Amendment No. 38.—Appropriates $697,100,000 instead of $690,100,000 as proposed by the House and $703,400,000 as proposed by the Senate.

The budget request included $9,200,000 for new mission flying hours. The House provided $6,000,000 for this item, while the Senate provided $7,800,000. The conferees agreed to provide $7,800,000 allowed by the Senate.

The budget request included $28,800,000 for the stock fund surcharge. The House disallowed the total request, while the Senate provided $12,600,000. The conferees agreed to provide $6,300,000.

The conferees agreed to provide $5,700,000 for temporary duty travel funds as proposed by the Senate instead of $6,800,000 as proposed by the House.

Operation and maintenance, Air National Guard, 197T

Amendment No. 39.—Appropriates $181,200,000 as proposed by the Senate instead of $181,500,000 as proposed by the House.

The conferees agreed to provide $1,400,000 for temporary duty travel as proposed by the Senate instead of $1,700,000 as proposed by the House.

Army stock fund, 1976

Amendment No. 40.—Appropriates $20,000,000 instead of $94,000,000 as proposed by the House. The Senate denied this request.

For fiscal year 1976, the Defense Department requested $476,800,000 for procurement of war reserve materiel to increase the stockpile of secondary items and bulk petroleum.

No funds were requested in the transition period. The House provided the amount requested. The Senate denied the request, since a majority of the war reserve items are readily available from commercial sources, and additional petroleum procurement is not warranted in view of existing stockpiles and the ease of diverting civilian fuel supplies in wartime or in case of a national emergency.

The conferees agreed that the Defense Department has not justified the large increase requested this year for war reserve materiel procurement. However, the conferees agreed to provide an appropriation that is generally at the same level as provided from available stock fund cash in recent years for these items. Accordingly, the conferees agreed to provide $20,000,000 for procurement of war reserve materiel in the Army Stock Fund.

The conferees agreed that future requests for procurement of these items should be accompanied by detailed requirements analysis and justification along the lines required in the Senate report.

Navy stock fund, 1976

Amendment No. 41.—Appropriates $10,000,000 instead of $42,000,000 as proposed by the House. The Senate denied this request.

The conference agreed to provide $10,000,000 for the procurement of war reserve stocks as explained earlier under Amendment No. 40.

Marine Corps stock fund, 1976

Amendment No. 42.—Appropriates $2,000,000 instead of $8,700,000 as proposed by the House. The Senate denied this request.

The conferees agreed to provide $2,000,000 for the procurement of wår reserve stocks as explained earlier under Amendment No. 40.

Air Force stock fund, 1976

Amendment No. 43.—Appropriates $15,000,000 instead of $82,100,000 as proposed by the House. The Senate denied this request.

The conferees agreed to provide $15,000,000 for the procurement of war reserve stocks as explained earlier under Amendment No. 40.

Defense stock fund, 1976

Amendment No. 44.—Appropriates $88,000,000 as proposed by the Senate instead of $250,000,000 as proposed by the House.

In this appropriation, the House provided the full $250,000,000 requested for procurement of war reserve stocks, including petroleum. The Senate provided no funds for war reserve stocks, but provided $88,000,000 in the form of a direct appropriation to protect cash balances of the Defense stock funds. The conferees agreed to provide $88,000,000 as recommended by the Senate.

National Board for the Promotion of Rifle Practice, Army, 1976

Amendment No. 45.—Appropriates $233,000 as proposed by the Senate.

The conferees agreed to provide the full amount requested in the budget, $233,000, for the National Board for the Promotion of Rifle Practice, Army, the same amount as in the Senate bill. The House had denied this request.

In addition to restoring funds for Board operations, Senate language also provided for the issue of $280,000 of ammunition without charge to this appropriation. The conferees agreed to modify the language so that the ammunition is to be provided from funds made available elsewhere in this Act.

Bulk milk dispensers

The Senate report directed the Department of Defense to discontinue the purchase of bulk milk dispensers and continue the leasing program. The House did not address this item. The conferees agreed that the Department of Defense should use the most economical and appropriate approach to the issue of purchase or lease of bulk milk dispensers.

TITLE IV—PROCUREMENT

Missile procurement, Army, 1976

Amendment No. 46.—Appropriates $422,600,000 as proposed by the Senate instead of $385,100,000 as proposed by the House.

The conferees agreed to provide $37,500,000 for 52 Chaparral missile launchers as proposed by the Senate. The House had denied the funds requested for the launchers.

Missile procurement, Army, 197T

Amendment No. 47.—Appropriates $42,600,000 as proposed by the Senate instead of $41,600,000 as proposed by the House.

The conferees agreed to provide $1,000,000 for support of the fiscal year 1976 Chaparral missile launcher procurement as proposed by the Senate. The House had denied the funds for that purpose.

Procurement of weapons and tracked combat vehicles, Army, 1976

Amendment No. 48.—Appropriates $881,400,000 as proposed by the House instead of $918,700,000 as proposed by the Senate.

The conferees agreed to the House reduction of $37,300,000 and 475 M113A1 armored personnel carriers. The conference agreement provides $66,300,000 for 845 armored personnel carriers instead of the $103,600,000 budgeted for 1,320 such vehicles.

Amendment No. 49.—Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment appropriating $637,200,000 with an amendment that prohibits the use of funds in this Act for the construction or modernization of Government-owned, contractor-operated (GOCO) Army ammunition plants for the production of 105mm artillery projectile metal parts until a new study is made of such requirements by the Army; the Secretary of the Army certifies to Congress that such obligations are essential to national defense; and until approval is received from the House and Senate Appropriations and Armed Services Committees. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Army budgeted $21,700,000 in fiscal year 1976 and $88,700,000 in the transition quarter to initiate construction of a 105mm artillery projectile metal parts plant at the Lone Star Ammunition Plant in Texarkana, Texas. The House denied the funds and the Senate restored the House reduction. The bill language will require a new Army study of the requirements, a certification as to the essentiality of those requirements, and approval of the Army decision by the House and Senate Appropriations and Armed Services Committees. The language in effect precludes the use of any funds in this act for the establishment of 105mm artillery projectile metal parts production capability at the Lone Star Army Ammunition Plant, Texarkana, Texas, the St. Louis Army Ammunition Plant, St. Louis, Missouri, or any other GOCO facility until approval is received from the Appropriations and Armed Services Committees of the House and Senate.

The text of the bill language agreed to by the conferees follows:

"*Provided*, That none of the funds provided in this Act may be obligated for construction or modernization of Government-owned contractor-operated Army Ammunition Plants for the production of 105mm artillery projectile metal parts until a new study is made of such requirements by the Department of the Army; the Secretary of the Army certifies to Congress that such obligations are essential to national defense; and until approval is received from the Appropriations and Armed Services Committees of the House and Senate, $637,200,000."

Procurement of ammunition, Army, 197T

Amendment No. 50.—Appropriates $252,800,000 as proposed by the Senate instead of $164,100,000 as proposed by the House.

The conferees agreed to provide $88,700,000 for a 105mm artillery projectile metal parts facility. The limitation on the fiscal year 1976 funds for this facility also applies to the funds provided for the transition quarter.

Other procurement, Army, 1976

Amendment No. 51.—Appropriates $912,300,000 instead of $898,400,000 as proposed by the House and $930,500,000 as proposed by the Senate.

The conference agreement includes $5,500,000 for 400 AN/PSN-6 LORAN back-pack locator units; $3,200,000 for 825 AN/TVS-5 crew-served weapon night vision sights; and $3,200,000 for 870 AN/PVS-4 individual night vision sights as proposed by the Senate. The House had denied funds for all three equipments.

The House had recommended a general reduction of $31,000,000 in communications equipment and the Senate restored $10,000,000 of the House reduction. The conferees agreed to a general reduction of $29,000,000.

The conferees agreed to the House reduction of $10,200,000 in intelligence.

Weapons procurement, Navy, 1976

Amendment No. 52.—Appropriates $1,172,600,000 instead of $1,155,100,000 as proposed by the House and $1,190,100,000 as proposed by the Senate.

The House denied $35,000,000 of the $120,300,000 budgeted for the UGM-96A Trident I (C-4) missile. The Senate restored the House reduction. The conference agreement provides $102,800,000 for the Trident I missile, a reduction of $17,500,000.

Amendment No. 53.—Reported in technical disagreement. The Senate version of the bill contained language limiting the funding available for the AGM-53A Condor missile program to $10,000,000 until the Secretary of Defense determines and advises Congress that the Condor missile system has successfully completed testing and can be released for production. The House bill contained no such limitation.

The Managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which would increase the limitation to $15,000,000, rather than the $10,000,000 proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The total amount made available in the bill by both Houses for 205 Condor missiles is $85,600,000. The text of the amendment follows: "of which no more than $15,000,000 shall be available for the Condor missile program until the Secretary of Defense determines and advises the Congress that the Condor missile system has successfully completed testing and can be released for production,".

Weapons Procurement, Navy, 197T

Amendment No. 54.—Appropriates $321,700,000 instead of $314,200,000 as proposed by the House and $329,200,000 as proposed by the Senate.

The House denied $15,000,000 of the $99,200,000 budgeted for the UGM-96A Trident I (C-4) missile. The Senate restored the House reduction. The conference agreement provides $91,700,000 for the Trident missile during the transition quarter, a reduction of $7,500,000 from the request.

Amendment No. 55.—The conferees agreed to delete the Senate language prohibiting the use of the $10,400,000 appropriated to buy 38 additional Condor missiles until the Secretary of Defense determines and advises the Congress that the Condor missile system has successfully completed testing and can be released for production. The Senate receded. The language was considered unnecessary because the required testing should be completed prior to July 1, 1976, when the transition quarter begins.

Shipbuilding and converison, Navy, 1976

Amendment No. 56.—Appropriates $641,300,000 for a Trident ballistic missile submarine, as proposed by the Senate, instead of $602,600,000 as proposed by the House. The Senate increased the amount budgeted for the Trident submarine by $38,700,000 to fund known cost increases in the proposed construction of the submarine.

Amendment No. 57.—The conferees agreed to change the language to reflect *one* AD destroyer tender as proposed by the Senate instead of *two* AD destroyer tenders as proposed by the House.

Amendment No. 58.—The conferees agreed to language changing the word *tenders* to *tender* as proposed by the Senate.

Amendment No. 59.—Appropriates $201,900,000 for one AD destroyer tender as proposed by the Senate instead of $364,500,000 for two AD destroyer tenders as proposed by the House.

Amendment No. 60.—The conferees agreed to the Senate deletion of House language transferring $9,500,000 from "Shipbuilding and Conversion, Navy, 1975/1979" to the fiscal year 1976 AD destroyer tender program.

Amendment No. 61.—Appropriates $239,400,000 for two AO fleet oilers as proposed by the Senate instead of $212,100,000 as proposed by the House. The Senate included $27,300,000 above the budget to fund known cost increases in the construction of these two AO fleet oilers.

Amendment No. 62.—Appropriates $36,200,000 for outfitting as proposed by the Senate instead of $25,400,000 as proposed by the House.

Amendment No. 63.—Appropriates $932,400,000 for cost growth as proposed by the Senate instead of $826,300,000 as proposed by the House.

Amendment No. 64.—Appropriates $3,853,000,000 in total for the fiscal year 1976 Shipbuilding and Conversion, Navy program, as proposed by the Senate instead of $3,832,700,000 as proposed by the House.

Amendment No. 65.—The conferees agreed to Senate language transferring a total of $75,000,000 of prior year balances to the fiscal year 1976 Shipbuilding and Conversion, Navy program, instead of $84,500,000 as proposed by the House. The conference agreement recognizes the Senate deletion by Amendment No. 60 of $9,500,000 transferred by the House to the AD destroyer tender program.

Other procurement, Navy, 1976

Amendment No. 66.—Appropriates $1,829,700,000 instead of $1,872,700,000 as proposed by the Senate and $1,810,100,000 as proposed by the House.

The conference agreement includes $73,700,000 for communications equipment, instead of $68,700,000 as proposed by the House. The Senate version of the bill had provided $96,800,000, the budgeted amount.

The conferees agreed to provide $4,800,000 to buy 2,000 deep passive sonobuoys as proposed by the Senate. The House had deleted all the funds for these sonobuoys.

The conference agreement provides $29,900,000 for the Harpoon missile system as proposed by the Senate. The House had deleted $3,800,000 from the request for the encapsulated Harpoon missile system.

The conferees agreed to a reduction of $19,900,00 in intelligence activities instead of a reduction of $25,900,000 as proposed by the House. The Senate version of the bill restored all of the House reduction.

Other procurement, Navy, 197T

Amendment No. 67.—Appropriates $464,500,000 instead of $460,100,000 as proposed by the House and $469,900,000 as proposed by the Senate.

The conferees agreed to a reduction of $5,400,000 in intelligence activities instead of a reduction of $9,800,000 as proposed by the House. The Senate version of the bill restored all of the House reduction.

Procurement, Marine Corps, 1976

Amendment No. 68.—Appropriates $281,000,000 as proposed by the Senate instead of $275,900,000 as proposed by the House.

The conferees agreed to restore the House reduction of $5,100,000 for the AN/UGC–74 teletypewriter as proposed by the Senate.

Aircraft procurement, Air Force, 1976

Amendment No. 69.—Appropriates $3,933,700,000 as proposed by the Senate instead of $3,933,200,000 as proposed by the House.

The conferees agreed to provide $64,000,000 in advance procurement funding for the B–1 bomber as proposed by the House. The Senate had deleted the amount.

The conferees are in agreement that provision of the B–1 advance procurement funds implies no commitment on the part of the Congress to production of B–1 aircraft. Obligation of funds for the B–1 program in fiscal year 1977 under a continuing resolution must be strictly limited to the rate not more than the amount provided for fiscal year 1976.

The conference agreement includes $1,378,300,000 for the production of 108 F/TF–15 aircraft as proposed by the House. The Senate had proposed $1,316,200,000 for the production of 96 such aircraft.

The conferees agreed to provide $251,200,000 to fully fund only four E–3A Airborne Warning and Control System (AWACS) aircraft. The House had provided $260,000,000 for two AWACS aircraft while the Senate had proposed $335,500,000 for six such aircraft. Language has been provided in the bill that reads as follows: "3,933,700,000, of which $251,200,000 shall be available to fully fund only four E–3A Airborne Warning and Control System (AWACS) aircraft".

The conference agreement includes $15,000,000 for AWACS advance procurement funding.

The conferees agreed to provide $11,800,000 for sixteen C–12 (CX–X) aircraft as proposed by the Senate instead of $10,300,000 for fourteen such aircraft as proposed by the House.

The conferees agreed to provide $799,500,000 for spares and repair parts as proposed by the House instead of $805,300,000 as proposed by the Senate. The conference agreement includes $151,900,000 for F/TF–15 spares as proposed by the House instead of $141,900,000 as proposed by the Senate, and $10,000,000 for AWACS initial spares as proposed by the House instead of $30,000,000 as proposed by the Senate.

Included in the conference agreement is a reduction of $4,200,000 for pilot training, Foreign Military Sales, as proposed by the Senate.

The conferees agreed to a reduction of $31,800,000 for intelligence activities as proposed by the House and a reduction of $3,000,000 in Other Production Charges as proposed by the Senate.

Aircraft procurement, Air Force, 197T

Amendment No. 70.—Appropriates $818,400,000 as proposed by the House instead of $803,100,000 as proposed by the Senate.

The conferees agreed to provide $23,000,000 in advance procurement funding for the B–1 bomber as proposed by the House. The Senate had deleted the funds.

As in the case of the fiscal year 1976 funds, the conferees are in agreement that provision of the B–1 advance procurement funds implies no commitment on the part of the Congress to production of B–1 aircraft. Obligation of funds for the B–1 program in fiscal year 1977 under a continuing resolution must be strictly limited to a rate not more than the amount provided for the fiscal year 197T transition quarter.

The conference agreement includes $291,400,000 for the F/TF–15 aircraft as proposed by the Senate instead of $319,500,000 as proposed by the House, and $30,000,000 in advance procurement funding for the E–3A AWACS aircraft as proposed by the Senate.

The conferees agreed to $177,400,000 for aircraft spares and repair parts instead of $179,300,000 as proposed by the House and $175,500,000 as proposed by the Senate. The agreement includes $35,900,000 for F/TF–15 aircraft spares and repair parts instead of $36,600,000 as proposed by the House and $34,000,000 as proposed by the Senate.

The conferees agreed to a reduction of $1,200,000 for pilot training, Foreign Military Sales, as proposed by the Senate.

The conference agreement also includes a general reduction of $9,600,000 in intelligence activities as proposed by the House. The Senate had restored the House reduction.

Missile procurement, Air Force, 197T

Amendment No. 71.—Appropriates $1,723,900,000 instead of $1,694,600,000 as proposed by the House and $1,739,500,000 as proposed by the Senate.

The conferees agreed to a reduction of $39,100,000 in intelligence activities, instead of a reduction of $20,200,000 as proposed by the House and a reduction of $23,500,000 as proposed by the Senate.

Missile procurement, Air Force, 197T

Amendment No. 72.—Appropriates $233,000,000 instead of $232,000,000 as proposed by the House and $245,900,000 as proposed by the Senate.

The conferees agreed to a reduction of $19,200,000 in intelligence activities instead of a reduction of $20,200,000 as proposed by the House and a reduction of $6,300,000 as proposed by the Senate.

Other procurement, Air Force, 1976

Amendment No. 73.—Appropriates $2,046,400,000 instead of $2,010,400,000 as proposed by the House and $2,133,800,000 as proposed by the Senate.

The conferees agreed to provide $18,700,000 for air traffic control and landing systems as proposed by the House instead of $58,700,000 as proposed by the Senate. The conference agreement includes deletion of $40,000,000 to buy 11 AN/TPN–19 radars as proposed by the House.

The conference agreement provided $2,800,000 for the System to Automate Logistics as proposed by the Senate. The House had deleted the funds.

The conferees agreed to provide $478,600,000 for communications equipment instead of $475,600,000 as proposed by the House and $490,600,000 as proposed by the Senate.

The conferees also agreed to a reduction of $64,300,000 in intelligence activities instead of a reduction of $94,500,000 as proposed by the House and a reduction of $28,900,000 as proposed by the Senate

Missile procurement, Air Force, 197T

Amendment No 74—Appropriates $353,000,000 instead of $345,700,000 as proposed by the House and $358,000,000 as proposed by the Senate.

The conference agreement reduces intelligence activities by $12,100,000 instead of a reduction of $19,400,000 as proposed by the House and a reduction of $7,100,000 as proposed by the Senate.

Procurement, Defense Agencies, 1976

Amendment No. 75.—Reported in technical disagreement. The managers on the part of the House will offer a motion to appropriate $205,600,000 instead of $203,100,000 as proposed by the House and $120,100,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agreed to increase intelligence activities a net total of $84,400,000. The House had proposed an increase of $81,900,000 and the Senate had proposed a decrease of $1,100,000. The conference agreement includes $2,000,000 for a high priority special communications project not considered by the House.

Procurement, Defense Agencies, 197T

Amendment No. 76.—Appropriates $39,600,000 as proposed by the House instead of $20,900,000 as proposed by the Senate.

The conferees agreed to increase intelligence activities by $18,700,000 as proposed by the House. The Senate had deleted the increase proposed by the House.

Report language

The conferees agreed to House report language on the following items:

Flight simulators

Shipbuilding claims

RIM–67A Standard II ER Missile

PHM Patrol Hydrofoil Missile Ships

Army Tank program

Navy gunfire support

Test and evaluation of commercial equipment

A–6E aircraft production

The conferees agreed to Senate report language on the following items:

Worldwide Military Command and Control System

Civil Reserve Airlift Fleet

Bid and Proposal/Independent Research and Development Costs

Overobligation of Army procurement appropriations

The Congress has recently been advised by the Army that four procurement appropriations are now overexpended, and payments from these appropriations were suspended on November 11, 1975. The Army reported the basic cause of the problems to be poor accounting controls over the customer order program. The conferees are greatly concerned about the Army's inability to maintain adequate records and controls over funds for which the Army has statutory accounting responsibility. It therefore directs that a complete and full report of all violations of the Anti-Deficiency Act be made as soon as possible and the corrective actions be taken to re-establish required records and controls. The Secretary of Defense is directed to monitor and assure that the corrective actions taken by the Army are adequate and timely.

TITLE V—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Research, Development, Test, and Evaluation, Army, 1976

Amendment No. 77—Appropriates $1,948,823,000 instead of $1,922,833,000 as proposed by the House and $1,995,596,000 as proposed by the Senate.

The conference agreement includes $67,250,000 for the Defense Research Sciences program as proposed by the House instead of $69,250,000 as proposed by the Senate.

The conferees agreed on the appropriation of $3,840,000 for the Advanced Forward Area Air Defense System as proposed by the House instead of $9,940,000 as proposed by the Senate.

The conference agreement appropriates $4,000,000 for the Heliborne missile—HELLFIRE program instead of $3,000,000 as proposed by the House and $4,500,000 as proposed by the Senate.

The conference agreement includes $2,800,000 for the non-nuclear warhead program as proposed by the Senate instead of no funds as proposed by the House. The funds provided will enable the Army to liquidate existing obligations.

The conferees agreed on the appropriation of $54,965,000 for the Short Range Air Defense Missile System instead of $44,965,000 as proposed by the House and $64,965,000 as proposed by the Senate.

The conference agreement appropriates $77,827,000 for the Kwajalein Missile Range as proposed by the House instead of $80,000,000 as proposed by the Senate.

The conferees agreed upon the appropriation of $5,339,000 for the Weapons and Ammunition program as proposed by the House instead of $7,339,000 as proposed by the Senate. Development of the XM–762 eight-inch projectile is to be terminated.

The conference agreement appropriates $51,760,000 for the XM–1 Tank program as proposed by the Senate instead of $43,760,000 as proposed by the House.

The conference agreement appropriates 460,000 for the Manpower and Human Resources Technology program as proposed by the Senate instead of $3,640,000 as proposed by the House.

The conference agreement includes $7,110,000 for the Manpower and Human Resources Development program as proposed by the Senate instead of $4,740,000 as proposed by the House.

The conferees agreed upon a general reduction of $6,800,000 in communications systems as proposed by the House instead of no reduction as proposed by the Senate.

The conferees agreed upon a general reduction of $17,200,000 in intelligence activities as proposed by the House instead of no reduction as proposed by the Senate.

Research, development, test, and evaluation, Army, 197T

Amendment No. 78.—Appropriates $504,452,000 instead of $464,774,000 as proposed by the House and $512,451,000 as proposed by the Senate.

The conference agreement includes $16,800,000 for the Defense Research Sciences program as proposed by the House instead of $18,419,000 as proposed by the Senate.

The conferees agreed on the appropriation of $525,000 for the Advanced Forward Area Air Defense System as proposed by the House instead of $2,025,000 as proposed by the Senate.

The conference agreement appropriates $40,000,000 for the SAM-D Missile System as proposed by the Senate instead of $25,400,000 as proposed by the House.

The conferees agreed on the appropriation of $11,510,000 for the Short Range Air Defense Missile System instead of $10,000,000 as proposed by the House and $13,020,000 as proposed by the Senate.

The conferees agreed upon the appropriation of $1,795,000 for the Weapons and Ammunition program as proposed by the House instead of $2,665,000 as proposed by the Senate. Development of the XM–762 eight-inch projectile is to be terminated.

The conference agreement appropriates $38,953,000 for the XM–1 Tank program as proposed by the Senate instead of $5,953,000 as proposed by the House.

The conference agreement includes $1,371,000 for the Manpower and Human Resources Technology program as proposed by the Senate instead of $914,000 as proposed by the House.

The conference agreement includes $1,833,000 for the Manpower and Human Resources Development program as proposed by the Senate instead of $1,222,000 as proposed by the House.

The conferees agreed upon a general reduction of $10,500,000 as proposed by the Senate instead of no reduction as proposed by the House.

The conferees agreed upon a general reduction of $2,500,000 in intelligence activities as proposed by the House instead of no reduction as proposed by the Senate.

Research, development, test, and evaluation, Navy, 1976

Amendment No. 79.—Appropriates $3,238,390,000 instead of $3,146,050,000 as proposed by the House and $3,265,950,000 as proposed by the Senate.

The Managers are in agreement on the appropriation of $115,135,000 for the Defense Research Sciences Program as proposed by the House instead of $117,067,000 as proposed by the Senate.

The conference agreement includes $2,000,000 for the F–401 engine program as proposed by the Senate instead of no funds as proposed by the House.

The conferees agreed on the appropriation of $1,750,000 for the Aircraft Survivability/Vulnerability program instead of $1,500,000 as proposed by the House and $2,033,000 as proposed by the Senate.

The conference agreement includes $20,150,000 for the SSBN Security program instead of $18,800,000 as proposed by the House and $21,500,000 as proposed by the Senate.

The conferees agreed on the appropriation of $15,000,000 for the Close-in Weapon System as proposed by the Senate instead of no funds as proposed by the House.

The conference agreement provides $725,500,000 for the TRIDENT missile system as proposed by the Senate instead of $686,900,000 as proposed by the House. This continues the Maneuvering Reentry Vehicle (MARV) program.

The conferees agreed to the appropriation of $38,000,000 for the Surface Effects Ship as proposed by the Senate instead of $20,110,000 as proposed by the House.

The conference agreement includes $6,000,000 for the Advanced Design Submarine Nuclear Propulsion Plant instead of $9,975,000 as proposed by the Senate and no funds as proposed by the House.

The conferees agreed to the appropriation of $1,000,000 for the Naval Inshore Warfare Craft Program as proposed by the Senate instead of no funds as proposed by the House. The funds provided will enable the Navy to liquidate outstanding obligations.

The conferees agreed to the appropriation of $1,800,000 for the Advanced Marine Corps Weapon Systems program as proposed by the House instead of $2,000,000 as proposed by the Senate. The funds denied were requested for the purpose of defining a new surface-to-air missile system to replace the Improved Hawk system. The Marine Corps should use Army developed air defense systems rather than develop additional new weapons.

The conference agreement includes $13,770,000 for the Materials Technology program instead of $12,520,000 as proposed by the House and $15,020,000 as proposed by the Senate.

The conferees agreed to the appropriation of $8,469,000 for the Human Resources program as proposed by the Senate instead of $5,469,000 as proposed by the House.

The conferees agreed to the appropriation of $3,254,000 for the Manpower Effectiveness program as proposed by the Senate instead of $2,254,000 as proposed by the House.

The conferees agreed upon a general reduction of $9,000,000 in communications systems as proposed by the House instead of no reduction as proposed by the Senate.

The conferees agreed upon a general reduction of $31,800,000 in intelligence activities instead of a $40,300,000 reduction as proposed by the House and a $18,730,000 reduction as proposed by the Senate.

The conferees agreed upon a general reduction of $3,500,000 in the funds for Navy Federal Contract Research Centers instead of a $7,000,000 reduction as proposed by the Senate and no reduction as proposed by the House.

Research, development, test, and evaluation, Navy, 197T

Amendment No. 80.—Appropriates $818,722,000 instead of $801,419,000 as proposed by the House and $824,899,000 as proposed by the Senate.

The Managers are in agreement on the appropriation of $28,783,000 for the Defense Research Sciences program as proposed by the House instead of $30,081,000 as proposed by the Senate.

The conference agreement includes $1,045,000 for the Airborne Mine Countermeasures program as proposed by the House instead of $1,145,000 as proposed by the Senate.

The conferees agreed on the appropriation of $1,248,000 for the Aircraft Survivability/Vulnerability program instead of $400,000 as proposed by the House and $2,096,000 as proposed by the Senate.

The conference agreement includes $5,345,000 for the SSBN Security program instead of $4,500,000 as proposed by the House and $6,190,000 as proposed by the Senate.

The conference agreement provides $165,510,000 for the TRIDENT missile system as proposed by the Senate instead of $165,100,000 as proposed by the House.

The conferees agreed to the appropriation of $17,000,000 for the Surface Effects Ship as proposed by the Senate instead of $8,400,000 as proposed by the House.

The conference agreement includes $2,000,000 for the Advanced Design Submarine Nuclear Propulsion Plant instead of $2,886,000 as proposed by the Senate and no funds as proposed by the House.

The conferees agreed to the appropriation of $296,000 for the Advanced Marine Corps Weapon System program as proposed by the House instead of $396,000 as proposed by the Senate. The funds denied were requested for the purpose of defining a new surface-to-air missile system to replace the Improved Hawk system. The Marine Corps should use Army developed air defense systems rather than develop additional new weapons.

The conferees agreed to the appropriation of $2,222,000 for the Human Resources program as proposed by the Senate instead of $1,422,000 as proposed by the House.

The conferees agreed upon a general reduction of $7,100,000 in intelligence activities instead of a $11,900,000 reduction as proposed by the House and a $4,000,000 reduction as proposed by the Senate.

The conferees agreed upon a general reduction of $1,000,000 in the funds for Navy Federal Contract Research Centers instead of a $2,000,000 reduction as proposed by the Senate and no reduction as proposed by the House.

Research, development, test, and evaluation, Air Force, 1976

Amendment No. 81.—Appropriates $3,591,266,000 as proposed by the House instead of $3,584,406,000 as proposed by the Senate.

The managers are in agreement on the appropriation of $78,240,000 for the Defense Research Sciences program as proposed by the House instead of $81,800,000 as proposed by the Senate.

The conference agreement includes $5,630,000 for the Advanced Aerial Target Technology program as proposed by the Senate instead of $2,530,000 as proposed by the House.

The conferees agreed on the appropriation of $597,200,000 for the B–1 bomber as proposed by the Senate instead of $642,000,000 as proposed by the House.

The conference agreement appropriates $216,050,000 for the Air Combat Fighter (F–16) program instead of $221,050,000 as proposed by the House and $146,050,000 as proposed by the Senate.

The conferees agreed on the appropriation of $38,000,000 for the Advanced ICBM Technology program as proposed by the House instead of $40,100,000 as proposed by the Senate.

The conferees agreed on the appropriation of $51,000,000 for the Air Launched Cruise Missile as proposed by the Senate instead of no funds as proposed by the House.

The conferees agreed on the appropriation of $21,920,000 for the Close Air Support Weapon System as proposed by the House instead of $24,000,000 as proposed by the Senate. The Air Force may continue development of the imaging infrared seeker.

The conference agreement includes $5,961,000 for the Human Resources program as proposed by the Senate instead of $3,961,000 as proposed by the House.

The conferees agreed upon a general reduction of $15,000,000 in communications systems as proposed by the House instead of no reduction as proposed by the Senate.

The conferees agreed upon a general reduction of $29,900,000 in intelligence activities instead of a $54,100,000 reduction as proposed by the House and a $5,000,000 reduction as proposed by the Senate.

The conferees agreed upon a general reduction of $7,500,000 in the funds for Air Force Federal Contract Research Centers instead of a $15,000,000 reduction as proposed by the Senate and no reduction as proposed by the House.

The conferees agreed upon a general reduction of $23,000,000 to be applied by the Secretary of Defense. No general reduction of this nature was proposed by either the House or Senate.

Research, development, test, and evaluation, Air Force, 197T

Amendment No. 82.—Appropriates $901,014,000 instead of $900,014,000 as proposed by the Senate and $906,946,000 as proposed by the House.

The managers are in agreement on the appropriation of $19,560,000 for the Defense Research Sciences program as proposed by the House instead of $20,500,000 as proposed by the Senate.

The conference agreement includes $1,980.000 for the Advanced Aerial Target Technology program as proposed by the Senate instead of $880,000 as proposed by the House.

The conferees agreed to an appropriation of $129,000,000 for the B–1 bomber as proposed by the Senate instead of $158,000,000 as proposed by the House.

The conference agreement appropriates $69,704,000 for the Air Combat Fighter (F–16) program as proposed by the House instead of $40,704,000 as proposed by the Senate.

The conferees agreed on the appropriation of $1,000,000 for A–10 aircraft as proposed by the House instead of no funds are proposed by the Senate.

The conference agreement includes $35,114,000 for the Airborne Warning and Control System (AWACS) instead of $33,674,000 as prescribed by the House and $54,474,000 as proposed by the Senate.

The conferees agreed on the appropriation of $12,900,000 for the Advanced ICBM Technology program as proposed by the House instead of $14,300,000 as proposed by the Senate.

The conferees agreed on the appropriation of $13,000,000 for the Air Launched Cruise missile as proposed by the Senate instead of no funds as proposed by the House.

The conference agreement includes $2,056,000 for the Human Resources program as proposed by the Senate instead of $1,028,000 as proposed by the House.

The conferees agreed upon a general reduction of $10,800,000 in intelligence activities instead of a $20,800,000 reduction as proposed by the House and no reduction by the Senate.

The conferees agreed upon a general reduction of $3,500,000 in the funds for Air Force Federal Contract Research Centers instead of a $7,000,000 reduction as proposed by the Senate and no reduction as proposed by the House.

Research, Development, Test, and Evaluation, Defense Agencies, 1976

Amendment No. 83.—Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment appropriating $604,400,000 instead of $599,100,000 as proposed by the House and $557,200,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agreed to an increase of $24,700,000 for intelligence activities instead of an increase of $26,400,000 as proposed by the House and a general reduction of $13,500,000 as proposed by Senate.

The conferees agreed upon a general reduction of $1,000,000 in the funds for Federal Contract Research Centers instead of a $2,000,000 reduction as proposed by the Senate and no general reduction as proposed by the House.

The conferees agreed to the appropriation of an additional $8,000,000 for communications activities. The additional funds are for a special high priority project.

Research, Development, and Evaluation, Defense Agencies, 197T

Amendment No. 84.—Appropriates $146,550,000 instead of $147,000,000 as proposed by the House and $138,700,000 as proposed by the Senate.

The conferees agreed to an increase of $2,100,000 for intelligence activities instead of an increase of $2,300,000 as proposed by the House and a reduction of $5,500,000 as proposed by the Senate.

The conferees agreed upon a general reduction of $250,000 in the funds for Federal Contract Research Centers instead of a $500,000 general reduction as proposed by the Senate and no general reduction as proposed by the House.

Other Matters Related to Amendments 77 Through 84

The Senate report required that $15,000,000 be allocated to each of the component elements of the Army Site Defense program, to include interceptor missile development. The House had no similar language. The Senate agreed to recede.

The managers agreed that the general reductions made to the Federal Contract Research Centers are made without prejudice to particular organizations. While it applies (FCRC's), the managers are particularly concerned about the "think tanks". In the study of FCRC's being prepared for the Congress, the Director of Defense Research and Engineering is directed to give particular attention to this class of FCRC's and to the need, if any, for their continued retention.

The Senate managers agreed with the House report language directing that none of the funds appropriated for Ship Development (Advanced) be used for designing the Advanced Amphibious Landing Craft.

The managers agreed that development effort on future blocks or improvement phases of the Advanced Airborne Command Post should be delayed until the basic communications, command and control system for the Command Post has been developed. The Air Force, however, may use appropriated funds for the Advanced Airborne Command Post to liquidate any obligations incurred under the continuing resolution.

The House managers agreed with the Senate report language requiring that $40,000,000 of the reduction in Defense Research, Development, Test and Evaluation appropriations be applied to in-house laboratories.

Amendments Nos. 85 and 86.—Section 707—Provides a limitation on the Overseas Dependents Education program of $211,391,000 in fiscal year 1976 instead of $206,791,000 as proposed by the House and $214,766,000 as proposed by the Senate and provides a limitation in accordance with their agreement on instead of $47,618,000 as proposed by the House and $51,268,000 as proposed by the Senate.

The conferees agreed to adjust the limitation in accordance with their agreement on funds provided for Overseas Dependents Education in the appropriation "Operation and Maintenance, Defense Agencies" (Amendment No. 27).

Amendments Nos. 87 and 88.—Section 723—Inserts House language "including stainless steel flatware" in Section 723. This section, which is known as the "Buy American" provision, lists a number of items which must be procured by the Department of Defense within the United States. The provision has prohibited overseas procurement of specialty metals for several years. Some uncertainty existed as to whether or not stainless steel flatware was included in the term "specialty metals." The inclusion of the words in the provision will remove any uncertainty.

Amendment No. 89.—Section 723—The conferees agreed to delete a provision proposed by the Senate which would have permitted the payment of a price differential on contracts made for the purpose of relieving economic dislocations except when the Secretary of Defense has specifically determined that sufficient price competition exists to insure a reasonable price to the government.

Amendment No. 90.—Section 732—As proposed by the Senate, the conferees agreed to increase to $75,000 the limitation on funds in the Act that is available for acquisition of new facilities, or alteration, expansion, extension, or addition of existing facilities, in accordance with Department of Defense Directive 7040.2, dated January 18, 1961. The House had proposed a limitation of $50,000.

Amendment No. 91.—Section 745—The Senate receded to the House language which provides a total of 396 enlisted aides. The Senate language had reduced the number to 250. The House language was in conformance with that approved in the fiscal year 1976 Defense Authorization Act.

Amendement No. 92.—Section 747—The Senate receded to the House and agreed to the language as contained in the House bill which will permit the payment of a monetary allowance to personnel who, under regulations prescribed by the Secretary of the military department concerned, participate in a program in which his baggage and household effects are moved by privately owned or rental vehicle. The conferees are in agreement that this provision of law would not preclude the military services from contracting directly with a rental company for the vehicle and other items which the serviceman needs to move his household goods, while also permitting an allowance to the serviceman, in effect, for his time and labor. Thus, this permanent provision would permit the continuation of programs like the existing Navy program, plus a payment to the serviceman, to ease the transition. The conferees, however, believe that it would be most desirable for the Department of Defense to develop a system whereby servicemen would receive an allowance which would permit them to accomplish the entire transaction themselves.

Amendments Nos. 93 and 94.—Restore House section numbers.

Amendment No. 95.—Section 749—The conferees agreed to a provision proposed by the Senate that increases the maximum amount of the Standard Level User Charges that the Department may reimburse the General Services Administration to 90 per centum, instead of 85 per centum as proposed by the House.

Amendment No. 96.—Restores House section number.

Amendment No. 97.—Section 750—The conferees agreed to a 40-mile radius, instead of the 50-mile radius proposed by the House and the 30-mile radius proposed by the Senate, for the issuance of certificates of nonavailability under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS).

Amendment No. 98.—Section 751—Reported in technical disagreement. This section relates to the restriction on the use of appropriated funds for the payment of claims under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS). The House had included in this section a prohibition against the payment for the services of pastoral counselors, family and child counselors, and marital counselors. The Senate deleted this restriction. The conferees agreed to reinstate the House prohibition with an amendment providing that such payments can be made only when it is certified that these services are not available on the military base to which the member is assigned, or when the recipient resides within 40 miles of a military medical facility which certifies that these services are not available.

The House had also included in this section a prohibition against the payment by CHAMPUS for perceptual or visual training. The Senate deleted this prohibition. The conferees agreed to the Senate deletion.

The Senate also modified the House language by prohibiting payments for any other service or supply not psychologically necessary to diagnose and treat an illness as diagnosed by a dentist, or clinical psychologist. The conferees agreed to the Senate amendment.

The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment, as discussed above. The amended language agreed to by the conferees follows:

"SEC. 751. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services under the provisions of section 1079 (a) of title 10, United States Code, shall be available for (a) services of pastoral counselors, or family and child counselors, or marital counseors, except when these services are certified as not being available on the military base to which the member is assigned, or when the recipient resides within 40 miles of a military medical facility which certifies that these services are not available; (b) special education, except when provided as secondary to the active psychiatric treatment on an institutional inpatient basis; (c) therapy or counseling for sexual dysfunctions or sexual inadequacies; (d) treatment of obesity when obesity is the sole or major condition treated; (e) reconstructive surgery justified solely on psychiatric needs including, but not limited to, mammary augmentation, face lifts, and sex gender changes; or (f) any other service or supply which is not medically or psychologically necessary to diagnose and treat a mental or physical illness, injury, or bodily malfunction as diagnosed by a physician, dentist, or a clinical psychologist."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendments Nos. 99 and 100.—Section 752—Restore House limitation stricken by the Senate and later restored by Senate Floor amendment. The matter was in conference only because of a technical problem, not because of a substantive difference in the House and Senate bills. The provision limits the expenditure of funds for Army ammunition plants to areas where existing plants are being closed, placed in layaway, or at which production has been curtailed.

Amendment No. 101.—Section 753—Reported in technical disagreement. The Managers on the part of the House will offer a motion to insert Senate language which would enable South Vietnamese refugees to be employed by the Government of the United States. The motion amends the Senate language to change the Section number. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The language is as follows:

"SEC. 753. Unless otherwise specified and during the current fiscal year, and the period July 1, 1976, through September 30, 1976, no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese refugees paroled into the United States between January 1, 1975, and the date of enactment of this Act: *Provided,* That, for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: *Provided further,* That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined not more than $4,000 or imprisoned for not more than one year, or both: *Provided further,* That the above penal clause shall be in addition to, and not in substitution for, any other provisions of existing law: *Provided further,* That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies."

Conference total—with comparisons

The total new budget (obligational) authority for the fiscal year 1976 and the transition period recommended by the Committee of Conference with comparisons to the fiscal year 1975 amount, the 1976 and transition period budget estimates, and the House and Senate bills for 1976 and the transition period follow:

New budget (obligational) authority, fiscal 1975	$83,439,035,000
Transfer from other accounts, fiscal year 1975	648,694,000
Total funding available, 1975	84,087,729,000
Budget estimates of new (obligational) authority (as amended), fiscal year 1976	97,857,849,000
Transition period	23,117,645,000
Total budget estimates, 1976 and transition period	120,975,494,000
House bill, new obligational) authority, fiscal year 1976	90,219,045,000
Transfer from other accounts	108,800,000
Transition period	21,674,571,000
Total funding available, 1976 and transition period	112,002,416,000
Senate bill, new (obligational) authority, fiscal year 1976	90,721,789,000
Transfer from other accounts	99,300,000
Transition period	21,849,816,000
Total funding available, 1976 and transition period	112,670,905,000
Conference agreement, new (obligational) authority, fiscal year 1976	90,466,961,000

Transfer from other accounts	$99, 300, 000
Transition period	21, 860, 723, 000
Total funding available, 1976 and transition period	112, 426, 984,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1975	+7, 027, 926, 000
Transfer from other accounts	−549, 394, 000
Total funding available, 1975	+6, 478, 532, 000
Budget estimates of new (obligational) authority (as amended) fiscal year 1976	−7, 390, 888, 000
Transfer from other accounts	+99, 300, 000
Transition period	−1, 256, 922, 000
Total funding available, 1976 and transition period	−8, 548, 510, 000
House bill, new (obligational) authority, fiscal year 1976	+247, 916, 000
Transfer from other accounts	−9, 500, 000
Transition period	+186, 152, 000
Total funding available, 1976 and transition parlod	+424, 568, 000
Senate bill, new (obligational) authority, fiscal year 1976	−254, 828, 000
Transfer from other accounts	
Transition period	+10, 907, 000
Total funding available, 1976 and-transition period	−243, 921, 000

GEORGE MAHON,
ROBERT L. F. SIKES,
DANIEL J. FLOOD,
JOSEPH P. ADDABBO,
(except as to amendments 49, 50, 69, 79, and 81),
JOHN J. MCFALL,
JOHN J. FLYNT, Jr.
BILL CHAPPELL,
BILL D. BURLISON,
JACK EDWARDS,
J. KENNETH ROBINSON,
JACK KEMP,
ELFORD A. CEDERBERG,
Managers on the Part of the House.

JOHN L. MCCLELLAN,
JOHN C. STENNIS,
JOHN O. PASTORE,
WARREN G. MAGNUSON,
GALE W. MCGEE,
JOSEPH M. MONTOYA,
DANIEL K. INOUYE,
STUART SYMINGTON,
MILTON R. YOUNG,
ROMAN L. HRUSKA,
CLIFFORD P. CASE,
HIRAM L. FONG,
TED STEVENS,
RICHARD S. SCHWEIKER,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 8122

Mr. EVINS of Tennessee, pursuant to an order of the House on December 8, submitted the following conference report and statement on the bill (H.R. 8122) "making appropriations for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commissions for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes":

CONFERENCE REPORT (H. REPT. No. 94–711)

The Committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8122) "making appropriations for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commissions for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes," having met after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 3, 5, 7, 9, 44, 45, 48 and 50.

That the House recede from its disagreement to the amendments of the Senate numbered 15, 16, 17, 18, 20, 22, 23, 34, 35, 36, 37, 39, 40, 46, 47, 49, 53, 54, 55, 56, and 57, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$25,000"; and the Senate agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$3,130,765,000"; and the Senate agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$941,507,000"; and the Senate agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$907,642,000"; and the Senate agree to the same.

Amendment numbered 8: That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$185,776,000"; and the Senate agree to the same.

Amendment numbered 10: That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$66,836,000"; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert: "$17,110,000"; and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,228,648,000"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$408,741,000"; and the Senate agree to the same.

Amendment numbered 31: That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$38,160,000"; and the Senate agree to the same.

Amendment numbered 32: That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,992,000"; and the Senate agree to the same.

Amendment numbered 42: That the House recede from its disagreement to the amendment of the Senate, numbered 42, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$288,200,000"; and the Senate agree to the same.

Amendment numbered 43: That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$162,200,000; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 13, 19, 21, 24, 25, 26, 27, 28, 29, 30, 33, 38, 41, 51, and 52.

JOE L. EVINS,
EDWARD P. BOLAND,
JAMIE L. WHITTEN,
JOHN M. SLACK,
OTTO E. PASSMAN,
TOM BEVILL,
GEORGE MAHON,
JOHN T. MYERS,
CLAIR W. BURGENER,
ELFORD A. CEDERBERG,
Managers on the Part of the House.

JOHN C. STENNIS,
WARREN G. MAGNUSON,
ROBERT C. BYRD,
JOHN O. PASTORE,
JOSEPH M. MONTOYA,
J. BENNETT JOHNSTON,
JOHN L. MCCLELLAN,
JENNINGS RANDOLPH,
MARK O. HATFIELD,
MILTON R. YOUNG,
ROMAN L. HRUSKA,
CLIFFORD P. CASE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The Managers on the part of the House and the Senate at the Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8122) making appropriations for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, [illegible] and related independent agencies and commissions for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes, submit the following joint statement of the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The conferees are agreed to the language included in the Senate report relating to employee housing.

TITILE I—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION OPERATING EXPENSES

Amendment No. 1: Provides limitation of $25,000 for official entertainment expense instead of $15,000 as proposed by the House and $27,000 as provided by the Senate.

Amendment No. 2: Appropriates $3,130,765,000 for fiscal year 1976 instead of $3,049,120,000 as proposed by the House and $3,131,892,000 as proposed by the Senate.

The funds appropriated for operating expenses are allocated as shown in the following table:

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

	Appropriation fiscal year 1975	Fiscal year 1976	Conference allowance
OPERATING EXPENSES			
Solar, geothermal, and advanced energy systems, development:			
Solar energy development	8,770,000	66,700,000	[1] 82,700,000
Geothermal energy development	13,800,000	31,170,000	31,170,000
Physical research	281,600,000	312,610,000	[3] 315,500,000
Total solar, geothermal, and advanced energy systems development	304,170,000	410,480,000	429,370,000
onservation research and development:			
Electric power transmission	6,372,000	16,000,000	11,830,000
Energy storage systems	5,800,000	13,000,000	14,000,000
Total, conservation research and development	12,172,000	29,000,000	25,830,000
Nuclear energy development:			
Fusion power research and development	85,030,000	120,000,000	[2] 120,000,000
Fission power reactor development	384,000,000	406,459,000	[2] 404,000,000
Naval reactor development	167,000,000	186,200,000	186,200,000
Space nuclear systems	26,600,000	30,900,000	28,000,000
Nuclear materials	646,080,000	971,712,000	[3] 958,500,000
Advanced isotope separation technology	11,700,000	25,060,000	25,000,000
Total nuclear energy development	1,320,498,000	1,740,871,000	1,721,700,000
National security:			
Weapons	819,997,000	897,749,000	849,115,000
Laser fusion	41,400,000	64,000,000	59,500,000
Nuclear materials security	5,863,000	11,945,000	11,945,000
Total, national security	867,260,000	973,694,000	920,560,000
Environmental and safety research:			
Biomedical and environmental research	132,215,000	156,515,000	[2] 166,515,000
Waste management	29,570,000	40,000,000	40,000,000
Operational safety	3,210,000	5,160,000	5,160,000
Total, environmental sand safety research	164,995,000	201,575,000	211,675,000
Program support:			
Program direction	148,543,000	179,764,000	[4] 175,592,000
Community operations	8,065,000	7,650,000	9,075,000
Security investigations	9,460,000	12,290,000	11,400,000
Information services	8,180,000	9,480,000	9,455,000
EEO assigned facilities	1,650,000	1,984,000	1,984,000
Total, program support	175,898,000	211,168,000	207,506,00
Cost of work for others	11,690,000	12,660,000	12,660,000
Total program costs	2,856,683,000	3,579,548,000	3,529,301,000
Change in selected resources	221,901,000	303,459,000	286,464,000
Gross obligation	3,068,584,000	3,883,007,000	3,815,765,000
Revenues applied	—622,190,000	—692,170,000	—670,000,000
Net obligations	2,446,394,000	3,190,837,000	3,145,765,000
Change in unobligated balances	93,000		—15,000,000
Total, operating budget authority	2,446,487,000	3,190,837,000	3,130,756,000

[1] The conferees are agreed that the amount for solar energy is allocated as follows:

Program:	
Solar energy building and facilities	$28,500,000
Solar thermal	10,600,000
Photovoltaic	16,000,000
Wind energy conversion	11,000,000
Bioconversion to fuels	6,000,000
Ocean thermal energy conversion	6,000,000
Resource analysis	1,500,000
Solar storage	1,500,000
Solar Institute	1,600,000
Total	82,700,000

[2] Funding levels for subprograms concur with Senate report 94–505.

[3] Funding levels for subprograms concur with Senate report 94–505, except for conceptual engineering which is $4,000,000. The reductions for fiscal year 1976 and transition quarter are applied to the overall Nuclear Materials program.

[4] Funding levels for subprograms concur with Senate report 94–505 except for program direction which is decreased by $2,408,000.

The Conferees are in agreement that the off-continent test readiness program should not be terminated, nor the scientific team associated with the program dismantled. Accordingly, the Conferees agree that from within the total sum available for the weapons program, such amounts as are necessary, but not to exceed $8,000,000, may be utilized for this program activity.

Amendment No. 3: Deletes language proposed in Senate bill which read, ": *Provided further*, That this appropriation shall be available only upon the enactment into law of authorizing legislation".

Amendment No. 4: Appropriates $941,507,000 for the transition period instead of $941,439,000 as proposed by the House and $942,252,000 as proposed by the Senate. The funds are allocated as shown in the table below.

TRANSITION QUARTER

	Budget estimate fiscal year 1976	Conference allowance
OPERATING EXPENSES		
Solar, geothermal, and advanced energy systems development:		
Solar energy development	17,400,000	24,500,000
Geothermal energy development	3,850,000	[1] 8,750,000
Physical research	80,342,000	82,800,000
Total, solar, geothermal, and advanced systems development	101,592,000	116,050,000
Conservation research and development:		
Electric power transmission	4,100,000	2,673,000
Energy storage systems	3,400,000	3,400,000
Total, conservation research and development	7,500,000	6,073,000
Nuclear energy development:		
Fusion power research and development	37,000,000	37,000,000
Fission power reactor development	111,588,000	[2] 110,000,000
Naval reactor development	52,900,000	52,900,000
Space nuclear systems	8,000,000	7,500,000
Nuclear materials	262,392,000	[2] 260,000,000
Advanced isotope separation technology	7,700,000	7,300,000
Total, nuclear energy development	479,580,000	474,700,000
National security:		
Weapons	242,087,000	220,000,000
Laser fusion	18,100,000	18,000,000
Nuclear materials security	3,006,000	3,006,000
Total, national security	263,203,000	241,006,000
Environmental and safety research:		
Biomedical and environmental research	40,500,000	44,000,000
Waste management	11,400,000	11,400,000
Operational safety	1,400,000	1,400,000
Total, environmental and safety research	53,300,000	56,800,000
Program support:		
Program direction	47,625,000	46,900,000
Community operations	1,914,000	2,204,000
Security investigations	2,825,000	2,600,000
Information services	2,686,000	2,645,000
EEO assigned facilities	516,000	516,000
Total, program support	55,566,000	54,865,000

	Budget estimate fiscal year 1976	Conference allowance
Cost of work for others	3,095,000	3,095,000
Total program costs	963,836,000	952,589,000

	Budget estimate fiscal year 1976	Conference allowance
Change in selected resources	112,505,000	95,918,000
Gross obligation	1,076,341,000	1,048,507,000
Revenues applied	−112,400,000	−107,000,000
Total, operating budget authority	963,941,000	941,507,000

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[1] Funding levels for subprograms concur with H. Rept. 94-319.

[2] Funding levels for subprograms concur with S. Rept. 94-505.

Amendment No. 5: Deletes language proposed by the Senate which reads as follows, ": *Provided further*, That this appropriation shall be available only upon the enactment into law of authorizing legislation".

Plant and capital equipment

Amendment No. 6: Appropriates $907,642,000 for 1976 instead of $872,022,000 as proposed by the House and $941,292,000 as proposed by the Senate.

The Committee of Conference is unanimous in its strong support for the important Tokamak fusion project which is an essential step toward meeting the goal of a demonstration fusion reactor. The funds provided will initiate the required work, and as agreed to by the Conferees represents a significant commitment to the project.

The changes from the Senate include:

Construction

Ten megawatt solar thermal test facility	−$5,000,000
Safeguard and Security upgrading, (Nuclear Materials)	−5,350,000
Safeguard and security upgrading (Weapons)	−7,800,000
Component test facility, Oak Ridge National Lab	−4,000,000
Tokamak fusion test reactor	−8,000,000
14 MEV high intensity neutron facility	−2,500,000

The amounts provided for capital equipment not related to construction, FY 1976 are as follows:

Solar, geothermal and advanced systems development:	
Solar energy development	$1,000,000
Geothermal energy development	620,000
Physical research	32,300,000
Total solar, geothermal and advanced system development	33,920,000
Conservation research and development:	
Electric power transmission	1,700,000
Energy storage systems	750,000
Total conservation research and development	2,450,000
Nuclear energy development:	
Fusion power research and development	17,000,000
Fission power reactor development	49,900,000
Naval reactor development	8,800,000
Space nuclear systems	2,600,000
Nuclear materials	28,100,000
Advanced isotope separation technology	$3,200,000
Total nuclear energy development	109,600,000
National security:	
Weapons	58,150,000
Laser fusion	8,500,000
Nuclear materials security	2,220,000
Total national security	68,870,000
Environmental and safety research:	
Biomedical and environmental research	10,150,000
Waste management	3,350,000
Operational safety	880,000
Total environmental and safety research	14,380,000
Program support:	
Program direction	3,452,000
Information services	750,000
Total program support	4,202,000
Total capital equipment obligations	233,422,000

Amendment No. 7: Deletes language proposed by the Senate which read as follows, ": Provided further, That this appropriation shall be available only upon the enactment into law of authorizing legislation".

Amendment No. 8: Appropriates $185,776,000 for the transition period instead of $183,286,000 as proposed by the House and $186,686,000 as proposed by the Senate.

Change from Senate action follows:

Ten megawatt solar thermal facility	−$1,250,000

Capital equipment not related to construction

The amounts provided for capital equipment not related to construction, for the transition quarter, are as follows:

Solar, geothermal, and advanced energy systems development:	
Geothermal energy development	$200,000
Physical research	8,000,000
Total solar, geothermal and advanced energy systems development	8,200,000
Conservation research and development:	
Electric power transmission	480,000
Energy storage systems	220,000
Total conservation research and development	700,000
Nuclear energy development:	
Fusion power research and development	$4,500,000
Fission power reactor development	8,600,000
Naval reactor development	1,325,000
Space nuclear systems	650,000
Nuclear materials	10,850,000
Advanced isotope separation technology	800,000
Total nuclear energy development	26,725,000
National security:	
Weapons	14,870,000
Laser fusion	2,350,000
Nuclear materials security	611,000
Total national security	17,831,000
Environmental and safety research:	
Biomedical and environmental research	$2,640,000
Waste management	840,000
Operational safety	220,000
Total environmental and safety research	3,700,000
Program support:	
Program direction	940,000
Information services	130,000
Total program support	1,070,000
Total capital equipment	58,226,000

Amendment No. 9: Deletes language proposed by the Senate which read as follows, ": Provided further, That this appropriation shall be available only upon the enactment into law of authorizing legislation".

TITLE II—DEPARTMENT OF DEFENSE—CIVIL

Department of the Army

Corps of Engineers—Civil

General investigations

Amendment No. 10: Appropriates $66,836,000 for 1976 instead of $63,924,000 as proposed by the House and $66,952,000 as proposed by the Senate.

Amendment No. 11: Appropriates $17,110,000 for the transition period instead of $17,182,000 as proposed by the House and $16,811,000 as proposed by the Senate.

The managers are agreed that the funds provided for the Wabash River Navigation project, Indiana and Illinois are for the study from Ohio River to Terre Haute, Indiana.

The funds appropriated for General Investigations are to be allocated as shown in the following table.

GENERAL INVESTIGATIONS

Survey	Type of survey	Conference recommendation: Fiscal year 1976	Conference recommendation: 1976 transition quarter
Alabama:			
Mobile County	BE	$40,000	$20,000
Mobile Harbor	Nav	100,000	30,000
Montgomery to Gadsden, Coosa River channel (detailed economic restudy).	Nav	315,000	60,000
Village Creek	FC	45,000	20,000
Alaska:			
Metropolitan Anchorage	FC	183,000	75,000
Rivers and harbors in Alaska (hydro interim)	FC	250,000	65,000
Southcentral railbelt area	FC	334,000	80,000
Arizona:			
Gila River and tributaries (Gila drain), Arizona and New Mexico.	FC	[1] 200,000	[1] 45,000
Phoenix Metropolitan Area	FC	[1] 815,000	[1] 200,000
Arkansas:			
Little Rock metropolitan area	FC	[1] 475,000	[1] 125,000
Quachita River Basin, Ark. and La	FC	[2] 40,000	[2] 75,000
Pine Bluff Metropolitan Area	FC	275,000	25,000
Red River below Denison Dam (Bayou Dorcheat)	Comp	[2] 15,000	[3] 10,000
White River Basin Reservoir	FC	[1] 100,000	[1] 25,000
White River Bull Shoals and Norfolk	FC	25,000	50,000
White River, Piney Creek	FC	20,000	5,000
White River, Polk Bayou	FC	20,000	5,000
California:			
Alameda Creek upper basin	FC	75,000	30,000
Antelope Valley	FC	40,000	10,000
Calleguas Creek	FC	90,000	25,000
Carmel River and tributaries	FC	50,000	
Coast of northern California	Nav	50,000	10,000
Eel River	FC	50,000	20,000
Fisherman's Wharf, San Francisco County	Nav	45,000	
Guadalupe River	FC	[1] 100,000	[1] 60,000
Humboldt Harbor and Bay	Nav	[2] 60,000	[2] 50,000
Los Angeles County drainage area review	FC	70,000	20,000
Los Angeles-Long Beach Harbor (San Pedro model study).	Nav	[1] 750,000	[1] 175,000
North Coast of Los Angeles County	Nav	[2] 25,000	[2] 15,000
Northern California Streams	FC	303,000,	65,000
Novato Creek and tributaries	FC	32,000	
Oceanside Harbor	Nav	50,000	25,000
Pajaro River	FC	58,000	24,000
Sacramento River deepwater ship channel	Nav	120,000	45,000
Sacramento River-San Joaquin Delta	FC	50,000	15,000
Sacramento Valley navigation	Nav	[2] 45,000	[2] 25,000
Salinas River including part of Salinas-Monterey metropolitan area.	FC	325,000	60,000
San Diego County streams flowing into Pacific Ocean.	FC	[1] 160,000	[1] 30,000
San Diego County, vicinity of Oceanside	BE	20,000	
San Diego Harbor—Sweetwater River	Nav	[2] 25,000	[2] 15,000
San Francisco Bay and Sacramento-San Joaquin Delta water quality and waste disposal.	FC	[1] 100,000	15,000
San Francisco Bay area (in depth)	Nav	260,000	95,000
San Francisco Bay, collection and disposal of floating debris.	Nav	[2] 45,000	[2] 15,000
San Joaquin River basin	FC	[1] 190,000	[1] 55,000
San Luis Obispo County	FC	60,000	15,000
Santa Ana River basin and Orange County	FC	350,000	65,000
Santa Clara River	FC	90,000	20,000
Sunset Harbor	Nav	30,000	10,000
Upper Putah Creek	FC	25,000	
Ventura County	BE	80,000	20,000
Walnut Creek Basin	FC	50,000	25,000
Colorado:			
Metropolitan Denver and South Platte River and tributaries, Colorado, Nebraska, and Wyoming, total.	FC	600,000	121,000
Connecticut:			
Connecticut River basin authorization report, Connecticut, Massachusetts, New Hampshire, and Vermont.	Comp	50,000	50,000
New Haven Harbor	Nav	31,000	
Rippowam River	FC	[2] 30,000	[2] 10,000
Delaware:			
Christina River Basin, total	FC	70,000	15,000
District of Columbia:			
Metropolitan Washington, D.C., water supply, total	Spec	150,000	160,000
Florida:			
Clearwater Pass	Nav	39,000	29,000
Cross-Florida barge canal	Spec	600,000	225,000
Four River basins	FC	385,000	30,000
Jacksonville Harbor (Mill Cove)	Nav	20,000	11,000
Jacksonville metropolitan area	FC	320,000	[1] 100,000
Manatee Harbor	Nav	[2] 30,000	[2] 15,000
Miami Harbor	Nav	49,000	
Monroe County	BE	15,000	20,000
Nassau County (Amelia Island)	BE	102,000	
Okeechobee Waterway	Nav	[2] 75,000	[2] 25,000
Pensacola and Tallahassee metropolitan and other urban areas	FC	[1] 150,000	55,000
St. Johns County	BE	[1] 80,000	30,000
Shores of northwest Florida	BE	65,000	20,000
Tampa Harbor, East Bay channels	Nav	65,000	
Volusia County shores	BE	60,000	40,000
Georgia:			
Metropolitan Atlanta area	FC	585,000	55,000
Satilla River basin	FC	61,000	20,000
Savannah River basin, Georgia, North Carolina, and South Carolina.	FC	83,000	40,000
Guam:			
Harbors and rivers in territory of Guam, total	Nav	50,000	22,000
Hawaii:			
Harbors and rivers in Hawaii	FC	$75,000	$15,000
Hawaii framework	Comp	16,000	
Kaneohe Bay and part of Metropolitan Honolulu	Nav	[1] 300,000	[1] 80,000
Idaho:			
Big Wood River and tributaries	FC	22,000	31,000
Boise metropolitan region and Upper Snake River and tributaires, Idaho and Wyoming	FC	160,000	10,000
Columbia River and tributaries, Washington, Oregon, Idaho, Montana, and Wyoming.	FC	[1] 1,075,000	[1] 311,000
Pacific Northwest River basin, Idaho, Montana, Oregon, and Washington:	Comp	100,000	10,000
Illinois:			
Chicago-south end of Lake Michigan, Illinois and Indiana		192,000	32,000
East Cape Girardeau, Clear Creek, North Alexander, Preston, and Miller Pond Drainage and Levee District.	FC	60,000	15,000
Fox River, Ill. and Wis	FC	[1] 250,000	50,000
Kaskaskia Island Drainage and Levee District	FC	20,000	10,000
LaMoine River basin study	FC	[2] 25,000	
Mississippi River, Cassville, Wis., to mile 300, Illinois, Iowa, Missouri, and Wisconsin.	FC	107,000	25,000
Mississippi River, Coon Rapids Dam to Ohio River, Ill., Iowa, and Mo.	FC	136,000	30,000
Mississippi River old channel mile 111–117, Illinois and Missouri.	FC	30,000	5,000
Muscooten Bay	Nav	26,000	13,000
Rock River at Rockford	FC	85,000	30,000
Saline River	FC	70,000	20,000
Saline River and tributaries	Nav	50,000	15,000
Silver Creek	FC	[2] 50,000	[2] 35,000
Indiana:			
Columbus	FC	35,000	10,000
Fort Wayne metropolitan area	FC	43,000	40,000
Indiana shoreline erosion, Lake Michigan	BE	80,000	20,000
Wabash River authorization report, Indiana and Illinois.	Comp	[1] 150,000	35,000
Wabash River navigation, Indiana and Illinois	Nav	[1] 325,000	[1] 75,000
Iowa:			
Des Moines River Erosion	FC	[2] 15,000	[1] 20,000
Iowa and Cedar Rivers, Iowa and Minn	FC	92,000	30,000
Upper Big Sioux River, Iowa and S. Dak	FC	120,000	30,000
Kansas:			
Arkansas River, Great Bend, Kansas to John Martin Dam, Colo.	FC	75,000	20,000
Arkansas River, Great Bend, Kansas To Tulsa, Okla.	FC	140,000	5,000
Grand (Neosho) River. Kans., and Okla	FC		10,000
Kansas River and tributaries	FC	50,000	65,000
Verdigris River, Kans., and Okla	FC	170,000	45,000
Kentucky:			
Green and Barren Rivers	Nav	[2] 25,000	[2] 8,000
Louisville Harbor	Nav	[2] 30,000	[2] 10,000
Lower Cumberland and Tennessee Rivers below Barkley Canal, Ky. and Tenn.	Nav	100,000	30,000
Metropolitan Lexington region	FC	250,000	50,000
Upper Cumberland River basin (resume study)	FC	[1] 75,000	[1] 25,000
Louisiana:			
Barataria Bay Waterway (Dupre Cut)	Nav	50,000	15,000
Barataria Bay Waterway, entrance channel	Nav	70,000	15,000
Gulf Intracoastal Waterway—High level highway crossings.	Nav	70,000	20,000
Gulf Intracoastal Waterway, Louisiana-Texas section, Louisiana and Texas.	Nav	50,000	20,000
Louisiana coastal area	FC	160,000	70,000
Ouachita River Basin, Ark. and La. (See Arkansas).			
Mississippi River, Baton Rouge, La., to Natchez, Miss.	Nav	35,000	10,000
Mississippi River—Gulf Outlet (enlargement)	Nav	[2] 90,000	[2] 15,000
New Orleans—Baton Rouge metropolitan area	FC	635,000	100,000
Maine:			
Passamaquoddy Tidal Project	Spec	[2] 100,000	[1] 50,000
St. John River, total	FC	60,000	40,000
Maryland:			
Atlantic coast of Maryland and Assateague Island, Va.	BE	15,000	
Baltimore Harbor and channels spoil disposal, Maryland and Virginia.	Nav	80,000	
Baltimore metropolitan streams	FC	90,000	20,000
Chesapeake Bay study, Maryland and Virginia	Spec	2,035,000	395,000
Massachusetts:			
Boston Harbor (debris)	Nav	45,000	10,000
Boston Harbor (35 ft channel)	Nav	30,000	10,000
Cape Cod easterly shores	BE	45,000	15,000
Hoosic River, Mass., N.Y., and Vt	FC	40,000	10,000
Plum Island	BE	25,000	15,000
Quincy, coastal streams	FC	59,000	
Michigan:			
Grand Haven Harbor	Nav	60,000	15,000
Grand Haven Harbor and River (small boat)	Nav	[2] 15,000	[2] 5,000
Great Lakes connecting channels and harbors	Nav	[2] 50,000	[2] 15,000
Great Lakes, particularly Lake Ontario and Lake Erie, including Metropolitan Duluth-Superior, Mich., Minn., N.Y., Ohio, Pa., and Wis.	FC	540,000	50,000
Great Lakes—St. Lawrence Seaway navigation season extension, Michigan, Illinois, Indiana, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin.	Spec	[1] 2,900,000	[1] 390,000
Monroe Harbor	Nav	[2] 20,000	[2] 5,000
Water levels of the Great Lakes, Michigan, Illinois, Indiana, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin.	Spec	220,000	75,000

Survey	Type of survey	Conference recommendation	
		Fiscal year 1976	1976 transition quarter
Minnesota:			
Duluth-Superior Harbor, Minn. and Wis	Nav	$85,000	----
Minneapolis-St. Paul metropolitan area	Comp	63,000	----
Reservoirs at the headwaters of the Mississippi River.	FC	[2] 50,000	[2] $25,000
Upper Mississippi River small craft locks, Minnesota, Wisconsin, Iowa and Missouri.	Nav	----	35,000
Mississippi:			
Gulfport Harbor	Nav	[2] 60,000	[2] 30,000
Pascagoula River Basin	FC	77,000	28,000
Pearl River	Nav	45,000	25,000
Missouri:			
Cape La Croix Creek, Cape Giradeau	FC	100,000	30,000
Metropolitan region of Kansas City, Mo. and Kans	FC	600,000	125,000
Plattin Creek	FC	40,000	10,000
St. Genevieve	FC	70,000	20,000
St. Louis Harbor, Mo. and Ill	Nav	75,000	20,000
St. Louis metropolitan area, Missouri and Illinois	FC	385,000	85,000
Montana:			
Flathead and Clark Fork River Basins, total	FC	75,000	20,000
Nebraska:			
Platte River and tributaries, total	FC	50,000	25,000
New Hampshire:			
Connecticut River streambank erosion (Wilder Lake, N.H. and Vt. to Turners Falls Dam, Mass.).	FC	45,000	30,000
North and Foss Beaches	BE	30,000	15,000
New Jersey:			
Camden metropolitan area	FC	234,000	66,000
Delaware Bay, shore of New Jersey	FC	25,000	5,000
Hackensack River, N.J. and N.Y	FC	50,000	15,000
Kill Van Kull Channel, Newark Bay Channel, N.J. and N.Y.	Nav	[1] 100,000	[1] 35,000
Rahway River	FC	[1] 247,000	[1] 55,000
Raritan River basin	FC	168,000	52,000
New Mexico:			
Pecos River and tributaries at Carlsbad	FC	140,000	40,000
Rio Grande and tributaries, New Mexico and Colorado.	FC	375,000	90,000
Rio Puerco at Gallup	FC	[2] 112,000	[2] 23,000
New York:			
Big Sandy Creek, Mexico Bay	Nav	[2] 50,000	[2] 10,000
Buffalo metropolitan area	FC	[1] 275,000	----
Delaware River tributaries in New York	FC	40,000	10,000
Great Lakes to Hudson River Waterway (Troy lock and dam).	Nav	50,000	25,000
Gowanus Creek Channel	Nav	[2] 20,000	[2] 10,000
Irondequoit Creek	FC	[2] 25,000	[2] 10,000
Morrisonville and vicinity	FC	[2] 10,000	[2] 10,000
Northeastern United States Water Supply, New York, Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia.	Spec	910,000	165,000
Ogdensburg Harbor	Nav	[2] 20,000	[2] 10,000
Oswego River basin	FC	65,000	60,000
St. Lawrence Seaway, additional locks	Nav	202,000	30,000
Susquehanna River basin authorization report, New York, Pennsylvania, and Maryland.	Comp	569,000	131,000
Wallkill River, N.Y. and N.J	FC	48,000	12,000
Westchester County streams, New York and Byram River, Conn.	FC	[1] 150,000	[1] 50,000
North Carolina:			
Cape Fear River	FC	40,000	----
Carolina Beach Inlet	Nav	85,000	25,000
Lumber River	FC	[2] 40,000	[2] 20,000
Neuse River	FC	123,000	42,000
Roanoke River (South Boston and vicinity), N.C. and Va.	FC	75,000	35,000
Sugar Creek Basin, N.C. and S.C	FC	65,000	41,000
North Dakota:			
Red River of the North, N. Dak. and Minn., total	FC	190,000	90,000
Ohio:			
Central Ohio survey	FC	50,000	15,000
Cleveland Harbor	Nav	186,000	----
Cuyahoga River Basin	FC	40,000	40,000
Lake Erie—Wastewater management, Ohio, Michigan, New York, and Pennsylvania (sec. 108a, Public Law 92-500).	Spec	310,000	250,000
Maumee River Basin, Ohio, Ind., and Mich	Comp	57,000	----
Muskingum River Basin	FC	50,000	15,000
Ohio River port development	Nav	[2] 60,000	[2] 30,000
Oklahoma:			
Canadian River and tributaries	FC	[2] 210,000	[2] 50,000
Central Oklahoma project	Nav	50,000	----
Tenkiller Ferry Lake	FC	20,000	45,000
Tulsa urban study	FC	[2] 50,000	[2] 50,000
Oregon:			
Chetco River	Nav	67,000	----
Columbia River at the mouth	Nav	[2] 25,000	[2] 5,000
Marys River	FC	90,000	----
Portland metropolitan area	FC	255,000	35,000
Silvies River and tributaries	FC	[1] 100,000	[1] 25,000
Tillamook Bay and Bar	Nav	24,000	11,000
Willamette River and basin authorization report	Comp	160,000	20,000
Pennsylvania:			
Beaver River Basin, Pa. and Ohio	FC	275,000	65,000
Chester Creek Basin	FC	105,000	25,000
Potomac River, North Branch (mine drainage), Pa., Md. and W. Va.	FC	270,000	53,000
Raystown Dam hydro study	FC	87,000	26,000
Schuylkill River review	Nav	45,000	20,000
Susquehanna River Basin, mine drainage	FC	125,000	20,000
Rhode Island:			
Pawcatuck River and Narragansett Bay drainage basins, Rhode Island and Massachusetts.	FC	$660,000	$153,000
Point Judith Harbor and Pond	Nav	50,000	----
Providence Harbor (debris)	Nav	55,000	----
South Carolina:			
Folly Beach	BE	[2] 25,000	[2] 10,000
Georgetown Harbor	Nav	60,000	20,000
South Dakota:			
Eastern South Dakota water supply	FC	[2] 10,000	[2] 30,000
Missouri River, S. Dak., Nebr., N. Dak., and Mont	FC	175,000	30,000
Tennessee:			
Metropolitan region of Memphis	FC	[1] 150,000	[1] 70,000
Metropolitan region of Nashville	FC	150,000	40,000
Texas:			
Brazos River and tributaries	FC	[1] 400,000	[1] 125,000
Buffalo Bayou and tributaries	FC	75,000	20,000
Colorado River and tributaries	FC	[1] 175,000	[1] 50,000
Colorado River Channels to Bay City, Tex	Nav	[2] 25,000	[2] 25,000
Corpus Christi ship channel, Harbor Island	Nav	[1] 400,000	[1] 100,000
Galveston Bay area navigation study	Nav	[1] 117,000	[1] 30,000
Galveston Bay shore erosion control	BE	[2] 50,000	[2] 35,000
Johnson Creek	FC	215,000	50,000
Lake Wichita Holiday Creek	FC	57,000	----
Linnville Bayou-Caney, Creek Tress Palacios	FC	42,000	25,000
Lower Sabine River and tributaries	FC	[2] 25,000	[2] 20,000
Palo Blanco Creek and Cibolo Creek vicinity of Falfurrias	FC	[2] 65,000	[2] 25,000
Red River and tributaries, Texas and Oklahoma	FC	96,000	45,000
Sabine-Neches Water	Nav	45,000	----
San Diego Creek, Alice	FC	20,000	7,000
San Jacinto River and tributaries	FC	[2] 50,000	[2] 25,000
Texas coast hurricane	Spec	[1] 445,000	[1] 100,000
Utah:			
Colorado River and tributaries above Lee Ferry, Utah, Arizona, Colorado, New Mexico, and Wyoming.	FC	70,000	15,000
Jordan River Basin	FC	35,000	----
Virginia:			
Chowan River, Virginia and North Carolina	FC	170,000	50,000
James River	FC	100,000	25,000
Norfolk Harbor anchorage area	Nav	[2] 75,000	[2] 25,000
Potomac River streams draining into Alexandria area.	FC	50,000	----
Roanoke River, upper basin	FC	50,000	35,000
Washington:			
Chehalis River and tributaries	FC	100,000	25,000
Grays Harbor and Chehalis River, Hoquiam River	Nav	100,000	25,000
Metropolitan Spokane and Spokane River and tributaries, Washington and Idaho.	FC	146,000	25,000
Okanogan River and tributaries	FC	100,000	25,000
Puget Sound and adjacent waters authorization report.	Comp	[1] 200,000	[1] 30,000
Snohomish River and tributaries	Nav	[1] 75,000	25,000
Yakima Valley, regional water management supply	FC	100,000	25,000
West Virginia:			
Gauley River	FC	[1] 150,000	[1] 40,000
Kanawha River basin authorization report, West Virginia, North Carolina and Virginia.	Comp	200,000	63,000
Metropolitan region of Charleston	FC	[1] 400,000	[1] 90,000
Metropolitan region of Huntington, W. Va., Ashland, Ky., and Portsmouth, Ohio.	FC	450,000	105,000
Metropolitan region of Wheeling, W. Va. and Ohio	FC	300,000	65,000
Wisconsin:			
Chippewa River	FC	80,000	40,000
Harbors between Kenosha and Kewaunee	Nav	52,000	30,000
Total, all States		38,807,000	10,000,000
Coordination studies with other agencies		1,970,000	450,000
Review of authorized projects:			
Restudies of deferred projects		250,000	43,000
Review of completed projects (sec. 216, Public Law 91-611)		[1] 599,000	[1] 167,000
Review for deauthorization (sec. 12, Public Law 93-251)		300,000	50,000
Detailed economic restudies (Montgomery to Gadsden, Ala.)		[3] (315,000)	[3] (60,000)
Study of alternatives (Red River Lake, Ky.)		100,000	50,000
Subtotal, review of authorized projects		1,249,000	310,000
Collection and study of basic data:			
Steam gaging (U.S. Geological Survey)		440,000	110,000
Precipitation studies (National Weather Service)		260,000	65,000
Fish and Wildlife studies (U.S.F. & W.S.)		1,500,000	425,000
International water studies		340,000	94,000
Flood plain management services		11,000,000	2,825,000
Hydrologic studies		270,000	68,000
Scientific and technical information centers		100,000	25,000
Coastal data collection		150,000	38,000
Subtotal, collection and study of basic data		14,060,000	3,650,000
Research and development		12,250,000	3,200,000
Subtotal		29,529,000	7,610,000
Anticipated additional unobligated carryover balances		−1,500,000	−500,000
Grand total		66,836,000	17,110,000

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[1] Increase in budget.
[2] Unbudgeted.
[3] Listed under Alabama.

Note: Explanation of symbols used under type of project: Nav:—navigation; FC—flood control BE—beach erosion; Comp.—comprehensive basin survey; Spec.—survey under special studies.

Construction, general

Amendment No. 12: Appropriates $1,228,648,000 for 1976 instead of $1,157,015,000 as proposed by the House and $1,255,663,000 as proposed by the Senate.

The managers agree with the Senate report language relating to the Dade County (Miami) Beach erosion and hurricane protection project in Florida.

The conferees agree that of the funds provided for the Tocks Island project, not to exceed $500,000 is to be used for the continued planning and design of the relocation of route 209. The use of the remaining funds is subject to action by the authorizing committees.

The Conferees are in agreement that no further funds will be provided for the Big Pine, Indiana project pending resolution of the differences in the State of Indiana on this project.

The Conferees are in agreement that within available funds the Corps may continue further studies on alternatives and environmental matters on the LaFarge Lake and Channel Improvement project, Wisconsin.

The funds appropriated for Construction, general are to be allocated as shown in the following tabulation:

	Construction, general, State and project	Budget estimate for fiscal year 1976/transition		Conference allowance for fiscal year 1976/transition	
		Construction	Planning	Construction	Planning
	(1)	(2)	(3)	(4)	(5)
	Alabama:				
(N)	John Hollis Bankhead lock and dam (rehab)	$1,580,000		$3,340,000	
	Transition period	350,000		350,000	
(MP)	Jones Bluff lock and dam	2,100,000		5,500,000	
	Transition period	1,100,000		1,800,000	
(N)	Mobile Harbor (Theodore Channel)		$80,000	180,000	
	Transition period			500,000	
(N)	Tennessee-Tombigbee Waterway, Ala. and Miss	52,000,000		72,000,000	
	Transition period	21,900,000		29,000,000	
(FC)	Tombigbee River and tributaries. (See Mississippi.)				
(MP)	West Point Lake. (See Georgia.)				
	Alaska:				
(FC)	Chena River Lakes, Fairbanks	13,000,000		13,000,000	
	Transition period	10,075,000		10,075,000	
(N)	Humboldt Harbor	2,980,000		2,980,000	
	Transition period	700,000		700,000	
(MP)	Snettisham power project	4,000,000		7,500,000	
	Transition period	2,000,000		2,000,000	
	Arizona:				
(FC)	Indian Bend Wash	1,150,000		1,150,000	
	Transition period	500,000		500,000	
(FC)	Phoenix and vicinity (including New River)—Stage 1	900,000		900,000	
	Transition period	200,000		200,000	
(FC)	Phoenix and vicinity (including New River)—Stage 2		350,000		$350,000
	Transition period		15,000		15,000
	Arkansas:				
(MP)	DeGray Lake	3,500,000		3,500,000	
	Transition period	900,000		900,000	
(FC)	DeQueen Lake	1,300,000		1,300,000	
	Transition period	40,000		40,000	
(FC)	Dierks Lake	905,000		905,000	
	Transition period				
(FC)	Gillham Lake	600,000		600,000	
	Transition period	203,000		203,000	
(N)	McClellan-Kerr Arkansas River nav system, bk stab and chan rect, Arkansas and Oklahoma	2,779,000		2,779,000	
	Transition period				
(N)	McClellan-Kerr Arkansas River nav system, locks and dams, Arkansas and Oklahoma	3,000,000		5,350,000	
	Transition period	700,000		1,600,000	
(MP)	Norfork Lake—Highway bridge		300,000		300,000
	Transition period		125,000		125,000
(MP)	Norfork Lake—Units 3 and 4		250,000		250,000
	Transition period		80,000		80,000
(N)	Ouachita and Black Rivers, Ark. and La	2,000,000		4,400,000	
	Transition period	2,300,000		2,900,000	
(FC)	Pine Mountain Lake		146,000		186,000
	Transition period		50,000		70,000
(FC)	Posten Bayou				75,000
	Transition period				15,000
(N)	Red River emergency bank protection (See Louisiana)				
(FC)	Red River levees and bank stabilization below Denison Dam, Arkansas, Louisiana, and Texas	3,150,000		4,000,000	
	Transition period	2,100,000		2,400,000	
(FC)	Village Creek, Jackson and Lawrence Counties		160,000		160,000
	Transition period		40,000		40,000
	California:				
(FC)	Alameda Creek (Del Valle Reservoir)	1,810,000		1,810,000	
	Transition period				
(N)	Bodega Bay		50,000		
	Transition period		10,000		10,000
(FC)	Buchanan Dam—H. V. Eastman Lake	2,200,000		2,200,000	
	Transition period	1,000,000		1,000,000	
(FC)	Chester, North Fork of Feather River	1,200,000		1,200,000	
	Transition period	1,500,000		1,500,000	
(FC)	Corte Madera Creek	250,000		250,000	
	Transition period	1,000,000			
(FC)	Cucamonga Creek	2,000,000		2,000,000	
	Transition period	1,000,000		1,000,000	
(FC)	Dry Creek (Warm Springs) Lake and Channel	$1,800,000		$1,800,000	
	Transition period	1,000,000		1,000,000	
(FC)	Fairfield vicinity streams		$275,000		$275,000
	Transition period				
(FC)	Hidden Dam-Hensley Lake	2,380,000		3,100,000	
	Transition period	600,000		800,000	
(N)	Humboldt Harbor and Bay		40,000		40,000
	Transition period		20,000		20,000
(BE)	Imperial Beach	100,000		100,000	
	Transition period	50,000		50,000	
(FC)	Lytle and Warm Creeks	8,506,000		8,506,000	
	Transition period				
(MP)	Marysville Lake		840,000		840,000
	Transition period				
(FC)	Merced County streams		500,000		500,000
	Transition period		280,000		280,000
(FC)	Napa River Basin	500,000		500,000	
	Transition period	1,200,000		1,200,000	
(MP)	New Melones Lake	40,100,000		43,000,000	
	Transition period	13,500,000		15,000,000	
(FC)	Pajaro River		75,000		75,000
	Transition period		65,000		65,000
(FC)	Pine Flat Lake and Kings River	905,000		905,000	
	Transition period				
(N)	Port San Luis, San Luis Obispo Harbor		50,000		50,000
	Transition period				
(FC)	Sacramento River and major and minor tributaries	200,000		200,000	
	Transition period	50,000		50,000	
(FC)	Sacramento River Bank protection	2,800,000		3,000,000	
	Transition period	1,500,000		1,600,000	
(FC)	Sacramento River, Chico Landing to Red Bluff	1,660,000		1,660,000	
	Transition period				
(N)	San Diego Harbor	3,200,000		8,000,000	
	Transition period	900,000		1,500,000	
(FC)	San Diego River (Mission Valley)		75,000		75,000
	Transition period		25,000		25,000
(BE)	San Diego (Sunset Cliffs). (Seg. A.)				30,000
	Transition period				5,000
(N)	San Francisco Bay to Stockton (J. F. Bladwin and Stockton ship channels)	500,000		500,000	
	Transition period	200,000		200,000	
(FC)	San Luis Rey River				100,000
	Transition period				35,000
(FC)	Walnut Creek	800,000		800,000	
	Transition period	600,000		600,000	
	Colorado:				
(FC)	Arkansas River and tributaries above John Martin Dam		250,000		250,000
	Transition period		80,000		80,000
(FC)	Bear Creek Lake	14,800 000		14,800,000	
	Transition period	4,000,000		4,000,000	
(FC)	Chatfield Lake	2,100,000		2,100,000	
	Transition period	1,100,000		1,100,000	
(FC)	Trinidad Lake	4,400,000		4,460,000	
	Transition period	300,000		500,000	
	Connecticut:				
(FC)	Danbury	5,800,000		5,800,000	
	Transition period	2,000,000		2,000,000	
(FC)	Park River		308,000	1,500,000	
	Transition period			2,000,000	
	Delaware:				
(N)	Inland Waterway from Delaware River to Chesapeake Bay, Del. and Md. (Pt. II)	600,000		600,000	
	Transition period	446,000		446,000	
	District of Columbia:				
(FC)	Potomac Estuary Pilot Water Treatment Plant, District of Columbia, Md. and Va		630,000		630,000
	Transition period				
	Florida:				
(FC)	Central and Southern Florida	8,500,000		10,000,000	
	Transition period	2,150,000		3,650,000	
(FC)	Dade County (Bal Harbour) (reimbursement)	2,300,000		2,300,000	
	Transition period				
(FC)	Four River Basins	3,700,000		4,200,000	
	Transition period	1,770,000		3,000,000	
(N)	Jacksonville Harbor (1965 Act)	3,500,000		5,000,000	
	Transition period	550,000		1,500,000	

	Construction, general, State and project	Budget estimate for fiscal year 1976/transition		Conference allowance for fiscal year 1976/transition	
		Construction	Planning	Construction	Planning
	(1)	(2)	(3)	(4)	(5)
(N)	Panama City Harbor	$600, 000		$600, 000	
	Transition period	70, 000		70, 000	
(BE)	Pinellas County	150, 000		150, 000	
	Transition period				
(N)	Port Everglades Harbor		$100, 000		$100, 000
	Transition period		35, 000		35, 000
(N)	St. Lucie Inlet				175, 000
	Transition period				30, 000
(N)	Tampa Harbor (main channel)	5, 500, 000		6, 350, 000	
	Transition period	1, 575, 000		2, 312, 000	
	Georgia:				
(MP)	Carters Lake	2, 954, 000		2, 954, 000	
	Transition period				
(MP)	Richard B. Russell Dam and Lake, Ga. and S.C	4, 400, 000		4, 400, 000	
	Transition period	2, 200, 000		2, 200, 000	
(N)	Savannah Harbor (widening and deepening)	850, 000		850, 000	
	Transition period	850, 000		850, 000	
(BE)	Tybee Island	1, 169, 000		1, 169, 000	
	Transition period				
(MP)	West Point Lake, Ala. and Ga.	2, 600, 000		2, 600, 000	
	Transition period	543, 000		543, 000	
	Hawaii:				
(N)	Barbers Point (deep draft) Harbor, Oahu		100, 000		200, 000
	Transition period		25, 000		50, 000
(N)	Honolulu Harbor, Oahu		60, 000		60, 000
	Transition period		25, 000		25, 000
(FC)	Iao StreamMaui		105, 000		105, 000
	Transition , period				
(FC)	Kaneohe-Kailu a Area	400, 000		400, 000	
	Transition period	600, 000		600, 000	
(N)	Lahaina, small boat harbor	700, 000			
	Transition period	200, 000		100, 000	
	Idaho:				
(MP)	Dworshak Dam and Reservoir.	4, 000, 000		4, 000, 000	
	Transition period	1, 500, 000		1, 500, 000	
(FC)	Ririe Lake	3, 800, 000		3, 800, 000	
	Transition period	900, 000		900, 000	
	Illinois:				
(FC)	Carlyle Lake	2, 000, 000		2, 000, 000	
	Transition period	450, 000		450, 000	
(FC)	Columbia Drainage and Levee District No. 3	400, 000		400, 000	
	Transition period	200, 000		200, 000	
(FC)	East Moline		182, 000		182, 000
	Transition period				
(FC)	East St. Louis and vicinity—Cahokia Creek Low Dam				
	Transition period	750, 000		750, 000	
(FC)	East St. Louis and vicinity—Interior flood control	1, 400, 000		1, 400, 000	
	Transition period	850, 000		850, 000	
(FC)	Freeport			50, 000	
	Transition period			25, 000	
(FC)	Harrisonville and Ivy Landing Drainage and Levee District No. 2	1, 300, 000		1, 775, 000	
	Transition period	550, 000		550, 000	
(N)	Illinois Waterway, Calumet-Sag modification, Pt. I, Illinois and Indiana	2, 800, 000		2, 800, 000	
	Transition period	630, 000		630, 000	
(N)	Illinois Waterway, duplicate locks, Illinois and Indiana		400, 000		
	Transition period		100, 000		
(FC)	Kaskaskia Island Drainage and Levee District		200, 000		200, 000
	Transition period		80, 000		80, 000
(N)	Kaskaskia River navigation	6, 300, 000		6, 300, 000	
	Transition period	850, 000		850, 000	
(FC)	Levee district No. 23 (Dively), Kaskaskia River	400, 000		400, 000	
	Transition period				
(FC)	Little Calumet River			150, 000	
	Transition period			140, 000	
(N)	Lock and dam 53 (temporary lock), Illinois and Kentucky	21, 100, 000		21, 100, 000	
	Transition period	2, 150, 000		2, 150, 000	
(FC)	Louisville Lake		175, 000		175, 000
	Transition period		70, 000		70, 000
(FC)	Milan		91, 000		121, 000
	Transition period				20, 000
(N)	Mississippi River between the Ohio and Missouri rivers (regulating works), Illinois and Missouri	3, 000, 000		3, 000, 000	
	Transition period	700, 000		700, 000	
(N)	Mississippi River (chain of rocks)			905, 000	
	Transition period				
(FC)	Moline		130, 000		130, 000
	Transition period		30, 000		30, 000
(FC)	Rock Island	300, 000		300, 000	
	Transition period	80, 000		80, 000	
(FC)	Rockford	200, 000		200, 000	
	Transition period	300, 000		300, 000	
(FC)	Saline River and tributaries	380, 000		380, 000	
	Transition period				
(N)	Smithland locks and dam, Illinois, Indiana, and Kentucky	34, 000, 000		42, 000, 000	
	Transition period	14, 885, 000		14, 885, 000	
(FC)	South Beloit		$30, 000		$30, 000
	Transition period		20, 000		20, 000
(FC)	Wood River drainage and levee district				70, 000
	Transition period				25, 000
	Indiana:				
(FC)	Big Blue Lake		150, 000		150, 000
	Transition period		50, 000		50, 000
(FC)	Big Pine Lake	$700, 000		$550, 000	
	Transition period	1, 300, 000		1, 300, 000	
(FC)	Big Walnut Lake (Land Acquisition.)		300, 000	830, 000	
	Transition period		105, 000	400, 000	
(FC)	Brookville Lake	2, 635, 000		2, 635, 000	
	Transition period	885, 000		885, 000	
(N)	Cannelton locks and dams, Indiana and Kentucky	620, 000		620, 000	
	Transition period	100, 000		100, 000	
(FC)	Evansville	1, 850, 000		1, 850, 000	
	Transition period	1, 350, 000		1, 350, 000	
(N)	Illinois Waterway, Calument-Sag modification pt. I. (See Illinois.)				
(N)	Illinois Waterway, duplicate locks. (See Illinois).				
(FC)	Island levee	200, 000		200, 000	
	Transition period	580, 000		580, 000	
(FC)	Lafayette Lake			300, 000	
	Transition period			100, 000	
(FC)	Levee unit No. 5	300, 000		300, 000	
	Transition period	100, 000		100, 000	
(FC)	Mason J. Niblack levee (pumping facilities)	1, 019, 000		1, 273, 000	
	Transition period	573, 000		573, 000	
(N)	Newburgh locks and dam, Indianapolis and Kentucky.	7, 800, 000		7, 800, 000	
	Transition period	575, 000		575, 000	
(FC)	Patoka Lake	5, 000, 000		5, 000, 000	
	Transition period	1, 865, 000		1, 865, 000	
(N)	Smithland locks and dam. (See Illinois.)				
(N)	Uniontown locks and dam, Indianapolis and Kentucky.	1, 810, 000		1, 810, 000	
	Transition period	50, 000		50, 000	
	Iowa:				
(FC)	Bettendorf	100, 000		100, 000	
	Transition period	600, 000		600, 000	
(FC)	Big Sioux River at Sioux City, Iowa and S.D			200, 000	
	Transition period			500, 000	
(FC)	Clinton	3, 500, 000		3, 500, 000	
	Transition period	1, 600, 000		1, 600, 000	
(FC)	Davenport		240, 000		240, 000
	Transition period		60, 000		60, 000
(FC)	Marshalltown	1, 500, 000		1, 500, 000	
	Transition period	700, 000		700, 000	
(FC)	Missouri River levee system, Iowa, Kansas, Missouri, and Nebraska	300, 000		500, 000	
	Transition period	200, 000		600, 000	
(N)	Missouri River, Sioux City to Mouth, Iowa, Kansas, Missouri, and Nebraska	3, 000, 000		3, 000, 000	
	Transition period	1, 000, 000		1, 000, 000	
(FC)	Ottumwa			110, 000	
	Transition period				
(FC)	Saylorville Lake	4, 730, 000		6, 230, 000	
	Transition period	550, 000		550, 000	
(FC)	Waterloo	7, 550, 000		7, 550, 000	
	Transition period	1, 450, 000		1, 450, 000	
	Kansas:				
(FC)	Arkansas-Red basins chloride control. (See Oklahoma).				
(FC)	Big Hill Lake	400, 000		400, 000	
	Transition period	209, 000		209, 000	
(FC)	Cedar Point Lake		200, 000		200, 000
	Transition period		54, 000		54, 000
(FC)	Clinton Lake	6, 900, 000		7, 500, 000	
	Transition period	2, 500, 000		2, 600, 000	
(FC)	Dodge City	2, 150, 000		2, 150, 000	
	Transition period	216, 000		216, 000	
(FC)	El Dorado		180, 000		180, 000
	Transition period				
(FC)	El Dorado Lake	9, 600, 000		9, 600, 000	
	Transition period	5, 152, 000		5, 152, 000	
(FC)	Great Bend		146, 000		146, 000
	Transition period				
(FC)	Hillsdale Lake	1, 550, 000		3, 000, 000	
	Transition period	800, 000		1, 900, 000	
(FC)	Indian Lake		200, 000		
	Transition period		75, 000		
(FC)	Kansas City 1962 modification.	7, 500, 000		7, 500, 000	
	Transition period	2, 150, 000		2, 150, 000	
(N)	Kansas River navigation		50, 000		50, 000
	Transition period		50, 000		50, 000
(FC)	Lawrence	1, 100, 000		1, 100, 000	
	Transition period	574, 000		574, 000	
(FC)	Marion	1, 200, 000		1, 500, 000	
	Transition period	429, 000		440, 000	
(FC)	Missouri River levee system. (See Iowa.)				
(N)	Missouri River, Sioux City to mouth. (See Iowa.)				

	Construction, general, State and project	Budget estimate for fiscal year 1976/transition		Conference allowance for fiscal year 1976/transition	
		Construction	Planning	Construction	Planning
	(1)	(2)	(3)	(4)	(5)
(FC)	Perry Lake area (road improvements)	$200,000		$200,000	
	Transition period	400,000		400,000	
(FC)	Tomahawk Lake		$200,000		
	Transition period		75,000		
(FC)	Winfield		108,000		$108,000
	Transition period				
(FC)	Wolf-Coffee Lake		400,000		
	Transition period		100,000		
	Kentucky:				
(FC)	Big Sandy River, dam No. 3			305,000	
	Transition period				
(FC)	Big South Fork National River and Recreation Area, Ky. and Tenn		350,000		500,000
	Transition period				200,000
(FC)	Boone County				50,000
	Transition period				15,000
(FC)	Booneville Lake		209,000		209,000
	Transition period				
(FC)	Camp Ground Lake		190,000		190,000
	Transition period		10,000		10,000
(N)	Cannelton locks and dams. (See Indiana.)				
(FC)	Carr Fork Lake	5,914,000		5,914,000	
	Transition period				
(FC)	Cave Run Lake	3,900,000		4,400,000	
	Transition period	750,000		1,000,000	
(FC)	Dayton		105,000		105,000
	Transition period				
(FC)	Frankfort, North Frankfort area	200,000		200,000	
	Transition period				
(FC)	Kehoe Lake			750,000	
	Transition period			700,000	
(MP)	Laurel River Lake	4,700,000		5,200,000	
	Transition period	644,000		1,144,000	
(N)	Lock and dam 53 (temporary lock). (See Illinois.)				
(FC)	Martin	600,000		600,000	
	Transition period	350,000		350,000	
(FC)	Martins Fork Lake	2,900,000		4,450,000	
	Transition period	1,240,000		1,240,000	
(N)	Newburg locks and dam. (See Indiana.)				
(FC)	Paintsville Lake	1,300,000		1,300,000	
	Transition period	750,000		750,000	
(FC)	Red River Lake	1,000,000			
	Transition period	527,000			
(N)	Smithland locks and dam. (See Illinois.)				
(FC)	Southwestern Jefferson County	1,680,000		1,680,000	
	Transition period	1,420,000		1,420,000	
(FC)	Taylorsville Lake	4,574,000		5,100,000	
	Transition period	2,465,000		2,465,000	
(FC)	Tug Fork Valley (Phase I)		200,000		200,000
	Transition period		75,000		75,000
(N)	Uniontown locks and dam. (See Indiana).				
(MP)	Wolf Creek Dam—Lake Cumberland (rehab)	6,050,000		10,000,000	
	Transition period	3,800,000		3,800,000	
(GC)	Yates ville Lake	1,400,000		1,400,000	
	Transition period	800,000		800,000	
	Louisiana:				
(N)	Atchafalaya River and Bayous Chene, Boeuf and Black	1,500,000		1,500,000	
	Transition period	2,100,000		2,100,000	
(FC)	Bayou Bodcau and tributaries	2,000,000		2,000,000	
	Transition period	1,000,000		1,000,000	
(N)	Bayou Lafourche and Lafourche Jump Waterways	400,000		400,000	
	Transition period	1,000,000		1,000,000	
(N)	Calcasieu River at Devil's Elbow	5,022,000		5,022,000	
	Transition period				
(FC)	Lake Pontchartrain and vicinity	22,000,000		16,000,000	
	Transition period	7,350,000		5,350,000	
(FC)	Larose to Golden Meadow	1,600,000		1,600,000	
	Transition period	1,000,000		1,000,000	
(N)	Mississippi River Outlets, Venice, La	500,000		500,000	
	Transition period	550,000		550,000	
(N)	Mississippi River, Gulf outlet	1,000,000		1,600,000	
	Transition period	475,000		1,350,000	
(FC)	Monroe Floodwall			870,000	
	Transition period			460,000	
(FC)	New Orleans to Venice	6,100,000		6,100,000	
	Transition period	2,700,000		2,700,000	
(N)	Ouachita and Black Rivers. (See Arkansas).				
(FC)	Ouachita River Levees	2,100,000		2,100,000	
	Transition period	320,000		320,000	
(N)	Overton-Red River Waterway (lower 31 mi only)	1,100,000		1,500,000	
	Transition period	50,000		50,000	
(N)	Red River emergency bank protection, Louisiana, Arkansas, Oklahoma, and Texas	4,000,000		5,000,000	
	Transition period	1,475,000		1,700,000	
(FC)	Red River levees and bank stabilization below Denison Dam. (See Arkansas.)				
(N)	Red River Waterway, Mississippi River to Shreveport, La	$17,300,000		$25,000,000	
	Transition period	4,070,000		10,000,000	
(N)	Vermilion lock (replacement)		$133,000		$133,000
	Transition period				
	Maine:				
(MP)	Dickey-Lincoln Shool Lakes		1,060,000		2,110,000
	Transition period		395,000		435,000
(N)	Frenchboro Harbor	565,000		565,000	
	Transition period				
	Maryland:				
(FC)	Bloomington Lake, Md. and W. Va	6,200,000		8,220,000	
	Transition period	3,300,000		3,300,000	
(N)	Inland Waterway from Delaware River to Chesapeake Bay (pt. II). (See Delaware.)				
(FC)	Potomac Estuary Pilot Water Treatment Plant. (See District of Columbia.)				
	Massachusetts:				
(FC)	Charles River. Dam	11,000,000		11,000,000	
	Transition period	3,500,000		3,500,000	
(FC)	Charles River Natural Valley storage areas		200,000		200,000
	Transition period		90,000		90,000
(N)	Edgartown Harbor		135,000		135,000
	Transition period				
(FC)	North Nashua River		60,000		60,000
	Transition period		20,000		20,000
(FC)	Saxonville			100,000	
	Transition period			600,000	
(N)	Weymouth-Fore and Town Rivers	2,000,000		2,000,000	
	Transition period	400,000		400,000	
	Michigan:				
(N)	Great Lakes connecting channels	974,000		974,000	
	Transition period				
(N)	Lexington Harbor	500,000		500,000	
	Transition period	320,000		320,000	
(N)	Ludington Harbor		45,000		45,000
	Transition period		15,000		15,000
(N)	New Buffalo Harbor	311,000		311,000	
	Transition period				
(FC)	Ottawa River Harbor, Mich. and Ohio		70,000		70,000
	Transition period		10,000		10,000
(FC)	Red Run Drain and Lower Clinton River		500,000		500,000
	Transition period		115,000		115,000
(FC)	River Rouge 1962 Act	2,200,000		2,800,000	
	Transition period	300,000		300,000	
(FC)	Saginaw River 1958 Act	2,300,000		2,300,000	
	Transition period	880,000		880,000	
(N)	Tawas Bay Harbor			50,000	
	Transition period				
	Minnesota:				
(N)	Beaver Bay Harbor		100,000		100,000
	Transition period				
(FC)	Big Stone Lake-Whetstone River, Minn. and S. Dak	900,000		900,000	
	Transition period	100,000		100,000	
(N)	Knife River Harbor		60,000		60,000
	Transition period				
(N)	Lutsen Harbor		85,000		85,000
	Transition period				
(FC)	Mankato and North Mankato	2,200,000		2,200,000	
	Transition period	1,300,000		1,300,000	
(FC)	Rochester (phase I)		110,000		110,000
	Transition period		30,000		30,000
(FC)	Roseau River			100,000	
	Transition period			500,000	
(FC)	Twin Valley Lake		250,000		250,000
	Transition period		60,000		60,000
(FC)	Winona		400,000		400,000
	Transition period		110,000		110,000
	Mississippi:				
(FC)	Edinburg Lake (Phase I)		350,000		350,000
	Transition period				
(FC)	Tallahala Creek Lake	1,000,000		1,000,000	
	Transition period	1,100,000		1,100,000	
(N)	Tennessee-Tombigbee Waterway. (See Alabama.)				
(FC)	Tombigbee River and tributaries, Mississippi and Alabama	700,000		700,000	
	Transition period	800,000		800,000	
(N)	Yazoo River, Belzoni Bridge (advance participation)	150,000		150,000	
	Transition period				
	Missouri:				
(FC)	Blue River Channel, Kansas City		400,000		400,000
	Transition period		100,000		100,000
(MP)	Clarence Cannon Dam and Reservoir	24,100,000		24,100,000	
	Transition period	5,100,000		5,100,000	

	Construction, general, State and project	Budget estimate for fiscal year 1976/transition		Conference allowance for fiscal year 1976/transition	
		Construction	Planning	Construction	Planning
	(1)	(2)	(3)	(4)	(5)
(MP)	Harry S. Truman Dam and Reservoir	$45,500,000		$45,500,000	
	Transition period	14,450,000		14,450,000	
(FC)	Little Blue River Channel	2,100,000		2,100,000	
	Transition period	850,000		850,000	
(FC)	Little Blue River Lakes (land acquisition)	2,500,000		2,500,000	
	Transition period	800,000		800,000	
(FC)	Long Branch Lake	3,500,000		4,300,000	
	Transition period	2,000,000		2,400,000	
(FC)	Meramec Park Lake	5,500,000		5,500,000	
	Transition period	1,300,000		1,300,000	
(N)	Mississippi River between the Ohio and Missouri Rivers (regulating works). (See Illinois.)				
(FC)	Mississippi River, Agricultural Area No. 8 (Elsberry Drainage District)		$168,000		$168,000
	Transition period				
(FC)	Missouri River levee system. (See Iowa.)				
(N)	Missouri River, Sioux City to mouth. (See Iowa.)				
(FC)	Perry County Drainage and Levee District 1, 2, 3		155,000		155,000
	Transition period				
(FC)	Pine Ford Lake				500,000
	Transition period				150,000
(FC)	Smithville Lake	14,000,000		14,000,000	
	Transition period	5,400,000		5,400,000	
(FC)	Union Lake, State Highway 185 (advance participation)	1,030,000		1,030,000	
	Transition period				
	Montana:				
(FC)	Billings (Western Unit)		110,000		110,000
	Transition period				
(MP)	Libby Dam, Lake Koocanusa	14,800,000		14,800,000	
	Transition period	5,000,000		5,000,000	
(MP)	Libby Reregulating Dam power units		200,000		250,000
	Transition period		75,000		75,000
(FC)	Miles City				40,000
	Transition period				15,000
	Nebraska:				
(MP)	Gavins Point Dam-Lewis and Clark Lake (relocation of Niobrara), Nebraska and South Dakota	3,700,000		5,700,000	
	Transition period	1,276,000		1,276,000	
(FC)	Missouri River levee system. (See Iowa).				
(N)	Missouri River, Sioux City to mouth. (See Iowa).				
(FC)	Papillion Creek and tributaries lakes	8,900,000		6,900,000	
	Transition period	3,100,000		3,100,000	
	Nevada:				
(FC)	Humbolt River and tributaries		75,000		75,000
	Transition period		85,000		85,000
	New Jersey:				
(N)	Corson Inlet-Ludlam Beach		130,000		130,000
	Transition period		50,000		50,000
(FC)	Elizabeth	1,560,000		1,560,000	
	Transition period	540,000		540,000	
(N)	Great Egg Harbor and Peck Beach		150,000		150,000
	Transition period		50,000		50,000
(N)	Newark Bay, Hackensack, and Passaic Rivers			1,500,000	
	Transition period			700,000	
	New Mexico:				
(FC)	Cochiti Lake	3,200,000		3,200,000	
	Transition period	318,000		318,000	
(FC)	Los Esteros Lake	3,400,000		4,800,000	
	Transition period	944,000		944,000	
	New York:				
(N)	Cattaraugus Harbor		110,000		110,000
	Transition period				
(N)	Dunkirk Harbor		70,000		70,000
	Transition period		35,000		35,000
(BE)	East Rockaway Inlet to Rockaway Inlet and Jamaica Bay (pt. 1)	1,630,000		2,980,000	
	Transition period	100,000			
(FC)	Eastlake-Chagrin River, Ohio and N.Y. (See Ohio.)				
(FC)	Ellicott Creek				150,000
	Transition period				70,000
(BE)	Fire Island Inlet to Jones Inlet	2,700,000		2,700,000	
	Transition period	500,000		500,000	
(FC)	Fire Island Inlet to Montuak Point	1,350,000		1,350,000	
	Transition period	400,000		400,000	
(BE)	Hamlin Beach State Park (reimbursement)	733,000		733,000	
	Transition period				
(N)	Irondequoit Bay			50,000	
	Transition period			30,000	
(FC)	Ithaca	90,000		90,000	
	Transition period	56,000		56,000	
(N)	New York Harbor collection and removal of drift	$900,000		$900,000	
	Transition period	500,000		500,000	
(N)	New York Harbor, anchorages	1,600,000		2,600,000	
	Transition period	1,100,000		1,100,000	
(N)	Port Ontario				$50,000
	Transition period				40,000
(FC)	Scajaquada Creek		$125,000		125,000
	Transition period				
(FC)	Staten Island (Fort Wadsworth to Arthur Kill)		100,000		100,000
	Transition period				
(FC)	Wellsville	595,000		595,000	
	Transition period				
(FC)	Yonkers	1,300,000		1,300,000	
	Transition period	500,000		500,000	
	North Carolina:				
(N)	Atlantic Intracoastal Waterway, highway bridges	400,000		400,000	
	Transition period	130,000		130,000	
(FC)	B. Everett Jordan Dam and Lake	11,400,000		11,400,000	
	Transition period	1,200,000		1,200,000	
(FC)	Carolina Beach and vicinity	433,000		433,000	
	Transition period	200,000		200,000	
(FC)	Falls Lake	6,400,000		6,400,000	
	Transition period	2,116,000		2,116,000	
(FC)	Howards Mill Lake		100,000		100,000
	Transition period		50,000		50,000
(N)	Little River Inlet. (See South Carolina.)				
(N)	Manteo (Shallow Bag) Bay		70,000		70,000
	Transition period				
(N)	Morehead City Harbor (1970 Act)	700,000		700,000	
	Transition period	500,000		500,000	
(FC)	Randleman Lake		120,000		120,000
	Transition period		60,000		60,000
(FC)	Reddies River Lake		150,000		150,000
	Transition period		40,000		40,000
(FC)	Roaring River Lake		150,000		150,000
	Transition period		50,000		50,000
	North Dakota:				
(FC)	Burlington Dam		300,000		300,000
	Transition period		200,000		200,000
(MP)	Garrison Dam—Lake Sakakawea	100,000		100,000	
	Transition period	50,000		50,000	
(FC)	Kindred Lake				100,000
	Transition period				30,000
(FC)	Minot	4,100,000		4,100,000	
	Transition period	2,974,000		2,974,000	
(FC)	Missouri River, Garrison Dam to Lake Oahe	200,000		200,000	
	Transition period	50,000		50,000	
	Ohio:				
(FC)	Alum Creek Lake	1,500,000		1,500,000	
	Transition period	1,000,000		1,000,000	
(FC)	Caesar Creek Lake	11,200,000		11,800,000	
	Transition period	3,310,000		4,100,000	
(FC)	Chillicothe	1,000,000		1,000,000	
	Transition period	600,000		600,000	
(FC)	East Fork Lake	7,000,000		7,000,000	
	Transition period	1,439,000		1,439,000	
(FC)	Eastlake—Chagrin River		80,000		80,000
	Transition period				
(N)	Hannibal locks and dam, Ohio and West Virginia	3,866,000		3,866,000	
	Transition period				
(BE)	Lakeview Park, Lorain		50,000		50,000
	Transition period				
(FC)	Mill Creek	2,000,000		2,000,000	
	Transition period	1,260,000		1,260,000	
(FC)	Muskingum River Lakes (rehab)	250,000		250,000	
	Transition period	150,000		150,000	
(N)	Ottawa River Harbor. (See Michigan.)				
(FC)	Paint Creek Lake	709,000		709,000	
	Transition period				
(FC)	Point Place		80,000		80,000
	Transition period		10,000		10,000
(N)	Willow Island locks and dam, Ohio and West Virginia	4,100,000		5,300,000	
	Transition period	600,000		600,000	
	Oklahoma:				
(FC)	Arcadia Lake		300,000		300,000
	Transition period		100,000		100,000
(FC)	Arkansas-Red Basins chloride control, Oklahoma, Kansas, and Texas		1,260,000		2,200,000
	Transition period		446,000		746,000
(FC)	Arkansas-Red River Basins trol, area VIII			200,000	
	Transition period			100,000	
(FC)	Birch Lake	3,300,000		3,300,000	
	Transition period	605,000		605,000	
(FC)	Candy Lake			300,000	
	Transition period			450,000	
(FC)	Clayton Lake	2,500,000		2,500,000	
	Transition period	2,030,000		2,030,000	
(FC)	Copan Lake	1,300,000		9,000,000	
	Transition period	2,270,000		4,400,000	

	Construction, general, State and project	Budget estimate for fiscal year 1976/transition		Conference allowance for fiscal year 1976/transition	
		Construction	Planning	Construction	Planning
	(1)	(2)	(3)	(4)	(5)
(MP)	Fort Gibson Lake—Units 5 and 6		$350,000		$350,000
	Transition period		100,000		100,000
(FC)	Hugo Lake	$2,224,000		$2,224,000	
	Transition period				
(FC)	Kaw Lake	7,500,000		8,200,000	
	Transition period	1,408,000		1,500,000	
(FC)	Lukfata Lake			50,000	
	Transition period			100,000	
(N)	McClellan-Kerr Arkansas River Navigation system. (See Arkansas.)				
(FC)	Optima Lake	9,800,000		9,800,000	
	Transition period	1,525,000		1,525,000	
(FC)	Skiatook Lake	2,000,000		4,000,000	
	Transition period	1,770,000		2,770,000	
(FC)	Waurika Lake	13,800,000		13,800,000	
	Transition period	4,109,000		4,109,000	
	Oregon:				
(FC)	Applegate Lake (Land Acquisition)	300,000		1,100,000	
	Transition period	100,000		800,000	
(FC)	Beaver Drainage District	100,000		100,000	
	Transition period	200,000		200,000	
(MP)	Bonneville lock and dam (2d powerhouse) Oregon and Washington	17,500,000		24,500,000	
	Transition period	13,000,000		13,600,000	
(MP)	Bonneville lock and dam (modification for peaking), Oregon and Washington	1,900,000		1,900,000	
	Transition period	500,000		500,000	
(FC)	Cascadia Lake		200,000		
	Transition period		200,000		
(FC)	Catherine Creek Lake	400,000		150,000	
	Transition period	250,000			
(N)	Columbia and Lower Willamette Rivers, Oreg. and Wash. (40-ft channel)	1,000,000		1,000,000	
	Transition period	350,000		350,000	
(N)	Coos Bay			2,000,000	
	Transition period			3,500,000	
(MP)	Cougar Lake	740,000		740,000	
	Transition period	300,000		300,000	
(FC)	Days Creek Lake (phase I)		100,000		500,000
	Transition period		25,000		
(FC)	Elk Creek Lake	6,600,000			
	Transition period	3,000,000			
(MP)	John Day lock and dam—Lake Umatilla, Oreg. and Wash.	5,065,000		5,525,000	
	Transition period	1,300,000		1,300,000	
(MP)	Lost Creek Lake	24,000,000		24,000,000	
	Transition period	8,600,000		8,600,000	
(FC)	Lower Columbia River Bank Protection, Oregon and Washington	450,000		450,000	
	Transition period	300,000		300,000	
(MP)	McNary lock and dam, Lake Wallula, Oregon and Washington	4,100,000		4,100,000	
	Transition period	1,000,000		1,000,000	
(FC)	Scappoose Drainage District	100,000		100,000	
	Transition period	400,000		400,000	
(MP)	The Dallas lock and dam. (See Washington)				
(FC)	Willamette River Basin bank protection	400,000		400,000	
	Transition period	950,000		950,000	
	Pennsylvania:				
(FC)	Blue Marsh Lake	10,500,000		10,500,000	
	Transition period	2,900,000		2,900,000	
	(Relocate Gruber Wagon Works)			431,000	
	Transition period				
(FC)	Chartiers Creek	1,200,000		1,200,000	
	Transition period	1,300,000		1,300,000	
(FC)	Cowanesque Lake	12,400,000		12,400,000	
	Transition period	5,000,000		5,000,000	
(FC)	DuBois	2,000,000		2,000,000	
	Transition period				
(N)	Gray's Landing lock and dam		300,000		300,000
	Transition period		130,000		130,000
(N)	Point Marion lock		200,000		200,000
	Transition period		90,000		90,000
(FC)	Pottstown		50,000		50,000
	Transition period		20,000		20,000
(BE)	Presque Isle Peninsula	750,000		750,000	
	Transition period	10,000		10,000	
(FC)	Raystown Lake	4,500,000		4,500,000	
	Transition period	1,900,000		1,900,000	
(FC)	Tioga-Hammond Lakes	31,000,000		34,250,000	
	Transition period	9,314,000		9,314,000	
(MP)	Tocks Island Lake (relocation of Route 209 only)			2.500,000	
	Transition period			2,100,000	
(FC)	Tyrone	1,700,000		1,700,000	
	Transition period	750,000		750,000	
	Puerto Rico:				
(FC)	Portugues and Bucana Rivers	5,000,000		6,400,000	
	Transition period	1,225,000		1,750,000	
	South Carolina:				
(N)	Cooper River, Charleston Harbor	$3,000,000		$3,500,000	
	Transition period	1,273,000		1,773,000	
(N)	Little River Inlet, S.C. and N.C		$380,000		$380,000
	Transition period		100,000		100,000
(N)	Murrells Inlet		300,000		300,000
	Transition period				
(MP)	Richard B. Russell dam and lake. (See Georgia.)				
	South Dakota:				
(FC)	Big Sioux River at Sioux City, Iowa and S. Dak. (See Iowa.)				
	Transition period				
(FC)	Big Stone Lake—Whetstone River. (See Minnesota.)				
(MP)	Gavins Point Dam—Lewis & Clark Lake (relocation of Niobrara). (See Nebraska.)				
(FC)	Sacred Heart Hospital, emergency bank stabilization, Yankton, S. Dak	125,000		125,000	
	Transition period				
	Tennessee:				
(FC)	Big South Fork National River and Recreation Area. (See Kentucky.)				
(MP)	Cordell Hull Dam and Reservoir	1,000,000		1,300,000	
	Transition period	420,000		520,000	
	Texas:				
(FC)	Alpine		70,000		70,000
	Transition period		20,000		20,000
(FC)	Aquilla Lake			1,500,000	
	Transition period			700,000	
(FC)	Arkansas-Red Basins chloride control. (See Oklahoma.)				
(FC)	Aubrey Lake	2,500,000		2,500,000	
	Transition period	3,314,000		3,314,000	
(FC)	Big Pine Lake		300,000		300,000
	Transition period		75,000		75,000
(FC)	Big Spring		65,000		65,000
	Transition period		20,000		20,000
(FC)	Buffalo Bayou and tributaries	1,473,000		1,473,000	
	Transition period				
(FC)	Carl L. Estes Dam and Lake		400,000		400,000
	Transition period		135,000		135,000
(FC)	Clear Creek		300,000		300,000
	Transition period		75,000		75,000
(FC)	Cloptin Crossing Lake (Phase I)				300,000
	Transition period				100,000
(FC)	Cooper Lake and channels	1,500, 00		1,500,000	
	Transition period	685,000		685,000	
(BE)	Corpus Christi Beach			100,000	
	Transition period			200,000	
(N)	Corpus Christi ship channel (1968 Act)	1,900,000		2,900, 00	
	Transition period	650,000		650,000	
(FC)	El Paso	4,000,000		4,000,000	
	Transition period	1,332,000		1,332,000	
(FC)	Freeport and vicinity, hurricane flood protection	4,300,000		4,300,000	
	Transition period	900,000		900,000	
(N)	Freeport Harbor		100,000		100,000
	Transition period		30,000		30,000
(N)	Galveston Channel (1971 auth)	1,400,000		1,400,000	
	Transition period				
(N)	GIWW-Texas Section—Relocation in Matagorda Bay		35,000		35,000
	Transition period		15,000		15,000
(N)	Gulf IWW-Harbor of Refuge at Seadrift				30,000
	Transition period				12,000
(FC)	Highland Bayou	2,085,000		2,085,000	
	Transition period	400,000		400,000	
(FC)	Lake Brownwood Modification		238,000		238,000
	Transition period				
(FC)	Lakeview Lake	2,500,000		2,500,000	
	Transition period	2,398,000		2,398,000	
(FC)	Lavon Lake Modification and East Fork Channel improvement	3,680,000		3,880,000	
	Transition period	581,000		731,000	
(FC)	Lower Rio Grande Basin (Phase I)		200,000		350,000
	Transition period		50,000		50,000
(FC)	Millican Lake		450,000		450,000
	Transition period		110,000		110,000
(N)	Mouth of Colorado River		70,000		70,000
	Transition period				
(FC)	Pecos and vicinity		150,000		150,000
	Transition period		40,000		40,000
(FC)	Peyton Creek		200,000		
	Transition period		50,000		
(FC)	Plainview		120,000		120,000
	Transition period		40,000		40,000
(FC)	Port Arthur and vicinity (hurricane flood protection)	7,900,000		7,900,000	
	Transition period	1,225,000		1,225,000	

	Construction, general State and project	Budget estimate for fiscal year 1976/transition		Conference allowance for fiscal year 1976/transition	
	(1)	Construction (2)	Planning (3)	Construction (4)	Planning (5)
(N)	Red River emergency bank protection. (See Louisiana.)				
(FC)	Red River levees and bank stabilization below Denison Dam. (See Arkansas.)				
(FC)	San Antonio Channel improvement	$2,200,000		$2,200,000	
	Transition period	1,100,000		1,100,000	
(FC)	San Gabriel River	6,850,000		7,000,000	
	Transition period	2,607,000		3,000,000	
(FC)	Taylors Bayou	650,000		650,000	
	Transition period	490,000		490,000	
(FC)	Texas City and vicinity (hurricane flood protection)	1,000,000		1,000,000	
	Transition period	85,000		85,000	
(FC)	Three Rivers		$150,000		$150,000
	Transition period		50,000		50,000
(FC)	Trinity River project		800,000		800,000
	Transition period		300,000		300,000
(FC)	Vince and Little Vince Bayous	200,000		200,000	
	Transition period	250,000		250,000	
	Virginia:				
(FC)	Buena Vista (Phase I)		150,000		150,000
	Transition period		60,000		60,000
(FC)	Four Mile Run, City of Alexandria and Arlington County	6,265,000		6,265,000	
	Transition period	1,900,000		1,900,000	
(FC)	Gathright Lake	8,600,000		10,000,000	
	Transition period	2,200,000		2,200,000	
(FC)	Potomac Estuary Pilot Water Treatment Plant. (See District of Columbia.)				
(FC)	Tug Fork Valley. (See Kentucky.)				
(FC)	Verona Lake (Phase I)		350,000		350,000
	Transition period		160,000		160,000
(BE)	Virginia Beach (reimbursement)	230,000		230,000	
	Transition period				
	Washington:				
(MP)	Bonneville lock and dam. (See Oregon.)				
(MP)	Chief Joseph Dam, additional units	52,600,000		66,600,000	
	Transition period	14,500,000		20,500,000	
(N)	Columbia and Lower Willamette Rivers, Oregon and Washington (40-ft channel). (See Oregon.)				
(BE)	Ediz Hook		170,000		170,000
	Transition period				
(MP)	Ice Harbor, additional units	2,300,000		2,300,000	
	Transition period	400,000		400,000	
(MP)	John Day lock and dam. (See Oregon.)				
(MP)	Little Goose lock and dam, Lake Bryan	900,000		900,000	
	Transition period				
(MP)	Little Goose Additional units	16,000,000		18,000,000	
	Transition period	2,800,000		2,800,000	
(FC)	Lower Columbia River Basin bank protection. (See Oregon.)				
(MP)	Lower Granite lock and dam	13,100,000		13,100,000	
	Transition period	2,000,000		2,000,000	
(MP)	Lower Granite additional units	14,900,000		17,900,000	
	Transition period	2,800,000		2,800,000	
(MP)	Lower Monumental lock and dam.	950,000		950,000	
	Transition period				
(MP)	Lower Monumental additional units.	4,800,000		5,800,000	
	Transition period	2,500,000		3,500,000	
(MP)	McNary lock and dam. (See Oregon.)				
(MP)	The Dalles additional units	700,000		700,000	
	Transition period	300,000		300,000	
(FC)	Wahkiakum County Consolidated Diking District No. 1	200,000		200,000	
	Transition period	300,000		300,000	
(FC)	Wenatchee Canyons 1 and 2		284,000		284,000
	Transition period		130,000		130,000
	West Virginia:				
(FC)	Beech Fork Lake	6,800,000		8,000,000	
	Transition period	1,500,000		1,600,000	
(FC)	Bloomington Lake. (See Maryland.)				
(FC)	Burnsville Lake	$6,200,000		$6,200,000	
	Transition period	2,500,000		2,500,000	
(FC)	Coal River Basin	500,000		500,000	
	Transition period	400,000		400,000	
(FC)	East Lynn Lake	4,700,000		4,700,000	
	Transition period	300,000		300,000	
(N)	Hannibal locks and dam. (See Ohio.)				
(FC)	R. D. Bailey Lake	16,800,000		22,300,000	
	Transition period	4,750,000		5,300,000	
(FC)	Rowlesburg Lake		$100,000		$100,000
	Transition period		40,000		40,000
(FC)	Tug Fork Valley. (See Kentucky.)				
	Wisconsin:				
(FC)	Lafarge Lake and Channel improvement	3,000,000			
	Transition period	1,400,000			
(N)	Northport Harbor		100,000		100,000
	Transition period		25,000		25,000
(FC)	Prairie Du Chien		50,000		50,000
	Transition period		20,000		20,000
(FC)	State Road and Ebner Coulees		127,000		127,000
	Transition period		80,000		80,000
	Wyoming:				
(FC)	Sheridan	600,000		600,000	
	Transition period				
	Miscellaneous:				
(BE)	Small Beach erosion control projects (Sec. 103)			500,000	
	Transition period			300,000	
(N)	Small navigation projects not requiring specific legislation costing up to $1,000,000 (Sec. 107)	1,500,000		3,000,000	
	Transition period	500,000		1,000,000	
(FC)	Small projects for flood control and related purposes not requiring specific legislation costing up to $1,000,000 (Sec. 205)	4,000,000		8,300,000	
	Transition period	1,000,000		3,415,000	
(FC)	Small snagging and clearing projects (Sec. 208)			450,000	
	Transition period			100,000	
(FC)	Emergency streambank and shoreline protection (1974 modification—Sec. 14)	1,000,000		3,000,000	
	Transition period	250,000		500,000	
	Recreation facilities at completed projects	20,000,000		15,000,000	
	Transition period	4,000,000		3,000,000	
	Fish and wildlife studies (U.S. Fish and Wildlife Service)	1,900,000		1,900,000	
	Transition period	500,000		500,000	
	Mitigation of shore damages attributable to navigation projects (Sec. 111)	600,000		600,000	
	Transition period	150,000		150,000	
	Streambank erosion control evaluation and demonstration (Sec. 32, 1974 Act)			3,000,000	
	Transition period			1,000,000	
	Shoreline erosion control (Sec. 54)			500,000	
	Transition period			125,000	
	Aquatic plant control (1965 Act)	1,600,000		1,400,000	
	Transition period	450,000		400,000	
	Employees compensation	2,190,000		2,190,000	
	Transition period	600,000		600,000	
	Reduction for anticipated savings and slippages	—62,035,000		—72,035,000	
	Transition period	—21,165,000		—22,947,000	
	Total	1,068,650,000	24,050,000	1,202,356,000	26,292,000
	Transition period	353,785,000	6,215,000	402,109,000	6,632,000
	Total, construction, general—Fiscal year 1976	(1,092,700,000)		(1,228,648,000)	
	Total, construction, general—Transition	(360,000,000)		(408,741,000)	

Amendment No. 13: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which reads as follows:

"That not to exceed $8,000,000 of this appropriation or from any previous appropriation under this head shall be for construction or improvement of recreation facilities at full Federal expense at projects which were completed or which received an appropriation for project construction prior to the option for project construction prior to the approval of Public Law 89–72: *Provided further,*"

Amendment No. 14: Appropriates $408,741,000 for the transition quarter instead of $408,883,000 as proposed by the House and $401,578,000 as proposed by the Senate. The funds appropriated for the transition quarter are to be allocated as shown in the above table.

Amendment No. 15: Deleted language proposed by the House which read as follows:

"None of the funds appropriated in this Act for the Corps of Engineers shall be used for the Tomahawk Lake project, Kansas."

The Senate deleted funds for this project and language is no longer necessary.

Flood Control, Mississippi River and Tributaries

Amendment No. 16: Appropriates $163,250,000 for 1976 as proposed by the Senate instead of $160,000,000 as proposed by the House.

Amendment No. 17: Appropriates $60,300,-

000 for the transition period as proposed by the Senate instead of $59,000,000 as proposed by the House.

Within available funds the conferees are agreed that an additional $1,450,000 in FY 1976 and $600,000 in the transition quarter shall be available for the Larto Lake to Jonesville area, La. under the Tensas Basin.

Operation and maintenance, general

Amendment No. 18: Appropriates $582,073,000 for 1976 as proposed by the Senate instead of $576,073,000 as proposed by the House.

The conferees are in agreement that O & M funds are to be provided as shown in the House and Senate reports.

Revolving fund

Amendment No. 19: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $700,000 for 1976 and $950,000 for the transition period. The amendment read as follows:

"Revolving fund

For the design and hopper dredges, $700,000, to remain available until expended.

For "Revolving Fund" for the period July 1, 1976, through September 30, 1976, for the design and construction of hopper dredges, $950,000, to remain available until expended."

The managers agree with the Senate report language.

Special recreation use fees

Amendment No. 20: Corrects citation.

Administrative provisions

Amendment No. 21: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which reads as follows:

"not to exceed $10,000 for official reception and representation expenses;"

Amendment No. 22: Provides limitation of $248,700,000 on the capital of the revolving fund 1976 as proposed by the Senate instead of $248,000,000 as proposed by the House.

Amendment No. 23: Provides limitation of $255,000,000 on the capital of the revolving fund for the transition period as proposed by the Senate instead of $254,000,000 as proposed by the House.

General Provision

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing language as follows:

"General Provision

"Sec. 201. To enable payment of any valid claims on the Federal Government for the construction of an airport facility at Kelley Flats, Montana, section 502 of the Supplemental Appropriation Act, 1968 (81 Stat. 773) is amended by deleting the amount '$140,000' contained therein and inserting in lieu thereof the amount of '$240,000': Provided, That this amendment shall not be construed to change any obligations which have been undertaken, in agreement with the Federal Government, by non-Federal sponsors of the airport facility to contribute to the payment of the construction costs of the facility."

TITLE III—DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

General Investigations

The managers agree to the projects added in the Senate Report.

Both House and Senate provided $4,649,000 for FY 1976 and $1,632,000 for the Atmospheric Water Resources Management Program (Project Skywater). Further, the Committee of Conference agrees that the Bureau of Reclamation should allocate from within the amount made available, sufficient funds (estimated at approximately $35,000) to complete the cloud seeding and cloud physics research program under a contract with the University of Wyoming.

Construction and Rehabilitation

Amendment No. 25: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $327,308,000 for 1976 instead of $324,268,000 as proposed by the House and $327,158,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The Conferees agree with the language in the Senate report relating to the Nueces River project, Texas. The changes from the Senate bill are as follows:

Miscellaneous project programs, Central Valley Project, Calif.:	
New Melones-Tracy transmission line	+$100,000
Trinity River Action Plan	+300,000
Southern Nevada water project, Nevada	−250,000
Canyon Ferry Unit, dust abatement, Montana	−500,000
Lower Marias Unit, Tiber Dam & Reservoir, Mont	+500,000

Amendment No. 26: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which reads as follows:

"That not to exceed $600,000 of the funds appropriated herein shall be made available for restoration of the Scoggins Valley Road from Oregon Highway No. 47 to Henry Hagg Lake (Scoggins Dam), which shall be nonreimbursable: Provided further,"

Amendment No. 27: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing language which reads as follows:

": *Provided further*, That funds appropriated herein for the repairs to the Savage Rapids Dam, of the Rogue River Basin project, Grants Pass Division, may be transferred to the Oregon Fish and Game Commission on a reimbursable basis for such work on the South fishway facilities as determined desirable by the Secretary of the Interior"

Amendment No. 28: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $98,834,000 for the transition quarter instead of $97,884,000 as proposed by the House and $98,584,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The changes from the Senate bill are as follows:

	Transition quarter
Miscellaneous project programs, Central Valley Project, Calif:	
New Melones-Tracy transmission line	+$50,000
Trinity River action plan	+200,000
Southern Nevada water project, Nevada	250,000
Lower Marias Unit, Tiber Dam and Reservoir, Montana	+250,000

Amendment No. 29: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing language which reads as follows:

": Provided further, That not to exceed $1,400,000 of the funds appropriated herein shall be made available for restoration of the Scoggins Valley Road from Oregon Highway No. 47 to Henry Hagg Lake (Scoggins Dam), which shall be nonreimbursable"

Upper Colorado River storage project

Amendment No. 30: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $41,152,000 for fiscal year 1976 instead of $41,557,000 as proposed by the House and $41,867,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The changes from the Senate bill are as follows:

Dallas Creek project, Colorado	+$400,000
Fruitland Mesa project, Colorado	+125,000
Savery-Pot Hook project, Colorado	+250,000
Jensen Unit, Central Utah project, Utah	+50,000
Fish and Wildlife facilities, San Juan-Chama project, New Mexico	−1,540,000

Amendment No. 31: Provides limitation of $38,160,000 for the Upper Colorado River Basin Fund instead of $38,985,000 as proposed by the House and $37,335,000 as proposed by the Senate.

Amendment No. 32: Provides limitation of $2,992,000 for construction of fish and wildlife facilities instead of $2,572,000 as proposed by the House and $4,532,000 as proposed by the Senate. The increases over the House amount provide for Fontenelle Reservoir and Seedskadee Wildlife Refuge.

Operation and Maintenance

Amendment No. 33: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which adds language as follows:

": Provided further, That the amount appropriated herein includes $15,394.83 for Colorado River Front Work and Levee System due the Cocopah Indian Tribe because of a revision of the reservation boundary provided for in a decision of the Department of the Interior and a final judgement of the United States District Court"

Loan Program

Amendment No. 34: Appropriates $22,665,000 for 1976 as proposed by the Senate instead of $23,315,000 as proposed by the House.

Amendment No. 35: Appropriates $9,205,000 as proposed by the Senate for the transition period instead of $6,155,000 as proposed by the House.

Emergency Fund

Amendment No. 36: Appropriates $1,000,000 for 1976 as proposed by the Senate instead of $400,000 as proposed by the House.

TITLE IV—INDEPENDENT OFFICES

Appalachian Regional Commission

Salaries and Expenses

Amendment No. 37: Technical change adds "activities of the" as proposed by the Senate.

Amendment No. 38: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which reads as follows:

"as specified in section 105 of the Appalachian Regional Development Act of 1965, as amended (40 App. U.S.C. 105), which activities are hereby authorized pending the enactment of H.R. 4073, or similar authorizing legislation,"

Funds Appropriated to the President

Appalachian regional development programs

Amendment No. 39: Technical change. Changes "programs authorized by" to "activities specified in" as proposed by the Senate.

Amendment No. 40: Technical change. Insert "40 App. U.S.C. 2–405," as proposed by the Senate.

Amendment No. 41: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which reads as follows:

"which activities are hereby authorized pending the enactment of H.R. 4073 or similar authorizing legislation,"

Amendment No. 42: Appropriates $288,200,000 instead of $293,200,000 as proposed by the House and $283,500,000 as proposed by the Senate.

Amendment No. 43: Provides limitation of $162,200,000 for 1976 instead of $162,500,000 as proposed by the House and $160,000,000 as proposed by the Senate for the Appalachian Highway system.

Amendment No. 44: Appropriates $5,000,000 for the transition period as proposed by the House instead of $47,500,000 as proposed by the Senate.

Amendment No. 45: Provides limitation of $37,500,000 for the transition period as proposed by the House instead of $35,000,000 as proposed by the Senate.

The managers are agreed that funds are provided for the mountain craft center in Tennessee, highway 56 access road in Tennessee, and the northwest extension of the Tupelo, Mississippi access road.

Nuclear Regulatory Commission

Salaries and Expenses

Amendment No. 46: Provides limitation of $7,000 for official entertainment expenses as proposed by the Senate instead of $1,000 as proposed by the House.

Amendment No. 47: Appropriates $215,423,000 for 1976 as proposed by the Senate instead of $202,500,000 as proposed by the House.

The conferees are agreed that a total of 2,289 permanent positions are provided to carry out the activities of the Nuclear Regulatory Commission.

Amendment No. 48: Deletes language proposed by the Senate which reads as follows:

"and any moneys received by the Commission resulting from cooperative nuclear safety research programs notwithstanding the provisions of section 3617 of the revised statutes (31 U.S.C. 484), to remain available until expended"

Amendment No. 49: Appropriates $51,425,000 for the transition quarter as proposed by the Senate instead of $49,230,000 as proposed by the House.

Amendment No. 50: Deletes language proposed by the Senate which reads as follows:

", to remain available until expended"

Tennessee Valley Authority

Payment to Tennessee Valley Authority Fund

Amendment No. 51: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment to appropriate $100,025,000 for 1976 instead of $99,754,000 as proposed by the House and $91,000,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 52: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $30,550,000 for the transition quarter instead of $27,984,000 as proposed by the House and $28,200,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The funds appropriated under this heading are to be allocated as shown in the following table:

TENNESSEE VALLEY AUTHORITY—PAYMENT TO TENNESSEE VALLEY AUTHORITY FUND

	Budget estimate		Conference action	
	Fiscal year 1976	Transition quarter	Fiscal year 1976	Transition quarter
CAPITAL OUTLAY				
Water resources development: Multipurpose facilities:				
Duck River project:				
Normandy Dam and Reservoir	$6,117,000	$211,000	$8,417,000	$211,000
Columbia Dam and Reservoir	4,400,000	1,100,000	10,400,000	2,550,000
Bear Creek multipurpose water control system	9,345,000	5,700,000	10,645,000	5,700,000
Tellico Dam and Reservoir	23,742,000	5,400,000	23,742,000	5,400,000
Additions and improvements at multipurpose dams	700,000	175,000	700,000	175,000
Navigation facilities:				
Railway bridge alterations at Decatur, Ala	2,000,000	3,000,000	2,000,000	3,600,000
Additions and improvements at navigation facilities	600,000	150,000	600,000	150,000
Flood control facilities:				
South Chickamauga Creek project	0	0	750,000	250,000
Other flood control programs	901,000	250,000	901,000	250,000
Recreation facilities	800,000	200,000	800,000	200,000
Investigations for future facilities	46,000	0	46,000	0
Land Between The Lakes (development)	2,035,000	850,000	2,035,000	850,000
Fertilizer and munitions development	4,379,000	1,000,000	4,379,000	1,000,000
General service activities:				
Reno Bridge	16,000	0	16,000	0
Sparta water demonstration project	0	0	275,000	0
General facilities	837,000	102,000	837,000	102,000
Total, capital outlay	55,918,000	18,738,000	66,543,000	20,438,000
PROGRAM EXPENSES				
Water resources development	$12,066,000	$3,105,000	$12,066,000	$3,105,000
General resources development:				
Reclamation of orphan strip mine demonstration	0	0	2,600,000	350,000
Lower Elk Community development project	0	0	1,000,000	1,000,000
Other general resources development programs	9,237,000	2,137,000	9,237,000	2,137,000
Land Between the Lakes operation	2,650,000	710,000	2,650,000	710,000
Fertilizer and munitions development operation—Chemical facilities	10,037,000	2,515,000	10,037,000	2,515,000
General service activities	1,100,000	295,000	1,100,000	295,000
Total, program expenses	35,090,000	8,762,000	38,690,000	10,112,000
Total program	91,008,000	27,500,000	105,233,000	30,550,000
Unobligated balance available	3,208,000	0	3,208,000	0
Reduction for lapse, savings and slippage	0	0	2,000,000	0
Appropriations	87,800,000	27,500,000	100,025,000	30,550,000

Water Resources Council

Water Resources Planning

Amendment No. 53: Appropriates $10,722,000 for 1976 as proposed by the Senate instead of $7,750,000 as proposed by the House.

Amendment No. 54: Provides limitation of $1,300,000 as proposed by the Senate instead of $1,396,000 as proposed by the House.

Amendment No. 55: Provides limitation as proposed by the Senate which reads as follows:

"$2,765,000, for preparation of assessments and plans (42 U.S.C. 1962 d(c)),"

Amendment No. 56: Provides limitation as proposed by the Senate which reads as follows:

"$303,000 for preparation of plans (33 U.S.C. 1289),"

Amendment No. 57: Appropriates $2,350,000 as proposed by the Senate instead of $1,400,000 as proposed by the House.

Conference total—with comparisons

The total new budget (obligational) authority for the fiscal year 1976 and the transition period recommended by the Committee of Conference with comparisons to the fiscal year 1975 amount, the 1976 and transition period budget estimates, and the House and the Senate bills for 1976 and the transition period follows:

New budget (obligational) authority, fiscal year 1975	$6,194,295,000
Budget estimates of new (obligational) authority, fiscal year 1976	[1]7,300,162,000
Transition period	[1]2,040,630,000
House bill, fiscal year 1976	7,225,401,500
Transition period	2,100,728,000
Senate bill, fiscal year 1976	7,489,660,500
Transition period	2,104,126,000
Conference agreement	7,440,912,500
Transition period	2,115,033,000
Conference agreement compared with—New budget (obligational) authority, fiscal year 1975	+1,246,617,500
Budget estimates of new (obligational) authority, fiscal year 1976	+140,750,000
Transition period	+74,403,000
House bill, fiscal year 1976	+215,511,000
Transition period	+14,305,000
Senate bill, fiscal year 1976	−48,748,000
Transition period	+10,907,000

Joe L. Evins,
Edward P. Boland,
Jamie L. Whitten,
John M. Slack,
Otto E. Passman,
Tom Bevill,
George Mahon,
John T. Myers,
Clair W. Burgener,
Elford A. Cederberg,
Managers on the Part of the House.

John C. Stennis,
Warren G. Magnuson,
Robert C. Byrd,
John O. Pastore,
Joseph M. Montoya,
J. Bennett Johnston,
John L. McClellan,
Jennings Randolph,
Mark O. Hatfield,
Milton R. Young,
Roman L. Hruska,
Clifford P. Case,
Managers on the Part of the Senate.

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[1] Includes $242,700,000 for FY 76 and $47,470,000 for the transition quarter not considered by House—these requests included in H. Doc. 94–195, S. Doc. 94–84, and S. Doc. 94–112.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Helstoski (at the request of Mr. O'Neill), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mrs. Spellman, Thursday, December 11, 1975, for 5 minutes.

(The following Members (at the request of Mr. Young of Alaska) and to revise and extend their remarks and include extraneous matter:)

Mrs. Heckler of Massachusetts, for 5 minutes, today.

Mr. Kemp, for 60 minutes, today.

Mr. Railsback, for 5 minutes, today.

Mr. Beard of Tennessee, for 5 minutes, today.

(The following Members (at the request of Mr. AuCoin) and to revise and extend their remarks and include extraneous matter:)

Mr. AuCoin, for 15 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Kastenmeier, for 5 minutes, today.

Mr. Koch, for 5 minutes, today.

Mr. Drinan, for 10 minutes, today.

Mr. Brademas, for 5 minutes, today.

Mr. Levitas, for 10 minutes, today.

Mr. Danielson, for 10 minutes, today.

(The following Members (at the request of Mr. Danielson) to revise and extend their remarks and include extraneous material:)

Ms. Holtzman, for 10 minutes, today.

Mr. Mezvinsky, for 5 minutes, today.

Mr. Brown of California, for 5 minutes, today.

Mrs. Spellman, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Matsunaga, to revise and extend his remarks immediately preceding the adoption of the rule on House Resolution 846, National Women's Conference.

(The following Members (at the request of Mr. Young of Alaska) and to include extraneous material:)

Mr. Findley in two instances.

Mr. Bell.

Mr. Crane in two instances.

Mr. Frenzel in three instances.

Mr. Hyde.

Mr. Lagomarsino.

Mr. McClory.

Mr. Ashbrook in three instances.

Mr. Wylie.

Mr. Ketchum.

Mr. Derwinski.

Mr. Cleveland.

Mr. Hansen.

(The following Members (at the request of Mr. AuCoin) and to include extraneous matter:)

Mr. Preyer.

Mr. Gonzalez in three instances.

Mr. Anderson of California in three instances.

Mr. Koch.

Mr. Richmond in two instances.

Mr. Mazzoli.

Mr. Won Pat.

Mr. Downey of New York in five instances.

Mr. Roybal in two instances.

Mr. McDonald of Georgia in four instances.

Mr. Giaimo in five instances.

Mr. Fraser in five instances.

Mr. O'Neill.

Mr. Roush in four instances.

Mr. Udall in two instances.

Mrs. Schroeder.

Mr. Vanik in three instances.

Mr. Dent in two instances.

Mr. Fauntroy in five instances.

Mr. Harrington.

Mrs. Mink in two instances.

Mr. Rangel.

Mr. Moakley.

Mr. Russo.

Mr. Dominick V. Daniels.

Mrs. Sullivan in two instances.

Mr. Edwards of California.

Mr. James V. Stanton.

Mr. Hungate in three instances.

Mr. Edgar.

Mr. Jacobs.

Mr. Breckinridge.

(The following Members (at the request of Mr. Danielson) and to include extraneous matter:)

Mr. Badillo.

Mr. Scheuer in two instances.

Mr. Wirth.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2757. An act to extend until April 30, 1976, the authority of the National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance; to the Committee on Judiciary.

BILL PRESENTED TO THE PRESIDENT

Mr. HAYS of Ohio, from the Committee on House Administration, reported that the committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 9005. An act to authorize assistance for disaster relief and rehabilitation, to provide for overseas distribution and production of agricultural commodities, to amend the Foreign Assistance Act of 1961, and for other purposes.

ADJOURNMENT

Mr. DANIELSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 24 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, December 11, 1975, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2176. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a cumulative report on rescissions and deferrals of budget authority for fiscal year 1976 as of December 1, 1975, pursuant to section 1014(e) of Public Law 93–344 (H. Doc. No. 94–320); to the Committee on Appropriations and ordered to be printed.

2177. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report on recommendations, and actions relating thereto, contained in the report of the National Advisory Council on Education Professions Development entitled "Search for Success: Toward Policy on Educational Evaluation," dated June 1974, pursuant to section 6(b) of the Federal Advisory Committee Act; to the Committee on Government Operations.

2178. A letter from the Assistant Staff Director for Administration, Federal Election Commission, transmitting the Commission's budget request for fiscal year 1977, pursuant to section 311(d)(1) of the Federal Election Campaign Act of 1971, as amended [2 U.S.C. 437d(d)(1)]; to the Committee on House Administration.

2179. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed concession contract providing for the operation and maintenance of facilities and services for the public within Mount Rainier National Park during a term ending October 31, 1980, pursuant to 67 Stat. 271 and 70 Stat. 543; to the Committee on Interior and Insular Affairs.

2180. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the intention of the Department of State to consent to a request by the Government of the Republic of Korea for permission to sell to the Government of Cameroon certain defense articles manufactured in Korea from technical data packages obtained from the United States under authority of the Foreign Military Sales Act, pursuant to section 3(a) of the act; to the Committee on International Relations.

2181. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Air Force to offer to sell certain defense services to Saudi Arabia, pursuant to section 36(b) of the Foreign Military Sales Act, as amended; to the Committee on International Relations.

2182. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Air Force to offer to sell certain defense articles to Greece, pursuant to section 36(b) of the Foreign Military Sales Act, as amended; to the Committee on International Relations.

2183. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Air Force to offer to sell certain defense articles and services to Israel, pursuant to section 36(b) of the Foreign Military Sales Act, as amended; to the Committee on International Relations.

2184. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Air Force to offer to sell certain defense articles to Saudi Arabia, pursuant to section 36(b) of the Foreign Military Sales Act, as amended; to the Committee on International Relations.

2185. A letter from the Chairman, National Commission on Diabetes, transmitting the report of the Commission and its Long-Range Plan to Combat Diabetes, pursuant to section 3(i)(1) of Public Law 93–354; to the Committee on Interstate and Foreign Commerce.

2186. A letter from the Chairman, U.S. Commission on Civil Rights, transmitting a report on developments in housing opportunities for minorities and women during the 20 years since the Supreme Court's decision in *Brown* v. *Board of Education*, pursuant to section 104(b) of Public Law 85-315, as amended; to the Committee on the Judiciary.

2187. A letter from the Acting Assistant Administrator of General Services, transmitting a prospectus proposing the extension of the lease for space presently occupied by the Executive Office of the President at the Ames Center Building, Arlington, Va., pursuant to section 210(h)(1) of the Federal Property and Administrative Services Act of 1949, as amended; to the Committee on Public Works and Transportation.

2188. A letter from the Administrator, National Aeronautics and Space Administration, transmitting notice of the proposed use of funds appropriated to NASA for fiscal year 1970 for "Construction of facilities," to construct an Integrated Support Facility at the Flight Research Center, Edwards, Calif., pursuant to section 3 of the NASA Authorization Act, 1970; to the Committee on Science and Technology.

RECEIVED FROM THE COMPTROLLER GENERAL

2189. A letter from the Comptroller General of the United States, transmitting a report that the Food and Drug Administration's support for restaurant sanitation is largely ineffective; jointly, to the Committees on Government Operations, and Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROBERTS: Committee on Veterans' Affairs. H.R. 1547. A bill to amend title 38 of the United States Code in order to extend medical benefits to the survivors of any veteran who at the time of death was suffering from a total and permanent service-connected disability (Rept. No. 94-702). Referred to the Committee of the Whole House on the state of the Union.

Mr. ROBERTS: Committee on Veterans' Affairs. H.R. 2735. A bill to amend title 38 of the United States Code in order to provide for an annual investigation by the Administrator into the cost of travel by veterans to Veterans' Administration facilities and to set rates therefor, and for other purposes; with amendment (Rept. No. 94-703). Referred to the Committee of the Whole House on the state of the Union.

Mr. ROBERTS: Committee on Veterans' Affairs. H.R. 10268. A bill to amend title 38 of the United States Code in order to clarify the purposes for which the Administrator of the Veterans' Affairs may release the names and addresses of present and former personnel of the armed services and their dependents; with amendment (Rept. No. 94-704). Referred to the Committee of the Whole House on the state of the Union.

Mr. ROBERTS: Committee on Veterans' Affairs. H.R. 10394. A bill to amend title 38 of the United States Code to promote the care and treatment of veterans in State veterans' homes (Rept. No. 94-705). Referred to the Committee of the Whole House on the state of the Union.

Mr. HAYS of Ohio: Committee on House Administration. House Resolution 906. Resolution to authorize funds for the continuing activities of the standing and select committees of the House of Representatives (Rept. No. 94-706). Referred to the House Calendar.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 919. Resolution providing for the consideration of the conference report on H.R. 3474. A bill to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes (Rept. No. 94-707). Referred to the House Calendar.

Mr. POAGE: Committee of conference. Conference report on H.R. 7656 (Rept. No. 94-708). Ordered to be printed.

Mr. JONES of Tennessee: Committee of conference. Conference report on Senate Joint Resolution 121 (Rept. No. 94-709). Ordered to be printed.

Mr. MAHON: Committee of conference. Conference report on H.R. 9861 (Rept. No. 94-710). Ordered to be printed.

Mr. EVINS of Tennessee: Committee of conference. Conference report on H.R. 8122 (Rept. No. 94-711).

Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ULLMAN:

H.R. 11077. A bill to amend section 208(f)(1) of the Airport and Airway Revenue Act of 1970; to the Committee on Ways and Means.

By Mr. ASPIN (for himself, Mr. Bedell, Mr. Blouin, Mr. Brown of California, Mr. McHugh, Mr. Charles Wilson of Texas, Mr. Won Pat, Mr. Patterson of California, and Mr. Hall):

H.R. 11078. A bill to require the U.S. Postal Service to provide postal lock boxes for certain persons who reside in rural areas; to the Committee on Post Office and Civil Service.

By Mr. BELL:

H.R. 11079. A bill to provide that pay adjustments for Members of Congress may take effect no earlier than the beginning of the Congress next following the Congress in which they are approved; to the Committee on Post Office and Civil Service.

By Mr. CRANE (for himself, Mr. Goldwater, Mr. Sebelius, Mr. Moorhead of California, Mr. McClory, Mr. Krueger, Mr. Grassley, Mr. Forsythe, Mr. Brown of Michigan, Mr. Railsback, Mr. Rinaldo, Mr. Duncan of Oregon, Mr. Beard of Tennessee, Mr. Burleson of Texas, Mr. Hagedorn, Mr. Roe, Mr. Downing of Virginia, Mr. Lott, Mr. Dickinson, Mr. Won Pat, Mr. Esch, Mr. Fountain, Mr. Flynt, and Mr. Robert W. Daniel, Jr.):

H.R. 11080. A bill to require that the U.S. Government prepare and make public annual consolidated financial statements utilizing the accrual method of accounting and for other purposes; to the Committee on Government Operations.

By Mr. DRINAN (for himself, Mr. Badillo, Mr. Beard of Rhode Island, Mr. Emery, Mr. Gibbons, Mr. Goodling, Mr. Gude, Mr. Harrington, Ms. Holtzman, Ms. Keys, Mr. Koch, Mr. Long of Maryland, Mr. McKay, Mr. Moss, Mr. Mottl, Mr. Patterson of California, Mr. Scheuer, Mr. Stark, Mr. Waxman, and Mr. Won Pat):

H.R. 11081. A bill to strengthen the warning label required on cigarette packages, extend such warning to cigarette advertisements, regulate smoking in Federal facilities and in facilities serving interstate common carrier passengers, and for other purposes; jointly to the Committees on Interstate and Foreign Commerce, Public Works and Transportation, and Ways and Means.

By Mr. FREY (for himself and Mr. Quie):

H.R. 11082. A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to establish minimum mandatory sentences for persons convicted of offenses involving narcotic drugs, to provide emergency procedures to govern the pretrial and posttrial release of persons charged with offenses involving certain narcotic drugs, to provide procedures to reach large sums of money used for narcotic trafficking, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. FREY (for himself, Mr. Lehman, Mr. Bob Wilson, and Mr. Charles Wilson of Texas):

H.R. 11083. A bill to amend the Communications Act of 1934 with respect to the renewal of licenses for the operation of broadcasting stations; to the Committee on Interstate and Foreign Commerce.

By Mr. JONES of Oklahoma:

H.R. 11084. A bill to amend the Internal Revenue Code of 1954 to provide that members of Reserve components of the Armed Forces who are not serving on active duty may establish individual retirement accounts; to the Committee on Ways and Means.

By Mr. MITCHELL of Maryland (for himself and Mr. Clay):

H.R. 11085. A bill to establish the Federal Protective Service police force within the General Services Administration, provide minimum training, pay, and other benefits for such police force, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. OBERSTAR:

H.R. 11086. A bill to amend the Internal Revenue Code of 1954 to allow a deduction with respect to that portion of adoption expenses which are properly attributable to medical expenses incurred for the benefit of the adopted child; to the Committee on Ways and Means.

By Mr. PREYER:

H.R. 11087. A bill to provide temporary authority for the Secretary of Agriculture to sell timber from U.S. Forest Service lands, consistent with various acts; to the Committee on Agriculture.

By Mr. PRICE (for himself and Mr. Bob Wilson) (by request):

H.R. 11088. A bill to amend the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, and for other purposes; to the Committee on Armed Services.

By Mr. ROYBAL (for himself and Mr. Corman):

H.R. 11089. A bill to amend section 592 of the Tariff Act of 1930, and for other purposes; to the Committee on Ways and Means.

By Mr. SCHNEEBELI (by request):

H.R. 11090. A bill to amend the Internal Revenue Code of 1954 to restrict the authority for inspection of returns and the disclosure of information with respect thereto, and for other purposes; to the Committee on Ways and Means.

By Mr. THORNTON (for himself, Mr. Drinan, Mr. Harkin, Mr. Hechler of West Virginia, Mr. Koch, Mr. Ottinger, Mr. Patten, Mr. Preyer, Mr. Richmond, Mr. Stark, and Mr. Wirth):

H.R. 11091. A bill to establish in the Energy Research and Development Administration an Energy Extension Service to develop, demonstrate, and analyze energy conservation opportunities, and to develop programs to encourage acceptance and adoption of energy conservation opportunities by energy consumers; to the Committee on Science and Technology.

By Mr. UDALL:

H.R. 11092. A bill to prohibit mining activities within any area of the National Park System and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. AMBRO:

H.R. 11093. A bill to suspend payments by the United States to the United Nations until the rescission by the United Nations of its resolution equating Zionism with racism; to the Committee of International Relations.

By Mr. ARCHER (for himself, Mr. Abdnor, Mr. Armstrong, Mr. Beard of Tennessee, Mr. Broyhill, Mr. Burgener, Mr. Don H. Clausen, Mr. Collins of Texas, Mr. Conlan, Mr. Crane, Mr. Derwinski, Mr. Dickinson, Mr. Edwards of Alabama, Mr. Eshleman, Mr. Kemp, Mr. Ketchum, Mr. Martin, Mr. Robinson, Mr. Rousselot, Mr. Sebelius, Mr. Snyder, Mr. Spence, Mr. Treen, and Mr. Wampler):

H.R. 11094. A bill to amend the Occupational Safety and Health Act of 1970 to improve the administration of such act and to establish more efficient regulatory procedures for carrying out such act, and for other purposes; to the Committee on Education and Labor.

By Mr. BAFALIS (for himself and Mr. Young of Florida):

H.R. 11095. A bill to amend the Internal Revenue Code of 1954 to reduce the rates of excise taxes in transportation by air, and for other purposes; to the Committee on Ways and Means.

By Mr. BRINKLEY:

H.R. 11096. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax to individuals for certain expenses incurred in providing higher education; to the Committee on Ways and Means.

By Mr. DOWNEY of New York:

H.R. 11097. A bill to amend title 10, United States Code, to provide for the regionalization and traveling of discharge review boards, to establish uniformity, mitigating and extenuating factors in the review and correction of military discharges, to provide for legal counsel for discharge appellants, to provide for the recognition of ex-exemplary postservice conduct through the issuance of an Honorable Discharge (Limited), and to otherwise expand and enhance the effectiveness of Armed Forces discharge review procedures; to the Committee on Armed Services.

By Mr. DUNCAN of Tennessee:

H.R. 11098. A bill to amend title XVIII of the Social Security Act to include, as a home health service, nutritional counseling provided by or under supervision of a registered dietitian; to the Committee on Ways and Means.

By Mr. EARLY:

H.R. 11099. A bill to impose an unjust enrichment tax with respect to illegal license fees on the importation of oil and petroleum products, and to authorize the appropriation of the proceeds of such tax for distribution to cities, counties, and other local governments under the formula for allocations to local governments set forth in the State and Local Fiscal Assistance Act of 1972; jointly to the Committees on Ways and Means, and Government Operations.

H.R. 11100. A bill to impose an unjust enrichment tax with respect to illegal license fees on the importation of oil and petroleum products, and to provide that the proceeds of the tax are to be distributed to cities, counties, and other local governments under the formula for allocations to local governments set forth in the State and Local Fiscal Assistance Act of 1972; jointly to the Committees on Ways and Means, and Government Operations.

By Mr. HOWARD:

H.R. 11101. A bill to establish a reduced rate of postage for letters sealed against inspection mailed by private individuals; to the Committee on Post Office and Civil Service.

By Mr. JEFFORDS (for himself, Mr. Tsongas, and Mr. Risenhoover):

H.R. 11102. A bill to provide for the modification of the boundaries of the Bristol Cliffs Wilderness; to the Committee on Interior and Insular Affairs.

By Mr. NOWAK:

H.R. 11103. A bill to establish an Emergency Financial Assistance Corporation to provide loans to finance urgently needed public facilities for State and local governments to help achieve a full employment economy both in urban and rural America by providing loans for the establishment of small and medium size businesses and industries, and for the construction of low- and moderate-income housing projects, and up provide job training for unskilled unemployed and underemployed workers; to the Committee on Banking, Currency and Housing.

By Mr. WINN:

H.R. 11104. A bill to provide that, after January 1, 1975, Memorial Day be observed on May 30 of each year; to the Committee on Post Office and Civil Service.

By Mr. ASHBROOK:

H. Con. Res. 505. Concurrent resolution relating to the authority of the Federal Trade Commission to prescribe rules preempting State and local laws; to the Committee on Interstate and Foreign Commerce.

By Mr. RINALDO:

H. Con. Res. 506. Concurrent resolution indicating the sense of Congress that every person throughout the world has the right to a nutritionally adequate diet; and that this country increase its assistance for self-help development among the world's poorest people until such assistance has reached the target of 1 percent of our total national production (GNP); jointly to the Committees on Agriculture, and International Relations.

By Mr. ROSENTHAL:

H. Con Res. 507. Concurrent resolution disapproving certain sales of defense articles to Saudi Arabia; to the Committee on International Relations.

By Mr. McCLORY:

H. Res. 918. Resolution providing for appointment of Members to a joint United States-Egyptian Parliamentary Friendship Group; to the Committee on Rules.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

340. By the SPEAKER: Petition of the Joint Baltic American Committee, Rockville, Md., relative to Soviet control of Estonia, Latvia, and Lithuania; to the Committee on International Relations.

341. Also, petition of members of Temple Judea, Laguna Hills, Calif., relative to the United Nations resolution equating Zionism with racism; to the Committee on International relations.

EXTENSIONS OF REMARKS

HOUSE SHOULD AUTHORIZE A UNITED STATES-EGYPTIAN FRIENDSHIP GROUP

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. McCLORY. Mr. Speaker, recently, President Anwar Sadat, the first President of the Arab Republic of Egypt to make an official visit to our country, addressed a joint session of the Congress and urged us "never to miss an opportunity of building bridges of real friendship and genuine understanding between nations."

Mr. Speaker, it is my understanding that shortly before President Sadat's departure for the United States, the Egyptian Parliament established a United States-Egyptian Friendship Group. This informal group of Egyptian lawmakers includes many who have been educated in the United States and have special ties with the people of our Nation. Dr. Leila Takla, a member of the Egyptian Parliament, and a personal friend of mine and many Members of this body, is serving as the head of this group.

Mr. Speaker, let us authorize a counterpart of this group and, in so doing, not miss this opportunity to build a bridge of real friendship and genuine understanding between our two nations. We will be making a substantial contribution to the prospects for continued prosperity, peace, and security in the Mideast.

Mr. Speaker, it is my hope that a corresponding United States-Egyptian Friendship Group may be established from among the Members of this House—and I am herewith offering a House resolution which authorizes that a bipartisan group be appointed to meet with representatives of the Parliament of Egypt. A copy of the House resolution follows these remarks.

Mr. Speaker, I urge my colleagues to join in support of this effort. I am confident that there is widespread interest in this body in behalf of friendly relations between our two nations, and more particularly, in promoting an enduring peace throughout the Mideast.

The resolution follows:

RESOLUTION PROVIDING FOR APPOINTMENT OF MEMBERS TO A JOINT UNITED STATES-EGYPTIAN PARLIAMENTARY FRIENDSHIP GROUP

Whereas the continuation of friendship and cooperation between the people of the United States and the Arab Republic of Egypt will make a substantial contribution to the prospects for prosperity, peace and security in the World, and

Whereas Members of the Egyptian Parliament have been designated to be part of a United States-Egyptian Friendship Group,

Now Therefore Be It:

Resolved, That for purposes of discussing and considering common problems and interests affecting relations between the United States and the Arab Republic of Egypt, the Speaker of the House of Representatives may appoint Members of the House, not more than half of whom may be from one political party, to meet with representatives of the Government of the Arab Republic of Egypt.

BICENTENNIAL SWIM MEET

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. GIAIMO. Mr. Speaker, on January 24 and 25 more than 800 young men and women from throughout Connecticut will convene at Yale University to compete in a mammoth swim meet unique both in State sporting annals and in programs associated with the American Revolution Bicentennial Celebration.

I call the Connecticut Bicentennial swim meet to the attention of my colleagues and to the American public because of the intrinsic value of this wholesome sports and recreational activity as well as its suitability for replication elsewhere in the United States during this Bicentennial year.

The idea of an officially sanctioned swim meet as a Bicentennial celebration event is truly inspirational. While many American Revolution Bicentennial celebration programs are passive, spectator events, the swim meet is an active one, involving the participation of hundreds of young men and women in spirited, healthful competition. The swim meet, further, advances the ideal of brotherhood and sisterhood, promotes physical fitness, and promotes the concept of sportsmanship and personal achievement under proper leadership.

The Connecticut Bicentennial swim meet has been conceived and organized in my congressional district by the Stratford YMCA Swim Team Parents Club. It is duly sanctioned by the Connecticut Bicentennial Celebration Commission. It is sponsored by the Connecticut Amateur Athletic Association, the Connecticut Interscholastic Athletic Conference, and the YMCA and YWCA organizations in Connecticut, and it will be the first time these organizations have joined to sanction a single swim meet. In addition, members of private swim clubs have been invited to participate.

The meet is open to swimmers between the ages of 8 and 18. The schedule calls for a total of 96 individual events over the 2-day period, with 12 separate events for boys and girls in each age group competing in free-style, breaststroke, butterfly, backstroke, as well as in medley relay, freestyle relay, and individual relay. Special medals and trophies designed for the meet will be awarded to the top six swimmers in each event. Some 800 awards will be presented to the top competitors.

Special activities include a demonstration of synchronated swimming by the Hamden Heronettes, the 1975 AAU Junior Olympic champions, music by the Governor's Foot Guard Fife and Drum unit, and a color presentation by the Governor's Foot Guard Honor Guard.

Mr. Speaker, I congratulate and wish every success to the officers and members of the Stratford YMCA Swim Team Parents Club, the other sponsoring organizations, and especially the young swimmers for presenting a unique and valuable Bicentennial celebration event.

QUESTIONNAIRE RESULTS

HON. CHALMERS P. WYLIE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. WYLIE. Mr. Speaker, in late October I mailed 160,000 questionnaires to my constituents in the 15th Congressional District of Ohio. To date 20,023 persons have responded to this questionnaire. A tabulation of the 20,023 returns reveals the following:

QUESTIONNAIRE

1. How would you rate President Ford's performance to date? a. excellent, 18 percent; b. good, 32 percent; c. fair, 30 percent; d. poor, 20 percent.

2. Would you vote for my bill which provides the death penalty for anyone assassinating or attempting to assassinate the President of the United States? Yes, 75 percent; no, 20 percent; undecided, 5 percent.

3. Do you favor the federal registration and licensing of hand guns? Yes, 52 percent; no, 43 percent; undecided, 5 percent.

4. Would you favor a law which would provide a mandatory prison sentence for anyone committing a crime with a gun? Yes, 92 percent; no, 6 percent; undecided, 2 percent.

5. Congress has ratified that part of the Israeli-Egyptian Peace Agreement involving the 200 American civilian technicians. Should I vote to approve the economic aid part of the package? Yes, 31 percent; no, 49 percent; undecided, 20 percent.

6. Do you think the current energy shortage is (check one) a. critical, 34 percent; b. serious, 39 percent; c. not serious; reports have been exaggerated, 27 percent.

7. Do you believe environmental controls should be delayed to help ease our energy problems? Yes, 58 percent; no, 33 percent; undecided, 9 percent.

8. Do you favor President Ford's proposal to decontrol the price of oil over a thirty-nine month period with a windfall profits tax and a plough back provision for research and development of new sources of oil? Yes, 57 percent; no, 28 percent; undecided 15 percent.

9. Public utility rates are now regulated by state and local governments. Should the federal government take a more active role? Yes, 20 percent; no, 73 percent; undecided, 7 percent.

10. Do you think federal regulatory agencies, a. have too much power, 44 percent; b. not enough, 24 percent; c. just about right, 32 percent.

11. How do you feel about the present economic situation in the U.S.? a. optimistic, 50 percent; b. pessimistic, 50 percent.

12. Should unemployment compensation benefits be further extended beyond the present 65 weeks? Yes, 16 percent; no, 77 percent; undecided, 7 percent.

13. Do you think Congress should exercise more control over the, a. F.B.I.? Yes, 39 percent; no, 53 percent; undecided, 8 percent; b. C.I.A.? Yes, 46 percent; no, 47 percent; undecided, 7 percent.

Age of constituent: 18–27, 13 percent; 28–41, 24 percent; over 57, 34 percent.

His, 53 percent; Hers, 47 percent.

"911" HOT LINE FOR EMERGENCIES

HON. J. EDWARD ROUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. ROUSH. Mr. Speaker, three widely separated States geographically are listed below for their communities which have or plan to have the "911" emergency telephone number.

AMERICAN TELEPHONE AND TELEGRAPH

Systems location	Date		Population served (thousands)
	In service	Scheduled	
Connecticut:			
Ansonia	January 1970		21.0
Bridgeport	July 1973		157.0
Cheshire	January 1970		19.0
Clinton	December 1973		10.0
Derby	Janaury 1970		13.0
Glastonbury	December 1972		20.0
Guilford	September 1970		12.0
Madison	December 1974		10.0
Middlebury	October 1969		6.0
Milford	June 1974		51.0
New Britain	June 1970		83.0
Newington	April 1970		26.0
Old Saybrook	December 1974		13.0
Quinebaug Valley (Dnlsn)		June 1975	65.0
Ridgefield		April 1975	10.0
Seymour	January 1970		13.0
Shelton	do		27.0
Simsbury	January 1969		17.0
Torrington	August 1973		32.0
Waterbury	October 1969		108.0
Watertown	do		19.0
West Haven	December 1971		53.0
Winchester	August 1973		11.0
Wolcott	September 1970		12.0
Idaho:			
Boise		2d quarter 1975	100.0
Idaho Falls	December 1974		35.0
Mountain Home		February 1975	8.0
Ilinois:			
Aurora		August 1975	75.0
Brookfield	October 1974		20.0
Chicago		October 1975	3,367.0
Crystal Lake	September 1974		10.0
Evanston	March 1970		88.0
Forest Park	June 1973		29.0
Harvard		March 1977	7.0
Marengo		January 1975	5.0
Moline	November 1974		47.0
Mt. Vernon	May 1970		16.0
Oak Park	April 1973		63.0
Peoria		November 1975	130.0
Plano	June 1972		5.0
Salem	December 1969		6.0
Tinley Park		June 1975	20.5
Woodstock		March 1975	14.0
Vandalia	September 1970		6.0
Idaho: Boundary County		August 1975	7.0
Illinois:			
Bloomington-Normal	February 1969		70.0
Cambridge	1973		7.0
Galesburg		January 1976	40.0
Geneseo	May 1968		15.0
Marseilles		September 1975	5.0
Perry County	December 1973		19.8
Washington-Sunnyland	May 1971		15.0
Tamaroa	October 1973		.8
El Paso	December 1974		.4

NEW YORK, ZAIRE, AND THE ADMINISTRATION

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. DOWNEY of New York. Mr. Speaker, the great crisis of municipal financing seems to be fading from the attention of the Congress with unusual speed, following our stopgap compromise, and our avoidance of the truly difficult questions that arose in the past month. But many of the aspects of this Nation's policies toward its cities will remain with us, and will surely flare up time after time until we confront them intelligently. Surely among these difficult problems is that of national and international priorities—for example, the highly publicized situation of the last few weeks regarding the African nation of Zaire. Forbes magazine, in its December 1 issue, examines administration actions and Zaire's difficulties in detail. I insert this article at this point for my colleagues and those Americans who share an interest in these questions.

THE ZAIRE BAILOUT

A couple of years back, Chase Manhattan, First National City and other major U.S. banks were tripping over one another to lend to Zaire, the former Belgian Congo. After all, the price of copper was $1.52 per pound. Even the notoriously wasteful men running Zaire couldn't go broke with prices like that for their major export.

Said a banker at the time: "We've got it all worked out. The price of copper can fall, and we'll still get our money."

But the price of copper didn't just fall; it collapsed to around 55 cents. Predictably, Zaire, which is perhaps best remembered by the public for spending $10 million to stage the Ali-Forman fight last year, is now defaulting on its bank loans about as fast as they come due.

UNCLE SAM TO THE RESCUE

That U.S. banker, however, may still be right when he said, "We'll still get our money." Only the bankers will be getting it, at least in part, via a federal bailout of Zaire.

Over congressional opposition, the Administration is readying an $81-million aid package for the troubled central African state. Even if Congress rejects the plan, the Administration seems determined to advance at least $49 million at its own discretion. Of that, $20 million is in the form of an Export-Import Bank credit, despite the fact that Zaire is already $5.5 million in arrears on its payments to the Ex-Im.

"This is a response on our part to what we see as a short-term need out there," murmurs a State Department officer, who adds: "Though it's hard to say just how short term that short term will be."

The bankers, of course, are cheering on the Administration. "I hope it does go through," says an officer at First National City Bank, which is sitting on tens of millions of dollars in shaky Zaire loans. "We won't get our interest payments directly, but with some of their essential imports paid for, they can use the cash that'll be freed to pay some arrearages."

Back in Zaïre, that country's administration is taking extraordinary measures to keep goods flowing into the country. A source, who asked not to be identified, told Forbes that the family of at least one foreign businessman was kidnapped by government troops until the man's company shipped certain goods.

How did Zaïre get into this bind? Copper accounts for about 60% of its foreign exchange earnings, and a couple of years ago copper demand was booming. On the strength of that, Zaïre went on an incredible Eurodollar borrowing binge, with the encouragement of both European and U.S. banks. Zaïre's Department of Finance admits to a $655-million increase in foreign debt in 1974 alone, a 55% increase. The real increase is said to be even higher.

Zaïre itself may not know how much it owes. A confidential bank report describes the country's accounting system as extremely poor. Part of the problem is that much of Zaïre's national budget is channeled through the Office of the President. No one knows for sure exactly how much comes in—or goes out.

How is the money spent? At least in part by President Mobutu Sesu Seko, who indulges his whims—like bankrolling the Ali-Foreman fight and maintaining his three palaces in Zaïre and his villa in Switzerland.

Right now an International Monetary Fund team is in Zaïre trying to straighten out the country's finances. But the U.S. aid package is being offered whether or not President Mobutu agrees to the IMF's austerity measures. Pressed on this point by an inquisitive U.S. senator, Sheldon Vance, the former U.S. ambassador to Zaïre, urged the aid, saying, "There would be an important psychological difference . . . [in] our offering to be helpful without condition."

The Administration's argument is that sooner or later the price of copper will rebound, and Zaïre will be healthy again. Apologists cite the Chase Manhattan Bank's projected $427-million loan to expand copper production.

But critics argue that copper alone can't save the country. If the Chase expansion and others go through—a big if in itself—the output of Zaïre's high-grade ore will grow by around 7.6% a year through 1980. Meantime, other copper-exporting countries are expanding, too. In all, the world supply of copper could be rising at 5.4% a year, while world demand climbs at only 4% or so. That means there will be plenty of copper flooding the market. Even with the proposed IMF monetary reforms, international bankers worry about a rising deficit in Zaïre in the years ahead.

Why are we bailing out the poorly managed African state? Or in other words, why do we have "a warm spot in our heart"—as a State Department official puts it—for President Mobutu? After all, only a few months ago, Mobutu charged the Central Intelligence Agency with fomenting a coup d'etat against him and expelled our ambassador. And then he charged in the world press that a prospective Assistant Secretary of State for African Affairs was plotting to overthrow a number of African governments.

One possible explanation for our "warm spot" for Mobutu is his activities in Angola, his next-door neighbor. Mobutu's brother-in-law heads an anti-Communist "national liberation" army there—one of three at last count. Though the U.S. is "neutral" toward Angola, it is widely suspected that part of the Zaïre aid package in the form of $20 million worth of arms will end up being used in Angola.

When these reports were repeated to our ambassador-designate to Zaïre, Walter Cutler, he said that no one should assume that the military aid would be used outside the country.

Be that as it may, are we propping up a spendthrift dictator? If so, exactly why are we doing it? Is it for political reasons? And is it partly to help U.S. bankers who made questionable loans?

These are all good questions that deserve good answers.

SYNTHETIC FUELS AND CANCER

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. RICHMOND. Mr. Speaker, as the House begins consideration of the ERDA conference report, which contains provisions for Federal loan guarantees for synthetic fuel projects, I want to draw the attention of my colleagues to another aspect of the health effects of large scale commercialization of synthetic fuels, without proper consideration by Congress and other Federal agencies.

Professional journals indicate there is a relationship between synthetic fuels and cancer. The carcinogenicity of synthetic fuel byproducts has been known for many years. This fact is true for shale oil, liquefied coal, and gasified coal. I believe my colleagues would benefit from a full discussion of the health hazards posed in commercialization of synthetic fuel production.

I insert into the Record at this point a study entitled, "Synthetic Fuels and Cancer", written by Diane Yale Sauter, Research Director for the Emergency Task Force on Energy Options of the Scientists Institute for Public Information. The institute is located at 49 East 53d Street, New York, N.Y. 10022. I believe that the report speaks for itself, and points out the grave issues which this House has not considered fully, and which must be considered before we embark on a loan guarantee program for synthetic fuels. ERDA has not yet finished its environmental statement on the synthetic fuel commercialization program, and I do not believe the House should accept the loan guarantee portion of the ERDA conference report until we have had an opportunity for full and open debate of the many issues which surround this controversial proposal.

The article follows:

SYNTHETIC FUELS AND CANCER

Congress is considering authorization of a loan guarantee program to further the Administration's Synthetic Fuels Commercialization Program. This would initiate large-scale construction of manufacturing facilities for fuels obtained from oil shale and liquefied and gasified coal, even before the Energy Research and Development Administration's Draft Environmental Statement on this program is released. We therefore offer the following relevant information on the known relationship between synthetic fuels and cancer.

The carcinogenicity of synthetic fuels results from the chemical composition of the raw materials from which they are derived—the kerogens in oil shale and bitumens in coal—and also from the temperatures at which they are processed, which form and release a wide range of polycyclic aromatic hydrocarbons (PAH). PAH as a family are the earliest known carcinogens. Those established in their carcinogenicity to humans are benzopyrenes and benzanthracenes.

Polycyclic aromatic hydrocarbon compounds are lipid soluble, and enter cells easily. Because of their circular molecular shape, they fit into the structure of DNA—hence their designation as "intercalating agents"—and begin to react with it. Enzymes in the cell are mobilized to repair damage thus caused to the DNA, but the repair process itself initiates mutation in the genetic material where the PAH occurred. The mutation is duplicated in daughter cells when the parent cell divides, and can be the beginning of cancer.

Healthy mouse embryo cells have morphologically transformed by the addition of pure benzo(a)pyrene (formerly called 3,4 benzpyrene) under laboratory conditions. When these cells were inoculated back into mice, subcutaneous sarcomas developed (Sivak and Van Duuren, 1968).

Workers with occupational exposure to synthetic fuels will be in particularly serious jeopardy, although even with controlled plant emissions, the general public will also be at risk. This was acknowledged in the Synfuels Interagency Task Force report submitted to the President's Energy Resources Council:

"Some damage to . . . humans from air pollutants may be unavoidable. Adverse human health effects, including cancer, might result from long-term exposure to polycyclic aromatic hydrocarbons and trace elements emitted from synthetic fuel plants in the form of or adsorbed on fine particulates. Some increase in sulfur dioxide, nitrogen oxides, trace elements, hydrocarbons and respirable particulates will occur even though emission controls are employed and air quality standards are enforced." (p. IX-3)

A synergistic as well as additive hazard is indicated by some researchers. The air-borne presence of nitrogen- and sulphur-containing molecules could augment the development of skin and lung cancer (Eckhardt, 1960), a co-carcinogenic effect which has been confirmed in animal experiments (Eckhardt, 1973).

The Task Force report continues:

"Construction and use of synthetic fuels processing plants can . . . cause release of toxic waste to streams, and return of production water to stream channels. Even with controls, some release would occur . . ."

SHALE OIL

The human carcinogens benzo(a)pyrene, benzo(e)pyrene, and benzo(a)anthracene and other PAH are present in shale oil. Benzo(a)pyrene would be contained in the waste processing waters, and in compounds used to remove the benzo(a)pyrene from waste water (Veldre et al, 1965). Shale oil fractions without benzopyrene have as well been shown to be carcinogenic when applied to mice (Hueper and Cahnmann, 1958).

The carcinogenic potential of shale oil has been known since 1876, when cancer of the scrotum was first described in a Scottish shale oil worker. Between 1920 and 1943, there were over 1000 verified cases of skin cancer in the British mule spinning industry, which then used shale oil to lubricate spindles (Commoner, 1975). Skin cancer has also been reported in workers in contact with the retort (combustion) tars (Danetskaya, 1953), light oils, waxes and cutting oils derived from shale (Auld, 1950).

Shale oils are generally more carcinogenic than any of the petroleum oils. A worker exposed to shale oil is fifty times more liable to get skin cancer than a worker in contact with oil from a Pennsylvania well (Hueper, 1942).

Each shale oil plant of the size currently being proposed—50,000 barrels per day—would process up to 30 million tons of oil shale per year (Fri, 1975). Spent (waste) shale from surface retorting would amount to as much as 26 million tons per year, containing over 300 tons of carcinogenic materials, and covering 50 surface acres of waste for each year of operation (Schmidt-Collerus, 1974).

Disposal would include the filling of canyons in the West, and the building of soil banks in the East. Leachate into the groundwater and surface run-off containing polycyclic aromatic hydrocarbons, as well as lead, mercury and other toxic trace metals, would enter the food chain. In addition, 300 million gallons of PAH-laden waste water would be produced during the retorting process alone.

One such facility would employ 1100 to 1500 operating personnel. The total incremental population of a surrounding new town to support the plant is estimated to be about 11,000 to 14,000 people (Fri, 1975). The Federal Energy Administration's Project Independence Blueprint projects five of these plants in operation by 1985, in towns housing up to 70,000 people, including up to 7500 shale oil workers.

LIQUEFIED COAL

At least 200 individual chemicals have been isolated and identified which are liberated when coal is liquefied, including benzo(a)pyrene.

Between 1952 and 1959, the Union Carbide Corporation operated a coal liquefaction plant in Institute, West Virginia, employing a total of 359 workers in the hydrogenation process (Sexton, 1960). From evidence with experimental animals and from experience in related industries handling coal tar products and shale oil, it was suspected in advance that skin cancer might be induced. Protective garments standard to "dirtier" chemical operations were therefore used from the beginning.

By 1954 it was determined that extensive contamination was nevertheless occurring. A Health Hazards Committee was formed. Workers were cautioned to avoid unnecessary contact with oils, were given instruction in regard to decontamination practices, and were provided with changes of clothing. Sampling studies were initiated. Efforts were made to identify and correct hazardous equipment and techniques (Weil et al, 1960; Ketcham and Norton, 1960).

Despite these precautions and repeated, careful examinations of the workers, the incidence of skin cancer in the seven years of operation of this coal liquefaction plant was between 16 and 37 times that previously reported in the literature. Skin cancer developed after as little as nine months' exposure (Sexton, 1960). This is in contrast to experience reported in the petroleum industry, where no cancer was observed in workers after 15 years' exposure to petroleum oils which had been highly carcinogenic to the skin of mice (Eckhardt, 1960).

While the early, unavoidable debugging period was held responsible for some excessive exposure, as late as 1956 air samples showed as much as 1870 micrograms of benzo(a)pyrene per 100 cubic meters of air on the plant premises. This compares with air samples taken in 1953 in a high traffic area of Los Angeles, showing 2.9 micrograms per 100 cubic meters of air (Ketcham and Norton, 1960).

In retrospect, it was suggested that skin contamination resulting from airborne dusts, vapors, fumes and mists derived from the coal tars may have been more detrimental than direct contact with liquids in the manufacturing process, which forebodes danger to the public from plant emissions.

Prior to 1952 there had been 17 years of exposure of a great many men to the coal liquefaction process in laboratory-sized and small-pilot plants. No cancer had been observed until this large-pilot, but still not commercial-sized plant, began operation (Sexton, 1960).

ERDA and Coalcon, a joint venture of Union Carbide Corp. and Chemical Construction Corp., have just announced plans to cofinance a demonstration plant, 30 miles southeast of St. Louis, to liquefy coal into oil and also produce synthetic natural gas (Business Week, Dec. 1, 1975).

GASIFIED COAL

Coal tars appear in the gas produced from bituminous or sub-bituminous coal at commonly used gasification temperatures (Squires et al, 1974). Benzo(a)pyrene has been isolated from coal tar.

The history of coal tar cancers began in 1775 with the observation of scrotal cancers in chimney sweeps and ranges through contemporary observations on cigarette smoking and cancer. Skin cancers in coal gas workers were reported in 1892 (Butlin, 1892). In comparison with a general population rate of scrotal cancer mortality of 4.2 per million, producer gas men (those who generate coal gas to meet the demands of the plant where it is produced) have been reported to have rates of 10.9 per million, and coal gas and coke makers who work on top of the ovens, where the effluents are greatest, have an incidence of 1239 per million (Lloyd, 1971). A much higher skin cancer rate has been reported for tar distillery workers handling gas works tar than for those handling coke oven tar (Heller, 1930).

A 26-fold excess of lung cancer mortality over the general population and 33 times the rate in other steelworkers was observed in Japanese bituminous producer gas workers in 1936 (Kawai et al, 1961 and 1967). An excess has also been noted in British coal gas producermen (Kennaway and Kennaway, 1947), and coal gas retort workers (Doll et al, 1965). Bladder cancer, possibly caused by B-naphthylamine found in gas retort effluents, has been reported in Swedish coal gas workers. Excesses of cancers of the larynx, stomach, and pancreas, as well as leukemia, have also been reported (Lloyd, 1971).

The literature does not support ERDA's optimism in concluding that the synthetic fuels program is a "viable environmental protection strategy" (Fri, 1975). In fact, questions raised by research and experience make clear that caution is warranted, and that measures to prevent the induction of cancer must be given serious attention.

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M.O.B.ILE MARKET COMES TO BOSTON

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. MOAKLEY. Mr. Speaker, the city of Boston has implemented a program for senior citizens that is the only one of its kind in the United States. The innovation—M.O.B.ILE Market—brings the grocery store to the senior citizen.

The M.O.B.ILE Market is housed in a refurbished van owned by the city. It is operated by the Commission of Affairs of the Elderly in Boston in cooperation with a local supermarket chain. The van carries over 250 perishable grocery items, features weekly specials, and honors all coupons.

The market makes biweekly stops at housing projects for the elderly or in communities where large numbers of seniors live. Any Boston resident over 60 who lives in the vicinity of the scheduled stops may use the market. It is not restricted to those who live in public housing projects. The van makes 31 scheduled stops.

This supermarket on wheels provides senior citizens with a safe and convenient way to shop. Too many times the elderly, going to and from the supermarket, have become the prey of criminals. The M.O.B.ILE Market minimizes this risk. It is one more step toward making our senior citizens more independent and lets them feel less isolated from the mainstream of society.

TRIBUTE TO EDWARD K. PU, SR., AND WALTER P. KAHIWA

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mrs. MINK. Mr. Speaker, last week I had the pleasure of hosting two distinguished gentlemen from the State of Hawaii who were singled out for acts of heroism which saved the lives of seven people in several different incidents over the last 2 years. The two men are Mr. Edward K. Pu, Sr., from Hana, Maui, and Mr. Walter P. Kahiwa, from Honolulu.

Mr. Pu is a longtime employee of the National Park Service at Haleakala National Park on Maui. Mr. Kahiwa has been employed during the summer months at the city of Refuge National Park on the island of Hawaii. He is a teacher of communications at Kamehameha schools at the present time. During their tenure as Federal employees, these two men courageously rescued persons in the waters offshore from their respective parks for which they were presented the Department of the Interior Award for Valor in ceremonies on December 4 by the Secretary of the Interior Thomas S. Kleppe.

The heroic acts for which they were cited are detailed in the documents which I insert into the RECORD at this point:

CITATION FOR VALOR

EDWARD K. PU, SR.

For courageous action in saving five persons from drowning at the risk of his own life.

The Seven Pools is a popular swimming area located in the Kipahulu District of Haleakala National Park. The stream which feeds Seven Pools is occasionally subject to flash flooding making swimming at that time extremely dangerous. The ocean at the mouth of this stream is normally quite rough with dangerous rip currents. Despite posted warnings and personal contacts, visitors will attempt to swim or venture too near the stream during high water. Three such incidents occurred within a month last spring in which five lives could have been lost were it not for the quick action of Park Technician Pu. In April Mr. Pu rescued a park visitor, Robin Zaralzian of Oceanside, California by diving into rough seas and swimming a ring buoy to the victim. In May an unidentified young man was swept into the ocean. Mr. Pu was able to rescue the victim by getting a ring buoy out to him and pulling him back to safety. Four days later, Mr. and Mrs. Norman Larson of Chico, California and their 9 year old son, Mack, were at the mouth of the stream. All three fell into the ocean through a combination of mishaps and were carried seaward by the current. Mr. Pu dived into the water and rescued the three Larsons with the use of a ring buoy. For these heroic acts performed in complete disregard for his own safety, Mr. Pu is granted the Valor Award of the Department of the Interior.

THOMAS S. KLEPPE,
Secretary of the Interior.

CITATION FOR VALOR

WALTER P. KAHIWA

For courageous action involving a high degree of personal risk in the face of danger.

During the early evening hours of July 17, 1974, while on a routine patrol in the Puuhonua area of the City of Refuge National Historical Park, Park Aid Walter Kahiwa heard a muffled explosion. He saw a second explosion tear a small boat apart. When he reached the shoreline he was joined by three other persons. They dived into the water and swam to the smouldering boat. After lowering the injured Mr. Hoohuli into the water, they started for shore. Mr. Kahiwa noticed a young girl swimming toward them. He told her to go back and as he resumed his swim, he realized there were no sounds coming from her. He looked back and saw her floating face down in the water. Realizing immediate action was needed, he swam to her and brought her to safety. This task was being accomplished while the others continued to shore with Mr. Hoohuli. Upon reaching shore, Mr. Kahiwa ran to the Visitor Center for medical equipment. He immediately administered first aid to stop Mr. Hoohuli's bleeding, who was then transported to the hospital. The young girl whom Mr. Kahiwa rescued was later identified as Mr. Hoohuli's daughter. For his courage in rescuing Mr. Hoohuli and his daughter, in the face of danger, Mr. Kahiwa is granted the Valor Award of the Department of the Interior.

THOMAS S. KLEPPE,
Secretary of the Interior.

Mr. Speaker, to say that we as citizens or as the Government are grateful for the services performed by these men and for the valor which they displayed in the instances noted here is to drastically understate our feelings. Our debt to these dedicated Federal employees is immeasurable. I urge my colleagues to join me in appropriate recognition of these two individuals as they return to their duties in Hawaii.

PRIVATE LIVES

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. DOWNEY of New York. Mr. Speaker, as another session of Congress draws to a close, most of us take time to reflect on what we have accomplished and what is left to be done. The matter of the privacy of the individual has become increasingly important to most Americans. And, before I came to Congress this year, several bills designed to protect the privacy of the individual were pending in committee.

I was again reminded of the urgency of developing privacy legislation when I read an editorial in a weekly paper from my district The Suffolk County News points out again the need for protection against invasions of privacy that range from a momentary annoyance to a lifelong ordeal.

The article follows:

> PRIVATE LIVES
>
> The right of privacy is very much in the news these days. It has become all too apparent that for many years the federal government has used two of its major institutions—the U.S. Post Office and the Internal Revenue Service—for the questionable surveillance of thousands of American citizens.
>
> The misuse and abuse of these two arms of the government have been such blatant violations of First Amendment rights that the everyday, common invasions of privacy by non-governmental organizations seem inconsequential by comparison.
>
> Each of us probably grudgingly tolerates at least one outright invasion of our privacy every day of our lives. The phone rings, we answer and an unexpected, unfamiliar voice asks if we need a termite inspection or a subscription to Newsday. We open the day's mail to find solicitations and come-ons from every business, charity and political organization in the country. The doorbell rings announcing an uninvited stranger who is selling brushes or candy or wants money for some desperately needy charity.
>
> The sheer annoyance of this onslaught of unwanted appeals prevents most of us from asking any of these solicitors crucial questions concerning privacy: Where did you get my name? How did you get my phone number? How did I get on your list? How can I get off . . .
>
> Obviously there is a phone book—available to anyone who cares to read through the fine print. But that is not the sole source of lists. So-called "unlisted" phone numbers and new numbers receive just as many calls from solicitors. Undoubtedly the answer is that private organizations; semi-private organizations—such as the phone and lighting companies—and public institutions like the Motor Vehicle Department pass on or sell lists of customers to any business willing to pay for that information.
>
> We do not feel that companies, private or public, should necessarily be forbidden by law to compile and pass on the names of their customers. But we do feel that the ordinary citizen should be guaranteed by the law the right to say "No" to such a practice.
>
> It is ironic that we urge the examination of the small, petty invasions of personal privacy by governmental agencies and businesses at a moment when "disclosure" has become so fashionable. At the same time there is mounting pressure on all public officials to reveal something as intimate as personal financial statements, there are almost daily revelations of abuses of personal information by the same organizations that are urging such disclosures.
>
> Living a private life and living a secret life are two very different things. It is up to our legislators to understand this difference and to insure that each of us is protected from both the small and great invasions of personal privacy.

FAMINE PREVENTION

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. FINDLEY. Mr. Speaker, yesterday completed the enactment of legislation authorizing the famine prevention program. It is a part of H.R. 9005, which has now received full congressional approval. The legislation will go to the White House where the President's signature is assured.

The program is a significant response by the United States to the world food challenge. It provides both authority and funds to land-grant universities and similar institutions to enable them to help establish land-grant type agricultural education in hungry nations. Land-grant universities have developed in this country a unique system for effective education of farmers. It therefore makes sense to look to these universities as a primary resource in the development of better education for farmers abroad.

I take this opportunity to recognize some of the many people who have had a vital role in developing the program and securing its passage.

First of all, I am grateful to the 100 of my colleagues of this body who cosponsored the original famine prevention proposal, later incorporated as an amendment to H.R. 9005. I am also grateful to the gentleman from Minnesota, Senator HUBERT HUMPHREY, who was chief sponsor and chief advocate in the other body. Working closely with him and his staff aide. J. B. Cordaro, was a pleasant and productive experience.

Thanks are certainly in order to Dr. Russell McGregor, executive with the National Association of State Universities and Land-Grant Colleges, who worked with me day by day for nearly a year in the refinement of this program.

He was also responsible for bringing into the resources other officials of NASSULG. Notable among them were: Dean Orville G. Bentley, University of Illinois College of Agriculture; Dr. C. Peter Magrath, president, University of Minnesota; Dr. Clifton R. Wharton, president, Michigan State University; Dr. D. Woods Thomas, director, International Agricultural Programs, Purdue University; Dr. J. Wendall McKinsey, director of International Agricultural Programs, University of Missouri; Dr. Ralph Smuckler, dean of International Studies and Programs, Michigan State University; Dr. John Blackmore, director of International Agricultural Programs, University of Minnesota; Dr. Elmer Keihl, dean of agriculture, University of Missouri; Dr. Anson Bertrand of Texas Tech University, and Dr. O. J. Berger, of California State at Fresno.

In the executive branch, Dan Parker, administrator of the Agency for International Development, and his associates cooperated fully at every stage, providing wise counsel on the various drafts. Agriculture Secretary Earl L. Butz and his director of Agricultural Economics, Dr. Don Paarlberg, were generous in the time and interest they devoted to details of the proposal.

My own staff provided great assistance. Dr. Harold Guither, professor, University of Illinois, spent 2 months of a sabbatical leave in my office, devoting most of his time to details of the proposal. Nancy Smith, now at the Library of Congress, and Leon Geyer, member of the House Agriculture Committee staff, have both been very helpful.

I owe a special debt to Dr. Hadley Read, former professor of agricultural communications at the University of Illinois and author of "Partners With India," a book recounting institution building in India by U.S. land-grant universities. It was Dr. Read who first stirred my interest in the proposal.

CONGESSIONAL APPROVAL OF VETERANS PENSION LEGISLATION URGED BEFORE THE END OF THIS YEAR

HON. W. G. (BILL) HEFNER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. HEFNER. Mr. Speaker, I would like to thank my colleagues in the House of Representatives who by a unanimous vote of 400 to 0, passed H.R. 10355, the Veterans and Survivors Pension Adjustment Act of 1975, on November 4. This bill which I cosponsored along with 24 of my colleagues on the House Veterans' Affairs Committee, provides an 8-percent increase in non-service-connected pension benefits and raises the current income limitation by $300 effective January 1, 1976, the date when this year's social security increase would adversely affect those drawing VA pensions.

Let me stress that no pensioner will be removed from the veterans pension rolls as a result of the increase in social security benefits alone if H.R. 10355, as passed by the House, is approved by the Congress and enacted into law before the end of this year. The Veterans' Administration has assured the House Committee on Veterans' Affairs that no pensioner had his VA benefits terminated in 1975 solely because of the 1974 increase in social security benefits, nor will any pensioner have his present pension terminated solely because of the 1975 increase in social security benefits if H.R. 10355 becomes law.

Because the Congress realizes the effect of the high rate of inflation we have been experiencing in eroding the purchasing power of those receiving veterans pensions, it has continued to provide cost-of-living increases for those drawing benefits to offset the inflationary impact. Since the pension program was enacted, the Consumer Price Index has risen 307.9 percent. During this same period of time, Congress has increased the pension rates by 506.7 percent.

Since January 1, 1975, when the last veterans pension increase went into effect, the cost of living has increased by 5.3 percent. The 8-percent increase in pension rates provided by H.R. 10355 will exceed the projected rate of increases in the cost-of-living index for this year.

I am sure that inequities still exist in the veterans programs. The House Veterans' Affairs Committee is constantly striving to do more to correct any deficiencies in veterans programs which may exist. However, proposals for changes in veterans benefits programs must not only be equitable but must be realistic. The overall Veterans' Administration budget has increased from about $7.7 billion in 1970 to $17.8 billion for the current fiscal year of 1976. And with the Federal deficit amount expected this fiscal year, we must be concerned with keeping Federal spending at reasonable levels, otherwise the future existence of such veterans programs could be endangered.

I believe that H.R. 10355 will provide equitable pension benefits increases for veterans, their dependents and widows in keeping with the concept under which the non-service-connected pension program was created. As I indicated above, this legislation will not only provide an 8-percent increase in pension rates, but will also increase annual income limit by $300. This action is in addition to the legislation enacted by the Congress last year increasing the pension rates by 12 percent and raising the annual income limit by $400, effective January 1, 1975. Thus, by enacting H.R. 10355 into law, veterans pensioners will realize a pension rate increase of 20 percent and an annual income limit increase of $700 within a 1 year's period of time.

I therefore urge the Senate to act swiftly to complete congressional approval of this vital veterans legislation before the end of this session. It is imperative that H.R. 10355, as passed by the House, be enacted into law before the end of this year to insure that when this year's social security increases become effective January 1, 1976, those drawing VA pensions will not have their benefits terminated.

BACK OF RUSSIA'S FARM FAILURES

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. FINDLEY. Mr. Speaker, I would like to share the observations of Douglas Harris concerning Russian farm programs. Before the revolution and Communist takeover, Russia was the world's No. 1 grain exporter. In fact, in 1913, the Russians exported 9,088,000 metric tons compared to U.S. exports of 4,277,000 metric tons. Now, unable to feed its people by its own state-run agriculture, the Soviet Union has repeatedly turned to free farmers in capitalistic countries for the grain it needs. "People's Markets," selling produce grown on private plots, provide more than a fourth of available Soviet-produced food—often at more than triple official Government prices. The system of profit incentives works whether in the United States or the Soviet Union. Mr. Harris' article from the November/December issue of the American Farmer follows:

BACK OF RUSSIA'S FARM FAILURES

When the Soviet Union's wheat harvest again fell short of planned production levels—as it has much of the past ten years—weather got the blame. But wheat isn't the only crop that fails—and bad weather is far from being the only reason why the U.S.S.R. can't feed itself.

That the country's state and collective farms are not producing enough food is obvious to anyone visiting state-run food shops anywhere in the U.S.S.R. Despite the fact that they are the only retail-level outlets for all food grown on 96% of the country's cultivated land, the state shops are able at the best of times to meet only between 65–75% of the people's food needs.

Housewives do the balance of their shopping in state authorized but independently run "people's markets," where they willingly pay up to four times the official prices to get what they want.

In the winter months they are liable to pay even more. The state doesn't like this situation, nor will it admit that so large a share of the country's food is provided by private "free enterprise farming."

Massive sums have been spent within the past half century to modernize Soviet state and collective farms and farming methods. At the same time, Russia has under successive agricultural "plans" since the Revolution, directed its efforts to increasing centralized control of the means and methods of farm production.

The farmlands were nationalized within days of the Revolution, as were the country's industrial plants. Industrial workers saw little immediate change under the new system, and went on about their jobs much as they always had. Former farm owners (if they survived the Revolution) and farm workers were faced with an entirely new situation—one in which their prized independence, decision-making privileges and personal incentives were taken away.

Lenin (the "father of the Revolution" and the country's first premier) and each of his successors as head of the government, have struggled with the enigmatic farm problems which resulted. Not one of them has succeeded in capturing the loyalty of farm workers, or in boosting harvests to acceptable levels.

Lenin had set up two parallel farm types: the collectives (kolkhozy) and the state farms (sovkhozy).

Over the years the sovkhozy have been perhaps slightly more efficient than the kolkhozy—but neither type of farm has come up to the expectations of those who began the attempt to socialize Soviet agriculture.

Neither system has done much to encourage workers to increase production on their own accord, and bureaucratic bungling of farm affairs has consistently left almost all farm workers feeling that, rather than exerting themselves for the good of a formless policy, their time might be better spent looking after their own interest—in work on their state-allocated private plots, from which they can earn handsome profits.

Stalin, Khrushchev and the current regime have repeatedly performed about-faces with farming policy. Workers have seen their rights and incentives (as to what and how much they can produce privately, etc.) first expanded and then suddenly snatched away.

Whenever farm workers have been told they can work larger plots in their spare time (all such work is supposedly done after completion of their state-assigned tasks), or own more livestock, or buy fertilizer and seed from the state—these concessions have been reluctantly granted by the Soviet government to get enough food produced somehow to feed all the people.

Soviet farm workers have always stolen time to work on their private plots. Until Khrushchev allowed them to buy seed and other supplies from the state, they stole those too.

The average private allotment plot is roughly one acre, and because the worker cannot afford to do otherwise, crops are sown, tended and harvested by hand. Growing a significant crop of wheat is impractical, so vegetables dominate.

If he could borrow machinery, the farm worker would have trouble getting fuel—and besides, many of the machines are large, cumbersome and broken down a great share of the time.

The Soviets seem unable to get much-needed machine parts into the hands of collective and state farmers, and if anything, the situation is worsening. When parts or new machines are sent to a farm, they often arrive minus one or more vital pieces.

The International Herald Tribune tells of an inquisitive reporter for Pravda, the official Communist Party newspaper, checking why dozens of new trucks were parked on a road in Kazakhstan.

The trucks, he learned, had been shipped from the factory on flatcars. They arrived to cheers from the local population, and men got into them to drive them off the train. The first one would not start. Neither would the second, third, fourth—or any of them, apparently. There were more than 60 trucks, and important parts had been stolen from every vehicle (among them, 40 distributor caps and 20 rotors)—although the shipment was supposed to be guarded the entire way. A local official told the journalist that the trucks could not be repaired because the stolen parts were simply not available in his part of the country. (Later all of the trucks were reported still there, only now some were also minus windshields, headlights and other parts.)

Small wonder Soviet agricultural officials report that farm production is seriously lagging, that nearly half (588 of the Georgian Republic's 1,265 collective farms) "are either working at a loss or at a low profit"—adding that the tendency is worsening.

In 1973 a new Agriculture Minister was installed to sort out some of these problems and to try to raise production levels.

His lack of success is suggested by this year's poor showing on the farms.

HATCH ACT

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. DERWINSKI. Mr. Speaker, I trust the Members have noted the growing interest across the country in the pending legislation to amend the Hatch Act. The Members will recall that this bill passed the House on October 21, and it has been reported by the Senate Post Office and Civil Service Committee.

Representing, as he does, a suburban Maryland district, our distinguished colleague, Gil Gude has a special understanding of the significance of the pending Hatch Act amendments. I insert in the Record his statement carried in the Tuesday, December 9 Washington Post on the pending revisions to this act:

The Hatch Act

Gude: "The Hatch Act is what lets government workers say 'No' to partisan demands for time and money and improper influence over government decisions."

The Hatch Act, essentially, is what lets government workers say "No" to partisan politics, partisan fund solicitations and partisan attempts to sway the day-to-day decisions that affect all our lives.

It is what lets government workers say "No"—and still have their jobs the next day.

Both civil servants and private citizens should tremble at the prospect that the Act will be changed in the way the House has approved. These changes, although still ostensibly barring coercion, would permit government workers to manage and run in partisan elections.

The changes, I believe, will lead to a great deal of subtle coercion and influence which the government worker may, of course, protest against—but only at great risk to his career. I oppose these changes. I believe I have the strong support of my constituents, who include a vast number of government workers.

Those who support these major changes in the Hatch Act speak of the Act as an overreaction to isolated abuses in the early New Deal years. Most government agencies, they say, did not have these scandals. It was primarily the Works Progress Administration, a New Deal work-relief agency.

This argument overlooks the fact that the reason the other agencies may have had few problems was that they had long been covered by Civil Service regulations very similar to the Hatch Act.

WPA was not—and the resulting scandals won Thomas L. Stokes a Pulitzer Prize comparable to that won by The Post for its Watergate disclosures.

In a time when minimum wage laws were as low as 25 cents an hour, and when a worker for WPA might get only enough work to make $17 cash money a month, the wife of such a worker complained that he was forced to pay $1 of that meager sum to a political fund.

In another situation, a government boss brought his workers together and said he used to be a Republican but had changed his registration and expected them to do the same.

Another man said he didn't want to sign a petition of support for a particular candidate—and was fired as "uncooperative."

Complaints like these help to fill 120 boxes in the U.S. Archives. These 120 boxes contain the material considered by the Sheppard Investigative Committee formed in 1938 to look into allegations of WPA politicking in 20 states.

As a result of the Stokes and Sheppard disclosures, the Civil Service regulations (which date to the formation of the Civil Service) were put into law—the Hatch Act—which would cover all government workers, like those in WPA, as well as those already covered by Civil Service regulations.

The need for Hatch Act-type rules was recognized in the early days of this republic. President Thomas Jefferson, founder of the Democratic Party, issued an executive order in 1801 that noted with "dissatisfaction" that government workers were becoming active partisans in both federal and state elections. Jefferson said of the government workers:

"It is expected that he will not attempt to influence the votes of others nor take any part in the business of electioneering, that being deemed inconsistent with the spirit of the Constitution and his duties to it."

This principle of our republic has been enunciated again and again, by such men as Secretary of State Daniel Webster (at the direction of President Tyler) and President Theodore Roosevelt.

The principle did not disenfranchise the government worker. Under the earlier executive orders, under the Civil Service regulations and, finally, under our present Hatch Act, government employees can and do register in the party of their choice, or as independents, and vote.

Government workers can express their opinions on all subjects and candidates both privately and publicly, may wear political buttons and put bumper stickers on their cars, and may make campaign contributions if they choose to.

They can be candidates in nonpartisan elections.

But the line is drawn at managing partisan campaigns and running for partisan office. The reasons for this line are clear.

Can you imagine an Internal Revenue Service agent investigating tax fraud while, in the same community, soliciting campaign funds so he or a friend can run for office?

Can you imagine administrative law judges in the Federal Trade Commission working on antitrust suits or consumer protection cases at the same time that one of the judges or a member of the staff is running for partisan office?

Can you imagine a new clerk, eager for promotion, not "rushing to volunteer" money and help in his boss's campaign for office?

The changes approved by the House are designed, say their sponsors, to make Civil Service workers more free. Unfortunately, these changes may "free" him to be coerced, may "free" him to face enormous partisan pressures, and may "free" him to have to put his job on the line in a complaint, against a supervisor seeking political funds.

We know that subtle racial, religious and sexual discrimination is nearly impossible to uncover and adjudicate. Relaxing the Hatch Act will add political discrimination to the list.

Further, the changes will undermine the public's confidence in the neutrality and impartiality of civil servants. In this post-Watergate period, I think that this is the last thing we want to do.

As recently as 1973, the Supreme Court upheld the constitutionality of the Hatch Act. And, as I have mentioned, Presidents as far back as Jefferson felt the spirit of the Constitution actually demanded such restrictions.

I hope that civil servants who appreciate the present protections of the Hatch Act will make their view known to the Senate and the White House—above the voices of a small band of organizers who, frankly, see themselves gaining political clout from the changes.

The Hatch Act is what lets government workers say "No" to partisan demands for time and money and improper influence over government decisions.

The Senate should say "No" to changes in the Hatch Act. If not, the White House must veto the changes, for the legislation means "Yes" to partisan activity and "Yes" to a wide range of abuses and scandals.

PRESIDENTIAL WAR ON POOR PEOPLE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. RANGEL. Mr. Speaker, the President's proposed $28 billion tax cut is a cruel hoax being perpetrated by the White House and the Secretary of the Treasury. Who will benefit? Certainly not the poor or the working poor—they do not have any incomes and cannot pay taxes. The tax cut is a fraud as it relates to a substantial segment of our population.

At the same time, the President insists on forcing a spending reduction of $28 billion. Where is that money coming from? If the President has his way it will not come from the bloated military budget. It will come from social programs designed to help the needy, the young, the sick, and the aged in our society. President Ford has already shown his true intentions by his callous vetoes of bills for education and child nutrition. The poor and the near poor lose both ways. They cannot benefit from the tax cut and the programs they rely upon for daily survival would be slashed as well.

The poor of our Nation are a very patient people, and this is especially so of our black poor. The fact that our Founding Fathers were less than honest when they recited the oft heard words, "We hold these truths to be self-evident that all men are created equal," did not cause us to be less patriotic.

A recent editorial in the Chicago New Crusader, points out the growing disparity between the haves and the have-nots in our country:

[From the Chicago New Crusader, Oct. 18, 1975]

Ten Years Later

President Lyndon Johnson declared war on poverty. Ten years later President Gerald Ford declared war against poor people.

When the late Franklin Delano Roosevelt contended, "One-third of our nation is ill-housed, ill-fed, ill-clad," the implications were clear: Something had to be done to readjust our society until the "ills" were eliminated.

Despite the efforts of succeeding administrations, including the Eisenhower interim administration, to upgrade the poor and needy of which Roosevelt spoke, we are confronted with an abomination. Under Mr. Ford's administration—more aptly an extension of the Nixon policies—we find the poor of our nation are less well housed, less fed, less clad, less well educated, less healthy, and less employed than they were a short ten years ago.

We must concur with Senator Birch Bayh (D.-Ind.) whose speech before the annual convention of the National Business League in Boston argued: "Government money, the people's money, used to bail out the Lockheed's and Penn Central's benefits a limited class—the stockholders and management and the workers of those companies. Their equity is guaranteed by government intervention.

"Should not the benefits of such intervention be broadened to include opportunities for blacks and other minorities?"

The obvious answer is yes. In view of recent efforts by Mr. Ford to play "downsmanship" with the nation's poor and needy we are forced to challenge his integrity, rather his sanity, in his bid for re-election. Or does he expect to win because—as in the last campaign—he expects to buy the presidency?

EXIMBANK IS IN BUSINESS TO HELP U.S. CORPORATIONS MAKE MONEY IN FOREIGN MARKETS

HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. DENT. Mr. Speaker, the following letters are probably enough in themselves, to describe a situation that is, at best, a lamentable example of the abrogation of purpose of many of the independent agencies of the U.S. Govment. I simply wish to make the point that the Eximbank is in the business of helping U.S. corporations make money in foreign markets, and that it amazes me that they are reluctant to help the Chicago Bridge & Iron Co. make South African money. Clearly there is the need to cause the tail of a Government agency to cease the wagging of the dog, Congress.

The letters follow:

CHICAGO BRIDGE & IRON CO.,
Oak Brook, Ill., November 19, 1975.

Re: EXIM Bank—Union of South Africa

Hon. JOHN H. DENT,
House of Representatives,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN DENT: You are doubtless aware of the policy of the EXIM Bank regarding loans for exports destined for the Union of South Africa. We have been advised that a government policy restriction prevents EXIM from offering direct loans that would make U.S. export financing competitive with financing available to our worldwide competitors.

We are presently bidding on the supply of pressure vessels, storage vessels and reactors for a $2 billion project of the South African Coal, Oil and Gas Corporation Ltd. for converting coal into gas, oil and chemicals. We anticipate the price of our contract for vessels and reactors, should we be the successful bidder, to be in the neighborhood of $100,000,000.

We would fabricate heavy vessels and the materials for other vessels in one or more of our U.S. plants. A contract would be a "shot in the arm" to the economy, not only where our plants are located, but also where we buy our raw materials. Much of that fabrication would be done at our Greenville, Pennsylvania plant which currently is low on work.

It is increasingly difficult to compete in the world market, particularly when other countries are providing liberal financing terms for their own exports.

We should certainly appreciate your efforts in causing the EXIM Bank to relax its rules with respect to loans relating to exports to South Africa.

Very truly yours,
M. G. MITCHELL,
Chairman and President.

DECEMBER 9, 1975.

Mr. WILLIAM CASEY,
Chairman, EXIM Bank, 811 Vermont Avenue, N.W., Washington, D.C.

DEAR MR. CASEY: I attach herewith a copy of a letter from M. G. Mitchell, Chairman and President of the Chicago Bridge & Iron Company, which is self-explanatory.

I have had an opportunity to discuss this matter with R. F. Botha, the Ambassador of South Africa, and find it difficult to understand the rules Mr. Mitchell refers to in his letter in the face of our emphasis on international trade and the need for exports to counterbalance our imports.

You may or may not know that I have been, at times, a critic of the operations of the Eximbank. I have run into too many occasions where its loans have aided foreign competitors, both in establishing competitive businesses and production and in financing operations that have been inimical to our economic wellbeing. Be that as it may, the Eximbank continues to operate, and I am distressed to note the difficulty of American firms in obtaining Exim financing for transactions between these firms and firms in the Republic of South Africa.

A simple and honest appraisal of the matter by Mr. Mitchell in the attached letter spells out the frustration of many of our American Business and industrial leaders who find themselves blocked from many markets of the world because of barriers, seen and unseen, against American goods and products and the use of American tax dollars in a process that has destroyed and eventually will destroy more and more American production capabilities.

I am alarmed at the fact that this business is being jeopardized, a business turnover that may equal as much as a billion dollars for American manufacturers and workers, with about ⅓ or more going right into the coffers of the U.S. Treasury, simply because of considerations other than price and quality.

Throughout our history, until the recent years, every President has warned against the use of international trade, which is an exact science, to achieve diplomatic goals, which is an inexact science. We have fallen into the trap of placing entirely too much emphasis on foreign policy, at the expense of American production and profit. While considerations of international diplomacy are important, the best security for this country is still a strong job and production economy within the fifty states and territories.

I have written more than I intended to since I know that this kind of argument falls on deaf ears. But that does not remove from your organization the responsibility of aiding American industry in the face of the kind of international competition, they are presently faced with, because of whatever trade situations present themselves in the world market. It seems somewhat contradictory that baseless restrictions are placed on the use of Eximbank, whose only purpose, as I see it, is to aid U.S. firms in making money.

Perhaps I made the mistake of having too much faith in my belief that a job for a willing worker is the most important ingredient in a nation's economy. I pray that you will give consideration, not alone to the earnest plea of the Chicago Bridge & Iron Company, but to all the other companies who are finding out that their products and their salesmanship are subject to conditions over which they have no control in the world markets.

With every kind regard, I am

Sincerely yours,
JOHN H. DENT,
M.C.

THE TRAGEDY OF LAOS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. ASHBROOK. Mr. Speaker, no longer is there the Kingdom of Laos. Now we have the Democratic People's Republic of Laos. Some may argue that all that has changed in that poor country is the name and they are correct. The Communists have been in fact in control for months in Laos.

But we should take notice of what the change in name does mean. For names and symbolism are important in this world. If you do not think so, ask the Communist Chinese who every so often get involved in a rectification of names campaign. However, let us leave aside the Communist Chinese for a few minutes and return to Laos.

For the past several months Laos has been supposedly under a coalition government. The emphasis is on the word "supposedly."

During that time the so-called rightists were forced out of positions of authority and leadership. Usually after an organized group of several hundred or several thousand Laotians called for their removal, the Communist overlords, under the guise of this popular clamor which they themselves organized, removed the offenders.

Who were these offenders? The press in this country liked to call them "rightists." In other words, they were non-Communists who were not particularly in favor of being ruled by the Communists. Included were such people as the Meo tribesmen who knew emotionally if not intellectually that communism meant the end of any type of independent status for themselves.

Thousands of the Meo have fled to Thailand where they are subsisting on what has been reported as starvation rations. The Thais are not too happy to be the hosts for these refugees.

The Thais realize that the dominoes are falling; Cambodia, Vietnam, Laos, They do not want to be the next country to be overrun so they are making their own arrangements. The Thais are getting rid of U.S. forces and playing down relations with the United States as are other countries in Asia.

The continuing withdrawal of the American presence in Asia can be seen in such stark terms as Americans climbing aboard the last helicopters to get out of Saigon or the symbolism of so-called normalizing relations with Communist China.

Anyone can understand the retreat from Southeast Asia in terms of what simply happened there—the Communists overrunning the South Vietnamese and Cambodians. Not so clear to the eye, especially the American eye, is the importance of the symbolism in how the United States is dealing with the present Asian situation.

First, the pattern or so-called normalization of relations with Peking has been a one way street. First, Secretary Kissinger then President Nixon, and now President Ford went to Peking. While several years ago much was made of American officials going to Communist China, such comment has largely dissipated even though the trips to the mainland have increased in number. We must remember that the Chinese word for China means Middle Kingdom—an empire where other leaders come to pay their respects to the rulers.

Second, the manner of meetings with Chairman Mao are a gold mine of symbolism for anyone who will take the trouble to examine them. The American media always wonders if the President or Secretary of State will be able to meet with Mao. When the event happens it is done in secrecy with the President and a few aides being whisked away to the meeting at the time that Mao decides. It is the picture of an Oriental satrap having his subjects bow down and their being grateful to have an audience with him. I find it humiliating for this country to have the President putting himself in such a situation.

These are only two examples of the symbolism that I am talking about. Its import is clear. This country's leaders are allowing the Red Chinese to dictate what American policy should be. Even a Washington Star writer wonders if the United States is not too willing to go along with the Communist Chinese. That article, along with one on Laos, will appear at the end of my remarks.

President Ford has announced a new "Pacific doctrine" which seems to be new only in its title. Once again there is talk about the United States continuing to play an important role in Asia. But reality seems to be somewhat different than appearances.

While few would argue that the United States is presently completely withdrawing from Asia, the effect of its position in Asia is clear. The attempt by the Secretary of State to play off the Soviet Union and Communist China against each other teaches the small free nations of Asia a lesson. They had better not keep too close relations with Washington because the action is being determined by the Soviets and the Communist Chinese. These same nations figure that Communist China is closer geographically so they had better do some kowtowing to the Communist Chinese. With Kissinger's continual ignoring of our relations with the Republic of China on Taiwan and his denial of the possibility of "normalizing" relations with the mainland while keeping them with Taiwan, I wonder why American policy and leaders are forcing free Asian countries into the hands of the Communists. For a discussion of Secretary Kissinger's views on "normalization" see my statement on "Mr. Kissinger: Whose Secretary of State" in the CONGRESSIONAL RECORD of November 13, 1975.

As I have stated previously, the United States dealing with Communist countries is like a one-way street. We give the concessions and meet them on their ground. They are gracious enough to take them and demand more. This is becoming more and more the case with mainland China.

Let us look at one historical example. If we go back to the first trip to the mainland by Nixon and the opening of liaison offices in Washington and Peking, the hint was given for these moves at the expense of our allies that the Communist Chinese would help us to gain a "peace with honor" in Vietnam. I guess you can call the loss of South Vietnam to Communist forces a peace—apparently a peace of the grave or prison camp for thousands of Vietnamese—but I would call it the fall of a free country. In retrospect, what help did Communist China provide to the United States? It seems they aided the Communist cause at the expense of the free world.

The Communist world has numerous champions. The free world has few. The Communist countries know what they want. The free countries give in and retreat. It is time for a change. The present policies of détente in Asia as in Europe are not working.

The Communist totalitarian countries grow in number and strength. The free countries grow weaker.

At this point I include in the RECORD two articles from the Washington Star. Their texts follow:

LAOS FORMS PEOPLE'S REPUBLIC

BANGKOK, THAILAND.—King Savang Vatthana of Laos abdicated today and the nation's coalition government was disbanded, completing the Communist takeover of the country, the Laotian national radio reported.

The broadcast, monitored in Bangkok, said the coalition government led by Prime Minister Souvanna Phouma was abolished in "response to the demand of the people."

The broadcast said the country would now be known as "the Democratic Peoples Republic of Laos."

Several demonstrations were recently held in the Laotian capital of Vientiane demanding the ouster of the 19-month-old government.

At least 1,000 people gathered outside the office and home of Souvanna Phouma, demanding that he be removed from office.

Souvanna, 74, is a neutralist and has been a symbol of the country's faltering stance against swelling Communist influence.

The Laotian throne was established 600 years ago.

The Communist began consolidating their power in the landlocked country last May.

U.S. IN CHINA: A BIT TOO AGREEABLE?

(By Henry S. Bradsher)

MANILA.—After President Ford left China last week, a member of his official party who went with him to meet Mao Tse-tung talked to reporters about the chairman of the Chinese Communist party.

Later, another U.S. official wanted to know who had done the talking since it was not that well-known "senior American official" who is authorized to talk to reporters—but who has had almost nothing to say about Mao. There was some anger that someone else had leaked information about the Chinese leader.

This is a result of an American attitude that a number of foreign observers in Peking find curious.

To some of them, the willingness of U.S. officials to accommodate Chinese wishes in relations between Peking and Washington is at the very least surprising. It might also be counter-productive, since considerable evidence suggests that the Chinese respect foreigners who stand up to them and assert their rights more than the United States has done.

Secretary of State Henry A. Kissinger told a news conference Thursday night in Peking, "We had agreed with our Chinese hosts" that no information would be given out during Ford's talk with Mao and acting Premier Teng Hsiao-ping.

Kissinger added, "We have tended to follow in these matters the practices of our hosts that the briefing should take place only at the end of the visit."

What happened was that the Chinese asked the U.S. delegation not to give out any information and Kissinger was more than happy to comply. Although such secrecy is considered by some White House staff members to be a poor idea politically, it is exactly what Kissinger prefers.

A Chinese official involved in this restrictive practice commented to a Peking resident that the Americans were very well behaved. But some diplomats in Peking saw this as an example of American weakness.

When the late Georges Pompidou visited China as president of France two years ago, the Chinese asked his officials not to talk to the accompanying French press party while negotiations were under way. The officials agreed, but when told of it Pompidou angrily overruled them.

Pompidou said the French people had a right to know what was going on. So the French press was given some information daily. And it was the impression in Peking's foreign community later that Premier Chou En-lai had respected Pompidou for his toughness.

Several recent visitors have given reporters in Peking detailed accounts of their meetings with Mao. Most of what the world knows about Mao's health and mental acuity comes from these briefings.

It does not come from U.S. officials. They act as if every bit of information about Mao has to be kept a deep secret, in contrast to the belief by Edward Heath of Britain, and Chancellor Helmut Schmidt of Germany that the world has a right to some discreetly handled information.

When he was challenged by a reporter on his secretiveness, Kissinger contended that he could not have said more daily than he was saying at his Thursday news conference after the talks were over.

But he said little then beyond confirming reporters' speculations on what topics had been discussed. How a listing of the topics earlier in the week would have prejudiced the discussions was not made clear.

The whole uneven nature of the Chinese-American relationship was emphasized by Ford's trip.

There has been political criticism in the United States on the lines that first the Nixon administration and now that of Ford—both guided by Kissinger—have accepted China's pretentions to the old Middle Kingdom role. China has historically insisted that it was the center of the world and the outer Barbarians should come to it.

With almost a guilty conscience over the continued diplomatic and defense tie to Peking's enemies on Taiwan, the two administrations have accepted the idea that Chinese officials cannot visit the United States so long as Chinese Nationalist diplomats are stationed there.

China has also refused to consider an exchange of journalists on residential assignments so long as the Nationalist news agency is represented in Washington.

However, in several other world capitals, Communist and Nationalist Chinese journalists do coexist.

INVENTORS UNSUNG HEROES

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. LAGOMARSINO. Mr. Speaker, the most deserving but unsung heroes and heroines in our society today are the individual inventors of this country, and I want to sing a few words in their behalf. The only time we give them any notice is for the few days a year—during Inventors Week in February. But even that is mostly directed to those inventors who are dead and gone. The dust is brushed off the musty Edison photographs; Marconi is revived; Eli Whitney is brought back to life; and Tesla is honored. Or the news media pulls out some Rube Goldberg ridiculosities or disinters the image of the totally inept, absent-minded inventor who goes around blowing up laboratories.

But what about the real-life individual inventors who knock themselves out every day to give us a quality of life higher than any other country in the world? Who give us our comforts and to our wives time-saving appliances, freeing them so they can pursue their own creativity?

What does he get in return for his efforts on our behalf? For the most part he is ignored by the press; ripped off by unscrupulous front money so-called development organizations—and by industry—and sometimes even by the government that professes to help him.

The remarkable thing is that despite these hazards inventors still continue to invent and struggle to perfect their inventions. That there is a bit too much pain in the struggle is evidenced by the fact that more and more products invented in other countries are selling in ever greater quantities in this country, and our leadership in world innovation is in serious jeopardy.

There are several ethical nonprofit inventor organizations sprinkled around the country who deserve recognition, but today I want to laud the efforts of one in particular.

Inventors Workshop International has had the vision to see the handwriting on the wall and for the 4 years of its existence has struggled to reverse the trend of noncreativity. They have written a book on the inventive creative process, teach courses at a western college and are now mounting a nationwide contest in universities and colleges throughout the country, inviting each school to select and submit the outstanding idea, product, design, invention—in any desired discipline—of one of its students for competition. The submissions will be exhibited at the upcoming Inventors Bicentennial Expo 3 to be held at the Ventura County Fairgrounds on May 13 to 16, 1976—at no cost to either the school or the student. Awards will be made to the three top winners by our astronaut friend, Edwin E. "Buzz" Aldrin, himself an inventor who has affiliated himself with this worthy organization in the capacity of coordinator of technology.

The theme of the Expo is Creativity in America and opens the door wide for all forms of creativity. Inventors Workshop International is inviting government, business, and inventors to participate in this great Expo. It affords an ideal opportunity for government agencies and departments to reveal to over 100,000 visitors expected at the Expo as well as to television viewers and newspaper readers and radio listeners the creativity and imagination that each department has brought to the services it offers to the people it serves.

I urge government and industry to take advantage of this opportunity—and at the same time to demonstrate to the individual inventors of this country how grateful we are to them for all they have done and continue to do for us.

After all, it is to this body of men and women we look for solutions to the great problems in environment and energy that confront our country today and, beyond that, to the problems of economic development and millions of jobs and an ever-improving American way of life.

CONGRATULATIONS TO THE CLEARY SCHOOL FOR THE DEAF ON THEIR 50TH ANNIVERSARY

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. DOWNEY of New York. Mr. Speaker, it is my pleasure to tell my colleagues about the 50th anniversary of the Cleary School for the Deaf. One hundred students from the preschool to upper division levels attend this progressive institution which has been providing an indispensable service to Suffolk County for the past 50 years.

The Cleary School aims at developing the intellectual, moral, emotional, spiritual, social, and physical capacities of the child. Each child is treated as an individual person first and then as a handicapped child.

Besides a firm philosophy and well-thought-out goals, the Cleary School also offers a wide range of programs. Their educational program contains the same subjects as the New York State education curriculum. A variety of communication courses are emphasized from finger spelling to speechreading and five classrooms have been set aside for individualization work. Art, sewing, typing and gym are among the other course offerings. Besides the well rounded academic offerings the Cleary School also develops the personal and social aspects of the student's life.

Students develop socially with the use of teaching devices such as field trips, assembly programs, contests, and parties. Other extracurricular activities include a variety of sport competition against other schools and the faculty. Cub Scout and Brownie troops have been organized to allow the children to meet their hearing peers.

Teacher enrichment sessions and numerous parent activities are held to enlighten the adults that are instrumental in the child's development. The Cleary School has generated these programs to meet all aspects of the child's growth.

This is the type of care the handicapped should receive everywhere in America. This school, which serves my community so well, has illustrated the need for progressive education for the handicapped. More importantly, it has demonstrated our ability to meet that need. This important occasion has been recognized in writing by President Ford.

Again, I congratulate the Cleary School and wish them the best in their next 50 years.

GUNS HAVE FEW FRIENDS AMONG OLD, POOR, WOMEN

HON. MARTIN A. RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. RUSSO. Mr. Speaker, today I would like to bring to the attention of my colleagues the second in a series of articles by the Chicago Tribune. Yesterday's RECORD contained the first article as well as explanatory remarks about the Tribune survey on gun control.

Today's report identifies those Chicagoans most concerned about restricting private access to guns. While the series deals only with one particular city, I think Chicagoans can be taken as a representative sample of urban American thinking on this crucial issue.

The article follows:

GUNS HAVE FEW FRIENDS AMONG OLD, POOR, WOMEN

"The other day a girl down the street got shot by a gun her father had in the house. There are too many accidents with guns."—A Chicago woman in her early 20s.

"My fear is the man that has the handgun. They should be in the hands of only the police."—A Chicago man of limited income, in his 50s.

"If they could control the sale of guns, it would be safer to walk the streets."—A black Chicagoan in his 40s.

"Guns are dangerous to have around the house. They seem to be getting in the hands of the wrong people."—A young Chicago woman, a high school drop-out.

If the voices of central city residents, of poorer citizens, of the elderly, of blacks and women were heard clearly in the halls of Congress and the General Assembly, they might get something they support even more forcefully than does the general populace: Strict controls on gun ownership.

A Chicago Tribune survey has found that gun controls have broad, solid-majority support throughout the six-county Chicago metropolitan area, but some control proposals win nearly unanimous support from those segments of the community.

Among older citizens especially, guns have few friends. Some of their responses to survey questions indicate that many feel themselves to be helpless prey for criminals, a feeling intensified by the frequent use of guns in crimes.

A woman over 65 told a survey interviewer she had been beaten by armed muggers several times on the street near her home. "I was so afraid to go out anymore, I quit my job. Without guns out there, I wouldn't be as afraid to go out."

It was no surprise that she was among the 55 per cent majority of survey respondents 65 and older who said they would support a law to outlaw all private ownership of handguns—a proposition rejected by half of the area's general population but approved by at least pluralities of senior citizens, central city whites, the poor, the less educated, and women.

Those giving the most resounding vote for abolishing handgun ownership are whites who live in the city: 60 per cent, favor a handgun ban. But Chicago blacks reject the outlawing of private ownership of handguns by 53 per cent.

Pierre de Vise, the University of Illinois Circle Campus urbanologist, observed that their rejection of the proposal demonstrates that "the blacks are more concerned with having a gun for protection than whites. They undoubtedly feel that a law doing away with handguns would be a disadvantage to them, because they apparently believe the criminals would have guns, law or no law."

Blacks, however, join women, central whites, the poor, and the less educated in giving each of the survey's four other proposals to control guns heavier support than shown by the general population. Discussed in the first article in this series and each supported by at least 8 of every 10 area residents, the four proposals are:

That there should "be strict control and registration of handguns in this country," that a law should require a person to obtain "a police permit before he or she could buy a gun," and that Congress should pass laws requiring "the licensing of all gun owners" and the "registration of all handguns."

Those most concerned about gun controls tend to evidence greater fear and concern about crime and safety than others in the metropolitan area.

When all 509 respondents were asked if there are areas around their communities where they are "afraid to walk alone at night," nearly 67 per cent said "yes." But 89 per cent of Chicago blacks and 19 per cent of Chicago whites said "yes," as did 73 per cent of all women and 75 per cent of those over 50 years old.

In contrast, 60 per cent of the men and 54 per cent of all those living outside Chicago said there are areas near their homes where they are afraid to walk alone at night.

There is little to wonder about in the fears of some groups, especially blacks. According to De Vise, blacks living in the city are 20 times as likely to be killed or hurt than are whites. The murder rate for blacks in Chicago is 10 times that for whites.

"This is a daily concern with blacks," said De Vise. "This is why a majority feel they need a handgun for protection."

Young black males, 18 to 24, are the least safe, and the murder rates for 25- to 34-year-old black males are not far behind.

The city residents least often the victims of murder, said De Vise, are white boys and girls 5 to 14 years old and white females 15 to 24 years old.

Survey respondents concerned most about their safety and about outlawing guns also tend to be surer that gun controls "would cut down on accidental deaths and crimes of passion." While nearly 8 of every 10 surveyed—77 per cent—agree with this, 86 per cent of all women, 85 per cent of those over 50, and 84 per cent of the city's blacks and whites feel that way.

In contrast, again, are men—68 per cent believe controls will reduce deaths—and residents outside Chicago, of whom 72 per cent link controls to fewer accidental gun deaths.

Similarly, the strongest supporters of gun controls also are the strongest believers that controls "would cut down on street crime," a somewhat controversial claim that even some outspoken gun-control advocates dispute. Nonetheless, 77 per cent of all those interviewed agree that gun controls would cut down street crimes.

Even more confident are women [82 per cent], those 50 and older [86 per cent], Chicago residents [82 per cent], the poorer, and less educated that gun controls would reduce street crime.

These same groups also tend to agree more than others that "anyone who commits a crime with a gun should be given double the regular sentence," a proposal accepted by only a slight, 53 per cent majority of all the respondents.

Nearly 7 of every 10 of those over 50 and nearly 6 of every 10 city dwellers support double sentences for gun-toting criminals. Women generally are decidedly more in favor of the idea than men, with 55 per cent of women but a bare 50 per cent of men agreeing.

Chicago blacks are not as strongly in favor of double sentencing as Chicago whites, a difference De Vise said may be due to a fear that blacks would be victims of this law in some instances.

"If they owned a handgun and made defensive use of it as, for example, in a quarrel with friends, they could be victimized by double sentencing," said De Vise.

"This is not to be interpreted that blacks are more lawless than whites," he said. "They are probably more sensitive to the danger of the gun."

The National Rifle Association [NRA] traditionally has supported higher sentences for criminals who use guns, and the Tribune survey found that 58 per cent of those respondents in the Chicago area involved in the NRA agree with that view.

Franklin E. Zimring, University of Chicago law professor and co-author of a report on guns for the National Commission on the Causes and Prevention of Violence, has devoted considerable attention to proposals for extra sentences for gun criminals.

"Do we want to make the punishment for gun robbery so high that the extra punishment risked if the robber kills his victim seems relatively small?" Zimring asked.

"It may be that the only way to make the distinction important is to reduce the punishment for nongun robbery. . . . The punishment for robbery is already quite severe, at least on the books. How much more potential deterrence do we have left in the system?"

A reduction of sentences for unarmed robbery "could produce more unarmed robbery for every gun robbery prevented," Zimring conceded, but he suggested the tradeoff might save lives.

Blacks split farthest from gun-control advocates on the question of whether individuals have a constitutional right to own a handgun. While city whites reject the idea 50 to 39 per cent, blacks said hand gun ownership is a right by a solid 65 to 25 per cent margin.

Interestingly, that attitude places blacks squarely with gun owners and suburbanites—groups that don't share the intensity of blacks' concern for gun controls short of a total ban on privately held handguns.

Blacks' feelings about their constitutional right to own handguns may be a reflection of other pressures, such as the fear shown when nearly 9 of every 10 blacks surveyed said there are areas near their homes where they are afraid to walk alone at night.

Among those groups of metropolitan Chicagoans who favor gun controls by the widest margins, only those 65 years and older solidly deny [58 percent] the proposition that handgun owning is a constitutional right.

Perhaps the elderly were among the few listening to the United States Supreme Court when, in various cases, it ruled that the Constitution's 2d Amendment, affirming the right "of the people to keep and bear arms," pertains only to the states' right to maintain a militia and is a collective right, not an individual one.

Tomorrow: Gun owners go for gun controls.

TRIBUTE TO LEE BALATTI

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. KETCHUM. Mr. Speaker, I ask that my colleagues join with me today in recognizing an outstanding civic leader, a man whose contributions to the communities in which he has lived have been unmatchable. I am speaking of Mr. Lee Balatti, who is about to retire from his position as manager of the San Luis Obispo, California, Pacific Telephone Co.

Lee first joined the telephone company in 1930, when he took over his brother's job as mail boy. It can truly be said that Lee has watched Pacific Telephone grow from a toddler stage to the sophisticated company we know today, and his dedicated service to the company speaks for itself. It is not Lee's employment that I wish to discuss today, but rather his remarkable roster of civic activities. Almost every area of community service has received, and been better for, Lee Balatti's devoted time and energy.

Mr. Balatti began earning the reputation of a tireless civic leader in 1946, following 3 years of service with the Army Engineers in the European Theater during World War II. At that time, he was named business manager of the Madera, Calif., business office of his company. He served on the board of directors of the Rotary Club, and acted as president of both the Madera Community Chest, and the County Chamber of Commerce. He also found time to continue his active interest in Boy Scouts, chairing the Sequoia Council. The Natural Resources and Recreation Committees of the San Joaquin Valley division of the State Chamber of Commerce enjoyed Lee's active and involved leadership through his service as finance chairman, and chairman.

Lee moved to Fresno in 1954 to assume the position of public office manager, still with Pacific Telephone. In his new community, he continued his civic involvement, acting as Head Trader of the Fresno Traders' Club, chairman of the Fresno Heart Drive, director of the North Fresno Rotary, recreation chairman of the Fresno Community Council, and planning chairman of the Chamber of Commerce.

1962 saw another move for Lee and his family, this time to San Luis Obispo and his present post. Again, he threw himself into the activities of his community, and volunteered his time in many capacities. In 1964, he taught a political action course. He was among the founders of the local Martin Luther King, Jr., Scholarship Foundation, a group with which he is still affiliated. He chaired the Mayor's first Urban Coalition, and is presently secretary for 52 Rotary Clubs. Lee organized the promotional group for low-rent housing, and served for 4 years as chairman of his city's housing authority; he is still with this latter group. Even with all these activities, he was able to serve a stint as vice chairman of the county grand jury, and has served for 12 years on the County Juvenile Justice Commission, and Juvenile Delinquency Prevention Commission. Each of these commissions had Lee as chairman for a year.

Mr. Speaker, I could go on for pages, but I believe just these commitments state full well the incredible energies Lee Balatti has put into making a better community for those around him. While he is retiring from his employment, I know that he will continue to serve his community. Pacific Telephone will surely miss him, and I would like to extend my warmest best wishes to Lee, his wife, Estelle, and his family on this occasion.

THE NATIONAL CAUCUS OF LABOR COMMITTEES—CRACKPOTS OR WORSE?

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. McDONALD of Georgia. Mr. Speaker, many of our colleagues have been contacted by a group called the National Caucus of Labor Committees, also known as the U.S. Labor Party, with offers of information on a variety of subjects. This group claims to have the inside information on terrorism, Nelson Rockefeller, drug abuse, and a variety of other subjects. Their information once you begin to speak to them is firstly superficial and more important often inaccurate. They have a history of contacting prominent persons with offers of help and then using the names of those persons to attract other support. Often after the victim has complained about the use of his name they continue to use it.

The National Caucus of Labor Committees was organized in the late 1960's by one Lyndon LaRouche, Jr., who has also called himself Lyn Marcus. LaRouche had been a member of the Trotskyite Socialist Workers Party and organized the labor committees while a member of the Students for a Democratic Society. He is the guru around which the NCLC functions. His visions and fantasies are the dogma of the organization. Although they carry on their rolls a few thousand members the actual active membership of the NCLC is approximately 500. Although, the membership has a tendency to move around most of them are in the cities of New York, Detroit, Chicago, Boston, San Francisco, Philadelphia, Buffalo, N.Y., Baltimore, Seattle, Newark, and Cleveland, Ohio. Small groups are scattered in other cities around the country. This relatively small group of people spends a great deal of money for travel, telephone calls and printing. Some of the printing is in foreign languages and copies of the foreign language materials are often never sold. The sources of NCLC financing are the most closely guarded secrets of the organization.

The NCLC has about 150 members in Western Europe: about half of which are in Germany, another group in Italy, and tiny groups in Sweden, France, and Denmark. They claim close association with the governments of Iraq and Communist East Germany. Whether these contacts are mere boasts or not, they do publish a slick magazine in Arabic, and they act in Western Europe as if they were East German agents. For example, their group in West Germany was instructed to gather information on a whole series of industrial plants in West Germany with information concerning how many East European workers were employed in these plants. A tiny group like NCLC could have no possible need for such information, the East Germany intelligence service would have such a need.

The most recent activities of NCLC have been to attack the intelligence community in the United States and to bring lawsuits against various Federal and State agencies. They are latecomers in this enterprise, as numerous other leftist groups have been carrying on this type of harassment of the intelligence community for quite some time.

In summary, NCLC is a very small group with a great deal of mysterious money. It claims contact with governments unfriendly to the United States. They have made dishonest use of the names of prominent persons, in order to advance their own aims. What we do not know is whether they are merely a tiny crackpot group or whether they are a serious problem.

ASBESTOS HAZARD FOUND IN OFFICES

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. DOMINICK V. DANIELS. Mr. Speaker, the insidious danger posed by exposures to even minute levels of asbestos fibers has been brought to light in recent years with the discovery of abnormally high incidences of mesothelioma, a rare form of cancer, among employees working with asbestos.

On the front page of today's Washington Post, there is an article which details a recent study on exposure of people in large office buildings. This study suggests that millions of office workers may be daily breathing in dangerous levels of cancer-producing asbestos fibers.

The ramifications of this study must immediately be investigated by the Occupational Safety and Health Administration and the National Institute of Occupational Safety and Health—NIOSH. According to the Post article, OSHA has claimed jurisdiction over the matter but has not yet posed any solutions. I think that the health of America's workers, which is daily being jeopardized, demands prompt action by OSHA and NIOSH. Bureaucratic inertia must not subject millions of workers to lethal carcinogens.

Text of the article follows:

[From the Washington Post, Dec. 10, 1975]

ASBESTOS HAZARD FOUND IN OFFICES

(By Stuart Auerbach)

NEW YORK, Dec. 9.—Yale University removed all the ceilings from its 10-story school of art and architecture because the amount of asbestos from them reached levels known to cause cancer deaths.

The University of California at Los Angeles did the same thing in one of its new dormitories because students roughhousing in their rooms shook loose the cancer-causing asbestos fibers.

The Yale and UCLA experiences are just two examples of what looms as a major occupational health hazard for millions of American office workers, according to a new study by the Mt. Sinai School of Medicine's environmental sciences laboratory here, which found dangerously high levels of asbestos fibers in office buildings around the country.

"We are seeing inside the office buildings concentrations that are as high as we saw in areas near asbestos plants or where spraying was being done, where there has been illness or death," said Dr. William J. Nicholson, who ran the Mt. Sinai study.

"This significantly increases the risk" of cancer to people who work in those buildings on a day in and day out basis, he added.

Officials at the Environmental Protection Agency, which funded the Mt. Sinai study, said they are concerned over the amount of asbestos found in offices. But they and other health officials expressed apprehension over finding a way to handle the problem immediately both because it is so pervasive and because it was uncovered so recently.

Compounding the problem is a jurisdictional dispute among federal agencies. EPA scientist Orin Stopinski said there is a question whether EPA or the Labor Department's Occupational Safety and Health Administration has jurisdiction over polluted air in offices. OSHA officials have claimed jurisdiction, but have not yet offered solutions for dealing with the asbestos.

The idea of addressing the problem by condemning buildings is not a happy one for New York officials. "I don't know what we can do rapidly," said Dr. Edward Ferrand of the city's Department of Air Resources.

In his study, Nicholson recommended installing improved filters in air circulation systems of buildings to screen out asbestos fibers, but Ferrand said he isn't sure it would work.

OSHA, which appears to have federal jurisdiction, has no regular program of inspecting office buildings.

But OSHA spokesman James Poster said the agency will inspect any building if it receives a complaint. EPA officials, meanwhile, are considering trying to get jurisdiction over public buildings, such as post offices and department stores.

(OSHA in October proposed lowering the amount of asbestos allowed in the air around the workplace from 5 fibers per cubic centimeter to .55 per cubic centimeter.)

Affected are thousands of buildings put up across the country between 1958 and 1970—many of them here and in Washington—in which asbestos replaced concrete as the fire-retarding wrapping for steel beams. By 1970, half the large office buildings in the country used various asbestos spray techniques, according to Nicholson.

One method was to spray a mixture of asbestos and water directly on the steel beams. Over time, the asbestos fibers come loose and are circulated through the air conditioning and heating systems.

Nicholson estimated that half the new office buildings in the country and virtually all of the 1,000 buildings put up here between 1958 and 1970 used that method of fireproofing.

His own office here is one of them. Pulling aside a large ceiling panel, he found clumps of asbestos fibers in the crawlspace between floors. "This is the fire-proofing stuff that didn't stay on," he said.

In New York alone, 700 tons of asbestos were sprayed in buildings in 1969 and 1970 as fireproofing. Under city law, the spraying stopped here in 1970, and as word of its health hazards to workers spread, contractors halted the method nationwide. Now there is little if any asbestos spraying, but the asbestos remains in the buildings.

The Mt. Sinai study checked asbestos levels in 19 buildings in five cities—New York, Boston, Chicago, San Francisco and Berkeley, Calif. It found little contamination in buildings where the asbestos was mixed with light cement before it was sprayed.

But four of six buildings in which asbestos was mixed with water and sprayed showed levels of asbestos fibers averaging three times higher than asbestos in the outside air. "It was worse in the newer buildings," said Nicholson.

In addition, the study found that four other buildings, in which asbestos was sprayed for either acoustical or decorative reasons, had abnormally high levels in some rooms.

Asbestos levels are hard to measure and there is no established threshold level between safe and unsafe exposure. "We are finding asbestos disease at lower and lower levels," said Nicholson.

About 7 in 100 asbestos insulation workers die of mesothelioma, a cancer of the lining of the chest and abdomen that occurs about 1 in 10,000 times among the general population.

The cancer follows the workers from the job into their homes and neighborhoods, where the asbestos levels are much lower than in the factories. One in three members of families of asbestos workers in Paterson, N.J., showed X-ray signs of exposure to asbestos fibers. About 1 in 100 of those family members dies of mesothelioma, according to a Mt. Sinai study done by Dr. Henry A. Anderson.

Those people are being exposed to levels about the same as Nicholson's team found in some office buildings.

Dr. Robert Sawyer, director of health services at Yale, discovered the high asbestos levels in the art and architecture building last year. He found that students and teachers in the building were being exposed to half a fiber per cubic centimeter—not high as industrial exposures go but higher than was found in New Haven, where the college is located.

But maintenance men and janitors were exposed to far higher levels—as much as 50 fibers per cubic centimeter, which is 10 times higher than the level allowed by federal laws for industry.

"Because of that we decided the only real solution was to take the stuff down if we wanted to protect people in the building," said Sawyer.

It was done in 18 days during last Christmas vacation. In all, 92 tons of material from the ceilings were taken out and buried.

UNDER COVER OF DARKNESS

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. HARRINGTON. Mr. Speaker, the energy crisis which we experienced 2 years ago is far from a forgotten event. We still need to conserve our natural resources in order to have an adequate supply for the years to come. Any measure which can bring this about without causing any unnecessary hardship should certainly be given proper consideration.

Last year, Congress enacted a bill which extended daylight savings time from the end of February to the end of October. This bill, although it served an energy saving purpose, provided for a 1-year program, and thus, unless another measure is passed soon, we will return to the former daylight savings period next year.

There are several bills concerning this issue which have yet to be considered by the Interstate and Foreign Commerce Committee. A recent editorial in the Boston Globe rightfully pointed out that this is an issue which certainly deserves the consideration of the committee.

An excerpt from the editorial follows:

[From the Boston Globe, Dec. 8, 1975]

UNDER COVER OF DARKNESS

Two years ago, when the Arab oil embargo ignited a series of emergency countermeasures, Congress passed year-round Daylight Saving Time as a means of conserving energy—fewer lights to be on during waking hours.

The experience provoked a certain amount of controversy, most of it centering on the issue of school-bound children. Since Daylight Time wins an extra hour of sunlight in the afternoon by taking it from the early morning, there were some youngsters who unexpectedly found themselves going to school in the dark.

Last year Congress passed a modified version of the bill, making Daylight Time effective from the end of February to the end of October rather than the pre-embargo end of April. There were no audible complaints last March and April about that arrangement—and it was manifestly agreeable to have later sundowns in the afternoons for those two extra months.

The trouble is that the modified version, really compromise, was enacted for only one year. Next year, unless Congress acts again, the beginning of Daylight Time will revert to the end of April rather than to the end of February.

It is unfortunate in some respects that the issue revolved around the fuel crisis. There is plenty of reason to be skeptical that Daylight Time means significant energy savings. But more sunlight is certainly to be preferred in the late afternoon and early evenings during March and April.

A number of bills touching on Daylight Time now lie untouched in the House Commerce Committee. Some of them would limit it to the Memorial Day-Labor Day period, suggesting that Daylight Time does not quite have universal appeal. But others would make this year's sensible arrangement permanent.

So far the Commerce Committee has done nothing to deal with the bills. It has not even scheduled hearings though the potential moment of truth is hardly 12 weeks away.

Daylight Time, although an issue on a lesser level than recession and inflation, is a highly governable question and it is a shame that Congress has chosen to make a decision in effect by doing nothing. Next March, the way matters now look, the country will have been left in the dark by its elected representatives.

NATURAL GAS ISSUE

HON. RICHARDSON PREYER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. PREYER. Mr. Speaker, the natural gas issue is one which has been the subject of much debate both in and out of Congress. Questions are raised as to whether deregulation would produce increased supplies of this vital clean burning fuel or would it only mean more profits for the producing companies and increased costs for consumers? The answers to these questions are not easy and often they are contradictory.

However, the fact remains that we are experiencing a severe shortage of this fuel, a shortage which is likely to produce severe economic disruptions in industry if steps are not taken to provide incentives for increased production. I would like to share with my colleagues a resolution adopted unanimously by the National Governors' Conference Committee on Natural Resources and Environmental Management. The membership of this conference includes a wide geographical representation including both producer and consumer States. The resolution calls for a phased deregulation of the wellhead price of new gas and a close monitoring of the energy industry by Congress to determine whether antitrust laws are freely respected. This position deserves consideration. The resolution follows:

PROPOSED

The total resource of domestic fossil fuels is finite, and there exists a limit of total annual production of energy from these sources. Natural gas is the most environmentally acceptable, readily useable and least expensive fuel, which has led to the rapid exploitation of available supplies.

Since 1968 production of natural gas has exceeded additions to inventory. Natural gas curtailments are expected to cause widespread distortion and dislocation in the economy. A three trillion cubic feet shortfall of natural gas is predicted for 1975–76 with even greater shortfalls predicted for the following year. Even with stringent conservation, discovery of new gas fields will be needed to provide lead-time while alternative energy resources are developed.

Federal price policies have undervalued interstate gas with respect to other fuels, which results in lowered incentives for exploration, an artificially high demand and few incentives for conservation.

The National Governors' Conference supports the deregulation of new gas wellhead prices. Such deregulation should not affect contracts in force on the date of enactment of legislation, but the purchase of gas at the end of a contract should not be subject to federal wellhead price control. This phased process will serve to mitigate abrupt increases to existing customers. To determine the effects of deregulation the federal government should provide for continuing monitoring and evaluation of the performance of the natural gas industry, and report its findings to Congress.

The deregulation of producers' prices for new natural gas would provide an incentive for exploration and would provide the nation's oil and gas operators with the ability to attract needed capital. Such deregulation would encourage sales in the interstate market and ease the spectre of sharp curtailments in the many States relying on interstate supplies. Increased average prices should encourage conservation and the conversion to alternate energy sources.

The deregulation of natural gas will result in an increase in the price of new gas. These higher prices create the possibility of excessive profits. It is highly desirable that any excessive profits be used to explore for, find and develop, new natural gas supplies.

If the price of new natural gas is deregulated, the Governors believe that the Congress of the United States should simultaneously enact an effective excess profits tax which contains a plow-back provision that provides relief from such tax if excess earnings are dedicated to the exploration and development of new natural gas supplies.

To prevent accelerated depletion of remaining supplies of natural gas which could result from deregulation, such action should be accompanied by legislative and executive commitments to determine national priorities of use of natural gas, specific programs designed to promote natural gas conservation, and a major effort to convert and phase out as rapidly as possible those existing natural gas facilities which do not represent the wisest and best use of natural gas under current circumstances.

There is evidence of vertical and horizontal integration and interlocking relationships among natural gas producers and purchasing pipelines. There also is evidence of integrated and interlocking relationships among natural gas, petroleum, coal and uranium mining firms.

There is a strong concern that this may result in an anti-competitive aspect of the energy industry which could cause an artificial inflation of the price of natural gas and other energy supplies.

It is the position of the Governors' Conference that developments of the energy industry be closely monitored to determine whether the letter and spirit of national anti-trust laws are freely respected.

A SPUNKY COLLEGE WON'T BACK DOWN!

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. CRANE. Mr. Speaker, when the concept of Federal aid to education was first discussed in the Congress there were many who argued that such assistance from Washington would, inevitably, produce a situation in which education was totally controlled from Washington.

Supporters of Federal aid argued that this would not be the case, that Congress would appropriate funds but would permit colleges and universities to make their own rules and regulations.

It has not taken very long to see who was correct. Today, those universities which receive Federal assistance are in a virtual straitjacket of bureaucratic rules. They are told whom they may hire, and, through the program of "affirmative action," have been told, in effect, to maintain a quota system for women and minorities.

As bad as Federal regulations are when they follow Federal money, they are even worse when they are applied to an institution which has steadfastly refused all Federal aid—precisely because it wanted to be autonomous and independent.

Now we observe a situation in which bureaucrats at the Department of Health, Education, and Welfare have declared that even if one student at a college or university receives a Federal grant, the entire college is considered a "recipient institution." In such a case it is the student who is receiving aid, not the college—yet the college has been subjected to bureaucratic rulemaking.

This situation has come to a head at Michigan's Hillsdale College. After being informed that Hillsdale, which has courageously and steadfastly refused any Government aid, must now submit to rules from Washington, trustees were justifiably enraged. They called the Federal regulations "immoral and illegal" violations of the school's "inalienable rights of freedom" and announced that it would fight such rulemaking through the courts.

Hillsdale's president, Dr. George Roche III, has been a vigorous proponent of independent education. He is to be congratulated for strenuously opposing the interference of Government bureaucrats in the administration of Hillsdale College.

Discussing President Roche, columnist Nicholas von Hoffman notes that, "George C. Roche is a throwback to an extinct kind of college president. You can call up the head of Hillsdale College and you will not be shunted off into the public relations department. President Roche will pick up the phone and talk to you just like you were calling an ordinary real person. Not only that, he actually teaches a course. . . ."

Mr. von Hoffman concludes that, "There are few enough schools engaged in anything but the manufacture of robots to make one wonder what greater good HEW thinks it will achieve by destroying the last few independents."

A free society cannot long endure when all education is controlled by government. Nazi Germany, Fascist Italy, and Communist China and the Soviet Union are examples of such unbridled government power over schools and colleges. We must do everything possible to insure that such domination by the State never occurs in this country. George Roche and the trustees at Hillsdale College are eloquently making this case for us.

I wish to share with my colleagues the column, "A Spunky College Won't Back Down," by Nicholas von Hoffman, as it appeared in the Chicago Tribune of November 22, 1975 and insert it into the RECORD at this time.

A SPUNKY COLLEGE WON'T BACK DOWN

(By Nicholas von Hoffman)

WASHINGTON.—George C. Roche is a throwback to an extinct kind of college president. You can call up the head of Hillsdale College and you will not be shunted off into the public relations department.

President Roche will pick up the phone and talk to you just like you were calling an ordinary, real person. Not only that, he actually teaches a course, a seminar in political economy, "just to keep my hand in," as he puts it.

It's a far cry from those state university systems where students go through four years of school without setting eyes on their leader unless it's graduation day.

Located in a tiny south Michigan town, Roche's college has only 1,000 students. It deliberately has not grown, preferring to keep itself the sort of small liberal arts institution that seems to exist in the American national memory like an old Jimmy Stewart movie. Hillsdale realized that bigger isn't necessarily better sooner than most.

Some years ago, it also made another interesting decision. It decided that the federal government might not be the fount from which all blessings flow and refused to accept any financial help. No dormitory loans, no research grants, no funds for this kind of special program or that sort of exciting breakthrough experiment. Hillsdale did not want to be bossed.

Roche says that when he gets that daily effluvium of mail from the Department of Health, Education, and Welfare, he rolls it up and chucks it into the round file.

Moreover, where other schools spend a fortune keeping the books to satisfy the whims of the General Accounting Office, Hillsdale can administer itself at a low cost the way it wants.

According to Roche, room, board, and tuition at Hillsdale costs around $4,000 a year, which is a lot of money, but not in comparison to most private colleges. Moreover, since the school wasn't lured into incurring a high overhead by accepting government aid to build a lot of folderol, it can pay for 75 per cent of its expenses from tuition.

But now a threat has come to Hillsdale. The government has found what it apparently hopes is a way to put the college under its regulatory net. HEW has decreed that Hillsdale is a "recipient institution," although it takes no government money, on the grounds that Hillsdale students, as individuals, do receive federal student loans and veterans' benefits which make it possible for them to attend college.

As a recipient institution, Hillsdale would have to have HEW's affirmative action program and all the requirements that Washington imposes on colleges and universities.

Not that the school is opposed to admitting blacks or females. Roche points out that Hillsdale, founded in 1844, was doing so before the Civil War. The student body is evenly divided male-female with 3.5 per cent blacks, most of whom are scholarship students.

The college also has students from 28 nations, all of which suggests that Roche isn't speaking with forked tongue when he says the school is resisting as a matter of principle. It wants to stay free.

To resist, the board of trustees has passed a resolution saying that the college "will hold to its traditional philosophy of equal opportunity without discrimination by reason of race, religion, or sex but such nondiscrimination will be voluntary," and if that means no more government tuition help, then Hillsdale will take up the beggar's cup and try to find more money for scholarships.

I've never been to Hillsdale College. I don't know if I'd like it or not. Obviously it's a conservative institution. Roche himself says, "I think because of our private funding, we're considered conservative, although I don't like to use the word." But more important is that it goes its own independent way and, whatever its institutional biases, there's much to be said for that.

James Garfield, the one American President whose assassination nobody remembers, did utter one memorable sentence in his mediocre public life and that was about the president of Williams College: "The ideal college is Mark Hopkins on one end of a log and a student on the other."

In the social aftermath of learning factories like UCLA or the New York State University system, Garfield's notion that education should not be an industrial process but a unique, moral transaction between teacher and pupil recommends itself.

There are few enough schools engaged in anything but the manufacture of robots to make one wonder what greater good HEW thinks it will achieve by destroying the last few independents.

WOMEN'S WORLD PLAN OF ACTION: INTRODUCTION

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. FRASER. Mr. Speaker, an important document is in danger of being lost to public and private decisionmakers through lack of attention to the real business of the United Nations Conference on International Women's Year held at Mexico City in July 1975. This document is the World Plan of Action, the working paper of the conference and an excellent overview of the condition of women around the world.

The World Plan is a rich source of ideas and information. It sets forth both the United Nations efforts in the area of women's rights and the problems and the goals and guidelines for action over the decade from 1975 to 1985.

The plan goes on to discuss specific areas for national action, including: international cooperation and the strengthening of world peace; political participation; education and training; employment and related roles; health and nutrition, the family in modern society; population, housing, and other social questions.

A third section gives high priority to research, data collection and analysis "on all aspects of the situation of women" and calls for "wide exchange of information and research findings."

The final three sections deal with the mass communications media, international and regional action specifically related to the United Nations system and review and appraisal at regular intervals.

But few people know about the World Plan and its recommendations for ending the waste of human resources that is sex discrimination. If the plan is to be implemented, it must be made available to our national leadership. Therefore I am inserting today paragraphs 1 through 25 of this landmark document with the hope that my colleagues will find it as informative and useful as I have:

INTRODUCTION

1. In subscribing to the Charter, the peoples of the United Nations undertook specific commitments: "to save succeeding generations from scourge of war . . . to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and . . . to promote social progress and better standards of life in larger freedom".

2. The greatest and most significant achievement during recent decades has been the liberation of a large number of peoples and nations from alien colonial domination, which has permitted them to become members of the community of free peoples. Technological progress has also been achieved in all spheres of economic activity during the past three decades, thus offering substantial possibilities for improving the well-being of all peoples. However, the last vestiges of alien and colonial domination, foreign occupation, racial discrimination, *apartheid* and neo-colonialism in all its forms are still among the greatest obstacles to the full emancipation and progress of developing countries and all the peoples concerned. The benefits of technological progress are not shared equitably by all members of the international community. The developing countries, which account for 70 per cent of the population of the world, receive only 30 percent of world income. It has proved impossible to achieve uniform and balanced development of the international community under the present economic order, and, for this reason, it is urgent to implement a new international economic order in accordance with General Assembly resolution 3201 (S-VI).

3. Conventions, declarations, formal recommendations and other instruments have been adopted since the Charter came into force with a view to reinforcing, elaborating and implementing these fundamental principles and objectives. Some of them seek to safeguard and promote the human rights and fundamental freedom of all persons without discrimination of any kind. Others deal with promotion of economic and social progress and development and the need to eliminate all forms of alien domination, dependence, neo-colonialism, and include international strategies, programmes and plans of action. Some have the more specific purpose of eliminating discrimination on the ground of sex and promoting the equal rights of men and women. These documents reflect the ever-increasing awareness in the international community of the uneven development of peoples, and of the tragedy of all forms of discrimination be it on the ground of race, sex or any other ground, and the evident will to promote progress and development in conditions of peace, equity and justice.

4. In these various instruments the international community has proclaimed that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women as well as men in all fields. It has declared that all human beings without distinction have the right to enjoy the fruits of social and economic progress and should, on their part, contribute to it. It has condemned sex discrimination as fundamentally unjust, an offence against human dignity and an infringement of human rights. It has included the full integration of women in the total development effort as a stated objective of the International Development Strategy for the decade of the 1970s.

5. Despite these solemn pronouncements and notwithstanding the work accomplished in particular by the United Nations Commission on the Status of Women and the specialized agencies concerned, progress in translating these principles into practical reality is proving slow and uneven. The difficulties encountered in the preparation and implementation of these many instruments are attributable to the complexities created by the considerable differences between countries, regions, etc.

6. History has attested the active role which women played, together with men, in accelerating the material and spiritual progress of peoples and in the process of the progressive renewal of society; in our times, women's role will increasingly emerge as a powerful revolutionary social force.

7. There are significant differences in the status of women in different countries and regions of the world which are rooted in the political, economic and social structure, the cultural framework and the level of development of each country, and in the social category of women within a given country. However basic similarities unite women to fight differences wherever they exist in the legal, economic, social, political and cultural status of women and men.

8. As a result of the uneven development which prevails in the international economic relations, three quarters of humanity is faced with urgent and pressing social and economic problems. The women among them are even more affected by such problems and the new measures taken to improve their situation as well as their role in the process of development must be an integral part of the global project for the establishment of a new economic order.

9. In many countries women form a large part of the agricultural work force. Because of this and because of their important role in agricultural production and in the preparation, processing and marketing of food, they constitute a substantial economic resource. Nevertheless, if the rural worker's lack of technical equipment, education and training is taken into account, it will be seen that in many countries the status of women in this sector is doubly disadvantaged.

10. While industrialization provides jobs for women and constitutes one of the main means for the integration of women in the process of development, women workers are disadvantaged in many respects because of the fact that the technological structure of production in general has been oriented towards man and his requirements. Therefore special attention must be paid to the situation of the woman worker in industry and in services. Women workers feel painfully the effects of the present economic crisis, the growth of unemployment, inflation, mass poverty, lack of resources for education and medical care, unexpected and unwanted side-effects of urbanization and other migration, etc.

11. Scientific and technological developments have had both positive and negative repercussions on the situation of women in many countries. Political, economic and social factors are important in overcoming any adverse effects of such developments.

12. During the last decades women's movements and millions of women together with other progressive forces acting in many countries have focused public opinion at the national and international levels on all these problems.

13. However, that public opinion often overlooks the many women of regions under alien domination, particularly those subjected to *apartheid* who experience daily the terror of repression and who struggle tirelessly for the recovery of the most elementary rights of the human person.

14. The reality of the problems which women still meet in their daily life in many countries of the world in their efforts to participate in the economic and social activities in the decision-making process and the political administration of their countries, and the loss represented by the under-utilization of the potentialities of approximately 50 per cent of the world's adult population, have prompted the United Nations to proclaim 1975 as International Women's Year, and to call for intensified action to ensure the full integration of women in the total development effort and to involve women widely in international co-operation and strengthening of world peace on the basis of equal rights, opportunities, and responsibilities of women and men. The objective of International Women's Year is to define a society in which women participate in a real and full sense in economic, social and political life and to devise strategies whereby such societies could develop.

15. This Plan of Action is intended to strengthen the implementation of the instruments and programmes which have been adopted concerning the status of women, and to broaden and place them in a more timely context. Its purpose is mainly to stimulate national and international action to solve the problems of underdevelopment and of the socio-economic structure which places women in an inferior position, in order to achieve the goals of International Women's Year.

16. The achievement of equality between men and women implies that they should have equal rights, opportunities and responsibilities to enable them to develop their talents and capabilities for their own personal fulfillment and the benefit of society. To that end, a reassessment of the functions and roles traditionally allotted to each sex within the family and the community at large is essential. The necessity of a change in the traditional role of men as well as of women must be recognized. In order to allow for women's equal (fuller) participation in all societal activities, socially organized services should be established and maintained

to lighten household chores, and especially services for children should be provided. All efforts should be made to change social attitudes—based mainly on education—in order to bring about the acceptance of shared responsibilities for home and children by both men and women.

17. In order to promote equality between women and men Governments should ensure for both women and men equality before the law, the provision of facilities for equality of educational opportunities and training, equality in conditions of employment, including remuneration and adequate social security. Governments should recognize and undertake measures to implement men's and women's right to employment on equal conditions, regardless of marital status and their access to the whole range of economic activities. The State has also the responsibility to create conditions that promote the implementation of legal norms providing for equality of men and women and in particular the opportunity for all individuals to receive free general and primary education, and eventually compulsory general secondary education, equality in conditions of employment, and maternity protection.

18. Governments should strive to ameliorate the hard working conditions and unreasonably heavy work load, especially that fall upon large groups of women in many countries and particularly among underprivileged social groups. Governments should ensure improved access to health services, better nutrition and other social services that are essential to the improvement of the condition of women and their full participation in development on an equal basis with men.

19. Individuals and couples have the right freely and responsibly to determine the number and spacing of their children and to have the information and the means to do so. The exercise of this right is basic to the attainment of any real equality between the sexes and without its achievement women are disadvantaged in their attempt to benefit from other reforms.

20. Child-care centres and other child-minding facilities are means to supplement the training and care that the children get at home. At the same time they are of vital importance in promoting equality between men and women. Governments have therefore a responsibility to see to it that such centres and facilities are available in the first place for those children, whose parents or parent are employed, in self-employment and particularly in agriculture for rural women, in training or in education or wish to take up employment, training or education.

21. The primary objective of development being to bring about sustained improvement in the well-being of the individual and of society and to bestow benefits on all, development should be seen not only as a desirable goal in itself but also as the most important means for furthering equality of the sexes and the maintenance of peace.

22. The integration of women in development will necessitate widening their activities to embrace all aspects of social, economic, political and cultural life. They must be provided with the necessary technical training to make their contribution more effective in terms of production, and to ensure their greater participation in decision-making, planning and implementation of all programmes and projects. Full integration also implies that women receive their fair share of the benefits of development, thereby helping to ensure a more equitable distribution of income among all sectors of the population.

23. The promotion and protection of human rights for all is one of the fundamental principles of the United Nations Charter whose achievement is the goal of all people. An essential element for securing the protection of human rights and full equality between men and women throughout the world is sustained international co-operation based on peace, justice and equity for all and the elimination of all sources of conflict. True international co-operation must be based, in accordance with the Charter of the United Nations, on fully equal rights, the observance of national independence and sovereignty including sovereignty over natural resources and the right of their exploitation, non-interference in internal affairs, the right of peoples to defend their territorial integrity, and the inadmissibility of acquisition or attempts to acquire territory by force, mutual advantage, the avoidance of the use or the threat of force, and the promotion and maintenance of a new just world economic order, which is the basic purpose of the Charter of Economic Rights and Duties of States.[2] International co-operation and peace requires national liberation and political and economic independence, the elimination of colonialism and neo-colonialism, fascism and other similar ideologies, foreign occupation and apartheid, racism and discrimination in all its forms as well as recogntion of the dignity of the individual and appreciation of the human person and his or her self-determination. To this end, the Plan calls for the full participation of women in all efforts to promote and maintain peace. True peace cannot be achieved unless women share with men the responsibility for establishing a new international economic order.

24. It is the aim of the Plan to ensure that the original and multidimensional contribution—both actual and potential—of women is not overlooked in existing concepts for development action programmes and an improved world economic equilibrium. Recommendations for national and international action are proposed with the aim of accelerating the necessary changes in all areas, and particularly in those where women have been especially disadvantaged.

25. Since the integral development of the personality of the woman as a human being is directly connected with her participation in the development process as mother, worker and citizen, policies should be developed to promote the co-ordination of these different roles of the woman so as to give the most favorable conditions for the harmonious development of her personality—an aim which is equally relevant to the development of man.

THE DANGERS OF NATIONALIZED MEDICINE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. CRANE. Mr. Speaker, because the slogans sounded good, we have entered into a number of expensive programs which later turned into ever more costly failures. Urban renewal is one example, the war on poverty is another, and the list could go on and on. A program, to commend itself, should be carefully studied and analyzed. Before the American people adopt grandiose new schemes they should know something about what they will cost and what they will produce. If they did, they would hesitate to do much of what has been done in the entire area of social legislation during the past 30 years.

Now, despite the costly failures of the past, there are many who would destroy our traditional private practice system of medicine and replace it with a socialized system—along the precise lines which have failed so dramatically in Great Britain and other countries. Fortunately, there are a number of thoughtful and careful observers who have studied the history of governmental involvement in medicine and who have provided us with their best assessment of the merits and demerits of such an approach.

One such individual is Marvin H. Edwards. Mr. Edwards is a former editor of Private Practice, the journal of the Congress of County Medical Societies, and is the author of an important book in this field, "Hazardous To Your Health." He has lectured widely on health matters and is recognized as one who speaks with expertise on this subject.

On November 13, Mr. Edwards testified before the Subcommittee on Health of the House Ways and Means Committee. In his testimony, he deals with many of the charges which are made against American medicine.

With regard to the charge that there is an "infant mortality crisis," Mr. Edwards notes that:

> The infant mortality rate in this country has improved from 124.5 per thousand in 1900 to less than 19 per thousand today, and is better than the rate in any of the Common Market countries of Europe, all of which have national health programs.

Concerning the charge that there is a maldistribution of physicians, Mr. Edwards notes that:

> A study by the Presidential Advisory Commission on Health Manpower found that 98 percent of the people in this country live within minutes of a major health care facility, and an independent university study revealed that most of the counties without private doctors either have very sparse populations . . . or they are located adjacent to, and minutes away from, adjoining counties with large numbers of physicians and health care facilities.

In his testimony, Mr. Edwards deals with the question of current costs and compares them to the staggering increase in costs which nationalized medicine would bring. To those who say that the poor and aged are victimized by poor medical care, he responds:

> I would remind you that it is the poor and the aged . . . who already have national health insurance. The poor and the aged have had . . . Medicare and Medicaid for ten years. And if the quality of care they receive is inferior, then please, gentlemen, don't give it to the rest of us.

I wish to share with my colleagues the following testimony presented by Marvin H. Edwards of Oklahoma City, Okla., and insert it into the Record at this time.

Testimony of Marvin H. Mickey Edwards in Opposition to National Health Insurance

I appreciate the opportunity to appear before this committee once again.

My name is Marvin Edwards. I am an attorney, a college professor and a writer. I am also the author of a book entitled "Hazardous to Your Health," in which I presented what I believe to be the rather strong case, on the evidence, against national health insurance.

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[2] During the World Conference of the International Women's Year some representatives stated that reference to the Charter of Economic Rights and Duties of States should not be interpreted as indicating a change in the positions of delegations on the Charter as stated at the twenty-ninth session of the General Assembly.

I am not a physician. For five years I was editor of a medical journal, but left that position in 1973 to come to Washington as a consultant on health care legislation to a number of your colleagues. I have no connection with the health care professions except that single vested interest that you and I share—the interest a prospective patient has in the quality of health care.

I suppose that, as usual, these hearings—and the legislation before Congress—are prompted by the supposed existence of a health care crisis. I assume that to be the argument, just as it was in 1900, and in the 1930s, and the 1950s, and in every year and every legislative session since.

That so-called crisis, however, is not supported by the facts.

Let's look for a moment at this case for national health insurance. Obviously I can not do justice to such an involved and important issue in a few minutes here today, but I assure you that I can and shall provide the members of this committee with adequate and substantial documentation of the material I am going to present today—material that is publicly available and taken from official government sources, but generally ignored by those who advocate a change in the American health care system.

We are told there is a health care crisis—and yet Americans today are taller, heavier, healthier, and living longer lives than ever before.

We are told there is an infant mortality crisis—yet the infant mortality rate in this country has improved from 24.5 per thousand in 1900 to less than 19 per thousand today, and is better than the rate in any of the Common Market countries of Europe, all of which have national health programs.

We are told there is a major maldistribution of physicians, and yet a study by the Presidential Advisory Commission of Health Manpower found that 98 percent of the people in this country live within minutes of a major health care facility, and an independent university study revealed that most of the counties without private doctors either have very sparse populations—one, for example, has fewer people than my high school graduating class—or they are located adjacent to, and minutes away from, adjoining counties with large numbers of physicians and health care facilities.

We are told there is a serious shortage of physicians—yet the United States is increasing its production of physicians three times as fast as the increase in the population, and the doctor-patient ratio in this country is better than in any Common Market country.

And we are told there is a crisis in health care costs.

There is certainly no question that health care does cost a lot. Thanks to Congress and its inability or unwillingness to restrain its public spending, everything costs a lot—our health care, our food, our housing, our clothing. Until the Congress does exhibit restraint and stops feeding inflation with 50 and 60 and 70 billion dollar deficits, health care and everything else needed in our daily lives is going to continue to cost a lot.

The question is whether health care costs are out of line with other cost increases and whether more federal involvement will help the situation or make it worse.

During the late 1960s and early 1970s health care costs increased by 12.9 percent, and members of Congress said the increase was outrageous and demanded that something be done about it. But during the same period of time, the cost of owning a home went up 18 percent and the cost of buying meat in the grocery store went up nearly 14 percent. The increase in medical costs was about the same as the percentage of increase in the cost of clothing, shoes and many other items in the economy. That would suggest to me that perhaps the problem is not with the health care system but with the larger economic atmosphere it is a part of and in which it must operate.

Today the average American still spends less than seven percent of his spendable income for health care, and works only 30 minutes to pay for that health care, compared to two and one-half hours a day just to pay his taxes.

And national health insurance, gentlemen, will make health care cost more, not less.

Every major national health insurance proposal would cost billions of dollars at a time when the American people are already overtaxed by federal spending.

And the figures you have are the estimates by the sponsors of those bills. As you may recall, Medicare exceeded cost estimates by 41.1 percent in the first five years—and during those first five years the administrative cost of Medicare—the cost for the form-filling and paper-shuffling and filling countless buildings and offices with countless bureaucrats—was more than $485 million.

A study by the Social Security Administration a couple of years ago indicated that the average American family of four was spending nearly $550 a year for health care—but would spend more than $1200 a year in taxes to support the Health Security Act introduced by Senator Kennedy. Quite obviously free medicine is not so free as we are led to believe.

And we have other evidence available. A study of all short-term general hospitals in Detroit revealed that in closed staff hospitals the hospitals employed more people, kept patients in the hospital longer, and cost twice as much per illness—$1197 on the average, compared to $549 in private open staff hospitals.

Well, if I'm not a physician, why am I so concerned about what you do? Because Congress threatens to build on this mountain of false premises a national health insurance system that seriously threatens the quality of the health care my wife and children will receive. No national health system in the world has provided medical care equal to the quality of care Americans now receive through private medical practice.

For example, one West German newspaper recently reported that in that country "Patients needing complex surgery are often forced to wait a matter of months or years . . . Waiting lists of up to 6 months are looked upon as 'almost normal.'"

In England, hospitals are so overcrowded that patients are left lying in hallways and at the end of 1971 there were more than half a million British patients on official government waiting lists to get into hospitals. Is that the kind of system we want in this country?

Between 1948, the year the National Health Service was established, and 1962, 14 years later, not one new hospital was built in England. In that same period, 515 hospitals were built in the southeastern United States.

And in Britain, Sweden, Germany, all throughout Europe, citizens are forced to labor under heavy tax burdens—heavier than our own, which are already too high—to pay for systems that provide impersonal and inferior assembly-line medical care.

Let us not add that burden to our own taxpayers, who are already paying $60,000 a minute just on the interest on the natonal debt. Let us not add that burden to our own American taxpayers, who already spend more out of each day's paycheck for their taxes than for their food, clothing, housing and medical care combined.

Let me close with this comment. I have debated this issue across the country with advocates of national health insurance, and even with some of its Congressional sponsors. They have eventually conceded each and every point I have made today. They have even admitted publicly that much to their regret there just is no public demand for national health insurance: a continued and loud demand by a few self-appointed spokesmen for the people, but as both national and local polls have shown, no demand by the people themselves.

But what point, finally, do these advocates of national health insurance come to? Just this: that when all is said and done, we need to enact a program of national health insurance because health care in this country is inequitably rendered; that the poor and the aged are not getting as good a quality of health care as the rest of us.

Gentlemen, if the poor and the aged are receiving inferior care, I would remind you that it is the poor and the aged—and the people in the Veterans hospitals we have been reading so much about—who already have national health insurance.

The poor and the aged have had national health insurance—Medicare and Medicaid—for 10 years. And if the quality of care they receive is inferior, then please, gentlemen, don't give it to the rest of us.

QUESTIONS AND ANSWERS ON HANDGUN CONTROL

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, December 10, 1975

Mr. FAUNTROY. Mr. Speaker, as we consider the issues of gun control in this Congress, I would like to share with my colleagues some facts on handguns, which have been gathered by the National Coalition To Ban Handguns.

Anyone who will take the time to read and comprehend the implication for an open society of the ready accessibility of handguns will fully understand the need to regulate these weapons. Handguns do not contribute to the national defense; they are not used in a "well-regulated militia"; they do not protect one's life or property; and they do not have any sporting purpose that cannot be better performed by other kinds of firearms.

While some handguns are certainly valuable for their intrinsic design or age, few of them have any purpose except that of death and destruction. Since there are legitimate collectors of handguns, however, all of the serious handgun control proposals have provided for pistol clubs, and other kinds of programs which will allow one to retain the ownership of any valuable or unique weapons under supervision. There remains, therefore, no reason that handgun controls should not be implemented in this Congress.

With the facts that one can glean from my insertion, I hope that more Members will join with me and the many others who have introduced handgun measures.

TWENTY QUESTIONS ON HANDGUNS PROVIDED BY THE NATIONAL COALITION TO BAN HANDGUNS

1.

Q. How many firearms deaths were there in the United States in 1973? (the last year complete figures are available?

A. Approximately 29,000 such deaths: 13,072 murders,[1] 13,317 suicides,[2] and 2,618 accidents,[3] including deaths by explosives, which are very few.

Footnotes at end of article.

2.

Q. How many persons were murdered by handguns in 1973?

A. 10,340 persons. This amounted to 53 percent of all murders.[4]

3.

Q. How does the number of Americans killed by guns in the U.S.A. from 1963–1973 compare with the number of Americans killed in Vietnam during that period?

A. From 1963 to 1973 there were 46,121 Americans killed in the Vietnam War.[5] Over the same period 84,644 Americans were murdered by firearms within the United States.[6] About 70 percent of these were killed with handguns. Thus, more Americans were killed by handguns in the U.S. than were killed in the Vietnam War over the same period.

4.

Q. What percentage of murders are "crimes of passion"—that is where the victims is a family member, friend, or neighbor?

A. According to the FBI Uniform Crime Report[7] of 1973, some 71 percent of murders are in this category. It can be safely assumed that most handgun murders are "crimes of passion."

5.

Q. Would not the licensing of handgun-owners help to eliminate "crimes of passion?"

A. Probably not. Licensing would attempt to screen out those who have committed a felony offense. Since most persons committing crimes of passion have never before been convicted of any crime,[8] under licensing they would not be kept from owning guns.

6.

Q. How many persons are assaulted by guns each year?

A. Over 100,000.[9] The largest percentage of these are by handgun. Many such people are blinded, deafened, paralyzed, dismembered and otherwise disabled.

7.

Q. Does a handgun provide protection for a householder?

A. Not really. A study in the Cleveland area between 1958 and 1972 showed that householders who armed themselves to protect their homes shot and killed 17 robbers and intruders. However, during the same period *six times* as many firearms fatalities occurred in the homes of the area, among family, friends and neighbors.[10]

8.

Q. Does the United States have a higher gun murder rate than other countries with strict firearm control policies?

A. Yes, much higher. The U.S. gun murder rate per 100,000 population is 100 times greater than in England and Wales.[11] It is more than 200 times greater than in Japan where it is almost impossible for a private citizen to secure a handgun.[12]

9.

Q. Doesn't the U.S. Constitution provide for the "right to bear arms?"

A. The Second Amendment states: "A well-regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed." The "right" in the Amendment is limited specifically to the arming of a "well-regulated militia" that could be compared today to the National Guard. The U.S. Supreme Court has ruled on the meaning of this Amendment several times and has never upheld the National Rifle Association contention that a personal right is involved. Indeed, the *NRA Fact Book* states that court decisions tend to support the position of gun control advocates. It concludes that the constitutional argument is of "limited practical utility."[13]

10.

Q. Is it true that "when guns are outlawed, only outlaws will have guns"?

A. No. If handguns are outlawed, the public will still be permitted to use "sporting weapons." But when handguns are outlawed, the source of supply for criminals—legal sales and stolen weapons—will dry up. Although most criminals purchase their guns over the counter, about one-half million guns are stolen each year,[14] largely from households during the routine commission of a burglary. These ordinarily fall into criminal hands. If such guns were not possessed by householders, "outlaws" could not obtain them. If handguns were banned from sale and possession, it would become much more difficult for criminals to secure them.

11.

Q. Wouldn't a national law to make handguns illegal be politically infeasible for Congress?

A. No. A Gallup poll, released in June of 1975, revealed that 66 percent of the American people living in cities of one million and over favor banning handguns.[15] Since most U.S. citizens live in large metropolitan areas, Congress ought to reflect this opinion. Despite Congressional fear of defeat at the polls on this issue, the NRA's *American Rifleman* of January, 1975 itself acknowledged:

"Twenty-seven Congressmen who either introduced or supported measure favorable to firearms owners went down in defeat last fall.

Not a single Congressman who sponsored restrictive firearms legislation, on the other hand, lost his seat in November."[16]

12.

Q. Why should rural people give up their handguns when the problem of gun-connected crime is largely in the cities?

A. Rural people will be able to retain sporting weapon's (rifles and shotguns), but will need to give up handguns unless kept for the common good of the country they will need to give up handguns unless kept at pistol clubs. If handguns are permitted in the countryside, there will be no way to prevent their illegal transfer to cities, which now suffer an unbearable crime problem. It may come down to balancing the right of persons in the countryside to be able to shoot rabbits with a pistol against the right of people in the city to be safe from murder, assaults and robberies.

13.

Q. Does the banning of handguns discriminate against minority members of our society?

A. No. Handguns would be illegal in the hands of the total populace, including all racial and religious groups, the rich and the poor alike. By banning handguns, and not just those which could be purchased cheaply, all members of our society are protected on an equal basis.

"Murder statistics vary according to the color of your skin. If you're black, you're a more likely target. Black men are ten times more vulnerable than white males, and black females five times more in danger than white women. And the races keep murder mostly segregated. In more than nine out of 10 homicides, killer and victim are of the same race. . . .[17]

14.

Q. Isn't banning handguns simply a "foot-in-the-door" mechanism for making all guns ultimately illegal?

A. No. Most groups supporting banning of the handgun recognize its special characteristics of "the most deadly and the least utilitarian" firearms in America. Rifles and shotguns are recognized for serving a sporting purpose. They are responsible for only 14 percent of the murders in the United States annually.[18] It is the handgun that is the weapon of crime, not the rifle.

15.

Q. Isn't registration of handguns the answer?

A. It is doubtful that registration would act as a sufficient deterrent because criminals do not leave their guns behind to be traced, nor would they register them in the first place.[18] Furthermore, the ability to trace a gun after a murder has been committed is of little consolation to the victim's family. Thus, by itself, registration seems to be an insufficient response.

16.

Q. Wouldn't outlawing the sale of "Saturday Night Specials" help solve the problem?

A. The 414,002 new Saturday Night Specials (cheap, unsafe, inaccurate weapons) sold last year[19] represent only one percent of the 40 million now in private hands and only about 22 percent of the handguns sold.[20] Besides, the definition of such weapons is practically impossible. If they are defined as guns with barrels of 6 inches or less, then manufacturers could easily produce gun barrels of 6½ inches. A Saturday Night Special ban would probably be circumventable.

17.

Q. If mandatory minimum prison sentences were given to those committing gun-connected crimes, wouldn't that serve as an effective deterrent?

A. Probably not. Most criminals don't expect to get caught. Most are not caught. The FBI *Uniform Crime Report* (1973) reflects that out of 204,654 violent crimes reported,[21] persons were convicted in only about 10 percent of the cases. Since a Law Enforcement Administration study shows that only half of the violent crimes are reported, then mandatory minimums could be applied to only five percent of the violent crimes that occur. How can that effectively deter a risk-taking criminal?

18.

Q. Why haven't gun control laws now on the books worked?

A. To a certain extent they *have* worked. That is, generally speaking, states with strict gun control laws have had a lower gun murder rate than those with lenient laws.[22] But the problem is that guns can be brought in from the outside to circumvent a state's strict laws. In a recent study made by the Alcohol, Tobacco and Firearms Bureau, it was found that, in 77 percent of the cases where guns were used in crimes in New York City, these firearms were purchased from out-of-state dealers rather than in New York, which has a strict gun control law.[23]

19.

Q. Would banning handgus mean "confiscation"?

A. Confiscation means "seize by authority." It tends to conjure up nightmares of the police making systematic house-to-house searches of homes. That would be strictly unconstitutional; so would dragnet procedures in the streets and mass nonselective roadblocks along state highways. Under due process a specific warrant, obtained as a result of corroborating evidence, would be required to search a home.

Most Americans are law-abiding citizens and would turn in their guns if the law so required. Most legislative proposals provide compensation or a tax credit to those who turn in their guns. In other words, the law would tend to be "self-enforcing."

Footnotes at end of article.

20.

Q. What is the special advantage of banning handguns nationally?

A. Society would be dealing with the major murder weapon. Because the handgun is *concealable*, it is the weapon of crime. Because it is *available*, it is the instrument used in suicides and crimes of passion. Banning handguns would greatly reduce the number of gun killings in the United States. Banning handguns could be evenly and simply administered. Unlike many other gun control laws, it would be very difficult to circumvent. At the same time, most measures proposed for eliminating handguns from the general U.S. public would make reasonable exceptions. These would include the police, the military, security officers, antique dealers, and pistol clubs where guns would be kept on the premises under secure conditions.

FOOTNOTES

[1] *Crime in the United States*, 1973. Issued by Clarence M. Kelley, Director, F.B.I. Sept 6, 1974, p. 6.

[2] Yet to be published figures from the National Center for Health Statistics, Division of Vital Statistics.

[3] *Ibid.*

[4] *Crime in the United States*, 1973, p. 9.

[5] Department of Defense, Statistics Office.

[6] Figures obtained from Uniform Crime Reporting Section, Computer Systems Division, F.B.I.

[7] *Crime in the United States*, 1973, p. 10.

[8] Lindsay: "The Case for Federal Firearms Control" by the Criminal Justice Coordinating Council of New York City, November, 1973.

[9] *Crime in the United States*, 1973, p. 11.

[10] "Fact Sheet on Handguns," published by People vs. Handguns, Boston, Massachusetts.

[11] *Congressional Record*. From debates of the 93rd Congress. February 22, 1973.

[12] *Ibid.*

[13] *The NRA Fact Book*, National Rifle Association, Washington, D.C. 1975, p. 4.

[14] Lindsay: "The Case for Federal Firearms Control" by the Criminal Justice Coordinating Council of New York City. November, 1973.

[15] The Gallup Poll, Field Newspaper Syndicate, Chicago, Illinois. June 5, 1975.

[16] "New Congress Poses Risk of Anti-Gun Laws," *The American Rifleman*, January, 1975, p. 56.

[17] Donald T. Lunde, "Our Murder Boom," *Psychology Today*. July, 1975—an article based on forthcoming book, *Murder and Madness* to be published by Charles Scribner's and Sons and W. H. Freedman and Company.

[18] *Crime in the United States*, 1973, p. 9.

[19] House Subcommittee on Crime figures as reported in *The New York Times*. June 20, 1975.

[20] *Ibid.*

[21] *Crime in the United States*, 1973, p. 118.

[22] *A Shooting Gallery Called America*, pamphlet published by the Massachusetts Council on Crime and Correction, Inc., Boston, Massachusetts, pp. 9 and 10.

[23] David R. MacDonald, Assistant Secretary of Treasury for Enforcement, in Testimony before the House Subcommittee on Crime. July 24, 1975.

BILL TO AMEND SECTION 592, TARIFF ACT OF 1930

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. ROYBAL. Mr. Speaker, I am introducing today a bill to amend section 592 of the Tariff Act of 1930, title 19, United States Code, section 1592. It is similar to other bills which I have previously introduced, beginning with H.R. 20502 introduced in the 90th Congress, H.R. 7347 and H.R. 13502 introduced in the 91st Congress, and H.R. 1411 introduced in the 93d Congress. My esteemed colleague from southern California, Congressman JAMES C. CORMAN, joins with me in sponsoring this bill in the 94th Congress.

The introduction of this bill by Congressman CORMAN and myself stems from our concern and the concern of many of our constituents regarding the inflexibility of section 592 of the Tariff Act of 1930.

This archaic provision of the customs laws permits the Customs Service to seize merchandise and to impose forfeiture value penalties for any and all violations of the customs laws, even when the claim is for relatively nominal alleged underpayments of duty or minor infractions of the customs laws. Penalties are imposed not only when it is alleged that there is a willful act or omission resulting in loss of revenue, but also whenever it is alleged that any false documentation was submitted or false statement made in an entry declaration without reasonable cause to believe the truth thereof, whether or not there is a loss of revenue, and even when the noncompliance of the importer with the intricacies of the customs laws and regulations was voluntarily disclosed by the importer.

This statute, as presently administered, places a heavy burden on the Customs Service in handling an increasing volume of penalties, and threatens the continued normal flow of international commerce into our country. We in the Los Angeles area, the second largest port in the United States in collection of customs duties, are particularly aware of this problem.

The bill is patterned after comparable provisions of the Internal Revenue Code. I see no reason why importers alleged to have underpaid their customs duties and taxpayers alleged to have underpaid their taxes should be subjected to different standards. I am of the opinion that the same standards which deter IRS violations are an adequate deterrent in the case of the customs laws, especially in view of the companion provisions of the Criminal Code, title 18, United States Code, section 542 in identical language, which permit the imposition of fines up to $5,000 and up to 2 years in prison for each offense, whether willful, or without reasonable cause to believe the truth of the alleged false documentation or false statements made to the Customs Service. In addition, there are adequate safeguards under other provisions of the customs laws, making available to domestic industries claiming injury as a result of imports, other remedies, such as import quotas prohibiting or limiting imports, and increased duties on imported merchandise through administrative and judicial proceedings.

I have added to the provisions heretofore proposed in my bill to amend section 592, a proposed amendment to section 621 of the Tariff Act of 1930, 19 United States Code 1621, which permits claims under section 592 to be initiated within 5 years from the date of discovery of an alleged violation of the customs laws. This in effect constitutes no statute of limitations whatsoever, and may tend to permit and encourage undue delay on the part of some field officers of the administrative agency investigations of possible violations of the customs laws.

It seems to me that no Government agency should have an unlimited time to initiate forfeiture value proceedings, and that there must be some limitation imposed by law to encourage the Customs Service to timely proceed in matters believed to involve violations of the customs laws.

In adding this provision to the bill, I am mindful of the fact that in section 321 of the Trade Act of 1974, Public Law 93-618, 19 United States Code 2101, we have imposed time limitations on the Customs Service to make prompt determinations under the Antidumping Act. With the technology now available to the Customs Service, which permits collection of data by modern methods and equipment not in existence when the penalty provisions were last reenacted in 1930, I believe the Customs Service should be required to finalize its determinations within a reasonable time. I have accordingly added to a provision amending section 621 of the Tariff Act of 1930, 19 United States Code 1621, to establish a statutory limitation of 5 years from the occurrence of an alleged violation, as in the case of comparable provisions of title 18.

During the past year or two, the Customs Service, has attempted to provide administratively, without amendment of the statute, for more reasonable procedures for dealing with penalties under section 592. These efforts include the following:

First. Establishment of the prepenalty notice procedure, and publication of customs policy regarding voluntary tenders (40 Fed. Reg. 2797, Jan. 16, 1975; T.D. 75-21).

Second. Publication of Guidelines for remission or mitigation of penalty cases (39 Fed. Reg. 39061, Nov. 5, 1974).

Third. Instructions to Field officers directing that adequate information be supplied to importers and their counsel regarding the factual basis for a penalty, together with information regarding the alleged loss of revenue (ORR ruling 74 0203 circulated Sept. 16, 1974).

Fourth. Revision of procedures governing referral to U.S. attorneys of criminal cases involving violations of 18 United States Code to require review by the appropriate regional counsel of customs (circular ENF-3-CC of June 10, 1975).

The Treasury Department and the Customs Service are to be commended on the substantial improvements effected, and on the efforts made to process in a reasonable manner petitions filed under section 618 of the Tariff Act of 1930, 19 United States Code 1618, for mitigation or remission of penalties.

There remain, however, certain aspects of section 592 which warrant and require legislative change. These are the following:

Customs penalties should not be stated in terms of forfeiture value. Over the years since 1930, when section 592 was last reenacted, forfeiture value has grown increasingly disproportionate to the claimed loss of revenue, because of the enormity of inflation in the value of goods and the substantial reductions made in duty rates. While the 1930 tariff rates were the highest in our tariff history—90 percent, 75 percent, 65 percent, et cetera—present duties for many commodities. As a consequence of the tremendous disparity between forfeiture value and revenue loss, settlements of penalty cases proposed by Customs, even when based on high multiples of the claimed loss of revenue, are usually accepted. The importer's option to reject settlement on the mitigated basis proposed by Customs, and to elect to seek judicial review, is rarely exercised. The risk of forfeiture value thus effectively precludes judicial review.

It has long been the policy of this country, regardless of the political party in power, to encourage international trade, both import and export. Congressman Corman joins with me in the view that the time has come for Congress to update the antiquated provisions of the Customs laws which require the Customs Service to state penalties in terms of forfeiture value of imported goods, and which preclude meaningful judicial review.

The need for amendment of section 592 is widely recognized. This is apparent from resolutions and communications of numerous groups, including the American Importers Association, the Association of the Customs Bar, the Customs Committees of the International Law and Administrative Law Sections of the American Bar Association, the Western Electronics Manufacturers Association, the Foreign Trade Association of Southern California, the Los Angeles Area Chamber of Commerce, and others. The proposals made by some of these groups differ in concept and in their approach, from the provisions of my bill. However, I remain of the opinion that the proposals set forth in H.R. 19114 and H.R. 20502, 90th Congress, H.R. 7347 and H.R. 13502, 91st Congress, H.R. 1411, 93d Congress, and the bill introduced today, represent a sound approach to consideration of the problem, from which an amendment acceptable to the Customs Service and to the importing public can be formulated.

Following is a section-by-section analysis of my bill:

Analysis of the Amendments Proposed by Mr. Roybal to Section 592 of the Tariff Act of 1930

Section 592(a). The language providing for imposition of penalties equal to the forfeiture value of the merchandise has been eliminated, with language substituted to provide for assessment of penalties as further described in subsections (b) and (c).

Section 592(b) provides for assessment of a penalty equal to 5% of the underpayment of lawful duties where such underpayment is due to negligence or unintentional disregard of the Customs laws and regulations without intent to defraud, or, if there is no loss of revenue but the enforcement of a law or regulation relating to the entry of merchandise is or may be significantly impaired, due to negligence or unintentional disregard of the Customs laws and regulations without intent to defraud, a penalty in the amount of an additional assessment of 5% ad valorem on the dutiable value of the merchandise, in addition to all other duties payable thereon.

This provision is not intended to require or permit the assessment of the additional duties provided for in Sec. 592(b) as amended, in each and every instance in which increased duties become due on liquidation of an entry, due to a change in rate of duty or dutiable value or weight or otherwise, but only in instances regarded as warranting proceedings under Sec. 592, where there was negligence or an unintentional disregard of the laws and regulations, without a willful intent to defraud.

Section 592(c) provides for an additional assessment of 50% of the underpayment of lawful duties where such underpayment is due to fraud, or if there is no loss of revenue but the enforcement of a law or regulation relating to the entry of merchandise is or may be significantly impaired, due to fraud, a penalty in the amount of an additional assessment of 10% ad valorem on the dutiable value of the merchandise, in addition to all other duties payable thereon.

Section 592(d) provides, in addition to the penalties provided for under subsection (b) or (c), for the collection of the underpayment of lawful customs duties where the customs transactions have been finalized without such collection; but this provision would not be invoked where the customs transactions have not been finalized, and where full collection of the lawful duties payable will be made in the normal processing of the customs entries.

Section 592(e) provides for remission or mitigation of any assessment or penalty imposed, upon review by the Secretary of the Treasury pursuant to a petition filed under Sec. 618 of the Tariff Act (19 U.S.C. 1618). This provision spells out in Sec. 592 as amended the procedure now followed administratively in the processing of penalties under Sec. 592, without procedural change.

Section 592(f) provides for judicial review by bringing a civil action in the United States Customs Court (the tribunal which has exclusive nation-wide jurisdiction over civil controversies involving the assessments of customs duties) as provided in Sec. 2632 of title 28, United States Code, leaving the implementation of the Court procedures before the United States Customs Court to be fixed by Court Rule.

Similar jurisdiction was formerly lodged in the United States Customs Court to hear and determine petitions for remission of additional duties imposed under Sec. 489 of the Tariff Act of 1930, 19 USCA 1489 (repealed by the Customs Simplification Act of 1953, Public Law 243–83rd Con., Sec. 18(b), U.S. Code, Congressional & Administrative News, 1953, Vol. 1, p. 563 at p. 576).

While petitions for remission under former Sec. 489 involved only a determination of intent, i.e., the importer's good faith in his declaration of entered value, in entering merchandise at a value lower than the value at which the merchandise was officially appraised by Customs, the proposed amendment to Sec. 592 necessarily involves judicial review on a broader plane, of the correctness of determinations of the amount of the underpayment, if, any, and any and all other determinations contested. Broader review was unnecessary under former Sec. 489, because judicial review of other determination by the Customs officials relating to the duitable value of the merchandise under Sec. 402 of the Tariff Act of 1930 was then separately provided through reappraisement proceedings initiated under Sec. 501 of the Tariff Act of 1930.

Sec. 2 of the proposed law amends Section 2632(a) of title 28, United States Code, by adding a specific reference to Sec. 618 of the Tariff Act of 1930, as amended (19 U.S.C. 1618) for the purpose of making clear that the United States Customs Court shall have jurisdiction to review the decision of the Secretary of the Treasury to remit or mitigate any assessment or penalty made pursuant to the authority granted in Sec. 1618 of the Tariff Act of 1930, as amended.

Sec. 3 of the proposed law amends Section 621 of the Tariff Act of 1930, as amended, by limiting the time within which the government can collect Customs penalties or enforce forfeitures of property to five years from the date of commission of the alleged offense. The present Section 621, in effect, provides no statute of limitations, since the five years does not begin to run until such time as the alleged offense has been discovered by the Customs officials. The proposed amendment would bring the statute of limitations governing the commencement of civil actions for alleged violations of the Customs laws in line with the statute of limitations governing the commencement of criminal actions under the Customs laws, as currently provided for in Section 3283 of title 18, United States Code.

Sec. 4 of the proposed law establishes the effective date of the proposed amendments, making the revised law applicable prospectively to all notices of penalty or additional assessment issued on and after the day following the date of enactment.

In addition, it provides for application thereafter of the administrative guidelines for administering the statute set out in subsections (b), (c) and (d).

This would avoid the administrative burden of carrying out two sets of procedures in dealing with matters theretofore initiated and not determined administratively as of the date of passage of this Act.

Sec. 4 of the bill also makes available the procedures provided for judicial review with respect to all administrative decisions in which notification to the party charged is issued on or after the date of enactment of this Act.

THE BOYCOTT REPORTS

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. O'NEILL. Mr. Speaker, it is gratifying to the institution in which we serve when a Member successfully defends the House's prerogatives, and the press demonstrates its appreciation of that Member's contribution. The distinguished gentleman from California (Mr. Moss) has reached a reasonable settlement of his subcommittee's dispute with the Secretary of Commerce. The compromise protects and advances congressional authority to review information collected and held by executive departments. The House and all its Members owe their gratitude to John Moss.

I am especially happy to see that the lead editorial in today's Washington Post recognizes the significance of what John has accomplished. The full text follows:

The Boycott Reports

Commerce Secretary Rogers C. B. Morton, under threat of a contempt citation, has wisely agreed to comply with a House investigations subcommittee's subpoena for reports from American companies that came under pressure to support the Arab boycott of Israel. Mr. Morton had no good grounds for refusing to furnish the information when Rep. John Moss' panel first requested it last July. By pushing the Commerce Committee to the brink of a contempt vote, the Secretary managed only to stir up unnecessary controversy and delay a potentially important congressional inquiry into the government's implementation of its stated anti-boycott policy.

Mr. Morton's reasons for withholding the subpoenaed reports were much flimsier than the case advanced by Secretary of State Henry Kissinger in his dispute with the Pike committee. The Morton-Moss conflict did not involve executive privilege, the secrecy of decision-making processes, or the confidentiality of advice to the President. Mr. Morton had relied only on a self-serving reading of section 7(c) of the Export Administration Act, which holds that the companies' reports may be deemed confidential unless the Secretary "determines that the withholding thereof is contrary to the national interest." In Mr. Morton's view, that gave him the latitude to resist the congressional subpoena. Yet the statute gives no indication that Congress intended to foreclose its own access to the facts needed to oversee the administration of national policy. Indeed, as a number of legal scholars emphasized, Congress' power to obtain information is so fundamental that it need not be reasserted in every law.

Mr. Morton also argued against release of the reports on the Catch-22 ground that disclosure of various companies' responses to secret Arab pressures might generate new pressures on the firms involved. That concern may not be entirely baseless, but the Moss panel is entitled to the presumption that it is capable of handling the material responsibly. Under the agreement reached Monday between Mr. Morton and Mr. Moss, the reports will be turned over in executive session and released publicly only by subcommittee vote. That is a sensible arrangement which recognizes Congress' prerogatives and enables the subcommittee to find out what has really been going on, and how the anti-boycott laws need to be bolstered. Now that Mr. Morton has finally ended his stubborn resistance, perhaps the administration will cooperate with Congress in pursuing this important inquiry.

SAN JOSE ESTABLISHES NEW FOREIGN TRADE ZONE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. EDWARDS of California. Mr. Speaker, I want to take this occasion to call to your attention the opening of a new economic project in my district that San Jose Chamber of Commerce President Ronald R. James has called "the most significant addition to San Jose's economy since the inception of the electronics industry in the 1960's."

This is the Foreign Trade Zone No. 18, located in San Jose's newest industrial complex—a 375 acre, $100 million International Business Park.

A foreign-trade zone is a unique facility designated by the Federal Government near U.S. ports of entry. It is geographically and legally within the country, but for customs purposes outside of it.

The main advantage a foreign-trade zone provides is that foreign and domestic merchandise may be brought into it for storage, exhibition, assembly, processing and manufacturing operations without paying duty or certain other taxes.

This is one of the most exciting economic adventures to happen in the areas of world industrial high technology, food processing, research and development, and trade.

The International Business Park itself should serve as an outstanding location for the new foreign-trade zone.

Numerous business and industrial concerns, foreign and domestic, have already shown interest in the park because of its attractive design, overall master plan, and its prime location as a major distribution center for the western United States and the Pacific Basin.

Projections show that the park and the zone could provide up to 25,000 jobs for both skilled and semiskilled workers over the next 10 years. San Jose Mayor Janet Gray Hayes recently remarked,

> The city feels that the zone, its location and operation within the International Business Park will be a tremendous asset to the city's economic development program.

San Jose business leaders involved in the development of this important project include Paul A. Mariani, Jr., William T. McKay, Peter Pavline, L. Victor Riches, Craig J. Rovzar, John Mariani, Stanley Twardus, and Alexander S. Bozinovich. These men deserve recognition for their continuing contributions to this project and much of the economic growth of my home district.

LEGISLATION TO PREVENT SELF-VOTED CONGRESSIONAL PAY RAISES

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. BELL. Mr. Speaker, this summer the Congress ignored public opinion and voted itself a hefty pay raise.

I tried simply to refuse to accept this increase, which I did not vote for. But after much bureaucratic haggling, I found that my only recourse was to send back a personal check each month to the Treasury for the extra salary, which I have been doing.

But today I am also introducing legislation, H.R. 11079, which will take away from any particular Congress the right for it to increase its own salaries.

Under my bill, any pay adjustments for Members of Congress could take effect no earlier than the beginning of the Congress following the Congress in which they are approved.

This would apply both to any adjustments or increases, and to any cost-of-living increase.

The complete text of H.R. 11079 follows:

H.R.—

A bill to provide that pay adjustments for Members of Congress may take effect no earlier than the beginning of the Congress next following the Congress in which they are approved

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 601(a)(1) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) is amended by adding at the end thereof the following new sentence: "Notwithstanding paragraph (2) of subsection (1) of such section 225, any change in such a rate under such section may not take effect earlier than the third day of January of the first odd-numbered year beginning after the date of the transmittal of the recommendations of the President under subsection (h) of such section.".

(b) Section 601(a)(2) of such Act is amended by striking out "Effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5305 of title 5" and inserting in lieu thereof "Effective at the beginning of the first applicable pay period commencing on or after the third day of January of the first odd-numbered year beginning after the month in which an adjustment takes effect under section 5305 of title 5."

Sec. 2. Section 206(b) of the Executive Salary Cost-of-Living Adjustment Act (89 Stat. 419; Public Law 94–82) is amended by striking out "as adjusted under sections 203 and 204 of this title" and inserting in lieu thereof "as adjusted under section 104 of title 3, United States Code, and section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31), as amended."

Sec. 3. The amendments made by this Act shall take effect with respect to changes in rates of pay occurring on or after the date of the enactment of this Act.

A POSITIVE ANSWER ON SCHOOL BUSING

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. UDALL. Mr. Speaker, many of us who are sincerely committed to a free and integrated society, and to equal educational opportunities for all our children, have equally sincere doubts regarding the usefulness of court-ordered pupil assignment as a remedy for our past denials.

Recently the Tucson Daily Citizen commented on this dilemma, and endorsed the one positive answer that has been offered in the Congress: The National Educational Opportunities Act, sponsored by Representative Preyer, myself, and 14 of our colleagues.

In coming days, hearings will begin on this bill before the Education and Labor Subcommittee on Elementary, Secondary, and Vocational Education. I urge my colleagues to read this editorial and to read the bill. If they agree, I hope they will join us in pressing for its passage; equally important, I hope that those who disagree will offer their own constructive ideas for better ways to carry out our constitutional commitment to equal protection and equal educational opportunities.

The editorial follows:

A POSITIVE ANSWER TO SCHOOL BUSING

Amid the frenzy over school "busing," there is one reasonable congressional voice offering the glimmerings of an answer.

The offer has been made before—back in 1973—but perhaps now the time is ripe to take it seriously, as yet another stormy busing season feeds public rebellion.

On the adjoining Perspective page, black national columnist William Raspberry—who has agonized often over the busing problem in writing—calls attention to a bill labeled the National Educational Opportunities Act, sponsored by North Carolina Rep. Richardson Preyer, a Southern moderate Democrat.

The bill especially merits the attention of Tucsonians, as Tucson School District 1 heads for a 1976 federal court trial that could result in court-ordered busing of District 1 students. Two minority groups have sued the district, charging racial imbalance and discrimination in the schools.

As Mr. Raspberry points out, the National Educational Opportunities Act is significantly different from most of the anti-busing antics now going on in the U.S. Congress, which is kicking around various legislative and constitutional amendments aimed at putting a stop to the whole troublesome business.

The sad fact is that most of the senators and congressmen on this steaming bandwagon seem content to drop the ball right there: Stop the buses, get re-elected and forget it.

Forget the Supreme Court rulings, the 1964 Civil Rights Act, the 14th amendment, which collectively demand equal educational opportunity for all children in U.S. public schools.

The Preyer bill does not forget the heart of the matter, and that is what makes this effort on the issue so outstanding—"a welcome change," columnist Raspberry calls it.

The National Educational Opportunities Act may ring a bell with Tucsonians: It is essentially the same bill introduced two years ago jointly by Tucson's Rep. Morris K. Udall and Rep. Preyer—then, as now, in response to strong anti-busing politics that offered only negative solutions.

This act offers more. As Mr. Raspberry explains, it calls for alternatives to busing which gradually will result in integrated education. The key is time—the Preyer bill in its present form would allow *a full five years* for local and state school officials to develop and implement plans for ending racial imbalance in their schools.

Those alternatives are specified in the bill: Specialized magnet schools, educational parks, remedial and bilingual programs, pairing of schools, relocation of schools and vigorous promotion of a student's right to transfer, to name a few.

The real strength of the bill—and ironically the reason it originally failed—lies in its compromise: Sacrifice immediate integration via busing, but replace it with federally monitored, locally developed plans which will bring less disruptive integration to all U.S. public schools in five years.

Its strength too, lies in eliminating the court-dictated remedies that have triggered the mobs, the rocks, the boycotts, the white flight that have, at least in the explosive big cities, caused busing to backfire.

The 1973 version of this bill died precisely because it was a compromise; and organizations like the NAACP saw no need to compromise. They were winning busing decisions in virtually every court fight they entered. And still are.

But there has been a high price to pay in the backlash, with youngsters going to school under armed guard, dodging stones, surrounded by hate.

The National Educational Opportunities Act seeks to end that, without sacrificing equal educational opportunity. It merits deep consideration.

THE CONCORDE IS "UNDESIRABLE" AT BEST

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. SCHEUER. Mr. Speaker, for several years many Members of Congress as well as scientists and environmentalists have been vocally opposed to the operation of any commercial supersonic air transportation in the United States. It is a depressing comment on our system of Federal policymaking to note that commercial interests, both domestic and European, have successfully brought this flying "Edsel" known as the Concorde as perilously close to our shores as it is today. Secretary of Transportation William T. Coleman, Jr. now tells us that his final and long-postponed decision on the Concorde is only 8 weeks away.

Fortunately for all of us, Secretary Coleman will be receiving the considered assessment of the Federal Environmental Protection Agency before he makes his decision. It is fortunate because the environmental impact statement prepared this year by the Federal Aviation Administration—while acknowledging the incredible disruption of American lives which the Concorde would cause—is nevertheless a gutless wonder of understatement and inconclusion. It cannot be allowed to be the sole assessment of the environmental concerns affecting Secretary Coleman's decision.

When the FAA released its draft environmental impact statement last March, the EPA declared that it had "environmental reservations concerning the impact of the FAA proposal," in the words of EPA Administrator Russell Train. He continued to puncture the FAA draft report by pointing out that it "contained an insufficient data base" and that it did not adequately assess the effects of the Concorde's noise pollution.

The final FAA environmental impact statement is astonishing in that it contains no recommendations whatsoever. It does not astonish me, however, that the FAA statement, pusillanimous and fainthearted as it was, could not avoid confirming the suspicions which many of us have held regarding the Concorde. The FAA statement divulges that outdoor noise levels produced by the Concorde would be at least twice as loud as the noisiest subsonic jets which now afflict us—and four times as loud as the jumbo 747 jet airliners.

The Concorde would generate low frequency noise waves which would not be blocked by the walls of buildings and homes. These low, rumbling noises would shake our homes, our possessions, and our very eye teeth beyond tolerance. These low-frequency vibrations are actually five times as oppressive as the worst offenders in our conventional aircraft fleet.

The FAA report acknowledges that the probable effect of the Concorde's depletion of the earth's ozone layer would be an increase of at least 200 new cases of skin cancer each year, some of which could be fatal. Other estimates predict an even more alarming increase in skin cancer caused by the Concorde.

The sleazy atmosphere of commercial greed that has surrounded the pro-Concorde drive in Washington was further exposed only last Friday when three public relations and marketing firms and a local lobbyist were charged by the Justice Department with illegal lobbying in favor of the Concorde. One of the firms stands to rake in as much as $500,000 in bonuses if the Concorde gains governmental approval.

Mr. Speaker, only yesterday, Russell Train disclosed to a congressional subcommittee his feelings that the arrival of the Concorde at Kennedy Airport in New York City would be "undesirable" and that its operation at Dulles International Airport outside of Washington has become "increasingly questionable." In fulfilling his responsibilities as EPA Administrator, Mr. Train evidently has correctly measured the so-called benefits which the Concorde would bring to America, including the reduced transoceanic travel time for the elite few who could afford it. He has realized that Americans have no responsibility to prop up the substantial investments and prestige of the British and French which have been unwisely plunged into an aircraft which its sponsors knew full well as far back as 1969, could not meet then prevailing FAA aircraft noise limits.

It is inconceivable that Secretary Coleman could balance the flimsy foreign policy considerations raised by the Ford administration with the health and tranquility of millions of American citizens. And when Mr. Train and the EPA deliver the final coup de grace to the Concorde at the Concorde hearings early next month, as he has indicated they will, Secretary Coleman would only lose further credibility with every day he might wait to ban the Concorde from our skies.

Secretary Coleman by now must realize that British and French prestige is not an issue to be weighed with the health of the American people. He has already waited too long to tell our international business executives that they will have to live with their jet-lag—so that Americans can keep their peace of mind.

"NO-FAULT" IN SHIFT IN MASSACHUSETTS

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. HUNGATE. Mr. Speaker, I believe my colleagues will find this article from the New York Times interesting. Massachusetts, the first State to adopt the no-fault insurance plan, seems to be having its share of problems with the program's implementation. The article follows:

"No-Fault" in Shift in Massachusetts

Boston, December 6.—Massachusetts, which in 1970, became the first state to adopt a "no-fault" system of automobile insurance, has made the painful discovery recently that its problems in this area are far from over.

"No-fault," a concept aimed at reducing the number of long and expensive court cases by making a policy holder's company responsible for his losses, was a dramatic success when first applied to bodily injury claims.

Within the first two years of the "no-fault" experience, the industry realized profits of 27 percent and was compelled by the legislature to return $57 million to the state's 2.3 million drivers who had been paying the highest premiums in the nation.

But since then dramatic increases, in the auto theft rate—1,100 thefts per 100,000 cars, according to the Federal Bureau of Investigation compared to a rate of only 607 per 100,000 cars in New York City—and in the rate of property damage claims resulted this fall in requests from the industry for a record $289 million in property damage premiums.

The over-all request would have added in excess of $100 to the average policy—already the most costly in the nation. Industry officials blamed a series of new laws, adopted mainly since the original no-fault statute took effect, for the steep rise in the cost of auto insurance.

CONSUMER ORIENTED

As a result of these laws, described by supporters at the time as "consumer oriented," all insurance companies in Massachusetts must offer a complete line of coverage to all drivers—the accident prone and the accident free—at standardized rates.

"The companies are denied the right to exercise normal underwriting judgment in deciding which motorist it wishes to insure," asserts Lemuel H. Devers, manager of the industry-owned Massachusetts Auto Rating Bureau, which compiles actuarial tables to support rate requests. "Then, once having issued a policy, the company cannot cancel or refuse to renew coverage." As a result, most industry and government officials agree, good drivers are subsidizing careless drivers, while at the same time the entire driving public has learned that it will not be penalized by higher rates for filing petty claims for the so-called "fender-benders."

As the legislature could not agree on a major overhaul of the system, the problem escalated last week. First, the industry, complaining it was losing money in Massachusetts, threatened to stop underwriting auto insurance policies entirely if the system was not changed and if its request for a rate increase was not granted.

Gov. Michael S. Dukakis charged the industry with "blackmail" and asked the Justice Department to investigate for possible antitrust violations but the industry recanted and decided to continue writing insurance in Massachusetts.

SOME CHANGES APPROVED

The legislature, meanwhile, approved modest changes in the law, allowing the industry limited underwriting flexibility and encouraging some rate competition on certain property damage coverages.

It also voted a requirement that all drivers pay the first $200 out of their pockets for all damage to their own cars.

These changes are expected to allow Insurance Commissioner James M. Stone to cut the requested $289 million increase in half.

STATEMENT OF REPRESENTATIVE SALISBURY ADAMS ANNOUNCING HIS LEGISLATIVE RETIREMENT

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. FRENZEL. Mr. Speaker, the Honorable Salisbury Adams, a distinguished member of the Minnesota House of Representatives has just announced that he will not seek reelection in 1976.

Representative Adams and I entered the legislature together in 1963, and served together for 8 years. He was one of the most capable and respected legislators in the Minnesota House. His legislative career was marked by a breadth of achievement in many fields, but he had special successes in education, in taxation, and in reapportionment.

The statement announcing his retirement is unusual both in range and in depth. It is included here because I believe all Members will find it as thought-provoking as did the people of Salisbury Adam's legislative district. Those who do read it will share the regret I felt when I heard that Sals was leaving the Minnesota House.

The statement follows:

Adams to Retire From Minnesota Legislature

"Almost 20 years of legislative and school board service (nine trips to the polls) is a long time to remain in the front line trenches of public service.

"As the personal cost to me has escalated, satisfaction and achievement have declined. Yet my constituents and colleagues in the Legislature have honored me greatly with their respect, trust and friendship. Some have been outstanding in their enthusiasm and support—this, after all, is the meaningful reward.

"Leaving all this is indeed sorrowful. The decompression from the excitement surrounding places of power is painful. Yet an R & R is sorely needed—a return to the real world and its discipline is a necessity for me at the end of 1976.

"But I have a few things on my mind. In a way, this retirement is my best opportunity to comment on what I see happening in government and public matters as well as the disarray of the private sector.

"A full-time professional legislature is a serious mistake. It tends to be expensive, wasteful of time and probably less productive of quality legislation than a part-time citizen legislature.

"A legislature becomes unbalanced without the participation of citizen-legislators (that is, people with wide spectra of non-political, private sector disciplines, experiences, interests and knowledge). Special interest groups (both public and private) gain more power over individual members as a member's economic well-being becomes more dependent upon reelection. The greatest conflict of all becomes 'need for reelection at any price.'

"Deliberative bodies, such as the legislature, without tough deadlines (as the legislature once had) will use infinite amounts of time and resources to conduct what they deem to be their business. And the scope of this, in turn, will expand infinitely.

"Extended periods of ego building through playing God for society,—like weightlessness in space—must be offset by frequent and meaningful return to reality—that is, the everyday world in which people live with its burdens, disciplines and measurable objectives.

"Today's problems of our economy and society (inflation, unemployment, crime and energy) will not respond to the schemes propounded by legislators and congressmen whose primary interest in and contact with reality is the search for votes.

"A gulf has developed between private and public sectors, making mutual trust, interchange of information and cross participation almost impossible. The private establishment is as much to blame as the public; the citizen legislator appears not to be welcome in either camp. His ability to make an honorable living in the private sector during and after his public service is damaged, while he is held suspect by the media and the public for his private sector responsibilities while he is in office. Conscientious, moderate and objective people who could bridge this gulf thus are disappearing from both sectors.

"Moreover, the forces enveloping a public servant in his work are extremely difficult. I refer, for example, to the commercial media and what people seem to want from them. Careful, thorough work—hard facts—frank and balanced discussion—education—understanding—thoughtful ideas—objectivity—these are not what the media considers newsworthy. Rather the bizarre—the scandal—the incessant attack—the flip—the rhetoric of the ambitious—these capture the TV and front pages. Thus statesmen eventually wilt while the demogogues are swept along into positions of power and influence.

"Add to this the following and you will appreciate why public service can wear one down:

"Big organizations (including some unions) whose power exceeds that necessary for the proper implementation of their needs and who seek successfully to control state government;

"Highly activated, single interest groups whose aggressiveness and lack of objectivity unbalance the even-handedness of all three branches of government, captivate the attention of the media and debilitate our institutions (both private and public);

"A jungle of expanding government agencies confounded with and mired down in a quagmire of conflicting legislation and their own red tape—all of which is suffocating freedom and individual enterprise with regulation, litigation, and taxation;

"An often insensitive and frightened free enterprise establishment which is unable to empathize with public servants, its own employees and social activists and which cannot cope with its enormous challenges—its "milk of human kindness" having been squeezed dry;

"And last but not least, a public who have learned from political aspirants, the media and advertising that everything is theirs with but little effort on their part and that government will solve all society's inequities and everyone's problems 'free for nothing.'

"Instant solution on demand is the steady deafening drumbeat of the over-expectation of our times. To quote from Alex Bickel, 'The law can evolve to accommodate moral claims, but it will bend and break when bushels of desires and objectives are conceived as moral imperatives. For the legal order, after all, is an accommodation. It can not sustain the continuous assault of moral imperatives. The highest morality almost always is the morality of process.'

"So—what can be done? Oddly enough, it would not take great convulsions to improve on all of this. To begin with—for all of us—more individual effort, forgiveness, restraint, thoughtfulness, morality, honesty, faith and love, and less impatience, greed, self-pity, arrogance, materialism, waste, and hate.

"For those of us in elected office, we must not forget that public service means just what the name says: Service to the public, not a lifetime business. Properly motivated office holders can raise governments from the depths of public dissatisfaction.

"For public employees: Don't forget that those outside of government are the source of your financing; their health, their earnings and savings are vital to you and your causes.

"And finally, the private sector must shake off its disarray, cleanse the stigma of the improprieties of a few and 'evangelize for free enterprise.' If capitalism is indeed superior to socialism, which I believe is the core of the great issues, then let us remove the bushel basket from its virtues. The No. 1 priority of those who believe in freedom and individual enterprise must be an evangelical crusade, in and out of government, privately and publicly.

"I would hope to help in the crusade and believe it better done as a keenly interested citizen."—Salisbury Adams, State Representative.

DO WE NEED THE CRUISE MISSILE?

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. McDONALD of Georgia. Mr. Speaker, our colleague, the gentleman from New York (Mr. KOCH), has written a very interesting and provocative article for the Village Voice, November 24, 1975. Normally the Village Voice is not the sort of a publication in which you would expect to read a serious and reasoned discussion of our defense posture, but Mr. KOCH has indeed written such an article in that publication. Mr. KOCH argues in favor of spending less money by buying cheaper, more expendable weapons, instead of the more expensive types. While I do not agree with Mr. KOCH, I do feel that he has raised some very serious questions, and that some of his ideas are of value in our discussions on building a stronger United States, in light of the Soviet military threat. One of the most significant points made by Mr. KOCH is:

> We could develop cruise missiles, a low-flying medium range weapon, which could be launched from either the B-1 or the B-52 or even from commercial 747s. The planes need never go over enemy air-space, but could fire missiles while over friendly territory or oceans. The plane could not be shot down and the cruise missile would be very hard to destroy because of its low flight projectory and low radar profile. This approach would cost about one-tenth as much, freeing hundreds of millions of dollars.

It is significant that it is precisely the cruise missile that Henry Kissinger is attempting to give away in the present round of SALT negotiations. While our military has argued against eliminating the cruise missiles, Kissinger is prepared to give them away with no reciprocal action by the Soviets. We are approximately 10 years ahead of the Soviet Union in this type of weaponry. I would like to ask that Mr. KOCH, and those Members who support his position, join with me in demanding that the President not allow Henry Kissinger to give away this valuable and low-cost weapon in our arsenal.

REFORMING THE FOOD STAMP PROGRAM

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. UDALL. Mr. Speaker, for the past several weeks a great deal of attention has been devoted to the volatile issue of the food stamp program. The flaws in the food stamp program are clear, and I think all reasonable people can agree on them.

The program should not be so administratively complex that it harasses the poor and overburdens administrators and taxpayers to no good end.

Families of comfortable means should not receive food stamps.

A black market in stamps should not be permitted to flourish.

Families in real need of assistance should receive food stamps.

The time has come for Congress to replace rhetoric with thoughtful action.

In order to further that objective, I am cosponsoring H.R. 10467, the Food Stamp Reform Act of 1975—the House companion bill to the Dole-McGovern legislation in the Senate.

This bill attacks the flaws I have enumerated. It replaces the complex system of itemized deductions with a standard deduction. It sets a gross income ceiling on program eligibility of about $8,000 after taxes for a family of four. And it eliminates the purchase requirement, providing for the bonus value in stamps to be given directly.

This bill will provide a more efficient program, one with far less possibility of abuse, and one with much greater responsiveness to the people who need it.

I am cosponsoring this bill because it is a fair, commonsense response to a troubling problem—one that roots out possibilities for abuse without patronizing or demeaning the genuinely needy.

The importance of this measure is underscored by the specious, punitive "reform" advocated by President Ford. Instead of applying a surgical scalpel to the proven problems, as the Dole-McGovern bill does, he would plunge a meat axe into the body of the program, and chop off all assistance to working families living more than a few dollars above the poverty line.

Frankly, I find it incredible that the President could propose a program that is such an outright disincentive to work. Sadly, I am not surprised that he would suggest bringing such hardship upon families in need.

Mr. Speaker, I believe this bill will correct the major flaws of the food stamp program and make it far more responsive to the legitimate needs of all concerned. However, it is no more than a short-term solution. Ultimately, I believe we are going to have to replace our current hodge-podge of welfare-oriented programs with one simple, direct efficient income supplement program for those in need.

But for the time being, I hope Congress will pass this responsible legislation. In recent years, we have all become properly skeptical about the ability of Government to solve all our national ills. There are, we now know, limits to its problem-solving capacity. But certain of these ills are so grave that a failure by Government to try and contain them, at the least, would be morally bankrupt. Poverty and malnutrition are two such ills. I am enough of a realist to know that they will always be with us, but enough of an optimist to believe that they can, with a real commitment, be effectively contained. Not all of us agree on how to go about addressing these problems. But I only hope that we can seek answers in a calm, rational way, and not through empty rhetoric that serves only to divide our people.

REVENUE SHARING BETTER DESCRIBED AS NONREVENUE

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. JACOBS. Mr. Speaker, when so-called revenue sharing—better described as nonrevenue wishful thinking and reckless borrowing—passed the House, my floor speech did not require 5 minutes. Here is what I said of it:

> Mr. Speaker, this is a blank check for irresponsibility.

My point was proved in my own home town, when the city administration there took $4½ million of this Federal Government borrowed money and spent it on an overrun in the public cost of the Indianapolis Downtown—"not a penny of tax money will be used"—Tax Arena, a profitmaking facility for a private corporation.

As if to underscore my proved point, the retiring mayor of Indianapolis is quoted by the Indianapolis News as stating yesterday that possible delay in legislation to continue revenue sharing, "May dictate prudence in spending—at the local level—next year and some resourcefulness as we determine how to bridge the gap."

Mr. Speaker, I wish it were in order to ask unanimous consent to revise my remarks of 1972 to say:

Mr. Speaker, this is a blank check for impudence.

QUESTION OF FUNDING FOR THE AIRBORNE WARNING AND CONTROL SYSTEM

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mrs. SCHROEDER. Mr. Speaker, I would like to express my extreme chagrin and frustration over the decision of the House-appointed conferees on H.R. 9861 to give in to the representatives of the Senate on the question of funding for the Airborne Warning and Control System—AWACS. In fact, I find the House willingness to give in to Senate pressure on this program totally indefensible. I urge my colleagues to reject the conference report for this reason.

The AWACS programs, as my colleagues are undoubtedly aware, produces planes with a Boeing 707 airframe carrying extremely sophisticated radar and avionics equipment.

The total program cost of developing and procuring the 34 AWACS planes sought by our Air Force will be more than $4 billion. That comes to almost $120 million per plane.

We are talking about the most expensive airplane that the Air Force has ever asked us for. And yet, recent testing has shown the plane to have unexpected performance problems. The General Accounting Office reviewed the test results and doubted that the problems could be overcome. The Air Force, as usual, was nothing less than glowing in its optimism about compensating for any of the plane's problems.

But how do you "compensate" for a plane that cannot defend itself, cannot avoid being detected by the enemy when its most important feature—its radar—is working, and cannot report the positions of attackers accurately enough for accompanying planes or missiles to protect it?

The Air Force has said, "We'll work it out." The General Accounting Office has said, "We doubt that you can."

Mr. Speaker, on September 25 the House Appropriations Committee filed an unusually critical report on the AWACS program. The Appropriations Committee accused the Air Force of a "wanton disregard for economy' 'with this program. The Appropriations Committee also referred to questions about the plane's performance record.

I am including the Appropriations Committee report on AWACS for the RECORD.

On December 2—just last week—I released an unclassified summary of evaluations of AWACS test results made by the General Accounting Office and the Department of Defense. The summary basicalily said—in greater detail than had been possible before—that the AWACS planes showed unexpected performance problems. The summary further revealed that the glowing reports which the Air Force had been forwarding to us obviously had a tarnish which the Pentagon had been trying to paint over.

I requested that the Armed Services Committee staff put together this summary of the largely classified test results for one reason—so that the problems that had been reported could be made public and discussed. Obviously, this was not enough, and I am very disappointed.

Mr. Speaker, the Senate refuses to reconsider its unrestrained advocacy of the Boeing project. And the House is continuing to refuse to stand up against Senate pressure.

It is clear that the AWACS program is not getting its money for its good performance record, It does not have one.

Because of this, the decision to restore some of the House cuts in the AWACS program can only be seen as a totally preposterous sell-out to industry interests.

We can only sadly assume that the project is being protected by powerful legislators who care more about jobs and contracts for their constituents than responsible review of programs funded by the taxpayer's hard-earned money.

Thanksgiving is over, but the Air Force is still pushing turkeys, and Congress is obviously willing to buy.

The articles follow:

[From Appropriation Report on H.R. 9861, Sept. 25, 1975]

E-3A AIRBORNE WARNING AND CONTROL SYSTEM AIRCRAFT

The budget includes $415,500,000 for six additional E-3A Airborne Warning and Control System (AWACS) aircraft, plus $15,000,000 in advance procurement funding for another six aircraft to be budgeted in fiscal year 1977. This aircraft is not only the most expensive aircraft bought by the Air Force, but one of the most controversial. There also have been differing opinions on the results of AWACS performance during the most recent tests involving Navy EA-6B electronic warfare aircraft in a "free play" environment. The speculation on whether or not NATO will buy this aircraft continues, and there are various opinions as to the optimum number of AWACS required for our own forces.

Congress has previously funded a total of three research and development aircraft and in fiscal year 1975 six production aircraft were funded. The current total program cost is $3,800,000,000, of which $1,500,000,000 repreents research and development effort. The total program would fund 34 aircraft, including the three research and development vehicles to be modified later as operational aircraft. NATO is scheduled to make a long leadtime funding decision by December 1975, with a production decision scheduled for about July 1976.

During fiscal year 1973 budget hearings, AWACS was justified as a strategic system for the continental air defense role. The total program then was 42 aircraft, of which 10 aircraft were justified for support of tactical forces when they deploy. During fiscal year 1974 budget hearings, the Committee was told that AWACS was moved from the strategic to the general purposes forces category, but that the move would have no impact on the program one way or the other. The total program remained at 42 aircraft. During fiscal year 1975 budget hearings, Air Force officials advised that the total program was reduced to 34 aircraft as an economy measure; nevertheless it was the judgment of the Joint Chiefs of Staff that a minimum of 41 unit equipped AWACS are required either for the tactical or the strategic defense mission. At that time the Committee learned of the NATO interest in AWACS and the encouragement to NATO to buy the aircraft. However, the Air Force planned to buy 34 aircraft first, which would be followed by a NATO production. During fiscal year 1976 budget hearings, the Committee was told that even if NATO purchased a significant quantity of AWACS aircraft, the U.S. requirement would remain at 34 aircraft.

It would appear from the foregoing that the Air Force is determined to buy 34 AWACS aircraft, regardless of the fact that the missions priority had been changed and that NATO may buy aircraft to support the NATO requirement. This attitude seems to express a wanton disregard for economy. It is apparent that if the current primary mission of AWACS is to support tactical forces, then the requirement can be reduced. It is also apparent that if most of the 34 aircraft are justified to support the NATO mission and NATO is willing to buy aircraft to support that requirement, then the number of aircraft purchased by the U.S. can be reduced accordingly. It is far more economical for this Government to pay 25 to 30 percent of the cost of AWACS aircraft for NATO, than 100 percent of the cost of 34 aircraft programmed by the Air Force.

The Senate Armed Services Committee, in its report on the fiscal year 1976 Defense authorization bill, questioned the number of AWACS aircraft programmed. It was that Committee's opinion that a total of 21 to 24 planes should provide the Air Force with an acceptable quantity of aircraft to operate with United States forces in their potential areas of direct conflict. The Secretary of Defense testified this year that the Air Force requires 15 AWACS aircraft to satisfy non-NATO requirements.

It is the considered judgment of the Committee that since the primary role of AWACS now is to support the tactical mission, originally described by Air Force officials as requiring 10 aircraft, and since NATO is seriously considering buying a meaningful quantity of aircraft to support the NATO requirement, then no more than about 10 aircraft can be justified for the United States non-NATO mission. NATO should be encouraged to buy AWACS in order to assume their fair share in the defense of NATO forces in Europe.

The Committee recommends, therefore, $260,000,000 for 2 AWACS aircraft for fiscal year 1976 as a buy-out of the United States requirement. These aircraft should be added to the six aircraft funded in fiscal year 1976. The two aircraft this year, plus the six funded last year and the three research and development aircraft that will be modified for operational use, will provide a total of 11 AWACS to support our own deployed forces.

The above recommendation will provide time for a NATO long leadtime funding

decision in December 1975 and a production decision next year. The Committee recommendation will result in a reduction of $155,500,000 and 4 aircraft plus $15,000,000 in advance procurement funding that will no longer be required, for a total reduction of $170,500,000.

SUMMARY OF AWACS ADDITIONAL TESTING

The AWACS Systems Integration Demonstration (SID) flight test program was considered by the Department of Defense to have been completed in December 1974. A review of the test plans and results, however, by the Committee generated a number of concerns relating to the viability of these tests. Consequently, Chairman Price informed the Secretary of Defense in a letter dated March 26, 1975 of the Committee's concerns relating to the ability of AWACS to carry out its intended mission. Following extensive hearings, the Committee was convinced that the AWACS test program was not comprehensive and directed that additional tests be conducted. The tests were to: provide data that demonstrated AWACS capability against close formation and maneuvering targets; provide data that demonstrated the capability of AWACS against self-screening and escort jammers; provide data that verified the AWACS tracking algorithms; as well as other tests.

The Air Force in response to the Chairman's letter conducted additional tests during May of this year. As a result of these tests, DOD confirmed the following AWACS limitations:

(a) precise determination of target altitude;

(b) range resolution of jamming targets under certain conditions;

(c) automatic accurate tracking data of targets under certain conditions; and

(d) the prevention of enemy detection and location of AWACS when the AWACS radar is transmitting.

While DOD has confirmed these limitations, they believe that they can be overcome through various revisions or techniques. As an example, they contend that the automatic accurate tracking limitation can be overcome by operator intervention as well as through revisions in the present AWACS software package.

The Director of Defense Research and Engineering has reviewed the results of these tests and has provided his comments to the Committee. In addition, the GAO has made an assessment of the tests and has documented their comments. The views of the DOD and the GAO are not in full agreement with regard to the AWACS capabilities/limitations and their impact upon the final outcome of an air battle.

The GAO, for example, does not believe that the automatic, accurate, tracking problem can be overcome simply by operator intervention. They believe that the NATO scenario will consist of hundreds of sorties per hour and that operator intervention is not practical or possible in such a dense environment. The GAO in their analysis of the May tests believes that the AWACS susceptibility to jamming presents a more serious limitation of AWACS than the DOD assessment. Finally, the GAO questions the DOD contention that AWACS is survivable because it can operate in a passive mode, because it can maneuver at jet speeds and because it can provide the position of would-be attacker to friendly interceptors and missile systems. GAO contends that AWACS operating in a passive mode is of little, if any, utility. They further contend that it is difficult, at best, to provide the position of would-be attackers to friendly interceptors in the absence of data that provides altitude, size of raid, etc.

The above summarizes the major differences between the GAO and DOD assessment of AWACS capabilities/limitations. While there are other disagreements, they all relate to the discrepancies delineated above.

EXPLANATION OF MY VOTE ON H.R. 9721

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. SCHEUER. Mr. Speaker, I would like to offer to my colleagues an explanation of my vote in opposition to H.R. 9721, allocating $2.25 billion for the Inter-American Development Bank.

In a time when we are still grappling with our own problems of inflation, recession, and unemployment, when our policemen and firemen are losing their jobs, when it is difficult to provide aid to our cities and our own people, when Federal and local budgets and the essential programs and services they support are being cut to the bone, we must evaluate carefully and soberly the resources we are willing to divert to other countries.

While the Inter-American Development Bank has contributed much to the development of our hemisphere, it is time to reexamine this and similar multilateral and bilateral foreign assistance programs which we have long supported.

Support to underdeveloped countries should remain a part of our national policy. But we should not squander our precious resources either on developing countries which are not taking the minimal steps necessary to provide the basic social services indispensable to containing the galloping rates of population growth that threatens to destabilize civilized life on our planet, or on countries which are bent on destroying the effectiveness of our international institutions.

Government and organizations receiving assistance from the United States must establish programs which aid the masses of the people in developing countries in ways relevant to their needs and not simply build grandiose projects which at best constitute ego trips for rulers of these countries. Elementary education, rural maternal and child health care, and effective family planning programs are vital to the survival and the well-being of people everywhere in the developing world.

Mexico and Brazil are two of the primary beneficiaries of the Inter-American Development Bank. Instead of playing a reasonably responsible role in the U.N., contrary to our repeated urgings, they eagerly joined the mass rush to isolate and vilify Israel, and to undermine the U.N. as a force for peace and prosperity. We cannot ignore the snowballing actions against Israel; we should not and will not tolerate such mindless hostility and aggression towards the moral standards and peaceful ideals we cherish and which the U.N. was created to foster. We do not seek supine acquiescence to our every whim and fancy. We expect foreign nations receiving assistance to exercise their independent judgment on their foreign and domestic programs without fear of retaliation. However, we have the right to expect nations receiving our aid directly or through an international organization to exhibit a minimum degree of civility and regard for our views, as well as a minimum showing of responsibility, elemental decency and respect for the hopes of mankind for peace and amity among nations, in their relations with international organizations and other member states.

Galloping increases in population, as well as systematic subversion of international institutions threaten the world's future and the survival of mankind. If we are to meet the challenges of the under-developed nations, we must learn to work together through international organizations such as the United Nations and the Inter-American Development Bank. But we are under no moral obligation blindly and unconditionally to support either the international organizations which subvert the very goals of peace and comity between nations for which they were established, or the individual nations which are leading the United Nations to the brink of chaos and destruction. Nor can we further afford to assist, nor should we make the futile attempt to assist, countries which are unwilling to provide the minimum infrastructure of social services necessary to provide for a healthy and literate population and reduce runaway rates of population growth which will have such a predictably horrifying impact on our planet only a few sad years hence.

I am pleased to see that such distinguished colleagues as JOSHUA EILBERG, ELIZABETH HOLTZMAN, ED KOCH, JOHN KREBS, ELLIOTT LEVITAS, WILLIAM STEIGER, LESTER WOLFF, and CHARLES VANIK joined me in this vote.

MEMBERS OF CONGRESS VOTE THEMSELVES A TAX BREAK

HON. W. G. (BILL) HEFNER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. HEFNER. Mr. Speaker, last week I voted for the passage of H.R. 10612, the Tax Reform Act of 1975, because I believe this measure is vital to our continued economic recovery. However, I must point out the serious reservations I have about a certain provision in the tax reform bill, section 605, which gives U.S. Congressmen a major tax break.

Mr. Speaker, the sentiment in this country is that Congress must impose some controls upon itself. And since a primary goal of tax reform is to make the tax system more equitable, I believe an amendment should have been considered to strike section 605 of H.R. 10612.

The wording of this section would increase the second home tax deduction for Congressmen from $3,000 to an amount that could easily reach $7,500 or more.

Earlier this year the Congress voted itself a nice salary increase. I voted against this pay raise, but the bill passed. The tax break under section 605 of the Tax Reform Act could result in a further increase in take-home pay for Members of Congress.

It is unfair to the taxpayers of the Nation not to know which Members are in favor of this second raise and which Members are opposed. Therefore, I voted to defeat the rule granted by the Rules Committee which did not permit a vote on this section of H.R. 10612. Unfortunately, the substitute rule providing for a vote on section 605 was not adopted so Members of the House were not given an opportunity to vote on this provision of the tax reform bill to increase tax deductions for Members of Congress. However, if given the chance to vote on section 605, I would have voted to strike this provision from the Tax Reform Act. I am surprised that the rule was not adopted by the Members of the House of Representatives that would have allowed us to have a direct vote on this issue.

I did not vote for final passage of the Tax Reform Act of 1975, because enactment of this measure is vital to our continued economic recovery. I could not in good conscience vote against this important tax bill because of my opposition to one provision contained in the measure. Failure to extend the tax reductions at their present rate of $1 billion a month will result in an automatic tax increase the first of the year. With our economy still in an uncertain state and unemployment at 8.6 percent, I believe it would be a grave error for the Congress to risk economic disruption by failing to extend present withholding rates.

I applaud many of the provisions in the Tax Reform Act of 1975 to eliminate tax shelters favoring wealthy individuals, to reduce unfair tax preferences on foreign and export income, to simplify the tax laws and tax forms, and to extend the individual and business tax cuts passed earlier this year.

However, if the Congress is to restore taxpayer confidence in the fairness of the tax system, it should not pass a tax reform bill which contains a provision giving Members of Congress a tax break not available to ordinary taxpayers. Every American has an obligation to pay taxes in an amount which bears a reasonable relationship to his actual income, and Congress must assure that this obligation is met.

THOSE FINAL 1974 CRIME FIGURES

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. HYDE. Mr. Speaker, in my recent newsletter to the citizens of the Sixth Congressional District of Illinois, I expressed views on one of the most serious contemporary challenges facing our Nation, the explosion of serious crime. This morning's Chicago Tribune has another of its thoughtful editorials covering this vital subject, and I am pleased to share it with my colleagues:

THOSE FINAL 1974 CRIME FIGURES

Atty. Gen. Edward H. Levi made the classically authoritative comment on the FBI's final report on crimes in 1974: "These final figures merely underscore what we already know. The problem of serious crime is immense. A coordinated national response by all segments of the criminal justice system and at all levels of society is vital if we are to bring this problem under control."

There are many gaps between the FBI statistics and the whole sorry truth. One big one is unreported crime. The federal Law Enforcement Assistance Administration, when it polled sample populations about crime suffered but not reported, found several times as many crimes committed as reported to police. Another big gap is that the FBI studies are limited to seven specific "index crimes." White collar crimes such as embezzlement and bribery are not within its net.

There are other loopholes. The FBI figures do not cover quite all areas, and involve some projection into the unknown from the known. They are based on reports of local police departments, which cannot be quite perfectly uniform in the application of definitions, even if they tried—which not all do equally.

Sometimes an increase in crime figures reflects not more crime but improved police work, reducing the proportion of crimes going unreported. Comparisons between localities can be twisted by differences in the proportions of inner-city and suburban neighborhoods. The FBI uses standard metropolitan areas—big enough to smooth out many accidental variations, but not perfectly.

Yet despite their imperfections, FBI crime figures are the most authoritative and comprehensive we have, and for many purposes the only ones.

The relatively cheerful local report on Chicago crime in 1975 rates as a somewhat silver lining. What is a local report this year will be part of the FBI's report next year, and lightens the gloom at least locally and temporarily.

The national figures, as Mr. Levi said, underscore the immensity of the crime problem. In widely varying intensity, it is everywhere. It has struck deep into the public consciousness, so that for many the fear of crime is even greater than the grim facts warrant, Fear now definitely impairs the quality of life for a high proportion of Americans.

As Mr. Levi implies, the crime problem is out of control. It will get even worse in the absence of "a coordinated national response by all segments of the criminal justice system and at all levels of society."

It is pointless to expect the police alone to control crime, or to blame them alone for failure to do so, though there is room for vast increases in police efficiency, fairness, and even legality. Or the courts alone, though quicker trials, greater probabilities of convicting the guilty, and more rational sentencing would certainly improve their performance. Or the penal system alone, though its contrasting excesses of brutality and sentimentality hinder rather than help.

The last, best restraint on crime is individual conscience, the strength of character to repudiate all crime as morally unacceptable. Our grandparents and parents were more successful in shaping such character than we contemporary people are. The phenomenal growth in juvenile crime warns that the trend is still in the wrong direction.

Institutional defenses continue to weaken. We have already mentioned government. Churches have declining influence. Schools have in general ceased trying to inculcate norms of conduct. Family influence has been undermined by adult permissiveness and juvenile revolt.

The problem is up to individuals—scores of millions of us acting, sometimes alone and sometimes with others, to do what we can, without counting on others to do what only we ourselves should and can do.

ON THE CONTINUED NEED FOR INCENTIVES FOR SOLAR ENERGY

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. VANIK. Mr. Speaker, recently I received in my mail a packet of reprinted articles on solar energy uses for the home. This constructive packet, which was assembled and distributed by ERDA, contained directions on how to install home solar heating and cooling devices as well as information on how to construct a working solar stove out of cardboard and aluminum foil. The articles point out the continuing need for additional short-term incentives for the development and installation of solar energy heating and cooling equipment both in commercial and residential buildings.

Compared to other energy sources, solar energy development is still in its infancy. While ERDA predicts that by the year 2025 solar energy could be supplying 25 percent of our Nation's energy needs, constituting an equivalent reduction in oil consumption of 4 million barrels per day, a great deal of stimulus is needed to reach this or any goal. Although costs are slowly coming down, the price for installing the simplest solar equipment in the average home still runs over $2,000. The solar heating equipment in the new science building at the Madeira School in nearby Greenway, Va., for example, cost approximately $100,000 for a building whose total cost was $660,000. This huge capital outlay which was raised primarily through contributions is indicative of the cost that a small business would have to incur in order to heat its property through solar equipment. The individual homeowner is particularly hard pressed to come up with enough money to install a solar heating unit, especially when conventional oil and gas units initially cost only a few hundred dollars and electric units, perhaps the most inefficient, cost even less for the average home. However, the initial low cost of these various units in no way reflects their high operating costs. Solar energy incurs a high initial installation cost but operates at a fraction of the cost of contemporary heating units.

The initial expense of installing solar energy equipment is probably the greatest deterrent to its greater use and more rapid technological development.

It is estimated that the greatest progress in solar energy technology could occur over the next 5 years, provided there is enough stimulus and incentive to develop and install the equipment. The individual homeowner and small businessman could become the greatest motivating force for the needed development of solar energy technology and application.

There are, as a reprinted Popular Science article points out, other forces working against widespread acceptance of solar energy. People are reluctant to commit themselves to new and not thoroughly accepted ideas. They are hesitant to tie up their hard-earned money in a new idea such as solar energy, despite the savings that can be projected in heating and air conditioning costs. In addition, many of the early designs were essentially unattractive on a home. Now, however, designers and architects, as well as engineers and technicians, are involved in constructing efficient solar collectors. The solar unit has developed into an aesthetically integral part of the building, as the Madeira School installation illustrates.

Initial costs for solar equipment are still very high because the units are still being produced on a limited basis. The cost and speed advantages of mass production are not yet fully available to solar equipment. Mass production, too, is just around the corner, but for the immediate future much stimulus is needed through such government vehicles as the Solar Heating and Cooling Demonstration Act—Public Law 93-409—and the tax credit proposal contained in the Energy Conservation and Conversion Act of 1975 (H.R. 6860). The tax credit proposal, in particular, could go a long way toward stimulating the practical application of solar energy to homes and businesses. H.R. 6860 is currently tied up in the Senate Finance Committee where no action is scheduled at this time. However, a recent report of the Senate Select Committee on Small Business entitled "The Role of Small Business in Solar Energy Research, Development, and Demonstration" strongly supports solar tax incentives. Among other proposals, the report states:

> Congress should enact tax incentives and consider low-interest loan and loan guarantee programs for the development of solar energy for heating and cooling residences and other buildings, wherever possible and as quickly as possible.

I, too, hope that this tax incentive will be enacted quickly.

In addition, the administration wants to launch into a multi-billion-dollar program of Government guaranteed loans for the development of nuclear power. These same loans could be stimulating research and development of clean, solar alternatives which do not pose threats to the environment but instead operate harmoniously with that which the environment already provides us. In fact, the ERDA authorization conference report contains a section allowing up to $6 billion in loan guarantees for development of nonnuclear energy sources, including solar energy. Although I am skeptical about the process by which this section was drafted, since only limited hearings have been held on it, I see it as a significant step toward acknowledging the importance of encouraging solar energy research and development.

Solar energy is easily the most pollution-free and, once installed, most inexpensive to operate source of energy available to us. In addition, solar power is a renewable resource, unlike our other dwindling natural resources, such as oil, gas, and mineral deposits.

However, despite all that solar power has to offer to this country's increased need for new energy sources, solar energy still occupies a very low priority position in administrative and congressional initiatives. Direct funding for solar energy research amounts to only 2½ percent of the funds authorized for nuclear research and development, under the ERDA authorization conference report. This is far too little funding to commit to a program whose potential rewards are so great. I hope that the positive, legislative initiatives now before Congress will be acted on soon. These next years are indeed crucial for energy decisions in this country. It is imperative that we provide the incentives needed for the development of this clean, efficient, and inexpensive energy alternative.

COMMENTS ON ERDA AUTHORIZATIONS CONFERENCE ACTION ON SYNTHETIC FUELS

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. WIRTH. Mr. Speaker, as you know we shall be voting within a day or two on the ERDA authorizations conference report. Contained within the ERDA authorization for this year is a proposal originated by the Senate which provides Federal loan guarantee for prototype demonstration of synthetic fuel plant technology. This proposal has been the occasion of a considerable amount of discussion and concern because of the fact that originally it had not been the subject of committee or floor consideration in the House. In addition, it received but passing mention during committee and floor consideration in the Senate. I have been one of those Members most concerned about this fact. I was joined in my concern by 10 of the western Governors, including Gov. Dick Lamm of my own State of Colorado. I insert in the RECORD at this point a set of remarks I made before the Rules Committee today. These remarks will acquaint Members with the nature of my original concerns and with the evolution of my position on this bill. I am also inserting a copy of a statement released today by Governor Lamm that defined his position regarding the synthetic fuels loan guarantee program:

STATEMENT BY TIMOTHY E. WIRTH

Mr. Chairman, I have requested permission to appear here today both because the legislation you are considering is of deep concern to residents of my state and district, and because my own involvement on this legislation leads me to believe that we have an opportunity to set significant precedents procedurally and substantively.

I first became aware of Section 103 of S. 598, the Senate proposal for a synthetic fuel loan guarantee program late in July. I was immediately alarmed at the prospect that a program of such magnitude could be enacted into law without any opportunity for the House Science and Technology Committee or for the House itself to review and vote on its provisions. Here was a six billion dollar program which had received not a minute of consideration within the House. My concern deepened as I began to hear of the fear and confusion about the program flowing in from governors of states to be impacted.

Fortunately, with the leadership of my colleague, Ken Hechler, Chairman of the Fossil Energy Research and Development Subcommittee, and with full cooperation of Chairman Teague of the Science and Technology Committee, a series of October hearings on both the technology and financing of synthetic fuels was arranged. Ken Hechler's and Mike McCormack's Subcommittees did an excellent job of preparing the hearings. They were carefully organized and thoroughly researched. A broad spectrum of witnesses were heard both in Washington and in the field. Questions were raised, problems aired, and alternative solutions proposed.

By the end of October, I was convinced that Section 103 of the Senate bill was so deficient and so badly in need of surgery that the only decent thing to do was to let the patient die. I proposed at that time that Section 103 be stricken from the bill so that a separate new bill could be introduced. I, in fact, introduced a bill HR 10559, which incorporated the many changes which I felt were required.

Among the features incorporated into that bill were provisions:

(1) Making the loan guarantee authority of ERDA subject to the provisions of the Non-Nuclear Research and Development Act.

(2) Requiring due consideration to be given to the need for competition in the industry when applications for guarantees are considered.

(3) Requiring prior assurance that local costs resulting from impact of development have been assessed and provided for.

(4) Requiring early participation by state and local officials in the facility planning process.

(5) Stipulating prior concurrence by the governor of the impacted state before a given project may proceed. Such concurrence to be overridden only where the Administrator of ERDA finds such action in the national interest.

(6) Requiring advance assessment of costs of full project including water diversion and storage costs, and thorough monitoring during construction.

(7) Requiring that the interests of the United States be protected, including in the event of default, interests in the patent rights for patents developed under such guarantees.

My expectation was that such an extensive set of changes could not reasonably be expected to win the support of Senate Conferees, especially in view of initial expressions of Senate opposition to these proposals. To my great surprise, the House Conferees carried these proposals to the Conference and won acceptance for them or for provisions very similar in nature. In fact, I would not be honest if I did not say that the Conferees have, in several important respects, written a bill superior to that which I and others proposed.

The final result is that, in terms of its substantive provisions on synthetic fuels, I find this bill to be a sound and reasonable basis for proceeding with a commercial demonstration program. Especially important is the fact that the bill, as now drafted, incorporates genuine safeguards against abuse of either the impacted communities and states, the natural environment, or the prerogatives and responsibilities of the federal government and the Congress.

There remains in my mind only the question of procedure. From the beginning, I have been concerned that a program of such magnitude which sets a number of important precedents could become law without the House having had the chance to debate and vote upon it separately. The spectable of the House legislating with its hands tied or its eyes blindfolded is the sort of image I would hope we can avoid. Permitting a separate vote on Section 103 and on Section 102 would prevent a recurrence of that spectacle in this instance. I think our constituents expect and deserve to know our positions on such issues. I urge the adoption of a rule permitting a separate vote on these two sections. Given the opportunity I will vote in favor of Section 102 and 103.

STATEMENT BY GOVERNOR RICHARD D. LAMM

For the past two months the Energy Research and Development Administration's (ERDA) appropriation and authorization bill, S. 598 has been under review by a House/Senate Conference Committee.

At the urging of the nation's governors the House Science and Technology Committee conducted a series of hearings on the synthetic fuels program during which we presented a number of very specific recommendations. I am delighted to report that because of a very receptive Conference Committee as well as the dedication of numerous congressional staff members, we were successful in literally restructuring the synthetic fuels section of the bill to reflect our concerns.

Importantly, Congress has established a formal process by which a governor's concurrence must be given prior to the approval of a synthetic fuels project. This action by a governor may be overriden by the Administrator only if he finds that it conflicts with the national interest. Such an override, however, is subject to judicial review.

Secondly, the Conference Committee report states that if a state's reclamation and energy facility siting requirements are more stringent than federal standards, then Congress expects the state laws to apply and be enforced.

The final amendment that I would highlight would be the provisions for impact assistance. When we first saw S. 598, it contained no provision for dealing with the socio-economic impacts that were sure to result from the synfuels program. Congress replied to our concerns for community aid by constructing a system that would provide loan guarantees to communities, 100% grants for investigating the impact, as well as a provision for non-recourse loans when necessary.

In short, each demand registered by the governors seems to have been dealt with in a satisfactory manner. Our most important demands appear to be met (although a number of questions still remain concerning the implementation of our recommendations). Given the changes that have been granted in S. 598, I, as one governor, find those sections dealing with the testing and demonstration of synthetic fuels to be acceptable.

The inclusion by Congress of important points raised by the governors demonstrates very clearly that the states will be asked to play a major role in finding solutions to the present energy crisis. We clearly understand that challenge and stand ready to meet it.

In reflecting upon our successful negotiations on this important synfuels section, Colorado should be grateful to Senator Floyd Haskell, the conferee who introduced our recommendations as well as Congressman Wirth, who with his staff spent many hours working on this section. In addition, I would like to personally thank Chairman Teague, Senator Scoop Jackson and Congressman Hechler for their responsiveness.

HOLY NAME WINS CHAMPIONSHIP

HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. JAMES V. STANTON. Mr. Speaker, I rise to extend my warmest congratulations to Holy Name High School of Cleveland upon its winning the Ohio Class AA football championship. As a graduate of Holy Name, I take special pride in the "Namers' " undefeated season, capped by its championship game.

To elaborate further on the accomplishments of Coach Donovan and the team, I insert into the RECORD the following newspaper articles:

NAMERS WIN FIRST AA TITLE

(By Dick Zunt)

AKRON.—Unbeaten Holy Name High rolled to its first Ohio Class AA football championship Saturday night with a thrilling come-from-behind 19–14 victory over Cincinnati Wyoming before 5,767 in the Rubber Bowl.

Senior quarterback Kevin Hartman scored two touchdowns and passed for the winning TD, but halfback Kevin Boylan and tackle Mike Zawalski must share the honors after coming up with big defensive plays to preserve the victory.

The triumph was the 10th of the season for the Green Wave from Cleveland.

Wyoming lost for the first time in 12 games, although its state scoring champion Fred Jacobs scored his 27th and 28th touchdowns of the season and almost had his 29th.

Jacobs briefly grasped teammate Brian Allf's 23-yard pass in the end zone but the ball was jarred loose by the Namers' Boylan with only 14 seconds left in the game.

The pigskin fell to the ground and Jacobs ripped off his helmet and flung it to the ground in disgust.

On the game's final play, Zawalski broke through to tackle Alff for a 10-yard loss as time ran out.

The victory marked the second Class AA football crown for Cleveland schools. Benedictine won this title two years ago.

Holy Name played through an unbeaten regular season despite almost daily talk of the possibility of closing the school.

Then, after leading Region 5 of the Ohio High School Athletic Association's computerized poll for the season, it was thought that the Namers would not appear in the playoffs.

Akron St. Vincent-St. Mary protested to the OHSAA that the mathematical formula for computing the points was not proper and school authorities three times made trips to Columbus to voice their feelings.

The State Board of Control, however, ruled in Holy Name's favor and the Green Wave made the most of the opportunity to win the state title.

The victory by the Namers followed the "pattern" of the other two championship games played this weekend in this Rubber Bowl. All three No. 1-ranked teams fell in thrillers.

When Holy Name defeated Wyoming, the Cowboys became the third No. 1-ranked team in the AP poll to fall.

The Namers were ranked No. 2 in the final battle of the ballots, trailing Wyoming, 188–187.

Friday night, Cincinnati Moeller (No. 2) toppled No. 1 St. Edward, 14–12. On Saturday morning No. 6 Carey nipped No. 1 Newark Catholic, 15–7, in overtime.

HOLY NAME GETS DAY OFF TO CELEBRATE STATE TITLE

(By Don Friedman)

School is out at Holy Name, or at least it will be Wednesday, thanks to its Class "AA" state football champions.

Principal Eugene Krakowiak told the student body this morning at the victory assembly in the old school's tiny auditorium gym that it would be starting its Thanksgiving vacation a day early in honor of its team.

This squad with its 10–0 record is the first one in the long, proud history of the school to go through an entire season with a perfect record. The city championship team of 1961, built around dynamic little Frankie Solich, had one tie.

Before taking an early holiday recess, the players will take part in a Mass of thanksgiving in the church tomorrow morning.

The Green Wave survived a 19–14 thriller-diller over rugged Cincinnati Wyoming (11–1) in Saturday night's championship game in the Akron Rubber Bowl. That game wound up an incredibly super three-game state playoff series.

Saturday morning Carey defeated Newark Catholic 15–7 in the first overtime high school game ever played in Ohio. And, of course, St. Edward fell by two extra points, to Cincinnati Moeller, 14–12, in the "AAA" title game Friday night.

Maybe it was because coach Dick Donovan asked them to be humble champions that the Namers were remarkably quiet in their post-game locker room and on the shortest one-hour bus ride home they have ever known.

They arrived in the school yard at Broadway and Harvard to the ringing of the steeple church bell and the cheers of more than 300 adoring fans around midnight Saturday.

To bring Greater Cleveland its second state championship—Benedictine won the "AA" title two years ago—the Green Wave had to battle from behind twice and survive a hair-raising last-minute threat by the Cowboys before 5767 chilled fans.

"This was the first time we had been behind all season," Donovan pointed out, "and I didn't feel safe until the clock ran out."

Quarterback Kevin Hartman and middle safety Kevin Boylan were named offensive and defensive stars of the game. Hartman completed 12 of 20 passes for 175 yards and ran 12 times for 60 yards. He scored the first two touchdowns and passed for the winning TD, a 16-yarder to end Greg DeMarchi with 2:16 left in the game.

Boylan came up with the biggest single play of the Namers' 528 minute season. With 14 seconds to play and Wyoming down by the final score, second string quarterback Brian Allf fired a 23-yard pass right onto the chest of superstar halfback Fred Jacobs in the end zone. It appeared that Boylan popped Jacobs so hard that the bill bounced out of his grasp.

"I hit the ball into his chest," Boylan explained.

TOO MUCH GOVERNMENT BY DECREE

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. HANSEN. Mr. Speaker, the cry goes out across the Nation from citizens everywhere demanding relief from the oppressiveness of a well-meaning but overly protective bureaucratic Government.

The article which follows, "Too Much Government by Decree!" by John Barron from the May, 1975, Reader's Digest, describes the situation well:

Too Much Government by Decree!

"Nearly two centuries ago, the people of Boston started one of history's most important revolutions in the name of freedom. In the years since, millions of Americans have risked their lives to preserve that freedom. It is inconceivable that we will now sit back passively and allow it to be lost to bureaucratic usurpation."

The decree from the Environmental Protection Agency (EPA) fell upon Bostonians like an edict from some ancient king. Beginning March 1, 1975, no one might park on a downtown street between 7 and 10 a.m. Forty percent of all spaces in Boston's parking garages must be kept empty during the same hours. Employers must eliminate one fourth of all employe parking spaces. By making it difficult, if not impossible, for Boston workers to drive to their jobs, the Washington bureaucrats who handed down these sweeping orders hoped to reduce air pollution.

Boston community leaders were appalled. "We cannot eliminate the car until there is a viable alternative," declared Mayor Kevin White. Businessmen predicted serious economic loss and unemployment, as well as personal hardship and traffic chaos. Nevertheless, the EPA all last year stubbornly proclaimed its determination to compel Bostonians to do what it wanted, regardless of the consequences. Repeatedly it warned employers that they were liable to a year's imprisonment and a $25,000 fine if they disobeyed. Threatened with Congressional intervention, the EPA finally, last February, modified its Draconian decrees and granted the city more time to gird for their effects. Grateful for the reprieve, Boston Chamber of Commerce executive William F. Chouinard nonetheless said, "I hate to think what might have happened if we had not fought like hell."

MASS MEDDLING

Even though postponed, the orders arrogantly visited upon Boston are symptomatic of an insidious change which is occurring in governmental processes. Traditionally, Americans have been governed according to laws enacted by elected representatives answerable to voters. Today, Americans increasingly find their lives regulated by decrees emanating from bureaucrats who are, in effect, accountable to no one.

The stream of bureaucratic dictates pouring out of Washington has turned into a flood. In 1973, the *Federal Register* needed 35,591 pages to publish all the new decrees and decisions; last year it required 45,422 pages. Random examination of the *Register* suggests how far the bureaucracy has thrust itself into the ordinary business of ordinary people. Navel-Orange Regulation 311, for instance, prescribes how many oranges may be shipped from California and Arizona counties during a specific one-week period. Contractors in Allegheny County, Pa., are informed that their bricklayers must be paid $9.25 an hour, whereas bricklayers in Adams and York counties, in another part of the state, can receive $7.65. Arbitrary *Register* regulations may nullify a union contract, require a corporation to spend millions on new equipment, or deny a town the right to approve a new shopping center.

Consumer advocate Ralph Nader points out that senseless or incompetent rulings by federal regulatory agencies drive up prices by stifling innovation and perpetuating inefficiency. A Senate subcommittee estimates that private business spends $18 billion annually on paperwork demanded by federal bureaucrats, while the General Accounting Office calculated that 1973 paperwork cost the government itself $15 billion. But the gravest consequence of all this bureaucratic meddling carries no price tag. It is eloquently summed up by Sen. Sam Ervin (D., N.C.), Congress' leading constitutional authority, who retired this year after presiding over the Senate Watergate investigation. "Government by bureaucratic decree threatens freedom itself," Ervin declares. "The pursuit of no goal justifies the destruction or even the erosion, of freedom."

Few Americans would dispute that abolishing racial discrimination, promoting industrial and consumer safety, and cleaning up the environment are worthy goals. The trouble is that Congress has created vast new bureaucracies with sweeping powers to pursue such goals as they see fit. All too often, the results are tragic.

BUSINESS BUSTER

Marlin Toy Products, Inc., in Horicon, Wis., used to provide jobs for 85 of the town's 1400 residents.

Its most profitable products were two popular toys designed for babies. One was a transparent plastic sphere containing artificial birds and tiny, bright-colored plastic pellets. The other was a similar sphere containing pellets and artificial butterflies. When the spheres rolled, the birds or butterflies fluttered, the pellets rattled and a child enjoyed motion, color and sound.

In November 1972, the Food and Drug Administration (FDA), then responsible for product safety, suddenly informed Marlin that the toys were unsafe, reasoning that, if a sphere broke, a child might be tempted to eat the pellets.

Since Marlin first marketed the toys in 1962, millions of Americans had purchased them. Not one had complained to the company of any harmful results. The toys had already passed three rigorous safety tests—Marlin's, an insurance company's and a department store's. Nevertheless, Marlin agreed promptly to recall all the spheres and remove the pellets. Within a month, the FDA said it was satisfied and promised to remove the toys from the next published list of banned products.

Marlin proceeded to manufacture hundreds of thousands of the toys, hoping to recover through the 1973 holiday sales, the losses from the 1972 recalls. But in September 1973 the newly formed Consumer Product Safety Commission (CPSC) issued a "Special Holiday List" of dangerous toys whose sale was prohibited—including the toys Marlin had redesigned months before to FDA satisfaction.

Not until early December did frantic company and Wisconsin officials succeed in getting CPSC to acknowledge that it had made an "editorial error." It was too late. Stores all over the country had canceled toy orders, and Marlin had lost at least $1.2 million. Today the company is on the verge of collapse.

"ARBITRARY . . . CAPRICIOUS"

Congress in 1970 created the Occupational Safety and Health Administration (OSHA), endowing it with authority to dictate work rules to virtually every segment of American business, from the corporate giants of Detroit to mom-and-pop shops at rural crossroads. OSHA inspectors can walk into any business unannounced, search the premises without a warrant and levy fines without a hearing or trial. Industry and labor alike recognize that there are industrial hazards which require intelligent remedies, but too often OSHA simply makes a nitpicking nuisance of itself. Consider:

In Newport Beach, Calif., an OSHA inspector visited Blackie's Boatyard, where owner Arsene "Blackie" Gadarian and six workers repair small craft. Pointing to a man without a life jacket who has working in a boat tied to the pier, the inspector asked, "What would happen if he fell in the water?"

"He would stand up," Gadarian replied. "The water's only three feet deep all along the pier." Still, the inspector thought there should be a ladder at the pier's end. Gadarian said he would nail up a ladder.

Three weeks later, OSHA formally notified Gadarian that he had violated its ladder regulation—Section 1501.84(c)(4)—and was liable to a fine of as much as $1000. When Gadarian asked to see the rule, OSHA sent him a 248-page document a month later. Nowhere could Gadarian discover any reference to ladders. Asked for clarification, OSHA sent a 48-page supplement saying only that a ladder must be installed in the vicinity of a dock where boats are repaired.

Because Gadarian already had four ladders near his pier, he decided to appeal the fine. OSHA set the fine at only $15, but Gadarian refused to pay.

A battery of government lawyers assembled to argue the OSHA case before a specially appointed federal hearing examiner and a flock of other federal officials. Gadarian, helped by his wife, acted as his own lawyer. The proceedings lasted four hours before Gadarian's innocence was certified. Gadarian's wife would not let him buy a transcript of the proceedings. It cost $500.

OSHA can be just as foolishly autocratic in dealing with big matters as with little. At a cost of $100,000 annually, the Continental Can Corp., effectively safeguards its employes from noise by providing comfortable ear protectors and insisting that they be worn. OSHA itself admits that the protectors reduce the noise level well below federal standards. Nevertheless, OSHA demanded two years ago that Continental Can "engineer" noise abatement by building sound shields around thousands of machines at a cost of $33.5 million—contending that some workers might be too "ignorant or obstinate" to wear the ear protectors. Continental contested the OSHA decree.

After reviewing 1000 pages of testimony, Judge Robert N. Burchmore last October issued what added up to a searing indictment of both the judgment and the competence of OSHA. A government "expert" had claimed that sound shields could be designed and installed in two months. The court ruled that after seven more years of research it might be feasible to install them. OSHA had had to admit that it had found not a single employe who was not wearing the ear protectors. Judge Burchmore dismissed the OSHA ruling, calling it "arbitrary to the point of capriciousness."

PASSION AND POLICE

The Equal Employment Opportunities Commission (EEOC) was created to ensure that employers should not discriminate against minorities in hiring and promotions. But the EEOC now ranges far beyond this stated mission; its flagrant excesses have provoked outspoken criticism from even longtime champions of minority causes.

Late last year, for example, the EEOC issued an astonishing set of decrees against the police department of Houston, Texas. By EEOC's own admission, this department has had, in recent years, a commendable record of employing minority personnel, who presently composed about 40 percent of the force. But the Houston police require that applicants have a high school diploma, and they refuse to hire convicted criminals, people dishonorably discharged from the armed services, and those with a history of defaulting on debts.

The EEOC asserted that the ratio of individuals convicted of crimes, dishonorably discharged from the military, or marked as bad credit risks, is higher among blacks and other minorities than among whites. Therefore, ruled the agency, the Houston police department is guilty of racial discrimination and must cease investigating the backgrounds of prospective officers. It threatened legal action unless the Houston police opened their ranks to convicts, those with dishonorable discharges from the armed services, those who had not completed high school.

"If we do not even have the right to ask a man if he has been convicted, we could turn over the department to a bunch of criminals, the very element we're supposed to fight!" exploded Chief Carrol Lynn. "Hire a convicted kidnaper, burglar, rapist, murderer as a policeman? My God!" Houston's leading black newspaper, *Forward Times*, published a full-page editorial ridiculing EEOC and defending the police. To all protests, the EEOC has so far responded with bureaucratic contempt for common sense.

Meanwhile, EEOC's real business often goes unattended. It has a backlog of 100,000 cases, and now takes an average of 28 months to process a complaint. In their passion to pursue their mandate, EEOC investigators frequently fail to get facts straight. As a result, the EEOC general counsel has to return to the field as "unsuitable for litigation" between 80 and 90 percent of the cases submitted to his office. Yet this is the bureaucracy that has the power to impose racial and sexual quotas at all levels of business, and to drag any employer into a costly lawsuit at will.

THE SINGLE MOST POWERFUL

But the Congressional creation that threatens to grow into the most fearsome bureaucratic monster of all is the Environmental Protection Agency. Under a pervasive umbrella of power conferred by the National Environmental Policy Act, the Clean Air Amendments, the Water Pollution Control Act and the Noise Control Act, EPA has claimed for itself authority unprecedented in American peacetime history. Indeed, Prof. Irving Kristol of New York University recently wrote: "If the EPA's conception of its mission is permitted to stand, it will be the single most powerful branch of government, having far greater direct control over our individual lives than Congress or the Executive or state and local government." Professor Kristol does not exaggerate. Consider:

EPA asserts the right to veto construction of virtually anything that might generate a substantial volume of traffic. Thus, unless Congress intercedes, as of January 1, 1976, local communities may not permit development of a major shopping center, hotel, stadium or factory without approval from Washington.

In Gary, Ind., the U.S. Steel Corp. tried to meet EPA requirements by building two new installations of non-polluting furnaces. But initially their output was limited by factors beyond the company's control: a power failure that damaged its furnaces, the coal strike and a construction strike. So U.S. Steel last fall asked EPA permission to keep its one remaining open-hearth installation in operation six months more. It was told that the installation could be kept open for three months with a $2300 fine for each day of operation. Instead, the company closed the installation, and hundreds of workers are losing their jobs as a result.

In infestation of deadly tussock moths in 1972 defoliated 174,000 acres of magnificent Washington and Oregon forests. To prevent further ravages, state officials and conservationists pleaded with EPA to allow a carefully controlled spraying of DDT. EPA stubbornly refused even a temporary removal of its ban against DDT. Unchecked, the multiplying moths by the summer of 1973 had afflicted 700,000 acres of timber. Faced with Congressional uproar and a lawsuit, EPA in February 1974 relented and authorized use of DDT. Helicopters sprayed the forest, and the infestation ended. But the devastation inflicted by doctrinaire bureaucrats endures.

ULTIMATE REMEDY

Nearly two centuries ago, the people of Boston started one of history's most important revolutions in the name of freedom. In the years since, millions of Americans have risked their lives to preserve that freedom. It is inconceivable that we will now sit back passively and allow it to be lost to bureaucratic usurpation.

The remedy lies in Congress, which created the problem in the first place. Congress should reappraise each federal agency, with a view to outright abolition of those that have obviously outlived their usefulness. It should withdraw from the others the vast grants of arbitrary power that it has bestowed. And Congress should define the powers left to bureaucracies in language so clear and explicit that no officials can expand their power beyond Congressional intent. Finally, broad national policies required to protect consumers workers, minorities and the environment should be implemented through specific legislation rather than bureaucratic fiat.

If the people don't like the results, then—in the next election—they can remove the members of Congress responsible. That is why the American system has always provided that power must be exercised by elected representatives instead of by bureaucrats who have earned the vote of no one. If freedom is to survive, power must *remain* in the hands of elected representatives.

SYLVIA PORTER IS BOTH RIGHT AND WRONG ON FOOD STAMPS

HON. LEONOR K. SULLIVAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mrs. SULLIVAN. Mr. Speaker, I am a great admirer of Sylvia Porter, whose widely syndicated newspaper column "Your Money's Worth" is consistently one of the best sources of day-to-day economic information for the average American family. She tells her readers information they need to know in order to operate effectively as consumers and to shop or invest intelligently in the marketplace and also to understand the impact of economic forces on employment opportunities, salary levels, and general economic well-being.

I have always been deeply grateful to Sylvia Porter for the tremendous support she provided for truth-in-lending legislation in the 1960's and for other consumer causes. She is a careful, conscientious, clear-minded researcher and writer.

But even Sylvia Porter can be mistaken, as I think she was, in part, in her column this past Sunday on the food stamp program.

Most of what she wrote in that column is certainly accurate. The food stamp program has, indeed, become a tremendous target for attack. Certainly it is complicated and cumbersome both for participants and administrators. And without a doubt, as she wrote—

> What is needed is reasoned debate and intelligent reform, not haphazard and ill-advised cutbacks. What is essential is informed change, not a response by a frightened Congress to utterly unsubstantiated charges.

As the Member of Congress most responsible for the enactment of the Food Stamp Act of 1964, which is the basis for the present program, I believe that the revised standards imposed by Congress in 1970 and the regulations issued by the Department of Agriculture since then have contributed materially to the admitted abuses in the program. There are many people obtaining food stamps who are, but should not be, eligible. Primarily that is the fault of the Congress. What happened in 1970 was that Congress got carried away with the idea of making the food stamp program a substitute for effective reforms in the welfare program.

Uniform income eligibility standards for food stamps were mandated—the same for residents of the highest income areas of the country as for the lowest. To make the standards high enough to include many of the needy of our major urban industrial areas, virtually the entire populations of Puerto Rico and many southern rural counties were also made eligible.

In addition to the income eligibility standards, which are too high in many areas of the country and too low in others, the enforcement of the program, particularly by the States, has been far too lax. Arrests for cheating under the program are rare and convictions seldom occur. When you are giving some money away—and that is what this program amounts to, giving poor people the equivalent of money to be spent for food in the grocery stores—you are inevitably going to have a lot of people waiting in line who may not tell the whole truth about their incomes and sources of income.

The program is essential to enable low-income families to eat an adequate diet; it is, however, a great temptation to others to find a way to participate in the program even when they are not eligible. That is why there has to be careful scrutiny of the information given by applicants to make sure that cheaters are being discouraged from applying and punished when they do.

Sunday's Sylvia Porter column uses information developed by the U.S. Department of Agriculture to show that most of the participants under the food stamp program are "the poorest of the poor." It is a good column and well worth reading and I am placing it in the RECORD at the conclusion of my remarks.

PROPOSAL TO ELIMINATE PURCHASE REQUIREMENT

But where I part company with Sylvia Porter is in her endorsement of a bill pending in the Senate that would remove the necessity of participants buying their food stamps with the money that they would normally spend for food. As she puts it:

> Instead of the household paying $100 to get $166 of stamps—for a "bonus of $66 a month—the household would just receive the $66 worth of stamps. This would slash the energy and money now spent trying to administer the process whereby recipients trade substantial sums for stamps. The banks which often handle the transactions must be paid; the cards specifying the cost and allotment must be mailed out; the bookkeeping demands are tremendous.

This argument fails to take into account the basic philosophy of the food stamp program, which is that for the money a low-income family would normally spend for food, it receives enough food stamps to obtain an adequate, nutritious diet. It was never intended to permit or enable low-income families to use for other purposes the money they would normally spend for food. If a family of four normally spends, or would normally be expected to spend, $100 a month for food but it takes $166 worth of food in order to give that family an adequate diet, then the food stamp program requires the family to invest its $100 in stamps which can be spent only for food, and in return receive an additional $66 worth of stamps, also good only for food.

But if that same family, entitled to a food stamp bonus of $66 a month, received the $66 without any strings attached and without having to invest $100 of its own money in food stamps, there would be no pressure on that family to spend $166 for food if it preferred to use some of its own $100 for other purposes.

It was the tragic existence of bad nutritional standards in the United States which led to the establishment of the food stamp program. Millions of people in this country were receiving monthly handouts of surplus food for which they paid nothing. The surplus foods, such as flour, cornmeal, lard, powdered eggs, powdered milk, cheese, butter, and sometimes an occasional tin of beef, did not provide a balanced diet. Many families, however, largely subsisted on these food handouts. The surplus food disposal program, therefore, did very little to raise nutrition standards in the United States; it was nothing more than a quick and easy way of getting rid of surplus farm commodities at the lowest cost, by giving them away.

The food stamp program, on the other hand, was intended to achieve a nutritional balance. We have a long way to go before that ideal is achieved because the American people, rich and poor, still need a lot of education on good eating habits. But if we want people who are eligible for the food stamp program to eat properly, and are willing to pay them to do so, then we should insist that the total amount of their food budgets be used for food and nothing but food. Unless we have that requirement in effect, the food stamp program then becomes exactly what we did not intend it to become when the law was passed originally—that is a cumbersome way of giving individual poor families some additional purchasing power so that some, or much, of the money normally spent for food could be spent for other purposes. That would be a great mistake.

Mr. Speaker, I submit for inclusion in the RECORD at this point as part of my remarks Sylvia Porter's column as it appeared Sunday, December 7, 1975, in the Washington Star entitled "Your Money's Worth—Food Stamp Action Due."

[From the Washington Star, Dec. 7, 1975]

YOUR MONEY'S WORTH—FOOD STAMP ACTION DUE

(By Sylvia Porter)

The food stamp program must be overhauled. It has become so much of a target for attack—much of it emotional, if not hysterical—that it cannot go on as is.

Certainly, the program is far too complicated and cumbersome for both participants and administrators; at the very least, it must be drastically simplified and so redesigned that assistance gets to the Americans who desperately need it and widely criticized loopholes are closed.

But what is needed is reasoned debate and intelligent reform, not haphazard and ill-advised cutbacks. What is essential is informed change, not a response by a frightened Congress to utterly unsubstantiated charges that the rich are gobbling up food stamps, the program is widely out of control, the ranks of recipients are loaded with cheats.

Before the Senate Agriculture Committee now are several legislative proposals—which will be molded into one. The committee's departure point is the Ford administration's bill (S. 2537) which could eliminate 5 million or more people from the program, as well as reduce benefits for another 5 million.

There are two other "overhaul" bills. One by Sen. Robert J. Dole, R.-Kans., would knock 6 percent of the households off the program; another by Sen. James Buckley, R.-Cons.-N.Y., would eliminate or cut benefits for many more needy Americans.

Also among the studies before the committee is the Department of Agriculture's own "National Survey of Food Stamp Recipients," produced in response to the Senate's request for data.

This study states that, contrary to claims of critics, food stamp "participants tend to be the poorest of the poor."

Only 13 percent of all stamp recipients are in households with take-home pay of more than $6,000 a year, and 87 percent of those households have at least five members.

A full 92 percent of all participants are in households with after-tax incomes of under $7,000; 95 percent, under $8,000; 97 percent, under $9,000; 100 percent under $10,000. And half of all recipients live in households of five or more people.

Where are the rich?

The White House's bill would eliminate all four-person households with gross earnings of over $6,250 (take-home, $5,600).

If that family's $6,250 came from welfare or jobless benefits (not taxable), it would be eligible for stamps and still receive more than the take-home pay of the working family—an incentive not to work.

In short, Ford's bill would discriminate against the working poor, instead of providing incentive to work.

The recently unemployed would suffer, too, under this bill, for the determination of eligibility would be based on the average of income earned over the last three months. This would seriously delay nutrition assistance for those laid off for two to three months, or longer, while their "average" fell to food stamp eligibility levels.

Among the most shocking aspects of the program is that more than half of those below the poverty level do not use food stamps—simply because they cannot scrape together enough money to buy their stamps. Many of the working poor at the top of the eligibility ladder also are discouraged from joining because they must put up so much money for a few dollars of stamps.

Sen. Dole's bill contains a provision that would solve this problem while slashing administrative costs:

Instead of a household paying $100 to get $166 of stamps—for a "bonus" of $66 a month—the household would just receive the $66 worth of stamps.

This would help slash the energy and money now spent trying to administer the process whereby recipients trade substantial sums for stamps. The banks which often handle the transaction must be paid; the cards specifying the cost and allotment must be mailed out; the bookkeeping demands are tremendous.

The process which Dole proposes would be much more efficient. It makes sense.

This is too crucial a program for too many millions of needy Americans to be dealt with sloppily, emotionally. Rational reform and simplification—these must be the Senate's goals.

SYMPOSIUM ON THE WORLD FOOD CRISIS, XIV—WORLD FOOD CONFERENCE IN ROME

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. BRECKINRIDGE. Mr. Speaker, a good summary of the accomplishments of the World Food Conference at Rome in November 1974 was presented to the World Food Crisis Symposium at the University of Kentucky April 1 and 2 by Daniel E. Shaughnessy, Associate Coordinator, Office of Food for Peace, Agency for International Development—AID—U.S. Department of State. Mr. Shaughnessy, who has received several outstanding performance awards from AID and who served for 4 years in New Delhi, India, as director of the Food for Peace program in India, was detailed by AID to help plan the Rome conference.

Mr. Shaughnessy's remarks at the University of Kentucky follow:

Remarks by Daniel E. Shaughnessy

I am pleased to be here with you this afternoon and I would like to use the opportunity to discuss several subjects which are of interest to all of us. I notice that the program indicates I will discuss the World Food Conference. Needless to say, this is a tall order; however, there are some important considerations to focus on, and I would like to share these with you.

I am not going into statistics on food production and supply. Forecasting is difficult and not particularly reliable. However, as we all know, the availability of food is influenced by a number of factors. For those of us in developed countries, having food is more a matter of cost than availability. For many of the world's people, it is often a matter of whether or not there is any food available at all. For these people, influences such as international concern, food aid, or other forms of foreign aid, are extremely important and it is on these considerations that I would like to concentrate this afternoon. I would like to begin with a brief discussion of the World Food Conference and what its accomplishments will mean to all of us. Then, I'd like to briefly discuss our government's food aid program, and finally, the broader role of development assistance as it relates to the food situation.

The World Food Conference was held in Rome in November as the result of a proposal made by Secretary Kissinger to the UN General Assembly in September 1973. The purpose was to have the countries of the world adopt new food production, distribution and nutrition policies to enable more of the world's growing population to get enough to eat and to prevent the recurrence of a world without grain reserves, as has been the case for the past two years.

The conference received considerable publicity; however, in my opinion, (with some exceptions) the press and media coverage was unfortunate in that it missed many of the major accomplishments. The Conference was convened in an atmosphere of the need to do something about the longer range problems of hunger, malnutrition and the need to increase agricultural production. Its primary purpose was to set goals and objectives for longer term solutions to the world's food problems. It was not convened as a pledging session for additional amounts of food aid; nor was it intended to focus a major portion of its time on short-term solutions to complex and longer-term problems. As a result, I believe that as we here this afternoon consider the world's food situation, there may be some misunderstandings about the Conference and some of the very real accomplishments it achieved.

The broad objective of the United States and many other governments in entering the Conference was the establishment of a substantive and organizational framework for concerted international effort to combat the food problem. In my opinion, this was wholly achieved. The major accomplishment of the Conference was, in fact, supporting creation of a series of follow-up activities and organizations to implement a wide range of specific, useful, and agreed-upon recommendations for national and international action.

Heading the list is the World Food Council, a high level, limited membership UN organization, charged with overall review of follow-up action in all food policy areas. Council members will be nominated by ECOSOC and elected by the General Assembly. It will report to the general Assembly and be serviced within the framework of FAO.

In addition to the Council, the Conference recommended several, perhaps even more important, bodies with specific responsibility for one or more aspects of food policy:

a. A Committee on World Food Security will review supply, demand, and stock data as well as steps taken by governments to implement the proposed international undertaking on world food security. This was supported by the U.S. However, we made the further recommendation, which was accepted by the Conference, urging major grain importers and exporters to begin urgent talks on a reserve system. The first of these discussions took place in January.

b. A consultative group on food production and investment in developing countries was established. You can talk about promoter, etc.—money needed. This is a further U.S. initiative for creation of a group composed of bilateral and multilateral donors and representatives of developing countries charged with coordinating and seeking an increased volume and efficiency of financial and technical assistance to agricultural production. The group will be chaired by IBRD, and will be staffed jointly by IBRD, FAO, and UNDP. Already underway.

c. The reconstitution of the World Food Program Intergovernmental Committee was agreed upon to enable it to serve as a food aid policy and coordinating body in addition to carrying out its current activities. The U.S. also suggested the creation of a Food Aid Subcommittee under the Consultative Group to coordinate food aid policy, negotiations, and financing for the 10 million tons recommended by the Conference.

d. Resource availability. The U.S. proposed and the Conference accepted a recommendation that the Development Committee of IBRD and IMF undertake continuing a review of the adequacy of external resources that are available both for investment in food production and for the procurement of both food and agricultural inputs.

e. Nutrition. The Conference requested ECOSOC to study the need for new institutions or adjustments in the current UN system to ensure effective follow-up on its nutrition recommendations, chief among which were U.S. proposals for a global nutrition surveillance system and an internationally coordinated program in applied nutritional research.

f. An Agricultural Development Fund was proposed originally by the OPEC countries, and later sponsored by numerous developed countries—Australia, The Netherlands and New Zealand. The Fund would receive voluntary contributions and resources would be dispensed through existing international and regional lending institutions to avoid creation of a further bureaucratic structure. The resolution specified that the Development Fund will not come into being until the UN Secretary-General, in consultation with pledging countries, determines that the Fund holds promise of generating substantial additional resources for development assistance, and that its operations have a reasonable prospect for continuity. The U.S. supported the proposal in hopes that it will be used as a vehicle for promoting development by the countries with surplus oil revenues, and while the U.S. has no present intention of contributing to the Fund, it will continue directing its substantial multilateral contributions through existing institutions.

g. Research, Follow-up on research will remain the responsibility of the Consultative Group on international agricultural research.

h. Additional follow-up. Action on fertilizers, pesticides, and a food information system will remain the responsibility of appropriate subgroups within FAO.

The Conference also recognized that these efforts take time, and that food aid is an essential remedy for the shorter term. Further, the plight of those in immediate need was far from neglected contrary to press reports and within 10 days after the close of the World Food Conference, an additional meeting on food aid was convened. This brings me to my next point.

I mentioned earlier that international concern was an important influencing factor on food availability for many people; The World Food Conference and its results are excellent examples of this. However, an international system of food reserves alone will not solve the world food problem; additional research alone will not solve the problem, and new organizations and money alone will not solve the problem. All are needed, and all will take time. But in the interim, and while many of these remedies are being developed, food aid will continue to be essention, because the need continues to be critical.

Therefore, let me deal with the subject of food aid, and more specifically, U.S. government food aid, through our Food for Peace Program or PL 480. Take a moment—Describe Title I, Title II—major programs, and like Foreign Aid, widely misunderstood. Both our President and our Secretary of State had said at the United Nations and again at the World Food Conference that we would increase our food aid. At the Conference, Secretary Kissinger announced an increase in humanitarian aid directed at vulnerable groups suffering the most from malnutrition.

In early February, the President announced a $600 million increase to 1.5. And over the years, the U.S. has provided more than $25 billion in food aid. For FY 75 we have made available an expanded budget of more than $1.5 billion for food aid and we plan a sizeable program next year. This is a major effort, but we cannot, and will not, do the job alone. Others must, and are helping in F.P., etc. Indeed, we are encouraged by the growing number of countries assisting in this effort.

In a broader sense, the world food situation will be influenced by the broader range of all types of development assistance and foreign aid. We believe that it is in our interest to help developing nations become independent and viable members of the world community, and foreign aid is a useful vehicle to do that. Foreign aid is not new; it has its problems, but is far from a chronic failure. Several years ago, one of our AID officials noted that there are many instances of successful aid activities and he described the following example:

"Let me give a little known example of a successful effort at helping an emerging country, where it was not the U.S. but other countries which did the helping. The country I refer to was a former dependent territory of one of the great colonial powers. Its population was a little over three million. It had natural resources but, like all emerging nations, inadequate capital and limited human skills. It was, like most other less developed countries, a producer of primary products; these were its chief earners of foreign exchange. The former colonial power through its credit arrangements made possible new investments and expansion in these primary products. Land settlement projects were carried out by foreign corporations which had acquired large holdings. Through their provisions of foreign credit, technical assistance, and community services, the local citizens gradually purchased their own land. Other technical assistance resulted in improving the breeds of cattle, and in developing a usual, a native textile industry, and other manufacturing enterprises. Infrastructure projects such as bridges, roads, and canals were financed largely by borrowing from former colonial interests.

"Development proceeded, but not always smoothly. The developing country ran into economic difficulties. There were defaults on bonds and even some repudiations of debts. There were periods of violent internal conflict. . . . There was widespread corruption both in and out of government. In many of the communities there was no such thing as law and order. Its first efforts at self-government were crude. Sometimes legislators would jump out windows to try to prevent a quorum and the orderly conduct of business. One could say that the emerging country was doing too well at putting self-help principles into practice.

"Yet, it is generally agreed that this particular undeveloped country did quite well. For I have been describing the United States . . . and one of the window-jumping legislators was Abraham Lincoln."

While this analogy is interesting, the point to remember is that development is essential to a nation; it takes many forms, and its early stages often set the tone for a nation's success or failure.

In a larger sense, what we now do to ensure adequate food production and availability is a development process that may well set the tone for the quality of life of future generations.

Thus, my topic this afternoon has many ramifications—far more than one person can discuss. However, the world food situation need not be the world food problem. It requires the involvement and concern of all countries; it deserves the attention not only of governments but also the private sector; and it dictates that individuals like ourselves continue to be aware of what has to be done and that we support efforts necessary to accomplish the task.

In short, we cannot afford to be complacent—there is too much at stake to patronize that frame of mind. Further, the world has built some momentum—follow through on the World Food Conference—continued food aid as necessary—increasing numbers development aid donors—etc. We need to maintain that momentum. If we persevere and, it will take time, then the World Food Problem becomes again, the World Food Situation.

AWARDING OF CONTRACT INVESTIGATION STARTED

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. EDGAR. Mr. Speaker, in March of 1974, TVA awarded a $184,435,400 contract to a Swiss company, Brown Boveri, for the purchase of four turbine generators. Three American companies—General Electric, Allis-Chalmers, and Westinghouse—all expressed interest in obtaining the contract, and submitted bids conditional to the deletion of certain clauses concerning operating assurances and liquidated damage provisions. Because the terms requested by the three American companies differed materially from the terms in the invitation for bids, the three bids were rejected. Brown Boveri's bid was the sole one responsive to the terms of the invitation, and this company was awarded the contract.

Mr. Speaker, I am very concerned that the terms of the bidding invitation by TVA may have been inflexible, considering the needs of both the TVA and American industry. I have launched an investigation into the circumstances of the awarding of this contract. For the benefit of my colleagues, Mr. Speaker, I am inserting the correspondence which I have received and sent out on this issue. First is a letter I received from the chairman of the TVA responding to my request for a history of the bidding and the awarding of the contract. The reply was sent to the management of Allis-Chalmers, General Electric, and Westinghouse. The second, third, and fourth letters are the comments which I received from these three companies. Today, I sent a letter to Mr. Wagner asking him to comment on these three letters. This exchange will be printed in the RECORD when it is received. The letters follow:

TENNESSEE VALLEY AUTHORITY,
Knoxville, Tenn., October 2, 1975.

Hon. ROBERT W. EDGAR,
Cannon House Office Building,
Washington, D.C.

DEAR MR. EDGAR: This is in response to your request during the hearings conducted by the House Public Works Committee on September 19, 1975, that we furnish you information on the purchasing procedures which TVA is required to follow, and specifically on TVA's purchase of turbine generators from Brown Boveri Corporation of Switzerland earlier this year.

Section 9(b) of the TVA Act (16 U.S.C. § 831h(b)) requires that, except in certain limited situations not relevant to this question, all purchases and contracts for supplies or nonpersonal services made by TVA shall be made after advertising. This involves the issuance of invitations to bid which contain a description of the product or service to be procured and terms and conditions regarding performance of any contract resulting from acceptance of a bid under the invitation. It is a fundamental principle of formal advertising that all bidders must bid to the same terms and conditions. Accordingly, if a bidder takes a material exception to a term or condition of the invitation or deviates in a material manner from the specifications its bid is nonresponsive to the invitation and a contract cannot lawfully be awarded to such a bidder. To consider such a bid would, of course, be unfair to the other bidders, since it would allow one bidder to bid to different terms, conditions, or specifications than other bidders and would constitute a purchase made without advertising.

In determining whether to award a particular contract to a foreign bidder or to allow foreign firms to participate as subcontractors to a domestic supplier, TWA follows the guidelines laid down by Congress and the President for the United States Government as a whole. The principal guidelines in this respect are the Buy American Act and Executive Order 10582, as amended by Executive Order 11051. As you know, the Buy American Act provides that purchases shall be made from domestic sources unless the prices quoted by domestic suppliers are unreasonable or the foreign purchases are otherwise inconsistent with the public interest. The act does not specify what constitutes an unreasonable price or when a purchase is inconsistent with the public interest, and Executive Orders 10582 and 11051 were issued to provide uniform standards for determining those questions. On the question of price, Executive Order 10582 provides that a domestic bid shall be deemed unreasonable and its acceptance deemed inconsistent with the public interest if the amount of the domestic bid exceeds the amount of the foreign bid by more than six percent. In accordance with a recommendation of the Council on Foreign Policy, a 12-percent differential is used when the domestic bidder is located in an area classified by the Secretary of Labor as one of labor surplus. A 12-percent differential is also used when the low domestic bidder is a small business firm.

In January of 1974, TVA invited bids for the purchase of four turbine generators. The invitation to bid for this equipment contained, as do all of TVA's invitations to bid, terms and conditions specifying the extent the prospective contractor will be liable to TVA in the event the equipment to be supplied under the invitation is defective or is not delivered in accordance with the contract performance dates. While in most of TVA's invitations to bid a contractor's liability for special or consequential damages is limited to the contract price, this invitation specifically limits the contractor's liability for such damages to only 15 percent of the contract price.

In addition to other provisions describing the warranty to be furnished with the equipment and certain efficiency guarantees of the equipment, the invitation to bid also contained an Operating Assurance clause which specifies the extent of the contractor's liability in the event the equipment fails to operate properly during the first 12 months of operation, and a Liquidated Damages clause which establishes the amount TVA will be damaged if the equipment is late in being delivered. The contractor's maximum liability under these two provisions is 25 percent of the contract price. Bids were received under this invitation to bid from Brown Boveri Corporation, Allis-Chalmers Power Systems, Inc., General Electric Company, and Westinghouse Electric Corporation. Allis-Chalmers, General Electric, and Westinghouse each conditioned their bid on deletion of the Operating Assurance and Liquidated Damages clauses and on a complete waiver of special or consequential damages.

In addition, Allis-Chalmers took other exceptions to the provisions contained in the invitation, including the warranty and efficiency guarantee. General Electric Company also stated that its "Conditions of Sale" (which differ materially from the terms and conditions of the invitation) would prevail and that any provision contained in the invitation and not in General Electric's "Conditions of Sale" was unacceptable. Westinghouse also excepted to the warranty contained in the invitation. Since the bids of Allis-Chalmers, General Electric, and Westinghouse contained material exceptions to the terms and conditions of the invitation, their bids could not be considered for award of a contract. Brown Boveri Corporation's bid was the only bid fully responsive to the invitation, and in March 1974 TVA awarded a contract to that company at a firm price of $184,435,400.

It has been TVA's experience in recent years that exceptions to the liability provisions of invitations to bid for turbine generators have increased. If TVA were to contract on this basis, all or substantially all of the risk would be shifted to TVA, and any expenses or costs occasioned by late delivery of the equipment or failure of the equipment to operate properly would be for TVA, the purchaser, rather than the manufacturer. However, TVA has reviewed this situation and on several occasions has modified its terms and conditions to further reduce a contractor's potential liability while maintaining some degree of protection for TVA. We feel that the terms and conditions contained in the invitation to bid for these turbogenerators represented an equitable allocation of the risks.

The contract awarded Brown Boveri contained an option to purchase two additional machines at a firm price of $107,654,816 for delivery in 1978–1981. A comparison of this price, in January 1975, with published handbook prices of domestic turbine generator manufacturers showed that significant savings would inure to TVA from the exercise of its option with Brown Boveri. In addition, TVA will realize other benefits and cost savings because of the economies in purchasing two additional machines which duplicate those purchased last year. Accordingly, the decision was made to exercise the option.

While we do not know the exact value of subcontracts to be placed with U.S. firms, Brown Boveri has informed us that a substantial portion of the work necessary to fulfill the turbogenerator contracts will be done by its plant in Richmond, Virginia, and by Foster Wheeler Corporation at its plants in New Jersey and Texas. In addition, the Brown Boveri price includes import duties on the six turbine generators of about $14 million to be paid by the contractor to the United States Treasury.

If we can provide you with any further information, please let us know.

Sincerely yours,

AUBREY J. WAGNER,
Chairman of the Board.

ALLIS-CHALMERS POWER SYSTEMS, INC.,
West Allis, Wis., November 18, 1975.
Hon. ROBERT W. EDGAR,
U.S. House of Representatives, 117 Cannon House Office Building, Washington, D.C.

DEAR MR. EDGAR: Mr. David C. Scott, Chairman and Chief Executive Officer of one of our parent companies, Allis-Chalmers Corporation, has asked me to respond to your letter of October 9, 1975. In particular he asked me to comment on the letter to you from Mr. Wagner, Chairman of the Board of TVA, that was enclosed with your letter.

Allis-Chalmers Power Systems, Inc., is a jointly-owned company of Allis-Chalmers and Kraftwerk Union of West Germany that was formed in 1970 to serve the United States turbine generator market. The turbine generator design that we offer has been a proven success in other parts of the world, but is unique in the United States market. Since our formation in 1970 we have been successful in obtaining orders for thirty turbine generator units from both private and publicly owned utilities in vigorous competition with both domestic and foreign suppliers.

You can well appreciate that, since we are a relatively new company with a small share of the turbine generator market, we must exercise considerable caution regarding the terms and conditions under which we accept turbine generator orders (especially those of the magnitude of the TVA order) to avoid assuming excessive legal liabilities which could endanger the fiscal well-being of our entire company. None of the contracts for the orders we have received contain the onerous terms and conditions set forth in TVA's invitation to bid. The acceptance of the terms and conditions proposed by TVA would, in our opinion, have imposed an unacceptable risk on our company.

While we generally concur with the thrust of Mr. Wagner's letter that there must be equitable allocation of risk between the contractor and the user of this kind of equipment, I am sure that you can appreciate the difficulty of properly evaluating where to place the risk for the failure of a piece of equipment that is designed to be an integral part of an extremely large and complex electrical power generation and distribution system. Thus, it is frequently a question of who is in the best position to minimize this risk, and there are valid arguments on both sides of this issue. We believe that our terms and conditions define an equitable distribution of this risk. However, we have demonstrated our willingness to consider the position of the utilities by negotiating unique clauses covering warranties, efficiencies and special damages in some of our contracts for sale of our turbine generator units.

We believe that some of the comments in Mr. Wagner's letter require added comment for the benefit of people not intimately familiar with TVA's procedures and past practices. For example, the specific TVA clauses relating to warranties, operating assurances, liquidated damages and consequential damages are not a requirement of other major electric utilities and, in fact, are significantly different from the clauses contracted for by other utilities. Furthermore, the TVA's requirement of absolute adherence to their terms and conditions of sale did not permit the negotiation of a mutually acceptable distribution of risk. TVA has been unwilling to utilize the practice of weighing the contractor's terms and conditions as part of their procedure in evaluating bids, a practice which is common among other utilities in the United States. We hope that TVA will modify their practice in this regard to encourage more competitive bidding in the future.

While TVA has eased its conditions in certain limited areas, on balance the total change made has been relatively minor. Unlimited liabilities continue to be a part of the overall specifications which we consider unacceptable.

In conclusion, we would like to reaffirm that we share your concern that large orders from government owned utilities, such as TVA, especially in these highly critical technology areas, are awarded to offshore suppliers for manufacture outside the United States. A-CPSI is willing to mutually determine a proper sharing of risk as illustrated above. This procedure of negotiating terms and conditions of sale would eliminate the need for TVA to demand unreasonable terms and conditions of sale, which too often have resulted in offshore suppliers being the only responsive bidder, thus forcing TVA to buy critical equipment without due and proper consideration of the far more important technical and service considerations of United States manufactured equipment.

It is interesting to note that BBC has not submitted a responsive bid to a United States utility for a turbine generator unit since receiving the TVA order.

Although this has been somewhat of a summary response for evaluation of Mr. Wagner's letter, we believe it outlines our thoughts rather completely.

Very truly yours,

ROBERT J. DINEEN.

GENERAL ELECTRIC CO.,
Fairfield, Conn., October 29, 1975.
Hon. ROBERT W. EDGAR,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN EDGAR: Paul Hessemer and I have exchanged correspondence on your good work in the House and I am looking forward to an early opportunity to visit with you in your offices. In your letter of October 9, 1975 you requested my comments on the TVA purchase of several steam turbine-generators from Brown-Boveri.

TVA has been one of General Electric's most important customers for power generation equipment for many years, so naturally we have been disappointed to see them purchase so many large steam turbine-generators from offshore. These large purchases cannot help but have a detrimental effect on U.S. balance of payments and employment levels. Further, and perhaps equally significant, we sincerely doubt that TVA's best long range interests are served by these purchases. This is so because, at least based on past experience, GE turbine-generators could be expected to be significantly more reliable than the units purchased.

During the past year our people have had numerous discussions with TVA personnel concerning the terms of sale and specifications for turbine-generator purchases. These discussions have been very beneficial, and we believe both TVA and GE have a much better mutual understanding of each other's concerns. We have, however, insisted that we must continue to take exception to terms requiring GE to accept liability for consequential damages and to accept other terms which would result in our assuming unreasonable risks. Let me add that the terms to which we take exception are not required by other U.S. utilities. We are continuing our negotiations with TVA, and we are hopeful that these discussions will enable us to submit responsive bids which will be evaluated in the future. I will be able to elaborate on these efforts when we visit together.

We deeply appreciate your interest in this matter and assure you that we will do everything within reason, consistent with sound business judgment, to obtain future turbine-generator business from TVA and to serve their needs in this vital area.

Sincerely,

REGINALD H. JONES.

WESTINGHOUSE ELECTRIC CORP.,
Pittsburgh, Pa., November 25, 1975.
Hon. ROBERT W. EDGAR,
House of Representatives, Cannon House Office Building, Washington, D.C.

DEAR CONGRESSMAN EDGAR: Thank you for your letter of October 9, 1975 to Mr. Burnham who has forwarded it to me for reply.

We also are quite concerned that Brown-Boveri obtained orders for six 1,268,000 kilowatt nuclear turbine-generators from TVA in preference to domestic competition. It is our view that the situation surrounding TVA's turbine-generator purchases is relatively unique. TVA has insisted upon unreasonable contract conditions which place the manufacturer in a very difficult position. Although the utility is willing to pay a substantial price premium for a manufacturer's acceptance of these burdensome conditions, that premium can never be commensurate with the risk the manufacturer must assume.

TVA's specifications required a thirty month warranty and also required that the manufacturer accept the following penalties:

a. Up to 15% of the price of each unit for special or consequential damages,

b. Up to 25% of the price of each unit for excessive outage time, and

c. Up to 25% for late delivery.

(The total assessment for any combination of penalities a, b, and c were not to exceed 40%.)

It is of interest that the above penalties are not normally included in specifications issued by TVA for nuclear steam supply systems; nor are such penalties generally written into the specifications issued by other domestic electric utilities for turbine-generators.

It has been the position of Westinghouse that special and consequential damages which accrue to the utility apart from damages in the turbine-generator itself are rightly in the scope of the utility who has the opportunity for profit commensurate with the risks associated with their business. It is impractical for us to include in our price, the costs associated with the downtime of the entire project. Similarly, we are not able to obtain nor expect, consequential damages from the electric utilities who supply electrical energy to our many plants. Typically, in American industry, the purchaser of major apparatus assumes the risks of consequential damages.

It is not our practice to assume responsibility for liquidated damages for late shipment. Manufacture and delivery of a turbine-generator is a highly complex project beset with many unknowns, requiring close co-operation between Westinghouse and many suppliers. In our opinion, penalties for late shipment can be counter productive because they do not reward the manufacturer who has done a good job in shipping on time; rather, they reward the manufacturer who is willing to make promises about the future at a price that cannot possibly recompense the purchaser.

As an alternate to the request for a thirty month warranty, we did offer TVA a warranty of eighteen months from initial synchronization. This compares to our standard warranty of twelve months from initial synchronization with a provision that the warranty can be extended by the length of time associated with any warranty outages up to a maximum of eighteen months from initial synchronization.

It is interesting that TVA paid a significant price premium to Brown-Boveri for these six turbine-generators. It is our understanding that the total value of the Brown-Boveri contract (including options exercised by TVA) is $407,754,808. We also understand that Brown-Boveri offered a price reduction of approximately $31,000,000 for a contract which would more nearly correspond to the contract which Westinghouse proposed. This offer was not accepted, but it indicates that the Brown-Boveri price for a contract equivalent to that offered by Westinghouse was approximately $377,000,000. The equivalent Westinghouse price, including a thermal performance adjustment for the physically smaller Westinghouse low pressure turbines, but not including Buy America credit, would have been approximately $330,000,000.

You might be interested, also, in some information relative to the economic impact associated with manufacturing six turbine-generators of this size in the United States, based on Westinghouse data for the calendar year 1975.

Approximately 9,100 man-months of effort by Westinghouse employes (including manufacturing, engineering and administrative) and an additional 4,050 man-months effort by our first level major suppliers are required to produce one unit. Thus, six units would result in 6,575 man-years of productive employment for U.S. citizens, not including minor subcontractors.

We estimate that an order for one turbine-generator of this type as an incremental addition to this year's business, would result in an incremental addition to federal income taxes by Westinghouse of approximately $5,000,000.

In addition, the average federal and state income tax withheld is approximately $1,025 and $135, respectively, per employe. Thus, the total tax benefit associated with the placement of this order with Westinghouse would have been approximately $37,500,000.

The award to Brown-Boveri by TVA was a serious blow to Westinghouse and its employes. Future steam turbine-generator purchases by TVA will be equally important; two units plus an option for two units will be placed within the next year. Therefore, we are having on-going discussions with TVA in which we review the necessity that TVA assume risks normally borne by the utility purchaser, the great interest which Westinghouse has in obtaining business from TVA, and the significant benefits to TVA in selecting Westinghouse above other manufacturers.

Sincerely,

R. E. KUBY.

NEW YORK POST SUPPORTS BILINGUAL COURTS LEGISLATION

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. BADILLO. Mr. Speaker, the New York Post has been doing a series of articles on the problems encountered by Hispanic Americans in the Judicial System in New York City. The House Judiciary Subcommittee on Civil and Constitutional Rights has also been having hearings on the subject. I would like to insert the New York Post articles into the CONGRESSIONAL RECORD because I believe the issue is of significant interest to Members concerned about the preservation of the sixth amendment guarantees relating to criminal prosecutions:

[From the New York Post, Dec. 3, 1975]

HISPANICS IN COURT: STRANGERS IN A STRANGE LAND

(By Edmund Newton)

By the time he trudged into the courtroom, the defendant wasn't even sure where he lived.

After 24 hours in custody, he was certain of the street—Davidson Avenue—but as much as he rubbed his forehead, he couldn't remember the number.

The hearing proceeded implacably.

A string of words from the court crier (docket number, sections of the Criminal Code he alleged to have violated), a brief appeal for bail from the prosecutor, rebuttal from the Legal Aid lawyer—and suddenly the man, a Bronx Puerto Rican, was paroled, scheduled to return to court in a few weeks.

For the defendant, who exhibited a newly stitched gash in his scalp and an air of raw bewilderment, the release seemed as arbitrary as his arrest the previous evening.

Still gazing truculently at the floor after the brief hearing, he told in Spanish how an argument with an Americano neighbor had escalated into an "attack" and a string of misdemeanor charges against him.

The whiz-bang pace of Night Court (or any other arraignment court) is confusing to anyone. But zipping through the proceedings without knowing English?

"Imagine yourself as an American, being locked in China," said one Puerto Rican lawyer.

The predicament of Hispanics in the criminal justice system (it has variously been estimated that between one-fourth and one-third of the criminal defendants in the city are Hispanics) is one which worries the experts more and more.

A day in court for the non-English-speaking defendant, or one with a "marginal" grasp of the language, often "borders on denial of due process," says Carlos Arce, deputy director of the Mayor's Hispanic Criminal Justice Task Force.

A federally financed study released last month offered apparent proof.

Hispanic defendants—who constitute the vast majority of defendants with language problems—receive markedly higher sentences, fines and bail than non-Hispanics, and they're less likely to be released on their own recognizance, said the study, prepared by PRC Metronamics, an East Harlem-based management firm.

Theoretically, Spanish-speaking defendants get plenty of help from court interpreters, who sit in during interviews with defense counsel (upon request) and provide, while standing in the courtroom next to the defendant, simultaneous translations of the proceedings.

But it's an apparently unsatisfactory arrangement all around.

"Many of the translators are incompetent," says Ruben Franco, staff lawyer for the Puerto Rican Legal Defense Fund. "After testimony has taken place, the interpreter gives a precis, a summary. In some cases there's a simultaneous translation, which comes across very, very mechanical."

Most important, Franco said, "interpreters are not provided at every single stage, from arrest to disposition." As a result, a defendant may have an adequate understanding of what's happening inside the courtroom, but his defense is often impaired because of his inability to communicate.

PUT AT DISADVANTAGE

Take the case of the forgetful Bronx defendant, who claimed that no one had translated anything for him until he arrived at Night Court. According to Criminal Court Judge John Carro—who was presiding that evening—the man's inability to speak English blocked him from quick release (with a "desk appearance ticket" at the arresting precinct) and put him at a disadvantage in relation to the English-speaking complainant.

"A Puerto Rican lawyer might have been able to intervene at the pre-arraignment hearing [at which complainant and arresting officer made their depositions] by saying, 'Hey, this fellow obviously got the worst of it," said Carro, one of only two Puerto Rican Criminal Court judges in the city.

Additionally, Carro said, a "less sympathetic" judge might have relegated the man to a cell in the Bronx House of Detention to await trial. As a welfare recipient, there was little likelihood he'd have been able to make bail.

MANY INCONVENIENCES

Beside the imbalances in treatment turned up by the PRC study, Hispanics suffer a number of other demoralizing inconveniences. Lawyers say that Hispanics spend more time in the grimy courthouse "pens," waiting to be heard in court, because language problems needlessly complicate their cases.

They can't be released on "desk appearance tickets" (akin to traffic summonses) after arrest for minor offenses if they can't give information to an English-speaking desk sergeant. They spend long hours waiting for overworked court interpreters to become available.

Lawyers and court personnel offer dozens of examples. Like the prankster who was arrested in The Bronx last month for a fumbling, drunken attempt to steal a revolving cherry light off of a police patrol car. His lawyer plea-bargained, got the charge reduced to attempted petty larceny (involving a small fine), but the man couldn't understand what the judge was saying when he asked, "Is there any reason why sentence should not be imposed on you today?"

Disastrous timing. Court interpreters were busy elsewhere. The defendant was sent back to the holding pen. By the time an interpreter could be hunted up five hours later, the lawyer had left to handle a case in another court. The man had to reappear two weeks later on a case which could have been disposed of in seconds.

"You can imagine the frustrations," said Juan Ortiz, director of the Mayor's Hispanic Criminal Justice Task Force and a former Manhattan assistant district attorney.

"Hispanics often can't be understood even if they scream."

Court interpreters—there are 109 of them with starting salaries of $12,225—have some beefs of their own about the way lawyers use (or don't use) their services. Some have reportedly petitioned the Office of Court Administration to direct lawyers to use interpreters in their interviews with defendants who have language problems, rather than using their own faulty Spanish or a purportedly bilingual fellow detainee in the courthouse pen.

A lawyer who forges ahead with a case—under the perpetual pressure to keep the docket moving—using only his own rusty Spanish faces a lot of pitfalls. Say his client uses the word *asalto*. "Assault?" Wrong. Literally translated the word means robbery. There are dozens of other verbal boobytraps, a lot of them deriving from Puerto Rican slang, which even non-Puerto Rican Hispanics often find baffling.

If a lawyer can't understand the bare facts of his client's side of the story, how can he explain the arcane subtleties of criminal law and plea bargaining? "We have a very complicated system of law, where minor details can make or break a case," observed Task Force deputy director Arce.

Some lawyers resort to using other Hispanic defendants to translate for their clients. Court interpreters report that lawyers have even used co-defendants to interpret for each other, in obvious violation of legal ethics.

Many of these problems might be avoided, the PRC study suggested, if there were a "systematic way of identifying individuals in need of an interpreter." Many Hispanics don't request translating services out of pride or a desire to get their case resolved quickly, lawyers say.

[From the New York Post, Dec. 4, 1975]

FOR THE HISPANICS IN COURT, JUSTICE IS DEAF

(By Edmund Newton)

Though estimates of the number of Hispanics in the city range as high as 2 million—a quarter of the population—the Spanish-speaking defendant still confronts "a sea of white American faces" when he steps into a courtroom, complains a prominent gadfly in the criminal justice system.

Bronx Criminal Court Judge John Carro says a damaging language problem (which has inflicted inordinately harsh penalties on accused Hispanics, according to a recent study), coupled with the "alien atmosphere" in the city's courts, has eroded confidence in the legal system for entire communities.

"The face of justice in this city still tends to be white," said Carro, one of only two Puerto Ricans among 98 criminal court judges in the city.

A survey by The Post seems to confirm Carro's claim. Among the findings:

Of 452 judges in the city, only nine are Hispanic. Only three of the Hispanic judges try criminal cases.

Only seven of the city's 707 assistant district attorneys (who prosecute cases) are Hispanic. None of the DAs is Hispanic. In Manhattan, with an estimated Hispanic population of more than 300,000, there are no Hispanic assistant DAs.

Only five of the Legal Aid Service Criminal Defense Division's 408 staff lawyers are Hispanic. The public defender agency, which handles the bulk of the criminal cases involving Hispanics, also lists 12 of 120 paraprofessionals and 13 of 87 investigators as Hispanic.

Veteran criminal lawyers estimate there are only six Hispanics practicing criminal law in private practice.

Less than 3 per cent of the city's 4775 court workers—ranging from county clerks and court officers to statistical analysts and maintenance workers—are Hispanic. Of the 141 Hispanic court workers, 55 are court interpreters.

Add to these figures the slim odds for a Hispanic-dominated jury—an estimated 15 per cent of the city's electorate, from which jury lists are drawn, is Hispanic—and you have what Carro describes as "a stacked-deck perception of justice" in the city's Spanish-speaking community.

The problem assumes major proportions, observers say, when it turns out that between a quarter and a third of all the criminal defendants in the city are Hispanics.

Says Juan Ortiz, recently resigned director of the Mayor's Hispanic Criminal Justice Task Force and a former Manhattan assistant DA, "The situation weakens people's confidence in the system. They feel it's somebody else's system."

Failure to report crimes, reluctance to testify against fellow-Hispanics, bitter charges by convicted criminals that they've been "railroaded"—all this can be attributed to the lack of Hispanic representation in the courts, according to Hispanic experts.

POLICE "BEAR BRUNT"

But the "brunt of the frustrations" is felt by the police, the most visible representatives of the criminal justice system, Ortiz said.

Precincts—particularly in the Puerto Rican ghettos—have frequently noted a failure to cooperate with police investigations and even an overt hostility toward cops by Hispanic citizens. (The cops have some problems of their own regarding Hispanic representation. Only 2.9 per cent are Hispanic. There are only two Hispanic officers above the rank of lieutenant.)

The problems facing Hispanics have begun to get some official attention. Groups like the city's Board of Correction and the New York County Lawyers' Assn., both of whom have issued reports on Hispanics in the criminal justice system, have offered solutions.

THE SUGGESTIONS

Among their suggestions: Civil Service reforms geared to allowing more Hispanics to work for the courts, greater use of bilingual paraprofessionals (Puerto Rican prelaw students among others) and beefing up the system's contingent of court interpreters.

The city's DAs complain they can't compete with private law firms for young talent because of the low salaries for assistants. A spokesman for Brooklyn DA Eugene Gold said he'd advertised in minority newspapers and "gotten zero response." Minority lawyers can "make a ton more money" than the starting salary of $11,000 offered by the DAs. Salaries are similar at the Legal Aid Society.

A number of observers have suggested increasing salaries to make Legal Aid and the assistant DAs more competitive.

PRC Metronamics, an East Harlem-based management firm, is now negotiating with the U.S. Law Enforcement Assistance Administration for funds to set up a bilingual decentralized arraignment court as an experiment.

The firm released a report last month indicating that Hispanic defendants in the city courts receive higher bail, harsher sentences and bigger fines and are less likely to be released on their own recognizance. A key reason, says PRC director Cesar Perales, involves what happens at arraignment.

"There's no question that if you do well at arraignment on a serious crime, you're going to get a better plea bargain," Perales said.

"YOU GET DESPERATE"

For example, if a dependent can't make a high bail, he'll have more difficulty "getting his witnesses together, preparing his defenses," Perales said. "When you're behind bars, you get desperate and you're more willing to take whatever the prosecutor offers." PRC hopes to show in its experimental court that some of the disparities in treatment can be evened out.

But many observers say the critical issue for Hispanic defendants is having lawyers with whom they can communicate. The lawyer-client relationship is not unlike the doctor-patient relationship, Juan Ortiz said. "There's got to be rapport. Lawyer and client have to have full confidence in each other." Adds Perales: "Without that ease of communication, a lawyer's not going to be as persuasive."

MORE LAWYERS

Four years ago, there were just 63 Puerto Rican law students in the country (outside of Puerto Rico itself). Largely through the efforts of the Puerto Rican Legal Defense Fund, the number has increased to about 300. The PRLDF has a high-powered education component which does everything from running orientation sessions for ambitious students to tutoring law school applicants for the Law School Admission Test.

Judge Carro, among others, wants much more of the same. Observing that Puerto Ricans lag far behind blacks and Chicanos in the legal profession, Carro said there should be "crash programs" to help overcome "the negative effects of public education." The New York County Lawyers' Assn. has also urged that local law schools "devise and initiate plans to recruit more Spanish-speaking students."

[From the New York Post, Dec. 5, 1975]

A BADILLO BILL ON COURT INTERPRETERS

(By Edmund Newton)

Rep. Herman Badillo plans to sponsor legislation which would require that a defendant, or any other party to a judicial proceeding, be notified of his "right to an interpreter" in federal, state and city courts.

As noted in The Post this week, the problems of defendants with language problems—particularly Hispanics, who may represent a third of the criminal defendants in the city—have become a source of increasing concern to experts in the criminal justice system.

The Bronx Democrat's proposed legislation would expand the so-called Bilingual Courts Act, which requires certified court interpreters in all federal courts. That bill, which has already passed the Senate, is presently before the House Judiciary Committee's subcommittee on civil and constitutional rights.

Badillo said federal legislation could dictate aspects of local court administration when they involve "constitutional rights." He said the question of providing interpreting services did not involve "new rights, but the implementation of required constitutional rights."

"You can't say a man's going to get the right to due process if he doesn't understand the evidence against him," he explained.

Currently in New York, court interpreters are made available at the discretion of the judge. Badillo's bill would allow any party to a proceeding to move that an interpreter's services be provided. If a judge arbitrarily denies the motion, Badillo said, the party would be able to appeal immediately.

Badillo is studying ways to further extend the right to an interpreter to civil proceedings—say, in landlord-tenant court—and some administrative hearings, such as those conducted by the Immigration and Naturalization Service.

Though the Supreme Court has never ruled on the "right to an interpreter" issue, the Second Circuit of the New York Court of Appeals ruled in 1970 that courts should "make unmistakably clear to [the defendant] that he has a right to have a competent translator assist him, at state expense if need be, throughout his trial."

At hearing yesterday on the Bilingual Courts Act before the House subcommittee on civil and constitutional rights, Harold Baer, vice-president of the New York County Lawyers' Assn., criticized the quality of translations in New York courts and the lack of interpreters.

It has been the experience of many lawyers, he said, that "time and time again . . . the interpreter has not put the question the way it was asked or has not translated the answer from the witness or the defendant the way it was given."

He said there were only nine Spanish-speaking interpreters, handling an annual load of at least 1000 cases involving Hispanic defendants, in Manhattan Supreme Court. Only one of the nine is Puerto Rican, he said. The rest are Europeans, posing "severe difficulties in the fluency of the dialects most likely to be spoken by the city's Spanish-speaking men and women."

The House subcommittee is considering two bills, one sponsored by Badillo, the other by California Democrat Edward Roybal. There are minor differences. According to a Badillo aide, his bill "spells out" requirements for arraignment, pretrial hearings and trial. Badillo also advocates that the state assume the cost of paying interpreters in all criminal proceedings, while Roybal proposes a cost-sharing formula.

[From the New York Post, Dec. 8, 1975]

THE RIGHT TO UNDERSTAND

As the special New York aid bill was overcoming a filibuster threat in the Senate, another piece of legislation critically needed here was being prepared in the House. It would provide something no less valuable than loan guarantees; new warranties of justice.

The bill, promoted by Rep. Badillo (D-N.Y.), is intended to help relieve some acute conditions in New York's criminal courts described in articles published by The Post this week. As those stories revealed, numbers of Spanish-speaking defendants are penalized with longer sentences and higher bail because they cannot understand or properly respond to court proceedings conducted almost solely in English.

Badillo's bill, a proposed expansion of a pending Bilingual Court Act requiring interpreters to be on hand in all federal courts, would set forth a defendant's "right to an interpreter" in all courts.

At the moment, though such a right has been recognized in appellate rulings, it remains seriously limited because of an acute shortage of well-qualified translators. There would be some expense involved in changing that condition. But no other option meets the requirements of the federal Constitution.

COMPENSATING VICTIMS OF CRIME

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. HUNGATE. Mr. Speaker, the question whether victims of crime ought *to* receive public compensation has recently been in the news. A number of States have programs to compensate crime victims—including California, New York, Illinois, Hawaii, Massachusetts, and Maryland.

The Judiciary Committee's Subcommittee on Criminal Justice has been holding hearings on pending legislation to provide programs for compensating crime victims. In light of this, I am placing in the RECORD an article that appeared in the December 8, 1975, issue of U.S. News & World Report, and entitled, "Aid to Victims of Crimes: Something Being Done at Last":

AID TO VICTIMS OF CRIMES: SOMETHING BEING DONE AT LAST

After years of being unsuccessful in curbing crime, criminal-justice officials and lawmakers are concluding that they can, and should, do something for the victims of crime.

Spurred by recent studies that highlight victims' problems, and by a call for action by President Ford, moves are being made on many fronts.

State programs to compensate citizens for their crime losses are on the increase.

In Congress, a proposal for a federal victim-compensation program has a good chance of passage by next year.

Police departments and prosecutors' offices are trying to improve their handling of victims. Special attention is being accorded victims of rape, as related on page 44.

COMMON PROBLEMS

Efforts by others, including citizens' groups, are focusing on additional problems that often plague crime victims, such as: lack of transportation to and from court, difficulty in retrieving stolen property recovered by police, intimidation by the defendants they are testifying against, and frustration or alienation caused by having their time wasted by criminal-justice procedures.

"There is a saying," says Richard P. Lynch, an expert on crime victims, "that a victim is twice victimized—once by the criminal and once by the criminal-justice system."

"As a society, we've ignored the victim," says Mr. Lynch, director of the National District Attorneys Association's Washington, D.C., offices. "Offenders get all kinds of attention—counseling, job services, lawyers—while most victims get no assistance whatsoever. This is not only wrong. It's ludicrous.'

James Lacy, a Police Foundation expert on crime victims, feels society has been "consistently blind" to victims because so little has been known about them. He says: "It was not until the President's Commission on Law Enforcement and the Administration of Justice studied victims in 1967 that we got an inkling of what a victim's problems are.

Those studies led to others, conducted by the Bureau of the Census for the Law Enforcement Assistance Administration (LEAA), a federal agency that funds programs and research designed to help curb crime.

The LEAA studies showed that as many as two out of three victims of crime never report it. One reason: They have no confidence that the criminal-justice system can or will do anything about their cases.

In an effort to change this attitude LEAA has funded millions of dollars of programs aimed at assisting victims of crime. More than any other factor, LEAA's efforts have given the "victim-assistance movement" new momentum.

Indirectly, LEAA's financial backing of victim programs has also nutured a growing attitude among officials and lawmakers that society owes the victim something more than merely prosecuting the criminal.

STATE PROGRAMS

The most direct way being used to aid those injured by crime is the "victim-compensation program," now in operation in 14 States. To be eligible, a victim must have incurred an unreimbursable loss due to "personal injury" caused by a crime. Payments for medical bills and loss of earning power are given to victims or their survivors. Property losses, such as those incurred in a burglary, are not usually covered.

New York, a pioneer in the field, has paid out 12 million dollars to victims since 1967, according to Stanley L. Van Rensselaer, chairman of the State's compensation board. But only 43 per cent of those who applied for aid were judged eligible. Some were disqualified because they provoked the crime, while others were relatives of the criminal, explains Mr. Van Rensselaer.

A FEDERAL PROGRAM

In Congress, several bills propose aid for those personally injured because of certain federal crimes. In the past, the Senate has approved a similar proposal five times. But the House has never concurred. Now, partly because President Ford called for such a program in his June 19 crime message to Congress, the chances are considered good that both houses will approve the plan.

Such a program would be limited in scope because federal crimes account for only a minuscule portion of total crime. Crimes that most commonly cause personal injury—murder, armed robbery, rape or assault—are usually offenses covered by State laws.

Most of the congressional measures propose federal reimbursement of States for payments they make to crime victims under their own programs. Because of concern about the federal budgetary deficit, however, this proposal is expected to encounter difficulty—especially since its cost is unknown.

A 1972 LEAA study estimated the cost might be in the neighborhood of 30 million dollars a year.

CRIME INSURANCE

In a limited way, the Federal Government already provides some assistance for victims. Since August, 1971, the Federal Crime Insurance Program has offered an "affordable," subsidized insurance policy to residents and businesses in high-crime areas who seek low-cost protection from burglary or robbery. There are about 26,000 policies in force under this program, reports J. Robert Hunter, acting federal insurance administrator. The program pays out 7.7 million dollars, while bringing in only 3.2 million dollars in premiums.

Several States, including Georgia and Minnesota, have established yet another type of aid program that enables a victim to recoup crime losses. The procedure, known as "restitution," has been used informally in the past to let certain defendants avoid prosecution or incarceration by paying their victims for the losses caused by the defendants' crimes. Now prisoners, too, are being urged to make restitution.

Offenders eligible for this program usually live in minimum-security facilities from whch they commute to jobs the State has helped them get. At the facility, they negotiate a "contract" by which they agree to pay their victims so much a month. Often they meet their victims face-to-face. Most of these offenders have committed property crimes, such as burglary, rather than crimes of violence.

Robert Mowatt, director of the Minnesota Restitution Center in Minneapolis, says restitution programs have many side benefits, such as keeping an offender's family off welfare rolls and the offender on the tax rolls.

Additionally, preliminary figures show some indication that offenders participating in this program have a low rate of recidivism—repetition of crime.

MILLION-DOLLAR PROGRAMS

In terms of money being spent, two separate million-dollar projects, financed by LEAA, are the most ambitious of current victim-assistance programs.

The first, run by the Vera Institute of Justice, is concentrating all its attention on crime victims and witnesses who become involved in the Brooklyn Criminal Court in New York City.

The second, under the direction of the National District Attorneys Association, involves pilot programs run by the prosecutors' offices of Chicago, Philadelphia, New Orleans, Denver, Oakland, Farmington, Utah, White Plains, N.Y., and Covington, Ky.

Both projects offer victims many of the same services, including newly-constructed reception centers, which provide congenial surroundings for victims who must wait at the courthouse to testify. A common complaint of victims is that they must spend long hours in dingy, crowded hallways, often forced to sit next to defendants.

Project staff members also perform a welcoming function, directing the often confused victim to the right courtroom. Other staff members, including some "paralegals"—nonlawyers trained in the law—tell the victim what to expect during testimony and explain what cryptic court jargon and procedures mean in lay terms.

"In the past, many prosecutors have treated the victim like a 'piece of evidence'—no different from stolen property," says Mr. Lynch. "Now we're trying to display an attitude that shows we need their help, that we recognize them as allies."

Among other services provided by these million-dollar projects are:

Transportation for the elderly, handicapped and intimidated, to and from court.

An emergency van to make on-the-crime-scene repairs, such as replacements of locks, doors or windows.

"Hotline" telephones for victims to report intimidation attempts by defendants or others.

Efforts to keep court appearances to a minimum, especially when it is known a case will be delayed.

The NDAA project is also developing literature to assist victims. And the Vera Institute program is using a computer to co-ordinate police and witness appearances and to facilitate research on victim behavior. A children's play center is also available for testifying victims who can't get baby-sitters.

POLICE EFFORTS

Among police departments, several are training officers in better manners of questioning victims, getting away from a "just the facts, ma'am" attitude. Some inform victims of their rights with cards similar to those used to inform criminals of their rights.

Police are also trying to improve the return of stolen property kept in custody until it is used as evidence. Many victims experience delays in getting property back, while others just give up. One way to avoid this is to use photographs of the property as evidence, returning the goods to the victims shortly after recovery.

Some police departments and prosecutors' offices are setting up "ombudsman" staffs to assist victims and witnesses through the thicket of court and police procedures.

In Farmington, Utah, ombudsman Larry Landward and his staff work through the county attorney's office to "do anything that makes it more convenient for victims to testify."

A "victim advocate" bureau has been opened in the Milwaukee County, Wis., prosecutor's office. The advocate is in a position to challenge—in court if necessary—rules and laws that ignore the victim's interests.

Victims are even being asked to participate in "plea bargaining," a controversial procedure by which a defendant pleads guilty in exchange for a reduced charge or sentence. In New Orleans, District Attorney Harry Connick consults with victims before accepting a "plea bargain," although he is not bound by their recommendations. Victims are being helped, too, by citizen volunteers, some of whom are former victims. In St. Louis, Aid to Victims of Crime has helped hundreds since it was created in 1972. Despite a skimpy budget of $25,000 a year, says coordinator Joe Mueller, his group is able to provide many victims with services such as emergency groceries, transportation, money for rent, mortgage or heat payments, replacement eyeglasses or canes, and referrals to social-service agencies.

Several cities in Ohio have set up "night prosecutor" programs, through which certain victims can have their cases handled during convenient evening hours.

Cases under this program are nonserious matters "diverted" out of the normal court system, explains John Palmer, a designer of the concept. The cases are disposed of informally by volunteer law students who function as hearing officers. A case might involve settling a dispute between neighbors who otherwise might have both been charged with assault. Other cases might result in a first-time offender's being ordered to make good a bad check.

The program has already diverted 25 to 30 per cent of the criminal cases out of the Columbus area's courts, with savings estimated at 3 million dollars.

Interest in elderly victims has also heightened. This is mainly because of 2.2 million dollars that LEAA has made available for programs to protect senior citizens from attack in their homes and from fraudulent schemes, such as home-improvement or land swindles.

Additionally, interest in victims has prompted research in areas previously viewed as "taboo"; incest, wife beating, and sexual attacks or abuse at the office.

FAILING EFFORTS

Despite all the good intentions of those who would help victims, many assistance programs have fallen short of their goals. An Illinois program to provide victims with protection from intimidation has languished for two years while awaiting funding. Another Illinois program, to monitor continuances of cases and to notify witnesses when they had to appear, wound up duplicating data already available.

The 14 State victim-compensation programs have been criticized as too bureaucratic. It is also complained that the programs are unknown to most of the public, a criticism applied equally to the federal crime-insurance program. Restitution programs have come under fire because many offenders default on payments to victims.

Such shortcomings result partly from mismanagement, partly from the failure of agencies such as LEAA to monitor and evaluate operations and results, and partly from public ignorance about the programs. Despite such failures, Mr. Lacy voices optimism about the future of the victim-assistance movement.

"It's an issue like motherhood," he says. "Who can be against it?"

Mr. Lacy—like many others interested in the field—predicts that once the public and more officials become aware of victim problems and programs, "interest will snowball." Someday, he says, "it will become difficult for jurisdictions without victim programs to explain why there are none."

AN ACCEPTABLE COMPROMISE ON EAGLES NEST WILDERNESS

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mrs. SCHROEDER. Mr. Speaker, on December 8 I inserted an editorial, "Trim Wilderness Area Size" from the December 2 Denver Post on page 39177 of the CONGRESSIONAL RECORD. I would now like to insert the answer to this editorial prepared by the Colorado Rivers Council and the Colorado Open Space Council. As I mentioned in the December 8 insert, I support S. 268, Senator FLOYD HASKELL's Eagles Nest wilderness bill. In my opinion, the boundaries in Senator HASKELL's bill are an acceptable compromise between an optimum wilderness area and the related water issues.

The article follows:

NO NEED TO TRIM EAGLES NEST BOUNDARIES

(By Robert Weaver, Colorado Rivers Council, and Theodore Tomasi, Colorado Open Space Council)

The Denver Post editorial of December 2, 1975, claims that if Congress approves the boundaries for an Eagles Nest Wilderness as delineated by the Haskell bill "Denver's future water supply would be endangered" and that if the boundaries were made slightly smaller, the water from the Eagle-Piney and East Gore Canal projects could move by gravity. The gravity flow system according to the Post editorial, would enable the Water Board to avoid costly and "wasteful" pumping.

While stating the estimated extra cost to be $1,000,000, the Post editorial failed to point out that actual costs to Denver area water users would not be more than a few cents a month per person and even less than that if Denver would construct its own energy source through pump storage in conjunction with the project (if the projects are ever built). This would not be a "wasteful" use of energy because it would enable the Water Board to avoid construction of damaging facilities within valuable wilderness.

The impression is conveyed in this most recent of Post attacks on conservationist proposed boundaries for an Eagles Nest Wilderness is that they were drawn with no other consideration in mind than stopping water recovery projects. This is a patently fraudulent claim. It is highly suspect that boundaries anywhere would actually stop water projects, and conservationists agree that this is no way to draw wilderness boundaries. The boundaries were drawn for very positive reasons to include the lower elevation ecosystems surrounding the "wilderness on the rocks" Forest Service proposal. This Forest Service minimum plan includes only the rugged alpine peaks. The lower elevation ecosystems, as included in the Haskell boundaries, contain extremely valuable wildlife habitat. Recreational carrying capacity is significantly higher in forest ecosystems than alpine tundra, and they are open for a longer season of use. The magnificent Gore Trail would be included with the larger wilderness, though not with the "trimming" recommended by the Post. This would allow those not in good physical condition to enjoy the experience and a more uniform dispersal of visitors. In addition, scientific and educational interests would best be served through inclusion of as wide a variety of ecosystems as possible.

In fact, a Post editorial dated October 6, 1970, "Let's Make It a Big Wilderness," rightly points out that "the close proximity to Denver persuades us that, beyond the consideration of ecological integrity, there is a need for all the wilderness in these areas west of Denver that federal agencies and Congress can provide."

If it ever gets to the point where the Water Board actually builds the project, would it not be worth it for the people of Denver to pay a few cents a month more to keep this magnificent area intact? Again the 1970 Denver Post editorial states, "we don't think it's stretching the point to say that the larger tract will have a direct influence in helping improve the quality of life for the metro millions of future Denver."

Another matter that the Post failed to state is the fact that the Water Board projects are far from a fait accompli. There are a few "if's" to be contended with before the Water Board can build Eagle-Piney and East Gore Canal.

The first "if" is the questionable water rights for the transmountain diversion projects. On September 5, 1975, the water referee, Michael White, ruled against the Water Board's water rights for the Eagle-Piney, East Gore Canal and the Eagle-Colorado projects. (See Post article of September 6, 1975, "Referee Denies Denver More West Slope Water.")

Second "if" is whether or not the needs can be established. Research in process on demonstration methodology developed by the Denver Research Institute indicates that the Metro area may already have adequate water supplies through the year 2010 without additional Transmountain Diversions.

The third "if" is the Two Forks project. In order for the Denver Water Board to put the water from their proposed transmountain diversions to use in the Denver Metro area they will have to build the infamous Two Forks Dam to provide storage and regulation of the supply. In other words, Two Forks, Eagle-Piney, East Gore Canal, and the Eagle-Colorado projects are really one project and should be considered as such. Governor Dick Lamm is against Two Forks; Governor Vanderhoof was against it; the Congressional Delegation and both senators are against it. So the third big "if" is the political support for these projects.

The fourth "if" concerns the Water Board's problems in obtaining federal permits and complying with the requirements of the National Environmental Policy Act. The Federal Government is becoming more and more reluctant to consider Water Board projects one step at a time now that it is obvious that these projects are all interrelated and require a comprehensive assessment in order to evaluate the full costs and repercussions of the projects. The Water Board would, of course, prefer to avoid comprehensive disclosure of the environmental, social and economic effects of these projects. Also, the National Environmental Policy Act requires consideration of alternatives and it is very probable that less damaging alternatives can be found to the Eagle-Piney and East Gore Canal projects (that is if the needs can be established).

In summary, that is a lot of "if's", but then again, if the Water Board can establish the needs, if they can get the water rights, if they can convince the political decision makers that the costs are worth the benefits and that there are no less damaging alternative, and if they can get the support to build Two Forks, then they can build Eagle-Piney and East Gore Canal without interfering with the wilderness area.

Should the Water Board somehow manage to negotiate the above hurdles, and it is found to be unreasonable to ask the Denver citizens to pay the slightly higher costs of pumping, then the Presidential OK that would be necessary to infringe on the wilderness should be no problem!

HUMAN RIGHTS AND KOREA

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1975

Mr. FRASER. Mr. Speaker, over 20 years ago thousands of Americans gave their lives to defend the freedom of Korea. Many of our colleagues themselves fought in that struggle. But in recent years that noble sacrifice, and decades of effort to build democratic institutions in South Korea, have been seriously undermined by the policies of President Park. Not only does the Park regime violate internationally recognized human rights, but the continued repression seriously undermines long-term United States—and even Korean—strategic interests.

One of this country's most knowledgeable observers of the Korean scene, Donald L. Ranard, the former Director of Korean Affairs in the Department of State, recently addressed the National Council of the Churches of Christ in the U.S.A. on the subject of human rights in Korea. The address is a concise, accurate, and most informative picture of the true situation—and danger—in Korea. I recommend it highly to my concerned colleagues:

KOREA, THE UNITED STATES, AND HUMAN RIGHTS

I. INTRODUCTION

I should like to review with you the status of human rights in Korea, especially developments of the past year; U.S. reaction and policy; and conclude with some recommendations as to future U.S. courses of action.

To begin with, probably the best that can be said for developments in Korea during 1975 is that affairs in many other areas around the world were just about as bad. India, for example, where another authoritarian head of government treats law and the press with contempt; Portugal, where leftist-oriented elements undermine the popular will; Spain, where a rightist government denies equal rights to minorities; and, of course, Chile, where a military dictatorship is similarly callous of fundamental human rights. And this is not to pause long enough to point to the many instances of disregard for human life and values in Southeast Asia as the American involvement in Vietnam drew to such a tragic end—an end which, as many of you know, has had such an impact on Korean reactions.

So, in a year which was filled with so many examples of retrogression in the status of law and order, why, ask some critics, should the United States be so deeply concerned about Korean affairs?

II. STATUS OF HUMAN RIGHTS

Execution of alleged PRP members

Any assessment of the current status of human rights in Korea would have to emphasize the execution last April of eight Koreans who allegedly were members of the People's Revolutionary Party and, as such, were found guilty of having plotted to overthrow the government. This case attracted the attention of legal scholars, foreign governments, the press, and, I am glad to say, of churchmen as had no other in Korea's recent history. Indeed, it was because of their involvement and concern and their efforts in making facts known that two American missionaries were expelled. Amnesty International, which had sent a mission of two, a Danish surgeon and an English lawyer, to investigate torture, prison conditions, and the conduct of trial proceedings, was in Korea at the time of sentencing and execution of these men. Its report, which deals not only with the trial of the executed but the general conduct of justice in Korea today, is recommended reading as concerns the sad state of affairs in a country we labored so hard to establish as a "showcase of democracy" below the DMZ. Suffice it that their report, which was subsequently presented at the Hearings on the Status of Human Rights in Korea held last June by the House Subcommittee on International Organizations, found that "all the crucial elements in the case against the alleged members of the PRP were confessed under torture, and that these confessions do not represent the truth." Their report cites some 13 examples of irregularities in pretrial and court procedure, including such fundamentally unjust measures as calling as many as 42 prosecution witnesses in the absence of defense lawyers, refusing to allow defense witnesses to be called, and proclaiming the defendants guilty in government press and radio even before sentencing. In its broadest implication, the report is a condemnation of the administration of justice in Korea today.

Presidential Emergency Measure No. 9

The second event which best illustrates the status of human rights in Korea today is Emergency Measure No. 9, issued on May 13th. To best understand this measure, we need turn back only a few short but ugly pages in Korea's modern history.

In 1971 President Park was reelected President over Kim Tae-Chung by some 900,000 votes, certainly a handful of votes as Korea's elections go. Kim was an appealing opposition candidate; he waged a hard fight and for the first time forced a campaign that took cognizance of important national issues: the status of the CIA, north-South relations, unification, the size of the military, academic freedom, etc. In an election in which government controlled the media, extorted money from business (including some $3 million from Gulf Oil and probably other American companies as well), manipulated the entire government apparatus, Park was elected by a narrow margin, and only so, many thought, because during the last week of campaigning he promised that would be his last election.

Korea now found itself with a new political phenomenon—a lame-duck President. As members of the body politic, including prominent members of his own party, moved to test his strength, Park responded quickly and with force. Thus it was that between 1971 and 1973 Park consolidated his power: the constitution was revised, government reorganized, and the independent status of the legislature, the press, the courts, and the university destroyed. Not satisfied with steps to silence his critics internally, the Korean CIA even acted abroad. It was during this period that opposition leader Kim Tae-Chung was kidnapped from Tokyo.

But by year-end 1973 a strong movement for a return to the old constitution had begun to appear. A petition campaign for 1 million signatures, at first ridiculed by the government, had within a few weeks collected some 300,000 signatures—a development indicative of great moral and physical courage, to be sure, in a country where governmental forces could be so ruthless. It is worth noting that this signature campaign was led by Chang Chun-ha, the same prominent journalist, publisher, and political independent who seems mysteriously to have fallen to his death during a mountain-climbing holiday last August. Park cautioned his critics, and when they failed to heed his warning there began a series of Emergency Measures of which No. 9 is only the latest.

In January of 1974 came Measures No. 1 and No. 2, which banned activity in favor of constitutional revision and set up a system of military courts to try such offenses. In April 1974 Measure No. 4 was promulgated, in which government disclosed a so-called National Democratic Student and Youth Federation, which supposedly was acting against the State. This measure came down heavily against student political activity, so much so that, read literally, the measure prescribed the death penalty for students who boycotted class as a measure of student protest. It was in connection with this so-called antistate NDYSF that the case against the eight alleged members of the People's Revolutionary Party was constructed.

The toll of innocent people who fell victim to these measures, directly or indirectly, is endless. And it includes Americans as well as Koreans. Catholic Bishop Daniel Chi; the eminent Korean poet Kim Chi-ha, who is ill in solitary confinement; a former Korean president, Yun Po-sun; Kim Kwan-suk, Secretary-General of the Korean National Council of Churches; the Reverend Pak Hyung-ku; and at least two American missionaries: George Ogle, for exposing the case against the alleged members of the People's Revolutionary Party, and Father James Sinnott, for aiding the wives and relatives of these unfortunate people. And countless other Koreans who, in their own way, continued to oppose a repressive government.

Emergency Decree No. 9 puts into one measure basically what Decrees No. 1 and No. 4, which in the meanwhile had been rescinded, had previously controlled. In essence, it bans any actions intended to revise or repeal the constitution and severely punishes any student, teacher, reporter or even Assemblyman (who speaks beyond Parliament) who opposes the measure. It authorizes arrest for violation of the provisions of the Emergency Measures *without warrant*, and it sets up punishment of up to 10 years as determined by civilian court. Emergency Measure No. 9 is as sweeping a denial of human rights as is probably to be found in any country outside the Communist world.

Time does not permit me to document in detail this travesty on democratic rule. The hearings published by the Fraser Subcommittee, in which is included my own testimony, are useful in that regard. Let me briefly summarize a few salient facts:

There is no freedom of the press. For all practical purposes the death knell sounded with the capitulation of the Tonga Ilbo to government pressure. As a distinguished Korean newspaperman said recently: whether government stations CIA persons in the press editorial offices is no longer a determining factor; government has muzzled the press through Measure No. 9 and the Antislander Act of last March.

There no longer is academic freedom. Emergency Measure No. 9 effectively took care of that.

There is no due process of law. The arbitrary and capricious trial of the eight alleged members of the PRP and the report of Amnesty International bears witness to this.

And there is freedom of worship in only the simplest sense. The church is permeated today by agents of government who spy on church men, who physically obstruct church attendance, who rifle church files, and who deliberately seek to turn church against church, so as to keep its influence divided and powerless. Korea, a country which profited greatly from the church's moral and physical contribution, has become a country headed by a government without a conscience.

III. U.S. POLICY TOWARD KOREA

In its essential elements U.S. foreign policy towards Korea has changed little since 1950. In fact, it was the Korean War of a quarter of a century ago that cast this policy in its present mold. It is comprised of three pillars:

The commitment to the independence of South Korea, as basically embodied in the Mutual Defense Treaty of 1954. Support of the Korean cause internationally and in the UN is another manifestation of this commitment.

Military and economic assistance to enable the South to defend itself while developing its economy and its politcial and social institutions. Over the past two decades approximately $11 billion has been directed towards that end. The $1.5 billion military modernization program developed in 1971 is the latest example of this aid. Economic-grant aid has ended; PL–480 loan arrangements will soon be ending.

Stationing of forces in Korea, as a demonstration of the U.S. resolve to its defense commitment. Today some 40,000 military remain in Korea, comprised mainly of Army and Air units with only a few hundred naval forces.

With these elements of our policy I have little quarrel in substance. In fact, I take pride, and responsibility as well, for having contributed, importantly, I like to believe, to the construction and maintenance of these planks in our policy.

To be sure, I do not see the need for the stationing of a full division of our forces in Korea at this time, nor do I see any economic sense in continuing to provide grant military assistance to a country of Korea's economic vitality and growth. As concerns the first—the question of size and composition of our forces—I know the time has come for a *reduction of our ground forces to more modest size.* I am not frightened at the threat that is regularly manipulated by the South for its own political reasons. Of course, the North cannot be trusted; of course, it can be provocative and thus a danger to the peace of Asia. But the armed forces of the South, along with our air units, which I would continue to station in Korea, are capable of maintaining the peace. Without Soviet or Chinese intervention, and I recall no estimates at any time over the past four years which forecast such, the North can be contained.

I also believe the time has come to end *grant military assistance to Korea.* We have discharged the obligation we undertook in 1971 to help Korea modernize her forces. Korea can afford to pay for her military requirements. Provided the equipment she desires is defensive in purpose, I would help her procure it through reasonable credit arrangements.

But as I indicated, my difference with U.S. policy in these regards is mainly of degree and not of substance. As much as I deplore the current trend of affairs in Korea, I believe the thrust of these policies has helped maintain the peace in a dangerous corner of Asia. I recognize there are those who would end the commitment to Korea or deny military assistance entirely or withdraw our forces completely, unless Korea reforms and returns to democratic behavior. I find myself in complete sympathy with their frustrations and concerns, but I still do not recommend such actions. Essentially the question is whether we consider Korea important to the national interests of the United States. And if we do, then the cost of the commitment and the assistance and support we provide is both reasonable and sensible. It has contributed to the maintenance of peace and some sense of stability on the Korean peninsula, where an eruption of violence could involve nuclear powers as perhaps no other confrontation possibly could.

Where I differ with the policy is in our government's unwillingness to accredit a role for human rights and in the reluctance of our leaders to speak out at the examples of moral degradation which have taken place in Korea. I am unable to accept the explanation that we are "not involved nor associated" with these repressive actions. Considering the treaty relationship, the military assistance, the U.S. force positioning, and our general support of Korea, we cannot wash away our involvement nor our responsibilities. I am not comforted by the seeming attention our Secretary gives to human rights and moral values. For in almost every instance in which he appears to highly appraise the importance of morality and idealism in foreign affairs, he immediately discounts its application to Korea.

At the *Pacem in Terris* Conference in October 1973, the Secretary said, "America cannot be true to itself without moral purpose. This country has always had a sense of mission. Americans have always held the view that America stood for something above and beyond its material achievements." Certainly a lofty statement of objectives for American foreign policy we all would agree with. Having said that much, however, Mr. Kissinger went on, "But when policy becomes excessively moralistic, it may turn quixotic or dangerous." Well, I do not believe it at all quixotic or even dangerous to espouse the cause of free institutions in a country we helped reconstruct at the cost of so much American blood and treasure.

More recently, the Secretary again addressed the subject in a speech in Minneapolis in mid-July, remarkable in that it bears the title "The Moral Foundations of Foreign Policy." It is a good and forthcoming statement of themes the Secretary has used before: "This nation must be true to its own beliefs or it will lose its bearings in the world. . . . we can no longer expect that moral judgment expounded in absolute terms will command broad acceptance, but as the richest and most powerful nation, we still have a special responsibility to look beyond narrow definitions of our national interests and to serve as a sponser of world order." With this, as well as his assessment of the problems of excessive moralism, we can be in agreement, particularly with respect to the Soviets (and we note that it is frequently to the Communist powers that the Secretary refers when he assesses the limitations of moral influence).

Indeed it is heartening to hear Mr. Kissinger make clear that "we do not and will not condone repressive practices." But I cannot accept at face value a statement which follows immediately in that same address: "We have used, and we will use, our influence against repressive practices." That simply does not square with the Secretary's role with regard to our relationships to Korea, as I recall it. Nor can I accept the implication involved in the question Mr. Kissinger raises regarding the way in which we might use our influence profitably. "The question," he asks, "is whether we promote human rights more effectively by counsel and friendly relations where this serves our interest, or by confrontational propaganda and discriminatory legislation." To begin with, the reference is not at all apt with respect to Korea, as it well might be as concerns the Soviet Union. That is to say, I know of few who have attempted to resolve the issues with Korea by "confrontational propaganda or discriminatory legislation." Certainly we would agree that the other approach is preferred. So, the question is not which is the better. The question is simply, "Has the Secretary either counseled or directed his subordinates to counsel?" My own experience leads me to a negative conclusion. In fact, the Secretary's instructions were to the contrary.

Rather than influencing against repressive practices, certain of our official reactions just about connote, to both government and critics in Korea, a lack of concern—indeed, almost a shrug of the shoulders or a turning of the head. Take, for example, the official U.S. reaction to the sordid revelation that Gulf Oil had been forced to contribute $4 million to President Park's party since 1966. The Secretary publicly regretted such an action by a foreign government toward an American company. And then he quickly launched into the familiar theme we have heard before—i.e., that the defense of Korea is important to the security of Northeast Asia, especially Japan, and so forth. But really, how can plain, unvarnished extortion (for surely that is what took place) be rationalized in terms of Asian security? And let me ask you this, from your own knowledge of Korean attitudes: After a Korean had been involved in such a crime, what would be a typical Korean reaction to such an admonition from the American government. Would he conclude that he had been warned not to do it again or, rather, told please just don't get caught?

IV. RECOMMENDED COURSES

From my remarks, it is clear that I believe we should continue to support South Korea in her struggle to preserve her sovereignty. We should *maintain the treaty commitment*, and we should *provide military credits where justified* for defense. We can afford a *reduction in our ground forces*, and this process should begin soon, certainly during the next fiscal year. So that the North not miscalculate our resolve to defend Korea, we should, at the same time, make crystal clear our intention to maintain air units in Korea, at least until the imbalance in air with the North is redressed.

So far as human rights are concerned, we should speak forthrightly as warranted by circumstances, and publicly as well. The execution of the eight accused was one such occasion; the issuance of Emergency Measure No. 9 was another instance when the sense of American outrage should have been forcefully expressed, not merely regretted.

In our relations with Korea, we will fare well when we speak our mind clearly. Our representations should be couched in direct language Koreans understand best. They should not be put in the context of unrelated security considerations, as in the Secretary's comments regarding Gulf Oil contributions. Extortion is reprehensible, never excusable under any circumstances. Nor should we be saying, as we have been, that "if you continue such conduct, it will be difficult for us to obtain support from our Congress." Such representations are meaningless. Rather, we should make it clear that repressive acts are offensive to our ideals and to our heritage. And our Secretary should say to the Koreans, and our President as well, that they, as Administration leaders, wish the Korean government to know that the present course of action limits greatly, may even make impossible, the present degree of cooperation between our governments. It is not enough to have subordinates make these representations at lower levels of the bureaucracy. The Koreans are discerning enough to know such protests do not really represent high-level concern, and they are right in their conclusion.

In Helsinki, at the Conference on Security and Cooperation in August, President Ford reminded that the founders of the United States did not merely say that all Americans should have the rights to life, liberty, and the pursuit of happiness but that *all* men *everywhere* should have these rights. Has not the time come for us to stop mouthing these sentiments, but to incorporate them into policy?

And finally, the question always arises: What can the individual citizen do? Well, he can write to his elected representatives, to the State Department, to the Korean Embassy, to the newspapers, to the media; and he can form committees, as I understand is being done here today. Speaking as a former public servant on the other end of citizen reaction to government policy, I can assure you that these actions count. We can make our voices heard and show that this great country does in fact stand for more than material achievement, as our Secretary of State has indeed said it does.